

Name E. G. Easterday
By Riverside
Address Oregon

Application No. R-22879
Permit No. R-913
Certificate No. 20177

Stream Index, Page No. 12-22

Date filed October 16, 1947
Priority October 16, 1947
Action suspended until

Returned to applicant
Date of approval March 1, 1948

CONSTRUCTION

Date for beginning March 1, 1949
Date for completion October 1, 1950
Extended to 10-1-53
Date for application of water
Extended to 10-1-53

PROSECUTION OF WORK

Form "A" filed March 25, 1949
Form "B" filed October 30, 1948
Form "C" filed

FINAL PROOF

Blank mailed
Proof received
Date certificate issued JUN 30 1953

See App. No. 22880
" Dam file: E-9
" Map file: E-18-2
ASSIGNMENTS

Date	To Whom	Address	Volume	Page

FEES PAID

Date	Amount	Receipt No.
10/24/47	24.22	3735
3/15/48	0.22	C. 9.24.6
	B. P. Fee	
5/25/53	\$1 Cert. Fee	2599

FEES REFUNDED

Date	Amount	Check No.

REMARKS

The right herein granted is limited to the construction of Easterday Res. and the storage of 1043.7 a.f. of water from Granite Creek to be appropriated under App. No. 22280, Per. No. 18053 for irrigation.

MAR 2 1949 CARD FOR A

Form A

Application No. R-22879

NOTICE OF BEGINNING OF CONSTRUCTION

I, E. G. Easterday, the holder of Permit No. R-913,
to appropriate the public waters of the state of Oregon, began the actual construction of the works described
therein on the 1 day of Aug., 1947.

Remarks: from 1 to 13 men were employed
The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed

up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this 23 day of March, 1949.

E. G. Easterday
(Signature of Applicant)

Riverside Ore.
(Address)

Fill out, detach, and mail to the State Engineer, Salem, Oregon, when construction work is begun.

STATE PRINTING DEPT.

Form B

Application No. R-22879
~~22880~~

NOTICE OF COMPLETION OF CONSTRUCTION

I, E. G. Easterday, the holder of Permit No. R-913,
to appropriate the public waters of the state of Oregon, completed the construction of the works described
therein on the 4 day of October, 1948.

Remarks: If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you

should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 25 day of October, 1948.

E. G. Easterday
(Signature of Applicant)

Riverside Ore.
(Address)

Fill out, detach, and mail to the State Engineer, Salem, Oregon, when construction work is completed.

Permit No. R-913

20177

Application No. 22879

County MALHEUR

Preliminary Data for Proof of Appropriation of Water

1. Name E. G. Easterday 2. Address Riverside, Oregon
3. Source of supply Granite Creek
- Tributary of Malheur River
4. Amount of water 1043.7 acre feet 5. Priority date October 16, 1947
6. Use storage for irrigation, to be appropriated under Appl. No. 22880, Permit No. 18053.

Dam located:

7. Location of point of diversion NE $\frac{1}{4}$ & NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 1 Tp. 24S Rg. 38E, W. M.
(Legal Subdivision)

8. The description of land given below corresponds to that shown in the permit covering land to be irrigated, or, if for other purposes, the place of use.

Township	Range	Section	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
RESERVOIR LOCATED					
24S	38E	1	NE $\frac{1}{4}$ & NW $\frac{1}{4}$ NW $\frac{1}{4}$		

Land on which water is to be used is part of the property described by appropriator as follows:

REPORT OF PERSON MAKING INSPECTION

Description of works:

I,, do hereby certify that I have made an inspection of the works described herein and in Permit No., on the day of, 19....., and found the foregoing statements and descriptions of works to be accurate. In my opinion the appropriation has been completed to the extent of and I recommend the issuance of water right certificate for this amount.

(Quantity of water in
second-feet or acre-feet)

NOTICE TO INSPECTORS

If conditions do not justify the above report by you, please return this form without your signature, with a full report by letter.

.....
(Name)

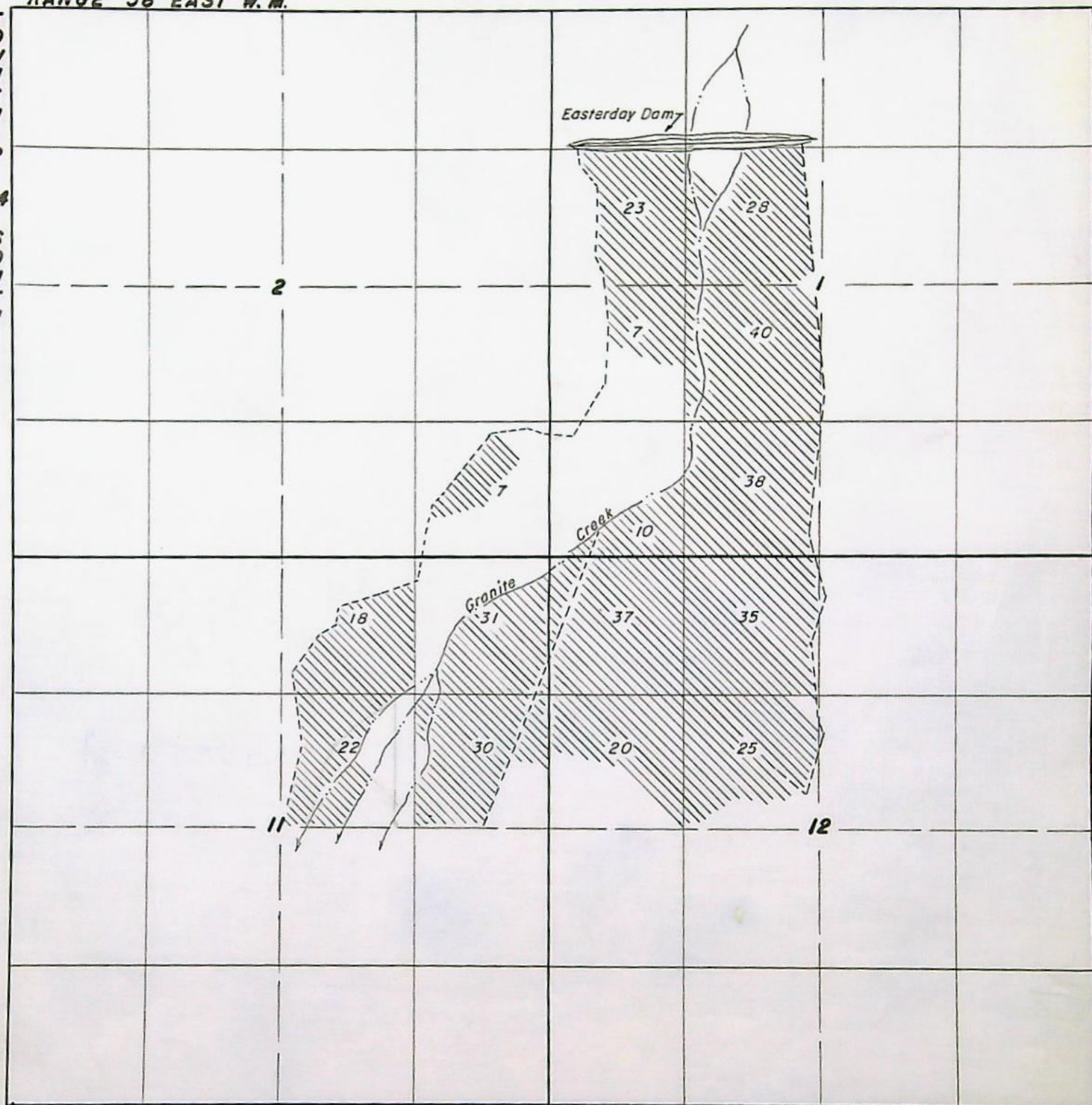
.....
(Title)

RANGE 38 EAST W.M.

T
O
W
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S
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P

24

S
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RECEIVED
APR 30 1953
STATE ENGINEER
SALEM, OREGON

R-22879
22680

April 14, 1971

Swan, Butler & Looney
P.O. Box 430
Vale, Oregon 97918

Attention: Cliff Looney

Dear Mr. Looney:

I made an error in listing the copying fees for documents of Easterday water rights. Costs of these should have been \$4.45 and with an enclosed check No. 4203, I am refunding \$5.45 of the \$10.00 you submitted.

Very truly yours,

Trevor Jones
Assistant

TJ:k1c
Enclosure

February 5, 1971

Mr. Ross H. Levanger
Route 1, Box 160
Ontario, Oregon 97914

Dear Mr. Levanger:

In confirmation of our telephone conversation this morning, this is to advise you that this office has not received an application in your name, together with its accompanying dam plans, specifications, map, and documents for filing.

The required applications and documents are as set out to you in my letters of October 21, and November 4, 1969, and my letter of November 20, 1969 to Mrs. Levanger.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

cc - Mr. Frank Elfering
Mr. James A. Cox

November 20, 1969

R-22879-80

E-9

Mrs. Ross M. Levanger
Route 1, Box 160
Ontario, Oregon 97914

Dear Mrs. Levanger:

We have been contacted by your engineer, Ronald M. Blakley, concerning the necessary plans and specifications. We have not, however, received any applications for permits for this project from you nor has your attorney contacted this office.

Because of questions and disputes raised concerning your ownership of the existing dam, it is suggested that your application be accompanied with documentary evidence of your ownership of the dam and reservoir right of way.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

cc - Mr. Frank Elfering

November 20, 1969

Mr. Charles W. Swan
Attorney at Law
P. O. Box 430
Vale, Oregon 97818

Dear Mr. Swan:

My letter of October 14 referred in part to the statute, ORS 537.300, which reads in part:

"The application shall refer to the reservoir for a supply of water and shall show by documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in the reservoir to impound enough water for the purposes set forth in the application". * * * *

I believe your client has been advised that since this was a completed reservoir on lands he did not own, it would be necessary for him to show evidence of ownership of the existing structure or of the right of way from the landowners for its operation.

As to the actual ownership of the physical structure and of the rights of way which were issued by the BLM, the matter may be subject to some question and determination in the court. If this is the case, it would be necessary for you to institute a suit for such determination.

For many years it has been the claim and report to this office, including comments made by Mr. Arrien, that the Levanger Ranch was the successor to the Beers' right of way and that they operated, as owners of Turner Reservoir, both the use of water stored therein and repaired the dam after partial failure. Mr. Levanger states that such use was under a vested right. It was not claimed in the adjudication; therefore the position of this office is that it does not exist and the only way a right can be acquired is through making application and obtaining a permit from the State Engineer.

Mr. Charles W. Swan

2

November 20, 1969

Mr. Levanger has been repeatedly advised of this fact. No further storage in Turner Reservoir will be permitted unless and until permits are issued, or he obtains a court decree modifying the adjudication. I concur that he has had more than ample time to make the proper filing, but the fact that he has not acquired the necessary water rights would not negate any ownership in the physical structure he may have.

I will withhold action on Mr. Arrien's applications for a reasonable time to give you an opportunity to obtain evidence of ownership.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

cc - Mr. Frank Elfering
Mr. Andres J. Arrien



STATE OF OREGON

INTEROFFICE MEMO

TO: Files R-45438, 45439, R-22879, 22880,
and E-9

DATE: November 13, 1969

FROM: A. M. Petska

SUBJECT: Ross H. Levanger Project

On Wednesday, November 12, 1969, I had a telephone conversation with Mr. Ronald M. Blakley, 984 West Idaho Avenue, Ontario, Oregon, telephone 889-9283. Mr. Blakley advised that he had been retained by Ross Levanger to prepare plans and specifications for the Turner Reservoir preparatory to submitting application for permit to reconstruct this project and impound water for irrigation. Mr. Blakley was advised that we would require a topographic map of the reservoir area, first order topography, that he should submit drawings accurately portraying the project that has been built, outlining its deficiencies and any recommendations that he might make to correct any weaknesses or deficiencies in the structure. I advised him it was my impression that the conduit should be replaced. A more positively acting headgate structure should be strengthened by putting fill down the stream, and the rock riprap should be replaced on the upstream face; and an adequate spillway should be provided. Mr. Blakley advised he was taking a survey crew into the area tomorrow to perform topography. He furthermore indicated that when he has his drawings firmed up, he would like an inspection of this project. I advised we would accompany him to inspect the project when he has his drawings completed to such a degree that we could discuss any deficiencies or differences of opinion that we might have.

A. M. Petska
Engineer

AMP:lsc

November 4, 1969

R-22879-80
E-9

Mr. Ross M. Levanger
Route 2, Box 321
Ontario, Oregon 97914

Dear Mr. Levanger:

Contrary to your assumptions, we do not have the data and it will be necessary for you to have it surveyed and submit plans and specifications for rehabilitation of Turner Reservoir as set forth in letters of October 10, 1957, November 15, 1957, September 11, 1959, August 15, 1963 and December 22, 1965.

Your attention is also called to these letters which advise you of the necessity for making a filing (which has not been made) and the lack of probability that you could successfully pursue this through the courts, although certainly you are free to attempt to do so any time you choose.

Because you have been advised before and given ample time to make the filing, the gates in the reservoir will remain open until all of the necessary data are submitted.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

cc - Mr. Frank Elfering
Mr. James A. Cox

October 21, 1969

Re: E-9
R-22879-80

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon 97914

Dear Mr. Levanger:

The question of filing applications on Turner Reservoir, which you claim to own, has been discussed with you and your attorneys many times. To date, we have not received any application from you covering storage of water in the reservoir and its use therefrom, nor have you instituted suit in the court to attempt to have an error declared in the adjudication.

As you have been advised, it is the position of this office that if an error was made in the adjudication, you are estopped from asserting any claim at this time and can only legitimately acquire the right to use of water in Turner Reservoir by filing the applications.

You were advised by letter of December 22, 1965 that the reservoir would be opened and no further storage permitted. Such action was delayed on assurance by your attorney that he would take the necessary steps. Since we have not received the proper filings, I am instructing my water-master, Mr. Frank Elfering, by a copy of this letter, to open the gates on Turner Reservoir and post them against closing unless and until the water rights are acquired.

You should also be advised that Mr. Andrew J. Arrien has filed applications for storage and use of water in Turner Reservoir, including plans and specifications for essential repairs and to increase its size. These applications are now pending before this office.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

cc - Mr. James A. Cox
Mr. Frank Elfering

June 9, 1966

Mr. Robt. D. Lytle
Attorney at Law
225 "A" Street West
Vale, Oregon 97918

Dear Mr. Lytle:

On January 25 you asked for a 45 day extension in which to make the proper applications in connection with Turner Reservoir, now owned by the Levangers.

I trust you will be able to file these applications in the very near future.

Sincerely,

CHRIS L. WHEELER
State Engineer

CLW:eh

February 25, 1966

Mr. Robt. D. Lytle
Attorney at Law
225 "A" Street West
Vale, Oregon 97918

Dear Mr. Lytle:

The final proof survey in connection with the certificate recorded on page 20177, State Record of Water Right Certificates, (Easterday Reservoir) was not made by this office in the usual manner.

Certificates were issued on the basis of a certification by Mr. Paul Revis, registered professional engineer and at that time special assistant to the district watermaster, that the project has been completed in accordance with the original plans and the certificate was issued accordingly. Therefore, the only maps we have are the ones prepared by Mr. Revis in connection with the applications.

On the basis of subsequent mapping done by Mr. Gillespie, the surface area is in error.

In line with your request, I am enclosing a copy of Mr. Revis' map and plans and our bill in the amount of \$1.10. I certainly hope we will be able have this matter straightened up in the near future.

Sincerely,

CHRIS L. WHEELER
State Engineer

CLW:eh

enclosures - 3

ROBT. D. LYTLE
ATTORNEY AT LAW
225 "A" STREET WEST
VALE, OREGON 97918

TELEPHONE 473-3171
AREA CODE 503

January 25, 1966

RECEIVED
JAN 28 1966
STATE ENGINEER
SALEM OREGON

Honorable Chris L. Wheeler
State Engineer
Water Resources Department
516 Public Service Building
Salem, Oregon 97310

Re: Easterday Reservoir

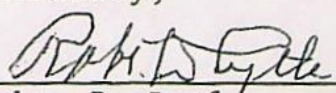
Dear Chris:

Included in your letter of December 22, 1965 to Ross H. Levanger relative to the Turner reservoir, was the following paragraph. "You may also be aware that some question has been raised concerning the storage capacity of your Easterday Reservoir covered under the certificate recorded on page 20177, State Record of Water Right Certificates." This reservoir right was established by the certificate of water right issued by your predecessor, Charles E. Strickland, under date of June 30, 1953 with a priority of October 16, 1947 for the storage of not to exceed 1043.7 acre feet. At the same time a certificate of water right was issued for the beneficial use of this water in the irrigation of the lands described in the certificate with the priority right of October 16, 1947.

Mr. Levanger does not have a copy of the survey made for this reservoir but has a recollection that someone from your office made a survey of the reservoir but does not recall the date. I would assume that this survey was made by your office prior to the date of issuance of the certificate which was June 30, 1953.

If you have this survey will you please supply me with a copy, billing me for your regular charges?

Sincerely,


Robt. D. Lytle

RDL/wf

3x3

ROBT. D. LYTTLE
ATTORNEY AT LAW
225 "A" STREET WEST
SALEM, OREGON 97310

TELEPHONE 473-3171
AREA CODE 503

January 25, 1966

RECEIVED
JAN 28 1966
STATE ENGINEER
SALEM OREGON

Honorable Chris L. Wheeler
State Engineer
Water Resources Department
516 Public Service Building
Salem, Oregon 97310

Re: E-9
R-22879-80
Ross H. Levanger

Dear Chris:

This is in relation to the above subject numbers and your letter of December 22, 1965 to Ross H. Levanger.

I have been ill fighting out a multiple attack of laryngitis and flu since prior to your letter of December 22, 1965 to Mr. Levanger. During this period Mr. or Mrs. Levanger have been trying to contact me in relation to your letter but have been unable to do so. They were in the office today which is my first day in the office for some period and handed me your letter referred to.

In that letter you informed them that they must make proper application within 30 days from December 22, 1965. This, of course, they have been unable to so since they have been relying upon me to take care of their business for many years. My telephone conversation with you this date was to ask that you extend that period for 45 days, a request which you very generously granted.

The Levangers are anxious to do whatsoever may be required to bring this filing into proper form and have authorized me to take such action as may be necessary in the premises and I am committed to that and shall keep you informed as to our progress.

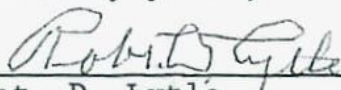
Janaury 25, 1966

-2-

It is necessary however that I check the records, including some court decrees and some ancient files which I have in this matter, in order to determine the status and to be able to discuss with you the necessary procedures. You may be assured that I will go forward with this just as rapidly as possible.

Thanking your for your cooperation, I am.

Sincerely yours,


Robt. D. Lytle

RDL/wf

cc: Frank Elfering
Watermaster
Malheur County Courthouse
Vale, Oregon

December 22, 1965

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Considerable correspondence has been carried on between members of this office and you concerning the Turner Reservoir over the past eight years.

You have been warned several times that there is no right of record in this office covering storage of water or use of water stored in Turner Reservoir and, therefore, its continued use would be in violation of Oregon law. This is particularly true since the watershed involved has been covered in the adjudication of the relative rights to the use of the waters of the Malheur River and its tributaries.

Under the terms of this decree, the failure to appear and perfect any claim that the land owner had to the use of water thereunder constituted a forfeiture of any such claim and estopped them from asserting any such claims in the future.

You have been advised that the statutes provided a procedure whereby you could file an application for permit covering this development and that if such application were filed it would be given consideration. Formal action towards draining of your reservoir has been delayed on the basis of assurances that you were going to take the necessary steps to acquire a legal right.

In view of the length of time that has passed, it appears that I have no choice but to distribute the water in connection with Turner Reservoir as provided by State Engineers permits and decrees of the court.

Unless the proper applications are received within 30 days from the date of this letter, the watermaster, Mr. Frank Elfering, will open the gates on Turner Reservoir and post them against closing unless and until the proper water rights are acquired.

Mr. Ross Levanger

2

December 22, 1965

For your assistance in making this filing and in the event you have misplaced copies previously furnished, I am enclosing the proper applications and a copy of the Rules and Regulations of the State Engineer in which you will find instructions for preparing the applications.

You may also be aware that some question has been raised concerning the storage capacity of your Easterday Reservoir covered under the certificate recorded on page 20177, State Record of Water Right Certificates.

Since the completion of the filings on Turner Reservoir will require engineering assistance, I would suggest that you also have him check the Easterday Reservoir and resurvey it for the purpose of determining its capacity. If there is a discrepancy between the actual capacity and the quantity covered under the certificate, this could be covered under a new filing at the same time.

Very truly yours,

CHRIS L. WHEELER
State Engineer

CLW:eh

enclosures
cc - Mr. Frank Elfering

June 9, 1965

Bake Young Realty
P. O. Box 980
Nampa, Idaho

Gentlemen:

I do not know to which letter Mr. Ross Levanger may be referring regarding the possibility of an error in water rights for the land described in the attachment to your letter dated May 21, 1965.

I believe there has been considerable conversation to the effect that the reservoir in Section 1, Township 24 South, Range 38 East, W.M., holds considerably more water than the 1043.7 acre feet included in the certificate recorded on page 20177, State Record of Water Right Certificates.

There has been considerable correspondence concerning what is known as Turner Reservoir, for which no rights exist.

The tabulation of rights for the lands you describe is somewhat lengthy so I am enclosing copies of the certificates involved which are recorded on pages 1855, 2106, 6861, 20177 and 20178, State Record of Water Right Certificates, together with our bill for copying in the amount of \$2.60.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Trevor Jones, Assistant

TJ:eh

enclosures

October 13, 1964

Mr. Charles W. Swan
Attorney at Law
Vale, Oregon 97918

Dear Mr. Swan:

These certificates confirming permits numbered R-913 and 18053 were issued to E. G. Easterday so I am enclosing copies of the certificates rather than the permits. I am also enclosing a print of the application map which also accompanied the final proof. Our bill for \$1.30 for the copying fees is enclosed.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Trevor Jones, Assistant

TJ:ek

Enclosures

~~25, 26, 27 T28 R38~~~~1, 12, 13 24 38~~~~6, 7 24 39~~~~Sec 12 SW SE 1000~~~~Sec 13 NE NE 1/4, NW NE 1/4, SE NE 1/4~~

Decree Allows

In T24 S R38 E

Theron R. Beers

From Star Creek

thru Vernon Ditch

30 ac	SW SE	Sec 12
16 ac	NENE	} Sec 13
12.5	NW NE	
15	SE NE	

thru Stevens Spencer Ditch

19	SW EE	Sec 11
40	NE SE	do
35.5	NW SE	do
37.5	SW SE	do
23	SE SE	do
34.5	NW SW	Sec 12
24.5	SW SW	do

From Granite Cr.

Thru Wimer Jelly

29 ac SE NW Sec 1

38.5 NESW do

30 SE SW do

In T 23S R 38E

Sidney F L Wimmer

From Granite Creek

through Wimer Deers Ditch

40 ac NE SW Sec 25

31 ac NW SW do

2.5 ac NE SE Sec 26

?

Copied from Deere

8-9-63

JWE

R-22879 ✓

22880

E-9

August 14, 1963

MEMORANDUM OF INSPECTION

Turner Reservoir

An inspection of Turner Reservoir was made July 31, 1963.

The outlet works consists of a sheet metal gate at the upstream end of one section of 18-inch concrete tile. Below the tile, water flows into 55-gallon oil drums with the ends removed. Total length of the outlet is about 15 feet.

Height of the dam is 6.5 feet from the stream channel at the downstream toe. The spillway crest is approximately 3 feet below the dam crest. The control section of the spillway is approximately 150 feet of 10-foot wide channel on an essentially zero slope. This section begins about 50 feet below the dam centerline. Side slopes of the spillway are flat being between 4 and 6 to 1.

By

Jerry W. Eggleston,
Engineer

August 15, 1963

Mr. Ross Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Although additional searching and checking of our records has been done, no right for storage of water within Turner Reservoir formed by a dam in the NE 1/4 NW 1/4 of Section 26, Township 23 South, Range 38 East, has been found. No mention is made of Turner Reservoir in the court decree.

There does not seem to have been any change in the status of Turner Reservoir since Mr. Gustafson's letter to you on November 25, 1958, and the courses of action open to you are still the same: 1. Attempt to show that Turner Reservoir as a source of water for irrigation was omitted from the decree through error. This course would require court action, or 2. File for a permit to construct a reservoir and store water for future beneficial use. This course would involve determination of the capacity of the reservoir and a plan showing the existing structure and would also mean that the storage would be subject to prior storage rights downstream, especially storage in Bully Creek Reservoir.

I called the Soil Conservation Service office in Vale. They referred me to Walter Gillespie. He said that he knew of no topographic map of Turner Reservoir which they had.

I regret that this situation was not discovered and corrected years ago. However, as it now stands, nothing can be accomplished by further delay so that you must take steps to secure a right for storage in Turner Reservoir at your earliest convenience.

On Easterday Reservoir within Section 1, Township 24 South, Range 38 East, it would be wise for you to take steps to control burrowing animals in the downstream slope as well as remove the willows on the upstream slope as mentioned in Mr. Gustafson's letter of September 1960.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By

Jerry W. Eggleston,
Engineer

JWE:ngb
cc: Frank Eiferting

September 22, 1960

Mr. Ross H. Levenger
Rt. 2, Box 321
Ontario, Oregon

Dear Mr. Levenger:

While in the vicinity of your ranch on September 14, 1960 I made an inspection of Easterday reservoir. I was pleased to see that you had placed additional riprap for protection against erosion from wave action since my last inspection. As rapidly as you can complete placement of the rest of the riprap you should remove the willows growing on the face of the dam. The willow roots create a definite hazard to the dam, even though in the absence of adequate riprap the willows provide some protection against erosion.

I also noticed, with some concern, that you have done some work on the dikes crossing Star Creek west of the county road. In constructing the dikes provision should be made not only for by-passing such water as required to satisfy downstream rights but also for spillways of adequate design to pass the flood waters of Star Creek without the dikes failing. It appears that your plan is to operate the dikes for erosion control since no rights have been established for storage. Oregon Revised Statutes 540.350 subparagraph (1) provides "No person, firm or private or municipal corporation shall construct any dam, dike, or other hydraulic structure or works, the failure of which the State Engineer finds would result in damage to life or property, unless the State Engineer has made an examination of the site and of the plans and specifications and other features involved in the construction of such works, and has approved them in writing."

I will contact you prior to my next trip to that area to schedule an inspection of the dikes with you and trust that both spillways and conduits will have been provided.

Mr. Ross H. Levenger

- 2 -

September 22, 1960

If you anticipate using Turner Reservoir for storage you should submit your applications now to insure having the permits prior to the coming winters runoff.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

January 25, 1960

Mr. Bill Schroeder
Lytle & Schroeder
Attorneys
Vale, Oregon

Dear Mr. Schroeder:

I have just received a letter from Mr. Ross H. Levanger transmitting a photostatic copy of a notice of intent to claim and appropriate water from (Turner) reservoir, said notice having been filed with the Malheur County Clerk August 25, 1906. In view of your telephone call of last week regarding Mr. Levanger's water rights I presume that the submission of the affidavit was on your advice. For your records I am enclosing a copy of Mr. Levanger's letter of transmittal together with a copy of my letter to Mr. Levanger dated November 25, 1958 in which letter I have discussed the rights in detail. May I call to your attention particularly the third and fourth paragraphs of my letter.

In those areas where adjudication proceedings have been held it is the State Engineer's Findings of Fact and Order of Determination and the Courts Final Decree that spell out the valid water rights. The Court Decree covering the Malheur adjudication makes no mention of Turner reservoir or any other reservoir as a source of water for the land under which Mr. Levanger is concerned. The Decree lists only diversion from Granite Creek via the Wimmer-Jolly Ditch and the Wimmer-Geers Ditch. Even should Mr. Levanger find that through an oversight during the adjudication proceedings a right should have been granted for use of water from Turner reservoir only Court action could confirm that fact at this time.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb
enc

January 25, 1960

Mr. Ross H. Levanger
Rt. 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Your letter of January 21, 1960, together with the copy of the notice of intent to claim and appropriate water from (Turner) reservoir filed on August 25, 1906 with the Malheur County Clerk is enlightening but as stated in paragraph 4 of my letter to you of November 25, 1958, does not constitute a water right. Turner reservoir as I have said before was not listed in the Courts Final Decree as a source of water for the lands below the reservoir. Even should it be found that Turner reservoir erroneously was omitted in the adjudication proceedings only Court action could establish that fact at this time. Without such Court action the only way in which you can establish a right to the use of water from Turner reservoir is by filing application for permit with the State Engineer.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

January 14, 1960

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Since my last correspondence with you on September 11, 1959, I have had occasion to inspect a reservoir site on Granite Creek downstream from your ranch a number of miles. It is my understanding that an application for permit to construct that reservoir will be made as soon as the plans are completed. This I am pointing out to you in order that you may realize the need for your filing on Turner Reservoir. Whichever application is filed first will have first priority on storage.

Should downstream storage be authorized prior to your establishing the Turner rights I feel there would be no alternative to writing an order to breach Turner.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

September 11, 1959

Mr. Ross E. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

I have written to Mr. Bill Cox of Soil Conservation Service advising him of the requirements for Easterday and Turner Reservoirs. Easterday Reservoir is to be placed in safe condition by application of riprap to withstand erosion from wave action and the spillway is to be checked to see that it provides four feet of clearance between the crest of the spillway and the crest of the dam while maintaining storage at 1047.3 acre feet. I believe I advised you when I saw you at the ranch on October 9, 1958 that after having reviewed the drainage basin in the field I felt the present spillway would be adequate to pass any flood that might be expected providing Turner Reservoir were maintained in safe condition.

Turner Reservoir requires your submission of applications for permits thereto accompanied by a map showing points of diversion and lands to be irrigated together with plans showing the dam as constructed and with an engineers statement confirming the dam to be in safe condition. Should the engineer not feel the dam to be in safe condition he should include corrective measures in the plans.

Enclosed is the Malheur County AGC Committee letter which you requested I return.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FEG:mb
enc

September 11, 1959

Mr. Bill Cox
Work Unit Conservationist
Malheur SCD - 46
P. O. Box 657
Vale, Oregon

Dear Mr. Cox:

It is my belief that Mr. Levanger's request for engineering assistance from Soil Conservation Service concerns Turner Reservoir for which no water rights have been established. For your information I am enclosing a copy of my letter to Mr. Levanger dated November 25, 1958, that letter presenting a rather comprehensive background of Turner Reservoir.

The requirements are that Mr. Levanger submit applications for permit to construct the reservoir and to appropriate water therefrom for irrigation or such other beneficial use as he desires, the applications to be accompanied by a map showing the points of diversion and place of use and by a set of plans showing the dam as constructed. The plans must be as complete in detail as if for a new structure, including drainage basin, hydrologic data, etc. With the plans the engineer must submit a statement as to the condition of the dam. A suggested outline for the statement is enclosed. If the engineer feels the dam not to be safe he should incorporate in the plans such corrections as he deems necessary to place the dam in a safe condition.

The foregoing are the usual requirements for establishing rights to any dam constructed without a permit. The Turner Dam is not a shining example of good engineering, but, considering that it was built prior to 1909, I feel it to be in reasonably good shape. Certainly it is quite important to the ranch not only for the water stored for irrigation but also for the flood protection it provides. It has a drainage basin of 12.3 square miles of which 8.3 square miles has almost a positive control against a high peak discharge because of an old lake bed with a narrowly confined outlet. Of the remaining 4 miles of basin about one mile is taken up by Turner Reservoir. The storage and flood routing of Turner Reservoir work together to reduce, materially, the flood peak that passes through the Easterday Reservoir spillway two and one-half miles downstream.

September 11, 1959

The State Engineer does not prepare plans and specifications, rather, by law he is required to examine plans and specifications submitted for his approval and either approve them or make such recommendations for changes as he deems necessary to place them in satisfactory condition. The preparation of the plans and specifications, or, as in this instance, of the plans and statement as to condition is the function of the registered professional engineer or authorized agency employed by the owner for that purpose. Should you so desire either Al or I will meet with the S.C.S. engineer to inspect the dam and discuss possible repairs. I would appreciate your having the engineer inspect the dam before requesting a joint inspection, however, for I do not believe he will find a joint inspection necessary.

Since writing the foregoing I have received a letter from Mr. Levanger indicating that he is interested also in getting assistance on rehabilitation of Easterday Reservoir. When I first requested that repairs be made to Easterday Dam, October 10, 1957, the dam was in poor condition due to erosion from wave action and it appeared that there might be a question as to the adequacy of the spillway due to an error in the size of the drainage basin as shown on the original plans. Easterday Dam was built under State Engineers permit No. R-915. Since that time I have had the opportunity to investigate the drainage carefully and feel, providing Turner Reservoir is maintained, that the Easterday spillway safely will pass any floods that might be expected. When I made my last inspection, October 9, 1958, Mr. Levanger was in the process of applying riprap and had added fill to compensate for consolidation of the embankment. The requirement for Easterday Reservoir is that it be placed in safe condition by application of sufficient riprap to withstand erosion from wave action, and that the spillway be checked to see that it provides four feet of clearance between the crest of the spillway and the crest of the dam while maintaining storage at 1047.3 acre feet.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDC:mb

July 3, 1959

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Will you please submit applications for permits for
Turner reservoir and use of water therefrom for irrigation in
order that it not be necessary for the State Engineer to order
the watermaster to open and lock the outlet gate.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

March 31, 1959

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Will you please advise me as to the course your attorney, Mr. Robert Lytle, has advised you to follow regarding establishing water rights on Turner Reservoir and when such action will be taken.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

December 29, 1958

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

Thank you for your letter of December 23, 1958, regarding Turner Reservoir. Your cooperation is very much appreciated.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

November 25, 1958

Mr. Ross H. Levanger
Route 2, Box 321
Ontario, Oregon

Dear Mr. Levanger:

On October 10, 1957, I wrote to you concerning the condition of Easterday and Turner Reservoirs enclosing copies of my inspection reports for the two reservoirs and pointing out that continued use of Turner Reservoir for storage of water appeared to be in violation of law since it was not listed as a source of water for the adjudicated rights.

In view of my discussion with you at your ranch on October 9, 1958, concerning the rights on Turner Reservoir, particularly in view of your statement that your deeds made specific mention of rights pertaining to Turner Reservoir, I have just completed an exhaustive search of our records for any rights of record, either through adjudication proceedings or through State Engineer's Permit, and again I find no evidence of rights for storage in or use of water from Turner Reservoir.

The adjudicated rights for lands irrigated from Granite Creek on your ranch show only diversions from Granite Creek via the Wimmer-Jolly Ditch and via the Wimmer-Beers Ditch. Both the State Engineer's Findings of Fact and Order of Determination and the Court's final Decree are in accord on this point.

Prior to 1909 intents to use projects such as Turner Reservoir sometimes were recorded, on the county level, and thus being a matter of record found their way into deeds and abstracts. Upon the passing of the water code however, such rights, unless confirmed by the adjudication proceedings were lost. Occasionally, too, during the adjudication proceedings claims by the applicants were overlooked or not completely incorporated in the Findings of Fact, thus resulting in missing certain lands or perhaps a source of water in the final Decree. Then, too, the claims of applicants may have been perfectly clear but not supported by sufficient proof resulting in certain lands or some sources of water purposely not being included in the final Decree. To find what actually happened, if possible at all, in the case of Turner Reservoir would require a search of the claims submitted by both Theron R. Beers and Sidney F. L. Wimmers. Those claims being original evidence before the court in determination of rights should be on file at the County Courthouse in Vale with the balance of the Malheur River Adjudication records. Were such a search of the records to reveal that inclusion of Turner Reservoir

November 25, 1958

were overlooked as a source of water for the adjudicated rights it might be possible to petition the Court for correction of the records. I understand that such corrections have been made in the past.

The other alternative to establish rights for the reservoir is to file applications for permits, one for construction of the reservoir, the other for use of water therefrom. This, of course, would result in a loss of priority to any other reservoirs downstream having Granite Creek as a source of water. Since there are no main stem dams on Granite Creek downstream it does not appear that your rights would be materially affected. The old Beers Reservoir is on a tributary to Granite Creek as also is the more recent Chapman Reservoir. In the event you should submit applications, since the dam is already constructed, you could have plans showing the dam and reservoir, as constructed, prepared by a registered land surveyor such as Clarence Young. This would be of less expense to you than were the project to involve the design of a new structure or design for modifications of an existing structure which would require plans by a registered engineer. Having examined Turner Reservoir and its drainage basin in detail, I believe the structure to be safe without any change in design being necessary although I feel it necessary to complete the spillway repairs discussed with you in the field.

Assuming that Turner Reservoir has a capacity of 2000 acre feet as indicated on the adjudication map and that a filing would be made to supplement all those lands covered under the Easterday Reservoir filing, 371 acres, your fees to accompany the reservoir application would be \$29.00 and those to accompany the secondary application would be \$39.05 for a total of \$68.05. Actually the fees would have to reflect the true storage capacity as determined by survey.

You will have to determine for yourself which of the two procedures to follow. Since the matter has come to light, however, we have no alternative but to require you to take immediate action or cease storing water in the reservoir. For your convenience I am enclosing a set of application blanks together with a copy of Rules and Regulations of the State Engineer pertaining to surface water. Your cooperation will be very much appreciated in order that it not be necessary for the State Engineer to issue a formal order to cease storage.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb
enc:

November 25, 1958

Bunjerie Boon Ochitani
Soil Conservation Service
Pilot Butte Inn
1101 Wall St.
Bend, Oregon

Dear Mr. Ochitani:

The agreement between the Bureau of Reclamation and the
Bureau of Land Management has been received and permits are in
process of being issued.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

November 25, 1958

Mr. Chas. Chapman
Riverside
Oregon

Dear Mr. Chapman:

On October 9, 1958, I made an inspection of the Easterday and Turner reservoirs about which you have been concerned and spent quite some time in checking out the drainage basins thereto.

In view of extensive repairs made to each structure I feel that both structures are in far better condition than hitherto. The crest height of Easterday reservoir has been re-established providing the freeboard originally designed and a substantial amount of rock riprap has been applied to retard further erosion from wave action. Mr. Levanger recognizes, now, that a continuing maintenance program is necessary. The breach in Turner reservoir has been repaired and a more satisfactory spillway established around the right end of the dam replacing the spillway over the dam which I felt to be of questionable safety.

I was glad to see that Turner was repaired for it offers substantial flood routing benefits to Easterday reservoir downstream.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:mb

REPORT ON INSPECTION OF EASTERDAY RESERVOIR
Malheur County

On September 19, 1957, an inspection of the Easterday and Turner Reservoirs on the Ross H. Levanger ranch was made as the result of a complaint received in this office questioning the safety of these structures. While in the area I also inspected reservoirs owned by Chas. W. Chapman and by J. R. Arrien and Son as well as several dikes constructed on the Levanger ranch.

Easterday Reservoir, constructed in Section 1, T. 24 S., R. 38 E., and in Section 36, T. 23 S., R. 38 E., I found to be in a very poor state of repair. According to the plans approved by this office, Easterday Reservoir should have a surface area of 201.6 acres at the spillway entrance elevation of 98.5, this elevation in comparison to a flow line elevation of 88.0 at the entrance to the central outlet conduit. The dam should have a maximum height of 14 feet with a crest elevation at 102.0, thus providing 3.5 feet of clearance between the crest of the dam and the entrance elevation of the spillway, the spillway having a base width of 70 feet. The crest width of the dam should be 12 feet and the upstream and downstream slopes, respectively, should be 3:1 and 2:1.

In it's present condition, the top of the dam is undulating and irregular in width. The maximum clearance between the spillway entrance and the top of the dam is but three feet and at one point it was measured at but 25 inches. In other places it appeared to be even less although further measurements were not taken. Wave action has eroded the crest width down to as little as 7½ feet, leaving an almost vertical face from the top of the dam down to the water line. Large rocks placed on the upstream face are so sparse and poorly applied that they are almost completely ineffective in retarding wave action. At a depth of three feet below the crest of the dam the spillway has a width of only 50 feet. From the central 50 foot base section, the bottom widens out to approximately 70 feet while rising

from 6 to 8 inches. In the meantime the benefit of the 6 to 8 inches of central depth has been destroyed by placement of sandbags within that section.

No attempt was made to survey the surface area of the reservoir, as outlined by a clearly delineated highwater mark, however, it is obvious either that the original survey was in error or that the reservoir has been constructed to store water at a higher elevation than that approved, since water backs up beyond a county road along the range line between Ranges 38 and 39 E., the plans showing the water surface falling 200 feet short of the range line. It also appears that the reservoir may extend up to a quarter of a mile further North than shown on the original plans.

In plotting the reservoir together with other reservoirs examined in the area, it becomes obvious that an error was made by Mr. Paul Revis, the engineer who prepared the plans, in outlining the area of the drainage basin involved. Mr. Revis showed the drainage basin as being but 7.6 square miles. Included also in the basin should have been the area above Turner Reservoir to the Northwest and the areas above Box Springs Reservoir and Shumway Reservoir to the Northeast by East. Including these areas but excluding that portion of the basin which lies in the North half of T. 23 S., R. 38 E., with which the writer is not acquainted, the basin includes not less than 27.6 square miles. As nearly as can be determined, Turner Reservoir was breached last winter following the principal runoff resulting from the Vale flood storm. Since that reservoir has a reported capacity of 2000 acre feet, and Easterday has a recorded capacity of 1043.7 acre feet, it is highly probable that normal storage, to say nothing of spillway storage in the two reservoirs, largely was responsible for Easterday Reservoir having withstood the storm. Had Turner Reservoir breached during the peak of the initial runoff it is quite possible that extensive property damage would have resulted. With the flood routing benefits of Turner Reservoir being lost at the present because of the breach in Turner Reservoir it becomes imperative to re-evaluate the capacity

the Easterday spillway. Because of the continued poor state of repairs, both of Easterday and Turner Reservoirs, I cannot feel justified in making design allowances for flood routing other than that derived from the particular reservoir under consideration.

In view of the unsatisfactory condition of Easterday Reservoir, it is recommended that immediate repairs be effected, first to re-establish the crest elevation and width and to provide positive protection against further erosion from wave action, and second, to re-construct the spillway at such entrance elevation as will control the storage capacity at the amount authorized by the State Engineer's Permit No. R-913, Certificate No. 20177, while giving due consideration to a flood based on the actual drainage basin involved.

In the event that immediate action should not be taken by the owner to effect the necessary repairs, it further is recommended that steps be taken to prohibit storage within the reservoir until such time as the repairs are effective.

By *Fred D. Gustafson*
Fred D. Gustafson
Engineer

FIG:gw

of 4

REPORT ON INSPECTION OF TURNER RESERVOIR
Malheur County

Inspection of Turner Reservoir was made on September 19, 1957, as a result of a complaint received by the State Engineer questioning the safety of Turner and Easterday Reservoirs.

Turner Reservoir, located in Sections 26 and 27, T. 23 S., R. 38 E., is shown on the adjudication survey map as having a surface area of 510 acres with 1500 acre feet of water stored in 1909 and a maximum capacity of 2000 acre feet. There is no record, however, of any claim to water therefrom in the adjudication proceedings, owners of such lands as were downstream from the reservoir having declared diversion only from Granite Creek via the Winner-Jolly Ditch and from Star Creek. Since there have been no applications made to the State Engineer, nor permits issued for storage of water within Turner Reservoir, and with no claims having been pressed for rights from storage therein during the adjudication proceedings, it appears that any storage and use of water therefrom is in violation of Oregon Revised Statutes 537.130 and 540.350.

The embankment for Turner Reservoir has a maximum height, at the combined outlet and spillway structure, of approximately $7\frac{1}{2}$ feet. The crest of the embankment is very irregular both in height and in width. Approximately 100 feet North of the head gate there is about a 20 foot long breach through the embankment and the irregular bedding, or lack of bedding, within the embankment at that point indicates construction by team and fresno. Recent repairs have been made with a bulldozer however.

The outlet consists of a prefabricated concrete head gate of the type used in irrigation ditches, the head gate being set in a vertical concrete wall 26 inches thick on top. The concrete wall is set in a roughly V-shaped notch in the embankment resting on coarse riprap or loose rubble. About three feet wide

the base, the wall widens out to about 12 feet at the top with a 7 foot section in the center depressed 12 inches. The embankment projects approximately 18 inches above the concrete in the head gate wall, which wall evidently was intended as an overflow spillway section. Below, or downstream from the concrete wall are the remains of the former timber outlet and spillway structure. The concrete head gate and spillway structure has been built sometime subsequent to 1950, about which time the prefabricated units described above first became available.

The size of the water shed for Turner Reservoir is not known since the maps now available do not show the streams and drainage patterns in T. 23 S., R. 38 E, except for Granite Creek up to the reservoir and except for the South Fork of the Malheur River at the Northwest corner of the township.

Notwithstanding the fact that the reservoir has been in use without established rights, it appears that storage therein has been of considerable value from the standpoint of flood routing in the protection of the Easterday Reservoir located about three miles downstream. With the Turner dam now breached, the Easterday Reservoir spillway will be subject to much more severe flood conditions.

Under no circumstances should further storage be permitted, however, until the dam is rebuilt in accordance with plans and specifications submitted to, and approved by, the State Engineer as provided by law.

By *Fred D. Gustafson*
Fred D. Gustafson
Engineer

FDG:gw

December 20, 1957

Mr. Ross Levanger
Route 2 Box 321
Ontario, Oregon

Dear Mr. Levanger:

By a copy of Mr. Miles' letter to you of December 8, 1957, I have been advised that Mr. Miles will not be able to continue with the engineering for your project because of an unforeseen emergency at the mill in Hines.

In order that the work continue, I am taking the liberty of submitting to you for consideration the names of five other engineers who, although somewhat distantly removed from your ranch, still might be able to do the work for you.

1. Mr. William L. Wales, Klamath Falls, Oregon.
2. Mr. Emil P. Bachard, Prineville, Oregon.
3. Mr. James Hanley, Baker, Oregon.
4. Mr. Philo Anderson, Baker, Oregon.
5. Mr. Lyle Smith, Klamath Falls, Oregon.

If I have missed anyone located closer, it is purely an oversight. Please let me know at your earliest opportunity the name of the engineer you select.

I understand from previous discussions with Mr. Miles that you already have done some work toward improving the upstream slope and crest width of the dam. I would appreciate your writing me a brief description of the work that has been completed to date in order that I can keep our files complete.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

22880
R-22879
H-9

December 20, 1957

Mr. Joseph R. Miles
P. O. Box 127
Hines, Oregon

Dear Mr. Miles:

Thank you for the copy of your letter of December 8, 1957,
to Mr. Ross Levanger.

I regret that conditions have arisen that prevent your
carrying on with the immediate work on the project, but appreciate
the position in which you find yourself due to the illness of
your foreman. I am writing to Mr. Levanger this afternoon to
give him the names of several other engineers to whom he might
apply for assistance.

May I take this opportunity to wish you and Mrs. Miles
the best of the season's greetings.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

PDC:GW

at

22880
R-22879
E-9

November 15, 1957

Mr. Joe Miles
P. O. Box 127
Hines, Oregon

Dear Joe,

Enclosed for your convenience are two maps taken from the new State Highway 15" quadrangle series showing the drainage basins for Easterday Reservoir and for Star Creek above one of the dikes on the Levanger ranch. Under separate cover, I am mailing to you the blue print of the Easterday Reservoir plans which you requested.

With reference to the spillway revision, I feel that definite flood routing benefits can be gained from Turner Reservoir and quite possibly from the meadow or natural lake, which ever the case may be, which lies North of Turner Reservoir. To actually work out the benefits gained therefrom would entail a considerable amount of field work and time on your part, so rather than go to that trouble I would suggest either relying on some impiracle formula or on comparison to other water sheds where stream gage measurements are available. Using a modification of the rational formula which the Soil Conservation Service has developed for a standard water shed, and with corrections applied to cover the conditions of the Easterday basin, a potential flood of 1800 cubic feet per second would appear probable, discounting the Turner basin. On the other hand, comparing the Easterday basin to the Krumbo Reservoir basin, where size, altitude, and general climatic conditions appear comparable, it would appear that a potential flood of approximately 1100 cubic feet per second could occur.

The data for Krumbo Reservoir was obtained from an adjoining water shed where stream gage measurements were available and represent a hundred year flood. Probably to be on the safe side one should make allowance for a spillway capacity of 1500 cubic feet per second. Based on the spillway entrance capacity formula given on Page 79 of "Low Dams", it appears that a spillway having a base width of 100 feet, side slopes of 2:1, and a depth of 3 feet, exclusive of free board, would be required.

November 15, 1957

Although normally we recommend a minimum of two feet of free board, and although a total depth of 4 feet would provide but 1 foot of free board, rather than work an undue hardship on the present owner by requiring him to substantially increase the height of the dam I will recommend approval of the revised plans showing a total depth of 4 feet. In the event, upon re-survey of the reservoir in order to determine the true capacity thereof, it should be found that the water surface must be lowered in order to stay within the terms of the permit, which provides for 1043.7 acre feet of water, the matter of obtaining additional depth of spillway would be greatly simplified. Should the capacity of the reservoir at its present normal water shed elevation be found to be within the terms of the permit then it would become necessary to increase the height of the dam by 5/10ths of a foot. This I do not feel would impose too great a hardship.

As you will recall in my discussion with you at Burns, I indicated that a re-survey of the reservoir was necessary. I find in reviewing the Easterday file that in December of 1947, Mr. Chet Cummings of this office made a survey of the dike shown in Section 13, T. 24 S., R. 38 E., on the accompanying map. His survey indicated that a spillway exists near the left abutment of the dike, which spillway is also shown on the accompanying map as a stream meandering to the west. Also Mr. Cummings' survey showed that the depth of storage was but slightly over two feet. As a result of his survey Mr. Schlaphohl, who at that time had been directed by Mr. Stricklin to investigate the dikes, decided that the amount of water impounded by the dike was not of sufficient quantity to constitute a serious hazard to either life or property at any point downstream. Apparently at that time, however, only the one dike existed. I still feel, even though the spillway would not have to reflect a long term flood, that each dike should be provided with a spillway as well as with an outlet conduit which probably would be of considerable value in controlling the normal flow of water.

Going back to Turner Reservoir, in the report on my inspection of Turner Reservoir, a copy of which was sent to Mr. Levanger, I pointed out in the second paragraph thereof that the old reservoir does not appear to be covered under the adjudicated rights and that since no subsequent filings have been made the storage of water therein appears to be illegal. Accordingly, applications should be made, both primary and secondary; those applications, of course, will have to be accompanied by complete plans showing the reservoir as constructed and any proposed changes felt necessary to insure the safety of the dam. Because of the value of the reservoir in flood routing I feel that temporary repairs could be made immediately upon submission of plans with major re-construction to follow next summer.

If I can be of any further assistance to you please do not hesitate to call.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By

Fred D. Gustafson
Engineer

cc: Mr. Ross Levanger
FDG:gv

22880
R-22879
E-9

November 15, 1957

Mr. Chas. Chapman
Riverside, Oregon

Dear Mr. Chapman:

For your information, Mr. Joe Miles, registered professional engineer of Hines, Oregon, has advised me of his employment by Mr. Ross Levanger for the purpose of designing and supervising necessary repairs for Rasterday Reservoir and Turner Reservoir.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:gw

November 15, 1957

Mr. Ross Levanger
Route 2 Box 321
Ontario, Oregon

Dear Mr. Levanger:

Mr. Joe Miles of Hines, Oregon, called me at home last weekend to discuss repairs for Easterday Reservoir. I regret that through a misunderstanding you failed to locate me while I was in Burns. Mr. Miles told me that you had tried to locate Mr. Stanley under whose name I sign all my letters by direction.

May I point out that Mr. Miles, in taking on this work for you, creates an exceptional hardship for himself and that it is my understanding that his services are more or less of a temporary arrangement until such time as you can find another engineer for completion of the project. I do feel that Mr. Miles will be able to take care of that work which must be done immediately.

At such time as Mr. Miles so requests, I will make an inspection of your project with him.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:gw

October 24, 1957

Mr. Ross H. Levanger
Route 2 Box 321
Ontario, Oregon

Dear Mr. Levanger:

Since writing to you on October 10, 1957, on the condition of your reservoirs and dikes I have had occasion to talk with Mr. Joe Miles of Burns, Oregon, with whom I understand you are acquainted.

Although Mr. Miles is a full time employee of the Hines Lumber Company, during the past few years he has been doing some outside consulting work in connection with dams and reservoirs in the immediate vicinity of Burns. Although he did not feel that his schedule would permit his taking on all of the work including supervision of construction that must be done for you, at my suggestion he agreed that probably he could do enough in the immediate future to forestall the necessity of my holding a hearing with regard to your project.

Since I have not heard from you to date with regard to your having employed an engineer may I suggest that you contact Mr. Miles. I will be in Burns Monday evening, November 4, for the purpose of making a reservoir inspection on the 5th. Should you care to contact Mr. Miles as suggested above, please have him contact me at the Arrowhead Motel. Although he will be unable to accompany me during the week to inspect your project, should you care to have me go over the property with you I will plan on staying over the 6th for that purpose.

At that time we can discuss the minimum amount of work that I feel should be done this fall.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:gw

October 11, 1957

Mr. Chas. W. Chapman
Riverside, Oregon

Dear Mr. Chapman:

Yesterday I sent you a copy of the letter which I had written to Mr. Ross H. Levanger concerning the condition of the Easterday and Turner Reservoirs and the condition of the dikes on his ranch. Enclosed is a small sketch map showing the location of the several reservoirs which we examined.

As it turns out, the first reservoir which we examined on the Levanger ranch officially is known as Easterday Reservoir built under Application No. R-22879 which has an authorized storage capacity of 1043.7 acre feet. Design and supervision of construction was done by Mr. Paul R. Revis of Burns, Oregon.

The second reservoir which we examined, that being the one Northwest of Easterday Reservoir, is Turner Reservoir which you referred to as Wimmer Reservoir.

In checking the records, although Turner Reservoir was in existence at the time of the adjudication of the Malheur River, it appears that claimants to water downstream from the reservoir listed Granite Creek as the source of their appropriations with no mention being made of stored water from the reservoir. Accordingly it appears that the reservoir is not covered by adjudicated rights. There have been no applications made for storage in Turner Reservoir subsequent to the adjudication.

The third reservoir which we examined, that being the one on the J. R. Arrien ranch, is officially known as Shumway Reservoir. It appears that the work which the Arrien's completed about 1951 merely placed the reservoir in shape to store the amount of water originally authorized under Permit No. R-425 issued to Lillian and Frank Shumway. I have written to the Arriens advising them that I made an inspection of the reservoir and calling to their attention the advisability of carrying out a rodent control program.

October 11, 1957

In the event that it should become necessary to hold a hearing concerning the condition of the Easterday Reservoir and/or the condition of the dikes on the Levanger ranch, you will be notified and requested to appear as a witness. I am in hope, however, that it will not be necessary to go to that extent.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FLG:gw
Enc.

Mr.

22880
R-22879
E-9

October 10, 1957

Mr. Paul R. Revis
City Engineer
Baker, Oregon

Dear Mr. Revis:

Recently I had occasion to make an inspection of Turner and Easterday Reservoirs in T. 23 and 24 S., R. 38 E., Malheur County, as the result of a complaint received questioning the safety of the dams.

In the process of plotting the location of those reservoirs together with the location of nearby Shunway and Box Springs Reservoirs I found that your portrayal of the Easterday Reservoir drainage basin was grossly in error, the map therefore being shown in the plans which you submitted for Easterday dam.

Since the Easterday plans were approved on the basis of a spillway reflecting the 7.6 square miles which you certified as representing the drainage basin, whereas it now appears that the basin is approximately 27.6 square miles, I have no choice but to require the present owner, Mr. Ross H. Levanger, to employ an engineer to prepare a corrected drainage basin map together with designs for a new spillway.

In the enclosed copy of my report on inspection of the Easterday Reservoir I also call your attention to the remarks concerning either an error in the topographic map of the reservoir or a discrepancy between the reservoir as constructed and as shown on the plans.

On one other reservoir I had occasion to revise a water shed included in the plans which you submitted to the State Engineer, that being Bonnie View Dam in Crook County, the plans originally having been prepared in behalf of Fred Wickman, with Gill Cattle Company later acquiring the plans. In that instance the water shed purported to be 5 square miles, was found to be 35 square miles and had the error not been found and the spillway redesigned, the spring runoff that occurred immediately after construction of the reservoir would have resulted in the failure of the dam. In the Bonnie View case the basin shown merely was that within the Metsker township plat in which the reservoir was located and I assumed that the adjoining township plate had been overlooked.

October 10, 1957

I realize that in much of the area in which you have worked there has been little in the way of reliable existing maps portraying drainage other than for the principal streams. That can be said for the major portion of the Southeastern quarter of the State. Accordingly, in view of the number of plans you have submitted for reservoirs now built I would appreciate your description of the method in which you have determined the drainage basins. Perhaps it would be advisable to re-examine those basins in the event there has been some flaw in your method. Certainly we do not want any failures because of inadequate spillways.

I believe you will recognize the urgency for your careful consideration and prompt reply.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Fred D. Gustafson
Engineer

FDG:gw
Enc.

October 10, 1957

Mr. Ross H. Levanger
Route 2 Box 321
Ontario, Oregon

Dear Mr. Levanger:

Enclosed for your information are copies of two reports, one on inspection of Easterday Reservoir and one on inspection of Turner Reservoir, the latter sometimes referred to as Winner Reservoir. As stated in the enclosures, the inspections were made as the result of a complaint to the State Engineer regarding the condition of the two reservoirs. While in the field I also examined a number of dikes which have been constructed on your ranch.

Easterday dam is in immediate need of repairs. Because of the apparent discrepancies between the plans as approved and the reservoir as constructed it will be necessary to have a new topographic survey of the reservoir made to the end that the spillway entrance elevation will control the storage capacity of the reservoir at the amount authorized under State Engineer's Permit No. B-913, Certificate No. 20177, that amount being 1043.7 acre feet.

Also, since the plans were approved on the basis of a 7.6 square mile drainage basin as submitted and certified by Mr. Paul Levin, where as it now is found that the basin is approximately 27.6 square miles, it will be necessary to submit a corrected drainage basin map and a revised spillway design which will provide a minimum of two feet of freeboard.

Normally the matter of erosion control on the upstream face of a dam, where not provided for during initial construction, is taken care of by an annual or other periodic maintenance program. Your continued failure to effect such a periodic program to insure the safety of the dam leaves me no alternative but to require the installation of an effective protective device, such as properly placed riprap. Accordingly, plans for positive protection against further erosion by wave action must be included by your engineer.

October 10, 1957

Further storage of water in Turner Reservoir appears to be in direct violation of law, punishable as provided by ORS 537.990, sub-paragraph 1. Should you desire to re-construct Turner Reservoir, applications for permits should be submitted to the State Engineer accompanied by plans and specifications for the re-construction thereof. For your convenience enclosed also are two application blanks, one for a permit to construct a reservoir, the other for a permit to appropriate water.

In making a brief examination of your system of dikes, although the project at first glance appears commendable from the standpoint of erosion control, on second glance it appears that the potential storage capacity created thereby together with the absence of adequate control by means of outlets or spillways creates a very definite hazard to property below your ranch. Considering the depth of water impounded, the dikes should have a larger cross section, also since they now obliterate the original channel of Star Creek and create dead storage, and thus to all practical purposes constitute reservoirs, by law they must be provided with outlets capable of passing the base flow of Star Creek. The dikes are in a very poor state of repair. It appears that no effort has been made to control compaction during construction and they are badly infested with gophers or other burrowing type of rodents causing them to be subject to rapid failure upon impoundment of water. Accordingly you are advised to have your engineer submit a drainage basin map for Star Creek, and to design adequate spillways for bypassing water around the dikes as well as to submit plans for adequate outlets. The outlet and spillway structures may be combined, if desired, such as in the form of a flash board structure. I feel that one set of spillway and outlet plans would suffice for all the dikes providing the dikes do not pick up any appreciable amount of additional drainage, rather than a separate plan for each dike.

You are hereby requested to procure the services of a registered professional engineer immediately for the purpose of preparing plans to portray the repairs discussed above and for supervising the repairs. Those plans must be submitted to the State Engineer for his written approval prior to the plans being effected. Since the remaining time in which repairs can be made this year is limited, and since it is imperative should you desire to use your storage facilities this winter, that at least part of the work be completed this year. I am requesting that you immediately notify me of the name of your engineer and that you ask your engineer to contact me for any instructions which he might feel necessary. I will be very glad to meet with him in the field for the purpose of reviewing the project.

Should I not receive any immediate reply from you I feel that I will have no alternative but to order a hearing as provided by ORS 540.350.

Very truly yours,

LEWIS A. STANLEY
State Engineer

cc: Chas. W. Chapman
cc: Paul Revis
cc: E. G. Easterday

By
Fred D. Gustafson
Engineer

FDG:gs
Enc.

22880
R-22897

June 4, 1953

Mr. E. G. Easterday
Route 2
Parma, Idaho

Dear Mr. Easterday:

Receipt is acknowledged of your letter of June 3, 1953, making inquiry as to the status of the certificates confirming the rights under your Permits Nos. R-913 and 18053.

You are advised that both permits have been placed in line for the issuance of certificates confirming the rights thereunder with the next group of certificates to be issued during this month. The certificates, after being recorded in the County Records of Malheur County, will be forwarded to the owner thereunder.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Geo. V. Naderman, Assistant

GVN:VR

Wes. Stricklin
Salem Oregon

Parma Idaho
June 3, 1953
RECEIVED
JUN 4 1953
STATE ENGINEER
SALEM, OREGON

Dear Sir
As I have not received the water
certificates, on my place at Riverdale
Oregon yet. I thought maybe
there is some thing that I can
do to assist in completing this
procedure, as it is making a
hard ship on the man that is
buying this place, if I can be
of any help please let me know.

Thanking You
E. G. Easterday
Parma
Idaho rt. 2

app. no. 22880
per. no. 18053
file no. 22880

R-22879
22880

May 27, 1953

Mr. Loren E. Signs
Engineer Appraiser
The Federal Land Bank of Spokane
Spokane 1, Washington

Dear Mr. Signs:

This will acknowledge receipt of your letter of May 25, 1953 relative to permits No. R-913 and 18053 which stand on the records of the State Engineer in the name of E. G. Easterday, Riverside, Oregon, which permits are being acquired by Mr. Ross H. Levanger, requesting information concerning the status thereof.

You are advised that these permits are in line for the issuance of certificates confirming the rights thereunder with the next group of certificates to be issued, which will probably be during the month of June.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

GWN:dg

BY
Geo. V. Naderman, Assistant

5-2519-10 THE FEDERAL LAND BANK OF SPOKANE

SPOKANE 1, WASHINGTON

May 25, 1953

B-2525- Ross H. Levanger

Mr. Charles E. Stricklin, State Engineer
Water Resources Department
State of Oregon
Salem, Oregon

RECEIVED
MAY 26 1953
STATE ENGINEER
SALEM, OREGON

Dear Mr. Stricklin:

Mr. Ross H. Levanger has written us stating that you have inspected the dam and reservoir located in Section 1, Townships 23 and 24 S, Range 38 East, in Malheur County, Oregon.

Has there been a certificate issued covering the lands served by this reservoir? If so, will you please send us a copy of the water rights covered by this certificate?

Please accept our thanks in advance for this courtesy.

Very truly yours,

Loren E. Signs

Loren E. Signs C. C.
Engineer Appraiser

LES:cc

PAYETTE NATIONAL FARM LOAN ASSOCIATION

PAYETTE, IDAHO

HERBERT J. DAVIS, SECRETARY-TREASURER

FEDERAL LAND BANK LOANS

May 20, 1953

State Engineer's Office
Water Resources Department
Salem, Oregon

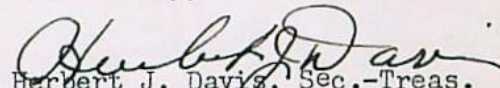
Attention: Geo. V. Naderman

Dear Mr. Naderman:

Replying to your letter of May 15th. We are enclosing association check in amount of \$2.00 to cover the recording fees in connection with certificates to be issued under permits as outlined in your letter.

It is our opinion that these certificates should be issued to Mr. E. G. Easterday, then they can be assigned or turned over to Mr. Levanger when he has paid for the deed. Please send the certificates to this office.

Yours truly,


Herbert J. Davis, Sec.-Treas.

HJD/ds
enc.

RECEIVED
MAY 22 1953
STATE ENGINEER
SALEM, OREGON

22880
R-22879

May 15, 1953

Payette National Farm Loan Association
Payette, Idaho

Attention: Mr. Herbert J. Davis, Secretary-Treasurer

Dear Mr. Davis:

This will acknowledge receipt of your letter of May 13, 1953 relative to Permits Numbers R-913 and 18053 which stand on the records of the State Engineer in the name of E. G. Easterday, Riverside, Oregon.

It appears that the requirements contained in Mr. Stricklin's letter of February 26, 1953, to Mr. Loren E. Signs, Engineer Appraiser of the Federal Land Bank, relative to the repairs and completion of the dam have been complied with. However, we have not received an assignment of these permits from Mr. Easterday to Mr. Levanger nor have the statutory certificate recording fees of \$1 under each permit been paid.

If it is Mr. Levanger's desire that the certificates confirming the rights under these permits be issued in his name, then it will be necessary that he secure and submit to this office an assignment of said permits and for his convenience in this respect we are inclosing a blank assignment form. It will also be necessary that the statutory certificate recording fees of \$1 under each permit be submitted to this office before certificates may be issued.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Geo. V. Naderman, Assistant

GVN:VR

Inc.

PAYETTE NATIONAL FARM LOAN ASSOCIATION

PAYETTE, IDAHO

HERBERT J. DAVIS, SECRETARY-TREASURER

May 13, 1953

FEDERAL LAND BANK LOANS

B 2525--Ross H. Levanger

Mr. Chas. E. Stricklin
State Engineer
Water Resources Department
Salem, Oregon

RECEIVED
MAY 15 1953
STATE ENGINEER
SALEM, OREGON

Dear Mr. Stricklin:

Mr. Levanger, purchaser of the E.G. Easterday ranch, was in the office yesterday. He advised us that so far as he knew, he had complied with the requirements pointed out in your letter of February 26th to Loren E. Signs, Engineer Appraiser, Federal Land Bank.

It will be appreciated if you will advise us what further is needed in order that a certificate of water right may be issued to Ross H. Levanger.

Yours truly,

Herbert J. Davis
Herbert J. Davis, Sec.-Treas.

HJD/ds

February 26, 1953

Mr. Loren E. Sighs *(Signature)*
Associate Engineer Appraiser
Federal Land Bank of Spokane
Spokane 1, Washington

Re: Applications Nos. 22880, R-22879
Your file - B-2525-Ross H. Levanger

Dear Mr. Sighs: *(Signature)*

This will acknowledge receipt of your letter of February 20th relative to the issuance of a certificate of water right under Application No. R-22879, Permit No. R-913 and Application No. 22880, Permit No. 18053.

Please be advised that the permits under consideration are for the storage and use of water of Granite Creek for the irrigation of 371 acres. These permits were issued in the name of E. G. Easterday. It appears from your letter that Mr. Easterday has sold the property to which these rights were appurtenant to Mr. Ross H. Levanger, although no assignments have ever been filed in this office as required under Oregon laws.

The State Engineer cannot issue a certificate under the applications and permits for the following reasons:

Mr. Schlappkohl of this office, on May 29, 1952, made an examination of Mr. Easterday's dam and discussed the conditions of the dam with Mr. Easterday. Mr. Schlappkohl and Mr. Easterday reached an agreement as to the work necessary in order to make this dam safe and this agreement was set forth in a letter written by Mr. Schlappkohl under date of June 6, 1952, a copy of which is enclosed herewith.

An examination and survey made by Mr. C. N. Young, Watermaster of Harney County, on February 10th of this year definitely shows that the work agreed to by Mr. Easterday has never been done. The data submitted by Mr. Young to this office shows that the crest of the dam at places was considerably below the elevation shown by the plans and specifications as approved by this office and in places, the top of the dam, thru wave action, had been reduced to approximately one-half the top width

Mr. Loren E. Signs

-2-

February 26, 1953

to be constructed as shown in the plans and specifications. Mr. Young's survey also shows that the spillway which was to have a width of 70 feet with the bottom $3\frac{1}{2}$ feet below the crest of the dam has never been completed. Mr. Young's survey shows that the bottom of the spillway at the lowest point is only 1.1 feet below the top of the lowest point in the crest of the dam.

Not knowing the address of Mr. Levanger, I am sending you extra copies of this letter and I would appreciate your forwarding the same on to Mr. Levanger and have him immediately contact this office. It will be necessary that the work agreed to by Mr. Masterday be done immediately and the spillway channel completed in accordance with the plans and specifications approved by this office.

An assignment of Permits Nos. R-913 and 22880 should be filed in this office. Blanks for this purpose are enclosed herewith.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC
Encs.

THE FEDERAL LAND BANK OF SPOKANE

SPOKANE 1, WASHINGTON

February 20, 1953

RECEIVED
FEB 23 1953
STATE ENGINEER
SALEM, OREGON

B-2525-Ross H. Levanger

Ref. File 22880

Mr. Chas. E. Stricklin
State Engineer
Water Resources Department
Salem, Oregon

Dear Mr. Stricklin:

I am writing to find out the status of Permit 18053 which was issued to Mr. E. G. Easterday of Juntura, Oregon. Mr. Easterday has sold his place to Mr. Ross H. Levanger and the Federal Land Bank has taken an application for a loan on this property. The property was appraised in November, 1952, and we are now waiting to obtain a certificate for the water rights under this permit in order to make loan proceeds available.

Mr. Levanger is extremely anxious to have our loan closed as soon as possible and therefore anything that can be done to issue the certificate at an early date will be very much appreciated by him as well as us. Will you please let me know as to the earliest possible time that inspection will be made by someone from your office in connection with the matter of issuance of the certificate under the above permit.

When a survey is made by your office concerning this property what procedure is followed particularly when the certificate involves passing on the construction of a reservoir for storage water? The reason this question is asked is to find out how much of a business risk would be taken by the Bank if a loan was made based upon the information contained in the permit.

Very truly yours,

Loren E. Signs
Loren E. Signs

Associate Engineer Appraiser

LES:cc

June 5, 1952

Mr. Charles Chapman
Riverside
Oregon

Dear Mr. Chapman:

An examination of the Easterday dam was made on May 29th in compliance with your request, in company with Mr. Paul Revis of Burns, Oregon. On our way into the dam we called at your place, but found no one at home.

Some erosion, caused by wave action was found, but it was not believed to be serious. For about 250 feet on each side of the outlet gate in the middle section of the dam, the top width had eroded from the original 10 foot width to about 6 feet. There was no evidence, however, of any waves having passed over the top of the dam in this area. For the remaining length of the dam, some erosion was also found, but not to the extent as in the middle portion. In two places it was also found that the dam had settled about 8 inches below the original height.

An agreement was reached with Mr. Easterday for the repair of the damage caused by wave action and also to fill in the places of settlement to the original height. Where the bad erosion occurred, Mr. Easterday has agreed to haul in and blanket the area with heavy rock which should prevent further erosion in this area. For the remaining length of the dam he will bring in material and restore the original top width and the two places of settlement.

We are firmly of the opinion that Mr. Easterday recognizes his liability in the event of failure of the dam, and also the value of the reservoir to him and we are certain that he will do everything possible to prevent such failure from occurring.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ferd Schlapkohl, Engineer

FS:VC
cc - Mr. Paul Revis
Burns, Oregon

R-22879
22880

February 3, 1953

Law Offices of
Lytle, Kilpatrick & Schroeder
Vale, Oregon

Attention: Mr. Robt. D. Lytle

Gentlemen:

Pursuant to your request in your letter of January 29,
enclosed are certified copies of Permits No. R-913 and 18053.

Enclosed is our bill in the amount of \$4.00 for which
you may remit at your convenience.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW:bc
Encs.

February 3, 1953

Mr. E. G. Easterday
Parma, Idaho

Dear Mr. Easterday:

In response to your letter of January 26, 1953, please be advised that as explained in our letter of October 15, 1952, it is necessary that a survey be made by this office for the purpose of checking the amount of water used as described in the permit and the number of acres that have actually been irrigated.

After this survey, final proof may be made and a certificate then issued covering the actual use of water as found by the engineer.

As was explained in my letter, the permits that you hold are valid evidence of the right in question until such time as the survey can be made and a certificate issued.

This is also to advise you that it is a practice of this office to make these surveys during the irrigation season and since your notice of complete application of water was not filed until October 6, 1952, it has not been possible to make the required survey.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW:bc

September 24, 1952

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

Pursuant to your letter of September 15, I am enclosing herewith a form "C", which is a duplicate of the one attached to your Permit No. 18053.

If all of the 371 acres described in your permit that you intend to irrigate at any time has actually been irrigated, form "C" should be filled out and mailed to this office at your early convenience.

After receipt of Form C, a survey will be made of your project and you will be entitled to make proof covering the number of acres that have actually been irrigated, and any lands described in the permit that have not been irrigated will be automatically eliminated from your water right.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:fw
Encl.

2. 22879
22880

Juntura Ore,
Sep. 15 1952

RECEIVED

SEP 22 1952

STATE ENGINEER
SALEM, OREGON

Chas. E. Stricklin

Dear sir

I would like to have a
man come over and inspect
the land, I have irrigated
under my last permit.
so I can get my final
water right.
I thought you might have
a man in this idea before
to long.

Thanking you.

E. G. Easterday

Juntura
Ore.

Box 144

R-22879
22880

July 26, 1951

Mr. E. G. Easterday
~~Riverside~~ Box 141, Lantana
Oregon

Dear Mr. Easterday:

This acknowledges receipt of your application for an extension of time for the completion of construction and complete application of water under Permit No. R-913 & 18053 in the name of E. G. Easterday.

The application indicates that reasonable diligence has been shown in the prosecution of work under this project, and the time limits are being extended to October 1, 1953 .

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

dlh
Form 122

P. S. Our Receipt No. 12517, in the amount of \$2.00, is enclosed to cover the statutory fees.

R-22879
22880

June 19, 1951

Mr. E. G. Easterday
Box 144
Juntura, Oregon

Dear Mr. Easterday:

Pursuant to your request of June 13, I am enclosing herewith a form for your convenience in submitting an application for an extension of time under your permit No. 18053.

The application for an extension of time should be executed before a notary public and submitted to this office with the statutory \$2 filing fee.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:mb

-879
22582

Juntura Cere.

RECEIVED

JUN 18 1951.

STATE ENGINEER
SALEM, OREGON

Chas S Strickland

Dear sir

I wrote to your office
some time ago, last fall
I believe, asking extension
in my time limit in preparing
land for irrogation, under
my reservoirs known as
the EASTETDAY dam.

To my knowledge I have not
received a reply.

as I got sufficient water
this year, I would like to
start preparing this land for
irrogation would you please
check and see if I must
file a new permit, or what?

Thanking you.

E. L. Easterday

Juntura Cere. I Box 144

let	10.00 ✓
rev 100 of	5.00 ✓
900	9.00 ✓
44	.22 ✓
1044	24.22

Due

R-22879

R-22879

R-22130

October 20, 1949

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

Replying to your letter of October 19, 1949 you are advised that the only permit issued to Mr. Chapman, according to our records, is for the construction of a reservoir on an unnamed tributary of Granite Creek.

If in your opinion Mr. Chapman diverts water to which you feel you have a prior right you should notify the Watermaster for Malheur County, whose duty it is to administer the water rights in accordance with their priority. This was more fully set out in Mr. Stricklin's reply to Mr. Yturri's letter in which he questioned your right to the use of water from Star and Granite Creeks. A copy of Mr. Stricklin's reply was mailed to you.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By
Ferd Schlapkohl, Engineer

CES:FS:vc

RECEIVED

OCT 21 1949

STATE ENGINEER
SALEM, OREGON

Riverside Ore
Oct 19, 1949

Dear sir

I was passing by Mr. Chas. Chapman's ranch the other day and noticed that he is building some dikes, control ditches and possibly a dam.

As I have the J. R. Bear ranch, I have water right on the right of water ^{on} the creeks called Star and Granite, and if there are too much of this type work this it may take a large portion of the water, as it is almost ^{always} insufficient to irrigate the land that the water right covers.

Will you please let me know what knowledge you have of this work at the office.

Thank you.

E. G. Eastman
Riverside Ore

May 9, 1949

Mr. Anthony Yturri
Attorney at Law
Ontario, Oregon

Dear Mr. Yturri:

Replying to your letter of the 5th inst., please be advised that E. G. Easterday has made application to this office for a permit to construct a reservoir to store 1043.7 acre feet of water for the irrigation of 371 acres. These applications have been approved and permits issued.

As perhaps you are aware, the water rights of Malheur River and its tributaries have been determined by our courts and the court has fixed the general duty of water or the quantity of water which the prior rights are entitled to use; that is, not to exceed $1\frac{1}{2}$ acre foot per acre during any 30 day period prior to June 1 of each year and thereafter not to exceed one acre foot per acre during any 30 day period with a total diversion in one irrigation season of not to exceed 3 acre foot per acre and that the maximum rate of flow shall not exceed one-twentieth of one cubic foot per second excepting where rotation is practiced.

The circuit court, in the case of Jones v. Warm Springs Irrigation District interpreted the courts decree as meaning the quantity of water should be measured at or near the place where the water is to be diverted from the canal upon the lands and in the distribution of waters, then it would be necessary to make some allowance for seepage evaporation losses between the point of diversion from the stream to the point where the water is turned out from the main canal.

In the case of Mr. Easterday, he would only be entitled to store the surplus waters. He must release at his reservoir the quantity of water necessary to take care of prior rights. In other words, your client would not have a right to demand the entire flow that flows down to their lands, neither could Mr. Easterday operate his reservoir so as to prevent prior rights from obtaining the waters which they are entitled to under their decree or under permits which were issued with an earlier date of priority than that of Mr. Easterday.

The water users below would not have a right to compel Mr. Easterday to release any water which he has stored as surplus water but they would have a right to compel him to open the gate in his dam so as to by pass the natural flow.

May 9, 1949

The Easterday reservoir is under the jurisdiction of the water-master of Harney County, who is Mr. Clarence N. Young of Burns. I am sending a copy of this letter to Mr. Young and also to Mr. E. G. Easterday.

It is suggested that if your clients are not getting the water which they are entitled to, they contact Mr. Young.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

EMS:lh

cc: Clarence N. Young
E. G. Easterday

ANTHONY YTURI
Attorney at Law
Wilson Bldg.
Ontario, Oregon.

May 5, 1949

Mr. Charles E. Strickland
State Engineer
Salem, Oregon

Dear Mr. Strickland:

Mr. E. J. Easterday and Charles W. Chapman are owners of real property in Malheur County in the general riverside area located in Townships 24 and 25, Ranges 38 and 39. Star Creek is a stream that commences in Star Mountain and is known as Granite Creek. This stream flows from the Star Ranch, which is owned by Mr. Chapman, and flows through the property owned by E. G. Easterday to the old property known as the John Woods Place, now owned by Mr. Chapman. Mr. Easterday has constructed a reservoir which is satisfactory, but he has also inserted numerous dikes which are approximately one-quarter of a mile in length in Star Creek or Granite Creek, and has thereby prevented the water from the stream from flowing on down to the Chapman property formerly known as the John Woods Ranch on Granite Creek. This stream has for many many years been used for irrigating the John Woods Place and the erection of these dikes in their present location will prevent the water from coming down to their former place of use.

Would you please advise whether or not Mr. Easterday has obtained any permission or consent from your office to erect and install these dikes in Granite Creek or Star Creek. The presence of these dikes and the prevention of water flowing to the Woods Place is causing Chapman a great deal of inconvenience and damage.

We do not feel that Mr. Easterday has any right to stop the waters flowing in Star Creek or Granite Creek, and that he should be required to remove these dikes and that the flow of this stream should not be interrupted since it has flown in the same identical manner for many many years and has been utilized by the people on those streams.

Any advice you have in connection with this matter will be greatly appreciated.

Yours very truly,

(Sgd) Anthony Yturri
Anthony Yturri

AY:vj

March 28, 1949

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

This acknowledges receipt of Form A, being notice of the beginning of construction under Permit No. R-913 in the name of E. G. Easterday.

This report has been filed with other matter pertaining to the water right, and the permit is in good standing until October 1, 1950, when under its terms, construction should be completed, under Permit No. 18053.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

Riverside Ore,

March 23 1949

State Engineer

Dear Sir

It seem I have over
looked this part but
I was under the impression
that Mr. Revis was to
notify the state office
of the procedure

Thank You

E. G. Easterday
Riverside O.
Ore,

RECEIVED
MAR 25 1949
STATE ENGINEER
SALEM, OREGON

R-22879

November 5, 1948

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

This acknowledges receipt of Form B, being notice of the completion of construction under Permit No. R-913 in the name of E. G. Easterday.

This report has been filed with other matter pertaining to the water right, and the permit is in good standing until October 1, 1951, when under its terms, all the water which it is intended to use at any time should be used to the full extent intended, under your Permit No. 18053.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

R-22879

Mr. E. G. Easterday
Riverside, Oregon March 1, 1948

Dear Mr. Easterday:

Herewith you will find Application No. R-22879, Permit
No. R-913, together with blueprint.

December 23, 1947

1226
1436 22651
3569 R-22879
4263 22880
5591
R-22130
22137
22436

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

I am enclosing herewith a tabulation of rights and applications in the matter of the waters of Granite and Star Creeks.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:dh
Enc.

Mr. Stricklin
am inclosing a check
to cover the expenses
of a proposed dam
made out by Paul
Reber

Thanking you

E. G. Easterday
Riverside 4
Ore

RECEIVED

OCT 16 1947

STATE ENGINEER

SALEM, OREGON

November 6, 1947

Mr. Chas. W. Chapman
Riverside, Oregon

Dear Mr. Chapman:

Receipt of your letter dated October 30, 1947, relative to the Easterday Dam is acknowledged.

On his next visit to Eastern Oregon, an engineer from this office will call at your ranch as you have requested, to look over your situation and to discuss this matter with you.

On this date we are writing to Mr. Easterday calling his attention to certain requirements or the specifications for the construction of his dam, which together with the plans have been approved by this office, and are also calling his attention to the position of this office in this matter.

We trust that as a result of our letter Mr. Easterday will construct his dam in accordance with the specifications, which if done, we feel sure, will result in a dam of which you need have no fear. Should Mr. Easterday fail in this, you have further recourse which the engineer will discuss with you.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By
Ferd Schlapkohl, Engineer

FS:gt
cc: Mr. Paul R. Revis

October 30, 1947

Mr. E. G. Easterday
Riverside, Oregon

Dear Mr. Easterday:

This will acknowledge receipt of two applications in the name of E. G. Easterday, one for a permit to construct Easterday reservoir and store 1043.7 acre-feet of water from Granite Creek, and one for a permit to appropriate 3.0 second-feet of water from Granite Creek for irrigation, together with your check in the amount of \$93.58 for which our Receipt No. 3785 is enclosed.

The applications which have been checked over, have been filed and given No. R-22879 and No. 22880, respectively. They appear to be in satisfactory form and are being placed in line for approval and issuance of permits.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:mjo

Enc.

October 29, 1947

R-22879
22880
22881

Fish Commission of Oregon
510 Governor Building
Portland 4, Oregon

Attention: Mr. Arnie J. Suomela, Master Fish Warden

Dear Mr. Suomela:

Pursuant to your request of October 28, I am enclosing herewith copies of Applications No. R-22879 and No. 22880 in the name of E. G. Easterday and No. 22881 in the name of Lockman and Holmes.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EMH:ajo

Enclosures 3

October 6, 1947

Mr. Paul R. Revis
Registered Professional Engineer
P. O. Box 1184
Burns, Oregon

Dear Mr. Revis:

The spillway channel shown on your plan for the Easterday dam does not have the capacity required for the drainage area above the dam according to the standards adopted by this office. With only 3.5 feet between the crest of the dam and the bottom of the spillway, a considerably wider channel than you have shown will be required. According to rough computations, the channel should have a base of about 70 feet and the gradient should be about .0054.

The increase in the base width of the spillway channel will increase the spillway excavation to about 2200 cubic yards. In this connection it is noted that on the drawing the spillway excavation is given as 1163 cubic yards while in the schedule of the specifications it is shown as being 517 cubic yards. Should not these quantities be the same?

In your letter of September 14, 1947 you state that Mr. Chapman was concerned about another dike Mr. Easterday had built on his place, that in the event it failed it would do Mr. Chapman considerable damage. The dam Mr. Easterday now proposes to build, it is believed, is in the same drainage area as this dike, so the failure of this dam would result in even greater damage to Mr. Chapman. This being the case, the construction of the dam should be observed closely and compliance with the specifications generally, and particularly with provisions for compaction of the material in the dam, should be required.

No objection is made to the use of the sloping outlet gate to which attention was called in your letter. However, it is believed Mr. Easterday's attention should be called to the difficulties of keeping the gate stem in alignment. Settlement of the fill, heaving by frost action or movement of ice in the reservoir, might result in disturbing the alignment sufficiently to make operation of the gate difficult, if not impossible.

The applications you stated in your letter were being forwarded under separate cover, have not been received.

Mr. Paul R. Revis

-2-

October 6, 1947

With your consent, the above changes on the drawings will be made in this office, and with these revisions your plans for the Easterday Dam are approved pursuant to Section 116-502 O.C.L.A.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

CES:PS:gt

RECEIVED

OCT 14 1947

STATE ENGINEER
SALEM, OREGON

Burns, Oregon
October 8, 1947.

Mr. Chas. E. Stricklin, State Engineer,
State Office Building,
Salem, Oregon.

Dear Mr. Stricklin:

Reference is to your letter of October 6,
approving, with some changes, the plans for the
Easterday Reservoir.

It is agreeable with me for your office to
make the changes mentioned in your letter. I doubt,
whether a base width of 70 feet for the spillway
can be economically used on this job, for the reason
that the ground rises rather abruptly about 20 feet
beyond the outer slope of the spillway indicated.

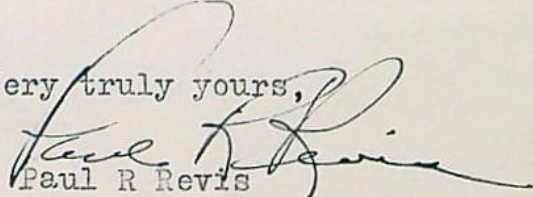
The applications were enclosed in the tube with
the plans. I am having Mr. Easterday sign additional
forms and these will be forwarded in the event you
do not find the copies forwarded.

The excavation quantities for spillway, in the
schedule of the specifications, should read 1163 C.Yds.
I had these quantities typèd in and assumed they had
been checked.

Mr. Easterday has been advised of your other
comments.

Under spearate cover, I am forwarding van dyke
negatives for the Gum Boot, Rock Canyon and Sutherland
projects.

Very truly yours,


Paul R Revis

October 17, 1947

Mr. Paul R. Revis
Registered Professional
Engineer
Burns, Oregon

Dear Mr. Revis:

Our records do not indicate the receipt of any applications in the name of Mr. Easterday, and it will be very greatly appreciated if you will submit duplicates, signed by Mr. Easterday, as suggested in your letter of October 8.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:RN

October 6, 1947

Mr. Paul R. Davis
Registered Professional Engineer
P. O. Box 1184
Burns, Oregon

Dear Mr. Davis:

The spillway channel shown on your plan for the Easterday dam does not have the capacity required for the drainage area above the dam according to the standards adopted by this office. With only 9.5 feet between the crest of the dam and the bottom of the spillway, a considerably wider channel than you have shown will be required. According to rough computations, the channel should have a base of about 70 feet and the gradient should be about .005%.

The increase in the base width of the spillway channel will increase the spillway excavation to about 2200 cubic yards. In this connection it is noted that on the drawing the spillway excavation is given as 1163 cubic yards while in the schedule of the specifications it is shown as being 517 cubic yards. Should not these quantities be the same?

In your letter of September 14, 1947 you state that Mr. Chapman was concerned about another dike Mr. Easterday had built on his place, that in the event it failed it would do Mr. Chapman considerable damage. The dam Mr. Easterday now proposes to build, it is believed, is in the same drainage area as this dike, so the failure of this dam would result in even greater damage to Mr. Chapman. This being the case, the construction of the dam should be observed closely and compliance with the specifications generally, and particularly with provisions for compaction of the material in the dam, should be required.

No objection is made to the use of the sloping outlet gate to which attention was called in your letter. However, it is believed Mr. Easterday's attention should be called to the difficulties of keeping the gate stem in alignment. Settlement of the fill, heaving by frost action or movement of ice in the reservoir, might result in disturbing the alignment sufficiently to make operation of the gate difficult, if not impossible.

The applications you stated in your letter were being forwarded under separate cover, have not been received.

Mr. Paul R. Revis

-2-

October 6, 1947

With your consent, the above changes on the drawings will be made in this office, and with these revisions your plans for the Easterday Dam are approved pursuant to Section 116-502 O.C.L.A.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

CES:FS:gt

November 6, 1947

Mr. E. G. Rasterday
Riverside, Oregon

Dear Mr. Rasterday:

Information received in this office is to the effect that you are proceeding with the construction of your dam without supervision by a registered professional engineer.

This is not in accordance with the specifications, which together with the plans have been approved by this office pursuant to section 116-502, O.C.L.A. This section, in part, charges the State Engineer with the safety of structures of this type, particularly where damage to life and property are involved which we understand there is in your case.

We must, therefore, insist on general compliance with the specifications and particularly with the requirement for supervision of the construction of the dam by a registered professional engineer who is held responsible for the construction in accordance with the specifications.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By
Ferd Schlapkohl, Engineer

FS:gt
cc: Mr. Paul R. Revis