

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: **A36-02734**

Date Received: 9/ 1/1988

Receipt No: S002014

Received By: ownership change *ja*

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: AQUA LIFE INC 208-543-4312
Address: RT 5 BOX 5053
BUHL ID 83316

2. Date of Priority: OCT 5, 1965

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	14E	19	NE	NW	NW	1	GOODING

5. Description of diverting works:
CHECK DAM & DITCH TO RACEWAYS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	100.000		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	14E	18	SW	SW	4	FISH	
		19	NW	NW	1	FISH	

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A36-04011, A36-04014

14. Remarks:

WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN ALLOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

15. Basis of Claim: LICENSE

Water Right Number: 32600

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

DATE OF CLOSING: _____

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____, BM.
Lot _____, Block _____, Subdivision/Townsite _____.
If you have additional legal descriptions, please attach separate sheet.

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☒ Water Right Number(s)
Assigned by IDWR: A 36-04011, 04014, 02734

☒ Name and Address of Former Owner/Claimant(s)(Seller): Clear Springs Trout Co.

☒ New Owner/Claimant (Purchaser): P.O. Box 712
Buhl, ID 83316

☒ New Mailing Address: Agua Life, Inc.
Box 5053
Buhl, ID 83316

☒ New Telephone Number: (208) 543-4312

☒ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

☐ Attach proof of ownership, describe proof attached: _____

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☒ Signature of New Owner/Claimant(s) Agua Life, Inc. Date _____
Obey, Kenneth E. & family Date 10-22-92

☐ Signature of Former Owner/Claimant(s): _____ Date _____
_____ Date _____

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10/22/92 By: [Signature]

Further Action Needed: _____

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: _____ By: _____

Claim Numbers of Split, if any: _____

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Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

1 DEED

2 THIS DEED made this 13th day of April, 1989,
3 between CLEAR SPRINGS TROUT COMPANY, an Idaho corporation,
4 whose current address is P. O. Box 712, Buhl, Idaho, 83316, the
5 "Grantor," and AQUALIFE, INC., an Idaho corporation, whose
6 current address is Route 5, Box 5053, Buhl, Idaho, 83316, the
7 "Grantee."

8 W I T N E S S E T H

9 In consideration of the sum of TEN AND NO/100 DOLLARS
10 (\$10.00) lawful money of the United States of America, and
11 other valuable considerations to the Grantor paid by the
12 Grantee, the receipt whereof is hereby acknowledged, the
13 Grantor does hereby grant, convey and quitclaim to the Grantee
14 all of Grantor's right, title, and interest in and to the
15 following described real property situated in the County of
16 Gooding, State of Idaho, commonly known as Idaho Springs, to
17 wit:

18 TRACT ONE:

19 TOWNSHIP 7 SOUTH, RANGE 14 EAST OF THE
20 BOISE MERIDIAN, GOODING COUNTY, IDAHO

21 Section 18: That part of Lot 4, described
22 as follows:

23 Beginning at the Southwest corner of said
Lot 4;

Thence Easterly along the South boundary of
said Lot, 798.5 feet;

Thence North 14°03' West, 452 feet;

Thence South 80°47' West, 23 feet;

Thence North 38°56' West, 191.4 feet;

Thence North 67°19' East, 34 feet, more or
less, to the Southwest corner of the
Vardis Fisher property;

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1 Thence along said Vardis Fisher property West
2 line North 60°11' West, 50 feet;
3 Thence North 24°11' West, 125 feet;
4 Thence North 16°02' West, 220 feet;
5 Thence North 26°09' West, 45 feet;
6 Thence North 68°19' West, 190 feet;
7 Thence North 43°19' West, 130 feet;
8 Thence North 32°55' West approximately 200
feet to the North boundary of said Lot
4;
9 Thence Westerly along the North boundary of
said Lot to the Northwest corner
thereof;
10 Thence Southerly along the West boundary of
said Lot 4 approximately 1320 feet to
THE POINT OF BEGINNING.

11 Section 19: That part of Lot 1, described
as follows:

12 Beginning at a point on the North boundary
of and 227.2 feet Easterly from the
Northwest corner of said Lot 1;
13 Thence South 57°38' East, 541 feet;
14 Thence North 77°52' East, 180.8 feet;
15 Thence North 14°03' West approximately 258.3
feet to the North boundary of said Lot
1;
16 Thence Westerly along said North boundary,
571.3 feet, more or less, to THE POINT
OF BEGINNING.

17 EXCEPT tract for public highway as conveyed
in Deed to the Hagerman Highway District,
dated December 24, 1937, recorded September
1, 1938, in Book 26 Deed Page 495,
described as follows:

18 Beginning at a point 1043 feet East of
19 Northeast corner of the NE1/4 NE1/4,
Section 24, Township 7 South, Range
20 13, East Boise Meridian;
21 Thence South 80 feet;
22 Thence East 100 feet;
Thence North 80 feet;
Thence West 100 feet to THE POINT OF BEGINNING.

23 AND ALSO EXCEPTING strips of land for
highway as set forth in the following Right
of Way Deeds to the Hagerman Highway
District No. 3:



Hepworth,
Nungester,
& Lezamiz

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- 1 a. Dated March 4, 1961, recorded November
2 29, 1961, as microfilmed instrument
3 No. 2856, across land in NE1/4 NW1/4
4 and SE1/4 NW1/4, Section 19.
5
6 b. Dated March 4, 1961, recorded November
7 29, 1961, as microfilmed instrument
8 No. 2859, across land in Lot 4,
9 Section 18 and Lot 1, Section 19,
10 records of Gooding County, Idaho.

11 TRACT 2:

12 TOWNSHIP 7 SOUTH, RANGE 14, EAST OF THE
13 BOISE MERIDIAN, GOODING COUNTY, IDAHO.

14 Section 19: That part of Lot 1, described
15 as follows:

16 Beginning at Section corner which is the
17 Northwest corner of said Section 19;
18 Thence Easterly along Section line common
19 to Sections 18 and 19, a distance of
20 approximately 798.5 feet to a point
21 which intersects the easterly
22 boundary of the Idaho Springs Trout
23 Farm;
Thence South 14°03' East, a distance of
78.7 feet to THE TRUE POINT OF
BEGINNING;
Thence South 45°24' East along wooden fence
for 22.6 feet;
Thence South 81°08' East along said fence,
49.5 feet;
Thence North 77°27' East along fence for
100.3 feet;
Thence South 18°07' West for 88.4 feet;
Thence South 46°06' West, 127.6 feet to a
point which is the Southeast corner of
the Idaho Springs Trout Farm;
Thence North 14°03' West along Easterly
boundary of said property for 179.6
feet to THE POINT OF BEGINNING.

GRANTOR RESERVES AN OPTION TO PURCHASE THE
ABOVE DESCRIBED REAL PROPERTY PURSUANT TO
THE LETTER AGREEMENT DATED MARCH 27, 1986,
EXECUTED BY STANFORD B. OWEN OF FABIAN &
CLEDENIN, ATTORNEY FOR THE GRANTEE, AND
DANIEL L. BERMAN OF BERMAN & O'RORKE,
ATTORNEY FOR CLEAR SPRINGS TROUT COMPANY, A

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Hepworth,
Nungester,
& Lezamiz

1 COPY OF THE RELEVANT PORTIONS OF SAID
2 AGREEMENT MAY BE OBTAINED FROM CLEAR
3 SPRINGS TROUT COMPANY, P. O. BOX 712, BUHL,
4 IDAHO, 83316.

5 Grantor makes no warranties to the Grantee, and its
6 successors in title, except that Grantor has not created or
7 permitted to be created any lien, charge or encumbrance against
8 said real estate which is not shown herein.

9 DATED this 13th day of April, 1989.

10 CLEAR SPRINGS TROUT COMPANY

11 By Larry W. Cope
12 Larry W. Cope, President

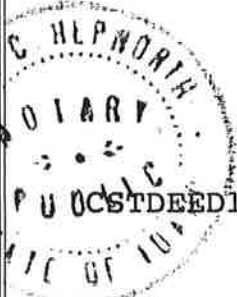
13 "GRANTOR"

14 STATE OF IDAHO)
15) ss.
16 County of Twin Falls)

17 On this 13th day of April, 1989, before me, the
18 undersigned, a Notary Public in and for said County and State,
19 personally appeared LARRY W. COPE, who being by me duly sworn
20 did say, for himself, that he, the said Larry W. Cope is the
21 President of Clear Springs Trout Company by authority of a
22 resolution of its board of directors and said Larry W. Cope
23 duly acknowledged to me that said corporation executed the same
and that the seal affixed is the seal of said corporation.

24 John C. Hepworth
25 NOTARY PUBLIC FOR IDAHO

26 Residing at: Twin Falls, Idaho
27 Commission Expires: 12-11-92



Hepworth,
Nungester,
& Lezamiz

DEED - 4 -

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

22-Oct-1992

AQUA LIFE INC
RT 5 BOX 5053
BUHL ID 83316

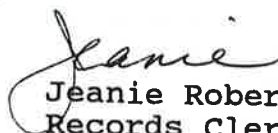
Re: Ownership Change for Adjudication Claim #A36-04011, A36-04014,
A36-02734 - CLEAR SPRINGS/AQUA LIFE

Dear Claimant(s):

Pursuant to notification that you presently own the property in which the above referenced Adjudication Claim is appurtenant, the Department has changed the record of the current owner as you requested. Please find enclosed a copy of the computer record of our recommendation to the court.

Please review the record and if you have any corrections or questions, feel free to call this office.

Sincerely,


Jeanie Robertson
Records Clerk

/jr
Enclosures:

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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: A36-02734
Date Received: 8/26/1988
Receipt No: S002014
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: CLEAR SPRINGS TROUT CO. 208-543-4316
Address: P.O. BOX 712
BUHL, ID 83316

2. Date of Priority: OCT 05, 1965

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
07S	14E	19	NE	NW	NW	1	GOODING

5. Description of diverting works:
CHECK DAM & DITCH TO RACEWAYS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
FISH PROPAGATION	01/01	12/31	100.000		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
07S	14E	18	SW	SW	4	FISH	
		19	NW	NW	1	FISH	

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:
36-4011, 4014

14. Remarks:

WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN ALLOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

15. Basis of Claim: LICENSE
Water Right Number: 32600

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: 2

For Organizations:

I do solemnly swear or affirm that I am President of Clear Springs Trout Company Title

Organization, that I have signed the foregoing

document in the space below as President of Title

Clear Springs Trout Company and that the statements contained in the Organization

foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Clear Springs Trout Company
Title and Organization

8/30/88

Date

State of Idaho)
County of Trinity) SS.

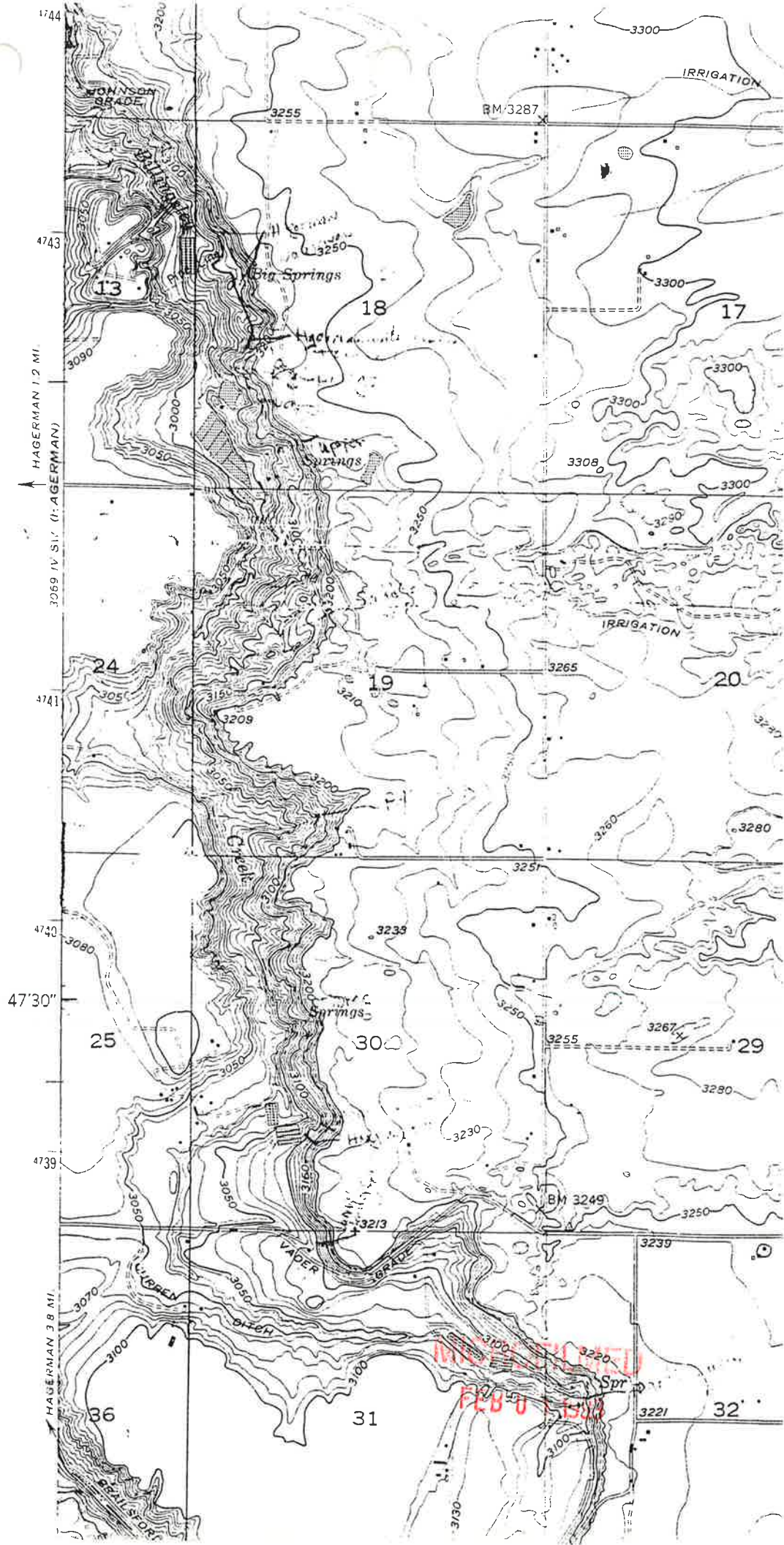
Subscribed and sworn (or affirmed) before me this 30th day
of August 19 88

Keith B. Murphy
Notary Public

Seal

Residing at Full ID

My Commission Expires 11-17-92



89236

49923

STATE OF IDAHO, COUNTY GOODING, ss.

Filed for record at the request of Land Title & Escrow, Inc.

15 min. past 2 o'clock P. M. this 29 day

of April 1981

II Corporation Records/Agreements

c) Purchase Thousand Springs

d) Gooding County

MARGARET F. CLEMENTS Recorder

Judy Daubner WARRANTY DEED

THIS INDENTURE made this 29th day of April, 1981,
between THOUSAND SPRINGS TROUT FARMS, INC., a Delaware
Corporation, the "Grantor", and CLEAR SPRINGS TROUT CO., an Idaho
corporation, whose current address is P. O. Box 712, Buhl, Idaho
83316, the "Grantee".

WITNESSETH:

In consideration of the sum of TEN AND NO/100 DOLLARS
(\$10.00) lawful money of the United States of America, and other
valuable considerations to the Grantor paid by the Grantee, the
receipt whereof is hereby acknowledge, the Grantor does hereby
grant and convey to the Grantee the following described real
property situated in the County of Gooding, State of Idaho, to
wit:

- I. That real property commonly known as "Home Place" situated
in the County of Gooding, State of Idaho more particularly
described as follows:

A tract of land located in Lots 5, 6 and 8 of Section 2
and Lots 5 and 12 of Section 1, all in Township 9 South,
Range 14 East of the Boise Meridian, particularly
described as follows, to-wit:

Commencing at a lava stone which is common to Sections
35 and 36, T. 8 S., R. 14 E.B.M. and to Sections 1 and
2, T. 9 S. R. 14 E.B.M., which stone is marked with five
notches on the west side and one notch on the east side,
and from which the quarter corner common to said
Sections 2 and 35, as marked during the retracement of
part of the north boundary of said Township 9 South in
1915, bears N. 89° 38' W; thence running S. 0° 22' W
along a line which runs through a cross in a stone
described in deed from Otis E. Syster and Mary E.
Syster, husband and wife, to Idaho Power Company,
recorded in Book 3 of Deeds at page 372, records of
Gooding County, Idaho, as bearing S. 0° 12' W. and as
being 1970 feet from said section corner 2507 feet to
the REAL POINT OF BEGINNING which is on the meander line
as described in the above mentioned deed to Idaho Power

Company, and from which an iron reinforcing bar bears N. 62° 27' E. and is 2 feet in distance; thence running S. 62° 27' W. along said meander line 125.5 feet; thence N. 41° 43' W. along a line described in the above mentioned deed as bearing S. 42° 52' E. 183 feet to a point which is described in said deed as being on a line which bears N. 80° 16' E. and is 1099.6 feet from a stone on the west line of Lot 5 of said Section 2 and is also described in said deed as being on a line extended through the above mentioned stone and a lava witness stone; thence running S. 82° 05' W. on the line between said stones extended, for 44 feet; thence S. 21° 44' E. along the present fence 97.3 feet; thence S. 43° 10' E. along the present fence 153.6 feet; thence S. 51° 53' E. along the present fence 214.7 feet; thence S. 58° 30' E. along the present fence 179.9 feet; thence S. 56° 35' E. along the present fence 168.0 feet to a steel pipe corner post; thence S. 52° 57' E. along the present fence for 82.9 feet; thence S. 74° 50' E. along the present fence 110.9 feet; thence N. 66° 52' E. along the present fence 202.7 feet; thence N. 30° 40' E. along the present fence 37.7 feet to a fence corner post; thence N. 15° 41' W. approximately 425 feet to the southern end of the present fence; thence N. 15° 41' W. along said fence 260 feet more or less to the southerly right-of-way of the present county road; thence westerly along said right-of-way 525 feet more or less, to its intersection with the line running between the above described section corners and the real point of beginning; thence S. 0° 22' W. along said line 220 feet more or less to the real point of beginning, containing 9.8 acres more or less.

Together with the right hereby granted to grantee, its successors and assigns forever, to discharge all waste and overflow waters from said real property and the fish hatchery located thereon over land adjacent to the above described real property now owned by grantors and all future deeds and transfers of said adjacent land shall contain said provision.

Together with the right to retain and maintain all present spillways, walls, foundations and footings for structures now existing which may extend beyond the boundaries of the real property hereinabove described.

II. That real property commonly known as "2B's Feed Mill" situated in the County of Gooding, State of Idaho, more particularly described as follows:

TRACT I: (Plant Site Land)

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more specifically described as follows: Commencing at the North quarter corner of Section 4; Thence S 89° 14' E, 177.56 feet along Township

Line; Thence S 65° 54' E, 1,345.43 feet, to THE TRUE POINT OF BEGINNING; Thence S 65° 54' E, 287.00 feet; Thence S 24° 06' W, 303.15 feet; Thence N 45° 38' W, 296.06 feet; Thence N 21° 30' E, 200.97 feet, to THE TRUE POINT OF BEGINNING. Said parcel containing 1.68 acres, more or less.

TRACT II: (Office Building Land)

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more specifically described as follows: Commencing at the intersection of the East boundary of Section 4 and the Northerly right-of-way of Interstate Highway Project No. I-80N-3(22)159 A, Sta. 1655 + 87.55, 131.00 feet left; Thence N 74° 49' 40" W, 894.97 feet, along Northerly right-of-way I-80N; Thence N 71° 00' 49" W, 377.66 feet, along Northerly right-of-way I-80N; to THE TRUE POINT OF BEGINNING; Thence N 55° 30' 30" E, 94.57 feet; Thence N 34° 29' 30" W, 69.41 feet; Thence S 55° 30' 30" W, 130.38 feet; Thence S 61° 46' 57" E, 78.12 feet, along Northerly right-of-way I-80N, to THE TRUE POINT OF BEGINNING. Said parcel containing 0.13 acres, more or less.

TRACT III:

A roadway easement centerline of 30 foot easement described as follows:

Commencing at the NORTH quarter corner of Section 4;

thence S 89° 34' 40" E, 1.45 feet to the centerline S.H. 46 Sta. 57 + 36, Project No. I-80N-3(22)159 A;

thence S 71° 38' 40" E, 78.44 feet, to the Easterly Right-of-way of S.H. 46, being the true point of beginning;

thence S 71° 38' 40" E, 557.81 feet;

thence S 66° 52' 10" E, 790.00 feet;

thence S 2° 09' E, 224.44 feet;

thence S 47° 00' E, 428.10 feet;

thence S 74° 49' 40" E, 1,013.64 feet, parallel to and 15 feet Northerly of the Northerly right-of-way of I-80N to a point of intersection with the Easterly line of Section 4.

TRACT IV:

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more particularly described as follows:

Beginning at the North quarter corner of said Section 4;
Thence North 88°10'13" East, 177.56 feet measured angle and distance (South 89°14' East, 177.56 feet) to the Southwesterly boundary of the Union Pacific railroad right-of-way;
Thence South 66°57'47" East, 1288.79 feet, measured angle and distance (South 65°54' East) along the Southwesterly boundary of said railroad right-of-way;
Thence South 19°38'44" West, 211.28 feet measured angle and distance to THE TRUE POINT OF BEGINNING;
Thence South 46°44'05" East, 200.23 feet measured angle and distance to the Northwest corner of Tract II as set forth in Deed recorded as microfilmed instrument No. 47255 on October 16, 1973;
Thence South 15°28'30" West, 130.35 feet measured angle and distance (South 55°30'30" West, 130.38 feet) to the North right-of-way of Interstate 80;
Thence North 61°48'49" West, 108.36 feet measured angle and distance (North 61°46'57" West) along said right-of-way;
Thence North 19°38'44" East, 169.81 feet measured angle and distance to THE TRUE POINT OF BEGINNING.

AND Beginning at the North quarter corner of said Section 4;
Thence North 88°10'13" East, 177.56 feet measured angle and distance (South 89°14' East, 177.56 feet) to the Southwesterly boundary of the Union Pacific railroad right-of-way;
Thence South 66°57'47" East, 1288.79 feet measured angle and distance (South 65°54' East) along the Southwesterly boundary of said railroad right-of-way;
Thence South 19°38'44" West, 211.28 feet measured angle and distance;
Thence South 46°44'05" East, 200.23 feet measured angle and distance to the Northwest corner of Tract II as set forth in Deed recorded October 16, 1973 as microfilmed instrument No. 47255;
Thence South 34°31'28" East, 69.53 feet measured angle and distance (South

34°29'30" East, 69.41 feet) to the Northeast corner of Tract II as set forth in Deed recorded October 16, 1973 as microfilmed instrument No. 47255, THE TRUE POINT OF BEGINNING; Thence South 55°33'19" West, 94.34 feet measured angle and distance (South 55°30'30" West, 94.57 feet) to the North right-of-way of Interstate 80; Thence South 71°00'49" East, 206.08 feet (Base Bearing) along said right-of-way; Thence North 44°11'49" West, 76.02 feet measured angle and distance; Thence North 44°11'49" West, 91.92 feet measured angle and distance (North 42°57'30" West, 91.95 feet) to THE TRUE POINT OF BEGINNING.

TOGETHER WITH the following Non-Exclusive roadway easements:

A roadway easement located in Lot 1 and 2, Section 4, Township 8 South, Range 15, East Boise Meridian, Gooding County, Idaho, centerline of 30 foot roadway easement described as follows:

Commencing at the North quarter corner of Section 4;
Thence South 89°34'40" East, 1.45 feet to the centerline S.H. 46 Sta. 57/36, Project No. I-80N-3(22) 159 A;
Thence South 71°38'40" East, 78.44 feet to the Easterly right-of-way of S.H. 46, being THE TRUE POINT OF BEGINNING;
Thence South 71°38'40" East, 557.81 feet;
Thence South 66°52'10" East, 790.00 feet;
Thence South 2°09' East, 224.44 feet;
Thence South 47°00' East, 428.10 feet;
Thence South 74°49'40" East, 1,013.64 feet, parallel to and 15 feet Northerly of the Northerly right-of-way of I-80N to a point on the Easterly boundary of Section 4.

III. That real property commonly known as "Idaho Springs" situated in the County of Gooding, State of Idaho, more particularly described as follows:

TRACT NO. 1:

Township 7 South, Range 14 East of the Boise Meridian
Section 18: That part of Lot 4

described as follows:
Beginning at the Southwest corner of said Lot 4;
thence Easterly along the South boundary of said Lot, 798.5 feet;
thence North 14° 3' West 452 feet;
thence South 80° 47' West 23 feet;
thence North 38° 56' West 191.4 feet;
thence North 67° 19' East 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' West 50 feet;
thence North 24° 11' West 125 feet;
thence North 16° 2' West 220 feet;
thence North 26° 09' West 45 feet;
thence North 68° 19' West 190 feet;
thence North 43° 19' West 130 feet;
thence North 32° 55' West approximately 200 feet to the North boundary of said Lot 4;
thence Westerly along the North boundary of said Lot to the Northwest corner thereof;
thence Southerly along the West boundary of said Lot 4 approximately 1320 feet to the point of beginning.

Section 19: E½NW¼, and

That part of Lot 1 described as follows:

Beginning at a point on the North boundary of and 227.2 feet Easterly from the Northwest corner of said Lot 1;
thence South 57° 38' East 541 feet;
thence North 77° 52' East 180.8 feet;
thence North 14° 3' West approximately 258.3 feet to the North boundary of said Lot 1;
thence Westerly along said North boundary 571.3 feet, more or less, to the point of beginning.

Except tract for public highway as conveyed in Deed to the Hagerman Highway District, dated December 24, 1937, recorded September 1, 1938 in Book 26 Deed Page 495, described as follows:

Beginning at a point 1043 feet East of Northeast corner of the NE¼NE¼ Sec. 24, Twp. 7 S.R. 13 E.B.M.,

thence South 80 feet;
thence East 100 feet;
thence North 80 feet;
thence West 100 feet to the point of beginning.

And Also Excepting

Strips of land for highway as set forth in the following Right of Way Deeds to the Hagerman Highway District No. 3:

- a. Dated March 4, 1961, recorded November 29, 1961 as microfilmed instrument No. 2856, across land in NE¼NW¼ and SE¼NW¼ Sec. 19,
- b. Dated March 4, 1961, recorded November 29, 1961 as microfilmed instrument No. 2859, across land

in Lot 4 Sec. 18 and Lot 1 Sec. 19,
Records of Gooding County, Idaho.

TRACT NO. 2:

Township 7 South, Range 14 East of the Boise Meridian
Section 19: That part of Lot 1 described as

follows:

Beginning at Section corner which is
the NW corner of said Section 19;

thence Easterly along Section line
common to Sections 18 and 19, a distance of
approximately 798.5 feet to a point which
intersects the Easterly boundary of the Idaho
Springs Trout Farm;

thence South 14° 03' East a distance
of 78.7 feet to the true point of beginning;

thence South 45° 24' East along wooden
fence for 22.6 feet;

thence South 81° 08' East along said
fence 49.5 feet;

thence North 77° 27' East along fence
for 100.3 feet;

thence South 18° 07' West for 88.4
feet;

thence South 46° 06' West 127.6 feet
to a point which is the SE corner of the Idaho
Springs Trout Farm;

thence North 14° 03' West along
Easterly boundary of said property for 179.6 feet
to the point of beginning.

TOGETHER with any and all water and water rights, ditch and
ditch rights appurtenant to the above described real
property and the fish hatchery located thereon.

TOGETHER with all and singular the buildings,
structures, improvements, tenements, hereditaments and
appurtenances thereunto belonging or in anywise appertaining, the
reversion and reversions, remainder and remainders, rents, issues
and profits thereof;

SUBJECT TO all easements and restrictions of record,
including but not limited to the following:

1. Mechanic's or materialmen's liens not shown of record
at the date hereof.
2. Taxes for 1981 and subsequent years, a lien, but not
yet due and payable.

3. Assessments levied or to be levied by any Irrigation District.
4. Terms and conditions of an Agreement by and between Otis E. Syster and Mary E. Syster, husband and wife, Grantors, and Idaho Power Company, Grantee, dated August 27, 1927, recorded August 30, 1927 in Book 6 Page 510 as Instrument Number 44023, Gooding County records, affecting Sections 1 and 2 in Township 9 South, Range 14, East Boise Meridian, and Lot 7, Section 2, Lots 6 and 9, Section 11, both in Township 9 South, Range 14, East Boise Meridian.
5. Power Line Easement given by M. W. Bardsley and Dorothy Bardsley, husband and wife, to Idaho Power Company, a corporation, dated May 15, 1936, recorded March 22, 1937 in Book 4 Page 140 as Instrument Number 66993, Gooding County records, affecting a portion of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
6. Power Line Easement given by W. G. Tupper and Lillian M. Tupper, husband and wife, to Idaho Power Company, a corporation, dated June 17, 1940, recorded November 12, 1941 in Book 4 Page 630 as Instrument Number 81948, Gooding County records, affecting a portion of Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian.
7. Power Line Easement given by Vardis Fisher and Opal Holmes Fisher, husband and wife, to Idaho Power Company, a corporation, dated December 12, 1945, recorded September 25, 1946 in Book 5 Page 120 as Instrument Number 98144, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
8. Power Line Easement given by Gates Bros., Inc., to Idaho Power Company, a corporation, dated April 4, 1950, recorded June 12, 1950 in Book 6 Page 542 as Instrument Number 112198, Gooding County records, affecting the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 4, Township 8 South, Range 15, East Boise Meridian.
9. Power Line Easement given by James N. Ellis and Mary Lou Ellis, husband and wife, to Idaho Power company, a corporation, dated May 25, 1953, recorded March 19, 1955 as Instrument Number 126741, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
10. Terms and conditions of an Agreement by and between Vardis Fisher and Opal Fisher, husband and wife, first parties, and the Village of Hagerman, a municipal corporation, second party, dated September 12, 1957, recorded October 1, 1957 in Book 6 Page 289 as Instrument Number 133305, Gooding County records, affecting Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian.

11. Pipeline Easement by and between James N. Ellis and Mary Lou Ellis, parties of the first part, and Robert Tupper, party of the second part, dated November 24, 1959, recorded January 11, 1960 in Book 8 Page 181 as Instrument Number 139707, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
12. Power Line Easement given by Garth E. Brush, Myriel S. Brush and Georgia L. Brush to Idaho Power Company, a corporation, dated October 20, 1959, recorded February 17, 1960 in Book 8 Page 147 as Instrument Number 140053, Gooding County records, affecting the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, Township 9 South, Range 14, East Boise Meridian.
13. Easement contained in Right of Way Deed given by James N. Ellis to the Hagerman Highway District No. 3 dated March 4, 1961, recorded November 29, 1961 as Instrument Number 2856, Gooding County records, affecting a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
14. Easement contained in Right of Way Deed given by R. E. Tupper to the Hagerman Highway District No. 3 dated March 4, 1961, recorded November 29, 1961 as Instrument Number 2859, Gooding County records, affecting a portion of Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian, and a portion of Lot 1, Section 19, Township 7 South, Range 14, East Boise Meridian.
15. Power Line Easement given by James N. Ellis and Mary Lou Ellis, husband and wife, to Idaho Power Company, a corporation, dated November 9, 1962, recorded March 19, 1963 as Instrument Number 7519, Gooding County records, affecting Lot 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 7 South, Range 14, East Boise Meridian, and Lot 1, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
16. Power Line Easement given by Idaho Springs Trout Co., Robert Erkins, Pres. and Bernardine Erkins, Sec., to Idaho Power Company, a corporation, dated December 27, 1965, recorded March 1, 1966 as Instrument Number 17499, Gooding County records, affecting the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 7 South, Range 14, East Boise Meridian.
17. Easement given by Garth E. Brush and Myriel S. Brush to the Mountain States Telephone and Telegraph Company dated March 14, 1967, recorded April 12, 1967 as Instrument Number 21489, Gooding County records, affecting Lot 6, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 2, Township 9 South, Range 14, East Boise Meridian.
18. Easement by and between James N. Ellis and Mary Lou Ellis, husband and wife, and Idaho Springs Trout Company, an Idaho corporation, first parties, and Vardis Fisher and Opal Fisher, husband and wife, second party, dated June 21, 1967, recorded March 7, 1968 as Instrument Number 24550, Gooding County records, affecting a portion of Lot 4, Section 18 and Lot 1, Section 19, all in Township 7 South, Range 14, East Boise Meridian.

19. Easement by and between Idaho Springs Trout Company, an Idaho corporation, first party, and Vardis Fisher and Opal Fisher, husband and wife, second party, dated June 21, 1967, recorded March 7, 1968 as Instrument Number 24551, Gooding County records, affecting a portion of Lot 4, Section 18 and a portion of Lot 1, Section 19, Township 7 South, Range 14, East Boise Meridian.
20. Easement contained in Second Judgment and Decree of Condemnation in the case of The State of Idaho, ex rel, C. Ed Flandro, Howard B. Thomason and Lloyd F. Harron, Idaho Board of Highway Directors, Plaintiff, vs. The Idaho First National Bank; Mor-Gain, Inc., an Idaho corporation; William F. Duggan and Charlotte Duggan, husband and wife; State Enterprises, Inc., an Idaho Corporation, Defendants, dated August 7, 1970, recorded August 11, 1970 as Instrument Number 32725, Gooding County records, pertaining to Section 4, Township 8 South, Range 15, East Boise Meridian.
21. Terms and conditions of an Agreement by and between Thousand Springs Trout Farms, Inc., First Party, and Mor-Gain, Inc., as Second Party, dated October 18, 1973, recorded October 18, 1973 as Instrument Number 47305, Gooding County records, pertaining to a spur track located over a portion of Lots 1 and 2 of Section 4, Township 8 South, Range 15, East Boise Meridian.
22. Terms and conditions of a Lease by and between Thousand Springs Trout Farms, Inc., as Lessor, and Valley Trout Farms, Inc., as Lessee, dated July 2, 1980, recorded January 16, 1981 as Instrument Number 87266, Gooding County records.
23. Any claim arising from the difference in the mean high water line of the Snake River and Clear lakes and the meander line as shown by the Government Survey.

TO HAVE AND TO HOLD said premises unto the Grantee, its successors and assigns forever.

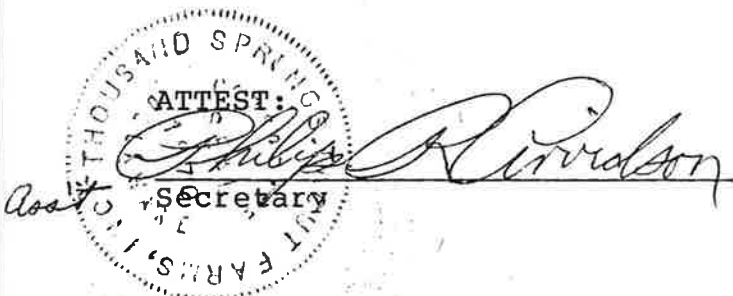
The Grantor covenants with the Grantee, its successors and assigns, that the Grantee shall enjoy the quiet and peaceful possession of said premises; that the Grantor is lawfully seized of said premises in fee simple; and the Grantor warrants that the title to said premises is merchantable and is free from all liens and encumbrances, excepting those to which this conveyance is

expressly made subject and those made, suffered or done by the Grantee.

IN WITNESS WHEREOF, this Warranty Deed has been duly executed by and on behalf of the Grantor the day and year herein first above written.

THOUSAND SPRINGS TROUT FARMS, INC.

By Roger E. Oberg
Name:
Title: President
(A duly authorized officer)



STATE OF IDAHO)
County of Jerome) ss.

On this 24th day of April, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared Roger E. Oberg, Assistant and Philip R. Robinson, the President and Secretary, respectively, of THOUSAND SPRINGS TROUT FARMS, INC., a Delaware corporation, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same on behalf of said corporation.

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

W. R. Salento
Notary Public for Idaho
Residing at Twin Falls



MEMORANDUM

RECEIVED

To: Judy Givens

FEB 25 1992

From: Helen Harrington-Thornton ^{HWT}
 Marci Sterling *ms*

Department of Water Resources
 Southern Region Office

Date: February 21, 1992

Subject: Incorrect Entry of Attorney/Notice of Appearance

=====

We are currently in active review of the following SRBA claims filed by Clear Springs Trout Co. These claims identify William Ringert as the attorney acting for the claimant. Upon contacting Mr. Ringert, we discovered that he is not, nor has he ever been, the attorney for Clear Springs Trout Co. We have not been able to locate any reason for Mr. Ringert to have been entered as attorney. We have spoken with Anna Baumhoff, and Jeannie Robertson has checked the original claim files and no documentation has been uncovered. Please, therefore, remove Mr. Ringert from the following claims and attach a copy of this memo to each file for explanation if future questions arise.

A36-02048	A36-02703	A36-02708	A36-02734
A36-04011	A36-04013A	A36-04013B	A36-04013C
A36-04014	A36-07040	A36-07083	A36-07148
A36-07151	A36-07201	A36-07218	A36-07568

The only suspected reason for Mr. Ringert on these claims is due to his acting as attorney for Clear Lakes Trout Co. and that he was erroneously entered on Clear Springs claims.

The claims listed above are those being acted on in the Boise office. You may wish to check other claims/files in order to determine if Mr. Ringert is identified on other claims in error.

cc: Anna Baumhoff

MICROFILMED
 FEB 01 1993

Water Right Number - A36-02734

Prefix Translation:

ADJUDICATION CLAIM

Old (D) Number - 32600

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

+ - First Name - - +

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

*** C - CURRENT OWNER ***

CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - +

10/05/1965

+ - - Region - - - +

17 SOUTHERN

+ - - Stage - - - +

L - LICENSE

+ - - Status - - - +

+ - - - - Source - - - - - +

BILLINGSLEY CREEK

+ - - - - Tributary - - - - - +

SNAKE RIVER

+ - - - - Point of Diversion - - - - - +

+ Tw n Rng Sec Tract Lot RFlg County

07S 14E 19 NE NW NW 1 (47) GOODING

+ - - - - Water Use - - - - - +

Code Description

Period From

Period To

Diversion Rate

Diversion Volume

19 - FISH PROPAGATION

01/01

12/31

100.000

+ - Total Div. Rate - + + - Total Div. Volume - +

100.000

+ - Total Consumptive Use - + + - KW Usage - +

0.0

+ - - - - Place of Use - - - - - +

+ Tw n Rng Sec Tract Lot Acres Code Description County

07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING

07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - A36-04011, A36-04014

+ - - - - Remarks - - - - - +

WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION
OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS.
BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE.
FACILITY VOLUME IS UNKNOWN.

MICROFILMED
FEB 01 1993

Water right number - A36-02734

Prefix Translation: ADJUDICATION CLAIM

+ - - - - Old Water Right Numbers - - - - - +
+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers Found
+ - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.
+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000
+ - - - - Comments - - - - - +
No Comments Found
+ - - Audit Fields - - +
02/26/92 GIVENS
+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

MICROFILMED
FEB 01 1993

Water Right Number - R36-02734

Prefix Translation: RESEARCH

Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County

07S 14E 19 NE NW NW 1 (47) GOODING

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

19 - FISH PROPAGATION 01/01 12/31 100.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use - FISH/FISH PROPAGATION

+ - - Other Rights for Same Use - 36-04011

+ - - - - Remarks - - - - - +
FACILITY VOLUME ~~6.9 AF.~~ 301,000 ~~47~~
USE OF THIS RIGHT WITH RIGHT NO. 36-04011 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF ~~122.7~~ CFS.
112.0+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers FoundVerified
H+H 5/17/92

Water right number - R36-02734

Prefix Translation: RESEARCH

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

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

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

Date: 05/19/1992 User Id: THORNTON Subject: COPIED FROM REMARKS

WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE. FACILITY VOLUME IS UNENOWN.

Date: 05/19/1992 User Id: THORNTON Subject: POSSIBLE OWNERSHIP CHANGE

THIS RIGHT MAY BE OWNED BY KEN ELLIS/AQUALIFE. HOWEVER, AFTER REPEATED WRITTEN AND ORAL CONTACT, I HAVE NOT BEEN ABLE TO
OBTAIN ANY DOCUMENTATION OF THIS.

+ - - Audit Fields - - +
05/19/92 THORNTON

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 05/19/1992	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	- 36A
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

Water Right Number - 36-02734

Prefix Translation: WATER RIGHT

Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
IDAHO SPRINGS TROUT CO.

1 - P.O. BOX 546

2 -

3 -

City- BUHL

State- ID Zip-

Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - - - - - - - - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 19 NW NW 1 (47) GOODING+ - - - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC
19 - FISH PROPAGATION 100.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
100.000+ - - - - - - - - - - - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - - - - - - - - - - - Remarks - - - - - +
No Remarks found.+ - - - - - - - - - - - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.+ - - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + + - Decree Date - +
00/00/0000

| | | | | | |
|-------------------|--------------|-----------------|--------------|------------------|-------|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 00/00/0000 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Exam to S.O. Date | - 00/00/0000 | Verified Date | - 06/03/1985 | DLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - 36A |
| Licensed Date | - 05/01/1979 | Appl Received | - 00/00/0000 | Transfer/Amended | - |
| Decree Date | - 00/00/0000 | | | | |

Water Right Number - A36-02734

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.

1 - P.O. BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

*** A - ATTORNEY ***
RINGERT

WILLIAM F.

1 - 455 SOUTH 3RD.

2 -

3 -

City- BOISE

State- ID Zip- 83701

Phone - 208-342-4591

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - - - - - - - - - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)
07S 14E 19 NE NW NW 1 (47) GOODING+ - - - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 100.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0+ - - - - - - - - - - - - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - ~~A36-04011, A36-04014~~+ - - - - - - - - - - - - - - - Remarks - - - - - +
WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION
OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS.
BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE.
FACILITY VOLUME IS UNKNOWN.

Water right number - A36-02734

Prefix Translation: ADJUDICATION CLAIM

```
+ - - - - Old Water Right Numbers - - - - - +
+ - - - - Old Water Right Numbers - - - - - +
      No Old Water Right Numbers found.
+ - - - - Conditions of Approval - - - - - +
      No Conditions of Approval found.
+ - - - - Decree Plaintiff - - - +      + - - - - Decree Defendant - - - +      + - Decree Date - +
                                         00/00/0000
+ - - Audit Fields - 08/26/88 STANTON 06/22/90 BEDKE 08/28/91 GIVENS
+ - - - - -Comments- - - - - - - - - - - +
      No Comments Found
+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +
      Court Report Filing - 00/00/0000   Field Inspection Made - 00/00/0000   Civil Case Number - 39576
      Objection Filed Date - 00/00/0000   Field Inspection Flag - - - - -   Old Case Number - - - - -
      Response Filed Date - 00/00/0000   Verified Date - 00/00/0000   Old Judicial District - - - - -
      Claim Received Date - 09/01/1988   Last Amended Date - 00/00/0000   Temporary Right - P
      Proof Due Date - 00/00/0000   Proof Made Date - 00/00/0000   Water District - 36A
      Licensed Date - 00/00/0000   Receipt Number - S002014   Federal/State Indicator - S
      Claims Tape Error Flg - - - - -   POU Ownership Flag - Y   Presumption Flag - - - - -
      Fee Exempt Flag - - - - -   Name Connector - - - - -   Notice of Error Flag - - - - -
```

8923P

149923

STATE OF IDAHO, COUNTY GOODING, ss.

Filed for record at the request of Land Title & Escrow, Inc.

15 min. past 2 o'clock P. M. this 29 day

of April 1981

II Corporation Records/Agreements

a) Purchase Thousand Springs

a) Gooding County

MARGARET E. CLEMENTS Recorder

Judy Danbrer WARRANTY DEED

THIS INDENTURE made this 29th day of April, 1981,
between THOUSAND SPRINGS TROUT FARMS, INC., a Delaware
Corporation, the "Grantor", and CLEAR SPRINGS TROUT CO., an Idaho
corporation, whose current address is P. O. Box 712, Buhl, Idaho
83316, the "Grantee".

WITNESSETH:

In consideration of the sum of TEN AND NO/100 DOLLARS
(\$10.00) lawful money of the United States of America, and other
valuable considerations to the Grantor paid by the Grantee, the
receipt whereof is hereby acknowledge, the Grantor does hereby
grant and convey to the Grantee the following described real
property situated in the County of Gooding, State of Idaho, to
wit:

- I. That real property commonly known as "Home Place" situated
in the County of Gooding, State of Idaho more particularly
described as follows:

A tract of land located in Lots 5, 6 and 8 of Section 2
and Lots 5 and 12 of Section 1, all in Township 9 South,
Range 14 East of the Boise Meridian, particularly
described as follows, to-wit:

Commencing at a lava stone which is common to Sections
35 and 36, T. 8 S., R. 14 E.B.M. and to Sections 1 and
2, T. 9 S. R. 14 E.B.M., which stone is marked with five
notches on the west side and one notch on the east side,
and from which the quarter corner common to said
Sections 2 and 35, as marked during the retracement of
part of the north boundary of said Township 9 South in
1915, bears N. 89° 38' W; thence running S. 0° 22' W
along a line which runs through a cross in a stone
described in deed from Otis E. Syster and Mary E.
Syster, husband and wife, to Idaho Power Company,
recorded in Book 3 of Deeds at page 372, records of
Gooding County, Idaho, as bearing S. 0° 12' W. and as
being 1970 feet from said section corner 2507 feet to
the REAL POINT OF BEGINNING which is on the meander line
as described in the above mentioned deed to Idaho Power

Company, and from which an iron reinforcing bar bears N. 62° 27' E. and is 2 feet in distance; thence running S. 62° 27' W. along said meander line 125.5 feet; thence N. 41° 43' W. along a line described in the above mentioned deed as bearing S. 42° 52' E. 183 feet to a point which is described in said deed as being on a line which bears N. 80° 16' E. and is 1099.6 feet from a stone on the west line of Lot 5 of said Section 2 and is also described in said deed as being on a line extended through the above mentioned stone and a lava witness stone; thence running S. 82° 05' W. on the line between said stones extended, for 44 feet; thence S. 21° 44' E. along the present fence 97.3 feet; thence S. 43° 10' E. along the present fence 153.6 feet; thence S. 51° 53' E. along the present fence 214.7 feet; thence S. 58° 30' E. along the present fence 179.9 feet; thence S. 56° 35' E. along the present fence 168.0 feet to a steel pipe corner post; thence S. 52° 57' E. along the present fence for 82.9 feet; thence S. 74° 50' E. along the present fence 110.9 feet; thence N. 66° 52' E. along the present fence 202.7 feet; thence N. 30° 40' E. along the present fence 37.7 feet to a fence corner post; thence N. 15° 41' W. approximately 425 feet to the southern end of the present fence; thence N. 15° 41' W. along said fence 260 feet more or less to the southerly right-of-way of the present county road; thence westerly along said right-of-way 525 feet more or less, to its intersection with the line running between the above described section corners and the real point of beginning; thence S. 0° 22' W. along said line 220 feet more or less to the real point of beginning, containing 9.8 acres more or less.

Together with the right hereby granted to grantee, its successors and assigns forever, to discharge all waste and overflow waters from said real property and the fish hatchery located thereon over land adjacent to the above described real property now owned by grantors and all future deeds and transfers of said adjacent land shall contain said provision.

Together with the right to retain and maintain all present spillways, walls, foundations and footings for structures now existing which may extend beyond the boundaries of the real property hereinabove described.

II. That real property commonly known as "2B's Feed Mill" situated in the County of Gooding, State of Idaho, more particularly described as follows:

TRACT I: (Plant Site Land)

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more specifically described as follows: Commencing at the North quarter corner of Section 4; Thence S 89° 14' E, 177.56 feet along Township

Line; Thence S 65° 54' E, 1,345.43 feet, to THE TRUE POINT OF BEGINNING; Thence S 65° 54' E, 287.00 feet; Thence S 24° 06' W, 303.15 feet; Thence N 45° 38' W, 296.06 feet; Thence N 21° 30' E, 200.97 feet, to THE TRUE POINT OF BEGINNING. Said parcel containing 1.68 acres, more or less.

TRACT II: (Office Building Land)

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more specifically described as follows: Commencing at the intersection of the East boundary of Section 4 and the Northerly right-of-way of Interstate Highway Project No. I-80N-3(22)159 A, Sta. 1655 + 87.55, 131.00 feet left; Thence N 74° 49' 40" W, 894.97 feet, along Northerly right-of-way I-80N; Thence N 71° 00' 49" W, 377.66 feet, along Northerly right-of-way I-80N; to THE TRUE POINT OF BEGINNING; Thence N 55° 30' 30" E, 94.57 feet; Thence N 34° 29' 30" W, 69.41 feet; Thence S 55° 30' 30" W, 130.38 feet; Thence S 61° 46' 57" E, 78.12 feet, along Northerly right-of-way I-80N, to THE TRUE POINT OF BEGINNING. Said parcel containing 0.13 acres, more or less.

TRACT III:

A roadway easement centerline of 30 foot easement described as follows:

Commencing at the NORTH quarter corner of Section 4;

thence S 89° 34' 40" E, 1.45 feet to the centerline S.H. 46 Sta. 57 + 36, Project No. I-80N-3(22)159 A; thence S 71° 38' 40" E, 78.44 feet, to the Easterly Right-of-way of S.H. 46, being the true point of beginning;

thence S 71° 38' 40" E, 557.81 feet;

thence S 66° 52' 10" E, 790.00 feet;

thence S 2° 09' E, 224.44 feet;

thence S 47° 00' E, 428.10 feet;

thence S 74° 49' 40" E, 1,013.64 feet, parallel to and 15 feet Northerly of the Northerly right-of-way of I-80N to a point of intersection with the Easterly line of Section 4.

TRACT IV:

A parcel of land located in Lot 1 and Lot 2, Section 4, Township 8 South, Range 15 East, Boise Meridian, Gooding County, Idaho, more particularly described as follows:

Beginning at the North quarter corner of said Section 4;

Thence North 88°10'13" East, 177.56 feet measured angle and distance (South 89°14' East, 177.56 feet) to the Southwesterly boundary of the Union Pacific railroad right-of-way;

Thence South 66°57'47" East, 1288.79 feet, measured angle and distance (South 65°54' East) along the Southwesterly boundary of said railroad right-of-way;

Thence South 19°38'44" West, 211.28 feet measured angle and distance to THE TRUE POINT OF BEGINNING;

Thence South 46°44'05" East, 200.23 feet measured angle and distance to the Northwest corner of Tract II as set forth in Deed recorded as microfilmed instrument No. 47255 on October 16, 1973;

Thence South 15°28'30" West, 130.35 feet measured angle and distance (South 55°30'30" West, 130.38 feet) to the North right-of-way of Interstate 80;

Thence North 61°48'49" West, 108.36 feet measured angle and distance (North 61°46'57" West) along said right-of-way;

Thence North 19°38'44" East, 169.81 feet measured angle and distance to THE TRUE POINT OF BEGINNING.

AND Beginning at the North quarter corner of said Section 4;

Thence North 88°10'13" East, 177.56 feet measured angle and distance (South 89°14' East, 177.56 feet) to the Southwesterly boundary of the Union Pacific railroad right-of-way;

Thence South 66°57'47" East, 1288.79 feet measured angle and distance (South 65°54' East) along the Southwesterly boundary of said railroad right-of-way;

Thence South 19°38'44" West, 211.28 feet measured angle and distance;

Thence South 46°44'05" East, 200.23 feet measured angle and distance to the Northwest corner of Tract II as set forth in Deed recorded October 16, 1973 as microfilmed instrument No. 47255;

Thence South 34°31'28" East, 69.53 feet measured angle and distance (South

34°29'30" East, 69.41 feet) to the Northeast corner of Tract II as set forth in Deed recorded October 16, 1973 as microfilmed instrument No. 47255, THE TRUE POINT OF BEGINNING; Thence South 55°33'19" West, 94.34 feet measured angle and distance (South 55°30'30" West, 94.57 feet) to the North right-of-way of Interstate 80; Thence South 71°00'49" East, 206.08 feet (Base Bearing) along said right-of-way; Thence North 44°11'49" West, 76.02 feet measured angle and distance; Thence North 44°11'49" West, 91.92 feet measured angle and distance (North 42°57'30" West, 91.95 feet) to THE TRUE POINT OF BEGINNING.

TOGETHER WITH the following Non-Exclusive roadway easements:

A roadway easement located in Lot 1 and 2, Section 4, Township 8 South, Range 15, East Boise Meridian, Gooding County, Idaho, centerline of 30 foot roadway easement described as follows:

Commencing at the North quarter corner of Section 4;
Thence South 89°34'40" East, 1.45 feet to the centerline S.H. 46 Sta. 57/36, Project No. I-80N-3(22) 159 A;
Thence South 71°38'40" East, 78.44 feet to the Easterly right-of-way of S.H. 46, being THE TRUE POINT OF BEGINNING;
Thence South 71°38'40" East, 557.81 feet;
Thence South 66°52'10" East, 790.00 feet;
Thence South 2°09' East, 224.44 feet;
Thence South 47°00' East, 428.10 feet;
Thence South 74°49'40" East, 1,013.64 feet, parallel to and 15 feet Northerly of the Northerly right-of-way of I-80N to a point on the Easterly boundary of Section 4.

Lot 4
Sec. 18
75, 14E

III. That real property commonly known as "Idaho Springs" situated in the County of Gooding, State of Idaho, more particularly described as follows:

TRACT NO. 1:

Township 7 South, Range 14 East of the Boise Meridian
Section 18: That part of Lot 4

described as follows:
Beginning at the Southwest corner of
said Lot 4;
thence Easterly along the South bound-
ary of said Lot, 798.5 feet;
thence North 14° 3' West 452 feet;
thence South 80° 47' West 23 feet;
thence North 38° 56' West 191.4 feet;
thence North 67° 19' East 34 feet
more or less, to the Southwest corner of the Vardis
Fisher property;
thence along said Vardis Fisher prop-
erty West line North 60° 11' West 50 feet;
thence North 24° 11' West 125 feet;
thence North 16° 2' West 220 feet;
thence North 26° 09' West 45 feet;
thence North 68° 19' West 190 feet;
thence North 43° 19' West 130 feet;
thence North 32° 55' West approxi-
mately 200 feet to the North boundary of said Lot
4;
thence Westerly along the North bound-
ary of said Lot to the Northwest corner thereof;
thence Southerly along the West bound-
ary of said Lot 4 approximately 1320 feet to the
point of beginning.

Section 19: E½NW¼, and

That part of Lot 1 described as
follows:

Beginning at a point on the North
boundary of and 227.2 feet Easterly from the
Northwest corner of said Lot 1;
thence South 57° 38' East 541 feet;
thence North 77° 52' East 180.8 feet;
thence North 14° 3' West approxi-
mately 258.3 feet to the North boundary of said Lot
1;
thence Westerly along said North
boundary 571.3 feet, more or less, to the point of
beginning.

Except tract for public highway as
conveyed in Deed to the Hagerman Highway District,
dated December 24, 1937, recorded September 1, 1938
in Book 26 Deed Page 495, described as follows:

Beginning at a point 1043 feet East of
Northeast corner of the NE¼NE¼ Sec. 24, Twp. 7 S.R.
13 E.B.M.,

thence South 80 feet;
thence East 100 feet;
thence North 80 feet;
thence West 100 feet to the point of
beginning.

And Also Excepting
Strips of land for highway as set
forth in the following Right of Way Deeds to the
Hagerman Highway District No. 3:

- a. Dated March 4, 1961, recorded November 29, 1961
as microfilmed instrument No. 2856, across land
in NE¼NW¼ and SE¼NW¼ Sec. 19,
- b. Dated March 4, 1961, recorded November 29, 1961
as microfilmed instrument No. 2859, across land

in Lot 4 Sec. 18 and Lot 1 Sec. 19,
Records of Gooding County, Idaho.

TRACT NO. 2:

Township 7 South, Range 14 East of the Boise Meridian
Section 19: That part of Lot 1 described as

follows:

Beginning at Section corner which is
the NW corner of said Section 19;

thence Easterly along Section line
common to Sections 18 and 19, a distance of
approximately 798.5 feet to a point which
intersects the Easterly boundary of the Idaho
Springs Trout Farm;

thence South 14° 03' East a distance
of 78.7 feet to the true point of beginning;

thence South 45° 24' East along wooden
fence for 22.6 feet;

thence South 81° 08' East along said
fence 49.5 feet;

thence North 77° 27' East along fence
for 100.3 feet;

thence South 18° 07' West for 88.4
feet;

thence South 46° 06' West 127.6 feet
to a point which is the SE corner of the Idaho
Springs Trout Farm;

thence North 14° 03' West along
Easterly boundary of said property for 179.6 feet
to the point of beginning.

TOGETHER with any and all water and water rights, ditch and
ditch rights appurtenant to the above described real
property and the fish hatchery located thereon.

TOGETHER with all and singular the buildings,
structures, improvements, tenements, hereditaments and
appurtenances thereunto belonging or in anywise appertaining, the
reversion and reversions, remainder and remainders, rents, issues
and profits thereof;

SUBJECT TO all easements and restrictions of record,
including but not limited to the following:

1. Mechanic's or materialmen's liens not shown of record
at the date hereof.
2. Taxes for 1981 and subsequent years, a lien, but not
yet due and payable.

3. Assessments levied or to be levied by any Irrigation District.
4. Terms and conditions of an Agreement by and between Otis E. Syster and Mary E. Syster, husband and wife, Grantors, and Idaho Power Company, Grantee, dated August 27, 1927, recorded August 30, 1927 in Book 6 Page 510 as Instrument Number 44023, Gooding County records, affecting Sections 1 and 2 in Township 9 South, Range 14, East Boise Meridian, and Lot 7, Section 2, Lots 6 and 9, Section 11, both in Township 9 South, Range 14, East Boise Meridian.
5. Power Line Easement given by M. W. Bardsley and Dorothy Bardsley, husband and wife, to Idaho Power Company, a corporation, dated May 15, 1936, recorded March 22, 1937 in Book 4 Page 140 as Instrument Number 66993, Gooding County records, affecting a portion of the E $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
6. Power Line Easement given by W. G. Tupper and Lillian M. Tupper, husband and wife, to Idaho Power Company, a corporation, dated June 17, 1940, recorded November 12, 1941 in Book 4 Page 630 as Instrument Number 81948, Gooding County records, affecting a portion of Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian.
7. Power Line Easement given by Vardis Fisher and Opal Holmes Fisher, husband and wife, to Idaho Power Company, a corporation, dated December 12, 1945, recorded September 25, 1946 in Book 5 Page 120 as Instrument Number 98144, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
8. Power Line Easement given by Gates Bros., Inc., to Idaho Power Company, a corporation, dated April 4, 1950, recorded June 12, 1950 in Book 6 Page 542 as Instrument Number 112198, Gooding County records, affecting the W $\frac{1}{2}$ NE $\frac{1}{4}$ of Section 4, Township 8 South, Range 15, East Boise Meridian.
9. Power Line Easement given by James N. Ellis and Mary Lou Ellis, husband and wife, to Idaho Power company, a corporation, dated May 25, 1953, recorded March 19, 1955 as Instrument Number 126741, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
10. Terms and conditions of an Agreement by and between Vardis Fisher and Opal Fisher, husband and wife, first parties, and the Village of Hagerman, a municipal corporation, second party, dated September 12, 1957, recorded October 1, 1957 in Book 6 Page 289 as Instrument Number 133305, Gooding County records, affecting Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian.

11. Pipeline Easement by and between James N. Ellis and Mary Lou Ellis, parties of the first part, and Robert Tupper, party of the second part, dated November 24, 1959, recorded January 11, 1960 in Book 8 Page 181 as Instrument Number 139707, Gooding County records, affecting the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
12. Power Line Easement given by Garth E. Brush, Myriel S. Brush and Georgia L. Brush to Idaho Power Company, a corporation, dated October 20, 1959, recorded February 17, 1960 in Book 8 Page 147 as Instrument Number 140053, Gooding County records, affecting the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 1, Township 9 South, Range 14, East Boise Meridian.
13. Easement contained in Right of Way Deed given by James N. Ellis to the Hagerman Highway District No. 3 dated March 4, 1961, recorded November 29, 1961 as Instrument Number 2856, Gooding County records, affecting a portion of the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
14. Easement contained in Right of Way Deed given by R. E. Tupper to the Hagerman Highway District No. 3 dated March 4, 1961, recorded November 29, 1961 as Instrument Number 2859, Gooding County records, affecting a portion of Lot 4, Section 18, Township 7 South, Range 14, East Boise Meridian, and a portion of Lot 1, Section 19, Township 7 South, Range 14, East Boise Meridian.
15. Power Line Easement given by James N. Ellis and Mary Lou Ellis, husband and wife, to Idaho Power Company, a corporation, dated November 9, 1962, recorded March 19, 1963 as Instrument Number 7519, Gooding County records, affecting Lot 4, SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 7 South, Range 14, East Boise Meridian, and Lot 1, NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 19, Township 7 South, Range 14, East Boise Meridian.
16. Power Line Easement given by Idaho Springs Trout Co., Robert Erkins, Pres. and Bernardine Erkins, Sec., to Idaho Power Company, a corporation, dated December 27, 1965, recorded March 1, 1966 as Instrument Number 17499, Gooding County records, affecting the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 18, Township 7 South, Range 14, East Boise Meridian.
17. Easement given by Garth E. Brush and Myriel S. Brush to the Mountain States Telephone and Telegraph Company dated March 14, 1967, recorded April 12, 1967 as Instrument Number 21489, Gooding County records, affecting Lot 6, N $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 2, Township 9 South, Range 14, East Boise Meridian.
18. Easement by and between James N. Ellis and Mary Lou Ellis, husband and wife, and Idaho Springs Trout Company, an Idaho corporation, first parties, and Vardis Fisher and Opal Fisher, husband and wife, second party, dated June 21, 1967, recorded March 7, 1968 as Instrument Number 24550, Gooding County records, affecting a portion of Lot 4, Section 18 and Lot 1, Section 19, all in Township 7 South, Range 14, East Boise Meridian.

19. Easement by and between Idaho Springs Trout Company, an Idaho corporation, first party, and Vardis Fisher and Opal Fisher, husband and wife, second party, dated June 21, 1967, recorded March 7, 1968 as Instrument Number 24551, Gooding County records, affecting a portion of Lot 4, Section 18 and a portion of Lot 1, Section 19, Township 7 South, Range 14, East Boise Meridian.
20. Easement contained in Second Judgment and Decree of Condemnation in the case of The State of Idaho, ex rel, C. Ed Flandro, Howard B. Thomason and Lloyd F. Harron, Idaho Board of Highway Directors, Plaintiff, vs. The Idaho First National Bank; Mor-Gain, Inc., an Idaho corporation; William F. Duggan and Charlotte Duggan, husband and wife; State Enterprises, Inc., an Idaho Corporation, Defendants, dated August 7, 1970, recorded August 11, 1970 as Instrument Number 32725, Gooding County records, pertaining to Section 4, Township 8 South, Range 15, East Boise Meridian.
21. Terms and conditions of an Agreement by and between Thousand Springs Trout Farms, Inc., First Party, and Mor-Gain, Inc., as Second Party, dated October 18, 1973, recorded October 18, 1973 as Instrument Number 47305, Gooding County records, pertaining to a spur track located over a portion of Lots 1 and 2 of Section 4, Township 8 South, Range 15, East Boise Meridian.
22. Terms and conditions of a Lease by and between Thousand Springs Trout Farms, Inc., as Lessor, and Valley Trout Farms, Inc., as Lessee, dated July 2, 1980, recorded January 16, 1981 as Instrument Number 87266, Gooding County records.
23. Any claim arising from the difference in the mean high water line of the Snake River and Clear lakes and the meander line as shown by the Government Survey.

TO HAVE AND TO HOLD said premises unto the Grantee, its successors and assigns forever.

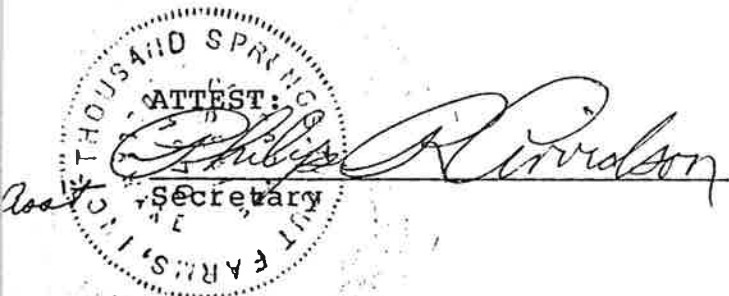
The Grantor covenants with the Grantee, its successors and assigns, that the Grantee shall enjoy the quiet and peaceful possession of said premises; that the Grantor is lawfully seized of said premises in fee simple; and the Grantor warrants that the title to said premises is merchantable and is free from all liens and encumbrances, excepting those to which this conveyance is

expressly made subject and those made, suffered or done by the Grantee.

IN WITNESS WHEREOF, this Warranty Deed has been duly executed by and on behalf of the Grantor the day and year herein first above written.

THOUSAND SPRINGS TROUT FARMS, INC.

By Roger A. Berg
Name:
Title: President
(A duly authorized officer)



STATE OF IDAHO)
County of Jerome) ss.

On this 29th day of April, 1981, before me, the undersigned, a Notary Public in and for said State, personally appeared Roger A. Berg, President and Philip R. Riverson, Secretary, respectively, of THOUSAND SPRINGS TROUT FARMS, INC., a Delaware corporation, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same on behalf of said corporation.

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

Van Salueto
Notary Public for Idaho
Residing at Twin Falls



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

COPY

RECEIVED

JUL - 5 2002

Department of Water Resources

April 3, 2002

Gooding County Recorder
P.O. Box 417
Gooding, ID 83330

Re: Recording Correction Warranty Deeds

Dear Sir or Madam:

At the request of the State of Idaho, Office of Attorney General, please record the enclosed Correction Warranty Deeds in the real property records of Gooding County. Upon recording, please return the recorded documents to me. I have enclosed a self-addressed, stamped envelope for this purpose.

If you have any questions, please contact me at the telephone number set forth above.

Sincerely,

A handwritten signature in dark ink, appearing to read "Kent E. Nelson", with a long horizontal flourish extending to the right.

KENT E. NELSON
Deputy Attorney General
Contracts & Administrative Law Division

KEN/js
Enclosures
c/enclosures: Nick Krema

36-2734

CORRECTION WARRANTY DEED

THIS CORRECTION WARRANTY DEED AND INDENTURE is made by and between AQUA LIFE, INC., an Idaho corporation whose address is 1128 E. 4150 N., Buhl, Idaho 83316, hereinafter referred to as "Grantor," and the IDAHO STATE BUILDING AUTHORITY, P.O. Box 2802, Boise, Idaho 83701, hereinafter referred to as "Grantee, to correct an error contained in that certain WARRANTY DEED between the parties hereto which was recorded in Gooding County, Idaho on September 28, 2001 as instrument no. 192263 records of Gooding County Idaho, and thereafter re-recorded in Gooding County, Idaho, on November 16, 2001 as instrument no. 192893 records of Gooding County, Idaho, which deed erroneously included a water right identified as record number 36-273 in Exhibit "C" thereto as part of the water rights conveyed to Grantor. This CORRECTION WARRANTY DEED correctly identifies said water right as record number 36-2734 in Exhibit "C" hereto;

WITNESSETH, that the Grantor does hereby convey and confirm in fee unto the said Grantee and its successors and assigns forever the premises situated in Gooding County, Idaho and more particularly described on Exhibit "A" annexed hereto and by this reference incorporated herein, excepting therefrom the premises situated in Gooding County, Idaho and more particularly described on Exhibit "B" annexed hereto and by this reference incorporated herein, together with all water rights, ditch rights, rights of way, improvements, fixtures, tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining thereto, including but not limited to, the water rights identified on Exhibit "C" annexed hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the above-described premises and parcel of land and granted real property unto Grantor and its successors and assigns forever, subject only to the exceptions set forth on Exhibit "D" annexed hereto and by this reference incorporated herein, and that Grantor shall warrant and defend the premises from all other lawful claims whatsoever.

The Grantor further warrants to the Grantee that he is lawfully seized of the above described real property in fee simple, that the same is free and clear of any and all encumbrances of every kind and description, except as herein specified, and that the Grantor has lawful right to convey the said real property.

[SIGNATURE PAGE FOLLOWS]

DATED This 29 day of March, 2002.

AQUA LIFE, INC.

By: Kenneth Ellis
Kenneth Ellis, President

IDAHO STATE BUILDING AUTHORITY

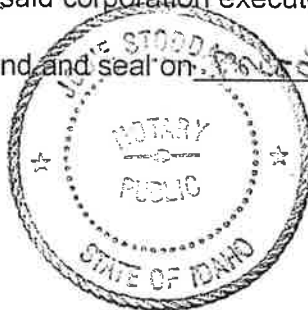
By: Patricia J. Story
Patricia J. Story, Chairman

By: Wayne V. Meuleman
Wayne V. Meuleman, Secretary

STATE OF IDAHO)
) ss.
County of Ada

On this date before me, the undersigned notary public for such state, personally appeared **KENNETH ELLIS**, known or identified to me to be the person whose name is subscribed to the within instrument, and did acknowledged to me that he is the President of AquaLife, Inc., an Idaho corporation, and that the document was signed by him on behalf of said corporation and that the said corporation executed the same.

WITNESS my hand and seal on March 5, 2002.



Indi Stoddard
NOTARY PUBLIC
Residing at: Boise ID
Commission expires: 1/28/03

STATE OF IDAHO)
) ss.
County of _____

On this date before me, the undersigned, a Notary Public in and for said state, personally appeared **PATRICIA J. STORY** and **WAYNE V. MEULEMAN**, known or identified to me to be the Chairman and Secretary, respectively, of the Idaho State Building Authority, each of whom acknowledged to me that they executed the within Lease on behalf of the Idaho State Building Authority in their representative capacity.

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

WITNESS my hand and seal on 3/29, 2002.

Kathy Hall
NOTARY PUBLIC
Residing at: Boise
Commission expires: 10/21/02

A circular notary seal for Kathy Hall, a Notary Public in the State of Idaho. The seal features the text "KATHY HALL", "NOTARY PUBLIC", and "STATE OF IDAHO" around a central emblem.

Exhibit A

Parcel 1

A parcel of land located in the Northeast Quarter of Section 13, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho.

Commencing at the Northeast corner of said Section 13; Thence South 00°06'27" West, 1316.78 feet;

Thence North 89°56'58" West, 135.57 feet;

Thence South 10°29'56" East, 229.69 feet;

Thence South 09°26'13" East, 128.98 feet;

Thence South 02°44'59" East, 30.00 feet;

Thence North 74°35'21" West, 38.56 feet;

Thence North 25°48'31" West, 129.65 feet to the REAL POINT OF BEGINNING.

Thence South 74°07'40" West, 205.27 feet;

Thence South 02°19'11" West, 205.82 feet;

Thence South 25°14'04" West, 219.50 feet;

Thence South 04°50'15" West, 401.85 feet;

Thence North 75°44'14" West, 146.64 feet;

Thence North 75°22'14" West, 164.67 feet;

Thence North 78°19'14" West, 233.70 feet;

Thence North 03°36'14" West, 170.90 feet;

Thence North 22°30'46" East, 223.17 feet;

Thence North 46°51'37" East, 234.23 feet;

Thence North 27°10'44" East, 224.74 feet;

Thence North 49°40'41" East, 302.91 feet;

Thence North 79°08'34" East, 176.13 feet;

Thence South 25°48'31" East, 255.77 feet to the REAL POINT OF BEGINNING.

Parcel 2

A Parcel of Land located in the Northeast Quarter of Section 13, Township 7 South, Range 13 East, Boise Meridian, Gooding County Idaho described as follows:

Commencing at the Southeast corner of said Section 13; Thence North 00°06'27" East, 2633.56 feet along the East boundary of Section 13; thence North 89°57'12" West, 81.37 feet to the REAL POINT OF BEGINNING.

Thence North 89°57'12" West, 337.25 feet;

Thence North 10°28'05" West, 55.44 feet;

Thence South 32°55'58" East, 23.90 feet;

EXHIBIT A
(continued)

Thence North 87°09'13" East, 60.13 feet,
Thence North 57°54'32" East, 38.56 feet,
Thence South 83°49'58" East, 143.82 feet,
Thence South 66°33'03" East, 107.44 feet to the REAL POINT OF BEGINNING.

Parcel 3

A parcel of land located in the NE ¼, Section 13, Township 7 South, Range 13 East, Boise Meridian & Government Lots 2, 3 and 4 and the SW ¼, Section 18, Township 7 South, Range 14 East of the Boise Meridian, Gooding County, Idaho and Government Lot 1, Section 19, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho, more particularly described as follows:

Commencing at the Southwest corner of said Section 18;
Thence North 00°06'27" East along the West boundary of Section 18 for a distance of 78.66 feet being the REAL POINT OF BEGINNING;

Thence continuing North 00°06'27" East along the West boundary of Government Lot 3 of Section 18 for a distance of 1784.90 feet to a point that is South 00°06'27" West 770.00 feet from the Northwest corner of Government Lot 3;

Thence North 00°06'27" East, 734.81 feet
Thence South 66°33'10" East, 85.93 feet
Thence South 19°26'13" East, 429.65 feet
Thence South 33°50'46" West, 174.97 feet
Thence South 11°16'42" East, 21.35 feet
Thence South 83°46'40" East, 360.89 feet
Thence North 04°39'15" West, 164.46 feet
Thence North 53°55'35" West, 145.97 feet
Thence North 34°55'15" East, 98.38 feet
Thence North 34°38'20" West, 117.70 feet
Thence North 06°35'41" East, 140.20 feet
Thence North 17°01'30" West, 92.53 feet
Thence North 66°10'48" West, 110.60 feet
Thence North 07°49'08" East, 58.06 feet
Thence North 33°16'05" East, 432.67 feet
Thence North 23°29'35" West, 7.56 feet
Thence North 86°36'46" West, 234.78 feet
Thence South 64°12'56" West, 200.94 feet
Thence South 64°27'51" West, 65.87 feet to a point on the West boundary line of Section 18
Thence South 64°27'51" West, 44.39 feet
Thence North 02°44'59" West, 639.54 feet
Thence North 09°26'13" West, 128.98 feet
Thence North 10°29'56" West, 229.69 feet
Thence North 89°56'58" West, 367.20 feet
Thence South 44°00'16" West, 310.04 feet

EXHIBIT A
(continued)

Thence South 31°52'32" West, 199.44 feet
Thence South 40°51'56" West, 230.96 feet
Thence South 69°42'25" West, 117.61 feet
Thence South 50°24'25" West, 322.28 feet
Thence North 39°24'35" West, 105.75 feet
Thence North 50°24'25" East, 130.00 feet
Thence North 00°07'35" West, 30.00 feet
Thence North 48°06'25" East, 559.40 feet
Thence North 56°51'25" East, 477.46 feet
Thence North 83°51'27" East, 11.94 feet
Thence North 89°51'16" East, 135.49 feet
Thence North 72°36'15", East, 92.17 feet
Thence South 80°50'22" East, 142.52 feet
Thence South 89°01'22" East, 108.12 feet
Thence South 00°06'27" West, 21.00 feet
Thence North 89°39'48" East, 1007.76 feet
Thence South 00°44'00" East, 2001.76 feet
Thence South 15°25'38" East, 299.56 feet;
Thence South 34°34'01" East, 449.40 feet;
Thence South 23°08'01" East, 251.77 feet;
Thence South 31°09'01" East, 307.73 feet;
Thence South 69°03'42" West, 860.62 feet;
Thence South 86°54'03" West, 150.09 feet;
Thence South 11°20'56" East, 49.63 feet;
Thence South 14°00'14" East, 447.35 feet to a point on the South boundary
of Section 18;
Thence South 14°00'14" East, 5.02 feet,
Thence South 13°43'07" East, 78.77 feet;
Thence South 45°19'32" East, 22.57 feet;
Thence South 81°07'26" East, 49.41 feet;
Thence North 77°25'05" East, 100.11 feet;
Thence South 72°04'24" East, 20.37 feet;
Thence South 22°14'32" West, 92.90 feet;
Thence South 43°24'58" West, 170.79 feet;
Thence South 30°42'47" West, 20.00 feet to a point on the North Right of Way Line of State
Highway 30;
Thence North 59°17'47" West, 312.83 feet to Highway Right of Way Marker Sta 32+00;
Thence North 45°38'51" West along the North Right of Way for State Highway 30, 127.44 feet;
Thence Northwest along Curve 3 on the North Right of Way of State Highway 30;
Δ 27°50'29"
LCB North 73° 12'28" West
Radius 1034.93 feet
Length 502.90 feet
Tangent 256.62 feet; to the REAL POINT OF BEGINNING.

Except a Parcel of Land described as follows:

EXHIBIT A
(continued)

Commencing at the Northwest corner of Section 18, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho. Thence South $00^{\circ}06'27''$ West, 1747.65 feet, to the REAL POINT OF BEGINNING.

Thence North $89^{\circ}14'58''$ East, 307.07 feet,
Thence South $25^{\circ}12'11''$ East, 272.96 feet,
Thence South $86^{\circ}47'58''$ West, 374.00 feet,
Thence North $14^{\circ}52'02''$ West, 272.70 feet,
Thence North $89^{\circ}14'58''$ East, 20.11 feet to the REAL POINT OF BEGINNING.

EXHIBIT B

Excepted Property

A&G, L.L.C. Parcels

Parcel No. 5:

Lot 13 of NORWOOD SUBDIVISION, Gooding County, Idaho, as the same is platted in the official plat thereof, now of record in the office of the County Recorder of said County.

Parcel No. 6:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 13: A tract of land in the South one-half of the Northeast Quarter, described as follows:

COMMENCING at the Northwest corner of said South one-half of the Northeast Quarter;
Thence North $89^{\circ}23'$ East, 955.00 feet;
Thence South $2^{\circ}10'$ East, 1350.48 feet;
Thence East, 1014.23 feet;
Thence North 50.20 feet;
Thence North $10^{\circ}11'$ West, 200.00 feet to the TRUE POINT OF BEGINNING;
Thence North $75^{\circ}41'$ West, 164.67 feet;
Thence North $78^{\circ}38'$ West, 233.70 feet;
Thence North $3^{\circ}55'$ West, 170.90 feet;
Thence North $22^{\circ}12'$ East, 223.17 feet;
Thence South $60^{\circ}42'$ East, 294.00 feet;
Thence South $10^{\circ}33'$ East, 325.53 feet to the TRUE POINT OF BEGINNING.

Parcel No. 7:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 13: That part of the Southeast Quarter of the Northeast Quarter,
described as follows:

COMMENCING at the Northeast corner of said Section 13;

Thence South $0^{\circ}06'27''$ West along the East boundary of Section 13 for a distance of 2633.56 feet to the East quarter corner of said Section 13;

Thence North $89^{\circ}57'12''$ West along the South boundary of the Northeast quarter of Section 13 for a distance of 81.37 feet to the center of Billingsley Creek and being the TRUE POINT OF BEGINNING;

Thence North $89^{\circ}57'12''$ West along the South boundary of the Northeast quarter of Section 13 for a distance of 337.25 feet, more or less, to a point that lies South $89^{\circ}57'12''$ East, 183.61 feet from the Southeast corner of Lot 15 Norwood Subdivision;

Thence North $10^{\circ}28'05''$ West for a distance of 55.44 feet to the center of Billingsley Creek;

Thence along the center of Billingsley Creek on the following courses and distances:

South $32^{\circ}55'58''$ East 23.90 feet;

North $87^{\circ}09'18''$ East 60.13 feet;

North $57^{\circ}54'32''$ East 38.56 feet;

South $83^{\circ}49'58''$ East 143.82 feet;

Thence South $66^{\circ}33'10''$ East 107.44 feet to the TRUE POINT OF BEGINNING.

AND

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 13: That part of the South one-half of the Northeast Quarter, described as follows:

COMMENCING at the Northeast corner of said Section 13;

Thence South $0^{\circ}06'27''$ West along the East boundary of said Section 13 for a distance of 1316.78 feet to the Southeast corner of the Northeast Quarter of the Northeast Quarter of said Section 13 and being the TRUE POINT OF BEGINNING;

Thence South $0^{\circ}06'27''$ West along the East boundary of Section 13 for a distance of 430.87 feet to a point on the Northerly boundary of that certain piece of property deeded to Elwood D. Grimes and Mary A. Grimes, by Warranty Deed dated November 4, 1971, recorded

October 10, 1972 as Instrument No. 42280, and later recorded by correction Warranty Deed dated October 3, 1975, recorded November 17, 1976 as Instrument No. 62005, Gooding County records;

Thence South 89°14'53" West, measured (South 89°13' West recorded), along the Northerly boundary of the Grimes property for a distance of 20.11 feet to the Northwest corner of the Grimes property;

Thence South 14°52'02" East, measured (South 14°54' East, recorded), along the Westerly boundary of the Grimes property for a distance of 77.80 feet to a point on the East boundary of Section 13;

Thence South 0°06'27" West along the East boundary of Section 13 for a distance of 466.27 feet;

Thence South 64°28'42" West 44.49 feet;

Thence North 2°44'59" West 639.54 feet;

Thence North 9°26'13" West 128.98 feet;

Thence North 10°29'56" West, 229.69 feet to a point on the North boundary of the Southeast Quarter of the Northeast Quarter of said Section 13, said point lies North 89°56'58" West, 135.57 feet from the Northeast corner of the Southeast Quarter of the Northeast Quarter;

Thence North 89°56'58" West along the North boundary of the Southeast Quarter of the Northeast Quarter of Section 13 for a distance of 367.20 feet;

Thence South 44°00'16" West for a distance of 310.04 feet;

Thence South 31°52'32" West for a distance of 199.44 feet to the Northeast corner of Norwood Drive of Norwood Subdivision;

Thence along the Northerly boundary of Norwood Drive of Norwood Subdivision the following courses and distances:

South 40°51'56" West 230.96 feet;

South 69°42'25" West 117.61 feet;

South 50°24'25" West 322.28 feet to the Northwest corner of Norwood Drive;

Thence North 39°24'35" West along the Easterly boundary of Norwood Road of Norwood Subdivision for a distance of 105.75 feet;

Thence North 50°24'25" East along the Southerly boundary of an access road of Norwood Subdivision for a distance of 130.0 feet;

Thence North 0°07'35" West along the Easterly boundary of an access road of Norwood Subdivision for a distance of 30.0 feet to the Southwest corner of Lot 1 of Norwood Subdivision;

Thence North 43°06'25" East along the Southerly boundary of Lot 1 of Norwood Subdivision for a distance of 559.4 feet to the Northeast corner of Lot 1 of Norwood Subdivision, said point also being the Southeast corner of that certain piece of property deeded to A. Arthur Allen, Jr. and June Audrey Allen by Warranty Deed dated October 9, 1973, recorded December 21, 1978, as Instrument No. 73847, Gooding County records;
Thence North 56°51'25" East along the Southerly boundary of the Arthur Allen property for a distance of 448.38 feet to a point of the North boundary of the Southeast Quarter of the Northeast Quarter;
Thence South 89°56'58" East along the North boundary of the Southeast Quarter of the Northeast Quarter 508.31 feet to the TRUE POINT OF BEGINNING.

AND

Section 13: That part of the South one-half of the Northeast Quarter, described as follows:

COMMENCING at the Northeast corner of said Section 13;
Thence South 0°06'27" West along the East boundary of Section 13 for a distance of 2633.56 feet to the East quarter corner of Section 13;
Thence North 89°57'12" West along the South boundary of the Northeast Quarter of Section 13 for a distance of 418.62 feet, more or less, to a point that lies South 89°57'12" East, 183.61 feet from the Southeast corner of Lot 15 of Norwood Subdivision;
Thence North 10°28'05" West for distance of 55.44 feet to the center of Billingsley Creek;
Thence North 6°51'19" West along the center of Billingsley Creek for a distance of 95.08 feet;
Thence North 56°59'00" West along the center of Billingsley Creek for a distance of 42.61 feet;
Thence North 44°33'07" West along the center of Billingsley Creek for a distance of 28.98 feet;
Thence North 4°50'16" East along the center of Billingsley Creek for a distance of 6.89 feet to the Northeast corner of that certain piece of property deeded to Marvin L. Foss and Martha L. Foss, husband and wife, dated November __, 1997, recorded December 12, 1977 as Instrument No. 67719, records of Gooding County, Idaho, the TRUE POINT OF BEGINNING;
Thence North 75°44'14" West, measured (North 75°41' West, recorded), for a distance of 146.64 feet measured (182.59 feet recorded), to the Northeast corner of lot 14 of Norwood Subdivision;
Thence North 10°14'14" West along the Easterly boundary of Norwood Subdivision for distance of 534.30 feet;

Thence North 25°27'41" West along the Easterly boundary of Norwood Subdivision for a distance of 110.75 feet to the Northeast corner of Lot 13 of Norwood Subdivision;

Thence North 27°10'44" East, 224.74 feet;

Thence North 49°40'41" East, 302.91 feet;

Thence North 79°08'34" East, 176.13 feet;

Thence South 25°48'31" East, 255.77 feet;

Thence South 74°07'40" West 205.27 feet to the center of Billingsley Creek;

Thence along the center of Billingsley Creek on the following courses and distances:

South 2°19'11" West 205.82 feet;

South 25°14'04" West, 219.50 feet;

Thence South 4°50'16" West, 401.86 feet to the TRUE POINT OF BEGINNING.

Parcel No. 8:

Township 7 South, Range 14 East of the Boise Meridian, Gooding County, Idaho

Section 18: That part of Government Lots 2 and 3 described as follows:

COMMENCING at the Northwest corner of said Section 18;

Thence South 0°06'27" West along the West boundary of Section 18 for a distance of 1316.78 feet to the Northwest corner of Government Lot 2 and being the TRUE POINT OF BEGINNING;

Thence North 89°39'48" East along the North boundary of Government Lot 2 for distance of 1007.76 feet to the Northeast corner of Government Lot 2;

Thence South 0°44'00" East along the Easterly boundary of Government Lots 2 and 3 for distance of 2087.41 feet to a point located South 0°44'00" East, 770.00 feet from the Northeast corner of Government Lot 3;

Thence South 89°41'57" West parallel with the North boundary of Government Lot 3 for a distance of 1038.38 feet to a point on the West boundary of Section 18;

Thence North 0°06'27" East along the West boundary of Section 18 for a distance of 734.81 feet to the center of Billingsley Creek, said point lies South 0°06'27" West, 35.20 feet from the West quarter corner of said Section 18;

Thence along the center of Billingsley Creek the following courses and distances:

South 66°33'10" East, 86.03 feet;

South 19°26'13" East, 429.65 feet;

South 33°50'46" West, 174.97 feet;

South 11°16'42" East, 21.35 feet;

Thence leaving the centerline of Billingsley Creek South 83°46'40" East 360.89 feet;

Thence North 4°39'15" West, 164.46 feet;

Thence North 53°55'35" West, 145.97 feet;
Thence North 34°55'15" East, 98.38 feet;
Thence North 34°38'20" West, 117.70 feet;
Thence North 6°35'41" East, 140.20 feet;
Thence North 17°01'30" West, 92.53 feet;
Thence North 66°10'48" West, 110.60 feet;
Thence North 7°49'08" East, 58.06 feet;
Thence North 33°16'05" East, 432.67 feet;
Thence North 23°29'35" West, 7.56 feet;
Thence North 86°36'46" West 234.78 feet;
Thence South 64°12'56" West, 200.94 feet;
Thence South 64°28'42" West, 65.86 feet to a point on the West boundary of Government Lot 2;

Thence North 0°06'27" East along the West boundary of Government Lot 2 for a distance of 466.27 feet to a point on the West boundary of that certain piece of property deeded to Elwood D. Grimes and Mary A. Grimes by Warranty Deed dated November 4, 1971, recorded October 10, 1972, as Instrument No. 42280, and later corrected by Correction Warranty Deed dated October 8, 1975, recorded November 17, 1976 as Instrument No. 62005, Gooding County records;

Thence South 14°52'02" East, measured (South 14°54' East recorded), along the West boundary of Grimes property for a distance of 194.90 feet to the Southwest corner of the Grimes property;

Thence North 86°47'58" East, measured (North 86°46' East recorded) along the South boundary of the Grimes property for a distance of 374.00 feet the Southeast corner of the Grimes property;

Thence North 25°12'11" West, measured (North 25°14' West recorded) along the East boundary of Grimes property for a distance of 272.96 feet, measured (273.00 feet recorded) to the Northeast corner of the Grimes property;

Thence South 89°14'58" West, measured (South 89°13' West recorded), along the North boundary of Grimes property for a distance of 307.07 feet to a point on the West boundary of Government Lot 2;

Thence North 0°06'27" East along the West boundary of Government Lot 2 for a distance of 430.87 feet to the TRUE POINT OF BEGINNING.

Parcel No. 9:

Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho

Section 13: All that part of the Northeast Quarter of the Northeast Quarter,
described as follows:

COMMENCING at the Southeast corner of the Northeast Quarter of the Northeast Quarter of
said Section 13 and being the TRUE POINT OF BEGINNING;
Thence North 89°56'58" West along the South Boundary of the Northeast Quarter of the
Northeast Quarter of said Section 13 for distance of 508.31 feet;
Thence North 56°51'25" East for a distance of 29.06 feet to a point on the existing fence line;
Thence along the existing fence line on the following courses:
North 83°51'27" East, 12.05 feet;
North 89°51'16" East, 135.49 feet;
North 72°36'15" East, 92.17 feet;
South 80°50'22" East, 142.52 feet;
South 89°01'22" East, 108.12 feet to a point on the East boundary of the Northeast Quarter of
the Northeast Quarter of said Section 13;
Thence South 0°06'27" West along the East boundary of the Northeast Quarter of the
Northeast Quarter of said Section 13 for a distance of 21.0 feet to the Southeast corner of the
Northeast Quarter of the Northeast Quarter of said Section 13, and being THE TRUE
POINT OF BEGINNING.

TOGETHER WITH a perpetual nonexclusive easement and right-of-way for ingress and
egress over a portion of the Southeast Quarter of the Northeast Quarter, described as follows:

Beginning at the Northeast corner of Section 13;
Thence South 0°06'27" West, 1316.78 feet to the Northeast corner of the Southeast Quarter of
the Northeast Quarter;
Thence North 89°56'58" West, 135.57 feet along the Northerly boundary of the Southeast
Quarter of the Northeast Quarter to the TRUE POINT OF BEGINNING;
Thence North 89°56'58" West, 367.20 feet along said Northerly boundary;
Thence South 44°00'16" West, 310.04 feet;
Thence South 31°52'32" West, 199.44 feet;
Thence South 32°58'54" East, 74.96 feet to the Northeast corner of Lot 13 of the "Norwood
Subdivision";
Thence North 27°10'44" East, 224.74 feet along the Southerly boundary of said Access
Easement;

Thence North 49°40'41" East, 302.91 feet;
Thence North 79°08'34" East, 176.13 feet;
Thence South 25°48'31" East, 385.42 feet;
Thence South 74°35'21" East, 38.56 feet;
Thence North 2°44'59" West, 30.00 feet;
Thence North 9°26'13" West, 128.98 feet;
Thence North 10°29'56" West, 229.69 feet to the TRUE POINT OF BEGINNING.

EXHIBIT C

Aqua Life Water Rights as per IDWR records

| Record No. | Source | Priority Date | Basis | Use |
|------------|-------------------|---------------|-----------------|---------------------------------|
| 36-4011 | Billingsley Creek | 12/01/1965 | Statutory Claim | Fish Propagation |
| 36-2734 | Billingsley Creek | 10/05/1965 | License | Fish Propagation |
| 36-15476 | Billingsley Creek | 06/01/1954 | Beneficial Use | Aesthetic, Recreation, Wildlife |
| 36-2414 | Tupper Springs | 12/21/1959 | License | Fish Propagation |
| 36-2338 | Big Springs | 08/05/1954 | License | Fish Propagation |

EXHIBIT D

Exceptions

1. Power Line Easement, and the Terms and Conditions thereof in favor of Idaho Power Company, a corporation recorded November 22, 1930 as Instrument No. 51352 in Book 3 of Miscellaneous at Page 359.
2. Power line easement granted to Idaho Power Company, a corporation recorded November 12, 1941 in Book 4 of Miscellaneous, Page 630 as Instrument No. 81948, records of Gooding County, Idaho.
3. Right-of-way granted to Mountain States Telephone and Telegraph Company recorded February 9, 1953 in Book 7 of Miscellaneous, Page 188, as Instrument No. 120394, records of Gooding County, Idaho.
4. Right-of-way granted to Mountain States Telephone and Telegraph Company recorded February 9, 1953 in Book 7 of Miscellaneous, Page 193, as Instrument No. 120407, records of Gooding County, Idaho.
5. Power line easement granted to Idaho Power Company, a corporation recorded May 29, 1953 in Book 7 of Miscellaneous, Page 247 as Instrument No. 121492, records of Gooding County, Idaho.
6. Agreement and the terms, conditions and provisions contained therein, between Vardis Fisher and Opal Fisher, Husband and Wife and the City of Hagerman for the purpose of receiving and using water from certain springs dated September 12, 1957, recorded October 1, 1957, as Instrument No. 133305 in Book 6 of Miscellaneous at Page 289, records of Gooding County, Idaho.
7. Easements and restrictions contained in Warranty Deed given by Virgil U. Norwood and Ardith Norwood, husband and wife, to Herbert L. Maske, dated August 9, 1960, recorded October 25, 1960 in Book 48 Page 451 as Instrument No. 141996, records of Gooding County, Idaho.
8. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho, recorded November 29, 1961 as Instrument No. 2859, records of Gooding County, Idaho.
9. Covenants, conditions, restrictions and easements contained in deed to the State of Idaho, recorded December 12, as Instrument No. 6401, records of Gooding County, Idaho.
10. Power line easement granted to Idaho Power Company, a corporation recorded March 19, 1963 as Instrument No. 7519.
11. Power line easement granted to Idaho Power Company recorded June 10, 1963 as Instrument No. 8247.
12. Terms and conditions of an Agreement by and between Virgil U. Norwood and Ardith Norwood, Husband and Wife, first party, and Herbert L. Maske and Thelma W. Maske, Husband and Wife, second party, dated July 23, 1964, recorded October 7, 1964 as Instrument No. 12578, records of Gooding County, Idaho, pertaining to the rights and use of appropriate waters of a spring.
13. Power line easement granted to Idaho Power Company, a corporation recorded March 1, 1966 as Instrument No. 17499.

14. Easement for roadway easement and right of way for ingress and egress granted to Vardis Fisher and Opal Fisher, Husband and Wife recorded March 7, 1968 as Instrument No. 24549, records of Gooding County, Idaho.
15. Easement for roadway easement and right of way for ingress and egress granted to Vardis Fisher and Opal Fisher, Husband and Wife recorded March 7, 1968 as Instrument No. 24550, records of Gooding County, Idaho.
16. Easement for roadway easement and right of way for ingress and egress granted to Vardis Fisher and Opal Fisher, Husband and Wife recorded March 7, 1968 as Instrument No. 24551, records of Gooding County, Idaho.
17. Power line easement granted to Idaho Power Company, a corporation recorded January 17, 1972 as Instrument No. 38669.
18. Covenants, Conditions and Restrictions recorded June 15, 1972, as Instrument No. 40847, records of Gooding County, Idaho.
19. Easement for road right of way set forth in Warranty Deed given by Virgil U. Norwood and Ardith M. Norwood to Elwood D. Grimes and Mary A. Grimes, recorded October 10, 1972 as Instrument No. 42280
20. Subject to an easement for ingress and egress as set forth in Decree Determining Surviving Spouse as sole Beneficiary, in favor of Elwood D. Grimes, recorded June 24, 1976 as Instrument No. 60138.
21. Easement contained in Warranty Deed given by Virgil U. Norwood and Ardith M. Norwood, husband and wife, to Elwood D. Grimes, a widower, dated October 8, 1975, recorded November 17, 1976 as Instrument No. 62005, records of Gooding County, Idaho.
22. Sewer Line Easement for installing, constructing and maintaining a septic tank granted to Arthur Allen and June Allen, husband and wife recorded November 10, 1977 as Instrument No. 67317, records of Gooding County, Idaho.
23. Power line easement granted to Idaho Power Company, a corporation recorded February 13, 1980 as Instrument No. 81419.
24. Power line easement granted to Idaho Power Company, a corporation recorded February 13, 1980 as Instrument No. 81420.
25. Easement for easement and right of way for a public road granted to County of Gooding, State of Idaho recorded August 7, 1989 as Instrument No. 137524, records of Gooding County, Idaho.

NOV 21 2001

2001 NOV 13 PM 1:25

FILED

In Re SRBA

Case No. 39576

PAGE 1

11/08/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

2001 NOV 13 PM 1:25

RIGHT NUMBER: 36-2734

NAME AND ADDRESS: IDAHO STATE BUILDING AUTHORITY
PO BOX 2802
BOISE ID 83701

DISTRICT CLERK - SRBA
TWIN FALLS CO., IDAHO
FILED

SOURCE: BILLINGSLEY CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 100.000 CFS

PRIORITY DATE: 10/05/1965

POINT OF
DIVERSION:

T07S R14E S19 NENWNW Lot 1 Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
FISH PROPAGATION

PERIOD OF USE
1/01 12/31

QUANTITY
100.000 CFS

PLACE OF USE:

FISH PROPAGATION Within GOODING County

T07S R14E S18 Lot 4 SWSW

T07S R14E S19 Lot 1 NWNW

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

FACILITY VOLUME 301,000 CUBIC FEET.

RECEIVED

OCT 29 2001

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

Department of Water Resources

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 |
|--------------------|---------------------------|-------|--------------------|---------------------------|-------|
| 36-4011 | | | | | |
| ✓ 36-2734 | | | | | |
| ✓ 36-15476 | | | | | |
| ✓ 36-2414 | | | | | |
| ✓ 36-2338 | | | | | |

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. 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**.
- C. 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 and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
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) AquaLife, Inc.
RT 5 Box 5053, Buhl, Idaho 83316
4. New Owner/Claimant(s) Idaho State Building Authority
 Name Connector (Check One): [] and, [] or, [] and/or
 New Mailing Address P.O. Box 2802
 City, State and ZIP Code Boise, Idaho 83701
 New Telephone Number (208) 345-6057
5. Date you acquired the property September 28, 2001

RECEIVED

NOV 13 2001

Department of Water Resources
Southern Region

OK to Change *[Signature]* 10/6/01
 records changed 11-7-01. *ps*
 INCAP prepared.

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 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 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 of applicable)

Snake River Building Authority
John Mendenhall, Executive Director

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 J. Mendenhall Date 10-29-01 Fee _____
 Received by J. Mendenhall Date 10-29-01 Receipt No. 0057428
 Processed by _____ AJ Date _____ WR _____ Date _____

36-4011, -2734, -15476, -2414, -2338

COPY

Aqua Life Corp.

Jason R. Miciak
ROLIG & PETERSON, L.L.P.
Attorneys at Law
P.O. Box 2749
102 Main Avenue South, Suite 6
Twin Falls, Idaho 83303-2749
Telephone: (208) 733-5500
FAX: (208) 733-5553

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OCT 22 1999

Department of Water Resources

RECEIVED

OCT 27 1999

Department of Water Resources
Southern Region

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.

Case No. 39576

NOTICE OF APPEARANCE

COMES NOW Aqua Life Corp., as Claimant in Subcase Nos. 36-02338, 36-02414, 36-02734 and 36-04011 and declares its intent to participate in issues filed in In Re. SRBA, Case No. 39576 commonly referred to as the "main case." This Notice of Appearance is intended to include a request to be included in the Court's Certificate of Mailing for Expedited Issues and Hearings.

DATED This 20th day of October, 1999.

ROLIG & PETERSON, L.L.P.

By: Jason R. Miciak
Jason R. Miciak

*Blank prefix records changed 5-99,
'R's' changed 10-22-99.*

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I am a resident attorney of the State of Idaho and that on the _____ day of October, 1999, I served a copy of the foregoing document upon the following:

C. Thomas Arkoosh
ARKOOSH LAW OFFICES
P.O. Box 32
Gooding, ID 83330

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& JONES, CHTD.
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Burley, ID 83318

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c/o Terry T. Uhling
P.O. Box 27
Boise, ID 83707-0027

Daniel Steenson
Charlie Honsinger
RINGERT, CLARK CHTD.
P.O. Box 2773
Boise, ID 83701-2773

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P.O. Box 1539
Boise, ID 83701

U.S. Department of Justice
Environment & Natl. Resources
550 West Fort Street, MSC 033
Boise, ID 83724

Lawrence J. Jensen
FILLMORE BELLISTON & ISRAELSEN
4692 North 300 West, Ste. 200
Provo, UT 84604

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HOLDEN, KIDWELL, HAHN & CRAPO
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Idaho Falls, ID 83405

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Jeffrey C. Fereday
GIVENS PURSLEY, LLC
P.O. Box 2720
Boise, ID 83701

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GOODMAN & BOLLAR
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717 7th Street
Rupert, ID 83350

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1420 Fifth Ave., 33 Floor
Seattle, WA 98101-2390

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John D. Hansen
HOPKINS, RODEN, CROCKETT, et al.
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1506 Broadway
Boulder, CO 80302

David J. Cummings
K. Heidi Guggell
NEZ PERCE TRIBAL EXEC. COMM.
P.O. Box 305
Lapwai, ID 83540

Chief, Natural Resources Div.
Office of the Attorney General
State of Idaho
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Boise, ID 83711-4449

Ron Leydet
P.O. Box 521
Mountain Home, ID 83647

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

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Caldwell, ID 83606

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RIGBY, KAM & MOELLER, CTD.
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Ontario, OR 97914

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109 S. Adams
Jerome, ID 83338

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Twin Falls, ID 83303-1906

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SHOSHONE-BANNOCK TRIBES
P.O. Box 306
Fort Hall, ID 83203

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Boise, ID 83702-5509

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Randall C. Budge
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P.O. Box 1391
Pocatello, ID 83204-1391

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WALKER LAW OFFICE
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232 E. Main St.
Weiser, ID 83672

Larry A. Sullivan
280 A Street East
Vale, OR 97918

Douglas B.L. Endreson
REID, PEYTON, CHAMBERS, SONOSKY,
CHAMBERS, SACHSE & ENDRESON
1250 Eye Street N.W., Ste. 1000
Washington, DC 20005

Mark Potter
Susan Potter
220 Willow Lane
Hagerman, ID 83332

by depositing a true copy thereof in the United States mail, postage prepaid.


JASON R. MICIAK

Water Right Number - 36-02734 Prefix Translation: WATER RIGHT Old (D) Number - 32600
+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** A - ATTORNEY ***
MICIAC

JASON R

1 - ROLIG & PETERSON LLP
2 - PO BOX 2749
3 -
City- TWIN FALLS State- ID Zip- 833032749
Phone - 208-733-5500

*** C - CURRENT OWNER ***
AQUA LIFE INC

1 - RT 5 BOX 5053
2 -
3 -
City- BUHL State- ID Zip- 83316
Phone - 208-543-4312

*** O - ORIGINAL OWNER ***
CLEAR SPRINGS TROUT CO

1 - PO BOX 712
2 -
3 -
City- BUHL State- ID Zip- 83316
Phone - 208-543-4316

+ - - Priority Date - - + + - - Region - - + + - - Stage - - + + - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 19 NE NW NW 1 (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 100.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use - FISH PROPAGATION/ TROUT FISH PONDS

36-02734

Water right number - 36-02734

Prefix Translation: WATER RIGHT

+ - - Other Rights for Same Use - 36-04011

+ - - - - - Remarks - - - - - +

GEN FACILITY VOLUME 301,000 CUBIC FEET.
USE OF THIS RIGHT WITH RIGHT NO. 36-04011 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 112.0 CFS AND A TOTAL FACILITY
VOLUME OF 301,000 CUBIC FEET.

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

No Old Water Right Numbers Found

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

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

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

Date: 05/19/1992 User Id: THORNTON Subject: COPIED FROM REMARKS
WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

Date: 05/19/1992 User Id: THORNTON Subject: POSSIBLE OWNERSHIP CHANGE
THIS RIGHT MAY BE OWNED BY KEN ELLIS/AQUALIFE. HOWEVER, AFTER REPEATED WRITTEN AND ORAL CONTACT, I HAVE NOT BEEN ABLE TO
OBTAIN ANY DOCUMENTATION OF THIS.

Date: 09/24/1992 User Id: MERRITT Subject: NOTICE OF ERROR RECEIVED
ELLIS CONTACTED BY PHONE (9/30/92). NO CHANGE IN RECOMMENDED CLAIM. 10/2/92 RVW & ADM

Date: 10/22/1992 User Id: ROBERTSO Subject: OWNERSHIP CHANGE
Change of ownership form received 10/22/92, original owners Clear Springs Trout Co-new owners Aqua Life Inc. Copy of deed submitted
with form. A36-02734 also changed on this date.

Date: 05/10/1999 User Id: SSHERMAN Subject: NAME AND/OR ADDRESS CHANGE
THE NAMES OR ADDRESSES IN THE NAME FILE WERE CHANGED WITHOUT THE ABOVE USER NOTING EXACTLY WHAT WAS CHANGED. THE CHANGE FOR A
K-OWNER OR ATTORNEY MAY HAVE BEEN MADE WITHOUT A WATER RIGHT OWNER CHANGE.

Date: 05/10/1999 User Id: SSHERMAN Subject: ATTORNEY CHANGE
MICIAC REPLACED ARKOOSH FOR AQUA LIFE.

+ - - Audit Fields - - +

05/10/99 SSHERMAN

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 11/02/1992 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 02/05/1997 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 09/01/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S002014 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - | Presumption Flag | - |
| | | | | Notice of Error Flag | - B |

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MAY - 7 1999

COPY

Aqua Life Corp.

Department of Water Resources

1999 APR 30 PM 4: 03

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

FILED _____

Jason R. Miciak
ROLIG & PETERSON, L.L.P.
Attorneys at Law
P.O. Box 2749
102 Main Avenue South, Suite 6
Twin Falls, Idaho 83303-2749
Telephone: (208) 733-5500
FAX: (208) 733-5553

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. |) | Subcase Nos. 36-02338, 36-02414, |
| |) | 36-02734, and 36-04011 |
| Case No. 39576 |) | |
| |) | <u>NOTICE OF SUBSTITUTION</u> |
| |) | <u>OF COUNSEL</u> |
| _____ |) | |

TO: The above-entitled court and to the parties and their counsel:

YOU ARE HEREBY NOTIFIED that pursuant to Rule 11(b)(1), Idaho Rules of Civil Procedure, the firm of Rolig and Peterson, L.L.P., is hereby substituted as counsel for Aqua Life Corp., in place of Arkoosh Law Office.

DATED This ____ day of April, 1999.

ARKOOSH LAW OFFICE

By: _____
C. Tom Arkoosh

DATED This 29 day of April, 1999.

ROLIG & PETERSON, L.L.P.

By: 
Jason R. Miciak

DATED This 29 day of April, 1999.

ARKOOSH LAW OFFICE

By: 

C. Tom Arkoosh

DATED This ____ day of April, 1999.

ROLIG & PETERSON, L.L.P.

By: _____

Jason R. Miciak

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SEP 09 1998

Department of Water Resources
Southern Region

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AUG 27 1998

Department of Water Resources

1998 AUG 25 AM 8:34

SOUTH
JJ

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

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

In Re SRBA

Case No. 39576

AquaLife
Subcases 36-02338, 36-02414, 36-02734
and 36-04011

ORDER GRANTING MOTION TO
VACATE AND RESET HEARING

On August 18, 1998, the North Snake Ground Water District filed its *Motion to Vacate and Reset Hearing*. The hearing is currently set for August 27, 1998. The *Motion* stated that claimant Aqua Life, Inc., wished to vacate the hearing to engage in settlement discussions. Objector Buckeye Farms, Inc., does not oppose the *Motion*.

THEREFORE, it is ordered that the District's *Motion* is **granted**. The hearing on the District's *Motion to Alter or Amend* is **reset to Friday, October 23, 1998, 10:00 a.m.**, at the SRBA Courthouse, 253 3rd Avenue North, Twin Falls, Idaho.

DATED August 25, 1998.

Terrence A. Dolan
TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING MOTION TO VACATE AND RESET HEARING was mailed on August 25, 1998, with sufficient first-class postage to the following:

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

Director of IDWR
Box 83720
Boise, Idaho 83720-0098

Josephine Beeman
Box 1427
Boise, Idaho 83701-1427

John K. Simpson
Box 2139
Boise, Idaho 83701-2139

C. Thomas Arkoosh
Box 32
Gooding, Idaho 83330-0032

Deputy Clerk
Deputy Clerk



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 FILLMORE STREET, SUITE 200
TWIN FALLS, ID 83301-3380
PH. (208) 736-3033

Date 10/15/98

Name TERRY SCANLAN, SCANLAN ENGINEERING

Address 600 E RIVER PARK LN SUITE 105, BOISE

Phone 383-4140

ID 83706

| No. of
Copies | Materials | Cost |
|------------------|-----------------|----------|
| 537 | @.05 | \$ 26.85 |
| | FILES #36-02338 | |
| | 36-02414 | |
| | 36-02734 | |
| | 36-04011 | |
| | | |
| | | |
| TOTAL | | \$ 26.85 |

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

Cheryl Cather, SRBA RECORDS CLERK

INFORMATION REQUEST

NAME:

Matt Howard

DATE:

5-13-98

ADDRESS:

Beeman & Hysketter

CITY/ZIP:

Boise

PHONE:

(please print)

I HAVE REQUESTED TO REVIEW AND/OR OBTAIN COPIES OF THE FOLLOWING DOCUMENTS ON FILE WITH THE DEPARTMENT OF WATER RESOURCES.

ADJUDICATION
CLAIM NUMBERSALLOCATION WATER
RIGHT NUMBERSOTHER
DOCUMENTSA36-0401A36-02734A36-2414A-36 2338

RESEARCH SUBJECT:

Agua life

COPIES MADE OF:

all the above claims10 COPIES OR LESS: FREENUMBER OF COPIES MADE: 435FEES DUE @ \$0.05 PER COPY: 21.75

OTHER FEES: _____

RECEIPT NUMBER: _____

ASSISTING AGENT: WA

Phone in to Vicki Kelly
(customer signature)

SOUTHERN

RECEIVED

APR 15 1998

Department of Water Resource
Southern Region

RECEIVED

APR 10 1998

Department of Water Resources
Adjudication Bureau

1998 APR -8 AM 11:06

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)
)
_____)

NOTICE OF ISSUANCE OF
SPECIAL MASTER'S
RECOMMENDATION

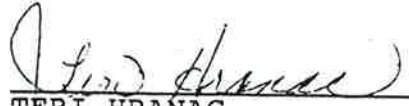
Water Right(s): 36-02338
36-02414 36-02734 36-04011

On April 08, 1998, Special Master TERRENCE A. DOLAN issued a SPECIAL MASTER'S RECOMMENDATION for the above subcase(s) pursuant to SRBA Administrative Order 1 (AO1), Section 13a.

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

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

DATED April 08, 1998.


TERI HRANAC
Deputy Clerk

1998 APR -8 AM 11:06
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 |) | Subcases 36-02338, 36-02414, |
| |) | 36-02734 and 36-04011 |
| Case No. 39576 |) | |
| _____ |) | SPECIAL MASTER'S REPORT |

Findings of Fact

36-02338

Opal H. Fisher filed a *Notice of Claim to a Water Right* under 36-02338 on August 31, 1988, claiming 54.68 cfs from "unnamed springs" for year 'round fish propagation with a priority date of August 31, 1988, based on a license. On November 2, 1992, the Director of the Idaho Department of Water Resources filed his *Director's Report for Reporting Area 3* (Basin 36) recommending the claim as filed.

36-02414

Aqua Life Corporation, Route 5, Box 5053, Buhl, Idaho 83316, filed a claim under 36-02414 on August 31, 1988, claiming 4 cfs from "unnamed stream" for year 'round fish propagation with a priority date of December 21, 1959, based on a license. The *Director's Report* recommended the claim as filed.

36-02734

Clear Springs Trout Company filed a claim under 36-02734 on August 26, 1988, for 100 cfs from Billingsley Creek for year 'round fish propagation with a priority date of October 5, 1965, based on a license. The *Director's Report* recommended the claim as filed.

36-04011

Aqua Life, Inc., filed a claim under 36-04011 on September 1, 1988, for 50 cfs from Billingsley Creek for year 'round fish propagation with a priority date of December 1, 1965, based on beneficial use. The *Director's Report* recommended 12 cfs.

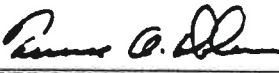
Proceedings

Buckeye Farms, Inc., was granted leave to file late objections to all four (4) of Aqua Life's claims on March 24, 1997, objecting to quantity and the water rights being recommended at all. On July 8, 1997, Aqua Life Corporation was granted leave to file a late objection to quantity in 36-04011. Just before trial on all objections, the parties filed a joint *Stipulation and Motion to Dismiss*. On February 26, 1998, an *Order Granting Motion to Dismiss* was entered dismissing all objections.

Conclusions of Law

Aqua Life, Inc., or Aqua Life Corporation, is entitled to partial decrees adjudicating water rights under 36-02338, 36-02414, 36-02734 and 36-04011 as described in the attached *Special Master's Recommendations for Partial Decrees for Water Rights 36-02338, 36-02414, 36-02734 and 36-04011*.

DATED April 8, 1998.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-02734

1998 APR -8 AM 11:
DISTRICT COURT - SRB
TWIN FALLS CO., IDA
FILED

NAME & ADDRESS: AQUA LIFE INC
RT 5 BOX 5053
BUHL ID 83316

SOURCE: BILLINGSLEY CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 100.00 CFS

PRIORITY DATE: 10/05/1965

POINT OF DIVERSION: T07S R14E S19 LOT 1 (NENWNW) Within GOODING County

| PURPOSE AND
PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|------------------|---------------|------------|
| | FISH PROPAGATION | 01-01 12-31 | 100.00 CFS |

PLACE OF USE: FISH PROPAGATION Within GOODING County
T07S R14E S18 Lot 4 (SWSW)
S19 Lot 1 (NWNW)

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DANIEL C. HURLBUTT, JR.
PRESIDING JUDGE
Snake River Basin Adjudication

RECOMMENDATION
APR 8 1998
Russell C. All
SPECIAL MASTER

RECEIVED

MAR 06 1998

Department of Water Resources
Southern Region

RECEIVED
MAR 03 1998
Department of Water Resources

1998 FEB 26 PM 2:00

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

) Subcases 36-02338, 36-02414, 36-02734
) and 36-04011

) ORDER GRANTING MOTION
) TO DISMISS and ORDER
) VACATING TRIAL

Trial on late objections filed by claimant Aqua Life, Inc., and by Buckeye Farms was set for February 26, 1998. However, on February 25, 1998, Buckeye Farms filed with the SRBA Court a *Motion to Dismiss*.

The *Motion* seeks dismissal of Buckeye Farms' objections based on an attached *Stipulation* signed by both parties. In the *Stipulation*, the parties said they "desire to bring an end to the litigation among them and reach final understanding and agreement concerning the exercise of their respective rights."

What then followed in the *Stipulation* was a rotation agreement specifying how the parties would exercise their respective water rights. Finally, the parties agreed that: "All the provisions of this agreement, including all benefits and burdens shall run with the water right claims, permits and applications described herein."

Several issues were not addressed in the *Stipulation*. For instance, there was no mention of the claimant's objections, the matter of costs and attorney fees and the concurrence of IDWR in final resolution of the subcases.

It is clear from the *Stipulation*, plus representations of the parties at the pre-trial conference held on February 17, 1998, that the parties intend to seek dismissal of *all* objections in the subcases with each party to bear their own expenses. Further, such dismissal will result in the claims being decreed as they were recommended in the *Director Report*.

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on February 17, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

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

Director of IDWR
Box 83720
Boise, ID 83720-0098



John K. Simpson

ORIGINAL

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

RECEIVED

MAR 02 1998

Department of Water Resources
Southern Region

Sub-Case No. 36-02338, 36-02734
36-02414, 36-04011

STIPULATION

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FEB 26 1998

Department of Water Resources
Adjudication Bureau

RECITALS
A.

WHEREAS, Buckeye Farms possesses decreed irrigation water rights, and permits and applications for permits for the use of water from Billingsley Creek.

B.

WHEREAS, AquaLife is the owner of existing water rights, permits and claims for fish propagation, as described in Snake River Basin Adjudication ("SRBA") Claim Nos. 36-02338, 36-02734, 36-02414, and 36-04011

C.

WHEREAS, the parties recognize that continued litigation in the above captioned sub-cases is expensive, time consuming and detrimental to community relations, and the parties desire to bring an end to the litigation among them and reach final understanding and agreement concerning the exercise of their respective water rights.

NOW THEREFORE, in compromise and settlement of this litigation, the parties to this agreement Buckeye Farms and AquaLife, individually or by and through their respective counsel hereby stipulate and agree on terms consistent with those set forth in this stipulation. The parties stipulate and agree to the exercise their respective water rights from Billingsley

STIPULATION

Creek at or above the AquaLife facility as follows:

1. The parties recognize that Buckeye Farms owns an irrigation water right identified as SRBA Claim No. 36-00018, senior in priority to the water rights claimed by AquaLife.
2. The parties agree that as of the date of this agreement Buckeye Farms has additional claims to water diverted from Billingsley Creek via the Curren ditch in the form of permits and applications.
3. Buckeye Farms and AquaLife agree that in compromise and settlement of Buckeye Farms' objections to SRBA Claims Nos. 36-02338, 36-02734, 36-02414, and 36-04011, AquaLife will subordinate its water rights, SRBA Claims Nos. 36-02734 and 36-04011, to Buckeye Farms' non-irrigation SRBA Claims, permits and applications up to the amount mutually agreed upon of 35 cubic feet per second ("cfs") during the months October, November, December, and January of 1998 and 1999. Following the expiration of this time period, AquaLife will continue to subordinate the above stated rights, if the parties are successful in acquiring a substitute source of water for Buckeye Farms' Billingsley Creek water claims identified in Paragraph 2 above and Buckeye is able to leave water in Billingsley Creek in accordance with Paragraph 4 below.
4. If at the end of calendar year 1999 the parties have been unable to procure a substitute source of water in accordance with the terms and conditions set forth herein, this agreement will continue in force from year to year until the parties are successful in obtaining substitute water, or the parties mutually

agree to terminate the agreement. This agreement shall be terminated only by the express consent of both parties in writing.

5. Buckeye Farms and AquaLife agree that in compromise and settlement of Buckeye Farms' objections to SRBA Claims Nos. 36-02338, 36-02734, 36-02414, and 36-04011, Buckeye Farms agrees to leave 15 cfs of water right #36-00018 in Billingsley Creek during the period February 1- June 1 for the water years 1998 and 1999 to allow the parties sufficient time to cooperate in efforts to obtain substitute water in order to mitigate for reduced water flows in Billingsley Creek. If the parties are successful in acquiring a substitute source of water for Buckeye Farms' Billingsley Creek water claims, Buckeye Farms will continue to leave water in Billingsley Creek given the following conditions: (1) the parties recognize that it is reasonably necessary to provide a sufficient amount of water for the continued operation and maintenance of Buckeye Farms' pipeline, and thereby agree that a flow of 5 cfs at the Curren ditch headgate is sufficient to meet these needs under Buckeye Farms' water rights from Billingsley Creek; (2) that a reliable, continuous substitute flow of at least 20cfs is available; and (3) the water is provided at no additional cost to Buckeye Farms or AquaLife.
6. The parties further agree that in seeking a substitute source of water for Buckeye Farms' water rights out of Billingsley Creek via the Curren Ditch, the parties will cooperate in assessing a potential call on junior groundwater rights impacting the flows from the Curren Tunnel. If the parties determine that their respective rights are impaired, and substitute water or other forms

of mitigation is not available, the parties will work together in seeking the appropriate administrative or legal relief.

This agreement shall be effective and binding upon the parties hereto and shall be binding upon and inure to the benefit of the successors, heirs, assignees or personal representatives of the parties hereto upon the signature of all of the parties. All the provisions of this agreement, including all benefits and burdens shall run with the water rights claims, permits and applications described herein.

This agreement may be signed in counterpart, all of which together, will all purposes, constitute one agreement, binding on the parties, notwithstanding that all parties may not have signed the same copy of the stipulation.

This agreement shall be filed in the records of the Clerk and Recorder for Gooding County.

DATED this 17th day of February 1998.

For: AquaLife


By: Ken Ellis

STATE OF IDAHO)
County of Gooding) ss.

On the 17th day of February, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Ken Ellis, known to me to be the person whose name is subscribed in the instrument, and acknowledged to me that he executed the same.

STIPULATION

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

Brenda S. Buttal
A Notary Public in and for
the County of Gooding
State of Idaho.

For Buckeye Farms, Inc.

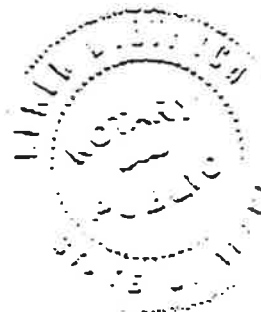
Brian Barsotti
By: Brian Barsotti

STATE OF IDAHO)
County of Blaine) ss.

On the 21st day of Feb., 1998, before me, the undersigned,
a Notary Public in and for said State, personally appeared Brian Barsotti, known to me to be
the person whose name is subscribed in the 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.

Herbert Dietrich
A Notary Public in and for
the County of Blaine
State of Idaho.



John K. Simpson
Rosholt, Robertson & Tucker
1221 West Idaho Street, Suite 600
Boise, ID 83702
(208) 336-0700
(208) 344-6034 Facsimile

Attorney for Buckeye Farms

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 | 36-02338, 36-02734 |
| |) | | 36-02414, 36-04011 |
| Case No. 39576 |) | | |
| |) | MOTION TO DISMISS | |
| |) | | |
| |) | | |

COMES NOW Buckeye Farms, by and through its attorneys of record, Rosholt, Robertson & Tucker, hereby moves this Court for an order dismissing the objections filed in the above captioned subcases. In support of this motion Buckeye Farms attaches the stipulation agreed to by the parties to the subcase. Attached to this motion is an Order for the Courts consideration and signature, dismissing the objections of Buckeye Farms in this matter.



John K. Simpson

MOTION TO DISMISS

TO 3275400 PAGE.0237

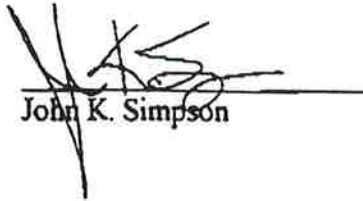
CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on February 17, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

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

Director of IDWR
Box 83720
Boise, ID 83720-0098


John K. Simpson

John K. Simpson
Rosholt, Robertson & Tucker
1221 West Idaho Street, Suite 600
Boise, ID 83702
(208) 336-0700
(208) 344-6034 Facsimile

Attorney for Buckeye Farms

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 | 36-02338, 36-02734 |
| |) | | 36-02414, 36-04011 |
| Case No. 39576 |) | | |
| |) | ORDER GRANTING BUCKEYE FARMS' | |
| |) | MOTION TO DISMISS | |
| |) | | |
| |) | | |

On February ____, 1998, Buckeye Farms, by and through its attorneys of record, Rosholt, Robertson & Tucker, filed a Motion to Dismiss its objections in subcase nos. 36-02338, 36-02414, 36-02734, and 36-04011. Attached to this Motion was a Stipulation signed by the parties regarding a shared use of water from Billingsley Creek. At the pre-trial conference held February 17, 1998, the parties represented that this agreement resolved all differences between the parties with respect to these subcases.

Therefore, it is ordered that Buckeye Farms' Motion to Dismiss its objections is granted.

DATED this ____ day of February, 1998.

Terrance A. Dolan
Special Master
Snake River Basin Adjudication

ORDER GRANTING BUCKEYE FARMS'
MOTION TO DISMISS

TO SET 3400 PAGE 0100

CERTIFICATE OF MAILING

I certify that a true and correct copy of the MOTION TO DISMISS was mailed on _____ day of February, 1998, postage pre-paid to the following:

C. Thomas Arkoosh
Aqua Life
Box 32
Gooding, ID 83330

John K. Simpson
Buckeye Farms
P.O. Box 2139
Boise, ID 83701-2139

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

Director of IDWR
Box 83720
Boise, ID 83720-0098

Deputy Clerk

**ORDER GRANTING BUCKEYE FARMS'
MOTION TO DISMISS**

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Department of Water Resources
Southern Region

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Department of Water Resources

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DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE

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

Subcases 36-02338, 36-02414,
36-02734 and 36-04011ORDER GRANTING MOTION TO
FILE LATE OBJECTIONS**Motion**

On February 5, 1997, Buckeye Farms filed its *Motion to File Late Objections* in the above four subcases. Aqua Life, Inc., is the claimant in each subcase.¹ The *Motion* alleged that Buckeye Farms holds irrigation water rights senior to Aqua Life's fish propagation claims from Billingsley Creek- 36-02734 and 36-04011. However, in the non-irrigation season, Buckeye Farms' various non-irrigation claims are junior to Aqua Life's claims.

The *Motion* also included two other of Aqua Life's fish propagation claims- 36-02338 and 36-02414. Instead of Billingsley Creek, these two claims were to water from Tupper Springs and Big Springs/Fisher Springs. The two claims were included in the *Motion* because water from Billingsley Creek and the springs is allegedly "intermixed for purposes of discharge."

All four of Aqua Life's claims were recommended for adjudication in the *Director's Report for Reporting Area 3 (Basin 36)*, filed November 2, 1992. No objections were filed within the objection period.

Buckeye Farms stated that the Director's recommendations were based on IDWR's investigations between 1988 and 1990 or 1991. Since then, at least five years have elapsed. Buckeye Farms then alleged: "It is during this time period [1992-1996] that actual use at the facility

¹ Aqua Life, Inc., or Aqua Life Corp. were listed as the claimants for three of the claims. Opal H. Fisher was reported as the claimant of 36-02338. During the hearing on the *Motion*, it was stated that the correct claimant in all four subcases is Aqua Life, Inc. Presumably, then, Aqua Life is the successor in interest to Ms. Fisher.

gives rise to forfeiture of certain rights or portions of rights."

Buckeye Farms based its allegation of forfeiture or partial forfeiture on monthly discharge monitoring reports (DMR's) filed by Aqua Life with EPA and DEQ. David B. Shaw's affidavit attached to the *Motion* concluded that discharge figures for the period 1992-1996, indicate only a small portion of Aqua Life's four claims were being put to beneficial use (60 cfs of the total 170.6 cfs recommended).

Finally, Buckeye Farms argued that it had shown good cause to file late objections because: 1) its failure to object was not wilful; 2) evidence of forfeiture was "newly discovered" after the objection period; 3) allowing a late claim will not prejudice Aqua Life; and 4) Buckeye Farms has alleged a meritorious position.

Hearing

Buckeye Farms' *Motion to File Late Objections* was heard on March 14, 1997, at the SRBA Court, Twin Falls, Idaho. John K. Simpson appeared for Buckeye Farms and C. Tom Arkoosh for Aqua Life. Charles L. Honsinger appeared by telephone for IDWR.

Counsel for Aqua Life presented testimony by Kenneth Ellis, president of Aqua Life, and Rick Eggleston. Mr. Eggleston is the operator of Gold Springs which leases the facilities from Aqua Life. Aqua Life also offered into evidence Aqua Life Exhibits 1-3, plus a copy of *Fort Hall Water Users Ass'n v. U.S.*, 129 Idaho 39, 921 P.2d 739 (1996).

Mr. Ellis testified that he has been involved with operation of the facility from 1980 until June, 1994, as lessee and then owner. Water from Billingsley Creek is *not* intermixed with water from Tupper Springs and Big Springs, as Mr. Shaw stated in his affidavit. Creek water and spring water are measured and reported separately even though there is one permit for both sites. Mr. Ellis said that Aqua Life's use of spring rights does not affect Buckeye Farms. In the last ten years, there was never a five year period when all the available creek water was not used when water quality (temperature and oxygen) was acceptable. Further, there was only one month when all the water available from Big Springs was not used. Between 1989 and 1994, water flows dropped and water temperatures increased. Mr. Ellis' efforts to get more water from George Lemmon, the water master, got no direct results.

Rick Eggleston testified that he took over operation of the facilities in June, 1994, under the name "Gold Springs." Upstream water users, such as Buckeye Farms, have no lockdown devices

at their diversions along Billingsley Creek. As a result of diversions by junior appropriators during 1994-1995, the facility never used more than 80 cfs. Since Aqua Life's successful "call" on Billingsley Creek in December, 1996, Gold Springs has used over 100 cfs- sometimes as high as 156 cfs.²

The Law

1. Good Cause

SRBA Administrative Order 1, Rules of Procedure(AO-1), does not provide guidance for review of motions to file late *objections*. AO-1 only refers to late *claims* which are reviewed under the criteria of I.R.C.P. 55(c), "Setting aside default judgment."³ However, customary practice in the SRBA court has been to apply the same criteria to both late claims and late objections. Hence, Buckeye Farms' *Motion* will be considered under Rule 55(c):

For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).

Idaho courts follow a dual-track standard to determine when a party is entitled to relief from default. A party wanting to set aside a clerk's entry of default need only show "good cause" under Rule 55(c). If a final judgment by default has been entered, then a party must, in addition to good cause, satisfy the requirements of Rule 60(b). That is, the party must show some basis such as newly discovered evidence.

A motion to set aside a default judgment presents the trial court with a factual determination. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981). In determining whether to set aside a default judgment, a standard of liberality must be applied rather than one of strictness and the party moving to vacate a default judgment must be given the benefit of any genuine doubt. *Johnson v. Pioneer Title Co. of Ada County*, 104 Idaho 727, 662 P.2d 1171 (App. 1983). A motion to set aside a default judgment is addressed to the sound discretion of the trial court whose decision will not be reversed in the absence of abuse of that discretion. However, it would be an abuse of discretion for the trial court to grant such a motion without an adequate legal basis for doing so. *Newbold v.*

² The recommendations in the Director's Report for Aqua Life's diversions from Billingsley Creek (36-02734 and 36-04011) total 112 cfs.

³ AO-1 (amended 9/30/96), 4, e, (2), (e), p. 7.

Arvidson, 105 Idaho 663, 672 P.2d 231 (1983).

The very language in Rule 55(c) and Rule 60(b) suggests a different standard to set aside an entry of default versus a default judgment. The Idaho Court of Appeals recognized that the Rule 55(c) "good cause" standard may be more lenient than the Rule 60(b) standard. *McFarland v. Curtis*, 123 Idaho 931, 854 P.2d 274 (App. 1993).

Whether part of good cause or in addition to it, Idaho courts have imposed further requirements. First, a party must show that he or she has acted in good faith and exercised due diligence in the prosecution of his or her rights, such as an ordinarily prudent person would exercise under similar conditions. *Council Improvement Co. v. Draper*, 16 Idaho 541, 102 P. 7 (1909), and *Kovachy v. DeLeusomme*, 122 Idaho 973, 842 P.2d 309 (App. 1992). Second, a party must show a meritorious defense to set aside a default. *Thomas v. Stevens*, 78 Idaho 266, 300 P.2d 811 (1956).

A party who seeks to set aside a default has the burden of supplying detailed facts of the proposed defense. *Smith Electric, Inc. v. Crandlemire*, 100 Idaho 172, 595 P.2d 321 (1979). At a hearing on the motion, a party need not produce documents to *prove* a defense. It is sufficient if the movant *pleads* with particularity facts which, if proven, would constitute a meritorious defense. *State v. One 1990 Geo Metro*, 126 Idaho 675, 889 P.2d 109 (App. 1995). The policy of requiring a showing of a meritorious defense is founded on the doctrine that it would be an idle exercise for a court to set aside a default if, in fact, there is no real justiciable controversy. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981).

2. Standing

In the SRBA, "claimant" means anyone asserting ownership of rights, and who has filed a claim, to the use of water in Idaho. I.C. § 42-1401A (1), and AO-1, 2, d, p. 1. A claimant is also a "party to the adjudication." AO-1, 2, p, p. 2. Any claimant may file an objection to a water right. I.C. § 42-1412 (1). When a party to the adjudication files an objection, they become an "objector" and a "party to a subcase." AO-1, 2, m, and o, p. 2. Any water right which is the subject of a post-Director's Report pleading, like an objection, becomes a "subcase." AO-1, 2, x, p. 2.

Discussion

Aqua Life argued that, while Buckeye Farms may have standing to object to Aqua Life's creek rights (36-02734 and 36-04011), it lacks standing to object to the spring rights (36-02338 and 36-02414). After all, Aqua Life diverts its spring water a considerable distance downstream from

Buckeye Farms and that water is not intermixed with creek water. Therefore, as Mr. Ellis said, Aqua Life's use of water from Tupper Springs and Big Springs does not affect Buckeye Farms. In support of that argument, Aqua Life offered the Idaho Supreme Court's holding in the *Fort Hall* case.

In *Fort Hall*, the court held that a non-Indian water users' association was not a "claimant" in the SRBA because it did not assert ownership of water rights. The United States claimed ownership of the water rights on its own behalf. The association was merely contractually permitted to have *use* of the water. Therefore, because the association was not a claimant in the SRBA, it lacked standing to object to the 1990 Fort Hall Indian Water Rights Agreement.

Fort Hall does not stand for the proposition that one must prove their water right is affected to have standing to object in the SRBA. Rather, one must show that they are a *claimant* as defined by I.C. § 42-1401A, (1). That is, one must have asserted ownership of rights to use water in Idaho or be someone on whose behalf such ownership was asserted.

Buckeye Farms has standing to object to Aqua Life's spring and creek claims because it has claimed ownership of rights to use water in Idaho. Court records show that Buckeye Farms is the claimant in eight contested subcases. It may also be a claimant in uncontested claims not now before the court.

The court is satisfied that Buckeye Farms has acted in good faith and exercised due diligence in the prosecution of its rights based on evidence not available during the objection period. However, there remains the matter of whether Buckeye Farms has alleged facts which, if proven, constitute a meritorious position.

Buckeye Farms was correct in stating that the hearing on its *Motion to File Late Objections* was not a trial on the evidence. In other words, the purpose of the hearing was not try the matter of Aqua Life's alleged forfeiture or partial forfeiture of its claims to water rights. Rather, the hearing was to determine whether Buckeye Farms has shown good cause to have its *Motion* granted. The court is satisfied that Buckeye Farms has shown good cause.

Buckeye Farms alleged that Aqua Life used less than its licensed or claimed amounts of water during a five year period from 1992 until 1996.⁴ That allegation, if proven, supports a finding of forfeiture:

⁴ Three of Aqua Life's claims are based on licenses. Claim 36-04011 is based on beneficial use.

All rights to the use of water acquired under this chapter or otherwise shall be lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated....

I.C. § 42-222, (2).

Unlike abandonment which requires intent, statutory forfeiture provides that all rights to water are lost where the appropriator fails to make beneficial use of the water for a continuous five year period regardless of intent. *McAtee v. Faulkner Land & Livestock, Inc.*, 113 Idaho 393, 744 P.2d 121 (App. 1987).

As the parties are aware, the Presiding Judge in the SRBA has held that there is no "partial" forfeiture in Idaho.⁵ That ruling is now pending on appeal before the Idaho Supreme Court. That being the law of the case, Buckeye Farms' allegations of partial forfeiture cannot support its *Motion*. However, Buckeye Farms also alleged forfeiture without specifying which claims may be wholly forfeited.

Admittedly, Aqua Life presented testimony by Messrs Ellis and Eggleston to rebut Mr. Shaw's affidavit. Essentially, they said that there was no five year period when water was not used when water quality was good enough to raise fish. They both told of impaired water quantity and quality because of upstream junior appropriators. Their testimony aided the court in identifying the essential issues yet to be determined. However, the court withheld judgment on whether their testimony established defenses to the allegations of forfeiture. That will be determined at a trial on the merits, should the subcases proceed that far. Buckeye Farms will have to prove forfeiture at trial, but not to file objections to Aqua Life's claims.

THEREFORE, it is ordered that Buckeye Farms' *Motion to File Late Objections* in these four subcases is **granted**. Responses, if any, to Buckeye Farms' objections must be filed no later than April 18, 1997.

DATED March 24, 1997.



TERRENCE A. DOLAN
Special Master, Reporting Area 3
Snake River Basin Adjudication

⁵ See Memorandum Decision on Basin-Wide Issue 10, Partial Forfeiture, entered April 26, 1996.

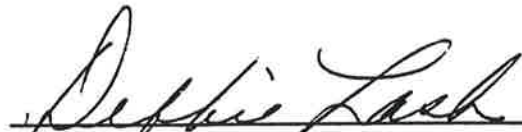
CERTIFICATE OF MAILING

I certify that a true and correct copy of the **ORDER GRANTING MOTION TO FILE LATE OBJECTIONS** was mailed on March 24, 1997, with sufficient first-class postage to the following:

Director of IDWR
P. O. Box 83720
Boise, ID 83720-0098

C. Thomas Arkoosh
P O Box 32
Gooding, Idaho 83330
Rep: Aqua Life Inc.

John K. Simpson
P O Box 2139
Boise, Idaho 83701-2139
Rep: Buckeye Farms, Inc.


Deputy Clerk

John K. Simpson
Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 600
P.O. Box 2139
Boise, Idaho 83701-2139
Telephone: (208) 336-0700
Facsimile: (208) 344-6034

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FEB 8 1997
Department of Water Resources
Adjudication Bureau

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OFFICE OF THE
ATTORNEY GENERAL

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. 35976

)
) Subcase Nos. 36-02734
) 36-04011
) 36-02414
) 36-02338
)

) BUCKEYE FARMS' MOTION TO FILE
) LATE OBJECTIONS
)

DESCRIPTIVE SUMMARY

This document is a Motion to File Late Objection in claims nos. 36-02734, 36-04011, 36-02414 and 36-02338 on behalf of Buckeye Farms.

MOTION

Buckeye Farms (hereinafter referenced as "Movant"), hereby moves for leave to file a late objection to water right claims 36-02734, 36-04011, 36-02414 and 36-02338. This motion is supported by the argument below, the Affidavit of David Shaw, attached as Exhibit "A" and the proposed objections attached.

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BUCKEYE FARMS' MOTION TO FILE LATE OBJECTIONS - 1

ARGUMENT

Aqua Life, Inc.'s predecessor filed two fish propagation claims for water out of Billingsley Creek. Claim no. 36-02734 is a licensed right for 100 cfs and was recommended as claimed by IDWR. Claim no. 36-04011 is a beneficial use claim for 50 cfs. IDWR recommended 12 cfs. Neither of these claims were objected to and therefore, no subcases exist. These claims are junior to the Movant's irrigation rights. However, in the non-irrigation season, the rights are senior to various non-irrigation rights held by the Movant. Aqua Life also filed claims for water from Tupper Springs and Big Springs or Fisher Springs, claim nos. 36-02338 for 54.6 cfs and 36-02414 for 4 cfs. The Aqua Life facility operates a number of raceways, with distinct and separate raceways served by the two sources, the springs and Billingsley Creek. Water is not co-mingled in the raceways and is only intermixed for purposes of discharge.

IDWR issued its recommendations for 36-02734, 36-02414, 36-04011 and 36-02338 in 1992 as a part of the Basin 36 Director's Report. At the close of the objection period no objections were made with respect to the recommendations. Therefore, these unobjected to recommendations are ready pursuant to Administrative Order 1 for partial decree. The partial decrees for each of these rights would have been based upon IDWR's investigation conducted during the period 1988 to 1990 or 1991. No partial decrees have been issued. Moreover, at least five years have passed since the rights were last analyzed. It is during this time period that actual use at the facility gives rise to forfeiture of certain rights or portions of rights.

Commercial fish propagation facilities that discharge water from their facilities to a public water source (waters of the United States) are normally required to obtain an NPDES discharge permit and submit monthly discharge monitoring reports (DMR's) as a condition of the permit. The DMR's are filed with EPA by the facility operator/permit holder and a copy is subsequently placed on file with the Division of Environmental Quality (DEQ) regional office in the vicinity of the facility. In this case the Twin Falls office of DEQ contains the pertinent files.

The Movant has reviewed the discharge amount portions of the DMR's for the Aqua Life facility. See Affidavit of David Shaw. For the period 1992-1996 the discharge figures indicate that only a small portion of the water claimed through the rights depicted above were being put to beneficial use. In fact for this period approximately 60 cfs of the total 170.6 cfs recommended was diverted and discharged according to Aqua Life records.

I. Good Cause Exists to Grant the Movant's Leave to File Late Objections.

The decision to set aside an entry of default or a default judgment, to allow a late notice of claim to be filed, and presumably, to allow a late objection to be filed, is within the sound discretion of the court. Clear Springs Trout Co. v. Anthony, 123 Idaho 141, 143 (1992). I.R.C.P. 60(b) provides that relief from a judgment may be granted on the grounds that ". . . (2) newly discovered evidence which by due diligence could not have been discovered in time for a new trial under Rule 59(b)" is discovered. This discovery standard also provides a basis for a new trial pursuant to I.R.C.P. 59(a). In addition to the discovery standard the court may also consider whether the failure to file an objection was wilful,

whether allowing a late objection would prejudice a party and whether a meritorious objection has been presented.

In the present case a judgment or partial decree has not been entered. Here, where no subcase has been established, the claims remain within the Court's jurisdiction, simply await a partial decree. Therefore, the discovery of new evidence which contradicts IDWR's recommendations, should be considered by the Court to ensure that the elements of any claim ultimately decreed are valid as of the date of the decree.

The Aqua Life discharge data obviously was not available during the original objection period in 1993. In fact the data was not available until after the close of the objection period. The newly discovered data impacts the validity of the Aqua Life claims as they are now recommended before the Court and awaiting the partial decree. The import of this motion is that if claims are decreed as recommended without consideration of this new evidence, the movant will lose the opportunity to rely upon this data. Arguably, the movant would not be able to go behind the decree to rely upon factual data prior to the date of the decree.

Moreover, at the time of the designated objection period, the Movant did have sufficient basis to file an objection. Only after the 1996 data period did the five year period provide the basis for filing this motion. Additionally, factual basis for this motion as enumerated in the affidavit of David Shaw, is premised upon information submitted to DEQ by the claimant. Again, this information gives rise to a forfeiture claim by the Movant.

The significance of this motion is further exemplified by the fact that by letter to the IDWR on April 9, 1996, Aqua Life made a call for delivery of the Billingsley Creek water

as against junior upstream users on Billingsley Creek and tributaries. Because the call was for non-irrigation season water, IDWR informed Aqua Life that the call would have to be renewed at the end of the irrigation season. In November, Aqua Life verbally renewed the call and submitted a written call in December, 1996 pursuant to an additional IDWR request.

Finally, the Movant recognizes that with Basin-wide #10 (Partial Forfeiture) on appeal the status of partial forfeiture is uncertain. Once the Supreme Court resolves this appeal then the facts of this case as supplemented by the affidavit contained herein, can be applied to the law. In the interim the Movant should be granted the opportunity to file its objections.

DATED this 4th day of February, 1997.

ROSHOLT, ROBERTSON & TUCKER



John K. Simpson
Attorney for Buckeye Farms

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of February, 1997, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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

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

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



John K. Simpson
Attorney for Buckeye Farms

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AFFIDAVIT OF DAVID B. SHAW DATED FEBRUARY 4, 1997

DAVID B. SHAW, being first duly sworn deposes and states:

1. My name is David B. Shaw, and my work address is ERO Resources Corporation, 2309 N. Mountain View Drive, Suite 174, Boise, ID 83706-1065. My home address is 802 S. Plaza Road, Emmett, ID 83617.

2. My educational background includes bachelor's and master's degrees in Agricultural Engineering from the University of Idaho in 1966 and 1972, respectively. I am a registered professional engineer and land surveyor in the State of Idaho.

3. My work experience includes five years of teaching at the University of Idaho in the College of Engineering from 1968 to 1973. I was with the Idaho Department of Water Resources (department) and its predecessor agencies from November 1973 until July 1996. With the department, I served in a number of technical and administrative positions including Regional Supervisor for the department's western region from 1978 to 1985 and Adjudication Bureau Chief from 1985 to 1996. My experience with the department includes successfully managing a variety of water right, water supply and water delivery situations. Since July 1996 I have been employed by ERO Resources Corporation providing consulting services to clients in the areas of water rights, water right adjudication, and water distribution and management.

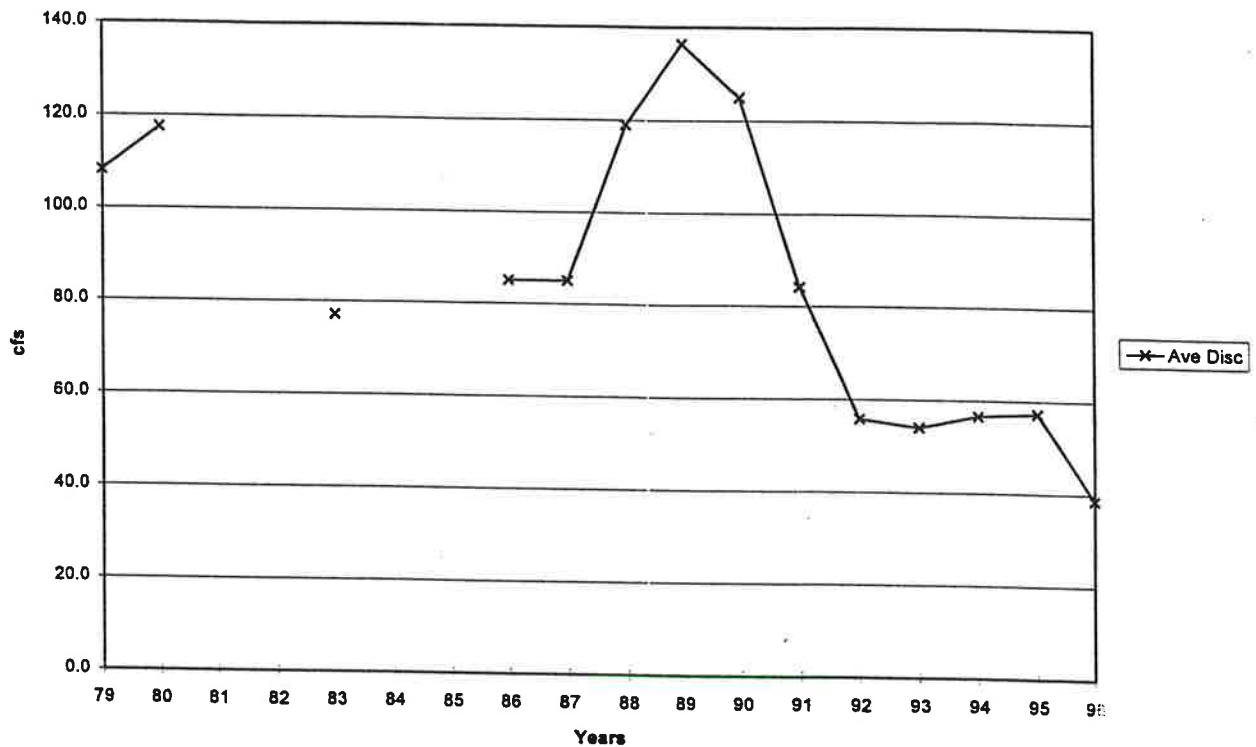
4. I have been engaged by Buckeye Ranch to examine the water rights of Aqua Life, Inc. (Aqua Life) for the facility once known as Idaho Springs Trout Farm and currently operated as Gold Springs, Inc. (Gold Springs), particularly with reference to Aqua Life's water rights from Billingsley Creek. The water rights for the Gold Springs are numbered 36-02338, 36-02414, 36-02734 and 36-04011 in the records of the Idaho Department of Water Resources (IDWR).

5. I have examined the public records of IDWR regarding these water rights including the SRBA claim files and the 1995 water diversion records. I also examined the public records of the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) for Gold Springs numbered ID-000073-6 in DEQ's records, and observed the facility on October 8 and December 5, 1996.

6. DEQ's records include Discharge Monitoring Reports (DMR's) which are to be submitted on a monthly basis by the operator of a fish raising facility operating under the requirements of a National Pollutant Discharge Eliminating System (NPDES) permit. Among other information, the quantity of discharged water is supposed to be reported on the DMR's for Gold Springs. DEQ's records contain some DMR's for the period 1979 through 1996 for Gold Springs. Figure 1, below, shows the average annual discharge, in cubic feet per second (cfs), based upon the DMR's on file with DEQ for Gold Springs. This figure shows an annual average discharge for Gold Springs of less than 60 cfs for the five year period from 1992 through 1996.

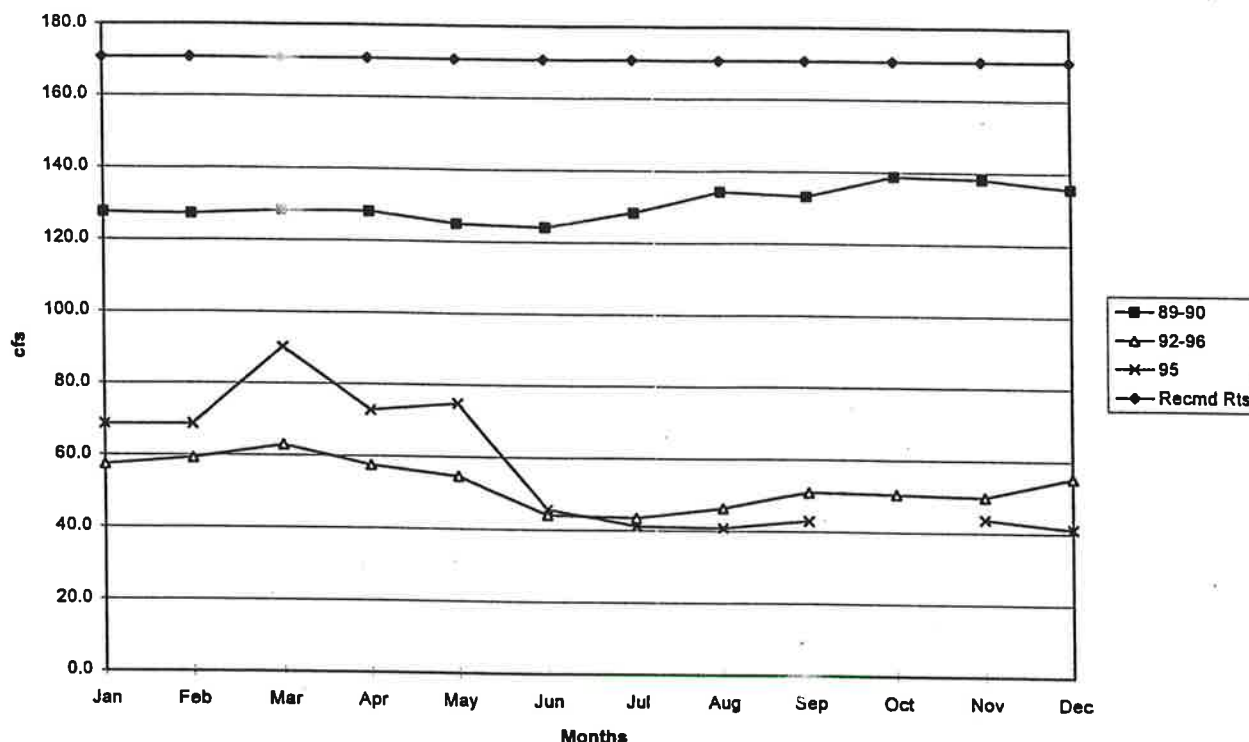
7. The quantity and source of the Aqua Life water rights for Gold Springs are 36-02338 for 54.6 cfs from Big Springs or Fisher Springs, 36-02414 for 4 cfs from Tupper Springs, and 36-02734 and 36-04011 for 100 cfs and 12 cfs, respectively, from Billingsley Creek.

Figure 1
GOLD SPRINGS AVERAGE ANNUAL DISCHARGE



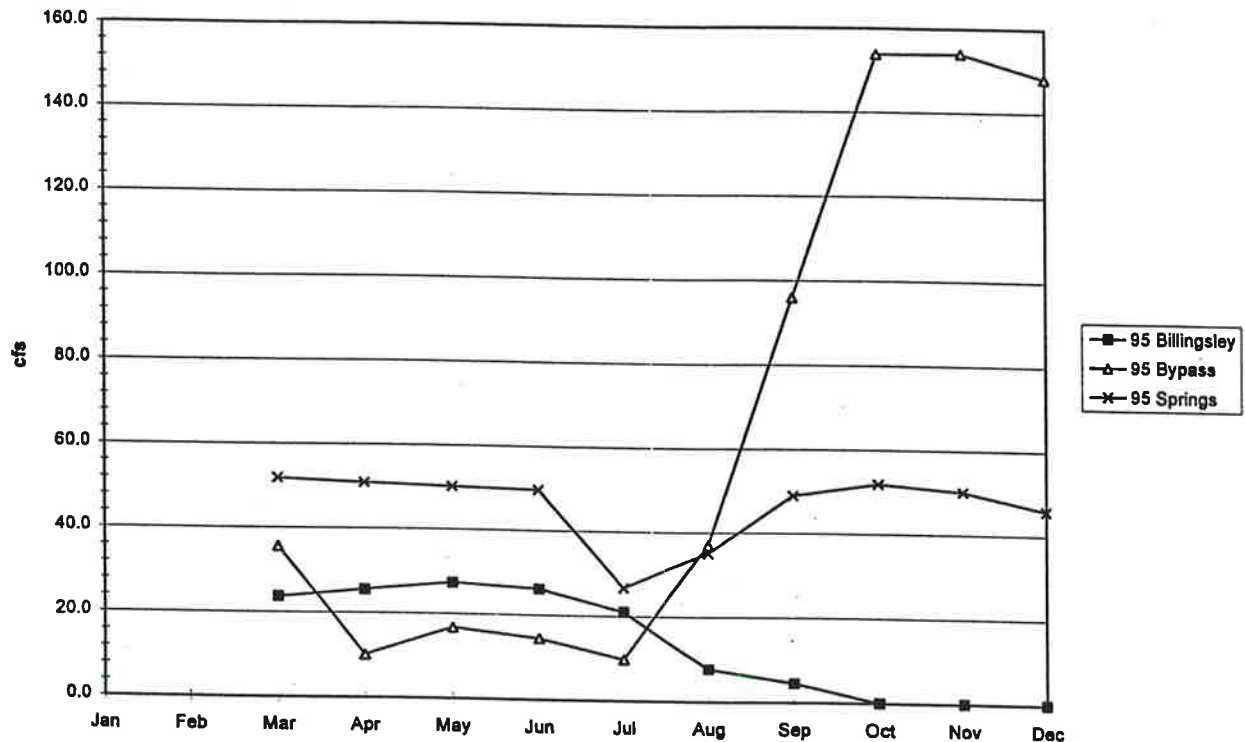
8. The monthly discharge amounts reported on the DMR's for the period 1992 through November 1996 are shown in Figure 2, below, compared to the monthly discharge amounts reported on the DMR's for the 1989 through 1990 period and the amount of the water rights recommended to the SRBA Court by IDWR. In addition, Figure 2 shows the monthly discharge amounts reported on the DMR's for 1995. The DMR's do not provide a readily identifiable means of correlating discharge amounts to the source from which the water is diverted.

Figure 2
GOLD SPRINGS DISCHARGE



9. Figure 3, below, shows the diversion data for 1995 for these water rights as reported to IDWR. These curves show the diversion from Billingsley Creek separate from the diversion from the springs. The bypass amount shown in the figure is the amount of water reported to have bypassed the diversion for water rights 36-02734 and 36-04011 in Billingsley Creek. Figure 3 shows water being bypassed in Billingsley Creek during times when water was not being diverted from Billingsley Creek and also shows that when water was available to satisfy the 112 cfs water rights from Billingsley Creek it was not diverted. The figure also shows the diversion from Billingsley Creek was always less than the diversion from the springs. Diversion data was reported to IDWR for the first time in 1995.

Figure 3
GOLD SPRINGS 1995 DIVERSIONS



10. Figure 2, above, shows that while these water rights have been more fully exercised in the past during the period 1992 through November 1996 the water rights from Billingsley Creek were not fully utilized.

11. I prepared the above figures from the sources of information noted. No water was being diverted from Billingsley Creek by Gold Springs either day that I observed the facility.

Dated this 4 day of February, 1997.


David B. Shaw

SUBSCRIBED and SWORN to before me this 4th day of February, 1997.


NOTARY PUBLIC FOR IDAHO
Residing at: Boise
My Commission Expires: 9/26/2000

I. GENERAL INFORMATION

Please fill in the following information:

1. *Party/Claimant objecting:*

Name: Buckeye Farms, Inc.

**Address: Buckeye Farms, Inc.
18335 U.S. Highway 30
Hagerman, ID 83332**

Phone: Work: (208) 622-4100 Home: _____

Briefly describe your interest in this water right:

Buckeye Farms has water rights from the same source.

2. If this objection is filed by an attorney:

Attorney Name: John K. Simpson

**Attorney Address: Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 1200
P.O. Box 2139
Boise, ID 83701-2139**

Attorney Phone No. (208) 336-0700

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

II. STATEMENT OF THE OBJECTION

Please check each box which states your objection to the recommendation in the Director's Report.

1. ☐ **Name and Address:** I object to the name and/or address of the owner of the water right.
2. ☐ **Source:** I object to the source of water.
3. ☒ **Quantity:** I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ **Priority Date:** I object to the priority date.
5. ☐ **Point(s) of Diversion:** I object to the legal description of the point(s) of diversion.
6. ☐ **Instream Flow:** I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ **Purpose(s) of Use:** I object to the purpose(s) of use.
8. ☐ **Period of Year:** I object to the period of year when water is used or is necessary for the purpose stated.
9. **Place of Use:** I object to:
 - ☐ a. the legal description of the place of use; or
 - ☐ b. the number of irrigated acres within each forty 40-acre subdivision.
10. ☐ **Consumptive Use:** I object to the annual volume of consumptive use.
11. **Water Right Recommendation:** I object to:
 - ☒ a. this water right being recommended at all; or
 - ☐ b. this water right not being recommended.
12. ☐ **Description of Reservation:** I object to the legal description of the reservation.

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

This water has not been beneficially used.

CHANGES TO THE DIRECTOR'S REPORT

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

This claim should be denied.

Note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

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

**Affidavit of David Shaw
Motion To File Late Objection**

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on February 4, 1997, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
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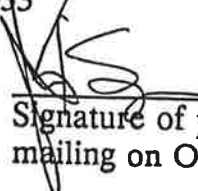
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Buhl, Idaho 83316

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

United States Department of Justice
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550 West Fort Street, MSC 033
Boise, Idaho 83724



Signature of party/claimant or attorney
mailing on Objector's behalf

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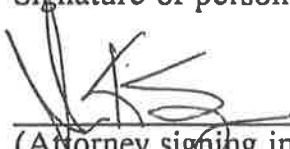
VERIFICATION (Must be Completed)

State of Idaho)
) .ss
County of Ada)

John K. Simpson, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, (as listed on Page 2, Section 1, "Party/Claimant objecting"), as defined by I.C. § 42-1401A(1) and (7), and 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.

Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb. 4, 1997.



NOTARY PUBLIC FOR IDAHO
Residing at: Boise.
My commission expires: 9/26/2000

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
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In Re SRBA

Case No. Case 39576

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) Subcase No. 36-04011
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STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR) or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a **separate form for each** objection and there must be **only one objector** for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

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

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Please fill in the following information:

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Address: Buckeye Farms, Inc.
18335 U.S. Highway 30
Hagerman, ID 83332

Phone: Work: (208) 622-4100 Home: _____

Briefly describe your interest in this water right:

Buckeye Farms has water rights from the same source.

2. If this objection is filed by an attorney:

Attorney Name: John K. Simpson

Attorney Address: Rosholt, Robertson & Tucker
1221 W. Idaho Street, Suite 1200
P.O. Box 2139
Boise, ID 83701-2139

Attorney Phone No. (208) 336-0700

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10. ☐ **Consumptive Use:** I object to the annual volume of consumptive use.
11. **Water Right Recommendation:** I object to:
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12. ☐ **Description of Reservation:** I object to the legal description of the reservation.

2.17.00
13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

This water has not been beneficially used.

CHANGES TO THE DIRECTOR'S REPORT

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

This claim should be denied.

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**Affidavit of David Shaw
Motion To File Late Objection**

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) .ss
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Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb 4, 1997.

Glena Cameron
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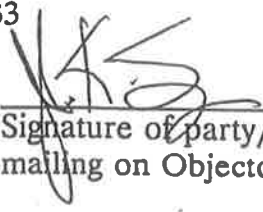
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Signature of party/claimant or attorney
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) ss
County of Ada)

John K. Simpson, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, (as listed on Page 2, Section 1, "Party/Claimant objecting"), as defined by I.C. § 42-1401A(1) and (7), and 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.

Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb 4, 1997.



NOTARY PUBLIC FOR IDAHO

Residing at: Boise

My commission expires: 9/26/2000

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on February 4, 1997, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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

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

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



Signature of party/claimant or attorney
mailing on Objector's behalf

\\wpdata\bucketeye\objection

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. Case 39576

)
) Subcase No. 36-02338
)
)
)
)
)
)

STANDARD FORM 1

OBJECTION

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR) or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number you are objecting to must be indicated above in the blank space following "Subcase." To object to multiple water right recommendations, you must use a **separate form for each objection** and there must be **only one objector** for each form.

You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

Any party physically filing 25 or more objections must contact the Clerk of the SRBA Court no later than 14 days before the filing deadline and arrange an appointment to file multiple objections.

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

13. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

You must state the reason(s), by number, for each box checked. You may use additional pages if necessary.

This water has not been beneficially used.

CHANGES TO THE DIRECTOR'S REPORT

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

This claim should be denied.

Note: You should attach copies of documents which support your objection. Note on each document the "box number" it supports.

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

**Affidavit of David Shaw
Motion To File Late Objection**

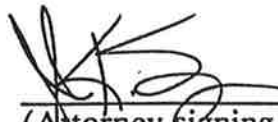
VERIFICATION (Must be Completed)

State of Idaho)
) .ss
County of Ada)

John K. Simpson, duly sworn, upon oath, deposes and says:

That I am the party/claimant filing this objection, (as listed on Page 2, Section 1, "Party/Claimant objecting"), as defined by I.C. § 42-1401A(1) and (7), and 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.

Signature of person filing objection



(Attorney signing in representative capacity)

Subscribed and sworn to before me on Feb. 4, 1997.

Gera Carneal

NOTARY PUBLIC FOR IDAHO
Residing at: Bose
My commission expires: 9/26/2000

INSTRUCTIONS FOR MAILING

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

CERTIFICATE OF MAILING

I hereby certify that on February 4, 1997, I mailed the original and copies of this objection, including all attachments, to the following persons, by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, Idaho 83303-2707

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

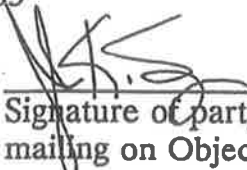
Name: Aqua Life, Inc.
Address: Route 5, Box 5053
Buhl, Idaho 83316

3. Copies to:

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

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

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



Signature of party/claimant or attorney
mailing on Objector's behalf

\\wpdata\bucket\objection

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

MICROFILMED

FEB 0 1 1983

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A36-02734

A36-04011

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 11:36am

NAME:
JOHN SIMPSON @ROSHOLT'S

RE:
CALLED FOR APPT ON AQUALIFE

CAME IN AND WE REVIEWED THE FILES **A36-02734 & A36-04011**. DISCUSSED WHY THE 100 CFS WAS ALLOWED VS. FORFEIT AND IF THERE HAD BEEN NON-USE OF THE FACILITIES OR WATER. INDICATIONS ARE IN THE FILE THIS IS THE CASE. UNCLEAR WHY MORE EVIDENCE TO SHOW THE OWNERSHIP PROBLEMS IS NOT IN THE FILE AS OFFERED BY K. ELLIS. PLAN TO DO ADDITIONAL REVIEW TOMORROW AND COPY FILES FOR JOHN S.

MICROFILMED

DEC 04 1996

INFORMATION REQUEST

NAME: Jo BEEman

DATE: 5/21/96

ADDRESS: _____

CITY/ZIP: BOISE, ID

PHONE: _____

(please print)

I HAVE REQUESTED TO REVIEW AND/OR OBTAIN COPIES OF THE FOLLOWING DOCUMENTS ON FILE WITH THE DEPARTMENT OF WATER RESOURCES.

ADJUDICATION
CLAIM NUMBERS

ALLOCATION WATER
RIGHT NUMBERS

OTHER
DOCUMENTS

36-02414

36-2734

36-04011

36-02338

RESEARCH SUBJECT: ~~Q~~ Aqua Life

COPIES MADE OF: _____

10 COPIES OR LESS: FREE

NUMBER OF COPIES MADE: 262

FEES DUE @ \$0.05 PER COPY: \$13.10

OTHER FEES: _____

RECEIPT NUMBER: _____

ASSISTING AGENT: RL

Jennifer Vansant
(customer signature)

MICROFILME

DEC 04 1996



DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST. EAST
TWIN FALLS, ID 83301-6105

Date *5/2/96*

Name *Rasholt, Robertson, & Tucker*

Address *Twin Falls*

| No. of
Copies | Material | Cost |
|------------------|--|----------------|
| <i>178</i> | <i>Copies of 36-02734 &
36-04011</i> | <i>\$ 8.90</i> |
| | | |
| | | |
| | | |
| | | |
| | | |
| TOTAL | | <i>\$ 8.90</i> |

Please find enclosed the form(s) and/or information you requested. The charge, if any, is indicated above.

If we may be of further assistance, please contact us.

Sincerely,

Lisa L Backlund

MICROFILMED

DEC 04 1996

C. TOM ARKOOSH
116 4th Ave. W.
P.O. Box 32
Gooding, ID 83330
Telephone: 208-934-8872

ATTORNEY FOR AQUA LIFE, INC.

RECEIVED

JAN 30 1996

Department of Water Resources
Adjudication Bureau

RECEIVED

JAN 29 1996

OFFICE OF THE
ATTORNEY GENERAL

A36-02734

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

In RE SRBA

Case No. 39576

NOTICE OF APPEARANCE

PLEASE TAKE NOTICE that the party in the above entitled action, Aqua Life, Inc., hereby makes an appearance by and through its attorney, C. Tom Arkoosh, and hereby requests all further notices and pleadings in the above entitled action be sent to said attorney.

DATED this 26th day of January, 1996.

C. TOM ARKOOSH

NOTICE OF APPEARANCE

-1-

MICROFILMED

DEC 04 1996

COPY

CERTIFICATE OF MAILING

I hereby certify that on the 26th day of January, 1996,
I served a true and correct copy of the foregoing document upon the
following person, by causing to be deposited a copy thereof in the
United States Mail, first class postage prepaid:

Clerk of the District Court
Snake River Basic Adjudication
253 Third Avenue N.
P.O. Box 2707
Twin Falls, ID 83303-2707

Scott Campbell
Elam & Burke
702 W. Idaho, P.O. Box 1539
Boise, ID 83701

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

US Dept. of Justice
Environment and Natural Resource Division
550 W. Fort Street, Box 33
Boise, ID 83724



C. TOM ARKOOSH

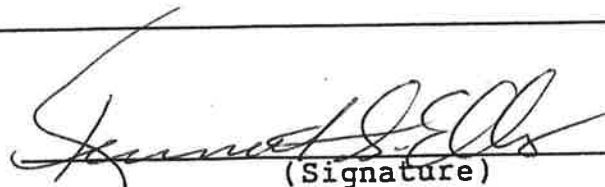
IN THE MATTER OF)
NOTICE OF CLAIM TO)
A WATER RIGHT NO.(S))

AFFIDAVIT

_____)
_____)
_____)
State of Idaho)
County of _____)

_____ being first duly sworn,

deposes and says: I operated a trout facility on the
"Idaho Springs" facility from 1980 thru 1992. During
the years 1980, thru 1985 the single pond (The south-
west Lake was used). After 1985 there was not enough water
to run this Lake in Billingsly creek & run the other lakes
under this claim.


(Signature)

Subscribed and sworn to before me this
day 22nd of October, 1992.

SEAL


(Notary Public)

Residing at Boise, Idaho.

My Commission Expires 12-1-1994.

MICROFILM
FEB 01 1993

MEMO TO FILE

FROM: HELEN HARRINGTON-THORNTON

DATE: 10-22-92

RE: AFFIDAVIT FROM KEN ELLIS

The attached affidavit was submitted by Ken Ellis of Aqualife Inc., to support the non-use of the "southwest pond". His contention is that the pond has not been used due to low water and if the water had been available, the pond would have been used.

He was in the office and is aware that no changes will be made to the recommendation at this time.

MICROFILMED

FEB 01 1993

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

Please type or print clearly, fill out completely, and return to:

**Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720-9000**

SEP 24 1992

Department of Water Resources
Southern Region Office

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

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

1. Water right number: 36-02734
2. Name: Aqua Life Corp
Address: Rt 5 Box 5053
Buhl, Id 83316
Weekday Telephone Number: 543-4312

* This was sent
To wrong Co +
wrong address
MICROFILMED
FEB 01 1993

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

(Instead of filling in items 3 and 4 below you may include a copy of your proposed recommendation with the changes marked on the copy.)

3. Describe the portion of proposed recommendation with which you disagree:
I agree with flow approval, but disagree with the remarks.
4. Describe the changes you wish to have made in the proposed recommendation:
I would change the remarks to delete the limits of flow at diversion to 112 CFS. To at least 150 CFS.
5. Describe why you disagree with the proposed recommendation:
There is no basis to limit this claim to 112 CFS combined with water right No. 36-04011
6. Date: *9-23-92*

SIGNATURE *Aqualite Corp by J. J. Ellis*

RESPONSE TO NOTICE OF ERROR
IN THE SNAKE RIVER BASIN ADJUDICATION

Water Right No: 36-02734² & 36-04011 Contact Date: 9/30/92

IDWR Contact Person: (print and initial) ROBERT WORSTELL

Claimant Contact Person Ken Ellis

Others Present —

Contact By (give date) 10/21/92

Meeting (location): —

Phone Call (no.) 543-4312 ✓

Letter (attach letter): —

IDWR USE ONLY

Date Initials

Date Entered 9/30/92 R.V.W.

Verified 9/30/92 R.V.W.

I. Issues identified by claimant: He disagrees with the remarks limiting the flow to 112 cfs. Should be at least 150 cfs. He also said the notice of error was mailed to the wrong address which delayed his receiving it until 9/23/92.

II. Reasons provided claimant for original recommendation: This claim is recommended for 100 cfs and claim 36-04011 is recommended for 12 cfs. It was claimed at 50 cfs, reduced to 22.7 cfs (the measured flow from the spring) and further reduced to 12.0 cfs because one of the ponds (the SW Lake) was not being used since 1987.

III. Additional information provided by claimant: He said the south west lake could not be used because the flow of the springs has dropped and his system is such that if he operated this pond it would decrease the flow into his main ponds & raceways. He also said he has submitted change of ownership forms for his claims. He will resume use of the south west Lake when spring flow increases.

IV. Changes to be made in final recommendation (if any): none.
If evidence is provided to show that the
South West Lake has been used for fish
propagation between 1987 and 1991 the diversion
rate for 36-04011 may be restored to 22.7 cfs,

V. Action taken (date): Sent change of ownership form 1 1993
Reset Notice of Error Flag and re-verify the R record

He expects to file notice of Objection with the court 9/30/92

Water Right Number - R36-02734 Prefix Translation: RESEARCH Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO

1 - PO BOX 712
2 -
3 -
City- BUHL State- ID Zip- 83316
Phone - 208-543-4316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 19 NE NW NW 1 (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 100.000

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use - FISH PROPAGATION/ TROUT FISH PONDS

+ - - Other Rights for Same Use - 36-04011

+ - - - - Remarks - - - - - +
FACILITY VOLUME 301,000 CUBIC FEET.
USE OF THIS RIGHT WITH RIGHT NO. 36-04011 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 112.0 CFS AND A TOTAL FACILITY
VOLUME OF 301,000 CUBIC FEET.

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers Found

MICROFILMED
FEB 01 1993

Water right number - R36-02734

Prefix Translation: RESEARCH

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

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

+ - - - - Comments - - - - -

Date: 05/19/1992 User Id: THORNTON Subject: COPIED FROM REMARKS
WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

Date: 05/19/1992 User Id: THORNTON Subject: POSSIBLE OWNERSHIP CHANGE
THIS RIGHT MAY BE OWNED BY KEN ELLIS/AQUALIFE. HOWEVER, AFTER REPEATED WRITTEN AND ORAL CONTACT, I HAVE NOT BEEN ABLE TO
OBTAIN ANY DOCUMENTATION OF THIS.

Date: 09/24/1992 User Id: MERRITT Subject: NOTICE OF ERROR RECEIVED
ELLIS CONTACTED BY PHONE (9/30/92). NO CHANGE IN RECOMMENDED CLAIM. 10/2/92 RVW & ADM

+ - - Audit Fields - - +
10/02/92 WORSTELL

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 10/02/1992 | Old Judicial District | - |
| Claim Received Date | - 09/01/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S002014 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - | Presumption Flag | - |
| | | | | Notice of Error Flag | - B |

MICROFILMED

FEB 0 1 1993



**CLEAR
SPRINGS
FOODS™**

CLEAR SPRINGS FOODS, INC.
Corporate Office P.O. Box 712, Buhl, Idaho 83316

RECEIVED

Phone 208 543-4316
Sales 800 635-8211
Fax 208 543-5608

SEP 24 1992

Department of Water Resources
Southern Region Office

September 22, 1992

Mr. Kenneth Ellis
1128 East 4150 North
Buhl, Idaho 83316

Re: NOTICE OF ERROR FORMS

Dear Mr. Ellis:

The enclosed forms, referenced above, were recently delivered to Clear Springs Foods in error.

It is my understanding that these NOTICE OF ERROR FORMS correspond to water right permits, under your control, at the Idaho Springs Farm.

Sincerely,

CLEAR SPRINGS FOODS, INC.

Tim Hanifen
Vice President, Operations

TJH/th

MICROFILMED
FEB 01 1993

Water Right Number - R36-02734

Prefix Translation: RESEARCH

Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
AQUA LIFE INC

1 - RT 5 BOX 5053

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4312

*** O - ORIGINAL OWNER ***
CLEAR SPRINGS TROUT CO

1 - PO BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
10/05/1965 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 19 NE NW NW 1 (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 100.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
07S 14E 18 SW SW 4 19 FISH PROPAGATION (47) GOODING
07S 14E 19 NW NW 1 19 FISH PROPAGATION (47) GOODING

Total Acres:

+ - - Diversion Means - CHECK DAM & DITCH TO RACEWAYS

+ - - Non-Irrigation Use - FISH PROPAGATION/ TROUT FISH PONDS

+ - - Other Rights for Same Use - 36-04011

+ - - - - Remarks - - - - - +
FACILITY VOLUME 301,000 CUBIC FEET.
USE OF THIS RIGHT WITH RIGHT NO. 36-04011 IS LIMITED TO AMICROFILMED
FEB 01 1993

Water right number - R36-02734

Prefix Translation: RESEARCH

+ - - - - - Remarks - - - - - +
TOTAL COMBINED DIVERSION RATE OF 112.0 CFS AND A TOTAL FACILITY
VOLUME OF 301,000 CUBIC FEET.

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers Found

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

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

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

Date: 05/19/1992 User Id: THORNTON Subject: COPIED FROM REMARKS

WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

Date: 05/19/1992 User Id: THORNTON Subject: POSSIBLE OWNERSHIP CHANGE

THIS RIGHT MAY BE OWNED BY KEN ELLIS/AQUALIFE. HOWEVER, AFTER REPEATED WRITTEN AND ORAL CONTACT, I HAVE NOT BEEN ABLE TO
OBTAIN ANY DOCUMENTATION OF THIS.

Date: 09/24/1992 User Id: MERRITT Subject: NOTICE OF ERROR RECEIVED

ELLIS CONTACTED BY PHONE (9/30/92). NO CHANGE IN RECOMMENDED CLAIM. 10/2/92 RVW & ADM

Date: 10/22/1992 User Id: ROBERTSO Subject: OWNERSHIP CHANGE

Change of ownership form received 10/22/92, original owners Clear Springs Trout Co-new owners Aqua Life Inc. Copy of deed submitted
with form. A36-02734 also changed on this date.

+ - - Audit Fields - - +
10/22/92 ROBERTSO

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 10/22/1992 | Old Judicial District | - |
| Claim Received Date | - 09/01/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S002014 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - | Presumption Flag | - |
| | | | | Notice of Error Flag | - B |

MICROFILMED
FEB 01 1993

Water Right Number - R36-02734 Prefix Translation: RESEARCH

Old (D) Number - 32600

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

*** C - CURRENT OWNER ***
CLEAR SPRINGS TROUT CO.1 - P.O. BOX 712
2 -
3 -
City- BUHL
Phone - 208-543-4316

State- ID Zip- 83316

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
10/05/1965 17 SOUTHERN L - LICENSE+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
BILLINGSLEY CREEK SNAKE RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County
07S 14E 19 NE NW NW 1 (47) GOODING+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 100.000+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
100.000 0.0+ - - - - Place of Use - - - - - +
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+ - - Non-Irrigation Use - FISH PROPAGATION/ TROUT FISH PONDS

+ - - Other Rights for Same Use - 36-04011

+ - - - - Remarks - - - - - +
FACILITY VOLUME 301,000 CUBIC FEET.
USE OF THIS RIGHT WITH RIGHT NO. 36-04011 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 112.0 CFS AND A TOTAL FACILITY
VOLUME OF 301,000 CUBIC FEET.+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers FoundMICROFILMED
FEB 0 1 1993

Water right number - R36-02734

Prefix Translation: RESEARCH

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

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

+ - - - - Comments - - - - -

Date: 05/19/1992 User Id: THORNTON Subject: COPIED FROM REMARKS
WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS. BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE. FACILITY VOLUME IS UNKNOWN.

Date: 05/19/1992 User Id: THORNTON Subject: POSSIBLE OWNERSHIP CHANGE
THIS RIGHT MAY BE OWNED BY KEN ELLIS/AQUALIFE. HOWEVER, AFTER REPEATED WRITTEN AND ORAL CONTACT, I HAVE NOT BEEN ABLE TO
OBTAIN ANY DOCUMENTATION OF THIS.

+ - - Audit Fields - - +
06/12/92 MERRITT

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 06/12/1992 | Old Judicial District | - |
| Claim Received Date | - 09/01/1988 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - S002014 | Water District | - 36A |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - | Presumption Flag | - |
| | | | | Notice of Error Flag | - |

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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

CECIL D. ANDRUS
GOVERNOR

March 24, 1992

R. KEITH HIGGINSON
DIRECTOR

Ken Ellis
AquaLife, Inc.
Rt. 5, Box 5053
Buhl, ID 83316

RE: Snake River Basin Adjudication (SRBA)
Gooding County - A36-04014

Dear Mr. Ellis:

I have yet to receive any additional information from you regarding the review of SRBA Claim A36-04014 which we discussed on the phone several weeks ago.

As you may recall, I told you that I have a copy of a lease dated 1954 describing the leasing of a water right for fish propagation. I sent you a copy of that lease on February 28; if you did not receive it, please let me know. You mentioned that there was a new lease that clarified any question of ownership of the water right.

If you have a new lease, or any other information pertinent to my review of the water rights from the springs above the Fisher property, please forward the documents to me to allow completion of my review. Please submit the information by April 3, 1992. If you have any questions or would like to discuss this subject further, please do not hesitate to contact me at 327-7935.

Additionally, I am still awaiting receipt of change of ownership forms for SRBA claims A36-02734 and A36-04011 as well as the claim mentioned above.

If I do not receive any additional information, I will complete my review with the information I have available.

Sincerely,

Helen Harrington Thornton

Helen Harrington Thornton
Sr. Water Resource Agent
Adjudication Bureau

HT:sf:ht:state:tf

4/3/92 - Mr. Ellis called on 4/3 to discuss these issues. He has obtained copies of assignments, but agrees that the lease does lose the water right. He will be giving me the paperwork (I think). He has all the assignments which show his ownership of all the fish development from Clear Springs and will also get it to me.

He was in court w/ Endmont/Thousand Springs and won the case. - all ownership documentation should be in order.

He believes there may be changes in the ponds and is concerned about whether new rights have been developed. He has a map that accurately shows all ponds & dimensions - will give me.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:11:23
03/14/91

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-02734

| WR ELEMENT | FIELD EXAM
Y/N | CORRESPONDENCE
SENT/RECEIVED
BY WHOM/DATE | FIELD EXAM
BY WHOM/DATE | CHANGE
CLAIM
Y/N | VERIFIED BY
CODE | COMPLETED
REVIEW
WHOM/DATE | COMPLETED
DATA ENTRY
WHOM/DATE | VERIFIED
DATE
WHOM/DATE |
|---------------------------|-------------------|---|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE | N | | | N | | HHT
5/19/92 | HHT
5/19/92 | HHT
5/19/92 |
| POINT OF DIV | Y | | | N | 6 HHT | S | S | S |
| SOURCE | N | | | N | | | | |
| PLACE OF USE | X N | | | N | | | | |
| DIV. AMOUNT
CFS/VOLUME | Y | | | N | | | | |
| CONSUMPTIVE USE | - | | | N | | | | |
| PURPOSES | X N | | | X N | | | | |
| PERIOD OF USE | X N | | | N | | | | |
| BASIS OF CLAIM | N | | | N | | | | |
| REMARKS | Y | | | Y | 6 See Below | | | |

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

Remarks

E07 36-04011 122.7 cfs

D06 Facility volume: ~~309,600 AF~~ 6.9 AF

FEB 01 1993

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

14:11:23
03/14/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-02734

LAST: CLEAR SPRINGS TROUT CO.
ADDRESS: P.O. BOX 712
CITY: BUHL
PHONE NUMBER: 208-543-4316

FIRST:
STATE: ID ZIP: 83316

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: WE PURCHASED THIS FACILITY IN 1981, BUT HAVE NOT TAKEN POSSESSION
OF THE PROPERTY DUE TO ONGOING LITIGATION. WE HAVE NOT BEEN AL-
LOWED ON THE PROPERTY, BUT ARE THE LEGAL OWNERS.
BILLINGSLEY CR. NO LONGER PROVIDES DOMESTIC WATER HERE, AS IT IS
NO LONGER DRINKABLE.
FACILITY VOLUME IS UNKNOWN.

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 / REMARKS:

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FEB 0 1 1991

A. AJ CLAIM: # A36-02734 PRIORITY DATE: 10-05-1965 STAGE: L

B. WR RECORD: # 36-02734 PRIORITY DATE: 10-05-1965 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
10-05-1965

REVIEWED BY ms

DATE

5/24/91

=====

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FEB 01 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|-----------|------|------|------|-----|-----|-----|-----|---------|
| A36-02734 | 07S | 14E | 19 | NE | NW | NW | 1 | GOODING |

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A36-04011 NONE

WR RECORDS IN SAME 40 ACRE TRACT
36-04011

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|----------|------|------|------|-----|-----|-----|-----|---------|
| 36-02734 | 07S | 14E | 19 | | NW | NW | 1 | GOODING |

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-04011

A36-04011 NONE

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

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

REMARKS:

Based on knowledge of area and system, Y/D is correct.

RECORDED
FEB 01 1993

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

| TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | COUNTY |
|------------|------------|-----------|-----------|-----------|-----------|-----------|----------------|
| <u>07S</u> | <u>14E</u> | <u>19</u> | <u>NE</u> | <u>NW</u> | <u>NW</u> | <u>01</u> | <u>Gooding</u> |

SOURCE: BILLINGSLEY CREEK

TRIB: SNAKE RIVER

REVIEWED BY: Helen Thomsen DATE: 2/21/92

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FEB 01 1993

A. ROOT WATER RIGHT NUMBERS: A36-02734

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 | CLEAR SPRINGS TROUT CO. | A36-02734 / | - / | 10.0 | | |
| | | | SW | SW | 4 | FISHER , OPAL HOLMES | A36-10842 /20.0 | - / | | | |
| | | | SW | SW | 4 | CLEAR SPRINGS TROUT CO. | A36-04011 / | 36-04011 / | | | |
| | | | SW | SW | 4 | TUPPER , ROBERT E. | A36-04073 / 4.0 | 36-04073 / 4.0 | | | |
| | | | SW | SW | 4 | FISHER , OPAL HOLMES | A36-02338 / | - / | | | |
| | | | SW | SW | 4 | AQUA LIFE CORP. | A36-02414 / | 36-02414 / | | | |
| | | | SW | SW | 4 | AQUA LIFE CORP. | R36-02414 / | - / | | | |
| | | | SW | SW | 4 | TUPPER , ROBERT E. | A36-07841 / | 36-07841 / | | | |
| | | | SW | SW | 4 | CLEAR SPRINGS TROUT CO. | A36-04014 / | 36-04014 / | | | |
| | | | SW | SW | 4 | FISHER , OPAL HOLMES | R36-02338 / | - / | | | |
| | | | SW | SW | 4 | TUPPER , ROBERT E. | R36-07841 / | - / | | | |
| | | | SW | SW | 4 | TUPPER , W. G. | | 36-00115 / | | | |
| | | | SW | SW | | IDAHO SPRINGS TROUT CO. | | 36-02734 / | | | |
| 07S | 14E | 19 | NW | NW | 1 | CLEAR SPRINGS TROUT CO. | A36-02734 / | - / | 29.0 | | |
| | | | NW | NW | | BUCKEYE LAND CO. | A36-00046 /20.0 | - / | | | |
| | | | NW | NW | 1 | CLEAR SPRINGS TROUT CO. | A36-04011 / | 36-04011 / | | | |
| | | | NW | NW | 1 | BUCKEYE LAND CO. | R36-00046 /15.0 | - / | | | |
| | | | NW | NW | 1 | TUPPER , W. G. | | 36-00114 / | | | |
| | | | NW | NW | | TUPPER , W. G. | | 36-02042 / 5.0 | | | |
| | | | NW | NW | | IDAHO SPRINGS TROUT CO. | | 36-02734 / | | | |
| TOTAL ACRES | | | | | | | A36-02734 | | 39.00 | | |

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

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER
N

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PRESUMPTION FLAG:

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES: 0

REVIEWED BY: ms

DATE: 5/28/91

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A. AJ CLAIMED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A36-02734 FISH PROPAGATION | FROM 01-01 TO 12-31 | 100.000 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | 100.000 CFS |

B. WR RECORDED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|-----------|--------------------|
| 36-02734 DOMESTIC | FROM TO | 100.000 CFS |
| 36-02734 FISH PROPAGATION | FROM TO | 100.000 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | 100.000 CFS |

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y(X) N() Explain in remarks, below.

REMARKS:

Claimant stated in Remarks of claim that Billingsley Creek no longer provides domestic water - do not ~~use~~ recommend for domestic use.

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A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(X) N()

AJ TOTAL CLAIMED DIVERSION RATE: 100.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 100.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

Y

N

B.

FLOW MEASUREMENT

N/A

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: A36-04011, A36-04014

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

| CLAIM | SOURCE | NAME | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|-----------|---------------|----------------------|-----------|----------------|-----------|----------------|
| A36-10842 | SPRING | FISHER , OPAL HOLMES | 0.480 | 0.024 | | |
| A36-00046 | THREE SPRINGS | BUCKEYE LAND CO. | 5.700 | 0.016 | 2907.00 | 8.35 |
| R36-00046 | THREE SPRINGS | BUCKEYE LAND CO. | 5.700 | 0.018 | 1212.00 | 3.97 |

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

| CLAIM NO. | PURPOSES | NAME | MONTH/DAY | RATE | VOLUME |
|-----------|------------------|-------------------------|---------------------|-------------|--------|
| A36-02734 | FISH PROPAGATION | CLEAR SPRINGS TROUT CO. | FROM 01-01 TO 12-31 | 100.000 CFS | |
| A36-10842 | DOMESTIC | FISHER , OPAL HOLMES | FROM 01-01 TO 12-31 | .080 CFS | |
| A36-04011 | FISH PROPAGATION | CLEAR SPRINGS TROUT CO. | FROM 01-01 TO 12-31 | 50.000 CFS | |
| A36-02338 | FISH PROPAGATION | FISHER , OPAL HOLMES | FROM 01-01 TO 12-31 | 54.680 CFS | |
| A36-02414 | FISH PROPAGATION | AQUA LIFE CORP. | FROM 01-01 TO 12-31 | 4.000 CFS | |
| R36-02414 | FISH PROPAGATION | AQUA LIFE CORP. | FROM 01-01 TO 12-31 | 4.000 CFS | |
| A36-07841 | FISH PROPAGATION | TUPPER , ROBERT E. | FROM 01-01 TO 12-31 | 1.000 CFS | |
| A36-04014 | FISH PROPAGATION | CLEAR SPRINGS TROUT CO. | FROM 01-01 TO 12-31 | 65.000 CFS | |
| R36-02338 | FISH PROPAGATION | FISHER , OPAL HOLMES | FROM 01-01 TO 12-31 | 54.680 CFS | |
| R36-07841 | FISH PROPAGATION | TUPPER , ROBERT E. | FROM 01-01 TO 12-31 | 1.000 CFS | |

RECORDED
FEB 01 1993

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

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

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

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

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

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

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

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

1b. CALCULATIONS

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FEB 01 1993

RECOMMENDATIONS:

| REC.
PURPOSES | REC. PERIOD
FROM TO | REC. DIV
RATE CFS | | REC. DIV
VOL. AF/A | | REC. CONS.
USE | |
|-------------------------|------------------------|----------------------|---------------|-----------------------|----------|-------------------|----------|
| | | DATABASE | EXAMINER | DATABASE | EXAMINER | DATABASE | EXAMINER |
| <u>Fish Propagation</u> | <u>01-01 12-31</u> | | <u>100.00</u> | | | | |
| TOTAL FOR THIS RIGHT | | | <u>100.00</u> | | | | |

REVIEWED BY: Allen Thornton

DATE: 2/29/92

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FEB 01 1993

If consumptive use required:

Surface area of 3 ponds:

| | | |
|--------------------|---------|---------|
| SW Lake | 15,000 | Sq. Ft. |
| W Lake | 46,200 | Sq. Ft. |
| E Lake | 42,000 | Sq. Ft. |
| <hr/> | | |
| Total Surface Area | 103,200 | Sq. Ft. |

Facility volume:

| | |
|---------|---------|
| SW Lake | 45,000 |
| W Lake | 138,600 |
| E Lake | 126,000 |
| <hr/> | |

Total Volume 309,600 ^{cft} ~~AF~~

See attached DEQ documents - current facility volume = 301,000 ft³
= 6.9 AF

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED
()
()
()

NEEDS
REVIEW
()
()
()

Unable to obtain documents

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-02734

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
100.000

EXAMINER
100.00

CFS

SPLITS:

| OLD RIGHT
NUMBERS | CURRENT
CLAIM NUMBERS | DIVERSION
RATE | CURRENT "R"
CLAIM NUM. | "R" DIV.
RATE | WR RIGHT
NUMBERS | DIVERSION
RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| - | A36-02734 | 100.000 | - | | 36-02734 | 100.000 |
| TOTAL CFS | | 100.000 | | | | 100.000 |

DIVERSION RATE REVIEW

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

DATABASE
Y

FIELD
EXAMINER
Y

REMARKS:

AUTHENTICATION:

SIGNATURE: *Debra Thornton*

DATE: 5/19/92

NAME OF FIELD EXAMINER: *Debra Thornton*

TITLE: *sr wtr Res Agent*

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FEB 01 1993

BILLINGSLEY CREEK DIVERSION

Billingsley Creek

According to Jack Kelly, P.E. (1971)
measured diversion was as shown below:
Total diversion is
122.7 cfs.

HHT 2/20/92
file review.

Discharge

West Lake

East Lake

Discharge

Southwest
Lake

Concrete dam and spillway

Intake

Billingsley Creek

Intake

PD

112.0 cfs

PD

10.7 cfs

Not used.

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FEB 01 1993

Exhibit B

36 4011

Scale: 1 inch = 100 feet

BILLINGSLEY CREEK DIVERSION

POND DESCRIPTION

The first diversion of water from Billingsley Creek by Idaho Springs Trout Farm took place on December 1, 1965. The diversion has been made continuously since this time. The water is used as follows:

1. Southwest Lake.

This unit is 300 feet by 50 feet and averages three feet in depth providing 45,000 cubic feet of volume. The pond has been operated successfully by utilizing 15 to 20 cubic feet per second and 1.3 to 1.6 water exchanges per hour. It holds a maximum of 50,000 pounds of fish.

2. West Lake.

This unit is 330 feet by 140 feet and averages three feet in depth providing 138,600 cubic feet of volume. The pond has been operated using 20 to 55 cubic feet per second depending on the time of year and fish density. Water exchange rate varies from less than 1 to 1.4 per hour. The unit has held a maximum of 120,000 pounds of trout.

3. East Lake.

This unit is 300 feet by 140 feet and averages three feet in depth providing 126,000 cubic feet in volume. The pond has been operated with 15 to 45 cubic feet per second depending on varying factors. Water exchange rate varies from less than 1 to 1.3 per hour. This unit holds a maximum of 110,000 pounds of fish.

36 4011

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FEB 0 1 1993

Exhibit B

WATER REQUIREMENTS AND TROUT PRODUCTION

The three units described utilize 50 to 120 cubic feet per second of Billingsley Creek water. Water requirements vary widely in these units due to fluctuating water temperatures and varying water quality (turbidity from upstream activity). Since water temperatures may approach 70° F., adequate oxygen content must be maintained by providing a relatively high volume of flow. Water chemistry has been periodically sampled to ensure adequate conditions for trout rearing. Production of trout has averaged 350,000 pounds per year since 1966.

36 4011

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FEB 01 1993

Exhibit B

HARRY POVEY

ATTORNEY AT LAW

115 2ND STREET WEST
TWIN FALLS, IDAHO

TELEPHONE 733-3181

RECEIVED
MAY 22 1962

Department of Reclamation

May 21, 1962

Mr. George N. Carter
State Reclamation Engineer
Capitol Building,
Boise, Idaho.

Attention Roy W. Thompson.

Dear George:

I represent Idaho Springs Trout Co. which operates trout hatcheries in a portion of Sections 18 and 19, Township 7 South, Range 14 E.B.M. Mr. Thompson wrote me April 16, 1962 advising that the estimated flow of Billingsley Creek through these sections was 100 cubic feet per second during the spring and summer months with diversion taken out above, and 150 cubic feet per second during the winter months.

Idaho Springs Trout Company desires to straighten the channel of Billingsley Creek where it flows through the property they operate and to put in additional fish tanks and utilize all of the water of Billingsley Creek through their hatcheries and return it into the natural channel a short distance downstream.

After a survey has been made I expect to file an application for permit along the above lines. I have some hazy recollection that your office will not grant a permit covering the complete flow of a stream without describing the exact number of cubic feet per second. As the proposed construction will eliminate the old channel there would be no place for water in excess of the amount covered by the permit to go. Under these circumstances I will appreciate your advice and suggestions as to whether it would not be advisable to make application for 150 feet as that seems to be about the maximum during the year.

Thanking you for an early reply and with kindest regards to you both, I remain,

Very truly yours,



HP/p
cc: Robert A. Erkins

MICROFILMED

FEB 01 1963

32600

HARRY POVEY

ATTORNEY AT LAW

115 2ND STREET WEST
TWIN FALLS, IDAHO

TELEPHONE 733-3181

September 13, 1965

RECEIVED
SEP 14 1965

P. O. Box 344

Mr. Carl E. Tappan,
State Reclamation Engineer
Capitol Building,
Boise, Idaho.

Department of Reclamation

In re Idaho Springs Trout Company

Dear Mr. Tappan:

Enclosed herewith please find application of Idaho Springs Trout Company for permit to appropriate 150 second feet of the waters of Billingsley Creek in Gooding County, together with map in duplicate prepared and certified by Charles W. Glasby, Engineer.

I had some correspondence with your office in May, 1962 concerning the flow of Billingsley Creek and I herewith enclose copy of letter of Mr. Thomas dated May 22, 1962.

Will you please send me the necessary notice for publication and I will have the same published in the Gooding Leader.

Check for \$42.25 is herewith enclosed to cover filing fees.

Trusting you will find this application in order and with kind regards, I remain,

Very truly yours,

Harry Povey

HP/p
Encs.

MICROFILMED
FEB 01 1995

32600

R PROOF

CVR

MAPS

PHOTOS

MISC

MICROFILMED
FEB 01 1993

ROBERT E. SMYLIE
Governor



GEO. N. CARTER
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE

May 22, 1962

RECEIVED
SEP 14 1965

Department of Reclamation

RE: Application for Permit
Idaho Springs Trout Company

Harry Povey
Attorney at Law
115 2nd St West
Twin Falls, Idaho

Dear Mr. Povey:

Your letter of May 21 in regard to a proposed application for a permit to use all of the water of Billingsley Creek for trout production has been received.

It is necessary to apply for a definite amount of water. The amount of water reported by Mr. Thompson was taken from a few random measurements made by the U. S. Geological Survey. It is possible that the minimum flow will be below 100 c.f.s. and probable that the maximum flow will be over 150 c.f.s. We believe that an application for 150 c.f.s. would be acceptable.

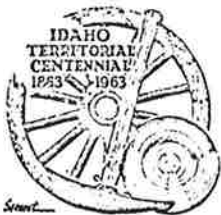
Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

Ralph W. Thomas

Ralph W. Thomas
Deputy State Reclamation Engineer

RWT:mr



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FEB 01 1993

32600

Sept. 14, 1965

Re: Application for Permit
Idaho Springs Trout Co.

Harry Povey
Attorney at Law
P. O. Box 344
Twin Falls, Idaho

Dear Mr. Povey:

Returned herewith is the application for permit with attached check for \$42.25 filing fee. Also enclosed is copy of Regulations and Instructions.

Page 2 of the Regulations requires that the point of diversion shall be tied to a government survey corner by bearing and distance. The distances given in the application do not agree with the map. Location of point of diversion (A) is in error.

Comparing sizes of the old fish ponds and the proposed fish ponds, the amount of water claimed appears to be excessive.

Page 3 of the application could be eliminated by interlining in the double spaced form.

Kindly correct and return for processing.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew

Enc. application with attached check
Regulations and Instructions

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FEB 01 1965

22600

Sept. 22, 1965

Re: Application for Permit
Idaho Springs Trout Co.

Harry Povey
Attorney at Law
P. O. Box 344
Twin Falls, Idaho

Dear Mr. Povey:

Returned herewith is the application for permit claiming 150 c.f.s. of water from Billingsley Creek. Also enclosed is a supply of Form 1 you requested.

I still think the amount of water claimed is excessive.

A report in our office shows the average trout farm in your area uses one c.f.s. of water for each 10,000 pounds of trout per year. You show 250,000 pounds annual production in your letter of September 21st.

It is true we would approve an application for permit for 150 c.f.s. if that amount would be used beneficially, however it seems the proposed use does not require such an amount of water. You know that the statutes and court cases require that the water be used beneficially.

Approval of your application would effectively close Upper Billingsley Creek for all future diversions until the water license could be issued.

Reduce the amount of water claimed to a reasonable amount or show proof why the amount claimed is necessary when you return the application with the proper filing fee.

Very truly yours,

RALPH W. THOMAS, Deputy
State Reclamation Engineer

RT:ew
Enc. application

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IDAHO SPRINGS TROUT CO., INC.

P. O. Box 65

Buhl, Idaho

October 1, 1965

Mr. Ralph W. Thomas, Deputy
State Reclamation Engineer
107 State House
Boise, Idaho 83701

Dear Mr. Thomas:

The Idaho Springs Trout Company is applying for a large amount of water from Billingsley Creek for the purpose of operating an addition to our present trout farm, located in the Hagerman Valley.

The area covered by this trout farm addition will be larger than our present farm operation although production will probably not be as great. The purpose of this addition is to produce large fish (11½ inches and larger) and we feel to do this that we need both a large area of water and a large quantity of water flowing through that area to achieve our purposes.

We have experimented with trout production in the Billingsley Creek water for the past year, and find the growth to be excellent if the fish are not overly crowded. The reason for this is that Billingsley Creek picks up a fair amount of sediment and a high algae content, the latter of which drops the oxygen content of the water during the dark hours to a low of approximately seven parts per million about 4:00 in the morning. During the daylight hours, the oxygen seems to hold at nine parts per million. Since trout do not do well with lower oxygen content in the water unless there is ample water available for them, we desire to use as much flow of the stream as possible. This increased oxygen in the increased flow available to each fish will reduce the possibility of disease, while at the same time increasing the probability of growth rate.

Also, this stream is subject to runoffs of farm water upstream which carries a high content of silt at certain times, and when this happens the added flow of water will help the trout in the ponds.

The additional flow of water will also mean that we can obtain a steady movement of water throughout the entire length of these extremely long ponds, and thereby make the bottom end of the pond as productive as the upper end of the pond. Because the terrain in the valley is extremely flat, there is little opportunity to obtain any drop from one pond to the next in the event that these ponds were shortened up, so we have therefore planned on very long raceways. We do, however, anticipate placing pipe lines so that fresh water from the stream does enter the raceways, not only at the head, but about at the mid point of the raceway also.

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Mr. Ralph W. Thomas
Page Two
October 1, 1965

If you have any particular questions about this request for water, please let either Mr. Harry Povey or myself know. The bulk of the water in Billingsley Creek that we are requesting rises immediately above the hatchery in an area of small ravines. We feel that there is little or no opportunity of anyone using this water above us due to the extremely costly problem of having to pump it up on to adjacent lands which already are supplied with an ample amount of water for irrigation purposes and have been since the early 1900s.

Very truly yours,



Robert A. Erkins
President

RAE:mb

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32600

HARRY POVEY

ATTORNEY AT LAW

115 2ND STREET WEST
TWIN FALLS, IDAHO

TELEPHONE 733-3181

P. O. Box 344

October 4, 1965

Mr. Ralph W. Thomas
Deputy State Reclamation Engineer
Department of Reclamation
107 State House
Boise, Idaho.

In re Idaho Springs Trout Co.

Dear Mr. Thomas:

In accordance with the telephone conversation Mr. Erkins and I had with you recently the application for permit has been amended to reduce the amount of water applied for from 150 cubic feet per second to 100 cubic feet per second.

Enclosed herewith please find application for permit, maps in duplicate and check of Idaho Springs Trout Company for \$29.75 to cover your fees.

Also in accordance with your suggestion I am enclosing herewith letter of Mr. Robert A. Erkins containing his reasons for requiring such a large amount of water, and trust this will justify your approval of the application.

Very truly yours,

Harry Povey

HP/p

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