

August 1, 1961

RE: Permit No. R-1028
25271
Cummings

Holden, Holden & Kidwell
Attorneys
First National Bank Building
Idaho Falls, Idaho

Gentlemen:

Enclosed is receipt No. 30684 in the amount of \$4.70 fees for
copies of protests in the Cummings matter.

Thank you.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Deputy State Reclamation Engineer

RWT:mr
Enc. receipt

See letter from Holden & Kidwell 7/31/61

missing 7/10/62 R
R-1028

NOTICE OF PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 A. M. on the 1st day of May, 1961, at Salmon, County of Lemhi, State of Idaho, before Roy L. Frazier, proof will be submitted of the application to beneficial use of 50 acre feet per annum of the waters of Hull Creek in accordance with the terms and conditions of Permit No. R-1028 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Clifford O. and Nancy M. Cummings, P. O. Box 124, North Fork, Idaho.

The use to which said water has been applied is pondage only—recreation and fish propagation. Permit No. 25271 for irrigation and domestic use is a companion permit.

The amount applied to beneficial use is 50 inches.

The place where said water is used, give full and accurate legal description: H. E. No. 277, Lemhi County, Idaho, Sec. 24, T. 25 N., R. 20 E.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Hull Creek above ranch known as H. E. No. 277.

The right to take water from such works is based upon Permit No. 25271.

The source of supply from which such water is diverted is Hull Creek.

Point of Diversion (legal description) NW corner of H. E. No. 277 on Hull Creek, approximately located Sec. 24, T. 25 N., R. 20 E., homestead may extend over into Sec. 18, R. 21 E. (unsurveyed lands).

The date of priority which said user is prepared to establish is April 25, 1958.

GEO. N. CARTER
State Reclamation Engineer
No. 113 3-23 to 4-12 4tc

Affidavit of Publication

STATE OF IDAHO } ss.
County of Lemhi }

Larry H. Robinson

, being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Notice of Proof of Application for Clifford O.

& Nancy M. Cummings, North Fork, Idaho a true

printed copy of which is attached to the margin hereof, has been and was correct-

ly printed and published in the regular and entire issue of every number of said

newspaper and not in any supplement thereof or thereto for four (4)

consecutive issues, commencing with the issue dated March 23, 1961

and ending with the issue dated April 13, 1961

Larry H. Robinson

Subscribed and sworn to before me, this 17th

day of April, 1961

Joe Blomquist
Notary Public for the State of Idaho,
Residing at Salmon, Idaho.

Publication Fee \$ 25.52

R-1028

State Reclamation Engrs.
Boise, Idaho

Attn: Mr. Humphreys

Dear Mr. Humphreys:

Nov. 16, 1959

Permit No 2527
NOV 18 1959
Department of Reclamation

Wish to advise that our dam has been completed in accordance with your specifications. - Below is a sketch of the Dam site & Spillway. - Should you wish to inspect this before issuing the license, the road as yet is open to traffic. However, one does not know how long weather will permit road being open.

As you will note, we have 6 ft. of free board above high water line and the last fill is now 15 ft. wide on top.

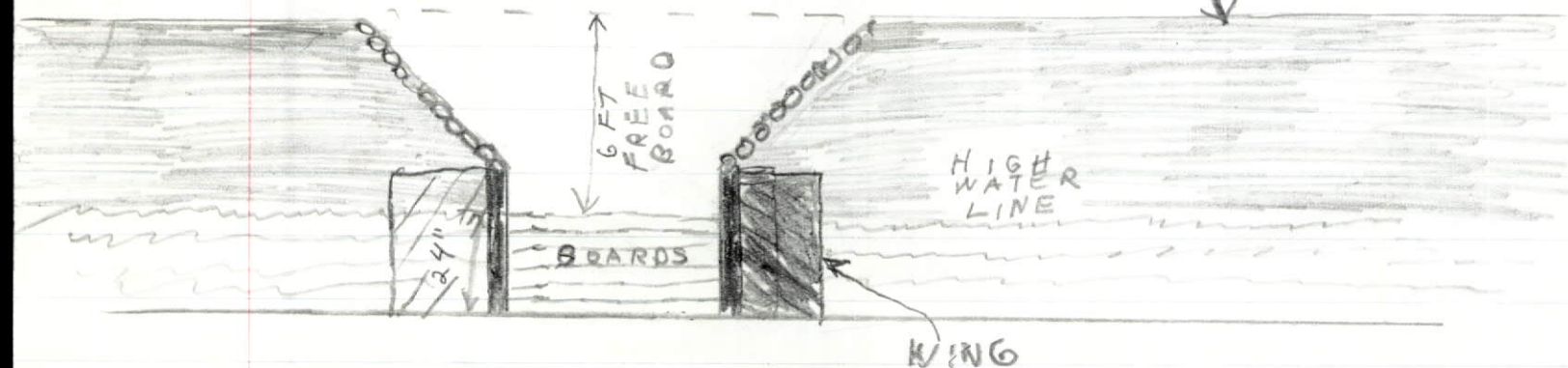
Looking forward to an early reply.

Yours very truly,

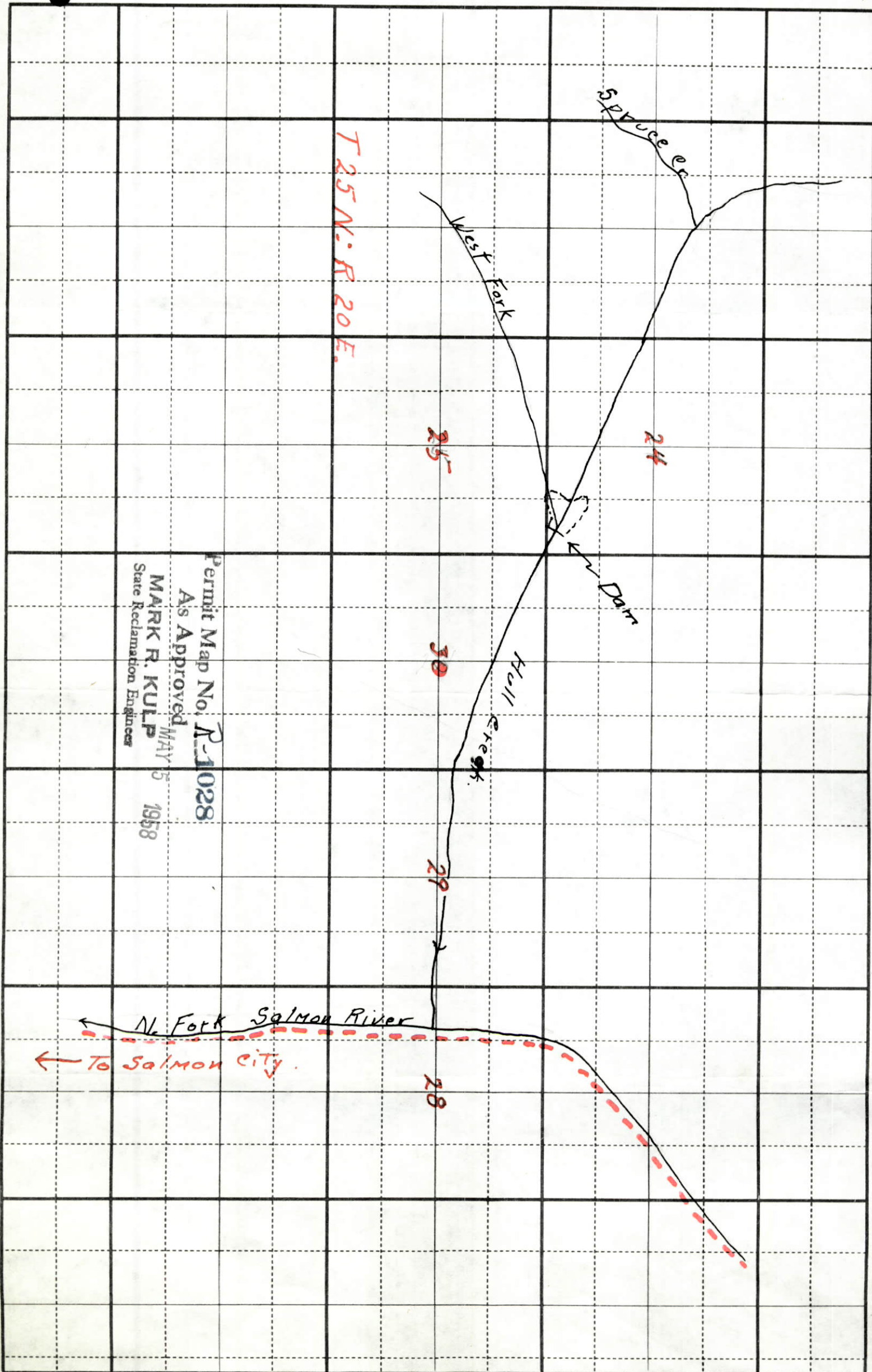
Cliff Cummings
Arco, Idaho

Cummings Dam & Spillway
as per your specification

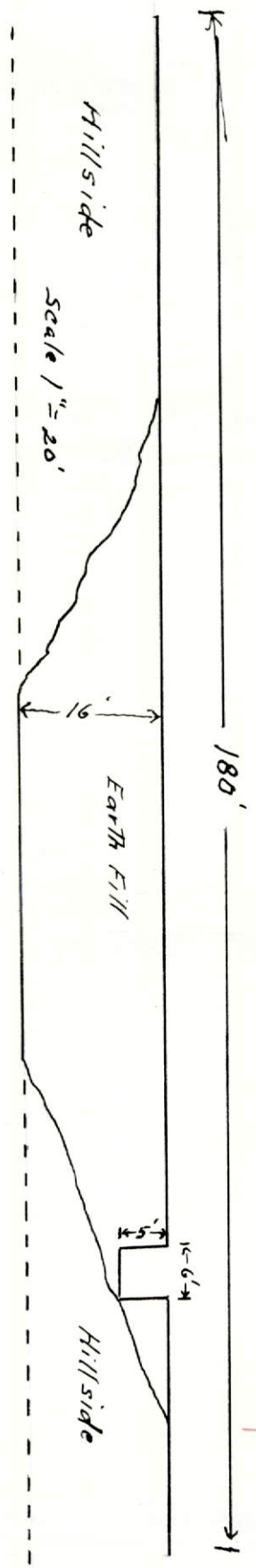
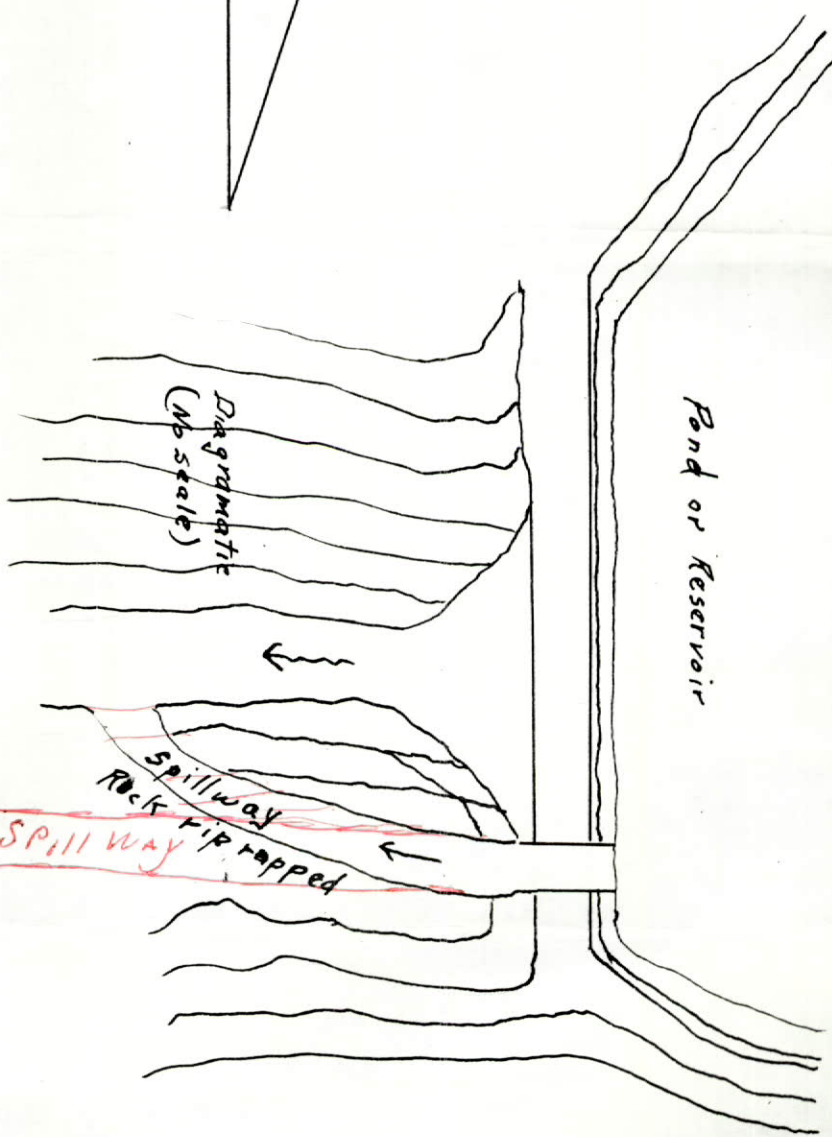
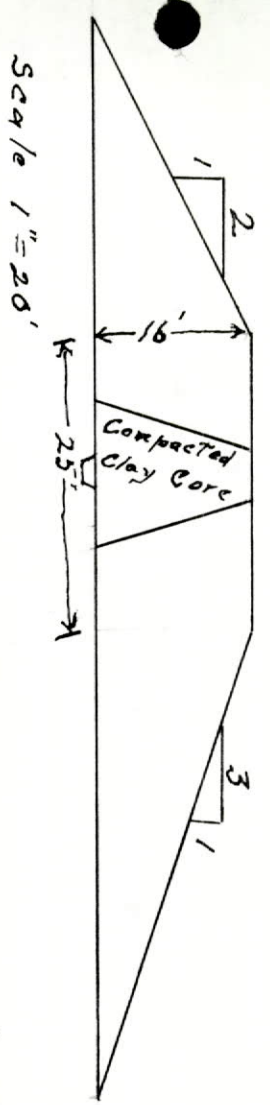
15-FT
WIDE ROAD
TOP.



R-1028



Cross Section (Vertical)



Free board = 5'-
Rip Rap on
Dam Face = unnecessary

Permit Map No. P-1028
As Approved
MAY 5 1958
MARK R. KULP
State Reclamation Engineer

Cummings Reservoir
Dam Plan

This is complete as
shown

P-1028

State of Idaho

License and Certificate of Water Right

Water License No. R-1028Amount 50 acre feet

Water District No. _____

Priority April 25, 1958

THIS IS TO CERTIFY that CLIFFORD O. & NANCY M. CUMMINGS
 of Arco, Idaho, made application for a permit to appropriate the
 public waters of the State of Idaho, dated April 25, 1958; that Permit No. R-1028
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
 50 ~~acre~~ ^{second} feet, was issued thereunder on March 21, 1961, showing that said works
 were completed on the 14th day of March, 1961; and that on the 1st
 day of May, 1961,

CLIFFORD O. & NANCY M. CUMMINGS

of North Fork, State of Idaho, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Hull
 Creek, a tributary of North Fork Salmon River, for the purpose of recreation and fish
 propagation, under Use Permit No. R-1028 of the Department of Reclamation
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
 and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume

11 of Licenses at page 7109, on the 26th day of June, 1961;

The right hereby confirmed dates from April 25, 1958;

The Point of Diversion is located H.E.S. #277 (unsurveyed)

in the --- 1/4 --- 1/4, Sec. 24, Twp. 25 N, R. 20 E, B. M. Lemhi 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 50 acre ~~cubic~~ ^{second} feet ~~per second~~.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
25 N	20 E	24	Recreation and Fish Propagation in or adjacent to H.E.S. #277		

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

26th day of June, 1961.

/s/ Ralph W. Thomas

Deputy State Reclamation Engineer.

(SEAL)

State of Idaho

License and Certificate of Water Right

Water License No. 25271

Amount 0.16 c.f.s.

Water District No.

Priority November 12, 1954

THIS IS TO CERTIFY that CLIFFORD O. & NANCY M. CUMMINGS
 of Arco, Idaho, made application for a permit to appropriate the
 public waters of the State of Idaho, dated November 12, 1954; that Permit No. 25271
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
 1.0 second feet, was issued thereunder on October 7, 1957, showing that said works
 were completed on the 10th day of September, 1957; and that on the 18th
 day of October, 1958,

CLIFFORD O. & NANCY M. CUMMINGS

of Arco, State of Idaho, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Hull
 Creek, a tributary of North Fork Salmon River, for the purpose of Irrigation & Fish
 Culture, under Use Permit No. 25271 of the Department of Reclamation
 and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
 and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
 11 of Licenses at page 7110, on the 26th day of June, 1961;

The right hereby confirmed dates from November 12, 1954;

The Point of Diversion is located H.E.S. #277 (Unsurveyed)

in the --- 1/4 --- 1/4, Sec. 24, Twp. 25 N, R. 20 E, B. M. Lemhi 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 0.16 cubic feet per second. 0.1 c.f.s. for fish culture.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
25 N	20 E	24	In or adjacent to H.E.S. 277.	50	3
			Total number of acres to be irrigated:		3

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this

26th day of June, 1961.

/s/ Ralph W. Thomas

Deputy State Reclamation Engineer.

(SEAL)

APPLICATION FOR PERMIT

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

Application No. R 35287
Permit No. R 1028

Clifford O. & Nancy M. Cummings
Rt. # 1, Arco, Idaho

R- 1028

75- 2166

1. Name of Applicant: CLIFFORD O. & NANCY M. CUMMINGS

Post office address: Rt. # 1, Arco,

County

Butte

State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of Capital Stock: \$

(c) Amount paid in: \$

(d) Names and addresses of directors:

II. The financial resources of the corporation are:

(a) Cash on hand: \$

(b) Treasury Stock: \$

(c) Bonds to be issued: \$

(d) Other resources:

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

3. Source of water supply is Hull (Creek) (River) (Spring), a tributary of N. Fork Salmon River.

4. The outlet of the proposed reservoir is located (bearing) feet, distant from the corner of Section , Township , Range , B.M. and is in the SE 1/4 of SE 1/4 of Section 24 , Township 25 N, Range 20 E, B.M. County of Lemhi

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

(a) The reservoir is located in the channel of Hull Creek (Creek) (River).

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located (bearing) feet distant from the corner of Section , Township , Range , B.M., and is in the 1/4 of 1/4 of Section , Township , Range , B.M.; width at bottom feet, width at top feet, depth of water feet; average grade per mile feet; Capacity cubic feet per second

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

(b) The reservoir capacity is Fifty acre feet.

7. Height of reservoir dam 16 feet, length at top 180 feet, length at bottom 50 feet, size of outlet 6 feet

by 5 feet. The dam is to be constructed of materials as follows: Earth and rock. Materials to be obtained from the hill on South side of dam. Dam will be exceptionally thick and heavy to avoid any possibility of failure (If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

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

(Creek) (River)?

Water is for pondage only. Use is recreation and fish propagation

(b) Water stored in reservoir will be carried in the channel of (Creek) (River) a distance of miles to point of diversion located (bearing) feet, distant from the corner of Section Township , Range , B.M., and in the 1/4 of 1/4 of Section Township , Range , B.M.

9. (a) Area of watershed above dam site Approximately five sections square miles.

(b) Estimated maximum flow of stream ten cubic feet per second.

10. Water is to be used for pondage purposes.

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

(a) Point of use of water (bearing) feet, distant from Corner of Section , Township , Range , B.M., and is in the 1/4 of 1/4 of Section , Township , Range , B.M.

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

(c) Water is to be returned to (Creek) (River) (Spring) at a point (bearing) feet distant from the corner of Section , Township , Range , B.M. in the 1/4 of 1/4 of Section , Township , Range , B.M.

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

which is hereby referred to and made a part hereof.

13. Kind of diversion works:

(Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed

of materials as follows:

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

15. Size of headgate: Width feet, Height feet.
16. Diversion Canal: Width at bottom feet, width at water line feet, depth of water feet, Dimensions of Flume
Diameter of Pipe inches; Length of Conduit miles, Average grade per mile feet.
17. Estimated Cost of Works: Storage Works: \$ 2000.00 Diversion Works: \$
18. Time required for completion of work Five years.
19. Time required for complete application of water to proposed beneficial use is Five years.
20. The land to be irrigated is described in the following tabulation:

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

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	

Total Number of Acres to Be Irrigated

21. Existing rights and/or valid permits appurtenant to lands described above are Permit No. 25271 for irrigation and domestic is a companion permit.

REMARKS:

This is all in connection with the development of a small summer resort in the area near the pond or lake.
The dam will have no outlet except the spillway.

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

/s/ Clifford O. Cummings , Applicant.
/s/ Mary M. Cummings
By /s/ Clifford O. Cummings , Agent.

Date of first receipt at Department of Reclamation: 8:00 A. M. April 25, 1958
Returned to applicant for correction:
Corrected application received:

APPROVAL OF STATE RECLAMATION ENGINEER

The number of this permit is R 1028

Recorded in book R 4 , page 1028 . Approved May 5, 1958

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

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

Work to begin on or before July 5, 1958 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before November 5, 1960

The whole of said work to be completed on or before May 5, 1963

Beneficial use of water stored in accordance herewith, to be made on or before May 5, 1968

Witness my hand this 5th day of May , 1958

/s/ MARK R. KULP

State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, ROBERT E. SMYLLIE , Governor of the State of Idaho, and JAS. H. YOUNG ,

Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 5th day of May , 1958

COUNTERSIGNED

By /s/ JAS. H. YOUNG
Secretary of State.

By /s/ ROBERT E. SMYLLIE
Governor.

(SEAL)

Permit No. R-1028
CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that CLIFFORD O. & NANCY M. CUMMINGS, of Route #1, Arco, County of Butte and State of Idaho, the holder of Permit No. R-1028, issued upon Application No. R-35287, bearing date of priority of April 25, 1958, authorizing the construction of a reservoir, with the right to appropriate and store 50 acre feet per annum of the waters of Hull Creek, a tributary of North Fork of Salmon, in the County of Lemhi, State of Idaho, for recreation and fish propagation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works set out and described in said Permit; that said works include a dam and reservoir adequate for the storage of 50 acre feet of water per annum, with adequate diversion works and conduit to the reservoir, and a conduit capable of conducting said water to the place of intended use; that the point of outlet of said reservoir is located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 24, Township 25 North, Range 20 East, B. M., and that the place of use, or the lands proposed to use of said water, are described as follows, to-wit:

recreation and fish propagation in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 25 N., R. 20 E., B. M.

Witness my hand this 21 day of March, 1961.

s/ GEO. N. CARTER
State Reclamation Engineer

Proof of Completion of Works Made: March 14, 1961

LICENSE ISSUED FOR 50 acre
page 7109 SEC. 17.

WATER RIGHT NUMBER 75-2166

OWNER LAST NAME - CUMMINGS
OWNER LAST NAME - CUMMINGS

FIRST NAME - CLIFFORD D.

ORIG OWNER -

FIRST NAME - NANCY M.

ORIG OWNER -

ADDRESS LINE 1 -

ADDRESS LINE 2 -

ADDRESS LINE 3 -

CITY - NORTH FORK

STATE - ID ZIP CODE -

SOURCE - HULL CREEK

TRIBUTARY OF - SALMON RIVER, NORTH FORK

STAGE - LICENSE

STATUS -

PRIORITY - 04-25-1958 COUNTY - LEMHI

TOTAL DIV. RATE - .0000 -CFS

TOTAL DIV. VOLUME -

50.00 AFA TRFR/AMEND -

WATER DIST. -

RIGHT BASIS -

DIVERSION POINT - SESE 24 25N 20E LOT REDIV -

272.0 92.0 318.0 9.0 0.0 0.0 0.0 0.0 0.0 2.5

FROM - TO -

USE - RECREATION STORAGE

USE DIV. RATE - .0000 CFS

USE DIV. VOLUME - 50.00 AFA

FROM - TO -

USE - FISH PROP. STORAGE

USE DIV. RATE - .0000 CFS

USE DIV. VOLUME - 50.00 AFA

USE - FISH PROP. STORAGE

PLACE OF USE - TWN 25N RNG 20E SEC 24

DECREE NAME -

DATE -

TOTAL ACRES 0

REMARKS - P/D & P/U H.E.S. 277, S24, T25N, R20E.

NON IRRIG USE - RECREATION & FISH PROPOGATION.

OTHER RIGHTS FOR SAME USE -

PROOF DUE -

PERMIT/DENIED -

PROTESTED -

HEARING -

OLD NO. - R1028

PROOF MADE -

FLD EXAM -

COND. OF APPROVAL -

DIVERSION MEANS -

VERIFIED LGS

281 2166

IDENT. NO. 75-2166

WATER RIGHT
DATA ENTRY LOG

[illegible]

WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No. R-1028 / 75-2166
Old No. New No.

Record

1. Original Owner: Clifford D. + Nancy M. Cummings

Present Owner: _____

2. Address:

3. City: Arco State: Id Zip: _____

4. A. Source of Water: Hull Creek

B. Tributary of: Salmon River, North Fork

5. A. Stage (A,P,L,D,S,J): L

B. Status (D,L,R,C,A,I,F - leave blank if valid):

C. Priority Date: 4-25-1958

D. County: 59

E. Total Diversion Rate:

F. Total Diversion Volume: 50.

G. Transfer/Amendment (P,T of A or blank):

H. Water District:

I. DLE/Carey Act (D,C or blank):

J. Right Basis (for adjudication claims A,B,C only):

	Tract	Sec.	Twp.	Rge.	Gov't Lot	Rediv.
6. A. Point of Diversion	<u>see remark</u>					

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

from _____ to _____ for R.S purposes. Amount 50.
(cfs or AC-FT/yr)

from _____ to _____ for RR purposes. Amount 50. afa

from _____ to _____ for HS purposes. Amount 50. afa

from _____ to _____ for HR purposes. Amount 50. afa

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

MEMO

Dismissal of Appeal can be found in Permit No. 75-2125.

75-2166

R-1028

May 1, 1970

Mr. C. O. Cummings
Box 1187
North Fork, Idaho 83466

Dear Mr. Cummings:

I have received your letter regarding the dam you own on Hull Creek. I made an inspection of this dam in early January at the request of the U. S. Forest Service. A copy of my letter to the Forest Service is enclosed for your information.

I agree with you that the dam presents no serious hazard to downstream life and property and meets the requirements of the State of Idaho. You will note in my letter to the Forest Service that it appears to me that the entire problem revolved around a right-of-way dispute rather than safety of the dam.

I plan to make another inspection of this dam during the coming spring or summer and at that time, if my findings warrant it, a Certificate of Approval will be issued which will be evidence of this structures compliance with all requirements of the State of Idaho.

If I can be of further help, please feel free to contact me.

Sincerely,

A. KENNETH DUNN, Assistant
State Reclamation Engineer

AKD:mjl

Enclosure

75-2166

R-1028

75-2166 *mt*

Box 1187
North Fork, Idaho 83466
April 24, 1970

Re: Water Permit No. 25271

RECEIVED

APR 29 1970

Department of Reclamation

State Reclamation Engineer
Capitol Building
Boise, Idaho 83701

Dear Sir:

As you are aware, the Salmon River Country provides recreation for many people and a great percentage of the State's revenue is derived from this source.

In recent years, more and more people have been involved with the Forest Service. We have had business with the Forest Service for many years.

We are enclosing a copy of our letter to the new Regional Forester, Vern Hamre, at Ogden, Utah in reply to a letter from his office advising us of complaints made to his office by F. E. Powers, then Supervisor of the Salmon National Forest. Mr. Powers has since retired from the Forest Service.

As you will note from the enclosed copy, we developed this small lake about 15 years ago when recreation was hardly heard of. A question pertaining to boundary has come up from time to time, and we built a dike to fence our boundary and protect our property. Since another dam was not constructed, it was our understanding that a permit from the State Bureau of Reclamation was not necessary, in order to build a fence line on our property. The dam is constructed on private land, as well as partially on Forest land, for which we have a Special Use Permit. The dam serves in its original useful purpose and approval for irrigation, fish culture, fish propagation, recreation and also flood control.

Mr. Powers stated to the Regional Forester that this dam serves no useful purpose since we built a new dam entirely on private land and should be breached. A new dam was not built, and to remove the dam which serves many useful purposes would also be a threat to damage to downstream values, as well as its effect on adjacent Forest land, and not in the public's interest in destroying the recreational use of the land.

We should like to request your support in this matter, as it is of vital importance and concern to many people. It has taken over 15 years to make it what it is now and any breaching of the dam would certainly not be in anyone's interest.

Any help, suggestions or recommendations you can give us in this regard will be greatly appreciated.

Thank you.

Sincerely yours,

Clifford & Nancy Cummings
Clifford and Nancy Cummings

enc.

C.O. Cummings
Box 1187
North Fork Idaho

75-2166

B-1028

North Fork, Idaho 83466
April 23, 1970

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Vern Hamre, Regional Forester
USDA-Forest Service
324 25th Street
Ogden, Utah 84401

RECEIVED
APR 23 1970
Department of Reclamation

Dear Mr. Hamre:

In reply to letters of February 13, 1970 and March 20, 1970, we are going to set forth herewith the reasons why said Special Use Permit covering a dam constructed on private land and partially located on National Forest land, should not be revoked. However, first of all, will present you with a brief history of this matter from its inception, in case you are not already familiar with it.

In 1954 we purchased a deeded ranch containing approximately 30 acres, along with two mining claims which joined the property. This is located about 2½ miles off the main highway and is completely surrounded by National Forest land. At the time of our purchase we were told that the fence line was the property boundary. We believed the fence boundary to be correct, since it had been used for many years without any question.

We could foresee a small private lake on the ranch and proceeded to make plans for one. Proper application was made to the State of Idaho Bureau of Land Reclamation and a permit was issued to us to construct a dam for recreation, fish propagation, fish culture and irrigation.

At the time construction of the dam was started, it was our understanding that our property boundary extended beyond the damsite to the fence line. However, it was later discovered that the dam was not completely on private land. The Forest Service Supervisor advised that a Forest Service Special Use Permit was necessary for the dam construction and one would be issued, if we followed required procedures through State agencies for impounding and diverting of the waters. We complied with the requirements, as well as relinquishing our mining claims, and a Special Use Permit was issued by the Forest Service for the construction of a dam on private land and partially on Forest Service land.

The dam, as well as other related improvements, were constructed with our own funds, and without any financial assistance from any county, state or federal agency. The dam was built stronger and heavier than originally planned, and upon completion of this project, it was State inspected and approved with the following certificates being issued:

1. State of Idaho Certificate of Completion of Works Permit No. 25271
2. State of Idaho License and Certificate of Water Right No. 25271
3. State of Idaho License and Certificate of Water Right No. R-1028

This area had long needed a recreation development as we constructed, and has been used by the public ever since.

April 23, 1970

In order to eliminate any problems with the public in regard to the lake being on private land, as well as partially on National Forest land, the first part of September, 1969, we arranged a meeting at the lake with several Salmon National Forest personnel, including Mr. Powers and Mr. Averill. We expressed interest in possibility of having all the lake on private land. We proposed to build a camp-site according to Forest Service Specifications on the land under Forest Service Special Use Permit and to slope and seed the area according to Forest Service Specifications, for the dirt on adjacent Forest land to fill to our property boundary. This consisted of approximately three-quarters (3/4) of an acre fill. Mr. Powers told us that he did not want to deface the hillside by the dam. There were some young seedling pine trees just beginning to come up and he did not want to disturb them.

Miles and miles of logging roads have been built in this area since we purchased this property which has defaced and ruined many acres of land in this area. Our proposal would have been a great improvement to the area, not a detriment.

Other proposals, which would have certainly eliminated all questions, were also rejected. We had no other choice but to build this dike in order to fence our property. We built this dike for a fence to show our property boundary and not a dam to stop the flow of water.

Mr. Powers was informed of our plans to build this dike and did not voice any objections or complaints. In fact, this dike was favorably received by a number of Salmon National Forest personnel and we were commended for this action.

Now we are confronted with the letter of February 13, 1970 wherein Mr. Powers has notified your office that the dam serves no use and should be breached, as well as other complaints. We are at a loss to understand this, as we are not aware of any deficiencies, nor have we been notified of any by Mr. Powers, since the construction of the dike.

We shall quote each statement made in the letter of February 13, 1970 and reply to each statement, as follows:

1. Statement: "Forest Supervisor P. E. Powers reports that you have now constructed another dam located entirely on your private land."

Reply: Last fall we built a dike on our private land to set up a fence line to our property. This is not a dam as stated by Mr. Powers, nor was it intended for one. It was built for a fence and protection of our property. This dike was not built to hold back water.

Conditions prevail in this area in that reference points or corners of unsurveyed lands are sometimes lacking or hard to find, and results in boundary lines being out of place. Consequently, we have built this dike for a fence line to protect our property.

75-2166
R-1028

April 23, 1970

2. Statement: In the above letter Mr. Powers also "advises that the dam on National Forest land serves no useful purpose and should be breached."

Reply: Dam serves in its original useful purpose and approval for irrigation, fish culture, fish propagation and recreation, as licensed by the State of Idaho; serves as flood control; and recreation.

3. Statement: In the same letter it is advised that Mr. Powers "also reports you have not complied with the terms of your permit in that the improvements are not maintained to a standard of safety acceptable to the Forest Service as provided in Clause 4."

Reply: We have complied with the terms of the permit in that the improvements are maintained to a standard of safety. Dam has been inspected from time to time and always found to be safe, along with related improvements. We are not aware of a complaint being made with non-compliance of this, nor have we been notified by Mr. Powers, in this regard.

4. Statement: It is also advised that Mr. Powers "also states that you have not obtained a permit from State as required by State of Idaho regulations. This is in violation of Clause 6 of your permit."

Reply: Since work done on our private land was done to establish fence line and boundary, permit from State was not required. Therefore, we are not in violation of Clause 6 of the permit.

5. Statement: It is also stated in the letter, "In addition, you have not attempted to correct safety deficiencies in the old dam and have constructed the new dam with complete disregard to the threat of damage to downstream values and to its effect on adjacent National Forest lands. Therefore, he recommends that your special use permit be revoked for breach of its conditions, in accordance with provisions of clause 15."

Reply: We have great regard for National Forest lands and this was one of the reasons we purchased this property and developed it as we have. We are also very much concerned about threat of damage to downstream values and its effect on adjacent National Forest lands, and this is another reason why this dam should not be removed.

75-2166

R-1028

April 23, 1970

5. Reply: (cont.) There have been some very heavy snow packs at the ranch and up in the surrounding mountains, in the more than 15 years that we have owned the ranch. In the highest run-off there has not been over 3" of run-off over the spillway. In order to assure at least five feet of freeboard, we installed a 36" pipe with a valve in concrete below the spillway for additional safety, which we have not had to use. It is there, if ever the need for it should arise. An additional spillway has been installed, which is twice the size of the first one.

As stated previously, this dam does not have any safety deficiencies, nor have we been notified by the Forest Service of any existing safety deficiencies. This dam has been inspected and approved by the State Bureau of Reclamation and its specifications exceed the safety standards.

Another point we should like to bring to your attention is the fact that we offered to exchange a 20-acre parcel of patented land surrounded by National Forest, for approximately 5 acres of Forestry land in question, and completely eliminate all present and any future problems. This proposal was rejected by Mr. Powers. We know that this rejection is not in the public's interests, and we, therefore, feel that discrimination has been used in rejecting our proposal.

This development has taken over 15 years of blood, sweat and tears to get it where it is now. Any breaching of the dam would certainly not be in the public's interest.

Before a decision is reached on this matter, should like to request a meeting at the dam site involved, at your earliest convenience, with you and other parties concerned to inspect the dam and see for yourself what useful purposes this dam does serve and why it should not be breached.

This reply would have been made sooner, had we not been out of town until last week.

Yours truly,

/s/ Clifford O. Cummings and Nancy Cummings

cc: G. F. Watts, Ogden, Utah
Salmon National Forest Supervisor, Salmon, Idaho
R. Averill, North Fork, Idaho
Clifford Hardin, Secretary of Agriculture, Washington, D. C.
Walter J. Hickel, Secretary of Interior, Washington, D. C.
Senator Frank Church, Washington, D. C.
Representative George Hansen, Washington, D. C.
Representative Helen McKinney, Salmon, Idaho
Senator James Ellsworth, Salmon, Idaho
Governor Don Samuelson, Boise, Idaho
State Reclamation Engineer, Boise, Idaho
John R. Woodworth, Director F&G, Boise, Idaho
Dale Baird, Regional Conservation Officer, Salmon, Idaho

Sen. Len Jordan
Rep. James McClure

75-2166

R-1028

January 14, 1970

C
O
P
Y

Mr. James M. Usher
Regional Engineer
U. S. Department of Agriculture
Forest Service
324 - 25th Street
Ogden, Utah 84401

Dear Mr. Usher:

In regard to the construction of a new dam located in Section 24;
Township 25 N, Range 20 E, B.M.

The Department of Reclamation inspected this dam on January 6, 1970, and there was considerable snow on the ground. Our examination was made to determine if the structure posed an immediate threat to the safety of downstream persons and property. It appears to us that the new embankment was constructed primarily to prevent the stored water from encroaching on forest service property. We could not determine the condition of the old dam; however, it would appear that the spillway had been reconditioned recently. It is our opinion, based on this inspection, that the structure does not present an immediate hazard to downstream property and that the new embankment, if it were to fail, would cause some inundation of forest service land, but the amount of land involved and the potential damage appear to be very small.

Thank you very much for your interest in reporting such construction which helps us to carry out the provision of the Idaho Code relating to safety of dams.

Sincerely,

A. KENNETH DUNN, Assistant
State Reclamation Engineer

AKD:mj1

75-2166 ()
R-1028

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
324 25th Street
Ogden, Utah 84401

2710 (7100)

December 12, 1969

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



RECEIVED
Department of Reclamation

Dear Mr. Higginson:

TZS N

Forest Supervisor F. E. Powers of the Salmon National Forest has reported to us that a Mr. C. O. Cummings is constructing a new dam. The location of this reservoir and dam is on private land in the unsurveyed township, which would appear to be, when surveyed, Section 24, T. 4 S., R. 20 E., Idaho Principal Meridian. The reservoir is located near the junction of the West Fork of Hull Creek and Hull Creek, which drains into the North Fork of the Salmon River. We are enclosing a rough sketch which Supervisor Powers provided showing the approximate location of the structure.

He reports the new dam is being constructed by pushing loose fill by bulldozer into the water of the existing reservoir. There is no cutoff trench, nor compaction, nor are adequate slopes on the fill being maintained. The dam will be approximately 20 feet in height and is apparently being constructed without a State permit.

We are sending this information to you in order that you may take appropriate action because of the hazards that may be created in building this substandard dam.

Sincerely,

James M. Usher
JAMES M. USHER
Regional Engineer

Enclosure

cc:
Salmon N. F.

75-2166
R-1028

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

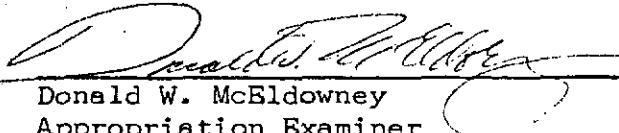
Date: March 9, 1970

From: Department of Reclamation

To: Attorney General's Office, Mr. Bill Collins

Re: Water License Nos. R-1028/75-2166 and 25271/75-2125
Clifford O. and Nancy M. Cummins

On June 26, 1961, the Department of Reclamation issued a water license in connection with the above referenced in the name of Clifford O. and Nancy M. Cummins. On August 16, 1961, the Department received a notice of appeal in the Sixth Judicial District Court in and for the County of Lemhi. We would appreciate your investigating this matter and informing the Department as to the outcome of the appeal as determined by the court.


Donald W. McBldowney
Appropriation Examiner

DWM: TG

75-2166
R-1028

November 21, 1967

Re: Permit No. R-1028

Clifford Cummings
Box 1187
North Fork, Idaho

Dear Mr. Cummings:

We find that license R-1028 is for 50 acre feet and although information is not complete, that is probably the capacity at spillway level with no boards in place.

If you wish to increase the storage, it would be proper for you to make a filing to increase storage capacity by raising the dam height so that the spillway capacity can be maintained even though flash boards are used to raise the lake level.

Forms, regulations, and instructions are enclosed.

Your neighbor, Mr. Becker, is concerned about your recent filing being an attempt to take his water.

Very truly yours,

Donald J. Watts
Engineer

DJW:dj

R-1028

Notes on Hull Creek Above Cummings Dam:

Drainage area - Approximately 8.25 mi^2

USGS Peak discharge 1961-66 was 145 cfs

Spillway is $8.5' \times 6.1'$ (approx.) $A = 51.85 \text{ ft}^2$

Area with 3' freeboard - 26.35 probably o.k. for normal floods up to 5% & not adequate for higher flows at design freeboard.

September 12, 1967

DEFERRED
SEP 14 1967

RECEIVED

Mr. Donald J. Watts, Engineer
State of Idaho
Department of Reclamation
107 State House
Boise, Idaho 83701

Re: Permit R-1028

Dear Mr. Watts:

In regard to our request for an engineer from your department to examine our dam, we feel that this is important. If you can arrange for your engineer to be here any time between now and October 1, 1967 it will be suitable.

I should like to be here to go over the situation with the engineer and after October 1st, I will not be available readily, because of my hunting schedule. After hunting season, climatic conditions will prevent our visit to the damsite. It is therefore important that the dam be examined by October 1st.

Thank you kindly for your cooperation.

Yours truly,

Clifford O. Cummings

Clifford O. Cummings
Bonded Outfitter and Guide
Box 1187
North Fork, Idaho 83466

R-1028

August 30, 1967

Re: Permit R-1028

Clifford O. Cummings
Box 1187
North Fork, Idaho

Dear Mr. Cummings:

On July 19, 1967 we advised you that an engineer from this department would be able to look at your dam soon.

It now appears that it may be some time before anyone will be in your area to check the dam. If you believe the condition of the dam requires immediate attention, please advise us and we will make a special effort to examine it soon.

Very truly yours,

Donald J. Watts
Engineer

DJW:nw

R 1028

July 19, 1967

Re: R-1028

Clifford O. Cummings
Box 1187
North Fork, Idaho 83466

Dear Mr. Cummings:

An engineer from this office will be in your area in the near future and will attempt to make arrangements to examine your dam with you at an early date.

Very truly yours,

Donald J. Watts
Engineer

DJW:ks

R-1028

RECEIVED
JUL 12 1967

Department of Reclamation
Bureau of Reclamation
Boise, Idaho

July 7, 1967

Re: Water Lic. No. R-1028
" " " 25271

Gentlemen:

There seem to be some problems arising in connection with the spillway covered in above permits.

I should like to ask for your Field Engineer to make an appointment with me in very near future to review situation.

I thank you kindly and awaiting your prompt reply. I am,

Yours truly,
Clifford O Cummings
Box 1187
North Fork, Idaho
83466

R-1028

August 1, 1961

RE: Permit No. R-1028
25271
Cummings

Holden, Holden & Kidwell
Attorneys
First National Bank Building
Idaho Falls, Idaho

Gentlemen:

Enclosed is receipt No. 30684 in the amount of \$4.70 fees for
copies of protests in the Cummings matter.

Thank you.

Very truly yours,

GEORGE N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Deputy State Reclamation Engineer

RWT:mr
Enc. receipt

See letter from Holden & Kidwell 7/31/61

*Missing 7/31/61
R-1028*

July 27, 1961

Re: Clifford Cummings
Permits No. R-1028 & 25271

Holden, Holden & Kidwell
Attorneys at Law
Idaho First National Bank Bldg.
Idaho Falls, Idaho

Attention: Mr. R. Vern Kidwell

Dear Sirs:

In reply to your letter of July 26th we do not find the name of Becker as one of the protestants any place in the file records of the above mentioned two permits except in the letter from Mr. Cummings to this office, received on May 3, 1961.

The copies of protests requested in paragraph two in your letter are enclosed herewith; also copy of letter containing Becker's name.

The fee for making these copies is \$4.70 which you may remit to this office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

H. PETRI
Water Rights Clerk

HP:ew

Enc. photo copies

R-1028

July 27, 1961

Re: Clifford Cummings
Permits No. R-1028 & 25271

Holden, Holden & Kidwell
Attorneys at Law
Idaho First National Bank Bldg.
Idaho Falls, Idaho

Attention: Mr. R. Vern Kidwell

Dear Sirs:

In reply to your letter of July 26th we do not find the name of Becker as one of the protestants any place in the file records of the above mentioned two permits except in the letter from Mr. Cummings to this office, received on May 3, 1961.

The copies of protests requested in paragraph two in your letter are enclosed herewith; also copy of letter containing Becker's name.

The fee for making these copies is \$4.70 which you may remit to this office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

H. PETRI
Water Rights Clerk

HP:ew

Enc. photo copies

25271

R-1028

April 26, 1956

RE: Permit No. G-24982

Messrs. Parry, Robertson, & Daly
Fidelity Bank Building
Twin Falls, Idaho

ATTENTION: Mr. J. R. Keenan

Dear Mr. Keenan:

We have your letter of April 25, 1956, enclosing Notice for Completion of Works and Beneficial Use proof on Permit No. G-24982 in the name of W. B. Savage Ranches, Inc., to be made June 8, 1956, before you as Notary Public.

We shall send a copy of the Notice to the newspaper, the Twin Falls Times-News, with instructions to publish it once a week for four weeks prior to that date and to send W. B. Savage Ranches, Inc., the affidavit of publication together with statement of costs.

At the time set, Mr. W. B. Savage should appear before you as Notary Public, together with two disinterested witnesses who are familiar with the terms of the Permit and the work done thereunder for the purpose of executing the enclosed depositions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Office Manager

T:du
Enc.
CC: Mr. W. B. Savage

24982

June 26, 1961

RE: Permit No. R-1028
25271

Mr. Clifford O. Cummings
North Fork, Idaho

Dear Mr. Cummings:

Enclosed are Licenses on Permits No. R-1028 and 25271.

Also enclosed is departmental receipt No. 30625 in the amount of \$10.00 covering fees for the two licenses.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. licenses 2
receipt

R-1028

June 15, 1961

Re: Permits No. R-1028
25271

Mr. Clifford O. Cummings
Arco, Idaho

Dear Mr. Cummings:

Our field representative's report on his inspection of the application of water to beneficial use under the terms of the permits is as follows:

Under Permit No. R-1028 the report shows the use of 50 acre feet for a pond for recreation and fish propagation, from Hull Creek with point of diversion in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 25 N., R. 20 E., B. M.

Upon receipt of a fee of \$5.00 License and Certificate of Water Right will be issued, confirming the right with date of priority of April 25, 1958, to the use of 50 acre feet from Hull Creek, for a pond for fish propagation and recreation.

Under Permit No. 25271 the report shows application of water to beneficial use from Hull Creek of 3 miner's inches for irrigation and 5 miner's inches for a pond, making a total of 8 miner's inches, or 0.166 c.f.s. for irrigation of 3 acres and a pond for fish propagation and recreation.

Upon receipt of \$5.00 we will issue a License and Certificate of Water Right confirming the right, with priority of November 12, 1954, to the use of 0.16 second feet of water from Hull Creek, with point of diversion in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, for use in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 24, T. 25 N., R. 20 E. *All unsurveyed*

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

KPR:ew

R-1028

June 14, 1951

Re: Permits No. 25271 - R-1028
Clifford O. Cummings

R. Verne Kidwell
c/o Holden, Holden & Kidwell
Attorneys at Law
Idaho Falls, Idaho

Dear Mr. Kidwell:

Enclosed is the Order dismissing the protests and
allowing the issuance of Certificates of Completion of Works
and License and Certificates of Water Right in connection with
the above numbered permits, in the name of Clifford O. Cummings.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer

GWC:ew

R-1028

June 14, 1961

Re: Permits Nos. 25271 - R-1028
Clifford O. Cummings

R. Verne Kidwell
c/o Holden, Holden & Kidwell
Attorneys at Law
Idaho Falls, Idaho

Dear Mr. Kidwell:

Enclosed is the Order dismissing the protests and allowing the issuance of Certificates of Completion of Works and License and Certificates of Water Right in connection with the above numbered permits, in the name of Clifford O. Cummings.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:ew

25271

R-1028

Application for Amendment

POINT OF DIVERSION

Permit No. 24886

RECEIVED
APRIL 13, 1959
Department of Reclamation

Comes now CENTRAL FARMERS FERTILIZER COMPANY, Irwin Clawson, Agent
and represents to the State Reclamation Engineer of the State of Idaho:

the agent for

That he is the owner and holder of Permit to appropriate the Public Waters of
the State of Idaho, No. 24886.

one of

That the point s of diversion is described in said Permit as being located:

3550 feet North and 1040 feet West of the Southeast corner of Section 10, Township 8 South,
Range 44 East, Boise Meridian such

That he now requests that the point of diversion be changed to a point located:
2030 feet West and 1000 feet South from the Northeast corner of the same section,

being in the north quarter of the northeast quarter of such section.

That the reason for desiring to make such change is as follows:

Mistake in measurements.

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

Signed at Salt Lake City, Utah this 10 day of April, 1959

/s/ Irwin Clawson

AGENT

Date of Receipt at Department of Reclamation: April 13, 1959

APPROVAL OF STATE RECLAMATION ENGINEER

I, Geo. N. Carter, State Reclamation Engineer of the State of

Idaho, hereby approve the above and foregoing application for amendment to Permit to
appropriate the Public Waters of the State of Idaho, No. 24886. This approval
constitutes a new permit and is issued as an amendment to the original permit, to which
it refers and of which it becomes a part, and said application is approved only insofar
as the rights of others will not be adversely affected thereby.

/s/ Geo. N. Carter

Recorded in Book 88 of
Permits, at Page 24886

State Reclamation Engineer

April 13, 1959

24886

June 14, 1961

Re: Permits No. 25271 - R-1028
Clifford O. Cummings

Mr. Clifford O. Cummings
Arco, Idaho

Dear Mr. Cummings:

We enclose the Order dismissing the protests against your permits No. 25271 and R-1028, and allowing Certificates of Completion of Works and Certificates and Licenses of water Right.

You will receive a letter in the next few days showing the amount of water allowed in the engineer's report and the amount of fees necessary for issuance of said certificates.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:ew

R-1028

June 14, 1961

RE: PERMIT NO. R-1028 and No. 25271

Inasmuch as Mr. Vern Kidwell has made no further appearance since my notification of May 24, 1961, stating the intention of this department to dismiss the protests filed against Cummings' proofs, the attached Order may be executed and entered.


GEO. N. CARTER
State Reclamation Engineer

R-1028

IN RE: PERMITS No. 25271
and No. R-1028
Clifford O. Cummings, Holder

ORDER Dismissing Protests and
Allowing Certificates of
Completion of Works and Water
Licenses

Clifford O. Cummings of Arco, Idaho, made proof of completion of works on Permit No. 25271 on September 10, 1957, and made proof of application of water to beneficial use on Permit No. 25271 on October 18, 1958, and submitted affidavits and depositions as Idaho law requires on said proofs.

Charles Motichka of North Fork, Idaho, protested the proof of completion of works on July 25, 1958, and likewise protested the proof of application of water to beneficial use on said permit on April 6, 1961, and later by his attorney on April 29, 1961.

Clifford O. Cummings of Arco, Idaho, also made proof of completion of works on Permit No. R-1028 on March 14, 1961, and on May 1, 1961, made proof of application of water to beneficial use of said permit, all to the satisfaction of the Department of Reclamation of Idaho.

Charles Motichka and Thomas W. Kesi of North Fork, Idaho, protested the proofs of completion of works and application of water to beneficial use submitted by the said Clifford O. Cummings by letter dated April 11, 1961, and through their attorney on April 29, 1961.

Basis of all of the foregoing protests appears to be that Motichka claims a prior water right from the source of supply claimed by Cummings, namely Hull Creek, and that the use of water from Hull Creek by the said Cummings will diminish the supply claimed as a prior right by the said Motichka for irrigation of his lands.

Motichka states in his protests dated April 6, 1961, "By users right we claim this water." From all information available to this office, it does not appear that Motichka has a right by decree or by state license, consequently same is not a recognizable right in the regulation or distribution of the waters of the State of Idaho. Motichka also protests the

R-1028

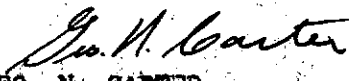
type of construction of the dam contemplated under Permit No. R-1028.

Examination of the conditions upon the ground relative to these permits and protests against them discloses that in the opinion of the examiner, the dam construction is sufficient for the purposes intended, that permit holder Cummings is irrigating 3 acres of ground and in addition uses water for domestic purposes, and consumes some water in evaporation from the reservoir.

Because of the fact that Motichka is not an owner of a legally recorded water right and inasmuch as permit holder Cummings has made substantial compliance and has submitted proofs of all the requirements contained in said Permits No. 25271 and No. R-1028, the protests of Motichka and Kesi are hereby dismissed and Certificates of Completion of Works and Licenses and Certificates of Water Right will issue to Clifford O. Cummings in amounts found by the field examiner to be warranted.

The State Reclamation Engineer, by granting subsequent water permit, cannot interfere in any manner with vested rights of prior appropriators.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the State Department of Reclamation at Boise, Idaho, this 14th day of June, 1961.


GEO. N. CARTER
State Reclamation Engineer

IN RE: PERMITS No. 25271

and No. R-1028

Clifford O. Cummings, Holder

ORDER Dismissing Protests and
Allowing Certificates of
Completion of Works and Water
Licenses

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Clifford O. Cummings of Arco, Idaho, also made proof of completion of works on Permit No. R-1028 on March 14, 1961, and on May 1, 1961, made proof of application of water to beneficial use of said permit, all to the satisfaction of the Department of Reclamation of Idaho.

Charles Motichka and Thomas W. Kest of North Fork, Idaho, protested the proofs of completion of works and application of water to beneficial use submitted by the said Clifford O. Cummings by letter dated April 11, 1961, and through their attorney on April 29, 1961.

Basis of all of the foregoing protests appears to be that Motichka claims a prior water right from the source of supply claimed by Cummings, namely Hull Creek, and that the use of water from Hull Creek by the said Cummings will diminish the supply claimed as a prior right by the said Motichka for irrigation of his lands.

Motichka states in his protests dated April 6, 1961, "By users right we claim this water." From all information available to this office, it does not appear that Motichka has a right by decree or by state license, consequently same is not a recognizable right in the regulation or distribution of the waters of the State of Idaho. Motichka also protests the

type of construction of the dam contemplated under Permit No. R-1028.

Examination of the conditions upon the ground relative to these permits and protests against them discloses that in the opinion of the examiner, the dam construction is sufficient for the purposes intended, that permit holder Cummings is irrigating 3 acres of ground and in addition uses water for domestic purposes, and consumes some water in evaporation from the reservoir.

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The State Reclamation Engineer, by granting subsequent water permit, cannot interfere in any manner with vested rights of prior appropriators.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the State Department of Reclamation at Boise, Idaho, this 14th day of June, 1961.


GEO. W. CARTER
State Reclamation Engineer

May 24, 1961

Re: Permit No. 25271 - R-1028
Clifford O. Cummings

R. Varns Kidwell
c/o Holden, Holden & Kidwell
Attorneys at Law
Idaho Falls, Idaho

Dear Mr. Kidwell:

Since your letter of April 19, 1961, a field representative of this office has made examination of the Cummings permits to store and appropriate waters from Hull Creek and finds that Cummings has made substantial compliance of the permit; that the dam is of sufficiently safe construction and that Charles Meticha and Thomas W. Kesel are not holders of decreed water rights or licensed water rights.

In view of these conditions it is the intention of this department to dismiss the protests and allow the certificates of completion of works and water license to Clifford O. Cummings.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:ew

*Will need to change date
on these orders. Hold central
and if we hear anything
from Mr. Kidwell.*

R-1028

May 24, 1961

Re: Permit No. 25271 - R-1028
Clifford O. Cummings

R. Verne Kidwell
c/o Holden, Holden & Kidwell
Attorneys at Law
Idaho Falls, Idaho

Dear Mr. Kidwell:

Since your letter of April 19, 1961, a field representative of this office has made examination of the Cummings permits to store and appropriate waters from Hull Creek and finds that Cummings has made substantial compliance of the permit; that the dam is of sufficiently safe construction and that Charles Moticha and Thomas W. Kesel are not holders of decreed water rights or licensed water rights.

In view of these conditions it is the intention of this department to dismiss the protests and allow the certificates of completion of works and water license to Clifford O. Cummings.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:ew

25271

R-1028

Application for Amendment
POINT OF DIVERSION
Permit No. G-24891

RECEIVED
FEB. 11, 1958
Department of Reclamation

Comes now Arthur D. McClellan
and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. G-24891.

That the point of diversion is described in said Permit as being located:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 5, Twp. 9 S., Range 22 East

That he now requests that the point of diversion be changed to a point located:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 5, Twp. 9 S., Range 22 E.

That the reason for desiring to make such change is as follows:

A reduction of 15 feet water lift, and a more desirable 4 way diversion
split of water at well location is obtainable.

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

Signed at Paul, Idaho this 7 day of February, 1958

/s/ Arthur D. McClellan

Date of Receipt at Department of Reclamation: February 11, 1958

APPROVAL OF STATE RECLAMATION ENGINEER

I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. G-24891. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

/s/ Mark R. Kulp

State Reclamation Engineer

Recorded in Book of
Permits, at Page

1958

24891

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

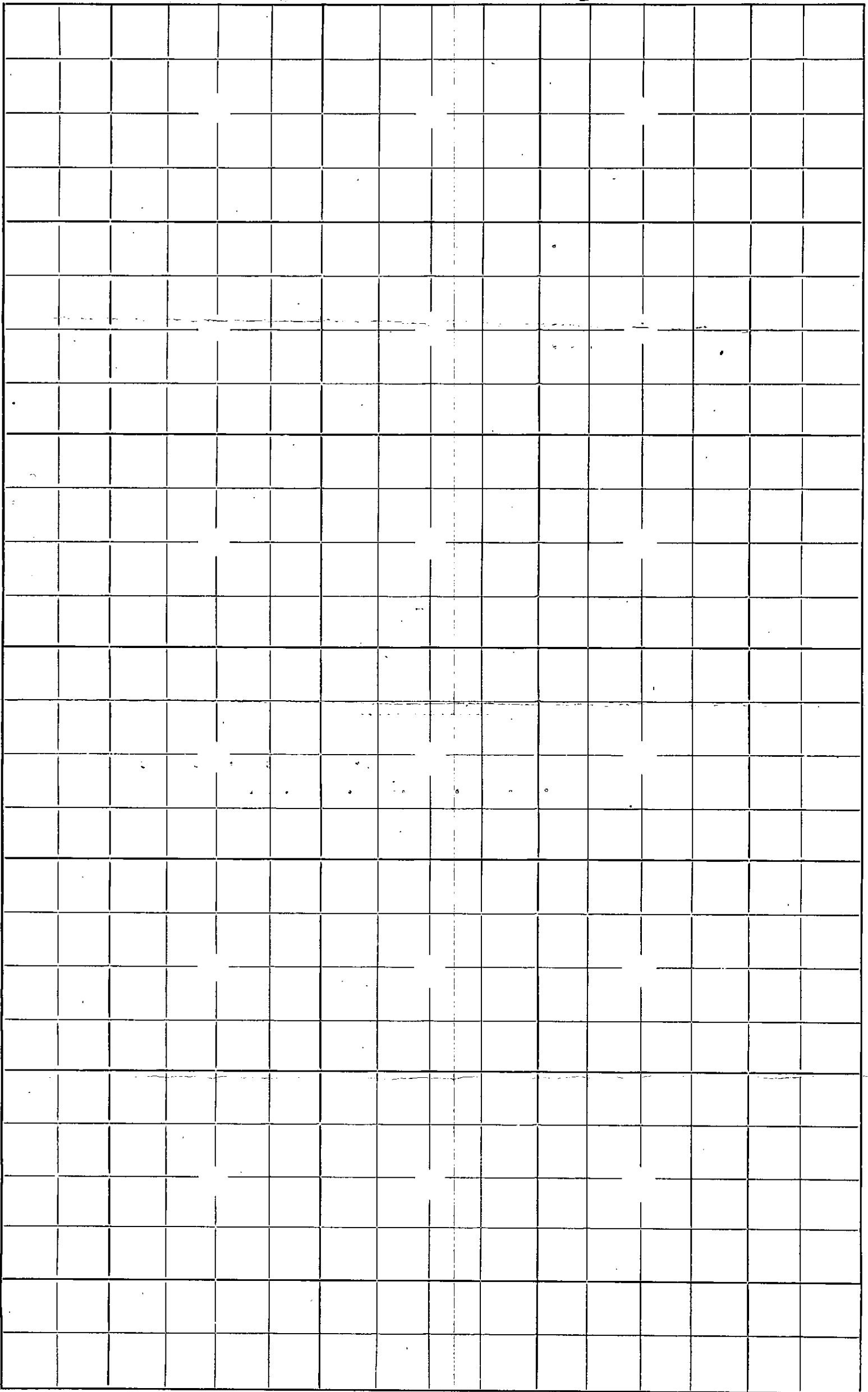
REPORT OF ENGINEER

PERMIT NO. R-1028

REPORT ON PROOF OF ~~No report made~~

Clifford O & Nancy M. Cummings, Rt. #1, Arco, Idaho

Quantity, 50 Acre Feet.



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

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. R-1028

This proof is for Beneficial Use (Proofs are not in) In Water District No. _____

1. Name of applicant Clifford O. & Nancy M. Cummings

2. Source of water supply: Hull Creek

3. Location of point of diversion: Is in the SE¹/₄ SE¹/₄ of Section 24

T. 25 N R. 20 E.B.M. County of Lemhi

4. Describe works as they exist, giving dimensions and capacities of same: 98

Small reservoir, or fish pond, rated capacity, 50 acre feet.

Area, surface of pond, 10 acres,

Height of Dam, 16 feet, 120 feet long at top, 90 to 100 feet wide,

Spill-way 6 ft. x 6 ft concrete check box equipped with flash boards,

Open ~~check~~ cut spill-way thru entire width of dam, regulated by check box.

dam constructed of small sized shale and earth mixed. adequate construction

Material

5. Water is used for: recreation and fish propagation

6. State whether or not water has been turned into works of diversion: yes, at time of inspection
water backed up in pond by flash boards to approx. 5 feet in height,

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

PLACE OF USE: SE¹/₄ SE¹/₄ Sec. 24., Twp. 25 N., Rge. 20 E.B.M.

Recreation and Fish propagation. area 10 acres,

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

8. What large stream would the water here appropriated finally reach? North Fork Salmon River

Remarks: _____

Check at head of spill-way and open cut thru dam has been used in
this manner for about four years and shows no sign of wash.

This examination was made on the 9th, day of May, 1961

(Signed)

Boyd Thompson
Examiner.

0-1028

INSTRUCTIONS TO EXAMINERS

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

Clifford O. & Nancy M. Cummings
Rt. #1, Arco, Idaho

Permit No. R-1028

Examination for ????? Beneficial Use

County Lemhi

Sec. 24 T. 25 NR. 20 EBM

Quantity: 50 Ac. F.

Source: Hull Creek.

P.D.: SESE, Sec. 24, T. 25N, -R. 20EBA

Use: Recreation & Fish Propagation

Filed: April 25, 1958

Due: May 5, 1968

Extension:

Completion of Works: 3-21-61

Other Rights: P-25271

May 3, 1961

Re: Permit No. R-1028

Mr and Mrs Charles Motichka
Route #1
Salmon, Idaho

Dear Mr and Mrs. Motichka:

We acknowledge receipt of the protest signed by yourselves and Thomas W. Kesi and Maria E. Kesi against the issuance of a license on Permit No. R-1028.

Your protest will receive due consideration after our field engineer has made his inspection and the report is received in this department.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR

cc: Mr. and Mrs. Thomas W. Kesi
Route #1
Salmon, Idaho

R-1028

RECEIVED

MAY 3 1921

P R O T E S T Department of Reclamation

THE UNDERSIGNED, CHARLES MOTICHKA, BEING FIRST DULY SWORN, DEPOSES AND SAYS: THAT HE PROTESTS AGAINST THE ISSUANCE OF ANY LICENSE BASED UPON PERMIT NO. R-1028 AS FILED BY CLIFEORD O. AND NANCY M. CUMMINGS, P. O. Box 124, NORTH FORK, IDAHO. THE PROTEST IS BASED UPON THE FOLLOWING MATERIAL:

1. THAT PROTESTANT IS NOW, AND FOR AN EXTENDED PERIOD IN EXCESS OF 16 YEARS HAS BEEN A USER OF THE WATERS OF HULL CREEK, WHICH WATERS ARE ATTEMPTED TO BE APPROPRIATED BY THE CLAIMANTS, CUMMINGS; THAT AFFIANT IS THE OWNER OF HE SURVEY NO. 89 COMPRISING A PORTION OF THE REAL ESTATE SITUATED IN NORTH FORK, LEMHI COUNTY, IDAHO, AND THAT THE ALLOWANCES OF THE PERMIT OF CUMMINGS, ET UX, WILL INFRINGE UPON RIGHTS OF THIS PROTESTANT PREVIOUSLY ESTABLISHED BY APPLYING THE WATER OF HULL CREEK TO A BENEFICIAL USE.
2. THAT THE INSTALLATION OF A DAM ACROSS HULL CREEK BY THE APPLICANTS WILL INCREASE EVAPORATION AND CHANNEL LOSSES OF HULL CREEK AND WILL DECREASE THE NATURAL FLOW WATER OF HULL CREEK TO THE INJURY OF THIS PROTESTANT.
3. THAT THE PURPORTED RESERVOIR PERMIT R-1028 IS NOT IN PROPER FORM AND THE NECESSARY ENGINEERING DATA HAS NOT BEEN SUPPLIED BY THE APPLICANTS TO ENABLE THE ISSUANCE OF THE LICENSE.
4. THAT SAID APPLICANTS ARE CONTENDING THE RIGHT TO TAKE WATER BASED UPON PERMIT NO. 25271; THAT SUCH PERMIT IS SUBSEQUENT IN TIME AND INFERIOR IN RIGHT TO WATER RIGHTS OF THIS PROTESTANT; AND THAT SAID PERMIT NO. 25271 HAS NOT BEEN COMPLETED AND ESTABLISHED AS REQUIRED BY THE IDAHO LAW AND IS OF NO FORCE AND EFFECT; THAT THE HEARING ON SUCH PERMIT NO. 25271 WAS PROTESTED BY THIS PROTESTANT AND THAT THE PERMIT HAS APPARENTLY BEEN ABANDONED.
5. THAT THIS HEARING AND THE PURPORTED NOTICE OF PROOF OF APPLICATION OF WATER TO BENEFICIAL USE IS ATTEMPTING TO INDIRECTLY ESTABLISH PERMIT NO. 25271 IN VIOLATION OF STATUTORY PROCEDURE ESTABLISHED BY THE LAWS OF THE STATE OF IDAHO.

R-1028

WHEREFORE, THIS PROTESTANT DEMANDS THAT PERMIT No. 25271
AND PERMIT No. R-1028 BE CANCELLED; THAT APPLICANTS BE COMPELLED
TO REMOVE THE DAM ILLEGALLY PLACED ACROSS THE WATERS OF HULL
CREEK JEAPORDIZING WATER RIGHTS OF THIS PROTESTANT AND THAT THE
TWO PERMITS BE DENIED IN THEIR ENTIRETY.

Charles Motichka
CHARLES MOTICHKA

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF April,
1961.

[Signature]
NOTARY PUBLIC
FOR THE STATE OF IDAHO
RESIDING AT: Salmon, Idaho.

(SEAL)

MY COMMISSION EXPIRES:

2/27/64

Mr. Roy L. Frazier
Salmon, Ida.
Dear Sir:-

Salmon, Ida R#1

April 6 1961

RECEIVED
MAY 3 1961

Department of Reclamation

We note by Salmon Recorder Herald that Clifford A. & Nancy M. Cummings P.O. Box 124, North Fork, Ida. are publishing Notice of Proof of application of water out of Hull Creek for pondage only - recreation & fish propagation, irrigation & domestic use. Permit no. 25 271. They applied several years ago (July 1958) for such and we protested as we owned the ranch at mouth of Hull Creek, which has been using this water for many years since it was homesteaded. We have lived in vicinity of ranch 39 years and used this water for many years since owning Hull ranch.

By users right we claim this water. It is all needed and used on our ranch.

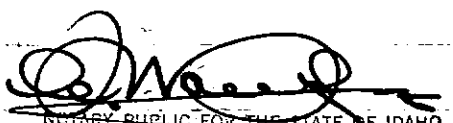
This ranch is located about 2 miles above the mouth of Hull Creek.

We protest him getting a water right on Hull Creek. Mr. & Mrs. Thomas Keel are buying our ranch and join in this protest.

Yours Truly

Charles Motichka
Nellie B. Motichka

Thomas W. Keel
Maria E. Keel


NOTARY PUBLIC FOR THE STATE OF IDAHO.
RESIDING AT SALMON, IDAHO.
MY COMMISSION EXPIRES FEBRUARY 27, 1964.

R-1028

May 3, 1961

Re: Permit No. R-1028

Clifford O. & Nancy M. Cummings
P. O. Box 124
North Fork, Idaho

Dear Mr. & Mrs. Cummings:

We acknowledge receipt of the depositions of holder and two witnesses, also affidavit of publication in the Recorder Herald, all submitted in proof of beneficial use of water under Permit No. R-1028.

Before final action is taken in the matter, the law requires that a field examination be made by an engineer from this department.

We cannot tell just when this examination will be made, but our field engineer will try and contact you at the time he makes the examination, so that arrangements may be made to show him over the grounds.

We also acknowledge receipt of protests in connection with this permit and they will be given due consideration after the engineer's report is made.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR

R-1028

NOTICE OF PROOF OF APPLICATION OF WATER FOR BENEFICIAL USE

Notice is hereby given that at 10:00 A. M. on the 1st day of May, 1961, at Salmon, County of Lemhi, State of Idaho, before Roy L. Frazier, proof will be submitted of the application to beneficial use of 50 acre feet per annum of the waters of Hull creek in accordance with the terms and conditions of Permit No. R-1028 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Clifford O. and Nancy M. Cummings, P. O. Box 124, North Fork, Idaho.

The use to which said water has been applied is pondage only—recreation and fish propagation. Permit No. 25271 for irrigation and domestic use is a

THE CLASHED WATER
The amount applied to beneficial use is 50 inches.

The place where said water is used, give full and accurate legal description: H. E. No. 277, Lemhi County, Idaho, Sec. 24, T. 25 N., R. 20 E.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Hull Creek above ranch known as H. E. No. 277.

The right to take water from such works is based upon Permit No. 25271.

The source of supply from which such water is diverted is Hull Creek.

Point of Diverison (legal description) NW corner of H. E. No. 277 on Hull Creek, approximately located Sec. 24, T. 25 N., R. 20 E., homestead may extend over into Sec. 18, R. 21 E. (unsurveyed lands).

The date of priority which said user is prepared to establish is April 25, 1958.

GEO. N. CARTER
State Reclamation Engineer
No. 113 3-23 to 4-12 4tc

Affidavit of Publication

STATE OF IDAHO } ss.
County of Lemhi }

RECEIVED
MAY 3 1961

Department of Reclamation

Larry H. Robinson

, being first duly sworn, deposes and says that he is one of the printers (publisher) of the RECORDER-HERALD, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein,

That the Notice of Proof of Application for Clifford O. & Nancy M. Cummings, North Fork, Idaho a true

printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for four (4)

consecutive issues, commencing with the issue dated March 23, 1961

and ending with the issue dated April 13, 1961

Larry H. Robinson
17th

Subscribed and sworn to before me, this

day of April, 1961

Notary Public for the State of Idaho,
Residing at Salmon, Idaho.

Publication Fee \$ 25.52

R-1028

RECEIVED
MAY 2 1958

STATE OF IDAHO
DEPARTMENT OF RECLAMATION Department of Reclamation
BOISE, IDAHO

Permit No. R-1028

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. CLIFFORD O & NANCY M. CUMMINGS
P.O. Box 124 North Fork, IDAHO

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

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

Ans. APRIL 25, 1958 5-5-58

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

Ans. HOLL CREEK SPRINGS ON H.E. #277
NE corner - approx. located Sec. 24 T. 25N. R. 20E - may extend to
SEC. 18, R. 21E (unsurveyed.)

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. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined. If sprinkler irrigation, give number and size of nozzles and operating pressure.

Ans. NE corner H.E. #277, and for dam & pond lower right hand
corner of H.E. #277, Sec. 24, T. 25N. R. 20E BM. - HOLL CREEK
ditch will carry 100" or better.

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. this is in connection with development of small summer
resort in areas near the pond. - Permit #25271 for irrigation
and domestic use is a companion permit. - Water is for pondage
only. Use is recreation and fish propagation on H.E. #277.

Ques. 6-a If this is a ground water permit, give name and address of person that drilled the well.

Ans. N/A

R-1028

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

Ans. Pondage and fish propagation & recreation

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

Ans. 50"

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

Ans. _____

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

Ans. Been used since 1954 as state in #7 above.

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. Irrigation & domestic use on H.E. #277 - 20"

(Sign) Caffod O. Cumming
Roney M. Cumming

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 Salmon, County of Latah

State of Idaho, on this May day of May, A. D. 1962

My commission expires Dec. 24, 1963

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
MAY 3 1961
Department of Reclamation

PERMIT NO. R-1028

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. A. L. Polson, age 50, Salmon Id. Service Station
Mgr. Salmon Id.

Ques. 2. Are you acquainted with Clifford O. & Nancy Cumming, the holder of Permit No. 1028? How long have you known him and where does he reside?

Ans. Seven years. North Fork Id.

Ques. 3. Have you read or heard read said Permit No. 1028, 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. Hull Creek NE Corner Homestead Entry #277
and for pond & pond - lower right hand corner of Homestead
Entry #277 Section 24, Town ship 25 North, Range 20 East, 21
East B.M.

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. fifty and fifty

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

Ans. 10 acres of pond and 10 acres of pasture for
domestic use. fish culture

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

Ans. fishing & boating

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. meadow land 20 in

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. has seen livestock on pasture & water on grass and have been fishing on lake several times in the last seven years.

(Signed) A. L. Robinson

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 Selmon

County of Lemhi, State of Idaho, on this 1 day of May

A. D. 1961

My commission expires Dec. 24, 1963

W. L. Thayer
Notary Public

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
MAY 11 1911
Department of Reclamation

PERMIT NO. R-1028

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. Leslie Aldous Salmon Idaho Box 193

Ques. 2. Are you acquainted with Clifford + Nancy Cummins the holder of Permit No. R-1028? How long have you known him and where does he reside?

Ans. 18 years North Fork Idaho

Ques. 3. Have you read or heard read said Permit No. yes, 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. Full creek N.E. corner home stead Entry 297
and for Dam + pond lower right hand corner
of Home stead Section 24 Township 25 North Range
20 East East 21 B.M.

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. 50 inches

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

Ans. used for pondage and recreation
and fish propagation

R-1028

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

Ans.

Boating and fish propagation
Recreation Small Resort

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.

No

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

Ans.

No

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

Ans.

I have camped fished Boating for
several years

(Signed)

Lillie Aldous

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 Salmon

County of Benewah, State of Idaho, on this 1 day of May

A. D. 19 61.

[Signature]

Notary Public.

My commission expires

Dec. 24, 1963

Photo copied for
Holden &
Kidwell
7/27/61

Photo copied for
Holden &
Kidwell
7/27/61 R-1028

Photo copy
7/27/61 for Holden
R-1028 and Kidwell

Photo copied
7/27/61 for Holden
Kidwell
R-1028

1
Additional Information
Storage Permit # R-1028 x 252

5-
RECEIVED
MAY 3 1961

Department of Reclamation

Should like to state the following information relative to above permits.

Charles Motichka, Protestant, formerly of North Fork, Ida has sold his ranch property to Tom E. Keel of Salmon, Idaho. Mr. Keel in turn has sold the property to Mr. and Mrs. Becker of Rigby, Idaho, who now have possession of the property and are not protesting.

When Mr. Motichka farmed the property, only nine (9) acres of hay ground were irrigated by water from Hull Creek. The remaining farm land was irrigated entirely by water from the main North Fork.

The dam constructed has been approved by the (Bureau of Reclamation) and the Forest Service.

Early in the spring of last year, your Field Representative Mr. Humphreys, my wife & I went to the Motichka home and talked the matter over with Mr. & Mrs. Motichka. At that time Mr. Motichka stated that he actually did have plenty of water and more too, since the construction of the dam.

Since the construction of the dam new springs have developed below the dam that run year round. Consequently the construction of the dam increased the flow of water into the North Fork, rather than cutting down the flow.

Clifford O. Cummings

R-1028

R-1028

1

RECEIVED

MAY 1 1961

Department of Reclamation

P R O T E S T

THE UNDERSIGNED, CHARLES MOTICHKA, BEING FIRST DULY SWORN, DEPOSES AND SAYS: THAT HE PROTESTS AGAINST THE ISSUANCE OF ANY LICENSE BASED UPON PERMIT NO. R-1028 AS FILED BY CLIFFORD O. AND NANCY M. CUMMINGS, P. O. Box 124, NORTH FORK, IDAHO. THE PROTEST IS BASED UPON THE FOLLOWING MATERIAL:

1. THAT PROTESTANT IS NOW, AND FOR AN EXTENDED PERIOD IN EXCESS OF 16 YEARS HAS BEEN A USER OF THE WATERS OF HULL CREEK, WHICH WATERS ARE ATTEMPTED TO BE APPROPRIATED BY THE CLAIMANTS, CUMMINGS; THAT AFFIANT IS THE OWNER OF HE SURVEY NO. 89 COMPRISING A PORTION OF THE REAL ESTATE SITUATED IN NORTH FORK, LEMHI COUNTY, IDAHO, AND THAT THE ALLOWANCES OF THE PERMIT OF CUMMINGS, ET UX, WILL INFRINGE UPON RIGHTS OF THIS PROTESTANT PREVIOUSLY ESTABLISHED BY APPLYING THE WATER OF HULL CREEK TO A BENEFICIAL USE.
2. THAT THE INSTALLATION OF A DAM ACROSS HULL CREEK BY THE APPLICANTS WILL INCREASE EVAPORATION AND CHANNEL LOSSES OF HULL CREEK AND WILL DECREASE THE NATURAL FLOW WATER OF HULL CREEK TO THE INJURY OF THIS PROTESTANT.
3. THAT THE PURPORTED RESERVOIR PERMIT R-1028 IS NOT IN PROPER FORM AND THE NECESSARY ENGINEERING DATA HAS NOT BEEN SUPPLIED BY THE APPLICANTS TO ENABLE THE ISSUANCE OF THE LICENSE.
4. THAT SAID APPLICANTS ARE CONTENDING THE RIGHT TO TAKE WATER BASED UPON PERMIT NO. 25271; THAT SUCH PERMIT IS SUBSEQUENT IN TIME AND INFERIOR IN RIGHT TO WATER RIGHTS OF THIS PROTESTANT; AND THAT SAID PERMIT NO. 25271 HAS NOT BEEN COMPLETED AND ESTABLISHED AS REQUIRED BY THE IDAHO LAW AND IS OF NO FORCE AND EFFECT; THAT THE HEARING ON SUCH PERMIT NO. 25271 WAS PROTESTED BY THIS PROTESTANT AND THAT THE PERMIT HAS APPARENTLY BEEN ABANDONED.
5. THAT THIS HEARING AND THE PURPORTED NOTICE OF PROOF OF APPLICATION OF WATER TO BENEFICIAL USE IS ATTEMPTING TO INDIRECTLY ESTABLISH PERMIT NO. 25271 IN VIOLATION OF STATUTORY PROCEDURE ESTABLISHED BY THE LAWS OF THE STATE OF IDAHO.

R-1028

WHEREFORE, THIS PROTESTANT DEMANDS THAT PERMIT No. 25271
AND PERMIT No. R-1028 BE CANCELLED; THAT APPLICANTS BE COMPELLED
TO REMOVE THE DAM ILLEGALLY PLACED ACROSS THE WATERS OF HULL
CREEK JEAPORDIZING WATER RIGHTS OF THIS PROTESTANT AND THAT THE
TWO PERMITS BE DENIED IN THEIR ENTIRETY.

Charles Motichka

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF April
1961.

[Signature]
NOTARY PUBLIC
FOR THE STATE OF IDAHO
RESIDING AT: Salmon, Idaho -

(SEAL)

MY COMMISSION EXPIRES:

2/27/64

April 10, 1961

Re: Permit No. R-1028
Clifford O. & Nancy M. Cummings

Mr. Charles Motichka
Route #1
Salmon, Idaho

Dear Mr. Motichka:

We have received your protest in regard to profits to be made under Permit No. R-1028, May 1, 1961, before Roy L. Frazier, Notary Public, at Salmon, Idaho, or at least it is assumed that is the right you are protesting. You refer to Permit No. 25271 in your protest, however further you state that you "protest him getting a water right on Hull Creek".

Permit No. R-1028 is for a pond for recreation and fish propagation which is ordinarily a non-consumptive use. The water would flow through the pond and down the stream. The main effect would be to reduce the maximum flow slightly and increase the low flow of each day.

Your protest will be considered after the field engineer has examined the works.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

R-1028

Salmon, Ida R# 1

April 6, 1961

RECEIVED
APR 11 1961

Geo N. Carter
State Reclamation Engineer
Boise, Ida

Department of Reclamation

Dear Sir:-

We note by Salmon Recorder Herald that Clifford O. & Nancy M. Cummings, P.O. Box 124, North Fork, Ida. are publishing Notice of Proof of application of water out of Hull Creek for pondage only - recreation & fish propagation, irrigation & domestic use. Permit no. 25271. They applied several years ago (July 1958) for such and we protested as we owned the ranch at mouth of Hull Creek which has been using this water for many years, since it was homesteaded. We have lived in vicinity of ranch 39 years and used this water for many years since owning Hull ranch.

By users right we claim this water. It is all needed and used on our ranch.

This ranch is located about 2 miles above the mouth of Hull Creek.

We protest him getting a water right on Hull Creek. Mr. & Mrs. Thomas Keel are buying our ranch and join in this protest.

The other time you had us get a written protest into place of hearing, which is Roy Frazier, Salmon this time, witnessed by a Notary. Please advise.

Yours Truly,

Charles Motichka

Nellie B. Motichka

Known as W. Keel

Mari e Keel

April 10, 1961

RE: Permit No. R-1028
25271
Clifford O. and Nancy N. Cummings

Holden, Holden & Kidwell
Idaho First National Bank Building
Idaho Falls, Idaho

Attention: R. Vern Kidwell

Dear Mr. Kidwell:

Re your letter of April 5:

The Cummings made proof of Beneficial Use of Water on Permit No. 25271 on October 15, 1958 before E. L. Gaumer, a Notary Public, residing at Arco, Idaho. The advertisement of the notice of proof stated proof would be made August 8, 1958. Our usual policy in a case like this is to require an affidavit from the proof officer that his office was open and available for appearances at the time and place set for the proof; if not why. Frequently we require another setting of date for proof and sometimes another publication. We have addressed three requests to Gaumer for an explanation of the delayed proof and two to the Cummings and we get no replies.

Copy of one such letter is enclosed for your reference.

However it appears from our record of the case that protests were filed with Gaumer, via registered mail and copies to this office prior to August 8, 1958, by Charles and Nellie B. Motichka.

Gaumer wrote on one of our requests for his affidavit, "There was a protest. There was no hearing 11/6/58".

Inasmuch as protestants apparently did have notice and filed their protest before August 8, 1958 I suppose we could waive the requirement of another publication and another proof.

The statutory field examination has not been made and the protests have not been weighed in passing up the matter of issuance of a water license or otherwise. The decision on the protests will be

R-1028

continued - page 2

made after the field engineer's report is made.

Source of water supply claimed for this permit is 1.0 cubic foot per second from Hull Creek, of which 0.8 cubic foot per second is for irrigation of fifty acres in Section 24; Township 25 North, Range 20 and 21 East, and 0.2 cubic foot per second for fish culture. The priority of the license, if granted, would be November 27, 1954.

Everything considered this permit is in a state of quite thoroughly organized confusion.

On Cummings Permit No. R-1028 upon which proof of Beneficial Use of the Water is advertised for May 1, 1961, the use claimed is "recreation and fish propagation", and the source of water claimed is Hull Creek.

*Cummings filed
after 7 and 8
to the Forest Service
with*
The permit states the storage dam will be sixteen feet high. Cummings filed a novice's sketch of what has been built. An acceptable design has never been filed here, consequently no approval as the statutes require. The Cummings seem to be in trouble with the Forest Service over the sufficiency of the dam construction. The application for the permit states there is no outlet in the dam; all the water must run over the spillway, which is supposed to have flashboards.

The association of the two permits seems vague. Under remarks on R-1028 statement is made "Permit No. 25271 for irrigation and domestic use is a companion permit". Under the usual procedure of this office R-1028 would not be deemed a "companion permit" unless it stated the stored water was a supplemental source of supply for No. 25271 and such fact does not appear to be indicated under the proposed use of R-1028.

The priority of the license for R-1028, if granted, would be May 5, 1958.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC:mr

Enc. copy of letter

R-1028

March 21, 1961

Re: Permit No. ^{R-}1028

Clifford O. Cummings &
Nancy M. Cummings
P. O. Box 124
North Fork, Idaho

Dear Mr. & Mrs. Cummings:

We enclose Certificate of Completion of Works
issued on Permit No. R-1028.

Also enclosed is departmental receipt No. 30490
in the amount of \$5.00 covering fees.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. certificate
receipt

R-1028

Salmon, Idaho

This is to acknowledge receipt of legal publication, Permit No. R-1028, Clifford O.
& Nancy Cummings. Publication dates will be 3-23, 3-30, 4-6, 4-12.

RECORDER-HERALD

RECEIVED

MAR 20 1961

Department of Reclamation

R-1028

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

March 16, 1961

Re: Permit No. R-1028

DEPOSITIONS ARE OF NO VALUE

UNLESS AFFIDAVIT OF PUBLICATION

IS ATTACHED

Clifford O. and Nancy M. Cummings,
P. O. Box 124,
North Fork, Idaho.

Dear Mr. & Mrs. Cummings:

This acknowledges the Notice of Proof of Completion of Works and Application of Water to Beneficial Use under Permit No. R-1028. The proofs are to be made at 10:00 o'clock A.M., on the 1st day of May, 1961, ~~1959~~ before Roy L. Frazier, Salmon, Idaho, Notary Public.

As of this date we have mailed the Notice to the Recorder Herald with instructions to publish it once a week for four consecutive weeks prior to the date set for final proof and then mail the affidavit of publication and statement of costs to you.

It is important that the enclosed depositions be executed by you and two disinterested witnesses who are familiar with the terms of the permit and the work done thereunder, at the place, on the date, and at the time and before the Notary, as advertised. It is very important and necessary that each question be answered in detail.

In returning the depositions to this office, be sure that all copies have been signed, the Notary's seal has been placed on each and that all depositions, (holder and two witnesses) are being returned. Also be sure to enclose the Affidavit of Publication.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. ~~Rule~~
Chief Clerk

Encl.

EPR: ~~pmk~~
cc: Notary

R-1028

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Boise, Idaho

Re: Permit No. R-1028
Clifford O. & Nancy M. Cummings

Date: March 16, 1961

Recorder Herald,
Salmon, Idaho.

Gentlemen:

Enclosed you will find notice for publication, once a week for four consecutive weeks prior to May 1, 1961 the date set for proof;

the expense of the publication is to be paid by the applicant

Clifford O. and Nancy M. Cummings of Box 124, North Fork, Idaho
to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,



GEO. N. CARTER
State Reclamation Engineer

** If the first copy is not received in this office for checking purposes and errors appear in subsequent issues, it is possible that re-publication of corrected copy will be at your own expense.

Encl.

R-1028

Permit No. R-1028

RECEIVED
MAR 16 1961
Department of Reclamation

Proof of Completion of Works

DEPOSITION OF HOLDER

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

Ans. CLIFFORD O. CUMMINGS and Nancy M. CUMMINGS
P.O. Box 124 North Fork, IDAHO

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

Ans.

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

Ans. No 1028, MAY 5, 1958 - 50 Acre Feet - HULL CREEK
Lemhi County Idaho.

Ques. 4. Under terms of permit construction was required to be completed by MAY 5, 1963.

Ques. 5. Construction was actually completed on the date of SEPT. 1960.

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

Ques. 7. Of what material was the dam built? EARTH & ROCK + Concrete
Spillway.

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

Ans. Filled to capacity in Sept. 1960

Ques. 9. The capacity of the reservoir is 50 acre feet.

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

Ques. 11. The height of the dam above bottom of reservoir is 11 feet, above low water is 6 feet.

Ques. 12. The dimensions of the spillway are 6 FT. WIDE X 6 FT. HIGH and the bottom of the spillway is 6 feet below the top of the dam.

Ques. 13. Dimensions of the reservoir outlet are - NO OUTLET - SPILLWAY ONLY.

Ques. 14. Describe the gate and control unit.

Ans. SLIP-IN Timber in Spillway.

Ques. 15. The reservoir outlet is made of Concrete

Ques. 16. Is the reservoir filled through a feeder canal? No - HULL CREEK

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

Ans. 1/4 1/4 Section, 24 Twp. 25 N Range 20E
Lower Right hand corner of
H.E. #277.

R-1028

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

Ques. 19. If not, explain _____

Ques. 20. Cost of constructing feeder canal? \$ -0- Cost of reservoir? \$ 3000.⁰⁰

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

Ans. Yes

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

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

Ans. EARTH & ROCK, 16' HIGH X 180 FT LONG AT TOP & 50 FT LONG AT BOTTOM, 100 FT WIDE AT BASE. Built especially thick & heavy to avoid any possibility of failure.

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

✓ Ans. Water is for pondage only. Use is for recreation and fish propagation. — PERMIT No 25271 FOR IRRIGATION & domestic use is a companion permit.

(Sign here)

Clifford O. Cummings
Robert M. Cummings

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 Salmon, County of Lemhi, State of Idaho, on this 14th day of March A. D. 1961.

Norman J. Jorgensen
Notary Public



RECEIVED

MAR 16 1961

Notice for Publication
NOTICE OF PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
Department of Reclamation

Notice is hereby given that at ~~4:30~~ 10:00 A M. on the 1st day of

MAY 1961, at SALMON, County of

Lemhi, State of Idaho, before ~~SHERMAN F. FOREY, JR.~~

ROY L. FRAZIER, proof will be submitted of the application to beneficial use of

50 ACRES ANNUUM cubic feet per second of the waters of HULL CREEK

in accordance with the terms and conditions of Permit No. R-1028

heretofore issued by the Department of Reclamation of the State of Idaho.

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

✓ GIFFORD O. and Nancy M. CUMMINGS, P.O. Box 124, NORTH FORK, IDAHO

✓ PONDAGE ONLY -
The use to which said water has been applied is RECREATION & FISH PROPAGATION
PERMIT NO 25271 FOR IRRIGATION & DOMESTIC USE IS A COMPANION PERMIT.

The amount applied to beneficial use is 50 INCHES

The place where said water is used, give full and accurate legal description:

✓ H.E. #277, Lemhi County, Idaho - SEC. 24, T25N, R20E

The name of the canal or ditch or other works by which said water is conducted to such

place of use is HULL CREEK ABOVE RANCH KNOWN AS H.E. #277

The right to take water from such works is based upon Permit No. 25271

The source of supply from which such water is diverted is HULL CREEK

Point of Diversion (legal description) NW CORNER OF H.E. #277, ON HULL CREEK, APPROX. LOCATED SEC. 24, T25N, R20E, Homestead may extend over INTO SEC. 18, R21E (Unsurveyed lands.)
April 25, 1958

The date of priority which said user is prepared to establish is Nov. 12, 1954

GEO. V. LEARTER

State Reclamation Engineer

R-1028

Form No. 11

2M - 10/60

RECEIVED

MAR 16 1961

Department of Reclamation

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) _____

(P. O.) _____

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the

RECORDER HERALD of SALMON, Idaho published in

the county in which the works are situated.

Embi Co.

Clifford O. Cummings
Notary M. Cummings

(In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well known and competent engineer.)

I hereby certify that the facts set forth in the attached notice are true.

Engineer.

R-1028

November 25, 1960

REP Permit No. R-1028

Clifford O. Cummings
Box 124
North Fork, Idaho

Dear Mr. Cummings:

Enclosed are the form for making proof of completion of works and forms for notice of proof of application of water to beneficial use.

We believe the instructions are sufficient. You should see the Notary Public before setting the date for making the proof of beneficial use of the water to be sure he will be available at that time.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

RT:EPR:mr

Enc. Form 15-R, instructions
Notice of proof

R-1028

RECEIVED
NOV 25 1960

Department of Reclamation

Nov. 21, 1960

Engineer, Bureau of Reclamation
State House
Boise, Idaho

Dear Sir:

Wish to advise that we have completed the work on our dam and should like to know when we may obtain our water decree.

The dam is located on Homestead No. 277 at North Fork, Idaho on Hull Creek.

Thank you kindly for your early reply.

Yours truly,

Clifford O. Cummings

Clifford O. Cummings
P.O. Box 124
North Fork, Idaho

R-1028

R-1028

November 19, 1959

Re: Permit No. 25271
R-1028

Mr. Cliff Cummings
Arco, Idaho

Dear Cliff:

Thanks for your letter of November 16, 1959, advising that your dam had been brought up to specifications.

Inasmuch as the law requires that a dam must be inspected and approved by this department I will re-inspect it before license is issued on your Permit No. 25271.

If there are other inspections to make in the Salmon River Area this fall, I will get it at that time. Otherwise it will be rechecked next spring or summer.

Yours truly,

GEO. N. CARTER
State Reclamation Engineer

By:

E. N. HUMPHREY, Deputy
State Reclamation Engineer

ENH:ew

R-1028

November 19, 1959

Re: Permit No. 25271
R-1028

Mr. Cliff Cummings
Arco, Idaho

Dear Cliff:

Thanks for your letter of November 16, 1959, advising that your dam had been brought up to specifications.

Inasmuch as the law requires that a dam must be inspected and approved by this department I will re-inspect it before license is issued on your Permit No. 25271.

If there are other inspections to make in the Salmon River Area this fall, I will get it at that time. Otherwise it will be rechecked next spring or summer.

Yours truly,

GEO. N. CARTER
State Reclamation Engineer

By:

E. N. HUMPHREY, Deputy
State Reclamation Engineer

ENH:ew

25271

R-1028

Application for Amendment

POINT OF DIVERSION

Permit No. 24902

Comes now Robert W. Bennett of R. H. Bennett & Son
and represents to the State Reclamation Engineer of the State of Idaho:

~~That he is the owner and holder of Permit to appropriate the Public Waters of~~
~~the State of Idaho, No. 24902.~~

That the point of diversion is described in said Permit as being located:

1110' south and east from the NW corner of Sec. 12, in NW 1/4, Sec. 12, T 1 S-R 5 E.B.M.

That he now requests that the point of diversion be changed to a point
located: NW 1/4 Sec. 11, NE 1/4 SW 1/4, Sec. 14; NE 1/4 NW 1/4, Sec. 23, T 1 S-R 5 E.B.M.

~~That the reason for desiring to make such change is as follows:~~
~~Upon use of this for stock watering purposes only, it was found that the full head has to be~~
~~taken out at each of the points and the one point of diversion is not adequate, and was~~
~~improperly located on the original application.~~

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

Signed at Mountain Home, Idaho this 16 day of June, 1959

/s/ R. H. BENNETT & SON
By Robert W. Bennett

Date of Receipt at Department of Reclamation: June 23, 1959

APPROVAL OF STATE RECLAMATION ENGINEER

I, GEO. N. CARTER, State Reclamation Engineer of the State of
Idaho, hereby approve the above and foregoing application for amendment to Permit to
Appropriate the Public Waters of the State of Idaho, No. 24902. This approval
constitutes a new permit and is issued as an amendment to the original permit, to which
it refers and of which it becomes a part, and said application is approved only insofar
as the rights of others will not be adversely affected thereby.

/s/ Geo. N. Carter

State Reclamation Engineer

Recorded in Book 88 of
Permits, at Page 24902
June 26, 1959

24902

State Reclamation Engr.
Boise, Idaho

Attn: Mr. Humphrey

Dear Mr. Humphrey:

Nov. 16, 1959

Permit No. 252

RECEIVED
NOV 18 1959
Department of Reclamation

Wish to advise that our dam has been completed in accordance with your specifications. - Below is a sketch of the Dam site & Spillway. - Should you wish to inspect this before issuing the license, the road as yet is open to traffic. However, one does not know how long weather will permit road being open.

As you will note, we have 6 ft. of free board above high water line and the last feet is now 15 ft. wide on top.

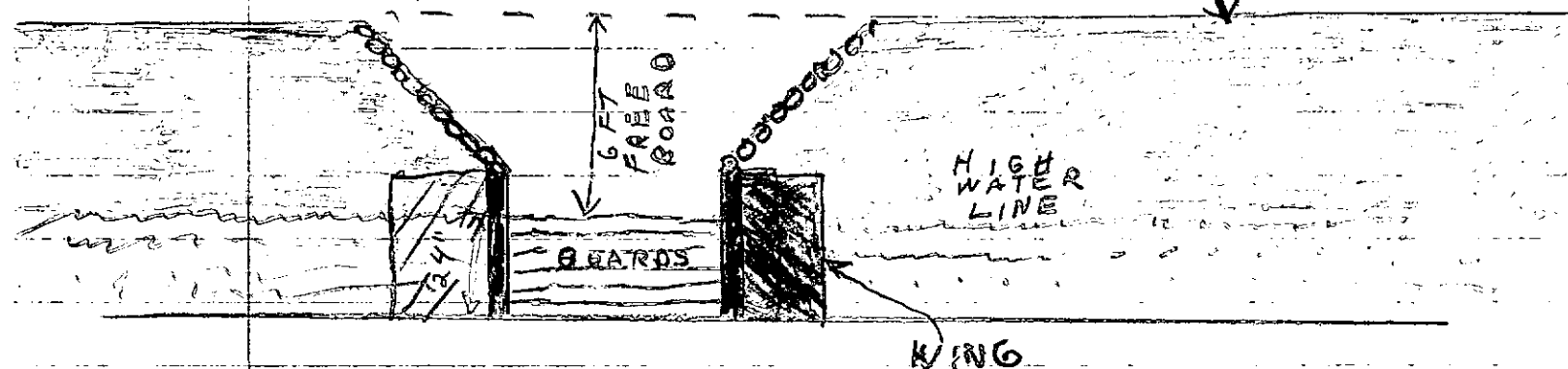
Looking forward to an early reply.

Yours very truly,

Cliff Cummings
Arco, Idaho

Cummings Dam & Spillway
as per your specification

15-FT
WIDE ROAD
TOP



R-1028

Sept. 1, 1959

Re: Permit No. R-1028

Mr. Richard Leicht
District Forest Ranger
North Fork Ranger Station
North Fork, Idaho

Dear Mr. Leicht:

I have been absent from the office almost continuously for some time on inspections, thus the delay in answering your letter.

In reply will say that I will be in that area before too long, and at that time will check Mr. Cummings dam. I will try to get in touch with you so that you may be present at time of inspection.

We appreciate your interest in this matter.

Yours truly,

GEO. W. CARTER
State Reclamation Engineer

By:

E. W. HUMPHREY, Deputy
State Reclamation Engineer

ENH:sw

cc: Clifford O. Cummings
Arco, Idaho

R-1028

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

SALMON NATIONAL FOREST

2710

8-12-59

State Reclamation Engineer
State Capitol Building
Boise, Idaho

Dear Sir:

Reference is made to permit map No. R-1028 as approved May 5, 1958 for Cummings Reservoir, issued to Mr. Clifford O. Cummings, of Arco, Idaho and North Fork, Idaho.

Since this reservoir concerns National Forest Land I am interested that Mr. Cummings follows the State Engineer's requirements.

At the present time Mr. Cummings does not have the necessary freeboard of 5'. He has inserted splashboards in the spillway and has a freeboard of 2' or less.

I would very much like to meet with a representative of your office and Mr. Cummings and inspect the dam.

Very truly yours,

/s/ Richard Leicht

Richard E. Leicht,
District Forest Ranger
North Fork Ranger Station

RL/sg

(Copy)

R-1028

May 16, 1958

Re: Permit No. 25271
Permit No. R-1028

United States Department of Agriculture
Forest Service
Salmon National Forest
North Fork, Idaho

Attention: D. I. Marsolek

Dear Mr. Marsolek:

Enclosed find an approved set of plans for a dam on Hull Creek
constructed by Clifford O. Cummings.

Inspection was made and these plans have been approved by the
State Reclamation Engineer.

Very truly yours,

MARK R. KILP
State Reclamation Engineer
By

E. M. Humphrey
Deputy State Reclamation Engineer

ENH:lw
Enclosures
cc: Mr. Clifford O. Cummings
Rt. # 1,
Arco, Idaho

R-1028

May 15, 1958

Re: Permit No. R-1028

Mr. Clifford O. Cummings
Rt. # 1,
Arco, Idaho

Dear Mr. Cummings:

We enclose Permit No. R-1028, in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

We also enclose departmental receipt No. 29086, which was issued covering payment in the amount of \$5.00 for the filing fee of the above mentioned permit.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Mrs. Edna P. Rutledge
Chief Clerk

EPR:lw
Enclosures

R-1028

RECEIVED
APR 25 1958
Department of Reclamation

April 23, 1958

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

Attention: Mr. E. N. Humphrey, Deputy
Re: Application for Permit

Dear Mr. Humphrey:

Thank you for your letter of April 22nd together with the completed application form and plans. I have gone over these and find them to be as we discussed. I am returning the signed application and plans.

I have engaged a dozer and a five-foot freeboard is being constructed now. This job will be completed by Saturday, April 26th in accordance with your suggestions.

Thank you kindly for your cooperation in this matter.

Sincerely yours,

Cliff Cummings

Clifford O. Cummings
Rt. 1, Box 1
Arco, Idaho

*P.S. Also enclosed is our check for \$5.00
for filing fee.*

R-1028

April 22, 1958

Re: Application for Permit

Mr. Clifford Cummings
Route #1
Arco, Idaho

Dear Mr. Cummings:

I have made out an application form about like I feel you desire.

Read this over very carefully and check everything closely to make certain there are no mistakes.

You can sign both your names as applicant and you as agent, or you should both sign.

As soon as this application has been returned and with plans approved, then a letter of approval can be sent to the Forest Service as per their request.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E.N. Humphrey
Deputy

ENH:vm
Enclosures 3

R-1028

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SALMON NATIONAL FOREST



RECEIVED
AUG 13 1959
Department of Reclamation

R-1028

2710

8-12-59

State Reclamation Engineer
State Capitol Building
Boise, Idaho

Dear Sir:

Reference is made to permit map No. R-1028 as approved May 5, 1958 for Cummings Reservoir, issued to Mr. Clifford O. Cummings, of Arco, Idaho and North Fork, Idaho.

Since this reservoir concerns National Forest Land I am interested that Mr. Cummings follows the State Engineer's requirements.

At the present time Mr. Cummings does not have the necessary freeboard of 5'. He has inserted splashboards in the spillway and has a freeboard of 2' or less.

I would very much like to meet with a representative of your office and Mr. Cummings and inspect the dam.

Very truly yours,

Richard E. Leicht,
District Forest Ranger
North Fork Ranger Station

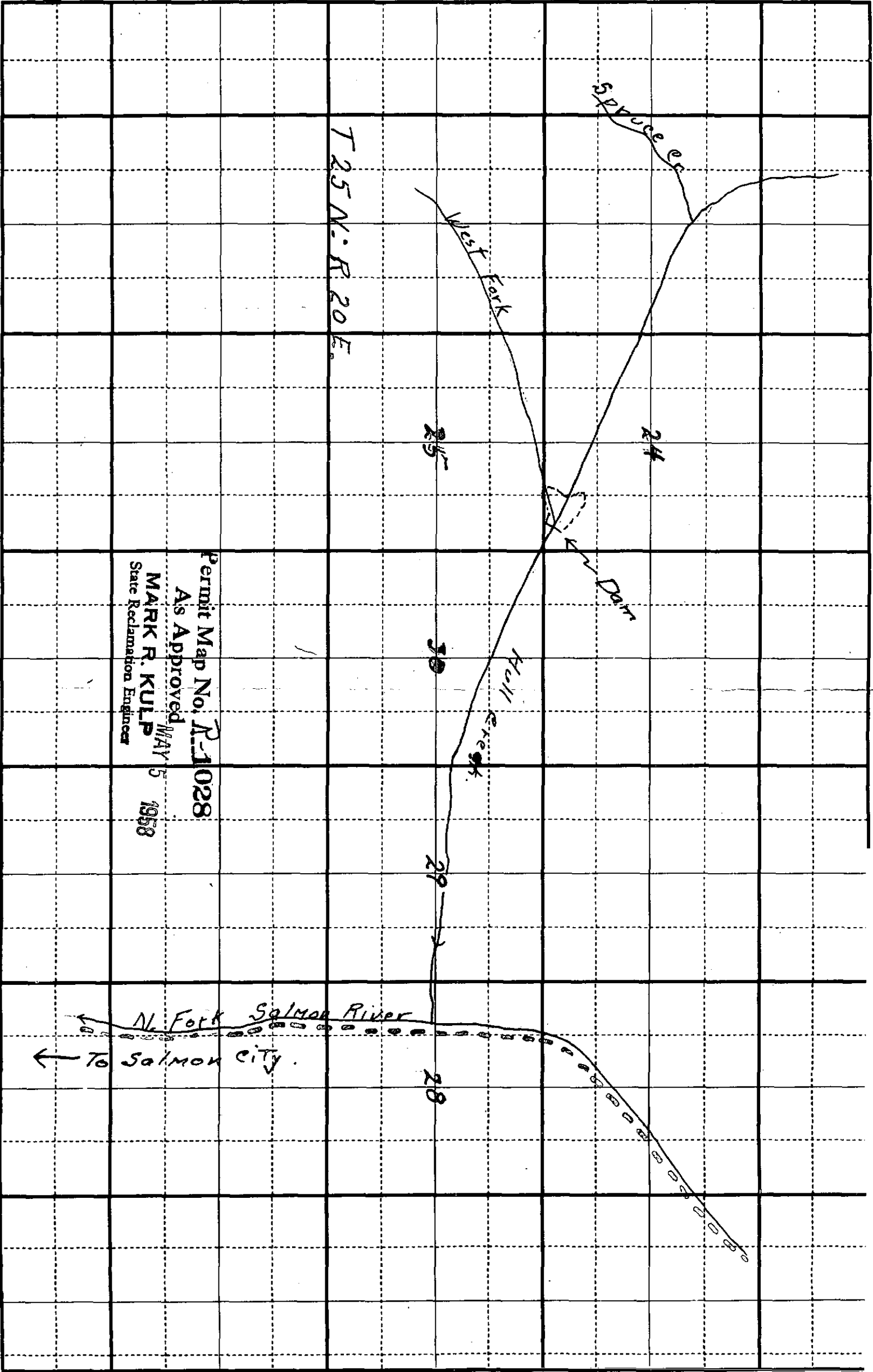
RL/sg

R-1028

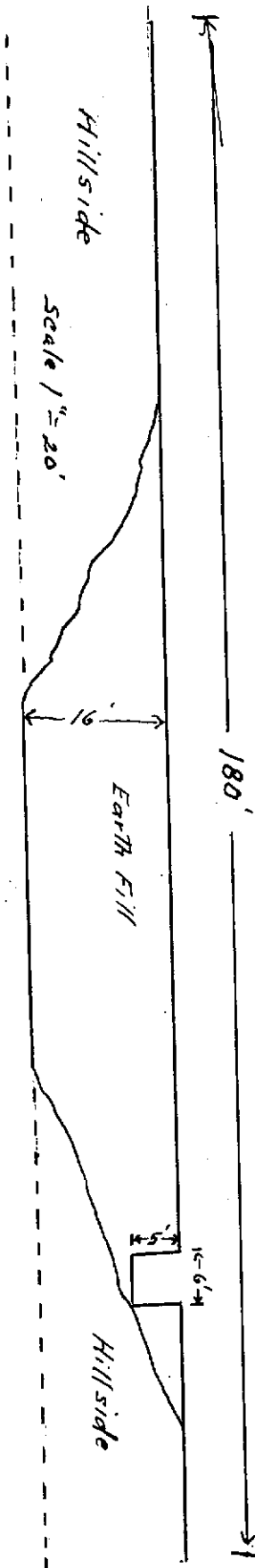
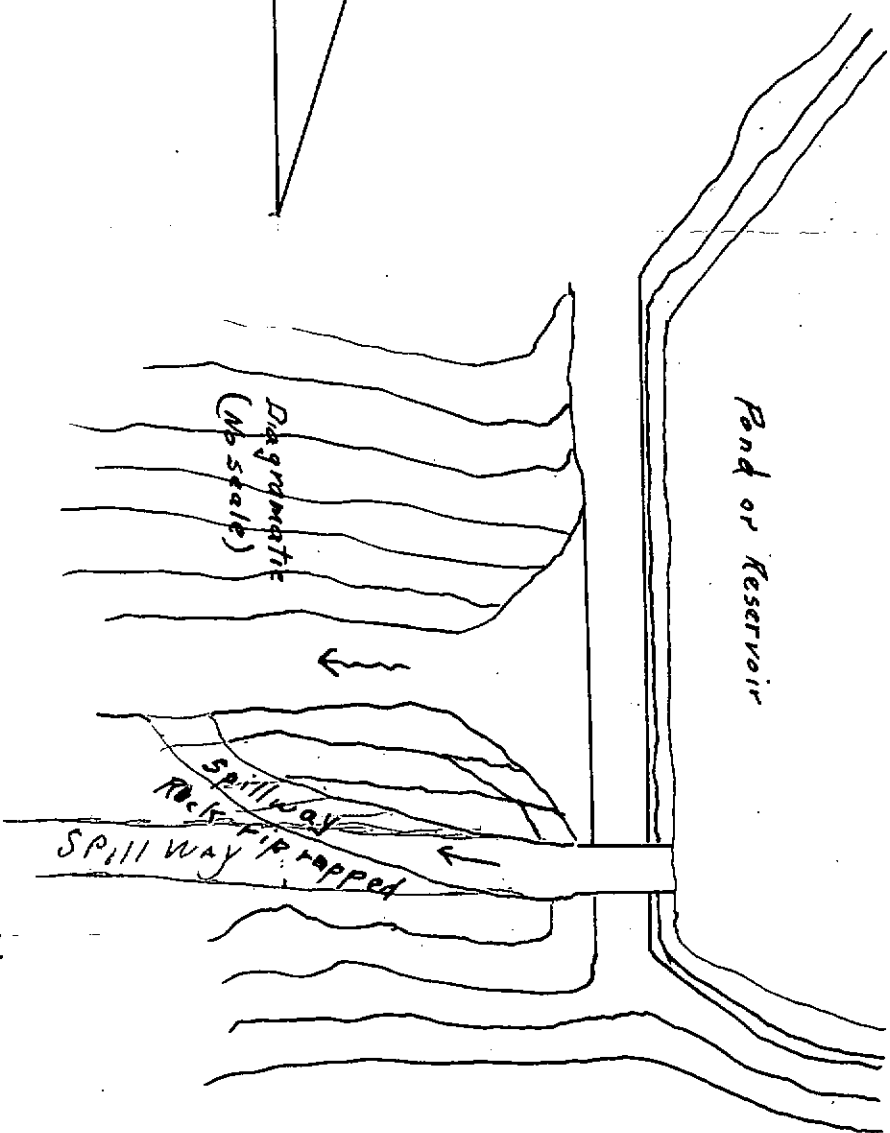
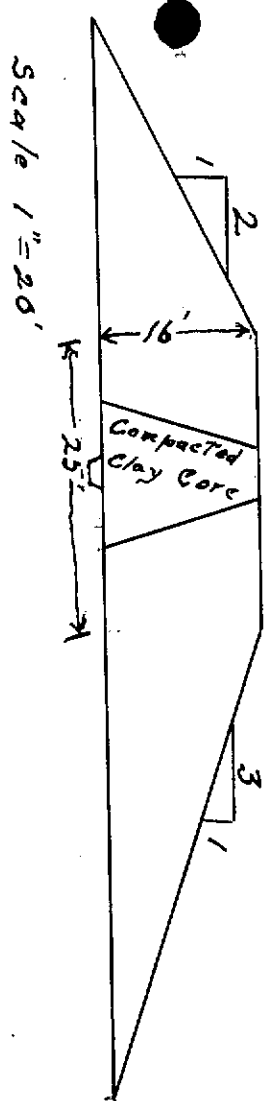
COLUMBIA INTERSTATE COMPACT COMMITTEE

WASHINGTON MONTANA
IDAHO
OREGON WYOMING

OFFICE OF THE SECY.-TREAS.
107 STATE CAPITOL
BOISE, IDAHO



Cross Section (Vertical)



Free board = 5'-
 Rip Rap on
 Dam Face = unnecessary

Permit Map No. **P-1028**
 AS Approved
MARK R. KULP
 State Reclamation Engineer
 MAY 5 1958

Cummings Reservoir
 Dam Plan
 This is complete as
 shown

P-1028

**NOTICE OF PROOF OF APPLI-
CATION OF WATER TO BENE-
FICIAL USE**

Notice is hereby given that at 10:00 A. M. on the 1st day of May, 1961, at Salmon, County of Lemhi, State of Idaho, before Roy L. Frazier, proof will be submitted of the application to beneficial use of 50 acre feet per annum of the waters of Hull Creek in accordance with the terms and conditions of Permit No. R-1028 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Clifford O. and Nancy M. Cummings, P. O. Box 124, North Fork, Idaho.

The use to which said water has been applied is pondage only—recreation and fish propagation. Permit No. 25271 for irrigation and domestic use is a companion permit.

The amount applied to beneficial use is 50 inches.

The place where said water is used, give full and accurate legal description: H. E. No. 277, Lemhi County, Idaho, Sec. 24, T. 25 N., R. 20 E.

The name of the canal or ditch or other works by which said water is conducted to such place of use is Hull Creek above ranch known as H. E. No. 277.

The right to take water from such works is based upon Permit No. 25271.

The source of supply from which such water is diverted is Hull Creek.

Point of Diversion (legal description) NW corner of H. E. No. 277 on Hull Creek, approximately located Sec. 24, T. 25 N., R. 20 E., homestead may extend over into Sec. 18, R. 21 E. (unsurveyed lands).

The date of priority which said user is prepared to establish is April 25, 1958.

GEO. N. CARTER

State Reclamation Engineer
No. 113 3-23 to 4-12 4tc