

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

APPLICATION No. 33680 Roger D. Burgoyne, Attorney
 PERMIT No. 25800 Montpelier
 DISTRICT No. Idaho

1. Name of Applicant: CHASER W. JEWETT

Postoffice address: Hounan

County: Bear Lake 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: .38 (Thirty-eight hundredths) cubic feet per second.

3. Source of water supply: That certain small stream running generally northeasterly across the center of the North half of the South West Quarter of Section 16, T. 11 S., R. 43 E., B. M., and is in the Northeast corner of SW 1/4 of Section 16, T. 11 S., R. 43 E., B. M., County of Bear Lake which is a tributary of nothing. Water runs waste or sinks into ground.

4. Location of point of diversion: 15 feet distant from the Northeast corner of the Southwest quarter of Section 16, T. 11 S., R. 43 E., B. M., and is in the Northeast corner of SW 1/4 of Section 16, T. 11 S., R. 43 E., B. M., County of Bear Lake

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. feet distant from H.P., under feet head. (b) Amount of power generated: at a point (c) Water is to be returned to distant from the corner of Section , T. , R. , B.M., in the of Section , T. , R. , B.M. feet

7. Estimated cost of works: \$ 200.00

8. Kind of works: Dam

9. Height of dam 3 feet; length of dam at top 3 feet; length of dam at bottom 2 feet; material used in dam: Earth

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

11. Ditch: Width at bottom ONE feet; width at water line ONE feet; depth of water 1/3 feet; dimensions of flume: inches; length of conduit miles.

Diameter of pipe feet.
 Average grade per mile

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

13. The time required for the complete application of the water to the proposed use is no 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 in addition to that here filed on.

- (a) Is reservoir to be used?
- (b) Name of Reservoir and
- (c) Date of filing of Applic

BE IT KNOWN THAT The undersigned hereby makes application for permit herein set forth.

Applicant.

9:00 A.M. July 11, 1955

on:

Approval of State Reclamation Engineer

mitis 25800
91 Page

Approved

July 18, 1955

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

to be filed on or before

September 18, 1955

circumstances over which

to be completed on or before

d on or before

in accordance herewith.

July 18, 1956

day of July

MARK R. KULP
State Reclamation Engineer.

ROBERT T. SMYTHE

Governor of the State of Idaho,

TIPPA H. HASTINGS

Secretary of State of Idaho, have caused this instrument to

if Idaho, and caused the

July 19 55
Countersigned:

STATE OF IDAHO

AI)

III. H. INSTRUCTIONS

By

ROBERT E. SMYTHE

Governor.

State

REMARKS: Land to be irrigated is owned by the applicant herein.

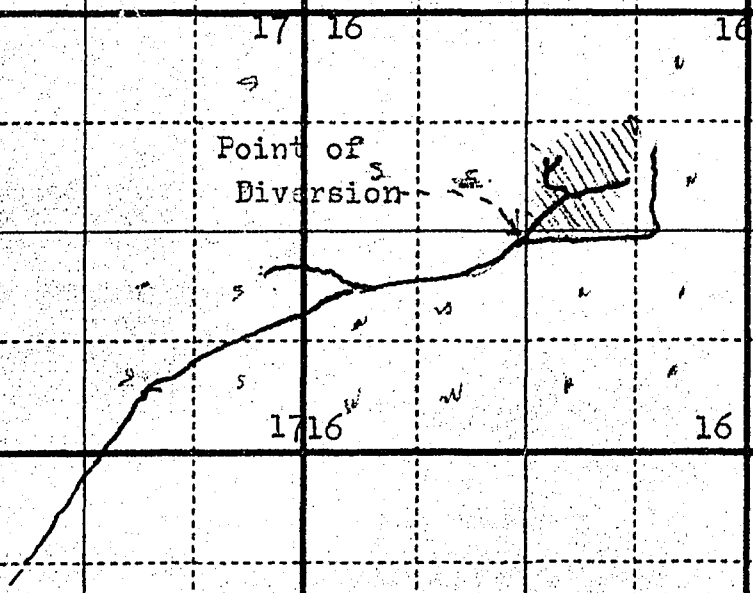
14.

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
11 S.	43 E.	16			40													40	
Permit No. 25800 CERTIFICATE OF COMPLETION OF WORKS																			
ALL WHOM IT MAY CONCERN:																			
This is to certify that GROVER W. JETT of Nounan, County of Bear Lake, and State of Idaho, the holder of Permit No. 25800 issued upon Application No. 33680 bearing date of priority of July 11, 1955, authorizing the diversion of foot of the waters of an unnamed stream, County of Bear Lake, State of Idaho, for irrigation purposes, has complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion and described in said Permit; that said works are adequate for diverting and conveying to the place of intended second foot of the waters of said unnamed stream; that the point of diversion of said waters is in the NE 1/4 SW 1/4 Section 11 South, Range 43 East, B.N.; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: Southwest Quarter of the Northeast Quarter (SW 1/4 NE 1/4) Section 16, Township 11 South, Range 43 East, B.N. Witness my hand this 24th day of July, A. D., 1956. MARK R. KULP State Reclamation Engineer I HEREBY ISSUED FOR . 38 . Page - 6169																			
proof of completion of works made July 18, 1956 Certificate of Completion of Works issued July 24, 1956																			

MARK R. KULP
State Reclamation Engineer

4-7896 ISSUED FOR - 38 OCT 77
Page - 6169

Tp. 11 South Range 45 East Boise Meridian, Idaho



Permit Map No. 25800
As Approved
JUL 18 1955
MARK R. KULP
State Reclamation Engineer

July 21, 1955

RE: Permit No. 25800

Mr. Roger D. Burgoyne
Attorney at Law
Montpelier, Idaho

Dear Mr. Burgoyne:

We enclose Permit No. 25800 in the name of Grover W. Jewett and direct his attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

We also enclose departmental receipt No. 27441 for the \$5.00 filing fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hl1

Enc.

25800

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

FOISE

Mr. Grover W. Jewett
C/o Roger D. Burgoyne
Montpelier, Idaho
Dear Sir:

May 1, 1956

Under the terms of your permit No. 25800 you are required to complete your diversion works and make proof of beneficial use on or before July 18, 1956.

We enclose herewith a blank affidavit to be filled out, sworn to by you before a Notary Public or Justice of the Peace, and returned to this office on or before the above date, or within ten days thereafter, for the purpose of making proof of completion under the permit. Upon receipt of this affidavit in this office, provided the same satisfactorily shows the Completion of the Works substantially in accordance with the terms of the permit, together with a fee of \$5.00, a Certificate of Completion of Works will be issued to you.

We also enclose blank notice for proof of application of water to Beneficial Use under this permit, which should be filled out and returned to this office at least forty (40) days before the date upon which you wish to make proof. The proof must be submitted before a Notary Public or other officer authorized by law to administer oaths. The date for proof as set out in your permit, is July 18, 1956, and if proof is submitted subsequent to said date, your priority will be brought down a length of time equal to the time elapsing between the date proof should have been made and the date proof is actually made.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

25800

Permit No. 25800

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

RECEIVED
JUL 19 1956
Department of Reclamation

STATE OF IDAHO

SS.

County of Bear LakeGrover W. Jewett

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

First: That he is the holder and owner of Permit to appropriate the Public Waters of the State of Idaho, No. 25800, and that his postoffice address is NowmanState of IdahoSecond: That the name of the stream from which said water is to be diverted is that certain small stream running generally northeasterly across the center of the North half of the South West Quarter of Section 16 Tp. 11 South Range 43 East E. B. M.Third: That the point of diversion of said water is 15 feet distant from the Northeast corner of the Southwest quarter of Sec. 16 Tp. 11 S. R. 43 E. B. M.Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by July 18, 1956.Fifth: That the use for which said water is intended is Irrigation.

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of works: Dam and diversion ditch
(Reservoir, dam, ditch, flume, pipe or otherwise)

II. Dimensions of work:

(a) Height of dam 3 feet, length of dam at top 10 feet, length of dam at bottom 6 feet. Material used in constructionEarth and wood

(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir acre feet.(c) Size of headgate: Width feet, height feet.(d) Conduit ditch width at bottom 1 feet, width at water line 1
(State whether ditch, flume or pipe)feet, depth of water 1 1/2 feet; diameter of pipe inches, average grade per mile is feet. Length of conduit is miles.Seventh: That said works are capable of conducting to the place of intended use 138 second feet of water.Eighth: That water appropriated under said permit is available for 23 acres acres of land described as follows:all located in the SW 1/4 NE 1/4 Section 16 Tp. 11 S. R. 43 E. B. M. Idaho

Ninth: Remarks: That

Grover W. Jewett
(Sign Here)Subscribed and sworn to before me this 18th day of July, 1956My commission expires December 8, 1959Notary Public
Residing at Montpelier, Idaho

25800

July 24, 1956

RE: Permit No. 25800

Mr. Grover W. Jewett
Newman
Idaho

Dear Mr. Jewett:

We are in receipt of duplicate notice for beneficial use proof on Permit No. 25800 to be made August 24, 1956, before Mr. Roger Burgoyne, Notary Public.

You will note that this proof was to have been made on or before July 18, 1956, and since it is late, we have had to advance the date of priority accordingly, bringing it up to August 17, 1955.

We are today sending a copy of the notice to the Paris Post of Paris, Idaho, with instructions to publish it once a week for four weeks prior to that date and to send you the affidavit of publication together with statement of costs.

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

Your Certificate of Completion of Work together with departmental receipt for the \$5.00 completion of works fee will be mailed to you within the next few days.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hll
Enc.

cc - Mr. Roger Burgoyne
Notary Public
Montpelier, Idaho

25800

RECEIVED
JUL 19 1956
Department of Reclamation

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) July 18, 1956

(P. O.) Nowman, 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

Paris Post

of Paris, Bear Lake County, Idaho published in

the county in which the works are situated.

Grover M Jewett

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

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

Engineer.

25800

RECEIVED
AUG 14 1956

Department of Reclamation

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Date: July 24, 1956

RE: Permit No. 25800

Paris Post
Paris
Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to August 24, 1956 the date set for proof, the expense of the publication to be paid by the applicant, Grover W. Jewett of Nounan, Idaho, to whom you should furnish proof of publication on or prior to the date set for proof.

Please acknowledge receipt of this notice, and furnish this office with a copy of the first publication, in order that we may check same.

Very truly yours,

MARK R. KULP

State Reclamation Engineer
By

Edward J. Putledge
Chief Clerk

*Sorry about this.
I signed this on deck for girl to send out,
but still find it here.*

25800

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

Notice is hereby given that at 10:00 A. M. on the 21th day of August, 1956,
at Montpelier, County of Bear Lake, State of Idaho, before
Roger Burgoyne, Notary Public, proof will be submitted of the
application to beneficial use of .38 cubic ~~feet~~ per second of the waters of a small un-named
diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16, T. 11 S., R. 43 E., B.M.
stream with point of / in accordance with the terms and conditions of Permit No. 25800
heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are

Grover W. Jewett, Neenan, Idaho

The use to which said water has been applied is irrigation

The amount applied to beneficial use is .38 cubic foot per second

The place where said water is used (~~at the place of use of the water~~)

SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 11 South, Range 43 E., B.M.

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

diversion works.

The right to take water from such works is based upon Permit No. 25800

The source of supply from which such water is diverted is a certain small stream running
generally across the center of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T. 11 S., Rge. 43 E.B.M.

The date of priority which said user is prepared to establish is August 17, 1955

MARK R. KULP

State Reclamation Engineer.

25800

July 25, 1956

RE: Permit No. 25800

Roger Burroughs
Mr. ~~Burroughs~~
Montpelier
Idaho

Dear Mr. Bird:

We enclose Certificate of Completion of Works issued on Permit No. 25800 in the name of Grover W. Jewett for the diversion of .38 second feet of the waters of an unnamed stream, with point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, Township 11 South, Range 43 East, B.M., with priority of July 11, 1955, for irrigation of land in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 11 South, Range 43 East, B.M.

We also enclose departmental receipt No. 28069 for the \$5.00 completion of works fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:hl1
Enc.

25800

August 8, 1956

RE: Permit No. 25800

Paris Post
Paris
Idaho

Gentlemen:

On July 24, 1956, we sent you a notice for publication in connection with Permit No. 25800 of Grover W. Jewett, with the request that you acknowledge receipt of same and send us a copy of your first issue containing same. This notice was to have been published once a week for four weeks prior to August 24, 1956.

To date we have received no acknowledgment nor a copy of your paper containing this notice.

Please advise if the Notice was received and if so, send us a copy of your paper containing same.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

R:cu

25800

MERRILL & MERRILL
COUNSELORS AND ATTORNEYS AT LAW
POCATELLO, IDAHO

A.L.MERRILL
R.D.MERRILL
W.F.MERRILL

August 17, 1956

RECEIVED
AUG 20 1956

Department of Reclamation

Mr. Mark N. Kulp
State Reclamation Engineer
Capitol Building
Boise, Idaho

Re: Application of Grover W. Jewett
Permit No. 25800

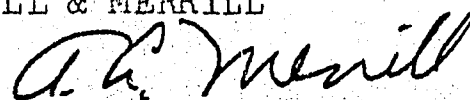
Dear Mr. Kulp:

We discussed this matter somewhat with Mr. Thompson on the telephone yesterday. As a result of this conversation we have concluded to file a protest on behalf of Lester Skinner and James C. Wallentine. You will please find the same enclosed herewith.

Sincerely yours,

MERRILL & MERRILL

BY:



A. L. Merrill

ALM:ct
enc.

25800

RECEIVED
AUG 20 1956

Department of Reclamation

BEFORE THE HONORABLE RECLAMATION ENGINEER AND
DEPARTMENT OF RECLAMATION, STATE OF IDAHO

In re: Application of Grover W. Jewett, Bear Lake County, Idaho.

Come now Lester Skinner and James C. Wallentine, and files this Protest to the application of Grover W. Jewett for Permit No. 25800, to divert .38 cubic feet of water from a small unnamed stream for use upon the Southwest Quarter of the Northeast Quarter, Section 16, Township 11 South, Range 43 East, Boise Meridian, in Bear Lake County, Idaho, and protests the granting of a license upon the ground and for the reason that there are no unappropriated waters in said stream or from said source, but that said waters and all of them are owned by the said Lester Skinner and James C. Wallentine, and that any run-off is subject to recapture by the said parties.

Said parties further protest upon the ground that heretofore and in September, 1954, the said Grover W. Jewett and Maida Jewett, husband and wife, as plaintiffs, filed suit in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bear Lake, against James C. Wallentine and Lester Skinner, seeking a Decree of said Court quieting title in them to waters they are now attempting to appropriate and enjoining said defendants from further interfering with the use thereof; that a copy of the Amended Complaint so filed by the said Grover W. Jewett and wife is attached hereto marked Exhibit A and made a part hereof.

That each of said defendants answered said Complaint, copies of which answers are attached hereto marked Exhibit B and C respectively and made a part hereof; that said cause was tried by the Court, and upon final hearing a Decree was entered whereby it was ordered and adjudged that Grover W. Jewett and Maida Jewett, husband and wife, take nothing by reason of their action, and that their claims be in all respects denied and the defendants

25800

recover their costs therewith, which said Decree is attached hereto marked Exhibit D and made a part hereof.

WHEREFORE, said Protestants pray that said application be dismissed and said Permit be denies.

MERRILL & MERRILL

By

G. R. Merrill
Attorneys for Protestants

25800

EXHIBIT A

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BEAR LAKE.

GROVER W. JEWETT and MAIDA JEWETT,
Husband and wife,

Plaintiffs,

vs.

AMENDED COMPLAINT

JAMES C. WALLENTINE, and
LESTER SKINNER,

Defendants,

Come now the plaintiffs in the above entitled cause, and upon leave
of court, file their amended complaint as follows, and complaining of the
defendants herein, allege:

I. That the plaintiffs are owners in fee of a certain tract of land
in Bear Lake County, State of Idaho, described as follows, to-wit:

The Southwest quarter of the Northeast quarter of
Section 16, Township 11 South Range 43 East Boise
Meridian.

II. That from time immemorial, there was, and now is a certain stream
of water flowing in a natural channel, commencing at a spring of water,
sometimes known as "Chagg Spring", located in the central eastern portion of
the southwest quarter of the southeast quarter of section 17, Township 11 South
Range 43 East Boise Meridian, said stream traveling thence in a general north-
easterly direction across a corner of the southeast quarter of the southeast
quarter of said section 17; thence in a general northeast direction across
the northeast quarter of the southeast quarter of said section 17; thence
in a general easterly direction across the center of the northwest quarter
of the southwest quarter of section 16 of said Township 11 South Range 43
East Boise Meridian; thence on easterly across the northeast quarter of the
southwest quarter of said section 16 to about the center of the said northeast
quarter of the southwest quarter of said section 16; thence in a northeasterly
direction to the southwest corner of the southwest quarter of the northeast
quarter of said section 16, from whence the water is diverted upon the lands
of the plaintiffs above described, this last described quarter of a quarter
section being the land of plaintiffs described above; that at times, the
waters of the said stream are also slightly increased by the waters of two

other small springs, one of which springs is located in the northeastern portion of the northeast quarter of the southeast quarter of said section 17, and the other small spring is located in the northern central portion of the northwest quarter of the southwest quarter of said section 16, and the waters from these two small springs flow into the channel of the said stream at the central portion of the Northeast quarter of the Southwest quarter of said section 16; however, the great majority of the said stream originates from said "Chugg Spring", and at times, said Chugg spring provides the entire usable flow of the said stream.

III. That plaintiffs and plaintiffs' predecessors in title to the land described above in paragraph numbered I, commencing on or before the 1st day of May, 1927, and continuing thereafter until the present time, have used and presently use .38 cubic feet of water for each second of time from the said stream above described, from the said diversion point above indicated, continuously and beneficially upon the said property described above in said paragraph numbered I, in raising crops of hay, and have so used said stream of water continuously, openly, visibly, notoriously, exclusively, continuously and adversely to all other uses, rights and claims since said 1st day of May, 1927, and since said time, said waters have been and now are necessary and indispensable for growing the said crops on said lands of plaintiffs,

IV. That defendants and each of them claim some right to the waters of the said stream above described, but that any and all claims and rights, if any, of said defendants, and either of them, have been forfeited, abandoned, and lost to the said defendants and each of them.

V. That the defendant, Lester Skinner, on or about the 10th day of June, 1954, created a mound of earth and dam immediately around the lower side of the said Chugg Spring of water from whence commences the said stream, upon the central eastern portion of the said southwest quarter of the southeast quarter of said section 17 as above described, and during the greater portion of the irrigation season prohibits water from flowing down the channel of the said stream as hereinbefore described.

VI. That the defendant, James C. Wallentine, commencing on or about the 15th day of June, 1954, upon the central portion of the Northeast quarter of the southwest quarter of said section 16, continually up to the present time, personally and by his agent interfered with the plaintiffs rights to the said

stream of water by putting in earth dams and otherwise diverting a stream of water from the channel above described onto the said defendant's James C. Wallentine's own lands, prohibiting the flow of water in said stream from continuing on to plaintiffs' lands according to his rights as hereinbefore set forth.

VII. That all of the claims and diversions as above set forth, and any and all other claims against the waters of the said stream hereinbefore described are without any right or foundation whatsoever.

VIII. That there is attached to the original complaint of plaintiffs' filed herein a drawing, marked as exhibit A, showing the approximate location and layout of the streams and lands and diversions and interferences by defendants and the beneficial uses by the plaintiff, as hereinbefore described, and that such drawing and data contained thereon are true and correct, and such drawing is incorporated herein and is a part of the Amended Complaint as though set forth at length.

WHEREFORE, Plaintiffs pray Judgment as follows:

1. That the defendants and each of them, shall be required herein to set up each and every claim and right, title and interest that said defendants or either of them, have or held against plaintiffs and against any of plaintiffs' rights to his said .38 cubic feet of water for each second of time, of the said stream above described.

2. That plaintiffs title in and to the water of the said stream above described to the extent of the said .38 cubic feet of water for each second of time, be quieted as against each and all of the above named defendants and against every claim, right, title and interest of each and all of the said defendants, and that such defendants and each of them, be adjudged to have no right, title or interest in or to the waters of the said stream above described except in excess of the said amount of .38 cubic feet of water for each second of time.

3. That a permanent restraining order and injunction issue herein, restraining and enjoining the defendants and each of them from interference with these plaintiffs and the use of their water rights, as above set forth, and restraining and enjoining the defendants and each of them from putting dams, cutting embankments and/or otherwise in any manner diverting the water from said stream above described except waters in excess of said .38 cubic feet of

water for each second of time.

4. That the plaintiffs have such other and further relief as to the Court shall seem meet and equitable.

5. That the plaintiffs recover their costs herein expended.

/s/ Roger D. Burgoyne
Attorney for Plaintiffs
Residing at Montpelier, Idaho.

STATE OF IDAHO)
 : ss.
COUNTY OF BEAR LAKE)

Grover W. Jewett, being first duly sworn deposes and says: That he is one of the plaintiffs, in the above and foregoing entitled action, and that he makes this verification for and on behalf of himself and the other plaintiff of this action; that he has read the above and foregoing amended complaint and knows the contents thereof, and that the facts therein stated are true and correct as he verily believes.

/s/ Grover W. Jewett

Subscribed and sworn to before me this 16th day of November, 1955.

/s/ Roger D. Burgoyne
NOTARY PUBLIC FOR IDAHO
Residing at Montpelier.
My commission expires 12/3/55.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF DEAR LAKE

GROVER H. JEFFY and MAIDA JEFFY,
husband and wife,

Plaintiffs,

-vs-

JAMES C. WALLENTINE and
LESTER SKINNER,

Defendants.

ANSWER OF JAMES C.

WALLENTINE TO AMENDED

COMPLAINT

Comes now JAMES C. WALLENTINE, one of the above named
defendants, and for answer to the Amended Complaint of the plain-
tiffs on file herein, admits, denies and alleges as follows:

I

Defendant denies each and every allegation and statement
contained in said Amended Complaint not hereinafter specifically
admitted.

II

Defendant admits the allegations contained in paragraph
numbered I of said Amended Complaint.

III

Answering paragraph numbered II of said Amended Complaint,
this defendant admits that there is a certain spring known as
"Chugg Spring", located in Southwest of the Southeast quarter of
Section 17, Township 11 South Range 43 EBM, and that there has
been a channel which flows in a northeasterly direction from said
spring, but denies each and all of the other allegations of said
paragraph, alleging in this respect that such water, if any, has
heretofore flowed down to the lands of the plaintiffs, or water
from any other springs upon defendants lands, or other waters
lawfully used by them the same has only been run-off or drainage
waters and always subject to recapture by these defendants.

25800

IV

Answering paragraph numbered III of said Amended Complaint, defendant denies each and every allegation contained therein, alleging in this respect that all waters referred to in said paragraph were, prior to May 21, 1927, adjudicated to the users thereof by the terms of that certain "Final Decree" entered in the District Court of the United States for the District of Idaho, Eastern Division, wherein Utah Power & Light Company was plaintiff and The Last Chance Canal Company, Limited, et al, were defendants, and dated July 14, 1920, and that none of the waters were adjudicated to the use of the plaintiffs, or their predecessors in interest.

V

Answering paragraph numbered IV of said Amended Complaint, defendant admits that he and his co-defendant claim all of the rights to the waters referred to in said paragraph and denies each and every other allegation contained therein.

VI

Answering paragraph numbered V of said Amended Complaint, defendant is without information or belief sufficient to enable him to answer positively as to the allegations contained as to what was alleged to have been done by Lester Skinner and on this ground denies each and every allegation and statement contained in said paragraph.

VII

Answering paragraph numbered VI of said Amended Complaint, defendant denies that commencing on or about the 15th day of June, 1954, he commenced using waters upon the central portions of the Northeast Quarter of the Southwest Quarter of Section 16, alleging in this respect that at said time and for many years prior thereto he and his predecessors in interest continuously

used said waters referred to in said paragraph and that the plaintiffs herein have no right, title or interest in and to said waters, or the use thereof, and denies each and every other allegation and statement contained in said paragraph.

VIII

Answering paragraph numbered VII of said Amended Complaint, this defendant denies each and every allegation and statement contained therein.

IX

Answering paragraph VIII of said Amended Complaint, this defendant admits that there was attached to the original Complaint an exhibit, marked Exhibit "A", but denies each and every allegation and statement contained in said paragraph with reference thereto and alleges that said allegations are immaterial for any purpose whatsoever.

ALTERNATIVE DEFENSE

Further answering said Amended Complaint and by way of an affirmative defense thereto, this defendant alleges:

I

That he is now and for more than ten years last past has been the owner of and in possession of the Southwest Quarter of Section 16, and the Southeast Quarter of Section 16, and the Southeast Quarter of the Northeast Quarter of Section 16, and the Northeast Quarter of the Northeast Quarter of Section 16, all in Township 11 South Range 45, EEM, also other various tracts of land contiguous thereto.

II

That the waters referred to in said Amended Complaint arising upon said lands, and which are claimed by the plaintiffs, have been for many years last past and long before plaintiffs or their predecessors ever occupied said lands, used by said defendant and his predecessors in interest for irrigation and lands above described.

III

That in addition to the waters hereinbefore described the said defendant receives other waters from various other sources, including decreed rights from the Decrees hereinbefore referred to; that his lands are arid in character and require water for the irrigation thereof and that any waters, if any, claimed by these plaintiffs and which might reach the plaintiffs' land would be the drainage or run-off waters from this defendant's lands, all of which he has the right at any time to reclaim and does recapture and reclaim the same whenever necessary for the irrigation of his land; that such run off waters, if any, is the property right of the lower users under said decree; and that said plaintiffs have not acquired and do not own any right, title or interest in and to said waters referred to in ^{the} Amended Complaint or any amount thereof, for the reason that the same are waters which belong to this defendant and to his co-defendant.

WHEREFORE, this defendant, having fully answered said Amended Complaint, prays that plaintiffs take nothing by reason thereof, and that said defendant recover his costs incurred herein.

MERRILL & MERRILL

BY A. L. Merrill
Attorneys for Defendant
James C. Wallentine
Residing at Pocatello, Idaho

STATE OF IDAHO)
) ss.
COUNTY OF BANNOCK)

A.L. MERRILL, being first duly sworn, deposes and says:

That he is an attorney for the defendant in the above entitled action; that said defendant is not now within the state of Idaho and affiant makes this verification for and on his behalf; that he has read the foregoing Answer and knows the contents thereof and verily believes the matters stated therein to be true.

SUBSCRIBED AND SWORN TO before me this 24th day of March 1956.

J. R. McConkey
Notary Public for Idaho
Residing at Pocatello. *real*

25800

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF BEAR LAKE

GROVER W. JEWETT and MAIDA JEWETT,
husband and wife,

Plaintiffs,

-vs-

JAMES C. WALLENTINE and
LESTER SKINNER,

Defendants.)

) ANSWER OF LESTER SKINNER

) TO AMENDED COMPLAINT

Comes now Lester Skinner, one of the above named defendants,
and for answer to the Amended Complaint of the plaintiffs on file
herein, admits, denies and alleges as follows:

I

Defendant denies each and every allegation and statement
contained in said Amended Complaint not hereinafter specifically
admitted.

II

Defendant admits the allegations contained in paragraph
numbered I of said Amended Complaint.

III

Answering paragraph numbered II, the defendant admits that
there is a certain spring, known as "Chugg Spring," located in the
Southwest Quarter of the Southeast Quarter of Section 17, Township
11 South, Range 43, EBM, and that there is a channel which flows
in a northeasterly direction, but denies the remaining allegations
of said paragraph, alleging in this respect that the right to use
the waters in said Chugg Spring has heretofore been duly adjudicat-
ed and adjudged in favor of the predecessor of this defendant and
said waters have been constantly used by the defendant ^{and his predecessor} since May 1st,
1876, and no water from said spring flows in said channel during
irrigation season, unless it be run off water which is always sub-
ject to recapture and use by the defendant.

IV

Answering paragraph numbered III of said Amended Complaint,

defendant denies each and every allegation contained therein, alleging in this respect that all of the waters therein referred to have, before May 1, 1927, been adjudicated to the users thereof and that if the plaintiffs have used any of such waters the same has been either run-off waters or improperly taken by said plaintiffs.

V

Answering paragraph numbered IV, defendant admits that he and his co-defendant claim all of the rights to the waters referred to therein and denies each and every allegation contained in said paragraph.

VI

Answering paragraph numbered V, this defendant denies each and every allegation and statement contained therein, alleging in this respect that the "mound of earth" referred to therein was merely a small dam for the purpose of assisting in the diversion of waters of Chugg Springs upon the lands which said waters had been used since May 1, 1876.

VII

Answering paragraph numbered VI of said Amended Complaint, this defendant is without knowledge sufficient to enable him to definitely answer the allegations contained and by reason thereof denies each and every allegation and statement contained in said paragraph.

VIII

Answering paragraph numbered VII of said Amended Complaint, this defendant denies each and every allegation and statement contained therein.

IX

Answering paragraph VIII of said Amended Complaint, this defendant admits that there was attached to said original complaint an exhibit, marked Exhibit "A", but denies each and every other

allegation and statement contained in said paragraph and alleges that said allegations are immaterial for any purpose whatever.

AFFIRMATIVE DEFENSE

Further answering said Amended Complaint and by way of an affirmative defense thereto, this defendant alleges:

I

That for more than four years last past he has been in possession of and is now the owner of the Southeast Quarter of Section 17 and the East half of the Northeast Quarter of Section 17, and the Southwest Quarter of the Northwest Quarter of Section 18, all in Township 11 South Range 43, RBM; that in the Southwest Quarter of the Southeast Quarter of said Section 17 is located what is known as Chugg Spring;

II

That "Chugg Spring", referred to in said Amended Complaint emits water therefrom of approximately 0.8 cubic feet per second of time and is located approximately one mile from the lands of the plaintiffs; that on July 14, 1920, there was entered in the District Court of the United States for the District of Idaho, Eastern Division, a "Final Decree" in the case of Utah Power & Light Company, plaintiff, v. The Last Chance Cannal Company, Limited, et al, defendants, whereby and by the terms whereof all of the waters in Bear River and its tributaries which flows through and near the land hereinbefore described were adjudicated and determined; that at said time one David Chugg was the owner of the lands now owned by this defendant and by said Decree the waters of Chugg Spring were adjudicated to the use of the said David Chugg, which said Decree, among other things, contained the following:

"37. David Chugg:
(a) 1876--May 1 0.8 c.f.s

To be diverted through ditch diverting at a point 40 rods South of the Northeast corner of the Southwest quarter

of the Northeast quarter
of Section 20, Township 11
South, Range 45, East, B.M.

Date of Priority	Amount of Second Foot	Point of Diversion and Place of Use
---------------------	--------------------------	--

(b) 1876--May 1	0.3 c.f.s	
-----------------	-----------	--

To be diverted from Chugg Springs,
which rises 20 rods South and
5 Rods West of the Northeast
corner of the Southwest quarter
of the Southeast quarter of
Section 17, said township and
range.

The water decreed in the above
paragraphs (a) and (b) is for
the irrigation of 25 acres in
the Southeast quarter of the
Southeast quarter and the
Northeast quarter of the South-
east quarter of said Section 17.

That this defendant, is now the owner of said water right and
the lands to which they are appurtenant.

III

That the said David Chugg and his predecessors in interest
have used the water from said Chugg Springs and the whole thereof
upon the lands described in the above quoted paragraphs constant-
ly since the time of the appropriation thereof and that this
defendant, Lester Skinner, and his predecessors in interest, have
also been using said waters and other waters from other springs
and sources and as provided in said Decree, constantly upon his
lands; that the lands of this defendant are arid in character
and need water for irrigation thereof and that all of said waters
from said Chugg Springs, together with other waters, the use of
which is owned by this defendant, are used for the irrigation of
his lands and that there has been at all times kept and maintained
appropriate transmission ditches for the use of such waters as
aforesaid.

IV

That none of said waters can flow to the lands of the plaintiffs except under extraordinary conditions and that these plaintiffs, and their predecessors in interest, were not parties to the Decree hereinbefore referred to, and none of the waters from any of the sources from which plaintiffs claim were adjudicated to any of the lands of the plaintiffs, but the entire adjudication was to other lands and the plaintiffs are not entitled and have no right in and to any of the waters to which they make reference and particularly to any of the waters of Chugg Springs.

WHEREFORE, this defendant, having fully answered said Amended Complaint, prays that plaintiffs take nothing by reason thereof, but that said defendant recover his costs incurred herein.

MERRILL & MERRILL

By P. D. Merrill
Attorneys for Defendant
Lester Skinner

Residing at Pocatello, Idaho.

STATE OF IDAHO }
County of Blaine } ss.

LESTER SKINNER, being first duly sworn, deposes and says: That he is the defendant in the above entitled action who presents the foregoing Answer; that he has read said Answer and knows the contents thereof and verily believes the matters stated therein to be true.

SUBSCRIBED AND SWORN TO before me this 24 day of March, 1956.

P. D. Merrill
NOTARY PUBLIC FOR IDAHO
Residing at Pocatello

I HEREBY CERTIFY that a copy of the foregoing ANSWER was served upon attorney for the plaintiff by mail this 24 day of March, 1956.

MERRILL & MERRILL

By P. D. Merrill
Attorneys for Defendant
Lester Skinner

EXHIBIT D

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF BEAR LAKE

GROVER W. JEWETT and
MAIDA JEWETT, husband
and wife,

Plaintiffs,)

D E C R E E

JAMES C. WALLENTINE,
and LESTER SKINNER,

Defendants.)

This cause came regularly on for trial on the 9th day of May, 1956, at Paris, Bear Lake County, Idaho, before the above entitled Court upon the issues framed by the Amended Complaint of the Plaintiffs and the Answer thereto of the defendant, James C. Wallentine and the Answer of the defendant, Lester Skinner. Roger D. Burgeffe, Attorney at Law, appeared for and on behalf of the plaintiffs. A. L. Merrill of the law firm of Merrill & Merrill, Attorneys at Law, appeared for and on behalf of the defendant, James C. Wallentine and also for and on behalf of the defendant, Lester Skinner. Evidence was introduced by the respective parties, and thereafter said cause was argued, briefed and submitted to the Court for decision. The Court having fully considered the same and being advised in the law and the premises and having made and entered its written Findings of Fact and Conclusions of Law, hereby renders its Decree in conformance therewith.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiffs, Grover W. Jewett and Maida Jewett, husband and wife, take nothing by the above entitled action and their claims be in all respects denied, and that the defendants, James C. Wallentine and Lester Skinner have and recover from the plaintiffs their costs taxed in the sum of \$100.00.

DATED this 10th day of June, 1956.

JOHN A. CARVER

DISTRICT JUDGE

25800

August 23, 1956

Mr. Grover W. Jewett
c/o Roger D. Burgoyns
Attorney at Law
Montpelier, Idaho

RE: Permit No. 25800

Gentlemen:

Enclosed is a copy of a Protest of Lester Skinner and
James C. Wallentine against issuance of a license under Permit No.
25800. The exhibits which accompanied the Protest are not included.

Very truly yours

MARK H. KULP
State Reclamation Engineer

MRK:ven
Enc.

25800

August 23, 1956

Messrs. Merrill & Merrill
Counselors and Attorneys at Law
Pocatello, Idaho

RE: Permit No. 25800
Grover W. Jewett

Gentlemen:

Receipt of the Protest of Lester Skinner and James C. Wallentine, against issuance of a license to Grover W. Jewett, under Permit No. 25800 is acknowledged.

The Protest will be considered in the final determinations on Permit No. 25800 after the proofs are received and the Statutory examination made of the diversion works and place of use.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:vem

25800

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
AUG 27 1956

Department of Reclamation

Permit No. 25800

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Grover W. Jewett, residence and Post office Address Nounan, Idaho
Farmer and Railway worker

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

Ans. _____

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

Ans. Permit No. 25800 7-18- August 17, 1955, as date of priority, and date of permit 8-17-16, 1955.

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

Ans. Certain small stream running generally northeasterly across the center of the North half of the Southwest Quarter of Sec. 16, Tp. 11 South Range 43 E.B.M. Point of Diversion is 15 feet from the NE corner of SW 1/4 of Sec. 16 S. R. 43 E.B.M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use. If a well, state depth of well, depth and size of casing and depth to water. If pump is used, state discharge of pump and tell how it was measured or determined. If sprinkler irrigation, give number and size of nozzles and operating pressure.

Ans. Diversion is by a wood and earth dam and ditch from point of diversion to the Sw corner of land irrigated.

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

Ans. Irrigation on the SW 1/4 of NE 1/4 of Section 16, Tp. 11 S. Range 43 E.B.M.
23 acres irrigated, being natural meadow land.

25800

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

Ans. none

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

Ans. .38 Second feet of water.

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. same

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. Water has been diverted and by stream irrigation in the amount of .38 to .40 second feet of water has irrigated the above land since the 18th day of July, 1955 and before that time for many years.

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. Water was diverted as above for years before upon this parcel of land by myself and predecessors in title since about 1927.

(Sign)

Grover J. Jewett

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Montpelier, County of Bear Lake, State of Idaho, on this 24th day of August, A. D. 1955.

My commission expires December 8, 1959

Notary Public for Idaho
Residing at Montpelier, Idaho

25800

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
AUG 27 1956
Department of Reclamation

PERMIT NO. 25800

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

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

Ans. Milford Williams, age 57, Residence and Post Office Address
Nounan, Idaho occupation Farmer

Ques. 2. Are you acquainted with Grover W. Jewett, the holder of Permit No. 25800? How long have you known him and where does he reside?

Ans. yes, I have known him for all of his life, over 40 years, and he
resides in Nounan, Bear Lake County, Idaho

Ques. 3. Have you read or heard read said Permit No. 25800, and are you familiar with its provisions and conditions?

Ans. yes

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Certain Small stream running generally northeasterly across the center
of the north half of the Southwest Quarter of Section 16, Tp. 11 South Range
43 East Boise Meridian, Diversion works consists of wood and earth dam and
diversion ditch.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Approximately 40 second feet.

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

Ans. Irrigation on the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 16, Tp. 11s. Range 43 East
Boise, Meridian, 233 acres irrigated
natural meadow land.

25800

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

Ans. none other

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. meadow land .38 Second feet of water

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. none

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

Ans. I have witnessed the application beneficial use of the water diverted under this permit since the 18th day of July, 1955, and the stream has been of a size measured as .38 second feet of water.

(Signed) Milford Williams

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 Montpelier, County of Bear Lake, State of Idaho, on this 24th day of August, A. D. 19 56.

My commission expires December 8, 1959

Roger Buzgoma
Notary Public.
Montpelier, Idaho

25800

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

RECEIVED
AUG 27 1946
Department of Reclamation

PERMIT NO. 25800

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

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

Ans. Loren Williams, 54, Post office address and residence, Nounan, Idaho
Farmer

Ques. 2. Are you acquainted with Grover W. Jewett, the holder of Permit No. 25800? How long have you known him and where does he reside?

Ans. yes for 35 years, and he resides in Nounan, Idaho,

Ques. 3. Have you read or heard read said Permit No. 25800, and are you familiar with its provisions and conditions?

Ans. yes.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Small stream running generally northeasterly across the center of the
North half of the Southwest quarter of Section 16, Tp. 11 South Range 43 East
Boise Meridian, Idaho, Diversion works consists of wood and earth dam and
diversion ditch.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. Approximately .40 second feet.

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

Ans. Irrigation on the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 16 Tp. 11 S. Range 43 E.B.M.
23 acres of natural meadow land irrigated.

25800

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

Ans. none other

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Meadow land .38 second feet of water

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. none

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

Ans. I have witnessed the application of beneficial use of the water diverted on numerous occasions under this permit since the 18th day of July, 1955, and the stream has been of a size measured as .38 second feet of water.

(Signed) Loren Williams

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 Montpelier, County of Bear Lake, State of Idaho, on this 24th day of August, A. D. 19 56.

My commission expires December 8, 1959.

[Signature]
Notary Public.

25800

August 31, 1956

Re: Permit No. 25800

Mr. Grover W. Jewett
Nounan, Idaho

Dear Mr. Jewett:

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

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

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

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR

25800

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

Notice is hereby given that at 10:00 a.m. on the 24th day of August, 1956, at Montpelier, County of Bear Lake, State of Idaho, before Roger Burgoyne, Notary Public, proof will be submitted of the application to beneficial use of .38 cubic foot per second of the waters of a small un-named stream with point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 16, T. 11 S., R. 43 E., B.M. in accordance with the terms and conditions of Permit No. 25800 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are: Grover W. Jewett, Nounan, Idaho.

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

The amount applied to beneficial use is .38 cubic foot per second.

The place where said water is used: SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 16, Township 11 South, Range 43 E., B.M.

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

The right to take water from such works is based upon Permit No. 25800.

The source of supply from which such water is diverted is a certain small stream running generally across the center of the N $\frac{1}{4}$ SW $\frac{1}{4}$ Section 16, T. 11 S., Rge. 43 E.B.M.

The date of priority which said user is prepared to establish is August 17, 1955.

MARK R. KULP,
State Reclamation Engineer.

RECEIVED
SEP 10 1956
Department of Reclamation

The Paris Post

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, }
County of Bear Lake } ss.

I, Keith F. Varner, publisher and manager of THE PARIS POST, a weekly newspaper, published weekly at Paris, Bear Lake County, State of Idaho, do solemnly swear that a copy of the attached notice, (as per clipping), was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for four consecutive weeks, commencing with the issue dated, August 2, 1956, and ending with the issue dated

August 23, 1956.

Keith F. Varner
Publisher.

Subscribed and sworn to and before me this 8th day of September, 1956

(Seal)

John D. Hoge
Notary Public.

My commission expires 25 June, 1958.

25800

Montpelier, Idaho

Dec. 15, 1956

Mark R Kulp

RECEIVED
DEC 17 1956

Department of Reclamation

Dear Sir;

On Sept. 2, 1956 I sent your office
an affidavit of publication permit no 25800
and recieved notice that a field engineer
would make a final examination of the
grounds and would try and contact me
at this time. I have never heard any
more of the matter would you please
advise.

Grover W. Jewett

Gen. Del.

Montpelier Idaho

25800



ROBERT E. SMYLIE
GOVERNOR

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

BOISE

December 19, 1956

RECEIVED
JUL 1 1957
Department of Reclamation

Re: Permit No. 25800

Mr. Grover W. Jewett

~~General Delivery~~ *NDUVAN*
~~Boise, Idaho~~ *IDAHO*

Dear Mr. Jewett:

This is in reply to your letter of December 15, 1956. The inspection required by law will be made sometime next summer when I am in that area making regular inspections.

I will notify you one or two weeks in advance of the inspection. If in the meantime there is any change in your address, please advise so that the notice will be sent to the right address.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey

E. N. Humphrey
Deputy State Reclamation Engineer

Pamphlet on Distribution of Water
mailed 7-5-57

vm

ENH:ab

Dear Sir;

I am experiencing a considerable amount of tampering with my dam and ditches by a neighbor and I would like to know what to do in this situation to save having trouble please advise me. Grover W Jewett

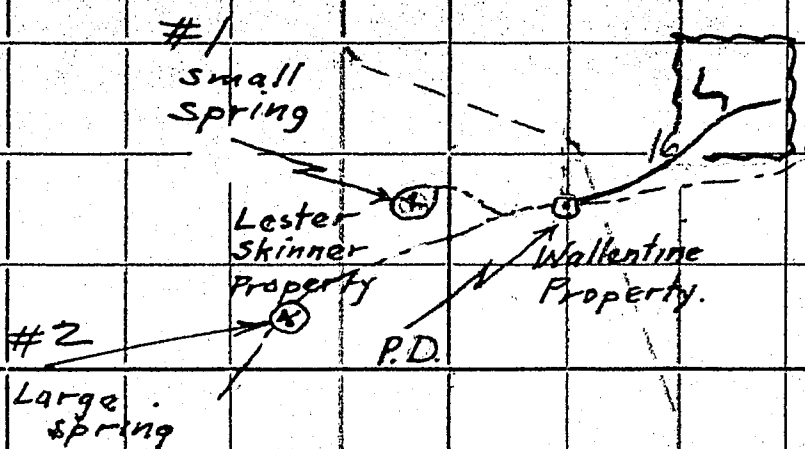
25800

R-43 E.

NOONAN

TO GEORGETOWN →

T.
II
S.



Land Subdivisions One
Irrigated area 40 acres

Quantity of water ⁴⁰ 2 Miners
inches as measured
with 90° V-notch Weir at
a point immediately
below #1 small spring.

② The flow at the point of
diversion was not sufficiently
confined or controlled to
permit of measurement.
It was estimated at
10 to 20 Miners inches.

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

Permit No. 25800

This proof is for Beneficial Use

In Water District No.

1. Name of applicant Grover W. Jewett
the center of the North half of the SW $\frac{1}{4}$ of Sec. 16., Twp. 11 S., Rge. 43 E., B.M.
2. Source of water supply: certain small stream running generally northeasterly across/
3. Location of point of diversion: Is in the 15 Ft. from the NE corner SW $\frac{1}{4}$ of Section 16
T. 11 S. R. 43 E., B.M. County of Bear Lake
4. Describe works as they exist, giving dimensions and capacities of same: Ditch and earthen Dam. - The ditch is of 2 cfs capacity. The dam was probably 2' x 4' x 2'. (It had been broken by a neighbor)
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):
SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 16., Twp. 11 S., Rge. 43 E., B.M.

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

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

Remarks:

Grover W. Jewett was present during engineer's examination
See typed description of situation - attached.

This examination was made on the 20th day of August, 1957

(Signed)

Russ. Marx

Examiner.

25800

25806

There is considerable ill feeling in the community over the situation brought about by the action of Grover W. Jewett to lay claim to the water from the large spring on the property of Lester Skinner. His claim was that the original right had been abandoned. In court his claim was disallowed.

Jewett has since filed on the water from another smaller spring which is also on the property of Lester Skinner. Lester Skinner claims that this water arises not from a spring but is seepage from irrigation on his farm. The small amount of water collects in a depression on a fairly steep hill side and flows in a natural water course until it joins a larger channel which carries waste water which originated from the larger spring and probably other sources. Grover W. Jewett had been using all water flowing in the larger channel and claims that this water had been used on his 40 acre holding for 50 years. However, within the past three or four years the J.C. Wallentine interests started to use the same water and according to Jewett continually interfere with the diversion of the water to the Jewett farm. This was plainly evident at the time of the engineer's examination for proof of Permit No. 25800.

A course of action by the Department of Reclamation is difficult to prescribe. Complications that may arise outweigh the economic importance of the values involved.

October 2, 1957

Re: Permit No. 25800

Mr. Grover W. Jewett
Newman
Idaho

Dear Mr. Jewett:

Our field engineer's report on the inspection of the application of water to beneficial use under the terms of Permit No. 25800 shows that the works are capable of conveying 19 miner's inches (.38 c.f.s.) of water for irrigation of 40 acres.

Upon receipt of the statutory fee of \$2.00, we will issue to you the License and Certificate of Water Right confirming the right with priority of July 11, 1955, to the use of .38 second foot of water from a certain small stream running generally northeasterly across the center of the $N\frac{1}{2}SW\frac{1}{4}$ of Section 16, with the point of diversion in the $NE\frac{1}{4}SW\frac{1}{4}$ of Section 16, for irrigation of 40 acres in the $SW\frac{1}{4}NE\frac{1}{4}$ of Section 16, all in Township 11 South, Range 43 East, B.M.

Herewith is the "Dismissal of Protest".

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:nls
Enc. (2)

25800

October 2, 1957

Re: Permit No. 25800
Grover W. Jewett

Merrill & Merrill
Counselors And Attorneys At Law
Pocatello, Idaho

ATTENTION: Mr. A. L. Merrill

Dear Mr. Merrill:

Herewith is the "Dismissal of Protest" of protest filed by James C. Wallentine and Lester Skinner against the issuance of a license of water right under Permit No. 25800 to Grover W. Jewett; submitted to the Department of Reclamation with your letter of August 17, 1956.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:nls
Enc.

cc: Mr. Grover W. Jewett

25800

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Protest of	)	
James C. Wallentine and Lester	(	
Skinner against the issuance of a	)	DISMISSAL OF PROTEST
License to Grover W. Jewett, under	(	
Permit No. 25800	)	

On August 17, 1955, Grover W. Jewett made application for permit to appropriate 0.38 cubic foot per second of the waters of an un-named stream, with the point of diversion in the center of the North Half of the Southwest Quarter (n¹/₂SW¹/₄) of Section 16, Township 11 South, Range 43 East, B. M.

Notice of proof of application to beneficial use was published and proofs submitted.

Protest was filed by James C. Wallentine and Lester Skinner, alleging that no un-appropriated water existed at the point of diversion specified.

The Department of Reclamation caused an inspection to be made, and finds:

That diversion works were constructed, water diverted, and applied to beneficial use; and

That a license right under Permit No. 25800 will be of later priority than and subject to existing decreed rights, and can in no way affect existing rights.

THEREFORE, The protest of James C. Wallentine and Lester Skinner is dismissed, and license will be issued to Grover W. Jewett for 0.38 cubic foot per second from an un-named stream, with a priority date of August 17, 1955.

Any one feeling himself aggrieved by this dismissal of protest and issuance of license may appeal the same to the District Court for Bear Lake County, Idaho.

GIVEN UNDER MY HAND and the official seal of the Department of Reclamation of the State of Idaho, at Boise, Idaho, this 1st day of October, A. D. 1957

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

260 Enc.

RE. PERMIT NO. 25800

Oct. 5 1957

Mark R Kulp;

Enclosed is \$2.00 fee for
issuance of License and Certificate
pertaining to PERMIT NO. 25800

Yours truly
Grover W. Jewett
Nounan
Idaho.

RECEIVED
OCT 7 1957

Department of Reclamation

25800

October 31, 1957

Re: Permit No. 25800

Mr. Grover W. Jewett
Nounan
Idaho

Dear Mr. Jewett:

Enclosed is the License and Certificate of Water Right issued under Permit No. 25800 confirming the right with priority of July 11, 1955, to your use of .38 second foot of water from a small stream with the point of diversion in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, for irrigation of 40 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 16, Township 11 South, Range 43 East, B.M.

Enclosed also is departmental receipt #28801 for \$2.00, issued as receipt of the fee for the License.

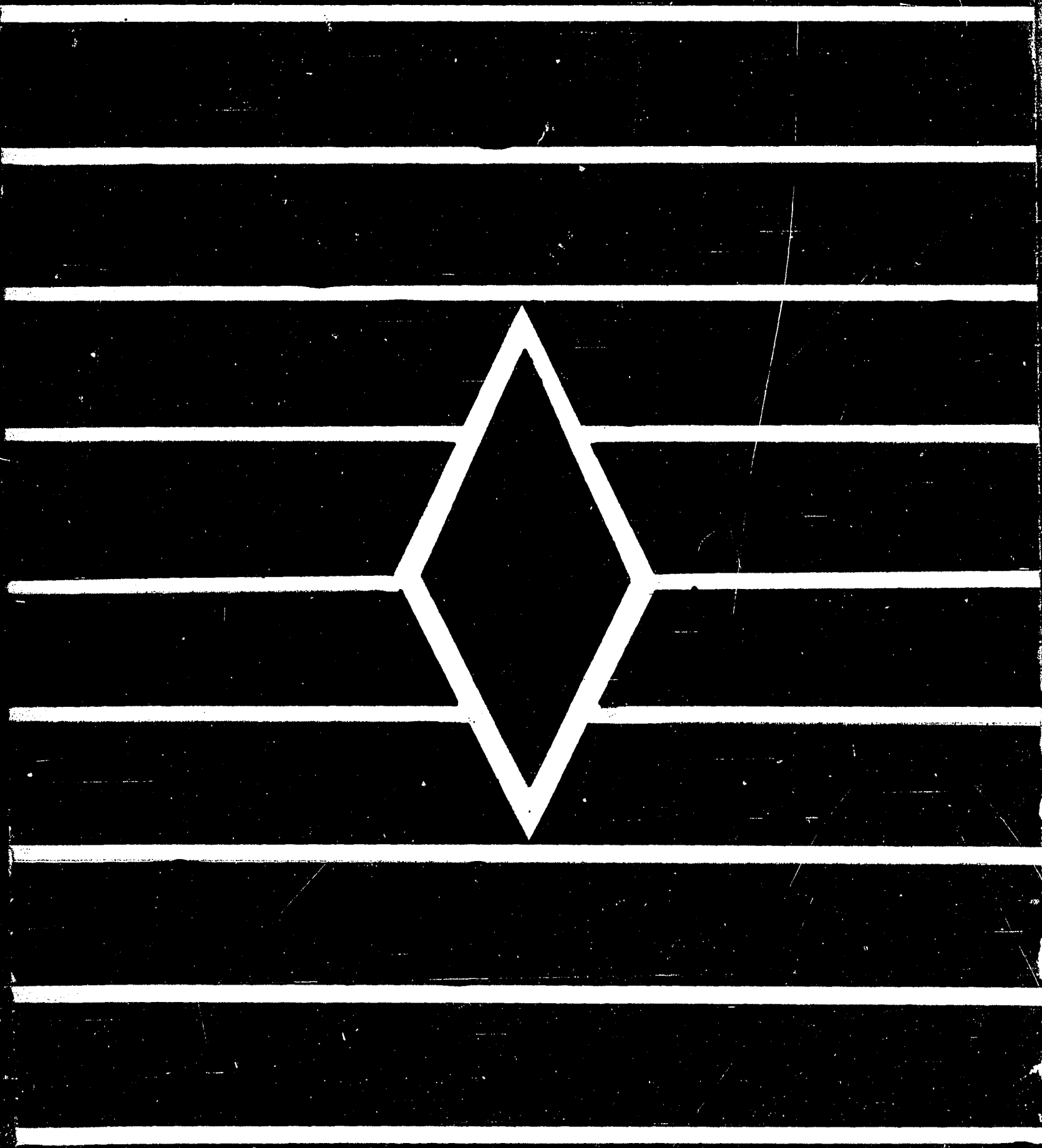
Very truly yours,

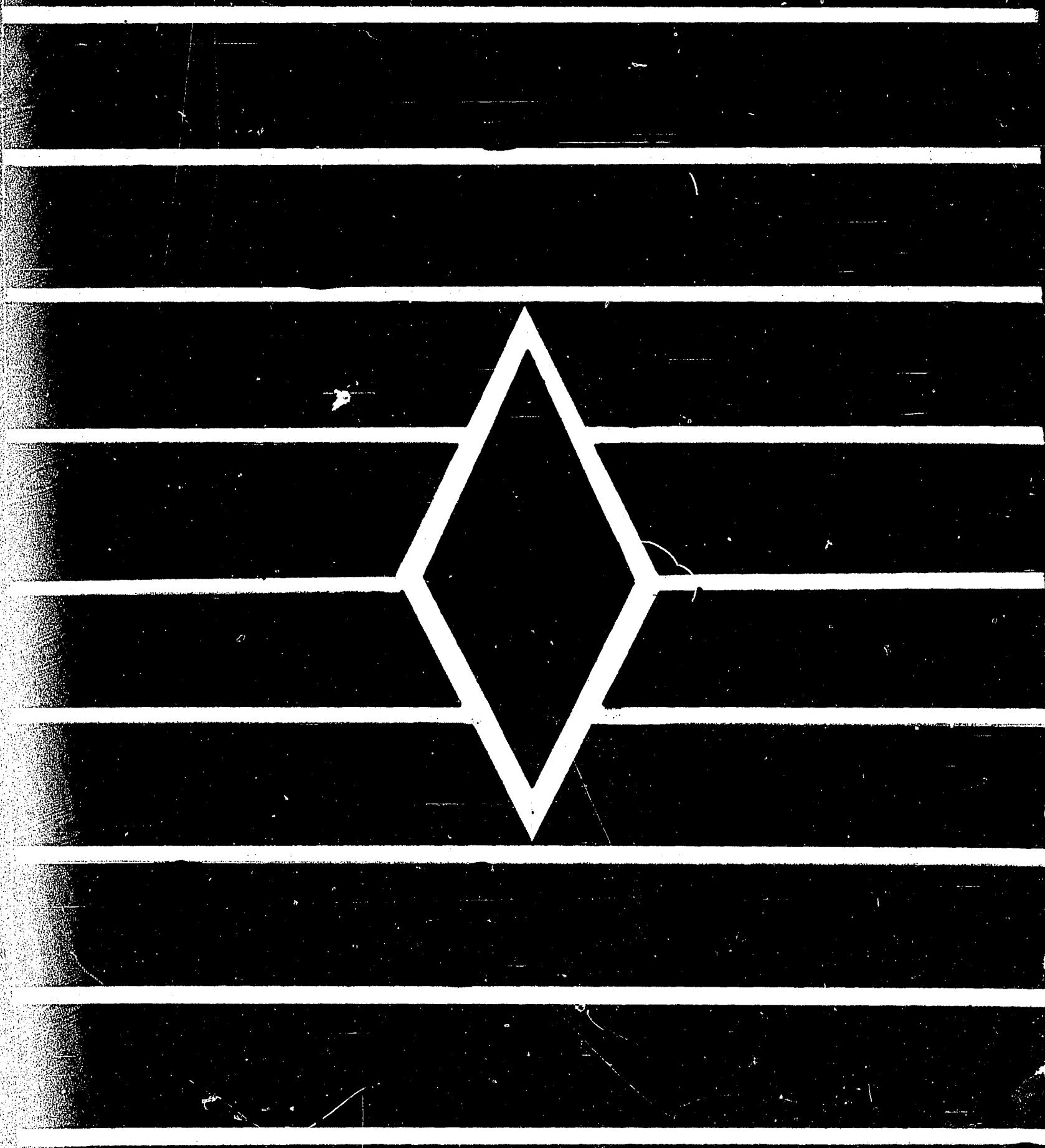
MARK E. KULP
State Reclamation Engineer
By

Chief Clerk

EPR:mlo
Enc.

25800





State of Idaho
License and Certificate of Water Right

Water License No. 25800

Amount .38 c.f.s.

Water District No.

Priority July 11, 1955

THIS IS TO CERTIFY that GROVER W. JEWETT
of Nounan, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 11, 1955; that Permit No. 25800
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
.38 second feet, was issued thereunder on July 24, 1956, showing that said works
were completed on the 18th day of July, 1956; and that on the 24th
day of August, 1956, GROVER W. JEWETT

of Nounan, State of Idaho, made proof to the satisfaction of the
State Reclamation Engineer of Idaho, of the right to use the waters of a small stream
running generally northeasterly across the center of the NW 1/4 of Section 16,
a tributary of, for the purpose of Irrigation
under Use Permit No. 25800 of the Department of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho,
and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume
10 of Licenses at page 6169, on the 31st day of October, 1957;

The right hereby confirmed dates from July 11, 1955;

The Point of Diversion is located

in the NE 1/4 SW 1/4, Sec. 16, Tp. 11 S. R. 43 E., B. M. County Bear Lake

That the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall
not exceed .38 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
11 S.	43 E.	16	SW 1/4 NE 1/4	40	40
			Total number of acres irrigated -	- - -	40

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this
31st day of October, 1957.

/s/ Mark R. Kulp

State Reclamation Engineer.

(SEAL)

11 2113

