

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A36-07083
Date Received: 8/24/1988
Receipt No: 5002014
Received By: DS

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: CLEAS SPRINGS TROUT CO. 208-543-4316
Address: P.O. BOX 712
BUHL, ID 83316

AND/OR

Name: THE PROSPECT CO. 208-543-4316
Address: P. O. BOX 712
BUHL, ID 83316

2. Date of Priority: JUL 08, 1969

3. Source: CRYSTAL SPRINGS Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	15E	12	SW	SW	NE	13	GOODING
			NE	SE	NW	12	GOODING
			SE	SE	NW	12	GOODING

5. Description of diverting works:
CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	300.000		

7. Total Quantity Appropriated is:
300.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL TROUT PRODUCTION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	12	SW	NE	15	FISH	
			NE	SE	14	FISH	
			NW	SE	15	FISH	

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

POND VOLUME IS 1,078,380 CU FT., CONSISTING OF 96 RACEWAYS 18' X 4' X 150' LONG AND 42 FRY RACEWAYS 60' X 5.5' X 3' DEEP.
P/D & P/U DESCRIBED INCORRECTLY IN LICENSE; CLAIM SHOWS CORRECT DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS & HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am President of _____
Title

Clear Springs Trout Company, that I have signed the foregoing
Organization

document in the space below as President of
Title

Clear Springs Trout Company and that the statements contained in the
Organization

foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Clear Springs Trout Company
Title and Organization

8/30/88

Date

State of Idaho)
County of Franklin) SS.

Subscribed and sworn (or affirmed) before me this 30th day

of August 19 88

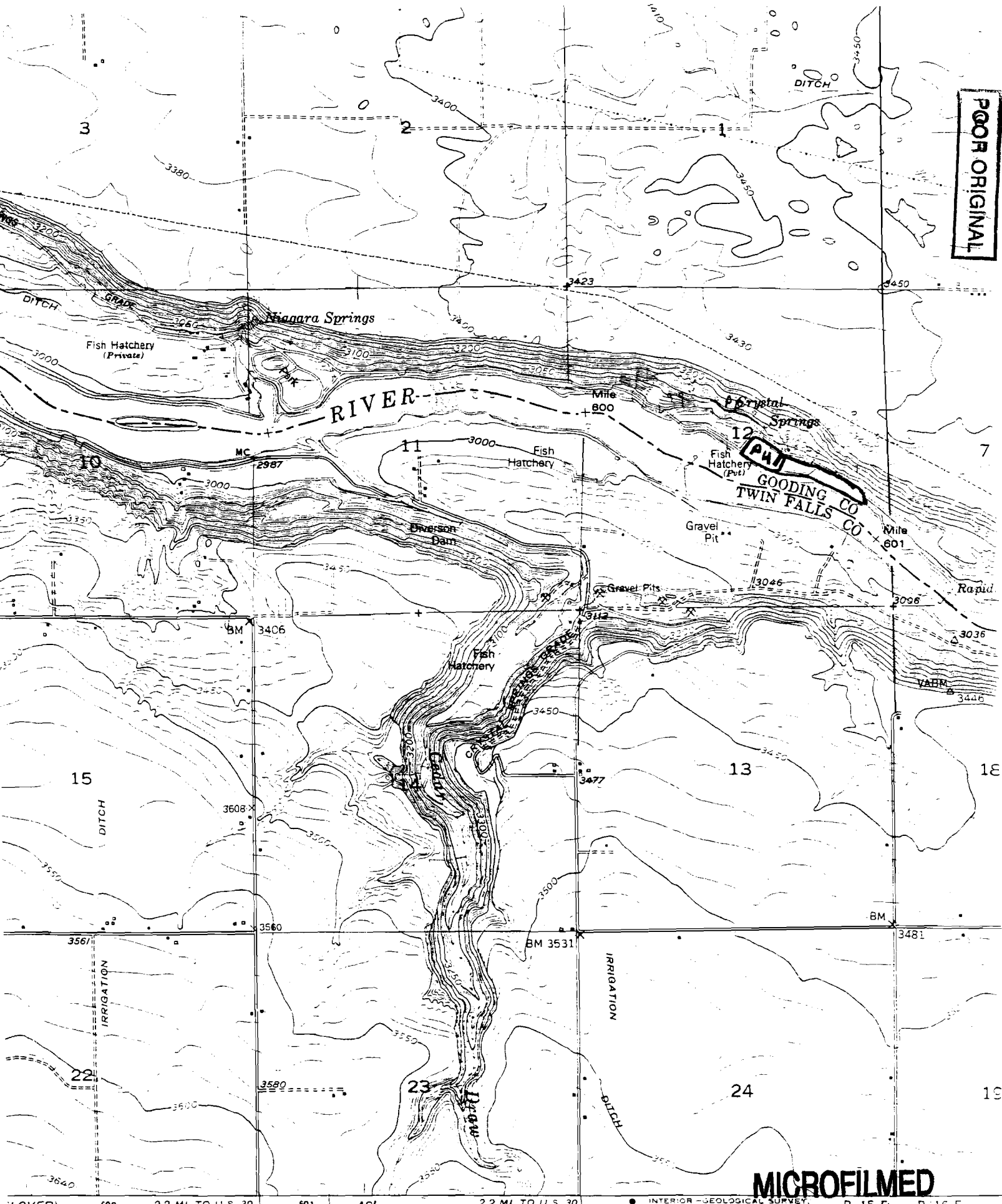
[Signature]
Notary Public

Seal

Residing at Bill II

My Commission Expires 8-17-92

POOR ORIGINAL



MICROFILMED

OCT 19 1994

ROAD CLASSIFICATION

Primary highway hard surface
Light duty road hard or improved surface

(LOVER) 69 II SW
E 1 24 000
3000 4000 5000 6000 7000 FEET
1 MILE

2.2 MI. TO U.S. 30
FILER 71 MI.

INTERIOR - GEOLOGICAL SURVEY
RESTON, VIRGINIA - 1980
R. 15 E. R. 16 E.

LAW OFFICES



Chartered

Hepworth, Nungester & Lezamiz

December 29, 1992

Twin Falls Office

John C. Hepworth
Wm. L. Nungester
John T. Lezamiz
Jeffrey E. Rolig
John C. Hohnhorst
Jeffrey J. Hepworth
Penelope Parker**
Eileen A. McDevitt*
Patrick D. Brown

Boise Office

J. Charles Hepworth*
John J. Janis

*Member CA Bar
**Member UT Bar

RECEIVED

JAN 5 1993

Department of Water Resources

Jodi I. Schultz
Legal Assistant
Idaho Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, ID 83720-9000

Re: Clear Springs Foods, Inc.

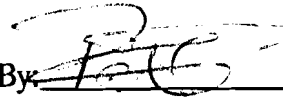
Dear Ms. Schultz:

Enclosed is the Certificate of Amendment of Clear Springs Trout Company and the portion of the articles of amendment which reflect the name change from Clear Springs Trout Company to Clear Springs Foods, Inc. Consistent with those documents, I ask that you revise your records for each water right claimed under the name of Clear Springs Trout Company to reflect the name change.

Thank you for making the change and please forward a letter to me confirming that the change has been made.

Very truly yours,

HEPWORTH, NUNGESTER & LEZAMIZ,
CHARTERED

By: 
Patrick D. Brown

Twin Falls Office

Blick Building
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID
83303-0389
(208) 734-7510
FAX: (208) 734-4115

Boise Office

537 West Bannock
P.O. Box 2582
Boise, ID 83701-2582
(208) 343-7510
FAX: (208) 342-2927

PDB:bjs
Enclosures
cc: Tim Hanifen

(1229SCHU.BJS)

MICROFILMED

FEB 03 1993

State of Idaho

Department of State

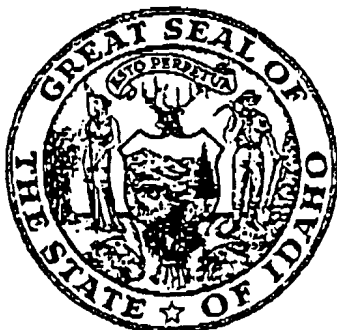
CERTIFICATE OF AMENDMENT OF

CLEAR SPRINGS TROUT COMPANY

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Amendment to the Articles of Incorporation of CLEAR SPRINGS FOODS, INC. duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Amendment to the Articles of Incorporation and attach hereto a duplicate original of the Articles of Amendment.

October 25, 1991



Pete T. Cenarrusa

SECRETARY OF STATE

Lois J. Clark

Corporation Clerk

MICROFILMED

FEB 03 1993

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
CLEAR SPRINGS TROUT COMPANY

RECEIVED
SEC. OF STATE

RECEIVED
SEC. OF STATE

91 OCT 25 AM 10 19

91 OCT 9 AM 8 49

Pursuant to the provisions of Idaho Code 30-1-59, etc., the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Clear Springs Trout Company.

SECOND: The following amendments of the Articles of Incorporation were adopted by the shareholders of the corporation on September 30, 1991, in the manner prescribed by Idaho Code Section 30-1-59 etc.

1. That ARTICLE I of the Articles of Incorporation of Clear Springs Trout Company be amended to read as follows:

The name of the corporation is and shall be Clear Springs Foods, Inc.

2. That ARTICLE IV(i) of the Articles of Incorporation of Clear Springs Trout Company be amended to read as follows:

(i) The preferential rights and restrictions granted to the corporation and the remaining shareholders shall not apply or pertain where an existing shareholder desires to sell, convey, give or otherwise transfer any or all of his shares to such stockholder's spouse, former spouse, issue or child, or other lineal descendent, or any trust or other institutional recipient established and created for the direct maintenance or benefit of such shareholder, shareholder's spouse, former spouse, issue or child, or lineal descendent. In the event a shareholder shall desire to sell, convey, give or otherwise transfer any or all of his shares as herein provided, such stockholder shall, upon request of the secretary or other duly authorized officer of the corporation present such proof or evidence as the corporation may deem necessary to demonstrate and provide the existence of the relationship described above.

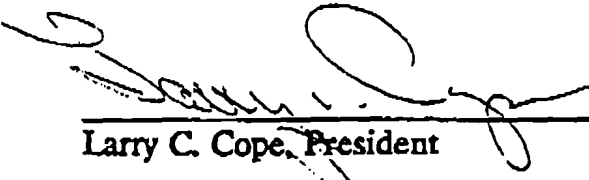
THIRD: The number of shares of the corporation outstanding at the time of such adoption was 1,671,758; and the number of shares entitled to vote thereon was the same.

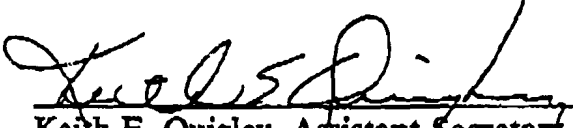
FOURTH: The corporation only has one type or class of stock. All stockholders were eligible to vote.

FIFTH: At a special meeting of the stockholders held on September 30, 1991, at the corporate headquarters at Buhl, Idaho, after due and legal notice was given, the number of shares voted for such amendment was 1,349,277; and the number of shares voted against such amendment was 3,400. The amendments were therefore duly passed.

Dated this 30th day of September, 1991.

CLEAR SPRINGS TROUT COMPANY


Larry C. Cope, President


Keith E. Quigley, Assistant Secretary

STATE OF IDAHO

County of Twin Falls

)
) ss.
)

The undersigned, a notary public, does hereby certify that on this 30th day of September, 1991, personally appeared before me Larry W. Cope and Keith E. Quigley who, being first duly sworn by me, declared that they are the President and Assistant Secretary respectively of Clear Springs Trout Company, that they signed the foregoing document as President and Assistant Secretary of the corporation, and that the statements therein contained are true.


NOTARY PUBLIC FOR IDAHO

Residing at: 1544

My Commission Expires: 12-22-91

(WLN\81019ART.003)

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
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CIVIL CASE NUMBER: 39576

Ident. Number: **A36-07083**
Date Received: 9/1/1988
Receipt No: S002014
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: THE PROSPECT CO 208-543-4316
Address: P O BOX 712
BUHL ID 83316
AND/OR
Name: CLEAR SPRINGS FOODS INC 208-543-4316
Address: PO BOX 712
BUHL ID 83316

2. Date of Priority: JUL 8, 1969

3. Source: CRYSTAL SPRINGS Trib. to: SNAKE RIVER

4. Point of Diversion:

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			NE	SE	NW	12	GOODING
			SE	SE	NW	12	GOODING

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7. Total Quantity Appropriated is:

300.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

FISH, COMMERCIAL TROUT PRODUCTION

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
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			NE	SE	14	FISH
			NW	SE	15	FISH

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
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P/D & P/U DESCRIBED INCORRECTLY IN LICENSE; CLAIM SHOWS CORRECT DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS & HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

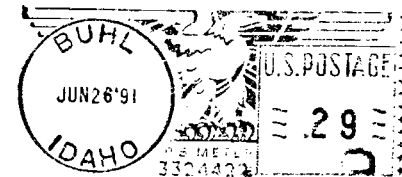
Seal

Residing at _____

My Commission Expires _____



P.O. Box 712, Buhl, Idaho 83316



MICROFILMED

FEB 03 1993

Ms. Marci Sterling
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

MEMORANDUM

To: Judy Givens

From: Helen Harrington-Thornton
Marci Sterling

Date: February 21, 1992

Subject: Incorrect Entry of Attorney/Notice of Appearance

=====

We are currently in active review of the following SRBA claims filed by Clear Springs Trout Co. These claims identify William Ringert as the attorney acting for the claimant. Upon contacting Mr. Ringert, we discovered that he is not, nor has he ever been, the attorney for Clear Springs Trout Co. We have not been able to locate any reason for Mr. Ringert to have been entered as attorney. We have spoken with Anna Baumhoff, and Jeannie Robertson has checked the original claim files and no documentation has been uncovered. Please, therefore, remove Mr. Ringert from the following claims and attach a copy of this memo to each file for explanation if future questions arise.

A36-02048	A36-02703	A36-02708	A36-02734
A36-04011	A36-04013A	A36-04013B	A36-04013C
A36-04014	A36-07040	A36-07083	A36-07148
A36-07151	A36-07201	A36-07218	A36-07568

The only suspected reason for Mr. Ringert on these claims is due to his acting as attorney for Clear Lakes Trout Co. and that he was erroneously entered on Clear Springs claims.

The claims listed above are those being acted on in the Boise office. You may wish to check other claims/files in order to determine if Mr. Ringert is identified on other claims in error.

cc: Anna Baumhoff

MICROFILMED
FEB 03 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 16, 1992

RECEIVED

DEC 18 1992

Department of Water Resources
Southern Region Office

Patrick D. Brown
Hepworth, Nungester, Lezamiz, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Snake River Basin Adjudication, Twin Falls County Case No. 39576

Dear Mr. Brown:

We received your Notice of Appearance on behalf of Clear Springs Foods, Inc. The records for the following claim numbers have been updated to reflect this change:

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	A36-02048	A36-07201
36-04013A	A36-02703	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A47-13466
36-07040	A36-04013B	A47-13467
36-07083	A36-04013C	A47-13468
36-07148	A36-07040	A47-13469
36-07151	A36-07083	A47-13470
36-07201		

The Notice of Appearance indicates that the ownership of the above claims has been changed from Clear Springs Trout Co. to Clear Springs Foods, Inc. However, we have not received the required Notice of Change of Water Right Ownership form. Without authorization from Clear Springs Trout Co. or written proof of the change of ownership (a Deed copy to confirm the reconveyance and legal description), we are not able to change the claimant's name on the claims filed by Clear Springs Trout Co.

Please complete the enclosed Notice of Change of Water Right Ownership form (one form may be used for all of the claims) and return it to our Southern Region office at 222 Shoshone St. East, Twin Falls, ID 83301.

MICROFILMED

FEB 03 1993

Water Right Number ~~126-07063~~

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO

1 - PO BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

PROSPECT CO

THE

1 - PO BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
07/08/1969 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
CRYSTAL SPRINGS SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

09S	15E	12	SW SW NE	13	(47)	GOODING
			SE SW NE	13	(47)	GOODING
			NE SE NW	12	(47)	GOODING
			SE SE NW	12	(47)	GOODING
			NE NW SE	15	(47)	GOODING
			NW NW SE	15	(47)	GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

19 - FISH PROPAGATION 01/01 12/31 270.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
270.000 28.5+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

09S	15E	12	SW NE	13		19	FISH PROPAGATION	(47)	GOODING
09S	15E	12	NE SE	14		19	FISH PROPAGATION	(47)	GOODING
09S	15E	12	NW SE	15		19	FISH PROPAGATION	(47)	GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

+ - - Non-Irrigation Use - FISH, COMMERCIAL TROUT PRODUCTION

Court Report Filing	- 00/00/0000	Field Inspection Made	- 06/18/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

Water Right Number - A36-07083

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

PROSPECT CO.

THE

1 - P. O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
07/08/1969 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
CRYSTAL SPRINGS SNAKE RIVER+ - - - - - - - - - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County09S 15E 12 SW SW NE 13 (47) GOODING
NE SE NW 12 (47) GOODING
SE SE NW 12 (47) GOODING+ - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

19 - FISH PROPAGATION 01/01 12/31 300.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
300.000 0.0+ - - - - - - - - - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County09S 15E 12 SW NE 15 19 FISH PROPAGATION (47) GOODING
09S 15E 12 NE SE 14 19 FISH PROPAGATION (47) GOODING
09S 15E 12 NW SE 15 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

+ - - Non-Irrigation Use - FISH, COMMERCIAL TROUT PRODUCTION

+ - - Other Rights for Same Use - NONE

Water right number - A36-07083

Prefix Translation: ADJUDICATION CLAIM

+ - - - - Remarks - - - - - +

POND VOLUME IS 1,078,380 CU FT., CONSISTING OF 96 RACEWAYS 18' X
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DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS
& HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS
INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE
REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

+ - - - - Old Water Right Numbers - - - - - +

No Old Water Right Numbers Found

+ - - - - Conditions of Approval - - - - - +

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

00/00/0000

+ - - - - Comments - - - - - +

No Comments Found

+ - - Audit Fields - - +

02/26/92 GIVENS

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

Old (D) Number -

+ - - - - - Last Name - - - - - +

+ - First Name - - +

+ - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 712

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3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

THE PROSPECT CO.

1 - P. O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - +
07/08/1969

+ - - - Region - - - +
17

+ - - - Stage - - - +
L - LICENSE

+ - - - Status - - - - +

+ - - - - Source - - - - - +
CRYSTAL SPRINGS

+ - - - - - Tributary - - - - - +
SNAKE RIVER

Point of Diversion						Stream Index (Blank if no Index Code)	
Twn	Rng	Sec	Tract	Lot	RFlg	County	Stream Index (Blank if no Index Code)

09S	15E	12	SW SW NE	13	(47)	GOODING
09S	15E	12	NE SE NW	12	(47)	GOODING
09S	15E	12	SE SE NW	12	(47)	GOODING

Water Use					
Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
0000	0000	0000	0000	0000	0000

19 - FISH PROPAGATION

01/01

12/31

300.000

+ - Total Div. Rate - +	+ - Total Div. Volume - +	+ - Total Div. Capacity - +	+ - Total Consumptive Use - +	+ - KW Usage - +
300.000				

Place of Use							
Twn	Rng	Sec	Tract	Lot	Acres	Code	Description
							County

09S	15E	12	SW NE	15	19	FISH PROPAGATION	(47)	GOODING
09S	15E	12	NE SE	14	19	FISH PROPAGATION	(47)	GOODING
09S	15E	12	NW SE	15	19	FISH PROPAGATION	(47)	GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

+ - - Non-Irrigation Use - **COMMERCIAL TROUT PRODUCTION**

+ - - Other Rights for Same Use - NONE

+ - - - - - Remarks - - - - - +	
1	2
3	4
5	6
7	8
9	10
11	12
13	14
15	16
17	18
19	20
21	22
23	24
25	26
27	28
29	30
31	32
33	34
35	36
37	38
39	40
41	42
43	44
45	46
47	48
49	50
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85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

POND VOLUME IS 1,078,380 CU FT., CONSISTING OF 96 RACEWAYS 18' X 4' X 150' LONG AND 42 FRY RACEWAYS 60' X 5.5' X 3' DEEP.

Water right number - A36-07083

Adj. flag translation: Adjudication Temporary Work Area

+ - - - - Remarks - - - - - +
P/D & P/U DESCRIBED INCORRECTLY IN LICENSE; CLAIM SHOWS CORRECT
DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS
& HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS
INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE
REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

+ - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - 08/24/88 STANTON

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 05/06/1985	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
Claims Tape Error Flg	-	Receipt Number	- S002014	Water District	-
Fee Exempt Flag	-	POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-

Water Right Number - 36-07083

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 548
2 -
3 -
City- BUHL State- ID Zip- 83316
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
07/08/1969 17 SOUTHERN L - LICENSE

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
CRYSTAL SPRINGS SNAKE RIVER

Point of Diversion								Stream Index (Blank if no Index Code)	
Tw	Rng	Sec	Tract	Lot	RFlg	County			
09S	15E	12	SW NE	13	(47)	GOODING	272.0		600.4
09S	15E	12	SE NW	12	(47)	GOODING	272.0		600.3
09S	15E	12	NE SE	14	(47)	GOODING	272.0		600.4
09S	15E	12	NW SE	15	(47)	GOODING	272.0		600.4

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
19 - FISH PROPAGATION		01/01	12/31	300.000	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
300.000

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
09S	15E	12	SW NE	15		19	FISH PROPAGATION	(47) GOODING
09S	15E	12	SE NW	13		19	FISH PROPAGATION	(47) GOODING

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - Remarks - - - - - +
No Remarks found.

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

RECEIVED

JUL 20 2000

Department of Water Resources

2000 JUL 20 PM 3:35

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

Case No. 39576

ORDER OF PARTIAL DECREE

For Water Right 36-07083

On June 11, 1999, a *Special Master's Report and Recommendation* was filed for the above water right.

On July 28, 1999, North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company, by and through their counsel of record, Beeman & Hofstetter, filed a *Motion to Alter or Amend* with respect to the Special Master's Recommendation.

On May 11, 2000, the Special Master entered an *Order Denying Motion to Alter or Amend*.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 36-07083 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED JUL 20 2000

BARRY WOOD

Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

RECEIVED

JUL 20 2000

Department of Water Resources

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

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-07083

2000 JUL 20 PM 3:35

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: CLEAR SPRINGS FOODS, INC.
PO BOX 712
BUHL, ID 83316

SOURCE: CRYSTAL SPRINGS TRIBUTARY: SNAKE RIVER

QUANTITY: 300.00 CFS

USE OF THIS RIGHT WITH RIGHT 36-07568 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 335.10.

PRIORITY DATE: 07/08/1969

POINT OF DIVERSION: T09S R15E S12 LOT 13 (SWSWNE) Within Gooding County
LOT 13 (SESWE)
LOT 12 (NESENW)
LOT 12 (SESENW)
LOT 14 (NWNESE)
LOT 15 (NENWSE)

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Fish Propagation	01-01 TO 12-31	300.00 CFS

PLACE OF USE: Fish Propagation Within Gooding County
T09S R15E S12 LOT 13 (SWNE) LOT 15 (NWSE)

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Barry Wood

Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

JUL 20 2000

Department of Water Resources

2000 JUL 20 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 36-07083

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 36-07083 was mailed
on July 20, 2000, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

STATE OF IDAHO
Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

NORTH SNAKE GROUND WATER DIST.
Represented by:
DANA L. HOFSTETTER
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CERTIFICATE OF MAILING

PAGE 1
07/20/00

RECEIVED

MAY 19 1999

NICHOLAS B. SPENCER
Deputy Attorney General
Idaho Department of Water Resources
PO Box 83720
Boise ID 83720-0098
Telephone: (208) 327-5458
Facsimile: (208) 327-5400

Department of Water Resources

PATRICK D. BROWN
PARKER, WARR & BROWN
812 SHOSHONE STREET EAST
TWIN FALLS, IDAHO 83301
TELEPHONE: (208) 739-8812
FACSIMILE: (208) 739-8820

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

Subcase No. 36-07083

Case No. 39576

SUPPLEMENTAL STIPULATION

The Idaho Department of Water Resources ("IDWR") and the claimant, Clear Springs Foods, Inc., ("Claimant"), by and through their respective counsel, stipulate and agree to the following:

1. This *Supplemental Stipulation* supplements oral stipulations and the written stipulation regarding SRBA Subcase Nos. 36-02048, 36-02703, 36-02708, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07218, and 36-07568, which was executed by IDWR on February 11, 1998, and by claimant on February 24, 1998 ("the February Stipulation").

2. IDWR and Claimant agree that at the time of the February Stipulation, they also agreed that the diversion rate for Water Right No. 36-07083 should be the licensed diversion rate of 300.00 cfs, and that prior to trial of the facility volume issue in these subcases, IDWR and the Claimants had fully

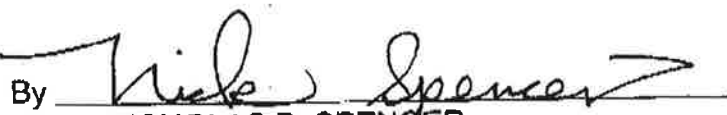
resolved any differences concerning the diversion rate for Water Right No. 36-07083.

3. The diversion right for Water Right No. 36-07083 is the licensed diversion rate of 300.00 cfs.

4. This *Supplemental Stipulation* is not intended to alter the provisions of the February Stipulation as they pertain to the overall combined diversion rates or otherwise.

DATED This ~~5th~~ ^{May} day of April, 1999.

IDAHO DEPARTMENT OF WATER RESOURCES

By 
NICHOLAS B. SPENCER
Attorney for IDWR

DATED This 28 day of April, 1999.

~~PARKER, WARR & BROWN~~

By 
PATRICK D. BROWN
Attorney for Claimant

CERTIFICATE OF MAILING

I certify that on the 18 day of May, 1999, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

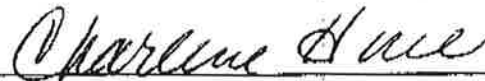
Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 83720
Boise ID 83720-0098
Attorney for the State of Idaho

Dana L. Hofstetter
Beeman and Hofstetter
PO Box 1427
Boise ID 83701-1427
Attorney for North Snake Ground Water District

Director of IDWR
PO Box 83720
Boise ID 83720-0098



Signature of person or attorney mailing the form

APR 24 2002

RECEIVED

MAR 03 1988

Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

Subcase Nos. ~~36-02048~~, ~~36-02703~~, ~~36-02708~~, ~~36-04013A~~, ~~36-04013B~~, ~~36-04013C~~, ~~36-07040~~, ~~36-07083~~, ~~36-07148~~, ~~36-07218~~, and ~~36-07568~~

STIPULATION

Case No. 39576

The Idaho Department of Water Resources and the claimants, Clear Springs Foods, Inc.,
by and through their respective attorneys of record, stipulate to the following:

- A. The deletion of combined use remarks limiting rate of flow in IDWR's recommendations of water right numbers 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, and 36-07148.
- B. That the combined diversion rate remark in water right number 36-07083 should read as follows:

USE OF THIS RIGHT WITH RIGHT NUMBER 36-07568 IS LIMITED

Stipulation

1

TO A TOTAL COMBINED DIVERSION RATE OF 335.10 CFS.

- C. That the combined diversion rate remark in water right number 36-07568 should read as follows:

USE OF THIS RIGHT WITH RIGHT NUMBER 36-07083 IS LIMITED

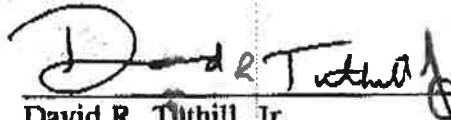
TO A TOTAL COMBINED DIVERSION RATE OF 335.10 CFS.

- D. That the claim to water right number 36-07151 should be decreed disallowed.
- E. That diversion volume limitations in IDWR's recommendations of water right numbers 36-07040 and 36-07148 should be deleted.
- F. That the purposes of use under water right number 36-07201 be decreed as fish propagation and industrial purposes; and that the quantity listed for each purpose of use under water right number 36-07201 should be decreed as follows:

FISH PROPAGATION	8.00 CFS
INDUSTRIAL	<u>2.00 CFS</u>
TOTAL	10.00 CFS

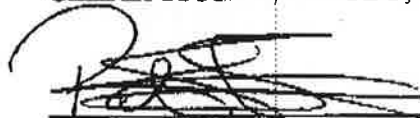
Dated this 11th day of February, 1998.

IDAHO DEPARTMENT OF WATER RESOURCES


David R. Tuthill, Jr. 11 Feb 98
Adjudication Bureau Chief Date


Charles L. Honsinger 2/11/98
Deputy Attorney General Date

CLEAR SPRINGS FOODS, INC.


Patrick D. Brown 2/24/98
Hepworth, Lezamiz & Hohnhorst Date

Stipulation

3

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on the 24 day of February, 1998 I caused to be served a true and correct copy of the foregoing document on the following person(s):

Idaho Department of Water Resources
Adjudication Bureau
P.O. Box 83720
Boise, ID 83720-0098

Patrick D. Brown
Hepworth, Lezamiz & Hohnhorst
Box 389
Twin Falls, ID 83303

Clive Strong
Chief, Natural Resources Division
P.O. Box 44449
Boise, ID 83711-4449



Person Mailing Documents

Stipulation

4

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FEB 01 1999

Department of Water Resources
Southern Region

RECEIVED

FEB 09 1999

Department of Water Resources
Southern Region

36-07083
1999 FEB 01 AM 11:40
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

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In Re SRBA

Case No. 39576

) ORDER SETTING STATUS
) CONFERENCE
)
) SUBCASE NO: 36-07083

FEB 09 1999

Department of Water Resources
Southern Region

Please be advised that Special Master FRITZ X HAEMMERLE
has set a Status Conference in the above subcase(s)
as follows:

WEDNESDAY, MARCH 10, 1999 at 01:30 PM

SRBA
DISTRICT COURT
253 3RD AVENUE NORTH
TWIN FALLS, ID

Option: Parties may participate by phone if they contact the
clerk at (208) 736-3011 prior to MARCH 08, 1999.

IT IS SO ORDERED.

Dated: FEBRUARY 01, 1999

/S/ FRITZ X HAEMMERLE
Special Master
Snake River Basin Adjudication

MAIL



23297

CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the ORDER SETTING STATUS CONFERENCE was mailed on FEBRUARY 01, 1999, with sufficient first-class postage to the following:

STATE OF IDAHO

Represented by:
CLIVE STRONG
NATURAL RESOURCES
DEP AG OFFICE OF ATTY GEN
STATEHOUSE MAIL
BOISE, ID 83720-0010
Phone: 208-334-2400

NORTH SNAKE GROUND WATER DIST.

Represented by:
DANA L. HOFSTETTER
PO BOX 1427
BOISE, ID 83701-1427
Phone: 208-388-8900

CLEAR SPRINGS FOODS, INC.

Represented by:
PATRICK D. BROWN
812 SHOSHONE ST E
TWIN FALLS, ID 83301
Phone: 208-735-8812

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

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OCT 08 1998

Department of Water Resources
Southern Region

RECEIVED

SEP 29 1998

Department of Water Resources

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

Case No. 39576

A.

Subcase 36-07083

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: North Snake Ground Water District, May Farms, Ltd.,
and Faulkner Land & Livestock Company

Address: 2092 East 3600 South
Wendell, Idaho 83355

Daytime Phone: (208) 536-6553

Name & Address of Attorney, if any:

Josephine P. Beeman
Dana L. Hofstetter
Beeman & Hofstetter, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, Idaho 83701-1427
(208) 388-8900

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

Name: Clear Springs Trout Company
The Prospect Company

Address: P. O. Box 712
Buhl, Idaho 83316

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

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: _____
4. ☐ **Priority Date**
Should be: _____
5. ☐ **Point(s) of Diversion**
Should be: _____
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☐ **Place of Use**
Should be: _____

11. 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):** The quantity element does not adequately take into consideration actual beneficial use, including issues of partial forfeiture, adverse possession, other legal principles, and seasonal water supply or use fluctuations.

F.

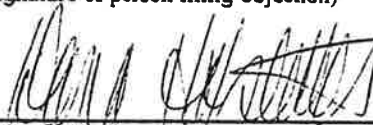
VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Dana L. Hofstetter, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

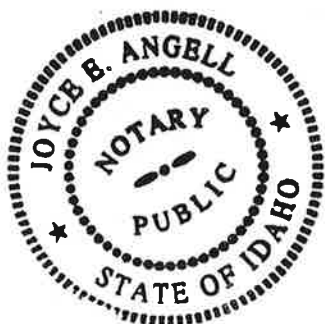
That I am the party/claimant filing this objection, as defined by IC. §§ 42-1401A(i) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)



(Attorney signing in representative capacity)

Subscribed and sworn to before me on: September 27, 1998



Joyce E. Angell
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: 07-24-02

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on September 28, 1998, 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: Clear Springs Trout Company
The Prospect Company
Address: P. O. Box 712
Buhl, Idaho 83316

Patrick D. Brown
Parker Warr & Brown
812 Shoshone St. East
Twin Falls, Idaho 83301

3. Copies to:

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

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

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



Signature of Objector or attorney
mailing on Objector's behalf

North Snake Ground Water District,
May Farms, Ltd. and Faulkner Land
& Livestock Company

Josephine P. Beeman
Dana L. Hofstetter
BEEMAN & HOFSTETTER, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
(208) 388-8900
(208) 388-8400 (Facsimile)
beehof@micron.net

RECEIVED

OCT 05 1998

Department of Water Resources
Southern Region

SOUTH
RECEIVED

SEP 29 1998

Department of Water Resources

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

In Re SRBA	)	Subcase Nos. 36-02048, 36-02703,
	)	36-04013A, 36-04013B, 36-04013C,
Case No. 39576	)	36-07083, 36-07568, 36-02708, and
	)	36-07218
_____	)	

MOTION TO FILE LATE OBJECTIONS

MOTION

The North Snake Ground Water District and its members, May Farms, Ltd. and Faulkner Land & Livestock Company (hereinafter collectively the "NSGWD"), hereby move for leave to file late objections to water right claim numbers 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, 36-07083, 36-07568, 36-02708, and 36-07218. This Motion is supported by the Memorandum below, the Affidavit of David Shaw in Support of Motion to File Late Objections, the proposed objections, and the record in these subcases.

MEMORANDUM

The Idaho Department of Water Resources ("IDWR") issued its recommendations for 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, 36-07083, 36-07568, 36-02708, and 36-07218 in 1992 as part of the SRBA Basin 36 Director's Report. The claimants submitted objections to these water rights. The claimant's objections except for facility volume were resolved through stipulation. In February 1998, a hearing relating to the facility volume matter was held.¹ The Special Master subsequently issued recommendations based on the Director's Report recommendations and the stipulation, but deleted or qualified the facility volume remarks..

Over five years have passed since IDWR conducted its field examination for these rights and issued its Director's Report recommendations. Further, over five years have passed since the close of the objection period for Basin 36 (April 1993). Only very recently has a full five years of data become available confirming reduced use of these water rights after the close of the Basin 36 objection period. This reduced use gives rise to forfeiture, adverse possession, and estoppel issues, as well as issues based on other possible legal principles. These legal principles could have resulted in diminution of the rights. The members of the NSGWD, including May Farms, Ltd. and Faulkner Land & Livestock Company, divert water under junior water rights from the Eastern Snake Plain Aquifer. Members of the NSGWD and other water users holding junior water rights could be subject to water right decrees for the rights in these subcases. Therefore, it is important for the Court to consider data concerning the current extent of actual beneficial use. *See Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994).

¹ Due to audio recording difficulties, David Tuthill's testimony was retaken on July 28, 1998.

Commercial fish propagation facilities like the ones associated with these water rights discharge water from their facilities to surface water bodies and are normally required to obtain National Pollutant Discharge Elimination System ("NPDES") permits under the Federal Clean Water Act. These facilities submit monthly discharge monitoring reports ("DMR's") as a condition of the NPDES permit. The DMR's are filed with EPA by the facility operator/permit holder, and a copy is placed on file with the Idaho Division of Environmental Quality ("DEQ") regional office. In this case, the Twin Falls office of DEQ contains the pertinent files.

The NSGWD has reviewed the discharge amount portions of the DMR's for Clear Springs Foods' Snake River Hatchery (Water Right Nos. 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, and 36-07148), Crystal Springs Hatchery (Water Right Nos. 36-07568 and 36-07083), and Middle Hatchery (Water Right Nos. 36-02708 and 36-07218). *See Affidavit of David Shaw*. For these kinds of continuous flow facilities, the amount of water discharged generally equals the amount of water diverted to the facility. *Id.* For the period 1993 - 1998, the discharge figures indicate that only a portion of the water claimed through the rights identified above was put to beneficial use. *Id.* IDWR diversion rate data available for these facilities for these years confirm the DMR figures. *Id.*

**GOOD CAUSE EXISTS TO GRANT
LEAVE TO FILE LATE OBJECTIONS**

The decision to set aside an entry of default or to allow a late notice of claim to be filed, and presumably, to allow a late objection to be filed, is based on the good cause standard of I.R.C.P. 55(c). *See* SRBA Administrative Order 1, Sec. 4.d(2)(d). The Rule 55(c) standard requires only good cause and a meritorious defense. *McFarland v. Curtis*, 123 Idaho 931, 935, 854 P.2d 274, 278 (Ct. App. 1993). The Rule 55(c) standard for setting aside entry of default is

more lenient than the Rule 60(b) standard for setting aside default judgment. *Id.* at 935-36, 854 P.2d at 278-79. This approach is consistent with the policy that cases generally should be decided on their merits and that in the earlier stage of entry of default where there has been no judgment, a liberal approach is appropriate. *Id.* at 936, 854 P.2d at 279. The Rule 55(c) standard has been described as requiring the movant to show "some excuse for failure to answer, that a meritorious defense exists, and the policy of deciding cases on the merits should be recognized." *Id.*

The five-year period post-dating the objection deadline recently transpired (in May 1998). The post-objection deadline data could not have been included in the original Director's Report, yet the data for this five-year period also constitutes a basis for which forfeiture, adverse possession, estoppel, and other legal principles may be asserted. *See 24 Hagerman Subcases*, 130 Idaho 736, 947 P.2d 409 (1997). In addition to representing a separate cause of action, the five-year post-objection period data also confirms the preceding years' data and establishes the ongoing nature of reductions in water use. Obviously, the data for the years 1993 - 1998 was not available during the original objection period. In fact, the data for the full five-year period was not available until after the February 1998 facility volume hearing. Yet, the new data impacts the validity of the Clear Springs' claims as they are now recommended by the Special Master and awaiting partial decree. If the claims are decreed as recommended without consideration of this new evidence, the decrees would be out-of-date upon issuance. If the decrees are to have a current effective date after the close of the objection period, then the five years of data post-dating the objection period should be taken into consideration.

The Affidavit of David Shaw with the tables of water usage data for the Clear Springs facilities establishes that there is a meritorious claim. The DMR data and the confirmatory

IDWR data demonstrate that these facilities have operated at substantially less than their currently recommended water right diversion rates for the last five years and beyond. This data substantiates that there has been a reduction in actual beneficial use over the years. *See 24 Hagerman Subcases*, 130 Idaho 736, 947 P.2d 409 (1997).

The five-year period post-dating the objection period both confirmed prior water usage information and established a new cause of action. The data for this five-year period did not exist at the end of the original objection period, and this satisfies the Rule 55(c) good cause standard. In fact, it even satisfies the more stringent Rule 60(b) additional criterion of "newly discovered evidence." Further, the water usage data in David Shaw's affidavit establishes that there is a meritorious claim that a portion of these rights have not been used for more than five years. Consistent with the policy in favor of deciding cases on the merits and consistent with the purpose of the SRBA to establish the nature and extent of water rights, this Motion to File Late Objections should be granted.

CONCLUSION

For the reasons stated above, the Motion to File Late Objection should be granted.

DATED this 28th day of September, 1998.

BEEMAN & HOFSTETTER, P.C.

By


Dana L. Hofstetter

CERTIFICATE OF SERVICE

- I hereby certify that on the 28th day of September, 1998, I caused to be served copies of the foregoing **Motion to File Late Objections** by the methods indicated below:

Patrick D. Brown
Parker Warr & Brown
812 Shoshone St. East
Twin Falls, Idaho 83301
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Chief, Natural Resources Division
Office of the Attorney General
P. O. Box 44449
Boise, Idaho 83711-4449
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax



Dana L. Hofstetter

D:\17802\ac\2422

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

MAR 27 1998

Department of Water Resources
Adjudication Bureau

Southern
FYI

1998 MAR 25 AM 11:39

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

Subcases See Exhibit A

Case No. 39576

ORDER PARTIALLY VACATING
TRIAL and DEADLINES

Special Master Haemmerle issued *Findings of Fact and Conclusions of Law (Facility Volume)* on February 24, 1998. A *Stipulation* was filed by the claimants and IDWR on February 24, 1998.

All the subcases on Exhibit A are currently set for trial. However, subcases 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07151, and 36-07568 have all been settled per the *Stipulation* and *Findings of Fact*. Therefore, since the aforementioned subcases are settled the trial and the deadlines are vacated. Trial is still scheduled July 6 and 7, 1998, for subcases 36-02708, 36-07201, and 36-07218.

DATED March 25, 1998.


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER PARTIALLY VACATING TRIAL DATE AND DEADLINES was mailed on March 25, 1998, with sufficient first-class postage to the following:

Chief, Natural Resources Division
Office of the Attorney General
P O Box 44449
Boise, Idaho 83711-4449

Patrick D. Brown
P O Box 389
Twin Falls, Idaho 83303-0389

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Daniel V. Steenson
P O Box 2773
Boise, Idaho 83701-2773


Deputy Clerk

ORDER PARTIALLY VACATING TRIAL DATE and DEADLINES

RECEIVED

MAR 30 1998

Department of Water Resources
Adjudication Bureau

1998 MAR 27

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

Case No. 39576

Subcases 36-07083

TRIAL SCHEDULE ORDER

A Trial is currently scheduled for July 6-7, 1998 in the subcases 36-02708, 36-07201 and 36-07218. The quantity element is still at issue in subcase 36-07083. Therefore, subcase 36-07083 will be added to the list of subcases in the current trial schedule. The dates are as follows:

Status Conference

Friday, April 10, 1998, at 2:00 p.m.

Discovery to be complete

Friday, May 1, 1998, by 5:00 p.m.

Dispositive Motions due

Friday, May 15, 1998, by 5:00 p.m.

Trial

Monday & Tuesday, July 6-7, 1998, at 9:00 a.m.

DATED March 27, 1998.


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

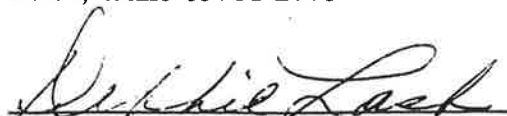
I certify that a true and correct copy of the TRIAL SCHEDULE ORDER was mailed on March 27, 1998, with sufficient first-class postage to the following:

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

Patrick Brown
812 Shoshone Street East
Twin Falls, Idaho 83303

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Daniel Steenson
P O Box 2773
Boise, Idaho 83701-2773


Deputy Clerk

SUBCASE NO. 36-07083

	CLAIM (8/24/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Clear Springs Trout Co. &/or The Prospect Co.	N/A	<i>Clear Springs Foods Inc.</i> <i>P.O. Box 712</i> <i>Buhl, ID 83316</i> (see notes below)	XX Clear Springs Foods, Inc P.O. Box 712 Buhl, ID 83316
BASIS OF CLAIM	License		License	
SOURCE	Crystal Springs		Crystal Springs	
QUANTITY	300.000 cfs		269.96 cfs	XX total quantity of this right should be 300 cfs as measured by Dr. C. E. Brockway
PRIORITY DATE	07/08/1969		07/08/1969	
PURPOSE OF USE	Fish Propagation		Fish Propagation	
PERIOD OF USE	1/1 - 12/31		1/1 - 12/31	
POINT OF DIVERSION	T09S R15E S12		T09S R15E S12	
PLACE OF USE	T09S R15E S12		T09S R15E S12	
REMARKS			+ see below	XX "Facility Volume" & "Combined Facility Volume" are not elements of the water right. Combined diversion rate, if any, should be 335.1 cfs as measured by Dr. C.E. Brockway.

Notes: IDWR, in its response, stated a change of ownership was filed with the department after the filing of the director's report and recommended the name and address of the claimant should be changed.

- + Multiple points of diversion located in NESENW, SESENW, SWSWNE, SESWNE, NENWSE, NWNESE, S12 T09S R15E
 Use of this right with right no. 36-07568 is limited to a total combined diversion rate of 269.96 cfs.
 Right no. 36-07568 is also diverted through point of diversion described above.
 Facility volume 468,450 cu. ft.
 Use of this right with right no. 36-07568 is limited to a total combined facility volume of 905,634 cu. ft..

Clear Springs®

RECEIVED
JUN 27 1991

Department of Water Resources

June 25, 1991

Ms. Marci Sterling
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Clear Springs Trout Company - Crystal Springs Hatchery
Water Flows and Capacities

Dear Marci:

As we discussed during your visit on Tuesday, June 18th, I was to provide you with a better representation of hatchery capacity than is currently presented on the water permit(s). Please find this information enclosed.

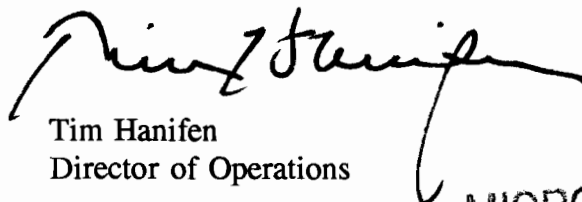
Additionally, I believe it appropriate to substantiate the water flows available to the Crystal Springs Hatchery and clarify the current permits. As you know, this facility holds water permit numbers A36-07083, A36-07151 and A36-07568 totalling six hundred cubic feet per second (cfs). However, total flow as measured by the combination of devices located in the head canals and at the hatchery buildings is substantially less. Historical flow data for the Crystal Springs Hatchery is also enclosed. The permits need to be updated to reflect this factual flow.

As we also discussed, during your visit, water flows vary in total volume on a seasonal basis. May is the historically low flow period which has been exacerbated by recent drought conditions. Consequently, current measurements do not reflect maximum available flows and must be recognized as such. Clear Springs permits must be revised to reflect the maximum flow circumstance of approximately 270 cfs as the accompanying data substantiates.

If I can be of further assistance, please advise.

Sincerely,

CLEAR SPRINGS TROUT COMPANY


Tim Hanifen
Director of Operations

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FEB 03 1993

CLEAR SPRINGS TROUT COMPANY

**Hatchery Capacity and Water Flows
Crystal Springs Hatchery**

Hatchery Capacity (outside ponds): Cubic Feet

	No. of Ponds	Width	Length	Water Depth	<u>Total Cubic Ft.</u>
Sections A & B	30	18	180	3	291,600
Sections C & D	20	18	150	3	162,000
Sections E & F	24	18	176	3	228,096
Sections G & H	22	18	176	3	209,088
	--				-----
Totals:	96				890,784

Historical Water Flows (Highs): Cubic Feet per Second

October 1985	253.94
October 1986	260.00
October 1987	269.96
October 1988	253.04
October 1989	251.75
October 1990	249.30

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FEB 03 1993

MEMO TO FILES A36-07083, A36-07151, & A36-07568

FROM: Marci Sterling
DATE: June 5, 1992
RE: Crystal Springs Claims Review

Clear Springs Trout has three claims for water rights at their Crystal Springs hatchery. Because of some confusion as to which rights apply to which parts of the hatchery and the unusual order in which the rights were licensed, there was some question about the best way to recommend the rights.

A permit application for the first right, 36-07083, was received in 1969. The permit was for 300 cfs.

Two years later, Clear Springs applied for another permit for an additional 100 cfs at this facility. In the file for that right, 36-07151, is a letter explaining the pond dimensions both for the completed portion of the hatchery covered by the earlier right and for the planned expansions to the hatchery using the extra 100 cfs. No ponds of those planned dimensions were ever constructed, bringing a question to my mind as to what additional development did actually occur with this right. The second right was licensed in 1974, based on a 1973 flow measurement of 232.5 cfs. At that time, the earlier right still had not been licensed.

In 1975, a third permit application was received for 200 cfs. Photos from the licensing file for that right show that an addition to the facility was completed at some point prior to the licensing exam.

A flow measurement of 335.1 cfs was made by C.E. Brockway in 1977. The first right, 36-07083, was licensed in 1978 based on that measurement. Therefore, at that time there were two licenses for a total of 400 cfs, but no more than 335.1 cfs had ever been measured. When the third right, 36-07568, was licensed for 200 cfs in 1984, a condition was finally included limiting the combination of the three to no greater than 335.1 cfs.

There has been another addition to this facility in recent years. A hatchery building has been added between the two newest sets of ponds. The water used for this building is obtained from a location slightly east of the springs which serve as sources for the rest of the facility. The source is still a spring (which may still be considered the same source as those licensed), but is in a new 10 acre tract. According to Tim Hanifen, the Director of Operations, 17 cfs of the water from this spring is piped entirely underground to the hatchery building. There is a measuring device at the point where the discharge leaves the building. The hatchery building was built prior to the date the NAPP photo was taken in 1987, but after the licensing exam for 36-07568, which was

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FEB 03 1993

on 9/10/79.

After my visit to the facility, I received a letter from Clear Springs Trout Co. explaining that the total of their water rights was 600 cfs, but that the most they had diverted was 270 cfs and that their rights should reflect that fact. It is believed that the water going to the hatchery is included in that total flow measurement. The company supplied annual maximum flow rates for the years 1985 to 1990.

It appears that the license 36-07083, for 300 cfs, alone exceeds the amount of water that is used at the facility. The places of use and points of diversion may not all be described in the original right, however. Since no raceways or ponds were constructed (other than those planned for the first right) prior to the second license being approved, that right will be disallowed. The third right, however, obviously included the addition of more raceways, so that right will be recommended for the additional pond volumes. There was no increase in the amount of water used with the third right, so it will be recommended with its licensed flow rate, but the combination of the two rights will be limited to a total of 270 cfs.

Since the spring supplying the new hatchery is being viewed as the same source as the springs described in the other rights for the facility, it may be described on an expansion claim with the hatchery pond volumes as the expanded volume and the new description of the place of use. The expansion claim is not required for the recommendation of the other rights, but is required in order for the water use in the hatchery to be recognized.

MICROFILMED

FEB 03 1993

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED

OCT 19 1994

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A36-07083
Date Received: 8/24/1988
Receipt No: 5002014
Received By: DS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CLEAR SPRINGS TROUT CO. 208-543-4316
Address: P.O. BOX 712
BUHL, ID 83316

AND/OR
Name: THE PROSPECT CO. 208-543-4316
Address: P. O. BOX 712
BUHL, ID 83316

2. Date of Priority: JUL 08, 1969

3. Source: CRYSTAL SPRINGS Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	15E	12	SW	SW	NE	13	GOODING
			NE	SE	NW	12	GOODING
			SE	SE	NW	12	GOODING

5. Description of diverting works:
CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	300.000		

7. Total Quantity Appropriated is:
300.000 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL TROUT PRODUCTION

A36-07083

Page 1

Date: 08/24/88

MICROFILMED
OCT 19 1994
FEB 03 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	12	SW	NE	15	FISH	
			NE	SE	14	FISH	
			NW	SE	15	FISH	

11. Place of use in counties: GOODING

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

POND VOLUME IS 1,078,380 CU FT., CONSISTING OF 96 RACEWAYS 18' X 4' X 150' LONG AND 42 FRY RACEWAYS 60' X 5.5' X 3' DEEP.
P/D & P/U DESCRIBED INCORRECTLY IN LICENSE; CLAIM SHOWS CORRECT DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS & HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

15. Basis of Claim: LICENSE

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1

For Organizations:

I do solemnly swear or affirm that I am President of
Clear Springs Trout Company, that I have signed the foregoing
document in the space below as President of
Clear Springs Trout Company and that the statements contained in the
foregoing document are true and correct.

[Signature]
Signature of Authorized Agent
President Clear Springs Trout Company
Title and Organization

8/30/88

Date

State of Idaho)
County of Twins Falls) SS.

Subscribed and sworn (or affirmed) before me this 30th day
of August 19 88

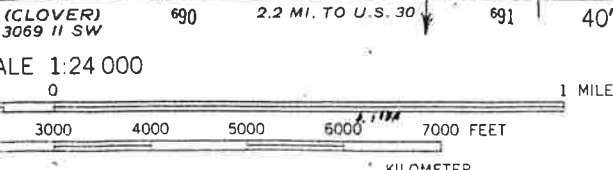
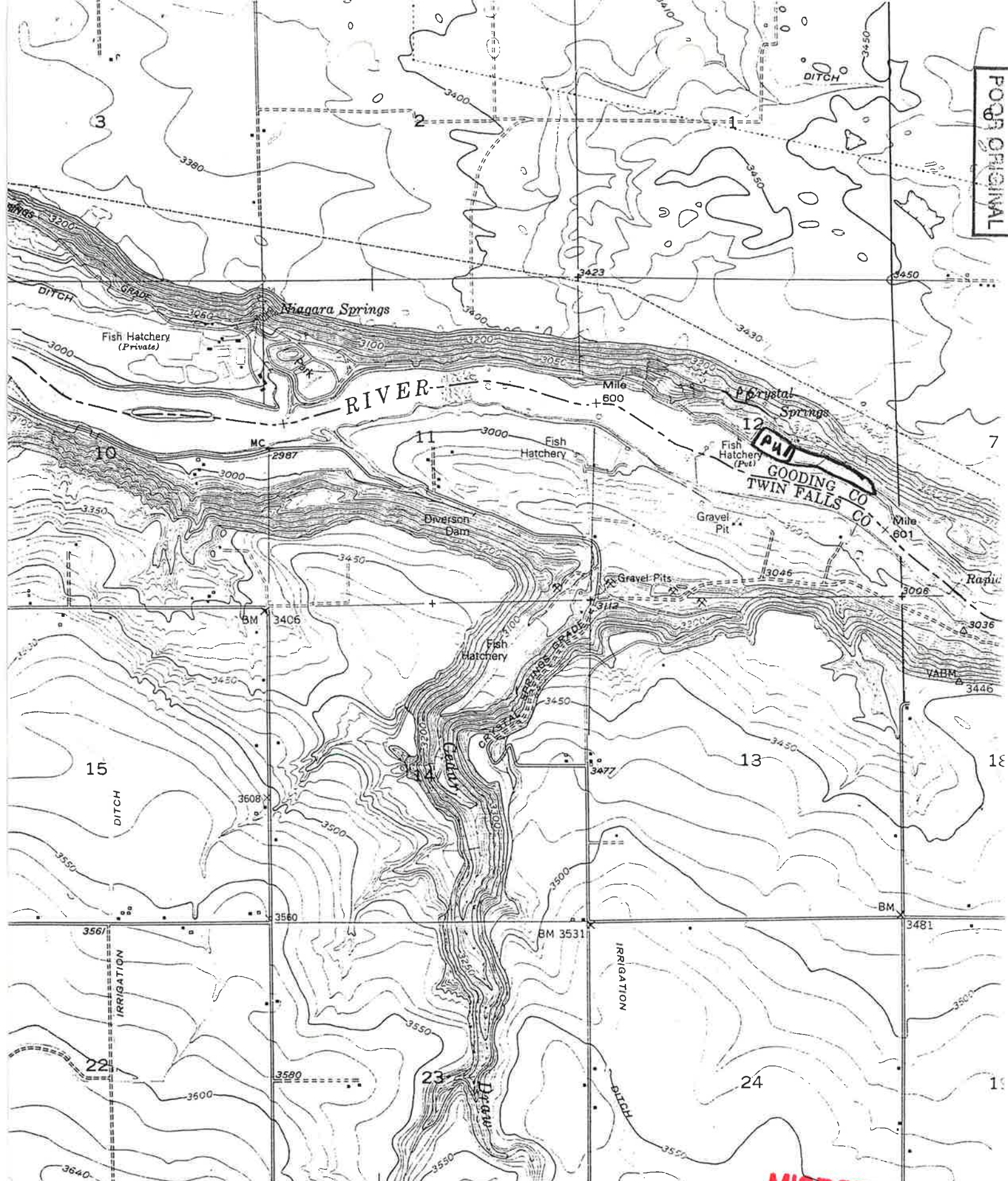
[Signature]
Notary Public

Seal

Residing at Boil ID

My Commission Expires 8-17-92

POOR ORIGINAL



2.2 MI. TO U.S. 30
FILER 7.1 MI.

• INTERIOR - GEOLOGICAL SURVEY, 221 RAVEN HILL RD. E.
RESTON, VIRGINIA 20191

MICROFILMED
FEB 03 1999

ROAD CLASSIFICATION
Primary highway, hard surface
Secondary highway, light-duty road, hard or improved surface

IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

- MICROFILMED
- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

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

In Re the General Adjudication)
of the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 36-07083 -0001

The State of Idaho, ex rel.)
R. Keith Higginson in his)
official capacity as Director)
of the Idaho Department of)
Water Resources,)

RESPONSE TO OBJECTION

Petitioner,)

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

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2. Person who filed objection:

Name: CLEAR SPRINGS FOODS INC
Address: PO BOX 712
BUHL ID 83316

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

ALL MATTERS RAISED BY CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations of the objection regarding this item, IDWR responds as follows:

After the director's report was filed a notice of change in ownership was filed with IDWR. The name and address of the

claimant should be changed as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In response to Statement of the Objection item 3 and 3.a, and all allegation sof the objection regarding this item, IDWR responds as follows:

The recommended diversion rate is based on measurement data submitted by the claimant, which shows a maximum total flow of 269.96 diverted for use in the claimant's facility.

In response to Statement of the Objection item 11 and all allegations of the objection regarding this item, IDWR responds as follows:

Idaho Code section 42-1411(2) provides that the director's report shall include "such other matters as are necessary to define the right." The facility volume correctly describes the current use of water diverted for fish propagation purposes. Description of the current use is necessary to define the right and to prevent future expansions in use of the right. The recommendation of the director to the SRBA court as to how the right should be decreed does not constitute a taking, because it is simply a recommendation and not a final determination by the court; the eventual decree by the SRBA Court of the water right based on the actual beneficial use of the water diverted does not constitute a taking, because a water right is limited to the actual beneficial uses of the water diverted.

IDWR further responds that right nos. 36-07083 and 36-07568 are diverted through the same diversion system for use in the same facility. The total combined diversion rate recommended in the remarks for this right is based on measurement data provided by the claimant which shows that the maximum total flow diverted through the system pursuant to these rights is 269.96 cfs.

In response to Statement of the Objection item 14 and all allegations of the objection regarding this item, IDWR responds as follows:

See attached "IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant."

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial", IDWR responds as follows:

Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of court to file a late claim after the director's report

(Over)

is filed.

CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

☒ Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary:

	No. of Pages
Notice of Claim No. A36-07083	4
Recommended Water Rights Acquired Under State Law	1
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

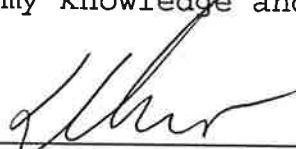
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

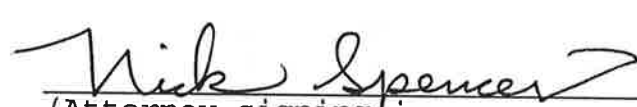
David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 10th day of September, 1993.



Notary Public for Idaho

Residing at: _____

My Commission expires: _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

(Over)

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CERTIFICATE OF MAILING

I hereby certify that on the 10th day of September, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

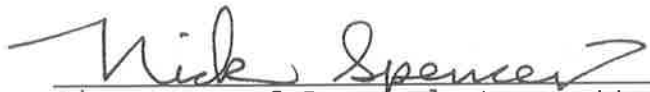
See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
PO BOX 389
TWIN FALLS ID 83303

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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APR 30 1993

Department of Water Resources
Adjudication Bureau

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

In Re the General Adjudication
of Rights to the Use of Water
from the Snake River Basin
Water System

Case No. A36-07083

(You must insert the
water right number you
are objecting to)

The State of Idaho, ex rel.
R. Keith Higginson in his
official capacity as Director
of the Idaho Department of
Water Resources,

OBJECTION

Petitioner,

36-07083 -0001/
93-04-0288

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

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By filing an objection form, you are certifying that the objection is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needless increase in the cost of litigation.

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Clear Springs Foods, Inc.

Address: P. O. Box 712

Buhl, Idaho 83316

Briefly describe your interest in this water right:

Owner of the water right

2. Owner of the water right:

Name: Clear Springs Foods, Inc.

Address: P. O. Box 712

Buhl, Idaho 83316

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown

Attorney Address: Hepworth, Nungester & Lezamiz

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208) 734-7510; Fax: (208) 734-4115

If filed by an attorney, notice of pending court proceedings will be sent to the attorney only.

II. STATEMENT OF THE OBJECTION

Please check each "box" which states your objection to the recommendation in the Director's Report.

1. ☒ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☒ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☐ Water Right Recommendation: I object to:
- a. ☐ this water right being recommended at all; or
- b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to: See attached

REASONS SUPPORTING EACH BOX CHECKED

In the space following, you must state the reason(s) by number for each box checked. You may use additional pages if necessary.

See page 7

CHANGES TO THE DIRECTOR'S REPORT

Specifically describe how you want the Director's Report to be changed. You may use additional pages if necessary.

See page 7

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.



Check here if you are submitting documents. Please list each document by the title and number of pages. You may use additional pages if necessary. Exhibit "A": January

5, 1993 letter from Jodi I. Schultz to Patrick D. Brown-
1 page. Exhibit "B": October 2, 1992, letter from Marci
Sterling to Timothy J. Hanifen- 2 pages.

VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls.

TIMOTHY J. HANIFEN

(Name of person filing objection)

sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. Sec 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Timothy J. Hanifen
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 8th day of April,
1993.

Christ. Newman
Notary Public for Idaho

Residing at: Twin Falls

My Commission Expires: 9-20-94

(Over)

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INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Clear Springs Foods, Inc.

Owner's address: P. O. Box 712

Buhl, Idaho 83316

3. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 1 - See Paragraph 1, page 2, and Exhibit "A" for correct name and/or address.

Box 3, 3a - The total quantity of this right should be 300 cfs as measured by Dr. C.E. Brockway.

Box 11 - "Facility Volume" and "Combined Facility Volume" are not elements of the water right. There is no basis in law or fact for imposing such a limitations and doing so constitutes a taking. The combined diversion rate, if any, should be 335.1 cfs as measured by Dr. C.E. Brockway.

CHANGES TO DIRECTOR'S REPORT, page 4

The report should be changed to correct the name and to eliminate the restrictions noted in the "Reasons Supporting Each Box Checked."

Objectors reserve the right to claim any additional uses and quantities of use shown by the evidence at trial.

Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. **BOUNDARIES OF BASIN.** (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. **WATER SOURCES.** (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. **DEVELOPMENT OF WATER USE.** (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.
(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

2. **GENERAL ADMINISTRATIVE PROVISIONS.** (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. **CONJUNCTIVE ADMINISTRATION** (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. **ADMINISTRATION OF GROUND WATER RIGHTS** (DRP-I at page 10)

The objectors deny the averments within this section.

5. **ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER** (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

8. **FIRE FIGHTING PURPOSES** (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. **CONSUMPTIVE USE** (DRP-I at page 12)

The objectors admit the averments in this section.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. **DOMESTIC USE** (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

averments expressed and implied are so indefinite and vague as to prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments as they are so attenuated from any matter relevant to the objector's right.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, because the averments are so attenuated from any matter relevant to the objector's rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so

DEL 7:30P
MICROFILMED

lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing license issued by the Director and Department, which license is binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such license.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

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AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate

investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

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OCT 19 1994

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO.19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the

"General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director

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OCT 19 1994

and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims

asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

(WATER\FISH)

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: SEP-2-1993

PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: CRYSTAL SPRINGS		TRIBUTARY: SNAKE RIVER				
36-07083	~~THE PROSPECT CO~~ CLEAR SPRINGS FOODS INC PO BOX 712 BUHL ID 83316	07/08/1969	FISH PROPAGATION	01-01 12-31	269.96 CFS	LICENSAGE
					TOTAL QUANTITY: 269.96 CFS	
NON-IRRIGATION-USES:						
FISH, COMMERCIAL TROUT PRODUCTION						
POINT OF DIVERSION:						
T09S R15E S12 LOT 13 (SWSWNE)						
LOT 13 (SESWNE)						
LOT 12 (NESENW)						
LOT 12 (SESENW)						
LOT 14 (NWNESE)						
LOT 15 (NENWSE)						
PLACE OF USE: FISH PROPAGATION						
T09S R15E S12 Lot 13 (SWNE) Lot 15 (NWSE)						
REMARKS: MULTIPLE POINTS OF DIVERSION LOCATED IN NESENW, SESENW, SWSWNE, SESWNE, NENWSE, NWNESE, S12, T9S, R15E.						
USE OF THIS RIGHT WITH RIGHT NO. 36-07568 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 269.96 CFS.						
RIGHT NO. 36-07568 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.						
FACILITY VOLUME 468,450 CU. FT.						
USE OF THIS RIGHT WITH RIGHT NO. 36-07568 IS LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 905,634 CU. FT.						

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OCT 19 1994

**RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES**

- 07083

Receipt No: 5015470

Date: 5/ 9/1993
Time: 10:40:39

Received

From: CLEAR SPRINGS FOODS

Type of Payment	Program Acct Class	Amount
COPIES/ADJ FILES	64100 229 21 1760	57.36
		Total
CHECK	191650	57.36

Region: SOUTHERN

Signature: Janie Robertson

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OCT 19 1994**



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

01-Mar-1993

TIM HANIFEN
CLEAR SPRINGS FOODS INC
PO BOX 712
BUHL ID 83316

RE: Copy of SRBA File(s): 36-02048, 36-02703, 36-02708, 36-04013ABC,
36-07040, 36-07083, 36-07148, 36-07151,
36-07201, 36-07218, 36-07568

Dear Mr. Hanifen:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$57.36

Sincerely,

Jeanie
Jeanie Robertson
Records Clerk

Encl:

Clear Springs Foods
78
59
74
90
69
69
62
123
56
57
63
920 x 5 = 4600
10.90
46
57.36

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OCT 19 1994



JEANNIE

!!
HAVE FUN
w/ THESE
SC

CLEAR SPRINGS FOODS, INC.
Corporate Office P.O. Box 712, Buhl, Idaho 83316

Phone 208 543-4316
Sales 800 635-8211
Fax 208 543-5608

February 15, 1993

Mr. Steve Clelland, Water Agent
Adjudication Bureau
DEPARTMENT of WATER RESOURCES
222 Shoshone St. East
Twin Falls, Idaho 83301

RECEIVED

FEB 17 1993

Department of Water Resources
Southern Region Office

Re: Clear Springs Foods Water Filings

Dear Steve:

I am writing to request complete copies of the Clear Springs, Basin 36 water right files listed below.

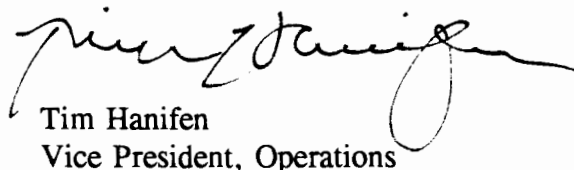
36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	36-07151	A36-07201
36-04013A	36-07201	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A36-07040
36-07040	A36-04013B	A36-07083
36-07083	A36-04013C	A36-02048
36-07148	A36-02703	

Please have the files copied and mailed to my attention at the letterhead address. The cost of reproducing and mailing these files should also be billed to my attention.

Thank you for your attention to this matter.

Sincerely,

CLEAR SPRINGS FOODS, INC.


Tim Hanifen
Vice President, Operations

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OCT 19 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 5, 1993

RECEIVED

JAN 08 1993

Department of Water Resources
Southern Region Office

Patrick D. Brown
Hepworth, Nungester and Lezamiz Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Snake River Basin Adjudication, Twin Falls County Case No. 39576

Dear Mr. Brown:

In response to your request in your letter dated December 29, 1992, I am writing to confirm that our records have been updated to reflect Clear Springs Trout Company's name change to Clear Springs Foods, Inc.

The records for the following claim numbers have been updated to reflect this change:

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	A36-02048	A36-07201
36-04013A	A36-02703	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A47-13466
36-07040	A36-04013B	A47-13467
36-07083	A36-04013C	A47-13468
36-07148	A36-07040	A47-13469
36-07151	A36-07083	A47-13470
36-07201		

Thank you for sending a copy of the Certificate of Amendment of Clear Springs Trout Company filed with the Secretary of State. If you have any further questions regarding this matter, please call me at 327-5444.

Sincerely,

Jodi I. Schultz
JODI I. SCHULTZ

Legal Assistant

Idaho Department of Water Resources

cc: Judy Givens, IDWR Southern Region Office

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OCT 19 1994
A



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 2, 1992

Timothy J. Hanifen
Clear Springs Trout Company
P.O. Box 712
Buhl, Idaho 83316

RE: Response to Notices of Error in Snake River Basin
Adjudication for Rights: 36-02048, 36-02703, 36-02708,
36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083,
36-07148, 36-07218, & 36-07568

Dear Mr. Hanifen:

This letter is in response to the remaining Notices of Error you submitted on your claims in Basin 36. The following will outline our recommendations per item.

Diversion Volume

Claim numbers: 36-07148 & 36-07040

The diversion volumes which were included on both of these rights are being removed from the recommendations. Both of the diversion volumes were added to the rights in error. Diversion volume is not a necessary element of a water right if the source of the water is surface water.

Claim number: 36-02708

The diversion volume is not being removed from this recommendation. This right is based on a license for which a diversion volume was described. Since a diversion volume was included in the original license, it may not be removed at this time.

Facility Volume

Claim numbers: 36-02048, 36-02703, 36-02708, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07218, & 36-07568

Based on our understanding of the law, the facility volume associated with the priority date of a water right is an essential element of that right. Any expansion of the facility volume would require the appropriation of a new water right. We have used all available information in an attempt to recommend a facility volume which correctly describes the volume for the date pertaining to each right.

EXHIBIT 3
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OCT 19 1994

Diversion Rate

Claim numbers: 36-02048, 36-02703, 36-04013A, 36-04013B, & 36-04013C

The combined diversion rate for these rights was recommended as 116.0 cfs because the highest record of flow rate which you supplied for your Snake River Hatchery was 116.0 cfs. The 1.67 cfs licensed under 36-07148 flows into one of the pipes leading to the hatchery before the measuring device measures the flow through that pipe. Because of this, that 1.67 cfs then becomes a part of the flow for which you have submitted records. Unless evidence of greater flow rates is submitted to us by October 16, 1992, the recommendation will remain the same.

You will be sent notice of the Director's final recommendation to the court and if you disagree with this final recommendation, you may file an objection with the court. The objection process will be explained when you receive your final recommendation.

Sincerely,

Marci Sterling

Marci Sterling
Engineering Specialist (EIT)

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OCT 19 1994

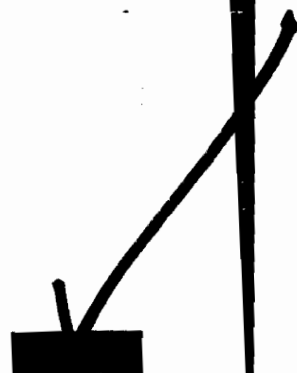
NOTICE OF ERROR



RESPONSE



CORRECTED R PROOF



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FEB 03 1993

AUG-24-1992

NOTICE OF ERROR FORM

Please type or print clearly, fill out completely, and return to:

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

RECEIVED

SEP 23 1992

Department of Water Resources

The notice of error must be received at IDWR by the **deadline date** printed below with your proposed recommendation.

YOUR DEADLINE FOR FILING A NOTICE OF ERROR IS: SEP-24-1992

1. Water right number: 36-07083
2. Name: CLEAR SPRINGS TROUT COMPANY
TIMOTHY J. HANIFEN, VICE PRESIDENT/OPERATIONS
Address:
P.O. BOX 712
BUHL, IDAHO 83316
Weekday Telephone Number: (208) 543-4316

RECEIVED

SEP 23 1992

Department of Water Resources

MICROFILMED

FEB 03 1993

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:

SEE ATTACHED.

4. Describe the changes you wish to have made in the proposed recommendation:

SEE ATTACHED.

5. Describe why you disagree with the proposed recommendation:

SEE ATTACHED.

6. Date:

SIGNATURE

A handwritten signature in black ink, appearing to read "Timothy J. Wenzel", is written over a horizontal line.

R PROOF

X

CVR

X

MAPS

X

PHOTOS

X

MISC

X

MICROFILME

FEB 02 1992

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
36-07083	THE PROSPECT CO CLEAR SPRINGS FOODS INC PO BOX 712 BUHL ID 83316	07/08/1969	FISH PROPAGATION	01-01 12-31	269.96 CFS	LICENSE

TOTAL DIVERSION RATE: 269.96 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA

SOURCE: CRYSTAL SPRINGS

TRIBUTARY: SNAKE RIVER

POINT OF DIVERSION:

T09S R15E S12 LOT 13 (SWSWNE)
LOT 13 (SESWNE)
LOT 12 (NESENW)
LOT 12 (SESENW)
LOT 14 (NWNESE)
LOT 15 (NENWSE)

PLACE OF USE: FISH PROPAGATION

T09S R15E S12 Lot 13 (SWNE) Lot 15 (NWSE)

CONDITIONS OF APPROVAL:

REMARKS: MULTIPLE POINTS OF DIVERSION LOCATED IN NESENW, SESENW, SWSWNE, SESWNE, NENWSE, NWNESE, S12, T9S, R15E.
USE OF THIS RIGHT WITH RIGHT NO. 36-07568 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 269.96 CFS.
RIGHT NO. 36-07568 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.
FACILITY VOLUME 468,450 CU. FT.
USE OF THIS RIGHT WITH RIGHT NO. 36-07568 IS LIMITED TO A TOTAL COMBINED FACILITY VOLUME OF 905,634 CU. FT.

OTHER RIGHTS: 36-07568

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FEB 03 1993

VERIFIED
7/8 6/18/92IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)06/18/92 08:34:14
Page 1

Water Right Number - R36-07083

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO1 - PO BOX 712
2 -
3 -
City- BUHL
Phone - 208-543-4316
1 - PO BOX 712
2 -
3 -
City- BUHL
Phone - 208-543-4316

State- ID Zip- 83316

PROSPECT CO

THE

State- ID Zip- 83316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
07/08/1969 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
CRYSTAL SPRINGS SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

09S	15E	12	SW SW NE	13	(47)	GOODING
			SE SW NE	13	(47)	GOODING
			NE SE NW	12	(47)	GOODING
			SE SE NW	12	(47)	GOODING
			NW NE SE	14	(47)	GOODING
			NE NW SE	15	(47)	GOODING

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
19 - FISH PROPAGATION		01/01	12/31	269.960	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
269.960 0.0

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
09S	15E	12	SW NE	13		19	FISH PROPAGATION	(47) GOODING
09S	15E	12	NW SE	15		19	FISH PROPAGATION	(47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH EASTWARD TO RACEWAYS & HATCHERY BUILDING

+ - - Non-Irrigation Use - FISH, COMMERCIAL TROUT PRODUCTION

+ - - Other Rights for Same Use - 36-07568

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FEB 03 1993

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FEB 03 1993

Court Report Filing	- 00/00/0000	Field Inspection Made	- 06/18/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 06/18/1992	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- AND/OR	Presumption Flag	-
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:35:54
10/16/91

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-07083

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	N		YMS 6/18/91	N		YMS 10/16/91	YMS 10/21/91	YMS 6/17/92
POINT OF DIV	Y			Y	1,4,5	6/5/92		
SOURCE	N			N				
PLACE OF USE	Y			Y	1,4,5	6/8/92		
DIV. AMOUNT CFS/VOLUME	N			Y	5,6	YMS 11/14/91 10/21/91		
CONSUMPTIVE USE	- N			Y	6	YMS 7/1/92		
PURPOSES	N			N		YMS 10/16/91		
PERIOD OF USE	N			N				
BASIS OF CLAIM	N			N				
REMARKS	Y			Y (Ref in Comments)			YMS 10/22/91	

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

MICROFILMED

FEB 03 1993

4/6



EX-114-11
CUT 712 RCE
Buhl, Idaho 83316
208 543-4316

CLEAR SPRINGS FOODS, INC.
Corporate Office P.O. Box 712, Buhl, Idaho 83316

Phone 208 543-4316
Sales 800 635-8211
Fax 208 543-5608

NOTICE OF ERROR FORM

RECEIVED

SEP 23 1992

Department of Water Resources

Continued:

RIGHT NUMBER: 36-07083

- #3 Describe the portion of proposed recommendation with which you disagree:

REMARKS:

- A. Facility volume
- B. Limited combined facility volume.

- #4 Describe the changes you wish to have made in the proposed recommendation:

- A. The fish propagation facility has a rearing capacity of 911,145 CU.FT.
- B. Right should not be limited to any specific facility volume. This is a non-consumptive right which cannot be equated to an irrigation right. The facility volume must be allowed to expand, as technologies advance, without an increase in diversion rate. To suggest otherwise would preclude economic expansion. A permit should be required only in the event of a proposed increase in diversion rate.

- #5 Describe why you disagree with the proposed recommendation:

SEE #4 ABOVE.

- #6 Date: September 21, 1992

SIGNATURE

Timothy J. Muehlen

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FEB 03 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 2, 1992

Timothy J. Hanifen
Clear Springs Trout Company
P.O. Box 712
Buhl, Idaho 83316

RE: Response to Notices of Error in Snake River Basin
Adjudication for Rights: 36-02048, 36-02703, 36-02708,
36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083,
36-07148, 36-07218, & 36-07568

Dear Mr. Hanifen:

This letter is in response to the remaining Notices of Error you submitted on your claims in Basin 36. The following will outline our recommendations per item.

Diversion Volume

Claim numbers: 36-07148 & 36-07040

The diversion volumes which were included on both of these rights are being removed from the recommendations. Both of the diversion volumes were added to the rights in error. Diversion volume is not a necessary element of a water right if the source of the water is surface water.

Claim number: 36-02708

The diversion volume is not being removed from this recommendation. This right is based on a license for which a diversion volume was described. Since a diversion volume was included in the original license, it may not be removed at this time.

Facility Volume

Claim numbers: 36-02048, 36-02703, 36-02708, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07218, & 36-07568

Based on our understanding of the law, the facility volume associated with the priority date of a water right is an essential element of that right. Any expansion of the facility volume would require the appropriation of a new water right. We have used all available information in an attempt to recommend a facility volume which correctly describes the volume for the date pertaining to each right.

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Diversion Rate

Claim numbers: 36-02048, 36-02703, 36-04013A, 36-04013B, & 36-04013C

The combined diversion rate for these rights was recommended as 116.0 cfs because the highest record of flow rate which you supplied for your Snake River Hatchery was 116.0 cfs. The 1.67 cfs licensed under 36-07148 flows into one of the pipes leading to the hatchery before the measuring device measures the flow through that pipe. Because of this, that 1.67 cfs then becomes a part of the flow for which you have submitted records. Unless evidence of greater flow rates is submitted to us by October 16, 1992, the recommendation will remain the same.

You will be sent notice of the Director's final recommendation to the court and if you disagree with this final recommendation, you may file an objection with the court. The objection process will be explained when you receive your final recommendation.

Sincerely,

Marci Sterling

Marci Sterling
Engineering Specialist (EIT)

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FEB 03 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:35:54
10/16/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-07083

LAST: CLEAR SPRINGS TROUT CO.
ADDRESS: P.O. BOX 712
CITY: BUHL
PHONE NUMBER: 208-543-4316

FIRST:
STATE: ID ZIP: 83316

OWNER CODE: C

LAST: PROSPECT CO.
ADDRESS: P. O. BOX 712
CITY: BUHL
PHONE NUMBER: 208-543-4316

FIRST: THE
STATE: ID ZIP: 83316

OWNER CODE: C

~~LAST: RINGERT~~
~~ADDRESS: 455 SOUTH 3RD.~~
~~CITY: BOISE~~
~~PHONE NUMBER: 208-342-4591~~

~~FIRST: WILLIAM F.~~
~~STATE: ID ZIP: 83701~~

OWNER CODE: A

FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: POND VOLUME IS 1,078,380 CU FT., CONSISTING OF 96 RACEWAYS 18' X 4' X 150' LONG AND 42 FRY RACEWAYS 60' X 5.5' X 3' DEEP. P/D & P/U DESCRIBED INCORRECTLY IN LICENSE; CLAIM SHOWS CORRECT DATA. THE MAJORITY OF THIS RIGHT SERVES THE WESTERNMOST RACEWAYS & HATCHERY BUILDING AT THIS FACILITY; THIS PART OF THE RIGHT RUNS INTO THE SNAKE RIVER AFTER USE. THE REST OF THE RIGHT SERVES THE REST OF THE FACILITY IN CONJUNCTION WITH LIC. 36-7151 & 36-7568.

Std. Remark DO6 - Facility volume = ^{468,450} ~~495,180~~ cu. ft.

FO2 - Multiple pts. of diversion located in —

~~PO6 - Recommended as rt. #36-07~~

FO5 - same PID → 36-07568

EO1 - Combined diversion rate between this & 36-07568 = ~~270 cfs~~

Combined facility volume between this rt. & 36-07568 is ~~890,784~~ cu. ft.
~~7932,304~~
905,634

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CONTACT PERSON: Tim Hanifen

PHONE NUMBER: () 543-4314

DATE OF FIELD EXAM: 6/18/91

APPOINTMENT MADE: Y(X) N()

TIME: 8:30 A(M) P()

ACCOMPANIED BY: Tim Hanifen

PHONE NUMBER: () 543-4314

RELATIONSHIP TO CLAIMANT: Director of Operations

DIRECTIONS TO PROPERTY / REMARKS:

Pond volume is not the same as is stated in claim. Pond volume is

291,600 + 162,000 + ~~890,784~~ cu. ft. + ^{14,850}41,580 cu. ft. (fry raceways) = 932,364 cu. ft. assuming
all water depths are 3 ft.
~~448,180~~ cu. ft.
468,450 cu. ft.

See attached memo regarding Notice of Appearance 2/21/92 ^{4mp}

^{4mp}
6/17/92

291,600 } see letter from T. Hanifen dated 6/25/91
+ 162,000 }

+ 14,850 See map A from file (15 ponds)(5.5'w)(60'l)(3'd) = 14,850 ft³
468,450 cu. ft.

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A. AJ CLAIM: # A36-07083 PRIORITY DATE: 07-08-1969 STAGE: L
B. WR RECORD: # 36-07083 PRIORITY DATE: 07-08-1969 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(X)
IF YES EXPLAIN.

REMARKS: _____

=====

RECOMMENDED PRIORITY DATE:
07-08-1969

REVIEWED BY mtg

DATE 10/16/91

=====

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A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-07083	09S	15E	12	SW	SW	NE	13	GOODING
A36-07083	09S	15E	12	SE	SE	NW	12	GOODING
A36-07083	09S	15E	12	NE	SE	NW	12	GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-07568	R36-08330
A36-07151	R36-08374
A36-08330	R36-02905
A36-02709	
A36-02905	

WR RECORDS IN SAME 40 ACRE TRACT

36-07568
36-08600
36-07033
36-07164
36-07653
36-08330
36-08374
36-08390

SOURCE: CRYSTAL SPRINGS

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-07083	09S	15E	12		SE	NW	12	GOODING
36-07083	09S	15E	12		SW	NE	13	GOODING
36-07083	09S	15E	12		NE	SE	14	GOODING
36-07083	09S	15E	12		NW	SE	15	GOODING

OTHER WR RECORDS WITH SAME WR POD

36-07033
36-07164
36-07568
36-07653
36-08330
36-08374
36-08390
36-08600

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A36-08374	R36-08330
A36-07568	R36-08374
A36-08330	R36-02709
A36-02709	
A36-02905	
A36-07151	

SOURCE: CRYSTAL SPRINGS

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

	DUE TO POD DISCREPANCY? (Y/N)	DUE TO SOURCE DISCREPANCY? (Y/N)	DATABASE	FIELD EXAMINER
	Y	N	Y	N

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REMARKS:

The actual points of diversion match those on the license except that they are not described by 10 acre tracts on the license. The entire ditch area used to supply the facility will be included in the PID description. The springs all feed into this ditch.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
09S	1SE	12	SW	SW	NE	13	Gooding
09S	1SE	12	SE	SW	NE	13	Gooding

SOURCE: CRYSTAL SPRINGS

TRIB: SNAKE RIVER

REVIEWED BY: WJS

DATE: 10/16/91

Recommended Points of Diversion (cont.):

Twp.	Rge.	Sec.	1/4	1/4	1/4	Lot	County
09S	1SE	12	NE	SE	NW	12	Gooding
09S	1SE	12	SE	SE	NW	12	"
09S	1SE	12	NE	NW	SE	15	"
09S	1SE	12	NW	NW	SE	15 ¹⁴	" <u>should include</u>

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A. ROOT WATER RIGHT NUMBERS: A36-07083

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
09S	15E	12	NE	SE	14	CLEAR SPRINGS TROUT CO.	A36-07083 /	- /	4.0	~~⊕~~	~~⊕~~
			NE	SE	8	MILLARD, DAVID R.	A47-07635 / 1.0	- /			
			NE	SE	14	CLEAR SPRINGS TROUT CO.	A36-07568 /	36-07568 /			
			NE	SE	14	CLEAR SPRINGS TROUT CO.	A36-07151 /	- /			
09S	15E	12	SW	NE	15B	CLEAR SPRINGS TROUT CO.	A36-07083 /	36-07083 /		~~⊕~~	~~⊕~~
			SW	NE	13	STANDING HAT RANCH INC.	A36-07963 /25.0	36-07963 /25.0			
			SW	NE		STANDING HAT RANCH INC.	A36-08050 /14.0	36-08050 /24.0			
			SW	NE	13	STANDING HAT RANCH INC.	R36-02316 /10.0	- /			
			SW	NE	13	STANDING HAT RANCH INC.	R36-07123 /10.0	- /			
			SW	NE	13	STANDING HAT RANCH INC.	R36-07963 /10.0	- /			
			SW	NE	13	STANDING HAT RANCH INC.	R36-08050 /10.0	- /			
			SW	NE		CLEAR SPRINGS TROUT CO.		36-07151 /14.0			
			SW	NE	14	CLEAR SPRINGS TROUT CO.		36-07796 /			
			SW	NE	13	STATE OF IDAHO		36-08600 /			
			SW	NE	13	STATE OF IDAHO		36-08390 /			
09S	15E	12	NW	SE	15	CLEAR SPRINGS TROUT CO.	A36-07083 /	- /		~~⊕~~	~~⊕~~
			NW	SE	15	CLEAR SPRINGS TROUT CO.	A36-07568 /	36-07568 /			
			NW	SE	15	CLEAR SPRINGS TROUT CO.	A36-07151 /	- /			
			NW	SE	7	HURST, W. R.		36-02905 / 5.0			
			NW	SE	7	HURST, W. R.		47-02077 / 5.0			
			NW	SE	7	CRYSTAL SPRINGS RANCH INC.		47-07635 / 6.0			
TOTAL ACRES							A36-07083		4.00		

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N(X)
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
Y

Recommend only SWNE & NWSE under this right.

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don't recommend this 40 ac

PRESUMPTION FLAG:

REMARKS:

Pou should be recommended as claimed, not as licensed. Everything in the licensing file refers to G.L.s 13 & 15 as the POU, but the database shows the POU as the SWNE & SENW, possibly an error when Lot numbers were given 40 acre descriptions. Claimed POU's are correct except for change shown on pg. 6.

RECOMMENDATIONS:

TOTAL ACRES: 0

REVIEWED BY: YMS

DATE: 10/16/91

Recommended
POU:

~~95~~	~~15E~~	~~12~~	~~NESE~~	~~Lot 14~~
95	15E	12	SWNE	Lot 13
95	15E	12	NWSE	Lot 15

6/5/92 POU under this right should describe only the older portion of the facility, instead of the entire facility. Right # 36-07568 will describe the POU of the new part of the facility. YMS

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A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-07083 FISH PROPAGATION	FROM 01-01 TO 12-31	300.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		300.000 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-07083 FISH PROPAGATION	FROM 01-01 TO 12-31	300.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		300.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATABASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	N	<u>N</u>
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	N	<u>Y</u>
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	N	<u>N</u>

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER? Y(X) N() Explain in remarks, below.

REMARKS:

A portion of the total flow rate claimed will not be allowed because of evidence supplied by the claimant after the field exam. See memo in file dated 10/10/91

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y(X) N()

AJ TOTAL CLAIMED DIVERSION RATE: 300.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 300.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

FIELD
DATABASE EXAMINER
N N

B.

MEASUREMENT METHOD Information supplied by claimant, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y(X) N(X) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE 36-07568 np 6/5/92

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A47-07635	WASTE WATER	MILLARD, DAVID R.	0.860	0.020		
A36-08050	GROUNDWATER	STANDING HAT RANCH INC.	4.060	0.016		
R36-02316	GROUNDWATER	STANDING HAT RANCH INC.	2.400	0.003		
R36-07123	GROUNDWATER	STANDING HAT RANCH INC.	3.900	0.005		
R36-07963	WASTE WATER	STANDING HAT RANCH INC.	3.630	0.005		
R36-08050	GROUNDWATER	STANDING HAT RANCH INC.	1.840	0.002		

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-07083	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	300.000 CFS	
A36-07568	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	200.000 CFS	
A36-07151	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	100.000 CFS	

Claims A36-7151 & A36-7568 will ~~both~~ be disallowed because ~~they are~~ ^{it is} unnecessary.
See CURs for ~~those~~ ^{that} claims for more information.
np 6/5/92

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D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. ~~IRRIGATION~~ ^{Evaporation} CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AF/A
ACRES 7.13 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 = 28.52
TOTAL CONSUMPTIVE USE 28.5 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A
ACRES _____ x DIVERSION VOL. AF/A FOR AREA 3.0 = _____
TOTAL DIVERSION VOLUME 195,471.1 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X)

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

No diversion volume needed because source is surface water & div.
volume has not been claimed. (see Memo #34) mp 11/14/91
Consumptive use due to evaporation is "de minimus". mp 7/1/92

1b. CALCULATIONS

mp 6/17/92
468,450
~~495,180~~
total pond volume = 932,364 ft³
495,180 468,450
932,364 ft³ x 1 acre = 7.13 acres
3 ft depth 43,560 ft² 3.79

270 ft³ x 3600 sec x 24 hr x 365 days x 1 acre =
sec hr day yr 43,560 ft²
195,471.1 ac-ft/yr

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mp 6/5/92

mp 1/16/92

4.0 mp 1/16/92

3.0 = 28.52

28.5 mp 1/16/92

3.0 =

195,471.1 ac-ft/yr

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
FISH PROPAGATION	01-01 12-31	DATABASE EXAMINER 300.000 ~~270.00~~ <i>269.96</i> <i>6/18/92</i>	DATABASE EXAMINER ~~105,477~~ <i>11/14/91</i>	DATABASE EXAMINER 0.0 ~~21.4~~ <i>28.5</i> <i>7/11/92</i>
TOTAL FOR THIS RIGHT		300.000		0.0 <i>de minimus</i> <i>1/16/92</i>
REVIEWED BY: <i>ms</i>		DATE: <i>10/21/91</i>		

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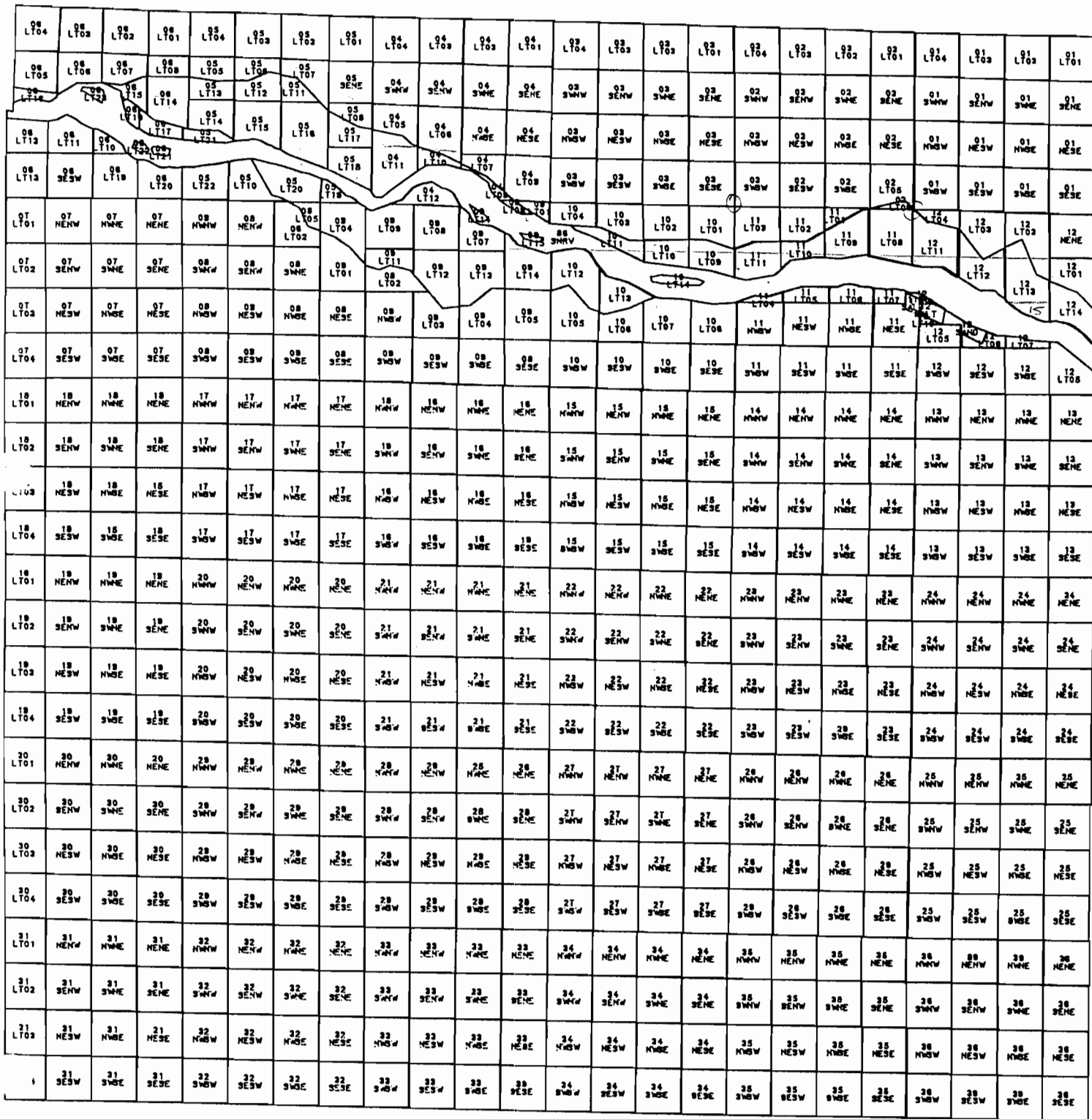
FEB 03 1993



T95 RISE Section 12
Clear Springs Trout Co.
A36-07083



09S 15E



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FEB 03 1993

in Lots 12 & 13, Sec. 12, T. 9 S., R. 15 E. B.M.

AP-B

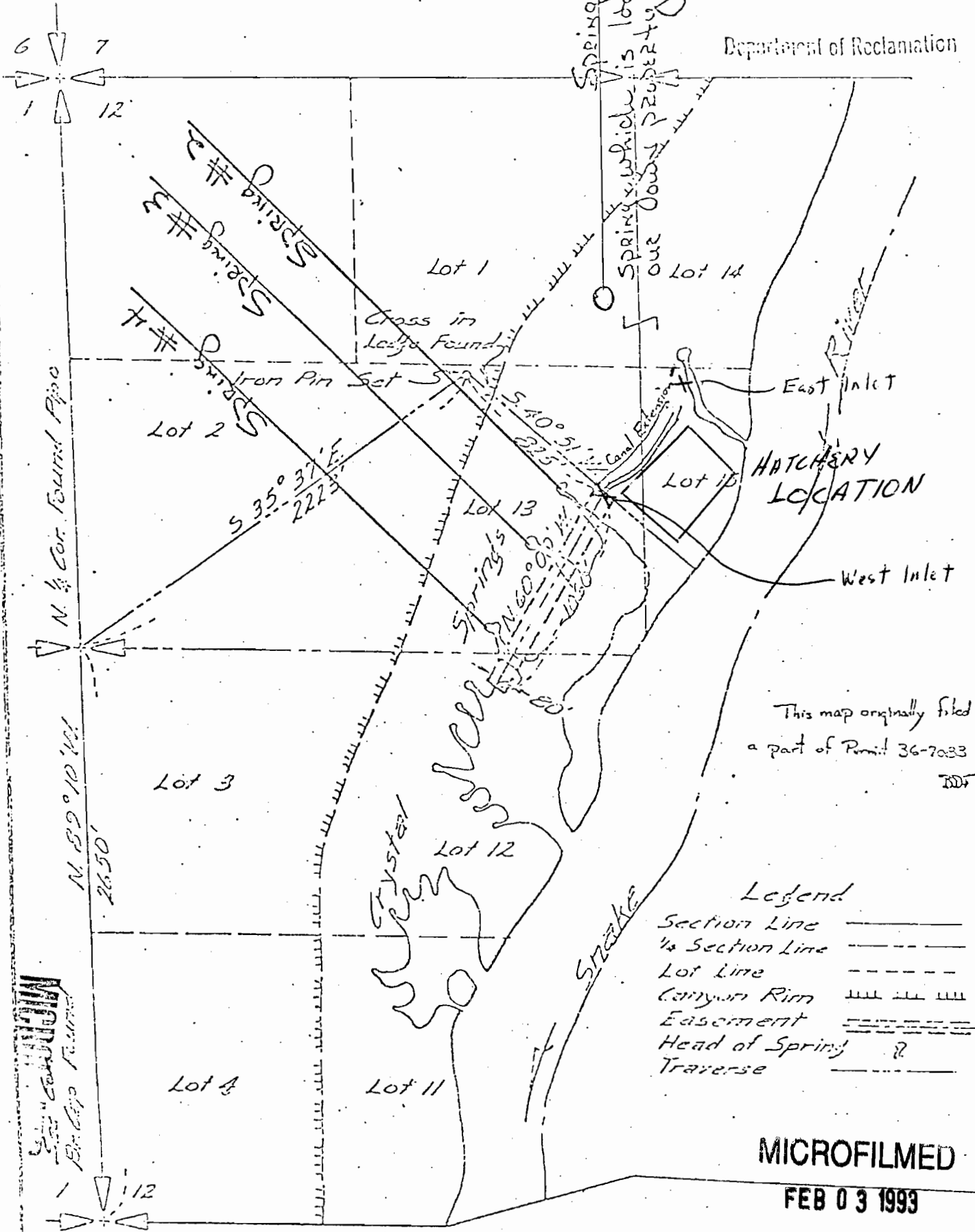
DEC 5 1969

Dept. of Natural Resources
Southern District Office

RECEIVED

DEC 12 1969

Department of Reclamation

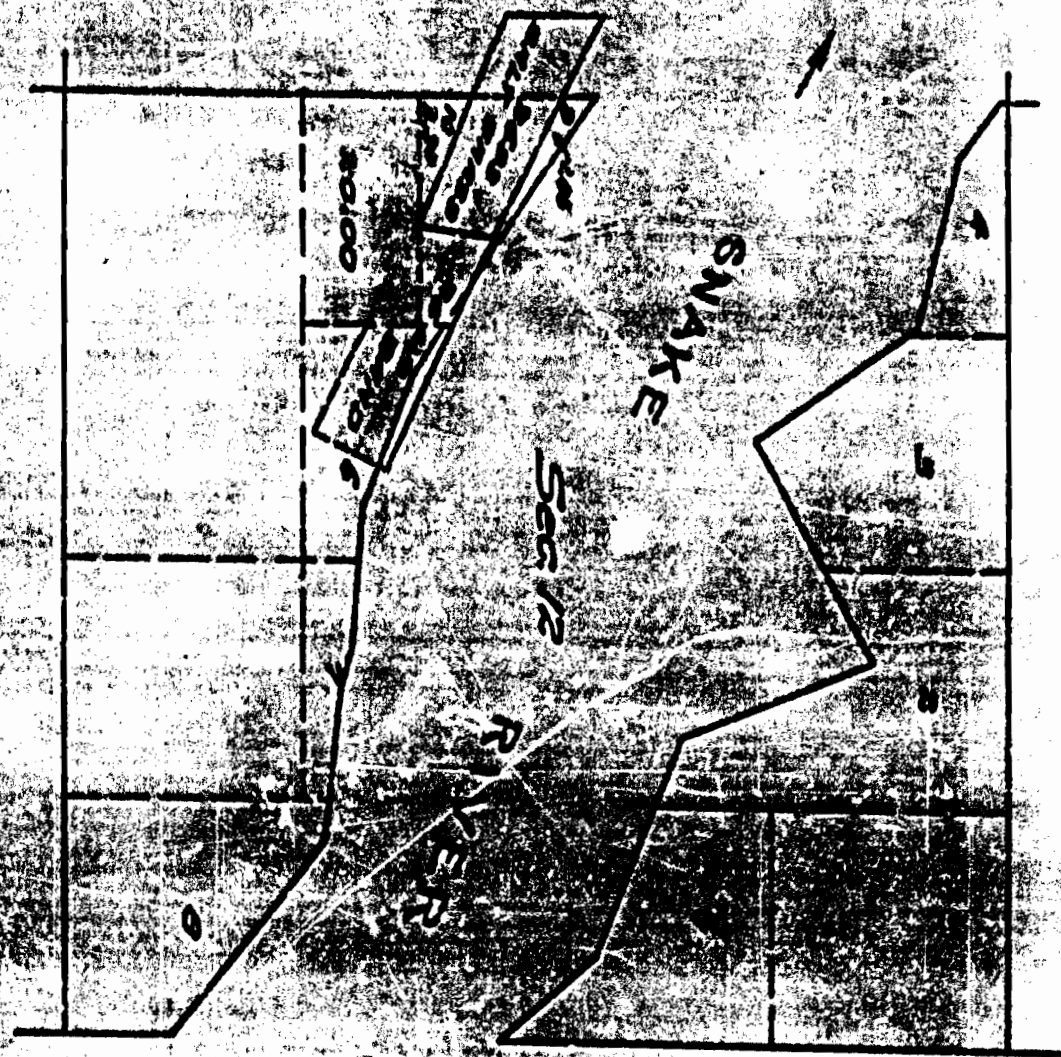


This map originally filed as
a part of Permit 36-7033

RD

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FEB 03 1993



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FEB 03 1993

This amendment plot is

Date: 6/18/91

Time: ~1:30 p.m.



springs collected here + 13cfs of it sent to Clear Springs Trout Co.
The rest is sent through the covered ditch shown under the river
to another hatchery. This source is the most westerly one for the hatchery.



Date: 6/18/91
Time: ~1:30 p.m.

Looking east. Ditch which source springs flow into begins here.
Hatchery is at east end, just beyond Crystal Lake

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RECEIVED

MAR 14 1977

- Phone _____
Department of Water Resources
Southern District Office
Phone _____

- Crystal Springs
(name spring, stream, etc.)
Snake River

- Permit No. 36-7083
Examination for b/u

- Measuring device required: yes ☒ no ☐

- [illegible]

TOTAL ACREAGE

DATE OF EXAM 11-29-77

ACREAGE
Found ✓
Recommended ✓

Irrigation Requirement ✓ Ac Ft/Ac

USE
Irrigation Q= c.f.s. V= AF/Ann. from to
Domestic Q= c.f.s. V= AF/Ann. from to
Livestock Q= c.f.s. V= AF/Ann. from to
Fish Propagation Q= 300 c.f.s. from Jan. 1 to Dec. 31

Is water co-mingled? yes no ✓

Name source:
twp. N/S, Rge E/W, B.M., Sec. Sub. 1/4 1/4
County

Exchange? yes no ✓

Name source exchanged with:
twp. N/S, Rge E/W, B.M., Sec. Sub. 1/4 1/4
County

Point of injection:
twp. N/S, Rge E/W, B.M., Sec. Sub. 1/4 1/4
County

Point of exchange:
twp. N/S, Rge E/W, B.M., Sec. Sub. 1/4 1/4
County

Total Q measured 335.1 c.f.s. Method of measurement SEE Discharge Notes
By C.E. BROCKWAY

Total Q recommended 300.0 c.f.s. Meter No. ✓ Type ✓ Condition NEW

Total V recommended N/A

Recommended Amendments:

P.D. Gov. Lts 12, 13, 14, 15 Sec. 12 T. 9 S. R. 15 E.
Place of Use Gov. Lts 13, 15 Sec. 12 T. 9 S. R. 15 E.
Other
None

MEASUREMENT CALCULATION:

4.1 c.f.s. Hatchery Weir
289.0 c.f.s. C. Rated Section
21.3 c.f.s. EAST WEIR
20.7 c.f.s. WEST WEIR
335.1 c.f.s. TOTAL MEASURED By C.E. BROCKWAY P.E. (See Engineering Report)
335.1

SYSTEM DESCRIPTION:

(SEE MEMO)

REMARKS:

Examiner's Signature Gary Funderburg Date 12/16/77

Checked by _____ Date _____

Approved by Michael L. Steele Date 1-10-78

POL
12/12
10/12
SWNE

36-07083

Field examined: 11/29/77

Permit app recd: 7/8/64

Licensed: 5/4/79 2/11/78

Brooklyn's memo: 11/29/77

Total measured: 335.1 cfs

Total applied for: 300 cfs

Total licensed: 300 cfs

Priority date: 7/8/60

SWSWNE
SESENW
NESENW
SENW
SWNE
NESE
NWSE

SWNE
SENW

SWNE
NESE
NWSE

36-0715

Field examined: 10/15/73

Permit app recd: 1/13/71

Licensed: 5/4/79 3/21/74

Measurement: 10/12/73

Total measured: 232.5 cfs

Total applied for: 100 cfs

Total licensed: 100 cfs

Priority date: 1/21/71

End by Brooklyn (?)

NE NW SE
NE SE NW
SESE NW
SWSW NE
SESW NE
NWNE SE

NESE
NWSE

SWNE
SENE
SENW

36-07568

Field examined: 9/10/73

Permit app recd: 8/15/75

Licensed: 1/17/84

Measurement: 11/29/77

Total measured: 335.1 cfs

Total applied for: 200 cfs

Total licensed: 200 cfs

Priority date: 9/16/75

(conditioned so total ≤ 232.5 cfs)

NWNE
NE NW SE
SWSW NE
SESW NE
NESE NW
SESE NW

SE NW
SWNE
NESE

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FEB 03 1993

NESE
NWSE

NESE
NWSE

C. E. BROCKWAY P. E.
ENGINEERING CONSULTANT

RECEIVED

DEC 2 1977

Department of Water Resources
Southern District Office

Mr. Gary Funderburg
Idaho Department of Water Resources
1041 Blue Lakes Blvd. N.
Twin Falls, ID 83301

Re: Permit No. 36-7083
Clear Springs Trout Co.
Crystal Springs Unit

Dear Mr. Funderburg:

The diversion for this permit and license 36-7151 consists of three diversions from Springs on or adjacent to the Clear Springs facility. The following are the diversions and measuring devices currently in place:

<u>Location</u>	<u>Device</u>	<u>Remarks</u>
(1) West Inlet	C Rated Concrete Section	Rating curve completed 4-5-77
(2) Hatchery Pipe	4.0' Rectangular suppressed weir	Completed August 1977. Rating curve includes velocity of approach
(3) & (4) East Inlet	1,8.67' and 1,8.75' rectangular suppressed weir	Completed November 1977 Rating curve includes velocity of approach

The rating curves for all three diversions are enclosed. The maximum reading I have observed on the hatchery weir was 1.45' on August 17, 1977 corresponding to a discharge of 4.1 cfs.

The west inlet has been measured with a current meter four times to define the rating curve. The maximum gage reading which I have observed was 1.44' on September 19, 1977. This reading corresponds to a discharge of 289 cfs on the rating curve. A reading of 1.41' corresponding to a discharge of 282 cfs was observed on August 17, 1977 and a reading of 1.42' on February 9, 1977 was observed.

Groundwater, Hydrology,
and Hydraulic Engineering

Route 1, Box 186
Kimberly, Idaho 83341

December 1, 1977

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Mr. Gary Funderburg

-2-

December 1, 1977

The twin weirs on the east inlet were only recently completed. On November 29, 1977 the east weir read 0.80" and the west weir read 0.79 in. The corresponding discharges are 21.3 and 20.7 cfs for a total east inlet flow of 42.0 cfs.

I hope this information will be sufficient for the field exam for proof of beneficial use.

Sincerely,



C. E. Brockway, P.E.

CEB:ld

cc: John Hepworth
Nyal Hoffman

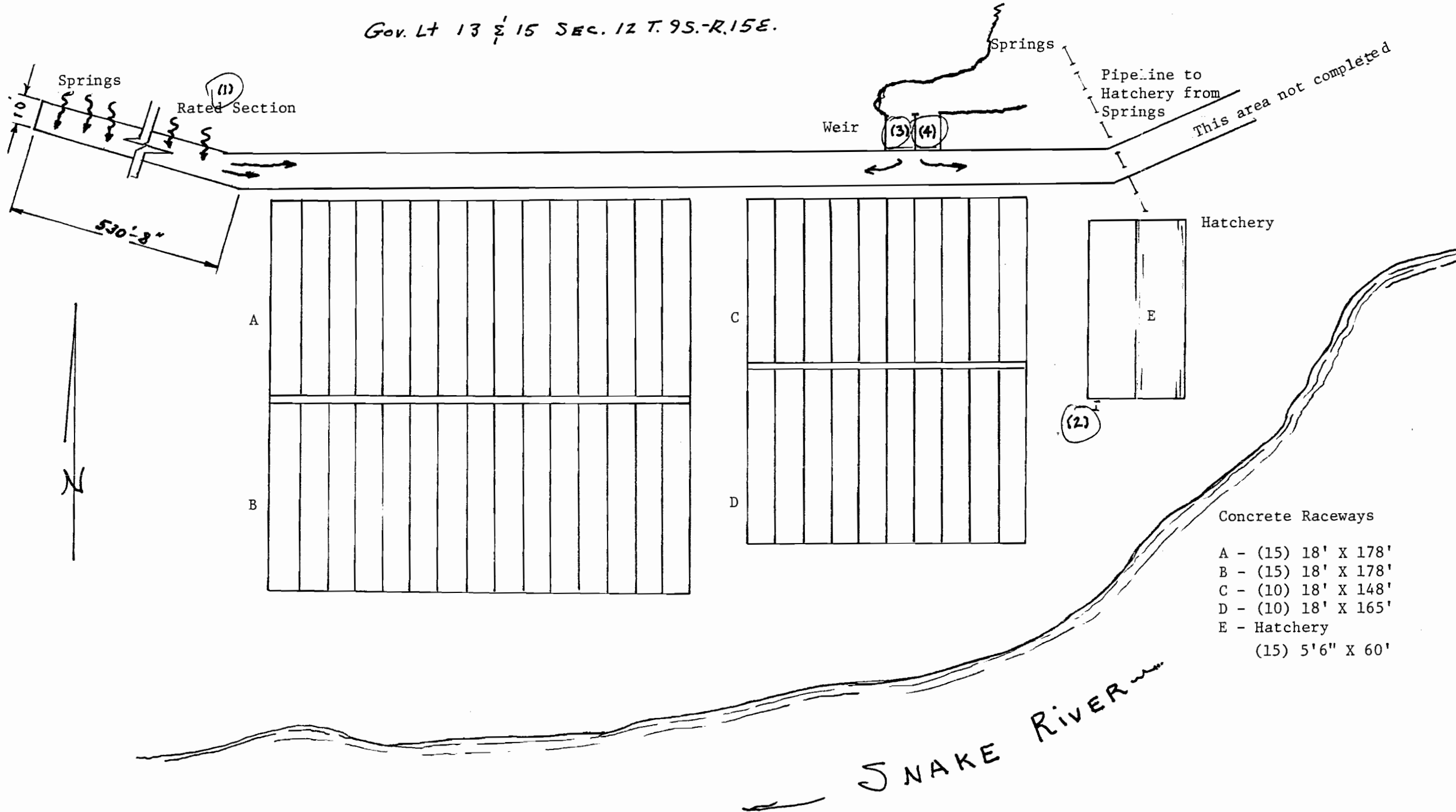


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MAP-A

Gov. Lt 13 $\frac{1}{2}$ 15 SEC. 12 T. 9S. R. 15E.



Concrete Raceways

- A - (15) 18' X 178'
- B - (15) 18' X 178'
- C - (10) 18' X 148'
- D - (10) 18' X 165'
- E - Hatchery
- (15) 5'6" X 60'

RECORDED

MEMORANDUM

The source of water for this permit is known as Crystal Springs which is a series of springs located within Gov. Lots 12, 13, 14, & 15 of Section 12, Twp. 9S, Rge. 15E,. (See diagram B)

The water from these springs are conveyed to the raceways through a concrete ditch 10 feet wide and approximately 530 feet long. (See attached map A).

At the location of the diversions there are four measuring devices.

1. rated section (see rating curve).
2. 4 ft. rectangular suppressed weir (see rating curve, curve includes correction for velocity of approach).
3. 8.67' rectangular suppressed weir (see rating curve, curve includes correction for velocity of approach).
4. 8.75' rectangular suppressed weir (see rating curve, curve includes correction for velocity of approach).

Measuring devices were designed and rated by C. E. Brockway, Professional Engineer.

Chart 1 & 2 represent the rating curve and table for the two rectangular suppressed weirs at the East inlet (weirs # (3)(4)) see diagram A.

Chart 3 & 4 represents the rating curve and table for the rectangular suppressed weir located at the hatchery pipe outlet, 14" steel pipe discharges into the Snake River. The weir is built ahead of the discharge pipe, below hatchery building. Weir #2 (see diagram).

Chart 5 & 6 represents the rating curve and table for the rated section located at the West inlet (rated section 1) (see diagram).

The water that is used in the hatchery building is diverted from the springs through a 14" steel pipe and conveyed to the hatchery hatching trays.

There are 60 concrete raceways and 15 concrete hatching ponds in the hatchery (see diagram A for these sizes).

At the time of the field exam, C. E. Brockway and Ted Eastham of Clear Springs Trout Co. were present. They informed me at this time of year the springs are at their low flow, therefore, the measurement made by C. E. Brockway, Professional Engineer should be excepted as the measurement made for the field report.

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