

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LAMHI

It appearing, in the following cases, that there has been no
action taken for more than one year; or it appearing there is no
action now pending; or upon Motion of Counsel:

- No. 4175 Lipe vs. Benedict
(Passed Motion of counsel for plaintiff)
- No. 4065 England vs. Pachmayr, et al
(Passed by the Court as settled)
- No. 4233 Appeal on Water Permits Nos. 25271 & 1-1200, Clifford O.
Cummings, Holder.
(Dismissed under Rule 79)
- No. 4283 Larry M. Bell vs. Linda M. Bell
(Dismissed by Motion of Counsel for plaintiff)
- No. 4296 Albert Ziems, et ux vs. Ivan Heddington, et ux
(Passed pending settlement)
- No. 4299 Linda M. Bell vs. Larry M. Bell
(Dismissed by Motion of counsel for plaintiff)
- No. 4320 Snake River Equipment Co. vs. Arden Westfall
(Passed -- to be on Pre-Trial calendar)
- No. 4322 William M. Knighton vs. Evelyn Knighton
(Passed to be on Pre-Trial calendar)
- No. 4333 Maxine Richards vs. Kay Richards
(Dismissed by Motion of Counsel for plaintiff)
- No. 4330 Bonnie Lindgren vs. Larry J. Lindgren
(Dismissed by Motion of Counsel for plaintiff)
- No. 4342 Commercial Accounts Servicing vs. Glen Bedal
(Passed -- Absence of counsel for plaintiff)

It was therefore ordered that these cases be passed or other-
wise stricken from the calendar.

DATED this 14th day of February, 1968.

Ezra Monson
District Judge

Attest: *Vern Adams*
Clerk

Marjorie Butler, Deputy
Dean Hyland, Proceedings
Page 206

40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

The Spring Term of District Court opened the 14th day of March, 1968, with the Honorable Arnold T. Beebe, District Judge, presiding. The Court then proceeded with the call of the calendar. It appearing that the following case was dismissed without prejudice by stipulation of counsel:

No. 4164 In The Matter Of Hearing On William Hill-Leadore-Permit #23701

The Court ordered the case dismissed

Dated this 14th day of March, 1968.

Attest:

Eleanor Aldous
Clerk

Arnold T. Beebe
District Judge

75-2125

25271

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
AND FOR THE COUNTY OF LEMHI

BERTHA N. ROSE, SUSIE E. SHOUP,
EDGAR S. EDWARDS, ANNA WRIGHT,
ETTIE S. SUYDAM, and ETHEL E.
BUNDY,

Plaintiffs,

EVA D. WEBB, FRANK MALCOLM,
JAMES R. HIBBS, ADOLPH MAGNUSON,
JOHN A. BRUNNET, LOUIS S. STONE,
WILLIAM A. ANDERS, WILLIAM REYNOLDS,
EMERSON HILL, FRANK GLENNON,
HANS LAUESON, JOHN WEBB, J. FRANK
HIBBS, LINDA M. REYNOLDS, MYRTLE
REYNOLDS,

Defendants.

DECREE

This cause having come on to be heard on the 1st day of October, 1940, before Honorable Guy Stevens, Judge of the above entitled Court, sitting without a jury, E. H. Casterlin appearing as counsel for the plaintiffs, Lot L. Feltham appearing as counsel for the defendants J. Frank Hibbs, Linda M. Reynolds, and Myrtle Reynolds, Preston Thatcher appearing as counsel for the defendants John Webb and Eva D. Webb, Fred Snook appearing as counsel for the defendants Emerson Hill, Frank Glennon and Hans Laueson, the default of the remaining defendants having been duly and regularly entered, and the Court having heard the testimony and the evidence and the stipulation and confession of facts made in open court, and the Court being fully advised in the premises and having made and entered herein, in writing, Findings of Fact and Conclusions of Law, and having ordered decree herein in conformity therewith;

Now, therefore, by reason of the law and the premises, it is ORDERED, ADJUDGED AND DECREED as follows:-

1.

That Wallace Creek is a natural stream of water located in Lemhi County, State of Idaho, flowing into the Salmon River at a point in Township 22 North of Range 22 East of the Boise Meridian, the waters of which are subject to appropriation and beneficial use.

2.

That J. Frank Hibbs is entitled to the right to the use of 29 inches or 29/50th cubic feet per second of time of the continuous flow of the waters of said Creek, dating from May 15, 1898, for domestic and agricultural purposes on and appurtenant to Lots numbered 8, 11 and 13 of Section 6 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the following points of diversion, to-wit:- (1) at a point on the north bank of Wallace Creek 690 feet, approximately, downstream from the SE corner of the NE $\frac{1}{4}$ of said Section 6; (2) at a point on the south bank of said Creek 900 feet, approximately, upstream from the SE corner of said Section 6; (3) at a point on the north bank of said Creek 1690 feet, approximately, downstream from the SE corner of said Section 6.

3.

That Susie E. Shoup, Edgar S. Edwards, Anna Wright, Ettie S. Suydam and Ethel E. Bundy are entitled to the right to the use of 40 inches or 40/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1902, for domestic and agricultural purposes on and appurtenant to the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and Lots numbered 3, 4 and 9 of Section 6 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion on the north bank of said Creek at or near what has for years been known as the Old Arrastre.

4.

That Bertha N. Rose is entitled to the right to the use of 83 inches or 1.66 cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to the SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and Lot number 9 of Section 18 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion on the south bank of the south fork of said Creek on the Specie Payment Placer Claim about where it is crossed by the Tom Big Bee quartz Claim.

5.

That John Webb is entitled to the right to the use of 22 $\frac{1}{2}$ inches or 22.5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to that part of Lot numbered 5 of Section 18, Township 22 North, Range 22 East Boise Meridian described as beginning at the southwest corner of said Lot 5 and run thence North 556 feet; thence East 1076 feet to the west bank of the Salmon River; thence southeasterly along said bank 593 feet, more or less, to the southerly line of said Lot 5; thence West 1282 feet to the place of beginning, containing 15 acres more or less, in Lemhi County, Idaho, to be measured at the point of diversion on the south bank of the south fork of said Creek about $\frac{3}{4}$ miles from the mouth of said Creek.

6.

That Eva D. Webb is entitled to the right to the use of 22 $\frac{1}{2}$ inches or 22.5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to Lots numbered 9 and 11, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot 5 of Section 18, Township 22 North, Range 22 East Boise Meridian in Lemhi County, Idaho, to be measured at the point of diversion mentioned in Paragraph 5 herein above.

73-2125

25271

7.

That Linda M. Reynolds and Myrtle Reynolds are entitled to the right to the use of 5 inches or 5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek for domestic purposes and 100 inches or 2 cubic feet per second of time of the continuous flow of the waters of said Creek for mining purposes, all dating from March 1, 1931, for such use on and appurtenant to the Gold Nugget Placer Mining Claim, amended location notice of which is of record in Book Z of Mining Claims at page 131 thereof, records of Lemhi County, Idaho; and the right to the use of 100 inches or 2 cubic feet per second of time of the continuous flow of the waters of said Creek, dating from August 20, 1934, for mining purposes on and appurtenant to the Roosevelt Placer Mining Claim, location notice of which is recorded in Book W of Mining Claims at page 588 thereof, records of Lemhi County, Idaho; the said water to be measured at the point of diversion on the north bank of the south fork of said Creek below the point of diversion of Bertha N. Rose; PROVIDED, however, that all of said water shall be used on the watershed of said Creek and in such manner and at such places that the same will return or will be returned to the bed of said Creek, without diminution, above the next lower point of diversion for the unimpaired use of the other parties hereto as herein provided and determined.

8.

That Emerson Hill, Frank Glennon and Hans Laueson are entitled to the right to the use of 50 inches or 1 cubic foot per second of time of the continuous flow of the waters of said Creek, dating from August 7, 1931, for milling purposes on and appurtenant to the Last Chance No 1 to 9, inclusive, lode mining claims in the Eureka Mining District in Section 14, Township 22 North, Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion as now established and existing on the south bank of the south fork of said Creek.

9.

That the agricultural appropriators above named have used on their respective lands and premises above described, during each and every irrigation season, all of the high waters of said Creek in the proportion of their respective decreed rights, dating from March 1, 1931, and that the right of said appropriators to the use of the said high waters in said manner is hereby decreed to each.

10.

That the Queen Gulch, so-called, is a natural water course which is used by the defendants Bertha N. Rose, John Webb and Eva D. Webb as a part of their respective irrigation systems, and that each of said defendants is entitled to take from said natural water course only the amount of decreed water which each places therein, the same to be determined by measuring devices of recognized design placed at the points where each defendant discharges decreed water into said Queen Gulch and at the points where each of said defendants takes decreed water therefrom; and, that if there is not flowing in said Queen Gulch sufficient water for each of said defendants to take out the full amount of water each has placed therein, the loss shall be sustained by each defendant in the proportion to the amount of decreed water each has measured into said Queen Gulch above.

11.

That the defendants Frank Malcolm, James R. Hibbs, Adolph Magnuson, John A. Brunney, Louis S. Stone, William A. Anders and William Reynolds have no right whatsoever to the use of any of the waters of said Wallace Creek.

12.

That each and every of the parties to this action, their employees, agents, attorneys and all persons acting in aid of them, or any of them, be, and they are hereby perpetually restrained and enjoined from in any manner whatsoever interfering with the rights of any other party to this action, as the same are herein and hereby adjudicated, and that each party hereto shall pay his or her own costs and disbursements incurred herein.

Done and dated this 27th day of January 1941.

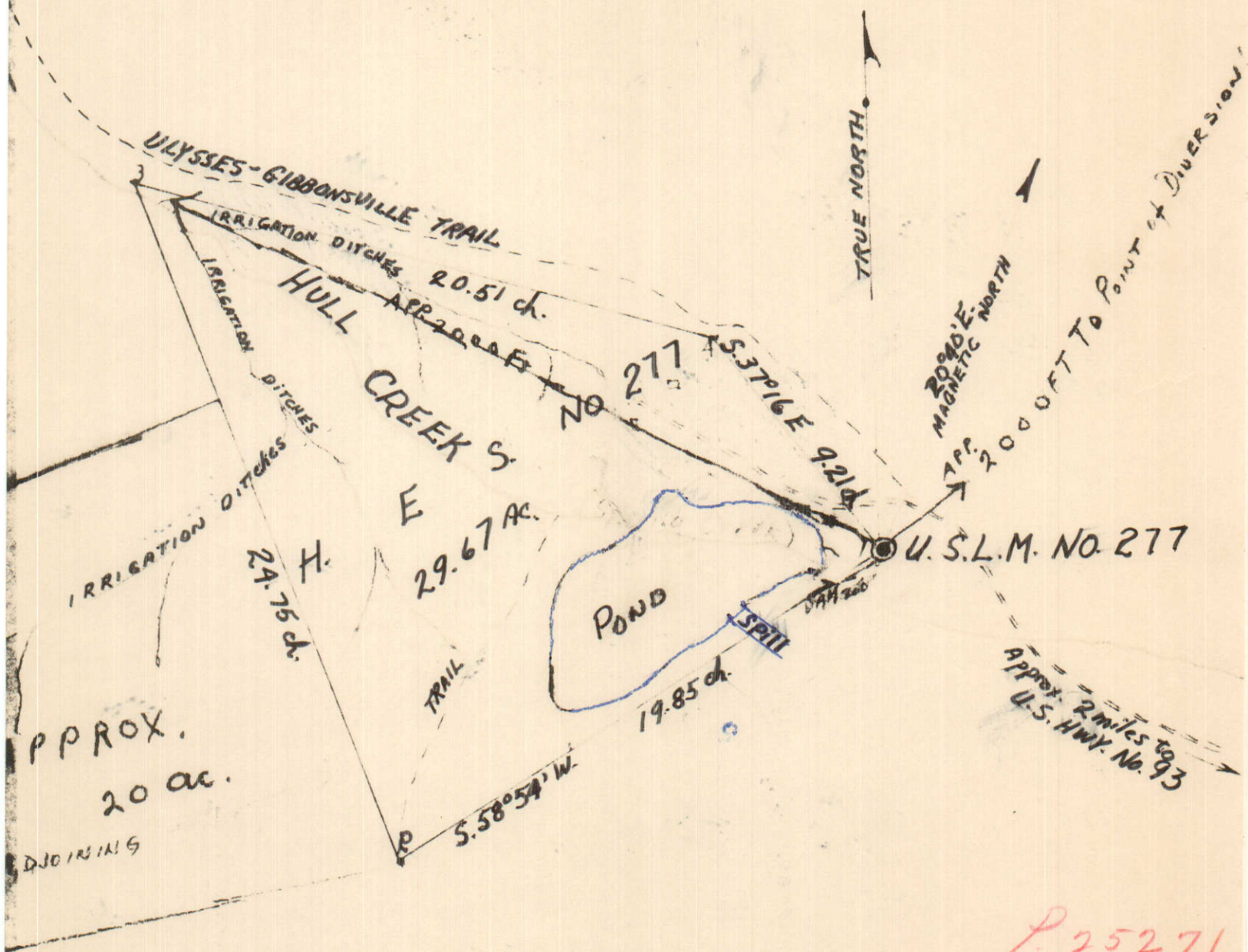
Guy Stevens
District Judge.

Filed & Entered February 1, 1941
W. W. Simmonds, Clerk
By Margaret Shoup, Deputy
Judgment Book D, pages 456-457

75-2125

25271

APPLICANT: CLIFFORD O. & NANCY M. CUMMINGS



Permit Map No. 25271
As Approved
Nov. 27
MARK R. KULP
State Reclamation Engineer

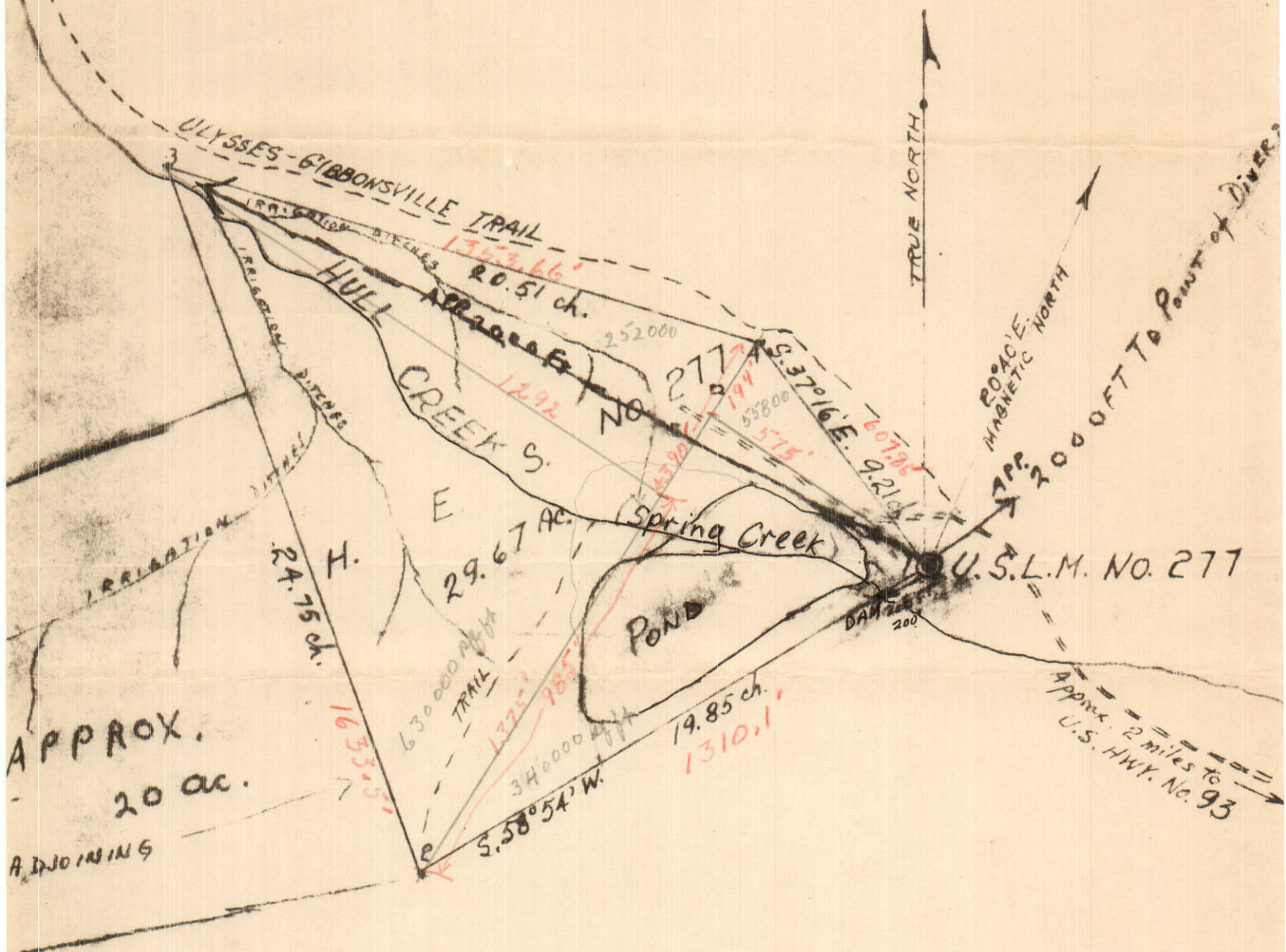
Approximate
T. 25 N., R. 20 & 21 E
Unsurveyed.

75-2125
P-1028

1 chain = 66'

O. & NANCY M. CUMMINGS

29.3 acres total

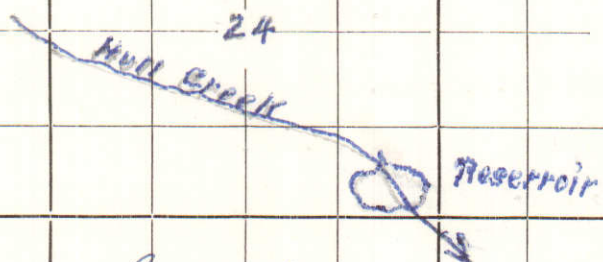


metzker map shows it all in S. 24.
land is unsurveyed.

Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

Permit Map No. 25271
As Approved
NOV 27 1951
MARK R. KULP
State Reclamation Engineer

Trwp 25 N. Rge 20 E



Subdivisions =

Area = { 8 acres irrigated
8 " pond (approx)

Q = { 8 " irrig.
4 2 " maintain pond.
fresh for fish

**NOTICE FOR PUBLICATION
NOTICE OF PROOF APPLICATION
OF WATER TO BENEFICIAL USE**

Notice is hereby given that at 10:00 A.M. on the 8th day of August, 1958, at Arco, County of Butte State of Idaho, before Ed L. Gaudmer, Arco, Idaho, proof will be submitted of the application to beneficial use of one cubic foot per second of the waters of Hull Creek in accordance with the terms and conditions of Permit No. 25271 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. & Nancy M. Cummings, Rt. 1, Box 1, Arco, Idaho.

The use to which said water has been applied is Irrigation and fish Culture.

The amount applied to beneficial use is .80 cfs for irrigation and .20 cfs for fish culture.

The place where said water is

used (if for irrigation, give full and accurate description of the lands irrigated) Homestead Entry No. 277—Section 24, T 25 N Range 20 and 21, EBM, County of Lemhi, Idaho.

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

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

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

GEO. N. CARTER

State Reclamation Engineer
7-10 4tc

Affidavit of Publication

STATE OF IDAHO }
County of Lemhi, } ss.

KEITH BARRETT, 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 APPLICATION OF WATER TO BENEFICIAL USE 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 consecutive issues, commencing with the issue dated July 10, 1958 and ending with the issue dated July 31, 1958.

Keith Barrett

Subscribed and sworn to before me, this 11th
day of October, 1958

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

Publication Fee \$ 19.80

25271

page 1.

North Fort, Ida.
July 31-58

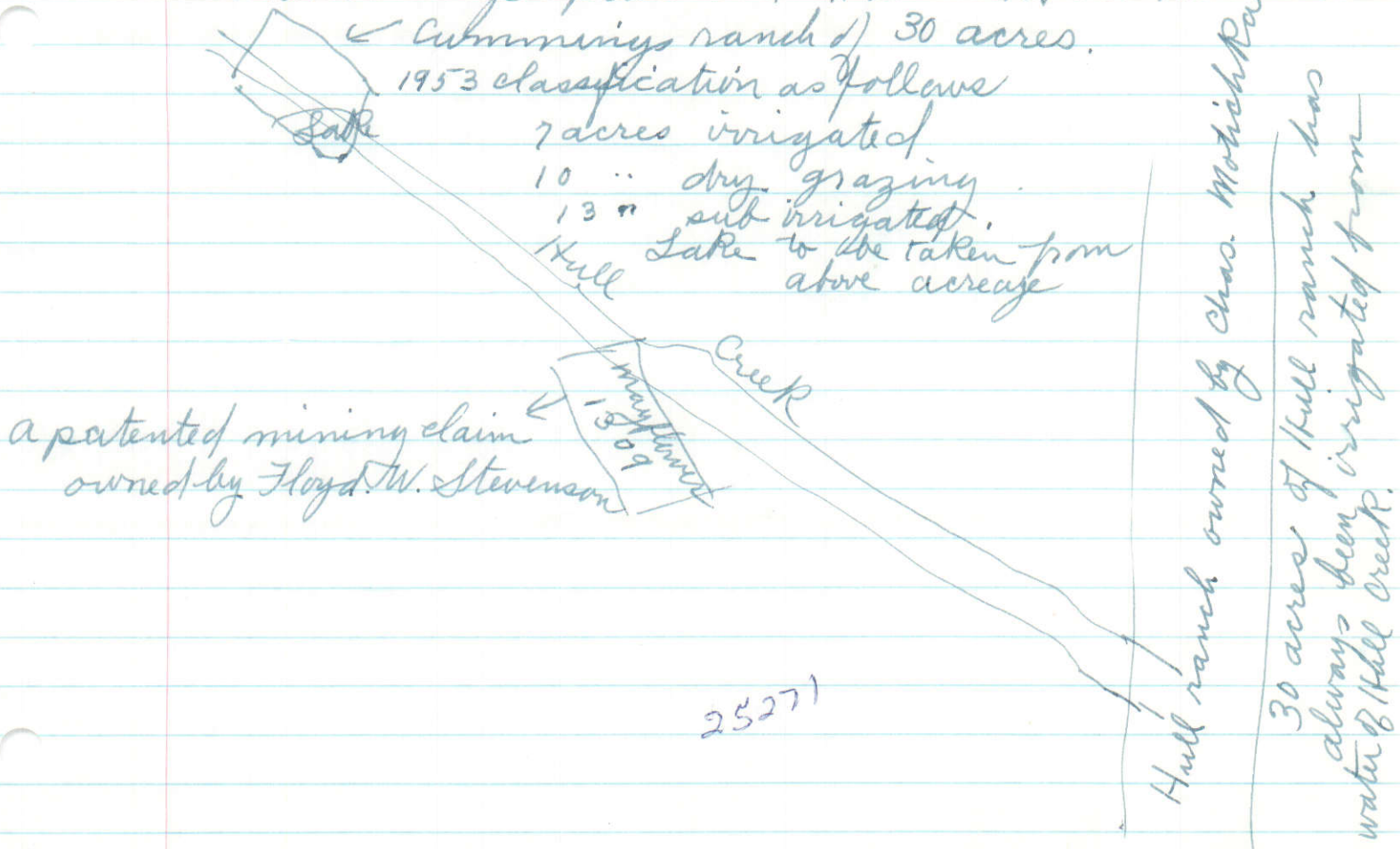
Mr. Geo. H. Carter
State Reclamation Engineer
Boise, Ida.

RECEIVED
AUG 4 1958
Department of Reclamation

Dear Sir:-

This is more information on the C. O. Cummings place up on Hull Creek where he and Nancy M. Cummings (wife) are trying to get decree on water of Hull Creek. We wrote you July 25-58 stating we were opposing them getting decree as we have been here 36 years and can witness that Hull ranch needs all this water for irrigation & has had users right to it since Homesteaded.

The following is an approximate picture of the Cummings place and Hull Creek & our ranch.



NOTICE FOR PUBLICATION
 NOTICE OF PROOF APPLICATION OF WATER
 TO BENEFICIAL USE

RECEIVED
 JUN 26 1958
 Department of Reclamation

Notice is hereby given that at 10:00 A. M. on the 8th day of August, 1958,
 at Arco, County of Butte, State of Idaho, before
Ed. L. Gaumer, proof will be submitted of the
 application to beneficial use of one cubic feet per second of the waters of Hull Creek
 in accordance with the terms and conditions of Permit No. 25271
 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. & Nancy M. Cummings, Rt. 1, Box 1, Arco, Idaho

The use to which said water has been applied is

The amount applied to beneficial use is Irrigation and fish culture

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated)
80 cfs for irrigation and 20 cfs for fish culture

Homestead Entry No. 277 - Section 24, T 25 N Range 20 and 21, EBM, County of
Lenhi, Idaho

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

The right to take water from such works is based upon Permit No. 25271
Hull Creek and springs on my property

The source of supply from which such water is diverted is 25271 Hull Creek

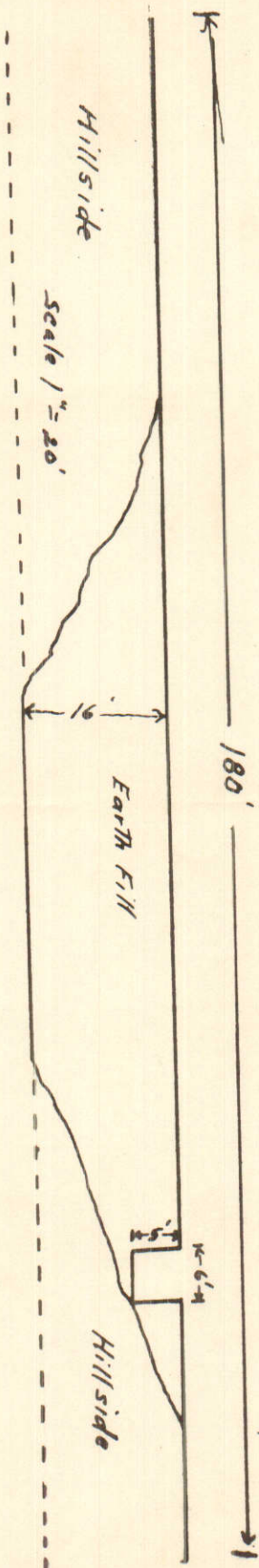
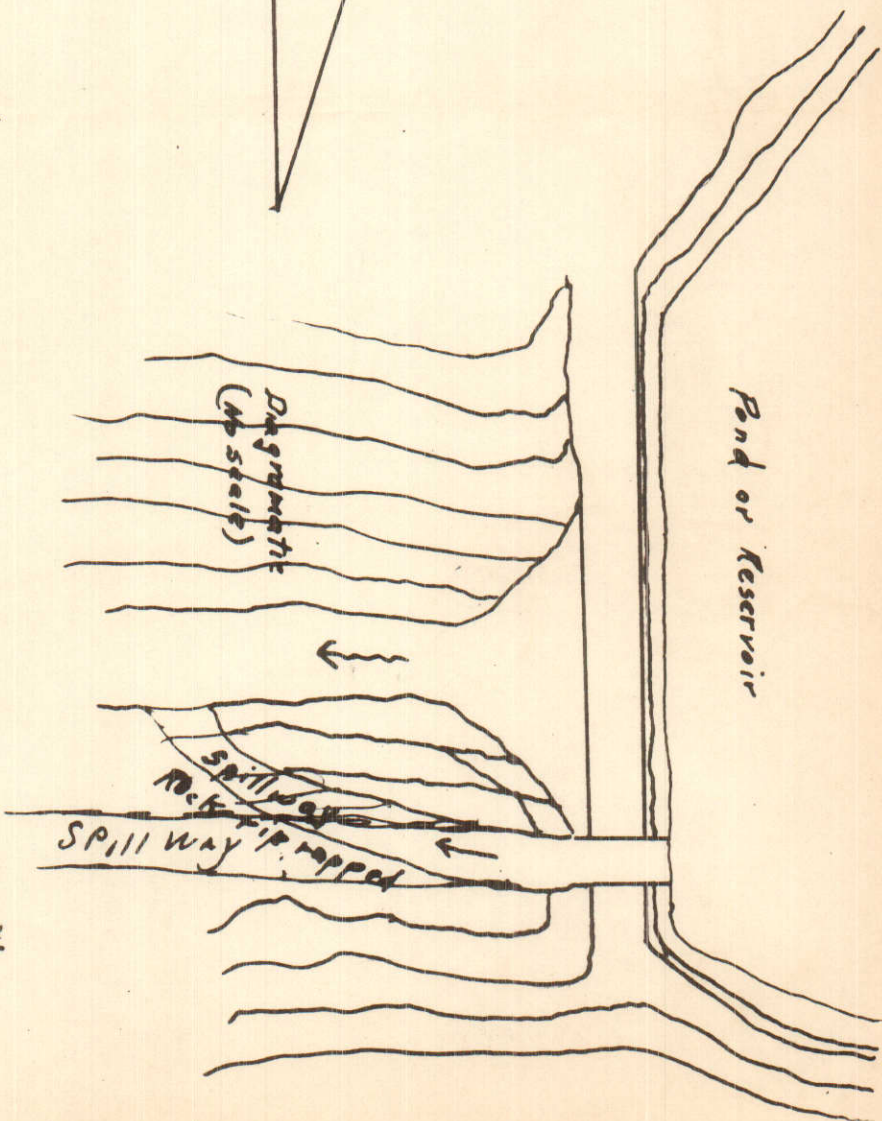
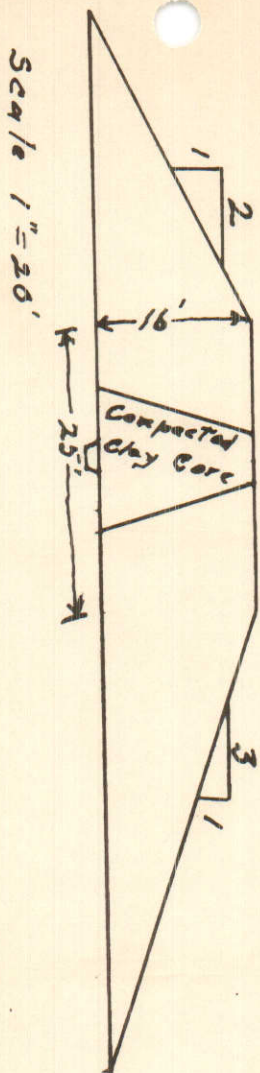
The date of priority which said user is prepared to establish is Nov 12 1954

State Reclamation Engineer.

25271

Clifford O. Cummings

Cross Section (Vertical)



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

Permit Map No. R-1028

As Approved

MARK R. KULP
State Reclamation Engineer

Complete

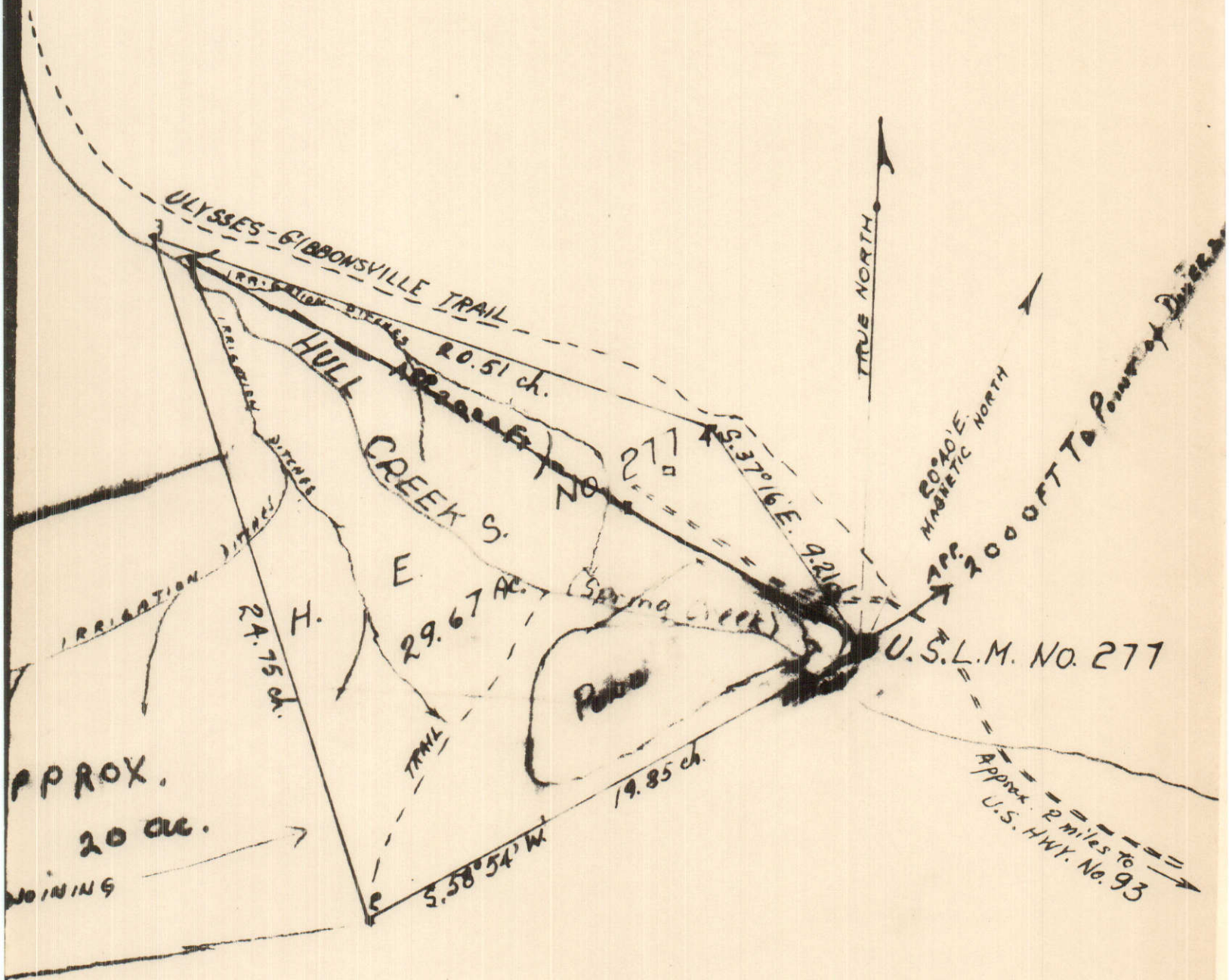
Cummings Reservoir

Dam Plan

This is complete as shown

25271

APPLICANTS: CLIFFORD O. & NANCY M. CUMINGS

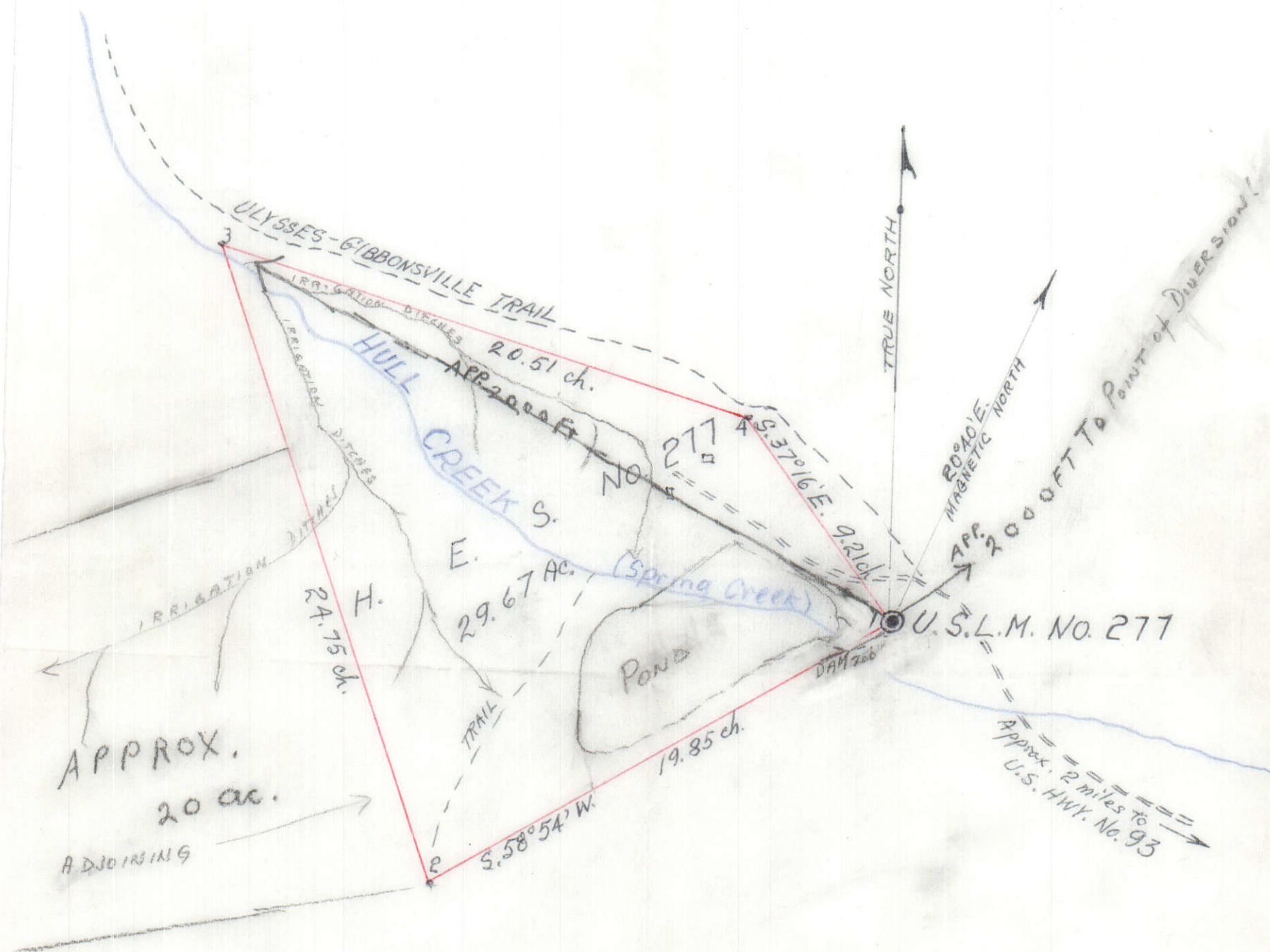


Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

Permit Map No. 25271
As Approved
NOV 27 1954
MARK R. KULP
State Reclamation Engineer

25271

APPLICANTS: CLIFFORD O. & NANCY M. CUMMINGS



Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

from U.S. BLM records.
AP # 11-27-54

Permit Map No. **25271**
As Approved
NOV 27 1954
MARK R. KULP
State Reclamation Engineer

25271

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, Tp. 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)

25
75-212

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 33115
PERMIT No. 25271
DISTRICT No.

Clifford O. Cummings
Route 1,
Arco, Idaho

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

Postoffice 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:

See G.M.C. Notarize Jacket

II. The financial resources of the applicant are:

(b) Treasury stock:

(d) Other resources:

(a) Cash on hand:

(c) Bonds to be issued:

2. Quantity of water claimed: one cubic feet per second.

.80 c.f.s. for irrigation and .20 c.f.s. for fish culture, (Pond use)

3. Source of water supply: Hull Creek

which is a tributary of Salmon River

4. Location of point of diversion: See Remarks,
Approx. 10

feet distant from the NW

corner of Section 24, T. 25 N., R. 20 & 21 E., B. M., and is in the Homestead Entry No. 277

of Section 24, T. 25 N., R. 20 & 21 E., B. M., County of Lemhi

5. Water is to be used for Irrigation & Fish Culture

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

(a) Point of use of water: = for fish culture, on H. E. S. No. 277
feet distant from corner of Section

T. , R. , B. M., in the approx. of Section 24, T. 25 N., R. 20 E., B. M.

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

(c) Water is to be returned to at a point feet

distant from the corner of Section, T. , R. , B. M., in the
of Section, T. , R. , B. M.

7. Estimated cost of works: \$ 500.00

8. Kind of works: Ditch, Flume Pipe & Dike

9. Height of dam Approx. 8 feet; length of dam at top Approx. 60 feet; length of dam at bottom Approx. 20 ft.

feet; material used in dam: Clay, Dirt & Stone & Rip rap

10. Size of headgate: Width 2 feet; height 2 feet.

11. Ditch: Width at bottom 2 feet; width at water line 3 feet; depth of water 6" feet

Dimensions of flume: 2 ft.

Diameter of pipe 24 inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is Three years.

13. The time required for the complete application of the water to the proposed use is 1 additional year.

14. The land to be irrigated is described in the following tabulation: See remarks.

15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: None

16. (a) Is reservoir to be used? If so, fill in (b) and (c) below:
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT The undersigned hereby makes application for permit to appropriate the public water of the State of Idaho as herein set forth.

CLIFFORD O. CUMMINGS
NANCY M. CUMMINGS Applicant.

By Agent.

Date of first receipt at Department of Reclamation: 9:00 A.M. Nov. 12, 1954

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 25271
Recorded in Book 89 Page 25271 Approved Nov. 27, 1954
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
Bond in the sum of \$ to be filed on or before
Work to begin on or before January 27, 1955 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before May 27, 1956
The whole of said work to be completed on or before November 27, 1957
Beneficial use of water appropriated in accordance herewith, to be made on or before November 27, 1958

WITNESS My hand this 27th day of November 1954

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, LEN JORDAN, Governor of the State of Idaho, and IRA H. MASTERS, 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 27th

day of November, 1954.
Countersigned:

(SEAL) By IRA H. MASTERS Secretary of State. By LEN JORDAN Governor.

REMARKS: Point of diversion for irrigation, located in the North-west corner of H.E.S. No. 277, Point of diversion for dam and pond located on Hull Creek, is in the lower right hand corner of H.E.S. No. 277 which is approximately located in Section 24, Twp. 25 N. R. 20 E. Homestead may extend over into Section 18, Range 21 E. (Un-surveyed lands,)

14.

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 $\frac{1}{4}$	
25 N.	20&21	24																	(See Sketch)
25 N.	20 E.	24	Acreage located in H.E.S. No. 277, Acreage located, adjoining H. E. S. No. 277 on the West																30 20
Total Number of Acres to be Irrigated																	Approx 50		
Permit No. 25271																			
Certificate of Completion of Works																			
TO ALL WHOM IT MAY CONCERN:																			
This is to certify that CLIFFORD O. & NANCY CUMMINGS of Route # 1, Arco, County of Butte, and State of Idaho, the holders of Permit No. 25271, issued upon Application No. 33115 bearing date of priority of November 12, 1954, authorizing the diversion of 1.0 second feet of the waters of Hull Creek County of Lemhi, State of Idaho, for Irrigation and fish culture purposes, have fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 1.0 second feet of the waters of Hull Creek that the point of diversion of said waters NE corner of Homestead Entry No. 277, and for dam and pond - lower right hand corner of Homestead Entry #277 and 20 acres adjoining Homestead Entry #277 on the West. Proof of Completion of Works made: September 10, 1957.																			
Witness my hand this 7th day of October, A.D. 1957																			
/s/ Mark R. Kulp State Reclamation Engineer																			
Proof of Completion of Works made: September 10, 1957 Certificate of Completion of Works issued: October 7, 1957.																			
/Section 24, Township 25 North, Range 20 East, B.M. and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: 50 acres in Township 25 North, Range 20-21 East, Section 24, 30 acres in Homestead Entry #277																			
LICENSE IS																			

WATER RIGHT NUMBER 75-2125

OWNER LAST NAME - CUMMINGS
OWNER LAST NAME - CUMMINGSFIRST NAME - CLIFFORD O.
FIRST NAME - NANCY M.ORIG OWNER -
ORIG OWNER -**VERIFIED LGS**ADDRESS LINE 1 -
ADDRESS LINE 3 -ADDRESS LINE 2 -
CITY - ARCO

STATE - ID ZIP CODE -

SOURCE - HULL CREEK

TRIBUTARY OF - SALMON RIVER, NORTH FORK

STAGE - LICENSE

STATUS -

PRIORITY - 11-12-1954 COUNTY - LEMHI

TOTAL DIV. RATE - .1600 -CFS

TOTAL DIV. VOLUME -

.00 AFA TRFR/AMEND -

WATER DIST. -

OLE/CAREY ACT -

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 0.0 2.0

FROM - TO -

USE - IRRIGATION

USE DIV. RATE -

.1500 CFS

USE DIV. VOLUME -

.00 AFA

FROM - TO -

USE - FISH PROP.

USE DIV. RATE -

.1000 CFS

USE DIV. VOLUME -

.00 AFA

USE - IRRIGATION

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

DECREE NAME -

DATE -

TOTAL ACRES 0

REMARKS - P/O & P/U INCOMPLETE. SEE FILE.

H.E.S. 277.

AC. IKR.=3.

NON IRRIG USE -

OTHER RIGHTS FOR SAME USE -

PROOF DUE -

PERMIT/DENIED -

PROTESTED -

HEARING -

OLD NO. - 25271

PROOF MADE -

FLD EXAM -

COND. OF APPROVAL -

DIVERSION MEANS -

201 07/7/84

IDENT. NO. 15-2125

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

WATER RIGHT
DATA ENTRY LOG

[illegible]

WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No. 25271 / 75-2125
 OTd No. New No.

Record

1. Original Owner: Clifford O. & 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: 11-12-1954

D. County: SA

E. Total Diversion Rate: .10

F. Total Diversion Volume:

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	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____	_____

See Remarks

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

from _____ to _____ for FX purposes. Amount .15
 (cfs or AC-FT/yr)

from _____ to _____ for H purposes. Amount .1

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

10

Seamus

B. Decree Date:

10. Remarks: A. $\pi/D = P/U$ incomplete. See file
B. H.E.S. 277.
C. ac. ser. = 3.
D.
E.

12. Other Rights for Same Use:

B. Date Permit Approved or Denied:

C. Protested Date:

D. Hearing Date:

E. Old Number: 25271

F. Proof Made (P or blank):

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

H. Conditions of Approval: _____

14. Diversion Means (brief narrative):

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LAMHI

It appearing, in the following cases, that there has been no action taken for more than one year; or it appearing there is no action now pending; or upon Motion of Counsel:

- No. 4175 Lipe vs. Benedict
(Passed Motion of counsel for plaintiff)
- No. 4065 England vs. Pachmayr, et al
(Passed by the Court as settled)
- No. 4238 Appeal on Water Permits Nos. 25271 & 1200, Clifford O. Cummings, Holder.
(Dismissed under Rule 79)
- No. 4283 Larry M. Bell vs. Linda M. Bell
(Dismissed by Motion of Counsel for plaintiff)
- No. 4296 Albert Ziems, et ux vs. Ivan Eddington, et ux
(Passed pending settlement)
- No. 4299 Linda M. Bell vs. Larry M. Bell
(Dismissed by Motion of counsel for plaintiff)
- No. 4320 Snake River Equipment Co. vs. Arden Westfall
(Passed -- to be on Pre-Trial calendar)
- No. 4322 William M. Knighton vs. Evelyn Knighton
(Passed to be on Pre-Trial calendar)
- No. 4333 Maxine Richards vs. Kay Richards
(Dismissed by Motion of Counsel for plaintiff)
- No. 4339 Bonnie Lindgren vs. Larry S. Lindgren
(Dismissed by Motion of Counsel for plaintiff)
- No. 4342 Commercial Accounts Servicing vs. Len Bedal
(Passed -- Absence of counsel for plaintiff)

It was therefore ordered that these cases be passed or otherwise stricken from the calendar.

DATED this 14th day of February, 1966.

E. J. Peterson
District Judge

Attest: *U. J. Peterson*
Clerk

U. J. Peterson

James H. Peterson
James H. Peterson

40
21
24
27
30
33
36
39
42
45
48
51
54
57
60
63
66
69
72
75
78
81
84
87
90
93
96
99
102
105
108
111
114
117
120
123
126
129
132
135
138
141
144
147
150
153
156
159
162
165
168
171
174
177
180
183
186
189
192
195
198
201
204
207
210
213
216
219
222
225
228
231
234
237
240
243
246
249
252
255
258
261
264
267
270
273
276
279
282
285
288
291
294
297
300
303
306
309
312
315
318
321
324
327
330
333
336
339
342
345
348
351
354
357
360
363
366
369
372
375
378
381
384
387
390
393
396
399
402
405
408
411
414
417
420
423
426
429
432
435
438
441
444
447
450
453
456
459
462
465
468
471
474
477
480
483
486
489
492
495
498
501
504
507
510
513
516
519
522
525
528
531
534
537
540
543
546
549
552
555
558
561
564
567
570
573
576
579
582
585
588
591
594
597
600
603
606
609
612
615
618
621
624
627
630
633
636
639
642
645
648
651
654
657
660
663
666
669
672
675
678
681
684
687
690
693
696
699
702
705
708
711
714
717
720
723
726
729
732
735
738
741
744
747
750
753
756
759
762
765
768
771
774
777
780
783
786
789
792
795
798
801
804
807
810
813
816
819
822
825
828
831
834
837
840
843
846
849
852
855
858
861
864
867
870
873
876
879
882
885
888
891
894
897
900
903
906
909
912
915
918
921
924
927
930
933
936
939
942
945
948
951
954
957
960
963
966
969
972
975
978
981
984
987
990
993
996
999

DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEHI

The Spring Term of District Court opened the 14th day of March, 1968, with the Honorable Arnold T. Beebe, District Judge, presiding. The Court then proceeded with the call of the calendar. It appearing that the following case was dismissed without prejudice by stipulation of counsel:

No. 4164 In The Matter Of Hearing On William Hill-Leadore-Permit #23701

The Court orders the case dismissed

Dated this 14th day of March, 1968.

Attest:

Eleanor Aldous
Clerk

Arnold T. Beebe
District Judge

75-2125

25271

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

WILFRED SINGER, et al,

Plaintiffs,

vs.

WILLIAM B. HILL, et al,

Defendants.

No. 4173

MOTION TO DISMISS

Come now the Plaintiffs by their Attorney, Charles Herndon, and
move the Court to dismiss the above entitled action with prejudice, upon the
ground that the same has been settled in full.

Dated: January 31, 1961.

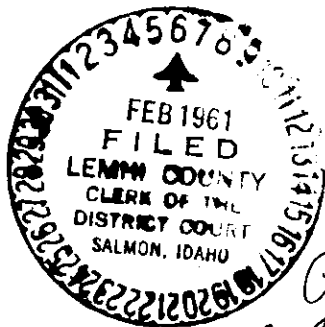
Charles Herndon
Attorney for Plaintiffs
Residence: Salmon, Idaho

ORDER

IT IS SO ORDERED.

Dated: February 2, 1961.

Ezra Mowman
District Judge.



8:45 A.M.
Paul Adams, Clerk
By Opal Reddington, Deputy

THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN
AND FOR THE COUNTY OF LEMHI

SUSIE E. SHOUP,
EDGAR S. EDWARDS, ANNA WRIGHT,
ETTIE S. SUYDAM, and ETHEL E. BUNDY.

Plaintiffs,

vs.

EVA D. WEBB, FRANK NELSON,
JAMES R. WEBB, ANTON MACHONEN,
JOHN A. KENNEDY, LOUIS S. STONE,
WILLIAM E. ANDERSON, WILLIAM REYNOLDS,
EMERSON HILL, FRANK GLENNON,
HANS LAUNSON, JOHN WEBB, J. FRANK
HIBBS, LINDA M. REYNOLDS, MYRTLE
REYNOLDS,

Defendants.

D E C R E E

This cause having come on to be heard on the 1st day of October, 1940, before Honorable Guy Stevens, Judge of the above entitled Court, sitting without a jury, E. H. Casterlin appearing as counsel for the plaintiffs, Lot L. Feltham appearing as counsel for the defendants J. Frank Hibbs, Linda M. Reynolds, and Myrtle Reynolds, Preston Thatcher appearing as counsel for the defendants John Webb and Eva D. Webb, Fred Snook appearing as counsel for the defendants Emerson Hill, Frank Glennon and Hans Laueson, the default of the remaining defendants having been duly and regularly entered, and the Court having heard the testimony and the evidence and the stipulation and confession of facts made in open court, and the Court being fully advised in the premises and having made and entered herein, in writing, Findings of Fact and Conclusions of Law, and having ordered decree herein in conformity therewith;

Now, therefore, by reason of the law and the premises, it is ORDERED, ADJUDGED AND DECREED as follows:-

1.

That Wallace Creek is a natural stream of water located in Lemhi County, State of Idaho, flowing into the Salmon River at a point in Township 22 North of Range 22 East of the Boise Meridian, the waters of which are subject to appropriation and beneficial use.

2.

That J. Frank Hibbs is entitled to the right to the use of 29 inches or 29/50th cubic feet per second of time of the continuous flow of the waters of said Creek, dating from May 15, 1898, for domestic and agricultural purposes on and appurtenant to Lots numbered 8, 11 and 13 of Section 6 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the following points of diversion, to-wit:- (1) at a point on the north bank of Wallace Creek 690 feet, approximately, downstream from the NE corner of the NE $\frac{1}{4}$ of said Section 6; (2) at a point on the south bank of said Creek 900 feet, approximately, upstream from the SE corner of said Section 6; (3) at a point on the north bank of said Creek 1690 feet, approximately, downstream from the SE corner of said Section 6.

3.

That Susie E. Shoup, Edgar S. Edwards, Anna Wright, Ettie S. Suydam and Ethel E. Bundy are entitled to the right to the use of 40 inches or 40/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1902, for domestic and agricultural purposes on and appurtenant to the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and Lots numbered 3, 4 and 9 of Section 6 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion on the north bank of said Creek at or near what has for years been known as the Old Arrastre.

4.

That Bertha M. Rose is entitled to the right to the use of 83 inches or 1.66 cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to the SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and Lot number 9 of Section 18 of Township 22 North of Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion on the south bank of the south fork of said Creek on the Specie Payment Placer Claim about where it is crossed by the Tom Big Bee quartz Claim.

5.

That John Webb is entitled to the right to the use of 22 $\frac{1}{2}$ inches or 22.5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to that part of Lot numbered 5 of Section 18, Township 22 North, Range 22 East Boise Meridian described as beginning at the southwest corner of said Lot 5 and run thence North 556 feet; thence East 1076 feet to the west bank of the Salmon River; thence southeasterly along said bank 593 feet, more or less, to the southerly line of said Lot 5; thence West 1282 feet to the place of beginning, containing 15 acres more or less, in Lemhi County, Idaho, to be measured at the point of diversion on the south bank of the south fork of said Creek about 3 $\frac{1}{2}$ miles from the mouth of said Creek.

6.

That Eva D. Webb is entitled to the right to the use of 22 $\frac{1}{2}$ inches or 22.5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek, dating from June 1, 1912, for domestic and agricultural purposes on and appurtenant to Lots numbered 9 and 11, and SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 7, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ and Lot 5 of Section 18, Township 22 North, Range 22 East Boise Meridian in Lemhi County, Idaho, to be measured at the point of diversion mentioned in Paragraph 5 herein above.

25-2125

25271

437

7.

That Linda M. Reynolds and Myrtle Reynolds are entitled to the right to the use of 5 inches or 5/50ths cubic feet per second of time of the continuous flow of the waters of said Creek for domestic purposes and 100 inches or 2 cubic feet per second of time of the continuous flow of the waters of said Creek for mining purposes, all dating from March 1, 1931, for such use on and appurtenant to the Gold Nugget Placer Mining Claim, amended location notice of which is of record in Book Z of Mining Claims at page 131 thereof, records of Lemhi County, Idaho; and the right to the use of 100 inches or 2 cubic feet per second of time of the continuous flow of the waters of said Creek, dating from August 20, 1934, for mining purposes on and appurtenant to the Roosevelt Placer Mining Claim, location notice of which is recorded in Book W of Mining Claims at page 588 thereof, records of Lemhi County, Idaho; the said water to be measured at the point of diversion on the north bank of the south fork of said Creek below the point of diversion of Martha M. Rose; PROVIDED, however, that all of said water shall be used on the water shed of said Creek and in such manner and at such places that the same will return or will be returned to the bed of said Creek, without diminution, above the next lower point of diversion for the impairment of the other parties hereto as herein provided and determined.

8.

That Emerson Hill, Frank Shannon and Hans Laueson are entitled to the right to the use of 50 inches or 1 cubic foot per second of time of the continuous flow of the waters of said Creek, dating from August 7, 1931, for milling purposes on and appurtenant to the Last Chance No 1 & 2, inclusive, lode mining claims in the Eureka Mining District in Section 14, Township 22 North, Range 22 East of the Boise Meridian, in Lemhi County, Idaho, to be measured at the point of diversion as now established and existing on the south bank of the south fork of said Creek.

9.

That the agricultural appropriators above named have used on their respective lands and premises above described, during each and every irrigation season, all of the high waters of said Creek in the proportion of their respective decreed rights, dating from March 1, 1931, and that the right of said appropriators to the use of the said high waters in said manner is hereby decreed to each.

10.

That the Queen Gulch, so called, is a natural water course which is used by the defendants Martha M. Rose, John Webb and Eva D. Webb as a part of their respective irrigation systems, and that each of said defendants is entitled to take from said natural water course only the amount of decreed water which each places therein, the same to be decreed by measuring devices of recognized design placed at the points where each defendant discharges decreed water into said Queen Gulch and at the points where each of said defendants takes decreed water therefrom; and, that if there is not flowing in said Queen Gulch sufficient water for each of said defendants to take out the full amount of water decreed to be placed therein, the loss shall be sustained by each defendant in the proportion to the amount of decreed water each has measured into said Queen Gulch above.

11.

That the defendants Frank Malcolm, James R. Hibbs, Adolph Magnuson, John A. Brunney, Louis S. Stone, William A. Anders and William Reynolds have no right whatsoever to the use of any of the waters of said Wallace Creek.

12.

That each and every of the parties to this action, their employees, agents, attorneys and all persons acting in aid of them, or any of them, be, and they are hereby perpetually restrained and enjoined from in any manner whatsoever interfering with the rights of any other party to this action, as the same are herein and hereby adjudicated, and that each party hereto shall pay his or her own costs and disbursements incurred herein.

Done and dated this 27th day of January 1941.

Guy Stevens
District Judge.

Filed & Entered February 1, 1941
W. W. Simmonds, Clerk
By Margaret Shoup, Deputy
Judgment Book D, pages 456-457

75-2125

35271

DON SAMUELSON
GOVERNOR



P. 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

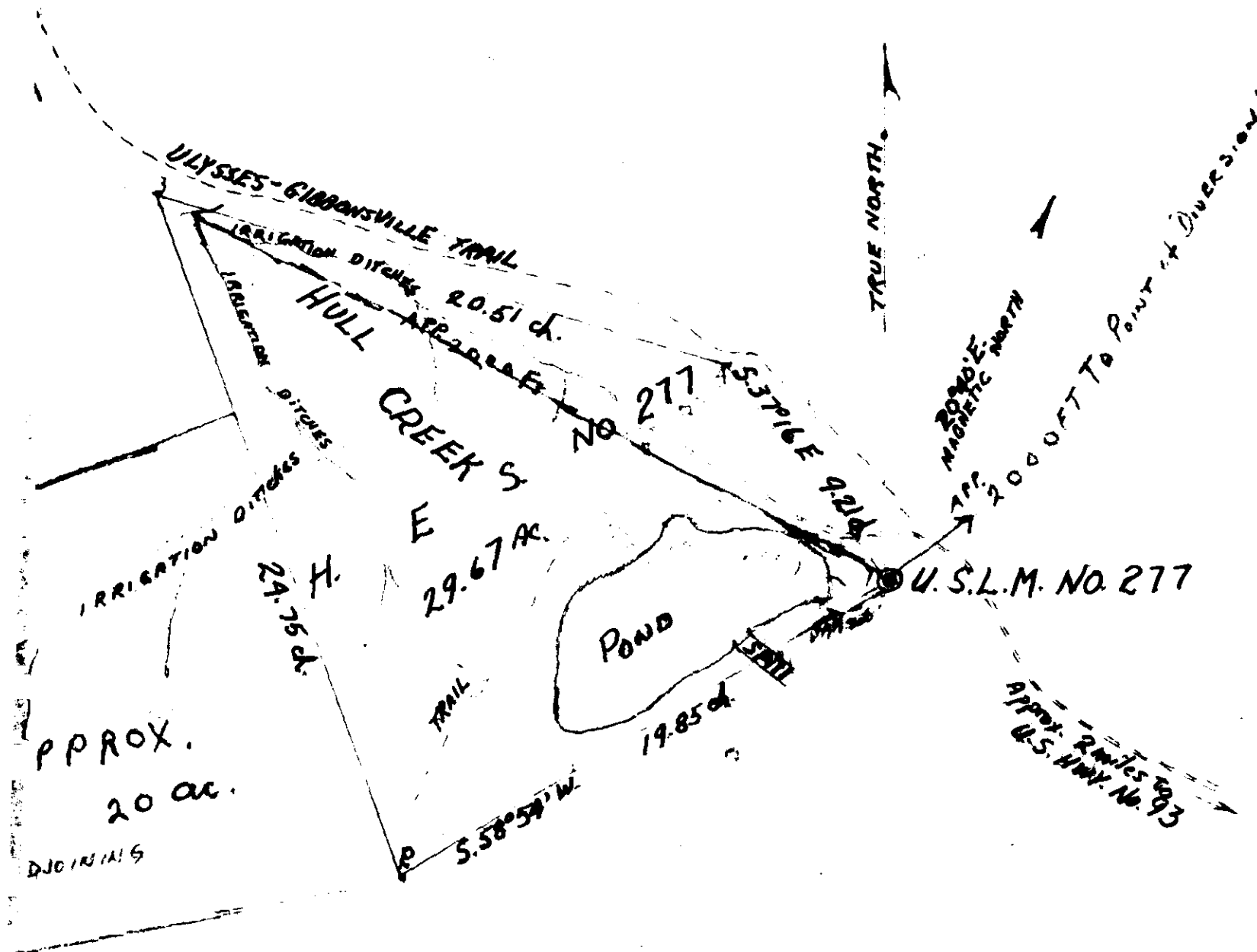
Re: Water License Nos. R-1028/75-2166 and 25271/75-2125
Clifford O. and Nancy M. Cummins

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

75-2125
25271



Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

Permit Map No. 25271
AS Approved
Nov. 27
MARK R. KULP
State Reclamation Engineer

75-2125
P-1028

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

IN RE: PERMITS No.25271 :
and No. R-1028 : NOTICE OF APPEAL
Clifford O. Cummings, Helder :

NOTICE IS HEREBY GIVEN that the undersigned appeals from the
decision of the State Reclamation Engineer, dated June 14, 1961, in the matter
of overruling and dismissing protests and allowing certificates of completion
of works and water licenses, and from the granting and issuing of a license
No. 25271, dated June 26, 1961.

Such appeal is taken under the provisions of Section 42-224 of
the Idaho Code.

Appellants' reasons for said appeal are as follows:

1. That the water for which said permit was granted have been used
by the appellants or their predecessors in interest for more than 30 years;

2. That the permit applied to waters for which a usufructory right
has been established under the laws of the State of Idaho;

3. That the granting of the permit for the dam deprives the
appellants of waters to which they are entitled;

4. That no water overflows the dam of the permittee for use by
the lower stream appropriators;

5. That the appellants and their predecessors in interest now are
and for a long time hitherto have been the owners and in possession of all
of the waters covered by the filing on the above entitled permit; that they
have used the said waters beneficially continually adversely to all persons
for a period of more than five years preceding the date of said license; that
they are entitled to the same under the laws of the State of Idaho.

That the above reasons constitute the reasons of the petition
to the District Court of the Sixth Judicial District of the State of Idaho,

1 in and for the County of Lemhi, upon this appeal.

2 Dated this 14th day of August, 1961.

3 Thomas W. Kestl

4 IDAND PROPANE GAS CO., INC.

5 By Daryl Becker
6 Attest: President

7 Virginia Becker
8 Secretary

9 Appellants.

10

11

12

13

14

15

16

17

18

19

20

21

22

23 I hereby certify that a copy of the foregoing Notice of Appeal was mailed
24 to the Department of Reclamation, Boise, Idaho, this 14th day of August,
25 1961.

26 Charles Herndon

27

28

29

30

31

32

33

34

35

36

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

25271

LAW OFFICES

HOLDEN, HOLDEN & KIDWELL

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

JACKSON 3-0620

OF COUNSEL:
ARTHUR W. HOLDEN

WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
REED A. WILLIAMS

HOWARD R. STINSON (1905-1957)
FRED J. HAHN
ALONZO S. DAVIS

JULY 31, 1961

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RE: PERMITS R-1028 AND 25271

GENTLEMEN:

WE ENCLOSE OUR CHECK IN THE AMOUNT OF \$4.70
REPRESENTING FEES FOR THE FURNISHING OF COPIES OF PRO-
TESTS IN THE CUMMINGS MATTER.

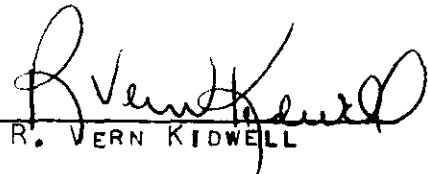
THANK YOU FOR YOUR CONSIDERATION.

BEST REGARDS.

VERY TRULY YOURS,

HOLDEN, HOLDEN & KIDWELL

BY


R. VERN KIDWELL

RVK:KH

ENCL. 1

25271

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

LAW OFFICES

HOLDEN, HOLDEN & KIDWELL

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

JACKSON 3-0620

JUL 27 1961

Department of Reclamation

OF COUNSEL
ARTHUR W. HOLDEN

WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
REED A. WILLIAMS

HOWARD R. STINSON (1905-1957)
FRED J. HAHN
ALONZO S. DAVIS

July 26, 1961

State of Idaho
Department of Reclamation
Boise, Idaho

Gentlemen:

Some time ago Mr. Clifford Cummings filed for a permit on a reservoir in Lemhi County on a tributary on the North Fork. We understand protests were filed by Mr. Becker for some other individual. We further understand the protests were overruled recently and the reservoir permit and allied permits granted to Cummings.

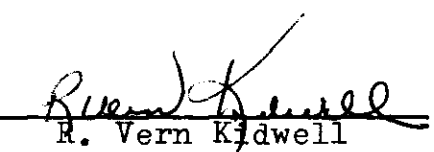
We would like to request copies of the protests filed with information as to the identity of the person filing and when received by the Department of Reclamation.

Thank you for your consideration.

Very truly yours,

HOLDEN, HOLDEN & KIDWELL

By


R. Vern Kidwell

RVK: jr

25271

6-26-61

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 F. Rule
Chief Clerk

EPR:mr

Enc. licenses 2
receipt

25271

6-23-61 -

Geo. H. Carter, Engr
Dept. of Reclamation
Boise, Idaho

RECEIVED
JUN 23 1961

Department of Reclamation

Re: Permit # R-1028

25271

Attn: (Mrs) Edna P. Rule

Dear Mrs. Rule:

Enclosed is a money order
for \$10⁰⁰ to cover issuance of
a License & Water Right
Certificate on above permits.

Yours truly,
Clifford C. Cummings

PS Our address is now
NORTH FORK, Idaho. Please
change your records
accordingly. Thank.

25271

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., S. 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 0.16 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.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

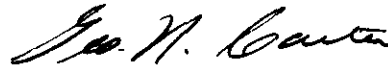
EPH:cw

25271

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

25271

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

25271

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. 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.

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. W. 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

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. 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.

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 Keal 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. M. 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

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

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

25271

June 11, 1961

Re: Permits No. 25271 - 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

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 Bull Creek and finds that Cummings has made substantial compliance of the permit; that the dam is of sufficiently safe construction and that Charles Noticha 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. H. CARPER
State Reclamation Engineer

ENC:ew

25271

WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
REED A. WILLIAMS

HOWARD R. STINSON (1905-1957)
FRED J. HAHN
ALONZO S. DAVIS

LAW OFFICES
HOLDEN, HOLDEN & KIDWELL
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO
JACKSON 3-0620

RECEIVED
APR 20 1961
Department of Reclamation
OF COUNSEL:
ARTHUR W. HOLDEN

APRIL 19, 1961

MR. GEORGE N. CARTER
STATE RECLAMATION ENGINEER
ROOM 107 STATE HOUSE
BOISE, IDAHO

DEAR MR. CARTER:

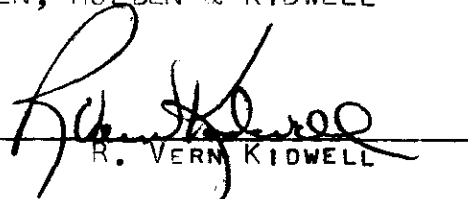
THANK YOU FOR YOUR LETTER REPORTING ON THE CUMMINGS PERMIT NOS. 25271 AND R-1028. WE WERE WONDERING WHETHER PROTESTS HAD BEEN FILED BY MOTICHKA, WHO NOW, WE UNDERSTAND, IS IN THE PROCESS OF WORKING SOME TYPE OF SALES ARRANGEMENT WITH OUR CLIENTS. IT WOULD APPEAR THAT THE CUMMINGS' PERMIT IS SOMEWHAT SCRAMBLED AT THIS TIME. WE NOTE THAT THERE WILL BE NO DECISION MADE ON THE PROTESTS UNTIL AFTER THE FIELD ENGINEER'S REPORT IS MADE. OUR PRIMARY CONCERN WITH THE EARLIER AND EXISTING RIGHTS FROM HULL CREEK WERE RECOGNIZED IN THE WATER LICENSE.

WE WOULD APPRECIATE YOUR PUTTING A MEMO ON THIS PERMIT TO ADVISE US OF ANY FURTHER ACTIVITY.

YOURS VERY TRULY,

HOLDEN, HOLDEN & KIDWELL

By


R. VERN KIDWELL

RVK:JK

25271

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

25271

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.

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

25271

WILLIAM S. HOLDEN
ROBERT B. HOLDEN
R. VERN KIDWELL
REED A. WILLIAMS

HOWARD R. STINSON (1905-1957)
FRED J. HAHN
ALONZO S. DAVIS

LAW OFFICES
HOLDEN, HOLDEN & KIDWELL
IDAHO FIRST NATIONAL BANK BUILDING
IDAHO FALLS, IDAHO

JACKSON 3-0620

RECEIVED
APR 6 1961
Department of Reclamation

APRIL 5, 1961

BO Proof due 11-27-58

MR. GEORGE N. CARTER
STATE RECLAMATION ENGINEER
STATE HOUSE
BOISE, IDAHO

DEAR MR. CARTER:

WE ARE WRITING ON BEHALF OF A CLIENT WITH RESPECT TO NOTICE OF PROOF OF COMPLETION OF WATER TO BENEFICIAL USE, PUBLISHED IN THE RECORDER HERALD, SALMON, IDAHO, SHOWING PROOF WILL BE MADE ON MAY 1, 1961, ON BEHALF OF CLIFFORD O. AND NANCY N. CUMMINGS, UNDER PERMIT R-1028 AND ALSO SHOWING THAT PERMIT No. 25271 FOR IRRIGATION AND DOMESTIC USE IS A COMPANION PERMIT.

KINDLY ADVISE IN THE PERMIT FOR IRRIGATION AND DOMESTIC USE, WHETHER OR NOT THEY ARE SHOWING OTHER WATER RIGHTS COMING FROM HULL CREEK.

WE ARE REPRESENTING A PRIOR USER OF WATER FROM HULL CREEK AND ARE WRITING TO DEFINITELY DETERMINE WHETHER OR NOT CUMMINGS IN HIS PERMIT IS SHOWING A PRIOR USE FROM HULL CREEK. WE WOULD APPRECIATE THIS INFORMATION AT YOUR EARLIEST CONVENIENCE.

VERY TRULY YOURS,

HOLDEN, HOLDEN & KIDWELL

BY

R. Vern Kidwell
R. VERN KIDWELL

RVK:JK

25271

November 19, 1959

Re: Permit No. 25271
R-1028

Mr. Cliff Currings
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. W. CARRERE
State Reclamation Engineer

By:

E. N. HUMPHREY, Deputy
State Reclamation Engineer

ENH:ew

25271

October 22, 1959

Re: Permit No. 25271

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

Dear Mr. Cummings:

Please advise this office when your dam has been brought
up to specifications.

License will not be issued until it has.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

E. N. HUMPHREY, Deputy
State Reclamation Engineer

ENH:ew

25271

October 22, 1959

Re: Permit No. 25271

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

Dear Mr. Cummings:

Please advise this office when your dam has been brought
up to specifications.

License will not be issued until it has.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

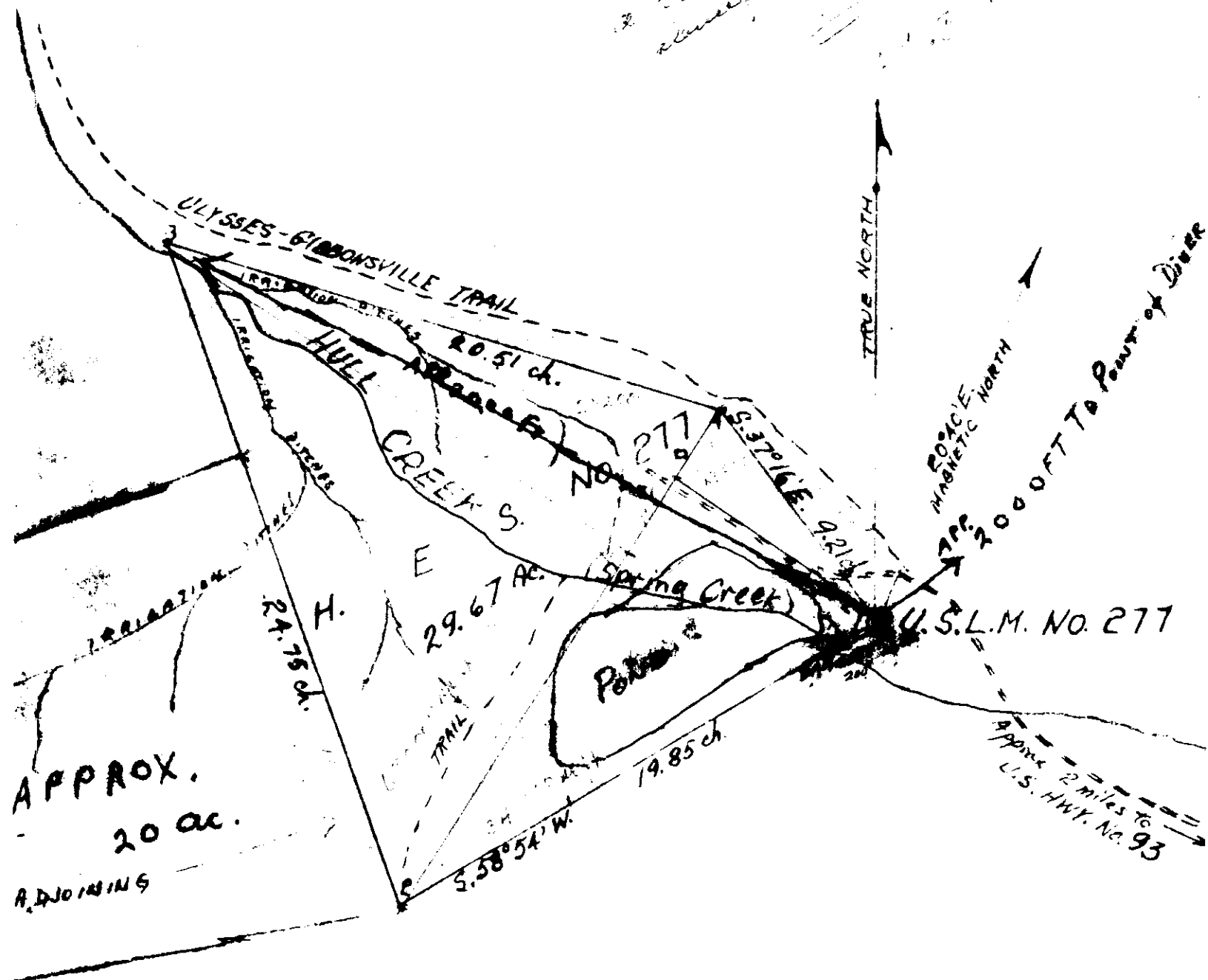
By:

E. N. HUMPHREY, Deputy
State Reclamation Engineer

ENH:ew

25271

APPLICANTS: CLIFFORD O. & NANCY M. CUMMINGS

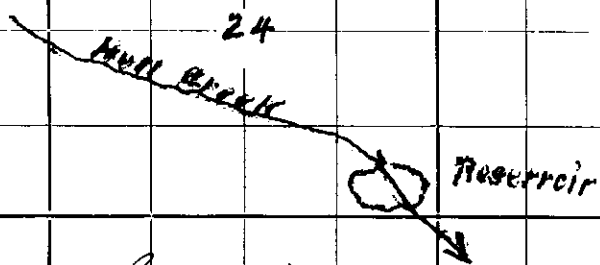


*My map sheet is S. 24.
land is unsurveyed.*

Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

Permit Map No. 25271
As Approved
NOV 27 1911
MARK R. KULP
State Reclamation Engineer

Trp 25 N. Rge 20 E



Subdivisions =

Area = { 8 acres irrigated pond (approx.)
8 " "
x = { 8 " irrig.
42 " maintain pond.
fresh for fish

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

PERMIT NO. 25271

REPORT ON PROOF OF Clifford O. & Nancy M. Cummins

Rt. #1, Arco, Idaho

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

Permit No. 25271

Examination for Beneficial Use

County Lemhi

24-25N.-20E

Q 9 1.0 c.s. (unimproved)

S = Hull Creek
NW. Cor. H.E.S. #277

P.L. = Sec. 24, T. 25N. - 20 - 21E

Use = Irrigation & Pasture

allow 8 acres

R-102B = companion

Filed = Nov. 12, 1957

Due = Nov. 27, 1958

no other rights

W. = 10-7-57

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.

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

Permit No. 25271This proof is for Beneficial Use

In Water District No. _____

1. Name of applicant Clifford O. & Nancy M. Cummings
2. Source of water supply: Hull Creek
P.D. for irrigation NW corner H.E.D. # 277.
3. Location of point of diversion: Is in the of Section 21 (Approx)
dam and pond, right hand corner H.E.S. # 277 (Unsurveyed)
T. 25 N R. 20 E., B.M. County of Lemhi

4. Describe works as they exist, giving dimensions and capacities of same: Diversions from
stream for irrigation are small wooden head-
gates nearly rotted out. Dam to create the
lake is covered in Permit G-1028
usually not 1 cfs flowing in summer time. Country soil and
rock is porous so that water goes under dam.
5. Water is used for: irrigation and Fish Culture
6. State whether or not water has been turned into works of diversion: yes

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):

30 acres located in H.E.S. No. 27720 acres located, adjoining H.E.S. No. 277 on the West
all in Sec. 24., Twp. 25 N., Ranges 20 and 21 E.B.M.

This is being developed as a resort. Both
Mr & Mrs Cummings work at the A.E.C.
Plant between Arco and Idaho Falls.

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

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

Remarks: Discussed matter with protestants
advised them that use rights cannot be
recognized by Department even though we know
they are valid.

Mr & Mrs Cummings both present.Mr Leicht of the Forest Service was
present.The dam should be raised approx 2' and
spillway also raised to comply with R-1028

This examination was made on the

14

day of

Oct, 19 59

(Signed)

E. H. Humphrey
Engineer

25271

October 5, 1959

Re: Permit # 25271
Clifford O. & Nancy M. Cummings

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

Dear Mr. Cummings:

Statutes requires a field inspection in connection with the proofs on Permit # 25271 before license and certificate of water right can be issued.

Such inspection and report on same is required for any and all permits being brought to license within this State.

An inspecting Engineer from this Department requests that you or someone familiar with the terms of the permit and representing you be prepared to accompany him on the inspection, on Wednesday afternoon,

October 14, 1959.

If he cannot get in touch with you by phone or otherwise he will drive to the well location or point of diversion given in the permit.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

E. N. Humphrey
Deputy

ENH:ew

cc: Richard G. Leicht
District Forest Ranger
North Fork Ranger Station
North Fork, Idaho

25271

December 9, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

On October 21st and November 12th, 1958, we wrote to Mr. Ed L. Gaumer, Notary Public, at Arco, Idaho, acknowledging receipt of proofs in connection with Permit No. 25271 and requesting an affidavit from him setting forth the reasons for the change in date for taking proof.

To date we have not received such an affidavit and this is the last request you will receive in regard to this and license cannot be issued until such time as this affidavit is received in this office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rutledge
Chief Clerk

EP²/lw
cc: Mr. Ed L. Gaumer
Notary Public
Arco, Idaho

25271

November 12, 1958

Re: Permit No. 25271
Clifford O. Cummings

Mr. Ed L. Gaumer
Notary Public
Arco, Idaho

Dear Mr. Gaumer:

The record of protests to Mr. Cummings proofs are in this office.

The proofs of Mr. Cummings and two witnesses were dated October 18, 1958, whereas they were supposed to have been made August 8, 1958. In such cases it is necessary for the Notary Public to make an affidavit before another Notary Public setting forth the reasons for the change in date and the names of all protestants. Mr. Cummings has written that the reason was that the first set of forms sent from this office was not received.

The protests will be considered at the time Mr. Cummings's works are inspected, probably next summer.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Office Engineer

RWT/lw
cc: Mr. Clifford O. Cummings
Rt. # 1, Box # 1
Arco, Idaho

25271

November 12, 1958

Re: Permit No. 25271
Clifford O. Cummings

Mr. Ed L. Gaumer
Notary Public
Arco, Idaho

Dear Mr. Gaumer:

The record of protests to Mr. Cummings proofs are in this office.

The proofs of Mr. Cummings and two witnesses were dated October 18, 1958, whereas they were supposed to have been made August 8, 1958. In such cases it is necessary for the Notary Public to make an affidavit before another Notary Public setting forth the reasons for the change in date and the names of all protestants. Mr. Cummings has written that the reason was that the first set of forms sent from this office was not received.

The protests will be considered at the time Mr. Cummings's works are inspected, probably next summer.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Office Manager

RWT/lw
cc: Mr. Clifford O. Cummings
Rt. # 1, Box # 1
Arco, Idaho

25271

Application for Amendment

POINT OF DIVERSION

Permit No. G-24930

RECEIVED
MAY 31, 1957
Department of Reclamation

Comes now OSCAR B. FIELDS
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-24930.

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

NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 2, Township 5 South, Range 2 E., B.M.

That he now requests that the point of diversion be changed to a point located: NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 1, Township 5 South, Range 2 E., B.M.

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

To conform with the inspection report of Permit No. G-24930

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

Signed at Grand View this 28th day of May, 1957
/s/ Oscar B. Fields

Date of Receipt at Department of Reclamation: May 31, 1957

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-24930. 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 _____~~
~~_____, 196____~~

24930

November 5, 1958

Re: Permit No. 25271
Clifford O. Cummings

Mr. Ed L. Gaumer
Notary Public
Arco, Idaho

Dear Mr. Gaumer:

We wish to refer you to our office letter of October 21, 1958, in regard to the depositions of Clifford O. Cummings, under Permit No. 25271.

Our letter reads in part -

" We note one variation from the published notice as follows: - The proofs were to be made on August 8, 1958, whereas, the depositions are dated October 18, 1958.

If these proofs are to be accepted, it will be necessary for you to furnish an affidavit setting forth the following: - That your office was open at the time set in the notice (August 8, 1958) and that no protests were filed in connection with this proof and that for some stated reason the proofs were made on October 18, 1958, instead of August 8, 1958, as advertised."

We wish to inform you that an inspection by our field engineer is impossible unless we receive this affidavit.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Mrs. Edna P. Rutledge
Chief Clerk

EPR/lw

cc: Clifford O. Cummings
Rt. # 1, Box # 1, Arco, Idaho

25271

October 21, 1958

RE: Permit No. 25271
Clifford O. Cummings
Rt. #1, Box #1, Arco, Idaho

Mr. Ed. L. Gaumer
Notary Public
Arco, Idaho

Dear Mr. Gaumer:

We acknowledge receipt of the depositions of Clifford O. Cummings and two witnesses, offered in proof of beneficial use on Permit No. 25271, accompanied by affidavit of publication in the Recorder Herald.

We note one variation from the published notice as follows: The proofs were to be made on August 8, 1958, whereas, the depositions are dated October 18, 1958.

If these proofs are to be accepted, it will be necessary for you to furnish an affidavit setting for the following: That your office was open at the time set in the notice (August 8, 1958) and that no protests were filed in connection with this proof and that for some stated reason the proofs were made on October 18, 1958 instead of August 8, 1958 as advertised.

This affidavit should be sworn to by you before another Notary Public with the seal affixed.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Edna P. Rutledge
Chief Clerk

EPR

cc: Clifford O. Cummings
Rt. #1, Box #1, Arco, Idaho

25271



ROBERT E. SMYLLIE
Governor

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

GEO. N. CARTER, STATE RECLAMATION ENGINEER

BOISE

October 21, 1958

RECEIVED
NOV 10 1958
Department of Reclamation

RE: Permit No. 25271
Clifford O. Cummings
Rt. #1, Box #1, Arco, Idaho

Mr. Ed. L. Gaumer
Notary Public
Arco, Idaho

Dear Mr. Gaumer:

We acknowledge receipt of the depositions of Clifford O. Cummings and two witnesses, offered in proof of beneficial use on Permit No. 25271, accompanied by affidavit of publication in the Recorder Herald.

We note one variation from the published notice as follows: The proofs were to be made on August 8, 1958, whereas, the depositions are dated October 18, 1958.

If these proofs are to be accepted, it will be necessary for you to furnish an affidavit setting for the following: That your office was open at the time set in the notice (August 8, 1958) and that no protests ~~were~~ filed in connection with this proof and that for some stated reason the proofs were made on October 18, 1958 instead of August 8, 1958 as advertised.

This affidavit should be sworn to by you before another Notary Public with the seal affixed.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Edna P. Rutledge
Edna P. Rutledge
Chief Clerk

EPR

cc: Clifford O. Cummings
Rt. #1, Box #1, Arco, Idaho

*There was a protest.
There was no mining.*

*Ed Gaumer
11/6/58*

25271

Rt. 1, Box 1
Arco, Idaho
October 18, 1958

RECEIVED
OCT 20 1958
Department of Reclamation

George N. Carter
State Reclamation Engineer
Boise, Idaho

Attention: Mr. Roy W. Thompson, Supervisor
Water Distribution
Re: Permit No. 25271

Dear Sir:

Enclosed herewith are notarized depositions prepared by two witnesses and myself.

These depositions were not completed on August 8 before Mr. Gaumer, the Notary Public, because these forms were not available. Mr. Gaumer waited for the proper forms to complete and without the forms, the depositions could not be submitted. We understand that these forms were mailed to me personally. However, somehow I did not receive them. The forms you mailed me on October 15, 1958 were the first forms of this type I have ever seen.

This past fall your Mr. Humphreys visited this site and drew specifications. This damsite is completed according to your office specifications. The Forest Service has also approved this construction, per your specifications.

The weather in this particular area - North Fork, Idaho, will probably be good until approximately December 15. If you find that it is to be inspected once again, arrangements could probably be made for same prior to December 15.

Yours very truly

Clifford O. Cummings
Clifford O. Cummings

Ed. J. Gaumer

25271

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

OCT 20 1958
Department of Reclamation

Permit No. 25271

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Clifford O. Cummings, Rt. 1, Box 1, Farming & Fish Culture, Arco, Idaho
and Nancy M. Cummings, Rt. 1, Box 1, Arco, Idaho

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

Ans. _____

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

Ans. No. 25271, Nov. 27, 1954 - Nov. 12, 1954

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

Ans. Hull Creek, point of diversion located Northwest Corner of Homestead #277,
approximately located in Sec. 24, T25 N., 20 E. 8. 21 E. D. M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. 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. Open ditch and headgates and take care of a maximum of 200 miners' inches of
water, Cummings ditches in Hull Creek channel to lake.

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. Water used for irrigation and fish culture, used on Homestead Entry #277,
Sec. 24, T25N, 20 E. 30 Acres irrigated, approximately in Homestead Entry #277
and adjoining land for hay and meadow land, natural.

25271

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

Ans. For fish culture.

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

Ans. 50 miners' inches.

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. Has been used since and prior to date of permit.

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. Springs on property.

(Sign)

Clifford A. Cummings

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 Arco, County of Butte,

State of Idaho, on this 18th day of October, A. D. 1958.

E. L. Gaumer, Notary Public

My commission expires

3-27-59

25271

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHOOCT 20 1958
Department of Reclamation

PERMIT NO. 25271

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. Ethel L. Haacke, 42, Rt. 1, Box 13, Housewife, Arco, Idaho

Ques. 2. Are you acquainted with Clifford O. & Nancy M. Cummings, the holder of Permit No. 25271? How long have you known him and where does he reside?

Ans. Approximately 10 years and reside in Arco, Idaho.

Ques. 3. Have you read or heard read said Permit No. 25271, 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 and place of diversion is Northwest corner of Homestead Entry #277, and water is conveyed by open ditch and headgates and Hull Creek channel supplying lake, together with springs on property.

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. Safely conduct up to five cubic feet of water. Have seen from 1 to 4 cu. ft.

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. Fish Culture and irrigation of Homestead #277 and adjoining land containing natural meadows. Improvements consists of ditches, headgates, lake and dam, with approximately 30 acres on Homestead Entry #277 are irrigated as well as additional acreage outside this homestead.

25271

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

Ans. Fish Culture.

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. Approx. 30" required for profitable cultivation and 20" for fish culture.

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. For the past four years I have witness this water applied to beneficial use and my husband has assisted Mr. Cummings many times with the irrigation and planting of fish in the lake.

(Signed) Arthur L. Haacker

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 Arco,

County of Butte, State of Idaho, on this 18th day of October,

A. D. 1958.

Ed L. Gaumer
E. L. Gaumer

Notary Public.

My commission expires 3-22-59

25271

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
JUN 2 1958
Department of Reclamation

PERMIT NO. 25271

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. Elwood L. Haacke, 55, Rt. 1, Box 13, Pipefitter, Arco, Idaho

Ques. 2. Are you acquainted with Clifford O. & Nancy M. Cummings, the holder of Permit No. 25271? How long have you known him and where does he reside?

Ans. Approximately 10 years and he resides in Arco, Idaho

Ques. 3. Have you read or heard read said Permit No. 25271, 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 and place of diversion is NW corner of Homestead #277, and water is conveyed by open ditch and headgates and Hull Creek channel supplying lake, together with springs on property.

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. Safely conduct up to five cubic feet of water. Have seen from 1 to 4 cu.ft.

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. Fish Culture and irrigation on Homestead #277 and adjoining land containing natural meadows. Improvements consists of ditches, headgates, lake and dam.

approximately 30 acres on Homestead #277 are irrigated as well as additional acreage outside this homestead.

where?

25271

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

Ans. Fish culture.

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. Approx. 30" required for profitable cultivation and 20" for fish culture.

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. For the past four years I have witnessed this water applied to beneficial use and have assisted Mr. Cummings many times with the irrigation and planting of fish in lake.

(Signed)

Elwood I Haacke

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 Arco,

County of Butte, State of Idaho, on this 18th day of October,

A. D. 1958.

E. L. Gaumer

Notary Public.

My commission expires 3-22-59

25271

Affidavit of Publication

STATE OF IDAHO

County of Lemhi,

ss.

KEITH SANETTE, 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 APPLICATION OF WATER TO

BE BENEFICIAL USE

.....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 consecutive issues, commencing with the issue dated July 10, 1958 and ending with the issue dated July 31, 1958.

Keith Sanette

Subscribed and sworn to before me, this 14th day of October, 1958.

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

Publication Fee \$ 17.80

used (if for irrigation, give full and accurate description of the lands irrigated) Homestead Entry No. 277—Section 24, T 25 N Range 20 and 21, ERM, County of Lemhi, Idaho.

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

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

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

GEO. N. CARTER

State Reclamation Engineer
7-10 4tc

25271

October 15, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

In reply to your letter of October 10, 1958, in which you referred to the above numbered permit, in which you requested of this office that you would like to have your right to water straightened out as quickly as possible.

In the first instance, you have failed, as we understand, to have your depositions taken in regard to your Proof of Beneficial Use, according to the publication in the paper they should have been made on August 8, 1958. At that time you should have appeared before Ed L. Gaumer of Arco, Idaho, and submitted the deposition of yourself and your two witnesses.

You state in your letter of October 10, 1958 that there were no certain forms sent to the Notary Public, Ed Gaumer, to complete. We wish to state that depositions were sent to you personally on July 3, 1958, several weeks prior to the time that you should appear with your two witnesses before the notary public.

We are enclosing an additional set of depositions that you should take before the notary public, along with your two witnesses and fill out said depositions. After same have been filled out and notarized, they should be sent to this office immediately, along with an affidavit stating the reasons why these proofs were not taken at the time published in the paper, that of August 8, 1958 and explaining the full circumstances.

Be sure at the time you send your depositions to this office, to enclose the Affidavit of Publication from the paper, the Recorder Herald, at Salmon, Idaho.

25271

Mr. Clifford O. Cummings

-2-

October 15, 1958

After receipt of the depositions in this office and before final action is taken in the matter, the law requires that a field examination be made by an engineer from this department.

Due to the lateness of the season, we doubt this examination on the grounds can be made before early next spring or early summer, so it will be impossible to straighten this matter out during this coming year.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

RWT/lw

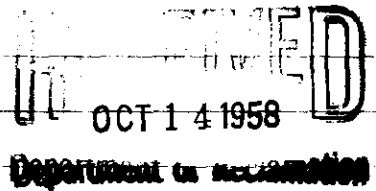
Enclosures:

Deposition of Holder(1)
Deposition of Witness(2)

25271

Oct. 10, 1958

Geo. H. Carter
State Reclamation Engr.
Boise, Idaho



Re. Permit No. 25271

Gentlemen:

During July Notice of Proof Application of Water to Beneficial Use was published in Salmon Recorder Herald. However, Mr. & Mrs. Chas. Motichka, who operate a ranch at end of Three Creek, voiced their objections. They sent letters to the Notary and also sent copies to your office.

Three Creek has water from several different sources, however we were only concerned with the water from upper Three Creek alone. (Note copy of Motichka's letter dated July 31, 1958.) We are enclosing copies of the letters which were received by the Notary, Ed Gummer of Arco.

We were interested in Motichka's ranch, but as yet are not able to finance the deal. We should however like to have this matter of the water straightened out and are at this time seeking your advice on the matter.

Motichkas have a good stream and flow of water to their place year round.

Your assistance at this time will be appreciated. Thank you kindly.

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

PS Were there certain forms for the Notary Public Ed Gummer to complete? He did not receive any forms or instructions from you in regard to this matter.

25271

September 19, 1958

Re: Permit No. 25271

Mr. Clifford O. Cummings
Route 1, Box 1
Arco, Idaho

Dear Mr. Cummings:

This office has not received the proof of application to beneficial use of one cubic foot per second of the waters of Hull Creek, supposedly to be completed at 10:00 A.M., August 8, 1958, in accordance with the Notice for Publication sent to the Recorder Herald, Salmon, Idaho. Nor has a copy of the Notice, as published, been received from the paper.

You have been advised that the proof is due not later than November 27, 1958.

Very truly yours,

Geo. N. Carter
State Reclamation Engineer

RT/nls

25271

81

S T A T E O F I D A H O

DEPARTMENT OF RECLAMATION

RE: Permit No. 25271
Clifford O. & Nancy M. Cummings

Date September 2, 1958

Clifford O. Cummings
Route #1
Arco, Idaho

Dear Sir:

The date for proof of application of water to beneficial use, as set out under the terms of Permit No. 25271 is due not later than November 27, 1958. If by this date you are not prepared to make this proof, you may make it at a later date, however, your priority will be advanced the same length of time for which the proof is late.

Before this proof can be made, the statutory requirement is that a Notice of your intention of proof be published once a week for four consecutive weeks in a newspaper within the county.

We enclose Form 10, in duplicate, which is to be filled in and returned to this department at least forty (40) days before the above mentioned date or before the time you intend to make proof. This form, in duplicate, is to include the time of day, the date (allowing for four weeks publication), the name of the town, the address of the Notary Public before whom you will appear to make the depositions of proof (this may be at any place that is convenient for you and your two witnesses), the quantity of water, for what purpose it is used, the point or points of diversion and the location of use or lands which are irrigated--by 40-acre legal land description. Descriptions should be taken from your Permit, including any amendments thereto, as recorded in this department. If changes have been made and no amendments are on record, we advise that you request a form for this purpose before your Notice is published.

Also enclosed is Form 11, which is the authorization for us to have the Notice published in the designated county newspaper, at your expense. This is to be returned with Forms 10.

At the time we send the notice to the newspaper we will send to you the forms for the depositions of holder and two disinterested witnesses. It is important that the depositions be executed at the time, on the date set and at the place named, before the Notary Public, as advertised in the publication notice.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

Enc.

25271

North Fork, Ida.

Aug 3rd - 58

Mr. Geo N. Carter,
State Reclamation Engineer
Boise, Ida
Dear:-

RECEIVED
AUG 6 1958
Department of Reclamation

Mr. Clifford Cummings has informed us that he has dropped the idea of getting a decreed right to the cu ft. of water per sec out of Hall Creek for the present. Now if he does buy our place and decides to get the water decreed we shall expect him to have it decreed for the Hall ranch irrigation until he would leave the place paid for. Then of course after the place is entirely his he would be at liberty to suit him self.

Yours truly
Nellie B. Motichka.

Charles Motichka

Water rights are appurtenant
to land - not to an individual

25271

GEO. N. CARTER
~~XXXXXXXXXX~~

August 4, 1958

Re: Permit No. 25271

Mr. Charles Motichka
North Fork
Idaho

Dear Mr. Motichka:

We have not received from the Recorder Herald a copy of the publication of Notice to prove beneficial use of water from Hull Creek, to be made by Clifford O. and Nancy M. Cummings. There is generally printed at the bottom of the Notice the dates when each notice will appear. The first date being the date of first publication.

You may file a protest with the Notary Public, Ed L. Gummer, on or before 10:00 A.M. the 8th day of August, 1958. Such protest shall be based solely upon the statements in the Notice of intention to prove beneficial use and shall be sworn to by you before a Notary Public.

An Engineer from this office will inspect the works and use of water by the Cummins and consider your protest. Any water license that may be issued by this department will be for unappropriated water only and is subject to all existing rights as of the date of filing for the permit.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC/RT:nls

25271

page 1.

North Fort, Idaho.
July '31-58

Mr. Geo. N. Carter
State Reclamation Engineer
Boise, Ida.

RECEIVED
AUG 4 1958
Department of Reclamation

Dear Sir:-

This is more information on the C. C. Cummings place up on Hull Creek where he and Nancy M. Cummings (wife) are trying to get decree on water of Hull Creek. We wrote you July 25-58 stating we were opposing them getting decree as we have been here 36 years and can witness that Hull ranch needs all this water for irrigation & has had users right to it since Homesteaded.

The following is an approximate picture of the Cummings place and Hull Creek & our ranch.



← Cummings ranch of 30 acres.

1953 classification as follows

7 acres irrigated

10 " dry grazing

13 " sub irrigated

Hull Lake to be taken from above acreage

a patented mining claim
owned by Floyd W. Stevenson

1309
mining claim

25271

Hull ranch owned by Chas. Motich Ranch

30 acres of Hull ranch has
always been irrigated from
water of Hull Creek

The above drawing should show you that the Cummings place does not need more of this Hull Creek water than they get from upper part above their place. He is applying for 1 cu. ft. per sec. That is more water than there is at present.

Thanking you for considering this matter. Will you be present at the Arco meeting at 10 A. M. Aug. 8th '58.?

Yours truly
Nellie B. Motichka

Charles Motichka

We are sending Mr. Ed Gummer of Arco a copy of this letter.

RECEIVED
JUL 29 1958

Department of Reclamation

North Fork, Ida
July 25-58

Geo N. Carter
State Reclamation Engineer,
Boise, Ida.

Dear Sir:

We note by Recorder Herald, Salmon paper, that Clifford A. & Nancy M Cummings R1, Box 1 - Arco, Ida are getting the right to take water out of Hull Cr. for irrigation and fish culture.

When they first published the notice to decree this water I was under the impression that their notice read in "Buster Gulch".

This gulch has never been called Buster Gulch, hence I failed to realize what was being done. Can you tell the date of 1st publication of this notice in Recorder Herald where Cummings made known his desire to decree this water.

This water has been used to irrigate the Hull ranch, situated at mouth of Hull Cr. ever since the ranch was homesteaded. We have been here 36 years during which time we can witness that Hull place was irrigated out of Hull Creek.

Please check this movement at once. If possible come up here & witness the situation.

Enclosed is a copy of the letter we are registering to Ed. Gammel Arco Ida.

Thanking you
We remain Yours truly
Nellie B. Motichka
Charles Motichka

RECEIVED
JUL 29 1958

North Fork, Ida
July 25-58

Mr. Ed L. Gaumer,
Arco, Ida
Dear Sir:

We note that Clifford C. & Nancy M. Cummings are applying for 1 cu ft of water per second in Hull Creek.

This creek has watered the Hull ranch since it was homesteaded. We have been here 36 years and can witness that that ranch which is located at mouth of Hull Creek has the 1st users rights to the water out of Hull Creek.

So we will be forced to stop this decreeing of water to Mr. & Mrs. Cummings. Too many times during dry seasons it takes all the Hull Creek flow to keep the ranch irrigated.

Please act on this immediately. We are taking it up with the State Reclamation Engineer - Geo. H. Carter in Boise.

Thank you
Nellie B. Motichka
Charles Motichka

P.S. I believe all the ranchers on the North Fork have users rights to the water.

25271

Salmon, Idaho July 17, 1958

Edna P. Rutledge, Chief Clerk
Department of Reclamation
Boise, Idaho

Dear Madam:

This will acknowledge receipt of notice for publication
once a week for four consecutive weeks prior to August 6,
1958, for Clifford O. Cummings of Rte. 1, Box 1, Arco, Ida.

RECEIVED
JUL 2 11958

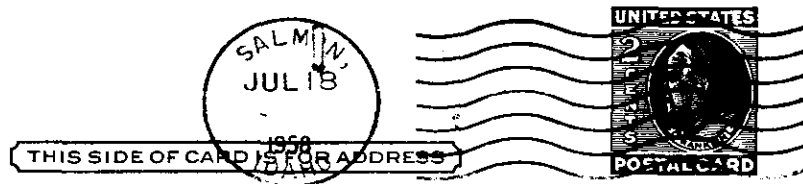
Department of Reclamation

Yours very truly,



Mae Burke, Bookkeeper
Recorder Herald

25271



Mrs. Edna P. Rutledge, Chief Clerk
Department of Reclamation
Boise, Idaho

25271

July 3, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

This acknowledges the Notice of Proof of Application of Water to Beneficial Use, under Permit No. 25271, to be made at Arco, Idaho, on the 8th day of August, before Ed L. Gaumer, Notary Public, at 10:00 A. M.

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 to 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, 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. Rutledge
Chief Clerk

EPR:1.
Encls. (3)
cc: Ed. L. Gaumer

25271

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date: July 3, 1958

Re: Permit No. 25271
Clifford O. Cummings

Recorder Herald
Salmon, Idaho
Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to August 8, 1958 the date set for proof; the expense of the publication is to be paid by the applicant, Clifford O. Cummings of Rt. 1, Box 1, Arco, Idaho, to whom you should furnish proof of publication on or prior to the date set for proof. ✓

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

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Mrs. Edna P. Rutledge
Chief Clerk

EPR:lw
Kcls.

BO due Nov. 27, 1958

25271

June 27, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

We are in receipt of the Notice of Proof of Application of Water to Beneficial Use, in duplicate, stating that you wish to have the notice published in the Recorder Herald, of Salmon, Idaho.

You failed to state the name of the Notary Public before whom you and your two witnesses are to appear to acknowledge your depositions.

We are not sure whether you wish to have your proofs signed before a Notary Public in Salmon or at Arco. It will probably depend on your two witnesses.

Please let us know immediately and we will complete your notice of publication and mail the same to the paper for publication.

Very truly yours,

E. N. HUMPHREY
Deputy State Reclamation Engineer
By

Roy W. Thompson
Office Manager

RWT:lw



ROBERT H. SMYLER
Governor

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
MARK R. KULP, STATE RECLAMATION ENGINEER
BOISE

RECEIVED
JUL 2 1958
Department of Reclamation

June 27, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

We are in receipt of the Notice of Proof of Application of Water to Beneficial Use, in duplicate, stating that you wish to have the notice published in the Recorder Herald, of Salmon, Idaho.

You failed to state the name of the Notary Public before whom you and your two witnesses are to appear to acknowledge your depositions.

We are not sure whether you wish to have your proofs signed before a Notary Public in Salmon or at Arco. It will probably depend on your two witnesses.

Please let us know immediately and we will complete your notice of publication and mail the same to the paper for publication.

Very truly yours,

E. N. HUMPHREY
Deputy State Reclamation Engineer
By

Roy W. Thompson
Office Manager

6-30-58

RWT:lw

25271

Dear Sir:

Depositions will be acknowledged before
a Notary Public in Arco — Ed L. Gammew.

Yours truly

Clifford O. Cummings

RECEIVED
JUN 26 1958

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

Department of Reclamation

(Date) June 26, 1958

Rt. 1, Box 1

Address
Arco, Idaho

City State

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.

By

Clifford O. Cummings
Clifford O. 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

25271

NOTICE FOR PUBLICATION
 NOTICE OF PROOF APPLICATION OF WATER
 TO BENEFICIAL USE

RECEIVED
 JUN 26 1958
 Department of Reclamation

Notice is hereby given that at 10:00 A. M. on the 8th day of August, 1958,
 at Arco, County of Butte, State of Idaho, before
Ed. L. Gaumer, proof will be submitted of the
 application to beneficial use of cubic feet per second of the waters of Hull Creek
 in accordance with the terms and conditions of Permit No. 25271
 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 G. & Nancy E. Cummings, M. L., Box 1, Arco, Idaho

The use to which said water has been applied is _____

The amount applied to beneficial use is Irrigation and fish culture

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

Homestead Entry No. 277 - Section 24, T 25 N Range 20 and 21, E2E, County of
Latah, Idaho

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

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

The date of priority which said user is prepared to establish is Mar 12 1954

State Reclamation Engineer.

25271

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. KULP
State Reclamation Engineer
By

E. W. Humphrey
Deputy State Reclamation Engineer

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

25271

April 2, 1958

Re: Permit No. 25271

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

Dear Mr. Cummings:

I will either drive to Arco on Sunday the 13th or leave
Boise quite early Monday morning the 14th to make the
inspection.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy
State Reclamation Engineer

ENH:lw

25271

RECEIVED
APR 1 1958
Department of Reclamation

March 29, 1958

Rt. 1, Box 1
Arco, Idaho

RE: Permit No. 25271

MARK E. KULP, State Reclamation Engineer
State of Idaho
Department of Reclamation
Boise, Idaho

Attention: Mr. E. N. Humphrey, Deputy

Gentlemen:

In reply to your letter of March 25th, I should like to meet with you on Monday, April 14. I believe that the snow will be off the ground by that time, so that an inspection of the dam can be made.

I live about a mile west of Arco. Coming into Arco, take the first dirt road right, at the Arco Motel, continue about a quarter of a mile and turn right at the disposal plant. Our place is the first house on the right side of the road. Telephone number is 989-J1.

If this date is agreeable with you, let me know. Also let me know about what time to look for you.

Very truly yours,

Clifford O. Cummings
Clifford O. Cummings

Dear Mr. C: -

I will either drive to Arco on Sunday the 13th or leave Boise quite early Monday morning the 14th to make the inspection.

Yours t.

25271

March 25, 1958

Re: Permit No. 25271

Mr. Clifford O. Cummings
Route #1, Box 1
Arco, Idaho

Dear Mr. Cummings:

If you will let me know when an inspection can be made of your dam, with you accompanying me, I will make the necessary inspection.

The inspection cannot be made satisfactorily until the snow is melted, and we should be able to drive to your place.

Also, let me know where you live and your telephone number so that it will be easy to contact you.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy

ENH:nls

CC: D. I. Marsolek
District Forest Ranger
U.S.D.A., Forest Service
North Fork, Idaho

25271

March 25, 1958

Re: Permit No. 25271

D. I. Marsolek
District Forest Ranger
U.S.D.A., Forest Service
North Fork, Idaho

Dear Mr. Marsolek:

Enclosed is copy of a letter to Mr. Cummings asking when it will be possible to make inspection of his dam. As soon as this is done, it will be possible to furnish the information you desire.

Very truly yours,

MARY R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy

BNH:nls
CC: Mr. Clifford D. Cummings
Route #1, Box 1
Arco, Idaho

25271

March 23, 1958
Rt. 1, Box 1
Arco, Idaho

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

RECEIVED
MAR 25 1958
Department of Reclamation

Dear Mr. Kulp:

In reply to Ranger Marsolek's letter to you of March 19th, I wish to state the following:

When construction of the dam was first started, Mr. Thompson, who was Supervisor of the Salmon office of the Forest Department was present. It was then that we found that this was partly on Forest land. Mr. Thompson advised us to go ahead with the construction and a special use permit would be issued at a later date, as this particular site was also part of a mining claim I had. Mr. Thompson had suggested we let the mining go and then we would have the special use permit issued. Shortly after this, Mr. Thompson was transferred to Washington, D. C. with the Forest Department. If Mr. Thompson had not told us to "go ahead with the construction", we would not have done so. If necessary, we can contact Mr. Thompson to verify this. He was also very pleased with this construction, as he said it was a wonderful thing for that part of the country to have this lake. Also there were about 5 witnesses present at the time Mr. Thompson informed me to go ahead with the construction of the dam and that a special use permit would be issued at a later date.

Last year there was a heavy snow pack in Hull Creek - much heavier than the snow pack this year and no trouble was experienced with the dam. Nor was there any trouble the year before that. Last fall I put in a concrete spillway and prior to that time the spillway was just made of dirt.

The dam is approximately 10 feet to the bottom of the spillway. The fill I put in is from 60 to 70 feet long. The dam is approximately 150' wide instead of the 40 to 60 feet as originally intended to make structure a lot safer and not being any possibility of a wash-out.

I can understand the Forest's position in the matter in securing your approval before issuing this special use permit. Ranger Marsolek was transferred to that area after Mr. Thompson's departure. Had Ranger Marsolek been in the area when Mr. Thompson was there, he would have been aware of this approval given by Mr. Thompson. I should, therefore, like to meet with you or your representative at your convenience either here at Arco or at Salmon, so we can get this matter straightened out. I am sure that you will agree that this is a very safe dam, after you have had an opportunity to see it for yourself.

I shall await your reply.

Yours very truly

Clifford O. Cummings
Clifford O. Cummings

25271

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SALMON NATIONAL FOREST



U-USES, Application for Special-use
Dam, Cummings, Clifford O.

North Fork, Idaho
March 19, 1958

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

RECEIVED
MAR 24 1958
Department of Reclamation

Dear Mr. Kulp:

Your letter of March 10, 1958 relative to a dam of Clifford O. Cummings has been received.

A portion of this dam and impounded waters lie on National Forest land; therefore, it is required of Mr. Cummings to have a special-use permit prior to construction of such a structure.

This dam has been constructed and a special-use permit by the Forest Service cannot be issued without State approval.

The application to the State shows a dam not to exceed 10 feet in height and approximate length of 60 feet. A survey of the structure shows the dam to be 13 feet in height and approximately 180 feet in length. Because the dam stores water over 10 feet in depth, additional requirements must be met for issuance of a special-use permit.

A request was made of Mr. Cummings on November 27, 1956 for plans and specifications, approved by the State, for his present structure. On March 23, 1957, he advised the Forest Service that inspection was to be made by the State not later than November, 1957, and the above would be furnished.

Because Mr. Cummings has a structure on National Forest lands without authority, which has not been approved as safe, and action for approval has been much delayed, it is necessary for him to furnish the above plans and specifications at this time to be permitted further use of such structure, or storage of water in this reservoir.

We hope this can be worked out with the least inconvenience to all concerned.

Yours truly,

W. J. Marsolik

District Forest Ranger

25271

cc. Clifford O. Cummings

March 10, 1958

United States Department of Agriculture
Forest Service
North Fork, Idaho

Attention: Mr. Marsolek

Dear Mr. Marsolek:

Mr. Clifford Cummings of Arco, Idaho has written this department requesting an inspection on his dam and diversion of water and written approval of same in order to have the Forest Service issue to him a special permit.

In explanation, wish to advise that it is not customary to make such an inspection until final Proofs for Beneficial Use have been received in this office. Then inspection is made on the first inspection trip into the area which is within a year, usually in the summer time.

You are advised that this permit is regular and in order, the completion of works has been made and certificate issue and a request has been made for and forms sent to be used in initiation of final proofs.

Mr. Cummings will make final proofs in the near future and inspection should be made next summer.

However, if you have seen his dam and diversion works and feel that the water held back of his dam may under certain conditions constitute a hazard, if you request this department for an inspection, one will be made as soon as possible.

We wish to cooperate fully with the Forest Service as we have in the past and will do whatever necessary to accommodate you.

However, if your issuance of a use permit to Mr. Cummings can be handled without a special inspection being made by this department, we will greatly appreciate it.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy
State Reclamation Engineer

ENH:lw

cc: Clifford O. Cummings

25271

March 7, 1958
Rt. 1, Box 1
Arco, Idaho

RECEIVED
MAR 10 1958
Department of Reclamation

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

Attention: Mrs. Edna P. Rutledge, Chief Clerk
Subject : Permit No. 25271

Dear Mrs. Rutledge:

We have applied to the Forest Service for a special-use permit for a dam and fill on Hull Creek, but before action can be taken it is necessary that we have approval in writing, of this dam by the State Engineer. I wrote to your department about this matter previously and had been told that an inspection would be made along about November, 1957, at which time your representative was scheduled to be in or about this particular area. I have not heard from your Department in this regard. I am enclosing a copy of the Forest Service's letter concerning this matter.

dam
The/we are speaking of is approximately 10 feet high, 100 feet wide and 80 feet long, with a concrete spillway 6 feet wide and 4 feet high and the balance is made up of stone. This was made much stronger than the original plans for safety and durability.

At the time Permit No. 25271 was issued and the work commenced and practically completed, it came to light that our property lines were misrepresented. A survey was made and the correct property lines were established. We were told by the Service (Forest) that we could apply for a special-use permit. However, before action can be taken it is necessary that your written approval be received.

Thank you kindly for giving this matter your immediate attention.

Yours very truly

Clifford O. Cummings

Clifford O. Cummings

25271

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SALMON NATIONAL FOREST



U-USES
Application, Damsite
Cummings, Clifford O.

North Fork, Idaho
March 3, 1958

Clifford O. Cummings
Route 1
Arco, Idaho

Dear Clifford:

Reference is made to your application for a special-use permit for a dam and fill on Hull Creek; application dated September 15, 1956, and to your letter of March 23, 1957 stating that a State Reclamation Engineer was scheduled to make an inspection of this dam on November of 1957.

It is necessary to have action taken at this time to have approval of this dam by the State Engineer, and a copy of such approval is necessary for us to take action on the application for special use.

Since this dam is located on National Forest land and involves a responsibility to privately owned and public lands lying downstream from this dam, action must be taken without further delay to bring this present structure under special-use or have the dam modified to a structure on which it will be possible to issue special-use permit without approval of the State Engineer.

Your cooperation is solicited in this matter, since it now requires immediate attention.

Yours truly,

A handwritten signature in cursive script, appearing to read 'J. J. Marwick'.

District Forest Ranger

25271

9-21-57

Mark R. Kulp, Reclamation Eng.
Borrie, Idaho

Dear Sir:

Enclosed find "Proof of Completion
of Works" on Permit 25271, together
with my check for \$500.

Please forward information
regarding another proof which will
be required later for a license.

Thank you.

Yours Truly
C. A. Cummings

B/H. KULP NOV 22, 1958 Rt. 1, Box 1
Arco, Idaho

25271

October 7, 1957

Re: Permit No. 25271

Mr. and Mrs. C. O. Cummings
Route #1, Box 1
Arco, Idaho

Dear Mr. and Mrs. Cummins:

Enclosed is the Certificate of Completion of Works issued under Permit No. 25271 for the diversion of 1.0 second foot of water from Hull Creek, for irrigation and fish culture purposes, with the points of diversion in the NE corner of Homestead Entry #277 and for the dam and pond in the lower right hand corner of Homestead Entry #277, in Section 24, Township 25 North, Range 20-21 E., B.M., irrigation in Homestead Entry #277 and adjoining land in Section 24, Township 25 North, Range 20-21 East, B.M.

Also enclosed is departmental receipt #28783 for \$5.00, issued as receipt of the fee for the Certificate of Completion of Works.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:nls
Enc.

25271

October 4, 1957

RE: Permit No. 25271

Mr. C. O. Cummings
Route #1, Box 1
Arco, Idaho

Dear Mr. Cummings:

We have your letter of September 21st, stating that you are prepared to make the final proof on the above captioned Permit.

Enclosed Forms 10 & 11 and instructions in completing them.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Edna P. Rutledge (Mrs.)
Chief Clerk

EPR:vm
Encl.

25271

Permit No. 25271STATE OF IDAHO
Department of ReclamationRECEIVED
SEP 24 1957
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of CLIFFORD

SS.

CLIFFORD C. AND NANCY M. CUMMINGS, being first duly sworn, upon his oath deposes and says:First: That he is the holder and owner of Permit to appropriate the Public Waters of the State of Idaho, No. 25271, and that his postoffice address is RT. 1, Box 1, ARCO, State of IDAHOSecond: That the name of the stream from which said water is to be diverted is HULL CREEK AND SPRINGS ON MY PROPERTYThird: That the point of diversion of said water is N.W. CORNER OFHOMESTEAD ENTRY No. 277. POINT OF DIVERSION FOR DAM & POND IS IN LOWER R.H. CORNER HOMESTEAD 277, SEC. 24, T25N, R20E, UNIMPAVED LAND, SEC. 8, R21E.Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by NOV. 27, 1957Fifth: That the use for which said water is intended is IRRIGATION & FISH CULTURESixth: That on the date above mentioned, the works constructed under said permit were (~~or were not~~) fully completed and consisted of the following:I. Kind of works: RESERVOIR, DAM & SPILLWAY
(Reservoir, dam, ditch, flume, pipe or otherwise)II. Dimensions of work: ?(a) Height of dam APP. 10 feet, length of dam at top APP. 100 feet, length of dam at bottom APP. 75 feet. Material used in construction CLAY, STONE & CONCRETE

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir APP. 5 acres ~~feet~~(c) Size of headgate: Width 6 feet, height 4 feet.(d) Conduit width at bottom feet, width at water line width at bottom feet.
(State whether ditch, flume or pipe)feet, depth of water feet; diameter of pipe inches, average grade per mile is feet. Length of conduit is miles.Seventh: That said works are capable of conducting to the place of intended use 1.25 second feet of water.Eighth: That water appropriated under said permit is available for 30 APP. 30 acres of land described as follows:SEC. 24, T25, R20 & 21, H.E. 277, OF SEC. 24, T25N, R20 & 21, EBM, COUNTY OF LEMHI, STATE OF IDAHO.

Ninth: Remarks: That

Clifford C. Cummings - Nancy M. Cummings
(Sign Here)Subscribed and sworn to before me this 10 day of Sept, 1957

My commission expires

Notary Public.

25271

PAUL CRANE
BUTTE COUNTY PROBATE
ARCO, IDAHO

R405

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

Permit No. 25271

INSTRUCTIONS

RE:

PROOF OF COMPLETION OF WORKS

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

Boise, Idaho

Dear Sir:-

Under the terms of your permit No. 25271 you are required to complete your diversion works on or before November 27, 1957. I enclose herewith blank affidavit to be filled out, sworn to by you before a Notary Public or a Justice of the Peace, and returned to this office on or before the above date, or within ten days thereafter, for the purpose of making proof of completion under the permit. Upon receipt of this affidavit in this office, provided the same satisfactorily shows the completion of the works substantially in accordance with the terms of the permit, together with a fee of \$5.00, a Certificate of Completion will be issued to you.

The certificate to be issued under this proof will not give a perpetual right to the use of water for which application was made, as it only confirms the completion of works of a capacity to divert and convey to the place of intended use a certain amount of water. The law requires that another proof be submitted when the water has been fully applied to a beneficial use, at which time license is issued for the amount of water actually in use. Information in regard to this last proof will be furnished on request.

Yours truly,

MARK R. KULP

State Reclamation Engineer

25271

March 8, 1957

Re: Permit No. 25271

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

Dear Mr. Cummings:

This acknowledges your letter of March 4, 1957, relative to the above captioned permit.

This permit, as recorded in the Department of Reclamation, is for 1.0 cubic foot of water from Hull Creek and the water is to be used for irrigation and fish culture. We observe that the permit calls for a small dam or fish pond, approximately eight (8) feet high, six (6) feet long and twenty (20) feet wide.

In your letter you requested that one of our representatives come to the North Fork of the Salmon River to approve said project before the Forest Service will give you a release on the ground on which the pond is located.

We do not make inspections on work of this kind prior to your making the final proofs. After the proofs are made, the Field Engineer of the Department of Reclamation makes an inspection to determine that the works are completed and in compliance with the terms of the permit.

If our Engineer is in the vicinity of the North Fork of the Salmon River, before such proofs are made, he will be glad to make an inspection of your works, however, it is impossible for him to make a special trip to do so.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

RWT:nls

Roy W. Thompson
Office Manager

25271

Mar 4, 1957

Mark R. Kneip
State Reclamation Engineer
Boise, Idaho

RECEIVED

Re - Permit 25271

Department of Reclamation

Dear Mr. Kneip:

At the time construction of dam was started per above Permit it was my understanding through the former property owners that my property boundaries extended beyond the dam site. However after consulting with Chief Ranger Thompson, formerly located at Salmon, he gave his approval to go ahead and complete the project & then make application for a lease on forest land.

I have made application for such a lease, however before action can be taken, an appointment must be made with you or one of your representatives to come up to North fork & approve this project -

Last spring due to the unusually great run-off, the Ranger at North fork thought a flood was threatening and sent

25271

PS At the same time you come
up, we can also discuss
Permit 26709, which is subject
to your determination as to
whether water ~~is~~ filed on is
unappropriated water.

me a wire while I was working
in Calif. I made a special trip
back to see what ~~was~~ the situation
was. In order to comply with the
Rangers wishes & eliminate the possibility
of a flood, I made arrangements to
have the dam built up approximately
2' and made wider. Consequently
this must be approved by you before
Forest Dept. can take action on
granting this lease.

I reside at Arco. I can meet
you here & go up to North Fork
together, or whatever you decide.
There is presently quite a bit of snow
at North Fork, so believe a meeting
any time after April 1st will be
satisfactory as the snow should be about
gone by then.

I shall look forward to meeting you,
Mr. Kulp.

Yours very truly
Clifford O. Cummings
Rt. 1
Arco, Idaho

S T A T E O F I D A H O

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

B O I S E

Permit No. 25271

Date December 7, 1954

We enclose herewith the above numbered permit. BE SURE AND
NOTE LIMITATIONS AND CONDITIONS OF SAME as given under approval of the
State Reclamation Engineer, on the fourth page.

Clifford L. & Nancy M. Cummings
C/o Mr. Clifford Cummings
Route 1
Arco, Idaho

MARK R. KULP
State Reclamation Engineer
By

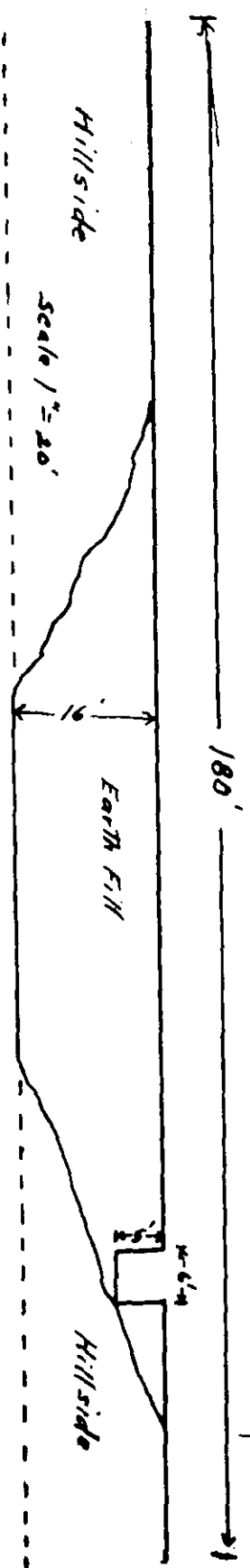
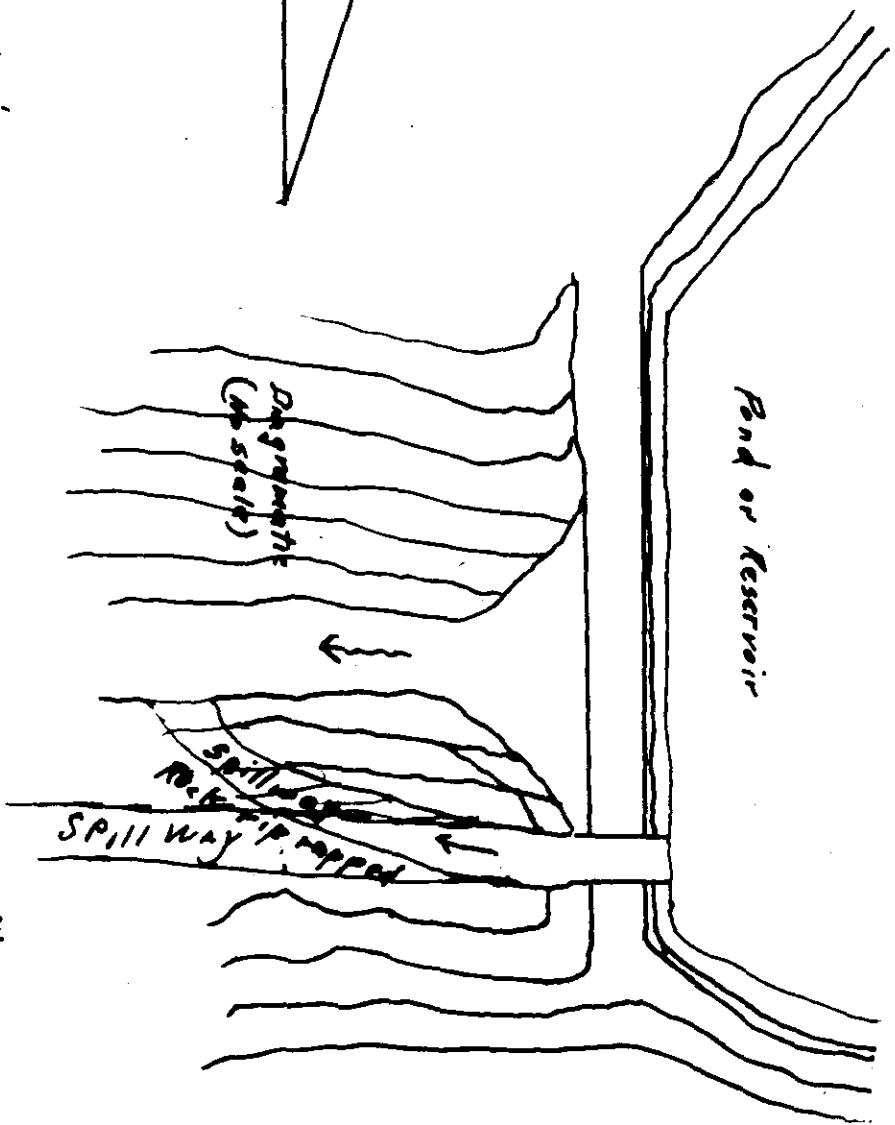
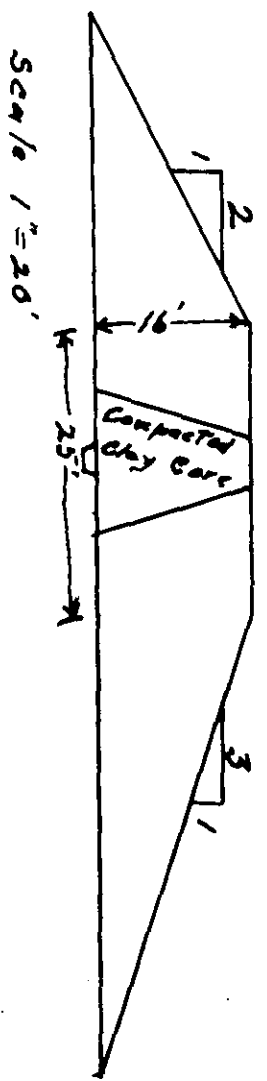
Enc. Departmental receipt No. 27045

Chief Clerk

25271

Clifford O. Cummings

Cross Section (Vertical)



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

Permit Map No. R-1028

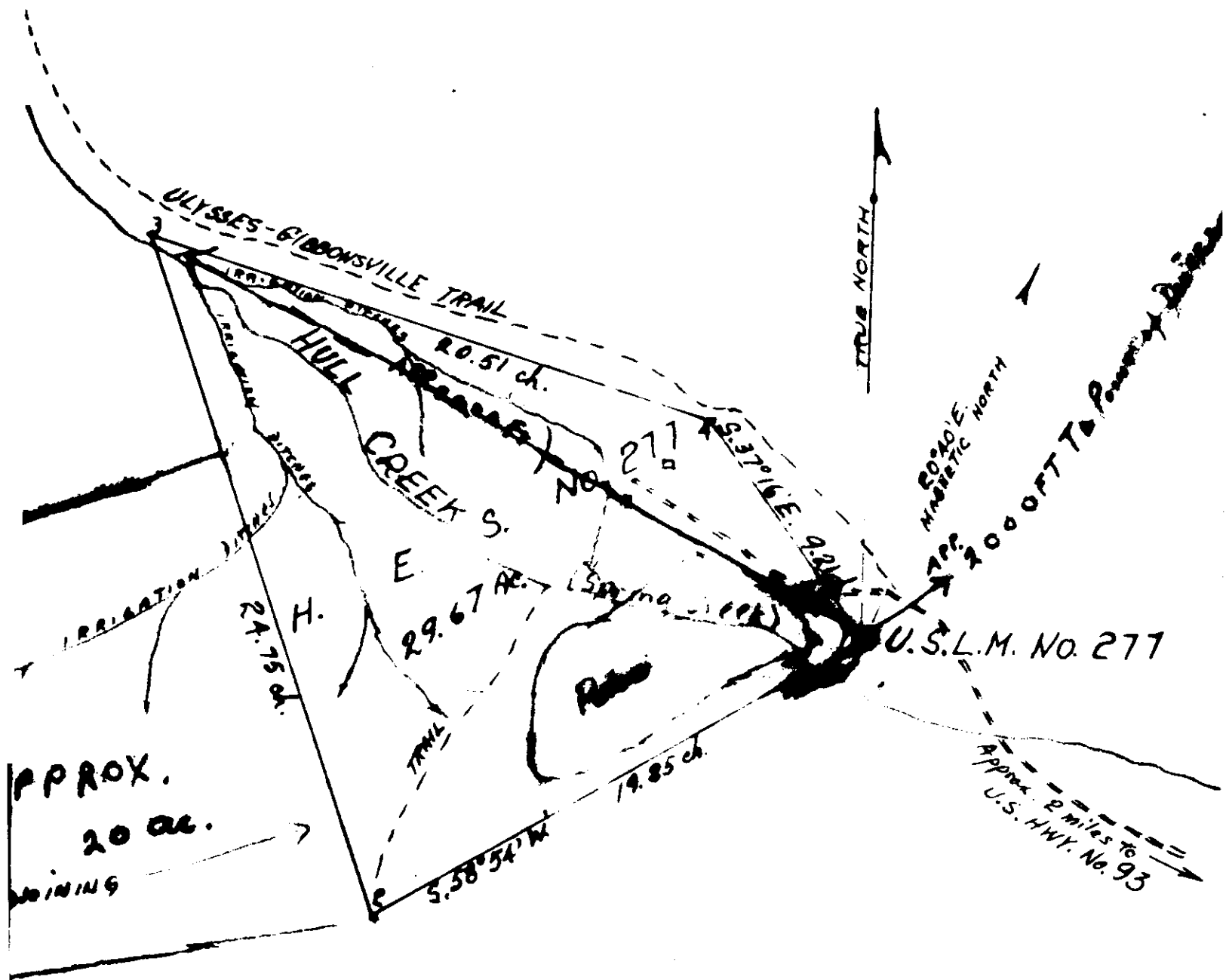
As Approved

MARK R. KULP
MAY 5 1958
State Reclamation Engineer

25271

Cummings Reservoir
Dam Plan
This is complete as
shown

APPLICANTS: CLIFFORD O. & NANCY M. C. WINGS

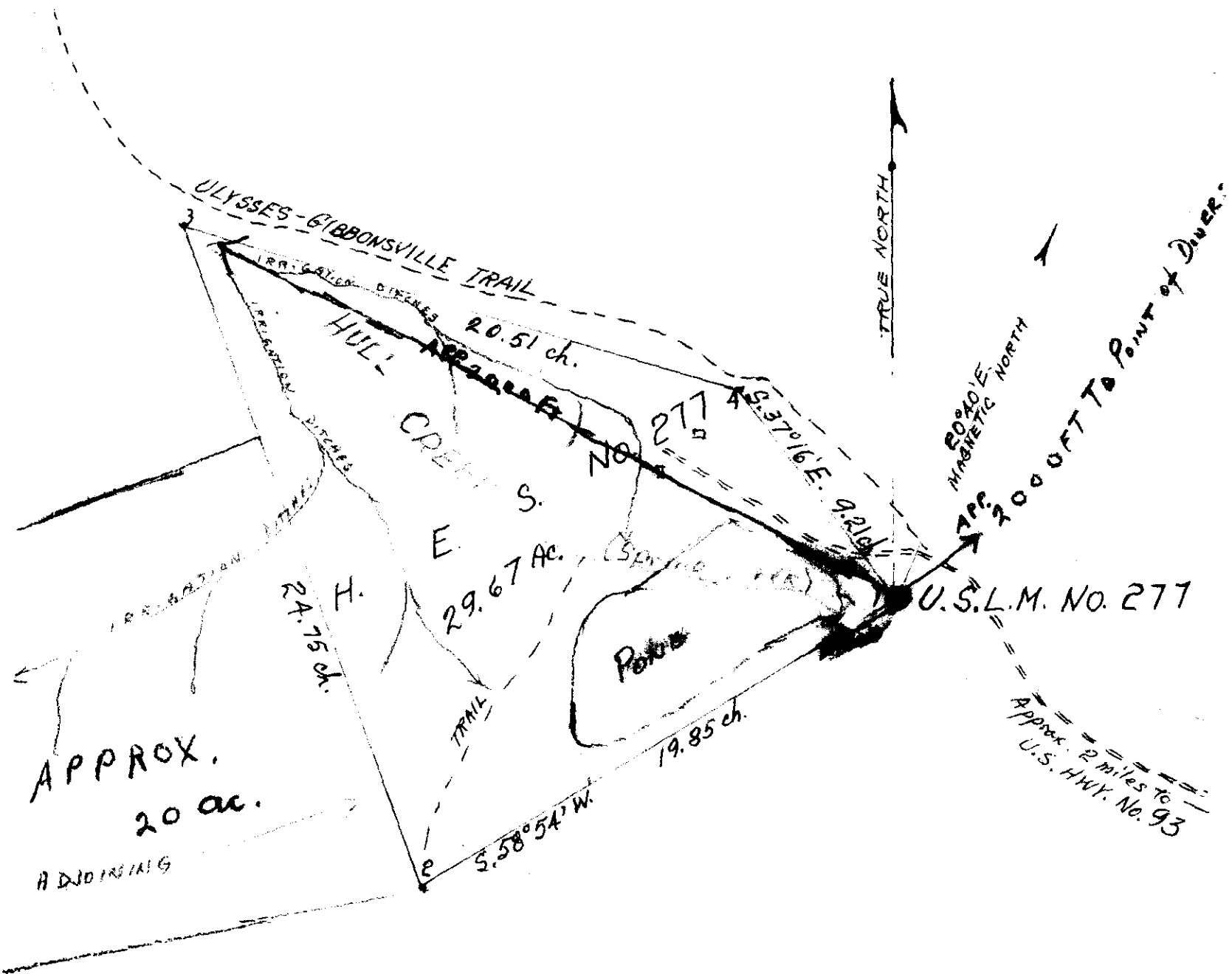


Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

Permit Map No. 25271
As Approved
NOV 27 1964
MARK R. KULP
State Reclamation Engineer

25271

APPLICANTS: CLIFFORD O. & NANCY M. CUMMINGS



Approximate
T. 25 N., R. 20 & 21 E.
Unsurveyed.

From U.S. BLM records.
11-27-54

2525
APPROX. 2
MARKER KULP
DATE 11-27-54

24271

Bureau of Reclamation
Boise, Idaho

Nov. 9, 1954
Gres., Idaho

Attention: Mark R. Kneip
State Reclamation Engr.
Roy W. Thompson
Supervisor Water Distribution

Gentlemen:

Your letter dated Nov. 8th has just been received, together with my check and "Application for Permit Form 2," which were returned.

I wish to take this opportunity to thank you for your interest shown and suggestions which you extended.

Enclosed you will find completed "Application for Permit Form 1," together with my check in the sum of \$500.

I have reconsidered and found it best to provide a waste way structure around the dam, as you suggested, rather than a pipe through the dam.

Also find attached your drawing of our Homestead Entry 277, which we recently purchased, locating our land and the dam site.

Should you have any questions or require any additional information please do not hesitate to contact me.

Again, many thanks for your interest and cooperation.

Yours very truly
Clifford O. Cummings

RECEIVED
NOV 12 1954

Department of Reclamation

25271

November 8, 1954

Mr. Clifford C. Cummings
Route 1
Arco, Idaho

Dear Mr. Cummings:

We are returning herewith your application for permit to appropriate water by storage, also your check for \$10.00 made out in favor of the Department of Reclamation for the following reasons:

We think that you should file on natural flow water of the creek instead of filing a reservoir permit if the capacity of your storage reservoir, as contemplated, is just slightly over two acre feet.

Therefore, we would suggest that you use the enclosed form and file on the natural flow of the stream. A six inch pipe should flow, with average velocity, around 1 cubic foot per second or 50 miner's inches. We can allow you to file on 1 inch per acre for the acreage you can put in cultivation.

The construction of the dam being less than 10 feet high can be considered more or less a diversion dam, and the reservoir as a holding pond.

Relative to your plan in placing an additional pipe through the dam as a waste way, we do not think it good engineering or construction practice. It would be best to provide a waste way structure around the dam if at all possible rather than a pipe through the dam. We think it would be impractical to hold the upper pipe in the fill. The lower pipe would require cut-off walls around the pipe to keep water from following the pipe through the fill. It would be impractical to construct same for the upper pipe.

The land in your location is still unsurveyed, therefore, it will be necessary to locate your land and the dam in relation to the location of Homestead Entry No. 277 or better, from U. S. L. M. No. 277 as shown on the enclosed sketch map.

Please make out your application on form one enclosed, and also furnish a drawing or sketch map showing land to be irrigated and point of diversion from stream, and give us all information necessary to locate correctly in relation to location of U. S. Monument No. 277.

Your filing fee will be \$5.00 for the first second foot of 50 inches filed on and 25 cents for each additional 50 inches or fraction thereof.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:br
Enc.

#25271

25271

October 19, 1954

Mr. Clifford O. Cummings
Route 1
Arco, Idaho

Dear Mr. Cummings:

I have your letter of October 14, 1954, on procedure for the approval of plans for a dam to impound water on your homestead entry.

We are sending you our form for application to appropriate and store public water.

You did not state what purpose the impoundment would serve but assume that it would be for irrigation, recreation, fish culture or some other beneficial purpose.

Before the dam is built it will be necessary to have plans and specifications approved by this department. This is a public safety measure and applies to all dams over 10 feet in height or impounding more than 100 acre feet of water.

We are also sending you a copy of the minimum suggested features of small earth dams.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:hll
Enc.

25271

October 14, 1954
Rt. 1
Arco, Idaho

Bureau of Reclamation
State of Idaho
Boise, Idaho

Gentlemen:

I have just purchased the following property:

HDS No. 277, also known as Homestead Entry No. 010692,
lying and being in Section 24, Township 25 N, Range 20,
EBM, situated on the west fork of Hull Creek, in Lemhi,
County, State of Idaho.

At one time or another a natural lake has existed on this property.
However, at present there is a creek and many springs on the property.
It is my intention, if approved, to put in a lake to extend over four or
five acres. In order to do this, I must put up a 10 or 12 foot dike.

The Forest Service has surveyed the adjoining area for a logging road.
I should like to use the fill for the dike and the logging road also.
The Lumber company contracting for the logs will build the road and they
will work with me constructing a dike and the logging road. The logging
road will go over the dike.

I should like to have information as to the required procedure to get
my plans approved and be able to go ahead as stated.

Any suggestions you may offer will also be appreciated. Thank you
kindly, and awaiting your prompt reply, I am,

Yours very truly.

Clifford O. Cummings

OCT 19 1954

Department of Reclamation

October 14, 1954

Rt. 1

Arco, Idaho

Bureau of Reclamation
State of Idaho
Boise, Idaho

Gentlemen:

I have just purchased the following property:

HDS No. 277, also known as Homestead Entry No. 010692,
lying and being in Section 24, Township 25 N, Range 20,
EBM, situated on the west fork of Hull Creek, in Lemhi,
County, State of Idaho.

At one time or another a natural lake has existed on this property.
However, at present there is a creek and many springs on the property.
It is my intention, if approved, to put in a lake to extend over four or
five acres. In order to do this, I must put up a 10 or 12 foot dike.

The Forest Service has surveyed the adjoining area for a logging road.
I should like to use the fill for the dike and the logging road also.
The Lumber company contracting for the logs will build the road and they
will work with me constructing a dike and the logging road. The logging
road will go over the dike.

I should like to have information as to the required procedure to get
my plans approved and be able to go ahead as stated.

Any suggestions you may offer will also be appreciated. Thank you
kindly, and awaiting your prompt reply, I am,

Yours very truly,

Clifford O. Cummings

25271