

01/07/2003

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

RIGHT NUMBER: 29-2360

NAME AND ADDRESS: STATE OF IDAHO
LAVA HOT SPRINGS FOUNDATION
PO BOX 669
LAVA HOT SPRINGS ID 83246

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.500 CFS

PRIORITY DATE: 02/05/1955

POINT OF DIVERSION:

T09S R38E S22 SENWSW Lot 10 Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.500 CFS

PLACE OF USE:

IRRIGATION Within BANNOCK County

T09S R38E S21 Lot 8 NESE 4.3

T09S R38E S21 Lot 7 NWSE 13.0

T09S R38E S22 Lot 10 NWSW 3.7

21 ACRES TOTAL

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: License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

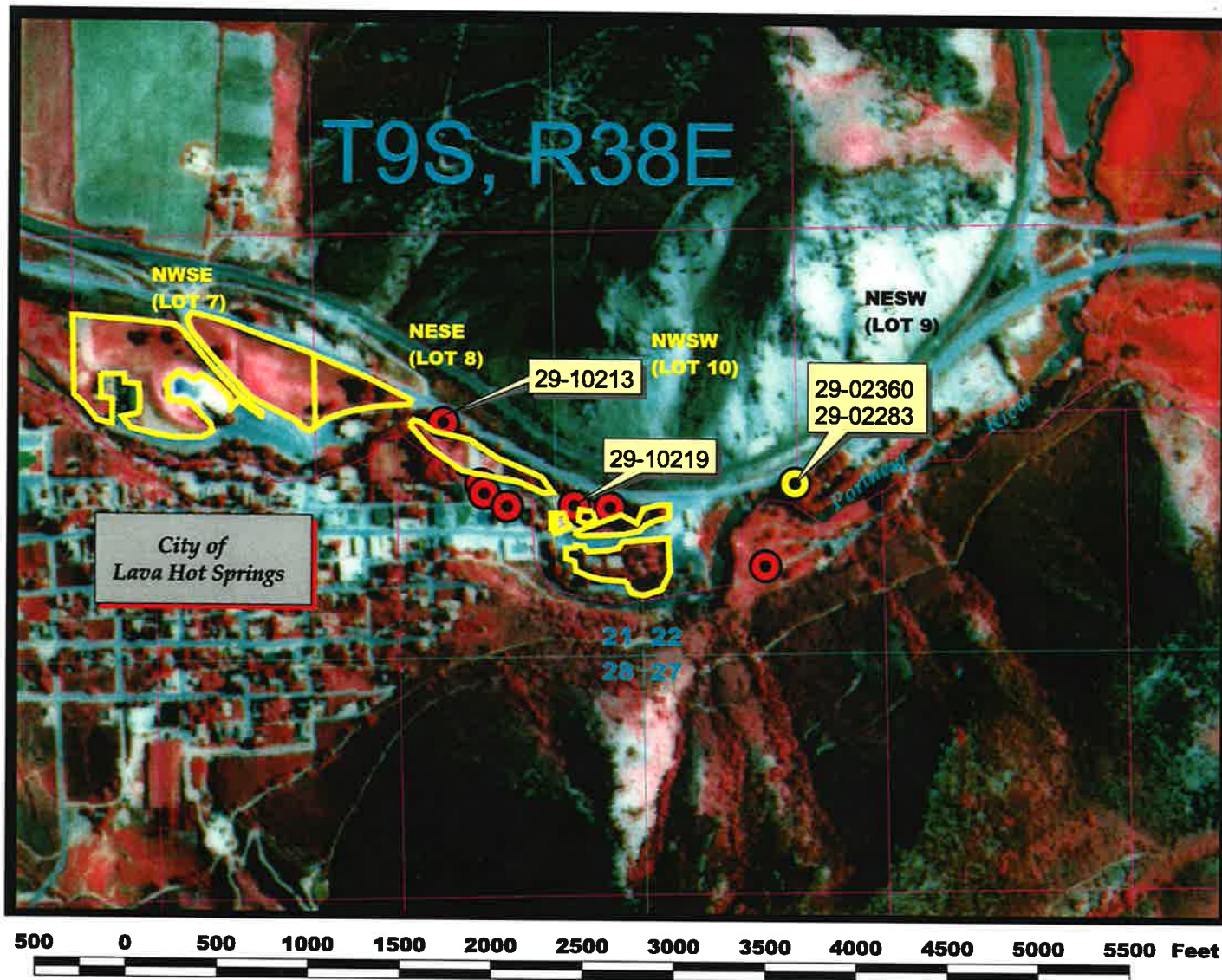
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
29-02360

Place of Use: (parts of) T9S, R38E
Sec. 21 NWSE (L7), NESE (L8),
Sec. 22 NWSW (L10)

Point(s) of Diversion: T9S, R38E
Sec. 22 SENWSW (L10)



LEGEND

-  Point of Diversion
-  SESE Place of Use
-  Section
-  Quarter-Quarter

LAVA FOUNDATION WELLS
ACCOMPANIED BY MIKE
Narrative by Cindy Bird
January 3, 2003

- **GPS FILE NAME:** HOTWEL 9:46AM 1-3-03
N42 degrees 37.169 minutes W112 degrees 00.391 minutes

The hot well is located at the foundation. It supplies water to the showers and the ramped sidewalk at the foundation. It has a 2 hp submersible pump. They pump 35 GPM out of the well. The GPS tag on the wellhead was A0009940.

- **GPS FILE NAME:** IRGWEL 9:57PM 1-3-03
N 42 degrees 37.194 minutes W112 degrees 00.138 minutes

GPS point was taken approximately 15 feet south of wellhead. I had to move away from the pump house and trees to collect the point.

The irrigation well is located at the Cottonwood Campgrounds. The campground is located south of highway 30 as your leaving lava heading over Fish Creek Summit. The pump was a 30 hp Vertical 3 phase pump, Model F403A, I.D. No. Y06Y131R006F. This well is used to irrigate all of the parks in Lava and down to the swimming pool. There is a 6" buried mainline in town and when it gets to the pools it's reduced to a 4" then to a 2". This irrigation well is also used to fill the swimming pool. The pool is opened no later then Memorial weekend sometimes as much as a month earlier depending on the weather. The large pool holds 780,000 gallons and the small pool holds 180,000 gallons.

- **GPS FILE NAME:** POOLHT 10:18PM 1-3-03
N 42 degrees 37.255 minutes W112 degrees 00.569 minutes.

GPS point was taken approximately 20 feet south of pump house away from the building interference.

The pump house is located west of the footbridge in Lava. Two systems are located in the pump house and used to heat the swimming pool year round.

First system: At the discharge for the hot pools, Mike can put some boards in the concrete box and divert the water to a catch basin in the pump house where it is then pumped into a 6" pipe with a 20 hp Marathon Electric pump, Model XA286TTDR7697AN, up to highway 30 and then dumps into a 12" pipe that gravity flows to the swimming pool. Or they have a bypass that allows the water to flow back into the Portneuf River.

PROFILED

SCANNED

JAN 27 2006

Second system: There are several springs that flow into a catch basin in the pump house and is pumped with another 20 hp pump Marathon Electric pump through a 8" pipe up to the highway and again dumped into a 12" pipe that gravity flows to the pool. This system also has a bypass that goes by the condos and back into the Portneuf River. The model number was not legible on this pump or the backup pump.

Season of use for this water is 1/1 to 12/31. They run water through the pool year round to keep it from freezing. The pressure on the pump during my visit was 26.3 psi. Mike said he always run it at 26 psi. Someone from water resources had been down trying to figure out how much water was going through the system. On the west wall inside the pump house was 10-14-85, 807,000 gallons per 24 hr period, and 33, 626 per hour. Mike recalls that this was done by the bucket and stopwatch method.

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JAN 27 2006

Ruberry, Allen

From: Bird, Cindy
Sent: Tuesday, January 07, 2003 3:59 PM
To: Ruberry, Allen
Subject: FOUNDATION CLAIMS

hi,
I spoke with Mark some more this afternoon about their claims.

w/r license 29-7030

a gw well that was not claimed in the SRBA. Check the licensing exam and see if it is located on the other side of the condos below the highway. If it was, then it would be correct they don't need to claim that well because it has not been used since 1969.

Claim 29-4178

Is the springs at the foundation for the hot pools.

Claim 29-10219

This is the fountain of youth here at the foundation.

Claim 29-2283 (license)

This right is used to irrigate the lawns at Cottonwood Campgrounds. Water for the individual camp sites and water for the bathrooms, showers and laundry facilities at the campgrounds.

Claim 29-2360 (licensed)

This is the irrigation well at the Cottonwood campgrounds. It's used to irrigate the lawns in the parks and fill the new swimming pools. This source was also used in the old swimming pool. The new swimming pools were approved in 1968 and opened in August of 1969. The old pool was closed on day and the new pool opened the next day. The old pool was closed because it had a crack in the bottom and white sand was coming out of the pool. The fear with the white sand was that it was unstable and could collapse and potentially suck some people down with it.

Claim 29-10213 (basis B.U.-lapsed permit?)

Your not recommending this right based on a lapsed permit. This is the springs at the pump house labeled POOLHT (springs to heat the pool). They need this right. Mark is checking to see if he can find out when the old pool was built and if the springs were used in the old pool and then ultimately moved to the new pool in 1969. Mark has several affidavits for the springs. Do you have those in the file? I told Mark that they probably don't want to try and resurrect the lapsed permit on this right if we can establish it as a beneficial use claim.

Mark did say that this area flooded in 1962/63 and that was when they started to try and fix up water rights(priority date claimed under the lapsed permit) and install pipes for old systems. Mark felt that the water was actually being used in the old pool prior to that date. He said there was a hearing on the springs and will try to get the finding from the Attorney Generals office on the hearing.

Well I hope that clarifies it a little better for you. I have to start packing up and I'll be in Soda tomorrow.

Cindy

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JAN 27 2006

RECEIVED

MAY 10 2001

Department of Water Resources
Eastern Region

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[X] Water Right Number(s): A29-02283, A29-02360,
A29-4178, A29-10213,
A29-10219

[X] Old Mailing Address: STATE OF Idaho
LAVA HOT SPRINGS FOUNDATION
PO Box ~~669~~ LAVA HOT SPRINGS, ID 83246

[X] New Mailing Address: STATE OF Idaho
LAVA HOT SPRINGS FOUNDATION
P.O. Box 669 LAVA HOT SPRINGS, ID 83246

[] Telephone Number: 776-5221

[] Signature of Claimant: Mark J. Love

[] Date: 5-9-01

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken:

Date: By:

Final Review and Data-Entry

Date: By:

SCANNED

JAN 27 2006

MAY 11, 2001

DEAR SIR OR MADAM:

WATER RIGHT NUMBERS A29-02283, A29-02360, A29-04178,
A29-10213 AND A29-10219 HAVE BEEN CHANGED TO REFLECT THE
ADDRESS ON THE FRONT OF THIS CARD.

RESPECTFULLY SUBMITTED;

Cheri Vandermeulen

CHERI VANDERMEULEN
RECORDS CLERK



STATE OF IDAHO
LAVA HOT SPRINGS FOUNDATION
PO BOX 669
LAVA HOT SPRINGS ID 83246

SCANNED
JAN 27 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

May 7, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
LAVA HOT SPRINGS FOUNDATION
PO BOX 669
LAVA HOT SPRINGS ID 83246-0669

RE: CHANGE OF ADDRESS FOR A29-02283, A29-02360,
A29-4178, A29-10213 AND A29-10219

Dear Sir or Madam:

It has come to our attention that your address may have recently changed. The address currently recorded on the above referenced water right(s) is as follows:

State of Idaho
Lava Hot Springs Foundation
Po Box 430
Lava Hot Springs ID 83246

We recommend if, in fact, the address in question has been changed, you file a "Change in Address" with this department in order that we may send all further correspondence to the appropriate address.

Enclosed is a Change in Address form. Please fill out the form completely, sign and date it and return it to my attention.

If you have any questions regarding this matter, please call 525-7161.

Respectfully submitted,

Cheri Vandermeulen
Records Clerk

Enclosure(s)

SCANNED

JAN 27 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern District Office
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RETURN SERVICE REQUESTED

29-2283
29-2360
29-4178
29-10213

29-10219

LAVA 430

STATE OF IDAHO

LAVA430 832462007 1900 04 05/03/01
RETURN TO SENDER
:LAVA HOT SPRINGS FOUNDATION
PO BOX 669
LAVA HOT SPRINGS ID 83246-0669
RETURN TO SENDER

832462007

SCANNED

JAN 27 2006

MAY 18 2001

» «

29-02360

① POD: Licensed AS; ^{LOT 10} Sw Sw Soc. 22 95/388
 Claimed AS; ^{LOT 9} NE Sw Soc. 22 95/388 - Lot 9
 * CHANGES TO POD when Always? why Licenses Error

SWSW IS ACROSS RIVER
AS LOT 6

CP3

② Purpose or Use:

Licensed for Irrigation/Domestic

Claimed for Commercial - Claim states irrigation
 of grounds and use for other functions on site.

Recommendations:
 → Irrigation of 21 acres
 → Disallow Commercial use otherwise
 → Recommend Irrigation or Agriculture

③ POD: Licensed for 21 ac irrig
 Claimed for 21 ac irrig. But, POD AC CHANGES
 when Always? why Lic Error?

CP5

Probs: Claims; changes to POD ⇒ CP3

changes to Purpose ⇒ CP4

changes to POD ⇒ CP5

Recommend irrig AS
 Lic - NOT Comm AS
 CLAIMED

Recommend irrig AS
 Licensed w/o Commercial

WR5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

02/28/01 15:31:55
Page 1

Water Right Number - 29-02360

Prefix Translation: WATER RIGHT

Old (D) Number - 25425

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

*** C - CURRENT OWNER ***
LAVA HOT SPRINGS FOUNDATION

1 -
2 -
3 -
City- LAVA HOT SPRINGS State- ID Zip- 83246
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
02/05/1955 *idw* 15 EASTERN L - LICENSE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
GROUNDWATER

+ - - - - - - - - - - - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

09S 38E 22 SW SW 10 (5) BANNOCK *changed*

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

01 - IRRIGATION
43 - DOMESTIC *changed* 0.500

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.500 0.0

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

09S 38E 21 NE SE 8 3.0 01 IRRIGATION (5) BANNOCK
09S 38E 21 NW SE 7 18.0 01 IRRIGATION (5) BANNOCK

Total Acres: 21.0 *aw*

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

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

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

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

Need changes to add OD



D. Tuthill *DM*
Adj. file ☒

489-03300

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

ATTORNEY GENERAL OPINION NO. 97-1

To: Robert I. Meline, Executive Director
Lava Hot Springs Foundation
P.O. Box 669
Lava Hot Springs, Idaho 83246

RECEIVED
JAN 17 1997

RECEIVED
JAN 13 1997

Department of Water Resources
Eastern District Office

Department of Water Resources

Per Request for Attorney General's Opinion

QUESTIONS PRESENTED

1. Does the Lava Hot Springs Foundation, under the terms of title 67, chapter 44, Idaho Code, have authority to control the use of hot springs and hot waters located on lands under the control of the Foundation?
2. If the Foundation has the authority to control the use of hot springs and hot waters on lands under the control of the Foundation, is such control exclusive, or is the use of such waters subject to the provisions of title 42, Idaho Code?
3. If the Foundation has authority to control the use of hot springs and hot waters on lands under the control of the Foundation, does such authority extend to authorizing the use of such hot springs and hot waters by private parties on private lands in exchange for an easement across such lands for a pipeline used for the discharge of the Foundation's waste water, or would such a use have to be licensed by the Idaho Department of Water Resources?

CONCLUSION

1. Yes, the Lava Hot Springs Foundation (Foundation) maintains authority to manage and control the use of all hot waters lawfully appropriated under state law that rise and flow on the Foundation's lands.
2. The rights to the use of all hot waters that rise and flow at Lava Hot Springs are water rights that have been appropriated under state law and are subject to regulation by the Idaho Department of Water Resources (Department) under the provisions of title 42 of the Idaho Code.

3. The Foundation has the authority under title 67, chapter 44, Idaho Code, to enter into agreements involving easements with private parties to discharge the Foundation's waste water. However, the Foundation may not authorize the use of any portion of its water in a manner that is inconsistent with its state water right. Other parties seeking to use the Foundation's waste water for new uses or on lands other than the authorized place of use must file for a permit from the Idaho Department of Water Resources.

BACKGROUND

Lava Hot Springs was acquired from the United States under an act of Congress in 1902 which conveyed certain lands to the state of Idaho for public use subject to state regulation. The Act reads as follows:

Chapter 1076. -- An Act to grant certain lands to the State of Idaho. Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That lots seven and eight in section twenty-one, the northwest quarter of the southwest quarter, and lots nine and ten in section twenty-two, all in township nine south, range thirty-eight east, base meridian, in the State of Idaho, are hereby ceded, granted, relinquished, and conveyed unto said State of Idaho for public use under such regulations as said State may prescribe. 32 Stat. 330 (1902)

Seventeen years later, in 1919, the state of Idaho passed Senate Bill No. 9 vesting in the department of welfare the responsibility to manage the lands and property at Lava Hot Springs. 1919 Idaho Sess. Laws 108. The Lava Hot Springs Foundation was created in 1935 and the statutes were amended to make the Foundation responsible for the management and control of the lands and property at Lava Hot Springs. 1935 Idaho Sess. Laws 16. The Foundation, operating as an agency within the department of parks and recreation, continues to manage the lands at Lava Hot Springs today.

ANALYSIS

A. Introduction

The threshold issue raised by the questions presented is whether the unique language in title 67, chapter 44, Idaho Code, creates a special type of water right for the benefit of the Foundation that is different from all other state water rights acquired under the appropriation process. An underlying legal issue is whether it is possible in this state for another type of state water right to exist other than one acquired by appropriation under Idaho law.

Idaho Code § 67-4401 provides: "All rights to the operation, management and control, and to the maintenance and improvement of the lands and property belonging to the state of

Idaho situated within and near the city of Lava Hot Springs, in Bannock County, state of Idaho, hereinafter more particularly described is vested in the Lava Hot Springs Foundation which shall be an agency within the department of parks and recreation”

Idaho Code § 67-4403 describes the lands and property placed under the jurisdiction and control of the Foundation. Idaho Code § 67-4403 provides:

Description of property: The property hereinbefore referred to, and herewith placed under the jurisdiction and control of the said foundation, is described as follows: The northwest quarter (1/4) of the southwest quarter (1/4), and lots nine (9) and ten (10) in section twenty-two (22), and lots seven (7) and eight (8) in section twenty-one (21) in township nine (9), south, range thirty-eight (38) east of the Boise meridian, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the hot springs and hot waters arising and flowing thereon, in Bannock County, state of Idaho.

Upon further analysis of Idaho's Constitution and related water statutes, the language in Idaho Code § 67-4403 placing jurisdiction and control of the hot springs and hot waters under the direction of the Foundation is intended to refer to only those waters lawfully appropriated under state law.

B. The Right to Use Water at Lava Hot Springs is Sanctioned under Water Rights Acquired by Appropriation

All rights to water under state law in Idaho are acquired by appropriation. Article 15, § 3 of the Idaho Constitution provides: “The right to divert and appropriate the unappropriated waters of any natural stream to beneficial uses, shall never be denied, except that the state may regulate and limit the use for power purposes” Idaho Code § 42-101 provides: “All the waters of the state, when flowing in their natural channels, including the waters of all natural springs and lakes within the boundaries of the state are declared to be the property of the state, whose duty it shall be to supervise their appropriation and allotment to those diverting the same therefrom for any beneficial purpose” Idaho Code § 42-103, prior to the 1971 amendments, provided: “The right to the use of the waters of rivers, streams, lakes, springs, and of subterranean waters, may be acquired by appropriation.” Idaho Code § 42-104 provides: “The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such purpose, the right ceases.” Idaho Code § 42-106 provides: “As between appropriators, the first in time is the first in right.”

The consistent thread in Idaho's Constitution and water statutes is that the right to use water must be acquired by appropriation. The Idaho Supreme Court has long held that the method to acquire water in Idaho is by appropriation and that the state may regulate the means of appropriating water within the state. Speer v. Stephenson, 16 Idaho 707, 102 P. 365 (1909).

Unquestionably, the law of prior appropriation is specified as the method to establish the right to use water in Idaho. Absent a clear statutory expression by the legislature to create an exception to the appropriation statutes, all rights to the use of water in Idaho must be acquired by appropriation. The language in Idaho Code §§ 67-4401 and 67-4403 is not a clear expression that the legislature intended to create an exception from the appropriation process for the waters at Lava Hot Springs. The most reasonable interpretation of this language is that the Foundation's jurisdiction and control over waters at Lava Hot Springs refers to those waters that have already been appropriated or that will be appropriated in the future. The legislature has had several opportunities over the years to pass laws regarding the use of water by the state acting through the governor or a state board for a special purpose. In every instance there is a clear expression in the statutes that the water for the special purpose should be appropriated in trust for the people of the state of Idaho.¹ Additionally, Idaho Code § 42-1503 requires that an application to appropriate water be filed by the Idaho Water Resource Board before a minimum stream flow can be established under Idaho law.

Other statutory authority as well as past actions on the part of the Foundation and the Department indicate that the use of the water at Lava Hot Springs was based upon appropriative water rights developed under state law. Perhaps most instructive on the nature of the Foundation's water rights is the language contained in Idaho Code §§ 58-703 and 58-704, passed in 1931, which addressed cessions to the United States for the construction of a national veterans' sanatorium or hospital at Lava Hot Springs. Idaho Code § 58-703 provides: "The state board of land commissioners, acting for and on behalf of the state of Idaho, is hereby authorized, empowered and directed to cede, grant, relinquish and convey to the government of the United States, . . . such portion of the hot mineral and cold water and water rights appurtenant to said lands as may be necessary and convenient [for the operation of a national veterans' sanatorium or hospital]." The description of the lands provided in section 58-704 again refers to waters and water rights appurtenant thereto. The use of the terms "water rights" and "appurtenant" in sections 58-703 and 58-704 is a strong indicator that the Foundation merely controlled the use of the water under a traditional state water right that is appurtenant to lands at Lava Hot Springs.

The grant from the United States in 1902 provided that title to Lava Hot Springs was to be held by the state of Idaho under such regulations as the state may prescribe. In 1919, the Idaho Legislature passed laws directing the department of welfare to manage and control the hot springs and hot waters at Lava Hot Springs. It appears that the department of welfare was directed to manage and control the hot springs and the same hot waters that had been used for many years at Lava Hot Springs prior to the passage of the 1919 Act. In fact, the Foundation recognized this earlier use and claimed a 3 cfs year round water right with a 1902 priority when it filed a Claim to a Water Right with the Idaho Department of Water Resources in 1980. The Foundation filed applications for additional water rights as its needs increased over the years and the Department has processed the applications and issued two water right licenses authorizing the use of additional waters at Lava Hot Springs.

C. The Water at Lava Hot Springs is Subject to State Regulation under Title 42 and must be Applied in a Manner Consistent with the Underlying Water Right

Idaho Code § 67-4401 places a duty on the Foundation to manage and control the hot springs and hot waters arising from lands at Lava Hot Springs. The most reasonable interpretation of this statute is that jurisdiction and control is limited to those waters appropriated under state law. The Foundation's water rights acquired under the appropriation process are the same type of water rights held by other water users in the state and are subject to regulation under title 42 of the Idaho Code.

Finally: under Idaho Code § 67-4402, the Foundation is authorized to exercise such powers as are incidental or conducive to the attainment of the purposes of the Foundation. The authority granted to the Foundation in Idaho Code § 67-4402 appears sufficient to allow the Foundation to enter into agreements pertaining to easements, provided the purpose of the agreement is incidental or conducive to the attainment of the purposes of the Foundation. An agreement which pertains to an easement to discharge waste water from lands managed by the Foundation appears to fall within the grant of authority under Idaho Code § 67-4402. However, as with all appropriators of water, the Foundation must use its water in a manner that is consistent with its underlying water rights. The Foundation's water rights are appurtenant to the lands described in Idaho Code § 67-4403 and should not be applied to other lands. If an adjacent property owner desires to make beneficial use of the Foundation's waste water, that person needs to file an application for permit to appropriate water with the Idaho Department of Water Resources. The Foundation does not have the ability to enter into contracts authorizing the use of its waste water on lands not authorized under the water right.

AUTHORITIES CONSIDERED

1. Federal Statutes:

32 Stat. 330 (1902).

2. Idaho Constitution:

Art. 15, § 3.

3. Idaho Code:

§ 42-101.

§ 42-103.

§ 42-104.

§ 42-106.

§ 42-1503.

§ 58-703.

§ 58-704.
§ 67-4301.
§ 67-4304.
§ 67-4307.
§ 67-4308.
§ 67-4309.
§ 67-4310.
§ 67-4311.
§ 67-4401.
§ 67-4402.
§ 67-4403.

4. Idaho Cases:

Speer v. Stephenson, 16 Idaho 707, 102 P. 365 (1909).

5. Other Authorities:

1919 Idaho Sess. Laws 108.
1935 Idaho Sess. Laws 16.

DATED this 9th day of January, 1997.



ALAN G. LANCE
Attorney General

Analysis by:

JOHN W. HOMAN
Deputy Attorney General

1. See Idaho Code § 67-4301, Appropriation of waters at Big Payette Lake; Idaho Code § 67-4304, Appropriation of waters at Priest, Pend d'Oreille and Coeur d'Alene Lakes; Idaho Code § 67-4307, Appropriation of waters at Malad Canyon; Idaho Code § 67-4308, Appropriation of waters at Niagra Springs; Idaho Code § 67-4309, Appropriation of waters at Big Springs; Idaho Code § 67-4310, Appropriation of waters at Box Canyon; Idaho Code § 67-4311, Appropriation of waters at Thousand Springs.

State of Idaho

License and Certificate of Water Right

Water License No. G-25425Amount .50 c.f.s.

Water District No. _____

Priority February 5, 1955

THIS IS TO CERTIFY that LAVA HOT SPRINGS FOUNDATION, STATE OF IDAHO of Lava Hot Springs, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated February 5, 1955; that Permit No. G-25425 was issued under said application; that Certificate of Completion of works, with a carrying capacity of .50 second feet, was issued thereunder on November 14, 1960, showing that said works were completed on the 15th day of January, 1960; and that on the 15th day of January, 1960, LAVA HOT SPRINGS FOUNDATION

of Lava Hot Springs, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of a well, a tributary of subterranean flow, for the purpose of irrigation and bathing use under Use Permit No. G-25425 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer of Idaho and entered of record in Volume 11 of Licenses at page 7010, on the 14 day of November, 1960; The right hereby confirmed dates from February 5, 1955;

The Point of Diversion is located Lot 10

in the -- $\frac{1}{4}$ -- $\frac{1}{4}$, Sec. 22, Tp. 9 S, R. 38 E, B. M. Bannock County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed .50 cubic feet per second.

Description and location of use:

| Twp. | Range | Sec. | Forty-acre Tract | No. Acres Described in Permit | No. Acres Actually Irrigated |
|------|-------|------|--|-------------------------------|------------------------------|
| 9 S | 38 E | 21 | Lot 7 | | 18 |
| | | | Lot 8 | | 3 |
| | | | Total number of acres to be irrigated: | | 21 |

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

WITNESS the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 14 day of November, 1960.

/s/ RALPH W. THOMAS

Deputy State Reclamation Engineer.

(SEAL)

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

Permit No. 9-25425This proof is for Consumption of Water & Beneficial Use In Water District No. _____

1. Name of applicant Lava Hot Springs
2. Source of water supply: Subterranean flow from a well
3. Location of point of diversion: Is in the NE 1/4 of Section 21
T. 9 S. R. 38 E. County of Bannock
4. Describe works as they exist, giving dimensions and capacities of same: 30 HP U.S. Motor
Set in 10' x 6' x 2' concrete foundation. Well 12" x 22' deep. 6" discharge
to south with 6" steel later main for 800' reduced to 4" 225'; 10' x 10' x 2'
concrete base with cinder block walls and metal roof. (Repaired in 10' dd
when pumped).
5. Water is used for: 18 inches for irrigation and 7 inches for bathing resort.
6. State whether or not water has been turned into works of diversion: Yes.
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):

18 acres in SE 1/4 of Sec. 21., Twp. 9 S., Rps. 38 E.B.M.

Land is not irrigated. (has 2' and 10' for Sec. 21)

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

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

Remarks: Mr. Max Cohn, Mgr. and Maliggo FRANDSEN, Supt. along

Arroyo between above and PP line to 2' S.

This examination was made on the 23 day of September, 1960

(Signed)

[Signature]

Examiner

105425

825425

25" inches x 0.50 cfs
19" inches x 0.50 cfs
6" inches x 0.50 cfs

Admission - Allen

6/18 2.4
6/17 1.8
6/16 1.4



21 22

5.9

R+38E

This amount being 2/100 in
19.1 inches x 0.283 cfs

6/17.52

6/17.52 = 25.96 5 PM PM head

6/17.52

1275

32569N

5024

1957

154

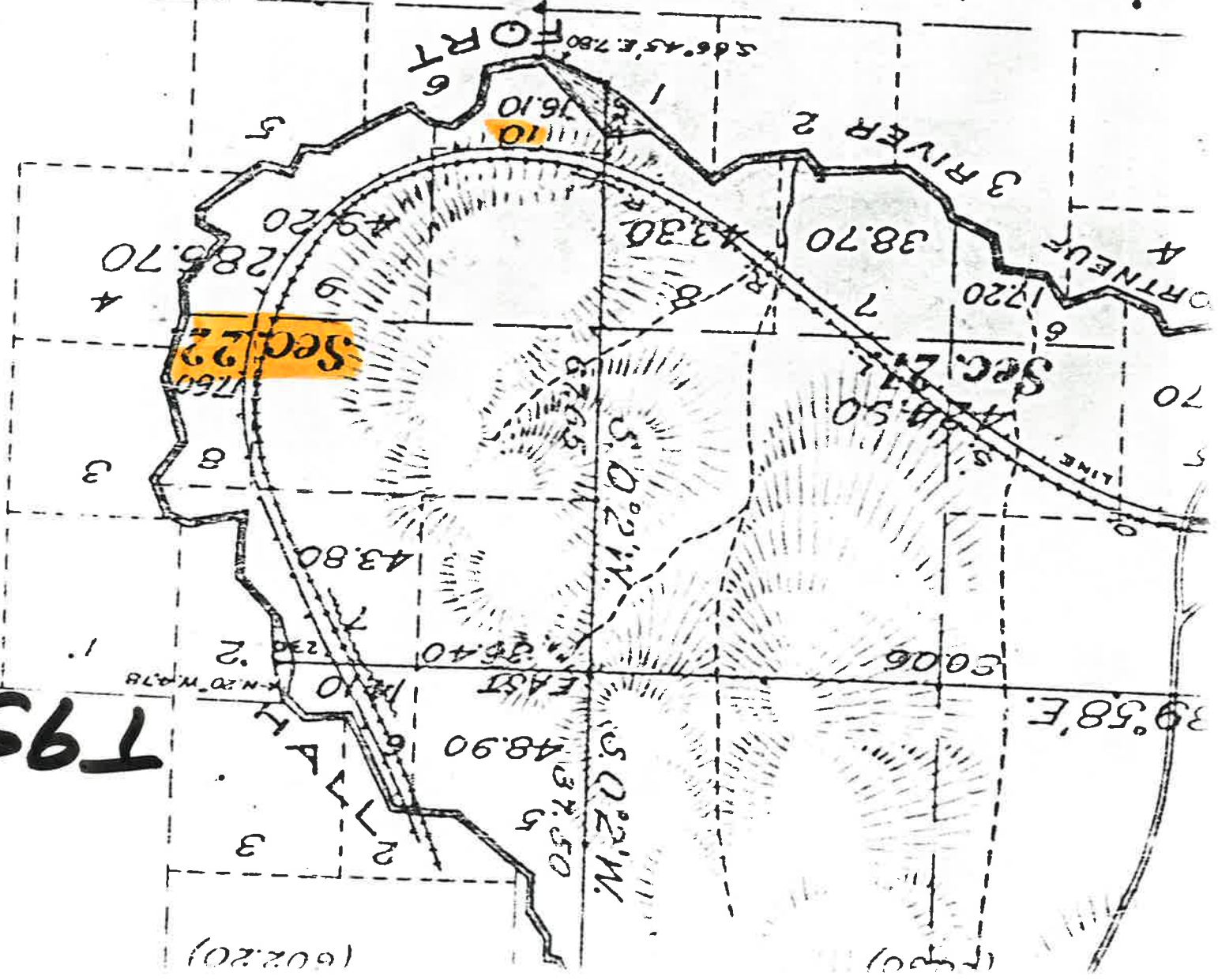
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Sec 16

25

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MAY 18 2001

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: A29-02360
Date Received: 1/23/1990
Receipt No: E011955
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: STATE OF IDAHO
Address: LAVA HOT SPRINGS FOUNDATION
P.O. BOX 430
LAVA HOT SPRINGS, ID 83246
208-776-5221

2. Date of Priority: FEB 05, 1955

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

| | | | | | | | |
|----------|-------|---------|--------|--------|-----|-----|---------|
| Township | Range | Section | 1/4 of | 1/4 of | 1/4 | Lot | County |
| 09S | 38E | 22 | NE | SW | | 9 | BANNOCK |

5. Description of diverting works:
IRRIGATION OF GROUNDS AND USE FOR OTHER FUNCTIONS ON SITE

6. Water is used for the following purposes:

| Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| COMMERCIAL | 01/01 | 12/31 | 0.500 | | |

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
IRRIGATION USE FOR GROUNDS AND COMMERCIAL NEEDS OF AREA

10. Place of Use:

| | | | | | | | |
|----------|-------|---------|--------|-----|-----|-----|-------|
| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
| 09S | 38E | 21 | NE | SE | 8 | IRR | 4.0 |
| | | | NW | SE | 7 | IRR | 13.0 |

Section Acres 17.0

A29-02360

Page 1

Date: 01/23/90

MICROFILMED

NOV 13 1992

A2902360



10. Place of Use: Continued

| Township | Range | Section | 1/4 of | 1/4 | Lot | Use | Acres |
|----------|-------|---------|--------|-----|-----|-----|-------|
| 09S | 38E | 22 | SW | SW | 6 | IRR | 4.0 |

Section Acres 4.0

Total Acres 21.0

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

A29-02283 AND A29-04178, A29-10213, A29-10219

14. Remarks:

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For 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: _____

For Organizations:

I do solemnly swear or affirm that I am EXECUTIVE DIRECTOR of
IDAHO'S STATE FOUNDATION Title
Organization, that I have signed the foregoing
document in the space below as EXECUTIVE DIRECTOR of
IDAHO'S STATE FOUNDATION Title
Organization and that the statements contained in the
foregoing document are true and correct.

Signature of Authorized Agent

EXECUTIVE DIRECTOR
Title and Organization

2 February 1990
Date

State of Idaho)
County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 2 day
of February 19 90

Cindy Fisher
Notary Public

Seal

Residing at Pocatello, ID

A29-02360

Page

My Commission Expires 2-11-91
3 Date: 01/23/90

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