

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: A36-02704
Date Received: 8/19/1988

Receipt No: C002944
Received By: CA

RECEIVED

OCT 17 1988

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Department of Water Resources

1. Name: IDAHO POWER CO.
Address: P.O. BOX 70
BOISE, ID

83707

2. Date of Priority: JAN 31, 1966

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	15E	10	NE	NE		1	GOODING

5. Description of diverting works:
STEEL PIPE, CONCRETE BOXES, PIPES TO INCUBATOR AND RACEWAYS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.040		
DOMESTIC	01/01	12/31	0.040		
FIRE PROTECTION	01/01	12/31	132.000		
FISH PROPAGATION	01/01	12/31	132.000		

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

8. Total consumptive use is 6.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/2 HOMES, 1 OFFICE, FISH PROP/14 10' BY 300' RACEWAYS, FIRE PROT

4

A36-02704

Page 1

Date: 08/19/88

MICROFILMED
JAN 28 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
09S	15E	10	NE		NE		DOMEST	
			NE		NE		FISH	
			NE		NE		FIRE	
			SE		NE		DOMEST	
			SE		NE		FISH	
			SE		NE		FIRE	
			SE		NE	9	IRR	2.0
							Section Acres	2.0
							Total Acres	2.0

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:
NIAGARA SPRINGS FISH HATCHERY.

15. Basis of Claim: LICENSE
Water Right Number: 32711

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 General Counsel and Secretary of _____ Title

Idaho Power Company, that I have signed the foregoing Organization

document in the space below as General Counsel and Secretary of Title

Idaho Power Company and that the statements contained in the Organization
foregoing document are true and correct.

Rolt W. Stal

Signature of Authorized Agent

General Counsel and Secretary
Title and Organization

August 30, 1988

Date

State of Idaho)
County of Ada) SS.

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

Julie A. Ryan
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 10/26/93

MICROFILMED
JAN 28 1993

17. Notice of Appearance:

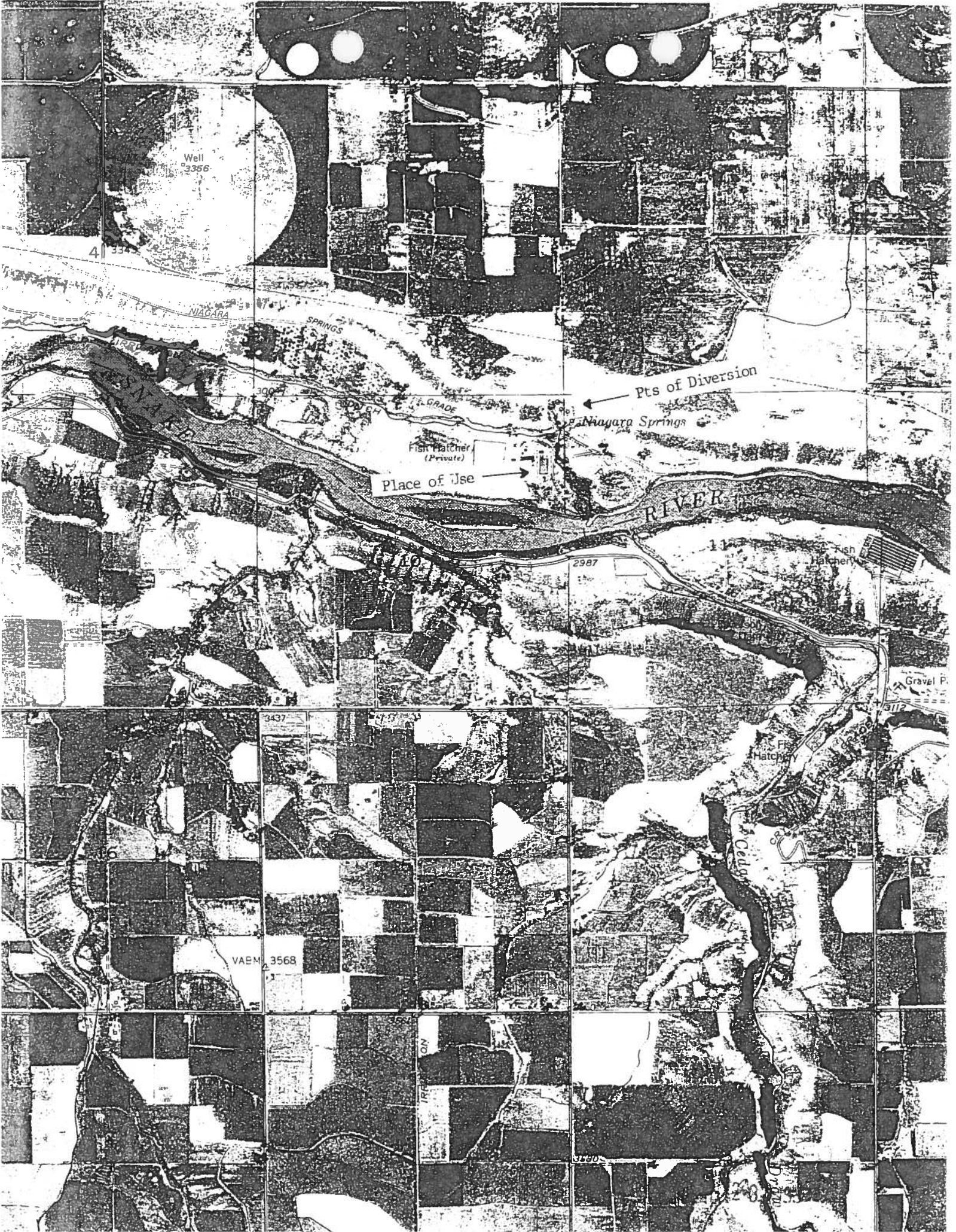
Notice is hereby given that I, THOMAS G. NELSON will be
Print Name

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 Thomas G. Nelson

Address P.O. Box 2139, Boise, Id 83701

Date 10/14/88



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: A36-02704
Date Received: 10/17/1988
Receipt No: C002944
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

1. Name: IDAHO POWER CO.
Address: P.O. BOX 70
BOISE, ID

83707

JUN 13 1990
Department of Water Resources
Southern Region Office

2. Date of Priority: JAN 31, 1966

3. Source: NIAGARA SPRINGS

Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	15E	10	NE	NE		1	GOODING

5. Description of diverting works:

STEEL PIPE, CONCRETE BOXES, PIPES TO INCUBATOR AND RACEWAYS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.040		
DOMESTIC	01/01	12/31	0.040		
FIRE PROTECTION	01/01	12/31	132.000		
FISH PROPAGATION	01/01	12/31	132.000		

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

A.F.A.

8. Total consumptive use is 6.0 Acre Feet Per Annum.

9. Non-irrigation uses:

D/4 HOMES, 1 OFFICE, FISH PROP/14 10' BY 300' RACEWAYS, FIRE PROT

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	10	NE	NE		DOMEST	

A36-02704

Page 1

Date: 06/07/90

MICROFILMED
JAN 28 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	10	NE	NE		FISH	
			NE	NE		FIRE	
			SE	NE		DOMEST	
			SE	NE		FISH	
			SE	NE		FIRE	
			SE	NE	9	IRR	2.0
						Section Acres	2.0
						Total Acres	2.0

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:
NIAGARA SPRINGS FISH HATCHERY.

15. Basis of Claim: LICENSE

Water Right Number: 32711

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: _____

10/4/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME Idaho Power Co. CLAIM IDENT. NO. A36-02704DATE RECEIVED 10-17-88 CK # 096556 AMOUNT \$ 24,129-

1. Is the name and address complete with zip code? YES ☒ NO ☐
2. Is a priority date entered? YES ☒ NO ☐

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?

A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). USE CARE IF CLAIM IS RETURNED. REFER TO ADJUDICATION MEMOS # 1 (ADJ. CLAIMS/APPLICATIONS) AND # 9 (REJECTION OF CLAIMS). EXPLAIN IN COMMENTS.

3. (a) Is a source entered? YES ☒ NO ☐
- (b) Is a tributary to entered? (if required) N/A ☒
4. Is the legal description of the p.d. sufficient? YES ☒ NO ☐
5. Is there a description of the diverting works? YES ☒ NO ☐
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form. YES ☒ NO ☐
- Is the period of use included? YES ☒ NO ☐
- Is a quantity claimed for each use? YES ☒ NO ☐
7. Is a total quantity claimed entered? YES ☒ NO ☐
8. If required is a consumptive use entered? N/A ☒
- Is the consumptive use correct? N/A ☒
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, each household must file a separate claim. See Adjudication Memo # 4. YES ☒ NO ☐
10. Is (are) the place(s) of use entered? YES ☒ NO ☐
11. Is (are) the county(ies) entered? YES ☒ NO ☐
12. Is the ownership of p.u. checked? YES ☒ NO ☐
13. Are other water rights listed or "none" checked? YES ☒ NO ☐
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ☒
15. Is the basis of the claim checked? YES ☒ NO ☐
16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) YES ☒ NO ☐
- Has the claim been signed, sealed, and dated by a notary? YES ☒ NO ☐
- Was this claim filed on time, or was an extension granted? YES ☒ NO ☐
- Is the fee enclosed correct? YES ☒ NO ☐
- If this claim is based on an existing water right, has the identification number been entered? N/A ☒
- Should this claim be receipted and data entered? YES ☒ NO ☐

Claim checked by: CAComments: Expansion of domestic use MICROFILMED JAN 28 1993D.E. corrected 6-7-90 CA

A36-02013
THOMAS G. NELSON
NELSON, ROSHOLT, ROBERTSON,
TOLMAN, AND TUCKER.
BOISE ID 83701

A36-02018
THOMAS G. NELSON
NELSON, ROSHOLT, ROBERTSON,
TOLMAN, AND TUCKER
BOISE ID 83701

A36-02710
THOMAS G. NELSON
NELSON, ROSHOLT, ROBERTSON
TOLMAN, AND TUCKER
BOISE ID 83701

A36-02026
THOMAS G. NELSON
NELSON, ROSHOLT, ROBERTSON,
TOLMAN, AND TUCKER
BOISE ID 83701

A36-02704
THOMAS G. NELSON
NELSON, ROSHOLT, ROBERTSON,
TOLMAN, AND TUCKER
BOISE ID 83701

Id. Power

A36-00099
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-00016
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-02083
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 83303

A36-00017
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-00018
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-00046
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-00001
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-14746
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 83303

A36-11144
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 833031906

A36-14904
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 83303

A36-14906
JOHN A. ROSHOLT
P.O. BOX 1906

TWIN FALLS ID 83303

MICROFILMED

JAN 28 1993

Log for claim 36-02704

Spatial Dynamics LTD

12/18/01

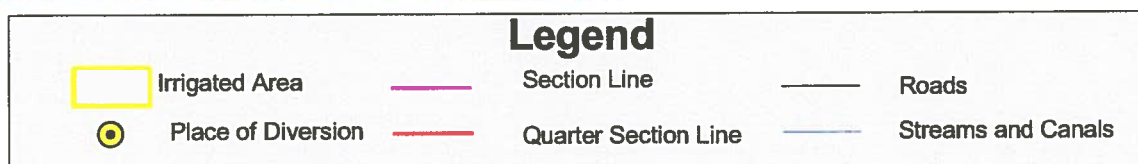
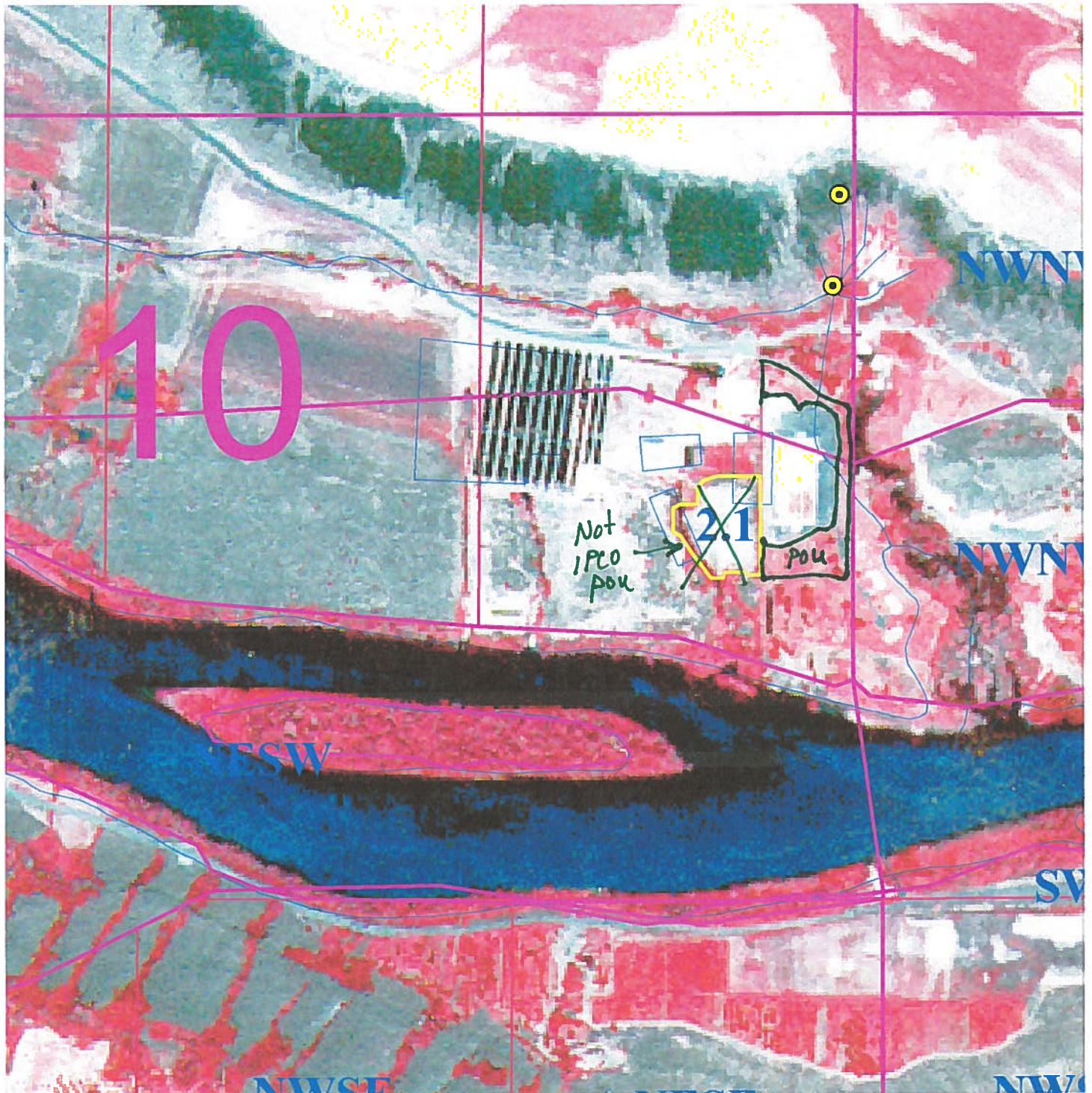
TR	SEC	QQ	Acres Recommended	Acres Shaped	COMMENT
09s15e	10	SENE	2	2.1	
Totals:			2	2.1	

Replaced wrong Poa shape
with a shape on IPCO
property

see
2/7/02

Water Right Number 36-02704
Township , 9S15E

12/18/2001



400 0 400 800 Feet

Revised
2/1/02
SCU

SPATIAL
DYNAMICS



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

✓
Doug Jones

August 15, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

IDAHO POWER CO.
PO BOX 70
BOISE ID 83707

ATTN: PAUL ABBOTT

RE: Water Right No. 36-02704

RECEIVED

AUG 27 1997

Department of Water Resources
Southern Region

Dear Paul:

As you requested, I have enclosed a copy water right license 36-02704, which was issued in 1972 for the use of water from Niagara Springs for fish propagation and other uses.

I have also enclosed an adjudication claim profile report showing right 36-02704 as it was recommended to the SRBA court. A profile report for the associated enlargement claim, 36-15221 is also enclosed. At least one objection to these recommendations has been filed with the court. For more information about the objection(s), you may want to first contact your company's legal staff.

If I can be of further assistance, please contact me at 208-327-7946.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

Enclosures

c: Adjudication Bureau

COPY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

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

RECEIVED

SFP 01 1993

Department of Water Resources
Adjudication Bureau

CASE No. 36-02704-001

(The water right number you are responding to must be
inserted here)

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

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

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.

STANDARD FORM 2

RESPONSE TO OBJECTION

INSTRUCTIONS

This form must be used to file a response to any objection filed against a water right recommended in a Director's Report. You may respond to all objections filed against one water right, using one response form. If you choose this option, your response should cover every issue raised in the objections. To respond to objections filed against more than one water right, you must file a separate response form for each water right. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you do, the text must be on the front and back of each page exactly as it appears here. The response must be received by the court on or before the deadline specified in the Notice of Filing the Director's Report that IDWR mailed to you. Follow the Instructions for Mailing this response (Page 5), or the court will not accept it for filing.

This form has been adopted by the court in *SRBA Administrative Order 1* (amended June 21, 1993), Section 4, which may be consulted for further information.

Any party filing 25 or more responses must make an appointment with the Clerk of the SRBA Court.

RESPONSE TO OBJECTION - 1

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

5 I. GENERAL INFORMATION

6 Please fill in the following information:

7 1. *Party/Claimant responding to objection:*

8 Name: IDAHO POWER COMPANY

9 Address: P.O. Box 70
Boise, Idaho 83707

10 Briefly describe your interest in this water right:

11 Owner of the right.

12 If this response is *filed by an attorney*:

13 Attorney Name: James C. Tucker

14 Attorney Address: Rosholt, Robertson & Tucker
15 P.O. Box 1906
16 Twin Falls, ID 83303-1906

17 Attorney Phone No.: (208) 336-0700

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

20 2. *Party/Claimant who filed objection:*

21 Name: Rim View Trout Company

22 Address: 1301 Vista Avenue
23 Boise, Idaho 83705
24
25
26
27
28

II. STATEMENT OF THE RESPONSE

Please check each "box" which identifies your response.

1. ☐ *Name and Address*: I respond to the objection concerning the name and/or address of the owner of the water right.
2. ☐ *Source*: I respond to the objection concerning the source of water.
3. ☒ *Quantity*: I respond to the objection concerning:
 - 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 respond to the objection concerning the priority date.
5. ☐ *Points of Diversion*: I respond to the objection concerning the legal description of the point(s) of diversion.
6. ☐ *Instream Flow*: I respond to the objection concerning the legal description of the beginning and ending points of the instream flow.
7. ☐ *Purpose(s) of Use*: I respond to the objection concerning the purpose(s) of use.
8. ☐ *Period of Year*: I respond to the objection concerning the period of year when water is used or is necessary for the purpose stated.
9. ☐ *Place of Use*: I respond to the objection concerning:
 - 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 respond to the objection concerning the annual volume of consumptive use.
11. ☐ *Remarks*: I respond to the objection concerning the "remarks" listed with the water right.

1 12. ☐ *Water Right Recommendation:* I respond to the objection concerning:

2 a. ☐ this water right being recommended at all; or

3 b. ☐ this water right not being recommended.

4 13. ☐ *Description of Reservation:* I respond to the objection concerning the legal
5 description of the reservation.

6 14. ☐ *Other:* I respond to the objection concerning:

7
8 **REASONS SUPPORTING EACH BOX CHECKED**

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

11 Response to #3, #3a. & 4: Claimant asserts that the water right
12 should be recommended as claimed.

13 Litigation is ongoing over rights to the water from this source and this
14 litigation may affect the objections filed on claims to this water.

15 **CHANGES TO THE DIRECTOR'S REPORT**

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

18 The Director's Report should reflect the claim as it was filed.

19 Please note that you should attach copies of documents which support your response.
20 Note on each document the "box number" it supports.

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

1 VERIFICATION (Must be Completed)

2 State of IDAHO

3 County of Twin Falls

4
5 JOHN K. SIMPSON, being first duly sworn, upon oath, deposes and says:

6 That I am the person or entity filing this response, (as listed on Page 2, Section 1,
7 "Person responding to objection"), as defined by I.C. § 42-1401A(1) and (7), and I have
8 read this response, know its contents and that the statements are true to the best of my
9 knowledge and belief.

10 Signature of party/claimant filing response

11 By: [Signature]
12 (Attorney signing in representative capacity)

13 Subscribed and sworn to before me on Sept. 1, 1993.

14
15 [Signature]
16 NOTARY PUBLIC FOR IDAHO

17 Residing at: Boonville

18 My commission expires: 12-17-97

19 INSTRUCTIONS FOR MAILING

20 You must mail the response, including all attachments, to the Clerk of the Court.
21 FAX filings will not be accepted by the Clerk of the Court. You must also send a copy
22 to all of the parties listed below in the Certificate of Mailing.

23 *You must sign the Certificate of Mailing to show that you followed these steps.*

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of September, 1993, I mailed the original and copies of this response, 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
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:

Name: Idaho Power Company

Address: P.O. Box 70
Boise, Idaho 83707

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: Rim View Trout Company

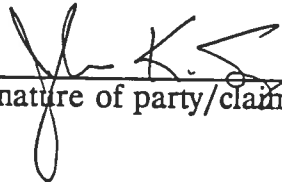
Address: 1301 Vista Avenue
Boise, Idaho 83705

4. One copy to:

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

1 5. One copy to:

2 United States Department of Justice
3 Environmental and Natural Resource Division
4 550 West Fort Street, Box 33
5 Boise, Idaho 83734

6 
Signature of party/claimant or attorney

7 09019302.JAR
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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. 36-02704 -0002

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).

(Over)

2. Person who filed objection:

Name: IDAHO POWER CO
Address: PO BOX 70
BOISE ID 83707-0070

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

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
14. ☒ Other: I respond to the objection concerning:
- A). INCLUSION OF GENERAL PROVISIONS IN THE DIRECTOR'S REPORT AND B). DESCRIPTION OF NON-IRRIGATION USES IN THE WATER RIGHT.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3 and 3.a, and all allegations of the objection regarding these items, IDWR responds as follows:

License no. 36-02704 was issued for a total diversion rate of 132 cfs. Right no. 36-02704 is recommended with a total diversion rate of 130 cfs, based on measurement data submitted by Idaho Power Company in the hearings on application for permit no. 36-07200. Remarks in the description of the right further limit the maximum diversion rate during certain months of the year. This further limitation is based on an agreement between Rim View

Trout Company and Idaho Power Company; this agreement is part of IDWR's files on applications for permit nos. 36-07628, 36-07789, and 36-07791, which applications were protested by Idaho Power Co.

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

IDWR denies this portion of the objection.

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

Idaho Code section 42-1411(2) provides that the director's recommendation shall include "such other matters as are necessary to define the right." The description of non-irrigation uses correctly describes the current use of water diverted pursuant to this right 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.

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

The notice of claim is attached to IDWR's response to Objection No. 36-02704-0001

(Over)

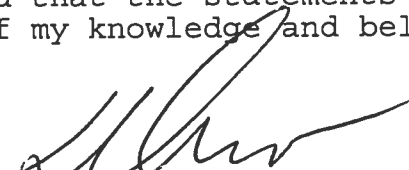
VERIFICATION (Must be Completed)

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: JAMES C TUCKER
Address: PO BOX 2139
BOISE ID 83701-2139

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

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. 36-02704 -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).

(Over)

2. Person who filed objection:

Name: RIM VIEW TROUT CO
Address: 1301 VISTA AVE
BOISE ID 83705

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

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
4. ☒ Priority Date: I respond to the objection concerning the priority date.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3.a, and 4, and all allegations of the objection regarding these items, IDWR responds as follows:

License no. 36-02704 was issued for a total diversion rate of 132 cfs based on a licensing field exam which confirmed beneficial use of 132 cfs for fish propagation. Pages 1, 11 and 12 of IDWR's Memorandum Decision and Order on Rehearing in the Matter of Application for Permit to Appropriate Water no. 36-07200 are attached to the objection, and contain certain findings as to the use of water from Niagara Springs as stated in the Memorandum Decision and Order. Right no. 36-02704 is recommended with a maximum diversion rate of 130 cfs; remarks in the description of the right further limit the maximum diversion

rate during certain months of the year. This further limitation is based on an agreement between Rim View Trout Company (the objector) and Idaho Power Company (the claimant); this agreement is part of IDWR's files on applications by Rim View for permit no.s 36-07628, 36-07789, and 36-07791, which applications were protested by Idaho Power Co. The recommended priority date is the priority date stated on the license.

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. A36-02704

5

(Over)

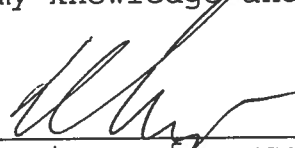
VERIFICATION (Must be Completed)

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.



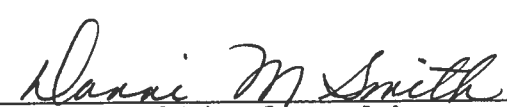
Signature of person filing response

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:

Name: JAMES C TUCKER
Address: PO BOX 2139
BOISE ID 83701-2139

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: WILLIAM F RINGERT
Address: PO BOX 2773
BOISE ID 83701

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

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: A36-02704

Date Received: 8/19/1988

Receipt No: C002944

Received By: CA

RECEIVED

OCT 17 1988

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Department of Water Resources

1. Name: IDAHO POWER CO.
Address: P.O. BOX 70
BOISE, ID

83707

2. Date of Priority: JAN 31, 1966

3. Source: NIAGARA SPRINGS

Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	15E	10	NE	NE		1	GOODING

5. Description of diverting works:

STEEL PIPE, CONCRETE BOXES, PIPES TO INCUBATOR AND RACEWAYS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.040		
DOMESTIC	01/01	12/31	0.040		
FIRE PROTECTION	01/01	12/31	132.000		
FISH PROPAGATION	01/01	12/31	132.000		

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

A.F.A.

8. Total consumptive use is 6.0 Acre Feet Per Annum.

9. Non-irrigation uses:

D/X HOMES, 1 OFFICE, FISH PROP/14 10' BY 300' RACEWAYS, FIRE PROT

4

A36-02704

Page 1

Date: 08/19/88

MICROFILMED

JAN 28 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	10	NE	NE		DOMEST	
			NE	NE		FISH	
			NE	NE		FIRE	
			SE	NE		DOMEST	
			SE	NE		FISH	
			SE	NE		FIRE	
			SE	NE	9	IRR	2.0
						Section Acres	2.0
						Total Acres	2.0

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:
NIAGARA SPRINGS FISH HATCHERY.

15. Basis of Claim: LICENSE
Water Right Number: 32711

MICROFILMED
JAN 28 1993

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 General Counsel and Secretary of
Idaho Power Company, that I have signed the foregoing
Organization
document in the space below as General Counsel and Secretary of
Idaho Power Company and that the statements contained in the
Organization
foregoing document are true and correct.

Rolt W. Stal
Signature of Authorized Agent

General Counsel and Secretary
Title and Organization

August 30, 1988

Date

State of Idaho)
County of Ada) SS.

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

Julie A. Ryan
Notary Public

Seal

Residing at Boise, Idaho

My Commission Expires 10/26/93

MICROFILMED
JAN 28 1993

17. Notice of Appearance:

Notice is hereby given that I, THOMAS G. NELSON will be
Print Name

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

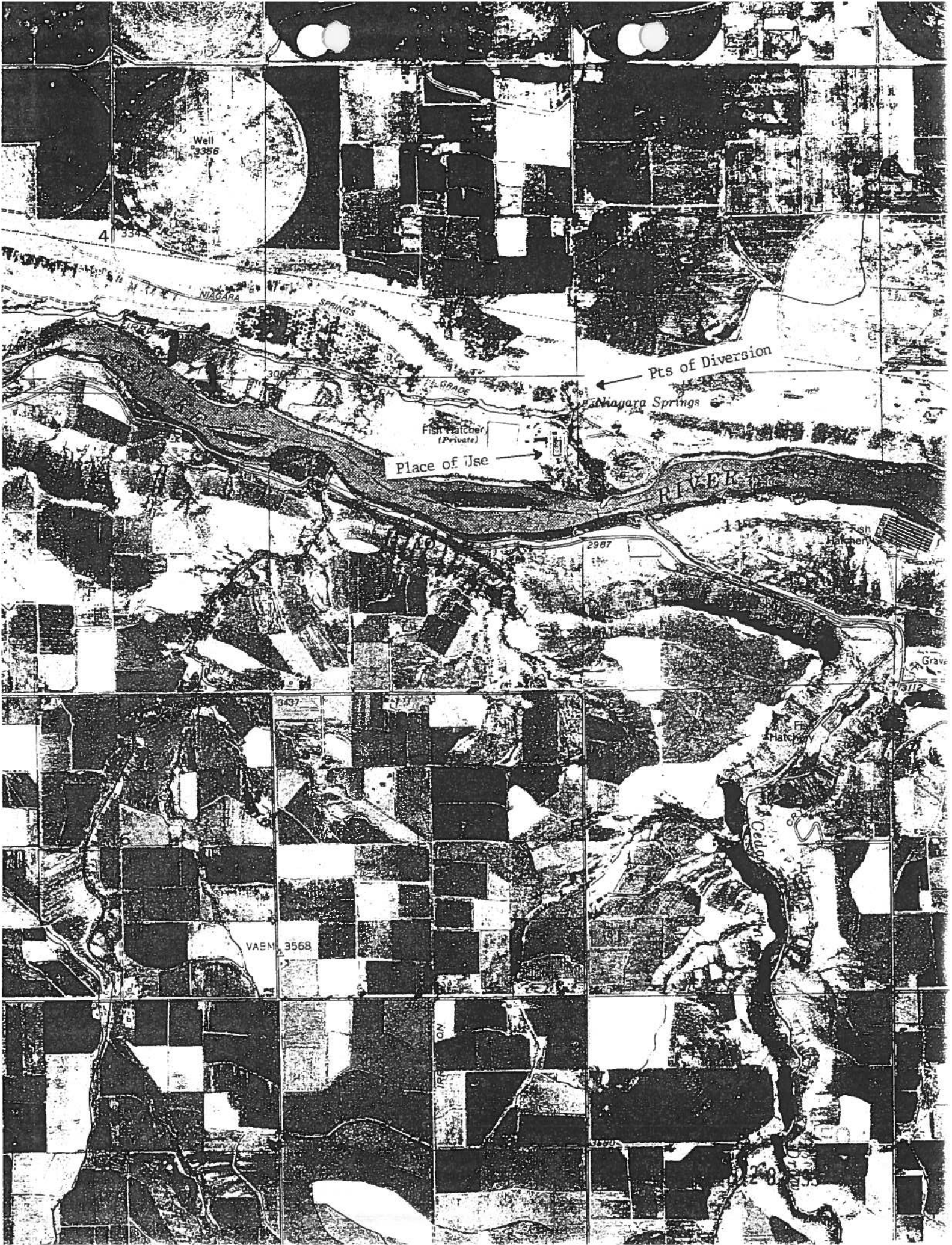
Thomas G. Nelson

Address

P.O. Box 2139, Borse, Ind 43701

Date

10/14/88



COPY

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

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

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.

Case No. 36-02704

OBJECTION

36-02704 -0002/
93-04-0241

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)

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: IDAHO POWER COMPANY

Address: P.O. Box 70
Boise, Idaho 83707-0070

Briefly describe your interest in this water right:

Owner of right.

2. Owner of the water right:

Name: IDAHO POWER COMPANY

Address: P.O. Box 70
Boise, Idaho 83707-0070

3. If this objection is filed by an attorney:

Attorney Name: James C. Tucker

Attorney Address: P.O. Box 2139
Boise, Idaho 83701-2139

Attorney Phone No.: (208) 336-0700

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)

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:
- a) The inclusion of the General Provisions in the Director's Report.
 - b) Specificity of description of non-irrigation uses in Director's recommendation.

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 3: The claimant needs all of the water claimed on an annual basis.

Box 14a: The inclusion of the General Provisions in the Director's Report.

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

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.

Change the quantity for fish propagation and total quantity recommended in the Director's Report from 130 cfs to 132 cfs. Remove the General Provisions from the Director's Report. Remove "14-10'x300', Raceways" 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

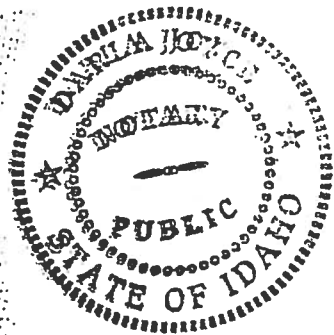
Patrick D. Madigan, being first duly sworn, upon oath, deposes and says:

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.

Signature of person filing objection

By: Patrick D. Madigan
(Attorney signing in representative capacity)

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



Darla Joux
Notary Public for Idaho
Residing at: Boise
My commission expires: 4-26-95

(Over)

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 29th 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:

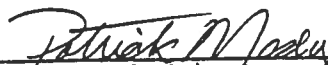
Owner name: IDAHO POWER COMPANY
Owner's address: P.O. Box 70
Boise, Idaho 83707-0070

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

RECEIVED

APR 30 1993

Department of Water Resources
Adjudication Bureau

W. F. RINGERT
D. V. STEENSON
RINGERT CLARK CHARTERED
455 S. Third St., P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591

Attorneys for Nampa & Meridian Irrigation District,
Grindstone Butte Mutual Canal Company, Rim View Trout
Company and others

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

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

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.

Case No. 36-02704
(You must insert the
water right number you
are objecting to)

OBJECTION

36-02704 -0001/
93-04-0240

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 to 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.

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: RIM VIEW TROUT COMPANY
Address: 1301 Vista Avenue
Boise, ID 83705

Briefly describe your interest in this water right:

Objector has water rights that divert from the same source.

2. Owner of the water right:

Name: IDAHO POWER COMPANY
Address: P. O. Box 70
Boise, ID 83707

3. If this objection is filed by an attorney:

Attorney name: William F. Ringert
Attorney Address: P. O. Box 2773
Boise, ID 83701

APPROVED FOR FILING
BY CLERK OF COURT

768 3 0 1803

RECEIVED

Attorney Phone No.: (208) 342-4591

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
 - 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. ☒ 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.
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:

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.

3. a. Objector is informed and believes that the license for Right No. 36-02704 was issued in error, and that the quantity actually applied to beneficial use at the time of licensing was 90 cfs, or less.
- b. Records submitted by Idaho Power Company in Administrative Case No. 36-7200 were used by the Director of the Idaho Department of Water Resources to find that the measurement data indicated that, since the time the license was issued, the rate of diversion under License No. 36-2704, never exceeded the following amounts during the following months:

January	100 cfs
February	105 cfs
March	103 cfs
April	100 cfs
May	75 cfs
June	28 cfs
July	50 cfs
August	65 cfs
September	97 cfs
October	105 cfs
November	103 cfs
December	110 cfs

c. If the quantities in excess of 90 cfs were actually used after licensing, those usages constitute expansion of the existing right and are controlled by Idaho Code § 42-1416A, and the expanded use would not satisfy the substantive criteria of § 42-222, Idaho Code.

The right to divert quantities in excess of 90 cfs has been forfeited.

4. The priority date of any expanded use beyond 90 cfs is controlled by Idaho Code § 42-1416(2) and the priority date or dates for the expanded use, if any, is subsequent to March 18, 1971.

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.

1. Reduce the quantity to 90 cfs.
2. Change the priority date for any quantity that may be established in excess of 90 cfs to March 19, 1971, or such later date as may be proven for expanded use beyond the 90 cfs quantity.

Please note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports. The description of the water system in Basin 36, which the Director is required to include in his report (Idaho Code § 42-1411(1)), is not adequate or sufficient to enable this claimant to determine whether there is sufficient connection between ground water rights in Basin 36 and this claimant's water rights in the springs fed by the Snake River aquifer, to warrant investigations to determine whether grounds exist for objections to any of such ground water rights on the basis of abandonment, forfeiture, unauthorized expansion, or any other facts or legal theories upon which any ground water right recommended by the Director in Basin 36 could be challenged.

- X 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.

Pages 1, 11 and 12 of Memorandum Decision and Order on Rehearing, in the Matter of Application for Permit to Appropriate Water No. 36-7200, dated January 29, 1988. (3 pages).

VERIFICATION (Must be Completed)

State of Idaho

County of Ada

Earl M. Hardy, 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.

Rim View Trout Co
Signature of person filing objection

By: Earl M. Hardy - President
(Attorney signing in
representative capacity)

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

Anita C. McCormick
Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 11-14-98

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 29 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: Idaho Power Company Co., Inc.
Owner's address: P. O. Box 70
Boise, ID 83707

3. One copy to:

Chief, Natural Resources Division
Office of the Attorney General
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, Idaho 83724



Signature of objector or Attorney
mailing on Objector's behalf

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION
FOR PERMIT TO APPROPRIATE
WATER NO. 36-7200.

MEMORANDUM DECISION
AND ORDER

ON REHEARING

IDAHO DEPARTMENT OF PARKS
AND RECREATION,

Applicant,

RIM VIEW TROUT CO.,

Protestant,

and

BOB BURKS, EDWARD C. SHOKAL,
HAGERMAN VALLEY CITIZENS ALERT
INC., and IDAHO POWER CO.,

Intervenors.

SOURCE: NIAGARA
SPRINGS
COUNTY: GOODING

BY THE DIRECTOR

On July 12, 1971, the Idaho Department of Parks and Recreation (Parks) filed with the Idaho Department of Water Resources (department) an application to appropriate water from Niagara Springs pursuant to Idaho Code §67-4308. On August 10, 1971, Parks filed an amended application. The department received protests from a number of parties; all except the protest of Rim View Trout Co. (Rim View) were subsequently withdrawn.

The Parks application was consolidated for hearing with applications for permit nos. 36-7628, 36-7789 and 36-7791 in the name of Rim View to appropriate waters of Niagara Springs. Petitions to intervene were received from Bob Burks, Edward C. Shokal, and Hagerman Valley Citizens Alert Inc.

A. Kenneth Dunn, Director of the department (director), served as hearing officer. Rinda Rae Just, deputy attorney general, appeared for Parks; Earl M. Hardy, president, and William Ringert, attorney, appeared on behalf of Rim View. Bob Burks and his attorney Charles Fawcett also appeared. Robert Stahman appeared on behalf of Idaho Power Co. (IPCo) and Steve Goddard appeared on behalf of the Idaho Department of Fish and Game (Fish & Game). IPCo and Fish & Game were protestants in the matter of the applications of Rim View. Edward Shokal and Ned Bowler

normally used for domestic purposes is .04 cfs, and domestic use is normally year-round.

d. There are no measurement data in the record as to the amount of water diverted by IPCo pursuant to License No. 36-2704 at IPCo's upper two points of diversion. The license indicates that .04 cfs is diverted year-round for use in an office and an incubator through the first IPCo diversion. The license also indicates that .04 cfs is diverted during the irrigation season for use in the park by the second IPCo diversion.

e. Measurement data submitted by IPCo at the rehearing indicate that the amount of water diverted at the third IPCo diversion pursuant to License No. 36-2704 is highly variable. This is due to the fact that the water is used for raising steelhead trout smolts to be released to the Snake River to promote fish runs. Water use varies from season to season within the year as well as from year to year. The lowest diversion rates typically occurred in May, June, and July after the fish were released to the stream. (However, during the years from 1979 to 1987, low diversion rates occurred twice in April and occurred four times in August.) The highest diversion rates occurred in November, December, January and February, when the fish are most mature prior to release, and during release. (However, during the years from 1979 to 1987, high diversion rates occurred five times in October and occurred twice in March.) The time when the fish are released each year varies, depending on when the flow in the Snake River is expected to be the highest that year. Testimony by Larry Weimer, fisheries biologist for IPCo, indicates that the full 132 cfs is necessary during part of the year for IPCo to fulfill its obligation to produce 400,000 pounds of steelhead trout smolts, as required by its power license (issued by the Federal Energy Regulatory Commission). However, the measurement data indicates that, since the time the license was issued, the rate of diversion has never exceeded the following amounts during the following months:

January	100 cfs
February	105 cfs
March	103 cfs
April	100 cfs
May	75 cfs
June	28 cfs
July	50 cfs
August	65 cfs
September	97 cfs
October	105 cfs
November	103 cfs
December	110 cfs

There is insufficient evidence to determine whether the monthly diversion rates below the rate in the license are due to a need for less water during those months or due to a lack of water. It is probable that during the months of February, March, and

April, water usage is limited by lack of available water. It is probable that during the months of June, July, and August, the lower diversion rates are due to a need for less water during those months.

f. The amount of unappropriated water in various stretches of the stream available for appropriation by Parks is estimated in Table 2. Table 2 is found at the end of this decision and is incorporated herein by reference. The figures are estimates, and do not constitute a finding as to the amount of water in the creek at any particular time. There is evidence in the record that during certain times of each year, IPCo diverted all remaining divertable water at the third IPCo diversion. However, there is also evidence in the record that, due to seepage through and under the old IPCo diversion structure, the stretch of the creek between the third IPCo diversion and the IPCo return pipe has historically not been completely dewatered. IPCo's use of water diverted from the third IPCo diversion is largely non-consumptive, and the waters diverted are returned to Niagara Springs Creek a short distance below the third IPCo diversion and above the estuary. Therefore, the flow in the creek below the IPCo return pipe which is roughly the same as the figures in column 6.

25. Smokey Pugmire Memorial Park (the park) is located immediately to the east of the creek between the county road and the Snake River, and is operated by Parks. The park is irrigated and has toilet facilities. The park also has several picnic tables, a pavilion, a playground, and camping facilities. A pathway from the county road leads north to a boardwalk that winds through the foliage adjoining the springs and terminates at a platform overhanging the water at the head of the springs.

26. The director received considerable testimony as to the public use of the springs, the creek, and the park for purposes of recreation and scenic beauty. Based upon the following testimony, it is found that the public has made consistent use of the waters of the springs along the entire length of the creek for scenic and recreational purposes for several generations.

a. Dennis Coyle, parks manager and witness for Parks, testified that about 78,000 people visited the park facilities in 1986, and about 79,000 in 1984. Approximately 3000 were campers, the remainder were day users. Mr. Coyle compared this to an annual attendance of 25,000 for Malad Gorge, which has better facilities and is more accessible than the springs. Mr. Coyle further testified that it was the springs which gave the area state park significance and was responsible for higher attendance at the park.

b. The testimony of Mr. Coyle and many of the witnesses called by Mr. Burks indicates that the park is used for picnicking, camping, and fishing. The park and the boardwalk are popular spots for weddings and other family or community ceremonies and occasions. Fishing and wading are particularly

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICROFILMED
JAN 28 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

NOVEMBER 3, 1992

R. KEITH HIGGINSON
Director

IDAHO POWER COMPANY
C/O JAMES C TUCKER
PO BOX 2139
BOISE ID 83701-2139

RE: NOTICE OF ERROR IN THE SRBA FOR 36-02018, 36-02082, 36-02478,
36-02704, 36-02710, 36-15357 & 36-15358

DEAR MR. TUCKER,

THIS LETTER IS TO CONFIRM THE RESULTS OF THE NOTICE OF ERROR MEETING I HAD WITH YOU, SHARON STRICKLAND AND JOHN SIMPSON ON OCTOBER 21, 1992 AT OUR SOUTHERN REGIONAL OFFICE. THE ISSUES RAISED BY YOUR NOE FILINGS WERE ADDRESSED BY HELEN HARRINGTON-THORNTON IN HER LETTER DATED OCTOBER 19, 1992. DURING OUR MEETING WE RECAPPED SOME OF THE SAME ISSUES COVERED IN THE LETTER.

COPIES OF THE MAPS FROM EACH FILE WERE REQUESTED BY YOU AT THE MEETING AND THOSE COPIES WERE PICKED UP BY STAFF FROM ROSHOLT'S OFFICE ON THIS DAY. I CALLED SHARON STRICKLAND TO CHECK WHERE TO SEND THE MAPS AND SHE SAID SHE NEEDED TO RECEIVE THEM.

THE SEASON OF USE FOR IRRIGATION USES WITHIN THE SNAKE RIVER CANYON, BELOW THE RIM, HAS BEEN EXTENDED BY THE DIRECTOR AND THIS ANNOUNCEMENT WAS MADE THE DAY AFTER OUR MEETING. THE NEW SEASON IS 3/15 TO 11/15.

IF YOU STILL DISAGREE WITH IDWR'S RECOMMENDATIONS, YOU WILL HAVE AN OPPORTUNITY TO FILE AN OBJECTION TO THE DIRECTOR'S REPORT WITH THE COURT.

SINCERELY,

STEVE CLELLAND
SENIOR WATER AGENT

MICROFILMED
JAN 28 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

19-Oct-1992

Mr. James C. Tucker, Attorney
PO Box 2139
Boise, ID 83701-2139

RE: Snake River Basin Adjudication (SRBA)
Notices of Error in the name of Idaho Power Company

Dear Mr. Tucker:

We are in receipt of the Notices of Error on the above referenced claims. I will address the issues raised for each recommendation by claim number below.

A36-02037:

As previously noted by Sharon Strickland of your Twin Falls office, the cooling use has been recommended as shown in the Proposed Director's Report (page 3711).

The proposed recommendation is based on irrigation season of use standards adopted by the director for the various regions throughout the state. These standards are based on the period of the year in which there is less than a 75% chance of a 24 degree F. frost.

In addition, since there are some years in which water can be beneficially used for irrigation outside the irrigation season, the proposed Director's Report includes a general provision which provides for irrigation outside the irrigation season under certain conditions. The conditions are that the water is beneficially used, as determined by the director; that all water rights with a period of use outside the irrigation season regardless of priority, are satisfied; and that the use does not conflict with the public interest as determined by the director. This proposed general provision will be included in the Director's Report.

No changes are being made to the recommendation for A36-02037.

MICROFILMED
JAN 28 1993

A36-02018

I have reviewed the file and have confirmed the point of diversion has been recommended in the correct legal description. No changes have been made to the recommendation.

A36-02082

I have reviewed the file and have confirmed the place of use has been recommended in the correct legal description. Regarding the recommended period of use, please see above discussion. No changes have been made to the recommendation.

A36-02013, A36-02026, A36-07487, A36-07587, A36-15387,
A36-15388, A36-15221

I have not made any changes to these records or recommendations. As I discussed on the phone with Sharon Strickland, the Notice of Appearance filed with IDWR and the SRBA court show two attorneys of record and our files and recommendations will retain both attorneys until such time as we receive a change in the Notice of Appearance.

A36-02478

I have reviewed the file and have changed the total diversion rate to 3.21 cfs. I have determined that the uses are cumulative and have increased the recommended diversion rate from the previously recommended 3.0 cfs. Your original claim listed 3.0 cfs for cooling with additional uses for stockwater, irrigation, domestic and fire protection for a total of 3.5 cfs. However, our review of the claim found that the other uses other than cooling totaled .21 cfs, rather than the additional .50 cfs.

Regarding the purpose of use, fire protection has been recommended as shown in the Proposed Director's Report (page 3781). The period of use has been modified to an irrigation season of 3/15 to 11/15.

I have reviewed the place of use and the combined rate of diversion and have not made any changes to these items. The combined rate described in the Remarks is a reflection of the total capacity of the diversion system as measured by IDWR.

A36-02710

I have reviewed the file and have not made any changes to the recommendation. A discussion of the season of use is covered in the paragraphs relating to claim A36-02037 above. The maximum quantity recommended is a result of the rates recommended for the beneficial use of water for the uses found. I did not find an error in the place of use recommended.

MICROFILMED
JAN 28 1993

A36-15358

I have reviewed the file and do not find any error in the place of use. The season of use has been changed to recommend an irrigation season of 3/15 to 11/15.

A36-02704

I have reviewed the file and no changes have been made to the recommendation. The period of use is the standard season for the place of use. The fish propagation use has been recommended as shown in the Proposed Director's Report (page 3663). The diversion rate of 130.0 cfs has been recommended as a result of documents in IDWR files supporting a maximum diversion use of 130.0 cfs. The minimum flow restriction remarks is included based on legal documents found in IDWR files supporting this restriction.

If you still disagree with IDWR's recommendations you will have an opportunity to file an objection to the Director's report with the court. When the Director's Report is filed with the court, you will be mailed a notice that will contain more information about the objection process.

Sincerely,


Helen Harrington-Thornton
Water Resource Agent

HHT

MICROFILMED
JAN 28 1993

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 10/19/92
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	IDAHO POWER CO PO BOX 70 BOISE ID 83707 (208) 383-2200	01/31/1966	IRRIGATION FISH PROPAGATION DOMESTIC FIRE PROTECTION	04-01 10-31 01-01 12-31 01-01 12-31 01-01 12-31	0.04 CFS 130.00 CFS 0.04 CFS 130.00 CFS	8.0 AFA 48180.0 AFA 1.8 AFA 48180.0 AFA
TOTAL DIVERSION:					130.00 CFS	48180.0 AFA
CONSUMPTIVE USE:						6.0 AFA

Water Source: NIAGARA SPRINGS

Tributary to: SNAKE RIVER

Stage: LICENSE

Point(s) of Diversion:

T09S R15E S10 Lot01(NENENE) Lot01(SENENE)

GOODING County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
09S	15E	10	:																	2.0
				09-02																2.0
																				TOTAL ACRES

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	15E	10	:	01-F				09-F												

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
09S	15E	10	:	01-D				09-D												

Place of use Legal Description for: FIRE PROTECTION

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
09S	15E	10	:	01-F				09-F												

POU County: GOODING

Non-Irrigation Uses: DOMESTIC,3 HOMES,OFFICE; FISH,14-10'X 300' RACEWAYS; FIRE PROTEC.

Other Rights: SEE REMARKS

Remarks: RIGHT NO. 36-15221 IS AN EXPANSION OF THIS RIGHT PURSUANT TO
IDAHO CODE 42-1416(2).

MICROFILMED
JAN 28 1993

Remarks: RIGHT NO. 36-15221 IS ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE.
USE OF THIS RIGHT WITH RIGHT NO. 36-15221 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 130 CFS, A TOTAL COMBINED
ANNUAL DIVERSION VOLUME OF 48180 AF.
FACILITY VOLUME 168,000 CU. FT.
A MINIMUM FLOW OF 50 CFS SHALL BE MAINTAINED IN NIAGARA
SPRINGS CREEK BELOW THE APPROPRIATOR'S HATCHERY DISCHARGE POINT.
THE RATE OF DIVERSION PURSUANT TO THIS RIGHT IS LIMITED TO
THE FOLLOWING AMOUNTS DURING THE FOLLOWING PERIODS OF USE:

FROM	TO	AMOUNT (CFS)
5/01	9/30	50.0
10/01	10/31	60.0
11/01	11/30	70.0
12/01	12/31	90.0
1/01	1/31	100.0
2/01	2/28, 2/29	110.0
3/01	3/31	120.0
4/01	4/30	130.0

Dates: Exam Made Date: 04/30/1991 Verified Date:

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

Comments: Date: 06/17/1991 User-ID: CLELLAND Subject: DOMESTIC USE
THE THREE HOUSES WERE BUILT IN 1966. TRAILER HOUSE WAS ADDED IN
MARCH 3, 1982 PER PAUL ABBOTT IPCO BIOLOGIST. CLAIM IS NEEDED.

UPDATE: 8-15-91 SCC
SPOKE WITH BRUCE SMITH AND HE SAID THEY WOULD BE FILING THE
EXPANSION CLAIM FOR THE EXTRA DOMESTIC. THAT CLAIM HAS BEEN PRE-
PARED AND IS NUMBERED A36-15221. WHEN THE SIGNED VERSION IS RE-
CEIVED THIS RECORD SHOULD BE REVISED TO INCLUDE SIMILAR REMARKS
AND REFERENCE TO A36-15221.

UPDATE: 11-04-91 SCC
CLAIM FILED AS A36-15221.

Date: 08/27/1992 User-ID: SHAFF Subject: CHANGES
REVIEW OF IDAHO POWER CO. AND RIM VIEW AGREEMENT REVEALED A
STAGGERED OPERATION SCHEDULE WITH AN AMOUNT OF WATER FOR EACH
PERIOD OF THE YEAR.

Date: 09/24/1992 User-ID: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/23/92. CHANGED NOE FLAG FROM BLANK TO A.
CLAIM VERIFIED 8/27/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/19/1992 User-ID: THORNTON Subject: NOTICE OF ERROR RECONCILIATION
CHANGED FLAG FROM A TO B - NO CHANGE.
SENT LETTER DISCUSSING ISSUES RAISED BY NOE.

MICROFILMED
JAN 28 1993

AJ0749NP
No. R36-02704

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 10/19/92
PAGE: 3

Audit: 10/19/92 THORNTON

MICROFILMED
JAN 28 1993

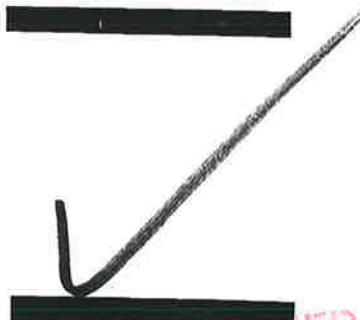
R PROOF

CVR

MAPS

PHOTOS

MISC



MICROFILMED

JAN 28 1991

VERIFIED BY



Water Right Number - R36-02704

Prefix Translation: RESEARCH

Old (D) Number - 32711

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

*** C - CURRENT OWNER ***
IDAHO POWER CO

1 - PO BOX 70

2 -

3 -

City- BOISE

State- ID Zip- 83707

Phone - 208-383-2200

*** A - ATTORNEY ***
ROSHOLT ROBERTSON & TUCKER

1 - JAMES C TUCKER OR

2 - BRUCE M SMITH

3 - PO BOX 2139

City- BOISE

State- ID Zip- 837022139

Phone - 208-336-0700

IDAHO POWER CO

1 - STEVEN L HERNDON

2 - PO BOX 70

3 -

City- BOISE

State- ID Zip- 83707

Phone - 208-383-2692

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
01/31/1966 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
NIAGARA SPRINGS SNAKE RIVER+ - - - - Point of Diversion - - - - - +
+ - - - - +
Twn Rng Sec Tract Lot RFlg County
09S 15E 10 NE NE NE 1 (47) GOODING
SE NE NE 1 (47) GOODING+ - - - - Water Use - - - - - +
+ - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 10/31 0.040 8.00
43 - DOMESTIC 01/01 12/31 0.040 1.80
49 - FIRE PROTECTION 01/01 12/31 132.000 48180.00
19 - FISH PROPAGATION 01/01 12/31 132.000 48180.00+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
132.000 48180.00 6.0+ - - - - Place of Use - - - - - +
+ - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
09S 15E 10 SE NE 9 2.0 01 IRRIGATION (47) GOODING
09S 15E 10 NE NE 1 19 FISH PROPAGATION (47) GOODING
09S 15E 10 SE NE 9 19 FISH PROPAGATION (47) GOODING
09S 15E 10 NE NE 1 43 DOMESTIC (47) GOODING
09S 15E 10 SE NE 9 43 DOMESTIC (47) GOODING
09S 15E 10 NE NE 1 49 FIRE PROTECTION (47) GOODING

MICROFILMED

JAN 28 1993

Water right number - R36-02704

Prefix Translation: RESEARCH

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
09S	15E	10	SE NE	9		49	FIRE PROTECTION	(47) GOODING

Total Acres: 2.0

+ - - Diversion Means - STEEL PIPE, CONCRETE BOXES, PIPES TO INCUBATOR AND RACEWAYS.

+ - - Non-Irrigation Use - DOMESTIC, 3 HOMES, OFFICE; FISH, 14-10'X 300' RACEWAYS; FIRE PROTEC.

+ - - Other Rights for Same Use - SEE REMARKS

Remarks
RIGHT NO. 36-15221 IS AN EXPANSION OF THIS RIGHT PURSUANT TO IDAHO CODE 42-1416(2). RIGHT NO. 36-15221 IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. USE OF THIS RIGHT WITH RIGHT NO. 36-15221 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 132 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 48180 AF. FACILITY VOLUME 168,000 CU. FT.

+ - - - - Old Water Right Numbers - - - - -
3602704+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

Comments
Date: 06/17/1991 User Id: CLELLAND Subject: DOMESTIC USE THE THREE HOUSES WERE BUILT IN 1966. TRAILER HOUSE WAS ADDED IN MARCH 3, 1982 PER PAUL ABBOTT IPCO BIOLOGIST. CLAIM IS NEEDED. UPDATE: 8-15-91 SCC SPOKE WITH BRUCE SMITH AND HE SAID THEY WOULD BE FILING THE EXPANSION CLAIM FOR THE EXTRA DOMESTIC. THAT CLAIM HAS BEEN PRE- PARED AND IS NUMBERED A36-15221. WHEN THE SIGNED VERSION IS RE-CEIVED THIS RECORD SHOULD BE REVISED TO INCLUDE SIMILAR REMARKS AND REFERENCE TO A36-15221. UPDATE: 11-04-91 SCC CLAIM FILED AS A36-15221.

+ - - Audit Fields - - +
03/16/92 CLELLAND

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 04/30/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 03/16/1992	Old Judicial District	-
Claim Received Date	- 10/17/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P

MICROFILMED

JAN 28 1993

Water right number - R36-02704

Prefix Translation: RESEARCH

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

Receipt Number	- C002944	Water District	-
POU Ownership Flag	- Y	Federal/State Indicator	- S
Name Connector	- OR	Presumption Flag	-
		Notice of Error Flag	-

MICROFILMED

JAN 28 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:38:23
07/24/90

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-02704

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			4-30-91 SCC	N		SCC 3-18-92	SCC 5-13-91	
POINT OF DIV	Y			Y 10AC.				
SOURCE				N				
PLACE OF USE	Y			Y LOTS				
DIV. AMOUNT CFS/VOLUME				Y VOL	6.			
CONSUMPTIVE USE	-			N				
PURPOSES				N				
PERIOD OF USE				N				
BASIS OF CLAIM				N				
REMARKS	Y			N	6.			

"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.

RECEIVED

JAN 28 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:38:23
07/24/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02704

LAST: IDAHO POWER CO.
ADDRESS: P.O. BOX 70
CITY: BOISE
PHONE NUMBER: 208-000-0000

FIRST:
STATE: ID ZIP: 83707

OWNER CODE: C

LAST: NELSON
ADDRESS: NELSON, ROSHOLT, ROBERTSON,
TOLMAN, AND TUCKER
P.O. BOX 2139

FIRST: THOMAS G.

CITY: BOISE
PHONE NUMBER: 208-336-0700

STATE: ID ZIP: 83701

OWNER CODE: A

FIELD EXAM REQUIRED?

DATABASE
Y

FIELD
EXAMINER

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: NIAGARA SPRINGS FISH HATCH

MICROFILMED
JAN 28 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:

MICROFILMED
JAN 28 1993

A. AJ CLAIM: # A36-02704 PRIORITY DATE: 01-31-1966 STAGE: L
B. WR RECORD: # 36-02704 PRIORITY DATE: 01-31-1966 STAGE: L

C. FIELD EXAM REQUIRED?
DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE FIELD EXAMINER
N ✓

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

REMARKS:

RECOMMENDED PRIORITY DATE:
01-31-1966

REVIEWED BY gr

DATE

4-18-91

MICROFILMED
JAN 28 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-02704	09S	15E	10		NE	NE	1	GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-04032B	NONE
A36-04032C	
A36-07167	
A36-10819	
A36-02680	
A36-04032A	

WR RECORDS IN SAME 40 ACRE TRACT

36-02001
36-02680
36-07167
36-07200
36-07628
36-07789
36-07791
36-07983
36-08347

SOURCE: NIAGARA SPRINGS

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-02704	09S	15E	10		NE	NE	1	GOODING

OTHER WR RECORDS WITH SAME WR POD

36-02001
36-02680
36-07167
36-07200
36-07628
36-07789
36-07791
36-07983
36-08347

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
A36-04032B	NONE
A36-04032C	
A36-07167	
A36-10819	
A36-02680	
A36-04032A	

SOURCE: NIAGARA SPRINGS

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

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

MICROFILMED
JAN 28 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

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

RECEIVED

SEP 23 1992

Department of Water Resources

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

1. Water right number: 36-02704

RECEIVED

SEP 28 1992

2. Name: Idaho Power Company

Department of Water Resources

Southern Region Office

Address: James C. Tucker, Attorney
P. O. Box 2139
Boise, Idaho 83701-2139

MICROFILMED
JAN 28 1993

Weekday Telephone Number: 336-0700 or 734-0700 (Sharon)

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:
 - a) Purpose of use - ~~to supply~~
 - b) Period of use (irrigation)
 - c) Maximum quantity
 - d) Point of diversion
 - e) Remarks
4. Describe the changes you wish to have made in the proposed recommendation:
 - a) Add fish propagation for 132 cfs
 - b) Period of use (irrigation) as claimed
 - c) Maximum quantity of 132 cfs as licensed and claimed
 - d) Point of diversion reviewed
 - e) Minimum flow restriction removed
5. Describe why you disagree with the proposed recommendation:
 - a) Fish propagation inadvertently omitted from recommendation
 - b) May restrict maximum beneficial use of water
 - c) Claimant is entitled to licensed and claimed amount of water of 132 cfs
 - d) Recommended point of diversion may contain an error
 - e) Minimum flow restriction does not appear on license
6. Date:

September 22, 1992

SIGNATURE



REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
---	---	---	SE	NE	NE	1	---
---	---	---	NE	NE	NE	1	---

SOURCE: NIAGARA SPRINGS

TRIB: SNAKE RIVER

REVIEWED BY:

DATE: 4-18-91

2 points of Diversion

RECEIVED
JAN 28 1993

A. ROOT WATER RIGHT NUMBERS A36-02704

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
09S	15E	10	NE	NE	1	IDAHO POWER CO. COMMERCIAL STATE BANK RIM VIEW TROUT CO. INC.	A36-02704 /	36-02704 / 36-02680 / 36-04032 /14.0		FISH	
09S	15E	10	SE	NE	9	IDAHO POWER CO.	A36-02704 /	36-02704 /		FISH	
09S	15E	10	SE	NE	9	IDAHO POWER CO. RIM VIEW TROUT CO. RIM VIEW TROUT CO. RINGERT, W.F. RIM VIEW TROUT CO. RIM VIEW TROUT CO. RIM VIEW TROUT CO. INC. STATE OF IDAHO RIM VIEW TROUT CO. INC.	A36-02704 / 2.0 A36-02680 / A36-04032A / A36-04032B / 3.5 A36-04032C / A36-07167 /	36-02704 / 2.0 - / - / - / - / 36-07167 / 36-07791 / 36-08347 / 36-07789 /			2.0
09S	15E	10	NE	NE	1	IDAHO POWER CO. COMMERCIAL STATE BANK RIM VIEW TROUT CO. INC.	A36-02704 /	36-02704 / 36-02680 / 36-04032 /14.0		FIRE	
09S	15E	10	SE	NE	9	IDAHO POWER CO.	A36-02704 /	36-02704 /		FIRE	
09S	15E	10	NE	NE	1	IDAHO POWER CO. COMMERCIAL STATE BANK RIM VIEW TROUT CO. INC.	A36-02704 /	36-02704 / 36-02680 / 36-04032 /14.0		Dam	
09S	15E	10	SE	NE	9	IDAHO POWER CO.	A36-02704 /	36-02704 /		Dam	
TOTAL ACRES						A36-02704	2.00	2.00			2.0

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

JAN 28 1997

PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES:

2.0

REVIEWED BY:

su

DATE:

4-18-91

MAILED
JAN 28 1991

A. AJ CLAIMED USES:

	PURPOSES	FROM	MONTH/DAY	TO	DIVERSION QUANTITY
A36-02704	IRRIGATION	FROM 03-15	TO 11-15		.040 CFS
A36-02704	DOMESTIC	FROM 01-01	TO 12-31		.040 CFS
A36-02704	FIRE PROTECTION	FROM 01-01	TO 12-31		132.000 CFS
A36-02704	FISH PROPAGATION	FROM 01-01	TO 12-31		132.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED					132.000 CFS

B. WR RECORDED USES:

	PURPOSES	FROM	MONTH/DAY	TO	DIVERSION QUANTITY
36-02704	IRRIGATION	FROM 03-15	TO 11-15		.040 CFS
36-02704	DOMESTIC	FROM 01-01	TO 12-31		.040 CFS
36-02704	FIRE PROTECTION	FROM 01-01	TO 12-31		132.000 CFS
36-02704	FISH PROPAGATION	FROM 01-01	TO 12-31		132.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED					132.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(☒) N(☐)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(☐) N(☒)

Explain in remarks, below.

REMARKS:

RECORDED
 JAN 28 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AJ TOTAL CLAIMED DIVERSION RATE: 132.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 132.000 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 ☒

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-02704	NIAGARA SPRINGS	IDAHO POWER CO.	132.000	66.000		
A36-04032B	NIAGARA SPRINGS	RINGERT, W.F.	15.000	1.071		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-02704	DOMESTIC	IDAHO POWER CO.	FROM 01-01 TO 12-31	.040 CFS	
A36-02704	FIRE PROTECTION	IDAHO POWER CO.	FROM 01-01 TO 12-31	132.000 CFS	
A36-02704	FISH PROPAGATION	IDAHO POWER CO.	FROM 01-01 TO 12-31	132.000 CFS	
A36-02680	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	90.300 CFS	
A36-04032A	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	10.000 CFS	
A36-04032B	DOMESTIC	RINGERT, W.F.	FROM 01-01 TO 12-31	.100 CFS	
A36-04032B	FISH PROPAGATION	RINGERT, W.F.	FROM 01-01 TO 12-31	14.500 CFS	
A36-04032C	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	15.000 CFS	
A36-07167	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	50.000 CFS	

MICROFILMED
JAN 28 1983

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES 2.0 x 0.02 CFS/ACRE = 0.04 CFS
(Taken from p/u review)

1b. CALCULATIONS

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 6.0 AF/A

ACRES 2 x CONSUMPTIVE VOL. AF/A FOR AREA 3 =

TOTAL CONSUMPTIVE USE 6 AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 2 x DIVERSION VOL. AF/A FOR AREA 4 =

TOTAL DIVERSION VOLUME 8 AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

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

FAC. VOL.

14 @ 10' x 300' x 4' =

14 @ 12,000 ft³ = 168,000 ft³

(per CH₂M-Hill
Report on license exam.)

RECORDED

JAN 28 1993

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	03-15 11-15	DATABASE EXAMINER 0.040 <u>—</u>	DATABASE EXAMINER 8.0 <u>—</u>	DATABASE EXAMINER 6.0 <u>—</u>
DOMESTIC	01-01 12-31	0.040 <u>—</u>	0.6 <u>—</u>	
FIRE PROTECTION	01-01 12-31	132.000 <u>—</u>	1.8 <u>—</u>	
FISH PROPAGATION	01-01 12-31	132.000 <u>—</u>	48180.0 <u>—</u>	
TOTAL FOR THIS RIGHT		132.000	48180.0	

REVIEWED BY:

SOC

DATE:

4-18-91

pen memo LKH

FACILITY Volume = 168,000 cu. ft

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	()	()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02704

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 132.000	EXAMINER	CFS
-----------------------------------	---------------------	----------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-02704	132.000	-		36-02704	132.000
TOTAL CFS		132.000				132.000

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: _____

DATE: _____

NAME OF FIELD EXAMINER: _____

TITLE: _____

MICROFILMED
JAN 28 1994

NIAGARA SPRING PIPELINES

per field exam

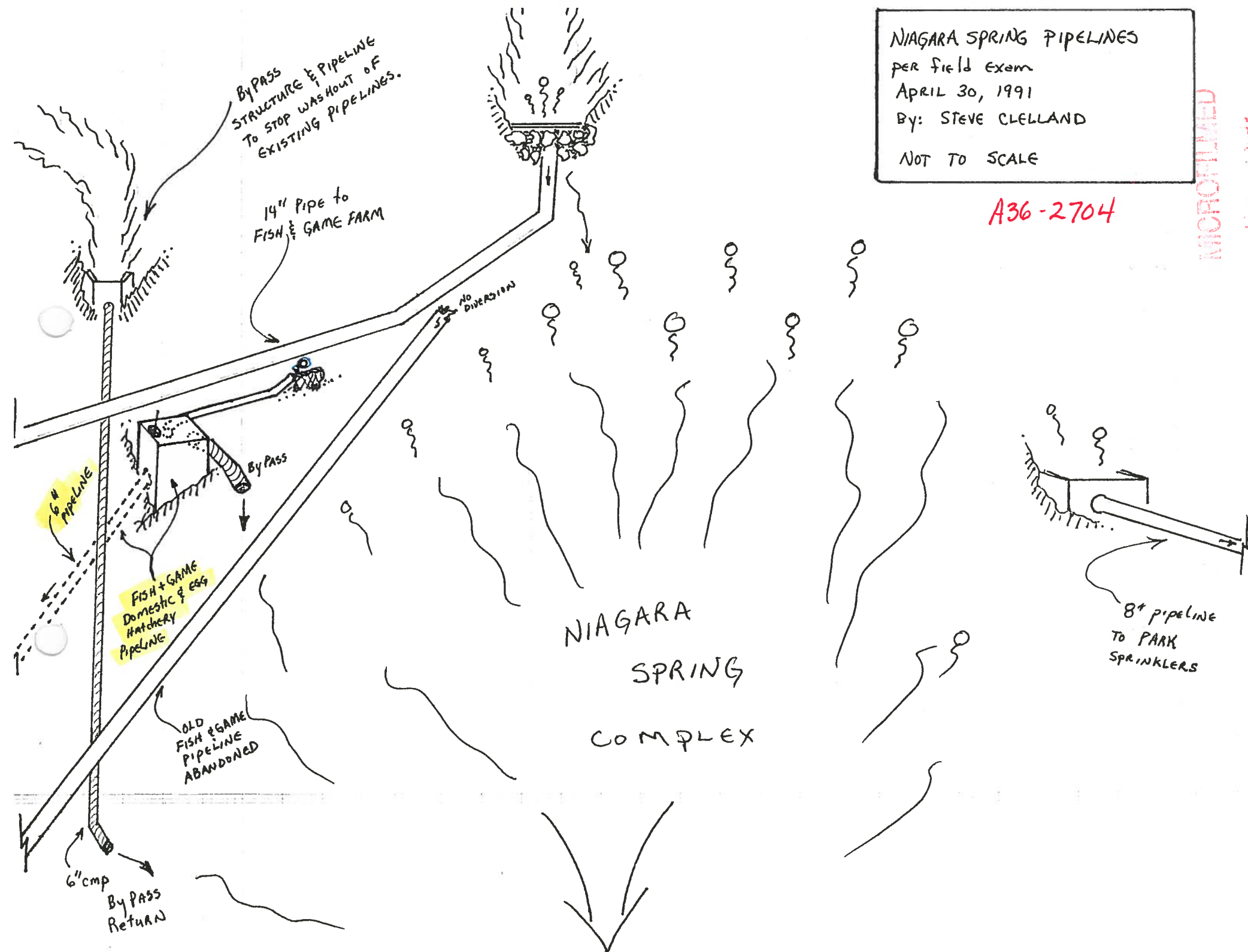
APRIL 30, 1991

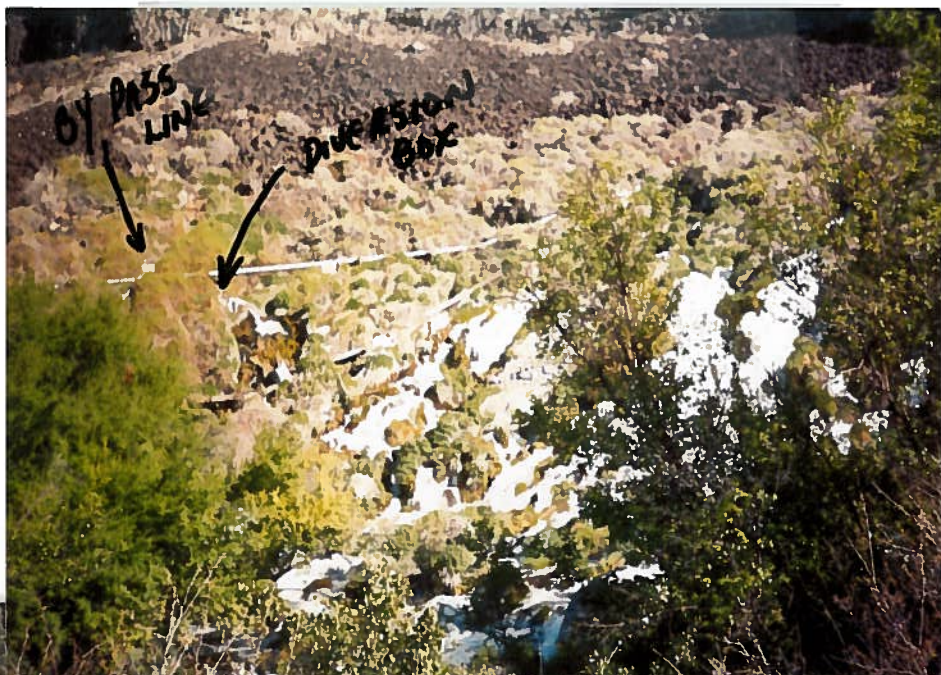
By: STEVE CLELLAND

NOT TO SCALE

A36-2704

UNRECORDED





IDAHO Power Co.
A36-02704

PIPELINE DIVERSION
(TAKEN 4-30-91 by SCC)



IPCO / Fish & Game HATCHERY
OVERVIEW

MICROFILMED
JAN 28 1993

PHOTOS: 4-30-91
by SC

MEMO

TO: File A36-2704
FROM: A. Lynne Krogh-Hampe
DATE: June 10, 1990
RE: Changes in "R" record

The following changes were made from the "R" records dated 5/29/91 based on the state office review:

1. Diversion volume for domestic use changed from .6 to 1.8, as stated in license.

2. Remarks changed. Statement that there are two points of diversion in Lot 1 is unnecessary where they are listed individually by ten acre tract in the point of diversion field. Remark included that irrigation is in Pugmire Park to avoid confusion as to possible overlap with A36-2711.

3. Non-irrigation uses changed from four homes to two homes. Although license is ambiguous as to number of homes, field examiner's report showed only 2. Additional two homes must be claimed on separate claim, either as beneficial use claim if added before mandatory permit statute, or as second presumption claim if added after.

*Deleted
Remarks
see*

*Spoke to LKH
6-17-91*

*she agreed to move this
Remark from this file
over to -2711, which
actual waters Pugmire Park*

See

*— also found engineer's
report showing 3 Houses
in 1966/67.*

see

P.S. Trailer must still file claim

JAN 28 1993



ate of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

15-Aug-1991 09:59

R. KEITH HIGGINSON
Director

BRUCE M SMITH
NELSON ROSHOLT ROBERTSON TOLMAN AND TUCKER
PO BOX 2139
BOISE ID 83701

RE: IDAHO POWER CO. CLAIMS A36-15221, A36-02013 & A36-02710

DEAR MR. SMITH,

ENCLOSED PLEASE FIND THE EXPANSION CLAIM WE DISCUSSED FOR THE TRAILER AT NIAGARA SPRINGS. PLEASE HAVE THE CLAIM A36-15221 SIGNED BY THE AGENT FOR IDAHO POWER CO. AND HAVE IT NOTARIZED. ALSO COMPLETE ITEM 17 INDICATING YOU ARE THEIR ATTORNEY. THE FEES DUE FOR THIS CLAIM ARE \$25.00. PLEASE RETURN THIS FILING TO OUR OFFICE HERE IN TWIN FALLS BY SEPTMEBER 2, 1991.

YOU WILL ALSO FIND ENCLOSED SOME PROOF REPORTS FOR THE CLAIMS A36-02013 AND A36-02710. WE DISCUSSED THESE CLAIMS DURING OUR PHONE CONVERSATION ON JULY 16, 1991. TO RECAP THE SITUATIONS:

A36-02013 THIS RIGHT WAS LICENSED FOR POWER USE ONLY. IT WAS CLAIMED AS POWER AND DOMESTIC. THE DOMESTIC USE IS FURTHER EXPLAINED AS 3 HOUSES AND 1 ACRE PARK; DOES THIS REFER TO IRRIGATION OF ONE ACRE? IF SO, THAT USE SHOULD BE IDENTIFIED ON A SEPARATE CLAIM. IN FACT, ANY OTHER USES CLAIMED, OTHER THAN POWER, SHOULD BE FILED UNDER A SEPARATE CLAIM AND FILED WITH THE APPROPRIATE FEES. THIS SECOND CLAIM CAN BE BASED ON ITS OWN MERIT IF THE PRIORITY DATE FOR ESTABLISHING THE CLAIMED USES IS BEFORE MAY 20, 1971. AFTER THAT DATE THE CLAIM CAN BE BASED ON THE PRESUMPTION EXPANSION UNDER 42-1416(2). IN EITHER CASE SOME FORM OF EVIDENCE OF PRIORITY MUST BE SUBMITTED TO SUPPORT THE CLAIMED PRIORITY DATE. SEE THE ENCLOSED PAMPHLET.

A36-02710 THIS RIGHT WAS LICENSED FOR IRRIGATION AND DOMESTIC USES. THE CLAIM FOR THIS RIGHT ONLY LISTED IRRIGATION AS THE CLAIMED USE, BUT THEN LISTED THE DOMESTIC USES AS INCIDENTAL USES. THIS WOULD LIMIT THE DOMESTIC USE TO THE IRRIGATION SEASON ONLY. TO CLAIM THE DOMESTIC USE AS A PRIMARY USE, ALL THAT IS NEEDED IS TO AMEND THIS CLAIM FOR THAT USE.

THANK YOU FOR YOU PROMPT ATTENTION TO THESE TIMELY REQUESTS. IF YOU HAVE ANY FURTHER QUESTIONS PLEASE CALL ME.

SINCERELY,

STEVE CLELLAND
WATER AGENT, SR.

ENC:

MICROFILMED

JAN 28 1993

CONVERSATION MEMORANDUM

A36-02704

EMPLOYEE: STEVE CLELLANDFILE UNFILED DomesticRE: IDAHO POWER @ NIAGARA SPRINGS DomesticDATE 7-16-91

NAME OF PARTY

BRUCE SMITH, ATTORNEY 336-0700

I called him to ask if he had received my letter. He said he had not (did not know) what IPCO wanted to do.

I then explained why we had disallowed the use and described his two options of deferral or file the Expansion. He will be in touch.

8-14-91 Follow up CALLS - NO RESPONSE

8-15-91 TALKED TO BRUCE SMITH -

He is following procedures to be sure the information is correct as it was claimed or needs to be claimed as we view it. He will call Paul and get back to me.

MICROFILMED

JAN 28 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

05-Jul-1991 10:15

R. KEITH HIGGINSON
Director

BRUCE M. SMITH
ROSHOLT, ROBERTSON, TOLMAN AND TUCKER
P O BOX 2139
BOISE ID 83701

RE: IDAHO POWER CO. NIAGARA SPRINGS ADJUDICATION CLAIMS

DEAR MR. SMITH,

YOU ARE LISTED AS THE REPRESENTATIVE FOR IDAHO POWER COMPANY IN THE ADJUDICATION CLAIMS AT NIAGARA SPRINGS. AFTER FINAL REVIEW OF THESE CLAIMS, WE HAVE DETERMINED THE TRAILER HOUSE ON THE HATCHERY PROPERTY IS NOT COVERED BY ANY OF THE PREVIOUS ADJUDICATION FILINGS. THIS USE WAS CLAIMED UNDER A36-02704 BUT WAS CONSIDERED AN EXPANSION OF THE LICENSED RIGHT AND IS NOT ALLOWED AS CLAIMED.

I SPOKE TO PAUL ABBOTT, IPCO HATCHERY BIOLOGIST, AND HE CONFIRMED THE TRAILER WAS MOVED ONTO THE PROPERTY MARCH 3, 1982. GIVEN THIS DATE AND THE SOURCE BEING A SURFACE WATER, IT APPEARS IDAHO POWER CO. HAS TWO OPTIONS IN CLAIMING THIS WATER RIGHT. ONE, CLAIM THE DOMESTIC USE FOR THE TRAILER AS AN EXPANSION OF LICENSE 36-02704 PURSUANT TO IDAHO CODE 42-1416(2). TWO, DEFER THE DOMESTIC CLAIM UNDER THE TERMS OF THE STIPULATION APPROVED JANUARY 17, 1989.

PLEASE EITHER SUBMIT THE EXPANSION CLAIM OR INFORM IDWR YOU WISH TO DEFER THE CLAIM. WILL YOU RESPOND TO THIS REQUEST AS QUICKLY AS POSSIBLE SO THIS INFORMATION CAN BE INCLUDED IN THE UPCOMING REPORT. IF YOU HAVE FURTHER QUESTIONS CONTACT ME AT OUR OFFICE.

SINCERELY,

STEVE CLELLAND
WATER AGENT, SR.

MICROFILMED

JAN 28 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLANDFILE R36-02704RE: Development of 2 Homes.DATE 6-13-91 2:15pm

NAME OF PARTY

DAN BAKER, F+G employee536-2283

He was in the office when I called. I told him there was a licensed water right for the two older Homes but another claim was needed for the two Newer Homes. I ask him if he knew the dates they were added to the system. He said one was a trailer, maybe early 70's. He said the other House had a separate sewer system so maybe it was developed after the other homes. He will look for some info on the dates and get back to me. I said I need this info so I can approach the lawyer for IPCO to file the correct claims.

He also mentioned F+G employees live in all four homes.

CALL BACK: 2:45 Dan called and reported the inventory cards show all 3 houses were built at the same time - 1966. as for the trailer house there was no record. He suggested I call Paul Abbott, IPCO Hatchery Biologist @ 383-2353.

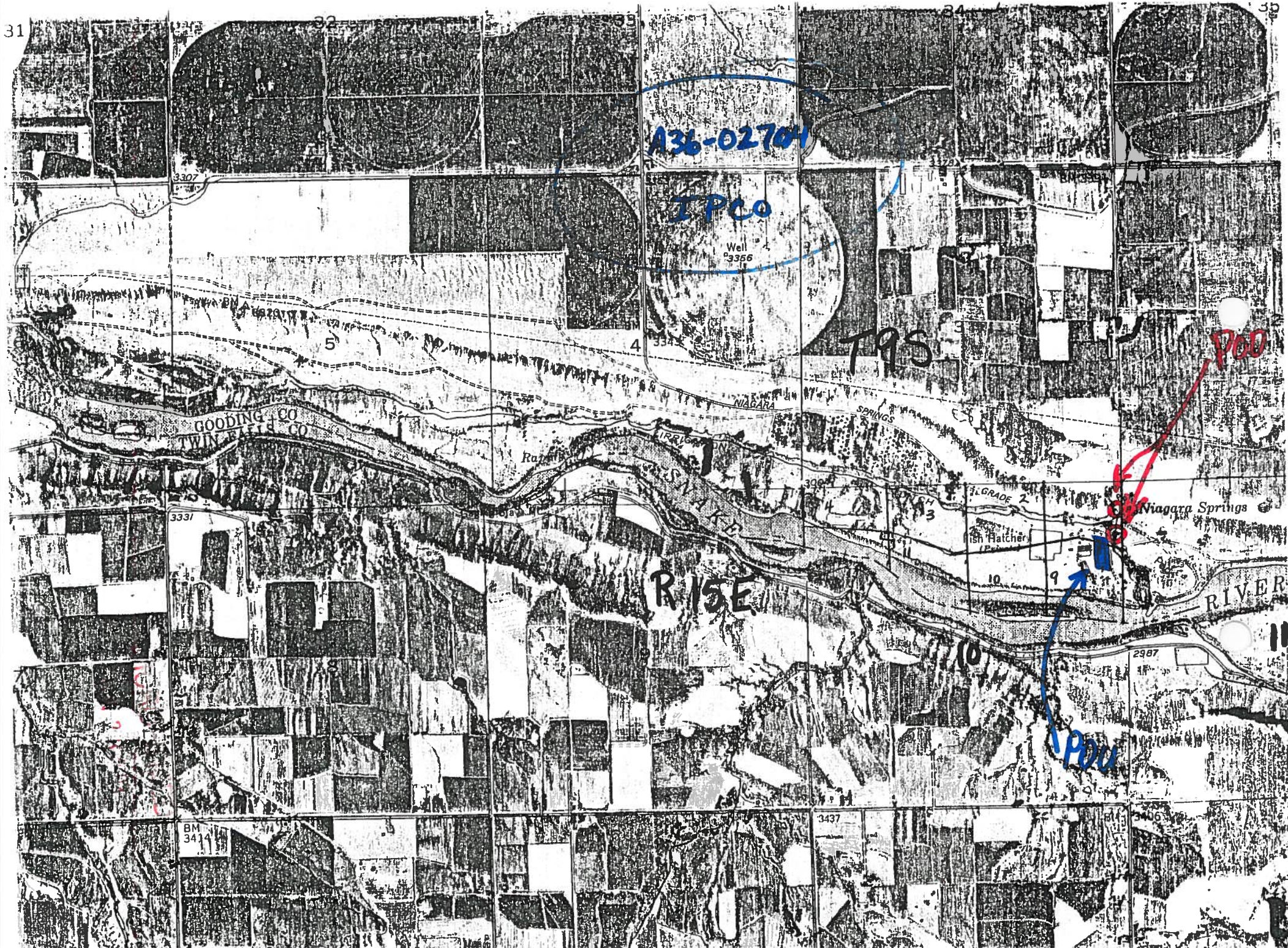
3:30 spoke to Paul Abbott - he will confirm it but he thought the trailer was moved on in 1981 or 1982. He confirmed the other 3 houses were built the same time as the Hatchery in 1966.

→ March 3 1982 - Paul Abbott confirmed this date.

MICROFILMED

JAN 28 1993

31



A36-02704

IPCO

T95

POD

RISE

Niagara Springs

RIVER

GOODING CO
TWIN FALLS CO

Well #3356

GRADE 2

Fish Hatchery

BM 3411

BM 3437

BM 3406

MEMO

TO: File A36-2704
FROM: A. Lynne Krogh-Hampe
DATE: June 10, 1990
RE: Changes in "R" record

The following changes were made from the "R" records dated 5/29/91 based on the state office review:

1. Diversion volume for domestic use changed from .6 to 1.8, as stated in license.

2. Remarks changed. Statement that there are two points of diversion in Lot 1 is unnecessary where they are listed individually by ten acre tract in the point of diversion field. Remark included that irrigation is in Pugmire Park to avoid confusion as to possible overlap with A36-2711.

3. Non-irrigation uses changed from four homes to two homes. Although license is ambiguous as to number of homes, field examiner's report showed only 2. Additional two homes must be claimed on separate claim, either as beneficial use claim if added before mandatory permit statute, or as second presumption claim if added after.

Spoke to KK
6-17-91

she agreed to move this
Remark from this file
over to -2711, which
actual water Pugmire Park.
See

— also found engineer's
report showing 3 houses
in 1966/67.

PS. — MICROFILMED
JAN 28 1993

CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE R36-02704

RE: Development of 2 Homes.

DATE 6-13-91 2:15pm

NAME OF PARTY

DAN BAKER, F+G employee

536-2283

He was in the office when I called. I told him there was a licensed water right for the two older homes but another claim was needed for the two newer homes. I ask him if he knew the dates they were added to the system. He said one was a trailer, maybe early 70's. He said the other house had a separate sewer system so maybe it was developed after the other homes. He will look for some info on the dates and get back to me. I said I need this info so I can approach the lawyer for IPCO to file the correct claims.

He also mentioned F+G employees live in all four homes.

CALL BACK: 2:45 Dan called and reported the inventory cards show all 3 houses were built at the same time - 1966.

as for the trailer house there was no record. He suggested I call Paul Abbott, IPCO Hatchery Biologist @ 383-2353.

3:30 spoke to Paul Abbott - He will confirm it but he thought the trail. was moved on in 1981 or 1982. 4. confirmed the other 3 houses were built the same time as the Hatchery in 1966.

→ March 3 1982 - Paul Abbott confirmed this date.

MICROFILMED

128-103

M E M O R A N D U M

DATE: August 27, 1992
TO: File A36-02704
FROM: Don Shaff 
RE: Claim Review

As a part of the Niagara Springs water rights review today, an agreement between the claimant and Rim View Trout Company came under review also. The agreement is within file 36-08597, which is an application by Rim View Trout Company. This March 9, 1987 agreement and amendments revealed an admission on the part of the claimant that the total diversion rate described on the License for the entire period of use described on the License does not occur. As a result, the proposed recommendation for this right is altered to confirm these admissions and condition the diversion of the water right to these operational factors of the fish hatchery.

MICROFILMED
JAN 28 1993

Water Right Number - R36-02704

Prefix Translation: RESEARCH

Old (D) Number - 32711

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

+ - First Name - - +

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

*** A - ATTORNEY ***

IDAHO POWER CO

1 - STEVEN L HERNDON

2 - PO BOX 70

3 -

City- BOISE

State- ID Zip- 83707

Phone - 208-383-2692

1 - JAMES C TUCKER OR

2 - BRUCE M SMITH

3 - PO BOX 2139

City- BOISE

State- ID Zip- 837022139

Phone - 208-336-0700

ROSHOLT ROBERTSON & TUCKER

*** C - CURRENT OWNER ***

IDAHO POWER CO

1 - PO BOX 70

2 -

3 -

City- BOISE

State- ID Zip- 83707

Phone - 208-383-2200

+ - - Priority Date - - +
01/31/1966+ - - - Region - - - +
17 SOUTHERN+ - - - Stage - - - +
L - LICENSE

+ - - - Status - - - +

+ - - - - Source - - - - +
NIAGARA SPRINGS+ - - - - Tributary - - - - - +
SNAKE RIVER

Tw	Rng	Sec	Tract	Lot	RFlg	County	Point of Diversion
09S	15E	10	NE NE NE	1	(47)	GOODING	
			SE NE NE	1	(47)	GOODING	

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 -	IRRIGATION	04/01	10/31		0.040	8.00
43 -	DOMESTIC	01/01	12/31		0.040	1.80
49 -	FIRE PROTECTION	01/01	12/31		130.000	48180.00
19 -	FISH PROPAGATION	01/01	12/31		130.000	48180.00

Total Div. Rate	Total Div. Volume	Total Consumptive Use	KW Usage
130.000	48180.00		6.0

Tw	Rng	Sec	Tract	Lot	Acres	Code	Description	County
09S	15E	10	SE NE	9	2.0	01	IRRIGATION	(47) GOODING
09S	15E	10	NE NE	1		19	FISH PROPAGATION	(47) GOODING
09S	15E	10	SE NE	9		19	FISH PROPAGATION	(47) GOODING
09S	15E	10	NE NE	1		43	DOMESTIC	(47) GOODING
09S	15E	10	SE NE	9		43	DOMESTIC	(47) GOODING
09S	15E	10	NE NE	1		49	FIRE PROTECTION	(47) GOODING

Prefix Translation: RESEARCH

MICROFILMED
 JAN 28 1993

+ - - Diversion Means - STEEL PIPE, CONCRETE BOXES, PIPES TO INCUBATOR AND RACEWAYS.
+ - - Non-Irrigation Use - DOMESTIC, 3 HOMES, OFFICE; FISH, 14-10' X 300' RACEWAYS; FIRE PROTEC.
+ - - Other Rights for Same Use - SEE REMARKS

RIGHT NO. 36-15221 IS AN EXPANSION OF THIS RIGHT PURSUANT TO
IDAHO CODE 42-1416(2).

USE OF THIS RIGHT WITH RIGHT NO. 36-15221 IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 130 CFS, A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 48180 AF. FACILITY VOLUME 168,000 CU. FT.

✓ THE RATE OF DIVERSION PURSUANT TO THIS RIGHT IS LIMITED TO THE FOLLOWING AMOUNTS DURING THE FOLLOWING PERIODS OF USE: ✓

+ - - - - - Old Water Right Numbers - - - - - +
3602704

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

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

[illegible]

Water right number - R36-02704

Prefix Translation: RESEARCH

+ - - - - - Comments - - - - - +
 Date: 06/17/1991 User Id: CLELLAND Subject: DOMESTIC USE
 THE THREE HOUSES WERE BUILT IN 1966. TRAILER HOUSE WAS ADDED IN MARCH 3, 1982 PER PAUL ABBOTT IPCO BIOLOGIST. CLAIM IS NEEDED.
 | UPDATE: 8-15-91 SCC
 SPOKE WITH BRUCE SMITH AND HE SAID THEY WOULD BE FILING THE EXPANSION CLAIM FOR THE EXTRA DOMESTIC. THAT CLAIM HAS BEEN PRE-
 PARED AND IS NUMBERED A36-15221. WHEN THE SIGNED VERSION IS RE- CEIVED THIS RECORD SHOULD BE REVISED TO INCLUDE SIMILAR REMARKS
 AND REFERENCE TO A36-15221. |
 UPDATE: 11-04-91 SCC CLAIM FILED AS A36-15221.
 Date: 08/27/1992 User Id: SHAFF Subject: CHANGES
 REVIEW OF IDAHO POWER CO. AND RIM VIEW AGREEMENT REVEALED A STAGGERED OPERATION SCHEDULE WITH AN AMOUNT OF WATER FOR EACH
 PERIOD OF THE YEAR.

+ - - Audit Fields - - +
 08/27/92 SHAFF

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 04/30/1991	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	- 10/17/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- C002944	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	- OR	Presumption Flag	-
				Notice of Error Flag	-

Verified
RF 8/27/92

TELEPHONE CONVERSATION MEMORANDUM

RECEIVED

SEP 21 1992

DATE: 09/03/92

Department of Water Resources
Southern Region Office

TO: File A36-02704

FROM: D. Shaff *DS*

RE: Steve Goddard, Attorney, Idaho Fish & Game

Mr. Goddard called today with questions about my memorandum dated 08/27/92 that discussed my review of the claims to Niagara Springs water. Through questions and answers, I assisted him to understand the origins of the Rim View "243" claim #36-04032 and the proposed recommendations for claims 36-04032A, B and C, and in turn the subsequent Rim View water right 36-02680 bringing the total to 90.3cfs and 36-07167 bringing the total proposed authorized diversions to 140.3cfs for 1971 and earlier Rim View water rights. Mr. Goddard had used for comparison purposes a table in an earlier Department opinion, as he called it, written by Norm Young.

In addition, he wanted to confirm his understanding of the recommendation for the Idaho Power water right 36-02704 and the remarks placed in that proposed recommendation in relation to the Idaho Power agreement cited in the 08/27/92 memo.

MICROFILMED

JAN 28 1994

36-2704

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 32711/36-2704 Priority Jan. 31, 1966 Amount 132.0 cfs

THIS IS TO CERTIFY, that IDAHO POWER COMPANY
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 32711/36-2704 issued pursuant to Application for Permit dated January 31, 1966,
and has submitted proof to the Department of Water Administration on March 1, 1967,
that he has applied water to a beneficial use; an examination by the Department indicates that the
works have a capacity of 132.0 cfs, and that the water has in fact been applied to a
beneficial use; a right to the use of water from Niagara Springs
tributary of the Snake River, is hereby confirmed in the following amounts:

Amount 132.0 cfs for fish propagation from Jan. 1 to Dec. 31 (both dates inclusive)
Amount 132.0 cfs for fire protection from Jan. 1 to Dec. 31 (both dates inclusive)
Amount 0.04 cfs for domestic from Jan. 1 to Dec. 31 (both dates inclusive)
0.04 cfs irrigation March 15 Nov. 15
Subject, however, to the condition that no more than 132.0 cfs of water be diverted at
any one time, said waters to be diverted within the

Lot #1, Sec. 10, Twp. 9 S, Rge. 15 E, B.M.

in the county of Gooding; and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 8.0 acre feet per year or
4.0 acre feet per acre. for irrigation use; 0.6 af per domestic unit not to
exceed 1.8 af per year; 48,180 af for fire protection use; and 48,180 af for fish prop-
Description and location of place of use: agation use *

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9 S	15 E	10				2													2
						(Lot 9)													
Domestic & Fish Propagation:																			
9 S	15 E	10	X			X													

Total number of acres irrigated 2

* with the total amount not to exceed 48,180 acre feet per year.
Use of water under this license is affected by an agreement and stipulation between Idaho
Power Company and Rim View Trout Company, Inc., dated October 5, 1966.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands
or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 11 day of
February, 19 72.



[Signature]
Director

MICROFILMED
1972 8 1993

36-2704

June 9, 1988

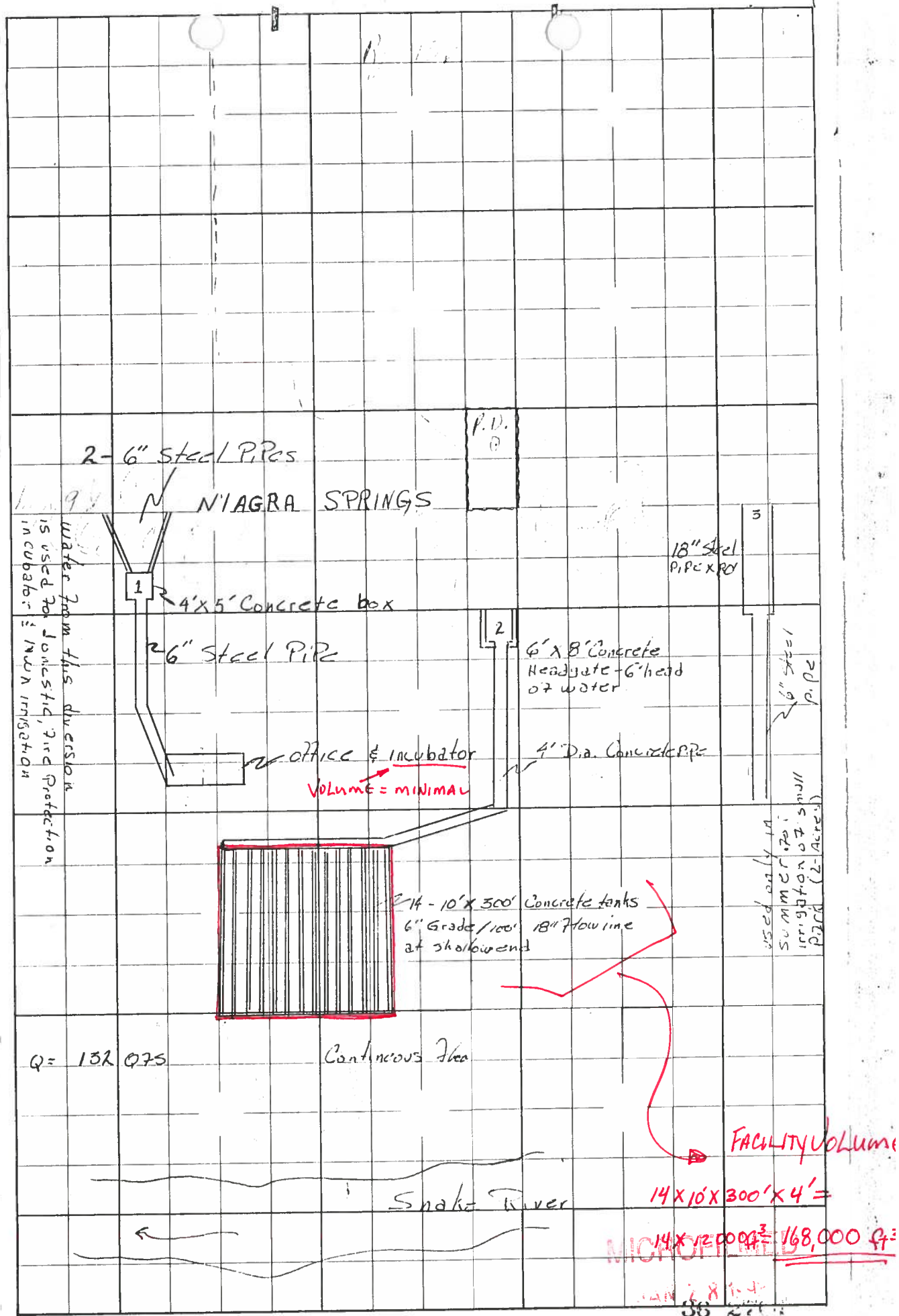
The November 13, 1969 Report on Report of Completion of Works & Beneficial Use clearly demonstrates there are three points of diversion for this license, 36-2704. The water inlet is a 4" pipe & two 6 inch pipe inlets for a total of three intake sources. Item 5 of the proof notes that 2 cfs is used for domestic, sprinkling, fire protection and fish hatchery purposes. The ~~other~~ remaining water is used for fish rearing purposes.

The February 11, 1972 license is for a total of 132 cfs (The license notes 0.04 cfs of this can be used for irrigation & another 0.04 cfs can be used for domestic purposes.)

Ralph Mellen

MICROFILMED

JAN 28 1993



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF EXAMINER

36-02704

Permit No. 32711

This proof is for Comp. of Works & Beneficial Use In Water District No.

1. Name of applicant Idaho Power Company

2. Source of water supply: Niagara Springs

3. Location of point of diversion: Is in the Lot 1 of Section 10

T. 9 S R. 15 E County of Gooding

4. Describe works as they exist, giving dimensions and capacities of same:

Barton Stoddard designed this system, By Engineer Donald Anderson measurements #2 will convey 130 cfs. All three points of diversion are approx. two hundred ft. apart.

5. Water is used for: 150 c.f.s. fish rearing, 2 c.f.s. domestic, sprinkling, fire protection

& fish hatchery purposes

6. State whether or not water has been turned into works of diversion:

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

Lots 1 and 9, Sec. 10, T. 9 S, R. 15 E, B.M.

#1 & #2 are used for fire protection & domestic use & fish propagation as well as irrigation

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach? Snake River

Remarks: Charles R. Ouidore, manager of the hatchery showed me around the area.

Det. table Domestic 2 homes & office complex = $103.4 \times 3 = .09 \text{ cfs} \times 1.80 \text{ ACP}$
Irrigation 2 acres totty $.02 \times 2 = .04 \text{ cfs}$

This examination was made on the Nov 13 day of 1969

(Signed) [Signature] Examiner.

MICROFILMED

JAN 28 1973

LAW OFFICES
BAKES, WARD & BATES

ROBERT E. BAKES
JOHN C. WARD
JAY F. BATES

November 10, 1971

36-02704

612 HAYS STREET
P. O. BOX 2832
BOISE, IDAHO 83701
TELEPHONE: (208) 342-8915

Mr. Keith Higginson
Reclamation Engineer
State Office Building
Boise, Idaho

RECEIVED

Nov 12

RE: Idaho Power Application #36-2704 Department of Water Administration

Dear Mr. Higginson:

The above entitled Idaho Power Application has been pending for license for some time now. One of the problems in that file is that when Idaho Power initially filed their application they failed to cause the notice to be published as required by law, and as a result the Rim View application for 100 second feet of water was filed prior to the time that Idaho Power realized that their first application had not been properly published. Thereafter, proceedings were held in hearings on the Rim View application which resulted in a stipulation being entered into between Idaho Power Company and Rim View Trout Co., the result of which was that Rim View's application would have first priority for the first 40 second feet (actually, this 40 second feet was a long established use right and Rim View does not waive the earlier priority which is established by this use), then Idaho Power's application would be second for 110 feet, and the balance of Rim View's application would be next for 60 second feet.

The stipulation is filed in both files, and before any license is issued to Idaho Power Company establishing a priority for their water license, I think a conference should be held in order to work out the priority dates of both the Idaho Power application and the Rim View application. I am sending two copies of this letter in order that one may be placed in both the Idaho Power application file set out and the Rim View application file. ✓

I would appreciate any comments which you may have on this.

Yours very truly,

BAKES, WARD & BATES

Robert E. Bakes
Robert E. Bakes

REB:bh

MICROFILMED

JAN 28 1993

36 2704

36-02704

CORNELL, HOWLAND AYES & MERRYFIELD PORTLAND BOISE • CORVALLIS • SEASIDE
 BY JWE DATE 2-27-57 SUBJECT Niagara Springs Fish Hatchery SHEET NO 1 OF
 CHKD. BY DATE JOB NO. B 4539.0

Head ~~was~~ on 4/8" Cone pipe

3.7' $\pm 0.2'$ from headwall to w.s. upstream

5.4' " " " top cone pipe Class 2

2 - 4' Cipp weirs placed in roadway ≈ 81

		4.75"		0.40	3.4
West Weir	head	4.5"	=	0.37 0.37 1	$Q = 3.05$
		5.0"		0.42	3.7
East Weir	"	4.75"	=	0.37	$Q = 3.3$

Total 7.1
6.4 cfs

Channel $b = 4.93$

w. depth $ws = 3.0'$

36 2704

MICROFILMED

JAN 28 1993

3602704

CORNELL, HOWLAN HAYES & MERRYFIELD PORTLAND • BOISE • CORVALLIS • SE
 BY JWE DATE 2-27-61 SUBJECT Niagara Springs SHEET NO 2 OF ...
 CHKD. BY DATE Hatcherberg JOB NO.

Raceway

Head

East
End

14

E

5"

W

4.5"

13

E

4.25"

W

4.25

12

E

4.25

W

4.50

11

E

4.50 5.50 -

W

5.50 5.50 -

10

E

4.75 5.50

W

4.0

9

E

4.5

W

4.25

8

E

4.5

W

4.25

7

E

5.0

W

4.75

6

E

4.75

W

5.25

5

E

4.75

W

5.0

36 2704

MICROFILMED

JAN 28 1993

BY JWE DATE 2-2-77

SUBJECT Niagara Springs Catcher

SHEET NO 4 OF 4

CHKD. BY DATE

JOB NO.

Flow through 48" Conc pipe

L = 295 s = 0.9270

Head over top pipe at U.S. end = 2.2'

Fall = 2.7'

$$H = 2.2 + 2.7 = 4.9' = \left[K_s + \frac{fL}{D} + 1 \right] \frac{V^2}{2g}$$

$$= \left[(0.5) + (0.0165) \frac{295}{4} + 1 \right] \frac{V^2}{2g}$$

$\frac{E}{D} = 0.00025$

$f = 0.0165$

$$= (0.5 + 1.22 + 1) \frac{V^2}{2g}$$

$$4.9 = (2.72) \frac{V^2}{2g}$$

$$\frac{(4.9)(64.4)}{2.72} = V^2 = 116$$

$$V = 10.8$$

$$A = 12.5 \text{ ft}^2$$

$$Q = VA = 136 \text{ cfs}$$

36-02704

CORNELL, HOWLAND, HAYES & MERRYFIELD PORT ID • BOISE • COPVALLIS • SE
 BY JWE DATE 2-27 SUBJECT Niagara Springs Hatchery SHEET NO 5 OF
 CHKD. BY DATE JOB NO.

Flow over 4' Cipri Weirs in raceway # 11

$$\text{Head } \frac{5.75''}{\frac{48}{95}} = .48' \quad 4.48 \text{ cfs}$$

$$6.0'' = 0.50' \quad \frac{4.76}{9.24 \text{ cfs}}$$

$$\frac{0.41'}{0.42} = \frac{x}{9.2} \Rightarrow x = \frac{9.2(41)}{(.42)} = \underline{9.0 \text{ cfs}}$$

$$\frac{14}{9} = 1.55$$

$$\frac{.41}{9.2} = \frac{.42}{x}$$

$$.41x = 9.2 \times .42$$

MICROFILMED

JAN 28 1993

36-0270

CORNELL, HOWLAND, HAYES & MERRYFIELD

PORT D

BOISE

CORVALLIS

SEA

BY JWE

DATE 2-27-61

SUBJECT

Niagara Fish Hatchery

SHEET NO. 6

OF

CHKD. BY

DATE

JOB NO.

Sprinkler's

35 heads • $\frac{3}{32}$ nozzles - @ 45 psi 4.9 gpm
 SS 5.4 gpm

20 sticks of trays at 3.5 gpm

26 Buckner 108 R heads

30 Buckner 560 w/ $\frac{3}{16}$ " heads

2 Fair hydrants

3 houses

8 trays presently, spare for 20 trays @ 3.5-7 gpm each

MICROFILMED

36-0270

JUN 2 1961

36-02704



ENGINEERS PLANNERS ECONOMISTS

CORNELL, HOWLAND, HAYES & MERRYFIELD

414 North First Street, P.O. Box 897, Boise, Idaho 83701, Telephone: 208/343-2521

Boise Regional Office

Department of Water Administration

B4539.0

11 November 1971

Mr. Ted Heikes
Idaho Power Company
P.O. Box 70
Boise, Idaho 83707

Dear Mr. Heikes:

Subject: Niagara Springs Fish Hatchery - Proof of Beneficial Use Inspection

Enclosed are six sheets of my field notes made on 27 February 1967 when Sam Barton and I made this inspection. The notes are in a little bit rough form, but I believe the basic data is all there.

After reviewing the notes, I believe the following is the rationale we used in making the measurements.

We first of all measured the head over the upstream end of the 48-inch concrete pipe feeding the fish raceways. These data appear on Sheet 1. Two 4-foot Cippoletti weirs were placed in raceway No. 11. We measured the head over each of these weirs and computed the flow over each weir and the total through the raceway based on those measurements. These data also appear on page 1. We then measured the head over the stoplogs in each of the 14 raceways and computed the average head to be 4.9 inches or 0.41 feet. These data appear on pages 2 and 3. By simple proportion, we then computed the flow through all 14 raceways based upon the ratio of the head over the stoplogs in raceway 11 to the average head over the stoplogs in all 14 raceways and the measured flow over the Cippoletti weirs in raceway 11. These data gave us a flow of 88 second feet as shown on Sheet 3.

Realizing that this was considerably under the design capacity of the facility, we began checking back to determine why the flow was different. On Sheet 4, are our computations to compute design capacity of the 48-inch concrete pipe. These computations gave us a capacity of approximately 136 second feet. We then went back and measured the flow over the 4-foot Cippoletti weirs in raceway 11. We found that the head had now increased so that the flow through

MICROFILMED

JAN 28 1993

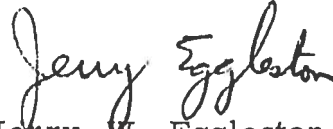
Mr. Ted Heikes
11 November 1971
B4539.0 - Page 2

raceway 11 was approximately 9.2 second feet. Using the same proportional computation as before, this gave a flow through all raceways of 126 second feet. These computations are shown on Sheet 5. As I recall, we concluded that since the weirs had been placed into the raceway shortly before we started making the measurements, the flow had not completely stabilized on our first measurements. After we had completed measuring the head over all of the stoplogs, considerably more time had elapsed and the head had increased significantly. On this basis, we concluded that raceways were using at least the 125 second foot allowed by the permit. Sheet 6 is a list of some of the other minor uses at the hatchery.

I can't explain why question 10 on the "Deposition of Witness" disagrees with question 7. I did not catch the difference at the time I signed the deposition. Our measurements would indicate that at least 125 second feet was flowing through the fish rearing ponds, so that question 10 should have shown 125 second feet rather than 108 second feet.

I hope this will clear up the questions which the Department of Reclamation raised. If there still remain some questions, I will be happy to try to work them out.

Very truly yours,


Jerry W. Eggleston
Project Engineer

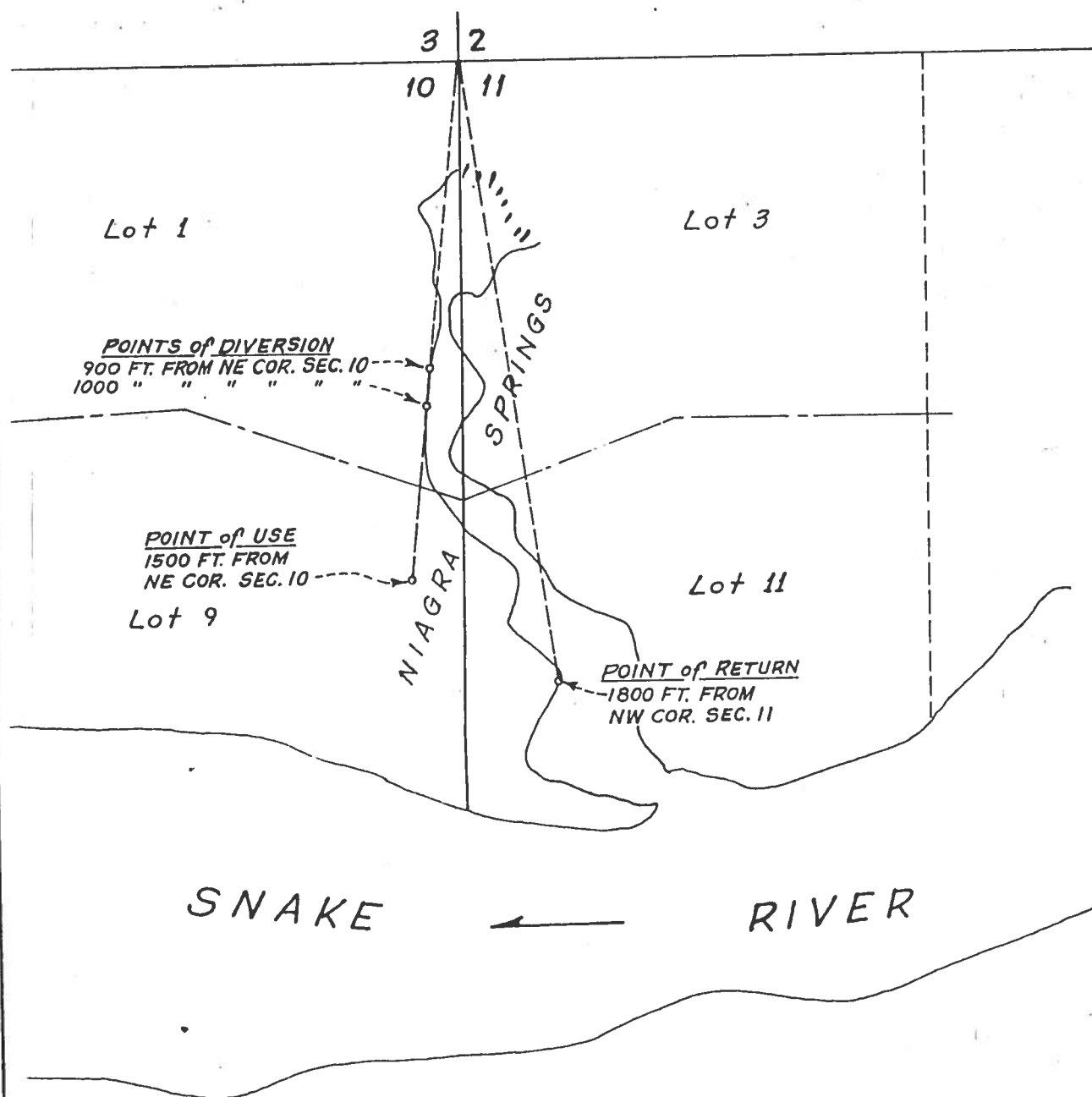
JWE:bcs

cc: Mr. S. M. Barton w/Attachment

Attachment

MICROFILMED
36 2204
JAN 28 1993

T. 9 S. - R. 15 E., B. M. I.D.A.



Permit Map No. 32711

As Approved

CARL E. TAPPAN

State Reclamation Engineer

FEB 4 1966

JAN 28 1993

22711

36-02704

RECEIVED
OCT 5 1966

Department of Reclamation

DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO
STATE RECLAMATION ENGINEER
BOISE, IDAHO

IN THE MATTER OF APPLICATION NO)
41095 FOR PERMIT BY RIMVIEW)
TROUT COMPANY, INC. TO APPROPRIATE) AGREEMENT AND STIPULATION
100 CFS OF WATER FROM NIAGARA SPRINGS)
_____)

WHEREAS, Rimview Trout Company, Inc., has heretofore filed Application No. 41095 for 100 cfs of water from Niagara Springs to be used for fish propagation purposes; and

WHEREAS, the Idaho Power Company has filed a protest with the State Reclamation Engineer against the allowing of said Application; and

WHEREAS, the Idaho Power Company is the owner of the land upon which Niagara Springs is located, and Idaho Power Company has heretofore filed Application No. 40874 for 152 cfs of water from Niagara Springs for use in the fish hatchery that it has constructed; and

WHEREAS, Rimview Trout Company, Inc., now and for several years past has diverted and used approximately 40 cfs of water from Niagara Springs, and in making its Application No. 41095, Rimview Trout Company, Inc., is seeking to increase its water right to a total of 100 cfs, including therein the 40 cfs which it has been diverting and using for fish propagation purposes for several years; and

WHEREAS, certain differences have arisen between the Idaho Power Company and the Rimview Trout Company, Inc., concerning the right of the Rimview Trout Company, Inc., to expand its canal presently crossing the Idaho Power Company property, and also concerning the relative priorities to water rights between the Rimview Application and the Idaho Power Company Application; and

The parties hereto having compromised their differences

MICROFILMED

JAN 29 1967

regarding these and all other issues over which they are now in dispute, and the parties intending to be legally bound hereby;

NOW, THEREFORE, it is hereby stipulated and agreed between the parties that:

I

The Rimview Trout Company, Inc., in filing its Application No. 41095 for 100 cfs of water from Niagara Springs, is seeking a total appropriation of not to exceed 100 cfs of water from Niagara Springs, which 100 cfs includes therein the 40 cfs which Rimview is now, and has for some time been, diverting and using in conjunction with its trout hatchery operation, and Rimview agrees that the additional water appropriation herein sought over and above the 40 cfs now being diverted and used by said Rimview will be limited by the amount of such additional appropriation which Rimview can actually put to beneficial use pursuant to its Application No. 41095.

II.

That the parties hereto agree between themselves, for the purposes of their proceedings now before the State Reclamation Engineer upon Rimview Application No. 41095, and upon Idaho Power Company Application No. 40874, that the following priorities shall exist between the parties concerning their applications and appropriations of water from Niagara Springs:

1. First priority shall be to the 40 cfs now being diverted and used by Rimview Trout Company, Inc.

2. Second priority shall be to Idaho Power Company for 110 cfs, that being the approximate amount of water which Idaho Power is now putting to beneficial use pursuant to its Application No. 40874.

3. Third priority shall be to Rimview Trout Company, Inc. for not to exceed 60 cfs of water based upon its Application No. 41095, limited by the actual amount of said 60 cfs which Rimview shall actually put to beneficial use.

MICROFILMED

JAN 28 1968

4. Fourth priority shall be to Idaho Power Company for the 42 cfs which represents the balance of the water sought by the Idaho Power Company under its Application No. 40874.

III.

Concurrently with the execution of this agreement, the Idaho Power Company agrees to execute a canal easement granting to the Rimview Trout Company, Inc., an easement for a canal to conduct up to 100 cfs of water over a strip of land 10 feet on either side of the center line of the existing Rimview canal across the Idaho Power Company property, together with such additional area as is reasonably necessary for the movement of equipment and personnel in performing any construction work and maintenance upon the canal to be maintained and constructed within said 20 foot strip.

IV.

Based upon the foregoing agreements, Idaho Power hereby withdraws its protest filed against the Application of Rimview, No. 41095, and consents to the granting of a permit based upon said Application, subject to the conditions set out in this agreement.

V.

This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Dated this 5th day of October, 1966.

IDAHO POWER COMPANY

By HR Moore
Vice President

ATTEST:

J. H. Rogers
Assistant Secretary

RIMVIEW TROUT COMPANY, INC.

By W. Lowell Baker
President

ATTEST:

Maureen Ganel
Secretary

MICROFILMED

3.2 JAN 28 1968