

State of Idaho

License and Certificate of Water Right

Water License No. 5173
 Water District No. 57-C

Amount 1.22 sec. ft.
 Priority 1 - 9 - 1919

THIS IS TO CERTIFY that Joseph M. Hawthorne of Seattle, Washington, made application for a permit to appropriate the public waters of the State of Idaho, dated August 23, 1909; that Permit No. 5173 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 30 second feet, was issued thereunder on January 6, 1916, showing that said works were completed on the 8th day of September, 1914; and that on the 28th day of January, 1928,

Albert Daub of Seattle, State of Washington, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Carey Creek, a tributary of Bruneau River, for the purpose of irrigation and domestic use, under Use Permit No. 5173 of the State Engineer and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6 of Licenses, at page 3542, on the 7th day of November, 1928;

The right hereby confirmed dates from January 9, 1919;

The Point of Diversion is located of feeder canal in the NW 1/4 1/4 Sec. 30, Tp. 12 S., R. 4 E., B. M. Owyhee County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1.22 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
12 S.	5 E.	28	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40	25
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	15
		33	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	10
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	11
Total					61

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

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

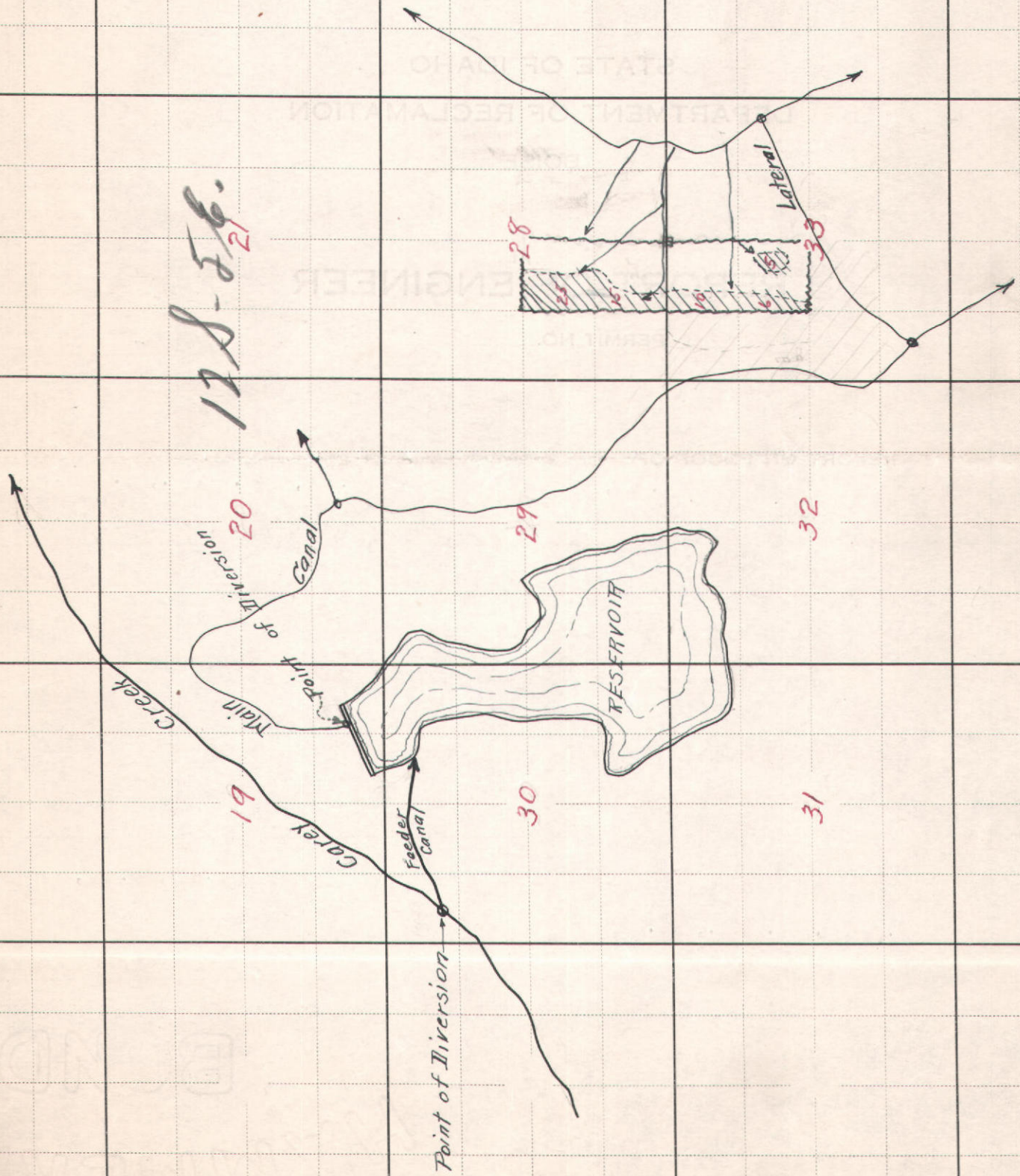
GEO. H. CARTER
 Commissioner of Reclamation

(SEAL)

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128-58.2



NOTICE FOR PUBLICATION

Notice of Proof of Application of Water to Beneficial Use.

Notice is hereby given that at 11 a.m. on the 28th day of January, 1928, at Bruneau, County of Owyhee, State of Idaho, before Charles Pascoe, notary public, proof will be submitted of the application to beneficial use of 3.2 cubic feet per second of the water of Carey (formerly Louse) creek, in accordance with the terms and conditions of Permit No. 5173, heretofore issued by the State Engineer of the State of Idaho.

The name and postoffice address of the person holding said permit are: Albert Daub, 419 Colman Bldg, Seattle, Washington

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

The amount applied to beneficial use is 3.2 cubic feet per second.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated):

E $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 28 and E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 33, Twp 12 S., R. 5 E., B. M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Owyhee Canal company.

The right to take water from such works is based upon Permit No. 5173.

The source of supply from which such water is diverted is Carey (formerly Louse) creek, near northeast corner of Sec. 25, T. 12 S., R. 4 E.

The date of the priority which said user is prepared to establish is January 9, 1919.

GEO. N. CARTER,
Commissioner of Reclamation

AFFIDAVIT OF PUBLICATION

I, Charles Pascoe, publisher of THE OWYHEE NUGGET, published weekly at Bruneau, Owyhee County, Idaho, do solemnly swear that a copy of the above notice, as per clipping attached, was published weekly in the regular entire issue of said newspaper, and not in any supplement thereof, for 5 consecutive issues, commencing with the issue dated December 22 1927, and ending with the issue dated January 19 1928; that the said newspaper has been continuously published in said county during a period of seventy eight consecutive weeks prior to the first publication of this notice.

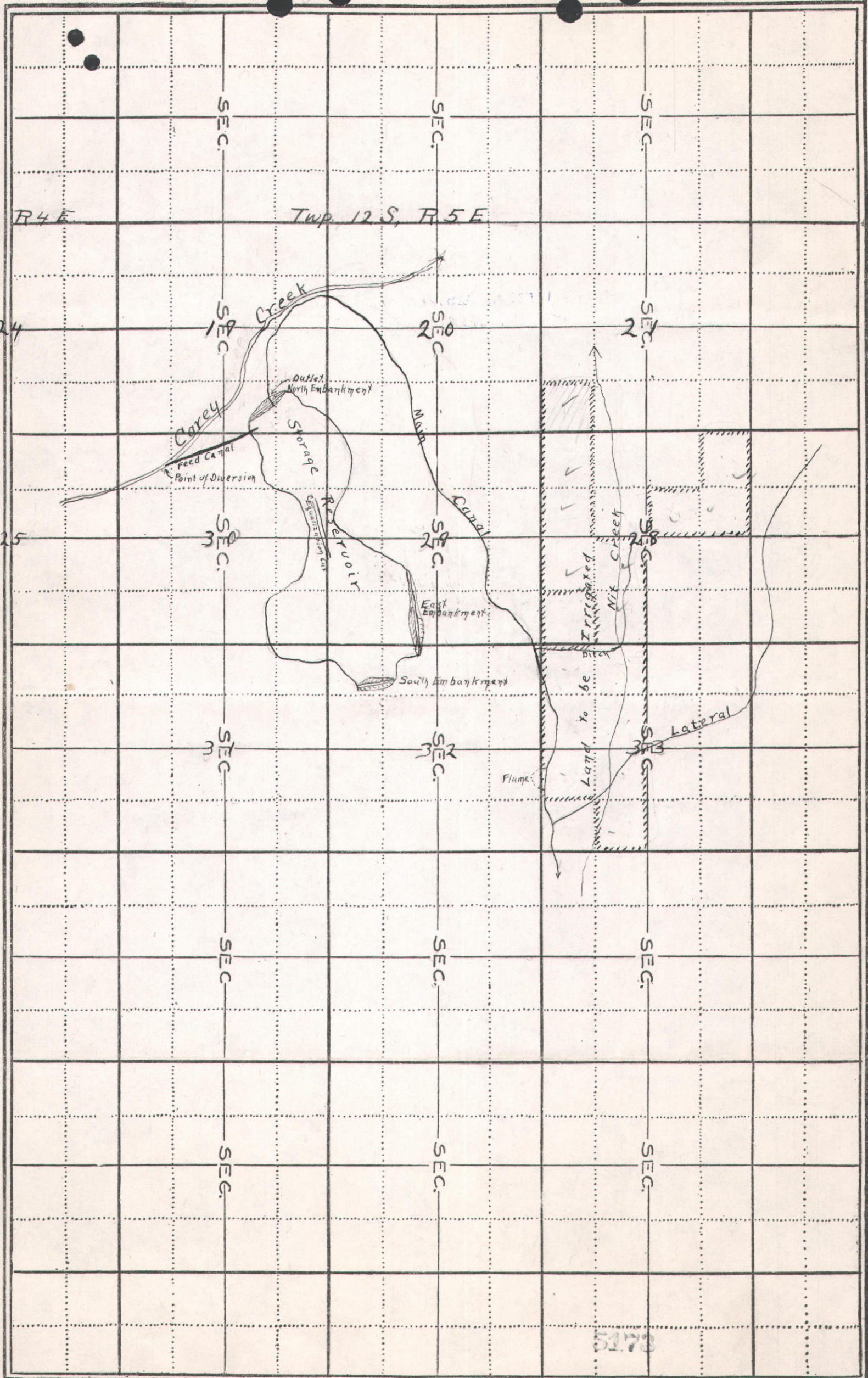
Charles Pascoe

Subscribed and sworn to before me this 28 day of January 1928.

Geo. R. Jones

Notary Public

5173



Affidavit of Publication

NOTICE FOR PUBLICATION.

Notice is hereby given that at 10 o'clock a. m. on the 8th day of September, 1914, at Boise, Idaho before Chas. W. Mack, notary public, proof will be submitted of the completion of work for the diversion of 84 cubic feet per second of the waters of Carey Creek, formerly called Louse Creek, in Owyhee County in accordance with the terms and conditions of two certain permits heretofore issued by the State Engineer of the State of Idaho.

1. The name of the person or corporation holding said Permit is The Owyhee Irrigation Company, Limited.

2. The Postoffice address of such person or principal place of business of such corporation is 319 New York Block, Seattle, Washington.

3. The number of such Permits is 5173, and 5174, and the date set for the completion of such works is September 10, 1914.

4. Said water to be used for irrigation and domestic purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place intended for use in accordance with the plans accompanying such permit is 84 cubic feet per second.

6. The amount of lands for which said water is available is 4200 acres, situate in Owyhee county, Idaho, and particularly described as follows: E½ se¼ Section 20; Sections 21, 22, 27, and 28, ne¼ ne¼ Section 29; Section 33; n½ of nw¼ and w½ of sw¼ Section 34, all in T 12 S, R 5 E. (Una); nw¼, w½ of sw¼ and se¼ of sw¼ Section 3, ne¼, n½ of se¼ and se¼ se¼, Section 4, ne¼ of ne¼, Section 9, nw¼, sw¼ ne¼, nw¼ se¼ and ne¼ sw¼ Section 10, T 13 S, R 5 E, B. M.

F. P. KING,

State Engineer

4t—First pub. Aug. 7, 1914
Last pub. Aug. 28, 1914

STATE OF IDAHO,)
County of Owyhee) SS

J. H. Hanagan, being duly sworn, deposes and says that he is the *Publisher* of THE OWYHEE AVALANCHE, a weekly newspaper published at Silver City, County of Owyhee, State of Idaho; that the said newspaper is in general circulation in Owyhee County; that a copy of the above notice, as per clipping attached, was published in the regular and entire issue of said newspaper for *Four* consecutive weeks, beginning with the issue of *Aug 7*, 1914, and ending with the issue of *Aug 28* 1914.

SUBSCRIBED AND SWORN TO before me this *28th*

day of *August*, 1914.

RECEIVED
DEC 12 1914
OFFICE OF STATE ENGINEER

5173

R. H. Leonard
Probate Judge

License and Certificate of Water Right

Water License No. 5173
Water District No. 57-4

Amount 1.28 sec. 14.
Priority 1 - 2 - 1919

THIS IS TO CERTIFY that Joseph M. Hawthorne
of Seattle, Washington, made application for a permit to appropriate the
public Waters of the State of Idaho, dated August 23, 1900; that Permit No. 5153
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
20 second feet, was issued thereunder on January 6, 1906, showing that said works
were completed on the 8th day of September, 1914, and that on the 10th
day of January, 1928.

of Seattle, State of Washington, made part in the collection of the
Department of Reclamation, of the right to use the waters of the Snake
River, a tributary of Snake River, for the purpose of irrigation and
recreation use, under the Permit No. 1234 of the State Engineer
and the said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
being confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6
of Grants, at page 254, on the 7th day of November, 1920.

The right hereby conferred expires on January 3, 1919;
of order canal

Page 2 of 2

16. Sec. 20. Tp. 12 S., R. 4 E., R. M. **Wayne County**

That the amount of water to which said right is entitled and hereby confirmed, for the purpose aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1.25 cubic feet per second.

SECRET

No.	Date	No.	Name and Post	No. Acres Described in Permit	No. Acres Actually Reverted
20	8-2-	29	H. H. ...	60	25
			H. H. ...	40	15
		30	H. H. ...	40	20
			H. H. ...	40	11

The right to the use of the storage facility described is reserved to the Bank as owner of the bank described, as provided by the laws of Ohio.

SECRET

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

1. Name of applicant: Joseph M. Hawthorne

Postoffice address: 319 New York Block, Seattle

County: King

State: Washington

2. The quantity of water claimed is equivalent to a continuous flow of 74 cubic feet per second.

3. Source of water supply: Carey Creek (formerly called Louse Creek)

County of Owyhee

4. Location of point of diversion: S. 56° 51' E. and 1168.9 feet distant from the south east corner of Sec. 24, Township 12 S. Range 4 E. of B.M.

5. To be used for:

I. Irrigation and domestic use:

(a) Amount of land to be irrigated: 4200 acres

(b) In the following legal subdivisions: As described in Exhibit "A" which is hereto attached.

6. Estimated cost of works: \$65,000

7. Description of works for diversion:

I. Kind of works are described in Exhibit "B" which is hereto attached.

II. Dimensions of works: Appear in said Exhibit "B".

(d) Length of conduit is . . . miles, and it crosses the following quarter sections:

A description by quarter sections, of the lands which the conduits and reservoirs cross, appear in Exhibit "C" which is hereto attached, to land described in 5 I (b) above which is the point of intended use.

8. The time required for the completion of the construction of such work is five years.

9. Time required for the complete application of the water to the proposed use is four additional years.

BE IT KNOWN, That the undersigned hereby makes application for a permit to appropriate the public waters of the State of Idaho as herein set forth.

Joseph M. Hawthorne,

Applicant.

Remarks: For Remarks see Exhibit "D" hereto attached.

EXHIBITS FORMING PART OF APPLICATION NO. 7368

EXHIBIT "A"

5. I. (b) Description of lands to be irrigated.

$E\frac{1}{2}$ $SE\frac{1}{4}$, Sec. 20, Secs. 21, 22, 27 and 28, $NE\frac{1}{4}$ $NE\frac{1}{4}$ Sec. 29, Sec. 33, $N\frac{1}{2}$ of $NW\frac{1}{4}$ and $W\frac{1}{2}$ $SW\frac{1}{4}$ Sec. 34, all in T. 12 S.R. 5 E. (Unsurveyed)
 $NW\frac{1}{4}$, $W\frac{1}{2}$ of $SW\frac{1}{4}$, and $SE\frac{1}{4}$ $SW\frac{1}{4}$ of Sec. 3, $NE\frac{1}{4}$, $N\frac{1}{2}$ $SE\frac{1}{4}$ and $SE\frac{1}{4}$ $SE\frac{1}{4}$ of Sec. 4, $N\frac{1}{4}$ $NE\frac{1}{4}$ Sec. 9, $NW\frac{1}{4}$, $SW\frac{1}{4}$ $NE\frac{1}{4}$, $NW\frac{1}{4}$ $SE\frac{1}{4}$ and $NE\frac{1}{4}$ of $SW\frac{1}{4}$ Sec. 10, T. 13 S.R. 5 E.

EXHIBIT "B"

7. I Kind of works:

West Carey Reservoir, Feeder Canal and Outlet Canal. Main Carey Reservoir Feeder Canal, Outlet Canal and Laterals A, B, and C.

7. II. Dimensions of works:

A. West Carey Reservoir. Height of dam 12.5 ft, length of dam at top 1688.4 ft. Length of dam at bottom 100 ft.

Material to be used - earth and stone

Capacity of reservoir: 392.7 acre feet.

Size of Outlet headgate, 24 inches circular. Conduit, ditch, Width at bottom 3 ft, Width at water level 6 ft. Depth of water, $1\frac{1}{2}$ ft. Average grade per mile, 10.56 feet.

Length of Feeder Canal, 2381.6 feet. Length of Outlet canal, 905 feet, where it joins the Feeder Canal of the Main Carey Reservoir.

Main Carey Reservoir. Height of south dam, 14.4 feet. Height of East dam, 19.7 feet. Height of north dam 18.1 feet.

Length of top of South dam, 2220 feet. Length of South dam at bottom 200 feet.

Length of East dam at top 3595 feet. Length of East dam at bottom 400 feet.

Length of North dam at top 1556 feet. Length of North dam at bottom 100 feet.

Material used in construction is earth and stone.

Capacity of reservoir is 6037.7 acre feet.

Size of headgate, 36 inches circular.

Conduit, ditch.

Width at bottom, 4 feet. Width at water line 12.5 feet. Average grade, 10.56 feet. Length of conduit, including feeder canal, outlet canal, main canal and lateral A., 22,373.2 feet.

EXHIBIT "C"

The conduits including the canals, laterals and reservoirs crosses the following described lands, to-wit:

$NE\frac{1}{4}$ of Sec. 25, T. 12 S.R. 4 E.

SW $\frac{1}{4}$ and SE $\frac{1}{4}$ Sec. 19, SW $\frac{1}{4}$, S $\frac{1}{2}$ and NE $\frac{1}{4}$ of Sec. 20, NW $\frac{1}{4}$ of Sec. 21, SW $\frac{1}{4}$ of Sec. 22, NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of Sec. 27, NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ Sec. 29, NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ Sec. 30, NE $\frac{1}{4}$ Sec. 31, NW $\frac{1}{4}$ SE $\frac{1}{4}$ and NE $\frac{1}{4}$ Sec. 32, NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$ of Sec. 33, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ & SW $\frac{1}{4}$ of Sec. 34, all in T. 12 S.R. 5 E. unsurveyed.
NE $\frac{1}{4}$, SE $\frac{1}{4}$ of Sec. 3, NW $\frac{1}{4}$ and SE $\frac{1}{4}$ of Sec. 4, and NE $\frac{1}{4}$ of Sec. 9. all in T. 13 S.R. 5 E.

EXHIBIT "D"

The applicant respectfully represents that he has also filed with the State Engineer of the State of Idaho application No. 7365 to appropriate public waters of the State of Idaho, and to said application, particular reference is hereby made, it being understood that the applicant contemplates the construction of one general irrigation system under the rights to be secured by him by reason of the within application and the said application No. 7365, and such permits as may be issued to him hereafter by the State Engineer upon said application and the within application. And said application No. 7365, together with this application and such permits as may be issued upon such applications hereafter by the State Engineer are to be considered as mutually inter-dependent and appurtenant each to the other.

APPROVAL OF STATE ENGINEER.

The number of this permit is 5173.
Date of first receipt of application: 9.15 a.m. August 23, 1909
Returned to applicant for correction: September 8, 1909
Corrected application received: September 10, 1909
Recorded in Book 15. Page 5173. Approved September 10, 1909

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

Good and sufficient bond to be filed in the sum of \$1,000 on or before November 9, 1909.

One-fifth of the work above specified to be completed on or before March 10, 1912.

The whole of said work to be completed on or before September 10, 1914.

The time for proof of beneficial use of water appropriated in accordance herewith extended to September 10, 1918.

Witness my hand this tenth day of September, 1909.

Jas. Stephenson, Jr.
State Engineer

JOSEPH M. HAWTHORNE

-to-

The OWYHEE IRRIGATION COMPANY, LIMITED.

Assignment of Water Permit No. 5173.

KNOW ALL MEN BY THESE PRESENTS: That I, Joseph M. Hawthorne, of Seattle, King County, Washington, in consideration of One Dollar (\$1.00) and other valuable considerations to me in hand paid by The Owyhee Irrigation Company, Limited, the receipt whereof is hereby acknowledged, do hereby sell, assign, transfer and set over to said Company all the right, title and interest I now own or may hereafter acquire in and to that certain Permit to appropriate the public waters of the State of Idaho from Carey Creek (formerly called Louse Creek) in the County of Owyhee in said State, which Permit is described as follows, to-wit:

Permit No. 5173 (Application No. 7368). Said Permit having been approved by the State Engineer of the State of Idaho on September 10, 1909, and recorded in Book 15 of the records of said State Engineer on page 5173.

Said Company, as a part of the consideration of this Assignment to it, hereby assumes all liability and responsibility on a bond given by said Hawthorne to said State in the sum of One Thousand dollars (\$1000) as required by said Permit, and said Company hereby agrees to protect and save said Hawthorne harmless from any and all liability or damage by reason of said bond.

IN TESTIMONY WHEREOF said Hawthorne has hereunto set his hand and seal this 9th day of February, 1912.

Joseph M. Hawthorne (SEAL)

In the Presence of

A. H. Reid

Elizabeth Phenix

State of Washington)
County of King) SS.

THIS IS TO CERTIFY, That on this 9th day of February, 1912, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Joseph M. Hawthorne, a bachelor, to me known to be the person described in and who executed the above and foregoing instrument, and acknowledged to me that he executed the same as his free act and deed.

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

(SEAL)

A. H. Reid
Notary Public in and for the
State of Washington, residing
at Seattle.

My Commission expires March 3rd, 1915.

Received and filed for record in the office of the State Engineer at Boise, Idaho, at 9.00 a.m. Feb. 12, 1912.

A. E. Robinson,
State Engineer

Proof of completion of works made September 8, 1914.
 Report of engineer, September 24, 1915.
 Certificate of Completion of Works issued January 6th, 1916.

Permit No. 5173.

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom It May Concern:-

This is to certify that The Owyhee Irrigation Company, Limited, of Seattle, County of King, and State of Washington, the holder of Permit No. 5173 issued upon Application No. 7368, bearing date of priority of August 23rd, 1909, authorizing the diversion of Seventy-four (74) second feet of the waters of Carey Creek (formerly known as Louse Creek) County of Owyhee, State of Idaho, for irrigation and domestic purposes has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use, Thirty(30) second-feet of the waters of Carey Creek; that the point of diversion of said waters is S. 56° 5' E. 1168.9 feet distant from S.E. Cor. of Sec. 24, T. 12 S., R. 4 E., B.M.; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 20, Secs. 21, 22, 27 and 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 29, Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 34, all in T. 12 S., R. 5 E., B.M. (Uns.); NW $\frac{1}{4}$, W $\frac{1}{2}$ of SW $\frac{1}{4}$ and SE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 3, NE $\frac{1}{4}$, N $\frac{1}{2}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of SE $\frac{1}{4}$ Sec. 4, NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Sec. 9, NW $\frac{1}{4}$, SW $\frac{1}{4}$ of NE $\frac{1}{4}$, NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 10, T. 13 S., R. 5 E., B.M. containing 4200 acres.

Witness my hand this 6th day of January, A.D. 1916.

J.H. Smith,

State Engineer of the State of Idaho.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

O R D E R

WHEREAS, One, ALBERT DAUB, whose postoffice address is 419 Colman Building, Seattle, Washington, has offered proof of application of water to beneficial use, under the terms and provisions of Permit No. 5173, heretofore granted to the Owyhee Irrigation Company; and

WHEREAS, It is essential that said Albert Daub show his right of title and interest in the said Permit No. 5173, which he has done by presentation of abstract of title No. 2353, issued by Owyhee County Abstract Company, of Silver City, Idaho, said abstract of title appearing to vest an unencumbered right to lands described as East half of the Southwest quarter of Section 28 and the East half of the Northwest quarter of Section 33, Township 12 South, Range 5 East of Boise Meridian, Idaho in the said Albert Daub, which lands are identical with those described in the said Permit No. 5173:

IT IS, THEREFORE, Ordered that proof of application of water to beneficial use, made by the said Albert Daub, be and the same hereby is accepted, and that any license may issue in the name of Albert Daub, to be known as License No. 5173, if and when the field examination said permit and works constructed thereunder, required by statute, shall disclose that actual application of water to beneficial use has been accomplished in compliance with the terms and provisions of said permit.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Department of Reclamation, this 20th day of January, 1928.

GEO. W. CARTER
Commissioner of Reclamation.

(SEAL)

COPIES SENT FOR FILE
Page 35-42

November 8, 1926.

Re: Permit No. 5173.

Mr. J. E. Hawthorne,
Attorney at Law,
405-406 Title & Trust Bldg.,
Seattle, Washington.

Dear Sir:--

Enclosed you will find water license issued to
Albert Bush under the above numbered permit, together
with receipt for same paid.

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

By _____
Chief Clerk.

Encl.

JOSEPH M. HAWTHORNE
ATTORNEY AND COUNSELLOR
405-406 TITLE & TRUST BLDG
SEATTLE, WASH.

TELEPHONE ELLIOTT 6789

Seattle, Wash., Nov. 5th, 1928.

Hon. Geo. Carter,
Commissioner of Reclamation,
Boise, Idaho.

Re Permit No. 5173.

Dear Sir:

Your letter of September 26, 1928, addressed to me was received during the absence of Mr. Daub from this city. He has since returned and called this morning at this office. He then for the first time read your letter of September 26th, has carefully considering the same and has instructed me to say that in addition to the "61 miners inches of water or 1.22 second-feet" mentioned in your letter that he hopes it may be possible for you to include therein the water in excess of the 61 inches which may accumulate in the reservoir referred to, during average years; at the same time he does not want the permit altered to include any other land.

I am uncertain as to whether the suggested clause would or would not be of benefit to Mr. Daub. However, I request that if possible you insert the same in the license to please him. I particularly make this request because of the large amount of money he has invested and lost in the proposition.

I enclose you herewith Mr. Daub's check payable to Commissioner of Reclamation, Idaho, for \$8.00 which as you will observe has been duly certified.

You may send the license when it is issued either to me or directly to Mr. Albert Daub, 419 Colman Building, Seattle, Wa. n.

Yours truly,

ENC.
JMH:W

J. M. Hawthorne.



5173

September 26, 1928.

Re: PERMIT No. 5173

J. M. HAWTHORNE, Esquire,
Attorney-at-Law,
405 Title & Trust Building,
Seattle, Washington.

Dear Sir:

Reference is had to your letter of September 24 regarding the report of an examining engineer of this Department upon the proof of cultivation and reclamation made recently on Permit No. 5173 which originally covered the Owyhee Irrigation Company Carey Act Project:

After a conference with the engineer who examined the 160 acres of land described in the permit, also, the subject of patent from the United States to the State of Idaho, it appears that there is more land in cultivation than indicated in the engineer's report, however, this cultivation is on the land adjoining the Carey Act 160. From reference to the old Carey Act files, it appears that this additional cultivation is on the entry originally held by Mr. Schalkenbach

$\frac{1}{4}$ SW $\frac{1}{4}$ & $\frac{1}{4}$ NE $\frac{1}{4}$, Section 33

which, at the time of the settlement of the Carey Act affairs, was apparently relinquished and the water stock surrendered to the Company and by it canceled.

Summing up, it is apparent that there is sufficient cultivation in this vicinity to entitle Mr. Daub to a water license for more than 61 miners inches (the letter to you under date of September 20 should have indicated 61 acres instead of 36). Under the permit law of this State it is impractical, if not impossible, from a legal viewpoint to issue a water license in excess of the rate of one miners inch for each acre found to have been cultivated and irrigated. As a matter of practicability, it does not occur to me that it would make any material difference whether you had a license for 160 miners inches or less provided the right licensed represents the sole and entire ownership of the reservoir; there being no adverse claimants to this water, you, no doubt, would be unmolested in your application of the entire water supply to the lands in question.

5173

J. M. HAWTHORNE, Esquire

September 26, 1928.

Upon the foregoing basis a license can issue covering the lands described in the permit, namely:

$\frac{1}{2}$ SW $\frac{1}{4}$, Sec. 28 & $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 33, T. 12 S., Range 5 East, R.M.

for 61 miners inches of water or 1.22 second-feet. To secure a license for a greater amount of water would seem to require an amendment of the permit so as to include the adjoining lands on the west:

$\frac{1}{2}$ NW $\frac{1}{4}$, Section 33, Township 12 South, Range 5 East of R. M.

It appears that the entire cultivation in this vicinity would amount to a little over 100 acres which, if licensed at the rate of one miners inch per acre, would give a right equal to the Carey Act contract rate of 50 miners inches to 80 acres of land - the application of said water actually being upon the lands described if the permit is amended and otherwise, not.

It is my opinion that it makes little, if any, difference as to how this license is issued or in what amount, the water being stored in the reservoir some property right thereto quite likely vests and, such being the case, the owner thereof is at liberty to apply the water in the manner he sees fit.

The foregoing is not exactly in accordance with the letter of the law but involves a reasonable and practical application thereof.

You state in your letter that during an average year there is sufficient water to irrigate more than 61 acres of land; possibly, you have not in mind the difference in duty of water as expressed in the Carey Act contract, which provides 5/8 of a miners inch per acre, and the State permit law, which licenses at the rate of one miners inch per acre.

The last paragraph in your letter, I believe is answered in the foregoing. I am quite certain that this licensee would never experience the adverse use of any amount of water stored in excess of the 61 miners inches per season.

Very truly yours,

Commissioner of Reclamation.

CNC/tp

7-11-28
11-1-28

Seattle, Wash., Sept. 24, 1928.

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

Re: Permit No. 5173.

Dear Sir:

I am in receipt of your letter of the 20th inst. in which you stated, among other things, that the report of your Examining Engineer showed fifty-six acres under irrigation and cultivation, and therefore that the license will be issued to Mr. Albert Daub for 56" or 1.12 second feet of water.

I will forward your letter to Mr. Daub and shall probably hear from him inside of a few days as he is always very prompt in paying every obligation. However, in the meantime I desire to advise you that Mr. Daub has repeatedly informed me that every average season during the past ten years or more the amount of water has been largely in excess of 56" or 1.12 second feet which would only be sufficient to irrigate fifty six acres; and that as a matter of fact in former years there has been sufficient water to irrigate one hundred and sixty acres and with the exception of one year there was always ample water to irrigate about one hundred acres.

Under the circumstances will you kindly advise me, so that I can intelligently inform Mr. Daub, to whom will the water go during an average year when there is an amount sufficient to irrigate an area largely in excess of fifty-six acres?

As you are aware this was originally a Cary Act project, and it cost an enormous amount of money. Therefore under the circumstances I feel that Mr. Daub is entitled to all of the water that may be saved by the reservoir system which has cost him such a large sum of money.

Under the circumstances would it be possible to have the license read that he will be entitled to 56" or 1.12 second feet of water and any amount of water in excess thereof which is furnished by the irrigation system referred to and thereby avoid the possibility of litigation over water that during the average ~~year~~ would not be used on the fifty-six acres and would otherwise accumulate in the reservoir.

JMH:W

Yours truly,


J. M. Hawthorne.

5173

September 20, 1928.

Re: Permit No. 5173.

Mr. J. M. Hawthorne,
625-6 Title & Trust Bldg.,
Seattle, Washington.

Dear Sir:-

The report of our examining engineer for beneficial use of water under the above permit is now on file here. Upon receipt of fees in the sum of \$3.00, license will be issued the holder, Albert Dand. 61

The report shows 56 acres under irrigation and cultivation. The license will, therefore, issue for 56 inches, or 1.12 second feet of water.

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

By _____ Chief Clerk

5173

STATE OF IDAHO DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 5173

This proof is for Beneficial Use

In Water District No. _____

1 Name of applicant: Albert Daub
 2 Source of water supply: Carey (formerly Louse) creek
Feeder canal is about center of
 3 Location of point of diversion: is in the NW 1/4 of Section 30
(See Remarks)
 T. 12 S. R. 4 E., B.M. County of Owyhee

4 Describe works as they exist, giving dimensions and capacities of same: Feeder canal 1/2 mile
long, 40 ft wide, 4 ft deep. Reservoir of about 400 Acres area, Dam 18 ft high
10 ft crest, slopes 1-1 1/2-1. Main canal 8' wide, 3' deep + about 3 miles
long. several miles of laterals

5 Water is used for: Irrigation

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

List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): E 1/2 of SW 1/4 of Sec. 28, and E 1/2 of NW 1/4 of Sec. 33, Twp. 12 S., R. 5 E., B.M.

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

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

Remarks: _____

Point of diversion from the reservoir is near center of SW 1/4 of Sec. 19,

Twp. 12 S., R. 5 E., B.M.

This is a part of the Owyhee Irrigation Co's project

5173

This examination was made on the 11th day of July 1928

(Signed) _____

Examiner.

16
Albert Daub-Seattle
Land Originally Owyhee Irr.Co.

Permit No.....5173.....

Examination for **RECL. USE**

County **OWYHEE**

INSTRUCTIONS TO EXAMINERS

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

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE**

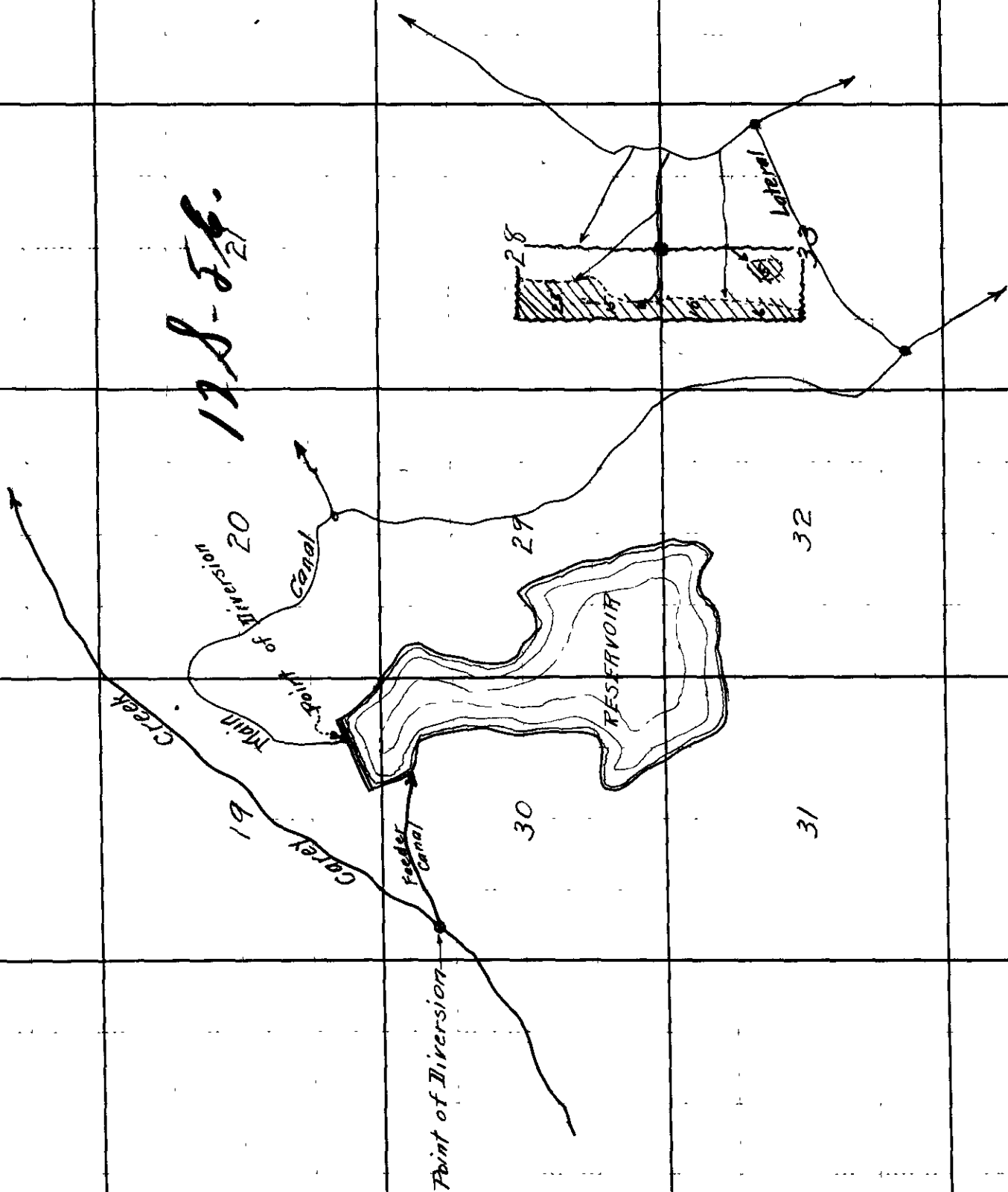
REPORT OF ENGINEER

PERMIT NO._____

REPORT ON PROOF OF_____

112
 112
 50
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128-56



January 31, 1928.

Re: Permit No. 5878- Albert Dumb.

Mr. J. M. Hawthorne,
405-6 Title & Trust Bldg.,
Seattle, Washington.

Dear Sir:-

Your letter of the 16th inst., enclosing abstract of title of lands described in the above permit, was duly received. After going over the abstract thoroughly, I have drawn up an order which I think will be sufficient for our records to bring the chain of title of the permit down to Mr. Dumb. This order has been recorded under the permit in this office and will become a part of said permit. The abstract is, therefore, herewith returned to you, with a copy of the order.

The depositions of the two witnesses, George S. Craig and Clarence Wilson, with the affidavit of publication, were received here today. This completes the proof so far as the holder is concerned and, as soon as our field engineer can make the examination on the ground later in the season, you will be further advised as to fees due. These fees will be based upon the number of legal subdivisions irrigated, being \$2.00 for each forty-acre tract, or fraction thereof.

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

By _____
Chief Clerk.

Enc.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. _____

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

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

Ans. Clarence Wilson; 44; Bruneau; mail agent; Bruneau, Idaho

Ques. 2. Are you acquainted with Albert Daub, the holder of Permit No. 5173? How long have you known him and where does he reside?

Ans. Am not personally acquainted with the man, but he lives in Seattle; I am well acquainted with his holding.

Ques. 3. Have you read or heard read said Permit No. 5173, and are you familiar with its provisions and conditions?

Ans. Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Louse creek; perhaps a mile northwest of of the NE-~~SW~~ of sec. 28, T.12 S., R.5 E.; I believe in Sec. 20 of that township and range. It is a dirt and rock conduit; I worked on it myself.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. I have seen safely conveyed all the water allowed by the terms of the permit--3.2 second feet

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

Ans. Irrigation and domestic. My impression is that every acre of the area has been and is now thoroughly irrigated. It is not natural meadow; all cultivated; it is a hay and grain producer, and is also a profit-producer.

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

Ans. for irrigation and domestic only.

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

Ans. Volcanic ash: all the water it has yet received, approximately 3.2 cubic feet--is barely sufficient for its adequate irrigation at times

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

Ans. No

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. In June, July, August and September annually for the past nine or ten years I have witnessed the application of the water to beneficial use.

(Signed) Wm. Wilson

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Bruneau, County of Owyhee, State of Idaho, on this 28th day of January, A. D. 1928.

Charles W. Wason

Notary Public.

My commission expires June 27, 1931

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. _____

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

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

Ans. George S. Craig; 47; Bruneau; farmer; Bruneau, Idaho

Ques. 2. Are you acquainted with Albert Daub, the holder of Permit No. 5173? How long have you known him and where does he reside?

Ans. Am not acquainted with Albert Daub, but know the land, knew the original owner of land and water, Sam Hart, now deceased

Ques. 3. Have you read or heard read said Permit No. 5173, and are you familiar with its provisions and conditions?

Ans. Yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. It is in section 20 of 12 south, 5 east, northwest of the land; the works are constructed of earth and rock. The source is locally known as House creek.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. 3.2 second feet, and seen so much conveyed

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

Ans. Irrigation and domestic, and the entire area is irrigated. It is all cultivated, and is so improved as to render it a profitable undertaking.

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

Ans. Irrigation and domestic only

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

Ans. Volcanic ash; all the water, 3.2 cubic feet are required for its adequate irrigation

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

Ans. No

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. During the months of June, July, August and September, the irrigation season normally, for upwards of ten years past I have seen the water applied beneficially to this area.

(Signed) George S. Craig

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Bruneau, County of Owyhee, State of Idaho, on this 28th day of January, A. D. 1928.

Charles Pascoe

Notary Public.

My commission expires June 27, 1931

NOTICE FOR PUBLICATION

Notice of Proof of Application of Water to Beneficial Use.

Notice is hereby given that at 11 a.m. on the 28th day of January, 1928, at Bruneau, County of Owyhee, State of Idaho, before Charles Pascoe, notary public, proof will be submitted of the application to beneficial use of 3.2 cubic feet per second of the water of Carey (formerly Louse) creek, in accordance with the terms and conditions of Permit No. 5173, heretofore issued by the State Engineer of the State of Idaho.

The name and postoffice address of the person holding said permit are: Albert Daub, 419 Colman Bldg, Seattle, Washington

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

The amount applied to beneficial use is 3.2 cubic feet per second

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated):

E $\frac{1}{2}$ SW $\frac{1}{4}$ Sec 28 and E $\frac{1}{2}$ NW $\frac{1}{4}$ Sec. 33, Twp 12 S, R. 5 E., B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Owyhee Canal company.

The right to take water from such works is based upon Permit No. 5173.

The source of supply from which such water is diverted is Carey (formerly Louse) creek, near northeast corner of Sec. 25, T. 12 S, R. 4 E.

The date of the priority which said user is prepared to establish is January 9, 1919.

GEO. H. CARTER,
Commissioner of Reclamation

AFFIDAVIT OF PUBLICATION

I, Charles Pascoe, publisher of THE OWYHEE NUGGET, published weekly at Bruneau, Owyhee County, Idaho, do solemnly swear that a copy of the above notice, as per clipping attached, was published weekly in the regular entire issue of said newspaper, and not in any supplement thereof, for 6 consecutive issues, commencing with the issue dated December 22 1927, and ending with the issue dated January 19 1928, that the said newspaper has been continuously published in said county during a period of seventy eight consecutive weeks prior to the first publication of this notice.

Subscribed and sworn to before me this 28th day of January, 1928

GEO. H. CARTER
Notary Public

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

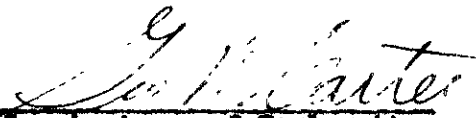
O R D E R

WHEREAS, One, ALBERT DAUB, whose postoffice address is 419 Colman Building, Seattle, Washington, has offered proof of application of water to beneficial use, under the terms and provisions of Permit No. 5173, heretofore granted to the Owyhee Irrigation Company; and,

WHEREAS, It is essential that said Albert Daub show his right of title and interest in the said Permit No. 5173, which he has done by presentation of abstract of title No. 2353, issued by Owyhee County Abstract Company, of Silver City, Idaho, said abstract of title appearing to vest an unencumbered right to lands described as East half of the Southwest quarter of Section 28 and the East half of the Northwest quarter of Section 33, Township 12 South, Range 5 East of Boise Meridian, Idaho in the said Albert Daub, which lands are identical with those described in the said Permit No. 5173;

IT IS, THEREFORE, Ordered that proof of application of water to beneficial use, made by the said Albert Daub, be and the same hereby is accepted, and that any license may issue in the name of Albert Daub, to be known as License No. 5173, if and when the field examination of said permit and works constructed thereunder, required by statute, shall disclose that actual application of water to beneficial use has been accomplished in compliance with the terms and provisions of said permit.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Department of Reclamation, this 20th day of January, 1928.


Commissioner of Reclamation

Seattle, Wash'n. January 16, 1928.

Hon. Geo. N. Carter,
Commissioner of Reclamation,
Boise, Idaho.

Re Permit No. 5173.

Dear Sir:-

Your letter of the 9th inst., addressed to Mr. Albert Daub, 419 Colman Building, Seattle, Wash., has been handed by him to me, and he has requested me to reply thereto.

In your letter of the 9th inst., you acknowledged receipt of Mr. Daub's deposition in the Matter of Proof of Beneficial Use of Water, under the above permit, and you added in your letter:

"Before the proof can be finally accepted and license issued in your name, it will be necessary for the transfer from the Owyhee Irrigation Company to be recorded in this office."

Mr. Daub and I have discussed your letter, but frankly we are uncertain as to what you mean by the "transfer from the Owyhee Irrigation Company".

(1) Assuming, however, that you mean a transfer of the title to the land, to wit, the E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 28 and E $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 33, in Tp. 12 S., R. 5 E. of B.M., in Owyhee County, Idaho, I enclose you herewith an Abstract of Title to that land, duly certified to by Owyhee County Abstract Company on Aug. 4, 1923. The abstract shows, as you will observe, (1) patent from the U.S. to the State of Idaho, dated Sept. 22, 1921; (2) patent from the State of Idaho to Samuel Hart, dated Nov. 3, 1921; (3) warranty deed from Samuel Hart to Sam Hart Live Stock Company, dated July 6, 1921; (4) warranty deed from Samuel Hart, a single person, to Sam Hart Live Stock Company, dated Jan. 7, 1922 (which is hereinafter more fully referred to), and (5) warranty deed, dated June 16, 1922, from Sam Hart Live Stock Company to Albert Daub, (which last-mentioned deed is also hereinafter more fully referred to.

If it should be necessary for you to file the enclosed abstract in your office, so that it may become a part of your permanent records, please feel at liberty to do so. But, if it is not necessary that you should keep the abstract, kindly return it to Mr. Daub to his address as given above.

(2) If, however, you refer to a transfer of the title to the canals and reservoir system, which were constructed

by the Owyhee Irrigation Company, including its rights-of-way, then I desire to say that we have a fragmentary record of the Owyhee Irrigation Company which shows that the last meeting of that Company was held on or about September 1, 1916, at which meeting a resolution was adopted whereby all property, including canals, reservoirs, rights-of-way, and everything which the Owyhee Irrigation Company then owned, were authorized to be assigned and transferred to the Owyhee Canal Company, and, in pursuance of that resolution, all of the rights and property of the Owyhee Irrigation Company were assigned and transferred to the Owyhee Canal Company.

My recollection is that I attended to many of the details of that transfer, and that all of the papers in connection therewith were promptly filed in the office of the State Board of Land Commissioners at Boise, Idaho.

If the Department of Reclamation of Idaho has succeeded, in these matters, to all of the rights, powers, and privileges of the State Board of Land Commissioners, then the papers which were filed, as above-stated, must now be a part of the files and records of your office.

(3) By referring to the files and records of your office, or of the State Board of Land Commissioners, you will find that the irrigation works of the Owyhee Irrigation Company were built to irrigate 3296 acres, and that, because the water was found insufficient to irrigate more than 160 acres, the segregation was ultimately reduced to 160 acres; you will also find that Charles Schalkenbach and Samuel Hart were the only two settlers on lands served by said irrigation system, and that the only two stockholders in the Owyhee Canal Company were Charles Schalkenbach and Samuel Hart, and possibly Albert Daub.

(4) I now call your special attention to the following facts: Prior to Nov. 3, 1921, Charles Schalkenbach, by a letter or other instrument duly executed by him, transferred all of his right in and to the above property to Samuel Hart. That letter, or instrument, was duly filed in your office or in the office of the State Board of Land Commissioners.

(5) The State of Idaho (said abstract No. 2), by its patent dated Nov. 3, 1921, conveyed to Samuel Hart the land above described.

(6) Thereafter (said abst. No. 4), said Samuel Hart, a single person, by his deed of warranty, dated Jan. 7, 1922, recorded Jan. 14, 1922, in Book 15 of Deeds, pages 591 and 592, Owyhee County Records, conveyed the above described land "together with all water rights and ditch rights thereunto belonging or appertaining" to Sam Hart Live Stock Company, a corporation, of which said Charles Schalkenbach was secretary.

3.

(7) Thereafter (Abst. 5) said Sam Hart Live Stock Company, by Albert Daub, its president, and Charles Schalkenbach its Secretary, executed a deed of warranty, dated June 16, 1922, recorded June 22, 1922, in Book 16 of Deeds, pages 182 and 183, records of Owyhee County, wherein and whereby said Sam Hart Live Stock Company conveyed said land "together with all water, water rights, and ditch rights thereunto belonging or appertaining" to said Albert Daub.

(8) Samuel Hart and Charles Schalkenbach died sometime ago. I cannot give you the exact date of the death of either of them but I think it was along about the year 1924.

The Owyhee Irrigation Company, the Owyhee Canal Company, and the Sam Hart Live Stock Company have ceased to function, so far as known to me.

(9) For your general information and as bearing upon the subject, I may add that the Sam Hart Live Stock Company was organized for the purpose of taking over the interests which Mr. Hart and Mr. Schalkenbach had acquired to the land and the irrigation system of the Owyhee Irrigation Company or its successor, the Owyhee Canal Company. Furthermore, the principal, if not all of, the stockholders of the Sam Hart Live Stock Company were Albert Daub, Charles Schalkenbach, Samuel Hart, and U. M. Dickey. I am informed that they put a large amount of money into sheep in connection with the Sam Hart Live Stock Company, lost a good deal, and finally quit business.

I hope the enclosed Abstract of Title and the above references to papers and documents on file in your office, or in the office of the State Board of Land Commissioners, may be sufficient under the circumstances to authorize you to issue the license mentioned to Albert Daub.

I may add that Mr. Daub and I have done everything in our power to comply with your requests. At present, we do not think of anything further that can be done by us. However, if there is anything further, which we have omitted, do not hesitate to communicate with Mr. Daub at his above given address, and, if there is any affidavit or other document which either of us could conscientiously make, we will be glad to make it, if you will kindly send the same to Mr. Daub, or a general form thereof.

Yours truly,



J. M. Hawthorne

H-e.

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

January 8, 1928.

Mr. Charles Pascoe,
Brunson, Idaho.

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. ~~1173~~

~~DEPOSITION OF PERMIT HOLDER~~ DEPOSITIONS OF TWO WITNESSES.

In submitting this proof the following instructions should be CAREFULLY followed out, since failure to do so may result in the loss of rights:

1. On ~~Jan 11~~ Jan 11, the date set for proof, the enclosed forms (one for permit ~~holder~~ holder and one each for two disinterested witnesses) should be filled out and sworn to at

~~Brunson~~ before Charles Pascoe, notary public.

2. When the depositions have been taken, they should be mailed to this office, together with affidavit of publication of notice.

When these have been received, together with report of the examining engineer, if everything is properly executed, you will be further advised as to fees due, etc., before certificate is issued

Yours truly,

~~CHAS. H. CARTER,~~
Commissioner of Reclamation.

Mr. Charles Pascoe:

Mr. Albert Damb, the holder, has made his deposition before a notary public in Seattle and will advise his two witnesses to appear before you on January 28 to fill out the blanks enclosed. We have today written him to do so.

5170

January 9, 1928.

Re: Permit 5173

Mr. Albert Dauh,
419 Colman Bldg.,
Seattle, Washington.

Dear Sir:-

Your letter of the 5th inst. received, with you deposition in the matter of proof of beneficial use of water under the above permit. Deposition blanks for your two witnesses will be mailed to Charles Pascoe, at Tacoma, this week and I would suggest that you advise them to appear before him January 22, the date advertised for the proof, and fill out the blanks.

Before the proof can be finally accepted and license issued in your name, it will be necessary for the transfer from the Ouyhee Irrigation Company to be recorded in this office. Such transfer should be sent in as soon as possible in order that your name may appear upon our records as owner of the permit.

Your deposition will be placed on file, without further action, pending receipt of the completed proof.

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

By _____
Chief Clerk.

5173



Consolidated Dairy Products Co.

DISTRIBUTORS OF

Evaporated Milk - Milk Powder - Butter - Cheese

419 COLMAN BUILDING TELEPHONE ELLIOTT 2710



CABLE ADDRESS
FEDMILK SEATTLE
CODES
BENTLEYS
WESTERN UNION

Seattle, Wash.

January 5, 1928

Honorable Geo. N. Carter
Department of Reclamation
Boise, Idaho

Dear Sir:

Re: Permit No. 5173

Replying to Mr. Brown's letter of December 16.

I inclose you herewith deposition as to proof of application of water to beneficial use.

As far as I am able to see, and my Attorney, Mr. Hawthorne, has been able to see, I have answered all questions required, but if there is anything I have overlooked, or anything further that you wish to know, I will be pleased to furnish the same. I could not find anything in my correspondence as to any particular person to mail this deposition to, but take it for granted that the Department of Reclamation is the proper place to address it.

The water used on this land has been somewhat irregular in quantity, and once or twice, during the past fifteen years, the alfalfa meadows have been killed out for lack of sufficient water. The entire hundred and sixty (160) acres, however, has been irrigated each year that there was sufficient water.

The Diversion Canals were originally built for a larger volume of water than has proven necessary.

Maps and engineering data, covering the reservoir and canals, will be found on record in Boise, as they were all filed while construction was going on by the Owyhee Irrigation Co. I do not know the date of their filing, but suppose it was sometime prior to 1912.

Yours truly,

Albert Daub

Mr. Albert Daub
419 Colman Bldg.
Seattle, Washington

AD I

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 5173

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Albert Daub, 61 years, Seattle, Washington, Wholesale Dairy
Products. 419 Colman Building, Seattle, Wash.

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

Ans. Acting in behalf of myself.

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

Ans. Permit No. 5173, August 23, 1909. Date of priority, Jan. 9, 1919.

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

Ans. Carey Creek (formerly known as Louse Creek. Near Northeast
corner of Sec. 25, Township 12 South, Range 4 East, B.M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. Feeder canal, impounding reservoirs, and therefrom diversion
canal about three miles in length. Capable of conveying about 6 cubic
ft. per second. Owyhee Canal System.

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

Ans. For irrigation and domestic purposes. Used on E $\frac{1}{2}$ of SW $\frac{1}{4}$ of
Sec. 28 and E $\frac{1}{2}$ of NW $\frac{1}{4}$ of Sec. 33, in Twp. 12 South of Range 5 East,
B.M., containing 160 acres. Partially cultivated and partially
naturally meadow. The land has been fenced and cleared, and hay and
grain has been, and is being, raised thereon.

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

Ans. Used for nothing but irrigation and domestic purposes.

W. H. H. H.
22 10 11

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

Ans. 3.2 cubic feet per second.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. Acquired through mesne conveyances from the U.S., the State of Idaho, and others into said Albert Daub. See Owyhee County records.

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Since prior to the year 1912. By gravity flow. All the water stored was used each year with the exception of two years when there was a surplus which was held and carried over for use the following year. The amount averaged about 3 cubic feet per second during the irrigation season.

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

Ans. No other waters have been used.

(Sign) Albert Daub

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Seattle, County of King Washington, State of Wash on this 4th day of January A. D. 19 28.

Roy Erford
Notary Public in and for the state of
Washington, residing in Seattle.

My commission expires Nov. 28, 1928.

December 16, 1927.

Re: Permit No. 5173.

Mr. Albert Daub,
419 Colman Building,
Seattle, Washington.

Dear Sir:-

Referring to your letter of the 13th inst. would say that January 26, 1928, has been set as the date for making proof under the above permit and notice for the required publication has today been mailed to the Bruneau Nugget.

Your deposition may be taken in Seattle before any officer authorized to administer oaths. Am enclosing deposition blank.

Deposition blanks for two witnesses will be mailed to Mr. Pascoe, at Bruneau.

Very truly yours,
GEO. E. CASTER,
Commissioner of Reclamation.

By _____
Chief Clerk.

1 enc.



Consolidated Dairy Products Co.

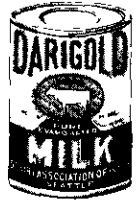
DISTRIBUTORS OF

Evaporated Milk - Milk Powder - Butter - Cheese

419 COLMAN BUILDING TELEPHONE ELLIOTT 2710

Seattle, Wash.

December 13, 1927



CABLE ADDRESS
FEDMILK SEATTLE
CODES
BENTLEY'S
WESTERN UNION

Honorable George N. Carter
Commissioner of Reclamation
Boise, Idaho

Dear Sir:

Inre: Permit No. 5173 - Albert Daub

Referring to Mr. Hawthorne's correspondence with you in my behalf.

More particularly, referring to yours of November 16 to Mr. Hawthorne, I have found two witnesses who have the necessary knowledge, covering the past ten years, who are handy, and will not cost much as witnesses. They reside within a few miles of Bruneau, and will be available during January and February.

Please proceed with the advertising at your earliest convenience.

I can find nothing about sending you a check, covering this expense, but will do so upon a request, giving the amount.

My deposition, I understand, will be taken here in Seattle. Mr. Hawthorne has the name, I think, and this is very satisfactory. The appearing of my two witnesses before Commissioner Pascoe at Bruneau is convenient for me, and I appreciate it, as it lessens the trouble and expense of getting witnesses.

I think ^{in your} ~~you have~~ notice of proof ^{you have} ~~sent out with~~ the description of the land, but will repeat the same here. The land, upon which I am getting my proof of beneficial use of water, is:

"E¹/₄ Sec. 26, and E¹/₄ Sec. 23, Twp. 12 S., R. 3 E, B.M."

Kindly advise me of the date for the hearing at Bruneau.

Yours truly,

Albert Daub

Mr. Albert Daub
419 Colman Bldg.
Seattle, Wn.

The records at Boise, I think, contain everything necessary as to the proof that Sam Hart took title to the entire 160. Everything pertaining to Owyhee Irrigation Co. and the Owyhee Canal Co. are of record in Boise, and all their transactions were, I think, closed up legally. It seems to me that the abstract I offer may meet all necessary further requirements.

Please advise me whether this will answer the situation, and whether you want me to mail you the abstract.

Yours truly,

Albert Daub

Mr. Albert Daub
419 Colman Bldg.
Seattle, Wn.



Consolidated Dairy Products Co.

DISTRIBUTORS OF

Evaporated Milk - Milk Powder - Butter - Cheese

418 COLMAN BUILDING TELEPHONE ELLIOTT 2710

Seattle, Wash.

December 13, 1927



CABLE ADDRESS
FEDMILK SEATTLE
CODES
BENTLEYS
WESTERN UNION

Honorable George N. Carter
Commissioner of Reclamation
Boise, Idaho

Dear Sir:

Inre: Permit No. ⁵¹⁷³ ~~5173~~ Albert Daub

In your letter of November 10 to Mr. Hawthorne, among other matters you stated that I should send the assignment of the Owyhee Irrigation Co. to you for record.

This ground was a ~~Carry-Act~~ irrigation scheme, involving about 2,300 acres, and was finally cut down by the United States in two (2) 80-acre pieces, until a few years ago, held by Sam Hart and Charles Schalkenbach.

Both of these men are now dead. The land was deeded to the Sam Hart Livestock Co., and subsequently deeded by the Sam Hart Livestock Co. to me. The Owyhee Irrigation Co. was the construction, and they assigned all of their rights, title and everything, to the owners of the land, and the Owyhee Canal Co., which was supposed to be the operating company. But, as the proposition, as a ~~Carry-Act~~, did not work out on account of a great insufficiency of water, the Owyhee Irrigation Co. asked for no further payments.

The Owyhee Irrigation Co. has been out of business and defunct for over ten years, and their records have been destroyed, as far as Mr. Hawthorne or I can ascertain, with the exception of a few records that do not touch on the matters you referred to.

I have an abstract gotten out by the Owyhee Abstract Co., Silver City, which I could send you as proof that I am the actual owner, but this shows only title by the—

United States	to the	State of Idaho
State of Idaho	"	Samuel Hart
Samuel Hart	" "	Sam Hart Livestock Co.
Sam Hart Livestock Co	to	Albert Daub



Consolidated Dairy Products Co.

DISTRIBUTORS OF

Evaporated Milk - Milk Powder - Butter - Cheese

419 COLMAN BUILDING TELEPHONE ELLIOTT 2710

Seattle, Wash.

December 13, 1927



CABLE ADDRESS
FEDMILK SEATTLE
CODES
BENTLEYS
WESTERN UNION

Honorable George N. Carter
Commissioner of Recreation
Boise, Idaho

Dear Sir:

Inre: Permit No. 5173--Albert Daub

The Bruneau Nugget wrote me personally,
asking me for the advertising.

I have no personal interest in the papers
in either Bruneau or Silver City, but at one time, I was
some what acquainted around Bruneau. But, as the "Nugget"
is nearer to the land than the Silver City paper is, I
would appreciate it if the "Nugget" could have this adver-
tising, providing there is nothing in the matter that makes
the giving of it to the "Nugget" inconsistent and inconven-
ient for you.

Yours truly,

Albert Daub

Mr. Albert Daub
419 Colman Bldg.
Seattle, Wn.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Dec. 16, 1927

Date .

PUBLISHER THE NUGGET

Bruneau, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to **January 28, 1928**, the date set for proof, the expense of the publication to be paid by the applicant, **Albert Daub, 419 Colman Bldg., Seattle, Wn.,** to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,

GEO. N. CARTER,

Commissioner of Reclamation.

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) November 5, 1927.

(P. O.) 419 Colman Building, Seattle, Wash.

TO THE COMMISSIONER OF RECLAMATION:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the
~~AVANCE~~ *Nugget* of *Princeton* ~~Princeton~~, published in
the county in which the works are situated.

Albert Daub

(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.

5173

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 11 a. m. on the 28th day of January, 1928
 at Bruneau, County of Owyhee, State of Idaho,
 before Charles Pascoe, notary public, proof will be submitted
 of the application to beneficial use of 3.2 cubic feet per second of the
 waters of Carey (formerly Louse) Creek in accordance with the terms and conditions of
 Permit No. 5173 heretofore issued by the State Engineer
 of the State of Idaho.

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

Albert Daub, 419 Colman Bldg., Seattle, Washington.

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

The amount applied to beneficial use is 3.2 cubic feet per second.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated) E¹/₄SW¹/₄, Sec. 28, and E¹/₄NW¹/₄, Sec. 33, Twp. 12 S., R. 5 E., B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Owyhee Canal Co.

The right to take water from such works is based upon Permit No. 5173

The source of supply from which such water is diverted is Carey, (formerly Louse) creek,
near N.E. corner of Sec. 25, T12 S., R. 4 E.

The date of the priority which said user is prepared to establish is January 9, 1919.

Geo. N. Carter,

Commissioner of Reclamation.

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER
TO BENEFICIAL USE

Notice is hereby given that at 11 a. m. on the 12th day of December, 1927,
at 406 Title & Trust Bldg., Seattle, County of Owyhee, State of Idaho,
before Charles Pascoe, a Notary Public, proof will be submitted
of the application to beneficial use of (See Note below at 8) cubic feet per second of the
waters of Carey (formerly Louse) Creek, in accordance with the terms and conditions of
Permit No. 5173 heretofore issued by the State Engineer
of the State of Idaho, under date of January 17, 1916.

The name and postoffice address of the person or corporation holding said permit are
Albert Daub, 419 Colman Building, Seattle, Wash.

The use to which said water has been applied is irrigation and domestic use
of sheep and cattle.

The amount applied to beneficial use is see note at 8 below 3.2 cu. ft.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated) is in Owyhee County, Idaho, and is described as follows:

East $\frac{1}{2}$ of Southwest $\frac{1}{4}$ of Section Twenty-eight (28) and
East $\frac{1}{2}$ of Northwest $\frac{1}{4}$ of Section Thirty-three (33), in Township
Twelve (12) South of Range Five (5) East of Boise Meridian.

The name of the canal or ditch or other works by which said water is conducted to such place of use
is Owyheee Canal Co., successor to Owyhee Irrigation Co.

The right to take water from such works is based upon Permit No. 5173.

The source of supply from which such water is diverted is Carey Creek, formerly
Louse Creek near Northeast corner of Sec. 25, Twp. 12 S., Range 4 E.

The date of the priority which said user is prepared to establish is Aug. 23, 1909.

Dec. 4 - 1918

5173

* The 160 acres uses all the water there is in the reservoir. There is no regular flow of water. It is entirely from spring thaws or heavy rains, and the loss from evaporation and seepage has to be considered. I cannot say as to the number of cubic feet, but understand it is from $1\frac{1}{2}$ to 4 acre feet for the 160 acres. The amount varying with different years.

Commissioner of Reclamation.

November 18, 1927.

Re: Permit No. 5173-Albert Daub.

Mr. Joseph M. Hawthorne,
Attorney at law,
405 Title & Trust Bldg.,
Seattle, Washington.

Dear Sir:

Referring to your letter of the 15th instant, would say that the notice for beneficial use of water under the above numbered permit will be held without publication until further advised by you. When Mr. Daub is ready to proceed with this proof you will please advise us and the date for making proof will be changed accordingly.

Very truly yours,

GEO. N. CARTER,
Commissioner of Reclamation,

By

Chief Clerk.

B:P

5173

Seattle, Wash'n. Nov. 15, 1927.

Hon. Geo. N. Carter,
Commissioner of Reclamation,
Boise, Idaho.

In re Permit No. 5173--Albert Daub.

Dear Sir:-

I am in receipt of your recent letter of the 10th inst., with which you enclosed copy of Form 16, being deposition of holder on proof of application of water to beneficial use, which you said could be taken by the holder at Seattle before Roy Erford, the notary public named in the notice I sent you.

You also enclosed Form 10, being notice for publication, and you set December 22, 1927, at 11 A.M., as the time, and Bruneau, Owyhee County, Idaho, as the place where the proof would be submitted by witnesses of the application of water to beneficial use, and stated that the proof would be made before Charles Pasco, a notary public.

When I consulted with Mr. Daub before writing you on the 5th inst., it had not then occurred to him, and neither did it occur to me, that, doubtless, the proof to be submitted by the witnesses should show the beneficial use of the water from and after Dec. 4, 1918, and, therefore, that the witnesses should be those who had personal knowledge of that fact as of Dec. 4, 1918, and subsequently.

The office copy of my letter of the 5th inst., is not before me, but, as I recall it, I told you that Ben Martin was occupying the lands described in the notice as a tenant of Mr. Daub's during the years 1925 and 1926. Mr. Daub is not at all sure that Mr. Martin was there in 1918; although he has written two letters to Mr. Martin recently, he has had no reply to either letter. I also mentioned to you the fact of the death of Mr. Sam Hart about the year 1924, and stated that, prior to 1924, Mr. Hart had been in charge of the property.

In view of the fact that Mr. Daub has been unable to reach Mr. Martin and ascertain what he can testify to and also in view of the fact that Mr. Daub does not know, at present, of any person who is available as the other witness at the hearing at Bruneau, therefore, in view of the uncertainty of having any witness present at the hearing at Bruneau on December 22nd, it has occurred to Mr. Daub and to me that, under the circumstances, you would undoubtedly be willing to postpone the publication of the notice and the taking of the proof until a later date, and we so request.

(172)

2.

This request is coupled, of course, with the understanding that, as soon as Mr. Daub is able to locate his witnesses and ascertain when they can go to Bruneau and make the proof, you will be promptly notified, and then you can set a new date for the proof and publication of notice.

In the closing paragraph of your letter of the 10th inst., you said: "Unless otherwise advised by you within the next ten days, the notice will be sent to the paper for publication without change." Today is November 15th, and you should receive this letter by the 17th or 18th, which would be within the ten days mentioned in your letter to me. I, therefore, hope it may be agreeable to you to comply with our request and withhold the publication of the notice for the present and until after Mr. Daub can locate his witnesses and determine when it will be possible for them to go to Bruneau to make the proof.

Kindly let me hear from you promptly.

Yours truly,

A handwritten signature in cursive script, reading "J. M. Hawthorne". The signature is written in dark ink and is positioned to the right of the typed name.

J. M. Hawthorne

H-e.

November 10, 1927.

Re: Permit No. 5173-Albert Daub.

Mr. J. M. Hawthorne,
Attorney at Law,
408 Title & Trust Bldg.,
Seattle, Washington.

Dear Sir:

Referring to your letter of the 5th instant, would say that December 22 has been set as the date for making proof of beneficial use of water under the above numbered permit. The place designated is Bruneau, Owyhee County, Idaho, before Charles Pascoe, Notary Public.

The two witnesses, therefore, will appear at Mr. Pascoe's office on the date set and fill out the deposition blanks which will be furnished him for that purpose, but the deposition of the holder may be taken by the notary public named in your notice at Seattle.

This change was made for the reason that the witness mentioned by you was in Bruneau, and we took it the other witness would be in that vicinity. You should therefore notify the two witnesses as to the time and place of making this proof.

Under the provisions of Section 5579 of the Compiled Statutes of Idaho, found on page 226 of the Biennial Report sent you, where proof of beneficial use of water is made subsequent to the date specified in the permit, the date of priority is required to be brought down a length of time equal to the time elapsing between the date proof should be made and the date proof is actually made. The priority under this permit will accordingly be brought down to December 4, 1918. This correction has been made in the notice.

5173

#2--Mr. Hawthorne--11-10-27.

For your information we are mailing you herewith a copy of the notice which will be sent to the Silver City Avalanche for the required publications.

The assignment from the Hughes Irrigation Company to Albert Dugg should be sent in for record under the permit in this office prior to the date set for making proof.

The amount of water allowed for the 100 acres is 3.2 second feet, being an inch to the acre.

Unless otherwise advised by you within the next ten days, the notice will be sent to the paper for publication without change.

Very truly yours,

GEO. H. CARTER,
Commissioner of Reclamation,

By

Chief Clerk.

B.P.
Enq.

Seattle, Wash'n. Nov. 5, 1927.

Hon. George N. Carter, Commissioner,
Department of Reclamation,
Boise, Idaho.

Re Permit No. 5173.

Dear Sir:-

Referring to your letter to me of Sept. 2, 1927, in which you enclosed your Form No. 10, being Notice for Publication, and your Form No. 11, being a letter authorising publication of notice at the expense of the owner, I desire to say:

1. Form No. 11, as you will observe, has been signed by Albert Daub, the owner of the property, and is herewith enclosed to you.

2. It has been impossible for either Mr. Daub or me to suitably fill out the Notice for Publication, Form 10. However, I have filled out and enclose herewith a preliminary draft, sketch, or outline of that Notice for your use. You will, of course, have to correct the same and fill in a new notice for publication.

You were good enough to send me a copy of the last Bi-ennial Report of your Department, for which I thank you. On looking over Sec. 5074, page 224 thereof, I noticed that written proof is required from the user. Now the user must be Mr. Albert Daub as he is the owner of the property, which is described in Form 10. It further seems that the proof to be made by Mr. Daub is to be made on Forms furnished by your Department and to be sworn to by him. If I correctly construe the statute, it is apparent that, in addition thereto, affidavits are required by two disinterested witnesses.

As Mr. Daub resides in Seattle, I have stated in Form 10 that proof would be submitted at 406 Title & Trust Building, Seattle, which is my office address, before Mr. Roy Erford, a notary public. I presume that, at that time, Mr. Daub will make proof as the user and that the proof will be sworn to by him before Mr. Erford.

As to the two disinterested witnesses, I think Mr. Daub may desire to use Ben Martin, of Bruneau, Idaho, who has charge of the property for Mr. Daub and has had charge of it for him since the death, or since shortly after the death, of Mr. Sam Hart, who died, if I remember correctly, about the year 1924, and who was in charge of the property at all times prior to his death since about 1909 or 1910. I do not know who the other witness may be.

Perhaps, I should add that Mr. Daub gets no rent for the place, which is another reason why he would prefer to make the proof here in Seattle because of the expense it would be to him to go from here to Boise to make proof there. Please let me hear from you.

Yours truly,

J. M. Hawthorne

5173

September 2, 1927

Re: Permit No. 5173

MR. J. M. HAWTHORNE
Attorney at Law
406-408 Title & Trust Bldg.
Seattle, Washington

Dear Sir:

Further reference is made to the matter
of Permit 5173.

The statute upon which my letter of re-
cent date regarding this subject was predicated, is
Section 5579, Idaho Compiled Statutes, 1919. The rules
and regulations governing such proofs are identical with
those followed when proof is made on or before due date.

The necessary blanks and governing in-
structions to be employed in making proof under this
permit are herewith enclosed.

Very truly yours,

Commissioner of Reclamation

GNC:M
Enclosures

9-3-27

P. S. We are mailing you, under separate cover, copy of
the last biennial report of this department, on
Page 215 of which, and following pages, you will
find the statute covering appropriation of water
and proofs thereunder.

CB/e
Encl./sc

5173

Seattle, Wash., August 29th, 1927.

Hon Geo. N. Carter,
Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:

I beg to acknowledge receipt of your letter of the 12th inst. Perhaps I should say that I am replying to you because of the fact that I have conducted the previous recent correspondence in this matter and to add that I am doing so for the benefit of Mr. Daub and the other people interested in the land irrigation under Water Permit No. 5173 and not on my own behalf.

Referring again to your letter of the 12th inst. I desire to say that neither Mr. Daub nor I understand the second paragraph of Page 2 of that letter in which you said:

"I should perhaps call your attention to the fact that proof of beneficial use of water under Permit No. 5173 was due on September 10, 1918, and not made. The proof being now nine years overdue, if and when made the priority date attaching to license must be advanced the same amount of time."

This doubtless refers to a statute of Idaho with which I am not familiar. Mr. Daub and I have talked the matter over and we will be greatly indebted to you if you will kindly refer to the Chapter or Section of the statute which you have in mind, and also to any rules and regulations you have governing the matter. We will also be indebted to you if you will kindly furnish me with whatever blanks are necessary for proof of beneficial use of the water under Permit 5173, so that the same may be properly executed.

I thank you for your letter and especially that portion which calls attention to the matter concerning proof of beneficial use of water as neither Mr. Daub nor I desired to overlook anything.

I may add that he and I were greatly relieved at your statement at the top of Page 2 in which you said "I do not believe you have anything at stake nor any value represented in Permit 5174 when it is considered that Permit No. 5173 was given a certificate for thirty second feet of water.

If there should be any charges for furnishing the proper blanks, kindly let me know and I will at once remit the amount to you.

JMH:W

Yours very truly,


J. M. Hawthorne.

5173

State of Idaho

ENGINEERING DEPARTMENT

BOISE

June 28, 1918

J. M. Hawthorne
318-321 New York Block,
Seattle, Wash.

DEAR SIR:

I enclose herewith blank notice of Proof of Application of Water to Beneficial Use under your Permit No. 5173, which kindly fill out and return to me at least 60 days before the date upon which you wish to submit proof. The date of the proof is set out in your permit, and if proof is submitted subsequent to that your priority will be advanced a time equal to the difference of the time between the date proof should have been submitted and the date it is submitted.

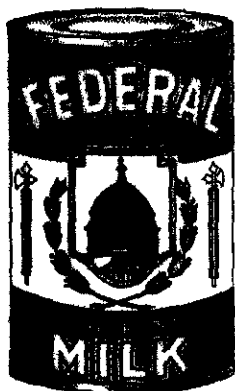
Yours truly,

FRED A. WILKIE

State Engineer.

CONDENSERY.
MOUNT VERNON, WASH.

ALBERT DAUB, President
STUART AGEN, Secretary



Federal Condensed Milk Co.

510 Hoge Building
Telephone Elliott 2710

Seattle, Wash.,

November 16, 1917.

CA 8464
11

Mr. J. H. Smith,
State Engineer,
Boise, Idaho.

Dear Sir:-

Enclosed find check for \$11.00 as per your letter of November 5th to Mr. J. M. Hawthorne, Re: Permit No. 5173, that the matter may be straight without doubt.

Please also refer to your letter of November 12th to me marked Re Permit No. 5173, Owyhee Canal Company.

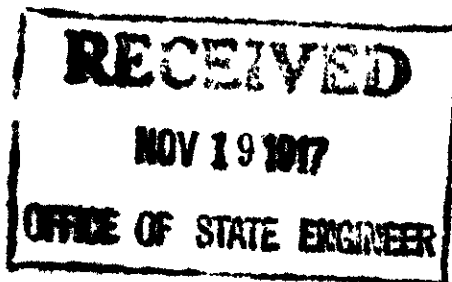
Please send receipt direct to me at 511 Hoge Bldg., Seattle, Washington.

Thanking you for calling our attention to this and regretting it was overlooked, I remain

Yours very truly,

Albert Daub.

11-37



5173

November 12, 1917.

Re: Permit No. 5173. -- Owyhee Canal Co.

Mr. Albert Damb,
511 Hoge Building,
Seattle, Wash.

Dear Sir:

Replying to yours of the 8th inst. relative to above permit would say that the water appropriated is from Caray Creek, Owyhee County and a certificate was issued for completion of works for the diversion of 30 second feet. It is from this proof that the fee is due.

Very truly yours,

J. H. SMITH,

State Engineer.

By

CB/MB

5173

Local Board for Division No. 9, City of Seattle, State of Wash,
227 Public Safety Building,
(Yesler Way & 5th Avenue)
Seattle, Wash.

November 8th, 1917.

Mr. J. H. Smith,
State Engineer,
Boise, Idaho.

Dear Sir:-

I am in receipt of your favor of the 5th inst.

I did not know that there was anything due and unpaid on permit number 5173, which I assume is the permit for the waters of Crary Creek, formerly Louse Creek, Owyhee County, Idaho, although I am not sure what creek permit number 5173 refers to.

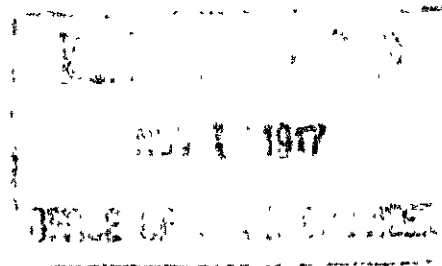
I will take the matter up immediately with Mr. Daub or Judge Twohy, and request them to forward the \$11.00 to you.

I have not been to my office very much during the past four months, for my duties as Chairman of the Local Board for this division has practically occupied all of my time, but I thought well to write you at once so that you might know we had the matter under consideration.

Very respectfully,

J. M. Hawthorne
319 New York Block,
Seattle, Wash.

JMH-S



5173

CONDENSERY,
MOUNT VERNON, SH.

ALBERT DAUB, President
STUART AGEN, Secretary



Federal Condensed Milk Co.

510 Hoge Building
Telephone Elliott 2710

Seattle, Wash.,

November 8, 1917.

Mr. J. H. Smith,
Boise,
Idaho.

Dear Sir:-

Your letter of November 5th addressed to Mr. Hawthorne
Re Permit No. 5173.

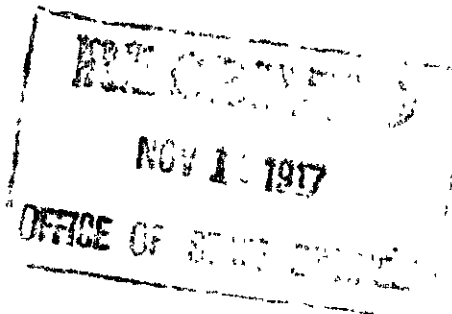
As the records and permits were not all turned over to
this office, will you kindly inform me at your earliest moment,
what creek permit No. 5173 was filed on. If this permit is filed
on any of the creeks used by the Owyhe Canal Company, I will be
pleased to send you check for \$11.00.

Awaiting your further reply, and thanking you for the
notice, we remain

Yours very truly,

Albert Daub.
511 Hoge Bldg
Seattle Wash.

AD/W



36% Caray/K

5173

November 5th, 1917.

Re: Permit No. 5173.

Mr. J. M. Hawthorne,
318-321 New York Block,
Seattle, Wash.

Dear Sir:

Referring to the records of Permit No. 5173, said records show that the fee of \$11.00 due this office for Certificate of Completion of Works has never been received, and we are compelled again to ask you to remit said fee to this office.

The Certificate was issued under an apprehension, this office supposing you had paid the fee to the examining engineer at the time he made the examination for completion of works; and unless the fee is paid, Permit No. 5173 will be revoked and cancelled.

Very truly yours,

J. H. SMITH,

State Engineer.

By

Deputy.

FAW:FM

File: Permit #5173.

5173

September 7, 1916.

Re Permit 5173- Owyhee Irr.Co.

Mr. J. M. Hawthorne,
318-321 New York Block,
Seattle, Washington.

Sir:--

The engineer who made the examination and report for proof of completion of works under above permit, informs me that he did not collect the fees from the above company for his services, as he had supposed they would be paid by this office. As we had understood that he would collect the required fees at the time the examination was made, no charge was made before issuing the Certificate of Completion of Works. I will, therefore, ask you to return to us the fees due, amounting to \$11.00.

Thanking you in advance for an early reply, I am

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

January 17, 1916.

Re Permit 5173.

Mr. J. M. Hawthorne,
Sec'y Owyhee Irrigation Co.,
318-321 New York Block,
Seattle, Washington.

Dear Sir:--

Am enclosing herewith certificate of
completion of works issued under above permit.

Very truly yours,

J. H. SMITH,

State Engineer.

CCW-

By _____

5173

ELMER WICKLUND
CIVIL ENGINEER
1408 NORTH ELEVENTH ST.
BOISE, IDAHO

September 13, 1915.

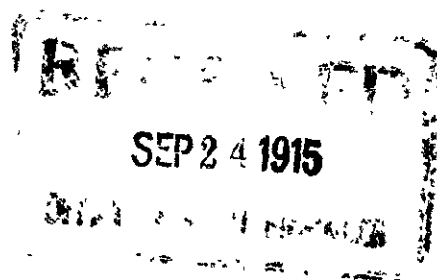
State of Idaho.
Department of State Engineer.
To Elmer Wicklund Dr.

To Examination of work done under Permits Nos.
5512, 7421, 5173 and 5174 in Carey County.

2 days examination, 3 days travel, ^{extra} for self and saddle horse

Notary - - - - - \$2.00

Total



5273

COMPLETION OF WORKS.

REPORT OF ENGINEER

1. State name of applicant and number of permit: Owyhee Irrigation no.- 5173
2. State source of water supply: Carey creek (formerly Louse creek) 74 sec. ft.
3. Location of point of diversion: S. 56° 5' E. 1168.9 ft. dist. from SE Cor. Sec. 24, T. 12 S., R. 4 E. D.M.

4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: Practically

5. Describe works as they exist, giving dimensions and capacities of same: Feed Canal bet. water 10 ft. with lower entry 45 ft. high, 8 ft. crest, slopes 1:1. Upper entry 5 ft. high, 8 ft. wide by 4 ft. high. North Entry & Reservoir, Max. height 18 ft. Crest 10 ft. lower slope 1:1. Upper slope 2:1. Lower half riprapped. Steel outlet device, 2 ft. outlet pipe. South Entry Max. height 14 ft. Crest 10 ft. lower slope 1:1. Upper 2:1. Riprapped. East Entry max. height 14 ft. 12 ft. crest. Slopes 2:1. partially riprapped. Capacity of reservoir approximately 3500 acre feet. Main Canal 8 ft. bottom, lower bank 4 ft. crest 4 ft. high, slopes 1:1. Capacity about 3000 ft. Lateral 5 ft. bottom 3 ft. deep, bank slopes 1 1/2:1. Capacity about 12000 ft. Equalizing Cut Max. depth 11 ft. width 46 ft. banks nearly perpendicular.
6. State whether or not water has been turned into works of diversion: Yes.

7. Give exact location of lands to be irrigated. ~~Give exact number of acres under cultivation on each forty-acre tract.~~ (Describe manner and place of use if for other than irrigation):

S.W. 1/4 Sec. 21, E. 2 NE 1/4 SW 1/4 NE 1/4, W 1/2 NW 1/4, N 1/2 SW 1/4 & SE 1/4 SW 1/4 Sec. 28 NW 1/4, N 1/2 SW 1/4 and SE 1/4 SW 1/4 sections 3, 3 all in Township 12 South of Range 5 East Boise Meridian

8. Submit map on enclosed plat, showing location and details of above description.

Remarks: Canal continues into Section 4 of Twp. 13 S. R. 5 E. about a mile beyond the land to be irrigated.

The East and South embankments are only partially riprapped, but the water has never reached above the riprap. Part of the East embankment is not of contemplated height. Works were designed and completed for greater capacity than now required.

This examination was made on the 2nd day of September 1915.

(Signed)

Ernest Wickham

Examiner.

(This report must be sworn to when not made by an attaché of the State Engineer's office)

STATE OF IDAHO

County of Payson } ss.

Elmer Wicklund, being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this 22nd day of Sept 1915

G. J. Anthony

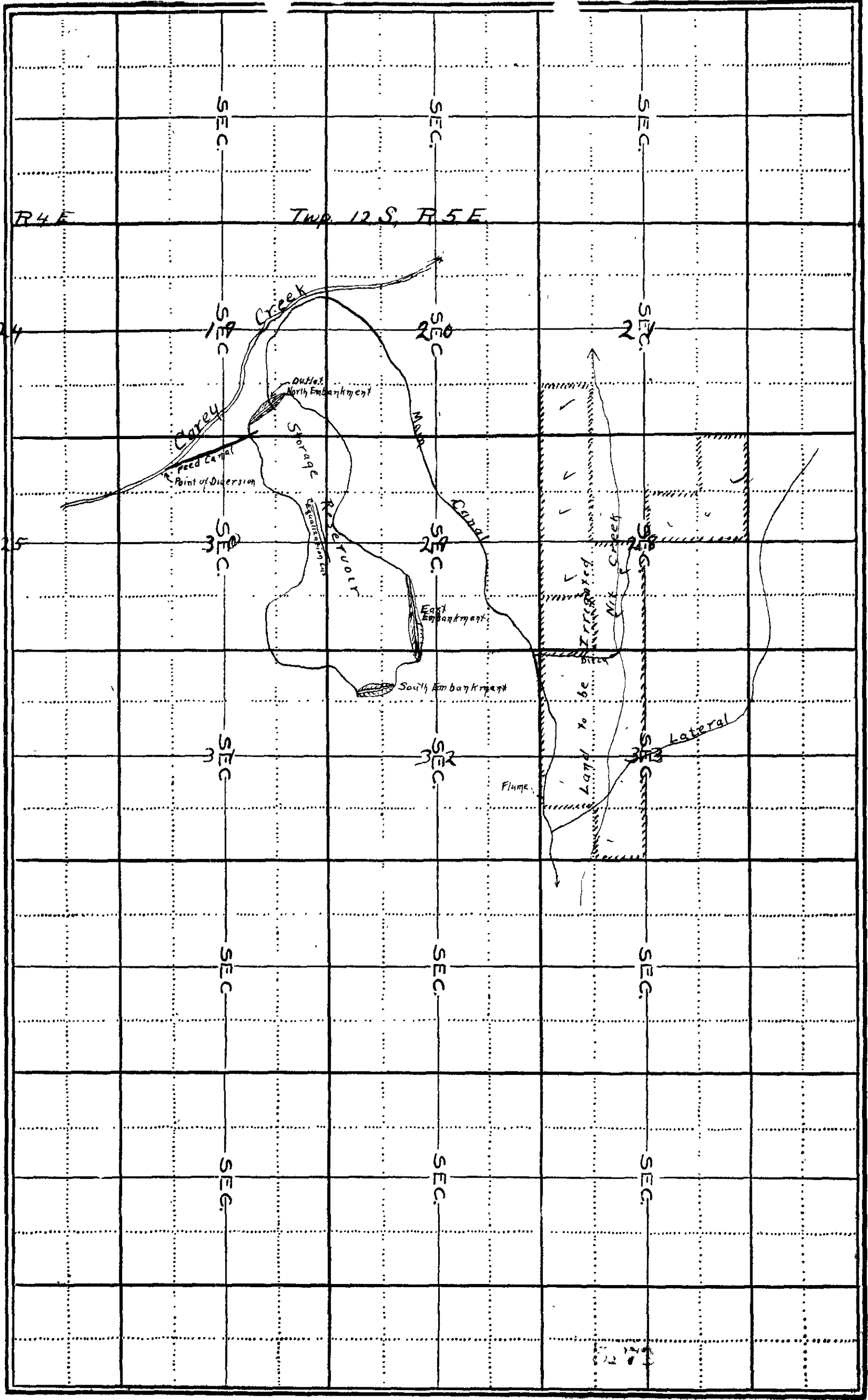
Notary Public.

My Commission Expires ~~My Commission Expires~~
Sept. 16, 1916.

5173

RECEIVED
SEP 24 1915
OFFICE OF THE STATE ENGINEER

Name of Applicant Owyhee Irriga'on Co., Permit #5173.



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

Three Creek, Idaho

September, 17, 1915

State Engineer

Boise, Idaho. SEP 21 1915

Dear Sir:

I made the examination of the water permits at Fasmare and Riddle for Consttution of Works and Application & Beneficial Use as per instructions, but have been delayed in sending in the Reports in account of a Motary. However, I will be able to get over in a few days and will forward the papers then.

Respectfully Yours -

Oliver Wicklund,

Three Creek, Idaho.

Affidavit of Publication

STATE OF IDAHO,)
County of Owyhee) SS

J. H. Hagan, being duly sworn, deposes
and says that he is the *Publisher* of THE OWYHEE
AVALANCHE, a weekly newspaper published at Silver City,
County of Owyhee, State of Idaho; that the said newspaper is
in general circulation in Owyhee County; that a copy of the
above notice, as per clipping attached, was published in the
regular and entire issue of said newspaper for *Four*
consecutive weeks, beginning with the issue of *Aug 7*
1914, and ending with the issue of *Aug 28* 1914.

SUBSCRIBED AND SWORN TO before me this *28th*

day of *August*, 1914.

RECEIVED
DEC 12 1914
OFFICE OF STATE ENGINEER

5173

V. H. Leonard
Probate Judge

December 9, 1914.

Permits 5173-4-Englemer & Co.

Mr. J. S. Flanagan,
Editor the Avalanche,
Silver City, Idaho.

Sir:

We are just in receipt of a letter from Mr. Jos. E. Hawthorne enclosing check made payable to you for publication of notice of proof under above permit. AM herewith enclosing same to you. Please mail the affidavit of publication direct to this office.

Very truly yours,

Herbert King,

Acting State Engineer.

On \$11.25

By _____

5173

O. B. HARADEN
PRESIDENT
J. M. HATHORNE
SECRETARY
JOHN HAMPSHIRE
TREASURER

OWYHEE IRRIGATION COMPANY, LTD.

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK
TELEPHONES:
MAIN 6885
IND. 4776

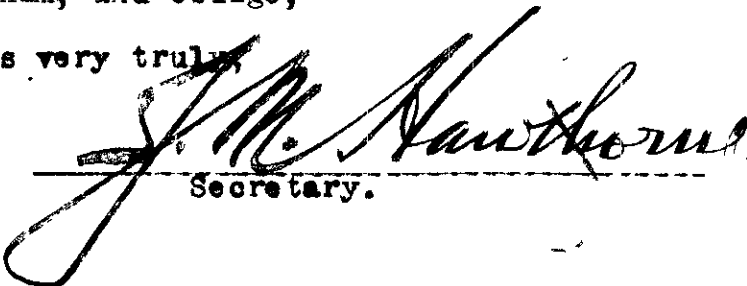
Seattle, Wash., December 5th, 1914.

Mr. F. P. King,
State Engineer,
Boise, Idaho.

Dear Sir:-

When I was at your office on the 8th of September last in the interest of the Owyhee Irrigation Company, Ltd., I understood Mrs. Jones to say that you would forward all bills to me. I am in receipt of a bill from "The Owyhee Avalanche" of \$11.25. I presume you will require an affidavit of publication and, assuming the bill is correct, I enclose you herewith the Company's check in the amount of \$11.25 payable to The Owyhee Avalanche of Silver City, Idaho. You can then arrange with Mr. J. S. Flanagan, the editor of The Avalanche, to procure and have filed the necessary affidavit if he has not already filed the same. If the affidavit has been filed and if the check is for the correct amount, please forward the same to him, and oblige,

Yours very truly,


Secretary.

October 24, 1914.

Re publication
Permits 5173-4

Mr. J. S. Flanagan,
Editor The Avalanche,
Silver City, Idaho.

Sir:

Replying to your letter of the 17th would say that the fees for publication of notices under above permit should be paid by the Company before furnishing the affidavit of publication. If you will address Mr. Jos. M. Hawthorne, at Seattle, New York Block, you will, no doubt, be able to reach him.

Very truly yours,

Herbert Wing,

Acting State Engineer.

By _____

5173

BEST ADVERTISING MEDIUM IN OWYHEE COUNTY	OFFICIAL COUNTY PAPER	PUBLISHED EVERY FRIDAY \$2.00 PER YEAR
COMMERCIAL JOB PRINTING A SPECIALTY	The Owyhee Avalanche BY OWYHEE AVAILANCHE PUBLISHING COMPANY	ADVERTISING RATES ON APPLICATION
	J. S. FLANAGAN, EDITOR AND MANAGER ESTABLISHED IN 1865	

SILVER CITY, IDAHO, Oct. 17, 1914

Office of State Engineer,
Boise, Idaho

Gentlemen:

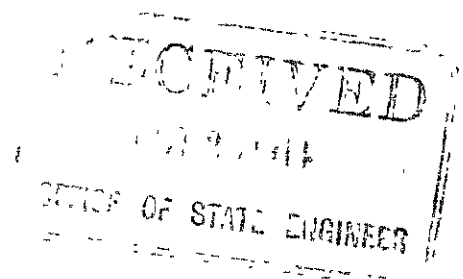
We have published the enclosed notice to completion and the affidavit has not been called for and can receive no answer to letters sent to Jos. M. Hawthorne, Sec'y of the Owyhee Irr. Co., at Seattle, Wash. Can you give us any information as to why proof was not made and to whom we can look to for the payment of the publication fee of \$11.25.

Thanking you in advance for any information you may be able to give me, I am,

Yours respt.,

J. S. Flanagan

6



6170

October 14, 1914.

Permits 5173-4.

Mr. J. M. Hawthorne,
New York Block,
Seattle, Washington.

Sir:

The depositions of witnesses filed in the matter of proof of completion of works under the above permits will be accepted. As soon as our examining engineer can make his report, you will be further notified as to fees required for these proofs.

Very truly yours,

Herbert Wing,

Deputy State Engineer.

By _____

5173

OWYHEE IRRIGATION COMPANY, LTD.

O. B. HARADEN
PRESIDENT
J. M. HAY THORNE
SECRETARY
JOHN HAMPSHIRE
TREASURER

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

TELEPHONES:
MAIN 6885
IND. 4776

Seattle, Wash., Sept. 16th, 1914.

Hon. F. D. King,
State Engineer,
Boise, Idaho.

Dear Sir:-

On reaching my office here in Seattle on the morning of Saturday the 12th instant I received your letter of the 10th advising me that I could make an affidavit and have the testimony of the witnesses taken at Mountain Home.

Since talking with Mrs. Brown in your office when I was there on the 8th and 9th instant, I have been at Mountain Home. I found that not only was the telephone line down to Grasmere, but that the mail had been suspended because the new contract had not been executed. It arose, as I was informed, out of the extra work required by the parcel post and the difficulty the contractors had in getting a Surety Bond. However, there had been no mail and the telephone line had been out of order for over a month which accounts for my inability to reach my witnesses at Grasmere.

I suggested to Mrs. Brown that it might be difficult to get the witnesses to Mountain Home and inasmuch as a deposition would have to be taken, it seemed to me that it would be as satisfactory to take the depositions in Seattle if I could not take them at Mountain Home.

I omitted to forward you the enclosed affidavit, but the witnesses, Albert Daub and Charles Schalkenbach, have given

12.45

O. B. MARADEN
PRESIDENT
J. M. BA THORNE
SECRETARY
JOHN HAMPSHIRE
TREASURER

OWYHEE IRRIGATION COMPANY, LTD.

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

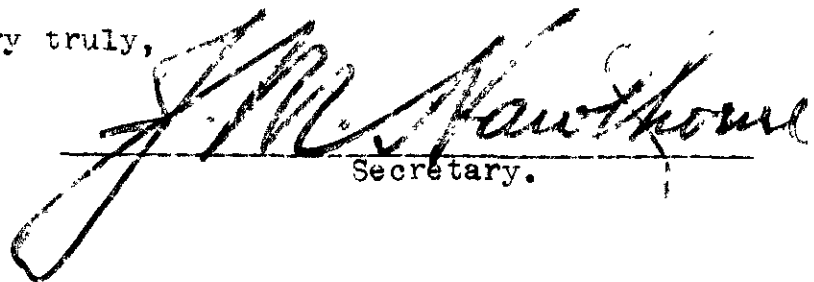
TELEPHONES:
MAIN 6885
IWD. 4776

"2"

their testimony today as requested in the affidavit.

If this should not be entirely satisfactory and if you should prefer to have the evidence re-taken at a later date, please so advise me. I have acted with all possible speed in view of the statements contained in your letter. I had deposition blanks which Mrs. Brown had kindly given to me and which I have used in taking these depositions.

Yours very truly,


Secretary.

Encl.

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

PERMIT NOS. 5173 & 5174

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. Albert Daub, I am 48 years of age, my business
is transportation, I reside at 716 W. Garfield St. Seattle, Wash.

Ques. 2. Are you acquainted with The Owyhee Irrigation Company, Ltd the
holder of Permit Nos. 5173 and 5174 aggregating
authorizing the diversion of 84 second-feet of the waters of

Carey Creek (formerly called Louisa Creek) at Warmee, Owyhee Co. Idaho
for irrigation and domestic purposes? How long have you known him and where does he reside?

Ans. Yes, I have known it for over 5 years. It is an Idaho Corporation

Ques. 3. Have you read or heard read said Permit Nos. 5173 and 5174, and are you familiar with its
terms and conditions?

Ans. Yes.

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated
under said permit? If so, describe same, state its character, and give your estimate of the amount of water
required for its profitable cultivation.

Ans. The land is described in the permits to which I refer.
Describing it as to character, it is a level sage
brush flat. The soil is what is called volcanic ash.
One acre foot on the land is sufficient.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire
amount of water set out in the permit from point of diversion to place of use?

Ans. Yes to the best of my knowledge, I
have been over & examined the works frequently since their
completion.

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. The works of diversion consist of a large
Reservoir with three big dams, head-gates, flumes
and about five miles of completed canals.
The capacity of the works is far in excess of
the available amount of water.

(Sign here.)

Albert Daub.

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that
I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn
to before me, at my office in Seattle, County

of King, State of Washington, on this 16th day of

September A. D. 1914

Almer J. Waggatt
Notary Public in and for the
State of Washington, residing at Seattle.

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

PERMIT NOS. 5173 and 5174.

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. Charles Schalckenbach, I am 56 years of age.

I am a merchant, my P.O. address is 511 Hoge Bldg, Seattle Wash.

Ques. 2. Are you acquainted with The Owyhee Irrigation Company the holder of Permit Nos. 5173 and 5174 ^{in the aggregate} authorizing the diversion of 84 second-feet of the waters of

Carey Creek, formerly called Louis Creek, at Tramere, Owyhee Co. Idaho for Irrigation and domestic purposes? How long have you known it and where does it reside?

Ans. Yes, I have known it for three years. It resides in Idaho, is an Idaho corporate

Ques. 3. Have you read or heard read said Permit Nos. 5173 + 5174, and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. The land in the segregation is a level sage brush flat. The soil is commonly called volcanic ash. One acre foot of water on the land is sufficient for profitable cultivation. For a legal description of the land I refer to the permit to Exhibit A attached to deposition of J. M. Hawthorne, on behalf of the holder being a part of this proof.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes, I have seen over the works they are completed to the best of my knowledge.

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. The works consist of a big reservoir with three large dams, head-gates, flumes and about five miles of completed canals. The capacity of the reservoir and works is far greater than the available amount of water.

(Sign here.) Charles Schalckenbach

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Seattle, County

of King, ^{Washington} State of Idaho, on this 16th day of September A. D. 1914.

5173

Aimee J. Wasgatt
Notary Public in and for the
State of Washington, residing at
Seattle.

IN THE MATTER OF THE PROOF OF COMPLETION OF WORKS:

Under Permits Nos. 5173 and 5174.

State of Washington,)
 : SS.
County of King.)

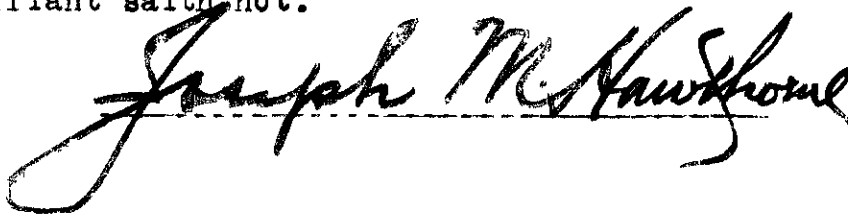
Joseph W. Hawthorne, being first duly sworn, deposes and says: That he is the Secretary of The Owyhee Irrigation Company, Ltd.; that on the 8th day of September, 1914, he made proof as Secretary of said Company of the completion of the Works of said Company under said Permits, and that said Proof was personally made by him before Chas. W. Mack, a Notary Public, at Boise, Idaho, on September 8th, 1914; that although said affiant, on behalf of said Company, had endeavored to secure the attendance of witnesses before said Chas. W. Mack at said time and place, it was impossible for him to do so because of the fact that the telephone wire between Bruneau and Grasmere where Samuel Hart and another of his proposed witnesses resided, had been down for more than one month prior to September 8th, 1914, and that this affiant or the Officers of said Company did not know that it was out of order; and that it was also impossible to reach said proposed witnesses by mail because the mail from Bruneau to Grasmere in Owyhee County, Idaho, had been temporarily suspended since August 1st, 1914, owing to the fact, as affiant was informed and believes, that the Mail Contract had not been renewed;

Affiant further says that there are two witnesses who reside in Seattle, Washington, and who have been over said Works and examined the same since the completion thereof; that their names are Albert Daub, whose postoffice address is 716 West Garfield Street, Seattle, Washington; and Charles Schalkenbach, whose postoffice address is 511 Hoge Building, Seattle, Washington; that each of said witnesses are familiar

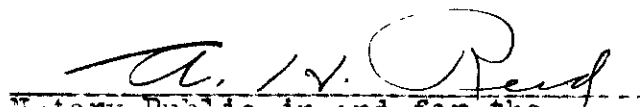
with the facts connected with the completion of said Works.

W H E R E F O R E this affiant prays that the depositions of said Albert Daub and Charles Schalkenbach may be taken before Aimee J. Wasgatt, a Notary Public, whose office is in the Hoge Building, in Seattle, Washington, on Wednesday the 16th day of September, 1914, at 3 o'clock p. m.

And further affiant saith not.



Subscribed and sworn to before me this 12th day of September, 1914.


Notary Public in and for the
State of Washington, residing at
Seattle.

September 10, 1914.

Permits 5173-4

Mr. Joseph M. Hawthorne,
319 New York Block,
Seattle, Washington.

Dear Sir:

In regard to the proof of completion of works under the above numbered permits I would say that the depositions of the witnesses may be taken before some notary public at Mountain Home. If you will advise this office as to the date and the name of the party before whom the witnesses will appear, the necessary deposition blanks will be furnished them. I will also ask you to file an affidavit showing why the change was ~~requested~~. This affidavit and the depositions should be filed ~~and~~ as soon as possible.

Very truly yours,

F. P. KING,

State Engineer.

By _____

5173

ma for permit no 504 to large
zoo be filmed. can be found in per-
manent map file.

H. D.

map for permit no. 5173 to large
too be filmed, can be found in
permanent map file.

K. W.

PERMIT NOS. 5173 and 5174

PROOF OF COMPLETION FO WORKS

Deposition of Holder

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

Ans: Joseph M. Hawthorne, age 55 years, Seattle, Wash., Attorney at Law, Address: 319 New York Block, Seattle, Wash.

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

Ans: I am acting behalf of The Owyhee Irrigation Company, Limited; Its principal place of business in Pocatello, Idaho, also 319 New York Block, Seattle, Washington. I ^{and} am for than five years past have been Secretary of said corporation, and I have full authority to appear in its behalf.

Ques. 3. State numbers and dates of permits, amount of water you are authorized to divert, source and point of diversion.

Ans: Nos. 5173 and 5174, each dated September 10, 1909. Amount of water to be diverted under Permit 5173, seventy-four cubic feet per second; amount of water to be diverted under Permit No. 5174, ten cubic feet per second. The source in each case is Carey Creek (formerly called Louse Creek), Owyhee county, Idaho. The point of diversion named in permit 5173 is S. 56° 51' E. and 1168.9 feet distant from the SE corner of Sec. 24, Twp. 12 S., R. 4 East, B. M. The point of diversion named in Permit No. 5174 is S. 15° 8' W. and 1902.2 feet ~~at~~ distant from the NE Cor. of Sec. 25, Twp. 12 S., R. 4 E., of B. M.

Ques. 4. State purposes ~~for~~ which water is to be used, and, if for irrigation, state the number of acres and *five* descriptions of the land you intend to reclaim.

Ans: Water is to be used for irrigation and domestic use. ~~Since~~ The Carey Act Project, the irrigation works of this Company were built to reclaim consisted of 3296 acres. A description of those acres appears on the Blue Print hereto annexed and Marked Exhibit 'A'. The land referred to is within the heart shaded lines, and includes Secs. 21, 28, and parts of Secs. ~~22~~, 27, 33, and 34, in Twp. 12 S., R. 5 East, and part of Secs. 3, 4, 9 and 10 in Twp. 13 S., R. 5 E., B. M.

We have reclaimed about 240 acres, which appears on said Exhibit 'A' approximately as appears in the lands shaded thereon with a red pencil. The total amount of water from said Grey Creek has been saved during the past three years, and there has not been enough water ^{any one year} ~~to~~ ^{to} ~~irrigate~~ ⁵⁰⁰ ~~acres~~ acres. It is possible that as the canals fill up with silt that the leakage, which is apparent now, may be overcome and in that way some more water be available.

Ques. 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

Ans: The water was turned into ~~our~~ works of diversion, or reservoir about the month of February, 1911. All of the water of the Creek was turned in.

Ques. 6. State whether or not the works of diversion are fully completed and whether or not they comply in all respects with the terms of the permit.

Ans: Yes. The works of diversion are so fully completed that the reservoir could easily hold six times the amount of water which the creek has produced annually during the

past three years. The works ^{substantially} comply in all respects with the terms of the permits, *to the best of my knowledge.*

Ques? 7. If the works of diversion do not comply with all the terms of your permits, state fully those particulars in which there is any variance.

Ans. There is no substantial variance to my knowledge.

Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans: The works are described on the blue print, exhibit 'A' hereinbefore referred to. The reservoir contains 264,7 acres. It has an estimated capacity of about 60,000 acre feet. On the matter of cost, between December 16, 1909, and September 5, 1914, the Company spent in actual cash in building the reservoir, dams, canals, and other works, including engineering, and other expenses, but not a cent for salary of any officer or stockholders of the corporation, a total of \$47,603.57. In addition thereto and prior to December 16, 1909, there had been spent in connection with the works, including the building of the original dam, surveys and so on, approximately \$10,000.00.

Joseph McNewhouse
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, Ada county, state of Idaho, on this 8th day of September, 1914.

Harwick
Notary Public.

My Commission Expires
July 11, 1915.

WESTERN UNION

Form 2580



RECEIVERS NO

TIME FILED

CHECK

DAY LETTER

THEO. N. VAIL, PRESIDENT

SEND the following Day Letter, subject to the terms
on back hereof, which are hereby agreed to

Boise, Idaho, Sept. 5, 1914.

Owyhee Irrigation Co.

Seattle, Wn.

Proof must be made eighth. Representative of holder and two
witnesses appear before Charles Mack Boise make depositions.
Engineer not required.

F. D. KING

Collect

State Engineer

5173

ALL DAY LETTERS TAKEN BY THIS COMPANY SHALL BE SUBJECT TO THE FOLLOWING TERMS:

The Western Union Telegraph Company will receive **DAY LETTERS**, to be transmitted at rates lower than its standard telegram rates, as follows: one and one-half times the standard night letter rate shall be charged for the transmission of fifty (50) words or less, and one-fifth of the initial rate for such fifty words shall be charged for each additional ten (10) words or less.

To guard against mistakes or delays, the sender of a day letter should order it **REPEATED**, that is, telegraphed back to the originating office for comparison. For this, one-half the unrepeated day letter rate is charged in addition. Unless otherwise indicated on its face, **THIS IS AN UNREPEATED DAY LETTER AND PAID FOR AS SUCH**, in consideration whereof it is agreed between the sender of the day letter and this Company as follows:

1 The Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any **UNREPEATED** day letter, beyond the amount received for sending the same, nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any **REPEATED** day letter, beyond fifty times the sum received for sending the same, unless specially valued, nor in any case for delays arising from unavoidable interruption in the working of its lines; *nor for errors in obscure day letters*

2 In any event the Company shall not be liable for damages for any mistakes or delay in the transmission or delivery, or for the non-delivery, of this day letter, whether caused by the negligence of its servants or otherwise, beyond the sum of **FIFTY DOLLARS**, at which amount this day letter is hereby valued, unless a greater value is stated in writing hereon at the time the day letter is offered to the Company for transmission, and an additional sum paid or agreed to be paid based on such value equal to one-tenth of one per cent thereof.

3 The Company is hereby made the agent of the sender, without liability, to forward this day letter over the lines of any other Company when necessary to reach its destination.

4 Day Letters will be delivered free within one-half mile of the Company's office in towns of 5,000 population or less, and within one mile of such office in other cities or towns. Beyond these limits the Company does not undertake to make delivery, but will, without liability, at the sender's request, as his agent and at his expense, endeavor to contract for him for such delivery at a reasonable price.

5 No responsibility attaches to this Company concerning day letters until the same are accepted at one of its transmitting offices, and if a day letter is sent to such office by one of the Company's messengers, he acts for that purpose as the agent of the sender.

6 The Company will not be liable for damages or statutory penalties in any case where the claim is not presented in writing within sixty days after the day letter is filed with the Company for transmission.

In further consideration of the reduced rate for this special "**DAY LETTER**" service, the following special terms are hereby agreed to:

A **DAY LETTERS** may be forwarded by the Telegraph Company as a deferred service and the transmission and delivery of such **DAY LETTERS** is, in all respects, subordinate to the priority of transmission and delivery of regular telegrams.

B **DAY LETTERS** shall be written in plain English. Code language is not permissible.

C This **DAY LETTER** may be delivered by the Telegraph Company by telephoning the same to the addressee, and such delivery shall be a complete discharge of the obligation of the Telegraph Company to deliver.

D This **DAY LETTER** is received subject to the express understanding and agreement that the Company does not undertake that a **DAY LETTER** shall be delivered on the day of its date absolutely and at all events, but that the Company's obligation in this respect is subject to the condition that there shall remain sufficient time for the transmission and delivery of such day letter on the day of its date during regular office hours, subject to the priority of the transmission of regular telegrams under the conditions named above.

No employee of the Company is authorized to vary the foregoing

THE WESTERN UNION TELEGRAPH COMPANY, INC.

THEO. N. VAIL, PRESIDENT

CLASSES OF SERVICE

TELEGRAMS

A full-rate expedited service.

NIGHT TELEGRAMS

Accepted up to 2:00 A.M. at reduced rates to be sent during the night and delivered not earlier than the morning of the next ensuing business day.

DAY LETTERS

A deferred day service at rates lower than the standard telegram rates as follows: One and one-half times the standard night letter rate for the transmission of 50 words or less and one-fifth of the initial rate for each additional 10 words or less. Subordinate to the priority of transmission and delivery of regular telegrams. Must be written in plain English. Code language not permissible.

Telephonic delivery permissible. Day Letters received subject to express understanding that the Company only undertakes delivery of the same on the day of their date subject to condition that sufficient time remains for such transmission and delivery during regular office hours, subject to priority of the transmission of regular telegrams.

NIGHT LETTERS

Accepted up to midnight for delivery on the morning of the next ensuing business day, at rates still lower than standard night telegram rates, as follows: The standard day rate for 10 words shall be charged for the transmission of 50 words or less, and one-fifth of such standard day rate for 10 words shall be charged for each additional 10 words or less. Must be written in plain English. Code language not permissible. Mail delivery, postage prepaid, permissible.

WESTERN UNION NIGHT LETTER



THEO N VAIL PRESIDENT

RECEIVED AT
AS PO F 50 NL

SEATTLE WN SEPT 4TH 1914

F P KING

STATE ENGINEER BOISE IDAHO

WHAT KIND OF **PROOF** REQUIRED AT HEARING SET FOR EIGHTH IT IS DOCUMENTARY
OR MUST ENGINEER GIVE ORAL **EVIDENCE** CANT LOCATE OUR ENGINEER WE COMPLETED
RESERVOIR DAMS AND CANALS THREE YEARS AGO AT COST OF SIXTY THOUSAND DOLLARS
REQUEST HEARING BE POSTPONED UNTIL OCTOBER EIGHTH WIRE ANSWER TOMORROW
FORENOON COLLECT

OWYHEE IRRIGATION CO

138A SEPT 5TH

5173

State of Idaho

A. E. ROBINSON
STATE ENGINEER

ENGINEERING DEPARTMENT BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Owyhee Irrigation Co.,
c/o Chas. W. Mack,
Boise, Idaho.

Boise, Idaho, August 20, 1914.

Dear Sir:

I enclose herewith the following forms to be used in connection with proof of completion of works under your permit No. 5173.

Deposition of Permit Holder,

Depositions of Two Witnesses.

In submitting this proof the following instructions should be CAREFULLY followed out, since failure to do so may result in the loss of your rights:

1. On Sept. 8th, the date set for proof of completion of works, the enclosed deposition forms (one for permit holder and one each for two witnesses) should be filled out and sworn to, at Boise, before Chas. W. Mack, notary public.

2. When the depositions have been taken they should be mailed to this office, together with affidavit of publication of notice and fee of \$5.00, where amount claimed does not exceed 10 second feet. Where more than 10 second feet is claimed, the fee required is 30 cents per second foot. When these have been received, together with report of the examining engineer, if everything is properly executed, Certificate of Completion of Works will issue.

Yours truly,

F. P. KING, ~~XXXXX~~ ~~ROBINSON~~,

State Engineer.

State of Idaho

A. E. ROBINSON
STATE ENGINEER

ENGINEERING DEPARTMENT BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

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Yours truly,

F. P. KING, ~~A. E. ROBINSON~~
State Engineer.

(P. O.)

(Date)

Silver City, Idaho
July 31 1914

State Engineer, Boise.

Dear Sir:

I have your letter of July 28 enclosing Notice of Proof of Completion of Works under Permit No. 5173-4 which will be published as you request, beginning with our issue of August 7th 1914

JOHN V. LEE, J. H. Lanagan

5173

Sept 8

July 10, 1914.

Permits 5173-4

Mr. J. M. Hawthorne,
Sec. Owyhee Irr. Co., Ltd.,
518-521 New York Block,
Seattle, Washington.

Sir:

We are just in receipt of your letter, enclosing notices for proof of completion of works under above permit. In reply would say that the combined notice will be sent to the Owyhee Avalanche, published at Silver City. The proof can be made at Boise, before Chas. W. Mack, notary public, whose office is with Hawley, Puckett & Hawley, attorneys.

I note in the notice that you have cut the acreage to 480 acres. This should not be done at this time as the total acreage for which the water is available should be given. This correction will be made from our records of the permits. At the time the beneficial use proof is made, the amount of land and water will be cut down to the amount actually cultivated and irrigated.

Trusting this will be satisfactory to you, I am

Very truly yours,

F. P. KING,

State Engineer.

By _____

5173

C. B. HARADEN
PRESIDENT
J. M. HAY THORNE
SECRETARY
JOHN HAMPSHIRE
TREASURER

OWYHEE IRRIGATION COMPANY, LTD.

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

TELEPHONES:
MAIN 6885
IND. 4776

Seattle, Wash., July 8th, 1914.

Hon. F. P. King,
State Engineer,
Boise, Idaho.

Dear Sir:-

I duly received your recent instructions relative to proof of completion of works under Permits numbered 5173 and 5174.

You stated in your instructions that proof must be made on or before September 10th and that upon receipt of the blank, a notice would have to be published four weeks prior to the proof.

In reply I beg to advise you that in each of said Permits - 5173 and 5174 - it is expressly stated in Exhibit D attached to each of them that the Permits "are to be considered as mutually inter-dependent and appurtenant each to the other".

In view of that clause in the Permits it occurred to me that all that would be necessary would be to give one notice and thereby save the expense of two notices. I have therefore prepared and enclose, in duplicate, one notice covering both of the Permits.

I have also prepared and enclose one notice, in duplicate, for each Permit separately. I hope it may not be necessary to use the latter because of the inter-dependency of the Permits and because the irrigation works and lands to be irrigated are the same and the date when the whole work was to

OWYHEE IRRIGATION COMPANY, LTD.

C. B. HARADEN
PRESIDENT

J. M. HATHORNE
SECRETARY

JOHN HAMPSHIRE
TREASURER

CAREY ACT LANDS

IN
OWYHEE COUNTY, IDAHO

"2"

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

TELEPHONES:
MAIN 6386
IND. 4776

be completed was the same in each Permit, namely, September 10th, 1914.

You will observe that in all of the Notices I have left blank the town and county and the person before whom the proof would be submitted. You are authorized and requested to fill in such place and county, together with the name of the Notary Public or other official before whom the proof will be made.

If within the provisions of your law, I think it would be a little more convenient for us to make proof at Boise, but as Boise is not in Owyhee County, that may not be permissible.

We regret that we are unable to give you the name of the newspaper in which the notice or notices should be published. You are hereby authorized to have said notice or notices published at the expense of this Company in the Avalanche of Silver City, published in the county in which the works are situated. You are hereby authorized to insert the name of such newspaper in the blank space just left vacant for that purpose.

While Canals and other works were designed to divert and carry a total of 84 cubic feet of water per second, yet we have never been able to get enough of water to irrigate more than 400 acres. In fact it will scarcely do that. We are therefore not using anything like 80 cubic feet per second. Under the circumstances I presume you will not require certificate of an Engineer to be attached to this letter. I may say

O. B. HARADEN
PRESIDENT
J. M. HAN. THORNE
SECRETARY
JOHN HAMPSHIRE
TREASURER

OWYHEE IRRIGATION COMPANY, LTD.

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

TELEPHONES:
MAIN 6886
IND. 4776

"3"

that the works have cost us over \$60,000 and have been well-built. We can produce proof of these facts at the hearing if necessary. The Engineer who was in charge of most of the work was Mr. R. R. Drubacher. Mr. E. P. Bigelow was also our consulting Engineer at the time. I do not know where either Mr. Bigelow or Mr. Drubacher are at present. Mr. Geoffrey Sperling of Boise was our Engineer for some time for the Company. In case it should be necessary to have the notice signed, I am sure Mr. Sperling will be willing to do it because he is more or less familiar with the work, and I will greatly appreciate it if you will call him up on the phone if it is necessary to have the notice signed.

It is our desire to comply to the best of our ability with all the requirements of your office.

Yours very truly,


Secretary.

Encls.

1272

Notice of Publication

Notice is hereby given that at 10 A M., on the 8th day of September 1914, at _____ County of _____, State of Idaho, before _____ proof will be submitted of the completion of works for the diversion of 74 cubic feet per second of the waters of Carey Creek, formerly called Louse Creek, Owyhee County, in accordance with the terms and conditions of a certain permit heretofore issued by the State Engineer of the State of Idaho.

1. The name of the person or corporation holding said permit is The Owyhee Irrigation Company, Limited.

2. The postoffice address of such person or principal place of business of such corporation is Seattle, County of King, ~~State of Idaho.~~ ^{Washington}

3. The number of such Permit is 5173, and the date set for the completion of such work is September 10th, 1914.

4. Said water to be used for irrigation and domestic purposes

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place intended for use, in accordance with the plans accompanying the application for such permit is 74 cubic feet per second.

6. The amount of lands for which said water is available is 480 acres, particularly described as follows: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 21; W $\frac{1}{2}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 28; E $\frac{1}{2}$ of NW $\frac{1}{4}$, W $\frac{1}{2}$ of NW $\frac{1}{4}$ and N $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 33, all in Township 12 S. of Range 5 East.

Said Permit 5173 is mutually interdependent with and appurtenant to Permit 5174.

F P. KING, State Engineer.

Notice of Publication

Notice is hereby given that at 10 A. M., on the 8th day of September 1914, at _____ County of _____, State of Idaho, before _____ proof will be submitted of the completion of works for the diversion of 74 cubic feet per second of the waters of Carey Creek, formerly called Louisa Creek, Owyhee County, in accordance with the terms and conditions of a certain permit heretofore issued by the State Engineer of the State of Idaho.

1. The name of the person or corporation holding said permit is The Owyhee Irrigation Company, Limited.

2. The postoffice address of such person or principal place of business of such corporation is Seattle, County of King, State of Washington.

3. The number of such Permit is 5173, and the date set for the completion of such work is September 10th, 1914.

4. Said water to be used for irrigation and domestic purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place intended for use, in accordance with the plans accompanying the application for such permit is 74 cubic feet per second.

6. The amount of lands for which said water is available is 400 acres, particularly described as follows: SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 21; W $\frac{1}{2}$ of NW $\frac{1}{4}$, NW $\frac{1}{4}$ of SW $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 22; E $\frac{1}{2}$ of NW $\frac{1}{4}$, W $\frac{1}{2}$ of NW $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Sec. 33, all in Township 12 N. of Range 3 East.

Said Permit 5173 is mutually interdependent with appurtenant to Permit 5174.

F. P. KING, State Engineer.

NOTICE FOR PUBLICATION

Notice is hereby given that at 10 o'clock A. M. on the 8th day of September, 1914, at Boise Idaho before Chas. W. Mack, notary public, proof will be submitted of the completion of work for the diversion of 84 cubic feet per second of the waters of Carey Creek, formerly called Louse Creek, in Owyhee County in accordance with the terms and conditions of two certain permits heretofore issued by the State Engineer of the State of Idaho.

1. The name of the person or corporation holding said Permit is The Owyhee Irrigation Company, Limited.

2. The Postoffice address of such person or principal place of business of such corporation is 319 New York Block, Seattle, Washington.

3. The number of such Permits is 5173, and 5174, and the date set for the completion of such work is September 10, 1914.

4. Said water to be used for irrigation and domestic purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place intended for use in accordance with the plans accompanying such permit is 84 cubic feet per second.

6. The amount of lands for which said water is available is ^{4 1/2} 4 1/2 acres, situate in Owyhee County, Idaho, and particularly described as follows:- ~~SW 1/4 of SW 1/4 of Sec. 21; E 1/2 of NW 1/4,~~

~~SW 1/4 of NW 1/4, NW 1/4 of SE 1/4, and SE 1/4 of SE 1/4, Sec. 34, all in T. 12 S. R. 5 E. (Uns);~~
~~NW 1/4, W 1/2 of SW 1/4 and SE 1/2 of SW 1/4, Sec. 3, NE 1/4, E 1/2 of SE 1/4 and SE 1/4 SW 1/4,~~
~~Sec. 4, NE 1/4 of NE 1/4, Sec. 9, NW 1/4, SW 1/4, NW 1/4 SW 1/4 and NE 1/4 SW 1/4 Sec. 10,~~
T. 12 S., R. 5 E.

P. R. Mack,

State Engineer.

February 17, 1912.

Permits 5173-6790

J. M. Hawthorne,
318-321 New York Block,
Seattle, Washington.

Sir:-

Your letter of the 9th inst. to hand
together with deeds of above water rights.
These have been duly recorded in this office
and are returned to you herewith.

I am also sending you certified copies of the
two permits including the deeds, together with
statement for fees, as per your request.

Trusting these will be satisfactory, I am

Very truly yours,

State Engineer.

200-2D-St.

By...

5173

OWYHEE IRRIGATION COMPANY, LTD.

ADAMS
PRESIDENT

AWTHORNE
SECRETARY

HAMPSHIRE
TREASURER

CAREY ACT LANDS
IN
OWYHEE COUNTY, IDAHO

SEATTLE OFFICE:
318-321 NEW YORK BLOCK

TELEPHONES:
MAIN 6225
TWO. 4778

Seattle, Wash., February 9, 1912.

State Engineer,

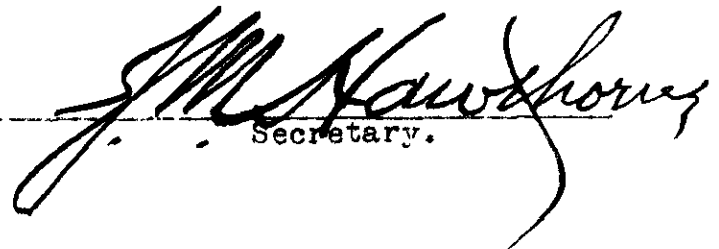
Boise, Idaho.

Dear Sir:-

I was of the opinion that I had filed Assignments to The Owyhee Irrigation Company, Ltd., of Water Permits Nos. 5173 and 6790, on Carey Creek (formerly called Louse Creek), but failed to note any record of the assignments. As I may have omitted to file the assignments, I enclose herewith to you Assignments of each of said Permits to The Owyhee Irrigation Company, Ltd., which please file and make a memorandum of the assignments on the Permits.

It has become necessary for us to have a certified copy of each of those Permits showing the assignment of each of them from me to the Company. Will you therefore kindly prepare and send me at your very earliest convenience certified copies of each of said Water Permits? The Permits are not lengthy and I hope that you will kindly hurry them out for me. Send bill and I will immediately remit.

Yours very truly,


Secretary.

2 Encls.

Bond.

KNOW ALL MEN BY THESE PRESENTS, That Joseph M. Hawthorne of Seattle, Wash., as principal, and The American Surety Company of New York and as Surety are held and firmly bound unto the State of Idaho in the full and just sum of ONE THOUSAND & NO/100 (\$ 1000.00) Dollars, lawful money of the United States, to the payment of which sum, well and truly to be made, said principal and sureties bind themselves, their heirs, administrators, executors and assigns, jointly and severally, under the terms and conditions hereinafter set forth.

The terms of this obligation are such that, whereas the above named principal on the 23 day of August, 1909, filed in the office of the State Engineer in Boise, Idaho, a certain application for permit to appropriate the public waters of the State of Idaho, the said application being thereupon numbered No. 7368, in accordance with which said application the State Engineer granted and issued to the said principal herein a certain permit numbered No. 5173, a full, true and complete copy of which application No. 7368 and permit No. 5173, is of record in the office of the State Engineer, in Book 15 of Permits, at page 5173

Now, if the above bounden principal shall faithfully carry to completion the said works of diversion as specified in said application No. 7368 and permit No. 5173, in the manner and form prescribed therein and within the time therein allowed, then the above obligation to be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, The said principal and sureties have hereunto set their hands and seals, this 1st day of November, 1909

WITNESSES:

Joseph M. Hawthorne (SEAL)

AMERICAN SURETY COMPANY OF NEW YORK, (SEAL)

By Forrest K. King Res. Vice Pres. (SEAL)

Attest: E. C. Hayes Res. Ass't Secy.

of _____ and

of _____ whose names

and foregoing obligation as sureties thereto, each being duly sworn, upon

and says:

I, Joseph M. Hawthorne, resident and freeholder of the State of Idaho and that he is worth the sum named in said obligation, to wit, \$ _____, over and above all his debts and liabilities, exclusive of property exempt from execution.

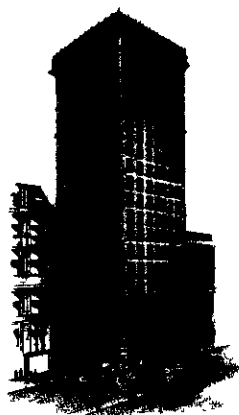
APPROVED

DATE Nov 2 1909

Subscribed and sworn to before me this _____ day of _____, 1909

STATE ENGINEER

5173



American Surety Company

OF NEW YORK

CAPITAL AND SURPLUS \$ 5,000,000.

COMPANY'S OFFICE BUILDING
100 BROADWAY NEW YORK

STATUTORY AFFIDAVIT FOR CORPORATE SURETY—IDAHO.

STATE OF UTAH, }
COUNTY OF SALT LAKE, } ss.:

On the 12th day of November 1904 personally appeared before me, a Notary Public in and for the County and State aforesaid, WESLEY E. KING, to me known to be a Resident Vice President of the AMERICAN SURETY COMPANY OF NEW YORK, who being by me duly sworn did depose and say: that he resided in the City of Salt Lake, State of Utah; that he is Resident Vice President of the AMERICAN SURETY COMPANY OF NEW YORK, the corporation described in and which executed the above instrument; that he knew the corporate seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the Board of Trustees of said corporation; and that he signed his name thereto by like order; that said corporation has complied with Chapter Eleven of the Idaho Revised Codes and all other laws of the State of Idaho relating to surety companies and has also complied with the Act of Congress approved August Thirteenth, A. D. 1894, entitled: "An act relative to recognizances, stipulations, bonds and undertakings, and to allow certain corporations to be accepted as surety thereon," and that the liabilities of said corporation do not exceed its assets as ascertained in the manner provided by law. And the said WESLEY E. KING further said that he was acquainted with C. C. Haynes and knew him to be one of the Resident Assistant Secretaries of said corporation; that the signature of said C. C. Haynes subscribed to the said instrument is in the genuine handwriting of the said C. C. Haynes and was thereto subscribed by the like order of the said Board of Trustees, and in the presence of him, the said Wesley E. King Resident Vice President. Affiant further says that Mr. SAMUEL H. HAYS, whose address is Boise, Idaho, has been appointed Attorney upon whom process for the State of Idaho may be served according to law.

SUBSCRIBED and sworn to before me this

12th day of November 1904.

My Commission expires 4-2-1913

Wesley E. King

Charles E. Barrett
Notary Public.

Extract from the Record Book of the Board of Trustees of the

AMERICAN SURETY COMPANY OF NEW YORK.

The first quarterly meeting of the Board of Trustees of the AMERICAN SURETY COMPANY OF NEW YORK, after the annual Stockholders' meeting, was held at the office of the Company, No. 100 Broadway, New York City, on Wednesday, January 20, 1909, at 12 o'clock noon.

"The Secretary read the report of the Nominating Committee as follows:

"To the Board of Trustees of the

AMERICAN SURETY COMPANY OF NEW YORK:

"Gentlemen:

"The Committee appointed by the Executive Committee of this Company at their meeting held Tuesday, December 15, 1908, for the purpose of nominating officers of the Company,*** for the ensuing year, beg leave to report as follows:

"We nominate for * * * * *

PLACE.	RESIDENT VICE PRESIDENTS.	RESIDENT ASSISTANT SECRETARIES.
Salt Lake City, Utah	Frank Knox James E. Cosgriff R. T. Badger Wesley E. King	Wesley E. King Waldemar Van Cott E. M. Allison, Jr. Wm. D. Riter

* * * * *

"WHEREUPON, it was

"RESOLVED, that the Secretary be authorized to cast one ballot on behalf of the Trustees present for the officers, members of the Executive Committee, Finance Committee, Committee on Accounts, Committee on Capital Box, and Counsel, as recommended by the Nominating Committee for the ensuing year; which was done, and thereupon the aforementioned persons were declared to have been unanimously elected to their respective offices for the ensuing year.

* * * * *

"The following resolution was adopted:

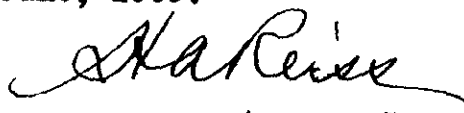
"RESOLVED, that the Resident Vice-Presidents be and they hereby are, and each of them is hereby, authorized and empowered to execute and to deliver and to attach the seal of the Company to any and all obligations for or on behalf of the Company, such obligations, however, to be attested in every instance by the Resident Assistant Secretary."

* * * * *

STATE OF NEW YORK, }
COUNTY OF NEW YORK. } ss.

I, **H. A. Reiss**, Assistant Secretary of the AMERICAN SURETY COMPANY OF NEW YORK, do hereby certify that I have compared the foregoing extracts and transcripts, from the Record Book of the Board of Trustees of the AMERICAN SURETY COMPANY OF NEW YORK, with the original record of said Board, and that the same are correct extracts and transcripts therefrom as they appear of record and are set forth and contained in said Record Book; and I further certify that I have compared the foregoing resolutions with the originals thereof, as recorded in the Minute Book of said Company, and do certify that the same is a correct and true transcript therefrom, and of the whole of said original resolutions; and that the said resolutions have not been revoked or rescinded.

Given under my hand and the seal of the Company, at the City of New York,
this 11th day of June, 1909.



ASSISTANT SECRETARY.

1909

EXTRACT FROM THE RECORD BOOK OF THE EXECUTIVE COMMITTEE OF THE

**AMERICAN SURETY COMPANY
OF NEW YORK.**

"A meeting of the Executive Committee of the AMERICAN SURETY COMPANY OF NEW YORK was held on the **19th day of October, 1909.**

* * * * *

"The following resolution was adopted:

**"RESOLVED, That C. C. HAYNES,
of Salt Lake City, Utah,**

be and he is hereby constituted and appointed a Resident Assistant Secretary of this Company at the town or city, aforesaid, with full power and authority to attest any and all surety bonds and undertakings, for or on behalf of this Company, in its business and in accordance with its charter; such bonds and undertakings to have in every instance, however, the seal of this Company affixed thereto, and to be executed on behalf of this Company by one of its Resident Vice Presidents."

State of New York, }
COUNTY OF NEW YORK. } ss. :

I, **H. A. Reiss,** Assistant Secretary of the AMERICAN SURETY COMPANY OF NEW YORK, do hereby certify that I have compared the foregoing extracts and transcripts, from the Record Book of the Executive Committee of the AMERICAN SURETY COMPANY OF NEW YORK, with the original record of said Executive Committee, and that the same are correct extracts and transcripts therefrom as they appear of record and are set forth and contained in said Record Book; and I further certify that I have compared the foregoing resolution with the original thereof, as recorded in the Minute Book of said Company, and do certify that the same is a correct and true transcript therefrom, and of the whole of said original resolution; and that the said resolution has not been revoked or rescinded.

Given under my hand and the seal of the Company, at the
City of New York, this **19th day of Oct., 1909.**


Assistant Secretary.

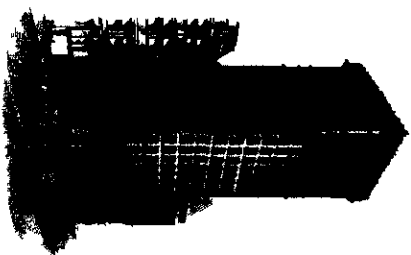
Joseph M. Hawthorne
PRINCIPAL

American Surety Company
OF NEW YORK
SURETY

To

State of Colorado

OBLIGEE.



BOND

For

Dated

2008 NOV - 3 1909

Wm. H. H. H. H.

State of Idaho
ENGINEERING DEPARTMENT
BOISE

JAS STEPHENSON, JR
STATE ENGINEER

Boise, Idaho, September 29, 1939

Permit No. 5173
Joseph A. Hawthorne,
319 New York Block,
Seattle, Washington

I enclose herewith above numbered permit. Be sure to note limitations and conditions of same as given under approval of State Engineer on the third page.

JAS. STEPHENSON, Jr.,
State Engineer.

5173

State of Idaho
ENGINEERING DEPARTMENT
BOISE

JAS. STEPHENSON, JR.,
ENGINEER

NOTE

That in order to keep this permit in force a bond in the sum of \$ 1,000 must be filed in the office of the State Engineer on or before November 9 1909 conditioned upon faithfully carrying to completion the works of diversion as specified in said permit and in the application therefor.

JAS. STEPHENSON, JR.,

State Engineer.

5170