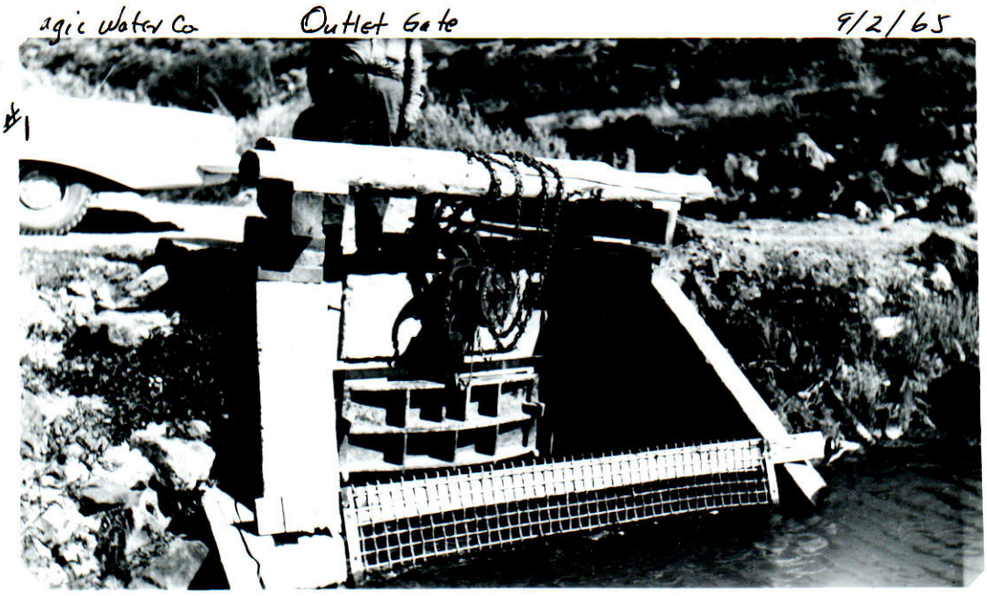
September 2, 1965

agic Water Co. Outlet Gate 9/2/65

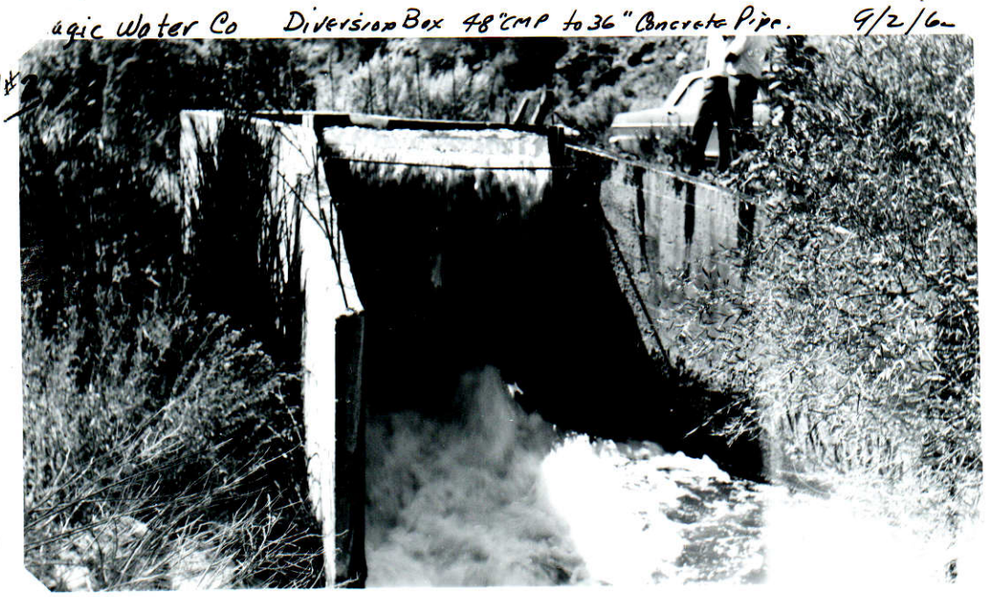
#1



Outlet Gate to 48"x95' CMP and concrete distribution box.
Estimate 2' head over top of 48" outlet; trash screen would indicate this being normal pond level.

agic Water Co Diversion Box 48"CMP to 36" Concrete Pipe. 9/2/6-

#2



Concrete distribution box at end of 48" CMP. Note water spilling over flash boards. This discharge was measured at 13.48 c.f.s. There were 2 600HP and 2 200HP pumps on at this time. Discharge into canal measured over the installed 12' Cippoletti Weir = 32.81 c.f.s.

24128

agic Water Co 12' Weir at head of Canal 5/14/6



agic Water Co Washout of Penstock at Canal 5/14/6



agic Water Co Penstock from Rim edge to Canal 5/14/65

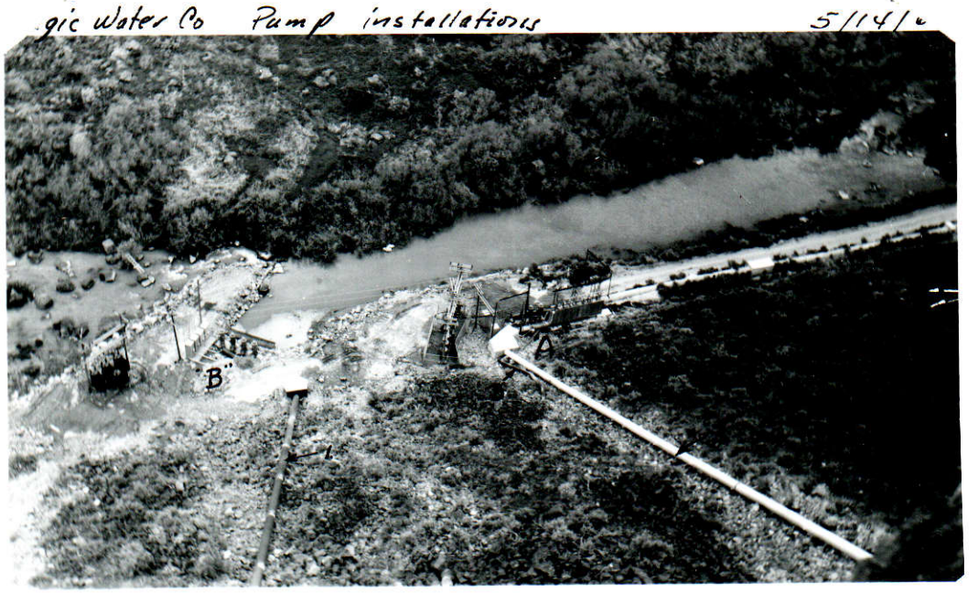


Penstock from new 4 600HP pumping plant that pump directly out of Salmon Falls Creek. (Unit "B")

Was scheduled to make inspection 5/14/65. Washout occurred 5/13/65. Delayed inspection until June 22-23, 1965.

24128

gic Water Co Pump installations 5/14/u



A. Pumping plant in original project design
7- 200HP pump
4- 600HP pump
Two of the 600HP pumps were removed because efficiency dropped when 10th and 11th pumps were operating.

1. 36" concrete penstock from dam which is approximately 2700' upstream. Concrete pipe ~~was~~ connected to 36" steel pipe which is reduced to 30". Pumps pumpe directly from penstock under head.

2. 30" penstock from pumps to canal.

3. 18"x45' surge pipe layed on face of steep hillside.

Note: No water is returned to creek at this point with the exception of leaks and 6" gate valve for the purpose of draining the penstock.
There is approximately 360' lift.

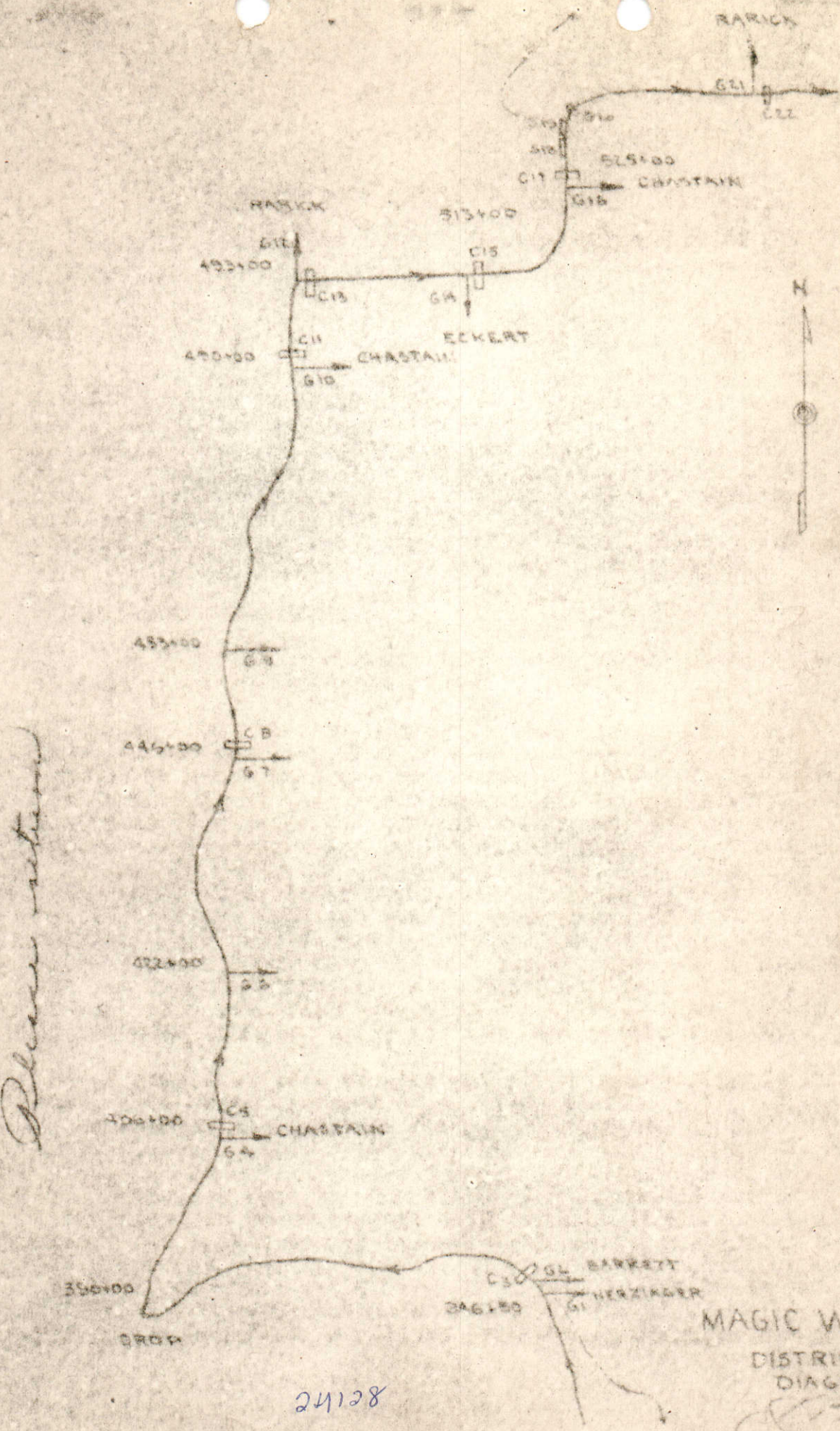
B. This is a newly designed system consisting of 4 600HP pumps which pump directly out of Salmon Falls Creek. A small dam 6' high, 50' long and 20' wide creates a pond for these pumps. The spillway is on the south abutment, approximately 30' wide x 6' deep maintaining a 4' freeboard.
1. 30" steel penstock.

24128



Magic Water Co

24128

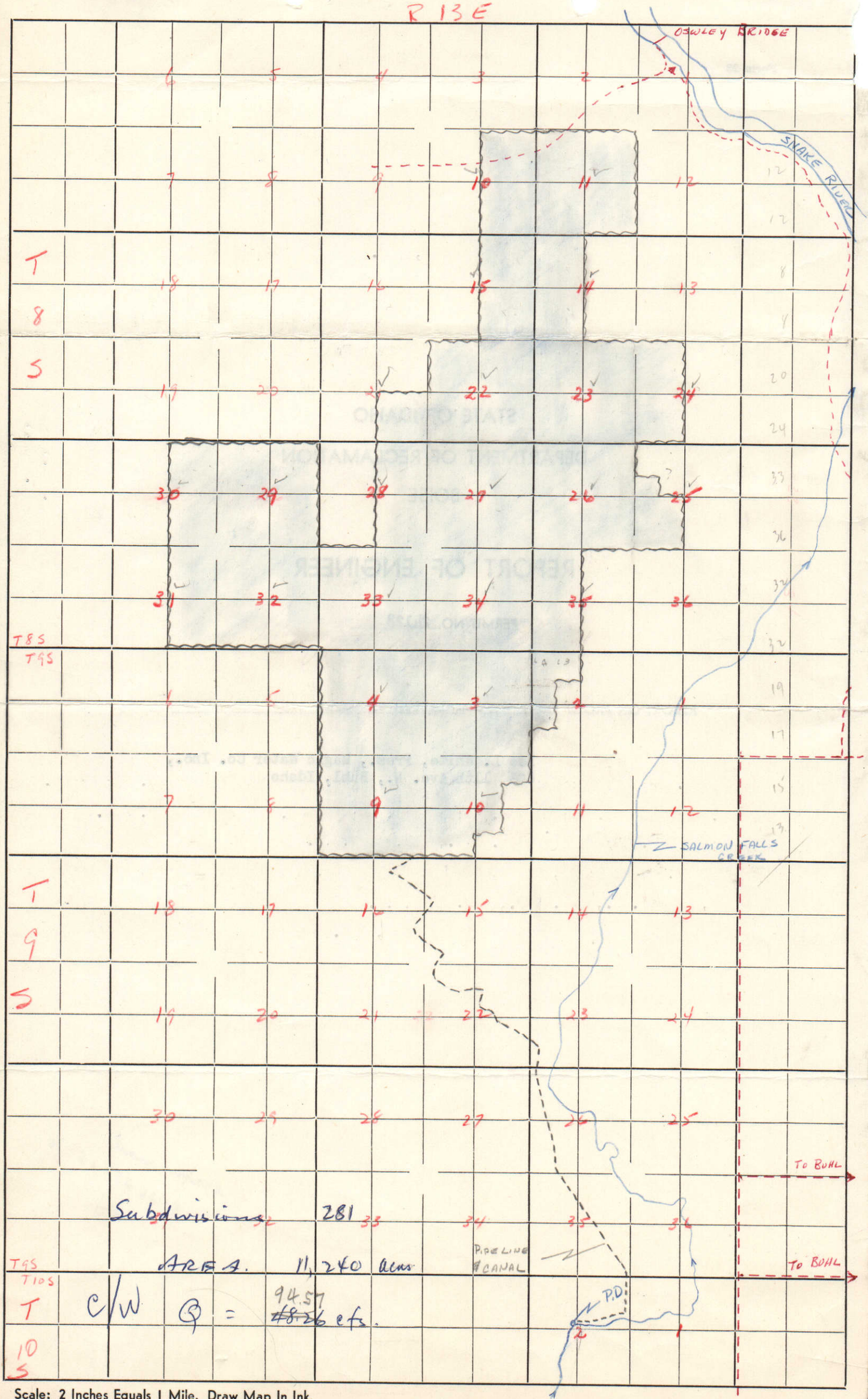


MAGIC WATER CO
DISTRIBUTION
DIAGRAM
DEC 1956

24128

Property of Marcus D. Eckert
Rural 3, Buhl, Idaho
Please return


HAGERMAN 1:24 000
R12E
R13E
T8S
T9S
MAGIC WATER COMPANY
Gravel Pit
CROWS NEST
ROAD
PIPELINE
Creek
Well
Owsley
Upper Falls
Yahoo
Hot Sulphur Springs
BM 2890
BM 2922
BM 3092
BM 3250
Salmo
Gravel Pit
Lucerne Sch.
BM 3771
BM 3378
BM 3463
BM 3532
BM 3567
BM 3620
BM 3674
BM 3767
BM 3787
BM 3781
BM 3796
BM 3816
BM 3810
BM 3793
BM 3659
BM 3812
Springs
Sinking Canyon
Thungill Lake
MILITARY RESERVATION
(Rifle Range)
Grange Hall
Deadman Creek
Falls
Water
Wells
Shell
Sunset
Airstrip
Well
Gravel Pit
GLENNS FERRY CASTLEFORD
(CROWS NEST)
24128


R 13 E
OSWLEY BRIDGE
SNAKE RIVER
T 8 S
T 9 S
SALMON FALLS CREEK
PIPELINE & CANAL
P.D.
TO BUHL
TO BUHL
Subdivisions 281
AREA 11,240 acres
C/W Q = 94.57 cfs.
Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.
24128

AFFIDAVIT of PUBLICATION

RECEIVED
APR 22 1965
Department of Reclamation

STATE OF IDAHO
County of Twin Falls } ss.

I, **Robert E. Bailey,** do solemnly swear that I am the printer and editor of THE BUHL HERALD, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper four consecutive weeks, the first publication having been made on the 25th day of March, 1965, and the last publication having been made on the 15th day of April, 1965; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho,** for a period of more than 78 weeks prior to the first publication of the attached notice.

Robert E. Bailey

Subscribed and sworn to before me this 15th day of April, 1965

Evelyn D. Matthews
Notary Public.

Buhl, Idaho
Residing at

January 1, 1969
My Commission Expires

Legal Department

NOTICE FOR PUBLICATION

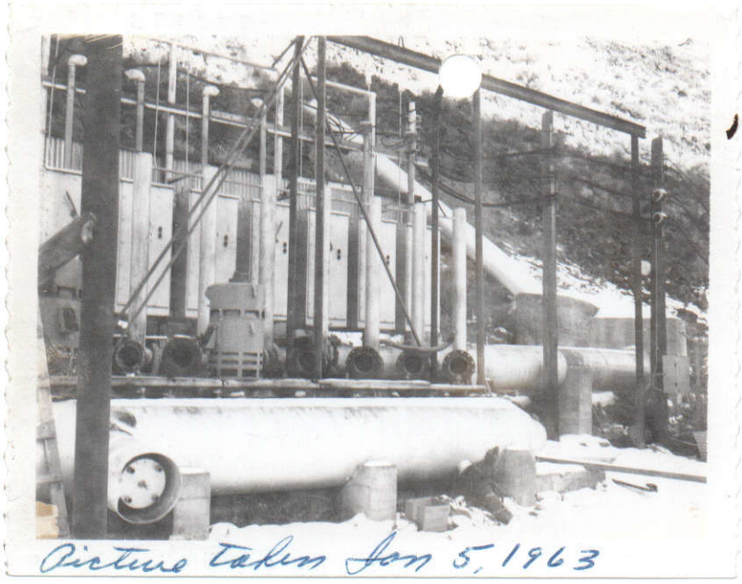
Notice is hereby given that at 10:00 A.M. on the 19th day of April 1965, at Farmers National Bank Bldg. Buhl, County of Twin Falls, State of Idaho, before Wm. L. Nungester proof will be submittted of the completion of works for the diversion of 100 cubic feet per second of the waters of Little Salmon Falls Creek in accordance with the terms and conditions of a certain permit heretofore issued by the State of Idaho.

1. The name of the person or corporation holding said permit is Magic Water Company, Inc.
2. The postoffice address of such person or principal place of business of such corporation is Buhl, County of Twin Falls, State of Idaho.
3. The number of such permit is 24128, and the date set for the completion of such work is May 2, 1965.
4. Said water is to be used for irrigation purposes.
5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 100 cubic feet per second.
6. The amount of lands for which said water is available is 9,346.63 acres, particularly described as follows: Township 8, South Range 13, E. B.M. All of Sec. 33; 34; 26; 27; 23; 22; 11; and W½ Sec. 35; SW¼, SW¼ NW¼, Sec. 25; All of Sec. Nos. 29 & 32; E½ Sec. 30; E½ Sec. 31; E½ Sec. 28; W½ Sec. 24; SE¼ Sec. 21; E½ Sec. 15; W½ Sec. 14; E½ Sec. 10; Township 9 South Range 13, E. B.M. All of Sec. 3; 4; 9; W½, N½ NE¼, SW¼ NE¼, NW¼ SE¼, Sec. 10; SW¼ NW¼, NW¼ SW¼, and Lots 3 & 4 of Sec. 2.

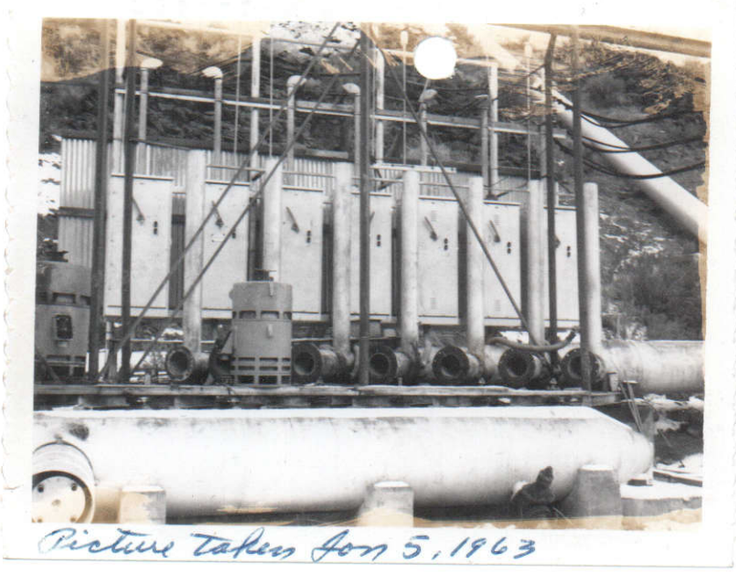
CARL E. TAPPAN
State Reclamation Engineer

(10t4)

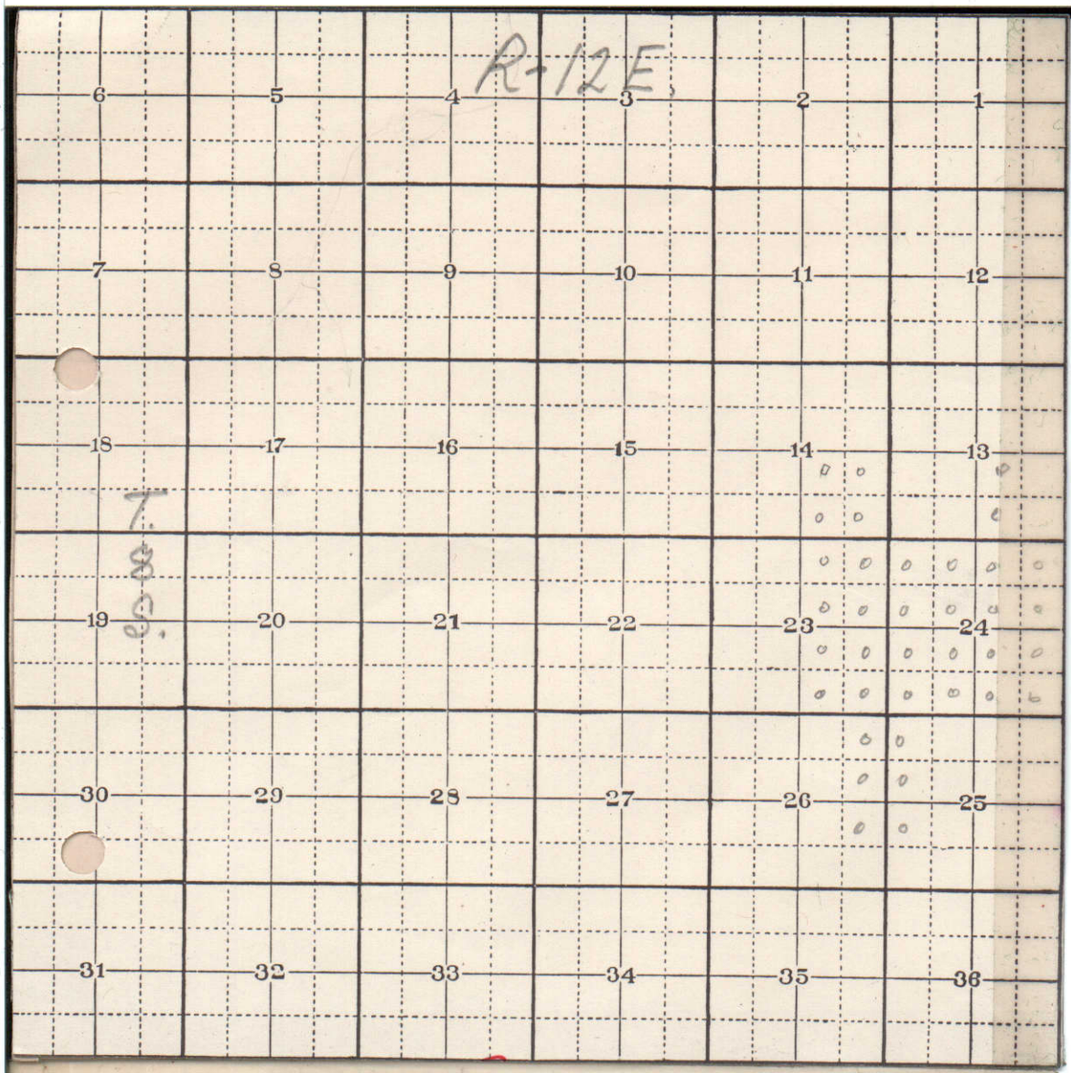
24128

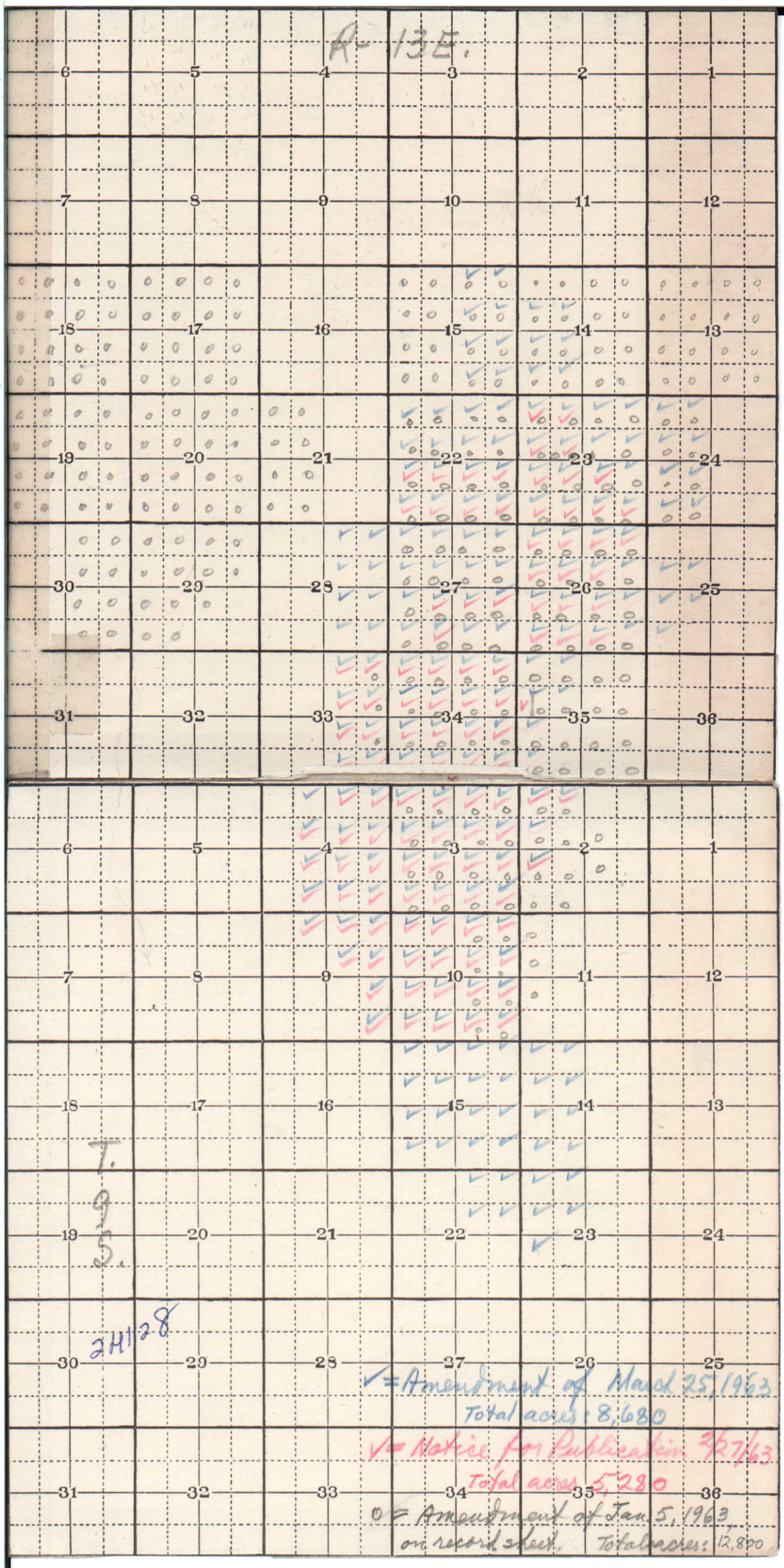


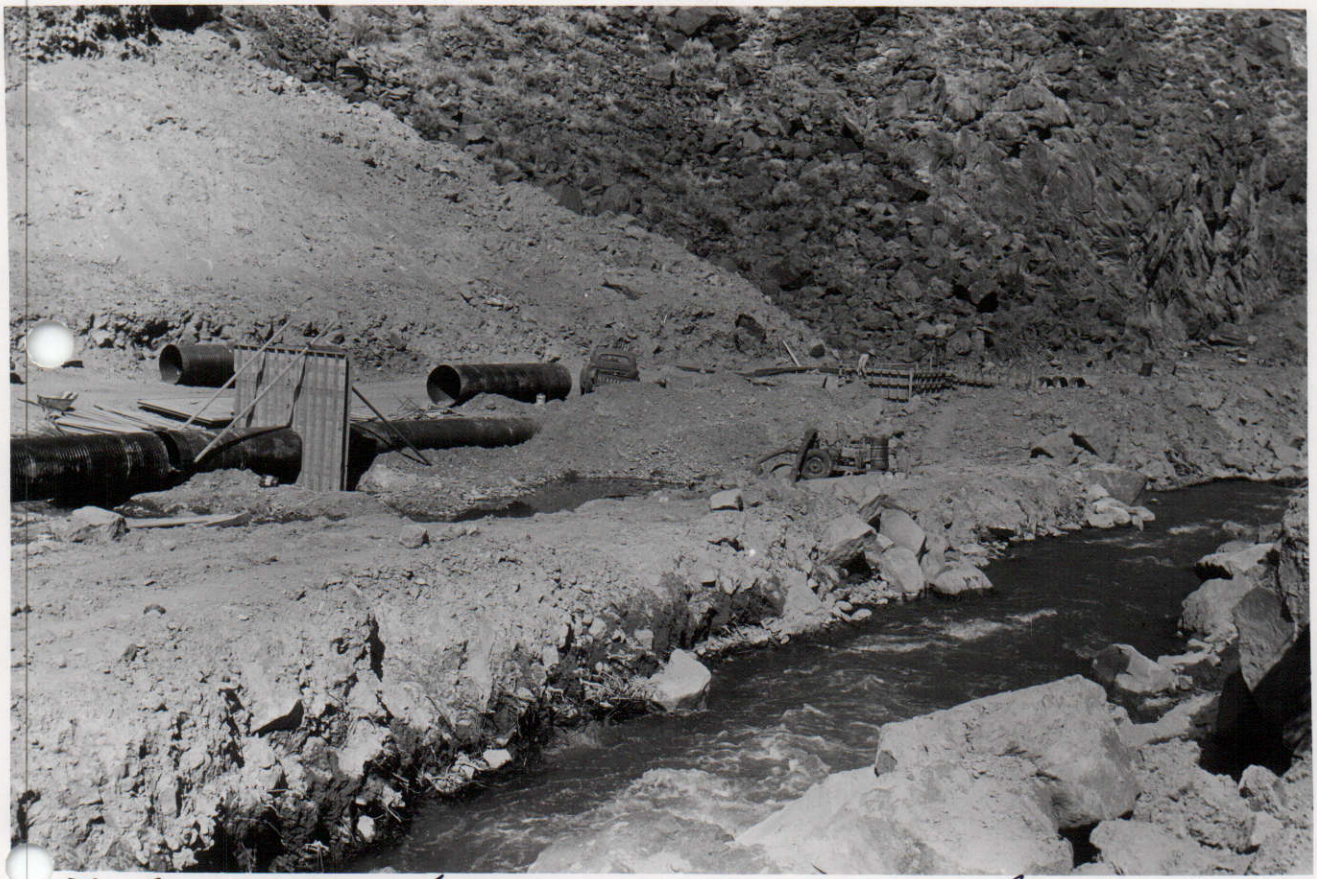
Picture taken Jan 5, 1963



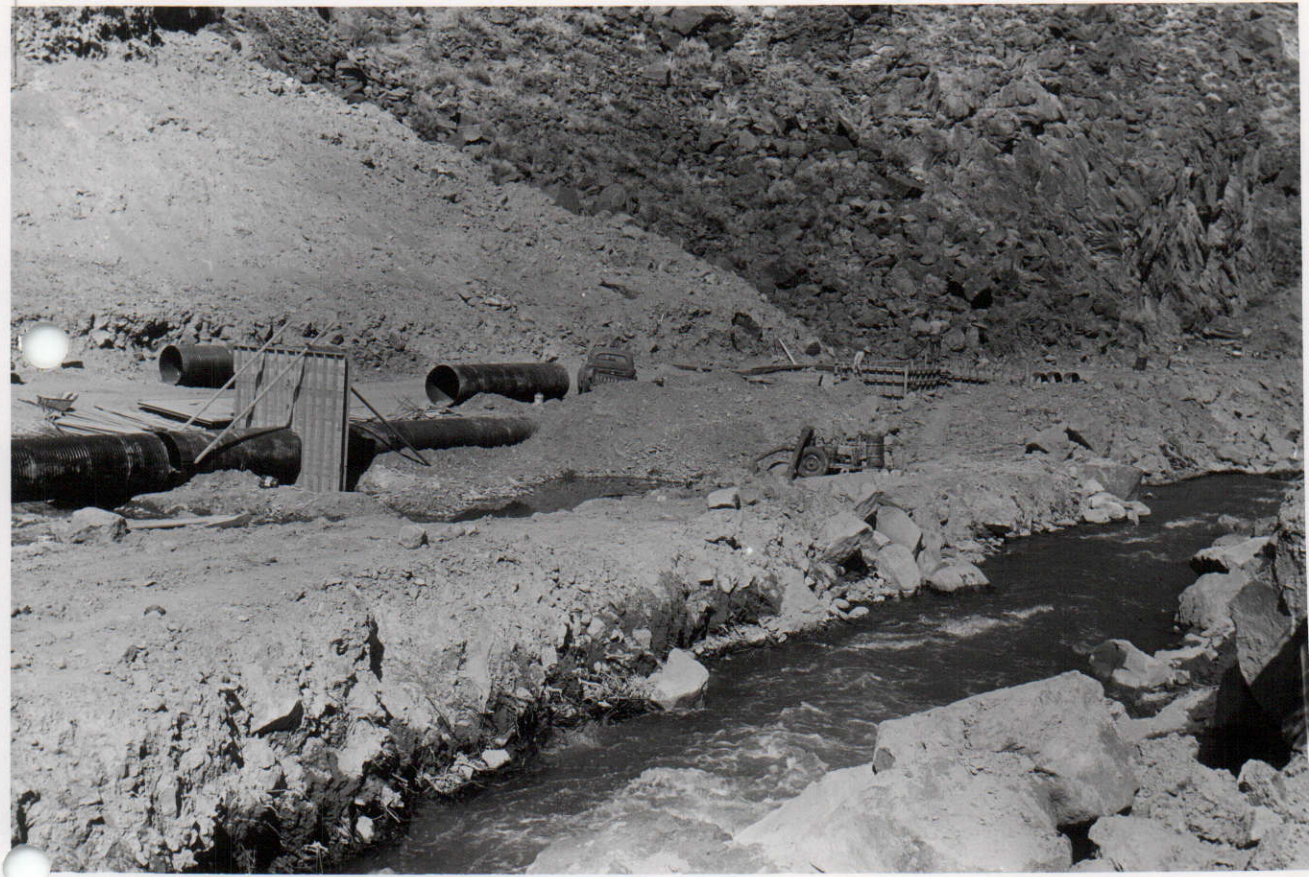
Picture taken Jan 5, 1963


R-12E
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A-135.
6 5 4 3 2 1
7 8 9 10 11 12
18 17 16 15 14 13
19 20 21 22 23 24
30 29 28 27 26 25
31 32 33 34 35 36
T. 9 S.
24-28
✓=Amendment of March 25, 1963
Total acres: 8,680
✓= Notice for Publication 2/27/63
Total acres 5,280
O= Amendment of Jan. 5, 1963
on record sheet. Total acres: 12,800



Center Cement Core of Major Water dam. + diversion Channel 3-28-56 M.E.





7. Channel outlets + pipe to lead to pumps. 3-28-54 M.E.



Eckert farm 1956

AFFIDAVIT of PUBLICATION

RECEIVED
APR 24 1953
Department of Reclamation

STATE OF IDAHO
County of Twin Falls } ss.

I, **Robert E. Bailey,** do solemnly swear that I am the printer and editor of THE BUHL HERALD, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper three consecutive weeks, the first publication having been made on the 26th day of March, 1953, and the last publication having been made on the 9th day of April, 1953; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho,** for a period of more than 78 weeks prior to the first publication of the attached notice.

Robert E. Bailey

Subscribed and sworn to before me this 13th day of April, 1953

Mabel Sandgren
Notary Public.

STATE OF IDAHO
Department of Reclamation

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE.

NOTICE IS HEREBY GIVEN, That the Evergreen Canal Company of Buhl, Idaho, has made application on the 11th day of February, 1953, to appropriate One Hundred and Twenty (120) cubic feet per second of the waters of Salmon Falls Creek, for irrigation purposes.

That the point of diversion is described in said application as being located 60 feet North and 2772 feet West from the Southeast corner of Section 36, Township 9 South, Range 13 East, B.M., and in the SW¼ SE¼ Section 36, Township 9 South, Range 13 East, B.M.

That the lands to be irrigated by the use of said water are described as 12,656 acres located in Sections 13, 14, 23, 24, 25, and 26, Township 8 South, Range 12 East, B.M.; Sections 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 29, 30, 33, 34, 35, Township 8 South, Range 13 East, B.M.; Sections 2, 3, and 10, Township 9 South, Range 13 East, B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objections to the approval of said application.

Dated this 12 day of March, 1953.

MARK R. KULP
State Reclamation Engineer

Date of first publication, March 26, 1953

Date of last publication April 9, 1953

Last date for protest April 21, 1953.

SERVICE OF THE FOREGOING, by copy, is hereby admitted, this 20th day of March, 1953.

EVERGREEN CANAL COMPANY
Applicant
By M. F. BARRETT
By Charles Chastain

(8t3)

24128

RECEIVED
JAN 2 1970
Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR AMENDMENT

Permit No. 24128

Comes now Magic Water Co. (Assignee of Evergreen/ Canal Co.) of (address) Route #3, Buhl, Idaho, 83316, and represents to the State Reclamation Engineer of the State of Idaho:

That it is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 24128, and requests that the permit and permit map be changed as follows:

1. ~~Point of diversion: _____ ¼ _____ ¼, Sec. _____, T. _____, R. _____, B.M. Other points of diversion _____~~

2. ~~Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)~~

		mo. - day		mo. - day	
~~For~~	~~purposes~~	~~from~~	~~to~~	~~(both dates incl.)~~	
~~For~~	~~purposes~~	~~from~~	~~to~~	~~(both dates incl.)~~	
~~For~~	~~purposes~~	~~from~~	~~to~~	~~(both dates incl.)~~	
~~For~~	~~purposes~~	~~from~~	~~to~~	~~(both dates incl.)~~	

3. Place of use or land to be irrigated:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	14 24											20						20
8S	13E	15																40	40
8S	13E	22	40			20									40	30	40	40	210
8S	13E	23	40	40	40	40	20	40	40	40	40	40	40	40	40	40	40	40	620
8S	13E	24						35	40			40							115
8S	13E	26	40	40	40		40	40	40	40	40	40	40	40		40	40		520
8S	13E	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640

8S	13E	28													40			40	80

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	30													40	40	40	40	160
8S	13E	31													40	40	40	40	160
8S	13E	32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	33	40			40									40	40	40	40	240
8S	13E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	35		40	40		40	40	40	40		40							280

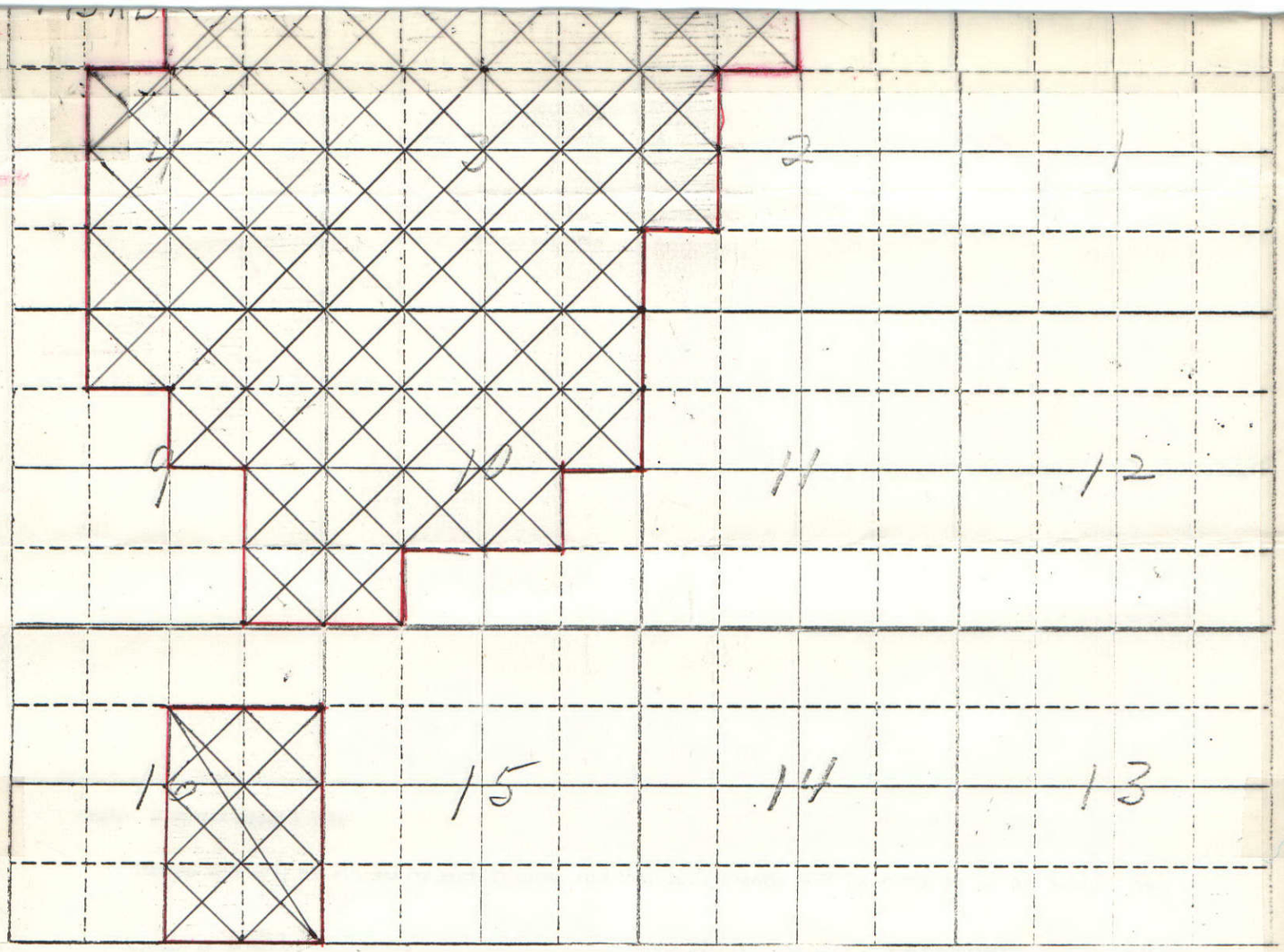
TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	13E	2					35	30	40			40							145
9S	13E	3	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	630
9S	13E	4	40	40	40	40				40	40			40	40	40	40	40	440
9S	13E	9	40	40	40	40	40								40			40	280
9S	13E	10	40	40	40	40	40	40	40	40	40	40	40			40			480
9S	13E	16			35	15									25	15	20	20	130

TOTAL 7110

47-2268
24168

Witness my hand this 22 day of January, 1970.

P. Keith Higgins
State Reclamation Engineer



Scale: 2 inches equal 1 mile

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

Signed at Buhl, Idaho, this 30th day of December, 1969.

MAGIC WATER COMPANY

By Maurice A. Eckert

President (signature)

ACTION OF STATE RECLAMATION ENGINEER

I, R. KEITH HIGGINSON, State Reclamation Engineer of the State of Idaho, hereby approve the above Application for Amendment to Permit No. 47-2269.

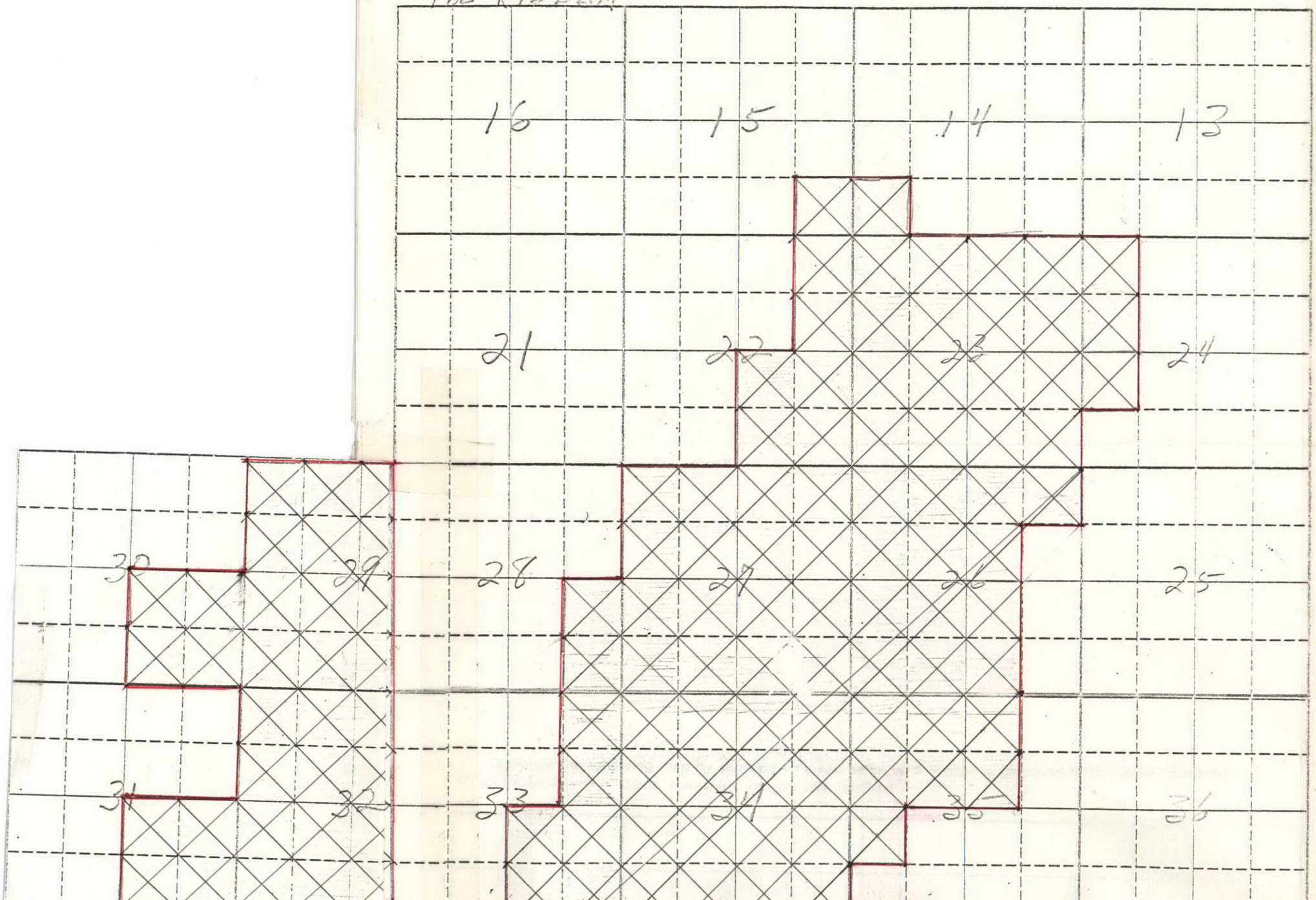
Witness my hand this 22 day of January, 1970.

R. Keith Higginson

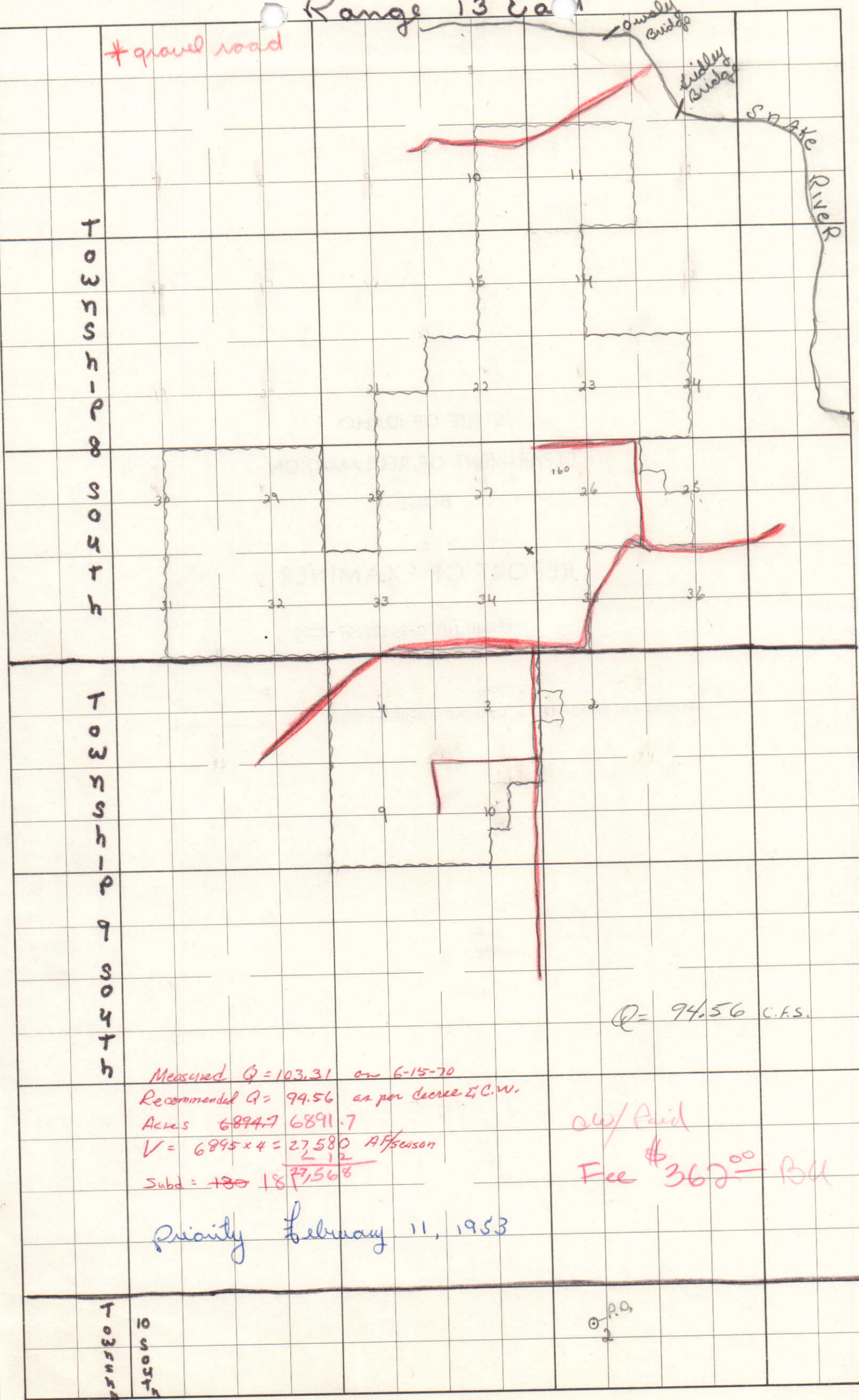
State Reclamation Engineer

Complete the following map by showing land ~~and point of diversion~~ as proposed by this amendment. Show 40 acre subdivisions, sections, townships, ranges, ~~and ditches.~~

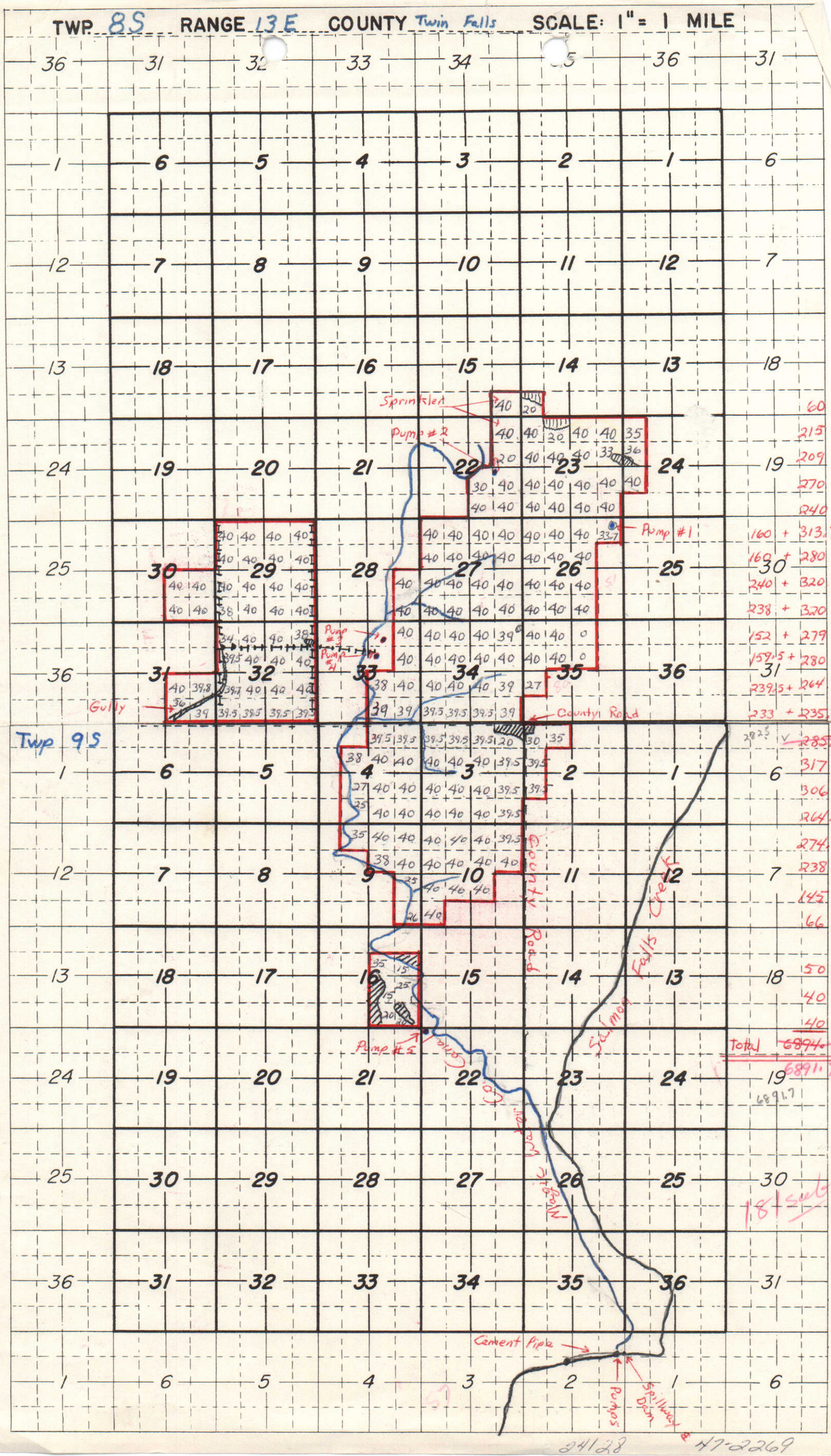
T85 R13 EBM



Range 13 East



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


TWP. 8S RANGE 13E COUNTY Twin Falls SCALE: 1" = 1 MILE
Sprinkler
Pump #2
Pump #1
Pump #3
Pump #4
Gully
County Road
Twp 9S
Pump #5
Coho Creek
Salmon Falls Creek
Cement Pipe
Spillway & Dam
Pumps
Total 6894.7
6891.7
24128
47-2269

State of Idaho

WATER LICENSE

Water License No. 24128/47-2269 Priority February 11, 1953 Amount 94.56 c.f.s.

THIS IS TO CERTIFY, that MAGIC WATER COMPANY, INC.

of Buhl, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated February 11, 1953; that Permit 24128/47-2269 was issued pursuant to said application; that the proposed works were completed on or about December 30, 1969, with a storage/or carrying capacity of 103.31 c.f.s., said works consisting of earth filled dam, pipes, pumps, canal, and cippoletti weir; and that on January 2, 1970, proof was made to the satisfaction of the State Reclamation Engineer, of the beneficial use of 27,568 acre feet per season, with a maximum rate of diversion of 94.56 cubic feet per second of the waters of Salmon Falls Creek, tributary of Snake River, for the purpose of Irrigation from March 15 to November 15; and for ____ from ____ to ____; and for ____ from ____ to ____; and that the use of said waters has been made in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer and entered in the records of the Idaho Department of Reclamation: the point of diversion is located in SE ¼ NW ¼, Sec. 2, T. 10 S, R. 13 E, B.M., and other additional points ____, in the County of Twin Falls; and that the amount of water to which such right is entitled and which is hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes and shall not exceed 27,568 acre feet per year.

Description and location of place of use: SEE ATTACHMENT A

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated ____

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

Witness the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 19th day of August, 19 70.

Deputy State Reclamation Engineer

47 2269

47-2269
24128

ATTACHMENT A

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8 S	13 E	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		28													40			40	80
		29	40	40	40	40	40	40	40	40	40	40	38	40	40	40	40	40	638
		30													40	40	40	40	160
		31													39.8	40	36	39	154.8
		32	38	40	40	40	40	34	39.5	40	40	39.7	39.5	39.5	40	40	39.5	39.5	629.2
8 S	13 E	14											20						20
		15																40	40
		22	40			20									40	30	40	40	210
		23	40	40	40	33	20	40	40	40	40	40	40	40	40	40	40	40	613
		24						35	36			40							111
		26	33.7	40	40		40	40	40	40	40	40	40	40		40	40		513.7
8 S	13 E	33	40			40									40	38	39	39	236
		34	39	40	40	40	40	40	40	40	40	40	39.5	39.5	39	40	39.5	39	635.5
		35					40	40	40	40		27							187
9 S	13 E	2					35	30	39.5			39.5							144
		3	20	39.5	40	39.5	39.5	39.5	40	40	40	40	40	40	39.5	40	40	39.5	617
		4	39.5	39.5	40	40				38	27			25	40	40	40	40	409
9 S	13 E	9	40	40	38	40	35								25			26	244
		10	39.5	40	40	40	40	40	40	40	40	40	40			40			479.5
		16			35	15									25	15	20	20	130

Total number of acres irrigated 6891.7

47-2269
24128

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of Water Permit No. 24128 in the Name of

MAGIC WATER COMPANY, INC.

EXTENSION OF TIME FOR COMPLETION OF WORKS

APPROVAL OF STATE RECLAMATION ENGINEER

I, CARL E. TAPPAN, Assistant State Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction of works under Permit to appropriate the public waters of the State of Idaho No. 24128 from May 2, 1963, to May 2, 1965.

Witness My hand this 1st day of April, 1963.

/s/ CARL E. TAPPAN
Assistant State Reclamation Engineer

(SEAL)

Application for Amendment
POINT OF DIVERSION
Permit No. 24128

Comes now MAGIC WATER COMPANY and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128.

That the point of diversion is described in said Permit as being located: 60 feet North and 2772 feet west from the SE corner of Sec. 36, T. 9 S., R. 13 E., and is in the SW¼SE¼ of Sec. 36, T. 9 S., R. 13 E., B. M.

That he now requests that the point of diversion be changed to a point located: North 16° 32' West 3590 ft. from the east ¼ corner of Sec. 2, T. 10 S., R. 13 E., B. M. and in the SE¼NW¼, Sec. 2.

That the reason for desiring to make such change is as follows: The original written description was wrong. That no one will be injured by such change, and that such change will be made at Permit Holder's own risk.

Signed at Boise, Idaho, this 15 day of July, 1964.

HEPWORTH & NUNGESTER (Bob)
By BILL HART

Date of Receipt at Department of Reclamation: July 15, 1964

APPROVAL OF STATE RECLAMATION ENGINEER

I, RALPH W. THOMAS, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment, to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

s/ RALPH W. THOMAS, Deputy
State Reclamation Engineer

Recorded: July 15, 1964

APPLICATION FOR AMENDMENT

LAND LIST

Permit No. 24128

Comes now Magic Water Company, Inc., and represents to the State Reclamation Engineer of the State of Idaho:

That it is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

Township 8 South, Range 13 E., B. M.:

All of Sec. 33; 34; 26; 27; 23; 22; 14; and the W½, Sec. 35; SW¼, SW¼NW¼, Sec. 25; E½, Sec. 28; W½, Sec. 24; SE¼, Sec. 21; E½, Sec. 15; W½, Sec. 14; E½, Sec. 10; all of Sections Nos. 29 and 32; E½, Sec. 30; E½, Sec. 31;

Township 9 South, Range 13 E. B. M.

All of Sec. 3; 4; 9; W½, N½NE¼, SW¼NE¼, NW¼SE¼, Sec. 10; SW¼NW¼, NW¼SW¼, and Lots 3 and 4, of Sec. 2.
making a total of 9,346.63 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Buhl, Idaho, this 23rd day of February, 1965.

MAGIC WATER COMPANY, Inc.

ATTEST:

By: LEE L. WHITE, President

Farrell J. Jones, Secretary (seal)

Date of Receipt at office of Department of Reclamation: February 24, 1965

APPROVAL OF STATE RECLAMATION ENGINEER

I, CARL E. TAPPAN, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

s/ CARL E. TAPPAN
State Reclamation Engineer

Permit No. 24128
CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that EVERGREEN CANAL COMPANY - Assignee - Magic Water Co., Inc. of Buhl, County of Twin Falls, and State of Idaho, the holder of Permit No. 24128, issued upon Application No. 31497, bearing date of priority of Feb. 11, 1953, authorizing the diversion of 120 second feet of waters of Salmon Falls Creek, County of Twin Falls, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 94.57 second feet of the waters of Salmon Falls Creek, tributary of Snake River; that the point of diversion of said waters N. 16° 32' W - 3590' from East ¼ Corner, Sec. 2, T. 10 S., R. 13 E., B. M. and in SE¼NW¼, Sec. 2, T. 10 S., R. 13 E., B. M.; and that the lands proposed to be irrigated by the use or place of use of said water are described as follows, to-wit: Lands under the Magic Water Company canals in Sections 10, 11, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, T. 8 S., R. 13 E., Sections 2, 3, 4, 9, 10, T. 9 S., R. 13 E., B. M. The Quantity of Water is limited by the amount actually diverted from the Stream at the described point of diversion.

Witness my hand this 20th day of September, A.a D. 1965

s/ RALPH W. THOMAS, Deputy
State Reclamation Engineer

Proof of Completion of Works MADE: April 19, 1965

LICENSE ISSUED FOR 94.56 SEC. FT.
~~LICENSE PAGE NO.~~ _____

A S S I G N M E N T

For value received, I hereby assign all my right, title, and interest in and to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128 to Falls Creek Irrigation Company of Buhl, Idaho.

EVERGREEN CANAL COMPANY
Permit Holder.
By
M. F. BARRETT

State of Idaho)
County of Ada) ss.

On this 28th day of April, 1955, before me, a Notary Public for the State of Idaho, residing at Boise, Idaho, personally appeared M. F. Barrett, known to me to be the person whose name is subscribed to the within instrument, and duly acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my Notorial seal, the day and year in this certificate first above written.

HARLEY M. McDOWELL
Notary Public, residing at
Boise, Idaho
(SEAL)
My Commission expires, 10/11/55.

Received and filed for record in the Department
of Reclamation, at Boise, Idaho, April 28, 1955.
MARK R. KULP
State Reclamation Engineer

A S S I G N M E N T

For value received, I hereby assign all my right, title and interest in and to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128 to Magic Water Company, Inc., of Buhl, Idaho.

Falls Creek Irrigation Company
Permit Holder

MAURICE H. ECKERT
Maurice H. Eckert

State of Idaho)
County of Ada) ss

On this 10th day of November, 1955, before me, a Notary Public for the State of Idaho, residing at Boise, Idaho, personally appeared Maurice H. Eckert, Director, known to me to be the person whose name is subscribed to the within instrument, and duly acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my Notorial seal, the day and year in this certificate first above written.

(SEAL)

A. C. KISER
Notary Public, residing at Boise, Ida.

My commission expires 10-11-59

Received and filed for record in the Department of
Reclamation, at Boise, Idaho, November 10, 1955.

MARK R. KULP
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Permit No. 24128
Magic Water Co., Inc.

EXTENSION OF TIME

WHEREAS, the Magic Water Co., Inc., holder, through assignment, of Permit No. 24128 for the appropriation of 120 cubic feet per second of the waters of Salmon Falls Creek was unable to complete the diversion works by the specified date of May 2, 1958; and,

WHEREAS, the said Magic Water Co., Inc., made application on January 13, 1958, for extension of time for completion of works and all other requirements of Permit No. 24128; and,

WHEREAS, the Department of Reclamation is of the opinion that the Magic Water Co., Inc., has used due diligence and good faith in trying to meet the requirements of Permit No. 24128 and that the delay is partly due to causes reasonably beyond the control of the permit holder.

NOW, THEREFORE, the date of completion of works under Permit No. 24128 is extended to May 2, 1960, and all other requirements of Permit No. 24128 are extended the same length of time.

Signed at Boise, Idaho, this 23rd day of May, 1958.

/s/ Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

(SEAL)

Approved and recorded:
May 23, 1958.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

IN THE MATTER OF WATER PERMITS 24128, 25739, 25817 and 26408 IN THE NAME OF MAGIC WATER COMPANY, Inc.

PETITION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS

* * * * * * * * * * * * * * * * WHEREFORE, petition prays that the time for completion of works under each of the permits hereinbefore mentioned be extended to May 2, 1963.

Dated this 11th day of March, 1960

s/ A. C. Kiser
Attorney for Magic Water Co., Inc.

APPROVAL OF STATE RECLAMATION ENGINEER

I, Geo. N. Carter, Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction work under Permits to Appropriate the Public Waters of the State of Idaho, Nos. 24128, 25739, 25817 and 26408 to May 2, 1963.

Witness my hand this 16th day of March, 1960

s/ GEO. N. CARTER
State Reclamation Engineer

See file folder 24128 for copy of Petition for extension of time

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Application for Amendment
LAND LIST
Permit No. 24128

Comes now MAGIC WATER COMPANY, Inc., and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

All Sec. 15; $E\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, Sec. 33; All Sections 34, 35, 26, 27, 22, 23, 13, 14, 17, 18, 19, 20; $W\frac{1}{2}$Sec. 24; $E\frac{1}{2}$, Sec. 30; $W\frac{1}{2}$, Sec. 21, $N\frac{1}{2}$, $SW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, Sec. 29, T. 8 S., R. 13 E.; $SE\frac{1}{4}$, Sec. 14; $W\frac{1}{2}SE\frac{1}{4}$, Sec. 13, $E\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, Sec. 26; $NW\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, Sec. 25; $E\frac{1}{2}$, Sec. 23; All, Sec. 24, T. 8 S., R. 12 E., All Sec. 3; $W\frac{1}{2}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, Sec. 2; $E\frac{1}{2}$, Sec. 10; $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, Sec. 11, T. 9 S., R. 13 E., making a total of 12,880 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Buhl, Idaho, this 25 day of January, 1963.

s/ Magic Water Company, Inc.

By: Carrol J. Jones, President

Date of Receipt at office of Department of Reclamation: March 5, 1963

APPROVAL OF STATE RECLAMATION ENGINEER

I, RALPH W. THOMAS, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby

s/ RALPH W. THOMAS,
Deputy State Reclamation Engineer

Recorded: March 5, 1963

IDAHO CO...

3-12 19[illegible]3

ation 3-26 To 4-9 19[illegible]3

Protest 4-21 1953

IF PROTESTED

...g ...

...

...Filed ...

APPLICATION FOR PERMIT
To Appropriate the Public Waters of the State of Idaho

47-2269 24128

APPLICATION No. 31497
PERMIT No. 24128
DISTRICT No.

Assigned to Magic Water Co., Inc. Buhl - Idaho

I. Name of Applicant: EVERGREEN CANAL COMPANY

Postoffice address: 115 South Broadway, Buhl County: Twin Falls 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:
(b) Treasury stock:
(c) Bonds to be issued:
(d) Other resources:

2. Quantity of water claimed: 120 second ft. cubic feet per second.

3. Source of water supply: Salmon Falls Creek which is a tributary of Snake River

4. Location of point of diversion: 60 feet north and 2772 ft. west from the SE corner of Section 36, T. 9 S, R. 13 E., B. M., and is in the $SW\frac{1}{4}$ $SE\frac{1}{4}$ of Section 36, T. 9 S., R. 13 E., B.M., County of Twin Falls

5. Water is to be used for Irrigation.

6. If for mining, milling, power or manufacturing purposes, give:
(a) Point of use of water: feet distant from corner of Section T. , R. , B.M., in the of Section , T. , R. , B.M.
(b) Amount of power generated: H.P., under feet head.
(c) Water is to be returned to at a point feet distant from the corner of Section , T. , R. , B.M., in the of Section , T. , R. , B.M.

7. Estimated cost of works: $ 200,000

8. Kind of works: Diversion dam and canal.

9. Height of dam 50 feet; length of dam at top See specifications feet; length of dam at bottom feet; material used in dam:

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

11. Ditch: Width at bottom 9 feet; width at water line 14 feet; depth of water 6 feet; dimensions of flume:
Diameter of pipe inches; length of conduit miles.
Average grade per mile feet.

12. The time required for the completion of such work is 5 years.

13. The time required for the complete application of the water to the proposed use is 6 additional years.

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

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

16. (a) Is reservoir to be used? No If so, fill in (b) and (c) below:
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

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

EVERGREEN CANAL COMPANY *Applicant.*

By M. F. Barrett *Agent.*

Date of first receipt at Department of Reclamation: 2:50 p.m. February 11, 1953

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 24328
Recorded in Book 8S Page 24328 Approved May 2, 1953
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve he same, subject to the following limitations and conditions:
Bond in the sum of $ 1,000 to be filed on or before July 2, 1953
Work to begin on or before and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before November 2, 1955
The whole of said work to be completed on or before May 2, 1958
Beneficial use of water appropriated in accordance herewith, to be made on or before May 2, 1964

WITNESS My hand this 2nd *day of* May, 1953

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, LEN JORDAN, Governor of the State of Idaho, and IRA H. MASTERS, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 2nd day of May, 1953.

Countersigned:

(SEAL)

By IRA H. MASTERS
Secretary of State.

By Paula L. Fleenor

STATE OF IDAHO

By LEN JORDAN
Governor.

REMARKS: This project is made to divert water from Salmon Falls Creek and pump an elevation of approximately 200 ft to apply to vacant federal land applied for under the Desert Land Act for agricultural development to make beneficial use of the water.
Plans and specifications drawn by a competent engineer and attached.

14.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8 S	13 E	15	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		33	40			40									40			40	160
8 S	12 E	14													40	40	40	40	160
		13														40	40		80
		26	37			40									20				97
8 S	13 E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		23	40	40	40	40	40	40	40	40	40	40	40	40					320
		24					40	40	40	40	40	40	40	40	40	40	40	40	640
		14	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		13	40	40	40	40	40	40	40	40	40	40	40	40					320
		21					40	40	40	40	40	40	40	29		40			509
		29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	691
9 S	13 E	3	53	53	40	40	53	53	40	39	40	40	40	40					346
		2					53	53	40	40	40	40	40	40	40	40	40	40	320
8 S	13 E	30	40	40	40	40									40	40	40	40	640
		20	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		19	40	40	40	40	40	34	34	40	40	34	34	40	40	40	40	40	616
		18	40	40	40	40	40	34	34	40	40	34	34	40	40	40	40	40	616
		17	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		25						40	40			38							118
8 S	12 E	23	40	40	40	40									40	40	37	39	316
		24	40	40	40	40	40	40	40	36	38	40	36	40	40	40	40	40	630
9 S	13 E	10	40	40	40	37									40	40	40	40	317
											Total Number of Acres				to be Irrigated --				12,656

October 7, 1970

Re: Permit No. 47-2269

Hepworth, Walker, Nungester & Felton
1020 Main
Buhl, Idaho 83316

Dear Sirs:

Enclosed is the certified copy of Water License No. 47-2269 which you requested. The fee for this certified copy is $1.50. Please remit this amount promptly.

Very truly yours,

DORIAN CLAY
Appropriation Examiner

DC/KH

Enclosure

47-2269
24128

LAW OFFICES
HEPWORTH, WALKER, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
AREA CODE 208
PHONE 543-4368
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT
P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3068
SUN VALLEY, IDAHO 83353
(208) 726-5861

October 5, 1970

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Attention: Donald W. McEldowney
Appropriation Supervisor

Re: Magic Water Company - 47-2269

Dear Mr. McEldowney:

Please have the enclosed Water License for the above-referenced corporation certified and then return it to us. Thank you.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Pat Wetzstein

Patricia M. Wetzstein, Secretary

Enclosure

47-2269
24128

September 22, 1970

Re: 47-2269 - Magic Water Company

Mike H. Felton
Professional Center
1020 Main Street
Buhl, Idaho 83316

Dear Mike:

We are enclosing a copy of Magic Water's license under 24128/47-2269. I hope this will assist you.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:cm

Enc: Copy of License No. 47-2269

47-2269
24128

LAW OFFICES
HEPWORTH, WALKER, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
AREA CODE 208
PHONE 543-4368
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT
P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083
SUN VALLEY, IDAHO 83353
(208) 726-5861

September 8, 1970

Department of Water Administration
Statehouse Mailroom
Boise, Idaho 83707

Attention: Steven Allred

Re: Magic Water Company

Dear Steve:

On the 19th of August, you issued a water license to Magic Water Company. Before we recorded the same, we apparently misplaced it. Would you forward a certified copy to my special attention. In the event that there is a charge for the certified copy, please enclose your invoice or statement and we will remit your charge by return mail.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

47-2269
24128

Please do not rearrange any correspondence in this folder. I have placed it in correct order

2-4-40

Terry

August 19, 1970

Re: Permit No. 47-2269 (24128)

Magic Water Company
Route 3
Buhl, Idaho 83316

Dear Sirs:

Enclosed herewith is your Water License issued on the above numbered permit. Also enclosed is departmental receipt No. 5062 in the amount of $362.00 covering the licensing fees.

Very truly yours,

C. Stephen Allred
Deputy Director

CSA:kh

cc. Tippett Land & Mortgage Company
Hepworth, Walker, Nungester & Felton
Tom Miller
Maurice Eckert
Farrell Jones

47-2269
24128

LAW OFFICES
HEPWORTH, WALKER, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
AREA CODE 208
PHONE 543-4368
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

August 14, 1970

OTHER OFFICES AT
P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083
SUN VALLEY, IDAHO 83353
(208) 726-5861

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Re: Magic Water Company Inc. Permit # 47-2269 (24128)

Attention: Steve Allred

Dear Mr. Allred:

I am enclosing a check for Magic Water Company Inc. in the amount of $362.00 evidencing the fee for our water permit. Would you please acknowledge receipt.

You inquired several days ago about the number of inches pumped by Magic Water Company on the date of August 7, 1970. The amount of water pumped measured on that date at the top of the penstocks was 3220 inches.

If I can furnish any further information, please advise.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

John C. Hepworth

JCH:klh

Encl.

47-2269
24128

August 11, 1970

Re: Permit No. 47-2269 (24128)

Mr. Farrell Jones
Box 1430
Pocatello, Idaho 83201

Dear Mr. Jones:

A representative of this department has made an examination of the works covered by your Permit No. 47-2269 and has found the following:

Quantity of water diverted: 103.31 c.f.s.

Amount of water that can be recognized as beneficially used under Idaho law: 94.56 c.f.s.

The maximum quantity of water diverted shall not exceed 27,568 acre feet per season.

Beneficial Use: Irrigation of 6,391.7 acres within SW¼SW¼ Sec. 14; SE¼SE¼ Sec. 15; E½NE¼, SE¼ Sec. 22; all Sec. 23; W½NW¼, NW¼SW¼ Sec. 24; N½NE¼, SW¼NE¼, W½, W½SE¼ Sec. 26; all Sec. 27; E½SE¼ Sec. 28; all Sec. 29; SE¼ Sec. 30; SE¼ Sec. 31; all Sec. 32; continued below

The priority date established is : February 11, 1953

A fee totaling $ 362.00 must be received within 30 days from the date of this letter in order that we can issue you a Water License as set forth in this letter.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

Land description continued - E½NE¼, SE¼ Sec. 33; all Sec. 34; NW¼, NW¼SW¼ Sec. 35; Twp. 8 S., Rge. 13 E., B.M., and N½NW¼, SW¼NW¼, NW¼SW¼ Sec. 2; all Sec. 3; E½, SE¼NW¼, E½SW¼ Sec. 4; NE¼, NE¼NW¼, E½SE¼ Sec. 9; N½, N½SW¼, SW¼SW¼, NW¼SE¼ Sec. 10; S½NE¼, SE¼ Sec. 16, Twp. 9 S., Rge. 13 E., B.M.

cc. Maurice Eckert
Buhl, Idaho 83316

Tom Miller
Bank of Idaho Bldg.
Boise, Idaho

47-2269
24128

Trans- 94.57 cfs

10. cfs —— 5.00

84.57 25.50

85 cfs $ 30.50

.30

$25.50 fee for Certificate

47-2269

24128

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

RECEIVED
Department of Water Administration

Permit # 521

October 9, 1970

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Re: Permit No. 47-2269

Dear Sir:

Please find enclosed our check in the amount of $1.50 to cover the cost of a certified copy of Water License No. 47-2269. Thank you.

Very truly yours,

HEPWORTH, NUNGESTER & FELTON

Alta Gannon

Alta Gannon, Secretary

Enclosure

47-2269

24128

LAW OFFICES
HEPWORTH, NUNGESTER, AND FELTON
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO -- 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER
MICHAEL H. FELTON

AREA CODE 208
PHONE 543-4368

RECEIVED
MAR 3 1967
Department of Reclamation

February 28, 1967

Fish
Permit
24128

Department of Reclamation
Statehouse
Boise, Idaho

Re: Magic Water Company

Gentlemen:

Enclosed please find an Amended Judgment in the above-captioned matter. The only change between this and the original judgment is the land description.

If you have any questions, please get in touch with us.

Very truly yours,

HEPWORTH, NUNGESTER & FELTON

Wm. L. Nungester

WLN:bh

Encl.

24128

RECEIVED
MAR 2 1967
Department of Reclamation

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

* * * * * * * * * * * *

JOHN E. KELLER and FRANCES J. KELLER his wife, and ALFRED C. KELLER and ROBERTA H. KELLER, his wife,

Plaintiffs,

-vs-

MAGIC WATER COMPANY, INC., a corporation; PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN CAMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS AND KENNETH W. MARSHALL,

Defendants,

and

MAGIC WATER COMPANY, INC., A corporation,

Cross Claimant,

-vs-

JOHN E. KELLER and FRANCES J. KELLER, his wife, and ALFRED C. KELLER AND ROBERTA H. KELLER, his wife, PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN CAMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS and KENNETH W. MARSHALL,

Cross Defendants,

DISTRICT COURT
Eleventh Judicial District
County of Twin Falls, State of Idaho
FILED Feb 13 1967
ENTERED
Cleo Robinson Clerk
Deputy Clerk
4:30 PM

Civil No. ~~19884~~ 19984
AMENDED JUDGMENT

* * * * * * * * * * * *

The above case came on regularly for trial before Theron W. Ward, District Judge, sitting without a jury on the 19th

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AND
LANGHESTER
BURLEY, IDAHO

24128

day of April, 1966. Witnesses were sworn and testified and evidence introduced on behalf of the parties appearing. The following named defendants and cross defendants failed to appear and their defaults were regularly taken, to wit: John K. Courtenay, Wayne Snarr, Dean Snarr, John Campbell, Dean M. Olsen, Josephine Blick, Gary Blick, Marie Blick, Carol J. Conner and Welland A. Hansen.

After hearing the evidence adduced, the court entered its findings of fact and conclusions of law on the 30th day of August, 1966, and thereafter entered judgment consistent therewith. Magic Water Company, Inc. later filed its motion asking that the findings of fact and conclusions of law previously entered be amended by amending the land list to which the water owned by Magic Water Company, Inc. is appurtenant. A hearing was held on said motion the 2nd day of February, 1967, and the motion was granted by the court. The following amended judgment is consistant with the motion granted and the amended findings of fact and conclusions of law.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that defendant and cross claimant, Magic Water Company, Inc., a corporation, have a first, prior and subsisting right to the waters of Salmon Falls Creek in the amount of 94.57 c.f.s. with a priority date of May 2, 1953, under permit No. 24128 issued by the State of Idaho Department of Reclamation, subject only to their placing such water to a beneficial use within the time allowed by their permit as now amended, to wit, May 2, 1970, and;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the water to which Magic Water Company, Inc., is entitled under this

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24128

decree is appurtenant to the following described lands located in Twin Falls County, Idaho, to wit:

Township 8 South, Range 13, E.B.M.:
All of Section 33; 34; 26; 27; 23; 22; 11; and W½ Section 35; SW¼, SW¼ NW¼, Sec. 25; All of Sec. Nos. 29 & 32; E½ Sec. 30; E½ Sec. 31; E½ Sec. 28; W½ Sec. 24; SE¼ Sec. 21; E½ Sec. 15; W½ Sec. 14, E½ Sec. 10; Township 9 South, Range 13, E.B.M. All of Sec. 3; 4; 9; W½, N½ NE¼, SW¼ NE¼, NW¼ SE¼, Sec. 10; SW¼ NW¼, NW¼ SW¼, and Lots 3 & 4 of Sec. 2.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that John E. Keller and Frances J. Keller, and Alfred C. Keller and Roberta H. Keller, have a water right from the waters of Salmon Falls Creek based upon permit No. 27711 issued by the State of Idaho Department of Reclamation in the amount of 11.8 c.f.s. of water with a priority date of January 20, 1959.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kenneth W. Marshall has a water right from the waters of Salmon Falls Creek based upon permit No. 27711 issued by the State of Idaho Department of Reclamation in the amount of 11.14 c.f.s. of water with a priority date of January 20, 1959.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Pete Rarick, Dorothy Rarick, Glen H. Johnson and Ethel C. Johnson, have valid permits on file with the State of Idaho Department of Reclamation for the appropriation of waters of Salmon Falls Creek and that should said parties complete their works and place to beneficial use the water filed upon under said permit, that they will be entitled to a water right with a priority date as shown by their permits on file with the State of Idaho Department of Reclamation.

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NUNGESTER
BURLEY, IDAHO

24128

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vernon L. Herzinger, Edward Herzinger, and Betty Herzinger have valid permits on file with the State of Idaho Department of Reclamation to appropriate the waters of Salmon Falls Creek, that subject to said parties completing their works as required by statute and placing the same to a beneficial use within the time provided by law that they shall establish valid rights on the waters of Salmon Falls Creek under permits No. 31585 and No. 29605 with priority dates of December 11, 1963, and April 6, 1961, respectively.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Magic Water Company, Inc., shall have and recover its costs in the sum of $157.00 from the above named plaintiffs.

Dated: February 2, 1967.

/s/ Theron W. Ward
District Judge

State of Idaho } ss.
County of Twin Falls }

I hereby certify the foregoing to be a full, true and correct copy of the original on file in the above entitled action.

H. A. LANCASTER
Clerk of the District Court
By Helen Pantenburg
Deputy

24128

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BURLEY, IDAHO

--COPY--

Magic Water Company
Pump Test Report

On October 14, 1963, a pumping test was conducted for The Magic Water Company. The purpose of this test was to determine the accumulated quantity of irrigation water flow as successive increments of pumping capacities were applied. An 84 inch contracted rectangular weir was constructed and placed a canal check structure a short distance down stream from the pipe outlet. The pumping units were assigned numbers and as they were successively turned on, the flow was measured after stabilization at the weir. Approach velocities were metered with a Gurley current meter. On October 15 the stream was metered above the weir to correlate the weir readings.

Following is a table of observations made during the test:

Pump Increment	Pressure Gauge Inlet PSI	Outlet PSI	Electric Meter Readings Sec/rev	Weir Reading Inches	Approach Velocity feet/ second
1	18	193	33	3.500	Neg.
1 and 2	18	193	16.7	5.625	0.50
1 through 3 inc.	18	193	11	7.373	1.10
1 through 4 inc.	18	195	8.4	9.125	1.40
1 through 5 inc.	17.75	196	6.68	10.250	1.67
1 through 6 inc.	17.25	197	5.60	11.500	1.87
1 through 7 inc.	17	198	4.80	12.875	2.00
1 through 8 inc.	15	198	3.42	16.125	2.46
1 through 9 inc.	13.5	200	2.69	18.875	2.75
1 through 10 inc.	0.5	201	2.20	21.312	3.00
1 through 11 inc.	0	194	2.02	19.625	3.00
8 through 11 inc.	0	194	2.98	18.375	2.80

2M128

These observations were correlated to stream metering, which indicated a weir correction factor of a 3.85% increase and were converted into terms of horsepower and flow quantities as indicated in the following table:

Pump Increment	Rated H. P.	Metered H. P.	C.F.S.	Quantity of flow Miners Inches	Inches Per H. P.
1	200	234	3.75	187.50	.81
1 and 2	400	462	7.67	383.50	.83
1 through 3 inc.	600	702	11.91	595.50	.85
1 through 4 inc.	800	919	16.62	831.00	.90
1 through 5 inc.	1000	1156	20.12	1006.00	.87
1 through 6 inc.	1200	1379	24.01	1200.50	.87
1 through 7 inc.	1400	1609	28.55	1427.50	.89
1 through 8 inc.	2000	2258	40.14	2007.00	.89
1 through 9 inc.	2600	2870	50.42	2521.00	.88
1 through 10 inc.	3200	3510	60.91	3045.50	.87
1 through 11 inc.	3800	3822	54.69	2734.50	.72
8 through 11 inc.	2400	2591	48.90	2445.00	.94

It was observed that a great quantity of air was dispelled with a reduction in flow when the 11th pumping unit was turned on. This is a result of a negative head being develop ed on the suction side of the pumps while the velocities in the pump line increased. The pumps inlet pressures were reduced to the vapor pressure of water and vapor bubbles as well as a release of dissolved air in the water occured.

This test showed that the maximum efficient use of the inlet and outlet piping system is restricted to a flow of approximately 60 c.f.s., when using the first seven 200 H. P. pumps plus three additional 600 H. P. units. The best overall efficiency is with the four 600 H. P. pumps running in a group at a flow of 48.90 c.f.s.

It is recommended that not more than 60 c.f.s. be attempted through the present system. The pump units above the 60 c.f.s. capacity should be either held in reserve

as stand by pumps or if full capacity is desired, a new and separate pump inlet and discharge system should be designed and constructed.

On October 15, 1963 the flow was metered immediately down stream from the pump discharge. This measurement was used to correlate the weir readings as well as to determine the quantity of flow at the beginning of the canal system. Subsequent measurements were made down stream to develop an indication of canal seepage losses.

Following is a tabulation of these measurements:

Station Number	Description	Quantity of Flow C.F.S.	Miners Inches
1	Below pump outlet in Sec. 2 T. 10S., R. 13 E., B.M.	12.13	606.50
2	Above first diversion	10.33	516.50
3	Below second diversion	6.18	309.00
4	At weir in Sec. 34, T. 8 S., R. 13 E., B.M.	6.10	305.00

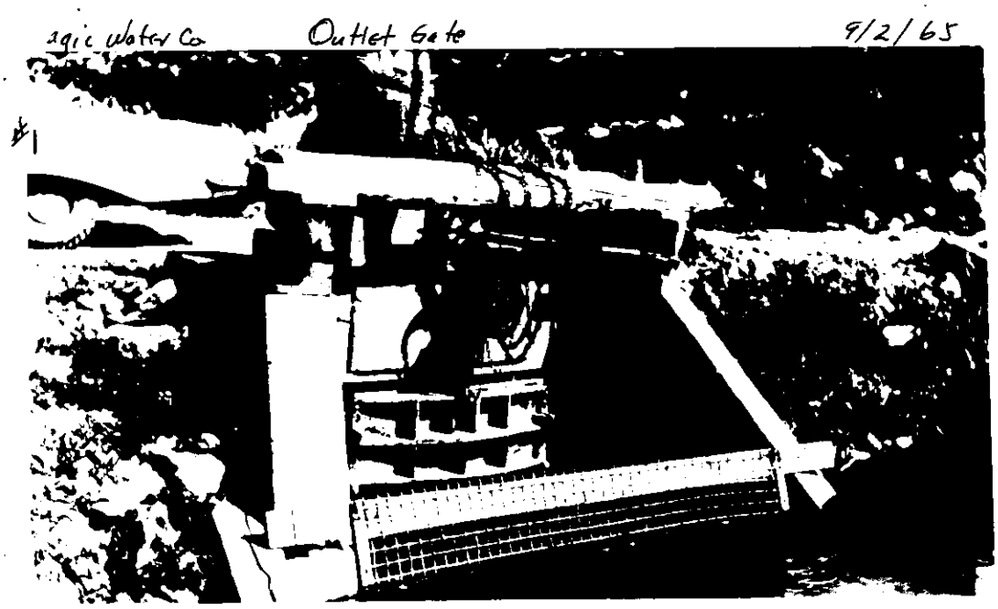
There is an apparent seepage loss of 90 inches between Stations No. 1 and 2, approximately 7.5 miles and a very minor loss of only 4 inches between Stations 3 and 4, approximately 1.75 miles.

These seepage losses may have been influenced by the previous day's pump test which filled the canals to maximum capacity and perhaps saturated the banks beyond normal canal use. It is recommended that, if a canal seepage study is desired, stream guaging stations or weirs be constructed at intervals along the system as well as measuring devices for diversions and periodic measurement be made throughout a full irrigation season.

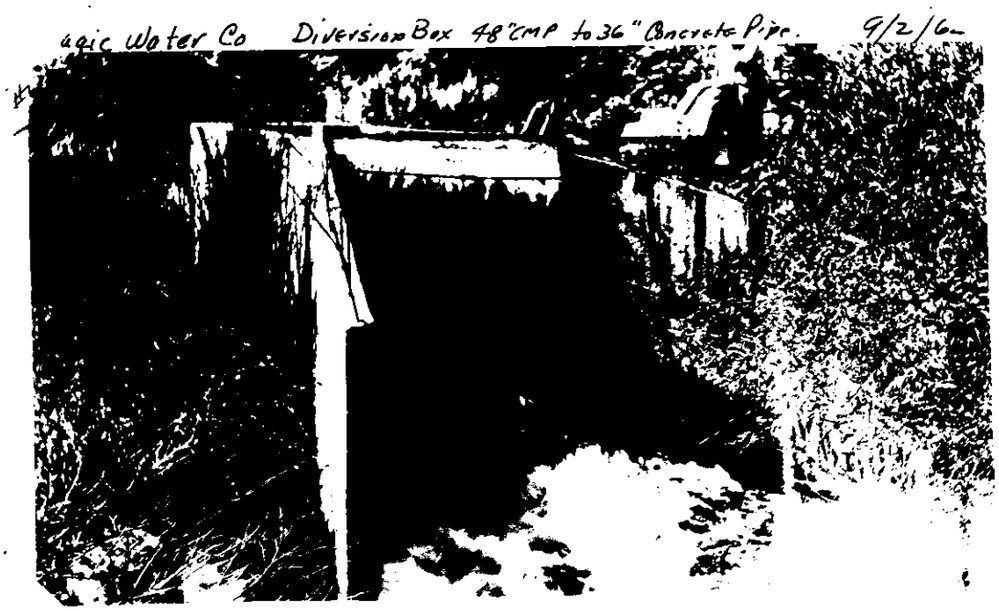
Hoffmann - Fiske - Miller
Consulting Engineers
1089 Blue Lakes Blvd., North
Twin Falls, Idaho

24128

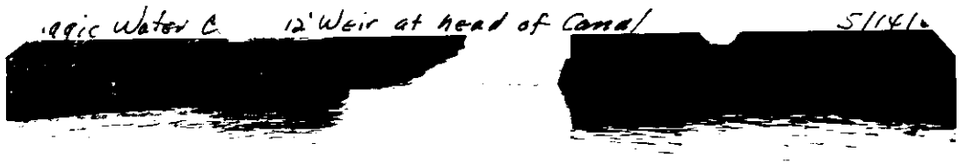
September 2, 1965



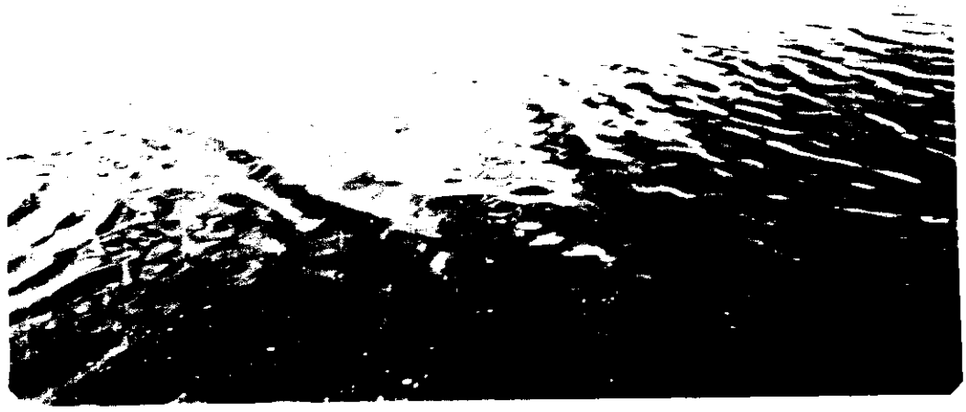
Outlet Gate to 48"x95' CMP and concrete distribution box.
Estimate 2' head over top of 48" outlet; trash screen would indicate this being normal pond level.



Concrete distribution box at end of 48" CMP. Note water spilling over flash boards. This discharge was measured at 13.48 c.f.s. There were 2 600HP and 2 200HP pumps on at this time. Discharge into canal measured over the installed 12' Cippoletti Weir = 32.81 c.f.s.



agic Water C 12' Weir at head of Canal 5/14/6



agic Water Co Washout of Penstock at Canal 5/14/6



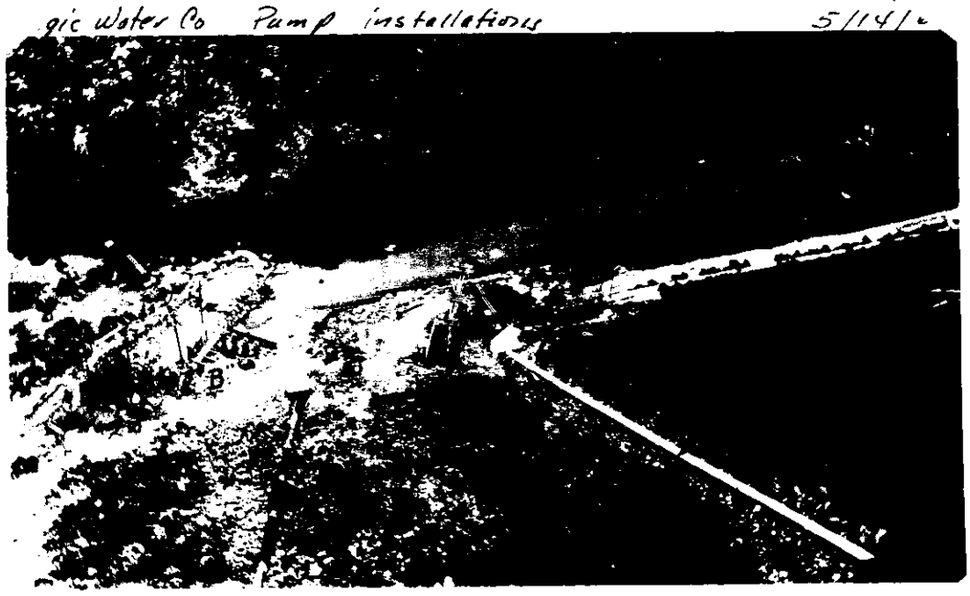
agic Water Co Penstock from Rim edge to Canal 5/14/65



Penstock from new 4 600HP pumping plant that pump directly out of Salmon Falls Creek. (Unit "B")

Was scheduled to make inspection 5/14/65. Washout occurred 5/13/65. Delayed inspection until June 22-23, 1965.

gic Water Co Pump installations 5/14/[illegible]



A. Pumping plant in original project design
7- 200HP pump
4- 600HP pump
Two of the 600HP pumps were removed because efficiency dropped when 10th and 11th pumps were operating.

1. 36" concrete penstock from dam which is approximately 2700' upstream. Concrete pipe ~~was~~ connected to 36" steel pipe which is reduced to 30". Pumps pumpe directly from penstock under head.

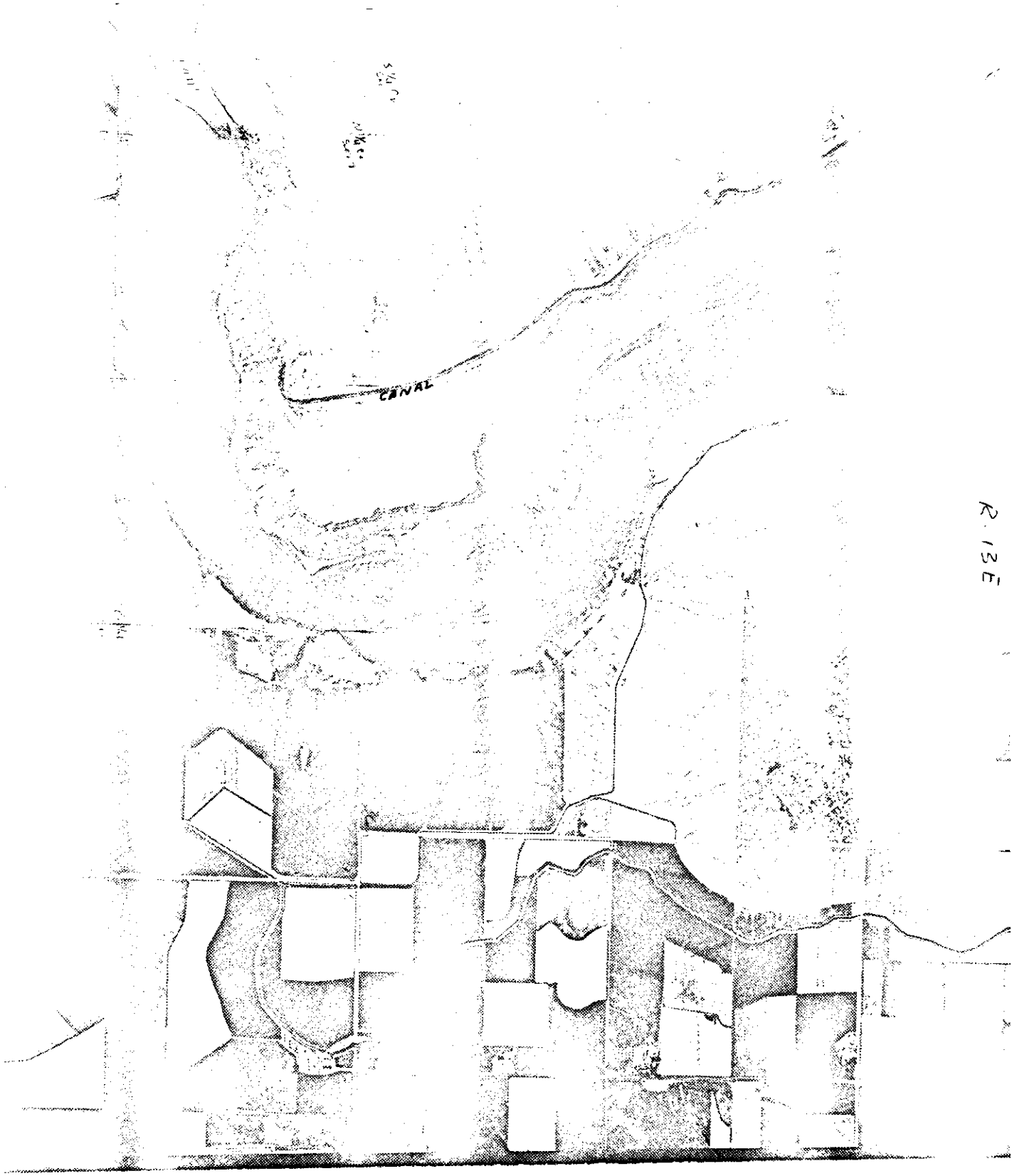
2. 30" penstock from pumps to canal.

3. 18"x45' surge pipe layed on face of steep hillside.

Note: No water is returned to creek at this point with the exception of leaks and 6" gate valve for the purpose of draining the penstock.
There is approximately 360' lift.

B. This is a newly designed system consisting of 4 [illegible]00HP pumps which pump directly out of Salmon Falls Creek. A small dam [illegible]' high, 50' long and 20' wide creates a pond for these pumps. The spillway is on the south abutment, approximately 30' wide x 6' deep maintaining a 4' freeboard.
1. 30" steel penstock.

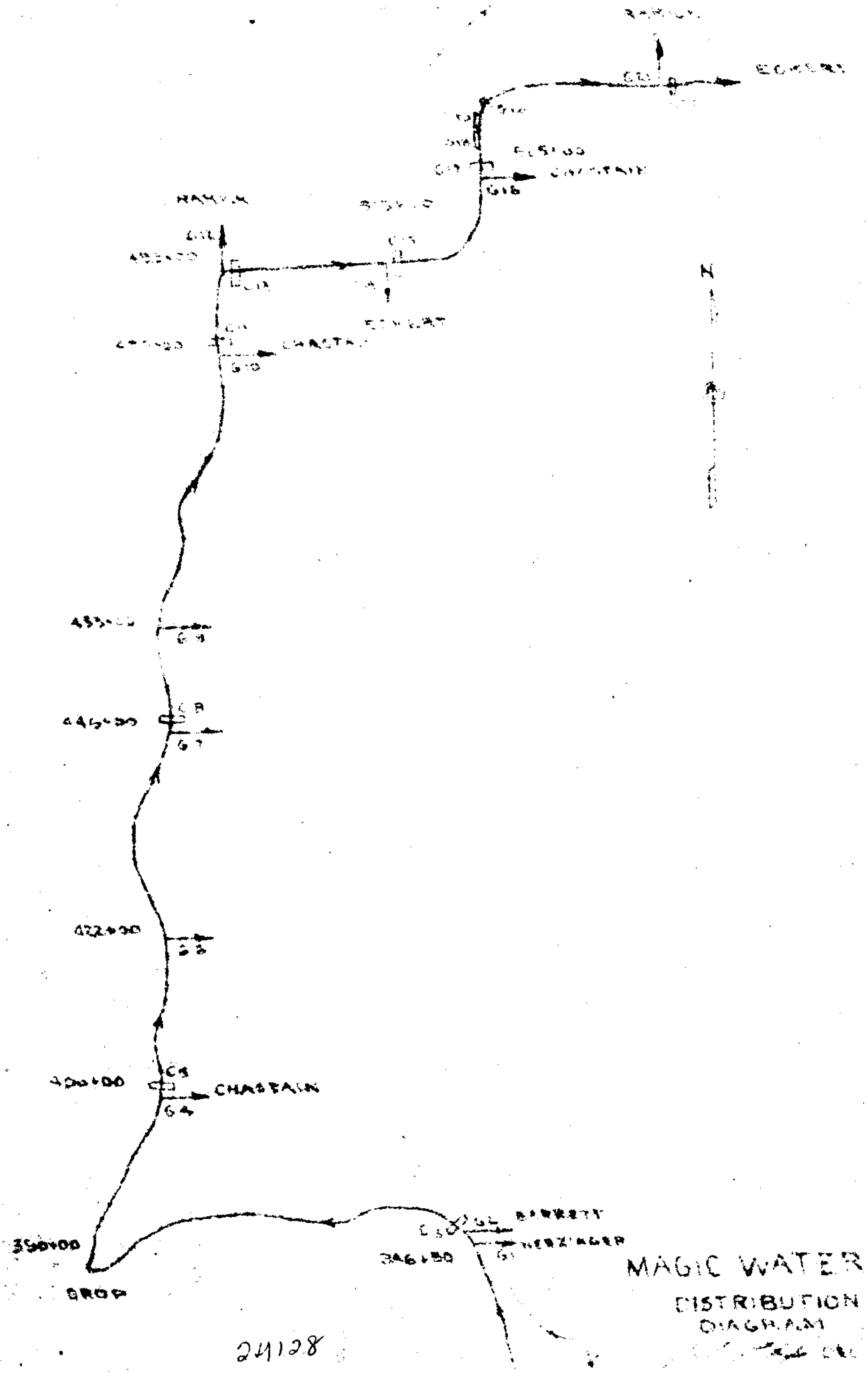
34133



Magic Water Co

24128

Property of Maxine H. Eckert
Route 3, Buhl, Idaho
Please return



MAGIC WATER C
DISTRIBUTION
DIAGRAM

24128

LJ-200
1-63

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Date SEP 2, 1965 **DISCHARGE MEASUREMENT NOTES**

SALMON FALLS Diversion River at BELOW MAGIC WATER CO. HEADBOX

Angle coefficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area	Discharge
	2.0	.25	0		EDGE OF	RIGHT	BANK				
	2.5	.50	.63		30	43	.728			.31	.23
	3.0	.50	.88		40	41	.991			.44	.44
	3.5	.50	.92		20	47	.461			.46	.21
	4.0	.50	1.03		40	48	.854			.52	.44
	4.5	.50	1.02		80	45	1.77			.51	.90
	5.0	.50	1.25		150	53	2.78			.62	1.72
	5.5	.50	1.45		100	45	2.19			.73	1.60
	6.0	.50	1.60	.8	150	40	3.67	2.26		.80	1.81
				.2	40	49	.838				
	6.5	.50	1.55	.2	80	51	1.56	2.95		.78	2.30
				.8	150	44	3.34				
	7.0	.50	1.50	.8	150	42	3.50	2.24		.75	1.68
				.2	40	41	.991				
	7.5	.50	1.45		40	44	.929			.72	.67
	8.0	.50	1.40		80	47	1.69			.70	1.18
	8.5	.50	.95		25	42	.633			.47	.30
	9.0	.90	.70		0						
	10.3	.65	0		EDGE OF	LEFT	BANK				13.48
											CFS
N Side	12' weir = .83' = 30.55 cfs						32.81	4.37	53.11	59.30	
S Side	12' weir = .91' = 35.07 cfs							4.47	65.53		674"
		2	600	HP							
		2	200	HP	pumps	on					

No. ____ of ____ Sheets, Comp. by ____ Chk. by ____

2N12E

RECEIVED
BUREAU OF LAND
MANAGEMENT
8 2 35 PM 1966
P.O. BOX 2237
BOISE, IDAHO
LAND OFFICE

IN THE DISTRICT COURT OF THE ELEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY.

* *

JOHN E. KELLER and FRANCES J. KELLER, his wife, and ALFRED C. KELLER and ROBERTA H. KELLER, his wife,

Plaintiffs,

-vs-

MAGIC WATER COMPANY, INC., a corporation; PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN CAMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS AND KENNETH W. MARSHALL,

Defendants.

and

MAGIC WATER COMPANY, INC., a corporation,

Cross-Claimant,

-vs-

JOHN E. KELLER and FRANCES J. KELLER, his wife, and ALFRED C. KELLER AND ROBERTA H. KELLER, his wife, PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN CAMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS and KENNETH W. MARSHALL,

Cross-Defendants.

* *

File Magic Water Co. Permit 24128

JUDGMENT

Civil No. 19884

LAW OFFICES
HEPWORTH
AND
NUNGESTER
BUHL, IDAHO

24128

The above case came on regularly for trial before Theron W. Ward, District Judge, sitting without a jury on the 19th day of April, 1966. Witnesses were sworn and testified and evidence introduced on behalf of the parties appearing. The following named defendants and cross-defendants failed to appear and their defaults were regularly taken, to wit: John K. Courtenay, Wayne Snarr, Dean Snarr, John Campbell, Dean M. Olsen, Josephine Blick, Gary Blick, Marie Blick, Carol J. Conner and Welland A. Hansen.

After hearing the evidence adduced, the court entered its findings of fact and conclusions of law on the 30th day of August, 1966. The following judgment is entered consistent with the findings of fact and conclusions of law:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that defendant and cross-claimant, Magic Water Company, Inc., a corporation, have a first, prior and subsisting right to the waters of Salmon Falls Creek in the amount of 94.57 c.f.s. with a priority date of May 2, 1953, under permit No. 24128 issued by the State of Idaho Department of Reclamation, subject only to their placing such water to a beneficial use within the time allowed by their permit as now amended, to wit, May 2, 1970, and;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the water to which Magic Water Company, Inc., is entitled under this decree is appurtenant to the following described lands located in Twin Falls County, Idaho, to wit:

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AND
NUNGESTER
BUHL, IDAHO

24128

All Section 15; E½ NE¼, E½ SE¼, Section 33; All Sections 34, 35, 26, 27, 22, 23, 13, 14, 17, 18, 19, 20; W½ Section 24; E½ Section 30; W½ Section 21; N½, SW¼, NW¼ SE¼, Section 29, Township 8 South, Range 13, E.B.M.; SE¼ Section 14; W½ SE¼, Section 13; E½ NE¼, NE¼ SE¼, Section 26; NW¼ SW¼, W½ NW¼, Section 25; E½ Section 23; all Section 24, Township 8 South, Range 12, E.B.M. All Section 3; W½, SW¼ NE¼, NW¼ SE¼, Section 2; E½ Section 10; W½ NW¼, NW¼ SW¼, Section 11, Township 9, South Range 13, E.B.M., making a total of 12,880 acres.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that John E. Keller and Frances J. Keller, and Alfred C. Keller and Roberta H. Keller, have a water right from the waters of Salmon Falls Creek based upon permit No. 27711 issued by the State of Idaho Department of Reclamation in the amount of 11.8 c.f.s. of water with a priority date of January 20, 1959.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Kenneth W. Marshall has a water right from the waters of Salmon Falls Creek based upon permit No. 27711 issued by the State of Idaho Department of Reclamation in the amount of 11.14 c.f.s. of water with a priority date of January 20, 1959.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Pete Rarick, Dorothy Rarick, Glen H. Johnson and Ethel C. Johnson, have valid permits on file with the state of Idaho Department of Reclamation for the appropriation of waters of Salmon Falls Creek and that should said parties complete their works and place to beneficial use the water filed upon under said permit, that they will be entitled to a water right with a priority date as shown by their permits on file with the State of Idaho Department of Reclamation.

LAW OFFICES
HEPWORTH
AND
NUNGESTER
BUHL, IDAHO

24128

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Vernon L. Herzinger, Edward Herzinger, and Betty Herzinger have valid permits on file with the State of Idaho Department of Reclamation to appropriate the waters of Salmon Falls Creek; that subject to said parties completing their works as required by statute and placing the same to a beneficial use within the time provided by law that they shall establish valid rights on the waters of Salmon Falls Creek under permits No. 31585 and No. 29605 with priority dates of December 11, 1963, and April 6, 1961, respectively.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Magic Water Company, Inc., shall have and recover its costs in the sum of $157.00 from the above named plaintiffs.

Dated: September 2, 1966.

/s/ Theron W. Ward
District Judge

LAW OFFICES
HEPWORTH
AND
NUNGESTER
BUHL, IDAHO

24128

April 25, 1966

Re: Permit No. 24128

Mr. John C. Hepworth
Attorney at Law
Farmers National Bank Building
Buhl, Idaho

Dear Mr. Hepworth:

In regard to your recent inquiry concerning Permit No. 24128 we see no reason to amend the order of this office dated April 1, 1963 by which time for completion of works was extended to May 2, 1965. As you are aware, Section 42-204, I. C. A. provides that an extension of time for completion of works shall automatically extend the time for completion of 1/5 of the work in 1/2 of the time and the application of the water to beneficial use.

It is therefore apparent that the date for submitting proof of beneficial use under Permit 24128 has been extended to May 2, 1971.

Very truly yours,

R. KEITH HIGGINSON, Deputy
State Reclamation Engineer

24128

RKH:ew

all of the documents pertaining to Water Permit No. 24128 originally issued to Evergreen Canal Company, which permit was assigned to Falls Creek Irrigation Company on the 11th day of October, 1955, and subsequently assigned to the Magic Water Company, Inc. on the 10th day of November, 1955, including the original application for permit, all assignments thereof, extensions of time allowed on the 23rd of May, 1958, petition for extension of time dated the 11th day of March, 1960, and approval of the extension by the State Reclamation Engineer dated the 16th day of March, 1960, petition for extension of time dated January 16, 1963, and approval of the State Reclamation Engineer dated April 1, 1963, all original letters received by the Department of Reclamation in connection with said permit and copies of original letters sent to any parties pertaining to said permit, including correspondence pertaining to filings of bonds, United States Department of Interior Geological Surveys, letter of January 3, 1955, addressed to Mr. Spalding, Commissioner of Finance, from the State Reclamation Department, any and all notices of hearing or correspondence pertaining thereto regarding filing of permits or any extensions of time for completion of works, change of point of diversion or issuance of certificate of completion of works; any and all maps, diagrams or drawings of the diversion dam, pipeline, power station, pumping site, canals or laterals, on file in the Department; any and all reports made by the Department of Reclamation or any employee thereof pertaining to said permit or waters diverted by reason of said permit; any and all information pertaining to the flow of waters in Salmon Falls Creek in the County of Twin Falls, and any measurements of the flow of water in Salmon Falls Creek made by the Department of Reclamation or any of its employees in connection with the said permit or in connection with the completion of works for diverting the waters of Salmon Falls Creek under said permit, the findings of the Department of Reclamation or any of its employees as a result of any inspections made of the completion of works, and any other matters pertaining to said permit.

IN THE DISTRICT COURT

of the Eleventh Judicial District of the State of Idaho, in and for the County of Twin Falls

JOHN E. KELLER, et al

Plaintiffs

vs.

MAGIC WATER COMPANY, INC., a corporation, et al,

Defendants

Civil No. 19884

SUBPOENA—Duces Tecum

THE STATE OF IDAHO SENDS GREETINGS TO CARL E. TAPPAN, STATE RECLAMATION ENGINEER,

WE COMMAND YOU, That, all and singular business and excuses being laid aside, you appear and attend trial of the above entitled matter

before Hon. Theron W. Ward, Judge of

our District Court of the Eleventh Judicial District of the State of Idaho, in and for the County of Twin Falls at a term of said Court to be held at the Court House in the County of Twin Falls on the 19th day of April A. D. 19 66, at 10 o'clock A. M., then and there to testify in the above entitled action, now pending in said District Court, on the part of the defendant, Kenneth W. Marshall; and you are further commanded to bring with you, and then and there produce in evidence

and disobedience will be punished as a contempt by the said Court, and you will also forfeit to the party aggrieved the sum of One Hundred Dollars, and all damages which may be sustained by your failure to attend.

WITNESS: Hon. Theron W. Ward, Judge of the Eleventh Judicial District, at the Court House in the County of Twin Falls, and the seal of said Court this 13th day of April A. D., 19 66

ATTEST: My hand and the seal of said Court, the day and year last above written.

H. A. LANCASTER
Clerk.

By Helen Partington
Deputy Clerk.

~~24128~~ 24128

March 14, 1966

RE: Permit No. 24128
Magic Water Company

Jack L. Allen, County Supervisor
Farmers Home Administration
Box 1258
Twin Falls, Idaho

Dear Mr. Allen:

In reply to your inquiry of March 11 Permit No. 24128, Magic Water Company is for 120 c.f.s. from Salmon Falls Creek. A Certificate of Completion of Works for 94.57 c.f.s. has been issued; however a license cannot be issued until proof of beneficial use has been made. Beneficial use proofs are due May 2, 1971.

A protest was received prior to the issuance of the Certificate of Completion of Works; however any comment on the danger of future protests would be conjecture on the part of this department.

Very truly yours,

Donald J. Watts
Office Engineer

DJW:mr

24128

UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION
PO Box 1258
Twin Falls, Idaho
March 11, 1966

RECEIVED
MAR 14 1966
Department of Reclamation

State of Idaho
Department of Reclamation
State House
Boise, Idaho 83701

Dear Sir:

We are making a loan to Asa T. White of Buhl, Idaho and need some information as to his water right.

Has the License and certificate of Water Right, No. 24128, been issued and if so to whom? When and for What quantity of water?

If the license has not been issued, is there any danger of protest to it's issuance or what has to be done to complete it's issuance?

Thanking your for the above information, I am

Sincerely yours,

Jack L Allen

Jack L. Allen
County Supervisor

24128 - Magic Water Co
C/W
B/H due May 2/71
Q 120 cfs - Salmon Falls Cr.

24128

November 4, 1965

Re: Permit Nos. 24128 - Magic Water Co.
27711 - Kenneth Marshall, et al

Hepworth & Nungester
Attorneys at Law
Buhl, Idaho

Attn: John C. Hepworth

Dear Mr. Hepworth:

Enclosed is departmental receipt No. 32986, in the amount of $69.85 covering photo copies of our file Permit No. 24128 and copy of permit and license No. 27711

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

~~24128~~

24128

October 20, 1965

RE: Permit No. 24128, Magic Water Company
27711, Kenneth Marshall et al

Hepworth & Nungester
Attorneys at Law
Buhl, Idaho

Attn: John C. Hepworth

Dear Mr. Hepworth:

Enclosed are 76 photo copies of portions of our file under Permit No. 24128, and copy of the permit and license of 27711, as you requested October 8, 1965. It took longer to make the copies than we anticipated, hence the delay.

The fee for the copies and certifications is $68.85, plus $1.00 for the map, or a total of $69.85, which you may remit to this office.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

Enc. copies

24128

September 29, 1965

RE: Permit No. 24128
Magic Water Co., Inc.

Hepworth & Nungester
Attorneys at Law
Farmers National Bank Building
Buhl, Idaho

Attn: John C. Hepworth

Dear Mr. Hepworth:

We received your letter of September 24 in regard to "The quantity of water is limited by the amount actually diverted from the stream at the described point of diversion."

There were a number of reasons why that was inserted. First there may be water entering Salmon Falls below the diversion and above the lower pumps. Second there may be leaks developed thru the dam which are neglected. Third is the possibility of future changes in the dam. Fourth the water right is not endangered by the statement in any way so long as the water is so diverted.

Idaho Code 42-105 provides for comingling water and provides that a like amount of water may be rediverted. That makes it necessary for a water measuring device in the channel opposite the pipe line in order to determine the amount of water actually diverted to be rediverted at a lower point. The necessary device may not be required if all of the water is diverted and there is no water entering the stream.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

24128

RWT:mr

cc: Bill Collin, Office of the Attorney General

LAW OFFICES
HEPWORTH AND NUNGESTER
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER
MICHAEL H. FELTON

AREA CODE 208
PHONE 543-4368

September 24, 1965

RECEIVED
SEP 29 196-
Department of Reclamation

State of Idaho
Department of Reclamation
107 Statehouse
Boise, Idaho, 83701

Atten: Ralph W. Thomas, Deputy

Re: Permit No. 24128
Magic Water Co., Inc.

Dear Mr. Thomas:

I represent Magic Water Company and I am writing in regard to the certificate of completion of works under permit #24128 which we received with your cover letter dated September 20, 1965. The certificate of completion of works is in standard form except that it adds following the description of the property on the certificate, the following: "The quantity of water is limited by the amount actually diverted from the stream at the described point of diversion". I have had opportunity to observe quite a number of certificates of completion of works issued by your office, but I confess that this is the first time that I have found the certificate qualified by statements such as this. I have examined the Idaho law and it occurs to me that the law requires your office to determine the amount of water actually diverted. As we were careful to point out at our meeting there a week ago, the entire stream of Salmon Falls Creek is diverted which would mean according to our engineer's records, over 120 second feet of water.

We have any number of witnesses and photographic proof of the fact that the entire stream was and is, in fact, diverted. My question then is why is the qualifying statement included on the certificate of completion of works? Is it not your interpretation of the law that the office of the State Reclamation

24128

Engineer is charged with the responsibility for determining the amount of water diverted. It is my suggestion that if you have any questions with respect to the law that you check with your legal advisors. Further, that if you have any doubt as to the facts with respect to diversion, that you set a time and place to the end of receiving proof of the amount of water diverted. We will be happy to have our witnesses appear and testify under oath and we will be prepared to furnish photographic confirmation of this fact. Needless to say, we will be most happy to meet with your field man and explain and have him examine the area where the diversion occurs.

I am at a loss to understand the position your office has taken in this matter, and I am most anxious to clarify it.

I am taking the liberty of sending a copy of this letter to the attorney general's office so that they may be kept advised of our position with respect to this matter.

I will look forward to hearing from you by return mail.

Very truly yours,

HEPWORTH & NUNGESTER

John C. Hepworth

JCH:jw

cc: Office of Attorney General

24129

September 23, 1965

RE: Permit No. 24128
Magic Water Co., Inc.

Lawrence B. Quinn
Attorney at Law
Box 927
Twin Falls, Idaho

Dear Mr. Quinn:

Enclosed is departmental receipt No. 32934 in the amount of $10.25 covering the fee for the photo copies of the above numbered permit which were mailed to you previously.

Thank you.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. receipt

24128

LAWRENCE B. QUINN
ATTORNEY-AT-LAW
ALTURAS BUILDING
156 THIRD AVE. NORTH
TWIN FALLS, IDAHO
83301

September 21, 1965

RECEIVED
SEP 23 1965
Department of Reclamation

State of Idaho
Department of Reclamation
107 State House
Boise, Idaho

Attention: Mrs. Edna P. Rule, Chief Clerk
Re: Permit No. 24128 - Magic Water Co Inc.

Dear Mrs. Rule:

Enclosed herewith is my check in the sum of $10.25 in payment of photo copies of the above numbered Permit.

Very truly yours,

Lawrence B. Quinn
LAWRENCE B. QUINN

LBQ:g
Enc: Check

24128

September 20, 1965

RE: Permit No. 24128
Magic Water Company, Inc.

Laurence B. Quinn
Attorney at Law
Box 927
Twin Falls, Idaho

Dear Mr. Quinn:

Enclosed are the photo copies of the above numbered permit you requested when you were in the office.

The fee for the copies is $10.25 which you may remit to this department.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. photo copies

24128

LAW OFFICES
HEPWORTH AND NUNGESTER
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER

RECEIVED
SEP 17 1965
Department of Reclamation

AREA CODE 208
PHONE 543-4368

September 16, 1965

Mr. Carl E. Tappan
State Reclamation Engineer
Department of Reclamation
107 Statehouse
Boise, Idaho, 83701

Re: Magic Water Permit No. 24128

Dear Mr. Tappan:

I am one of the attorneys for Magic Water Company and I am writing this letter pursuant to your request made at our personal meeting this morning in your office. It was my understanding that you wished me to set forth in a letter the position of Magic Water Company with respect to the works which we have completed with particular attention to the point of diversion which was questioned in the letter written by Mr. Ralph Thomas and addressed to Magic Water Company dated September 10, 1965.

Stated briefly, the confusion apparently stems from the misunderstanding in your department as expressed in Mr. Thomas' letter that Magic Water Company had two points of diversion and that our application provided for only one. The fact not understood was that our diversion at the point provided in the amended application of Magic Water Company diverts the entire stream of Salmon Falls Creek and splits the water. The diversion spills a portion of the water into a pipe line which ultimately leads to a bank of pumps which have been in operation on the Magic Water project for over eight years. The diversion further diverts the balance of the water from the natural channel and into an artificial channel constructed by Magic Water Company and downstream flows into the old channel and is later pumped by a second bank of pumps which were installed earlier this year prior to the date fixed for completion of works, to wit, May 2, 1965. The two banks of pumps are less than 100 feet apart. The

24128

total water pumped as measured by your department engineers was 94.57 C.F.S. The point is, as you and your deputies agreed at our meeting this morning, that it is only one diversion although there are two points at which water is pumped after the water has been diverted. As we explained this morning when we were there, not only are there any number of witnesses who can testify that the water is diverted from its original channel, but we, fortunately, have pictures of this which you have seen in the past. While you and your deputies felt it was unnecessary to again view the moving pictures which we had available, you may be sure that they are still available for your inspection at any time. Pursuant to your statement of this morning, I will expect that upon receipt of this letter and our enclosed check for $30.50 in payment of the certificate of completion of works, that you will send to us the Department's Certificate of Completion of Works showing our diversion and appropriation of 94.57 C.F.S. It would be greatly appreciated if you could send this to my office by return mail.

I want to thank you for the courtesy extended to my partner and me and those members of the Board of Directors of Magic Water Company who met with you and your staff this morning. We certainly can understand how a misunderstanding such as this can develop, but it is an understatement, to say the least, that we are relieved that it is now cleared up. I want to thank you again for your courtesy.

Respectfully,

HEPWORTH & NUNGESTER

John C. Hepworth

JCH:jw

21128

Sept. 10, 1965

Re: Permit No. 24128

Magic Water Company, Inc.
805 11th Avenue North
Buhl, Idaho

Dear Sir:

We have the report of field examination of the works under your permit to divert water out of Salmon Falls Creek.

The report shows you were pumping 48.26 c.f.s. with 9 pumps. The measurement was made with your weir set at head of the canal. The depth over the weir was different at each end and the quantity of water was averaged for the two different depths. These pumps are set in a pipe line from the diversion in SE¼NW¼, Sec. 2, T. 9 S., R. 13 E.

Your engineers, Hoffman-Fiske-Miller tested your pumping plant and found 50.24 c.f.s. was pumped by the same pumps.

You also had four pumps set in Salmon Falls Creek, probably in SE¼NW¼, said Sec. 2. This diversion point is not shown in your permit and cannot be considered as part of the completion of works.

During the inspection of the works while the 9 pumps were in operation, there was a small amount of return to the river at the lower end of the of the 48-inch pipe. This water was not measured however it was estimated at 2 or 3 c.f.s.

A later measurement made September 2, 1965, showed 4 pumps in operation lifting 13.48 c.f.s. with a flow of 32.81 c.f.s. returning to the river, or a total of 46.29 c.f.s. diverted.

Upon receipt of fees totaling 17.30 the Certificate of Completion Works will be issued for 50.42 c.f.s. as measured by your engineers.

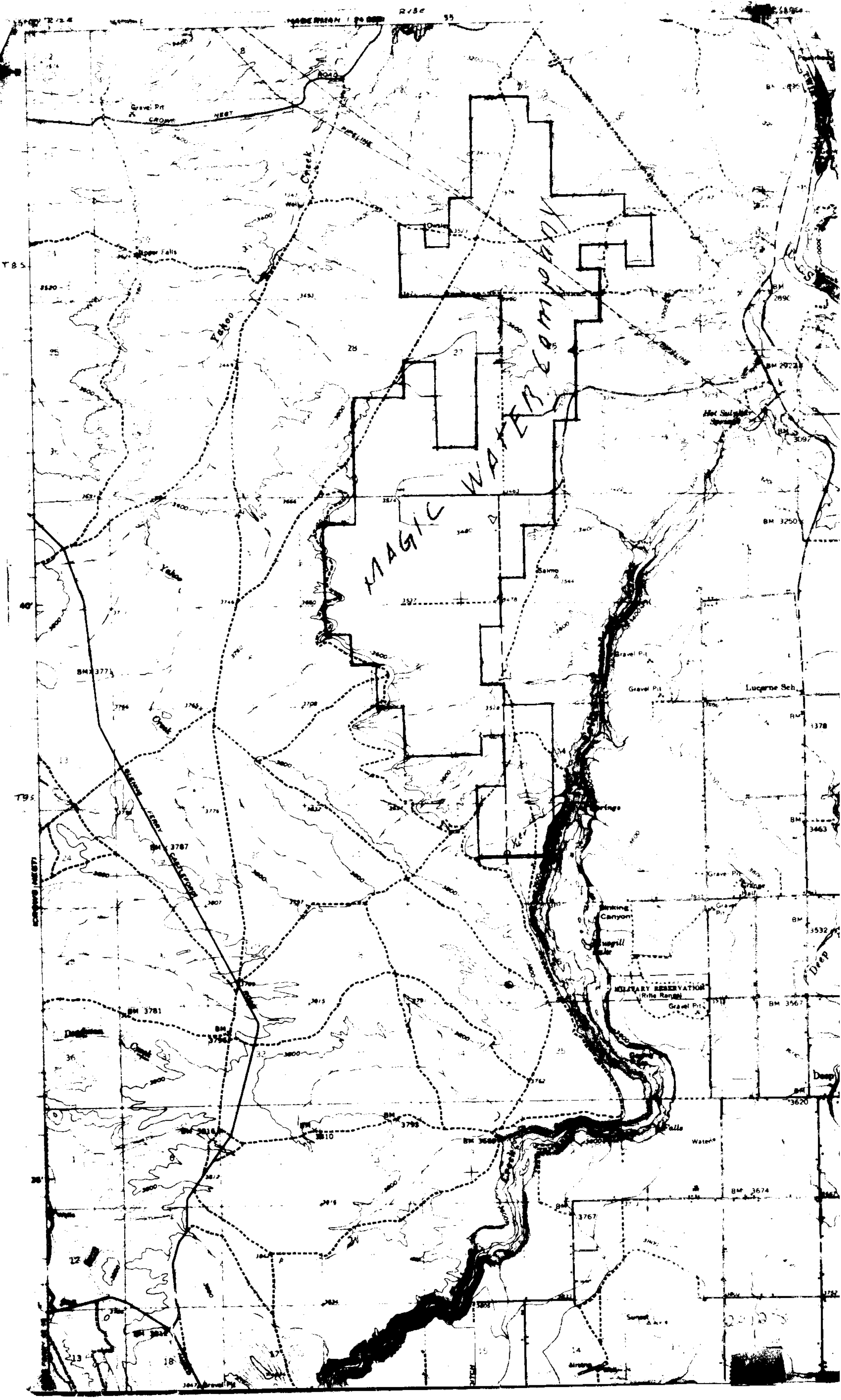
Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Refer to note by R. W. T.

24128



MAGIC WATER company
Gravel Pit
PIPELINE
Yahoo Creek
Upper Falls
Hot Sulphur Springs
BM 3097
BM 3250
Salmo
Lucerne Sch.
Gravel Pit
Sinking Canyon
MILITARY RESERVATION
(Rifle Range)
BM 3567
BM 3781
BM 3793
BM 3674
Sunset

P.D. Unit "A" subject [illegible] engineer of the project shows location to be in the SE¼NW¼, Sec. 2, T. 9 S., R. 13 E.,B.M. (New aerial photo in BLM office shows P.D. located in the SW corner SW¼NE¼, Sec. 2, T. 9 S., R. 13 E.,B.M. (Copy of photo attached.)

The diversion is an earth filled dam 127' long, 8' high, with a 12' crest width. The spillway is 33' wide x 6' deep, has a car bridge over it, and is located in the south abutment.

The outlet is in the north abutment and is a concrete winged headwall with a 48" slide gate operated by a chain hoist. The gate is attached to a 48' x 95' CMP that goes east to a concrete distribution box 8½' long x 7½' high x 7½' wide, controlled by flash boards on the east side.

Water is either diverted back to the main stream through removal of flash boards or installing boards and diverting to the north through a 36" x 27' concrete pipe to a 6'x6'x6' concrete box then to a 36" x 2700' concrete pipe penstock that is directly connected to a pumping station that has 7 200HP and 2 600HP pumps and electric motors. There is a 29' surveyed head on the pumps as stated by Mr. Maurice Eckert.

The concrete penstock connects to a 36" x 30' steel pipe that has a 36" x 6' x 30" reducer to a 30" x 20' steel pipe.

The 36" steel pipe section has 7 12" direct connections to turbine pump bases. The reducer section has a Tee connection to an 18" x 45' steel surge pipe that lies on the face of the steep uphill slope to the north. The 30" x 20' section of steel pipe has 4 18" direct connections to turbine pump bases. The two east connection pumps have been removed and bases capped. The 10th and 11th pumps created a negative head and effeciency dropped is the cause for removal of these two pumps.

There are 7 200HP and 2 600HP pumps in operation on this station. They discharge into a 30" penstock and the water is lifted approximately 360' into a buried 30" x 175' concrete pipe to a 60' x 75' x 6' weir pond and 12' Cippoletti Weir to a canal 12' bottom x 25' top x 5' deep with 2' freeboard.

Pumping

Unit "A" (SE¼NW¼, Sec. 2, T. 9 S., R. 13 E.,B.M.)

#1. 200HP GE Motor #NNT103046, Layne & Bowler Pump #22360, Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" inlet pipe - 10" discharge.

#2. 200HP GE Motor #UTJ722004, Layne & Bowler Pump #22364, Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" in let pipe - 10" discharge.

#3. 200 HP GE Motor #PNJ327019, Layne & Bowler Pump #22359 Model 14RPM (2250 GPM @ 300' @ 1770 RPM) 12" inlet pipe - 10" discharge.

#4. 200HP GE Motor #PNJ320010, Layne & Bowler Pump #22350 Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" inlet - 10" discharge.

#5. 200HP GE Motor #PNJ327021, Layne & Bowler Pump # 22356 Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" inlet - 10" discharge.

#6. 200HP GE Motor #PNJ320011, Layne & Bowler Pump #22362 Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" inlet - 10" discharge.

24128

#7. 200HP GE Motor #PNJ320012, Layne & Bowler Pump #22363 Model 14RM (2250 GPM @ 300' @ 1770 RPM) 12" inlet - 10" Discharge.

#8. 600HP GE Motor #RXJ405016, Layne & Bowler Pump # 002555 Model 16FH (5400 GPM @ 380' @ 1770 RPM) 18" inlet - 12" discharge.

#9. 600HP GE Motor #RXJ405019, Layne & Bowler Pump #? Model 16FH (5400 GPM @ 380' @ 1770 RPM) 18" inlet - 12" discharge.

#10. Pump removed, base capped.

11. Pump removed, base capped.

Pumping

Unit "B" This group of 4 600HP pumps is located 130' east of Unit "A" and is in the SE¼NE¼, Sec. 2, T. 9 S., R. 13 E.,B.M. As mentioned previously pumps 10 and 11 were removed from Unit "A" and installed at Unit "B". Pumps 12 and 13 were added. These pumps pump directly out of Salmon Falls Creek from a pond created by a dam 50' long x 6' high x 20' crest width, steep side slope, projecting from the north bank and extending into the stream leaving a 30' wide open channel on the south side. Large rocks are placed in this opening to raise the pond level. The upstream side and around the end of the dam is riprapped; 3½' to 4' freeboard is maintained.

This unit has a 30" penstock with approximately 365' lift into an 8' x 8' x 5' concrete structure at the head of the weir pond. Units "A" and "B" commingle at this point.

#10. 600HP GE Motor #CAJ310009, Layne & Bowler Pump #D91141B Model 16 FHH (5400 GPM @ 380' @ 1770 RPM) 12" discharge.

#11. 600 HP GE Motor CAJ310008, Layne & Bowler Pump #D9141A Model16 FHH (5400 GPM @ 380' @ 1770 RPM) 12" discharge

#12. 600HP GE Motor RXJ405017, Layne & Bowler Pump #D9399 Model 16FHA (5400 GPM @ 380' @ 1770 RPM) 12" discharge.

#13. 600 HP GE Motor #RXJ405018, Layne & Bowler Pump #?? Model 16 FHB (5400 GPM @ 380' @ 1770 RPM) 12" discharge.

Unit "A" enters the weir pond at an angle and causes a circular approach to the weir on the north side; this increased velocity makes the north side read .07' to .11' higher than the south side. The discharge is figured by figuring the discharge for the gage height measured on each side of the weir and taking the average of the two for the weir discharge.

The discharge for Unit "A" was found to be 48.26 c.f.s. All pumps were in operation. The water leaking and sloshing over flash boards at the end of the 48" CMP distribution box was of such a small amount it was not considered worth while to measure.

Unit "B" enters the concrete structure at the entrance of the weir pond at a right angle and also causes a velocity of approach to the weir the same as in Unit "A". The measurement was made in the same manner. The discharge was found to be 46.31 c.f.s.

Each unit was measured separately because there was not enough demand for the distribution of the full capacity of both units at the same time.

24128

Provisions are being made to install a 48" screw gate turnout in the canal that will be an emergency measure.

On September 2, 1965 Keith Higginson and I returned to the area and found 2 200HP pumps and 2 600HP pumps of Unit "A" pumping. All other pumps were off. There was considerable water spilling over, under and through the flash boards of the distribution box at the end of the 48" CMP. A current meter measurement was made after moving several large rocks in the stream to form a section. Q = 13.48 c.f.s., estimated within 10% of accuracy. The discharge for the 2 200HP and 2 600HP pumps over the weir measured in the same manner as previously mentioned was 32.81 c.f.s..

The picture showing the chain hoist gate indicates that the present pond level is what is maintained to supply Unit "A" pumps. Also see Page 2 of Copy of Magic Water Company Pump Test Report enclosed.

24128

Form 23

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 24128

This proof is for Completion of Works In Water District No.

1. Name of applicant Magic Water Company, Inc.
2. Source of water supply: Salmon Falls Creek
3. Location of point of diversion: Is in the SE¼NW¼ of Section 2
   T. 10S R. 13 E.B.M. County of Twin Falls
4. Describe works as they exist, giving dimensions and capacities of same:
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: yes.
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

All of Sec. 33; 34; 26; 27; 23; 22; 11; and the W½ Sec. 35; SW¼, SW¼NW¼ Sec. 25; E½Sec. 28; W½ Sec. 24; SE¼ Sec. 21; E½ Sec. 15; W½ Sec. 14; E½ Sec. 10; all of Sec. Nos., 29 and 32; E½ Sec. 30; E½ Sec. 31; all in Twp. 8 S., Rge. 13 E.B.M.

All of Secs. 3; 4; 9; W½, N½NE¼, SW¼NE¼, NW¼SE¼ Sec. 10; SW¼NW¼, NW¼SW¼, and Lots 3 and 4, of Sec. 2., Twp. 9 S., Rge. 13 E.B.M.

Making a total of 9, 346.63 acres

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

8. What large stream would the water here appropriated finally reach? Snake River & Columbia River

Remarks: Mr. Lee White and Maurice Eckert along

Measured over a 12' cippolletti weir. (Velocity of approach is higher on North side than south side of weir. Anyway of the two discharges used in all measurements.

June 22-23 Unit "A" Pumps North side 1.68' = 51.79 South side 1.07' = 44.72 Avg = 48.26 cfs
Unit "B" " North side 1.13 = 48.53 South side 1.06 = 44.09 Avg = 46.31 cfs } 94.57 cfs total both units

Sept 2 Unit "A" - Pumps #1, 2, 8 + 9 only North side .91' = 35.07 South side .83' = 30.55 } Avg = 32.81 cfs discharge measured spilling over plank boards at downstream box = 13.48 cfs + 32.81 = 46.29 cfs

This examination was made on the 22-23 day of June, 19 65
2 September

(Signed) Layne Johnson Examiner.
Layne Johnson & Don McClellan
Layne Johnson & Keith Higgenson

2H128

Lee L. White, Pres.,
Magic Water Co. Inc.,
805 11th Ave. No., Buhl, Idaho
Permit No. 24128

Examination for Completion of Works

County Twin Falls

Sec. 2 T10S R.13 EBM

Quantity: 120.0

Source: Salmon Falls [illegible]

P. D.: ~~Subd 36 95 12E~~ SE NW 2 - 10S - 13E

Use: Irrigation

Filed: 2 - 11 - 53

Due: 5 - 2 - 58

Extension: 5 - 2 - 63
5 - 2 - 68

Protest: —

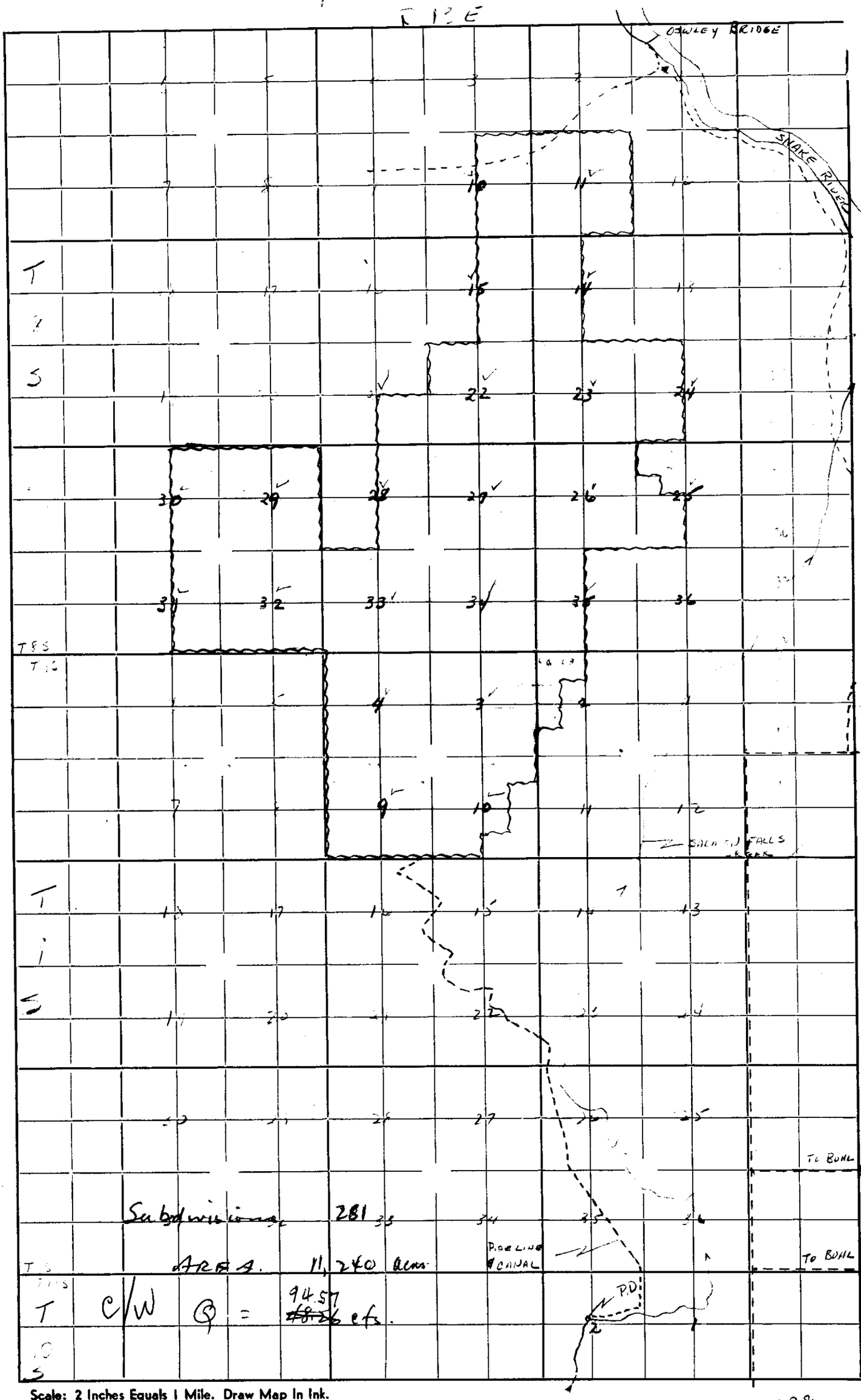
Completion of Works: —

Other Rights: None

INSTRUCTIONS TO EXAMINERS

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

RECEIVED
SEP 10 1965
Department of Reclamation



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

24128

Form 23

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

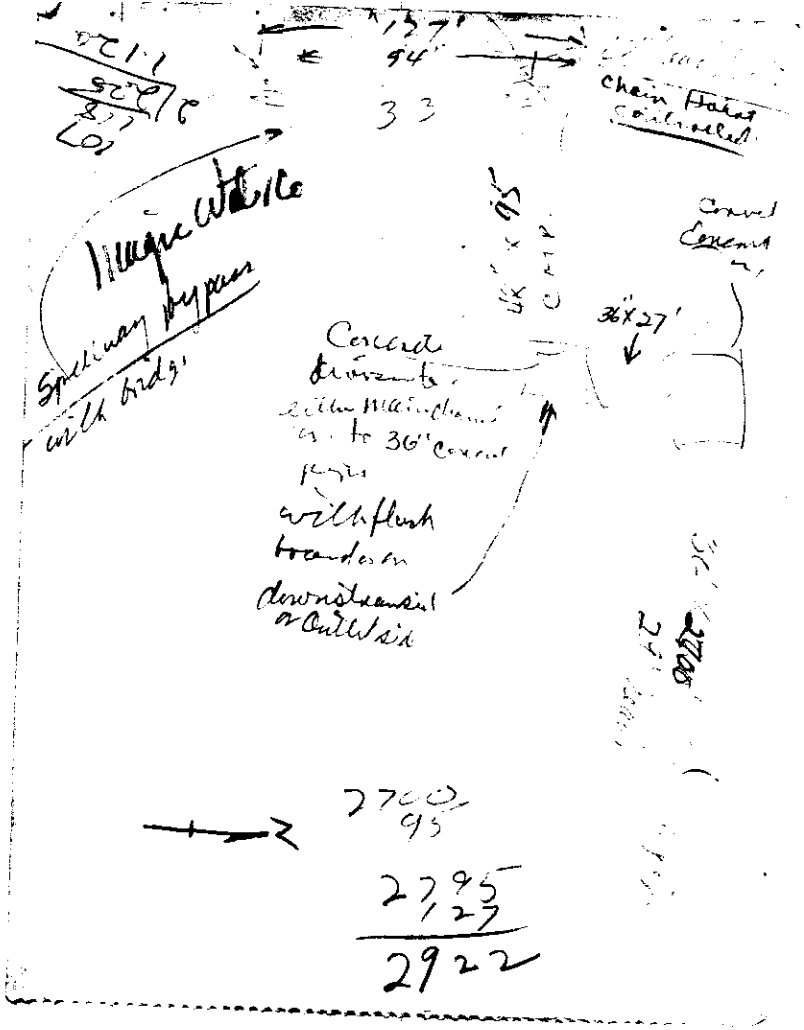
REPORT OF ENGINEER

PERMIT NO. 24128

REPORT ON PROOF OF Completion of Works

Lee L. White, Prem., Magic Water Co. Inc.,
805 11th Ave. N., Buhl, Idaho

lapse made
3-24-36-10
KA.


137'
54'
33
Chain Hotel
Concrete
Concrete
36"x27'
Concrete
with Manholes
to 36" Concrete
pipes
with flush
headwall
downstream
2700
95
2795
27
2922

5/N 600 GE Motor # RXJ 405017

Layne Bowler Pump # D 9395 (Model 16FHA

(5000 GPM @ 380' @ 1770 RPM

3.362

6734

3367

40.40

1.107

28278

40404

40404

44.72778 = 1.67 GH

40 40

44.73

40.404

1282 = 1.18

80808

32323

80808

40404

51.7978

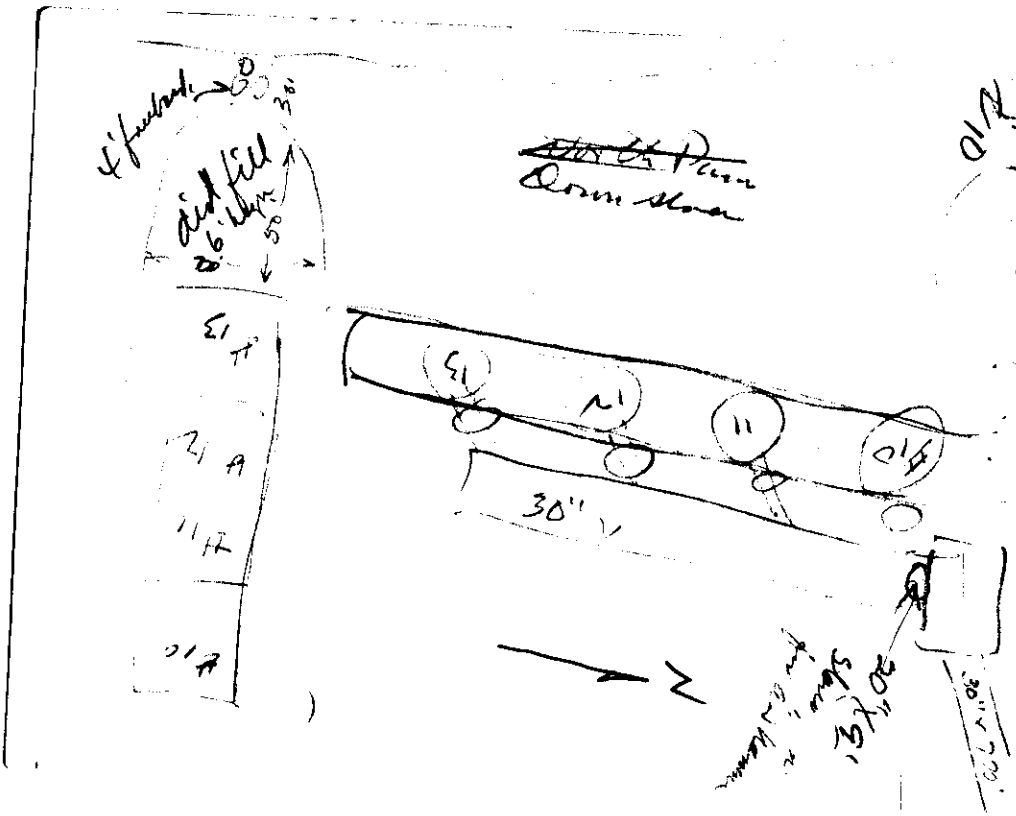
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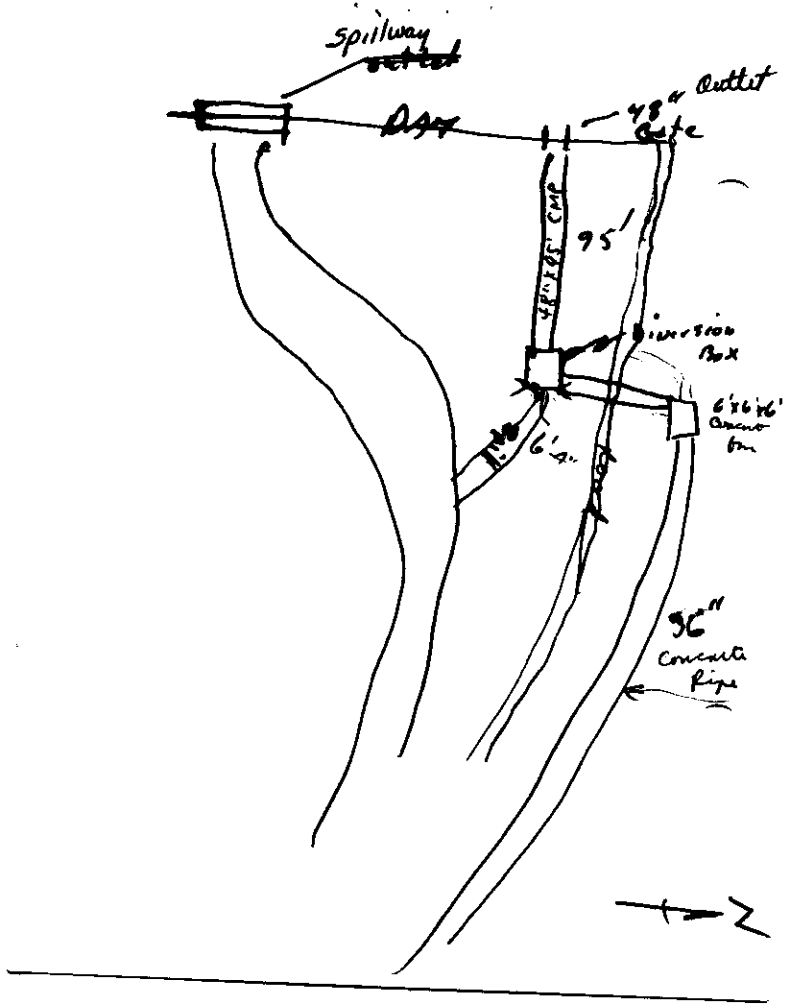
44.73

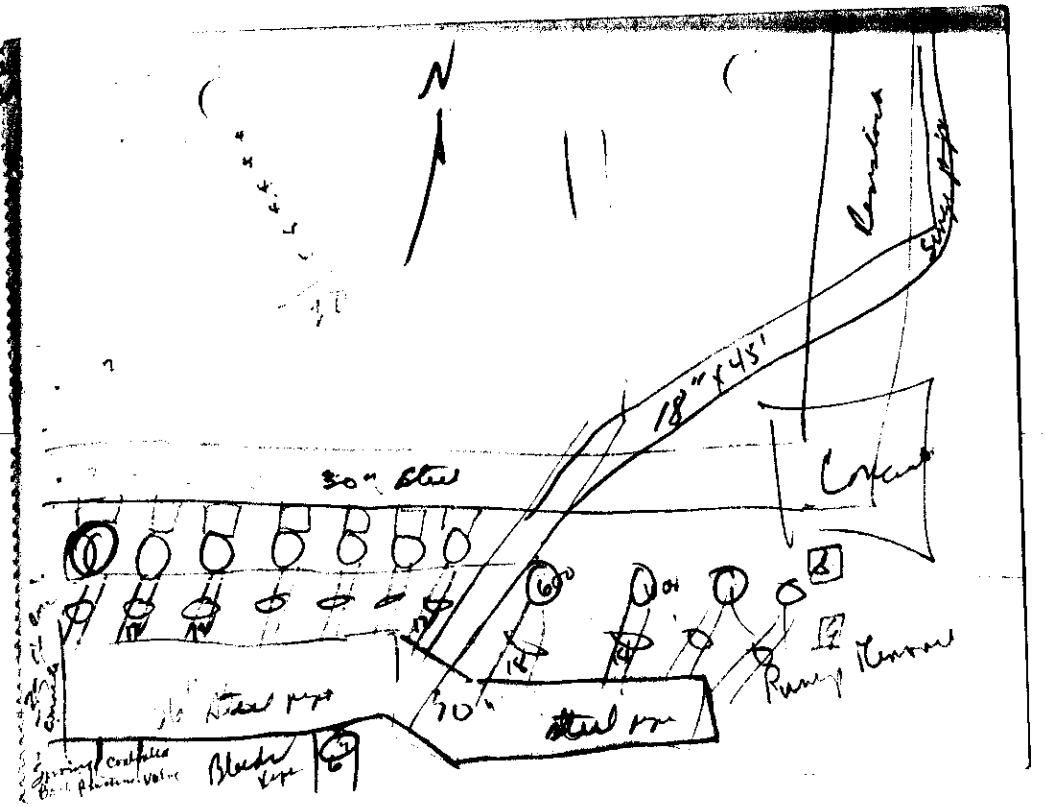
2 | 96 53

48.26 ½ ~ 48 ½

4.


dirt fill
30"
E1
A
11
01
S1
N1
11
01
30"
N


Spillway
48" Outlet
95'
Diversion Box
6'x6'x6' Concrete Box
6'
96" Concrete Pipe


N
18" x 45'
30" Steel
Blocks

GH 1.07 7-20 2-60

3.67 X 12 X 1.107 (1.1068) 44.72 .45

Unit "A"

Avg. 48.26 cfs

GH 1.18 = 1.282 (1.2818) 51.79

4827 51.79 .35

4631 46.53

GH 1.02 = 1.091 (1.0913) 44.09 .40

4600 HP

GH 1.03 = 1.201 (1.2017)

Avg. 4631 cfs

48.53 .41

4827

46.31

46.36

14.9

40.404
1.091
40404
363636
40404
44.080764 = 1.06'

40.404
1.201 = 1.13'
40404
80808
40404
48.525204

44.08
48.53
92.61
46.30
48.28
94.58

Sept. 20, 1965

Re: Permit No, 24128
Magic Water Co., Inc

Hepworth & Nungester
Farmers National Bank Bldg.
Buhl, Idaho 83316

Gentlemen:

Enclosed is the Certificate of Completion of Works on the above numbered permit, which has been recorded in this office.

Also enclosed is departmental receipt No. 32925, in the amount of $30.50 covering fees.

Very truly yours,

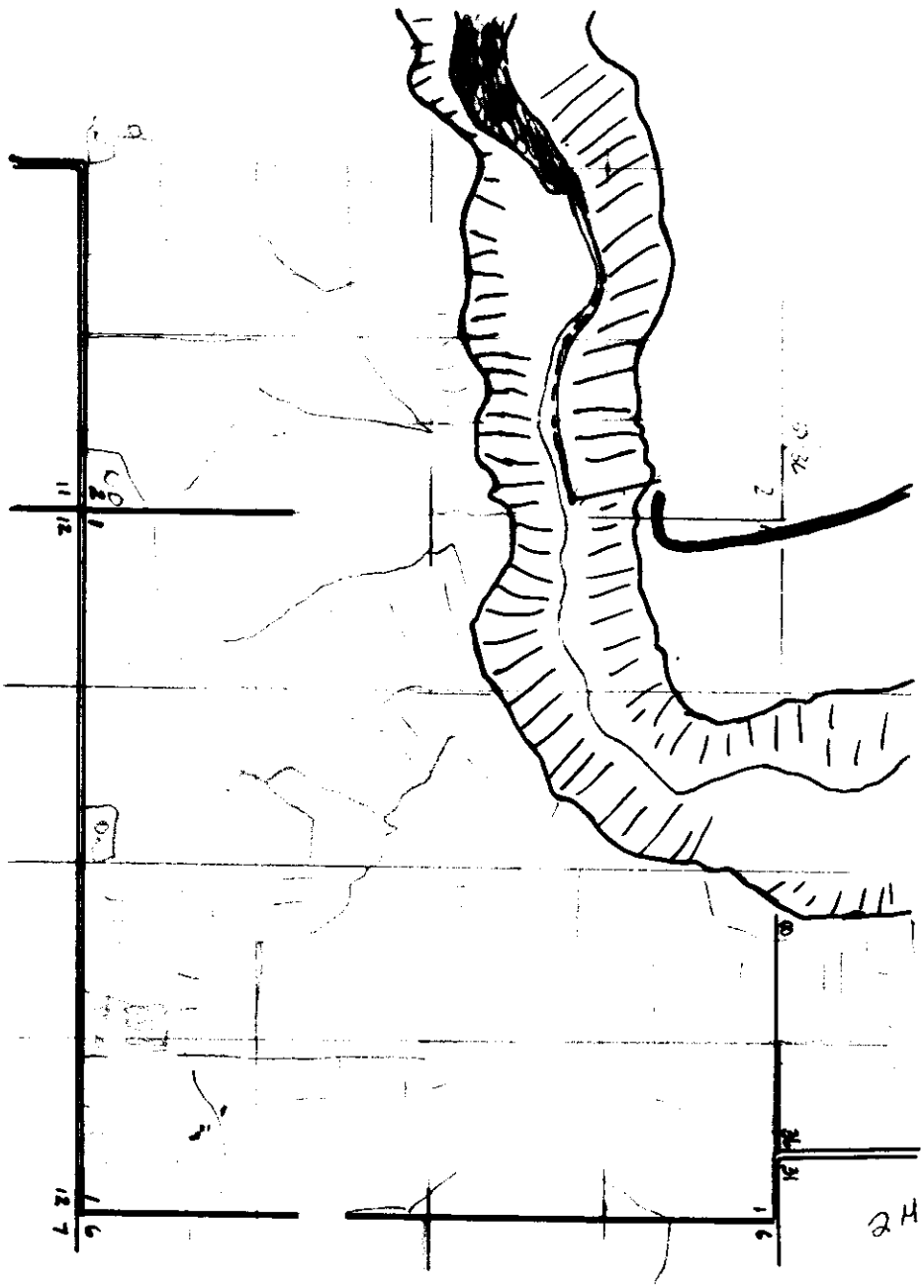
RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. Certificate
receipt

24128

Majic water Co



2H128

August 3, 1965

RE: Permit No. 24128
Magic Water Co., Inc.

Murphy, Schwartz & Cunningham
Attorneys at Law
1227 Lynwood Mall
Twin Falls, Idaho

ATTENTION: John A. Doerr

Dear Mr. Doerr:

Enclosed is dismissal of protest by Mr. Kenneth N. Marshall to issuance of Certificate of Completion of Works No. 24128 to Magic Water Co., Inc.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:ct
Enc. dismissal of protest

cc: Magic Water Co., Inc.
with copy of protest

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

IN RE PERMIT NO. 24128

MAGIC WATER COMPANY, Inc.

ORDER

Dismissing Protest and Allowing Certificate Of Completion of Works

MAGIC WATER COMPANY, Inc. of Buhl, Idaho made proof of completion of works under Permit No. 24128, on April 19, 1965

Kenneth W. Marshall, Holder of Permit No. 27711, protested issuance of Certificate of Completion of Works on grounds that the permit and extensions of time allowed for completion of works were defective and of no avail.

Permit No. 24128 is still valid according to the record in the State Reclamation Office.

The protest of Kenneth W. Marshall is hereby dismissed and the Certificate of Completion of Works will be issued to the Magic Water Company, Inc., in the amount found by the field examination to be warranted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the State Department of Reclamation at Boise, Idaho, this 3rd day of August, 1965.

Deputy State Reclamation Engineer

24128

June 10, 1965

RE: Magic Water Co.
Permit # 24128

Hepworth & Nungesser, Attorneys
Buhl,
Idaho

ATTENTION: Mr. John C. Hepworth

Dear Mr. Hepworth:

In line with your telephone call this afternoon I have checked our records regarding the recorded location of point of diversion under subject permit and found it to be in the SE¼NW¼, Section 2, T.10S-R.13EBM. Field inspection indicates that there is a second point of diversion, probably located in the SE¼NE¼, Section 2, T.10S-R.13EBM.

From our conversation over the telephone it appears that the original pump delivery is less than called for in the permit and that Magic Water Company claims the right to reclaim the balance of the amount of water originally applied for by installing an additional pumping plant further downstream.

Idaho Code 42-105 provides basis for above method of appropriation with certain restrictions being observed, especially the fact that the total water appropriated by means of the two separate diversion points does not exceed the original quantity filed for.

It must be remembered also that the completion of works of all units must be done within the specified time stated in the permit. If this has not been accomplished the permit should be amended to show two points of diversion and would require new proofs and re-advertizing as instructed by the Attorney General's office.

24128

Field inspector will be instructed to reinspect the plant while in the general area, probably the end of this week and we will contact you immediately after receiving his report.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

H. PETRI
Office Manager

HP:ct
photocopy to Steve Boller

24128

June 3, 1965

RE: Permit No. 24128

Lee L. White, President
Magic Water Company, Inc.
805 11th Avenue North
Buhl, Idaho

Dear Mr. White:

Your permit shows one point of diversion in the SE¼NW¼, Sec.2, T. 10 S., R. 13 E.,B.M. as amended July 15, 1964.

The field trip to your pumping plants found that your new pump installation diverts water from Salmon Falls Creek at the pump, probably in the SE¼NE¼, Sec. 2, T. 10 S., R. 13 E.,B.M.

As the conditions of the permit are binding, this office can only recognize the water delivered by the original pumping plant which is fed by a diversion in the SE¼NW¼, said Section 2.

Kindly notify this office when the original pumping plant will be in operation.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

24128

May 18, 1965

COPY

Murphy, Schwartz & Cunningham
Attorneys at Law
1227 Lynwood Mall
Twin Falls, Idaho

Attention: John A. Doerr

Dear Mr. Doerr:

As requested in your letter of May 17, 1965, we hereby acknowledge receipt of Notice of Protest to Issuance of Certificate of Completion of Works under Permit No. 24128. One copy returned herewith.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

H. Petri, Head
Water Rights & Records Section

HP:mr

Enc. copy of protest

24128

LAW OFFICES OF

MURPHY, SCHWARTZ & CUNNINGHAM

JACK M. MURPHY
FRED A. SCHWARTZ
JAMES M. CUNNINGHAM
JOHN A. DOERR
LARRY D. HANSON

TWIN FALLS, IDAHO
1227 LYNWOOD MALL
733-4961

SHOSHONE, IDAHO
JOURNAL BUILDING
886-2289

Twin Falls, Idaho

May 17, 1965

RECEIVED
MAY 18 1965
Reclamation

State of Idaho
Department of Reclamation
State House
Boise, Idaho

Gentlemen:

Enclosed herewith are original and copy of Notice of Protest to Issuance of Certificate of Completion of Works signed by Kenneth W. Marshall relative to Permit No. 24128.

Will you please acknowledge receipt on the enclosed copy and return same to our office for our files.

Thank you.

Very truly yours,

MURPHY, SCHWARTZ & CUNNINGHAM

By- John A. Doerr

m
Encl.

24128

NOTICE OF PROTEST TO ISSUANCE OF CERTIFICATE

OF COMPLETION OF WORKS

RECEIVED
MAY 18 1965
Department of Reclamation

TO: Department of Reclamation
State of Idaho
State House
Boise, Idaho

COMES NOW, Kenneth W. Marshall, holder of Permit No. 27711, and alleges as follows:

That on April 19, 1965, Magic Water Company, holder of Permit No. 24128, made proof of completion of works which was filed with the Department of Reclamation on April 22, 1965.

That the original application for Permit No. 24128, submitted by the Evergreen Canal Company, was defective, incomplete and insufficient and not in compliance with the statutes of the State of Idaho, and that the same was and is null and void; in particular, that the application failed to state the date and place of incorporation, the amount of capital stock, the amount paid in, the names and addresses of the directors, and further failed to allege any financial resources; further, that the location of the point of diversion was erroneous.

That the purported extensions of time to complete works of diversion granted to Magic Water Company by the State Reclamation Engineer on January 10, 1958 and March 15, 1960 were granted unlawfully and are without legal effect and the same were and are null and void; in particular, that Section 42-204, Idaho Code, prior to its amendment in 1963, provided that extensions of time to complete works of diversion could be had only upon a proper showing to the Department of the existence

MURPHY, SCHWARTZ & CUNNINGHAM
ATTORNEYS AT LAW
SHOSHONE AND TWIN FALLS, IDAHO

of the pendency of an application for a right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring title to the water in question; that in fact, no litigation was pending over title to the water in question at the time of the purported extensions of time or at any time prior thereto, nor were any rights of way or other matters within the jurisdiction of the United States pending at the time of such purported extensions of time or at any time prior thereto.

That the works constructed by Magic Water Company are incapable of conducting 100 cubic feet per second of water from the point of diversion to the point of application to beneficial use. That said permit was and is null and void and any pretended rights under said permit are without legality and have long since the date of said permit lapsed and expired.

WHEREFORE, the undersigned hereby protests the issuance by the Department of Reclamation to Magic Water Company of a certificate of completion of works; that if the Department of Reclamation elects to issue its certificate of completion of works to Magic Water Company under Permit No. 24128, the undersigned requests that he be furnished with notice of issuance of such certificate of completion of works.

DATED this 17th day of May, 1965.

Kenneth W. Marshall

State Reclamation Engineer

MURPHY, SCHWARTZ & CUNNINGHAM
ATTORNEYS AT LAW
SHOSHONE AND TWIN FALLS, IDAHO

RECEIVED
MAR 19 1965
Department of Reclamation

NOTICE OF PROTEST TO ISSUANCE OF CERTIFICATE

OF COMPLETION OF WORKS

TO: Department of Reclamation
State of Idaho
State House
Boise, Idaho

COMES NOW, Kenneth W. Marshall, holder of Permit No. 27711, and alleges as follows:

That on April 19, 1965, Magic Water Company, holder of Permit No. 24128, made proof of completion of works which was filed with the Department of Reclamation on April 22, 1965.

That the original application for Permit No. 24128, submitted by the Evergreen Canal Company, was defective, incomplete and insufficient and not in compliance with the statutes of the State of Idaho, and that the same was and is null and void; in particular, that the application failed to state the date and place of incorporation, the amount of capital stock, the amount paid in, the names and addresses of the directors, and further failed to allege any financial resources; further, that the location of the point of diversion was erroneous.

That the purported extensions of time to complete works of diversion granted to Magic Water Company by the State Reclamation Engineer on January 10, 1958 and March 15, 1960 were granted unlawfully and are without legal effect and the same were and are null and void; in particular, that Section 42-204, Idaho Code, prior to its amendment in 1963, provided that extensions of time to complete works of diversion could be had only upon a proper showing to the Department of the existence

MURPHY, SCHWARTZ
& CUNNINGHAM
ATTORNEYS AT LAW
SHOSHONE AND
TWIN FALLS, IDAHO

of the pendency of an application for a right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring title to the water in question; that in fact, no litigation was pending over title to the water in question at the time of the purported extensions of time or at any time prior thereto, nor were any rights of way or other matters within the jurisdiction of the United States pending at the time of such purported extensions of time or at any time prior thereto.

That the works constructed by Magic Water Company are incapable of conducting 100 cubic feet per second of water from the point of diversion to the point of application to beneficial use. That said permit was and is null and void and any pretended rights under said permit are without legality and have long since the date of said permit lapsed and expired.

WHEREFORE, the undersigned hereby protests the issuance by the Department of Reclamation to Magic Water Company of a certificate of completion of works; that if the Department of Reclamation elects to issue its certificate of completion of works to Magic Water Company under Permit No. 24128, the undersigned requests that he be furnished with notice of issuance of such certificate of completion of works.

DATED this 17th day of May, 1965.

Kenneth W. Marshall

MURPHY, SCHWARTZ
& CUNNINGHAM
ATTORNEYS AT LAW
SHOSHONE AND
TWIN FALLS, IDAHO

24128

May 13, 1965

M E M O R A N D U M

John C. Hepworth of Hepworth & Nungesser, Attorneys, Buhl, called that Magic Water Co. "penstock" broke this morning.

Damage to the works restricted to mud damage in their powerhouse, but water to irrigators is cut off and water is not wasted out of the creek channel. Contractors to repair the works ordered immediately.

Called U. S. B. R. in line with the criteria established for flood control operations at the meeting in our office on May 11th for whatever action is deemed necessary.

Loy Johnson will be there this P.M. and will report back to us.

The situation may be a serious delay for irrigators.

Permit 24128

H. PETRI

24128

May 5, 1965

COPY

Re: Permit No. 24128
Magic Water Co., Inc.

Murphy, Schwartz & Cunningham
Attorneys at Law
1227 Lynwood Mall
Twin Falls, Idaho

Gentlemen:

Enclosed is departmental receipt 12765, in the amount of $2.75 covering fees for photo copies of holder and two witnesses depositions, in connection with the above numbered permit.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

24128

April 30, 1965

COPY

Re: Permit No. 24128
Magic Water Co., Inc.

Murphy, Schwartz & Cunningham
Attorneys at Law
1227 Lynwood Mall
Twin Falls, Idaho

Attn: John A. Doerr

Dear Mr. Doerr:

Enclosed are photo copies of deposition of holder and two witnesses with Schedule "A" attached to the deposition of holder you requested by letter.

The fee is ~~$4.85~~ 2.75 which you may remit to this office.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc.photo copies

24128

LAW OFFICES OF

MURPHY, SCHWARTZ & CUNNINGHAM

JACK M. MURPHY
FRED A. SCHWARTZ
JAMES M. CUNNINGHAM
JOHN A. DOERR
LARRY D. HANSON

TWIN FALLS, IDAHO
1227 LYNWOOD MALL
733-4961

SHOSHONE, IDAHO
JOURNAL BUILDING
886-2289

Twin Falls, Idaho

April 29, 1965

RECEIVED
APR 30 1965
Department of Reclamation

Department of Reclamation
State of Idaho
State House
Boise, Idaho

Attention: Mrs. Rule

Dear Mrs. Rule:

Would you please furnish us with copies of all proceedings had at the hearing for proof of completion of works on April 19th in regard to permit No. 24128. If the proof has not yet been filed with your office, I would appreciate you sending us such copies when the proof is filed.

If you will furnish us with a statement of your charges for these copies, we will remit payment immediately.

Very truly yours,

MURPHY, SCHWARTZ & CUNNINGHAM

By- John A. Doerr

JAD:m

24128

1M April 1962

April 26, 1965

Re: Permit No. 24,128

Lee L. White, President
Magic Water Company, Inc.,
805 11th Avenue N.,
Buhl, Idaho

Dear Mr. White:

We acknowledge receipt of the depositions of holder and two witnesses, also affidavit of publication in the BUHL HERALD _____, all submitted in proof of completion of works [redacted]use on Permit No. 24,128.

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

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

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:

cc: Wm. L. Hungerter
Hepworth and Hungerter
Farmers National Bank Bldg.,
Buhl, Idaho 83316

24128

LAW OFFICES
HEPWORTH AND NUNGESTER
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO – 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER

AREA CODE 208
PHONE 543-4368

April 21, 1965

Dept. of Reclamation
Statehouse
Boise, Idaho

Re: Permit 24128
Magic Water Company, Inc.

Dear Sir:

Enclosed please find an affidavit of publication and the depositions of the holder and two witnesses.

If you need any further information please let me know.

Very truly yours,

HEPWORTH & NUNGESTER

Wm. L. Nungester

WLN:bh

Enc. 3

24128

Form 15

PERMIT NO. 24128

Proof of Completion of Works

RECEIVED
APR 22 1965
Department of Reclamation

DEPOSITION OF HOLDER

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

Ans. Lee L. White, 805 11th Ave. N., Buhl, Idaho, Farmer

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

Ans. Magic Water Company, Inc., Buhl, Idaho, an Idaho corporation, President--as president.

Ques. 3. State number and date of permit, amount of water you are authorized to divert, source, and point of diversion.

Ans. No. 24128, May 2, 1953 100 Cubic Second feet of water, Salmon Falls Creek diverted at Sec. 2, T. 10 S., R. 13, E.B.M.

Ques 4. State purpose for which water is to be used, and, if for irrigation, state the number of acres and give description of the land you intend to reclaim.

Ans. Irrigation, 9,346.63 acres as follows:

SEE ATTACHED SCHEDULE "A"

Ques. 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

Ans. Facilities large enough for 100 cubic second feet

70 second feet During summer of 1964

Ques. 6. State whether or not the works of diversion are fully completed, and whether or not they comply in all respects with the terms of the permit.

Ans. Works are fully completed and comply with permit to extent of being adequate to pump and convey 100 cubic second feet of water.

Ques. 7. If the works of diversion do not comply with all the terms of your permit, state fully those particulars in which there is any variance.

Ans. Not large enought to transport 120 cubic second feet, but if large enough to transport 100 cubic second feet of water.

Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans. 7-200 HP Pumps, 2-600 HP Pumps and one 30 inch penstock, 4-600 HP Pumps and one 30 inch penstock, 11 miles of main canal with 12 foot bottom and five feet in depth, 10 miles of laterals, for a total cost of $ 745,800.00. System adequate to conduct 100 cu. sec. feet of water from Salmon Falls Creek to land to be irrigated. (Sign here) Lee L. White

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in Buhl, County of Twin Falls, State of Idaho, on this 19th day of April A. D. 19 65

Notary Public.

My Commission expires 1-1-69

24128

Schedule "A"

TOWNSHIP 8, SOUTH RANGE 13, E.B.M.:

All of Sections 33; 34; 26; 27; 23; 22; 11; the W½, Section 35; SW¼, SW¼NW¼, Section 25; E½, Section 28; W½ Section 24; SE¼, Section 21; E½, Section 15; W½ Section 14; E½ Section 10.

TOWNSHIP 9 SOUTH, RANGE 13, E.B.M.:

All of Sections 3; 4; 9; W½, N½NE¼, SW¼NE¼, NW¼SE¼, Section 10; SW¼NW¼, NW¼SW¼, and Lots 3 and 4, Section 2.

24128

Form 14

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 24128

RECEIVED
APR 22 1965
Department of Reclamation

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. Jean Milar, Twin Falls, Idaho - 831 Alturas Drive
Engineer

Ques. 2. Are you acquainted with Magic Water Company, the holder of Permit No. 24128, authorizing the diversion of 120 second-feet of the waters of Salmon Falls Creek, at Sec. 2. Township 10 South, Range 13, E.B.M., for irrigation purposes? How long have you known him, and where does he reside?

Ans. three years Route # 3, Buhl, Idaho

Ques. 3. Have you read or heard read said Permit No. 24128, and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Yes. Portneuf Silt Loam with gentle slopes
3.2 acre feet per acre per season.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. No Adequate 100 cubic feet per second

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. 7-200 HP Pumps, 6-600 HP Pumps, 2-30 inch pump lines or penstocks,
Canal of 12 foot bottom, 5 foot depth, capacity 100 cubic feet
per second

(Sign here.) Jean Milar

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Buhl County of Twin Falls, State of Idaho, on this 19th day of April, A. D. 19 65.

24128

Notary Public for Idaho
Residing at Buhl, Idaho

AFFIDAVIT of PUBLICATION

APR 22 19[illegible]
Department of Reclamation

STATE OF IDAHO
County of Twin Falls } ss.

I, **Robert E. Bailey,** do solemnly swear that I am the printer and editor of THE BUHL HERALD, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper four consecutive weeks, the first publication having been made on the 25th day of March, 19 65, and the last publication having been made on the 15th day of April, 19 65; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho,** for a period of more than 78 weeks prior to the first publication of the attached notice.

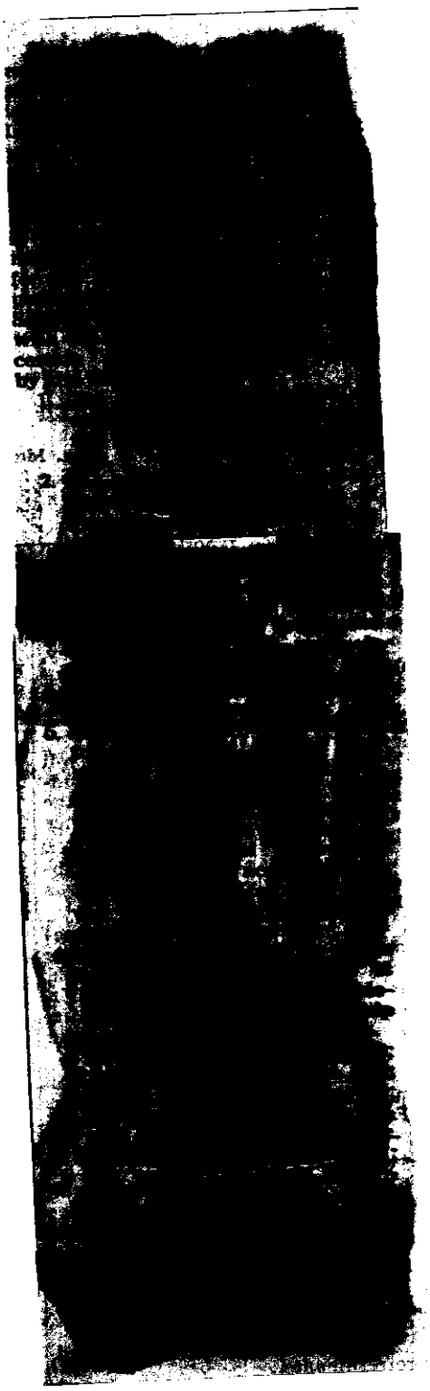
Robert E. Bailey

Subscribed and sworn to before me this 15th day of April, 19 65

Notary Public.

Buhl, Idaho
Residing at

January 1, 1969
My Commission Expires



24128

Form 14

The Depositions of two Witnesses, in this form, taken separately, required in each case.

Permit No. 24128

RECEIVED
APR 22 1965
Department of Reclamation

Proof of Completion of Works

DEPOSITION OF WITNESS

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

Ans. L. L. Remaklus, Route # 4, Jerome, Idaho
Engineer Assistant

Ques. 2. Are you acquainted with Magic Water Company, the holder of Permit No. 24128, authorizing the diversion of 120 second-feet of the waters of Salmon Falls Creek, at Sec. 2, Township 10 South, Range 13, E.B.M., for irrigation purposes? How long have you known him, and where does he reside?

Ans. Four Months Route # 3, Buhl, Idaho

Ques. 3. Have you read or heard read said Permit No. 24128, and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Yes, Portneuf Silt Loam with gentle slopes
3.2 acre feet per acre per season

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. No. Adequate 100 cubic feet per second

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. 7-200 HP Pumps, 6-600 HP Pumps, 2-30 inch pump lines or penstocks, Canal of 12 foot bottom, 5 foot depth, capacity 100 cubic feet per second

(Sign here) L. L. Remaklus

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Buhl County of Twin Falls, State of Idaho, on this 19th day of April, A. D. 1965.

24128

Notary Public for Idaho
Residing at Buhl, Idaho

SPEED MESSAGE

TO Carl E. Tappan

107 State House

Boise, Idaho 83701

FROM BUHL HERALD, INC.

P. O. Box 312 Phone 543-4335

BUHL, IDAHO

SUBJECT Notice for publication for Magic Water Company

DATE March 25, 1965

Dear Mr. Tappan:

Attached is a clipping of the Notice for Publication for Magic Water Company which is to run March 25, and April 1, 8, and 15.

RECEIVED
MAR 26 1965
Reclamation

Buhl Herald, Inc.

SIGNED Buhl Herald, Inc
ac

24128

FORM 44-900 U.S.A.

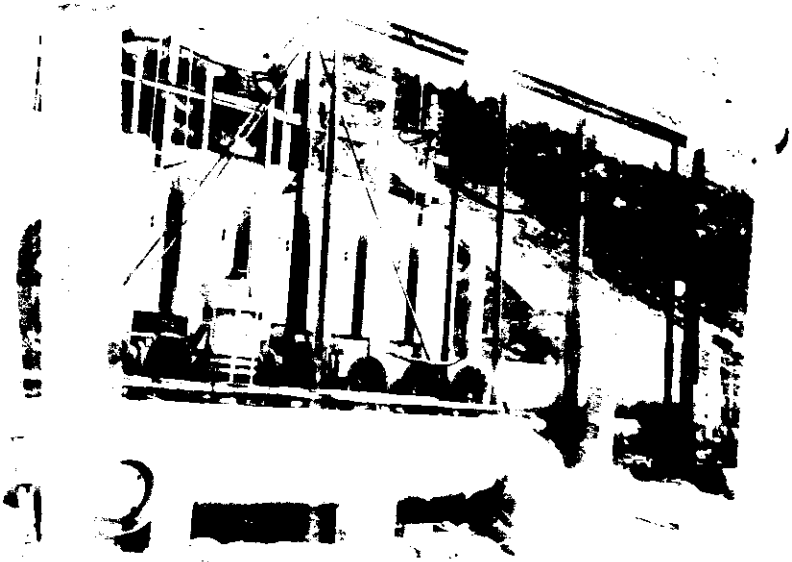
NOTICE FOR PUBLICATION

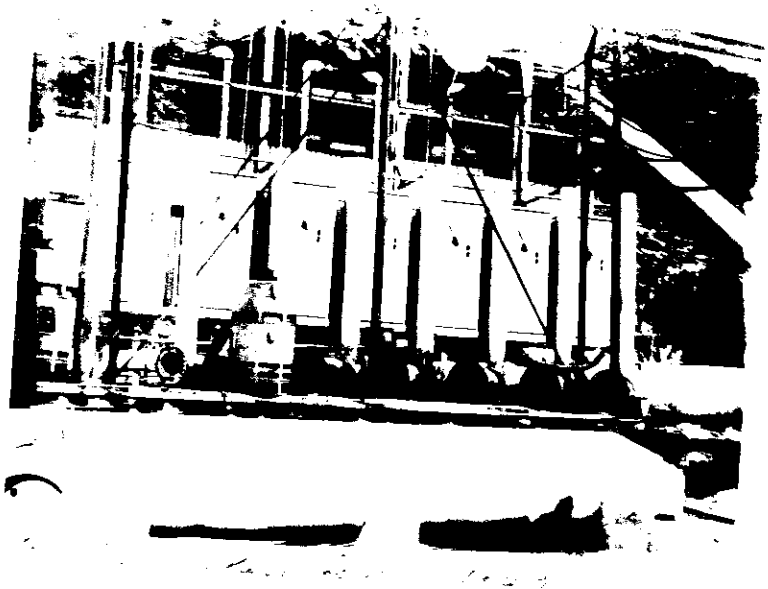
Notice is hereby given that at 10:00 A.M., on the 19th day of April 1965, at Farmers National Bank Bldg. Buhl, County of Twin Falls, State of Idaho, before Wm. L. Nungester proof will be submitted of the completion of works for the diversion of 100 cubic feet per second of the waters of Little Salmon Falls Creek in accordance with the terms and conditions of a certain permit heretofore issued by the State of Idaho.

1. The name of the person or corporation holding said permit is Magic Water Company, Inc.
2. The postoffice address of such person or principal place of business of such corporation is Buhl, County of Twin Falls, State of Idaho.
3. The number of such permit is 24128, and the date set for the completion of such work is May 2, 1965.
4. Said water is to be used for irrigation purposes.
5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit. is 100 cubic feet per second.
6. The amount of lands for which said water is available is 9,346.63 acres, particularly described as follows: Township 8, South Range 13, E. B.M. All of Sec. 33; 34; 26; 27; 23; 22; 11; and W½ Sec. 35; SW¼, SW¼ NW¼, Sec. 25; All of Sec. Nos. 29 & 32; E½ Sec. 30; E½ Sec. 31; E½ Sec. 28; W½ Sec. 24; SE¼ Sec. 21; E½ Sec. 15; W½ Sec. 14; E½ Sec. 10; Township 9 South Range 13, E. B.M. All of Sec. 3; 4; 9; W½, N½ NE¼, SW¼ NE¼, NW¼ SE¼, Sec. 10; SW¼ NW¼, NW¼ SW¼, and Lots 3 & 4 of Sec. 2.

CARL E. TAPPAN
State Reclamation Engineer

(10t4)





Re: Permit No. 24128
Magic Water Company, Inc.

Date: March 18, 1965

Buhl Herald,
Buhl, Idaho.

Gentlemen:

Enclosed you will find Notice for Publication, once a week for four consecutive weeks prior to April 19, 1965 the date set for proof; the expense of the publication is to be paid by the applicant 's attorney, Hepworth & Nungester of Buhl, Idaho to whom you should furnish proof of publication on or prior to the date set for proof.

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

Very truly yours,

Carl E Tappan

CARL E. TAPPAN
State Reclamation Engineer

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

24128

Re: Permit No. 24128
Magic Water Company, Inc.

March 18, 1965

Hepworth & Mangester,
Attorneys at Law,
Buhl, Idaho.

Gentlemen:

This acknowledges the Notice of Proof of Completion of Works under Permit No. 24128, in the name of Magic Water Company, Inc. Final Proof is to be made before Wm. L. Mangester as Notary on the 19th day of April, 1965, at 10:00 o'clock A.M., at Farmers National Bank Building, Buhl, Idaho.

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

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

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

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(MRS.) EDNA P. RULE
Chief Clerk

24128

Encl.
ETR:pmk
cc: Applicant

March 5, 1965

COPY

Permit No. 24128

Magic Water Co., Inc.
Route #3
Buhl, Idaho

Gentlemen:

We are returning your check #1525, in the amount of $1.00 for fee for the amending of the above permit.

This amendment was recorded and mailed to the attorneys asking for the fee and they mailed in a check for $1.00 on March 4th.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. check $1.00

24128

March 5, 1965

COPY

Re: Permit No. 24128

Hepworth & Nungester
Attorneys at Law
Farmers National Bank Bldg.
Buhl, Idaho

Gentlemen:

Enclosed is departmental receipt No. 32659, for $1.00 covering the fee for recording the amendment to the above numbered permit, mailed to you on March 2, 1965.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

24128

LAW OFFICES
HEPWORTH AND NUNGESTER
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER

AREA CODE 208
PHONE 543-4368

March 3, 1965

Dept. of Reclamation
107 State House
Boise, Idaho 83701

Gentlemen:

Enclosed please find our check in the sum of $1.00 for recording an amendment for Magic Water Co., Inc.

Very truly yours,

HEPWORTH & NUNGESTSR

Wm. L. Nungester

WLN:bh

Enc.

24128

March 2, 1965

COPY

Re: Permit No. 24128

Hepworth & Nungester
Attorneysat Law
Farmers National Bank Bldg.
Buhl, Idaho

Gentlemen:

Enclosed is the amendment to the land list on the above numbered permit, which has been recorded in this office.

There is a fee of $1.00 for recording an amendment which should be mailed into this office as soon as possible.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. amendment

cc: Magic Water Co., Inc.
Buhl, Idaho

24128

Form No. 7

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

ReP Permit No. 24128

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Hepworth & Ningester
Attorneys at Law
Buhl, Idaho

Boise, Idaho,

March 1, 1965

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. 24128.

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 May 2, 1965. Upon receipt of the blank properly filled out, notice of 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.

24128

Very truly yours,

Enc. Form 8 and 11

State Reclamation Engineer

Note: We are holding the forms already made up in this office, but the usual form letter is being mailed as a reminder of the date for making proofs

cc: Magic Water Co., Inc.

Form No. 11
2M 12-64

FEB 24 196

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) 2/17/65

(P. O.) Buhl, Idaho

TO THE STATE RECLAMATION ENGINEER

Boise, Idaho

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Buhl Herald of Buhl, Idaho Published in the county in which the works are situated.

MAGIC WATER COMPANY, INC

President

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

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

Jean Mular

Engineer

Form No. 11
2M 12-64

RECEIVED
FEB 24 1965
Department of Reclamation

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) 2/17/65

(P. O.) Buhl, Idaho

TO THE STATE RECLAMATION ENGINEER

Boise, Idaho

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Buhl Herald of Buhl, Idaho Published in the county in which the works are situated.

MAGIC WATER COMPANY, INC

[signature]
President

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

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

Jean Miller
Engineer

21128

FORM 8

Notice for Publication

Notice is hereby given that at 10:00 AM., on the ..... day of .....
Farmers National Bank Bldg.
19 65, at Buhl, County of Twin Falls, State of Idaho,
before Wm. L. Nungester proof will be submitted of the completion of works
for the diversion of 100 cubic feet per second of the waters of Little Salmon Falls Creek
in accordance with the terms and conditions of a
certain permit heretofore issued by the of the State of Idaho.

1. The name of the perrson or corporation holding said permit is Magic Water Company, Inc.

2. The postoffice address of such person or principal place of business of such corporation is
Buhl, County of Twin Falls, State of Idaho.

3. The number of such permit is 24128, and the date set for the completion of such work is
May 2, 1965

4. Said water is to be used for irrigation purposes.

5. Said works of diversion will be fully completed on the date set for such completion, and the amount of water which said works are capable of conducting to the place of intended use, in accordance with the plans accompanying the application for such permit, is 100 cubic feet per second.

6. The amount of lands for which said water is available is 9,346.63 acres, particularly described as follows:

Township 8, South Range 13, E.B.M.
All of Sec. 33; 34; 26; 27; 23; 22; 11; and W½ Sec. 35; SW¼ SW¼ NW¼ Sec. 25;
All of Sec. Nos. 29 & 32; E½ Sec. 30; E½ Sec. 31;
E½ Sec. 28; W½ Sec. 24; SE¼ Sec. 21; E½ Sec. 15; W½ Sec. 14; E½ Sec. 10;
Township 9 South Range 13, E.B.M. All of Sec. 3; 4; 9; W½, N½ NE¼, SW¼ NE¼,
NW¼ SE¼, Sec. 10; SW¼ NW¼, NW¼ SW¼, and Lots 3 & 4 of Sec. 2.

CARL E. TAPPAN
Commissioner of Reclamation.
STATE RECLAMATION ENGINEER

24128

APPLICATION FOR AMENDMENT

LAND LIST

PERMIT NO. 24128

Comes now MAGIC WATER COMPANY, INC., and represents to the STATE RECLAMATION ENGINEER of the State of Idaho:

That it is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, no. 24128, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

Township 8, South Range 13, E.B.M.:

All of Sec. 33; 34; 26; 27; 23; 22; 11; and the W½ Sec. 35; SW¼, SW¼ NW¼, Sec. 25; E½ Sec. 28; W½ Sec. 24; SE¼, Sec. 21; E½ Sec. 15; W½ Sec. 14; E½ Sec. 10. All of Sec. Nos. 29 & 32; E½ Sec. 30; E½ Sec. 31;

Township 9 South Range 13, E.B.M.:

All of Sec. 3; 4; 9; W½, N½ NE¼, SW¼ NE¼, NW¼ SE¼, Sec. 10; SW¼ NW¼, NW¼ SW¼, and Lots 3 and 4 of Sec. 2. making a total of 9,346.63 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Buhl, Idaho, this 23rd day of February, 1965.

(SEAL) MAGIC WATER COMPANY, INC.

ATTEST:

Secretary

President

24128

LAW OFFICES
HEPWORTH
AND
NUNGESTER
BUHL, IDAHO

Date of Receipt at office of Department of Reclamation February 24, 1965.

APPROVAL OF STATE RECLAMATION ENGINEER

I, CARL E. TAPPAN, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

Carl E. Tappan
State Reclamation Engineer

24128

LAW OFFICES
HEPWORTH
AND
NUNGESTER
BUHL, IDAHO

LAW OFFICES
HEPWORTH AND NUNGESTER
FARMERS NATIONAL BANK BUILDING
BUHL, IDAHO -- 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER

AREA CODE 208
PHONE 543-4368

February 8, 1965

State Dept. of Reclamation
Statehouse
Boise, Idaho

Re: Keller, et al, vs.
Magic Water Company

Gentlemen:

This letter is to inform you that the Magic Water Company has recently entered into a construction contract in which Hoffmann, Fiske & Milar are the engineers and Sligar the contractor for the construction of an additional penstock and the installation of an additional pump, raising the company's total pumping capacity to 5,000 horsepower. I felt you should be made aware of this fact, so that you can take it into consideration while doing your examination and report as ordered by the Honorable Theron W. Ward in that certain order dated February 5, 1965.

If you have any questions, please advise.

Very truly yours,

HEPWORTH & NUNGESTER

Wm. L. Nungester

WLN:bh

cc. Theron W. Ward

24138

December 4, 1964

COPY

RE: Permit No. 24128
Magic Water Company, Inc.

Fred A. Schwartz
Attorney at Law
Box 394
Twin Falls, Idaho

Dear Mr. Schwartz:

Enclosed is departmental receipt No. 32554 in the amount of $11.25 covering the fee for the photo copies from the file of the above numbered permit which were mailed to you previously.

Thank you.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. receipt

24128

November 30, 1964

RE: Permit No. 24128
Magic Water Company, Inc.

Fred A. Schwartz
Attorney at Law
Box 394
Twin Falls, Idaho

Dear Mr. Schwartz:

Enclosed are the photo copies of the documents from the file of Permit No. 24128 you requested when you were in the office. These copies have been proofed with the originals.

Also enclosed is your list of the documents you requested copies of.

Below is an itemized statement of the fees for the copies:

5 letter size sheets @	.50	$2.50
8 " " " "	.40	3.20
5 Legal size sheets @	.75	3.75
3 " " " "	.60	1.80
Total		$11.25

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

Enc. 14 documents
list of documents

24128

COPY

October 27, 1964

RE: Permit No. 24128
Magic Water Company

Albaugh, Bloem, Smith & Pike
Attorneys at Law
Box 428
Idaho Falls, Idaho

Attention: Ralph L. Albaugh

Dear Mr. Albaugh:

Enclosed is a copy of a request for an extension of time, dated March 11, 1960, for the above noted permit.

The other permits noted on the request have been relinquished.

The fee is $2.25 which you may remit to this office.

Very truly yours,

RALPH W. THOMAS
Deputy State Reclamation Engineer

RWT:mr

Enc. copy of extension

24128

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. BOX 428
IDAHO FALLS, IDAHO 83402

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE
WM. L. NIXON

FOURTH FLOOR
ROGERS ANNEX BUILDING
TELEPHONE 522-6291

OCT 27 1964
Department of Reclamation

October 26, 1964

Department of Reclamation
State House
Boise, Idaho

Gentlemen: Re: Permits No. 24128, 25739, 25817 and 26408

On or about March 11, 1960, the Magic Water Company, Inc. filed a petition with you for an extension of time for completion of works on the above numbered permits.

We would like to have a copy of this petition. Will you kindly forward same to us, together with you bill which will be promptly paid.

Sincerely,

Ralph L. Albaugh

RalphL. Albaugh

jb

24128

July 16, 1964

Re: Permit No. 24128

Magic Water Company, Inc.
Buhl, Idaho

Gentlemen:

Enclosed is the Application for Amendment to the point of diversion which has been recorded in this office.

Departmental Receipt No. 32336 was given to you in this office covering the fee of $1.00 for recording.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. amendment

24128

RECEIVED
JUL 15 1964
Department of Reclamation

Application for Amendment

POINT OF DIVERSION

Permit No. 24128

****

Comes now Magic Water Company and represent__ to the State Reclamation Engineer of the State of Idaho:

That he is (are) the owner_ and holder_ of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128.

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

60 feet north and 2777 ft west from the SE Corner of Sec. 36 T9S R13E and in the SW¼SE¼ of Sec 36 T9S R13E B/M T.F. Counts;

That he now requests that the point_ of diversion be changed to a point_ located: North 16°32' West 3570 ft from the west ¼ corner of Sec 2, T10S R13E BLM and in the SE¼NW¼ Sec 2

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

The original written description was wrong;

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

Signed at Boise, Idaho, this 15 day of July 1964

Kenneth R. Nungester (Rubl)
By Bill Hart

Date of Receipt at Department Of Reclamation: July 15, 1964

APPROVAL OF STATE RECLAMATION ENGINEER

RALPH A. THOMAS, Deputy

I, ~~CHAS. M. CARTER~~, State Reclamation Engineer of the State of Idaho, HEREBY APPROVE the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

Ralph A. Thomas
Deputy State Reclamation Engineer

Recorded in Book 36 of Permits, at Page 24128
July 15, 19 64

24128

JUN 30 1964

June 29, 1964 Department of Reclamation

O. J. Buxton
Land Commissioner
Idaho State Land Department
Boise, Idaho

Dear Sir:

Please consider this as our application for a right-of-way across the following State lands:

Township 9 South - Range 13 East, B.M., Idaho		
Sec. 16,	NE¼, E½SE¼, NE¼NW¼ ----------	7,490 feet
36,	E½SW¼ ----------	1,820 feet
	Length -------	9,310 feet
	Area ---------	21.37 ac.

The purpose of this request is to obtain a right-of-way for the construction of an irrigation ditch 50 ft. on each side of the center-line described on the attached map.

A certified map in duplicate is attached hereto, as per instructions, and one (1) copy of this map has been filed with the State Reclamation Engineer. Also included is a check in the amount of $5.00.

The land in question has not been sold under contract.

If further information is needed, please advise and it will be furnished immediately.

Very truly yours,

MAGIC WATER COMPANY

BY: Lee L. White

Lee L. White, President

24128

April 24, 1964

Re: Permit No. 24128
Magic Water Co., Inc.

Albaugh, Bloem, Smith & Pike
Attorneys at Law
P. O. Box 428
Idaho Falls, Idaho

Gentlemen:

Enclosed is departmental receipt No. 32207, in the amount of $1.50 covering fee for the copy of the application of extension of time on the above numbered permit, mailed to you on April 21st.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

24128

Enc. receipt

April 23, 1964

Re: Permit No. 24128
Magic Water Co., Inc.

Albaugh, Bloem, Smith & Pike
P. O. Box 428
Idaho Falls, Idaho

Gentlemen:

Enclosed is a departmental receipt No. 32205, in the amount of $1.50 covering fee for the order for the extension of time, mailed to you on April 17th.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

24128

April 21, 1964

Re: Permit No. 24128
Magic Water Co., Inc.

Albaugh, Bloem, Smith & Pike
Attorneys at Law
Box 428, Idaho Falls, Idaho

Attn: Ralph L. Albaugh

Dear Mr. Albaugh:

Enclosed are photo copies of the two sheets of petition for extension of time for completion of works, received January 13, 1958, as requested in your letter of April 20th.

There is a fee of $1.50 which you may remit to this office.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT :ew

Enc. photo copies

24128

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. Box 428
IDAHO FALLS, IDAHO 83402

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE
WM. L. NIXON

FOURTH FLOOR
ROGERS ANNEX BUILDING
TELEPHONE 522-6291

RECEIVED
APR 21 1964
Department of Reclamation

April 20, 1964

Mr. Carl E. Tappen
State Reclamation Engineer
State House
Boise, Idaho

Dear Sir: Re: Permit No. 24128
Magic Water Company, Inc.

On May 23,1958, your department granted an Extension of Time. The Order Granting the Extension recites that an application was made January 13, 1958, for this Extension.

We have a copy of the Order but we do not have a copy of the Application. Will you kindly forward copy of this Application to us?

Sincerely,

ALBAUGH,BLOEM,SMITH & PIKE

Ralph L. Albaugh

Ralph L. Albaugh

RLA:jb

24128

April 20, 1964

Re: Permit No. 24128
Magic Water Co;, Inc

Albaugh, Bloem, Smith & Pike
Attorneys at Law
P. O. Box 428
Idaho Falls, Idaho

Gentlemen:

Enclosed is a copy of the application for extension of time for completion of works as you requested. Our fee for the copy is $1.50 which you may remit to this office.

Very truly yours,

CARL E. TAPPAN
State Reclamation Engineer

By:

D. L. RHODES, Assistant
State Water Rights Clerk

DLR :ew

Enc. copy of extension

24128

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. BOX 428
IDAHO FALLS, IDAHO

FOURTH FLOOR
ROGERS ANNEX BUILDING
TELEPHONE 522-6291

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE

APR 17 19[illegible]
Department of [illegible]

April 16, 1964

State Reclamation Engineer
State House
Boise, Idaho

Dear Sir:

On May 23, 1958, your Department made an order extending the time of completion of works under Permit No. 24128 and an extension of time as to all other requirements of the Permit. This order recites that the Magic Water Company made the application for the extension of time on January 13, 1958. We have a copy of the order extending time but we do not have a copy of the application dated January 13, 1958, made by the Magic Water Company. Will you please forward to us a copy of this application?

Sincerely,

ALBAUGH,BLOEM,SMITH & PIKE

Ralph L. Albaugh

Ralph L. Albaugh

RLA:jb

24128

May 27, 1963

Re: Permit No. 24128; 29605

Harley M. McDowell
Idaho Land & Appraisal Service
P. O. Box 2161
Boise, Idaho

Dear Mr. McDowell:

Enclosed is departmental receipt No. 31569, in the amount of $7.00 covering fees for certified copies of the above numbered permits.

Very truly yours,

CARL E. TAPPAN, Assistant
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

24128

May 21, 1963

RE: Permit No. 24128, 29605

Harley M. McDowell
Idaho Land and Appraisal Service
Box 2161
Boise, Idaho

Dear Mr. McDowell:

Enclosed are the certified copies of the above numbered permits which you requested.

The fee for making the copies is $7.00.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. copies of permit

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

In the Matter of Water Permit No. 24128 in the Name of MAGIC WATER COMPANY, INC.	EXTENSION OF TIME FOR COMPLETION OF WORKS

APPROVAL OF STATE RECLAMATION ENGINEER

I, CARL E. TAPPAN, Assistant State Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction of works under Permit to appropriate the public waters of the State of Idaho No. 24128 from May 2, 1963, to May 2, 1965.

WITNESS My hand this 1st day of April, 1963.

Carl E. Tappan

Assistant State Reclamation Engineer.

24128

April 1, 1963

RE: Permit No. 24128
Magic Water Company, Inc.

Clifford E, Fix
Attorney at Law
Fidelity Bank Building
Twin Falls, Idaho

Dear Mr. Fix:

Enclosed is the extension of time on Permit No. 24128

in the name of Magic Water Company, Inc.

Very truly yours,

CARL E. TAPPAN
Assistant State Reclamation Engineer

CET:mr

Enc. extension

24128

R-12E.

R-13E.

7.
8.
1.

7.
9.
5.

2H 28

✓ = A1

March 29, 1963

Re: Permit No. 24128
Magic Water Co., Inc.

Parry, Robertson & Daly
Attorneys at Law
Twin Falls, Idaho

Attn: Clifford E. Fix

Dear Mr. Fix:

Returned herewith are the legal notice, authority for publication, your check for $1.00 and the amendment to the land list.

The amendment to the land list may be re-submitted, or withheld for the present, until the size of the completed project is definitely known.

Mr. Tappan will consider the request for extension of time upon his return to the office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. legal notice
authority
amendment
check

24128

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
TWIN FALLS, IDAHO

TELEPHONE 733-3722
AREA CODE NO. 208

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
CLIFFORD E. FIX
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN

OF COUNSEL:
HUGH A. BAKER

March 28, 1963.

Mr. Carl Tappan,
Deputy State Reclamation Engineer,
Department of Reclamation,
State House,
Boise, Idaho.

Re: Permit No. 24128 - Magic Water Company, Inc.

Dear Mr. Tappan:

This will supplement recent conferences with you regarding the application of Magic Water Company, Inc. for a two-year extension of time from May 2, 1963, for completion of works. A copy of the application filed by Maurice Eckert, Vice-President, submitted in January, 1963, is enclosed for ready reference. This was denied on February 12, 1963, for the reason that the Company had already been granted a five-year extension which was all that was permitted under the statute then in force.

Since this decision, S. B. 228 was passed by the Legislature and signed by the Governor and is now law (Chapter 214, 1963 Idaho Session Laws). As you know, Chapter 214 amends Section 42-204, Idaho Code, by providing that the time for completion of works under any permit involving the construction of a reservoir of more than 200,000 acre feet capacity or for the appropriation of water to be impounded in said reservoir of more than 200,000 acre feet capacity or a diversion of more than 25,000 acre feet in one irrigation season for a project of not less than 5,000 acres, may, upon application, be extended by the State Reclamation Engineer for an additional period of seven years, instead of five as the statute previously provided, but not to exceed twelve years in all from the date of the permit, instead of ten.

As will be apparent from Permit No. 24128, the Magic Water Company complies with the requirements of the law as now amended. The project would provide for the diversion of more than 25,000 acre-feet in one irrigation season, the amount applied for being 120 cubic feet per second and the project, as described in said permit, is considerably in excess of 5,000 acres. Also, as appears from the Magic Water Company application for extension of time, the Company has spent on structures, water measurement stations, pumping plants, pipelines, canals and rights-of-way, well over $300,000.00. I may add that

24128

since this application was filed four additional pumps are being installed and work is being done to enlarge the canals for water delivery for the 1963 season but additional time is necessary for completion of works for the entire project.

Accordingly, by this letter we are re-submitting the application of the Magic Water Company for an extension of time for the completion of works from May 2, 1963, to May 2, 1965, and we respectfully request that this application be granted.

If any additional information is needed, do not hesitate to call me by phone collect. For your convenience, I am enclosing a form of approval in duplicate.

Your early consideration of this matter will be very much appreciated.

Very truly yours,

Clifford E. Fix

CLIFFORD E. FIX

CEF:jb
Enclosures.

CC: Magic Water Company, Inc.,
Route #3,
Buhl, Idaho.

24128

March 8, 1963

RE: Permit No. 24128
Magic Water Company, Inc.

Harley M. McDowell
Idaho Land & Appraisal Service
Box 2161
Boise, Idaho

Dear Mr. McDowell:

Enclosed is departmental receipt No. 31468 in the amount of $3.50 covering the fee for making two copies, one certifed, of the above numbered permit.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. receipt

24128

March 6, 1963

Re: Permit No. 24128
Magic Water Co., Inc.

Parry, Robertson & Daly
Fidelity Bank Bldg.
Twin Falls, Idaho

Attn: Clifford B. Fix

Dear Mr. Fix:

Enclosed is approved amendment to land list, as recorded in this office.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. copy of amendment

24128

March 6, 1963

Re: Permit No. 24128
Magic Water Co., Inc.

Harley M. McDowell
Idaho Land & Appraisal Service
P. O. Box 2161, Boise, Idaho

Dear Mr. McDowell:

Enclosed is the Application for Amendment to the land list on the above numbered permit, which has been recorded in this office.

Also enclosed is departmental receipt No. 31464 in the amount of $1.00 covering fee.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. amendment
receipt

24128

IDAHO LAND & APPRAISAL SERVICE
P. O. Box 2161 BOISE, IDAHO

RECEIVED
MAR 5 1963
Department of Reclamation

Application for Amendment

LAND LIST

Permit No. 24128

Comes now Magic Water Company, Inc., and represents to the STATE RECLAMATION ENGINEER of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

All, Sec.15; E½NE¼, E½SE¼, Sec.33; All Sections 34, 35, 26, 27, 22, 23, 13, 14, 17, 18, 19, 20; W½Sec. 24; E½, Sec. 30; W½, Sec. 21; N½, SW¼, NW¼SE¼, Sec. 29, T8S-R13E. SE¼, Sec.14; W½SE¼, Sec. 13; E½NE¼, NE¼SE¼, Sec.26; NW¼SW¼, W½NW¼, Sec.25; E½, Sec.23; All, Sec. 24, T 8 S - R 12 E. All, Sec. 3, W½ SW¼NE¼, NW¼SE¼ Sec. 2, E½, Sec. 10, W½NW¼, NW¼SW¼, Sec.11, T 9 S - R 13 E.,

, making a total of 12,880 acres.

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Buhl, Ida. this 5 day of January, 1963

Magic Water Company, Inc.

By [signature] President

Date of receipt at office of Department of Reclamation March 5, 1963

APPROVAL OF STATE RECLAMATION ENGINEER

I, ~~GEO. N. CARTER~~ RALPH W. THOMAS, Deputy State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 24128. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

Ralph W. Thomas
Deputy
State Reclamation Engineer

Recorded March 5, 1963
in Book 66 of Permits
Page 24128

24128

March 4, 1963

RE: Permit No. 24128
Magic Water Company, Inc.

Harley M. McDowell
Idaho Land & Appraisal Service
Box 2161
Boise, Idaho

Dear Mr. McDowell:

Enclosed are the two copies, one certified, of the above numbered permit which you requested.

The fee for making the copies is $3.50.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(Mrs.) Edna P. Rule
Chief Clerk

EPR:mr

Enc. copies of permit 2

24128

February 28, 1963

Re: Permit No. 24128
Magic Water Co., Inc.

Parry, Robertson & Daly
Lawyers
Fidelity Bank Bldg.
Twin Falls, Idaho

Attn: John R. Coleman

Dear Mr. Coleman:

Returned herewith are two Forms 8 and Form 11 , in connection with proof of completion of works.

Mr. Clifford E. Fix has been working on this case, however, I understand that he/~~has~~ will leave the office in the near future.

The land list shown includes land in Sections 4, 9, and 10, T. 9 S., R. 13 E. which is not shown on our copy of the permit.

The extra lands may be deleted from the notice or an application to amend the land list may accompany the forms when returned. There is a fee of $1.00 for recording any amendment.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew
Enc. Form 8 and 11

24128

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
TWIN FALLS, IDAHO

TELEPHONE 733-3722
AREA CODE NO. 208

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
CLIFFORD E. FIX
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN

OF COUNSEL:
HUGH A. BAKER

February 26, 1963.

Mr. Ralph W. Thomas,
Deputy State Reclamation Engineer,
107 State House,
Boise, Idaho.

Re: Permit No. 24128.
Magic Water Company, Inc.

Dear Mr. Thomas:

Confirming our telephone conversation this date and referring to your letter of February 20, 1963, relative to the above numbered permit I am enclosing in duplicate Form 8, "Notice for Publication", and Form 11 being a letter to the State Reclamation Engineer transmitting the Notice.

You will note that the date for the submission of Proof of Completion of Works has been set for May 1, 1963.

Very truly yours,

Clifford E. Fix

CLIFFORD E. FIX

CEF:jb
Enclosures.

CC: Magic Water Company,
c/o Maurice Eckert,
Route #3,
Buhl, Idaho.

P. S. I would appreciate it if you would send at your convenience the "Proof of Completion of Work" forms.

C.E.F.

24128

February 20, 1963

RE: Permit No. 24128
Magic Water Co.

Parry, Robertson & Daly
Lawyers
Fidelity Bank Building
Twin Falls, Idaho

Attention: Clifford T. Fix

Dear Mr. Fix:

Enclosed are a small supply of Form 8 and Form 11 with instructions. Two Form 8 and one Form 11 should be sent to this office.

The publication must be in a Twin Falls County paper, the county wherein the point of diversion is located.

The notice should be received in this office at least 35 days before the date for making the proof.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas
Deputy State Reclamation Engineer

RWT:mr

Enc. Supply of Form 8 & Form 11

24128

PARRY, ROBERTSON & DALY
LAWYERS
FIDELITY BANK BUILDING
TWIN FALLS, IDAHO

TELEPHONE 733-3722
AREA CODE NO. 208

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY
CLIFFORD E. FIX
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN

OF COUNSEL:
HUGH A. BAKER

February 19,
1 9 6 3

State Reclamation Engineer
Department of Reclamation
State Capitol Building
Boise, Idaho

Att: Ralph W. Thomas
Re: Permit No. 24128

My dear Mr. Carter:

Reference is made to your letter to Magic Water Company, Buhl, Idaho, dated February 12, 1963, advising that no further extension of time can be allowed on the above numbered permit for completion of works.

I would appreciate it if you would send me the form referred to in your letter. As I interpret Section 42-214 of the Idaho Code the Notice, on a form to be submitted by your Department, must be sent to you at least 60 days before the date set for the completion of works. This would mean by March 2, 1963.

Thank you for your cooperation in the matter.

Very truly yours,

Clifford E. Fix

CLIFFORD E. FIX

CEF:EF
cc: Magic Water Co., Inc.
RFD #3
Buhl, Idaho

24128

February 12, 1963

Re: Permit No. 24128

Magic Water Co., Inc.
Buhl, Idaho

Dear Sirs:

We have an opinion from the Attorney General's office that no further extension of time can be allowed on the noted permit for completion of works.

You should be prepared to make proof of completion of works on or before May 2, 1963. A legal notice must be published in four weekly issues of a Twin Falls County paper showing you are to make said proofs.

The forms will be sent to you in March or earlier on request.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

24128

FEB 12 [illegible]
Department of Reclamation

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
BOISE

ALLAN G. SHEPARD
ATTORNEY GENERAL

February 12, 1963

Mr. Carl Tappan
Assistant State Reclamation Engineer
Department of Reclamation
Statehouse
Boise, Idaho

Re: Magic Water Company, Inc.

Dear Mr. Tappan:

Section 42-204, Idaho Code, states that the department "shall require that actual construction work shall be complete within a period of five years from the date of such approval."

The above section refers to the completion of works and is separate and distinct from an application to beneficial use. The time limit for application to beneficial use may be extended for several reasons whereas the completion of works may be extended for the following reasons only: prevention from proceeding because of certain specified conflicts with the United States, or because of litigation which concerns or affects the title to the water involved.

It would then appear that Magic Water Company has had all the extension of time for completion of works to which it is entitled, and that no more can be granted.

Very truly yours,

FOR THE ATTORNEY GENERAL

Michael Southcombe

MICHAEL SOUTHCOMBE
Assistant Attorney General

MS/ml

24128

ROBERT E. SMYLIE
Governor

GEO. N CARTER
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE

February 5, 1963

Attorney General
227 Statehouse
BUILDING

Attn: Mike Southcombe

Dear Mr. Southcombe:

The attached memorandum briefly sets up conditions pertaining to Permit No. 24128, of the Magic Water Company, and our question is:

Is this department correct in allowing further extension of time?

Your earliest consideration will be gratefully appreciated.

Very truly yours,

Carl E Tappan

CARL E. TAPPAN, Assistant
State Reclamation Engineer

CET:ew

Enc. Memorandum

24128

IDAHO TERRITORIAL CENTENNIAL 1863 1963

ROBERT E. SMYLIE
Governor

GEO. N CARTER
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE

February 5, 1963

M E M O R A N D U M

TO: ATTORNEY GENERAL'S OFFICE - Attention MIKE SOUTHCOMBE

FROM: CARL E. TAPPAN, Assistant State Reclamation Engineer

SUBJECT: Permit No. 24128, Salmon Falls Creek

This permit granted to Evergreen Canal Company May 2, 1953; assigned to Falls Creek Irrigation Company, April 28, 1955; assigned to Magic Water Company, November 10, 1955.

Magic Water Company applied for an extension of time to May 2, 1960 which was granted; applied for further extension to May 2, 1963, which was granted, and now they are applying for a further extension of time to May 2, 1965.

The filing is for 120 cubic feet per second. Records from the Geological Service, Miscellaneous Measurements, made near the mouth of Salmon Falls Creek, some 8 or 9 miles down stream, show that the flow in cubic feet per second during the summer months is approximately 120 cubic feet per second. There are some measurements that show this flow can be as much as 189 cubic feet per second, the minimum being less than 100 cubic feet per second. There are other filings upstream from the Magic Water Company's diversions totaling 78.2 cubic feet per second, and 30.2 cubic feet per second down stream as a filing.

The Idaho Statutes extension time of ten years has already been granted and now they have an application before the department for an extension of time of two more years, based on the statement

IDAHO TERRITORIAL CENTENNIAL 1863 1963

24128

that due to circumstances beyond their control, covering litigation for a two-year period and rights of way which are now cleared up, they need this further extension.

Referring to Idaho Code, 42-204, Amended, we note that in cases where the applicant is prevented from proceeding with his work by . . . . . ."litigation of any nature which might bring his title to said water in question, the department of reclamation, upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith shall extend the time." In this case amounting to two additional years.

CET:ew

24128

January 18, 1963

Re: Permit No. 24128
Magic Water Company

Albaugh, Bloem, Smith & Pike
Attorneys at Law
P. O. Box 428, Idaho Falls, Ida.

Attn: Ralph L. Albaugh

Dear Mr. Albaugh:

Enclosed is a photo copy of an application for extension of time for Completion of Works under Permit 24128

Your letter of November 23, 1962 requested that you be advised if such a request was received.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. photo copy

24128

Magic Water Company, Inc. of Buhl, Idaho, at this time requests the Reclamation Engineer of the State of Idaho for an extension of time, to May 2, 1965, in which to complete the construction of works that are already started and underway, Permit #24128, Salmon Falls Creek, of 120 Second feet of water, which date calls for completion date of May 2, 1963.

This petition is entered to clarify reasons pertaining to development of a project started by the Magic Water Company, Inc. in 1955 which if completed would have furnished water for a 25,000 acre tract covering permits #24128, #25739, #25817, #26408, #26408, and #26408. There has been in operation since 1956 seven 200 horse power motors and pumps which have been delivering approximately 35 second feet of water to lands mentioned later.

However, due to circumstances beyond our control we have been continually held up. Due to litigation which covered over a 2-year period, rights of ways which are not cleared up and complications encountered by certain stockholders who have no desire to reside upon lands under this project.

At this time we have decided to eliminate all water filings that have held up our progress and complete the portion of land which comes under the filing Permit #24128, Salmon Falls Creek, Twin Falls County, which will when completed, cover approximately 6,800 acres, of which there are presently 4,360 acres of deeded land mostly all leveled and ready for irrigation plus 320 acres of allowed land.

The present land owners have made an offer to buy out all assets of the present Stockholders. The Directors of Magic Water Company, Inc., called a Special Meeting of said Stockholders and offered our (the landowners) proposal, which was called to vote whether to accept the offer or reject same.

This meeting was called at Pocatello, Idaho, at the Bannock Hotel

24128

December 1, 1962. Of the 437,341 votes present or by proxy there were 380,141 votes for and 41,600 votes against which was a unanimous vote to sell.

At the present time the land owners of Magic Water Company, Inc. have started rebuilding the present pump site and are in process of installing four (4) additional four hundred (400) horse power pumps which will double the water delivery for the 1963 season. Pictures enclosed to show progress now in operation. The balance of work will continue until completed.

Magic Water Company, Inc. has spent on structures, water measurement stations and readings, pumping plant, pipe lines, canals, rights of ways, land, roads, engineering and other fixed assets and expenses well over $300,000.00, which does not include the thousands of dollars spent by individuals of this company to try to continue the progress of this company.

We are including pictures of this project and data to verify the above statements.

For reasons set forth it will be impossible to complete this program without an extension of time.

We request your careful consideration and approval of this extension.

MAGIC WATER COMPANY, INC.

By: Vice President

Maurice H. Eckert

Witness: _____

_____

_____

24128

Magic Water Company, Inc. of Buhl, Idaho, at this time requests the Reclamation Engineer of the State of Idaho for an extension of time, to May 2, 1965, in which to complete the construction of works that are already started and underway, Permit #24128, Salmon Falls Creek, of 120 Second feet of water, which date calls for completion date of May 2, 1963.

This petition is entered to clarify reasons pertaining to development of a project started by the Magic Water Company, Inc. in 1955 which if completed would have furnished water for a 25,000 acre tract covering permits #24128, #25739, #25817, #26408, #26408, and #26408. There has been in operation since 1956 seven 200 horse power motors and pumps which have been delivering approximately 35 second feet of water to lands mentioned later.

However, due to circumstances beyond our control we have been continually held up. Due to litigation which covered over a 2-year period, rights of ways which are not cleared up and complications encountered by certain stockholders who have no desire to reside upon lands under this project.

At this time we have decided to eliminate all water filings that have held up our progress and complete the portion of land which comes under the filing Permit #24128, Salmon Falls Creek, Twin Falls County, which will when completed, cover approximately 6,800 acres, of which there are presently 4,360 acres of deeded land mostly all leveled and ready for irrigation plus 320 acres of allowed land.

The present land owners have made an offer to buy out all assets of the present Stockholders. The Directors of Magic Water Company, Inc., called a Special Meeting of said Stockholders and offered our (the landowners) proposal, which was called to vote whether to accept the offer or reject same.

This meeting was called at Pocatello, Idaho, at the Bannock Hotel

24128

December 1, 1962. Of the 437,341 votes present or by proxy there were 380,141 votes for and 41,600 votes against which is 78.4 of the outstanding stock of Magic Water Co., Inc., surpassing the required majority of votes required to sell.

At the present time the land owners of Magic Water Company, Inc. have started rebuilding the present pump site and are in process of installing four (4) additional four hundred (400) horse power pumps which will double the water delivery for the 1963 season. Pictures enclosed to show progress now in operation. The balance of work will continue until completed.

Magic Water Company, Inc. has spent on structures, water measurement stations and readings, pumping plant, pipe lines, canals, rights of ways, land, roads, engineering and other fixed assets and expenses well over $300,000.00, which does not include the thousands of dollars spent by individuals of this company to try to continue the progress of this company.

We are including pictures of this project and data to verify the above statements.

For reasons set forth it will be impossible to complete this program without an extension of time.

We request your careful consideration and approval of this extension.

MAGIC WATER COMPANY, INC.

By: Maurice H. Eckert Vice President

Maurice H. Eckert

Witness: John C. Lenborn

Lee [illegible]

Lewis H. Eckert

24128

Re 24128

January 10, 1963

H. Preston Porter
P. O. Box 2391
Salt Lake City, Utah

Dear Mr. Porter:

We understand that the diversion from Salmon Falls Creek is the only work contemplated. Reports indicate that about 2500 acres are now under irrigation.

The works have not been inspected by this department.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

24128

H. PRESTON PORTER
P. O. BOX 2391
Salt Lake City, Utah

January 8, 1963

Department of Reclamation

AIR MAIL

Mr. Ralph W. Thomas,
Deputy State Reclamation Engineer
Department of Reclamation
107 State House
Boise, Idaho

Dear Mr. Thomas:

Re: Permits No. 24128; 25817;
26408 - Magic Water Co.

With reference to the engineering maps on the aforementioned permits, could you inform me of the extent of the construction work finished and in progress as I assume the completion date will be May 2, 1963 on the following:

1. New canal from Cedar Draw to Mud Creek and Deep Creek.

2. New canal from Deep Creek to Salmon Falls Creek.

3. New canal from Salmon Falls Creek to reservoir in T. 7 and 8 S.

4. Reservoir in T. 7 and 8 S. - in several sections.

I thank you for the data and information previously furnished me.

Very truly yours,

H. P. Porter

24128

January 7, 1963

Re: Permits No. 24128; 25817;
26409 - Magic Water Co.

H. Preston Porter
P. O. Box 2391
Salt Lake City 10, Utah

Dear Mr. Porter:

Enclosed is departmental receipt No. 31382 in the amount of $1.05 for copies of maps in the files of the above numbered permits.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Enc. receipt

24128

MAGIC WATER COMPANY, INC.

~~P. O. Box 588~~

BUHL, IDAHO

January 4, 1963

Mr. C. E. Tappen
Reclamation Dept.
State House
Boise, Idaho

Dear Mr. Tappen:

This is to verify our conversation Wednesday the 2nd of January 1963, regarding Magic Water Co., Inc extension of time.

We are making a formal application for an extension of our filing and will furnish a recap of our past progress etc. Also our plans that we have in progress at this time for further development.

It will take me about two weeks to get all this together, at which time we will make an appointment with you and present it to your office.

Thanking you for your courtesy.

Yours truly,

Magic Water Co., Inc.

By: Maurice H. Eckert

Maurice H. Eckert

24128

December 31, 1962

Re: Permits No. 24128; 25817
26409 - Magic Water Co.

SEE LETTER in Permit 26409

H. Preston Porter
P. O. Box 2391
Salt Lake City 10, Utah

Dear Mr. Porter:

Enclosed are copies of the engineering maps which accompanied the permit, at the time they were filed.

There is a fee of $1.05 for these prints.

Very truly yours,

GEO. B. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Mule
Chief Clerk

EPR:ew

Enc. copies of maps

24128

December 31, 1962

Re: Permit No. 24128
Magic Water Company, Inc.

Mr. A. C. Kiser
Attorney at Law
5000 Fairview Ave.
Boise, Idaho

Dear Mr. Kiser:

The petition for extension of time for completion of works to May 2, 1966, which you delivered to this office December 12, 1962, has been studied.

1. This paragraph described the present facilities which apparently have not changed in the past seven irrigation seasons.

2. Relates to difficulty in obtaining finances which is not a reason which can be considered under State Statutes.

3. Delay of two years on account of litigation.

4. Delay of three years on account of delay in necessary rights-of-way, etc., which is somewhat negated by the fact of the past seven irrigation seasons of use mentioned in No. 1. Mention is made of a possible loan from Small Business Administration. By telephone on December 14th, Small Business Administration reported that no formal application for a loan has been presented.

5. Internal affairs of the Magic Water Company, Inc. cannot be considered.

24128

The permit holder has been allowed a total of ten years for completion of works under this permit.

No further extension of time can be allowed.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

cc: Magic Water Company, Inc.

Buhl, Idaho

January 6, 1963

Mr. Sanborn and Mr. Eckert were in January 2, 1963 and asked about this extension. My reply was that we had been promised a "brief" for consideration in this case several months ago but it hasn't been turned in. I suggested that a complete report and analysis should be handed to this Department as soon as possible. This they promised to do. I also stated that we would take no further action until this report is received, and also that we should have this report as soon as possible.

CARL E. TAPPAN, Assistant
State Reclamation Engineer

1/6/63

24128

December 20, 1962

Re: Permits No. 24128; 25817
26408 - Magic Water Co.

H. Preston Porter
Box 2391
Salt Lake City, Utah

Dear Mr. Porter:

Enclosed is Receipt No. 31369 for $8.00, fees for copies of Permits noted above, check for which was received with your letter of December 18th.

You requested certain information in regard to the permits.

Raymond T. Michener of Idaho Falls, Idaho appears to have been the engineer on these projects. There are no plans of any of the various dams shown as to being constructed. Such plans are not necessary when the dam is not over 10 feet high, or store not over 100 acre feet of water. The fact that dams have been constructed or the dates of such work is not shown in our files, as far as I find. The water, or part of it, under Permit No. 24128 has been diverted by pumps. It is my understanding that the dam, if any, would only be high enough to provide pool for pump intake.

There did not appear to be any protests to approval of the applications except the application which was approved as Permit No. 26408/ The protest was based upon the stated fact that prior licensed rights on the streams did not leave sufficient water in the stream to supply the quantity claimed. The protest was dismissed as approval of the application could not adversely affect prior water rights. The applicant had the right to divert only unappropriated water.

We hope this information will be of some assistance.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
Deputy State Reclamation Engineer

24128A

RT:ew
Enc. receipt

Received
12-15-62
by A. C. Kiser

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

* * * * * * *

IN THE MATTER OF WATER PERMIT NO. 24128 IN THE NAME OF MAGIC WATER COMPANY, INC.	)))	PETITION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS

* * * * * * *

COMES NOW, Magic Water Company, Inc., by and through its attorney, A. C. Kiser, and petitions the Reclamation Engineer of the State of Idaho for an extension of time to May 2, 1966, in which to complete the construction of works necessary for the complete development and utilization of water covered by Water Permit No. 24128 in the name of Magic Water Company, Inc.

The within petition is based on the following grounds and reasons:

I

In 1955, Magic Water Company, Inc. commenced development of an irrigation project which, if completed according to plans, would have consisted of more than 25,000 acres. A pumping plant consisting of 7 pumps was installed and has been in use for seven irrigation seasons. Lands have been purchased at the point of diversion designated in said Permit No. 24128 and roads have been constructed for purposes of developing the project. A substation for power purposes was installed and there has been a diversion of approximately 35 cubic feet per second of water during the last seven irrigation seasons by the use of such facilities for the irrigation of approximately 2,500 acres already developed in connection with the project.

II

That in order to obtain financing for further development of said project petitioner was required to build gaging stations which were built at a substantial cost in order to obtain records of the water flow at the point of diversion specified in said Permit No. 24128. That petitioner has made payments to the State of Idaho Stream Gaging Fund in order to obtain data on the water flow at said point of diversion. That without such data

petitioner had no proof of a sufficient or reliable source of water for use in irrigating its proposed project. That the obtaining of said data has resulted in delay in petitioner being able to proceed with the development of said project. That reliable data on the amount of water available had to be based on several years' determinations in order to be acceptable to any lending agency.

III

That it was virtually impossible for the petitioner to make any progress in the development of said project for a period of more than two years by reason of litigation instituted by some of the shareholders against the petitioner and which litigation pertained to the water rights existing by virtue of said Permit No. 24128. That said litigation has been settled and terminated.

IV

That the development of said project was delayed for more than three years by reason of complications and delays in acquiring necessary rights of way for roads, canals and other diversion facilities, by reason of difficulties in obtaining financing and by reason of actions by the Bureau of Land Management. That it has now been determined that it will be impossible to complete the development originally planned and for that reason it is the desire of petitioner to redesign the proposed plan of development to the end that only the waters covered by Permit No. 24128 will be diverted and put to beneficial use. Such new plan of development requires additional engineering and feasibility studies. It is the plan of petitioner to arrange financing to install additional pumps in order to develop and put the remainder of the waters covered by Permit No. 24128 to beneficial use on the lands now under irrigation and a limited amount of additional land adjacent thereto which can be economically developed and the irrigation of which additional land will result in a more economical operation for the existing land as well as such new land. That petitioner hopes to obtain a loan through the Small Business Administration for the purpose of such further development and that it is anticipated that it

be impossible to get such loan approved and the necessary engineering and construction work completed prior to May 2, 1966. That such additional development with the additional water from Salmon Falls Creek covered by Permit No. 24128 will include utilizing the existing canal and other pumping facilities which will result in a more economical and feasible development and operation of the entire unit to be developed and farmed by use of the water from Salmon Falls Creek covered by Permit No. 24128.

V

In view of the fact the entire project cannot be developed in accordance with the original plan, it will be necessary that arrangements be made with the existing shareholders of petitioner in settlement of their equities in the existing project and such settlement will require additional time and until such settlement can be reached it will be extremely difficult for any definite action to be taken with respect to financing the further development of the project to utilize the water covered by Permit No. 24128.

VI

That for the reasons hereinbefore set forth, and for other reasons beyond the control of petitioner, it will be impossible for petitioner to complete the necessary diversion works by May 2, 1963, which is the completion date specified in the order extending the time granted for such purpose entered by George M. Carter, State of Idaho Reclamation Engineer on the 16th day of March, 1960.

WHEREFORE, petitioner prays that the time for completion of works under Permit No. 24128 be extended to May 2, 1966.

DATED this 13th day of December, 1962.

A. C. Kiser
Attorney for Magic Water Company, Inc.

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

A. C. KISER, being first duly sworn deposes and says:

That he is attorney for Magic Water Company, Inc.; that he has read the within and foregoing petition and knows the contents thereof and believes the facts stated therein to be true.

A. C. Kiser
A. C. Kiser

Subscribed and sworn to before me this _____ day of December, 1962.

Notary Public for Idaho
Residing at Boise, Idaho

APPROVAL OF RECLAMATION ENGINEER

The undersigned having read the within and foregoing petition and being fully advised in the premises and good cause appearing therefor, IT IS HEREBY ORDERED that the time for completion of construction of works necessary for the complete development and utilization of water covered by State of Idaho Permit No. 24128 in the name of Magic Water Company, Inc. is hereby extended to May 2, 1966.

IT IS FURTHER HEREBY ORDERED that all other proceedings necessary for perfecting the rights under such permit be and same are hereby extended accordingly.

Dated this _____ day of December, 1962.

State Reclamation Engineer

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

DEPARTMENT OF RECLAMATION

* * * * * * *

IN THE MATTER OF WATER PERMIT NO. 24128 IN THE NAME OF MAGIC WATER COMPANY, INC.	)))	PETITION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS

* * * * * * *

COMES NOW, Magic Water Company, Inc., by and through its attorney, A. C. Kiser, and petitions the Reclamation Engineer of the State of Idaho for an extension of time to May 2, 1966, in which to complete the construction of works necessary for the complete development and utilization of water covered by Water Permit No. 24128 in the name of Magic Water Company, Inc.

The within petition is based on the following grounds and reasons:

I

In 1955, Magic Water Company, Inc. commenced development of an irrigation project which, if completed according to plans, would have consisted of more than 25,000 acres. A pumping plant consisting of 7 pumps was installed and has been in use for seven irrigation seasons. Lands have been purchased at the point of diversion designated in said Permit No. 24128 and roads have been constructed for purposes of developing the project. A substation for power purposes was installed and there has been a diversion of approximately 35 cubic feet per second of water during the last seven irrigation seasons by the use of such facilities for the irrigation of approximately 2,500 acres already developed in connection with the project.

II

That in order to obtain financing for further development of said project petitioner was required to build gaging stations which were built at a substantial cost in order to obtain records of the water flow at the point of diversion specified in said Permit No. 24128. That petitioner has made payments to the State of Idaho Stream Gaging Fund in order to obtain data on the water flow at said point of diversion. That without such data

24128

be impossible to get such loan approved and the necessary engineering and construction work completed prior to May 2, 1966. That such additional development with the additional water from Salmon Falls Creek covered by Permit No. 24128 will include utilizing the existing canal and other pumping facilities which will result in a more economical and feasible development and operation of the entire unit to be developed and farmed by use of the water from Salmon Falls Creek covered by Permit No. 24128.

V

In view of the fact the entire project cannot be developed in accordance with the original plan, it will be necessary that arrangements be made with the existing shareholders of petitioner in settlement of their equities in the existing project and such settlement will require additional time and until such settlement can be reached it will be extremely difficult for any definite action to be taken with respect to financing the further development of the project to utilize the water covered by Permit No. 24128.

VI

That for the reasons hereinbefore set forth, and for other reasons beyond the control of petitioner, it will be impossible for petitioner to complete the necessary diversion works by May 2, 1963, which is the completion date specified in the order extending the time granted for such purpose entered by George M. Carter, State of Idaho Reclamation Engineer on the 16th day of March, 1960.

WHEREFORE, petitioner prays that the time for completion of works under Permit No. 24128 be extended to May 2, 1966.

DATED this 13th day of December, 1962.

H. C. Kees

Attorney for Magic Water Company, Inc.

24128

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

A. C. KISER, being first duly sworn deposes and says:

That he is attorney for Magic Water Company, Inc.; that he has read the within and foregoing petition and knows the contents thereof and believes the facts stated therein to be true.

A. C. Kiser

A. C. Kiser

Subscribed and sworn to before me this 13th day of December, 1962.

Notary Public for Idaho
Residing at Boise, Idaho

APPROVAL OF RECLAMATION ENGINEER

The undersigned having read the within and foregoing petition and being fully advised in the premises and good cause appearing therefor, IT IS HEREBY ORDERED that the time for completion of construction of works necessary for the complete development and utilization of water covered by State of Idaho Permit No. 24128 in the name of Magic Water Company, Inc. is hereby extended to May 2, 1966.

IT IS FURTHER HEREBY ORDERED that all other proceedings necessary for perfecting the rights under such permit be and same are hereby extended accordingly.

Dated this _____ day of December, 1962.

State Reclamation Engineer

24128

December 12, 1962

Re: Permit No. 24128, 25817; 25839

H. Preston Porter
P. O. Box 2391
Salt Lake City, Utah

Dear Mr. Porter:

Enclosed are the photo copies of the above numbered permits, as requested on December 11, 1962 by letter. Also extension of time forms.

The cost for the photo copies of the three permits will be $8.00. There are no fees connected with extension of time.

Very truly yours,

GEO. B. CARTER
State Reclamation Engineer

By:

HAL H W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Encs. photo copies
extension of time forms (3)

24128

November 25, 1962

Re: Permit No. 24128
Magic Water Co.

Albaugh, Bloem, Smith & Pike
Attorneys at Law
Box 428, Idaho Falls, Idaho

Attn: Ralph L. Albaugh

Dear Mr. Albaugh:

We received your letter in regard to an extension of time for completion of works under the above noted permit.

Some time ago some of the officers of the Magic Water Company were in this office and verbally requested another extension of time. They were advised that a written request was necessary which showed facts why an extension could be allowed under State Statutes. Such a request has not been received.

You will be advised if such a request is received.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

24128

August 6, 1962

Re: Permit No. 24128

American Surety Co.
1212-17 Walker Bank Bldg.
Salt Lake City, Utah

Attn: Lucille R. Kelbch
Res. Ass't. Sec.

Dear Madam:

The time for completion of work under Permit No. 24128 has been extended to May 2, 1963, as shown in our letter to you dated June 27, 1960.

Bond 34-551-029 cannot be releases as we have no other bond in our file to replace your bond.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

24128

Application for Amendment

LAND LIST

Permit No. G-23878

Comes now RILEY and MURRIEL M. MATHESON

and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. G-23878, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

SW¼NE¼, NW¼NW¼, S½NW¼, W½SE¼, SW¼, Sec. 25; NE¼, E½NW¼, E½SE¼, Sec. 26
T. 6 S., R. 21 E., B.M.

making a total of _____ acres.

Signed at Paul, Idaho this 12 day of Oct. 1959

/s/ Riley Matheson
/s/ Murreil Matheson

Date of Receipt at office of Department of Reclamation October 13, 1959

APPROVAL OF STATE RECLAMATION ENGINEER

I, GEO. N. CARTER, State Reclamation Engineer of the State of Idaho the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No G-23878. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

G-23878

/s/ Geo. N. Carter
State Reclamation Engineer

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. Box 428
IDAHO FALLS, IDAHO

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE

SUITE 201-5 ROGERS BLDG.
TELEPHONE 522-6291

November 23, 1962

DENVER
NOV 26 19[illegible]
Department of Reclamation

State Reclamation Engineer
Statehouse
Boise, Idaho

Dear Sir:

Re: Permit No. 24128
Magic Water Company

My clients, Alfred Keller and John Keller who take water from Salmon Falls Creek in Twin Falls County, Idaho for the irrigation of their land advised me that they were in your office a short time ago and were informed that the Magic Water Company intended to petition your office or had petitioned your office for an extension of time for completion of works or for an extension of time to put their water to beneficial use.

Permit No. 24128 was issued May 2, 1953 and provided that all of said work must be completed on or before May 2, 1958. On March 16, 1960 you granted Magic Water Company's petition to extend the time for completion of work to May 2, 1963. If another petition is filed by Magic Water Company for any extension on this permit I will appreciate it if you will advise this office, as attorneys for Alfred Keller and John Keller, of said petition as they desire to protest same. If notice is published in Twin Falls County it is doubtful if either of the Kellers will see it.

As two extensions of time have heretofore been granted to Magic Water Company and almost ten years has elapsed since the issuance of the permit it would seem that Magic Water Company should not be entitled to any further extensions of time and we will very much appreciate it if you will advise us of any petition for same in order that we may protest it.

Very truly yours,

ALBAUGH, BLOEM, SMITH & PIKE

Ralph L. Albaugh

Ralph L. Albaugh

RLA:ls

24128

AMERICAN SURETY COMPANY

MEMBERS OF THE TRANSAMERICA INSURANCE GROUP

PACIFIC NATIONAL FIRE INSURANCE CO.

HENRY G. SHEEHY, PRESIDENT

ADMINISTRATIVE OFFICES • 100 BROADWAY, NEW YORK 5, N. Y.

SALT LAKE CITY BRANCH OFFICE
1212 17 WALKER BANK BUILDING
SALT LAKE CITY 11, UTAH — TEL. EMPIRE 3-8881
E. J. PEARSON, MANAGER

RECEIVED
Department of Reclamation

August 1, 1962

RE: Bond No. 34-560-601 Evergreen Canal Company
Diversion Permit - No. 24128

Department of Reclamation
State Capitol Bldg.
Boise, Idaho

Dear Sir:

We are surety on the above captioned bond, which we are now informed should be cancelled.

Will you kindly confirm this report by completing the form prepared below and return this letter in the enclosed envelope.

Thanking you for your prompt attention, we remain

Very truly yours,

Lucille R. Kelbch

Lucille R. Kelbch, Res. Ass't. Sec.

TO THE SURETY COMPANY

This will be your authority to cancel the bond of the Principal shown in your caption, as to future liability, effective as of the date of termination which was on the _____ day of _____, 19__, it being understood that the Surety will remain liable for all past acts in accordance with the terms of the bond.

Very truly yours,

Dated this _____

day of _____, 19__.

_____
(Firm Name of Obligee)

By _____

Title _____

24128

34-12

August 6, 1962

Re: Permit No. 24128

American Surety Co.
1212-17 Walker Bank Bldg.
Salt Lake City, Utah

Attn: Lucille R. Kelbch
Res. Ass't. Sec.

Dear Madam:

The time for completion of work under Permit No.24128 has been extended to May 2, 1963, as shown in our letter to you dated June 27, 1960.

Bond 31-551-029 cannot be released as we have no other bond in our file to replace your bond.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

24128

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. Box 428
IDAHO FALLS, IDAHO

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE

SUITE 201-5 ROGERS BLDG.
TELEPHONE JACKSON 2-6291

January 23, 1962

State Reclamation Engineer
Statehouse
Boise, Idaho

Dear Sir:

I am informed that on or about February 11, 1953, the Evergreen Canal Company was issued a permit for approximately 120 c.f.s. of water from Salmon Falls Creek, sometimes known as Little Salmon Creek, in Twin Falls County, Idaho, and that this permit was thereafter assigned to Magic Water Company, Inc.

The Magic Water Company is now contemplating selling a portion of the right covered by this permit and I would appreciate it if you would forward to us a certified copy of this permit and all extensions granted by your office on this permit.

Enclosed is our check to your order in blank amount, which you are authorized to complete for the amount of your fees for this certified copy.

Sincerely,

ALBAUGH,BLOEM,SMITH & PIKE

Ralph L. Albaugh

Ralph L. Albaugh

RLA:jb
Encls

Permit #24128

24128

June 27, 1960

Re: Permit No. 25739
Magic Water Company

American Surety Company
Salt Lake City Branch Office
1212 Walker Bank Bldg.
Salt Lake City 11, Utah

Attn: K. Wahlberg

Dear Mr. Wahlberg:

An extension of time for proof of completion of works has been granted to May 2, 1963 for Permits No. 24128, 25739, 25817, 24408.

Proof of Completion of Works has not been made therefore the bond 34-551-029 in connection with Permit No. 25739 is not subject to cancellation. The same condition exists in regard to the other permits shown above.

Very truly yours,

GEO. S. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

24128

petitioner had no proof of a sufficient or reliable source of water for use in irrigating its proposed project. That the obtaining of said data has resulted in delay in petitioner being able to proceed with the development of said project. That reliable data on the amount of water available had to be based on several years' determinations in order to be acceptable to any lending agency.

III

That it was virtually impossible for the petitioner to make any progress in the development of said project for a period of more than two years by reason of litigation instituted by some of the shareholders against the petitioner and which litigation pertained to the water rights existing by virtue of said Permit No. 24128. That said litigation has been settled and terminated.

IV

That the development of said project was delayed for more than three years by reason of complications and delays in acquiring necessary rights of way for roads, canals and other diversion facilities, by reason of difficulties in obtaining financing and by reason of actions by the Bureau of Land Management. That it has now been determined that it will be impossible to complete the development originally planned and for that reason it is the desire of petitioner to redesign the proposed plan of development to the end that only the waters covered by Permit No. 24128 will be diverted and put to beneficial use. Such new plan of development requires additional engineering and feasibility studies. It is the plan of petitioner to arrange financing to install additional pumps in order to develop and put the remainder of the waters covered by Permit No. 24128 to beneficial use on the lands now under irrigation and a limited amount of additional land adjacent thereto which can be economically developed and the irrigation of which additional land will result in a more economical operation for the existing land as well as such new land. That petitioner hopes to obtain a loan through the Small Business Administration for the purpose of such further development and that it is anticipated that it

24128

June 27, 1960

Re: Permit No. 24128
Magic Water Company

American Surety Company
Salt Lake City Branch Office
1212 Walker Bank Bldg.

Attn: K. Wahlberg

Dear Mr. Wahlberg:

An extension of time for proof of completion of works has been granted to May 2, 1963 for Permits No. 24128, 25739, 25817, 26408.

Proof of Completion of Works has not been made therefore the bond 34-551-029 in connection with Permit No. 25739 is not subject to cancellation. The same condition exists in regard to the other permits shown above.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

24128

Application for Amendment

LAND LIST

Permit No. G-23858

Comes now Roy C. Andreasen

and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. G-23858, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

NE¼SW¼, NE¼SE¼, SW¼SE¼, Section 7, and NE¼NW¼, W½NE¼ Section 18,

Twp. 15 S. Range 39 E.B.M.

making a total of _____ acres.

Signed at Preston, Idaho this 30th day of Jan., 1958

/s/ Roy C. Andreasen

Date of Receipt at office of Department of Reclamation February 3, 1958

APPROVAL OF STATE RECLAMATION ENGINEER

I, MARK R. KULP, State Reclamation Engineer of the State of Idaho the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No G-23858. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

/s/ Mark R. Kulp

State Reclamation Engineer

February 1, 1962

Re: Permit No. 24128
Magic Water Co.

Albaugh, Bloem, Smith & Pike
Attorneys at Law
Box 428, Idaho Falls, Idaho

Attn: Ralph L. Albaugh

Dear Mr. Albaugh:

Enclosed are forms to amend a permit, one for point of diversion and one for land list.

We received your letter in regard to change of point of diversion and place of use of a portion of water claimed under Permit No. 24128.

The proposed change in point of diversion is from the SW¼SE¼, Sec. 36, T. 9 S., R. 13 E. to SE¼NE¼, Sec. 20, T. 10 S., R. 13 East. Between the two points there are two valid permits on record. There are also five valid permits for diversion in the SE¼NE¼, said Section 20. These seven permits all have later priority than the subject permit.

Transfer of the point of diversion could cause considerable damage to the permits of record and there may be diversions of which we have no record, that would be affected.

We believe that the intention to change the point of diversion should be published in two weekly issues of a Twin Falls County paper, as provided for decreed or water licensed rights. See attached notice we have prepared. The affidavit of publication should be sent to this office. The date at the bottom of the notice should be at least 5 days after the last publication. That date can be changed as necessary.

There is a fee of $1.00 for recording any amendment to a permit.

24128

This procedure is not in the Statutes, as far as I know, however it seems best, under the circumstances to give due notice of the change.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Encl. amendment forms
diversion & land list

transfer form

24128

LAW OFFICES OF
ALBAUGH, BLOEM, SMITH & PIKE
P. O. Box 428
IDAHO FALLS, IDAHO

RALPH L. ALBAUGH
JOHN L. BLOEM
ARTHUR L. SMITH
EDWARD W. PIKE

SUITE 201-5 ROGERS BLDG.
TELEPHONE JACKSON 2-6291

January 30, 1962

State Reclamation Engineer
State House
Boise, Idaho

Dear Sir: Re: Permit #24128-Magic Water Company, Assignee

Alfred C. Keller of Menan, Idaho, is contemplating purchasing a one-sixth interest or ~~a~~ 20 second feet of water right covered by the above permit, originally issued to Evergreen Canal Company and assigned by it to Magic Water Company, Inc.

It is the intention of Mr. Keller to change the point of diversion from $SW\frac{1}{4}SE\frac{1}{4}$ of Section 36, Twp. 9 S., R. 13, E.B.M. to $SE\frac{1}{4}NE\frac{1}{4}$, Section 20, Twp. 10 S., R. 13, E.B.M. and to use the water for the irrigation of the $N\frac{1}{2}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$ of Section 5, Twp. 10 S., R. 13, E.B.M., $NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, and the $SE\frac{1}{4}$ Section 32, Twp. 9 S.R. 13, E.B.M.

As I understand it, this will move the point of diversion about four miles up Salmon Falls Creek, sometimes known as Little Salmon Creek, from its present point of diversion and the land to be irrigated will, likewise, be three to four miles South of the land originally intended to be irrigated.

Will you kindly forward to me the necessary blanks for filing with your office to obtain your consent to this change in point of diversion and also change in place of beneficial use.

I assume there will be no objection by your office to this purchase of a portion of this water right or changing the point of diversion or place of use. If so, I would appreciate it if you would so advise me.

Sincerely,

ALBAUGH, BLOEM, SMITH & PIKE

Ralph L. Albaugh

Ralph L. Albaugh

24128

RLA:jb

January 25, 1962

Re: Permit No. 24128
Magic Water Company, Inc.

Albaugh, Bloem, Smith & Pike
Attorneys at Law
Box 428, Idaho Falls, Idaho

Attn: Ralph L. Albaugh

Dear Mr. Albaugh:

Your letter of January 23rd requesting a certified copy of the permit and all extensions has been received.

Enclosed is the certified copy requested.

The amount of $3.50 has been inserted in the blank check you enclosed. The fees are $1.50 for copy of permit, plus $0.25 for each additional item plus $1.00 for certification.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. certified copy
of permit
Receipt No. 30922 - $3.50

24128

May 5, 1960

Re: Bond 34-560-601
Permit No. 24128
Evergreen Canal Company

American Surety Company,
Salt Lake City Branch,
1212 Walker Bank Building,
Salt Lake City 11, Utah.

Attention: M. Wilkerson
Res. Asst. Sec.

Gentlemen:

In reply to your letter of April 28, 1960, relative to Permit No. 24128 in the name of Evergreen Canal Company of Twin Falls County, Idaho.

Applicants have been granted an extension of time for Completion of Works to May 2, 1963, by this Department on the above captioned permit. Therefore, liability under said bond should not be terminated at this time.

Very truly yours,

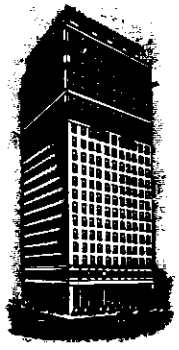
GEO. N. CARTER
State Reclamation Engineer
By

ROY W. THOMPSON
Supervisor of Water Distribution

RWT:pmk

24128

W. E. McL
Chairman of the Board and President



RECEIVED
MAY 3 1960
Department of Reclamation

American Surety Company
of New York

SALT LAKE CITY BRANCH OFFICE
1212 WALKER BANK BUILDING – SALT LAKE CITY 11, UTAH – TEL. EMPIRE 3-8881

April 28, 1960

EVAN J. PEARSON
Manager

Re: Bond No. 34-560-601 - Evergreen Canal Co. Permit No. 24128
Water Diversion Bond

Commissioner
Bureau of Reclamation
State of Idaho
Boise, Idaho

Dear Sir:

We are surety on the above captioned bond and would appreciate it if you will refer to your records and let us know if our liability under this bond has terminated. If so, the date of termination.

Thank you for your reply.

Very truly yours,

M. Wilkerson

M. Wilkerson
Res. Asst. Sec.

24128

May 3, 1960

Re: Permit Nos. 24128-25739
25817-26408

Maurice Eckert
Route #3
Buhl, Idaho

Dear Mr. Eckert:

We enclose photo copies of the above numbered permits.

We also enclose departmental receipt No. 30101 in the amount of $23.40 covering the fees for the copies.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Hale
Chief Clerk

EPH:ew

Enc. photo copies

24128

March 16, 1960

Re: Permits Nos. 24128, 25739, 25817
26408 - Magic Water Co., Inc.

A. C. Kiser
Attorney at Law
Idaho Bldg.
Boise, Idaho

Dear Mr. Kiser:

We enclose herewith Extension of Time on the above permits in the name of the Magic Water Co., Inc. to May 2, 1963, which has been approved and recorded in this office.

Very truly yours,

GEO. [illegible]. CARTER
State Reclamation Engineer

By:

(Mrs.) Edna P. Rule
Chief Clerk

EPR:ew

Encs. extension

24128

MAR 3 1960
Department of

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

* * * * * * *

IN THE MATTER OF WATER PERMITS 24128, 25739, 25817 and 26408 IN THE NAME OF MAGIC WATER COMPANY, INC.

PETITION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS

* * * * * * *

COMES NOW, Magic Water Company, Inc., by and through its attorney, A. C. Kiser, and petitions the Reclamation Engineer of the State of Idaho for an extension of time to May 2, 1963, in which to complete the construction of works necessary for the complete development and utilization of water covered by the following permits in the name of Magic Water Company, Inc.:

PERMIT	SOURCE OF WATER	SECOND FEET	DATE FOR COMPLETION OF WORKS
24128	Salmon Falls Creek	120	May 2, 1960
25739	Deep Creek	100	June 21, 1960
25817	Cedar Draw	60	July 25, 1960
26408	Cedar Draw	20	June 20, 1961
26408	Mud Creek	10	June 20, 1961
26408	Deep Creek	190	June 20, 1961

The within petition is based on the following grounds and reasons:

I

In 1955, Magic Water Company, Inc. commenced development of an irrigation project which, if completed according to plans, will consist of more than 25,000 acres. A pumping plant consisting of 7 pumps has been installed. Lands have been purchased at the point of diversion designated in permit #24128 and roads have been constructed for purposes of developing the project. A substation for power purposes has been installed and there has been a diversion of approximately 35 cubic feet per second of water during the last four irrigation seasons by the use of such facilities for the irrigation of approximately 2500 acres already developed in connection with the project.

II

That in order to obtain financing for further development of said project petitioner has been required to build gaging stations which have

24128

been built at a cost of $2500.00 in order to obtain records of the water flow at each of the points of diversion set forth in the above numbered permits. That petitioner has paid $950.00 per year from the year 1955 to the State of Idaho Stream Gaging Fund in order to obtain data on the water flow at said points of diversion. That without such data petitioner has had no proof of a sufficient or reliable source of water for use in irrigating its proposed project. That the obtaining of said data has resulted in delay in petitioner being able to proceed with the development of said project. That reliable data on the amount of water available must be based on several years' determinations.

III

That it was virtually impossible for the petitioner to make any progress in the development of said project for a period of more than two years by reason of litigation instituted by some of the shareholders against the petitioner. That said litigation has now been settled and terminated.

IV

That the development of said project has been delayed by reason of complications and delays in acquiring necessary rights of way for roads, canals and other diversion facilities. In this regard it appears that it will be necessary to institute condemnation proceedings for such purposes. That such proceedings should be instituted after an irrigation district has been organized but the availability of sufficient water and other determinations must be made in order to determine whether the formation of an irrigation district is justified.

V

That for the reasons hereinbefore set forth, and for other reasons beyond the control of petitioner, it will be impossible for petitioner to complete the necessary diversion works within the times as specified in the above numbered permits.

WHEREFORE, petitioner prays that the time for completion of works

24128

under each of the permits hereinbefore mentioned be extended to May 2, 1963.

DATED this 11th day of March, 1960.

A. C. Kiser
Attorney for Magic Water Company, Inc.

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

A. C. KISER, being first duly sworn deposes and says:

That he is attorney for Magic Water Company, Inc.; that he has read the within and foregoing petition and knows the contents thereof and believes the facts stated therein to be true.

A. C. Kiser

Subscribed and sworn to before me this 11th day of March, 1960.

Notary Public for Idaho
Residing at Boise, Idaho

APPROVAL OF RECLAMATION ENGINEER

I, Geo. N. Carter, Reclamation Engineer of the State of Idaho, hereby extend the time for the completion of construction work under Permits to Appropriate the Public Waters of the State of Idaho, Nos. 24128, 25739, 25817 and 26408 to May 2, 1963.

WITNESS my hand this 16 day of March, 1960.

s/ GEO. N. CARTER
State Reclamation Engineer

24128

Form No. 7

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

Re: Permit No. 24128

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

A. C. Kiser
Attorney At Law
Boise, Idaho

Boise, Idaho,

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. 24128.

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 May 2, 1960. Upon receipt of the blank properly filled out, notice of 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. [illegible]. CARTER

State Reclamation Engineer

Enc. Form 8 - 11
cc: Magic Water Co.
Buhl, Idaho

24128

December 11, 1959

RE: Permit No. 24128
Magic Irrigation Company
American Bonding Company

Fidelity and Deposit Company
Ronald D. McGregor, Manager
1318 Continental Bank Building
Salt Lake City 1, Utah

Dear Mr. McGregor:

There is a later bond in our file covering completion of works under Permit No. 24128. This bond arrived with material in regard to a different permit and had been filed with those papers.

As this work is now covered by the later bond, the bond of the American Bonding Company can be released.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

GNC.RT:mr

24128

Fidelity and Deposit Company

HOME OFFICE OF MARYLAND BALTIMORE 3

BONDING INSURANCE

RONALD D. McGREGOR
MANAGER
JOHN W. BOWEN
ASST. MANAGER

1318 CONTINENTAL BANK BUILDING
SALT LAKE CITY 1, UTAH

TELEPHONE
EL 9-8697

December 8, 1959

RECEIVED
DEC 10 1959
Department of Reclamation

State Reclamation Engineer
Department of Reclamation
Capitol Building
Boise, Idaho

RE: Permit No. 24128
Our Bond #279 757 - (American Bonding Co.)
Magic Irrigation Company, Buhl, Idaho

Our bond was originally written in the name of Evergreen Canal Co. (Charles Chastain, owner) effective 4-7-54, in the sum of $1,000. Later we were advised that the permit was assigned to Falls Creek Irrigation Co. and by them to Magic Irrigation Co., where it now stands.

We are just informed today that Magic Water Company has been carrying an additional bond on this same permit through the Joslyn Agency of Bhhl. Would you be kind enough to check your records and if there is another bond in force on this permit 24128 will you kindly give us a letter of release on our bond. Many thanks to you.

Yours very truly,

R. D. McGregor

Ronald D. McGregor

rdm/m
cc: Dehnert Insurance Co., Idaho Falls, Idaho

24128

May 26, 1958

Re: Permit No. 24128
Magic Water Co., Inc.

Mr. A. C. Kiser
Attorney
Idaho Building
Boise, Idaho

Dear Mr. Kiser:

In connection with Permit No. 24128, Magic Water Co., Inc., we enclose an Extension of Time for completion of works to May 2, 1960, and an extension of time for all other requirements of said Permit, as approved by the State Reclamation Engineer and recorded in the Department of Reclamation in Book 86 of Permits at Page 24128. This should now be attached to the original permit to which it refers and of which it becomes an extended limitation.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:nls
Enc.

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Permit No. 24128
Magic Water Co., Inc.

EXTENSION OF TIME

WHEREAS, the Magic Water Co., Inc., holder, through assignment, of Permit No. 24128 for the appropriation of 120 cubic feet per second of the waters of Salmon Falls Creek was unable to complete the diversion works by the specified date of May 2, 1958; and,

WHEREAS, the said Magic Water Co., Inc., made application on January 13, 1958, for extension of time for completion of works and all other requirements of Permit No. 24128; and,

WHEREAS, the Department of Reclamation is of the opinion that the Magic Water Co., Inc., has used due diligence and good faith in trying to meet the requirements of Permit No. 24128 and that the delay is partly due to causes reasonably beyond the control of the permit holder.

NOW, THEREFORE, the date of completion of works under Permit No. 24128 is extended to May 2, 1960, and all other requirements of Permit No. 24128 are extended the same length of time.

Signed at Boise, Idaho, this 23rd day of May, 1958.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

24128

February 4, 1958

Re: Permits Nos. 24128 - 26408

Utah Mortgage Loan Corporation
Logan,
Utah

Attention: George A. Judah
Assistant Vice President

Magic Water Company Incorporated

Dear Mr. Judah:

In reply to your letter of January 31, 1958 for information of water rights in connection with the Magic Water Company, Incorporated, of Buhl, Idaho.

In the first instance, we wish to state that this company has no adjudicated water rights, therefore no decree.

The following is an abstract of water rights on file in this department in connection with the Magic Water Company, Incorporated.

Permit No. 24128
Applicant - Evergreen Canal Company
Source of Supply - Salmon Falls Creek
Amount filed on - 120 cubic feet per second
Filed - February 11, 1953
Purpose of said right - Irrigation
Point of Diversion - in the $SW\frac{1}{4}SE\frac{1}{4}$ of Section 35, Township 9 South, Range 13 East.
Completion of Works Proof due - May 2, 1958
Beneficial Use Proof due - May 2, 1964
Permit assigned to the Falls Irrigation Company April 28, 1955.
Permit assigned to the [redacted] Water Company, Incorporated, on November 10, 1955.
No Proofs made at this [redacted]

24128

Permit No. 26408
Applicant - Maurice Eckert
Source of Supply - Deep Creek
Amount Filed on - 220 cubic feet per second
Source of Supply - Cedar Draw
Amount Filed on - 10 cubic feet per second
Source of Supply - Deep Creek
Amount filed on - 190 cubic feet per second
Purpose of Filing - Irrigation
Date of Filing - February 3, 1956
Completion of Works Proof Due - June 20, 1961
Beneficial Use Proof Due - June 20, 1967
Assigned to the Magic Water Company, Incorporated, on February 11, 1956.
Location of land to be irrigated - Sections 1, 2, 11, 12, 13, 14, 24, in Township 6 South, Range 10 East.
Sections 7, 18, 19, 20, 17 and 19, in Township 6 South, Range 11 East.
Sections 25, 35, 36 in Township 5 South, Range 10 East.
Section 30, Township 5 South, Range 11 East.
Sections 36, 29, 30, 31, 32, 33 in Township 6 South, Range 13 East,
Sections 1 and 12 in Township 7 South, Range 12 East.
Sections 3, 4, 5, 6, 7, 8, 9, 10, 17, 18, 19, 20, 26, in Township 7 South, Range 13 East.
No Proofs are recorded in connection with this permit.

We wish to add that a permit is not an appropriation of the Public Waters of the State, but is the consent of state given in manner provided by law to construct and acquire real property. Permit gives applicant an inchoate right which will ripen into legal or complete appropriation only upon completion of works and application of water to beneficial use.

We hope this answers your inquiry.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

2428

Roy W. Thompson
Office Manager

RWT:lw

ESTABLISHED 1892

UTAH MORTGAGE LOAN CORPORATION

LOGAN, UTAH

January 29, 1958

JAN 3 1 1958
Department of Reclamation

Mr. Mark Kulp
State Reclamation Engineer
Capital Building
Boise, Idaho

Dear Mr. Kulp:

The below listed corporation has asked us to consider some financing as has to do with the new irrigation project in Twin Falls County. In speaking to the President, Vice President and Directors of the company, it appears that some of the questions we have asked them they cannot answer and for this reason we feel it advisable to request this information direct from your office.

We have been advised by these people that they have a decree out of Salmon Falls Creek for 120 cubic feet per second and that they have the first decree on the creek. The date of this decree they are not sure of. Also, they have a decree of 100 cubic foot per second from Deep Creek and a decree of 60 cubic foot per second from Cedar Draw Creek. None of the decree dates were available after talking to these officers of the company. Would you be kind enough to advise us if this water company has decrees as indicated above. The amount of the decree and the date of the decree, also, your opinion as to how long during the irrigation season, the water in these creeks will hold up to permit the people to draw the full amount of their decree.

Your usual prompt reply will be very much appreciated.

Yours truly,

UTAH MORTGAGE LOAN CORPORATION

George A. Judah
Assistant Vice President

GAJ:eo

24128

IN REPLYING REFER TO
NO.
Magic Water Company Incorporated

January 17, 1958

Re: Permit No. 24128
Magic Water Company, Inc.

Mr. A. C. Kiser
Attorney At Law
Idaho Building
Boise, Idaho

Dear Mr. Kiser:

I have your petition for extension of time for completion of works on Permit No. 24128.

Inasmuch as the original application for permit to appropriate under which the Permit No. 24128 required publication, the petition for extension of time for completion of works will be considered after publication of a suitable notice.

Very truly yours,

Mark R. Kulp
State Reclamation Engineer

MRK:nls

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

RECEIVED
JAN 13 1958
Department of Reclamation

IN THE MATTER OF WATER PERMIT #24128 IN THE NAME OF

MAGIC WATER COMPANY, INC.,

TO APPROPROPRIATE 120 CUBIC FEET PER SECOND OF THE WATERS OF SALMON FALLS CREEK.

, PETITION FOR EXTENSION OF TIME FOR COMPLETION OF WORKS

COMES NOW Magic Water Company, Inc., by and through one of its attorneys, A. C. Kiser, and petitions the Commissioner of Reclamation of the State of Idaho for a two year extension of time in which to complete the construction of works necessary for the complete development and utilization of 120 cubic feet per second of water covered by permit #24128 in the name of Magic Water Company, Inc.

The within petition is based on the following grounds and reasons:

The appropriation of water pursuant to the above numbered permit constitutes part of a plan for development of a substantial amount of land which development will also utilize waters covered by permits Nos. 25739, 25817 and 26408 issued by the Commissioner of Reclamation of the State of Idaho and also in the name of Magic Water Company, Inc., and by reason of the necessity of correlating the development of works for appropriation of water pursuant to the requirements of permit #24128 with the development of works necessary in connection with the other permits hereinbefore mentioned and for additional reason hereinafter set forth it will be impossible to complete the necessary works by May 2, 1958, for diversion of all of the water covered by permit #24128.

At this time the diversion reservoir on Salmon Falls Creek is completed, 9 miles of the canal which will be used in connection with all of the permits hereinbefore mentioned has been completed, surveying for the entire project is virtually completed, a pipe line to the pumping plant together with a pumping plant consisting of 7 pumps has been completed, lands have been purchased at the point of diversion and a road has been constructed for purposes of developing the project, a substation for power purposes has been installed and there has been a diversion of a substantial amount of water during the last two irrigation seasons by the use of such facilities for the irrigation of lands already developed in connection with the Magic Water Company project.

The development under permit #24128 has been delayed for more than two years by reason of delay with respect to acquiring the necessary rights of way for roads, canals and other diversion facilities. In this regard, it appears that it will be necessary to institute condemnation

24128

proceedings for canal right of way for the development and utilization of a portion of the waters covered by permit #24128. Such proceedings cannot be instituted until an irrigation district is formed. Action has been withheld with respect to formation of such district until such time as patents have been issued to the majority of the desert land entrymen who have farmed and irrigated such lands included in the project during the past two irrigation seasons.

For the reasons hereinbefore set forth it is respectfully requested that the time for completion of works in connection with permit #24128 in the name of Magic Water Company, Inc., be extended to May 2, 1960, or to such later date as said company may hereafter request by reason of further delay if the company encounters additional delay by reason of right of way acquisition or by reason of other difficulties encountered by the company. It is further requested that the Department of Reclamation examine the developments heretofore completed by Magic Water Company as proof of the fact that the company has heretofore exercised diligence and good faith with respect to completing the requirements of permit #24128.

Dated this 10th day of January, 1958.

J. C. Klein

Attorney for Magic Water Company, Inc.

24128

June 14, 1956

RE: Permit No. 26128

Mr. K. V. Elkin, Agent
American Surety Company
1002 Main Street
Buhl, Idaho

Dear Mr. Elkin:

This will acknowledge receipt of Bond No. 34-560-601. Bond of the American Surety Company made out to the Evergreen Canal Company of Buhl, Idaho, as Principal in connection with the above captioned Permit.

We are returning copy of said Bond and filing the necessary information.

Very truly yours,

MArk R. KULP
State Reclamation Engineer
By

Roy W. Thompson
Supervisor of Water Distribution

T:cu
Enc.

26128

June 12, 1956

RE: Permits Nos. 25739 and 24128
Application No. 34068

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

ATTENTION: F. M. Brown, Bookkeeper

Gentlemen:

We are today in receipt of your letter of June 8, 1956, enclosing your check No. 1248 in the amount of $4.50 in payment of fees for copies of the above numbered permits and application.

We are enclosing departmental receipt No. 28005 for the $4.50 fees.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

See letter in file 25739

24128

Fidelity and Deposit Company
OF MARYLAND

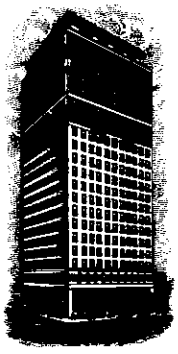
1318 Continental Bank Building

24128

SALT LAKE CITY 1, UTAH

A. F. LAFRENTZ
Chairman of the Board

W. E. McKELL
President



American Surety Company
of New York

K. V. ELKIN, AGENT
1002 MAIN STREET · TEL. 102
BUHL, IDAHO

RECEIVED
JUN 8 1956
Department of Reclamation

June 7, 1956

Mark R. Kulp
State Reclamation Engineer
Boise, Idaho

Re: Permit 24128

Dear Sir:

Enclosed is Bond No. 34-560-601 issued by the American Surety Company of New York.

Please complete both the original and copy of the bond and return the copy to me.

Yours truly,

K. V. Elkin

24128

Bond No.34-560-601



HOME OFFICE BUILDING

American Surety Company

OF NEW YORK

(A STOCK COMPANY)

ORGANIZED 1884

B ON D

KNOW ALL MEN BY THESE PRESENTS, that the EVERGREEN CANAL CO. of Buhl, Idaho, as Principal, and the AMERICAN SURETY COMPANY OF NEW YORK, as Surety, are held and firmly bound unto the STATE OF IDAHO, in the full and just sum of ONE THOUSAND AND NO/100- - -($1,000.00) DOLLARS, lawful money of the United States, for payment of which sum, well and truly to be made, said principal and Surety bind themselves, their heirs, administrators, executors and assigns, jointly and severally, under the terms and conditions hereinafter set forth.

The terms of this obligation are such that, whereas the above named Principal,

on the 11th day of February , 19 53 , filed in the Office of the Department of Reclamation in Boise, Idaho, a certain application for a permit to appropriate the public waters of the State of Idaho, and said application being thereupon numbered 31497 , in accordance with which said application the Department granted and issued to the said Principal herein , a certain permit numbered 24128, a full, true and complete copy of which application No. 31497 and permit No. 24128 is of record in the office of the Commissioner of Reclamation in book 86 of permits at page 24128.

Now, if the above bounden principal shall faithfully carry to completion the said works of diversion as specified in said application No. 31497 and Permit No. 24128, in the manner and form prescribed therein, and within the time therein allowed, then the above obligation to be void, otherwise, to remain in full force and effect.

IN WITNESS WHEREOF, the said principal and surety have hereunto set their hands and seals, this 6th day of June, 1956.

EVERGREEN CANAL CO.

BY James D. Gibson

BY _____

AMERICAN SURETY COMPANY OF NEW YORK

J. B. Crawford, Res. Vice President

Mary I. DeLuca, Res. Ass't Sec.

Countersigned:

R. V. Elkins

Resident Agent in Idaho

24128

June 6, 1956

RE: Permits Nos. 25739, 24128
Application No. 34068

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

ATTENTION: Mr. Clifford E. Fix

Dear Mr. Fix:

We enclose, herewith, Permits Nos. 25739 and 24128 and Application No. 34068 in the name of Magic Water Company, Inc., as per your request of June 5, 1956.

The fees for making these copies will be $1.50 each or a total of $4.50 for which you may send us your check.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

24128

April 23, 1956

Mr. Ronald D. McGregor, Manager
American Bonding Company
1318 Continental Bank Building
Salt Lake City 1, Utah

Bond - Evergreen Canal Co.
Permit No. 24128

Dear Mr. McGregor:

Bond on Permit No. 24128 dated 7th day of April, 1954, issued by your Company is still needed although the Permit has been assigned to the Falls Creek Irrigation Company in April, 1955, and by them to Magic Irrigation Company in November, 1955.

We have no record of the diversion works having been faithfully carried to completion as specified in Permit No. 24128 and for which the Bond was posted.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:cu
CC: Magic Irrigation Company
Mr. Harley M. McDowell

24128

American Bonding Company

HOME OFFICE OF BALTIMORE BALTIMORE 3, MD.

FIDELITY AND SURETY BONDS

BURGLARY AND GLASS INSURANCE

RONALD D. McGREGOR
MANAGER
JOHN W. BOWEN
SPECIAL AGENT

1318 CONTINENTAL BANK BUILDING
SALT LAKE CITY 1, UTAH

TELEPHONE
9-8697

April 17, 1956

RECEIVED
APR 20 1956
Department of Reclamation

Department of Agriculture
Capitol Building
Boise, Idaho

Re: Bond 279 757 - Evergreen Canal Company,
Terreton, Idaho - Water Permit Bond
Application No. 31 497 - Permit No. 24 128

Gentlemen:

With reference to the above bond in the amount of $1,000 dated April 7, 1954, we are advised that the bond is no longer needed. If this information is correct would you be kind enough to give us a letter releasing the said bond so that we can close our file.

Yours very truly,

Ronald D. McGregor, Manager

RDM:es

cc: Dehnert Insurance Co.

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 06751

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Marion B. Chastain
Terreton, Idaho

Sir:

Your Desert-Land entry (Kind of application or entry), Serial No. Idaho 06751

Receipt No. 236305, for E½SE¼, Sec. 33; SW¼, W½SE¼ (E½ SE¼ SW¼ W½ SE¼)

, Section 34

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LC:MFK
Idaho 06749

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

RECEIVED
APR 4 1956
Department of Reclamation

Gladys Strieker
Route #2
Hansen, Idaho

Sir:

Your **Desert-Land entry**, Serial No. **Idaho 06749**
(Kind of application or entry)

Receipt No. **236303**, for **W½SE¼, E½SW¼, Sec. 27;**
W½ SE¼ E½ SW¼

W½NE¼, E½NW¼, Section **34**

Township **8 S.**, Range **13 E.**, **Boise** Meridian,

containing **320** acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

Very respectfully,

Nolan F. Keil

Nolan F. Keil
Manager

cc: **Land Office, Boise**
DFM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:NFK
Idaho 06196

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Verla Hill
Samaria
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06196
(Kind of application or entry)

Receipt No. 236054, for NW¼, W½NE¼, Sec. 26; nw¼ w½ sw¼

E½NE¼, Section 27

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Recla.Engr., Boise
R.M., Boise
L&M Officer, Boise

2H128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 06755

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Floyd O. Kisling
Dietrich
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06755
(Kind of application or entry)

Receipt No. 236309, for ne¼ NE¼, Sec. 23; NE¼SW¼, S½NW¼, NW¼NW¼ ne¼ sw¼ s½ nw¼ nw¼ nw¼

, Section 24

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reels.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:MFK
Idaho 06643

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Garth G. Eckert
Hill City
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06643
(Kind of application or entry)

Receipt No. 235351, for W½ W½

, Section 23

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DPM, Boise
State Recla.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 03957

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Vivian L. Godfrey
Teadey
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 03957
(Kind of application or entry)

Receipt No. 6065, for $S\frac{1}{2}SW\frac{1}{4}$, Sec. 14; $SE\frac{1}{4}SE\frac{1}{4}$, Sec. 15; $NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, Section 22

Township 6 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reels. Engr., Boise
R.M., Boise
LAM Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

April 2, 1956
(Date)

In reply refer to:
LO:NFK
Idaho 03971

NOTICE OF ALLOWANCE

RECEIVED
Department of Reclamation

Charles D. Chastain
Terreton
Idaho

Sir:

Your Desert Land entry, Serial No. Idaho 03971
(Kind of application or entry)

Receipt No. 6080, for W½SE¼, Sec. 27; NE¼, Sec. 33; W½NW¼ NE¼ W½NW¼

, Section 34

Township 6 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
BRM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

2H128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 06185

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Pete M. Barick
Route #2
Hansen, Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06185
(Kind of application or entry)

Receipt No. 236043, for n½

, Section 27

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

24128

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
BRM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:MFK
Idaho 06752

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Jesse E. Seiber
Castleford
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06752
(Kind of application or entry)

Receipt No. 236306, for E½W½, Sec. 26;

W½NE¼, E½W½, Section 35

Township 8 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRN, Boise
State Reclm.Engr., Boise
R.M., Boise
LAM Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:NFK
Idaho 04739

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Velma M. Eckert
603 - 8th North
Buhl, Idaho

Sir:

Your **Desert-Land entry**, Serial No. **Idaho 05739**
(Kind of application or entry)

Receipt No. **347539**, for **E½E½, Sec. 34; W½W½** (E½E½ W½W½)

, Section **35**

Township **8 S.**, Range **13 E.**, **Boise** Meridian,

containing **320** acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil

Nolan F. Keil
Manager

cc: **Land Office, Boise**
DRM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:NFK
Idaho 06753

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

RECEIVED
APR 4 1956
Department of Reclamation

Vira J. White
Star Route
Mountain Home, Idaho

Sir:

Your **Desert-Land entry**, Serial No. **Idaho 06753**
(Kind of application or entry)

Receipt No. **236307**, for **Lots 3, 4, Sec. 2; Lots 1, 2, 3, 4**

, Section **3**

Township **9 S.**, Range **13 E.**, **Boise** Meridian,

containing **319.75** acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: **Land Office, Boise**
DRW, Boise
State Reels.Engr., Boise
R.E., Boise
L&M Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 03963

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

RECEIVED
APR 4 1956
Department of Reclamation

Arlene D. Kyles
Route #2
Buhl, Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 03963
(Kind of application or entry)

Receipt No. 6071, for SW¼NW¼, NW¼SW¼, Sec. 2; S½NE¼, SE¼,

Section 3

Township 9 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:NFK
Idaho 06757

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Eva L. Taylor
343 - 3rd Avenue North
Twin Falls, Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06757
(Kind of application or entry)

Receipt No. 236311, for ω½ SE¼ W½SE¼, Sec. 33, T. 8 S., R. 13 E. and
sw¼ ne¼ se¼ nw¼ ne¼ sw¼ nw¼ se¼
Lot 2, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, Section 4

Township 9 S., Range 13 E., Boise Meridian,

containing 293.50 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reela.Engr., Boise
R.M., Boise
I&M Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:MFK
Idaho 06750

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

APR 4 1956
Department of Reclamation

Richard R. Black
425 W. Whitman
Pocatello, Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 06750
(Kind of application or entry)

Receipt No. 236304, for S½NW¼, N½SW¼, Sec. 3;
SE¼NE¼, NE¼SE¼

Lot 1, SE¼NE¼, NE¼SE¼, Section 4

Township 9 S., Range 13 E., Boise Meridian,

containing 293.40 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
IDM, Boise
State Reclm.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Dwinna M. Black
425 W. Whitman St.
Pocatello, Idaho

Sir:

Your Desert Land entry, Serial No. Idaho 06756
(Kind of application or entry)

Receipt No. 23610, for S½SW¼, Sec. 3; S½SE¼, SE¼SW¼, Sec. 4; NE¼NW¼, N½NE¼, Section 9

Township 9 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Recla.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
LO:NFK
Idaho 03999

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

RECEIVED

Mellie Lorraine Cole Barrett
Leadore
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 03999
(Kind of application or entry)

Receipt No. 6067, for S½ NE¼ E½SE¼ W½W½ Sec. 9; W½W½

, Section 10

Township 9 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Reala.Engr., Boise
R.M., Boise
L&M Officer, Boise

2H128

4-272

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:
10:MFK
Idaho 03962

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

Ruth Kyles
Buhl
Idaho

Sir:

Your Desert-Land entry, Serial No. Idaho 03962
(Kind of application or entry)

Receipt No. 6070, for ne¼ne¼, w½ne¼, nw¼se¼, e½sw¼, e½nw¼

, Section 10

Township 9 S., Range 13 E., Boise Meridian,

containing 320 acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed subject to any valid existing rights.

Very respectfully,

Nolan F. Keil

Nolan F. Keil
Manager

cc: Land Office, Boise
DRM, Boise
State Recla.Engr., Boise
R.M., Boise
LAM Officer, Boise

24128

4-279

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Land Office
P. O. Box 2237
Boise, Idaho

In reply refer to:

LO:NFK
Idaho 06754

April 2, 1956
(Date)

NOTICE OF ALLOWANCE

RECEIVED
Department of Reclamation

Arlyne B. Kisling
Dietrich
Idaho

Sir:

Your **Desert-Land entry**, Serial No. **Idaho 06754**
(Kind of application or entry)

Receipt No. **236308**, for S½SE¼ **Sec. 10;** W½NE¼, NW¼

, Section **15**

Township **9 S.,** , Range **13 E.** , **Boise** Meridian,

containing **320** acres, has this day been allowed, subject to your further compliance with law and regulations applicable thereto.

In correspondence relating to this entry, always refer to the serial number.

The above entry is allowed, subject to any valid existing rights.

Very respectfully,

Nolan F. Keil
Manager

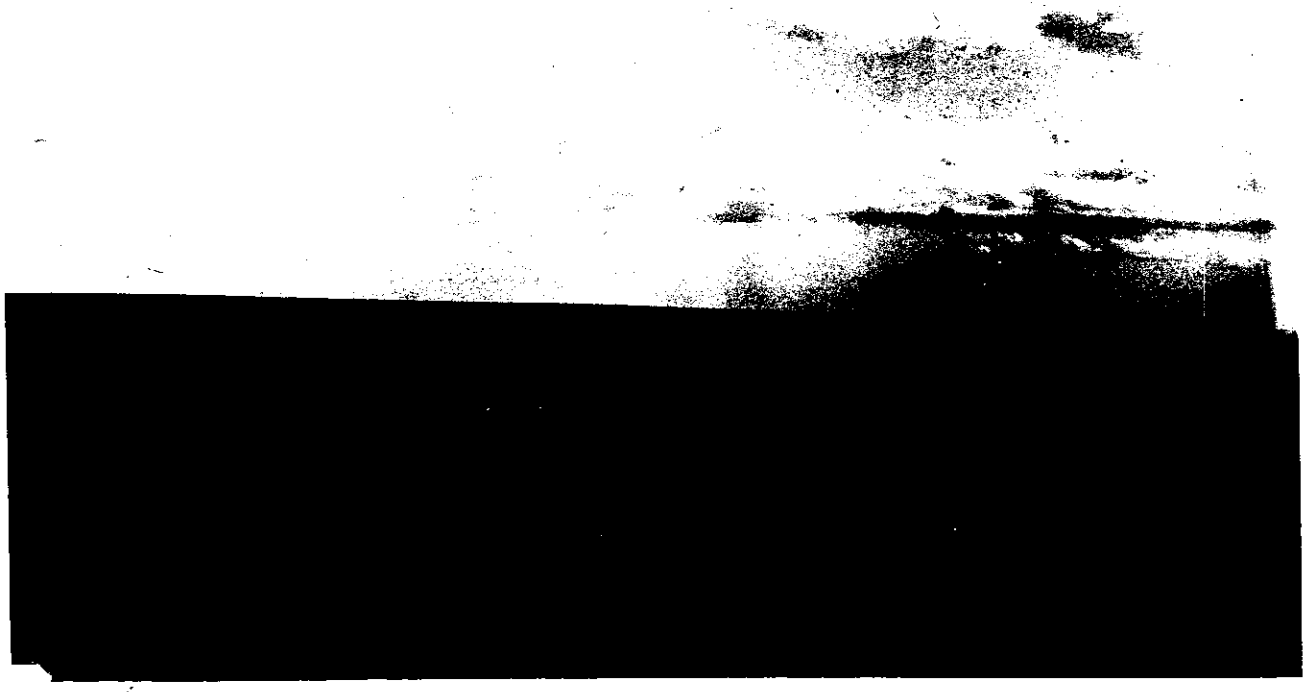
cc: **Land Office, Boise**
DRM, Boise
State Reela.Engr., Boise
R.M., Boise
L&M Officer, Boise

24128



Center Cement Core of Major water dam. + diversion Channel 3-28-56 M.E.







+ 7. Channel outlets + Pipe to lead to Pumps. 3-28-54 M.E.

December 30, 1955

RE: Permits Nos. 24128, 25739, and 25817

Mr. Maurice H. Echert
Buhl
Idaho

Dear Mr. Echert:

In reply to Mr. Harley M. McDowell's request, we have checked the matter of bonds on the above numbered Permits in the name of the Magic Water Company and find as follows:

On Permit No. 25817, assigned from the Falls Creek Irrigation Company, no bond has been filed although the filing of a thousand dollar bond was required on or before September 25, 1955.

On Permit No. 25739, a bond was filed by the American Surety Company of New York to Messrs. Ellis, Crown, Echert and Rarick, the original holders of the Permit.

On Permit No. 24128, a bond was filed by the American Bonding Company of Baltimore to the Evergreen Canal Company, the original holder.

These latter two bonds should either be renewed or transferred to the Magic Water Company.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

24128

A:hll
cc - Mr. Harley M. McDowell

November 14, 1955

RE: Permits Nos. 24128, 25739, 25817

Mr. A. C. Kiser
Idaho Building
Boise, Idaho

Dear Mr. Kiser:

We return herewith Assignments on the above numbered Permits to the Magic Water Company, Inc. of Buhl, Idaho, which have been recorded in this Department.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll
Enc.

24128

April 29, 1955

RE: Permit No. 24128

Falls Creek Irrigation Company
1000 Main Street
Buhl, Idaho

Gentlemen:

We enclose herewith the Assignment of Permit No. 24128 from the Evergreen Canal Company to the Falls Creek Irrigation Company which has been recorded in this Department.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:eu
Enc.

24128

April 29, 1955

RE: Permit No. 24128

Mr. Ronald D. McGregor, Manager
American Bonding Company of Baltimore
1318 Continental Bank Building
Salt Lake City 1, Utah

Dear Mr. McGregor:

Reference is made to your letter of April 21 in regard to your Bond No. 279757 for the Evergreen Canal Company in connection with Permit No. 24128.

This Permit has been assigned to the Falls Creek Irrigation Company of 1000 Main Street, Buhl, Idaho.

The Bond must be continued either by substitution of a new Bond in the name of the present owner or a transfer of the present Bond. We are sending a copy of this letter to the Falls Creek Irrigation Company for their information.

Very truly yours,

M RK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll
cc - Falls Creek Irrigation Company
1000 Main Street
Buhl, Idaho

24128

I, M. F. Barrett, do hereby certify that I am the authorized agent of and for the Evergreen Canal Company, owners of Permit to Appropriate the Public Waters of the State of Idaho, No. 24128.

That as such authorized agent, I am empowered to transact any business in the name of the Evergreen Canal Company, including the assignment of said Permit to the Falls Creek Irrigation Company.

M. F. Barrett

Subscribed and sworn to before me this 28th day of April, 1955.

Hadley Lesley C. Donnell
Notary Public for Idaho
residing at Boise, Idaho

24128

American Bonding Company

HOME OFFICE OF BALTIMORE BALTIMORE 3, MD.

FIDELITY AND SURETY BONDS

BURGLARY AND GLASS INSURANCE

RONALD D. McGREGOR
MANAGER
JOHN W. BOWEN
SPECIAL AGENT

1318 CONTINENTAL BANK BUILDING
SALT LAKE CITY 1, UTAH

TELEPHONE
9-8697

April 21, 1955

RECEIVED
APR 25 1955
Department of Reclamation

Department of Agriculture
Capitol Bldg.
Boise, Idaho

Re: Bond 279 757 - Evergreen Canal Company
Terreton, Idaho - Water Permit Bond
Application # 31497 - Permit #24128

Gentlemen:

It is our understanding that the above captioned bond in the amount of $1,000.00 issued 4-7-54 is continuous and requires no renewal certificate or new bond to keep it in force. However, you may disagree with our thoughts on this, and we would appreciate having a reply from you as to whether or not you do require some kind of renewal.

Yours very truly,

R. D. McGregor

Ronald D. McGregor, Manager

RDM:lmr

cc: Dehnert Ins.
Idaho Falls

24128

B-194-a. July 1937

Daily Gage Height, in Feet, and Discharge, in Second-Feet, of EAST FORK BRUNEAU River / Creek

At / Near at Trites Camp Ranch HOT SPRING, IDAHO for the Year Ending September 30, 1953

UNITED STATES
DEPARTMENT OF THE INTERIOR 1952-53
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

File Number { Washington / District 97

Used rating table dated 3/10/54 as shown

Drainage Area ... Square Miles. Water-Stage Recorder Stevens A-35 Ratio 1 : 6

Gage ~~Read by~~ attended ~~Once a Day~~ by U.S.G.S. Engineers

Gage heights used to ~~half tenths between ... and ... feet;~~ hundredths ~~below and tenths above these limits~~.

UNPUBLISHED RECORDS SUBJECT TO REVISION

Max Disch. 172 Sec.-ft. on 4:30pm June 6
Min. Disch. 0.1 Sec.-ft. on Aug. 18

(G. H. 5.08 ft. Sept. 6) Max. G. H. Some time in
(G. H. 1.44 ft.) Min. G. H. Some time in

Note: Stage-discharge relation affected by ice Nov. 22 to Jan. 11, Jan. 27, Feb. 10-17, Feb. 19 to Mar. 3, Mar. 5-9.

DAY	OCTOBER Gage height	OCTOBER Discharge	NOVEMBER Gage height	NOVEMBER Discharge	DECEMBER Gage height	DECEMBER Discharge	JANUARY Gage height	JANUARY Discharge	FEBRUARY Gage height	FEBRUARY Discharge	MARCH Gage height	MARCH Discharge	APRIL Gage height	APRIL Discharge	MAY Gage height	MAY Discharge	JUNE Gage height	JUNE Discharge	JULY Gage height	JULY Discharge	AUGUST Gage height	AUGUST Discharge	SEPTEMBER Gage height	SEPTEMBER Discharge
1	2.04	7.5	2.16	11	2.32	13	2.54	15	2.11	9.6	2.25	12	2.20	14	2.37	20	3.15	56	2.49	25	1.57	.5	1.64	.9
2	2.04	7.5	2.16	11	2.35	15	2.48	14	2.10	9.3	2.26	11	2.20	14	2.34	19	3.06	52	2.44	23	1.58	.6	1.67	1.2
3	2.01	6.6	2.17	12	2.37	15	2.40	14	2.11	9.6	2.25	10	2.20	14	2.31	17	3.10	54	2.38	20	1.60	.7	1.74	1.9
4	2.03	7.2	2.14	11	2.40	14	2.36	14	2.12	10	2.10	10	2.20	14	2.32	18	3.34	66	2.35	19	1.68	1.3	1.76	2.1
5	2.03	7.2	2.15	11	2.50	14	2.36	13	2.12	10	2.22	11	2.20	14	2.33	18	3.36	67	2.32	18	1.70	1.5	1.75	2.0
6	2.05	7.8	2.17	12	2.56	14	2.31	12	2.14	11	2.15	11	2.21	14	2.21	13	3.88	95	2.24	14	1.73	1.9	1.72	1.7
7	2.06	8.1	2.18	12	2.59	15	2.32	13	2.15	11	2.17	11	2.25	16	2.14	11	3.84	92	2.24	14	1.74	2.0	1.69	1.4
8	2.06	8.1	2.19	12	2.55	15	2.32	14	2.19	12	2.15	11	2.29	17	2.08	8.7	4.29	119	2.18	12	1.67	1.3	1.70	1.5
9	2.07	8.4	2.21	13	2.55	14	2.24	14	2.13	10	2.17	12	2.25	16	2.11	9.6	4.30	120	2.14	11	1.67	1.3	1.72	1.7
10	2.07	8.4	2.15	11	2.57	14	2.24	14	2.28	10	2.20	14	2.26	16	2.32	18	4.12	109	2.13	10	1.69	1.4	1.72	1.7
11	2.06	8.1	2.16	11	2.48	15	2.35	17	2.24	9	2.22	15	2.25	16	2.48	25	4.02	103	2.12	10	1.68	1.3	1.70	1.5
12	2.06	8.1	2.24	14	2.50	16	2.23	14	2.20	9	2.22	15	2.19	13	2.47	25	3.81	91	2.12	10	1.65	1.0	1.70	1.5
13	2.05	7.8	2.24	14	2.48	16	2.21	13	2.22	10	2.20	14	2.18	12	2.44	23	3.73	86	2.11	9.6	1.61	.7	1.68	1.3
14	2.06	8.1	2.20	13	2.48	15	2.20	13	2.16	10	2.18	13	2.19	13	2.40	21	3.78	89	2.10	9.3	1.57	.5	1.65	1.1
15	2.07	8.4	2.21	13	2.43	14	2.22	14	2.18	11	2.14	12	2.22	14	2.38	20	3.71	85	2.06	8.1	1.55	.4	1.63	.9
16	2.09	9.0	2.22	14	2.40	14	2.18	12	2.14	10	2.14	12	2.25	15	2.32	18	3.76	88	2.04	7.5	1.54	.3	1.71	1.6
17	2.12	10	2.21	13	2.36	14	2.21	13	2.17	10	2.17	13	2.24	15	2.32	18	3.70	84	1.98	5.9	1.51	.2	1.73	1.9
18	2.12	10	2.22	14	2.37	15	2.22	14	2.10	9.3	2.17	13	2.27	16	2.33	18	3.57	78	1.95	5.2	1.47	.2	1.61	.8
19	2.13	10	2.21	13	2.35	15	2.20	13	2.06	8	2.16	12	2.53	27	2.46	24	3.39	68	1.93	4.8	1.55	.4	1.56	.5
20	2.12	10	2.23	14	2.32	15	2.20	13	2.24	8	2.16	12	2.56	29	2.56	29	3.26	62	1.92	4.6	1.57	.5	1.53	.4
21	2.11	9.6	2.19	12	2.29	15	2.17	12	2.17	8	2.17	13	2.57	29	2.75	37	3.21	60	1.92	4.6	1.56	.4	1.51	.3
22	2.11	9.6	2.29	11	2.28	14	2.15	11	2.21	10	2.16	12	2.58	30	2.75	37	3.14	56	1.93	4.8	1.58	.5	1.51	.3
23	2.12	10	2.26	10	2.29	14	2.16	11	2.24	10	2.16	12	2.57	29	2.76	38	3.05	52	1.93	4.8	1.59	.6	1.62	.9
24	2.12	10	2.21	10	2.35	12	2.12	10	2.28	9	2.15	12	2.60	30	2.76	38	2.92	45	1.91	4.4	1.60	.6	1.68	1.4
25	2.13	10	2.26	13	2.06	7	2.13	10	2.34	9	2.15	12	2.57	29	2.84	42	2.84	42	1.89	4.0	1.63	.8	1.70	1.6
26	2.14	11	2.38	12	2.15	7	2.12	10	2.22	10	2.15	12	2.57	29	2.90	44	2.75	37	1.85	3.4	1.66	1.1	1.70	1.6
27	2.15	11	2.30	11	2.27	12	2.15	9.0	2.22	12	2.13	11	2.47	25	2.79	39	2.68	34	1.77	2.3	1.66	1.1	1.70	1.6
28	2.15	11	2.16	10	2.30	15	2.04	7.5	2.20	12	2.12	11	2.38	20	2.70	35	2.67	34	1.73	1.9	1.65	1.0	1.69	1.5
29	2.15	11	2.20	10	2.41	16	2.07	8.4			2.16	12	2.33	19	3.04	51	2.64	32	1.66	1.2	1.68	1.2	1.72	1.9
30	2.15	11	2.19	11	2.69	15	2.17	12			2.19	14	2.37	20	3.63	80	2.57	29	1.60	.7	1.67	1.2	1.76	2.3
31	2.16	11			2.67	15	2.12	10			2.21	14			3.44	71			1.60	.7	1.68	1.3		

CALENDAR YEAR 1952

14,041.3	TOTAL	281.5	359	434	383.9	276.8	379	578	885.3	2,085	273.8	27.9	41.0	6,005.2
38.4	Mean	9.08	12.0	14.0	12.4	9.89	12.2	19.3	28.6	69.5	8.83	.90	1.37	16.5
	Second-feet per square mile													
	Run-off in inches													
27,851	Run-off in acre feet	558	712	861	761	549	752	1,150	1,760	4,140	543	55	81	11,922
219	Maximum	11	14	16	17	12	15	30	80	120	25	2.0	2.3	120
3	Minimum	6.6	10	7	7.5	8	10	12	8.7	29	.7	.2	.3	.2

QUARTER: FOURTH / THIRD / SECOND / FIRST — Computed — Checked — Date

Discharge measurements made by L. K. Wilcox, W. T. Wilcox, and others.

Discharge measurements: 1-22-54, 1-23-54, 7-29-54

Shifts or adjustments: (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54)

Gage-height corrections: +.03 Oct. 1 to Nov. 22; +.02 Nov. 22 to Jan. 11; +.01 Jan. 11 to Feb. 19; +.05 Feb. 19 to Mar. 3; +.01 Mar. 3 to June 6; -.01 June 6 to July 18; +.01 July 18 to Aug. 18; -.01 Aug. 18 to Sept. 30

QUARTER: FOURTH / THIRD / SECOND / FIRST — Disch. applied — Disch. checked — Date

Discharge measurements made by L. K. Wilcox, W. T. Wilcox, and others.

Discharge measurements: 1-22-54, 1-23-54, 7-29-54

Shifts or adjustments: (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54)

Gage-height corrections: +.03 Oct. 1 to Nov. 22; +.02 Nov. 22 to Jan. 11; +.01 Jan. 11 to Feb. 19; +.05 Feb. 19 to Mar. 3; +.01 Mar. 3 to June 6; -.01 June 6 to July 18; +.01 July 18 to Aug. 18; -.01 Aug. 18 to Sept. 30

YEAR 1952-53

24128

9-192-a. July 1937

Daily Gage Height, Feet, at Discharge, in Second-Feet, of EAST FK. BOISE River / Creek

Near HOT SPRING, IDAHO at Trailer Camp Ranch **for the Year Ending September 30, 1954**

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

1953-54

File Number { Washington / District 97

Used rating table dated 3-10-54 AS SHOWN

Drainage Area ..... Square Miles. Water-Stage Recorder Stevens A-35 Ratio 1 : 6

Gage Read to Attended Once / Twice a Day by U.S.G.S. Engineers

Gage heights used to ~~half-tenths between ..... and ..... feet~~; hundredths ~~below and tenths above these limits~~.

UNPUBLISHED RECORDS SUBJECT TO REVISION

Day	November Gage height	November Discharge	December Gage height	December Discharge	January Gage height	January Discharge	February Gage height	February Discharge	March Gage height	March Discharge	April Gage height	April Discharge	May Gage height	May Discharge	June Gage height	June Discharge	July Gage height	July Discharge	August Gage height	August Discharge	September Gage height	September Discharge
1	1.74	2.1	2.04	7.2	2.08	8.4	2.30	9	2.43	13	2.12	11	2.15	13	2.32	21	2.06	11	1.94	4.4		
2	1.74	2.1	2.04	7.2	2.09	8.7	2.26	10	2.33	13	2.12	10	2.12	12	2.29	20	2.07	12	1.89	3.4		
3	1.73	2.0	2.05	7.5	2.07	8.1	2.32	10	2.34	12	2.07	8	2.11	11	2.26	19	2.17	16	1.82	2.3		
4	1.73	2.0	2.05	7.5	2.05	7.5	2.38	10	2.38	12	2.10	8	2.10	11	2.20	16	2.17	16	1.76	1.5		
5	1.74	2.1	2.06	7.8	2.13	8	2.37	10	2.34	12	2.14	8	2.10	11	2.16	15	2.12	14	1.74	1.3		
6	1.76	2.3	2.06	7.8	2.15	8	2.36	10	2.29	13	2.16	9	2.12	12	2.14	14	2.09	12	1.74	1.3		
7	1.78	2.6	2.05	7.5	2.39	9	2.37	10	2.31	13	2.14	10	2.12	12	2.08	12	2.07	12	1.72	1.1		
8	1.78	2.6	2.05	7.5	2.18	8	2.34	10	2.30	13	2.16	10	2.16	13	2.04	11	2.17	15	1.69	0.8		
9	1.78	2.6	2.05	7.5	2.11	8	2.32	9	2.32	12	2.18	14	2.17	14	2.03	10	2.24	18	1.67	0.6		
10	1.75	2.2	2.05	7.5	2.16	9	2.31	9	2.34	13	2.18	14	2.17	14	1.99	9.0	2.32	21	1.64	0.4		
11	1.77	2.5	2.05	7.5	2.28	9	2.29	9	2.40	14	2.17	13	2.17	14	1.89	6.1	2.60	33	1.63	0.4		
12	1.77	2.5	2.05	7.5	2.20	8	2.29	9	2.25	14	2.22	12	2.18	14	1.88	5.9	2.68	36	1.60	0.2		
13	1.79	2.7	2.05	7.5	2.20	10	2.46	9	2.23	14	2.19	11	2.17	14	1.89	6.1	2.42	24	1.57	0.2		
14	1.79	2.7	2.05	7.5	2.18	10	2.49	9	2.26	16	2.06	9.3	2.20	15	1.88	5.9	2.31	19	1.51	0.1		
15	1.81	3.0	2.04	7.2	2.18	10	2.42	9	2.24	15	2.24	16	2.20	15	1.95	7.8	2.24	16	1.47	0		
16	1.83	3.2	2.03	6.9	2.20	11	2.41	10	2.21	14	2.22	16	2.28	18	1.99	9.0	2.32	20	1.48	0.1		
17	1.84	3.3	2.04	7.2	2.18	11	2.39	10	2.19	13	2.22	16	2.29	19	1.98	8.7	2.31	19	1.46	0		
18	1.85	3.4	2.00	6.1	2.16	11	2.36	9	2.18	12	2.19	14	2.29	19	1.96	8.1	2.41	24	1.44	0		
19	1.85	3.4	2.11	5.	2.19	12	2.35	9	2.19	13	2.17	14	2.30	19	1.94	7.5	2.30	19	1.44	0		
20	1.88	3.9	2.14	6	2.20	12	2.28	8	2.18	12	2.16	13	2.33	20	1.90	6.3	2.21	15	1.43	0		
21	1.89	4.0	2.12	6	2.19	12	2.36	9	2.18	12	2.17	14	2.32	20	1.89	6.1	2.12	10	1.42	0		
22	2.00	6.3	2.12	8	2.37	9	2.35	10	2.18	12	2.16	13	2.27	18	1.89	6.1	2.07	8.4	1.44	0		
23	1.98	5.9	2.13	8	2.27	7	2.32	11	2.16	12	2.16	13	2.18	14	1.86	5.5	1.98	5.5	1.47	0		
24	2.02	6.6	2.11	9.3	2.18	5	2.36	11	2.15	12	2.14	12	1.98	7.5	1.91	6.6	1.83	2.5	1.47	0		
25	2.04	7.2	2.13	10	2.13	4	2.31	9	2.14	11	2.14	12	1.87	4.8	1.96	8.1	1.72	1.1	1.45 Dry	0		
26	2.06	7.8	2.15	11	2.13	5	2.35	9	2.15	12	2.15	13	1.86	4.6	1.98	8.7	1.70	0.8	1.43 Dry	0		
27	2.05	7.5	2.14	10	2.25	7	2.33	9	2.14	11	2.17	14	1.95	6.9	1.96	8.1	1.69	0.8	1.42 Dry	0		
28	2.04	7.2	2.10	9.0	2.25	9	2.38	10	2.14	11	2.18	14	2.00	8.4	1.98	8.7	1.65	0.5		0		
29	2.04	7.2	2.07	8.1	2.28	9	2.41	11			2.15	13	2.09	11	2.02	10	1.77	s 2.1		0		
30	2.05	7.5	2.07	8.1	2.25	9	2.33	13			2.14	12	2.35	23	2.03	10	1.99	5.7		0		
31	2.05	7.5			2.27	9	2.56	13			2.14	12			2.05	11				0		
Total	5,561.2		127.9		230.9		271.7		303		356		378.3		408.2		307.3		409.4		18.1	
Mean	15.2		4.13		7.70		8.76		9.8		12.7		12.2		13.6		9.91		13.6		.58	
Second-feet per square mile																						
Run-off in inches																						
Run-off in acre-feet	11,042		254		458		539		601		706		750		810		610		812		36	
Maximum	120		7.8		11		12		13		16		16		23		21		36		4.4	
Minimum	0.2		2.0		5.		4		8		11		8		4.6		5.5		0.5		0	

Max Disch. 44 Sec-ft. at 11 p.m. on June 11 (G.H. 3.03 ft.). Max G.H. 3.03 ft. on Dec. 22 (ice jam).
Min. Disch. No flow for long periods during irrigation season. Min. G.H. 2.84 ft. on Shift +.06

Note - Stage-discharge relation affected by ice Nov. 19-23, Dec. 5-17, Dec. 22 to Feb. 12, Mar. 2-8, 12, 13.

Computed by subdividing the day

CALENDAR YEAR 1953

WATER YEAR 1953-54

Day	Fourth	Third	Second	First	Quarter	Computed	Checked	Date
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
29								
30								
31								

Quarter	G.H. copied	G.H. checked	Date
Fourth			
Third			
Second			
First			

Quarter	Disch. applied	Disch. checked	Date
Fourth			
Third			
Second			
First			

24128

9—207
(Sept. 1952)

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY (WATER RESOURCES DIVISION)

File No. Washington
Field

Discharge measurements of East Fork Bruneau River at Salls Ranch nr. Three Ck, Idaho, during the year ending Sept. 30, 1954

No.	Date	Made by—	Width	Area	Mean velocity	Gage height	Discharge	Rating		Method	Number meas. sections	Gage height change	Time	Meas. rated	REMARKS	
								Shift adj.	Percent diff.						Slough Diversions	Water Temp.
	1953		Feet	Sq ft	Fps	Feet	Cfs	Feet				Feet	Hr			
10	Sept 29	L.M. Hatch	14.7	7.76	0.54	1.00	4.20	—		.6	28	0	7/12	G	0.10	55°
11	Nov 5	J.R. Spofford	17.0	11.8	0.68	1.21	7.91			5 .6	26	0	5/12	G/F	0.10	42°
11	Dec 3	do	15.5	15.2	1.18	1.53	17.8	—		Prac .6	27	+0.3	5/12	G	0.20 Diurnal	32°
	1954															
12	Jan 12	L. Koski	13.0	7.93	1.02	1.67	8.00			5 .6	27	0	1	G/F	0.10	32°
13	Feb 15	S. Cordes	16.0	13.8	0.90	1.36	12.4	—		5 .6	33	-0.1	1/2	G	0.10	34°
14	Mar 22	J.R. Spofford	16.0	13.4	0.94	1.36	12.4	—		.6	29	0	7/12	G	0.10	39°
15	Apr 22	B.M. Chronic	16.0	13.5	1.08	1.40	14.6	—		Prac .6	31	0	5/12	G		45°
16	May 12	L.M. Hatch	15.2	8.43	0.64	1.06	5.41	—		.6	29	0	7/12	G	3.35	54°
17	June 16	L. Koski	16.5	20.2	1.40	1.77	28.3	—		.6	31	0	1/2	G	0.47	60½
18	July 20	L.M. Hatch	15.0	4.56	0.28	0.79	1.29	—		Sp. 5	15	0	1/3	G/F	1.45	61°
19	Aug 11	J.R. Spofford	14.0	5.02	0.42	0.88	2.10	—		5 Sp .6	26	0	1/2	G/F	0.34	
				Pt	zero flow .5											
20	Sept 23	A.L. Larson	15.2	6.32	0.43	0.93	2.73	—		5 .6	29	0	1/3	G	0.01	57°
			Pt	of zero flow		0.40										
21	Oct 25	W.I. Travis	14.8	8.06	0.55	1.02	4.43	—		.6	24	0	1/2	G	0.03	
		2412 8													Listed 11-16-54 JEC	

UNPUBLISHED RECORDS
SUBJECT TO REVISION

U. S. GOVERNMENT PRINTING OFFICE 16—58292-2

9—207
(Sept. 1952)

UNITED STATES DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY (WATER RESOURCES DIVISION)

File No. Washington
Field

Discharge measurements of East Fork Bruneau River at Salls ranch or Three Ck. Idaho, during the year ending Sept. 30, 19 53

No.	Date	Made by—	Width	Area	Mean velocity	Gage height	Discharge	Rating Shift adj.	Rating Percent diff.	Method	Number meas. sections	Gage height change	Time	Meas. rated	REMARKS: Slough & diversions	Water Temp.
			Feet	Sq ft	Fps	Feet	Cfs	Feet				Feet	Hr			
1	May 28	T.R. Newell	19.4	28.9	1.50	2.09	42.2	.3	-	.6 2-8	35	-.03	1	G	1.20	54°
2	June 8	A.L. Larson	17.1	45.0	2.64	3.17	117			.6 2-8	29	-.01	5/6	G	2.00	
3	12	J. Cummans T.R. Newell	17.0 Pt. of zero flow	34.3	2.62	2.74 0.45	88.1		-	.6 2-8	28	+.01	1	G	1.65	62°
4	23	T.R. Newell	17.1	26.3	1.84	2.11	46.1		-	.6 2-8	26	+.02	1 1/6	G	2.25	63°
5	July 10	do	15.6 Pt. of zero flow	12.3	1.06	1.29 0.44	10.8		-	.5 .6	33	0	1	G	2.20	70°
6	27	W.H Tuller	14.5	7.74	0.70	1.08	5.22		-	Sp. 6	30	0	1/2	G	0.20	
7	Aug 25	J. Cummans	16.0	8.08	0.58	1.07	4.60			.6	27	0	7/2	G	0.10	62°
8	Sept 3	L. Koski T.R. Newell	7.3 Pt. of zero flow	5.70	0.92	1.06 0.64	5.13			.6	16	0	5/12	G	0.10	60°
9	29	L.M Hatch	14.7	7.76	0.54	1.00	4.20			.6	28	0	7/12	G	0.10	55°
10	Nov 5	J.R Spofford	17.0 Pt. of zero flow	11.8	0.68	1.21 0.50	7.91	.02	-	.5 .6	26	0	5/12	G/F	0.10	42°

24128

Listed 11-16-54
JEC

UNPUBLISHED RECORDS
SUBJECT TO REVISION

U. S. GOVERNMENT PRINTING OFFICE 16—58292-2

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
SURFACE WATER BRANCH
429 Federal Building, Boise, Idaho

January 14, 1955

JAN 15 ·
ment of Reclama

Mr. William H. Bakes, Attorney
Twin Falls Bank and Trust Bldg.
Twin Falls, Idaho

Dear Mr. Bakes:-

Mr. Henry Crown, a stockholder in the Blue Gulch Irrigation Company, called at this office yesterday. He was interested in obtaining for Mr. Banning, the President of the Company, the results of periodic discharge measurements made by the engineers of this office at the proposed station site, East Fork Bruneau River at Salls Ranch near Three Creek.

Prints of listings of 21 discharge measurements made during the 1953 and 1954 water years are inclosed. Subsequent to October 25, 1954, 2 additional measurements have been obtained. Checked results follow:

November 30, 1954	4.07 second-feet
January 6, 1955	6.02 second-feet

Mr. Crown also asked that you be furnished prints of the daily discharge sheets for the 1953 and 1954 water years at the gaging station, East Fork Bruneau River at Winter Camp near Hot Springs, Idaho. Prints of forms 9-192a showing these records are inclosed for your information.

Part of this submission may duplicate records furnished to your company at earlier dates, but should assure your having the data recently computed.

Very truly yours,

Thomas R. Newell
Thomas R. Newell
District Engineer

cc--Mark R. Kulp (with enclosures)
Henry Crown

24138

UNITED STATES

DEPARTMENT OF THE INTERIOR

GEOLOGICAL SURVEY

SURFACE WATER BRANCH

429 Federal Building, Boise, Idaho

JAN 15 '55

ment of Reclamation

January 13, 1955

Mr. George Ellis, President
Falls Creek Irrigation Company
Buhl, Idaho

Dear Mr. Ellis:-

By letter of December 20 I furnished you the results of five discharge measurements made by our engineers (November 1953 to October 1954) Salmon Falls Creek near the south line of sec. 36, T 9 S., R. 13 E., and about 1-1/2 miles upstream from "Sinking Ranch".

Following your request of today, the checked results of the sixth discharge measurement at this point is as follows:

January 5, 1955 81.6 second-feet

Very truly yours,

Thomas R. Newell

Thomas R. Newell
District Engineer

cc—M. R. Kulp ✓

2H128

Sent to W & in connection with Falls Creek Irr. Co. application to sell stock.

Jan 3-55

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Statehouse, Boise, Idaho
Interoffice Memo

TO: Mr. Spaulding, Commissioner of Finance

FROM: State Reclamation Department, by E. N. Humphrey

SUBJECT: Your request for information regarding water supply in Salmon Falls Creek and Permits issued thereon.

WATER SUPPLY

There has been no adequate, comprehensive inventory of these waters made by a disinterested agency such as the U. S. Geological Survey.

A few spot checks have been made by the U. S. Geological Survey along the lower reaches of the stream. These checks were made through a cooperative agreement between this Department and the U. S. Geological Survey.

The following tabulation is from their records:

DATE	ROSEWORTH CROSSING	CROSSING WEST OF CASTLEFORD BY BALANCED ROCK	NEAR SOUTH LINE OF Sec. 36, Twp. 9 S. Range 13 East, B. M.
Feb., 1954	13.7 c.f.s*	38.9 c.f.s.	90.3 c.f.s.
May, 1954	8.4 c.f.s.	37.6 c.f.s.	97.2 c.f.s.
July, 1954	9.7 c.f.s.	33.0 c.f.s.	94.6 c.f.s.
Oct., 1954	8.4 c.f.s.	35.2 c.f.s.	110.0 c.f.s.

*c.f.s. - Cubic Feet per Second

From the above it can be seen that there is quite an increase in stream flow as one progresses down stream.

The month of October probably has the peak flow in the region pertaining to their plans.

Water for storage during the winter months will accumulate at the rate of approximately 2 acre feet for each cubic foot of flow for each 24 hours.

In estimating the sufficiency of a water supply the following is pertinent for average conditions in South Idaho. Plants require 2 acre feet per acre consumptive use. About the same amount is lost in irrigation and also the same amount in transmission. In other words, it requires six acre feet delivered from the river to supply the needs of the crop..

In his rather extensive report, Don Bark stated that in Southern Idaho only 40% of the water diverted gets to the plant.

When one speaks of 5/8" flow of water per acre that means at the headgate on the farm.

24128

WATER RIGHTS

A permit to appropriate does not constitute a permanent water right; rather a permit right is only the initiation of a right to use water. There are certain terms and conditions specified in the permit which must be complied with after which it can be matured into a license by making the necessary proofs required by law and payment of statutory fees involved. A license is evidence of a continuing right to the use of a specified amount of water with a given date of priority, for a specified purpose.

A permit right is transferred through this Department by following statutory procedure.

A license right is transferred as real estate.

PERMIT NO. 24128

This permit is a direct flow permit calling for 120 cubic feet per second, which means that 120 cubic feet per second can be diverted from the stream if all prior rights have been filled and there still remains 120 cubic feet per second flowing at the proposed point of diversion.

120 cubic feet per second is considered sufficient to irrigate 6,000 acres of land, if there is not excessive losses in transmission.

An extension of time can be secured on this or any other permit provided the holder of same has been prevented from making compliance through some court action or by action of the U. S. Government such as delay in approving a Desert Land Entry.

CONCLUSION

There is insufficient information attached to this applicati n to enable this Departmentto pass fully upon the merits of the planned development.

Accompanying this report are permits and another report that may be pertinent.

MARK R. KULP
State Reclamation Engineer

E. N. Humphrey
Deputy State Reclamation Engineer

24128

Not sent.
Pertains to Permit #22214

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Statehouse, Boise, Idaho
Interoffice Memo.

TO: Mr. Spaulding, Commissioner of Finance
FROM: State Reclamation Department, by E. N. Humphrey
SUBJECT: Your request for information regarding water supply in Salmon Falls Creek and Permits issued thereon.

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May, 1954	8.4 C.F.S.	37.6 C.F.S.	97.2 C.F.S.
July, 1954	9.7 C.F.S.	33.0 C.F.S.	94.6 C.F.S.
Oct., 1954	8.4 C.F.S.	35.2 C.F.S.	110.0 C.F.S.

*C.F.S. - Cubic Feet per Second

From the above it can be seen that there is quite an increase in stream flow as one progresses down stream.

The month of October probably has the peak flow in the region pertaining to their plans.

Water for storage during the winter months will accumulate at the rate of approximately 2 acre feet for each cubic foot of flow for each 24 hours.

The quantity available for storage under Permit No. R-875 would be governed by the figures in the Middle Column. If one uses 35 C.F.S. as a basis it will take approximately 5 months to store 10,000 acre feet.

In estimating the sufficiency of a water supply the following is pertinent for average conditions in South Idaho. Plants require 2 acre feet per acre consumptive use. About the same amount is lost in irrigation and also the same amount in transmission. In other words it requires six acre feet delivered from the river to supply the needs of the crop.

In his rather extensive report, Don Bark stated that in Southern Idaho only 40% of the water diverted gets to the plant.

24128

When one speaks of 5/8" flow of water per acre that means at the headgate on the farm. If one assumes the above basis is correct, the stored water of 10,000 acre feet would be adequate for 2,000 acres of land and a flow of 35 C.F.S. direct flow during irrigation season would be adequate for 1,750 acres, making a total of 3,750 acres.

PUMPING LIFT

This office does not know what the pump lift would be, but a feasibility report in connection with Permit No. 22214 by Mr. Higgins assumes 450 feet. Under present economic conditions that is a very high lift and would seem prohibitive for production of general farm crops.

Accompanying this report are copies of the Permits and of the feasibility report by Higgins.

WATER RIGHTS

A permit to appropriate does not constitute a permanent water right; rather a permit right is only the initiation of a right to use water. There are certain terms and conditions specified in the permit which must be complied with after which it can be matured into a license by making the necessary proofs required by law and payment of statutory fees involved. A license is evidence of a continuing right to the use of a specified amount of water with a given date of priority, for a specified purpose.

A permit right is transferred through this Department by following statutory procedure.

A license right is transferred as real estate.

If a person is prevented from proceeding to make compli ance with the terms of a permit by Court action or some action of the government, an extension of time may be granted equal in length of duration to that which prevented compliance. This is the case in connection with the permits concerned.

MARK R. KULP
State Reclamation Engineer
By

24128

E. N. Humphrey
Deputy State Reclamation Engineer

Copy for Mr. Phipps

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
SURFACE WATER BRANCH
429 Federal Building, Boise, Idaho

Dec. 20, 1954

RECEIVED
DEC 22 19
Department of Reclamation

Mr. George Ellis, President
Falls Creek Irrigation Company
Buhl, Idaho

Dear Mr. Ellis:-

When you called at this office today I told you we had made some spot measurements on LowerSalmon Falls Creek at intervals during the last year. These measurements were made at points selected on the stream between the road crossing opposite Castleford (balanced rock) and the crossing of the main highway near Thousand Springs. The measuring point nearest your dam site is described in our records as follows: Near the south line of sec. 36, T. 9 S., R. 13 E., and about 1-1/2 miles upstream from "Sinking Ranch". Our land locations were determined on the ground by reference to Traffic Flow Map 1941-42, Twin Falls County, as prepared by the Idaho Bureau of Highways.

The checked results of our measurements at this point are as follows:

November 18, 1953	103 second-feet
February 20, 1954	90.3 second-feet
May 12, 1954	97.2 second-feet
July 20, 1954	94.6 second-feet
October 27, 1954	110 second-feet

Regarding a consluting geologist, I suggested the name of Dr. H. T. Stearns, Hope, Idaho, who has had a good deal of experience in Southern Idaho and is well qualified with respect to lava foundations.

Very truly yours,

Thomas R. Newell

Thomas R. Newell
District Engineer

24128

24128

December 15, 1954

Mr. Forrest S. Pugh
Route 2
Kimberly, Idaho

Dear Mr. Pugh:

This is in reply to your letter of December 11, 1954, inquiring regarding the rights of the Blue Gulch Irrigation Project on Salmon Falls Creek. I am not sure which dam you mean when you speak of the dam in Salmon Falls Creek. However, I will give you a list of the filings on Salmon Falls Creek and you can decide for yourself.

Permit No. 21362 is held by Fred Hoops, for 2[illegible] cubic feet per second with priority of January 10, 1951. Completion of Works proof to be made by January 1[illegible], 1956. Point of diversion is in the [illegible] Section 7, Township 11 South, Range 15 East B.M.

Henry Crown and others, which I believe you refer to as the Blue Gulch Irrigation Project, ha[illegible] Permit No. 22214, for 60 [illegible]bic feet per second with priority of November 22, 1950 and Completion of Works proof to be made by June 30, 195[illegible]. An extension of time has been applied for and will be allowed. The point of diver ion [illegible] in the S[illegible] ection 36, Township 9 South, Range 13 East B. .

Permit No. R-875 is h[illegible] by the same group and is for 10,000 acre feet with the same priority and under the same conditions. Point of diversion is in the [illegible]N[illegible] Section 12, Township 10 South, Range 12 East B. .

Permit No. 24128 is held by the Evergreen Canal Co. for 120 cubic feet per second with priority of February 11, 1953 and completion of works to be made by May 2, 1958, with point of diversion in the S[illegible] ection 3[illegible], Township 9 South, Range 13 East B. .

Permit No. 24[illegible]1 is held by Harry Reese, is for 12.[illegible] cubic feet per second with priority of July 13, 953. Completion of works due Jul[illegible] 16, 195[illegible], with point of diversion to be anywhere along the stream in Sections 4 and 9, Township 11 South, Range 13 East B. .; and Sections 33, 28, 29, 20, 21 and 1[illegible], Township 10 South Range 13 East B. .

24128

In answer to your second paragraph, the U. S. Geological Survey has made a few miscellaneous measurements down stream from the Roseworth Crossing. Information regarding this can be obtained by addressing a letter to the U. S. Geological Survey, Attention: Mr. T. R. Newell, Room 429, Federal Building, Boise, Idaho.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. K. Humphrey
Deputy State Reclamation Engineer

H:hll

24128

October 29, 1954

RE: Permit No. 24128

Pan American Company
5003 South State Street
Murray, Utah

ATTENTION: Mr. Norman Hays

Dear Mr. Hays:

As per your request we enclose a copy of Permit No. 24128 of the Evergreen Canal Company.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:br
Enc.

24128

April 16, 1954

RE: Permit No. 24128

Mr. Kenneth K. Dehnert
C/o Sweeney Realty and Insurance Co.
450 B. Street
Idaho Falls, Idaho

Dear Mr. Dehnert:

We acknowledge receipt of the bond of the American Bonding Company in the amount of $1000.00, tendered in connection with Permit No. 24128 of the Evergreen Canal Company.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

MARK R. KULP, RECLAMATION ENGINEER

BOISE

LEN JORDAN
GOVERNOR

April 12, 1954

RE: Permit No. 31497

RECEIVED
APR 15 1954
Department of Reclamation

Mr. Kenneth K. Dehnert
C/o Sweeney Realty and Insurance Co.
450 B Street
Idaho Falls, Idaho

Dear Mr. Dehnert:

We have your letter of April 9 enclosing bond of the American Bonding Company for $1000.00 in connection with Permit No. 31497.

Permit No. 31497 is in the name of the Evergreen Canal Company and not Charles Chastain and the bond should be made accordingly.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By Jeanne L. Anderson
Chief Clerk

A:hll

This Bond has been re-made to the Evergreen Canal Company as requested.

SWEENEY REALTY AND INSURANCE CO.

24128

April 12, 1954

RE: Permit No. 31497 24/28

Mr. Kenneth K. Dehnert
C/o Sweeney Realty and Insurance Co.
450 B Street
Idaho Falls, Idaho

Dear Mr. Dehnert:

We have your letter of April 9 enclosing bond of the American Bonding Company for $1000.00 in connection with Permit No. 31497.

Permit No. 31497 is in the name of the Evergreen Canal Company and not Charles Chastain and the bond should be made accordingly.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll

SWEENEY
REALTY and INSURANCE Co.

LLOYD BROWN
REAL ESTATE

KENNETH K. DENHERT
INSURANCE

PHONE 2480
450 B STREET

REAL ESTATE
INSURANCE
LOANS
BONDS

IDAHO FALLS, IDAHO

April 9, 1954

State Department of Reclamation
Boise, Idaho

Gentlemen:

Enclosed please find Bond in the amount of $1000.00 which has been executed for Charles Chastain of Terreton, Idaho, which is for a water filing permit.

I trust you will find this Bond in order.

Very truly yours,

Kenneth K. Dehnert
Insurance Manager

/lm
Enc.

RECEIVED
APR 12 1954
Department of Reclamation

Evergreen Cemetery Co -

24128

√

March 24, 1953

RE: Application No. 31497

Evergreen Canal Company
115 South Broadway
Buhl, Idaho

ATT: Mr. M. F. Barrett

Gentlemen:

We have sent to the Buhl Herald notice for publication in connection with your application for permit to appropriate water from Salmon Falls Creek, with instructions to publish it once a week for 3 weeks commencing with their next issue, and to send you the affidavit of publication together with statement of costs.

If no protests are filed, the application will be approved and permit issue.

Should there by any protests, you will be duly notified before final action is taken.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg

24128

G1121—6M, 11-36 12219

American Bonding Company

OF BALTIMORE

HOME OFFICE: BALTIMORE, MARYLAND

Bond No.

BOND

KNOW ALL MEN BY THESE PRESENTS, That **Evergreen Canal Co.** of Terreton, Idaho, as principal, and AMERICAN BONDING COMPANY OF BALTIMORE, a corporation of the State of Maryland, as surety, are held and firmly bound unto the State of Idaho in the full and just sum of ONE THOUSAND AND NO/100 - - - - -($1,000.00) Dollars, lawful money of the United States, to the payment of which sum, well and truly to be made, said principal and surety bind themselves, their heirs, administrators, executors and assigns, jointly and severally, under the terms and conditions hereinafter set forth.

The terms of this obligation are such that, whereas the above named principal on the 12th day of **March**, 1954, filed in the office of the Commissioner of Reclamation in Boise, Idaho, a certain application for permit to appropriate the public waters of the State of Idaho, the said application being thereupon numbered No. 31497, in accordance with which said application the Commissioner of Reclamation granted and issued to the said principal herein a certain permit numbered No. 24128, a full, true and complete copy of which application No. 31497 and permit No. 24128 is of record in the office of the Commissioner of Reclamation in Book 85 of Permits, at Page 24128

Now, if the above bounden principal shall faithfully carry to completion the said works of diversion as specified in said application No. 31497 and permit No. 24128, in the manner and form prescribed therein and within the time therein allowed, then the above obligation to be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, The said principal and surety have hereunto set their hands and seals, this 7th day of April, 1954.

EVERGREEN CANAL CO.

Witness: Kenneth K. Dehnert BY Charles E. Chastain
Principal

COUNTERSIGNED:

Kenneth K. Dehnert
Idaho Resident Agent

AMERICAN BONDING COMPANY OF BALTIMORE

By Kenneth D. Armstrong
Attorney-in-Fact

An. prem. $10.00

24128

May 21, 1953

RE: Permit No. 24128

Mr. Harley M. McDowell
Idaho Building
Boise, Idaho

Dear Mr. McDowell:

We enclose Permit No. 24128 of the Evergreen Canal Company, and direct attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

Before construction is commenced, plans and specifications for the dam must be submitted in duplicate for approval by this department. These plans must include profile of the transmission works.

We return the receipted bill for publication of notice in connection with this application, which no doubt Mr. Barrett will wish to keep in his own files.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.
cc: Mr. M. F. Barrett

24128

AFFIDAVIT of PUBLICATION

RECEIVED
APR 24 1953
Department of Reclamation

STATE OF IDAHO
County of Twin Falls } ss.

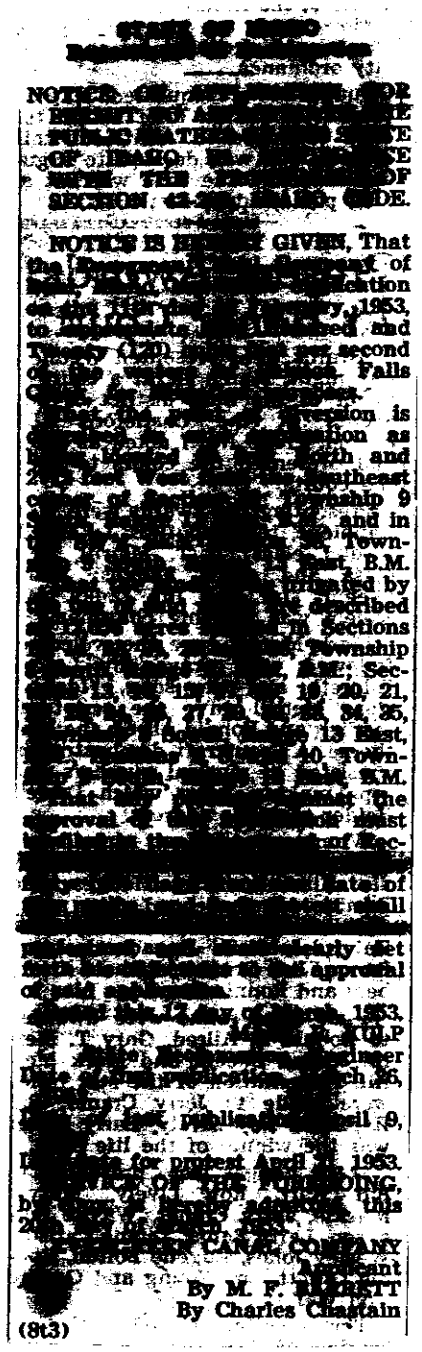
I, **Robert E. Bailey,** do solemnly swear that I am the printer and editor of THE BUHL HERALD, a weekly newspaper of general circulation, published once each week at Buhl, Idaho; that the notice attached hereto was published in said newspaper three consecutive weeks, the first publication having been made on the 26th day of March, 1953, and the last publication having been made on the 9th day of April, 1953; that said notice was published in the regular and entire issue of every number of the paper during the period and time of publication, and that the said notice was published in the newspaper proper, and not in the supplement thereof.

That said newspaper has been printed and published continuously in **Buhl, Twin Falls County, Idaho,** for a period of more than 78 weeks prior to the first publication of the attached notice.

Robert E. Bailey

Subscribed and sworn to before me this 13th day of April, 1953.

Mabel Landgren
Notary Public.



NOTICE IS HEREBY GIVEN, That
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19, 20, 21,
34, 35,
13 East,
20, Town-
B.M.
the
dust
of Sec-
date of
shall
clearly set
approval
March, 1953.
ULP
Engineer
March 26,
April 9,
for protest April 1, 1953.
OF THIS PUBLISHING,
this
CANAL COMPANY
Applicant
By M. F. BENNETT
By Charles Chastain
(8t3)

24128

Form No. 11

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) March 20, 1953

(P. O.) Boise, Idaho

TO THE STATE RECLAMATION ENGINEER:

Boise, Idaho.

Dear Sir:

You are hereby authorized to have the attached notice published at my expense in the Buhl Herald, of Buhl, Idaho. published in the county in which the works are situated.

W. T. Barrett
By [illegible]

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

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

[illegible]
Engineer.

24128

24128

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

DEPARTMENT OF RECLAMATION

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE.

NOTICE IS HEREBY GIVEN, That the Evergreen Canal Company of Buhl, Idaho, has made application on the 11th day of February, 1953, to appropriate One Hundred and Twenty (120) cubic feet per second of the waters of Salmon Falls Creek, for irrigation purposes.

That the point of diversion is described in said application as being located 60 feet North and 2772 feet West from the Southeast corner of Section 36, Township 9 South, Range 13 East, B.M., and in the SW¼ SE¼ Section 36, Township 9 South, Range 13 East, B.M.

That the lands to be irrigated by the use of said water are described as 12,656 acres located in Sections 13, 14, 23, 24, 25, and 26, Township 8 South, Range 12 East, B.M.; Sections 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 29, 30, 33, 34, 35, Township 8 South, Range 13 East, B.M.; Sections 2, 3, and 10, Township 9 South, Range 13 East, B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objections to the approval of said application.

Dated this 12th day of March, 1953.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

Date of first publication _____
Date of last publication _____
Last date for protest April 21, 1953.

SERVICE OF THE FOREGOING, by copy, is hereby admitted, this 20th Day of March, 1953.

EVERGREEN CANAL COMPANY
Applicant

By _____
Its _____

24128

24128

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE.

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Dated this 12th day of March, 1953.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

Date of first publication _____
Date of last publication _____
Last date for protest April 21, 1953.

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EVERGREEN CANAL COMPANY
Applicant

By _____
Its

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

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Dated this 12th day of March, 1953.

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

Date of first publication _____
Date of last publication _____
Last date for protest April 21, 1953.

SERVICE OF THE FOREGOING, by copy, is hereby admitted, this _____ Day of March, 1953.

EVERGREEN CANAL COMPANY
Applicant

By
Its W. F. Barrett

March 23, 1953

RE: Application No. 31497

Buhl Herald
Buhl
Idaho

Gentlemen:

We enclose notice for publication once a week for three weeks commencing with your next issue.

The cost of publication is to be paid by the Evergreen Canal Company, to whom please send affidavit of publication together with statement of costs, in care of M. F. Barrett, 115 South Broadway, Buhl, Idaho.

Please acknowledge receipt of this notice and furnish this department with a copy of your first issue containing same.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg

24128

March 14, 1953

RE: Application No. 31497

Evergreen Canal Company
C/o Mr. M. F. Barrett
115 South Broadway Street
Buhl, Idaho

Gentlemen:

We enclose two copies of notice in connection with your application to appropriate water from Salmon Falls Creek, which the statutes require to be published once a week for 3 weeks in a county newspaper.

Please acknowledge service on the original and return to this department with Form 11, which is your authorization for us to have the notice published at your expense in the designated county newspaper.

The duplicate may be retained for your own files.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

~~24128~~
24128

LEN JORDAN
GOVERNOR

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

MARK R. KULP, STATE RECLAMATION ENGINEER

BOISE

March 14, 1953

RE: Application No. 31497

Evergreen Canal Company
C/o Mr. M. F. Barrett
115 South Broadway Street
Buhl, Idaho

Gentlemen:

We enclose two copies of notice in connection with your application to appropriate water from Salmon Falls Creek, which the statutes require to be published once a week for 3 weeks in a county newspaper.

Please acknowledge service on the original and return to this department with Form 11, which is your authorization for us to have the notice published at your expense in the designated county newspaper.

The duplicate may be retained for your own files.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By Jeanne L. Anderson
Chief Clerk

A:fg
Enc.

24128

24128

STATE OF IDAHO
Department of Reclamation

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE.

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That the lands to be irrigated by the use of said water are described as 12,656 acres located in Sections 13, 14, 23, 24, 25, and 26, Township 8 South, Range 12 East, B.M.; Sections 13, 14, 15, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 29, 30, 33, 34, 35, Township 8 South, Range 13 East, B.M.; Sections 2, 3, and 10, Township 9 South, Range 13 East, B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objections to the approval of said application.

Dated this 12 day of March, 1953.

MARK R. KULP
State Reclamation Engineer

Date of first publication, March 26, 1953

Date of last publication April 9, 1953

Last date for protest April 21, 1953.

SERVICE OF THE FOREGOING, by copy, is hereby admitted, this 20th day of March, 1953.

EVERGREEN CANAL COMPANY
Applicant
By M. F. BARRETT
By Charles Chastain

(8t3)

Form 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF EXAMINER

Permit No. 24128/47-2269

This proof is for b/u - 120 cfs In Water District No.

1. Name of applicant Magic Water Company, Buhl, Idaho
2. Source of water supply: Salmon Falls Creek, tributary ofSnake River
3. Location of point of diversion: Is in the SE¼NW¼ of Section 2
   T. 10 S R. 13 E County of Twin Falls
4. Describe works as they exist, giving dimensions and capacities of same:
   SEE ATTACHED — 1 & 2 & 6
5. Water is used for: irrigation
6. State whether or not water has been turned into works of diversion:
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):
   SEE ATTACHED #3

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

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

Remarks: AERIAL PHOTOS ARE AVAILABLE FOR MOST OF OUR PROJECT AND ARE AVILABLE FROM MR. MAURICE ECKERT. (President, Magic Water Co.)

This examination was made on the day of , 19

(Signed)

Examiner.

24168
47-2269

AERIAL PHOTOS AVAILABLE FROM
MR. MAURICE ECKERT, PRES. - MAGIC WATER CO.

Permit No. 24128/47-2269

Examination for b/u - Magic Water Company

County Twin Falls

Sec. 2 T. ~~9S~~ 10S R. 13E

Quantity: 120 cfs

Source: Salmon Falls Creek

P.D.: SE¼NW¼

Use: irrigation

~~**Extension:**~~

~~**Protest:**~~

~~**Completion of Works:**~~

~~**Other Rights:**~~

Filed: 2-11-53 **Made:** 1-2-70
Due: 5-2-71 **Priotiy:** 2-11-53

~~**Date:**~~ CHKD. TO BB JMS RW JMS

INSTRUCTIONS TO EXAMINERS

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

Form 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

REPORT OF EXAMINER

PERMIT NO. 24128/47-2269

REPORT ON PROOF OF b/u - Magic Water Company

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

January 23, 1970

Re: Permit No. 24128/47-2269 - Magic Water Company

Michael H. Felton
HEPWORTH, WALKER, NUNGESTER & FELTON
Professional Center, 1020 Main
Buhl, Idaho 83316

Dear Mr. Felton:

Please be informed that we have accepted the affidavit submitted as proof of beneficial use for the above referenced permit. We are enclosing a copy of the APPROVED Application for Amendment, along with Receipt No. 4080 in the amount of $5.00 received in payment for the amendment.

We shall try to be of assistance by completing the examination as soon as possible. Our schedule is not immediately available. We will advise you as soon as a determination is made as to when we shall be able to make this examination.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM/jmb

Enc. Copy - Amendment
Receipt No. 4080 - $5.00

47-2269
24168

b) Describe the agreement or understanding by which you take water from the works NOT APPLICABLE

7a & 7b The diversion is an earth filled dam 127' long, 8' high, with a 12' crest width. The spillway is 33' wide x 6' deep, has a car bridge over it, and is located in the south abutment.

The outlet is in the north abutment and is a concrete winged headwall with a 48" slide gate operated by a chain hoist. The gate is attached to a 48' x 95' CMP that goes east to a concrete distribution box 8½' long x 7½' high x 7½' wide, controlled by flash boards on the east side.

Water is either diverted back to the main stream through removal of flash boards or installing boards and diverting to the north through a 36" x 27' concrete pipe to a 6' x 6' x 6' concrete box then to a 36" x 2700' concrete pipe, penstock that is directly connected to a pumping station that has 7 200HP and 2 600HP pumps and electric motors.

The concrete penstock connects to a 36" x 30' steel pipe that has a 36" x 6' x 30" reducer to a 30" x 20' steel pipe.

The 36" steel pipe section has 7 12" direct connections to turbine pump bases. The reducer section has a Tee connection to an 18" x 45' steel surge pipe that lies on the face of the steep uphill slope to the north. The 30" x 20' section of steel pipe has 4 18" direct connections to turbine pump bases. The two east connection pumps have been removed and bases capped.

There are 7 200HP and 2 600HP pumps in operation on this station. They discharge into a 3[illegible]" penstock and the water is lifted approximately 360' into a buried 30" x 175' concrete pipe to a 60' x 75' x 6' weir pond and 12' Cipoletti Weir to a canal 12' bottom x 25' top x 5' deep with 2' freeboard. Said canal is approximately 7 to 8 miles in length to point where water is first taken out.

Pumping Unit "B" This group of 600HP pumps is located 130' east of Unit "A" and is in the SE¼ NE¼, Section 2, Township 9 South, Range 13, E.B.M. These pumps pump directly out of Salmon Falls Creek from a pond created by a dam [illegible]' long x 6' high x 20' crest width, steep side slope, projecting from the north bank and extending into the stream leaving a 30' wide open channel on the south side. Large rocks are placed in this opening to raise the pond level. The upstream side and around the end of the dam is riprapped; 3½' to 4' freeboard is maintained

24128
47-2369

3. Place of use or land to be irrigated:

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
~~8S~~	~~13E~~	~~14~~					~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~					~~320~~
8 S	13E	14											20						20
		~~15~~	~~40~~	~~40~~	~~40~~	~~40~~									~~40~~	~~40~~	~~40~~	~~40~~	~~320~~
		15																40	40
		~~22~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		22	40			20									40	30	40	40	210
		~~23~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		23	40	40	40	40	20	40	40	40	40	40	40	40	40	40	40	40	620
		~~24~~					~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~					~~320~~
		24						35	40			40							115
		~~28~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		29	40	40	40		40	40	40	40	40	40	40	40		40	40		520
		~~27~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		~~28~~	~~40~~	~~40~~	~~40~~	~~40~~									~~40~~	~~40~~	~~40~~	~~40~~	~~320~~
		28													40			40	80
		~~29~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		~~30~~	~~40~~	~~40~~	~~40~~	~~40~~									~~40~~	~~40~~	~~40~~	~~40~~	~~320~~
		~~30~~													40	40	40	40	160

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
		~~31~~	~~40~~	~~40~~	~~40~~	~~40~~									~~40~~	~~40~~	~~40~~	~~40~~	~~320~~
		31													40	40	40	40	160
		~~32~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		~~33~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		33	40			40									40	40	40	40	240
		~~34~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		~~35~~					~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~					~~320~~
		35		40	40		40	40	40	40		40							280
		10	40	40	40	40									40	40	40	40	320
		11	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
Permit		21													40	40	40	40	160
		25							40		40	40	40	40					200
~~9S~~	~~13E~~	2							40			40		and	lots	3	and	4	80 plus
9S	13E	2					35	30	40		40								145

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
		~~3~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		3	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	630
		~~4~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		4	40	40	40	40				40	40			40	40	40	40	40	440
		~~9~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~640~~
		9	40	40	40	40	40								40			40	280
		~~10~~	~~40~~	~~40~~	~~40~~		~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~	~~40~~		~~40~~			~~480~~
		10	40	40	40	40	40	40	40	40	40	40	40			40			480
		16			35	15									25	15	20	20	130

~~Total number of acres given on permit~~ ~~9346.63~~
Total number of acres to be irrigated 7110.0

Amendment Sept 1988
Sent in Permit ENTRY

JH 6/4 7-22-

Identification No. _____

Permit No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Magic Water Co. (Assignee of Evergreen Canal Co.)

   b) Post Office Address Route #3, Buhl, Idaho 83316

2. Permit Number 24128 - Now

3. Date of Priority that you are prepared to establish May 2, 1953

4. a) Source from which water was appropriated Salmon Falls Creek

   b) Location of the point of diversion: SE ¼ NW ¼, Section 2

   Township 10 South, Range 13 East Boise Meridian, Other points of diversion:

   (otherwise described as) North 16°32' West 3,590 feet from the East quarter corner of Section 2, Township 10 South, Range 13, E.B.M.

5. a) The amount of water and use to which the water has been applied:

   amount 94.56 cfs. for agr. (irrigation) purposes from March 15 to November 15 incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   amount _____ for _____ purposes from _____ to _____ incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   amount _____ for _____ purposes from _____ to _____ incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   amount _____ for _____ purposes from _____ to _____ incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   b) Total amount appropriated 94.56 cfs and/or acre feet per annum

   c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Donald McEldowney & Mr. Johnson (engineer) from Dept. of Reclamation, State of Idaho & Jean of Hoffman, Fiske & Milar

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

   a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: Not applicable

   b) Describe the agreement or understanding by which you take water from the works: Not applicable

7a & 7b The diversion is an earth filled dam 127' long, 8' high, with a 12' crest width. The spillway is 33' wide x 6' deep, has a car bridge over it, and is located in the south abutment.

The outlet is in the north abutment and is a concrete winged headwall with a 48" slide gate operated by a chain hoist. The gate is attached to a 48' x 95' CMP that goes east to a concrete distribution box 8½' long x 7½' high x 7½' wide, controlled by flash boards on the east side.

Water is either diverted back to the main stream through removal of flash boards or installing boards and diverting to the north through a 36" x 27' concrete pipe to a 6' x 6' x 6' concrete box then to a 36" x 2700' concrete pipe penstock that is directly connected to a pumping station that has 7 200HP and 2 600HP pumps and electric motors.

The concrete penstock connects to a 36" x 30' steel pipe that has a 36" x 6' x 30" reducer to a 30" x 20' steel pipe.

The 36" steel pipe section has 7 12" direct connections to turbine pump bases. The reducer section has a Tee connection to an 18" x 45' steel surge pipe that lies on the face of the steep uphill slope to the north. The 30" x 20' section of steel pipe has 4 18" direct connections to turbine pump bases. The two east connection pumps have been removed and bases capped.

There are 7 200HP and 2 600HP pumps in operation on this station. They discharge into a 30" penstock and the water is lifted approximately 360' into a buried 30" x 175' concrete pipe to a 60' x 75' x 6' weir pond and 12' Cippoletti Weir to a canal 12' bottom x 25' top x 5' deep with 2' freeboard. Said canal is approximately 7 to 8 miles in length to point where water is first taken out.

Pumping Unit "B" This group of 4 600HP pumps is located 130' east of Unit "A" and is in the SE¼ NE¼, Section 2, Township 9 South, Range 13, E.B.M. These pumps pump directly out of Salmon Falls Creek from a pond created by a dam 50' long x 6' high x 20' crest width, steep side slope, projecting from the north bank and extending into the stream leaving a 30' wide open channel on the south side. Large rocks are placed in this opening to raise the pond level. The upstream side and around the end of the dam is riprapped; 3½' to 4' freeboard is maintained.

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Not applicable

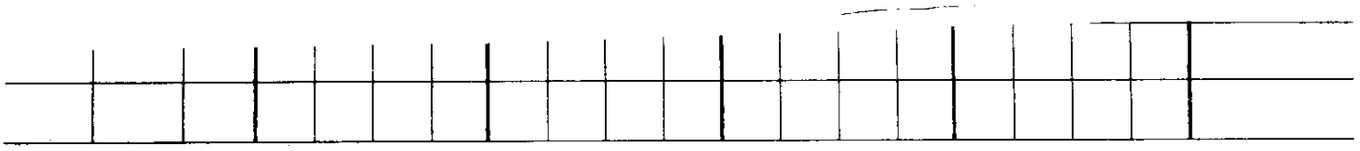
9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	14											20						20
8S	13E	15																40	40
8S	13E	22	40			20									40	30	40	40	210
8S	13E	23	40	40	40	40	20	40	40	40	40	40	40	40	40	40	40	40	620
8S	13E	24						35	40			40							115
8S	13E	26	40	40	40		40	40	40	40	40	40	40	40		40	40		520
8S	13E	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	28													40			40	80

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	30													40	40	40	40	160
8S	13E	31													40	40	40	40	160
8S	13E	32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	33	40			40									40	40	40	40	240
8S	13E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	35		40	40		40	40	40	40		40							280

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	13E	2					35	30	40			40							145
9S	13E	3	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	630
9S	13E	4	40	40	40	40				40	40			40	40	40	40	40	440
9S	13E	9	40	40	40	40	40								40			40	280
9S	13E	10	40	40	40	40	40	40	40	40	40	40	40			40			440
9S	13E	16			35	15									25	15	20	10	130

TOTAL 711



Total number of acres irrigated _____

10. Remarks: Aerial photos are available for most of our project and are available from Mr. Maurice Eckert.

The above information is a true statement of the extent to which the above numbered permit has been developed.

MAGIC WATER COMPANY

December 30, 1969. (Date)

By Maurice H. Eckert. President (Signature)

State of IDAHO)
ss.
County of Twin Falls)

On this 30th day of December, 1969, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Notary Public residing at Buhl, Idaho

My commission expires January 2, 1973.

August 11, 1970

Re: Permit No. 47-2269 (24128)

Mr. Farrell Jones
Box 1430
Pocatello, Idaho 83201

Dear Mr. Jones:

A representative of this department has made an examination of the works covered by your Permit No. 47-2269 and has found the following:

Quantity of water diverted: 103.31 c.f.s.

Amount of water that can be recognized as beneficially used under Idaho law: 94.56 c.f.s.

The maximum quantity of water diverted shall not exceed 27,568 acre feet per season.

Beneficial Use: Irrigation of 6,891.7 acres within SW¼SW¼ Sec. 14; SE¼SE¼ Sec. 15; E½NE¼, SE¼ Sec. 22; all Sec. 23; W½NW¼, NW¼SW¼ Sec. 24; N½NE¼, SW¼NE¼, W½, W½SE¼ Sec. 26; all Sec. 27; E½SE¼ Sec. 28; all Sec. 29; SE¼ Sec. 30; SE¼ Sec. 31; all Sec. 32; continued below

The priority date established is : February 11, 1953

A fee totaling $ 362.00 must be received within 30 days from the date of this letter in order that we can issue you a Water License as set forth in this letter.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

Land description continued - E½NE¼, SE¼ Sec. 33; all Sec. 34; NW¼, NW¼SW¼ Sec. 35; Twp, 8 S., Rge. 13 E., B.M., and N½NW¼, SW¼NW¼, NW¼SW¼ Sec, 2; all Sec. 3; E½, SE¼NW¼, E½SW¼ Sec. 4; NE¼, NE¼NW¼, E½SE¼ Sec. 9; N½, N½SW¼, SW¼SW¼, NW¼SE¼ Sec. 10; S½NE¼, SE¼ Sec. 16, Twp. 9 S., Rge. 13 E., B.M.

cc. Maurice Eckert
Buhl, Idaho 83316

Tom Miller
Bank of Idaho Bldg.
Boise, Idaho

24116-S
47-2269

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 24128/47-2269)
in the name of MAGIC WATER COMPANY, INC.)
Buhl, Idaho)

ORDER MODIFYING REQUIREMENTS FOR COMPLETION OF PERMIT TO APPROPRIATE WATER

WHEREAS, the 39th Idaho Legislature made certain amendments to the Idaho Water Law; and,

WHEREAS, these changes raised questions as to the procedures to be followed by holders of permits issued prior to the effective date of the amendments, May 31, 1967; and,

WHEREAS, on August 1, 1968, the Department of Reclamation adopted Rules of Practice and Procedures for the processing of such permits issued prior to May 31, 1967; and,

WHEREAS, Permit No. 24128/47-2269 was issued previous to that date;

NOW THEREFORE, the requirements for completion of the above numbered permit are hereby modified to conform to the adopted Rules of Practice and Procedures as follows:

1. The above numbered permit will be completed under the terms of Title 42, Chapter 2, Idaho Code, as amended by the 39th Idaho Legislature.

Dated this 24TH day of July, 1969.

R. KEITH HIGGINSON
State Reclamation Engineer

24168
47-2268

RECEIVED

JAN 2 [illegible]

Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPLICATION FOR AMENDMENT

Permit No. 24128

Comes now Magic Water Co. (Assignee of Evergreen/ Canal Co.) of (address) Route #3, Buhl, Idaho, 83316, and represents to the State Reclamation Engineer of the State of Idaho:

That it is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 24128, and requests that the permit and permit map be changed as follows:

~~1. Point of diversion: _____ ¼ _____ ¼, Sec. _____, T. _____ R. _____, B.M. Other points of diversion _____~~

~~2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)~~

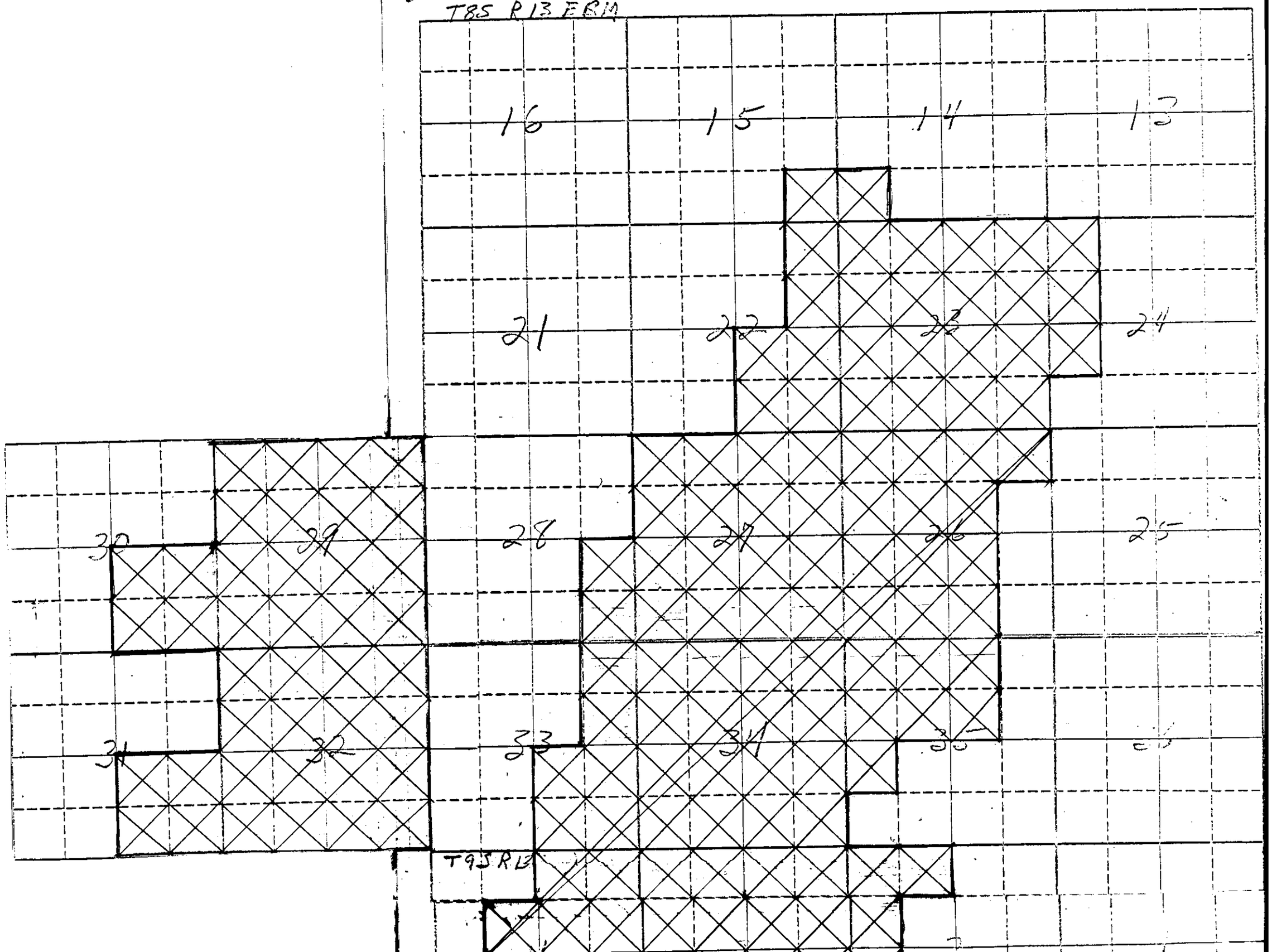
		mo. - day		mo. - day	
~~For~~	~~purposes from~~		~~to~~		~~(both dates incl.)~~
~~For~~	~~purposes from~~		~~to~~		~~(both dates incl.)~~
~~For~~	~~purposes from~~		~~to~~		~~(both dates incl.)~~
~~For~~	~~purposes from~~		~~to~~		~~(both dates incl.)~~

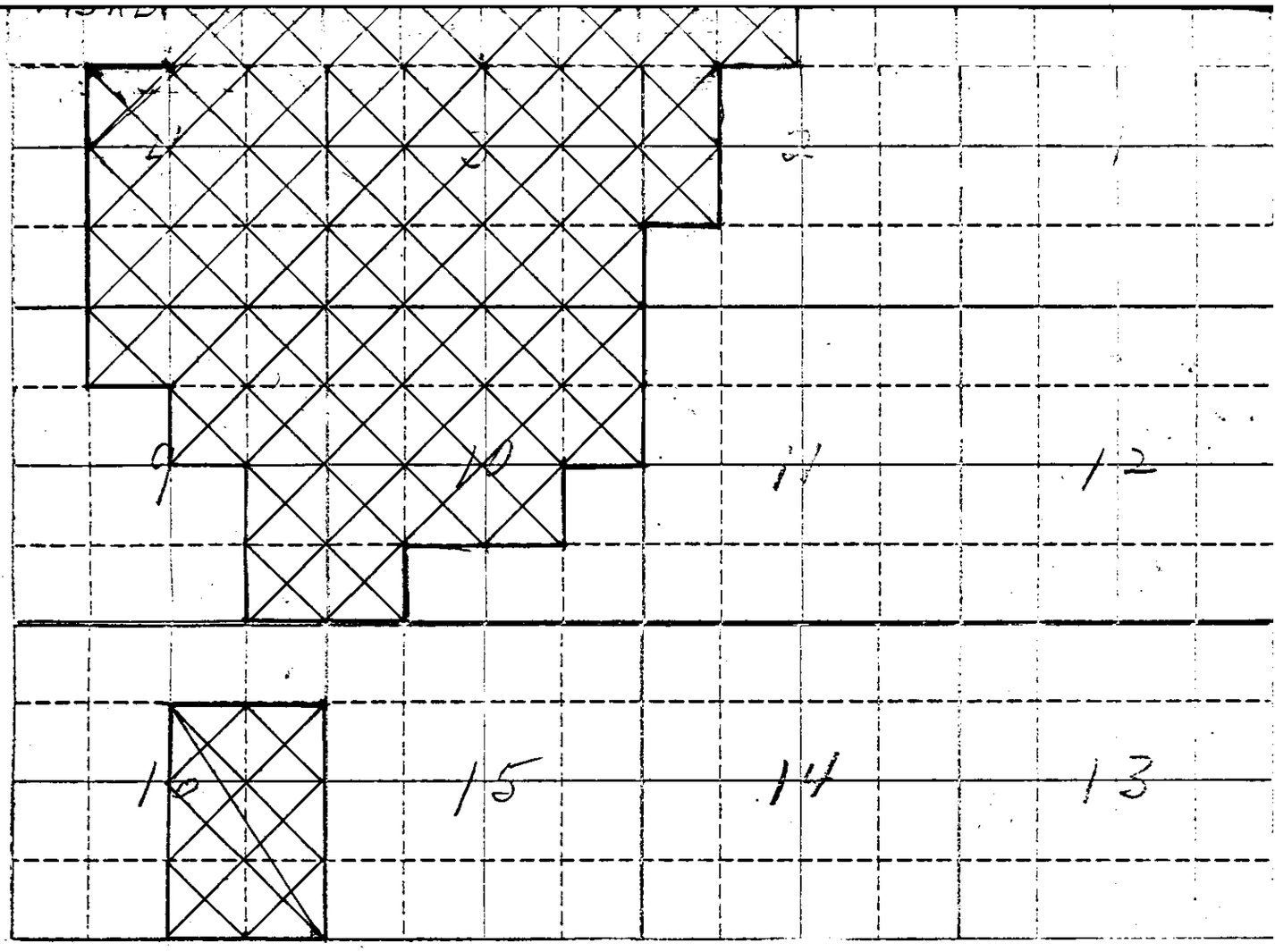
3. Place of use or land to be irrigated:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	14											20						20
8S	13E	15																40	40
8S	13E	22	40			20									40	30	40	40	210
8S	13E	23	40	40	40	40	20	40	40	40	40	40	40	40	40	40	40	40	620
8S	13E	24						35	40			40							115
8S	13E	26	40	40	40		40	40	40	40	40	40	40	40		40	40		520
8S	13E	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	28													40			40	80
8S	13E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	30													40	40	40	40	160
8S	13E	31													40	40	40	40	160
8S	13E	32	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	33	40			40									40	40	40	40	240
8S	13E	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	35		40	40		40	40	40	40		40							280
9S	13E	2					35	30	40			40							145
9S	13E	3	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	630
9S	13E	4	40	40	40	40				40	40			40	40	40	40	40	440
9S	13E	9	40	40	40	40	40								40			40	280
9S	13E	10	40	40	40	40	40	40	40	40	40	40	40			40			480
9S	13E	16			35	15									25	15	20	30	130
																		TOTAL	7110

47-2268
24168

Complete the following map by showing land ~~end point of diversion~~ as proposed by this amendment. Show 40 acre subdivisions, sections, townships, ranges, ~~and ditches.~~





Scale: 2 inches equal 1 mile

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

Signed at Buhl, Idaho, this 30th day of December, 1969.

MAGIC WATER COMPANY

By Maurice A. Eckert

President (signature)

ACTION OF STATE RECLAMATION ENGINEER

I, R. KEITH HIGGINSON, State Reclamation Engineer of the State of Idaho, hereby approve the above Application for Amendment to Permit No. 47-2269.

Witness my hand this 22 day of January, 1970.

R. Keith Higginson

State Reclamation Engineer

47-2269

RELIFT PUMPS

Pump #1 Located in the NE¼ NE¼ of Sec 26 8S R. 13E This pump irrigates the higher ground in the Eastern ½ of Sec. 23 and the W½ NW¼ of Sec 24. The water is pumped from a collection pond. The pump is a Layne & Bowler with a 10" discharge and 12" suction. U.S Motor 60 H.P., 1770 R.P.M Serial: 4061392-5.

Pump #2 Located in the NE¼ SE¼ Sec. 22 Twp. 8S. R. 13E a sprinkler system which irrigates the high ground in the SE¼ SE¼ of Sec 15 is operated from this pump. the system also irrigates E½ NE¼ Sec. 22. the pump is a Layne & Bowler with a 10" discharge and 12" Suction. Hollowshaft U.S. Motor, 100 H.P, 1770 R.P.M, Serial 01004342.

Pump #3 Located in the NE¼ NE¼ Sec. 33 Twp 8S R. 13E B.M. Layne & Bowler Pump 8" discharge and 8" suction. 75 H.P. Motor, 146 R.P.M Serial: 4A60. This pump irrigates to the South.

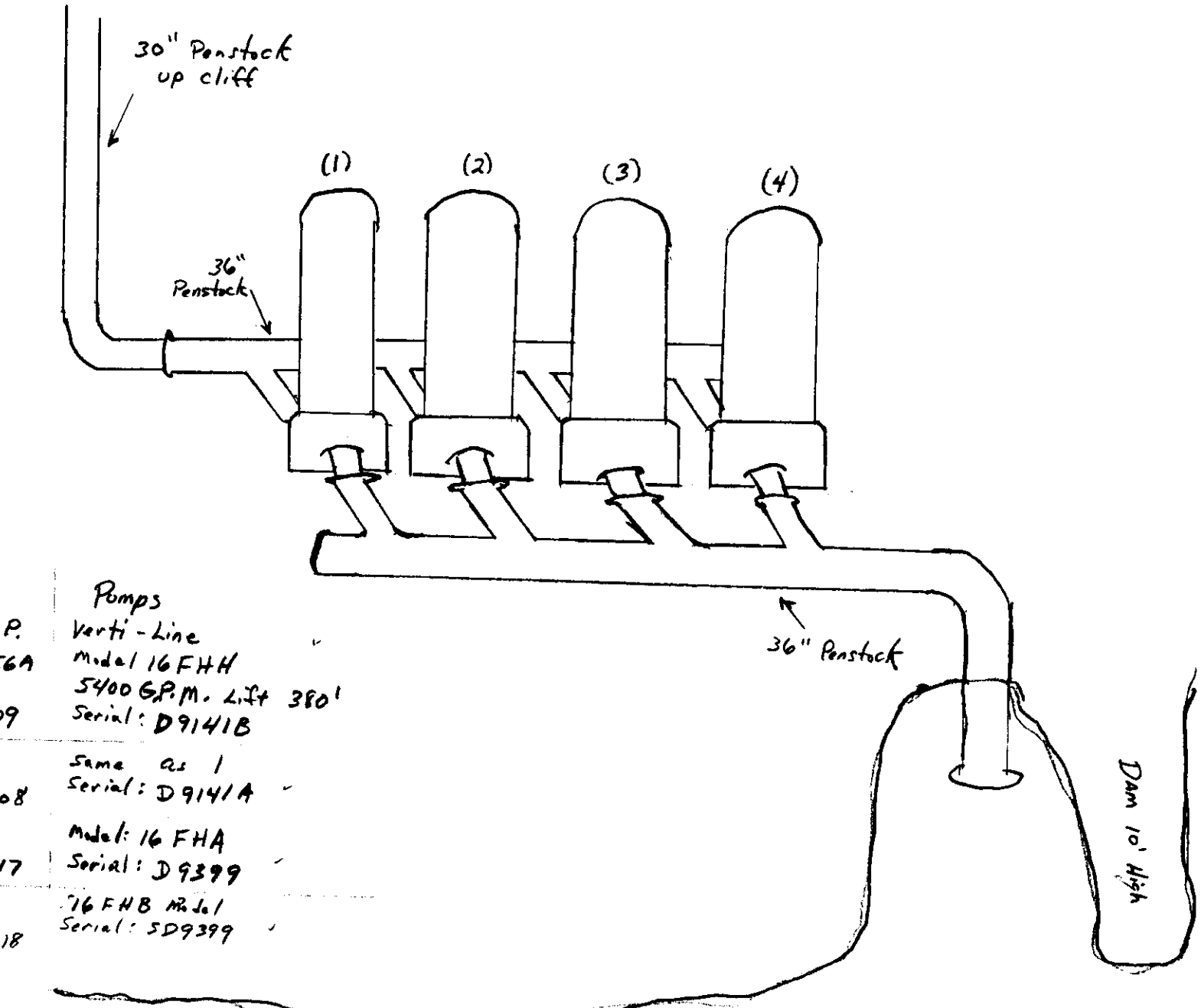
Pump # 4. Located in the NW¼ NE¼ Sec 33 Twp 8S R 13E B.M. there are 3 pumps and 3 motors. (pulled at time of Exam.) These pumps obtain water from a 10' X 10' concrete Sump. and are pumped into a 24" main Line over the hill to irrigate sections 30, 29, 31, & 32. this main Line is approx. 1¾ miles long.

Pump # 5 Located in the NW¼ NW¼ Sec 22 Twp 9S R. 13E B.M. this pump irrigates the Lands in Sec 16. The water is taken from the Canal through a 18" Parshall Fume to a pond. B. J. Pump with 8" discharge into a 12" main Line up to higher Land. U.S Motor 75 H.P. 1800 R.P.M Serial: 3903173

Magic Water Co Canal supplies all of the above pumps (except #1) with water. The water is stored in small ponds and then pumped to the Lands for irrigation. Pump # 1 has a collection pond that collects waste water. the Main Canal is Approx 16 ft wide at the bottom, 18 ft wide at top of water Line. the water Line is approx. 2 ft deep.

47-2269
24128

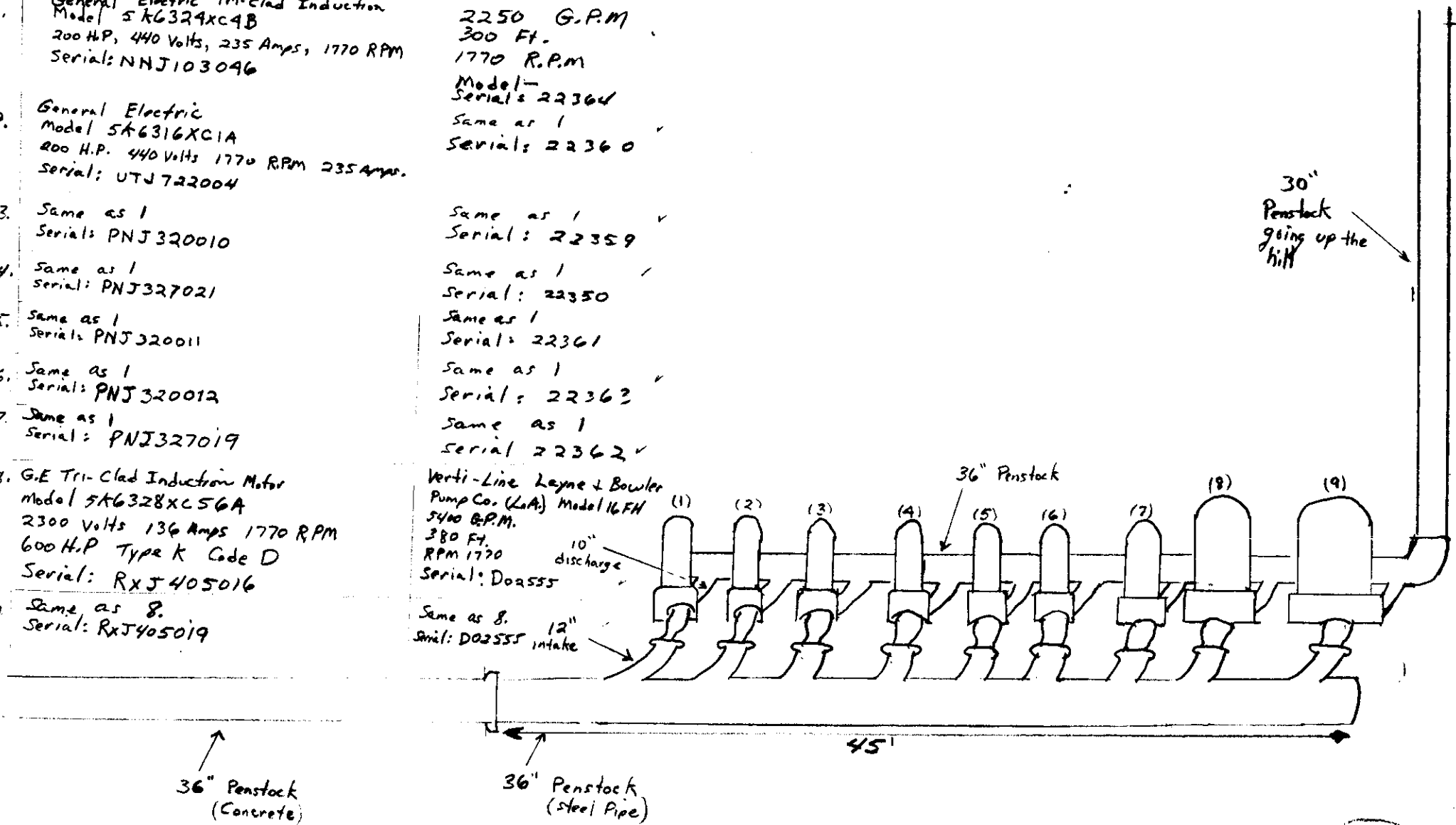
47-2269



	Motors	Pomps
1.	GE. Motor 600 H.P. Model 5K6328XC56A 1770 R.P.M. Serial: CAJ310009	Verti-Line Model 16FHH 5400 G.P.M. Lift 380' Serial: D9141B
2.	Same as 1 Serial: CAJ310008	Same as 1 Serial: D9141A
3	Same as 1 Serial: RXJ405017	Model: 16 FHA Serial: D9399
	Same as 3 Serial: RXJ405018	16 FHB Model Serial: SD9399

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No.	Motor	Pumps
1.	General Electric Tri-clad Induction Model 5K6329XC4B 200 H.P, 440 Volts, 235 Amps, 1770 RPM Serial: NNJ103046	2250 G.P.M 300 Ft. 1770 R.P.M Model— Serial: 22364
2.	General Electric Model 5K6316XC1A 200 H.P. 440 Volts 1770 R.P.M 235 Amps. Serial: UTJ722004	Same as 1 Serial: 22360
3.	Same as 1 Serial: PNJ320010	Same as 1 Serial: 22359
4.	Same as 1 Serial: PNJ327021	Same as 1 Serial: 22350
5.	Same as 1 Serial: PNJ320011	Same as 1 Serial: 22361
6.	Same as 1 Serial: PNJ320012	Same as 1 Serial: 22363
7.	Same as 1 Serial: PNJ327019	Same as 1 Serial 22362
8.	G.E Tri-Clad Induction Motor Model 5K6328XC56A 2300 Volts 136 Amps 1770 RPM 600 H.P Type K Code D Serial: RXJ405016	Verti-Line Layne & Bowler Pump Co. (L.A.) Model 16 FH 5400 G.P.M. 380 Ft. RPM 1770 Serial: D02555
9	Same as 8. Serial: RXJ405019	Same as 8. Serial: D02555



Salmon Falls Creek

24128
47-2269

✱ Nos. on top indicate changes made by field Examiners

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Not applicable

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	14											20						20
8S	13E	15																40	40
8S	13E	22	40			20									40	30	40	40	210
8S	13E	23	40	40	40	33 40	20	40	40	40	40	40	40	40	40	40	40	40	620
8S	13E	24						3.5	36 40			40							115
8S	13E	26	33.7 40	40	40		40	40	40	40	40	40	40	40		40	40		520
8S	13E	27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
8S	13E	28													40			40	80

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8S	13E	29	40	40	40	40	40	40	40	40	40	40	40	40	40	40	38 40	40	640
8S	13E	30													[illegible] 40	40	[illegible] 40	[illegible] 40	160
8S	13E	31													32.5 40	40	36 40	39 40	160
8S	13E	32	38 40	40	40	40	40	34 40	32.5 40	40	40	39.17 40	32.5 40	32.5 40	40	40	31.5 40	31.6 40	640
8S	13E	33	40			40									40	38 40	39 40	37 40	240
8S	13E	34	37 40	40	40	40	40	40	40	40	40	40	39.5 40	39.5 40	39 40	40	39.5 40	39 40	640
8S	13E	35		0 40	0 40		40	40	40	40		27 40							280

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	13E	2					35	30	39.5 40			39.5 40							145
9S	13E	3	20 30	32.5 40	40	31.5 40	40	38.5 40	40	40	40	40	40	40	32.5 40	40	40	39.5 40	630
9S	13E	4	32.5 40	32.5 40	40	40			37 40	27 40			25 40		40	40	40	40	440
9S	13E	9	40	40	38 40	40	35 40								28 40			26 40	250
9S	13E	10	38.5 40	40	40	40	40	40	40	40	40	40	40			40			480
9S	13E	16			35	15									25	15	20	30	130

TOTAL 7110

Examination total 6884.7

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TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TRACTS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated _____

10. Remarks: ~~Aerial photos are available for most of our project and~~ are available from Mr. Maurice Eckert.

The above information is a true statement of the extent to which the above numbered permit has been developed.

MAGIC WATER COMPANY

December 30, 1969.
(Date)

By Maurice H. Eckert.
President (Signature)

State of IDAHO)
ss.
County of Twin Falls)

On this 30th day of December, 1969, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

D. M. Winegeden

Notary Public residing at Buhl, Idaho

My commission expires January 2, 1973.

47-2269
24128

TWP. 8S RANGE 12E COUNTY Twin Falls SCALE: 1" = 1 MILE

Twp 9S

Sprinkler

Pump #2

Pump #1

Pump #3

Pump #4

Pump #5

Gulch

County Road

Salmon Falls Creek

Cement Pipe

Pump

Sp. Well Dug

24128 47-2269

✱ Nos. on top indicate changes made by field Examiners

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Not applicable

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision:

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
9S	13E	1											20						20
9S	13E	12																d/o	d/o
9S	13E	13	d/o			20									d/o	30	d/o	d/o	210
9S	13E	23	d/o	d/o	d/o	d/o (33)	20	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	620
9S	13E	24						35	d/o (36)			d/o							115
9S	13E	25	d/o (33.7)	d/o	d/o		d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o		d/o	d/o		520
9S	13E	27	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	40	d/o	d/o	d/o	d/o	d/o	640
9S	13E	35													d/o			d/o	80

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
9S	13E	29	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	(38) d/o	d/o	640
9S	13E	30													[redacted] d/o	d/o	d/o	d/o	160
9S	13E	31													(32.5) d/o	d/o	(36) d/o	(39) d/o	160
9S	13E	32	(39) d/o	d/o	d/o	d/o	d/o	(34) d/o	(39.5) d/o	d/o	(39.7) d/o	(39.5) d/o	(39.5) d/o	d/o	d/o	d/o	(39.5) d/o	(39.5) d/o	640
9S	13E	33	d/o			d/o									d/o	(38) d/o	(39) d/o	(37) d/o	240
9S	13E	34	(39) d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	(39.5) d/o	(39.5) d/o	(39) d/o	d/o	(39.5) d/o	(39) d/o	640
9S	13E	35	d/o	d/o			d/o	d/o	d/o	d/o	(27) d/o								280

TWP.	RANGE	SEC.	NE¼ NE¼	NE¼ NW¼	NE¼ SW¼	NE¼ SE¼	NW¼ NE¼	NW¼ NW¼	NW¼ SW¼	NW¼ SE¼	SW¼ NE¼	SW¼ NW¼	SW¼ SW¼	SW¼ SE¼	SE¼ NE¼	SE¼ NW¼	SE¼ SW¼	SE¼ SE¼	TOTALS
9S	13E	1							(39.5)			(39.5)							145
9S	13E	3	(20) 30	(39.5) d/o	d/o	(39.5) d/o	d/o	(39.5) d/o	d/o	d/o	d/o	d/o	d/o	d/o	(39.5) d/o	d/o	d/o	(39.5) d/o	630
9S	13E	11	(39.5) d/o	(39.5) d/o	d/o	d/o			(39) 40	(27) 40			(25) d/o		d/o	d/o	d/o	d/o	440
9S	13E	9	d/o	d/o	(38) d/o	d/o	(35) d/o								(28) d/o			(26) d/o	280
9S	13E	10	(39.5) d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o	d/o			4.			40
9S	13E	16			35	15									25	15	20	20	130

TOTAL 7110

Examination total 6894.2

47-2269
24128

Identification No. _____

Permit No. _____

RECEIVED

Department of Reclamation

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Magic Water Co. (Assignee of Evergreen Canal Co.)

   b) Post Office Address Route #3, Buhl, Idaho 83316

2. Permit Number 24128 - Now

3. Date of Priority that you are prepared to establish May 2, 1953

4. a) Source from which water was appropriated Salmon Falls Creek

   b) Location of the point of diversion: SE ¼ NW ¼, Section 2

   Township 10 South, Range 13 East Boise Meridian, Other points of diversion: (otherwise described as) North 16°32' West 3,590 feet from the East quarter corner of Section 2, Township 10 South, Range 13, E.B.M.

5. a) The amount of water and use to which the water has been applied:

   amount 94.56 cfs. for agr. (irrigation) purposes from March 15 to November15 incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   amount _____ for _____ purposes from _____ to _____ incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   amount _____ for _____ purposes from _____ to _____ incl.
   (cfs and/or acre feet per annum) (Month-Day) (Month-Day)

   b) Total amount appropriated 94.56 cfs and/or acre feet per annum

   c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: Donald McEldowney & Mr. Johnson (engineer) from Dept. of Reclamation, State of Idaho & Jean of Hoffman, Fiske & Milar

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

   a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: Not applicable

   b) Describe the agreement or understanding by which you take water from the works: Not applicable

7a & 7b The diversion is an earth filled dam 127' long, 8' high, with a 12' crest width. The spillway is 33' wide x 6' deep, has a car bridge over it, and is located in the south abutment.

The outlet is in the north abutment and is a concrete winged headwall with a 48" slide gate operated by a chain hoist. The gate is attached to a 48' x 95' CMP that goes east to a concrete distribution box 8½' long x 7½' high x 7½' wide, controlled by flash boards on the east side.

Water is either diverted back to the main stream through removal of flash boards or installing boards and diverting to the north through a 36" x 27' concrete pipe to a 6' x 6' x 6' concrete box then to a 36" x 2700' concrete pipe penstock that is directly connected to a pumping station that has 7 200HP and 2 600HP pumps and electric motor

The concrete penstock connects to a 36" x 30' steel pipe that has a 36" x 6' x 30" reducer to a 30" x 20' steel pipe.

The 36" steel pipe section has 7 12" direct connections to turbine pump bases. The reducer section has a Tee connection to an 18" x 45' steel surge pipe that lies on the face of the steep uphill slope to the north. The 30" x 20' section of steel pipe has 4 18" direct connections to turbine pump bases. The two east connection pumps have been removed and bases capped.

There are 7 200HP and 2 600HP pumps in operation on this station. They discharge into a 30" penstock and the water is lifted approximately 360' into a buried 30" x 175' concrete pipe to a 60' x 75' x 6' weir pond and 12' Cippoletti Weir to a canal 12' bottom x 25' top x 5' deep with 2' freeboard. Said canal is approximately 7 to 8 miles in length to point where water is first taken out.

Pumping Unit "B" This group of 4 600HP pumps is located 130' east of Unit "A" and is in the SE¼ NE¼, Section 2, Township 9 South, Range 13, E.B.M. These pumps pump directly out of Salmon Falls Creek from a pond created by a dam 50' long x 6' high x 20' crest width, steep side slope, projecting from the north bank and extending into the stream leaving a 30' wide open channel on the south side. Large rocks are placed in this opening to raise the pond level. The upstream side and around the end of the dam is riprapped; 3½' to 4' freeboard is maintained.

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24128

LJ-200
I-63

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Date 6-15, 19 72 DISCHARGE MEASUREMENT NOTES

River at Magic Water Co.

Gage-height point	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area	Discharge
	18.0	1.0	2.10		7	43	.378			2.10	.80
	19.0	1.25	1.25		5	62	.197			1.5	.30
	20.5	1.75									~~.03~~

No. ____ of ____ Sheets. Comp. by ____ Chk. by ____

47-2269 24128

LJ-200
I-63

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

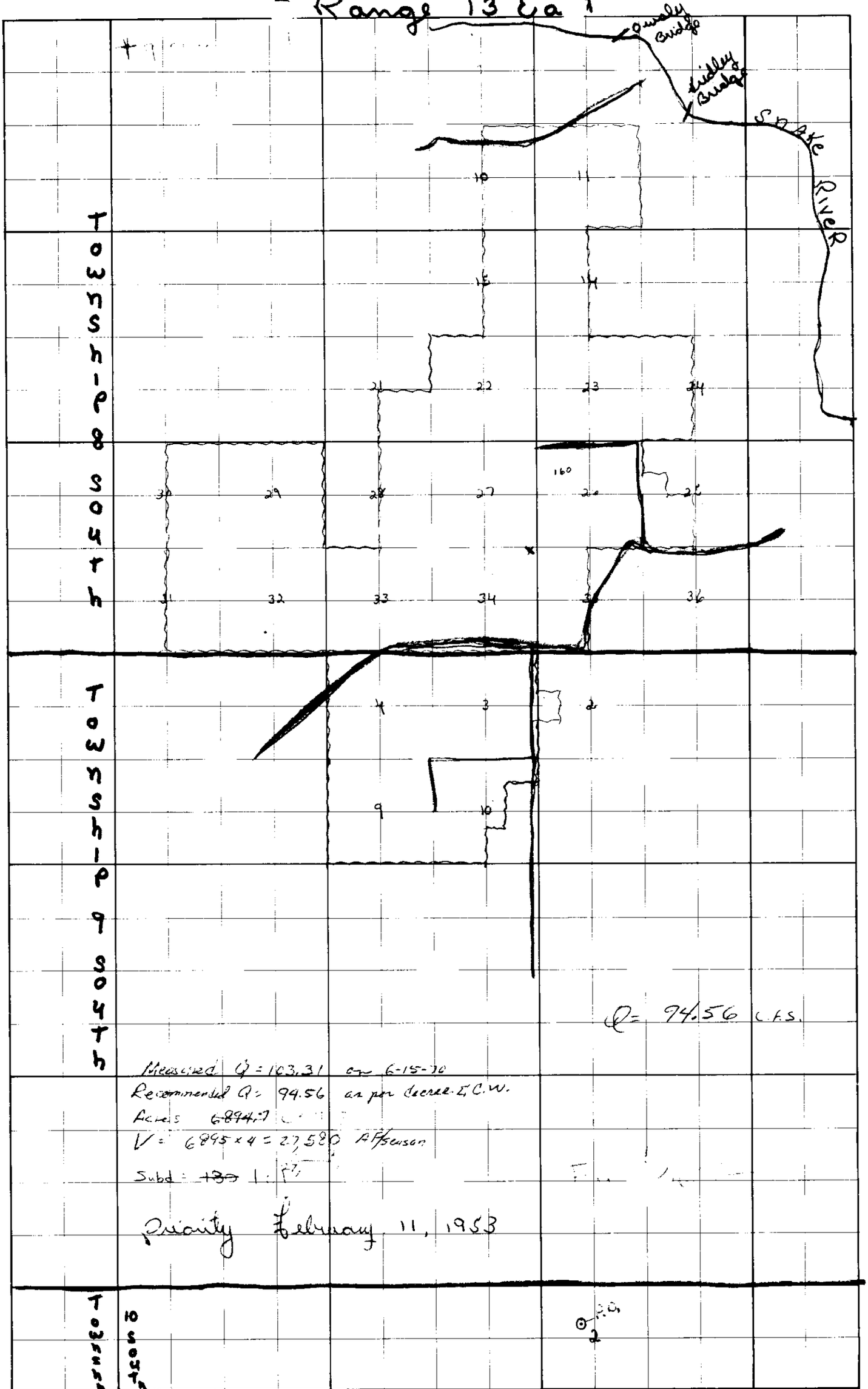
Date 6-15, 19 72 DISCHARGE MEASUREMENT NOTES

River at Magic Water Co.

Gage-height point	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area
	0	.15								
	.3	.5	.6		15	51	.667			.30
	1.0	.85	1.0		15	47	.805			.85
	2.0	.75	1.5		15	49	.673			1.12
	2.5	.50	2.20		20	45	.998			1.10
	3.0	.75	3.35		25	44	1.27	1.25		2.5
					25	45	1.24			
	4.0	1.0	3.50		40	50	1.78	1.72		3.5
					30	40	1.67			
	5.0	1.0	3.75		41	40	2.22	2.12		3.73
					40	44	2.02			
	6.0	1.0	3.85		50	49	2.31	2.15		3.85
					50	45	1.98			
	7.0	1.0	3.75		40	40	2.22	2.05		3.95
					40	47	1.89			
	8.0	1.0	4.20		40	41	2.17	1.98		4.20
					40	50	1.78			
	9.5	1.5	4.20		50	42	2.12	1.94		6.40
					40	51	1.75			
	11.0	2.0	4.08		40	46	1.93	1.80		8.16
					30	40	1.67			
	13.0	2.0	4.0		40	47	1.82	1.73		8.0
					30	41	1.63			
	15.0	2.0	3.8		30	45	1.49	1.36		7.6
					25	46	1.22			
	17	1.5	3.40		20	42	1.09			5.1

No. ____ of ____ Sheets. Comp. by ____ Chk. by ____

47-2269 24128



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

Form 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF EXAMINER

Permit No. G-24128/47-2269

This proof is for b/u In Water District No.

1. Name of applicant Magic Water Co., Rt. #3, Buhl, Idaho

2. Source of water supply: groundwater - Salmon Falls Creek, a tributary of Snake R.

3. Location of point of diversion: Is in the SE¼NW¼ of Section 2
T. 10 S R. 13 E County of Twin Falls

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

see attachment

5. Water is used for: irrigation

6. State whether or not water has been turned into works of diversion:

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

see attachment

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

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

Remarks: contact Maurice Eckert--he lives on the land at the point of diversion--he has an aerial map

This examination was made on the 23, 24, 25 day of March, 1970

(Signed) T. Eamkuter, E. B. Hamilton
Examiner.

47-2269
24128

INSTRUCTIONS TO EXAMINERS

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

Permit No. G-24128/47-2269

Examination for b/u

County Twin Falls

Sec. 2 T.10S R. 13E

Quantity: (permit) The Quantity of Water is limited by the amount actually diverted from the Stream at the described point of diversion.

Source: Salmon Falls Creek

P.D.: SE¼NW¼

Use: irrigation

Extension:

Protest:

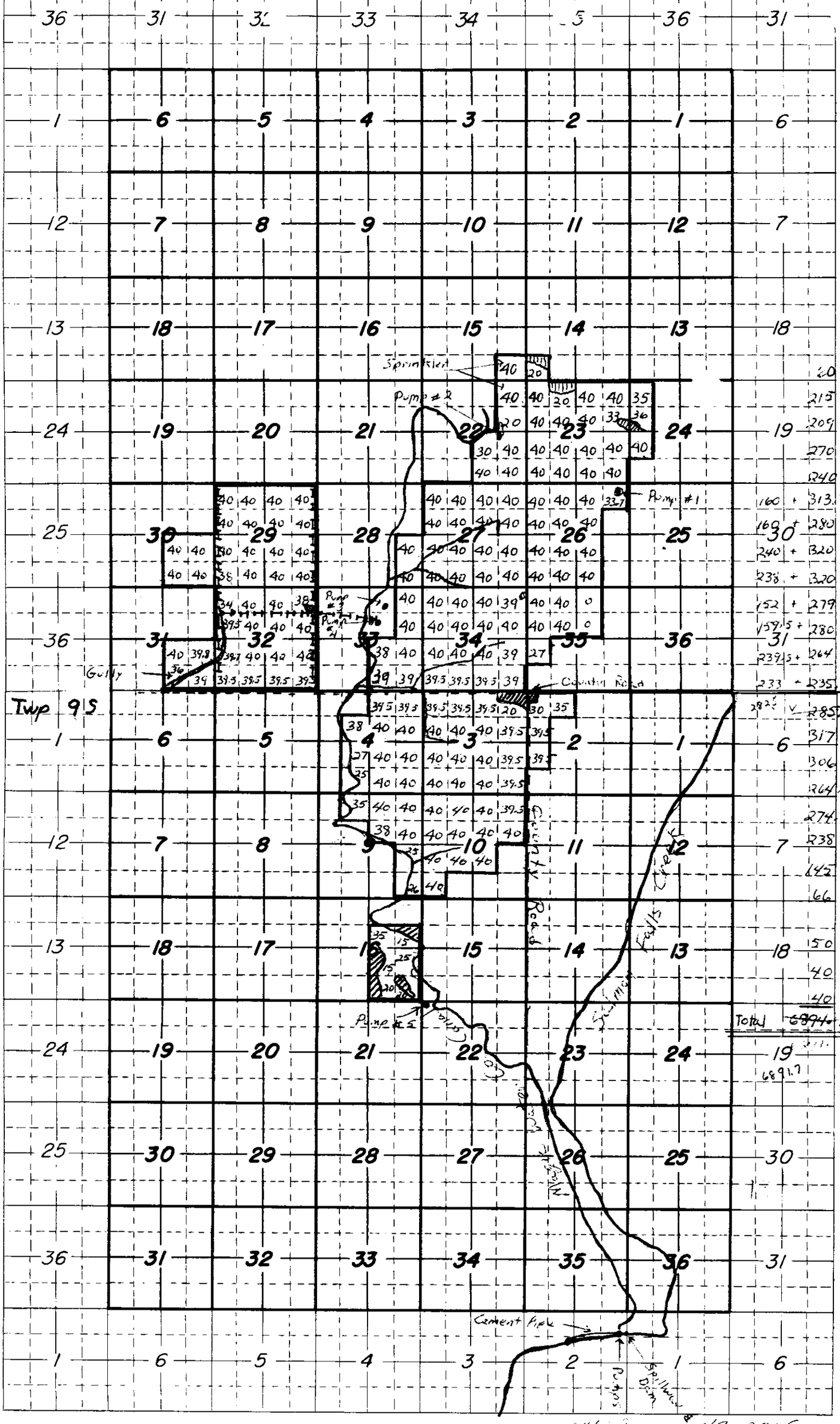
Completion of Works:

Other Rights: none

Filed: Feb. 11, 1953 MADE: January 2, 1970

Due: May 2, 1971 PRIORTY: Feb. 11 1953

TWP. 8S RANGE 13E COUNTY Twin Falls SCALE: 1" = 1 MILE



24128 47-2269

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

March 6, 1970

Department of Reclamation
Statehouse Mailroom
Boise, Idaho 83707

Re: Permit No. 24128/47-2269

Gentlemen:

Have you published, in the Buhl Herald, the statutory notice regarding our submission of proof as to beneificial use? If so, would you please send a copy to this office.

If you have any idea with respect to when you will be able to make the "on the ground" inspection, we would appreciate being so advised as our clients are being held up on an insurance loan until the final certificate can be issued.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

24128
47-2269

DON SAMUELSON
GOVERNOR



R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

January 23, 1970

Re: Magic Water Company

Mr. Michael H. Felton
HEPWORTH, WALKER, NUNGESTER AND FELTON
1020 Main
Buhl, Idaho 83316

Dear Mike:

We are in receipt of your letter of January 14, 1970. As we have previously discussed, Keith Higginson was advised that the Magic Water file had been returned from the District Court and that your office was still in possession of some of our records. After discussing the matter with Mr. Higginson today, he was unable to stop at your office during his trip, therefore, if you could forward our records or the entire file we would be glad to extract the information that we require.

If this is not practical, then please hold the information and the first time we are in your area, we will pick it up.

We appreciate your assistance in this matter.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:dr

24128
47-2269

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

January 14, 1970

Department of Reclamation
Statehouse Mailroom
Boise, Idaho 83707

Attention: Donald McEldowney

Re: Magic Water Company

Dear Don:

Last week you mentioned that Keith Higginson was in the area and would stop by this office in the near future to determine what originals he wished to have us secure the release of from the District Court file which we have temporarily checked out of the County Clerk's office. Since we have not seen Keith recently, I thought I might call the matter to your attention again and ask you to advise because the Clerk's office normally becomes somewhat concerned when a file is out for more than two weeks.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

47-3567
3-4-68

January 23, 1970

Re: Permit No. 24128/47-2269 - Magic Water Company

Michael H. Felton
Hepworth, Walker, Nungester & Felton
Professional Center, 1020 Main
Buhl, Idaho 83316

Dear Mr. Felton:

Be informed that we have accepted the affidavit submitted as proof of beneficial use for the above referenced permit. We are enclosing a copy of the APPROVED Application for Amendment along with Receipt No. 4080 in the amount of $5.00 received in payment for the amendment.

We shall be of assistance by completing the examination as soon as possible. Our schedule is not immediately available. We will advise as soon as a determination is made as to when we shall be able to make this examination.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM/jmb

Enc. Copy - Application for Amendment
Receipt No. 4080 - $5.00

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

January 16, 1970

Department of Reclamation
Statehouse Mailroom - Annex 2
Boise, Idaho 83707

Attention: Donald W. McEldowney,
Appropriation Examiner

Re: Permit No. 24128/47-2269

Dear Mr. McEldowney:

Although I appreciate that we have only recently filed our final documents concerning proof of beneficial use, I have been requested by one of the members of the Board of Directors of Magic Water Company to ascertain your best guess as to if and when an inspection to confirm the beneficial use may be made by your department. This request is apparently prompted by the fact that some of the people farming on the project have loan applications approved and monies appropriated subject to your approval and issuance of a water license.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

P.S. Enclosed is the $5 Land List Amendment Fee.

47-2269
24128

LAW OFFICES
HEPWORTH, WALKER, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
AREA CODE 208
PHONE 543-4368
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
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OTHER OFFICES AT
P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083
SUN VALLEY, IDAHO 83353
(208) 726-5861

November 4, 1969

Office of the State Reclamation Engineers
Statehouse Mailroom
Boise, Idaho 83707

Re: Magic Water Company -
Permit No. 124128

Gentlemen:

Our client, Magic Water Comapny, Inc., of Buhl, has requested that we apply to you for completion of the "Proof of Beneficial Use" phase of our mutual endeavors to secure a Water License. As your file will show, "Proof of Completion of Works" has heretofore been taken care of and only "Proof of Beneficial Use" remains uncompleted. All facets of the project are now completed with respect to the "Proof of Beneficial Use" phase and we are ready for your inspection. Would you please advise of the date when your people will be able to inspect our client's project and would you kindly allow at least two weeks' advance notice so that we can be in contact with our people, as some of them reside in Idaho Falls.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

47 2269
2410

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

December 30, 1969

Department of Reclamation
Statehouse Mailroom
Boise, Idaho 83707

Attention: Donald McEldowney

Re: Magic Water Company

Dear Mr. McEldowney:

Enclosed is completed Proof of Application of Water to Beneficial Use form for 7,110 acres in Twin Falls County owned by the members of Magic Water Company and irrigated with the waters of Salmon Falls Creek.

Also enclosed is Application for Amendment of land list. Since this is for the land only, we have not filled in any information on the point of diversion or the period and nature of use, which shall remain the same.

Please advise if further information is desired.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Michael H. Felton

MHF/pw

Enclosures

77-2406
34128

December 16, 1969

Re: Permit No. 24128/47-2269

Mr. Wm. L. Nungester
HEPWORTH, WALKER, NUNGESTER & FELTON
1020 Main
Buhl, Idaho 83316

Dear Mr. Nungester:

Pursuant to your letter of November 26, 1969, we are enclosing a copy of the point of diversion and land list amendments for the above referenced permit.

It would appear, from our records, that these are the most recent amendments for this permit.

If we may be of further assistance, please contact us.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enclosure

24128
47-2269

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

November 26, 1969

Dept. of Interior
Bureau of Reclamation
230 Collins Road
Boise, Idaho 83700

Atten: Steve Allred

Re: Magic Water Company
Permit # 24128

Dear Steve:

Upon returning to Buhl I could not find what I believe to be the last amended land list filed on the above-captioned permit. Would you please send me a copy of the land list as it now stands. Would you also please send me a copy of the point of diversion which is now shown on the permit. I believe this is also by amendment.

Please bill our office for any charge.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Wm. L. Nungester

Wm. L. Nungester

WLN:bh

November 10, 1969

Re: Permit Number 47-2269 - Magic Water Company

Hepworth, Walker, Nungester & Felton
Professional Center
1020 Main
Buhl, Idaho 83316

Attention: Michael H. Felton

Dear Mr. Felton:

We are in receipt of your letter of November 4, 1969 concerning the above referenced permit.

Pursuant to your request, we are forwarding the required Beneficial Use forms and instructions. Following receipt of the required Beneficial Use form we will determine when our field examiners will be out to complete the examination.

If we can be of further assistance please contact us.

Very truly yours,

Donald W, McEldowney
Appropriation Examiner

DWM:sc
Enc: Proof form
Instructions

24128
47-2269

July 24, 1969

Re: Permit No. 24128/47-2269 - Magic Water Company, Inc.

Mr. Maurice Eckert
Route # 3
Buhl, Idaho

Dear Mr. Eckert:

Please forgive the delay in responding to your inquiries. We have reviewed the above referenced file and it is our decision to allow proof of beneficial use to be submitted under Title 42, Chapter 2, Idaho Code. The order has been executed, therefore, you will only be required to submit one affidavit of beneficial use and will not be required to publish additional notices.

The Department will upon receipt of the beneficial use proof affidavit review our previous measurements of the water diverted. Most probably we will not again measure the water you are diverting; our examination will be in connection with the lands irrigated. With this in consideration, please take time and make certain all of your lands are beneficially irrigated before proof is submitted.

With this letter we are also enclosing a beneficial use proof affidavit of the type that must be submitted.

Contact us if you have any further questions.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enc: Order (copy)
Proof form
cc: F. J. Jones
Box 1430, Pocatello, Idaho

34-60
47-2269

July 24, 1969

Re: Permit No. 24128/47-2269

Magic Water Company, Inc.
Buhl,
Idaho

Gentlemen:

During the 1967 session of the Idaho Legislature, certain amendments were made in the law pertaining to the procedures for making proof of beneficial use of water. In order for the Department to comply with these changes, Rules of Practice and Procedures were adopted on August 1, 1968.

The enclosed order modifies your permit to comply with these rules and regulations. You will only be required to submit one affidavit of beneficial use and will not be required to publish additional notices.

Enclosed please find an affidavit to be used in submitting proof of beneficial use.

If you have any questions regarding this matter, please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR
Enc: Order
Proof form

24128
47-2269

June 6, 1969

Re: Permit No. 24128 - Magic Water Company, Inc.

COPY

Thomas A. Miller, Atty.
P.O. Box 1617
Boise, Idaho 83701

Dear Mr. Miller:

Thank you for your letter of June 3, 1969.

After reviewing the matter I indeed find a discrepancy between our files and the dates quoted by the courts for proof to be submitted that water has been applied to beneficial use under permit 24128.

As far as this office is concerned, we will assume that proof must be submitted on or before May 2, 1971. I think that either the court misquoted the permit or that the date was mistyped in that the district court language indicates that they intended to use the date set forth by the permit as follows:

"It is thereby ordered, adjudged and decreed....., subject only to their placing such water to a beneficial use within the time allowed by their permit as now amended, to wit, May 2, 1970, and;"

However, since there appears to be some question as to what the court meant, if you are prepared to submit proof of beneficial use prior to May 2, 1970, you might do so.

If you have any further questions or we may be of further help, please advise.

Very truly yours,

C. Stephen Allred, P.E.
Asst. State Reclamation Engineer

CSA:dr

47-2267
24128

RECEIVED
JUN 4 1969
Department of Reclamation

HAWLEY TROXELL ENNIS & HAWLEY
ATTORNEYS AND COUNSELORS
BANK OF IDAHO BUILDING
POST OFFICE BOX 1617
BOISE, IDAHO 83701

ROBERT I. TROXELL
JESS B. HAWLEY, JR.
PAUL B. ENNIS
JOHN T. HAWLEY
THOMAS A. MILLER
MARSHALL NEAL NEWHOUSE
IVER J. LONGETEIG III
ROBERT J. ENNIS
CRAIG L. MEADOWS

AREA CODE 208
TELEPHONE: 344-7683

June 3, 1969

Mr. R, Keith Higginson
Commissioner of Reclamation
State House
Boise, Idaho

Re: Magic Water Company, Inc. --Permit No. 24128

Dear Sir:

We are interested in knowing the deadline for filing of proofs of application of water to beneficial use under the above captioned permit. I believe the supreme court decision dated April 1, 1968, involving this permit and other permits, referred to a deadline of May 2, 1970, but we understand from talking to personnel in your office that the deadline may in fact be May 2, 1971.

We would appreciate it if you would give us a letter as to the correct deadline for filing such proofs.

Yours truly,

THOMAS A. MILLER

ld

24128
47-3267

IDAHO CAPITAL REPORT

ICR A SERVICE OF THE VOTER PUBLISHING CO., Box 1219 • BOISE, IDAHO

Volume 15, No. 31

SUPREME COURT OPINIONS

Nos. 9958 and 9965

JOHN E. KELLER and FRANCES J. KELLER, his wife, and ALFRED C. KELLER and ROBERTA H. KELLER, his wife,

Plaintiffs-Appellants,

v.

MAGIC WATER COMPANY, INC., a corporation; PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN COMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS and KENNETH W. MARSHALL,

Defendants [Magic Water Company, Inc., respondent, and Kenneth W. Marshall, appellant],

and

MAGIC WATER COMPANY, INC., a corporation,

Cross-Claimant, Respondent,

v.

JOHN E. KELLER and FRANCES J. KELLER, his wife, and ALFRED C. KELLER and ROBERTA H. KELLER, his wife, PETE RARICK, DOROTHY RARICK, GLEN H. JOHNSON, ETHEL C. JOHNSON, JOHN K. COURTENAY, VERNON L. HERZINGER, EDWARD HERZINGER, BETTY HERZINGER, WAYNE SNARR, DEAN SNARR, JOHN CAMPBELL, DEAN M. OLSEN, JOSEPHINE BLICK, GARY BLICK, MARIE BLICK, CAROL J. CONNER, WELLAND A. HANSEN, JOHN W. THOMAS and KENNETH W. MARSHALL,

Cross-Defendants [John E. Keller, et ux, and Alfred C. Keller, et ux, appellants, and Kenneth W. Marshall, appellant].

Boise, January Term, 1968

Filed: April 1, 1968

Martin V. Huff, Clerk

Appeals from the District Court of the Fifth (formerly Eleventh) Judicial District of the State of Idaho, Twin Falls County. The Honorable Theron W. Ward, District Judge.

Action to adjudicate water rights and permits. Judgment and decree in favor of Magic Water Company, affirmed.

Albough, Bloem, Smith & Pike, Idaho Falls, for plaintiffs, cross-defendants and appellants Kellers. (No. 9958)

Cunningham, Schwartz & Doerr, Twin Falls, for defendant, cross-defendant and appellant Marshall. (No. 9965)

Hepworth, Nungester & Felton, Buhl, for defendant cross-complainant and respondent Magic Water Company.

McFADDEN, J.

This action was instituted by plaintiffsJohn E. Keller and Alfred C. Keller and their wives to quiet title to certain waters of Salmon Falls Creek. Various parties were named as defendants, including appellant Marshall and respondent Magic Water Company. Respondent Magic Water Company answered and filed a cross-claim naming as cross-defendants the plaintiffs-appellants, appellant Marshall and others, who were also named as defendants in the Keller compalint.

The trial court entered its judgment and decree to the effect that respondent Magic Water Company has a prior and subsisting right to the waters of Salmon Falls Creek in the amount of 94.57 cubic feet per second (c.f.s.) with a priority date of May 2, 1953, subject only to its placing such water to a beneficial use within the time allowed by their permit as amended, to-wit: May 2, 1970. After entry of judgment, an appeal was taken by the Kellers (No. 9958). Marshall filed a separate appeal (No. 9965). This court ordered the appeals consolidated for briefing and argument.

In February 1953, the Evergreen Canal Company filed an application with the Idaho Department of Reclamation for a permit to appropriate 120 c.f.s. of the waters of Salmon Falls Creek for irrigation purposes. Notice of such application (I.C.§ 42-203) was signed by the state reclamation engineer, service of which notice was acknowledged by the applicant. After more than forty days had elapsed, the application was approved by the state reclamation engineer, on May 2, 1953, and designated as "permit No. 24128." This permit provided that one-fifth of the work was to be completed on or before May 2, 1958. Magic Water Company is the successor in interest of the Evergreen Canal Company to permit No. 24128.

In the area involved herein, Salmon Falls Creek flows in a canyon from south to north. Magic Water Company constructed a dam across the creek in the bottom of the canyon, with a headgate near the west end of the dam. From this headgate a 48" corrugated iron pipe carries water to a concrete division box in which boards can be placed to control the water. Out of this division box, a 36" concrete pipe runs in a westerly direction to a junction box, west of the streambed, where another 36" concrete pipe runs in a westerly direction

to a junction box, west of the streambed, where another 36" concrete pipe conducts water down to a series of electric pumps, designated as Pump System A (Unit A). There the water is pumped to the top of the canyon wall where it is discharged into a pond and from there distributed by canals to water users. When boards are not placed in the division box, water discharges out of the box back into the natural channel of the creek.

There is a spillway on the east end of the dam where water can flow in the spillway channel and then back into the natural creek bed.

Seven 200 h.p. pumps were first installed at Pump System A in 1956, with a later addition of six 600 h.p. pumps. Pump System B was installed in May 1965, near Pump System A, west of the streambed. A small coffer dam was placed in the stream and the pumps in System B fed from that water. These pumps also raised the water to the top of the canyon wall, where the water was discharged into the same pond fed by System A.

It was stipulated that Magic Water Company had expended $112,000 to November 2, 1955; between November 2, 1955, and May 2, 1958, the sum of $290,000; and total expenditures to time of trial of $471,000.

Proof of completion of works was submitted to the state reclamation engineer by Magic Water Company in April 1965, following which an inspection of the works was made and a certificate of completion of works was executed by the state reclamation engineer on September 20, 1965, which instrument certified that the works were adequate to divert and convey 94.57 cubic feet per second of water.

On three occasions between the filing of the application for permit and the issuance of the certificate of completion of works, upon application of Magic Water Company, extensions of time for completion of works were granted by the state reclamation engineer.

The state reclamation engineer in March 1963, upon respondent's application, approved an amendment of the land list in the permit. Upon respondent's application, which sought to have the description of the point of diversion changed because of an error in the original description, in July 1964, the permit was amended to reflect the correct point of diversion.

On January 12, 1959, appellant Marshall filed an application for permit to appropriate 25 c.f.s. of the waters of Salmon Falls Creek, which permit was approved by the state reclamation engineer on January 20, 1959, as permit No. 27711. This permit required that one-fifth of the work be completed by January 20, 1964. Marshall assigned his right to appropriate 12 c.f.s. under this permit to appellant John E. Keller. Other assignments were made at various times by both Marshall and Keller. Following timely submission of proof under permit No. 27711, certificates of completion of works were issued in 1964, as follows:

To appellants Frances J. Keller and John E. Keller, et al, 10.5 c.f.s.

To appellant Marshall, 6.92 c.f.s.

To John W. Thomas (assignee of Marshall), 4.22 c.f.s.

August 12, 1964, the state reclamation engineer issued a license and certificate of water right to appellant Marshall for 6.92 c.f.s., with date

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of priority of January 12, 1959, for the lands described therein. On August 13, 1964, the state reclamation engineer issued a license and certificate of water right to the Kellers and Petersen for a total of 10.5 c.f.s., with priority date of January 12, 1959. Thereafter on December 5, 1964, John W. Thomas assigned his interest in Permit No. 27711 back to Marshall. No license or certificate of water right appears of record as to the 4.22 c.f.s. reassigned by Thomas to Marshall.

Although appellants Keller and Marshall separately appealed from the trial court's judgment and each filed separate briefs, the assignments of error of the respective appellants generally deal with identical issues. Hence the issues discussed herein are applicable to both the Kellers and to Marshall in their individual appeals.

Appellants (the term referring both to the Kellers and to Marshall, unless otherwise designated) assign as error the failure of the trial court to find that the original application for permit No. 24128, submitted by the Evergreen Canal Company, did not comply with the law. Appellants contend that the application for permit as filed by respondent's predecessor was fatally defective, because it did not contain any financial or other information regarding the incorporation or amount of stock of the applicant as required by I.C.§ 42-202.

On May 2, 1953, the application was approved and designated as permit No. 24128. The trial court found as a matter of fact, and such finding is uncontroverted, that the Evergreen Canal Company failed to set out its financial condition upon the original permit. However, at the time of approval of the permit, the required notice of the application was forwarded to applicant. The application having been approved, and no showing to the contrary having been made, it is to be presumed that proof of publication of the notice was made as required by I.C. § 42-203, and that in passing upon the application the state reclamation engineer complied with statutory provisions concerning filing of protests to granting of the application. Mosman v. Mathison, 90 Idaho 76, 408 P.2d 450 (1965); Monson v. Boyd, 81 Idaho 575, 348 P.2d 93 (1959); Meservey v. Guilliford, 14 Idaho 133, 93 Pac. 780 (1908).

The record fails to disclose that any notice of deficiency in the application was ever served on the Evergreen Canal Company, or endorsed in the records of the Department of Reclamation. No timely objection was filed thereto as required by I.C. § 42-203. The trial court specifically found that no one was damaged by the omission of such financial information from the application. Appellants, whose appropriations have a priority date of January 20, 1959, appeared in the transactions at bar long after respondent Magic Water Company had expended large sums of money on the basis of the permit to appropriate.

It is thus concluded that under the circumstances, appellants have no ground to contest the alleged defect in the original application for permit, upon which respondent now bases its arguments. In addition to the statutory requirements, which alone would constrain us to rule in favor of respondent on this issue, principles of equity militate against the requested declaration of forfeiture, which is now being sought for the first time eleven years after original approval of the application. See Homberg v. Armbrecht, 327 U.S. 392, 66 Sup. Ct. 582, 90 L. Ed. 743 (1946); Idaho Farms Co. v. North Side Canal Co., 24 F. Supp. 189 (D. Idaho 1938); Shive V. Barrow, 199 P.2d 693 (Cal. App. 1948); Ainsworth v. Roubal, 105 N.W. 248 (Neb. 1905).

A more complex question is presented by the assignments of error directed to the findings of fact, the conclusions of law, and to that portion of the decree which determined that the respondent's three extensions of time were properly granted by the state reclamation engineer. Extensions of time for completion of works and application to beneficial use under respondent's permit No. 24128 were granted by the state reclamation engineer in January 1958, extending the time from May 1958 to May 2, 1960; in March 1960, extending respondent's time from May 2, 1960 to May 2 1963; and on April 1, 1963, extending respondent's time from May 2, 1963 to May 2, 1965.

I.C. § 42-204 authorizes the granting of extensions of time for completion of works. It prescribes the procedures to be used by the Department of Reclamation and states (prior to its amendment in 1963), in pertinent part:

> "Provided, however, that in cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, the department of reclamation upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the time caused by such delays shall be added to the time given in the original permit for each and every action required.
>
> "Provided further, that the time for completion of works under and permit involving the construction of a reservoir of more than 200,00 acre feet capacity or for the appropriation of water to be impounded in such reservoir of more than 200,000 acre feet capacity, or for the appropriation of water to be impounded in such reservoir of more than 200,000 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 contruction of said reservoir (including expenditures for the purchase of rights of way and property in connection therewith) at least $100,000."

I.C. § 42-204 was amended in 1963. S.L. 1963, Ch. 214, § 1, p. 618. This amendment authorized the state reclamation engineer to grant additional time for completion of works up to seven years (formerly five), but not to exceed a total of twelve years (formerly ten) in all from the date of the permit.

Respondent, in each application for extension of time, set forth detailed reasons explaining the basis for its request. The first application, dated January 10, 1958, was based on respondent's statutory explanation that there

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24128

had been a two-year delay in completion because of difficulty in getting rights of way; that it would be necessary to institute condemnation proceedings for rights of way, but that condemnation proceedings could not be commenced until an irrigation district was organized; and that organization of the irrigation district had been withheld until patents were issued to desert land entrymen who farmed and irrigated the land. Appellants contend that no condemnation proceedings were intituted and that rights of way did not have to be obtained because 43 U.S.C.A. sec. 661 authorizes construction of a canal across public domain without the necessity of any permit. Respondent argued in rebuttal that at the time, however, it intended to proceed pursuant to 43 U.S.C.A. 946-949, to obtain rights of way.

Respondent's second peition for extension of time was dated March 11, 1960. The application recited as reasons for seeking the extension that it was necessary to build gauging stations; that litigation by shareholders delayed progress in the development of the project; and that complications and delays in acquiring necessary rights of way for roads, canals and other diversion facilities slowed development. Appellants contend that litigation in question did not finally materialize. They further claim that the extension bore no relation to the purported delays incurred.

Respondent's third petition for an extension of time was filed January 16, 1963, and was denied by the Department of Reclamation by letter dated February 12, 1963. I.C. § 42-204 was amended on March 25, 1963, to enlarge the class of applicants eligible to apply for an extension, and to extend the maximum time period allowable for extensions. Respondent's request was again submitted and reviewed and then approved April 1, 1963, by the state reclamation engineer, extending the time for completion of works to May 2, 1965. The reasons recited for requesting this third extension were concerned chiefly with the continued delaying effects of stockholder litigation, and the necessity for completing expensive pumping works already begun.

One of appellants' witnesses was the attorney for respondent during the period 1958-1960. He testified that he prepared respondent's first two applications for extensions of time, and that it was his purpose to request an extension of time to obtain a right of way across federal land for the purpose of constructing canals. As appellants correctly point out, respondent Magic Water Company never did institute any condemnation proceedings against any person for land or rights of way. The witness affirmed the failure of respondent to bring any condemnation action, and testified on cross-examination that the only litigation institued by shareholders was one suit, in which judgment was rendered in January 1959.

Appellants thus argue that the extensions were improperly granted, both because the applications did not comply with the requirements of I.C. § 42-204 and because the reasons for requesting the extensions never materialized.

Appellants seem to imply that the failure of respondent Magic Water Company either to bring condemnation proceedings or to institute other litigation should be sufficient for the state reclamation engineer to have denied respondent's applications for extensions of time. By such reasoning, appellants would imbue the state engineer with sufficient prescience to foresee the precise course of events subsequent to the granting of the extension, at the time of submission of the application. We cannot accept this view.

The state reclamation engineer must rule on such applications at the time

they are submitted; he has no way of knowing for certain whether the reasons cited in the application will materialize. He cannot, in other words, be made to predict the future with powers other than his own reason and judgment. Further, we ordinarily must vest the findings of the state engineer with the presumption of correctness. In Re Right To Water Of Barber Creek, 205 Pac. 518 (Nev.), reh. denied, 210 Pac. 563 (1922); Laramie Irr. & Power Co. v. Grant, 13 P.2d 235 (Wyo. 1932). Although such findings do not take from the court the power to grant relief to a party whose rights may have been infringed, it is seldom that a court will interfere with the discretionary action of the state engineer upon matters involving the administration of the water laws of the state. Broughton's Estate v. Central Oregon Irr. Dist., 101 P.2d 425 (Ore.), aff'd on rehearing, 108 P.2d 276 (1940). As stated by Mr. Justice Holmes, the state engineer is "the expert on the spot," Moyer v. Peabody, 212 U.S. 78, 85, 29 Sup.Ct. 235, 237, 53 L.Ed. 410, 416 (1909), and we are constrained to realize the converse, that "judges are not super engineers," Broughton's Estate v. Central Oregon Irr. Dist., supra. See Basinger v. Taylor, 30 Idaho 289, 164 Pac. 522 (1917); In Re Bassett Creek, Etc., 155 P.2d 324 (Nev. 1945); In Re Right To Waters Of Barber Creek, supra; In Re Waters Of The Tualatin River And Its Trib., 366 P.2d 174 (Ore. 1961); Smyth v. Jenkins, 299 P.2d 819 (Ore. 1956); Deepwater Ry. Co. v. Honaker, 66 S.E. 104 (W. Va. 1909). The legislature intended to place upon the shoulders of the state engineer the primary responsibility for a proper distribution of the waters of the state, and we must extend to his determinations and judgment, weight on appeal. In Re Waters Of The Tualatin River And Its Trib., supra.

In the case at bar, it further appears that the reasons given by respondent Water Company, in its applications for extensions of time, were in accord with the requirements of I.C. § 42-204 (1), which permits extensions to be granted by the state engineer" * * * In cases where the applicant is prevented from proceeding with his work by his failure to obtain the necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, * * *." Accordingly, we hold that the trial court did not err in its determination that the three extensions of time granted to Magic Water Company by the state reclamation engineer were proper.

Appellants argue that the amendment of July 15, 1964, changing the point of diversion of respondent's permit was invalid. The essence of their contention is that such amendment did not substantially comply with I.C. § 42-222 authorizing application for changes in point of diversion.

The original application for permit No. 24128 fixed a point of diversion which was not the actual place of diversion on the ground. The 1964 amendment was not a change in the point of diversion, but merely an amendment to the application to show the correct point of diversion. In actuality, only one point of diversion was ever intended to be described.

Respondent's point of diversion of its works was constructed by 1956, and was thus in physical existence and open to view three years before appellants obtained any permit to appropriate the waters of Salmon Falls Creek. The actual diversionary point having been in existence prior to the creation of any right or claim in appellants, appellants cannot now be heard to complain about the change of description of the true point of diversion. See Zezi v. Lightfoot, 57 Idaho 707, 68 P.2d 50 (1937); In re Department of Reclamation, 50 Idaho

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573, 300 Pac. 492 (1931); Hall V. Blackman, 22 Idaho 539, 126 Pac. 1045 (1912).

Appellants raise the issue of whether respondent actually utilizes two separate and different points of diversion, the second point being subsequent in time and thus subsequent in priority to the rights established by themselves. Under appellants' theory, respondent's pumping Unit A, which received water diverted from the dam, discharges approximately 48 c.f.s. of water, and such discharge should be the limiting factor of respondent's rights as to amount of water and date of priority. Appellants assert that respondent's lower pumping unit (Unit B) located near Unit A, both of which are approximately one half mile downstream from the amended point of diversion, was constructed in 1965 and thus the diversion of the amount of water there is subsequent in priority to appellants' 1959 water rights.

The record indicates that when respondent's pumping Unit A is in operation, it discharges 48.26 c.f.s. of water, all of which comes from the diversion works or dam at the described point of diversion. Magic Water Company diverts the entire stream of Salmon Falls Creek at the dam, and part of the water is conveyed to Pumping Unit A, through the pipeline previously described. Other water flows over the spillway back into the natural channel of Salmon Falls Creek. Respondent utilizes the natural channel as part of its transportation system to its lower pumps, Pumping Unit B, where it pumps the water up the side of the canyon.

Appellant contends that respondent's use of the natural channel to convey the water not discharged by Pumping Unit A to the lower pumps is indicative of two different points of deversion, i.e., the dam, as described in the permit; and the lower pumps, Unit B., installed in 1965. Despite the dam's diversion of the entire stream, appellants insist that because the flashboards, conduits and upper pumping units were found to be capable of discharging only 48.26 c.f.s., such figure is the limit of respondent's diversion entitled to the priority date of February 11, 1953. Respondent contends that its use of the natural stream bed is an efficient and practical means of conducting the water. Respondent argues that its dam and two pumping units, even separated by location and time of construction, constitute but one diversion works, with the actual point of diversion being the dam.

I.C. § 42-105 states:

> "The water appropriated may be turned into the channel of another stream and mingled with its water, and then reclaimed; and water may be turned into any ditch, natural channel or waterway from reservoirs or other sources of water supply, and such water may be substituted or exchanged for an equal amount of water diverted from the stream, creek or river into which such water flows, or any tributary thereof, but in reclaiming the water so mingled, or diverting water in lieu thereof from any such stream, creek, river or tributary, the amount of water to which prior appropriators may be entitled shall not be diminished, and due allowance shall be made for loss by evaporation and seepage."

In addition to I.C. § 42-105, general authority supports respondent's contention that it may use the natural stream bed to transport that water not directly diverted to pumping Unit A, to the lower and newer pumps at Unit B. See Almo Water Co. v. Jones, 39 F.2d 37 (9th Cir. 1930); Cascade Town Co. v. Empire

Water & Power Co., 181 F. 1011 (C.C.D. Colo. 1910); City of Los Angeles v. City of Glendale, 142 P.2d 289 (Cal. 1943); Simons v. Inyo Cerro Gordo Mining & Power Co., 192 Pac. 144 (Cal. App. 1920); Perkins v. Kramer, 198 P.2d 475 (Mont. 1948); Rock Creek Ditch & Flume Co. v. Miller, 17 P.2d 1074 (Mont. 1933); Herriman Irr. Co. v. Butterfield Mining Co., 57 Pac. 537 (Utah 1899); Miller v. Wheeler, 103 Pac. 641 (Wash. 1909). See also Bennett v. Nourse, 22 Idaho 249, 125 Pac. 1038 (1912); Parke v. Boulware, 7 Idaho 490, 63 Pac. 1045 (1901).

Similarly, this court has held that one may lawfully divert the entire flow of a stream as against junior claimants if the quantity of such flow is within the limits of his right and is necessary for the purposes for which the right was acqired. Lockwood v. Freeman, 15 Idaho 395, 98 Pac. 295 (1908); Drake v. Earhart, 2 Idaho 750, 23 Pac. 541 (1890); Malad Valley Irr. Co. v. Campbell, 2 Idaho 411, 18 Pac. 52 (1888). See Hutchins Idaho Law of Water Rights, p. 35.

Contrary to appellants' argument that Magic Water Company should be limited to the 48.26 c.f.s. discharged through pumping Unit A, there is no showing that the company intended to abandon its additional rights under the permit. The company's permit (with the extensions of time) authorized it to appropriate up to 120 c.f.s. of water, upon timely compliance with the requirements of completion of works and application to a beneficial use. Following submission of proof by respondent of completion of works on April 19, 1965, certificate of completion of works was issued on September 20, 1965, and by law, upon proof of application to beneficial use, respondent's date of priority relates back to the initial date of its application for all waters beneficially used. Basinger v. Taylor, supra; Washington State Sugar Co. v. Goodrich, 27 Idaho 26, 147 Pac. 1073 (1915).

The trial court did not err in its finding of fact that Magic Water Company had only one diversion, nor did it err in its conclusion of law based on such finding. Respondent was entitled to use the natural channel of the creek to transport the water which it diverts further downstream to the point where its pumps can most advantageously discharge the water.

Appellant Marshall contends that the amendment to I.C.§ 42-204, adopted in March 1963, is unconstitutional, because it extends the time for completion of work an additional two years and allegedly changes the class of applicants permitted to apply for the additional extension of time. He argues that the amendment is retrospective and thus unconstitutional as applied in the case at bar, because it applies to opposing parties who were pursuing rights which they had acquired pursuant to I.C. § 42-204 prior to the March 25, 1963, amendment. Impliedly, the added period given to respondent to complete its works limits appellants' own priority rights detrimentally.

With this argument we do not agree. The 1963 amendment to I.C. § 42-204 was equally applicable to appellants as to the respondent, and it constituted as to both, not a diminution of rights, but an extension thereof by permitting a longer time within which to make proof of completion of works.

Big Wood Canal Co. v. Chapman, 45 Idaho 380, 263 Pac. 45 (1927), is germane to the present argument. There in junior appropriators contended that statutes which extended the time allowed for the application of water to beneficial use were retrospective in nature. They argued, as here, that legislation enacted in 1915, which granted additional time to persons or corporations owning irrigation systems covering more than 25,000 acres, was class legislation. The opinion states:

"* * *By application for permit under such statutes the permitee

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> secures an inchoate right which will ripen into a legal and complete appropriation by compliance with the statutory steps. Such right is merely a contingent right, which may ripen into a complete appropriation, or may be defeated by a failure of the holder to meet the statutory requirements. The permit, therefore, is not an appropriation of the public waters of the state. It is not real property. It is merely a consent given by the state to construct and acquire real property. (Speer v. Stephenso, 16 Ida. 707, 102 P. 365.) One who makes a filing, or initiates a right with knowledge, on public waters of this state, subsequent to a previously initiated right, does so subject to such previously existing right, and the substitution by the legislature of a different method of procedure for the perfection of such previously initiated rights, even to an extension of time in which such rights may be perfected, does not necessarily contravene any constitutional inhibition. These amendments only make more effective the remedy for the enforcement of a pre-existing right, without impairing the appellants' claims, for the respondent's predecessors could have, so far as we know, proceeded under the previous law, perfected their rights, and cut off the appellants' inchoate rights, as appellants' rights were at all times subject to the prior rights of the respondent's predecessor in interest. Appellants misconceive their rights which, having been subordinate to these of respondent at the time of their initiation and perfection, were not adversely affected by a subsequent change of law of procedure for perfecting respondent's superior rights. * * *." 45 Idaho at 402, 263 Pac. at 52.

Therein the court held:

> "* * * Such statutes ought to be sustained as constitutional, because they merely affect the remedy, and to the extent at least the they do not purport to affect actions already barred, they may be made to apply to rights that have arisen prior to their passage. (City of Paragould v. Lawson, 88 Ark. 478, 115 S.W. 379; Hart v. Bostwick, 14 Fla. 162; Trimble v. Vaughn, 6 Bush (Ky.) 544; Mister v. McLean, 43 Miss. 268; Smith v. Tucker, 17 N.J. 82; Bentinck v. Franklin, 38 Tex. 458; Cardell v. Carpenter, 43 Vt. 84; 12 C.J. 980.)" 45 Idaho at 398, 263 Pac. at 51.

In answer to appellants' contention that such legislation is class legislation, this court also stated in Big Wood Canal Co. v. Chapman, supra:

> " * * *The legislature may lawfully distinguish, select and classify objects of legislation, and necessarily the power must have a wide range of discretion. If the classification is practical, that is sufficient, and it is not reversible unless palpably arbitrary. * * * In some cases, size may be an appropriate index so that discrimination may properly be made between large and small. (6 R. C. L. p. 389, sec. 381.) * * * Both as to the time necessary to complete the application of water to beneficial use, and the detailed description of lands to which applied, there are reasonable differences which distinguish a large from a small irrigation project. The propriety and nature of legislation having to do with the procedure for perfecting rights to use the public waters

> of the state are peculiarly within the province of the legislature, and there is nothing palpably unreasonable or arbitrary in the provisions of the act of March 12, 1915, upon which attack has been made * * *." 45 Idaho at 402, 403, 263 Pac. at 53.

Big Wood Canal Co. v. Chapman, in our opinion, is conclusive as to appellants' contention that the 1963 amendment to I.C. § 42-204 was either retrospective or class legislation, and therefore unconstitutional. Appellants had no vested rights at the time the amendment was enacted and therefore cannot be said to have suffered from legislation which applies equally to themselves and respondent. See Ellison v. Tuckerman, 134 Pac. 163 (Colo. Ct. App. 1913); Crom v. Frahm, 33 Idaho 314, 193 Pac. 1013 (1920); Speer v. Stephenson, 16 Idaho 707, 102 Pac. 365 (1909).

Appellant Marshall argues that respondent's 1963 application for extension of time was fatally defective, in that it failed to state that Magic Water Company had a diversion of more than 25,000 acre feet in one irrigation season for a project of not less than 5,000 acres, as required by I.C. § 42-204. Marshall contends that respondent's project was not capable of diverting more than 25,000 acre feet in one irrigation season.

An examination of the original permit as well as the certificate of proof of completion of works reveals that the lands listed on the permit, to which the water was to be applied, exceed 5,000 acres. Similarly, the permit shows that the proposed project when completed would divert more than 25,000 acre feet in one irrigation season, the permit being to appropriate 120 c.f.s. of water.

Marshall's argument is based on the capacity of the original pumping unit, Unit A, which was found to divert 48.26 c.f.s. However, as stated above, respondent's permit and the applications for extensions of time extended the period for completion of works to May 2, 1965, by which time the second pumping unit had been installed. The added capacity for diversion furnished by pumping Unit B, which capacity brought the combined diversionary capabilities of respondent's works to what was found to be 94.57 c.f.s., relates back in priority to the original permit and such 94.57 c.f.s. flow is sufficient to divert more than 25,000 acre feet in one irrigation season. The information provided in the permit must be considered as part of the application for the extensions of time, and the information supplied in both documents should be taken together in determining whether the applicant met the prerequisited of I.C. § 42-204. There was substantial evidence to sustain the trial court's finding as to the acreage described in the permit. The trial court did not err in this regard or in its conclusion of law that the Department of Reclamation properly exercised its authority in granting the extensions of time.

Judgment affirmed. Costs to respondent.

TAYLOR, J., McQUADE, J., SPEAR, J., and HAGAN, D.J.

concur.

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March 3, 1969

AREA CODE 208
PHONE 543-4368

State of Idaho
Department of Reclamation
Statehouse, Annex 2
Boise, Idaho 83707

Re: Permit No. 47-2269 (24128)
Copies

Gentlemen:

We are enclosing our check in the amount of $1.50 to cover the cost of the copies in the above-captioned matter.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

Alta Gannon
Alta Gannon, Secretary

Enclosure

rec'd #2755
mailed
3-4-69

February 28, 1969

RE: Permit No. 47-2269 (24128)

Mr. Mike Pelton
Attorney at Law
1020 Main Street
Buhl, Idaho 83316

Dear Mr. Pelton:

Enclosed are the copies you requested per telephone call of the above date.

The fee for these copies is $1.50 which you may remit at your earliest convenience.

Very truly yours,

M. RUSSELL BOSCH
Administrative Assistant

MRB:ejw

Enclosure

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Please do not re-arrange any correspondence in this file. I have placed it in correct order

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Lonnie Leavell

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Sam Miller
Attorney at Law
Boise

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Maria Eckert
Bvld, Idaho
83316

Fee letter to Farrell Jones
47[illegible]9 Box 1430
24168 Pocatello, Idaho
83201

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