

Name Ray Hennessey
 By Route 5
 Address Hillsboro, Oregon

Application No. 33127
 Permit No. 0200
 Certificate No. _____

FEES PAID		
Date	Amount	Receipt No.
4/13/48	15.00	4744
	B. P. Fee	
	\$1 Cert. Fee	

CANCELLED

Stream Index, Page No. 2-620 MAY 5 1953

Special Order Record Vol. 7 Pg. 529

FEES REFUNDED		
Date	Amount	Check No.

Date filed April 13, 1948
 Priority April 13, 1948
 Action suspended until _____

ASSIGNMENTS

Date	To Whom	Address	Volume	Page

Returned to applicant _____
 Date of approval July 30, 1948

CONSTRUCTION

Date for beginning July 30, 1949
 Date for completion October 1, 1950
 Extended to _____
 Date for application of water October 1, 1951
 Extended to _____

REMARKS

0.13 cfs from unnamed stream and reservoir to be constructed under App. No. R-23195, Permit No. R-935 for the irrigation of 10 acres.

OCT 1 1950 CARD FOR B
 OCT 1 1951 CARD FOR C
 JAN 9 1952 FORM 100 REG.

Mar 10, 1952 - Form 107

PROSECUTION OF WORK

Form "A" filed August 30, 1948
 Form "B" filed _____
 Form "C" filed _____

FINAL PROOF

Blank mailed July 11, 1952
 Proof received _____
 Date certificate issued _____

NOTICE OF BEGINNING OF CONSTRUCTION

I, Roy Hennessey, the holder of Permit No. 18268

to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the June day of early June, 1948.

Remarks: Clearing resevoir Site, and will start dam next summer as I did not know till august that you would grant permit so. The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed did not get clearing far enough along as up in the hills the bottom does not dry but slowly up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

for as you already know this is a wet weather. Stream only and has to dry up first before I can start economical progress

IN WITNESS WHEREOF I have hereunto set my hand this 29 day of August, 1948

Signature of Applicant: Roy Hennessey

Present Address: Rt. 5 Hillshoro

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

STATE PRINTING DEPT.

As reference of my reliability Govt. Engineer B.E. Terpen

July 29, 1952

On July 21, 1952, an examination was made of the site of the appropriation proposed under permits No. R-935 and No. 18268 in the name of Roy Hennessey.

No work had been done on the proposed dam and there was no evidence of irrigation except that some flowers that had probably been watered were growing on the place.

Mr. Hennessey stated that he thought the permits had been cancelled.

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 Ray
(Signature or name of addressee)

2 _____
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery 11/11, 1945

RETURN RECEIPT

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

1 Rainey
(Signature or name of addressee)

2 _____
(Signature of addressee's agent—Agent should enter addressee's name on line ONE above)

Date of delivery 11/11, 1945

January 7, 1952

Mr. Roy Hennessey
Route 5
Hillsboro, Oregon

sent to R. L. B. T. Scappin

Dear Mr. Hennessey:

According to the terms of your Application No. 23127 ;
Permit No. 18268, which is for the appropriation of 0.13 second-
feet of water from unnamed stream and reservoir
complete application of water was to have been made on or before
October 1, 1951. It appears from our records that you have failed
to submit the notice of complete application, although a postal
card, calling this matter to your attention, was mailed to you on
October 1, 1951.

Section 116-435, O. C. L. A., provides: "whenever the
time within which any appropriation under a permit should have been
perfected shall have expired and the owner of such permit shall fail
or refuse within the period of three months thereafter to submit to
the State Engineer proof of the completion of such appropriation as
required by Section 116-426, O. C. L. A., the State Engineer may,
after 60 days' notice by registered mail, order the cancellation of
such permit, * * *."

If you have complied with the terms of this permit, you
should promptly submit the notice of complete application of water
after which we will take up with you the matter of final proof.
If, however, you have abandoned your plan of development, we would
appreciate your authority to cancel the permit, so that the permit
may be cancelled without the necessity for following the legal
procedure. In case you have not completed your appropriation,
although you still wish to do so, you may submit an application
for an extension of time. Such an extension may be granted if it
appears that proper diligence has been shown.

Complete application of water under an irrigation permit
means the irrigation of ALL of the land described in the permit,
which it is intended to irrigate.

In accordance with the provisions of Section 116-435,
Oregon Compiled Laws Annotated, a part of which is quoted above, you
are hereby notified that unless we hear from you within 60 days from
the date of this letter, your permit will be cancelled without further
notice.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

Form #100
REGISTERED

October 24, 1950

Mr. Roy Hennessey
Route 1, Box 74
Scappoose, Oregon

Dear Mr. Hennessey:

This will acknowledge receipt of your letter dated the 21st inst. and in reply thereto it will be necessary to review briefly the laws of this state relative to the initiation and perfecting of water rights under the state water code, and, also, the administration of these laws by this office.

Section 116-430, O. C. L. A., reads, in part, as follows:

"Whenever the owner of a permit to appropriate the public waters of the state of Oregon shall fail to commence actual construction work within the time required by law, or having commenced construction work as required by law, shall fail or neglect to prosecute work thereon with reasonable diligence, or shall fail to complete such construction work within the time required by law, or as fixed in such permit, or within such further time as may be allowed therefor, as provided in section 116-424, or having completed construction work, shall fail or neglect to apply the water to beneficial use within the time fixed in such permit, the state engineer may cancel such permit on the records in his office as hereinafter provided;*****"

Section 116-431, O. C. L. A., sets up a definite procedure for cancellation of permits.

Section 116-424, O. C. L. A., reads in part as follows:

"Actual construction work, except under applications by municipal corporations for municipal uses or purposes, shall begin within one year from the date of approval of the application, and the construction of any proposed irrigation or other work shall thereafter be prosecuted with reasonable diligence and be completed within a reasonable time, as fixed in the permit, not to exceed five years from the date of such approval;*****"

October 24, 1950

Except as hereinabove provided, the state engineer shall, for a good cause shown, order and allow an extension of time, including an extension beyond the five-year limitation aforesaid, within which irrigation or other works shall be completed or the right perfected, under any permit,"

The phrase, "Except as hereinabove provided***", relates to the period of beginning of construction. The law requires that actual construction work must be started by others than municipalities within one year from the date of issuance of the permit. The time fixed in your permit for the beginning of construction was July 30, 1949 and the date fixed for completion of construction was October 1, 1950. The date fixed for application of water in accordance with the terms of the permit was October 1, 1951. It will be noted that the date fixed for the completion of construction was October 1, 1950, this being one of the terms referred to in the foresaid sections of Oregon laws set forth in the permit. If the construction work has not been completed as of this date, and an application for an extension of time has not been made and this time extended, the permits are up for cancellation.

The law does not require that the State Engineer notify any holder of a permit of the expiration of the time for completion of construction and complete application of water. However, for the purpose of keeping the holder of the permit advised, we have adopted the practice which has been in use for many years of sending a notice to the holder of a permit when the period has expired for the completion of construction and for complete application or use of water.

In order to avoid the writing of thousands of letters which you doubtless appreciate would cost the tax payers a considerable sum of money, we have prepared a form which is the one you received. There are on file in this office over forty-four thousand applications for permits and with the maney we have available, it would be impossible for us to dictate individual letters to each of the applicants or permit holders who have failed to notify this office that they have begun construction, completed construction and have irrigated or used all the water pursuant to the terms and conditions of the permit, which information is necessary.

It appears from the records of this office and we are assuming that you have not completed the construction work as of October 1, 1950 and, therefore, you should make applications for extensions of time on your permits. Blank forms for this purpose are enclosed herewith. Oregon laws require that a statutory filing fee of \$2 for each application for an extension of time accompany the application.

Roy Hennessey

-3-

October 24, 1950

It is the policy of this office to endeavor to cooperate and encourage the development of storage reservoirs, but it is necessary in order that the records be of any value, that we follow each application and permit carefully. Also, in order to hold down the cost of administration to a minimum, it is necessary that we eliminate many personal letters and use forms whenever possible.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

CES:VC
Enc. 2

23127
R-23195

October 17, 1950

Mr. Roy Hennessey
Route 1, Box 74
Scappoose, Oregon

Dear Mr. Hennessey:


Pursuant to your letter of ^{October 12,} I am enclosing
herewith a blank for use in making application for an ex-
tension of time under Permit No. ^{R-935} in the name of
18268

Roy Hennessey.

This form should be executed before a notary public and
submitted to this office with the statutory filing fee in the
amount of \$2.00. Upon its receipt, the matter of extending
the time under the appropriation will be given further con-
sideration, and you will be advised of our action.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By 
Ed K. Humphrey, Assistant

Form 115
Enclosures

August 11, 1949

Mr. Roy Hennessey
Route 1, Box 74
Scappoose, Oregon

Dear Mr. Hennessey:

This will acknowledge receipt of your letter dated the 10th inst. which is apparently in reply to a letter from this office dated the 8th inst.

It would appear that our letter of the 8th inst. was not understood for the reason that the laws of this state in respect to the duties of the holder of permit and the State Engineer was not fully understood. Section 116-424 Oregon Laws states that after construction work, except under applications by municipal corporations for municipal uses or purposes, shall begin within one year from the date of approval of the application. x x x x

Our Supreme Court in the case of Morse v. Gold Beach Water Co. 160 Ore. at page 306 held as follows:

"The statute does not state the amount of construction work required within the year following date of approval of application but we think it is the reasonable intent of the act that the construction work must be so substantial in character as to manifest good faith and the intent to exercise reasonable diligence in the completion of the project.

In this case the courts cancelled the permit of the applicant for the reason that he failed to begin construction work within one year. There is enclosed herewith a compilation of our water laws and you are respectfully referred to Section 116-424 under the heading "Construction work: Time for Commencement and Completion" which is found on page 26 of this compilation and Section 116-430 under the heading "Grounds for cancellation found on page 30 of this compilation and 116-431 on page 31 directs the State Engineer to cancel permits in his office for failure and neglect of the applicant to comply with state laws relative to the commencing of construction work and the prosecution of the work with due diligence and for other reasons. In order to aid the holder of a permit to comply with the Oregon laws, this office has prepared three forms.

It appears that on August 29, 1948 that you filed in this office Form A which is Notice of Beginning of Construction under Application No.

23127, Permit No. 15268 which is for the appropriation of the stored water and water from an unnamed stream. In this notice of Beginning of Construction, it is stated under Remarks Clearing reservoir at site and will start dam next summer as I did not know until August that you would grant permit. On August 3 you wrote to this office asking for one year extension of time under Permit No. 8 935. While Form A, the Notice of Beginning of Construction had not been filed under this application, the statement set forth in Notice of Beginning of Construction under Application No. 23127 will be considered by this office as the beginning of construction on Permit No. 8 935.

It will be noted in both of your permits that the time for completion of construction work expires on October 1, 1950. Therefore, your time does not expire until October 1 of next year and an extension of time is not necessary. If you are unable to complete the same by October 1, 1950, it is suggested you make an application for an extension of time within which to complete construction work and use the water stored. Forms for this can be furnished upon request.

I regret very much our misunderstanding and I wish to assure you that the policy of this office is to encourage the construction of storage reservoirs as it appears that in Oregon that most of the future development of our irrigated lands depend upon the building of reservoirs to store our flood waters.

With kindest personal regards, I remain,

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

088:14

August 8, 1949

Mr. Roy Hennessey
Route 1, Box 74
Scappoose, Oregon

Dear Mr. Hennessey:

This will acknowledge receipt of your letter of August 3 relative to beginning of construction under your Permit No. R-935 for a reservoir to store the waters of an unnamed stream.

According to the terms of your permit and the law under which it was issued, construction should have been commenced on or before July 30, 1949, and if it was not so commenced the permit is subject to cancellation as provided by law.

When construction is commenced within the statutory period under a permit, the State Engineer can extend the time for completion of construction on a showing of due diligence by the permittee, but he cannot under any circumstances extend the time for beginning of construction as explained in the letter accompanying your permit when it was mailed to you July 30, 1948.

If nothing whatever was done preparatory to storage of water as proposed in your permit on or before July 30, 1949, your best procedure would be to authorize cancellation of the permit and file a new application at such time as you are in a position to commence construction within the statutory period.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:dh

August 30, 1948

Mr. Roy Hennessey
Route 5
Hillsboro, Oregon

Dear Mr. Hennessey:

This acknowledges receipt of Form A, being notice of the beginning of construction under Permit No. 18268, in the name of Roy Hennessey.

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.

Very truly yours,

Chas. E. Stricklin

CHAS. E. STRICKLIN
State Engineer

23127

April 28, 1948

Mr. Roy Hennessey
Route 5
Hillsboro, Oregon

Dear Mr. Hennessey:

This will acknowledge receipt of the tracing to accompany your Application No. 23127 and an application for a permit to construct a reservoir and store eight acre feet of the waters of an unnamed tributary of McKay Creek for irrigation.

If you will now submit a sketch showing the plan and cross-sections of the proposed dam accompanied by the statutory fees in the amount of \$15, your application will be filed and the matter of approval by issuance of a permit will be given consideration.

Very truly yours,

CHAS. E. STRICKLIN
State Engineer

By
Ed K. Humphrey, Assistant

EKH:dh

23127

April 16, 1948

Mr. Roy Hennessey
Route 5
Hillsboro, Oregon

Dear Mr. Hennessey:

This will acknowledge receipt of your application for a permit to appropriate water from a tributary of McKay Creek for the irrigation of 10 acres, together with fees in the amount of \$15.00, for which our Receipt No. 4744 is enclosed. The application has been filed and given No. 23127.

If you will submit the tracing from which the blue line prints accompanying your application were made your application will be considered as complete and will be placed in line for approval and issuance of a permit.

If you wish a right to store water in a reservoir as indicated by your map, you should file a reservoir application using the enclosed blank. If you file a reservoir application it should be filed before your Application No. 23127 is approved by issuance of a permit.

Yours very truly,

CHAS. E. STRICKLIN
State Engineer

By

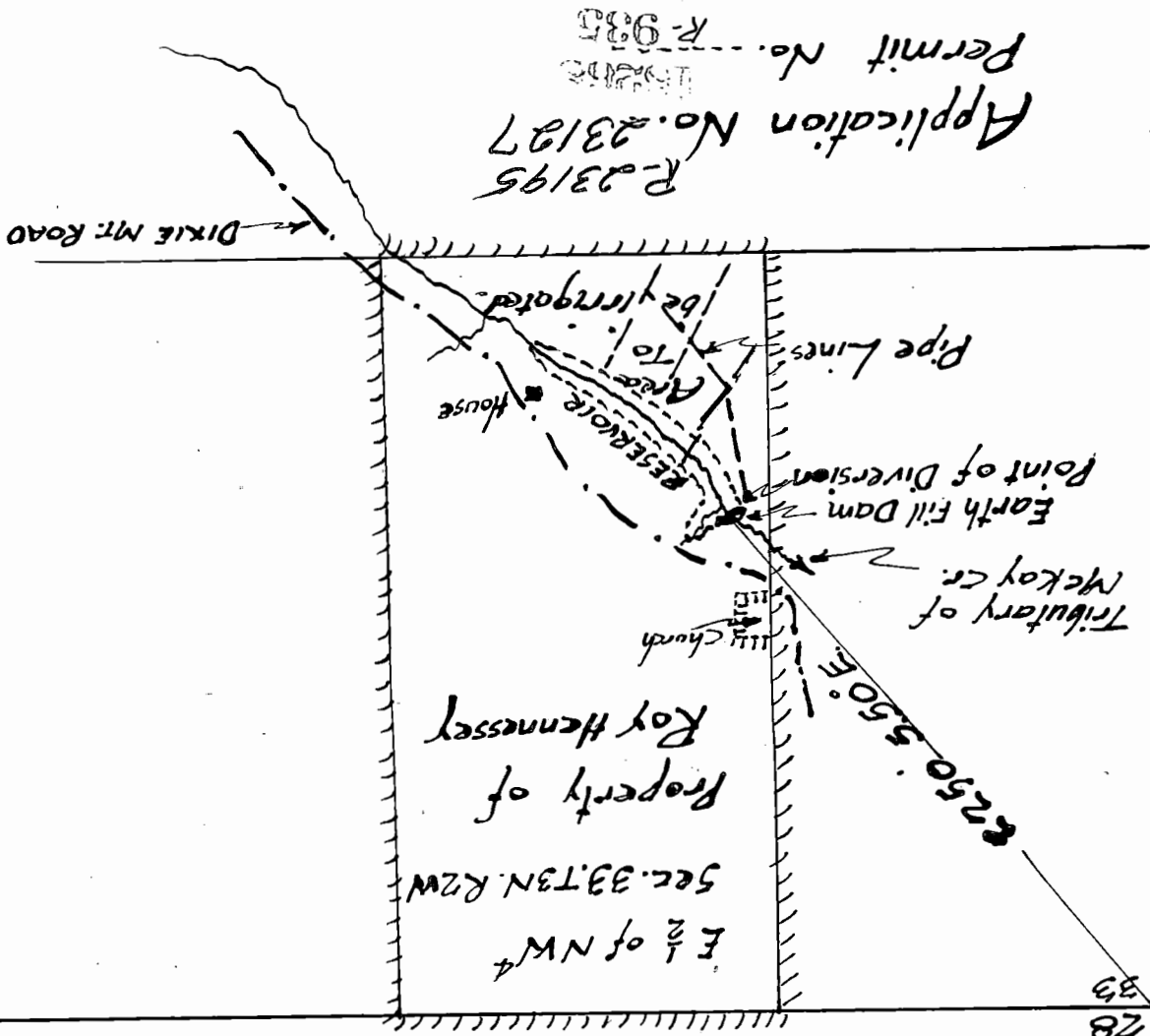
Ed K. Humphrey, Assistant

EKH:vc
Enc.

RECEIVED
APR 2 1948

32 33
5 4

Map to accompany Water Right
Application of Roy Hennessy.
April 1948.



R-23195
Application No. 23127
Permit No. R-985

29 28
32 33