

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 30647
PERMIT No. 22951
DISTRICT No.

1. Name of Applicant: HEBER D. LOWE and LESTER D. LOWE

Postoffice address: Franklin

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:

(b) Treasury stock:

(d) Other resources:

(a) Cash on hand:

(c) Bonds to be issued:

2. Quantity of water claimed: 42/50 or 0.84
Heber D. Lowe 30/50 and Lester D. Lowe 12/50

cubic feet per second.

3. Source of water supply: Spring Creek

which is a tributary of Cub River

4. Location of point of diversion: Heber D. Lowe- SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28;
Lester D. Lowe- NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28;
corner of Section , T. , R. , B.M., and is in the
of Section , T. 16 S. , R. 40 E. , B.M., County of Franklin

5. Water is to be used for Irrigation.

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

(a) Point of use of water: feet distant from corner of Section
T. , R. , B.M., in the of Section , T. , R. , B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to at a point feet
distant from the corner of Section , T. , R. , B.M., in the
of Section , T. , R. , B.M.

7. Estimated cost of works: \$

8. Kind of works: All works consist of permanent dams, one cement, one wood.

9. Height of dam 4 feet; length of dam at top 5-6 feet; length of dam at bottom 5-6

feet; material used in dam: One of concrete and one of wood.
Works are all completed and in use for thirty years or more.

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

11. Ditch: Width at bottom feet; width at water line feet; depth of water feet;

dimensions of flume:

Diameter of pipe inches; length of conduit miles.

Average grade per mile feet.

12. The time required for the completion of such work is None years.

13. The time required for the complete application of the water to the proposed use is None additional years.

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

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

16. (a) Is reservoir to be used? If so, fill in (b) and (c) below:
(b) Name of Reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

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

HEBER D. LOWE
LESTER D. LOWE

Applicant.

By

Heber D. Lowe

Agent.

Date of first receipt at Department of Reclamation: 9:00 A. M. July 8, 1952

Returned to applicant for correction: July 8, 1952

Corrected application received: July 19, 1952

Approval of State Reclamation Engineer

The number of this permit is 22951

Recorded in Book 82 Page 22951 Approved August 15, 1952

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:

Beneficial use of the sum of \$ to be filed on or before

Work to begin on or before Completed 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

The whole of said work to be completed on or before November 15, 1952

Beneficial use of water appropriated in accordance herewith, to be made on or before November 15, 1952

WITNESS My hand this 15th day of August, 1952

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, LEN JORDAN

, Governor of the State of Idaho,

and IRA H. MASTERS

, Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 15th

day of August, 1952.

STATE OF IDAHO

Countersigned:

(SEAL)

By LEN JORDAN

Governor.

By IRA H. MASTERS

Secretary of State.

REMARKS:

This is intended to cover the natural flow at points of diversion together with waste water from adjoining lands which finds its way into the creek channel. This water has been used by the applicant and their father for one thirty years last past, and is now in use. No new works are needed, and applicants are ready to make proof of completion of works and of use of water at any time.

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	
16 S.	40 E.	28					8	6	24	4									42
TO ALL WHOM IT MAY CONCERN:																			
This is to certify that HEBER D. LOWE and LESTER D. LOWE of Franklin, County of Franklin, and State of Idaho, the holders of Permit No. 22951, issued upon Application No. 30647 bearing date of priority of July 8, 1952, authorizing the diversion of 42/50 or 0.84 second foot of the waters of Spring Creek, a tributary of Cub River, County of Franklin, State of Idaho, for irrigation purposes, have 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 0.84 second foot of the waters of Spring Creek; that the points of diversion of said waters are in the SW 1/4 NW 1/4 and NE 1/4 NW 1/4 Section 28, Township 16 South, Range 40 East, B.M., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: Northwest Quarter Section 28, Township 16 South, Range 40 East, B.M.																			
Witness my hand this 12th day of September, A.D. 1952.																			
Proof of completion of works made September 8, 1952. Certificate of completion of works issued September 12, 1952.																			
															MARK R. KULP State Reclamation Engineer				

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS
OF THE STATE OF IDAHO, NO. 22951.

Comes now Heber D. Lowe & Lester D. Lowe and represents to the State Reclamation Engineer of the State of Idaho:

That he is the owner and holder of Permit to appropriate the Public Waters of the State of Idaho, No. 22951.

That the points of diversion are described in said permit as being located SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 South, Range 40 East, B.M.

That he now requests that the points of diversion be changed to two points, both located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 South, Range 40 East, B.M.

That their reasons for desiring to make such change are as follows: An error in the original description.

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

Signed at Franklin, this 16th day of December, 1953.

LESTER D. LOWE
HEBER D. LOWE

Date of receipt at Department of Reclamation December 22, 1953.

APPROVAL OF STATE RECLAMATION ENGINEER

I, Mark R. Kulp, State Reclamation Engineer of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to appropriate the Public Waters of the State of Idaho, No. 22951. This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

MARK R. KULP
State Reclamation Engineer

LICENSE ISSUED FOR 0.82 SEC. FT.

p-5207

✓
July 8, 1952

RE: Application No. 30547

Mr. Heber D. Lowe
Franklin
Idaho

Dear Mr. Lowe:

We acknowledge receipt of the application of yourself and Lester D. Lowe to appropriate 42/50 second foot of water from Spring Creek, accompanied by Mr. P. M. Condie's check for the \$3.00 filing fee.

The sketch map accompanying the application fails to show the course of Spring Creek or the point of diversion. We return same and request that you submit this sketch map in duplicate showing the course of the stream, points of diversion, as well as the land to be irrigated.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

22951

LICENSED
ABSTRACTER

P. M. CONDIE
ATTORNEY AT LAW
PRESTON, IDAHO

RECEIVED
JUL 19 1952
Department of Reclamation

Dear Sir:

Please correct application showing land to be irrigated by Heber D. Lowe to show that is is in West half of Northwest quarter, and Lester D. Lowe in East half of Northwest quarter. 30 acres by Heber and 12 acres, approximately by Lester.

Mr. Lowe did not have correct ideas on this point the other day, but in looking at mapin PMA office, it appears that the land is as above stated.

P. M. Condie.

22951

July 30, 1952

RE: Application No. 30647

Mr. Heber D. Lowe
Franklin
Idaho

Dear Mr. Lowe:

Your application for permit to appropriate water from Spring Creek, a tributary of Cub River, fails to answer Question 15 as to whether or not there are any existing water rights appurtenant to this same land.

We return your application herewith in order that your application may so state.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

22951

NAME OF APPLICANT Robert D. & Lister D. Love

Form No. 0

* Lester W. Lowe diversion point

* Heber to Lorne diversion point

Permit Map No. 2295
As Approved
AUG 15 1952
MARK R. KILP
State Reclamation Engineer

SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.

22951

August 27, 1952

RE: Permit No. 22951

Mr. P. M. Condie
Attorney at Law
Preston, Idaho

Dear Mr. Condie:

We enclose Permit No. 22951 in the name of Heber D. Lowe and Lester D. Lowe together with departmental receipt No. 24630 for the \$5.00 filing fee.

Since the application states that the works are completed and that no additional time is required for making proof of beneficial use, we have allowed 3 months or until November 15, 1952, for making the statutory proofs required to complete the water right.

Proof of completion of works should be made on Form 6 enclosed, executed before a Notary Public and returned to this department with the statutory fee of \$5.00.

Proof of beneficial use requires publication in a local newspaper once a week for four weeks before proof is made. Notice should be made in duplicate on Form 10 enclosed, setting the time and place and naming the Notary Public before whom proof is to be made. Both copies of Form 10 to be returned to this department together with Form 11 which is authorization for us to have the notice published at permit holder's expense in the designated county newspaper. We shall then send a copy of the notice to the newspaper with instructions in regard to publishing.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

22951

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date).....September 8th, 1952.....

(P. O.).....Franklin, 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
Preston Citizen.....of Preston, Idaho,.....published in
the county in which the works are situated.

Lester D. Jones
Lester D. Jones

(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.

22951

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

RECEIVED
SEP 9 1952
Department of Reclamation

STATE OF IDAHO

County of Franklin.

Heber D. Lowe and Lester

D. Lowe, 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. 22951, and that his postoffice address is Franklin, State of Idaho,

Second: That the name of the stream ^{FROM} which said water is to be ^{DIVERTED} directed is Spring Creek

Third: That the point of diversion of said water is Lester D. Lowe in NE $\frac{1}{4}$ NW $\frac{1}{4}$, and Heber D. Lowe in SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Tp. 16 S., R. 40 E., B. M.

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by Nov. 15, 1952

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: Heber D. Lowe: Dam of wooden construction with ditch

Concrete dam with diversion ^(Reservoir, dam, ditch, flume, pipe or otherwise) as to Lester D. Lowe

II. Dimensions of work:

(a) Height of dam 4 feet, length of dam at top 5-6 feet, length of dam at bottom 5-6 feet. Material used in construction Heber D. Lowe has used wood, Lester D. Lowe has used concrete for dams; the ditches are of earth.
(State whether wood, earth, stone or concrete)

(b) Capacity of reservoir 0 acre feet.

(c) Size of headgate: Width 5-6 feet, height 5 feet.

(d) Conduit width at bottom 3 feet, width at water line 4 feet.
(State whether ditch, flume or pipe)

feet, depth of water 1 feet; diameter of pipe 0 inches, average grade per mile is 5 feet. Length of conduit is 1/4 miles.

H. D. Lowe

Seventh: That said works are capable of conducting to the place of intended use 2 second feet of water.

Eighth: That water appropriated under said permit is available for 42 acres of land described as follows: 8 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$, 24 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$ and 4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 28, Tp. 16 S., R. 40 E., B. M.

Ninth: Remarks: That this water has been used constantly for fifty years by the applicants and their father.

Lester D. Lowe
(Sign Here)

Subscribed and sworn to before me this 8th day of September, 1952.

My commission expires Nov. 29, 1954.

F. M. Gaudin
Notary Public.

22951

September 16, 1952

RE: Permit No. 22951

Mr. Heber D. Lowe
Franklin
Idaho

Dear Mr. Lowe:

We enclose Certificate of Completion of Works issued under Permit No. 22951 in the name of yourself and Lester D. Lowe, for the diversion of 0.84 second foot of water from Spring Creek, with points of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 South, Range 40 East, B.M., for the irrigation of land in the NW $\frac{1}{4}$ of said section.

We also enclose departmental receipt No. 24863 for the \$5.00 fee paid in connection with proof of completion of works.

We shall send to the Preston Citizen notice of beneficial use proof to be made on this permit on November 15, 1952, with instructions to publish it once a week for four consecutive weeks prior to that date and to send you the affidavit of publication together with statement of costs.

We are sending Mr. Condie the necessary forms of deposition to be used in making this proof, consisting of one for yourself and one for each of two witnesses and at the time set you should appear before Mr. Condie 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 depositions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.

cc: Mr. P. M. Condie

P. S. The forms of deposition are enclosed.

22951

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

Re: Permit No. 22951

Date: October 1, 1952

Preston Citizen

Preston, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to **November 15, 1952** the date set for proof, the expense of the publication to be paid by the applicant, **Heber D. & Lester D. Lowe** of **Franklin, 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,

MARK R. KULP

State Reclamation Engineer

By

Chief Clerk

22951

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

Notice is hereby given that at 10 A. M. on the 15th day of November, 1952,
at Preston, County of Franklin, State of Idaho, before
P. M. Condie, Notary Public, proof will be submitted of the
application to beneficial use of 42/50ths cubic ^{foot}~~feet~~ per second of the waters of
Spring Creek in accordance with the terms and conditions of Permit No. 22951
heretofore issued by the State Reclamation Engineer of the State of Idaho.

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

Haber D. Lowe and Lester D. Lowe, Franklin, Idaho.

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

The amount applied to beneficial use is 42/50ths cubic ^{foot}~~feet~~ per second

The place where said water is used (if for irrigation, give full and accurate description of the lands irrigated)

Lands in NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 28, Township
16 South, Range 40 East of Boise Meridian, in Franklin County, Idaho.

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

ditches owned exclusively by the applicants.

The right to take water from such works is based upon Permit No. 22951

The source of supply from which such water is diverted is Spring Creek

July 8

The date of priority which said user is prepared to establish is August 15, 1952.

MARK R. KULP

State Reclamation Engineer.

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STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

NOV 17 1952
Department of Reclamation

Permit No. 22951

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. Heber D. Lowe, age 61 years, Franklin, Idaho, farmer, Franklin, Idaho
Lester D. Lowe, age 57 years, Franklin, Idaho, farmer, Franklin, 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. No. 22951, dated Aug 7st 15, 1952, date of priority July 8, 1952.

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

Ans. Spring Creek. In SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, by Heber D. Lowe, and in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, by Lester D. Lowe, in Tp. 16 South, Range 40 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.

Ans. Wood dam with headgate, with ditch of quarter of mile in length, dam is 12 feet wide and 4 feet deep; ditch is 2 $\frac{1}{2}$ feet wide, by Heber D. Lowe
Lester D. Lowe has concrete dam 12 feet wide, 5 feet deep; ditch is 2 $\frac{1}{2}$ to 3 feet in width and quarter of a mile in length.

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. Is used to water land as follows: 8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 24 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, and 1 acre in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Tp. 16 South, Range 40 E. B. M.
Natural meadow land and by use of water produces excellent pasture...

22951

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. 42/50ths of a 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. This water has actually been used for a long period of time and has been diverted as now used for forty years or more.

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. No other water for this land.

(Sign) Lester D. Lane

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 Fresno,
County of Franklin, State of Idaho, on this 15th day of November,
A. D. 1952.

My commission expires Nov. 29, 1954

T. M. Candie
Notary Public

22951

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 22951

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. Sheldon Doney, age 58 years, reside in Franklin, Idaho, farmer.
P. O. Address, Franklin, Idaho.

Ques. 2. Are you acquainted with Heber D. Lowe and Lester D. Lowe, the holder of Permit No. 22951? How long have you known him and where does he reside?

Ans. Yes. All of my life I have known them.

Ques. 3. Have you read or heard read said Permit No. 22951, 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. Spring Creek. Point of diversion: In SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, by Heber D. Lowe, and in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, by Lester D. Lowe, in Tp. 16 So. Range 40 E. B. M.

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. Over one second foot. Have seen a second foot of water conveyed in works. In spring there is much more water than this.

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. 3 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 24 acres in SW $\frac{1}{4}$ NW $\frac{1}{4}$, and 4 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, Tp. 16 So., Range 40 E. B. M. Natural meadow land. Raises good crop of native grasses.

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

Ans. None

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. Black loan soil. Needs at least 42/50ths of a second foot.

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. Have seen it running on the land every year for 40 years. Have rented the Lowe land ~~and~~ (Lester D. Lowe) and have used the water myself on his land and have seen it used on the land of Heber D. Lowe.

(Signed) Sheldon Derry

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 25 day of November,
A. D. 19 52.

J. M. Condie

Notary Public.

My commission expires Nov. 29, 1954.

22951

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 22951

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. Farley B. Dunkley, 76 years, Franklin, Idaho, retired storekeeper.

Ques. 2. Are you acquainted with Heber D. Lowe and Lester D. Lowe, the holder of Permit No. 22951? How long have you known him and where does he reside?

Ans. Yes. Have known them for fifty years.

Ques. 3. Have you read or heard read said Permit No. 22951, 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. Spring Creek. Point of diversion: In SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 28, by Heber D. Lowe and in NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 28, by Lester D. Lowe, in Tp. 16 South, Range 40 E. B. M.

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. Over one second foot. Have seen a second foot conveyed in said works. In spring there would be even more than this.

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. 8 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$, 6 acres in NW $\frac{1}{4}$ NW $\frac{1}{4}$, 24 acres in SW $\frac{1}{4}$ of NW $\frac{1}{4}$ and 4 acres in SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 28, Tp. 16 So. Range 40 E. B. M. Natural meadow land. Raises good crop of pasture grasses.

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

Ans. none

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. Black loam soil. 42/50ths second foot

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. Had a place for several years adjoining the land and I noticed the use of the water; and I have also seen the water used on the land during the present season.

(Signed) Parley B. Dunkley

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 Freston,
County of Franklin, State of Idaho, on this 15 day of November,
A. D. 1952.

J. M. Goodie
Notary Public.

My commission expires November 29th, 1954.

22951

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO,

County of Franklin

Alan E. Smith

, being duly sworn,

deposes and says:

That he is the *Publisher* of

THE PRESTON CITIZEN, a weekly newspaper published at Preston, in the County of Franklin and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Preston; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for *four* consecutive weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with

October 16, 19 *52*, and ending

with the issue of *November 6*, 19 *52*

Alan E. Smith

Fees, \$ *14.50*

Subscribed and sworn to before me this *15th* day

of *November 15*, 19 *52*

P. M. Condie

Notary Public, Residing at Preston, Idaho

My Commission Expires *Nov. 29*, 19 *54*

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10 A. M. on the 15th day of November, 1952, at Preston, County of Franklin, State of Idaho, before P. M. Condie, Notary Public, proof will be submitted of the application to beneficial use of 42/50ths cubic foot per second of the waters of Spring Creek in accordance with the terms and conditions of Permit No. 22951 heretofore issued by the State Reclamation Engineer of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are Heber D. Lowe and Lester D. Lowe, Franklin, Idaho.

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

The amount applied to beneficial use is 42/50ths cubic foot per second.

The place where water is used Lands in NE¼ NW¼, NW¼ NW¼, SW¼ NW¼, and SE¼ NW¼, Section 28, Township 16 South, Range 40 East of Boise

Meridian, in Franklin County, Idaho.

The name of the canal or ditch or other works by which said water is conducted to such place of use is ditches owned exclusively by the applicants.

The right to take water from such works is based upon Permit No. 22951.

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

The date of priority which said user is prepared to establish is July 8, 1952.

Mark R. Kulp,

State Reclamation Engineer.

42-45c

22951

✓
November 17, 1952

RE: Permit No. 22951

Mr. P. M. Condie
Lock Box 348
Preston, Idaho

Dear Mr. Condie:

We acknowledge receipt of the depositions of Heber D. Lowe and Lester D. Lowe, and two witnesses, also affidavit of publication in the Preston Citizen, all in proof of beneficial use under Permit No. 22951.

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 the permit holders at the time he makes the examination so that arrangements may be made to show him over the grounds.

We return your check for \$5.00 which accompanied these proofs, as no fee is due at the present time. After a field inspection has been made we will notify either you or the permit holders in regard to the correct amount, which is at the rate of \$2.00 for each 40 acre subdivision on which the water has been applied. If the water has been used on all of the land described, the correct fee will be \$8.00.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:fg
Enc.
cc: Mr. Heber D. Lowe

22 951

August 19, 1953

RE: Permit No. 22951

Messrs. Heber D. Lowe & Lester D. Lowe
Franklin
Idaho

Gentlemen:

I intend to make inspection, as required by law, in connection with your Permit No. 22951 some time during the week of August 23rd.

This inspection is required by Idaho State Law.

Please be prepared to accompany me on the inspection or have some one familiar with your water system do it for you.

I cannot state the exact day, but will try to contact you, probably by telephone, before making any inspection.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E.N. Humphrey
Deputy State Reclamation Engineer

ENH:pj

22951

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

Permit No. 22951

This proof is for Beneficial use In Water District No.

1. Name of applicant Heber D. Lowe and Lester D. Lowe, Franklin, Idaho
2. Source of water supply: Spring Creek
3. Location of point of diversion: Is in the ^{for Heber D. Lowe, and NE $\frac{1}{4}$ NW $\frac{1}{4}$} SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28 / of Section 28 /
T. 16 S. R. 40 E. County of Franklin

4. Describe works as they exist, giving dimensions and capacities of same. These two tracts of land are portions of the father's estate that was divided to these two sons. Title on a portion of Heber Lowe's land seems to be clouded. Spring Creek barely touches the NW corner of Lester's land and there he has installed concrete headgates approximately 7 feet wide by 42 inches high by 6 feet long and uses flash boards. Distribution is entirely by gravity through small ditches. Spring Creek runs completely through Heber's place and point of diversion is as indicated on the map. There is a dam built of plank and dimension lumber, 4' across by 2' high by 5' long. Flash wings on ~~both~~ side. A small ditch extends from each side but the main irrigation is to the West. Part of the land has already had too much irrigation, especially Lester Lowe's place. This is evidenced by the fact that a greater portion of the place is grown up with slough grass.

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):

Lester D. Lowe- NE $\frac{1}{2}$ NW $\frac{1}{4}$;Heber D. Lowe- S $\frac{1}{2}$ NW $\frac{1}{4}$;NW $\frac{1}{4}$ Section 28, Twp. 16 South, Range 40 East, B. M.

See Map

Acres 28 NW $\frac{1}{4}$ = 80NW $\frac{1}{4}$ = 60SW $\frac{1}{4}$ = 240

SE = 40

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

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

Remarks: The area and locations on this filing were checked very carefully with Mr. Hart in the Assessors office, who is a cousin of the Lowe men.

This examination was made on the 26th day of August, 1953

(Signed) E. M. Humphrey Examiner.

22951



LEN JORDAN
GOVERNOR

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

MARK R. KULP, RECLAMATION ENGINEER

BOISE

November 17, 1953

RE: Permit No. 22951

Messrs. Heber D. Lowe and Lester D. Lowe
Franklin
Idaho

Gentlemen:

The report on inspection for beneficial use on Permit No. 22961 shows that the point of diversion for Lester D. Lowe's land is actually in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 South, Range 40 East, B.M., instead of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ as described in the permit.

Also, that the point of diversion for Heber D. Lowe's land is actually in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, and not in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ as described in the permit.

After leaving you, I went to the Assessor's office and with him checked a map of your area. The placing of the point of diversion and the area are in accord with the map in the Assessor's office.

The report also shows that the land irrigated from Lester D. Lowe's point of diversion includes 1.2 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 11.8 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, or a total of 13 acres.

Also, that the land irrigated from Heber D. Lowe's point of diversion includes 8.4 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, and 19.6 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, or a total of 28 acres.

A license can be issued in both names for a total of 41 inches from both points of diversion for use on 41 acres, as described, the fee for which will amount to \$6.00, being at the rate of \$2.00 for each 40 acre subdivision in which the land is located.

Or, if separate licenses are desired, a license can be issued to Lester D. Lowe for 13 inches from his point of diversion for use on the land above described, and to Heber D. Lowe for 28 inches from his point of diversion for use on his land as above described. In this case there will be license fees amounting to \$4.00 each.

22951

November 17, 1953

In the meantime, it will be necessary for you to file an application for amendment to the points of diversion.

For your convenience, we enclose a form of application for such amendment which you may sign and return to this department for approval and record.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

By

E. N. Humphrey

E. N. Humphrey

Deputy State Reclamation Engineer

A:fg
Enc.

*Mesa Arizona
Dec 18, 1953*

*Dept of Reclamation
Boise Ida*

Dear Mr. Humphrey

at the time your letter

*was written Heber Lowe was in Mesa Arizona, and as
I was going down to spend part of the winter I waited
until I arrived down there to contact Heber, thus the
delay in writing you.*

*Sincerely
Lester Lowe*

RECEIVED
DEC 22 1953
Department of Reclamation

22951

January 5, 1953

RE: Permit No. 22951

Messrs. Heber D. Lowe and Lester D. Lowe
Franklin
Idaho

Gentlemen:

We return your application for amendment to the points of diversion or location of the wells in Permit No. 22951, which has been approved by the State Reclamation Engineer and recorded in this department.

We also enclose License and Certificate of Water Right issued under Permit No. 22951 confirming your right to the use of 0.82 second foot of water from two wells in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, Township 16 South, Range 40 East, B.M., with priority of July 8, 1952, for irrigation of thirteen acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ and twenty eight acres in the S $\frac{1}{2}$ NW $\frac{1}{4}$ of said Section 28, Township 16 South, Range 40 East, B.M.

We also enclose departmental receipt No. 26402 for the \$6.00 license fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/re
Encls.

22951

RECEIVED
JAN 18 1954
Department of Reclamation

Franklin Idaho.
Jan.13,1954

Department Of Reclamation

Mr.Mark R.Kulp
Boise Idaho.

Dear Mr.Kulp:-

We received the license and certificate of water right No.22951 and on checking it over we find that an error has been made in the granting of this right, which specifies the water is to be derived from subterranean wells, which is incorrect, as our original application is from the waters of Spring Creek.

I am returning^{ing} the certificate to you with the request that it be changed to conform with our application.

I am inclosing letter dated Sept,16th. written to Heber D.Lowe and request that you return this letter after reading it over.

(Sincerely
Lester D. Lowe
Lester D.Lowe

22951

State of Idaho
License and Certificate of Water Right

Water License No. 22951 Priority July 8, 1952 Amount 0.82 second foot

THIS IS TO CERTIFY that HEBER D. LOWE and LESTER D. LOWE

of Franklin, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated July 8, 1952; that Permit No. 22951 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 0.84 second foot, was issued thereunder on September 12, 1952, showing that said works were completed on the 8th day of September, 1952; and that on the 19th day of November, 1952, HEBER D. LOWE and LESTER D. LOWE

of Franklin, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of a right to the use of the waters of Spring Creek and subterranean flow for the purpose of irrigation under Use Permit No. 22951 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 9 of Licenses, at Page 5207, on the 30th day of December, 1953;

The right hereby confirmed dates from July 8, 1952;

The Point of Diversion ^{are} located in the NW ¼ NW ¼, Sec. 28, Tp. 16 S., R. 40 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 0.82 cubic feet per second.

Description and location of use:

TWP.	RANGE	SECTION	FORTY-ACRE TRACT	NO. ACRES DESCRIBED IN PERMIT	NO. ACRES ACTUALLY IRRIGATED
16 S.	40 E.	28	NE $\frac{1}{4}$ NW $\frac{1}{4}$	8)	13
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	6)	
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	24)	28
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	4)	
Number of Acres Actually Irrigated					- 41

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 30th day of December, 1953

Mark R. Kulp
State Reclamation Engineer.

22951

State of Idaho

*License and Certificate of
Water Right*

Water License No. 22951

To Heber D. & Lester D. Lowe

Franklin, Idaho

Source of Supply *Spring creek*
~~Shafter Creek~~
a fork of Oak River
~~from two wells~~

Franklin County

Amount 0.82 Sec. Feet

Points of Diversion Both in NW $\frac{1}{4}$ NW $\frac{1}{4}$

Sec. 28, Twp. 16 S., Rge. 40 E. B. M.

Place of Use NW $\frac{1}{4}$ Section 28, Twp.

16 South, Range 40 East, B. M.

Purpose Irrigation

Date of Priority July 8, 1952

Recorded December 30, 1953

in Book 9 of Licenses, Page 5207

22951

✓
January 18, 1954

RE: Permit No. 22951

Mr. Lester D. Lowe
Franklin
Idaho

Dear Mr. Lowe:

We return License and Certificate of Water Right issued under Permit No. 22951 which has been corrected to show the source of the water from Spring Creek.

We are sorry that the error occurred and return herewith the letter addressed to you in this connection September 16, 1952.

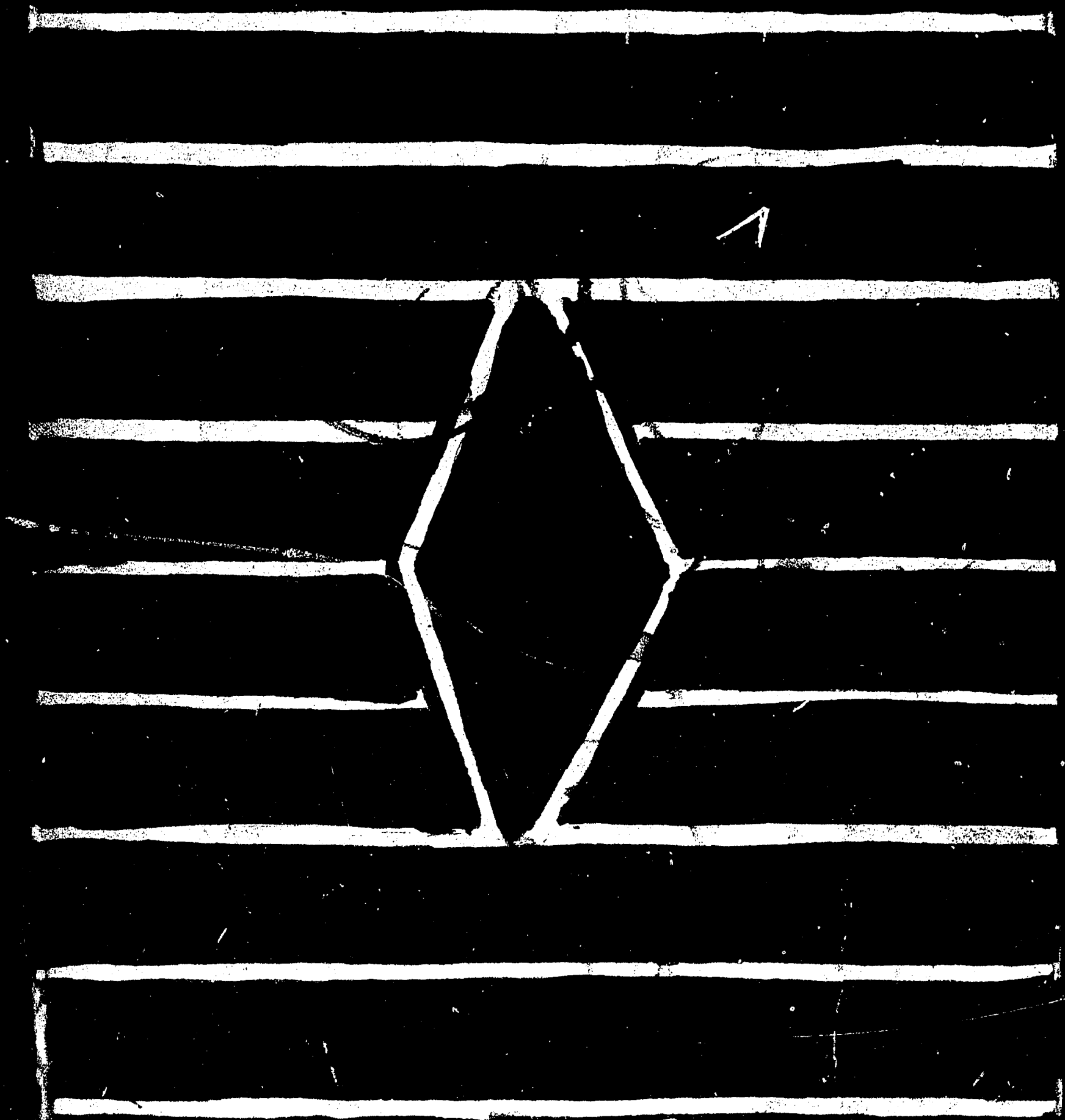
Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:br
Encls.

22951



State of Idaho

License and Certificate of Water Right

Water License No. 22951

Amount 0.82 second foot

Water District No.

Priority July 8, 1952

THIS IS TO CERTIFY that HEBER D. LOWE and LESTER D. LOWE
 of Franklin, Idaho, made application for a permit to appropriate the
 public waters of the State of Idaho, dated July 8, 1952; that Permit No. 22951
 was issued under said application; that Certificate of Completion of works, with a carrying capacity of
 0.84 second foot, was issued thereunder on September 12, 1952, showing that said works
 were completed on the 8th day of September, 1952; and that on the 19th
 day of November, 1952,

HEBER D. LOWE and LESTER D. LOWE
 of Franklin, State of Idaho, made proof to the satisfaction of the
 State Reclamation Engineer of Idaho, of the right to use the waters of Spring Creek

a tributary of Cub River, for the purpose of irrigation
 under Use Permit No. 22951 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

9 of Licenses at page 5207, on the 30th day of December, 1953;

The right hereby confirmed dates from July 8, 1952;

The Points of Diversion are located

in the NW 1/4 NW 1/4, Sec. 28, Tp. 16 S., R. 40 E., B. M. County Franklin

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 0.82 cubic foot per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
16 S.	40 E.	28	NE $\frac{1}{4}$ NW $\frac{1}{4}$	8)	13
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	6)	
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	24)	28
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	4)	
			Number of 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 State Reclamation Engineer, affixed at Boise, Idaho, this
 30th day of December, 1953.

(SEAL)

MARK R. KULP

State Reclamation Engineer.