

AD
9/15/8

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

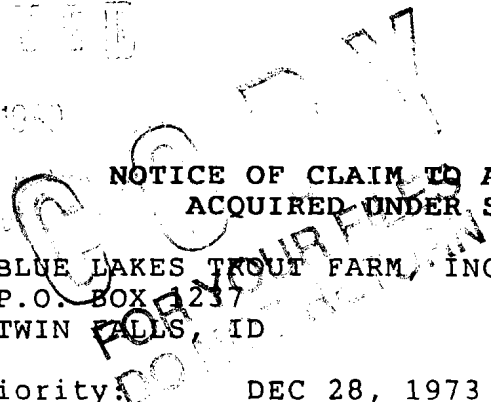
IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A36-07427
Date Received: 4/28/1989
Receipt No: 500 9188
Received By: AD

RECEIVED

OCT 11 1989



NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: BLUE LAKES TROUT FARM, INC. 208-733-4631
Address: P.O. BOX 237
TWIN FALLS, ID 83301

2. Date of Priority: DEC 28, 1973

3. Source: ALPHEUS CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	17E	28	SW	SW	SW	14	JEROME

5. Description of diverting works:
CHECK DAM TO CANAL TO RACEWAYS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	52.230		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL FISH FACILITY.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	17E	28	NW	SW	13	FISH	
			SW	NE	14	FISH	
			SE	NW	19	FISH	

MICROFILMED
OCT 19 1994

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
36-2356, 36-7210, 36-7720

14. Remarks:

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: 1

For Organizations:

I do solemnly swear or affirm that I am President of Blue Lakes Trout Farm, Inc. , that I have signed the foregoing Organization

document in the space below as President of Blue Lakes Trout Farm, Inc. and that the statements contained in the foregoing document are true and correct. Organization

 [Signature]
Signature of Authorized Agent

 President, Blue Lakes Trout Farm, Inc.
Title and Organization

 10/5/89
Date

MICROFILMED
OCT 19 1994

State of Idaho)
) SS.
County of Twin Falls)

Subscribed and sworn (or affirmed) before me this 5 day
of October 19 89

[Signature]
Notary Public

Seal

Residing at Twin Falls

My Commission Expires 12-3-92

MICROFILMED
OCT 19 1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, J. Evan Robertson will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature *J. Evan Robertson*

Nelson, Rosholt, Robertson, Tolman & Tucker

Address P.O. Box 1906, Twin Falls, ID 83303

Date 10-12-89

Last Name Blue Lakes Trout Ident. Number _____

MICROFILMED

FEB 03 1993

MICROFILMED

OCT 19 1994

Copies White-State, Yellow-Claimant



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

18-Jul-1990 13:51

A36-07210 *
J. EVAN ROBERTSON
P.O. BOX 1906

TWIN FALLS ID 83303

RE: Field examination of a water right claimed
in the Snake River Basin Adjudication

Dear Counselor,

The field staff of this agency may need to conduct water right field examinations of your client's water right claim(s) during the coming season. The field examiner may be visiting your client's property to obtain information necessary to verify the water use.

If a field exam is necessary your client will be contacted directly about the examination unless you contact us otherwise. If you wish to accompany your client at the time of any field examination, or if you have any questions regarding the field examination, you may contact this office.

Sincerely,

Allen Merritt, P.E.
Water Rights Supervisor

*Other Water Right Numbers:

[Redacted]

J. EVAN ROBERTSON
P.O. BOX 1906

TWIN FALLS ID 83303

A36-07072
J. EVAN ROBERTSON
P.O. BOX 1906

TWIN FALLS ID 83303

A36-07720
J. EVAN ROBERTSON
P.O. BOX 1906

TWIN FALLS ID 83303

A36-02356
J. EVAN ROBERTSON
P.O. BOX 1906

TWIN FALLS ID 83303

MICROFILMED

FEB 03 1993

Water Right Number - 36-07427 Prefix Translation: WATER RIGHT Old (D) Number -

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

*** C - CURRENT OWNER ***
BLUE LAKES TROUT FARM INC.

1 - P.O. BOX 1237
2 -
3 -
City- TWIN FALLS State- ID Zip- 83301
Phone - 208-000-0000

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
12/28/1973 17 SOUTHERN L - LICENSE

+ - - Source - - - - - + + - - Tributary - - - - - +
ALPHEUS CREEK SNAKE RIVER

Point of Diversion							Stream Index (Blank if no Index Code)		
Tw	Rng	Sec	Tract	Lot	RFlg	County			
09S	17E	28	SW SW	14	(53)	JEROME	272.0	415.0	2.0

Water Use		Period From		Period To		Diversion Rate		Diversion Volume	
Code	Description								
19	FISH PROPAGATION	01/01		12/31		52.230			

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
52.230

Place of Use									
Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County	
09S	17E	28	NW SW	13		19	FISH PROPAGATION	(53) JEROME	
09S	17E	29	SW NE	14		19	FISH PROPAGATION	(53) JEROME	
09S	17E	29	SE NW	19		19	FISH PROPAGATION	(53) JEROME	

+ - - 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 - - - - - +
R01 - A measuring device of a type approved by this Department shall be
- maintained as a part of the diverting works.

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

Water Right Number - A36-07427 Adj. Flag Translation: Adjudication Temporary Work Area Old (D) Number -

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

*** C - CURRENT OWNER ***
BLUE LAKES TROUT FARM, INC.

1 - P.O. BOX 1237
2 -
3 -
City- TWIN FALLS State- ID Zip- 83301
Phone - 208-733-4631

*** A - ATTORNEY ***
ROBERTSON

J. EVAN

1 - P.O. BOX 1906
2 -
3 -
City- TWIN FALLS State- ID Zip- 83303
Phone - 208-000-0000

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - -
12/28/1973 17 L - LICENSE

+ - - - - Source - - - - - + + - - - - - - - - Tributary - - - - - - - - -
ALPHEUS CREEK SNAKE RIVER

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

09S 17E 28 SW SW 14 (53) JEROME

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

19 - FISH PROPAGATION 01/01 12/31 52.230

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
52.230

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

09S 17E 28 NW SW 13 19 FISH PROPAGATION (53) JEROME
09S 17E 29 SW NE 14 19 FISH PROPAGATION (53) JEROME
09S 17E 29 SE NW 19 19 FISH PROPAGATION (53) JEROME

Total Acres:

+ - - Diversion Means - CHECK DAM TO CANAL TO RACEWAYS. ✓

+ - - Non-Irrigation Use - ~~COMMERCIAL FISH FACILITY.~~

+ - - Other Rights for Same Use - ~~36-2356, 36-7210, 36-7720~~

A36-02356, A36-07210, A36-07720 ✓

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

Water right number - A36-07427

Adj. flag translation: Adjudication Temporary Work Area

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

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

+ - - - - Conditions of Approval - - - - - +
R01 - A measuring device of a type approved by this Department shall be
- maintained as a part of the diverting works.

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

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

+ - - Audit Fields - 09/15/89 MERRITT 10/13/89 MERRITT

+ - - - - 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 - 04/23/1985 | Old Judicial District - |
| Claim Received Date - 09/15/1989 | Last Amended Date - 00/00/0000 | Temporary Right - P |
| Claims Tape Error Flg - | Receipt Number - S009188 | Water District - |
| Fee Exempt Flag - | POU Ownership Flag - Y | Federal/State Indicator - S |
| | Name Connector - | Presumption Flag - |

Water Right Number - ~~236-07217~~ Adj. Flag Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
BLUE LAKES TROUT FARM INC.

1 - P.O. BOX 1237
2 -
3 -
City- TWIN FALLS State- ID Zip- 83301
Phone - 208-733-4631

*** A - ATTORNEY ***
ROBERTSON

J. EVAN

1 - P.O. BOX 1906
2 -
3 -
City- TWIN FALLS State- ID Zip- 83303
Phone - 208-000-0000

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
12/28/1973 17 Error in Region L - LICENSE

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
ALPHEUS CREEK SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County (Blank if no Index Code)

09S 17E 28 NE SW SW 14 (53) JEROME

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

19 - FISH PROPAGATION 01/01 12/31 52.230 ~~160000.00~~
37,746.6

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
52.230 ~~160000.00~~ 37,746.6

+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County

09S 17E ~~28~~ NW SW ~~13~~ 19 FISH PROPAGATION (53) JEROME
09S 17E ~~29~~ SW NE ~~14~~ 19 FISH PROPAGATION (53) JEROME
09S 17E 29 SE NW 19 19 FISH PROPAGATION (53) JEROME

Total Acres:

+ - - Diversion Means - CHECK DAM TO CANAL TO RACEWAYS.

+ - - Non-Irrigation Use - FISH/ COMMERCIAL FISH FACILITY, 10 ponds @ 20 X 200 X 4

+ - - Other Rights for Same Use - ~~A36-02356, A36-07210, A36-07720~~ NONE

Water right number - R36-07427

Adj. flag translation: RESEARCH

+ - - - - Remarks - - - - -
No Remarks found. *DOG = 3.67*

+ - - - - Old Water Right Numbers - - - - -
No Old Water Right Numbers Found *F06 = 36-2356, 36-7210*

+ - - - - Conditions of Approval - - - - -
del ~~R04~~ - A measuring device of a type approved by this Department shall be maintained as a part of the diverting works. *605, C09*

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

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

+ - - Audit Fields - - +
BEDKE

** Fac Vol = 160,000 cuf*

+ - - - - Water Rights Dates and Flags Area - - - - -
Temporary Right -P Receipt Number - S009188 Water District
Ponds in use are separate + different from those described under Rts. 36-2356 + 36-7210

Water right number - R36-07427

Prefix Translation: RESEARCH

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

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

3607427

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

C09 - PORTION OF RIGHT FORFEITED/ABANDONED.

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

00/00/0000

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

Date: 09/04/1991 User Id: CLELLAND Subject: FACILITY VOLUME
160,000 CUBIC FEET. PONDS IN USE ARE SEPARATE AND DIFFERENT FROM THOSE DESCRIBED UNDER RIGHTS 36-02356 & 36-07210.

+ - - Audit Fields - - +

09/04/91 CLELLAND

+ - - - - 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 - 09/04/1991 | Old Judicial District - |
| Claim Received Date - 09/15/1989 | Last Amended Date - 00/00/0000 | Temporary Right - P |
| | Receipt Number - S009188 | Water District - |
| | POU Ownership Flag - Y | Federal/State Indicator - S |
| | Name Connector - | Presumption Flag - |
| | | Notice of Error Flag - |

RECEIVED

NOV 3 - 1999

Department of Water Resources

RECEIVED

NOV 08 1999

Department of Water Resources
Southern Region

1999 NOV -1 AM 10:14

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

North Snake Ground Water District

D. Craig Lewis
University of Idaho
College of Law
6th & Rayburn Street
Moscow, ID 83843
(208) 885-6422
ISB No. 2063

'R' records modified 11-5-99.

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

In Re SRBA

Case No. 39576

Subcase Nos. 36-07071, 36-02356,
36-07210, 36-07427, 36-07720, 36-02659,
36-07004, 36-07080, and 36-07731

**Notice of Appearance as Co-Counsel
(Consolidated Issues)**

*A. Antemp
Bin half*

PLEASE TAKE NOTICE that D. Craig Lewis hereby enters his appearance as co-counsel to represent the North Snake Ground Water District in the above-mentioned subcases.

DATED this 1st day of November, 1999.



D. Craig Lewis

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of November, 1999, I caused to be served copies of the foregoing **Notice of Appearance as Co-Counsel (Consolidated Issues)** by the method indicated:

Patrick D. Brown
109 S. Adams Street
Jerome, ID 83338
* U.S. Mail Fed Ex Hand Fax

Dan Steenson
Ringert Clark
P. O. Box 2773
Boise, ID 83701-2773
 U.S. Mail Fed Ex Hand Fax

Norman Semanko
John E. Robertson
Rosholt, Robertson & Tucker
P. O. Box 1906
Twin Falls, ID 83303
 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:\1780\2\ac\CSF3640

RECEIVED

AUG 31 1998

Department of Water Resources
Southern Region

RECEIVED

AUG 26 1998

Department of Water Resources

South
DJ

1998 AUG 21 PM 2:06

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

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

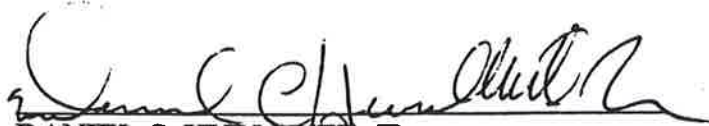
) Subcase Nos. 36-02356, 36-07210, 36-
) 07427, 36-07720 (Blue Lakes)

) ORDER STAYING PROCEEDINGS ON
) CHALLENGE

On July 23, 1998, The North Snake Ground Water District filed a *Notice of Challenge* in the above subcases. The court has reviewed the issues to be challenged and finds them to be similar or identical to issues in other subcases currently before the Special Masters. In the interests of judicial economy, the proceedings in the above challenges are STAYED. These subcases will be reviewed when subcases in which these matters arise are completed by the Special Masters.

IT IS SO ORDERED

DATED August 21, 1998



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

ORDER STAYING PROCEEDINGS
ON CHALLENGE

MEMO

TO: JACKIE WAKEFIELD
FROM: CHERYL CATHER, SRBA RECORDS CLERK
DATE: OCTOBER 1, 1998
SUBJECT: ALPHEUS CREEK WATER RIGHTS COPIES

HERE IS A LIST OF THE FILES AND LICENSES YOU REQUESTED COPIED:


TRANSFER OF WATER RIGHT AND EXAMINERS REPORT

1. 36-02603A
2. 36-02646

WATER RIGHTS COMING OUT OF ALPHEUS CREEK

1. 36-02083A BLUE LAKES COUNTRY CLUB
2. 36-02083B BLUE LAKES COUNTRY CLUB
2. 36-02356 BLUE LAKES TROUT FARM
3. 36-07210 BLUE LAKES TROUT FARM
(LICENSE INCLUDED)
4. 36-07239 J.D. MCCOLLUM
(LICENSE INCLUDED)
5. 36-07427 BLUE LAKES TROUT FARM
(LICENSE INCLUDED)
6. 36-14746 BLUE LAKES COUNTRY CLUB
7. 36-15455 J.D. MCCOLLUM
8. 36-02603B
9. 36-02603C PRISTINE SPRINGS...NOTE THAT B&C ARE
IN THE SAME FILE GROUP.

MEMO

TO: JACKIE WAKEFIELD
FROM: CHERYL CATHER, SRBA RECORDS CLERK 
DATE: OCTOBER 1, 1998
SUBJECT: ALPHEUS CREEK WATER RIGHTS COPIES

HERE IS A LIST OF THE FILES AND LICENSES YOU REQUESTED COPIED:

TRANSFER OF WATER RIGHT AND EXAMINERS REPORT

1. 36-02603A
2. 36-02646

WATER RIGHTS COMING OUT OF ALPHEUS CREEK

1. 36-02083A BLUE LAKES COUNTRY CLUB
2. 36-02083B BLUE LAKES COUNTRY CLUB
2. 36-02356 BLUE LAKES TROUT FARM
3. 36-07210 BLUE LAKES TROUT FARM
(LICENSE INCLUDED)
4. 36-07239 J.D. MCCOLLUM
(LICENSE INCLUDED)
5. 36-07427 BLUE LAKES TROUT FARM
(LICENSE INCLUDED)
6. 36-14746 BLUE LAKES COUNTRY CLUB
7. 36-15455 J.D. MCCOLLUM
8. 36-02603B
9. 36-02603C PRISTINE SPRINGS...NOTE THAT B&C ARE
IN THE SAME FILE GROUP.

RECEIVED

MAY 01 1998

Department of Water Resources
Southern Region

RECEIVED

MAR 19 1998

Department of Water Resources
Adjudication Bureau

3-18

1998 MAR 18 AM 11:03

SRBA
IDAHO

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 36-02356, 36-07210, |
| |) | 36-07427 and 36-07720 |
| Case No. 39576 |) | |
| _____ |) | SPECIAL MASTER'S REPORT |
| |) | (Amended) |

FINDINGS OF FACT

Claims and Director's Report:

36-02356

Blue Lakes Trout Farm, Inc. (Blue Lakes), was granted leave to file its second amended notice of claim under 36-02356 on July 2, 1997. It claimed a total of 100 cfs from Alpheus Creek for fish propagation, domestic and commercial uses with a priority date of May 29, 1958, based on a license. In his *Amended Director's Report Regarding Claim to Water Right No. 36-02356*, dated July 7, 1997, the Director recommended the claim as filed. However, under the quantity element, the Director included the language -- facility volume 10.66 af. The Director also described the non-irrigation uses: "commercial/fish facility; domestic/2 homes; fish/49 ponds, hatch." The single contested issue in this and the other three subcases is whether facility volume should be decreed by the SRBA Court for fish propagation water rights.

36-07210

Blue Lakes filed its claim under 36-07210 claiming 45 cfs from Alpheus Creek for fish propagation with a priority date of November 17, 1971, based on a license. The Director recommended the claim as filed, but under remarks, the Director included the same language as before -- facility volume 10.66 af. The Director described the non-irrigation uses: "fish/49 ponds, 38 hatchery tanks."

36-02356- 15 af
36-07210- 15 af
36-07427- 5.2 af
36-07720- 1.5 af.

Reporter's Transcript, p. 137.

Blue Lakes called as its only witness James E. Parsons, research and technical director for Blue Lakes Trout Farm. Clear Lakes called Harold Johnson, office manager of Idaho Trout Processors, the processing and sales company for trout raised at several hatcheries, including Clear Lakes, Rimview, Rainbow, White Springs and Fisheries Development.

At the close of trial, counsel for Blue Lakes and Clear Lakes asked to submit post-trial memoranda in lieu of closing argument. Blue Lakes lodged its *Post-Trial Memorandum* on September 15, 1997. Clear Lakes lodged its *Post-Trial Brief* on September 17, 1997.

TESTIMONY

David R. Tuthill, Jr.

Mr. Tuthill stated in his *Report* that IDWR recommended facility volume in fish propagation rights pursuant to I.C. §42-1411(2)(j) and I.C. §42-1411(2)(k).² *Report*, p. 2. Those provisions required:

The director shall determine the following elements, to the extent the director deems appropriate and proper, to define and administer the water rights acquired under state law:

...

(j) conditions on the exercise of any water right included in any decree, license, or approved transfer application; and

(k) such remarks and other matters as are necessary for definition of the right, for clarification of any element of a right, or for administration of the right by the director.

Given those duties, Mr. Tuthill essentially said the Director recommended facility volume for fish hatcheries to protect water quality and water quantity:

7. To the extent necessary to satisfy their rights, water right holders are entitled to the maintenance of both water quantity and quality on their water source as of the date of their appropriation of water.

² In 1997, I.C. §42-1411(2)(j) was amended to become I.C. §42-1411(2)(i). I.C. §42-1411(2)(k) is now I.C. §42-1411(2)(j).

original license or decree, we identify those three parameters at this point in the adjudication.

Reporter's Transcript, pp. 16-17.⁴

Mr. Tuthill could not think of any other use of water for which IDWR identified the quantity element three different ways. *Reporter's Transcript*, p. 18. He said IDWR decides what may or may not be necessary to define or administer a water right based on administrative experience:

So with fish propagation, for example, we found that quantification of rate of flow and volume diverted was not sufficient. So we added facility volume as a further quantification to resolve problems that had come up on Billingsley Creek.

Reporter's Transcript, pp. 19-20.

Later in his testimony, Mr. Tuthill agreed that disputes between fish propagators along Billingsley Creek actually concerned water quality rather than water quantity:

Well, the department for decades paid no attention to water quality. As a result of competition for rights in the Billingsley Creek area, in the Hagerman area, we began to look at impacts to water quality as affecting water rights, water quantity rights.

Reporter's Transcript, p. 42.⁵

Mr. Tuthill suggested that facility volume is necessary for future administration:

It's my understanding that in the SRBA we need to provide attributes to the water rights that define extent of beneficial use. Now, if a water right changes over time, then one needs to be able to go back and see what water right was originally decreed.... Does that mean that we're measuring water quality within the department of water resources? No. It means that we're defining the water right so that if

⁴ IDWR's goal is to include facility volume in all fish propagation rights, both existing and future. *Reporter's Transcript*, p. 155.

⁵ The following discussion took place near the end of Mr. Tuthill's testimony:

THE COURT: Well, if you're concerned about water quality with fish facilities, does that concern for quality apply to any other users other than fish propagators?

A. Historically, other uses that have negative impact on quality would be irrigation. And in most cases an irrigation return flow is still acceptable for further irrigation. So it hasn't been a show stopper for other irrigation rights.

Industrial and commercial uses that have a high impact on water quality are often totally consumptive relative to the source. They either treat the water or land [?] apply it or do something different.

Fish propagation is the one use where return flow has affected other users to the point of being problematic from a water delivery standpoint, the quality of return flow.

Reporter's Transcript, p. 154.

A. We would solicit input from DEQ; however, we could not delegate our responsibility to DEQ because it's a responsibility attributed to the department of water resources.

Q. Has the department of water resources in its rules adopted any standards or rules with respect to water quality?

A. There are rules relative to water appropriation, water allocation, appropriation of new water rights which define local public interest. And in that they define the water quality. But specific water quality parameter rules have not been adopted.

Reporter's Transcript, pp. 79-80.

Mr. Tuthill said that facility volume "incorporates a storage component." However, he conceded that by its own "rule of thumb," IDWR will not specify a storage right if the facility will not fill in a day. *Reporter's Transcript*, pp. 105-108. So, where a facility like Blue Lakes turns over water many times each day from a direct flow right, it is not considered a storage right.

On April 3, 1997, IDWR called a meeting of fish propagators in Basin 36 in Buhl. The purpose of the meeting was "to discuss 'facility volume' parameter of a water right with a fish propagation use." In the notice of the meeting, IDWR said it was "open to the discussion of alternative mechanisms for quantifying the water quality impacts of fish propagation facilities, to enable proper protection for and distribution of water rights." Blue Lakes Exhibit 6. Of the twenty people who attended the meeting, all who spoke opposed inclusion of facility volume. *Reporter's Transcript*, p. 24, and Blue Lakes Exhibit 9.⁷

James E. Parsons

Mr. Parsons, research and technical director at Blue Lakes Trout Farm, said they have no current plans to expand their facilities. Before any facility could be expanded, Blue Lakes would

⁷ On April 21, 1997, Idaho Fish and Game wrote to IDWR in opposition to facility volume parameter for fish propagation water rights. Fish and Game was concerned because it was changing the way it managed its conservation hatcheries and that meant changing facility configurations and rearing volumes. Fish and Game also had a suggestion:

It appears the major rationale for considering facility volume to limit a fish propagation water right is to prevent degradation of water quality to a downstream water user. IDFG suggests using the NPDES [National Pollutant Discharge Elimination System] Discharge Monitoring Report criteria... These parameters are flow related and measure the net impact any hatchery has on the water quality of a stream. Since the permits are based on the net change in these water quality parameters, changes to an upstream facility would not necessarily result in a downstream facility being unable to meet NPDES permit requirements.

Blue Lakes Exhibit 8.

Mr. Johnson views IDWR's efforts to impose facility volume on fish propagators as an effort by state agencies to micro-manage private business.

Mr. Johnson said both the Environmental Protection Agency (EPA) and DEQ have taken the position of no net increase of nutrients for the middle reach of the Snake River between Milner Dam and King Hill. That includes the area of Blue Lakes' and Clear Springs' hatcheries. It is part of the Total Maximum Daily Load (TMDL) process to reduce nuisance aquatic growth in the mid-Snake River.

Mr. Johnson said there are no disputes about water quality between fish propagators along Billingsley Creek.

CONCLUSIONS OF LAW

I.C. §42-1411(4)

The Director's recommendations of water right claims are entitled to *prima facie* weight:

The director shall file the director's report with the district court, and the director's report shall be a part of the record. Upon filing with the court, the director's report, except for the explanatory material referred to in subsection (1) of this section, shall constitute prima facie evidence of the nature and extent of the water rights acquired under state law. The unobjected to portions of the director's report shall be decreed as reported.

I.C. §42-1411(4).⁹

Idaho's Supreme Court has approved this statutory presumption and explained how it works:

The Legislature's direction that the contents of the Director's report shall constitute prima facie evidence of some water right claims was a permissible exercise of the authority, recognized in I.R.E. 301, to create an evidentiary presumption. Unless that evidentiary presumption is overcome by the evidence or the application of that presumption is clearly erroneous on its face, the facts set forth in the Director's report are established.

In Re SRBA Case No. 39576, 128 Idaho 246, 256, 912 P.2d 614, 624 (1995).

⁹ There was no argument that facility volume might be "explanatory material," probably because of how the Legislature defined the term:

The director may include such explanatory material as he deems appropriate in the director's report. Such explanatory material shall not impose any conditions or restrictions on the rights reported and shall not be subject to objection. This explanatory material shall not be used to support any notice of claim, objection to a notice of claim, or response to an objection.

I.C. §42-1411(1).

ground water. Mr. Tuthill was obviously concerned over delivery of water (quantity) when he mentioned the SRBA Court's decision in *Musser*.¹⁰ *Reporter's Transcript*, p. 157.

But as much as Mr. Tuthill and IDWR were concerned about water quantity, they were far more concerned about water quality. During Mr. Tuthill's cross-examination, *Shokal v. Dunn* was mentioned no fewer than 13 times. He agreed that water quality was the primary concern when he prepared his *Report* before trial. *Reporter's Transcript*, p. 77.

As IDWR has struggled with administrative provisions, it looked for tools to help in their efforts. In 1979, IDWR first adopted facility volume to help solve water quality disputes between fish propagators in the Billingsley Creek area. Mr. Tuthill personally drafted IDWR's 1979 "Administrator's Memorandum." Blue Lakes Exhibit 14 and *Reporter's Transcript*, pp. 7-8. The Memorandum required that facility volume be included in construction plans for all fish propagation applications for 1 cfs or greater.

While water quality along Billingsley Creek may have been a contested issue in 1979, none of those fish hatcheries now see it as a problem. In fact, they oppose any facility volume provision in their decrees because the NPDES Discharge Monitoring Report criteria and DEQ's Water Quality Standards and Wastewater Treatment Requirements protect water quality. The hatcheries view facility volume in water right decrees as duplicative and counter-productive. The fact is that whether IDWR includes facility volume in permits and licenses or the SRBA Court decrees facility volume, hatcheries must still meet EPA and DEQ water quality standards. Those are the same standards IDWR would apply before approving any facility enlargement because IDWR has no water quality standards.

The main concern with including facility volume in fish propagation water rights is that the term is amorphous. Mr. Tuthill said that facility volume "cuts across three different areas-- quantity, nature of use and place of use." *Reporter's Transcript*, p. 103. For that reason, it is virtually impossible to conclude that facility volume is necessary for definition or clarification of any element of a right or for administration of a right. It should be no surprise that Mr. Tuthill called facility volume a "parameter":

¹⁰ *Order and Memorandum Decision Granting Petition for Writ of Mandate*, dated August 5, 1993. Affirmed, *Musser v. Higginson*, 125 Idaho 392, 871 P.2d 809 (1994).

volume may be a useful tool, but it is not necessary for definition or clarification of Blue Lakes' rights or for efficient administration of the rights by the Director.

Post-Trial Proceedings

A *Preliminary Report & Recommendation and Order* was filed on October 22, 1997. Because no one then filed a motion to alter or amend, a single *Special Master's Report* with separate *Special Master's Recommendations* for 36-02356, 36-07210, 36-07427 and 36-07720 was filed on November 25, 1997.

However, on December 16, 1997, Blue Lakes filed a *Motion to Alter or Amend* in 36-02356 only. Blue Lakes sought to increase the annual volume for domestic use and proportionately increase the total annual volume for the right. On March 10, 1998, the *Order Granting Motion to Alter or Amend* was entered allowing the higher amounts in 36-02356. The other three claims remained unchanged.

Conclusion

Blue Lakes Trout Farm, Inc., is entitled to partial decrees adjudicating its water rights under claims 36-02356, 36-07210, 36-07427 and 36-07720 as described in the attached *Special Master's Recommendations for Partial Decrees for Water Rights 36-02356, 36-07210, 36-07427 and 36-07720*.

DATED: March 18, 1998.



Terrence A. Dolan
Special Master
Snake River Basin Adjudication

1998 MAR 18 AM 11:28

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *JK*

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): 36-02356
36-07210 36-07427 36-07720

CERTIFICATE OF MAILING

I certify that a true and correct copy of the SPECIAL MASTER'S
REPORT, SPECIAL MASTER'S RECOMMENDATION FOR PARTIAL DECREE and NOTICE
OF ISSUANCE OF SPECIAL MASTER'S REPORT AND RECOMMENDATION were mailed
on March 18, 1998, 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
OFFICE OF ATTORNEY GENERAL
STATE OF IDAHO
PO BOX 44449
BOISE, ID 83711-4449
Phone: 208-334-2400

1998 MAR 18 AM 11:28

DISTRICT COURT OF SRBA
TWIN FALLS, 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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

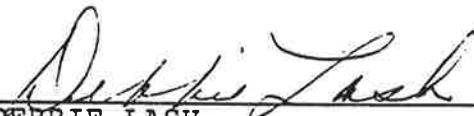
Water Right(s): 36-02356
36-07210 36-07427 36-07720

On March 18, 1998, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

Pursuant to SRBA Administrative Order 1, Section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend on or before the 28th day of the next month.

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the SPECIAL MASTER'S RECOMMENDATION shall constitute a waiver of the right to challenge it before the Presiding Judge.

DATED March 18, 1998.



DEBBIE LASH
Deputy Clerk

April 14, 1998

NOTE TO FILE

FROM: V.Hancock

CLAIM NO: 36-02659 -07004 -07080 -07731 -02356 -07210 -07427
and 36-07720

Matt Howard requested copies of these entire files. Sent copies to him at Beeman and Hoffstetter this date.

**FACILITY VOLUME REVIEW OF
BLUE LAKES TROUT FARM**

The purpose of this memo is to clarify the calculations used to arrive at the recommended facility volume for SRBA claims A36-02356, A36-07210 & A36-07427.

Lori White (Graves) contacted Percy Greene and requested the number of ponds and raceways and also the dimensions of those facilities. <See conversation memo dated; 12/11/90>

She indicates on that same memo that the information was provided in the form of a map and dimensions. On the memo is an attachment by me, Steve Clelland, showing the total volumes as they apply to the three rights mentioned above.

On the map is written seven lines of calculations. I have shown them below along with a description of the corresponding pond sites.

- #1. $20(10' \times 80' \times 2') = 32,000 \text{ cu.ft.}$
These ponds are south of the Blue Lakes Ditch and just west of the hatchery buildings.
- #2. $29(16' \times 300' \times 3') = 417,600 \text{ cu.ft.}$
This group is the largest set of ponds at the west end of the property.
- #3. $20(20' \times 18' \times 2') = 14,400 \text{ cu.ft.}$
This is the hatchery building.
- #4. $18(2' \times 8' \times 1') = 288 \text{ cu.ft.}$
This is the hatchery troughs.
- #5. $10(20' \times 200' \times 4') = 160,000 \text{ cu.ft.}$
These ponds are located almost south of group #2. They are adjacent to those #2 ponds and run almost perpendicular to them.
- #6. $10(14' \times 120' \times 3') = 50,400 \text{ cu.ft.}$
This group is southeast of the #5 ponds and west of the processing plant.
- #7. $3(20' \times 100' \times 3') = 18,000 \text{ cu.ft.}$
These ponds are referred to on the map as the office ponds and are on the east end of the property near the head of the Blue Lakes Ditch.

The total of all these ponds is 692,688 cu.ft. which converts to 15.9 acre-feet.

In summary, the descriptions of the ponds and the dimensions were provided by the representatives of Blue Lakes Trout Farm, Inc. and I simply performed the above calculations to arrive at the totals also given above. These totals were then divided accordingly to the three respective claims as was indicated by the licenses.

PREPARED BY SCC
ON 7/21/97
FILE(mm:blt-volume.doc)

A36-07427

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

RECEIVED

OCT 13 1989

Ident. Number: A36-07427
Date Received: 4/28/1989
Receipt No: 500 9188
Received By: AD

Department of Water Resources
Southern Region Office
**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: BLUE LAKES TROUT FARM, INC. 208-733-4631
Address: P.O. BOX 1237
TWIN FALLS, ID 83301

2. Date of Priority: DEC 28, 1973

3. Source: ALPHEUS CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 09S | 17E | 28 | SW | SW | SW | 14 | JEROME |

5. Description of diverting works:
CHECK DAM TO CANAL TO RACEWAYS.

6. Water is used for the following purposes:

| Purpose | From | To | C.F.S | (or) | A.F.A. |
|------------------|-------|-------|--------|------|--------|
| FISH PROPAGATION | 01/01 | 12/31 | 52.230 | | |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL FISH FACILITY.

10. Place of Use:

| Township | Range | Section | 1/4 of | 1/4 of | Lot | Use | Acres |
|----------|-------|---------|--------|--------|-----|------|-------|
| 09S | 17E | 28 | NW | SW | 13 | FISH | |
| | | 29 | SW | NE | 14 | FISH | |
| | | | SE | NW | 19 | FISH | |

MICROFILMED
MICROFILMED
FEB 03 1993
OCT 19 1994

11. Place of use in counties: JEROME

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

13. Other Water Rights Used:
36-2356, 36-7210, 36-7720

14. Remarks:

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 Organizations:

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

 Jerry M. Leene
Signature of Authorized Agent

 President, Blue Lakes Trout Farm, Inc.
Title and Organization

 10/5/89
Date

MICROFILMED

FEB 03 1993

MICROFILMED

OCT 19 1994

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 5 day
of October 19 89


Notary Public

Seal

Residing at Twin Falls

My Commission Expires 12-3-92

MICROFILMED
MICROFILMED
FEB 03 1993
OCT 19 1994

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, J. Evan Robertson will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature

J. Evan Robertson

Nelson, Rosholt, Robertson, Tolman & Tucker

Address

P.O. Box 1906, Twin Falls, ID 83303

Date

10-12-89

Last Name

Blue Lakes Trout

Ident. Number

MICROFILMED

FEB 03 1993

MICROFILMED

Copies ~~White-State~~ ~~Yellow-Claimant~~

OCT 19 1994

02 03

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF



MICROFILMED

FEB 03 1993

RECEIVED

MAY 03 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. 36-07427

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

OBJECTION

Petitioner,

36-07427 -0001/
93-04-0321

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.

(Over)

MICROFILMED

OCT 19 1994

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

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: BLUE LAKES TROUT FARM, INC.

Address: P.O. Box 1237
Twin Falls, Idaho 83301

Briefly describe your interest in this water right:

Owner of right.

2. Owner of the water right:

Name: BLUE LAKES TROUT FARM, INC.

Address: P.O. Box 1237
Twin Falls, Idaho 83301

3. If this objection is filed by an attorney:

Attorney Name: J. Evan Robertson

Attorney Address: P.O. Box 1906
Twin Falls, Idaho 83303-1906

Attorney Phone No.: (208) 734-0700

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)

MICROFILMED

OCT 19 1994

12. Water Right Recommendation: I object to:
- this water right being recommended at all; or
 - this water right not being recommended.
13. Description of Reservation: I object to the legal description of the reservation.
14. Other: I object to:
- The inclusion of description of non-irrigation uses.

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.

Box 11: The inclusion of remarks in recommendation.

Box 14: The inclusion of the description of non-irrigation uses in the recommendation.

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.

Remove the unclaimed remarks from the recommendation.

Remove "10 Ponds @ 20'x200'x4'" from the description of non-irrigation uses.

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. _____
- _____
- _____
- _____

VERIFICATION (Must be Completed)

State of Idaho

County of ADA

John K. Simpson, being first duly 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. § 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.

BLUE LAKES TROUT FARM
Signature of person filing objection

By: J. K. Simpson
(Attorney signing in representative capacity)

Subscribed and sworn to before me this 29th day of April, 1993.

Maurice Hart Stuckland
Notary Public for Idaho
Residing at: Boodie
My commission expires: 12-17-97



(Over)

MICROFILMED
OCT 19 1994

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 30th 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: BLUE LAKES TROUT FARM, INC.
Owner's address: P.O. Box 1237
Twin Falls, Idaho 83301

3. One copy to:

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

4. One copy to:

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



Signature of Objector or attorney
mailing on Objector's behalf

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 the Rights to the Use of Water)
from the Snake River Basin)
Water System)
_____)

Case No. 36-07427 -0001

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

RESPONSE TO OBJECTION

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).

(Over)

2. Person who filed objection:

Name: BLUE LAKES TROUT FARM INC
Address: PO BOX 1237
TWIN FALLS ID 83301

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

11. Remarks: I respond to the objection concerning the "remarks" listed with the water right.

14. Other: I respond to the objection concerning:
NON-IRRIGATION USES

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 11 and 14, and all allegations of the objection regarding those items, IDWR responds as follows: Idaho Code Section 42-1411(2) provides that the director's reports shall include "such other matters as are necessary to define the right." The description of non-irrigation uses and the remarks correctly describe the current use of water diverted for fish propagation purposes. Description of the current use is necessary to define the right.

CHANGES TO THE DIRECTOR'S REPORT

The director proposes no changes to the description of this claim in the Director's Report.

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. A36-07427 | 4 |

(Over)

FILED
AUG 30 1993

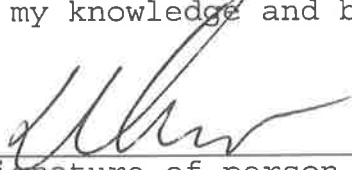
VERIFICATION (Must be Completed)

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 30th day of August, 1993.



Notary Public for Idaho

Residing at: _____

My Commission expires _____

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

CERTIFICATE OF MAILING

I hereby certify that on the 30TH day of AUGUST, 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: J EVAN ROBERTSON
Address: PO BOX 1906
TWIN FALLS ID 83303-1906

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

NOTICE OF ERROR FORM

AUG-24-1992

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: 36-07427

2. Name: Blue Lakes Trout Farm, Inc.

Address: J. Evan Robertson, Attorney
P.O. Box 1906
Twin Falls, ID 83303

Weekday Telephone Number: 734-0700

RECEIVED

SEP 23 1992

Department of Water Resources

Southern Region Office

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:

Non-irrigation uses

Place of use

Remarks

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

Non-irrigation uses, place of use and remarks to be reviewed.

5. Describe why you disagree with the proposed recommendation:

Recommended non-irrigation uses, place of use and remarks may contain error.

6. Date:

SIGNATURE



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:15
03/03/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-07427

LAST: BLUE LAKES TROUT FARM INC.
ADDRESS: P.O. BOX 1237
CITY: TWIN FALLS
PHONE NUMBER: 208-733-4631
OWNER CODE: C

FIRST:
STATE: ID ZIP: 83301

LAST: ROBERTSON
ADDRESS: P.O. BOX 1906
CITY: TWIN FALLS
PHONE NUMBER: 208-000-0000

FIRST: J. EVAN
STATE: ID ZIP: 83303

OWNER CODE: A

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

MICROFILMED
FEB 03 1993

CONTACT PERSON: _____

PHONE NUMBER: (____) _____

DATE OF FIELD EXAM: ___/___/___

APPOINTMENT MADE: Y(____) N(____)

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) _____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

A. AJ CLAIM: # A36-07427 PRIORITY DATE: 12-28-1973 STAGE: L

B. WR RECORD: # 36-07427 PRIORITY DATE: 12-28-1973 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()
IF YES EXPLAIN.

REMARKS:

RECOMMENDED PRIORITY DATE:
12-28-1973

REVIEWED BY

lw

DATE

12/26/90

MICROFILMED

FEB 03 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|-----------|------|------|------|-----|-----|-----|-----|--------|
| A36-07427 | 09S | 17E | 28 | NE | SW | SW | 14 | JEROME |

OTHER AJ CLAIMS WITH SAME AJ POD
 A PREFIX R PREFIX
 A36-02356 NONE
 A36-07210

WR RECORDS IN SAME 40 ACRE TRACT

36-02356
 36-02603B
 36-07210

SOURCE: ALPHEUS CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|----------|------|------|------|-----|-----|-----|-----|--------|
| 36-07427 | 09S | 17E | 28 | SW | SW | | 14 | JEROME |

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
 A PREFIX R PREFIX

36-02356
 36-02603B
 36-07210

A36-02356 NONE
 A36-07210
 A36-02603B

SOURCE: ALPHEUS CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

| | | |
|----------------------------------|----------|----------------|
| DUE TO POD DISCREPANCY? (Y/N) | DATABASE | FIELD EXAMINER |
| DUE TO SOURCE DISCREPANCY? (Y/N) | Y | N |
| | N | <u> </u> |

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP. RGE. SEC. 1/4 1/4 1/4 LOT COUNTY

~~SW~~ **NE**

SOURCE: ALPHEUS CREEK

TRIB: SNAKE RIVER

REVIEWED BY: *lu*

DATE: 12/26/90

See 9-4-91

MICROFILMED

FEB 03 1993

A. ROOT WATER RIGHT NUMBERS: A36-07427

B. FOU LISTING

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME | AJ
#/ACRES | WR
#/ACRES | LANDSAT
DATA | FIELD
EXAM. | RECOMM.
ACRES |
|-------------|-----|-----|-----|-----|-----|--|----------------------------|--------------------------|-----------------|----------------|------------------|
| 09S | 17E | 29 | SE | NE | 14 | BLUE LAKES TROUT FARM INC.
BLUE LAKES TROUT FARM INC. | A36-07427 /
A36-07210 / | 36-07427 /
36-07210 / | | | |
| 09S | 17E | 29 | SE | NW | 19 | BLUE LAKES TROUT FARM INC.
BLUE LAKES TROUT FARM INC. | A36-07427 /
A36-07210 / | 36-07427 /
36-07210 / | | | 10 POUNDS FOUND |
| 09S | 17E | 28 | NW | SW | 13 | BLUE LAKES TROUT FARM INC.
BLUE LAKES TROUT FARM INC. | A36-07427 /
A36-07210 / | 36-07427 /
36-07210 / | | | |
| TOTAL ACRES | | | | | | | A36-07427 | | | | |

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

C. FIELD EXAM REQUIRED?

DUE TO FOU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

According to the map & info supplied by Claimants for Facility Vol.
they indicate only 10 ponds are served by this right.

RECOMMENDATIONS:

TOTAL ACRES: N/A

REVIEWED BY: w

DATE: 12/26/90

see 9-4-91

A. AJ CLAIMED USES:

| | | | |
|-------------------------------------|------------------------------|----------------------------------|----------------------------------|
| A36-07427 | PURPOSES
FISH PROPAGATION | MONTH/DAY
FROM 01-01 TO 12-31 | DIVERSION QUANTITY
52.230 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | | 52.230 CFS |

B. WR RECORDED USES:

| | | | |
|-------------------------------------|------------------------------|----------------------------------|----------------------------------|
| 36-07427 | PURPOSES
FISH PROPAGATION | MONTH/DAY
FROM 01-01 TO 12-31 | DIVERSION QUANTITY
52.230 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | | 52.230 CFS |

MICROFILMED
FEB 03 1993

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>N</u> |
| DUE TO PERIOD FROM/TO DISCREPANCY? | (Y/N) | N | <u>N</u> |

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y() N()

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

REMARKS:

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

AJ TOTAL CLAIMED DIVERSION RATE: 52.230 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 52.230 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)

Y
FIELD EXAMINER
N

B. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: ~~A36-02856, A36-07210, A36-07730~~ *none*

NO CLAIMS FOUND WITH SAME FOU AND IRRIGATION USAGE

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

| CLAIM NO. | PURPOSES | NAME | MONTH/DAY | RATE | VOLUME |
|------------------------|--------------------------------------|----------------------------|---------------------|------------|--------|
| A36-07427
A36-07210 | FISH PROPAGATION
FISH PROPAGATION | BLUE LAKES TROUT FARM INC. | FROM 01-01 TO 12-31 | 52.230 CFS | |

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

1b. CALCULATIONS

Div. Vol

52.23 cfs x 1.98 x 365

MICROFILMED
FEB 03 1993

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AE/A
ACRES _____ x CONSUMPTIVE VOL. AE/A FOR AREA _____ =
TOTAL CONSUMPTIVE USE _____ AE/A

~~N/A~~

37,746.6 AFA

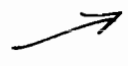
3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AE/A
ACRES _____ x DIVERSION VOL. AE/A FOR AREA _____ =
TOTAL DIVERSION VOLUME _____ AE/A

4.

CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(/) N(X)



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

see 9-4-91

RECOMMENDATIONS:

| REC. PURPOSES | REC. PERIOD | | REC. DIV RATE CFS | | REC. DIV VOL. AF/A | | REC. CONS. USE | |
|----------------------|-------------|-------|-------------------|----------|--------------------|----------|----------------|----------|
| | FROM | TO | DATABASE | EXAMINER | DATABASE | EXAMINER | DATABASE | EXAMINER |
| FISH PROPAGATION | 01-01 | 12-31 | 52.230 | / | 160,000 | / | 0.0 | / |
| TOTAL FOR THIS RIGHT | | | 52.230 | | 37,746.6 | | 0.0 | 0 |

REVIEWED BY:

W

DATE: 12/26/90

$$\begin{aligned}
 DOB &= (160,000 \text{ cuft} \div 43560 =) = 3.67 \text{ AF} \\
 POB &\approx 36-2356 \\
 &\quad 36-07210
 \end{aligned}$$

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED ()
NEEDS REVIEW ()
N/A ()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-07427

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE 52.230

EXAMINER *N/A*

CFS

SPLITS:

| OLD RIGHT NUMBERS | CURRENT CLAIM NUMBERS | DIVERSION RATE | CURRENT "R" CLAIM NUM. | "R" DIV. RATE | WR RIGHT NUMBERS | DIVERSION RATE |
|-------------------|-----------------------|----------------|------------------------|---------------|------------------|----------------|
| - | A36-07427 | 52.230 | - | | 36-07427 | 52.230 |
| TOTAL CFS | | 52.230 | | | | 52.230 |

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE Y

FIELD EXAMINER _____

REMARKS:

AUTHENTICATION:

SIGNATURE: *W* _____

NAME OF FIELD EXAMINER: _____ TITLE: _____

Steve Oll 9-4-91

DATE: 12/26/90

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:15
09/08/90

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A26-07427

| 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 | | See
9-4-91 | DB | |
| POINT OF DIV
RCE | Y | | | N (Y) | 1,6 | ↓ | ↓ | |
| PLACE OF USE | Y | | | N (Y) | 1,6 | | | |
| DIV. AROUNDY
CES/VOLUME | | | | Y | | | | |
| CONSUMPTIVE USE | - | | | N | | | | |
| PURPOSES | | | | N | | | | |
| PERIOD OF USE | | | | N | | | | |
| BASIS OF CLAIM | | | | N | | | | |
| REMARKS | | | | N (Y) | | | | |

MICROFILMED
FEB 03 1993

VERIFIED BY CODES

- TOPO MAP/ORTHO-PH = 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.



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

06-Oct-1992 09:54

J. Evan Robertson, Attorney
PO Box 1906
Twin Falls, ID 83303

RE: Snake River Basin Adjudication (SRBA)
Notices of Error - A36-07720, A36-02356, A36-07427, A36-07210
in the name of Blue Lakes Trout Farm, Inc.

Dear Mr. Robertson:

We are in receipt of the Notices of Error filed on the above referenced claims. We are not making any changes to the recommendations at this time.

There were three issues raised on the above referenced Notices of Errors. These issues were: Non-irrigation uses; Remarks; and Place of Use. A review of the files did not uncover any discrepancies in the place of use recommended for each of the SRBA claims. If you have specific information regarding an error, please forward that information by October 13, 1992 and we will review the files again.

Regarding the Non-irrigation uses and Remarks, I spoke with you on the phone and you stated that the issue was specifically the ponds described in the Non-irrigation uses and the facility volume identified in the Remarks. Based on our understanding of the law, the facility volume (determined by the ponds) associated with the priority date of a water right is an essential element of that right. We have used our records and available information to determine the facility volumes for each water right. If you feel there is an error, please forward supporting documents to this office by October 13, 1992 and we will review the information.

If you still do not agree with the proposed IDWR recommendation to the court, you may file an objection with the court after you receive the final recommendation or your water right. Information about the objection process will be included when the final recommendation is received.

Sincerely,

Helen Harrington-Thornton
Water Resource Agent

MICROFILMED

FEB 03 1993

| OWNER CODE | NAME & ADDRESS | PRIORITY DATE | WATER USE | USE PERIOD FROM TO | DIVERSION RATE | DIVERSION VOLUME |
|------------------|---|---------------|------------------|--------------------|----------------|------------------|
| C | BLUE LAKES TROUT FARM INC
PO BOX 1237
TWIN FALLS ID 83301
(208) 733-4631 | 12/28/1973 | FISH PROPAGATION | 01-01 12-31 | 52.23 CFS | 37746.6 AFA |
| TOTAL DIVERSION: | | | | | 52.23 CFS | 37746.6 AFA |

Water Source: ALPHEUS CREEK Tributary to: SNAKE RIVER Stage: LICENSE

Point(s) of Diversion: T09S R17E S28 Lot14(NESWSW) JEROME County

Place of use Legal Description for: FISH PROPAGATION

| | | | | NE | | | | NW | | | | SW | | | | SE | | | |
|-----|-----|----|---|----|----|----|----|----|----|------|----|----|----|----|----|----|----|----|----|
| T | R | S | : | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac | Lt | Ac |
| 09S | 17E | 29 | : | | | | | | | | | | | | | | | | |
| | | | : | | | | | | | 19-F | | | | | | | | | |

POU County: JEROME

Non-Irrigation Uses: FISH/COMMERCIAL FISH FACILITY, 10 PONDS @ 20'X 200'X 4'

Other Rights: NONE

Conditions of Approval:

- M01 - A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE MAINTAINED AS A PART OF THE DIVERTING WORKS.

Remarks: FACILITY VOLUME 3.67 A.F.
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE: 36-02356 & 36-07210.

Dates: Exam Made Date: Verified Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Comments: Date: 09/04/1991 User-ID: CLELLAND Subject: FACILITY VOLUME 160,000 CUBIC FEET. PONDS IN USE ARE SEPARATE AND DIFFERENT FROM THOSE DESCRIBED UNDER RIGHTS 36-02356 & 36-07210.

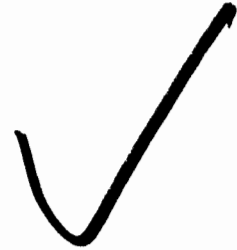
Date: 09/24/1992 User-ID: SCHULTZ Subject: NOTICE OF ERROR (NOE) RECEIVED NOE 9/23/92. CHANGED NOE FLAG FROM BLANK TO A.

Date: 10/06/1992 User-ID: THORNTON Subject: NOTICE OF ERROR RECONCILIATION CHANGED FLAG FROM A TO B. NO CHANGE. SENT LETTER TO ATTORNEY ROBERTSON DISCUSSING FACILITY VOLUME, REMARKS, AND POU.

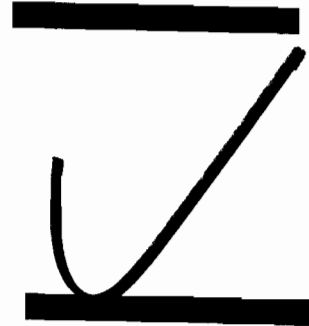
Audit: 10/06/92 THORNTON

MICROFILMED
FEB 03 1993

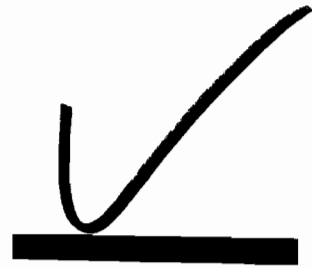
R PROOF



CVR



MAPS



PHOTOS



MISC

MICROFILMED

FEB 03 1993

Water Right Number - R36-07427 Prefix Translation: RESEARCH Old (D) Number -

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

*** C - CURRENT OWNER ***
BLUE LAKES TROUT FARM INC

1 - PO BOX 1237
2 -
3 -
City- TWIN FALLS State- ID Zip- 83301
Phone - 208-733-4631

*** A - ATTORNEY ***
ROBERTSON

J EVAN

1 - PO BOX 1906
2 -
3 -
City- TWIN FALLS State- ID Zip- 83303
Phone - 208-000-0000

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
12/28/1973 17 SOUTHERN L - LICENSE

+ - - - - Source - - - - + + - - - - Tributary - - - - +
ALPHEUS CREEK SNAKE RIVER

| + - - - - Point of Diversion - - - - + | | | | | | |
|--|-----|-----|----------|-----|------|--------|
| Tw | Rng | Sec | Tract | Lot | RFlg | County |
| 09S | 17E | 28 | NE SW SW | 14 | (53) | JEROME |

| + - - - - Water Use - - - - + | | | | | | |
|-------------------------------|------------------|-------------|-----------|----------------|------------------|--|
| Code | Description | Period From | Period To | Diversion Rate | Diversion Volume | |
| 19 | FISH PROPAGATION | 01/01 | 12/31 | 52.230 | 37746.60 | |

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
52.230 37746.60 0.0

| + - - - - Place of Use - - - - + | | | | | | | | |
|----------------------------------|-----|-----|-------|-----|-------|------|------------------|-------------|
| Tw | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
| 09S | 17E | 29 | SE NW | 19 | | 19 | FISH PROPAGATION | (53) JEROME |

Total Acres:

+ - - Diversion Means - CHECK DAM TO CANAL TO RACEWAYS

+ - - Non-Irrigation Use - FISH/COMMERCIAL FISH FACILITY, 10 PONDS @ 20'X 200'X 4'

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
FACILITY VOLUME 3.67 A.F.
THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE: 36-02356 & 36-07210.

MICROFILMED
FEB 03 1993

Water right number - R36-07427 Prefix Translation: RESEARCH

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

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

3607427

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

No Conditions of Approval found.

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

00/00/0000

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

Date: 09/04/1991 User Id: CLELLAND Subject: FACILITY VOLUME

160,000 CUBIC FEET. PONDS IN USE ARE SEPARATE AND DIFFERENT FROM THOSE DSCRIBED UNDER RIGHTS 36-02356 & 36-07210.

+ - - Audit Fields - - +

03/13/92 ROBERTSO

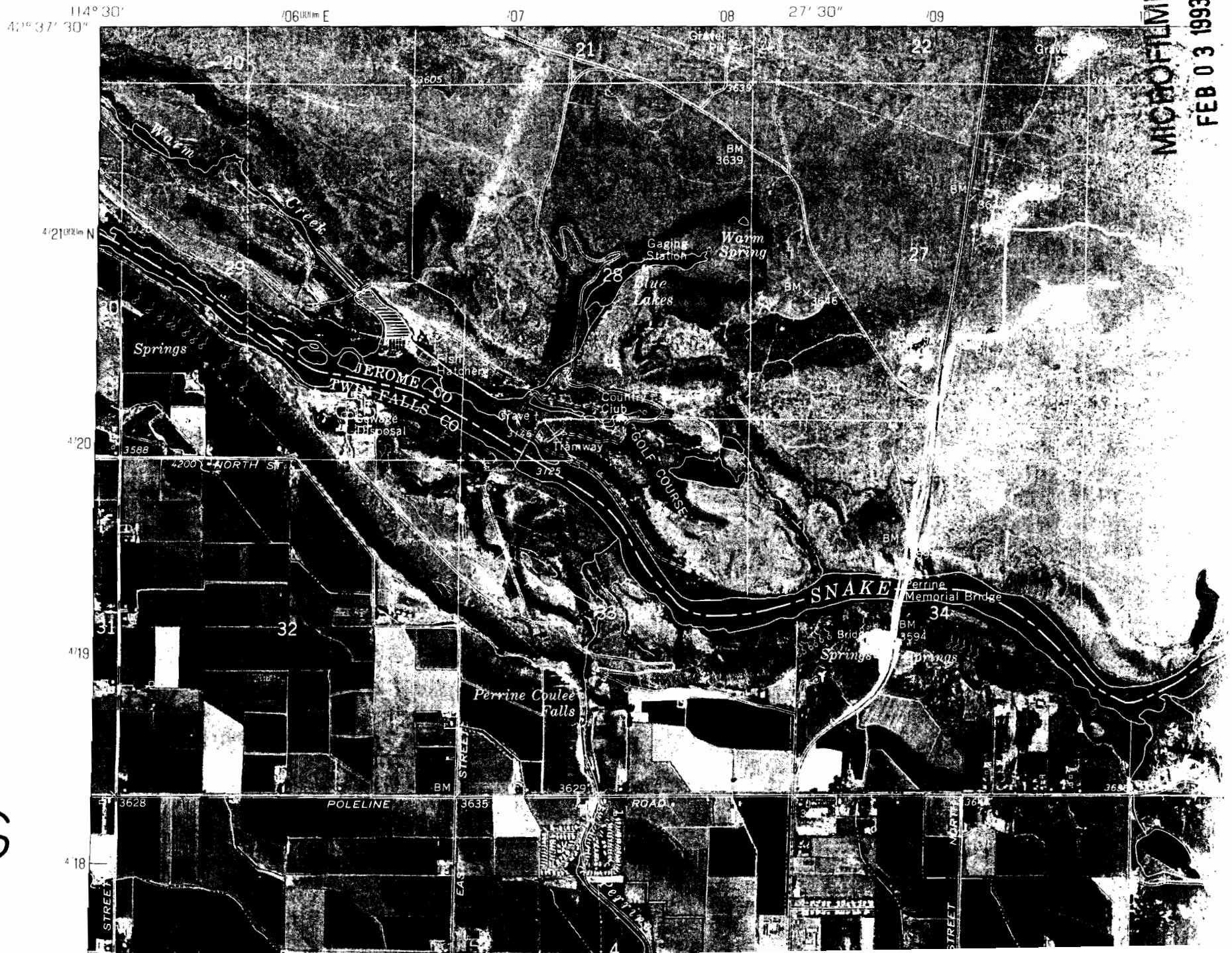
+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

| | | |
|-----------------------------------|------------------------------------|-----------------------------|
| 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 - 03/13/1992 | Old Judicial District - |
| Claim Received Date - 09/15/1989 | Last Amended Date - 00/00/0000 | Temporary Right - P |
| | Receipt Number - S009188 | Water District - |
| | POU Ownership Flag - Y | Federal/State Indicator - S |
| | Name Connector - | Presumption Flag - |
| | | Notice of Error Flag - |

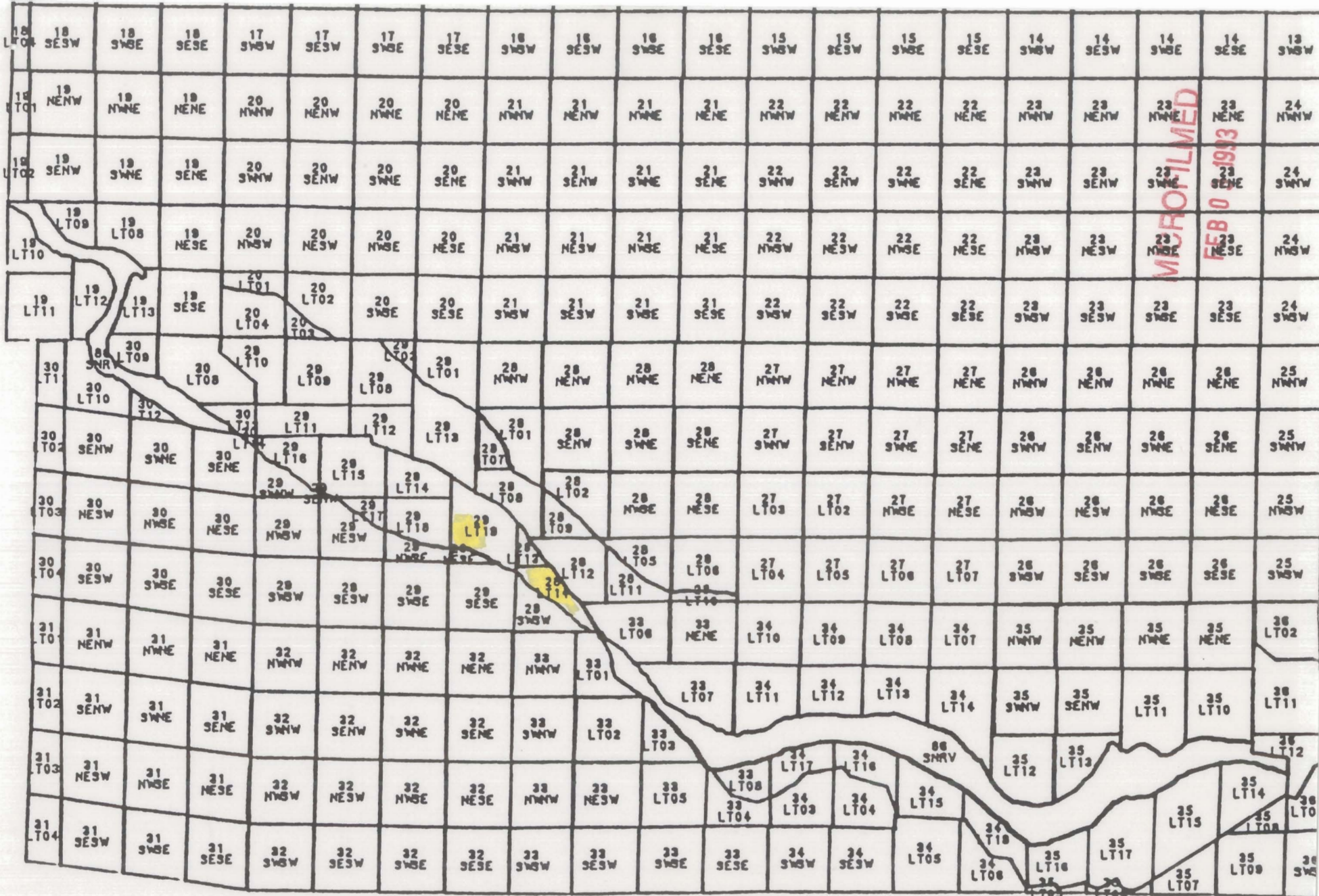
MICROFILMED
FEB 03 1993

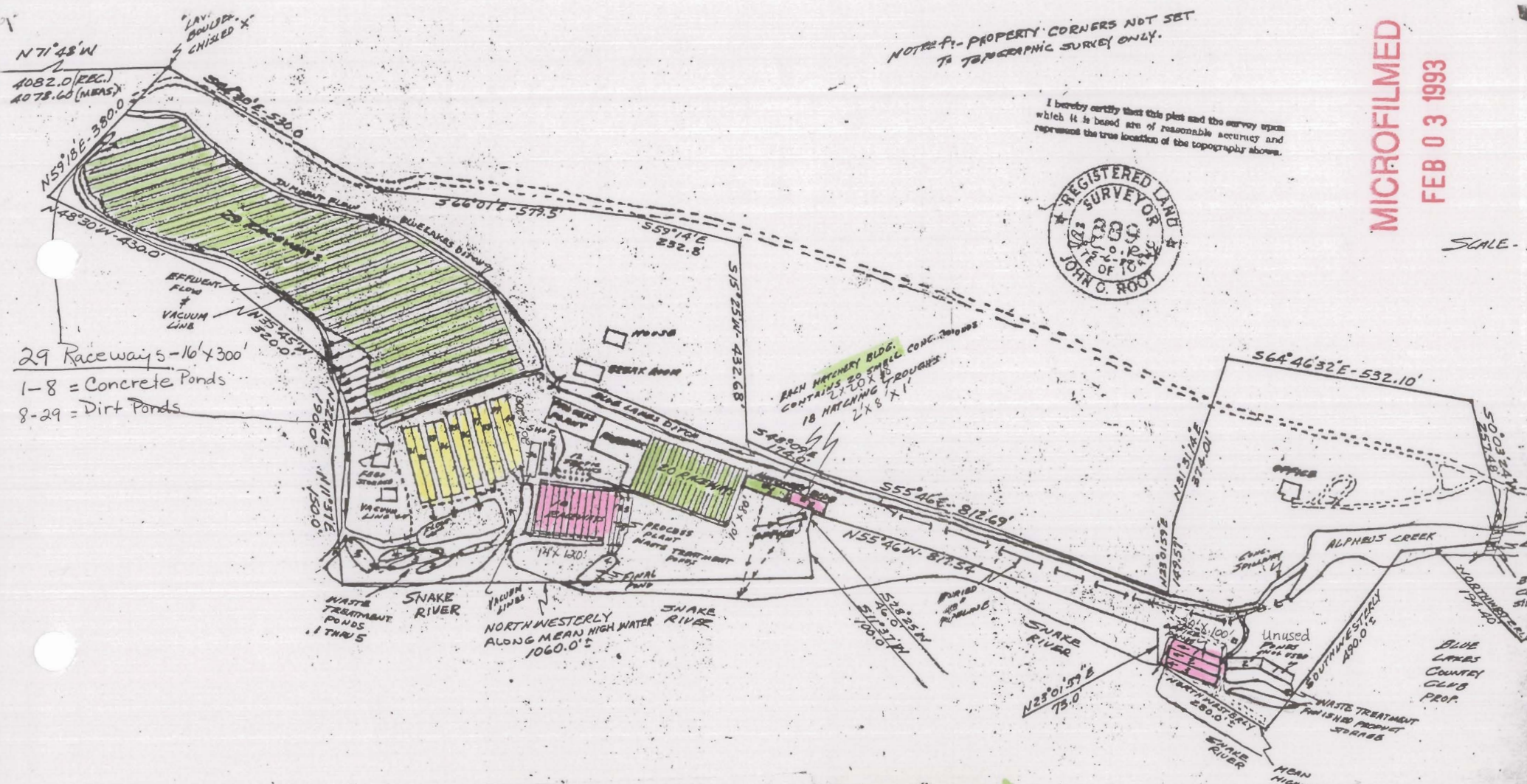
UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

MICROFILMED
FEB 03 1993



9S
10S





NOTE #1 - PROPERTY CORNERS NOT SET TO TOPOGRAPHIC SURVEY ONLY.

I hereby certify that this plan and the survey upon which it is based are of reasonable accuracy and represent the true location of the topography shown.



MICROFILMED

FEB 03 1993

SCALE - 1

29 Raceways - 16' x 300'
 1-8 = Concrete Ponds
 8-29 = Dirt Ponds

36-2356 - 5/29/1958 - 100 cfs
 36-7210 - 11/17/1971 - 45 cfs
 36-7427 - 12/28/1973 - 52.23 cfs
 36-7720 - 6/8/1977 - 37.1 cfs

Raceway - each date
 → Dimensions

20 x 10 x 80 x 2 = 32,000
 29 x 10 x 300 x 3 = 417,000
 20 x 20 x 18 x 2 = 14,400
 18 x 2 x 8 x 1 = 288
 10 x 20 x 200 x 4 = 160,000
 10 x 14 x 120 x 3 = 50,400
 3 x 20 x 100 x 3 = 18,000

CONVERSATION MEMORANDUM

NAME OF PARTY Perry Greene
EMPLOYEE: fw

DATE 12/11/90
FILE A36-02356

RE: AFA

07210
07427

3:30 PM
Called Perry + asked for # of raceways and dimensions and # of ponds and dimensions in order to calculate some sort of volume meas. for the licenses. Perry said the Trout farm involved several ponds + raceways. A field exam is required to determine which ponds + raceways dimensions are calculated for each license.

Loren said volume calculations for fish prop. licenses did not start until ~ the 7600 series.

MICROFILMED

FEB 03 1993

756-0110
MICROFILMED

FEB 03 1993

State of the water license No. 276410-01
Application for permit No. 0-210, approved Jan. 31, 1971, filed at
applicant
applicant

(A) Re: said existing ditch and culverts were fully described in
P14 application No. 0-210 for permit No. 0-210 and water license
No. 276410. In addition, the same was incorporated by reference in
application for permit No. 0-210 approved Jan. 31, 1971. While
there have been improvements from time to time, the basic scheme
remains the same. As stated in prior permit application, because the
existing works accommodate the water being appropriated, no particular
time is required for completion of the work and application of the
water to beneficial use.

(B) Re: Re: This application is being filed in accordance with the
statutory procedure enacted by the State Legislature in 1971. 19C Sec. 42-220
to establish a water right. By conforming with this procedure, the applicant
does not intend to waive its constitutional right of appropriation.
Rather, it is the applicant's belief that it has heretofore established
a valid water right to the water made the subject matter herein and
intends to continue to exercise such right. Finally, the applicant
believes that by constitutional appropriation it has established a
valid water right in all water increasing the water flow in Alpaugh
creek since the first dam's inception in 1900.