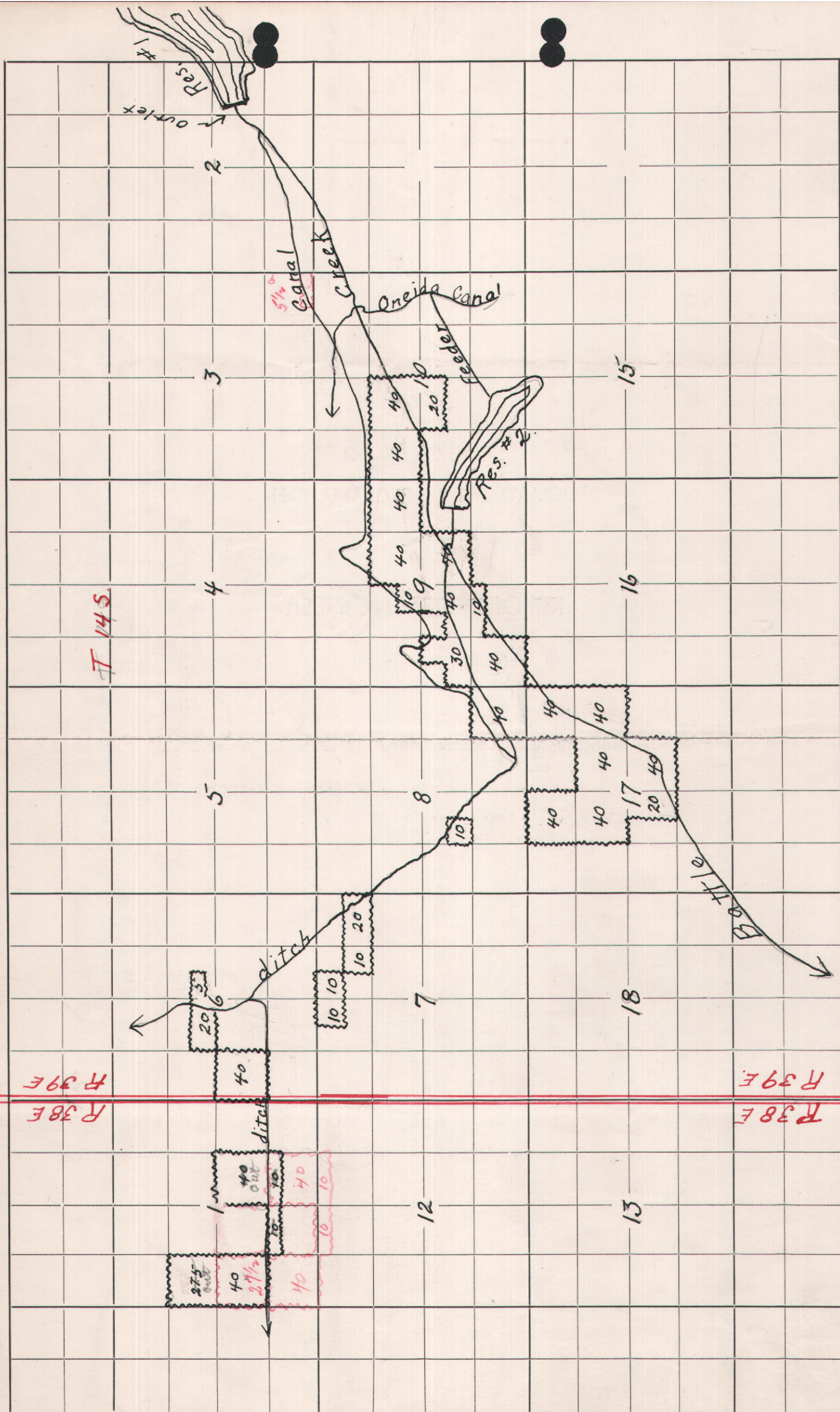




Big dam
 Spillway ditch not completed
 Regulate overflow thru outlet
 Concrete spillway
 20' W x 25" L x 8" h.
 Approx 4' of spillway is filled
 with dirt in front.
 Has 2' x 8" planks in spillway
 so as the allow only 3' freeboard.
 Has 3 rows of concrete blocks to
 break water force.

44" freeboard on dam.
 Dam = 18' W. on top
 upstream slope = 2 1/2 : 1 (east)
 downstr. " = 1 1/2 : 1
 old dam had clipped on
 S. side.
 dam = approx. 25' - 30' W.
 approx. 150 yds L. on top.
 outlet is concrete arch.
 35" W x 8" - 10" x 38" h.

built 1902

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.

StrongArm Reservoir Irr. District
 Joseph Hedin, Pres., Preston, Idaho
 Permit No. R-689

Examination for Completion of works
 and Beneficial use
 County Franklin

140 39E

Ant = 1000 acre ft.
 Directors = Joseph Cordie
 all of { E. L. Schulberg
 Preston { Julius Johnson
 (Ged Hiles

P.D. is in NE SE, S 2

Copy = 1950 acre ft.

P.D. from stream is in

NW SE S 2

for 908 a.

Intend raise dam 7 feet

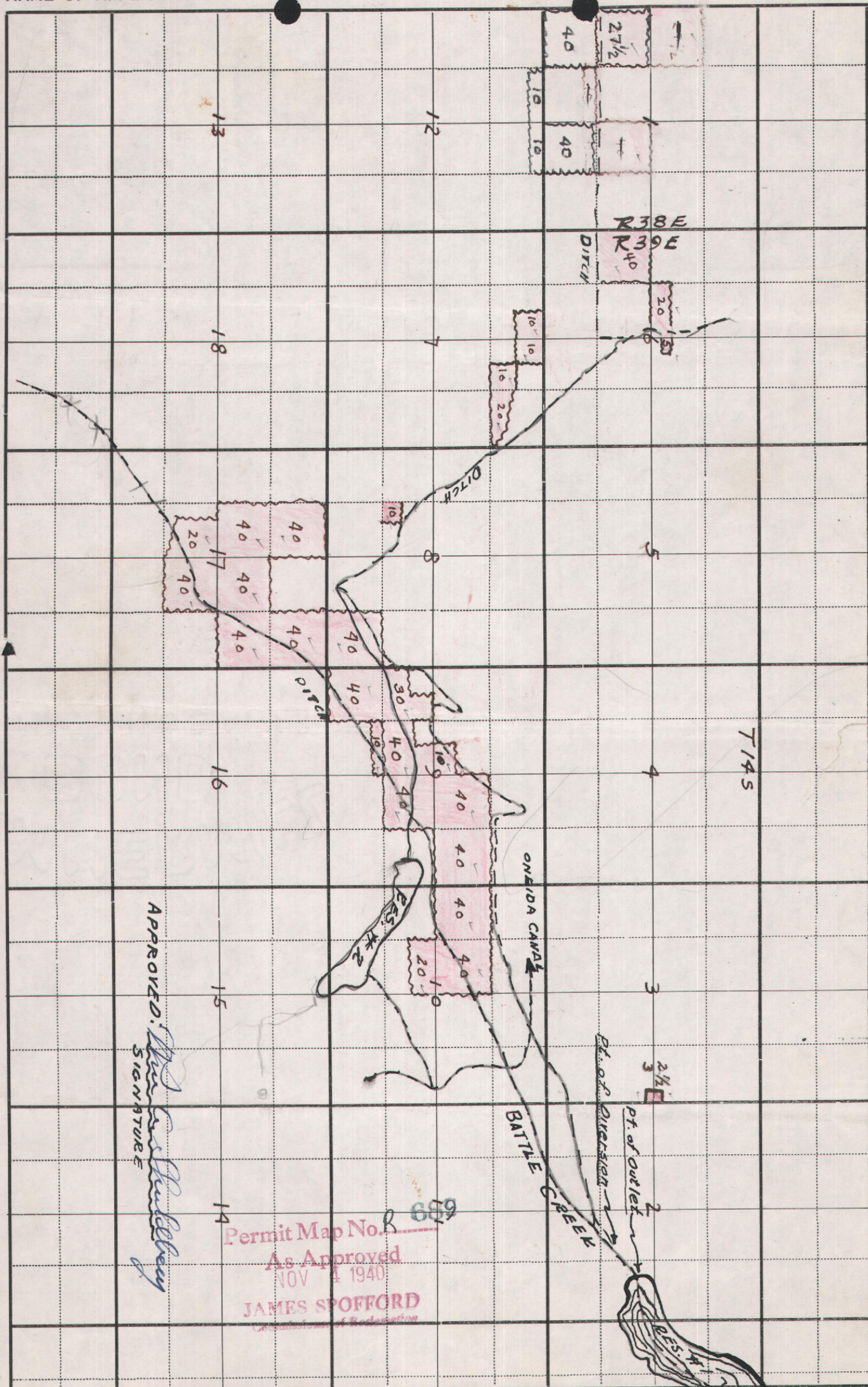
4/22/32
 Finished except spillway on #2
 Land list partially wrong
 Joe Hedin visited dept. this AM.

9 mi. N. of Preston
 East.

Talked to Lawrence
 McHermitt, Clefton
 re. protest
 (chairman)

Protest not withdrawn

100
250
260
50
50
65
1 27 1/2
902 1/2
5 1/2
908



R-76
R-689.

17-689.

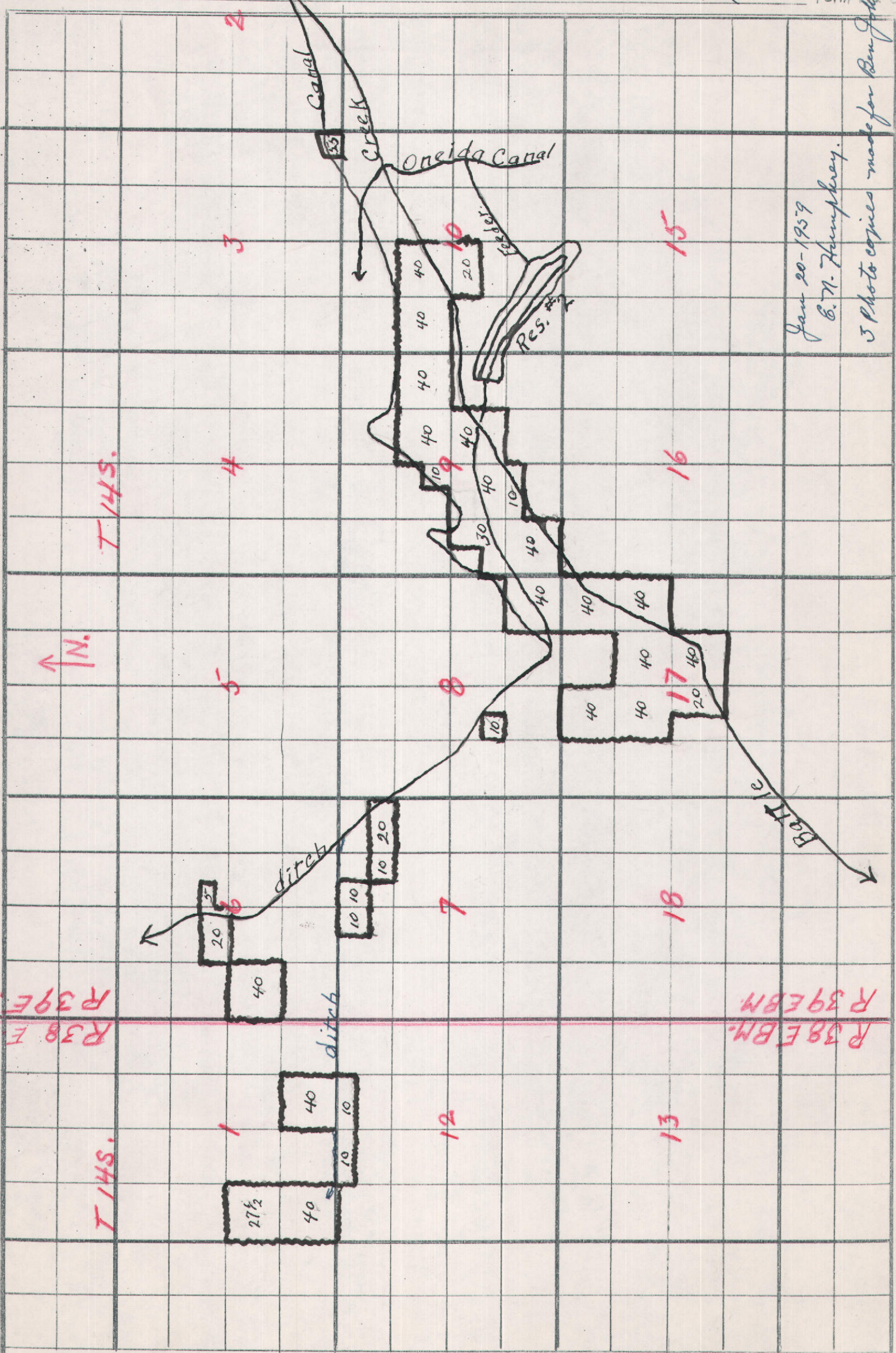
Form

3 photo copies made for Ben Johnson

Jan 20-1959
C. N. Humphrey.

C. N. Humphrey.

NAME OF APPLICANT



Scale: 2 inches equal 1 Mile. Draw Plan in ink.

L-689

Not sure on
situation of these two
13-2286 + 132290.
If not coded right would be
interested in explanation.
Looks like it may be right to build reservoir 2290
4 2286 for use & ~~some~~

2-21-79

WATER RIGHT NO. 13-2290

JP

PROBLEMS OR MISSING DATA

FOUND IN DATA ENTRY

ENTIRE WATER RIGHT NEEDS REVIEW

BAD LAND LIST - POINT OF DIVERSION

CODE WATER USES AND PLACE OF USE

BAD LAND LIST - PLACE OF USE

TRANSFER/AMENDMENT

MISC. _____

✓

✓

same as 13-2286

same as 13-2286

✓ OK

State of Idaho
License and Certificate of Water Right

Water License No. R-689 Amount 577.72 ac-ft.
Water District No. Priority August 29, 1940

THIS IS TO CERTIFY that STRONGARM RESERVOIR IRRIGATION DISTRICT
of Preston, Idaho, made application for a permit to appropriate the and store
public waters of the State of Idaho, dated August 29, 1940; that Permit No. R-689
was issued under said application; that Certificate of Completion of works, with a storage carrying capacity of
577.72 acre second feet, was issued thereunder on December 23, 1958, showing that said works
were completed on the 7th day of November, 1949; and that on the 7th
day of November, 1949, STRONGARM RESERVOIR IRRIGATION DIST.
By: Joseph C. Hedin, President

of Preston, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Battle Creek
, a tributary of Bear River, for the purpose of Irrigation and Domestic Use
, under Use Permit No. R-689 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
11 of Licenses at page 6574, on the 23rd day of December, 1958;
The right hereby confirmed dates from August 29, 1940;
Outlets are
The Point of Diversion is located (Reservoir #2 in Sec. 9, T14S-R39E, BM) Reservoir #1
in the NE 1/4 SE 1/4, Sec. 2, Tp. 14 S., R. 39 E., B. M. County Franklin
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 577.72 acre annum.
cubic-feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
14 S.	39 E.	10	SE 1/4 NW 1/4	40	40
			SW 1/4 NW 1/4	40	40
			NE 1/4 SW 1/4	20	20
			SE 1/4 NE 1/4	40	40
		9	SW 1/4 NE 1/4	40	40
			SE 1/4 NW 1/4	10	10
			NE 1/4 SW 1/4	40	40
			NW 1/4 SW 1/4	30	30
		8	SW 1/4 SW 1/4	40	40
			SE 1/4 SW 1/4	10	10
			NW 1/4 SE 1/4	40	40
			SE 1/4 SE 1/4	40	40
		7	NE 1/4 SW 1/4	10	10
			NE 1/4 NE 1/4	20	20
			NW 1/4 NE 1/4	20	20
			NE 1/4 NW 1/4	10	10
		3	SE 1/4 SE 1/4	5.5	5.5
14 S.	39 E.	6	SW 1/4 NE 1/4	5	5
			SE 1/4 NW 1/4	20	20
			NW 1/4 SW 1/4	40	40
			NE 1/4 NE 1/4	40	40
		17	SW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			NE 1/4 NW 1/4	40	40
			SE 1/4 NW 1/4	40	40
		1	NE 1/4 SW 1/4	20	20
			NW 1/4 SE 1/4	40	40
			NW 1/4 SW 1/4	27.5	27.5
			SW 1/4 SW 1/4	40	40
14 S.	38 E.	12	SW 1/4 SE 1/4	40	40
			NW 1/4 NE 1/4	10	10
			NE 1/4 NW 1/4	10	10

Total number of acres irrigated - - 908

State of Idaho

License and Certificate of Water Right

Water License No. R-689Amount 577.72 ac-ft.

Water District No. _____

Priority August 29, 1940

THIS IS TO CERTIFY that STRONGARM RESERVOIR IRRIGATION DISTRICT
 of Preston, Idaho, made application for a permit to appropriate the and store
 public waters of the State of Idaho, dated August 29, 1940; that Permit No. R-689
 was issued under said application; that Certificate of Completion of works, with a ^{storage} ~~carrying~~ capacity of
 577.72 ^{acre} ~~second~~ feet, was issued thereunder on December 23, 1958, showing that said works
 were completed on the 7th day of November, 1949; and that on the 7th
 day of November, 1949, STRONGARM RESERVOIR IRRIGATION DIST.
 By: Joseph C. Hedin, President

of Preston, State of Idaho, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Battle Creek
 , a tributary of Bear River, for the purpose of Irrigation and Domestic Use
 , under Use Permit No. R-689 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
 11 of Licenses at page 6574, on the 23rd day of December, 1958;
 The right hereby confirmed dates from August 29, 1940;
 Outlets are
 The Point of Diversion is located (Reservoir #2 in Sec. 9, T14S-R39E, BM) Reservoir #1
 in the NE 1/4 SE 1/4, Sec. 2, Tp. 14 S., R. 39 E., B. M. County Franklin

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 577.72 ^{acre} ~~cubic~~ feet per ^{annum.} ~~second.~~

Description and location of use:

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 State Reclamation Engineer, affixed at Boise, Idaho, this

23rd day of December, 1958.

/s/ Geo. N. Carter

State Reclamation Engineer.

(SEAL)

State of Idaho
License and Certificate of Water Right

Water License No. 13149 R-76 Amount 70 C.F.S. 984.28 ac-ft.
Water District No. Priority September 17, 1940

THIS IS TO CERTIFY that STRONG ARM RESERVOIR COMPANY and store
of Preston, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated June 21, 1917; that Permit No. 13149 & R-76
were issued under said application; that Certificate of Completion of works, with a carrying capacity of
984.24 acre feet, was issued thereunder on September 23, 1924, showing that said works
were completed on the 16th day of September, 1922; and that on the 7th
day of November, 1949, STRONG ARM RESERVOIR COMPANY (DIST)
By: Joseph C. Hedin, President

of Preston, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Battle Creek
, a tributary of Bear River, for the purpose of Irrigation and Domestic Use
, under Use Permit No. 13149 & R-76 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
11 of Licenses at page 6573, on the 23 day of December, 1958;

The right hereby confirmed dates from September 17, 1940;
The Point of Diversion is located (Reservoir #2 in Sec. 9, T14S-R39E.BM) Reservoir #1
in the NE 1/4 SE 1/4, Sec. 2, Tp. 14 S., R. 39 E., B. M. County Franklin

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 984.28 acre cubic feet per annum second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
14 S.	39 E.	10	SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	20	20
		9	SE $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	10	10
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	30	30
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
		8	SE $\frac{1}{4}$ SW $\frac{1}{4}$	10	10
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
		7	NE $\frac{1}{4}$ SW $\frac{1}{4}$	10	10
			NE $\frac{1}{4}$ NE $\frac{1}{4}$	20	20
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	20	20
		3	NE $\frac{1}{4}$ NW $\frac{1}{4}$	10	10
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	5.5	5.5
14 S.	39 E.	6	SW $\frac{1}{4}$ NE $\frac{1}{4}$	5	5
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	20	20
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
		17	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	40
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	20	20
		1	NW $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	27.5	27.5
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	40
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	40	40
			12	NW $\frac{1}{4}$ NE $\frac{1}{4}$	10
NE $\frac{1}{4}$ NW $\frac{1}{4}$	10	10			
Total number of acres irrigated - - -				908	

State of Idaho
License and Certificate of Water Right

Water License No. 13149 R-76 Amount 70 C.F.S. 984.28 ac-ft.
Water District No. _____ Priority September 17, 1940

THIS IS TO CERTIFY that STRONG ARM RESERVOIR COMPANY and store
of Preston, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated June 21, 19 17; that Permit No. 13149 & R-76
~~was~~ ^{ere} issued under said application, that Certificate of Completion of works, with a carrying capacity of
984.24 ~~second~~ ^{acre} feet, was issued thereunder on September 23, 19 24, showing that said works
were completed on the 16th day of September, 19 22; and that on the 7th
day of November, 19 49, STRONG ARM RESERVOIR COMPANY (DIST)
By: Joseph C. Hedin, President

of Preston, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to ~~use~~ ^{storage and the} the waters of Battle Creek
a tributary of Bear River, for the purpose of Irrigation and Domestic Use
13149 & R-76 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
11 of Licenses at page 6573, on the 23 day of December, 19 58;
The right hereby confirmed dates from September 17, 19 40;
The Point of ~~Diversion~~ ^{Outlets are} located (Reservoir #2 in Sec. 9, T14S-R39E.BM) Reservoir #1
in the NE 1/4 SE 1/4, Sec. 2, Tp. 14 S., R. 39 E., B. M. County Franklin
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 984.28 ^{acre} ~~cubic~~ feet per ~~second~~ ^{annum}.

Description and location of use:

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 State Reclamation Engineer, affixed at Boise, Idaho, this

23rd day of December, 19 58.

/s/ Geo. N. Carter

State Reclamation Engineer.

(SEAL)

13-2290

APPLICATION FOR PERMIT

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

Application No. R 26478
Permit No. R 689

1. Name of Applicant: **STRONGARM RESERVOIR IRRIGATION DISTRICT**

Postoffice address: **Preston** County **Franklin** State **Idaho**

I. If applicant is a corporation, give:

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

II. The financial resources of the corporation are:

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

2. Quantity of water to be stored: **1000** acre feet per annum.

3. Source of water supply is **Battle Creek** (Creek) **2591.5** (Spring), a tributary of **Bear** River.

4. The outlet of the proposed reservoir is located **N. 32° 19' E. / 2691.5** feet, distant from the **S 1/2** corner of Section **2**, Township **14 S.**, Range **39 E.**, B. M. and is in the **NE 1/4 of SE 1/4 of Section 2**, Township **14 S.**, Range **39 E.**, B. M. County of **Franklin**

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

(a) The reservoir is located in the channel of **Battle Creek** (Creek) ~~(River)~~

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located (bearing) feet distant from

the corner of Section , Township , Range , B. M., and is in the 1/4 of 1/4 of

Section , Township , Range , B. M.; width at bottom feet, width at top

feet, depth of water feet; average grade per mile feet; Capacity cubic feet per second.

6. (a) The area of the high water line of the reservoir is **195.50** acres.

(b) The reservoir capacity is **1950** acre feet.

7. Height of reservoir dam **45** feet, length at top **550** feet, length at bottom **100** feet, size of outlet feet

by feet. The dam is to be constructed of materials as follows: **Earth and rock**

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

8. (a) Will water stored in reservoir be diverted to canal or aqueduct, thence to land to be irrigated without commingling with natural flow of

Battle Creek ~~(Creek) (River)~~ ? **No**

(b) Water stored in reservoir will be carried in the channel of **Battle Creek** ~~(Creek) (River)~~ a distance

of **1/4** miles to point of diversion located (bearing) feet, distant from the corner of Section

Township , Range , B. M., and in the **NW 1/4 of SE 1/4 of Section 2**, Township **14 S.**, Range

39 E. B. M.

9. Amount of water claimed from (Creek) (River) (Spring) in addition to that stored in reservoir cubic feet per second.

10. Water is to be used for **Irrigation and domestic** purposes.

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

(a) Point of use of water (bearing) feet, distant from Corner of Section , Township , Range

B. M. and is in the 1/4 of 1/4 of Section , Township , Range , B. M.

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

(c) Water is to be returned to (Creek) (River) (Spring) at a point (bearing) feet

distant from the corner of Section , Township , Range , B. M., in

the 1/4 of 1/4 of Section , Township , Range B. M.

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No.

, which is hereby referred to and made a part hereof.

13. Kind of diversion works: **Diversion works are all constructed and have been in use for a number of years**
(Dam, canal, flume, pipe, etc.)
14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows:

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

15. Size of headgate: Width feet, Height feet.
16. Diversion Canal: Width at bottom 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.
17. Estimated cost of Works: Storage Works: \$ **15,000.00** Diversion Works: \$ **None**
18. Time required for completion of work **Five** years.
19. Time required for complete application of water to proposed beneficial use is **Six** years.
20. The land to be irrigated is described in the following tabulation:

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

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
14 S.	39 E.	3				2 $\frac{1}{2}$									3				5 $\frac{1}{2}$
		6			5				20				40						65
		7	20	20			10												50
		8									10							40	50
		9			40	40			10		40	30	40	10		40			250
		10						40	40		20								100
		17	40		40	40	40		40		20				40				260
14 S.	38 E.	1						27 $\frac{1}{2}$				40		10		40	10		127 $\frac{1}{2}$

Total Number of Acres to be Irrigated

908

Remarks: **It is proposed to increase the size of dam for raising water surface approximately seven (7) feet, and thereby increase capacity from 950 acre feet to 1950.**

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

STRONGARM RESERVOIR IRRIGATION DISTRICT

Applicant.

By **Wm. A. Shuldberg**

Agent.

Date of first receipt at office of Commissioner of Reclamation **11:00 A. M. August 29, 1940**

Returned to applicant for correction **September 28, 1940**

Corrected application received **October 31, 1940**

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R **689**

Recorded in book R **3**, page **689**

Approved **November 4, 1940**

This is to certify that I have examined the within application for a permit to construct a reservoir and store and appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$, to be filed on or before

Work to begin on or before **January 3, 1941**

and to continue diligently and

uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One fifth of the work above specified to be completed on or before **May 4, 1943**

The whole of said work to be completed on or before **November 4, 1945**

Beneficial use of water stored in accordance herewith, to be made on or before **November 4, 1951**

Witness my hand this **4th** day of **November**

, 19 **40**

JAMES SPOFFORD

Commissioner of Reclamation.

IN TESTIMONY WHEREOF, We, C. A. BOTTOLFSEN, Governor of the State of Idaho, and GEO. H. CURTIS, 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 4th day of November, 1940.

(SEAL)

Countersigned:
By Geo. H. Curtis
Secretary of State

STATE OF IDAHO
By C. A. BOTTOLFSEN
Governor

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

WHEREAS, Application for extension of time for completion of works under Permit No. R-689, has been made by the owner thereof, Strongarm Reservoir Irrigation District, of Preston, Idaho, which application was duly advertised for a period of two consecutive weeks, in the Preston Citizen, stating that on the 10th day of October, 1945, a hearing would be held for the purpose of receiving any protests, testimony or evidence regarding such application; and,

WHEREAS, At the time set for the hearing a protest had been filed by the Twin Lakes Canal Company against the approval of said application for extension; and,

WHEREAS, Said hearing was postponed until December 29, 1945, at which time a hearing was held in the office of the State Reclamation Engineer, at Boise, Idaho; and,

WHEREAS, On March 5, 1946, a decision was rendered by the State Reclamation Engineer approving said application:

NOW, THEREFORE, I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, by virtue of authority vested in me by Senate Bill No. 13 (Chapter 12) of the Session Laws of 1945, hereby extend the time for completion of works under Permit No. R-689, to Constrict a Reservoir and Store and appropriate 1000 acre feet of water from Battle Creek, a tributary of Bear River, until November 4, 1949.

WITNESS MY HAND this 5th day of March, A. D. 1946.

MARK R. KULP
State Reclamation Engineer

Application for Amendment
To Permit to appropriate the Public Waters
of the State of Idaho, No. R-689

Comes now STRONGARM RESERVOIR IRRIGATION DISTRICT - By: Joseph C. Hedin, President, and represents to the State Reclamation Engineer of the State of Idaho. That he represents the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. R-689, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows: SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 3; S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10; S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 9; SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 8; N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7; SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 17; Township 14 South, Range 39 East, BM, W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1; NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 12, Township 14 South, Range 38 East, BM, making a total of 908 acres. That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Boise, this 23rd day of December, 1958

STRONGARM RESERVOIR IRRIGATION DISTRICT

By: Joseph C. Hedin, President

Date of receipt at office of Department of Reclamation December 23, 1958

APPROVAL OF STATE RECLAMATION ENGINEER

I, GEO. N. CARTER, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to appropriate the Public Waters of the State of Idaho, No. R-689. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

/s/ Geo. N. Carter
State Reclamation Engineer

Recorded: December 23, 1958
in Book R3 of Permits at Page R689
DEPARTMENT OF RECLAMATION

PERMIT NO. R 689
Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to certify that STRONGARM RESERVOIR IRRIGATION DISTRICT of Preston, County of Franklin and State of Idaho, the holder of Permit No. R689, issued upon Application No. R-26478, bearing date of priority of August 29, 1940 authorizing the construction of a reservoir, with the right to appropriate and store 1000 acre feet per annum of the waters of Battle Creek a tributary of Bear River, in the County of Franklin 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 construction of the works described in said Permit; that said works include a dam and

See other pages:

PERMIT NO. R 689

CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that STRONGARM RESERVOIR IRRIGATION DISTRICT of Preston, County of Franklin and State of Idaho, the holder of Permit No. R.689, issued upon Application No. R-26478, bearing date of priority of August 29, 1940 authorizing the construction of a reservoir, with the right to appropriate and store 1000 acre feet per annum of the waters of Battle Creek a tributary of Bear River, in the County of Franklin, 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 set out and described in said Permit. that said works include a dam and reservoir adequate for the storage of 577.72 acre feet of water per annum, with adequate diversion works and conduit to the reservoir, and a conduit capable of conducting said water to the place of intended use; that the point of outlet of said reservoir is located in the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2, Township 14 S., Range 39 E., and that the place of use, or the lands proposed to be irrigated by the use of said water, are described as follows, to-wit: 908 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 3; S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 10; S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 9; SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 8; N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 7; SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 6; NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 17; Twp 14 S., Rge 39 E.BM, W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 1; NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 12, Twp 14 S., Rge 38 E.BM Proof of Completion of Works made: November 7, 1949

Witness my hand this 23rd day of December, 1958

/s/ Geo. N. Carter
State Reclamation Engineer

Proof of Completion of Works made: November 7, 1949
Certificate of Completion of Works issued: December 23, 1958

577.72 ac. E
Page 6574

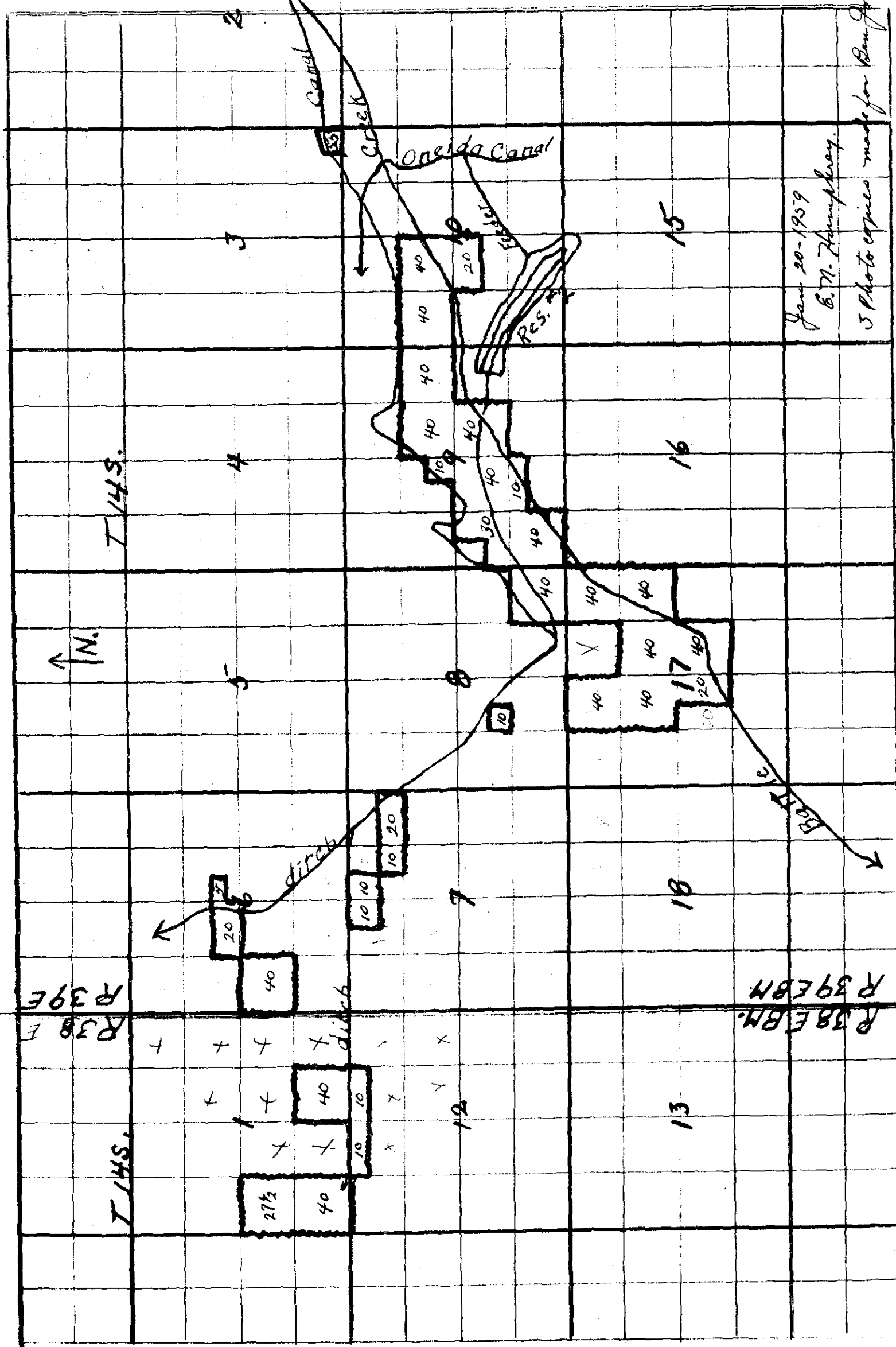
LAND LIST ATTACHMENT

Description and location of place of use: AS

[illegible]

Total number of acres irrigated 908

for Ben Johnson



Scale: 2 inches equals 1 Mile. Draw Plan in ink.

R-689

April 15, 1959

Re: Permit No's R-76, R-689, 13149

Mr. Ben B. Johnson
Attorney At Law
Preston, Idaho

Dear Mr. Johnson:

We enclose departmental receipt No. 29559, which was issued covering payment in the amount of \$9.00 for certified photocopies of maps filed in connection with the above listed permits, which were sent to you under date of April 7, 1959.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rutledge
Chief Clerk

EPR/lw
Encls. (1)

R-689

April 7, 1959

Re: Permit Numbers

R-76; 13149; R-689

Mr. Ben Johnson
Attorney At Law
Preston, Idaho

Dear Mr. Johnson:

Upon request of your telephone call of April 6, 1959, we are enclosing certified photo-copies of maps filed in connection with the following permits - Permit No. R-76; Permit No. 13149, Permit No. R-689.

If for any reason the copies of the maps previously certified and sent to you are different in any manner what so ever, you may send us a copy of copies previously sent you and we will make you additional copies without charge.

You may remit your check made out to the Department of Reclamation to the amount of \$9.00 in payment of said certified copies.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

RWT/lw
Enclosures

R-689

4689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. R-689

REPORT ON PROOF OF Completion of works and Beneficial use

~~577.72 ac ft~~

mark

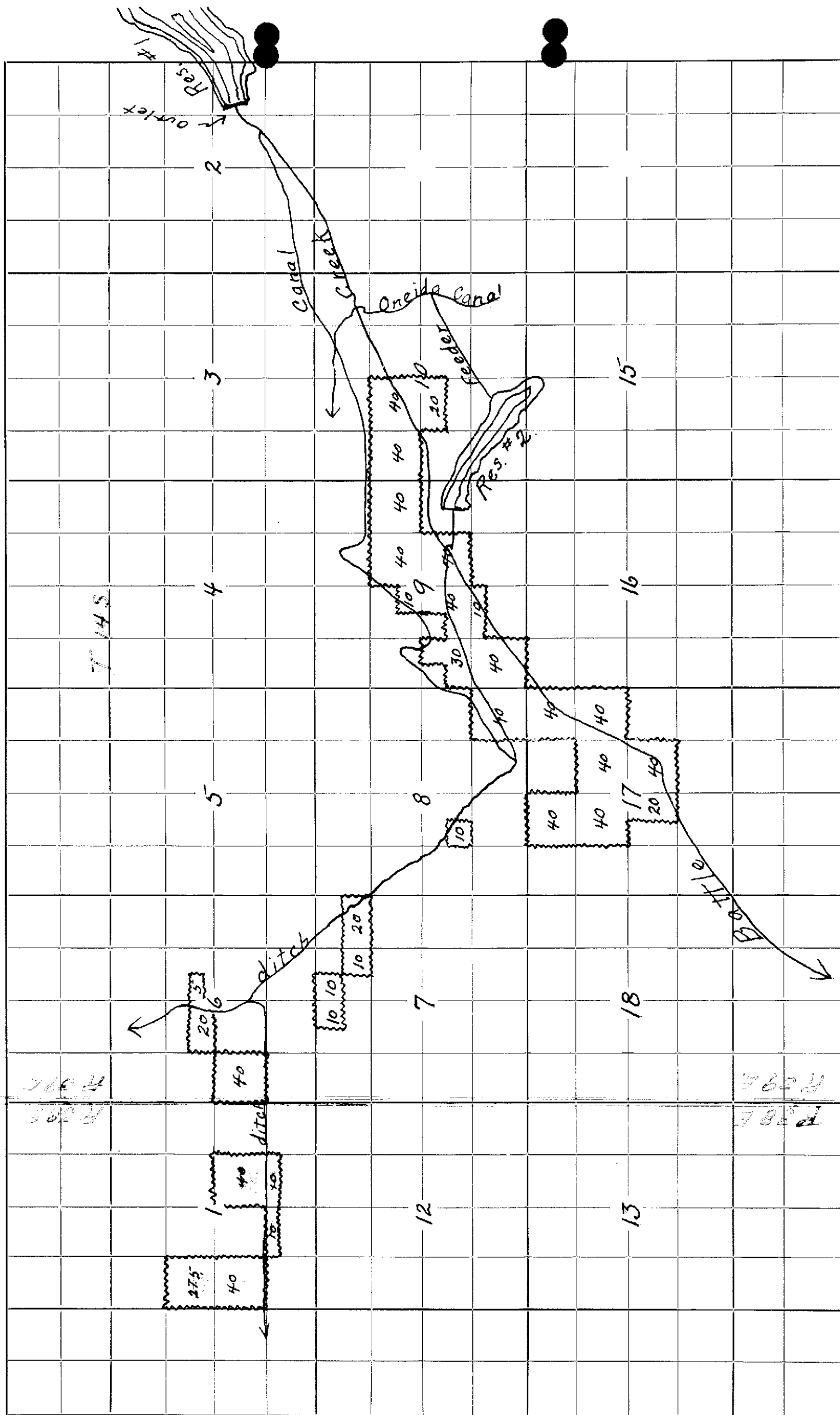
1000 acre ft.

E. N. H.

Dec 23-58

6574

R-689



Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.

Re: Permits Nos. R-76 and R-689

These two Permits are on the same system and are for two dams, one located in the stream bed of Battle Creek and the other off-stream, and store water for the lands under the Strongarm Reservoir Irrigation District.

Inspection was made on July 11, 1951, in company of Mr. Hedin, the Secretary, and Mr. W. C. Koford, Watermaster.

Small Dam

The off-stream reservoir, which is the smaller one, has a dam approximately 250 yards long by 9 feet wide on the top and is approximately 18 to 20 feet high, built entirely of earth, which is principally clay. Upstream slope is approximately $2\frac{1}{2}$:1, downstream slope 1:1. The freeboard has been maintained at approximately 42". There is no rip-rap on the dam. There is a 14" pipe through the dam for an outlet.

The dam has 10 to 12 large cottonwood trees on the upstream face. (Picture)

The lower side of the dam has had a considerable earth slip within the past two years. There is a section approximately 27 yards long extending the full height of the dam in the center section of the dam, immediately over the outlet and extending South from the outlet. This slip was severe enough that additional earth and gravel was hauled in to repair the roadway on the top of the dam. There is no spillway whatever for this dam.

Large Dam

(See pictures)

The large dam is approximately 25 to 30 feet high, 150 yards long on the top and 18 feet wide on the top. This dam is well built and in good condition, excepting that the canal which should lead downstream from the spillway to protect the dam during high water has never been built. The spillway is made of concrete and is 20 feet wide by 25 feet long by 8 feet high. The bottom 4 feet of the spillway is blocked with earth and there are boards in the spillway to maintain the water level for proper storage.

The spillway has 3 rows of concrete checks built in the race way in order to take the energy out of the water and help prevent undercutting.

Upstream slope is estimated at $2\frac{1}{2}$:1 and the downstream at $1\frac{1}{2}$:1. The outlet is a concrete arch 36 inches wide by 38 inches high by approximately 8 to 10 inches thick. The control gate is vertical and a short distance below center of the dam.

Freeboard on the dam has been maintained at approximately 45 inches. This has been accomplished by someone visiting the dam daily during runoff and regulating the gate so as to control the elevation of the water. If the water goes through the spillway in any volume it can immediately cut back along the downstream toe of the dam and thus damage the dam structure.

Re: Permits Nos. R-76 and R-689

Page 2.

Re-Diversion Dam

The re-diversion dam which is approximately 1/4 mile down Battle Creek from the large dam and diverts water for the high ditch on the North side, is made of concrete and has an opening approximately 6 to 8 feet high by 12 feet long. Two inch planks are used to close the dam.

There is a concrete spillway from this dam approximately 6 feet long with 2 feet of fall in the 6 feet. Undercutting and breaking of the concrete is already occurring. In center it is broken back to approximately 4 feet in length.

- - - - -
Completion of Works Certificates should not be issued for either of these dams until the unfinished work is completed.

- - - - -
Mr. Lawrence McDermitt, Chairman of the Twin Lakes Canal Company, residing at Clifton, Idaho, who protested the raising of the dam under Permit No. R-689, was contacted and the relation between the two companies discussed. He advised that the protest still stands and that they expect to get some kind of a settlement either in or out of Court within the next few months, probably this fall.

E. N. Humphrey
E. N. Humphrey
Deputy State Reclamation Engineer

MEMO TO FIELD ENGINEER:

Permit No. R-76 calls for the storage of 984.24 and Permit No. R-689 for additional 1000 acre feet.

A protest has been filed by the Twin Lakes Canal Company, stating that the works are not capable of storing and conducting to the place of use an additional 1000 acre feet and that no such amount of water has been applied to beneficial use. Also that the Strongarm Reservoir Irrigation District has no right to the use of more than the 950 acre feet which is its original storage capacity.

The protest refers to an action pending, entitled "Twin Lakes Canal Company vs. the Strongarm Reservoir Irrigation District" requesting that the rights of said parties be defined and that an injunction be issued permanently enjoining the defendant from interfering with the flow of Battle Creek after the reservoir has been filled to the original capacity.

Spillway dam
 Spillway ditch not completed
 outlet overflow thru outlet
 concrete spillway
 40' w x 25" L x 8" h.
 approx 4' of spillway is filled
 with dirt in front.
 This 2' x 8" planks in spillway
 so as the allow only 3' freeboard.
 This 3 rows of concrete blocks to
 break water force.

44" freeboard on dam.
 Dam = 18' w. on top
 upstream slope = 2 1/2 : 1 (vert)
 downstr. " = 1 1/2 : 1
 old dam had clipped on
 S. side.
 dam = approx. 25' - 30' h.
 approx. 150 yds L. on top.
 outlet is concrete arch.
 35" w x 8" - 10" x 38" h.
 built 1902

State of Missouri
 Joseph R. Smith, Jr., District
 Permit No. 2-489

Examination for
 and beneficial use
 County
 Franklin

143 39E.
 Amt = 1000 acre ft.
 Directors = Joseph Cordie
 all of { Wm. Lundberg
 Preston { Julius Johnson
 (Jed Miller)
 P.D. is in NE SE, S 2
 Copy = 1950 acre ft.
 P.D. for stream is in
 NW SE S 2
 for 908 A.
 Intake dam 7 feet

22-24
 finished spillway #2
 land that partially was g.
 for flood in visited dept. to AM.

9 mi. N. of Preston
 East.

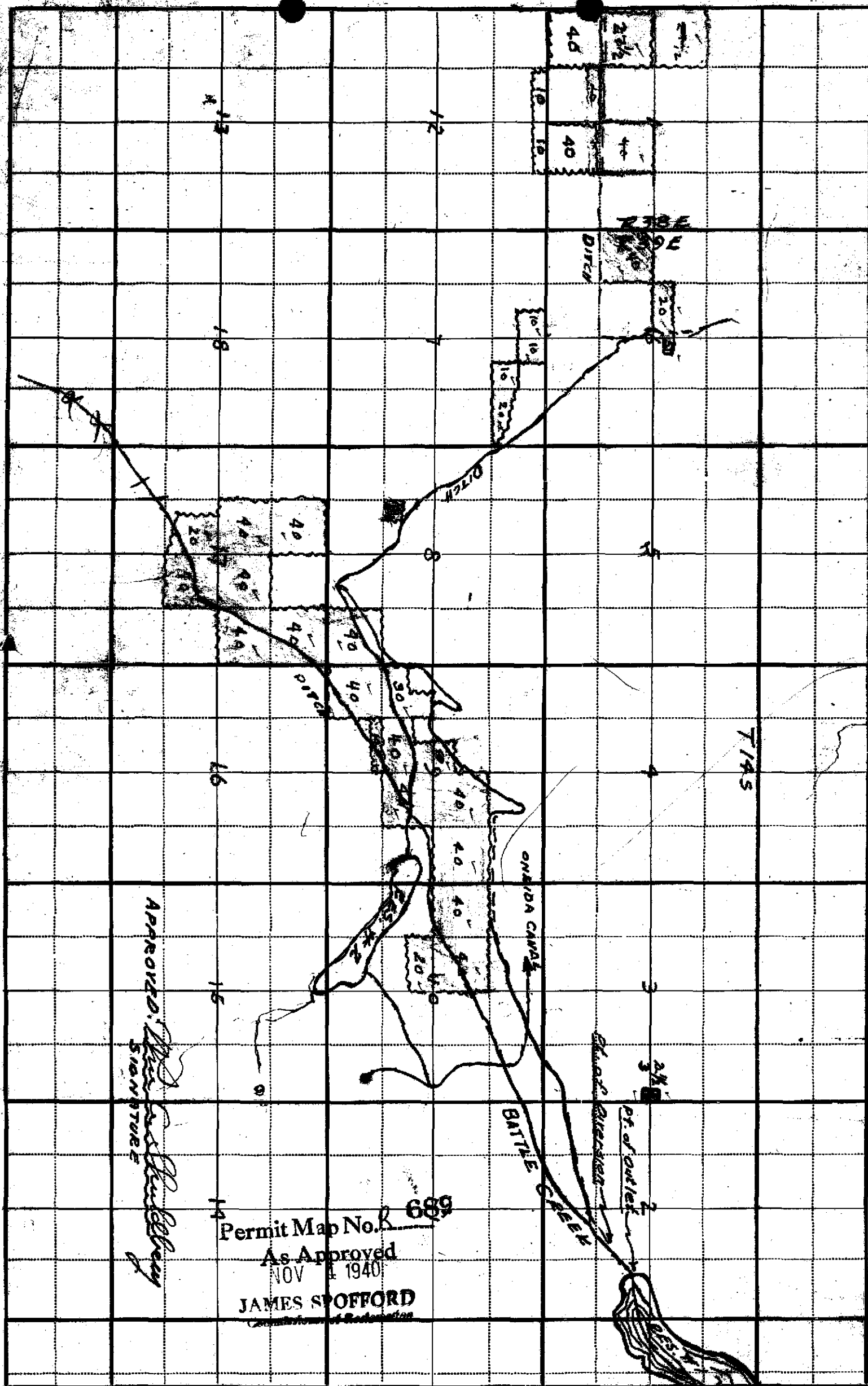
Talked to Lawrence
 McHarrmitt, Clepton
 re. protest
 (chairman)

Protest not withdrawn

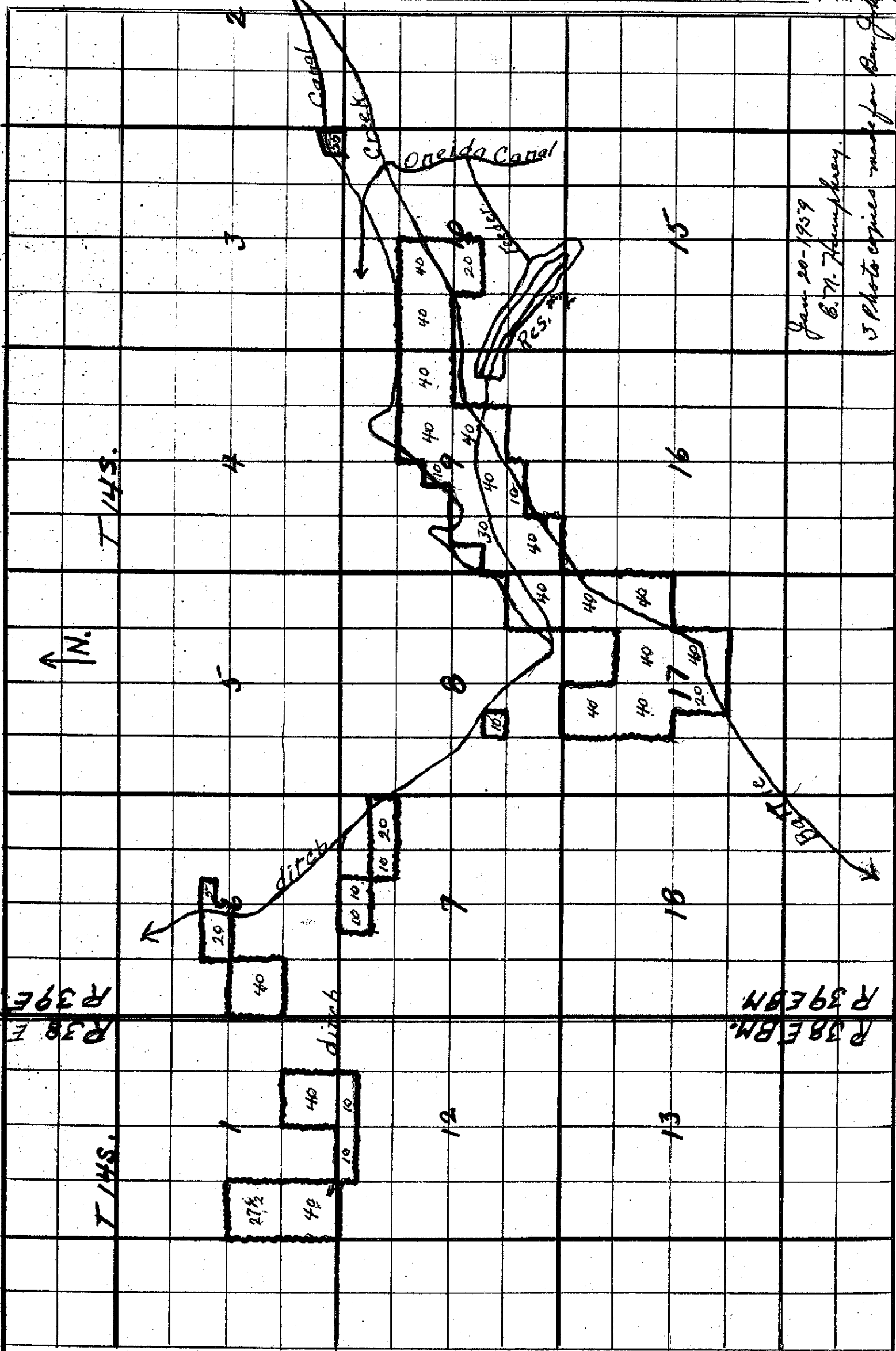
100
250
260
30
50
65
127 1/2
902 1/2
5 1/2
908

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.



NAME OF APPLICANT



Scale: 2 inches equal 1 Mile. Draw Plan in ink.

L-689

January 12, 1959

Re: Permit Numbers -
13149, R-76, R-689

Gustave C. Hedin, Secretary
Strong Arm Irrigation District
Preston, Idaho

Dear Mr. Hedin:

We are enclosing departmental receipt No. 29446 to the amount of \$8.50 in receipt of your payment for certified copies of Permit No's 13149, R-76 and R-689, furnished by the Department of Reclamation.

We also enclose departmental receipt No. 29445 to the amount of \$14.00 in receipt of your payment for copies of various documents taken from the files of the Strong Arm Irrigation District on file in the Department of Reclamation, the above being ordered by Joseph Hedin, President of the district.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

RWT/lw
Encls. (2)

R-689

December 26, 1958

Re: Permit No's. 13149, R-76, R-689

Mr. Gustav C. Hedin, Secretary
Strong Arm Irrigation District
Preston, Idaho

Dear Mr. Hedin:

We are enclosing the following, in connection with the above listed permits.

License and Certificate of Water Right
Permit No. 13149 - For 70 cubic feet per second
Permit No. R-76 - For 984.28 Acre Feet
Permit No. R-689 - For 577.72 Acre Feet

Certificate of Completion of Works on Permit No. R-689
For - 577.72 Acre Feet

Copies of Amendments on Permit No. R-689 and Permit No. 13149

Departmental receipt's No. 29424, for \$64.00 in payment of License
fees, and receipt No. 29425, for Completion of Works Proof on Permit
No. R-689.

We also enclose certified copies of the following permits, as ordered
by Joseph Hedin and Mr. Geddes, while in our office on December 23rd.

Permit No. 13149
Permit No. R-76
Permit No. R-689

The fees for preparing the above listed certified copies is \$8.50, which
you may remit to the Department of Reclamation.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

RWT/lw
cc: Joseph Hedin
Enclosures: Noted above

R-689

December 17, 1958

Re: Permit No. R-689

Mr. Ben B. Johnson
Attorney At Law
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

Upon your request, we are returning your check for \$64.00 that was sent to us under date of December 10, 1958, in payment of license in connection with Permit No. R-689.

The return of this check was requested because you may appear in person at our office at a later date to discuss the license further.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT/lw
Enclosure: Check

R-689

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

Check # 6400
RECEIVED
DEC 11 1958
Department of Reclamation

December 10, 1958

Roy W. Thompson
Office Manager
Department of Reclamation
State Capitol Building
Boise, Idaho

Re: Permit No. R-689

Gentlemen:

I am enclosing herewith check for \$64.00 pursuant to telephone conversation to pay for license. I will appreciate you mailing me a certified copy of the license, along with the other papers requested, if you have not already done so.

Sincerely yours,



BEN B. JOHNSON

BBJ:lkp
Enclosure

R-689

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

of Encl. 164
RECEIVED
DEC 1 11 1958
Department of Reclamation

December 10, 1958

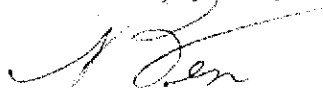
Roy W. Thompson
Office Manager
Department of Reclamation
State Capitol Building
Boise, Idaho

Re: Permit No. R-689

Gentlemen:

I am enclosing herewith check for \$64.00 pursuant to telephone conversation to pay for license. I will appreciate you mailing me a certified copy of the license, along with the other papers requested, if you have not already done so.

Sincerely yours,



BEN B. JOHNSON

BBJ:lkp
Enclosure

R-689

December 10, 1958

Re: Permit No. R-689

Mr. Ben Johnson
Attorney At Law
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

According to our recent telephone conversation, we are mailing you Proof of Application of Water to Beneficial Use, Deposition of Holder, so that you might see first hand what the Holder said in this Application of Water to Beneficial Use.

We are also enclosing a map showing the acreage entitled to storage from Reservoir No. 1 and No. 2.

We will try and get your license to you in the next few days.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT/lw
Encls:
Photo-copy of Deposition of Holder
Map

R-689

March 26, 1958

Re: Permits Nos. R-689 and R-76

Mr. Ben B. Johnson
Attorney At Law
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

Enclosed is departmental receipt #29030 for \$5.00, issued as receipt of the fee of two dollars and a half each for certified copies of Permits Nos. R-689 and R-76.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:nls
Enc.

R-689

CP Encl. 2/28/58

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

March 25, 1958

RECEIVED
MAR 28 1958

Department of Reclamation

Department of Reclamation
Boise, Idaho

Gentlemen:

Enclosed herewith is \$5.00 for certified copies of permits
in your letter of March 19th.

Sincerely yours,

Ben B. Johnson
Ben B. Johnson

BBJ/rh

Encl.

R-689

March 19, 1958

Re: Permits Nos. R-689 and R-76

Mr. Ben B. Johnson
Attorney At Law
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

In reply to your request of March 12, 1958, requesting certified copies of Permit Nos. R-689 and R-76, we are enclosing certified copies of Permit No. R-689 and R-76.

The fee for certified copies of these two permits is \$2.50 each, making a total of \$5.00, which you may submit to this department.

We wish to state, in connection with Permit No. R-76 and R-689 that the company made Completion of Works and Beneficial Use on both permits and an engineers inspection has been made by this department, however, license has not been issued due to the fact that a \$64.00 fee in connection with these licenses has not been paid.

Permit No. R-76 has been approved for 984.28 acre feet. Permit No. R-689 has been approved for a total of ~~134.72~~ acre feet, ~~134.72~~ making a total of the two permits to the sum of ~~1119.00~~ acre feet. ~~1119.00~~

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Office Manager

RWT:lw
Encls. (2)

R-689 & R-76

March 19, 1958

Re: Permits Nos. R-689 and R-76

Mr. Ben B. Johnson
Attorney At Law
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

In reply to your request of March 12, 1958, requesting certified copies of Permit Nos. R-689 and R-76, we are enclosing certified copies of Permit No. R-689 and R-76.

The fee for certified copies of these two permits is \$2.50 each, making a total of \$5.00, which you may submit to this department.

We wish to state, in connection with Permit No. R-76 and R-689 that the company made Completion of Works and Beneficial Use on both permits and an engineers inspection has been made by this department, however, license has not been issued due to the fact that a \$64.00 fee in connection with these licenses has not been paid.

Permit No. R-76 has been approved for 984.28 acre feet. Permit No. R-689 has been approved for a total of ~~1112.00~~ 1112.00 acre feet, ~~7.00~~ making a total of the two permits to the sum of 1996.28 acre feet. ~~1112.00~~

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy M. Thompson
Office Manager

RWT:lw
Encls. (2)

R-689

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO
March 12, 1958

RECEIVED
MAR 17 1958
Department of Reclamation

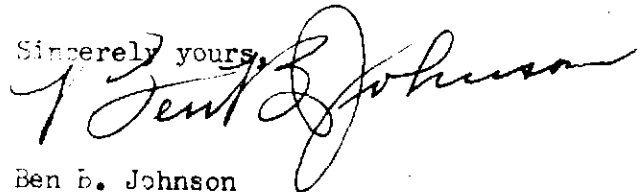
Department of Reclamation
State House
Boise, Idaho

Re: Strongarm Irrigation District

Dear Sir:

Would you kindly mail me a certified copy of Licenses
and Permit Nos. R-689, and R-762. Kindly bill me for the
same.

Sincerely yours,



Ben B. Johnson

BBJ/rh

R-689

BEN B. JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO
March 12, 1958

RECEIVED
MAR 17 1958
Department of Reclamation

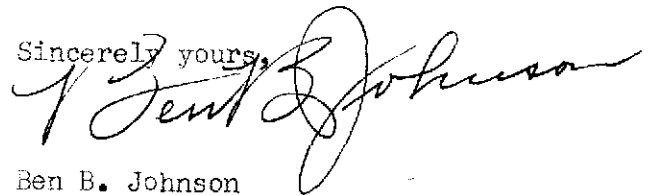
Department of Reclamation
State House
Boise, Idaho

Re: Strongarm Irrigation District

Dear Sir:

Would you kindly mail me a certified copy of Licenses
and Permit Nos. R-689, and R-76? Kindly bill me for the
same.

Sincerely yours,



Ben B. Johnson

BBJ/rh

R-689

December 21, 1953

RE: Permits Nos. R-76 & R-689

Mr. Joseph Hedin
Strongarm Irrigation District
Preston, Idaho

Dear Mr. Hedin:

The reports of our field engineer in connection with your Permits Nos. R-76 & R-689 are now on file.

On Permit No. R-76, a license can be issued for the storage of 984.28 acre feet of water from Battle Creek, for use on the land included within the boundaries of the Strongarm Irrigation District.

The license fee on this will amount to \$64.00, as the land is included in 32 forty acre subdivisions and the fee is at the rate of \$2.00 for each such subdivision.

Certificate of Completion of Works and License on Permit No. R-689 can be issued for 577.72 acre feet of water from Battle Creek. The fee for Certificate of Completion of Works amounts to \$5.00, but there will be no additional license fee since this permit includes the same lands described in Permit No. R-76.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/re

R-689

February 21, 1953

Strongarm Reservoir Company
Preston, Idaho

Attention- Mr. Joseph Hedin

Dear Mr. Hedin:

I expect to be in the Preston area next Tuesday or Wednesday, and hope to make final inspection of the Strongarm Reservoir at that time.

I will be glad to have you or any one interested accompany me.

Very truly yours,

E. N. HUMPHREY
Deputy State Reclamation Engineer

R-689

Preston, Idaho
Dec. 5, 1952

RECEIVED
DEC 6 1952
Department of Reclamation

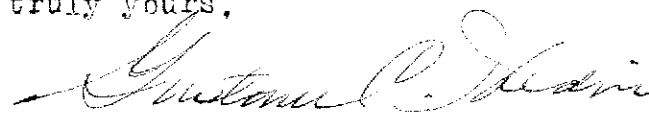
Mr. En N. Humphrey
Department Of Reclamation
Boise, Idaho

Dear Mr. Humphrey:-

We have completed everything on the two reservoirs of the Strongarm Reservoir Irrigation District. Both dams have been rocked and the spillway on the No. 2 dam was completed according to the instructions that you gave Joseph C. Hedin.

They are now ready for your inspection and approval so that they may be properly certified. It would be well if you could let us know a little ahead of time when you will be here so we will sure to be around.

Very truly yours,


Gustave C. Hedin
Secretary

R-689

or

R-76

R-689

R689

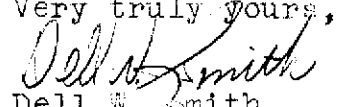
Preston, Idaho
July 31st, 1952.

Mr. Mark R. Kulp
State Reclamation Engineer
Boise, Idaho.

Dear Sir:

In reply to your letter of July 30, of late and
wish to advise you of the source and nature of Mr. Dan
Taylor's water right.

Source	Nature
Strong-Arm Reservoir At Tressureton, Idaho	22 $\frac{1}{2}$ shares of stock
Tressureton Irrigation Co. At Tressureton, Idaho	62 $\frac{1}{2}$ shares of stock

Very truly yours,

Dell W. Smith
Attorney at Law
Preston, Idaho

RECEIVED
AUG 1 1952
Department of Reclamation

R-689

APPLICATION FOR PERMIT TO CONSTRUCT DITCH.

TO: STATE BOARD OF LAND COMMISSIONERS.

TO: DEPARTMENT OF RECLAMATION.

APPLICATION of Mr. Dan Taylor to construct a ditch across State land for carrying and distributing public waters for a beneficial use.

Applicant's Name: Mr. Dan Taylor, ^{Sanida}Idaho.

Locations of State Lands: ~~containing~~ quarter of The Southwest quarter of Section 36, Twp. 13 South, Range 38 Est. of the Boise, Meridian.

Water is to be used for: Irrigation.

Description of Right-of-way as follows:

Beginning at the Southeast corner of the Southwest quarter of Section 36, township 13 South, Range 38 East of the Boise Meridian, thence running Northwest to a point 160 rods north of the Southwest corner of Section 36, township 13 South, Range 38 East of the Boise Meridian, thence South 40 feet, more or less, thence Southeast to a point 40 feet west of the place of beginning, thence East 40 feet to the place of beginning. Containing 2.54 acres.

July 30, 1932

Mr. Dell W. Smith
Attorney at Law
Preston, Idaho

Dear Mr. Smith:

We acknowledge receipt of copy of application for permit to construct a ditch, submitted to the State Board of Land Commissioners by Dan Taylor of Benito, Idaho, across the SW $\frac{1}{4}$ of Section 36, Township 13 South, Range 38 East, B.M.

This department has no jurisdiction over rights-of-way, but as a matter of information in case the land department should inquire as to the water right, we would appreciate your advising us just what is the source of the water and the nature of the water right to be conveyed through the ditch applied for.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A:fg

R-489

R-689

July 12, 1952

Mr. Joseph Hedin, President
Strongarm Reservoir Irrigation District
Preston, Idaho

Dear Mr. Hedin:

Enclosed are two maps of the district that I promised I would send you upon return to the office. One is for your own files and on the other you will please send me a correct land list of the land on which the water from your reservoir is to be made appurtenant and, in a different shading, the full lands on which the water has been used.

If you find time before you go harvesting, I would be glad for you to set a date on which we can visit all of the various reservoirs in your region.

I will certainly make the trip unless there is interference that I do not see at the present time, providing you can advise me at least two weeks in advance.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg
Enc.

R-689

July 1, 1958

RE: Permits Nos. R-76 and R-689

Mr. Joseph Hedin, President
Strongarm Irrigation District
Preston, Idaho

Dear Mr. Hedin:

I will call on you either Wednesday afternoon or Thursday morning when in that region and would like to make inspection in connection with your Permits Nos. R-76 and R-689, in order to get the land listed which you are actually irrigating.

This will make the inspection in connection with the completion of the reservoirs very easy and one that can be made at any time.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. M. Humphrey
Deputy State Reclamation Engineer

H:fg

R-689

August 23, 1931

Re: Permit Nos. R-76 and R-688

Strongarm Reservoir Irrigation District
Preston
Idaho

ATTN: Joseph Hedin, President

Dear Mr. Hedin:

Before Permits R-76 and R-688 can be brought to license, each dam will have to be completed in a satisfactory manner with due regard to built in safety features, so that they can pass inspection and be approved.

The large dam must have a large ditch or canal to carry the water away from the spillway so as to protect the dam. It need not be too elaborate, but must have capacity to afford protection.

The lower reservoir must have a spillway, should have the willows removed, and then more earth added onto the upper side to provide a thicker, heavier dam.

Both dams need rock riprap to protect against wave action.

As soon as this office receives notification that these dams have been put in order, another inspection will be made as soon thereafter as possible, and all requirements checked so that they may be brought to license as soon as possible.

Very truly yours,

MARK E. KULP
State Reclamation Engineer
BY

E. H. Humphrey
Deputy State Reclamation Engineer

H:fg

cc: Sam Johnson

R-689

November 28, 1950

Re: Permits Nos. R-76 and R-689

Mr. Ben Johnson
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

Reference is made to your letter of November 27, 1950, in regard to Permits of the Strongarm Reservoir Company.

Field inspection has not yet been made in connection with Proofs of Completion of Works and Beneficial Use under Permit No. R-689, but will no doubt be made early next season.

In regard to Permit No. R-76 and its companion Permit No. 13149, we refer you to the Decree rendered by Judge Dietrich in the case of the Utah Power and Light Company vs. The Last Chance Canal Company, dated July 14, 1920. This Decree awards certain waters from Battle Creek to the Strongarm Reservoir Company, and states "that the priority and amount of these appropriations are conditioned upon a compliance with the terms of the permit upon which said appropriations are based, to-wit: Permit No. 13149 and Permit No. R-76, issued by the State Engineer of the State of Idaho, and the same are subject to the provisions of the laws of the State of Idaho governing the issuance of water licenses by the Commissioner of Reclamation."

To date, Proof of Beneficial Use has not been made under Permit No. 13149.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-689

BEN JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

November 27, 1950

RECEIVED
NOV 28 1950
Dept of Reclamation

Mark R. Kulp
Department of Reclamation
State of Idaho
Boise, Idaho

Re: Permits Nos. R-76 and R-689

Dear Mr. Kulp:

Have you made the field inspection and are you about ready to make final decision on the permits for the Strongarm Reservoir Irrigation District. Kindly advise me if there is anything I can do in regards to this matter

With best regards, I am,

Sincerely yours,

Ben Johnson
Ben Johnson *lm*

BJ:lm

R-689

✓
November 28, 1950

Re: Permits Nos. R-76 and R-689

Mr. Ben Johnson
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

Reference is made to your letter of November 27, 1950, in regard to Permits of the Strongarm Reservoir Company.

Field inspection has not yet been made in connection with Proofs of Completion of Works and Beneficial Use under Permit No. R-689, but will no doubt be made early next season.

In regard to Permit No. R-76 and its companion Permit No. 13149, we refer you to the Decree rendered by Judge Dietrich in the case of the Utah Power and Light Company vs. The Last Chance Canal Company, dated July 14, 1920. This Decree awards certain waters from Battle Creek to the Strongarm Reservoir Company, and states "that the priority and amount of these appropriations are conditioned upon a compliance with the terms of the permit upon which said appropriations are based, to-wit: Permit No. 13149 and Permit No. R-76, issued by the State Engineer of the State of Idaho, and the same are subject to the provisions of the laws of the State of Idaho governing the issuance of water licenses by the Commissioner of Reclamation."

To date, Proof of Beneficial Use has not been made under Permit No. 13149.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-689

NOTICE OF PROOF OF COMPLETION OF WORKS
AND

APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 A. M., on the 4th day of November, 1949, at Preston, County of Franklin, and State of Idaho, before J. N. Iarsen, Notary Public, proof will be submitted for the completion of works for the construction of a reservoir and the storage and diversion of 1,000 acre feet per annum of the waters of Battle Creek, and of the application to beneficial use of said water, in accordance with the terms and conditions of Permit No. R-689 heretofore issued by the Department of Reclamation of the State of Idaho.

1. The name and postoffice address of the person or corporation holding said permit are Strong Arm Reservoir Irrigation District, Preston, Idaho.

2. Said works of storage and diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of storing and conducting to the place of use, in accordance with the plans accompanying the application for such permit, is 1,000/acre feet per annum. additional.

3. The use to which said water has been applied is irrigation and domestic purposes, and the amount applied to beneficial use under this permit is 1,000 acre feet per annum.

4. The place where said water is used is on the lands under the Strong Arm Reservoir Irrigation District system, located in Twp. 14 S., Range 38 E., B.M. and Twp. 14 S., Range 38 E., B.M.

5. The date of priority which said user is prepared to establish under said permit is August 29, 1940.

MARK R. KULP

State Reclamation Engineer

R-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date: October 10, 1949

Re: Permits Nos. R-689 and R-76

The Preston Citizen

Preston, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to November 4, 1949 the date set for proof, the expense of the publication to be Irrigation District, C/o Jos. C. Medin, paid by the applicant, Strong Arm Reservoir of Preston, Idaho, to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,

MARK R. KULP

State Reclamation Engineer

By

Chief Clerk

R-689

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) September 24th. 1949.

(P. O.) Preston, Idaho, R. M. D. #1.

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the
Preston Citizen
~~Strong Arm Reservoir Irrigation~~ of Preston, Idaho published in
~~District~~
the county in which the works are situated.

Strong Arm Reservoir Irrigation District
by Joseph C. Hedlin Prest.

(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.

R-689

Re: Permits Nos. R-76 and R-689

Mr. Ben Johnson
First Security Bank Building
Preston, Idaho

Dear Mr. Johnson:

We acknowledge receipt of your letter of November 15, 1949, enclosing Affidavits of Publication in the Preston Citizen in connection with proofs under the above numbered Permits of the Strong Arm Reservoir Company.

Very truly yours,

LARK R. KULP
State Reclamation Engineer
By

Chief Clerk

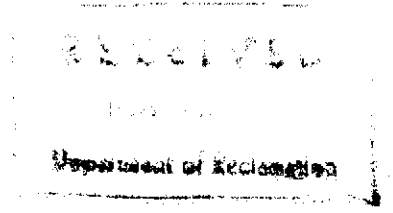
A:bh

CC: Mr. Joseph C. Medin.

R-689

BEN JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

November 15, 1949



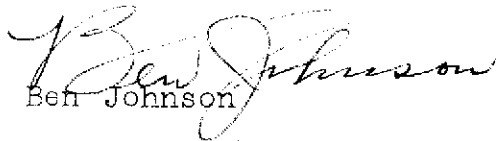
Mark R. Kulp
Department of Reclamation
State of Idaho
Boise, Idaho

Re: Permits Nos. R-76 and R-689

Dear Mr. Kulp:

Enclosed herewith are the Affidavits of
Publication, copies of which I understood had
been mailed to you.

Sincerely yours,


Ben Johnson

BJ:ld
Encls.

R-689

November 10, 1949

Re: Permits Nos. R-76 and R-689

Mr. Joseph C. Hedin, President,
Strong Arm Reservoir Irrigation District
Preston, Idaho

Dear Mr. Hedin:

We have received from Mr. J. N. Larson the depositions of your self and two witnesses for proof of beneficial use under Permit No. R-76, and of completion of works and beneficial use under Permit No. R-689.

However, we have not yet received the affidavit of publication, which is a necessary part of these proofs, and which the Preston Citizen was instructed to send you.

We enclose copy of a protest filed by the Twin Lakes Canal Company, in connection with these proofs.

No action will be taken until after a field examination has been made by this Department.

Very truly yours,

MARK R. KUIP
State Reclamation Engineer

Encls.

R-689

November 10, 1949

Re: Permit No. R-689

Mr. T. E. McDermott, President,
Twin Lakes Canal Company,
Preston, Idaho

Dear Mr. McDermott:

Your protest in the matter of the
proofs of the Strong Arm Reservoir Irrigation
District has been placed on file.

No action will be taken until after
a field examination has been made by this
Department.

Very truly yours,

MARK . RUTP
State Reclamation Engineer

CC to Strong Arm
Res. Irr. Dist.

R-689

Permit No. R-689

Proof of Completion of Works

DEPOSITION OF HOLDER

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

Ans. Joseph C. Hedin, President, Strongarm Reservoir Irrigation District, Route 1, Preston, Idaho.

Ques. 2. If acting on behalf of a corporation, state its name, principal place of business, your position with reference to same, and your authority for appearing in its behalf.

Ans. Strongarm Reservoir Irrigation District, Route 1, Preston, Idaho
President of board of directors, and of District.

Ques. 3. State number and date of permit, acre feet of water you claim for storage, and source of same.

Ans. Permit No. 689, August 29, 1940 - (1000 acre feet) Battle Creek, and drainage.

Ques. 4. Under terms of permit construction was required to be completed by
November 4, 1949.

Ques. 5. Construction was actually completed on the date of December 1, 1948.

Ques. 6. Does the construction fully comply with the specifications? Yes

Ques. 7. Of what material was the dam built? earth

Ques. 8. State whether or not the water has been turned into your reservoir, and if so, when and to what extent.

Ans. Yes - filled on or before May 10, 1949.

Ques. 9. The capacity of the reservoir is 1000 acre feet above prior storage.

Ques. 10. The area of the high water line of the reservoir is 195.50 acres.

Ques. 11. The height of the dam above bottom of reservoir is 45 feet, above low water is 40 feet.

Ques. 12. The dimensions of the spillway are 22' 8" and the bottom of the spillway is 6 feet below the top of the dam.

Ques. 13. Dimensions of the reservoir outlet are 3 feet x 3 feet

Ques. 14. Describe the gate and control unit.

Ans. Screw lift with reduction gear

Ques. 15. The reservoir outlet is made of Re-inforced concrete

Ques. 16. Is the reservoir filled through a feeder canal? no

Ques. 17. If so, where is the point of diversion for same?

Ans. 1/4 1/4 Section, Twp. Range

R-689

1949

Ques. 18. Does the feeder canal comply with the specifications in the permit?

Ques. 19. If not, explain

Ques. 20. Cost of constructing feeder canal? \$..... Cost of reservoir? \$10,000.00.....

Ques. 21. State whether or not the works from reservoir outlet to place of use are fully completed, and whether or not they comply with the specifications in permit. If not, explain.

Ans. finished years ago

Ques. 22. Water has (has not) been delivered to place of intended use? ...yes.....

Ques. 23. Give description of dam, state dimensions, and give slope of face both upstream and downstream. Also method and material for protecting against wave action.

Ans. Top width 18 - slope 1 - 3 - upstream slope, down
1 - 2 - (loose rock)

Ques. 24. State the purpose for which the water is to be used and give the place of use, and if for irrigation, state the number of acres, and give the legal description of same.

Ans. irrigation and domestic; .908 acres, to be used on all lands
under Strongarm Reservoir Irrigation District

(Sign here)

Joseph C. Hedlin, Pres.

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 Preston, County of Franklin, State of Idaho, on this 7 day of November A.D. 1949

[Signature]
Notary Public

My commission expires May 1 - 1953

I hereby certify that the proof and testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November 1949, but was not subscribed until the 7th of November, 1949, when it was typed. That the hearing on the proof was continued from the 4th day of November 1949 until the 7th of November 1949 when it was completed. That no one has appeared as a protestant.

Witness my signature and my notary seal this 7th day of Nov. 1949.

[Signature]
Notary Public
Preston, Idaho

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. R-689

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. Clifford Warr, Preston, Idaho, Secretary, National Farm Loan, Ass'n

Ques. 2. Are you acquainted with Strang arm Reservoir Irr. District, the holder of Permit No. R-689, authorizing the storage of 1000 acre feet of the waters of Battle Creek which is tributary to Bear River, in the County of Franklin, State of Idaho? How long have you known him, and where does he reside?

Ans. over 15 years, Preston, Route 1, Idaho

Ques. 3. Have you read or heard read said Permit? 689, yes Are you familiar with its terms and conditions? Yes

Ques. 4. Of what material and how has the dam been constructed?

Ans. Earth fill dam, good construction

Ques. 5. Is the reservoir fully constructed? yes Has water been turned into it? yes And to what extent? filled to capacity in 1949

Ques. 6. Where is the point of diversion of the feeder canal?

Ans. 1/4 1/4 Section, Township Range

Ques. 7. The outlet of the reservoir is located in the NE 1/4 SE 1/4 Section 2 Twp. 14 S. Range 39 EBM

Ques. 8. Describe the spillway.

Ans. Reinforced concrete structure, has 22 feet 8' feet width;

Ques. 9. How much below the top of the dam is the bottom of the spillway? 6 Ft.

Ques. 10. State the dimensions of the outlet for the reservoir. 3 feet by 3 feet

Ques. 11. Of what material is the outlet made? reinforced concrete

Ques. 12. How is the outlet gate operated? Screw lift, with reduction gear

Ques. 13. Of what material has the dam been constructed? earth, rock faced

Ques. 14. Are the works from the reservoir to place of use fully completed? yes

Ques. 15. Describe these works as they now exist, and give your estimate of their capacity.

Ans. Dam and ditches, and concrete spillway and outlet, in first class condition; capacity of ditches 20 cfs

Ques. 16. For what purpose is the water to be used?

Ans. domestic and irrigation

R-689

Ques. 17. If for irrigation purposes, are you acquainted with the land to be irrigated?—yes—
How much water is required for its profitable cultivation?

Ans. 2½ acre feet, approximately, per acre of land under District

Ques. 18. Give the legal description of the land to be irrigated, or the place of use.

Ans. All lands in Strongarm Reservoir Irrigation District, in Franklin
County, Idaho

(Sign here)

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, at my office in Preston County of Franklin,
State of Idaho, on this 7th day of November 1949.

Notary Public

My commission expires May 1st 1953

I hereby certify that the proof and testimony offered in the above
entitled matter, was presented to me and before me on the 4th day of
November 1949, but was not subscribed until the 7th day of Nov. 1949,
when it was typed (as these blanks were received). That the hearing on
the proof was continued from the 4th day of November 1949 until the
7th of November 1949 when it was completed. That no one appeared as
a protestant.

Witness my signature and my notary seal this 7 day of November 1949.

Notary Public, Preston, Idaho

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. R-689

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. John W. Casperson, Preston, Idaho, farmer

Ques. 2. Are you acquainted with Strangarm Reservoir Irr. District, the holder of Permit No. R-689, authorizing the storage of 1000 acre feet of the waters of Battle Creek which is tributary to Bear River, in the County of Franklin, State of Idaho? How long have you known him, and where does he reside?

Ans. over 20 years, Preston, Route 1, Idaho

Ques. 3. Have you read or heard read said Permit? yes Are you familiar with its terms and conditions? yes

Ques. 4. Of what material and how has the dam been constructed?

Ans. Earth

Ques. 5. Is the reservoir fully constructed? yes Has water been turned into it? yes And to what extent? filled to capacity in 1949

Ques. 6. Where is the point of diversion of the feeder canal? X

Ans. 1/4 1/4 Section, Township Range

Ques. 7. The outlet of the reservoir is located in the NE 1/4 SE 1/4 Section 2 Twp. 14 S. Range 39 EBM

Ques. 8. Describe the spillway.

Ans. Reinforced concrete structure on north end of Dam, it is 22 feet 8 inches wide

Ques. 9. How much below the top of the dam is the bottom of the spillway? 6 Ft.

Ques. 10. State the dimensions of the outlet for the reservoir. 3 feet by 3 feet

Ques. 11. Of what material is the outlet made? reinforced concrete

Ques. 12. How is the outlet gate operated? Screw lift, with reduction gear

Ques. 13. Of what material has the dam been constructed? earth, rock faced

Ques. 14. Are the works from the reservoir to place of use fully completed? yes

Ques. 15. Describe these works as they now exist, and give your estimate of their capacity.

Ans. Dam and ditches, and concrete spillway and outlet, in first class condition; capacity of ditches 20 C.F. S. ;

Ques. 16. For what purpose is the water to be used?

Ans. domestic and irrigation

Ques. 17. If for irrigation purposes, are you acquainted with the land to be irrigated? yes
How much water is required for its profitable cultivation?

Ans. 2 1/2 acre feet, approximately, per acre of land under District

Ques. 18. Give the legal description of the land to be irrigated, or the place of use.

Ans. All lands in Strongarm Reservoir Irrigation District
in Franklin County, Idaho

(Sign here)

John W. Casper

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, at my office in Preston, County of Franklin, State of Idaho, on this 7th day of November 19 49

[Signature]
Notary Public

My commission expires May 1, 1953

I hereby certify that the proof and testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November 1949, but was not subscribed until the 7th day of Nov. 1949, when it was typed (as these blanks were received). That the hearing on the proof was continued from the 4th day of November 1949 until the 7th of November 1949 when it was completed. That no one appeared as a protestant.

Witness my signature and my notary seal this 7 day of November 1949.

[Signature]
Notary Public, Preston, Idaho

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

ss.

County of Franklin

Alon E. Smith

, being duly sworn.

deposes and says:

That he is the Publisher of

THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for four consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

Oct. 13

19 49, and ending

with the issue of

Nov. 3

19 49.

Alon E. Smith

Fees, \$ 14.25

Subscribed and sworn to before me this 4 day

of

Nov -

19 49.

Notary Public, Residing at Preston, Idaho

My Commission Expires

9-1- 19 52

NOTICE OF PROOF OF COMPLETION OF WORKS AND APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 a.m., on the 4th day of November, 1949, at Preston, County of Franklin, and State of Idaho, before J. N. Larsen, Notary Public, proof will be submitted for the completion of works for the construction of a reservoir and the storage and diversion of 1,000 acre feet per annum of the waters of Battle Creek, and of the application to beneficial use of said water, in accordance with the terms and conditions of Permit No. R-689 heretofore issued by the Department of Reclamation of the State of Idaho.

1. The name and postoffice address of the person or corporation holding said permit are Strong Arm Reservoir Irrigation District, Preston, Idaho.

2. Said works of storage and diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of storing and conducting to the place of use, in accordance with the plans accompanying the application for such permit, is 1,000 additional acre feet per annum.

3. The use to which said water has been applied is irrigation and domestic purposes, and the amount applied to beneficial use under this permit is 1,000 acre feet per annum.

4. The place where said water is used is on the lands under the Strong Arm Reservoir Irrigation District system, located in Twp. 14 S., Range 38 E., B.M. and Twp. 14 S., Range 39 E., B.M.

5. The date of priority which said user is prepared to establish under said permit is August 29, 1940.

MARK R. KULP
State Reclamation Engineer
41-44c

R-689

November 2, 1949

Re: Permit No. R-689

Mr. L. E. McDermott, President
Twin Lakes Canal Company
Preston, Idaho

Dear Mr. McDermott:

We acknowledge receipt of your protest in the matter of the Proof of Completion of Works and Beneficial Use Proof under Permit No. R-689 of the Strongarm Reservoir Irrigation District, and the matter will be brought to Mr. Kulp's attention upon his return from Salt Lake City where he is attending a meeting of the National Reclamation Association.

Very truly yours,

MARK H. KULP
State Reclamation Engineer
By

Chief Clerk

A:bn

R-689

RECEIVED

NOV 2 1911

Department of Reclamation

BEFORE THE STATE RECLAMATION ENGINEER OF THE STATE of IDAHO

IN THE MATTER OF THE NOTICE OF PROOF)
OF COMPLETION OF WORKS AND APPLICATION)
OF WATERS TO BENEFICIAL USE OF STRONG-)
ARM RESERVOIR IRRIGATION DISTRICT,)
PRESTON, IDAHO)

PROTEST OF TWIN LAKES
CANAL COMPANY

Your Protestant, Twin Lakes Canal Company, a corporation, by and through its duly authorized President L. E. McDermott, files this as its statement of protest pursuant to the provisions of Section 42-224, Idaho Code, and states:

I.

That the said works of storage and diversion of the Strongarm Reservoir Irrigation District have not been, nor will the same be, fully completed on the date set forth for such completion; that the said storage works are not capable of storing and conducting to the place of use, in accordance with the plans accompanying the application, one thousand additional acre feet per annum.

II.

That there has not been applied for irrigation and domestic purposes one thousand acre feet per annum and that no such amount of water has been applied to beneficial uses.

III.

That the date of priority as set forth in said notice is not, if any date of priority is permitted, the correct date for such priority.

IV.

That the said storage capacity of said reservoir is not such that one thousand additional acre feet can be stored therein and that the Strongarm Reservoir Irrigation District does not have any right to the use of the waters of said Battle Creek other than nine hundred fifty acre feet, which is its original storage capacity, and is not any capacity within the one thousand additional acre feet per annum, upon which proof is sought to be made; and that the said contemplated storage by the said irrigation district will affect the supply and source of the waters of the Twin Lakes

R-689

Canal Company; and that the said Strongarm Reservoir Irrigation District has not stored any waters other than the original waters allocated to it, namely: nine hundred fifty acre feet, which nine hundred fifty acre feet is not a part of said one thousand additional acre feet that the said irrigation district now seeks to obtain the right to the use thereof.

V.

That an action is pending in the District Court of the Fifth Judicial District of the State of Idaho, in and for Franklin County, such suit being entitled "Twin Lakes Canal Company, a corporation, Plaintiff, vs. The Strongarm Reservoir Irrigation District, a quasi-municipal organization, Defendant, and that law issues have been joined in such action, the defendant Strongarm Reservoir Irrigation District having been served with process and having entered an appearance, and that by such suit your protestant herein prays relief, among other things, as follows:

"That all of the surplus waters belonging to the plaintiff corporation be awarded to it and that the rights of each of the said parties herein be defined and that it be found that by the raising of, or attempted raising of, the said dam aforementioned, that the said defendant herein has interfered with, and is now interfering with, the water and water rights belonging to the said plaintiff, and that an injunction be issued permanently enjoining the defendant company from interfering with the flow of the waters of Battle Creek after said Reservoir No. 1 of said defendant has been filled to the level at which the dam of the defendant at said reservoir had been maintained from the year 1922 up to the time that they attempted to raise the same.

"For damages in the sum of \$3,000.00 for water already held back; and

"For such further and other relief that to the court may seem just and equitable.

"That it be found that the Strongarm Reservoir Irrigation District is the interest of the Strongarm Reservoir Co., a corporation, and that the rights and benefits owned and held by the Strong Arm Reservoir Co. are now owned and held by the said Strongarm Reservoir Irrigation District, and that the said notice as given was notice to the said defendant, the Strongarm Reservoir Irrigation District."

And that the primary purpose of said action is to determine the right of the said Strongarm Reservoir Irrigation District to proceed with the completion of said reservoir, and to determine the ownership of the

waters of Battle Creek and to prohibit the said Strongarm Reservoir Irrigation District from utilizing any waters in its reservoir over and above nine hundred fifty acre feet.

WHEREFORE, your Protestant prays that this protest be allowed and that no license be issued to said Strongarm Reservoir Irrigation District.

TWIN LAKES CANAL COMPANY, a corporation

By

L. E. McDermott
PRESIDENT

STATE OF IDAHO)

SS

COUNTY OF FRANKLIN)

L. E. McDERMOTT, being first duly sworn on his oath, states:

That he is President of the above named corporation and that he makes this verification on behalf of such corporation; that he has read the above and foregoing Protest and the statements therein made are true.

SUBSCRIBED AND SWORN to before me this 31st day of October, 1949.

(SEAL)

[Signature]
NOTARY PUBLIC FOR IDAHO
Residing at Preston, Idaho

J. W. LARSEN COMPANY

REAL ESTATE - TITLE INSURANCE - ABSTRACTS - FIRE INSURANCE - FARM AND CITY LOANS

PRESTON, IDAHO

PHONE 62 BOX 466

November 8, 1949

Mark R. Kulp
State Reclamation Engineer
Department of Reclamation
Room 107
State House
Boise, Idaho

Re: R-689

Dear Mr. Kulp:

The blanks that you sent to Joseph C. Hedin, President of the Strong Arm Reservoir Irrigation District of Preston, Idaho did not reach him until Monday November 7, Monday morning November 7, I talked to your chief clerk Jeanne L. Anderson, she told me that the blanks would be mailed right out to us, in the mean time I received the blanks from Mr. Hedin, through the post-office some delay had been caused in the delivery, so we took Deposition yesterday afternoon and I herewith am enclosing the Deposition of questions that he made. Proof of Application of Water to Beneficial Use, Deposition made by holder, under permit No. R-76. Proof of Completion of Works, Deposition of Holder, under Permit No. R-689. Proof of Application of Water to Beneficial Use, Deposition of Holder, Permit No. R-689, these three made by Joseph C. Hedin, President of the Strong Arm Reservoir Irrigation District, also the following three Depositions made by John W. Casperson under permit No. R-76 Proof of Application of Water to Beneficial Use, Deposition of Witness, Mr. Casperson, Proof of Completion of Works, Deposition of Witness, Under Permit No. R-689, Proof of Application of Water to Beneficial Use, Deposition of Witness, Mr. Casperson, Under Permit No. 689, Also three depositions made by Clifford Warr, one under Permit No. R-76 Proof of Application of water to Beneficial Use, One, Proof of Completion of Works, under Permit No. R-689, One deposition, Proof of Application of Water to Beneficial Use, under Permit No. R-689. On all of these Depositions you will notice that I have the following Notations written at the bottom:

I hereby certify that the proof and the testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November, 1949, but was not subscribed until the 7th day of November 1949, when it was typed (as necessary blanks were not available). That the hearing on the proof was continued from the 4th day of November 1949,

R-689

Page 2
Mark R. Kulp
November 8, 1949

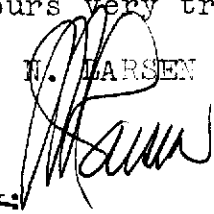
until the 7th day of November 1949, when it was completed. That no one has appeared as a protestant.

Witness my signature and my notary seal this 7th day of November, 1949.

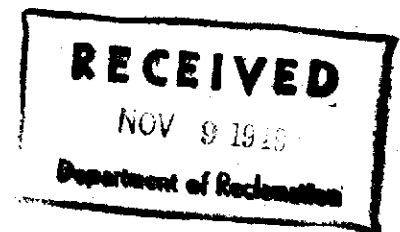
I trust that we have handled this situation in a proper manner, and we are herewith enclosing all of the Depositions.

Yours very truly,

J. H. LARSEN COMPANY

By: 

JNL:kla
Encl: Depositions



ms ok

R-68.9

✓
November 7, 1949

Re: Permit No. R-689

Mr. J. N. Larsen
Notary Public
Preston, Idaho

Dear Mr. Larsen:

In reply to your letter of November 4, and following up our telephone conversation of this morning, we enclose the necessary forms of deposition for making the statutory proofs under Permits Nos. R-76 and R-689, in the name of the Strong Arm Reservoir Irrigation District.

1. Depositions of Holder and two witnesses in Proof of Beneficial Use under Permit No. R-76.
2. Depositions of Holder and two witnesses in Proof of Completion of Works under Permit No. R-689.
3. Depositions of Holder and two witnesses in Proof of Beneficial Use under Permit No. R-689.

All of these forms were sent to Mr. Joseph Hedin under date of November 2.

In returning these completed depositions, please note a continuance from November 4, 1949, the date set for making these proofs.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh
Enc.

R-689

J. N. LARSEN COMPANY

**BONDED REAL ESTATE BROKERS AND ABSTRACTERS
FIRE INSURANCE, FARM AND CITY LOANS**

**J. N. LARSEN
PAUL B. LARSEN
TED B. LARSEN**

PRESTON, IDAHO

November 11, 1949

RECEIVED

NOV 11 1949

Department of Reclamation

Mark.R. Kulp
State Reclamation Engineer
Boise, Idaho

Dear Mr. Kulp:

By the notice published in the Preston Citizen, Preston, Idaho, the Strong Arm Reservoir Irrigation District, was to appear before me as Notary Public on the use of water under permit No. R-76, also under permit R-689, the notice provides for hearing under two different permits, up to date we have not received the blanks from you on which to take the testimony of the Strong Arm Irrigation District and their witnesses, there has been no objections so far raised as to the Strong Arm Reservoir Irrigation District application, and the Strong Arm Reservoir people are here ready to give their testimony, but as I stated we do not have the blanks, would you please send us the two sets of blanks and I have advised these people that we would have to continue this matter until we receive the blanks, and as soon as we receive the blanks we will advise them and they will come and we will take their testimony.

Awaiting any early reply, we are.

Yours very truly,

J. N. LARSEN, COMPANY

By:

JNL:kla

R-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Permit No. R-689

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Joseph C. Hedin, President, Strongarm Reservoir Irrigation District, Route 1, Preston, Idaho.

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

Ans. Strongarm Reservoir Irrigation District, Route 1, Preston, Idaho, President and Chairman of Board of Directors.

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit. R-689 - August 29, 1940, 1000 acre feet, of water, in ad-

Ans. dition to other storage rights; and water rights.

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

Ans. Battle Creek and drainage, point of diversion - about $\frac{1}{2}$ mile downstream in N W $\frac{1}{4}$, S E $\frac{1}{4}$ of Sec. 2 Twp. 14 S. Range 39 EBM, also in Sec. 9, Twp. 14 S. Range 39 EBM. Complete diversion works constructed and used for years.

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. Diversion works completed years ago. Cement headgates, and can convey out of the two diversion ditches about 20 C.F.S. (Upper ditch and lower ditches.)

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

Ans. Irrigation and domestic. (used on all lands of Strongarm Reservoir Irrigation District) Land is cultivated, raises diversified irrigated crops. Owners of property have improved land and built homes thereon.

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

Ans. _____

R-689

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

Ans. _____

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. All water stored, and claimed under this permit has been applied to beneficial use on lands under Strongarm Reservoir Irrigation District in amount of 984.24 acre feet of storage water plus rights in natural stream flow of Battle Creek and tributaries.

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. Claim, Decreed rights in Battle Creek and Tributaries, above dam, also other waters of Battle Creek, drainage basin above Reservoir, and have used the same on lands of Strongarm Reservoir Irrigation District, since 1872, 1875, 1917.

(Sign) _____

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 Preston, County of Franklin, State of Idaho, on this 7th day of November, A. D. 1949.

My commission expires May 1st 1953.

I hereby certify that the proof and testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November, 1949, but was not subscribed until the 7th of November, 1949, when it was typed (as blanks necessary for signature were not available). That the hearing on the proof was continued from the 4th day of November 1949 until the 7th day of November 1949, when it was completed. That no one has appeared as a protestant.

Witness my signature and my notary seal this 7th day of November 1949.

Notary Public, Preston, Idaho

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 689

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.

John W. Casperson, 66, Preston, Idaho, farmer

Ans. _____

Ques. 2. Are you acquainted with Strongarm Reservoir Irrigation District, the holder of Permit No. 689? How long have you known him and where does he reside? over 15 years, Preston, Route 1, Idaho

Ans. _____

Ques. 3. Have you read or heard read said Permit No. 689, 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. Battle Creek, and drainage area; diversion below dam, in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec 2, Township 14 South, R. 39 EBM, also in Sec. 9, Twp. 14 S. R. 39 EBM. Diversion works used for years, constructed years ago. Upper ditch, and lower ditches, concrete headgates.

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. 20 C. F. S.

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. Domestic and irrigation of lands in and under Strongarm Reservoir Irrigation District, in Franklin County, Idaho.
Diversified irrigated crops grown in area, homes and other buildings have been built on District lands.

R-689

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

Ans. x

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. Land takes about $2\frac{1}{2}$ acre feet of water per acre for proper irrigation and adequate supply

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

Ans. none

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 lived in locality for over 20 years, and have seen development of area. Reservoir was filled to capacity in 1949, and all of water was used on lands in Strongarm Reservoir Irrigation District, during 1949. I drive past these lands almost daily.

(Signed) John M. Casperson

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 Preston, County of Franklin, State of Idaho, on this 7th day of November, A. D. 1949.

[Signature]
Notary Public.

My commission expires May 1st 1953.

I hereby certify that the proof and the testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November, 1949, but was not subscribed until the 7th day of November 1949, when it was typed (as necessary blanks were not available). That the hearing on the proof was continued from the 4th day of November 1949, until the 7th day of November 1949, when it was completed. That no one has appeared as a protestant.

Witness my signature and my notary seal this 7th day of November, 1949.

[Signature]
Notary Public, Preston, Idaho

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. R 689

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. Clifford Warr, 56, Preston, Idaho, Secretary, National Farm Loan Association,

Ques. 2. Are you acquainted with Strongarm Reservoir Irrigation District, holder of Permit No. 689? How long have you known him and where does he reside?

Ans. over 15 years, Preston, Route 1, Idaho

Ques. 3. Have you read or heard read said Permit No. R 689, 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. Battle Creek, and drainage area; diversion below dam, in NW $\frac{1}{4}$ S E $\frac{1}{4}$ Section 2, Twp. 14 S. R. 39 EBM. Diversion works constructed and used for years, Upper ditch, and lower ditches, concrete headgates.

Adequate for irrigation of lands.

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. 20 C. F. S.

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. Domestic and irrigation of lands in and under Strongarm Reservoir

Irrigation District, in Franklin County, Idaho. Diversified irrigated crops grown in area, homes and other buildings have been built on District lands. (all farming land not natural meadow)

R-689

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

Ans. x

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.

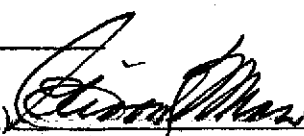
Ans. Land takes about $2\frac{1}{2}$ acre feet of water per acre for proper irrigation and adequate supply.

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

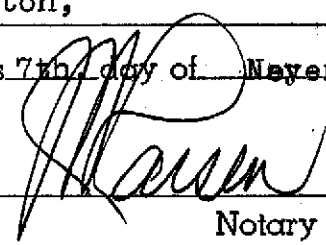
Ans. none

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 loans to serve and farms to contact, in this area; and I have lived in this county for over 15 years. I examined land in this area this year. The Reservoir was filled to capacity in 1949, and all of the water in the Reservoir was used on lands in Strongarm Reservoir Irrigation District, during 1949. I drive past lands in this area almost daily.

(Signed) 

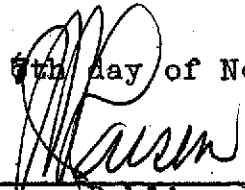
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Preston,
County of Franklin, State of Idaho, on this 7th day of November,
A. D. 1949.


Notary Public.

My commission expires May 1st. 1953.

I hereby certify that the proof and the testimony offered in the above entitled matter, was presented to me and before me on the 4th day of November, 1949, but was not subscribed until the 7th day of November 1949, when it was typed (as necessary blanks were not available). That the hearing on the proof was continued from the 4th day of November 1949, until the 7th day of November 1949, when it as completed. That no one has appeared as a protestant.

Witness my signature and my notary seal this 5th day of November, 1949.


Notary Public, Preston, Idaho

November 2, 1949

Re: Permit No. R-689

Mr. Joseph C. Hedin, President
Strong Arm Reservoir Irrigation District
Preston, Idaho

Dear Mr. Hedin:

We enclose herewith, the forms to be used in making the statutory proofs under Permits Nos. R-76 and R-689, to be made on November 4, 1949, before J. N. Larsen, Notary Public.

Depositions of Holder and two witnesses
in Proof of Beneficial Use under Permit
No. R-76.

Depositions of Holder and two witnesses
in Proof of Completion of Works under
Permit No. R-689.

Depositions of Holder and two witnesses
in Proof of Beneficial Use under Permit
No. R-689.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bbh
Enc.

R-689

R-689

October 10, 1949

Mr. Joseph C. Hedin, President,
Strong Arm Reservoir Irrigation District
Preston, Idaho

Dear Mr. Hedin:

Following up our telephone conversations of today, we have checked our records in regard to the Reservoir permits of the Strong Arm Reservoir Irrigation District.

We find that although Permit No. R-689 states that it is proposed to increase the size of the dam so as to increase the capacity from 950 acre feet to 1950 acre feet, we find no record of a license for 950 acre feet.

We assume, however, that this refers to your original permit, No. R-76, on which proof of completion of works was made for 984.24 acre feet, but on which proof of beneficial proof has not been made; and in order to protect you in any rights to which you may be entitled, we have made out two Notices for publication. One for proof of completion of works and beneficial use for the 1,000 acres called for under Permit No. R-689, and another for beneficial use of 984.24 acre feet under Permit No. R-76.

We enclose a copy of both notices, with instructions to the Preston Citizen in regard to publishing, which we understand you will have delivered to the Preston Citizen personally. And we enclose duplicates of each for your own files.

In the Bear River decree the Strong Arm Reservoir Company is given 688 acre feet from Battle Creek, with priority of May 1, 1883, and there is a possibility that this may take the place of the amount called for under Permit No. R-76. This will be taken into consideration when field inspection is made, and license issued. But by making both proofs at this time we feel that you will be fully protected in whatever amount you may be entitled to.

If there is anything about this that you do not understand, or that you wish to discuss further, you will lose nothing by having the publication start a week later, and that will give you an opportunity to call at the office, if you so desire, and discuss the matter with us personally.

Very truly yours,

MARK E. KUTP
State Reclamation Engineer
By

Chief Clerk

A
Encls.

R-689

✓
R-649
September 28, 1949

Mr. J. N. Larsen
Preston, Idaho

Dear Mr. Larsen:

We wish to acknowledge receipt of your letter dated September 24, 1949, enclosing Notice of Proof of Completion of Works and Application of Water to Beneficial Use under Permit No. R-689, in the name of the Strongarm Reservoir Irrigation District.

We note from the notice prepared by you, that you state the reservoir capacity as 2100 acre feet. We wish to state that under Permit No. R-689, the amount of water filed on is 1000 acre feet. We assume that you wish to make Proof of Completion of Works on Permit No. R-689 for 1000 acre feet and Beneficial Use Proof for 2100 acre feet, which includes the 1000 acre feet under Permit No. R-689 and the balance under Permit No. R-76.

Permit No. R-76 is the only other Permit in addition to Permit No. R-689 that is valid on our records in the name of the Strongarm Reservoir Irrigation District.

Completion of Works Proof was granted under Permit No. R-76 and Certificate of Completion was issued by this Department for 984.24 acre feet. This would make a total of 1984.24 acre feet that Beneficial Use Proof could be made on at the present time.

Before we have said notice published, please write us, stating your intentions and clarifying the matter as aforesaid.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:bh
R-689

J. N. LARSEN COMPANY

BONDED REAL ESTATE BROKERS AND ABSTRACTERS
FIRE INSURANCE, FARM AND CITY LOANS

J. N. LARSEN
PAUL B. LARSEN
TED B. LARSEN

PRESTON, IDAHO

September 22, 1949

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

Dear Mr. Kulp:

This will acknowledge receipt of your letter dated September 22, 1949, enclosing a copy of application for permit No. R-689 in the name of the Strongarm Reservoir Irrigation District Company as application.

We note your check for One Dollar and you state for us to remit this at our convenience, the President of the corporation was just in, but he did not have the company check with him so he stated that when they make final settlement with you, why he will include this One Dollar with that.

Trusting that this will be satisfactory.

At the request of the Strongarm Reservoir Irrigation District we are herewith enclosing to you notice to accompany this letter must be made in duplicate; (Form No. 11); and then (Form No. 36) in duplicate, which authorized you to have published in the Preston Citizen for four consecutive weeks the notice as shown on form no. 36, please acknowledge receipt.

Yours very truly,

J. N. LARSEN COMPANY

By:

JNL:kla
Encls:

R-689

NOTICE OF PROOF OF COMPLETION OF WORKS
AND
APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at ~~xxxxxx~~ 10.00 A. M. on the ~~xxxx~~ 4th
November
day of ~~xSeptemberxOctoberxxx~~, 1940, at Preston County of
Franklin State of Idaho, before J. W. Larsen, Notary Public
proof will be submitted of the completion of works for the construction of a
reservoir and the storage and diversion of an additional 1,000
~~2100~~ acre feet per annum of
the waters of Battle Creek and of the application to beneficial
use of said water, in accordance with the terms and conditions of Permit No. R 689
heretofore issued by the State Reclamation Engineer of
the State of Idaho.

1. The name and postoffice address of the person or corporation
holding said permit are Strong Arm Reservoir Irrigation District.

2. Said works of storage and diversion will be fully completed on
the date set for such completion, and the amount of water which works are capable
of storing and conducting to the place of use, in accordance with the plans ac-
companying the application for such permit, is additional
~~2100~~ 1000 acre feet per annum.

3. The use to which said water has been applied is Irrigation and
Domestic purposes, and the amount applied to beneficial use is 2100 under this
~~xxxxxx~~ permit is 1,000 acre feet per annum.

4. The place where said water is used is on all lands under the
Strong arm Reservoir Irrigation District System, located in Twp. 14 S.,
Range 38 E., B.M., and 14 S., Range 39 E., B.M.

5. The date of priority which said user is prepared to establish is
August 29,
xxxxxx, 1940.

MARK R. KULP
State Reclamation Engineer

2689

R-689

September 22, 1949

Mr. J. N. Larsen
C/o J. N. Larsen Company
Preston, Idaho

Dear Mr. Larsen:

In answer to your request of September 20, we are enclosing herewith, a copy of Application for Permit No. R-689 in the name of the Strongarm Reservoir Irrigation District as applicant.

According to the Statutes, we are obliged to charge you \$1.00 for said copy, for which please remit at your convenience.

Very truly yours,

MARK R. KJLP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:bh
Enc.

R-689

J. N. LARSEN COMPANY

BONDED REAL ESTATE BROKERS AND ABSTRACTERS
FIRE INSURANCE, FARM AND CITY LOANS

J. N. LARSEN
PAUL B. LARSEN
TED B. LARSEN

PRESTON, IDAHO

September 20, 1949

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

Re: Strong arm reservoir irrigation
District
Joseph C. Hedin, Secretary
Preston, Idaho

Dear Sir:

The Secretary of the Strong Arm Reservoir Irrigation District called on me to assist him to fill out the notice to be published for making final proof under permit no. R-689, the application has been misplaced and we are unable to give you the description that the application calls for, for which the water is to be allocated, would you please furnish us with a copy of the description, if you have a copy of their application, if you would please furnish us with a copy of this and if there is any expense please advise us and we will remit.

As soon as we receive this we will fill in the application so that the notice can be made, but I take it that you would expect the correct description of land to be covered in this notice.

Awaiting an early reply, we are.

Yours very truly,

J. N. LARSEN COMPANY

By:

JNL:kla

R-689

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Strongarm Reservoir Irrigation District
C/o Gustave C. Eedin, Secretary,
Preston, Idaho

Boise, Idaho September 1, 1949

Dear Sir:-

Under the terms of your permit No. 11-689 you are required to complete your diversion works on or before November 4, 1949. 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,

MARK R. KULP

State Reclamation Engineer

P-689

August 17, 1949

Re: Permit No. R-689

Mr. Eugene Schaub
County Engineer
Logan, Utah

Dear Mr. Schaub:

In reply to your letter of August 15, inquiring as to the steps necessary to complete the water right of the Strongarm Reservoir District under Permit No. R-689.

Since you state that the construction is done and that water has been placed to beneficial use, the next and final step will be to make proof of completion of works and beneficial use proof, which requires four weeks publication in a county newspaper prior to the date set for making the proof.

We enclose form for notice which you may fill out, naming the date, place and the Notary Public before whom the proof will be made. Upon receipt of both copies of the notice, together with Form 11 which is the Permit Holder's authorization for us to have the notice published at their expense in the designated county newspaper, we shall send a copy of the notice to the newspaper with instructions in regard to publishing and the necessary forms of deposition for making the proof will be sent to either Mr. Hedin or the Notary Public, as desired.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh
Enc.
CC: Joseph Hedin.

R-689

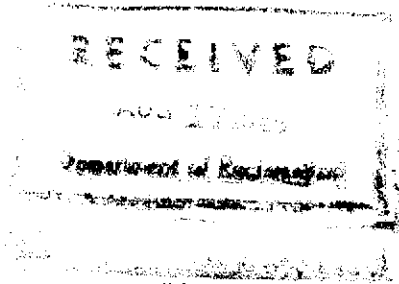
HYDRO-ELECTRIC PLANTS
PUMPING-IRRIGATION
WATER SUPPLY AND
PURIFICATION
SEWAGE DISPOSAL

EUGENE SCHaub, C. E.
CONSULTING ENGINEER

MEMBER AMERICAN SOCIETY OF CIVIL ENGINEERS
LICENSED PROFESSIONAL ENGINEER
IN UTAH AND IDAHO

LOGAN, UTAH
August 15, 1949

OFFICE OF
CACHE COUNTY ENGINEER
OFFICE PHONE 95
RES. PHONE 208



Re- Permit R#689
Strongarm Reservoir Dist.

Department of Reclamation

Boise, Idaho.

Gentlemen:

What is the next step relative to this appropriation in perfecting the title. The construction is done and the water ~~water~~ has been placed to a beneficial use.

I think you have the tracings showing details of construction.

Very respectfully yours,

ES/E

cc to

Mr. Joseph Hedin
President

P.S. Please send Mr Hedin copy of
your answer.

R-689

R-689

September 20, 1947

Strongarm Reservoir Irrigation Company
Preston, Idaho

Gentlemen:

Reference: The 'phone call of Mr. Hedin on
Friday, September 19th.

After talking with Mr. Hedin I checked the
records in this office, and talked with our Field En-
gineer, Mr. Tolman, who made a recent inspection of your
dam.

Mr. Hedin is correct in his statement that the
company has until November, 1949, in which to make proof
of completion of works.

Your permit is for a reservoir storing 1,000
acre feet of water.

We will be unable to help you with engineering
service in connection with the construction of your dam
at this time.

A dam impounding 1,000 acre feet of water must
be properly constructed and due regard given for safety
features. You should obtain the services of a competent
engineer, and then submit your proposed plan to this depart-
ment for approval before proceeding.

We will check the plans quickly and cause you
the least possible delay.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. HUMPHREY
Deputy State Reclamation Engineer

M:A
CC to Joe C. Hedin

R-689

R-689
✓
September 18, 1947

Strongarm Reservoir Irrigation District
Preston, Idaho

Gentlemen:

Reference: Phone call from Joe G. Medin requesting permission to proceed with enlargement construction on dam:

Section 41-508, Idaho Code Annotated, provides, among other things, that before commencing construction it is necessary to make an application for permit, and that the application shall be accompanied by a plan and map.

I talked with the Department Engineers who inspected your dam recently in regard to this matter, and in order to receive approval your plans and specifications must,

1. Have an adequate spillway properly constructed;
2. All additional fill must be on the upstream surface of the dam.

We also want to know when you are doing the work, in order that inspection may be made during construction.

Enclosed is an application blank and set of instructions.

Very truly yours,

MARK A. RULIF
State Reclamation Engineer
By

A. H. Humphrey
Deputy State Reclamation Engineer

Encs.
CC to Joe G. Medin

R-689

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

ss.

County of Franklin

W. T. Mac Knight

being duly sworn.

deposes and says:

That he is the Publisher of

THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for Two consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

Sept 27, 1945, and ending
with the issue of Oct 4, 1945.

W. T. Mac Knight
Fees, \$ 6.90
 Subscribed and sworn to before me this 2-1 day
of Mar, 1947.

Notary Public, Residing at Preston, Idaho

My Commission Expires May 1, 1949.

R-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

WHEREAS, Application for extension of time for completion of works under Permit No. R-689, has been made by the owner thereof, Stron arm Reservoir Irrigation District, of Preston, Idaho, which application was duly advertised for a period of two consecutive weeks, in the Preston Citizen, stating that on the 10th day of October, 1945, a hearing would be held for the purpose of receiving any protests, testimony or evidence regarding such application; and,

WHEREAS, At the time set for the hearing a protest had been filed by the Twin Lakes Canal Company against the approval of said application for extension; and,

WHEREAS, Said hearing was postponed until December 28, 1945, at which time a hearing was held in the office of the State Reclamation Engineer, at Boise, Idaho; and,

WHEREAS, on March 5, 1946, a decision was rendered by the State Reclamation Engineer approving said application:

NOW, THEREFORE, I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, by virtue of authority vested in me by Senate Bill No. 13 (Chapter 12) of the Session Laws of 1945, hereby extend the time for completion of works under Permit No. R-689, to Construct a Reservoir and Store and appropriate 1000 acre feet of water from Battle Creek, a tributary of Bear River, until November 4, 1949.

WITNESS MY HAND this 5th day of March, A. D. 1946.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

R-689

S T A T E O F I D A H O
D E P A R T M E N T O F R E C L A M A T I O N

In the Matter of the Application of the	)	
Strongarm Reservoir Irrigation District	)	
for an Extension of Time for Completion of	)	DECISION OF THE
Works, under Permit No. R-689, to Construct	)	
a Reservoir and Store and Appropriate 1,000	)	STATE RECLAMATION ENGINEER
Acre Feet of Water from Battle Creek, a	)	
Tributary of Bear River.	)	

On August 29, 1940, the Strongarm Reservoir Irrigation District filed Application No. 26478 for Permit to Construct a Reservoir and Store and Appropriate 1,000 acre feet of water from Battle Creek, a tributary of Bear River.

On November 4, 1940, Permit No. R-689 was issued under said application, under the terms of which permit proof of completion of works was to be made on or before November 4, 1945.

On September 22, 1945, the Strongarm Reservoir Irrigation District made application to the State Reclamation Engineer for extension of time for completion of works under said permit until November 4, 1949, as provided by Senate Bill No. 13 of the 1945 Session Laws,

Publication of said application was made in the Preston Citizen for two consecutive weeks, from September 27, 1945, to October 4, 1945, inclusive.

On October 3, 1945, a protest was filed by the Twin Lakes Canal Company against the approval of said application for extension, and thereafter, on December 28, 1945, a hearing was held in the office of the State Reclamation Engineer, at Boise, Idaho, at which hearing testimony was presented by both the applicant and the protestant; following which hearing briefs were submitted by both parties.

After full and due consideration of all the matters presented in both the hearing and the briefs, and an opinion from the Attorney General, it is the decision of the State Reclamation Engineer that,

The only points at issue are (1) Whether the Strongarm Reservoir Irrigation District has shown good faith and has done enough work under Permit No. R-689 to justify approval of extension of time for completion of works; and (2) Whether a reasonable necessity exists for more time for completion of works.

Good faith and necessity having been shown to the satisfaction of the State Reclamation Engineer, the application is approved, and extension of time for completion of works will be allowed.

GIVEN UNDER MY HAND and the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 5th day of March, A. D. 1946.

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

P. 689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application of the
Strongarm Reservoir Irrigation District
for an Extension of Time for Completion of
Works, under Permit No. 2689, to Construct
a Reservoir and Store and appropriate 1,000
Acre Foot of Water from Battle Creek, a
Tributary of Bear River.

DECISION OF THE
STATE RECLAMATION ENGINEER

On August 29, 1940, the Strongarm Reservoir Irrigation District filed application No. 26498 for Permit to Construct a Reservoir and Store and appropriate 1,000 acre foot of water from Battle Creek, a tributary of Bear River.

On November 4, 1940, Permit No. 2689 was issued under said application, under the terms of which permit proof of completion of works was to be made on or before November 4, 1945.

On September 22, 1945, the Strongarm Reservoir Irrigation District made application to the State Reclamation Engineer for extension of time for completion of works under said permit until November 4, 1949, as provided by Senate Bill No. 13 of the 1945 Session Laws.

Publication of said application was made in the Preston Citizen for two consecutive weeks, from September 27, 1945, to October 4, 1945, inclusive.

On October 3, 1945, a protest was filed by the Twin Lakes Canal Company against the approval of said application for extension, and thereafter, on December 22, 1945, a hearing was held in the office of the State Reclamation Engineer, at Boise, Idaho, at which hearing testimony was presented by both the applicant and the protestant; following which hearing briefs were submitted by both parties.

After full and due consideration of all the matters presented in both the hearing and the briefs, and an opinion from the Attorney General, it is the decision of the State Reclamation Engineer that,

The only points at issue are (1) whether the Strongarm Reservoir Irrigation District has shown good faith and has done enough work under Permit No. 2689 to justify approval of extension of time for completion of works; and (2) whether a reasonable necessity exists for more time for completion of works.

Good faith and necessity having been shown to the satisfaction of the State Reclamation Engineer, the application is approved, and extension of time for completion of works will be allowed.

GIVEN UNDER MY HAND and the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 5th day of March, A. D. 1946.

MARK D. KULP
State Reclamation Engineer

2-689

March 5, 1946

Re: Permit No. R-689

Hon. O. R. Baum
Attorney at Law
Pocatello, Idaho

Dear Judge Baum:

In reference to the application of the Strongarm Reservoir Irrigation District for extension of time for completion of works under the above numbered permit, and the protest thereto by the Twin Lakes Canal Company:

We are enclosing herewith a copy of the decision of the State Reclamation Engineer, and also copy of an opinion of the Attorney General in regard thereto.

Very truly yours,

CC to J. J. Sanford
Encls.

R-689

March 5, 1946

Re: Permit No. R-689

Mr. Gustave C. Hedin, Secretary,
Strongarm Reservoir Irrigation District
Preston, Idaho

Dear Mr. Hedin:

In reference to the application of the
Strongarm Reservoir Irrigation District for extension
of time for completion of works under Permit No. R-689:

We are enclosing herewith the approval of the
State Reclamation Engineer of such extension until
November 4, 1949; also copy of the decision of the
State Reclamation Engineer in regard to such application,
and the opinion of the Attorney General in regard
thereto.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

CC to Mr. T. L. Martin
Encls.

R-689

STATE OF IDAHO
Office of Attorney General

March 2, 1946

Mr/ Mark R. Kulp
State Reclamation Engineer
B U I L D I N G

Dear Mr. Kulp:

Re: Application for extension of time under Chapter 12
S. lls. of 1945, by Strongarm Reservoir District.

In connection with the above matter, your letter of March 1, 1946, requests my opinion as to whether or not questions concerning unrecorded water rights are germane to a hearing under Chapter 12, Session Laws of 1945. Said Chapter 12 of the 1945 Session Laws provides in part as follows:

" x in addition to the duties and authority prescribed by Section 41-204, Idaho Code Annotated, the x x x State Reclamation Engineer, upon receipt of an application in such form and setting up such facts as he may designate and requesting an extension of time within which to do the work required to be done under any permit which permit or order extending the time for doing the work thereunder requires such work to be done on or before March 1, x 1947, may extend the time within which such permit holder shall be required to do the work under said permit, or permits, but the additional time granted shall in no case exceed four years more than the time specified in such permit or order extending the time for the doing of such work, provided the owner of such permit shall have furnished satisfactory evidence of his good faith together with a satisfactory showing as to the necessity for extension of time. Provided, however, that upon receipt of such application, and before final action is taken thereon, it shall be the duty of the x State Reclamation Engineer to hold a public hearing at which any and all persons owning or in possession of a right to the use of any water of a stream or source of supply affected by the said extension, may have an opportunity to be heard, x x "

Under the provisions of said Chapter 12 of the 1945 Session Laws, as quoted above, it is my opinion that questions concerning claimed unrecorded water rights are not germane to (in) a hearing under said Chapter.

Very truly yours

FRANK LANGLEY
Attorney General

FL:AK

R-689

IN THE MATTER OF THE NOTICE OF APPLICATION :
FOR EXTENSION OF TIME FOR COMPLETION OF WORKS :
UNDER SENATE BILL NO. 13, SESSION LAWS OF : PROTESTANT'S BRIEF
1945, UNDER PERMIT NO. R-689, OF STRONGARM :
RESERVOIR IRRIGATION DISTRICT, PRESTON, IDAHO :

At the hearing before the State Reclamation Engineer where the matter of the protest filed herein was considered, the applicant sought to limit the extent of the hearing to the matter of the good faith of the applicant. Presumably, this agreement was based upon the provisions of Chapter 12, Session Laws of Idaho, 1945. A study of Chapter 12, Session Laws of Idaho, 1945, will show that it is an amendment of Chapter 79, Session Laws of Idaho, 1943, which in turn is an amendment of Sec-

tion 41-204, I.C.A.

The Protestant contends that a study of the statute will show that the attempt by the applicant to limit the argument to the matter of the good faith of the applicant is not only a misinterpretation of the spirit of the law but also of the letter of the law. It seems obvious that failure to furnish satisfactory evidence of his good faith would bar an applicant from filing an application for an extension of time. If, after the establishment of good faith, and before final action has been taken, the State Reclamation Engineer must hold a public hearing at which time all interested parties can be heard.

The burden is not upon either the Protestant or the State Reclamation Engineer to show a lack of good faith, but rather the burden rests upon the applicant to show "satisfactory evidence of his good faith". As the statute reads this burden is a condition precedent to the filing of the application for extension. The lack of such showing of good faith would make a hearing upon the merits unnecessary.

Proceeding, therefore, to the rights of the respective parties, the protestant maintains that their vested right in the use of the waters of Battle Creek will be irreparably damaged if the proposed enlargement of Strongarm Reservoir #1 is constructed. The position of the applicant as prior appropriator of its portion of the water of Battle Creek is not contested here, but its attempt herein to become sole appropriator to the detriment of the Protestant is vehemently contested. Evidence submitted at the hearing before the State Reclamation Engineer showed that the Protestant had used this surplus water for years, that many farms were irrigated therefrom, that a reservoir, flums, canals and headgates had been constructed for the purpose of distributing the water in question. All of these factors indicate the extent of the dependence of the Protestant upon the surplus water.

The Authorities are many to support the protest filed herein. The Supreme Court of Idaho in Lockwood v. Freeman, 15 Idaho 395, 98 Pac. 295, in ruling upon a similar situation states:

"Counsel for appellants appear to lay special stress upon the fact that the appellants received a license from the State Engineer to appropriate water from said stream. There is nothing in that contention whatever, as it is clearly shown that all of the waters of said creek had been appropriated by the respondent and his grantors long before any license was applied for by the appellants from the State Engineer. The State Engineer has no authority to deprive a prior appropriator of waters from any streams in this state and give it to any other person. Vested rights cannot thus be taken away."

Further findings of the Supreme Court of Idaho are quoted below to better illustrate the respective rights of the applicant and protestant herein.

Jones v. McIntire, 60 Ida. 338,
91 Pac. (2nd) 373

"The waters of a natural spring which form a natural stream, or streams, flowing off the premises on which they arise are "public waters" subject to acquirement by appropriation, diversion and application to a beneficial use."

Nielson v. Parker, 19 Ida. 727,
115 Pac. 488

"Where one actually diverts the water of a stream and applies the same to a beneficial use in the irrigation of his growing crops, although he has never applied to the State Engineer for a permit to do so, and has never procured either a permit or a license from the State Engineer, still his right is superior and paramount to any right that a subsequent appropriator can procure, even though the latter secures a permit from the State Engineer to appropriate and divert the water of the stream".

"The State Engineer has no right, power, or authority to interfere with vested rights or to grant a permit for the appropriation and diversion of the water of a stream, where the same has already been diverted and applied to a beneficial use."

"Under the laws of this state a water right is real property, and one who has actually diverted the water of a stream and applied the same to a beneficial use is in actual possession of such real property, and this possession constitutes actual notice to any subsequent appropriator of the water of the same stream, or to any person who subsequently applies to the State Engineer for a permit to appropriate and divert the water of the same stream."

Similar conclusions were reached in the following cases:

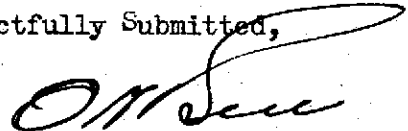
Youngs v. Regan, 20 Ida. 275, 118 Pac. 499;
Furey v. Taylor, 22 Ida. 605, 127 Pac. 676;
Washington State Sugar Co. v. Jacob Goodrich,
27 Ida. 26, 147 Pac. 1073.

In the case of Bassinger v. Taylor, 30 Idaho, 289, and 164 Pac. 522, the Court had the following to say:

"A permit issued by the State Engineer is not a water right, and is not in itself evidence of appropriation of water."

Your protestant respectfully submits that a correct interpretation of Section 41-204, I.C.A., as amended by Chapter 79, Session Laws of Idaho, 1943, and Chapter 12, Session Laws of Idaho, 1945, shows that the burden is upon the Applicant to show satisfactory evidence of good faith. That the hearing showed conclusively that vested rights of the Protestant would be destroyed if the permit for extension of time filed by the applicants is granted. For these reasons, therefore, the application for extension of time under Permit No. R-689 as filed by the Strongarm Reservoir Irrigation District should be denied.

Respectfully Submitted,



O. R. BAUM, Attorney for the
Protestant Twin Lakes Canal
Company, residing at Pocatello,
Idaho.

R-689

February 19, 1946

Hon. Mark R. Kulp
Commissioner of Reclamation
Boise, Idaho

Re: Twin Lakes Canal Company

Dear Sir:

Subjoined hereto you will find protestant's
brief. We have served copy upon Mr. Martin.

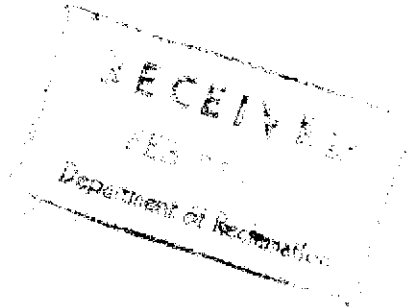
Very truly yours,



O. R. BAUM

ORB:RYB

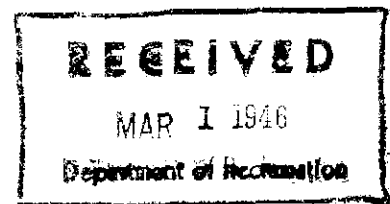
Law
Offices
O. R. Baum
Pocatello
Idaho



R-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

-0-



IN THE MATTER OF THE NOTICE OF APPLICATION)
FOR EXTENSION OF TIME FOR COMPLETION OF WORKS) APPLICANT'S
UNDER SENATE BILL NO. 13, SESSION LAWS OF)
1945, UNDER PERMIT NO. R-689, OF STRONGARM) BRIEF
RESERVOIR IRRIGATION DISTRICT, PRESTON, IDAHO)

-0-

In the above matter Strongarm Reservoir Irrigation District filed an application for an extension of time to complete its works under its permit No. R-689, pursuant to the provisions of Chapter 12, Idaho Session Laws of 1945.

Twin Lakes Canal Company filed a Protest against this extension of time under the provisions of Chapter 12, Idaho Session Laws of 1945. In this Protest it is set out:

1. That the protestant owns and is in possession of certain waters from Battle Creek;
2. That the applicant has two reservoirs, No. 1 having a capacity of 950 acre feet and No. 2 having a capacity of 380 acre feet;
3. That the protestant has a prescriptive right to the use of all the waters of Battle Creek, except that heretofore stored in the two reservoirs of the applicant;
4. That the applicant is not entitled to any more water than it has heretofore held in its reservoirs No. 1 and No. 2;
5. That if applicant enlarges its reservoir and impounds more water, the increased amount will be from water belonging to the protestant;
6. That the enlargement of the reservoir and granting time in which to complete its reservoir "affects the source of supply of the waters, and the amount and quantity of water, that your protestant is entitled to use, and which it has used, for a great number of years."

Hearing was had on this Protest beginning December 28, 1945, at 10:00 o'clock A. M. before the State Reclamation Engineer.

Under the provisions of Chapter 12, Idaho Session Laws of 1945, the first question is whether or not the applicant furnished "satisfactory evidence of his (its) good faith, together with a

satisfactory showing as to the necessity for extension of time."

Joseph C. Hedin is the President and also a Director of Strongarm Reservoir Irrigation District, the applicant. His testimony begins at the top of page 27 of the transcript. He gives the history of the reservoir of the applicant, which dates back for many years. He also carefully explained the operation of this reservoir which is that as soon as they are through irrigating in the fall, they begin storing water and that at certain times they have to turn water out of the reservoir which wastes into Battle Creek and from there into Bear River, principally during the non-irrigation season.

This witness also described the system of the protestant and there is no dispute in the evidence that about the middle of November the applicant has to shut the water out of its main ditch because it has two long pipes in its ditch system and as soon as freezing weather comes, they cannot convey water through these pipes into their reservoir. It is, therefore, inevitable that any water in Battle Creek which the applicant is unable to store because of lack of capacity goes into waste. And the evidence shows conclusively large quantities of water are wasted into Bear River, except during the exceptionally dry years.

Irrespective of what the claims may be by the protestant, the water which cannot be stored by the applicant is not and cannot be stored by the protestant and thus it goes to waste.

The second question is the right of the protestant to litigate its water rights in this proceeding. The statute (Chapter 12, Idaho Sessions Laws of 1945) provides as follows:

"Provided, however, that upon receipt of such application and before final action is taken thereon, it shall be the duty of the State Reclamation Engineer to hold a public hearing at which any persons owning or in possession of (Italics ours) a right to the use of any water of any stream or source of supply affected by said extension, may have an opportunity to be heard * * *."

At the first opportunity, and at the top of page 3 of the transcript, an objection was made to the protestant attempting to adjudicate its water rights in this hearing, our position being that the only question involved is the good faith of the applicant.

You will note the Protest does not question the good faith of the applicant and all the evidence shows that because of war conditions it was impossible for the applicant to get men or equipment to complete its dam.

The only legal objection the protestant could raise is that the applicant had not acted in good faith or that there was no necessity for the extension of time. This is what the statute says and what the Legislature meant.

Under no condition would there be a right of protest to the extension of time unless the protestant is a person owning or in the possession of a water right and that his supply will be affected by the actions of the applicant.

The protestant does not receive its water supply from Battle Creek, but rather from Mink Creek. I call attention to the testimony of Mr. John J. Sanford on cross examination on page 11 of the transcript. He first testified he was Assistant Manager of the protestant in 1922 and 1923 and Manager from 1924 on to the present time.

"Q. To your knowledge, does the Twin Lakes Canal Company have any decreed water rights on Battle Creek?

"A. No.

"Q. Has it any applications pending in this Department for any rights in Battle Creek?

"A. No."

From the above it is apparent the protestant neither owns nor is in possession of a right in Battle Creek.

On page 6 of the transcript I call attention to the statement of Judge Baum, in which he says: "Unless our water right

is affected, we have no right here today."

The evidence shows this condition: As far back as 1876 settlers on Battle Creek began to divert and use water on their farms. About 1903 they built their first reservoir to provide supplemental water from this small creek by storing during the non-irrigation season. From time to time they have increased the capacity of this reservoir, being known as No. 1. Later they built another Reservoir known as No. 2. There is still a large amount of water wasted each year because they do not have the reservoir capacity to store it.

Some years ago an Agreement was made whereby Reservoir No. 2 is filled from the main canal of the protestant and the applicant pays back to the protestant from Reservoir No. 1 the amount of water which it has delivered to No. 2. If, during the flood season, there is excess water in Battle Creek, and if the protestant can use it, it is delivered to protestant by the applicant.

This exchange of water is clearly brought out by the cross examination of Mr. Sanford, beginning at the bottom of page 59 of the transcript, when he was on the stand on re-direct examination. It will be seen in 1940, 1941, and 1942 water was withdrawn from Reservoir No. 1 and delivered to protestant on practically the same day, if not the same day, that protestant began to fill applicant's Reservoir No. 2.

This witness, on page 61, was asked:

"Q. Do you know, of your own knowledge, whether any water was wasted down Battle Creek before April 1, 1941?"

"A. No, I would not know about that.

* * *

"Q. Is the same answer for prior to March 30, 1942, that you would not know?"

"A. I would have to go into my other records to find out.

"Q. Do you know of your own knowledge whether any water was wasted out of Battle Creek prior to March 30, 1943?"

"A. No, to my knowledge there was not.

* * * *

"Q. When did you receive your first water from Battle Creek? (Referring to 1944)

"A. March 21st.

"Q. When did you deliver the first water into No. 2?

"A. April 5th.

"Q. Now, Mr. Sanford, if water were wasted out of Strongarm Reservoir prior to April 1, 1941, prior to March 30, 1942, prior to March 30, 1943, and prior to March 21, 1944 -- that water would have -- so far as your company is concerned -- would have gone to waste in Bear River?

"A. It would have gone to waste."

It is perfectly apparent protestant could not and did not question the good faith of the applicant nor the necessity for an extension of time. These are the only two questions it can raise. It cannot litigate its water rights with Strongarm Reservoir Irrigation District in a hearing before this Department as to whether an extension of time should be granted to complete its reservoir.

Counsel for protestant cites a number of decisions from the Supreme Court of Idaho to the effect that a permit or even a license from the Department of Reclamation will not deprive a prior appropriator of water from any stream and give it to another person. Vested rights cannot be taken away.

The above is the substance of the first decision cited, being Idaho in Lockwood vs. Freeman, 15 Idaho 395. There are many decisions of the Supreme Court of Idaho to the same effect and nobody questions the soundness of the principles therein announced.

The difficulty is, in making such an argument, the protestant is defeating its purpose in its protest. What it is trying to get the State Reclamation Engineer to do is to adjudicate water rights between the applicant and the protestant. Then Counsel cites a number of Idaho decisions that a permit or a license from the Department can have no effect upon the priority of water rights. Upon this point we certainly agree with Counsel for protestant.

But we go still further and say this Department should not attempt to assume jurisdiction to adjudicate any water rights.

There is nothing this Department could do by granting the extension applied for to complete the reservoir which would or could in anywise affect the water rights of protestant. Only the district court in a proper proceeding can adjudicate water rights.

If the extension applied for is granted, the applicant will increase the storage capacity of its reservoir. If it can store water which is now going to waste, that is in furtherance of the public policy of this State in regard to our waters as expressed in Section 3, Article XV of the Constitution and Section 41-101, Idaho Code Annotated.

If, however, applicant should attempt to store water to which the protestant has title, it will then be enjoined in a proper proceeding from interfering with Protestant's water right.

In our opinion the Protest should be denied and the extension granted.

Respectfully submitted,

Ben Johnson
Preston, Idaho

A. L. Martley
Boise, Idaho

Attorneys for applicant.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Franklin

ss.

, being duly sworn,

deposes and says:

That he is the Publisher of

THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for one consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

with the issue of Feb. 7, 1946, and ending

Fees. \$ 11.40

Subscribed and sworn to before me this 26 day of Feb., 1946.

Notary Public, Residing at Preston, Idaho

My Commission Expires May 1, 1949, 19

ANNUAL FINANCIAL REPORT

of

Strongarm Reservoir Irrigation District, Office at R.F.D. No. 2
Preston Idaho, Franklin County, For the Fiscal
Year Ending Dec. 31, 1945

BALANCE SHEET

ASSETS:

Cash on Hand \$ 1,973.08
Delinquent Assessments Receivable 705.54

FIXED ASSETS:

General Properties 105,000.00

Total Assets \$107,678.62

LIABILITIES:

Surplus \$ 97,678.62

Debt to Reconstruction Finance Corporation 10,000.00

Cash on Hand end of last fiscal year \$ 1,179.97

RECEIPTS:

Current Assessments \$ 3,008.71

Delinquent Assessments 338.55

Franklin County (Reimbursement) 306.80

Total Cash Receipts \$ 3,654.06

\$ 4,834.03

DISBURSEMENTS:

Interest on Bonds \$ 440.00

Bonds Retired 1,000.00

R. F. C. Warrants \$360.00, Int. 14.40 374.40

Operation and Maintenance \$ 417.75

Salaries 200.00

Culverts 306.80

Legal Service 112.00

Stationery 10.00

Total Outlay for Maintenance \$ 1,046.55

Total Disbursements 2,860.95

Cash on Hand January 1, 1946 \$ 1,973.08

STATE OF IDAHO,
COUNTY OF FRANKLIN—SS.

I, Gustave C. Hedin, secretary-treasurer of the Strongarm Reservoir Irrigation District, hereby certify that the foregoing is a full, true and correct statement of the financial operations of the Strongarm Reservoir Irrigation District covering a period of one year, and represents, to the best of my knowledge, information and belief, the financial condition of said District at the close of the fiscal year December 31, 1945.

Gustave C. Hedin,
Secretary-Treasurer.

Attest:

Joseph C. Hedin, director.

John N. Follett, director.

M. J. Gregersen, director.

Dated February 4, 1946.

R-689

Preston, Idaho
February 27, 1946

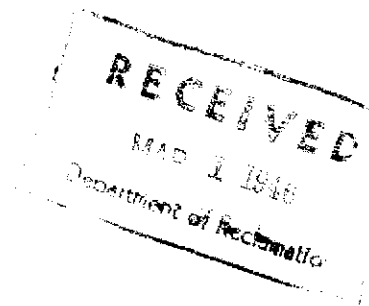
Mr. Mark R. Kulp
State Reclamation Engineer
Department of Reclamation
Boise, Idaho

Dear Mr. Kulp:

I am enclosing a copy of Affidavit of Publication of the Annual Financial Report of the Strongarm Reservoir Irrigation District for the Fiscal Year ending December 31, 1945.

Very truly yours,

Gustave C. Hedlin, Sec.
Gustave C. Hedlin, Sec.
Strongarm Reservoir
Irrigation District



R-689

R-689

February 7, 1946

Hon. Mark R. Kulp
Commissioner of Reclamation
Boise, Idaho

Re: Twin Lakes Canal Company

Dear Sir:

I expect to have my brief in the above
entitled matter in within the next few days.
Trusting that this is satisfactory, I am

Very truly yours,



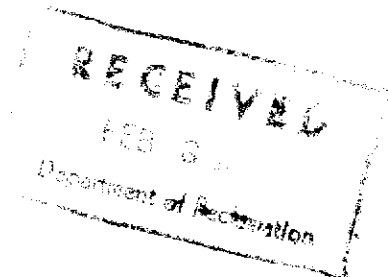
O. R. BAUM

Law
Offices
O. R. Baum
Pocatello
Idaho

ORB:RYB

cc -- Tom Martin
Idaho Bldg.
Boise, Idaho

Ben Johnson
Preston, Idaho



R-689

Mr. and Mrs. Von Atkinson visited in Ogden Sunday with Mr. and Mrs. E. E. Conlin. They also stopped in Brigham.

Mr. and Mrs. Ken Stokes and children of Preston visited with Mr. and Mrs. Ted Paskins, Sunday.

Mr. and Mrs. T. J. Barger spent Monday in Ogden visiting Mr. and Mrs. E. E. Conlin and Mrs. Gertrude Jones.

Pvt. John Reeder is spending a 20-day furlough with his parents Mr. and Mrs. T. J. Reeder.

Legal Notices

NOTICE FOR PUBLICATION

Notice of Application For Extension of Time for Completion of Works Under Senate Bill No. 13, Session Laws of 1945.

Notice is hereby given, that on the 10th day of October, 1945, at 10:00 o'clock a. m., a hearing will be held by the State Reclamation Engineer, or his deputy, at Boise, county of Ada, State of Idaho, for the purpose of receiving any protests, testimony and evidence regarding an application for extension of time for completion of works under Permit to appropriate the Public Waters of the State of Idaho, No. R-689. The said protests and evidence may be submitted either orally or by affidavits by any person or persons owning or in possession of a right to the use of any waters of a stream or source of supply affected by the said extension.

1. The number of said Permit is R-689.

2. The name and post-office address of the person or persons or corporation holding said permit or permits are:

Strongarm Reservoir Irrigation District, Preston, Idaho.

3. The amount of water claimed by the said permit or permits is 1000 acre feet from Battle Creek which is tributary to Bear River.

Mark Kulp,
State Reclamation Engineer
39-40.

ANOTHER SUMMONS
FOR PUBLICATION

**of Works Under Senate Bill
No. 13, Session Laws of 1945.**

Notice is hereby given, that on the 10th day of October, 1945, at 10:00 o'clock a. m., a hearing will be held by the State Reclamation Engineer, or his deputy, at Boise, county of Ada, State of Idaho, for the purpose of receiving any protests, testimony and evidence regarding an application for extension of time for completion of works under Permit to appropriate the Public Waters of the State of Idaho, No. R-689. The said protests and evidence may be submitted either orally or by affidavits by any person or persons owning or in possession of a right to the use of any waters of a stream or source of supply affected by the said extension.

1. The number of said Permit is R-689.

2. The name and post-office address of the person or persons or corporation holding said permit or permits are:

Strongarm Reservoir Irrigation District, Preston, Idaho.

3. The amount of water claimed by the said permit or permits is 1000 acre feet from Battle Creek which is tributary to Bear River.

Mark Kulp,
State Reclamation Engineer
39-40.

PERMIT NO. R-689

APPLICATION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS
UNDER SENATE BILL NO. 13, SESSION LAWS OF 1945.

STATE OF IDAHO)
(
County of Franklin)

Strongarm Reservoir

Joseph C. Hedin, Pres., of Irrigation District, State of Idaho, being first duly sworn, upon his oath deposes and says:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. R-689

That under the terms and conditions of said Permit, completion of works thereunder is required by November 4,, 1945.

That he has heretofore in good faith performed the following work and taken the following steps to bring about the completion of the said works described under the said permit, to-wit:

Raised Reservoir Dam about four (4) feet, or more

That he is unable to complete the remainder of said works and submit proof of completion of works within the required time, for the following reasons, to-wit:

Because of War conditions couldn't get required help, or equipment
to complete works.

Wherefore, he makes application to the State Reclamation Engineer to extend the time for Completion of Works under the said permit to November 4,, 1949, pursuant to the provisions of Senate Bill No. 13, Session Laws of 1945.

Subscribed and sworn to before me this 22 day of Sept., 1945

Richard L. Bailey
Notary Public for Idaho
Residing at Idaho, Idaho

My commission expires

11-5-47

Date of receipt at office of Department of Reclamation 9/22 1945.

R-689

PERMIT NO. R-689

APPLICATION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS
UNDER SENATE BILL NO. 13, SESSION LAWS OF 1945.

STATE OF IDAHO)
(
County of Franklin)

Strongarm Reservoir

Joseph C. Hedin, Pres., of Irrigation District, State of
Idaho, being first duly sworn, upon his oath deposes and says:

That he is the owner and holder of Permit to appropriate the
Public Waters of the State of Idaho, No. R-689

That under the terms and conditions of said Permit, completion
of works thereunder is required by November 4,, 1945.

That he has heretofore in good faith performed the following
work and taken the following steps to bring about the completion of the
said works described under the said permit, to-wit:

Raised Reservoir Dam about four (4) feet, or more

That he is unable to complete the remainder of said works and
submit proof of completion of works within the required time, for the
following reasons, to-wit:

Because of "war conditions couldn't get required help, or equipment
to complete works.

Therefore, he makes application to the State Reclamation Engineer
to extend the time for Completion of Works under the said permit to
November 4,, 1949, pursuant to the provisions of Senate
Bill No. 13, Session Laws of 1945.

Subscribed and sworn to before me this 22 day of Sept., 1945

My commission expires

11-5-47

Thurmond C. Bailey
Notary Public for Idaho

Residing at Bonne, Idaho

Date of receipt at office of Department of Reclamation 9/22 1945.

R-689

— — — — —

1690036036102.0 0000

R-689

SUMMARY OF SENATE BILL NO. 13, SESSION LAWS OF 1945

AN ACT

GRANTING AUTHORITY TO THE STATE RECLAMATION ENGINEER TO EXTEND THE TIME WITHIN WHICH ANY WORK OR WORKS UNDER THE PROVISIONS OF A PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO SHALL BE COMPLETED

The State Reclamation Engineer may, upon receipt of an application setting up the necessary facts, and requesting an extension of time for the completion of works under any permit in which the work is required to be done on or before March 1, 1947, extend the time for a period of not to exceed four years.

Provided, the owner of such permit shall have furnished satisfactory evidence of his good faith, together with a satisfactory showing as to the necessity for such extension of time.

And further provided, That upon receipt of such application, and before final action is taken thereon, a public hearing shall be held, at which any and all persons owning or in possession of the right to the use of any water of a stream or source of supply affected by said extension shall have an opportunity to be heard, either orally or by affidavits.

And further provided, That a notice of such hearing shall be published, at the expense of the applicant, in a newspaper of general circulation in the county in which the works are located, for at least two consecutive issues.

Extension of time for completion of works automatically extends the time for a like period for making proof of completion of works and of application of water to beneficial use.

R. 689

December 14, 1945

State of Idaho,
Department of Reclamation,
Boise, Idaho.

Re: Permit No R-689

Gentlemen:

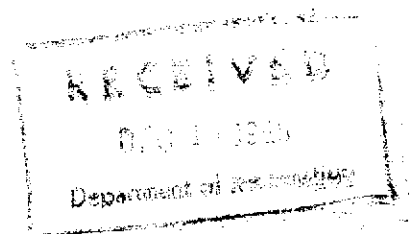
Enclosed herewith you will find
Affidavit of Twin Lakes Canal Company.
Kindly file it in the above entitled matter.

Yours truly,

O. R. Baum
O. R. BAUM

ORB-g

Law
Offices
O. R. Baum
Pocatello
Idaho



R-689

December 13, 1945

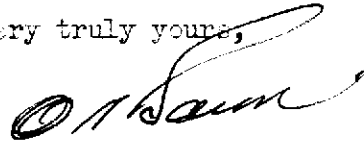
Hon. Mark R. Kulp
Commissioner
Department of Reclamation
Boise, Idaho

Re: Twin Lakes Canal Company -
Strongarm Reservoir

Dear Sir:

I note you have set the above matter for hearing
at ten o'clock on the 28th and I have been wonder-
ing if you could postpone this until 10:30 on the
28th so that I could come in on the morning plane.

Very truly yours,



O. R. BAUM

ORB:RYB

Law
Offices
O. R. Baum
Pocatello
Idaho



R-689

Preston, Idaho
December 12, 1945

Mark R. Kulp
Department of Reclamation
State House
Boise, Idaho

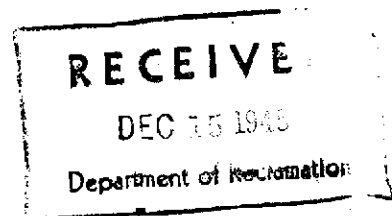
Dear Mr. Kulp:

I am sending the affidavit of publication of the application for extension of time for completion of works under Senate Bill No. 13, Session Laws of 1945.

I'm sorry that we have not sent this to you sooner.

Sincerely yours,


Gustave C. Hedlin Sec.
Strongarm Reservoir Irrigation
District



R-689

December 8, 1945

Re: Permit No. R-689

Mr. Joseph C. Hedin, President,
Strongarm Reservoir Irrigation District,
Preston, Idaho

Dear Mr. Hedin:

You are hereby notified that the hearing in the matter of the protest against the approval of the application of the Strongarm Reservoir Irrigation District for extension of time for completion of works under Permit No. R-689, will be held in the office of the State Department of Reclamation, Room 107 State House, Boise, Idaho, at 10:00 o'clock A.M., Friday, December 28th, 1945.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:A

Same letter to - O. R. Baum
Ben Johnson
T. L. Martin
J. J. Sanford

P. S. We have not yet received the affidavit of publication of the notice of this application, which the Preston Citizen was instructed to send you. This is necessary to complete the legal requirements, and we suggest that you obtain same and forward to this Department.

(This P. S. to Hedin only)

R-689

December fifth, 1945

Mr. Mark R. Kulp,
State Reclamation Commissioner,
State House,
Boise, Idaho.

Dear Mr. Kulp:

You have not as yet entered an order setting a hearing in the application and protest as filed by the Strongarm Reservoir and Twin Lakes Canal Company. Yesterday I conferred with the interested parties insofar as my parties are concerned anytime between Christmas and New Years would be agreeable to this office and to our clients.

Law
Offices
O. R. Baum
Pocatello
Idaho

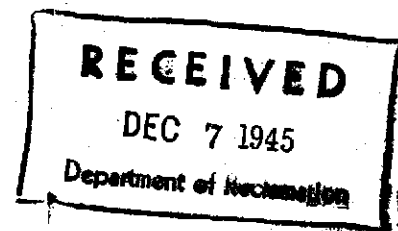
Yours truly,

O R Baum
O. R. BAUM *R4B*

ORBy-g

*Johnson called 4 PM Dec 7
any time between 11 AM & 12 noon
or 2000
Dec 27 or 28*

Dec. 28 10 AM -



R-689

THOMAS L. MARTIN

ATTORNEY AT LAW

BOISE, IDAHO

November 19, 1945

Mr. Mark Kulp
State Reclamation Engineer
Boise, Idaho

Dear Mr. Kulp:

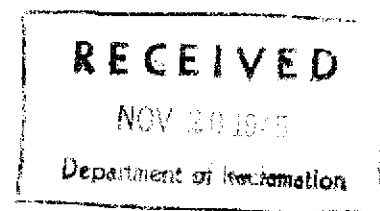
I have a letter from Mr. Ben B. Johnson
inquiring when the Strong Arm Reservoir Irrigation
District application will be set for hearing.
I know you are in Coeur d'Alene and I am writing
so my letter will be on your desk when you return.

Mr. Johnson suggests the last week in November.
I will appreciate it if you will communicate with
me when you return.

Very truly yours,

T. L. Martin
T. L. Martin

TLM/n



R 689

Preston

The Preston Citizen

Idaho

Gentlemen: We wish to herewith acknowledge receipt of notice of publication for Joseph C. Hedin. First copy will be mailed upon publication

R-689

THIS SIDE OF CARD IS FOR ADDRESS



Dept. of Reclamation
State of Idaho

Boise, Idaho

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

IN THE MATTER OF THE NOTICE OF APPLICATION
FOR EXTENSION OF TIME FOR COMPLETION OF WORKS
UNDER SENATE BILL NO. 13, SESSION LAWS OF 1945,
UNDER PERMIT NO. R-689, OF STRONGARM RESERVOIR
IRRIGATION DISTRICT, PRESTON, IDAHO

AFFIDAVIT OF TWIN LAKES CANAL COMPANY

STATE OF IDAHO,)
) ss A F F I D A V I T
COUNTY OF BANNOCK)

J. J. SANFORD, being first duly sworn, on his oath, states:

That he is Manager of the Twin Lakes Canal Company, a corporation, and makes this affidavit on behalf of such corporation, and states that heretofore the said Twin Lakes Canal Company, a corporation, has filed a written protest against the application for extension of time for completion of work pursuant to provisions of Senate Bill No. 13, Session Laws of 1945, under permit No. R-689, as filed by Strongarm Reservoir Irrigation District; that the name of said protestant is Twin Lakes Canal Company, a corporation, that its address is Preston, Idaho, and that its President's name is I. H. NASH, whose address is Preston, Idaho; and that affiant is manager of said corporation, and his address is Preston, Idaho; and

Further states that it is a corporation entitled to the right of use of certain water of Battle Creek, by right of usage, a tributary of Bear River, and that said stream, namely Battle Creek, is a source of supply of the water so sought to be stored by said Strongarm Reservoir Irrigation District, and that the contemplated storage and use of said water will effect the supply and source of water to which your protestant is entitled to. That the Strongarm Reservoir District has a prior right to the use of certain water of said Battle Creek, and has two reservoirs, and that the said reservoir herein in question, and which enlargement is now sought is known as Reservoir No. 1, and such District has a prior right to sufficient of said waters of Battle Creek to fill Reservoir No. 1, to-wit, to a capacity of 950 acre feet, as it was established, by plans accompanying filing No. 13149, and for which completion of works was issued for 984.24 acre feet by the State Department of Reclamation, which quantity was a full level elevation of 126.38, as related to a permanent bench mark, of an elevation of 154.26, which is an iron pipe 1 1/2 inches in diameter, set three feet in the ground and 9 inches above ground, and lo-

cated approximately 750 feet westerly from the north end of dam, ~~and~~
~~no more~~, and to fill reservoir No. 2 to its present capacity of approxi-
mately 380 acre feet, as said Reservoir No. 2 lies down stream about
three-fourths of a mile below Reservoir No. 1, and that said Strongarm
Reservoir Irrigation District now seeks by its enlargement, and by reason
of an extension of time in which to make such enlargement, to use, and
to obtain the right to the use of waters which it has never stored, and
waters that your protestant herein has used, and has had the right to
use, for more than twenty-five years last past by the Twin Lakes Canal
Company, and its predecessors in interest, The Oneida Irrigation District.
And that such water as the said Strongarm Irrigation District now seeks
to obtain the right to use is water they have not heretofore used and is
water that if they are permitted to use, and have control and use of will
lessen the quantity of the water to be allocated and to be had by your
protestant. That the said applicant, Strongarm Reservoir Company's
application No. R 26478, made October 1, 1940, is for 1000 acre feet and
its accompanying plans show a high water level elevation of 129.3. Where-
as the difference in acre feet quantity, between the levels of 126.38,
the previous high water level, to its above mentioned application for
a high water level of 129.3 is only 335 acre feet.

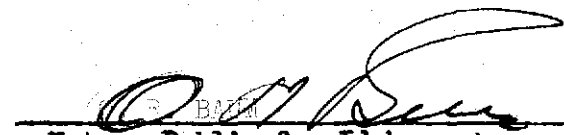
That the said applicant, Strongarm Irrigation District is not
entitled to any more water than its Reservoir No. 1 held, namely 950
acre feet, before said application for enlargement was made, which said
application for enlargement was made August 29, 1940, and that the
applicant Strongarm Reservoir District at that time was advised by your
said protestant as to the right your protestant herein claimed, namely,
that it claimed all of the water in excess of 950 acre feet, and at
that time your said protestant gave notice of its rights and protested
enlargement of such reservoir;

That the enlargement of such reservoir and granting of extension
of time in which to complete said reservoir effects the source of supply
of said water and amount, and quantity of water that the Twin Lakes

Canal Company is entitled to use, and which it has used for a great number of years.


J. J. SANFORD

Subscribed and sworn to before me this 19th day of November,
1945.


Notary Public for Idaho,
Residing at Pocatello, Idaho

(seal)

October 22, 1945

Re: Permit No. TL-680

Twin Lakes Canal Company
Preston, Idaho

Gentlemen:

This is to advise you that, in accordance with telegram sent you on October 20th, 1945, the hearing set for October 24th, in the matter of the application of the Strongarm Reservoir District for extension of time for completion of works under the above numbered permit, will be continued for at least thirty days.

You will be notified later of the definite date for this hearing.

Very truly yours,

CC to Ben Johnson
T. L. Martin
C. R. Baum

MARK R. KILP
State Reclamation Engineer

R-689

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

IN THE MATTER OF THE PROTEST AGAINST THE APPROVAL OF THE APPLICATION
OF EXTENSION OF TIME FOR THE COMPLETION OF WORKS UNDER PERMIT NO.
R-689 IN ACCORDANCE WITH THE PROVISIONS OF SENATE BILL NO. 13, SESSION
LAWS OF 1945:

Twin Lakes Canal Company)
Protestant)
Strong Arm Reservoir District)
Protestee)

Notice of Continuance of Hearing

You and each of you, are hereby notified that the hearing in the above
entitled matter, regularly set by public notice for 10:00 A. M. for
October 10th, 1945, was continued by Department notice to October 17th,
under date of October 4th. The same is hereby continued due to
unavoidable reasons to the 24th day of October, 1945, at 10:00 A. M.,
to be held in the Department of Reclamation Office, State House, Boise,
Idaho.

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 8th day of October, A. D., 1945.

Mark R. Kulp
State Reclamation Engineer

By
Roy W. Thompson
Supervisor of Water Distribution.

R-689

Notice sent to Twin Lakes Canal Company;
Strong Arm Reservoir District; O. R. Baum,
Pocatello; and T. L. Martin, Boise. 10/8/45.

R-689

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the matter of the application of :

the Strong Arm Reservoir District, :
Preston, Idaho, for an extension :
of time for the completion of works :
under Permit R-689 :

NOTICE

Due to unavoidable absence of the State Reclamation Engineer from the Office on October 10th, the public hearing at which oral testimony will be taken in the matter of the application for extension of time of the Strong Arm Reservoir Irrigation District under Permit R-689, will be held at the office of the State Reclamation Engineer at Boise, Idaho, on October 17, 1945.

Affidavits and documentary testimony may be submitted on October 10th as advertised.

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 4th day of October, A. D., 1945.

Mark R Kulp
State Reclamation Engineer

R-689

October 4, 1945

Strong Arm Reservoir District
c/o Mr. Wm. A. Shulberg
Preston, Idaho

Gentlemen:

The Twin Lakes Canal Company has protested the approval of extension of time for completion of works under Permit R-689 and stated their intention of appearing with witnesses. Their protest filed on October 2nd objects to the extension of time on the grounds that their rights to the waters of Battle Creek will be interfered with.

Very truly yours,

Mark R. Kulp
State Reclamation Engineer.

MRK:lt

(copy order on change of date for hearing).

R-689



October 2, 1945

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

Dear Sir:

Re: Application for Extension
of time - Strong Arm Re-
servoir Irrigation District,
Preston, Idaho, under Permit
R-689

Subjoined hereto you will find protest pursuant to
the provisions of Chapter 12, Session Laws of 1945.

The present statute provides that any person owning
or in possession of the right to the use of any water of the
stream may have an opportunity to be heard either orally or
by affidavit. So that the record may be complete we are
filing this verified protest, and a duly authorized repre-
sentative of the company will be present on the return day,
namely the 10th day of October, 1945, at ten o'clock A.M. to
give oral testimony in support of the written protest unless
the Twin Lakes Canal Company, a corporation, is advised
otherwise by you. You should advise this office and, like-
wise, advise the President of the company I. H. Nash, Preston,
Idaho.

There are certain matters that can be presented more
satisfactorily by witnesses than by relating the same in affi-
davits, hence we have stated that we will supplement the pro-
test by oral testimony.

We are serving a copy of the protest upon the Strong-
arm Reservoir Irrigation Company.

You may advise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "O. R. Baum". The signature is written in a cursive style with a long, sweeping underline.

O. R. BAUM

ORB:RYB
enc.

R-689

Joe Hedlin

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) _____

(P. O.) _____

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

_____ of _____, published in
the county in which the works are situated.

Joseph C. Hedlin,
President,
Steingarm Reservoir Irrigation District.

(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.

P. 689

IN THE MATTER OF THE NOTICE OF APPLICATION :
FOR EXTENSION OF TIME FOR COMPLETION OF WORKS :
UNDER SENATE BILL NO. 13, SESSION LAWS OF : PROTEST
1945, UNDER PERMIT NO. R-689, OF STRONGARM :
RESERVOIR IRRIGATION DISTRICT, PRESTON, IDAHO. :

Comes now Twin Lakes Canal Company, a corporation, and files this as its written protest against the application for extension of time, and as its protest to the granting of an extension of time, for completion of works under Permit No. R-689, as filed by Strongarm Reservoir Irrigation District and states:

That its respective name and address is:

- (a). TWIN LAKES CANAL COMPANY, a corporation.
- (b) Preston, Idaho.
- (c) Its President's name is: - I. H. NASH,
Preston, Idaho.
- (d) Its Manager's name is:- J. J. Sanford,
Preston, Idaho.

That it objects to the application for extension of time and to the granting of an extension of time for completion of works under permit No. R-689 and states:

(a) That it is a corporation owning and possessing, and entitled to the right to the use of, certain waters of Battle Creek, a tributary of Bear River, and that the said stream, namely Battle Creek, is the source of supply of the said waters so sought to be stored by said Strong-arm Reservoir Irrigation District, and that the contemplated storage and use of such waters will effect the supply and source of the waters to which your protestant is entitled to.

(B) That the Strongarm Reservoir Irrigation District has a prior right to the use of certain waters of said Battle Creek as follows:

That the said Strongarm Reservoir Irrigation District has two reservoirs and that the reservoir herein in question, and which an enlargement is now sought, is known as reservoir No. 1, and that such district has a prior right to sufficient of the said waters of Battle Creek to fill reservoir No. 1 as it was originally constructed, to-wit, to the capacity of 950 acre feet, and to fill reservoir No. 2 to its present capacity of approximately 380 acre feet; that said reservoir No. 2 lies down stream about three-fourths of a mile below reservoir No. 1, and that said Strongarm Reservoir Irrigation District now seeks by its enlargement, and by reason of an extension of time in which to make such enlargements, to use, and to obtain the right to the use of, waters that your protestant herein has used, and has had the right to use, for more than five years last past, and that such water that they now seek to obtain the right to use is water that they have not heretofore used and are waters that, if they are permitted to use, will lessen the quantity of the water to be had by your protestant.

(c) That the applicant Strongarm Reservoir Irrigation District is not entitled to any more water than its reservoir No. 1 held, namely 950 acre feet, before the said application for enlargement was made, which said application for enlargement was made August 29, 1940, and that the applicant at that time was advised as to the rights of your protestant herein, and that all waters in excess of 950 acre feet are claimed by your protestant herein.

(d) That your protestant herein heretofore, and at a time before said Strongarm Reservoir Irrigation District attempted to, or made application to, enlarge its reservoir, protested the enlargement of such reservoir or the impounding of additional waters, more particularly the waters belonging to your said protestant, and that said applicant at all times has been conversant with the rights of your protestant.

III

That there are many matters and things that can be stated in support of this protest that can be better stated by witnesses appearing in person and testifying orally, as there are certain maps, elevations and the like that must be referred to.

IV

That the enlargement of such reservoir and the granting of an extension of time in which to complete such reservoir effects the source of

supply of the waters, and the amount and quantity of water, that your protestant is entitled to use, and which it has used, for a great number of years.

V

That this protest will be supported by oral testimony to be produced at the time of the return day hereof, to-wit, the 10th day of October, 1945, at ten o'clock A.M., at Boise, Ada County, Idaho, or at such other time or place as may be directed by the State Reclamation Engineer.

TWIN LAKES CANAL COMPANY, a corporation

BY

I. H. Nash

Its President

STATE OF IDAHO)
) ss
COUNTY OF BANNOCK)

I. H. NASH, being first duly sworn, on his oath states:

That he is the President of the Twin Lakes Canal Company, a corporation, and makes this affidavit on its behalf; that he has read the above and foregoing protest, and the facts therein stated he verily believes to be true.

I. H. Nash

SUBSCRIBED AND SWORN to before me this 2nd day of October, 1945.

(SEAL)

O. R. Baum
NOTARY PUBLIC for Idaho, residing
at Pocatello.

Copy of order on change of date for
hearing sent to O. R. Baum, Pocatello,
Twin Lakes Canal Company, c/o I. H. Nash, Preston
and to Strong Arm Irrigation District, Preston.

R-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

BOISE

Date . . . Sept. '22, 1945

The Preston Citizen.
Preston, Idaho.

Gentlemen:

Enclosed you will find notice for publication once a week for two consecutive weeks prior to **October 10th, 1945** the date set for hearing, the expense of the publication to be paid by the applicant, **Joseph C. Hedin, Pres. Strong Arm Reservoir Irrigation District, Preston, Idaho.**

to whom you should furnish proof of publication on or prior to the date set for hearing.

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
Roy W. Thompson.
Supervisor of Water Distribution.

R-689

BEN JOHNSON
ATTORNEY AND COUNSELOR AT LAW
FIRST SECURITY BANK BUILDING
PRESTON, IDAHO

September 12, 1945

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

Dear Mr. Kulp:

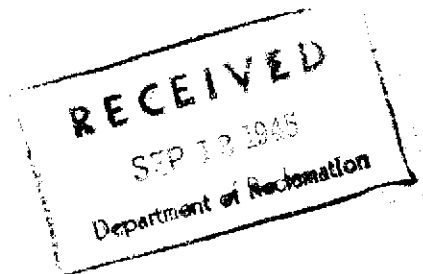
The Strong Arm Reservoir District would appreciate an extension of time in which to make proof of completion of works under permit No. R-689. They do hereby request the full additional time permitted by law. I'd appreciate if you would mail me the necessary papers to make said application upon.

Very sincerely yours,

Ben Johnson
Ben Johnson

BJ:bb

*Ans. personally
9-14-*



R-689

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Strong Arm Reservoir District
C/o Wm. A. Shuldberg,
Preston, Idaho

Boise, Idaho, Sept. 4, 1945

Dear Sir:—

I enclose herewith blank form upon which to give notice that you are prepared and desire to submit proof of completion of works under your permit No. R-689.

This form should be filled out and mailed to the Department of Reclamation, at least 60 days before the date upon which proof is to be submitted, which proof MUST be on or before November 4, 1945. Upon receipt of the blank properly filled out, notice for publication will be sent to the paper direct from this office, which notice must be published a period of four weeks prior to the date of proof.

The proof may be submitted at any place convenient to you and two witnesses, where there is a notary public or other officer authorized to administer oaths.

The certificate that shall be issued under this proof does not give you a perpetual right to the use of the water for which application is made, as it only confirms the completion of the 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.

Very truly yours,

MARK R. KULP
Commissioner of Reclamation.
State Reclamation Engineer

R-689

Dam file
E-9

August 27, 1945

Mr. C. L. Tucker
Senior Engineer Appraiser
Federal Land Bank of Spokane,
Spokane, S, Washington.

Dear Mr. Tucker:

Reference is made to your letter of August 7th,
in regard to the Strong Arm reservoirs:

Our best information on these is as follows:

Strong Arm No. 1 has been raised to the height
shown by plans of their application made in 1940,
or to elevation 133.3 with water surface elevation
129.3, and outlet at bottom of dam 102.0. The capacity
of the reservoir at 129.3 elevation is 1335 acre feet.

Strong Arm No. 2 is approximately 30 feet high
and holds about 380 acre feet.

Very truly yours,

1333
102
31.3

K:1A

MARK R. KULP
State Reclamation Engineer

R-689

**POST OFFICE DEPARTMENT
OFFICIAL BUSINESS**

**PENALTY FOR PRIVATE USE TO AVOID
PAYMENT OF POSTAGE, \$300**

**POSTMARK OF
DELIVERING OFFICE**

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article **RETURN RECEIPT REQUESTED.**

**RETURN
TO**

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83701

055-16-71548-10

Apr. 1967

POD Form 3811

INSTRUCTIONS TO DELIVERING EMPLOYEE

Show to whom, date, and
address where delivered ☐

Deliver ONLY
to addressee ☐

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

1

COPIED NO.

19873

2

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

INSURED NO.

DATE DELIVERED

3

SHOW WHERE DELIVERED (only if requested)

R-689

STRONGARM IRRIGATION DISTRICT

PRESTON, IDAHO

ADVERTISEMENT, PROPOSAL, SPECIFICATIONS

AND DRAWINGS

STRONGARM IRRIGATION DISTRICT

DAM NO.2 FOR STRONGARM IRRIGATION DISTRICT RESERVOIR

Oct. 1940

Specifications No. 1

R-689

R-689

February 8, 1948

Mr. Ben Johnson
Attorney at Law
Preston, Idaho

Dear Mr. Johnson:

As per your request, we enclose herewith a certified copy of Reservoir Permit No. R-689, in the name of the Strongarm Reservoir Irrigation District; also Departmental Receipt No. 18772 for the \$1.50 fee in connection therewith.

In reply to your inquiry will state that there are only two other filings in force at this time on Battle Creek, as follows:

License No. 9183, to Oscar M. Seaman, for 2.44 cubic feet per second, priority March 3, 1915.

License No. 17364, also to Oscar M. Seaman, for 3.7 cubic feet per second, priority August 27, 1930

There are no permits in force on Cottonwood Creek, in Franklin County- the only permit issued to the Treasurers Irrigation District, having been cancelled.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

R-689

Permit R 689

December 23, 1940

Mr. J. J. Sanford, Secretary
Twin Lakes Canal Company
Preston, Idaho

Dear Mr. Sanford:

This will acknowledge receipt of your December 2 letter enclosing a notice of protest to the Strongam Reservoir Company against the increasing capacity and storing of additional water in any of its three reservoirs.

This notice will be kept in the record file of this office.

Very truly yours,

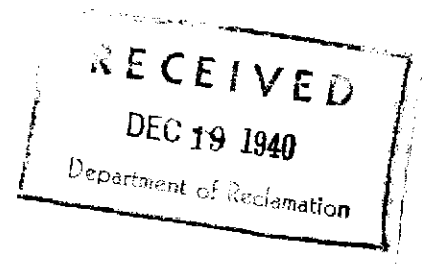
JAMES SPOFFORD,
Commissioner of Reclamation

JS/mw

R-689

OFFICE OF
TWIN LAKES CANAL CO.
PRESTON, IDAHO

December 2, 1940.



Department of Reclamation,
Boise, Idaho.

Re. Strongarm Reservoir Co.

Gentlemen:

Replying to your letter of November 22, 1940, I am instructed to advise you that the Twin Lakes Canal Co., a corporation, of Franklin County, Idaho, claims the right to the use of all of the waters of Battle Creek in Franklin County, Idaho, flowing above the present diversion works and storage reservoirs of the Strongarm Reservoir Company, by virtue of actual diversion and application of said waters to a beneficial use for approximately eighteen years, and objects to any extension or enlargement of the present irrigation works and system by the Strongarm Reservoir Company for the purpose of increasing the capacity of either of their reservoirs.

A copy of notice of objection and claim of this company has been this day sent to the Strongarm Reservoir Company and a copy of said notice is attached hereto for your information.

Yours respectfully,

Twin Lakes Canal Company, a Corp.,

By


Secretary.

R-689

OFFICE OF
TWIN LAKES CANAL CO.
PRESTON, IDAHO

December 2, 1940.

Strongarm Reservoir Co., Corp.,
Winder, R. F. D.,
Franklin County, Idaho.

NOTICE.

Gentlemen:

We are advised that your company intends to raise the dam or dams on your reservoir for the purpose of impounding an additional 1000 acre feet in your reservoir or reservoirs.

You are aware that the Twin Lakes Canal Co. has used all water flowing in Battle Creek not impounded in your reservoirs one and two, and reservoir No. three transferred by you to the Winder Reservoir Co. for the past fourteen years in their irrigation system, and have applied all of the same to a beneficial use on the lands of their stockholders, and by virtue of said application and use claim to be the owners thereof and entitled to all waters flowing in Battle Creek above the amount necessary to fill your reservoirs Nos. one and two beyond their present capacity.

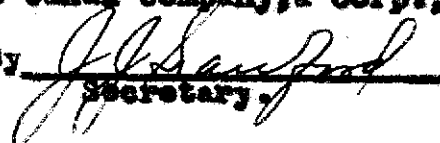
This is therefor to notify you that this company claims all of the waters of Battle Creek above what is necessary to supply the capacity of your present reservoirs, and objects to any attempt on your part to increase the capacity of either of your present reservoirs or to store or divert any additional waters from said Battle Creek.

This notice is given you so that you will not go to any expense in increasing your capacity in these reservoirs or interfere with the use of the waters so diverted and used by this company. Of course we do not question your right to the use of such water as may be necessary from Battle Creek to supply the present capacity of your reservoirs.

Yours faithfully,

Twin Lakes Canal Company, a Corp.,

By


Secretary.

2689

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

Permit No. R-689

Boise, Idaho, November 8, 1940

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~~ ^{fourth} page.

Strongarm Reservoir Irrigation District
C/o Wm. A. Shulberg, Secretary,
Preston, Idaho

JAMES SPOFFORD

Commissioner of Reclamation.

R-689

November 1, 1940

Re: Application No. 26478

Mr. Wm. A. Shaldberg, Secretary,
Strongarm Reservoir Irrigation District,
Preston, Idaho.

Dear Mr. Shaldberg:

The above numbered application for permit has been
approved, and permit will be mailed you shortly.

Meanwhile, we are enclosing your plans, which have been
approved by the Commissioner of Reclamation.

Very truly yours,

JAMES SPOTFORD
Commissioner of Reclamation
By

Chief Clerk

JLA
Encls.

R-689

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ADVERTISEMENT
DAM NO. 2 FOR STRONGARM IRRIGATION DISTRICT RESERVOIR
OFFICE OF THE STRONGARM IRRIGATION DISTRICT

Preston, Idaho, _____, 1940

Sealed proposals will be received at the office of the Strongarm Irrigation District at Preston, Idaho, until 2 o'clock P.M., _____, 1940, for the building of a dam to be located in Section 2, Township 14 South, Range 39 East, Boise Base Meridian. This work involves approximately the following quantities: _____ Cubic yards of earth embankment and _____ cubic yards of earth excavation.

NOTICE TO BIDDERS.

Each proposal must be accompanied by a certified check, payable to the order of the Strongarm Irrigation District, as a guaranty that the bidder will, if successful, promptly execute a satisfactory contract and furnish bond for the faithful performance of the work as required by paragraphs 8 and 9 of these specifications in the amount of forty per cent (40) % of the estimated aggregate payment to be made under the contract.

The envelope enclosing the proposal must be marked, "Proposal for Construction of Dam for Strongarm Irrigation District Reservoir," and addressed "the Strongarm Irrigation District, Preston, Idaho."

PROPOSAL

FOR THE CONSTRUCTION OF THE DAM OF THE STRONGARM
IRRIGATION DISTRICT RESERVOIR NO.2
IN FRANKLIN COUNTY IDAHO

_____, 1940

The Strongarm Irrigation District,
Preston, Idaho

Gentlemen:

Pursuant to the foregoing advertisement, the undersigned bidder proposes to do all the work and to furnish all the material as provided by the attached specifications, and binds himself on award by The Strongarm Irrigation District under this proposal to execute in accordance with such award, a contract, with necessary bond, of which this proposal and the said advertisement and specifications shall be a part, for performing and completing said contract within the time required by these specifications and at the prices named in the specifications and in the schedules hereto annexed.

The bidder furthermore agrees that, in case of his default in executing a contract with necessary bond, the proceeds of the check accompanying this proposal shall be and remain the property of The Strongarm Irrigation District.

Signature: _____

Address: _____

Names of individual members of
firm or names and titles of all
officers of corporation:

(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____
(_____

Corporation organized under the laws of the State of _____

R-689

We agree to furnish bond for this bidder as required by these specifications and the regulations of The Strongarm Irrigation District, in case contract is awarded on the basis of this proposal.

SCHEDULE

DAM

STRONGARM IRRIGATION DISTRICT RESERVOIR.

ITEM WORK OR MATERIAL NO.	QUANTITY AND PRICE	AMOUNT
1. Earth Embankment,	(\$) per cu. yd. \$	
2. Excavation for Cut-off Wall	cu. yds. at (\$) per cu. yd. \$	

GENERAL SPECIFICATIONS

COMPANY.

1. The word "company" used in these specifications or in the contract, unless otherwise qualified by the context, means _____.

ENGINEER.

2. The word "engineer" used in these specifications or in the contract, unless otherwise qualified by the context, means the chief Irrigation and Hydraulic Engineer of _____.

_____ He will be represented on the work by assistants and inspectors authorized to act for him. On all questions concerning the acceptability of material or machinery, the classification of material, the execution of the work, conflicting interests of contractors, performing related work, and the determination of costs, the decision of the engineer shall be final.

CONTRACTOR.

3. The word "contractor" used in these specifications or in the contract means the person, firm, or corporation with whom the contract is made by _____.

The contractor shall at all times be represented on the work in person or by a foreman, or duly designated agent. Instructions and information given by the engineer to the contractor's foreman, or agent, on the work, shall be considered as having been given to the contractor. When two or more contractors are engaged on installation or construction work in the same vicinity, the engineer shall be authorized to direct the manner in which each shall conduct his work, so far as it affects other contractors.

FORM OF PROPOSAL.

4. The proposal shall be made on the form provided for that purpose, and shall be enclosed in a sealed envelope, marked, and addressed as required in the Notice to Bidders. The bidder shall state in words and in figures, in the spaces provided therefor in the proposal, the unit price or the specific sums, as the case may be, for which he proposes to supply material, tools, equipment, and perform the work required by these specifications. In case of any discrepancy between the figures and the written price the latter shall hold.

SIGNATURE.

5. The proposal must be properly signed. If the proposal is

made by an individual, it must be signed by his full name, and his address shall be given after his signature. If the proposal is made by a firm, it shall be signed with co-partnership name by a member of the firm, and the name and address of each member shall be given. If the proposal is made by a corporation, it shall be signed by an officer with the corporate name, and the corporate seal shall be attached to the signature. Anyone signing a proposal as an agent of another or of others must file with it legal evidence of his authority to do so.

PROPOSAL.

6. All blank spaces in the proposal shall be properly filled. The phraseology of the proposal should not be changed, and no additions should be made to the items mentioned thereon. Alterations by erasures or interlineation must be explained or noted in the proposal over the signature of the bidder. If the unit price and total amount named by the bidder for any item do not agree, the unit price alone will be considered in representing the bidder's intention. A bidder may withdraw his proposal before the expiration of the time during which proposals may be submitted by submitting a written request for its withdrawal. No proposal received after time specified in the advertisement will be considered. No telegraphic proposal or telegraphic modifications of the proposal will be considered. A proposal sent by mail should be sent special delivery or registered, and sufficient allowance should be made for the additional time required in such transmission. The proposal shall be made out for completed work as per schedule, and no partial bids will be considered. Bidders are invited to be present at the opening of the proposals. The right is reserved to reject any or all proposals, to accept one part of a proposal and to reject the other, and to waive all technical defects, as the interests of the company may require.

CASHIER'S CHECK.

7. Each bidder shall submit with his proposal a cashier's check for the sum stated in the notice to bidders, drawn to the order of the company. If a bidder to whom an award is made fails or refuses to execute the required contract and bond within the time specified in paragraph 8, the proceeds of his check shall become the property of the company. The check of the successful bidder will be returned after the execution of his contract and the approval of his bond on behalf of the company. The checks of the other bidders will be returned at the expiration of forty-five days from the date of opening proposals, or sooner if the contract is executed prior to that time.

THE CONTRACT.

8. The bidder to whom an award is made shall execute a written contract with the company, and if a bond is required he shall furnish a good and approved bond within ten days after the award of the contract. The contract shall be in the form adopted by the company, and shall be made a part of the proposal. If the bidder to whom an award is

made fails to enter into a contract as herein provided the award will be annulled, and an award may be made to the bidder whose proposal is next most acceptable in the opinion of the company; and such bidder shall fulfill every stipulation embraced herein as if he were the party to whom the first award was made. The advertisement, notice to bidders, proposal, general specifications and detail specifications, will be incorporated in the contract. A corporation to which an award is made will be required, before the contract is finally executed, to furnish a certificate of its corporate existence and evidence that the officer signing the contract for the corporation is duly authorized to do so.

CONTRACTOR'S BOND.

9. The contractor shall furnish bond in an amount specified in the notice to bidders, conditioned upon the faithful performance by the contractor of all covenants and stipulations in the contract. If during the continuance of the contract any of the sureties die, or, in the opinion of the company, are or become irresponsible, they may require additional sufficient sureties, which the contractor shall furnish to the satisfaction of the company within ten days after notice, and in default thereof the contract may be suspended by the company and the materials purchased or the work completed as provided in paragraph 14.

TRANSFERS.

10. Transfer of a contract or of any interest therein if prohibited.

SAMPLES OR SPECIMENS.

11. The contractor shall submit samples or specimens of such materials to be furnished or used in the work as the engineer may require.

MATERIAL AND WORKMANSHIP.

12. All materials must be of the specified quality and equal to approved samples, if samples have been submitted. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omissions from these specifications or the drawings. All materials furnished and all work done must be satisfactory to the engineer. Work not in accordance with these specifications, in the opinion of the engineer, shall be made to conform thereto. Unsatisfactory material will be rejected, and, if so ordered by the engineer, shall, at the contractor's expense, be immediately removed from the vicinity of the work.

DELAYS.

13. The contractor shall receive no compensation for delays or hindrances to the work except when, in the judgment of the engineer, direct and unavoidable extra cost to the contractor is caused by the

failure of the company to provide necessary information, material, right of way, or site for installation. When such extra compensation is claimed a written statement thereof shall be presented by the contractor not later than fifteen days after the close of the month during which extra cost is claimed to have been incurred. Such claims, if found correct, will be approved and the decision of the engineer whether extra cost has been incurred and the amount thereof shall be final. If delays are caused by specified orders to stop work given by the engineer, or by the performance of extra work, or by unforeseen causes beyond the control of the contractor, or by failure of the company to provide material or necessary instructions for carrying on the work, or to provide the necessary right-of-way or site for installation, then such delay will entitle the contractor to an equivalent extension of time, except as otherwise provided in paragraph 32. Application for extension of time must be approved by the company, and shall be accompanied by the formal consent of the sureties, but an extension of time, whether with or without such consent, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

SUSPENSION OF CONTRACT.

14. If the contractor fails to begin the delivery of the material or to commence work as provided in the contract, or fails to make deliveries of materials promptly as ordered, or to maintain the rate of delivery of material or progress of the work in such manner as to insure a full compliance with the contract within the time limit, or if in the judgment of the engineer the contractor is not carrying out the provisions of the contract in their true intent and meaning, written notice will be served on him to provide within a specified time for a satisfactory compliance with the contract, and if he neglects or refuses to comply with such notice the company may suspend the operation of all or any part of the contract, or may in its discretion after such notice, purchase any or all of the material for him without suspending the contract, the cost of such material to be deducted from his monthly estimates. Upon the suspension of a contract for furnishing material or machinery the company may purchase the material or machinery necessary to complete the contract in such manner as it may deem proper. Upon suspension of a contract for construction or installation the company may in its discretion take possession of all or any part of the machinery, tools, appliances, animals, materials and supplies used on the work covered by the contract or that have been shipped or delivered by or on account of the contractor for use in connection therewith, and the same may be used either directly by the company or by other parties, for it, for the completion of the work suspended; or the company may employ other parties to perform the work, or may substitute other machinery or materials, purchase the material contracted for in such manner as it may deem proper, or hire such force and such machinery, tools, appliances, animals, materials, and supplies at the contractor's expense as may be necessary for the proper conduct and completion of the work. Any cost to the company in excess of the

contract price arising from the suspension of the contract will be charged to the contractor and his sureties, who shall be liable therefor. A special lien to secure the claims of the company, in the event of suspension of the contract, is hereby created against any property of the contractor taken into the possession of the company under the terms hereof, and such lien may be enforced by a sale of such property under the direction of the company and the proceeds of the sale, after deducting all expenses thereof and connected therewith, shall be credited to the contractor. If such net proceeds shall be in excess of the claims of the company against the contractor, ~~the balance will be paid~~ to the contractor or his legal representatives. If, in the opinion of the engineer, there is an emergency for the furnishing of certain material or the performance of certain work in order to insure compliance with the terms of the contract, and if the contractor fails to furnish such material or to perform such work within a reasonable time fixed by written notice from the engineer to the contractor, then the engineer shall have the power to furnish such material or to perform such work at the expense of the contractor and his sureties, who shall be liable therefor. In the determination of the question whether there has been such non-compliance with the contract as to warrant its suspension, or the furnishing of material or the performance of work by the company as herein provided, the decision of the engineer shall be final.

CANCELLATION OF CONTRACT.

15. If at any time unforeseen conditions arise after the award of the contract that affect or may be detrimental to the interests of the company, said company reserves the right to cancel the contract. In case this is done, a board of three arbitrators shall be chosen, one by the contractor, one by the company, and these two in turn are to choose the third-- to determine the damage incurred to the contractor due to the cancellation of the contract; under no condition, however, shall anticipated profits be included as damages. A majority report of the board shall be final.

CHANGES.

16. The engineer may, without notice to the sureties, on the contractor's bond, make changes in the designs, of material or machinery or plans for installation or construction, or in the quantities or character of the work or material required as he may deem advisable. These changes in plans for installation or construction may also include modifications of shapes and dimensions of canals, dams, and other structures, and the shifting of locations to suit conditions disclosed as work progress. If such changes result in an increase or decrease of cost to the contractor, the engineer will make such additions or deductions on account thereof as he may deem reasonable and proper, and his action thereon shall be final. Extra work or material shall be charged for as hereinafter provided.

EXTRA WORK OR MATERIAL.

17. In connection with the work covered by this contract the

engineer may order work or material not covered by the specifications. Such work or material will be classed as extra work, and will be ordered in writing. No extra work or material will be paid for unless ordered in writing. Extra work shall be charged for at actual necessary cost, as determined by the engineer, plus fifteen per cent for profit, use of equipment, superintendence and general expenses. The actual necessary cost will include all expenditures for materials, labor, and supplies furnished by the contractor, and a reasonable allowance for the use of shop equipment where required, but will not include any allowance for office expenses, use of equipment, general superintendence or other general expenses. At the end of each month the contractor shall present in writing his claims for extra work and material, and, when requested by the engineer, shall furnish itemized statements of the cost and shall permit examination of all accounts, bills and vouchers relating thereto.

CHANGES AT CONTRACTOR'S REQUEST.

18. If the contractor, on account of conditions developing during the progress of the work, finds it impracticable to comply strictly with these specifications and applies in writing for modification of structural requirements or of methods of work, such change may be authorized by the engineer of not detrimental to the work and if without additional cost to the company.

INSPECTION.

19. All materials furnished and work done under this contract will be subject to rigid inspection. The contractor shall furnish complete facilities including the necessary labor for the inspection of all material and workmanship. The engineer shall have at all times access to all parts of the shop where such material under his inspection is being manufactured. Material that does not conform to the specifications, accepted through oversight or otherwise, may be rejected at any stage of the work. Whenever the contractor on installation or construction is permitted or directed to do night work or to vary the period during which work is carried on each day, he shall give the engineer due notice, so that inspection may be provided for. Such work shall be done without extra compensation and under regulations to be furnished in writing by the engineer.

ERRORS AND OMISSIONS.

20. The contractor will not be allowed to take advantage of any error or omission in these specifications. Suitable written instructions will be given when such error or omission is discovered.

CONTRACTOR'S FINANCIAL OBLIGATIONS.

21. The contractor shall promptly make payments to all persons supplying labor and materials in the execution of the contract, and a condition to this effect shall be incorporated in the contractor's bonds, and should he fail to do so the company may make such payments

on the contractor's behalf, and the contractor shall hereby agree to repay to the company all such sums so paid, or he shall agree to the deduction by the company of such sums, with interest at the rate of six per cent per annum, from any money due or to become due to him.

EXPERIENCE.

22. Bidders, if required, shall present satisfactory evidence that they have been regularly engaged in furnishing material and machinery and constructing such work as they propose to execute, and that they are fully prepared with necessary capital, machinery and material to begin the work promptly and to conduct it as required by these specifications.

SPECIFICATIONS AND DRAWINGS.

23. The contractor shall keep on the work a copy of the specifications and drawings, and shall at all times give the engineer access thereto. Any drawings or plans listed in the detail specifications shall be regarded as part thereof and of the contract. Anything mentioned in these specifications and not shown in the drawings, or shown in the drawings and not mentioned in these specifications, shall be done as though shown or mentioned in both. The Engineer will furnish from time to time such detail drawings, plans, profiles, and information as he may consider necessary for the contractors guidance.

LOCAL CONDITIONS.

24. Bidders shall satisfy themselves as to local conditions affecting the work, and no information derived from the maps, plans, specifications, profiles or drawings, or from the engineer or his assistants, will relieve the contractor from any risk or from fulfilling all of the terms of his contract. The accuracy of the interpretation of the facts disclosed by borings or other preliminary investigations is not guaranteed. Each bidder or his representative should visit the site of the work and familiarize himself with local conditions; failure to do so when intelligent preparation of bids depends on a knowledge of local conditions may be considered sufficient cause for rejecting a proposal.

WORKMENS COMPENSATION LAW.

25. The contractor shall, at his own expense provide for the insurance of his employees in such manner as may be required by the laws of the state in which the work is being done.

DATA TO BE FURNISHED BY THE CONTRACTOR.

26. The contractor shall furnish the engineer reasonable facilities for obtaining such information as he may desire respecting the character of the materials and the progress and manner of the work, including

all information necessary to determine its cost, such as the number of men employed, their pay, the time during which they worked on the various classes of construction, etc. The contractor shall also furnish the engineer copies of expense bills for transportation charges on all machinery, materials and supplies shipped to or from the project in connection with the work under the contract.

RESTRICTIONS ON DISPOSITION OF PLANT, ETC.

27. The contractor shall ^{not} make any disposition of the plant, machinery, tools, appliances, supplies, materials or animals used on or in connection with the work, either by sale, conveyance, or incumbrance, inconsistent with the special lien of the company expressly created by this contract.

DAMAGES.

28. The contractor will be held responsible for and required to make good, at his own expense all damage to person or property caused by carelessness or neglect on the part of the contractor, his agents or employees.

CHARACTER OF WORKMEN.

29. The contractor shall not allow his agents or employees to trespass on premises or lands in the vicinity of the work. None but skilled foremen and workmen shall be employed on work, the performance of which requires special qualifications, and when required by the engineer the contractor shall discharge any person who commits trespass, or is in the opinion of the engineer, disorderly, dangerous, insubordinate, incompetent, or otherwise objectionable. Such discharge shall not be the basis of any claim for compensation or damages against the company or any of its officers.

STAKING OUT WORK.

30. The work to be done will be staked out for the contractor, who shall provide such material and give such assistance as may be required by the engineer.

METHODS AND APPLIANCES.

31. The methods and appliances adopted by the contractor shall be such as will, in the opinion of the engineer, secure satisfactory quality of work, and will enable the contractor to complete the work in the time agreed upon. If at any time the methods and appliances appear inadequate, the engineer may order the contractor to improve their character or efficiency, and the contractor shall conform to such order; but failure of the engineer to order such improvement of methods or efficiency will not relieve the contractor from his obligation to perform satisfactory work and to finish it in the time agreed upon.

CLIMATIC CONDITIONS.

32. The engineer may order the contractor to suspend any work that may be damaged by climatic conditions. When delay is caused by an order to suspend work given on account of climatic conditions that could have been reasonably foreseen the contractor will not be entitled to any extension of time on account of such order.

QUANTITIES AND UNIT PRICE.

33. The quantities noted in the schedule or proposal are approximations for comparing bids, and no claim shall be made against the company for excess or deficiency therein, absolute or relative. Payment at the prices agreed upon will be in full for the completed work and will cover materials, supplies, labor, tools, machinery, and all other expenditures incident to satisfactory compliance with the contract.

REMOVAL AND REBUILDING OF DEFECTIVE WORK.

34. The contractor shall remove and rebuild at his own expense any part of the work that has been improperly executed, even though it has been included in the monthly estimates. If he refuses or neglects to replace such defective work, it may be replaced by the company at the contractor's expense.

PROTECTION OF WORK AND CLEANING UP.

35. The contractor shall be responsible for any material furnished him and for the care of all work until its completion and final acceptance, and he shall at his own expense replace damaged or lost material and repair damaged parts of the work, or the same may be done at his expense by the company. He shall take all risks from floods and casualties and shall make no charge for detention from such causes. He may, however, be allowed a reasonable extension of time on account of such detention, subject to the conditions hereinbefore specified. The contractor shall remove from the vicinity of the completed work all plant, buildings, rubbish, unused material, concrete forms, etc., belonging to him or used under his direction during construction, and in the event of his failure to do so the same may be removed by the company at his expense.

ROADS AND FENCES.

36. Roads subject to interference from the work covered by this contract shall be kept open, and the fences subject to interference shall be kept up by the contractor until the work is finished.

BENCH MARKS AND SURVEY STAKES.

37. Bench marks and survey stakes shall be preserved by the contractor, and in case of their destruction or removal by him or his employees, they will be replaced by the engineer at the contractor's expense.

RIGHT OF WAY.

38. The site for the installation of machinery or the right of way for the works to be constructed under this contract and for necessary borrow pits, channels, spoil banks, ditches, roads, etc., will be provided by the company.

SANITATION.

39. The engineer may establish sanitary and police rules and regulations for all forces employed under this contract; and if the contractor fails to enforce these rules the engineer may enforce them at the expense of the contractor.

INTOXICANTS.

40. The use or sale of intoxicating liquor is absolutely prohibited on the work, except for medicinal purposes.

DETAIL SPECIFICATIONS.

The Requirement.--The construction of an earthen dam for forming what is known as Strongarm Irrigation District Reservoir No. 2, located in Section 2, Township 14 South, Range 39 East, Boise Meridian.

List of Drawings.--

1. Map showing location of work.
2. Plan and topography.
3. Profile and typical cross section.

Commencement, Prosecution and completion of Work.--The contractor shall begin the work within _____ days after the execution of the contract on behalf of the company, and shall thereafter carry on the work with a force and equipment sufficient, in the opinion of the engineer, to complete the work within the time required. The Dam shall be completed to the height of elevation 129.3, as shown on the plans, by November 1st, 1940.

Failure to complete Work in Time Agreed Upon.--Should the contractor fail to complete the entire work within the time agreed upon in the contract, or within such extra time as may have been allowed for delays by formal extensions granted by the company, a deduction of _____ dollars per day will be made for each and every day, including Sundays and holidays, that the work remains uncompleted after the date required or allowed for its completion. The said amount is hereby agreed upon as liquidated damages for the loss to the company on account of the expense due to the employment of engineers, inspectors and other employees after the expiration of the time for completion and on account of the failure of the operation of the irrigation works dependant thereon, and will be deducted from any money due the contractor under this contract, and the contractor and his sureties shall be liable for any for any excess. A special lien to secure the claims of the company in the event of suspension of the contract is hereby created against any property of the contractor taken into the possession of the company under the terms of this contract; and such lien may be enforced by the sale of such property under the direction of the company, and the net proceeds of the sale, after deducting all expenses thereof and connected therewith, shall be credited to the contractor. If such net proceeds shall be in excess of the claim of the company against the contractor, the balance will be paid to the contractor or his legal representatives.

Progress Estimates and Payments.--At the end of each calendar month the engineer will make an approximate measurement of all work done and material delivered up to that date, classified according to

items named in the contract, and will make an estimate of the value of the same on the basis of the unit prices named in the contract. To the estimates made as above set forth will be added the amounts earned for extra work to the date of the progress estimate. From the total thus computed a deduction of ten per cent will be made and from the remainder there will be further deducted any amount due to the company from the contractor for supplies or material furnished or services rendered and any other amounts that may be due to the company as damages for delays or otherwise under the terms of the contract. From the balance thus determined will be deducted the amount of all previous payments, and the remainder will be paid to the contractor upon the approval of the accounts. The ten per cent (10%) deducted as above set forth will become due and payable to the contractor with and as a part of the final payment to be made as hereinafter provided. In case of the suspension of the contract, the said ten per cent (10%) shall be and become the sole and absolute property of the company to the extent necessary to repay to the company any excess in the cost of the work above the contract price. When the terms of the contract shall have been fully complied with to the satisfaction of the engineer and when a release of all claims against the company under or by virtue of the contract shall have been executed by the contractor, final payment will be made of any balance due, including the percentage withheld as above, or such portion thereof as may be due the contractor.

EMBANKMENT.

1. Preparation of Embankment Site.--The sites of the embankments, shall be thoroughly cleaned and grubbed, and all brush, roots, and other vegetable matter shall be removed. The top soil of the entire area shall be removed to the extent necessary to remove all sod. The entire site, after removal of all undesirable material, shall be thoroughly roughened by plowing furrows to a depth of at least eight (8) inches, spaced approximately three (3) feet apart, such work to be done immediately in advance of depositing material in the dam. All pockets of mud or silt shall be removed. Payment for this work shall be included in the price bid for embankment.

2. Excavation of Trenches.--Trenches shall be excavated to the dimensions and in the position as shown on the drawings, or as directed by the engineer. Material excavated from these trenches shall be used in the body of the embankment, and shall be placed as provided in the paragraph on Construction of Embankment.

3. Construction of Embankment.--The embankment shall be built in horizontal layers, each not exceeding six (6) inches in thickness after compacting. Material shall be deposited in the embankment as directed by the engineer. Work shall be started at the lowest part of the dam and shall be carried up in approximately level layers. Each layer shall be watered to the extent, determined by the engineer, necessary to give the greatest degree of compacting, but in no case shall the material be allowed to become saturated. The layers shall be compacted with a standard sheepsfoot roller. The

number of rollings shall be such as in the judgment of the engineer is required to give the greatest practicable degree of compactness. Selected material deposited in the core and cut-off trenches shall be treated in the same manner as the remainder of the embankment. It shall be optional with the engineer whether or not he requires the backfill of the cut-off wall trench to be rolled in as the dam embankment or to be thoroughly saturated with water and puddled to his satisfaction. Where it is impossible to roll the earth adjacent to the cut-off walls or other places in the embankment it shall be tamped by hand or otherwise consolidated to an extent equal to that effected by the roller in use elsewhere on the embankment. No material shall be placed when any of the materials or the embankment are frozen or when the embankment is too wet to permit satisfactory rolling and consolidation. The embankment shall be built accurately to the lines and grades given by the engineer.

4. Borrow-pits.--All borrow-pits must be approved by the engineer both as to location and quality of material to be used therefrom. Borrow-pits will be located on high above elevation 100, unless otherwise directed by the engineer. The surfaces of all borrow-pits shall be carefully cleared of brush, weeds and other organic matter and disposed of as directed by the engineer. The cost of clearing and removing roots from borrow-pits shall be included in the unit price bid for earth embankment.

5. Measurement and Payment.--All material placed in embankments will be measured for payment in embankment only. Measurements will be made to the neat lines as shown on the drawings, or as staked out by the engineer and will include all material placed in the embankments except the trench excavations from the cut-off walls trenches, which will be deducted. The measurements will include the material backfilled in the cut-off walls trenches. All material backfilled in the cut-off walls trenches shall be measured to the neat lines shown on the drawings or as prescribed by the engineer, and shall be paid for at the unit prices bid for excavation. The prices bid shall include all expenses incident to the clearing of borrow-pits excavating, hauling, spreading, watering, tamping and rolling material, and trimming slopes.

CONCRETE

6. Design of Forms.--The forms shall conform to the lines and grades specified in the plans or directed by the engineer and shall be so tied or braced in place as to insure their complete stability until their purpose has been served.

Lumber used for exposed surfaces shall be of uniform width, straight edges, and dressed on one side. It shall be free from loose knots, knot holes, cracks, or other defects rendering it unsuitable for form work. When permitted by the engineer, undressed lumber may be used for unexposed surface forms.

7. Removal of Forms.--Removal of forms shall be carried out in such a manner as to insure the complete safety of the structure.

Forms shall not be removed before the structure has acquired sufficient strength to support its load and its weight. In no case shall forms be removed earlier than 24 hours after the concrete is placed.

8. Cement.--The cement shall be standard Portland Cement of a brand approved by the engineer, and shall conform to the requirements of the Standard Specifications for Portland cement, of the American Society of Testing Materials, serial designation C9-30 with all subsequent amendments thereto adopted by said society. Care must be exercised in the storing of the cement on the work, and any cement damaged by moisture or which fails to meet any of the above requirements shall be rejected. When so required by the engineer, cement shall be tested at the plant before loading for shipment.

9. Fine Aggregates.--The fine aggregate shall consist of clean, hard, durable, uncoated, siliceous grains, free from lumps, alkali, organic matter, loam, or other deleterious substances. It shall be well, graded from coarse to fine and when tested by means of laboratory screens shall meet the following requirements;

Passing a $\frac{1}{4}$ " screen.....	100%
" a 20 mesh screen.....	75%
" a 50 mesh screen.....	25%
" a 100 mesh screen.....	5%

Not more than (3) three percent by weight shall be removed by the Olutriation test.

10. Coarse Aggregates.--Coarse aggregates shall consist of clean, hard, tough, crushed trap quartzites of granite, or of screened and washed gravel. The soft disintegrated pebbles contained in the gravel shall not exceed three percent by weight. It shall contain no vegetable matter. The size of the coarse aggregate shall be uniformly graded and shall be such as to pass through a screen having one and one-half inch square openings; at least forty percent and not more than seventy five percent shall pass through a screen having three-quarter inch square openings; and not more than five percent shall pass a laboratory screen having four meshes per linear inch. No intermediate size shall be removed. Fine and coarse aggregates shall be stored in separate piles.

11. Water.--Water used in mixing concrete shall be clean and free from strong acids, alkali, oil or organic materials.

12. Cement Concrete.--Cement concrete shall consist of an approved quality of Portland Cement, a fine aggregate of sand and a coarse aggregate of broken stone or clean gravel mixed in the following Proportions: (1) one part cement: (2) two parts of fine aggregate; and (4) four parts of coarse aggregates. In mixing the concrete the greatest of care must be exercised to maintain the water-cement ratio to not more than (7) seven gallons of water to one bag of cement. The water cement ratio is defined as the total quantity of water entering the mixture, including the surface water carried

by the aggregate. The water cement ratio shall be expressed in U. S. gallons per 94 pound sack of sement. In general the maximum size of the coarse aggregates must not exceed ($1\frac{1}{2}$) inches in diameter, however in heavily reinforced concrete, in thin walls or slabs the ingineer may require the use of coarse aggregates ranging in size from $\frac{1}{4}$ to 1 inch.

13. Mixing.--The concrete shall be mixed until all materials are uniformly distributed throughout the mass and the mixture is uniform in color and is homogeneous. The mixer shall be of such design as to insure the maintenance of the correct proportions of various materials. Each batch shall be mixed for a period of at least one and one-half minutes after all materials are in the mixer.

14. Placing.--When concreting is once started, it shall be carried on a continuous operation until the section or panel is completed. It shall be thoroughly compacted and embedded in the forms around the reinforcing bars during the placement operation.

15. Finishing.--The surface of concrete finished against forms must be smooth, free from projections and thoroughly filled with mortar. Incase the surface of the concrete, upon removal of forms, is found to be rough and irregular or not well filled with mortar, it shall be removed at the contractor's expense and new concrete shall be placed either for its full thickness or such part as the engineer may direct. Immediately upon the removal of forms all voids shall be neatly filled with cement mortar, irregularities in exposed surfaces shall be removed and minor imperfections of finish shall be smoothed to the satisfaction of the engineer. Exposed surfaces of concrete not finished against forms, such as horizontal or sloping surfaces, shall be brought to a uniform surface and worked with suitable tools to a smooth mortar finish. All exposed salient angles shall be rounded or beveled by the use of moulding strips or suitable moulding or finishing tools.

16. Reinforcing Steel.--Steel bars for reinforcing concrete shall be placed in the concrete wherever shown on the drawings or prescribed by the engineer. The steel used for concrete reinforcement shall be so secured in position that it will not be displaced during the depositing of the concrete. Special care shall be exercised in depositing concrete to prevent any movement of the steel in the concrete that has already been placed.

17. Measurement.--The concrete for structures will be measured for payment to the neat lines as shown in the drawings, or as prescribed by the engineer. No payment will be made for concrete outside of the prescribed lines and in case cavities resulting from careless excavation are required to be filled with concrete, the cement used will be charged to the contractor at its cost to the company at the point of delivery to him.

18. Payment.--The unit price bid for concrete in structure include the cost of all labor and materials except as otherwise provided, necessary for and incident to the manufacture of the in the completed structures.

October 23, 1940

Re: Application No. 25478

Mr. Wm. A. Shulberg, Secretary,
Strongarm Reservoir Irrigation District,
Preston, Idaho.

Dear Mr. Shulberg:

We are again returning your application for permit,
for maps and land list.

If the land list under Question 20 is correct, and the
sketch map is O.K., please sign it and return both the
map and the application at the earliest possible date.

We are glad that your R. F. C. loan went through, and
that your construction is proceeding satisfactorily.

Very truly yours,

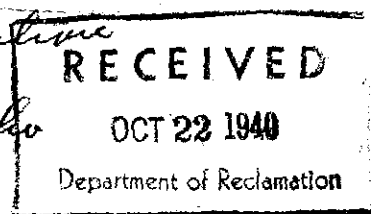
JAMES SPOFFORD
Commissioner of Reclamation
By

Deputy Commissioner

D:A
Encls.

R-689

Preston Idaho Oct 21st 1940
Mr Harry Dewey Deputy Commissioner
Department of Reclamation
Boise Idaho



Dear Mr Dewey

I am in receipt of your letter of Oct 15th and
according to County records I have completed a
map showing the lands covered with our District

I believe that the application indicates Range 38
where 39 should be and 39 where 38 should be

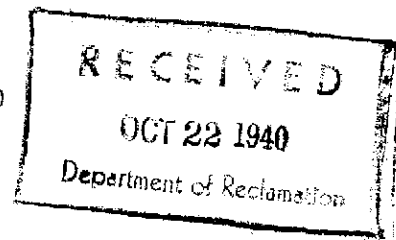
You also refer to a copy of a letter which was
sent to Mr Stoney of the Reconstruction Cor. but
I believe you overlooked enclosing it

I am certainly happy over the cooperation we
have had from your Office and of Mr Grofford's
willingness to see our project. Trusting this means
is what is required I am respectfully

Wm A. Shulberg Secy
Shoshone Res Ind Dist

RECONSTRUCTION FINANCE CORPORATION
WASHINGTON

October 18, 1940



Mr. James Spofford, Commissioner
Department of Reclamation
State of Idaho
Boise, Idaho

Re: Strong Arm Reservoir Irrigation District
Docket No. Ref. 83

Dear Mr. Spofford:

This is to acknowledge and thank you for your letter of October 15, 1940, advising that you have approved the plans and specifications for the enlargement of the dam of the above-captioned District and the sponsor therefore will be authorized to store additional water in the reservoir.

We shall greatly appreciate your advising us of any important matters which may occur during the construction, and we should like to have a brief report which may be in the form of a letter upon the completion of the work.

Very truly yours,

A handwritten signature in cursive script, reading "Albert L. Strong".

ALBERT L. STRONG, Chief
Drainage and Irrigation Section
Self-Liquidating Division

R. 689

October 15, 1940

Re: Application No. 26478

Mr. Wm. A. Shulberg, Secretary,
Strongarm Reservoir Irrigation District,
Preston, Idaho.

Dear Mr. Shulberg:

I am enclosing copy of letter written by
Commissioner Spofford to Mr. Strong, which
explains that the plans and specifications
have been approved.

In order to complete your application for
permit, it will be necessary for you to send
the application form back which was sent you
on September 28th.

This should be accompanied by maps in accordance
with instructions mailed you, which may be made
on departmental blanks enclosed.

Very truly yours,

JAMES SPOFFORD
Commissioner of Reclamation

By

Deputy Commissioner

D:A
Encls.

R-689

October 15, 1940

Reconstruction Finance Corporation
Mr. Albert L. Strong, Chief
Drainage and Irrigation Section
Self-Liquidating Division
Washington, D. C.

Re: Strong Arm Reservoir Irrigation Dist.
Docket No. Ref. 83

Dear Mr. Strong:

I was glad to receive your October 9th, letter in which you state that the Board of Directors today authorized a loan to the above captioned District in the amount of \$1,800.00, for the enlargement of their present dam.

I have received satisfactory plans and specifications for the enlargement of this dam and the same have been approved as of this date. The sponsor, therefore, will be authorized to store additional water in this reservoir.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/mm
cc. William A. Shulberg.

P-689

October 15, 1940

Reconstruction Finance Corporation
Mr. Albert L. Strong, Chief
Drainage and Irrigation Section
Self-Liquidating Division
Washington, D. C.

Re: Strong Arm Reservoir Irrigation Dist.
Docket No. Ref. 83

Dear Mr. Strong:

I was glad to receive your October 9th, letter in which you state that the Board of Directors today authorized a loan to the above captioned District in the amount of \$1,800.00, for the enlargement of their present dam.

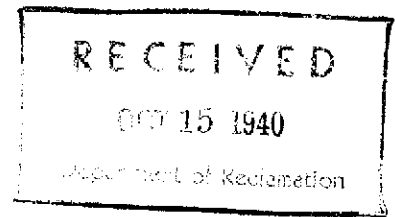
I have received satisfactory plans and specifications for the enlargement of this dam and the same have been approved as of this date. The sponsor, therefore, will be authorized to store additional water in this reservoir.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/mw
cc. William A. Schulberg.

R-689



October 14, 1940
Preston, Idaho

Mr. James Spofford
Commissioner of Reclamation
State House
Boise, Idaho

Dear Mr. Spofford:

I am in receipt of a letter from Albert L. Strong, Chief of the Drainage Section of the Reconstruction Finance Corporation, Washington, D. C., wherein he asks that approval of the construction of this dam by you be mailed to him, and that such information be furnished him as is necessary in regard to the proposed work. I mailed Mr. Strong plans and specifications on the same day that I mailed them to you; therefore probably a letter from you would suffice.

I trust that you can see your way clear in passing on the plans and specifications at an early date as it is necessary for us to start construction of the outlet at the earliest possible time, so that we can start the work of building the dam this month.

Respectfully yours,

A handwritten signature in cursive script, reading "Wm. A. Shuldberg". The signature is written in dark ink and is positioned above the typed name and title.

Wm. A. Shuldberg
Secretary Treasurer
Strong Arm Reservoir Irrigation
District

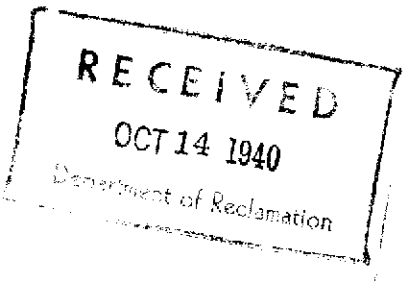
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P-689

18

RECONSTRUCTION FINANCE CORPORATION
WASHINGTON

October 9, 1940



Mr. James Spofford, Commissioner,
Department of Reclamation,
Boise, Idaho.

Re: Strong Arm Reservoir Irrigation District
Docket No. Ref. 83

Dear Mr. Spofford:

Thank you for your letter of October 3 with reference to the proposed work on the Strong Arm Reservoir Irrigation District, Preston, Idaho. The Board of Directors today authorized a loan to the District of \$1,800. This loan with additional funds, if necessary, to be supplied by the District, is to be used on the proposed work.

We have requested the District to submit to us plans, specifications, etc., which have been approved by you as well as authority to raise the water level of the reservoir three feet.

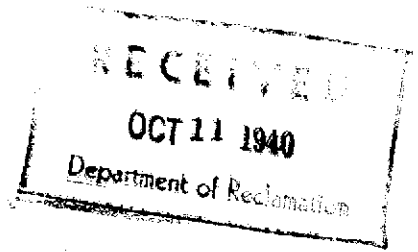
We shall appreciate your advising us when you have approved the plans and specifications and authorize the raising of the water.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Albert L. Strong".

ALBERT L. STRONG - Chief
Drainage and Irrigation Section
Self-Liquidating Division

2-689



Preston, Idaho

October 10, 1940

James Spoford
Commissioner of Reclamation
State House
Boise, Idaho

Dear Mr. Spoford:

Today, I am sending you specifications and plans of the proposed working of the Strongarm Reservoir Dam.

I wish to inform you also that we received confirmation from the Reconstruction Finance Corporation on \$1,800.00 based on five year period payments and I wish to thank you very much for the letter you wrote them in our behalf.

Trusting that you will see your way to approve of these plans as they are so that we may be able to commence at as early date as possible, because of frost which may set in any time after the tenth of November.

Thanking you for your consideration and what you have done to help us, I am,

Respectfully yours,

Strongarm Reservoir Irrigation District

Wm A. Shuldberg
Wm. A. Shuldberg, Secretary-Treasurer

P. 689



C. A. BOTTOLFSSEN, GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
JAMES SPOFFORD, COMMISSIONER
BOISE

HARRY DEWEY
DEPUTY COMMISSIONER

October 3, 1940

Re: Strong Arm Dam No. 1-

File E-9

Mr. James Spofford,
Commissioner of Reclamation,
Boise, Idaho.

Dear Mr. Spofford:

On September 19th, 1940, the Strong Arm Reservoir No. 1 was visited by Mr. J. J. Sanford, Wm. A. Shuldberg and Wendell H. Smith, Engineer, and the undersigned.

The matter and methods of reinforcing and raising the present dam by placing additional fill material upon the upstream face, and reconstructing the spillway, were discussed.

No examination of the base of the proposed fill could be made, due to present pondage in the reservoir.

No plans or specifications were available upon the above date, and the discussion was necessarily more general than specific.

It may be observed in this connection that this District has made no report, either financial or otherwise, so far as office files disclose, since the year 1927.

Very truly yours,

FRED A. TOLMAN
Field Engineer

2-689

D-689

October 3, 1940

Mr. William A. Shulberg, Secy-Treas.,
Strongam Reservoir Irrigation District
Preston, Idaho

Dear Mr. Shulberg:

This will answer receipt of your September 27th letter referring to the intention of your District to reconstruct Strongam Dam; also a letter from Albert L. Strong of the Reconstruction Finance Corporation. Herewith please find enclosed Mr. Strong's letter to you and my reply to him relative to this matter.

It is possible that you will not be able to satisfy the requirements of the Reconstruction Finance Corporation until you give them more definite plans, specifications and estimates for this work.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

RS/m

D-689

26478
October 3, 1940

1500
REF 852
Reconstruction Finance Corporation
Mr. Albert L. Strong, Chief
Drainage and Irrigation Section
Self-Liquidating Division
Washington, D. C.

Re: Docket No. Ref. 83

Dear Mr. Strong:

Today I am in receipt of your September 20th letter addressed to the Strongarm Reservoir Irrigation District, Preston, Idaho, in which you asked its Secretary-Treasurer to furnish your office with copies of plans, specifications, cost estimates, etc.

On September 19, 1940 the Field Engineer of this office made a preliminary inspection of this reservoir in company with Mr. William A. Shulberg and others, at which time the method of raising the present dam by placing additional fill material upon the up stream face of the dam and the reconstruction of the spill way were discussed.

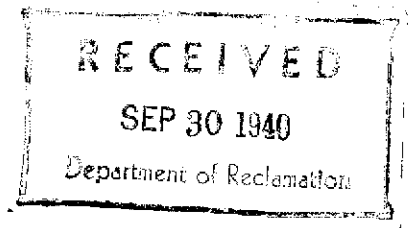
For your information I will state, However, that we consider the reconstruction of this reservoir feasible, and the cost of such work will be within the ability of the district to pay. It is the understanding of this office that the additional loan of \$1800.00 would be used together with district funds to finance the raising of this present dam four or five feet in height in order to get an additional storage of three feet depth of water which we believe is available.

The sponsor has not furnished this office with any definite plans, specifications or cost estimates for this work.

Very truly yours,

JAMES SPOFFORD,
Commissioner of Reclamation

JS/mw
R-689



Preston, Idaho
September 27, 1940

Mr. James Spoffard
Commissioner of Reclamation
State House
Boise, Idaho

Dear Mr. Spofford:

As you are aware it has been the intention of the Strongarm Reservoir Irrigation District to strengthen and enlarge our dam which matter we have discussed with you and also with Mr. Tolman who visited our dam on two occasions.

On June 29th I went to Boise to discuss this matter with Frank J. Keenan who was then in the Washington office, but who has since been replaced by Albert L. Strong who does not know very much about our project. I received a letter from the Washington office yesterday and am enclosing this letter to you trusting that you will give it due consideration and write Mr. Strong relative to the same.

We would appreciate it if you would write Mr. Strong at the earliest possible date since we feel that there is not much time to lose between now and the time when frosts will set in. We believe we can get this work done for from 18 to 22 cents a yard which will include from nine to ten thousand yards.

Will you kindly return Mr. Strong's letter to me.

Yours very sincerely,

A handwritten signature in cursive script, appearing to read "Wm. A. Shuldberg".

Wm. A. Shuldberg, Sec'y.-Treas.
Strongarm Reservoir Irrigation
District, Preston, Idaho

6-689

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

Boise, Idaho, September 28, 1940

Application No. 26478

Mr. Wm. Shuldberg, Agent,
Strongarm Reservoir Irrigation District,
Preston, Idaho

SIR:

Application which has been filed under the above number is herewith returned for correction in the following particulars:

Submit maps in accordance with enclosed instructions.

You are allowed 60 days from date of first return for correction, as stamped in second line on back of application, to file completed application. If received after that date application can be refiled under a new number with later priority, requiring additional fee.

Yours truly,

JAMES STOFFORD
COMMISSIONER OF RECLAMATION.

By _____

Deputy Commissioner

Encl: App. 26478

R-689

September 20, 1940

Mr. William A. Shuldberg, Secretary-Treasurer
Strongarm Reservoir Irrigation District
Preston, Idaho

Re: Docket No. Ref. 83

Dear Mr. Shuldberg:

This is to acknowledge receipt of your letter of September 12 to Mr. Keenan, requesting a loan in the amount of \$1,800 to be used in raising the dam at reservoir #1.

In this connection we do not understand your statement that - "we have now made a survey and find that there will be about 10,000 yards of dirt needed for this work which will bring the dam up to its present height, which is as far as the Reclamation Office at Boise think we should go this year." Kindly clarify this statement particularly that part with reference to the dam being brought up to its present height.

It will also be necessary before we can give the District's request proper consideration that we be furnished with copies of any plans, specifications, cost estimates, etc., that the District may have for doing the proposed work. We will also appreciate being advised of the result of your conference with Mr. Spefford, Commissioner of Reclamation, relative to the procedure to be followed by the District.

We note that any funds in excess of the loan requested will be raised by the District, including the financing of all additional construction which you state would raise the dam another four feet in order to store an additional three feet of water. Has the District formulated any definite plan regarding this additional construction and the proposed method of financing same?

Upon receipt of the information requested herein, we will give the matter further consideration, however, in the event a loan is authorized and warrants are issued by the District to evidence the loan, such warrants must mature over a period of not to exceed five years.

For your information, Mr. Keenan is no longer connected with this Corporation, and any correspondence relative to this Corporation's loan to the District should be addressed to the undersigned.

Very truly yours,

ALBERT L. STRONG, Chief
Drainage and Irrigation Section
Self-Liquidating Division

R-689

September 4, 1940

Re: Application No. 25478

Mr. William A. Shaldberg,
Preston, Idaho.

Dear Mr. Shaldberg,

We have in hand your letter of August 28th, and note that Mr. Smith wants to know if it will be necessary to show the full contours of the reservoir.

A capacity table shows on the map drawn by the Drought Relief in 1934, but I can't seem to find the survey from which it was made. If you have a reservoir survey it might be well to include it with the maps you have, which will save re-drawing the reservoir contours.

We will hold your application the statutory period of 30 days before returning it for corrections.

Very truly yours,

JAMES SPOTFORD

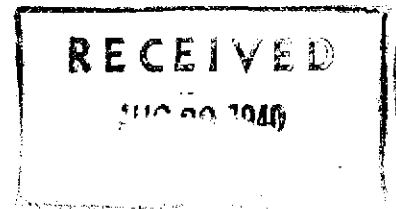
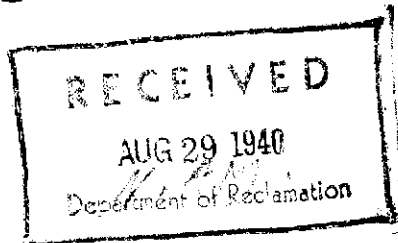
Commissioner of Reclamation

By

Deputy Commissioner

D:A

R-689



Preston, Idaho

August 28, 1940

Department of Reclamation
State House
Boise, Idaho

Attention: Mr. Dewey

Dear Sir:

Your letter of twenty-third received and according to instructions I am enclosing application for permit to replace the one I withdrew in my letter of August 20.

I have secured Mr. Wendell Smith, the only qualified engineer we have, to do the surveying and he is asking if it is necessary to draw the full contours of the reservoir itself or if it is only necessary to run the necessary survey relative to construction of the dam.

It appears now that we will be able to commence to survey sometime during the week of September 1.

Very truly yours,

Strongarm Reservoir Irrigation District

By: Wm. A. Shuldberg

R. 689

Brick of R-76.

July 21-1917

Strongarm Res. Co., Q = 1772 acreft. Source = Battle Creek.
Preston. Irrig. and domestic

Res. outlet = N 30° 19' E 2694.9 ft. S 1/4 Cor. S 2, T. 14 S. R. 39 E. B.M.
in NE SE S 2, 14 S, 39 E.

Three Reservoirs #1, #2 & #3.

#1 in Battle Cr. #2 & #3 fill three Strongarm feeder canal

#1 = 607.37 af. capy - area = 78.1 acres. dam h = 30' - 9m S 10, 14 S, 39 E
2 = 376.93 " " " = 42.3 " " 30' 1/2 S. 14 S, 39 E.
3 = 787.25 " " " = 53.2 " " 45'

Completion of works due Sept 10, 1924

Certificate issued by W. G. Swendsen 9-23-1924

Am't = 994.24 af. Priority = 7-21-17. Made under Permit 13149
and R-76

Dyer #383 Utah Power & Light vs. Lost Chance Canal Co.
File #383 Right No.
Under #492 Strongarm Res. Co.

(a) Priority

1874, M 1 - 240. } b. Battle Cr. { For 3300 acres in
1883 " " - 6 " } in SE 1/4 S 2 { 51 & 12, 14 S 38 E.
1883 " " - 6880 F. } 14 S 39 E. { 56, 7, 8, 9, 10, 14, 17,
20, 21, 28, 29, 14 S 39 E.

(b)

1917, J 21 - 7040. } " { For same land supplemental irrig.
" " " - 10840 F. } { Priority and amounts are conditioned
upon compliance with Permit #13149
and #R-76. Subject to provisions of
laws of State of Idaho governing issuance of
water licenses.

R-689 R-76

B. U. due Nov 4-1949. Brief R-689

Ans 29-40

Strongarm Res. Irrig. Dist. Source = Battle Cr. - Amb = 1000 af.
Res. Outlet = N 8.5 E S 2, 14 S, 39 E. In channel of Battle Cr.

Capp = 1950 af. dam h = 45' Area = 195.5 acres Irrig & dam.

Compl. of 2000.

For 908 acres. in S. 3, 6, 9, 8, 7, 10 & 17, 14 S 39 E.
1, 11 38 E.

Made Nov 7, 1949. - 1000 af.

B. U. made Nov 7-49. - Lands of Strongarm^{Res.} Irrig. Dist.

Protest filed by Twin Lakes Canal Co. Nov. 2-49.
Against the Proof of Compl./wks & B. U.

Comp/wks has not yet been issued awaiting
compliance with Requirements on dams.

R-689

IN THE MATTER OF THE APPLICATION OF THE
 STRONGARM RESERVOIR IRRIGATION DISTRICT
 FOR AN EXTENSION OF TIME FOR COMPLETION
 OF WORKS UNDER PERMIT NO. R-689, AND THE
 PROTEST THEREIN FILED BY THE TWIN LAKES
 CANAL COMPANY.

)
)
) Transcript of Hearing
)
)
) Before the
)
) State Reclamation Engineer.

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John J. Sanford-

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R-689

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

IN THE MATTER OF THE APPLICATION OF THE)
STRONGARM RESERVOIR IRRIGATION DISTRICT) Transcript of Hearing
FOR AN EXTENSION OF TIME FOR COMPLETION)
OF WORKS UNDER PERMIT NO. R- 689, AND THE) Before the
PROTEST THERETO FILED BY THE TWIN LAKES)
CANAL COMPANY) State Reclamation Engineer

This cause came on regularly for hearing at Boise, Idaho, on Friday, December 28, 1945, at 10:00 o'clock A. M., before the Honorable Mark R. Kulp, State Reclamation Engineer, pursuant to notice.

APPEARANCES:

Mr. T. L. Martin, of Boise, Idaho, and Mr. Ben Johnson, of Preston, Idaho, Attorneys for the Applicant, Strongarm Reservoir Irrigation District.

Mr. O. R. Baum, of Pocatello, Idaho, Attorney for the Protestant, Twin Lakes Canal Company.

STATE RECLAMATION ENGINEER: This hearing is on the application for extension of time for completion of works under Permit No. R-689. The applicant is the Strongarm Reservoir Irrigation District and the Protestant the Twin Lakes Canal Company.

The Protestant may start.

MR. BAUM: I thought the burden was on the applicant.

STATE RECLAMATION ENGINEER: On the theory that if no protest had been made and the showing was satisfactory in the application for extension of time the application would have been approved.

JOHN J. SANFORD

Called on behalf of the Protestant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BAUM: You may state your name, please.

A. John J. Sanford

Q. Where do you reside?

A. Preston, Idaho

R-689

Q. What is your age?

A. Fifty-nine

Q. What connection, if any, do you have with the Twin Lakes Canal Company?

A. Manager.

Q. How long have you been such manager?

A. I was assistant manager in 1922 and 1923, and manager from 1924 on.

Q. You were assistant manager in 1922 and 1923 under W. D. Beers?

A. Yes.

Q. And since then you have been manager?

A. Yes.

Q. Prior to that time what was your occupation?

A. How far back?

Q. Just keep on going back.

A. I worked on the Elko Project from 1908 to 1913.

Q. In what capacity?

A. Started out on a surveying crew and then resident engineer.

Q. And then where did you go?

A. Then I went with the U. S. G. S. from 1913 to 1919. Then I had a furlough from that for three years, and at the end of the furlough I had a rating as hydraulic engineer until 1928. In the mean time- from 1919 to 1920 I operated the Piute Project for the State Land Board of Utah, and from 1920 until about the 19th or 29th of April, 1922 I was with the State Engineer on the Ogden & Weaver River.

Q. In what capacity?

A. Getting data for adjudication of the water rights and acting as Commissioner, although never appointed. And then from 1922 until the present time I have been with the Twin Lakes Canal Company.

Q. The Twin Lakes Canal Company comprises how many acres?

A. 13000

Q. Most of it tillable and irrigable?

A. I figure that 13000 acres have been irrigated.

Q. State the quantity of water that it has, Mr. Sanford.

MR. MARTIN: I object to this question as being immaterial in this hearing; and we further move to strike out all the testimony of this witness. In addition to this objection, upon the ground that the protestants here raise no issue of fact under the statute under which this application is made, their protests going entirely to a question of water rights and not to the good faith of the applicants. In other words, there is no issue of fact raised by the protestants as to the good faith of the applicant in connection with the construction of the works. I would like to discuss this question for a moment so that we may know where we are going in this hearing.

(Here followed a discussion by Mr. Martin)

STATE RECLAMATION ENGINEER: Your objection and motion is a question of interpretation of the law, and will have to be submitted to the Attorney General for an opinion.

The objection and motion are therefore overruled.

MR. MARTIN: Without repeating the objection, let it be understood that the same objection is made to all testimony of the protestants regarding the question of water rights. Will you agree to that.

MR. BAUM: No indeed not.

Mr. Baum- Q. You may state the quantity of water.

A. There is one year only that we have had two acre feet of water on the project.

Q. Is that ample?

A. No. If we had two and a quarter we could get by on the project.

Q. Are you acquainted with the location of the Strongarm Reservoir known as Reservoir # 1, of the Strongarm District?

A. Yes.

Q. Where is that situated, generally?

A. It is situated on Battle Creek.

Q. In what county?

A. Franklin County

Q. How long have you been acquainted with that reservoir?

A. Well, the first year I came up here- 1922.

Q. Have you observed the appearance of that reservoir each year since the year 1922 up to the present time?

A. Yes, I have.

Q. Do you know, Mr. Sanford, the capacity of that reservoir?

MR. MARTIN: Objected to as immaterial.

STATE RECLAMATION ENGINEER: Objection overruled.

A. I think they claim in the application----

Q. I asked you if you knew.

A. Yes.

Q. What is the capacity of the reservoir?

A. 950 Or 60 acre feet of water.

Q. In arriving at that what data did you use?

A. I used the topographic map made by Horace Shealey--

Q. In other words, the map of the Strongarm people?

A. This map here (indicating)

Q. What do you mean?

A. This map with the application R-689 permit- it is taken from that same map.

Q. What is the elevation- full level elevation- for the 950 acre feet?

A. The elevation on the 950 acre feet- it is marked on this gage as their present high water mark was run out--

Q. What is the figure?

A. 126.38

Q. How is it marked on the ground and shown on the map?

A. It is taken from a bench mark of the original survey.

Q. What do you mean by a bench mark?

A. It is a piece of pipe set in concrete, and 600 or 700 feet in a Westerly direction from the dam.

Q. How long has that bench mark been there?

A. It was used in 1917 by Mr. Shealey when he made the original map.

Q. Then the capacity up to that bench mark is 950 acre feet- is that right?

A. I would figure just a little bit more than 950- about 990.

Q. Has that reservoir been enlarged since that time- since the time you first became acquainted with it?

A. Not until this work was done under this permit.

Q. This permit we have under consideration?

A. Yes.

Q. Now, the work that has been done under that permit- are you in a position to tell what the capacity of the reservoir is since?

A. Last year it was around 1300- and I would say 35- acre feet.

Q. They have added to the 950 or 990, 335 acre feet- is that right?

A. Yes.

Q. And is that the maximum amount that it will hold?

A. This permit lets them go three-tenths higher than they were last year.

Q. That is, as the work has now progressed?

A. Yes.

Q. In other words, the work is not yet finished?

A. The dam is finished but the spillway isn't.

Q. Can they increase the capacity further?

A. I would give them a four foot freeboard.

Q. Physically, on the ground there, could it be raised?

A. Yes.

Q. What would be required for that?

A. It would have to have more earth, and be raised up.

Q. The dam would have to be raised?

A. Yes.

Q. Then, unless the dam itself was raised, everything has been done that could be done to increase the capacity?

A. To increase the capacity, yes. But not the spillway.

Q. Well, if the spillway was finished, would that increase the capacity?

A. No.

Q. Is there anything that could be done other than raising the dam that would increase its capacity?

A. No, there is nothing that could be done and leave the freeboard.

Q. When was this work performed, if you know- that increase of the capacity from 950 or 990 by the additional 335 acre feet?

A. I think they did a little work on their outlets in 1940, and put the earth in in 1941, I believe.

Q. This reservoir is located on Battle Creek?

A. On Battle Creek.

Q. And there are other waters in Battle Creek other than the amount of water which you have disclosed that this reservoir holds?

A. Yes.

Q. Who has, since the year 1922, if you know, been using that water?

MR. MARTIN: That is objectionable.

STATE RECLAMATION ENGINEER: What do you expect to show by that?

MR. BAUM: Unless our water right is affected we have no right here today. And this word "affected" has been interpreted to mean "diminished". And unless Twin Lakes Canal Company has been using that water, and endeavoring to use it, there is no reason for a hearing. And this is intended to show that they have been using the water above those two figures. That qualifies us as protestants.

STATE RECLAMATION ENGINEER: Objection overruled.

Q. Mr. Sanford, the water has been impounded in the reservoir up to the year 1940 when this additional work was done--you have said there was some surplus water- some other water in the creek- what canal company- if you know- used that water in excess of the 990 acre feet?

MR. MARTIN: We object to that question; it is the same question. And we object to it further unless the question itself designates where on Battle Creek- whether above the reservoir or below the reservoir. The question is too general.

STATE RECLAMATION ENGINEER: You will have a chance to cross-examine the witness.

A. The water that went below the Reservoir No. 1 in excess of water turned in to their Reservoir No. 2 was taken by the Twin Lakes Canal Company.

Q. After this extension work was gotten under way and the 335 additional acre feet was impounded, did that decrease the amount of water that the Twin Lakes Canal Company had been using?

A. Yes, by that amount.

Q. Is there any water in excess of the 990 acre feet, plus 335 acre feet, that passes that particular reservoir? In other words, is there in the stream additional water besides the 990 and the 335 acre feet?

A. I would say no.

Q. Is there any additional water other than this 990 acre feet and the 335 acre feet in Battle Creek at the point where the reservoir is? Or is that all the water that is in the stream?

A. With the exception of little draws and hollows there.

Q. That takes it all then?

A. Yes, that takes it all.

Q. In other words, there is no water in this stream other than the 335 and the 990 acre feet; is that right?

A. I can't get that straight.

Q. Tell us how much water there is in the stream at its highest mark that passes through the reservoir? Is there more than enough water to fill this reservoir?

A. Yes.

Q. You have said that when it had the capacity of 990 there was certain water passed that the Twin Lakes Canal Company used. Is there any water passing more than the 990 and the 335 acre feet?

A. If there's any comes down the draw there would be a little extra.

Q. Who uses it?

A. The Twin Lakes Canal Company, and the Strongarm No. 2 uses snow water to fill part of theirs.

Q. What I'm trying to get at is- You have already said there was some water in addition to the 990 acre feet.

A. Yes.

Q. Is there any additional water above the 335 acre feet?

A. No.

Q. We are talking about flood waters.

A. There are some draws.

Q. Is there any more water in the stream- flood water or whatever it is- above the 990 and the 335 acre feet?

A. We take it all.

Q. Then there is some water?

A. Yes.

Q. How much is there?

A. It varies at different points.

Q. Is there one foot or more?

A. It is shown to have been as high as two or three thousand acre feet.

Q. Then any water that is past the 990 and the 335 has been used by the Twin Lakes Canal Company?

A. Yes.

Q. And that amount varies each year?

A. Yes.

Q. Depending on the run-off?

A. Depending on the run-off.

Q. This water that passes over that you say the Twin Lakes Canal Company have used- what have they done with it?

A. Turned it into our canal and taken it to our reservoir, and applied it to beneficial use.

Q. In other words, then, if this reservoir is enlarged, as you figure it this additional water is taken from the Twin Lakes Canal Company?

A. Yes.

Q. You, as manager of the company, have had some records, have you not?

A. Yes.

Q. Do you have those records with you?

A. Yes.

Q. Will you produce those, and let us show them to counsel?

At this point the hearing recessed for five minutes, in order to allow counsel to examine the records referred to.

After recess, the direct examination of Mr. Sanford was resumed, as follows:

MR. BAUM- Q. Did you keep notes generally each year of the waters of Battle Creek?

A. Yes, we kept track of the amount; that is, for a number of years we checked all the water that was coming in, but did not keep a full account of what it was.

Q. When did you start to keep account?

A. I commenced reading the gage in 1924. In 1922 and 1923 that was the only source of supply we had. In 1924 I made some gage readings.

Q. You have extended those notes from your book so that you have them before you?

A. Yes.

Q. Can you take the papers that you have before you and give a summary of the water for each of the years that you have kept notes?

A. No, I couldn't give a summary.

Q. Are you in a position to tell the Commissioner the approximate amount of water the Twin Lakes Canal Company received in each of these years?

A. I have here in 1935 we received practically none.

Q. What years did you have it?

A. In 1940, 41, 42 and 43.

Q. Can you, then, tell the Commissioner, the amount of water for the years 1940, 41, 42 and 43?

MR. MARTIN: I object, as incompetent, irrelevant and immaterial in this hearing.

STATE RECLAMATION ENGINEER: Objection overruled.

Q. Take the year 1940 first,-- or 1941.

A. 255-1/2 acre feet.

Q. 1942?

A. It is not complete enough for that year.

Q. Did the Twin Lakes Canal Company get some water in 1942?

A. Yes, they got some water, but the exact amount I don't know

Q. What do your notes show you got?

A. These notes are not complete enough.

Q. Tell what it does show.

A. 206 acre feet from Battle Creek up to April 22nd.

Q. Then after that you still got some water?

A. Yes.

Q. You haven't got those figures?

A. No/

Q. Are you in a position to state to the Commissioner with any degree of certainty the amount of water that you got in addition to the 206 acre feet in 1942?

A. It would be more or less of an estimate.

Q. In 1943 what did you get?

A. 290 acre feet.

Q. Now tell me this: Back of the year 1940- what sort of records did you keep as to the amount of water that you were receiving from Battle Creek?

A. We did not keep any particular records previous to that.

Q. Are you in a position to state, with any degree of certainty, how much water you received each year during the years 1930 to 1940?

A. More or less.

Q. Would it be more or less?

A. In the 20's it was more. There were good years in the 20's. In 1922 and 1923 we got a lot of water.

Q. These measurements were made how often?

A. I was up there- or some of my men- practically every day or so.

Q. Would you say that the Twin Lakes Canal Company used the surplus water that was not stored by the applicant?

A. We did with the exception of the last two or three years.

Q. During the years from 1940 back?

A. Yes.

Q. In other words, all of that surplus water was used?

A. The surplus water, prior to 1940, was used by the Twin Lakes Canal Company.

Q. When you say that this water was used by the Twin Lakes Canal Company- that is the protestants here?

A. Yes.

Q. And it was applied beneficially to the land under your canal?

A. Yes.

Q. Do you have weirs? How do you arrive at these measurements?

A. Part in weirs and part with a meter.

CROSS EXAMINATION

BY MR. MARTIN:

Q. How long did you say you have been manager of the Twin Lakes Canal Company?

A. I came as assistant manager in 1922 and 1923, and manager from 1924 on to the present time.

Q. To your knowledge, does the Twin Lakes Canal Company have any decreed rights on Battle Creek?

A. No.

Q. Has it any applications pending in this department for any rights in Battle Creek?

A. No.

Q. Your reservoir that you speak of where you get some water from Battle Creek- that reservoir is on Mink Creek, isn't it?

A. Our main canal takes out of Mink Creek.

Q. Comes out of Bear River, crosses Battle Creek, and then fills the reservoir?

A. Yes.

Q. What is the capacity of that reservoir?

A. 14,000 acre feet.

Q. 14,000 in the west reservoir?

A. The Twin Lakes Reservoir.

Q. The one West of Battle Creek?

A. Yes.

Q. What kind of an intake to feed the canals do you have leading from Mink Creek over to the company reservoir? Are there any flumes? Or siphons?

A. One extension 3000 feet of wood, and one of concrete 6500 ft. and one steel and wood 6500 ft.

Q. The one after you cross Battle Creek- how large a flume or pipe do you use?

A. One 52 inch concrete pipe 6500 feet long. And one 42 inch steel and wood pipe- inside diameter- 6520 ft. long. They parallel.

Q. Now what is the altitude of that country?

A. I am not really sure of the altitude.

Q. It is high, isn't it, around 5,000 feet?

A. 4,700, I believe.

Q. What time does cold weather usually come there?

A. Anywhere- on an average I would say- about the middle of November we turn the water out of our canal. I could give you the date when we turn it out

Q. Well, the middle of November is close enough. When you turn the water out of your canal it is when the freezing weather comes, isn't it?

A. Yes.

Q. And that is usually about the middle of November?

A. Yes.

Q. And that is the canal that feeds itself out of the reservoir?

A. Yes.

Q. If a surplus was in Battle Creek at that time, that water goes waste into Bear River, doesn't it? During the period you close down from the middle of November until some time next spring?

A. That is stored in the No. 1 reservoir.

Q. What do you mean by "Number One"?

A. The Strongarm Reservoir No. 1.

Q. But when their reservoir is full, and during this winter season of cold weather, the water that comes down from the reservoir goes to waste into Bear River, doesn't it.

A. They are not full in the winter during that period.

Q. How about the water that comes down these draws- that is going to waste, isn't it?

A. That just goes to waste during the spring run-off.

Q. Not during the winter?

A. No.

Q. Your ditch is closed down now, isn't it?

A. Yes.

Q. You are not filling your reservoir now?

A. No.

Q. Would you be filling it if the water was there?

A. We turned it out early this year to do some construction work. But it was down to zero and that would have prevented us from taking any water.

Q. About what time do you turn the water in in the spring?

A. Well, some years I have turned it in, say the 17th of February. The first of February one year. It varies every year. Up until- say, the latest, I think, is about the 14th of March.

Q. From along the latter part of February to the 14th of March?

A. Yes.

Q. Then, during that period, from about November 15th, on an average, to somewhere the latter part of February or the middle of March, if there is an excess of water in Battle Creek that water goes to waste unless stored in the Strongarm Reservoir?

A. It would waste?

Q. Well, it has done that, hasn't it, for many years?

A. A very small amount.

Q. Yet that has been the case when the Strongarm could not store it?

A. Not on account of storage. They have never been up to capacity.

Q. Have you seen that reservoir recently?

A. I have not seen it for--I don't know whether I have been up there this year.

Q. Then you don't know anything now about the level of the Strongarm Reservoir?

A. I know it is full. I have seen it from the highway.

Q. Do you know how many second feet are coming it now?

A. No, I have never measured it.

Q. But, under the present conditions, as soon as that reservoir is full, then that water will go to waste into Bear River until some time the next

spring, as far as you are concerned?

A. I don't think it will be filled.

Q. Well, hasn't it been filled many years and gone over the spillway and the water wasted into Bear River?

A. I have never seen it.

Q. Have you checked it every year?

A. I have been there every year from 1922 and I have never seen any wasting.

Q. You have never seen any water wasting- coming out of that and going on down the creek?

A. That water when it wastes down there, by that time of year our canal is opened up to take it.

Q. Then you have never seen- before you could take it- you have never seen water going to waste down Battle Creek?

A. No more than the natural seepage past their gate. That's all it would be.

Q. That stream runs all year, doesn't it- Battle Creek?

A. They have their gate closed from October 1st- or about that time.

Q. As soon as the irrigation season is over they close their gates?

A. Yes.

Q. Then, whenever the reservoir is full, before you can turn it in your ditch, that water is wasted, isn't it?

A. I have no recollection of their reservoir being full before our canal was open so we could take it.

Q. You have observed during the year 1940- in that fall- you observed work being done by the Strongarm?

A. In 1940?

Q. Yes.

A. I think there was some work done in 1940.

Q. Do you know whether there was?

A. I would have to check up on the records for the exact time.

But I am positive there was some work done in 1940.

Q. Don't you know that they turned the water out that year and drained the reservoir so that they could do the work?

A. If that was 1940 they did. If that was the year they did the work they turned the water out- Yes.

Q. Did they do any cement work there that fall?

A. I think they did.

Q. Do you know?

A. I know they did some work there, but whether it was 1940 or what year, I don't know.

Q. Well, assuming this permit was granted in 1940- did they do any work that year? You knew that this permit was granted, didn't you?

A. Yes.

Q. Did they do any work that year?

A. To the best of my recollection, I would say yes.

Q. Do you know what that work consisted of?

A. Putting pipe in the dam and preparing for their fill.

Q. And they had to drain their reservoir for that purpose?

A. I think they had to drain it, whatever year it was.

Q. Do you know how late in the year they worked there?

A. No, I don't.

Q. Well, they worked as long as they could work, don't you think?

A. Yes, they worked as long as they could work.

Q. And their reservoir filled that year, didn't it?

A. In 1940?

Q. 1940 and 1941.

A. Yes, I think they filled their reservoir practically every year with the exception of possibly--their two reservoirs- possibly one year they may have been a little short.

Q. Then the water that went down that fall, after the irrigation season- between, say, the first of October or in November some time- when things froze up- that water went to waste, didn't it?

A. Oh yes, that went to waste.

Q. It would have gone to waste just the same that year if they filled their reservoir?

A. Not necessarily.

Q. What time next spring did they get their reservoir filled?

A. I don't know whether I can figure that from these notes or not.

That was in 1940?

Q. Yes.

A. Or 1941?

Q. Late 1940 and 1941.

A. (Referring to notes) On April 1st they turned water out of Strongarm No. 1 and we took it into the canal.

Q. Then that reservoir filled completely and the water went over the spillway from the time it froze in November until the first of April?

A. I would not say that, because some times they turned the water out before it got completely full and turned it over to us, and shut the gates and filled it twice.

Q. Did they do some work in 1941?

A. Yes.

Q. What time of year did they turn the water out that year?

A. I don't think they turned it out to do that work. It was above water.

Q. They would have to drain the reservoir for that?

A. I don't think so. I don't think they had to.

Q. Do you know?

A. No, I don't know positively.

Q. How far do you live from that reservoir?

A. I would say close to 13 or 14 miles.

Q. Did you say awhile ago that you were up there every day or so?

A. Yes, I ride by that reservoir every day- where the Battle Creek water enters our canal.

Q. But you are not familiar enough with their reservoir and the water being used in it to know whether they turned the water out in 1941- are you?

A. I don't think they turned it out in the fall. They only had earth work to put in.

Q. That's your conclusion, isn't it? You don't know whether they did or not?

A. No, I don't know.

Q. Did the reservoir fill that year?

A. 1941?

Q. That would be the spring of 1942.

A. Yes, it filled.

Q. These years that you have testified as to the amount of water that you got- In 1940 you have no record- In 1941 you got 255 $\frac{1}{2}$ acre feet- in 1942 206 acre feet - in 1943, 290 acre feet. That is your testimony, isn't it?

A. (Referring to notes) In 1942 total from Battle Creek 206 acre feet and we turned into their No. 2 226 acre feet and that was full- and then on April 30th they were a foot and 4/10 above their original high water mark on the reservoir, and then there was 25 feet coming over their spillway, and it was reduced to five- and--

Q. (Interrupting) I don't care for the details- you may omit the details. That's all I want. Those years- 1941- 1942- 1943 were all wet years, weren't they?

A. 1944 was a very dry year.

Q. I'm not talking about 1944. You didn't give any figures for 1944. You said you didn't have it. I'm talking about 1941-1942 and 1943.

A. I don't just remember which were the dry and wet ones in 1942 and 1943.

Q. Was 1941 a wet year?

A. I think 1941 was just a fair year.

Q. 1942?

A. I would not say about 1942.

Q. What about 1943?

A. I think 1943 was a fair year.

Q. Now, Mr. Sanford, the Strongarm has Reservoir No. 2, doesn't it?

A. Yes.

Q. That used to fill out of Battle Creek, didn't it?

A. That was before my time.

Q. You know where the original ditch was, don't you?

A. I have seen part of it.

Q. You know that was true?

A. I would say Number 2 was filled out of Battle Creek.

Q. And in later years that reservoir is filled- and has been for several years filled out of your main canal from Mink Creek, hasn't it?

A. They turn the water into our canal and we turn it back a mile or so above, into their canal.

Q. Now, let's get this clear. Your main canal passes very close to this Reservoir No. 2 of Battle Creek?

A. We have a turn out from our canal.

Q. You have a short ditch from your main canal that fills the Number 2 of the Battle Creek?

A. We don't have a ditch; just a turn out gate.

Q. Well, it fills it, doesn't it?

A. Yes.

Q. Then, when you get over to where your ditch crosses Battle Creek the Strongarm have a ditch from which they turn water from Battle Creek into your ditch to replace this other water that you have delivered to them?

A. That has been done for two or three years. Previous to that we had another canal out of Battle Creek into ours which we called the Stub canal.

Q. That Stub canal has not been used for a number of years, has it?

A. The Stub canal has been used up until--I think we used it in 1943- up until that time.

Q. This exchange of water with the Strongarm- They furnish you water in your big reservoir, and in exchange for that you furnish the Strongarm water for their Number 2 reservoir. Is that right?

A. They furnish us water- turn it into our canal- and we take it out of our canal into their Number 2. It is an exchange of water.

At this point the hearing recessed until 1:30 P. M.

At 1:30 P. M. the hearing was resumed, as follows, with John J. Sanford in the chair:

RE-DIRECT EXAMINATION

By Mr. Baum:

Q. Mr. Martin asked you in regard to the exchange of water with the applicant. State to the Commissioner whether or not this exchange--whether you received in exchange as much water as you gave them.

A. Yes.

Q. In reference to the flow of Battle Creek-- when is the big flow-- what time of year?

A. Well, that would be in March or April.

Q. This morning I perhaps did not make myself clear to you in reference to certain records. Do your records show the amount of water that you were receiving from Battle Creek throughout the various years, per day-- that is, when you turned it in and turned it out?

A. I have a record when they raised their gates.

Q. Now, passing that for the moment. Mr. Martin asked you in reference to what became of this water after the applicant's reservoir was filled. Is it a fact, or isn't it, that when their gates are open your gates were likewise open and you received any of this water in excess flow?

A. Yes.

Q. So that there was no waste water there?

A. No.

Q. Has there been any time since you were manager of the company that your reservoir would not receive this overflow, or the flow of Battle Creek after the reservoir of the applicant was filled?

A. No.

RE-CROSS EXAMINATION

By MR. MARTIN:

Q. When you start to fill your reservoir you turn the water into your main canal out of Mink Creek, don't you?

A. In a majority of years. Some years we have had a small stream from Battle Creek.

Q. But your main supply is Mink Creek?

A. Yes.

Q. Just before this main canal goes into your reservoir is where you have these two siphons; is that right?

A. Yes, about three miles from the reservoir.

Q. And when you speak of - referring to "they raised their gates" you referred to the Strongarm No. 1?

A. Yes.

Q. They raised their gates when the reservoir would be full?

A. Not necessarily.

Q. Did they raise them in anticipation of a flood?

A. They tried to keep it down so that they would not be overflowing.

Q. That's right. And at that time they would raise the gate knowing that there was water back there to fill the reservoir after they had let out part of it?

A. That was always a question. We tried to figure out what they would do.

Q. Did you have anything to do with the raising of the gate of that reservoir?

A. I have for a few years, when they asked us to.

Q. But you have had no control over that reservoir any of those years?

A. Oh no, we have had no control over it.

Q. Have there been times when they raised their gates and let more water go down than you could carry through your ditch and siphons into your reservoir?

A. Only when they had trouble

Q. What kind of trouble?

A. A slip on the dam one time, when they had to turn it out.

Q. What year was that?

A. 1938, if I remember right- 1938 or 1939.

Q. Were you familiar with the headgate in their dam?

A. Yes, I would say I was.

Q. Was there ever any trouble in leaks from that headgate?

A. There may have been some leak there, but very little.

Q. Did they ever have to renew it on account of the leaks?

A. The W. P. A. renewed part of it, and then they finished it after the W. P. A. quit.

Q. Do you know when that was?

A. I could not say the exact year- No- not offhand.

Q. Do you have any idea how much water leaked through that defective gate during the winter months- in second feet?

A. It may have been--I wouldn't know- half a second foot- something like that.

H. W. SMITH

called on behalf of the Protestant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. BAUM:

Q. State your name, please.

A. H. W. Smith

Q. Where do you reside?

A. Riverdale, Franklin County.

Q. You are acquainted with the Twin Lakes Canal Company?

A. I am

Q. Are you acquainted with the applicant here, the Strongarm people?

A. I am

Q. How long have you lived in that country?

A. Sixty-six years

Q. What has been your business?

A. For the last thirty years I have worked for the Twin Lakes Canal Company as watermaster, and ditch rider, and foreman.

Q. Labor and all?

A. Everything.

Q. You then know the general lay of the country down there?

A. I do.

Q. And you have been up to this reservoir of the Strongarm Irrigation Company?

A. Many times.

Q. In the past twenty years how often would you see it a year?

A. During the winter months probably twice a month, and in the spring and summer probably twice a week.

Q. Tell me this- Has there been any time where the gates have been open in the Strongarm Reservoir, or there has been water passing the reservoir, that that water has not been utilized by the Twin Lakes Canal Company?

A. I can't remember any time, except the leak in the gate that has been mentioned.

Q. That was a small leak?

A. Yes.

Q. Has this water that has passed this reservoir in Battle Creek- has that all been placed in the reservoir or used by the Twin Lakes Canal Company?

MR. MARTIN: I want it understood that my objection as to competency goes to all this testimony in regard to these water rights.

A. Yes.

CROSS-EXAMINATION

By MR. MARTIN:

Q. There are only certain times of the year that you can run water from any source into the Twin Lakes reservoir- is that right?

A. That's right.

Q. About when do you turn water out of your ditch?

A. Oh, probably on an average about the middle of November- Anywhere from the 1st of November to the 20th of December.

Q. It would average about November 15th?

A. Yes, something like that.

Q. Then about when do you get the water back in your ditch in the spring?

A. Any time from the last of February up to the 10th or 15th of March.

Q. Then any water that would go out of Battle Creek below the Strongarm reservoir during that period of time would be wasted into Bear River?

A. So far as Twin Lakes is concerned, it would be.

Q. It would waste into Bear River?

A. Yes.

Q. During the winter season what occasion did you have to be up there at the reservoir?

A. The road that I travel passes near the reservoir, and before I go

down to work on our canal in the winter time, and for different reasons, I drive by where I can see it.

Q. Where do you drive with reference to the reservoir.

A. On the mail route- That road crosses Battle Creek, I would say, about 600 or 800 feet down from the dam. I don't know just exactly.

Q. Comes down off the hills?

A. Yes, comes down off the hills and crosses the creek.

Q. Is that mail route west of the dam or east of the dam?

A. West of the dam.

Q. And goes up over the hills?

A. Yes.

Q. About how far away is it from the reservoir?

A. From the outlet of the reservoir it's not very far. I don't know the exact distance.

Q. Then, your observation in the winter time was as you drove along this road, looking down on to the reservoir dam?

A. Yes; That's practically all. And as I drove along the road towards Treasureton once in a while, for my own information, I would walk up on to the dam to see the condition of the reservoir.

Q. You had no particular reason to be up there, did you?

A. The only reason was that in times past we had floods come down Battle Creek, and for that reason I like to know what their storage is. Because if anything went wrong there it would give us trouble.

Q. Well, there have been times when large amounts of water had to be let out of that reservoir because of that condition?

A. Yes, at times mentioned here by Mr. Sanford, when they have had trouble, and had to turn it out. Just for a few hours excessive flow of water.

Q. To let the water out?

A. Yes.

Q. In other words, the reservoir would not hold all the water?

A. It might have held it, but they wanted to save a flood.

Q. The water that was turned out then went into Bear River?

A. Not much. As a rule we could carry most of it. There have been

times when probably part of it went on over our gates. We didn't want to take a chance on too much in our canals.

Q. Well, your siphons constitute a check in your ditch?

A. Yes.

Q. You cannot turn more water into your ditch than the siphons will carry, can you?

A. No, we can't do that.

Q. And there have been times when more water was coming down out of this reservoir and going into your reservoir than you could carry in your siphons. Is that correct?

A. I hardly think so.

Q. You don't remember any time at all?

A. No, not when there would be more. Our siphons' capacity is 150 feet, and I don't believe there would be more water going through there.

Q. Don't you have a practically unlimited supply out of Mink Creek?

A. No, we do not.

Q. What does your ditch carry? About 150 second feet?

A. That's about what the siphons will carry. At the head it will carry more, because of irrigation below.

Q. And in filling Number 2 of the Strongarm-- You fill that, too?

A. Yes.

Q. And when you get down to where you cross Battle Creek with your canal, would you say that at no time there has been more water coming down than you could use through your siphons?

A. I would not say that. but to my memory I don't know of any time that there has. Now, I might clear that point a little. The flood of Battle Creek comes in the months of March and April from the foot hills. The floods from Mink Creek, when our ditch is filled, comes in the months of May and June. And for that reason I don't remember any time when we have had the two floods come together. And for that reason, our ditch is very low, as a rule, when we are taking water from Battle Creek.

Q. Battle Creek runs the year round, doesn't it? It has water the year around?

A. Yes, but at times it is very small.

Q. Do you know anything about the flow now?

A. I know it is very small.

Q. Do you know anything about the amount of water there is in the reservoir now?

A. There is quite a lot. It had a good hold-over at the end of the irrigation season, and that water is still there.

Q. But you don't know whether the reservoir is practically full now or not?

A. It lacks quite an amount of being full.

RE-DIRECT EXEMINATION

By MR. BAUM:

Q. Laying aside these unusual circumstances when it was let out to save the reservoir, do you recall any time when the gates of the Strongarm Reservoir have been open that the Twin Lakes Canal has not absorbed the water?

A. No, I can't recall any time that it has.

Q. When you were delivering this Mink Creek water that Mr. Martin has referred to and Twin Lakes was being compensated by a like amount of water, did you receive as much as you gave?

A. Yes, we received the same amount of water as we put into the Number 2 reservoir.

MR. BAUM: I assume, Mr. Martin, that we may assume that the Bear River decree may be made a part of this record and by the Commissioner be referred to if it becomes necessary?

MR. MARTIN: I would not agree to that, because that would be waiving the objection I have made that we are not trying a water suit here.

Thereupon the following stipulation was made by counsel for the applicant and protestant.

STIPULATION

It is stipulated and agreed by and between the parties that the Commissioner may refer to and consider as a part of this record the decree commonly known as the Bear River Decree for any purpose in which he may deem the same advisable. But by this stipulation the applicant refers again to his objection as to the competency, relevancy and materiality of said testimony, and to the

objection that was first made in the record at the beginning of the cause.

JOHN J. SANFORD

was again called to the stand;

RE DIRECT-EXAMINATION

By MR. BAUM:

Q. In the year 1940 and about the time that the Strongarm Reservoir District filed their application, did you notify that company as to the claim of the Twin Lakes Canal Company to the waters of Battle Creek?

MR. MARTIN: I object to that as immaterial.

A. Yes.

Q. Were they so notified?

MR. MARTIN: Objected to as immaterial.

MR. BAUM: We think it is competent as showing good faith.

MR. MARTIN: I object further for the reason that there is no evidence here that this witness had any authority or that it was the act of the corporation, to notify us.

STATE RECLAMATION ENGINEER: Objection overruled.

Q. Were you authorized by your company to notify the applicant herein as to the claim of the Twin Lakes Canal Company?

MR. MARTIN: That is objected to as calling for a conclusion of the witness as to whether he was authorized.

Q. In what capacity were you serving in 1940?

A. Manager, Secretary and Treasurer.

Q. Did you, as secretary of the Twin Lakes Canal Company, notify the applicant of the claim of the Twin Lakes Canal Company?

A. Yes.

Q. What was the claim that you made?

MR. MARTIN: Objected to as not the best evidence. The records of the corporation are the best evidence as to what the corporation was authorized to do.

Q. What waters did you make a claim to?

MR. MARTIN. I object. The records of this corporation are the best evidence.

MR. BAUM: The letter he wrote to the Strongarm is the best evidence.

MR. MARTIN: I don't know that there ever was such a letter.

THE STATE RECLAMATION ENGINEER here refers to the Department files and shows a letter to Mr. Martin.

The question is then read to the witness-

Q. Did you notify them in reference to the waters then being impounded in their reservoir?

A. We claimed the surplus waters.

RE- CROSS EXAMINATION

By MR. MARTIN:

Q. To whom was your protest addressed?

A. The Strongarm Reservoir Company, I believe.

Q. To whom did that reservoir belong, if you know, and who held the permit to raise the dam?

A. Well, Mr. Smith said the Strongarm Reservoir Irrigation District. I did not know it was a district. All I had to go by was the decree that called it the Strongarm Reservoir Company.

Q. Then you did not know that that organization had forfeited its charter?

A. No.

Q. And that an irrigation district had been organized twenty years before?

A. I did not know it.

Q. The decree that you refer to is the decree in the District Court of the United States, and marked Utah Power & Light Company vs. Last Chance Canal Company. That's the decree that you refer to.

A. Yes.

Protestants rest.

JOSEPH C. HEDIN

Called on behalf of the applicant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

By MR. MARTIN:

Q. What is your name?

A. Joseph C. Hedin

Q. Where do you live?

A. Route 2, Preston, Idaho

Q. What is your business?

A. I am a farmer, and also President and director of the Strongarm Irrigation District.

Q. How long have you lived in that country?

A. Since 1918, except for two and half years that I was away.

Q. How long have you been President of the Strongarm Reservoir Irrigation District?

A. Since about the 4th of January, 1941

Q. Had you been on the Board of Directors before that?

A. No.

Q. Had you been an employee of the company before that?

A. Yes.

Q. How far back did you become an employee?

A. I helped build the reservoir in 1918 and 1919. I worked on it from start to finish.

Q. Have you been familiar with it from that time down to the present?

A. Yes, all except the two and a half years- about 1921 or 22 and part of 1923.

Q. How much of a farm have you there?

A. I have 80 acres under irrigation, and a 160 acre farm a little farther away.

Q. How far is your farm from the dam and this reservoir?

A. About two and a half miles.

Q. Where is your dwelling house located with reference to Battle Creek- below the reservoir?

A. It is below the reservoir, along the creek. My house is only about fifteen feet from the creek bank.

Q. During the time you have been President, what connection have you had with controlling the water in this reservoir?

A. I have had it all to do as far as storage and diversion of water except during the irrigation season.

Q. What happens during the irrigation season?

A. We would have a watermaster to handle the ditch riding.

Q. Who handled the water last year?

A. I did.

Q. The distribution of it?

A. Yes sir

Q. As well as the care of the reservoir?

A. Yes sir.

Q. This irrigation district got a permit to repair and raise that dam and that reservoir on the 4th of November, 1940. Are you familiar with what has been done under that permit?

A. Yes.

Q. Let's take the year 1940 first, and state what was done that year?

A. We put in a cement outlet, lengthened it, refilled the footing, and put a little more dirt along the bank of the dam. We used about 542 cubic yards for re-filling and approximately 400 and some odd was put on the dam. That's all that was done that fall, because it froze up and the engineer made us quit.

Q. Was there any water in the reservoir at the time you were doing that work?

A. No. We had a shovel in there- and we got the West Cache Canal drag line to finish digging the trench.

Q. That trench was at the foot of the present work there?

A. Yes.

Q. You were filling that in and building up there?

A. Yes.

Q. Beginning raising that dam?

A. That's right.

Q. What was done, if anything, in 1941?

A. We finished the work which I thought we were required to do at that time. Another company took it over- the Johnson (?) Sand & Gravel Company of Logan- and raised the reservoir dam to its present height. That was done in the fall of 1941.

Q. Was there water in the reservoir that fall?

A. It had to be turned out before they were done irrigating. We had to draw it out. It was kind of a hardship on some of the stockholders because they couldn't get water.

Q. About how many yards of material did you use during the fall of 1940 and 1941?

A. As near as I can figure, about 10,000 cubic yards.

Q. How much money did you spend on that dam during that period?

A. In the neighborhood of--- \$3,243.60, I believe.

Q. You have it exactly, don't you?

MR. BAUM: We will take his word for that.

Q. What work, if any, have you done on that dam since the fall of 1941?

A. We haven't done any work since the fall of 1941. We haven't been able to get labor, material, or trucks. We've done a little. We had the spillway ditch dug out with a shovel this year, but we were unable to secure a bulldozer to make a road so we could get up there.

Q. Have you tried to get material, and labor, and equipment?

A. Yes.

Q. You told me of some instance where you thought you had the use of a carry-all.

A. Yes, we had one promised, but it just went on by. He was going to work for the Twin Lakes Canal Company, and promised to do some work for us. But he just went right on and left us standing there- and he had promised.

Q. Now, that's a farming community there, is it not?

A. Yes sir

Q. In regard to getting help. In order to work on your dam you would have had to drain the water out first, would you not?

A. Yes sir

Q. And that would mean no irrigating in the fall?

A. Yes sir

Q. What was the condition in regard to securing labor during these years- 1942, 1943, 1944 and 1945?

A. We couldn't hardly get them out to fix the ditches so as to run the water.

Q. Was there any labor that could be employed?

A. No, there wasn't.

Q. What about equipment?

A. We tried, but we just couldn't get any.

Q. What would you say, then, as to the necessity of getting this extension of time in order to complete your work?

MR. BAUM: Isn't that a matter for the Commissioner? Let him tell the facts and the Commissioner will decide the necessity. We have no objection- but that's why we are here.

STATE RECLAMATION ENGINEER: Let him answer it.

A. Well, to finish the works we would have to have more time, in order to put the reservoir up to the amount according to our permit.

Q. What's the reason you would have to have more time?

A. The reason is that up to the present time we have not been able to get equipment to do the work- which it looks now that we may be able to do. That's the way it looks.

Q. The first year- in 1941- you raised that dam to its present level. Where did you get the money to do that?

A. We borrowed \$1,800 from the Reconstruction Finance Corporation, and the rest was gotten through special assessments and what little we had on hand. In fact we got behind on some.

Q. Is that a farming community along Battle Creek below the reservoir?

A. Yes sir- Starts about the middle, or else below- all irrigated land.

Q. Is that an old or a new settlement?

A. It is an old settlement. It goes back way before my time,

Q. Do you know whether it is an older settlement than the lands irrigated by the Twin Lakes?

A. Yes, I think it is. I am quite sure of that.

Q. Is that the same community that in the decree referred to by Judge Baum, some of those rights go back to 1873 or 1874?

A. Yes sir.

Q. Where is this Reservoir # 1-- I think you said the agricultural land on Battle Creek is down stream from this reservoir?

A. Yes sir.

Q. That land- does it have water rights on Battle Creek?

A. Yes sir.

Q. You have heard the testimony in regard to the flow through the Battle Creek reservoir, haven't you?

A. Yes sir.

Q. Now, when do you begin to store in that reservoir?

A. As quick as we stop irrigating in the fall. About the first of October- sometimes a little before.

Q. Do you store, then, all during the winter?

A. Yes sir.

Q. And does the reservoir always hold all the water that is available for storage there during the winter?

A. It does not.

Q. What happens to it then?

A. We have to turn it out to safeguard the reservoir

Q. When did you last see that reservoir?

A. About three days ago.

Q. What was the condition of the water- the elevation of the water- in the reservoir, at that time?

A. It was high enough that as quick as I got back + had to turn some out

Q. What becomes of that water that you turn out now?

A. It will go down Battle Creek into Bear River.

Q. Can the Twin Lakes conserve that water?

A. That would be up to them. -31-

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Q. Are they storing?

A. No, they are not.

Q. Have they stored during the winter time, at any time since you have known them?

A. No.

Q. Now, then, do you have any particular records of the amount of water that has been wasted down there, when it was not being stored and could not be stored by the Twin Lakes?

A. (Referring to note book) In 1943 I turned the water out of the Number 1 reservoir on the 6th of February and it ran for about two weeks, or up until March 9th, when I turned it into the Twin Lakes Canal. That's the first I could turn it into the canal on account of water conditions.

Q. About how much did you turn out then?

A. About fifteen cubic feet per second.

Q. That ran from February what?

A. February 6 to March 9th.

Q. What other times has water gone to waste out of the Strongarm?

A. It has gone some to waste for the last--1941, 1942, 1943 and 1944-- just a little in 1944 and some in 1945.

Q. What time would that water waste?

A. This year it went to waste as late as in June.

Q. How much, if you know, was wasted in the month of June, this year?

A. Not so much in June-- In May--I think I can give the figures.

(Refers to note book) In May it went for two weeks in one stretch-- a 24 inch culvert full-- into the creek-- and about six and a half cubic feet per second went into the canal. That's all our ditch would hold to put into the canal. I don't know how many second feet that 24 inch culvert would hold, with a drop of two feet. I judge about sixteen or eighteen second feet or more.

Q. What other times, if any, has water gone to waste there?

A. On the 12th of May, 1942, they did not want any more water, so I had to turn it into the creek.

Q. Who didn't want any more?

A. The Twin Lakes Canal Company.

Q. How much did you turn in the creek then?

A. Approximately about eight or nine second feet.

Q. How long did that run to waste?

A. Until we started irrigating, about fifteen or twenty-five days later.

Q. What time do you usually begin to irrigate down there?

A. The last of May, or June.

Q. You live alongside- within fourteen or fifteen feet of this creek?

A. Yes.

Q. What would you say as to the condition of the water in it? Is there any time of the year when water is not in that creek, going down to Bear River?

A. Well, there's a little flow always in the creek from springs, even when the reservoir is shut off. Many times there was a lot came down- especially in 1938.

Q. Tell the condition in 1938.

A. I don't know what happened. We had a heavy storm and the reservoir was filling too fast and they had to turn out a lot of water. The reason I remember, I had a bridge and a culvert, and it took the whole thing out, and floated it down the creek. And also in the construction of the highway we had a six foot culvert that also floated out.

Q. Let me ask you this question: At the times when you have had to let water out of that reservoir to keep it from overflowing and breaking, has the Twin Lakes always been able to take that water and put it down in their reservoir?

A. No.

Q. What time of year are they unable to do that?

A. In 1943 it was too cold---

Q. (Interrupting) I am not talking about a particular year- but what time of year did they usually close down and stop taking water?

A. All the way from the first part of November and sometimes a little later.

Q. When they got freezing weather?

A. Yes.

Q. About what time of year does the Twin Lakes put water in its ditch, in a position to receive water from the Strongarm?

A. Usually the first part of March. Sometimes it runs along a little later.

Q. In the spring of the year- particularly late spring- March or April or May- what would you say as to water going down Battle Creek past your place, at that time of the year?

A. Somerimes there is a large flow; especially when the spring breaks quite suddenly.

Q. How frequently does that happen?

A. That's kind of hard to answer. Sometimes one or two years at a straight, and then maybe let up a year or two, and then happen again.

Q. And that's the usual thing, isn't it, for water to be going down there?

A. It has been.

Q. And going to waste during the flood season?

A. Yes.

Q. Where do these farms down below this reservoir get their water for irrigation?

A. From the Strongarm District No. 1 Reservoir.

Q. Where do they divert it from- from the creek, or where?

A. From the creek.

Q. Do any of them have live water rights? Water that is running in the creek- live water? Do they have a right to take that?

MR. BAUM: The decree would be the best evidence. You are not endeavoring to explain the decree, are you?

I object. If you want to talk about normal flow rights in the decree- let's refer to the decree.

STATE RECLAMATION ENGINEER: Do you want to define it that way?

MR. MARTIN: I was referring to the decree.

STATE RECLAMATION ENGINEER: He may answer.

The question is read to the witness.

A. They have always irrigated from the overflow.

Q. When water is turned out of this reservoir, who turns it out?

A. I have done it since the spring of 1941.

Q. Does the Twin Lakes Canal Company have anything to do- or any control whatsoever- over that reservoir?

A. They have none.

Q. You turn the water out when you think it should be turned out- Is that right?

A. Yes.

Q. There's one other thing. Are there certain draws or hollows going into Battle Creek below this reservoir?

A. There are.

Q. Explain, if you know, whether or not these carry water.

A. There is one hollow that we call Spring Hollow that runs all winter long and spring.

Q. You say all winter long?

A. Until quite late in the spring.

Q. Have you any idea about how large that stream is?

A. About three-fourths of a second foot.

Q. Does that hold water now?

A. Yes, it is running now.

Q. And that goes into Battle Creek?

A. Yes sir.

CROSS-EXAMINATION

By MR. BAUM:

Q. Who was President of the Strongarm Reservoir District in 1940?

A. Mr. Julius Johnson.

Q. Who was Mr. Shuldberg?

A. Secretary.

Q. What were his initials?

A. William A.

Q. You say there are some draws and hollows that go into Battle Creek below the reservoir?

A. Yes sir.

Q. Have you any at a point above where you live on Battle Creek?

A. Yes.

Q. And there is always water running in there?

A. Yes.

Q. And that water is not any water that you could put in your reservoir?

A. No.

Q. Do you know- this water that is passing your house- do you know how much of it comes from the various draws at a point below the operation of the reservoir and what part comes from the reservoir?

A. I have a pretty good idea.

Q. Do you know? Can you measure water?

A. Not exactly- I can judge.

Q. What do you measure it with?

A. Just looking at it.

Q. Now when you saw some water in Battle Creek- at your house- and you judged how much was coming from the draws and hollows and how much from the reservoir- when was that?

A. In May--I can't give the exact date.

Q. What year?

A. 1943 or 1942

Q. In the years 1942 and 1943 the Twin Lakes Canal Company was having the same time with reference to employment that you people were, weren't they?

A. I don't know.

Q. Do you think there was help for them and not for you?

A. They had more to take from than we did.

Q. They were having trouble with their ditches and headgates, were they not?

A. They may have.

Q. Don't you know they were?

A. I know they had some difficulty in the Stub canal.

Q. And the Stub canal is the canal that takes some of this water from Battle Creek and puts into their reservoir?

A. Yes.

Q. And it was owing to trouble in the Stub canal that this water was passing down the stream?

A. In 1938---

Q. (Interrupting) We are talking about 1942 and 1943.

A. They did not fix it at all. They did not even attempt to fix it.

Q. You did not attempt to fix your reservoir in 1942 and 1943, did you?

A. No.

Q. They were having trouble with the Stub canal in 1943?

A. Yes, they didn't do anything with it.

Q. This water in 1938 that you were talking about coming down- that was the time they had the slip in their dam, wasn't it?

A. I think not.

Q. Do you recall when the slip in the canal was?

A. In the spring of 1940, I think.

Q. Then Mr. Sanford did not turn it out in the year 1938; Is that right?

A. What do you mean?

Q. What caused this water to be turned out in 1938, that you are referring to?

A. To avoid overflow from the foot hills.

Q. You say that is not the time you had the slip and Mr. Sanford had to let it out himself?

A. No.

Q. On May 18th, 1938, isn't it a fact that there was a slip in your dam that caused that water to be turned loose?

A. I couldn't give the date. I don't know for sure.

Q. Was it in the year 1938? Was it in that year at all?

A. Not to my knowledge

Q. When this slip happened it was in 1940. Is that right?

A. No.

Q. I thought you just got through telling me it was in 1940.

A. 1940 or 1939.

Q. What data have you got on that in your book?

A. I have no data on it. I was up on the dam at that time.

Q. You don't know what year it was?

A. 1939 or 1940

Q. What calls your attention to the fact that it was in 1939 or 1940?

A. Because immediately after they went to work to figure out a way to strengthen the dam.

Q. Was that in the fall of the year?

A. In the spring

Q. That's the only time you have had to let any water out because of the weakness of your dam?

A. On Number 1

Q. That's the only time you recall?

A. Yes.

Q. Now, tell us this: How much water was in the dam in May of 1939 or 1940, when you say there was trouble there owing to this slip? What are those notes you are reading from?

A. These are from 1941 on.

Q. Then lay the book down and answer the question. In 1939 or 1940, when you say there was a slip in the dam- was there any water overflowing the dam at that time?

A. There was some.

Q. Was the dam full, and when you let the water out was it owing to the fact that the dam was full?

A. It was running out before that time.

Q. Running over the spillway?

A. Running on out the bottom, too.

Q. Water was going over the spillway?

A. Yes.

Q. The dam had filled itself- the reservoir was full at the time you let this water out, in 1939 or 1940, to save the dam?

A. It was let out weeks before- a certain amount of it.

Q. Who let it out?

A. I think Mr. Geddes.

Q. You didn't let it out?

A. No.

Q. How far is your house that is located on Battle Creek, below the dam?

A. About two and a half miles

Q. About how much water goes between that point and the dam, other than through the dam?

A. At times there might be from eight to ten second feet coming down Spring Hollow.

Q. And that would generally be in February, March, April, or May?

A. In March or April

Q. How far below is this reservoir of the Twin Lakes Canal Company?

A. Below what?

Q. Below your house.

A. It's about--straight across the country I would judge about two miles West.

Q. Down the creek, how far is it?

A. It isn't down the creek.

Q. How do you get to it from your place?

A. I have to take a ride around to get to it

Q. Do you go there often?

A. Not very often

Q. This water goes through the Stub canal, is that it, and gets into their reservoir out of Battle Creek?

A. When they fix the Stub canal so it can.

Q. Is there any other way to get it?

A. Yes.

Q. How?

A. In our ditch

Q. Are you in a position to say that any water was put through your ditch or the Stub canal in the years you have been talking about-- 1941-1943-- in the months of March and April?

A. 1942, 1943, 1945, no water was put through the Stub canal.

Q. How about through your ditch? Was there water through your ditch into the canal?

A. Yes

Q. Are you in position to say how much water passed your place that did not flow through your ditch or the Stub canal, that did not get into the Twin Lakes Canal reservoir?

A. I could make an estimate.

Q. How much?

A. About four to five hundred acre feet, in 1945.

Q. That was in 1945- is that right?

A. Yes.

Q. What other year?

A. In 1944- not very much

Q. Well, how much?

A. About a week of six or seven second feet. Figure it out.

Q. In 1944 how much water was there that passed your house that did not enter the Twin Lakes reservoir either through your ditch or the Stub canal, in the months of March or April?

A. About 100 acre feet, and maybe more

Q. What part of that came in below the outlet of your dam?

A. Not any- not at that point

Q. You divided it up, did you? Where does your canal take out in reference to your house?

A. Which canal?

Q. This canal that you say takes water over to the Twin Lakes reservoir.

A. It is up the creek about two miles.

Q. Then it's right below the reservoir, isn't it?

A. Yes.

Q. How do you know this? Do you go up to see how much water- in March and April- is going into that canal?

A. Every day.

Q. Notwithstanding there was that much going over into that canal-- You say how much was going over to Twin Lakes through that canal?

A. I did not say there was any going through the canal. There was some in our ditch.

Q. What did it lead to?

A. Into the canal

Q. What canal?

A. The Twin Lakes Canal

Q. From there it lead to where?

A. To their reservoir.

Q. I am now talking about the water that enters your canal that ultimately reaches its way into the Twin Lakes reservoir. How much water was running into that ditch that you call your ditch at a point right below your dam?

A. From six to eight second feet.

Q. And that water was reaching the Twin Lakes Canal Company reservoir, was it not?

A. All except a little seepage.

Q. Was that taking all of the water in the stream at that point?

A. No.

Q. Why not?

A. It would not hold it. They had to let it out. I had to flow some into the creek.

Q. Why?

A. The ditch was not big enough

Q. If the Stub canal had been operating it could have handled it all?

A. It depends on how much.

Q. I'm talking about the water that passed that gate that did not enter the canal and get to the reservoir. Could the Stub canal handle it all?

A. I said a certain amount.

Q. What amount?

A. 15 or 20 second feet.

Q. How much water was passing the head works?

A. It was all passing.

Q. How much of it?

A. All the way--that depends-- sometimes eight second feet--

Q. You said the canal was taking about how much at that point?

A. From six to eight cubic feet per second.

Q. How much more was in the creek that was passing on down?

A. Sometimes twenty to twenty-five second feet

Q. Give me the dates when there was from 20 to 25.

A. In two weeks in May of 1945.

Q. What other year?

A. In 1943

Q. What time in 1943?

A. It was in May.

Q. How much, in May, was passing the headworks of your canal that reaches to the Twin Lakes reservoir, that was passing it and going down Battle Creek?

A. Fifteen to twenty-five cubic feet per second

Q. For how long a period?

A. Two weeks.

Q. What two weeks was that- the first or second two weeks?

A. The middle of the month.

Q. Did you make any record of that?

A. Just marked it down.

Q. When?

A. At the time.

Q. Have you any record there?

A. I think I have. (Refers to note book) May 12, 1942.

Q. That two weeks' period you wrote down- where is that?

A. Right here (indicating in book) (Reads)- January, 1943- Everything in the book follows January, 1943.

Q. You know about this water that is taken out from Number 2- that's the one that is at your place, isn't it?

A. They irrigate out of it.

Q. How do you feed Number 2?

A. Exchange from the Twin Lakes Canal.

Q. You feed it exclusively from there?

A. Yes, except some snow water we have in the spring.

Q. You put that water into Number 2?

A. Yes.

Q. This water that you have been talking about, isn't that water that you were letting out for the purpose of operating Number 2?

A. No.

Q. Isn't that water you were letting out Number 2 that was passing your place that you are talking about?

A. We don't let water out of Number 2 in the spring.

Q. Didn't you in the spring of 1942?

A. We let a little out.

Q. In the year 1942, when you testified this water was passing for two weeks, wasn't that water you were letting out of your Reservoir Number 2?

A. No sir.

Q. This data that you have in this book here is what you want the Commissioner to understand is your record for that year. Is that right?

A. For 1942- yes.

MR. BAUM: We would like to have this book introduced because it shows some very peculiar facts, I think the book is self-explanatory.

Q. You say these entries were made at the time the things occurred?

A. Most of them were.

Q. And when did you become President of the company?

A. In the spring of 1941- January.

Q. Each time you would go to the reservoir you would write it down in that book?

A. When I got home I marked down most of it.

Q. Did you write it down each time you went up there?

A. Yes.

Q. Then these records were made at that time?

A. As near as I can remember. There may be a little inaccuracy. It was my time keeping for my own work.

STATE RECLAMATION ENGINEER: That's his personal record.

MR. BAUM: Here's the record- January, 1943- Everything that follows that happened in 1943- and he shows me this: "Water from Number 1 reservoir going

down creek- starting April 1, for two weeks- 15 second feet; in the creek-10 second feet; in the canal-10 $\frac{1}{2}$ second feet. "

RE-DIRECT EXAMINATION

By MR. MARTIN:

Q. Is that a private record which you kept of your time and work for the company?

A. It is my own record

Q. These notations are made by you from time to time?

A. Yes.

RE -CROSS EXAMINATION

By MR. BAUM:

Q. You make that by virtue of the fact that you are President of the company?

A. I make a record of the time so I can turn it in to the Secretary.

Q. That is, to get your pay as President?

A. Yes, that's my work- to get my pay as President.

Q. Do you recall being served with a summons this past year?

A. Yes.

Q. At that time you stated that your company had been served by a notice in 1940, didn't you?

MR. MARTIN: Objected to as immaterial

STATE RECLAMATION ENGINEER: You may answer.

A. I have had no notice. I have not admitted any such thing.

Q. Have you any record prior to the year 1940 of the water that passed over the spillway in the reservoir?

A. I have not.

Q. Do you know whether or not there was any water that passed over the reservoir prior to the year 1940 that wasn't picked up by the Twin Lakes Canal Company and put in their reservoir?

A. Yes.

Q. For what years?

A. I can't give the years.

- Q. Tell us how you know this.
- A. Because I went up and worked on the reservoir- worked on the ditch- on this Stub canal.
- Q. What years?
- A. Several years.
- Q. What years?
- A. 1936-1937-1938
- Q. In 1936 you say you know about water passing over?
- A. I don't know that it was in 1936- Some of those years.
- Q. What year prior to 1940 did you see water passing through the reservoir, that was being let out of the reservoir, that was not being picked up by the Twin Lakes Canal Company?
- A. 1938.
- Q. What time of year was that?
- A. In the spring of the year.
- Q. What time in the spring?
- A. About April or May. I don't know.
- Q. For how long a period?
- A. I could not give the period of time.
- Q. How much water was it?
- A. I don't know.
- Q. The next year, 1939- how much?
- A. I couldn't say how much.
- Q. In 1937?
- A. I have no measurement of it. There was water came by.
- Q. Do you know where it came from?
- A. It always comes from below my place.
- Q. Did it come from those hollows or the reservoir?
- A. The hollows never run more than three or four weeks.
- Q. Do you know where this water came from?
- A. Some from upcreek and some from the hollows.
- Q. How much from up creek in 1937?
- A. I don't know
- Q. In 1936?

A. I have no measurement of those things.

Q. Do you know of any water passing that year, going down the creek to waste?

A. Yes.

Q. How much?

A. I would say--the seepage is always three or four second feet.

Q. We are talking about the overflow. Do you know of any water passing over the dam that year that was not rescued and saved by the Twin Lakes Canal Company?

A. That was not my work at that time.

Q. You don't know whether there was or not? In 1934 do you know anything about that?

A. No.

Q. 1935?

A. No.

MR. MARTIN: I want to interject another objection to this. It has nothing to do with this case. Here is a permit issued in 1940- and counsel is going back six or seven years before this matter was involved at all.

MR. BAUM: This witness has testified that water passed down every year. He said never a year but what there was water wasted there. He did not say in 1940.

STATE RECLAMATION ENGINEER: Objection overruled.

Q. (Repeated) In 1935?

A. There was water going down the creek.

Q. Where does it come from?

A. Some of those hollows, and from up creek.

Q. How much from each?

A. I couldn't give the amount.

Q. What time of the year?

A. In the spring of the year.

Q. What month?

A. April- May- sometimes March

Q. That water wasted into Bear River?

A. Yes.

Q. In the year 1933 the same?

A. I don't think they lost much water in 1933.

Q. Getting back to the year 1940-what time of the year was your reservoir filled?

A. We did not let it fill until after Number 2 was filled. We turned out water because of the floods, because they could not handle it.

Q. What time in March, April, or May- if at all- did you turn any water down out of your reservoir that was not rescued by the Twin Lakes Canal Company?

A. I don't know. They probably got most of it during that year.

Q. You think they got most of it during 1940?

A. Yes.

Q. In 1941- how about that year? What have you to say? Did they get most of it that year?

A. That was the year they had a break/ out.

Q. In other words, they were equipped to take it up that year?

A. They were not.

Q. Well, if it was not for that break out.

A. They would have got most of it.

Q. Then they had this break out and could not take it?

A. They did not attempt to fix it.

Q. This break out was not fixed in 1942?

A. No.

Q. And in 1944?

A. No.

Q. They have worked on it, haven't they?

A. I don't know; I think not.

Q. It was owing to this break out that they did not save this water?

A. If it was not too high.

Q. In 1942 was the stream too high?

A. Yes.

Q. How much too high?

A. It was turned out before they took any water.

Q. Was their reservoir filled at that time?

A. It was so filled, I was advised by Mr. Sanford.

Q. When?

A. The 6th of February

Q. And you don't think the Twin Lakes Canal Company took it up?

A. I know they didn't.

Q. When did they start to pick up the water?

A. About the 6th or 9th of March. That's about as early as I think they turned it into the canal.

Q. In 1943 what was the condition?

A. They only got what was in our ditch.

Q. If their break out had been fixed could they have picked up all the water?

A. Mostly

Q. And in 1945 the same?

A. I don't think so. It was quite heavy. They couldn't have handled it.

Q. In 1940, when you were working on the dam, you turned all the water out before you started to work?

A. Yes.

Q. Did that condition exist in 1941?

A. Yes.

Q. And this future work that you contemplate on this dam- how many feet do you figure on putting up?

A. Three or four. I don't know which it calls for.

Q. What is the height of your present dam?

A. I guess it's on here (Referring to ^{map} ~~picture~~) The engineers would know.

Q. You were telling us how many feet you raised it and how much money you spent. To what point did you raise it?

A. 129

Q. What was it when you started?

A. 126 in 1938

Q. You raised it three feet. You contemplate raising it how many more?

A. Whatever the permit calls for.

Q. Your permit says 38 feet. Don't you know how high you are going to put it in the future?

A. All we expect to do in the future is right here. You've got this to go by, and we can't raise it any higher.

Q. If you don't know, I don't mean to ask you something I shouldn't. But you say your present reservoir is at a point of 129. Is that right?

A. High water line. That's what they say. I couldn't prove it.

Q. What is the height of your dam now?

A. I don't know. Let's look at the map.

Q. You were talking with your counsel. How many more feet are going up, on this dam?

A. Three feet.

Q. Only three more feet?

A. Only three more feet.

Q. To comply with your permit you would have to go up twelve feet?

A. I don't think so.

MR. JOHNSON: That is argumentative. It is something that is calculable. It is an engineering fact. This man is testifying on a general basis, not specific. He has not qualified as an engineer to testify on specific matters. Certainly the record and the calculation of the engineers is the best evidence.

MR. BAUM: I submit it is perfectly permissible evidence. This witness says he is going to build a dam, and we are certainly entitled to know how much higher up he intends to go.

MR. JOHNSON: The only cause is the question of good faith and the work being done and the means of doing the work, and it does not run to the question of water rights.

STATE RECLAMATION ENGINEER: It is up to the Department of Reclamation to supervise this work, if you want to bring that up.

Objection overruled/

Q. What height do you contemplate building this dam- what additional height?

A. About three or four feet is what my understanding has been of it.

Q. That is, above your present height now?

A. Yes.

Q. You were saying something about some live water rights. Any rights that anybody may have for water during the irrigation season- that water has been decreed to them in this Bear River decree, has it not?

MR. MARTIN: Objected to as immaterial, and not based upon any facts stated by this witness in the direct examination.

Q. Are there live rights in the decree?

A. I don't understand the wording of all these things. I know our decree dates from 1873 or 1874.

Q. You understood what your counsel meant when he asked you about live rights, didn't you? What did you think he meant when he spoke about live water rights?

A. To the decree, that the man was entitled to that water because he had used it for years.

Q. Through having used it for years, it had been decreed; that's what you meant by live water rights?

A. Yes sir.

Q. All of these people using water out of this stream, they come under the category of live water rights. Is that right? Is that what you mean?

A. Yes.

RE-DIRECT EXAMINATION

By MR. MARTIN: I want to make this explanation. When I refer to live water I mean natural flow. In this portion of the country a great many times in water suits we differentiate between natural flow and stored water. That is what I had reference to.

Q. Now, before there was any reservoir on this creek was the land under cultivation?

MR. BAUM. If you know, of your own knowledge.

A. Well, I did not see it. That was before I was born.

Q. Do you know when this dam was built?

A. In 1903, I believe- one part of it.

Q. You were questioned quite carefully about a slip up there in that

dam. I wish you would explain what that was, and your personal contact with that.

A. The first I knew there was a lot of water coming down the creek, and the next thing they came and wanted help, and I and the man that was helping me went up into the reservoir, and filled it with stones and dirt, and we held it there two nights, where the slide was.

Q. It resulted in your holding that slip?

A. Yes.

Q. There has been a lot of testimony about the Stub canal. I wish you would explain the physical conditions there, so the Department can understand exactly what you are talking about when you are talking about the Stub canal.

A. This Stub canal is situated below our dam approximately- about half a mile- and it's a dam that was put across the creek to catch the water going down the creek and divert it into the Twin Lakes Canal.

Q. That is, into their large canal?

A. Yes.

Q. What has happened in the last few years in regard to diverting water into their canal?

A. It has been done through our own ditch out of this canal. We take it out higher up the creek and drop it into their canal farther down this Stub canal.

Q. How large a ditch do you have?

A. We have a small ditch. Just a ditch originally made for irrigation, and holding maybe one stream of water at 4 or 4 1/2 second feet.

Q. When you are repaying the Twin Lakes Canal Company for the water that they have filled your Number 2 reservoir with, through what ditch do you convey the water that you are delivering back to them?

A. Through our own private ditch.

Q. That is in connection with what is called the Stub canal?

A. No.

Q. How long has it been since you have seen any water to amount to anything running through this Stub canal?

A. About 1940 or 1941.

Q. What has happened to that Stub canal?

A. I believe it has rotted out, so that the poles and planks would not hold if they did put it in. It is still there, but I don't believe it would stand pressure.

Q. Then do I understand, the last few years the only water that has gone to the Twin Lakes has been through canal and not the Stub canal?

A. That's right.

Applicant rests.

JOHN J. SANFORD

being recalled by the Protestants, testified as follows:

DIRECT EXAMINATION

By MR. BAUM:

Q. You are the gentleman who testified this morning?

A. Yes.

Q. You were present when Mr. Hedin testified?

A. Yes.

Q. Do you know where Mr. Hedin lives?

A. Yes.

Q. Do you know where Battle Creek is with reference to his house?

A. Yes.

Q. Do you know where the outlet of these various reservoirs are?

A. Yes.

Q. Have you a record made by you, in your capacity as manager and secretary of the company, showing the amount of water on any particular dates in any particular year, that was passed over the reservoir gates or the spillway which was rescued by the Twin Lakes Canal Company?

A. I don't quite understand the question.

Q. Have you records to show the amounts of water, on any particular date, that you were diverting, in the various years- water from Battle Creek?

A. Yes.

Q. Take the year 1940- What does your record show as to when you were getting water in that year?

A. 1940?

Q. Yes.

A. 1940 was a short year, and I don't believe we kept a record that year, any more than that we show that Number 2 was filled.

Q. If there was any water passing down Battle Creek, past Mr. Hedin's house, where would that water be coming from, during the months of April and May?

A. It would come out of Spring Hollow or one of these small hollows.

Q. Would it come out of Reservoir No. 2?

A. No, I don't think there was any, in 1940/

Q. Are you in a position to say to the Commissioner that there was water that was wasted into Bear River, in March, April and May, that came over the spillway or right out of the gates of the Battle Creek Reservoir No. 1 of the applicant?

A. In 1940?

Q? Yes.

A. No- 1940 was a dry year.

Q. In 1941, when did you start to take some water out of Battle Creek?

A. (Referring to records) On April 1st water was taken out of Strongarm Number 1 into the canal, and on the 2nd it was turned into Strongarm Number 2.

Q. Was any of that water wasted into Bear River?

A. No.

Q. Where was it taken to?

A. It was taken into our canal for irrigation.

Q. Prior to April 1st, 1941, and in the month of March, was there any water that passed either through the gates of Strongarm Number 1 or over the spillway, that was not picked up by your company?

A. Was there any water?

Q. Yes.

A. On April 14th the Strongarm was below what we called the high water mark, and there was half a foot spilling; on April 15th we took the water into our canal.

Q. Now, prior to April 1st, 1941?

A. Prior to April 1st there wasn't any.

Q. Any what?

A. I don't remember any water down there then.

Q. Would you say there wasn't any water being wasted past Mr. Hedin's house?

A. I don't think there was any wasted in 1941.

Q. What is the capacity of this Strongarm canal that is utilized by your company- do you know- the total capacity.

A. I think we have had as high as ten feet through it. But that varies, and it goes down some years.

Q. What year did you have ten feet in it?

A. In 1941---I think the highest is 7.87 second feet.

Q. Being diverted through this canal?

A. Yes.

Q. What other years have you got where it shows how much is being diverted? Let's go to 1942.

A. (Referring to record) In 1942- I had that water from Strongarm Number 1, on March 30th, four cubic feet per second- and that built up to about seven feet.

Q. That was water that was passing over the Strongarm Reservoir spillway through its canals?

A. It was going through their canal and on top of that I had three second feet on the 2nd of April going through our Stub canal. On the 3rd I had three, and on the 4th I had four.

Q. We will come to the Stub Canal. In 1941- let's stay with that year- Did you put any water through the Stub Canal?

A. In 1941? I don't know.

Q. Did you have a break in the Stub Canal at that time?

A. It seems like that was the year that their original spillway washed out. That is, they built a dam in the spillway and that washed out. And then for a few days-- no, that was in 1942.

Q. Now tell us--in the year 1941, when did you begin to divert water, using the Stub Canal, or the canal of the Strongarm into your reservoir?

MR. MARTIN: Object, as repetition. The witness has testified as to April 1st.

MR. BAUM: I am trying to get this date.

A. April 1st.

Q. Any water that was diverted that you rescued and put in your reservoir or put in your ditches was subsequent to that date, as far as 1941 is concerned. Is that right?

A. Yes.

Q. In the year 1942 when was the first water that you put into your reservoir either through the Strongarm canal or the Stub Canal?

A. March 30th.

Q. Now read on from that date and tell us-

A. What do you want me to tell?

Q. Did you use the water for one day or how many days?

A. (Reading from record)

April 1- 10 inches over 3 ft. weir

" 2 -6 " " " "

" 3-10 " " " "

" 5- 8 "

" 6- 8 "

" 9- .57 "

" 10-.57 "

" 13- 1.6 "

" 18- .6 "

" 20- .6 " over 3 ft. weir.

Q. What have you in May of that year?

A. On April 30th Number 1 was 1.4 above their high water mark. There was 25 feet over their spillway on account of that little dam washing out that they put in there. That ran until some time during the day when it was cut to five feet. May 1st, five feet- May 3rd five feet- May 4th the water was turned in from Number 2 into the creek. May 12th- Strongarm Number 1 1 $\frac{1}{2}$ feet above high water mark.

Q. Does that show the amount of water you were taking? Did Twin Lakes Canal get that water?

A. We got part of that water, and turned part of it over into their other canal.

Q. Was any of that water that passed Strongarm Number 1 wasted, or was it all picked up either by you or by Strongarm Number 2?

A. With the exception of that one time when they had their trouble on the dam, we lowered our gates, and also let some spill up there that day.

Q. Mr. Hedin testified that in May, 1942, there was a large amount of water wasting into Bear River that came from Strongarm Number 1- Is that a fact? He said for two weeks.

A. In 1942?

Q. In May, 1942.

A. I don't know.

Q. Throughout May- taking your measurements there- you were picking up all the water that was passing Strongarm Reservoir, were you not?

MR. MARTIN: Objected to as leading and argumentative. He has answered the question- "I don't know".

STATE RECLAMATION ENGINEER. You may answer the question.

A. I was going to say- about the 10th of May we start our irrigation season, and they start theirs approximately that time. And then they could put that water that is going by after that period- it is the normal decreed right that they have.

Q. In other words, if any water was passing Mr. Hedin's place, as he says- from 6- 10 - 12 acre feet--or second feet- that water was water that was being utilized for irrigation purposes by the normal flow water users on that ditch, was it not?

A. Yes.

Q. It was not being wasted?

A. No.

Q. Did you divert any of the water from the Strongarm Reservoir through the Stub Canal in 1942?

A. Yes. I have it marked here- on April 2nd we had three second feet in the old Stub Canal. On April 5th instead of using the weir we made an opening between two boards there. And on April 8th, none.

Q. At that same time were you using the Strongarm Reservoir canal for the diversion of Strongarm water that had passed the Strongarm Reservoir into

your canal or were you sending it through the Stub Canal?

A. We were using part of it through their canal

Q. And through the capacity of those two you were taking all of that water?

A. Yes.

Q. In the year 1943, what have you to say?

A. (Referring to records) These notes have been so mixed up by the stenographer in copying them that they are hard to read.

On March 9th- 6 second feet from Strongarm Number 1 to the Stub Canal;

On March 30th- 7.5 cubic feet per second

March 31- 15

April 1 - 15

April 2 - 15

April 3 - 15

April 4 - 15

April 5 - 15

April 6- 20

April 7 - 20

April 9 - 20

April 11- 15

April 13 - 10

April 14 - 10

and then I have April 14th, Strongarm Number 1 - .35 ft. above high water mark.

April 15 to 21- 6 feet

April 21 to 25- 4.5 feet

Q. Was any water passing the Stub Canal or this canal that you were utilizing to take water to your reservoir going down to Bear River and being wasted at that time?

A. Between March 30th and April 25th, when I gave those dates?

Q. Yes.

A. I can't see anything here that says there was any going to waste.

Q. If you were not taking all the water wouldn't you have made a notation?

A. I usually made a record.

Q. Do your records show any?

A. This copy is mixed up in such a way that I would have to go to my original records to be sure.

MR. MARTIN: Did you keep this record? Did you prepare this record you are using?

A. I have a book I carry in my car.

Q. You spoke of the stenographer getting it mixed up. Did she do it under your direction?

A. I gave the notes to her to work up. But they are not in very good shape.

Q. They are not very accurate?

A. They are accurate, but not in very good shape.

MR. BAUM, Q. Mr. Hedin testified that in the year 1943 there was a lot of water wasted out of the Strongarm Reservoir District. Tell the Commissioner if it is a fact, and what you base your statement upon.

A. I would not be too sure on 1943.

Q. There was something said about a break in the diversion work of the Stub Canal. Tell the Commissioner about that.

A. A break in our diversion works?

Q. You were present when Mr. Hedin testified, weren't you?

A. That diversion work was built a long time before, and had been repaired at various times during the years.

Q. Tell us- did it break out in 1942, or 1943, or 1944?

A. In 1944 there was not enough water. In 1943 it may have broke out and had some work done, but I don't remember working on it.

Q. Did it break out at all in 1942?

A. It didn't break out. There may have been some seepage.

Q. Did you have any trouble getting help?

A. We didn't have any help. We had to depend on Mr. Smith and myself.

Q. In 1944 did you divert water through that Stub canal?

A. 1944 was a dry year and we had about enough, I think, to fill

Q. What I am trying to get at is- Was the Stub Canal in condition there, if there had been any water that came down, either through the gates or over the spillway that was being wasted down Battle Creek- so that you could have taken all of that water?

A. I would have said that the Stub Canal was not in good shape.

Q. Well, was it wasting water?

A. I don't think there was any going into Bear River.

Q. Tell us this- Was the canal of the Strongarm that you were using, plus the Stub Canal, of sufficient size and condition to take all of the water that was passing through their gates or their spillway in the reservoir?

A. I think that it was.

Q. What about 1945?

A. I have no record for 1945.

Q. You were there on the ground ?

A. I was there part of the time and I was away part of the time.

Q. For the time that you were there, what have you to say?

A. I have nothing here.

Q. What do you know, of your own knowledge?

A. Well, I don't remember.

Q. Was any water being wasted down into Bear River that had passed the Strongarm Reservoir and not being picked up by your company, in March and April of 1945?

A. I don't think so.

Q. Mr. Sanford, what have you in the year 1938 as to this slip, as you call it, in the Strongarm Reservoir dam? Have you anything that will tell us when that happened?

A. (Referring to record) I have it marked in here- May 18, 1938- Strongarm flow turned loose- Twin Lakes spillway opened to Battle Creek.

Q. Have you any notations as to the year 1939 or 1940 as to a slip?

A. I don't remember any in 1939 or 1940.

CROSS-EXAMINATION

By MR. MARTIN:

Q. The first water you got out of Battle Creek in 1941 was April 1st, you said?

A. I believe that was the date.

Q. Well, let's assume that it was. That's the date you gave. You started to fill Number 2 on April 2nd. What date of that year did you turn the water into your main canal?

A. What date did we turn it into our main canal?

Q. Yes.

A. From where?

Q. From Mink Creek/

A. (Referring to records) Water into the head of the canal in 1941- on February 8th.

Q. Was that run continuously from that time?

A. I can't tell from this- I presume it did.

Q. Isn't it a fact that as soon as the season opened up you turned some water in and tried to get the snow and ice out of the canal?

A. Yes.

Q. And finally you got it clear enough so you could turn the head of water in?

A. Yes.

Q. How much water did you have on April 1st?

A. I couldn't tell you from these records. I can get it, though.

Q. It was not until April 2nd that you began to fill Number 2 for the Strongarm people?

A. We could have gone over there, but it was through the mud.

Q. But it so happened that you did it on April 2nd. And April 1st was the first time that you got any water out of Battle Creek?

A. Yes.

Q. In 1940 you have no records at all, you have testified. In 1942, on March 30th, you got your first water out of Battle Creek. When did you turn the water into Number 2?

A. On March 30th we turned four second feet into Number 2.

Q. The same day?

A. Yes.

Q. And that's the same day the Battle Creek turned water to you?

A. Yes.

Q. And that was increased respectively from four to seven second feet?

A. Yes, and then down.

Q. Then, in 1943 you got your first water out of Battle Creek on March 30th. When did you turn water into Number 2?

A. (Referring to record) I've got it here- On March 30th we had 85/100 over a 3 foot weir.

Q. Was that water coming down Battle Creek to you?

A. Yes, and taken from our canal into Number 2.

Q. And the same amount and the same date into Number 2?

A. We had 7.5 coming from the creek, and 8 feet going into their Number 2.

Q. The same date?

A. Yes, March 30th.

Q. Do you know, of your own knowledge, whether any water was wasted down Battle Creek before April 1, 1941?

A. No, I would not know about that.

Q. You would not know about that?

A. No.

Q. Is the same answer for prior to March 30, 1942- that you would not know?

A. I would have to go into my other records to find out.

Q. Do you know, of your own knowledge, whether any water was wasted out of Battle Creek prior to March 30, 1943?

A. No, to my knowledge there was not.

Q. And you have no records for 1944?

A. We have some records for 1944. We turned into the two canals- but none coming out. We started in March.

Q. When did you receive your first water from Battle Creek?

A. March 21st.

Q. When did you deliver the first water into Number 2?

A. About April 5th.

Q. Now, Mr. Sanford, if water were wasted out of Strongarm Reservoir prior to April 1, 1941, prior to March 30, 1942, prior to March 30, 1943,

and prior to March 21, 1944- that water would have- so far as your company is concerned- would have gone to waste in Bear River?

A. It would have gone to waste.

RE-DIRECT EXAMINATION

By MR. BAUM:

Q. Was there any water going to waste and going down Bear River?

A. I have said that I did not know.

Q. Your records would show that?

A. I have more records at home- More complete.

MR. BAUM: That is all. The Protestants rest

MR. MARTIN: The Applicants rest.

STATE RECLAMATION ENGINEER: Twenty days will be allowed the Protestants to file their brief, after the reporter's transcript is filed. And an additional twenty days will also be allowed the Applicants to file their brief.

The hearing is concluded.

Thereupon the hearing was adjourned at 4:30 P. M., December 28, 1945.

REPORTER'S CERTIFICATE

STATE OF IDAHO)
(ss.
COUNTY OF ADA)

I, Jeanne L. Anderson, Chief Clerk in the State Department of Reclamation, at Boise, Idaho, do hereby certify that the foregoing sixty-two (62) pages constitute a true and correct transcript of the testimony as taken by me in shorthand upon the hearing of the above entitled cause, together with the objections of counsel and the rulings of the State Reclamation Engineer thereon.

Subscribed and sworn to before me this 8th day of January, 1946.

Jeanne L. Anderson
Michael C. Bailey
Notary Public for Idaho
Residing at Boise, Idaho