



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

September 5, 1996

KARL J. DREHER
DIRECTOR

ROBERT E OR FAYE L TUPPER
2700 S 1110A
HAGERMAN ID 83332

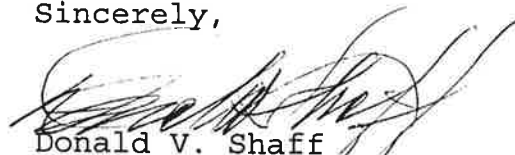
RE: Snake River Basin Adjudication (SRBA)
Notices of Claim #A36-00115C & A36-15496

Dear Claimants:

Thank you for your payment. We have enclosed your receipt #C036481 for the filing fee and late fee. Please retain the receipt for your records.

Your Notices of Claim will be investigated and reported to the Court in a future supplemental Director's Report. Please contact me at 208/327-7932 if you have any questions.

Sincerely,



Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region
Enclosure:
Receipt #C036481

PENDING LATE CLAIM

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: A36-00115C
Date Received: 9/14/1992
Receipt No: _____
Received By: Sc

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: ROBERT E TUPPER 000-837-4862
Address: 2700 S 1110A
HAGERMAN ID 83332
AND/OR
Name: FAYE L TUPPER 000-837-4862
Address: 2700 S 1110A
HAGERMAN ID 83332
2. Date of Priority: APR 1, 1881
3. Source: TUPPER SPRING Trib. to: BILLINGSLEY CREEK
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	14E	18	SW	SE	SW		GOODING
5. Description of diverting works:
5" PIPE WITH 2" LINE TO HOME, PIPELINE TO GRAVITY FLOW IRRIGATION
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
STOCKWATER	01/01	12/31	0.030		
IRRIGATION	03/15	11/15	0.600		
FISH PROPAGATION	01/01	12/31	1.000		
7. Total Quantity Appropriated is:
1.600 C.F.S. (and/or) A.F.A.
8. Total consumptive use is 12.0 Acre Feet Per Annum.
9. Non-irrigation uses:
DOMESTIC, 1 HOUSE; STOCKWATER, 30 LLAMA; FISH PONDS

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
07S	14E	18	SW		SW	4	DOMEST	
			SW		SW	4	STOCK	
			SW		SW	4	FISH	
			SW		SW	4	IRR	4.0
			SE		SW		FISH	
			SE		SW		STOCK	
							Section Acres	4.0
							Total Acres	4.0

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:
36-04073 & 36-07841

14. Remarks:

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

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): Robert E. Zupper Date: 4-29-96
Faye S. Zupper Date: 4-29-96

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 29th day

of April 19 96

Steve Call
Notary Public

Seal

Residing at Twin Falls Idaho

My Commission Expires 12/7/2000

SD-0101-1

Idaho Department of Water Resources Fee Calculation

Date: 04/29/96
Time: 15:43:02

[illegible]

(GOLD1=Calc Fee) (GOLD2=Calc Fee/Late Chg) (GOLD3=Recalc Total)(GOLD4=Previous)
(GOLD5=Next) (GOLD6=Add AR Records) (GOLD7=Receipt) (GOLD8=Cancel) (Menu _____)

Claim fee	50 ⁰⁰
\$1 ⁰⁰ / _{Ae}	4 ⁰⁰
Fish use \$10 ⁰⁰ /cfs	10 ⁰⁰
Late fee	50 ⁰⁰
	\$ 114 ⁰⁰

MICROFILMED
DEC 03 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

August 28, 1996

KARL J. DREHER
DIRECTOR

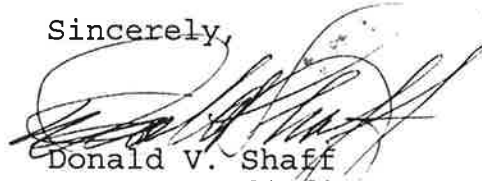
ROBERT E OR FAYE L TUPPER
2700 S 1110A
HAGERMAN ID 83332

RE: Snake River Basin Adjudication (SRBA)
Notices of Claim #A36-00115C & A36-15496

Dear Claimants:

Your Notices of Claim to a Water Right were received from the SRBA Court recently. Please submit filing fees and late fees in the amount of \$212.00 due and payable immediately to IDWR. You may send the payment to my attention for prompt and continued processing of your claims. The claims will be placed on hold until payment is received.

Sincerely,



Donald V. Shaff
Manager, Adjudication Section

DVS:ss:region

RECEIVED

AUG 23 1996

Department of Water Resources

1996 AUG 21 PM 12:00

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED Thiff

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

In Re SRBA

Subcases 36-15496 and 36-00115C

Case No. 39576

ORDER GRANTING MOTIONS TO
FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* was filed May 9, 1996, by Robert and Faye Tupper, in subcases 34-15496 and 34-00115C. As there was no opposition to the motions and for good cause appearing, IT IS ORDERED that the *Motions to File a Late Notice of Claim* is hereby granted.

IT IS SO ORDERED.

DATED August 21, 1996.



DANIEL C. HURLBUTT, JR.

Presiding Judge

Snake River Basin Adjudication

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO



RECEIVED

AUG 23 1996

Department of Water Resources

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

August 22, 1996

Mr. David Tuthill
Idaho Department of Water Resources
Post Office Box 83720
Boise, Idaho 83720-0098

Re: SRBA Case No. 39576

Dear Mr. Tuthill:

On August 21, 1996, Judge Hurlbutt issued orders granting three *Motions to File a Late Notice of Claim*, filed by Robert and Faye Tupper, subcases 36-15496 and 36-00115C and Eric and Diana Sneed, subcase 34-00029. I have enclosed copies of the Orders Granting same for your reference.

I have also enclosed the **original** *Notice of Claim to a Water Right Acquired Under State Law* for each water right claim, and one check payable to IDWR, as follows:

1. Mr. and Mrs. Tupper did not submit any fees with their motions; and
2. Check No. 3553, in the amount of \$110.00, from Eric and Diana Sneed (34-00029).

Thank you and if you should have any questions, please do not hesitate to call the SRBA Court at (208) 736-3011.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Tiffany M. Hudak".

Tiffany M. Hudak,
Deputy Clerk of the Court
Snake River Basin Adjudication

08/22/2001

IDAHO DEPARTMENT OF WATER RESOURCES
SF5 RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: **36-115C**

NAME AND ADDRESS: DAVID J TUPPER
1114 E 2700 S
HAGERMAN, ID 83332

REBECCA L TUPPER
1114 E 2700 S
HAGERMAN, ID 83332

SOURCE: TUPPER SPRING TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 0.56 CFS

USE OF THIS RIGHT WITH RIGHT LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 0.56 CFS. COMBINED RIGHT NO.:
36-04073.

PRIORITY DATE: 04/01/1881

POINT OF DIVERSION:	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	02-15 11-30	0.08 CFS
STOCKWATER	01-01 12-31	0.03 CFS
FISH PROPAGATION	01-01 12-31	0.56 CFS
DOMESTIC 1 HOMES	01-01 12-31	0.04 CFS

PLACE OF USE:

IRRIGATION Within GOODING County							
T07S R14E S18	LOT 4	SWSW	2.5	T07S R14E S19	LOT 1	NWNW	0.6
STOCKWATER Within GOODING County							
T07S R14E S18	LOT 4	SWSW		T07S R14E S19	LOT 1	NWNW	
FISH PROPAGATION Within GOODING County							
T07S R14E S18	LOT 4	SWSW		T07S R14E S19	LOT 1	NWNW	
DOMESTIC Within GOODING County							
T07S R14E S18	T07S R14E S18						
SESW							

3.1 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHT LISTED BELOW IS LIMITED TO
THE IRRIGATION OF A COMBINED TOTAL OF 3.1 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NO.: 36-04073.

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 - Decreed

COMMUNICATION DOCUMENTATION

I called to inform David of the current efforts to get a settlement prepared for the rights pending under the OBJ he filed. I told him we were pretty much in agreement with each other based on our discussions in my office in Twin Falls earlier this year. I will email a draft version to him ASAP and then follow up with the SF5 version by mail (he doesn't have a FAX). Email is hvsw@magiclink.com .

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED

MAY 11 2001

Department of Water Resources
Southern Region

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
36-115C		✓ DONE SC			
36-15554		✓ SC			
36-15496		✓ SC			
36-4073					
36-7841					

other rts
same pou
& uses:

Sent to
WR section
for processing.

2. The following **REQUIRED** information must be submitted with this form:
- The appropriate **FILING FEE**. See instructions for fee amounts.
 - A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
 - Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed on file with the county clerk).
OR
 If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)

ROBERT & FAYE TUPPER
 1110 A E., 2700 S.
 Hagerman, ID 83332
 Name Connector (Check one): [] and, [] or, [] and/or

4. New Owner/Claimant(s)

New Mailing Address

City, State and ZIP Code

New Telephone Number

1114 E. 2700 S.
 HAGERMAN, ID 83332
 () 208-837-6444
 12-19-2000

5. Date you acquired the property

David J. Tupper
 Rebecca L. Tupper

Names found on Contact ID#
 Quitclaim Deed (95907)
 (318068)

SCC
 8/22/01

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7. Signature of New Owner(s) or Claimant(s) _____
(include title if applicable) *Rebecca L. Tupper*

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

QUITCLAIM DEED

For Value Received

Robert Elwyn Tupper and Faye Lucille Tupper
does (do) hereby convey, release, remise and forever quit claim

unto David John and Rebecca Lou Tupper

whose address is; 1114 E. 2700 S., HAGERMAN, ID 83332
the following described premises, to-wit:

T 7 S , R 14 E SEC 18
TAX 19 IN LOT 4 & SE 4 SW 4
LESS TAX 13 & 18

RECEIVED
MAY 11 2001
Department of Water Resources
Southern Region

PARCEL # RP07S14E186900

together with their appurtenances.

Dated 12-18-00

Instrument # 188650

GOODING, GOODING, IDAHO

2000-12-19

02:56:31 No. of Pages: 1

Recorded for : DAVID JOHN

HELEN EDWARDS

Fee: 3.00

Ex-Officio Recorder Deputy

Index to: DEED, QUIT-CLAIM

Deane Houser

Faye Lucille Tupper *David John Tupper*
Robert E. Tupper *Rebecca Lou Tupper*

STATE OF IDAHO COUNTY OF

On this 18th day of December, 2000 before
me, a notary public in and for said State, personally

appeared FAYE LUCILLE TUPPER &
ROBERT E TUPPER & DAVID JOHN
TUPPER & REBECCA LOU TUPPER

to me to the persons who _____ name _____ subscribed
to the within instrument, and acknowledged to me that

THEY executed the same.

Stacey Clark

Residing at Hagerman, ID 83332

My commission Expires: 1-14-2005

STATE OF IDAHO, COUNTY OF

I hereby certify that this instrument was filed
for record at the request of

at _____ minutes past _____ o'clock .m.

this _____ day of _____, 2000

in my office, and duly recorded in
Book of Deeds at page _____

Ex-Officio Recorder

By _____ Deputy

Fee \$

Mail Notice to:

Name _____

Address _____

City & State _____

12/07/00

PMO100 - PARCEL MASTER INQUIRY

12:09:27

PARCEL: RP 07S14E186900 A

F9=MS F10=

F12=RC F14=HO

F19=SP

F24=LD

NAME/ADDRESS

*TREND

LEGAL DESCRIPTION

TUPPER, R E

T 7S R 14E SEC 18
TAX 19 IN LOT 4 & SE4 SW4
LESS TAX 13 & 18 +

1110-A EAST, 2700 SOUTH

CODE AREA 700

OWNER CODE

HAGERMAN ID 83332

PARC TYPE FP

LOC CODE 7000

1110 -A E 2700

S 83332

EFFDATE 3011999

EXPDATE

PREV PARCEL RP07S14E186900A

CAT	RY	QUANTITY	UN	VALUE	HO MRKT	HO EXMP	CB MRKT	OTHER
1	2000	1000	AC	624				
2	2000	9304	AC	3070				
10	2000	1000	AC	19700				
31	2000			84316	84316	42158		
TOTALS		11304		126381	84316	42158		

ENTER NEXT PARCEL NUMBER

RP

A

FKeys: F2=TX F3=Exit F5=SS F6=NM F7=LG
F8=CT F13=TM F18=HS F20=SrcH F22=EU

Legal

T 7S R 14E Sec 18

Tax 19 in Lot 4 &

SE4 SW4 Less tax

13 & 18

Parcel #

RP 07S14E186900

RECEIVED
MAY 11 2001
Department of Water Resource
Southern Region

128 H Summit Co.
128 H Summit Co.



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

April 25, 2001

Mr. David J. Tupper
1114 E. 2700 S.
Hagerman, ID 83332

RE: Change of Ownership for water right numbers 36-00115C & 36-15554

Dear Mr. Tupper:

The Department of Water Resources (IDWR) received copies of your objections regarding the above-referenced water right numbers. In these objections, you noted that Faye and Robert Tupper have conveyed the land associated with these claims to you and your wife, Rebecca. IDWR ownership records for this right still list Faye and Robert Tupper as the claimants.

In order to remove Faye and Robert's names from IDWR records, a Notice of Change in Water Right Ownership form, which I've enclosed, should be completed and returned to the department. Once you have returned the form and all supporting documentation, IDWR will be able to change its records. This will also resolve one part of your objections to IDWR's recommendations of your water right claims. The remaining quantity issues will be considered after the response period to your objections is closed on May 22. At that time, all parties to your subcase will be identified and IDWR can arrange for a meeting to discuss the quantity issues.

Should you need assistance in completing the change in ownership form, please contact IDWR's Southern Regional office 208-736-3033. IDWR staff will be happy to assist you. If there is anything further I can help you with, please don't hesitate to call me at 208-327-5458.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Vicki Kelly".

Vicki Kelly
Paralegal
Idaho Department of Water Resources

RECEIVED
MAY 11 2001
Department of Water Resources
Southern Region

CC: Doug Jones, Southern Regional Office

COMMUNICATION DOCUMENTATION

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

F/U ON OBJ & SF5

He told me the deadline for OBJ is passed and he wanted to be sure I got the COO form. Now he would like to get this resolved with the SF5 ASAP since no other parties filed objections. It seems like a simple task to finish this up but I need to contact our attorney and confirm nothing more is needed. In the meantime I will complete the COO for the name changes. Fixing the SF5 is a simple remark edit. Phone 837-6444.



RECEIVED

APR 30 2001

Department of Water Resources
Southern Region

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

ALAN G. LANCE

April 25, 2001

Mr. David J. Tupper
1114 E. 2700 S.
Hagerman, ID 83332

RE: Change of Ownership for water right numbers 36-00115C & 36-15554

Dear Mr. Tupper:

The Department of Water Resources (IDWR) received copies of your objections regarding the above-referenced water right numbers. In these objections, you noted that Faye and Robert Tupper have conveyed the land associated with these claims to you and your wife, Rebecca. IDWR ownership records for this right still list Faye and Robert Tupper as the claimants.

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Should you need assistance in completing the change in ownership form, please contact IDWR's Southern Regional office 208-736-3033. IDWR staff will be happy to assist you. If there is anything further I can help you with, please don't hesitate to call me at 208-327-5458.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Vicki Kelly".

Vicki Kelly
Paralegal
Idaho Department of Water Resources

CC: Doug Jones, Southern Regional Office

Kelly, Vicki

From: Clelland, Steve
Sent: Thursday, June 07, 2001 10:12 AM
To: Kelly, Vicki
Subject: RE: Tupper SF5 36-000115

OKAY... so I left out some key parts of the cure! Add this to the mix... -4073 for 0.1 cfs; I thought was a different system but I will check on it. For the -7841 for 1.0 cfs; this is the same, exact use, water etc. as recd in the -115c right, it will still be a combined amount. I think we had talked about Tupper relinquishing the -7841 right after all the dust settles and he is confident the -115C right is final and decreed.

I just can't slide anything by you these days! Thanks for keeping things in order.

steve

-----Original Message-----

From: Kelly, Vicki
Sent: Wednesday, June 06, 2001 12:23 PM
To: Clelland, Steve
Subject: RE: Tupper SF5 36-000115

Hi Steve--

I'm not sure what affect this has, but it came up when the paralegals were working on a report to the court on the objections filed to both of the Late Claims DR filed in Nov. last year and March this year involving various basins . There's a combined diversion rate quantity remark in both our rec's of Tupper rights involving the late claims and 36-04073 & 36-07841. Both of these rights were decreed in December '97. 36-04073 was decreed at 0.1 cfs for irrigation and d&s uses, 36-07841 decreed at 1.0 cfs for fish propagation. How do these puppies fit in the grand scheme of things?? Thanks -- V

-----Original Message-----

From: Clelland, Steve
Sent: Wednesday, June 06, 2001 11:16 AM
To: Spencer, Nick
Subject: RE: Tupper SF5 36-000115

The Tupper OBJ resolution is to remove the Combined Quantity limit from the two claims allowing Tupper to have 0.6 cfs under the old decree -115 and 1.0 cfs under the beneficial use -15554 for a total diversion of 1.60 cfs. I didn't see any reason why we can't agree with this (at least at this point.)

You are correct, the 1 cfs mentioned in the deeds was believed to be the 1 cfs under the claim -15554. However, there is a use to divert water into the Vardis Lake that I don't believe was ever claimed... I assumed that is the purpose of the new claim. If this is correct it is from a separate source, i.e. Big Springs, and not from Tupper Springs. I was not sure what use the Tupper info would be to Rox but I offered it as a possible source of history in reviewing the rights of the area. As always my phone is open to calls... even those still relating to Hagerman Valley rights!

Hope this helps some,
steve

-----Original Message-----

From: Spencer, Nick
Sent: Wednesday, June 06, 2001 10:40 AM
To: Clelland, Steve
Subject: RE: Tupper SF5 36-000115

Hi Steve. Tupper is correct that the objection deadline has passed and there are no other objections. I do remember, however, that the claimant objected to both the decreed right and the 15,000-series right. I don't have the files in front of me and don't remember the nature of the objection. I gather from your note that the objection was to a housekeeping matter rather than a substantive matter. Is that correct? Also, Rox and I talked about the Aqua Life late claim yesterday. She had priority date information referencing the 1 cfs reservation of water as part of the partnership between Vardis Fisher, Tupper and Aqua Life's predecessor.

-----Original Message-----

[illegible]

2

RECEIVED

JAN 22 2001

Department of Water Resources

2001 JAN 19 PM 2:37

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

In Re SRBA

Case No. 39576

A. Subcase

36-115C

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: DAVID J. TUPPER

Address: 1114 E. 2700 S.

HAGERMAN, ID 83332

Daytime Phone: 837-6444

Name & Address of Attorney, if any:

N/A

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

Name: FRYE L. & ROBERT E. TUPPER

Address: 1110A E. 2700 S.

HAGERMAN, ID 83332

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

1. ☒ Name and Address *PROPERTY HAS BEEN CONVEYED FROM CLAIMANT*
Should be: *AS LISTED TO: DAVID J. TUPPER AND REBECCA L. TUPPER*
HUSBAND & WIFE.
2. ☐ Source
Should be: _____
3. ☒ Quantity
Should be: *QUANTITY OKAY, THIS RIGHT SHOULD NOT BE A*
COMBINED RIGHT.
4. ☐ Priority Date
Should be: _____
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

- ☐ This water right should not exist.
- ☒ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

THIS .6 CFS OF WATER HAS NEVER FLOWED TO THE FISH
HATCHERY THAT WAS FORMED FROM THE PARTNERSHIP DN 3-11-51
BETWEEN JAMES N. ELLIS, FISHER AND THE TUPPERS. THIS IS
A COMPLETELY SEPERATE WATER RIGHT FROM RIGHT # 36-15554

F.

VERIFICATION (Must be Completed)

State of Idaho)
)ss.

County of Twin Falls)

David J. Tupper , duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

David J. Tupper
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____

1/19/01



Steve Clelland
Notary Public for IDAHO
Residing at: Twin Falls ID
My Commission Expires: 12/7/2006

INSTRUCTIONS FOR MAILING

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

G.

CERTIFICATE OF MAILING

I certify that on 1-19-01, ~~199~~, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: ROBERT E. & FAYE L. TUPPER
Address: 11104 E. 2700 S.
HAGERMAN, ID 83332

3. Copies to:

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

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

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



Signature of Objector or attorney mailing on Objector's behalf



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 1/26/01

TO: Steve

FROM: NBS

DOCUMENT DESCRIPTION: Objections in Basin 236 to
Late Claims Director's Report. On joy!!

COVER SHEET + _____ PAGES

CONTACT: 327-5458 IF YOU DO NOT RECEIVE ALL THE PAGES.

THANK YOU! —Y

RECEIVED

JAN 22 2001

Department of Water Resources

2001 JAN 19 PM 2:37

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILEDIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase 36-115C

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: DAVID J. TUPPERAddress: 1114 E. 2700 S.HAGERMAN, ID 83332Daytime Phone: 837-6444

Name & Address of Attorney, if any:

N/A

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

Name: FRYE L. & ROBERT E. TUPPERAddress: 1110A E. 2700 S.HAGERMAN, ID 83332

2

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

1. ☒ Name and Address PROPERTY HAS BEEN CONVEYED FROM CLAIMANT
Should be: AS LISTED TO: DAVID J. TUPPER AND REBECCA L. TUPPER
HUSBAND & WIFE.
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Should be: _____
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Should be: QUANTITY OKAY. THIS RIGHT SHOULD NOT BE A
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Should be: _____
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____
11. I object because:

☐ This water right should not exist.

☒ This water right was not recommended, but should be recommended with the elements described above.

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HATCHERY THAT WAS FORMED FROM THE PARTNERSHIP DN 3-11-51
BETWEEN JAMES N. ELLIS, FISHER AND THE TUPPERS. THIS IS
A COMPLETELY SEPARATE WATER RIGHT FROM RIGHT # 36-15554

F.

VERIFICATION (Must be Completed)

State of Idaho)
County of Twin Falls)ss.

David J. Tupper, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

David J. Tupper
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 1/19/01



Steve Clelland
Notary Public for IDAHO
Residing at: Twin Falls ID
My Commission Expires: 12/7/2006

INSTRUCTIONS FOR MAILING

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Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

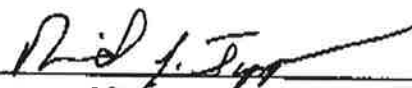
Name: ROBERT E. & Faye L. Tupper
Address: 1110-A E. 2700 S.
Hagerman, ID 83332

3. Copies to:

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

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

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



Signature of Objector or attorney mailing on Objector's behalf

RECEIVED

JAN 22 2001

Department of Water Resources

2001 JAN 19 PM 2:38

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILEDIN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase

36-15554

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name:

DAVID J. TUPPER

Address:

1114 E. 2700 S.HAGERMAN, ID 83332

Daytime Phone:

837-6444

Name & Address of Attorney, if any:

N/A

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

Name:

FAIR L. + ROBERT E. TUPPER

Address:

1110 A E. 2700 S.HAGERMAN, ID 83332

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1. ☒ Name and Address *PROPERTY HAS BEEN CONVEYED FROM CLAIMANT*
Should be: *AS LISTED TO: DAVID J. TUPPER & REBECCA L. TUPPER*
HUSBAND & WIFE
2. ☐ Source
Should be: _____
3. ☒ Quantity
Should be: *1.0 CFS. & THIS WATER RIGHT SHOULD NOT*
4. ☐ Priority Date *BE A COMBINED RIGHT WITH OTHER TUPPER WATER RIGHTS.*
Should be: _____
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
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9. ☐ Place of Use
Should be: _____
11. I object because:

- ☐ This water right should not exist.
- ☒ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

THIS IS AN INDIVIDUAL WATER RIGHT AS DESCRIBED IN ALL PARTNERSHIP AGREEMENTS ASSOCIATED WITH THIS FISH HATCHERY. THIS WATER RIGHT SHOULD REMAIN 1 CFS WITH NO RESTRICTIONS.

F.

VERIFICATION (Must be Completed)

State of IDAHO)
County of TWIN FALLS)ss.

DAVID TUPPER, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

David Tupper
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: 1/19/01



Steve Clelland
Notary Public for IDAHO
Residing at: Twin Falls ID
My Commission Expires: 12/7/2006

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

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

Phil J. Tapp
Signature of Objector or attorney mailing on Objector's behalf

10/19/2000

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

RIGHT NUMBER: 36-00115C

NAME AND ADDRESS: FAYE L TUPPER
ROBERT E TUPPER
2700 S 1110A
HAGERMAN, ID 83332

SOURCE: TUPPER SPRING TRIBUTARY: Billingsley Creek

QUANTITY: 0.56 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.0 CFS. COMBINED RIGHT NOS.:
36-04073 36-07841 & 36-15554.

PRIORITY DATE: 04/01/1881

POINT OF DIVERSION:	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County
	T07S R14E S18	SWSESW	Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
FISH PROPAGATION	01-01 12-31	0.56 CFS
IRRIGATION	02-15 11-30	0.08 CFS
STOCKWATER	01-01 12-31	0.03 CFS
DOMESTIC 1 HOMES	01-01 12-31	0.04 CFS

PLACE OF USE:

DOMESTIC Within GOODING County
T07S R14E S18 SESW
FISH PROPAGATION Within GOODING
County

T07S R14E S18 LOT 4 SWSW T07S R14E S19 LOT 1 NWNW

IRRIGATION Within GOODING County

T07S R14E S18 LOT 4 SWSW 2.5 T07S R14E S19 LOT 1 NWNW 0.6

STOCKWATER Within GOODING LOT 4 SWSW T07S LOT 1
CountyT07S R14E S18 R14E S19

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED
TOTAL OF 3.01 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 36-04073.

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 - Decree

DRAFT

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

10/17/2000

See

REVIEW NOTES

RIGHT NUMBER: 36-115C

NAME AND ADDRESS: FAYE L TUPPER
ROBERT E TUPPER
2700 S 1110A
HAGERMAN, ID 83332

SOURCE: TUPPER SPRING TRIBUTARY: Billingsley Creek

QUANTITY: 1.6 CFS

PRIORITY DATE: 04/01/1881

POINT OF DIVERSION: T07S R14E S18 SWSW Within GOODING County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE
FISH PROPAGATION
IRRIGATION
STOCKWATER
DOMESTIC

PERIOD OF USE	QUANTITY
1-01 12-31	1.00 CFS
3-15 11-15	0.60 CFS
1-01 12-31	0.03 CFS
1-01 12-31	0.04 CFS

0.60 .56

Split off B.U. claim for
Balance of 1.0

PLACE OF USE:
DOMESTIC Within GOODING County
T07S R14E S18 LOT 4 SWSW
FISH PROPAGATION Within GOODING
County
T07S R14E S18 LOT 4 SWSW

T07S R14E S18

SESW

IRRIGATION Within GOODING County
T07S R14E S18 LOT 4 SWSW
STOCKWATER Within GOODING
County T07S R14E S18

T07S
R14E S18

Combined use limit w/ LRC = 1 cfs
36-7841

-4073

-15554

Decree

Splits:

-115A

-115B

-115C

Withdrawing
Pothier

Tupper

TOTAL
LIMIT:

.04

.56

.60

DRAFT

(1932) Proof?

-15496 Fish .20

(# 516849)

(# 516513)

(# 516607)

(# 516608)

(Add #s for 115C only)

P. Decree

-4073 D/s I 4Ac. (2pods)

-7841 Fish LRC. (1 cfs)

State of Idaho

DEPARTMENT OF WATER RESOURCES

200 East More Street, Suite 200, Twin Falls, ID 83401-5380

Phone: (208) 736-3033 Fax: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. BREMER
DIRECTOR

TUPPER

36-00115C

36-15554

10/18/00
SCC

Clelland, Steve

From: Hodges, Cindy
Sent: Monday, June 28, 1999 11:38 AM
To: Clelland, Steve
Cc: 'hvsw@magiclink.com'
Subject: Tupper Springs

Hello Steve -

I've just spoken to David Tupper regarding water rights in the name of Robert E Tupper from Tupper Springs. David tells me you are working with them on water right recommendations, particularly for 36-00115. I became aware of the situation during a routine site visit to Mr. Tupper's hatchery when I noted that not all of the water rights to which Mr. Tupper felt he was entitled were presently of record. For the Water Measurement Program, we are looking mostly to the recommendations or partial decrees (blank-prefix records) in Basin 36 for authorized rates of flow and uses of water. I hadn't picked up on the additional diversion of 0.6 under right no. 00115 because the claim shows a withdrawn status.

What is the status of this claim? Has an objection or amendment been filed?

★ Also, David tells me he has started a cottage business bottling Tupper Springs water. I advised him to visit your office regarding a new water right permit. Presently, he estimates diversions of about 500 gallons per day at the rate of 5-10 gpm. Unfortunately I'm not well briefed on the present moratorium restrictions in your area. Can a new permit be issued for *de minimus* consumptive uses of surface water (in this case <2500 gpd for commercial activity)? If not, David needs to visit with you or with allocations staff regarding a transfer of a portion of an existing consumptive right.

I've sent a copy of this message to David; hopefully you can pick up his e-mail address and let us both know the present status of the recommendations. Thanks for your help.

cjh

Cindy Hodges
Water Distribution Section
Department of Water Resources
208-327-5406
chodges@idwr.state.id.us

he
is limited 2500 gpd
wants 13K

Permit to appropriate
water for commercial
use "bottling water"

9/8/99 - may want to
file Transfer to
cover both uses?

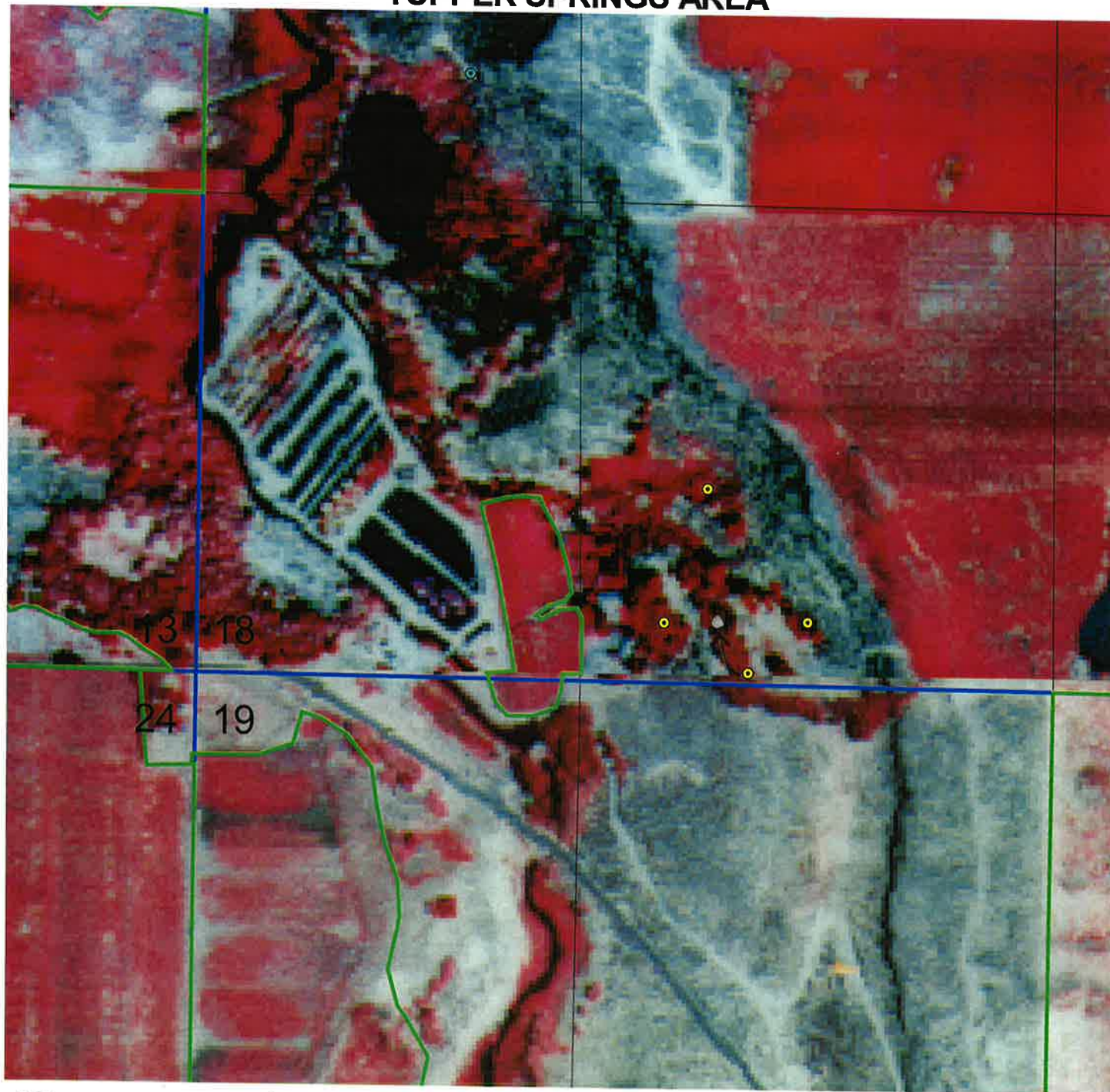
hvsw@magiclink.com

For	Steve	Urgent ☐
Date	8/30/99	Time 10:40 AM
While You Were Out		
M	David Tupper	
Of	TALK ADM & STAFF	
Phone	837-6444	
AREA CODE NUMBER EXTENSION		
Telephoned	☐	Please Call ☐
Came To See You	☒	Will Call Again ☐
Returned Your Call	☐	Wants To See You ☐
Message		
Please call? CALL BACK!		
Surface: Needs permit!		
De Minimis use		
Also: 4 permit trailer 13,000 gpd		
Signed		

9711 ADAMS BUSINESS FORMS

IDAHO DEPT OF WATER RESOURCES

TUPPER SPRINGS AREA



660 0 660 1320 Feet

T07S R14E



- RECOMMENDED PLACE OF USE
- POINT OF DIVERSION
- SECTION LINES
- 1/4 - 1/4 LINES

GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

DATA ENTRY BY: STEVE CLELLAND
DATE: SEPTEMBER 3, 1999

Clelland, Steve

From: Hodges, Cindy
Sent: Monday, June 28, 1999 11:38 AM
To: Clelland, Steve
Cc: 'hvsw@magiclink.com'
Subject: Tupper Springs

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cjh

Cindy Hodges
Water Distribution Section
Department of Water Resources
208-327-5406
chodges@idwr.state.id.us

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00115C

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

April 29, 1996 4:02pm

NAME:

ROBERT AND FAYE TUPPER CAMEIN

RE:

FILE LATE CLAIM

THEY WERE BROUGHT TO ME BY JIM STANTON TO EXPLAIN WHY THEY HAD NOT RECEIVED A PORTION OF THE OLD DECREED RIGHT TO THEIR PLACE... AFTER REVIEWING THE INFO IT APPEARS THEY DID NOT CLAIM ANYTHING BASED UPON THE OLD RIGHT 36-00115.

THEY ASKED TO FILE A LATE CLAIM SO I PREPARED A CLAIM FORM BASED ON THE DECREED RIGHT 36-00115 AND ASKED THEM QUESTIONS TO FILL IN THE REQUIRED FIELDS. THEY ARE TRYING TO PROTECT THEIR FISH USE AND DECIDED TO INCLUDED THE 1.0 CFS SHOWN IN LICENSE 36-07841 AS A PART OF THE DECREED PORTION. THEY REFERRED TO A STATEMENT IN A WARRANTY DEED THAT RESERVES THIS 1.0 CFS.

I GAVE THEM THE CLAIM AND A COPY OF THE FILING FEES ALONG WITH THE FORMS SF4, AO-10 & AO-1 AND THE DOCKET SHEET INFO SHEET.

CLAIM AS FILED IS : A36-00115C.

Post-it® Fax Note		7671	Date	# of pages ▶ 3
To <i>Tim Luke</i>		From <i>Allen Newirth</i>		
Co./Dept.		Co.		
Phone #		Phone #		
Fax #		Fax #		

MICROFILMED

DEC 03 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 25, 1996

APR 29 1996

Robert Tupper
1110A East 2700 South
Hagerman, ID 83332

Department of Water Resources
Southern Region

Re: Call for Delivery of Water by Aqua Life, Inc.

Dear Mr. Tupper:

The Department(IDWR) and watermaster of Water District 36-A has received a written notice for call on water of Tupper Spring from Aqua Life, Inc.(Aqua Life).

Attached to this letter is a copy of an order requiring the watermaster of Water District 36-A to discontinue any delivery of water under right nos. 36-07841 and 36-04073 owned by Robert Tupper and limit the total diversions of Robert, John or Esther Tupper to no more than 0.60 cfs as allowed under decreed right 36-00115. The order also requires you to show cause to the Director of the Department on or before May 10, 1996 why the Director should not instruct the watermaster to limit further the delivery of water under right 36-00115 to that amount of water that can be beneficially used for domestic, stock and irrigation uses.

The Department has advised the watermaster to discontinue delivery of rights 36-07841 and 36-04073 as soon as possible, but that he may provide you and your lessee several days notice before discontinuing delivery of the junior rights and adjusting the total diversion to 0.60 cfs.

You may contact me or Tim Luke directly at 327-7900 if you have questions about this matter.

Sincerely,

Tim Luke for
Gary Spackman

cc: Lynn Babbington
Southern Region

A36-00115C
MICROFILMED
DEC 03 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR)	
THE DELIVERY OF WATER BY AQUA)	ORDER TO
LIFE, INC. FROM TUPPER SPRING)	SHOW CAUSE
WITHIN WATER DISTRICT NO. 36-A)	
_____)	

The Director of the Department of Water Resources, being charged with the duty of supervising the distribution of water within water districts created pursuant to Chapter 6, Title 42, Idaho Code, and a need having arisen to provide guidance to the watermaster for water district no. 36-A with regard to the delivery of certain water rights, the Director hereby finds and orders as follows:

FINDINGS OF FACT

1. By letter dated April 9, 1996, and received by the Department of Water Resources (Department) on April 12, 1996, Aqua Life, Inc. (Aqua Life) requested the watermaster of water district no. 36-A and the Department to begin delivering water right no. 36-02414 for year-round fish propagation purposes, bearing a priority date of December 21, 1959, and authorizing the diversion of 4.0 cfs. Water right 36-02414 authorizes diversion of water from an unnamed stream which originates from Tupper Spring.

2. Aqua Life further requested that the watermaster shut off water being diverted and used for fish propagation purposes pursuant to water right 36-07841, owned by Bob Tupper. Water right no. 36-07841 authorizes the diversion of 1.00 cfs from Tupper Spring for fish propagation purposes bearing a priority of February 12, 1979. Department records show that other rights are diverted from the same source for domestic, stock and irrigation uses. Right no. 36-04073 is a claim filed by Robert Tupper with a priority date of January 1, 1962 and a diversion rate of 0.10 cfs. Right no. 36-00115 is a decreed water right bearing a priority date of April 1, 1881 with a diversion rate of 0.60 cfs. John and Esther Tupper have filed a claim to right 36-00115 in the Snake River Basin Adjudication (SRBA) for a flow rate of 0.04 cfs. The Department recommended a diversion rate of 0.04 cfs and designated the right as right no. 36-00115B. No other SRBA claims or water right transfers have been filed on any other portion of right 36-00115.

3. Aqua Life asserts that Robert Tupper is diverting water under a later priority right while Aqua Life is not receiving the water to which it is entitled pursuant to its earlier priority rights.

MICROFILMED
DEC 03 1996

4. Personnel from the Department have measured Tupper's diversion for fish propagation and Aqua Life's diversions. On March 29, 1996, Department personnel measured 2.44 cfs under the Aqua Life diversion originating from Tupper Spring. The Robert Tupper fish propagation diversion was measured at over 1 cfs. Separate measurements of the Tupper fish propagation diversion were made on March 15 and April 12, 1996. The measurements on those dates were 1.40 and 1.66 cfs respectively. Based on these measurements, the Department finds that Aqua Life is not receiving its full entitlement, and that Tupper is diverting water while Aqua Life is not receiving water to which it is entitled.

CONCLUSIONS OF LAW

1. Idaho Code § 42-607 states, in part, as follows:

It shall be the duty of the said watermaster to distribute the waters of the public stream, streams or water supply, comprising a water district, among the several ditches taking water therefrom according to the prior rights of each respectively, in whole or in part, and to shut and fasten, or cause to be shut or fastened, under the direction of the department of water resources, the headgates of the ditches or other facilities for diversion of water from such stream, streams or water supply, when in times of scarcity of water it is necessary so to do in order to supply the prior rights of others in such stream or water supply; provided, that any person or corporation claiming the right to the use of the waters of the stream or water supply comprising a water district, but not owning or having the use of an adjudicated or decreed right therein, or right therein evidenced by permit or license issued by the department of water resources, shall, for the purposes of distribution during the scarcity of water, be held to have a right subsequent to any adjudicated, decreed, permit, or licensed right in such stream or water supply, and the watermaster shall close all headgates of ditches or other diversions having no adjudicated, decreed, permit or licensed right if necessary to supply adjudicated, decreed, permit or licensed right in such stream or water supply.

ORDER

IT IS HEREBY ORDERED that the watermaster of Water District 36-A is instructed to curtail the delivery of water under rights 36-07841 and 36-04073 as necessary to satisfy delivery of right 36-02414, and that all diversions from Tupper Spring owned by Robert, John and/or Esther Tupper be limited to 0.6 cfs under right 36-00115.

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IT IS FURTHER ORDERED, that the owners of water right no. 36-00115 be required to show cause before the Director in writing on or before May 10, 1996, why the Director should not instruct the watermaster of water district 36-A to limit further the delivery of the 0.60 cfs under right 36-00115, to the amount of water which can be beneficially used for domestic, stock and irrigation purposes.

Dated this 25TH day of April, 1996.


NORMAN C. YOUNG
Administrator

MICROFILMED

DEC 03 1996

6/9/94

COMMUNICATION DOCUMENTATION

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IDWR Employee/Agent Kelly K Christensen

DATE

May 8, 1996 4:40pm

CUSTOMER

MR & MRS TUPPER

SUBJECT: POTENTIAL LATE BENEFICIAL USE CLAIM A36-15496
phone call (.) walk-in (x)

I entered the above claim into the system and placed it on the Host Temp. This claim is for a spring near their home that is diverted approximately 100 feet down stream from the source. It goes into a cement ditch to a pipeline and eventually to one of two fish propagation facilities. The structure is 80' by 8' by 3' deep. They said that the original use was through their corral for flushing out waste and some stockwater. Eventually it was converted to the fish propagation use. She indicated that it has also supplied water for chickens (no head unknown) and currently has a drinking fountain coming off the system.

I explained the process of obtaining permission from the Snake River Basin Adjudication court to file a late claim. There was confusion concerning the delayed hearing with Norm Young concerning the call for water by Ellis. She thought that they didn't need to go to the court to file at this time. I said that they did need to file with the court. I thought that the late claim they filed with Steve Clelland probably was in the same circumstances but asked them to verify that with Steve later.

I called Norm Young and reviewed their circumstances with him concerning the current events. She also talked to Norm.

They took the motion to file a late claim with them along with a copy of the claim entered on the Host Temp.

A36-00115 MICROFILMED

DEC 03 1996

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00115C

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

May 2, 1996 4:46pm

NAME:

MR. & MRS. ROBERT TUPPER

RE:

CAMEIN

AFFIDAVIT INFO

THEY BROUGHT IN AN AFFIDAVIT (NO NOTARY) FROM ROBERT ERKINS. IT DESCRIBES SOME OF THE HISTORY OF THE PLACE. THEY SUBMITTED IT IN RESPONSE TO THE ORDER TO SHOW CAUSE AND ASKED IF THEY STILL NEEDED TO FILE WITH THE COURT. I TOLD THEM THEY NEED TO FILE A CLAIM WITH THE COURT TO PUT THE RIGHT ON RECORD AND SEND THIS TO OUR BOISE OFFICE TO ANSWER THE SHOW CAUSE ORDER. BOTH ACTIONS ARE NEEDED TO CONTINUE PURSUIT OF THE CLAIMED RIGHT. THEY ASKED IF THEY SHOULD GET ANOTHER AFFIDAVIT AND I TOLD THEM IT HAS BEEN MY OBSERVATION THAT THE MORE SUPPORT YOU CAN GET FOR YOUR CLAIM THE BETTER IT IS TO HAVE. [CLAIM A36-00115C IS PENDING AS LATE BEFORE SRBA]

MICROFILMED

DEC 03 1996

AFFIDAVIT

COPY

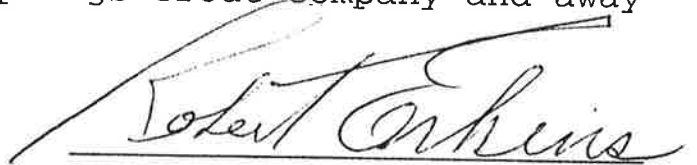
I, Robert A. Erkins, a resident of Gooding County, Idaho, state that I was the president of the Idaho Springs Trout Company, Inc., of Hagerman, Gooding County, Idaho.

During the period of time my wife and I owned the Idaho Springs Trout Company, Inc., we used various sources of water: 1) from the springs and water impoundment located behind the Vardis Fisher home, 2) from a spring behind the Robert Tupper home and dairy, and 3) from Billingsley Creek.

The water from the Fisher area was filed on and the Idaho Springs Trout Company, Inc., paid an annual fee to Vardis Fisher, and later his estate, to maintain a dam which formed a lake out of which the water to the fish farm flowed.

The Billingsley Creek water was filed on by us and diverted by a dam with a fish ladder into the fish ponds of the Idaho Springs Trout Company.

The water which flowed from the Tupper Springs through the Tupper property, under the State of Idaho Water Right of the Robert Tupper's, was used free of charge by us in the late 1950's, all of the 1960's and into the mid-1970's (we finalized sale of the business to the Inmont Company, which continued to use the Tupper water under our prior agreement, in May 1975 after which I was no longer associated with the property) with the permission of the Robert Tupper's in exchange for various development projects done by Idaho Springs Trout Company, Inc. such as fence construction, water pipe construction, land development, and road development for access to the Vardis Fisher property and the Idaho Springs Trout Company and away from the Tupper home.



Robert A. Erkins

May 2, 1996

A36-00115C

MICROFILMED

DEC 03 1996

POOR ORIGINAL

WARRANTY DEED

THIS INDENTURE, made this 13th day of March in the year of our Lord one thousand nine hundred and fifty-seven, between WILFORD TUPPER and NAOMI TUPPER of Twin Falls, County of Twin Falls, State of Idaho, JOHN TUPPER and ESTHER TUPPER, of Galena, County of Jo Davies, State of Illinois, WILFORD G. TUPPER and LILLIAN M. TUPPER of Hagerman, County of Gooding, State of Idaho, the parties of the first part, and THOUSAND SPRINGS TROUT COMPANY, a partnership consisting of JAMES ELLIS and BART LOU ELLIS and ROBERT TUPPER and FAYE TUPPER, party of the second parts:

WITNESSETH, That said parties of the first part, for and in consideration of the sum of One thousand dollars (\$1000.00) lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all the following described real estate situate in Gooding County, State of Idaho, to-wit:

Two parcels of land in Lot Four, Section 18 and Lot One, Section 19, Township 7 South, Range Fourteen E.B.A..

Beginning at a point on the North boundary of and 227.2 feet Easterly from the Northwest Corner of said Lot One, Section Nineteen, Township Seven South, Range Fourteen East of the Boise Meridian; thence South $57^{\circ}58'$ East a distance of 541.5 feet; thence North $77^{\circ}52'$ East a distance of 180.8 feet; thence North $14^{\circ}31'$ West a distance of approximately 258.5 feet to the North boundary of said Lot One; thence Westerly along said North boundary a distance of 571.3 feet more or less to the point of beginning.

Beginning at the Southwest Corner of said Lot Four; thence Easterly along the South boundary of said Lot Four a distance of 795.5 feet; thence North $14^{\circ}03'$ West a distance of 452 feet; thence South $80^{\circ}47'$ West a distance of 23 feet; thence North $39^{\circ}16'$ West a distance of 191.4 feet; thence North $67^{\circ}19'$ East a distance of 34 feet; more or less to the Southwest Corner of the Vardis Fishers property; thence along said Vardis Fishers property West line North $60^{\circ}11'$ West a distance of 50 feet; thence North $25^{\circ}11'$ West 125 feet; thence North $16^{\circ}21'$ West 220 feet; thence North $26^{\circ}00'$ West 45 feet; thence North $68^{\circ}19'$ West a distance of 190 feet; thence North $43^{\circ}19'$ West a distance of 130 feet; thence North $32^{\circ}55'$ West a distance of approximately 200 feet to the North boundary of said Lot Four; thence Westerly along the North boundary of said Lot Four to the Northwest Corner; thence Southerly along the West boundary of said Lot Four a distance of approximately 1320 feet to the point of beginning.

Together with all rights in waters of an unnamed creek flowing through the south portion of said parcel of land and emptying in Billingsley Creek, assignable under state and federal laws, except approximately one second foot which is hereby reserved by said Tupper.

A36-00115C

TOGETHER with all and singular the

MICROFILMED

DEC 03 1996

POOR ORIGINAL

Easterly along the South boundary of said Lot Four a distance of 798.5 feet; thence North 14° 03' East a distance of 45 feet; thence South 80° 47' West a distance of 23 feet; thence North 56° 15' West a distance of 191.4 feet; thence North 67° 19' East a distance of 34 feet; more or less to the Southeast Corner of the Vardis Fisher property; thence along said Vardis Fisher property West line North 40° 11' West a distance of 20 feet; thence North 21° 11' West 125 feet; thence North 16° 21' West 220 feet; thence North 26° 09' West 45 feet; thence North 60° 15' West a distance of 190 feet; thence North 13° 19' West a distance of 170 feet; thence North 52° 55' West a distance of approximately 200 feet to the North boundary of said Lot Four; thence Westerly along the North boundary of said Lot Four to the Northwest Corner; thence Southerly along the West boundary of said Lot Four a distance of approximately 1320 feet to the point of beginning.

Together with all rights in waters of an unnamed creek flowing through the south portion of said parcel of land and emptying in Billingsley Creek, assignable under state and Federal laws, except approximately one second foot which is hereby reserved by said Tupper.

TOGETHER with all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part;

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever. And the said parties of the first part and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seal, the day and year first above written.

Steve -

Document from Robert Tupper wife and
reserving 1 cfs. Norm & Tim
have copies.

J

Robert Tupper
William M. Tupper

Wilfred Tupper

Norman Tupper

John Tupper

Frederick Tupper

MICROFILMED

DEC 03 1996

STATE OF IDAHO)
Gooding County) SS

On this 15 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared WILFORD G. TUPPER and ~~William~~ TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Arthur James
Notary Public for said State;
Residing at Gooding, Idaho

STATE OF IDAHO)
Twin Falls County) SS

On this 17 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared WILFORD TUPPER and NAOMI TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Edna Leonard
Notary Public for said State;
Residing at Twin Falls, Idaho

STATE OF ILLINOIS)
County of Jo Davies) SS

On this 16 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared JOHN TUPPER and ESTHER TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

James A. Hickey
Notary Public for said State;
Residing at Galena, Illinois

MICROFILMED

DEC 03 1996

Hagerman, ID
January 14, 1997

To Whom it may concern:

Re. Water rights from Tupper Spring.

I have known of the Tupper Spring for seventy years. It has been used for many uses. For irrigataion domestic and other purposes on lands owned by the Tupper family and their predecessor Sam Gridley. Other purposes being cleaning the dairy, power and fish.

The Judges in previous adjudications have been wise in judging water for any useful purpose because water has continually changing uses on land that it was adjudicated to

Sincerly yours

Geo. H. Lemmon
George H. Lemmon

STATE OF IDAHO }
COUNTY OF Gooding } ss.

On this 14th day of January, in the year 1998, before me
Clifton E. Jensen, a Notary Public
in and for said State, personally appeared George H. Lemmon

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me
that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and
year in this certificate first above written.

Clifton E. Jensen
Notary Public for Idaho, residing at Hagerman, Idaho.
My Bond Expires: 5-10-2003

AFFIDAVIT

I, Robert A. Erkins, residing at White Arrow Ranch, Bliss, Idaho, and a resident of Gooding County, Idaho, state that I was the president of the Idaho Springs Trout Company, Inc., of Hagerman, Gooding County, Idaho.

During the period of time my wife and I owned the Idaho Springs Trout Company, Inc., we used various sources of water: 1) from the springs and water impoundment located behind the Vardis Fisher home, 2) from Billingsley Creek, and 3) from a spring behind the Robert Tupper home and dairy.

The water from the Fisher area was filed on and the Idaho Springs Trout Company, Inc., paid an annual easement fee to Vardis Fisher, and later his estate, to maintain a dam which formed a lake out of which the water to the fish farm flowed.

The Billingsley Creek water was filed on and diverted by a dam with a fish ladder into the fish ponds of the Idaho Springs Trout Company.

The water which flowed from the Tupper Springs through the Tupper property, under a State of Idaho Water Right of the Robert Tupper's, was used free of charge by us in the late 1950's, all of the 1960's, and into the mid-1970's. We finalized the sale of our trout farming businesses to the Inmont Company in May 1975 which continued to use the Tupper water under our prior agreement. After that time I was no longer associated with the property. The water was used with the permission of the Robert Tupper's in exchange for various development projects done for the benefit of the Tupper's by Idaho Springs Trout Company, Inc., such as fence construction, water pipe construction, land development, and road development which accessed the Vardis Fisher property and the Idaho Springs Trout Company away from the Tupper home.

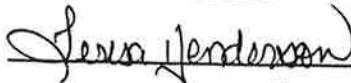
DATED this 6TH day of May, 1996


Robert A. Erkins

STATE OF IDAHO)
County of Twin Falls) ss.
Gooding)

On this 6th day of May, 1996, before me, a Notary Public in and for said County and State, personally appeared ROBERT A. ERKINS, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Residing at: Twin Falls, ID.
My commission expires: 9-25-98

AFFIDAVIT

I, Joe Lee Partin, resident of Twin Falls County, State of Idaho, with my husband, Arlie, lived at Idaho Springs Trout Co. from approximately 1958 to 1980.

We lived neighbors to Robert and Faye Tupper while Arlie managed the Idaho Springs Trout Co. When Robert Erkins sold the Company to Inmont Corporation, Arlie remained as manager.

I know that the Inmont Corporation continued to use the Tupper water as had been the policy when Idaho Springs Co. had used it. Arlie, as manager actually built the pipeline, fences and roadway in exchange for the use of the water..



May 3, 1996

I Charles J. Kline, a Notary in the State of Idaho and county of Twin Falls do certify that Joe Lee Partin personally appeared, and has been identified by me as the person whose name is subscribed above.



Residing at: 881 E 3900 N
Buhl, ID 83316

My Commission Expires 1-24-2000

TO WHOM IT MAY CONCERN:

My parents bought this ~~place~~ in 1910. I was born in 1920 and have lived here all my life. In 1957 my wife, Faye and I purchased the ranch from my parents. Our water comes out on the property from springs (unnamed). In approximately 1962, the fish farm, Idaho Springs Trout, installed across our land for irrigation and to fill fish tanks. At hte same time they installed a pipe for our household water and risers were installed on the pipeline for irrigation of our pastures and for stock water....I think the record shows 1.30 cfs. We also have 1.00 cfs of water for fish propagation, held back when we sold our share in the Thousand Springs Trout farm to the Idaho Springs Trout Farm in 1958.

This is the facts regarding our water as we know them.

Robert and Faye Tupper

1110 E 2700 S

Hagerman, Idaho

Robert E. Tupper
Faye L. Tupper

*Subscribed & sworn to before me this 22nd
day of November, 1991*

Copied to file A36-115C
original in A36-4073.
see 1/10/98

Sherry L. Clark MICROFILMED
FEB 05 1993

A36-00115C

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00115C &

A36-04073 & A36-07841 & A36-15496

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IDWR Employee/Agent Steve Clelland

January 2, 1998 2:34pm

NAME :

DAVE TUPPER

CALLIN

RE:

A36-00115C ET.AL. DECREES

HE HAS RECEIVED PARTIAL DECREE NOTICE FOR 36-04073 & 36-07841. HE WAS CONCERNED THAT THIS WOULD INTERFERE WITH THE WORK WE WERE TRYING TO DO TO SET UP AN EARLIER PRIORITY DATE FOR THE FISH USES (1951) INSTEAD OF WHAT WAS SHOWN ON THE LICENSE.

I TOLD HIM I THOUGHT WE WERE WORKING WITH THE TWO RIGHTS BASED ON THE LATE CLAIMS; A36-00115C & A36-15496. MY NOTES INDICATE THOSE WERE THE RIGHTS IN QUESTION AT OUR LAST MEETING.

HE WILL REVIEW HIS RECORDS AND THE PARTIAL DECREES AND I WILL REVIEW MY NOTES AND WE WILL TALK AGAIN ON MONDAY, 1/5/98 TO PLAN THE NEXT STEP. I MENTIONED A POSSIBLE FIELD VISIT NEXT WEEK WITH THE OTHERS WE HAVE PLANNED SO FAR.

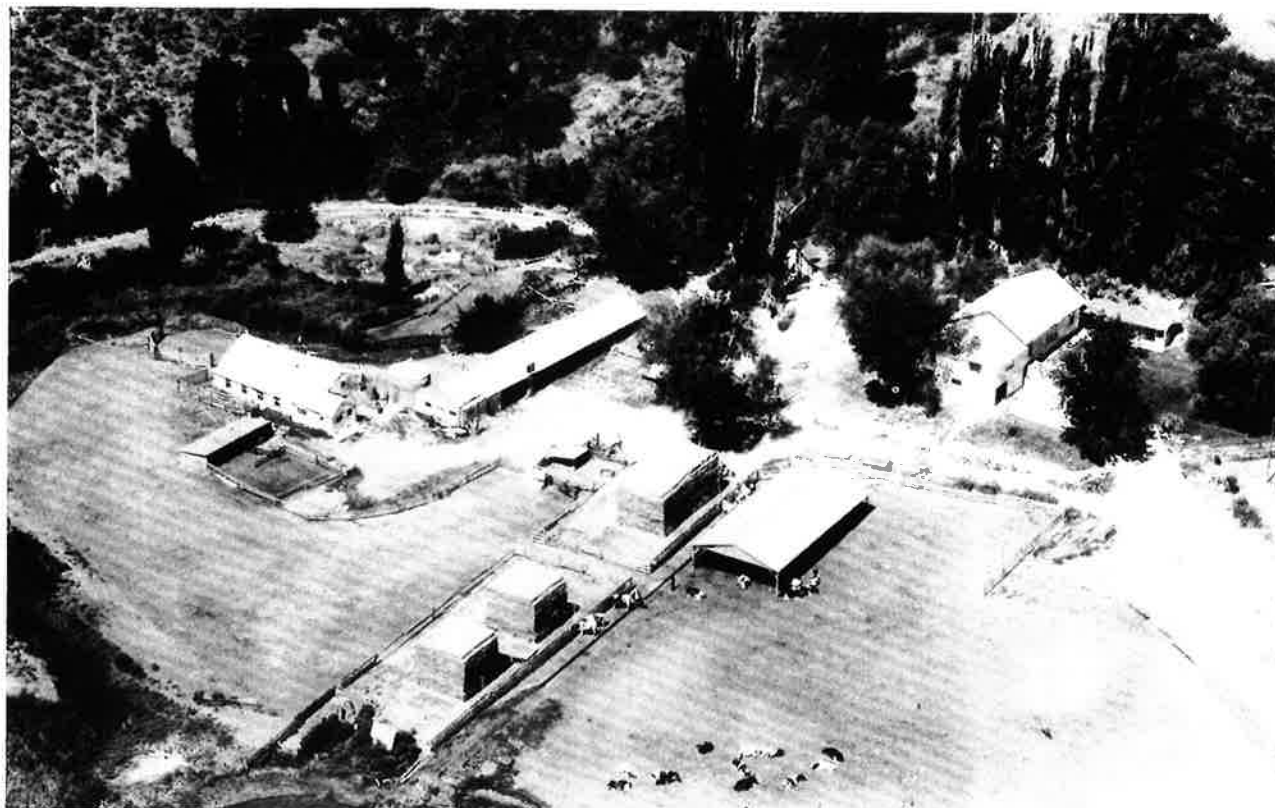


Photo taken in **1960** by **PHOTOMAPS** BELLEVILLE, KANSAS ©
AERIAL PHOTOS SINCE 1945 Mass produced oblique photos, minimum re-order, 6 prints
All references shall include the photo number appearing in white on the print

1049
10

Top Herd for Size in Three-County DHIA

Owned by Bob Tupper, Hagerman, Idaho



An aerial view of the Tupper ranch. Tupper's herd average was high for its size in the Gooding-Lincoln-Jerome County DHIA.

Top Production

"All we have to do with ABS Daughters is to feed them," says Tupper. "They have the inheritance for top production from ABS Great Proved Sires." After breeding his Holstein herd to ABS sires since 1954, Tupper shows records as proof of ABS Genetic Build-Up, which has resulted in higher herd profits.

His herd is now 87% ABS-Sired . . . milk production is up 3,194 pounds per cow . . . and produced the highest herd average for its size (over 30 cows) in his three-county DHIA.



Bob Tupper

Year	Cows	Milk (pounds)	Test	Butterfat (pounds)
1955 (No ABS Daughters)	27.4	11,905	3.66%	436
1962 (33 ABS Daughters)	37.5	15,099	3.57%	539
Increase with ABS Daughters, good feeding and management	10.1	3,194		103

No Production Culling

"I've never culled an ABS Daughter for low production," he says. "Top production from ABS Daughters and a low culling rate are the real keys to dairy profits. I soon expect to reach a 600-pound-per-cow butterfat average with ABS Daughters."

Started dairy in 1949

Tupper buys no dairy concentrate—feeds his milking cows entirely on home-grown feeds at the rate of one pound of grain to five pounds of milk.

For more information about the ABS Program, contact your local ABS technician or distributor.

FOR INFORMATION CALL:





6/9/94

COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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IDWR Employee/Agent Steve Clelland

January 9, 1997 10:30-11:30am

NAME:

ROBERT AND DAVE TUPPER CAMEIN

RE:

EVIDENCE OF USES

THEY BROUGHT IN COPIES OF SEVERAL PHOTOS SHOWING THE OPERATIONS OF DAIRIES AND THE LOCATIONS OF THE STREAM CHANNELS BEFORE THE FISH USES WERE DEVELOPED AT THE SITE.

POINTS THEY STATED THAT I WILL CONSIDER AND REVIEW:

1. 1.0 CFS USED IN POWER PLANT 1920'S TO MID 40'S, PER AFFIDAVIT. ALSO USED TO IRRIGATE ON LOWER ACRES, EST. 15 - FLOOD ACRES, FROM 1909-1951 WHEN FISH PONDS REPLACED THE PASTURE AREA. SOURCE WAS THE NORTH SPRING. CURRENTLY USED TO IRRIGATE EXISTING PASTURE AREAS FROM A 5" PIPELINE.
2. SOUTH SPRING = 0.6 CFS USED IN DAIRY OPERATIONS, BARN & STOCKWATER. DAIRY USE, 70 COWS-100 OTHER STOCK UNTIL 1973; 1976-1979 BEEF OPERATION 50-60 HEAD; 1979 FISH USES DEVELOPED. 1979 TO CURRENT DATE FISH USES AS NOW FOUND.
3. SMALL SPRING NEAR YARD = 0.20 CFS AKA A36-15496. HISTORICALLY USED FOR STOCKWATER - DITCHES VISIBLE IN 1960 PHOTOGRAPH.
4. **PLAN OF ACTION:**
 - A. I WILL REVIEW INFO SUBMITTED AND THE DECREE, AFFIDAVITS AND AGREEMENT OF 1951. TRY TO FIND DECREE TO ACCOUNT FOR THE 1.0 CFS AT THE POWER PLANT AND IRRIGATION.
 - B. PLAN FOR EXAM VISIT TO THE SITE AND HAVE TUPPERS SHOW ME THE PHYSICAL SITE EVIDENCE THAT SUPPORTS THEIR CLAIMS.
 - C. DEVELOP DRAFT RECOMMENDATIONS REPORTS FOR THEIR REVIEW.

CALLBACK: DAVE @ WORK.. 734-8344

CLAIMS: A36-00115C, A36-15496, A46-04073.

From: DWR06::"DT1757@omni1.csi.cc.id.us" 8-FEB-1997 13:25:05.71
To: sclellan@idwr.state.id.us
CC:
Subj: D. report

Hope your weekend was good.

You said that you would finish with the report on Monday. My dad is in Idaho Falls on monday for a Dr. visit and will be home on monday evening. If you want to email me or call "734-8344" and let me know when you are done, we could make an appointment to get together to go through the report. Also, did you still want to go to hagerman and look at the place?

Let me know.
David Tupper

From: DWR06::"DT1757@omni.csi.cc.id.us" 28-JAN-199. 12:36:31.17
To: sclellan@idwr.state.id.us
CC:
Subj: dad's w rights

How have you been doing? Just wondering how the report is coming?
If you have any questions or when you would like to go and look at
dad's property, just let me know.

Thanks

David Tupper

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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IDWR Employee/Agent Steve Clelland

December 26, 1996 3:00pm

NAME:

DAVE TUPPER

CAMEIN

RE:

TUPPER RIGHTS

HE BROUGHT IN A LETTER FROM SPACKMAN ORDERING THE CURTAILMENT OF CERTAIN RIGHTS TO PROVIDE THE WATER AS CALLED FOR BY AQUALIFE. SPECIFICALLY, IT CALLED FOR REDUCING THE BOB TUPPER DIVERSION FROM 1.83 CFS TO 1.0 CFS. TUPPERS BELIEVE THEY ARE ENTITLED TO 1.60 CFS. 1.0 CFS UNDER A 1951 PRIORITY AND 0.60 CFS UNDER DECREE 36-00115. TUPPERS PLAN TO AMEND THEIR CLAIMS ACCORDINGLY AND WISH TO HOLD OFF THIS WATER CUT UNTIL THE ISSUE IS RESOLVED. I TOLD HIM I WOULD CONTACT GARY SPACKMAN AND RELAY THIS INFO.

CLAIMS: 36-00115 & 36-07841, AND 36-02414.



TELLAMUS *Declan - Special Master*
T.F.
State of Idaho

PRE-MATURE

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 17, 1996

George Lemmon
Watermaster, District 36A
1050 East 2727 South
Hagerman, ID 83332

Distribution of Water from Billingsley Creek and Tributaries

Dear George:

On December 6, 1996, the Department of Water Resources received four letters from C. Tom Arkoosh, an attorney representing AquaLife, Inc., calling for delivery of water from Billingsley Creek and tributary springs pursuant to water rights owned by AquaLife. Copies of the letters are enclosed. This letter provides instructions to you for delivery of water. Enclosed are summaries of the water rights authorizing diversions from Tupper Springs, Big Spring, and Billingsley Creek upstream of the AquaLife diversion.

Tupper Springs

IDWR's records show that AquaLife is entitled to divert 4.0 cfs from Tupper Springs pursuant to water right no. 36-02414, priority date of December 21, 1959. On December 12, 1996, Tim Luke of this office measured 3.23 cfs diverted from Tupper Springs by AquaLife. He also measured 1.83 cfs diverted by Bob Tupper. At present, Bob Tupper has a right to divert 1.0 cfs for fish propagation from Tupper Springs pursuant to water right no. 36-07841, priority date of February 12, 1979. Reduction of Bob Tupper's diversion to 1.0 cfs should provide sufficient water to AquaLife. If spring flows diminish, however, you may have to further reduce Bob Tupper's diversion to satisfy AquaLife's water right.

Big Spring

IDWR's records show that AquaLife is entitled to divert 54.68 cfs from springs tributary to Billingsley Creek, including Big Spring, pursuant to water right no. 36-02338, priority date of August 5, 1954. On December 12, 1996, Tim Luke of this office measured 50.0 cfs diverted from Big Spring by AquaLife. Tim also measured 2.60 cfs diverted by Billingsley Creek Ranch.

George Lemmon

Page 2

Billingsley Creek Ranch filed adjudication claim nos. 36-11060 and 36-15462, which, when combined, claim a right perfected by beneficial use to divert 2.04 cfs. Adjudication claim nos. 36-11060 and 36-15462 bear proposed priority dates of March 1, 1971 and June 1, 1977, respectively. When delivering during times of shortage, claims based on beneficial use are delivered last by the watermaster, regardless of the claimed priority. You should shut the diverting works of Billingsley Creek Ranch until all other decreed, permitted, and licensed rights are satisfied.

Tim Luke also measured 8.67 cfs diverted by Big Spring Water Users Association pursuant to water right no. 36-00022, which authorizes diversion of 12.90 cfs for irrigation, municipal and stockwater, priority date of March 1, 1901. Of the 8.67 cfs, 1.86 cfs is diverted by the City of Hagerman pursuant to right 36-00022. The difference between the measured flow of 8.67 cfs and the municipal diversion of 1.86 cfs is 6.81 cfs. Of the 6.81 cfs, approximately 2.0 cfs was diverted through your raceways. You were extracting a small quantity of water for stock with a garden hose. Other water users may be using a portion of the 8.67 cfs for stockwater purposes. IDWR believes 6.81 cfs is an excessive flow for the delivery of stockwater and the diversion must be reduced. IDWR will further investigate to determine the proper quantities to be diverted.

You should be able to deliver AquaLife's entitlement at the present time from the above instructions.

Billingsley Creek

AquaLife can divert water from Billingsley Creek pursuant to water right no. 36-02734, which authorizes the diversion of 100.0 cfs, priority date of October 5, 1965. AquaLife also claims the right to divert 50.0 cfs based on beneficial use pursuant to water right claim no. 36-04011, claimed priority of December 1, 1965. Because water right claim no. 36-04011 is not a decreed, licensed, or permitted water right, it should be delivered last behind all other decreed, licensed, or permitted water rights, regardless of priority.

On December 5, 1996, Tim Luke and Dave Shaw, an engineer hired by Buckeye Ranch, measured a flow in Billingsley Creek of 94.0 cfs at AquaLife's point of diversion. After AquaLife is diverting water, please measure the quantity of water diverted by AquaLife. If AquaLife's right is fully satisfied, no curtailment of existing rights is necessary. If there is insufficient water to satisfy AquaLife's water right, you should determine the flow rates being diverted by other water users with water rights bearing priority dates that are junior to AquaLife's water rights and determine in reverse chronology of priority which diversions of water must be curtailed.

Tim Luke measured 33.0 cfs diverted into the Curren Ditch on December 12, 1996. We understand that Curren Ditch was only delivering fish propagation water to Buckeye Ranch and

George Lemmon

Page 3

perhaps winter stockwater to Buckeye Ranch and other users. Buckeye Ranch is only entitled to divert 20.0 cfs for fish propagation pursuant to water right nos. 36-08730 and 36-07742 during the nonirrigation season, and Buckeye Ranch's diversion for fish propagation should be limited to 20.0 cfs regardless of AquaLife's call. Limiting Buckeye Ranch to its authorized flow rate may supply AquaLife with its full entitlement.

Please notify the owners of water rights whose diversions must be shut down or curtailed that they have until December 30, 1996, to remove fish from raceways, unless other arrangements are made with the Department. Despite the fact that Buckeye Ranch is diverting a greater quantity of water than authorized by its water rights, past letters did not clearly instruct you to immediately limit Buckeye Ranch's diversion. Buckeye Ranch should prepare as rapidly as possible to limit its diversion for fish propagation to 20.0 cfs. Please limit Buckeye Ranch's diversion to 20.0 cfs no later than December 30, 1996. After limiting Buckeye to 20.0 cfs, you may need to further reduce Buckeye Ranch's diversion if AquaLife is not receiving its full entitlement. Do not curtail any authorized diversion of water upstream of the AquaLife diversions if the water is diverted and fully returns to the water source prior to diversion by AquaLife. Water users should not divert more than their authorized flow rates. Tim Luke or other IDWR personnel will be happy to assist. Please call if you have any questions.

Thank you for your attention in carefully delivering water within Water District 36A.

Sincerely,



Gary Spackman

- c. Robert Tupper
Ken Ellis
Big Spring Waterusers Association
Don McFadden
Rangen, Inc.
John W. Jones
Buckeye Farms
City of Hagerman
Southern Region
Tim Luke
C. Tom Arkoosh
John Simpson



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

December 17, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

John LeMoyné
Water District 36-A Advisory Committee
PO Box 487
Hagerman ID 83332

Dear Mr. LeMoyné:

I received your letter dated November 29, 1996 stating that an advisory committee meeting was held to discuss my November 21 letter to watermaster George Lemmon. I wish a representative of IDWR could have attended your meeting to answer your questions directly.

Enclosed with this letter is a copy of correspondence dated November 27 which I sent to George Lemmon. I believe that this letter may clarify my November 21 letter to Mr. Lemmon and may help to address some of your questions.

On December 6, 1996, the Department received letters from Tom Arkoosh, attorney for AquaLife, requesting that the watermaster of water district 36A deliver its water rights from Billingsley Creek and tributaries. I have enclosed copies of the letters, and a copy of a letter of instruction to George Lemmon.

I have attempted to answer your individual questions below. Your letter appears to only reference a call or potential call on Billingsley Creek, although one question is raised regarding Bob Tupper's diversion from Tupper Springs.

1) They (AquaLife) are not now using any of this (Billingsley Ck.?) water and they have not used it for several years . . . George Lemmon says he has not seen use in the ponds for several years. George recently measured the water going by their headgate. It totaled about 100 cfs. Why shut someone off when they are not using what they have.

The Department acknowledges that AquaLife's use of water has been sporadic over the past few years. Department staff from this office inventoried AquaLife's diversions and beneficial use in March of 1995. At that time, water was being diverted by AquaLife from Billingsley Creek. AquaLife also submitted a measurement report for its diversion in 1995. From the report, IDWR estimates that AquaLife diverted approximately 6,900 acre-feet from Billingsley Creek in 1995.

Please note that the direction of the November 21 letter, and clarification as provided by the November 27 letter, asks Mr. Lemmon "to determine how much water is available from each

source and determine who should be entitled to water. Water users should not divert more than their authorized flow rates." Only diversions exceeding water rights or diverting without any authority should be immediately curtailed. Now that AquaLife has requested delivery in writing, the watermaster should further curtail valid junior water rights if diversions of water pursuant to senior rights are not being satisfied, and if curtailment of those junior rights would help satisfy the senior rights.

Mr. Lemmon was asked to cease diversion of water from Big Spring and remove fish from his own hatchery using Big Spring water because he does not have a valid water right for fish propagation or any other water right that would authorize him to divert water in the non-irrigation season.

2) Why didn't the call also affect pumpers on the Aquifer directly above the springs?

AquaLife's written requests for delivery of water were not calls on the aquifer pursuant to conjunctive management rules.

3) Is IDWR ignoring the 1932 decree which does not limit the time of use for the decreed water rights?

Although the 1932 decree does not specify dates for irrigation or non-irrigation seasons, the decree refers at least once to stockwatering and domestic use "during the non-irrigation season." When a decree does not describe a season of use, IDWR has regulated pursuant to the seasons of use that are applied in water right licensing. A water user cannot divert water pursuant to decreed water rights during the winter for irrigation when there is no irrigation demand. IDWR recognizes that some season of use issues are presently being reviewed by the courts. Nonetheless, IDWR should not allow diversion of water for irrigation when there is no irrigation beneficial use.

A fish propagation use initiated in 1989 cannot assume the same priority date as a 1881 or 1903 decreed right when the fish propagation facilities did not exist at that time or any time prior to 1932.

4) Have the rights in question been changed and finalized by the Adjudication Court? If not, isn't the 1932 decree still the one we must adhere to?

The SRBA court has not entered an order for interim administration of water rights in Basin 36. The court has not generally decreed water rights in Billingsley Creek or in Basin 36 (except for domestic and stockwater rights). IDWR has advised water users and the watermaster that rights should be delivered according to the 1932 decree and will continue to do so until the SRBA court issues either an interim or final order.

John LeMoyne

Page 3

5) Late this summer George tells us that he met at Tupper's with you, Norm Young, Bob Tupper and Ken Ellis and that you all agreed to wait until the Supreme Court ruled on the appeal from the adjudication court rulings. Is that the way you remember the meeting?

I believe the meeting you refer to was conducted on May 7, 1996. I did not attend the meeting. Tim Luke and Norm Young attended the meeting. I spoke with Tim Luke about this matter and he does not remember the outcome as you described. Tim stated that IDWR and the users agreed to allow Bob Tupper to divert 1.6 cfs during the irrigation season and for a length of time which would allow the users to research past warranty deeds and documents concerning water use from Tupper Springs and to allow the users time to possibly resolve the dispute concerning use of the springs. Tim does not recall that the parties agreed to wait for some Supreme Court ruling, or that IDWR would wait for Mr. Tupper's claims to be finalized by the SRBA court. When Mr. Ellis visited our office on November 15, he indicated that no settlement had been made with Mr. Tupper. He further indicated that he did not believe Tupper had water rights which were senior to Aqualife's.

Robert and David Tupper visited this office on December 2, and met with Tim Luke and a staff member from the Attorney General's office to discuss their claims and my prior correspondence. Tim reports that the Tupper's seemed to be under the impression that their diversion would not be curtailed below 1.6 cfs until their claims were finalized by the SRBA court. Tupper's reported that George Lemmon had visited their diversion last week and measured 1.6 cfs, and that the diversion presently remains at 1.6 cfs. Tim again reiterated that he did not believe that the parties at the May 7th meeting agreed to keep the diversion at 1.6 cfs until the Tupper claims were finalized.

Tim explained to the Tupper's that the Tupper fish propagation diversion should be limited to no more than one cfs during the non-irrigation season, which is the amount authorized by their 1979 priority licensed right for fish propagation. If the flow of Tupper Spring is less than the combined flow of Aqualife's water rights and Tupper's water rights, then the Tupper diversion may have to be limited further.

Thank you for your interest in this matter.

Sincerely,



Gary Spackman

cc: George Lemmon

RECEIVED

DEC 06 1996

Department of Water Resources

C. Tom Arkoosh

LAWYER

POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

December 4, 1996

Karl Dreher
Idaho Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720-9000

In re: Calls on water in Water District No. 36A

Dear Mr. Dreher:

This office represents AquaLife, Inc. Enclosed herewith please find three (3) separate calls upon water to fulfill nonconsumptive uses, which calls are self explanatory.

Please note that the calls ask the Department of Water Resources to protect the subject water rights in the event of the failure or refusal of the water master of District 36A to do so. Please immediately advise in the event of the failure of the water master to perform his duties, and we will forthwith provide you a complaint pursuant to Section 42-605(9) Idaho Code to commence proceedings for his removal.

Thank you for your attention to this matter.

Sincerely yours,



C. Tom Arkoosh

CTA/bsb

Encl.

cc: Client

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RECEIVED

DEC 06 1996

Department of Water Resources

C. Tom Arkoosh

LAWYER

POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

December 4, 1996

Karl Dreher
Idaho Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720-9000

In re: Call on water to fulfill Water Right No. 36-02414

Dear Mr. Dreher:

This office represents AquaLife, Inc., a holder of certain water rights in Basin 36. This letter is a call upon water and demand that the water master of Water District 36A or you or your agents in his lieu or stead in the event of his failure to do so, shut off flows originating from that spring in Section 18, Township 7 South, Range 14 East, Boise Meridian, which have a priority date of their water right junior to Water Right No. 36-02414, which is has a priority of December 21, 1959. Please deliver this water to the diversion of Water Right Number 36-02414 until the water right is fulfilled.

Sincerely,



C. Tom Arkoosh

CTA/bsb
cc: Client
C:\OFFICE\WPWIN\NWPDOCS\DATA\ELLIS\CALLTOWA\IDWR2414.LTR

RECEIVED

DEC 06 1996

Department of Water Resources

C. Tom Arkoosh

LAWYER

POST OFFICE BOX 32

116 FOURTH AVENUE WEST

GOODING, ID 83330

C. TOM ARKOOSH
LUVÉRNE E. SHULL

TELEPHONE: (208) 934-8872

FACSIMILE: (208) 934-8873

December 4, 1996

Karl Dreher
Idaho Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720-9000

In re: Call on water to fulfill Water Right No. 36-02734 and 36-04011

Dear Mr. Dreher:

This office represents AquaLife, Inc., a holder of certain water rights in Basin 36. This letter is a call upon water and demand that the water master of Water District 36A or you or your agents in his lieu or stead in the event of his failure to do so, shut off flows originating from Billingsley Creek or any tributary of Billingsley Creek, in Section 18, Township 7 South, Range 14 East, Boise Meridian, which have a priority date of their water right junior to Water Right No. 36-02734, and No. 36-04011, which are upstream from the diversions for these two water rights. These two water rights have priority dates of October 5, 1965 and December 1, 1965, respectively. Please deliver this water to the diversion of Water Right Number 36-02734 and Water Right No. 36-04011 until the water right is fulfilled.

Sincerely,



C. Tom Arkoosh

CTA/bsb

cc: Client

C:\OFFICE\WPWIN\WPDOCS\DATA\ELLIS\CALLTOWA\IDWR2734.WPD

RECEIVED

DEC 06 1996

Department of Water Resources

C. Tom Arkoosh

LAWYER

POST OFFICE BOX 32
116 FOURTH AVENUE WEST
GOODING, ID 83330

C. TOM ARKOOSH
LUVERNE E. SHULL

TELEPHONE: (208) 934-8872
FACSIMILE: (208) 934-8873

December 4, 1996

Karl Dreher
Idaho Department of Water Resources
1301 North Orchard
Statehouse Mail
Boise, Idaho 83720-9000

In re: Call on water to fulfill Water Right No. 36-02338

Dear Mr. Dreher:

This office represents AquaLife, Inc., a holder of certain water rights in Basin 36. This letter is a call upon water and demand that the water master of Water District 36A or you or your agents in his lieu or stead in the event of his failure to do so, shut off flows originating from Idaho Springs or Fisher Springs in Section 18, Township 7 South, Range 14 East, Boise Meridian, which have a priority date of their water right junior to Water Right No. 36-02338, which is has a priority of August 5, 1954. Please deliver this water to the diversion of Water Right Number 36-02338 until the water right is fulfilled.

Sincerely,



C. Tom Arkoosh

CTA/bsb
cc: Client

C:\OFFICE\WPWIN\WPDOCS\DATA\ELLIS\CALLTOWA\IDWR2338.LTR

TUPPER SPRING WATER RIGHTS

Water Rt.	Owner	Priority	Rate (cfs)	Use	Season of Use
36-00115	B. Tupper	04/01/1881	0.60	Irr. Dom. Stock	3/15 - 11/15 1/1 - 12/31 1/1 - 12/31
36-02414	AquaLife	12/21/1959	4.00	Fish Prop.	1/1 - 12/31
36-07841	B. Tupper	02/12/1979	1.00	Fish Prop.	1/1 - 12/31

BIG SPRING WATER RIGHTS

Water Rt.	Owner	Priority	Rate (cfs)	Use	Season of Use
36-00022	Big Spring Water Users Assoc.	03/21/1901	12.90	Irr. Mun.* Dom.** Stock	3/15 - 11/15 1/1 - 12/31 1/1 - 12/31 1/1 - 12/31
36-00023	Big Spring Water Users Assoc.	04/01/1911	5.00	Irr.	3/15 - 11/15
36-02338^	AquaLife	08/05/1954	54.68	Fish Prop.	1/1 - 12/31
36-11060	Billingsley Creek Ranch	03/01/1971	2.04	Rec. Rec. Stor	1/1 - 12/31 1/1 - 12/31
36-15462	Billingsley Creek Ranch	06/01/1977	2.04	Fish Prop.	1/1 - 12/31

* City of Hagerman use from Big Spring = 1.86 cfs, based on City ownership of 93 shares at 1 inch per share.

** 0.40 cfs recommended for other domestic use as per SRBA Director's Report

^ Source of water under license is Springs, tributary to Billingsley Creek. Big Spring is one of the springs diverted by AquaLife under this license.

Although not quantified, stockwatering may be recognized as a beneficial use under decreed rights.

BILLINGSLEY CREEK WATER RIGHTS UPSTREAM OF AQUALIFE
(includes AquaLife and main creek diversions only)

Water Rt.	Owner	Priority	Rate (cfs)	Use	Season of Use
36-00004	Spring Valley Ranch	09/10/1884	15.0	Irr. Stock*	3/15 - 11/15 11/16 - 3/14
36-00018	Buckeye Farms	04/01/1917	20.0	Irr. Stock**	3/15 - 12/31
36-02734	AquaLife	10/05/1965	100.0	Fish Prop.	1/1 - 12/31
36-04011^	AquaLife	12/01/1965	50.0	Fish Prop.	1/1 - 12/31
36-07694	Rangen Inc.	04/12/1977	26.0	Fish Prop.	1/1 - 12/31
36-07742	Buckeye Farms	08/01/1977	20.0^^	Fish Prop.	1/1 - 12/31
36-08730	Buckeye Farms	09/24/1987	20.0^^ 20.0^^ 20.0^^	Wildlife Aesthetic Rec.	1/1 - 12/31 1/1 - 12/31 1/1 - 12/31

* Spring Valley Ranch claimed 0.19 cfs for year round stock use in SRBA. The SRBA Director's report recommended 1.64 cfs for winter stock use.

** Stock use not claimed in SRBA by owners.

^ This is a beneificial use claim. Beneficial use claims are moved to end of priority list during times of scarcity (I.C. 42-607).

^^ Total diversion under rights 36-07742 and 36-08730 not to exceed 20 cfs.

Rangen diversion under right 36-07694 returns to Billingsley Creek. Diversions under rights 36-07742 and 36-08730 do not return to creek.

It is hereby ordered, adjudged, and decreed that the defendants, counterclaimants, cross-complainants and intervenors hereinafter named do have the use of, and the right to use, for irrigation, domestic, power and other purposes on the lands set after their respective names, from the streams and other sources hereinafter named, the amounts of water and priorities set after their respective names, to-wit:

Name	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
------	---	------------------------------	-----------------

0004 CURRAN, 13.
Mary

12-3-96 sec

Copied lead paragraph in
1932 decree.

This Statement applies
to 36-00115 as
it was at the time of
the Decree.

(The
ditch
East
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(W&SW&)
ange

Curran ditch.

0005 GOODING, 3. Billingsley Creek
Amanda J.

September
10, 1884.

Buckeye ditch.

South Half of Southwest Quarter (S&SW&)
and South Half of Southeast Quarter
(S&SE&) of Section 27, Township 7 South,
Range 13 E.B.M.

A36-00115E

AFFIDAVIT

I, Wilford Tupper, resided at the Tupper residence in Hagerman, Idaho from my childhood (born in 1910) till the mid 1950s'. My parents bought this place in 1909. It has remained in the Tupper name to this day. I reside in Nampa, in the county of Canyon, Idaho.

In the early 1920s', my parents operated a small Hydro-power plant that produced electricity for our own personal use. This power plant was operated until approximately the late 1930s'. After the power plant was shut down, this water was still used for our Dairy. This water always flowed behind the sheds and barn. Up until the time that I left the family farm, it was never used at the commercial fish hatchery that was started by myself, Jim Ellis, Robert Tupper, John Tupper and Vardis Fisher.

DATED this 28 day of December, 1996

Wilford Tupper

Wilford Tupper

STATE OF IDAHO)
) ss.
County of Canyon)

On this 28th day of December, 1996, before me, a Notary Public in and for said County and State, personally appeared Wilford Tupper, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



John Van Manen
Residing at: Nampa, Idaho

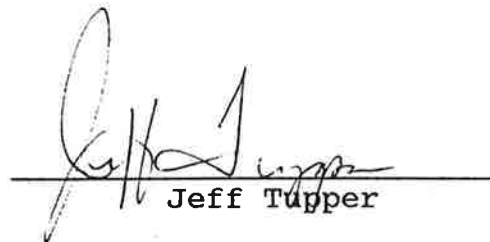
My commission expires: My Commission expires 11/14/99

AFFIDAVIT

I, Jeff Tupper, have been a resident of St. Anthony, Fremont County, Idaho for the past 20 years. I was born and raised on the Bob Tupper farm east of Hagerman, Idaho.

In 1979, I was hired by John and Esther Tupper to do the dirt work for their foundation of their new house that is located by the same Bob Tupper residence in Hagerman Idaho. I had to haul in approximately 1500 yds. of dirt to do landscaping and to cover a channel of water that came from the hill side directly to the south-east of their new house. When I grew up on this residence, this water always ran behind the sheds and barn. I estimate this water to be approximately .6 cubic foot. This water never ran to the big fish hatchery located just to the west of our place. This channel had to be covered for John and Esther Tupper so they would be able to get access into their new home, plus for landscaping purposes.

DATED this day 30th December, 1996.


Jeff Tupper


Notary of the Public

Expires 2-11-99

AFFIDAVIT

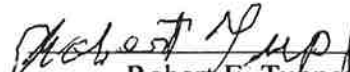
I, Robert E. Tupper, have resided at this current residence all the years of my life. I was born on January 28, 1920. My parents bought this place in 1909. It has remained in the Tupper name to this day. My wife and I bought the homestead from my parents in the mid-fifties. We reside in Hagerman, in the county of Gooding, Idaho.

From the time that my family first moved onto the property, the springs have decreased in flow than at first. I do not remember any measurements taken in the early years.

In the early 1920s', my parents installed and operated a small Hydro-power plant that produced electricity for our own personal use. The plant used approximately .6 cu. ft. of water. This power plant was operated until approximately the late 1930s'. After the power plant was shut down, this water was still used for our Dairy. It was used to clean the barn, flush solids out of the corrals and for drinking water for livestock. This .6 tenths of water always flowed behind the sheds and barn. It was never used at the commercial fish hatchery that was started by myself, Jim Ellis, Wilford Tupper, John Tupper and Vardis Fisher.

In 1979, I built 2 fish ponds for the use of fish propagation. At that time, I diverted the .6 tenths of water from the old channel to the raceways. I also used the 1 cu. ft. of water that was retained from the partnership agreement that was formed from the above mentioned names. The fish hatchery used this 1 cu. ft. of water in exchange for various development projects that were of benefit to our family. This partnership agreement is recorded at the Gooding County Courthouse dated March 11, 1951.

DATED this 28th day of December, 1996

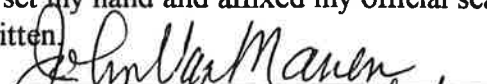

Robert E. Tupper



STATE OF IDAHO)
) ss.
County of Gooding)

On this 28th day of December, 1996, before me, a Notary Public in and for said County and State, personally appeared Robert E. Tupper, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Residing at: Nampa, Idaho
My commission expires: _____

**My Commission
expires 11/14/99**

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-00115C,

A36-04073 & A36-15496

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Steve Clelland

December 4, 1996 4:00pm

NAME:

DAVE TUPPER

CAMEIN

RE:

ROBERT TUPPER CLAIMS

HE IS THE SON TO ROBERT AND WE DISCUSSED THE LATE CLAIMS FILED EARLIER BY THE TUPPERS. HE WANTED TO AMEND THE IRRIGATION SEASON TO A YEAR ROUND SEASON. I EXPLAINED I CAN PREPARE THE PAPERS BUT HE WOULD STILL HAVE TO FILE THE SF4 WITH THE COURT TO AMEND.

WE THEN GOT INTO A DISCUSSION OF THE PRIORITY DATE AND USES. I RELAYED TO HIM THE REVIEW OF THE CLAIM A36-00115C I HAD DONE THE DAY BEFORE. I EXPLAINED MY CONCERNS OF THE USES ALREADY BEING RECOMMENDED IN THE SRBA UNDER OTHER RIGHT NUMBERS FOR THE TUPPERS.

WE AGREED TO MEET AFTER THE FIRST OF THE YEAR AND RESOLVE THE ISSUES AND AMENDMENTS. HE WILL BRING ADDITIONAL INFORMATION TO SUPPORT THE CLAIMED PRIORITY DATE FOR THE CLAIM A36-15496 AND ALSO FOR THE DECREED RIGHT. I WILL REVIEW THE FILES AND DISCUSS THE OPTIONS IDWR HAS WITH THE STAFF ATTORNEYS.

T
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S

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Big Springs

18

Springs

R14E

3308

24

19

3209

3265

20

3280

Springs

3262

21

CLAIM A36-00115C INIT See
T. R. S. Q/Q 12-3-96

P/D _____
PHOTO AA70
DT.&ID. 8-4-1974

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

13:36:21
12/03/96

PAGE: 18
QUICKLOOK INFORMATION

18
CLAIM NUMBER: A36-00115C

WR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE								
POINT OF DIV								
SOURCE	Y							
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME	Y							
CONSUMPTIVE USE	-							
PURPOSES OF USE	Y							
PERIOD OF USE	Y							
BASIS OF CLAIM	Y							
REMARKS								

✓ 12/3/96 begin Desktop Exam
SUC

BARCODE UPDATED
WHOM/DATE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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PROFILE REPORT

CLAIM NUMBER: A36-00115C

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ROBERT E TUPPER	04/01/1881	IRRIGATION	03-15 11-15	0.60 CFS	
C	FAYE L TUPPER		STOCKWATER	01-01 12-31	0.03 CFS	
			FISH PROPAGATION	01-01 12-31	1.00 CFS	
			DOMESTIC	01-01 12-31	0.04 CFS	
TOTAL DIVERSION:					1.60 CFS	
CONSUMPTIVE USE:						12.00 AFA

Water Source: TUPPER SPRING

Tributary to: BILLINGSLEY CREEK

Stage: DECREED

Point(s) of Diversion:

T07S R14E S18

SWSSEW

GOODING County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE				
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	SUM
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
07S	14E	18	:	:	:	:	:	:	04-04	:	:	:	:	:	:	4.0
TOTAL ACRES																4.0

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE				
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
07S	14E	18	:	:	:	:	:	:	04-S	S	:	:	:	:	:	

Place of use Legal Description for: FISH PROPAGATION

NE				NW				SW				SE				
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
07S	14E	18	:	:	:	:	:	:	04-F	F	:	:	:	:	:	

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE				
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	
07S	14E	18	:	:	:	:	:	:	04-D	:	:	:	:	:	:	

POU County: GOODING

Non-Irrigation Uses: DOMESTIC, 1 HOUSE; STOCKWATER, 30 LLAMA; FISH PONDS

Other Rights: 36-04073 & 36-07841

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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PROFILE REPORT CONTINUED

CLAIM NUMBER: A36-00115C

Dates:	Exam Made Date:	Verified Date:	Objection Filed Date:
Misc:	Water District Number: 36A	Field Inspection Flag: Presumption Flag:	

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	COPY INCLUDED IN FILE?
☒ ORTHOPHOTOQUAD	DATE OF PHOTO <u>8-4-1974</u> IDWR ID NO. <u>AA 70</u>	Y(☒) N(☐)
☐ TOPOGRAPHIC	DATE FIELD CHECKED _____ IDWR ID NO. _____	Y(☐) N(☐)
☐ NAPP	DATE OF PHOTO _____ IDWR ID NO. _____	Y(☐) N(☐)
☐ ASCS AERIAL PHOTO	DATE OF PHOTO _____	Y(☐) N(☐)
☐ ASCS COLOR SLIDE	DATE OF PHOTO _____	Y(☐) N(☐)
☐ BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____	Y(☐) N(☐)
☐ TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY _____	Y(☐) N(☐)
☐ SCS SOIL SURVEY MAP	DATE ISSUED _____	Y(☐) N(☐)
☐ SUBDIVISION PLAT MAP	DATE OF MAP _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION	NO. OF PAGES	NOTES
☐ LICENSING FIELD EXAM	DATE OF FIELD EXAM _____	_____	_____
☐ WATER RIGHT LICENSE	DATE LICENSE SIGNED _____	_____	_____
☐ IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED _____	_____	_____
☐ SYSTEM DESCRIPTION	DATE DRAWN _____	_____	_____
☐ PHOTOGRAPHS	DATE(S) PHOTOS TAKEN _____	_____	_____
☐ SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED _____	_____	_____
☐ HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
☐ CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
☐ FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED _____	_____	_____
☐ OTHER _____	DATE _____	_____	_____
☐ OTHER _____	DATE _____	_____	_____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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GENERAL INFORMATION

1
CLAIM NUMBER: A36-00115C

LAST: TUPPER
ADDRESS: 2700 S 1110A
CITY: HAGERMAN
PHONE NUMBER: 000-837-4862

FIRST: ROBERT E
STATE: ID ZIP: 83332

OWNER CODE: C

LAST: TUPPER
ADDRESS: 2700 S 1110A
CITY: HAGERMAN
PHONE NUMBER: 000-837-4862

FIRST: FAYE L
STATE: ID ZIP: 83332

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

NO REMARKS IN CLAIM

DATABASE
N

FIELD
EXAMINER

FIELD EXAMINATION INFORMATION

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 / NOTES:

A. AJ CLAIM: # A36-00115C PRIORITY DATE: 04-01-1881 STAGE: D

B. WR RECORD: # 36-00115 PRIORITY DATE: 04-01-1881 STAGE: D

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y(☒) N()

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y() N(☒)

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW) Y(☒) N()

→ Right has not been
claimed in full.

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED

N/A(☒) Y() N()

FIELD EXAM COMPLETED

N/A(☒) Y() N()

FIELD EXAM SENT TO STATE OFFICE

N/A(☒) Y() N()

LICENSE ISSUED

N/A(☒) Y() N()

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.

G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED? N/A(☒) Y() N()

* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y(☒) N()

NOTES: Right is based on 1932 decree which has the statement of
"irrigation and other uses..." Evidence submitted as Document #1 indicates
fish propagation did not use this source of water until 1000 Springs Trout
Farm Partnership was established. This is confirmed by affidavit by
Robert A. Erkins. Further stock & Domestic uses were claimed and
confirmed under Right 36-04073. Fish Uses were not developed until
later and were licensed under right 36-07841.

It is possible some resumption of this right may be proven by the claimants
but information and actions to date indicate this right is no longer in use.

RECOMMENDED PRIORITY DATE:

04-01-1881

DISALLOW

REVIEWED BY

SCC

DATE

12-3-96

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A36-00115C	07S	14E	18	SW	SE	SW			GOODING		

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-00115B 36-00115B
A36-04073 36-04073
A36-07841 36-07841
A36-15496 R36-07841

WR RECORDS IN SAME 40 ACRE TRACT

36-04073
36-07841

SOURCE: TUPPER SPRING

TRIB: BILLINGSLEY CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
36-00115	07S	14E	18		SE	SW			GOODING		

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-04073
36-07841

A36-00115B 36-00115B
A36-04073 36-04073
A36-07841 36-07841
A36-15496 R36-07841

SOURCE: SPRINGS

TRIB: BILLINGSLEY CREEK

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(X) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y(X) N()

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y(X) N() IT WAS.

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y(X) N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y(X) N() IT WAS.

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y(X) N() IT WAS.

SCV
12/3/96

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____) Y(____) N(____)

AJ FIELD EXAM (DATE OF FIELD EXAM _____ NAME OF EXAMINER _____) Y(____) N(____)

OTHER (DESCRIBE IN NOTES BELOW)

NOTES: _____

=====

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (____)

TWP. 07S	RGE. 14E	SEC. 18	1/4 SW	1/4 SE	1/4 SW	LOT	POD FLAG	COUNTY GOODING	DIVERSION NAME	DIVERSION NBR
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

SOURCE: _____ TRIB: _____

REVIEWED BY: _____ DATE: _____

=====

SYSTEM DESCRIPTION: DESCRIBED BELOW (____), SEE LICENSE FILE (____), OR SEE ATTACHMENT (____)

A. ROOT WATER RIGHT NUMBERS: A36-00115A
36-00115A

A36-00115B

A36-00115C

36-00115B

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
07S	14E	18	SW	SW	4	TUPPER, ROBERT E	A36-00115C /	- /	10.0		
			SW	SW	4	TUPPER, ROBERT E	A36-04073 /	4.0 36-04073 /	4.0		
			SW	SW	4	TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SW	SW	4	ARKOOSH, C TOM	R36-04011 /	36-04011 /			
			SW	SW	4	AQUA LIFE CORP	A36-02414 /	36-02414 /			
			SW	SW	4	AQUA LIFE INC	36-02338 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-04073 /	3.0 - /			
			SW	SW	4	TUPPER, ROBERT E	A36-07841 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-07841 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-15476 /	- /			
			SW	SW	4	AQUA LIFE CORP	36-02414 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02734 /	36-02734 /			
			SW	SW	4	AQUA LIFE INC	A36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-04014 /	36-04014 /			
			SW	SW	4	AQUA LIFE INC	36-02734 /	- /			
			SW	SW	4	AQUA LIFE INC	36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02338 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-10842 /	20.0 - /			
			SW	SW	4	AQUA LIFE INC	R36-02734 /	- /			
			SW	SW	4	TUPPER, ROBERT E	A36-15496 /	- /			
			SW	SW	4	TUPPER, W. G.		36-00115 /			
07S	14E	18	SW	SW	4	TUPPER, ROBERT E	A36-00115C /	- /	10.0		
			SW	SW	4	TUPPER, ROBERT E	A36-04073 /	4.0 36-04073 /	4.0		
			SW	SW	4	TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SW	SW	4	ARKOOSH, C TOM	R36-04011 /	36-04011 /			
			SW	SW	4	AQUA LIFE CORP	A36-02414 /	36-02414 /			
			SW	SW	4	AQUA LIFE INC	36-02338 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-04073 /	3.0 - /			
			SW	SW	4	TUPPER, ROBERT E	A36-07841 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-07841 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-15476 /	- /			
			SW	SW	4	AQUA LIFE CORP	36-02414 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02734 /	36-02734 /			
			SW	SW	4	AQUA LIFE INC	A36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-04014 /	36-04014 /			

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
			SW	SW	4	AQUA LIFE INC	36-02734 /	- /			
			SW	SW	4	AQUA LIFE INC	36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02338 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-10842 /	20.0 - /			
			SW	SW	4	AQUA LIFE INC	R36-02734 /	- /			
			SW	SW	4	TUPPER, ROBERT E	A36-15496 /	- /			
			SW	SW	4	TUPPER, W. G.		36-00115 /			
07S	14E	18	SW	SW	4	TUPPER, ROBERT E	A36-00115C /	- /	10.0		
			SW	SW	4	TUPPER, ROBERT E	A36-04073 /	4.0 36-04073 /	4.0		
			SW	SW	4	TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SW	SW	4	ARKOOSH, C TOM	R36-04011 /	36-04011 /			
			SW	SW	4	AQUA LIFE CORP	A36-02414 /	36-02414 /			
			SW	SW	4	AQUA LIFE INC	36-02338 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-04073 /	3.0 - /			
			SW	SW	4	TUPPER, ROBERT E	A36-07841 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-07841 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-15476 /	- /			
			SW	SW	4	AQUA LIFE CORP	36-02414 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02734 /	36-02734 /			
			SW	SW	4	AQUA LIFE INC	A36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-04014 /	36-04014 /			
			SW	SW	4	AQUA LIFE INC	36-02734 /	- /			
			SW	SW	4	AQUA LIFE INC	36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02338 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-10842 /	20.0 - /			
			SW	SW	4	AQUA LIFE INC	R36-02734 /	- /			
			SW	SW	4	TUPPER, ROBERT E	A36-15496 /	- /			
			SW	SW	4	TUPPER, W. G.		36-00115 /			
07S	14E	18	SW	SW	4	TUPPER, ROBERT E	A36-00115C /	4.0 - /	10.0		
			SW	SW	4	TUPPER, ROBERT E	A36-04073 /	4.0 36-04073 /	4.0		
			SW	SW	4	TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SW	SW	4	ARKOOSH, C TOM	R36-04011 /	36-04011 /			
			SW	SW	4	AQUA LIFE CORP	A36-02414 /	36-02414 /			
			SW	SW	4	AQUA LIFE INC	36-02338 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-04073 /	3.0 - /			
			SW	SW	4	TUPPER, ROBERT E	A36-07841 /	- /			
			SW	SW	4	TUPPER, ROBERT E	36-07841 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-15476 /	- /			
			SW	SW	4	AQUA LIFE CORP	36-02414 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02734 /	36-02734 /			
			SW	SW	4	AQUA LIFE INC	A36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-04014 /	36-04014 /			
			SW	SW	4	AQUA LIFE INC	36-02734 /	- /			
			SW	SW	4	AQUA LIFE INC	36-04011 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-02338 /	- /			
			SW	SW	4	AQUA LIFE INC	A36-10842 /	20.0 - /			

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
			SW	SW	4	AQUA LIFE INC	R36-02734 /	- /			
			SW	SW	4	TUPPER, ROBERT E	A36-15496 /	- /			
			SW	SW	4	TUPPER, W. G.		36-00115 /			
07S	14E	18	SE	SW		TUPPER, ROBERT E	A36-00115C /	- /	33.0		
			SE	SW		TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SE	SW		TUPPER, ROBERT E	36-04073 /	36-04073 /			
			SE	SW		TUPPER, ROBERT E	A36-07841 /	- /			
			SE	SW		TUPPER, ROBERT E	A36-04073 /	- /			
			SE	SW		TUPPER, ROBERT E	36-07841 /	- /			
			SE	SW		POTHIER REVOCABLE INTER VIVOS	A36-00115B /	- /			
			SE	SW		MINTUN TRUSTEE, TOMMY LEE	36-00115B /	- /			
07S	14E	18	SE	SW		TUPPER, ROBERT E	A36-00115C /	- /	33.0		
			SE	SW		TUPPER, ROBERT E	R36-07841 /	36-07841 /			
			SE	SW		TUPPER, ROBERT E	36-04073 /	36-04073 /			
			SE	SW		TUPPER, ROBERT E	A36-07841 /	- /			
			SE	SW		TUPPER, ROBERT E	A36-04073 /	- /			
			SE	SW		TUPPER, ROBERT E	36-07841 /	- /			
			SE	SW		POTHIER REVOCABLE INTER VIVOS	A36-00115B /	- /			
			SE	SW		MINTUN TRUSTEE, TOMMY LEE	36-00115B /	- /			

ADDITIONAL POU FOUND

TOTAL ACRES	A36-00115C	4.00	106.00
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POU COUNTY: GOODING

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N()

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-00115C	TUPPER SPRING	TUPPER, ROBERT E	1.600	0.400		
36-04073	TUPPER SPRING	TUPPER, ROBERT E	0.100	0.033		
A36-04073	SPRINGS	TUPPER, ROBERT E	0.100	0.025		
A36-10842	SPRING	AQUA LIFE INC	0.480	0.024		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-00115C	DOMESTIC	TUPPER, ROBERT E	FROM 01-01 TO 12-31	0.040 CFS	
A36-00115C	STOCKWATER	TUPPER, ROBERT E	FROM 01-01 TO 12-31	0.030 CFS	
A36-00115C	IRRIGATION	TUPPER, ROBERT E	FROM 03-15 TO 11-15	0.600 CFS	
A36-00115C	FISH PROPAGATION	TUPPER, ROBERT E	FROM 01-01 TO 12-31	1.000 CFS	
R36-07841	FISH PROPAGATION	TUPPER, ROBERT E	FROM 01-01 TO 12-31	1.000 CFS	
R36-04011	FISH PROPAGATION	ARKOOSH, C TOM	FROM 01-01 TO 12-31	12.000 CFS	
A36-02414	FISH PROPAGATION	AQUA LIFE CORP	FROM 01-01 TO 12-31	4.000 CFS	
36-02338	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	54.680 CFS	39518.00 AF/A
A36-07841	FISH PROPAGATION	TUPPER, ROBERT E	FROM 01-01 TO 12-31	1.000 CFS	
36-07841	FISH PROPAGATION	TUPPER, ROBERT E	FROM 01-01 TO 12-31	1.000 CFS	
A36-15476	RECREATION	AQUA LIFE INC	FROM 01-01 TO 12-31	1.000 CFS	36.00 AF/A
A36-15476	WILDLIFE	AQUA LIFE INC	FROM 01-01 TO 12-31	1.000 CFS	36.00 AF/A
A36-15476	AESTHETIC	AQUA LIFE INC	FROM 01-01 TO 12-31	1.000 CFS	36.00 AF/A
36-02414	FISH PROPAGATION	AQUA LIFE CORP	FROM 01-01 TO 12-31	4.000 CFS	
A36-02734	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	100.000 CFS	
A36-04011	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	50.000 CFS	
A36-04014	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	65.000 CFS	
36-02734	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	100.000 CFS	
36-04011	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	12.000 CFS	
A36-02338	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	54.680 CFS	
A36-10842	DOMESTIC	AQUA LIFE INC	FROM 01-01 TO 12-31	0.080 CFS	
R36-02734	FISH PROPAGATION	AQUA LIFE INC	FROM 01-01 TO 12-31	100.000 CFS	
A36-15496	FISH PROPAGATION	TUPPER, ROBERT E	FROM 01-01 TO 12-31	0.200 CFS	
36-04073	DOMESTIC	TUPPER, ROBERT E	FROM 01-01 TO 12-31	0.020 CFS	
36-04073	STOCKWATER	TUPPER, ROBERT E	FROM 12-01 TO 04-01	0.030 CFS	
A36-04073	DOMESTIC	TUPPER, ROBERT E	FROM 01-01 TO 12-31	0.020 CFS	
A36-04073	STOCKWATER	TUPPER, ROBERT E	FROM 12-01 TO 04-01	0.030 CFS	
A36-00115B	DOMESTIC	POTHIER REVOCABLE INTER VIVOS	FROM 01-01 TO 12-31	0.040 CFS	

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
36-00115B	DOMESTIC	MINTUN TRUSTEE, TOMMY LEE	FROM 01-01 TO 12-31	0.040 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE? Y() N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: 36-04073 & 36-07841

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS? N/A() Y() N()

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM? Y() N()

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT? Y() N()

[illegible]

TOTAL ACRES: _____ N/A(____)

REVIEWED BY: _____ DATE: _____

A. AJ CLAIMED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A36-00115C DOMESTIC	FROM 01-01 TO 12-31	0.040 CFS	
A36-00115C STOCKWATER	FROM 01-01 TO 12-31	0.030 CFS	
A36-00115C IRRIGATION	FROM 03-15 TO 11-15	0.600 CFS	
A36-00115C FISH PROPAGATION	FROM 01-01 TO 12-31	1.000 CFS	
TOTAL DIVERSION RATE/VOLUME		1.600 CFS	

B. WR RECORDED USES:

PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
36-00115 IRRIGATION	FROM TO	0.600 CFS	
TOTAL DIVERSION RATE/VOLUME		0.600 CFS	

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? Y() N()

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? Y() N()

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? Y() N()

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? Y() N()

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A() Y() N()

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A() Y() N()

NOTES: _____

AJ CLAIM TOTAL DIVERSION RATE: 1.600 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: 0.600 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A() Y() N()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS)
REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE
OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y() N()

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM
IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y() N()

E. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

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

1b. CALCULATIONS

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y() N()

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N()

2. IRRIGATION DIVERSION VOLUME

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

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 12.0 AF/A
ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =
TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

NOTES: _____

WR RECORD CONDITIONS/REMARKS:

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REC. PURPOSE OF USE	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE CFS		VOL. AF/A		USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
DOMESTIC	01-01	12-31	0.040	_____		_____	12.0	_____
STOCKWATER	01-01	12-31	0.030	_____		_____	12.0	_____
IRRIGATION	03-15	11-15	0.600	_____		_____	12.0	_____
FISH PROPAGATION	01-01	12-31	1.000	_____		_____	12.0	_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
TOTAL FOR THIS RIGHT				_____		_____		_____

NON-IRRIGATION USES CLAIMED: DOMESTIC, 1 HOUSE; STOCKWATER, 30 LLAMA; FISH PONDS

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: _____ DATE: _____

FLAG: _____

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE):

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

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: 36-00115

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE	EXAMINER	CFS
	0.600		

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
36-00115	A36-00115B	0.040	-		36-00115	0.600
-	A36-00115C	1.600	-		-	
TOTAL CFS		1.640				0.600

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 DESCRIBED BELOW () OR SEE ATTACHMENT ()?

DATABASE	FIELD EXAMINER
N	Y() N()

NOTES:

AUTHENTICATION:

SIGNATURE: _____ DATE: _____

NAME OF FIELD EXAMINER: _____ TITLE: _____

By Hesselt Wright
Deputy
For James E. James
Return to James E. James
1219 Wood Ave E
Seattle, Wash.

A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

WARRANTY DEED

THIS INDENTUPE, made this 13th day of March in the year of our Lord onethousand nine hundred and fifty-seven, between WILFORD TUPPER and NAOMI TUPPER of Twin Falls, County of Twin Falls, State of Idaho, JOHN TUPPER and ESTHER TUPPER, of Galena, County of Jo Davies, State of Illinois, WILFORD G. TUPPER and LILLIAN M. TUPPER of Hagerman, County of Gooding, State of Idaho, the parties of the first part, and THOUSAND SPRINGS TROUT COMPANY, a partnership consisting of JAMES ELLIS and MARY LOU ELLIS and ROBERT TUPPER and FAYE TUPPER, party of the second part:

WITNESSETH, That said parties of the first part, for and in consideration of the sum of One thousand dollars (\$1,000.00) lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all the following described real estate situate in Gooding County, State of Idaho, to-wit:

Two parcels of land in Lot Four, Section 18 and Lot One, Section 19, Township 7 South, Range Fourteen E.8.A..
Beginning at a point on the North boundary of and 227.2 feet Easterly from the Northwest Corner of said Lot One, Section Nineteen, Township Seven South, Range Fourteen East of the Boise Meridian; thence South 57°38' East a distance of 541.5 feet; thence North 77°52' East a distance of 180.8 feet; thence North 14°31' West a distance of approximately 258.3 feet to the North boundary of said Lot One; thence Westerly along said North boundary a distance of 571.3 feet more or less to the point of beginning.

Beginning at the Southwest Corner of said Lot Four; thence Easterly along the South boundary of said Lot Four a distance of 798.5 feet; thence North 14°03' West a distance of 452 feet; thence South 80°17' West a distance of 23 feet; thence North 39°46' West a distance of 191.5 feet; thence North 47°10' East a distance of 34 feet more or less to the Southwest Corner of the Vardis River property; thence along said Vardis River property West line North 60°11' West a distance of 50 feet; thence North 21°11' West 125 feet; thence North 16°02' West 220 feet; thence North 26°00' West 15 feet; thence North 69°19' West a distance of 193 feet; thence North 43°19' West a distance of 130 feet; thence North 32°55' West a distance of approximately 200 feet to the North boundary of said Lot Four; thence Westerly along the North boundary of said Lot Four to the Northwest Corner; thence Southerly along the West boundary of said Lot Four a distance of approximately 1320 feet to the point of beginning.

Together with all rights in waters of an unnamed creek flowing through the south portion of said parcel of land and emptying in Billingsley Creek, assignable under state and federal laws, except approximately one second foot which is hereby reserved by said parties.

DEED:

MARCH 13,
1957

12/3/96 sec

attachment to A36-00115C & A36-15496

sw
12-3-96

Easterly along the South boundary of said Lot Four a distance of 798.5 feet; thence North 14°31' West a distance of 452 feet; thence South 80°47' West a distance of 23 feet; thence North 38°56' West a distance of 191.4 feet; thence North 67°19' East a distance of 34 feet; more or less to the Southwest Corner of the Vardis Fisher property; thence along said Vardis Fisher property West line North 60°11' East a distance of 50 feet; thence North 24°11' West 125 feet; thence North 16°21' West 220 feet; thence North 26°09' West 45 feet; thence North 68°19' West a distance of 190 feet; thence North 43°19' West a distance of 130 feet; thence North 32°55' West a distance of approximately 200 feet to the North boundary of said Lot Four; thence Westerly along the North boundary of said Lot Four to the Northwest Corner; thence Southerly along the West boundary of said Lot Four a distance of approximately 1320 feet to the point of beginning.

Together with all rights in waters of an unnamed creek flowing through the main portion of said parcel of land and emptying in Billingsley Creek, assignable under state and federal laws, except approximately one second foot which is hereby reserved by said Tupper.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part:

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever. And the said parties of the first part and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seal, the day and year first above written.

William L. Tupper
Lillian M. Tupper

Witness William L. Tupper

Witness Lillian M. Tupper

John John Tupper

John John Tupper

either Fitcher Tupper

STATE OF IDAHO)
Gooding County) SS

On this 24 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared WILFORD G. TUPPER and ~~William~~ TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Frederick J. Jones
Notary Public for said State;
Residing at Gooding, Idaho

STATE OF IDAHO)
Twin Falls County) SS

On this 17 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared WILFORD TUPPER and NAOMI TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Edna Leonard
Notary Public for said State;
Residing at Twin Falls, Idaho

STATE OF ILLINOIS)
County of Jo Daviess) SS

On this 15 day of March, 1957, before me the undersigned, a Notary Public in and for said County, personally appeared JOHN TUPPER and ESTHER TUPPER known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

James A. Hines
Notary Public for said State;
Residing at Galena, Illinois

WARRANTY DEED

THIS INDENTURE, made this 28th day of September, in the year of our Lord one thousand nine hundred and sixty-four, between JAMES N. ELLIS and MARY LOU ELLIS, husband and wife, of Seattle, County of King, State of Washington, the parties of the first part, and IDAHO SPRINGS TROUT COMPANY, an Idaho corporation, having its registered office near Buhl, in Gooding County, State of Idaho, the party of the second part;

WITNESSETH, That said parties of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, in hand paid, by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to its successors and assigns forever, all the following described real estate situate in Gooding County, State of Idaho, to-wit:

The East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Nineteen (19), Township Seven (7) South, Range Fourteen (14) East of the Boise Meridian, together with all rights in waters of unnamed springs rising on said property, tributary to Billingsley Creek.

Two parcels of land in Lot Four (4), Section Eighteen (18) and Lot One (1), Section Nineteen (19), Township Seven (7) South, Range Fourteen (14) East of the Boise Meridian, particularly described as follows, to-wit:

Parcel 1. Beginning at a point on the North boundary of and 227.2 feet Easterly from the Northwest Corner of said Lot 1, Section 19, Township 7 South, Range 14 E.B.M.; thence South 57 deg. 38' East a distance of 541.5 feet; thence North 77 deg. 52' East a distance of 180.8 feet; thence North 14 deg. 3' West a distance of approximately 258.3 feet to the North boundary of said Lot One; thence Westerly along said North boundary a distance of 571.3 feet more or less to the point of beginning.

Parcel 2. Beginning at the Southwest Corner of said Lot 4, Section 18, Township 7 South, Range 14 E.B.M.; thence Easterly along the South boundary of said Lot Four a distance of 798.5 feet; thence North 14 deg. 3' West a distance of 452 feet; thence South 80 deg. 47' West a distance of 23 feet; thence North 38 deg. 56' West a distance of 191.4 feet; thence North 67 deg. 19' East a distance of 34 feet more or less to the Southwest corner of the Vardis Fisher property; thence along said Vardis Fisher property West line North 60 deg. 11' West a distance of 50 feet; thence North 24 deg. 11' West 125 feet; thence North 16 deg. 2' West 220 feet; thence North 26 deg. 09' West 45 feet; thence North 68 deg. 19' West a distance of 190 feet; thence North 43 deg. 19' West a distance of 130 feet; thence North 32 deg. 55' West a distance of approximately 200 feet to the North boundary of said Lot Four; thence Westerly along the North boundary of said Lot Four to the Northwest corner, thence Southerly along the West boundary of said Lot Four a distance of approximately 1320 feet to the point of beginning.

INDEXED
Direct ☒
Indirect ☒

C48193

STATE OF IDAHO, COUNTY OF GOODING, ss.
Filed for record at the request of SECURITY TRUST CO.

17 min. past 4 o'clock P.M. on 3 day

of January, 1974.

MARGARET F. ELLIS, Secretary

By Bona Scott Deputy

← dated
DEED:
September 28,
1964

sw 12/3/96

Together with all water and water rights, ditch and ditch rights appurtenant to the above described lands, assignable under state and federal laws, except approximately one second foot from the waters of an unnamed creek flowing through the south portion of said Parcels of land and emptying into Billingsley Creek, which is reserved by the Tupper family.

Together with a right of ingress and egress to and from the above described Parcels of land, across other lands owned by the Tupper family, in Lot 4, in the Northeast Quarter of the of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Eighteen (18) and Lots 1 and 2, Section Nineteen (19), the same being for road and canal purposes.

Excepting from the above described real property all easements apparent or of record as shown by the records of the County Recorder of Gooding County, Idaho.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part:

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

James M. Ellis
Mary Lou Ellis

STATE OF WASHINGTON)
) ss.
County of King)

I, Mary M. Cameron, Notary Public in and for the State of Washington, residing at Seattle do hereby certify that on this 28th day of September, 1964, personally appeared before me JAMES N. ELLIS and MARY LOU ELLIS, husband and wife, to me known to be the individuals described in and who executed the within instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes herein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 28th day of Sept., 1964.

Mary M. Cameron
Notary Public in and for the State of
Washington, residing at Seattle
in said County.

License and Certificate of Water Right

Water License No. 28339

Priority December 21, 1959

Amount 4.0 c.f.s.

THIS IS TO CERTIFY that JAMES N. ELLIS

of Boise, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated December 21, 1959; that Permit No. 28339 was issued under said application; that Certificate of Completion of Works, with a carrying capacity of 6.4 second feet, was issued thereunder on February 9, 1960, showing that said works were completed on the 8th day of February, 1960; and that on the 17th day of March, 1960, JAMES N. ELLIS

of Boise, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of a right to the use of the waters of an unnamed stream

a tributary of Billingsley Creek for the purpose of fish hatchery under Use Permit No. 28339 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 7199, on the 31st day of October, 1961.

The right hereby confirmed dates from December 21, 1959.

The Point of Diversion is located in Lot 4 (SW 1/4) in the -- 1/4 -- 1/4, Sec. 18, Twp. 7 S, R. 14 E, B.M. Gooding 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 4.0 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
7 S	14 E	18	Lot 4 - for fish hatchery		

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 31st day of October, 1961.

Willard Thomas
Deputy State Reclamation Engineer.

AFFIDAVIT

I, Robert A. Erkins, residing at White Arrow Ranch, Bliss, Idaho, and a resident of Gooding County, Idaho, state that I was the president of the Idaho Springs Trout Company, Inc., of Hagerman, Gooding County, Idaho.

During the period of time my wife and I owned the Idaho Springs Trout Company, Inc., we used various sources of water: 1) from the springs and water impoundment located behind the Vardis Fisher home, 2) from Billingsley Creek, and 3) from a spring behind the Robert Tupper home and dairy.

The water from the Fisher area was filed on and the Idaho Springs Trout Company, Inc., paid an annual easement fee to Vardis Fisher, and later his estate, to maintain a dam which formed a lake out of which the water to the fish farm flowed.

The Billingsley Creek water was filed on and diverted by a dam with a fish ladder into the fish ponds of the Idaho Springs Trout Company.

The water which flowed from the Tupper Springs through the Tupper property, under a State of Idaho Water Right of the Robert Tupper's, was used free of charge by us in the late 1950's, all of the 1960's, and into the mid-1970's. We finalized the sale of our trout farming businesses to the Inmont Company in May 1975 which continued to use the Tupper water under our prior agreement. After that time I was no longer associated with the property. The water was used with the permission of the Robert Tupper's in exchange for various development projects done for the benefit of the Tupper's by Idaho Springs Trout Company, Inc., such as fence construction, water pipe construction, land development, and road development which accessed the Vardis Fisher property and the Idaho Springs Trout Company away from the Tupper home.

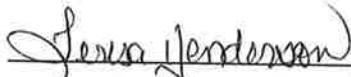
DATED this 6TH day of May, 1996


Robert A. Erkins

STATE OF IDAHO)
County of Twin Falls) ss.
Gooding)

On this 6th day of May, 1996, before me, a Notary Public in and for said County and State, personally appeared ROBERT A. ERKINS, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


Residing at: Twin Falls, ID.
My commission expires: 9-25-98

A36-00115C
A36-15496

5107

W. J. Dwyer
Robert J. Jupp
et al.

to
James M. Ellis
et al.

STATE of IDAHO }
County of Gooding } ss. No. _____

I hereby certify that this instrument
was filed for record at the request of
James M. Ellis
at *2:50* o'clock *P.*M., this *22*
day of *July*, 19*12*
in my office, and duly recorded in
book _____ of page _____

SHIRLEY S. STEVENSON

Ex-officio recorder

By *Wm. J. Jupp*
Deputy

Fee \$ *2.10*

Returned _____

JAMES SHAW & JAMES
ATTORNEYS AT LAW
GOODING, IDAHO

A36-001156
A36-15496

THIS INDENTURE, made this first day of January in the year
of our Lord one thousand nine hundred and thirty-nine, between
Robert Tupper and Faye Tupper, husband and wife, of Rayman,
County of Gooding, State of Idaho, the parties of the first
part and JAMES W. ELLIS and MAE LOU ELLIS, ^{husband and wife,} of Rayman, County
of Gooding, State of Idaho, the parties of the second part:

WITNESSETH, that said parties of the first part, for and in
consideration of the sum of five thousand dollars (\$5,000.00) law-
ful money of the United States of America, to them in hand paid
by the said party of the second part, the receipt whereof is
hereby acknowledged, have granted, bargained and sold, and by
these presents do grant, bargain, sell, convey and confirm
unto the said parties of the second part, and to their heirs
and assigns forever, all the following described real estate
situate in Gooding County, State of Idaho, to-wit:

Two parcels of land in Lot Four, Section 18 and Lot One,
Section 19, Township 7 South, Range Fourteen E.B.M.

Beginning at a point on the North boundary of and 227.2
feet Easterly from the Northwest Corner of said Lot One, Sec-
tion Nineteen, Township Seven South, Range Fourteen East of
the Boise Meridian; thence South 67°08' East a distance of
541.5 feet; thence North 77°02' East a distance of 150.8
feet; thence North 10°03' West a distance of approximately
258.8 feet to the North boundary of said Lot One; thence
Westerly along said North boundary a distance of 671.2
feet more or less to the point of beginning.

Beginning at the Northwest Corner of said Lot Four;
thence Easterly along the North boundary of said Lot Four a
distance of 70.1 feet; thence North 11°02' West a distance of
452 feet; thence South 11°02' East a distance of 452 feet;
thence North 11°02' West a distance of 101.4 feet; thence
North 67°08' East a distance of 541.5 feet more or less to the
Northwest Corner of said Lot One; thence Easterly along the
North boundary of said Lot One a distance of 671.2 feet
West a distance of 671.2 feet; thence North 11°02' West
125 feet; thence North 11°02' West 125 feet; thence North
28°09' West 45 feet; thence North 11°02' West a distance of
150 feet; thence North 48°03' West a distance of 150 feet;
thence North 67°08' East a distance of approximately 258.8
feet to the North boundary of said Lot One; thence
Westerly along the North boundary of said Lot One to the
Northwest Corner; thence Easterly along the North boundary
of said Lot One a distance of 671.2 feet to the point of beginning.

the point of beginning.

Together with all rights in waters of an unnamed creek flowing through the south portion of said parcel of land and emptying in Billingsley Creek, assignable under state and federal laws, except approximately one second foot which is hereby reserved by said Tappers.

Together with a right of ingress and egress to and from the above described real estate across other lands owned by the parties of the first part in lot 4, NE 1/4 SW 1/4, NE 1/4 SE 1/4, Section 18 and Lots 1 and 2, Section 19, the same being for road and canal purposes.

TOGETHER with all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part:

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances, unto the parties of the second part, and to their heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs, and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT, and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their names and seal the day and year first above written.

Robert Tappers
Ray Tappers

STATE OF IDAHO)
)
Gooding County) SS.
T

On this 1st day of January, 1959, before me, the undersigned, a Notary Public in and for said county personally appeared, Robert Tupper and Faye Tupper known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

My commission expires

Nov 1 19

Robert Tupper
Notary Public in and for the State
Idaho
Residing at Gooding, Ida.

date is 1959.

sw
12/3/96

A36-00115C

A36-15496

PROOF READ

No. 114794

LIMITED PARTNERSHIP CERTIFICATE

JAMES N. ELLIS, MARY LOU ELLIS, JOHN TUPPER, WILFORD TUPPER, ROBERT TUPPER, VARDIS FISHER and OPAL FISHER, and each of them, do hereby certify and swear:

This certificate is prepared and filed in accordance with the provisions of Chap. 2 of Title 53, Idaho Code.

1. The name of the partnership is and shall be THOUSAND SPRINGS TROUT COMPANY.

2. The character of the business to be conducted by said partnership is the operation of a fish hatchery, including the propagation, culture, processing, buying, handling and marketing of fish and any and all by-products thereof, and any and all incidental lines of business, but not including any already established by James N. Ellis and Mary Lou Ellis; to enter into any contracts or obligations of any kind essential, necessary or proper for the transaction of its business and for the purpose of the partnership; and generally to do all such acts permitted by the laws of the State of Idaho necessary and expedient to accomplish its stated purposes.

3. The location of the principal place of business of said partnership shall be Hagerman, Idaho.

4. The names of the general partners are James N. Ellis and Mary Lou Ellis; and the names of the limited partners are John Tupper, Wilford Tupper, Robert Tupper, Vardis Fisher and Opal Fisher, and the address of each and all said partners is Hagerman, Idaho.

5. The term for which the partnership is to exist is for and during the mutual pleasure of the contracting parties.

6. Each of the general partners and two of the limited partners, Vardis Fisher and Opal Fisher, are contributing the sum of \$2500.00 in cash, and the other limited partners each is contributing \$1666.66 in cash. [In addition Vardis Fisher and Opal Fisher are contributing all rights assignable under state and federal laws, subject to the conditions stated in clause 12 in the partnership agreement, to the water, less one second foot (hereby reserved for their own use), situate in the lake on their homeplace in the north-easterly portion of Lot 4, Sec. 18, T. 7 S., R. 14 E.B.M., Gooding County, Idaho. Such water is to be impounded by a dam and directed across the property of the Fishers at a point to be determined by the Fishers, and dam and means of conveyance to be furnished, installed and maintained by the partnership.] The limited partners John Tupper, Wilford Tupper and Robert Tupper, are jointly contributing to the partnership, subject to clause 12 in the partnership agreement that parcel of land of approximately five acres in the westerly portion of said Lot 4, bounded as follows: on the west side by Billingsley Creek at a point starting 450 feet north of the highway bridge over said creek and thence running north and east; and on the north by Billingsley Creek, and on the east by the Fisher homeplace as described in deed of record in Book 30, page 587, Gooding County deed records, from Billingsley Creek approximately 720 feet south to the southeast corner of said Fisher homeplace; and thence south and east in the same general direction for 260 feet, and thence south to Billingsley Creek at the starting point; together with all rights in waters of an unnamed creek flowing through the south portion of said parcel of land and emptying in Billingsley Creek, assignable under state and federal laws, except approximately one second foot which is hereby reserved by said Tupper.] The general partners James N. Ellis and Mary Lou Ellis, in addition to the cash so contributed by them, will contribute their knowledge, skill, experience and abilities as fish culturists and as managers of said business, together with their general labor, including the keeping of books and records.

attachment to claims: A36-00115 C & A36-15496

see
12-3-96

7. The limited partners have not agreed to make any contributions to said partnership other than those heretofore mentioned.

8. If the partnership is dissolved by mutual consent the land and water contributed by the limited partners will revert to and be reconveyed to them.

9. The share of the profits which each partner shall receive by reason of his contribution and labor is as follows: 30% of all net profits to each of the general partners; 10% of such profits each to Vardis Fisher and Opal Fisher; and the balance of 20% equally divided among the other limited partners. It is expressly agreed that no net profits shall be paid or distributed to any partner, but shall be utilized for improvement, development and expansion of the business and facilities of the partnership, until the capacity of the plant reaches one million marketable fish per year, with the exception that the general partners during such period of development and expansion shall receive and be paid each 20% of the net profits of the business, the same to be paid at the end of each fiscal year.

10. No partner may substitute an assignee as contributor or partner in his place without the written consent of all the partners, and then only upon such terms as may be mutually agreed upon by all the partners.

11. Additional general or limited partners shall not be admitted without the written, mutual and unanimous consent of all the partners.

12. The general partners shall receive no salary or wages for their skill and labor other than their stated percentages in the net profits of the business. The general partners shall not have power or authority to sell or convey any real property of the partnership, and shall not have power or authority to mortgage or encumber any real or personal property of the partnership, without the joint signatures of all the general and limited partners.

13. Upon the death, retirement or insanity of a limited or general partner the remaining partners upon mutual, written and unanimous consent may continue the business of the partnership.

IN WITNESS WHEREOF the said partners have hereunto set their hands this 11th day of March, 1951.

JAMES N. ELLIS
MARY LOU ELLIS
General Partners
JOHN TUPPER
WILFORD TUPPER
ROBERT TUPPER
VARDIS FISHER
OPAL FISHER
Limited Partners

STATE OF IDAHO)
COUNTY OF GOODING) ss

On this 11th day of March in the year 1951 before me, the undersigned, a notary public in and for said county, personally appeared James N. Ellis, Mary Lou Ellis, John Tupper, Wilford Tupper, Robert Tupper, Vardis Fisher and Opal Fisher, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.