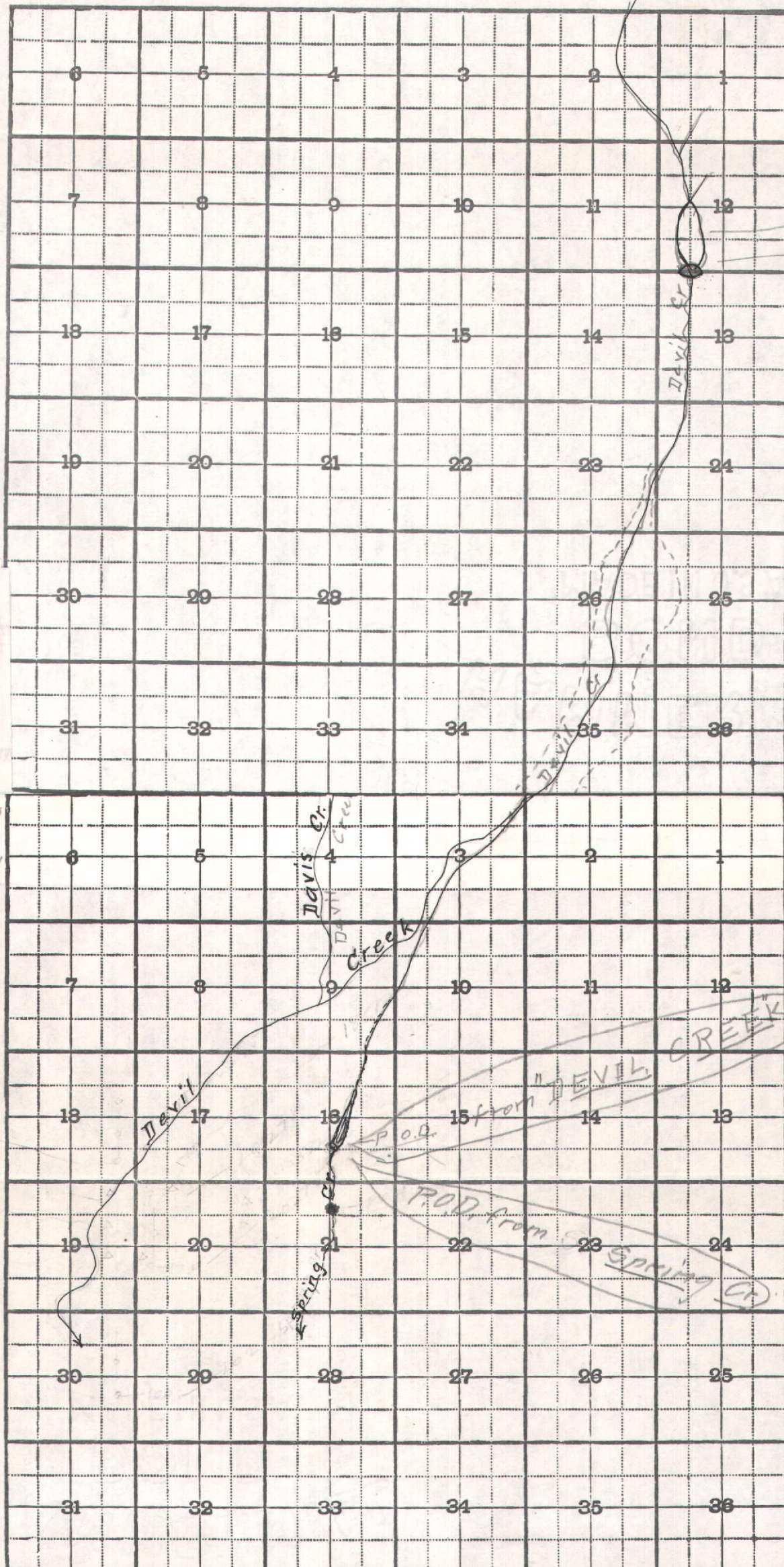


Township.

Range.

36 E



Res,

P.O.D. TR-682

P-652

P.O.P. = Barn of M.V. 3, Co
in channel of De Cr
(P.O.P. = SW SW 13, T13S-36E)

Horn of Grouther Bros
is in channel of Spring
Creek with water from
Devil Cr. Via Feeder Cnl.

P-807

Filing for 773.2
A.F. from Spring Cr

R-807

Filing for 773.2
 A.F. from Devil Cr

R-682

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 15-2081/29-2559 Priority June 10, 1940 Amount 4464.0 acre feet

THIS IS TO CERTIFY, that Malad Valley Irrigating Co., Inc.
of Malad, Idaho, has complied with the terms and conditions of Permit
No. 15-2081/29-2559 issued pursuant to Application for Permit dated June 10, 1940,
and has submitted proof to the Department of Water Resources on January 28, 1971,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 4464.0 acre feet of water from Devil Creek,
tributary to Malad River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Storage for Irrigation from	November 1 to April 1	at N/A cfs and	4464.0 acre feet
Irrigation from Storage from	April 1 to November 1	at N/A cfs and	4464.0 acre feet
	from to at cfs and		

(both dates inclusive)

Subject, however, to the condition that no more than 4464.0 acre feet of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
4464.0 acre feet per year, said waters to be diverted within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13,
Twp 13S, Rge 36E in the County of Oneida

Description and location of place of use:

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 $\frac{1}{4}$	

Total number of acres irrigated _____

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31ST day of AUGUST, 19 84.



Acting for the Director

Norman C. Young

LAND LIST ATTACHMENT
FOR 15-2081/29-2559

Description and location of place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13S	36E	13							2			16	12						30
		23													12			28	40
		24						22	16			1	7						46
		25						6											6
		26	40	4	16	40								1	29	29	38	13	210
		34																15	15
		35	6	40	38	2	12			21	32	2	29	28		24	2		236
14S	36E	2						15	1										16
		3	40	5	38	34								12	3	35	2		169
		4	16	40	21	34	40	40	40		23	40			40	40	40	40	454
		5	40	40	40	40	40	22	40	40	40	34	16	40	40	40	40	40	592
		6				40									38			8	86
		8	22	37	17	28	40			26					40	40	40	40	330
		9	40	40	40	30	40	26	40		40	40	40	40	17	40	40	8	521
		10						22	7		7	35	40						111
		15											5						5
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	40	475
		17	32	38		4		22	16	7	40	40	36	40	21	34	40	40	410
		18				3									3				6
		19	27		40	32					40	40	40	40	31	40	40	30	400
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		21		4	27	10	40	40	40	40	40	40	40	40	16	40	40	12	469
		28		11	3		40	40	40	37	35	40	40	32					318
		29	40	40	40	40	40	40	40	40		40	8	5	34	36		12	455
		30	40	40	40	40	40	40	40	40	40	40	33	33	12	40	33	11	562
		31						24	36		40		40	40	40	40	40	40	340
		32										40	40						80

Total number of acres irrigated 7022

RECEIVED

JUL 26 1984

Ident. No. _____

STATE OF IDAHO

Department of Water Resources

Licensing

APPLICATION FOR AMENDMENT OF A PERMIT

To change the point of diversion and/or the place of use.

APPROVED

Comes now Malad Valley Irrigating Co., Inc. Phone _____

of (address) c/o Terrell W. Jones Rt. 1 Malad, ID 83252, and represents to the
Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho
No. 15-2081/29-2559, and requests that the permit and permit map be changed as follows:

1. Point of diversion: SW 1/4 NW 1/4, Section 13, Township 13S, Range 36E, B.M.,
County of Oneida. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 4464.0 for Storage for Irrigation purposes from 11/1 to 4/1 (both dates inclusive)
(cfs or acre feet per annum) Irrigation from
Amount 4464.0 for Storage purposes from 4/1 to 11/1 (both dates inclusive)
(cfs or acre feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres to be irrigated = _____

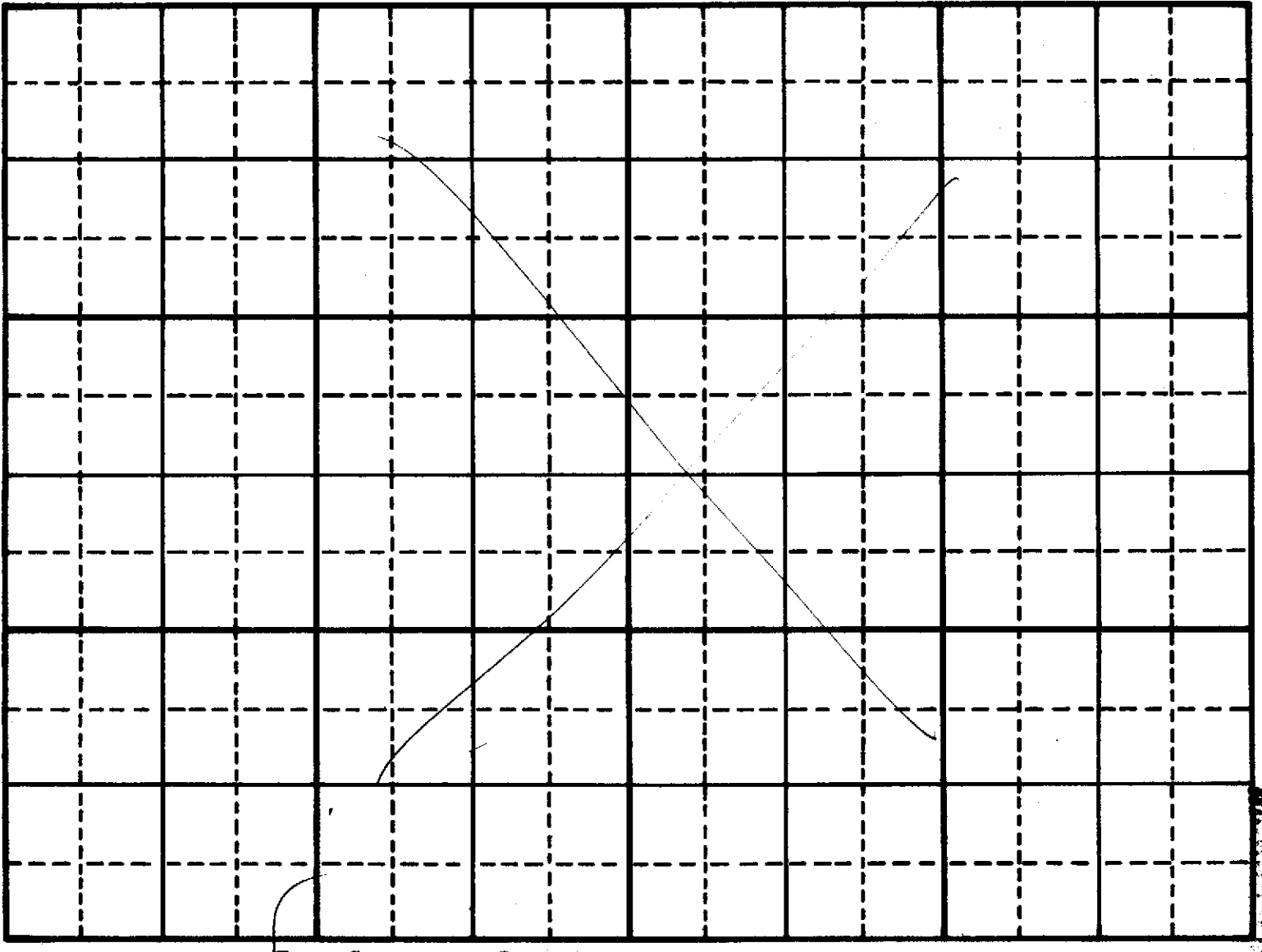
4. a. Who owns the property at the point of diversion? M V I
b. Who owns the land to be irrigated or the place of use? Stockholders of MVI
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

MICROFILMED

Complete the following map by showing land and point of diversion as proposed by this amendment.

Show 40-acre subdivisions, townships, ranges and ditches.

Not Necessary



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.

Signed at Malden, Idaho, this 16 day of July, 19 84.

[Signature]
(Signature)

RESIDENT

FOR DEPARTMENT USE ONLY

34951

Fee = \$20.00

Preliminary check by [Signature]

Received by [Signature]

Date

7-26-84

Published in N/A

Date

[Signature]

Publication prepared by N/A

Publication dates

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, A. KENNETH DUNN, of the Department of Water Resources hereby

Approve the above Application for Amendment for Permit No. 15-2081/29-2559.

Witness my hand this 10th day of AUGUST, 19 84.

Acting for the Director

[Signature]

NOTICE

June 17, 1971

Re: Permit Nos. 29-2559
(15-2081)

This Permit was approved with two separate sources of water supply. Each source is in a separate basin. See Permit #29-2559 for correspondence.

Donald W. McElDowney
Appropriation Supervisor

29-2559

APPLICATION FOR PERMIT

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

Application No. R 26409
Permit No. R 682

1. Name of Applicant: **MALAD VALLEY IRRIGATING COMPANY**

Postoffice address: **Malad** County **Oneida** State **Idaho**

I. If applicant is a corporation, give:

- (a) Date and place of incorporation: **Malad, Idaho- Re-incorporated April, 1882** (b) Amount of Capital Stock: \$ **46,400.00**
(c) Amount paid in: \$ **46,400.00** (d) Names and addresses of directors: **I. D. Zundel, Pres.; J. W. Ward, Vice-Pres.; D. L. Evans, Secy.-Treas.; Geo. W. Jones, William Hill; all of Malad, Idaho**

II. The financial resources of the corporation are:

- (a) Cash on hand: \$ **22.88** (b) Treasury Stock: \$ **None**
(c) Bonds to be issued: \$ **None** (d) Other resources: **Water rights Devil Creek and tributaries; 3/4 flow Birch Creek, Bannock County** acre feet per annum.

2. Quantity of water to be stored: **6,000**
3. Source of water supply is **Devil Creek** (Creek) (River) (Spring), a tributary of **Snake** River.
4. The outlet of the proposed reservoir is located **Northeast 1360'** distant from the **W. 1/4** corner of Section **13**, Township **13 S.**, Range **36 E.**, B. M. and is in the **SW 1/4** of **NW 1/4** of Section **13**, Township **13 S.**, Range **36 E.**, B. M. County of **Oneida** (bearing)

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

- (a) The reservoir is located in the channel of **Devil Creek** (Creek) (River).
(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located **10°0' East 2040** feet distant from the **SW** corner of Section **27**, Township **12 S.**, Range **36 E.**, B. M., and is in the **NW 1/4** of **SW 1/4** of Section **27**, Township **12 S.**, Range **36 E.**, B. M.; width at bottom **6** feet, width at top **8** feet, depth of water **3** feet; average grade per mile **40** feet; Capacity **160** cubic feet per second.
6. (a) The area of the high water line of the reservoir is **160** acres.
(b) The reservoir capacity is **6,000** acre feet.
7. Height of reservoir dam **70** feet, length at top **1000** feet, length at bottom **400** feet, size of outlet **3** feet by **3** feet. The dam is to be constructed of materials as follows: **Earth fill, selected material**

(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 **Devil Creek** (Creek) (River)? **No**
(b) Water stored in reservoir will be carried in the channel of **Devil Creek** (Creek) (River), a distance of **9** miles to point of diversion located **along stream channel** feet, distant from the corner of Section (bearing)
Township , Range , B. M., and in the 1/4 of 1/4 of Section , Township , Range B. M.
9. Amount of water claimed from **Devil Creek** (Creek) (River) (Spring) in addition to that stored in reservoir **all the flow, flood and natural flow** cubic feet per second.
10. Water is to be used for **Irrigation** purposes.
11. If for mining, milling, power or manufacturing purposes give:
(a) Point of use of water feet, distant from Corner of Section , Township , Range (bearing)
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. **needed**
No additional canals hereby referred to and made a part hereof.

13. Kind of diversion works: **Dam** (Dam, canal, flume, pipe, etc.)
14. Height of diversion dam: **4** feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows: **Concrete**

(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: \$ **200,000** Diversion Works: \$ **None**
18. Time required for completion of work **5** years.
19. Time required for complete application of water to proposed beneficial use is **3** 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 ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				Totals
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
15 S.	36 E.	6		39			30												69
14 S.	36 E.	31	40	40	40	40	40	40	40	40	40	35	35		35	40	39	38	542
		32	38	38	30	10	20	40	39	20									295
		33					30	40											70
		30	40	40	36	40	35	39	38	39	39	39	38	40	30	40	40	40	622
		29	35	36	40	39	36	35	40	40	40	37	38	30	39	40	39	38	603
		28		25	25		38	38	38	38	35	38	38	35					348
		21					15	38	40	10	38	40	40	38		15	35		309
		20	39	39	40	40	39	35	35	40	40	38	10	38	40	40	40	40	593
		19	35		40	35					40	40	38	40	35	38	40	40	421
		15						35	35			39	20						129
		16	35	15	10	33	38	35	35	25	35	38	38	35	38	5	10	20	445
		17	35	35	30	39	35	30	25	40	38	38	38	39	38	38	39	39	576
		18													20			35	55
		10						30	15			35	38						118
		9	35	38	38	38	40	30	39	39	39	40	37	38	30	39	35	38	591
		8	30	40	20	33	40			10	20			20	38	38	38	40	367
		2						15											15
		3	30	30	36	25	10	10	30	35	35	40	38	10		10			339
		4	10	30	39	30	35	35	38	35	40	25	20	30	38	35	39	39	518
		5	35	30	35	38	30	30	38	38	35	30		38	38	35	36	40	526
		6			40	39									35	40	35		189
14 S.	35 E.	24															39		39
		25	38		39	39									38	39	39	39	272
		36	40	35		39													114
13 S.	36 E.	15									20	20	20						40
		24					20	20	10										30
		25													5			15	20
		26						15	30				5						50
		27	35	10	15	30									25	25	30	10	180
		35	10	35	38	10				15	38	10	30	15		30			231
		34																10	10

Total
8726

By **D. L. Evans** Agent.
Date of first receipt at office of Commissioner of Reclamation **10:30 A.M. June 10, 1940**
Returned to applicant for correction **July 2, 1940**
Corrected application received **August 31, 1940**

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R **682**

Recorded in book R **3**, page **682**

Approved **September 6, 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 **November 5, 1940**

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 **March 6, 1943**

The whole of said work to be completed on or before **September 6, 1945**

Beneficial use of water stored in accordance herewith, to be made on or before **September 6, 1947**

Witness my hand this **6th** day of **September**, 19 **40**

JAMES SPOFFORD

Commissioner of Reclamation.

13. Kind of diversion works: **Dam** (Dam, canal, flume, pipe, etc.)
14. Height of diversion dam: **4** feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows: **Concrete**

(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: \$ **200,000** Diversion Works: \$ **None**
18. Time required for completion of work **5** years.
19. Time required for complete application of water to proposed beneficial use is **3** 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 ¹ / ₄				NW ¹ / ₄				SW ¹ / ₄				SE ¹ / ₄				Totals
			NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	NE ¹ / ₄	NW ¹ / ₄	SW ¹ / ₄	SE ¹ / ₄	
15 S.	36 E.	6		39			30												69
14 S.	36 E.	31	40	40	40	40	40	40	40	40	40			30	35	40	39	38	542
		32	38	38	20	10	20	40	39	20		35	35						295
		33					30	40											70
		30	40	40	36	40	35	39	38	39	39	39	38	40	39	40	40	40	622
		29	35	36	49	39	36	35	40	40	40	37	38	30	39	40	39	38	603
		28		25	25		38	38	38	38	35	38	38	35					348
		21					15	38	40	10	38	40	40	38		15	35		309
		20	39	39	40	40	39	35	35	40	40	38	10	38	40	40	40	40	593
		19	35		40	35					40	40	38	40	35	38	40	40	421
		15						35	35			39	20						129
		16	35	15	10	35	38	35	35	25	35	38	38	35	38	5	10	20	445
		17	35	35	30	39	35	30	25	40	38	38	38	39	38	38	39	39	576
		18													20			35	55
		10					30	15				35	38						118
		9	35	38	38	35	40	30	39	39	39	40	37	38	30	39	35	38	591
		8	30	40	20	33	40			10	20			20	38	38	38	40	367
		2						15											15

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.

MALAD VALLET IRRIGATING CO.

Applicant.

By

D. L. Evans

Agent.

Date of first receipt at office of Commissioner of Reclamation 10:30 A.M. June 10, 1940

Returned to applicant for correction July 2, 1940

Corrected application received August 31, 1940

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R 682

Recorded in book R 3, page 682

Approved September 6, 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 November 5, 1940

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 March 6, 1943

The whole of said work to be completed on or before September 6, 1945

Beneficial use of water stored in accordance herewith, to be made on or before September 6, 1947

Witness my hand this 6th day of September

, 1940

JAMES SPOTFORD

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 6th day of September, 1940.

(SEAL)

Countersigned:
By GEO. H. CURTIS
Secretary of State

STATE OF IDAHO
By C. A. BOTTOLFSEN
Governor

APPROVAL OF STATE RECLAMATION ENGINEER

WHEREAS, Application for extension of time for Completion of Works under Permit to Construct a Reservoir and Store and appropriate the Public Waters of the State of Idaho, No. R-682, has been made by the owner thereof, Malad Valley Irrigating Company, of Malad City, Idaho, which application was duly advertised for a period of two consecutive weeks in the Idaho Enterprise, of Malad, Idaho, stating that on the 11th day of August, 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 no protest, testimony or evidence had been presented, either orally or by affidavit; and,

WHEREAS, It appears that the owner of said permit is entitled to a further extension of time within which to complete work:

NOW, THEREFORE, I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, by virtue of authority vested in me under Chapter 12 (Senate Bill 13) of the Session Laws of 1945, hereby extend the time for completion of works under Permit No. R-682 to September 6, 1949.

WITNESS MY HAND this 2nd day of January, A. D. 1946.

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application)
of the Malad Valley Irrigating)
Company for an extension of time)
within which to build the reservoir)
and complete the works required in)
Permit No. R-682 as provided by Sec-)
tion 42-2-4 of the Idaho Code.)

ORDER GRANTING EXTENSION

WHEREAS, on the 31st day of August, 1949, the Department of Reclamation received an application from the Malad Valley Irrigating Company for extension of time within which to build a reservoir and complete the works required under Permit No. R-682, which application was signed by Leroy O. Daniels, President, and Perry D. Harrison, Secretary, and

WHEREAS, said application recites that a complaint has been filed in the District Court of Oneida County by said Malad Valley Irrigating Company, a corporation, plaintiff, vs. Crowther Brother's Milling Company, a corporation, et al, defendants, and

WHEREAS, the pendency of such litigation will prevent said Malad Valley Irrigating Company from proceeding with the construction of the reservoir and such other construction as is required under the provisions of Permit No. R-682.

IT IS THEREFORE ORDERED that by reason of the pendency of said litigation, the time for completion of the reservoir and other construction works required under the provisions of Permit No. R-682 is hereby extended for a period of time equal to the time during which the applicant herein is delayed in proceeding with its work and complying with said requirements as before stated; said extension of time to be dated from September 6, 1949, being the date when Proof of Completion of Works is now due under the terms of said Permit No. R-682 and an extension thereof; and said applicant herein should notify the Department of Reclamation of the removal of the disability above set forth within thirty (30) days from the date same is removed: as provided under the terms of Section 42-204 of the Idaho Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 3rd day of September, A. D. 1949.

(SEAL)

MARK R. KULP
State Reclamation Engineer

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 Malad Valley Irrigating
Company for an extension of time
within which to build the reservoir
and complete the works required in
Permit No. R-682 as provided by
Section 42-204 of the Idaho Code.

AMENDMENT TO ORDER OF SEPTEMBER
3, 1949 GRANTING EXTENSION

WHEREAS, there has heretofore been issued to the undersigned, the Malad Valley Irrigating Company, Inc., Permit No. R-682 for the construction of a reservoir and completion of works on Devil Creek, in Oneida County, State of Idaho, which said Permit was on the 3rd day of September, 1949, extended by reason of litigation between The Malad Valley Irrigating Company, a corporation, plaintiff, and Crowther Brothers, a corporation, defendant, which litigation has not yet been concluded; and

WHEREAS, there is another suit now pending in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Oneida, wherein William Hill et al are plaintiffs, and The Malad Valley Irrigating Co., a corporation, et al, are defendants, in which said suit an injunction has been issued against said corporation and its directors, and which said suit prevents the work being now done as contemplated on said reservoir.

NOW, THEREFORE, the order of September 3, 1949, granting extension of time for completion of works under Permit No. R-682 is amended to include the disability imposed by the suit of William Hill, et al, vs. The Malad Valley Irrigating Company, et al.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 12th day of September, A. D. 1951.

(SEAL)

MARK R. KULP
State Reclamation Engineer

EXTENSION OF TIME
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

WHEREAS, Permit No. R-682, in the name of Malad Valley Irrigating Company was given an indefinite extension of time for proof of completion of works until after the case Malad Valley Irrigating Co. vs. Crowther Brothers Milling Company, which was dismissed January 16, 1953; and the case William Hill, et al, Plaintiff, vs. Malad Valley Irrigating Company which was settled January 2, 1953; and,

WHEREAS, the construction of the dam depended upon a relocation of a portion of U. S. Highway No. 191 and the location of the new interstate highway has been in doubt; and,

WHEREAS, on the 26th day of February, 1960, the Department of Highways and the Malad Valley Irrigating Company entered into an agreement which provided that the construction of the dam would not be started until highway traffic is authorized over the Malad-Colton Lane section of the Interstate in lieu of the present U. S. 191 Highway;

NOW, THEREFORE, An Extension of Time is allowed for Completion of Works for the length of time applicant has been prevented from proceeding pending completion of said Interstate Highway and a similar extension is allowed for every other act required under the terms and conditions of Permit No. R-682

The Company must notify this office immediately upon notification from the Department of Highways to proceed with the construction.

Signed at Boise, Idaho, this 5th day of December, 1960

s/ GEO. N. CARTER
State Reclamation Engineer

Seal

ACTION OF STATE RECLAMATION ENGINEER

I, R. Keith Higginson, State Reclamation Engineer of the State of Idaho, hereby approve the above application for extension of time for Permit No. R-682 to June 30, 1973.

Witness my hand this 22nd day of July, 1968.

/s/ R. KEITH HIGGINSON
State Reclamation Engineer

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. R-682/29-2559)

in the name of MALAD VALLEY IRRIGATING CO.)

ORDER MODIFYING REQUIREMENTS
FOR COMPLETION OF PERMIT TO
APPROPRIATE WATER

WHEREAS, the 39th Idaho Legislature made certain amendments to the Idaho Water Law;
and,

WHEREAS, these changes raised questions as to the procedures to be followed by
holders of permits issued prior to the effective date of the amendments, May 31, 1967;
and,

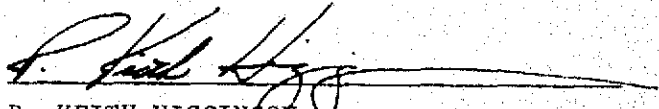
WHEREAS, on August 1, 1968, the Department of Reclamation adopted Rules of Practice
and Procedures for the processing of such permits issued prior to May 31, 1967; and,

WHEREAS, Permit No. R-682 was issued previous to that date;

NOW THEREFORE, the requirements for completion of the above-numbered permit are
hereby modified to conform to the adopted Rules of Practice and Procedures as follows:

1. The above-numbered permit will be completed under the terms of Title 42,
Chapter 2, Idaho Code, as amended by the 39th Idaho Legislature.
2. The conditions of the above-numbered permit are modified as follows:
 - a. Notice of the issuance of the permit will be published at the permit
holders expense for two weekly issues in the official newspaper of
the county in which the point of diversion lies.
 - b. The permittee will not be required to submit proof of completion of
works as originally specified, but will be required to submit proof
to the Department of Reclamation of the application of the water to
beneficial use on or before June 30, 1973. The permit holder should
be aware that failure to complete one-fifth (1/5) of the works within
one-half (1/2) of the time originally set for completion of works may
be grounds for cancellation at the instance of the Department.

Dated this 22ND day of JUNE, 1970.


R. KEITH HIGGINSON
State Reclamation Engineer

29-2559
R-682

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR EXTENSION OF TIME

RECEIVED
JUN 12 1968

Department of Reclamation

State of Idaho)
County of Oneida)
CHARLES J. NIELSEN, PRESIDENT
MALAD VALLEY IRRIGATING COMPANY of 64 West 400 North
Malad City, Idaho 83252
(name) (address)
Permit No. R-682

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

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Waters of the State of Idaho No. R-682.

That under the terms and conditions of said permit, work thereunder was required to be completed by Indefinite, 19 .

That he has heretofore performed the following work described under said permit:

See attached description

Costing \$ 223,250.00

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:

See attached description

WHEREFORE, he asks that the State Reclamation Engineer extend the time for the completion of obligations under said permit to June 30,, 1973.

Charles J. Nielsen
(signature)

Subscribed and sworn to before me this 6th day of June, 1968.

William S. John
(notary public)

My commission expires 8/1/71.

Date of receipt at office of Department of Reclamation June 12, 1968.

ACTION OF STATE RECLAMATION ENGINEER

I, R. KEITH HIGGINSON, State Reclamation Engineer of the State of Idaho, hereby approve the above application for extension of time for Permit No. R-682 to June 30, 1973.

Witness my hand this 22nd day of July, 1968.

R. Keith Higgins
State Reclamation Engineer

* If other than the holder, Power of Attorney must be supplied.

R-682

RECEIVED

JUN 18 1968

Department of Reclamation

COMMENTS ON APPLICATION FOR EXTENSION OF TIME ON PERMIT R-682
BY THE MALAD VALLEY IRRIGATING COMPANY June 6, 1968

	<u>DESCRIPTION OF WORK ALREADY PERFORMED:</u>	<u>COST</u>
Jun 1956	Purchase of Devil Creek water rights and Crowther Brothers Milling Company Reservoir	\$ 85,000.00
Sept 1958	Purchase of 264 acres of land for reservoir site	112,000.00
Apr 1961	Core drilling on dam site	700.00
May 1961	Excavation of footings for keyway at the damsite and exploration of dam foundations	2,500.00
Dec 1963	Purchase of 12 acres of additional land for recreation area required by National Parks Service	4,250.00
Dec 1964	Additional core drilling at damsite	1,150.00
Jun 1965	Application fee paid to Bureau of Reclamation	1,000.00
Oct 1966	Payment to Wendell Smith, Consultant Engineer for plans, specifications and application work thus far accomplished	5,000.00
1958-1968	Construction of additional canals and diversion structures to accomodate the additional water that will be available when dam is completed	10,500.00
Jun 1968	Soil sampling and testing	350.00
Jul 1968	Study and review of plans and specifications drawn by Company's consulting engineer by Denver Office of Bureau of Reclamation	<u>1,500.00</u>
	TOTAL EXPENSES TO DATE	\$ 223,950.00

REASONS WE HAVE BEEN UNABLE TO COMPLETE WORK WITHIN REQUIRED TIME:

The Federal Loan funds which were authorized for our project by P.L. 90-218 for Fiscal Year 1968, in the amount of \$ 200,000.00 to begin actual construction have not as yet been made available to us. We now anticipate that the funds will be made available to us from Fiscal Year 1969 appropriations. All other requirements for beginning construction have been met.

R-682

BEFORE THE STATE RECLAMATION ENGINEER
OF THE
STATE OF IDAHO

Supervised by
Memorandum
Dated
June 20, 1968

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 96-7019; GORDON DOLAN OR)
B. P. HEIDRICK)

MEMORANDUM DECISION

Application for permit 96-7019 was filed with the Department of Reclamation on October 24, 1968, by Mr. Gordon Dolan and B. P. Heidrick, Blanchard, Idaho and proposed to appropriate 400 acre feet of water from Blanchard Creek, a tributary of Fish Lake, with the point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 19, T. 54 N., R. 5 W. B.M., in Bonner County. The water is to be used for recreation purposes from January 1 to December 31 and is to be impounded by a 30 foot high earth dam creating a reservoir with a total capacity of 391 acre feet. The applicant stated that he owned the property at both the point of diversion and the place of use or that he had an agreement for easements for part of the reservoir area not owned by him. 400 acre feet of water would be required to initially fill the reservoir and each year thereafter 150 acre feet of water would be required to compensate for reservoir losses and evaporation.

Notice of the application was published in the Sandpoint News-Bulletin on November 7th and November 14, 1968. Protests were received from several individuals in the Blanchard, Idaho area.

Prior to submitting the application, the applicant had received department approval of plans and specifications for construction of the dam.

A hearing was held on January 7, 1969, at 7:30 p.m. at the Blanchard Grange Hall, Blanchard, Idaho. Mr. C. Stephen Allred, Assistant State Reclamation Engineer, acted as hearing examiner. Mr. Thomas A. Mitchell, attorney at law, Coeur d'Alene, Idaho, represented the applicant. Mr. Fred Kondo, attorney at law, Priest River, Idaho, represented the protestants Alice K. Rusho and Leigh E. Hansen both of Blanchard, Idaho. The following protestants each appeared in their own behalf: Mrs. Guy L. Geaudreau, J. A. Saunders, Douglas Yergens, and F. L. Poirier Jr..

96-7019

MEMORANDUM

TO: Dave Hollingshead

FROM: TIM LUKE

DATE: May 20, 1993

RE: St. Johns Reservoir Water Rights

=====

I have researched our water rights data base for potential rights at St. Johns Reservoir in basin 15. I can not find any specific water rights for this reservoir. Searches were made by owners name, water source (Davis Creek, Devil Creek and Birch Creek) and location.

We do have a water right for Devil Creek Reservoir, right no. 15-2081, which is also owned and operated by Malad Valley Irrigation (MVI). A review of this file indicates that the water right filing was made and intended for Devil Creek Reservoir. There is no evidence or indication that the filing was made to also include St. Johns Reservoir. The original application for right 15-2081 was made for 6,000 acre-feet whereas the actual capacity of Devil Creek Reservoir was found to be 4,464 acre-feet as per the dam safety files. The amount included on the final license for right 15-2081 was the 4,464 acre-feet.

Although the St. Johns Reservoir may often be operated as a rediversion reservoir for the Devil Creek storage water, it would appear that a right would be needed for St. Johns if it impounds any flow from the Davis Creek drainage. A right would also be needed if it stored Devil Creek and Birch Creek water above and beyond the capacity and water right for Devil Creek Reservoir. A right for these latter sources would not be needed if the diversion from Devil Creek to St. Johns was merely a diversion of MVI's natural flow rights from Devil and Birch Creeks. Our data base however does not show that there are any natural flow rights from these sources under MVI's name. MVI probably should obtain a right for St. Johns. There may currently be a problem with approving a new application due to the Bear River Moratorium. IDWR might consider approval of a new application though since there is evidence that the use has been in place for many years.

DATE 2/22/85

FROM Ray Walker
TO File 15-2081

SUBJECT ~~15-2081~~ 15-2081/29-2559

Per review of file we find that this right is in Basin 15 only, Therefore double number no longer applies.

SIGNATURE

September 6, 1984

RE: Permit No. 15-2081/29-2559

Malad Valley Irrigating Co., Inc.
c/o Terrell W. Jones
Rt. 1
Malad, ID 83252

Gentlemen:

Enclosed herewith is a copy of your Water Right License issued on the above referenced permit along with a copy of your approved application for amendment.

Should you have any questions regarding these documents, please feel free to contact our office.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc
Enclosures

RECEIVED

CONVERSATION MEMORANDUM

DATE 6-21-87FILE 29-2559NAME OF PARTY TERRELL JONESEMPLOYEE D. TOTHILLRE: Application for Amendment

I called Mr. Jones about the amendment. He indicated that it had been mailed 4 weeks ago. He checked on the \$20 fee check — the Bank indicated it had not yet been returned/cleared.

I indicated that we would prepare and send another amendment. He said he would stop payment on the already-sent check and prepare a new one to accompany the amendment. He will expedite this process.

Another amendment prepared and sent 6/26/87.
Call up on July 15,

sc

CONVERSATION MEMORANDUM

DATE 5/25/84

FILE 29-2559

NAME OF PARTY TERRELL JONES

EMPLOYEE D. TUTHILL (766-2605)

RE: Application for Amendment

Mr. Jones said the amendment is approved & signed & should have been submitted by the Secretary 3 weeks ago. He will check it out and insure it is submitted.

Dra

LAND LIST ATTACHMENT
for 15-2081/29-2559

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S	36E	13										16	12						28
		23													12			28	40
		24						22	16										38
		25						6											6
		26	40	4	16	40									29	29	38	13	209
		34																15	15
		35	6	40	38	2				21	32	2	29	28		24			222
14S	36E	2						15											15
		3	40	5	38	34								12		35			164
		4	16	40	21	34	40	40	40		23	40			40	40	40	40	454
		5	40	40	40	40	40	22	40	40	40	34		40	40	40	40	40	576
		6				40									38				78
		8	22	37	17	28	40			26					40	40	40	40	330
		9	40	40	40	30	40	26	40		40	40	40	40	17	40	40	8	521
		10						22	7			35	40						104
		15											5						5
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	40	475
		17	32	38		4		22	16	7	40	40	36	40	21	34	40	40	410
		18													3				3
		19	27		40	32					40	40	40	40	31	40	40	30	400
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		21					40	40	40	40	40	40	40	40		40	40		400
		28	11	3			40	40	40	37	35	40	40	32					318
		29	40	40	40	40	40	40	40	40		40	8	5	34	36		12	455
		30	40	40	40	40	40	40	40	40	40	33	33	12	40	33	11		562
		31						24	36		40			40	40	40	40	40	300
		32										40	40						80

Total number of acres irrigated 6,848

March 23, 1984

RE: Permit No. 15-2081/29-2559

Malad Valley Irrigating Co., Inc.
c/o Terrell W. Jones
Rt. 1
Malad, ID 83252

Dear Permit Holder:

On January 10, 1984, we forwarded to you an Amendment for Water Permit so that you could amend your permit to correspond with the findings of the Department's field examiner.

As of this date, we have not received this amendment.

If we do not receive the amendment within fifteen (15) days, we will issue a Water Right License which reduces the amount that could have been allowable to you.

Since the license will be a permanent water right your prompt attention to this matter will be appreciated.

If you have any questions please contact us as soon as possible.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

RECORDED

January 10, 1984

RE: Permit No. 15-2081/29-2559

Malad Valley Irrigating Co., Inc.
c/o Terrel W. Jones
Rt. 1
Malad, ID 83252

Dear Mr. Jones:

We are sending you the enclosed information in reference to a water permit in the name of Malad Valley Irrigating Co., Inc. as it is our understanding that you are now the president of this organization.

In 1978 a representative of this Department made an examination of the works covered by Permit No. 15-2081/29-2559 and found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 4464.0 acre feet Source: Devil Creek trib. to Malad River

The maximum quantity diverted shall not exceed 4465.0 acre feet per year.

Point of diversion: SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 13, Twp 13S, Rge 36E

Beneficial Use: Storage for irrigation and irrigation from storage (see attached land list) for place of use)

Priority date established: June 10, 1940

In order for the Department to issue the above license, it will be necessary for you to amend the permit to correspond with the findings of the field examiner. We are enclosing a partially completed amendment form for your use in this matter.

Please sign the amendment application and return it to this office along with a \$20.00 filing fee within 30 days in order that we might issue your license as

RECEIVED
JAN 11 1984
IDAHO DEPT. OF AGRICULTURE
BOISE

Terrel W. Jones
January 10, 1984
Page 2

set forth above. If you do not concur with these findings or have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure & Attachment

ENCLOSURE

15-2081/

REVIEW FOR LICENSING PERMIT NO. 29-2559 WITHOUT THE REQUESTED AMENDMENT

Permit identified P/D as SWNW Sec 13 T13S R36E

P/U as _____

See attachment A

Total acres 8726

Nature of use as N/A

Field examiner found P/D as SWNW Sec 13 T13S R36E

P/U as _____

See attachment B

TOTAL acres 7022

Nature of use as N/A

TO LICENSE WITHOUT THE REQUESTED AMENDMENT, WE MUST REDUCE THAT FOUND BY THE FIELD EXAMINER TO THAT WHICH IS IDENTIFIED ON THE PERMIT

P/D SWNW Sec 13 T13S R36E

P/U _____

See attachment C

Total acres 6848

Nature of use N/A

NEW CALCULATIONS

Q= N/A
V= N/A (same as field exam)

Reviewed by [Signature] date 5/5/83

19. Time required for complete application of water to proposed beneficial use is 3
20. The land to be irrigated is described in the following tabulation:

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

Attachment A "Permit identified"

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
15 S. 14 S.	36 E.	6	39				30	40	40	40	40				35	35			69
		31	40	40	40	40	40	40	40	40									542
		32	38	38	20	10	20	40	39	20									295
		33					30	40											70
		30	40	40	36	40	35	39	38	39	39	40	38	40	39	40	40	40	622
		29	35	36	40	39	36	35	40	40	40	37	38	30	39	40	39	29	603
		28		25	25		38	38	38	38	35	38	38	35					348
		21					15	38	40	10	38	40	40	38	15	35	35	40	309
		20	39	39	40	40	39	35	35	40	40	38	10	38	40	40	40	40	593
		19			40	35		35	35	20	38	40		35	38	38	40	40	421
		15	35					35	35	20	39	20	38	35	35	38	40	40	129
		16	35	15	10	33	38	35	35	25	35	38	38	35	5	10	20	20	445
		17	35	35	30	39	35	30	25	40	38	38	38	39	38	38	39	39	576
		18													20				55
		10					30	30	15	38	35	38	38	38	30	39	35	38	118
		9	35	38	39	35	40	30	39	39	40	40	37	38	38	39	35	38	591
		8	30	40	20	33	40			10	20			20	38	38	38	40	367
		2					15												15
		3	30	30	36	25	10	10	30	35	35	40	38	10		10			339
14 S.	35 E.	4	10	30	39	30	35	35	38	35	40	25	20	30	38	35	39	39	518
		5	35	30			30	30	38	38	35			38	35	35	36	40	526
		6												35	40		35		189
		24	39		39	39								38	39	39	39	39	39
		25																	272
		36	40	35							20	20							114
13 S.	36 E.	13					20	20	10						5				40
		24																	30
		23																	20
		25					15	30											50
		26	35	10	15	30				15	38	10	30	15	25	25	30	10	180
		35	10	35	38	10									30				231
		34																	10

Total
5726

Date of first receipt at office of Commissioner of Reclamation
Returned to applicant for correction

July 2, 1940

10:30 A.M. June 10, 1940

By D. L. Evans

Agent.

Attachment B
"Field Examiner
Found"

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13S	36E	13							2			16	12					30	
		23												12			28	40	
		24						22	16			1	7					46	
		25						6										6	
		26	40	4	16	40								1	29	29	38	210	
		34															15	15	
		35	6	40	38	2	12			21	32	2	29	28		24	2	236	
14S	36E	2						15	1									16	
		3	40	5	38	34								12	3	35	2	169	
		4	16	40	21	34	40	40	40		23	40			40	40	40	454	
		5	40	40	40	40	40	22	40	40	40	34	16	40	40	40	40	592	
		6				40									38		8	86	
		8	22	37	17	28	40			26					40	40	40	330	
		9	40	40	40	30	40	26	40		40	40	40	40	17	40	40	521	
		10						22	7		7	35	40					111	
		15											5					5	
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	475	
		17	32	38		4		22	16	7	40	40	36	40	21	34	40	410	
		18				3									3			6	
		19	27		40	32					40	40	40	40	31	40	40	400	
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640	
		21		4	27	10	40	40	40	40	40	40	40	40	16	40	40	469	
		28	11	3			40	40	40	37	35	40	40	32				318	
		29	40	40	40	40	40	40	40	40		40	8	5	34	36	12	455	
		30	40	40	40	40	40	40	40	40	40	40	33	33	12	40	33	562	
		31						24	36		40		40	40	40	40	40	340	
		32										40	40					80	

Total number of acres irrigated 7022

LAND LIST ATTACHMENT
FOR 15-2081/29-2559

C

"Recommend for
licensing %
Amendment

Description and location of place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13S	36E	13									16	12							28
		23												12			28		40
		24					22	16											38
		25					6												6
		26	40	4	16	40								29	29	38	13		209
		34															15		15
		35	6	40	38	2			21	32	2	29	28		24				222
14S	36E	2					15												15
		3	40	5	38	34							12		35				164
		4	16	40	21	34	40	40	40	23	40			40	40	40	40		454
		5	40	40	40	40	40	22	40	40	40	34		40	40	40	40		576
		6				40								38					78
		8	22	37	17	28	40			26				40	40	40	40		330
		9	40	40	40	30	40	26	40	40	40	40	40	17	40	40	8		521
		10					22	7			35	40							104
		15										5							5
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	40	475
		17	32	38		4		22	16	7	40	40	36	40	21	34	40	40	410
		18													3				3
		19	27		40	32					40	40	40	40	31	40	40	30	400
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40		640
		21					40	40	40	40	40	40	40		40	40			400
		28	11	3			40	40	40	37	35	40	40	32					318
		29	40	40	40	40	40	40	40	40		40	8	5	34	36		12	455
		30	40	40	40	40	40	40	40	40	40	33	33	12	40	33	11		562
		31					24	36		40			40	40	40	40	40		300
		32									40	40							80

Total number of acres irrigated

6848

NOT RECORDED

April 12, 1983

RE: Permit No. 15-2081/29-2559

Malad Valley Irrigating Co. Inc.
64 West 400 North
Malad, ID 83252

Dear Sirs:

On February 25, 1983, we forwarded to you an Amendment for Water Permit so that you could amend your permit to correspond with the findings of the Department's field examiner.

As of this date, we have not received this amendment.

If we do not receive the amendment within fifteen (15) days, we will issue a Water Right License which reduces the amount that could have been allowable to you.

Since the license will be a permanent water right your prompt attention to this matter will be appreciated.

If you have any questions please contact us as soon as possible.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw

RECORDED

February 25, 1983

RE: Permit No. 15-2081/29-2559

Malad Valley Irrigating Co. Inc.
64 West 400 North
Malad, ID 83252

Gentlemen:

A representative of this Department made an examination of the works covered by your Permit No. 15-2081/29-2559 and has found the following:

Amount of water that can be recognized as beneficially used under
Idaho law: 4464.0 acre feet Source: Devil Creek

The maximum quantity diverted shall not exceed 4464.0 acre feet
per year.

Point of diversion: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, Twp. 13S, Rge. 36E, Oneida County

Beneficial use: Storage for irrigation and irrigation from storage (see
at attached land list for place of use).

Priority date established: June 10, 1940

In order for the Department to issue the above license, it will be necessary for you to amend the permit to correspond with the findings of the field examiner. We are enclosing a partially completed amendment form for your use in this matter.

Please sign the amendment application and return it to this office along with a \$20.00 filing fee within 30 days in order that we might issue your license as set forth above. If you do not concur with these findings or have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:kw
Enclosure & Attachment

LAND LIST ATTACHMENT
FOR 15-2081/29-2559

Description and location of place of use:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13S	36E	13							2			16	12						30
		23													12			28	40
		24						22	16			1	7						46
		25						6											6
		26	40	4	16	40								1	29	29	38	13	210
		34																15	15
		35	6	40	38	2	12			21	32	2	29	28		24	2		236
14S	36E	2						15	1										16
		3	40	5	38	34								12	3	35	2		169
		4	16	40	21	34	40	40	40		23	40			40	40	40	40	454
		5	40	40	40	40	40	22	40	40	40	34	16	40	40	40	40	40	592
		6				40									38			8	86
		8	22	37	17	28	40			26					40	40	40	40	330
		9	40	40	40	30	40	26	40		40	40	40	40	17	40	40	8	521
		10						22	7		7	35	40						111
		15											5						5
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	40	475
		17	32	38		4		22	16	7	40	40	36	40	21	34	40	40	410
		18				3									3				6
		19	27		40	32					40	40	40	40	31	40	40	30	400
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		21		4	27	10	40	40	40	40	40	40	40	40	16	40	40	12	469
		28	11	3			40	40	40	37	35	40	40	32					318
		29	40	40	40	40	40	40	40	40		40	8	5	34	36		12	455
		30	40	40	40	40	40	40	40	40	40	40	33	33	12	40	33	11	562
		31						24	36		40		40	40	40	40	40	40	340
		32										40	40						80

Total number of acres irrigated 7022

DEPARTMENT OF WATER RESOURCES
FIELD REPORT

1. Name of permit holder Malad Valley Irrigating Company
Post office address Malad City, Idaho Phone _____
Person to contact Grant Jones - president Phone 744-2771
2. Source of water supply: Groundwater ☐ Surface water ☒ Devil Creek
(name spring, stream, etc.)
Tributary to _____

3. Water will be used for the following purposes:

Amount ₹ 1000 c.f.s. for irrigation
AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
 _____ AF/Annum _____ (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

4. Total amount to be appropriated:

Max Rate of Diversion _____ cubic feet per second and annual volume 6000 AF/Annum.

5. Location of Point(s) of Diversion:

Township 13S N/S, Range 36E E/W, B.M., Section 13, Subdivision Su $\frac{1}{4}$ Nw $\frac{1}{4}$ Oneida County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4,

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4 _____

Other Points of Diversions: _____

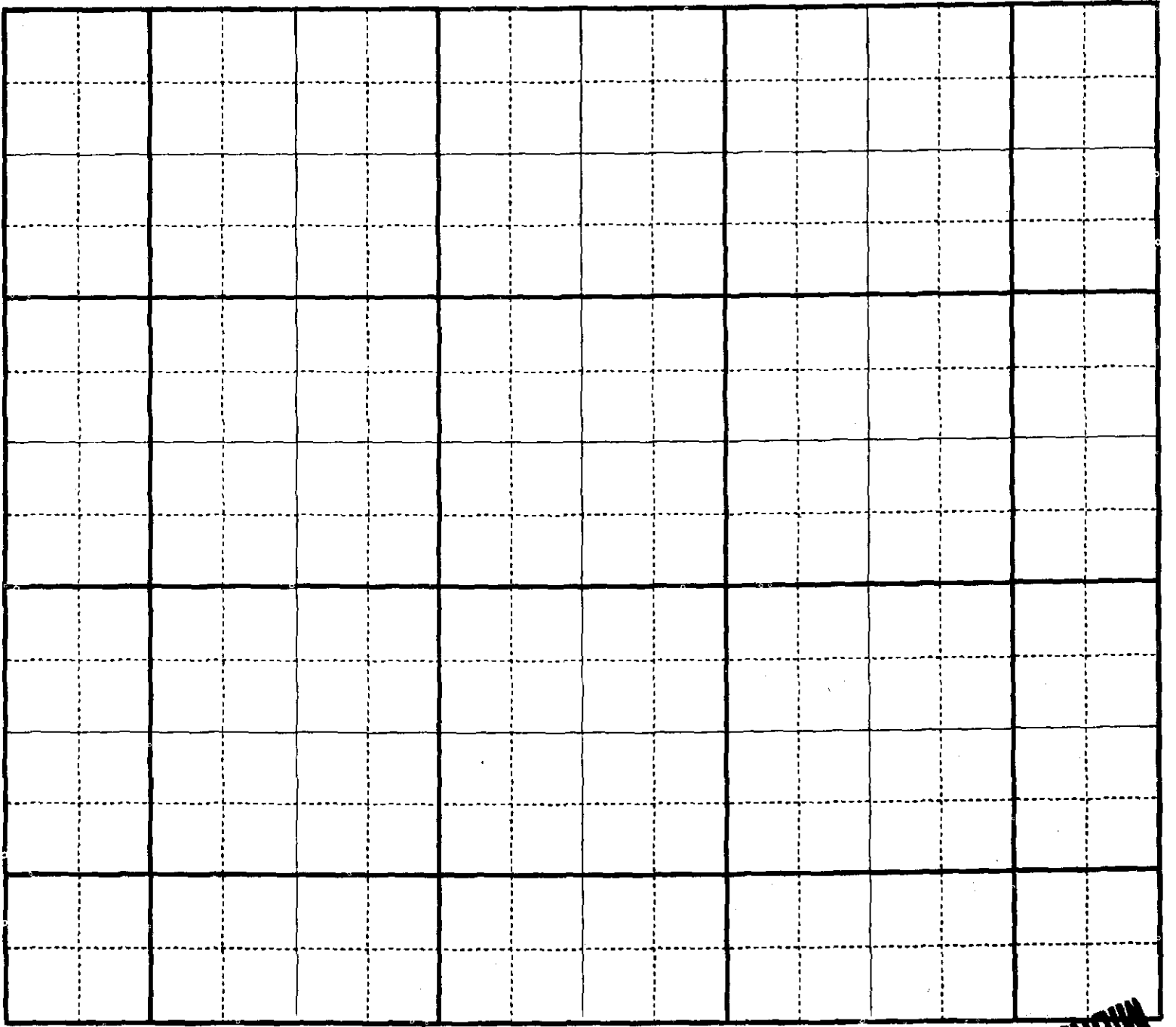
Description of diverting works: Devil Creek Reservoir, Canal carrying water approximately 19.75 miles. to points of diversion

Measuring device required: yes ☐ no ☐

6. Lands to be irrigated or place of use.

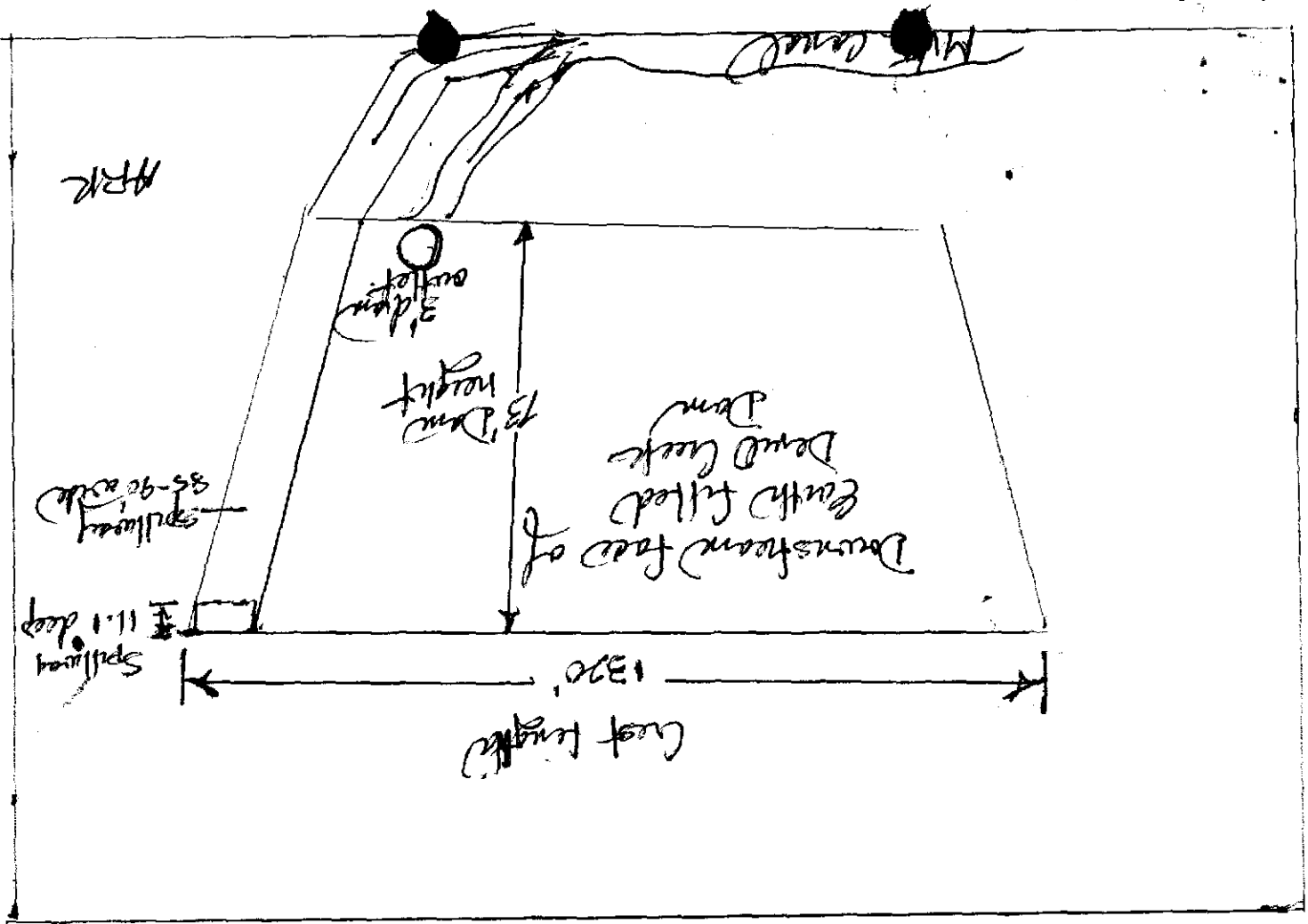
[illegible]**TOTAL ACREAGE**

8726a



UNRECORDED

Diagram of System



Land List
for both
amendment
and R.D. License

Malad Valley Irrigation Co.
15-2081

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
133	36E	13						(2)			16	12							30
		23												12		28			40
		24					22	16			(1)	(7)							46
		25					6												6
		26	40	4	16	40					(1)	29	29	38	13				210
		34														15			15
		35	6	40	38	2	(12)			21	32	2	29	28		24	(2)		236
14S	36E	2					15	(1)							12	(3)	35	(2)	16
		3	40	5	38	34													169
		4	16	40	21	34	40	40	40	23	40				40	40	40	40	454
		5	40	40	40	40	40	22	40	40	40	34	(16)	40	40	40	40	40	592
		6			40										38		(8)		86
		8	22	37	17	28	40			24					40	40	40	40	330
		9	40	40	40	30	40	26	40		40	40	40	40	17	40	40	8	521
		10						22	7		(7)	35	40						111
		16	32	37	24		40	35	16	23	30	14	40	40	40	24	40	40	475
		15											5						5
		17	32	38		4		22	16	7	40	40	30	40	21	34	40	40	410
		18				(3)									3				6
		19	27		40	32					40	40	40	40	31	40	40	30	400
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		21	(14)	(27)	(10)	40	40	40	40	40	40	40	40	40	(16)	40	40	(12)	469
		28	11	3		40	40	40	37	35	40	40	32						318
		29	40	40	40	40	40	40	40	40	40	8	5	34	36		12		455
		30	40	40	40	40	40	40	40	40	40	33	33	17	40	33	11		562
		31						24	36		40	(30)	40	40	40	40	40		340
		32									40	40							80

Total number of acres irrigated

7022

MICROFILMED

O = not identified on Permit
17# AC

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree to _____
in case of _____ (Name)
vs _____
dated _____ in _____ county of _____
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water Resources
- c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

3. Source of water _____ tributary to _____

4. Date of priority _____

5. Water is used for the following purposes:

amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
amount _____ for _____ purposes from _____ to _____
(month/day – both dates inclusive)

6. Total amount of water under right: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum

7. Location of original point of diversion is _____ ¼ of _____ ¼ of Section _____
Township _____ Range _____, B.M., in _____ County
Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

MICROFILMED

DATE OF EXAM May, 1978

ACREAGE
Found 7.014
Recommended 7.014

Irrigation Requirement 3.5 Ac Ft/Ac

USE

Irrigation Q = c.f.s. V = AF/Ann. from to
Domestic Q = c.f.s. V = AF/Ann. from to
Livestock Q = c.f.s. V = AF/Ann. from to
Storage for irrigation 4450 AF from Nov 1 to April 1
Irrigation from storage 4450 AF from April 1 to Nov 1
4464

Is water co-mingled? yes no X

Name source: n/a
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4 County

Exchange? yes no X

Name source exchanged with: n/a
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4 County

Point of injection: n/a
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4 County

Point of exchange: n/a
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4 County

Total Q measured n/a Method of measurement n/a

Total Q recommended n/a Meter No. n/a Type n/a Condition n/a

Total V recommended 4450 AF/yr

Recommended Amendments: 4464

P.D.

Place of Use

Other

None

See rough draft amendment.

MEASUREMENT CALCULATION:

Active storage capacity = 4450 AF. This value obtained from
dam safety program files; and also from 1977
publication entitled Inventory of Dams in Idaho.

SYSTEM DESCRIPTION:

Surface water from Devil Creek is stored in an on-stream
reservoir by Devil Creek dam - 142 surface acres, 73' high
dam, 3' steel pipe outlet, rise width of spillway 5-90' feet
board & cast is 12 to 15'. Earth fill dam completed in 1969.
Crest length = 1320', max rate of discharge 2000
spillway is a concrete lined channel with abutment and
is 11.5' deep.

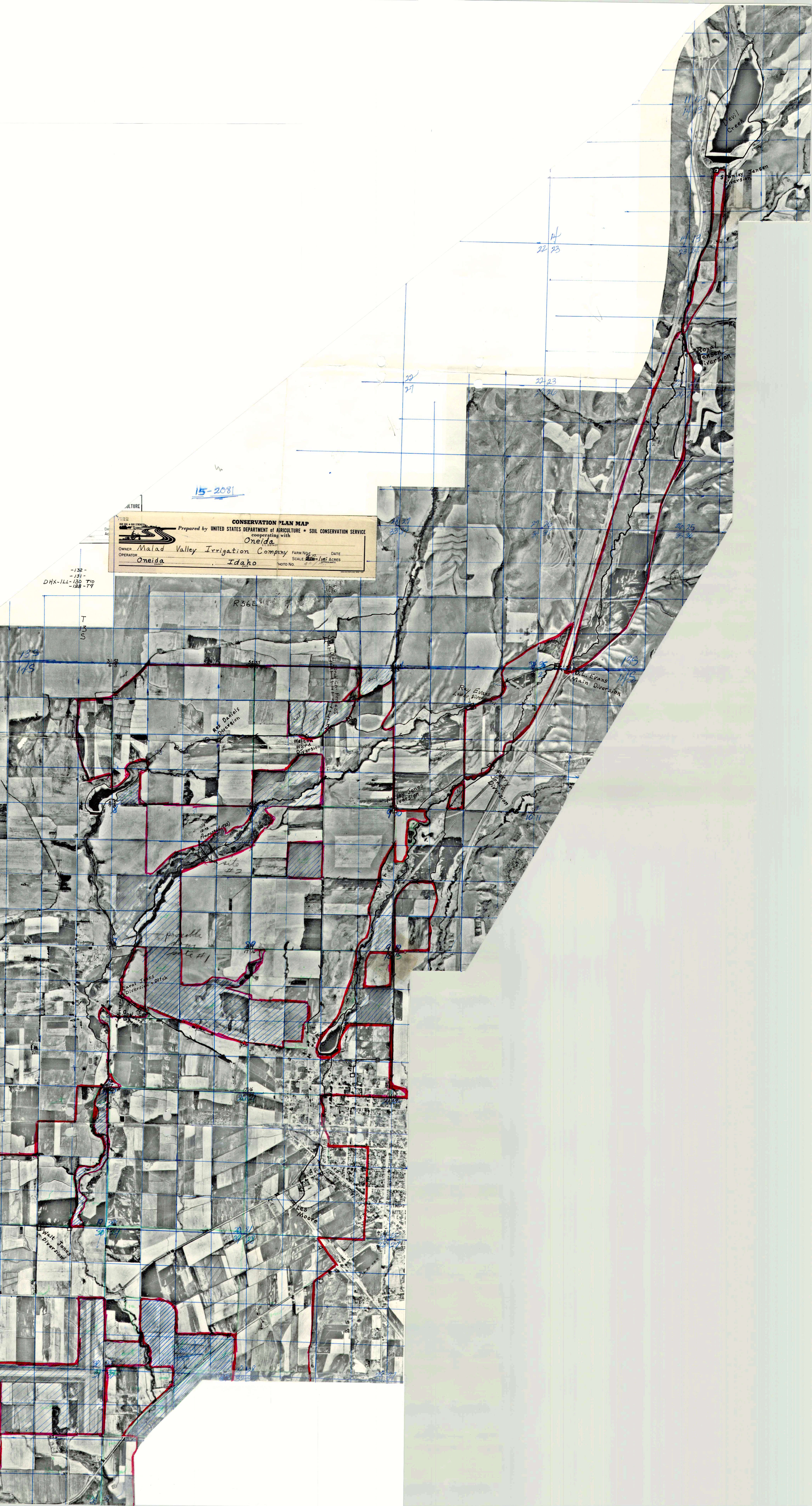
REMARKS:

System shown & described by Grant Jones
president of Mulad Valley Irrigation Co.

Examiner's Signature Anthony R. Kozlowski Date 2-21-79

Checked by John A. Cannon Date 3/31/80

Approved by Kolyn Date 2-16-83



Calculations for On Stream Storage w/ No Direct Flow

Storage for Irrigation Use

$$V = \text{Active capacity} - \underline{4464 \text{ af}} \text{ per dam Safety file}$$

Irrigation from Storage Use

$$V = 7022 \text{ ac} \times 5.0 = 35,110.0 \text{ af}$$

$$\underline{\text{Limit to } 4464.0 \text{ af}}$$

RC 2/16/83

MICROFILMED



US Army Corps
of Engineers
Walla Walla District

For more information
of this report. See
the dam Safety file

FILE COPY

Bear River Basin

Devil Creek Dam

Oneida County, Idaho

Federal Number ID 00229

State Number D15-2081

Phase I Inspection Report National Dam Safety Program

Prepared by:

State of Idaho, Department of Water Resources

February 1982

UNFILMED



DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
BUILDING 602, CITY-COUNTY AIRPORT
WALLA WALLA, WASHINGTON 99362

REPLY TO
ATTENTION OF:

NPWEN-DB

28 April 1982

Honorable John V. Evans
Governor of Idaho
Boise, Idaho 83720

Dear Governor Evans:

Inclosed is a copy of the Devil Creek Dam Inspection Report prepared by the Idaho Department of Water Resources under a contract authorized by Public Law 92-367.

This report presents a brief executive summary, background information about the project, details of the inspection and records evaluation, findings, and recommendations.

Copies of this report are being furnished to the Department of Water Resources for their records. They will forward a copy to the owner of the dam. Public release of the inspection report and initiation of public statements fall within your prerogatives. However, now that the report has been officially distributed, the Corps is required under the Freedom of Information Act to respond fully to inquiries on information contained in the report and make it accessible for review on request.

Sincerely,

1 Incl
As stated


H. V. THAYER
Colonel, CE
District Engineer

RECEIVED

DEVIL CREEK DAM

Summary Table

<u>TYPE</u>	Earthfill
<u>HEIGHT</u>	
Structural	84.5 ft.
Hydraulic	73.4 ft.
<u>LENGTH</u>	1333 ft.
<u>TOP WIDTH</u>	30 ft.
<u>SLOPES</u>	
Upstream	3:1
Downstream	2:1
<u>ZONING</u>	See Appendix V
<u>RESERVOIR (at spillway crest/5172.4)</u>	
Surface area	142 acres
Storage	4464 ac-ft.
<u>OUTLET WORKS</u>	
Conduit size	4 ft. diameter down-stream
	3 ft. diameter upstream
Gate	Two 3.0 ft. sq. high pressure slide gates
Discharge capacity at spillway crest	220 cfs
<u>DRAINAGE AREA</u>	14.8 sq. miles
<u>EMERGENCY SPILLWAY</u>	
Width	See plans
Depth	See plans
Discharge capacity at top of dam (5183.5)	8,700 cfs
<u>FLOODS</u>	
100-Year frequency:	
Estimated peak inflow rate	305 cfs
Maximum reservoir gage	5173.3 ft.
Freeboard:	
Available	10.2 ft.
Required by IDWR	4.0 ft.

MICROFILMED

Summary Table (cont'd.)

Thunderstorm PMF:

Estimated peak inflow rate	8950 cfs
Maximum reservoir gage	5182.1 ft.

Rain-On-Snow PMF:

Estimated peak inflow rate	2800 cfs
----------------------------	----------



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

April 5, 1978

RE: Permit No. 15-2081

Malad Valley Irrigating Co.
Grant Jones Ranch
Pleasantview, ID 83252

ATTN: Grant Jones

Dear Mr. Jones:

This letter is a brief reminder that to date I have not yet received a list of stockholders in your irrigation company.

This list will be used to complete an examination of your Permit No. 15-2081.

As soon as I receive the list, I will arrange to be at the Malad ASCS office for two days to meet with stockholders in a manner similar to the examination conducted for St. John's Irrigation Company.

Very truly yours,

ANTHONY R. KOZLOWSKI
Water Resource Agent

ARK:cd

11-11-11
MICROFILMED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

January 19, 1978

RE: Permit No. 15-2081

Malad Valley Irrigating Co.
Grant Jones Ranch
Pleasantview, ID 83252

766-2771

ATTN: Grant Jones, President

Dear Mr. Jones:

Our records show that a field examination needs to be completed for your Permit No. 15-2081. As this examination has been in our files for many years, we are looking forward to its completion this year. Upon completion of the examination, a license will be issued to Malad Valley Irrigating Co. for the amount of water actually being put to a beneficial use.

The permit describes the irrigation of approximately 8,500 acres of land using 6,000 AF of Devil Creek storage water. In order to complete the examination, a copy of the Bureau of Reclamation reservoir survey and dam construction details are needed.

Also, I would like to get together with you in the near future to determine the location and quantity of lands irrigated by this project. Please contact me and we will arrange a meeting in Malad to review the system and develop a land list.

Very truly yours,

ANTHONY R. KOZLOWSKI
Water Resource Agent

ARK:cd

*Grant Jones
called our office
Jan 19, 77. We
will arrange a
meeting within
a couple of weeks.
Waiting to receive
a list of stockholders*

1515

NOTICE

June 17, 1971

Re: Permit Nos. 29-2559
(15-2081)

This Permit was approved with two separate sources of water supply. Each source is in a separate basin. See Permit #29-2559 for correspondence.

Donald W. McElDowney
Appropriation Supervisor

15 2081

AS

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
158	36E	6		39			30												69
148	36E	31	40	40	40	40	40	40	40	40				30	35	40	39	38	542
		32	38	38	20	10	20	40	39	20		35	35						295
		33					30	40											70
		30	40	40	36	40	35	39	38	39	39	37	38	40	39	40	40	40	622
		29	35	36	40	39	36	35	40	40	40	31	38	30	39	40	39	39	603
		28		25	25		38	38	38	38	35	38	38	35					348
		21					15	38	40	10	38	40	40	38		15	35		309
		20	39	39	40	40	39	35	35	40	40	38	10	38	40	40	40	40	593
		19	35		40	35					40	40	38	40	35	38	40	40	421
		15						35	35			39	20						129
		16	35	15	10	33	38	35	35	25	35	38	38	35	38	5	10	20	445
		11	35	35	30	39	35	30	25	40	38	38	38	39	38	38	39	39	576
		18													20			35	55
		10						30	15			35	38						118
		9	35	38	39	35	40	30	39	39	39	40	37	38	30	39	35	38	591
		8	30	40	20	33	40			10	20			20	38	38	38	40	367
		2						15											15
		3	30	30	36	25	10	10	30	35	35	40	38	10		10			339
		4	10	30	39	30	35	35	38	35	40	25	20	30	38	35	39	39	518
		5	35	30	35	38	30	30	38	38	35	30		38	38	35	36	40	526
		6			40	39									35	40	35		189
148	35E	24																39	39
		25	39		39	39									38	39	39	39	272
		36	40	35		39													114
138	36E	13									20	20							40
		24						20	10										30
		23													5		15		20
		25						15	30			5							50
		26	35	10	15	30									25	25	30	10	180
		35	10	35	38	10					15	38	10	30	15	30			231
		34															10		10

MICROFILMED

IDENT. NO. 29-2559

IDENT. NO. 29-2559

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

WATER RIGHT
DATA ENTRY LOG

[illegible]

WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No. R682 129-2559/15-2081
Old No. New No.

Record

1, 2 & 3 Original Owner: Malad Valley Irrigating Co.
 Address: Malad ID

Present Owner:

Address:

4. A. Source of Water Devil Creek + Birch Creek
 B. Tributary of: Snake River

5. A. Stage (A,P,L,D,S,J): P
 B. Status (D,L,R,C,A,I,F - leave blank if valid):
 C. Priority Date: 6-10-1940
 D. County: 71
 E. Total Diversion Rate:
 F. Total Diversion Volume: 6000.
 G. Transfer/Amendment (P,T of A or blank):
 H. Water District:
 I. DLE/Carey Act (D,C or blank):
 J. Right Basis (for adjudication claims A,B,C only):

Tract Sec. Twp. Rge. Gov't Lot Rediv.

6. A. Point of Diversion SWNW 13 138 36E

7. Period of Use, Use, Diversion Rate/Volume:

from _____ to _____ for AR purposes. Amount 6000.
(cfs or AC-FT/yr)
 from _____ to _____ for AR purposes. Amount 6000.
 from _____ to _____ for _____ purposes. Amount _____
 from _____ to _____ for _____ purposes. Amount _____
 from _____ to _____ for _____ purposes. Amount _____

84

TWP	RANGE	SEC.	NEX			NMW			SWW			SEX		
			NEX	NMW	SWW	NEX	NMW	SWW	NEX	NMW	SWW	NEX	NMW	SWW
158	34E	6	39			30								

9. A. Decree Name:

B. Decree Date:

10. Remarks: ~~See file for Proxy Vote~~
1. Sources are David Creek & Birch Creek.
2. Numbers for this st. are 15-2081 & 29-2559.

11. Other Uses (Non-irrigation explanatory information):

12. Other Rights for Same Use:

13. A. Proof Due Date: ~~9-6-1911~~ 6-30-1913

B. Date Permit Approved or Denied: 9-6-1940

C. Protested Date:

D. Hearing Date:

E. Old Number: 8682

F. Proof Made (P or blank):

G. Field Exam Made (P,R,F or blank):

H. Conditions of Approval:

14. Diversion Means (brief narrative): *See above.*

AS

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
158	36E	6		39			30												69
148	36E	31	40	40	40	40	40	40	40	40				30	35	40	39	38	542
		32	38	38	20	10	20	40	39	20		35	35						295
		33					30	40											90
		30	40	40	36	40	35	39	38	39	39	39	38	40	39	40	40	40	622
		29	35	36	40	39	36	35	40	40	40	31	39	30	39	40	39	39	603
		28		25	25		38	38	38	38	35	38	38	35					348
		21					15	38	40	10	38	40	40	38		15	35		309
		20	39	39	40	40	39	35	35	40	40	38	10	38	40	40	40	40	593
		19	35		40	35					40	40	38	40	35	38	40	40	421
		15						35	35			39	20						129
		16	35	15	10	33	38	35	35	25	35	38	38	35	38	5	10	20	445
		11	35	35	30	39	35	30	25	40	38	38	38	39	38	38	39	39	516
		18													20			35	55
		10						30	15			35	38						118
		9	35	38	39	35	40	30	39	39	39	40	39	38	30	39	35	38	591
		8	30	40	20	33	40			10	20			20	38	38	38	40	367
		2						15											15
		3	30	30	36	25	10	10	30	35	35	40	38	10		10			339
		4	10	30	39	30	35	35	38	35	40	25	20	30	38	35	39	39	518
		5	35	36	35	38	30	30	38	38	35	30		38	38	35	36	40	526
		6		40	39										35	40	35		189
148	35E	24																39	39
		25	39		39	39									38	39	39	39	272
		36	40	35		39													114
138	36E	13									20	20							40
		24						20	10										30
		23													5			15	20
		25						15	30			5							50
		26	35	10	15	30									25	25	30	10	180
		35	10	35	38	10					15	38	10	30	15	30			231
		34																10	10

May 13, 1976

Glenn M. Lee
Harding and Lee, Chartered
137 East 50 South
Malad City, Idaho 83252

Dear Mr. Lee:

We have searched our records and did not find a water right permit in the name of Malad Valley Irrigating Company that still requires a bond.

The section of Idaho Code, 42-204, that required a bond was amended in 1967, deleting the requirement. Shortly after that the Department modified all of the existing permits by removing the bond requirement. Therefore, unless there was an oversight, any permit that Malad Valley Irrigating Company has should have no bond requirement still in effect.

If they do have such a permit, please let us know the permit number so that it can be modified.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

RECEIVED

DON L. HARDING
GLENN M. LEE

HARDING and LEE, Chartered

ATTORNEYS & COUNSELORS AT LAW

137 EAST 50 SOUTH

MALAD CITY, IDAHO 83252

April 30, 1976

TELEPHONE
208-766-2201

Department of Water Resources

State of Idaho
Department of Water Resources
373 W. Franklin
Boise, Idaho

Re: Malad Valley Irrigating Company Water Permit Bond
to State of Idaho

Gentlemen:

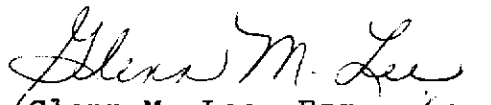
A number of years ago, pursuant to Section 42-204 of the Idaho Code, Malad Valley Irrigating Company acquired a Water Permit Bond. The purpose of this bond was to insure completion of its water works and provide responsibility in the event the same were not completed. Malad Valley Irrigating Company has continued to keep that bond in effect over the period of these years since that time even though the water works has been completed for many years.

I discussed this matter with Mr. Loy Johnson from your Idaho Falls office and we agree that the purpose of the bond no longer exists and that the law has for sometime been amended to omit this. In light of these facts and my discussion with Mr. Johnson, I am writing representing Malad Valley Irrigating Company to ask that the company be released from this bond requirement as provided in Idaho Code 42-204.

We would appreciate hearing from you on this matter at your earliest convenience. If you have questions regarding this matter, please feel free to contact us.

Very truly yours,

HARDING AND LEE, Chartered


Glenn M. Lee, Esq. *ia*
Attorney at Law

GML/ia

cc: Rex Daniels

Jones, Pomeroy & Jones
Lawyers
CENTRAL BLDG.
PHONE 232-3461
Pocatello, Idaho 83201

T. D. JONES, DECEASED
G. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

July 2, 1971

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attention: Mr. Donald W. McEldowney
Appropriation Supervisor

Re: Permit No. R-682/29-2559

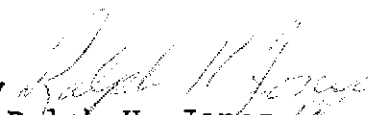
Dear Mr. McEldowney:

This is to acknowledge your letter dated June 21
and to advise that we will have a party available to take
you around as soon as you can be here.

Please advise.

Yours truly,

JONES, POMEROY & JONES

By 
Ralph H. Jones

RHJ rb

June 21, 1971

Re: Permit No. R-682/29-2559

Malad Valley Irrigating Company
64 West 400 North
Malad, Idaho 83252

Gentlemen:

We acknowledge receipt of the affidavit of publication submitted in connection with the above referenced permit.

Before a license can be issued, a field examination must be made by a representative from this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may make arrangements for someone to show him the system.

Very truly yours,

Donald W. McElDowney
Appropriation Supervisor

DEM:DR

cc: Ralph H. Jones
JONES, POMEROY & JONES
P.O. Box 610, Pocatello

29 2559

**Jones, Pomeroy & Jones
Lawyers**

CENTRAL BLDG.
PHONE 232-3461

Pocatello, Idaho 83201

T. O. JONES, DECEASED
G. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

June 15, 1971

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attention: Donald W. McEldowney

Re: Permit No. 29-2559
Malad Valley Irrigating Company

Dear Mr. McEldowney:

Enclosed please find Affidavit of Publication
in the above referenced matter.

Yours truly,

JONES, POMEROY & JONES

Ralph H. Jones
Ralph H. Jones

RHJ b

29 2559

June 4, 1971

Re: Permit No. 29-2559 - Malad Valley Irrigating Company

Mr. Ralph H. Jones
JONES, POMEROY & JONES
P.O. Box 610
Pocatello, Idaho 83201

Dear Mr. Jones:

As of this date, we have not yet received the affidavit of publication to be submitted in connection with the above referenced permit.

Many newspapers do not keep copies of these advertisements for their files, therefore, we recommend that you obtain the affidavit as soon as possible from the Idaho Enterprise at Malad City and submit it to the Department. A field examination cannot be scheduled for this permit until we are in receipt of the affidavit.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR

29 2559

STATE OF IDAHO

DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2

Boise, Idaho 83707

(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

April 16, 1971

Re: Permit No. R-682/29-2559

Malad Valley Irrigating Co.
64 West, 400 North
Malad, Idaho 83252

Gentlemen:

We acknowledge receipt of the advertising authorization received on this date in connection with the above referenced permit. Please be advised that on April 14, 1971, we received an advertising authorization signed by Mr. Ralph H. Jones. Therefore, the legal notice is being published in the Idaho Enterprise on April 22nd, and April 29th, 1971, at your attorneys' expense.

If you should have any questions concerning this matter, do not hesitate to contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/DR/bb

cc: Mr. Ralph H. Jones
Central Building
Pocatello, Idaho

29 2559

NOTICE OF EXISTING WATER PERMIT

Notice is hereby given that Malad Valley Irrigating Company, 64 West 400 North, Malad, Idaho, has received an approved Permit No. R-682/29-2559 issued by the Idaho Dept. of Water Administration authorizing the storage of 6,000 acre feet per annum of water from Devil Creek, tributary to the Snake River. The priority to be established under this permit is June 10, 1940, and the permit was approved September 6, 1940.

Water is to be diverted by a reservoir from a point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 13, T. 13S, R. 36E, B.M., Oneida County, to be used for irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T. 15S, R. 36E, B.M.; E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 31, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 32, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 33, all of Sec. 30, all of Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, Sec. 28, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21, all of Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 19, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 15, all of Sec. 16, all of Sec. 17, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 18, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 10, all of Sec. 9, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, all of Sec. 4, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 6, T. 14S, R. 36E, B.M.; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 14S, R. 35E, B.M.; W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 24, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, E $\frac{1}{2}$, Sec. 26, 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. 35, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 36E, B.M.

Proof of application of the water to beneficial use was received by the Department on January 28, 1971. Any protest against the issuance of a license for the above referenced permit must be filed with the Idaho Dept. of Water Administration, Statehouse, Boise, Idaho, 83707, within ten days of the last date of publication of this notice.

R. KEITH HIGGINSON

Director

Published in the Idaho Enterprise, Malad City, Idaho, on _____ and _____.

Permit No. R-682/29-2559

Director:

You are hereby authorized to have the above notice published at my expense in the Idaho Enterprise of Malad City, Idaho; published in the county in which the works are situated.

Malad Valley Irrigating Co. Inc.
By Charles J. Nielsen Pres 64 W. 400 N.
(Signature) (Address)

4-14-1971
(Date)

Malad City Idaho 83252

April 14, 1971

Re: Permit No. R-682/29-2559 - Malad Valley Irrigating Co.

Jones, Pomeroy & Jones
Central Building
Pocatello, Idaho 83201

ATTENTION: Ralph H. Jones

Dear Mr. Jones:

The legal notice for the above-referenced permit is being published in the

Idaho Enterprise, Malad, Idaho 83252 on April 22nd

and April 29th, 1971.

You will be required to submit an affidavit of publication to this department. The affidavit may be obtained from the above-mentioned newspaper upon payment of the bill of publication.

Thank you for your cooperation in this matter.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/BB

cc: Malad Valley Irrigating Co.
64 W, 400 N
Malad, Idaho 83252

April 14, 1971

Re: Permit No. R-682/29-2559 - Malad Valley Irrigating Co.

Idaho Enterprise
P.O. Box 205
Malad, Idaho 83252

Gentlemen:

Enclosed is a legal notice which we wish to have published for two consecutive weekly issues of your newspaper. We have inserted the publication dates, allowing ample time for you to submit to us a galley proof for our review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication date. If you cannot publish the notice on the proposed dates, please contact the Department of Water Administration immediately.

The expense of the publication is to be paid by Jones, Pomeroy & Jones, Lawyers
~~Central Building, Pocatello, Idaho~~ 83201, to whom you should furnish an affidavit of publication.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM/BB

Enc: legal notice

29 2559

NOTICE OF EXISTING WATER PERMIT

Notice is hereby given that Malad Valley Irrigating Company, 64 West 400 North, Malad, Idaho, has received an approved Permit No. R-682/29-2559 issued by the Idaho Dept. of Water Administration authorizing the storage of 6,000 acre feet per annum of water from Devil Creek, tributary to the Snake River. The priority to be established under this permit is June 10, 1940, and the permit was approved September 6, 1940.

Water is to be diverted by a reservoir from a point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 13, T. 13S, R. 36E, B.M., Oneida County, to be used for irrigation in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T. 15S, R. 36E, B.M.; E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 31, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 32, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 33, all of Sec. 30, all of Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, Sec. 28, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21, all of Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 19, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 15, all of Sec. 16, all of Sec. 17, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 18, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 10, all of Sec. 9, E $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 2, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 3, all of Sec. 4, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 6, T. 14S, R. 36E, B.M.; SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 14S, R. 35E, B.M.; W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 24, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, E $\frac{1}{2}$, Sec. 26, 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. 35, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 36E, B.M.

Proof of application of the water to beneficial use was received by the Department on January 28, 1971. Any protest against the issuance of a license for the above referenced permit must be filed with the Idaho Dept. of Water Administration, Statehouse, Boise, Idaho, 83707, within ten days of the last date of publication of this notice.

R. KEITH HIGGINSON

Director

Published in the Idaho Enterprise, Malad City, Idaho, on April 22nd and April 29th, 1971.

Permit No. R-682/29-2559

Director:

You are hereby authorized to have the above notice published at my expense in the Idaho Enterprise of Malad City, Idaho;

published in the county in which the works are situated.
Malad Valley Irrigating Company

By [Signature]
(Signature) its attorney
4/13/71
(Date)

P. O. Box 610
(Address)
Pocatello, Idaho 83201

Jones, Pomeroy & Jones
Lawyers
CENTRAL BLDG.
PHONE 232-3461
Pocatello, Idaho 83201

T. O. JONES, DECEASED
D. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

April 13, 1971

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attention: Mr. Donald W. McEldowney
Appropriation Supervisor

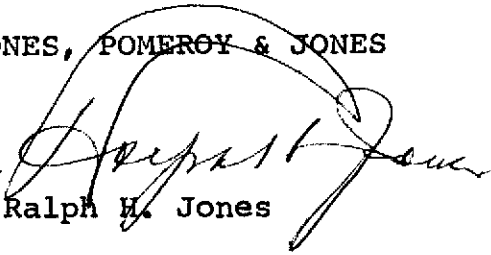
Re: Permit No. 29-2559 - Malad Valley Irrigating
Company

Dear Mr. McEldowney:

Complying with your letter dated April 12, 1971,
we are enclosing herewith notice of existing water permit
publication authorization in the Idaho Enterprise in Malad
City, Idaho. This office will pay the bill.

Yours truly,

JONES, POMEROY & JONES

By 
Ralph H. Jones

RHJ rb

enc

29 2559

April 12, 1971

Re: Permit No. 29-2559 - Malad Valley Irrigating
Company, Inc.

Mr. Ralph H. Jones
JONES, POMEROY & JONES
Central Bldg.
Pocatello, Idaho 83201

Dear Mr. Jones:

We acknowledge receipt of the affidavit submitted as proof of beneficial use in connection with the above referenced permit.

Before a license can be issued, it will be necessary for notice of this permit to be published for two consecutive weeks in a newspaper in the county in which the works are situated. If you will complete and return the enclosed form, we will cause the notice to be published.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:DR
Enclosure

cc: Malad Valley Irrigating Co., Inc.
Enclosure

29 2559

Jones, Pomeroy & Jones
Lawyers
CENTRAL BLDG.
PHONE 232-3461
Pocatello, Idaho 83201

RECEIVED

JAN 27 1971

T. D. JONES, DECEASED
G. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

January 27, 1971 ^{Department of Water Administration}

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attention: Donald W. McEldowney

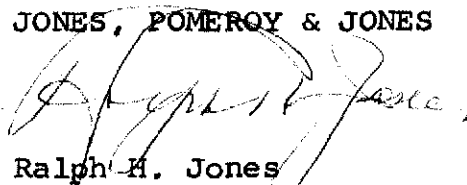
Re: Permit No. 29-2559
Malad Valley Irrigating
Company, Inc.

Dear Mr. McEldowney:

Enclosed please find Proof of Application of
Water to Beneficial Use with respect to the above
referenced Permit No. 29-2559.

Yours truly,

JONES, POMEROY & JONES


Ralph H. Jones

RHJ bf

29 2559

1

Identification No. _____
Permit No. R 682
New Number 29-2559

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Department of Reclamation

1. a) Name of Permit Holder Malad Valley Irrigating Company, Inc.
b) Post Office Address 64 W 400 N., Malad, Idaho 83252
2. Permit Number R-682 (New Number -29-2559)
3. A right to decreed ~~in~~ waters from Devil Creek and tributaries 1882 addition
3. Date of Priority that you are prepared to establish all water rights Devil Creek & tributaries; and
4. a) 3/4 flow of Birch Creek also known as Mill Creek, and all flood waters and
Source from which water was appropriated run off, impounded in reservoirs.
b) Location of the point of diversion: N 1/2 N 1/4 SW SE 1/4 Section 27
Township 12 S., Range 36 E. Boise Meridian, Other points of diversion: _____
water carried in channel of Devil Creek a distance of approximately 19.75
miles to several points of diversion located along stream channels.
5. a) The amount of water and use to which the water has been applied:
amount 40 cfs for irrigation purposes from 4/5 to 10/1 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount 30 cfs for irrigation purposes from 10-2 to 1-15 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
amount 35 cfs for irrigation purposes from 1-16 to 4-4 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)
b) Total amount appropriated 40 cfs cfs and/or acre feet per annum
c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Bureau of Reclamation
6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: _____
b) Describe the agreement or understanding by which you take water from the works: _____
7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) canal carrying water approximately 19.75 miles to points of diversion.
Main diversion dividing water between Bannock & Oneida County, Concrete
b) Describe the type and size of measuring device which you have installed at your point of diversion: structure 5 - 6 feet high with slots in side of stilling box. Other diversion
are concrete, with measuring devices which permits various amounts of water
to be diverted into different ditches. (See remarks attached).
c) Give well drillers name and address and date the well was completed None.

29 2559

Exam typed 9-29-71
mjl

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use _____

[illegible]

9. Ir uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivi-

sion: _____

SW 1/4

SE 1/4

Remarks:

The main diversion diverts water into Devil Creek channel which runs into the Devil Creek Reservoir, where the water is stored. Live water and storage water, during irrigation season, is distributed to the stockholders by means of diversion from the company's ditches to the individual owners.

The main diversion, after the water comes out of the reservoir, is what is known as David E. Evans diversion. The next diversion is the Jensen diversion, followed by the D. L. Evans diversion, at which point water is diverted in several directions; one goes to the St. Johns Reservoir and from the reservoir to the company's diversion where water is distributed south to the Robert Hess diversion, where water is distributed in two directions, west to individual ditches approximately 3 miles and south to individual ditches approximately 4½ miles.

Also from the D. L. Evans diversion, water is distributed down the main channel into Crowthers Reservoir. From Crowthers Reservoir, after leaving the reservoir, water is distributed to the west and south; south to Samaria Lane diversion where water is diverted in two directions, west and south.

Also from the D. L. Evans diversion, water is distributed south to the Parry Jones diversion. From Parry Jones diversion, water is distributed on the east side of the old channel to David E. Jones diversion, and South from the Parry Jones diversion to the Harvey Jones diversion, where it is distributed to individual users and also south from Harvey Jones diversion to the Zundel diversion, which is the end of the company ditches.

When referring to the St. John Reservoir and Crowther Reservoir, these are reservoirs owned by Malad Valley Irrigating Company, Inc..

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total number of acres irrigated 8726

10. Remarks: See attached, schedule

The above information is a true statement of the extent to which the above numbered permit has been developed.

MALAD VALLEY IRRIGATING COMPANY, INC.

Jan 26, 1971
(Date)

By Charles J. Johnson
(Signature) **President**

State of IDAHO)
County of BANNOCK) ss.

On this 26th day of January, 19 71, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Barbara Fager
Notary Public residing at Pocatello, Idaho

My commission expires Jan 9, 1972

Affidavit of Publication

State of Idaho
County of Oneida, ss.

Norma Champney being first duly sworn on
her oath, states: That she is *clerk*

tion authorizing the storage of 6,000 acre feet per annum of water from Devil Creek, tributary to the Snake River. The priority to be established under this permit is June 10, 1940, and the permit was approved September 6, 1940.

Water is to be diverted by a reservoir from a point within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 13, T. 13S, R. 36E, B.M., Oneida County, to be used for irrigation in the NW $\frac{1}{4}$ -NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 6, T. 15S, R. 36E, B.M.; E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ -SW $\frac{1}{4}$, Sec. 31, N $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 32, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 33, all of Sec. 30, all of Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, Sec. 28, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 21, all of Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$, Sec. 19, W $\frac{1}{2}$ -NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 15, all of Sec. 16, all of Sec. 17, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 18, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 10, all of Sec. 9, E $\frac{1}{2}$, E $\frac{1}{2}$ -NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 8, NW $\frac{1}{4}$ -NW $\frac{1}{4}$, Sec. 2, N $\frac{1}{2}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ -SE $\frac{1}{4}$, Sec. 3, all of Sec. 4, N $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 6, T. 14S, R. 36E, B.M.; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ -NE $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 36, T. 14S, R. 35E, B.M.; W $\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 13, W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 24, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 25, E $\frac{1}{2}$, Sec. 26, 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. 35, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 34, T. 13S, R. 36E, B.M.

Proof of application of the water to beneficial use was received by the Department on January 28, 1971. Any protest against the issuance of a license for the above referenced permit must be filed with the Idaho Dept. of Water Administration, Statehouse, Boise, Idaho, 83707, within ten days of the last date of publication of this notice.

R. KEITH HIGGINSON
Director

Published in the Idaho Enterprise, Malad City, Idaho, on April 22nd and April 29th, 1971.

of the Idaho Enterprise, a newspaper of general circulation in Oneida County, Idaho published weekly at Malad, in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy-eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That said Idaho Enterprise was at all of the times of publication of said notice a newspaper of general circulation made up of at least four pages of at least five columns each, printed from type matter or stereotyped forms of at least seventeen and three fourths inches depth, and said newspaper during all of the times of publication aforesaid had more than 200 bonafide subscribers thereto living within the county of Oneida in which said newspaper was published at regular intervals not less frequently than once a week.

That the annexed notice was published per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for ... successive weekly issues thereof the date of the first publication being the *27* day of *April*.... 19*71*. the date of the last publication being the *29*. day of *April*.... 19*71*.

Norma Champney

Subscribed and sworn to before me this *29* day of

April..... 19*71*
[Signature]

Notary Public, residing at Malad, Idaho

My Commission expires the day of, 19....

Costs: *3.2* lines at 13c per line first insertion \$*4.16*

...*3.3*... lines tabulated at 20c per line \$*6.60*

10c per line each subsequent insertion \$*6.50*

TOTAL \$*17.26*

(Rates for legal notices are fixed by Idaho law)

NOTICE OF EXISTING WATER PERMIT

Notice is hereby given that Malad Valley Irrigating Company, 64 West 400 North, Malad, Idaho, has received an approved Permit No. R-682/29-2559 issued by the Idaho Dept. of Water Administra-

January 19, 1971

Re: Permit No. 29-2559

C
Jones, Pomery & Jones
Attorneys at Law
Box 610
Pocatello, Idaho 83201

U
Attn: Ralph Jones

Dear Mr. Jones:

Reference is made to our telephone conversation of January 19, 1971. In reviewing Permit No. 29-2559, the Department finds that it will be necessary for Malad Valley Irrigation Company to identify their specific points of diversion and acres irrigated in each 40-acre tract as outlined under the permit. Since the Company was able to do this originally when filed, it should not be difficult to identify the lands now that they are irrigated.

Very truly yours,

Y
Donald W. McEldowney
Appropriation Supervisor

DWM:kh

Enclosures

29 2559

October 21, 1970

Re: Permit No. R-682 (New Number - 29-2559)

JONES, POMEROY & JONES, Lawyers
Central Building
Pocatello, Idaho 83201

ATTENTION: Ralph H. Jones

Dear Mr. Jones:

Please be advised that Malad Valley Irrigation Company has until June 30, 1973, within which to submit evidence of the extent of beneficial use made under this permit. If their project is completed, and the water has been fully applied to beneficial use, they may submit the required evidence before that date.

We are enclosing a beneficial use form, and instructions, for your consideration.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:cm

Enc: beneficial use form, with instructions

29-2559
R-682

Jones, Pomeroy & Jones
Lawyers
CENTRAL BLDG.
PHONE 232-3461
Pocatello, Idaho 83201

T. D. JONES, DECEASED
G. W. POMEROY, DECEASED
RALPH H. JONES
RALPH H. JONES, JR.
LAMONT JONES

RECEIVED
SEP 21 1970
Department of Reclamation

September 18, 1970

State of Idaho
Department of Reclamation
State House
Boise, Idaho 83701

Attention: Reclamation Commissioner

Re: Malad Valley Irrigating Co.

Dear Sir:

I was just informed on the telephone this morning by the president of the Malad Valley Irrigation Co., at Malad City, Idaho, that they need some information in regard to the Malad Valley Irrigation Reservoir, which was just recently completed.

damn.

As I understand, your department has approved the

We understand the permit to build the reservoir was No. 682, dated June 28, 1969, and the completion date was June, 1973.

Kindly advise if there is anything further to be done in respect to perfecting this permit and to getting a license.

Yours truly,

JONES, POMEROY & JONES

By

Ralph H. Jones

RHJ rb

2-682
29-2559

June 22, 1970

Re: Permit No. R-682 (New No. 29-2559)

Malad Valley Irrigating Co.
64 West 400 North
Malad City, Idaho 83252

Gentlemen:

During the 1967 session of the Idaho Legislature, certain amendments were made in the law pertaining to the procedures for making proof of beneficial use of water. In order for the Department to comply with these changes, Rules of Practice and Procedure were adopted on August 1, 1968. Generally, these procedures and the amended law make it simpler for a person to make proof and relieve the permit holder from making separate proofs of completion of works and beneficial use of water.

The enclosed order modifies your permit to comply with these rules and regulations. As a part of the new procedure, you will be required to publish a notice at your expense for two consecutive weeks in a paper as prescribed by the Department; previously, a permit holder had to publish a notice for four weeks when he submitted proof under his permit.

If you will complete the enclosed forms, we will cause the notice to be published. Should you require additional forms or information, we will be glad to supply them upon request at any time.

Very truly yours,

Dorian Clay
Appropriation Examiner

DC:DR
Enc: Order
Advertising package

29-2559
R-682

Malad Valley

Devil Cr. File

R-682

July 30, 1968

RE: Permit R-682

Charles J. Nielsen, President
Malad Valley Irrigating Company
64 West 400 North
Malad City, Idaho 83252

Dear Mr. Nielsen:

Enclosed herewith is a copy of the extension of time application you submitted to this office for approval. This extension is to June 30, 1973 as requested.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

MRB:efw

Enclosure

C
O
P
Y

R-682

Malad Valley Irrigating Co.
Malad City, Idaho

June 7, 1968

RECEIVED
JUN 12 1968
Department of Reclamation

Mr. Donald W. McEldowney
Appropriation Examiner
Department of Reclamation
Statehouse--Annex 2
Boise, Idaho 83701

RE: Permit No. R-682
Malad Valley Irrigating
Company

Dear Mr. McEldowney:

Per your letter of May 27, 1968, enclosed is the completed Application for Extension form which you requested that we complete.

If there is any additional information which you require, we will be happy to submit it.

Sincerely,

Charles J. Nielsen
Charles J. Nielsen
President

1 Incl:
a/s

R-682

May 27, 1968

C
O
P
Y
Re: Permit No. R-682
Malad Valley Irrigating Company

Charles J. Nielsen, President
Malad Valley Irrigating Company
Malad City, Idaho

Dear Mr. Nielsen:

Pursuant to your letter of May 24, 1968, we are enclosing an application for extension of time form for your use. Please be advised that an application must be received on this form.

Please submit the application promptly.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:dj

Enc: App. for Ext. of Time

R682

Malad Valley Irrigating Co.

Malad City, Idaho

May 24, 1968

RECEIVED
MAY 27 1968
Department of Reclamation

Mr. R. Keith Higginson
State Reclamation Engineer
State House
Room 107
Boise, Idaho 83701

RE: Permit No. R-682
Malad Valley Irrigating Company

Dear Mr. Higginson:

Enclosed herewith is a schedule showing the principal steps which our company has taken recently to prepare to build our reservoir on Devil Creek, north of Malad City, Idaho. As you can see from the schedule, we have been constantly pressing in every possible way to get our application approved by the Bureau of Reclamation and the necessary funds appropriated. As soon as we get the money, we are ready to let a construction contract.

There have been a number of delays, but we are now informed by the Bureau of Reclamation in their letter to Senator Jordan dated 2/5/68, that we should now be able to complete planning and award our contracts early in fiscal year 1969.

You will note that our engineer has indicated in the attached letter of May 6, 1968, that if funds were to be made available in July of 1968, that the project could be completed for water storage in the winter of 1969-1970.

Please establish our new planned construction completion and first water storage date for the fall of 1969, and extend our application deadlines accordingly.

Sincerely,

Charles J. Nielsen
Charles J. Nielsen
President

3 Incl:

1. Summary of Progress
2. USBR letter 2/5/68
3. Smith letter 5/6/68

cc: Ralph H. Jones, Sr.
Wendell H. Smith
E. K. Thomas

L-682

Summary of Recent Progress by the Malad Valley Irrigation Company on Devil Creek Dam Project

April 3, 1961

Core drilling was done on the Devil Creek Dam project site by the Gem State Testing Laboratory.

April 30, 1961

Excavation of keyway to develop additional water and begin actual construction of dam started by Marion Hess Construction Co., Inc.

December 5, 1963

Final payment made on approximately 200 acres of bottom land necessary for reservoir site costing a total of \$ 53,300.00. Land now paid in full.

June 16, 1965

Formal application for project loan of \$ 837,000.00 and grant of \$ 402,000.00 submitted to Salt Lake Office of Bureau of Reclamation.

July 8, 1965

Malad Valley Irrigation Company Board of Directors signed contract with Engineer Wendell H. Smith and Bill Jewell to do engineering work on the project.

Dec. 31, 1965

Additional land purchase for recreation area required by National Park Service consisting of 12 acres at \$ 4,250.00.

Oct. 15, 1965

The Malad Valley Irrigation Company was notified by Denver Office of Bureau of Reclamation that our project application was in order and that it had the full approval of the Regional office at Salt Lake and the Denver office. This application was placed on the doorsteps of Congress January 1, 1966.

June 28, 1966

A contract with the Army Corps of Engineers and the Malad Valley Irrigation Company was approved. This contract being necessary to receive flood control benefits totaling \$ 245,000.00.

May 29, 1967

The Malad Valley Irrigation Company Board of Directors met with Mr. E. K. Thomas, Mr. Orr from the Regional Office and Mr. Nielsen, Regional Solicitors office of the Bureau of Reclamation. Also present were company engineers Wendell H. Smith and Bill Jewell, Company attorney Ralph Jones, Sr., and William G. Jenkins. Purpose of the meeting was to review in

R-682

depth the repayment contract with the United States Government for the reservoir. This repayment contract was accepted by the Board after a few minor amendments.

Feb. 5, 1968

Office of Senator Len B. Jordan notified by N. B. Bennett, Acting Commissioner of the U. S. Bureau of Reclamation that the previously approved Malad Valley Irrigation Company funds as appropriated in P.L. 90-218 would be held over in budgetary reserve until fiscal year 1969 due to restrictive provisions. (Copy of letter attached)

April 22, 1968

A special meeting of the Malad Valley Irrigation Company stockholders was called to direct and give express authority to the Board of Directors to execute loan repayment contract 140-06-400, between the United States Government and the Malad Valley Irrigation Company and to amend the Articles of Incorporation to provide authority to increase the maximum annual assessment, if necessary, from \$ 27,990.00 to \$ 35,000.00.

The 703 shares represented in person and by proxy voted unanimously in favor of both proposals. Total outstanding stock is 933 shares.

May 18, 1968

Loan Repayment Contract 14-06-400 was signed by Company President Charles J. Nielsen and forwarded to the Salt Lake Regional Office of the Bureau of Reclamation.



WENDELL SMITH CONSULTING ENGINEER ROUTE 2, PRESTON, IDAHO

Phone
852-0686

Consulting Engineer
Registered Idaho - Utah - Wyoming

May 6, 1968

Plans

Mr. Charles J. Nielsen, President
Malad Valley Irrigating Company
Malad, City, Idaho

Specifications

Dear Mr. Nielsen:

This will confirm our conversation of May 6, 1968 concerning the construction schedule of the Malad Valley Irrigating Company Devil Creek Dam Project.

Cost Estimates

It is planned that providing funds are made available for construction of the project in July of 1968 that a contract will be let in August or September permitting construction to commence in the Fall of 1968.

Water Supply

The construction will continue through the Spring, Summer and Fall of 1969. Construction of the dam should be completed in the Fall of 1969. This will permit the storing of water to commence in the Fall of 1969 and Winter and Spring of 1970.

Drainage

Paving

Dams

Sewerage

Airports

Engineering Reports

Investigations

WHS/wk

Very truly yours,

Wendell H. Smith

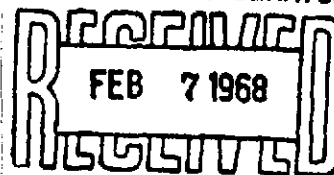
R-682



IN REPLY
REFER TO: 330

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
WASHINGTON, D.C. 20240

UNITED STATES SENATOR



LEN B. JORDAN

FEB 5 1968

Hon. Len B. Jordan
United States Senate
Washington, D. C.

Dear Senator Jordan:

Your letter of January 19 to Assistant Commissioner Stamm requested information on the funding of the Small Projects Loan application of the Malad Valley Irrigation Company of Malad City, Idaho. Your letter mentioned P.L. 90-218 and asked if the restrictive provisions of the act would affect the \$200,000 program approved for this loan in the conference report on the 1968 Public Works Appropriation Act.

Application of P.L. 90-218 made it necessary to delay the start of this new loan to fiscal year 1969 and place the \$200,000 in budgetary reserve for fiscal year 1968. These funds will remain available for use in fiscal year 1969. The fiscal policies established for water and power development in fiscal year 1969 did not, however, permit any additions to this amount. Thus, the proposed program for the fiscal year will total to the carryover of \$200,000. This amount should allow the District to complete the planning and allow contract awards late in the fiscal year.

We appreciate your interest in this project.

Sincerely yours,

Acting Commissioner

L-682

April 5, 1968

Re: Permit No. R-682

**Malad Valley Irrigating Company
Charles J. Nielsen, President
Malad City, Idaho 83252**

Dear Mr. Nielsen:

Enclosed is an order to ~~show~~ cause as to why a definite date should not be placed on Permit R-682 for submission of Proof of Completion of Works and Beneficial Use of water.

Very truly yours,

**C. Stephen Allred, Assistant
State Reclamation Engineer**

CSA:kd

Enclosure: Order to show cause

cc. **J. W. Crowther
Attorney at Law
33 Bannock Street
Malad City, Idaho 83252**

R-682

BEFORE THE STATE RECLAMATION ENGINEER
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT)
R-682; MALAD VALLEY)
IRRIGATING COMPANY)
_____)

ORDER TO SHOW CAUSE

WHEREAS, application R-26409 was received by the Department of Reclamation on June 10, 1940 and Permit R-682 was subsequently granted, and;

WHEREAS, Proof of Completion of Works was to be submitted on or before September 6, 1965 and Proof of Beneficial Use on or before September 6, 1947, and;

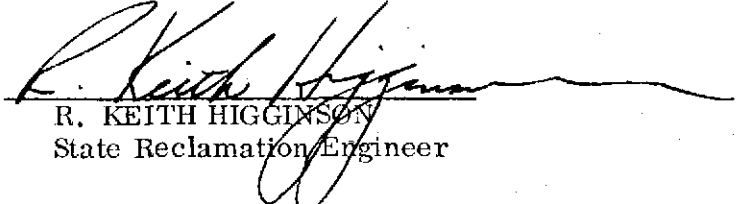
WHEREAS, on January 2, 1946 the time in which proof was to be made was extended until September 6, 1949, and;

WHEREAS, on September 3, 1949, September 12, 1951 and December 5, 1960, the Department of Reclamation granted extensions of time for indefinite periods of time, and;

WHEREAS, it appears that the granting of such extensions was in error since there is no statutory authority under which to grant an indefinite extension of time;

IT IS THEREFORE, ordered that the permit holder, Malad Valley Irrigating Company, show cause on or before May 31, 1968, to the State Reclamation Engineer why a definite date should not be placed on Permit R-682 for submission of Proof of Completion of Works and Beneficial Use of water.

Dated this 5TH day of April, 1968.


R. KEITH HIGGINSON
State Reclamation Engineer

R-682

21844

RECEIVED
MAR 8 1957
Department of Reclamation

March 7, 1957

Department of Reclamation
State of Idaho
Boise, Idaho

Attn: Mr. E. N. Humphrey
Deputy State Reclamation Engineer

Gentlemen:

We are enclosing herewith certified copy of Decree
in the George W. Ware matter.

Very truly yours,


RUBY Y. BROWN

RYB:mr
Enc.

LAW
OFFICES
O. R. BAUM
POCATELLO
IDAHO

RUBY Y. BROWN
ASSOCIATE

R-682

21844

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF ONEIDA

IN THE MATTER OF THE APPLICATION TO ENLARGE)
A RESERVOIR AND STORE AND APPROPRIATE THE)
PUBLIC WATERS OF THE STATE OF IDAHO, IN)
ACCORDANCE WITH THE PROVISIONS OF SECTION)
41-203, IDAHO CODE ANNOTATED, SUCH APPLICA-) D E C R E E
TION HAVING BEEN FILED BY THE MALAD VALLEY)
IRRIGATING COMPANY, AND NOTICE OF THE APPLI-)
CATION HAVING BEEN DATED THE 5th DAY OF)
AUGUST, 1949.)

: : : : : : :)

The Court having heretofore entered its Findings of Fact and made certain Conclusions of Law, now, on this day, being fully advised in the premises,

IT IS ORDERED, ADJUDGED AND DECREED that the protestants and appellants, namely:

John E. Phillips
George W. Ware
Alton O. Ware
John Treasure
Ellen Wakeley
Dave Treasure
George Treasure
Cora Wakeley
Zanetta Wakeley
O. J. Phillips

are entitled to the absolute use and possession, benefit, and control of one-fourth of all of the waters of Birch Creek and its tributaries, which Creek is sometimes known as Mill Creek, and that such water is entitled to be diverted down the Marsh Creek-Bannock County side, and that the Malad Valley Irrigating Company, and its successors and assigns, have no right, title or interest in and to such waters or any portion thereof, and that the decision of the Commissioner of Reclamation of the State of Idaho, be, and the same is hereby, set aside to the extent of the uninterrupted use of one-fourth of all of the said waters, including flood water,

2682

high water and normal-flow waters that are entitled to be, and should be, diverted to the Bannock-Birch Creek-Marsh Creek-Portneuf Side and permitted to flow down Birch Creek uninterrupted throughout each year for the full twelve months.

Appellants are entitled to costs in the sum of \$_____.

Dated this 1st day of May, 1956.

JOHN A. CARVER

DISTRICT JUDGE

STATE OF IDAHO,)
) ss
COUNTY OF ONEIDA)

I, John H. McAllister, Clerk of the District Court and Ex-Officio Auditor and Recorder in and for Oneida County, State of Idaho, do hereby certify that the annexed is a full, true and correct copy of DECREE IN THE MATTER OF THE APPLICATION TO ENLARGE A RESERVOIR AND STOR AND APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 41-203, IDAHO CODE ANNOTATED, SUCH APPLICATION HAVING BEEN FILED BY THE MALAD VALLEY IRRIGATING COMPANY, AND NOTICE OF THE APPLICATION HAVING BEEN DATED THE 5th DAY OF AUGUST, 1949, now on file in my office, as the same appears on record in Book "E" of JUDGMENTS, at Page 250, Records of Oneida County, State of Idaho.

In Witness Whereof, I have hereunto set my hand and affixed my official seal this 6th day of March, 1957.


Clerk, Ex-Officio Recorder

STATE OF IDAHO

IDAHO BOARD OF
HIGHWAY DIRECTORS

ROSCOE C. RICH - CHAIRMAN
WALLACE C. BURNS - VICE CHAIRMAN
ERNEST F. GAFFNEY - MEMBER



G. BRYCE BENNETT
STATE HIGHWAY ENGINEER

WM. R. PADGETT
LEGAL COUNSEL

WAYNE SUMMERS - SECRETARY

DEPARTMENT OF HIGHWAYS

P. O. BOX 879
BOISE, IDAHO
February 2, 1962

I-15-1(5)17
Malad-Colton Lane
Oneida County

Mr. George N. Carter
State Reclamation Engineer
107 State House
Boise, Idaho

Dear Sir:

Reference is made to your letter of January 25th requesting information concerning the construction of a dam which, according to agreement, would not be started before highway traffic is authorized to use the section of Interstate Highway in lieu of present U. S. 191 Highway.

The contract for the above project includes surfacing and the scheduled completion for this portion of the highway was set at three hundred (300) working days from January 1, 1962. In view of these circumstances, present highway traffic will not be diverted to the Interstate Highway until possibly late in the summer of 1963.

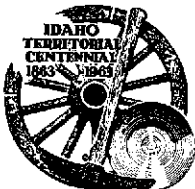
Very truly yours,

G. BRYCE BENNETT
State Highway Engineer

A handwritten signature in cursive script that reads "John P. Mix".

John P. Mix
Chief Right of Way Agent

JPM:GMH:hmd



Pay us a visit in '63

R-682

January 25, 1962

RE: Permit No. R-682
Malad Valley Irrigating Company
I-15-1 (5) 17
Malad-Colton Lane
Oneida County

G. Bryce Bennett
State Highway Engineer
Boise, Idaho

Dear Mr. Bennett:

An Agreement was entered February 26, 1960 between the Department of Highways and the Malad Valley Irrigating Company providing certain conditions pending allowance of travel over the Interstate Highway.

We are interested in the section showing that construction of the dam would not be started before highway traffic is authorized to start using the Malad-Colton Lane section of the Interstate in lieu of U. S. 191 highway.

Has such change in traffic been authorized and when? If not authorized kindly give us the approximate date you believe such change can be authorized.

Thank you for your consideration.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Deputy State Reclamation Engineer

RWT:mr

R-682

This is an indefinite extension of time

December 5, 1960

Re: Permits No. R-682
21844
Malad Valley Irrigating Co.

J. W. Crowther
Attorney at Law
33 Bannock Street
Malad City, Idaho

Dear Mr. Crowther:

Enclosed are extensions of time for both
of the permits as requested.

Thank you for your letter of November 30th with
copy of the agreement between the Company and the Highway
Department.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer

BY:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

R-682

EXTENSION OF TIME

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

WHEREAS, Permit No. R-682, in the name of Malad Valley Irrigating Company was given an indefinite extension of time for proof of completion of works until after the case Malad Valley Irrigating Co. vs. Crowther Brothers Milling Company, which was dismissed January 16, 1953; and the case William Hill, et al, Plaintiff, vs. Malad Valley Irrigating Company which was settled January 2, 1953; and,

WHEREAS, the construction of the dam depended upon a relocation of a portion of U. S. Highway No. 191 and the location of the new interstate highway has been in doubt; and,

WHEREAS, on the 26th day of February, 1960, the Department of Highways and the Malad Valley Irrigating Company entered into an agreement which provided that the construction of the dam would not be started until highway traffic is authorized over the Malad-Colton Lane section of the Interstate in lieu of the present U. S. 191 Highway;

NOW, THEREFORE, An Extension of Time is allowed for Completion of Works for the length of time applicant has been prevented from proceeding pending completion of said Interstate Highway and a similar extension is allowed for every other act required under the terms and conditions of Permit No. R-682.

The Company must notify this office immediately upon notification from the Department of Highways to proceed with the construction.

Signed at Boise, Idaho, this 5th day of December, 1960.



State Reclamation Engineer

H. 112

AGREEMENT

THIS ~~AGREEMENT~~ ^{Agreement of Reclamation} Made and entered into this 26 day of February, 1960, by and between the STATE OF IDAHO, DEPARTMENT OF HIGHWAYS, hereinafter called the State, and THE MALAD VALLEY IRRIGATING COMPANY, INC., hereinafter called the Company,

WITNESSETH:

THAT WHEREAS, the State, with the approval of and in cooperation with the United States Bureau of Public Roads, has programmed a project for the construction of a section of Interstate Highway between the City of Malad and Colton Lane County Road in Oneida County to be known as Project No. I-15-1(5)17; and

WHEREAS, the Company has prepared plans for the construction of a dam to create a water storage reservoir on Devil Creek; and

WHEREAS, the said dam will be located across and the said reservoir will inundate a portion of the existing highway U.S. 191; and

WHEREAS, the proposed Interstate Highway construction will require adjustment to the irrigation facilities of the Company,

NOW, THEREFORE, in consideration of the premises and of the several promises to be faithfully performed by each party as hereinafter set forth, the parties do hereby mutually agree as follows:

R-682

1. The State will construct the following structures:

- a. Under each of the two two-lane Interstate roadways, a concrete structure having a minimum internal width of 10 feet and a height sufficient to provide adequate volume to maintain the maximum flow of Devil Creek.
- b. A 48-inch pipe culvert under each of the two crossings of Spring Creek under the westerly ramp road of Interchange No. 1 in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 3, Township 14 South, Range 36 East, Boise Meridian.

2. The Company agrees to permit the State to construct two channel changes as set forth in a. and b. below. The Company agrees to accept the maintenance of such portions of the waterway of relocated Devil Creek as shall fall outside the Interstate Highway right of way, provided that the State acquires for the Company a permanent easement for such maintenance.

- a. A channel change of Devil Creek across a portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 35, Township 13 South, Range 36 East, Boise Meridian.
- b. A channel change of Devil Creek across a portion of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 24, Township 13 South, Range 36 East, Boise Meridian.

3. The State will acquire for the Company, either by purchase or eminent domain proceedings, a permanent easement for the construction and maintenance of such channel changes of Devil Creek as shall be required by Interstate Highway construction.

4. The State will maintain such portions of the waterway of the relocated Devil Creek as shall fall within the Interstate Highway right of way and all structures erected in connection therewith.

5. The State has tentatively programmed Project No.

R-682
R 412

I-15-1(5)17 for construction starting in 1961 and, dependent upon the availability of funds and the completion of the necessary right of way acquisition, will endeavor to start construction as programmed, but in any event the Company agrees not to start work on the proposed dam and reservoir until highway traffic is authorized to start using the Malad-Colton Lane section of the Interstate in lieu of the present U.S. 191 Highway. Upon completion of the Malad-Colton Lane section of the Interstate Highway and upon commencement of construction of the aforementioned dam, the State will remove the section of existing Highway U.S. 191 lying within the backwaters of the proposed dam from the State Highway System; provided, however, that the State may remove any portion of U.S. Highway 191 from the State Highway System at any time.

6. The State agrees to allow, if necessary, a temporary encroachment within the controlled access area of the Interstate Highway in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13, Township 13 South, Range 36 East, Boise Meridian, for the purpose of keyway construction at the westerly end of the proposed dam.

7. The Company hereby accepts the plan of adjustment to its irrigation facilities as shown on the Interstate Highway plans; the Company has reviewed the proposed plans and agrees that no circuitry of travel will be necessary for representatives of the Company to maintain and operate their present or future irrigation facilities.

8. The Company agrees to sell its rights to any lands, lying within the proposed reservoir and damsite, that shall be required for Interstate Highway construction.

R-682

9. The Company agrees to change its plans for dam and reservoir construction so as to provide for a spillway on the Easterly end of the proposed dam instead of on the Westerly end as now contemplated.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

APPROVED AS TO FORM:

W. M. R. [Signature]
Attorney

APPROVED:

R. L. [Signature]
Chief Right of Way Agent

ATTEST:

[Signature]
Secretary

(SEAL)

STATE OF IDAHO, DEPARTMENT OF
HIGHWAYS,

By *C. Bryce Bennett*
C. BRYCE BENNETT
State Highway Engineer

ATTEST:

[Signature]
Secretary

THE MALAD VALLEY IRRIGATING
COMPANY, INC.,

By *[Signature]*
President

R-682

IDAHO BOARD OF
HIGHWAY DIRECTORSROSCOE C. RICH - CHAIRMAN
LEONARD K. FLOAN - VICE CHAIRMAN
WALLACE C. BURNS - MEMBER

WAYNE SUMMERS - SECRETARY

G. BRYCE BENNETT
STATE HIGHWAY ENGINEERWM. R. PADGETT
LEGAL COUNSEL

DEPARTMENT OF HIGHWAYS

P. O. BOX 879
BOISE, IDAHO

February 29, 1960

I-15-1(5)17
Malad-Colton Lane
Oneida CountyRECEIVED
DEC 5 1960

Department of Reclamation

Mr. Charles J. Nielsen, President
Malad Valley Irrigating Company, Inc.
Malad City, Idaho

Dear Sir:

Reference is made to my letter of February 3, 1960, and to the meeting held between representatives of your Irrigating Company and the State Highway Department on February 4, 1960.

Enclosed please find a fully executed copy of the Agreement between the State of Idaho, Department of Highways, and the Malad Irrigating Company, Inc., covering the relocation of the Irrigating Company's facilities, revision of reservoir plans by Company, further agreeing that no circuitry of travel will be necessary for representatives of the Irrigating Company to maintain and operate their present or future irrigation facilities, also agreeing to the maintenance by the Company of the reconstructed irrigation facilities outside of the Interstate highway right of way and maintenance of irrigation facilities across the Interstate Highway by State Highway Department.

Please accept our thanks for the cooperation by you and members of your Company's Board of Directors in regards to this Agreement.

Very truly yours,

G. BRYCE BENNETT
State Highway EngineerBy: R. L. Byrum
Chief Right of Way AgentALB:GML:hmd
Enclosure

R-682

RECEIVED
DEC 5 1960

J. W. CROWTHER
ATTORNEY AT LAW

ONEIDA COUNTY
PROSECUTING ATTORNEY

Department of Reclamation

33 BANNOCK STREET MALAD CITY, IDAHO
PHONE 38-W

November 30, 1960

Ralph W. Thomas, Deputy
State Reclamation Engineer
Boise, Idaho

Re: Permit Nos. R-682 - 21844

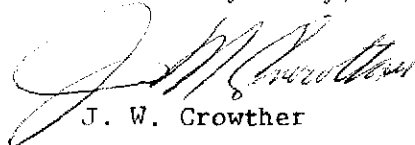
Dear Mr. Thomas:

Reference is made to your letter of November 9, 1960, to the Malad Valley Irrigating Company. Please be advised that the law suit involving Malad Valley Irrigating Co. vs. Crowther Brothers Milling Company was dismissed January 16, 1953. Judgment was entered in the suit involving William Hill, et al, Plaintiff, vs. Malad Valley Irrigating Company, Defendant, January 2, 1953. We know of no other litigation which is still pending.

We are enclosing herewith, a copy of the Agreement, dated February 26, 1960, between the Irrigating Company and the State Department of Highways, regarding the starting of construction of the proposed reservoir.

I trust that this is the information you desire and that you will now be in a position to grant the five-year extension, which was previously requested by the Irrigating Company. If there is any additional information which you need, please do not hesitate to call on us.

Yours very truly,


J. W. Crowther

JWC/gw

R-682

November 9, 1960

Re: Permit Nos. R-682 - 21844

Malad Valley Irrigating Co.
Charles J. Nielsen, President
Malad City, Idaho

Dear Mr. Nielsen:

Your letter of November 7, 1960 requesting an extension of time of five years of the date of proving completion of works under Permit No. 21844 has been received. Completion of works under Permit No. 21844 is dependant upon completion of works under Permit No. R-682.

The State Reclamation Engineer gave an indefinite extension of time to the date when proof of completion of works would be due under Permit No. R-682 until the cases - The Malad Valley Irrigating Co. vs. Crowther Brothers and William Hill, et al vs. Malad Valley Irrigating Co. were settled. Our files do not seem to contain information when said cases were settled.

Kindly notify this office at your earliest convenience of the dates when said cases were settled. Five years from the later date would be the date when proof of completion of works is due under Permit No. R-682.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RTEW

R-682

Approved Jan 5, 1951
21844 C/W due Jan. 5, 1956
1st ex. " " Jan. 5 - 1961

RECEIVED
NOV 8 1960
Department of Reclamation

November 7, 1960

George N. Carter
State Reclamation Engineer
State of Idaho
Boise, Idaho

21844

Re: Malad Valley Irrigating Co.
Permit No. ~~21844~~

R-682 companion permit

Dear Mr. Carter:

Reference is made to your letter of November 1st and to your telephone conversation with Mr. Crowther this morning regarding the same.

As your files no doubt show, application was made by applicant a number of years ago for the appropriation and storage of water in Devil Creek, Spring Creek and their tributaries. This application was last extended approximately five (5) years ago, and proof of completion of works is due January 5, 1961.

The Irrigating Company, during the past few years, has made definite progress in getting ready to start actual construction of the dam site. They have purchased the land in question and also additional water rights, and were financially prepared to begin construction in 1959. However, due to the fact that the reservoir site includes land which was used by U. S. Highway 191, the program had to be co-ordinated with the State Highway Department. U. S. Highway 191 is included in the new Federal Interstate System and when federal funds were cut back it necessitated a delay in the Highway Department's schedule for completion of this section of road.

In the fall of 1959, Irrigating Co. officers met with officials of the State Highway Department relative to this problem, and it was determined that there would be a substantial saving, both to the Irrigating Company and to the State, if work on the reservoir was post-poned until after the completion of the new highway.

Due to the fact that the present schedule of this section of highway calls for construction to begin in the spring of 1961 and completion by the fall of 1962. It was felt by all concerned that the delay to the Irrigating Company would not be disproportionate to the saving thereby affected, and that the construction of the reservoir should be deferred at least until such time as traffic could be diverted over the new highway system.

R-682

George N. Carter

Page 2

November 7, 1960

This being the case, it appears a five-year extension of the time in which the Irrigating Company can make proof of completion is necessary. As things now stand, no further delays are foreseen or expected, and the reservoir should be completed within two years from the time the highway has progressed to the point where work on the reservoir can be started.

If you need any additional information or proof in order to take action on the request for extension, please advise us and we will be happy to furnish you with whatever evidence you require.

Yours very truly,

MALAD VALLEY IRRIGATING COMPANY

BY: Charles Nelson
Charles Nelson, President

Jesse R. Dredge
Jesse R. Dredge, Secretary

R-682

R-682

21844 & R-682

Applicant - Malad Valley Irrigation Co.

Source - Devil Creek

Ant - 6000 a. F.

approved - Sept 6 - 1940

C/w due " " - 1945

E/U " " 1948

C/w ext. to Sept 6 - 1949

C/w " " end of ct action

ct action #1

Willetal v SMT
Completed 8/28/52

21844

appl. - M.V.I Co.

Source - Birch Cr - Devil Cr.

Q = 40 cfs.

Land = 8726 acres.

approved - Jan 5 - 51

C/w - due Jan 5 - 58

E/U - due Jan 5 - 61

no extensions on record

ct action filed Feb 22 - 51

Ext. granted Dec 9 - 55

ct action over May 1 - 1956.

Est. of time from 2-22-51 to 5-1-56

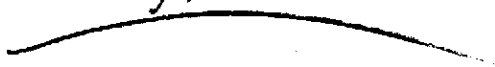
or 4 yrs 3 mos

or to 4/26/62

R-682

24

575-



February 18, 1957

R-682

Mr. John H. McAllister,
County Clerk
Oneida County
Malad, Idaho

Dear Sir:

Will you please advise us as to status of the following Court Case:

WILLIAM HILL, et al., Plaintiff,

vs.

MALAD VALLEY IRRIGATING COMPANY,
Defendant.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Hemptrey
Deputy State Reclamation Engineer

BNH:agb

R-682

R-682

April 22, 1953

RE: Waters of Birch Creek and Devil Creek

Permit no. R-682

Messrs. Merrill & Merrill
Attorneys At Law
Pocatello, Idaho

ATT: Mr. A. L. Merrill

Dear Mr. Merrill:

License No. R-807 was issued on July 27, 1950, to Crowther Brothers Milling Company for 773.2 acre feet of water, with a priority of January 30, 1948. The source is Devil Creek and Spring Creek, with outlet in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 18, Township 14 South, Range 36 East, B. M. Place of use is in Lot 7, Block 20, Malad Townsite in Section 21, Township 14 South, Range 36 East, B. M. Use is for waterpower for flour mill.

Permit No. R-682 to Malad Valley Irrigating Company, for 6,000 acre feet, filed on June 10, 1940, is in good standing with an extension of time, which ends as soon as the disability due to court action is removed.

Permit No. R-837 to Malad Valley Irrigating Company is for 1,000 acre feet. Completion of Works proof is due on August 20, 1954.

I believe you are familiar with both the above permits.

RE: Birch Creek

A letter in the file of Permit No. R-807 states that in the year 1876 an agreement was made with the water users in Marsh Valley that they would get 1/4 of the stream during the irrigation season, until September 15, to October 1, of each year.

There is a decree signed March 13, 1903, by J. C. Rich, Judge of the District Court, dividing the waters of Birch Creek and Lost Creek in Bannock County, between the following:

Henderson & Sons
Melvin Henderson
Gwenlion Marley
Mary Davis
Mark Lawrence
Thomas Marley

R-682

April 22, 1953

There is another decree signed June 9, 1904, by Alfred Budge, District Judge, that allots the waters of Dry Hollow, Maple Creek, Station Creek, and that part of Birch Creek flowing towards Marsh Creek.

M.E. Hollister, Judge. Oct 11-1878

In file No. 21844, there is a copy of a decree in the District Court, 3rd Judicial District of Idaho Territory, held in and for the County of Oneida in the case of Thomas Daniels and others against William Wood-land and others. In it the waters of Birch Creek are divided $\frac{3}{4}$ to Malad water shed and $\frac{1}{4}$ to Marsh Creek side. *Thos Daniels et al vs Henry Wakley et al.*

*(Book 1. P. 360)
(Misc. Records,
Oneida Co.)*

Appealed Feb 22, 1951.

License No. 9731 was issued to D. L. Evans for 12 cubic feet per second with priority of October 17, 1913, to be used for generating electricity for power and light purposes at a point which bears South $43^{\circ}23'07''$ East 865.26 feet from $\frac{1}{2}$ Section corner on West boundary of Section 27, Township 12 South, Range 36 East, B. M. Point of diversion bears South $83^{\circ}29'32''$ West 9623.66 feet from $\frac{1}{4}$ Section corner on West boundary of Section 27, Township 12 South, Range 36 East, B. M. This was sold to David O. True, and again sold to Western States Utilities Company.

Permit No. 21844 was issued to Malad Valley Irrigating Company, with a priority of July 19, 1949. Completion of Works proof is due January 5, 1956. Beneficial use proof is due on January 5, 1961. This was protested and decision of State Reclamation Engineer to issue license made. Thereafter, notice of appeal was received.

This is a full list of record rights as far as I have been able to ascertain from the department files.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg

R-682

MERRILL & MERRILL
Counselors and Attorneys at Law
Pocatello, Idaho

A. L. Merrill
R. D. Merrill
W. F. Merrill

April 14, 1953

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

Dear Mr. Kulp:

RE: Permit No. R-682
Application No. 28830
Malad Valley Irrigating Co.

C
O
P
Y

I am desirous of knowing the exact condition of filings on waters of Devil Creek and tributaries, and Birch Creek, also known as Mill Creek, on the Malad side of the river, and also any other water contributing to the flow of Malad Valley Irrigating Co. Permit No. R-682 I understand was originally issued to the Malad Valley Irrigating Co. for the appropriation of waters for reservoir uses and thereafter the time for the construction of the reservoir was extended. This extension would probably have expired, but on the 3rd day of September, 1949, you issued an order extending extension because of pending litigation. There were two actions pending at that time. One action by the Malad Valley Irrigating Co. against Crowther Bros. Milling Co. is still pending. I would be pleased if you would advise me whether or not Crowther Bros. Milling Co. has a filing upon any of the waters involved in the permit for the Malad Valley Irrigating Co. and if so the amount thereof and its present status. Also please advise if Permit R-682 is still in force and also please advise if there are any other filings upon this water. It occurred to us that probably this Canal Company might make some arrangements with the Crowther Bros. and could perhaps perfect a new filing so as to give them additional time within which to finance and develop their proposed reservoir construction. Of course we don't want to go to the latter expense if we are going to have difficulties with reference to water permits. Our particular objective now is to be sure that we will have a permit and then evolve plans for the financing of the reservoir.

Thanking you for such information as you can give us,
we are

Sincerely yours,

MERRILL & MERRILL
BY

A. L. MERRILL

ALM:KA

R-682

MALAD VALLEY IRRIGATION COMPANY

Malad City, Idaho

March 22, 1935

Crowther Brothers Milling Company
430 Mill Street
Malad City, Idaho

Gentlemen:

Pursuant to the meeting held between representatives of your company and the Board of Directors and Special Reservoir Committee of the Malad Valley Irrigation Company, and subject to and conditioned by the stockholders of said Malad Valley Irrigation Company at a stockholders meeting held for that purpose, we, the undersigned as a part of the Special Reservoir Committee and Board of Directors, on behalf of the Malad Valley Irrigation Company offer to purchase from you the following described property situated in the County of Cassia, State of Idaho, to-wit:

That certain dam and reservoir known as the Crowther Brothers Dam and reservoir situated immediately north of Malad City, Idaho, having an approximate capacity or volume of 1,000,000 feet of water, together with the non-dividing dam, water and power rights, which includes all the normal flow of waters from Power House Canyon and Devil Creek including their tributaries during non-irrigation season, used in connection with the non-irrigation storage of water in said reservoir and the operation of the flour mill and elevators;

Including all conduits and flumes used in connection with the operation and control of said dam and water, specifically including the steel conduit leading from the dam to the mill and elevators

and agree to pay therefore the sum of \$21,000.00 for the water rights above described, and the further sum of \$77,000.00 for the dam, reservoir site and fixtures above described, in the following manner;

\$5,000.00 on or before May 1, 1935

\$10,000.00 on or before December 30, 1935, and balance of said purchase price in several installments of \$10,000.00 on or before the first day or 30th day of each succeeding year until the whole of said purchase price has been paid in full. Interest on the unpaid balance of principal shall be at the rate of 1% annum, payable with installments of principal

upon the following conditions:

1. That the Crowther Brothers Milling Company shall have the right to the use of the waters flowing from said dam and reservoir until such time as the whole of said purchase price has been paid in full by the Malad Valley Irrigation Company, for the purpose of developing power in their flour mill and elevator, providing they pay to said Malad Valley Irrigation Company an annual rental or sum equal to the amount of the interest on the unpaid balance of the purchase price above set forth.

R-682

MALAD VALLEY IRRIGATION COMPANY

Malad City, Idaho

March 22, 1955

continued, page 2

2. That the reservoir above described has a safe storage capacity of water equal to 1100 acre feet of water. It is agreed that during the year 1955, the safe storage capacity of said reservoir shall be determined by survey and measurement by some licensed engineer of the State of Idaho, and approved by the Reclamation Engineer's office of the State of Idaho. In the event that such survey and check shall reveal that the safe storage capacity of said reservoir is less than 1100 acre feet of water, then in that event the Crowther Brothers Milling Company shall have the right to raise the height of said dam sufficiently to bring the safe storage capacity to the agreed 1100 acre feet; otherwise, the purchase price shall be reduced at the rate of \$70.00 per acre foot storage less than the agreed 1100 acre feet storage capacity of said reservoir. It is agreed that Crowther Brothers Milling Company shall have one year within which to raise the height of the dam after the survey by the engineer and the check by the State Reclamation Engineer.

3. That Crowther Brothers Milling Company Covenant that it is the lawful owners of all the above described property, and it has the good right, full power and lawful authority to convey the same, and that it will defend the title thereto against the lawful claims of all persons whomsoever.

4. That the Malad Valley Irrigation Company shall have the exclusive right to control the amount of water which shall be released or flow from the dam and reservoir after payment of the \$5000.00 on May 1, 1955;

5. That the reservoir be filled to capacity on or before May 1, 1955.

/s/ Paul H. Mills
Committeeman

/s/ Cornelius Jones
President

/s/ Joseph Ward Jr.
Committeeman

/s/ Joseph Laws Sr.
Vice-President

/s/ Ives E. Jones
Secretary

/s/ Elden Ward
Director

/s/ Parry Ipsen
Director

Crowther Brothers Milling Company

by /s/ Norman Crowther

Notary Public

R-682

R 682

April 22, 1953

RE: Waters of Birch Creek and Devil Creek

Permit No. R-682

Messrs. Merrill & Merrill
Attorneys at Law
Pocatello, Idaho

ATT: Mr. A. L. Merrill

Dear Mr. Merrill:

License No. R-807 was issued on July 27, 1950, to Crowther Brothers Milling Company for 773.2 acre feet of water, with a priority of January 30, 1948. The source is Devil Creek and Spring Creek, with outlet in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 16, Township 14 South, Range 36 East, B.M. Place of use is in Lot 7, Block 20, Malad Townsite in Section 21, Township 14 South, Range 36 East, B.M. Use is for waterpower for flour mill.

Permit No. R-682 to Malad Valley Irrigating Company, for 6,000 acre feet, filed on June 10, 1940, is in good standing with an extension of time, which ends as soon as the disability due to court action is removed.

Permit No. R-837 to Malad Valley Irrigating Company is for 1,000, acre feet. Completion of works proof is due on August 20, 1954.

I believe you are familiar with both the above permits.

RE: Birch Creek

A letter in the file of Permit No. R-807 states that in the year 1876 an agreement was made with the water users in Marsh Valley that they would get $\frac{1}{4}$ of the stream during the irrigation season, until September 15, to October 1, of each year.

There is a decree signed March 13, 1903, by J. C. Rich, Judge of the District Court, dividing the waters of Birch Creek and Lost Creek in Bannock County, between the following:

Henderson & Sons
Melvin Henderson
Owenlion Marley
Mary Davis
Mark Lawrence
Thomas Marley

R-682

April 22, 1953

There is another decree signed June 9, 1904, by Alfred Budge, District Judge, that allots the waters of Dry Hollow, Maple Creek, Station Creek, and that part of Birch Creek flowing towards Marsh Creek.

In file No. 21844, there is a copy of a decree in the District Court, 3rd Judicial District of Idaho Territory, held in and for the County of Oneida in the case of Thomas Daniels and others against William Woodland and others. In it the waters of Birch Creek are divided $\frac{3}{4}$ to Malad water shed and $\frac{1}{4}$ to Marsh Creek side.

License No. 9731 was issued to D. L. Evans for 12 cubic feet per second with priority of October 17, 1913, to be used for generating electricity for power and light purposes at a point which bears South $43^{\circ}23'07''$ East 865.26 feet from $\frac{1}{2}$ Section corner on West boundary of Section 27, Township 12 South, Range 36 East, B.M. Point of diversion bears South $83^{\circ}29'32''$ West 9623.66 feet from $\frac{1}{4}$ Section corner on West boundary of Section 27, Township 12 South, Range 36 East, B.M. This was sold to David G. True, and again sold to Western States Utilities Company.

Permit No. 21844 was issued to Malad Valley Irrigating Company, with a priority of July 19, 1949. Completion of works proof is due January 5, 1956. Beneficial use proof is due on January 5, 1961. This was protested and decision of State Reclamation Engineer to issue license made. Thereafter, notice of appeal was received.

This is a full list of record rights as far as I have been able to ascertain from the department files.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg

R-682

MERRILL & MERRILL
COUNSELORS AND ATTORNEYS AT LAW
POCATELLO, IDAHO

A.L. MERRILL
R.D. MERRILL
W.F. MERRILL

April 14, 1953

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

RECEIVED
APR 15 1953
Department of Reclamation

Dear Mr. Kulp:

Re: Permit No. R-682
Application No. 28830
Malad Valley Irrigating Co.

I am desirous of knowing the exact condition of filings on waters of Devil Creek and tributaries, and Birch Creek, also known as Mill Creek, on the Malad side of the river, and also any other water contributing to the flow of Malad Valley Irrigating Co. Permit No. R-682 I understand was originally issued to the Malad Valley Irrigating Co. for the appropriation of waters for reservoir uses and thereafter the time for the construction of the reservoir was extended. This extension would probably have expired, but on the 3rd day of September, 1949, you issued an order extending extension because of pending litigation. There were two actions pending at that time. One action by the Malad Valley Irrigating Co. against Crowther Bros. Milling Co. is still pending. I would be pleased if you would advise me whether or not Crowther Bros. Milling Co. has a filing upon any of the waters involved in the permit for the Malad Valley Irrigating Co. and if so the amount thereof and its present status. Also please advise if Permit R-682 is still in force and also please advise if there are any other filings upon this water. It occurred to us that probably this Canal Company might make some arrangements with the Crowther Bros. and could perhaps perfect a new filing so as to give them additional time within which to finance and develop their proposed reservoir construction. Of course we don't want to go to the latter expense if we are going to have difficulties with reference to water permits. Our particular objective now is to be sure that we will have a permit and then evolve plans for the financing of the reservoir.

Thanking you for such information as you can give us, we are

Sincerely yours,

ALM:EA

MERRILL & MERRILL

BY

A.L. Merrill

R-682

July 15, 1965

RE: Permit No. 21844
R-682
Malad Valley Irrigating Company

J. W. Cawther
Attorney at Law
33 Bannock Street
Malad City, Idaho

Dear Mr. Cawther:

With letter dated December 5, 1960, this office sent to you indefinite extensions of time for completion of works on both of the above noted permits.

Enclosed is a form to relinquish a permit. As the decision by Judge John A. Carver, dated May 1, 1956 reversed the decision of the State Reclamation Engineer, it appears that Permit No. 21844 should be relinquished.

Kindly furnish this office with the date that the Interstate Highway was completed at the dam site in order that we may prepare the order for Permit R-682.

Your early attention to this matter is requested.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

R/Text
Enc. relinquishment form

R-682

STATE OF IDAHO

IDAHO BOARD OF
HIGHWAY DIRECTORS

WALLACE C. BURNS - CHAIRMAN
ERNEST F. GAFFNEY - VICE CHAIRMAN
R. DOYLE SYMMS - MEMBER

WAYNE SUMMERS - SECRETARY



DEPARTMENT OF HIGHWAYS

P. O. BOX 879
BOISE, IDAHO

October 28, 1963

G. BRYCE BENNETT
STATE HIGHWAY ENGINEER

I-15-1(5)17
Malad - Colton Lane
Bonida County
Your File: Permit
No. R-682
Malad Valley Irrigat-
ing Company

Ralph W. Thomas, Deputy
State Reclamation Engineer
107 State House
Boise, Idaho

Dear Mr. Thomas:

In checking with our District Engineer at Pocatello it appears that highway traffic, weather permitting, will be authorized to use the new Malad - Colton Lane Section of the Interstate Highway in lieu of U.S. Highway 191 within the next two weeks. The seal coating of the shoulders of the Interstate Highway will not be finished until summer of 1964 and therefore the highway project cannot be closed out and accepted at this time.

Construction of the dam could possibly be started before final completion and acceptance of the project. However, present U.S. Highway 191 should remain open until proper disposal or abandonment of the present U.S. Highway 191, to be inundated, has been made. This requires action by our Highway Board which could not be made until after completion and acceptance of the above project.

We will keep you advised after receipt of further information from our District Engineer from Pocatello.

Very truly yours,

G. BRYCE BENNETT
State Highway Engineer

John P. Mix
John P. Mix
Chief Right of Way Agent

JPM:GMH:cr



Pay us a visit in '63

R-682

October 24, 1963

Re: Permit No. R-682
Malad Valley Irrigating Co.

I-15-1 (5) 17
Malad-Colton Lane
Oneida County

John P. Mix
Chief Right of Way Agent
Department of Highways
P. O. Box 879
Boise, Idaho

Dear Mr. Mix:

An agreement was entered February 26, 1960 between the Department of Highways and the Malad Valley Irrigating Co. providing certain conditions pending allowance of travel over the Interstate Highway.

We are interested in the section showing that construction of the dam would not be started before highway traffic is authorized to start using the Malad-Colton Lane section of the Interstate in lieu of U. S. highway No. 191.

Has such change in traffic been authorized and, if so, when? If not as yet authorized kindly give us the approximate date you believe such change can be authorized. Your letter of February 2, 1962 indicated that the road would be open in summer of 1963.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RTiew

R-682

2104 9 R-682 R-837
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

RECEIVED
FEB 26 1957

Department of Reclamation

WILLIAM HILL, LEE GODDARD, WOODWELL DAVIS, ELLA E.
HARRIS, JOHN O. WILLIAMS, OREN J. JONES, THELMA CLARK,
THOMAS T. JONES, SAM I. DAVIS, T. J. DAVIS, THOMAS R.
JONES, WILLIAM W. LEWIS, ED. B. JONES, in their own
behalf, and also in behalf of all other persons simi-
larly situated as are the plaintiffs,

Plaintiffs,

-vs-

DECREE AND
PERMANENT INJUNCTION

THE MALAD VALLEY IRRIGATING COMPANY, a corporation
ROY O. DANIELS, PARRY D. HARRISON WALTER JONES, and
ROY O. DANIELS AS President, and PARRY D. HARRISON
as Secretary of the MALAD VALLEY IRRIGATING COMPANY,

Defendants.

This cause came on for trial before the court sitting without a jury in the Oneida County Courthouse, at Malad City, Idaho, on February 4, 1952. A number of the plaintiffs appeared in person; and also by their attorney H. J. Swanson of Pocatello, Idaho, and the defendant corporation appearing by its officers and their attorneys, and the defendant directors appearing in person and also by their attorneys Merrill & Merrill, of Pocatello, Idaho. Thereupon the court proceeded to the trial of the cause and witnesses were sworn and evidence both oral and documentary was introduced by all parties. Thereupon the evidence was closed and the parties given time to prepare, serve, and file briefs. That briefs have been filed and the entire matter has been submitted to the court for its decision. And the court having considered all of the evidence introduced by the respective parties, and having considered the files, records and proceeding had herein and having read and considered the briefs filed by the respective parties, and having made its finding of fact and conclusions of law concluding that the relief prayed for by the plaintiffs should be granted and that the defendants should be restrained from taking any further action to enforce said assessment against any of the plaintiffs which the board of directors attempted to levy to pay any of the cost of building a dam across Devil Creek in Oneida County, Idaho, as described in the plaintiffs complaint and that the temporary injunction issued herein should be made permanent,
NOW THEREFORE:

It is adjudged and decreed that the defendants and their successors in office, their agents and servants be, and they hereby are restrained from taking any further action to enforce said assessment against the plaintiffs or any or either of them; and it is further decreed that said assessment which the board of directors of the Malad Valley Irrigating Company, Inc., attempted to make on the 14th day of August, 1950, be, and the same hereby is, declared null and void as to any or either of the plaintiffs and that the temporary restraining order, as the same was further modified, by order of this court dated on the 18th day of December, 1950 wherein and whereby this court ordered that said defendant be, and they are hereby, restrained and enjoined from selling or attempting to sell any of the shares of stock owned by the plaintiffs in the Malad Valley Irrigating Company, Inc. and described in the Complaint in the above entitled cause, by virtue of an assessment thereon, mentioned in said Complaint, and from proceeding further for the collection of said assessment from the plaintiffs or against their shares of stock for the purposes mentioned in said Complaint; be and the same hereby is made permanent.

And the plaintiffs having hereto fore filed a bond in the sum of \$15,000. in connection with the issuing of the temporary restraining order wherein the American Surety of New York is the surety and various ones of the plaintiffs and others are the principals and said bond having served its purpose,

It is further ordered and decreed that the said bond be and it is hereby cancelled as to any liability thereon, to be hereinafter incurred, and that the said principals, who signed said bond and the said surety be, and it and they are hereby, relieved from any liability thereon, to be hereafter incurred.

It is further adjudged and decreed that the plaintiffs do have and recover of and from the defendants their costs taxed in the sum of Dollars \$368.00.

Decreed and entered this 28th day of August 1952.

/s/ L. E. Glennon
District Judge (Retired) and to whom
Case was referred for trial.

R-682

Service of the foregoing Decree and Permanent Injunction received this
6th day of August, 1952.

/s/ Merrill & Merrill

MERRILL & MERRILL E.A.
Attorneys for the Defendants

Filed September 2, 1952
John H. McAllister, Clerk
Cleon Williams, Deputy

Release of Judgment for Costs
Jan. 2, 1953

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application
of the Malad Valley Irrigating
Company for an extension of time
within which to build the reservoir
and complete the works required in Permit No. R-682 as provided by
Section 42-204 of the Idaho Code.

AMENDMENT TO ORDER OF SEPTEMBER
3, 1949 GRANTING EXTENSION

WHEREAS, there has heretofore been issued to the undersigned,
The Malad Valley Irrigating Company, Inc., Permit No. R-682 for the con-
struction of a reservoir and completion of works on Devil Creek, in Oneida
County, State of Idaho, which said Permit was on the 3rd day of September,
1949, extended by reason of litigation between The Malad Valley Irrigating
Company, a corporation, plaintiff, and Crowther Brothers, a corporation,
defendant, which litigation has not yet been concluded; and

WHEREAS, there is another suit now pending in the District Court
of the Fifth Judicial District of the State of Idaho, in and for the County
of Oneida, wherein William Hill et al are plaintiffs, and The Malad Valley
Irrigating Co., a corporation, et al, are defendants, in which said suit an
injunction has been issued against said corporation and its directors, and
which said suit prevents the work being now done as contemplated on said
reservoir.

NOW, THEREFORE, the order of September 3, 1949, granting extension
of time for completion of works under Permit No. R-682 is amended to include
the disability imposed by the suit of William Hill, et al, vs. The Malad
Valley Irrigating Company, et al.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the
official seal of the Department of Reclamation of the State of Idaho, at Boise,
Idaho, this 2nd day of September, A. D. 1951

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

R-682

October 6, 1951.

RE: Permit No. R-682

Mr. A. L. Merrill
Attorney at Law
Pocatello, Idaho

Dear Mr. Merrill:

We have your letter of October 5, 1951, in regard to extension of time for completion of works on Permit No. R-682 of the Haled Valley Irrigation Company.

We did not receive a letter from you in regard to the matter, but we did receive an application for extension of time filed by Walter Jones, President, and an amendment to the order of September 3, 1949, was issued and sent him, a copy of which is enclosed herewith.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:fg
Enc.

R-682

MERRILL & MERRILL
COUNSELORS AND ATTORNEYS AT LAW
POCATELLO, IDAHO

A.L. MERRILL
R.D. MERRILL
W.F. MERRILL

October 5, 1951

RECEIVED
OCT 6 1951
Department of Reclamation

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

Dear Mr. Kulp:

I believe you have received my letter dated September 5, 1951, enclosing application for extension of time on Malad Valley Irrigation Company. If the letter has not been so received please advise. If it has been received I would be pleased if you could let me know if there is anything additional that I should do before you make your decision.

Sincerely yours,

MERRILL & MERRILL

BY

A.L. Merrill

ALM:lw

R. G. 82

September 12, 1951

RE: Permit No. R-682

Mr. Walter Jones, President
Maled Valley Irrigation Company, Inc.
Malden, Idaho

Dear Mr. Jones:

We enclose herewith, amendment to order of September 3, 1949, granting extension of time for completion of works on Permit No. R-682, on account of pending litigation.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

M:fg
Enc.

R-682

R-682

September 3, 1949

Malad Valley Irrigating Company
Malad, Idaho

Attention: Mr. Leroy O. Daniels,
President

Gentlemen:

We enclose herewith, Order Granting Extension
of Time for completion of works under Permit No. R-682.

Your special attention is directed to the last
paragraph to the effect that you should notify this De-
partment within thirty (30) days after conclusion of the
litigation in question.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:hh

Enc.

R-682

COPY

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application)
of the Malad Valley Irrigating)
Company for an extension of time)
within which to build the reservoir)
and complete the works required in)
Permit No. R-682 as provided by)
Section 42-204 of the Idaho Code.)

ORDER GRANTING EXTENSION

WHEREAS, on the 31st day of August, 1949, the Department of Reclamation received an application from the Malad Valley Irrigating Company for extension of time within which to build a reservoir and complete the works required under Permit No. R-682, which application was signed by Leroy O. Daniel, President, and Parry D. Harrison, Secretary, and

WHEREAS, said application recites that a complaint has been filed in the District Court of Oneida County by said Malad Valley Irrigating Company, a corporation, plaintiff, vs. Crowther Brother's Milling Company, a corporation, et al, defendants, and

WHEREAS, the pendency of such litigation will prevent said Malad Valley Irrigating Company from proceeding with the construction of the reservoir and such other construction as is required under the provisions of Permit No. R-682;

IT IS THEREFORE ORDERED that by reason of the pendency of said litigation, the time for completion of the reservoir and other construction works required under the provisions of Permit No. R-682 is hereby extended for a period of time equal to the time during which the applicant herein is delayed in proceeding with its work and complying with said requirements as before stated; said extension of time to be dated from September 6, 1949, being the date when Proof of Completion of Works is now due under the terms of said Permit No. R-682 and an extension thereof; and said applicant herein should notify the Department of Reclamation of the removal of the disability above set forth within thirty (30) days from the date same is removed; as provided under the terms of Section 42-204 of the Idaho Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 3rd day of September, A. D. 1949.

MARK R. KULP
State Reclamation Engineer

R-682

APPLICATION FOR EXTENSION OF TIME

TO THE DEPARTMENT OF RECLAMATION
OF THE STATE OF IDAHO:

WHEREAS, there has heretofore been issued to the undersigned, The Malad Valley Irrigating Company, Inc., Permit No. R-682 for the construction of a reservoir and completion of works on Devil Creek, in Oneida County, State of Idaho, which said Permit was on the 3rd day of September, 1949, extended by reason of litigation between The Malad Valley Irrigating Company, a corporation, plaintiff, and Crowther Brothers, a corporation, defendant, which litigation has not yet been concluded; and

WHEREAS, there is another suit now pending in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Oneida, wherein William Hill et al are plaintiffs, and The Malad Valley Irrigating Co., a corporation, ~~et al~~ are defendants, in which said suit an injunction has been issued against said corporation and its directors, and which said suit prevents the work being ^{now} done as contemplated on said reservoir,

NOW, THEREFORE, IT IS RESPECTFULLY REQUESTED that the time under Permit No. R-682 be further extended to give to The Malad Valley Irrigating Company sufficient time to complete said works under said Permit following the conclusion of the litigation entitled William Hill et al vs. The Malad Valley Irrigating Company et al, and the undersigned respectfully pray that an Order granting such extension be duly issued.

DATED this 10th day of September, 1951.

ATTEST:

Ralph W. Loring
Secretary

The Malad Valley Irrigating Company,
Inc.

BY Walter Jones
President

STATE OF IDAHO)
 : SS.
COUNTY OF ONEIDA)

WALTER JONES, being first duly sworn, deposes
and says:

That he is the President of The Malad Valley
Irrigating Company, Inc., a corporation, and as such makes this
verification; that he has read the foregoing Application for Ex-
tension of Time and knows the contents thereof and the matters
stated therein are true, as he verily believes.

Walter Jones

SUBSCRIBED AND SWORN to before me this 11th day
of September, 1951.

John H. McAllister
~~NOTARY PUBLIC~~
Residing at: Malad, Idaho
Notary of the District Court

(SEAL)

RECEIVED
SEP 12 1951
Department of Proclamation

RECEIVED

AUG 31 1949

Department of Reclamation

Malad, Idaho, August 30th, 1949

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Mr. Mark R. Kulp
State Reclamation Engineer;
State Capital Building;
Boise, Idaho;

In Connection with
Application No. 20409
Permit No. R682 of Malad
Valley Irrigating Company
of Malad, Idaho;

Dear Mr. Kulp;

Inclosed please find herewith the following
instruments to-wit;

1. Copy of the Complaint in the matter of;
MALAD VALLEY IRRIGATING COMPANY, a corporation;---Plaintiff
VS
Crowther Brothers Milling Company, a corporation
All unknown owners or claimants of any or all
of the waters of Birch Creek, also known as Mill
Creek, Devil Creek, Spring Creek and Lower Birch
Creek located in Oneida and Bannock Counties, Idaho---
Defendants;
which complaint has this day been duly filed with
the Clerk of the District Court of Oneida County
Idaho as is shown by the copy of said complaint
hereto inclosed.
2. APPLICATION FOR EXTENSION OF TIME TO BUILD RESERVOIR
by the Malad Valley Irrigating Company, duly authorized
by its stockholders, by LeRoy C. Daniels, Its President
by Larry D. Harrison Its Secretary herewith inclosed.

Yours very truly,

MALAD VALLEY IRRIGATING COMPANY

By LeRoy C. Daniels Its President;

By Larry D. Harrison Its Secretary

Registered and
receipt therefor;

R-680

APPLICATION FOR EXTENSION OF TIME TO BUILD RESERVOIR;

Malad, Idaho; August 29th. 1949

STATE OF IDAHO:
DEPARTMENT OF RECLAMATION;
Mr. Mark R. Kulp;
State Reclamation Engineer;
Boise, Idaho;

In connection with
Application No R20409
Permit No R682 of Malad Valley
Irrigating Company.

Dear Mr. Kulp;

In view of our Permit No. R 682 for the building of our reservoir in Northwest quarter of Section 13 Tp. 13 S.R. 36 E. B.M. Oneida County, Idaho, expiring Sept. 6th. 1949, preliminary work for plans and specifications for which have been obtained with permit to build, and not sufficient time to complete the building of this project, and in connection with action having been filed in the District Court of Idaho in and for Oneida County by our Company as Plaintiff, where our waters may be in question; we hereby make this application to you for an extension of time of Three years from September 6th. 1949 to fully complete the building of this said Reservoir project which is necessary additional time required for correction of any obstructions and to fully complete the building of the same. And attached herewith is a copy of the complaint in the above said action which has been filed in said court in Oneida County, Idaho.

RESPECTIVELY, we are;

MALAD VALLEY IRRIGATING COMPANY
duly authorized by its stockholders

By LeRoy O. Daniels Its President
LeRoy O. Daniels

By Parry D. Harrison Its Secretary
Parry D. Harrison

IN THE DISTRICT COURT
of the **FIFTH** Judicial District of the State of Idaho
In and for the County of

MALAD VALLEY IRRIGATION COMPANY,
a corporation,

Plaintiff

CROWTHERS BROTHERS MILLING COMPANY,
a corporation; All unknown owners or
claimants of any or all of the waters
of Birch Creek, also known as Mill Creek
Devil Creek, Spring Creek and
Lower Birch Creek located in
Oneida County, Idaho; and Bannock County.

Defendant

SUMMONS

THE STATE OF IDAHO SENDS GREETINGS TO THE ABOVE NAMED DEFENDANT:

You are hereby notified, that a complaint has been filed against you in the District Court of the
Fifth Judicial District of the State of Idaho, in and for the County of
Oneida by the above named plaintiff and you are hereby directed to
appear and plead to said complaint within twenty days of the service of this Summons, and you are
further notified that unless you so appear and plead said complaint within the time herein specified,
the plaintiff will take judgment against you as prayed in said complaint.

Witness my hand and the seal of said District Court this

August, 194*9*

30th

day of

Merrill and Merrill

Attorney for Plaintiff

Postville, Idaho

Residence or Postoffice

John H. McAllister

Clerk

Address _____, Idaho By _____

[SEAL]

(SEAL)

Deputy

No. _____
DISTRICT COURT
Fifth Judicial District
County of _____
State of Idaho
SUMMONS

Plaintiff

vs.

Defendant

Filed this _____ day
of _____, 194 _____

Clerk District Court

By _____ Deputy

I hereby certify that I received the within Summons on the _____ day of _____, 194 _____ and on the _____ day of _____, 194 _____ I personally served the same on _____ being _____ the defendant named in said Summons by handing to and leaving with the said defendant a true copy of the said Summons attached to which was a true and correct copy of the complaint on file in the action in which said Summons was issued.

Dated this _____ day of _____, 194 _____

Fees \$ _____
Mileage \$ _____
Total \$ _____

By _____ Sheriff
_____ Deputy

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF ONEIDA

MALAD VALLEY IRRIGATION COMPANY,
a corporation,

Plaintiff

vs.

CROWTHER BROTHERS MILLING COMPANY,
a corporation,
All unknown owners or claimants of
any or all of the waters of Birch
Creek, also known as Mill Creek,
Devil Creek, Spring Creek and Lower
Birch Creek located in Oneida County,
Idaho, and Bannock County.

Defendants.

COMPLAINT

Comes now the plaintiff and for cause of action against
the defendants and each of them, complains and alleges:

I

That at all times mentioned in this complaint the
plaintiff was and now is a corporation organized and existing
under and by virtue of the laws of the State of Idaho, with its
principal place of business at Malad, Oneida County, Idaho.

II

That at all times mentioned in this complaint the defendant,
Crowther Brothers Milling Company was and now is a corporation
organized and existing under and by virtue of the laws of the
State of Idaho, with its principal place of business in Malad,
Oneida County, Idaho.

III

Plaintiff further alleges that there are persons interested
in this controversey and in the waters of Birch Creek, also
known as Mill Creek, Devil Creek, Spring Creek and Lower Birch
Creek, whose names are unknown to the plaintiff or any officer

R-682

of the plaintiff corporation who claim some right, title and interest in and to the said waters, but any right, title or interest of said defendants, or any of them, is subject to and inferior to the rights of the plaintiff.

IV

That the plaintiff now is and it and its predecessors in interest have been, for more than fifty years the owners and entitled to the use of all the waters flowing in what is known as Birch Creek, also known as Mill Creek, Devil Creek, Spring Creek, and Lower Birch Creek, the same including all of the natural flow of all of the flood waters, all of the winter waters and spring run-off waters of each of said creeks, and during all of said times, the said plaintiff and its predecessors in interest, under claim of right so to do by prior appropriation, did use for irrigation, domestic and culinary purposes all of the flow of the said streams above referred and their tributaries; that the waters of said creeks arise in Township 12^{and 13} South, Range 35^{and 36}, East of the Boise Meridian and flow in a southerly direction for a long distance in their natural channels to where the plaintiff diverts the same therefrom into canals and laterals and by means thereof conducts the same to and upon the lands of its stockholders.

V

That on the 2nd day of July, 1940, the plaintiff filed application with the Department of Reclamation, State of Idaho, or the Commissioner thereof, for a permit to construct a reservoir in the Northwest quarter of Section 13, Township 13 South, Range 36 E.B.M. and to appropriate from Birch Creek, also known as Mill Creek, Devil Creek, Spring Creek and Lower Birch Creek, all of the unappropriated water of said creeks, including all the winter flow, flood waters and spring run-off waters which had not

been previously appropriated, for the purpose of filling the reservoir each and every year; that the Commissioner of Reclamation approved said application and issued Permit No. R682 and provided therefor that work should begin on or before November 5, 1940; that thereafter the completion of work proof was extended from said date until the 6th day of September, 1949.

VI

That the stockholders of the plaintiff corporation are the owners in severalty of large tracts of land in Township 15 South, Range 36, E.B.M., Township 14 South, Range 36, E.B.M., Township 14 South, Range 35, E.B.M., Township 13 South, Range 36, E.B.M. and the various sections in said townships, lying in what is known as Malad Valley, Oneida County, Idaho, all of said lands lying under the ditches and diversion works of said plaintiff and the stockholders of the plaintiff corporation, have at all times herein mentioned applied the water of said streams to the highest possible duty in the irrigation of their said lands and for domestic and culinary purposes; that the lands of the stockholders of the said plaintiff corporation are arid and dry and as a result thereof will not produce profitable crops without artificial irrigation, and that by irrigation said lands are highly productive and produce large and valuable crops of sugar beets, alfalfa, grains, and other valuable products; that in order to augment the amount of water for the irrigation of the lands belonging to the stockholders of the plaintiff corporation as aforesaid, the plaintiff intends to construct and build the dam above referred to and store therein all winter flow, all flood waters and all natural flow which is not necessary for irrigation, and all spring run-off waters of the creeks above referred to.

VII

That the defendant, Crowther Brothers Milling Company, a corporation, has, subsequent to the filing of the application

for permit and the permit above referred to, filed on said waters for power purposes, and plaintiff alleges the said defendant claims the said waters adverse to the plaintiff and because of said claim of said defendant, the water right of the plaintiff to the use of said waters is in question, and plaintiff alleges that any right of the said defendant, Crowther Brothers Milling Company, a corporation, has in and to said waters is subsequent and inferior to the plaintiff's right.

VIII

That the said defendant, Crowther Brothers Milling Company, a corporation, has wrongfully entered in and upon the said creeks aforesaid and by means of dams and ditches have diverted water from said streams and has maintained and do now maintain in such streams, dams and obstructions to the flow of said water, and claims the same adverse to the plaintiff.

IX

That the said defendant, Crowther Brothers Milling Company, a corporation, and other persons whose names are unknown to the plaintiff, claim some right to the use of the waters of the said creeks above referred to, but none of said defendants have any right, title or interest in and to the waters of the said creeks or to the use thereof or any part thereof.

WHEREFORE, PLAINTIFF PRAYS JUDGMENT AGAINST THE DEFENDANTS AND EACH OF THEM, AS FOLLOWS:

1. That the defendants and each of them be required to set up their and each of their claims, if any they have, to the right to the use of any of the waters of said Birch Creek, also known as Mill Creek, Devil Creek, Spring Creek and Lower Birch Creek, the same to include all the natural flow, all flood waters, all winter waters and all spring run-off waters, and that upon final hearing in said cause, it be decreed that the defendants

have no right, title or interest in and to the use of any of the water of the said creeks.

2. That it be decreed that the plaintiff has the right, at all times, to the sole and exclusive use of all of the waters of Birch Creek, also known as Mill Creek, Devil Creek, Spring Creek and Lower Birch Creek, including the natural flow, all flood waters, all winter waters and all spring run-off waters, and that the right of the plaintiff to the use of said waters be quieted against any claim or or pretention of the defendants, and each of them, and that the defendants, and their and each of their agents and servants, be perpetually enjoined and restrained from diverting, obstructing, or in any manner interfering with the flow of the waters of Birch Creek, also known as Mill Creek, Devil Creek, Spring Creek and Lower Birch Creek, the same to include all the natural flow, all flood waters, all winter waters and all spring run-off waters, or do any other act or thing that will prevent or interfere with the use of the said waters by the plaintiff.

3. That the Court grant such other and further or different relief to the plaintiff as it may seem meet and equitable, together with costs herein incurred.

Merrill & Merrill
Merrill and Merrill
Attorneys for Plaintiff
Residing at Pocatello, Idaho.

STATE OF IDAHO)
 : ss
COUNTY OF ONEIDA)

LEROY O. DANIELS, being first duly sworn, deposes and says:

That he is the President of the plaintiff corporation and makes this verification for and on behalf of said plaintiff; that he has read the above and foregoing complaint and knows the contents thereof and the facts therein stated are true as he verily believes.

Leroy O. Daniels

Subscribed and sworn to before me this 29. day of August, 1949.

(seal)

H. E. Flamm
Notary Public of Idaho
Residing at Malad, Idaho

70069

State of IDAHO ss.
County of Oneida

I hereby certify that

instrument was filed for record

the record of

John H. McWhorter

at idaho A. M. 1949

30th day of August 1949

and recorded in book Index

at page 10
John H. McWhorter
Recorder

By

Deputy

Fees Paid

John H. McWhorter
10

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application)
of the Malad Valley Irrigating)
Company for an extension of time)
within which to build the reservoir)
and complete the works required in)
Permit No. R-682 as provided by)
Section 42-204 of the Idaho Code.)

ORDER GRANTING EXTENSION

WHEREAS, on the 31st day of August, 1949, the Department of Reclamation received an application from the Malad Valley Irrigating Company for extension of time within which to build a reservoir and complete the works required under Permit No. R-682, which application was signed by Leroy O. Daniels, President, and Parry D. Harrison, Secretary, and

WHEREAS, said application recites that a complaint has been filed in the District Court of Oneida County by said Malad Valley Irrigating Company, a corporation, plaintiff, vs. Crowther Brother's Milling Company, a corporation, et al, defendants, and

WHEREAS, the pendency of such litigation will prevent said Malad Valley Irrigating Company from proceeding with the construction of the reservoir and such other construction as is required under the provisions of Permit No. R-682:

IT IS THEREFORE ORDERED that by reason of the pendency of said litigation, the time for completion of the reservoir and other construction works required under the provisions of Permit No. R-682 is hereby extended for a period of time equal to the time during which the applicant herein is delayed in proceeding with its work and complying with said requirements as before stated; said extension of time to be dated from September 6, 1949, being the date when Proof of Completion of Works is now due under the terms of said Permit No. R-682 and an extension thereof; and said applicant herein should notify the Department of Reclamation of the removal of the disability above set forth within thirty (30) days from the date same is removed: as provided under the terms of Section 42-204 of the Idaho Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 3rd day of September, A. D. 1949.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

R-682

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application)
of the Malad Valley Irrigating)
Company for an extension of time)
within which to build the reservoir)
and complete the works required in)
Permit No. R-682 as provided by)
Section 42-204 of the Idaho Code.)

ORDER GRANTING EXTENSION

WHEREAS, on the 31st day of August, 1949, the Department of Reclamation received an application from the Malad Valley Irrigating Company for extension of time within which to build a reservoir and complete the works required under Permit No. R-682, which application was signed by Leroy O. Daniels, President, and Parry D. Harrison, Secretary, and

WHEREAS, said application recites that a complaint has been filed in the District Court of Oneida County by said Malad Valley Irrigating Company, a corporation, plaintiff, vs. Crowther Brother's Milling Company, a corporation, et al, defendants, and

WHEREAS, the pendency of such litigation will prevent said Malad Valley Irrigating Company from proceeding with the construction of the reservoir and such other construction as is required under the provisions of Permit No. R-682:

IT IS THEREFORE ORDERED that by reason of the pendency of said litigation, the time for completion of the reservoir and other construction works required under the provisions of Permit No. R-682 is hereby extended for a period of time equal to the time during which the applicant herein is delayed in proceeding with its work and complying with said requirements as before stated; said extension of time to be dated from September 6, 1949, being the date when Proof of Completion of Works is now due under the terms of said Permit No. R-682 and an extension thereof; and said applicant herein should notify the Department of Reclamation of the removal of the disability above set forth within thirty (30) days from the date same is removed: as provided under the terms of Section 42-204 of the Idaho Code.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 3rd day of September, A. D. 1949.

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

R-682

July 20, 1949

Re: Permit No. R-682

Melad Valley Irrigating Company
Melad, Idaho

Attention: Mr. Leroy O. Daniels,
President.

Dear Mr. Daniels:

Reference is made to your request for an extension of time for completion of works under Permit No. R-682.

The records of this Department show that this Permit is dated September 6, 1940. Completion of Works Proof was originally due September 6, 1945, but a four year extension was allowed under special act of the legislature, allowing four years extension under certain conditions.

There is no provision under the present Statutes whereby a further extension can be allowed beyond September 6, 1949, unless such completion is prevented on account of the filing of a suit or other litigation which brings the title to the water in question. We quote below a portion of Section 41-204, I.C.A.

"Provided, however, that in cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, the department of reclamation upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the time caused by such delays shall be added to the time given in the original permit for each and every action required."

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-682

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS

Malad Valley Irrigating Co. PROOF OF COMPLETION OF WORKS

Malad, Idaho

Boise, Idaho, July 1, 1949

Dear Sirs—

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-682

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 September 6, 1949. 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. KUTP

~~Commissioner of Reclamation~~
State Reclamation Engineer

R-682

✓
June 27, 1949

Re: Permit No. R-682

Melad Valley Irrigating Co.
Melad City, Idaho

Attention: Mr. Perry D. Harrison

Dear Mr. Harrison:

There is no statutory provision for extension of time for completion of works under Permit No. R-682 except, matters within the jurisdiction of the United States, or by litigation of any nature which might bring the title to the water in question (41-204 I.C.A.).

Permit No. R-682 is for 6000 acre feet and an addition of 1000 acre feet to a total of 7000 feet is not possible as the addition would constitute a new appropriation and a new permit would be required for the addition.

We are reviewing the plans and expect to have the review completed within two or three days.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

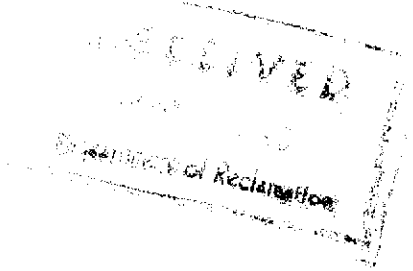
MRK:bh

R-682

Malad Valley Irrigating Co.
Malad City, Idaho

June 24th. 1949

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



Dear Commissioner Kulp;

Our Engineer Mr. Wendell Smith now has our Reservoir plans of our dam at your office for approval.

We understand that we already got the permit to build this dam and will ask you to please confirm this, and increase the storage capacity of same to 7000 acre feet.

We are anxious to get started to work as soon as possible that we can get the bottom part completed this fall before cold weather, when the water level is the lowest, and will probably need a little extension of time, and we hereby ask you to please grant us sufficient extension of time to complete same, and will very much appreciate your assistance to this end.

And awaiting your reply with approval of our plans, we are.

Yours very truly,

MALAD VALLEY IRRIGATING COMPANY

By Perry D. Harrison
Perry D. Harrison Secty.

6686

R-682

March 30, 1949

Malad Valley Irrigating Company
Malad, Idaho

Gentlemen:

I have your letter of March 22, 1949:

Permit No. R-682, Malad Valley Irrigating Company is for 6,000 acre feet from Devil Creek, with a priority of June 10, 1940; and Permit No. R-807, Crowther Brothers Milling Company, is for 773.2 acre feet from Spring Creek and Devil Creek, with priority of January 30, 1948.

Both permits are for the appropriation and storage of unappropriated water and if the terms of the permits are fulfilled, and satisfactory proofs are made and accepted, licenses will be issued with the above noted priorities.

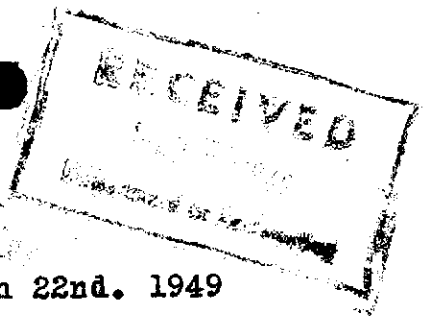
The issuance of a permit does not guarantee that there is any unappropriated water available for appropriation. In many cases, and yours is a good example, there are perfectly good water rights existing which have never been made a matter of official record. In such cases the relative rights to the use of water can be determined only by a court in adjudication proceedings.

When unappropriated water is appropriated and stored in a reservoir for power purposes, the appropriator can use it as he sees fit, regardless of whether it is in an irrigating community or not.

Very truly yours,

MARK R. KULE
State Reclamation Engineer

R-682



Malad, Idaho; March 22nd. 1949

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

(Re- R-682
and
R-807)

Dear Mr. Kulp;

Please make a ruling between the Malad Valley
Irrigating Company waters on application No. R 26409 and Permit
Number 682 for storage waters;

And Crowther Brothers Milling Co. Application for permit No. R 27896
and Permit No. R 807 for Storage waters.

And on our Company using the Stored waters of the Crowther Brothers
Reservoir Company during the Irrigation Season of 1949 from April
15th. to Oct. 15th. of our irrigation waters passing through the
Crowther Reservoir, built on our Channell water stream that we have
always used, and we want our water as we have been using same in past
in amounts we need and when we need same in irrigation to insure our
crops and we should have protection through this Dam you gave them
permit on to store our used water in winter months. And also if
they are permitted to run the water stored through their Dam in the
winter for Power purposes for which they are storing this water we use
in irrigation season each year and belongs to us.

Also advise if stored water can go through this Dam in Winter for
Power, and by this loose the winter storage water as that water
passing through the Dam for power in the Winter months cannot never
be used for irrigation purposes, and this is what we want some ruling
on to save this winter stored water for irrigation purposes in the
irrigation seasons, and not to lose the same in the winter when run
through the Dam for Power in the winter, and would be Power only.
In a case like this when you let stored water in an Irrigation
locality run through the Dam in the winter for Power, can you prove
up on a dam by using water this way; when it is needed badly in the
irrigation season as we have always used the same.

Please make a ruling for us on Power Water and Irrigation Water in
the Crowther Dam which Crowther Company wants to sell to us for
Irrigation purposes, and we cannot use the same only in the irrigation
season. Then again if he permits water to run through this same Dam
in the Winter for Power purposes, where are we coming off by this use
of our waters; and there seems to be no spring run off or flood waters
this Spring.

Also give us a ruling on our first above Permit belonging to our Co.
for commencement of building a Reservoir for Storage purposes in Sec.
12 Tp. 13- S.R. 36 this year for all the waters above this point of Dam.

Thanking you for a return reply we are.

Yours very truly

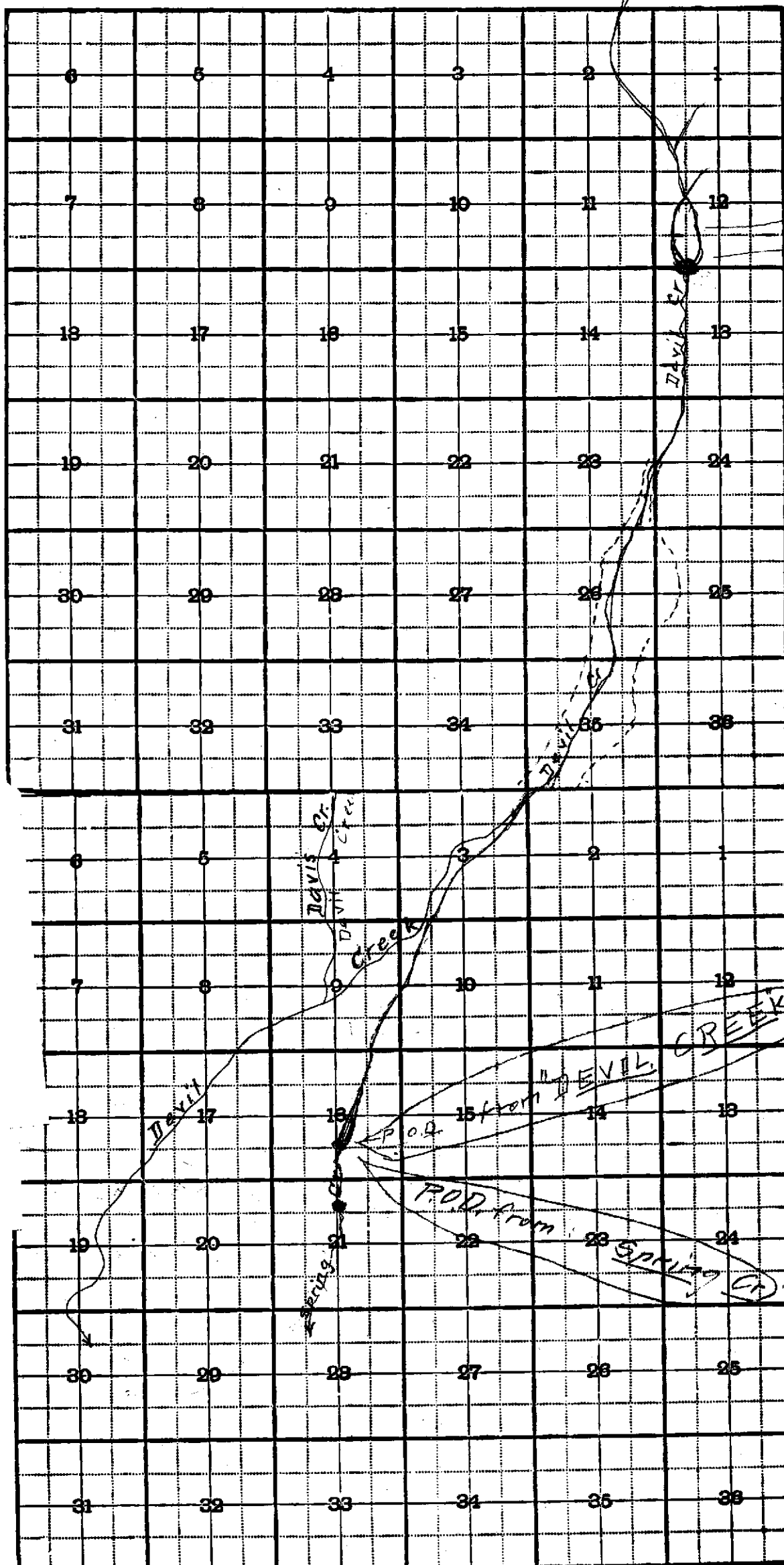
Malad Valley Irrigating Company

By Roy Daniels Its President

By Harry D. Harrison Its Secretary.

R-682

SCALE: ONE INCH TO ONE MILE

Township 13 S Range 36 E

Res.
P.O.D. R-682

R-682
P.O.D. = Dam on M.V. Co.
in channel of Devil Cr.
(P.O.D. = SW SW 13, T13S-36E)

2
is i
Dev

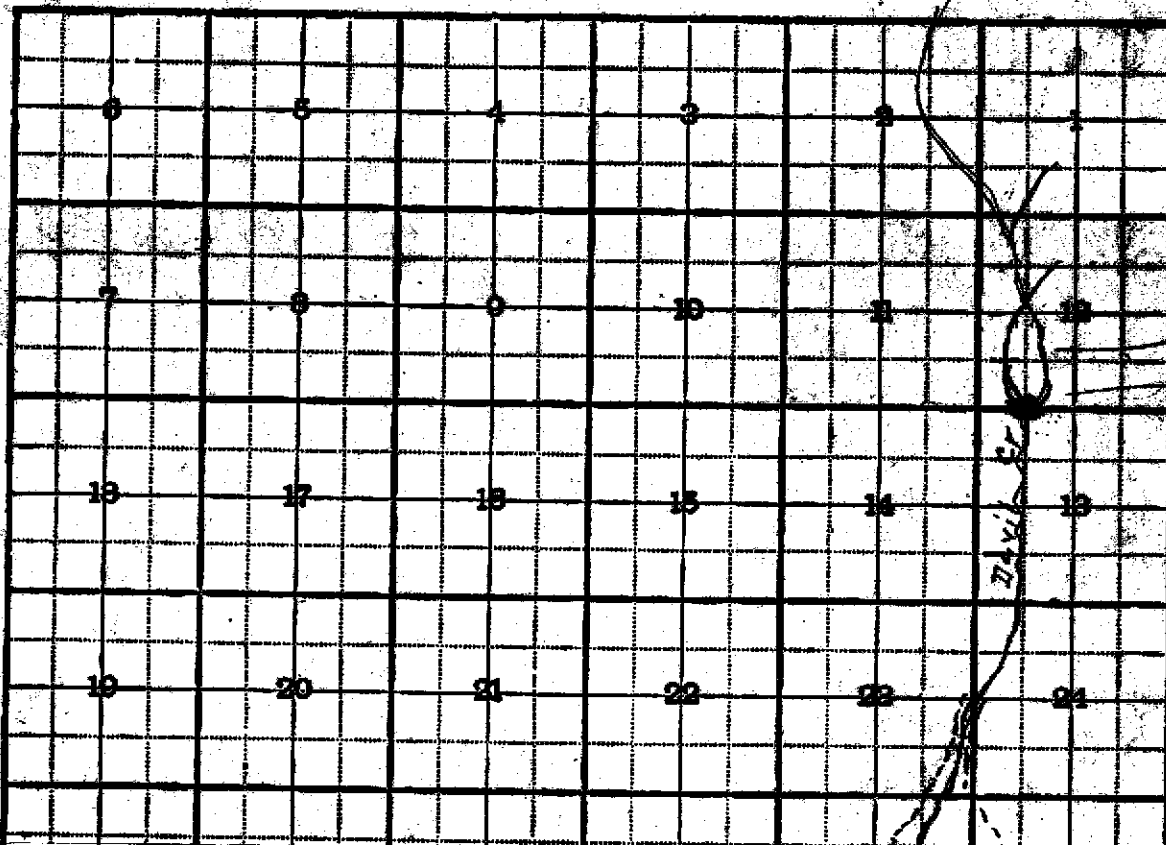
File
R.F. 3

File
R.F. 4

R-682

SCALE: ONE INCH TO ONE MILE

Township 13 S Range 36 E



723-TOWNSHIP PLAT

PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC.

R-807

Devil Cr

Crowther Bros
- malad -

SCALE: ONE INCH TO ONE MILE

Devil Cr

Malad Valley Spring, Co. (R-682)

Township 14 S Range 36 E

R-807

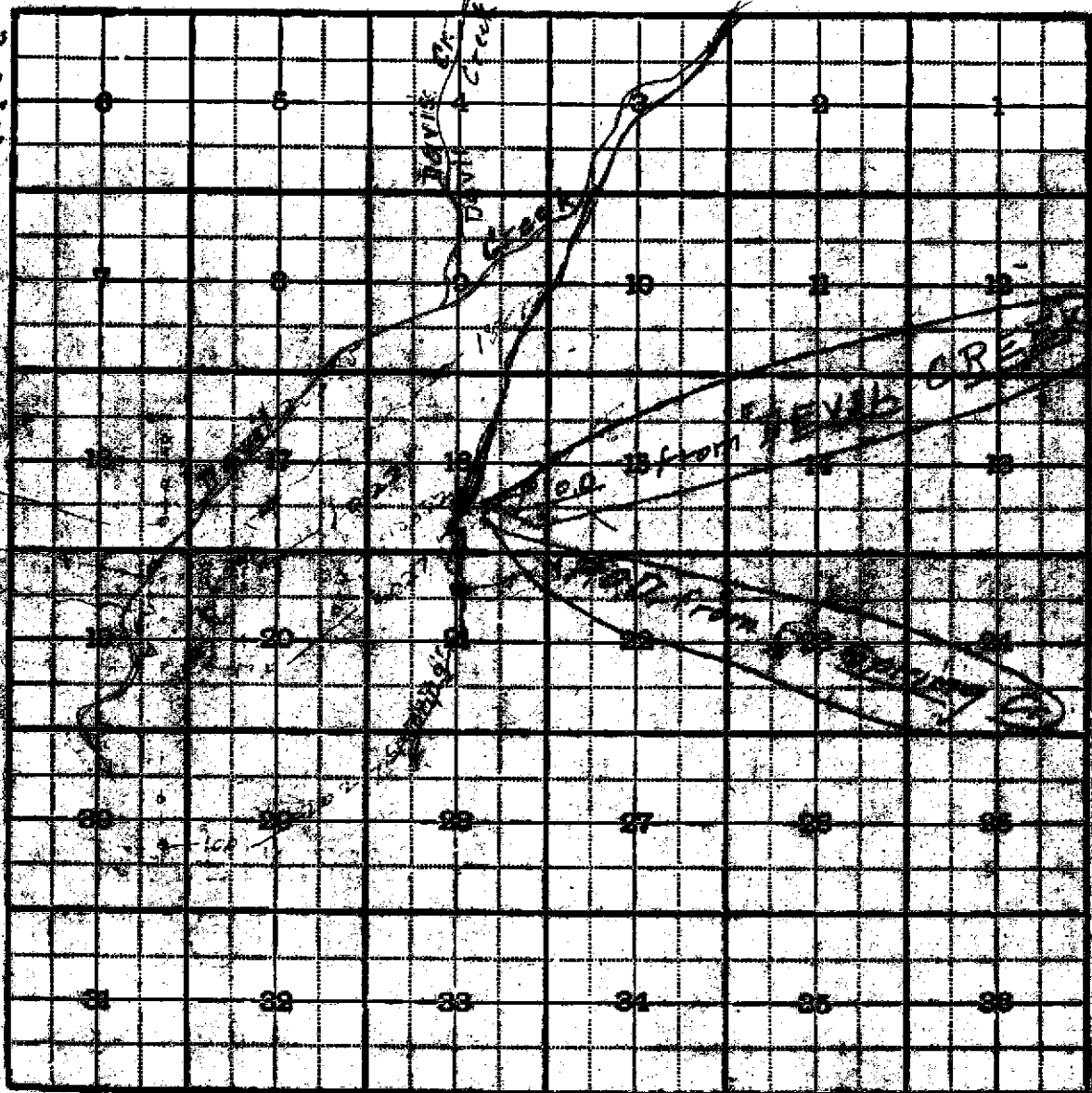
Dam of Crowther Bros
is in channel of Spring
Creek with water from
Devil Cr. (P.O.D. R-682)

R-807

Feeling for 773.2
from Spring Cr.

R-807

Feeling for 773.2
from Spring Cr.



R-682

P.O.D. = Dam of M.V. Co.
in channel of Devil Cr.
(P.O.D. = SW SW 13, T13S-36E)

R-682

February 27, 1948

Re: Permit No. R-682

Mr. W. H. Clark, Sec'y
Malad Valley Irrigating Co.
Box 331
Malad, Idaho

Dear Mr. Clark:

Reference is made to your letter of February 25, 1948, in regard to the filing of Crowther Bros. Milling Company for reservoir permit on Spring Creek and Devil Creek.

You asked why two permits have been issued for impounding the same waters, but for your information, will state that all permits issued by this Department are only for any unappropriated public water of the State.

As no publication is required where the application is for less than 6250 acre feet, there was no notice published in connection with the Crowther Bros. application nor the application for Permit No. R-682.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K/dm

R-682

MALAD VALLEY IRRIGATING COMPANY

Box 331 - Malad, Ida.

February 25, 1948

Re: Permit No. R-682

Mr. Mark R. Culp, State Recl. Engineer
State House
Boise, Idaho.

Dear Mr. Culp:

Reference is made to your letter of February 4, 1948, in regard to reservoir permit R-682 in the name of the Malad Valley Irrigating Company.

You state in your letter that permit R-682 was filed by above named Company, June 10, 1940, with the due date for completion of work as September 6, 1945, but an extension was granted for completion of work to date of September 6, 1949.

It has recently been brought to the attention of the directors that you have approved a permit for Crowther Bros. Milling Company of Malad, Idaho to construct a 773.2 acre foot reservoir on Spring Creek, work to commence within ten days or two weeks. Spring Creek is contingent with and part of Devil Creek and will no doubt effect the project on which permit R-682 has been issued. Crowther Bros. has not advertised their intention of constructing a dam and the directors will appreciate an explanation as to why two permits have been issued for impounding the same waters.

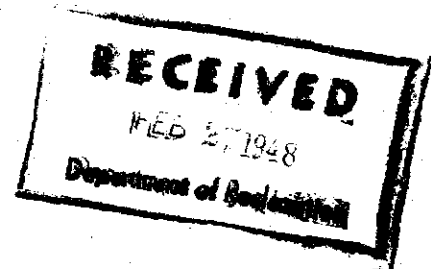
Thanking you in advance for any information you consider may be of interest or value to the Company.

Very truly yours,

Malad Valley Irrigating Company

W. T. Lark
Secretary

WHC/hc



R-682

✓
February 4, 1948

Re: Permit No. R-682

Mr. W. H. Clark, Sec.
Malad Valley Irrigating Co.
Box 331
Malad City, Idaho

Dear Mr. Clark:

Reference is made to your letter of January 30, 1948,
in regard to reservoir permit in the name of the Malad Valley
Irrigating Co.

Records in this department show reservoir permit R-682
for the storage of 6000 acre feet of water from Devil Creek. This
was filed June 10, 1940 and completion of works proof was due
September 6, 1945, but an extension was allowed for completion of
works until September 6, 1949.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm

R-682

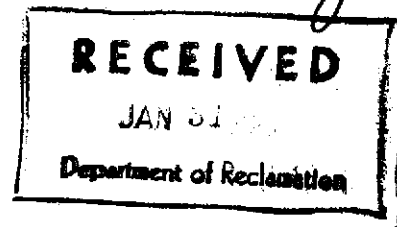
Malad Valley Irrigating Co.
Bx. 331 Malad City, Idaho
Jan. 30, 1948

Mr. Mark R. Kulp State Recl. Comm.
Boise, Idaho.

Dear Mr. Kulp

Will you please inform me whether
the above named Co. has any filings
that are now valid for the purpose
of constructing a Reservoir in
Oneida County, and if so to what date.

Very Truly Yours
Malad Valley Irrigating Co.
W. H. Clark Secy.



R-687

Arnold Williams
XXXXXXXXXXXX

January 2, 1946

Re: Permit No. R-688

Malad Valley Irrigating Company,
C/o Mr. L. Evans,
Malad, Idaho

Gentlemen:

We enclose herewith the approval of the State
Reclamation Engineer of your application for
extension of time for completion of works under
the above numbered permit to September 6, 1949.

This should be attached to the original permit,
of which it forms a part.

Very truly yours,

MARK N. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encl.

R-688

APPROVAL OF STATE RECLAMATION ENGINEER

WHEREAS, Application for extension of time for Completion of Works under Permit to Construct a Reservoir and Store and Appropriate the Public Waters of the State of Idaho, No. R-682, has been made by the owner thereof, Malad Valley Irrigating Company, of Malad City, Idaho, which application was duly advertised for a period of two consecutive weeks in the Idaho Enterprise, of Malad, Idaho, stating that on the 11th day of August, 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 no protest, testimony or evidence had been presented, either orally or by affidavit; and,

WHEREAS, It appears that the owner of said permit is entitled to a further extension of time within which to complete work:

NOW, THEREFORE, I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, by virtue of authority vested in me under Chapter 12 (Senate Bill 13) of the Session Laws of 1945, hereby extend the time for completion of works under Permit No. R-682 to September 6, 1949.

WITNESS MY HAND this 2nd day of January, A. D. 1946.

Mark R. Kulp
MARK R. KULP

State Reclamation Engineer

R-682

R-682

November 5, 1945

Idaho Enterprise Publishing Company
Malad, Idaho

Gentlemen:

We acknowledge receipt of the enclosed statement for publication of notice, amounting to \$5.70. However, it is not accompanied by an affidavit of publication, or other information as to what the notice was.

We assume this is a legal publication in connection with a water right- and judging from the date it is perhaps a notice of application for extension of time for completion of works under Permit No. R-682, of the Malad Valley Irrigating Company.

If this is correct, the statement, together with affidavit of publication, should be sent to Mr. D. L. Evans, of Malad, in accordance with office letter of July 18, 1945, transmitting this notice for publication.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encls.

R-682

Affidavit of Publication

NOTICE FOR PUBLICATION

Notice of Application for Extension of Time for Completion of Works Under Senate Bill No. 13 Session Laws of 1943 1945.

Notice is hereby given, that on the 11th day of August, 1945, at 10:00 o'clock, A. M., a hearing will be held by the State Reclamation Engineer, or his deputy, at Room 107 State House, 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-682. 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-682.

2. The name and post office address of the person or persons or corporation holding said permits are: Malad Valley Irrigating Company, Malad City, Idaho.

3. The amount of water claimed by the said permit or permits is 6,000 acre feet from Devil Creek which is tributary to Snake River.

MARK R. KULP

State Reclamation Engineer

8-2-9t2

State of Idaho } ss.
County of Oneida }

Sybil Stratton being first duly sworn on her oath, states: That *she is principal* *Clark* of the Idaho Enterprise, a newspaper

of general circulation in Oneida County, Idaho published weekly at Malad, in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That said Idaho Enterprise was at all of the times of publication of said notice a newspaper of general circulation made up of at least four pages of at least five columns each, printed from type matter or stereotyped forms of at least seventeen and three fourths inches depth, and said newspaper during all of the times of publication aforesaid had more than 200 bonafide subscribers thereto living within the county of Oneida in which said newspaper was published, and that said paper was published at regular intervals not less frequently than once a week.

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for *2* successive weekly issues thereof the date of the first publication being the *2* day of *Aug* 194*5* the date of the last publication being the *9* day of *August* 194*5*

Sybil Stratton

Subscribed and sworn to before me this *11* day of *August* 194*5*

Notary Public, residing at Malad, Idaho

My Commission expires the *7* day of *Aug* 194*7*

COSTS: *38* lines at 10c per line first insertion \$ *3.80*
5c per line each subsequent insertion \$ *1.90*
TOTAL *5.70*

RECEIVED

JAN 2 1946

Department of Reclamation

R-682

September 11, 1945

Re: Permit No. R-682

Mr. D. L. Evans
Malad, Idaho

Dear Mr. Evans:

We have not yet received the affidavit of publication from the Idaho Enterprise, in connection with the application of the Malad Valley Irrigating Co. for extension of time for completion of works under the above numbered permit.

As this extension cannot be approved until this affidavit of publication is on file in this Department, it is important that the matter be given your early attention.

Thanking you, we are,

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

A

Chief Clerk

R-682

August 13, 1945

Re: Permit No. R-682

Malad Valley Irrigating Co.
C/o R. L. Evans
Malad, Idaho

Dear Mr. Evans:

There were no protests filed at the time set for hearing on your application for extension of time for completion of works under the above numbered permit.

Therefore, upon receipt from you of the affidavit of publication, which the Idaho Enterprise was instructed to send you, the approval of this extension will be issued and sent you.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A

R-682

THE IDAHO ENTERPRISE

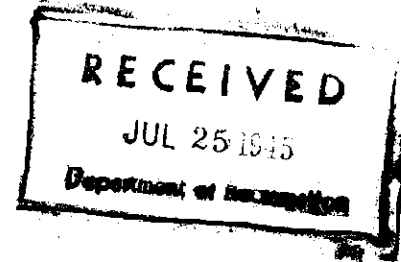
Publishers & Printers



Clyde Hanson, Lessee

MALAD CITY, IDAHO

7-23-45



State Reclamation Dept.,
Boise, Idaho

Dear Sirs:-

We are in receipt of your notice for publication of the Malad Valley Irrigating Co. which will be published in our issues of Aug. 2 and 9.

Yours respectfully

THE IDAHO ENTERPRISE

Clyde Hanson
Clyde Hanson, Lessee

R-682

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

BOISE

Date . July 18, 1945 . . .

The Idaho Enterprise

Malad, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for two consecutive weeks prior to **August 11, 1945** the date set for hearing, the expense of the publication to be paid by the applicant, **Malad Valley Irrigating Company,**
C/o D. L. Evans, Malad, 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

Chief Clerk

R-682

NOTICE FOR PUBLICATION

NOTICE OF APPLICATION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS
UNDER SENATE BILL NO. 73, SESSION LAWS OF 1943 1945

0860036363636363636

Notice is hereby given, that on the 11th day of August
1945, at 10:00 o'clock, A. M., a hearing will be held by the
State Reclamation Engineer, or his deputy, at Room 107 State House, 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-682. 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-682
2. The name and post-office address of the person or persons
or corporation holding said permit or permits are:
Malad Valley Irrigating Company, Malad City, Idaho

3. The amount of water claimed by the said permit or permits is
6,000 acre feet from Devil Creek
which is tributary to Snake River

MARK R. KULP

State Reclamation Engineer

R-682

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) July 16, 1945

(P. O.) Malad City, Idaho

STATE RECLAMATION ENGINEER :
TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the
The Idaho Enterprise of Malad City, Idaho, published in
the county in which the works are situated.

Malad Valley Irrigating Company

By D. R. Everett Agent

(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-682

July 18, 1945

Re: Permit No. R-682

Malad Valley Irrigating Company,
C/o D. L. Evans, Agent,
Malad, Idaho.

Gentlemen:

We acknowledge receipt of your application for extension of time for completion of works under your Permit No. R-682, and also your authorization to have the notice in connection therewith published in the Idaho Enterprise.

We have set August 11th, at 10:00 A.M., at Room 107 State House, Boise, Idaho, as the time and place for the hearing- and have sent a copy of the notice to the Idaho Enterprise, with instructions to publish it once a week for two consecutive weeks prior to that date, and to send you the affidavit of publication together with statement of the cost.

It will not be necessary for you to appear at the hearing, as your statement is already contained in the application. If any protests should be received, you will be duly notified; otherwise, upon receipt from you of the affidavit of publication, the extension will be approved.

Very truly yours,

MARK R. ZULP
State Reclamation Engineer
By

Chief Clerk

A

R-682

PERMIT NO. R-682

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

STATE OF IDAHO)

County of Oneida)

D. L. Evans of Malad, State of
Idaho, being first duly sworn, upon his oath deposes and says: he is agent of
the Malad Valley Irrigating Company, which is
~~owner and holder of permit to appropriate the~~
Public Waters of the State of Idaho, No. R-682

That under the terms and conditions of said Permit, completion
of works thereunder is required by September 16, 1945.

That ~~he~~ ^{the Company} 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:

surveying reservoir site and digging test pits, estimating
costs of labor, material, land etc

That ~~he~~ ^{the Company} 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:

war conditions depleted labor supply, increased the cost of
materials and labor and made construction work too expensive

Wherefore, he makes application to the State Reclamation Engineer
to extend the time for Completion of Works under the said permit to
September 16, 1949, pursuant to the provisions of Senate
Bill No. 13, Session Laws of 1945.

Subscribed and sworn to before me this 16 day of July, 1945

My commission expires
July 20, 1947

D. L. Evans
Notary Public for Idaho
Residing at Malad, Idaho

Date of receipt at office of Department of Reclamation July 17 1945

R-682

✓
July 13, 1948

Re: Permit No. R-682

Malad Valley Irrigating Company
Malad, Idaho

Mr. D. L. Evans, Agent

Gentleman:

We are in receipt of your letter of July 18th in which you request an extension until September 8, 1947 for completion of works, and until September 6, 1949 for beneficial use, under the above numbered permit.

We enclose a summary of Senate Bill No. 13 passed by the last session of the Legislature, which provides for an extension under the conditions mentioned in your letter; and we also enclose an application for such extension. You will note that an extension of time for making proof of completion of works automatically extends the time for a like period for making proof of beneficial use.

This bill provides that a notice of such application must be published once a week for two consecutive weeks, in a newspaper of general circulation in the county in which the works are located. This notice will be made out in this Department, upon receipt of the application, and will be similar to the form enclosed.

In returning the application, please also return Form 11, which is your authorization for us to have the notice published at your expense, in the newspaper designated by you.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A
Encls.

R-682

Permit: R-682

Malad City, Idaho

July 12, 1945

To the Department of Reclamation
State of Idaho, Boise, Idaho

Gentlemen:

Application is hereby made for extension of time in which to complete works under Permit R-682 dated September 6, 1940, to September 6, 1947, and for extension of time of Beneficial use of water stored under said permit to September 6, 1949

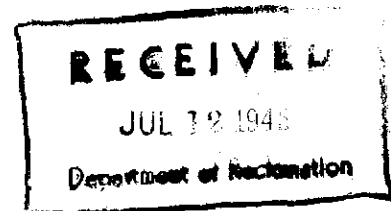
Owing to the conditions arising ^abecause of the World War it has been impossible to complete works provided under said permit and thus impossible to store water for beneficial use

Malad Valley Irrigating Company

By, D. L. Evans Agent

GV dec 9-6-45

Ba - 9-6-48



R-682

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS
Malad Valley Irrigating Company

Malad, Idaho

Boise, Idaho, July 3, 1945

Dear Sirs:-

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-682.

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 September 6, 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 A. KULP

Commissioner of Reclamation.
State Reclamation Engineer

R-682

R-682
✓

September 10, 1943

Mr. J. D. Wood,
Commissioner of Public Works,
Building.

Dear Mr. Wood:

Herewith find enclosed Drawing No. 55-D-41-General Plan and Section of Malad Dam; and Drawing No. 119-RDM-12, Malad Reservoir Site; which have been prepared by the U. S. Bureau of Reclamation, and transmitted to this office by letter dated August 28, 1943.

It is stated in their letter that the designing section of the Denver office has approved Drawing No. 55-D-41 and it represents substantially the dam that will be built, and that the proposed dam will be constructed on axis A-A shown on Drawing No. 119-RDM-12.

It is to be noted that the location and height of the dam have been changed somewhat from that shown on the reservoir application No. R-882 filed by the Malad Valley Irrigation Company, the data on which was mailed to you on August 17, 1943.

Very truly yours,

JAMES SPOTFORD
State Reclamation Engineer

SIA
Encls.

R-682

August 17, 1948

Re: Permit No. R-682

Mr. J. D. Wood
Director of Highways
Building

Dear Mr. Wood:

We give below an abstract of Permit No. R-682, upon
the request of your Mr. J. A. Chamberlin:

Name - Malad Valley Irrigating Company
Address - Malad, Idaho- Oneida County
Officers- D. L. Evans, Secretary & Treasurer
Quantity of water filed on- 6,000 acre feet
Location - In channel of Devil Creek
Point of diversion- or Outlet of reservoir- Northeast 1500
feet from the West $\frac{1}{4}$ corner of Section 15, Twp. 12 South,
Range 36 East, B. M.
Area of high water line - 150 acres
Capacity - 6,000 acre feet
Height of dam- 70 feet
Length at top- 1,000 feet
Length at bottom- 400 feet
Kind of construction- Earth fill
Estimated cost - \$200,000
Date of filing- June 10, 1940
Proof of completion of works due- September 6, 1948
" " beneficial use " " 6, 1948

The above includes all available data filed with the permit.
However, Mr. Spafford may have some other information relative
to the dam that is not of record.

Mr. Spafford will probably return to the office some time
Wednesday or Thursday.

Very truly yours,

JAMES SPAFFORD
State Reclamation Engineer
By

TIA

Ray W. Thompson R-682
Supervisor of Water Distribution

Know all men by these presents that we the undersigned have this day associated ourselves together for the purpose of Incorporating under the Laws of the Territory of Idaho a Corporation to be known by the name of Malad Valley Irrigating Company

2nd

And we hereby certify that the objects for which this corporation is formed are , to purchase build own and possess ditches dams and all canals etc necessary to take out the waters of Marsh creek Devil creek Birch creek and Spring creek for the purpose of Irrigation in what is known as Malad Valley in this Oneida County Territory of Idaho

3rd

That its principal place of business shall be in Malad City Oneida County Idaho Territory

4th

That the time of its existence shall be Forty Nine years from and after the date of incorporation hereof

5th

That the number of its trustees shall be five and that the names of those who shall be trustees and serve as such officers the first year and until the election and qualification of their successors are Henry Peck, James Daniels, W. W. Evans, Jenkin Jones and James E. Jones

6th

That the capital stock of this corporation shall be two thousand eight hundred dollars divided into fifty six shares of fifty dollars each

7th

That the other officers beside the trustees above named shall be a President Vice President Secretary and ~~Treasurer~~. The President and secretary to be selected by the board of Trustees from among their number and the Vice President and Treasurer to be elected annually at the election of said Trustees, and until said first election George Stuart shall serve as Vice President and Richard Jones Treasurer

In Witness Whereof we have hereunto set our hands and seals

(Signed) William T. Evans Seal

Darra J. Williams Seal

John E. Davis Seal

William T. Griffith Seal

R-682

Witness of Mark	J. W. Morgan	His Jesse R X Dredge	Seal
		Mark James P. Harrison	Seal
		Eurys J. Davis	Seal
		Dana B. Williams	Seal
		Thomas Daniels	Seal
		Matthew Hill	Seal
		His William W X Woodland	Seal
		Mark	
Witness Above Mark	J. W. Morgan		
		Lewis Williams	Seal
		James E. Jones	Seal
		his David J Roberts	Seal
		marks	
Witness Above Mark	J. W. Morgan		
		Hugh Thomas	Seal
		George S. Thomas	Seal
		John D. Daniels	Seal
Signed Sealed & Delivered		Anne W. Vander Wood	Seal
in Presence of		Joseph N. Ireland	Seal
J. W. Morgan			

Territory of Idaho

County of Oneida ss

On this 31st day of March in the year A.D. 1882 before me ,
 Joseph W. Morgan Probate Judge of Oneida Oneida County I. T.
 personally appeared William T. Evans, David J. Williams, John E. Davis
 William T. Griffiths, Jesse R. Dredge, James P. Harrison, Eurys J. Davis,
 David B. Williams, Thomas Daniels, Mathew Hill, William W. Woodland,
 Lewis Williams, James E. Jones David J. Roberts, Hugh Thomas, George S.
 Thomas, John D. Daniels, Anne W. Vander Wood & Joseph N. Ireland known to
 me to be the same person whose names are subscribed to the foregoing in-
 strument and they severally duly acknowledged to me that they executed the
 same,

As witness my hand and the seal of the probate court of
 Oneida County Idaho Ty

(Signed) Joseph W. Morgan
 Probate Judge

Jesse Thomas Seal
John L. Thomas Seal
Geo Stuart Seal

Thomas W. Thomas Seal
His
Daniel W. x Thomas Seal
Mark
Witness of mark J. W. Morgan

James Phillips Seal
his
Nephi x Campbell Seal
mark
Witness of mark J.W. Morgan

Thomas Daniels as administrator seal
of the estate of Thos W. Richards

William E. Jones Seal
William W. Morgan Seal
her
Sarah W. x ~~Thomas~~ Seal
mark
Witness of mark J. W. Morgan

Thomas Ea Thomas Seal
Benjamin N. Adams Seal
his
Morgan x Vaughan Seal
mark
Witness of mark J. W. Morgan

John E. Owens Seal
James Daniels Seal
William T. Owens Seal
Sarah D. Thomas for D. D. Thomas Seal
Seineon E. Peabody Seal

David T. Owens Seal
R. G. Evans Seal
her
Catherine x Fallius Seal
mark
Witness of mark J.W. Morgan
her
Mary Ann x Hobbs Seal
mark

Witness of mark J. W. Morgan
Richard Jones Seal
her
Alice x Evans Seal
mark
Witness of mark J. W. Morgan

Daniel Evans Seal
his
Edward J. x Evans Seal
mark
Witness of mark Daniel Evans

John J. Williams Seal
Benjamin E. Jones Seal
James H. Dening Seal

Dan W. Kent	Seal
John W. Lusk	Seal
his	
John x Barrett	Seal
mark	
Witness of Mark J. W. Morgan	
Henry Stubb	Seal
Jenkin Jones	Seal
Henry Peck	Seal
his	
James x Bailly	Seal
mark	

Witness of mark J. W. Morgan

Territory of Idaho

County of Oneida

On this 4th day of April in the year A. D. 1882 personally appeared before me J. W. Morgan probate Judge of Oneida County I. T. personally appeared Jesse Thomas John S. Thomas Geo Stuart Thomas W Thomas Daniel W Thomas, James Phillips Nephi Campbell, Thomas Daniels as administrator of the Estate of Thomas W. Richards deceased William E. Jones William W. Morgan Sarah W Jenkins Thomas Ea Thomas Benjamin N Adams Morgan Vaughan John E Owens James Daniels, William T. Owens, Sarah D Thomas Seineon E. Peabody David S Owens R G Evans Catherin Fallis Mary Ann Hobbs Richard Jones Alice Evans Daniel Evans Edward J. Evans John J Williams Benjamin E Jones James H Denning Dan W Kent, John W. Lusk John Barrett Henry Stubbs Jenkin Jones Henry Peck and James Bailey known to me to be the persons whose names are subscribed to the foregoing instrument and they severally duly acknowledged to me that they executed the same

Witness my hand and the seal of the Probate court of Oneida County Idaho Territory

(Seal)

Joseph W. Morgan

Probate Judge

Henry B. Marsh	Seal
her	
Eleanor x Jones	Seal
mark	
Witness of mark J W. Morgan	
Nephi Lewis	Seal
William D. Lewis	Seal
William H. Jones	Seal

Signed Sealed and delivered
in presence of J. W. Morgan

Territory of Idaho

County of Oneida ss

On this 5th day of April in the year A. D. 1882 before me Joseph W. Morgan Probate Judge of Oneida County Idaho Ty personally appeared Henry B. Marsh Eleanor Jones Nephi Lewis William D. Lewis and W. H. Jones known to me to be the persons whose names are subscribed to the foregoing instrument and they severally duly acknowledge to me that they executed the same

Witness my hand and the seal of the Probate Court of Oneida County I. T.

(Signed) J. W. Morgan
Probate Judge

William W. Evans Seal

Signed and sealed in the presence of J. W. Morgan

Territory of Idaho

County of Oneida ss

On this 7th day of April in the year A. D. 1882 before me J W Morgan Probate Judge of Oneida County I T personally appeared William W. Evans known to me to be the same person whose name is subscribed to the foregoing instrument and he duly acknowledged to me that he executed the same

Witness my hand and the seal of the Probate Court of Oneida County Idaho Ty

(Signed) J W Morgan
Probate Judge

his
Morgan x Jones Seal
mark
Witness of mark J W Morgan
Sarah Waylett Seal

Signed and Sealed in the
presence of J. W. Morgan

Territory of Idaho

County of Oneida ss

On this 8th day of April A D 1882 before me Joseph W. Morgan

Morgan Probate Judge of Oneida County Idaho Ty personally appeared Morgan Jones and Sarah Waylett known to me to be the persons whose names are subscribed to the foregoing instrument and they severally duly acknowledge to me that the executed the same

Witness my hand and seal of the Probate Court of Oneida County Idaho Ty

Joseph W. Morgan
Probate Judge

Joseph N. Ireland Seal
Administrator of the Estate of Morgan M. Morgan
deceased
Her
Ellen x Colton Seal
mark

Witness of mark J W Morgan

D. L. Evans Seal
his
John x Price Seal
mark
Witness of mark J W Morgan
Thomas D. Daniels Seal

R. G. Evans Seal

Administrator of Estate
of Daniel Daniels deceased

Signed and sealed in presence
of J. W. Morgan

Territory of Idaho

County of Oneida ss

On this 13th day of April AD 1882 before me J. W. Morgan probate Judge of Oneida County, I T personally appeared J N Ireland administrator of the Estate of M M Morgan deceased, Ellen Colton Elizabeth R. Jenkins D. L. Evans John Price Thomas D Daniels and R. G. Evans Administrator of the Estate of Daniel Daniels deceased known to me to be the same persons whose names are subscribed to the foregoing instrument and they severally duly acknowledged to me that they executed the same

Witness my hand and the seal of the Probate court of Oneida county Idaho Ty

(Seal)

Joseph M. Morgan
Probate Judge

R-682

David E Leigh Seal

Daniel M. Daniels Seal

Herbert R Jones Seal
her

Ann X Ceaston Seal
mark

Witness of mark J W Morgan

Territory of Idaho

County of Oneida

On this 14th day of April A D 1882 before me J W Morgan
Probate Judge of Oneida County, I T. personally appeared David Leigh,
Daniel M. Daniels, Herbert Jones and Ann Ceaston known to me to be
the persons whose names are subscribed to the foregoing instrument and
they severally duly acknowledged to me that they executed the same

Witness my hand and the seal of the Probate Court of
Oneida County I T.

(Seal)

J. W. Morgan
Probate Judge

Joseph W. Morgan Seal

Territory of Idaho

County of Oneida ss

On this 21st day of April A D 1882 before me Wm B
Thews Clerk of the District Court of the 3d Judicial District of Idaho
Territory personally appeared Joseph W Morgan known to me to be the
person whose name is subscribed to the above acknowledgement

Witness my hand and the seal of the District Court this
21st day of April A D 1882

Wm B Thews

Clerk of the District Court 3d
Judicial District Idaho Territor y

Territory of Idaho

County of Oneida ss

I, Wm B. Thews Clerk of the 3d Dist court of Idaho Territory
do hereby certify that the above is a full true and correct of the articles
of Incorporation of the Malad Valley Irrigating Company as the same appears
on the Files in my office

Witness my hand and the seal, of the court hereto affixed
this 13th day of May A D 1882 (Signed) Wm B. Thews

CLK of

L-682

Clk of the Dist Court

3d Judl Dist I T

By H R Evans
Deputy Clk

2762

COPY OF

ARTICLES OF INCORPORATION
OF THE

MALAD VALLEY IRRIGATING COMPANY

Filed in the Office of the
Territorial Secretary June
12, 1882

Signed

T. F. Singisen
Secretary

We the undersigned Trustees of the Malad Valley Irrigating Company and the secretary of the same, do hereby certify

That the Malad Valley Irrigating Company was a corporation existing on the 3d day of October 1882 formed under the laws of the Territory of Idaho, under the Act of the Territorial Legislation and approved January 12th 1875, and is still existing.

That a meeting of the trustees of said corporation duly called, was held on the 2nd day of August 1895 at 8 o'clock P. M. at the office of said corporation in the city of Malad, County of Oneida, State of Idaho,

That at said time and place, all the Trustees and Secretary, of said corporation assembled as a Board of Trustees of said corporation; that there and then the said Trustees by a unanimous vote made an election, and resolved unanimously to continue the existence of said corporation, the Malad Valley Irrigating company, under the Civil Code of the state of Idaho, Chapter 1 Art. 4 Revised statutes of Idaho 1887-Approved February 10, 1887, applicable thereto and the statutes amendatory thereof and supplementary thereto.

(Signed) D. M. Daniels

(Signed) W. D. Lewis

(signed) J. R. Dodge

(Signed) J. R. Thomas

(signed) E. R. Evans

Trustees

(Signed) J. R. Thomas, Secretary

State of Idaho

County of Oneida ss.

We D. M. Daniels, J. R. Dodge, William D. Lewis, E. R. Evans and J. R. Thomas, Trustees and J. R. Thomas secretary of the Malad Valley Irrigating Company do hereby certify and declare that we are trustees of said Company and comprise the whole board thereof: That we have read the foregoing certificate and know the contents thereof and that the matters, things, facts and proceeding as set forth and described in said certificate did well and truly take place in manner and form as therein set forth and described and that the same are true and correct.

(Signed) J. R. Thomas,
Secy.

(Signed) D. M. Daniels
(Signed) J. R. Dodge
(Signed) William D. Lewis
(Signed) Ed. R. Evans
(Signed) J. R. Thomas

I hereby certify that the above is a full true and correct copy of an Instrument now on file in my office.

(Seal)

(Signed) D. J. Reynolds

Recorder of Oneida County

2762 Copy

Certificate of Continuance

of

Malad Valley Irrigating

Company

Department of State
Secretary's Office

Filed this 5th day of August
1895 at 2:30 o'clock a.m. and
recorded in Book "C" of Domes-
tic Incorp. on page 447.

Records of the State of Idaho

(Signed) I. W. Garrett
Secretary of State
(Signed) E.

CERTIFICATE OF AMENDMENT OF ARTICLES TO ENLARGE OBJECTS AND
PURPOSES

KNOW ALL MEN BY THESE PRESENTS: That we, J. H. Dredge and D. S. Jones, the president and Secretary respectively of the Malad Valley Irrigating Company, a corporation, organized and existing under the laws of the State of Idaho, and that I, J. H. Dredge and D. S. Jones, and Nephi Lewis A. E. Scott and William Hill, who are directors of said ~~corporation~~, or who constitute a majority of this Board of Directors do hereby certify that said Malad Valley Irrigating Company, a corporation, duly incorporated under the laws of the State of Idaho, on or about the 21st day of April, 1882; that said corporation at the date of its incorporation and ever since said date has had a capital stock of \$2800.00, divided into 56 shares of the par value of \$50.00, and at all times hereinafter mentioned 56 shares of said stock were issued and outstanding; that said shares are fully paid up; that pursuant to a resolution of the Board of Directors of the Malad Valley Irrigating Company duly held on the 18th day of June, 1917, at the principal place of business of said corporation in Malad City, Oneida County, Idaho, the following notice was published in the Idaho Enterprise, a newspaper published in Malad City, County of Oneida, State of Idaho, once a week for at least thirty days prior to the meeting of the stockholders of said corporation therein referred to: "Notice of Stockholders Meeting to Consider an Amendment of the purposes of the Corporation. Notice is hereby given that in pursuance of a resolution and an order of the Board of Directors of the Malad Valley Irrigating Company, unanimously adopted at a regular meeting of the said Board duly held on the 18th day of June, 1917, at the principal place of business of said corporation a meeting of the stockholders of said corporation is hereby called for and will be held at the principal place of business of said corporation, to-wit: The court house, Malad City, Oneida County, Idaho, on July 26, 1917, at 2 o'clock p. m., for the purpose of considering and acting upon the proposition to amend the articles of incorporation so as to include, among the objects and purposes now granted, the power to build, construct and otherwise acquire reservoirs, dams canals, laterals, and other works for the purpose of storing and impounding water for distribution, and to borrow money upon the credit of the corporation, and do all things necessary for the attainment of said objects, or either of them."

R-682

Jesse H. Dredge, President

David S. Jones, Secretary."

That on the 26th day of July, 1917, at 2 o'clock p. m. at the principal place of business, to-wit: Court house, Malad City, Idaho, at a special meeting of the stockholders of said corporation the following resolution was duly past by vote representing at least two-thirds of the subscribed capital stock: Resolved that the articles of incorporation of the Malad Valley Irrigating Company be and the same are hereby amended so as to include among the objects and purposes now granted the power to build, construct and otherwise acquire reservoirs, dams, canals, laterals and other works for the purpose of storing and impounding water for distribution for irrigation and domestic and culinary purposes and for power purposes and to borrow money upon the credit of the corporation and to do all things necessary for the attainment of said objects, or ~~either~~ of them; that the powers herein granted shall and the same are to be in addition to the powers already granted and the same as if written in said original articles as an additional paragraph to the objects mentioned and set forth in said original order.

That the total number of shares of the subscribed capital stock of said corporation at said times was 56 shares;

That the amount of stock represented at said meeting of said stockholders of said corporation was 41-3/4 shares

That the total vote in the affirmative by which said amendment enlarging the powers of said corporation, as aforesaid, was 41-6/16 shares

That the total vote in the negative by which said resolution was adopted enlarging the powers of said corporation was 6/16 shares

That the powers, purposes and objects of said corporation has, by said vote on said resolution, been amended so as to include among its objects and purposes the matters and things contained in said resolution

MALAD VALLEY IRRIGATING COMPANY

By (Signed) J. H. Dredge
President

By (Signed) David S. Jones
Secretary

(Signed) Nephi Lewis

(Signed) Archibald E Scott

(Signed) William Hill

Directors of the Malad Valley Irrigating Company and constituting a majority of the board of directors of said company.

CERTIFICATE OF TRUE COPY

State of Idaho

County of Oneida ss

I, Jenkin Jones, Clerk of the District Court of the Fifth Judicial District of the State of Idaho, and for the County of Oneida, do hereby certify that the foregoing is a true and correct copy of the original Certificate of Amendment of Articles to enlarge objects and purposes now on file in my office at Malad, Ida

Given under my hand and the seal of said Court, at office in Malad City, Idaho, this 31 day of July, A. D. 1917

Attest: (Signed) Jenkin Jones Clerk

(SEAL)

2762-b copy

MALAD VALLEY
IRRIGATING COMPANY

Certificate of Amendment
enlarging purposes of

Corporation

-*-

DEPARTMENT OF STATE
Secretary's Office

Filed this 6th day of Aug.
1917 at 10 O'clock A. M.
and Recorded in Book A-8
of Dom. Corp'ns on page
639

Records of the State of
Idaho

(Signed) W. T. Dougherty
Secretary of State
(Signed) S. F. Hartman
Chief Clerk

C E R T I F I C A T E O F A M E N D M E N T

ARTICLES OF INCORPORATION

MALAD VALLEY IRRIGATING COMPANY

KNOW ALL MEN BY THESE PRESENTS: That we, D. M. Daniels, and J. O. Thomas, the President and Secretary, respectively, of the Malad Valley Irrigating Company, a corporation, organized and existing under the laws of the State of Idaho; and

That we, D. M. Daniels, J. O. Thomas, Nephi Lewis, H. C. Blood, and R. J. Harding, who are all the directors of said corporation, and who constitute a majority of said Board of Directors, do hereby certify:

That said Malad Valley Irrigating Company, a corporation, duly incorporated under the laws of the State of Idaho, on or about the 21st day of April, 1882; that said corporation at the date of its incorporation and ever since said date has had a capital stock of \$2800.00, divided into 56 shares of the par value of \$50.00 per share and that at all the times hereinafter mentioned 56 shares of said stock were issued and outstanding and fully paid up;

That pursuant to a resolution of the Board of Directors of the Malad Valley Irrigating Company, duly passed by a majority vote of the directors of said company, at a special meeting of said Board of Directors duly called and held on the 19th day of February, 1921, at the principal place of business of said corporation, to-wit: at the courtroom of the County Courthouse in Malad, in the County of Oneida, State of Idaho, a special meeting of the stockholders of said corporation was called to be held at the principal place of business of said corporation, to-wit: at the courtroom of the County Courthouse in Malad, County of Oneida, State of Idaho, on Saturday the 26th day of March, 1921, at 2 o'clock P. M. of that day, for the purpose among other things of amending the articles of incorporation so as to increase the amount of the capital stock of said corporation from 56 shares to 928 shares, and the following notice was published in the Idaho Enterprise, a semi-weekly newspaper printed and published in Malad City, County of Oneida, State of Idaho, in every issue thereof:

R-682

for at least thirty days prior to the said meeting of the stockholders of said corporation and therein referred to, to-wit:

NOTICE OF SPECIAL MEETING

of the Stockholders of the Malad Valley Irrigating Company.

Notice is hereby given that in pursuance of a resolution duly passed by a majority vote of the directors of the Malad Valley Irrigating Company, a corporation, organized and existing under the laws of the State of Idaho, at a special meeting of the board of directors of said company, duly held on the 19th day of February, 1921, at the Court room of the County Courthouse in Malad, County of Oneida, State of Idaho a meeting of the stockholders of said corporation is hereby called, and will be held at the courtroom of the county courthouse at Malad, County of Oneida, State of Idaho, on Saturday, the 26th day of March, 1921, at 2 o'clock P. M. on that day, for the purpose of amending the articles of incorporation so as to increase the amount of its capital stock from 56 shares to 928 shares; also for the purpose of amending the by-laws of said corporation; and the transaction of all and any such or other business as may lawfully come before such meeting.

By order of the Board.

Dated February 19th 1921.

D. M. Daniels, President

J. O. Thomas, Secretary

That on the 26th day of March, 1921, at 2 o'clock P. M. of that day, at the principal place of business of said corporation, to-wit: at the Courtroom of the County Courthouse in Malad, in the County of Oneida, State of Idaho, at a special meeting of the stockholders of said corporation, the following resolution was duly passed by a vote of at least two-thirds of the subscribed capital stock, said resolution being in words and figures as follows:

R E S O L U T I O N

Resolved that the Articles of Incorporation of the Malad Valley Irrigating Company shall be amended as follows:

That Article 6 shall be amended so that it shall, as amended, read as follows, to-wit:

The amount of capital stock of this corporation shall be Forty six thousand four hundred dollars, divided into Nine hundred twenty eight shares of the par value of fifty dollars each.

Dated at Malad, Idaho, this 26th day of March, 1921.

(Signed) H. C. Blood

R-682

That the total number of shares of the subscribed capital stock of said corporation at said time was 56 shares. That the amount of capital stock represented at said meeting of said stockholders of said corporation was 43 1/3 shares. That the total vote in the affirmative by which said resolution increasing the capital stock from 56 shares to 928 shares as aforesaid was passed, was 43-1/3 shares. That the total vote in the negative by which said resolution was passed as aforesaid was NO shares.

That the amount to which the capital stock of said corporation has been increased is Forty six thousand four hundred dollars, divided into Nine hundred twenty eight shares of the par value of fifty dollars each.

IN WITNESS WHEREOF, we have hereunto set our hands and caused the corporate seal of said corporation to be hereunto affixed, this 26th day of March, 1921.

(Signed) Pres D. M. Daniels
President, Malad Valley Irrigating
Company and Chairman of said meeting

(Signed) J. O. Thomas
Secretary

(Signed) H. C. Blood

(Signed) Wm. Lewis

(Signed) R. J. Harding

Directors of the Malad Valley Irrigating Company and constituting a majority of the board of directors of said company.

State of Idaho

County of Oneida, ss.

D. M. Daniels, President of the Malad Valley Irrigating Company, and Chairman of the above specified special stockholders meeting, and J. O. Thomas, Secretary of said Company, and of said meeting, being each duly sworn, depose and say: That they are, respectively, the President and Secretary of the Malad Valley Irrigating Company, a corporation, mentioned in the foregoing certificate, and that they were, respectively, the Chairman and Secretary, of the special stockholders meeting specified and mentioned in said certificate; that they together with the other three directors whose names are signed to the foregoing certificate constitute the board of directors of said corporation; that they have read the foregoing certificate and know the contents thereof and that the same is true of their own knowledge.

(Signed) D. M. Daniels

(Signed) J. O. Thomas

Subscribed and sworn to before me this 26th day of March, 1921.

(Signed) J. Peter Jensen
Clerk of the District Court.

(Seal)

State of Idaho

County of Oneida, ss.

I, J. Peter Jensen, County Recorder of the County of Oneida, State of Idaho, do hereby certify the foregoing to be a full, true and correct copy and duplicate of the certificate of Amendment of the Articles of Incorporation of the Malad Valley Irrigating Company, filed in my office at Malad, in the County of Oneida, State of Idaho, this 26th day of March, 1921.

In witness whereof, I have hereunto set my hand and affixed the official seal of said office at Malad, Idaho, this 26th day of March, 1921.

(Signed) J. Peter Jensen

(Seal)

County Recorder, Oneida County,
State of Idaho

AMENDMENT TO

CERTIFIED COPY OF THE ARTICLES

OF INCORPORATION OF

MAIAD VALLEY IRRIGATING COMPANY

Increasing Capital Stock from
\$2800.00 to \$46,400.00

Department of State
Secretary's Office

Filed this 18th day of April
1921 at 10:00 o'clock a.m. and
recorded in Book A-14 of Domes-
tic Corps on page 71-73

Records of the State of Idaho

(Signed) Robert O. Jones
Secretary of State
(Signed) By B. L. Williams
Chief Clerk

September 17, 1940

Re: Permit No. R-682

Malad Valley Irrigating Co.
Malad, Idaho

Attention- Mr. D. L. Evans.

Gentlemen:-

We enclose herewith Permit No. R-682, as per your application, for reservoir - and call attention to the limitations and conditions of same, as shown on page 4.

We are also enclosing Receipt No. 17359, for the additional \$3.00 filing fee, and personal check of James Spofford, in the amount of \$2.75, for the refund due--you having paid \$5.75 for this additional fee.

Very truly yours,

JAMES SPOFFORD
Commissioner of Reclamation
By

JLA
Encls.

Chief Clerk

R-682

Capacity increased from 3000 to 6000 feet.

Additional fees enclosed \$5.75.

DFE,

R-685

August 27, 1940

Re: Application No. 26409

Malad Valley Irrigating Co.
Malad, Idaho

Attention: Mr. D. L. Evans

Gentlemen:

We are returning your application for permit,
and maps, which must be returned to this depart-
ment by August 31st, for the following corrections:

1. Check your land list against the maps.
2. Correct paragraph 5.
3. Show quantity of water from each of Birch and
Devil Creek, under Remarks.

Very truly yours,

JAMES SPOFFORD
Commissioner of Reclamation

By

Deputy Commissioner

SIA
Encl.

R-682

DIRECTORS

I. D. ZUNDEL, President
J. W. WARD, Vice-President
D. L. EVANS, Secretary

MALAD VALLEY IRRIGATING CO.

MALAD CITY, IDAHO

DIRECTORS

WILLIAM HILL
GEO. W. JONES

August 24, 1940

Department of Reclamation
State Capitol Building
Boise, Idaho

Attention: Mr. James Spofford

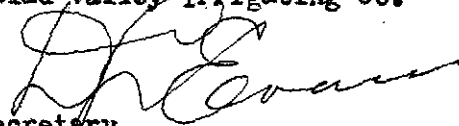
Dear Sir:

Confirming my discussion by telephone this morning I wish to advise that the water from Birch Creek approximating 2500 acre feet with 500 acre feet of the flow of Devil Creek will be impounded in the proposed reservoir on Devil Creek as indicated in our application for permit. As you know $\frac{3}{4}$ of the flow of Devil Creek below the power house in Sec. 27, 13S 36E is decreed to our company. The other $\frac{1}{4}$ has been used for 40 to 50 years in the production of power at Malad by Crowther Brothers Milling Company and their predecessors; so it seems reasonable that we can impound the amount of water requested.

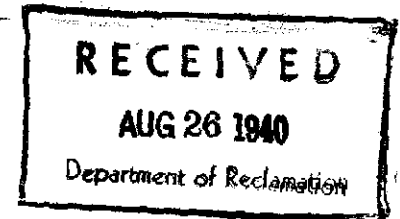
I trust this will be satisfactory with your office. If there is any further information needed, please advise.

Yours very truly,

Malad Valley Irrigating Co.


Secretary

DLE/ej



L-682

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

Boise, Idaho, JULY 2, 1940

Application No. 26409

Mr. D. L. Evans, Secretary,
Malad Valley Irrigating Co.,
Malad, Idaho

SIR:

Application which has been filed under the above number is herewith returned for correction in the following particulars:

A tracing and blue print in accordance with enclosed instructions are required on all applications in excess of 2000 acre feet.

We note that you show water from Birch Creek but no feeder canal. We believe it would be best to show your point of diversion from Birch Creek under Div. No. (b)

Under "Remarks" show the acre feet to be impounded from each source of supply.

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 HOFFORD

COMMISSIONER OF RECLAMATION.

By _____

Deputy Commissioner

Encl: App. 26409
Receipt # 17455

R-682

DIRECTORS

I. D. ZUNDEL, President
J. W. WARD, Vice-President
D. L. EVANS, Secretary

MALAD VALLEY IRRIGATING CO.
MALAD CITY, IDAHO

DIRECTORS

WILLIAM HILL
GEO. W. JONES

June 8, 1940

Department of Reclamation
State Capitol
Boise, Idaho

Attention: Commissioner James Spofford

Dear Mr. Spofford:

I am enclosing herewith application for permit covering our proposed reservoir together with check for \$7.75. I will appreciate it if you will check it over carefully and if you detect any errors, either correct them or return it to me for correction.

Yours very truly

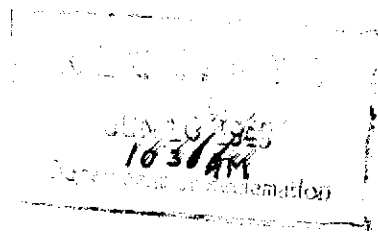
MALAD VALLEY IRRIGATING CO.

D. L. Evans

D. L. Evans
Secretary

DLE/e

ENC.



2-682