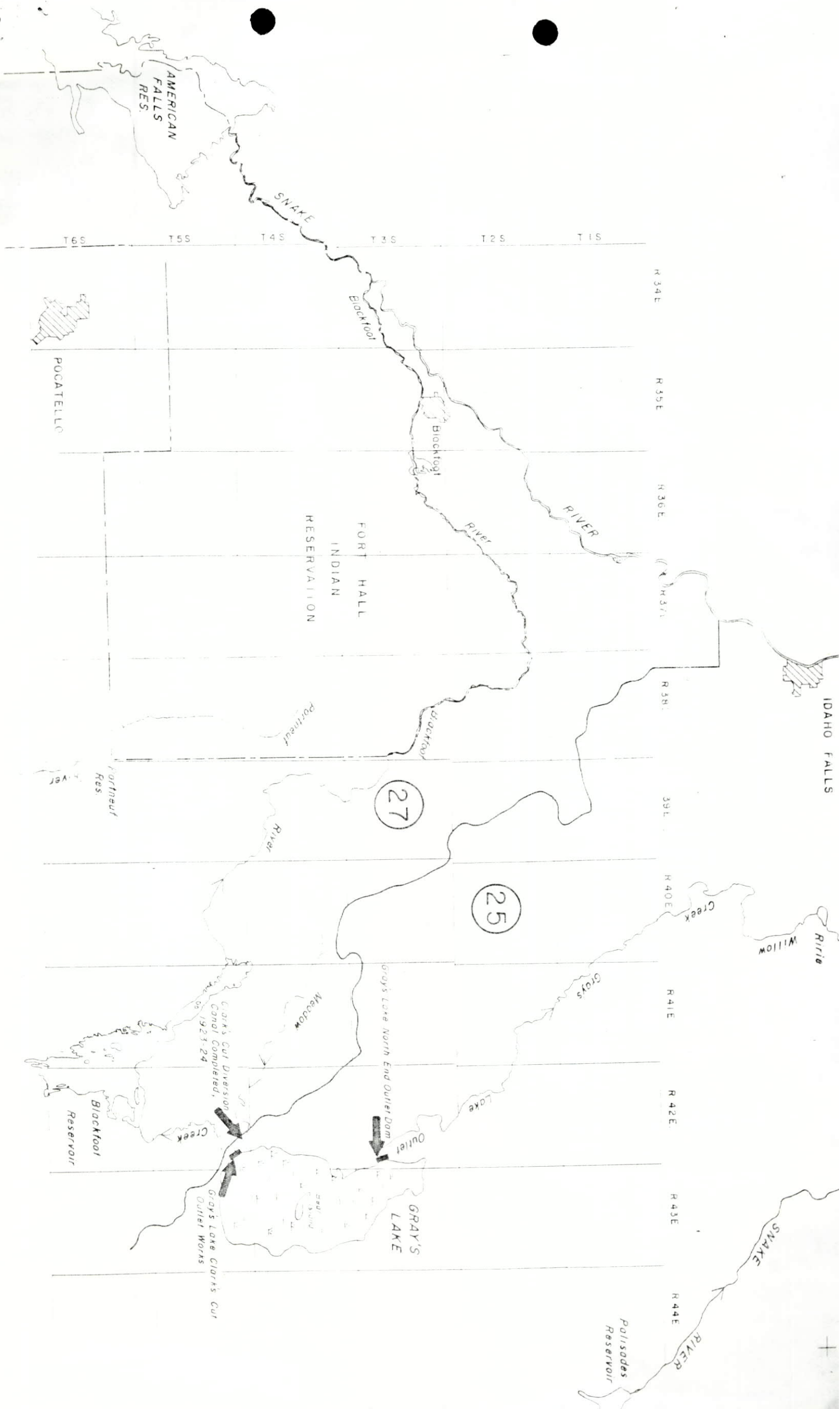
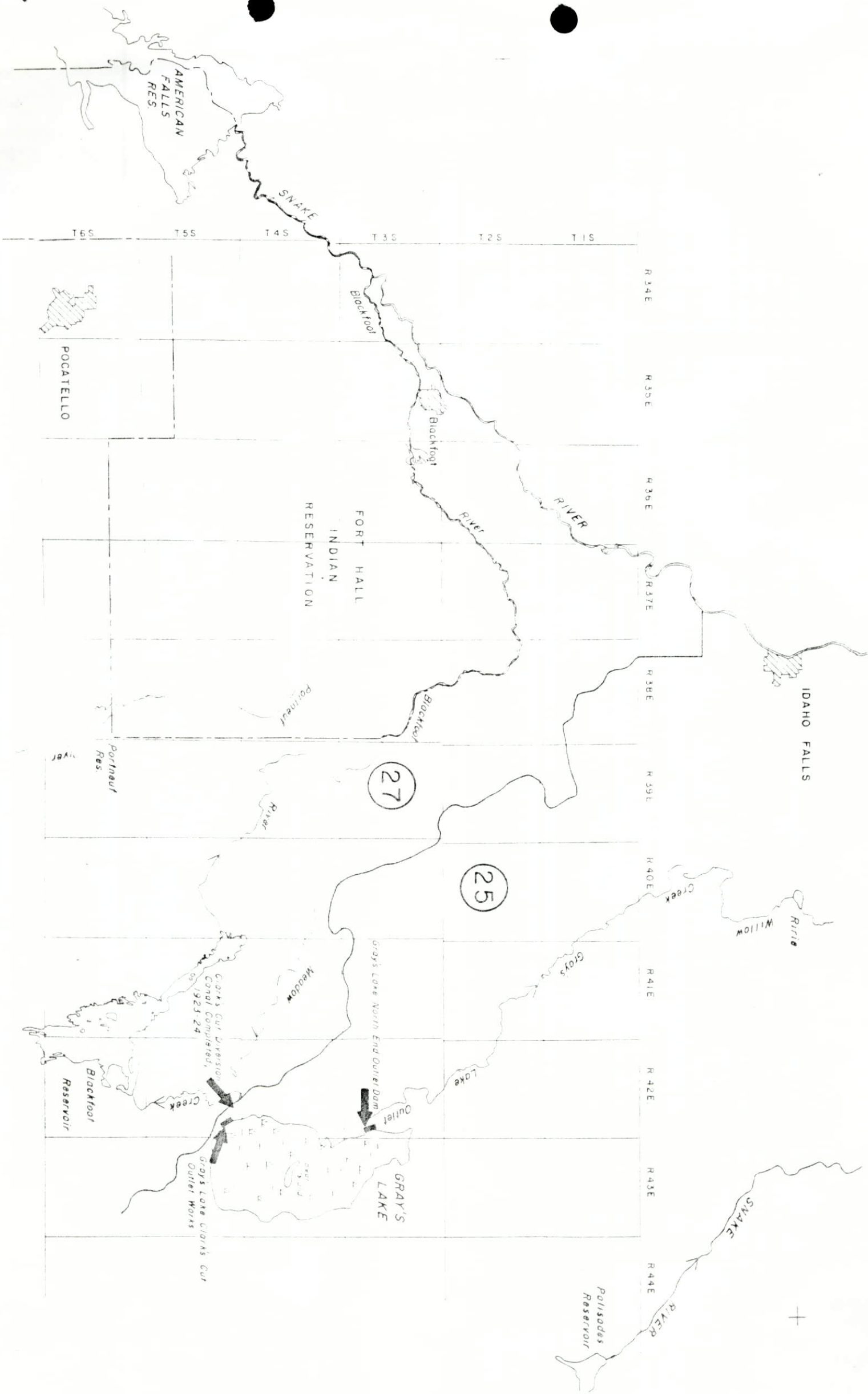






Commissioner of Reclamation  
Date of first receipt at office of State Engineer 9:00 A. M. June 27, 1919.  
Returned to applicant for correction June 27, 1919.  
Corrected application received Aug. 23, 1919.

COMMISSIONER OF RECLAMATION.  
**Approval of State Engineer**

The number of this Permit is R 161  
Recorded in book R 1 Page 161 Approved September 12, 1919.

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

Bond in the sum of \$ see Permit No. 14247 to be filed on or before

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

One-fifth of the work above specified to be completed on or before March 12, 1922.

The whole of said work to be completed on or before September 12, 1924. - *x to Sept. 12 - 1929*

Beneficial use of water stored in accordance herewith, to be made on or before Sept. 12, 1930.

as set out in Permit No. 14247 for the appropriation of the public waters of the State of Idaho, which is hereby referred to and made a part hereof.

Witness my hand this 12th day of September, 1919.

W. G. Swendsen.  
State Engineer.  
Commissioner of Reclamation.

Remarks:

The object of this application is to secure permission to store the surplus waters of John Gray's Lake, after which they will pass through a diversion canal to the drainage of the Blackfoot-Marsh Reservoir and thence down the Blackfoot River to sections 13 and 14 T. 3 S. R. 35 E. B. M. at which point they will be diverted to irrigate the lands on the Fort Hall Indian Reservation and the ceded lands in the vicinity of Pocatello.

It is intended to combine the waters covered by this application with those covered by Permit No. 3117 and Permit No. 3116 for the purpose of irrigating the lands above mentioned

STATE OF IDAHO

Department of Reclamation

BOISE

In the Matter of Petition for Cancellation of Permit No. R-161:

A. C. Quigg and A. C. Quigg Irrigation Co.  
Contestant,

vs.

Henry W. Dietz, Agent for the United States  
Commissioner of Indian Affairs,  
Contestee.

ORDER DENYING PETITION  
FOR  
CANCELLATION

WHEREAS, under date of April 3d, 1922, the application for cancellation of Permit No. R-161 was filed in the Department of Reclamation by Oscar A. Johannesen, attorney for contestant, A. C. Quigg, and

WHEREAS, pursuant to the Statutes, date and place of hearing was designated and due notice thereof given interested parties, all as required by law, and,

# Application for a Permit to Construct the Reservoir

JOHN GRAY'S LAKE

~~27-2158~~  
25-2160

And to Store the Unappropriated Waters of the State of Idaho

Application No. R 20025  
Permit No. R 161  
District No. 34-35

1. Name of Applicant: Henry W. Dietz, for and on behalf of the United States  
Commissioner of Indian Affairs.  
Postoffice Address: Fort Hall County: Bingham 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: (a) Cash on hand: \$ Works to be constructed by  
(b) Treasury stock: \$ (c) Bonds to be issued: \$ the United States under  
(d) Other resources: authority of Congressional enactment.

2. Quantity of water to be stored 100,000 acre feet per annum.

3. Source of water supply John Gray's Lake, which is a tributary of Snake River.

4. Water is to be used for: Irrigation and Domestic Use.

5. The outlet of the proposed reservoir is located N. 56 10' East  
1025 feet distant from the N.W. corner of Section 12, T. 5 S., R. 42 E.  
B. M., and is in the SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 1, T. 5 S., R. 42 E. B. M., County of Bannock.

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

(a) The reservoir is located in the channel of John Gray's Lake.

(b) The reservoir is to be filled through the Feeder Canal,

which has a width at bottom of ft., width at top of ft., depth of ft., average  
grade per mile ft., capacity cubic feet per second.

7. (a) The area of the high water line of the reservoir is 26,999.50 acres.

(b) The available capacity of the reservoir is 300,000 acre feet.

8. Height of dam: 7 feet; length of dam at top 16 feet; length of dam at bottom 45 feet.

Material used in dam: concrete.

9. The estimated cost of proposed reservoir is \$ 50,000.00

10. Amount of land to be irrigated 74,189.51 acres; said land being described in Use Permit mentioned in Paragraph 13 herein, which Use Permit is hereby referred to and made a part hereof.

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

13. The water stored in accordance with this permit will be conducted to the place of use through the Fort Hall canal, constructed under the terms of Permit No. 3117, filed by U. S. Commissioner of Indian Affairs. on Sept. 3, 1907 and June 27, 1919.

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and to store the unappropriated waters of the State of Idaho as herein set forth.

U. S. Commissioner of Indian Affairs Applicant.

By Henry W. Dietz, Agent.  
Supervising Engineer

WHEREAS, pursuant to said notice, a hearing was convened at Boise, on the 5th day of April, 1922, at which time the contestee filed the affidavit of R. H. Burdick, an engineer in the employ of the United States Indian Service, and subsequently on July 28th, supplemented the said affidavit as required by this Department, with a certified copy of a deed of conveyance from Barzilla W. Clark and Ethel Clark, conveying to the United States Indian Service rights of way and a certain partially constructed outlet canal for use in connection with the works contemplated by the said permit for the sum of \$10,000, and

WHEREAS, upon a consideration of the petition, together with all data and information supplied by the contestant, together with all information and data supplied by contestee, the records and information on file in the Department of Reclamation and other data available to the Department, it is found that the contest was based upon the contention that contestee or permit holder had failed to comply with the permit law by not performing one-fifth of the work contemplated under the provisions of the said permit on or before March 12, 1922; that the said contention is not confirmed by the facts, but that on contrary, said contestee or permit holder has, through the acquisition of works heretofore constructed, including rights of way, performed one-fifth of the work as required by the terms and conditions of the said permit and by law,

NOW, THEREFORE, in view of the foregoing conditions and circumstances, it is hereby ordered that the said petition for cancellation be and the same is hereby denied and the permit held to be in force and effect, and notice is hereby given that pursuant to the provisions of law, "\*\*\* any party aggrieved by this decision shall have ninety days from the date of this notice in which to commence action or appeal as hereinafter provided for, in the district court of the county in which the intended diversion point under the permit sought to be cancelled is located."

WITNESS the seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho, this 26th day of September, 1922.

(SEAL)

W. G. SWENDSEN,  
Commissioner of Reclamation.

See Order granting extension of time under Permit No. 14247.

See 14. 1. 1. 1. 1.

INTER-DEPARTMENT MEMO — 1

DATE

FROM

TO

SUBJECT

MEMORANDUM of July 30, 1982, Water Rights of Gray's Lake and  
Related Sources. Refer to Water Right file #25-2157.

place this  
in file  
25-2160  
possibly make  
copies for other  
files

25-2160

SIGNATURE



State of Idaho

## DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:  
Statehouse  
Boise, Idaho 83720  
(208) 334-4440

### MEMORANDUM

TO: Norm Young

THRU: Glen Saxton

FROM: Dave Tuthill *DRT*

DATE: July 30, 1982

RE: Water Rights on Gray's Lake and Related Sources

Per your request the Water Allocation Section has researched water rights that impact regulation of Gray's Lake located in State Water Basin No. 25. This research has resulted in two discoveries. First, water rights from Gray's Lake and from the Blackfoot River in the name of the Bureau of Indian Affairs (BIA) are not properly recorded. Second, water delivery from Gray's Lake should be altered to protect existing water rights.

#### WATER RIGHTS

As shown on the attached map, excess water from Gray's Lake is naturally tributary to Gray's Lake Outlet, and thence to Willow Creek. Gray's Lake is located at the headwaters of Basin No. 25, so if it were not regulated in any way, all discharge from the lake would flow down Basin 25 and eventually into the Snake River above American Falls Reservoir.

Prior to 1923, at least 16 applications for permit were filed for use of water from Gray's Lake. These applications were all eventually cancelled or relinquished.\* On November 2, 1923 the U.S. Indian Irrigation Service (One of the predecessor agencies of the BIA) filed two applications for permit. One application was for a 100,000 AF reservoir right on Gray's Lake, now identified as Permit No. 25-2157. The other was for a direct flow right from Gray's Lake for 150 cfs (in addition to 85 cfs from other sources), identified as Permit No. 25-2087. The only other valid water right from Gray's Lake proper that exists today is a 1961 license for .8 cfs

Based on Permits 25-2157 and 25-2087, the Bureau of Indian Affairs constructed a channel known as Clark's Cut, a tranbasin diversion, from Gray's Lake to Meadow Creek tributary to the Blackfoot Reservoir, from 1923 to

\*One exception is Permit No. 25-2160, for which cancellation procedures have not been conducted (see Attachment A).

*25-2157*

*[Handwritten initials and marks]*

ATTACHMENT A (CONT.)

Permit No. 25-2160 (R-161)

Permit Holder: U.S. Dept. of Interior, Bureau of Indian Affairs.

Quantity: 100,000 AF

Place of Use: Lands under Fort Hall Canal.

Chronology of Events:

06-27-1919 Application Filed (Direct flow companion right No. 14247  
was filed the same day)  
09-12-1919 Permit Approved, with Proof of Completion of Works Due  
on 09-12-1924  
07-07-1923 Proof of Completion of Works Extended to 01-12-1929  
07-21-1929 Companion right No. 14247 Relinquished  
09-12-1929 Proof of Completion of Works Due - none submitted - Permit  
lapsed. (see attached letter)  
08-25-1967 Letter sent by Dept. indicating that Permit R-161 appears  
to be in good standing.

Recommended Action: Initiate cancellation procedures pursuant to Section  
42-311, Idaho Code.

ATTACHMENT A

Permit No. 25-2087 (15905)

Permit Holder: U.S. Dept. of Interior, Bureau of Indian Affairs Service.

Rate of Flow: 150 cfs Gray's Lake (Basin 25)  
20 cfs Grave Creek  
25 cfs Brush Creek Basin 27  
20 cfs Wolverine Creek  
20 cfs Corral Creek  
235 cfs Total

Place of Use: 13,720 acres of private land  
60,630 acres of government land  
32,342 acres in the Michaud Tract-Fort Hall Indian  
Reservation.

106,692 acres total

Chronology of Events:

11-02-1923 Application Filed  
11-17-1923 Permit Approved  
11-17-1928 Proof of Completion of Works Due  
11-17-1928 Proof of Completion of Works Submitted  
10-14-1933 Certificate of Completion of Works Issued (106,522 acres)  
11-17-1934 Proof of Beneficial Use Due  
11-17-1934 Proof of Beneficial Use Extended 4 Years.  
11-17-1938 Proof of Beneficial Use Due  
12-21-1938 Application for Amendment Received and Approved (50,000 acres)  
new land list.  
No satisfactory Proof of Beneficial Use was received, since  
the Office of Indian Affairs apparently chose to consider  
the water right as reserved under the Winter's Doctrine.  
(See letter dated 12-23-1938).

Recommended Action: Solicit proof of beneficial use and license accordingly.

ATTACHMENT A (CONT.)

Permit No. 25-2157 (R-329)

Permit Holder: U.S. Dept. of Interior of Interior, Bureau of Indian Affairs.

Quantity: 100,000 AF

Place of Use: Lands within the Fort Hall Project.

Chronology of Events:

11-02-1923 Application Filed (This is a companion to 25-2087)  
11-17-1923 Permit Approved  
11-17-1928 Proof of Completion of Works Due  
11-17-1928 Proof of Completion of Works submitted  
10-13-1933 Certification of Completion of Reservoir & Right to Store  
Water Issued  
11-17-1934 Proof of Beneficial Use Due  
No Proof of Beneficial Use was received.

Recommended Action: License with the same date of priority as 25-2087.

NOTE: Actual Storage Capacity 40,000 AF

July 27, 1933

Re: Permits No. 2822, R-161 & 14247

MR. G. E. CLARK, District Counsel  
U. S. Indian Irrigation Service  
508 Federal Bldg.  
Salt Lake City, Utah

Dear Sir:

In reply to your letter of July 25, we submit herewith the following information in regard to the above permits. Permit No. 2822 was cancelled on May 24, 1922 by order of the Commissioner of Reclamation pursuant to Section 5594, Idaho Compiled Statutes. Permit No. 14247 was relinquished by Mr. W. E. Blomgren, acting Supervising Engineer. This relinquishment was received and filed for record in the State Department of Reclamation at 9:00 A. M. June 21, 1929. Mr. Blomgren gave as his reason for relinquishing this permit that it was a duplicate of and superseded by Permit No. 15905. Proof of completion of works was due under permit No. R-161 on September 12, 1929, as provided by an extension of time. Proof was not made under this permit and it lapsed on this date.

If the above information fails to suffice your purpose, we would be glad to be of further assistance to you at any time.

Very truly yours,

R. W. FARIS  
Commissioner of Reclamation

By \_\_\_\_\_  
Chief Clerk & Office Engr.

PLH:RG

P-161

August 25, 1967

C  
O  
P  
Y  
  
Bureau of Indian Affairs  
Fort Hall, Idaho

Gentlemen:

This office is reviewing its records with regard to applications and permits on which action has not been completed. In this review we have examined applications filed by the U. S. Commissioner of Indian Affairs in connection with storage and use of water from Gray's Lake and Tincup Creek. This examination reveals that:

1. The United States filed and obtained permits #14247 and R-161 covering diversion of 235 second feet of water from John Gray's Lake, Grave Creek, Brush Creek, Wolverine Creek and Corral Creek, and storage of 100,000 acre feet of water in John Gray's Lake, to be used for irrigation purposes. Permit #14247 was relinquished by letter from Mr. W. E. Blongren, dated June 19, 1929. Storage Permit R-161, however, still appears to be in good standing in this office, although proof of beneficial use of water has never been made. ?

2. The United States subsequently filed and received Permits 15905 and R-329 providing for diversion of the same quantities as above. Proof of completion of works was submitted in November, 1938, and certificates were issued by this department. An extension of time was granted to November 17, 1938 to submit proof of beneficial use of the water. Such proof has never been received and no license confirming the water right has ever been issued by this department. We are aware that a good many changes have taken place in the operation of Gray's Lake Reservoir and the use of the water therefrom on the Fort Hall Indian Reservation.

It would be appreciated if you would review your records concerning this matter and advise this office concerning your desires with regard to further action under these permits. If you wish to discuss this matter with us, I will be happy to meet with you.

Very truly yours,

R. KEITH HIGGINSON  
State Reclamation Engineer

BKH:ew

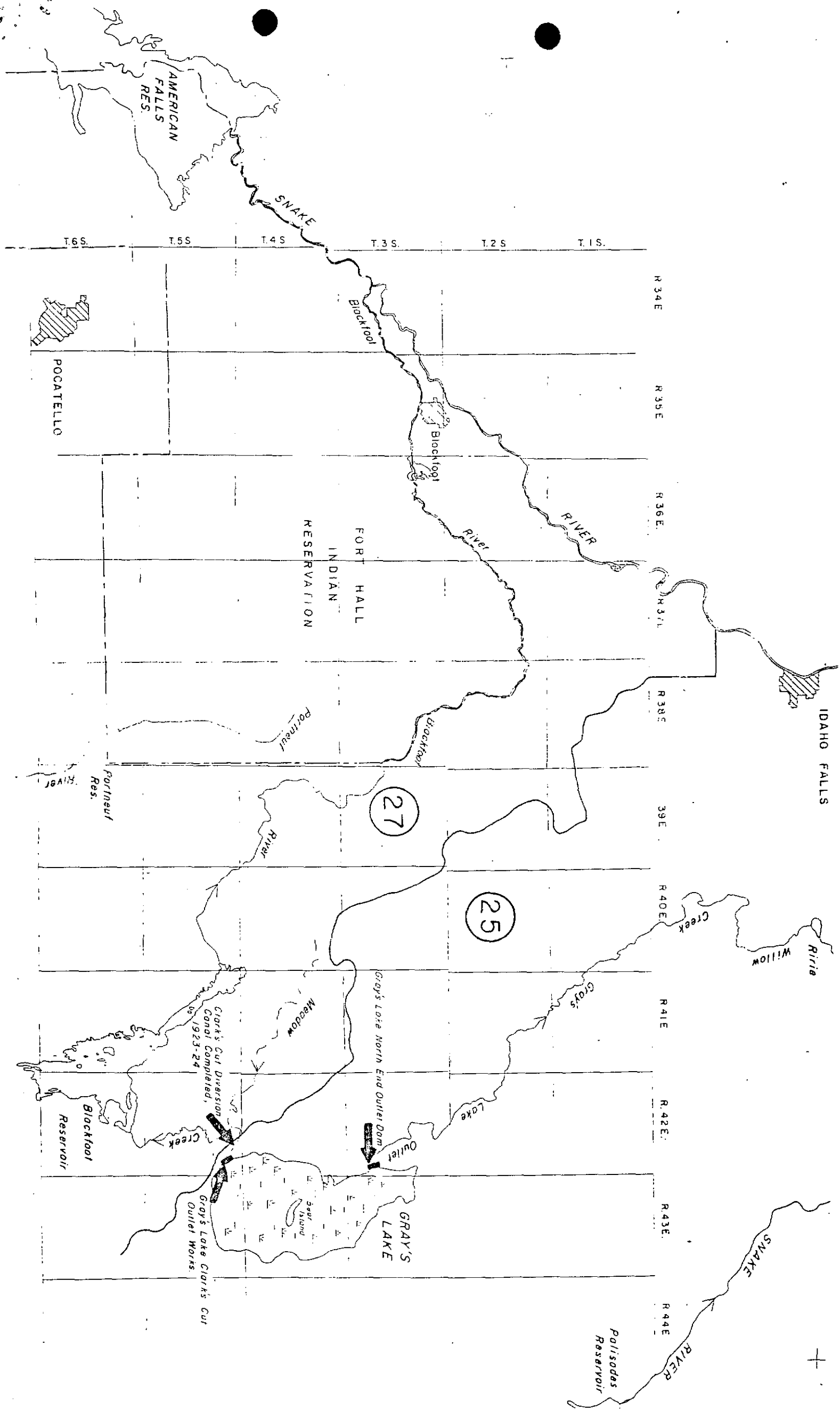
R-161

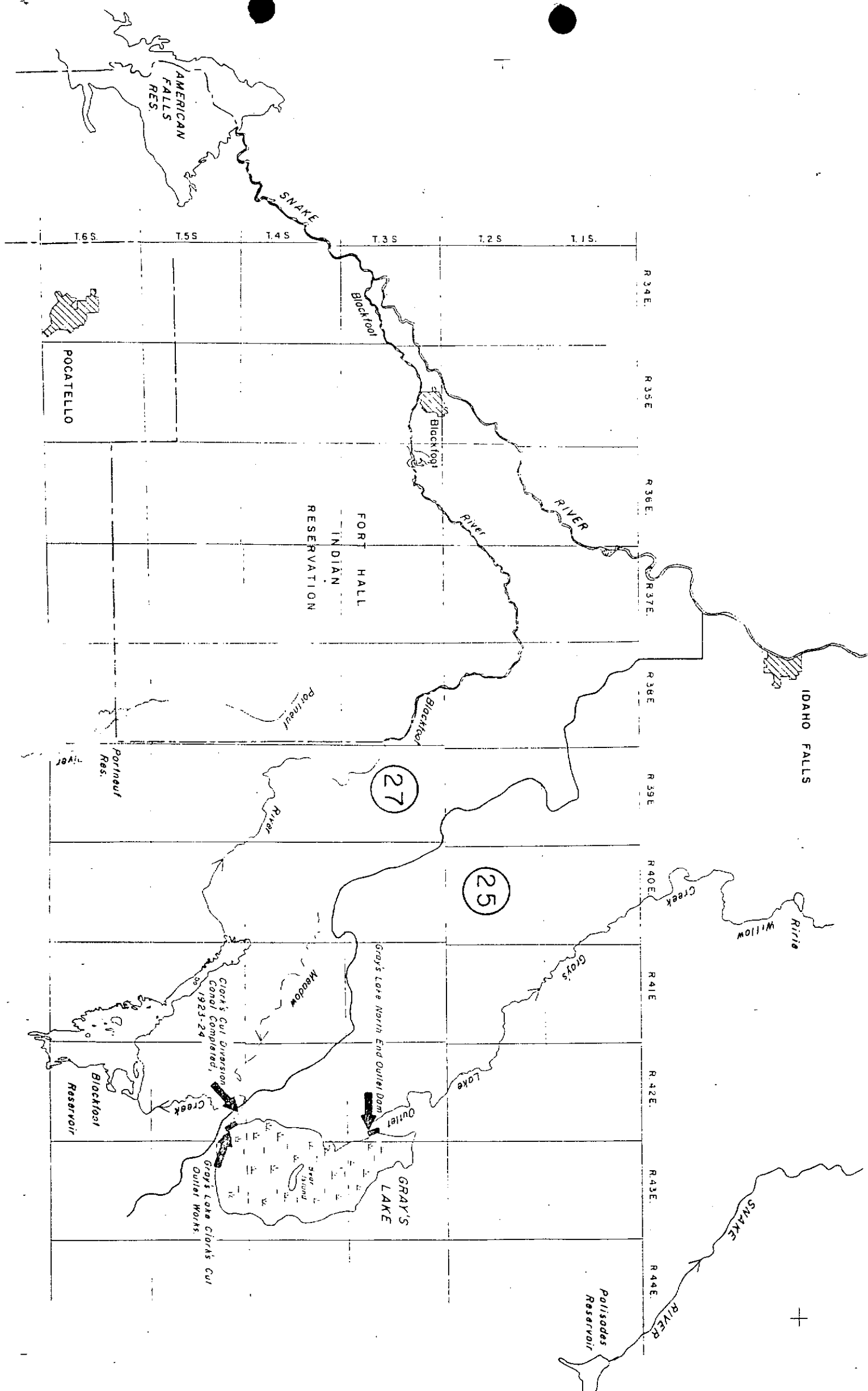
July 30

19 82 Revised

Water District No. 25, 27

| LICENSE             | PERMIT   | NAME                                                                                                | AMT.                 | Date of Filing<br>or Priority | Point of Diversion              |          |              |              | PLACE OF USE, REMARKS, ETC.                                                                             |
|---------------------|----------|-----------------------------------------------------------------------------------------------------|----------------------|-------------------------------|---------------------------------|----------|--------------|--------------|---------------------------------------------------------------------------------------------------------|
|                     |          |                                                                                                     |                      |                               | Subdiv.                         | Sec.     | Twp.         | Rge.         |                                                                                                         |
| Decree<br>0087,0169 | 01-0028, | Jarvis, Evan, Smith (aquired by BIA)                                                                | 15.98<br>cfs         | 02-21-1890                    | Snake R.<br>SWNW                | 36       | 4N.          | 37E.         | See Water District 01 Annual Report                                                                     |
| Decree<br>01-0077   |          | Idaho Canal & Improvement Association<br>(aquired by BIA)                                           | 600.00<br>cfs        | 12-14-1891                    | Snake R.<br>SWNW                | 36       | 4N.          | 37E.         |                                                                                                         |
| 27-2007             |          | U.S. Dept. of Interior<br>Bureau of Indian Affairs                                                  | 123.6<br>cfs         | 09-03-1907                    | Blackfoot<br>River SWSW<br>NWNW | 07<br>07 | 03S.<br>02S. | 36E.<br>38E. |                                                                                                         |
|                     | 25-2160  | U.S. Dept. of Interior<br>Bureau of Indian Affairs                                                  | 100,000<br>AF        | 06-27-1919                    | Gray's<br>Lake                  |          |              |              | MAY BE LAPSED (See Attachment A)                                                                        |
|                     | 25-2157  | U.S. Dept. of Interior<br>Bureau of Indian Affairs                                                  | 100,000<br>AF        | 11-02-1923                    | Gray's L<br>SWSW                | 01       | 05S.         | 42E.         | Proof of B/U submitted (See Attachment A)                                                               |
|                     | 25-2087  | U.S. Dept. of Interior<br>Bureau of Indian Affairs                                                  | Total<br>235 cfs     | 11-02-1923                    | Gray's Lake -<br>SWSW           | 01       | 05S.         | 42E.         | Proof of B/U not submitted (See Attachment A)                                                           |
|                     |          |                                                                                                     |                      |                               | Grave Creek -<br>NESE           | 29       | 04S.         | 39E.         |                                                                                                         |
|                     |          |                                                                                                     |                      |                               | Brush Creek -<br>NESW           | 33       | 03S.         | 39E.         |                                                                                                         |
|                     |          |                                                                                                     |                      |                               | Wolverine Cr -<br>SWSW          | 08       | 02S.         | 38E.         |                                                                                                         |
|                     |          |                                                                                                     |                      |                               | Corral Creek -<br>SWNW          | 16       | 05S.         | 40E.         |                                                                                                         |
| 27-2035             |          | U.S. Dept. of Interior<br>Bureau of Indian Affairs                                                  | 300.00<br>cfs        | 02-06-1928                    | Blackfoot R.<br>SWSW            | 07       | 03S.         | 36E.         |                                                                                                         |
|                     |          | Reservoir (Div 277 in the name of Reservation)<br>Storage (Div 296 in the name of Ft. Hall Michaud) | 500 AF<br>119,212 AF |                               |                                 |          |              |              |                                                                                                         |
|                     |          | NOTE: NO RECORDED WATER RIGHT EXISTS FOR STORAGE IN BLACKFOOT RESERVOIR                             |                      |                               |                                 |          |              |              | (Dam inventory shows 410,000 AF storage-App for<br>27-2007 showed 200,000 AF but this was not licensed. |





PERMITS R-329 and 15905

May 1, 1934

Mr. R. E. SHEPHERD, President  
American Falls Reservoir District,  
Jerome, Idaho

Dear Mr. Shepherd:

We have your letter dated April 23, 1934, re Indian rights in Grays Lake, with reference to which you are advised that the Indian Service at one time bought or acquired a right from one Henry Dietz which was cancelled for failure to comply with the terms of the permit. It later acquired a right from a man named Quigg, which was cancelled while still in good standing and prior to the American Falls right. Later, on November 2, 1923, the Indian Service took out Permit No. R-329 for the storage of 100,000 acre feet of water in Grays Lake. On the same day it took out use or companion Permit No. 15905. Proof of completion of works was offered and certificate was issued under these permits in 1928. Proof of beneficial use will be due November 17, 1934.

This is  
75-2160

For your information we might add that Mr. Guyn, Superintendent of the Fort Hall Reservation, and Mr. Humphries, an attorney for the Indian Department, were in this office a short time ago discussing this matter, both of whom admitted that any claim to storage or natural flow rights the Department had in Grays Lake was subsequent to the rights of the American Falls Reservoir District. We have since heard that the Indian Service had asserted some claim to the waters of Grays Lake under the provisions of the Fort Bridger Treaty, but that seems rather remote to us.

Trusting that this is the information you desire, and with kindest personal regards, I am

Very truly yours,

Commissioner of Reclamation

RNF/mt

R-329



Department of Reclamation

UNITED STATES  
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS  
Fort Hall Agency  
Fort Hall, Idaho

IN REPLY REFER TO:

Land Operations

September 1, 1967

R-161

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

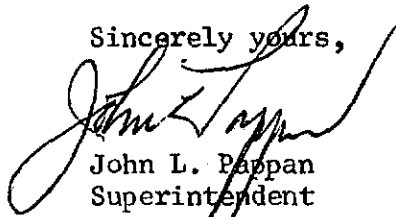
Dear Mr. Higginson:

Thank you for your letter of August 25, 1967 regarding applications and permits of the Bureau of Indian Affairs in connection with Grays Lake and the Blackfoot River.

The information you have supplied us is being sent to our Portland Area Office for review and a determination of what our action should be. As soon as we might hear from them, we will be in touch with you regarding our desires on this matter. It is possible at that time that we may want to meet with you in Boise.

We appreciate your bringing this to our attention and assure you we will inform you of what action we plan to take.

Sincerely yours,

  
John L. Pappan  
Superintendent

R-161

August 25, 1967

Bureau of Indian Affairs  
Fort Hall, Idaho

Gentlemen:

This office is reviewing its records with regard to applications and permits on which action has not been completed. In this review we have examined applications filed by the U. S. Commissioner of Indian Affairs in connection with storage and use of water from Gray's Lake and Tincup Creek. This examination reveals that:

1. The United States filed and obtained permits #14247 and R-161 covering diversion of 235 second feet of water from John Gray's Lake, Grave Creek, Brush Creek, Wolverine Creek and Corral Creek, and storage of 100,000 acre feet of water in John Gray's Lake, to be used for irrigation purposes. Permit #14247 was relinquished by letter from Mr. W. E. Blomgren, dated June 19, 1929. Storage Permit R-161, however, still appears to be in good standing in this office, although proof of beneficial use of water has never been made. ?

2. The United States subsequently filed and received Permits 15905 and R-329 providing for diversion of the same quantities as above. Proof of completion of works was submitted in November, 1928, and certificates were issued by this department. An extension of time was granted to November 17, 1938 to submit proof of beneficial use of the water. Such proof has never been received and no license confirming the water right has ever been issued by this department. We are aware that a good many changes have taken place in the operation of Gray's Lake Reservoir and the use of the water therefrom on the Fort Hall Indian Reservation.

It would be appreciated if you would review your records concerning this matter and advise this office concerning your desires with regard to further action under these permits. If you wish to discuss this matter with me, I will be happy to meet with you.

Very truly yours,

R. KEITH HIGGINSON  
State Reclamation Engineer

RKH:ew

R-161

August 1, 1934

Re: Permits No. R-161 & R-293

MR. R. P. PARRY, Attorney  
First National Bank Bldg.,  
Twin Falls, Idaho

Dear Mr. Parry:

In reply to your letter of July 30th, with reference to the above permits, we wish to advise that application for permit No. R-161 was made by Henry W. Dietz, Supervising Engineer, for and on behalf of the U. S. Commissioner of Indian Affairs. The companion permit to this one, or in other words the one authorizing the diversion of the water to be stored in Gray's lake, was also applied for by Henry W. Dietz for the U. S. Commissioner of Indian Affairs. This permit was No. 14247 and was issued on the same date as the reservoir permit.

Permit No. 14247 was not cancelled by this department but was relinquished by Mr. W. E. Blomgren, Acting Supervising Engineer, for the Indian Service. The relinquishment was effected through a letter dated June 19, 1929, and which reads as follows:

"Blackfoot, Idaho

Mr. George N. Carter  
Commissioner of Reclamation  
State of Idaho,  
Boise, Idaho

Dear Sir:

In accordance with the suggestion in your letter of June 13, 1929, referring to permit No. 14247 for the Fort Hall project, Idaho, we hereby make a relinquishment of permit No. 14247 because of the fact that this permit is a duplicate of and has been superseded by permit No. 15905, under which proof of completion of works was recently made.

Very truly yours,

W. E. Blomgren,  
Acting Supervising Engineer"

This letter was received and filed for record in the Department of Reclamation at 9:00 A. M. June 31, 1929.

R-161

#2, R. P. Parry, Twin Falls, Idaho

8/1/34

Permit No. R-293 was issued to the A. G. Quigg Irrigation Company of Shelley, Idaho, on the 10th day of May 1928. Quigg did not assign this permit to the Indian Service but it was cancelled on the 12th day of April, 1928, pursuant to the terms of Section 5594, Idaho Compiled Statutes. The specific reason for the cancellation of this permit was due to the permit holder's failure to offer proof of completion of works within the time specified in the permit.

There are no records in this office indicating the years in which water has been stored in Gray's Lake by the Indian Service and I imagine the only person who could supply this information would be Thomas C. Guyn, Engineer, for the Indian Service, Port Hall, Idaho. The closest approach to such a record is the engineer's report made in connection with proof of completion of works under permits Nos. R-329 and 15905 which are both held by the U. S. Indian Irrigation Service. This report states that the capacity of the reservoir is well over the 100,000 acre feet claimed under permit No. R-329. However, I presume that the examining engineer relied entirely upon the word of the Supervising Engineer of the Indian Service at the time of the examination. As a matter of fact, he could have done nothing else since the only way in which he could have determined the capacity would have been by a contour survey which, of course, would have been out of the question due to the time and money required for such survey.

Trusting that the foregoing will answer your questions, we remain

Very truly yours,

R. W. PARIS  
Commissioner of Reclamation

By \_\_\_\_\_  
Chief Clerk & Office Engr.

PIH:RG

R-161

July 27, 1933

Re: Permits No. 2822, R-161 & 14247

MR. G. E. CLARK, District Counsel  
U. S. Indian Irrigation Service  
508 Federal Bldg.  
Salt Lake City, Utah

Dear Sir:

In reply to your letter of July 25, we submit herewith the following information in regard to the above permits. Permit No. 2822 was cancelled on May 24, 1922 by order of the Commissioner of Reclamation pursuant to Section 5594, Idaho Compiled Statutes. Permit No. 14247 was relinquished by Mr. W. E. Blomgren, acting Supervising Engineer. This relinquishment was received and filed for record in the State Department of Reclamation at 9:00 A. M. June 21, 1929. Mr. Blomgren gave as his reason for relinquishing this permit that it was a duplicate of and superseded by Permit No. 15905. Proof of completion of works was due under permit No. R-161 on September 12, 1929, as provided by an extension of time. Proof was not made under this permit and it lapsed on this date.

If the above information fails to suffice your purpose, we would be glad to be of further assistance to you at any time.

Very truly yours,

R. W. FARIS  
Commissioner of Reclamation

By \_\_\_\_\_  
Chief Clerk & Office Engr.

PLH:RG

R-161

December 3, 1932

Re: Permit No. R-161

Hon. JAMES R. BOTHWELL,  
Twin Falls,  
Idaho

Dear Judge:

We are enclosing herewith copy of Judge Dietrich's decision in the case of QUIGG, et al, vs. DIETZ, et al.

There is no charge for this copy as we were making copies for our own use..

Very truly yours,

Commissioner of Reclamation

RWF:mt  
Enc.

0  
R-32

JAMES R. BOTHWELL

ATTORNEY AND COUNSELLOR AT LAW

SUITE 8-10 WOODS BUILDING

TWIN FALLS, IDAHO

JAMES R. BOTHWELL

VAUGHN A. PRICE

R-161

=

NOVEMBER TWENTY-FIRST  
Nineteen Thirty-two

R.W.Faris, Commissioner of Reclamation,  
Boise, Idaho.

Dear Mr. Faris:

Thank you for your letter of November 17th  
containing quotation from the decision of Judge  
Dietrich dated December 10th, 1923.

I will appreciate it if you will have a copy  
of this opinion made and mailed to me, with a state-  
ment for services rendered.

Very truly yours,

*James R. Bothwell*

JRB-A

R-161

7161  
November 17, 1932

Hon. J. R. BOTHWELL,  
Twin Falls,  
Idaho

Dear Judge Bothwell:

With reference to letter of former Commissioner Carter to the Attorney General, referring to decision of the Federal Court re relation between storage permit and natural flow permit, we find in our files a decision handed down by Judge Dietrich, dated December 10, 1923, in the case of A. C. QUIGG IRR. CO., et al., vs. HENRY W. DIETZ, U. S. Commissioner of Indian Affairs, WILLOW CREEK RESERVOIR COMPANY, et al, in which occurs the following:

"Apparently under some regulation of the Department of Reclamation - but not pursuant to any provision of - statutory law - permits are granted to construct reservoirs, but if in connection therewith it is desired also to appropriate water a distinct application must be made and a separate permit secured. Where the two applications are made and two permits issued, there is a cross-reference from one to the other showing that both relate to and cover the same general project. Here the plaintiffs hold only a permit to construct a reservoir. They have no water appropriation permit, and therefore they are not qualified to maintain an action of this character, which, it is to be borne in mind, is purely statutory.

\* \* \* \* \*

"The contest was instituted and the complaint is now directed against the reservoir permit of the Commissioner of Indian Affairs, and not his appropriation permit. There being no statutory authority for a reservoir permit, it follows that there is no statutory provision for contesting it, or for assailing its validity by a suit of this character, and therefore this action is without warrant of law."

If you should want a copy of the decision in full, we will be glad to prepare it for you. It is short, covering only about two and one-half pages of typewritten matter.

Very truly yours,

RWF/mt

Commissioner of Reclamation

R-161

United States  
DEPARTMENT OF THE INTERIOR  
Indian Irrigation Service  
Supervising Engineer

Blackfoot, Idaho.

June 19, 1929

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

Dear Sir:

In accordance with the suggestion in your letter of June 13, 1929, referring to Permit No. 14247 for the Fort Hall Project, Idaho, we hereby make a relinquishment of Permit 14247 because of the fact that this permit is a duplicate of and has been superseded by Permit No. 15305, under which proof of completion of works was recently made.

Very truly yours,

(Signed) W. E. BLONGREN

W. E. Blongren  
Acting Supervising Engineer

Received and filed for record  
in the Department of Reclamation  
at Boise, Idaho, at 9:00 A. M.  
June 21, 1929.

GEO. N. CARTER  
Commissioner of Reclamation

I

R-32

June 13, 1929

RE: PERMIT NO. 14247

MR. C. A. ENGLE  
Supervising Engineer  
U. S. Indian Irrigation Service  
Blackfoot, Idaho

Dear Sir:

Referring to your letter of the 11th inst. would say that, from the records of the permits here we take it Permit No. 14247 was superseded by Permit No. 15905, under which proof of completion of works was made. We therefore suggest that, in order to clear our records of the earlier permit, a relinquishment be filed for record here. Otherwise, notice of cancellation will be mailed you at the expiration of the time specified for proof and the permit canceled in regular order, under the provision of Section 5574, Compiled Statutes of Idaho.

Very truly yours,

GEO. W. CARTER  
Commissioner of Reclamation

By \_\_\_\_\_  
Chief Clerk

I  
R-32

Received June 13, 1929.

Department of Reclamation

United States  
DEPARTMENT OF THE INTERIOR  
Indian Irrigation Service  
Supervising Engineer

Blackfoot, Idaho.

June 11, 1929.

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

Dear Sir:

We are in receipt of a notice to the effect that proof of completion of works on Permit No. 14247, made by Henry W. Dietz, former supervising engineer of this district, should be made on or before September 12, 1929.

According to our records Permit No. 14247 was superseded by Permit 15905, filed in November, 1923, on which proof of completion of works was submitted November 17, 1928.

If this is not in accordance with the records of your office, please advise us.

Very truly yours,

(Signed) C. A. ENGLE

C. A. Engle,  
Supervising Engineer

A  
R-320

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS  
PROOF OF COMPLETION OF WORKS

Henry W. Dietz  
U. S. Commissioner of Indian Affairs  
Fort Hall, Idaho

Boise, Idaho  
June 7, 1929

DEAR SIR:

I enclose herewith blank form upon which to give notice that you are prepared and desire to submit proof of completion of works under your permit No. 14247

This form should be filled out and mailed to the Department of Reclamation, at least 60 days before the date upon which proof is to be submitted, which proof MUST be on or before Sept. 12, 1929. Upon receipt of the blank properly filled out, notice for publication will be sent to the paper direct from this office, which notice must be published a period of four weeks prior to the date of proof.

The proof may be submitted at any place convenient to you and two witnesses, where there is a notary public or other officer authorized to administer oaths.

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

Very truly yours,

GEO. N. CARTER

Commissioner of Reclamation.

I

R.32

George you may be interested  
in this decision

Opinion

Loaned to Atty Genl-  
1-26-29.

December 18, 1923

Prints  
R-161

Re: Fort Hall Project  
~~Henry~~ Lake Reservoir.

Gray's

Mr. E. B. Stoutemyer,  
District Counsel,  
U. S. Reclamation Service,  
Boise, Idaho

Dear Mr. Stoutemyer:

Please accept my thanks for your  
communication of the 17th enclosing a copy of the  
decision of Judge Dietrich in the case of A. C. Quigg  
Irrigation Company et al, vs. United States Indian  
Service.

The decision is interesting and I appreciate  
your kindness in sending the same to me.

Very truly yours,

Commissioner of Reclamation

WGS: P

R-161

DEPARTMENT OF THE INTERIOR  
UNITED STATES RECLAMATION SERVICE

BES-FH.

OFFICE OF  
DISTRICT COUNSEL

*R-161*  
Boise, Idaho, December 17, 1923.  
*[Signature]*

Mr. W. G. Swendsen,  
Commissioner of Reclamation,  
Boise, Idaho.

My dear Mr. Swendsen:

Please find enclosed copy of Judge Dietrich's  
decision in the case of A. C. Quigg Irrigation Company  
v. Henry W. Dietz, et al.

As this is the first Court decision on some  
of the questions involved in this case I thought you  
might be interested in reading it.

Very truly yours,

*B. E. Stoutenmyer*  
District Counsel.

enc.

*R-161*

R-161  
R-161  
(COPY-FR)

IN THE DISTRICT COURT OF THE UNITED STATES  
IN AND FOR THE DISTRICT OF IDAHO,  
EASTERN DIVISION.

---o---

A. O. QUIGG IRRIGATION COMPANY, )  
a co-partnership composed of )  
A. C. Quigg and E. O. Thompson, )  
doing business under the firm )  
name and style of A. O. Quigg Ir- )  
rigation Company, )  
Plaintiffs. )

vs. )

No. 401.  
(In Equity)

HENRY W. DIETZ, HENRY W. DIETZ, as )  
agent for the United States Com- )  
missioner of Indian Affairs, WILLOW )  
CREEK RESERVOIR COMPANY, an unincor- )  
porated association, and O. S. LEE, )  
as trustee for the Willow Creek Re- )  
servoir Company, )  
Defendants. )

---o---

December 10th, 1923.

---o---

J. M. Stevens and Harry Holden, attorneys for plaintiffs.

B. E. Stoutemyer and E. G. Davis, attorneys for defendant  
Henry W. Dietz as Agent for the United  
States Commissioner of Indian Affairs.

D. E. Rathbun, attorney for defendants Willow Creek Reser-  
voir Company, and O.S.Lee as Trustee for  
Willow Creek Reservoir Company.

DIETRICH, DISTRICT JUDGE:

Upon consideration I have concluded the plain-  
tiffs' bill should be dismissed with prejudice, for the fol-  
lowing reasons:

1. If we put aside the defendants' objection that there  
~~is no evidence of identity between the plaintiffs here and the con-~~  
testant in the proceeding in the Department of Reclamation  
(a question I do not decide), it still remains true that to

qualified to maintain a suit of this character a party must be the holder of a permit to appropriate water. This qualification the plaintiffs are not shown to possess.

Apparently under some regulation of the Department of Reclamation - but not pursuant to any provision of statutory law - permits are granted to construct reservoirs, but if in connection therewith it is desired also to appropriate water a distinct application must be made and a separate permit secured. Where the two applications are made and two permits issued, there is a cross-reference from one to the other showing that both relate to and cover the same general project. Here the plaintiffs hold only a permit to construct a reservoir. They have no water appropriation permit, and therefore they are not qualified to maintain an action of this character, which, it is to be borne in mind, is purely statutory.

2. In the contest, Henry W. Dietz was named as contestee, and here he is made defendant. But upon any reasonable construction the application for the permit assailed by the plaintiffs must be held to have been made by the Commissioner of Indian Affairs, and the permit was issued to and is held by him. It follows that he and not Dietz was the necessary and only indispensable party defendant to the contest proceeding, and likewise he is an indispensable party defendant to this suit.

3. The contest was instituted and the complaint is now directed against the reservoir permit of the Commissioner of Indian Affairs, and not his appropriation permit. There being no statutory authority for a reservoir permit, it follows that there is no statutory provision for contest-

ing it, or for assailing its validity by a suit of this character, and therefore this action is without warrant of law.

4. If, as plaintiffs argue in their effort to escape point 3, the appropriation permit held by the Commissioner of Indian Affairs be deemed to be involved because it is referred to in the reservoir permit, and the two are to be considered as indissolubly connected and cover the same project, then we should consider the cost of the entire project as a single unit, and credit the permittee with the aggregate of his expenditures, and if we do this there is no question that, within the allotted period, he made expenditures and did construction work in excess of the requirements of the permit.

---

July 9, 1923

Re: Permits Nos. 14247-- R-161

Mr. R. H. Burdick  
Fort Hall Irrigation Project  
Fort Hall, Idaho

Dear Sir:

I am enclosing herewith Order granting extension of  
time under the above numbered Permits.

Very truly yours,

W. G. SWENDSEN,

Commissioner of Reclamation

By

Chief Clerk

CB:E  
Encls.

H  
R-320

STATE OF IDAHO  
DEPARTMENT OF RECLAMATION

In the Matter of the Application  
for Extension of Time under Per-  
mits #14247 and R-161, under the  
Provisions of Chapter 135, Idaho  
Session Laws of 1923.

ORDER GRANTING  
EXTENSION OF TIME

Under date of July 6, 1923, R. H. Burdick, acting for and on behalf of permit holder, United States Government, filed an application for extension of time in which proof of Completion of Works under these Permits may be made, the said request being made under the provisions of Chapter 135, Idaho Session Laws of 1923.

The said application for extension of time was accompanied by and supported with the affidavit of R. H. Burdick.

Pursuant to the provisions of said Chapter, I have this day considered the said application and supporting affidavit and find that the said Permits are eligible for extension under the provisions of said Chapter 135;

NOW, THEREFORE, It is hereby ordered that the time within which proof of completion of works under the said permits must be made and filed in the office of the Department of Reclamation, be and the same is, hereby extended to September 12, 1929, being an extension of five years.

Witness my hand this 7th day of July, 1923.

  
Commissioner of Reclamation

R-161

PERMIT NO. R-161 and

PERMIT NO. 14247.

APPLICATION FOR EXTENSION OF TIME.

To the Commissioner of Reclamation  
of the State of Idaho.

Dear Sir:-

Pursuant to the provisions of Chapter 135 of the Idaho Session Laws of 1923, pages 196, 197, 198, 199 and 200, and particularly that provision thereof reading as follows:

"Provided, further, That the time for completion of works under any permit involving the construction of a reservoir of more than two hundred thousand acre-feet capacity or for the appropriation of water to be impounded in such reservoir of more than two hundred thousand acre-feet capacity, may upon application to the state commissioner of reclamation supported by a showing that additional time is needed on account of the time required for organizing, financing and constructing works of such large size, be extended by the state commissioner of reclamation for an additional period of five years, but not to exceed ten years in all from the date of permit, and that extension of time for completion of works under this proviso shall automatically extend the time for completion of the twenty per cent required to be done in half the time, and for making proof of application of water to beneficial use. Provided, That no such extension shall be granted unless the applicant for such extension shall show that there has been actually expended toward the construction of said reservoir (including expenditures for the purchase of rights of way and property in connection therewith) at least \$100,000."

the United States Commissioner of Indian Affairs, the holder of Permits R-161 and 14247, acting for this purpose through R. H. Burdick, Engineer of the U. S. Indian Irrigation Service, its agent, respectfully applies to your Honorable Commissioner for extension of time for completion of works under said Permits Nos. R-161 and 14247 until September 12, 1929, and respectfully shows that said Permits Nos. R-161 and 14247 involve the appropriation of water to be impounded in a

R-161

reservoir of more than 200,000 acre-feet capacity, namely, the Blackfoot-Marsh Reservoir having a capacity of Three Hundred two thousand (302,000) acre-feet.

That additional time is needed for completion of works under said Permits on account of the time required for organizing, financing, and constructing works of the large size involved in the said project.

And the applicant further shows to your Honorable Commissioner that there has been actually expended in good faith toward the construction of the said Blackfoot-Marsh Reservoir (including expenditures for the purchase of rights of way and property in connection therewith) more than One Hundred Thousand (\$100,000) Dollars.

That this application is supported by a showing consisting of the Affidavit of R. H. Burdick, which is hereto attached and made a part hereof.

Dated this 6<sup>th</sup> day of July, 1923.

UNITED STATES COMMISSIONER OF INDIAN AFFAIRS  
Applicant.

By R. H. Burdick  
Engineer, U. S. Indian  
Irrigation Service.

Agent for the Applicant.

AFFIDAVIT OF R. H. BURDICK.

STATE OF IDAHO,                     )  
COUNTY OF Ada                    ) ss.

R. H. BURDICK, being first duly sworn deposes and says:

That he is an irrigation engineer and has been employed in irrigation engineering work by the U. S. Indian Irrigation Service for more than eighteen (18) years last past. That he is now employed by the United States as an Engineer of the U. S. Indian Irrigation Service in charge of the Fort Hall Irrigation Project of the U. S. Indian Service.

That affiant is familiar with the work involved in organizing, financing and constructing the said project, and the said Blackfoot-Marsh Reservoir and the works in connection therewith and necessary for the diversion and collection of the waters necessary to fill the said reservoir and the time which may reasonably be required for the completion thereof, and is also familiar with the work heretofore done by the United States acting through the U. S. Commissioner of Indian Affairs under said Permits and the work done by the United States through the said U. S. Commissioner of Indian Affairs in the construction of the said Blackfoot-Marsh Reservoir, and the amount expended thereon.

And affiant further deposes and says that additional time is needed for completion of works under said permits on account of the time required for organizing, financing and constructing works of the large size involved under said permits.

R-161

That the said permits involve the appropriation of water to be impounded in a reservoir of more than two hundred thousand (200,000) acre-feet capacity, namely, the Blackfoot-Marsh Reservoir having a capacity of Three Hundred two thousand (302,000) acre-feet.

That the United States, acting through the applicant, the U. S. Commissioner of Indian Affairs, has actually expended toward the construction of said Reservoir (including expenditures for the purchase of rights of way and property in connection therewith) more than One Hundred Thousand (\$100,000) Dollars.

R. H. Burdick

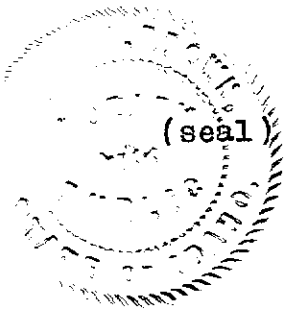
Subscribed and sworn to before me this 6<sup>th</sup> day of July, 1923.

Clara M. Browne

Notary Public.

Residing at:

My commission expires: Apr 11-1925



J. M. STEVENS  
ATTORNEY AT LAW  
POCATELLO, IDAHO

D. D. MOTE  
HARRY POVEY  
W. H. O'BRIEN  
J. W. DOWNING

December 26th, 1922.

Hon. W. G. Swendsen,  
Commissioner of Reclamation,  
Boise, Idaho.

My dear Sir:

This is to advise you that on December 23rd, 1922, there was filed in the office of the Clerk of the District Court of Caribou County at Soda Springs, a complaint wherein A. C. Quigg Irrigation Company is plaintiff and Henry W. Dietz, Henry W. Dietz as ~~Executive~~ Agent for the United States Commissioner of Indian Affairs, Willow Creek Reservoir Company, an un-incorporated Association, and O. S. Lee, Trustee for the Willow Creek Reservoir Company are defendants. This is an action to quiet title to certain waters of Grays Lake, all of which are more particularly described in Permit No. R-293 on file in your office. Also this action is for the cancellation of Permit No. R-161 issued to Henry W. Dietz, as agent for the United States Commissioner of Indian Affairs.

The Statute provides that upon the filing of such cause the Clerk of the Court shall notify you of the same. However, to safeguard any oversight that might occur and in order that you may have notice of such filing, it was thought advisable that notice should also be sent from this office.

I would appreciate very much your acknowledgment of the receipt of this letter.

Respectfully,

J. M. STEVENS,

By: *J. D. Mote*

DDM/TC

R-161



***SODA SPRINGS, IDAHO***

Dec. 23, 1922

Mr. W. G. Swenson,  
Commissioner of Reclamation,  
Boise, Idaho.

My dear Sir:

As provided for in Section 5591 of the Idaho Compiled Statutes, 1919, this is to notify you that on December 23, 1922, today, there was filed in my office, as Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for Caribou County, a complaint wherein the A. C. QUIGG IRRIGATION COMPANY, a co-partnership, composed of A. C. Quigg and E. O. Thompson, and doing business under the firm name and style of A. C. Quigg Irrigation Company, as Plaintiff vs. HENRY W. DIETZ, HENRY W. DIETZ as Agent for the United States Commissioner of Indian Affairs, WILLOW CREEK RESERVOIR COMPANY, as unincorporated association, O. S. LEE, Trustee for the Willow Creek Reservoir Company, as Defendants. This suit is for the quieting of title to some 135,000 acre feet of water in Grays Lake and in Willow Creek as described in the Plaintiff's permit No. R. 293 as filed in your office. Also the prayer of said complaint asks for the cancellation of Permit No. R 161 issued to Henry W. Dietz, as agent for the United States Commissioner of Indian Affairs. That the defendants be required to come into this Court by proper pleading and show what rights they have, if any, in and to the waters the title of which the plaintiff is seeking to quiet. That the plaintiff be given a decree of the court restraining the defendants and all of them from interfering with the plaintiff with the works, or with the water stored, or to be stored, as provided in permit No. R 293, for costs and for such other relief as the plaintiff is entitled to.

The number of this case as filed is No. 209.

Respectfully,

*E. Kenneth Gorton*  
Clerk District Court

*Nothing registered  
under sec 5591  
Banta*

R-161

State of Idaho  
DEPARTMENT OF RECLAMATION  
Boise

In the Matter of Petition for Cancellation of  
Permit No. R-161:

A. C. Quigg and A. C. Quigg Irrigation Co.  
Contestant,

vs.

Henry W. Fiets, Agent for the United States  
Commissioner of Indian Affairs,  
Contestee.

ORDER DENYING PETITION  
FOR  
CANCELLATION

WHEREAS, under date of April 3d, 1922, the application for cancellation of permit No. R-161 was filed in the Department of Reclamation by Oscar A. Johannesen, attorney for contestant, A. C. Quigg, and

WHEREAS, pursuant to the Statutes, date and place of hearing was designated and due notice thereof given interested parties, all as required by law, and

WHEREAS, pursuant to said notice, a hearing was convened at Boise on the 5th day of April, 1922, at which time the contestee filed the affidavit of R. H. Burdick, an engineer in the employ of the United States Indian Service, and subsequently on July 28th, supplemented the said affidavit as required by this Department, with a certified copy of a deed of conveyance from Barzille W. Clark and Ethel Clark, conveying to the United States Indian Service rights of way and a certain partially constructed outlet canal for use in connection with the works contemplated by the said permit for the sum of \$10,000, and

WHEREAS, upon a consideration of the petition, together with all data and information supplied by the contestant, together with all information and data supplied by contestee, the records and information on file in the Department of Reclamation and other data available to the Department, it is found that the contest was based upon the contention that contestee or permit holder had failed to comply with the permit law by not performing one-fifth of the work contemplated under the provisions of the said permit on or before March 12, 1922; that the said contention is not confirmed by the facts, but that on the

R-161

contrary, said contestee or permit holder has, through the acquisition of works heretofore constructed, including rights of way, performed one-fifth of the work as required by the terms and conditions of the said permit and by law,

NOW, THEREFORE, in view of the foregoing conditions and circumstances, it is hereby ordered that the said petition for cancellation be and the same is hereby denied and the permit held to be in force and effect, and notice is hereby given that pursuant to the provisions of law, " \* \* any party aggrieved by this decision shall have ninety days from the date of this notice in which to commence action or appeal as hereinafter provided for, in the district court of the county in which the intended diversion point under the permit sought to be cancelled is located."

WITNESS the seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho this 26th day of September, 1922.

  
Commissioner of Reclamation

State of Idaho  
DEPARTMENT OF RECLAMATION  
Boise

In the Matter of Petition for Cancellation of  
Permit No. R-161:

A. C. Quigg and A. C. Quigg Irrigation Co.  
Contestant,

vs.

Henry W. Dietz, Agent for the United States  
Commissioner of Indian Affairs,  
Contestee.

ORDER DENYING PETITION  
FOR  
CANCELLATION

WHEREAS, under date of April 3d, 1922, the application for cancellation of permit No. R-161 was filed in the Department of Reclamation by Oscar A. Johannesen, attorney for contestant, A. C. Quigg, and

WHEREAS, pursuant to the Statutes, date and place of hearing was designated and due notice thereof given interested parties, all as required by law, and

WHEREAS, pursuant to said notice, a hearing was convened at Boise on the 5th day of April, 1922, at which time the contestee filed the affidavit of R. H. Burdick, an engineer in the employ of the United States Indian Service, and subsequently on July 28th, supplemented the said affidavit as required by this Department, with a certified copy of a deed of conveyance from Barzilla W. Clark and Ethel Clark, conveying to the United States Indian Service rights of way and a certain partially constructed outlet canal for use in connection with the works contemplated by the said permit for the sum of \$10,000, and

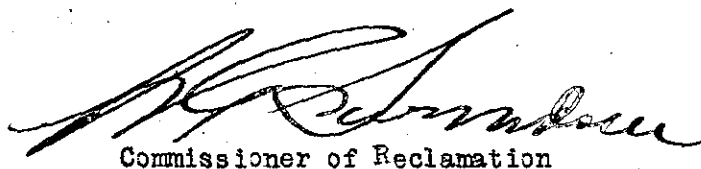
WHEREAS, upon a consideration of the petition, together with all data and information supplied by the contestant, together with all information and data supplied by contestee, the records and information on file in the Department of Reclamation and other data available to the Department, it is found that the contest was based upon the contention that contestee or permit holder had failed to comply with the permit law by not performing one-fifth of the work contemplated under the provisions of the said permit on or before March 12, 1922; that the said contention is not confirmed by the facts, but that on

R-161

contrary, said contestee or permit holder has, through the acquisition of works heretofore constructed, including rights of way, performed one-fifth of the work as required by the terms and conditions of the said permit and by law,

NOW, THEREFORE, in view of the foregoing conditions and circumstances, it is hereby ordered that the said petition for cancellation be and the same is hereby denied and the permit held to be in force and effect, and notice is hereby given that pursuant to the provisions of law, "\* \* \* any party aggrieved by this decision shall have ninety days from the date of this notice in which to commence action or appeal as hereinafter provided for, in the district court of the county in which the intended diversion point under the permit sought to be cancelled is located."

WITNESS the seal and signature of the Commissioner of Reclamation of the State of Idaho, affixed at Boise, Idaho this 26th day of September, 1922.

  
Commissioner of Reclamation

# RETURN RECEIPT.

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

5748

Mr Henry W. Lloyd

(Signature or name of addressee.)

C. J. Porter

(Signature of addressee's agent.)

Date of delivery,

9/29

1922

Form 3811

R-161

Post Office Department  
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 5132

INSURED PARCEL

No. \_\_\_\_\_



PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$800.

POSTMARK OF DELIVERING  
OFFICE

AND DATE OF DELIVERY

Return to \_\_\_\_\_

(NAME OF SENDER)

Street and Number, }  
or Post Office Box, }

RECEIVED

BOISE,

OCT 2 1922

POST OFFICE

IDAHO.

After 10 days, return to  
E. KENNETH GORTON,  
Clerk and Recorder of Caribou Co.,  
SODA SPRINGS, IDAHO.



RETURN RECEIPT REQUESTED

744  
REGISTERED

Mr. W. G. Swenson,

Commissioner of Reclamation,

Boise, Idaho.

18004

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN IRRIGATION SERVICE  
SUPERVISING ENGINEER

SaltLakeCity, Utah.

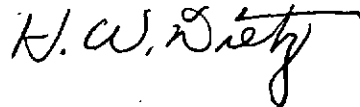
July 28, 1922.

Mr. Warren G. Swendson,  
Commissioner of Reclamation,  
Boise, Idaho.

Dear Sir:-

In compliance with your request of recent date,  
I am enclosing herewith certified copy of the deed  
conveying the water rights etc. in Gray's Lake to the  
Government.

Very truly yours,



Supervising Engineer.

HWD-P

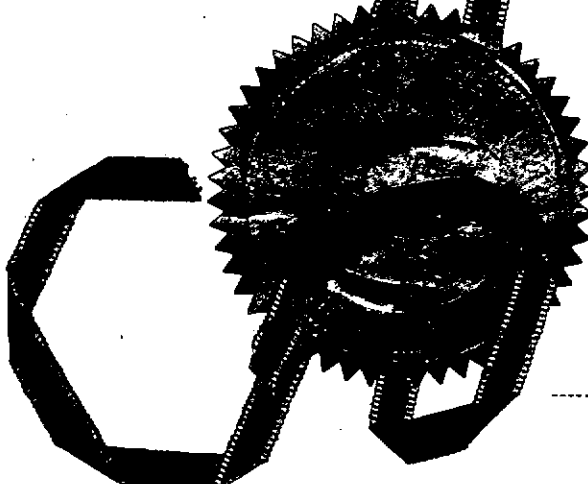


DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS

WASHINGTON, JUL 24 1922, 19

I, E. B. Meritt, Assistant, Commissioner  
of Indian Affairs, do hereby certify that the paper hereto attached  
is true copy of the original as the same  
appear s on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my  
name, and caused the seal of this Office  
to be affixed on the day and year first  
above written.

  
  
Assistant Commissioner.

R-161

341,  
13812

THIS INDENTURE, Made this 21st day of January, 1908,  
between Barzilla W. Clark and Ethel Clark, his wife, of Idaho  
s, Idaho, parties hereto of the first part, and United  
tes of America, party hereto of the second part, WITH WITNESSES  
That the said parties of the first part for and in  
ation of the sum of Ten Thousand (\$10,000.00) Dollars,  
with money of the United States of America, to them in hand  
aid by the said party of the second part, the receipt whereof  
hereby acknowledged, do by these presents grant, bargain,  
all, remise, release and forever quit claim unto the said  
arty of the second part, all the right, title, interest,  
estate, claim and demand, both at law and in equity, as well  
in possession ~~and~~ as in expectancy of the said parties  
the first part of, [in and to all that certain water right,  
real estate and right of way situated in the counties of  
Bingham and Bannock, in the State of Idaho, and particularly  
described as follows, to-wit:]

The water right granted by the State of Idaho to  
Barzilla W. Clark under permit No. 2163 in and to the waters  
John Grays Lake and Willow Creek as shown by said permit  
recorded in Book 7 of water rights in the office of the State  
Engineer of the State of Idaho at page 2163:

Also the water right granted by the State of Idaho to  
Barzilla W. Clark under permit No. 2710 in and to the waters  
John Grays Lake, and its tributaries, as shown by said per-  
mit recorded in Book 8 of water rights in the office of the  
State Engineer of the State of Idaho at page 2710.

Also the water right granted by the State of Idaho  
Barzilla W. Clark under permit No. 2511 in and to the  
natural flow and flood waters of Tin Cup Creek, as shown by  
permit recorded in Book 8 of water rights in the office  
State Engineer of the State of Idaho at page 2511.

Also the water right granted by the State of Idaho  
Barzilla W. Clark under permit No. 2512 in and to the

atural flow and flood waters of the Blackfoot Ri  
ackfoot Marsh, as shown by said permit recorded  
water rights in the office of the State Engineer  
te of Idaho at page 2512.

Also any claim or applied for rights of way or  
plied for in connection with, or to be used in or al  
ourtenant to said creeks, lakes, rivers or marshes  
ducting the water claimed under said rights to the p  
intended use.

1 x [Also any and all work, improvements, excavati  
veys made upon said ground, or in connection therew  
ing the intention to, and grantors do, hereby conve  
r rights in and to said waters, rights of way, su  
work done in any manner in connection therewith, t  
with all and singular the tenements, hereditaments and appur  
enances thereto belonging, or in any wise appertaining, and  
rents, issues and profits thereof, to have and to hold  
and singular the said premises, together with the appur  
ances unto said party of the second part forever.

IN WITNESS WHEREOF, the parties hereto of the fir  
t have hereunto set their hands and seals this 21st day o  
uary, 1908.

Barzilla W. Clark  
Ethel Clark

ate of Idaho, )  
ounty of Bingham. ) SS:

On this 21st day of January in the year 1908 b  
a Notary Public in and for  
nty, personally appeared Barzilla W. Clark, and Ethel  
e wife, known to me to be the persons whose names are su  
ribed to the within instrument, and each for him or hers  
knowned to me that he or she severally executed the  
In Witness Whereof I hereunto set my hand and

Office this 21<sup>st</sup>

of January

hines

and delivered

ce of

L. Brewster

Ellis

RECEIVED

C

1871

June 29, 1922

Re: Permit No. R-161.

Mr. Henry W. Dietz,  
Supervising Engineer U.S.I.I.S.,  
Fort Hall, Idaho.

Dear Sir:-

Relative to the protest filed against the above numbered permit would say that, in support of the contention set forth in paragraph 2 of the affidavit of June 5th, by R. H. Burdick, to the effect that the U. S. Indian Service purchased the rights of Barzilla Clark in the Grays Lake Project, you should file a certified copy of the deed of conveyance, or other instrument conveying the property to the U. S. Indian Service.

Very truly yours,

W. G. SWENDSEN,

Commissioner of Reclamation

RETURN RECEIPT

Received from the Postmaster the registered or Insured Article, the original number of which appears on the face of this Card

5748

Mr. Henry W. Dietz  
Signature or name of addressee)  
C. J. Porter  
Signature of addressee's agent)

Date of delivery, 9/29, 1922

Chief Clerk

R-329

0  
R-329

O. A. JOHANNESSEN  
ATTORNEY AND COUNSELOR AT LAW  
IDAHO FALLS, IDAHO

June 26, 1922.

Hon. W.G. Swendsen,  
Commissioner of Reclamation,  
Boise, Idaho.  
Dear Mr. Swendsen:

In re: Application for cancellation  
of permit No. R-161

With reference to the above matter, I call your attention to the following facts:

The above application contemplated the construction of a reservoir on the John Grays Lake. There was to be a headgate seven feet high and sixteen feet long, and with a concrete dam. The approval of this application provided that one-fifth of the work specified in the application should be completed on or before the 12th day of March, 1922. I take it that the approval of this application confines itself strictly to the work required in the building of the reservoir and as set out in the application. The matter of diversion of water from the John Grays Lake to the Blackfoot river, or any other channel, is an altogether different matter, and appertains to the beneficial use of the water stored.

I think the law is well settled by a long line of cases, that the work done on the Blackfoot river reservoir could not avail in the building of the reservoir contemplated under the above permit, and therefore the affidavit filed by Mr. Dietz does not show facts sufficient to sustain the permit in question.

I call your attention to the case of Clark vs. Hansen, which was decided by our Supreme Court on the 29th of last April, and in which the following proposition is sustained:

"Where one-fifth of certain irrigation work had not been completed within one-half of the time required by a permit, the holders of subsequent permits would be entitled to have it cancelled."

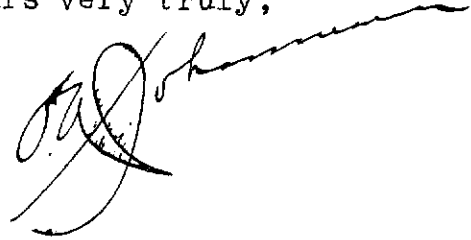
In the case decided, the permittee was required to have one-fifth of the work completed within one-half of the time limited. In the above case, one-fifth of the work was to be completed on or before March 12, 1922, which was a little over one-half of the time.

R-161

O. A. JOHANNESSEN  
ATTORNEY AND COUNSELOR AT LAW  
IDAHO FALLS, IDAHO

If you feel that this matter should be briefed at further length, I will, of course, be glad to brief it. It is, however, evident that no work has been done under the permit in question, and a valid contest having been filed by a subsequent appropriator, there should be no reason why the above permit should not be cancelled for failure to comply with the provisions and requirements of the Commissioner of Reclamation, as set forth in said permit.

Yours very truly,

A handwritten signature in cursive script, appearing to read "O. A. Johannesen", written in dark ink.

DEPARTMENT OF THE INTERIOR  
UNITED STATES INDIAN IRRIGATION SERVICE

FORT HALL IRRIGATION PROJECT  
FORT HALL, IDAHO

June 5th, 1922.

Mr. W. C. Swendsen,

Commissioner of Reclamation,

Boise, Idaho.

Dear Sir:

Answering your notice of hearing on cancellation of Permit No. R-161 to divert, store and use the waters of Grays Lake, permit me to submit the following allegations, all of which are sworn to as indicated by Notary Public's certificate attached hereto.

1 - The United States Indian Service is the owner of the Blackfoot Marsh Reservoir on the Blackfoot River which has a storage capacity of 300,000 acre feet and which furnishes a storage facility of 84,000 acre feet in excess of the water supply of the Blackfoot River drainage basin.

2 - The United States Indian Service purchased all the water rights, as well as the physical rights, of Brazilla Clark in the Grays Lake Storage Project paying therefor the sum of \$10,000.00.

3 - The United States Indian Service has caused the Secretary of the Interior to withdraw from entry of any character all the unoccupied area of Grays Lake as well as that land lying between Grays Lake and the Blackfoot Marsh Reservoir, which is now held in reserve for a right-of-way for the diversion channel between the two lakes.

4 - The United States Indian Service has constructed dams, headworks, distribution systems, etc. at an aggregate expense of \$1,500,000.00 and now has 50,000 acres under ditch, 30,000 acres of which has actually been irrigated and is in a high state of cultivation.

*2nd. class of work in \$50.00*

R-161

5 - When the application R-161 was made the United States Government was in a more or less chaotic financial state due to the ravages of the World War and no consideration of irrigation appropriations could be obtained.

6 - The stage of development of the Fort Hall Irrigation Project did not require the immediate development of all its storage facilities.

7 - It is maintained, therefore, that the following tangible assets of the United States Indian Service represent far more than the equivalent of one fifth of the estimated cost of the works required and should be deemed more than sufficient to show good faith on the part of the Indian Service.

(a) - Clark Diversion Canal partially constructed which can easily, at slight cost, be completed.

(b) - Right-of-way reserved in vast areas of Grays Lake, along Meadow Creek, in Pelican slough, etc.

(c) - Right-of-way adjacent to Blackfoot Marsh Reservoir purchased and reserved in excess of the need of Blackfoot Marsh Reservoir in anticipation of adding thereto the waters of Grays Lake.

(d) - Additional height of dam on Blackfoot River to provide for above storage.

(e) - Additional capacity of outlet works of Blackfoot Marsh Reservoir.

(f) - Construction of distribution system covering 50,000 acres.

For the reasons cited herein I pray that you do not cancel Permit No. R-161 at this time but that you grant us the full time to September 12th, 1924, within which to complete the works contemplated.

Very truly yours,

United States Commissioner  
of Indian Affairs,

By

*A. H. Burdick*  
Engineer.

The facts set forth in the foregoing are true to the best of my belief and knowledge.

*A. H. Burdick*  
Engineer.

Subscribed and sworn to before me at Fort Hall,  
Idaho, this 5th day of June, 1922.

*Robert R. Burns*  
Notary Public.

My Commission Expires April 1st, 1923.

R-161

| CLASS OF SERVICE DESIRED |  |
|--------------------------|--|
| Telegram                 |  |
| Day Letter               |  |
| Night Message            |  |
| Night Letter             |  |

Patrons should mark an X opposite the class of service desired; OTHERWISE THE MESSAGE WILL BE TRANSMITTED AS A FULL-RATE TELEGRAM

# WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

|                |
|----------------|
| Receiver's No. |
| Check          |
| Time Filed     |

Send the following message, subject to the terms on back hereof, which are hereby agreed to

Boise, Idaho  
June 1, 1922.

R-161

H. W. Dietz,  
Engineer U. S. Indian Service  
Federal Building  
Salt Lake City, Utah

MATTER RELATING TO PETITION CANCELLATION PERMIT MAY IN YOUR OPTION BE PRESENTED  
BY AFFIDAVIT OR ORALLY

W. G. Swendsen

Charge Dept. Reclamation  
State House.

R-161

| CLASS OF SERVICE | SYMBOL |
|------------------|--------|
| Telegram         |        |
| Day Letter       | Blue   |
| Night Message    | Nite   |
| Night Letter     | N L    |

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

# WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, FIRST VICE-PRESIDENT

Form 1204

| CLASS OF SERVICE | SYMBOL |
|------------------|--------|
| Telegram         |        |
| Day Letter       | Blue   |
| Night Message    | Nite   |
| Night Letter     | N L    |

If none of these three symbols appears after the check (number of words) this is a telegram. Otherwise its character is indicated by the symbol appearing after the check.

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99SX G 27 GOVT

SALT LAKE CITY UTAH 1042A JUN 1 1922

W G SWENDSEN

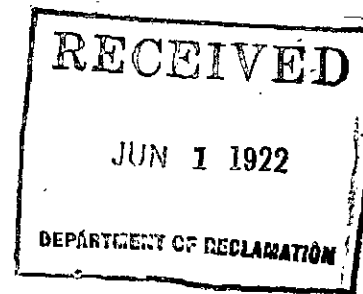
67

COMMISSIONER OF RECLAMATION BOISE IDA

IS IT NECESSARY TO PRESENT ARGUMENT IN PERSON AT HEARING ON PERMIT  
NUMBER R ONE HUNDRED SIXTY ONE JUNE SIXTH OR MAY I MAIL AFFIDAVITS  
PLEASE WIRE

DIETZ

950A



R-161

April 6, 1922

Re: Permit # R-161

Mr. Henry W. Dietz,  
Supervising Engineer, U.S.I.I.S.,  
Fort Hall, Idaho.

Dear Sir:-

I am sending you herewith, by registered mail,  
Notice of Hearing in the matter of the application of A. C.  
Quigg Irrigation Company for cancellation of the above num-  
bered permit.

Very truly yours,

W. G. SWENDSEN,

Commissioner of Reclamation

By

Chief Clerk.

Enc. Net.

0  
R-329

April 6, 1922

Re: Permit # R-161  
Henry W. Dietz

Mr. O. A. Johannesen,  
Attorney at Law,  
Idaho Falls, Idaho.

Dear Sir:-

I am sending you, by registered mail,  
notice of hearing in the matter of the application of  
A. C. Quigg Irrigation Company for cancellation of the  
above numbered permit.

Very truly yours,

W. G. SWENDSEN,

Commissioner of Reclamation

By

Chief Clerk

(Notice)

C  
R-329

RECEIPTS

RECEIPT FOR REGISTERED ARTICLE NO. 21138  
From Dept. of Reclamation  
Addressed to O. S. Lee, Trustee  
Idaho Falls, Ida

RETURN RECEIPT  
Received from the Postmaster the Registered or  
Insured Article, the original number of which  
appears on the face of this Card.

O. S. Lee  
(Signature or name of addressee)  
Perry A. Lee  
(Signature of addressee's agent.)  
Date of Delivery, Apr. 10, 1922.  
(Receipt received by the Department of  
Reclamation Apr. 12, 1922.)

RECEIPT FOR REGISTERED ARTICLE NO. 21137  
From Dept. of Reclamation  
Addressed to Henry W. Dietz  
Fort Hall, Ida.

RETURN RECEIPT  
Received from the Postmaster the Registered or  
Insured Article, the original number of which  
appears on the face of this Card.

6 Henry W. Dietz  
(Signature or name of addressee)  
B. C. Thorpe  
(Signature of addressee's agent.)  
Date of delivery 4-12-22  
(Receipt received by the Department of  
Reclamation Apr 14 1922)

April 5, 1922.

Re: Permit R-161- Henry W. Dietz.

Mr. O. A. Johannesen,  
Attorney at law,  
Idaho Falls, Idaho.

Dear Sir:-

This is to acknowledge receipt of your letter of the 27th ult., enclosing application for cancellation of the above numbered permit. The matter will be brought to Mr. Swendsen's attention immediately upon his return to the city, the latter part of the week at which time you will be further advised as to the date of the hearing.

Very truly yours,

Chief Clerk.

R-161

RECEIPT FOR REGISTERED ARTICLE NO.

5131

, 19

From

COMMISSIONER OF REGISTRATION, class postage paid.

Addressed to

Return receipt desired

Delivery restricted

To addressee in person  
To addressee or order

Postmaster, per

CS-0859



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Form 3811

192

R-1161

**Post Office Department**

**OFFICIAL BUSINESS**

**REGISTERED ARTICLE**

No. 5130  
**INSURED PARCEL**

No. \_\_\_\_\_

**Return to** W. J. Anderson

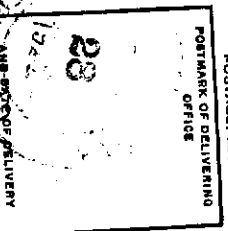
(NAME OF SENDER)

**Street and Number, }  
or Post Office Box, }**

**BOISE,**

**IDAHO.**

**B**



**PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$300.**

**RECEIPT FOR REGISTERED ARTICLE NO.**

From

COMMISSIONER OF REVENUE

5130, 19

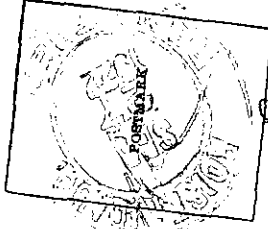
class postage paid.

Addressed to

Return receipt desired

Delivery restricted { To addressee in person  
c3-48899 To addressee or order

Postmaster, per



R-161

RECEIPT FOR REGISTERED ARTICLE NO. 5130, 19

PERMISSION OF REGISTERED MAIL class postage paid.

From

Addressed to

Return receipt desired

Delivery restricted

To addressee in person

To addressee or order

Postmaster, per



R-161

Post Office Department  
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 5731

INSURED PARCEL \*

No. \_\_\_\_\_

Return to

W. J. Severson

(NAME OF SENDER)

Street and Number, }  
or Post Office Box, }

BOISE,

IDAHO.

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$800.



RECEIPT FOR REGISTERED ARTICLE NO. 21137, 19

*Mr. W. C. ...* class postage paid.

Addressed to

*Marion M. Deady  
Foot Lake, Ida*

Return receipt desired

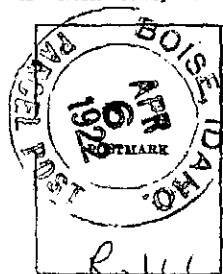
Every restricted

To addressee in person

To addressee or order

Postmaster, per

—6869



## RETURN RECEIPT.

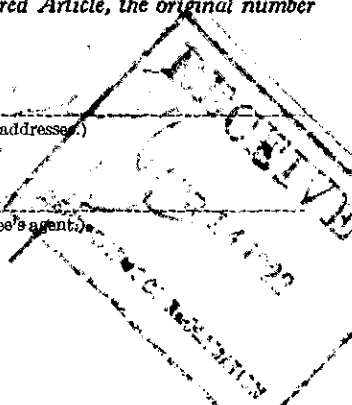
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Date of delivery, Feb. 22 1922

Form 3811



Post Office Department  
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REGISTERED ARTICLE

No.

21137

INSURED PARCEL

No.

Return to

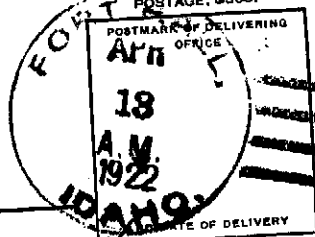
*Gift Reclamation*  
(NAME OF SENDER)

Street and Number, }  
or Post Office Box, }

BOISE,

IDAHO.

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$300.



R-161

RECEIPT FOR REGISTERED ARTICLE NO.

21138

19

From *Dept. Reclamation* class postage paid.

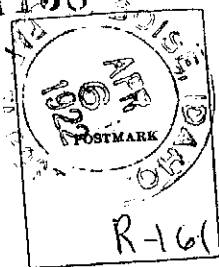
Addressed to *O. J. Lefz Trust*

Return receipt desired ☒

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Postmaster, per *8*

CS-6809



191-8

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(Signature of addressee's agent.)

APR 10 1922

*Date of delivery.* \_\_\_\_\_, 192

Form 3811

Post Office Department  
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 21188

INSURED PARCEL

No. \_\_\_\_\_

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or Post Office Box, }

BOISE,

IDAHO.

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$800.

POSTMAN'S OFFICE OF DELIVERING  
OFFICE

APR

10

1922

AND DATE OF DELIVERY

RECEIPT FOR REGISTERED ARTICLE NO. 5129, 19  
COMMISSIONER OF RECLAMATION class postage paid.

From

Addressed to *A. C. [illegible]*

Return receipt desired

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To addressee or order \_\_\_\_\_ Postmaster, per \_\_\_\_\_

CS-0809



R-161

Post Office Department  
OFFICIAL BUSINESS

REGISTERED ARTICLE

No. 21139

INSURED PARCEL

No. \_\_\_\_\_

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$500.

POSTMARK OF DELIVERING  
OFFICE

AND DATE OF DELIVERY

Return to State of Idaho

(NAME OF SENDER)

Street and Number,  
or Post Office Box,

Dept of Reclamation

Post Office at Boise

State Idaho R-61

## RETURN RECEIPT.

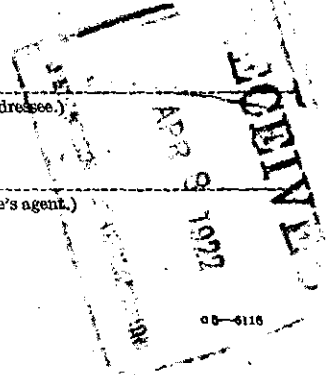
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(Signature of addressee's agent.)

*Date of delivery,* \_\_\_\_\_, 19

Form 3811



**Post Office Department**  
OFFICIAL BUSINESS

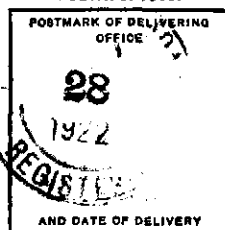
**REGISTERED ARTICLE**

No. 3729

**INSURED PARCEL**

No. \_\_\_\_\_

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$800.



Return to G. W. Swendsen  
(NAME OF SENDER)

Street and Number, }  
or, Post Office Box, }

**BOISE,**

**IDAHO.**  
R-161

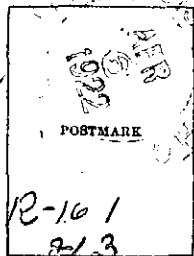
RECEIPT FOR REGISTERED ARTICLE NO. 21139, 19

From *Life Insurance Co.* class postage paid.

Addressed to *Chas. J. Mason*  
*100 Fair St.*

Return receipt desired ☒

Delivery restricted { To addressee in person \_\_\_\_\_  
To addressee or order \_\_\_\_\_ Postmaster, per \_\_\_\_\_



R-161

## RETURN RECEIPT.

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*W. C. Quinn*  
\_\_\_\_\_  
(Signature or name of addressee.)

*Wm. J. Quinn*  
\_\_\_\_\_  
(Signature of addressee's agent.)

*Sept 28*  
Date of delivery, \_\_\_\_\_, 192 *2*

Form 3811

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

DEPARTMENT OF RECLAMATION

IN THE MATTER OF THE APPLICATION FOR CANCELLATION  
OF PERMIT NO. R-161, TO CONSTRUCT THE JOHN GRAY'S LAKE  
RESERVOIR AND TO STORE THE UNAPPROPRIATED WATERS  
OF THE STATE OF IDAHO

A. C. QUIGG, doing business as the  
A. C. QUIGG IRRIGATION COMPANY,  
By Its Attorney, O. A. JOHANNESSEN,  
Contestant,

vs.

HENRY W. DIETZ, Agent for the United  
States Commissioner of Indian Affairs,  
Contestee.

NOTICE OF HEARING

You, and each of you, are hereby notified that, on the 3rd day of April, 1922, there was filed in the Department of Reclamation of the State of Idaho a petition for the cancellation of Permit No. R-161, to construct the John Gray's Lake Reservoir and to store the unappropriated waters of the State of Idaho, said permit being held by Henry W. Dietz, Agent for the United States Commissioner of Indian Affairs, said petition being filed by C. A. Johannesen, Attorney for Contestant:

That the Contestant asks for the cancellation of said Permit No. R-161 for the following reasons, to-wit:

1. That, under the terms and provisions of said Permit No. R-161, the applicant was required to perform one-fifth of the work necessary in completing of the reservoir contemplated by the said applicant under the said permit, on or before the 12th day of March, 1922:

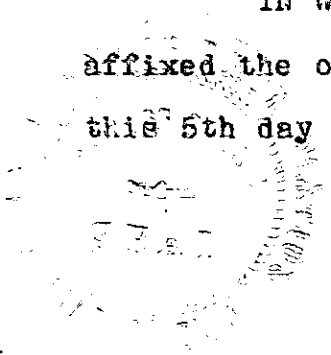
2. That the applicant has wholly failed to comply with provisions of the aforesaid permit, and has failed to do any part of the work contemplated under the terms of the said permit,

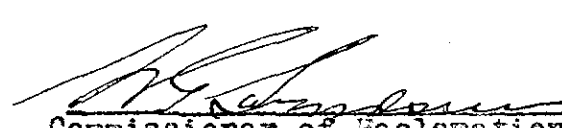
and that so far as the protestant and petitioner has been informed, and upon such information believes and alleges, the said applicant has done no work whatsoever in connection therewith.

3. That, on or about the 16th day of March, 1922, the protestant and petitioner filed with the Department of Reclamation of the State of Idaho, application for permission to store the waters of Gray's Lake and Willow Creek at a point on Willow Creek at or near S. 37° 40' West, 240 feet distant from the Southeast corner of the Northeast quarter of Section 3, Township 2 North, Range 40 East, Boise Meridian, and which point is in the Northeast quarter of the Southeast quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ ), Section 3, Township 2 North, Range 40 East, Boise Meridian, in Bonneville County, State of Idaho.

WHEREFORE, The Contestee herein is required to appear at the Department of Reclamation of the State of Idaho, at the Capitol Building, Boise, Idaho, at 10 o'clock A. M., on the 5th day of June, 1922, and show cause, if any there be, why said Permit No. R-161 should not be cancelled, and said contestant and contestee on said date may file such affidavits in support of their respective allegations as they may desire.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Department, at Boise, Idaho, this 5th day of April, 1922.



  
Commissioner of Reclamation

O. A. JOHANNESEN  
ATTORNEY AND COUNSELOR AT LAW  
IDAHO FALLS, IDAHO

March 27, 1922.

Hon. W.G. Swendsen,  
Commissioner of Reclamation,  
Boise, Idaho.  
Dear sir:

I thank you for your favor of March 16th, inclosing me certified copy of application of Henry W. Dietz, and I inclose herewith my check for \$1.50 in payment of your fees in connection therewith.

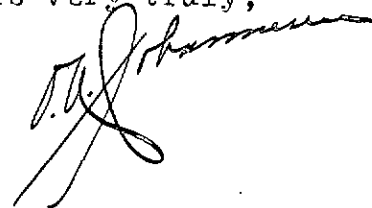
I understand that the permittee has failed to comply with the provisions of this permit, and I therefore inclose herewith application requesting that the same be cancelled.

I do not know whether I have complied with the forms adopted in your office, in cases of this kind, and if I have not, I shall appreciate being so advised, and being permitted to file an amended application.

I shall also appreciate being informed as to what further steps are necessary for us to take in the furtherance of the application to cancel this permit.

Thanking you, I am,

Yours very truly,



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IN THE OFFICE OF THE COMMISSIONER OF RECLAMATION  
OF THE STATE OF IDAHO.

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In re: Application # R.20025, Permit # R-161, Henry W. Dietz.

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APPLICATION FOR CANCELLATION OF PERMIT.

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Comes now, A.C. Quigg, doing business under the name of the A.C. Quigg Irrigation Company, and does hereby respectfully represent and request as follows, to-wit:

I.

That on or about June 27, 1919, Henry W. Dietz, as agent for the United States Commissioner of Indian Affairs, filed on behalf of the said Commissioner, application Number R 20025, requesting permission to store 100,000 acre feet, per annum, of water in John Gray's Lake, the outlet of the reservoir being located N. 56° 10' East 1025 Feet distant from the Northwest corner of Section 12, Township 5 South, Range 42 East Boise Meridian, the same being in the Southwest quarter of the Southwest quarter (SW $\frac{1}{4}$ -SW $\frac{1}{4}$ ) Section one (1), Township five (5) South, Range forty-two (42), East Boise Meridian, Bannock County, State of Idaho.

II.

That on or about September 12, 1919, the said Application was approved by the Honorable Commissioner of Reclamation, and Permit Number R-161, issued thereon.

III.

That by the terms and provisions of the permit issued in connection with the application, all as aforesaid, the applicant was required to perform one-fifth (1/5) of the work necessary in completing of the reservoir contemplated by the said applicant to the said permit, on or before the 12th day of March, 1922.

IV.

That the applicant has wholly failed to comply with the provisions of the aforesaid permit, and has failed to do any part of the work contemplated under the terms of the said permit and the said application, upon which the said permit was issued, and that so far as the undersigned protestant and petitioner has been informed, and upon such information, believes and alleges, that the said applicant has done no work whatsoever in connection therewith.

V.

That on or about the 16th day of March, 1922, the undersigned protestant and petitioner filed with the Department of Reclamation of the State of Idaho, application for permission to store the waters of Gray's Lake and Willow Creek at a point on Willow Creek at or near South 37° 40', West, 240 feet distant from the Southeast

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corner of the Northeast quarter of Section 3, Township 2 North, Range 40 East Boise Meridian, and which point is in the Northeast quarter of the Southeast quarter ( $NE\frac{1}{4}-SE\frac{1}{4}$ ) of Section 3, Township 2 North, Range 40, East Boise Meridian, in Bonneville County, State of Idaho.

WHEREFORE, the said protestant and petitioner respectfully requests that the Honorable Commissioner of Reclamation cancel Permit Number R-161, issued in connection with Application Number R 20025, herein-before described, and do such other and necessary thing in the premises as shall clear the records, in the office of the Commissioner, of any apparent right or title in the said United States Commissioner of Indian Affairs, by reason of the aforesaid application and permit.

Said protestant and petitioner respectfully prays that the matter have such other and further relief in the matter as may seem proper and in accordance with the Statutes of the State of Idaho.

Dated this 27th day of March, 1922.

*A.C. Quigg, doing business as the*  
A.C. QUIGG IRRIGATION COMPANY,

By *[Signature]*  
its attorney.

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**O. A. JOHANNESEN**  
**ATTORNEY AND COUNSELOR AT LAW**  
**IDAHO FALLS, IDAHO**

# State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

Permit No. ~~15-161~~

Henry W. Dietz,  
Supervising Engineer, U. S. I. I. S.  
Fort Hall, Idaho.  
Dear Sir:

Boise, Idaho,

Sept. 26, 1919.

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.

W. G. Swendsen.  
Commissioner of Reclamation.

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State of Idaho  
ENGINEERING DEPARTMENT  
Boise

Sept. 26, 1919.

N O T E

Permit No. 14247  
Henry W. Dietz  
Supervising Engineer. U. S. I. I. S. .  
Fort Hall, Idaho.

That in order to keep this permit in force a bond in the sum of \$1000.00 must be filed in the office of the State Engineer on or before November 11, 1919 conditioned upon faithfully carrying to completion the works of diversion as specified in said permit and in the application therefor.

W. G. SWENDSEN  
Commissioner of Reclamation