

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	A.	Subcase <u>63-7879</u>
	)		(Insert water right no.)
Case No. 39576	)		
	)		
	)		STANDARD FORM 1
	)		OBJECTION
_____	)		

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: NAMPA & MERIDIAN IRRIGATION DISTRICT

Address: 1503 First Street South
Nampa, Idaho 83651

Daytime Phone: 208-466-7861

Name & Address of Attorney, if any:
Daniel V. Steenson
S. Bryce Farris
Ringert Clark Chartered
P.O. Box 2773
Boise, ID 83701

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTORS'S REPORT

Name: State of Idaho
Dept. of Fish & Game

Address: P.O. Box 25
Boise, Idaho 83707

CCPY

D. I object to the following elements as recommended in the Director's Report. (Please check the Appropriate box(es)).

- | | | |
|-----|--------------------------|--|
| 1. | X | Name and Address
Should be: See below. |
| 2. | X | Source
Should be: See below. |
| 3. | X | Quantity
Should be: See below. |
| 4. | X | Priority Date
Should be: See below. |
| 5. | X | Point(s) of Diversion
Should be: See below. |
| 6. | ☐ | Instream Flow Description
Should be: N/A |
| 7. | X | Purpose(s) of Use
Should be: See below. |
| 8. | X | Period of Year
Should be: See below. |
| 9. | X | Place of Use
Should be: See below. |
| 10. | ☐ | I object because:

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above. |

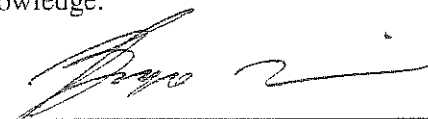
E. **REASONS SUPPORTING OBJECTION (S):** See Attachment 1, attached hereto.

F. VERIFICATION (must be completed)

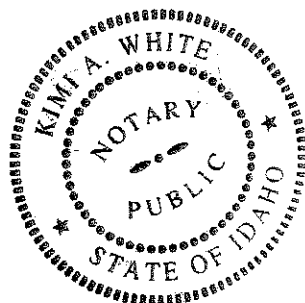
State of Idaho)
) ss.
County of Ada)

S. Bryce Farris, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, as defined by I. C. §§ 42-1401A (1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.


S. Bryce Farris

Subscribed and sworn to before me on: June 14, 2017




Notary Public for Idaho
Residing at: Boise, Idaho
My Commission Expires: 04/01/17

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will no be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on June 4, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the Claimant of the water right at the following address:

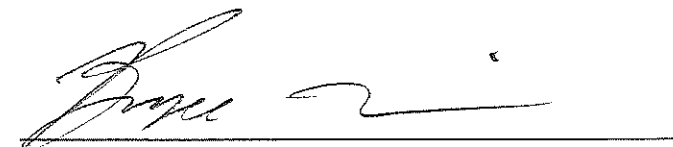
Name: State of Idaho
Dept. of Fish & Game
Address: P.O. Box 25
Boise, Idaho 83707

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449



Signature of Objector or attorney
mailing on Objector's behalf

ATTACHMENT 1

63-7879

The source of this water right, and water right no. 63-9194, is water that is owned and delivered by Nampa & Meridian Irrigation District ("NMID"). NMID owns the wells formerly known as the "Hosack Wells" but now generally known as the "Patterson Wells." The water from said wells first passes through the Claimant's fish propagation facilities, which is a non-consumptive use, and then is discharged into NMID's Bray Lateral and/or Wilson Drain for delivery and use for irrigation purposes by NMID's landowners. In fact, NMID and Claimant's predecessor in interest entered into a License Agreement which grants Claimant a "license" to use NMID's water for fish propagation. A copy of said License Agreement is attached hereto.

The point of diversion listed in this water right includes NMID's Patterson Wells and thus the source of the water right is NMID's Patterson Wells. Accordingly, this water right should be disallowed and/or decreed in the name of NMID to the extent this water right is claiming to own water from NMID's Patterson Wells. Consistent with NMID's ownership of the Patterson Wells, the priority date should reflect NMID's priority for the Patterson Wells, the purpose and period of use should reflect irrigation use and the place of use should reflect the boundary of NMID.

In addition, to the extent this water right is claiming wells and/or points of diversion that are not owned by NMID, said wells are still subject to the above-referenced License Agreement. The Claimant's right to use said water is non-consumptive and NMID has the right to use said water for irrigation purposes and the place of use is the boundary of NMID. Any portion of this right that is not owned by NMID must reflect NMID's superior right to use this water right for irrigation purposes.

COPY

LICENSE AGREEMENT

between

NAMPA & MERIDIAN IRRIGATION DISTRICT

and

BYRON V ANDERSON AND SONYA J ANDERSON

18 December 1973

Instrument No 720649

INSTRUMENT NO 720649

LICENSE AGREEMENT

COPY

717

LICENSE AGREEMENT, Made and entered into this 18th day of December, 1973, by and between NAMPA & MERIDIAN IRRIGATION DISTRICT, an irrigation district organized and existing under and by virtue of the laws of the State of Idaho, party of the first part, hereinafter referred to as the "District", and BYRON V ANDERSON and SONYA J ANDERSON, husband and wife, parties of the second part, hereinafter referred to in the singular as "Anderson";

W I T N E S S E T H:

WHEREAS, Anderson is the owner of the real property (burdened with the easement of the District hereinafter mentioned) situate in the County of Canyon, State of Idaho, particularly described as follows:

A portion of the Southwest Quarter of the Southwest Quarter of Section 2, Township 2 North, Range 2 West B.M. described as commencing at the Southwest corner of said Southwest Quarter of Section 2, Township 2 North, Range 2 West B.M., thence East along the South line of said Section to the center of the drain ditch as now located; thence Northwesterly along the center of said drain ditch a distance of 22 rods; thence East from the center of said drain ditch, as now located, a distance of 22 feet; thence Northwesterly and parallel with said drain ditch to a point 100 feet from the North boundary line of said Southwest Quarter of the Southwest Quarter of Section 2, Township 2 North, Range 2 West B.M., thence West to the West line of said Southwest Quarter of the Southwest Quarter; thence South along the West boundary line of said Southwest Quarter of the Southwest Quarter to the point of beginning, being approximately 13.75 acres.

and,

WHEREAS, the District is the owner of the ditch known as Bray Lateral, together with the easement therefor, including the easement to convey drainage and irrigation water in such ditch and the easement to operate, maintain and repair such ditch, and which ditch is an integral part of the irrigation and drainage works and system of the District and which ditch and the said easements therefor cross and intersect said described real property of Anderson as shown on Exhibit A attached hereto; and,

WHEREAS, the District owns two artesian wells (formerly known as the "Hosack Wells" but now generally known as, and herein-after referred to as, the "Patterson Wells") which are located in the Northwest Quarter of the Northwest Quarter of Section 11, Township 2 North, Range 2 West, Boise Meridian, in Canyon County, Idaho, which the District uses for drainage purposes and to supply supplemental irrigation water, the water from said wells being discharged into said Bray Lateral to accomplish such drainage; and,

WHEREAS, the Patterson Wells were located along side the bank of the Bray Lateral, but a diversion from that point to the Wilson Drain was constructed by the District to receive the additional flow from the Patterson Wells at such time such flow could not be delivered through the Bray Lateral for irrigation use, and,

WHEREAS, all such references herein to use or development of additional discharge waters shall be consistent with and subservient to such diversion alterations between the aforementioned drain and lateral of the District, including whatever demands the

United States may make in conjunction with the use of the Wilson Drain, which is a part of its Boise Project drainage works; and,

WHEREAS, all references hereinafter appearing as the Bray Lateral shall be construed and interpreted to mean diversion under such circumstances and to either or both waterways as the District may from time to time determine to be convenient.

WHEREAS, Anderson desires to establish a fish farm on his lands hereinbefore described (which lands are hereinafter referred to as the "Anderson property") and desires to utilize the water flowing from said wells of the District to furnish a portion of the water required for such fish farm, and desires to drill five (5) artesian wells on the Anderson property to furnish the balance of the water required for such fish farm, and desires to utilize the said Bray Lateral for the purpose of draining from the Anderson property the water used in, upon and for said fish farm; and,

WHEREAS, the District is willing to give Anderson a license for the use of water from the said Patterson Wells and for the use of said Bray Lateral for drainage purposes, upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the premises and of the covenants, agreements and conditions hereinafter set forth, the parties hereto agree each with the other as follows:

Anderson shall have the right to use the water which shall from time to time flow from said Patterson Wells, for purposes of fish propagation on the Anderson property hereinbefore described

and shall have the right to construct at the said Patterson Wells and in the Bray Lateral on the said Anderson property such diversion and transmission facilities as shall be necessary to transmit the water from the Patterson Wells to the fish farm facilities.

Anderson expressly agrees that the use of water from the Patterson Wells shall not be a consumptive use and that Anderson shall discharge into the Bray Lateral at the lower end of Anderson's facilities the same quantity of water as Anderson diverts into his facilities from the Patterson Wells, diminished only by a normal evaporation loss.

Anderson agrees that the wells to be drilled by him on the fish farm shall not be operated in such manner as to interfere with, or diminish, the flow of water from the Patterson Wells. However, the District agrees that, in conjunction with the use of water from the wells to be drilled by Anderson, the flow from the Patterson Wells may be decreased at any time when the Anderson wells are producing, and discharging into the Bray Lateral, either directly or through the fish propagation facilities of Anderson, a quantity of water equivalent to the quantity by which the flow from the Patterson Wells is then decreased.

Anderson acknowledges and agrees that the District neither guarantees any flow of water from the Patterson Wells nor agrees to supply to Anderson any specific quantity of water from the Patterson Wells. Anderson's use rights under this agreement shall be limited to whatever quantity of water is being produced by the Patterson Wells at any particular time.

The right and authority to control flow of water from the Patterson Wells shall at all times be vested in the District, and it shall be Anderson's responsibility to request the water

superintendent of the District to make any changes desired by Anderson in the amount of water being discharged from the Patterson Wells.

Anderson understands and agrees that the water flowing from the Patterson Wells is delivered by the District to its water users for irrigation purposes, from time to time, and that it is essential that the quantity of water flowing from the Patterson Wells must not be diminished, except for evaporation losses, by reason of being diverted into Anderson's fish propagation facilities. Therefore, Anderson expressly agrees that if, at any time during any irrigation season, the quantity of water being discharged into the Bray Lateral from Anderson's fish propagation facilities is less than the amount of water flowing from the Patterson Wells, the District, upon one hour's notice to Anderson, given to Anderson or to his employees or agents at the said fish farm, shall have the right to adjust the control devices at Anderson's diversion facilities as may be required to increase the flow of water in the Bray Lateral to that quantity which is being discharged by the Patterson Wells. In that regard, it shall be Anderson's responsibility to have someone available at said fish farm at all times to receive such notices from the District.

Anderson agrees to pay the District the sum of \$100.00 annually to defray additional expenses incurred by provisions of this license agreement and such amount is to be paid on or before the 15th day of December each year and such amount will be subject to review or change at the request of Anderson

or the District at the first regular meeting of the Board of Directors of the District occurring within the month of payment.

Anderson shall have the right to discharge into the Bray Lateral the water used by Anderson in his fish farming operations on the Anderson property. In that regard, the parties understand and agree that the District heretofore has utilized said Bray Lateral for the transmission of as much as 1200 miners' inches of drainage water flowing from the Patterson Wells and from other sources. It is further understood and agreed that Anderson shall be required to perform any work and furnish any materials which may be required to enlarge the Bray Lateral so as to carry any additional water that Anderson discharges into the Bray Lateral, over and above the quantity of water heretofore conveyed by the District in the Bray Lateral. Any such enlargement of the Bray Lateral, and any other work done by Anderson under the license herein granted, shall be accomplished by Anderson at his own expense and without any expense whatsoever to the District.

If additional easements are required for the purpose of carrying additional water in the Bray Lateral, over and above the quantity of water that can be accommodated by the rights of way of the District, those easements shall be obtained by Anderson and any expense involved in establishing or acquiring such easements shall be paid by Anderson.

The parties understand and agree that the Bray Lateral runs northwesterly from Patterson Wells, along the northeasterly boundary line of the fish farm, and that Anderson will construct

diversion facilities below those of the fish farm to operate in the same manner as that now existing at the Patterson Wells site and provide the District its option of diversion at such location. Anderson shall construct his discharge facilities in such manner as not to cause any erosion of the banks, sides or bottom of the Bray Lateral.

No diversion, transmission or discharge facilities shall be constructed by Anderson under the rights herein granted until the plans and specifications for such diversion facilities or such transmission or discharge facilities have been examined by, and approved by, the Board of Directors of the District and the engineers for the District. Any construction by Anderson shall be in accordance with such approved plans and specifications and no water from the Patterson Wells shall be diverted by Anderson until the completed construction of the diversion, transmission, and discharge facilities has been approved by the District and by its engineers.

Anderson agrees that he shall construct his facilities and conduct his fish farming operations in such manner as to insure that no pollutants, solid waste materials or any materials detrimental to soil, vegetation or livestock shall be discharged into the Bray Lateral. In that regard, Anderson expressly understands and agrees that in the event of a controversy between the parties regarding the discharge of pollutants, solid waste materials or any materials detrimental to soil, vegetation or livestock, it shall be Anderson's burden to prove that pollutants or solid waste materials are not

being discharged into Bray Lateral, and to prove that any other material being discharged into the Bray Lateral is not detrimental to soil, vegetation or livestock.

Anderson agrees that the District shall have the right to utilize, for irrigation purposes, the water produced by the wells to be drilled on the said Anderson property by Anderson, after such water has been used by Anderson in his fish farming operations, and that such right shall be prior and superior to the rights of any other persons claiming, under Anderson, the right to use said water from the Anderson wells.

All facilities constructed or used by Anderson under the license herein granted shall be constructed, maintained and kept in repair and kept clean at all times, by Anderson, and at the cost and expense of Anderson, and the conduit between the Patterson Wells and the Bray Lateral shall be maintained and kept in repair and kept clean at all times for the full flow of water therein, by Anderson, and at the cost and expense of Anderson.

Anderson agrees to construct and maintain his diversion, transmission and discharge facilities in a safe condition, all to the end that said facilities shall not constitute a hazard to any person or persons, and to indemnify and keep indemnified the District from all claims for damages arising out of any hazard or negligence in the construction, operation, maintenance and repair of said facilities or the failure of Anderson to keep the same in safe condition.

The construction, maintenance and repair of such diversion, transmission and discharge facilities shall be accomplished by Anderson at such times and in such seasons and in such manner so as not to interrupt or interfere with the flow of drainage or irrigation water in Bray Lateral or with the delivery of irrigation water by the District to any of its landowners.

Anderson agrees to indemnify and keep indemnified the District from all claims of any of its landowners for damages from the impairment of the flow of drainage or irrigation water in Bray Lateral which may be caused by said facilities of Anderson, or any use or condition thereof at any time or from the impairment of the flow of drainage or irrigation water therein from the failure of Anderson to maintain and keep in repair the said facilities of Anderson or to maintain and keep clean the conduit in said facilities of Anderson for the full flow of irrigation water through said facilities of Anderson.

Nothing herein contained shall be construed to impair the easement and right of way of the District in the Bray Lateral and all uses of said Bray Lateral and the said facilities of Anderson to be constructed and used, and the license herein provided therefor, shall remain inferior and subservient to the rights of the District in the Patterson Wells and to the use of said Bray Lateral for the transmission of drainage and delivery of irrigation water.

The District reserves the right, at its option, to remove any impediment to the flow of water through said facilities of Anderson and any hazards to persons or property which may arise by reason of the construction or condition of said facilities of Anderson at any time, and Anderson agrees to pay to the District, on demand, the costs which shall be reasonably expended for such purposes. If Anderson shall fail in any respect to properly maintain and repair such facilities of Anderson, then the District, at its option, and without impairing or in anywise affecting its other rights and remedies hereunder, shall have the right to perform the necessary maintenance and repairs and Anderson agrees to pay to the District, on demand, the cost which shall be reasonably expended for such purposes.

The parties hereto understand and agree that the District has no right to in any respect impair the uses and purposes of the irrigation and drainage works and system of the District, by this contract, nor to grant any rights in its irrigation and drainage works and system incompatible with the uses to which such irrigation and drainage works and system are devoted and dedicated and that this contract shall be at all times construed according to such principles.

In the event of the failure, refusal or neglect of Anderson to comply with all of the terms and conditions of this contract, then the license of Anderson under the terms hereof may be terminated by the District, and all structures in or over said Patterson

Wells and said Bray Lateral, and the rights of way therefor, which may impede or restrict the maintenance and operation of such wells or such ditch by the District with its equipment for the maintenance of its system may be removed by the District.

The covenants, conditions and agreements herein contained shall constitute covenants to run with, and running with, all of the lands of Anderson hereinbefore described and shall be binding on each of the parties hereto and on all parties and all persons claiming under them or either of them, and the advantages hereof shall inure to the benefit of each of the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the District has hereunto caused its corporate name to be subscribed by its officers first thereunto duly authorized by resolution of its Board of Directors and Byron V Anderson and Sonya J Anderson, husband and wife, have hereunto subscribed their names, all as of the day and year herein first above written.

NAMPA & MERIDIAN IRRIGATION DISTRICT

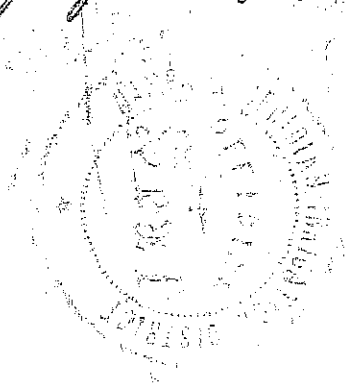
By Clarence L Gharring
Clarence L Gharring, President

ATTEST:

Joseph C Voight
Joseph C Voight, Secretary

Byron V Anderson
Byron V Anderson

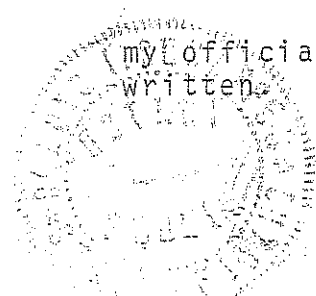
Sonya J Anderson
Sonya J Anderson



STATE OF IDAHO }
COUNTY OF CANYON } ss

On this 18th day of December, 1973, before me, the undersigned, a Notary Public in and for said State, personally appeared CLARENCE L GHARRING and JOSEPH C VOIGHT, respectively, known to me to be the President and Secretary, respectively, of the irrigation district that executed the foregoing instrument, and acknowledged to me that such irrigation district executed the same.

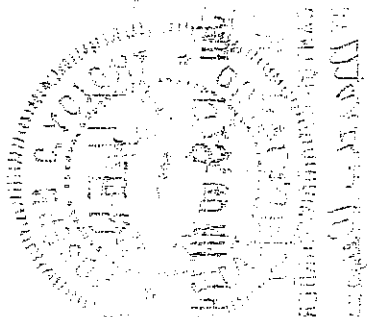
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.


Gladys L. Schaffer
Notary Public for the State of Idaho
Residing at Nampa, Idaho

STATE OF IDAHO }
COUNTY OF CANYON } ss

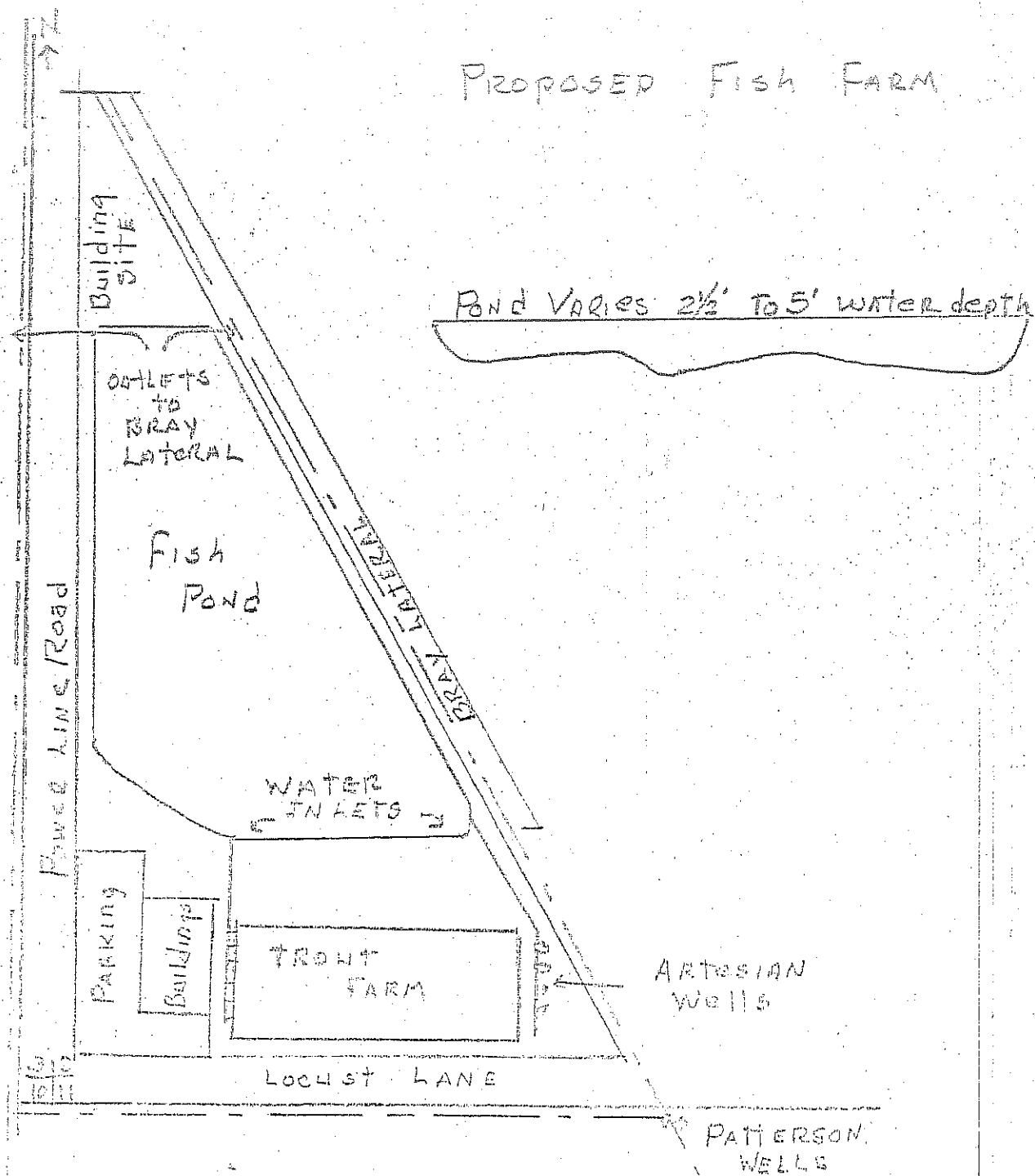
On this 18th day of December, 1973, before me, the undersigned, a Notary Public in and for said State, personally appeared BYRON V ANDERSON and SONYA J ANDERSON, husband and wife, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Joseph C. Voight
Notary Public for the State of Idaho
Residing at Nampa, Idaho

Handwritten notes and signatures at bottom of page:
- Vertical text on left: 150248
- Various illegible handwritten notes and signatures in the bottom right quadrant.

PROPOSED FISH FARM



CONCRETE Ponds

- 10- 3' X 60' X 3 1/2'
- 4- 18' X 120' X 4'
- 2- 18' X 180' X 4'

WATER REQUIREMENTS

App 800' Nampa Meridian
400' to 1200' FROM NEW WELLS

RAINBOW FARMS, INC.

Byron V. Anderson
13.15 ACRES AND GR. 2.
+ 2N. 22W. B.M.
11/27/73
P.O. Box 277
Nampa, Idaho