

Application No. 19453Permit No. 15046Certificate No. 25299Name Richard J & Thomas E. Jenkins

By

Address Diamond, OregonDate filed August 6, 1941Priority August 6, 1941

Action suspended until

Returned to applicant

Date of approval October 20, 1941**CONSTRUCTION**Date for beginning October 20, 1942Date for completion October 1, 1943

Extended to

Date for application of water October 1, 1944

Extended to

PROSECUTION OF WORKForm "A" filed Nov. 25, 1942

Form "B" filed

Form "C" filed November 19, 1943**FINAL PROOF**Blank mailed November 23, 1943 G.V.

Proof received

Date certificate issued NOV 20 1957**FEES PAID**

Date	Amount	Receipt No.
8/11/41	\$46.28	218.65
9/15/41	27.25	27991

Total	\$1 Cert. Fee	Check No.
6/28/57	12.487	
9/15/41, \$1.00 B.P.	27991	

FEES REFUNDED

Date	Amount	Check No.

ASSIGNMENTS

Date	To Whom	Address	Volume	Page

See

Application # 19452
 REMARKS Permit # 15-046

46.33 S.f. from Riddle Creek & Reservoir to be constructed under Application # R-19452, Permit # R-770 for irrigation of 1853.0 acres.
 11/2/42 Card for A
 10-22-43 Card for B

For transcript and exhibits see "Miss Hearings" file

OK

Form A

Application No. 19453

NOTICE OF BEGINNING OF CONSTRUCTION

I, Richard G. Jenkins & Thos. E. Jenkins, the holder of Permit No. 15046
to appropriate the public waters of the state of Oregon, began the actual construction of the works described
therein on the full day of 7, 1941

Remarks:

Had Clarence N. Young begin the survey which he
finished this spring; Labor shortage during summer and fall
presented us from going on with work after survey was finished.
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 21 day of Nov, 1942

Alex. McBain
(Signature of Witness)

Richard G. Jenkins
Thomas E. Jenkins
(Signature of Applicant)

Diamond Oregon
(Address)

Diamond Oregon
(Address)

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

STATE PRINTING DEPT.

OK

Form C

Application No. R-19452

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, Richard G. Jenkins & Thomas E. Jenkins, the holder of Permit No. R-770
to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in
accordance with the terms of said permit, on the 1 day of October, 1943

Remarks:

We have applied water from reservoir
to all lands under application
If all of the water granted in the permit has not been fully applied to beneficial use, you should so state.

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of Oct Nov, 1943

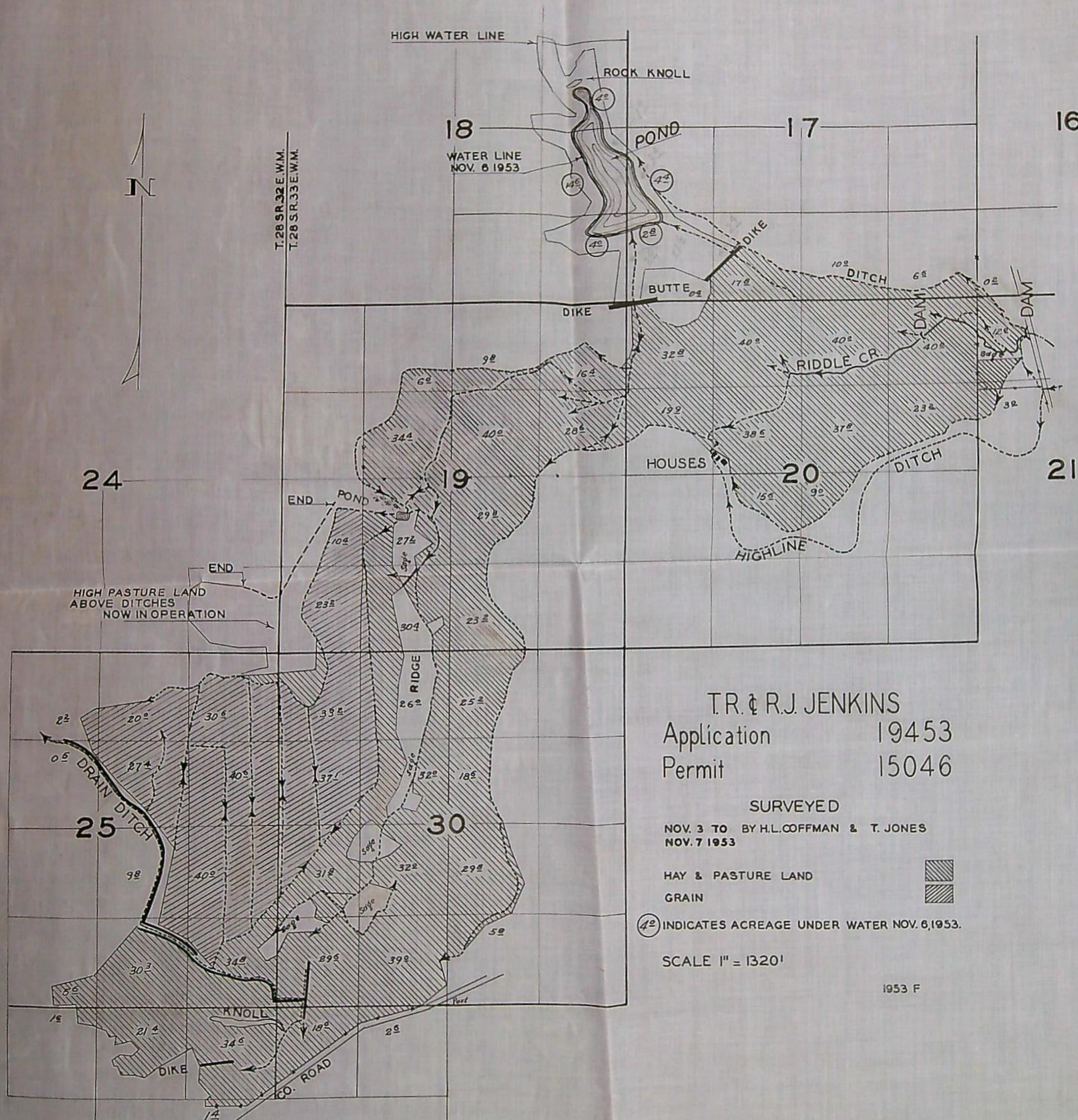
Alex. McBain
(Signature of Witness)

Thomas E. Jenkins
Richard G. Jenkins
(Signature of Applicant)

Diamond Oregon
(Address)

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the State Engineer until all of the land described
in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.
Fill out, detach and mail to the State Engineer, Salem, Oregon, when all of the water has been applied.

T.28S. R.33E.W.M.



T.R. & R.J. JENKINS
 Application 19453
 Permit 15046

SURVEYED

NOV. 3 TO BY H.L. COFFMAN & T. JONES
 NOV. 7 1953

HAY & PASTURE LAND
 GRAIN



(4²) INDICATES ACREAGE UNDER WATER NOV. 6, 1953.

SCALE 1" = 1320'

1953 F

T.28SR.32E.W.M.
T.28SR.33E.W.M.

HIGH WATER LINE

ROCK KNOLL

18

17

16

WATER LINE
NOV. 6 1953

POND

40

40

40

BUTTE

DIKE

DIKE

DITCH

60

00

RIDDLE CR.

HOUSES

20

21

19

END

POND

232

IDGE

HIGHLINE

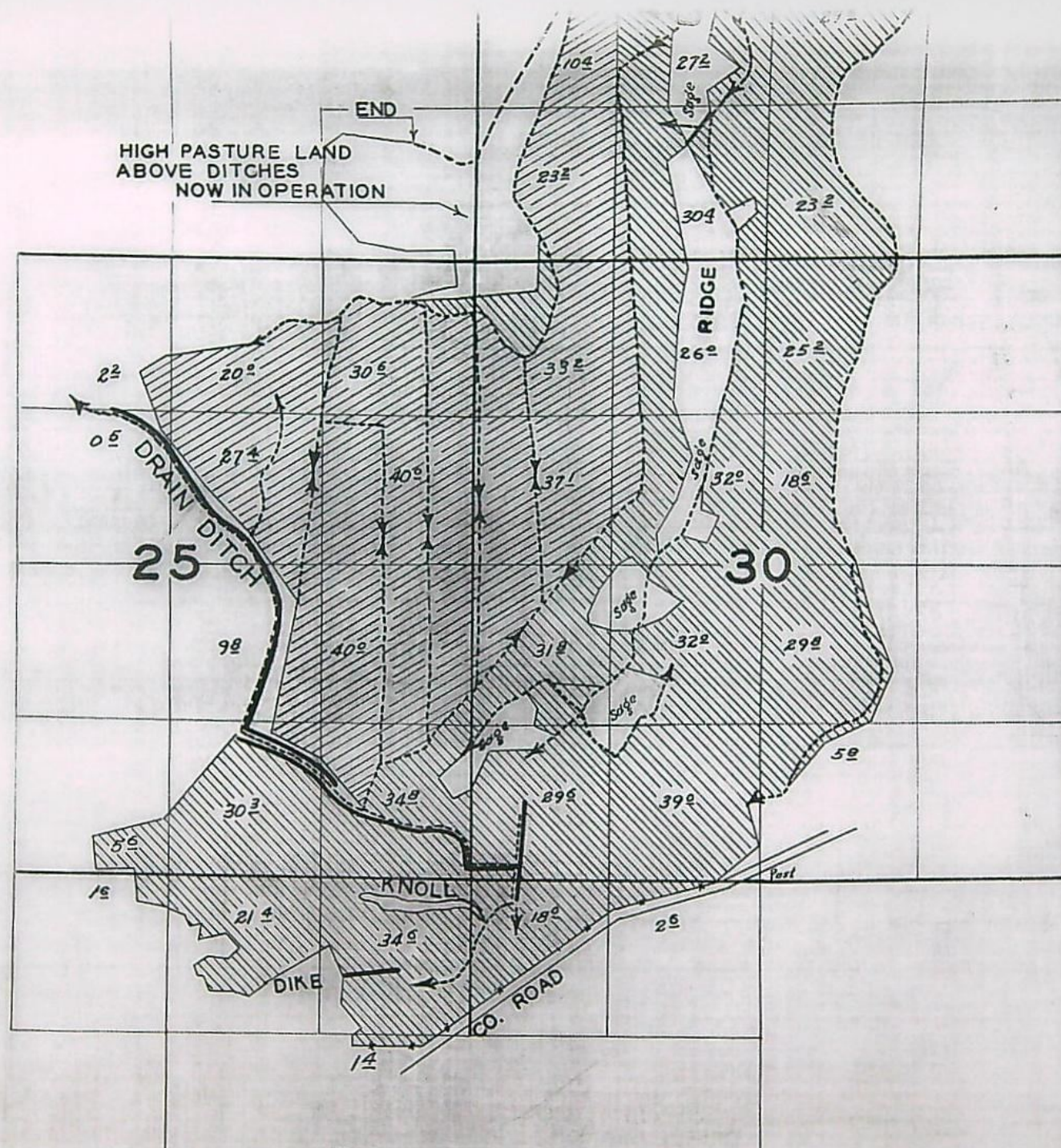
DITCH

D

D

D

D



T.R. & R.J. JENKIN
Application
Permit

SURVEYED

NOV. 3 TO BY H.L. COFFMAN & T.
NOV. 7 1953

HAY & PASTURE LAND
GRAIN

(40°) INDICATES ACREAGE UNDER WATER

SCALE 1" = 1320'

36

31

REPORT OF PERSON MAKING INSPECTION

Description of works: Headgate on Rickle Creek - Dam 80'± long
x 6'± high x 10'± thick earth fill, constd in bed of creek 25'±
Westerly of Bridge on Co. road Burns to Diamond, South gate
4'± x 3'± deep x 10'± long, Concrete. West gate 4'± x 3'± deep x 10'± long, Concrete
North gate 2'± dia. Corr. Iron Culv. x 20'± long - Set in Concrete
headwall, earth fill.

Ditches at headgate 10'± wide 2'± deep.

Spreader dam located 580'± South & 500'± East of
NW Cor. N E 1/4, N E 1/4, Sec. 20 T28, S. R. 33 E. W. M., on Rickle Creek
30'± long x 3'± high earth & rock fill.

Ditches vary in width 6" x 6" to 30' x 30'.

Total fall from headgate to South end of ranch 28'±

Ditch from Highline ditch northerly to intersection with Rickle
Creek ditch (in S E 1/4, N E 1/4, Sec. 19 & S W 1/4, N W 1/4 Sec. 20) constd on level
grade so, that water will run North or South.

Pond in Sec. 18 & 17 Claimed by Mr. Jenkins to be planted to
grain in years when water is low - Estimated depth of water
present time 1'±

Area Surveyed said to be irrigated and beneficially used.
Areas not included were covered by sage brush, sugarwood, or
were too high & rocky.

Crops Grain, Pasture & hayland used for Cattle & some horses
Tied to owners believed to be established owners.

I, L. L. Coffman, do hereby certify that I have made
an inspection of the works described herein and in Permit No. 15046, on the 6th day
of November, 1953, 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 re-
port by you, please return this form without
your signature, with a full report by letter.

L. L. Coffman
(Name)
Field Eng.
(Title)

Township	Range	Section	Forty Acre Tract	No. Acres Actually Irrigated
28 S.	32 E.	25	NE $\frac{1}{4}$ NE $\frac{1}{4}$	30.6
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.0
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	27.4
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.2
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.5
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	30.3
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	34.8
		36	NE $\frac{1}{4}$ NE $\frac{1}{4}$	34.6
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	21.4
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.6
28 S.	33 E.	16	SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.2
		17	SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.4
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	10.0
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	6.6
		19	NE $\frac{1}{4}$ NE $\frac{1}{4}$	16.4
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	9.8
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	28.6
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	6.0
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	34.4
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	27.2
			(Lot 3) NW $\frac{1}{4}$ SW $\frac{1}{4}$	10.4
			(Lot 4) SW $\frac{1}{4}$ SW $\frac{1}{4}$	23.2
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	30.4
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	23.2
		20	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.8
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	23.2
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	32.8

Township	Range	Section	Forty Acre Tract	No. Acres Actually Irrigated
28 S.	33 E.	20	SW $\frac{1}{4}$ NW $\frac{1}{4}$	19.9
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	38.6
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	15.6
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.0
		21	NW $\frac{1}{4}$ NW $\frac{1}{4}$	12.0
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	3.0
		30	NW $\frac{1}{4}$ NE $\frac{1}{4}$	25.2
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	18.6
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	26.0
			(Lot 1) NW $\frac{1}{4}$ NW $\frac{1}{4}$	33.2
		(Lot 2)	SW $\frac{1}{4}$ NW $\frac{1}{4}$	37.14
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	32.0
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	32.0
			(Lot 3) NW $\frac{1}{4}$ SW $\frac{1}{4}$	31.8
		(Lot 4)	SW $\frac{1}{4}$ SW $\frac{1}{4}$	29.6
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.8
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	39.0
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.8
		31 (Lot 1)	NW $\frac{1}{4}$ NW $\frac{1}{4}$	18.0
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.6
Total				1280.24

T ship	Range	Sec	40 ac Tract	No Acres in Permit	Acres Irrigated	Acres allowed
28 S	32 E	24	NE SW	23	0	
			NW SW	15	0	
			SE SW	18	0	
			SE SE	30	0	
		25	NE NE	38	30	30
			NW NE	32	20	20
			SW NE	32	27	27
			SE NE	40	40	40
			NE NW	24	20	20
	SE SW 56		SE SE	40	40	40
			NW SE	38	30	30
			SW SE	29	30	30
			SE SE	40	34	34
28 S	32 E	36	NE NE	30	21	21
28 S	SENE 14		NW NW	20	1	1
	33 E	16	SW SW	0	0	0
		17	NW SW	27	2	0
			SW SW	36	0	17
			SE SW	39	17	10
			SW SE	25	10	6
			SE SE	19	6	
		18	SE NE	27	4	
			NW NE	37	4	
			SE SE	21	4	
		19	NW NE	21	16	16
			NW NE	17	9	9
			SW NE	39	40	40
			SE NE	27	28	28
			NW NE	11	6	6
			SE NW	40	34	34
			NW SW	40	27	27
		40+3	NW SW	13	10	10
		40+4	SW SW	35	23	23
			SE SW	40	30	30
			NW SE	34	29	29
			SW SE	27	23	23
		20	NW SE	40	40	40
			NW NE	40	40	40
			SW NE	40	37	37
			SE NE	38	23	23
			NW NE	40	40	40
			NW NW	34	32	32
			SW NW	21	19	19
			SE NW	40	38	38
			NW SE	25	15	15
			NW SE	17	9	9
		21	NW NW	19	12	12
			SW NW	12	3	3
		30	NW NE	29	25	25
			SW NE	31	18	18
			NW NW	40	26	26
		4.1	NW NW	37	33	33
		4.2	SW NW	37	37	37
			SE NW	40	32	32
			NW SW	40	32	32
		4.3	NW SW	37	31	31
		4.4	SW SW	37	29	29
			SE SW	33	39	39
			NW SE	29	29	29
		31-4.1	NW NW	37	18	18
		4.2	SW NW	22	0	
			NW NW	0	2	
				1853	1280.24	1280.24

1287.24

TWP	RGE	SECTION	LEGAL SUBDIVISION	ACREAGE
28 S	32 E	25	NE $\frac{1}{4}$ NE $\frac{1}{4}$	30.6
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.0
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	27.4
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.2
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	0.5
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	5.6
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	30.3
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	34.8
		36	NE $\frac{1}{4}$ NE $\frac{1}{4}$	34.6
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	21.4
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	1.4
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	1.6
	33 E	16	SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.2
		17	NW $\frac{1}{4}$ SW $\frac{1}{4}$	4.4
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	3.2
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	17.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	10.0
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	6.6
		18	SE $\frac{1}{4}$ NE $\frac{1}{4}$	4.0
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	14.6
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	4.0
		19	NE $\frac{1}{4}$ NE $\frac{1}{4}$	16.4
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	9.8
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	28.6
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	6.0
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	34.4
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	27.2
			Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	10.4
			Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	23.2
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	30.4
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	23.2
		20	NE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	40.0
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	37.8
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	23.2
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	32.8
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	19.9
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	38.6
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	15.6
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.0
		21	NW $\frac{1}{4}$ NW $\frac{1}{4}$	12.0
			SW $\frac{1}{4}$ NW $\frac{1}{4}$	3.0
		30	NW $\frac{1}{4}$ NE $\frac{1}{4}$	25.2
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	18.6
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	26.0
			Lot 1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$)	33.2
			Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$)	37.1
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	32.0
			NE $\frac{1}{4}$ SW $\frac{1}{4}$	32.0
			Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$)	31.8
			Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$)	29.6
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	39.0
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.8
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.8
		31	NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.6
			Lot 1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$)	18.0
				1317.0

Application Nos. R-19452-3
June 21, 1957

MEMORANDUM

A re-examination of the land claimed to be irrigated under permit No. 15046 was made in company with Mr. Jenkins on June 15, 1957.

Mr. Jenkins had claimed the land indicated as being under water on November 6, 1953 in the final proof survey made at this time as land that had been developed and irrigated prior to the expiration date under the permit, and claimed it had only been that year (1953) that it was under water.

At the time of the inspection this land was in spring grain. A ditch carrying water from the reservoir as indicated on the final proof survey leading to the area is in existence and in good condition. The ditch carries around the area at approximately the indicated water line with an additional ditch coming down through the center and on the far side so that all of the land may be irrigated. The ditch has evidence of being used in the past, although Mr. Jenkins stated they had not irrigated as yet this year.

The grain crop does not appear to have suffered for ^{Lack of} irrigation and Mr. Jenkins advises it is his intentions to turn the water into this area next week.

From the information and evidence on the ground at this time, there is no reason to doubt the development of this tract and irrigation of the land. It was therefore advised it would be allowed in the final proof as set out in my letter of January 2 to Mr. James Burns, their attorney.



Chris L. Wheeler

CLW:eh

R-19452
19453

June 21, 1957

Messrs. Richard J. and Thomas E. Jenkins
Diamond, Oregon

Gentlemen:

Enclosed are the forms for making final proof of appropriation under permit Numbers R-770 and 15046, as was discussed when I visited you on June 15.

These forms should be signed at the places indicated and returned to this office, together with the statutory certificate recording fees in the amount of \$2.

Upon receipt of these forms together with the fees, we will proceed with the issuance of the certificates which will then be transmitted to the county clerk for recording; after which, he will mail them on to you.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Chris L. Wheeler, Assistant

CLW:eh
enclosures-2

R-19452
19453

June 20, 1957

Mr. James M. Burns
Attorney at Law
1200 Cascade Building
Portland 4, Oregon

Dear Jim:

With reference to your letter of June 11 and prior to receiving yours, I was in eastern Oregon on some other business and stopped in to discuss the matter of permit Numbers R-770 and 15046 with Mr. Jenkins.

Immediately upon my return, I had the final proof forms prepared and mailed directly to him for signature.

I believe this will conclude the matter so that we may issue the certificates.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Chris L. Wheeler, Assistant

CLW:eh

LAW OFFICES

BLACK, KENDALL & TREMAINE

1200 CASCADE BUILDING

PORTLAND 4, OREGON

June 11, 1957

TELEPHONE
CAPITOL 8-6338

GEORGE BLACK, JR.
JOHN W. KENDALL
H. STEWART TREMAINE
FERRIS F. BOOTHE
JOHN J. HIGGINS
JAMES M. BURNS
WILLIAM F. THOMAS
EDWARD L. FITZGIBBON

SUBJECT: Your file No. 19453
Permit No. 15046

State Engineer
Salem, Oregon

Attention: Mr. Chris L. Wheeler

Dear Chris:

RECEIVED
JUN 14 1957
STATE ENGINEER
SALEM, OREGON

This matter has been pending for some little time now, and I talked the other day with Mr. Jenkins who is one of the permittees, and it is our feeling that we ought to go ahead and complete the necessary action so as to have the final certificate issued and filed in the manner provided by law. It is my understanding that final proof has already been submitted as to the reservoir permit and that it will simply be necessary for us to submit final proof as to the irrigation permit. Somewhere along the line I had apparently misplaced the necessary paper upon which we could complete the final proof, and I would appreciate it if you would send such to me at your earliest convenience. It is my understanding that the total allowable acreage is approximately 1285 acres and I believe that the Jenkins would rather at this time make final proof as to that number of acres and then later on we will probably apply for an additional permit as to the extra acreage. Please let me hear from you and I shall do my best to have final proof submitted by the Jenkins so that the matter may be concluded.

Thank you very kindly.

Very truly yours,

BLACK, KENDALL & TREMAINE

James M. Burns
James M. Burns

JMB:nc

January 2, 1957

Law Offices
Black, Kendall & Tremaine
1200 Cascade Building
Portland 4, Oregon

Attention: Mr. James M. Burns

Gentlemen:

In response to your letter of December 20, 1956, concerning Permit No. 15046 in the name of Richard J. and Thomas E. Jenkins, we will consider a re-inspection of the lands irrigated up to the maximum total of 1317 acres, the maximum limit as set out in the order of the State Engineer dated March 22, 1954.

I am enclosing a print of the final proof survey which was made by this office in November 1953. Before we will consider any re-inspection it will be necessary to show on this print the location and the acreages of the lands which you believe should have been allowed and which were not and return it to this office.

You should also submit the certificate recording fees in the matter of this permit and its accompanying reservoir permit in the amount of \$2. Since this matter has been pending some time, you should submit this matter at your earliest convenience.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Chris L. Wheeler, Assistant

CLW:ld
enc. print of final proof

LAW OFFICES

BLACK, KENDALL & TREMAINE

1200 CASCADE BUILDING

PORTLAND 4, OREGON

December 20, 1956

TELEPHONE
CAPITOL 8-6338

GEORGE BLACK, JR.
JOHN W. KENDALL
H. STEWART TREMAINE
FERRIS F. BOOTHE
JOHN J. HIGGINS
JAMES M. BURNS
WILLIAM F. THOMAS
EDWARD L. FITZGIBBON

SUBJECT: R-19452 and 19453, Permit Numbers
R-770 and 15046

Mr. Lewis A. Stanley
State Engineer
Water Resources Department
Salem, Oregon

Attention: Mr. Trevor Jones

Gentlemen:

RECEIVED
DEC 24 1956
STATE ENGINEER
SALEM, OREGON

This is in reply to your letter of November 26, 1956 with respect to the issuance of the confirming certificates for the above numbered applications and permits in the name of Richard and Thomas E. Jenkins. I have talked to Mr. Jenkins over the weekend, and he has instructed me to request, along the lines discussed in my letter of July 18, that another survey be made as soon as reasonably possible by your office, prior to the issuance of the final permit. Of course, the certificate based upon the permit for the storage of water could be issued at any time, but the Jenkins' both feel strongly that additional acreage should be included in the permit, and I am advised by them that a survey at this time by your office as to the additional acreage would be appropriate; in other words, as I understand the matter, when the prior survey was made, the additional acreage was disallowed by your engineers partly because of lack of evidence of irrigation; however my understanding is that this arose simply because the survey was made in a short water year, and that a survey at this time would disclose the correct amount of acreage so that the final certificate could properly reflect the correct amount.

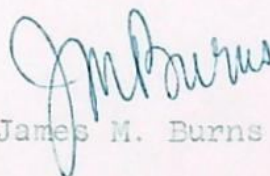
Mr. Lewis A. Stanely
December 20, 1956
Page 2.

I would imagine that such a survey would not take very long, in view of the fact that there would be no necessity of resurveying the substantial body of acreage as to which there is no difference of opinion, and that it would be necessary only to survey a relative small area.

Once this is done, both the Jenkins and I feel that a final certificate ought then to be issued. Thank you very kindly.

Very truly yours,

BLACK, KENDALL & TREMAINE

A handwritten signature in blue ink, appearing to read "Jm Burns".

James M. Burns

JMB:nc
c

JAMES M. BURNS OF BURNS OREGON
ATTORNEY AT LAW

January 19, 1954

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

RECEIVED
JAN 29 1954
STATE ENGINEER
SALEM, OREGON

Re: Jenkins
Permit No. R-770

Dear Mr. Stricklin:

Enclosed please find the proof of appropriation with respect to the Round Barn Reservoir, of the Jenkins Brothers, under Permit No. R-770. The data given on page two from questions nine through fifteen have been procured from the record of the hearings which were conducted here by you on October 20, 21 and 22, 1953.

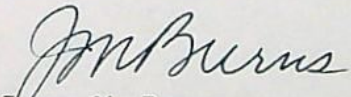
I trust that it is in order, and if it is not, please advise me and I shall make the necessary corrections.

We are delaying the filing of proof of appropriation on the secondary permit, until your order is entered on the matter. I think it is possible that the Jenkinses will claim that more land is irrigated than is indicated in the survey conducted by your Mr. Coffman.

I trust that it will not be improper for us to delay filing the proof on the irrigation permit until that time.

With best wishes and kind regards, I remain,

Sincerely yours,


James M. Burns

hm

Enclosure

Permit No. R-770.....

Application No. R-19452.....

County.....H A R N E Y JAN 29 1954.

RECEIVED
N E VAN 29 1954
STATE ENGINEER
SALEM, OREGON

PROOF OF APPROPRIATION OF WATER

1. Name Richard J. and Thomas E. Jenkins 2. Address Diamond, Oregon
3. Source of supply Riddle Creek
- Tributary of _____
4. Amount of water 7500 a.f. 5. Priority date August 6, 1941
6. Use Irrigation
Dam:
7. Location of point of diversion, SE 1/4 Sec. 16, Twp. 28 S, Range 33 E, W. M.
(Legal Subdivision)
8. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use. In the blank column on the right, headed "No. acres actually irrigated", fill in the number of acres you have irrigated in each of the tracts described:

[illegible]

(Attach separate sheet if necessary)

DESCRIPTION OF WORKS

9. (a) If a dam has been constructed, give description: Height, 17 ft.; length on top, 1100 ft.; length on bottom, ft.; material used and character of construction,
dirt and clay, sodded with grass growing on banks
- (b) Give description of headgate: Width, ft.; depth, ft.; material used and character of construction,
head gate 24 inches in diameter (valve gate)
concrete and rock culverts.
- (c) Size of canal: Width on top (at waterline), ft.; width on bottom, ft.; depth of water, ft.; grade, ft. fall per 1,000 ft. Actual capacity, sec.-ft.
Give general description:
- (d) Pipe line: Description of intake,
reservoir fills directly from Riddle Creek
Length of pipe, ft.; size at intake, in.; size at ft. from intake, in.; size at place of use, in. Difference in elevation between intake and place of use, ft.
Is grade uniform? Actual capacity of pipe line, sec.-ft.
Give general description:
(Material: Steel, wrought, cast iron, wood stave, etc.)
- (e) Pumping plant: Give size and type of pump,
Suction lift, ft.; discharge lift, ft. Type of motor used
Horsepower rating, H. P. Actual capacity of pump, sec.-ft.
10. During what months is water beneficially used? March to July
11. State character of soil sandy loam
Kind of crops raised grain, hay and wild hay
12. Does the accompanying map, filed with your application, show correctly the point of diversion, area of land irrigated, or place of use? consult map filed by State Engineer (Coffman)
13. If not, wherein is such map in error?
14. Domestic use: Give number of families actually using water at this time
15. If for power, mining, municipal, manufacturing, storage or any other purpose than irrigation, give extent and method of such use none except stock water and gardening

AFFIDAVIT OF APPROPRIATOR

STATE OF OREGON,

County of Harney

ss.

I, Thomas E. Jenkins, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 28 day of Dec., 1943

Subscribed and sworn to before me this 28 day of December, 1943

James M. Burns
Notary Public for Oregon

[Notarial Seal]

My commission expires February 26, 1955

AFFIDAVIT OF WITNESSES

STATE OF OREGON,

County of Harney

ss.

We, Alexander McBain, and C. N. Young of Burns, Oregon, being first duly sworn, depose and say that

we are well acquainted with the facts and conditions set forth in the foregoing statement relative to proof of appropriation of water under Permit No. R-770; that we and each of us have been over and upon each tract described in said proof, and from such personal inspection have knowledge that all necessary ditches, dams and other diversion and distributing works have been constructed, and water used as stated therein; that we have carefully read such proof of appropriation, and that each and every statement contained therein is true to the best of our knowledge and belief.

Alexander McBain
C. N. Young

Subscribed and sworn to before me this 28 day of December, 1943

James M. Burns
Notary Public for Oregon

[Notarial Seal]

My commission expires 2/26/55

REPORT OF PERSON MAKING INSPECTION

(For use by representative of State Engineer)

I,, do hereby certify that I have made an inspection of the works described herein and in Permit No., on the day of, 194....., and found the foregoing statements and descriptions of works to be accurate. In my opinion the appropriation has been completed to the extent of
(Quantity of water in second-feet or acre-feet)
and I recommend the issuance of water right certificate for this amount.

NOTICE TO INSPECTORS

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

(Name)

(Title)

PROOF OF APPROPRIATION

Permit No.

Recording fee paid

Receipt No.

STATE PRINTING DEPT.



VALIDATION OF APPROPRIATION

STATE OF OREGON

VALIDATION OF APPROPRIATION

December 9, 1953

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Re: Application No. 19453
Permit No. 15046

Dear Mr. Burns:

Mr. Wheeler has advised me that you were in the office recently and you were somewhat concerned with the wording in the above permit. Apparently this is a typographical error and this will be cleared up in my order.

If you are of the opinion that final proof should not be submitted until after the entry of my order, this will be satisfactory. It is hoped that this order will clear up some of the matters over which you have expressed concern.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC

Permit No. 15046

Application No. 19453

County.....H A R N E Y.....

PROOF OF APPROPRIATION OF WATER

1. Name Richard J. & Thomas E. Jenkins 2. Address Diamond, Oregon
3. Source of supply Riddle Creek and Reservoir to be constructed under Application No. R-19452, Permit No. R-770.
Tributary of Inland
4. Amount of water 16.33 cfs 5. Priority date August 6, 1941
6. Use Irrigation
~~NE 1/4 NE 1/4 & SE 1/4 SE 1/4, Sec. 16, & NE 1/4 SE 1/4, Sec. 22 &~~
7. Location of point of diversion, NW 1/4 NW 1/4 Sec. 21, Twp. 28 S., Range 33 E., W. M.
(Legal Subdivision)
8. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use. In the blank column on the right, headed "No. acres actually irrigated", fill in the number of acres you have irrigated in each of the tracts described:

[illegible]

(Attach separate sheet if necessary)

DESCRIPTION OF WORKS

9. (a) If a dam has been constructed, give description: Height, ft.; length on top, ft.;
length on bottom, ft.; material used and character of construction,
.....
- (b) Give description of headgate: Width, ft.; depth, ft.; material used and character
of construction,
.....
- (c) Size of canal: Width on top (at waterline), ft.; width on bottom, ft.; depth of
water, ft.; grade, ft. fall per 1,000 ft. Actual capacity, sec.-ft.
Give general description:
.....
- (d) Pipe line: Description of intake,
.....
Length of pipe, ft.; size at intake, in.; size at ft. from intake, in.; size
at place of use, in. Difference in elevation between intake and place of use, ft.
Is grade uniform? Actual capacity of pipe line, sec.-ft.
Give general description:
(Material: Steel, wrought, cast iron, wood stave, etc.)
.....
- (e) Pumping plant: Give size and type of pump,
Suction lift, ft.; discharge lift, ft. Type of motor used
Horsepower rating, H. P. Actual capacity of pump, sec.-ft.
10. During what months is water beneficially used?
11. State character of soil
Kind of crops raised
12. Does the accompanying map, filed with your application, show correctly the point of diversion, area
of land irrigated, or place of use?
13. If not, wherein is such map in error?
.....
14. Domestic use: Give number of families actually using water at this time
15. If for power, mining, municipal, manufacturing, storage or any other purpose than irrigation, give
extent and method of such use
.....

AFFIDAVIT OF APPROPRIATOR

STATE OF OREGON,

County of

} ss.

I,, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof, and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this day of, 194.....

Subscribed and sworn to before me this day of, 194.....

Notary Public for Oregon

[Notarial Seal]

My commission expires

AFFIDAVIT OF WITNESSES

STATE OF OREGON,

County of

} ss.

We,, and of, being first duly sworn, depose and say that we are well acquainted with the facts and conditions set forth in the foregoing statement relative to proof of appropriation of water under Permit No.; that we and each of us have been over and upon each tract described in said proof, and from such personal inspection have knowledge that all necessary ditches, dams and other diversion and distributing works have been constructed, and water used as stated therein; that we have carefully read such proof of appropriation, and that each and every statement contained therein is true to the best of our knowledge and belief.

Subscribed and sworn to before me this day of, 194.....

Notary Public for Oregon

[Notarial Seal]

My commission expires

REPORT OF PERSON MAKING INSPECTION

(For use by representative of State Engineer)

I, _____, do hereby certify that I have made an inspection of the works described herein and in Permit No. _____, on the _____ day of _____, 194____, and found the foregoing statements and descriptions of works to be accurate. In my opinion the appropriation has been completed to the extent of _____
(Quantity of water in second-feet or acre-feet)
and I recommend the issuance of water right certificate for this amount.

NOTICE TO INSPECTORS

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

(Name)

(Title)

PROOF OF APPROPRIATION

Permit No. _____

Recording fee paid

Receipt No. _____

8. Location of area to be irrigated, or place of use:

Township	Range	Section	Forty-acre Tract	No. of Acres to be Irrigated			
28 South	32 East	24	NE $\frac{1}{4}$ SW $\frac{1}{4}$	23.7			
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	15.0			
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	18.4			
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	30.6			
		25	NE $\frac{1}{4}$ NE $\frac{1}{4}$	38.6			
			NW $\frac{1}{4}$ NE $\frac{1}{4}$	32.9			
			SW $\frac{1}{4}$ NE $\frac{1}{4}$	32.7			
			SE $\frac{1}{4}$ NE $\frac{1}{4}$	40.0			
			NE $\frac{1}{4}$ NW $\frac{1}{4}$	24.0			
			NE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0			
			NW $\frac{1}{4}$ SE $\frac{1}{4}$	32.2			
			SW $\frac{1}{4}$ SE $\frac{1}{4}$	29.2			
			SE $\frac{1}{4}$ SE $\frac{1}{4}$	40.0			
			36	NE $\frac{1}{4}$ NE $\frac{1}{4}$	39.0		
				NW $\frac{1}{4}$ NE $\frac{1}{4}$	20.7		
				28 South	33 East	16	SW $\frac{1}{4}$ SW $\frac{1}{4}$
		NW $\frac{1}{4}$ SW $\frac{1}{4}$					27.2
		17	SW $\frac{1}{4}$ SW $\frac{1}{4}$			36.4	
			SE $\frac{1}{4}$ SW $\frac{1}{4}$			39.0	
		18	SW $\frac{1}{4}$ SE $\frac{1}{4}$			25.8	
			SE $\frac{1}{4}$ SE $\frac{1}{4}$			19.2	
			SE $\frac{1}{4}$ NE $\frac{1}{4}$			27.4	
			NE $\frac{1}{4}$ SE $\frac{1}{4}$			37.7	
			SE $\frac{1}{4}$ SE $\frac{1}{4}$			21.9	
19	NE $\frac{1}{4}$ NE $\frac{1}{4}$	21.8					
	NW $\frac{1}{4}$ NE $\frac{1}{4}$	17.5					
	SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.5					
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	27.0					
	NE $\frac{1}{4}$ NW $\frac{1}{4}$	11.5					
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0					
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	40.0					
	Lot 3(NW $\frac{1}{4}$ SW $\frac{1}{4}$)	13.7					
	Lot 4(SW $\frac{1}{4}$ SW $\frac{1}{4}$)	35.7					
	20	SE $\frac{1}{4}$ SW $\frac{1}{4}$	40.0				
NW $\frac{1}{4}$ SE $\frac{1}{4}$		34.5					
SW $\frac{1}{4}$ SE $\frac{1}{4}$		27.6					
NE $\frac{1}{4}$ NE $\frac{1}{4}$		40.0					
NW $\frac{1}{4}$ NE $\frac{1}{4}$		40.0					
SW $\frac{1}{4}$ NE $\frac{1}{4}$		40.0					
SE $\frac{1}{4}$ NE $\frac{1}{4}$		28.6					
NE $\frac{1}{4}$ NW $\frac{1}{4}$		40.0					
NW $\frac{1}{4}$ NW $\frac{1}{4}$		34.5					
SW $\frac{1}{4}$ NW $\frac{1}{4}$		21.3					
21	SE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0					
	NE $\frac{1}{4}$ SW $\frac{1}{4}$	25.3					
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	17.3					
	30	NW $\frac{1}{4}$ NW $\frac{1}{4}$	19.6				
		SW $\frac{1}{4}$ NW $\frac{1}{4}$	12.0				
		NW $\frac{1}{4}$ NE $\frac{1}{4}$	29.4				
		SW $\frac{1}{4}$ NE $\frac{1}{4}$	31.5				
		NE $\frac{1}{4}$ NW $\frac{1}{4}$	40.0				
		Lot 1(NW $\frac{1}{4}$ NW $\frac{1}{4}$)	37.2				
		Lot 2(SW $\frac{1}{4}$ NW $\frac{1}{4}$)	37.2				
SE $\frac{1}{4}$ NW $\frac{1}{4}$		40.0					
NE $\frac{1}{4}$ SW $\frac{1}{4}$		40.0					
Lot 3(NW $\frac{1}{4}$ SW $\frac{1}{4}$)		37.1					
31	Lot 4(SW $\frac{1}{4}$ SW $\frac{1}{4}$)	37.1					
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	33.7					
	NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.8					
	Lot 1(NW $\frac{1}{4}$ NW $\frac{1}{4}$)	37.7					
	Lot 2(SW $\frac{1}{4}$ NW $\frac{1}{4}$)	22.6					
					1853.0		

R-19452
19453

April 25, 1955

Mr. James Burns
Attorney at Law
Burns, Oregon

Dear Mr. Burns:

Pursuant to your telephone request of this date I am enclosing certified copies of notices submitted in connection with Permit Numbers R-770 and 15046 and our bill in the amount of \$1.50, which you may remit at your convenience.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Chris L. Wheeler, Assistant

eh
enc. 2

R-28545
28546
R-19452
✓19453

May 6, 1954

Mr. James H. Burns
Attorney at Law
Burns, Oregon

Dear Mr. Burns:

Enclosed is a certified copy of the record in connection with your Appeal from the Order of the State Engineer entered March 22, 1954, in the Matter of Applications Nos. R-28545 and 28546 in the Names of D. H. Smyth and E. H. Smyth and in the Matter of Permits Nos. R-770 and 15046 in the Names of Richard J. Jenkins and Thomas E. Jenkins.

The date of filing the Notice of Appeal and Appeal Bond is endorsed on the back of each instrument.

Yours very truly

CHAS. E. STRICKLEN
State Engineer

CES;ls
Encl.

R-28545
28546
R-29452
✓19453

May 6, 1954

Mr. Pat H. Donegan
Attorney at Law
Wiburn Building
Burns, Oregon

Dear Mr. Donegan:

Enclosed is a certified copy of the record in connection with your Appeal from the Order of the State Engineer entered March 22, 1954, in the Matter of Applications Nos. R-28545 and 28546 in the Names of D. H. Smyth and E. H. Smyth and in the Matter of Permits Nos. R-770 and 15046 in the Names of Richard J. Jenkins and Thomas E. Jenkins.

The date of filing the Notice of Appeal and Appeal Bond is endorsed on the back of each instrument.

Yours very truly

CHAS. E. STRICKLIN
State Engineer

CES:ls
Encl.

R-19452
19453

May 6, 1954

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Dear Mr. Burns:

Enclosed is a certified copy of the record in connection with your Appeal from the Order of the State Engineer entered March 22, 1954 in the Matter of Applications Nos. R-28545 and 28546 in the Names of D. H. Smyth and E. H. Smyth and in the Matter of Permits Nos. R-770 and 15046 in the Names of Richard J. Jenkins and Thomas E. Jenkins.

Yours very truly

CHAS. E. STRICKLIN
State Engineer

CES:ls
Encl.

JAMES M. BURNS OF BURNS OREGON
ATTORNEY AT LAW

RECEIVED
APR 23 1954
STATE ENGINEER
SALEM, OREGON

April 21, 1954

Mr. Charles E. Stricklin
State Engineer
Salem, Oregon

Dear Mr. Stricklin:

Enclosed please find a notice of appeal which has been served upon Pat H. Donegan, attorney for respondents D. H. Smyth and E. H. Smyth; this notice of appeal is prosecuted by Thomas E. Jenkins and Richard J. Jenkins, and constitutes a notice of appeal from that portion of your Order of March 22, 1954, which approved the Smyths' application for reservoir and secondary permit on Smyth Creek in Harney County, Oregon.

Thank you very kindly.

Very truly yours,


James M. Burns

hm

Enclosure

April 26, 1954

Mr. Pat H. Donegan
Attorney at Law
Wiburn Building
Burns, Oregon

Dear Mr. Donegan:

This will acknowledge receipt of your letter dated the 21st instant and it is my opinion that the form of your Notice of Appeal, also that of Mr. Burns, is very good. It is usual to file a bond; however, it is my understanding that the filing of this bond is in the discretion of the court and that of the other parties.

ORS 537.200 reads in part as follows: "***** It must be taken within 30 days from the date of mailing a copy of the order of the engineer or reclamation commission to the applicant or objector. The appeal shall otherwise be governed by the practice in suits in equity. An appeal may be taken from the final order or decree of the circuit court to the Supreme Court."

The order of the State Engineer under consideration was mailed to you on March 22, 1954. It is my understanding and so construed by Mr. Foxley, Deputy Attorney General, that in computing the time in which the appeal may be taken, you would exclude the day on which the order was mailed and include the day on which the appeal must be served upon the first party. Excluding March 22nd, the day the order was mailed to you, we would have nine days in March and the appeal was served on April 21st. The last day on which appeal could have been taken was midnight, April 22nd.

The post mark on the envelop in which you mailed the notice of appeal shows that your letter was mailed at 1:00 p.m. on April 21, 1954. The envelop in which Mr. Burns transmitted his notice of appeal

Pat H. Donegan

- 2 -

Chas. E. Stricklin

was postmarked 9:00 p.m. April 21, 1954. One of the inconsistencies of our mail service is that your letter was received in this office on April 22nd and that of Mr. Burns was not received until the 23rd.

It is my opinion that both notices of appeal are in accordance with the law.

Yours very truly

CHAS. E. STRICKLIN
State Engineer

CES;ls

Pat H. Donegan

ATTORNEY AT LAW
WISBURN BUILDING
BURNS, OREGON

April 21, 1954

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

RECEIVED
APR 23 1954
STATE ENGINEER
SALEM, OREGON

Re: Jenkins vs. Smyth

Dear Mr. Stricklin:

Jim Burns served me with a notice of appeal for Jenkins in the above matter and in order to protect the Smyths I served him with a notice of appeal and mailed it to you this morning. Smyths have no desire to appeal your decision but thought that if Jenkins are going to attack it that they might just as well be in a position to cause them all of the difficulty possible.

I doubt very much if either of the notices of appeal are legal. I followed the pattern that Burns made in his notice which entitles the notice of appeal in the Circuit Court and files it there. This is the first time I ever filed a notice of appeal in an appellate court. It is possible that the notice that I filed with you would be legal provided that it is filed within thirty days from the date of mailing of the order. The order is dated March 22, but the date of mailing is not known to me, but assuming that it was mailed the day that it was dated it would be impossible for you to receive my notice until April 22, which would be one day over the thirty days.

I have never appealed from any of your orders outside of adjudications and while it doesn't make a great deal of difference in this case I would like to get your opinion on how an appeal is perfected. If ordinary appellate procedure would be followed the notice and the undertaking should be filed in your office and the notice and undertaking with a certified transcript of the record should be taken into the Circuit Court, and I would like to know whether or not this would be the way to get the appeal properly to the Circuit Court. I will appreciate it very much if you will give me your opinion upon the matter as it might be very helpful in some future case.

Very truly yours,

Pat H. Donegan
Pat H. Donegan

PHD/ag

R-19452
19453

March 22, 1954

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Dear Mr. Burns:

Enclosed is a copy of my order In the Matter of Applications Nos. R-28545 and 28546 in the Names of D. H. Smyth and E. H. Smyth and in the Matter of Permits Nos. R-770 and 15046 in the Names of Richard J. Jenkins and Thomas E. Jenkins.

It will be noted that my order approves the issuance of the permits to D. H. and E. H. Smyth and also authorizes the issuance of certificates of water right to Richard J. and Thomas E. Jenkins.

Yours very truly

CHAS. E. STRICKLIN
State Engineer

CES:ls
Encl.
cc Jenkins Bros.

November 4, 1953

Mr. George M. Schwartz
Armco Drainage & Metal Products, Inc.
985 North Capitol Street
Salem, Oregon

Dear Mr. Schwartz:

D. H. and E. H. Smyth of Diamond, Oregon, in connection with the construction of a storage dam on Smyth Creek within Section 31, Township 28 South, Range 33 East, W. M., have purchased from your company 120 feet of 24 inch asbestos bonded corrugated pipe and a gate model 1050 C, which have been delivered.

The owners of lands with rights to the use of water of the stream upon which the reservoir is to be constructed have protested the construction of this dam, which protest is based upon the assumption that a 24 inch asbestos bonded corrugated pipe with a length of 120 feet and the said gate has not sufficient capacity to by-pass the water to which they are entitled for the irrigation of their lands.

I would appreciate it very much if you would obtain from your engineers, the computations of the head required to discharge 50; 40; 30; and 20 cubic feet per second through a 24 inch asbestos bonded corrugated pipe with a length of 120 feet with a gate model 1050 C.

For use in checking other plans of dams I would appreciate having the total head broken down into the following:

1. Velocity head
2. The loss of head at the gate
3. The loss of head due to bends
4. The loss of head due to friction in the conduit
5. The loss of head through the trash rack

Mr. George M. Schwartz

-2-

November 4, 1953

Enclosed is a sketch of the dam which was prepared by Paul Revis. The slope of the conduit was not shown, but it is assumed to be sufficient only to drain the conduit. The conduit at the low end will not be submerged.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC
Enc.

Mr George M Schwartz
Irrigation Drainage & Metal Products Inc
85 N Capitol St
Salem Ore

In connection with the construction of a storage dam on Smyth Creek within sec 13. T28S. R33E. by DH and EH Smyth of Diamond Oregon they have purchased from your company 120 feet of 24" inch asbestos bonded corrugated pipe and a gate Model 1050 C. Which have been delivered. The owners of lands with rights to the use of the waters of the stream upon which the reservoir is to be constructed have protested the construction of the dam which protest is based upon the assumption that a 24" inch asbestos ^{with a length of 120 ft} bonded corrugated pipe and the gate has not sufficient capacity to by-pass the water to which they are entitled to use in irrigating their land.

I would appreciate very much if you will obtain from your engineers three computations of the head required when discharging 50, 40, 30, and 20 cfs through a 24" inch asbestos bonded corrugated pipe with a length of 120 feet with a gate model 1050 C.

For use in checking other plans of dams I would appreciate having the total head broken down into the following

- (1) Velocity head
- (2) The loss of head at the gate
- (3) The loss of head due to bends.
- (4) The loss of head due to friction in the conduit.
- (5)

Enclosed is a sketch of the dam which was prepared Paul Revis. The slope of the conduit was not shown but is assumed to only be sufficient to drain the conduit.

The conduit at the low end will not be submerged.

Loss of head through
two 1/2 inch

November 20, 1953

Messrs. Richard J. & Thomas E. Jenkins
Diamond
Oregon

Re: Applications Nos. R-19452
and 19453

Gentlemen:

Enclosed you will find a blueprint showing the lands irrigated under Permit No. 15046 as classified by the survey made by H. L. Coffman and T. Jones of this department.

Mr. Coffman stated that you are of the opinion that the lands in the stock water pond located in Sections 17 and 18 should be classified as irrigated. Our engineers did not classify this as irrigated as their survey only shows conditions as they existed at the time of the survey.

Also enclosed are forms for use in making final proof in connection with the above applications. In the column headed "No. Acres Actually Irrigated" on the attached sheet of the proof, we have set forth the area as shown by the survey made by Messrs. Coffman and Jones. If you are of the opinion that the lands in the stock pond should be classified as irrigated, it is suggested that you include these and set forth in the proof some basis for your claim.

At the time the proofs are returned to this office you should also remit certificate recording fees in the amount of \$2.00 for having the certificates recorded in the county clerk's office of Harney County.

Very truly yours,

CHAS. E. STRICKLIN, State Engineer

CES:VC
Encs.

November 13, 1953

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

Re: Smyth Creek Dam
D. H. & E. H. Smyth

Dear Paul:

Enclosed is a copy of a letter received from Mr. Fred N. Johnson, Engineering Department, Armco Drainage & Metal Products, Inc., containing computations of the head loss through the gate and conduit of the model proposed to install in the Smyth Creek Dam. These computations check mine with the exception that the head loss in the elbow was assumed by me to be $K = 1$ whereas Mr. Johnson assumed K as .9.

In the head loss in 120 feet of 24 inch corrugated pipe used as a conduit I allowed for the difference in head between the center of the gate and the center of the outlet conduit whereas Mr. Johnson did not give any credit for this.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC
Enc.

JOHN R. BRADLEY
OFFICIAL REPORTER—CIRCUIT COURT
NOTARY PUBLIC
BEND, OREGON

November 11, 1953.

Honorable Charles E. Stricklin,
State Engineer,
Salem, Oregon.

RECEIVED
NOV 12 1953
STATE ENGINEER
SALEM, OREGON

Re: Jenkins v. Smyth

Dear Mr. Stricklin:

Enclosed herein is receipt for hotel bill
at Arrowhead Hotel in Burns in connection with
my stay there in the above case.

In my haste yesterday to forward the
transcript and exhibits I overlooked it.

Sincerely,

John R Bradley

October 29, 1953

Mr. James Burns
Attorney at Law
Burns, Oregon

Re: T. E. and R. J. Jenkins
Permits Nos. R-770 and 15046

Dear Mr. Burns:

At the hearing involving the protest of the Smyths against the issuance of certificates on the above permits, no detailed information was submitted showing the lands which were irrigated under said permits. Therefore, Mr. Herbert Coffman of this department will make a survey of these lands.

Mr. Coffman will probably begin this survey on Tuesday, November 3rd and if you are in contact with either T. E. or R. J. Jenkins, it might be well to advise them of the making of such survey.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC

~~200~~

~~Attorney~~

Mr
Mony

R-19452
19453

November 26, 1956

Mr. James M. Burns
Attorney At Law
Burns, Oregon

Dear Mr. Burns:

On July 23, 1956, Mr. Lewis A. Stanley notified you that he was withholding further action in the issuance of the confirming certificates for Permit Nos. R-770 and 15046 in the name of Richard J. and Thomas E. Jenkins, until we heard from you concerning the question regarding the acreage as discussed in your letter dated July 18, 1956.

If you are now able to further discuss this question we will take further action toward the issuance of the confirming certificates.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By
Trevor Jones, Assistant

TJ:ld
cc: Richard J. and Thomas E. Jenkins

July 23, 1956

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Dear Mr. Burns:

In accordance with the opinion of the Supreme Court a copy of which was furnished to me with your letter of July 18th, we will issue the water right certificates confirming the Jenkinses' appropriations in the near future. We will however, withhold action until we hear from you concerning the exact amount of acreage to be covered in the secondary permit as discussed in the last paragraph of your letter.

Very truly yours,

LEWIS A. STANLEY
State Engineer

LAS:VG

JAMES M. BURNS OF BURNS, OREGON
ATTORNEY AT LAW

July 18, 1956

RECEIVED
JUL 20 1956
STATE ENGINEER
SALEM, OREGON

Honorable Lewis A. Stanley
State Engineer
Salem, Oregon

Re: Smyth v. Jenkins

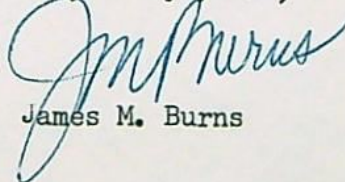
Dear Mr. Stanley:

As you may have seen from the papers, the Supreme Court upheld the action of the State Engineer in granting a water certificate for the storage right of the Jenkinses, which action was affirmed by the Circuit Court. Since this decision contained a solid re-affirmance of the principle of vesting wide discretion in the State Engineer, I thought perhaps you would like to look over a copy of the opinion, which is enclosed herein.

After the time has expired for the filing of a petition for rehearing by the Appellants, I shall communicate further with you with respect to the granting of the certificate relating to the secondary permit. You may recall that some question existed over the exact amount of acreage to which the Jenkinses were entitled under their secondary permit, but I shall discuss that further with you in a subsequent letter.

Thank you very kindly.

Very truly yours,


James M. Burns

JMB:dr
Enc.

September 20, 1955

Mr. Leonard H. Waterman
Attorney at Law
Burns, Oregon

Dear Mr. Waterman:

The new water code incorporating the recent changes is not yet printed, however, enclosed are copies of the Ground Water Act if this will be of any assistance.

Permits Nos. 15046 and R-770 with a priority date of August 6, 1941, were issued to Richard J. and Thomas E. Jenkins to appropriate waters of Riddle Creek.

Riddle and Smythe Creeks have not been adjudicated, therefore we have no record of claims for rights prior to 1909.

There have been some changes in procedure relating to adjudication, however, in principle the law has been unchanged.

Very truly yours,

LEWIS A. STANLEY
State Engineer

By

Trevor Jones
Assistant

Enc:
TJ:gw

Leonard H. Waterman
ATTORNEY-AT-LAW
~~PLUMMER~~
BURNS, OREGON

Sept. 6, 1955

State Engineer, State of Oregon
Salem, Oregon

Gentlemen:-

RECEIVED
SEP 9 1955
STATE ENGINEER
SALEM, OREGON

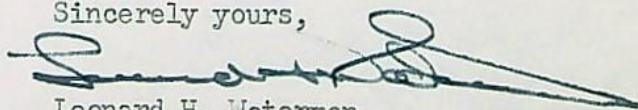
*See 768
for prior*

In checking the 1955 session laws it becomes quite apparent that the water law has been materially changed and it will be rather hard to determine just what all such changes are without a properly indexed copy of the new water code complete. Therefor I request that at least three (3) copies of the new water code be sent to me as soon as available. If there is a charge for this please advise and I will send forward my check.

At the present time it is desireable that I know the rights and dates of priority of Jenkins Brothers of Diamond, Oregon. Jenkins Brothers consist of Thomas E. Jenkins and Richard J. Jenkins. These rights may have originally been filed in the name of J.R. Jenkins & Sons or in the name of Eastern Oregon Livestock Co. or J. W. Biggs. Insofar as I have been able to determine the enclosed list of lands would be the lands now owned by said Jenkins Bros. Please furnish me what information you are able to give me in regards to the rights on these lands or part of these lands. The waters I am interested in are from Smyth Creek and Riddle Creek and I am particularly interested in the date of the earliest right owned by Jenkins Bros. Under the findings in the case of Jenkins vs. Smyth #4375 Harney County, the statement is made that Jenkins has a vested right to the use of the natural flow of Riddle Creek with a date of priority prior to 1909 which right has not been adjudicated. Please advise what date of priority if any your records show this right to actually be prior to 1909.

The client I represent has a vested right to the use of water from Riddle creek which has been adjudicated and I am checking this on their behalf. Likewise if any refiling is required on these old water rights is going to be required under the new water code I would appreciate having several copies of the necessary forms for filing.

Sincerely yours,


Leonard H. Waterman

JENKINS BROS. LANDS

		S	T	R
	W $\frac{1}{2}$	10	28	33
	W $\frac{1}{2}$	15	28	33
2	SE $\frac{1}{4}$ NE $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$: SE $\frac{1}{4}$ SE $\frac{1}{4}$	16	28	33
	NE $\frac{1}{4}$: E $\frac{1}{2}$ NW $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$	21	28	33
3	NW $\frac{1}{4}$ NE $\frac{1}{4}$: S $\frac{1}{2}$ NE $\frac{1}{4}$: NW $\frac{1}{4}$: N $\frac{1}{2}$ S $\frac{1}{2}$	22	28	33
	SW $\frac{1}{4}$ NW $\frac{1}{4}$: W $\frac{1}{2}$ SW $\frac{1}{4}$	23	28	33
4	Lot 4	19	28	33
	E $\frac{1}{2}$ NW $\frac{1}{4}$: N $\frac{1}{2}$ NE $\frac{1}{4}$:	19	28	33
5	S $\frac{1}{2}$ SW $\frac{1}{4}$	13	29	35
	NW $\frac{1}{4}$ NW $\frac{1}{4}$: SE $\frac{1}{4}$ SE $\frac{1}{4}$	14	29	35
6	NE $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$	23	29	34
	SW $\frac{1}{4}$ NE $\frac{1}{4}$: NW $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$: W $\frac{1}{2}$ SE $\frac{1}{4}$	24	29	35
7	SE $\frac{1}{4}$ SE $\frac{1}{4}$	24	29	35
	N $\frac{1}{2}$ N $\frac{1}{2}$: SE $\frac{1}{4}$ NE $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$	25	29	35
8	NE $\frac{1}{4}$ NE $\frac{1}{4}$	26	29	35
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	30	29	36
9	W $\frac{1}{2}$: W $\frac{1}{2}$ E $\frac{1}{2}$: SE $\frac{1}{4}$ NE $\frac{1}{4}$: NE $\frac{1}{4}$ SE $\frac{1}{4}$	1	30	35
	N $\frac{1}{2}$ NW $\frac{1}{4}$	12	30	35
10	E $\frac{1}{2}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$	33	29	35
	W $\frac{1}{2}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$	34	29	35
11	Lot 2	4	30	35
	SE $\frac{1}{4}$ NE $\frac{1}{4}$: E $\frac{1}{2}$ SE $\frac{1}{4}$	18	28	33
12	NW $\frac{1}{4}$ SW $\frac{1}{4}$: S $\frac{1}{2}$ S $\frac{1}{2}$	17	28	33
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	16	28	33
13	S $\frac{1}{2}$ NE $\frac{1}{4}$: E $\frac{1}{2}$ SW $\frac{1}{4}$: W $\frac{1}{2}$ SE $\frac{1}{4}$	19	28	33
	N $\frac{1}{2}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$	20	28	33
14	W $\frac{1}{2}$ NW $\frac{1}{4}$: NW $\frac{1}{4}$ SW $\frac{1}{4}$	21	28	33
	N $\frac{1}{2}$ SW $\frac{1}{4}$: SE $\frac{1}{4}$ SW $\frac{1}{4}$: SE $\frac{1}{4}$ SE $\frac{1}{4}$	24	28	32
15	NE $\frac{1}{4}$ NW $\frac{1}{4}$: E $\frac{1}{2}$	25	28	32
	Lots 1-2-3-4: E $\frac{1}{2}$ W $\frac{1}{2}$: W $\frac{1}{2}$ NE $\frac{1}{4}$: NW $\frac{1}{4}$ SE $\frac{1}{4}$	30	28	33
16	N $\frac{1}{2}$ NE $\frac{1}{4}$	36	28	32
	Lots 1-2	31	28	33
17	W $\frac{1}{2}$ NE $\frac{1}{4}$: E $\frac{1}{2}$ NW $\frac{1}{4}$	14	28	34
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	24	28	34
18	NE $\frac{1}{4}$ NE $\frac{1}{4}$	26	28	34
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19	W$\frac{1}{2}$NW$\frac{1}{4}$	17	27	35
	E$\frac{1}{2}$NE$\frac{1}{4}$	18	27	35
20	Lot 2	19	28	35
	W $\frac{1}{2}$ SW $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$	20	28	35
21	NW$\frac{1}{4}$NW$\frac{1}{4}$	29	28	35
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	32	28	35
22	W $\frac{1}{2}$ SW $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$	5	29	35
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	10	29	35
23	SW $\frac{1}{4}$ SE $\frac{1}{4}$: N $\frac{1}{2}$ NW $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$	15	29	35
	N $\frac{1}{2}$ NE $\frac{1}{4}$	16	29	35
24	SW $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$	21	29	35
	SW $\frac{1}{4}$ SW $\frac{1}{4}$	26	29	35
25	NW $\frac{1}{4}$ NE $\frac{1}{4}$: NE $\frac{1}{4}$ NW $\frac{1}{4}$	28	29	35
	N $\frac{1}{2}$ NW $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$	35	29	35
26	Lot 1	1	30	35
	Lot 1	2	30	35
27	Lot 3: SW $\frac{1}{4}$ SW $\frac{1}{4}$	3	30	35
	SW $\frac{1}{4}$: W $\frac{1}{2}$ SE $\frac{1}{4}$: SE $\frac{1}{4}$ SE $\frac{1}{4}$: SW $\frac{1}{4}$ NE $\frac{1}{4}$	10	30	35
28	E $\frac{1}{2}$ SW $\frac{1}{4}$: SE $\frac{1}{4}$	9	30	35
	N $\frac{1}{2}$ NW $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$ NE $\frac{1}{4}$	14	30	35
29	NW $\frac{1}{4}$: N $\frac{1}{2}$ NE $\frac{1}{4}$	15	30	35
	NW $\frac{1}{4}$ NW $\frac{1}{4}$	22	30	35
30	E $\frac{1}{2}$ SE $\frac{1}{4}$	28	30	35
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	32	30	35
31	E $\frac{1}{2}$ NE $\frac{1}{4}$	33	30	35
	W $\frac{1}{2}$ SW $\frac{1}{4}$	16	27	36
32	NE$\frac{1}{4}$	20	27	36
	N $\frac{1}{2}$ NE $\frac{1}{4}$	36	27	36
	Lot 1	4	31	35
Page	S $\frac{1}{2}$ SW $\frac{1}{4}$	3	28	33
	S $\frac{1}{2}$ SE $\frac{1}{4}$: SE $\frac{1}{4}$ SW $\frac{1}{4}$	4	28	33
	NE $\frac{1}{4}$: E $\frac{1}{2}$ NW $\frac{1}{4}$: E $\frac{1}{2}$ SE $\frac{1}{4}$	9	28	33

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2	SW $\frac{1}{4}$ SE $\frac{1}{4}$: S $\frac{1}{2}$ SW $\frac{1}{4}$	25	29	32
3	S $\frac{1}{2}$ SE $\frac{1}{4}$	26	29	32
4	NE $\frac{1}{4}$	35	29	32
5	W $\frac{3}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$: W $\frac{1}{2}$ NE $\frac{1}{4}$: NW $\frac{1}{4}$	36	29	32
6	E $\frac{1}{2}$ SW $\frac{1}{4}$: SW $\frac{1}{4}$ SE $\frac{1}{4}$	21	28	33
7	NE $\frac{1}{4}$ NW $\frac{1}{4}$	28	28	33
8	Lots 1-2-3	19	28	33
9	SE $\frac{1}{4}$ SE $\frac{1}{4}$	13	28	32
10	NE $\frac{1}{4}$: W $\frac{1}{2}$ SE $\frac{1}{4}$: NE $\frac{1}{4}$ SE $\frac{1}{4}$: E $\frac{1}{2}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$ NW $\frac{1}{4}$	24	28	32
11	S $\frac{1}{2}$ NE $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$: SE $\frac{1}{4}$ SE $\frac{1}{4}$	20	29	35
12	SW $\frac{1}{4}$ NW $\frac{1}{4}$	21	29	35
13	NW $\frac{1}{4}$ NW $\frac{1}{4}$: S $\frac{1}{2}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$ NE $\frac{1}{4}$	28	29	35
14	W $\frac{1}{2}$ SE $\frac{1}{4}$: NE $\frac{1}{4}$ SW $\frac{1}{4}$	28	29	35
15	E $\frac{1}{2}$ NE $\frac{1}{4}$	29	29	35
16				
17	SE $\frac{1}{4}$ SE $\frac{1}{4}$	11	23	28
18	E $\frac{1}{2}$ NE $\frac{1}{4}$: NE $\frac{1}{4}$ SE $\frac{1}{4}$	11	23	28
19	SE $\frac{1}{4}$			
20	N $\frac{1}{2}$ S $\frac{1}{2}$: NW $\frac{1}{4}$: S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$	26	28	36
21	All	36	28	36
22	W $\frac{1}{2}$ NE $\frac{1}{4}$: NW $\frac{1}{4}$: N $\frac{1}{2}$ SW $\frac{1}{4}$	16	30	35
23	W $\frac{1}{2}$ SW $\frac{1}{4}$	16	28	33
24	S $\frac{1}{2}$ SE $\frac{1}{4}$	9	30	35
25	E $\frac{1}{2}$	8	30	35
26	NE $\frac{1}{4}$	17	30	35
27	SW $\frac{1}{4}$: SW $\frac{1}{4}$ SE $\frac{1}{4}$	20	30	35
28	S $\frac{1}{2}$ SE $\frac{1}{4}$	15	30	35
29	W $\frac{1}{2}$ NE $\frac{1}{4}$: E $\frac{1}{2}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$ NW $\frac{1}{4}$: SW $\frac{1}{4}$: W $\frac{1}{2}$ SE $\frac{1}{4}$	21	30	35
30	W $\frac{1}{2}$	22	30	35
31	E $\frac{1}{2}$ NB $\frac{1}{4}$	27	30	35
32	NW $\frac{1}{4}$	28	30	35
33	N $\frac{1}{2}$ NW $\frac{1}{4}$: NE $\frac{1}{4}$: N $\frac{1}{2}$ SE $\frac{1}{4}$: SE $\frac{1}{4}$ NW $\frac{1}{4}$: E $\frac{1}{2}$ SW $\frac{1}{4}$	34	30	35
34	NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$	21	30	35
35		28	30	35
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file copy

October 23, 1953

Mr. Paul Revis
Registered Professional Engineer
Burns, Oregon

Jenkins v. Smyth

Dear Paul:

At the time I inspected the Smyth dam site on Smyth Creek on October 21st I omitted taking any notes of the gate and the length of the outlet conduit to the proposed Smyth dam.

I would appreciate it if you would give me the gate number and the length of this pipe. This information is desired in order for me to submit the same to the manufacturer for their computations as to the capacity of this outlet conduit under different heads so that I may have their computations to check those I have made.

I wish to express my appreciation for the evidence and the fairness of your testimony at the recent hearing in Burns.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC

October 12, 1953

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Re: Jenkins v. Smyth

Dear Mr. Burns:

This will acknowledge receipt of your letter of October 8th relative to the hearing to be held in Burns on October 20th.

On October 9th I received a telephone call from Mr. Fred Gustafson of Prineville stating that he had been employed by your clients to make a survey of their reservoir. In this conversation the method of making the survey was discussed with Mr. Gustafson and it is, therefore, assumed that you have obtained an engineer to make the necessary surveys, and it is assumed that you will have data as to the capacity of the reservoir available by the time of this hearing on October 20th.

In the protest of your client against the approval of the applications filed by the Smyths the capacity of the reservoir under Permits Nos. R-770 and 15046 is at issue regardless of the fact that the issuance of a certificate of water right has been protested.

The issue before the State Engineer at the hearing on October 20th is not the cancellation of the Jenkins permits, but to what extent the water has been stored and applied to beneficial use. The status of ~~the~~ permit is defined by our Supreme Court in the case of ~~Morris~~ v. Gold Beach Light and Power Company, 160 Ore., 301. As to the subpoena of witnesses by the State Engineer, it will be noted upon reading Section 116-431 and 116-432, O.C.L.A., that this is the specific procedure to be followed by the State Engineer in the cancellation of permits and not the procedure to be followed in a hearing such as that to be held in Burns on October 20th.

If, at the conclusion of the hearing in Burns it is found there is a lack of evidence as to the extent to which the ~~Jenkinses~~ have perfected their rights, it would be possible to continue the hearing to afford you an opportunity to introduce additional evidence. However, the State Engineer is required to enter his order in the matter of the applications of the Smyths.

Mr. James M. Burns

-2-

October 12, 1953

I have discussed the map filed with the Jenkins reservoir application with Mr. Humphrey and he definitely states that he has no knowledge of ever having attempted to compute the capacity of the reservoir. Mr. Humphrey's address is 533 North 24th Street, Salem, Oregon.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC

JAMES M. BURNS OF BURNS, OREGON
ATTORNEY AT LAW

October 8, 1953

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

RECEIVED
OCT 12 1953
STATE ENGINEER
SALEM, OREGON

Re: Jenkins v. Smyth

Dear Mr. Stricklin:

This is to request the postponement of the hearing which you have scheduled on October 20 in Burns, Oregon on the protest against the issuance of certificates of water right on Permits Nos. R-770 and 15046, and on the protest against the approval of Application Nos. R-28545 and 28546.

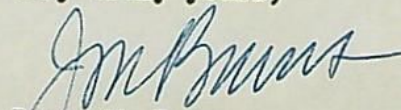
It is the contention of my clients, the Jenkinses, that the action of the Smyths in filing a protest against the issuance of water certificates to the Jenkinses substantially enlarged the proceedings and imposed upon the Jenkinses a much greater burden of proof than they would have had merely on the hearing concerning the Smyths' applications. Consequently, additional time is needed to prepare to meet this greater burden of proof. In addition to this fact, the only registered engineer in this community and county is the one who has done the work for the Smyths, and therefore obviously cannot appear in behalf of the Jenkinses.

In addition I should appreciate some additional information with regard to the subpoenaing of witnesses as I believe that we shall have to subpoena several additional witnesses now that the fundamental nature of the hearing has been changed. It is my understanding that under the provisions of 116-432, that the State Engineer has the authority to issue subpoenas and compel the attendance of witnesses, and that the protest filed by the Smyths would be governed by 116-435 which states that the hearing shall be had in the same manner as set forth in 116-432. Therefore, I do not understand your statement in your letter of October 5 that the State Engineer is not authorized to issue subpoenas in a case of this kind.

I should appreciate very much your informing me as to the present whereabouts of Mr. Humphrey.

Thank you very kindly.

Very truly yours,


James M. Burns

hm

JOHN R. BRADLEY
OFFICIAL REPORTER—CIRCUIT COURT
NOTARY PUBLIC
BEND, OREGON

October 9th, 1953.

Honorable Chas. E. Stricklin,
State Engineer,
Salem, Oregon.

Re: Jenkins v. Smyth

RECEIVED
OCT 12 1953
STATE ENGINEER
SALEM, OREGON

Dear Mr. Stricklin:

Thanks for your letter of October 8th in which you invite me to ride from Bend to Burns with you on the afternoon of the 19th.

It will give me great pleasure to ride with you. You may find me at the court house at about 4:00 P. M. You might phone me at 58 when you arrive and I can meet you in front, or, just come on up and sell Judge Hamilton something.

Sincerely,

John R. Bradley

The records of the State Engineer show that on June 15, 1953, D. H. and E. H. Smyth of Diamond, Oregon, filed two applications for permits which are designated as Application No. R-28545 and Application No. 28546.

Application No. R-28545 is for a permit to construct a reservoir and store 212.3 acre feet of water of Smyth's Creek for irrigation. Application gives the location of the storage dam as within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 13, Township 29 South, Range 33 East, W. M. Application No. 28546 is for a permit to appropriate 2.6 cubic feet per second of water from Smyth's Creek and the reservoir to be constructed under Application No. R-28545 for the irrigation of 222.0 acres of land.

On August 14, 1953 there was filed with the State Engineer objections to the approval of the Applications Nos. R-28545 and 28546. These objections were filed by T. E. Jenkins. The pertinent matter as set forth in the protest is summarized as follows:

1. Protestant has a permit with a date of priority of August 6, 1941 to construct a reservoir and store 7500 acre feet of water of Riddle Creek, to which Smyth Creek is tributary, for irrigation.
2. That the construction of the reservoir proposed in the application filed by D. H. and E. H. Smyth (No. R-28545) would seriously interfere with and materially hamper and retard the permits of protestants.

The records of the State Engineer show that on August 6, 1941, Richard J. and Thomas E. Jenkins filed two applications for permits which are designated in the records of the State Engineer as Application No. R-19452 and Application No. 19453.

Application No. R-19452 which was approved by the State Engineer and permit issued on October 30, 1941 (Permit No. R-770) is for the storage of 7500 acre feet of water from Riddle Creek in a reservoir located within

Section 3, 4, 9, 10 and 11, Township 28 South, Range 33 East, W. M. The dam as described in the application is located in SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 16, foresaid township and range. Following is a description of the dam as set forth in the application:

Maximum height: 8 to 3 feet

Top width: 12 feet

Top length: 800 feet

Bottom length: 788 feet

Application No. 19453 which was approved and permit issued on October 30, 1941 (Permit No. 15046) is for the appropriation of 46.33 cubic feet per second of water from Riddle Creek and water stored under the right initiated under Application No. R-19452 for irrigation of 1853.0 acres of land located in Sections 24, 25 and 36, Township 28 South, Range 32 East, W. M., and Sections 16, 17, 18, 19, 20, 21, 30 and 31, Township 28 South, Range 33 East, W. M.

The records of the State Engineer show that under Application No. R-19452, Permit No. R-770, Form A, "Notice of Beginning of Construction", was filed on November 25, 1942 and Form B, "Notice of Completion of Construction", was filed on November 19, 1943.

That under Application No. 19453 (Permit No. 15046) Form A, "Notice of Beginning of Construction", was filed in the office of the State Engineer on November 25, 1942 and Form C, "Notice of Complete Application of Water to Beneficial Use" was filed in the office of the State Engineer on November 19, 1943.

On October 1, 1953, Darius H. Smyth and Eugene H. Smyth of Diamond, Oregon, filed with the State Engineer a protest against the issuance of certificate of water right under the rights initiated under application No. R-19452 and No. 19453. The pertinent matter as set forth in the protest is summarized as follows:

1. Reasonable diligence was not exercised in constructing the works under Permit No. R-770.

2. That the construction work has not been completed as of this date. (Protest dated September 29, 1953)

3. The principal dam, the height of which is set forth in the application as from 3 feet to 8 feet, has been constructed to a height of 16 feet, to the great detriment of the surrounding community and has resulted in placing one state highway in danger of inundation.

4. By reason of the increased height of the dam, several times 956 acres of land have been submerged.

5. That the dam designated in Application as dam No. 3 is constructed and water will be impounded which cannot be drained out and will be lost by evaporation and seepage which would not be a beneficial use.

The time fixed by the State Engineer for the hearing upon the two protests is October 20, 1953 in the court house at Burns, Oregon.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

RECEIVED
APR 23 1954
STATE ENGINEER
SALEM, OREGON

Thomas E. Jenkins and Richard J.
Jenkins,

Protestees-Appellants,

vs.

D. H. Smyth and E. H. Smyth,

Protestants-Respondents.

NOTICE OF APPEAL

To Charles E. Stricklin, State Engineer and To D. H. Smyth and E. H. Smyth,
Protestants, and To Pat H. Donegan, their attorney:

You and each of you will please take notice that Thomas E. Jenkins and
Richard J. Jenkins, Protestees in the above-entitled action, hereby appeal
to the Circuit Court of the State of Oregon for the County of Harney from
that portion of the Order of the State Engineer made and entered at Salem,
Oregon, March 22, 1954, which approved Applications Nos. R-28545 and 28546,
previously filed with said State Engineer by Protestants herein, and from
that portion of said Order only; this Notice of Appeal is taken pursuant to
G.R.S. 537.200.

Dated this 21st day of April, 1954.

/s/ James M. Burns
Attorney for Protestees-Appellants.

STATE OF OREGON,)
County of Harney.) ss.

I hereby certify that I have prepared the foregoing copy of Notice of
Appeal and have carefully compared the same with the original thereof; and
that it is a correct copy therefrom and of the whole thereof.

That the said Notice of Appeal in my opinion is well founded in law.

Dated April 21, 1954.

James M. Burns
Attorney for Protestees-Appellants.

STATE OF OREGON,)
County of Harney.) ss.

Due service of the within Notice of Appeal is hereby accepted in Harney
County, Oregon, this 21st day of April, 1954, by receiving a copy thereof,
duly certified to as such by James M. Burns, Attorney for Protestees-Appellants.

Pat H. Donegan
Attorney for Protestants-Respondents.

JAMES M. BURNS OF BURNS OREGON
ATTORNEY AT LAW



RECEIVED
APR 22 1954
STATE ENGINEER
SALEM, OREGON

Mr. Charles E. Stricklin

State Engineer

Salem, Oregon

Wono

285+5
286+6
{

R-19452
19453

October 14, 1953

Mr. Pat H. Donegan
Attorney at Law
Wilburn Building
Burns, Oregon

Dear Mr. Donegan:

Pursuant to your request in your letter of October 10 enclosed are certified copies of the reports for completion of construction under the terms of Permit No. R-770 and complete application of water under the terms of Permit No. 15046.

Enclosed is our bill in the amount of \$1.20 to cover the cost for preparing the same.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW:eh
enc. 2

Pat H. Donegan

ATTORNEY AT LAW
WIBURN BUILDING
BURNS, OREGON

October 10, 1953

RECEIVED
OCT 13 1953
STATE ENGINEER
SALEM, OREGON

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

Re: Applications Nos. R-19452, 19453
Permits Nos. R-770, 15046
Richard J. and Thomas E. Jenkins

Dear Mr. Stricklin:

In a former letter you advised me that you had been furnished with a Notice of Completion on the above applications and permits, and I will appreciate it very much if you will prepare and mail to me a certified copy of the notice, or notices, of completion that you have on file in your office in the above matter.

If you will kindly bill me I will remit.

Very truly yours,

Pat H. Donegan
Pat H. Donegan

PHD/ag

October 5, 1953

Mr. James M. Burns
Attorney at Law
Burns, Oregon

Re: Jenkins v. Smyth

Dear Mr. Burns:

This will acknowledge receipt of your letter of October 1st relative to the procedure to be followed at the hearing to be held in Burns on October 20th on the protest against the approval of Applications Nos. R-28545 and 28546 and on the protest against the issuance of certificates of water right on Permits Nos. R-770 and 15046.

In these proceedings the evidence given by witnesses is under oath and the right of cross examination is given. There is no code procedure covering a hearing such as this.

It is clear that your clients cannot claim or perfect a storage right in excess of the 7500 acre feet set forth in the permit or if the reservoir on October 1, 1943 was completed with a storage capacity of less than the foresaid amount, then the quantity for which the right could be perfected would be the amount actually stored or the actual capacity of the reservoir as of this date. This would confine the issue to what was the actual capacity of the reservoir on October 1, 1943.

With reference to the map filed with the Jenkins application, this map was prepared by Mr. Young and it is impossible from the data shown upon the map to compute the capacity. It may be that Mr. Humphrey, with additional data given by Mr. Young which is not of record, made a rough computation of the storage capacity, however, the method of arriving at the 7500 acre feet of storage is not clear.

It appears to me that it will be necessary for your clients to have a map prepared with contours from which the actual capacity of the reservoir can be computed and if the height of the dam has been raised since October 1, 1943, there should be shown upon the map the capacity of the reservoir as it was on October 1, 1943.

Mr. James M. Burns

-2-

October 5, 1953

With regard to subpoenaing witnesses, the State Engineer is not authorized to issue subpoenas in a case of this kind.

You are correct in that Mr. Humphrey is no longer a member of the State Engineer's staff.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC

cc - Mr. Pat H. Donegan

JAMES M. BURNS OF BURNS, OREGON
ATTORNEY AT LAW

October 1, 1953

RECEIVED
OCT 5 1953
STATE ENGINEER
SALEM, OREGON

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

Re: T. E. Jenkins vs. D. H. Smyth
Nos. R. 28545 and 28546

Dear Mr. Stricklin:

I should appreciate very much if you would advise me of the appropriate procedure for subpoenaing witnesses to be present at the hearing in the above-entitled matter; this hearing has been set for ten o'clock a.m., October 20, 1953.

I should also like to ask you for some further information on the procedure at this type of a hearing. It seems clear that one of the positions which will be taken by the Smyths at this hearing will be that the Jenkins Brothers do not have a valid right to store 7500 acre-feet of water. This I presume will be based upon the contention that in the Jenkinses' application for a reservoir permit, they listed the height of their dam as being eight feet, and that consequently an eight-foot dam in the locale concerned would not store the requisite amount of water.

Mr. Clarence Young, the local water master, who prepared the Jenkins application for them in 1942, has informed me that at the time the application was prepared, that he surveyed the area which would be filled with water, and drew the contours on the map, and then requested a man in your office to compute the number of acre-feet, which computation amounted to 7500 acre-feet. Mr. Young, to the best of his recollection, tells me that this computation was made either by a Mr. Ryan or a Mr. Humphrey. If we must depend on the testimony of Mr. Ryan or Mr. Humphrey to establish this position, I understand that one of these gentlemen has since been deceased, and that the other one is no longer with your office.

Therefore, if this hearing develops into an attack on the Jenkinses' right rather than a discussion as to the merits of the Smyth application, we are going to be under a considerable burden of proof. Accordingly, I should appreciate some information on this point, both with regard to the subpoena provisions available and the location of either of these two gentlemen at this time. Of course I expect that there will be additional witnesses in this area that I shall want to call for this hearing.

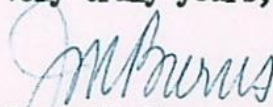
I should state further that by mentioning these matters to you, that I do not intend in any way to act with impropriety by attempting to "try

Mr. Chas. E. Stricklin
October 1, 1953
Page Two

this case" before hearing. Please do not understand me as making such an attempt. Rather, I am trying to obtain information so that I may adequately prepare my case and so that a full and fair hearing may be had.

Thank you very kindly.

Very truly yours,



James M. Burns

hm

STATE OF OREGON

CHAS. E. STRICKLIN, STATE ENGINEER
SECRETARY
STATE RECLAMATION COMMISSION
HYDROELECTRIC COMMISSION OF OREGON

OFFICE OF THE
STATE ENGINEER
WATER RESOURCES DEPARTMENT
SALEM

ADDRESS ALL COMMUNICATIONS
CHAS. E. STRICKLIN, STATE ENGINEER
SALEM, OREGON
AND REFER TO
FILE NO. _____

October 1, 1953

Mr. Pat H. Donegan
Attorney at Law
Wiburn Building
Burns, Oregon

Re: Applications Nos. R-19452, 19453
Permits Nos. R-770, 15046

Dear Mr. Donegan:

This will acknowledge receipt of your letter of September 29th transmitting the protest of Darious H. and Eugene H. Smyth against the issuance of certificates of water right under the above permits in the name of Richard J. and Thomas E. Jenkins and your check in the amount of \$2 for which our receipt No. 200 is enclosed.

It appears that some of the testimony which will be introduced at the hearing in Burns on October 20th against the approval of the applications filed by D. H. and E. H. Smyth will also, of necessity, relate to the permits of Richard J. and Thomas E. Jenkins. I am, therefore, setting the hearing upon the protest against the issuance of certificates on the above permits to be October 20th in Burns, such hearing to either be consolidated with or following at the conclusion of the hearing upon the Smyth applications. The procedure to be followed can be decided at the time of the hearing.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC
Enc.

R-19452
19453

September 10, 1953

Mr. Pat H. Donegan
Attorney at Law
Wiburn Building
Burns, Oregon

Dear Mr. Donegan:

In response to your letter of September 5, please be advised that proof has not been made under Applications No. R-19452 and 19453, Permits No. R-770 and 15046, in the name of Richard J. and Thomas E. Jenkins.

Notice was filed, however, that the project had been completed and the water applied to the proposed use. Action on the applications has been held pending final proof survey by this office after which the Jenkins Brothers could make proof and a certificate could then be issued.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

CLW:bc

Pat H. Donegan

ATTORNEY AT LAW
WIBURN BUILDING
BURNS, OREGON

September 5, 1953

Mr. Charles E. Stricklin
State Engineer
Salem, Oregon

Re: R 19452, 19453
Jenkins Brothers

RECEIVED
SEP 8 1953
STATE ENGINEER
SALEM, OREGON

Dear Mr. Stricklin:

Will you advise me whether or not proof was made by Jenkins Brothers on the above applications and whether or not you have issued water right certificates?

I would like very much to have a certified copy of the proofs that were made and also copies of such certificates of water rights as may have been issued upon both the storage application and the appropriation application.

Very truly yours,

Pat H. Donegan
Pat H. Donegan

PHD/ag

R-19452
19453

August 21, 1953

Mr. Pat H. Donegan
Lawyer
Burns, Oregon

Dear Mr. Donegan:

Pursuant to your request in your letter of August 17 enclosed find blueprint also our bill in the amount of \$1.20 to cover cost of the same.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Chris L. Wheeler, Assistant

eh
enc. 2

Pat H. Donegan
Lawyer
Burns, Oregon

August 17, 1953

Mr. Charles E. Stricklin
State Engineer
Salem, Oregon

Re: Jenkins - Smyth
No. 28545 - 28546

RECEIVED
AUG 18 1953
STATE ENGINEER
SALEM, OREGON

Dear Mr. Stricklin:

In addition to the copies of the application for primary and secondary permits that Jenkins are interested in, will you please send me the various maps involved.

Very truly yours,


Pat H. Donegan

PHD/ag

P.S. Will you please send me a few copies of your pamphlets on appropriation and storage of water.

P. H. D.

November 23, 1943

Richard J. and Thomas E. Jenkins
Diamond, Oregon

Gentlemen:

This acknowledges receipt of Form B, being notice of the completion of construction under your Permit No. R-770, and Form C, being notice of the complete application of water under your Permit No. 15046.

Pursuant to your reports and in line with the general practice of this office, a survey will be made at a later date for the purpose of checking the acreage actually irrigated. After this survey, proof may be made by you and certificate issued covering the lands which the survey shows to have been irrigated, and any lands described in your permit that have not been irrigated will be automatically eliminated from your water right.

In the meantime, the permit which you hold will be valid evidence of your water right.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

dw

November 17, 1942

Richard J. and Thomas E. Jenkins
Diamond, Oregon

Gentlemen:

This will acknowledge receipt of your letter of November 8, in which you request an extension of time in which to commence construction under your Permit No. 15046.

The State Engineer is not permitted by law to extend the time for beginning of construction under a permit in the name of individuals, but it is my understanding that construction of the reservoir figuring in the appropriation in question under Permit No. R-770 was commenced within the statutory period, namely, on or before October 30, 1942, and if this is the case, and you will so report by filling out the enclosed Forms A and submitting the forms to this office, the two permits in question will be considered in good standing until October 1, 1943, when under their terms, construction should be completed.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:LD
Enclosures

Diamond, Oregon,
Nov. 8. 1942

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

RECEIVED
NOV 13 1942
STATE ENGINEER
SALEM, OREGON

Dear Sir :

Re: Permit No. 15046.

Present war. time conditions have delayed us in beginning on our work on Oct. 30, 1942, Besides one member of our firm has been ill - With this and the trouble all farmers have had with losing men to the army we could not get started as soon as we hoped.

We have all equipment to do the work and in the face of the national emergency which has crippled our force for work we hereby petition you to grant us further time to begin on our project.

If you need any affidavits to
plement our word to the effect
that man. power shartage has been
our only reason for not beginning
the work, please so advise us.

Very Truly Yours,
Richard J & Thos. E. Jenkins,
By Richard J. Jenkins

19453

November 18, 1941

Messrs. Richard J. and
Thomas E. Jenkins
Diamond, Oregon

Gentlemen:

Herewith you will find Application No. 19453,
Permit No. 15046, together with blue print.

The application has been approved and recorded
in this office.

September 18, 1941

Mr. Thomas E. Jenkins
Diamond, Oregon

Dear Mr. Jenkins:

This acknowledges receipt of your letter of September 12, with which you enclosed check for \$28.25, being the balance due in fees on Applications Nos. R-19452 and 19453 in the name of Richard J. and Thomas E. Jenkins. Our Receipt No. 27991 is enclosed herewith.

As explained in our letter of August 13, these applications are now being placed in line for approval and issuance of permits.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By

Ed K. Humphrey, Assistant

LD
Enclosure

R-19452
19453

August 13, 1941

Richard J. and Thomas E. Jenkins
Diamond, Oregon

Gentlemen:

This will acknowledge receipt of your application for a permit to construct a reservoir and store 7,500 acre-feet of the waters of Riddle Creek and your application for a secondary permit to appropriate water for the irrigation of 1,853 acres of land, together with fees in the amount of \$73.53, for which Receipts Nos. 27864 and 27865 are enclosed.

The applications have been filed and given Nos. R-19452 and 19453, respectively.

Fees covering these filings are computed as follows:

Reservoir Application:

Examination fee	\$ 5.00
200 acre-feet	1.00
800 acre-feet @ $\frac{1}{2}$ ¢ per acre-foot	4.00
6,500 acre-feet @ $\frac{1}{4}$ ¢ per acre-foot	16.25
Blueprint @ 10¢ per square foot	<u>1.00</u>

Total \$ 27.25

Secondary Application:

Examination fee	\$ 5.00
100 acres @ 15¢ per acre	15.00
900 acres @ 5¢ per acre	45.00
853 acres @ 1¢ per acre	8.53
Blueprint @ 10¢ per square foot	<u>1.00</u>

Total \$ 74.53

Total for both applications 101.78

Paid 73.53

Balance due \$ 28.25

Richard J. and Thomas E. Jenkins - page 2

August 13, 1941

These fees are computed as provided by law and as explained in the enclosed copy of the Rules and Regulations of the State Engineer.

The applications in question have been checked over and, appearing to be in order, will be placed in line for approval and issuance of a permit upon receipt of the balance due in fees as explained above.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By

Ed K. Humphrey, Assistant

EKH:LD
Enclosures