

RECEIVED
NOV 6 1956

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, NO. 23234 Department of Reclamation

Comes now LaVar A. Cherry 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. 23234.

That the point of diversion is described in said permit as being
located NE 1/4 Section 10, Township 9 North, Range 13 East, B.M.

as additional added at
That he now requests that ~~this~~ point of diversion be ~~changed to~~
point located in the NW 1/4 Section 10, Township 9 North, Range 13 East, B.M.

That his reasons for desiring to make such change are as follows:
An additional Point of diversion was added.

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

Signed at Reynolds, this 30 day of Oct 1956

LaVar A. Cherry

Date of receipt at Department of Reclamation November 6, 1956

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. 23234. 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.

Mark R. Kulp
State Reclamation Engineer

Ch. June #202
Reynolds, Idaho
Oct 30, 1956

RECEIVED
NOV 6 1956

Department of Reclamation

Dear Sir:

Enclosed are papers that should have been mailed some time ago. But we have been busy getting our crops in and moving down from the farm - We were mixed up on the Publication for Green Canyon - I thought it had been done - But in going through old letters from your office it looks like both springs should have been published at same time. Am returning publications papers on Green Canyon. They have Larr's Brothers name on them though, and it should just be in our name - Can this be changed? He has bought his share in farm.

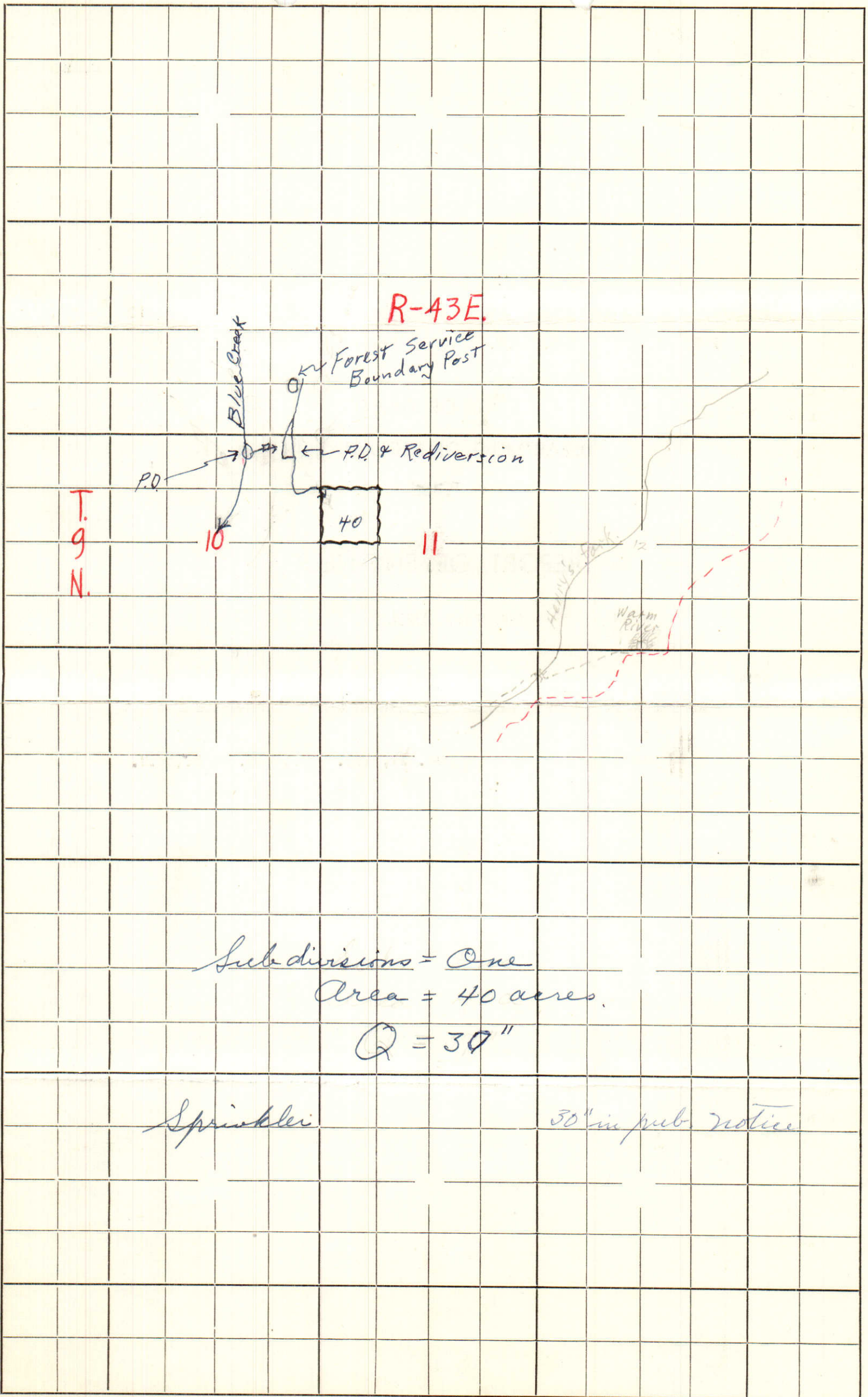
Also enclosed is ^{\$1.00} check and Application for amendment paper - I hope this "description of point of diversion" is right. If not let us know. Larr says that is what the reason is.

I hope this meets with your approval.

Sincerely,

P.S. I date on the publication isn't right. Could you insert the right one.

(Mrs) Larr A. Cherry (over)
Reynolds Idaho



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

23234

70' lift est.
400' x 6" main
(port. al.) delivers over
hill to storage on
East F.K.

75 hp. Chrysler motor
6 cyl. gas
Army surplus pump

6" in. x 2-2 1/2" out.
Portable unit on trailer
Pump # CF 1.2124

1/4 a. pond

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.

RECEIVED
AUG 29 1956

Department of Reclamation

Mr. LaVar A. Cherry
Rexburg, Idaho

Permit No. 23234

Rexburg 446 W

Examination for Beneficial Use

County Fremont

10-9N.-43E.

Qr 0.6 cfs.

S = Blue Creek

P.D. = NE. NE. Sec. 10, T. 9N. R. 43E

Use = Irrigation & Domestic

Filed - Nov. 13, 1952

Due - Nov. 19, 1955

C/W - 12-5-55

14" Steel x 4' then

16" conc. 4' lengths

Total 24' at ditch head

14" vert. headgate

15" freeld. l = 120'

32" x 24" h. x 11' l.

9' to 10' = W. Top of dam

high water area est. @ 4' dam

est. 15" flowing in E. F. K. of

Blue Cr or Spring Cr.

**AFFIDAVIT OF
PUBLICATION**

State of Idaho
County of Fremont

SS.

Gwen Albrethsen

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

That he is the Clerk
of The Ashton Herald, a news-
paper as defined by Idaho
Codes Annotated, section 58-106,
as amended, and that said
newspaper is a weekly news-
paper printed and published at
Ashton, in Fremont County,
Idaho, having a general circula-
tion in said county, and that said
newspaper has been printed and
published as a weekly news-
paper in said county for more
than 78 consecutive weeks prior
to the first publication of the at-
tached notice, advertisement or

publication of Notice of
Proof Application

And affiant further says that
said attached notice, advertise-
ment or publication, as per clip-
ping attached, was published in
said newspaper, in the regular
and entire issue thereof, and
not in any supplement issue

thereof, for 4 consecutive
issues thereof; first publication

having been made on the 15

day of December, 1955,

and the last publication on the
5 day of January,

1956

And affiant further says that at
the times herein mentioned said
newspaper was made up of at
least four pages of at least five
columns each, printed from type
matter, of at least seventeen and
three-fourths inches deep.

Gwen Albrethsen
Subscribed in my presence and

sworn to before me this 16

day of January

1956

(SEAL)
Notary Public for the
State of Idaho, resi-
dence and post office
address: St. Anthony,
Idaho. Ashton

RECEIVED
MAY 28 1956
Department of Reclamation

LEGAL NOTICES

**NOTICE OF PROOF APPLICA-
TION OF WATER TO
BENEFICIAL USE**

Notice is hereby given that
at 10:00 A.M. on the 16th day of
January, 1956, at Rexburg,
County of Madison, State of
Idaho, before Henry Dietrich,
Notary Public, proof will be sub-
mitted of the application to
beneficial use of 0.6 cubic foot
per second of the waters of
Blue Creek in accordance with
the terms and conditions of Per-
mit No. 23234 heretofore issued
by the Department of Reclama-
tion of the State of Idaho.

The name and postoffice ad-
dress of the person or corpora-
tion holding said permit are La-
Var A. Cherry, Rexburg, Idaho.

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

The amount applied to bene-
ficial use is 30 inches or 0.6
cubic foot per second.

The place where said water
is used SW 1/4 NW 1/4 Section 11,
Township 9 North, Range 43
East, B.M.

The name of the canal or
ditch or other works by which
said water is conducted to such
place of use is (No Name).

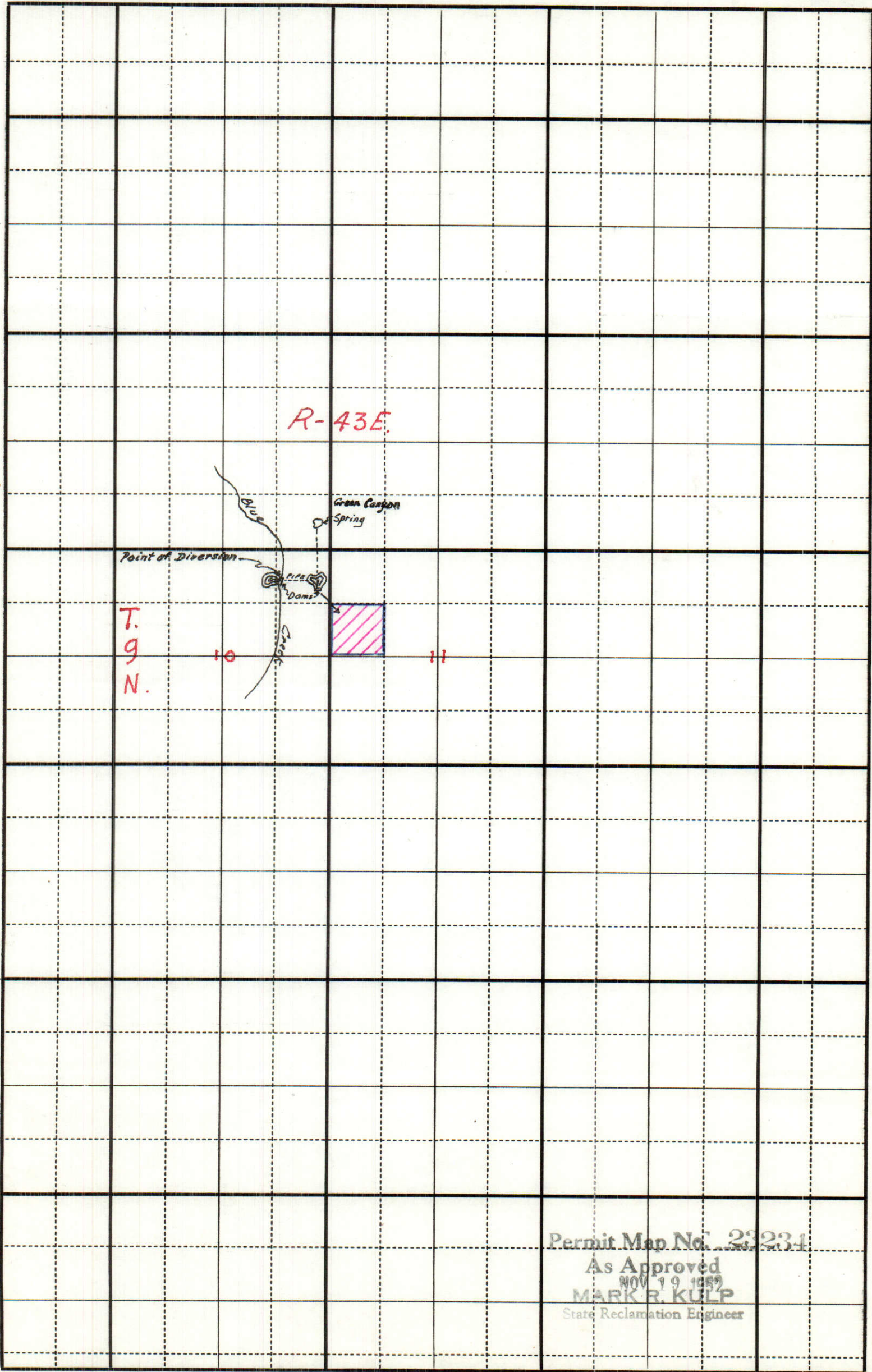
The right to take water from
such works is based upon Per-
mit No. 23234.

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

The date of priority which
said user is prepared to estab-
lish is November 13, 1952.

MARK R. KULP
State Reclamation Engineer.
(Pub. Ashton Herald Dec. 15, 22,
29, 1955, and Jan. 5, 1956.)

23234



Permit Map No. 23234
As Approved
NOV 19 1959
MARK R. KULP
State Reclamation Engineer

RECEIVED

NOV 13 1952

Department of Reclamation

Reylburg, Idaho
Nov. 12, 1952

Dear Sir;

Received your letter of Nov. 5, and
am returning notarized application for
extension of time also permit application
for water in Blue creek.

Could you tell me if this covers
all of the water in the creek or just a
portion. I don't know how water is measured.
Also, can anyone come in and claim more
water? If there is any more?

On the time extension that we are
asking for, now that we have used it,
would it be possible for anyone to get
it if we don't file for "proof of beneficial
use." I don't think anyone would because
the people that are next to us have so much
dry farm ground that I don't think they would
bother with it. But I would like to know
what the law is on it.

Thank you

Mrs. Sarah A. Cherry

23234

State of Idaho
License and Certificate of Water Right

Water License No. 23234

Amount 0.6 second foot

Water District No.

Priority March 20, 1953

THIS IS TO CERTIFY that LaVAR A. CHERRY
of Rexburg, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated November 13, 1952; that Permit No. 23234
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.6 second foot, was issued thereunder on December 5, 1955, showing that said works
were completed on the 15th day of November, 1955; and that on the 26th
day of March, 1956,

LaVAR A. CHERRY
of Rexburg, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of Blue
Creek, a tributary of - - -, for the purpose of irrigation and
domestic, under Use Permit No. 23234 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
9 of Licenses at page 5856, on the 7th day of November, 1956;

The right hereby confirmed dates from March 20, 1953;
s are

The Point/of Diversion is located in the NW 1/4 NE 1/4 Section 10 and
in the NE 1/4 NE 1/4, Sec. 10, Tp. 9 N., R. 43 E., B. M. Fremont 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 0.6 cubic foot per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
9 N.	43 E.	11	SW 1/4 NW 1/4	40	40

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

7th day of November, 1956.

MARK R. KULP

State Reclamation Engineer.

(SEAL)

21-2104

State of Idaho
License and Certificate of Water Right

Water License No. 19977 Amount .44 second foot
Water District No. Priority October 16, 1949

THIS IS TO CERTIFY that BEN G. KOPP
of American Falls, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated December 5, 1946; that Permit No. 19977
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
3 second feet, was issued thereunder on January 10, 1952, showing that said works
were completed on the 3rd day of January, 1952; and that on the 30th
day of October, 1954, BEN G. KOPP

of American Falls, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a well
a well (subterranean flow), for the purpose of irrigation and domestic,
under Use Permit No. 19977 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
9 of Licenses at page 5855, on the 5th day of November, 1956;
The right hereby confirmed dates from October, 16, 1949;

The Point of Diversion is located
in the SW 1/4 SW 1/4, Sec. 14, Tp. 7 S., R. 31 E., B. M. Power 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 .44 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
7 S.	31 E.	14	SW 1/4 SW 1/4	40	40
			SE 1/4 SW 1/4	40	--
			NE 1/4 SE 1/4	40	--
			NW 1/4 SE 1/4	40	--
			SW 1/4 SE 1/4	40	--
			SE 1/4 SE 1/4	40	--
			Total Number of Acres Actually Irrigated --		40

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
5th day of November, 1956.

(SEAL) MARK R. KULP
State Reclamation Engineer.

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

21-2104

APPLICATION No. 31007
 PERMIT No. 23234
 DISTRICT No.

1. Name of Applicant: LaVAR A. CHERRY

Postoffice address: Rexburg

County: Madison

State: Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of capital stock:

(c) Amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are:

(b) Treasury stock:

(d) Other resources:

(a) Cash on hand:

(c) Bonds to be issued:

2. Quantity of water claimed: 30 inches or 0.6

cubic feet per second.

3. Source of water supply: Blue Creek

which is a tributary of

4. Location of point of diversion:

feet distant from the

corner of Section , T. , R. , B. M., and is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$

of Section 10 , T. 9 N. , R. 43 E. , B.M., County of Fremont.

5. Water is to be used for Irrigation and domestic purposes.

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

(a) Point of use of water: feet distant from corner of Section

T. , R. , B.M., in the of Section , T. , R. , 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: \$ 550.00

8. Kind of works: Dam, pipe-line and pump

9. Height of dam 8 feet; length of dam at top 100 feet; length of dam at bottom 75

feet; material used in dam: Earth fill

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

11. Ditch: Width at bottom 2 feet; width at water line 4 feet; depth of water 5 feet;

dimensions of flume:

Diameter of pipe 8 inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is Three (3) years.

13. The time required for the complete application of the water to the proposed use is None additional years.

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: Permit filing for 10 miners inches
 of water from Green Canyon Creek (Permit No. 21234)

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.

By _____ Agent.

Corrected application received:

The number of this permit is 23234
Recorded in Book 83 Page 23234 Approved November 19, 1952
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 19, 1953 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 19, 1954
The whole of said work to be completed on or before November 19, 1955
Beneficial use of water appropriated in accordance herewith, to be made on or before November 19, 1955

Deputy **E. N. HUMPHREY**
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 19th
day of November, 1952.
Countersigned: STATE OF IDAHO
(SEAL) By LEN JORDAN Governor.
By IRA H. MASTERS Secretary of State.

REMARKS: Water will be pumped directly from small reservoir located on Blue Creek over a hill into reservoir located in Green Canyon Creek, from there through ditches constructed under Permit No. 21234

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 $\frac{1}{4}$	
9 N.	43 E.	11					40												40
Permit No. 23234 CERTIFICATE OF COMPLETION OF WORKS																			
TO ALL WHOM IT MAY CONCERN:																			
This is to certify that LaVar A. CHERRY of Rexburg, County of Madison, and State of Idaho, the holder of Permit No. 23234, issued upon Application No. 31007, bearing date of priority of November 13, 1952, authorizing the diversion of 0.6 second foot of the waters of Blue Creek, a tributary of - - County of Fremont, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of 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 0.6 second foot of the waters of Blue Creek; that the point of diversion of said waters is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, Township 9 North, Range 43 East, B.M. and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 9 North, Range 43 East, B.M.																			
Witness my hand this 5th day of December, A. D. 1955.																			
MARK R. KULP State Reclamation Engineer																			
Proof of completion of works made November 15, 1955 Certificate of Completion of Works issued December 5, 1955																			

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, NO. 23234

Comes now LaVar A. Cherry 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. 23234.
That the point of diversion is described in said permit as being located NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, Township 9 North, Range 43 East, B.M.
That he now requests that an additional point of diversion be added at a point located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, Township 9 North, Range 43 East, B.M.
That his reasons for desiring to make such change are as follows: An additional point of diversion was added.
That no one will be injured by such change, and that such change will be made at Permit Holder's own risk.
Signed at Rexburg, this 30 day of Oct. 1956.

LaVAR A. CHERRY

Date of receipt at Department of Reclamation November 6, 1956.

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. 23234. 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.

MARK R. KULP
State Reclamation Engineer

Page 5856

July 10, 1961

Re: License No. 23234

Holden, Holden & Kidwell
Attorney at Law
Idaho Falls, Idaho

Attn: R. Vern Kidwell

Dear Mr. Kidwell:

We enclose departmental receipt No. 30640 in the amount of \$3.00 for copy of License No. 23234 which was forwarded to you July 3rd.

Very truly yours,

GEO. W. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Ryle
Chief Clerk

EPR:ew

23234

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 6, 1961

RECEIVED
JUL 7 1961

Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Room 107
STATE HOUSE
BOISE, IDAHO

GENTLEMEN:

WE ENCLOSE OUR CHECK PAYABLE TO YOUR ORDER
IN THE AMOUNT OF \$3.00 IN PAYMENT OF THE FEES FOR
THE COPIES OF PERMIT 31007, LAVAR A. CHERRY,
LICENSE No. 23234.

THANK YOU VERY MUCH FOR THE PROMPT SERVICE
RENDERED.

BEST REGARDS.

VERY TRULY YOURS,

HOLDEN, HOLDEN & KIDWELL

BY


R. VERN KIDWELL

RVK:KH
ENCL: 1

23234

July 3, 1961

Permit No. 23234
LaVar A. Cherry

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

Att: R. Vern Kidwell

Dear Mr. Kidwell

As requested in your letter of June 28, we enclose herewith copies of Application for Permit, No. 31007, issued to LaVar A. Cherry, License No. 23234, and Certificate of Completion of Works.

There is a total of \$3.00 due for fees which you may remit to this office at your earliest convenience.

Very truly yours,

GEO. N. Carter
State Reclamation Engineer

By:

(Mrs.) Edna P. Hule
Chief Clerk

no
encls.

23234

LAW OFFICES

HOLDEN, HOLDEN & KIDWELL

IDAHO FIRST NATIONAL BANK BUILDING

IDAHO FALLS, IDAHO

JACKSON 3-0620

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

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

OF COUNSEL
ARTHUR W. HOLDEN

JUNE 28, 1961

RECEIVED
JUN 29 1961

Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
STATE HOUSE
BOISE, IDAHO

GENTLEMEN:

WE ARE INTERESTED IN SECURING A COPY OF A FILING
MADE ON THE WATERS OF BLUE CREEK IN FREMONT COUNTY,
IDAHO, BY MR. LAVAR CHERRY. WE UNDERSTAND THE FILING
WAS MADE SOME THREE OR FOUR YEARS AGO AND PROOF OF
BENEFICIAL USE WAS COMPLETED.

WE ARE REPRESENTING A CLIENT CLAIMING A RIGHT
TO USE OF WATERS OF BLUE CREEK AND WE WOULD APPRECIATE
A COPY OF THE APPLICATION FOR PERMIT AND OF THE PERMIT
AS ACTUALLY ISSUED SHOWING THE AMOUNT OF WATER ETC.
THAT WAS GRANTED TO MR. CHERRY.

KINDLY BILL US FOR ANY CHARGES INVOLVED.

BEST PERSONAL REGARDS.

VERY TRULY YOURS,

HOLDEN, HOLDEN & KIDWELL

By

R. Vern Kidwell
R. VERN KIDWELL

RVK:KH

Copies
Permit No. 23234 - fee \$1.50 + 0.25 for cash item
License " pag 5856 fee \$1.00

23234

November 8, 1956

RE: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

We return your Application for Amendment to the Point of Diversion in Permit No. 23234 which has been approved by the State Reclamation Engineer and recorded in this department.

We enclose License and Certificate of Water Right issued on Permit No. 23234 confirming your right to the use of 0.6 second foot of the waters of Blue Creek with point of diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, Township 9 North, Range 43 East, B.M., with priority of March 20, 1953, for irrigation and domestic use on the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, same Township and Range.

We also enclose departmental receipt No. 28250 for the \$2.00 license fee in connection with this Permit.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

23234

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, NO. 23234

RECEIVED
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Department of Reclamation

Comes now LaVar A. Cherry 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
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That the point of diversion is described in said permit as being
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as additional added at
That he now requests that ~~the~~ point of diversion be ~~changed to a~~
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That his reasons for desiring to make such change are as follows:
An additional Point of diversion was added.

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

Signed at Rephung, this 30 day of Oct 19 56

LaVar A. Cherry

Date of receipt at Department of Reclamation November 6, 1956

APPROVAL OF STATE RECLAMATION ENGINEER

I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho,
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is approved only insofar as the rights of others will not be adversely affected
thereby.

Mark R. Kulp
State Reclamation Engineer

RECEIVED
NOV 6 1956

Department of Reclamation

Dear Sir:

Enclosed are papers that should have been mailed some time ago. But we have been busy getting our crops in and moving down from the farm - We were mixed up on the Publication for Green Canyon - I thought it had been done. But in going through old letters from your office it looks like both springs should have been published at same time. Am returning publication papers on Green Canyon. They have Labin Brothers name on them though, and it should just be in our name - Can this be changed? He has bought his share in farm.

Also enclosed is ~~2~~^{\$1.00} check and Application for amendment paper - I hope this "description of point of diversion" is right. If not let us know Labin says that is what the reason is.

I hope this meets with your approval.

Sincerely,

P.S. I date on the publication sent right. Could you send the right one.

(Mrs) Labin A. Cherry (over)
Reynolds Idaho

I took these papers to notary public
but he said there wasnt any place
to notarize them-

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Protest of	)	
	:	
Thos. B. Hargis, E. L. Hargis	)	
and W. D. Hargis	:	DISMISSAL OF PROTEST
	:	
Against Proof of Application to	)	
Beneficial Use of the waters of	:	
Blue Creek under Permit No. 23234,	)	
LaVar A. Cherry.	:	
	)	

On November 13, 1952, LaVar A. Cherry made Application for Permit to appropriate 0.6 cubic foot per second of the waters of Blue Creek. The application was approved and Permit No. 23234 was issued.

Intention to make proof of application to beneficial use was advertised in the Ashton Herald from December 15, 1955, to January 5, 1956, and Protest was filed by Thos. B. Hargis, E. L. Hargis and W. D. Hargis.

Proofs were made and an inspection was caused to be made for the consideration of matters alleged in the Proofs of Application to beneficial use and in the Protest.

The State Reclamation Engineer finds:-

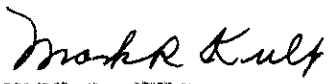
That: The proofs of application to beneficial use are satisfactory; and,

That: A license issued under Permit No. 23234 will be subject to all existing prior rights.

The Protest is therefore dismissed and under normal procedure a license will be issued to LaVar A. Cherry for 0.6 cubic foot per second of the waters of Blue Creek with a priority of November 13, 1952.

Any one feeling himself aggrieved by this dismissal or the issuance of license may appeal to the District Court for Fremont County, Idaho, as outlined in Section 42-224, Idaho Code.

Given under my hand and the seal of the State Department of Reclamation, at Boise, Idaho, this 2nd day of October, 1956.


MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Protest of

Thos. B. Hargis, E. L. Hargis
and W. D. Hargis

Against Proof of Application to
Beneficial Use of the waters of
Blue Creek under Permit No. 23234,
LaVar A. Cherry.

DISMISSAL OF PROTEST

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Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Protest of

Thos. B. Hargis, E. L. Hargis
and W. D. Hargis

Against Proof of Application to
Beneficial Use of the waters of
Blue Creek under Permit No. 23234,
LaVar A. Cherry.

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That: The proofs of application to beneficial use are satisfactory; and,

That: A license issued under Permit No. 23234 will be subject to all existing prior rights.

The Protest is therefore dismissed and under normal procedure a license will be issued to LaVar A. Cherry for 0.6 cubic foot per second of the waters of Blue Creek with a priority of November 13, 1952.

Any one feeling himself aggrieved by this dismissal or the issuance of license may appeal to the District Court for Fremont County, Idaho, as outlined in Section 42-224, Idaho Code.

Given under my hand and the seal of the State Department of Reclamation, at Boise, Idaho, this 2nd day of October, 1956.

Mark A. Kulp
MARK A. KULP
State Reclamation Engineer

October 2, 1956

RE: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

We enclose, herewith, Dismissal of Protest filed by Thos. B. Hargis, E. L. Hargis and W. D. Hargis against issuance of a License in connection with your Permit No. 23234.

We now have on file the report of our field engineer on examination for beneficial use on your Permit which shows that you have used 0.6 second foot of water from Blue Creek with points of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, Township 9 North, Range 43 East, B.M., for irrigation of land in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, same Township and Range.

However, since your original permit only described one point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, the enclosed Application for Amendment will have to be executed and recorded in this Department.

Upon receipt of this Amendment together with the statutory license fee of \$2.00, a License and Certificate of water Right can be issued and sent you for 0.6 cubic foot per second of water.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

23234

October 2, 1956

RE: Permit No. 23234
LaVar A. Cherry

Mr. Lynn Crandall, Watermaster
Water District No. 36
Box 697
Idaho Falls, Idaho

Dear Mr. Crandall:

We enclose, herewith, Dismissal of Protest in connection with Permit No. 23234 in the name of LaVar A. Cherry, said Protest being filed by Thos. B. Hargis, E. L. Hargis and W. D. Hargis.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

23234

October 2, 1956

RE: Permit No. 23234
LaVar A. Cherry

Mr. Thomas B. Hargis
Attorney at Law
Ashton, Idaho

Dear Mr. Hargis:

We enclose, herewith, Dismissal of Protest in connection
with Permit No. 23234 in the name of LaVar A. Cherry, said Protest
being filed by Thos B. Hargis, E. L. Hargis and W. D. Hargis.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

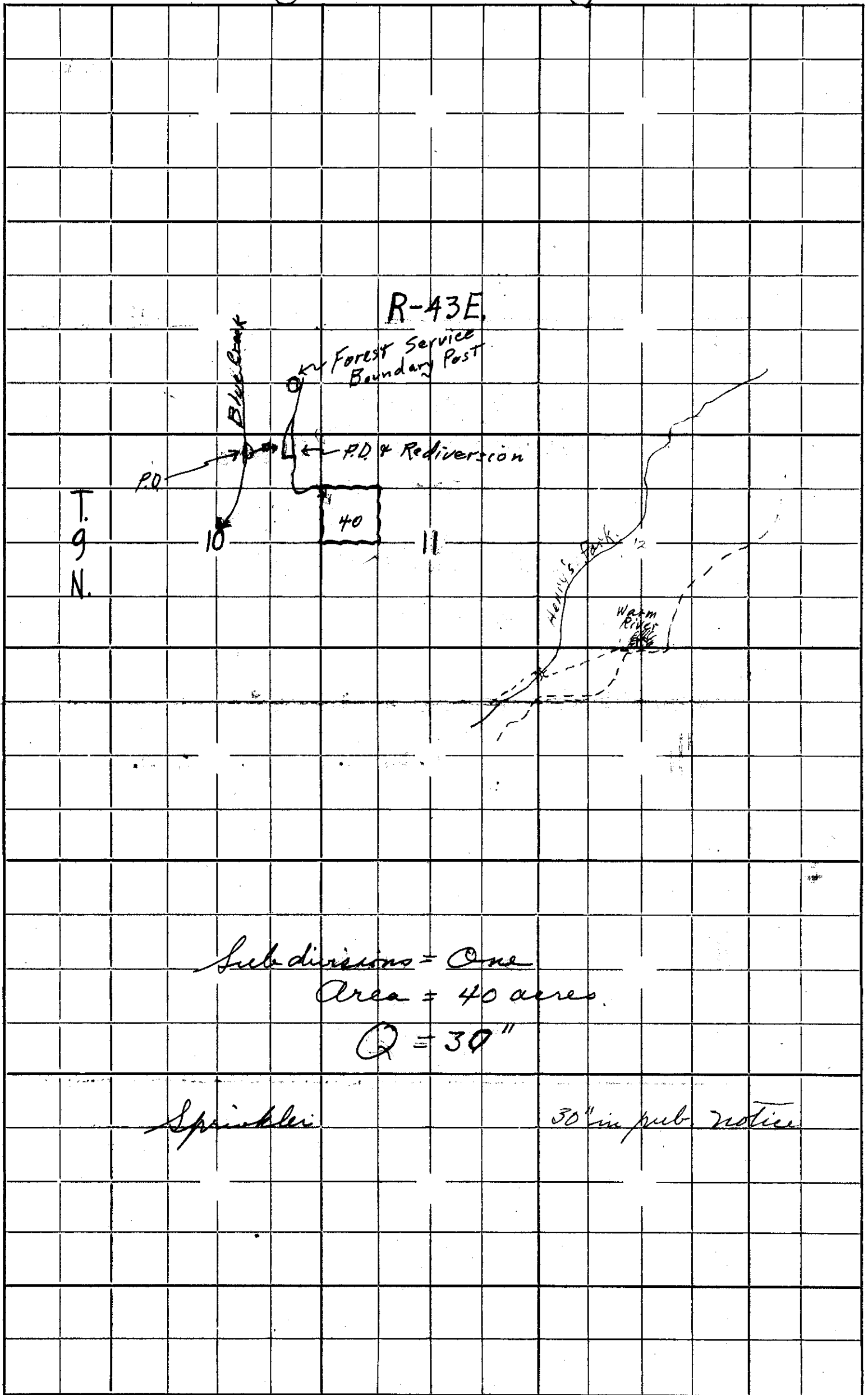
REPORT OF ENGINEER

PERMIT NO. 23234REPORT ON PROOF OF Base District Use

0.6 cfs
mark

app. 0.6 cfs
cfs 0.6 cfs
Sub- /
acres - 40

Pump with D-4 Coal
Friction belt 12" 4"
To Move Cent Pump
50# press.
Nige 4" in 3" out
Using approx 1/2 thrust
Flare base 15" intake
Main line 400' x 5' port, ac
4" lateral 37 heads
3/4" x 3/16"



Subdivisions = One
Area = 40 acres.
Q = 30"

Sprinkler

30" in pub. notice

70' lift est.
 400' x 6" main
 (port. at.) delivers over
 hill to storage on
 East Fork
 75 hp. Chrysler motor
 6 cyl. gas
 Army surplus pump
 6 in. x 2-2 1/2" out
 Portable unit on trailer
 pump to C F 12124
 1/4 a pond

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.

RECEIVED
 AUG 29 1956
 Department of Reclamation

Mr. L. A. Cherry
 Rexburg, Idaho

Permit No. 23234
 Rexburg 446 W

Examination for Beneficial Use

County Fremont
 10-9N-43E.

Q₂ 0.6 a/c.
 S = Blue Creek

P.D. = NE. NE, Sec. 10, T. 9N. - R. 43E.

Use - Irrigation & Domestic

Filed - Nov. 13, 1952
 Due - Nov. 19, 1955.

C/W 12-5-55

14" Steel x 4' - 10 ft
 16" cone - 4 lengths
 Total 24' at 1 ft x 1 ft
 14" vert. hand
 15" freeld, L = 120'
 32' x 24' 1/2" x 11' L.
 9' x 10' = W. Top of hill
 high water level
 est 15" showing in E. of
 Blue Creek Spring cr.

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

Permit No. 23234This proof is for Beneficial Use

In Water District No. _____

1. Name of applicant LaVar A. Cherry2. Source of water supply: Blue Creek3. Location of point of diversion: Is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10T. 9 N R. 43 E., B.M. County of Fremont

4. Describe works as they exist, giving dimensions and capacities of same: The point of diversion from Blue Creek is a small pond from which water is pumped by use of a 75 hp Chrysler engine connected to a centrifugal pump 6" inlet with two 2 1/2" outlets that combine into one 6" pipe that extends up to the hill top 400', an elevation of 70' estimated, whence the water runs by gravity down the hill and into a rediversion. The rediversion is a larger pond, area estimated at possibly 7 acres. The dam high is 12' width on the top is 9 to 10', length on the top of the dam is 120', free board is 15". There is a spillway up and through the center of the dam made of concrete, 32" wide by 24" high by 11' long with a concreted flume back into the creek. From this is a 14" ~~spout~~ ^{pipe} x 24" ^(Part cone) ~~Part steel~~ steel head-gate ~~24" long~~, delivering into a gravity ditch that leads around the hill (con't. below)

5. Water is used for: Irrigation and Domestic6. 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):

40 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Sec. 11, Twp. 9 N., Rge. 43 E., B.M.

See the Map

(#4 continued) to the place of use. At the place of use the water is delivered by a sprinkler, powered by a D-4 Caterpillar tractor. Fairbanks Morse centrifugal pump size 4" by 3" delivers the water through the sprinkler system.

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

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

Remarks: Mr. Hargis, the protestant, has no objection to Mr. Cherry's using the waters of Blue Creek but he does not want Mr. Cherry to have a licensed right with a priority ahead of a right he could claim. This water runs through cattle pasture owned by Mr. ~~Cherry~~ ^{Hargis} and has been diverted from the main channel and carried by main ditch out into the pasture essentially for stock water but also gives some benefit as irrigation. Mr. Hargis, the lawyer, admits that his brother gave Mr. Cherry permission verbally to use an old ditch for delivering the water, one which the Hargis' themselves did formerly need but he claims that Cherry has no written or legal right to the use of the ditch as the basis of protest. Hargis and Mr. Cherry are amicable friends and intend to make some sort of settlement or agreement between themselves after which Mr. Hargis will submit a letter withdrawing the protest.

They hope to construct a storage reservoir on Blue Creek.

This examination was made on the 23 day of August, 1956

(Signed) E. N. Humphrey Examiner.

23234

August 13, 1956

RE: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

State law requires that an inspection be made by an engineer from this department on any permit being brought to license in the State of Idaho.

I intend to make inspection in connection with your permit on either Thursday or Friday, August 23 or 24.

Please be prepared to accompany me on the inspection. I will drive to the place where the water is used.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll

23234

August 13, 1956

RE: Permit No. 23234

Mr. Thomas B. Hargis
Attorney at Law
Ashton, Idaho

Dear Mr. Hargis:

I intend to make inspection in connection with Permit
No. 23234 on Friday, August 24. At that time I hope to
contact the protestants and have them advise me as to their
protest.

I intend to stop in Driggs the night before in case
they wish to contact me.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

W:hl1

*Talked to Mr H. - They will withdraw
Protest*

*Aug 27-56
E. N. H.*

23234

**AFFIDAVIT OF
PUBLICATION**

State of Idaho
County of Fremont

ss.

Gwen Albrethsen

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

That he is the clerk
of The Ashton Herald, a news-
paper as defined by Idaho
Codes Annotated, section 58-106,
as amended, and that said
newspaper is a weekly news-
paper printed and published at
Ashton, in Fremont County,
Idaho, having a general circula-
tion in said county, and that said
newspaper has been printed and
published as a weekly news-
paper in said county for more
than 78 consecutive weeks prior
to the first publication of the at-
tached notice, advertisement or

publication of Notice of
Proof Application

And affiant further says that
said attached notice, advertise-
ment or publication, as per clip-
ping attached, was published in
said newspaper, in the regular
and entire issue thereof, and
not in any supplement issue

thereof, for 4 consecutive
issues thereof; first publication
having been made on the 15

day of December, 1955,
and the last publication on the
5 day of January

1956
And affiant further says that at
the times herein mentioned said
newspaper was made up of at
least four pages of at least five
columns each, printed from type
matter, of at least seventeen and
three-fourths inches deep.

Gwen Albrethsen
Subscribed in my presence and

sworn to before me this 16

day of January

1956

Notary Public for the
State of Idaho, resi-
dence and post office
address: St. Anthony,
Idaho. Ashton

RECEIVED
MAY 28 1956
Department of Reclamation

**NOTICE OF PUBLICATION OF
WATER TO
BENEFICIAL USE**

Notice is hereby given that
10:00 A.M. on the 15th day of
January, 1956, at Ashton,
County of Fremont, State of
Idaho, Public Hearing will be
conducted at the application to
beneficial use of 4.0 cubic
feet of water of the water
of the Great Salt Lake.

The name and protection
of the person or persons
applying for said water is
The Department of Reclamation
of the State of Idaho.

The name and protection
of the person or persons
applying for said water is
The Department of Reclamation
of the State of Idaho.

The use to which said water
is being applied is irriga-
tion and domestic.

The amount applied to be
beneficial use is 30 inches or
cubic foot per second.

The place where said water
is used SW 1/4 NW 1/4 Section
Township 9 North, Range
East, B.M.

The name of the canal,
ditch or other works by which
said water is conducted to the
place of use is (No Name).

The right to take water from
such water is based upon
Section 58, 1906.

The source of supply from
which such water is diverted
is the Great Salt Lake.

The date of priority which
said user is prepared to estab-
lish is November 13, 1952.

MARK H. BOWEN
State Reclamation Engineer
(Pub. Ashton Herald, Dec. 15, 1955)

23234

May 16, 1956

Re: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg, Idaho

Dear Mr. Cherry:

Enclosed you will find the Certificate of Completion of Works on the above captioned Permit which was enclosed with the Beneficial Use proofs and undoubtedly you will need the Certificate for your file.

To date we have not received the affidavit of publication from the Ashton Herald. If you have not already received it will you please get it and forward to us as we need it to complete this file.

Thanking you in advance, we remain

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR
Enc.

23234

May 15, 1956

Re: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg, Idaho

Dear Mr. Cherry:

We acknowledge receipt of the depositions of yourself, holder of the Permit and also the two witnesses, but to date we have not received the affidavit of publication from the Ashton Herald. If you have not already received it will you please get it and forward to us as we need it to complete this file.

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

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

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR

23234

May 7, 1956

RE: Permit No. 23234

Mrs. LAYAR A. Cherry
Rexburg
Idaho

Dear Mrs. Cherry:

We wish to acknowledge receipt of your proofs of Application of Water to Beneficial Use and also a copy of the Stipulation between yourself and W. D. Hargis and E. L. Hargis, Protestants, against the Application for Beneficial Use.

No action will be taken until after an official inspection by a field engineer of the department.

It is not likely that the report of the field inspection will be completed before June 15 and it will be decided at that time if further hearing is required.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:cu

CC: Mr. Thomas B. Hargis

23234

Reynolds, Idaho

Mar 28, 1956.

Dear Sirs;

Enclosed are Proof of Application of Water to Beneficial Use. Sorry we didn't get these in but didn't know we were still supposed to send them in when Mr. Hargis protested.

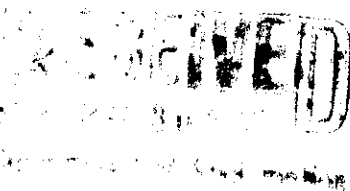
Thank you,

Mrs LaVar A. Cherry

100-20000-100
MAR 30 1956
Department of Reclamation

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO



Permit No. 23234

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. LaVar A. Cherry, Rexburg, Idaho, Occupation Farmer and Carpenter, Rexburg, Ida

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. Permit # 23234, issued upon application No. 31007 bearing priority date of November 13, 1952.

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

Ans. Blue Creek—point of diversion is in the NE 1/4 Section 10, Township 9 North, Range 43 East Boise Meridian.

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. water is pumped into reservoir and then diverted to land by irrigation ditch.

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. The land to be irrigated from with water is described as the SW 1/4 of Section 11, Township 9 North, Range 43 EBM, and the land is sprinkled with sprinkler system and is planted to potatoes, or hay and grain.

23234

Ans

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

Ans. _____

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

Ans. 0.6 second foot of the waters of Blue Creek

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. in 1955 10 acres potatos and 30 acres of grain was watered from this water.

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. _____

(Sign) Lester A. Cherry

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 Rexburg, County of Madison,

State of Idaho, on this 26th day of March, A. D. 1956,

Henry Dietrich

My commission expires 4-3-56

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
MAR 30 1958
Department of Reclamation

PERMIT NO. 23234

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. Grant M. Bowen, Rexburg, Idaho, RFD #1—Farmer

Ques. 2. Are you acquainted with LaVar A. Cherry, the holder of Permit No. 23234? How long have you known him and where does he reside?

Ans. Have known applicant for 30 years and know that he resides at Rexburg, Idaho.

Ques. 3. Have you read or heard read said Permit No. 23234, 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. Blue Creek, and point of diversion is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, Township 9 North, Range 43 EBM. Water is pumped into a reservoir and then distributed to the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 9 North, Range 43 EBM by irrigation ditch

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. 0.6 second foot of the waters of Blue Creek

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. In 1955 10 acres potatoes and 30 acres of grain was irrigated from this water making a total of 40 acres of cultivated land. The irrigation was made by sprinkler system, on the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 9 North, Range 43 EBM.

23234

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

Ans. no

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. It will take the 0.6 Cubic foot per second to profitably irrigate this land,
It is choise volcanic ash soil

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 interest

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

Ans. I have visited Mr. Charry several times during the past two years and
have observed his irrigation system in operation.

(Signed) Gunt M. Bowen

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 Rexburg,
County of Madison, State of Idaho, on this 26th day of March,
A. D. 1956.

My commission expires 4-3-56

Notary Public.

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
MAY 30 1955
Department of Reclamation

PERMIT NO. 23234

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. Dewain Peterson, Thornton, Idaho

Ques. 2. Are you acquainted with LaVar A. Cherry, the holder of Permit No. 23234? How long have you known him and where does he reside?

Ans. Have known applicant for 30 years and know that he resides at Rexburg, Idaho.

Ques. 3. Have you read or heard read said Permit No. 23234, 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. Blue Creek, and point of diversion is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, Township 9 North, Range 43 EBM. Water is pumped into a reservoir and then distributed to the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 11, Township 9 North, Range 43 EBM by irrigation ditch.

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. 0.6 second foot of the waters of Blue Creek

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. In 1955 10 acres potatoes and 30 acres of grain was irrigated from this water making a total of 40 acres of cultivated land. The irrigation was made by sprinkler system, on the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 11, Township 9 North, Range 43 EBM.

23234

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

Ans. No

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. It will take the 0.6 Cubic Foot per second to profitably irrigate this land. It is choise volcanic ash soil.

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 interest.

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

Ans. I have visited Mr. Cherry several times during the past two years and have observed his irrigation system in operation.

(Signed) Duwan Peterson

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 Rexburg,
County of Madison, State of Idaho, on this 26th day of March,
A. D. 1956.

Henry Dutrich

Notary Public.

My commission expires 4-3-56

23234

March 23, 1956

RE: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

This Department has just received a letter from Mr. Thomas B. Hargis, Attorney for the Protestants who have protested your proof of Application of water to Beneficial Use on the above described Permit and enclosed therewith is a Stipulation for rehearing in connection with the above captioned Permit signed by yourself and Attorney Hargis which we now have on file. Mr. Hargis' letter is as follows:

"I am herewith enclosing a stipulation between the holder of the above numbered Permit and the protestants in regard to a hearing upon the above matter, under the terms of which the hearing will be postponed until the 15th day of June.

If your rules and regulations will permit the continuance of the matter to the time stated, without prejudice to the rights of either party, will you kindly file such stipulation, writing Mr. LaVar Cherry at Rexburg, Idaho, to that effect and also W. D. Hargis, at Ashton, Idaho. In the event that your rules and regulations will not permit such continuance, kindly let the parties hereto know at once, at the addresses above given? "

According to our records your proof of Application of water to Beneficial Use was due to be made on the 16th day of January, 1956, these proofs have not been received in this Office. Regardless of the Protest filed against them these proofs should have been sent to this Office in order that our file be complete and that we have full knowledge of the controversy over your water problems.

23234

Mr. Lavar A. Cherry

-2-

March 23, 1956

Mr. Mark R. Kulp, State Reclamation Engineer is out of the Office at the present time, therefore, you will be advised later as to a hearing date in regard to the Protest which has been filed in connection with your Permit No. 23234.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:ou
CC: Mr. Thomas B. Hargis

23234

THOMAS B. HARGIS

LAWYER
ASHTON, IDAHO

RECEIVED
MAR 20 1956
Department of Reclamation

March 19th, 1956.

Department of Reclamation,
Boise, Idaho.

Dear Sirs:-

Re Permit # 23234- LaVar Cherry.

Attention Mr. Thompson.

I am herewith enclosing a stipulation between the holder of the above numbered permit and the protestants in regard to a hearing upon the above matter, under the terms of which the hearing will be postponed until the 15th day of June.

If your rules and regulations will permit the continuance of the matter to the time stated, without prejudice to the rights of either party, will you kindly file such stipulation, writing Mr. LaVar Cherry at Rexburg, Idaho, to that effect and also W. D. Hargis, at Ashton, Idaho. In the event that your rules and regulations will not permit such continuance, kindly let the parties hereto know at once, at the addresses above given?

Thanking you, I am

Yours very truly,

Thomas B. Hargis
Attorney for protestants.

Read and approved

LaVar Cherry

23234

IN THE DEPARTMENT OF
RECLAMATION OF THE STATE OF IDAHO.

IN THE MATTER OF THE NOTICE)
OF PROOF OF APPLICATION OF)
WATER TO BENEFICIAL USE.) STIPULATION RE HEARING.
LaVar Cherry, Applicant. Permit # 23234.)

It is hereby stipulated and agreed by and between LaVar Cherry, applicant in the above entitled matter, and the holder of the above numbered permit, and W. D. Hargis, for himself and as agent for E. L. Hargis, protestants in the above entitled matter, as follows:-

I.

That the hearing upon the application of the said LaVar Cherry for the submission of proof of application of water to beneficial use under the above numbered permit, be continued to June 15th, 1956.

II.

That the execution of this stipulation shall in no wise affect the rights of either of the parties hereto as of the date of the time set for the original hearing upon the application of said LaVar Cherry, to-wit, Jan. 16th, 1956.

III.

That until the said 15th day of June, 1956, the said LaVar Cherry, the abovesaid named applicant, shall be entitled to use the water embraced within the above numbered permit, and the distribution system in connection therewith, to the same extent and in the same manner as he heretofore may have done.

Dated this 19th day of March, 1956.

LaVar & Cherry
W. D. Hargis
By W. D. Hargis

23234

January 17, 1956

Mr. Thomas B. Hargis
Attorney At Law
Ashton, Idaho

RE: Protest to Permit No. 23234
Laver Cherry

Dear Mr. Hargis:

This will acknowledge receipt of your Protest filed in
behalf of E. L. Hargis and W. D. Hargis received as of January
12, 1956, relative to the above captioned Permit.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Office Manager

T:cu

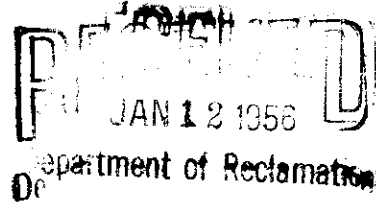
23234

THOMAS B. HARGIS

LAWYER

ASHTON, IDAHO

January 11, 1956



Department of Reclamation
Boise Capital Building
Boise, Idaho
Attention Mr. Thompson

Re: Protest to Permit No. 23234
La Var Cherry

Dear Sir:

In accordance with my conversation with you by phone yesterday I am herewith inclosing the Protest to the hearing of Proof of Application of water to beneficial use in the above entitled matter.

I am mailing Mr. Cherry a copy thereof. Mr. Cherry was in my office at the time of dictation and is fully aware of the procedure being taken.

Will you kindly acknowledge receipt hereof?

Thanking you, I am

Yours very truly,

Thomas B. Hargis

TBH:ED
Incl.

23234

RECEIVED
JAN 12 1956

Department of Reclamation

IN THE DEPARTMENT OF RECLAMATION OF THE

STATE OF IDAHO

* * * * *

IN THE MATTER OF THE NOTICE OF	)	
PROOF OF APPLICATION OF WATER TO	)	P R O T E S T
BENEFICIAL USE	)	
LA VAR CHERRY, Applicant. PERMIT NO. 23234	)	

Come now E. L. Hargis and W. D. Hargis by their attorney T. H. Hargis, of Ashton, Idaho, and protest the above right to take water, based upon the above numbered Permit, to-wit, 23234, for the irrigation of the Southwest Quarter of the Northwest Quarter of Section 11, Township 9 North, Range 43, E. B. M., said waters being from Blue Creek in said County and State, for the reasons and upon the grounds as follows:

1. That the said W. D. Hargis and E. L. Hargis claim a right in said waters of said Blue Creek adverse to that of said claimant by prior use of a portion of said Blue Creek.
2. That no conveyance of right-of-way across lands belonging to said E. L. Hargis has been placed of record, nor right therefor gained by prescription.
3. That this protest is made for the purpose of securing a delay in the hearing upon the above numbered permit and proof of application to beneficial use to a date not later than the 31st day of March, 1956, so that a friendly agreement between the said La Var Cherry and the said E. L. Hargis and W. D. Hargis, who are absent from the State, may be entered into between the protestants upon their return to the State of Idaho and the said La Var Cherry, and that such agreement may be made the basis of a Decree to La Var Cherry of the interest in the waters of said Blue Creek that may

23234

be agreed upon.

Dated this 10th day of January, 1956.

Thomas B. Hargis
Attorney for E. L. Hargis and
W. D. Hargis
Residence and P. O. Address
Ashton, Idaho.

STATE OF IDAHO)
) SS
COUNTY OF FREMONT)

Thos.B. Hargis being first duly sworn deposes and says

That he is attorney for the protestants, E. L. Hargis and
W. D. Hargis, in the above entitled matter; that he has read
the above protest, knows the contents thereof and that the facts
therein alleged are true as he verily believes, and that this
verification is made for and on behalf of each of said protestants
for the reason that both of said protestants are without the State
of Idaho.

Subscribed and sworn to before me this 11 day of January,
1956.

SEAL

My Commission Expires

March 7, 1959

R. S. Stewart
Notary Public for Idaho
Residence and P. O. Address
Ashton, Idaho

December 19, 1955

RE: Permit No. 23234

Ashton Herald
Ashton
Idaho

Gentlemen:

We have checked the notice on the above numbered permit in the name of LaVar A. Cherry appearing in your issue of December 15 and find same to be correct with one slight typographical error.

The word cubic in the third line of the fourth paragraph is misspelled.

Please make this correction in your subsequent issues.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Re: Permit No. 23234

Date: December 12, 1955

Ashton Herald

Ashton, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to January 16, 1956 the date set for proof, the expense of the publication to be paid by the applicant, LaVar A. Cherry of Rexburg 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, in order that we may check same.

Very truly yours,

MARK R. KULP

State Reclamation Engineer
By

Chief Clerk

23234

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

Notice is hereby given that at 10:00 A. M. on the 16th day of January, 19 56,
at Rexburg, County of Madison, State of Idaho, before
Henry Dietrich, Notary Public, proof will be submitted of the
application to beneficial use of 0.6 cubic ~~feet~~ per second of the waters of Blue Creek
in accordance with the terms and conditions of Permit No. 23234
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 _____

LaVar A. Cherry, Rexburg, Idaho

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

The amount applied to beneficial use is 30 inches or 0.6 cubic foot per second

The place where said water is used ~~at the place of application of water for beneficial use~~

SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 9 North, Range 43 East, B.M.

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

No Name

The right to take water from such works is based upon Permit No. 23234

The source of supply from which such water is diverted is Blue Creek

The date of priority which said user is prepared to establish is November 13, 1952

MARK R. KULP

State Reclamation Engineer.

23234

✓
December 7, 1955

RE: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

We enclose Certificate of Completion of Works issued on Permit No. 23234 for the diversion of 0.6 second foot of water from Blue Creek with point of diversion in the NE¹/₄NE¹/₄ Section 10, Township 9 North, Range 43 East, B.M. for irrigation and domestic use on the SW¹/₄NW¹/₄ Section 11, Same Township and Range.

We also enclose departmental receipt No. 27692 for the \$5.00 completion of works fee.

We are sending to the Ashton Herald notice for beneficial use proof to be made on this Permit January 15, 1956, with instructions to publish it once a week for four weeks prior to that date and to send you the affidavit of publication together with statement of costs.

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

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hl1
Enc.

P. S. In writing the above, we note that January 15 is on Sunday so we have changed the date to January 16.

23234

Reynolds, Idaho
Dec 1, 1955

Dear Sirs:

Will you please set the
date for beneficial use at
January 15, 1955. Hope this
is satisfactory. Also included
is notarized paper. I believe
this is right now - if not
please let us know.

Thank you -

Mrs Lavar A. Cherry

RECEIVED

DEC 2 1955
Department of Reclamation

23234

Permit No. 23234

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

RECEIVED
NOV 17 1955
Department of Reclamation

STATE OF IDAHO

County of Fremont

ss.

La Var A. Cherry, 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. 23234, and that his postoffice address is Paulburg

State of Idaho

Second: That the name of the stream from which said water is to be diverted is Blue Creek

Third: That the point of diversion of said water is NE 1/4 NE 1/4 of Sec 10 T 9 N. R. 43 E. County of Fremont

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by Nov 19, 1955

Fifth: That the use for which said water is intended is Irrigation & Domestic

Sixth: 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: Dam pipeline & pump
(Reservoir, dam, ditch, flume, pipe or otherwise)

II. Dimensions of work:

(a) Height of dam 8 feet, length of dam at top 112 feet, length of dam at bottom 75 feet. Material used in construction Earth fill

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir.....acre feet.

(c) Size of headgate: Width.....feet, height.....feet.

(d) Conduit.....width at bottom.....feet, width at water line.....
(State whether ditch, flume or pipe)

feet, depth of water.....feet; diameter of pipe 8 inches, average grade per mile is.....feet. Length of conduit is 3.07 miles.

Seventh: That said works are capable of conducting to the place of intended use 30 in or 60 second feet of water.

✓ Eighth: That water appropriated under said permit is available for 40 acres of land described as follows: T 9 N. R. 43 E. Sec 11

T 9 N - R. 43 E. SW 1/4 NW 1/4 S 11

Ninth: Remarks: That water has been used for Irrigation and domestic purposes

La Var A. Cherry
(Sign Here)

Subscribed and sworn to before me this 15th day of November, 1955

My commission expires 4-3-56

Henry Dietrich
Notary Public.

23234

November 17, 1955

Re: Permit No. 23234

Mr. LaVar A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

We return your affidavit in proof of completion of works on Permit No. 23234 in order that you may give the legal description by subdivision, Section, Township and Range of the land where the water is to be used as called for in Question 8.

Your notice for beneficial use sets the date for making this proof at November 15, 1955. This is, of course, an error, as the notice has to be published once a week for four weeks before the date set for proof. If you will advise us of a later date far enough ahead to allow for four weeks publication, we can correct the notice and send a copy to the Ashton Herald with instructions in regard to publishing.

Meanwhile, we hold to your credit the \$5.00 fee paid in connection with proof of completion of works.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll
Enc.

23234

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) Nov 15, 1955
(P. O.) Ashton Herald Rexburg, Idaho

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho

Dear Sir:

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

Ashton Herald of Ashton, Idaho published in
the county in which the works are situated.

x La Verne Cherry

(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.

23234

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

Notice is hereby given that at _____ A. M. on the 15 day of Nov, 1955
at Reburg, Idaho, County of Madison, State of Idaho, before
Henry Dietrich, proof will be submitted of the
application to beneficial use of 40 cubic feet per second of the waters of Blue Creek
in accordance with the terms and conditions of Permit No. 23234
heretofore issued by the Dept. of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are _____
LaVar A. Cherry Reburg Idaho

The use to which said water has been applied is Irrigation and Domestic

The amount applied to beneficial use is 30 in. 60

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated)
T. 9 N R. 43. E. Sec. 11

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. 23234

The source of supply from which such water is diverted is Blue Creek

The date of priority which said user is prepared to establish is Nov 19, 1955

State Reclamation Engineer.

23234

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Mr. LaVar A. Cherry

BOISE

Rexburg, Idaho

September 1, 1955

Dear Sir:

Under the terms of your permit No. 23234 you are required to complete your diversion works and make proof of beneficial use on or before November 19, 1955.

We enclose herewith a blank affidavit to be filled out, sworn to by you before a Notary Public or 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 of Works will be issued to you.

We also enclose blank notice for proof of application of water to Beneficial Use under this permit, which should be filled out and returned to this office at least forty (40) days before the date upon which you wish to make proof. The proof must be submitted before a Notary Public or other officer authorized by law to administer oaths. The date for proof as set out in your permit, is November 19, 1955, and if proof is submitted subsequent to said date, your priority will be brought down a length of time equal to the time elapsing between the date proof should have been made and the date proof is actually made.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

23234

November 29, 1952

RE: Permit No. 23234

Mr. LaVer A. Cherry
Rexburg
Idaho

Dear Mr. Cherry:

We enclose Permit No. 23234 and direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

We also enclose departmental receipt No. 25120 for the \$5.00 filing fee.

In reply to your inquiry as to whether this covers all of the water of Blue Creek, or just a portion: This permit is for 30 inches, or 0.6 of a second foot of unappropriated water. The records in this department show two other licenses to have been issued from the waters of Blue Creek as follows, which would have priority over the present permit:

License No. 1071 for 3.1 second foot with priority of January 25, 1905, to Emmeline Egbert, for use on the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, and W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 15, Township 9 North, Range 43 East, B.M.

License No. 4291 for 1.6 second foot with priority of January 18, 1909, to Joseph Egbert, for use on the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 15, Township 9 North, Range 43 East, B.M.

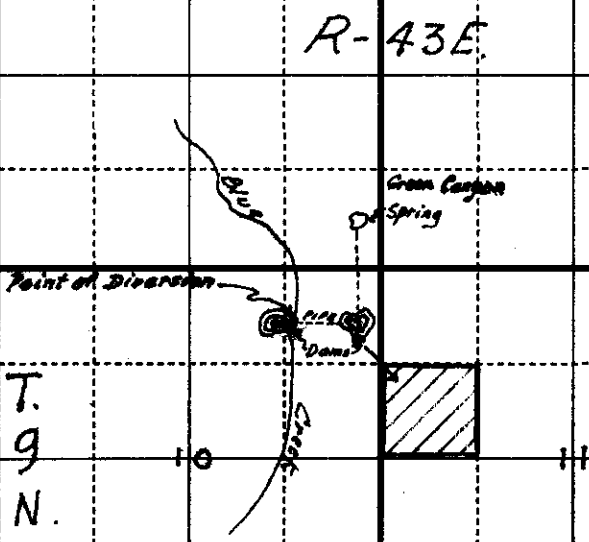
Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

23234



Permit Map No. 23234
As Approved
NOV 19 1959
MARK R. KULP
State Reclamation Engineer

RECEIVED
NOV 13 1952

Department of Reclamation

Replung, Idaho
Nov. 2, 1952

Dear Sir;

Received your letter of Nov. 5, and
am returning motorized application for
extension of time also permit application
for water in Blue creek.

Could you tell me if this covers
all of the water in the creek or just a
portion. I don't know how water is measured.
Also, can anyone come in and claim more
water? If there is any more?

On the time extension that we are
asking for, now that we have used it,
would it be possible for anyone to get
it if we don't like for "proof of beneficial
use." I don't think anyone would because
the people that are next to us have so much
dry farm ground that I don't think they would
bother with it. But I would like to know
what the law is on it.

Thank you
Mrs. L. A. Cherry

23234

November 5, 1952

Mrs. LeVar A. Cherry
Rexburg
Idaho

Dear Mrs. Cherry:

We acknowledge receipt of your letter of October 31, 1952 enclosing a partially filled out and unsigned application for permit to appropriate 0.6 of a second foot of water from Blue Creek.

We return your application and also a new application form which we have typed and which is substantially the same as the pencil form which you submitted.

Please complete this typed copy by answering Question 7, estimated cost of the works, and also give the size and length of the pipe line under Question 11.

The filing fee of \$5.00 should also accompany the application.

We enclose another form of application for extension of time for making proof of beneficial use which should be signed before a Notary Public and returned to this department for approval and record.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

23234

Reynolds, Idaho
Oct 31, 1952

Dear Sir;

In reply to your letter of Oct 23,
we have decided to do as you
suggest.

I have filled in the permit
application but in moving around
I seem to have lost the form for
filing for time extension. Would
you please send another and I
will get it right back to you.

Sincerely
Mrs La Ver A. Cherry
Reynolds, Idaho

NOV 3 1952
Department of Reclamation
unassigned
no fee

23234

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE.

Notice is hereby given that at 10:00 A.M. on the 16th day of January, 1956, at Rexburg, County of Madison, State of Idaho, before Henry Dietrich, Notary Public, proof will be submitted of the application to beneficial use of 0.6 cubic foot per second of the waters of Blue Creek in accordance with the terms and conditions of Permit No. 23234 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 LaVar A. Cherry, Rexburg, Idaho.

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

The amount applied to beneficial use is 30 inches or 0.6 cubic foot per second.

The place where said water is used SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 11, Township 9 North, Range 43 East, B.M.

The name of the canal or ditch or other works by which said water is conducted to such place of use is (No Name).

The right to take water from such works is based upon Permit No. 23234.

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

The date of priority which said user is prepared to establish is November 13, 1952.

MARK R. KULP

State Reclamation Engineer.

(Pub. Ashton Herald Dec. 15, 1955)

1 - 11 - Jan 4, 1956