ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

November 14, 1947

State Reclamation Engineer
State Capitol
Boise, Idaho

Dear Sir:

We are planning on building a reservoir on Spring Creek, about ½ mile north of our mill in Malad for power and irrigation purposes. This dam will be built about 65 feet high and should hold from 500-700 acre feet of water. It would be used by ourselves for power purposes and of course during the summertime it would be used for irrigation. We propose making an earth fill for this dam of sufficient width to give ample protection.

Would like to know the standards of construction required for this type of dam. Also would like to have a formal application for permit for this.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:ic

RECEIVED
NOV 2 1947
Department of Reclamation

P-807

November 18, 1947

Crowther Brothers Milling Company,
Malad, Idaho

Attention- Mr. N. W. Crowther

Dear Sirs:

We do not have any published minimum requirements as to plans and specifications for earth dams.

Plans and specifications are submitted by the applicant for our approval.

Approval depends on the height of the dam, the foundation conditions, spillway, capacity, outlet works, materials, methods of construction, and other minor considerations.

Plans and specifications for a 65 foot dam should be prepared by a competent licensed engineer.

We are enclosing form for application, and rules and regulations in regard to filing same.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:A
Encls.

R-807

ROBINSONS CODE

BIG C HIGH PATENT FLOUR

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

PHONE 81

December 8, 1947

State Bureau of Reclamation
State Capitol
Boise, Idaho

Gentlemen:

Several years ago we filed on what is known as Spring Creek and Devil Creek here in Malad for use of the water for power purposes. Perhaps you already know that the flour mill we are operating has had the undisputed use of this water every since the mill was built in 1867, however we made the formal filing on the water around 1923. At the present time we contemplate the improving of our water power set up and wish to put in a reservoir which will store the spring run off water. This we wish to also use for power purposes, but will probably use it also for irrigation. In as much as we haven't been able to use all of the spring run off water, we are wondering if it would be necessary for us to file a claim for this water in order that there would be no question as to our rights. Just what is necessary?

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:lc

Permit 14632

RECEIVED
DEC
Department of Reclamation

No decreed right.

Permit No. 14056- for 8 c.f.s. from Spring Creek- filed May 26, 1919- Power purposes
Cancelled March 22, 1923- no proofs made.

Used for flour mill on est bank Spring Creek.

The permit states that said water right has not been decreed by court or by permit of the State Engineer, but has been acquired for power purposes by use for 40 years or more by said company and its predecessors in interest.

R-807

4

2. Quantity 773.2 ac ft

Power — Residence

Irrig. Show 155 acres

575 Acre

R-807

December 20, 1947

Crowther Brothers Milling Co.
Malad, Idaho

Attention, Mr. N. W. Crowther

Dear Sirs:

In reply to your letter of December 8, 1947:

For your own protection, we would suggest making application for permit to appropriate and store spring runoff waters, as no valid claim can be made for rights to water that is not used.

Generally, the courts have held that water that cannot be put to beneficial useis unappropriated water and is appropriable by any one who can put it to beneficial use.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:A

R-2

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

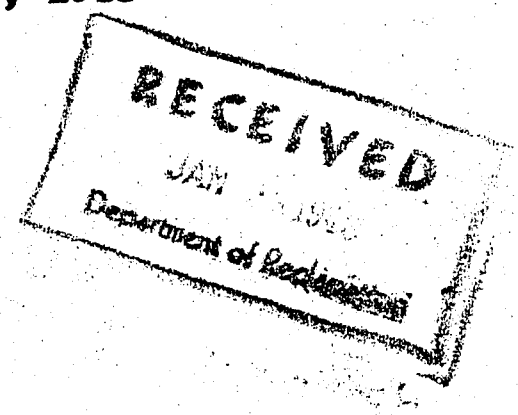
BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

January 21, 1948



State Department of Reclamation
Boise, Idaho

Gentlemen:

We are enclosing our application for permit to construct a reservoir on Spring Creek, about 2500 ft. above our mill site.

This proposed reservoir is to improve our water power conditions as well as protect the community from floods and high water.

We have made a complete survey of the proposed site and find that the reasonable storage capacity is between 700-800 acre ft., and will be filled for power purposes probably several times during the year. However, we will likely arrange to have it full at the opening of the irrigation season so that we can arrange for the surplus water to be used for irrigation purposes. This of course will be done with the Irrigation Company.

In checking the foundation for the dam we find that there is a hard clay formation which gives us an ideal material for water storage as well as for building the reservoir proper.

We have engaged Mr. Wendell K. Smith of Preston, Idaho who is a licensed irrigation engineer to direct the work for us.

We would like to have your ok on this project at the earliest possible moment because we would like to start the contruction of the water pipe line and the foundation of the reservoir about February 1st.

Thanking you for your cooperation, we are

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:ic

R-857

January 24, 1948

Crowther Brothers Milling Company
Malad, Idaho

Attention- Mr. N. W. Crowther

Dear Sirs:

We wish to acknowledge receipt of your letter of January 21st enclosing application for permit to construct a reservoir in the channel of Spring Creek.

In checking the application we find that in Question 2, "Quantity of Water to be Stored", you say, "Should be filled several times annually". It will be necessary to answer this question in terms of acre feet, which cannot be more than the capacity of the reservoir, or 773.2 acre feet.

This application for permit, when approved, will only give you the right to store water up to the capacity of your reservoir. In order to fill the reservoir several times annually, you could use your present water right, as you state that you have an undisputed right to six or eight cubic feet per second, of the waters of Spring Creek.

Under Question 10 you state that the water will be used for power and irrigation. If the application is for the irrigation of land as well as for power, it will be necessary to show the land description, under Question 20, giving the irrigable acreage under each subdivision.

In filing an application for power purposes, it is necessary to also file an affidavit of residence, on the form enclosed.

The filing fee should accompany the application, being at the rate of $5.00 for the first 250 acre feet, and 25 cents additional for each additional 250 acre feet, or fraction thereof. For the 773.2 acre feet, the fee would amount to $5.75.

Your letter states that Mr. Wendell K. Smith will prepare the plans and specifications for this project, and the work can start as soon as these plans and specifications have been approved by this Department. For your information, we enclose a reprint of Section 41-1507, in regard to plans for dams.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Roy M. Thompson
Supervisor of Water Distribution

T:A
Encls.

R-2-7

ROBINSONS CODE

PHONE 81

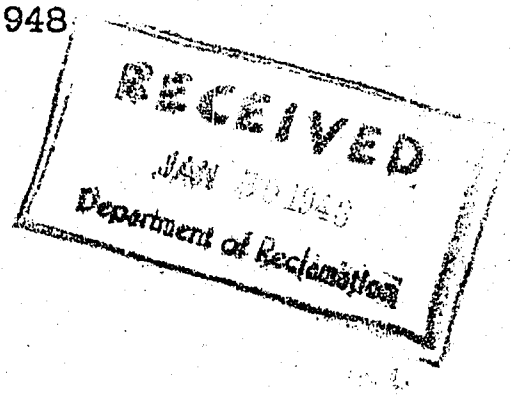
SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

January 28, 1948



State Department of Reclamation
State Capitol
Boise, Idaho

ATTENTION: Mr. Ray W. Thompson

Gentlemen:

Complying with your request of the 24th, we are herewith enclosing our check for $5.75 covering the filing fee per our application for permit to construct a reservoir on ~~Deep~~ Spring Creek.

We are making this application direct for power purposes because we have no definite arrangements for this water to be used for irrigation at the present time. However, we expect that it will be used later on when arrangements are made. In order to facilitate getting the permit passed, we are eliminating the request for any irrigation. Mr. Wendell K. Smith will prepare the plans and specifications for this project and we wish to start work by approximately February 15th. We have given Mr. Smith the information which you gave us on folder No. 41-1507 and he is preparing these plans.

For your information we wish to state that our flour mill has the right to the entire flow of water through Spring Creek and Devil Creek except for what is required for irrigation purposes above the mill during the irrigation season. We would have the entire right to handle all the water for our convenience except during the irrigation season during the summer when we will cooperate with the Irrigation Company.

Trust that this permit can be given immediately.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:ic

R-2(1)

February 2, 1948

Re: Application No. R-27895

Crowther Bros. Milling Co. Attn: Mr. N. W. Crowther
Malad, Idaho

Dear Mr. Crowther:

Reference is made to your application for permit to store 773.2 acre feet of water from Spring Creek and Devil Creek which has been duly filed and we enclose Departmental Receipt No. 20334 for the $5.75 filing fee.

However, the affidavit of residence is returned herewith in order that your signature may be notarized.

We also enclose blank sketch maps of which should be made out in duplicate showing the course of the streams, the location of the reservoir, point of outlet, point of use and place of return to Spring Creek.

We note that Mr. Wendell K. Smith is preparing the plans and specifications and that you wish to start work about February 15, 1948. Before construction can start it is necessary that the plans and specifications be approved by this department and we shall give the matter prompt attention as soon as plans are received.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm
Enc.

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

February 5, 1948

RECEIVED
FEB
Department of Reclamation

Department of Reclamation
State Capitol
Boise, Idaho

ATTENTION: Mr. Mark R. Kulp

Dear Sir:

Per your request of the 31st, we are enclosing herewith a sketch of Spring Creek on which we propose to place our water storage. The reservoir is to be built at the point of intake of the pipe and the pipe will run parallel to the creek down to the point of use, which of course is the point of water return to the original stream of Spring Creek.

We believe that we sent you the wrong application. Will appreciate if you will use the enclosed application and return to us the one which we mailed you with our check.

Mr. Smith, the engineer is mailing you the details specifications of the dam construction today from Preston. However, in the meantime we trust that you will ok the application for permit so that we can complete our plans for the project.

Awaiting your immediate response.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

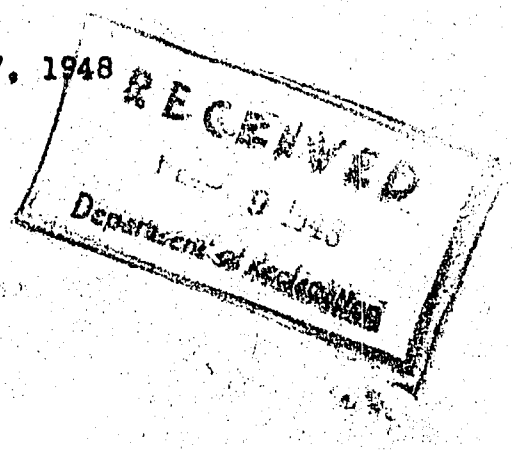
NWC:ic

B-807

WENDELL H. SMITH
ENGINEER
REGISTERED IDAHO - WYOMING
PRESTON, IDAHO

Rt. 2

February 7, 1948



Mr. Mark R. Kulp
State Reclamation Engineer
State House
Boise, Idaho

Dear Mr. Kulp:

Forwarded under seperate cover for your approval are three sets of plans and four sets of specifications for the Crowther Brothers Milling Company dam located at Malad, Idaho.

Complete soil borings have not been made as yet. However, several borings have been made and the findings are shown on the center line profile on sheet 4 of the plans. If further tests holes show a change in the foundation materials the desing will be changed accordingly and your approval of the changes will be obtained.

The drainage area above the dam is approximately 2 square miles. We feel that the spillway will be adequate to take care of any possible floods as there has not been floods in Spring Creek to the knolledge of the residence of the district that it would not have taken care of. However, as a further safety precaution it is possible to leave a small portion of the east end of the dam two or three feet low and dyke it in such a manner that the water could not wash the toe of the dam. For a short flood period this would not be dangerous as most of the water would be carried by the regular spillway. I daubt that water would ever run around the east end of the dam.

We will be glad to furnish any further information that you might desire for approval of the plans. We will also notify you when construction starts on this project and we would appreciate it if you could make an inspection trip about that time.

Very truly yours,

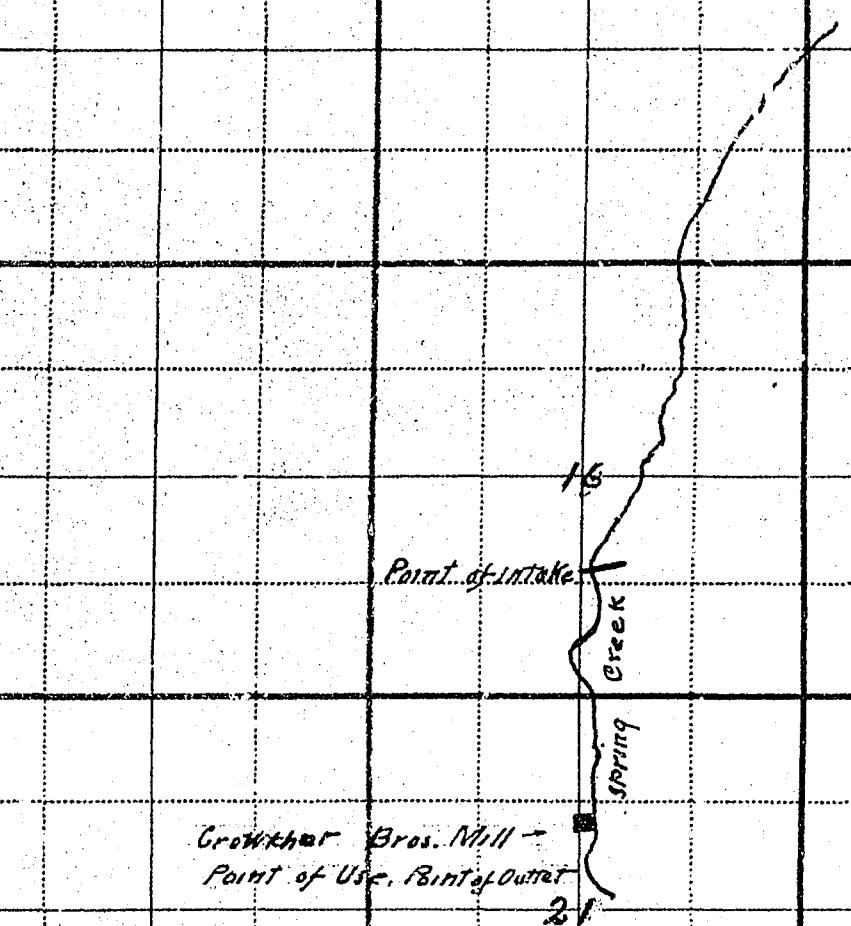
Wendell H. Smith

cc: Crowther Bro. Milling Co.
Malad, Idaho

R-807

NAME OF APPLICANT CROWTHER BROS MILLING CO. MALAD IDAHO

FORM No. O



Permit Map No. R-807
As Approved
FEB 10 1948
MARK R. KULP
Reclamation Engineer

SCALE: 2 INCHES EQUAL 1 MILE. DRAW PLAN IN INK. Sections 16 and 21, T. 14 S. R. 36 E.B.M.

R-807

February 10, 1948

Re: Permit No. R-807

Crowther Bros. Milling Co. Attn: Mr. N. W. Crowther
Malad, Idaho

Dear Mr. Crowther:

We enclose herewith Reservoir Permit No. R-807 and also return the application for this permit originally sent in error. We are also sending you under separate covers the plans and specifications for this dam sent in by Mr. Wendell H. Smith which have been duly approved by the State Reclamation Engineer. A copy of these plans and specifications have been kept on file in this Department.

We note your request for an inspection from this Department about the time construction commenses and if you will advise us ahead of the date, we will try and arrange to have this inspection made.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A/dm
Enc.

cc: Mr. Wendell H. Smith
Rt. 1
Preston, Idaho

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

9-30-48

RECEIVED
OCT 2 1948
Department of Reclamation

Mr. Mark R. Kulp
Bureau of Reclamation
State Capitol
Boise, Idaho

Dear Mr. Kulp:

The reservoir which we have been buidding on Spring Creek is now complete and will appreciate if you will give it an inspection when you come down this way. We intend to store some water in it within the next few days, however we do not expect to put more than around 40 ft. of water for a couplo of weeks. We believe it is all complete except spreading the coarse gravel on the face of the dam which will be done within the next couple of days.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:ic

R-407

Form No. 5

State of Idaho

DEPARTMENT OF RECLAMATION

BOISE

INSTRUCTIONS

PROOF OF COMPLETION OF WORKS

Crowther Brothers Milling Co.

Boise, Idaho December 1, 1948

Malad, Idaho

Dear Sir:s:

Under the terms of your permit No. R-807 you are required to complete your diversion works on or before February 10, 1949. 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,

MARK R. KULP

State Reclamation Engineer

R-807

ROBINSONS CODE PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho Box 368

December 4, 1948

R-R-807

Mr. Mark R. Kulp
Department of Reclamation
Boise, Idaho

Dear Mr. Kulp:

We are enclosing our proof of completion on the reservoir which we completed in October. Perhaps you have the figures on the dimensions on this dam as made up by the engineer who came down to inspect it after it was completed. It is built much wider and stronger than the original specifications called for. In other words, it is at least 45 ft. wide on the top instead of 20 ft. in the original specifications. The slopes on each side are maintained two to one, and three to one per specifications.

You will also note that we are doubly protected with a control gate at the upper end of the pipe line as well as at the foot of the dam. The spilway also is built of heavy 3/16" steel plate pipe instead of the 10 gauge steel which the specifications called for. The opening on the spilway has also 16 ft. of spilway space instead of 10 ft. which was originally called for.

We have had about 35 or 40 ft. of water in the dam so far and there are no signs of leaks whatever.

With your permission we would like to let it fill to the heighth of the present spilway from the spring run off water because that is the only chance we will have before another year 1950. We believe that there would be no danger or risk incurred on account of it being so massivly built and the quality of material that was put into the dam. The clay fill was exceptionally good quality and the tamping was also the very best that could be done.

We would appreciate your permission to let the water from the spring run off fill the dam.

Will you also send us a certificate giving us perpetual right to the use of the entire stream.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

W. W. Crowther

W.W:ic

R-807

Form 15-R

Permit No. R-.....

Proof of Completion of Works

DEPOSITION OF HOLDER

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

Ans. CROWTHER BROS MILLING CO

MALAD IDAHO

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

Ans. CROWTHER BROS MILLING CO MALAD IDAHO

W W CROWTHER SECRETARY

Ques. 3. State number and date of permit, acre feet of water you claim for storage, and source of same.

Ans. PERMIT NO R-807 Approved February 10 1948 TEN SECOND FEET OF WATER NORMAL AND EXTRA SPRING RUNOFF FROM SPRING CREEK DIRECTLY AND DEVIL CREEK RUNNING INTO SPRING CREEK

Ques. 4. Under terms of permit construction was required to be completed by FEBRUARY 1949 19.....

Ques. 5. Construction was actually completed on the date of October 10th 1948 19.....

Ques. 6. Does the construction fully comply with the specifications? Yes, except that it is built with much more massive construction

Ques. 7. Of what material was the dam built? Clay and earth and concrete core, reinforcements etc

Ques. 8. State whether or not the water has been turned into your reservoir, and if so, when and to what extent.

Ans. THE WATER WAS DIVERTED THROUGH THE PIPE UNDER THE DAM ON JULY 4th 1948 and impounding started about October 1st.

Ques. 9. The capacity of the reservoir is 1000 acre feet.

Ques. 10. The area of the high water line of the reservoir is 50 acre acres.

Ques. 11. The height of the dam above bottom of reservoir is 80 feet, above low water is 7 feet.

Ques. 12. The dimensions of the spillway are 5 foot diameter round and the bottom of the spillway is 93 feet below the top of the dam.

Ques. 13. Dimensions of the reservoir outlet are 23 inch Diameter pipe

Ques. 14. Describe the gate and control unit.

Ans. One gate at head of pipe controlled by 1¼ inch rod to the top of dam. One gate in pipe at bottom of dam and diversion gate for diverting water out of pipe at that point.

Ques. 15. The reservoir outlet is made of 2 steel pipe and reinforced concrete.
¼ plate

Ques. 16. Is the reservoir filled through a feeder canal? no, from regular channel of creek SPRING CREEK WHICH IS FED BY DEVIL CREEK, AND OLD MARSH CREEK AT SOURCE

Ques. 17. If so, where is the point of diversion for same?

Ans. ¼ ¼ Section,..... Twp..... Range.....

R-807

Ques. 18. Does the feeder canal comply with the specifications in the permit? .....

Ques. 19. If not, explain .....

Ques. 20. Cost of constructing feeder canal? $..... Cost of reservoir? $ 80,000.00

Ques. 21. State whether or not the works from reservoir outlet to place of use are fully completed, and whether or not they comply with the specifications in permit. If not, explain.

Ans. All completed, with pipeline to the water wheel

Ques. 22. Water has (~~has not~~) been delivered to place of intended use? now in use since JULY

Ques. 23. Give description of dam, state dimensions, and give slope of face both upstream and downstream. Also method and material for protecting against wave action.

Ans. Approximately 110 feet high with 3 to 1 slope on the water side and 2 to 1 slope on the down side. The dam is about 45 feet wide at the top and the full length at the top is 800 feet Coarse gravel 12 to 18 inches thick on dam to take wave action

Ques. 24. State the purpose for which the water is to be used and give the place of use, and if for irrigation, state the number of acres, and give the legal description of same.

Ans. The water is used for power purposes at present and we are now ready to negotiate with the Malad Valley irrigating Co for using at least part of this water for irrigation during the summer months. About 700 acre feet could be used for irrigation

CROWTHER BROS MILLING CO

(Sign here) W. M. Crowther

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 Malad City, County of Oneida, State of Idaho, on this 4th day of Dec A .D. 1948

Jas. P. Jones

Notary Public

My commission expires Nov. 1, 1948

December 11, 1948

Re: Permit No. 807

Crowther Brothers Milling Company,
C/o N. W. Crowther
Malad, Idaho

Re: First filling of reservoir

Dear Sirs:

In view of the fact that your new dam has had but a short settlement period since its completion, and its location with reference to its close proximity to the lives and property of people living immediately below, it is our opinion that a full reservoir pressure should not be applied during the first season after construction of the dam.

It is noted that the capacity table of your reservoir at high water stage indicates 773 acre feet as the full content.

Should the dam fail under full load, the rate of stream flow below would support a flow of 385 second feet for a 24 hour period, and should it fail suddenly it might average over 9,000 second feet for a period of one hour.

While the dam in question is doubtless well built, yet it is the belief of this Department that caution and vigilance are very necessary in the first years of storage behind new earth dams, both in the interest of the owners and also of the people and property below.

It is, therefore, earnestly recommended that you do not fill the reservoir above the 65 foot contour, and that a careful watch be maintained for any signs of seepage, either of the dam proper or of the abutting land adjacent.

Need for vigilance in this respect does not cease when the full storage has been reached, but increases with the length of the storage period.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

F. A. Tolman
Field Engineer

T:A

R-807

C. A. ROBINS
GOVERNOR

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

MARK R. KULP, STATE RECLAMATION ENGINEER

BOISE

December 23, 1948

Re: Permit No. R-807

Crowther Brothers Milling Co.
Box 368
Malad, Idaho

Attention: Mr. N. W. Crowther

Dear Mr. Crowther:

We acknowledge receipt of your letter of December 4 enclosing proof of completion of works in connection with Permit No. R-807.

The deposition is returned herewith in order that you may complete the answer to Question 3 which should show the source of supply and the amount of water claimed.

There is also a fee of $5.00 required by statute in connection with completion of works proof.

Under your storage Permit No. R-807 proof of beneficial use is still to be made.

When satisfactory proof of beneficial use is made, we will issue a license for a definite amount of water. The right will be perpetual as long as it is used but this Department can not issue a license for entire streams. The amount must be definite.

Very truly yours,

Mark R Kulp

MARK R. KULP
State Reclamation Engineer

K/gt
Enc.

R-807

December 23, 1948

Re: Permit No. R-807

Crowther Brothers Milling Co.
Box 368
Malad, Idaho

Attention: Mr. H. W. Crowther

Dear Mr. Crowther:

We acknowledge receipt of your letter of December 4 enclosing proof of completion of works in connection with Permit No. R-807.

The deposition is returned herewith in order that you may complete the answer to Question 3 which should show the source of supply and the amount of water claimed.

There is also a fee of $5.00 required by statute in connection with completion of works proof.

Under your storage Permit No. R-807 proof of beneficial use is still to be made.

When satisfactory proof of beneficial use is made, we will issue a license for a definite amount of water. The right will be perpetual as long as it is used but this Department can not issue a license for entire streams. The amount must be definite.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K/gt
Enc.

R-807

ALFRED C. CORDON
ATTORNEY AND COUNSELLOR AT LAW
CARLSON BUILDING
POCATELLO, IDAHO

Febryary 14, 1949

RECEIVED
FEB 17..
12:30 P.M.
Department of Reclamation

Hon. Mark R.Kulp
State Reclamation Engineer
State House
Boise, Idaho

Attention Jeanne L.Anderson:

I will appreciate it greatly if you can tomorrow (Tuesday) prepare a copy of application, permit and all pares connected therewith ~~ex~~, under which the Crowther dam near Malad, Idaho, is in the course of construction, and prepare same and get it in the mail Tuesday, so that I will get Wednesday morning. The water source I think is Devil and Birch Creeks.
In September you prepared similar data on the Malad Valley Irrigation Company application and permit to sonstruct reservoir and store water from Devil and Birch Creeks, for which you charged me $1.00.

I am enclosing my check for $1.00. If this is not sufficient, please advise and I will forward balance. But do not delay getting papers in mail to me Tuesday.
Thank you,

Very truly yours,

Alfred C. Cordon

Alfred C.Cordon

R-[illegible]

R-807

February 17, 1940

Mr. Alfred C. Cordon
Carlson Building
Pocatello, Idaho

Dear Mr. Cordon:

Your letter dated February 14, and post-marked 8 p.m. February 14 did not reach us until the middle of this afternoon, February 17, 1940.

For that reason, of course, it is impossible for us to get a copy of the Crowther Permit to you by Wednesday morning, but we are sending it by air-mail this afternoon, and we trust that it will reach you in time to be of service.

We enclose Departmental Receipt No 21294 for the $1.00 fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

7-9-1949

RECEIVED
JUL 11 1949
Department of Reclamation

Mr Mark Kulp
State Dep't of reclamation
Boise

Dear Mr Kulp:

You will recall that we have filed claim for the spring runoof waters on Spring creet and Devil Creek here in Malad to be used for Power purposes.

Our Flour mill has had the right to the regular flow of the water from these two streams for the entire time since the mill was built in 1867.

During the irrigation season the irrigation Company uses the natural flow of the streams but the water also passes through our wheel for power purposes.

We do not know that filing has been made with the bureau of reclamation for this water for power purposes, but we have of course assumed the mill had acquired the right through use.

The irrigation Company has been planning on using, and impounding the entire streams during the non irrigation pericd which would deprive us completely of our power rights.

We are wondering if our rights will stand
Or just what the irrigation Company can demand.

?Any information from you would be appreciated.

Yours very truly

NWC:C

CROWTHER BROS MILLING CO

P-807

R-807

July 20, 1949

Crowther Bros. Milling Co.
Malad, Idaho

Attention: Mr. N. W. Crowther

Dear Mr. Crowther:

While we can not give you a legal opinion in answer to your letter of July 9, 1949, the courts have recognized rights acquired by use and a continuous all season use since 1867 should give you a right which the court could recognize and confirm.

Permits from the State are for the appropriation of unappropriated water and as in your case, we have no record of previous use rights that have not been adjudicated by the courts.

If satisfactory arrangements can not be reached with the irrigation company to protect the rights which you claim by use, the alternative is to have the relative rights determined by the court.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

December 1, 1948

Crowther Bros, Milling Co.

Malar, Idaho

Dear Sirs:

We enclose herewith blank notice for proof of application of water to beneficial use under your Permit No. R-807. This notice should be filled out in duplicate and returned to this office at least 40 days before the date upon which you wish to make this proof, in order to allow time for the four weeks' publication required by law.

This proof must be submitted before a Notary Public or other officer authorized by law to administer oaths.

The date for proof, as set out in your permit, is not later than February 10, 1950, and if proof is submitted later than said date, your priority will be brought down a length of time equal to the time elapsing between the date the proof is due and the date proof is actually made.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

R-807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

December 1, 1949

Crowther Bros, Milling Co.

Malar, Idaho

Dear Sirs:

We enclose herewith blank notice for proof of application of water to beneficial use under your Permit No. R-807. This notice should be filled out in duplicate and returned to this office at least 40 days before the date upon which you wish to make this proof, in order to allow time for the four weeks' publication required by law.

This proof must be submitted before a Notary Public or other officer authorized by law to administer oaths.

The date for proof, as set out in your permit, is not later than February 10, 1950, and if proof is submitted later than said date, your priority will be brought down a length of time equal to the time elapsing between the date the proof is due and the date proof is actually made.

Very truly yours,

MARK R. KULP

State Reclamation Engineer

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 12-2-1949

RECEIVED
DEC 5 1949
Department of Reclamation

Mr Mark Kulpp:
State Department of Reclamation
Boise

Dear Mr Kulp:

We are enclosing papers for final proof of our right for water of Spring Creek and Devil Creek, to be used through our Reservoir which was completed in October 1948.

In the notice of proof papers which we have filled out, we have indicated that the water accumulated during the winter and spring will be distributed to Malad Valley Irrigating Co during the irrigation period.

When we applied for this water storage originally we indicated that it would be used for power, but it was used in 1949 by the Irrigation this year and we assume that this storage water will be used egery year for irrigation after using it for power through our water wheel.

If you think this item should be erased from our notice of proof application, it will be OK to do so.

Thanking you for your co operation, we are,

Yours very truly,

CROWTHER BROS MILLING CO

R-607

December 5, 1949

Re: Permit No. R-807.

Crowther Bros. Milling Company
Malad, Idaho

ATT: Mr. N. H. Crowther

Dear Mr. Crowther:

We acknowledge receipt of your letter of December 2, 1949, enclosing duplicate notices of Beneficial Use Proof to be made under Permit No. R-807.

Since the Permit is for power use only, the statement in regard to irrigation use for the Malad Valley Irrigating Company should not be included in this proof.

We also call attention to the fact that the priority to be established under this Permit cannot be earlier than the date the application was filed in this Department, namely January 30, 1948, although perhaps an earlier date might be established through the District Court by proving earlier use.

The amount for which proof can be made is the 773.2 acre feet per annum described in Permit No. R-807.

If you will advise us as to the date on which you wish to make proof, and also the Notary Public before whom the proof is to be made, we shall make the proper form of notice and send a copy to the Idaho Enterprise with instructions in regard to publishing.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 12-6-1949

RECEIVED
DEC 8
Department of Reclamation

State Dep't of Reclamation
Boise

Dear Mr Kulp:

Thanks for yours of the 5th regarding establishing proof on our water claims.

Mr T E Ray here at Malad will do the notorizing for us. He is the attorney here.

It will also be satisfactory to delete the statement regarding distribution of the water through Malad Valley irrigation Co

The Reservoir will actually store 1000 acre feet or more, and if possible would like to mention that much in this proof.

Thanking you for your co operation, we are,

Yours very truly,

CROWTHER BROS MILLING CO

2-10

R-807

December 8, 1948

Re: Permit No. R-807

Crowther Bros. Milling Co.
Malad, Idaho

ATT: Mr. N. W. Crowther.

Dear Mr. Crowther:

We have completed Notice of Beneficial Use Proof under Permit No. R-807, naming Mr. T. E. Ray as Notary Public. You did not set the date for making the proof, so we have set 10:00 A.M. January 10, 1950 as the time which is about the earliest date to allow for the statutory four weeks publication. If this date is not satisfactory, you may contact the Idaho Enterprise in regard to a change and notify this Department accordingly.

We note your request to have the proof show that your reservoir will actually store a thousand acre feet or more. The notice can only show the amount claimed in your Permit, or 773.2 acre feet, but the proofs of yourself and two witnesses may show the larger amount of storage.

A copy of the notice has been sent to the Idaho Enterprise with instructions to publish it once a week for four consecutive weeks prior to the date set for proof and to furnish you with the Affidavit of Publication, together with the statement of costs.

Enclosed are the forms of deposition to be used in making this proof and at the time set, you should appear before Mr. T. E. Ray, Notary Public, together with two disinterested witnesses who are familiar with the terms of the Permit and the work done thereunder for the purpose of executing the depositions.

Very truly yours,

MARK R. TULP
State Reclamation Engineer
By

A:bh
Enc.

Chief Clerk

R-807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Date: December 8, 1949

RECEIVED
DEC - 1949
Department of Reclamation

Re: Permit No. R-807

Idaho Enterprise

Malad, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to January 10, 1950 the date set for proof, the expense of the publication to be paid by the applicant, Crowther Bros.Milling Co. Malad, 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 Jeanne L. Anderson
Chief Clerk

This notice will appear in Enterprise Dec. 15, 22, 29 and Jan. 6

Yours respectfully
Idaho Enterprise

Marion Hanson

R-807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Date: December 8, 1949

Re: Permit No. R-807

Idaho Enterprise

Malad, Idaho

Gentlemen:

Enclosed you will find notice for publication once a week for four consecutive weeks prior to January 10, 1950 the date set for proof, the expense of the publication to be paid by the applicant, Crowther Bros. Milling Co. Malad, 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. KIPP

State Reclamation Engineer

By

Chief Clerk

R-807

Form 10

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 A. M. on the 10th day of January, 19 50, at Malad, County of Oneida, State of Idaho, before T. E. Rey, Notary Public, proof will be submitted of the application to beneficial use of 773.2 / ~~cubic feet per second~~ acre feet per annum of the waters of DEVIL CREEK AND SPRING CREEK in accordance with the terms and conditions of Permit No. R-807 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are CROWTHER BROS. MILLING CO., MALAD, IDAHO.

The use to which said water has been applied is WATER POWER FOR FLOUR MILL.

The amount applied to beneficial use is 773.2 acre feet per annum.

The place where said water is used (~~if for irrigation, give full and accurate description of the lands irrigated~~) Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R-807

The source of supply from which such water is diverted is DEVIL CREEK AND SPRING CREEK.

The date of priority which said user is prepared to establish is January 30, 1948.

MARK R. KULP
State Reclamation Engineer.

R-807

Form 10

NOTICE FOR PUBLICATION

NOTICE OF PROOF APPLICATION OF WATER TO BENEFICIAL USE

Notice is hereby given that at 10:00 A. M. on the 10th day of January, 1950, at Malad, County of Oneida, State of Idaho, before T. E. Ray, Notary Public, proof will be submitted of the application to beneficial use of 773.2 acre feet per annum ~~cubic feet per second~~ of the waters of DEVIL CREEK AND SPRING CREEK in accordance with the terms and conditions of Permit No. R 807 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are CROWTHER BROS MILLING CO MALAD IDAHO

The use to which said water has been applied is WATER POWER FOR FLOUR MILL

The amount applied to beneficial use is 773.2 acre feet per annum ~~ENTIRE STREAM~~

The place where said water is used (~~if for irrigation, give full and accurate description of the lands irrigated~~) ~~ABOUT 1000 ACRE FEET OF STORED WATER WILL BE DISTRIBUTED THROUGH THE PRESENT IRRIGATION DITCHES OF MALAD VALLEY IRRIGATION CO. DURING THE IRRIGATION SEASONS.~~

Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R 807

The source of supply from which such water is diverted is DEVIL CREEK AND SPRING CREEK

The date of priority which said user is prepared to establish is January 30, 1948 ~~SEPTEMBER 1867 until com/~~ ~~HOWEVER APPLICATION FOR RESERVOIR WAS APPROVED BY DEPARTMENT OF RECLAMATION FEBRUARY 10 1948; the dam was fully completed October 1 1948~~

MARK R. KULP
State Reclamation Engineer.

R-807

Form No. 11

NOTICE TO ACCOMPANY THIS LETTER MUST BE MADE IN DUPLICATE

(Date) DEC 2-1949

(P. O.) MALAD 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 IDAHO ENTERPRISE of MALAD IDAHO published in the county in which the works are situated.

CROWTHER BROS MILLING CO

[signature]

Secy.

(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.

R-[illegible]7

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 12-19-1949

Mr Mark Kulp
State Department of Reclamation
Boise Idaho

Dear Mr Kulp:

We notice from the first publication of our claim for Final Proof of the water we are using, that you do not mention the fact that we are and have been using the natural stream of water from Devil Creek and deep creek since the mill was built in 1867.

While we cannot record our filing date back to the original date, we should include the registration of this use of the natural stream in its entirety from the date of January 10 1948 when we made application for the surplus run off water for storage.

Would appreciate including the above claim if it is practical.

Thanking you for your co operation in this matter, we are,

Yours very truly,

CROWTHER BROS MILLING CO

RECEIVED
DEC
Department of Reclamation

R 607

December 21, 1949

Re: Permit No. 807

Crowther Brothers Milling Company
Malad, Idaho

ATT: Mr. N. F. Crowther

Dear Mr. Crowther:

Your letter of December 19, 1949 reached the office this morning during Mr. Kulp's absence and as he will not be back in the office until next week, I am taking the liberty of answering it.

While there is no doubt that your early priority on this water could be established through the District Court by proving usage, the only priority that can be established under Permit No. R-807 is the date the application was filed in this Department.

However, as you know, your statement as to your early priority is noted on our record of Permit No. R-807 and reference to it can also be made in the depositions of yourself and your two witnesses in making Beneficial Use Proof.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh

R-807

ALFRED C. CORDON
ATTORNEY AND COUNSELLOR AT LAW
CARLSON BUILDING
POCATELLO, IDAHO

December 28, 1949

RECEIVED
DEC 29 1949
Department of Reclamation

Mr. Mark R. Kulp
State Engineer
Boise, Idaho

Dear Mr. Kulp:

RE: Crowther Bros. Milling Co.
Malad, Idaho

Refering to notice being published by you that Crowther Bros. Milling Co. is making proof at Malad before T. E. Ray, Notary Public, on application to store the water of Spring Creek and Devil Creek in a reservoir located in the channel of Spring Creek--water to be used for water power purposes, reservoir capacity is 773.2 acre feet.

Please advise whether or not your department has measured the water actually stored in said reservoir at the present time. If you have not already measured such water, will you do so on or before the hearing on January 9, 1950? Please advise date when you will make such measurements.

Thank you for immediate reply.

Very truly yours,

Alfred C. Cordon

Alfred C. Cordon
for Malad Valley Irrigation Co.

ACC/smv

P-207

R-807

December 29, 1949

Mr. Alfred C. Cordon
Carleson Building
Pocatello, Idaho

Re: Permit No. R-807
Crowther Bros. Milling Co.

Dear Mr. Cordon:

The Department of Reclamation has not made any measurements of water actually stored in the reservoir at the present time, and probably will not make such measurements until next spring, when the storage can be ascertained from the high water mark and capacity tables.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

R-807

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

Notice is hereby given that at 10:00 A. M. on the 10th day of January, 1950, at Malad, County of Oneida, State of Idaho, before T. E. Ray, Notary Public, proof will be submitted of the application to beneficial use of 773.2 acre feet per annum of the waters of DEVIL CREEK AND SPRING CREEK in accordance with the terms and conditions of Permit No. R-807 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are CROWTHER BROS. MILLING CO., MALAD, IDAHO.

The use to which said water has been applied is WATER POWER FOR FLOUR MILL.

The amount applied to beneficial use is 773.2 acre feet per annum.

The place where said water is used—Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R-807.

The source of supply from which such water is diverted is DEVIL CREEK AND SPRING CREEK.

The date of priority which said user is prepared to establish is January 30, 1943.

MARK R. KULP
State Reclamation Engineer

12-15-1-6-t4

12-15-49

December 31, 1949

Re: Permit No. R-807

Idaho Enterprise
Malad, Idaho

Gentlemen:

On December 15th we received an acknowledgment of notice sent you for publication of proof of beneficial use under Permit No. R-807 of the Crowther Bros. Milling Co., stating that the notice would appear in your issues of Dec.15, 22,29, and Jan. 5.

To date we have not received a copy of any of your issues containing this notice, and we would appreciate receiving a copy, as requested in our letter of transmittal.

Thanking you, we are,

Very truly yours,

MARK R. KUIP
State Reclamation Engineer
By

A Chief Clerk

R-807

ROBINSONS GOBII

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

December 28, 1948

RECEIVED
DEC 31
Department of Reclamation

State Department of Reclamation
Mr. Mark R. Kulp
State Capitol
Boise, Idaho

Dear Mr. Kulp:

Thanks for yours of the 23rd, with reference to our permit number R-807 covering the water which we are using through our new reservoir. We are enclosing $5.00 covering the certificate of completion.

With reference to the right for perpetual use of this water and the definite proof that the water is being used for beneficial purposes, will say that this reservoir is on the stream which we have been using for power purposes every since the mill was built in 1867. We are using the same stream through the reservoir but it is being used to a much better advantage now than previously on account of the storage facilities for storing the water when the power is not required. This should be sufficient to prove that the water is being used for beneficial purposes.

Yours very truly,

CROWTHER BROS. MILLING COMPANY

N. W. Crowther

NWC:ic

PS: We have had approximately 45 ft. of water in the reservoir about six weeks ago and during the recent freezing weather the water had lowered, perhaps 10-15 ft. Now with soft weather which is expected during early January, we would like to fill this up again to possibly the 60 ft. level if it is advisable. There has been no sign of any seepage through or below the dam at any time as yet.

R-807

Jenuery 11, 1949

Re: Permit No. R-807

Crowther Brothers Milling Company
Mo1ad, Idaho

Attention: Mr. N. W. Crowther

Dear Mr. Crowther:

We enclose Certificate of Completion of Works issued under your Permit No. R-807 for the storage of 773.2 acre feet per annum of the waters of Spring Creek and Devil Creek, also Departmental Receipt No. 21169 for the $5.00 fee paid in connection with completion of works proof.

While we have no record of your water right dating from 1867, we have no doubt but what it could be easily established in any court. However, you have never stored 1000 acre feet in a reservoir and R-807 when completed to license will confirm the storage right without attempting to define your vested right in the streams.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K/gt
Encls.

R-807

BEFORE THE DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO

IN THE MATTER OF PROOF OF APPLICATION)
OF WATER TO BENEFICIAL USE BY THE CR-) PROTEST OF MALAD VALLEY
OWTHER BROS. MILLING CO. MALAD, IDAHO) IRRIGATING COMPANY

STATE OF IDAHO)
: ss.
COUNTY OF ONEIDA)

Leroy O. Daniels and Parry D. Harrison, being each separately duly sworn, each for himself deposes and says:

That Leroy O. Daniels is the duly elected, qualified and acting president and Parry D. Harrison, is the duly elected, qualified and acting secretary of the Malad Valley Irrigating Company, a corporation, and makes this affidavit for and on behalf of said corporation.

That the Malad Valley Irrigating Company, a corporation, desires to and hereby protests against the statements made by the Crowther Bros. Milling Co., of Malad, Idaho, submitting proof of the beneficial application of water, as shown in the published notice of its intention to submit proof of the application to beneficial use of 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek in accordance with the terms and conditions of Permit No. R-807 heretofore issued by the Department of Reclamation of the State of Idaho, such notice of intention being designated "Notice for Publication-Notice of Proof Application of Water to Beneficial Use" and sighed by Mark R. Kulp, State Reclamation Engineer, and published in the Idaho Enterprise, a weekly newspaper published at Malad, Idaho, for once a week for four successive weeks, first publication on or about December 15, 1949 and last publication on or about January 5, 1950, and which said notice further states as follows:

The use to which said water has been applied is Water Power for Flour Mill.

The amount applied to beneficial use is 773.2 acre feet per annum.

The place where said water is used--Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R-807.

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

The date of priority which said user is prepared to establish is January 30, 1948.

R-807

The reasons for this protest and the reasons why a license should not be issued to Crowther Bros. Milling Co., confirming the right claimed are as follows:

That Crowther Bros. Milling Co. is not entitled to a license for 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek or any part thereof.

That Crowther Bros. Milling Co. has not made application to beneficial use of 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek, in that it has not stored such waters in a storage reservoir to be constructed at Lot 7, Block 20, Malad City Townsite, as required by Permit No. R-807, issued by the Department of Reclamation of the State of Idaho.

That the Department of Reclamation, Commissioner of Reclamation of the State of Idaho, issued Permit No. R-26409 and Permit No. R-682, Septmeber 6, 1940, to the Malad Valley Irrigating Company, a corporation, to construct a reservoir with a capacity of 6,000 acre feet in the channel of said Devil Creek and store therein all the flood and natural flow of the waters of said Devil Creek. That on January 2nd, 1946 Mark R. Kulf, State Reclamation Engineer of the State of Idaho, extended the time for completion of works to September 6, 1949, and on September 3rd, 1949 again extended the time for completion of said reservoir and other construction works required under the provisions of Permit No. R-682 for a period of time equal to the time during which the Malad Irrigating Company is delayed in proceeding with its work and complying with said requirements of said permit, such extention of time to be dated from September 6th, 1949 being the date when Proof of Completion of Works is now due under the terms of said Permit No. R-682 and an extension thereof.

That the right to store and use the waters of said Devil Creek by Malad Valley Irrigating Company is prior in time and superior to the right to store and use such waters by Crowther Bros./Milling Co.

Leroy O. Daniels

Leroy O. Daniels

Parry D. Harrison

Parry D. Harrison

Subscribed and sworn before me this 4th. day of January, 1950.

(SEAL)

Notary Public
Residing at Malad, Idaho

B-207

- copy -

BEFORE THE DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO

IN THE MATTER OF PROOF OF APPLICATION)
OF WATER TO BENEFICIAL USE BY THE CR-)
OWTHER BROS. MILLING CO. MALAD, IDAHO)

PROTEST OF MALAD VALLEY IRRIGATING COMPANY

STATE OF IDAHO)
: ss.
COUNTY OF ONEIDA)

Leroy O. Daniels and Parry D. Harrison, being each separately duly sworn, each for himself depoues and says:

That Leroy O. Daniels is the duly elected, qualified and acting president and Parry D. Harrison, is the duly elected, qualified and acting secretary of the Malad Valley Irrigating Company, a corporation, and makes this affidavit for and on behalf of said corporation.

That the Malad Valley Irrigating Company, a corporation, desires to and hereby protests against the statements made by the Crowther Bros. Milling Co., of Malad, Idaho, submitting proof of the beneficial application of water, as shown in the published notice of its intention to submit proof of the application to beneficial use of 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek in accordance with the terms and conditions of Permit No. R-807 heretofore issued by the Department of Reclamation of the State of Idaho, such notice of intention being designated "Notice for Publication-Notice of Proof Application of Water to Beneficial Use" and signed by Mark R. Kulp, State Reclamation Engineer, and published in the Idaho Enterprise, a weekly newspaper published at Malad, Idaho, for once a week for four successive weeks, first publication on or about December 15, 1949, and last publication on or about January 5, 1950, and which said notice further states as follows:

The use to which said water has been applied is Water Power for Flour Mill.

The amount applied to beneficial use is 773.2 acre feet per annum.

The place where said water is used--Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R-807.

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

The date of priority which said user is prepared to establish is January 30, 1948.

P 601

The reasons for this protest and the reasons why a license should not be issued to Crowther Bros. Milling Co., confirming the right claimed are as follows:

That Crowther Bros. Milling Co. is not entitled to a license for 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek or any part thereof.

That Crowther Bros. Milling Co. has not made application to beneficial use of 773.2 acre feet per annum of the waters of Devil Creek and Spring Creek, in that it has not stored such waters in a storage reservoir to be constructed at Lot 7, Block 20, Malad City Townsite, as required by Permit No. R-807, issued by the Department of Reclamation of the State of Idaho.

That the Department of Reclamation, Commissioner of Reclamation of the State of Idaho, issued Permit No. R-26409 and Permit No. R-682, September 6, 1940, to the Malad Valley Irrigating Company, a corporation, to construct a reservoir with a capacity of 6,000 acre feet in the channel of said Devil Creek and store therein all the flood and natural flow of the waters of said Devil Creek. That on January 2nd, 1946 Mark R. Kulp, State Reclamation Engineer of the State of Idaho, extended the time for completion of works to September 6, 1949, and on September 3rd, 1949 again extended the time for completion of said reservoir and other construction works required under the provisions of Permit No. R-682 for a period of time equal to the time during which the Malad Irrigating Company is delayed in proceeding with its work and complying with said requirements of said permit, such extension of time to be dated from September 6th, 1949 being the date when Proof of Completion of Works is now due under the terms of said Permit no. R-682 and an extension thereof.

That the right to store and use the waters of said Devil Creek by Malad Valley Irrigating Company is prior in time and superior to the right to store and use such waters by Crowther Bros. Milling Co.

Leroy O. Daniels

Parry D. Harrison

Subscribed and sworn before me this 4th. day of January, 1950.

(SEAL)

H. E. THOMAS
Notary Public
Residing at Malad, Idaho

ALFRED C. CORDON
ATTORNEY AND COUNSELLOR AT LAW
CARLSON BUILDING
POCATELLO, IDAHO

January 6, 1949

RECEIVED
JAN 7 1950
Department of Reclamation

Department of Reclamation
State House
Boise, Idaho

Attention Mr. Mark R. Kulp:
State Reclamation Engineer

RE: Permit No. R-807
Crowther Bros. Milling Co.

I hand you herewith protest of Malad Valley Irrigating Company against statements by the Crowther Bros. Milling Co. in connection with the above numbered permit.

Kindly mail me receipt of protest and advise me if you charge any fees, if so the amount thereof which I will promptly remit.

Very truly yours,

Alfred C. Cordon

ACC/smv

R-807

January 7, 1950

Re: Permit No. R-807

Mr. Alfred C. Cordon
Carlson Building
Pocatello, Idaho

Dear Mr. Cordon:

We acknowledge receipt of your letter of January 5, 1950, enclosing Protest of the Malad Valley Irrigating Company against Beneficial Use Proof under Permit No. R-807.

This will be given due consideration before final action is taken in the matter.

There are no fees in connection with the filing of said protest.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

January 10, 1950

RECEIVED
JAN 12 1950
Department of Reclamation

Mark R. Kulp
Department of Reclamation
State Capitol
Boise, Idaho

Dear Mr. Kulp:

We are enclosing proof No. 807R for the application of water for beneficial use covering the water we are using regularly, together with rights for storage of water in our resevoir built in 1948. The advertising has been done in the Idaho Enterprise and the witnesses have signed as to the actual us of the water.

You will note that one of these witnesses is Alpheous Jones, whose father owned the flour mill for many years previus to our acquisition in 1912. The other witness is the engineer who made the original survey for the resevoir. He is also a contractor and has been working in Malad for the past forty years and doing a lot of work for us.

We trust this will complete proof as to our right to the full continual stream of Birch Creek, Mill Creek, Devil Creek, and Spring Creek for power purposes except during the actual irrigation period.

All water is used for power purposes except what is devirted to the share holders of Malad Valley Irrigation Company living above the dam. during irrigation period.

Yours very truly,

CROWTHER BROTHERS MILLING CO.

N. W. CROWTHER

P.S. We are wondering if it would be possible to get a copy of the Malad Valley Irrigation Company's file recently on this water for irrigation purposes. Also of the protest which was registered by the Marsh Valley Farmers against their filing.

P-807

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 807-R

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. ALPHEOUS JONES AGE 64 FARMER, ADDRESS 461 MILL ST. MALAD IDAHO

Ques. 2. Are you acquainted with CROWTHER BROS MILLING CO, the holder of Permit No. 807-R? How long have you known him and where does he reside?

Ans. 37 Years residing at Malad Idaho

Ques. 3. Have you read or heard read said Permit No. 807-R, 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. THE SOURCE OF THIS WATER IS BIRCH OR MILL CREEK, RUNNING INTO DEVIL CREEK THENCE INTO SPRING CREEK WHERE THE RESERVOIR IS BUILT. THERE IS A 22 inch and 23 inch PIPE LINE CONNECTING THE RESERVOIR WITH THE POWER PLANT AT THE FLOUR MILL, WHERE ALL THE WATER FROM ABOVE STREAMS IS USED FOR POWER PURPOSES,

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. ABOUT 30 second feet , however the water wheel is built to handle 15 second feet on account of the small normal stream

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. THIS WATER IS USED FOR POWER PURPOSES AT CROWTHER BROS MILL. DURING THE IRRIGATION SEASON THE WATER IS DIVERTED FOR IRRIGATION JUST BELOW THE FLOUR MILL AT THE DIVERSION GATES OWNED BY THE IRRIGATION CO .SOME OF THE WATER IS DIVERTED ABOVE THE RESERVOIR DURING THE IRRIGATION SEASON, FOR IRRIGATION OF LANDS ON THE BENCH LAND ABOVE SPRING CREEK.

R 807

RECEIVED
JAN 14 1950
Department of Reclamation

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

Notice is hereby given that at 10:00 A. M. on the 10th day of January, 1950, at Malad, County of Oneida, State of Idaho, before T. E. Ray, Notary Public, proof will be submitted of the application to beneficial use of 773.2 acre feet per annum of the waters of DEVIL CREEK AND SPRING CREEK in accordance with the terms and conditions of Permit No. R-807 heretofore issued by the Department of Reclamation of the State of Idaho.

The name and postoffice address of the person or corporation holding said permit are CROWTHER BROS. MILLING CO., MALAD, IDAHO.

The use to which said water has been applied is WATER POWER FOR FLOUR MILL.

The amount applied to beneficial use is 773.2 acre feet per annum.

The place where said water is used—Lot 7, Block 20, Malad City Townsite.

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

The right to take water from such works is based upon Permit No. R-807.

The source of supply from which such water is diverted is DEVIL CREEK AND SPRING CREEK.

The date of priority which said user is prepared to establish is January 30, 1948.

MARK R. KULP
State Reclamation Engineer
12-15-1-6-14

Affidavit of Publication

State of Idaho } ss.
County of Oneida }

Sylvia Stratton being first duly sworn on her oath, states: That she is Associate Clerk of the Idaho Enterprise, a newspaper of general circulation in Oneida County, Idaho published weekly at Malad, in said county, that said newspaper has been published in said county uninterruptedly and continuously for over seventy eight consecutive weeks, prior to the first publication of the annexed notice or advertisement:

That said Idaho Enterprise was at all of the times of publication of said notice a newspaper of general circulation made up of at least four pages of at least five columns each, printed from type matter or stereotyped forms of at least seventeen and three fourths inches depth, and said newspaper during all of the times of publication aforesaid had more than 200 bonafide subscribers thereto living within the county of Oneida in which said newspaper was published, and that said paper was published at regular intervals not less frequently than once a week.

That the annexed notice was published as per clipping attached in the regular and entire edition of said newspaper and not in any supplement thereof for 4 successive weekly issues thereof the date of the first publication being the 15 day of December 1949 the date of the last publication being the 6 day of January, 1950.

Sylvia Stratton

Subscribed and sworn to before me this 9 day of January, 1950.

T. E. Ray
Notary Public residing at Malad, Idaho

My Commission expires the ..... day of January 1950

COSTS 49 lines at 10c per line first insertion $ 4.90
5c per line each subsequent insertion $ 7.35
TOTAL $ 12.25

R-807

Form 16.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Permit No. R 807

Proof of Application of Water to Beneficial Use

Deposition of Holder

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

Ans. CROWTHER BROS MILLING CO MALAD IDAHO

FLOUR MILLING & GRAIN

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. CROWTHER BROS MILLING CO, MALAD IDAHO: N W CROWTHER SECRETARY.

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

Ans. PERMIT NO 807-R Priority date Jan; 10 1948

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

Ans. BIRCH CREEK OR MILL CREEK to SPRING CREEK AND DEVIL CREEK inOneida County. Dam and Diversion pipe is in the NW $\frac{1}{4}$ of SW$\frac{1}{4}$ Section 16 Township 14 S Range 36 E

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. Reservoir Capacity about 1050 Acre feet. The Reservoir is built on the Spring Creek about 5/8 mile from the Flour mill where the water is used for power. A 23 inch steel pipe line connects the reservoir with the Water wheel at the mill. The maximun capacity of the pipe is approximately 30 feet per second. and the water wheel has a capacity of about 15 cubic feet per second. The water after going through the water wheel is returned to Spring Creek.

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. There is a by pass which will permit the water to be used for irrigation when not needed for power, during the irrigation period. The water wheel is used to generate power for the flour mill which has been built for the past 82 years. THE CAPACITY of the reservoir is 1050 acre feet.

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

Ans. The Water wheel has a capacity of 150 HP, however the lack of water will not permit more than 110 HP for continuous operation during the non irrigation season.

On account of the small normal stream, the reservoir was built to store up water during week ends, flushes, and spring runoff in order to use the entire flow of the stream for greatest efficiency. The entire spring runoff is now used to fill the reservoir, then drawn off as needed for power purposes.

R-807

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

Ans. 8 Second Feet, however the reservoir is so constructed, that The entire flow of the stream including spring runoff, is used for power

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. Crowther Bros Milling Co is still using the water for which th they applied

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 BEEN USED CONTINUOUSLY BY THE FLOUR MILL SINCE 1867. The mill has required the entire stream flowing mill creek down Devil Creek and Spring Creek. However since the reservoir was built the water is impounded at times, for a few days to make for more efficient use of water for peak loads.

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. The Flour mill has used the water from Spring Creek and Devil creek for the past 80 years, during irrigation and non irrigation periods. Permit No 807-R provides for storage of run off water However Crowther Bros Milling Co claim the right to the entire normal streams of Devil Creek and Spring Creek for power purposes except during actual irrigation period. Even during irrigation period all the water is used coming down the channel.

(Sign) M Crowther

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 Malad, County of Oneida, State of Idaho, on this 10th day of January, A. D. 1950.

J E Low

My commission expires Jan 20 1951

The flour mill is located just above the diversion gates used by the Malad Valley Irrigation Co ., making a natural setup to use the water for power before is is diverted for irrigation purposes. This makes it possible to use the water for power the entire year.

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

PERMIT NO. 807-R

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. T F BUDGE, Age 61 RESIDENCE MALAD IDAHO P O BOX 4
CONTRACTOR AND ENGINEER

Ques. 2. Are you acquainted with CROWTHER BROS MILLING CO, the holder of Permit No. 807-R? How long have you known him and where does he reside?

Ans. I HAVE KNOWN CROWTHER BROS SINCE the SPRING OF 1912 when they CAME TO MALAD IDAHO

Ques. 3. Have you read or heard read said Permit No. 807-R, 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. THE ORIGINAL DIVERSION WAS MADE ON THE MALAD DIVIDE IN 1867 WHEN A CANAL WAS BUILT TO BRING THE WATE R OF BIRCH CREEK ON THE MARSH VALLEY SIDE DOWN INTO WHAT IS NOW KNOWN AS DEVIL CREEK: AND FROM THERE INTO SPRING CREEK WHERE THE RESERVOIR IS BUILT. THE PIPE LINE CONNECTS THE RESERVOIR WITH THE WATER WHEELS AT THE FLOUR MILL. THE RESERVOIR HAS A CAPACITY OF A LITTLE MORE THAN 1000 Acre feet.

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. THIRTY SECOND FEET OF WATER CAN BE CARRIED THROUGH THE PIPE LINE HOWEVER 15 second feet is used as a mixiumum for the water Wheel

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. The water wheel is producing energy for flour milling. in lot 7 of Block 20, At CROWTHER BROS MILLING CO, MALAD IDAHO THIS WATER HAS BEEN USED at this same location for the same purpose since I came to Malad, and from what I can learn for over 40 years previous.

R-807

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

Ans. THE NORMAL STREAM FROM BIRCH CREEK OR MILL CREEK, IS BROUGHT DOWN THROUGH DEVIL CREEK AND SPRING CREEK WHERE THE WATER RUNS INTO THE RESERVOIR, FROM WHICH IS DRAWN AS NEEDED FOR POWER PURPOSES. The WATER WHEEL AT THE MILL IS BUILT TO HANDLE ABOUT 15 SECOND FEET OF WATER. THE NATURAL STREAM IS ABOUT 8 SECOND FEET, MAKING IT POSSIBLE TO STORE THE STREAM DURING FLUSHES AND SPRING RUNOFF AND USE IT ALL FOR BENEFICIAL POWER.

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. THE DIVERSION GATES OF MALAD VALLEY IRRIGATION CO ARE JUST BELOW THE FLOUR MILL WHERE THE WATER IS DIVIDED FOR IRRIGATION DURING THE IRRIGATION SEASON

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. I REBUILT THE DIVERSION GATES WHICH ARE USED FOR DIVERTING THE WATER FROM BIRCH CREEK TO THE MALAD VALLEY SIDE WHERE IT FLOWS INTO DEVIL CREEK, ALSO THE GATES DIVERTING DEVIL CREEK INTO SPRING. I ALSO COMPLETED THE SERVEY FOR THE RESERVOIR in the WINTER OF 1947 & 48. I ALSO INSTALLED THE WATER WHEEL AND TAIL RACE AT THE FLOUR MILL

(Signed) T. F. Budge

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 Malad, County of Oneida, State of Idaho, on this 10th day of January, A. D. 1950.

O. E. Kay
Notary Public

My commission expires Jany 2 1951.

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 1-11-1950

RECEIVED
JAN 13 1950
Department of Reclamation

Mr Mark Kulp
State Dep't of Reclamation

Boise Idaho

Dear Sir:

Refering further to our proof of beneficial use of the water coming from Birch Creek Devil Creek and Spring creek into our reservoir.

Perhaps a little further explanation should be made regarding the water going to the Marsg creek users of a share of Mill creek or birch Creek.

In the year 1876, an agreement was made with the water users in Marsh valley that they would get one fourth of the stream during the irrigation season until Sep't 15th to October 1st each year.

At that time the entire stream has always been turned toward Malad Valley where the water is used at the Flour Mill.

This should clearify the Marsh Valley users protest to the Malad Valley Irrigation Co filing a short time ago.

If you would like to have the witnesses sign statements to this effect, we would be glad to have them do so.

Yours very truly

CROWTHER BROS MILLING CO

M Crowther

R-807

R-807

January 24, 1950

Crowther Brothers Milling Company
Meled, Idaho

ATT: Mr. N. W. Crowther.

Dear Mr. Crowther:

We have your proofs of application to beneficial use under Permit No. R-807, none of which state how much water has been stored.

We also have your letter of January 10, 1950, requesting a copy of Meled Valley Irrigating Company's file on this water for irrigating purposes and the protest of the Marsh Creek Valley Farmers against their filing.

The protest against R-807 contains the status of the Meled Valley Irrigating Company's Permit No. R-682, and we are enclosing a copy of their later filing and also a copy of the Marsh Creek Valley Farmers' protest. The fee for these copies is $4.50, for which please send us your check.

We also have in the Permit file R-807, a protest by the Meled Valley Irrigating Company against statement made in your publication of Notice of Proof of Application to Beneficial Use under Permit No. R-807. We are enclosing a copy of the protest.

No further action will be taken until the Department has made a field inspection in connection with your proofs.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh
Enc.

R-807

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 1-26-1950

RECEIVED
JAN 28 1950
Department of Reclamation

Dear Mr Kulp:

We enclose our check covering the charge for copies of papers filed with your office by Marsh Valley water users and Malad Valley Irrigation Co.

Your letter states that none of our reports show that water has been stored in our Reservoir.

For your information, we filled this reservoir to the Full maximum capacity permited by your department, in the spring of 1949. The engineer supervising the dam said that it contained over 700 acre feet. At the present time there is about 50 feet of water in the dam which is normal working level for this time of year.

We will aim to fill it fully up to the maximun levels permitted by your department with the spring runoff waters. For your information we have used this dam up to the greatest possible effidency for power ourposes ever since it was completed, and all we need is more water to produce greater benefits.

We are very much surprised at the statement of the Officers of Malad Valley irrigation Co when they say we are not using the water bo beneficial purposes. We actually sold them 700 acre feet of water for irrigation purposes after it had been used for power in 1949, and from all indications they will want all that we can possibly let them have during 1950.

We will appreciate very much having one of your field men come to Malad to investigate the facts and it is possible that if a meeting of all concerned is called, we can come to some permanent understanding without going to court about it.

Yours very truly,

CROWTHER BROS MILLING CO

D M Crowther

P-807

January 23, 1950

Re: Permit No.T807

Crowther Brothers Milling Co.
Malad, Idaho

Attention- Mr. H. E. Crowther

Gentlemen:

We will take no action on your proofs, or the protests, under Permit No. T-807, until we have made a thorough examination.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

Enc. Receipt 22044

February 1, 1950

Re: Permit No. R-807

Mr. Alfred C. Cordon
Carlson Building
Pocatello, Idaho

Dear Mr. Cordon:

As per your request, we enclose copies of the proofs submitted by Crowther Brothers and two witnesses, in proof of Beneficial Use under Permit No. R-807.

The fee for making these copies is $2.00 for which you may send us your check.

Very truly yours,

MARK R. BULP
State Reclamation Engineer
By

Chief Clerk

A:bh
Enc.

R-807

ALFRED C. CORDON
ATTORNEY AND COUNSELLOR AT LAW
CARLSON BUILDING
POCATELLO, IDAHO

February 2, 1950

RECEIVED
FEB 3 1950
Department of Reclamation

Mr. Mark R. Kulp
State Reclamation Engineer
State House
Boise, Idaho

Dear Sir:

RE: Permit No. R-807
Crowther Bros. Milling Co.

Thanks for your letter of February 1st and for copies of proof submitted by Crowther Bros. Milling Co. and two witnesses.

Please forward the undersigned a copy of your decision upon this proof, whether it would be an issuance of license or refusal to issue licence.

I trust that you will take in consideration the protest of Malad Irrigating Company filed with you January 7, 1950.

Thank you for copy of decision as soon as it is rendered.

Very truly yours,

Alfred C. Cordon

Alfred C. Cordon
Attorney for Malad Irrigating Company

ACC/smv

R-807

ALFRED C. CORDON
ATTORNEY AND COUNSELLOR AT LAW
CARLSON BUILDING
POCATELLO, IDAHO

February 2, 1950

RECEIVED
FEB 9 1950
Department of Reclamation

Mr. Mark R. Kulp
State Reclamation Engineer
State House
Boise, Idaho

Dear Sir:

RE: Permit No. R307
Crowther Bros. Milling Co.

I enclose herewith check for $2.00 for copies of proof.

Very truly yours,

Alfred C. Cordon

Alfred C. Cordon
Attorney for Malad Valley Irrigating Co.

ACC/smv

R-22074

R-307

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho 2-13-1950

Box 368

RECEIVED
FEB 15 1950
Department of Reclamation

Mr Mark Kulp
State Department Of Reclamation
Boise

Dear Mr Kulp:

In you recent letter you indicated that no further action would be taken by your office regarding our water use permit 807R, until a field man could come to Malad and make a personal investigation.

Inasmuch as we would like to have our proof completed, we are wondering how soon this man can be in Malad.

We are also wondering if it would be possible for him to meet with the representatives from Marsh Valley, and the Malad Valley Irrigation Co and ourselves where we can possibly come to an understanding as to the various rights, of each concerned.

Please let us krow what might be expected along this line.

Yours very truly,

CROWTHER BROS MILLING CO

O M Crowther

R. 807

February 28, 1950

Re: Permit No. R-807

Crowther Brothers Milling Co.
Box 368
Malad, Idaho

ATT: Mr. N. W. Crowther

Dear Mr. Crowther:

We do not know how soon we can schedule a field examination of your dam and reservoir but when we do, we will certainly be glad to meet with you and the Marsh Valley and Malad Valley Irrigation Company representatives and assist in every way possible to bring about an understanding.

We will try to let you know far enough in advance so that such a meeting can be arranged.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R-807

April 18, 1950

Crowther Bros. Milling Company
Box 368
Malad, Idaho

ATT: Mr. N. W. Crowther

Dear Mr. Crowther:

Reference: Your letter of February 13, 1950.

It is our intention to make inspections in your region on April 25th or 26th if possible.

I will be glad to have you or some member of your organization accompany me while on your project.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

ENH:bh

R-251

ROBINSONS CODE

PHONE 81

SUPERIOR HARD WHEAT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad, Idaho

April 21, 1950

RECEIVED
APR 24 1950
Department of Reclamation

E. N. Humphreys
State Department of Reclamation
Boise, Idaho

Dear Mr. Humphrey,

Thanks for your letterof the 18th indicating that you intended to be in Malad on the 25th or 26th to check up on the physical conditions of our resevoir so that final proof can be approved.

We will be glad to have you stop at the mill and we can go into the entire situation with you.

Thanking you for your cooperation, we are

Yours truly,

CROWTHER BROS. MILLING CO.

N. W. CROWTHER

R-807

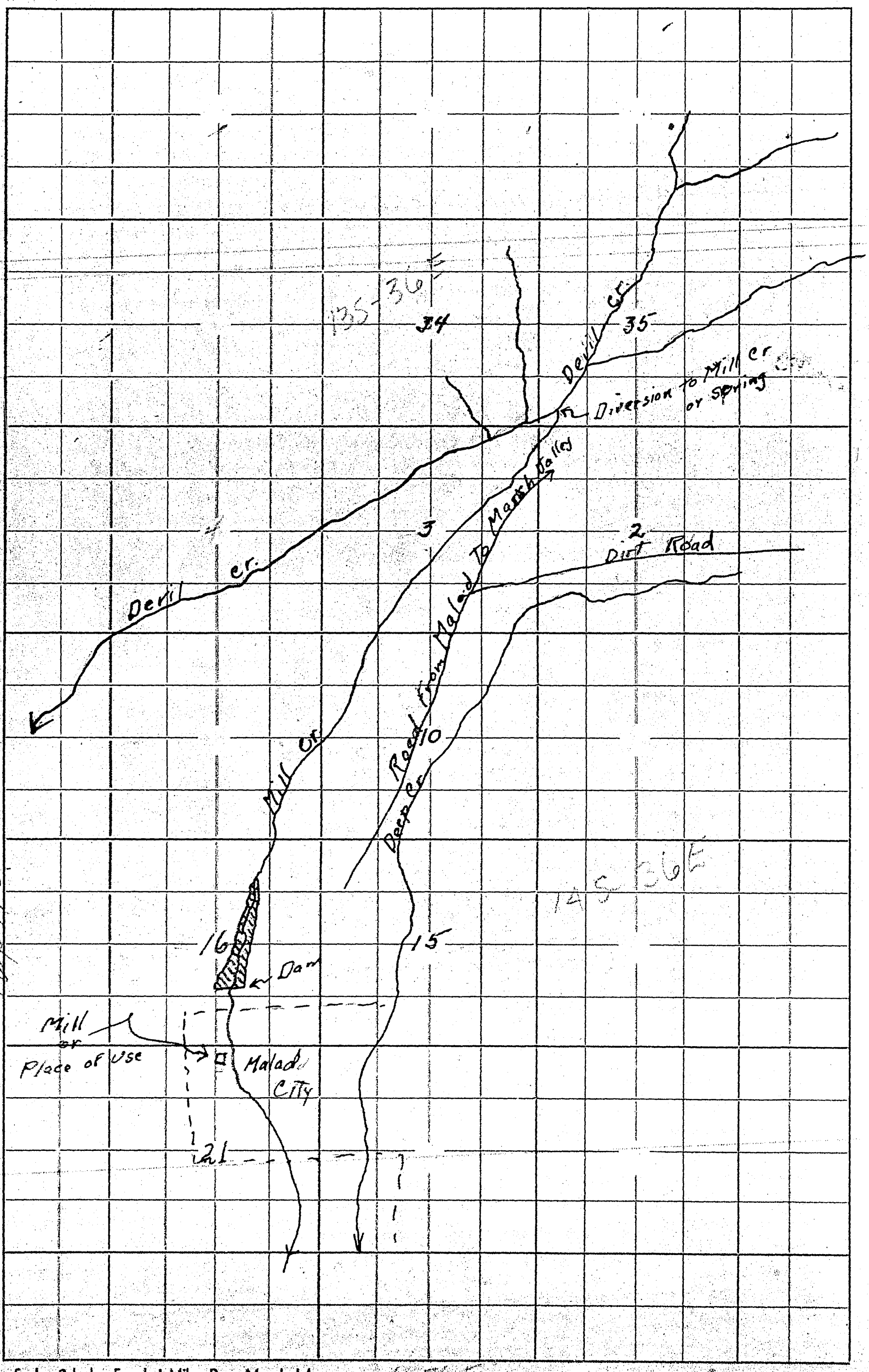
STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE

REPORT OF ENGINEER

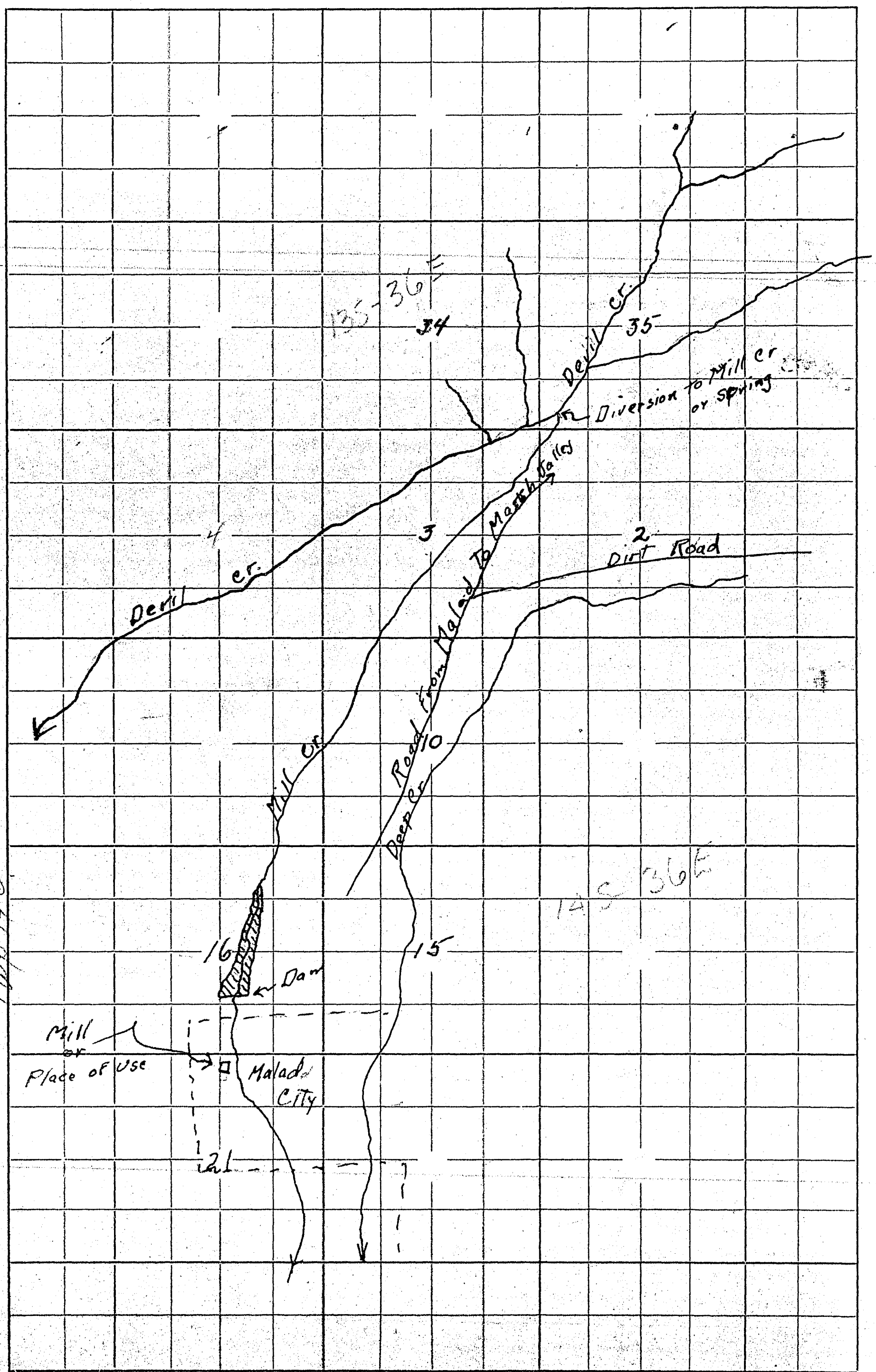
PERMIT NO. R-807

REPORT ON PROOF OF Beneficial use

773.2 acre feet
MRK 7/19/50



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



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

Form 23

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. R-807

This proof is for Beneficial use In Water District No.

1. Name of applicant Crowther Brothers Milling Co., Malad, Idaho
2. Source of water supply: Devil Creek and Spring Creek
3. Location of point of diversion: Is in the NW¼ SW¼ of Section 16
   T. 14 S. R. 36 E. County of Oneida
4. Describe works as they exist, giving dimensions and capacities of same:

1. Width of dam on top - approximately 40 feet.
2. Constructed of clay and earth.
3. 3:1 slope on upstream side.
4. 2:1 slope on downstream side.
5. Face of dam is covered with rock and gravel. (The rip rap is insufficient for a low free board. Free board should be higher than waves created by most severe wind storm).
6. Distance from top of spillway to top of dam is approximately 7'4".
7. Spillway is a pipe extending thru dam and projecting some distance below the dam. (see picture.)
8. Inlet of spillway is 60" diameter.
9. Outlet of spillway is 48" diameter.
10. By pass pipe is 23" diameter.
11. Pipe line to mill is 23" diameter.
12. Mr. Crowther says dam is now 7' higher than original specifications and estimates storage at 1050 acre feet of water.
13. They intend to ask permission to raise dam a few feet higher.
14. Raising dam will require diking on West side.

POWER

15. Gage on turbine indicates 60# pressure at that point.
16. Turbine delivers 60 h.p. on a flat belt to drive the flour mill proper.
17. Turbine also drives thru V-belts a synchronous G. E. Motor. 440 volts, 3 phase, 50 h.p., 60 cycle, 1200 r.p.m.
    When not in use current is generated and goes back into California Pacific Utilities.
18. Crowther states the motor can actually deliver 90 to 100 h.p.

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

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

Remarks: 1. Three fourths of the water from Birch Creek flows down Devils Creek.

2. A diversion works in the SW¼ SW¼ of Sec. 35, is so constructed (see picture) that water can be turned into Spring Creek to the Crowther Mill or down Devil Creek.

3. The winter flow of waters in this system has been used many years at the mill prior to construction of the dam.

4. During past winter Marsh Creek farmers took their share of Birch Creek all winter for fear of losing same to Malad Valley Irrigation Company.

This examination was made on the 26th day of April, 19 50

(Signed) E. N. Humphreys
Examiner.

R-807

Spillway is protected by wire screen. Dam is full and water is pouring over spillway as well as passing thru pipe line to mill. They undoubtedly have 773.2 acre feet of water in storage.

5. Water is used for: Water power for flour mill

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):

Place of use- Lot 7, Block 20, Malad City Townsite- In Section 21, Twp. 14 S. Range 36 E., B.M.

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

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

Remarks: 1. Three fourths of the water from Birch Creek flows down Devils Creek.

2. A diversion works in the $SW\frac{1}{4}$ $SW\frac{1}{4}$ of Sec. 35, is so constructed (see picture) that water can be turned into Spring Creek to the Crowther Mill or down Devil Creek.

3. The winter flow of waters in this system has been used many years at the mill prior to construction of the dam.

4. During past winter Marsh Creek farmers took their share of Birch Creek all winter for fear of losing same to Malad Valley Irrigation Company.

This examination was made on the 26th day of April, 19 50

(Signed) E. N. Humphreys
Examiner.

R-807

Crowther Bros. Milling Co.
Malad, Idaho

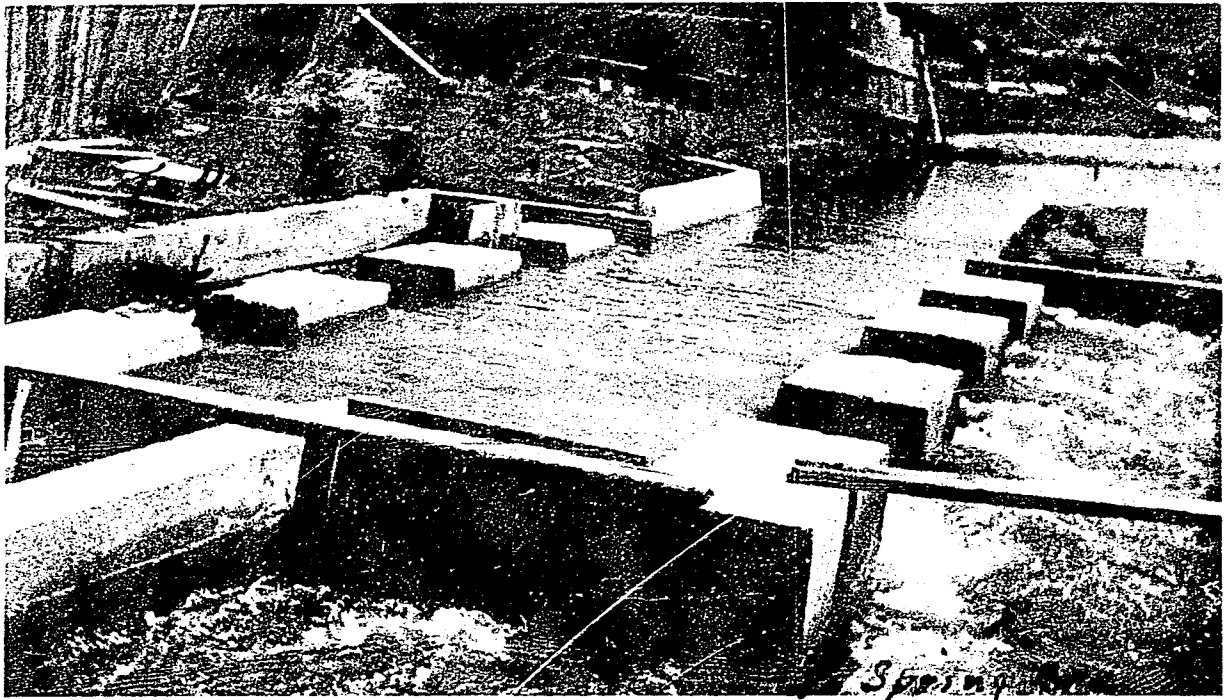
Permit No. R-807

Examination for Beneficial use

County Oneida

INSTRUCTIONS TO EXAMINERS

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



Apr 26-50 Diversion works - Reid Cr. to Spring Cr. on Evans place. Water for Crowthers Bros dam.

Located on SW¼ SW¼ Sec 33 T. 14 S., R 36 E.

R-807

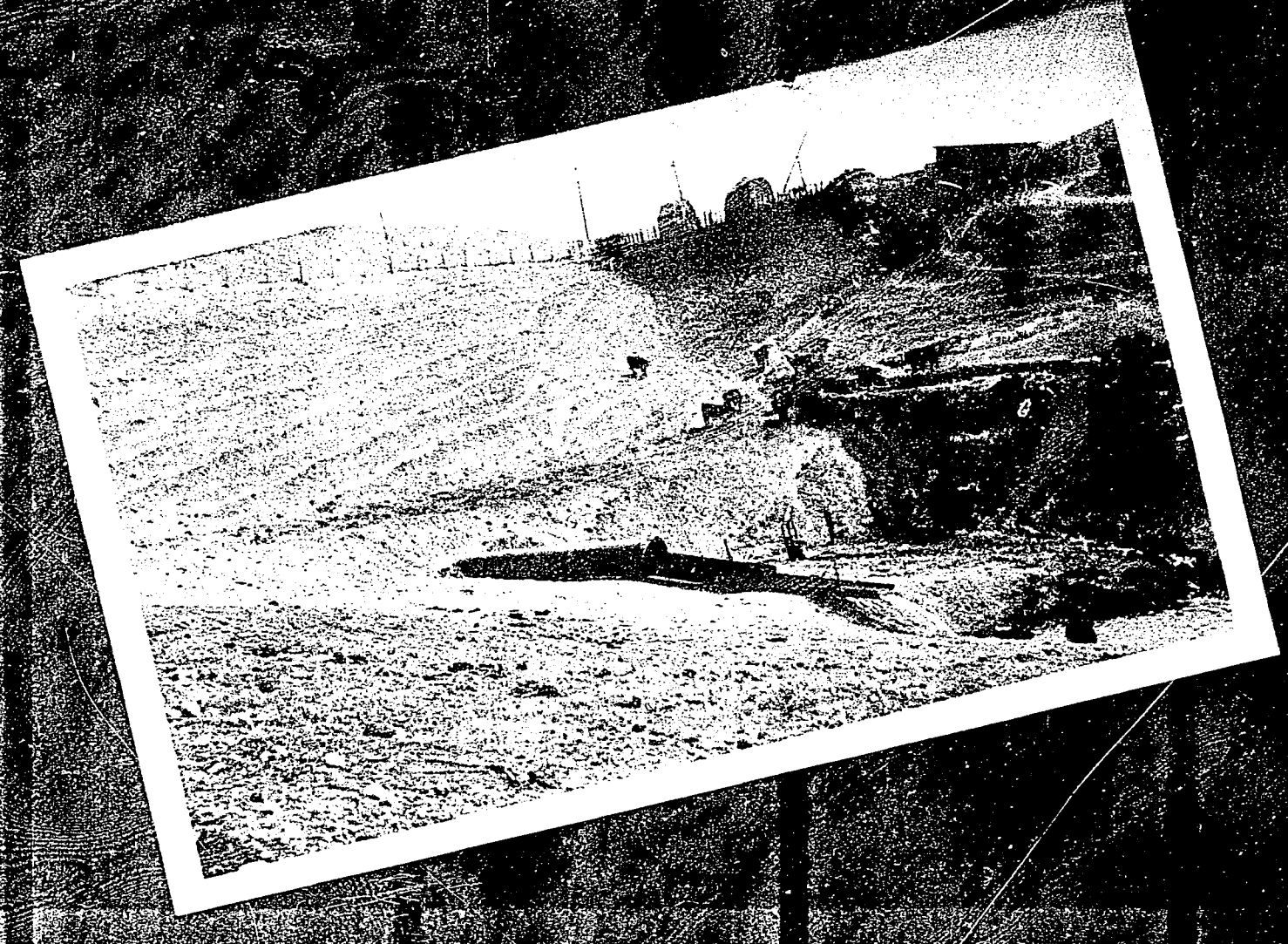
R-801

R-807

Apr 26-50.
E.T.H.

Outlet for Crowther Bros dam.
Extreme rt = control for pipe line
middle = " " " by pass.
There is a spring between lower cattle
rst. flow 2" of water.
Stated that it was springy before
dam was built.

R-807



R-807

Apr 26-50.

Crowther Bros Dam

showing water elevation

and spill way.

13A

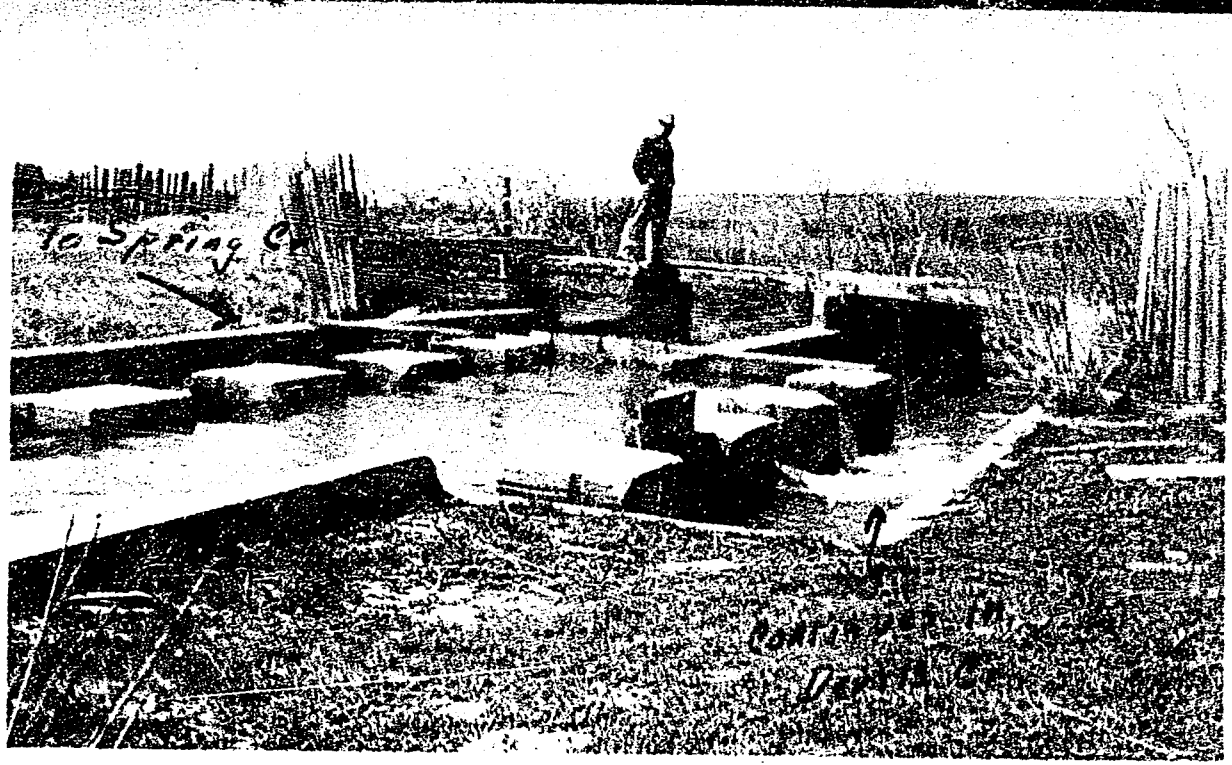
R.801

Apr 26-50.

Diversion Work. Devils Cr. &
Spring Cr. on Evans place
Crowther Bros Prop
Located on SW¼ SW¼ Sec 35 Twp 14S, R 36E.

R-807 UEE

R.80-1


To Spring Ck

July 20, 1950

Re: Permit No. R-807

The Kelad Valley Irrigating Co.
Kelad, Idaho

ATT: Mr. Parry D. Harrison
Secretary

Dear Mr. Harrison:

Examination of Permit No. R-807 by a representative of the Department of Reclamation of the State of Idaho satisfies the said department that the law has been fully complied with and that the water under Permit No. R-807 is being used at the place claimed and for the purpose for which it was originally intended.

The protest of the Kelad Valley Irrigating Company, dated January 4, 1950, is dismissed for the reason that License under Permit No. R-807 for 775.2 acre feet per annum with a priority date of January 30, 1948, will in no way supersede any valid existing water rights with priorities earlier than January 30, 1948.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

CC: Crowther Brothers Milling Co.
Mr. Alfred G. Gordon

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad City, Idaho 7-21-1950

RECEIVED
JUL 22 1950
Department of Reclamation

Mr Mark R Kulp
State Dep't Of Reclamation
Boise

Dear Mr Kulp:

We appreciate very much your letter of the 20th indicating the acceptance of our proof of our reservoir project.

We beleive that we sent you the $5.00 Statutary fee when we sent the proof to you in January.

If you do not find this correct, or if there is another fee required, we will be glad to forward it.

Again thanking you for your co operation, we are,

Yours very truly,

CROWTHER BROS MILLING CO

M C Crowther

R-807

July 20, 1950

Re: Permit No. R-807

Crowther Brothers Milling Co.
Malad, Idaho

ATT: H. W. Crowther

Gentlemen:

We enclose copy of letter addressed to The Malad Valley Irrigating Company which is self-explanatory.

Therefore, upon receipt of the statutory fee of $5.00, a License will be issued for 773.2 acre feet of water from Devil Creek and Spring Creek, for water power for your flour mill.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

MRK:bh

R 807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

MARK R. KULP, STATE RECLAMATION ENGINEER

C. A. ROBINS
GOVERNOR

BOISE

July 22, 1950

Re: Permit No. R-807

Crowther Bros. Milling Company
Malad, Idaho

ATT: Mr. N. W. Crowther

Dear Mr. Crowther:

Reference is made to your letter of July 21, 1950, in which you state that you believe you sent the $5.00 fee in connection with Beneficial Use Proof on Permit No. R-807 when you sent the proof in January.

A check of our files shows that in your letter of January 10, 1950, enclosing these proofs, you make no mention of enclosing a check, nor do we have a record of having received this payment.

We do find that on January 26, 1950, you sent us a check for $4.50 to pay for copies of the Malad Valley Irrigating Company's file and the protest of the Marsh Creek Valley Farmers in connection therewith.

If you have a receipt for this amount and will give us the number, we will check our records further, or if you have the cancelled check, but at the present, we do not seem to find payment of the $5.00 fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By Jeanne L. Anderson
Chief Clerk

A:bh

RECEIVED
JUL 27 1950
Department of Reclamation

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad City, Idaho 7-23-1953

RECEIVED
JUL 25 1953
Department of Reclamation

State Dep't of Reclamation
Boise Idaho

Gentlemen:

We refer to the water right which we have on file for Power in connection with our reservoir.

We are wondering if there would be any obj ction by the Dep't of Reclamation if we sold the water which we store in the reservoir from Spring Runoff, to the Irrigation Company which uses the natural stream.

Of course we have no right to their normal flow of water as it goes down the stream during the irrigation period, but we feel that we should have the right to sell the Water which is stored from the runoff in the Spring.

Yours very truly,

CROTHER BROS MILLING CO

D Mitchell

B-807

July 25, 1953

Office of Attorney General
BUILDING

ATT: Mr. Smead

Dear Mr. Smead:

This department has been asked if there is any objection if water that has been stored under a license for purposes of power production can be sold downstream to an irrigation company.

To give you a bit more information regarding this request, a new dam was built several years ago to impound water to be used in operating a flour mill. Water was used to drive a generator which in turn furnished the electricity for all purposes about the mill.

There are two distinct questions in mind regarding this proposition. First, is it lawful if an outside source of electrical energy becomes available so that it appears to be more profitable to utilize it for a source of energy and sell the stored water year by year on an annual rental basis to an irrigation company for irrigation purposes? In other words, is it lawful in the State of Idaho for an individual to impound water and sell same on a yearly rental basis without himself having dedicated it to a beneficial use?

Second, if a party uses the water for power purposes as specified in the license, does he have a lawful right to permit diversion of same before they again reach a natural channel and sell to farmers for purposes of irrigation?

This question has arisen a number of times and we now have a request for an opinion on this matter. We would appreciate a reply in writing to the above two questions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg

R-207

July 25, 1953

Crowther Brothers Milling Company
Malad City
Idaho

Gentlemen:

We have your letter of July 23, 1953, and have requested an opinion from the Attorney General's office regarding same.

We will advise you as soon as we have received a reply from them.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:fg

R-807

July 31, 1950

Re: Permit No. R-807

Crowther Brothers
Malad, Idaho

ATT: Mr. N. W. Crowther

Dear Mr. Crowther:

We enclose License and Certificate of Water Right issued under Permit No. R-807, confirming your right to store and appropriate 773.2 acre feet of water from Devil Creek and Spring Creek, with priority of January 30, 1948, for water power purposes for your flour mill in Lot 7, Block 20, Malad Townsite.

We also enclose Departmental Receipt No. 22549 for the $5.00 fee paid in connection with this proof.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:bh
Enc.

R-807

- copy -

Office of the

ATTORNEY GENERAL

State of Idaho
Robert E. Smylie, Attorney General

Boise

July 31, 1953

Mr. Mark R. Kulp
State Reclamation Engineer
Department of Reclamation
BUILDING

Attention : Mr. E. N. Humphrey
Deputy State Reclamation Engineer

Dear Sir:

I have given your letter of July 25 considerable attention and have looked for such law as there might be in connection with your questions. There seem to be no decided cases that have anything very specific to do with this matter, but probably certain of the statutes are in point.

To begin with I assume that the party concerned applied for the use of the water to produce electric power, and that the permit which he received so states. Of course, if it goes farther than that, what I have to say will be subject to some limitations depending on what his permit provides.

Section 42-205, I. C., requires that a permit to appropriate water for power purposes may be issued only in accordance with the provisions of the Act of 1937. Section 42-217 requires that proof of application to beneficial use must disclose the use to which the water has been applied, which I presume in this case was for the production of electric power. Section 42-222 provides that "All rights to the use of water acquired under this chapter or otherwise shall be lost and abandoned by a failure for the term of five years to apply it to the beneficial use for which it was appropriated, and when any right to the use of water shall be lost through non-use of abandonment such rights to such water shall revert to the state and be again subject to appropriation under this chapter." (Emphasis added).

If a party so abandons use of water appropriated for power purposes, I do not know how he would have any control over the water thereafter, whether to sell it on a rental base or otherwise attempt to dispose of it to other persons. It seems to me that the statute last quoted inhibits that sort of thing. I think the same conclusion must follow when a party ceases to use the water for power purposes even though he has not yet continued the abandonment to the five year point.

P-807

It is also my opinion that one who is using such water for generation of power has exhausted his right under his permit when the water has gone through his turbine. If that is correct, then he has no lawful right to attempt its diversion from its natural channel and sell it to others for irrigation purposes. Again, I believe such water, after it has served its purposes under the permit, becomes a part of the natural waters of the state subject to appropriation by others for irrigation or other purposes, as they may desire.

I do not see that his impounding of water by means of a dam characterizes that water as belonging to him, at least for any other use than that which his permit calls for. If one wishes to establish an irrigation project and supply water to the various available users. our statutes provide a way of doing that, which is another reason why it is my opinion that the sale and distribution of the impounded water in this instance is not permissible. Trusting that the foregoing will be of some assistance to you and that if there are other facts of record in his application and permit than I know at the present time, you will so advise me, I am.

Very truly yours,

FOR THE ATTORNEY GENERAL

/s/ J. R. Smead

J. R. SMEAD
Assistant Attorney General

JRS:crg

R-807

August 8, 1953

RE: Permit No. R-807

Crowther Brothers Milling Company
Malad City
Idaho

Gentlemen:

The following is in further reply to your letter of July 23, 1953, to this department.

In the second paragraph you ask whether or not there would be any objection by this department in regard to your selling water to the irrigation company. We are not certain by that whether you mean the sale of the whole of the right or simply the sale of the water after it has gone through your power plant. If you mean the sale of this water right to an irrigation company, I wish to point out that your license is for use as power.

The use of water for power is a non-consumptive use and therefore your right cannot be changed from a non-consumptive to a consumptive use simply by sale.

Your question regarding objection by the Department of Reclamation is scarcely pertinent inasmuch as this department itself does not approve or reject. The duties of this department are controlled entirely by law and the manner in which you can use your right is also controlled by law.

In order to obtain further information regarding the law in relation to the usage of water in this case, enclosed is a copy of a letter from the Attorney General's office.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Deputy State Reclamation Engineer

H:fg
Enc.

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad City, Idaho 8-19-1953

RECEIVED
AUG 24 1953
Department of Reclamation

Mr Mark R Kulp
State Reclamation Engineer
Boise

Regarding Permit No R-807

Dear Mr Kulp:

We appreciate your letter of the 8th also the opinion of Attorney J R Smead Assistant Attorney General as to the use of our water for Irrigatinn.

You realize that our permit calls for the use of the entire stream of Spring Creek, birtch Creek and devil creek during the non irrigation season and whatever water the Irrigation Co brings through Spring Creek during the Irrigation season. In our filing we definately include the runoff water in the spring which is of course used to fill the reservoir And store it for such time as we deem most valuable for future use.

If you will review our application and proof of completion papers you will find that we mention the water to be used for irrigation as well as for power. Inasmuch as we do have the right to draw this runoff water out when we choose, we could hold in store through the irrigation season and use it after irrigation is over or draw it out during the irrigation season , getting some benefit for power , however we could not get maximum benefit because the Irrigation Co insist on maintaining a constant even flow of water.

Since there is such a dire need for irrigation water here, we would like to apply to the reclamation department for the right to sell this runoff water every year to those who need it below the reservoir. We sold it one year to the Irrigatinn Co and we have sold some this year to users who need the water, but some of the users claim we have no right to sell it, inasmuch as we applied for power only. We feel that this water will do the community more good for irrigation than we could get in power. We would simply sell the runoff water accumulated in the dam during the non irrigation seabon. Will appreciate if you will send us blanks for this purpose.

Yours very truly,

CROWTHER BROS MILLING CO

R-807

August 27, 1953

RE: Permit No. R-807

Crowther Bros. Milling Company
Malad City
Idaho

Gentlemen:

We have reviewed the application and proofs under the above permit and find that although the proofs mention irrigation, the application was made for storage for power purposes. The license was issued for power purposes.

There should be some method whereby you could be repaid for the use of the storage space which you have constructed when it is used to improve the irrigation supply. Perhaps the irrigators could file on the winter and spring runoff for storage and arrange with you for the joint use of your storage space for mutual advantage.

Water rights in the Malad Valley seem to become more complicated as time passes and there is so much local custom involved that we hesitate to make any recommendations as to what should be done except to follow the statutes in making appropriations.

Should you or the irrigation company decide to appropriate and store water for irrigation in your constructed storage space in conjunction with your storage right for power purposes, it would be necessary to make the water appurtenant to specified lands to comply with the statutes although it is known that local custom as regards stock in the various irrigation companies carries no such appurtenancy.

The Department of Reclamation has no statutory authority to grant rights to sell water but neither does it have the statutory authority to prohibit such sale.

Since you and the irrigation company seem to be the only ones involved, an agreement for mutual benefit would seem desirable and not out of order for regulation and use of storage space.

We are sending you application forms for storage permit, but cannot guarantee that completion will get the results you want.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:fg
Enc.

R-807

March 26, 1954

E-19

R-807

Malad Valley Irrigation Company
Malad
Idaho

ATTENTION: Mr. Ives Jones

Gentlemen:-

In regard to your query and request to store the maximum amount of water in the Crowther Brothers' Reservoir, as far as records here indicate, full storage has never been denied.

If by your request, you anticipate lowering the freeboard, you are advised that such procedure may prove hazardous.

It is especially hazardous to fill a reservoir full very early in the season leaving only a minimum of freeboard, and holding for a relatively long period.

The very location of the Crowther Brothers' Reservoir demands adherence to safety precautions.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Elmer Humphrey
Deputy State Reclamation Engineer

H:hll

R-807

28

SUNDAY
AUG. 1955

Put in file with
Crowther Res. Permit
& Lease

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

CROWTHER BROTHERS MILLING COMPANY

GRAIN AND GRAIN PRODUCTS

Malad City, Idaho

February 21, 1955

R-807

RECEIVED
FEB 24 1955
Department of Reclamation

Mark R. Kulp
State Department of Reclamation
Boise, Idaho

Dear Mr. Kulp:

We wish to refer to our license and certificate of water right number R-807 which gives us a right to store 773 acre-feet of water in our completed reservoir.

When this reservoir was built, we built it wider and higher than the original plan called for so that now we have storage room for 1100 acre-feet.

We are now requesting that the decreed capacity be changed from the 773.2 to 1100 acre-feet. We are at the present time negotiating with the Malad Valley Irrigation Company for the sale of our reservoir for storage purposes and we wish to have the exact storage capacity indicated.

1. Storage can be determined by a survey
(a) License is for 773.2 a.f.
(b) License to add. storage must come thru an add. permit

Yours very truly,

CROWTHER BROTHERS MILLING COMPANY

N W Crowther

By N. W. Crowther

NWC:ss

P. S. We would also like the status of the decree handed down in your decision of December 28, 1950 from the hearing between the Malad Valley Irrigation Company and the users of the Marsh Valley people regarding the one-fourth of the flow of water from Birch Creek and Mill Creek from which is also the source of the water which we use. You will recall that the Marsh Valley people appealed this case from your decision, but no future hearing has been made. Is there any time limit as to when this appeal should be heard in courst.

Check with Dist. Ct. of the area concerned

According to our filings and our understand, the entire flow of the Birch Creek streams has been owned by the flour mill ever since 1867 when the flour mill was built except for the right to one-fourth of the stream during the irrigation period from May 1 to September 15.

Must be a specific amt.

R-807

Q = 773.2 a.f. S_1 = Spring Cr. & Hevel Cr

outlet = ~~NW SE~~ NW SW S16 - T14S. - R-36E.

Area = 27.35 acres Dam h = 81' L = 787 top.

7½' freeboard

Claim right from 1867

Priority = Jan 30, 48

MALAD VALLEY IRRIGATION CO.
MALAD, IDAHO

R-807

March 31, 1955

RECEIVED
APR 1 1955
Department of Reclamation

Department of Reclamation
% E. N. Humphrey Deputy
State Reclamation Engineer
Boise, Idaho

Dear Mr. Humphrey:

At your last visit to Malad, plans had been made to have our St. John reservoir surveyed to determine the exact amount of storage and then do as you suggested, to get a decreed right for this storage. Mr. T. F. Budge has completed the survey and drawings, therefore, we would like to know the proper steps to be taken to secure a decreed right. We know of course that in order to obtain a right of this kind it must be taken through a court proceedure, but, will some aid be granted by the Reclamation Department in securing this right.

Another item of great interest has come before the Malad Valley Irrigation Co. and that is the purchase of Crowther Brothers Milling Co.s. power rights and Reservoir. In order that you might become more familiar with this item, we have prepared a copy of the proposal for your files and would appreciate you advising us as to the Department's thinking on this matter. This proposal of purchase will provide water that is needed badly for our crops and we must see that each stock-holder is thoroughly advised of the nature of purchase. It would be of much help to us, if you or Mr. Kulp were able to attend our Stock-holders meeting to be held at the court room of the Oneida Court House at 8 PM April 11,1955. Your department has been very cooperative in the past and we hope that your presentes can be expected at our meeting. It has been brought to our attention before, that the purchase of water rights and storage rights is somewhat confusing because of the limited laws to govern. For instance the permit of storage that Crowther Brothers have is for power purposes and of course the Irrigating Company will require a filing for Irrigation purposes. Now in this case would it be necessary for the Irrigation Company to make a filing on the storage rights of Crowthers providing they purchase the reservoir? Also by purchasing the Power Rights from Crowthers for use of water for power purposes during Non-Irrigation season as well as irrigation season, what may determine our permanent right to prevent Crowthers from establishing a power right in the future. These problems are still confusing in our minds and feel that your thinking on this matter can clear this up.

May we look forward to seeing you at our meeting.

Very truly yours,

Ives E. Jones

Ives E. Jones
Secretary.

P. S. This would also be a good opportunity to look at the St. John Spillway now that it is all completed with exception of the drop at the end of the pipe.

R-807

April 2, 1955

R-807

Crowther Brothers Milling Co.
Malad
Idaho

ATTENTION: Mr. N. W. Crowther

Dear Mr. Crowther:

This is in reply to your letter of February 24, 1955.

I will try to get an answer to each of your questions right away and then discuss them with you on my next trip into your area which will be April 11th.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:cu

R-807

R-807

April 2, 1955

Mr. Ives E. Jones, Sec.
Malad Valley Irrigation Co.
Malad, Idaho

Dear Mr. Jones:

If possible one of us will be at your meeting on April 11, 1955, as requested in your letter of March 31, 1955.

It looks as though I will attend as Mr. Kulp already has a previous engagement for that time.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:sn

R-807

April 8, 1955

Mr. Ives E. Jones, Sec.
Malad Valley Irrigation Co.
Malad, Idaho

Dear Mr. Jones:

Due to the fact that I have been sick all week with the "flu", I am not physically in condition to attend the meeting on April 11 as I advised you in my letter of April 2.

I will be in your City as soon as it will be possible for me to schedule a trip into that area, either the latter part of this month or the beginning of May.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

E. M. Humphrey
Deputy State Reclamation Engineer

H:hll

R-807

R-407

April 8, 1955

Crowther Brothers Milling Co.
Malad
Idaho

ATTENTION: Mr. B. W. Crowther

Dear Mr. Crowther:

This is to advise you that I will not be in Malad on April 11 due to the fact that I have been sick with the "flu" ever since I wrote the letter on April 2.

I do intend to be in Malad later this month or the fore part of May, if possible.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll

R-807

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

MARK R. KULP, RECLAMATION ENGINEER

BOISE

LEN JORDAN
GOVERNOR

Notes by E. N. Humphrey 1955

R-807

Crowther Bros Milling Co. Q = 773.2 acre ft per annum.
Spring & Devil Cr. Outlet = NW SE, S16, 14S., 36E.
Area high water = 27.35 a. Dam h = 81'. Top L = 787'
For Power purposes.
Water rtd in Lot 7, Blk. 20 Malad Townsite Est. Cost $25000
Right acquired in 1867. Operate Mill under 65' h.
Head can be doubled. By storage. (operating head for mill)
Priority = Jan. 30-1948 Outlet in C/W says. NW SW S16
License For 773.2 a.F. (Full amt.) P 4614. Ly 31-1950

Protest Leroy O. Daniels & Perry D. Harrison for M. V. I.
Jan 4-50. against Crowther Bros.

27.35 a. = [illegible] of Crowther Bros. [illegible] 7' [illegible] h.

Wm Hill et al. vs. The Malad Valley Irrig. Co. et. al.
extends R-682 on 12th Sept. 1951

[illegible]

Appealed Feb 22, 1957 [illegible]

[illegible]

R-807

R-837 cancelled on Dec. 30, 1954. = M.V.I. extra 1000 a.F.

R-682 = 6000 a.F. M.V.I. original on Devil Cr.

Extension of time granted on Sept 12, 1957. to include disability imposed by suit of Wm Hill et al. vs. M.V.I. et al.

Original extension of time granted on Sept 3, 49. because of litigation between MVI and Crowther Bros.

Notify Dept of Recl. within 30 after removal of disability.

Additional Permit = 21844 and 17604.

17604 = Subterranean = cancelled in Feb 1-37

R-207

April 11, 1955

Mr. Wendell Smith
Preston
Idaho

Dear Wendell:

Crowther Brothers state that they built their reservoir dam quite a bit higher and wider than the plans specified. They are interested in obtaining a License for the amount in excess of their original filing.

Do you have plans and specifications on the dam as it actually was built? Also do you have a topographical survey of their reservoir basin that will show the additional amount of water which they claim is being impounded?

I will be in the Malad area later this month or possibly about the 2nd of May according to present plans. I wonder if it will be possible for me to contact you at that time.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll

R-207

WENDELL H. SMITH
ENGINEER
REGISTERED IDAHO - WYOMING - UTAH
PRESTON, IDAHO

RECEIVED
APR 16 1955
Department of Reclamation

April 15, 1955

Mr. Mark R. Kulp
State Reclamation Engineer
State House
Boise, Idaho

Att: Mr. E.N. Humphrey

Dear Mr. Kulp:

Reference is made to your letter of April 11, 1955 concerning the Crowther Bros Dam at Malad.

The plans were never changed to show the additional height and width that I can recollect. However the topographical survey of the reservoir basin will show the increased capacity. This can be taken from the chart and table on the plans which you have in your office.

There is I am quite sure some correspondence in your office concerning the raising of this dam slightly over the elevation as shown on the plans.

In the mean time I will check through what information I have and I will try and be available around May 2nd when you are down this way.

Very truly yours
Wendell H. Smith

R-807

R-807

April 16, 1955

Mr. Wendell H. Smith
Engineer
Preston, Idaho

Dear Wendell:

Thanks for your reply of April 15.

I am not quite sure which day or days I will be in the Malad area.

At present, I intend, if possible, to make my trip coinside with an inspection trip being made into the area by Mr. Thaanum of the State Soil Conservation Service office in connection with an application for Small Watershed Protection Planning Assistance.

It will be sometime between May 2 to May 4, according to present plans.

I will try to contact you by phone.

In the meantime, I will try to go carefully through the file so as to be familiar with it.

Thank you very much.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

Crowther Brothers Milling Company

Grain and Grain Products

Malad City, Idaho

May 5, 1955

RECEIVED
MAY 9 1955
Department of Reclamation

Mr. Mark R. Kulp
Department of Reclamation
Statehouse
Boise, Idaho

Dear Mr. Kulp:

We are enclosing an application for the registration of additional acre-feet capacity which we have already in our reservoir covering a permit given us # 807-R.

For your information, we actually have close to 1100 acre-feet of storage capacity instead of the 782 feet which we have registered in the above permit.

We will appreciate it if you will consider this and issue the permit covering the additional acre-feet.

Yours very truly,

CROWTHER BROTHERS MILLING CO.

By N. W. Crowther

NWC:ss

R-807

May 17, 1955

Chk in card cur

Crowther Brothers Milling Co.
Malad
Idaho

ATTENTION: Mr. N. W. Crowther

Dear Mr. Crowther:

We are returning your application for permit for correction and additional information.

First-the amount should be changed to 326.8 acre feet as you already have a License for 773.2 acre feet.

Second-there needs to be a set of plans for the higher dam.

Third-there needs to be an additional capacity table. There is nothing in the old survey to show capacity at the higher elevation.

Fourth-please fill out the blank for Proof of Idaho Citizenship.

As soon as the above information is furnished, your application will be immdeiately processed.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll
Enc.

P-207

October 5, 1955

Crowther Brothers Milling Co.
Malad
Idaho

ATTENTION: Mr. N. W. Crowther

Dear Mr. Crowther:

On May 17, 1955, we returned your application for permit for certain corrections and additional information.

To date, this application has not been returned and we would like to know if you are still interested in filing it. If not, we will return your check sent in payment of the filing fee.

Very truly yours,

MARK R. KULP
State Reclamation Engineer
By

Chief Clerk

A:hll

R-807

ROBINSONS CODE

PHONE 81
LD-272

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

Crowther Brothers Milling Company

Grain and Grain Products

Malad City, Idaho

October 6, 1955

RECEIVED
OCT 10 1955
Department of Reclamation

State of Idaho
Department of Reclamation
State Capitol
Boise, Idaho

Attention: Mr. Mark R. Culp

Dear Mr. Culp:

In answering your letter of October 5, regarding the application for permit for additional water storage in our reservoir.

We had an engineer make a new topigraphical survey of the reservoir and he determined that there was 1060 feet of capacity space available, however, he hasn't given us the complete drawing of it yet. On account of being out of town on other work.

As soon as we can get this completed, new drawing covering the additional storage, we will complete our application for permit covering the additional storage available. Or would it be possible to use the engineers statement as to the new capacity without furnishing the additional sketch.

Yours very truly,

CROWTHER BROTHERS MILLING COMPANY

By N. W. Crowther

NWC:mat

PS. Someone has said that we could not sell the water which we impound here for irrigation perposes. We have always understood that we could make an agreement with the Irrigation comapny and sell the stored water in our reservoir each spring after it is impounded from the winter or run off waters, and of course after we use it for power.. Is there any law to p event us from doing this.

Thanks

R-807

B-807 Permit application

November 2, 1955

Crowther Borthers Milling Co.
Malad
Idaho

ATTENTION: Mr. N. W. Crowther

Dear Mr. Crowther:

I have your letter of October 6 in which you ask certain questions as to maps and capacities of your reservoir and your legal right to sell water from your reservoir for irrigation.

We have the maps submitted with your previous application for permit No. R-807 but these plans were approved for the original appropriation. We have nothing to show how the dam was for a greater storage capacity nor do we have a capacity table for the increased capacity.

As the dam is already constructed, we can accept a capacity table certified by a licensed engineer for the purposes of approving the application but will need more information and plans submitted for approval before we can issue a license for the additional storage appropriation.

In answer to your question about your legal right to sell your impounded water for irrigation. Technically, the right you have to appropriate and store public water is for power purposes only, but when it is stored it may be used for power purposes as desired whether it is used in or out of the irrigation season.

Most of the irrigation rights in the Malad Valley have never been accurately or specifically defined by the Courts and in exercising your storage rights for power, previous rights would have to be respected.

If in the exercise of your power rights you can make water available for irrigation that would not have been available otherwise, it would seem that some service to irrigation was preformed by your storage space and power operation. Whether this service could be made the basis for payment under an agreement or contract, I do not know but suggest that you obtain an opinion from your attorney.

R-807

Under License R-807 the water is public unappropriated water until you have legally appropriated and stored it and is appropriated water until it has passed through your turbines, after which it again becomes unappropriated public water subject to existing rights below the power house. What these existing rights are and what their relation to your License Right R-807 are, I do not know. You may have rights other than specified in License R-807.

Very truly yours,

HARK R. KULP
State Reclamation Engineer

K:hll

R-807

ROBINSONS CODE

PHONE 31
LD-212

SUPERIOR HARD WHEAT FLOUR

BIG C HIGH PATENT FLOUR

Crowther Brothers Milling Company

Grain and Grain Products

Malad City, Idaho

December 31, 1955

RECEIVED
JAN 03 1956
Department of Reclamation

State of Idaho
Department of Reclamation
Boise, Idaho

Attention Mr. Kulp

Dear Mr. Kulp:

In keeping with your request of November 2nd, we have had a new drawing made up of the reservoir and its present capacity, which shows 1056 acre feet.

We assume that with this new map you can immediately increase our permit to show the indicated amount of water storage.

In keeping with your letter of November 2nd we are also arranging for the sale of this stored water which will, of course, be for the use of farmers between the Deep Creek natural channel and the Devil Creek natural channel below our plant.

Yours very truly,

CROWTHER BROTHERS MILLING COMPANY

By N. W. Crowther

NWC:mat

R-667

P I R-807

February 23, 1956

Mr. Ives James, Secretary
Malad Valley Irrigation Company
Malad, Idaho

Crowther Bros. Storage Right

Dear Mr. James:

Crowther Bros. Milling Company was issued Permit No. R-807 in 1948. Proofs were submitted and License issued for 773.2 acre feet or the capacity for which the Permit was approved.

In 1955 Crowther Bros. represented that they had built the dam higher and wider than their approved plans called for and wished the license increased to 1100 acre feet.

We have been trying to determine the actual capacity of the reservoir so that Crowther Bros. could make application for permit to appropriate the amount stored over the licensed amount over 773.2 acre feet.

We have been negligent in that we did not notify Crowther Bros. in the exact procedure they will have to follow, but will take care of it immediately.

The present storage license is for power only, but the additional can be for power and irrigation.

When the application is received and approved and proofs made we will have to inspect to determine the amount which we can license.

Very truly yours,

MARK R. KULP
State Reclamation Engineer

K:eu

R-807

February 24, 1956

RE: Permit No. R-807

Crowther Brothers Milling Company
Malad
Idaho

ATTENTION: Mr. M. W. Crowther

Dear Mr. Crowther:

This is in reply to your letter written December 31, 1955.

In the second paragraph you state, "We assume that with this new map you can immediately increase our Permit to show the indicated amount of water storage".

In Mr. Kulp's letter to you of November 2, 1955, in the third paragraph he states, "As the dam is already constructed, we can accept a capacity table certified by a licensed engineer for the purpose of approving the application - - -"

"Application" above means an "Application for Permit" to store water in an amount above that covered in your License No. R-807.

There is no provision in the Idaho Statutes whereby the quantity of water shown on a Permit or License can be increased.

A New application must be made for the additional storage you claim; and, it must go through the same stages to mature into a license as does any other license.

Enclosed find blank forms for use in making application.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll
Enc.

R 807

Malad Valley Irrigating Co.

Malad City, Idaho

R-607

RECEIVED
MAR 15 1956
Department of Reclamation

Malad, Idaho
March 14, 1956

Mr. Mark R. Kulp
State Reclamation Engineer
Boise, Idaho

Dear Mr. Kulp:

In further view of the purchase of Crowther Brothers reservoir and power rights, as per our telephone conversation on February 23rd and your letter of same date, the board is wanting to secure the services of a an engineer.

The engineer of course should be a disinterested party, possibly from Pocatello. We would like for him to inspect the Crowther Brothers Dam to insure the Stockholders that construction was made within the state law and that safety of it's impounding water to the amount of 1053 acre feet of water is satisfactory. This is one of the main problems facing the M. V. I. Co. today.

We realize the safety of a reservoir is part of the reclamation department's program and would like any suggestion that you might have on this matter. If you could refer us to an engineer in Pocatello that would be available for this type of work we would be greatful to you.

You have brought to our attention several times that Crowthers does not have the permit storage right for this amount of storage, but we are assuming that they have it from a survey made by Mr. T. F. Budge, but of course until a permit is filed we have not the right to store such an amount. Is this not correct?

A special meeting of the M. V. I. Co. stockholders will be held April 10th, for the purpose of amending the articles of incorporation to increase the capital stock enough to enable to company to enlarge their storage facilities.

Your help with reference to an engineer's help will be appreciated.

Very truly yours,

Ives E. Jones
Secretary.

R-607

March 20, 1956

RE: Permit No. R-807

Malad Valley Irrigating Co.
Malad City
Idaho

ATTENTION: Mr. Ives E. Jones, Sec.

Dear Mr. Jones:

This is in reply to your letter of March 14th regarding the purchase of Crowther Brothers' reservoir and power rights.

The following men are professional engineers licensed in the State of Idaho and living in Pocatello:

NAME	ADDRESS	PRESENT EMPLOYMENT
Clinton, Samuel D.	620 N. Arthur Ave., Pocatello, Idaho	Bannock County Surveyor
Howard, James E.	61 Maplewood, Pocatello	Paul Roberts Machine Shop
Purkey, Don E.	Apt. 2E, Pocatello Heights, Pocatello	Westvaco Mineral Prod. Divis., Food Mach. & Chem. Co. Project Engineer
Ritland, Hubert O.	432 S. 11th St. Pocatello	Idaho State College, Director of Engineering
Rounds, Arvin D.	522 S. 9th St. Pocatello	Idaho Dept. of Highways, Resident Engineer
Sacht, William W.	132 Gray Ave. Pocatello	Idaho Dept. of Highways, District Materials Engineer
Smith, Wayne B.	755 Ebony St. Pocatello	Idaho Power Co., Division Electrical Supt.
Voeller, Carl J.	674 West Pine, Pocatello	Hamilton & Voeller, Partner #
Wilson, Wendell W.	1429 N. Garfield Pocatello	Pocatello, City Engineer

It is possible that you could get one of these men to make the survey you suggest. If none of these men are available you could write to the State Board of Engineering Examiners here in Boise and obtain a list of licensed engineers from which you could make a selection.

R-807

In answer to your fourth paragraph, will say that Crowther Brothers have submitted an application for permit for the additional storage and same is being processed and will be approved.

Yours truly,

MARK R. KULP
State Reclamation Engineer
By

E. N. Humphrey
Deputy State Reclamation Engineer

H:hll

R-807

R-807

"thence northwesterly along the crest of the mountains between Malad and March valleys to an intersection of the township line between ranges thirty-six (36) and thirty-seven (37) east, Boise, Meridian, thence north to the east quarter (E¼) corner of section twenty-five (25), township twelve (12) south, range thirty six (36) east, Boise meridian; thence west through the center of sections twenty-five (25), twenty-six (26), twenty-seven (27) and to the center of section twenty-eight; thence south on the north and south center line of sections twenty-eight (28) and thirty-three (33), Township twelve (12) south, range thirty-six (36) east, Boise meridian, to the top of the crest of the mountains between Malad and Marsh valleys;

"thence northwesterly along the crest of the mountains between Malad and Marsh valleys to an intersection of the township line between ranges thirty-six (36) and thirty-seven (37) east, Boise, Meridian, thence north to the east quarter (E¼) corner of section twenty-five (25), township twelve (12) south, range thirty six (36) east, Boise meridian; thence west through the center of sections twenty-five (25), twenty-six (26), twenty-seven (27) and to the center of section twenty-eight; thence south on the north and south center line of sections twenty-eight (28) and thirty-three (33), Township twelve (12) south, range thirty-six (36) east, Boise meridian, to the top of the crest of the mountains between Malad and Marsh valleys;

R-507

"thence northwesterly along the crest of the mountains between Malad and Marsh valleys to an intersection of the township line between ranges thirty-six (36) and thirty-seven (37) east, Boise, Meridian, thence north to the east quarter ($E\frac{1}{4}$) corner of section twenty-five (25), township twelve (12) south, range thirty six (36) east, Boise meridian; thence west through the center of sections twenty-five (25), twenty-six (26), twenty-seven (27) and to the center of section twenty-eight; thence south on the north and south center line of sections twenty-eight (28) and thirty-three (33), Township twelve (12) south, range thirty-six (36) east, Boise meridian, to the top of the crest of the mountains between Malad and Marsh valleys;

Point of diversion- Birch Cr. to Devil Cr.

28 27 26 Bannock Co. 25

Oneida Co.

29 30

BIRCH CREEK

Canal

Road

32 33 34 35 36 31

Hwy 191

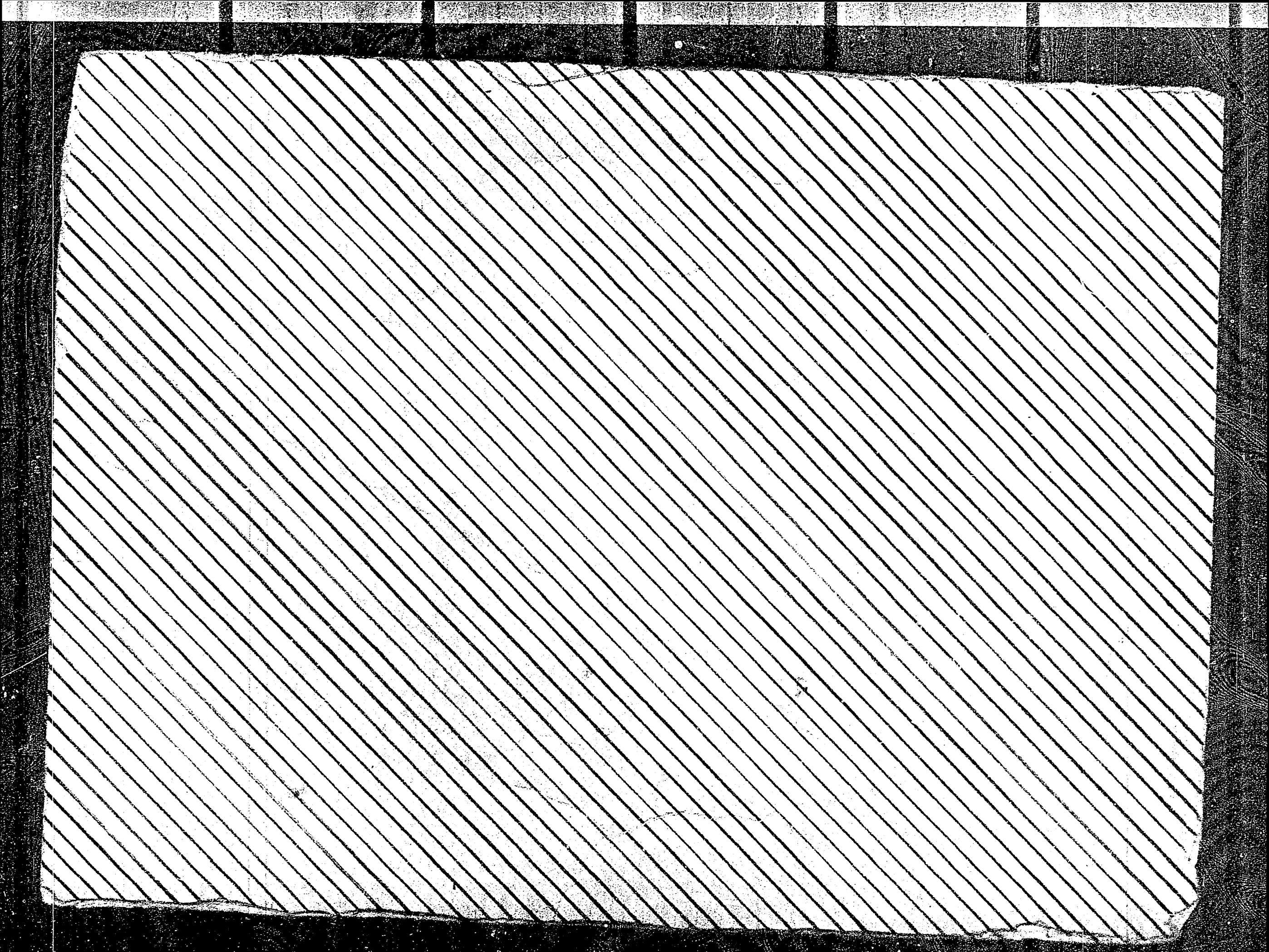
T. 12 S., R. 36 E. T. 12 S., R. 37 E.

T. 13 S. R. 36 E. T. 13 S., R. 37 E.

5 4 3 2 1 6

8 9 10 Road 11 12 7

Copy from Hwy. Dept Aerial Photo.



POWER FILING UNDER SECTION
41-209 IDAHO CODE ANNOTATED

Date of Notice ..... 19.....
Date of Publication of Notice ..... 19.....
Last Publication of Notice ..... 19.....
Protest Filed ..... 19.....

Date of Notice of Hearing ..... 19.....
Date of Hearing ..... 19.....
Notice of Appeal Filed ..... 19.....

R-807

APPLICATION FOR PERMIT

To Construct a Reservoir and Store and Appropriate
The Public Waters of the State of Idaho

Application No. R 27895
Permit No. R 807

1. Name of Applicant: CROWTHER BROS. MILLING CO.

Postoffice address: Malad County Oneida State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: Malad, July, 1936

(b) Amount of Capital Stock: $ 50,000

(c) Amount paid in: $ Fully paid

(d) Names and addresses of directors: E. N. Crowther, N. W. Crowther and Junios L. Crowther, all of Malad, Idaho

II. The financial resources of the corporation are:

(a) Cash on hand: $ Ample

(b) Treasury Stock: $

(c) Bonds to be issued: $ None

(d) Other resources: Gross resources $366,000 per 1947 financial statement.

2. Quantity of water to be stored: 773.2 acre feet per annum.

3. Source of water supply is Spring Creek & Devil Creek (Creek) (River) (Spring), a tributary of Malad River.

4. The outlet of the proposed reservoir is located N. 29° W./ 2905 feet, distant from the S E corner of Section 16, Township 14 S., Range 36 E., B. M. and is in the NW ¼ of SE ¼ of Section 16, Township 14 S., Range 36 E., B. M. County of Oneida

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

(a) The reservoir is located in the channel of Spring Creek (Creek) (River).

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located ____ feet (bearing) distant from the ____ corner of Section ____, Township ____, Range ____, B. M., and is in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____, B. M.; width at bottom ____ feet, width at top ____ feet, depth of water ____ feet; average grade per mile ____ feet; Capacity ____ cubic feet per second.

6. (a) The area of the high water line of the reservoir is 27.35 acres.

(b) The reservoir capacity is 773.2 acre feet.

7. Height of reservoir dam 81 feet, length at top 787 feet, length at bottom 70 feet, size of outlet 1.833 diam. feet by ____ feet. The dam is to be constructed of materials as follows: Compacted earth fill of clay material existing at the dam site.

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

8. (a) Will water stored in reservoir be diverted to canal or acqueduct, thence to land to be irrigated without commingling with natural flow of (Creek) (River) ?

(b) Water stored in reservoir will be carried in the channel of Spring Creek (Creek,) (River,) a distance of ____ miles to point of diversion located ____ (bearing) ____ feet, distant from the ____ corner of Section ____, Township ____, Range ____, B. M., and in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____ B. M.

9. Amount of water claimed from Spring Creek (Creek) (River) (Spring) in addition to that stored in reservoir Entire flow, also the entire flow from Devil Creek- 8 to 15 cubic feet per second.

10. Water is to be used for Water power purposes purposes.

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

(a) Point of use of water ____ (bearing) feet, distant from ____ Corner of Section ____, Township ____, Range ____ B. M. and is in the Lot 7 of ~~¼ of~~ Section Block 20 / ~~Township~~ Malad Townsite, in Sectiob 21, Twp. 14 S., ~~Range~~ Range 36 E. B.M., B. M.

(b) Amount of power generated: 60 ~~to~~ 150 H. P., under 120 to 130 feet head.

(c) Water is to be returned to Spring Creek (Creek) (River) (Spring) at a point in Lot 7, Block 20, Malad Townsite ____ (bearing) feet distant from the ____ corner of Section ____, Township ____, Range ____, B. M., in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____ B. M.

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No. ____, which is hereby referred to and made a part hereof.

and 22 incj diameter pipe line

13. Kind of diversion works: Earth filled dam/ (Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows:

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

15. Size of headgate: Width 22" diam./ pipe feet, Height feet.

16. Diversion Canal: Width at bottom feet, width at water line feet, depth of water feet, Dimensions of Flume

Diameter of Pipe 22 inches; Length of Conduit 2400 feet miles. Average grade per mile 100 feet.

17. Estimated cost of Works: Storage Works: $ 25,000.00 Diversion Works: $

18. Time required for completion of work One (1) years .

19. Time required for complete application of water to proposed beneficial use is One (1) years.

20. The land to be irrigated is described in the following tabulation:

(Give Irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total Number of Acres to be Irrigated

Remarks: Our flour mill has enjoyed right to the entire flow of water from Devil Creek as well as Spring Creek, for power purposes. This right was acquired from use in the summer of 1867, and the water has been used continually since that time.

Not having any storage for the water, however, it has not been possible to utilize this water to the maximum efficiency.

The cost of the dam has made it prohibitive to build until the moderm earth moving machinery has been developed which makes it financially possible.

We now operate our mill under 65 foot head on the above stream, but with the extended pipe line and the dam, the head can bemore than doubled, and all the water utilized to the best advantage. (Continued below)

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and store and appropriate the public waters of Idaho as herein set forth, and that the enclosed map is hereby made a part of this application.

CROWTHER BROS. MILLING CO. Applicant.

By N. W. Crowther Agent.

Date of first receipt at office of Commissioner of Reclamation 9:00 A. M. January 30, 1948

Returned to applicant for correction

Corrected application received

STATE RECLAMATION ENGINEER

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R 807

Recorded in book R 3 , page 807 Approved February 10, 1948

This is to certify that I have examined the within application for a permit to construct a reservoir and store and 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 April 10, 1948 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One fifth of the work above specified to be completed on or before August 10, 1948

The whole of said work to be completed on or before February 10, 1949

Beneficial use of water stored in accordance herewith, to be made on or before February 10, 1950

Witness my hand this 10th day of February , 1948

MARK R. KULP
Commissioner of Reclamation.
State Reclamation Engineer

IN TESTIMONY WHEREOF, We, C. A. ROBINS, Governor of the State of Idaho, and J. D. "CY" PRICE, 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 10th day of February, 1948.

(S E A L)

Countersigned:
By J. D. "CY" PRICE
Secretary of State

STATE OF IDAHO
By C. A. ROBINS
Governor

REMARKS (Continued) We will install proper valves for diversion of the water from the pipe line. Mr. Wendell K. Smith, of Preston, a licensed engineer, is in charge of the work.

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATION TO DO BUSINESS UNDER THE LAWS OF IDAHO
(A corporation)

I, N. W. Crowther, of Malad, Idaho, County of Oneida, and State of Idaho, being first duly sworn, depose and say:

That I am the Secretary of the Crowther Bros. Milling Co.; that as such I am in charge of the registered office of the said corporation, as provided by Section 29-142, I. C. A., located at Malad, Idaho, wherein are kept the records provided by Section 29-143, I. C. A., and that a majority of the stock holders of said corporation are bona fide residents of the State of Idaho, or we are a legal corporation qualified to do business in the State of Idaho under the laws of the State of Idaho.

N. W. CROWTHER

Subscribed and sworn to before me this 26th day of January, 1948.

JAMES B. JONES
Notary Public
Residence, Malad, Idaho
My commission expires 11/1/48

(Seal)

NOTE: This permit is issued subject to the provisions of Chapter 142 of the 1937 Session Laws, as amended by Chapter 66 of the Session Laws og 1947. In the event of its sale, transfer, assignment, or of its being mortgaged, without a compliance with the provisions of this Act, it shall be cancelled and revoked by the State Reclamation Engineer

---

CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that CROWTHER BROTHERS MILLING COMPANY of Malad, County of Oneida and State of Idaho, the holder of Permit No. R-807, issued upon Application No. R-27895, bearing date of priority of January 30, 1948, authorizing the construction of a reservoir, with the right to appropriate and store 773.2 acre feet per annum of the waters of Spring Creek and Devil Creek, a tributary of Malad River, in the County of Oneida, State of Idaho, for water power purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works set out and described in said Permit; that said works include a dam and reservoir adequate for the storage of 773.2 acre feet per annum, with adequate diversion works and conduit to the reservoir, and a conduit capable of conducting said water to the place of intended use; that the point of outlet of said reservoir is located in the NW¼ of the SW¼ of Section 16, Township 14 S., Range 36 E., and the place of use is described as follows, to-wit: Lot 7, Block 20, Malad Townsite, in Section 21, Twp. 14 S., Range 36 East, B.M.

Witness my hand this 11th day of January, 1949.

MARK R. KULP
State Reclamation Engineer

Proof of completion of works made December 4, 1948
Certificate of completion of works issued January 11, 1949

[illegible] CITED FOR 773.2 acre ft. SEC. FT.
p. 4614

POWER FILING UNDER SECTION
41-203 IDAHO CODE ANNOTATED

Date of ..... 19.....
Date of ..... 19.....
..... 19.....

Date of Notice of ..... 19.....
Date of Hearing ..... 19.....
Notice of Appeal Filed ..... 19.....

R-807

APPLICATION FOR PERMIT

To Construct a Reservoir and Store and Appropriate
The Public Waters of the State of Idaho

Application No. R 27895
Permit No. R 807

1. Name of Applicant: CROWTHER BROS. MILLING CO.

Postoffice address: Malad County Oneida State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: Malad, July, 1936

(b) Amount of Capital Stock: $ 50,000

(c) Amount paid in: $ Fully paid

(d) Names and addresses of directors: E. N. Crowther, N. W. Crowther and Junios L. Crowther, all of Malad, Idaho

II. The financial resources of the corporation are:

(a) Cash on hand: $ Ample

(b) Treasury Stock: $

(c) Bonds to be issued: $ None

(d) Other resources: Gross resources $366,000 per 1947 financial statement.

2. Quantity of water to be stored: 773.2 acre feet per annum.

3. Source of water supply is Spring Creek & Devil Creek (Creek) (River) (Spring), a tributary of Malad River.

4. The outlet of the proposed reservoir is located N. 29° W./ 2905 feet, distant from the S E corner of Section 16, Township 14 S., Range 36 E., B. M. and is in the NW ¼ of SE ¼ of Section 16, Township 14 S., Range 36 E., B. M. County of Oneida

(bearing)

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

(a) The reservoir is located in the channel of Spring Creek (Creek) (River).

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located ____ feet distant from the ____ corner of Section ____, Township ____, Range ____, B. M., and is in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____, B. M.; width at bottom ____ feet, width at top ____ feet, depth of water ____ feet; average grade per mile ____ feet; Capacity ____ cubic feet per second.

(bearing)

6. (a) The area of the high water line of the reservoir is 27.35 acres.

(b) The reservoir capacity is 773.2 acre feet.

7. Height of reservoir dam 81 feet, length at top 787 feet, length at bottom 70 feet, size of outlet 1.833 diam. feet by ____ feet. The dam is to be constructed of materials as follows: Compacted earth fill of clay material existing at the dam site.

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

8. (a) Will water stored in reservoir be diverted to canal or acqueduct, thence to land to be irrigated without commingling with natural flow of (Creek) (River) ?

(b) Water stored in reservoir will be carried in the channel of Spring Creek (Creek,) (River,) a distance of ____ miles to point of diversion located ____ feet, distant from the ____ corner of Section ____, Township ____, Range ____, B. M., and in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____ B. M.

(bearing)

9. Amount of water claimed from Spring Creek (Creek) (River) (Spring) in addition to that stored in reservoir Entire flow, also the entire flow from Devil Creek- 8 to 15 cubic feet per second.

10. Water is to be used for Water power purposes purposes.

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

(a) Point of use of water ____ feet, distant from ____ Corner of Section ____, Township ____, Range ____ B. M. and is in the Lot 7 of ~~¼ of Section~~ Block 20 / ~~, Township~~ Malad Townsite, in Sectiob 21, Twp. 14 S., ~~, Range~~ Range 36 E. B.M., B. M.

(bearing)

(b) Amount of power generated: 60 to 150 H. P., under 120 to 130 feet head.

(c) Water is to be returned to Spring Creek (Creek) (River) (Spring) at a point ____ feet in Lot 7, Block 20, Malad Townsite distant from the ____ corner of Section ____, Township ____, Range ____, B. M., in the ____ ¼ of ____ ¼ of Section ____, Township ____, Range ____ B. M.

(bearing)

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No. ____, which is hereby referred to and made a part hereof.

and 22 incj diameter pipe line

13. Kind of diversion works: Earth filled dam/ (Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows:

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

15. Size of headgate: Width 22" diam./ pipe feet, Height feet.

16. Diversion Canal: Width at bottom feet, width at water line feet, depth of water feet, Dimensions of Flume

Diameter of Pipe 22 inches; Length of Conduit 2400 feet miles. Average grade per mile 100 feet.

17. Estimated cost of Works: Storage Works: $ 25,000.00 Diversion Works: $

18. Time required for completion of work One (1) years.

19. Time required for complete application of water to proposed beneficial use is One (1) years.

20. The land to be irrigated is described in the following tabulation:

(Give Irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total Number of Acres to be Irrigated

Remarks: Our flour mill has enjoyed right to the entire flow of water from Devil Creek as well as Spring Creek, for power purposes. This right was acquired from use in the summer of 1867, and the water has been used continually since that time.

Not having any storage for the water, however, it has not been possible to utilize this water to the maximum efficiency.

The cost of the dam has made it prohibitive to build until the modern earth moving machinery has been developed which makes it financially possible.

We now operate our mill under 65 foot head on the above stream, but with the extended pipe line and the dam, the head can bemore than doubled, and all the water utilized to the best advantage. (Continued below)

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and store and appropriate the public waters of Idaho as herein set forth, and that the enclosed map is hereby made a part of this application.

CROWTHER BROS. MILLING CO. Applicant.

By N. W. Crowther Agent.

Date of first receipt at office of Commissioner of Reclamation 9:00 A. M. January 30, 1948

Returned to applicant for correction

Corrected application received

STATE RECLAMATION ENGINEER

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is R 807

Recorded in book R 3 , page 807 Approved February 10, 1948

This is to certify that I have examined the within application for a permit to construct a reservoir and store and 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 April 10, 1948 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One fifth of the work above specified to be completed on or before August 10, 1948

The whole of said work to be completed on or before February 10, 1949

Beneficial use of water stored in accordance herewith, to be made on or before February 10, 1950

Witness my hand this 10th day of February, 1948

MARK R. KULP
Commissioner of Reclamation.
State Reclamation Engineer

R-807

IN TESTIMONY WHEREOF, We, C. A. ROBINS, Governor of the State of Idaho, and J. D. "CY" PRICE, 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 10th day of February, 1948.

(S E A L)

Countersigned:
By J. D. "CY" PRICE
Secretary of State

STATE OF IDAHO
By C. A. ROBINS
Governor

REMARKS (Continued) We will install proper valves for diversion of the water from the pipe line. Mr. Wendell K. Smith, of Preston, a licensed engineer, is in charge of the work.

AFFIDAVIT TO ESTABLISH RESIDENCE
OR QUALIFICATION TO DO BUSINESS UNDER THE LAWS OF IDAHO
(A corporation)

I, N. W. Crowther, of Malad, Idaho, County of Oneida, and State of Idaho, being first duly sworn, depose and say:

That I am the Secretary of the Crowther Bros. Milling Co.; that as such I am in charge of the registered office of the said corporation, as provided by Section 29-142, I. C. A., located at Malad, Idaho, wherein are kept the records provided by Section 29-143, I. C. A., and that a majority of the stock holders of said corporation are bona fide residents of the State of Idaho, or we are a legal corporation qualified to do business in the State of Idaho under the laws of the State of Idaho.

N. W. CROWTHER

Subscribed and sworn to before me this 26th day of January, 1948.

JAMES B. JONES
Notary Public
(Seal) Residence, Malad, Idaho
My commission expires 11/1/48

NOTE: This permit is issued subject to the provisions of Chapter 142 of the 1937 Session Laws, as amanded by Chapter 66 of the Session Laws og 1947. In the event of its sale, transfer, assignment, or of its being mortgaged, without a compliance with the provisions of this Act, it shall be cancelled and revoked by the State Reclamation Engineer

---

CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that CROWTHER BROTHERS MILLING COMPANY of Malad, County of Oneida and State of Idaho, the holder of Permit No. R-807, issued upon Application No. R-27895, bearing date of priority of January 30, 1948, authorizing the construction of a reservoir, with the right to appropriate and store 773.2 acre feet per annum of the waters of Spring Creek and Devil Creek, a tributary of Malad River, in the County of Oneida, State of Idaho, for water power purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works set out and described in said Permit; that said works include a dam and reservoir adequate for the storage of 773.2 acre feet per annum, with adequate diversion works and conduit to the reservoir, and a conduit capable of conducting said water to the place of intended use; that the point of outlet of said reservoir is located in the NW¼ of the SW¼ of Section 16, Township 14 S., Range 36 E., and the place of use is described as follows, to-wit: Lot 7, Block 20, Malad Townsite, in Section 21, Twp. 14 S., Range 36 East, B.M.

Witness my hand this 11th day of January, 1949.

MARK R. KULP
State Reclamation Engineer

Proof of completion of works made December 4, 1948
Certificate of completion of works issued January 11, 1949

[illegible] CITED FOR 773.2 ~~SEC. FT.~~ acre ft.
p. 4614

4614

State of Idaho
License and Certificate of Water Right

Water License No. R-807 Amount 773.2 acre feet

Water District No. Priority January 30, 1948.

THIS IS TO CERTIFY that CROWTHER BROTHERS MILLING COMPANY

of Malad, Idaho store and , made application for a permit to appropriate the public waters of the State of Idaho, dated January 30, , 19 48 ; that Permit No. R-807 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 773.2 acre feet, was issued thereunder on January 11 , 19 49 , showing that said works were completed on the 4th day of December ,1948 ; and that on the 10th day of January ,1950 ,

CROWTHER BROTHERS MILLING COMPANY

of Malad , State of Idaho , made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of Devil Creek & Spring Creek , a tributary of Malad River , for the purpose of water power for flour mill , under Use Permit No. R-807 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 8 of Licenses at page 4614 , on the 27th day of July , 19 50 ;

The right hereby confirmed dates from January 30 , 19 48 ;

The Point of Outlet is located in the NW¼ SE¼ Section 16, , Tp. 14 S. , R. 36 E. , B. M. Oneida 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 773.2 acre feet per annum.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
Lot 7, Block 20, Malad Townsite, located in Section 21, Township 14 South, Range 36 East, B.M.					

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 27th day of July , 1950 .

MARK R. KULP

State Reclamation Engineer

(SEAL)

15 2076