

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 23906
Permit No. 16935
District No.

1. Name of Applicant: Albert C. Carlsen.

Postoffice address: Clifton, County: Franklin, 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: one-tenth cubic feet per second.

3. Source of water supply: spring known as "Peanut Spring", which is a tributary of Clifton Creek.

4. Location of point of diversion: two hundred feet distant from the northwest corner of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 32, T. 14 S., R. 38 E., B. M., and is in the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 32, T. 14 S., R. 38 E., B. M., County of Franklin.

5. Water is to be used for: domestic purposes.

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

(a) Point of use of water: feet distant from corner of Section 1
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: \$ 25.00.

8. Kind of works: ditch from spring.

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

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

11. Ditch: Width at bottom 8 inches feet; width at water line 8 inches feet; depth of water two inches;
feet; dimensions of flume

Diameter of pipe inches; length of conduit 100 rods. miles.

Average grade per mile ten feet.

12. The time required for the completion of such work is thirty days. 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. (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 waters of the State of Idaho as herein set forth.

Albert C. Carlsen Applicant.

By

Agent.

Date of first receipt at Department of Reclamation: 9 A.M., July 19, 1928.

Returned to applicant for correction:

Corrected application received:

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 16935.

Recorded in Book 61, Page 16935, Approved July 20, 1923.

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

Bond in the sum of \$ _____ to be filed on or before _____

Work to begin on or before September 18, 1928, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before October 20, 1928.

The whole of said work to be completed on or before January 20, 1929.

Beneficial use of water appropriated in accordance herewith, to be made on or before January 20, 1929.

Witness my hand this 20th day of July, 1928.

GEO. N. CARTER
Commissioner of Reclamation.

Remarks:

14.

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Total
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
			The spring herein mentioned is located on government land, upon which the applicant has made homestead entry, and upon which patent has not yet been issued to applicant. Proof of Completion of Works made October 13, 1928 Certificate of Completion of Works issued October 16, 1928 Permit No. 16935 CERTIFICATE OF COMPLETION OF WORKS To All Whom It May Concern: This is to certify that Albert C. Carlsen, of Clifton, County of Bannock, and State of Idaho, the holder of Permit No. 16935, issued upon Application No. 23906, bearing date of priority of July 19, 1928, authorizing the diversion of 0.1 second feet of the waters of Peanut Spring, County of Bannock, State of Idaho, for domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 0.1 second feet of the waters of Peanut Spring; that the point of diversion of said waters is in the SW¼ NE¼ Sec. 32, Twp. 14 S., R. 38 E., B. M., and that the place of intended use is at home of applicant, in the SW¼ NE¼ Sec. 32, Twp. 14 S., R. 38 E., B. M. Witness my hand this 16th day of October, A. D. 1928. GEO. N. CARTER Commissioner of Reclamation LICENSE ISSUED FOR 0.1 SEC. FT. Sept 12 - 1928 Page 358																

State of Idaho

H. C. BALDRIDGE, GOVERNOR

DEPARTMENT OF RECLAMATION

GEORGE N. CARTER, COMMISSIONER
BOISE

July 16, 1928

Re: Application for Permit.

Mr. L. R. Morgan, Atty.
Greaves Building
Preston, Idaho

Dear Sir:

We are returning herewith the application of Albert C. Carlson with regard to location of spring. If spring is on government, state, or private land owned by the applicant, the application is O.K.; kindly state same under Remarks and return to this office when it will be allowed to pass to permit. If spring is on private land other than owned by the applicant, Affidavit for permission to file on springs must be filled out.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By

Samuel Lane

SL/co
Encl.
Appl.
Check, \$1.00.

*The information herein requested
has been supplied under remarks*

16935

L. R. Morgan

Albert C. Carlsen, Township 14 South, R. 38, E. B. M. Form No. 0

2

2

2010

之

• ५५०

५५०

SC

५९८

SHO

SE

•
R
M
C

10

— 52 —

Site C

५३

55

1
2
3
4

SH

17. of Division

Spencer

DITEN.

Sept 14, 8, P. 38 Co. B. M. S. C.

10-15-65 No. 469.35
Approved

July 20, 1928

W. H. HARTER
Commissioner of Reclamation

SCALE: 2 INCHES EQUAL 1 MILE. DRAW PLAN IN INK

16935-

State of Idaho

DEPARTMENT OF RECLAMATION
BOISE

Permit No. 16935

July 21, 1928

Mr. Albert C. Carlsen
Clifton, Idaho

Boise, Idaho,

Dear Sir:

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

GEO. H. CARTER

Commissioner of Reclamation.

16935-

State of Idaho
DEPARTMENT OF RECLAMATION
BOISE

INSTRUCTIONS
PROOF OF COMPLETION OF WORKS

Albert C. Carlsen
Clifton, Idaho

Boise, Idaho,

Oct. 2, 1928

Dear Sir:—

Under the terms of your permit No. 16935 you are required to complete your diversion works on or before Jan. 20, 1929. I enclose herewith blank affidavit to be filled out, sworn to by you before a Notary Public or a 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 will be issued to you.

The certificate to be issued under this proof will not give a perpetual right to the use of water for which application was made, as it only confirms the completion of 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.

Yours truly,

GEO. N. CARTER

Commissioner of Reclamation.

16935-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

Albert C. Carlsen
Clifton, Idaho

Oct. 2, 1928

Dear Sir:—

I enclose herewith blank notice of proof of application of water to beneficial use under your permit No. 16935....., which should be filled out and returned to this office at least 60 days before the date upon which you wish to make proof. The date for proof, as set out in your permit, is Jan. 20, 1929....., 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.

Yours truly,

GEO. N. CARTER,
Commissioner of Reclamation.

16935-

L. R. MORGAN
ATTORNEY AND COUNSELOR-AT-LAW
GRAVES BUILDING
PRESTON, IDAHO

October 13, 1928.

Commissioner of Reclamation,
Boise, Idaho.

Dear Sir:-

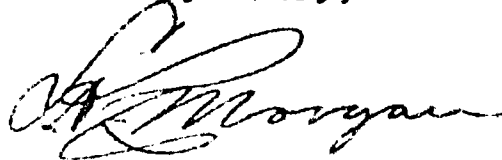
Enclosed you will please find affidavit of proof of works of Albert C. Carlson, under permit 16935, together with two notices.

You will note in the affidavit, that the applicant is unable to complete the works of diversion strictly as set forth in his application for permit, due to the fact that he has encountered a rock formation in the course outlined for the ditch. Also, he finds that there is not sufficient water to flow more than one hundred fifty feet from the spring, where it seeps into the ground. He desires, therefore, to change the description of the works of diversion and make the point of use 150 feet from the spring, instead of 100 rods as heretofore specified. Kindly advise if this can be done and if so, what the applicant is required to do.

Thanking you kindly for advice on this matter, I beg to remain,

Yours very truly,

LRM:S



16935-

Permit No. 16935

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO, }
County of FRANKLIN } ss

Albert C. Carlson, 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. 16935, and that his postoffice address is Clifton, State of Idaho,

Second: That the name of the stream from which said water is to be diverted is Peanut Spring,

Third: That the point of diversion of said water is 200 feet distant from the NW corner of SW 1/4 of NE 1/4 Sec. 32, T. 14 S. R. 38 E. B. M.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by January 20, 1929.

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

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

I. Kind of works: ditch from spring,
(Reservoir, dam, ditch, flume, pipe or otherwise.)

II. Dimensions of work:

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

(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 8 in. ~~feet~~, width at water line 8 in.
(State whether ditch, flume or pipe.)

~~feet~~, depth of water 2 in. feet: diameter of pipe inches, average grade per mile is 10 feet. Length of conduit is 150 ft. ~~feet~~

Seventh: That said works are capable of conducting to the place of intended use one-tenth second feet of water.

Eighth: That water appropriated under said permit is available for acres of land described as follows:

Ninth: Remarks: That applicant finds it impossible to construct ditch for the distance stated in his application, owing to a rock formation, and further finds that the stream from said spring will not reach further than approximately 150 feet from spring.

Albert C. Carlson
(Sign here)

Subscribed and sworn to before me this 13th day of October, 1928.

My commission expires 9/7/29

W. Morgan
Notary Public.
Residence, Preston, Idaho.

16935

October 16, 1928.

Re: Permit No. 16935- Carlsen.

MR. L. R. MORGAN
Attorney at law
Preston, Idaho.

Dear Sir:-

Your letter of the 13th inst. received, together with affidavit and fee for proof of completion of works under the above numbered permit, also, notices for proof of beneficial use of water.

Referring to the second paragraph of your letter relative to the change in the works of diversion and point of use would say that no special affidavit to amend the permit is necessary where the change is so slight. The holder's affidavit for completion of his works is sufficient to show the change upon the records here and has been accepted and the certificate of completion of works granted. The same is herewith enclosed with receipt for fee paid.

As to the notices for proof of beneficial use of water would say, one copy will be mailed to the Franklin County Citizen in time for the required four weeks publication prior to January 21, 1929, the date set for proof, and deposition blanks for holder and two witnesses will be mailed to you.

Very truly yours,
GEO. H. CARRIER,
Commissioner of Reclamation.

By _____
Chief Clerk.

Encl. C.C.W.-R

16935-

October 16, 1928

Re: Permit No. 16935

MR. ALBERT C. CARLSEN
Clifton, Idaho

Dear Sir:

There is transmitted herewith
Certificate of Completion of Works issued un-
der the above numbered Permit, together with
receipt for fees.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By

Chief Clerk

Encl.

16935

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Date Dec. 8, 1928

FRANKLIN COUNTY CITIZES

Preston, Idaho

DEAR SIR:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to January 21, 1929, the date set for proof, the expense of the publication to be paid by the applicant, Albert G. Carlson, of Clifton, 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.

Very truly yours,

GEO. H. CARTER,

Commissioner of Reclamation.

16935-

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 11 a. m. on the 21st day of January, 1929,
at Preston, County of Franklin, State of Idaho,
before L. R. Morgan, a Notary Public, proof will be submitted
of the application to beneficial use of one-tenth cubic feet per second of the
waters of Peanut Spring, in accordance with the terms and conditions of
Permit No. 16935 heretofore issued by the Commissioner of Reclamation
of the State of Idaho.

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

Albert C. Carlson, Clifton, Franklin County, Idaho,

The use to which said water has been applied is Domestic Purposes,

The amount applied to beneficial use is one-tenth cubic feet,

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated) At home of applicant in SW 1/4, Sec. 52, Twp. 14 S., R. 39 E., B.H.

The name of the canal or ditch or other works by which said water is conducted to such place of use
is private ditch, no name.

The right to take water from such works is based upon Permit No. 16935

The source of supply from which such water is diverted is Peanut Spring,

The date of the priority which said user is prepared to establish is July 19
1928.

Geo. N. Carter,

Commissioner of Reclamation.

Encl - 325-145-386

Franklin

16935

December 26, 1928.

Re: PERMITS Nos. 16884-16935

ARTHUR W. HART, Esquire,
Attorney-at-Law,
Preston, Idaho.

Dear Sir:

This will acknowledge receipt of your notice of December 21 to the effect that the CLIFTON IRRIGATION COMPANY will protest the granting of a license to A. F. Henderson on Permit 16884 and likewise protest the proof of A. C. Carlson on Permit 16935 which proofs will likely be offered some time in January-1929.

You state that the waters claimed under these permits were all decreed by Judge Dietrich in 1920 and that these waters, being direct tributaries of Clifton Creek, have all been used for more than sixty years.

It occurs to me that your assertion to the effect that all of these waters are decreed and used would require a judicial determination before this office could take judicial notice of such a fact; furthermore, the foregoing being the case the date of priority attached to the rights claimed by Henderson and Carlson would automatically adjust the use of the prior water rights thereto being in effect. It is only necessary for the Bear River Watermaster to regulate these subsequent diversions for the benefit of prior decreed rights. If there be a surplus of water after such rights are filled then such water should go to the next right in point of time.

I do not understand at this time that denial of license on these two permit rights upon the theory that no unappropriated water is available to supply them would be justified, taking cognizance of the present Idaho law governing this subject.

However, the protests you expect to file will be received and considered. I suggest that you file them with the Notary Public before whom the depositions of proof will be taken; the entire matter will then be transmitted to this office for consideration and if after a study of the depositions of proof and the protests it appears desirable to convene a hearing at which further evidence may be presented, such action will take place. You will be advised of any further proceedings in the matter.

16935

ARTHUR W. HART, Esquire

December 26, 1928.

This Department does not have blank forms for use of a protestant, neither is there any prescribed form in which the complaints should be presented.

Very truly yours,

Commissioner of Reclamation.

GNC/tp

16935-

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF BENEFICIAL USE OF WATER

BOISE, IDAHO,

Jan. 9, 1929

Albert C. Carlson,
c/o L. R. Morgan,
Preston, Idaho.

DEAR SIR:

I enclose herewith the following forms to be used in connection with proof of beneficial use of water under Permit No. 16935

DEPOSITION OF PERMIT HOLDER, DEPOSITIONS OF TWO WITNESSES.

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

January 21, 1929

1. On, the date set for proof, the enclosed forms (one for permit holder and one each for two disinterested witnesses) should be filled out and sworn to, at
Preston L. R. Morgan, notary public.
..... before.....

2. When the depositions have been taken, they should be mailed to this office, together with affidavit of publication of notice.

When these have been received, together with report of the examining engineer, if everything is properly executed, you will be further advised as to fees due, etc., before certificate is issued.

Yours truly,
GEO. H. CARTER,

Commissioner of Reclamation.

16935-

PROTEST OF CLIFTON IRRIGATION COMPANY
AGAINST GRANTING PERMITS NOS 16884--16935
STATE OF IDAHO) SS
COUNTY OF FRANKLIN)

THOMAS SANT

and

JOHN V. SPERRY

on this 21st day of January, 1929, personally appeared before me L.R. Morgan, Notary Public, in and for the County of Franklin, State of Idaho, and state that they are officers of the Clifton Irrigation Company, Clifton, Franklin County, Idaho, and are Directors in said Corporation, and officers, that is to say:-

(THOMAS SANT IS PRESIDENT OF THE CORPORATION)

That on behalf of said corporation they protest against any permit to use any of the waters of Clifton Creek and or any of its tributaries on behalf of either of the permit holders, who have this day advertizing - to make proof of the usage of waters under said permits; that neither Alfred F. Henderson under his permit No 16884, nor Albert C. Carlson under his permit No 16935, have any right, title, claim or interest in or to Hogs Back Springs or Pea Nut Springs; that both of said Springs are tributary to Clifton Creek.

That said Clifton Creek was decreed to Clifton Irrigation Co in 1920 in an action in the U.S. District Court, wherein Utah Power & Light Company was Plaintiff and Last Chance Canal Company, Clifton Irrigation Company and many others were defendants; that all of the waters of said Clifton Creek were decreed to Clifton Irrigation Company, to-wit, fourteen Second feet per second of time and of the date of May 1st, 1929 for the irrigation of 707 acres of lands to be irrigated in Sections 22 and 27, Township 14 S. Range 38 E.B.M.

Affiants further say that the said Clifton Irrigation Company has used all of the waters of Clifton Creek including the said two Springs filed on by the parties above named, and said affiants further state that the said Company uses all of said waters including said springs during the entire year, both winter and summer, in the winter for domestic purposes and in the spring, summer and fall for domestic purposes and for irrigation of the said 707 acres of lands; and notwithstanding they use all of said waters as aforesaid during each and every year, during all the seasons of the year, the said Company does not even then have sufficient water for its use and the use of its many stock-holders;

Affiants further state, that if the said holders of permits (16884 and 16935) were permitted to get any use of said Springs filed on, it would be a continually annoyance and detriment to the said corporation, as the River Water Master would not be able to adequately protect the said corporation against persons taking the said waters, especially on account of the distance from Clifton where said springs are located.

Affiants therefore ask the Hon. Commissioner of Reclamation to refuse the application of said Henderson and said Carlson.

The Judgment and decree in favor of Clifton Irrigation Company is recorded in Lemhi County and in Franklin County, and is recorded in the latter in Book One of Judgments, at page 384, Sept. 30th 1920.

Subscribed to before me this
21st day of January, 1929

Thomas Sant
John V. Sperry
L.R. Morgan

NOTARY PUBLIC

16935-

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.PERMIT NO. 16935

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Albert C. Carlson, 36, Clifton, Idaho, Clifton, Idaho,

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. 16935; July 20, 1928, July 18, 1928,

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

Ans. spring known as "Peanut" spring, 200 feet from NE corner of
SW $\frac{1}{4}$ of NE $\frac{1}{4}$ sec. 32, Tp/ 14 S. R. 38 E. B. M.

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

Ans. enlarging spring and making ditch from point of diversion to
place of use. 1/10 cubic foot per second, no name of ditch.

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

Ans. domestic purposes, watering stock and household use, place of
use at corrals and where house is to be built.

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

Ans. _____

16935-

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

Ans. 1/10 cubic foot per second.

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

Ans. _____

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

Ans. since about June 1, 1928, for watering stock and sheep

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. None.

(Sign)

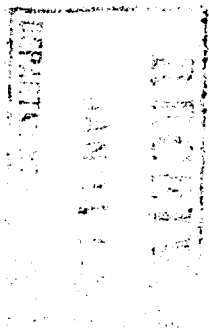
Albert C. Carlson

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 Preston, County of Franklin, State of Idaho, on this 21st day of January, A. D. 1929

W. Morgan
Notary Public

My commission expires

9/7/29



PERMIT NO. 16935

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. Albert E. Henderson, 38 years, Clifton, Idaho, Clifton, Idaho.

Ques. 2. Are you acquainted with Albert C. Carlson, the
holder of Permit No. 16935? How long have you known him and where does he reside?
Ans. Yes; 24 years, Clifton, Idaho., and are you familiar with

Ques. 3. Have you read or heard read said Permit No. 16935, 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. "Peanut" spring; about 200 feet from the NE cor. of the SW 1/4
of NE 1/4 sec. 32, Tp. 14 S. R. 38 E. B. M. cleaning and enlarging spring,
and small ditch from spring to place of use.

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 1/10 cubic foot per second.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each
sub-division 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. Domestic purposes: watering stock and household use.
at corrals and where house is to be built.

16935

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

Ans.

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

Ans.

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

Ans. No.

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

Ans. since about June 1, 1928;
watering stock and sheep.

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 Franklin County of Franklin State of Idaho, on this 21st day of January, A. D. 1929.

My commission expires 9/7/29

(Signed)

Albert P. Henderson

W. Morgan
Notary Public.

STATE OF IDAHO
DEPARTMENT OF EXPLORATION
BOISE, IDAHO.PERMIT NO. 16935

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. F. D. Olsen, 51, Clifton, Idaho, Clifton, Idaho,Ques. 2. Are you acquainted with Albert C. Carlson, the holder of Permit No. 16935? How long have you known him and where does he reside?Ans. Yes, fifteen years, Clifton, Idaho,Ques. 3. Have you read or heard read said Permit No. 16935, 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. "Peanut" Spring, approximately 200 feet from the NE cor. of SW $\frac{1}{4}$ of NE $\frac{1}{4}$ sec 32, Tp. 14 S. R. 38 E. M.; small ditch and enlargement of spring.

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 1/10 cubic foot per second.

Ques. 6. State for what purpose water is used and at what place. (If for irrigation give each sub-division 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. domestic purposes, watering stock and household use;at corrals and where house is to be built.

16935

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

Ans. _____

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

Ans. _____

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

Ans. No.

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

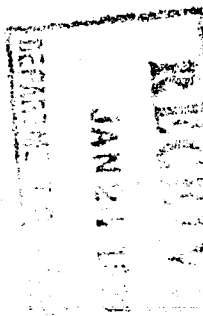
Ans. since about June 1, 1923;
watering stock and sheep;

(Signed) _____

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 Preston, County of Franklin, State of Idaho, on this 21st day of January, A. D. 1929.

Notary Public.

My commission expires 9/7/29



NOTICE FOR PUBLICATION

Notice of Proof of Application of
Water to Beneficial Use.

Notice is hereby given that at 11 a.m. on the 21st day of January, 1929, at Preston, County of Franklin, State of Idaho, before L. R. Morgan, a Notary Public, proof will be submitted of the application to beneficial use of one-tenth cubic feet per second of the waters of Peanut Springs, in accordance with the terms and conditions of Permit No. 16935 heretofore issued by the Commissioner of Reclamation of the State of Idaho.

The name and post office address of the person or corporation holding said permit are: Albert C. Carlson, Clifton, Franklin County, Idaho.

The use to which said water has

been applied is Domestic Purposes.

The amount applied to beneficial use is one-tenth cubic feet.

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated) At home of applicant in SW 1/4 NE 1/4, Sec. 32, Twp. 14 S., R. 33 E. B. M.

The right to take water from such works is based upon Permit No. 16935.

The source of supply from which such water is diverted is Peanut Spring.

The date of the priority which said user is prepared to establish is July 19, 1928.

Geo. N. Carter,
Commissioner of Reclamation

Affidavit of Publication

I, Albert C. Carlson
(publisher) ~~(formentor)~~ of the
FRANKLIN COUNTY CITIZEN

published weekly at Preston, Franklin County, Idaho, do solemnly swear that a copy of the notice as per clipping attached, was published weekly in the regular and entire issue of said newspaper, and not in any supplement thereof, for 4 consecutive weeks, commencing with issue dated

December 12..... 1928.. and
ending with the issue dated

....January 2..... 1929.

By Albert C. Carlson

Subscribed and sworn to before me

this 21st day of Jan... 1929.

L. R. Morgan
Notary Public

16935

January 28, 1929.

Re: PERMIT No. 16884
PERMIT No. 16935

L. E. MORGAN, Esquire,
Attorney-at-law,
Greaves Building,
Preston, Idaho.

Dear Sir:

This will acknowledge receipt of your communication of January 22, enclosing depositions of holders and two witnesses in the cases of proof of application of water to beneficial use, ALBERT F. HENDERSON 16884 and ALBERT C. CARLSON 16935, and the affidavit of protest lodged against said proofs and permits.

Inasmuch as the statutes require a field examination of the physical features in connection with these permits to appropriate water, I do not believe it will be necessary to take any further action until such field examinations are made. On account of weather conditions they are impractical at this time. As soon as the reports of the examining engineer are made, you will be notified of further action, whether same may be in the form of a notice for hearing or a decision upon the information now in hand.

Very truly yours,

Commissioner of Reclamation.

GHC/tp

16935

February 21, 1929

Re: Permit No. 16884
Permit No. 16935 ✓

MR. ARTHUR W. HART
Attorney at Law
Preston, Idaho

Dear Sir:

For your information we are enclosing herewith copy of a letter written to Mr. L. R. Morgan relative to proofs of beneficial use of water and protests filed under Permits No. 16884 and No. 16935.

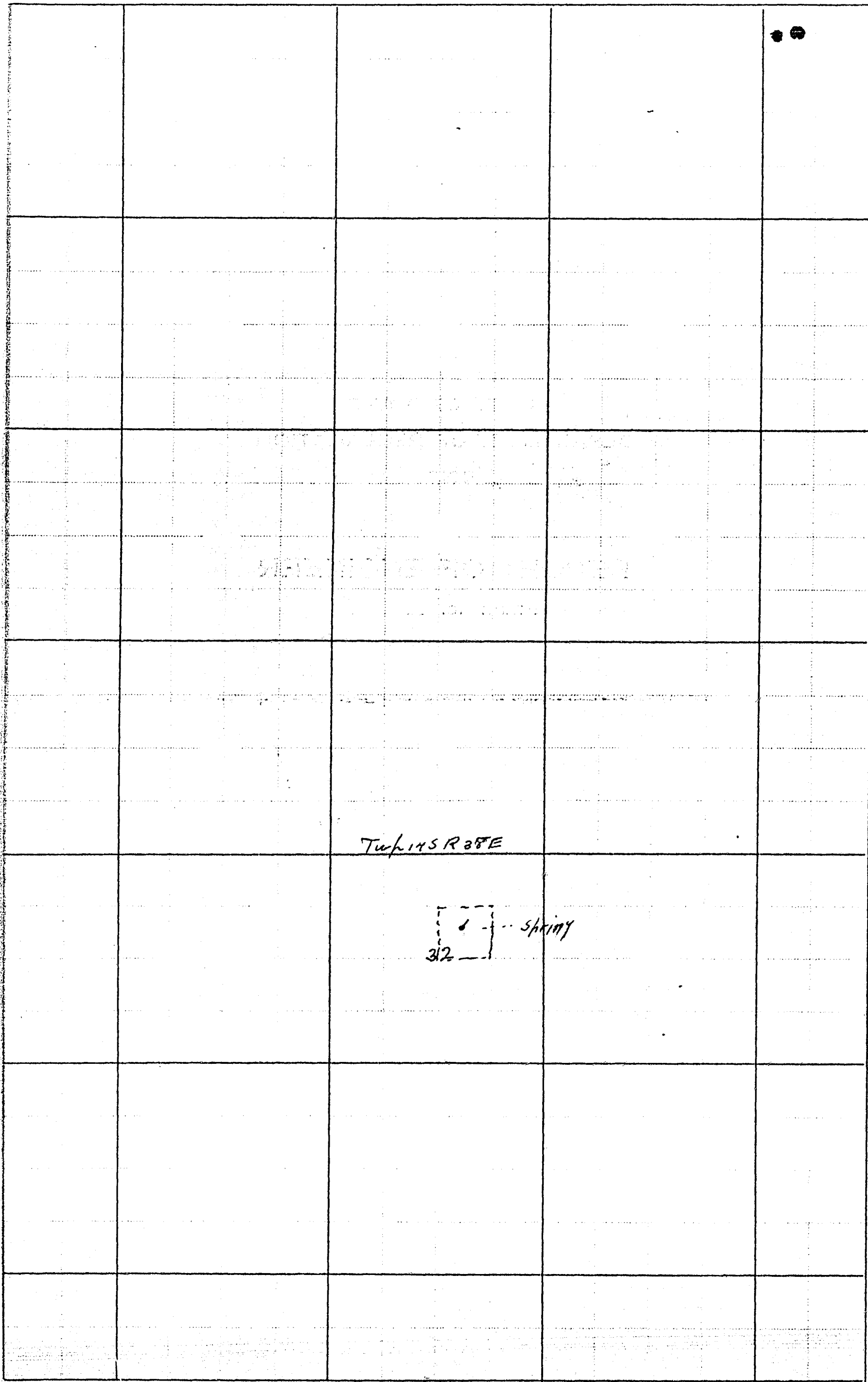
Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By
Chief Clerk

Enc.
Encls.

16935-



SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

16935

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

Permit No. 16935This proof is for BEN. USE

In Water District No. _____

1. Name of applicant: Albert C. Carlsen
2. Source of water supply: Pearl Spring
3. Location of point of diversion: Is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32
T. 14 S R. 38 E. County of Franklin
4. Describe works as they exist, giving dimensions and capacities of same:
Small spring on side hill gulch, small excavation into bank, 2' deep
on upper side, about 4 sq ft. basin, fenced in by poles, 3' high, 10' long
5. Water is used for: Domestic purposes
6. State whether or not water has been turned into works of diversion: No
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 for other than irrigation): At home of applicant

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

8. What large stream would the water here appropriated finally reach?
- None

Remarks: water runs only a few feet beyond pole corral
is used for stock watering hole
land formerly homesteaded by Carlsen, relinquished, and now
homesteaded by one W.D. Olson

*No Ben. use for irrigation
Is used for stock watering
Domestic use only*

This examination was made on the 14 day of August 1928

(Signed)

R. J. Sutcliffe

Examiner.

16935

No diversion ditches.

STATE OF IDAHO

Department of Reclamation

- - - - -

IN THE MATTER OF PROOF)
OF APPLICATION OF WA-)
TER TO BENEFICIAL USE)
PERMIT No. 16884 and)
PERMIT No. 16935)

ORDER GRANTING LICENSE

WHEREAS, ALBERT F. HENDERSON and ALBERT C. CARLSON, the holders of Permits Nos. 16884 and 16935, respectively, have regularly offered proof of application of water to beneficial use as required by the terms and provisions of said Permits, and

WHEREAS, the CLIFTON IRRIGATION COMPANY has protested the acceptance of said proofs and the issuance of water licenses in accordance with the laws of Idaho, advancing as an argument and reason for said protest that the said CLIFTON IRRIGATION COMPANY is the prior owner and user of all the waters of Clifton Creek and tributaries, among which are HOG BACK SPRINGS and PEANUT SPRINGS, the sources of water appropriated by the said permits respectively, and, THAT The allowance of said permits as applied for would seriously interfere with the use of water by Clifton Irrigation Company, and FURTHERMORE, That the watermaster qualified and acting in Water District No. 5-J would not be able to adequately protect the Clifton Irrigation Company against these applicants taking the waters from said springs on account of the distance said watermaster would be required to travel to regulate the use of water by said permit-holders, and

WHEREAS, The position taken by said protestant, CLIFTON IRRIGATION COMPANY, is untenable in that it would prevent further appropriation of water in Idaho upon the alleged ground of prior exhaustive ownership and use and it being clearly the purpose of the Laws of Idaho, which provide for the office of watermaster and prescribe the power and duties of such an officer, to promote the orderly use of all waters of the State available for any beneficial use and it further appearing from the facts gathered by the Department of Reclamation that the said permit-holders, Henderson and Carlson, are not claiming a right for irrigation but only for domestic and stock-watering purposes as borne out by the actual physical works constructed for the appropriation of the waters of these springs, same not employing any diversion ditches which could transmit water to lands which might be irrigated,

16935-

NOW, THEREFORE, IT IS HEREBY ORDERED, That the deposition of permit-holder, ALBERT F. HENDERSON accompanied by the depositions of his two witnesses, ALBERT C. CARLSON and F. D. OLSEN, evidencing the application of water to beneficial use in conformity to the terms and provisions of Permit No. 16884 and the deposition of permit-holder, ALBERT C. CARLSON accompanied by the depositions of witnesses of F. D. OLSEN and ALBERT F. HENDERSON, evidencing the application of water to beneficial use in conformity to the terms and provisions of Permit No. 16935, be approved and water licenses issue as provided by statute, and

IT IS FURTHER ORDERED, That any person feeling aggrieved by the decision of the Department of Reclamation in this case may appeal therefrom to the District Court of the County in which the place of use of the water claimed is situated, taking such appeal within 60 days from the date of the license about to be issued.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Department of Reclamation at Boise, Idaho this 23d day of August, 1929.

S E A L

GEO. N. CARTER
Commissioner of Reclamation

16935-

RE: PERMITS NOS. 16884 & 16935
Henderson & Carlson

MR. ARTHUR W. HART
Prosecuting Attorney,
Preston, Idaho.

Dear Sir:-

Enclosed you will find order granting licenses under
the above numbered permits.

Very Truly Yours,
GEO. H. CARTER
Commissioner of Reclamation.

By _____
Chief Clerk.

1 enc.

16935-

August 24, 1929.

RE: PERMIT No. 16935.

Mr. Albert C. Carlson,
Clifton, Idaho.

Dear Sir:-

Enclosed you will find copy of order granting license under your above numbered permit. The license will, therefore, issue upon receipt of fees in the sum of \$5.00.

Very truly yours,
Geo. H. CARTER
Commissioner of Reclamation.

By _____
Chief Clerk.

1 enc.

16935

September 14, 1929

RE: Permit No. 16935

Mr. Albert C. Carlsen
Clifton, Idaho

Dear Sir:

We are mailing you herewith License
and Certificate of Water Right number 16935,
together with receipt for fees paid.

Very truly yours,

GEO. N. CARTER
Commissioner of Reclamation

By
Chief Clerk

G
Enc.

16935-

October 11, 1929

Re: PERMIT No. 15384
PERMIT No. 15385

HONORABLE ARTHUR W. HART
Prosecuting Attorney
Franklin County
Preston-Idaho

Dear Mr. Hart:

This is to acknowledge receipt of your Notice of Appeal from the decision of this Department in granting licenses to the applicants of the above numbered permits.

In this connection the Department is preparing certified copies of the following documents as provided in Section 5581 of the 1913 Compiled Statutes:

licenses -
orders of the Department granting licenses
protests against the issuing of such licenses
reports of examining engineers
notice of publication
affidavits of publication
deposition of applicants on proof of beneficial use
deposition of two witnesses on proof of beneficial use

If there are any other documents of which you desire copy please so advise and we shall have them prepared.

The certified copies probably will be ready for mailing on October 15.

Cordially yours,

Assistant Commissioner
of Reclamation

16935

MS/tip

October 14, 1929

Re: PERMIT No. 16884
PERMIT No. 16935 ✓

HONORABLE ARTHUR E. HART
Prosecuting Attorney
Franklin County
Preston-Idaho

Dear Mr. Hart:

In connection with your
Notice of Appeal from the decision of
this Department in granting licenses
to the applicants of the above numbered
permits: Certified copies of the instru-
ments listed in my letter of October 11th
are enclosed herewith - the charge is
\$12.00.

Very truly yours,

Assistant Commissioner
of Reclamation

16935-

TIP
Enclosures

ARTHUR W. HART

PROSECUTING ATTORNEY
FRANKLIN COUNTY

Preston, Idaho.

Oct. 18th, 1929

Hon. Geo. N. Carter
Commissioner of Reclamation
Boise, Idaho
Dear Sir:-

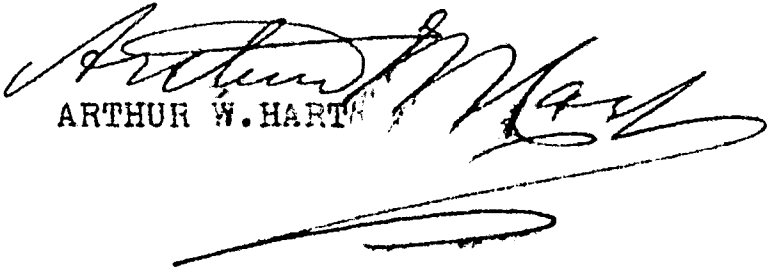
I am enclosing herewith "Petition" on appeal from the orders granting Licenses to Albert F. Henderson and Albert C. Carlson.

I have this day served a copy of the said petition on L.R. Morgan Attorney for Messrs. Henderson and Carlson.

Would you kindly send me an acceptance of service.

I have written the Village of Clifton for the \$12.00 due your department for the certified copies referred to in the said petition and which were this day filed with the said petition with the clerk of the said court. As soon as I hear from them I will forward the same to you. Thank you for your promptness in the premises.

Very truly,


ARTHUR W. HART

16935-

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO IN AND FOR FRANKLIN COUNTY

CLIFTON IRRIGATION COMPANY
a corporation and
VILLAGE OF CLIFTON a
Municipal Corporation

Plaintiffs

Vs.

P E T I T I O N

DEPARTMENT OF RECLAMATION
STATE OF IDAHO and
ALBERT F. HENDERSON and
ALBERT C. CARLSON

Defendants

Come now the Plaintiffs herein and file this appeal from the order directing licenses and the licenses issued by Defendant Department of Reclamation, State of Idaho, to the defendants Albert F. Henderson and Albert C. Carlson; and the reasons for this appeal are as follows, to-wit:-

1-. That Clifton Irrigation Company is a corporation, organized and existing under the laws of the State of Idaho, with its principal place of business at the Village of Clifton, Franklin County, Idaho.

2-. That the Plaintiff Village of Clifton, is a municipal corporation, organized under the Laws of the State of Idaho.

3-. That the defendant Department of Reclamation, operates and functions under the laws of the State of Idaho, and in particularly under Chapter 218 Idaho Compiled Statutes, Vol 2, 1919. That Geo. N. Carter is the Commissioner of Reclamation of said Department.

4-. That on the 23rd day of Aug. 1929, the defendant Department of Reclamation, made its order granting License to Defendant Albert F. Henderson, under his Permit No I6884, and on the 29th day of Aug. 1929, issued to said defendant a License to appropriate 0.1 Sec. ft of water from "Hog Back Springs" a tributary of "no Stream" A certified copy of said order and said license, are filed herewith as part of this petition.

5-. That on the 23rd day of Aug. 1929, the defendant, Department of Reclamation, made its order granting license to defendant Albert C. Carlson, under his permit No I6935, and on the 12th day of Sept. 1929, issued to said defendant a License to appropriate 0.1 sec. ft of water from "Peanut Springs; a tributary of "no stream". A certified copy of said order and said license, are filed herewith as part of this petition.

6-. Plaintiffs allege that the so-called "Hog Back Springs" and the so-called "Peanut Springs" are tributary to Clifton Creek, and have been appropriated and used by Plaintiffs, for beneficial purposes, to-wit, culinary, domestic, and for irrigation, since May 1st, 1869. All of which more fully appears from the Protests of Plaintiff Clifton Irr. Co., a certified copy of which is filed herewith as part of this petition.

169345

(2)

7-.That the proof submitted under said Permit No I6884 on Jan. 21st, 1929, by the defendant Henderson, the permit holder, is not true; that the testimony of his witnesses is likewise untrue and grossly exaggerated; and said defendant has not used "approximately one-half cubic foot for domestic purposes, household use and watering stock" or any other amount for any purpose, of any unappropriated waters of the State of Idaho, or at all. A certified copy of the Notice for Publication and Proof of Application of Water for Beneficial Use, are hereto attached and filed as part of this petition

8-.That the proof submitted under said permit No I6935 on Jan. 21st, 1929, by the defendant Carlson, the permit holder, is not true, neither is the testimony of his witnesses, the same being grossly exaggerated; said defendant has not used approximately 0.1 sec. ft of pea-nut springs for "domestic purposes; watering stock and household use at corrals and where house is to be built" of any of the unappropriated waters of the ~~xxx~~ state of Idaho, or any other amount for any purpose. A certified copy of said Notice of Publication and the Proof of Application of Water for Beneficial Use, are hereto filed as part of this petition.

9-.The report of the Engineer on said Permit No I6884 is objected to, and in particular that portion thereof that says that the water appropriated by said Permit Holder, Defendant Henderson, would not reach any large stream; that it "sinks" A certified copy of said report is filed herewith as part of this petition.

10-.The report of the Engineer on Permit No I6935 is objected to, and in particular that portion thereof that the water appropriated would reach no large stream, that it "sinks" A certified copy of said report is filed herewith as part of this petition.

11-.Plaintiffs allege that the waters from all of the springs described in said permits, the so-called, misnamed Hog Back Springs, and the so-called Peanut Springs, are tributary to Clifton Creek and the waters therefrom, and from the Springs mapped and designated "1, 2 and 3" in said Engineer's Report are all tributary to Clifton Creek and have been used as aforesaid by Plaintiffs; that the waters even though they temporarily sink, find their way to the channel of said Clifton creek and are used and have been used by Plaintiffs. Which also appears from the protests by said Clifton Irrigation Company, to each of said Permits, filed with L.R. Morgan, Notary Public, Jan. 21st, 1929, and now filed herein as part of this Petition (Two certified copies)

12-.That in addition to the matters aforesaid, and the said protests filed herein, Plaintiffs allege that defendants Henderson and Carlson, are trespassers; that they defiled the waters used by Plaintiff Clifton Irrigation Company since 1869; and the waters used by Plaintiff Village of Clifton, that pipes and uses water for the inhabitants of the said Village for domestic and culinary purposes; under a purchase of certain of the waters of said Plaintiff Clifton Irrigation Company, on or about the year

13-.All of the waters of Clifton Creek have been and now are used by Plaintiffs herein, during the entire year.

14-.All of the waters of said Clifton Creek which includes the waters sou~~ld~~ to be taken under the licenses aforesaid, filed herein, have been decreed to Plaintiff Clifton Irrigation Company as of the date May 1st, 1869; amount 14 second feet; Recorded in Section 500 Book I of Judgments, page 384,

16935

Wherefore, your petitioner prays, that this appeal may be heard by the Court; that the Order for Licenses and Licenses issued herein be revoked and held for naught; that it be decreed by the Court that the so-called Springs described in said Licenses and Engineers Reports, are tributary to Clifton Creek and constitute part of the decreed water to Plaintiffs; and for such other and further relief as may seem just and equitable. Plaintiffs pray for general relief.

Arthur J. Marshall
Attorney for Petitioners

Preston, Idaho

169345

STATE OF IDAHO

COUNTY OF FRANKLIN.

SS:

Thomas Saut being first duly sworn deposes and says that he is the Chairman of the Plaintiff Clifton Irr Co that he has read the foregoing petition on appeal; that he knows the contents thereof, and that he believes the same to be true.

Subscribed before me Oct 12, 1922
Arthur J. Marshall

October 21, 1929

Re: PERMIT No. 18864
PERMIT No. 18935

HONORABLE ARTHUR W. HART
Prosecuting Attorney
Franklin County
Preston-Idaho

Dear Sir:

This is to acknowledge receipt
and acceptance of service of PETITION in
the case of:

CLIFTON IRRIGATION COMPANY
and VILLAGE of CLIFTON

-ve-

DEPARTMENT OF RECLAMATION
State of Idaho, and
ALBERT F. HENDERSON and
ALBERT C. CARLSON

as of October 21, 1929.

Very truly yours,

16935

Assistant Commissioner
of Reclamation

MS/tip

State of Idaho

License and Certificate of Water Right

Water License No. 16935Amount 0.1 sec. ft.

Water District No.

Priority 7-19-1928

THIS IS TO CERTIFY that Albert C. Carlsen
of Clifton, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 19, 19 28; that Permit No. 16935
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.1 second feet, was issued thereunder on October 16, 19 28, showing that said works
were completed on the 13th day of October, 19 28; and that on the 21st
day of January, 19 29,

Albert C. Carlsen

of Clifton, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Peanut Springs
, a tributary of no stream, for the purpose of watering stock and
domestic use, under Use Permit No. 16935 of the Commissioner 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 Commissioner of Reclamation of Idaho and entered of record in Volume 6
of Licenses, at page 3589, on the 12th day of September, 19 29;

The right hereby confirmed dates from July 19, 19 28;

The Point of Diversion is located
in the SW 1/4 NE 1/4, Sec. 32, Twp. 14 S., R. 38 E., B. M. Franklin County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.1
cubic feet per second.

Description and location of use: At home of applicant located on SW 1/4 of NE 1/4, Sec. 32,
Twp. 14 S., R. 38 E., B. M.

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated

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 Commissioner of Reclamation, affixed at Boise, Idaho,
this 12th day of September, 19 29.

GEO. N. CARTER

Commissioner of Reclamation

(SEAL)

