

08/30/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-10115

NAME AND ADDRESS: ROCKY MOUNTAIN FITNESS INC
875 E PLAZA DR
EAGLE ID 83616

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.310 CFS
33.600 AFY

PRIORITY DATE: 06/30/1983

POINT OF DIVERSION:

T04N R01E S16 NWNE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

STOCKWATER

01/01 12/31

0.310 CFS
33.60 AFY

PLACE OF USE: STOCKWATER Within ADA County

T04N R01E S16 NWNE

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Stockwater use is for 300,000 chickens.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 63-10115

Priority: June 30, 1983

Maximum Diversion Rate: 0.31 CFS
Maximum Diversion Volume: 33.6 AF

It is hereby certified that ROCKY MOUNTAIN FITNESS INC
875 E PLAZA DR
EAGLE ID 83616 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated June 30, 1983; and has
submitted Proof of Beneficial Use on October 14, 1983. An examination indicates that the works have a
diversion capacity of 0.34 cfs of water from:

SOURCE
GROUND WATER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
STOCKWATER	01/01 to 12/31	0.31 CFS	33.6 AF

LOCATION OF POINT OF DIVERSION:

GROUND WATER NW¼NE¼ Sec 16 Twp 04N, Rge 01E, B M, ADA County

PLACE OF USE: STOCKWATER

Twp Rge Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 01E 16	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
	X												

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 26th day of December 2003


for **KARL J. DREHER**
Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

September 4, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREIER
Director

ROCKY MOUNTAIN FITNESS INC
875 E PLAZA DR
EAGLE ID 83616

RE: Water Right Permit No 63-10115

Dear Permit Holders:

We have received the Articles of Amendment to the Secretary of State that changes the name of Merrill's Egg Farm, Inc. to Rocky Mountain Fitness, Inc. Enclosed you will find a water permit report which shows we have completed the name change on this permit.

Permit 63-10115 was issued for a stockwater use for 300,000 chickens, from a well. We need to know exactly what the use of the water from the well is at this time. How much land do you irrigate from the well? We need to know how many square feet (or acres) are being irrigated. How much water is used for filling the swimming pools? You told me that you only fill the pools once a year but we need to know how many pools there are and the dimensions of each in order to determine how much water is being utilized. Once we receive the information requested, we will do some calculations to determine if your water needs can be covered under a commercial use. If so, we will request that you amend the permit to change the nature of use from a stockwater use to a commercial use.

The Department will hold further processing of your permit for 30 days to allow submission of the requested information. The Department upon request and sufficient justification for an extension may grant additional time. After that time, if adequate information is not received, the Department will issue a preliminary order to void the permit.

If you have any questions in regard to this matter, please do not hesitate to contact me at 327-7944.

Sincerely,

KAY WALKER
Sr. Water Resource Agent

Kwk
Enclosure

Comment Report

63-10115

1 kwalker 12/23/2003 License Recommendation

Comment: The permit holder failed to respond to my letter requesting information on the use of water as of today. The water is supposedly used for landscape irrigation and filling swimming pools at Rocky Mountain Fitness in Eagle. We tried to get the permit holder to submit information concerning the water uses so we might issue the license for a commercial use which would require a licensing amendment. Since we got no response to our correspondence we will issue the license as found developed at the time of field exam in 1986. A fire destroyed Merrill's egg farm in November of 1989 and the was split into facilities. Rocky Mountain Fitness & Recreation now owns the property and well found in our 1986 exam. It should also be noted that the permit holder was required to claim this permit in the SRBA (proof made in October, 1983) but that has not been done. Even if we issue a license for this permit if it is not claimed in the SRBA the right could be lost.

2 kwalker 12/23/2003 Volume

Comment: In review of this permit for licensing, it was determined that we should only allow enough volume for the stockwater use (300,000 chickens). The permit was issued for stockwater use only, no cleanup component. 100 chickens can be allowed 10 gallons per day per field examiners handbook. We are recommending a volume of 33.6 afa for this license.

3 CURTIS 3/27/1991 RETURNED FIELD EXAM

Comment: THE DATE OF FILING OF PROOF OF BENEFICIAL USE UNDER THIS RIGHT REQUIRES THE FILING OF A SRBA CLAIM. A CLAIM HAS NOT BEEN FILED AS OF THIS DATE; THEREFORE, THE FIELD EXAM HAS BEEN RETURNED TO THE REGION TO 1) SEEK A CLAIM AND RESOLVE DISCREPANCIES OR 2) DISALLOW THE RIGHT.

4 kwalker 9/2/2003 Ownership

Comment: The name has been changed on this permit pursuant to Articles of Amendment dated 1/31/2001. This document shows that Merrills Egg Farm Inc has only had a name change to Rocky Mountain Fitness Inc. In talking with Jeff Peppersack it was determined that this document can be used to change the ownership of this permit. See document in file.

A Brief History of
ROCKY MOUNTAIN FITNESS & RECREATION CENTER, LLC.

In 1952 Reid W. Merrill, the Idaho State Poultry Extension Officer, purchased 5 acres in Eagle, Idaho and began his own egg producing farm. It was incorporated as Merrill's Egg Farm, Inc. in 1966.

By 1989 Merrill's Egg Farm, Inc. was the second largest egg producing farm in Idaho, owning 45 acres of land in Eagle, and 400 acres, mostly farm land, in Emmett, Idaho. As Eagle was changing from a farming community to an upper-scale bedroom community of Boise, Idaho; plans were made to eventually move the farm to Emmett. In November, 1989 a fire destroyed all but the oldest hen barns, the processing facilities, and other buildings, and destroying 300,000 laying hens.

All facilities were rebuilt in Emmett, leaving 45 unoccupied acres in Eagle for development. After reconstruction, it was decided, in 1997, to split the business in two. Two LLCs were created. Merrill's Egg Farm, LLC, to be owned by Reid W. Merrill and his son, Galen R. Merrill, to continue the farming portion of the business. All egg farm facilities and land in Emmett were transferred to this entity. Rocky Mountain Fitness & Recreation Center, LLC, was created with the idea of creating a fitness club. Forty of the forty-five acres in Eagle were transferred into this entity, to be owned by Reid P. Merrill, son, and Richard P. Craycroft, stepson.

In order to obtain the financing for the fitness facility, it was necessary to develop the forty acres into a business park and begin land sales.

In the year 2000 the two businesses were completely split in two and Merrill's Egg Farm, Inc., which was now owned wholly by Reid P. Merrill and Richard Craycroft, was renamed Rocky Mountain Fitness, Inc.

As of 2001 Merrill's Egg Farm, LLC no longer has any legal or business ties with Rocky Mountain Fitness, Inc. or Rocky Mountain Fitness & Recreation Center, LLC.

As of 1997 Rocky Mountain Fitness, Inc. (formerly Merrill's Egg Farm, Inc.) owns Rocky Mountain Fitness & Recreation Center, LLC.

Rocky Mountain Business Park, legally Merrill Subdivision #1 and Merrill Subdivision #2, was divided into about 15 commercial lots. Average size of each lot was 1 acre. Five acres were set aside for the fitness facility. Other land was used for the required roads and transferred to the Ada County Highway District.

In 1999, for tax saving purposes Reid P. Merrill and Richard P. Craycroft started Iron Eagle Development, LLC to serve as the commercial lot selling agent for Rocky Mountain Fitness.

Cost of construction of the fitness facility was just under 4 million dollars. Development of the Business Park ran another 3 million dollars. Ultimately, loans for the financing of the Fitness facility totaled 3.2 million dollars. Loans for the financing of the business park totaled 1.2 million. The rest of the money for construction and development

was raised through the fitness facility operations, personal loans, and commercial lot sales

As of August 2002, only three lots, or 4 acres, in the business park remain unsold. Rocky Mountain Fitness & Recreation Center, LLC began operations in December, 1997 in a three thousand square foot, former egg farm warehouse while financing was obtained for and construction of the 50,000 square foot facility began. This facility was completed in March 1999. It opened with 1,500 paying members. membership at the Eagle facility now totals 4,400.

In 2000 an opportunity to purchase the equipment of and lease of a bankrupt facility in Boise, Idaho arose. This resulted in a second, Boise location, in a 15,000 square foot facility, with 1,200 paying members.

For a description of our facilities and amenities please visit our website at:
rockymountainfitness.com



ROCKY MOUNTAIN

Fitness & Recreation

RECEIVED

JUL - 3 2003

Department of Water Resources

07/01/2003

Kay Walker
Sr Water Resource Agent
1301 North Orchard Street
Boise, Idaho 83706

Dear Ms. Walker:
Re: Water Right Permit No 63-10115

I have enclosed a brief history of Merrill's Egg Farm, Inc., (actually written for another purpose,) to explain how Merrill's Egg Farm, Inc became Rocky Mountain Fitness, Inc. Also enclosed is a copy of the Articles of Amendment for the name change, stamped by the Secretary of State's office

All Ada county water rights belonging to the previously named Merrill's Egg Farm, Inc should still belong to Rocky Mountain Fitness, Inc
We do wish to retained our water rights.

The well in question now provides irrigation water for the Rocky Mountain Business Park and, occasionally, water for the Rocky Mountain Fitness swimming pools. All of the necessary applications should already have been submitted by our general contractor when the fitness center facilities and the business park were built

In the case they were not properly performed, can you submitted to us proper applications etc, which we need to provide to you to properly preserve out water rights
Thank you

Richard P. Craycroft
Manager

375 East Plaza Drive Suite 101 Eagle, Idaho 83616
Phone: 208-939-3878 Fax: 208-939-9454



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE

Governor

KARL J. DREHER

Director

June 16, 2003

MERRILLS EGG FARM
3610 STAR LN
EMMETT ID 83617

RE: Water Right Permit No. 63-10115

Dear Permit Holders:

We are in the process of reviewing the above referenced permit and find that the egg farm in Eagle is no longer there. If you will recall, this permit is for stockwater use for 300,000 chickens, from a well. The field examination was conducted in June of 1986 and we need to find out what your intentions are in regard to this permit.

If you have sold all the property where the egg farm was located, as it appears on the Ada County tax lot information that we have, you may no longer have any interest in pursuing a license for this permit. If this is the case, please sign and submit the enclosed relinquishment form so we can clear the permit from our records.

Please contact me within the next 30 days and let me know what your intentions are in regard to this matter if you do not wish to relinquish the permit. The phone number at my desk is 327-7944. Thanks for your help in resolving this matter.

Sincerely,

KAY WALKER
Sr Water Resource Agent

Kw:k
Enclosure

6-25-03
Rick Croycroft called -
of Packy Mtn. Fitness
use the well - want
to retain this right
KW

Receipt Details for ID C041184

Status	Adjustment Type	Version
	Water Right Receipt	1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
1/15/1998 2:55:36 PM	1/15/1998	State	\$81.00	Check
Payer		MERRILL'S EGG FARM		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
50769			
Card Expiration Date	Credit Card Transaction #		

Comment ADJUD FILING FEE A63-10115

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$81.00	ADJUD FILING FEE A63-10115	41503	337	0	0	1155

Refund(s):

Amount	Payee	Date	Document Number
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Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
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Print Report

RECEIVED

RECEIVED

JAN 21 1998

JAN 15 1997

WATER RESOURCES
WESTERN REGION

Department of Water Resources

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A63-10115

Date Received: 1/13/1998

Receipt No:

Received By: CD 41884

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MERRILLS EGG FARM INC 208-939-6328
Address: 1125 E STATE
EAGLE ID 83616

2. Date of Priority: JUN 30, 1983

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	01E	16		NW	NE		ADA

5. Description of diverting works:
WELL AND PUMP

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	01/01	12/31	0.310		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER, 300,000 CHICKENS

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	01E	16		NW	NE	STOCK	

11. Place of use in counties: ADA

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: PERMIT

16. Signature(s)

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

Number of attachments: _____

For Organizations:

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

Merriels Egg Farm Inc , that I have signed the foregoing Organization

document in the space below as President of Title

Merriels Egg Farm Inc and that the statements contained in the Organization

foregoing document are true and correct.

Ken Merriels
Signature of Authorized Agent

Pres Merriels Egg Farm Inc
Title and Organization

Jan 13 - 1998
Date

State of Idaho)
) SS.
County of ADA)

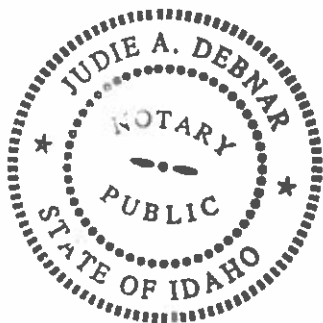
Subscribed and sworn (or affirmed) before me this 13th day
of JANUARY 19 98

Judie A. Debnar
Notary Public

Seal

Residing at Meridian, Idaho

My Commission Expires 10-27-03



Date Received _____

State of Idaho
Department of Water Resources
**REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)**

RECEIVED

JAN 15 1997

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10), Idaho Code.

Reid W Merrill (208) 938-6328
Name of Claimant Phone Number
1125 E. State St Eagle Idaho 83616
Mailing Address City State Zip

Ada
County(s) where place of use is located Date claim originally due

A63-05170 - A63-10115
Identify water right(s) for which extension is requested

State why an extension of time is requested explaining how a diligent effort has been made to meet the deadline:
we had a fire which burned down
our Buildings. There was a large amount
of confusion at the time - applications
were lost in the process.

Claimant requests an extension to _____, 19 ____
Reid W Merrill Jan 13, 19 98
Signature Date of request
Owner
Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [X granted] [_____ denied] for the following reasons:

and if granted the filing deadline is extended to Mar 1, 19 98

Signed this 15th day of Jan, 19 98

D. R. Tuttle
Director or his designated agent