

N.E. 1/4 Sec. 15
T.12N. R.36E. B.M.

Proposed Dam
and additional point
of diversion

N^o 8
N^o 7
Proposed Pipe Line
Creek
Spring
Ditch dug in 1924
Approx 250 Ft
44+19° P.F. 8' x 20° Valve House
3' C.I.P. No. 7551

Approx. Location W. Line U.S. Highway No. 91

YARD LIMIT sign board L

Signal # 2492 - 92 ft

249

SPENCER

6008+00° ± Walk
6009+29° F. DEPOT * 5080
6010+22° Conc Box 14' x 12' x 78' 4" B.R.
6011+14° P.I. SW. No. 9 R. Ld. 196
10+80° End of Gravel Platform
12+12° Stand Water Tank 12' x 12' x 12' B.R.
12+12° Hand Car Ho. 12' x 12' x 12' B.R.
6013+90° End of Spur & Earth Bumper 49° Rt.
Warning Sign L 16+50°
16+36° Road Xing 16' x 12' x 18' B.R.
6017+72°
6018+64°
6020 6019+55° F. Under-Gd. Tank 25' x 25' x 10' B.R.
6021+12°
6022+12°
6023+04°
6024+12°
6025+12°
6026+93°
6027+12°
6028+12°
6029+12°
6030 6028+12° Hayes Derrill
6031+12°
6032+12°
6033+55°
6034+12°
6035+12°
6036+12°
6037+12°
6038+12°
6039+12°
6040

N^o 6

N^o 5

N^o 4

N^o 3

N^o 2

N^o 1

N^o 0

N^o -1

N^o -2

N^o -3

N^o -4

N^o -5

N^o -6

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Dubois, Idaho, Sept. 29, 1952.

Mr. C. W. Hardy,
Spencer, Idaho.

Dear Mr. Hardy:

Under date of September 26th the Department of Reclamation at Boise wrote me asking about the water right held by the Village of Spencer. The right was defended by the Woods Livestock Co., as Trustee for the Village of Spencer and listed as No. 142 for ten inches of water, priority Sept. 1, 1879.

Before the village was organized the Company or Dave Hagenbarth paid the assessments against the Village; later the school district took over the obligations, and since the Village was organized as a taxing body they have cared for the payments yearly, in their own name.

The right is listed in the Mud Lake Decree as follows:

Wood Livestock Company,
a corporation, as Trustee
for the Town and Community
of Spencer, Idaho

1879 - September 1

0.2 c.f.s. Source: Thomas Creek a tributary of Beaver Creek.

Point of Diversion: at or near the Town of Spencer, Idaho.

For use on lands by and immediately contiguous to the Town of Spencer, Idaho.

This right to be subsequent in point of priority, nevertheless, to that certain water right herein awarded to the Oregon Short Line Railroad Company for 0.23 c.f.s. of the waters of Thomas Creek, priority September 1, 1879.

Right No. 142.

In conclusion, this right is valid, paid up and in good standing.

Very truly,

Elvin W. Henninger,
Watermaster Water District No. 66.

See right "92 for C.S. Ry."
MICROFILMED

COPY

31-0177

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of the Application of

Union Pacific Railroad Company
Omaha, Nebraska

For a Change of Point of Diversion on
Thomas Creek, Clark County, Idaho

ORDER GRANTING CHANGE
OF POINT OF DIVERSION

NO. 226

WHEREAS, On the 29th day of October, 1954, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, the application of W. C. Perkins for the Union Pacific Railroad Company, for a change of point of diversion on Thomas Creek came on regularly for hearing, pursuant to the published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application, shows that more economical use of the water will be obtained by such change, and that no other water user will be injured thereby;

NOW, THEREFORE, IT IS HEREBY ORDERED That the said application be, and the same is hereby granted, and that a Certificate of Change of Point of Diversion be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed at Boise, Idaho, this 5th day of November, 1954.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

CERTIFICATE OF CHANGE OF POINT OF DIVERSION OF DECREED WATER RIGHT
NO. 226

THIS IS TO CERTIFY That Union Pacific Railroad Company is the owner of and using 0.23 cubic foot per second of the waters of Thomas Creek with priority of September 1, 1879, said water being decreed to the Oregon Shortline Railroad by Judge C. C. Cavanaugh of the United States District Court in and for the District of Idaho, Eastern Division in the case of

Ernest Sauve
Plaintiff

vs.

W. H. Abott, et al.,
Defendants.

said decree bearing date of November 1, 1930.

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho in Volume 5 of Decrees beginning at page 535.

And that now, upon the application of W. C. Perkins, Agent for the Union Pacific Railroad Company, for Certificate of Change of Point of Diversion of 0.23 cubic foot per second of the waters of Thomas Creek made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to change such point of diversion is HEREBY GRANTED.

That said change of point of diversion shall not modify in effect said decreed water right, or place of use. Said water is to be limited at any given time to an amount actually and beneficial used for such purposes and shall not exceed the following amount, to-wit:

0.23 cubic foot per second with priority of September 1, 1879

That the water right above described is now diverted from Thomas Creek with point of diversion in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East B.M.

That this point of diversion is to be retained and another point of diversion be added at a point located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, township 12 North, Range 36 East B.M.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed at Boise, Idaho, this 5th day of November, 1954.

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

COPY

STATE OF IDAHO

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In the Matter of the Application of

Union Pacific Railroad Company
Omaha, Nebraska

For a Change of Point of Diversion on
Thomas Creek, Clark County, Idaho

ORDER GRANTING CHANGE
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WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application, shows that more economical use of the water will be obtained by such change, and that no other water user will be injured thereby;

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State Reclamation Engineer

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IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho, to be hereunto affixed at Boise, Idaho, this 5th day of November, 1954.

MARK R. KULP
State Reclamation Engineer

PROOF OF PUBLICATION

NOTICE OF PROPOSED TRANSFER OF WATER RIGHTS

Notice is hereby given that W. C. Perkins of Omaha, Nebraska, agent for the Union Pacific Railroad Company, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion of the waters of Thomas Creek. Amount: 0.23 cubic feet per second with priority of September 1, 1879. The present point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M. and is to be retained by the Company with an additional point of diversion located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M.

The place of use of said water right being on Railroad Company premises at Spencer, Idaho.

And that on the 29th day of October, 1954, at 10 o'clock a. m. at Room 107 State House, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

MARK R. KULP
State Reclamation Engineer
10-22-2

STATE OF IDAHO

COUNTY OF CLARK

SS:

Russell L. Luck being

first duly sworn, deposes and says that he is the

Printer of THE CLARK COUNTY

ENTERPRISE, a weekly newspaper published in

Dubois, Clark County, in the State of Idaho. That

the Notice, a true copy of which is

hereto attached was published in THE CLARK

COUNTY ENTERPRISE for 2 consecutive

weeks, first publication having been made on the

15th day of October, 1954,

and the last publication having been made on the

22nd day of October, 1954.

That said paper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the first publication of said notice or advertisement, and is a newspaper within the meaning of the laws of Idaho.

SUBSCRIBED and SWORN TO before me this

26 day of October, A. D., 1954.

CLERK OF DISTRICT COURT

B. H. THOMAS

CLARK COUNTY, IDAHO

Mary Louise Burch Notary Public
My commission expires 19

RECORDED

Legal Notice

NOTICE OF PROPOSED TRANSFER OF WATER RIGHTS

Notice is hereby given that W. C. Perkins of Omaha, Nebraska, agent for the Union Pacific Railroad Company, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion of the waters of Thomas Creek. Amount: 0.23 cubic feet per second with priority of September 1, 1879. The present point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M. and is to be retained by the Company with an additional point of diversion located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M.

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MARK R. KULP

State Reclamation Engineer

10-29-54

AFFIDAVIT FOR ADDITIONAL POINT OF DIVERSION
OF DECREED WATER RIGHT

STATE OF NEBRASKA)
 : ss
County of Douglas)

W. C. PERKINS, being first duly sworn, deposes and says: That his postoffice address is 1416 Dodge Street, Omaha, Nebraska;

That Union Pacific Railroad Company is the owner of and using a certain water right, bearing date of priority of Sept. 1, 1879, 19 , for 0.23 cubic feet per second of the waters of Thomas Creek, near Spencer, County of Clark, State of Idaho, decreed to Oregon Short Line R.R. by decree of Judge C.C. Cavanaugh, of the Eastern Divn. Judicial District of the State of Idaho, in and for the County of , in the case of Ernest Sauve vs. W. H. Abott, et al, said decree bearing date of Oct. 13, 1930, for general railroad purposes at Spencer, in the County of Clark, State of Idaho.

That he is the representative of the corporation to whom such right was issued;

That said waters are now diverted from said stream in the NE 1/4 SE 1/4 of Sec. 15, Twp. 12-N, R. 36E-BM and conducted to the Railroad Company premises through a 3" & 4" inch pipe line, as per map filed herewith and of this affidavit made a part;

That affiant desires to establish an additional point of diversion of said water at a point located in the SW 1/4 of NE 1/4, Sec. 15, Twp. 12 N., R. 36 E. B.M., and thereafter conduct same to the Railroad Company premises at Spencer through its pipe line, as per map above referred to;

That his reasons for desiring to establish said additional point of diversion are as follows:

The present small storage basins are not adequate to supply the demands made on them, and in the event of fire, or other emergency, there is neither sufficient pressure or any reserve supply of water.

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

W. C. Perkins
Affiant

Subscribed and sworn to before me this 13th day
of September, 1934

Veronica M. O'Leary

6 Kalamazoo St. Surface: Cattle Guard & F Cor³

2058 CR

Syn. board L

AFFIDAVIT FOR ADDITIONAL POINT OF DIVERSION
OF DECREED WATER RIGHT

STATE OF NEBRASKA)
 : ss
County of Douglas)

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That he is the representative of the corporation to whom such right was issued;

That said waters are now diverted from said stream in the NE 1/4 SE 1/4 of Sec. 15, Twp. 12-N, R. 36E-BM and conducted to the Railroad Company premises through a 3" & 4" inch pipe lines, as per map filed herewith and of this affidavit made a part;

That affiant desires to establish an additional point of diversion of said water at a point located in the SW 1/4 of NE 1/4, Sec. 15, Twp. 12 N., R. 36 E. B.M., and thereafter conduct same to the Railroad Company premises at Spencer through its pipe line, as per map above referred to;

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The present small storage basins are not adequate to supply the demands made on them, and in the event of fire, or other emergency, there is neither sufficient pressure or any reserve supply of water.

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

W. C. Perkins
Affiant

Subscribed and sworn to before me this 13th day of September, 1954.

Veronica M. Jones

HOLDEN & HOLDEN

ATTORNEYS AT LAW

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

TELEPHONE 923 OR 1400

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
HOWARD R. STINSON
REED A. WILLIAMS

*Change PG
226*

January 5, 1955

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

Dear Sir:

In reply to your letter of December 30, 1954, we are enclosing herewith our check, payable to the order of the Department of Reclamation, in the sum of \$1.50, in payment of a certified copy of Certificate for Change of Point of Diversion No. 226.

Thank you.

Yours very truly,

HOLDEN & HOLDEN

By *Rosemary Simmeth*
Secretary

Encl.

R 27133

RECEIVED
JAN 11 1955
Department of Reclamation

RECEIVED

December 30, 1954

Messrs. Holden & Holden
First National Bank Building
Idaho Falls, Idaho

ATTENTION: Mr. William S. Holden

Dear Mr. Holden:

On December 4 we sent you a certified copy of Certificate for Change of Point of Diversion No. 226, the fee for which amounts to \$1.50.

No doubt you have overlooked this as we do not seem to have received your check.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll

December 4, 1954

Messrs. Holden & Holden
First National Bank Building
Idaho Falls, Idaho

Dear Mr. Holden:

ATTENTION: Mr. William S. Holden

In reply to your letter of December 1 we enclose a certified copy of Certificate For Change of Point of Diversion No. 226.

The fee for this is \$1.50 for which you may send us your check.

Yours very truly,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:cu
Eho.

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
HOWARD R. STINSON
REED A. WILLIAMS

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400

RECEIVED
DEC 3 1954
Department of Reclamation

December 1, 1954

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

Dear Mark:

Did the Village of Spencer ever complete the change of diversion of the Union Pacific Railroad in Thomas Creek in Clark County?

If this matter has been completed, will you kindly forward me a certified copy of the Certificate authorizing the change in the point of diversion, and also forward me a statement for whatever the charges are in furnishing this certified copy.

Best wishes.

Sincerely,

HOLDEN & HOLDEN

By William S. Holden
William S. Holden

WSH:dg

RECEIVED

November 5, 1954

Mr. W. C. Perkins
1416 Dodge Street
Omaha, Nebraska

Dear Mr. Perkins:

We enclose Certificate of Change of Point of Diversion No. 226 of the Union Pacific Railroad Company, together with departmental receipt No. 27024 for the \$1.00 recording fee.

By this same mail we are sending to Mr. Loy Johnson, Watermaster, of Water District No. 66, for his information, a copy of this Certificate.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

A:hll

Enc.

cc Mr. C. W. Hardy
Mr. Loy Johnson, Watermaster

10/30/54

Department of Reclamation

Boise, Idaho

Gentlemen:-

Your letter of 7th . is noted O K.

Enclosed is the The Clark County Enterprise
Proof of Publication in Union Pacific Transfer of
Point of Diversion. Water Right.

Also enclosed is check for ^{#176} \$1.00 recording fee.

Respectfully,

C. W. Hardy

Treasurer.

RECEIVED
NOV 4 1954
Department of Reclamation

RECEIVED

October 8, 1954

Mr. Percy Christensen, Watermaster
Water District No. 10-B
Oakley, Idaho

Dear Mr. Christensen:

We return herewith your 1954 water reports for you to finish making out by supplying the information called for on the right hand corner of page 2 thereof. Please fill in the number of days worked and the amount of your costs and return to this Department.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:br
Encls.

October 7, 1954

Mr. C. W. Hardy, Treasurer
Village of Spencer
Spencer, Idaho

Dear Mr. Hardy:

Relative to the change in point of diversion of decreed water right of .23 cubic feet per second of Thomas Creek by the Union Pacific Railroad Company.

Affidavit for change in point of diversion has been received from the law firm of Holden and Holder, Idaho Falls, Idaho, applying for an additional point of diversion in the name of the Union Pacific Railroad in the SW 1/4 NE 1/4 of Sec. 15, Twp. 12 North, Rge. 36 East, B. M., of the waters of Thomas Creek.

Notice of publication has been sent to the Clark County Enterprise of Dubois, Idaho, requesting said notice to be published in two consecutive weekly issues of their newspaper. At the end of the publication in said paper the Clark County Enterprise has been requested to send you the affidavit of publication which should be mailed to this Department along with your check for \$1.00 for recording fees.

Under your agreement with the Railroad Company the Village of Spencer is to take care of the necessary expenses of publication and recording fees. Therefore, the Clark County Enterprise was directed to send you the bill for publication.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:br
CC: Mr. William S. Holden

Ernest Saure

is.

with affett et al -

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Vol 5 p 535 -

details to learn about -

11-1-30

UNRECORDED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date:

Clark County Enterprise,
Dubois, Idaho.

October 6, 1954

Gentlemen:

Enclosed you will find notice for publication once a week for ~~two~~ ^{two} consecutive weeks prior to **October 29, 1954** the date set for ~~proof~~ ^{hearing}, the expense of the publication to be paid by the applicant, **The Village of Spencer** of **Spencer Idaho.** **Mr. Hardy, Tres.**, to whom you should furnish proof of publication on or prior to the date set for proof. ~~proof~~ ^{hearing},

Please acknowledge receipt of this notice, and furnish this office with a copy of the first publication, in order that we may check same.

Very truly yours,

MARK. R. KULP.

State Reclamation Engineer
By

Ray. W. Thompson,
Supervisor of Water Distribution,

RECEIVED

NOTICE OF PROPOSED TRANSFER OF WATER RIGHT

Notice is hereby given that W. C. Perkins of Omaha, Nebraska, agent for the Union Pacific Railroad Company, has applied to the State Reclamation Engineer of the State of Idaho for a certificate authorizing him to change the point of diversion of the waters of Thomas Creek.

Amount: 0.23 cubic feet per second with priority of September 1, 1879.

The present point of diversion is located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M. and is to be retained by the Company with an additional point of diversion located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 15, Township 12 North, Range 36 East, B. M.

The place of use of said water right being on Railroad Company premises at Spencer, Idaho.

And that on the 29th day of October, 1954, at 10 o'clock A. M. at Room 107 State House, Boise, Idaho, before the State Reclamation Engineer, or his authorized agent, the opportunity will be given to any and all persons to appear and present, for his consideration any reason or reasons why a certificate should not be issued authorizing such transfer.

MARK R. KULP
State Reclamation Engineer

RECEIVED

October 6, 1954

Mr. C. W. Hardy, Treasurer
Village of Spencer
Spencer, Idaho

Dear Mr. Hardy:

This department is in receipt of affidavits requesting the transfer of .23 cubic foot per second of the water of Thomas Creek in the name of the Union Pacific Railroad Company changing the point of diversion by the addition of an additional point of diversion in the S $\frac{1}{4}$ N $\frac{1}{4}$ E $\frac{1}{4}$ Section 15, Township 12North, Range 36 East B.M.

Notice of publication has been sent to the Clark County Enterprise of Dubois, Idaho, requesting said notice be published in two weekly issues of their newspaper. Also the Clark County Enterprise was requested to send you the affidavit of publication together with bill for publication costs and under the agreement between the Village of Spencer and the Railroad Company the Village was to pay the expense of changing said point of diversion.

The date of hearing set out in said notice of publication is October 29, 1954. It will not be necessary for you to appear at the hearing set for October 29 at Boise, Idaho. However, after this date, you should receive from the Clark County Enterprise, an affidavit of publication which should be sent to this department also your check for \$1.00 made out to the Department of Reclamation to cover recording fees.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:hll

ARTHUR W. HOLDEN
WILLIAM S. HOLDEN
ROBERT B. HOLDEN
ROBERT V. KIDWELL
HOWARD R. STINSON
REED A. WILLIAMS

HOLDEN & HOLDEN
ATTORNEYS AT LAW
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
TELEPHONE 923 OR 1400

RECEIVED
SEP 23 1954
Department of Reclamation

September 21, 1954

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

Dear Mr. Kulp:

For a number of years the Union Pacific Railroad Company has had an agreement with the town of Spencer covering certain facilities for the taking of water from Thomas Creek near the town of Spencer.

The town of Spencer has recently made certain changes and additions to its facilities at the location of this water supply, and which in effect has given the Railroad a new point of diversion.

Under the agreement, the Village of Spencer is to take care of the necessary expenses in connection with changing the point of diversion for the Railroad.

I have been in touch with Mr. Hardy, the Village Treasurer, on a number of occasions, and he recently forwarded me some blank applications to be filled out by the Railroad Company. I have obtained an original and one copy of Affidavit for Additional Point of Diversion of Decreed Water Right, executed for and in behalf of the Railroad, which instruments I am enclosing herewith.

Inasmuch as Mr. Hardy has been in touch with your office concerning this matter, will you kindly let him know that you have received the Affidavits from us and instruct him on how to proceed with the publication of notice, etc.

Mr. Mark Kulp

- 2 -

September 21, 1954

If there is any question concerning the form of the Affidavit, will you kindly let me know.

Best wishes.

Sincerely,

HOLDEN & HOLDEN

By Wm. S. Holden
William S. Holden

WSH:dg

Encl.

RECORDED
INDEXED
SEP 24 1954
FBI - NEW YORK

July 7, 1954

Mr. C. W. Hardy, Treasurer
Village of Spencer
Spencer, Idaho

Dear Mr. Hardy:

I expect to be in your region soon and will call on you at that time.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:h11

RECEIVED
JUL 7 1954

7/1/54 Department of Reclamation

Department of Reclamation

Boise, Idaho.

Gentlemen:-

We have had some correspondence with you in regard to the U . P . Ry. request for change of point of diversion of their right because of the Village having built a small reservoir up creek above their concrete intake on the creek channel.

We dont understand why this should be necessary as our work does not affect their right or water supply.

You stated at some time when your man is in this territory that he would see us in regard to the matter.

We have not seen him yet & Ry. is insisting that we get specification of their right as from our new reservoir.

May we expect your man to be here to look into the matter soon?.

Respectfully,

C. W. Hardy Treasurer.

RECEIVED

October 28, 1953

Mr. C. W. Hardy, Treasurer
Village of Spencer
Spencer, Idaho

Dear Mr. Hardy:

Your letter of October 22, 1953, received.

In reply will say that probably it will be best for a member of this department to call on you and talk over this matter.

Accordingly, the next time a department member is in Spencer, he will call on you and the agent at Spencer and discuss this matter.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg

RECEIVED
OCT 24 1953
Department of Reclamation

10/22/53

Department of Reclamation
Boise, Idaho.

Gentlemen:-

Your letter of 19th, inst is noted.

We are glad to have the wording of the two decrees
#92 for Ky. & 142 the Village .

Is there any disadvantage to the Ky. in having their one
original point of diversion stand as long as they have
their decreed right & as long as that original point furnishes
all the water & all the pressure desired?

When the Village was preparing to put in the small dam &
extend its pipe line the Ky. at two times requested that
the Village agree to permit sufficient flow from the dam
to take care of all Ky. needs.

This assurance was given them,

Now the Ky. is insisting that the new point of diversion
be provided. Would this give them two points of diversion
or would the old original point be abandoned?
Would it be any disadvantage to Ky. if the new point is not
is not designated?

Respectfully,

C. W. Hardy Treasurer.

RECEIVED

October 19, 1953

Mr. C. W. Hardy, Treasurer
Spencer, Idaho

Dear Mr. Hardy:

From your letter of October 9th, I presume that you have discussed again with the Union Pacific Railroad Company the subject of the water rights of the town of Spencer and the Union Pacific Railroad Co. at Spencer and their relation one to the other.

Perhaps it would help clarify the thinking of all concerned to enclose an exact copy of the decree as it pertains to each of the rights above referred to:

Oregon Short Line
Railroad Company,
a corporation

Right No. 92

(Partial)

1879 - September 1 0.23 c.f.s. Source: Thomas Creek, a tributary of Beaver Creek.

Point of Diversion: Through two circular pipe lines into a 50,000 gallon water tank, said tank being located in the Northeast Quarter of the Northwest Quarter of Section 23, Township 12 North, Range 36 East, B.M.

Wood Livestock Company,
a corporation, as Trustee
for the Town and Community
of Spencer, Idaho

Right No. 142

1879 - September 1 0.2 c.f.s. Source: Thomas Creek, a tributary of Beaver Creek.

Point of Diversion: At or near the Town of Spencer, Idaho.

For use on lands by and immediately contiguous to the Town of Spencer, Idaho.

(cont.)

October 19, 1953

Right No. # 142 (cont.)

This right to be subsequent in point of priority, nevertheless, to that certain water right herein awarded to the Oregon Short Line Railroad Company for 0.23 c.f.s. of the waters of Thomas Creek, priority September 1, 1879.

You will note that in the Right for the Union Pacific Railroad, # 92, the Point of Diversion is given as being through two circular pipe lines into a 50,000 gallon water tank located in the Northeast Quarter of the Northwest Quarter of Section 23, Township 12 North, Range 36 East, B. M., and in the one for the Town of Spencer Right # 142, the Point of Diversion is given as being at or near the town of Spencer, Idaho.

The source in each case is given as Thomas Creek, a tributary of Beaver Creek.

You will note in right # 142 that it is plainly stated that this right is subsequent to the right of the Oregon Short Line for 0.23 c.f.s. of the waters of Thomas Creek priority September 1, 1879.

The above decree is the guide that this Department must use in administering the law.

If the owner of either of the above rights desires to have the Point of Diversion for his right more accurately defined, he may have it pinpointed by a licensed surveyor and then a change in Point of Diversion made to the exact point by following the procedure set forth in Section 42-222 Idaho Code.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

ENH/re
CC: Union Pacific Railroad Co.

RECEIVED
OCT 12 1953

Department of Reclamation

10/9/53 Department of Reclamation

Boise, Idaho

Dear Mr. Kulp:-

From your letter of the 8th. You have a correct understanding of the U.P.Ry. & Village of Spencer water situation, on Thomas Creek.

Your suggestion of a cheap solution of the matter is exactly as it now is. The two pipelines are laid in same trench & have a cross connection valve under the Ry. water tank & it is used to throw the two lines together or to transfer water to any place as needed in case either line is not used or if either is short & the valve is now being used for that purpose as the Ry. line has been shut off all summer because the tank is getting old & leaks some & it is rumored that the tank is to be torn down because it is not high enough for the new large engines to take water, or if they do there is a lot of waste from the tank delivery pipe being too high to make delivery without a lot of waste. Also the new engines are so large that they carry enough water so they don't need to refill here.

We wish to avoid "change of diversion" red tape & expense.

In this case the only use the Ry. has for a portion of their right is a few homes & water at stock yards. & now this is being supplied from Village line through the cross connection. We agreed at Ry. request before the Village line was put in that they should have all needed by cutting us off if necessary. The matter of changing the point of diversion we presume is a technical plan of theirs as a protection of their right legally. We don't understand. We want them to be satisfied & protected as well as ourselves & simply want suggestions which will satisfy both parties. We think there is at all times water enough for all & are seeking harmonious arrangements. We thank you for your suggestions.

Respectfully. C. W. Hardy TREAS.

RECEIVED

October 6, 1953

Mr. C. W. Hardy, Treasurer
Village of Spencer
Spencer, Idaho

Dear Mr. Hardy:

I am somewhat confused as to the difficulty on Thomas Creek. The storage is small enough to disregard as a storage right separate from the 10 inches of September 1, 1879, right.

If I have the circumstances properly in mind, the O.S.L. Railroad has the first right on Thomas Creek for 0.23 cubic foot per second, or 46 inches, although the Village of Spencer has a right of equal date for 10 inches.

The two rights diverted at the same point through separate pipes. Then the Village goes upstream from the common diversion point and puts in a reservoir and extends its line up to the storage leaving the O.S.L. as the sole occupant of the old diversion point.

There would be no interference between rights if the flow at the old point of diversion never got below the 46 inch right of the O.S.L., but there may be times when the Village is storing or using all the supply.

Although the O.S.L., or any other water user is entitled only to the part of his right that he can put to beneficial use, the O.S.L. should be able to get its 46 inches without having to open the outlet of the Village storage.

The O.S.L. right is protected by the decree, but they can properly object if conditions are altered for the benefit of the Village and the Railroad is damaged or inconvenienced.

The proper solution would be to extend the other pipe line up to the storage. A cheaper method, if the O.S.L. would agree, would be to make a cross connection between the two lines with a valve in the cross connection. Close and lock the valve and give the key to the O.S.L. They probably would never use the key, but they would have access to their right at all times.

Mr. C. W. Hardy

Page 2

October 6, 1953

If I have the picture wrong, please disregard these suggestions and let me know what the situation really is.

An eight foot dam impounding less than 100 acre feet of water does not require approval of plans and specifications by the Department of Reclamation.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:fg

RECEIVED
OCT 1 1953

9/29/53

Department of Reclamation

Department of Reclamation
Boise, Idaho

Gentlemen:-

We note your letter of 9/16/53 in re additional point of diversion of decreed water right desired by Ry.

We wonder why this should be desired by Ry. & whether it is not entirely & satisfactorily protected by its decreed right & its present point of diversion?

When the construction of the small reservoir about 150 ft. across it by a dam which is 8 ft. high the matter was referred to Ry. they asked us to assure them that we would allow sufficient flow of water past the reservoir to take care of Ry's. needs Which we did in repeated writings.

The Ry. has a concrete box on creek channel which takes in the flow of the creek. From it the Ry. & Village both receive their water supply through separate pipe lines. Because of the pressure upon the Village water supply not being sufficient to afford ample protection in case of fire it was arranged to extend the Village line about 1500 ft. up canyon & to build the small reservoir so there would be a little reserve supply in case of fire. The Village takes no more water than before & does not in any way cause any detriment to Ry. & we don't see how or why Ry. would benefit in any way by having additional point of diversion specified. As it is now they control the whole flow of the creek through their concrete box. There is plenty water at all times for both Ry. & Village. The Village is hard pressed for finances to keep it going & the red tape of obtaining additional point of diversion & the expense of doing so we desire to avoid if possible. Can you suggest some way to accomplish this & to satisfy the Ry? There is no friction between the Ry. & the Village & we wish to continue to maintain harmony & co-operation of both parts at all times.

Respectfully,

Treasurer.

E. Hardy

RECEIVED

September 29, 1953

Mr. C. W. Hardy
Spencer, Idaho

Dear Mr. Hardy:

In answer to your inquiry of September 21, 1953 as to status of water rights that have not been used for over 20 years.

We have a statute that provides that water rights not used for five years shall be forfeited. However, the courts are the only agency that can declare a forfeiture through non-use or abandonment.

It is possible to obtain an extension of time of five years for non-use of a right for good reasons and at one time a second extension of time for non-use was possible.

Generally, if a use is resumed before abandonment is declared the right still holds its priority although it may not have been used for some years.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK/re

Spencer, Idaho

9/21/53

Department of Reclamation

Boise, Idaho

Gentlemen:-

In old water righys that havent been used for ~~over~~
ove 20 years do they outlaw , or loose their priority?

Respectfully

C. W. Hardy

RECEIVED
SEP 24 1953
Department of Reclamation

RECEIVED

September 16, 1963

Mr. C. W. Hardy
Spencer, Idaho

Dear Mr. Hardy:

We are enclosing forms for making application for permit.

The basis for the claim would be the maximum flow during the time when it is being put to Beneficial Use.

We have no basis for expressing an opinion as to whether your one pint per minute spring would be damaged or bettered by attempted development. A competent geologist might be able to tell you after examination what the chances are and the best method of procedure.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK/rs

RECEIVED

September 16, 1953

Mr. C. W. Hardy, Treasurer
Village of Spencer,
Spencer, Idaho

Dear Mr. Hardy:

In reply to your letter of August 28, 1953, we are unable to locate your letter of September 20, 1952 to which you referred.

However, in order to construct a reservoir and store and appropriate the Public Waters an application for permit should be filed with this department.

We enclose a form of application herewith, together with the pamphlet giving regulations and instructions in regard to filing same and we also enclose a reprint in regard to the construction of dams.

From this you will note that if the dam exceeds 10 feet in height, or is for the storage of more than 100 acre feet, plans and specifications must be approved by this department.

In reply to your inquiry in regard to an additional point of diversion on a decreed or licensed water right. This can be obtained as provided in Section 42-222 Idaho Code.

We trust this gives you the information you desire.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

A/re

MICROFILMED

C. W. HARDY
Spencer, Idaho

RECEIVED
9/13/53 SEP 16 1953
Department of Reclamation

Department of reclamation

Boise, Idaho

Gentlemen:-

On our land I have developed several springs that didnt flow until we worked on them. It has been several years since they were developed & they are constant , even at this dry permd of the year .

We have made no filing on them but now wish to do so so the right for them can deffinitely of record belong to us & we shall be pleased to know what the proceedure is? Also in such a right should the present flow be the basis or would a filing in the spring when it is possible that the flow mightb be larger, although this we dont know, might be the basis that right is claimed for?

Right is desired for domestic, stock watering & irrigation.

Also there is a small spring several hundred feet up the side of mountain that is small but constant, by actual measure runs now 1 pint per minute. Can you tell us whether such a spring might be opened up & developed into a larger flow or might such work develop into a detriment?
Would digging or blasting be the better proceedure?

Respectfully,

C. W. Hardy

RECEIVED

VILLAGE OF SPENCER

SPENCER, IDAHO
C. W. HARDY, Treas.

9/13/53

Department of Reclamation

Boise, Idaho

Gentlemen:-

On Aug. 28th. we wrote you in re water rights
for Railroad & our Village from Thomas Creek .

Our right #142.

It will be appreciated if we can have reply
soon.

Respectfully,

C. W. Hardy

Treasurer.

RECEIVED
SEP 16 1953

Department of Reclamation

RECEIVED
SEP 16 1953

Aug. 28, 1953

Department of Reclamation
Boise, Idaho

Gentlemen:-

The following is a copy of our letter to you of Sept. 20, 1952

Re: Water right #142 in Water Dist. #66

On Oct. 8, 1951, we received a Special use Permit from the Targhee Forest. To construct a reservoir of approximately two acres of land. Location SE4 NE4, sec. 15, Tp. 12N. R36E BM Reservoir to provide supplemental water for the Village of Spencer.

This reservoir has been constructed, being built of earth Approx. 100 ft. in length and 10 ft. high. As outlined by Forest Service. A four inch pipe line has been laid from the reservoir to old village line, a distance of nearly 1500 ft. and supplying the village since June.

The Railroad has notified us that authority from the Dept. of Reclamation is necessary for such a reservoir. Please grant us such permission.

Very truly yours,

Harry Dunn, Clerk, Village of Spenser.

cc; to U.P. Railroad.

We do not seem to have a copy of your reply to this letter.

If reply was made we shall be pleased to have copy of same.

Also is it necessary for the Idaho Department of Reclamation to give authority for Railroad to establish an additional point of diversion for the waters of Thomas Creek at the point where it is diverted from the reservoir into Licensee's new 4" pipe line?

Respectfully, If so please send permit.

C. W. Hardy, Treasurer.

C. W. Hardy

RECEIVED
AUG 31 1953
Department of Reclamation

RECEIVED

112-222

Boise, Idaho, Sept. 29, 1879.

Mr. C. V. Hardy,
Spencer, Idaho.

Dear Mr. Hardy:

Under date of September 26th the Department of Reclamation at Boise wrote me asking about the water right held by the Village of Spencer. The right was defended by the Woods Livestock Co., as Trustee for the Village of Spencer and listed as No. 142 for ten inches of water, priority Sept. 1, 1879.

Before the village was organized the Company or Dave Haggarth paid the assessments against the Village; later the school district took over the obligations, and since the Village was organized as a taxing body they have cared for the payments yearly, in their own name.

The right is listed in the Mud Lake Decree as follows:

Woods Livestock Company,
a corporation, as Trustee
for the Town and Community
of Spencer, Idaho

1879 - September 1

0.2 c.f.s. Source: Thomas Creek a tributary of Beaver Creek.

Point of Diversion: at or near the Town of Spencer, Idaho.

For use on lands by and immediately contiguous to the Town of Spencer, Idaho.

This right to be subsequent in point of priority, nevertheless, to that certain water right herein awarded to the Oregon Short Line Railroad Company for 0.23 c.f.s. of the waters of Thomas Creek, priority September 1, 1879.

Right No. 142.

In conclusion, this right is valid, paid up and in good standing.

Very truly,

Elwin W. Henningsen
Watermaster Water District No. 66.

RECEIVED

RECEIVED
OCT 1 1952

Department of Reclamation

Dubois, Idaho,
Sept. 29, 1952.

Mr. Roy W. Thompson,
Supervisor Water Distribution,
Boise, Idaho.

Dear Mr. Thompson:

Inclosed you will find copy of letter to Mr.
C. W. Hardy of Spencer, concerning the water right
for that Village.

Very truly,
Elva W. Mcninger *

RECEIVED

September 26, 1952

Mr. Elvin W. Henninger, Watermaster
Water District No. 66
Dubois, Idaho

Dear Mr. Henninger:

We are enclosing a copy of a letter received from Mr. C. W. Hardy, Treasurer of the town of Spencer, Idaho.

The only right as shown in the decree that I could find which may be for the town of Spencer, is Decreed Right No. 67 of the Mud Lake Decree. A copy of said right is enclosed herewith.

Will you kindly verify this and write Mr. Hardy in connection therewith, and send this office a copy of your letter.

Thanks for the favor.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT:fg
Enc.

cc: Mr. C. W. Hardy

9/22/52

RECEIVED
SEP 24 1952
Department of Reclamation

Department of Reclamation

State House

Boise

Idaho

Gentlemen:-

Please send us a copy of the water right for the town
of Spencer, Idaho. Together with any extension or assignments
of same.

It is presumed to be in the name of Spenceer Lawson, &
Independent School District #3 & of date of Feb. 19, 1935
& subsequent dates if any changes.

Respectfully,

C. W. Hardy, Treasurer.

C. W. Hardy.

87 91 m m - 23 - 12 N. 36 E
Huntly Creek

MICROFILMED

Peter Lawson

1896 - October 15

O.B c.f.s. Source: Thomas Creek, a tributary of Beaver Creek.

1894 - June 1

O.E c.f.s. Point of Diversion: In the Northwest Quarter of Section 14, Township 12 North, Range 36 East, B.M.

For use on the following described land, to-wit: The Northwest Quarter of the Northwest Quarter of Section 23, Township 12 North, Range 36 East, B.M., and 11 acres additional adjoining said land on the east.