

C. M. Mercer

AFFIDAVIT OF PUBLICATION

I, H. H. Hartvigsen, do solemnly swear that I am publisher of the ASHTON ENTERPRISE, a weekly newspaper of general circulation, published once each week at Ashton, Fremont County, Idaho; that the notice attached hereto and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper 4 consecutive weeks; first publication having been made on Aug 17, 1916 that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in the supplement.

C. M. Mercer

Subscribed and sworn to before me Sept. 18, 1916

Thor B. Hoag

Notary Public.

I, _____

do hereby certify that a notice, a printed copy of which is hereto attached was by me posted in a conspicuous place in my office for a period of thirty days, I having posted said notice on the _____ day of _____ A. D. 191

11428

Register.

NOTICE FOR PUBLICATION

Notice of Proof of Application of Water to Beneficial Use

Notice is hereby given that at 10 a. m. on the 16th day of September, 1916, at Rea, County of Fremont, State of Idaho, before W. C. Trude, Justice of Peace, proof will be submitted of the application to beneficial use of 3 1-6 cubic feet per second of the waters of Warm River and Springs, in accordance with the terms and conditions of Permit No. 11428, heretofore issued by the State Engineer of the State of Idaho.

1. The name and postoffice address of the person holding said permit are William B. Hopper, Ashton, Idaho.

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

3. The amount applied to beneficial use is 3 1-6 cubic feet per second.

4. The place where said water is used is S $\frac{1}{2}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 9 and SW $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 10, T. 12 N., R. 44 E., B. M.

5. The name of the canal or ditch or other works by which said water is conducted to such place of use is Warm River ditches, one, two and three.

6. The right to take the water from such works is based upon Permit No. 11428.

7. The source of supply from which water is diverted is Warm River and tributaries.

8. The date of the priority which said user is prepared to establish is April 28, 1915.

47-50

J. H. SMITH,
State Engineer.

C. M. Mercer AFFIDAVIT OF PUBLICATION

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47-50

J. H. SMITH,
State Engineer.

C. M. Mercer

Subscribed and sworn to before me Sept. 6, 1916

Notary Public.

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11428

Register.

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47-50

J. H. SMITH,
State Engineer.

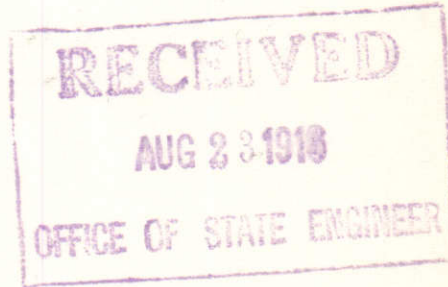
The Ashton Enterprise

ISSUED EVERY THURSDAY

C. M. MERCER & SON, PUBLISHERS

ASHTON, IDAHO

OK



11428

Name of Applicant

Wm B Hopper

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC. 9

SEC. 10

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

T. 12 N. R. 44 E. B.M.

unmarked

Spring No. 1

1

1

100 ft Spring No. 2

100 ft Spring

✓
✓
✓
✓
✓

Wagon Ring

11428

State of Idaho
License and Certificate of Water Right

Water License No. 11428 Amount 1.5 sec. ft.
Water District No. 36-A Priority 4-28-1915

THIS IS TO CERTIFY that WM. B. HOPPER of Rexburg, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated April 28th, 19 15; that Permit No. 11428 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 3 1/6 second feet, was issued thereunder on September 30th, 1915, showing that said works were completed on the 27th day of September, 19 15; and that on the 16th day of September, 19 16, WM. B. HOPPER

of Rexburg, State of Idaho, made proof to the satisfaction of the State Engineer of Idaho, of a right to the use of the waters of Warm River and Springs, a tributary of Warm River, for the purpose of irrigation and domestic use, under Use Permit No. 11428 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Engineer of Idaho and entered of record in Volume 5 of Licenses, at page 2313, on the 25th day of July, 19 18;

The right hereby confirmed dates from April 28th, 19 15; are
The Points of Diversion are located as follows: Warm River in SE 1/4 SW 1/4 Sec. 10, T. 12 N., R. 44 E., B.M.; Spring No. 1 in SW 1/4 NE 1/4, Sec. 10; Spring No. 2 in the NE 1/4 SW 1/4, Sec. 10, Tp. 12 N., R. 44 E., B.M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 1.5 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
12 N	44 E	9	SW 1/4 SW 1/4	40	5
			SE 1/4 SW 1/4	40	15
			SW 1/4 SE 1/4	40	25
			SE 1/4 SE 1/4	40	2
		16	NE 1/4 NW 1/4	40	2
			NW 1/4 NE 1/4	40	15
			NE 1/4 NE 1/4	40	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 Engineer, affixed at Boise, Idaho, this 25th day of July, 19 18.

(SEAL)

FRED A. WILKIE
State Engineer.

21-2064

State of Idaho
License and Certificate of Water Right

Water License No. 10016
Water District No. 45

Amount .7 of 1 sec. ft.
Priority 2-5-1914

THIS IS TO CERTIFY that JOSEPH S. WEECH of Rogerson, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated February 7th, 1914; that Permit No. 10016 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 1 second foot, was issued thereunder on April 2d, 1917, showing that said works were completed on the 13th day of March, 1917; and that on the 21st day of March, 1918, JOSEPH S. WEECH

of Rogerson, State of Idaho, made proof to the satisfaction of the State Engineer of Idaho, of a right to the use of the waters of Three springs, a tributary of, for the purpose of irrigation and domestic use, under Use Permit No. 10016 of the State Engineer and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Engineer of Idaho and entered of record in Volume 5 of Licenses, at page 2314, on the 25th day of July, 1918;

The right hereby confirmed dates from February 3d, 1914;

The Points of Diversion are located in the NW 1/4 NW 1/4, SE 1/4 NW 1/4 of Sec. 22 and in the NW 1/4 NW 1/4, Sec. 27, Tp. 14 S., R. 17 E., B. M.

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 .7 of 1 cubic foot per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
14 S	17 E	21	NE 1/4 NE 1/4	40	10
			SE 1/4 NE 1/4	40	10
			NE 1/4 SE 1/4	40	10
			SE 1/4 SE 1/4	40	5

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 Engineer, affixed at Boise, Idaho, this 25th day of July, 1918.

(SEAL)

FRED A. WILKIE

State Engineer.

21-2064

No. 16336

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

1. Name of applicant: Wm. B. Hopper.

Postoffice address: Island Park

County: Fremont

State: Idaho

I. If applicant is a corporation, give

(a) Date and place of incorporation:

(b) The amount of capital stock:

(c) The amount paid in:

(d) Names and addresses of directors:

II. The financial resources of the applicant are: (a) Cash on hand:

(b) Treasury stock:

(c) Bonds to be issued:

(d) Other resources:

2. The quantity of water claimed is three and one sixth cubic feet per second.

3. Source of water supply: The head of warm River and springs tributary.

4. Location of point of diversion: probably in S 10, T. 12 N. R. 44 E.B.M. (see remarks 4)

County of Fremont.

5. To be used for: Irrigation

I. Irrigation and domestic use: (a) Amount of land to be irrigated: One hundred and sixty acres.

(b) In the following legal subdivisions: Probably SE $\frac{1}{4}$ Sec. 9, T. 12 N. R. 44 E.B.M.

II. Mining, milling, power, manufacturing, transportation or other purposes:

(a) At what point:

(b) Amount of power to be generated:

H. P. under

ft. head

(c) Is water to be returned to any stream?
return:

(d) If so, name stream and locate point of

6. Estimated cost of works: \$100.00

7. Description of works for diversion:

I. Kind of works: Ditches

II. Dimensions of works:

(a) Height of dam 2 feet, length of dam at top 20 feet,

length of dam at bottom 10 feet. Material used in construction: dirt

(b) Capacity of reservoir acre feet. (c) Size of headgate, width feet,

Height feet. (d) Conduit ditches width at bottom 2 feet,

width at water line 3 feet, depth of water 1 feet; diameter of pipe

inches; average grade per mile is

feet.

Length of conduit is $\frac{3}{4}$ milesand it crosses the following quarter sections: (Probably) Ditch 1. SE $\frac{1}{4}$ and SW $\frac{1}{4}$ Sec. 10,
and NW $\frac{1}{4}$, SW $\frac{1}{4}$ Sec. 10, Ditch 2, NE $\frac{1}{4}$ and NW $\frac{1}{4}$, SW $\frac{1}{4}$ Sec. 10, Ditch 3 SW $\frac{1}{4}$ SW $\frac{1}{4}$
Sec. 10, T. 12 N. R. 44 E.B.M.

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

~~years~~

9. Time required for the complete application of the water to the proposed use is 30 days

~~not to exceed years.~~

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

Wm. B. Hopper.

Applicant.

By

Agent.

Date of first receipt at office of State Engineer 9:00 A.M. Apr. 28, 1915

Returned to applicant for correction May 6, 1915

Corrected application received July 5, 1915.

APPROVAL OF STATE ENGINEER

The number of this permit is 11428

Recorded in Book 39 Page 11428 Approved July 30, 1915.

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 September 28th, 1915 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 October 30, 1915.

The whole of said work to be completed on or before January 30, 1916.

Beneficial use of water appropriated in accordance herewith, to be made on or before January 30, 1916.

Witness my hand this 30th day of July, 1915.

J.H. Smith.

State Engineer.

Remarks:

The Land is unsurveyed. Locations are only approximate. Ditches number one and two carry all the water from the two springs, probably one cubic foot per second. Ditch number three carries about two and one sixth cubic feet per second or about one half of Warm River at point of diversion.

As the land being irrigated is gravel it requires more water than might otherwise be needed.

The springs furnishing the water for irrigation are about three and one half miles southeast of Island Park Station.

I claim all the water of the two small springs - tributary to warm River - mentioned above, one half cubic foot per second each. From the points of diversion the water is run west to my land.

I claim 1/2 cu. ft. per sec. from each of the two springs and 2 1/6 cu. ft. per sec. from Warm River. The springs and points of diversion are on unsurveyed Govt. land.

4. Spring No. 1 is probably in NW 1/4 NE 1/4 Sec. 10, Point of diversion in SW 1/4 NE 1/4 Sec. 10. Spring and point of diversion No. 2, NE 1/4 SW 1/4 Sec. 10. Ditch No. 3 Warm River diversion SE 1/4 SW 1/4, Sec. 10, Tp. 12 N. R. 44 E.B.M.

Proof of Completion of works made September 27th, 1915.

Certificate of Completion of works issued September 30th, 1915.

Permit No. 11428.

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom It May Concern:

This is to certify that Wm. B. Hopper of Island Park, County of Fremont, and State of Idaho, the holder of Permit No. 11428, issued upon Application No. 16336, bearing date of priority of April 28, 1915, authorizing the diversion of 3 - 1/6 second feet of the waters of the head of Warm river and springs tributary, 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 3 1/6 second-feet of the waters of Warm River and Springs; that the points of diversion of said waters are as follows: Spring No. 1 in NW 1/4 of NE 1/4, point of diversion in SW 1/4 of NE 1/4 Sec. 10; Spring No. 2 and point of diversion in NE 1/4 of SW 1/4 Sec. 10; Warm River diversion in SE 1/4 of SW 1/4, Sec. 10, all in T. 12 N., R. 44 E.B.M. and that the lands proposed to be irrigated by the use of said water are described as follows, to wit: S2 of SE 1/4, NE 1/4 of SE 1/4 and SE 1/4 of SW 1/4, Sec. 9, T. 12 N., R. 44 E.B.M. containing 160 acres.

Witness my hand this 30th day of September, A.D. 1915.

License issued for 1.5 seconds
Page 2313

J.H. SMITH, State Engineer of the State of Idaho.

August 17, 1918.

Re Permit 11428.

William B. Hepper,
Island Park, Idaho.
Via Rexburg.

Dear Sir:—

Enclosing herewith water license issued
under the above permit, with receipt for fees.

Very truly yours,

FRED A. WILKIE,

State Engineer.

By _____

WL-R1914.

11428

May 1st, 1918.

Re Permit 11428.

Mr. Wm. B. Hopper,
Island Park, Idaho. - *Reverbung*

Dear Sir:--

Am in receipt of your letter of the 27th ult., enclosing fees, in the sum of \$14.00, for proof of use of water under above permit. In reply would say that, in view of the fact that the report of the engineer shows only seventy-five acres under cultivation and irrigation, license could only be issued for that many inches of water. The land under cultivation is shown in seven forties, the total amount being seventy-five acres.

Very truly yours,

FRED A. WILKIE,

State Engineer.

By _____

11428

- - - Rexburg, Idaho
April 27, 1918

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

5/3/18
J. H. S.

Dear Sir:-

Enclosed, find check for \$14⁰⁰
in payment for my water permit.
I presume that this will entitle me
to about 300 inches of water. That
gravel land requires all that I can
get.

Yours Very Truly

Wm. Hopper

as of Island Park.

11428

11428

January 3rd, 1918.

Re Permit 11428.

Mr. Wm. B. Hopper,
Ashton, Idaho.

Dear Sir:--

The report of our engineer on beneficial use of water under the above permit shows parts of seven forty acre tracts under cultivation. The fees will, therefore, amount to \$14.00 and, upon receipt of this amount, license will issue.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

11428

C. W. POOLE
LAWYER
REXBURG, IDAHO

Thursday May 17th.
1 9 1 7.

J. H. Smith, Esq.
State Engineer.

Boise, Idaho.

Dear Sir:

In Re. Permit No. 11428- Wm. B. Hopper.

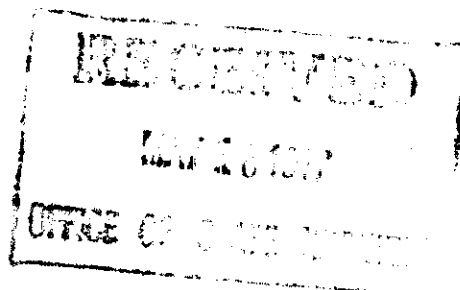
Referring to the contest of proof made by Mr. Hopper on the above numbered permit, I may call your attention to letter of this date relative to permit number 10401-Samual T. Vannoy.

I presume that when the engineer from your office goes to make the field examination or survey under the Vannoy permit that he will also make a like examination or survey of the waters of Warm River Springs and the works of diversion of Mr. Hopper. We desire to be represented, if in harmony with the views of your office in this examination or survey and render whatever assistance we may be able to render in connection with the same.

Your s very truly,



CWP:EP



11428

REPORT OF ENGINEER

1. State name of applicant and number of permit: Wm. B. Hopper- No. 11428
2. State source of water supply: Warm River- and Springs
3. Location of point of diversion: Spring No. 1-SW $\frac{1}{4}$ NE $\frac{1}{4}$ -Sec. 10: Spring No. 2-NE $\frac{1}{4}$ of SW $\frac{1}{4}$ Sec. 10: Warm River- SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 10, T. 12 N., R. 44 E. B.M.
4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: _____
5. Describe works as they exist, giving dimensions and capacities of same: _____

"Spring No. 1"- open ditch & embankment 50' long x 1' high diverts from spring channel- no headgate, -
Ditch is 2' wide on bottom; 3' wide at water level; 1' deep; grade 10' per mile; capacity 3 second feet.

"Spring No. 2"- open ditch from spring- No headgate- Ditch is 1' wide on bottom;
3' wide at water line; 1' deep; grade 5 ft per mile; capacity 3 second feet.

Warm River - Earth dam - 20' long x 2' high - no headgate - Open ditch - 2' wide on bottom;
3.5' wide at water level; 1' deep; grade 5' per mile - capacity 4 second feet.

See REMARKS:-

6. State whether or not water has been turned into works of diversion: Yes
7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): All in T. 12 N. R. 44 E. B.M.

Sec. 9 - SW $\frac{1}{4}$ SW $\frac{1}{4}$ - 5 Acres

- SE $\frac{1}{4}$ SW $\frac{1}{4}$ - 15 "

- SW $\frac{1}{4}$ SE $\frac{1}{4}$ - 25 "

- SE $\frac{1}{4}$ SE $\frac{1}{4}$ - 10 "

Sec 16 - NE $\frac{1}{4}$ NW $\frac{1}{4}$ - 2 "

NW $\frac{1}{4}$ NE $\frac{1}{4}$ - 15 "

NE $\frac{1}{4}$ NE $\frac{1}{4}$ - 3 "

Total - 75 Acres

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

Remarks: There is also an old ditch which diverts from Warm River in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 10, T. 12 N. R. 44 E. B.M. and which leads to the land covered by the ditch from "Warm River" described above. - This work consists of a dam of earth & logs - 75' long x 3' high and ditch 7' wide on bottom; 12' wide at top; 3' deep; grade 3' per mile; capacity 10 sec. ft.

This examination was made on the 17th day of October 1917.

(Signed) Samuel E. Hopper, Jr. Examiner.

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

STATE OF IDAHO

County of _____

} ss.

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

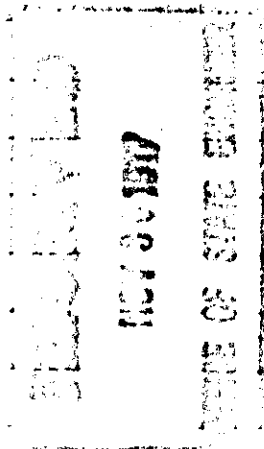
Subscribed and sworn to before me this _____ day of _____ 191_____

My Commission Expires _____

Notary Public.

Dist. No. 36-A

Wm. B. Hopper- Ashton.



11428

T. 12 N. R. 44 E. B. M.

SEC.

SEC. 10

SEC. 9

SEC. 8

SEC. 7

SEC. 6

SEC.

SEC. 15

SEC. 16

SEC. 17

SEC. 18

SEC. 19

SEC.

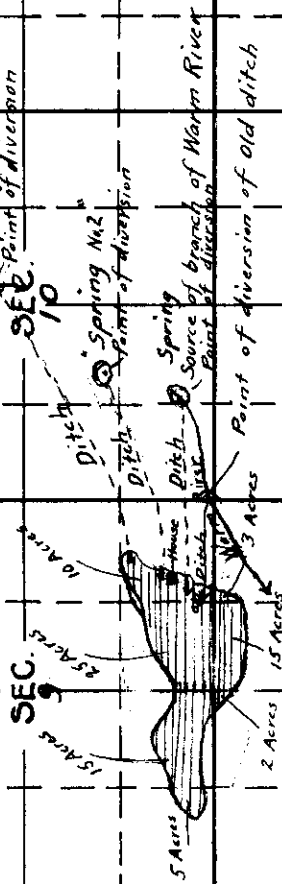
SEC.

SEC.

SEC.

SEC.

SEC.



Land in cultivation

November 27, 1916.

Re Permit 11428.

Mr. Wm. B. Hopper,
Ashton, Idaho.

Dear Sir:--

Inasmuch as it will be impossible for a man from this office to make the required examination under your above permit before spring, the money sent for fees is herewith returned to you. I would say, however, that your rights under the permit will not be jeopardized by the delay in making this examination.

Very truly yours,

J. H. SMITH,

State Engineer.

MOS. No. 28221

By _____

11428

September 29, 1916.

Re Permit 11428.

Wm. B. Hopper,
Ashton, Idaho.

Sir:--

Replying to yours of the 26th inst. would say that our engineer will endeavor to see you at the time of making the examination. We cannot advise you at this time just when this can be done.

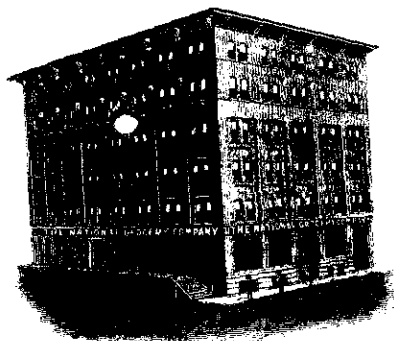
Very truly yours,

J. H. SMITH,

State Engineer.

By _____

11428



11428

GRANT J. S. MURPHY VICE

C. W. MALEHAM SECY & TREAS.

THE NATIONAL GROCERY COMPANY

IMPORTERS AND WHOLESALE GROCERS

1628-38 15TH STREET

DENVER, COLO.

TELEPHONE MAIN 814

Ashton, Idaho
Sept. 26, 1916

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

Dear Sir: Yours of 20 and 21 inst. at hand.

I would like very much to see the examining engineer when he calls. As I am a traveling salesman and am usually away from home, please notify me when to meet him here.

On the matter of the protest against my proof of beneficial use of water, if I am given a chance I shall prove the following facts:

I. That the protestors never had a right to this water. The ditch from Warm River to the land they claim runs up grade to such an extent ^{that the} ~~more than~~ water never did ~~and~~ never will run out ^{more than} ~~one~~ forty acres of said land. Let engineer examine it.

II The ditch and water have been idle and abandoned for twenty-two years, except what I have used them.

III There is never more than six hundred inches of water in Warm River at the point of diversion, during irrigation season. As the protestors made final proof ~~on~~ ^{procedure} sixteen hundred inches, their ~~method~~ was unlawful.

Yours Very Truly

Wm B. Hopper

11428

THE LARGEST EXCLUSIVE WHOLESALE GROCERY HOUSE IN THE WEST.
SELLING DIRECT TO HOTELS, COMMISSARIES, HOSPITALS, OTHER INSTITUTIONS AND CONSUMERS.

September 21, 1916.

Re Permit 11428.

William B. Hopper,
Ashton, Idaho.

Sir:--

Am just in receipt of depositions and affidavit of publication for proof of use under above permit, also, duplicate notice of protest against same. No action will be taken in the matter until our examining engineer has made an examination and report, at which time you will be farther notified.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

11428

C.M. Mercer

AFFIDAVIT OF PUBLICATION

I, ~~H. H. Hartsigson~~, do solemnly swear that I am publisher of the ASHTON ENTERPRISE, a weekly newspaper of general circulation, published once each week at Ashton, Fremont County, Idaho; that the notice attached hereto and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper 4 consecutive weeks; first publication having been made on Aug 17, 1916 that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in the supplement.

C.M. Mercer

Subscribed and sworn to before me Sept. 18, 1916

Thomas H. Hargis
Notary Public.

I, _____

do hereby certify that a notice, a printed copy of which is hereto attached was by me posted in a conspicuous place in my office for a period of thirty days, I having posted said notice on the _____ day of _____ A. D. 191_____

11428

Register.

NOTICE FOR PUBLICATION
Notice of Permit of Appropriation of Water to be taken from the
Notice is hereby given that at 10 a. m. on the _____ day of _____, 1916, at _____, Fremont, State of Idaho, C. Trade, Justice of the Peace, will be submitted at the _____ to beneficial use of 1 1-6 cubic feet per second of the waters of Warm River and Springs in accordance with the terms and conditions of Permit No. 11428, heretofore issued by the State Engineer of the State of Idaho.

1. The name and postoffice address of the person holding said permit are William B. Hopper, Ashton, Idaho.
2. The use to which said water has been applied is irrigation and domestic use.
3. The amount applied to beneficial use is 3 1-6 cubic feet per second.
4. The place where said water is used is S 1/4 of SE 1/4 and NE 1/4 of SE 1/4, Sec. 9 and SW 1/4 of SW 1/4 Sec. 10, T. 12 N., R. 44 E., B. M.
5. The name of the canal or ditch or other works by which said water is conducted to such place of use is Warm River ditches, one, two and three.
6. The right to take the water from such works is based upon Permit No. 11428.
7. The source of supply from which water is diverted is Warm River and tributaries.
8. The date of the priority which said user is prepared to establish is April 28, 1915.

47-50 J. H. SMITH,
State Engineer.

STATE OF IDAHO
County of Fremont) SS
 0

I HEREBY CERTIFY: That on this 16th day September, A. D. 1916, prior to the taking of proof of William B. Hopper of the beneficial application of certain of the waters of Warm River and Springs, under per mit number 11428, appeared before me, John E. Garner, Charlotte Garner and Frank O. Green, by thereir attorney C. W. Poole, and presented in said matter, the within protest to said proof; and that in my presence before the taken of said proof had commenced, said C. W. Poole, delivered a true copy of said protest to the aforesaid William B. Hopper.

Dated September 16th, 1916.

— *W. C. T. Rea* —
Justice of the Peace, — — —
Rea, Idaho.

11428

PERMIT No. _____

Proof of Application of Water to Beneficial Use**DEPOSITION OF HOLDER**

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

Ans. *Wm B. Hopper, thirty nine, Island Park, Idaho.*
Salesman, Ashton, Idaho

Ques 2. If acting in behalf of a corporation, state its name, principal place of business (if a foreign corporation, give name and 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. 11428, April 13, 1915*

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

Ans. *Warm River and tributaries. Diversion Ditch No. 1.*
SW 1/4 NW 1/4 No. 2. NW 1/4 SW 1/4 No. 3. SW 1/4 SW 1/4 Sec. 10. T. 12 N
R 44 E. B. M.

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

Ans. *No. 1. Dam and 3/4 mile ditch capable of carrying 25 inches.*
Ditch No. 2 " " 1/2 " " " " " 50 "
No. 3 " " 1/2 " " " " " 200 "

The dams are about 30 feet long and 3 feet in height.

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. *Irrigation and domestic. SW 1/4 SW 1/4 Sec. 10. 5 acres*
natural grass irrigated for pasture. SW 1/4 SE 1/4 Sec. 9. 15 acres
timothy irrigated. SE 1/4 SE 1/4 Sec. 9. 10 acres timothy
irrigated. NE 1/4 SE 1/4 Sec. 9. 8 acres timothy irrigated.
Improvements consist of ditches, dams and crops.

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 use specified above?

Ans. *10 inches per acre for successful irrigation*

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. Since June 1913 I have used about 300 inches of water in irrigating the land described above; and could have irrigated more land only by use of more 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. I have no other water rights than those of said permit. But I have used more than granted by the permit.

(Sign) Wm B. Hopper

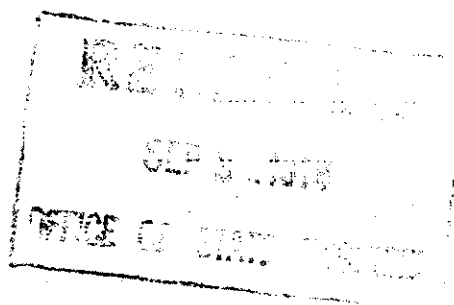
I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Rea County of

Fremont, State of Idaho, on this 16 day of September

A. D. 1916.

W. C. Trade
Justice of the Peace

11428



Permit No.

Proof of Application of Water to Beneficial Use**DEPOSITION OF WITNESS**

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

Ans. *Elizabeth Alden 53 Rea Idaho*Ques. 2. Are you acquainted with *William B. Hoffer*, the holder of Permit No. *11428*? How long have you known him and where does he reside?Ans. *Yes since 1912 at Island Park*Ques. 3. Have you read or heard read said Permit No. *11428*, 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. *Warm River and tributaries Sect 10 T12 N. R. 44 E B. M.*
Three ditches No 1 ditch 1 foot by 1 foot $\frac{3}{4}$ mile long
No 2 - 2 feet wide 1 foot deep $\frac{1}{2}$ mile long. No 3
3 feet wide 7 inches deep $\frac{1}{2}$ mile long.

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. *4 $\frac{1}{4}$ cfs but for second same*

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. *Irrigating & Domestic No 1 ditch irrigates 10 acres*
No 2 ditch irrigates about 10 acres No 3 irrigates about 20 acres
+ 5 acres of land cultivated on said land
described in Application No 11428

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

Ans.

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. *gravel & pumice 10 inches to the acres***11428**

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. Sept 16, 1916, 4 7/8 cub feet for second

(Sign) Elizabeth Uden

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 Rea, County of Fremont,

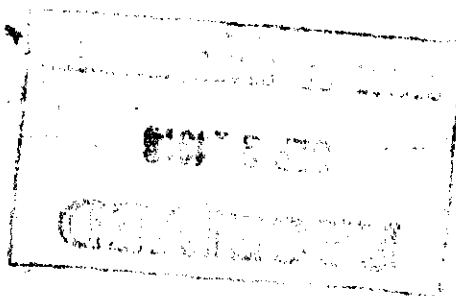
State of Idaho, on this 16th day of September A. D. 1916

W. C. Trude

Notary Public.

My Commission Expires Dec 31 1916 Justice of the Peace

11428



Permit No.

Proof of Application of Water to Beneficial Use**DEPOSITION OF WITNESS**

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

Ans. *Charles Ellsworth 29 Reyburg
Trade*Ques. 2. Are you acquainted with *Wm B Hoffer*, the holder of Permit No. *11428*? How long have you known him and where does he reside?Ans. *2 1/2 years Island Park*Ques. 3. Have you read or heard read said Permit No. *11428*, 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. *Warm River & contributors
3 feet wide 1 foot deep*

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. *200 inches*

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

Ans. *Irrigation: cultivated: 40 acres cultivated
land*

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

Ans.

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. *gravel & fumes 10 ~~inch~~ inches to the acre***11428**

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. *1914; 1915; 1916; 200 4 7/8 cu ft for second*

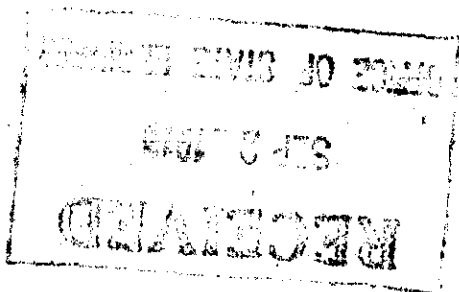
(Sign) *Chas. Ellsworth*

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 *Fremont* ~~Rea~~ *Rea*, County of *Fremont*, State of Idaho, on this *16th* day of *September* A. D. 19*16*

W. C. Trude

Notary Public.

My Commission Expires *Dec 31, 1916. Justice of the Peace*



11428

Duplicate

RECEIVED
1916

BEFORE THE STATE ENGINEER OF THE STATE OF IDAHO.

In the Matter of William B. Hopper,
(Proof of Beneficial Application of
Water Under Permit No. 11428.)

PROTEST OF PROOF OF STATE ENGINEER

Come John E. Garner, Charlotte Garner and Frank O. Green, on their own behalf, and on behalf of each other, and do hereby protest against the statements and allegations made by William B. Hopper in his published notice of his intention to submit proof of the beneficial application of water from Warm River and Springs, in Fremont County, State of Idaho, in accordance with the terms and conditions of permit number 11428, issued by the State Engineer of the State of Idaho; which said published notice was and is being published in The "ASHTON ENTERPRISE", issued of date August 21st, 1916, and other dates; and giving notice of the intention of said William B. Hopper to submit proof before W. C. Trude, Justice of the Peace, at Rea, in Fremont County, State of Idaho, at 10 o'clock A. M., on the 16th day of September, A. D. 1916, of the beneficial application of 3 1-6 cubic feet per second of the waters of said Warm River and Springs; and the reasons and grounds of such protest are the following, to wit:

1.- That the waters used by said William B. Hopper are not diverted from Warm River, but from what is commonly known as Warm Springs, which form a small tributary of Warm River.

2.- That the waters alleged by said William B. Hopper, in his said published notice, to have been by him diverted from said Warm River and Springs and applied to beneficial use upon the lands described in said published notice, have not all been applied to the beneficial use alleged in said published notice upon the lands described therein, nor to any beneficial use upon said lands, or any other lands, by said William B. Hopper; but that a large portion of said alleged waters have been diverted from said Warm Springs and from the Canal now belonging to these protestants, as hereinafter shall appear, by said William B. Hopper, and by him left and allowed to flow at will, or random, over and upon certain uncultivated lands which are covered with pine timber to the injury of said lands and timber growing thereon

no

3.- That these protestants have accurate knowledge or information as to the amount or quantity of water diverted by said William B. Hopper as aforesaid; nor of the amount or quantity by him applied to the irrigation of such portion of his lands as have been irrigated; but protest that the area irrigated, and which is suitable for cultivation, and therefore susceptible of irrigation, should not entitle him to the right to use any amount or quantity in excess of One and six tenths (1.6) cubic feet per second, and should not entitle him to the right to use 3 1-6 cubic feet as claimed in said published notice.

4.- That answering paragraph 4 of said published notice, referring to the place where said waters are alleged to have been used, these protestants protest, and allege, that the North-east Quarter of the South-east Quarter of Section Nine (9) and the South-west Quarter of the South-west Quarter of Section Ten (10), over a large portion thereof, is covered with pine timber, and is topographically unfit for, and by its nature not susceptible of irrigation, and has never been irrigated, and has never been irrigated and could not be benefitted by irrigation; and that a part of the

South-east Quarter of the South-east Quarter of said Section Nine (9) is of the same Character; and for these reasons protestants protest and allege that the said William B. Hopper should not be entitled to the right to the use of waters for the irrigation of such portions of the said lands, and that such portion of said lands should not be considered in the granting of permit to use waters upon the lands described in said published notice.

5.-In answering paragraph 5 of said notice, these protestants protest and allege that the ditches mentioned and referred to in same, and through which said William B. Hopper has conducted water to, and from which he has diverted water to irrigate the greater part of such portion of his said lands as have been irrigated, were made and constructed by the predecessors' interest of these protestants, and are ~~owned~~ by and are the property of these protestants; and were made and constructed for the diversion and appropriation of the waters of said Warm Springs for irrigation to and upon the lands now owned and occupied by these protestants, which said lands are described as follows, to wit:

The S $\frac{1}{2}$ of the SE $\frac{1}{4}$; the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 6; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the NE $\frac{1}{4}$, of Section 7; all in Township 12 N. R. 44 E.B.M.; and embracing U.S. Desert Land Entry No. 1317, made October 18, 1890, by Frank W. Beane, and now occupied and owned by the above named John E. Garner.

The SW $\frac{1}{4}$ of Section 5, and the North-west Quarter(NW $\frac{1}{4}$) of Section 8, Township 12 N., R. 44 E.B.M.; embracing U.S. Desert Land Entry No. 1316, made October 18, 1890, by George Kunkel, assigned to Charles J. Bassett, and now owned and possessed by the aforesaid Charlotte Garner. The South-east Quarter (SE $\frac{1}{4}$) of Section 7, and the South-west Quarter (SW $\frac{1}{4}$) of Section 8, Township 12 N., R. 44 E. B. M.; embracing Desert Land Entry (U.S.), No. 1266, made October 3, 1890, by Gottfried Meyer, and assigned to John Hayball, and now owned and occupied by the aforesaid Frank O. Green.

Said Desert Land Entry numbers being of Blackfoot series.

That final proof of all said entries have made and approved and final payment made and accepted thereon, and certificates issued from the United States Land Office at Blackfoot, Idaho, to the respective present owners of said lands.

6.- That said William B. Hopper has no right to take, or divert, or conduct said waters, or any waters, through or from said works, ditched or canals, by virtue of permit No.11428 or at all.

7.- That these protestants deny that the date of priority which the said William B. Hopper, the alleged user, is prepared to establish is April 28, 1915; and protest that he is unable to establish any date of priority of right to use any of the waters of said Warm Springs, or Warm River, for the reasons, that long prior to said date, of April 28, 1915, to wit;

On the 10th day of January, 1894, the aforesaid Frank W. Beane located, caused to be recorded and gave notice of his location and appropriation of 640 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced within his aforesaid Desert Land Entry No. 1317, and now occupied by the protestant John E. Garner; which said location is recorded in Book "A" at page 506, of Water Locations, of the records of Fremont County, Idaho.

On January 29, 1894, the aforesaid Charles J. Bassett located, caused to be recorded and gave notice of his water location of 640 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced with his said Desert Land Entry No. 1316, and now owned by the protestant Charlotte Garner; which said location is recorded in Book "A" at pages 514, 515, of Water Locations, of the Records of Fremont County.

On the 29th day of January, 1894, the aforesaid John Hayball located, caused to be recorded, and gave notice of, his water location for 320 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced within Desert Land Entry No. 1266, above described, and now owned and possessed by the aforesaid Frank O. Green, one of these protestants; which said water location is recorded in Book "A" at page 508, of Water Locations, of the Records of said Fremont County.

That the said three water locations, and the rights under them, embrace and comprise ~~and~~ greater amount of water than flows in said Warm River and Springs, at the point of diversion, during the summer season, or at any time except the high water period; and for that reason, the entire flow of said stream at the point of diversion of said appropriations, ~~was entire~~ exhausted by the said three appropriations.

8.-That the said William B. Hopper, has ^{any} rights prior to the rights of these protestants under and by virtue of the aforesaid appropriation made and recorded as aforesaid; that any and all rights which he may have, if any, are subject and inferior to and of later date than the rights of the these protestants.

WHEREFORE, These protestants protest that the intended proof of said William B. Hopper of his right to use the waters, or any of the waters, of said Warm River and Springs, should be denied; and that any license confirming the right claimed by him should not be issued; and your protestants respectfully demand that such right and license be denied.

C. W. Pool
Attorney for Protestants,
Rexburg, Idaho.
Residence and P. O. Address.

John E. Garner
Charlotte Garner
Frank O. Green
By *C. W. Pool*, Attorney

STATE OF IDAHO
County of Madison

SS

John E. Garner and ~~Charlotte Garner and Frank O. Green~~, being ~~each~~ duly sworn, deposes and says: That he is one of the protestants named in the foregoing protest against the proof of William B. Hopper of application of water to beneficial use; that he has read or heard read the said protest, and knows the contents thereof, and that same is true to the best of his knowledge and belief; that they make this verification on behalf of each and all of said protestants.

John E. Garner

Subscribed and sworn to before me this 14th day of September, 1916;

My Commission Expires

January 16, 1918

W. Bee
Notary Public,
Residing at Rexburg, Idaho.

Service of the within protest addmetted this
September 16, 1916

Wm B Hopper

11428

September 20, 1916.

Re Permit 11428.

William B. Hopper,
Ashton, Idaho.

Sir:--

Am just in receipt of yours of the 18th enclosing money order, in the sum of \$8.00, for final proof under above permit. In reply would state that the depositions have not been received here. The proof should have been made before Mr. W. C. Trude on September 16th. Please advise us in the matter. Money order will be held pending receipt of your reply.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

11428

710,800

Ashton, Idaho.

Sept. 18, 1916.

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

RECEIVED

SEP 21 1916

Dear Sir.

I am enclosing herewith check for the sum of \$ 8.00 payment of fees for the proof of application of water to beneficial use under permit NO. 11428.

Yours very truly,

Wm B. Hooper

11428

September 16, 1916.

Re Permit No. 11428- Wm. B. Hopper.

C. W. Boole, Attorney,
Rexburg, Idaho.

Sir:--

Am in receipt of your letter of the 14th inst.,
enclosing protest against proof under above permit.
The protest will be taken into consideration before
any action is taken and you will be duly notified of

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

11428

C. W. POOLE
LAWYER
REXBURG, IDAHO

ad
Rexburg, Idaho, September 14, 1916.

J. H. Smith, Esq.,
State Engineer,

Boise, Idaho.

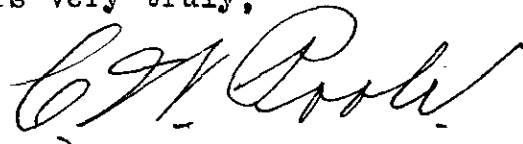
Dear Sir:-

Herewith I hand you for filing in your office the protest of John E. Garner, Charlotte Garner and Frank O. Green, to proof by William B. Hopper of beneficial application of water under permit No. 11428.

There will also be presented before the justice, a duplicate of this protest on the date of proof, and a copy served on the user, Hopper.

Thanking you for filing this in accordance with the rules of your office, and asking that you kindly advise me of any action in the premises taken by your office, which will be greatly appreciated by, and oblige,

Yours very truly,



11428

BEFORE THE STATE ENGINEER OF THE STATE OF IDAHO.

In the Matter of William B. Hopper,)
(Proof of Beneficial Application of) PROTEST OF PROOF
Water Under Permit 11428.))

Come John E. Garner, Charlotte Garner and Frank O. Green, on their own behalf, and on behalf of each other, and do hereby protest against the statements and allegations made by William B. Hopper in his published notice of his intention to submit proof of the beneficial application of water from Warm River and Springs, in Fremont County, State of Idaho, in accordance with the terms and conditions of permit number 11428, issued by the State Engineer of the State of Idaho; which said published notice was and is being published in The "ASHTON ENTERPRISE", issued of date August 21st, 1916, and other dates; and giving notice of the intention of said William B. Hopper to submit proof before W. C. Trude, Justice of the Peace, at Rea, in Fremont County, State of Idaho, at 10 o'clock A. M., on the 16th day of September, A. D. 1916, of the beneficial application of 3 1-6 cubic feet per second of the waters of said Warm River and Springs; and the reasons and grounds of such protest are the following, to wit:

1.- That the waters used by said William B. Hopper are not diverted from Warm River, but from ~~warm~~ what is commonly known as Warm Springs, which form a small tributary of Warm River.

2.- That the waters alleged by said William B. Hopper, in his said published notice, to have been by him diverted from said Warm River and Springs and applied to beneficial use upon the lands described in said published notice, have not all been applied to the beneficial use alleged in said published notice upon the lands described therein, nor to any beneficial use upon said lands, or any other lands, by said William B. Hopper; but that a large portion ~~said~~ alleged waters have been diverted from said Warm Springs and from the Canal now belonging to these protestants, as hereinafter shall appear, by said William B. Hopper, and by him left and allowed to flow at will, or random, over and upon certain uncultivated lands which are covered with pine timber to the injury of said lands and timber growing thereon

no
3.- That these protestants have ~~no~~ accurate knowledge or information as to the amount or quantity of water diverted by said William B. Hopper as aforesaid; nor of the amount or quantity by him applied to the irrigation of such portion of his lands as have been irrigated; but protest that the area irrigated, and which is suitable for cultivation, and therefore susceptible of irrigation, should not entitle him to the right to use any amount or quantity in excess of One and six tenths (1.6) cubic feet per second, and should not entitle him to the right to use 3 1-6 cubic feet as claimed in said published notice.

4.- That answering paragraph 4 of said published notice, referring to the place where said waters are alleged to have been used, these protestants protest, and allege, that the North-east Quarter of the South-east Quarter of Section Nine (9) and the South-west Quarter of the South-west Quarter of Section Ten (10), over a large portion thereof, is covered with pine timber, and is topographically unfit for, and by its nature not susceptible of irrigation, and has never been irrigated, ~~and has never been irrigated~~ and could not be benefitted by irrigation; and that a part of the

South-east Quarter of the South-east Quarter of said Section Nine (9) is of the same Character; and for these reasons protestants protest and allege that the said William B. Hopper should not be entitled to the right to the use of waters for the irrigation of such portions of the said lands, and that such portion of said lands should not be considered in the granting of permit to use waters upon the lands described in said published notice.

5.-In answering paragraph 5 of said notice, these protestants protest and allege that the ditches mentioned and referred to in same, and through which said William B. Hopper has conducted water to, and from which he has diverted water to irrigate the greater part of such portion of his said lands as have been irrigated, were made and constructed by the predecessors interest of these protestants, and are owned by and are the property of these protestants; and were made and constructed for the diversion and appropriation of the waters of said Warm Springs for irrigation to and upon the lands now owned and occupied by these protestants, which said lands are described as follows, to wit:

The S $\frac{1}{2}$ of the SE $\frac{1}{4}$; the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, of Section 6; the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the NE $\frac{1}{4}$, of Section 7; all in Township 12 N. R. 44 E.B.M.; and embracing U.S. Desert Land Entry No. 1317, made October 18, 1890, by Frank W. Beane, and now occupied and owned by the above named John E. Garner.

The SW $\frac{1}{4}$ of Section 5, and the North-west Quarter(NW $\frac{1}{4}$) of Section 8, Township 12 N., R. 44 E.B.M.; embracing U.S. Desert Land Entry No. 1316, made October 18, 1890, by George Kunkel, assigned to Charles J. Bassett, and now owned and possessed by the aforesaid Charlotte Garner.

The South-east Quarter (SE $\frac{1}{4}$) of Section 7, and the South-west Quarter (SW $\frac{1}{4}$) of Section 8, Township 12 N., R. 44 E. B. M.; embracing Desert Land Entry (U.S.), No. 1366, made October 3, 1890, by Gottfried Meyer, and assigned to John Hayball, and now owned and occupied by the aforesaid Frank O. Green.

Said Desert Land Entry numbers being of Blackfoot series.

That final proof of all said entries have made and approved and final payment made and accepted thereon, and certificates issued from the United States Land Office at Blackfoot, Idaho, to the respective present owners of said lands.

6.- That said William B. Hopper has no right to take, or divert, or conduct said waters, or any waters, through or from said works, ditches or canals, by virtue of permitt No.11428 or at all.

7.- That these protestants deny that the date of priority which the said William B. Hopper, the alleged user, is prepared to establish is April 28, 1915; and protest that he is unable to establish any date of priority of right to use any of the waters of said Warm Springs, or Warm River, for the reasons, that long prior to said date, of April 28, 1915, to wit:

On the 10th day of January, 1894, the aforesaid Frank W. Beane located, caused to be recorded and gave notice of his location and appropriation of 640 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced within his aforesaid Desert Land Entry No. 1317, and now occupied by the protestant John E. Garner; which said location is recorded in Book "A" at page 506, of Water Locations, of the records of Fremont County, Idaho.

On January 29, 1894, the aforesaid Charles J. Bassett located, caused to be recorded and gave notice of his water location of 640 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced with his said Desert Land Entry No. 1316, and now owned by the protestant Charlotte Garner; which said location is recorded in Book "A" at pages 514, 515, of Water Locations, of the Records of Fremont County

On the 29th day of January, 1894, the aforesaid John Hayball located, caused to be recorded, and gave notice of, his water location for 320 inches of the waters of Warm River and Springs, for the benefit and irrigation of the lands embraced within Desert Land Entry No. 1266, above described, and now owned and possessed by the aforesaid Frank O. Green, one of these protestants; which said water location is recorded in Book "A" at page 508, of Water Locations, of the Records of said Fremont County.

That the said three water locations, and the rights under them, embrace and comprise ~~and~~ greater amount of water than flows in said Warm River and Springs, at the point of diversion, during the summer season, or at any time except the high water period; and for that reason, the entire flow of said stream at the point of diversion of said appropriations, ~~was~~ ^{is} ~~entirely~~ exhausted by the said three appropriations.

8.-That the said William B. Hopper, has ^{no} rights prior to the rights of these protestants under and by virtue of the aforesaid appropriation, made and recorded as aforesaid; that any and all rights which he may have, if any, are subject and inferior to and of later date than the rights of the these protestants.

WHEREFORE, These protestants protest that the intended proof of said William B. Hopper of his right to use the waters, or any of the waters, of said Warm River and Springs, should be denied; and that any license confirming the right claimed by him should not be issued; and your protestants respectfully demand that such right and license be denied.

E. M. Poole
Attorney for Protestants,
Rexburg, Idaho,
Residence and P. O. Address.

John E. Garner
Charlotte Garner
Frank O. Green
by *E. M. Poole* attorney

STATE OF IDAHO)
County of Madison) SS

John E. Garner and ~~Charlotte Garner and Frank O. Green~~, being ~~each~~ duly sworn, deposes and says: That he is one of the protestants named in the foregoing protest against the proof of William B. Hopper of application of water to beneficial use; that he has read or heard read the said protest, and knows the contents thereof, and that same is true to the best of his knowledge and belief; that ~~they~~ make this verification on behalf of each and all of said protestants.

John E. Garner

Subscribed and sworn to before me this 14th day of September, 1916;

W. E. See
Notary Public,
Residing at Rexburg, Idaho.

My Commission Expires
January 16, 1918

STATE OF IDAHO
ENGINEERING DEPARTMENT
BOISE

INSTRUCTIONS
PROOF OF BENEFICIAL USE

Wm. B. Hopper,
Ashton, Idaho.

BOISE, IDAHO, **Sept. 9, 1916.**

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of application of water to beneficial use under your Permit No. **11428.**

DEPOSITION OF PERMIT HOLDER,
DEPOSITIONS OF TWO WITNESSES.

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

1. On **Sept. 16th**, the date set for the proof of application of water to beneficial use, the enclosed deposition forms (one for permit holder and one each for two witnesses) should be filled out and sworn to, at **Rea, Idaho, before W. C. Trude, J.P.**

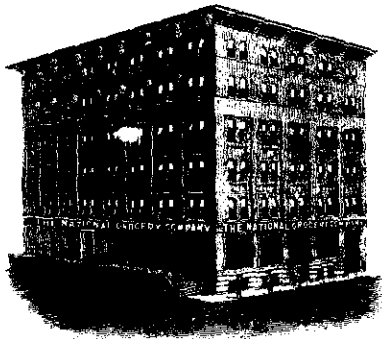
2. When the depositions have been taken they should be mailed to this office, together with affidavit of publication of notice and fee of \$2.00 for each 40-acre tract, or fraction, to which water has been applied. When these have been received together with report of examining engineer, if everything is properly executed, License will issue.

Yours truly,

J. H. SMITH,

State Engineer.

11428



R. J. MURPHY, PRES.

J. S. MURPHY, PRES.

C. W. MALEHAM, SECY & TREAS.

THE NATIONAL GROCERY COMPANY

IMPORTERS AND WHOLESALE GROCERS

1628-38 15TH STREET

DENVER, COLO.

TELEPHONE MAIN 814

Ashton, Idaho

Sept. 7, 1916

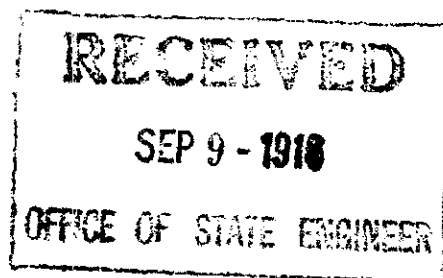
*The State Engineer,
Boise, Idaho*

Dear Sir:

*Please send me papers for final Proof
on water*

And oblig

Wm B. Hopper



11428

C. M. u. clt AFFIDAVIT OF PUBLICATION

I, H. H. Hartvigsen, do solemnly swear that I am publisher of the ASHTON ENTERPRISE, a weekly newspaper of general circulation, published once each week at Ashton, Fremont County, Idaho; that the notice attached hereto and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper 4 consecutive weeks; first publication having been made on August 17, 1916 that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in the supplement.

C. M. Mercer

Subscribed and sworn to before me Sept. 6, 1916

Notary Public

I,

do hereby certify that a notice, a printed copy of which is hereto attached was by me posted in a conspicuous place in my office for a period of thirty days, I having posted said notice on the _____ day of _____ A. D. 191_____

11428

Register.

NOTICE OF POSTING OF AFFIDAVIT OF PUBLICATION
Notice is hereby given that at 10 a. m. on the 26th day of September, 1916, at Res. B. Hopper, Ashton, State of Idaho, C. Trude, Director of Public Lands, has submitted of the _____ for beneficial use of _____ per second of _____ Warm River and tributaries with the terms and conditions of Permit No. 11428, as required by the State Engineer of the State of Idaho.

1. The name and postoffice address of the person holding said permit are B. Hopper, Ashton, Idaho.

2. The right in which said water has been applied is irrigation and domestic use.

3. The amount applied to beneficial use is 3 1-6 cubic feet per second.

4. The place where said water is used is SW 1/4 of SE 1/4 and NE 1/4 of SE 1/4, Sec. 9 and SW 1/4 of SW 1/4 Sec. 10, T. 12 N., R. 44 E., B. M.

5. The name of the canal or ditch or other works by which said water is conducted to such place of use is Warm River ditches, one, two and three.

6. The right to take the water from such works is based upon Permit No. 11428.

7. The source of supply from which water is diverted is Warm River and tributaries.

8. The date of the priority which said user is prepared to establish is April 22, 1915.

47-50

J. H. SMITH,
State Engineer.

(P. O.) Edison Idaho
(Date) Aug. 10. 16

State Engineer, Boise.

Dear Sir:

I have your letter of 9th. Aug enclosing Notice of Proof
of Beneficial Use of Water under Permit No. 11428 which will be pub-
lished as you request, beginning with our issue of Aug. 17. 1916
C. M. Mercer
Pub.

11428

NOTICE FOR PUBLICATION

Notice of Proof of Application of Water to Beneficial Use

Notice is hereby given that at 10 a. m. on the 16th day of September, 1916, at Rea, County of Fremont, State of Idaho, before W. C. Trude, Justice of Peace, proof will be submitted of the application to beneficial use of 3 1-6 cubic feet per second of the waters of Warm River and Springs, in accordance with the terms and conditions of Permit No. 11428, heretofore issued by the State Engineer of the State of Idaho.

1. The name and postoffice address of the person holding said permit are William B. Hopper, Ashton, Idaho.

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

3. The amount applied to beneficial use is 3 1-6 cubic feet per second.

4. The place where said water is used is S $\frac{1}{2}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 9 and SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 10, T. 12 N., R. 44 E., B. M.

5. The name of the canal or ditch or other works by which said water is conducted to such place of use is Warm River ditches, one, two and three.

6. The right to take the water from such works is based upon Permit No. 11428.

7. The source of supply from which water is diverted is Warm River and tributaries.

8. The date of the priority which said user is prepared to establish is April 28, 1915.

47-50

J. H. SMITH,
State Engineer.

The Ashton Enterprise

ISSUED EVERY THURSDAY

C. M. MERCER & SON, PUBLISHERS

ASHTON, IDAHO

RECEIVED

AUG 8 1916

OFFICE OF LAND ENGINEER

11428

August 9, 1916.

Re Permit 11428.

William B. Hopper,
Ashton, Idaho.

Sir:--

Notice for publication for final proof under
above permit has today been mailed to the Ashton
Enterprise, as that is the nearest paper to the
lands. Deposition blanks will be mailed to W.C. Trude
later.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____



11428

July 12, 1916.

Permit No. 11428.

William B. Hepper,
Ashton, Idaho.

Sir:--

In checking your notices for final proof under above permit I note that you have included the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 10, in the lands to be irrigated. As this forty is not included in the original permit, it will be necessary for you to file an application for amendment of same in order to include it in your proof. The application should be accompanied by maps in duplicate, forms for which are enclosed.

As soon as these are received, or further information from you, notice for publication will be mailed to the Teton-Peak Chronicle and deposition blanks will be mailed to W.C.Trude, Justice of Peace at Rea.

Very truly yours,

J. H. SMITH,

State Engineer.

AA-2MF

By _____

11428

NOTICE FOR PUBLICATION

Notice of Proof of Application of Water to Beneficial Use

Notice is hereby given that at 10 a. m. on the 16 day of September, 1916,
 at Rea, County of Fremont, State of Idaho,
 before W. C. Trude, Justice of the Peace, proof will be submitted
 of the application to beneficial use of 3 1/6 cubic feet per second of the waters of
Warm River and springs, in accordance with the terms and conditions of Permit No. 11428
 heretofore issued by the State Engineer of the State of Idaho.

1. The name and postoffice address of the person or corporation holding said permit are Wm B. Hopper
Ashton, Idaho
2. The use to which said water has been applied is Irrigation and Domestic
3. The amount applied to beneficial use is 3 1/6 Cubic feet per second
4. The place where said water is used is (if for irrigation, give full and accurate description of the lands irrigated)
South 1/2 and N.E. 1/4 of S.E. 1/4 Sec. 9 and S.W. 1/4
of the S.W. 1/4 of Sec. 10, T. 12 N. R. 44 E. B. M.
5. The name of the canal or ditch or other works by which said water is conducted to such place of use is Warm
River Ditches, One, Two and Three
6. The right to take the water from such works is based upon Permit No. 11428
7. The source of supply from which such water is diverted is Warm River and
tributaries
8. The date of the priority which said user is prepared to establish is April 28, 1915

J. H. SMITH,

State Engineer.

11428

July 28th, 1916.

Re: Permit 11428.

Wm. B. Hopper,
Bozeland Park, Idaho.

Dear Sir:-

Replying to your letter of the 4th inst., will say in regard to making proof of beneficial use of water under the above permit, you should select a date and place for proof which will be convenient to yourself and two witnesses. In the notice for publication show this information and also the notary before whom proof will be offered. (This must be before a notary public or justice of the peace). Then, on the date which you choose for such proof, you and your two witnesses should appear before the notary whom you select and offer the proof.

Very truly yours,

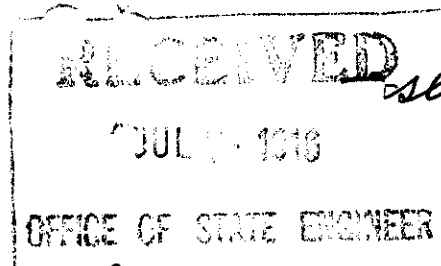
J. H. SMITH,

State Engineer.

By

RPH-HHS

11428



Island Park, Idaho

July 4, 1916

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

Dear Sir:-

Yours of June 9, enclosing
blank notice of application of
water to beneficial use, at hand.
My permit is No. 11428.

Of what must my proof
consist? Will I be required to
furnish witnesses or witnesses?
And who is qualified to receive
the proof - attorney, or notary?
I shall fill out the blanks and
send them in on hearing from you.

As we have no post office
here this year, kindly address
me at Ashton, Idaho.

11428 Very Truly: Wm B Hopper

State of Idaho
ENGINEERING DEPARTMENT
BOISE

W. B. Hopper,

June 9 1916

Dear Sir: Island Park, Idaho

I enclose herewith blank notice of proof of Application of Water to Beneficial Use under your Permit No. ~~11428~~, which kindly fill out and return to me at least 60 days before the date upon which you wish to submit proof. The date of the proof is set out in your permit, and if proof is submitted subsequent to that your priority will be advanced a time equal to the difference of the time between the date proof should have been submitted and the date it is submitted.

Yours truly,

J. H. SMITH

State Engineer

11428

11428

Boise, Idaho, Oct. 18, 1915.

Mr. Wm. B. Hopper,
Island Park, Idaho.

Dear Sir:

Your application for extension of time for
beneficial use has been approved and one copy is
herewith returned to you.

Very truly yours,

J.H. Smith,
State Engineer,

BY

RB

11428

October 14, 1915.

Permit No. 11428.

William B. Hepper,
Island Park, Idaho.

Sir:--

Am enclosing herewith certificate of
completion of works with receipt for fee.

Very truly yours,

J. H. SMITH,

State Engineer.

CCW-R7672

By _____

11428

OFFICE OF STATE ENGINEER

Permit No. _____

Application for Extension of Time for Beneficial Use Proof.

STATE OF IDAHO

County of Fremont } ss.Wm B. Hopper, of Island ParkState of Idaho, being first duly sworn upon his oath deposes and says:

THAT he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. 11428

THAT under the terms and conditions of said permit, proof of beneficial use thereunder was required to be made by January 30, 1915

THAT he has heretofore put to beneficial use 1 3/4 second feet of water and has irrigated 80 acres.

THAT, for the following reasons, he is unable to put to beneficial use within the required time, the remainder of the water appropriated under his permit, to-wit: the works are all complete to irrigate 160 acres with 3 3/4 second feet of water. But it is too late to put the water to beneficial use before next year then our train service is discontinued for the year; and as traffic is almost impossible here in winter, I might be unable to produce witnesses at that time

WHEREFORE, He asks that the State Engineer extend the time for the making of proof of beneficial use under said permit to September 30, 1916

And further, deponent saith not.

Subscribed and sworn to before me this 27 day of September, 1915

Paul Stone
Notary Public.

My commission expires July 10 - 1917

Date of receipt at office of State Engineer _____

APPROVAL OF STATE ENGINEER

J. H. Smith

I, ~~XXXXXX~~, State Engineer of the State of Idaho, hereby extend the time for the making of proof of beneficial use under Permit to appropriate the Public Waters of the State of Idaho, No. 11428 to September 30, 1916

Witness my hand this 29th day of September, 1915

J. H. Smith
State Engineer.

11428

Permit No.

OFFICE OF STATE ENGINEER

PROOF OF COMPLETION OF WORKS

AFFIDAVIT OF HOLDER

STATE OF IDAHO

County of Fremont } ss.

Wm B. Hopper, 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. 11428 and that his postoffice address is Island Park
State of Idaho

Second: That under the terms and conditions of said permit, construction thereunder was required to be completed by January 30, 1916

Third: That the use for which said water is intended is irrigation

Fourth: 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: Three ditches and three small dams
(Reservoir, dam, ditch, flume, pipe or otherwise.)

II. Dimensions of work:

(a) Height of dam 2 feet, length of dam at top 20 feet, length of dam at bottom 10 feet. Material used in construction earth

(State whether wood, earth, stone or concrete.)

(b) Capacity of reservoir 1/4 of 1 acre feet.

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

(d) Conduit 3 ditches width at bottom 2 feet, width at water line 3 feet, depth of water 1 feet; diameter of pipe inches; average grade per mile is 2 feet. Length of conduit is 3/4 miles.

Fifth. That said works are capable of conducting to the place of intended use 3 1/6 second feet of water.

Sixth. That water appropriated under said permit is available for 160 acres of land described as follows: S. 1/2 SE 1/4 Sec 9 and NE 1/4 SE 1/4 Sec 9 and SE 1/4 SW 1/4 Sec 9, T12 N, R 44 E B.M.

Seventh. Remarks: That this land was recently surveyed, but is not yet open for homestead. But the above is the legal description of the land that most probably will be selected.

Wm B. Hopper
Sign here.

Subscribed and sworn to before me this 27 day of September, 1915

My commission expires July 10 - 1917,
Paul R. Stone
Notary Public.

September 13, 1915.

Permit 11428.

Mr. Wm. B. Hopper,
Island Park, Idaho.

Sir:--

Per your request the 8th inst. I am herewith enclosing you affidavit form for proof of completion of works, with instructions. Application for extension of ~~time~~ for beneficial use of water should be made in duplicate upon the enclosed forms.

Very truly yours,

J. H. SMITH,

State Engineer.

F5-6-2F3

By _____

11428

Island Park, Idaho
Sept. 8, 1915

75-6-
273

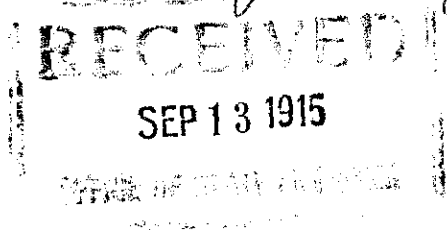
The State Engineer.

Boise, Idaho.

Dear Sir:- I have complied with all requirements in application for permit (No. 11428) for water right. The works are all complete, and the water has been appropriated to beneficial use. I am now prepared to furnish proof of same.

As I find it impossible to make final proof on my homestead before some time next year on account of delay in surveying - if it is all the same with you I would prefer an extension of time for final proof on water. Our mail service will close here within about two weeks. Then our mail is very unreliable until June 15, 1916. I would, therefore, prefer to make final proof in July or August 1916.

Very truly,

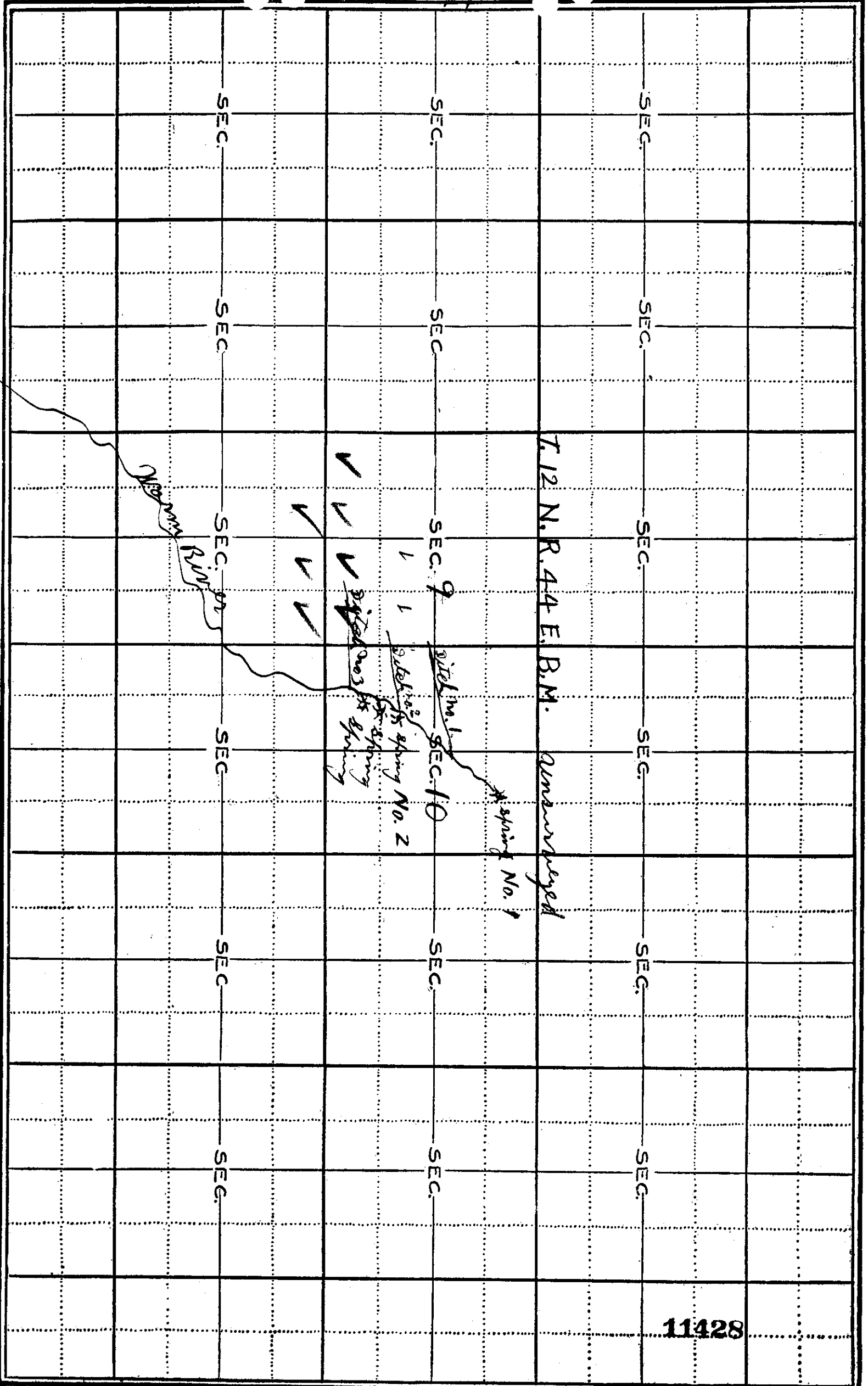


Wm B. Hoffman

11428

Name of Applicant

712-13 Hopper



11428

Form No. 18

State of Idaho
ENGINEERING DEPARTMENT
BOISE

Permit # 11428.

Mr. Wm. B. Hopper,
Island Park, Idaho.

Boise, Idaho,

July 29, 1915.

Dear Sir:

I enclose herewith above numbered permit. BE SURE TO NOTE LIMITATIONS AND
CONDITIONS OF SAME as given under approval of State Engineer on the third page.

J. H. Smith.

State Engineer

11428

11428

~~OREGON SHORT LINE RAILROAD COMPANY~~~~OFFICE OF AGENT~~

IN REPLY PLEASE REFER TO

No.

Island Park, Idaho

July 3~~rd~~ 1915

State Engineer

Boise, Idaho

Dear Sir:

I am returning my application again.

If this is not correct, please send another blank.

Hoping this is satisfactory, I remain

Very truly,

Wm B Hopper

16336
①

11428

June 30, 1915.

16336.

Mr. Wm. B. Hopper,
Island, Park Idaho.

The application and maps do not agree as to the
location of spring No. 1.

Do not paste slips of paper to the application blank.
If there is not room enough in the space provided, insert the
information under the head of Remarks, reference thereto being
made in paragraph 4.

July 5, 1915

11428

16336.

GB.

June 3, 1915.

16336.

Mr. Wm. B. Hopper,
Island Park, Idaho.

State amount of water claimed from Warm river and
amount from each spring filed on.

In paragraph 4 of the blank describe each point of
diversion by giving the legal description of the 40 acre
tract in which each will be situated.

Comply with General Rule III of the Rules and Regu-
lations, relative to filing on springs.

July 5, 1915

11428

16336.

Boise, Idaho, May 6, 1915.

Application 16336.

Mr. Wm. B. Hopper,
Island Park, Idaho.

Sir:--

Your application received and filed.
Same is herewith returned for completion in the
following particulars:

From your statement under the head of
Remarks it would appear that you intend to claim
waters directly from the spring. If so, you should
so state in paragraph 3 of the blank and give the
amount of water claimed from each. Since the springs
are tributary to Warm River above your points of
diversion, their water is subject to your filing
and need not be specified. However, if you desire to
claim a specific amount from the springs, so state
under paragraph 3 of the blank and under the head of
remarks make statement, showing course of water from
the spring to the lands to be irrigated.

Give information called for in paragraphs
6 and 7 of the blank.

Sign the application.

Very truly yours,

J. H. SMITH,

State Engineer.

By _____

Enc. A. 16336. FFR. 10281-20 cts. stamps rebate.

GB.

11428