

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 436-04032B
Date Received 9-01-88
Receipt Number 0002869
9-10-07-88

RECEIVED

OCT 07 1988

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

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) Rim View Trout Company Phone (208) 344-7321

Mailing Address 1301 Vista Avenue, Boise, ID Zip 83705

2. Date of Priority (Only one (1) per claim) 1951
As Shown on Claim No. 36-4032

3. Source of water supply (a) Niagra Springs
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 9S Range 15E Section 10,
NE 1/4 of NE 1/4 of 1/4, Govt. Lot, 1 B.M., County of Gooding

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Concrete Headworks and Flumes, Dirt and rock canal and pipes

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JAN 28 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Fish propagation purposes from Jan. 1 to Dec. 31 amount 14.5 or _____
 For Domestic purposes from Jan. 1 to Dec. 31 amount .1 or _____
 For Irrigation purposes from Mar. 15 to Nov. 15 amount .4 or _____
 For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 15.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 42 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Fish propagation-Domestic-see remarks below

10. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
9S	15E	10	GL1	GL2	GL10	GL9													
Irrigation			3½	3½	3½	3½													14
			H&D	H&D	H&D	H&D													

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Gooding

12. Do you own the property listed above as place of use? Yes X No _____
 If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
 Licenses No. 33448/36-2680 and No. 36-7167 are owned by Rim View Trout Co. and _____ or None ()

are used at the same place but for separate uses.

14. Remarks:

Item 9 Above: the 1951 priority for 10 domestic use originally covered use for 3 homes
The water use was later changed for use for 2 homes and an employee change room, office
and shop.

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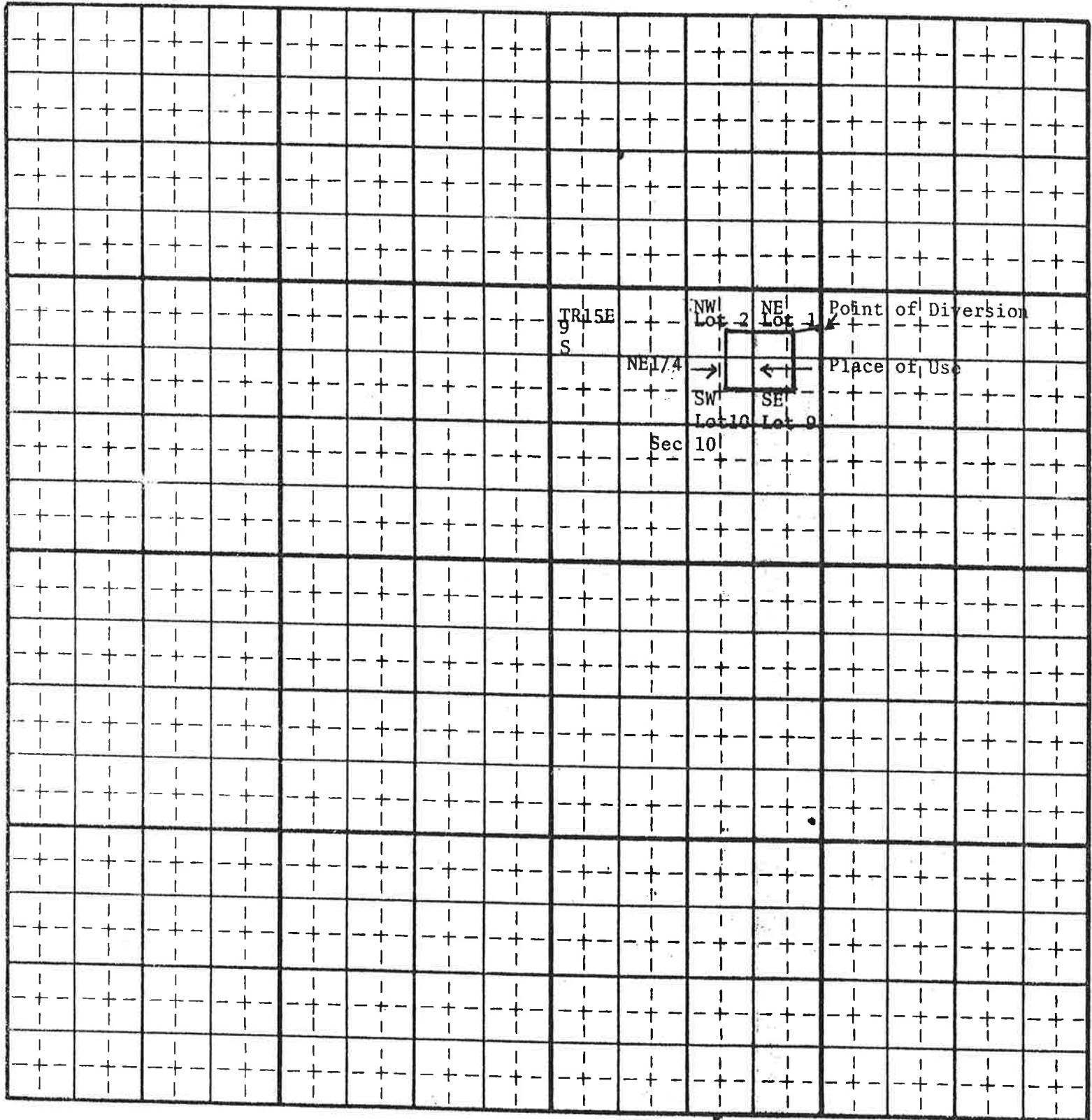
JAN 28 1993

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the po... version, place of use, section number, ... and range number.

Scale: 2 inches equals 1 mile



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JAN 28 1993

Last Name _____

Ident No. _____

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use X Posted Notice _____ License _____ Permit _____
Decree _____

If applicable provide IDWR Water Right Number 36-4032

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President

of Rim View Trout Company _____ Title _____, that I have signed the foregoing

document in the space below as President _____ of Rim View Trout Company _____
Title _____ Organization _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] _____

Title and Organization President - Rim View Trout Company Date October 7, 1988

State of Idaho/or Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7th day of October 19 88

SEAL

Notary Public Mary Anne Johnson

Residing at Boise, Idaho

My Commission Expires 1-11-92

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, W.F. RINGERT will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature [Signature]

Address P.O. Box 2773, Boise ID 83704

Date 10-7-88

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JAN 28 1993

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

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: A36-04032B

Date Received: 9/01/1988

Receipt No: C002869 RA

Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RIM VIEW TROUT CO. 208-344-7321
Address: 1301 VISTA AVE.
BOISE, ID 83705

2. Date of Priority: DEC 31, 1951

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

4. Point of Diversion:

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

5. Description of diverting works:
CONCRETE HEADWORKS, FLUMES, DIRT AND ROCK CANAL, PIPES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.400		
DOMESTIC	01/01	12/31	0.100		
FISH PROPAGATION	01/01	12/31	14.500		

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

8. Total consumptive use is 42.0 Acre Feet Per Annum.

9. Non-irrigation uses:
H/FISH PROPAGATION, D/2 HOUSES, OFFICE & SHOP

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	10	NE	NE	1	IRR	3.5

A36-04032B

Page 1

Date: 02/13/89

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10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	15E	10	NE	NE	1	DOMEST	
			NE	NE	1	FISH	
			NW	NE	2	IRR	3.5
			NW	NE	2	DOMEST	
			NW	NE	2	FISH	
			SW	NE	10	IRR	3.5
			SW	NE	10	DOMEST	
			SW	NE	10	FISH	
			SE	NE	9	IRR	3.5
			SE	NE	9	DOMEST	
			SE	NE	9	FISH	
						Section Acres	14.0
						Total Acres	14.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
36-02680, 36-07167, DIFFERENT USES

14. Remarks:
ITEM 9 ABOVE: THE 1951 PRIORITY FOR .10 DOMESTIC USE ORIGINALLY COVERED USE FOR 3 HOMES. THE WATER USE WAS LATER CHANGED FOR USE FOR 2 HOMES AND AN EMPLOYEE CHANGE ROOM, OFFICE AND SHOP.

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
_____, that I have signed the foregoing
_____, that I have signed the foregoing
document in the space below as _____ of
_____ and that the statements contained in the
_____ foregoing document are true and correct.

Signature of Authorized Agent

Title and Organization

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 _____

Water Right Number - 36-04032 Adj. Flag Translation: Standard Water Right Number Old (D) Number -

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

*** C - CURRENT OWNER ***
RIM VIEW TROUT CO. INC.

1 - 2901 IDAHO ST.
2 -
3 -
City- BOISE State- ID Zip- 83702
Phone -

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
06/01/1926 17 S - STATUTORY CLAIM

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
NIAGARA SPRING SNAKE RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

09S 15E 10 NE NE (47) GOODING 272.0 598.9

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

01 - IRRIGATION 03/15 11/15 0.400
43 - DOMESTIC 01/01 12/31 0.100
19 - FISH PROPAGATION 01/01 12/31 39.500

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
40.000

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

09S 15E 10 NE NE 14.0 01 IRRIGATION (47) GOODING

Total Acres: 14.0

+ - - Diversion Means -
- - Non-Irrigation Use - D/3 HOMES.
- - Other Rights for Same Use -

+ - - - - Remarks - - - - - +
PRIORITY DATES 6-1-1926 OF 10. CFS; 6-1-1951 OF 15. CFS; &
6-1-1962 OF 15. CFS.

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

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

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT

01/27/89 00:12:32
Page 2

Water right number - 36-04032

Adj. flag translation: Standard Water Right Number

+ - - Microfilm Rolls -

+ - - Audit Fields - 02/11/85

05/28/88 CONVERT

----- Water Rights Dates and Flags Area ----- +

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
Start Work Date	- 00/00/0000	Verified Date	- 02/11/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 00/00/0000				

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JAN 28 1993

9/22/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME

Rim View

CLAIM IDENT. NO.

A36-04032B

DATE RECEIVED

10/07/88

CK #

1805

AMOUNT \$

219-

YES

NO

1. Is the name and address complete with zip code?

Atty in #17

☒

☐

2. Is a priority date entered?

☒

☐

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

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

☒

☐

3. (a) Is a source entered?

☒

☐

(b) Is a tributary to entered? (if required)

N/A

☒

☐

4. Is the legal description of the p.d. sufficient?

☒

☐

5. Is there a description of the diverting works?

☒

☐

6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.

☒

☐

Is the period of use included?

☒

☐

Is a quantity claimed for each use?

☒

☐

7. Is a total quantity claimed entered?

☒

☐

8. If required is a consumptive use entered?

N/A

☒

☐

Is the consumptive use correct?

N/A

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☐

9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, each household must file a separate claim. See Adjudication Memo # 4.

☒

☐

10. Is (are) the place(s) of use entered?

☒

☐

11. Is (are) the county(ies) entered?

☒

☐

12. Is the ownership of p.u. checked?

☒

☐

13. Are other water rights listed or "none" checked?

☒

☐

14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)

N/A

☒

☐

15. Is the basis of the claim checked?

☒

☐

16. Is the claim signed by the claimant, and is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?)

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Has the claim been signed, sealed, and dated by a notary?

☒

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Is the fee enclosed correct?

14 + 145 + 50

☒

☐

If this claim is based on an existing water right, has the identification number been entered?

N/A

☒

☐

Should this claim be receipted and data entered?

☒

☐

Claim checked by:

JAN 28 1993

Comments:

A36-04032B
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83704

A36-07167
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-02680
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-04032A
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83704

A36-04032C
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83704

A36-07725
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-02659
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-07004
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-10855
W. F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-07800
W. F. RINGERT
P.O. BOX 2773

BOISE ID 83701

A36-07731
W.F. RINGERT
P.O. BOX 2773

BOISE ID 83701

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JAN 28 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

18-Jul-1990 13:51

A36-07080 *
W.F. RINGERT
P.O. BOX 2773

BOISE

ID 83701

RE: Field examination of a water right claimed
in the Snake River Basin Adjudication

Dear Counselor,

The field staff of this agency may need to conduct water right field examinations of your client's water right claim(s) during the coming season. The field examiner may be visiting your client's property to obtain information necessary to verify the water use.

If a field exam is necessary your client will be contacted directly about the examination unless you contact us otherwise. If you wish to accompany your client at the time of any field examination, or if you have any questions regarding the field examination, you may contact this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Allen Merritt'.

Allen Merritt, P.E.
Water Rights Supervisor

*See Attached Pages for Other Water Rights

MICROFILMED
JAN 28 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

October 3, 1990

A36-040328
PIM VIEW TROUT CO.
1301 UTSTA AVE.

BC 198

TD 88705

Dear Claimant(s):

In the past you submitted the claim(s) identified with the number(s) shown above your name and address at the top of this letter. You indicated on the claim(s) that the basis for establishing the water right(s) was Beneficial Use, meaning the water right was not previously confirmed by a decree, water right license or permit before you filed the claim(s).

The purpose of this letter is to request evidence supporting the priority date(s) you have claimed. The enclosed pamphlet describes what this means. While I encourage you to read all of the pamphlet, I direct your attention to the right-hand half of the pamphlet after you open it. There you will find two sections: What Kind of Evidence is Required, and Some Examples of Documents which May Be Evidence of the Priority Date. These sections tell you what must be submitted. The other sections tell you why the evidence is necessary and what the consequences of not submitting the evidence could be.

Please submit the requested evidence by November 1, 1990. When returning to the Department please reference all documents with the claim(s) identification number(s) listed above.

If you have questions not addressed by the pamphlet or need other technical assistance, please feel free to contact this office. For advice on your water right(s), please contact your attorney.

Sincerely,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosure

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JAN 28 1993

INTER-DEPARTMENT MEMO — 1

FROM Loten Holmes

DATE 10/31/90

TO Files A34-04032 B, C, ~~ABC-10819~~ Earl Hardy

SUBJECT

Bill Rinsert, Attorney Requested till Dec 1. to
Respond to the Request for info.

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JAN 28 1993

SIGNATURE

Ringert, Clark, Harrington, Reid, Christenson & Kaufman

CHARTERED
LAWYERS

WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JAMES G. REID
JEFFREY R. CHRISTENSON
JAMES P. KAUFMAN
LAURA E. BURRI
DAVID HAMMERQUIST

SAMUEL KAUFMAN (1921-1986)

599 WEST BANNOCK STREET
P.O. BOX 2773
BOISE, IDAHO 83701

TELEPHONE (208) 342-4591
FAX (208) 342-4657

October 31, 1990

RECEIVED

NOV 1 1990

Mr. Allen Merritt, P.E.
Water Rights Supervisor
Idaho Department of Water Resources
Southern Region
222 Shoshone St. East
Twin Falls, Idaho 83301

Department of Water Resources
Southern Region Office

Re: Snake River Basin Adjudication
Claims Nos. 04032B, 04032C, 10819

Dear Mr. Merritt:

This is in response to your letter of October 3, 1990, regarding the above mentioned claims in the Snake River Basin adjudication. A copy of your letter is attached to facilitate identification.

I spoke by telephone with Loren Holmes this morning and indicated that other pressing matters had made it impossible for me to accumulate the necessary information to respond to your request. I have discussed briefly with the claimant, Mr. Earl Hardy, the type of information we will need, but some additional time will be required.

Mr. Holmes indicated that we could have until December 1, 1990, to submit the requested evidence. Unless I hear from you to the contrary, I will assume that evidence furnished by that date will be considered timely.

Yours very truly,


W. F. Ringert

WFR:am
Enclosure
cc: Earl M. Hardy

MICROFILMED
JAN 28 1993



CECIL D. ANDRUS
Governor

State of Idaho

OCT 04 1990

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-0578

R. KEITH HIGGINSON
Director

October 3, 1990

, 04032B, 04032C, 10819

Dear Claimant(s):

In the past you submitted the claim(s) identified with the number(s) shown above your name and address at the top of this letter. You indicated on the claim(s) that the basis for establishing the water right(s) was Beneficial Use, meaning the water right was not previously confirmed by a decree, water right license or permit before you filed the claim(s).

The purpose of this letter is to request evidence supporting the priority date(s) you have claimed. The enclosed pamphlet describes what this means. While I encourage you to read all of the pamphlet, I direct your attention to the right-hand half of the pamphlet after you open it. There you will find two sections: What Kind of Evidence is Required, and Some Examples of Documents which May Be Evidence of the Priority Date. These sections tell you what must be submitted. The other sections tell you why the evidence is necessary and what the consequences of not submitting the evidence could be.

Please submit the requested evidence by November 1, 1990. When returning to the Department please reference all documents with the claim(s) identification number(s) listed above.

If you have questions not addressed by the pamphlet or need other technical assistance, please feel free to contact this office. For advice on your water right(s), please contact your attorney.

Sincerely,



Allen Merritt, P.E.
Water Rights Supervisor

Enclosure

OCT - 9 1990

MICROFILMED

JAN 28 1993

Ringert, Clark, Harrington, Reid, Christenson & Kaufman

CHARTERED
LAWYERS

WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JAMES G. REID
JEFFREY R. CHRISTENSON
JAMES P. KAUFMAN
LAURA E. BURRI
DAVID HAMMERQUIST

SAMUEL KAUFMAN (1921-1986)

599 WEST BANNOCK STREET
P.O. BOX 2773
BOISE, IDAHO 83701
TELEPHONE (208) 342-4591
FAX (208) 342-4657

November 30, 1990

RECEIVED

DEC - 3 1990

Department of Water Resources
Southern Region Office

Mr. Allen Merritt, P.E.
Water Rights Supervisor
Idaho Department of Water Resources
Southern Region
222 Shoshone St. East
Twin Falls, Idaho 83301

Re: Snake River Basin Adjudication
Claims Nos. 04032B, 04032C, 10819

Dear Mr. Merritt:

Mr. Hardy advises me that he has personal knowledge of the water usage supporting the 1951 and 1962 priority dates under the above mentioned claims. I am preparing an affidavit for Mr. Hardy and hope to have it ready for filing with your office late next week.

Finding evidence to support the 1926 priority date will require the examination of some of Mr. Hardy's old business records, and we have not had time to make that examination.

The one item that we have located thus far is an Agreement and Stipulation between Rim View Trout Company, Inc., and Idaho Power Company, made in 1966, in which Idaho Power acknowledges the priority of 40 c.f.s. of water of Niagra Springs as being vested in Rim View. A copy of that Agreement and Stipulation is enclosed.

We are attempting to locate witnesses who have knowledge of the facts establishing the 1926 priority, and will furnish you additional information as soon as we can obtain it.

Yours very truly,


W. F. Ringert

WFR:am
Enclosure
cc: Earl M. Hardy

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JAN 28 1993

RECEIVED

33448

OCT 5 1990

DEC - 3 1990

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

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

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

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

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

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

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

The parties hereto having compromised their differences

RV 10/2

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

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

I

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

II.

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

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

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

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

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

III.

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

IV.

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

V.

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

Dated this 5th day of October, 1966.

IDAHO POWER COMPANY

By NR Moore
Vice President

ATTEST:

J. H. Rogers
Assistant Secretary

RIMVIEW TROUT COMPANY, INC.

By W. L. Bales
President

ATTEST:

Alma J. Farrell
Secretary

33448

Ringert, Clark, Harrington, Reid, Christenson & Kaufman

CHARTERED
LAWYERS

WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JAMES G. REID
JEFFREY R. CHRISTENSON
JAMES P. KAUFMAN
LAURA E. BURRI
DAVID HAMMERQUIST

SAMUEL KAUFMAN (1921-1986)

January 18, 1991

599 WEST BANNOCK STREET
P.O. BOX 2773
BOISE, IDAHO 83701
TELEPHONE (208) 342-4591
FAX (208) 342-4657

Mr. Allen Merritt, P.E.
Water Rights Supervisor
Idaho Department of Water Resources
Southern Region
222 Shoshone St. East
Twin Falls, Idaho 83301

RECEIVED

JAN 22 1991

Department of Water Resources
Southern Region Office

Re: Snake River Basin Adjudication
Claims Nos. 04032B, 04032C, 10819

Dear Mr. Merritt:

Enclosed is an Affidavit of Earl M. Hardy for Claims Nos. 04032B, 04032C and 10819, which please file in the Snake River Basin Adjudication and use in your evaluation of the above numbered claims.

We believe the facts stated in the Affidavit, together with the exhibits attached, are sufficient to support the 1951 and 1962 priorities. In fact, the material indicates that the 1951 claim actually should have been for a 1950 priority.

We are still reviewing documents, searching for additional documents, and interviewing prospective witnesses with respect to the 10 cfs claim with 1926 priority. I hope to be able to report further to you on that claim within the next two or three weeks.

Please contact me if you have any questions regarding the material submitted with this letter.

Yours very truly,



W. F. Ringert

WFR:am
Enclosure
cc: Earl M. Hardy

NOTIFIED
JAN 28 1993

RECEIVED

JAN 22 1991

Department of Water Resources
Southern Region Office

William F. Ringert
RINGERT, CLARK, HARRINGTON, REID,
CHRISTENSON & KAUFMAN, CHARTERED
599 W. Bannock, P.O. Box 2773
Boise, Idaho 83701-2773
Telephone: (208) 342-4591

Attorneys for Earl M. Hardy

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 WATER RIGHTS TO THE USE OF)
WATER FROM THE SNAKE RIVER)
BASIN WATER SYSTEM)

THE STATE OF IDAHO, EX REL.)
A. KENNETH DUNN IN HIS OFFICIAL)
CAPACITY AS DIRECTOR OF THE)
IDAHO DEPARTMENT OF WATER)
RESOURCES,)

Petitioner,)

-vs-)

THE UNITED STATES; THE STATE OF)
IDAHO; AND ALL CLAIMANTS TO THE)
USE OF WATER FROM THE SNAKE)
RIVER BASIN WATER SYSTEM,)

Defendants.)

CASE NO. 39576

AFFIDAVIT OF EARL M. HARDY
FOR CLAIMS NOS. 36-04032B,
36-04032C, AND 36-10819

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Earl M. Hardy, being first duly sworn, on oath deposes and
says:

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JAN 28 1993

I am the president and the majority stockholder of Rim View Trout Company (Rim View). I acquired my stock in 1976. Rim View has filed Snake River Basin Adjudication Claims Nos. 36-04032B, 36-04032C and 36-10819, among others.

The above numbered claims cover water rights which are used for trout production, domestic, household and irrigation use at Rim View's production facilities which are located on Government Survey Lots 1, 2, 9 and 10, in Section 10, Township 9 South, Range 15 East, B.M., in Gooding County, Idaho (the "Niagra Springs site").

Although I had seen the production facilities at the Niagra Springs site in 1949, my first detailed observation of those facilities occurred in 1950, when I went there to purchase trout from Harlan Schmeckpeper, who was operating the property and the production facilities at that time. His brother, Wayne Schmeckpeper, worked with him and I believe was Harlan's partner.

Attached to this Affidavit as Exhibit 1 is a photograph of the Niagra Springs site which I received from another brother, Milford Schmeckpeper, sometime after 1976, in an envelope bearing a 1963 postmark. Exhibit 1 shows the facilities that existed in 1950, and other facilities that were constructed some time after 1950.

In the lower left center of the photograph a bridge on the road across Niagra Springs Creek is clearly visible. The point of diversion for the water serving the Rim View facilities in

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1950 was just downstream from the bridge, in approximately the same location that it exists today. Water was diverted into an open ditch. That ditch went into a brushy area and apparently divided into two branches not too far from the headworks.

Exhibit 1 shows a pipeline in the left center of the photograph, or maybe two pipelines. I do not recall seeing those pipelines and I do not recall that I ever walked that portion of the water system. The system was changed before I bought my stock in 1976.

I did observe the part of the open ditch that fed the headworks of the trout production ponds shown in the upper left portion of Exhibit 1. A large bank of ponds extends from left to right, approximately parallel with the channel of the Snake River, which appears in the background at the upper portion of Exhibit 1, and the other ponds extend almost at a right angle from the lower end of the first set of ponds, toward the Snake River.

Exhibit 1 also shows fish ponds in the upper right-hand corner of the photograph. There were ponds in that area, but I do not recall those ponds being in the configuration shown in Exhibit 1 when I first saw the facilities in 1950.

Based on my observation of the diversion at the headworks, the flow in the ditches, the size of the ponds and the rate of flow in the ponds, it is my opinion that the amount of water being used for trout production in 1950 at the Niagra Springs facilities was greater than the combined 24.5 cfs flow claimed by

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JAN 28 1993

Rim View for its 1926 priority of 10.0 cfs and its 1951 priority of 14.5 cfs under Claim No. 36-4032 which Rim View filed with the Idaho Department of Water Resources on February 8, 1972.

It is my recollection that between 15 and 20 acres of land were being irrigated at the Niagra Springs site in the 1950's or early 1960's, through an extension of the diversion ditch below the bridge. I do not recall seeing full irrigation use of the water from the diversion ditch since about 1967, when the configuration of the diversion ditch was changed and part of it was lined with concrete.

Some time after 1950 Rim View was organized as a corporation, acquired the property at Niagra Springs and obtained an SBA loan for expansion of the production facilities at the Niagra Springs site. At this time I am uncertain as to whether facilities in addition to those shown in the upper right-hand portion of Exhibit 1 were constructed and placed in operation prior to 1962, but I believe that the additional ponds shown in the upper right-hand portion of Exhibit 1 had been constructed and were in operation by 1962. I observed those additional production facilities on several occasions during or before 1962, and based on those observations it is my opinion that the additional amount of water diverted by Rim View for use in the additional ponds shown in the upper right-hand portion of Exhibit 1 exceeded the 15 cfs claimed by Rim View with priority date of 1962. This opinion is based on my personal observations

JAN 28 1993

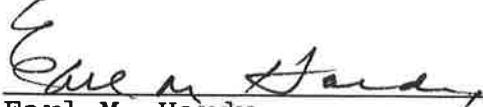
of the diversion ditch and the ponds, and on my experience in designing, constructing and operating trout production facilities, many of which incorporate accurate measuring devices so that I have a basis for comparison, and on my knowledge of the volume of water that is required to properly support trout production facilities the size of those shown in Exhibit 1.

In 1975 the State of Idaho, through the Idaho Fish and Game Commission, filed an action in the district court, Gooding County, Case No. 16326. A copy of the Complaint in that law suit is attached to this Affidavit as Exhibit 2. Paragraph VI of that Complaint refers to a previous law suit filed in the same court in 1950 by Ida Owen Mays against Wayne Schmeckpeper. As I stated previously, Wayne Schmeckpeper owned the Niagara Springs site and the Rim View facilities in 1950, individually or in partnership with Harlan Schmeckpeper.

The Complaint in Mays v. Schmeckpeper states that Ida Owen Mays sold Wayne Schmeckpeper 10 cfs of water from Niagara Springs some time prior to the filing of the Complaint. The Mays law suit was resolved by an agreement made March 31, 1950, a copy of which is attached to the Mays Complaint. Paragraphs 3, 4, 5 and 6 of the 1950 agreement show that Schmeckpeper had constructed the Rim View ditch, which is referred to in the exhibit attached to the 1950 agreement as "Niagara Ditch No. 3", within 30 days prior to March 31, 1950, and that the ditch extended to a fish pond in the northwest corner of Schmeckpeper's land. That pond

extended slightly onto the Mays land immediately west of the Rim View property. In my opinion that pond would be part of the pond complex shown in the upper right-hand corner of Exhibit 1, and was the place of use for the 14.5 cfs claimed by Rim View with a 1951 priority. The statutory claim filed by the previous owners of Rim View in 1972 could be in error, since some of the ponds in the northwest corner at the Niagra Springs site were receiving water in 1950.

With respect to the 10 cfs claimed by Rim View with a 1926 priority, a search of records is being conducted, and additional evidence will be presented as soon as it is available. However, it appears that the 1926 priority claimed by Rim View in the statutory claim filed by the previous owners of the company in 1972 probably was an error and that the 10 cfs actually has a priority of January 1, 1912, because it further appears that the water right obtained by Schmeckpeper from Mays was part of the water right established at the same time and by the same owners as the water right of that priority date claimed by the Idaho Department of Fish and Game, Identification No. A36-04020. Based on this information, I am considering filing an amended notice of claim for Water Rights Nos. 36-04032B and 36-04032C.



Earl M. Hardy

UNRECORDED

JAN 28 1993

SUBSCRIBED AND SWORN to before me this 18th day of January,
1991.

Mary Anne Johnson

Notary Public for the State of Idaho
Residing at Boise, Idaho
My commission expires: 1-11-92

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JAN 28 1993

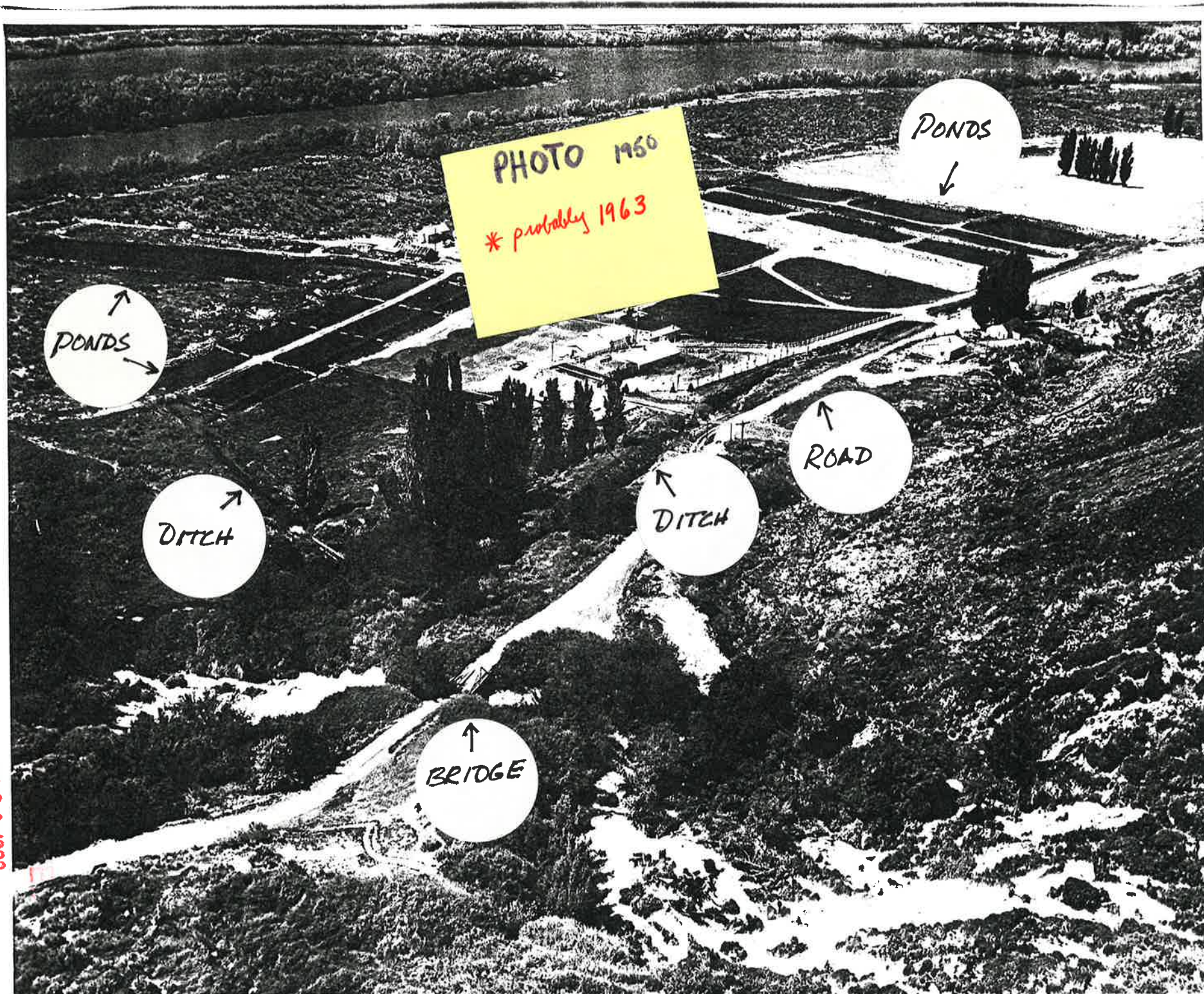


PHOTO 1960
* probably 1963

PONDS



POND



DITCH



DITCH



ROAD



BRIDGE



T. J. Jones, III
JONES & JONES
1611 West Jefferson
P. O. Box 1003
Boise, Idaho 83701
Tel: (208) 344 7676

Attorney for Plaintiff

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

THE STATE OF IDAHO, ex rel,
ROBERT G. THOMAS, WYNNE M.
BLAKE, WILLARD H. GODFREY,
JACK HEMINGWAY and H. JACK
ALVORD, THE IDAHO FISH AND
GAME COMMISSION,
Plaintiff,
vs.
RIM VIEW TROUT CO., A
Corporation,
Defendant.

Case No. 16326

COMPLAINT

Fee Catagory: A-13

Fee: \$ _____

COMES NOW, the Plaintiff and complains and alleges against
the Defendant as follows:

I

That at all times relevant herein Defendant Rim View Trout
Co., A Corporation, was a corporation licensed and authorized to
do business in the State of Idaho and conducting its business of
a trout farm in Gooding County, State of Idaho.

II

That Plaintiff is now, and at all times hereinafter mentioned,
has been, the owner in fee of land situated in the County of

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JAN 28 1993

Gooding, State of Idaho, and more particularly described as follows:

Township 9 South, Range 15 East of the Boise Meridian Section 3: S1/2SW1/4
Section 4: SW1/4NW1/4, Lots 5, 6, 7, 8, 9, 10, and 11
Section 5: SE1/4NE1/4, Lots 5, 6, 7, 8, 11, 12, 13, 14, 15, 16, 17, 18 and 21
Section 6: Lots 7, 8, 14, 15, 17 and 18
Section 8: Lot 3
Section 9: Lots 1, 6, and 10
Section 10: Lots 3, 4 and 11, and those portions of Lots 1, 2 and 10 lying North of and West of the following lines:

Beginning at a point marked and known as the Idaho Power Company stone, which point is 950.6 feet South of and 427.9 feet West of the NE corner of said Section 10;
thence North 0° 1' 9" West 191.12 feet to a metal pin which pin is the true point of beginning;
thence North 84° 55' West 399.62 feet to a metal pin;
thence North 83° 02' 30" West 704.29 feet to a metal pin;
thence South 0° 30' 51" West 311.89 feet to a pin, which said point is the NW corner of tract described in Deed #6524, recorded December 21, 1962, records of Gooding County, Idaho;
thence South to the Snake River;
and excepting from said Lot 1, the East 427.9 feet thereof.

generally known as the Niagara Springs Ranch; that Plaintiff operates such land as a farm and a wildlife management area; that Plaintiff's land is semi-arid in nature and unproductive without irrigation and therefore it requires the artificial application or irrigation waters in order to produce ordinary agricultural crops.

III

That water for the irrigation of Plaintiff's said lands has for many years been had and obtained by the Plaintiff and its predecessors in interest from springs situate approximately one quarter of a mile south of the corner common to Sections 2,

3, 10 and 11 of Township 9 South, Range 15 East of the Boise Meridian; said springs being more commonly known as Niagara Springs.

IV

By subsequent conveyances for valuable consideration, Plaintiff herein has become and is now the successor in interest and owner of the lands described above and of waters and water rights in the amount of thirty-two (32) cubic feet per second of said Niagara Springs. Plaintiff uses such waters and water rights in the amount of thirty-two (32) cubic feet per second from Niagara Springs to irrigate its lands described above, taking and diverting said water from Niagara Springs by means of a certain ditch known as the Thompson Mays ditch, and conveying said waters in said ditch from Niagara Springs in a westerly and southerly direction to and upon Plaintiff's lands for irrigation purposes.

V

That the Defendant is the owner of certain lands adjoining the Plaintiff's lands described above and the Plaintiff's ditch right-of-way for the Thompson-Mays ditch. That Defendant's said lands are more particularly described as follows:

The SW1/4 of the SE1/4 and Lots 5 and 6 in Section 2;

Part of Lots 1, 2, 9 and 10 of Section 10 described as follows:

Beginning at a point 950.6 feet south and 427.9 feet west from the northeast corner of Section 10. (Said point of beginning is a lava stone set firmly in the ground and marked with a cross on top thereof. This stone was placed by Idaho Power Company to mark the west boundary of their Niagara Springs power site.), thence west from stone, 1100 feet; thence south to the channel of Snake River; thence easterly along Snake River channel to a point 427.9 feet west

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JAN 28 1993

from the east line of Section 10; thence north, paralleling the east line of Section 10 to the place of beginning.

Lots 1, 2, 3, 6, 9, 10 and 11 of Section 11, except that portion described in a deed by A. S. Henson and Walter T. Ivy, executor of the last will and testament and of the estate of James H. Mays, deceased dated July 16, 1928, recorded July 16, 1928 in Book 22 of Deeds, page 162, in the records of Gooding County, Idaho.

Lots 1, 2, 3, 4, 11, 12, 13, 14 and 15 of Section 12, except: that portion described in a deed by A. S. Henson and Walter T. Ivy, executors of the last will and testament and of the estate of James H. Mays, deceased, dated July 16, 1928, recorded July 16, 1928 in Book 22 of Deeds, page 162 in the records of Gooding County, Idaho.

All in Township 9 South, Range 15 East, Boise Meridian.

Lots 3, 4, 8 and 9 of Section 7; and Lot 11 of Section 18 all in Township 9 South, Range 16 East, Boise Meridian.

VI

By an Agreement duly made and entered on the 31st day of March, 1950, and filed on the 1st day of April, 1950, in an action in the District Court of the Fourth (Fifth) Judicial District of the State of Idaho, in and for the County of Gooding, Case No. 5186, entitled Ida Owen Mays, Plaintiff, v. Wayne Schmeckpeper, Defendant, it was ordered and adjudged by agreement that the Defendant therein disclaimed and relinquished any and all rights in or to the Thompson Mays ditch and agreed to take and receive the ten (10) second feet of water sold to him by the Plaintiff from Niagara Springs through a ditch known as the Niagara ditch. That a copy of said Agreement is attached hereto, marked Exhibit "A", and made a part hereof as if set out in full herein.

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JAN 28 1993

VII

That Plaintiff herein is a successor in interest of the Plaintiff in the action identified above. That Plaintiff is informed and believes that Defendant herein is the successor in interest of the Defendant in the action identified above. That pursuant to such Judgment by Agreement entered in the action identified above, Plaintiff and its predecessors in interest are entitled to the sole and exclusive ownership and use of the Thompson-Mays ditch for the carriage of its thirty-two (32) second feet of the waters of Niagara Springs from its point of diversion from Niagara Springs to its lands described above, without interference or use by the Defendant and its predecessors in interest of the Plaintiff's Thompson-Mays ditch and/or ditch right-of-way and waters and water rights.

VIII

That Defendant has since the year 1973, without the prior knowledge, consent, or approval of the Plaintiff, and against its wishes and will, wrongfully and unlawfully entered upon the Plaintiff's said Thompson-Mays ditch and right-of-way and has and is now continuing to trespass upon, and wrongfully divert waters from its Thompson-Mays ditch for use at the Defendant's trout farm located upon the Defendant's lands described above by means of two (2) underground fifteen (15) inch pipelines running from the Plaintiff's Thompson-Mays ditch to the Defendant's trout farm's water supply.

IX

That on or about December 6, 1973, the Plaintiff notified the Defendant that it was trespassing upon its Thompson-Mays

ditch and right-of-way and demanded that the Defendant cease and desist in such trespass and wrongful diversion of the Plaintiff's waters from its Thompson-Mays ditch, but the Defendant failed and neglected to heed such demand, and is continuing and now continues to trespass upon Plaintiff's said ditch and interfere with the Plaintiff's water rights by means of the wrongful diversion as aforesaid, and continues to refuse Plaintiff's demand that Defendant honor the Judgment by Agreement entered in the action identified above.

X

Unless Defendant is restrained it will continue to interfere with Plaintiff's ditch and water rights and deprive Plaintiff of the quantity of water to which it is entitled, thereby causing great and irreparable injury to Plaintiff.

XI

Plaintiff has no plain, speedy, or adequate remedy at law.

WHEREFORE, Plaintiff prays:

1. That Defendant be permanently restrained from acting in such manner as to interfere with and decrease and divert the flow of Plaintiff's water in the Plaintiff's Thompson-Mays ditch at any and all times of the year.
2. That the Court grant a preliminary injunction restraining Defendant from so interfering with, decreasing and diverting the flow of Plaintiff's water in the Plaintiff's Thompson Mays ditch until a final determination can be made of this matter on its merits.
3. That Plaintiff recover its costs herein and receive such other and further relief as may be proper.

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JAN 28 1993

DATED This 30 day of July, 1975.

/s/ T. J. Jones, III
T. J. Jones, III
Special Counsel for the Idaho
Fish and Game Commission
Attorney for Plaintiff
1611 West Jefferson
P. O. Box 1003
Boise, Idaho 83701

STATE OF IDAHO)
 : ss.
County of Ada)

T. J. JONES, III, being first duly sworn on behalf of the
Plaintiff in the above-entitled action, says:

That he has read the foregoing Complaint, knows the
contents thereof and that he believes the same to be true;
that the Plaintiffs, and each of them, are absent from the
County of Ada where their attorney has his office, and that
the Affiant is their attorney and, therefore, makes this
Affidavit.

/s/ T. J. Jones, III
T. J. Jones, III

SUBSCRIBED AND SWORN To before me this 30 day of July,
1975.

/s/ Thos. J. Jones Jr.
Notary Public for Idaho
Residing at Boise, Idaho

(S E A L)

Exhibit "A"

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GOODING

Ida Owen Mays,)
Plaintiff,)
- vs -)
Wayne Schmeckpeper,)
Defendant.)

AGREEMENT

5186

For the purpose of compromising and settling the issues and controversy involved in the above entitled action the plaintiff and defendant and their respective attorneys agree as follows:

1. The defendant agrees that he will immediately repair the ditch known as the Thompson-Mays Ditch, leading from Niagara Springs, and in particular he agrees to replace the soil of the lower bank of said ditch where such bank was cut by the defendant recently. In repairing such bank defendant agrees to utilize recognized engineering practices, so that such bank will be made and repaired satisfactorily. In this connection it is agreed that if any break occurs in such ditch bank as result of the cutting thereof by the defendant or as a result of such bank not being properly repaired, then in either event the defendant will be solely responsible for any resulting damage. This repair work shall be done in sufficient time to permit 1950 irrigation water to be diverted to plaintiff's farm lands to the West.

2. The defendant further agrees to repair all damage done to the ditch lying immediately south of the above mentioned Thompson-Mays ditch, which was referred to during the hearing in the above cause as ditch No. 2. This ditch shall be immediately repaired and placed in as good condition as the same was prior to encroachment thereon by the defendant. Any break or overflow in this ditch which may result from improper repairing thereof or may result from the same having been cut and damaged by the defendant will be borne exclusively by the defendant.

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JAN 28 1993

3. The defendant hereby disclaims and relinquishes any and all rights in or to said Thompson-Mays ditch, referred to in the hearing in this matter as ditch No. 1, and also in the ditch immediately south thereof referred to in the hearing in this matter as ditch No. 2. The defendant agrees to take and receive the ten (10) second feet recently sold to him by the plaintiff from said Niagara Springs through the ditch known as the Niagara Ditch, and referred to in the hearing of this matter as ditch No. 3. In this connection it is agreed that said Niagara Ditch shall continue to divert from Niagara Springs, where the same now diverts, and that the defendant shall reconstruct and repair the ditch leading from such diversion. It is agreed that recently the course of defendant's ditch No. 3 has been located and constructed and is located on portions of plaintiff's land, and that this has been done with the knowledge and consent of plaintiff, and plaintiff agrees that said ditch so known as ditch No. 3 may be maintained by the defendant in the future on the site and location which it now occupies, and for this purpose plaintiff gives defendant an easement for the maintenance and operation of said ditch on its present location.

4. Plaintiff gives and grants to defendant an easement and right of way for the maintenance and operation of a road across plaintiff's lands leading across the south part of plaintiff's lands described as Lots 1 and 2, Sec. 10, T. 9, S. R. 15, E.B.M., such roadway to be north of ditch No. 3 and approximately paralleling the same. Such roadway to extend from a point slightly north of the Northeast corner of defendant's land to a point slightly north of the Northwest corner of defendant's land. It is understood that said roadway is now definitely located on the land on the agreed site. This road shall be kept in repair by defendant, and shall be kept open for and may be used by the plaintiff, her agents, guests and successors in interest.

5. Plaintiff agrees that the defendant may maintain and operate his fish pond in the approximate Southeast corner of said

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JAN 28 1993

Lot 2, as it now exists, the same extending slightly onto the lands of the plaintiff.

6. The plaintiff hereby waives and relinquishes all right and claim in and to the ditch repaired and constructed by defendant within the last thirty days, the same diverting from the Niagara Springs at the point previously referred to as ditch No. 3, and extending thence westerly across the Northeast corner of defendant's said land and thence slightly onto the lands of the plaintiff and terminating in the fish pond situate in the Northwest corner of defendant's said land, said fish pond being in the approximately Southeast portion of Lot 2, Sec. 10, T. 9, S. R. 15, E.B.M.

7. Said ditches 1 and 2 are appurtenant to the lands of the plaintiff, namely, lands situate in Sections 2, 3, 4, 5, 10, 11 and 12, Twp. 9, S. R. 15, E.B.M., and other lands, all of which are generally known as the Niagara Springs Ranch, and now owned by the plaintiff. Ditch No. 3, the Niagara Ditch, so waived to the defendant is appurtenant to lands of the defendant, conveyed to him by plaintiff by deed dated October 15th, 1949, including part of Lots 1, 2, 9 and 10, Sec. 10, T. 9, S. R. 15, E.B.M., and other lands.

8. There is attached hereto and by this reference made a part hereof segment of map showing the Niagara Springs and the diversions of the above mentioned ditches therefrom.

The terms and conditions hereof shall constitute covenants running with the land, and shall be binding upon the successors and assigns of the respective parties hereto.

Dated this 31st day of March, 1950.

Attorneys for Plaintiff

Attorneys for Defendant

Edw. J. Quinn, Jr.
Plaintiff
James H. Schaefer
Defendant.

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JAN 28 1993

STATE OF IDAHO }
COUNTY OF GOODING } ss

On this 31st day of March, 1950, before me, the undersigned, a Notary Public in and for said State, personally appeared Ida Owen Mays and Wayne Schmeckpeper, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

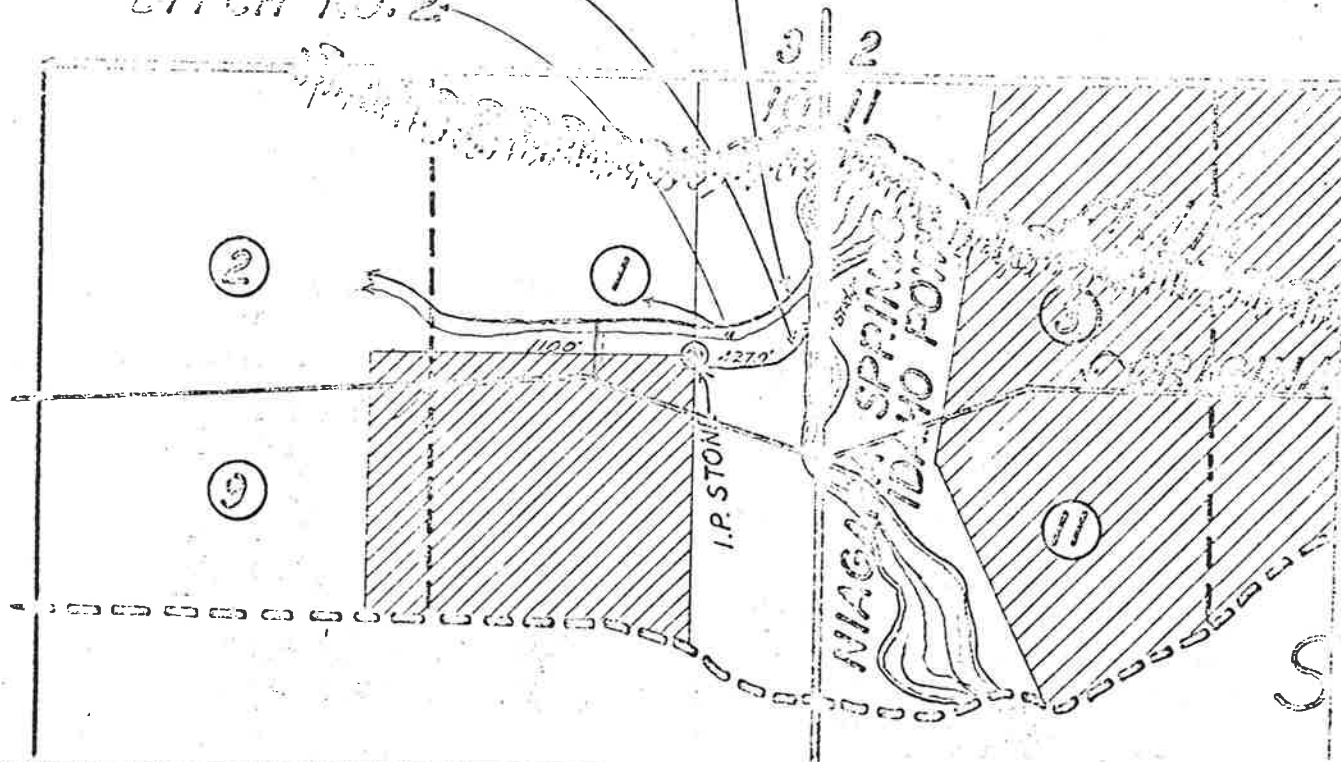
My commission expires 1951


Notary Public residing at Gooding,
Idaho.

MICROFILMED

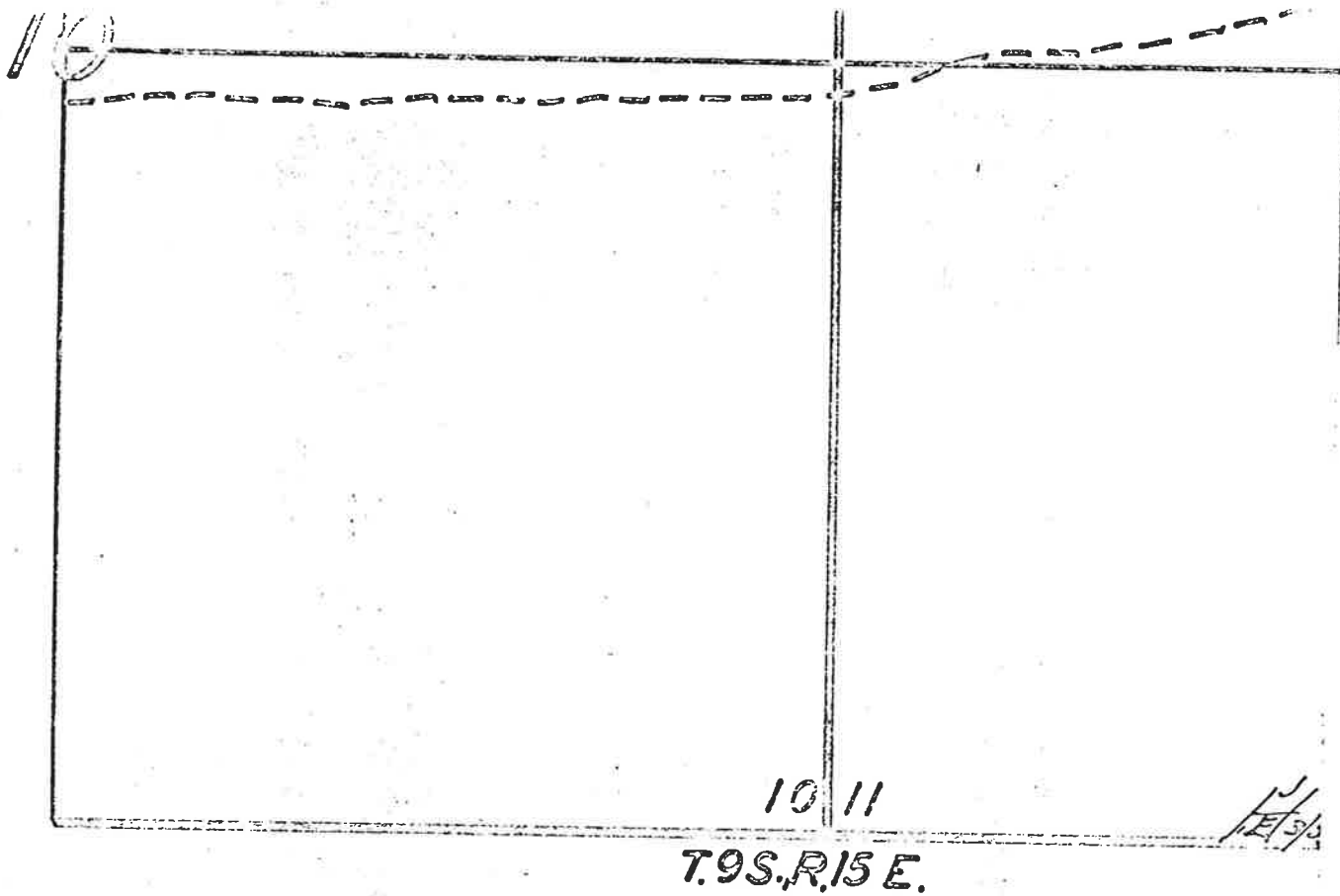
JAN 28 1993

- A SMALLLEY DITCH
 B THOMPSON-LAYS DITCH NO. 1.
 C BARKLEQUIST DITCH
 D NIAGARA DITCH NO. 3.
 DITCH NO. 2.



JAN 28 1993

JAN 28 1993
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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 A36-04032BDate Received 9-01-88Receipt Number 00028699-10-07-88

RECEIVED

OCT 07 1988

NOTICE OF CLAIM
TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) Rim View Trout Company Phone (208) 344-7321

Mailing Address 1301 Vista Avenue, Boise, ID Zip 83705

2. Date of Priority (Only one (1) per claim) 1951
As Shown on Claim No. 36 4032

3. Source of water supply (a) Niagra Springs
which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 9S Range 15E Section 10,
NE 1/4 of NE 1/4 of 1/4, Govt. Lot, 1 B.M., County of Gooding

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

Concrete Headworks and Flumes, Dirt and rock canal and pipes

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Fish propagation purposes from Jan. 1 to Dec. 31 amount 14.5 or _____

For Domestic purposes from Jan. 1 to Dec. 31 amount .1 or _____

For Irrigation purposes from Mar. 15 to Nov. 15 amount .4 or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 15.0 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 42 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Fish propagation-Domestic-see remarks below

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
9S	15E	10	GL1	GL2	GL10	GL9													
Irrigation			3½	3½	3½	3½													14
			H&D	H&D	H&D	H&D													

Total number of acres irrigated _____

11. In which county (ies) are lands listed above as place of use located? Gooding

12. Do you own the property listed above as place of use? Yes X No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

Licenses No. 33448/36-2680 and No. 36-7167 are owned by Rim View Trout Co. and _____ or None ()

are used at the same place but for separate uses.

14. Remarks:

Item 9 Above: the 1951 priority for .10 domestic use originally covered use for 3 homes
The water use was later changed for use for 2 homes and an employee change room, office
and shop.

Last Name _____ Ident No. _____

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TR 15E S 9 NE 1/4 Sec 10

NW 1/4 Lot 2 NE 1/4 Lot 1

Point of Diversion

Place of Use

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice ☐ License ☐ Permit ☐
Decree ☐

If applicable provide IDWR Water Right Number 36-4032

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President

of Rim View Trout Company _____ Title _____, that I have signed the foregoing

document in the space below as President _____ of Rim View Trout Company _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Eileen H. Hays _____

Title and Organization President - Rim View Trout Company Date October 7, 1988

State of Idaho/or Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 7th day of October 19 88

SEAL

Notary Public Mary Anne Johnson

Residing at Boise, Idaho

My Commission Expires 1-11-92

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, W.F. RINGERT will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature W.F. Ringert

Address P.O. Box 2773, Boise ID 83704

Date 10-7-88

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JAN 28 1993
OCT 18 1994

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

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

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

Case No. 36-04032B -0002

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

RESPONSE TO OBJECTION

Petitioner,)

vs.)

The United States; the State)
of Idaho; and all Claimants to)
the use of water from the Snake)
River Basin Water System,)

Respondents.)
_____)

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

Name: IDAHO DEPT OF FISH & GAME
Address: 600 S WALNUT
BOISE ID 83707

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER

Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
12. ☒ Water Right Recommendation: I respond to the objection concerning:
- 12a. ☒ This water right being recommended at all.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection items 3, 3.a, 12, and 12.a, and all allegations of the objection regarding these items, IDWR responds as follows:

The 7.06 diversion rate recommended for this right is based on measurement data from the United States Geological Survey. This data shows a diversion rate of 10.6 cfs from the Rim View diversion as of the priority date recommended for this right; the 3.54 cfs recommended for right no. 36-04032A together with the 7.06 recommended for this right total 10.6 cfs.

There are errors in the diversion volume and remarks in the

description of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

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

No. of
Pages

The notice of claim is attached to IDWR's response to Objection No. 36-04032B-0001

Recommended Water Rights Acquired Under State Law

1

(Over)

30-04032B
MOBILIZED

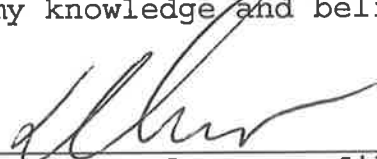
VERIFICATION (Must be Completed)

State of IDAHO

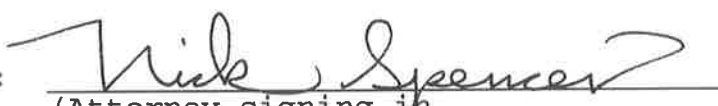
County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



Signature of person filing response

By: 
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 30th day of August,
1993.



Notary Public for Idaho

Residing at: _____

My Commission expires _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of August, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Name: WILLIAM F RINGERT
Address: PO BOX 2773
BOISE ID 83705

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

Name: IDAHO DEPT OF FISH & GAME
Address: 600 S WALNUT
BOISE ID 83707

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

RECEIVED

MAY 18 1993

Department of Water Resources

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

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

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

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

Case No. 36-4032B
(You must insert the
water right number you
are objecting to)

OBJECTION

To the Recommendations of the Idaho
Department of Water Resources for
Water Right No. 36-4032B as Listed
in the Director's Report for
Reporting Area 3 (Basin 36).

36-04032B -0002/
93-04-0264

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

(Over)

OBJECTION - 1

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: Idaho Department of Fish and Game

Address: 600 South Walnut

Boise, ID 83707

Briefly describe your interest in this water right:

The Idaho Department of Fish and Game is currently in conflict with Mr. Earl Hardy over water rights arising from Niagara Springs as to amounts and uses of water diverted. We are attempting to negotiate these matters with the parties involved. Until an agreement can be negotiated, we are reserving our right to resolve our conflicts through the Adjudication process.

2. Owner of the water right:

Name: Rim View Trout Company

Address: 1301 Vista Avenue

Boise, ID 83705

3. If this objection is filed by an attorney:

Attorney Name: _____

Attorney Address: _____

Attorney Phone No.: _____

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

II. STATEMENT OF THE OBJECTION

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

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of Use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☒ Water Right Recommendation: I object to: (10/20/92)
a. ☒ this water right being recommended at all; or
b. ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☐ Other: I object to: _____

REASONS SUPPORTING EACH BOX CHECKED

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

- 3.a. According to the deposition of Mr. Earl Hardy, taken on December 14, 1992 and relating to water right claims from Niagara Springs, there are no flow measurements or other documentation to support the amount of water either claimed by Mr. Hardy or recommended by Department of Water Resources for use at the Rim View Trout facility (pp. 106-107).

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.

We recommend this claim be disallowed entirely because, to our knowledge, there is no documentation of how much water was used for the claimed purposes.

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

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

Deposition of Earl Hardy dated December 14, 1992

VERIFICATION (Must be Completed)

State of Idaho

County of Ada

Cynthia A. Robertson, being first duly
(Name of person filing objection)
sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Cynthia A. Robertson
Signature of person filing objection

By: _____
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 20th day of April,
19993.

Jerry L. Umborn
Notary Public for Idaho
Residing at: Emmett, Idaho
My Commission expires: 2-15-93

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28th day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Rim View Trout Company
Owner's address: 1301 Vista Avenue
Boise, ID 83705

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734

Cynthia A. Robertson
Signature of Objector or attorney
mailing on Objector's behalf

**DOCUMENTATION FOR BOX NO. 3(a) OBJECTION
TO IDWR DIRECTOR'S REPORT
FOR CLAIM NO. 36-4032B**

**MICROFILMED
OCT 18 1994**

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 No. 39576

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

Petitioner,

vs.

The United States; the State of
Idaho; and all claimants to the
use of water from the Snake
River Basin Water System,

Defendants.

and related matters.

RECEIVED

DEC 22 1992

Department of Water Resources

DEPOSITION OF EARL HARDY

December 14, 1992

Reported by
Jolise A. Mason
CSR No. 449

THE COURT REPORTERS
TUCKER
AND ASSOCIATES
TELEPHONE 208-345-3704
1-800-424-2354
FAX 345-3713
605 WEST FORT STREET
POST OFFICE BOX 1625
BOISE, IDAHO 83701

COPY

Jan 4 1993

...Of course, we have knowledge of that (21) of thing but not to the point that we want (22) on our judgment because we had (23) the water will (23) run right.

Q: Okay. So then other than maybe perhaps (24) or 3 c.f.s., plus or minus, above 140.3, then (25) as

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you know, Rim View's never diverted much (2) than (2) that amount?

A: I think I said that in that period of time, (4) was up over 150. I think there was discussion (5) that.

Q: That's when the thing was locked?

A: Yes.

Q: So Mr. Foster couldn't change it; right?

A: Right.

Q: Yeah, I meant outside of that period.

A: Yeah. Because we know it would be up in (3) there because the later records show it going (4) over (13) 150.

Q: Have you talked to Mr. Brockway recently (5) about any measurements of Rim View's diversions or in (16) the diversion ditch itself?

A: No. I haven't had any reason to.

Q: Okay. Now, do you recall the hearing that (9) we had on your hydropower application?

A: Uh-huh. Well, I wasn't there, but I recall (21) there was a hearing.

Q: That's right. You weren't there, were you? (2) At that hearing you hired a consultant to (24) a study on the measuring device. Do you (25) member (25) him?

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A: Uh-huh. Bill Block, J-U-B Engineers.

Q: And if I recall, you hired him to do a (3) study (4) as to putting in a measuring device in your (4) diversion ditch; is that correct?

A: Well, we did that before — sometime before (6) the hearing. We did that — he come up with a design (7) for the rebuilding of the ditch which incorporated (8) measuring and also provided for the hydro diversion. (9) It was a combination study.

Q: Oh, okay. And that was to measure the (11) water before it went through the hydro place, is that (12) correct, or through hatchery, whichever

A: Yes.

Q: — one you —

A: But that was only part of the purpose. It was to rebuild the ditch, which I would prefer have (17) done because of safety. And it was to provide for a (18) measuring device. And the third reason was for the (19) diversion at the hydro.

Q: Okay. And what was his estimated cost for (21) that measuring device? Do you recall?

A: Measuring device? I don't recall. (23) Mr. Brockway was in on that earlier. And the reason (24) had Mr. Block come over at this hearing because he (25) had done the engineering on the entire flume.

POOR ORIGINAL

(1) Mr. Brockway testified and was part of a committee that (2) people set up on that measuring device.

(3) To me, the costs submitted were (4) unrealistic. I remember Fish and Game had a figure (5) there. If I could rely on their engineering, I'd like (6) to contract it out to them.

(7) Q: Do you recall what those —

(8) MR. RINGERT: Just a minute. I think I'm going (9) to object. And I'm going to instruct the witness not (10) to answer if we're going to retry the measuring device (11) case here. I don't know what on earth the cost of the (12) proposed measuring device has to do with this (13) litigation.

(14) MR. GODDARD: No, we're not going to retry that (15) case, Bill. I was just going to ask Mr. Hardy if he (16) recalled what those cost estimates were.

(17) THE WITNESS: No, I don't.

(18) Q: BY MR. GODDARD: And you don't recall what (19) Mr. —

(20) A: Now, when you say "those cost estimates," (21) are you talking about Mr. Block, or are you talking (22) about —

(23) Q: No. Excuse me. Let me be more specific. (24) You were talking about the cost estimate by (25) Fish and Game. And I was referring to the one that

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(1) they came up with. And then I believe Mr. Brockway (2) also had an estimated cost. Do you remember either one (3) of these estimates?

(4) A: To me, they're all low. But it seems to me (5) on the low side, one of them might be 9,000. It seems (6) to me there was one 16. I'm just guessing. I don't (7) remember. Maybe one 23,000, something like that.

(8) Q: What about the guy from JB Engineering — (9) JR Block Engineering (sic), do you recall his estimate?

(10) A: We don't have any estimate. He just did a (11) design.

(12) Q: He did a design, but he didn't come up with (13) an estimated —

(14) A: I didn't ask him for an estimate because we (15) weren't to that point. What we'll do then is we'll bid (16) it when the time comes. And that will tell us what the (17) cost is.

(18) Q: Are you familiar with Rim View's statutory (19) claims?

(20) A: Generally. I can't recall the detail of (21) them.

(22) Q: Can you tell me what you feel is the basis (23) for those statutory claims?

(24) A: Well, the records we have and the (25) understanding of use.

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(1) Q: What evidence do you have to support those (2) claims?

(3) A: Well, as I've mentioned, this one deed (4) where 10 second feet of water was transferred from (5) Mrs. Mays to Schmeckpeper's. And there was some (6) evidence of some additional use in

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OCT 18 1994

Lawyer's Notes

POOR ORIGINAL

1951. I think that [7] original 10 second feed might have been 1926. There's [8] a combination of several flows involved there. We [9] didn't pull them out of the hat.

[10] Q: Oh, okay. And do you have flow [11] measurements to support this claim?

[12] A: Flow measurements?

[13] Q: Yes.

[14] A: Not any more than, probably, any records [15] that anybody had in those days, including Fish and [16] Game. We have a deeded documentation of water [17] transfers. There's probably nobody around to know [18] whether there were any flow measurements taken.

[19] Q: When you say documented transfers, which [20] transfers are you talking about?

[21] A: The one I referred to several times from [22] Mrs. Mays to Schmeckpeper. I think that 10 c.f.s. was [23] recited there or something similar to that.

[24] We know that they were there. We know the [25] Schmeckpepers were there. We know that there was trout

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[1] produced before then.

[2] Q: And who produced trout before the [3] Schmeckpepers?

[4] A: I don't know.

[5] Q: They didn't — I may be wrong. Excuse me. [6] Didn't Mr. Schmeckpeper say they moved there in '48, or [7] is that —

[8] A: Well, that was their family. Milferd [9] Schmeckpeper was up on the Crystal Springs —

[10] Q: Right.

[11] A: — until about 1952 or 1953. The two [12] brothers came into that site probably 1948, 1949.

[13] Q: And they're the ones that started the Rim [14] View facility, as you know it, or do you know of [15] someone prior to —

[16] A: The Rim View facility was started —

[17] MR. RINGERT: Wait until he finishes his [18] question.

[19] Go ahead. Excuse me.

[20] THE WITNESS: He wanted me to wait to let you [21] finish. So I'm waiting.

[22] Q: BY MR. GODDARD: I'm finished.

[23] A: The Rim View facility was started at [24] Crystal Springs. That's where the name originated. I [25] don't know whether you picked up on this because of the

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[1] way you've described it, but that's where he was [2] originally. And his brothers were down at Niagara. [3] And they called it Schmeck's Rainbow Ranch.

[4] Q: Okay.

[5] A: As in many of those places down there, you [6] know, there's things that went on prior to that time. [7] And that's what I was told. And there is some [8] documentation that shows that.

[9] But I don't know what — as I see the [10] situation, you attorneys may have a different approach. [11] But to me it wouldn't make much

difference when it was [12] established. It still would precede the issues we're [13] talking about today.

[14] Q: Do you know whether there were fish ponds [15] where the Rim View facility is now prior to [16] Mr. Schmeckpeper's family acquiring that property from [17] Mrs. Mays?

[18] A: No. Because they acquired that about the [19] time I went into the business. So it wasn't —

[20] Q: Which is around 1948?

[21] A: Uh-huh. And my first contact, you know, I [22] knew of them. And as I testified, I bought some trout [23] from them. And I remember being at the house with his [24] brother, Harlyn, in the 1950s.

[25] Q: Okay.

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[1] A: But I wasn't around at that time, so I [2] never saw the place at that time.

[3] Q: Okay. Then you don't know, as I understand [4] it, who Schmeckpeper's — I guess it would have been [5] Mrs. Mays would have been their predecessor in title. [6] so I guess we do know that.

[7] Do you have any other documentation to [8] support these statutory claims, other than what we've [9] talked about today?

[10] A: Well, there may be some papers in the files [11] that support it. But I recall this one deed. But [12] there's probably — there may be some other evidence. [13] Mr. Ringert would have it or I'd have it. I didn't [14] come prepared to talk about the details of the claim.

[15] Q: Now, since the hearing that we had in [16] November, since that time frame, have you talked to [17] Mr. Robert Stacey at all?

[18] A: I think I did. I'm trying to think what I [19] called him about. I've known him a long time.

[20] Q: So it was a phone conversation?

[21] A: Yes, uh-huh.

[22] Q: Just one?

[23] A: Yes.

[24] Q: And you don't recall the details of that —

[25] A: I can't recall what I called him about. It

Page 111

[1] may come to my mind. But —

[2] Q: Do you recall talking about the use of [3] water down on the ranch for irrigation?

[4] A: Irrigation?

[5] Q: Uh-huh.

[6] A: No, I don't think so. I don't think that's [7] the reason I called him. Because I knew he had the [8] ranch. I mean, I knew of that, of course.

[9] Q: Why did you call him?

[10] A: That's what I'm trying to recall. There [11] was some question that I wanted to pose to him.

[12] See, I talked to him before the hearing, [13] too.

[14] Q: Oh, okay.

[15] A: He said he didn't know why he was there.

[16] You people had called him and wanted him

COPY

RECEIVED

MAY 03 1993

Department of Water Resources
Adjudication Bureau

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

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

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

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

Case No. 36-04032B

OBJECTION

36-04032B -0003/
93-04-0265

INSTRUCTIONS

This form must be used to file an objection to any water right recommended in the Director's Report. You may object to one water right per objection form. The water right number you are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection by the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

(Over)

MICROFILMED

OCT 18 1994

Any party physically filing 25 (twenty-five) or more objections must make an appointment with a Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

Name: IDAHO POWER COMPANY
Address: P.O. Box 70
Boise, Idaho 83707-0070

Briefly describe your interest in this water right:

The diversion associated with this right is from the same source and in close proximity to a right claimed by the objector.

2. Owner of the water right:

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

3. If this objection is filed by an attorney:

Attorney Name: James C. Tucker
Attorney Address: P.O. Box 2139
Boise, Idaho 83701-2139
Attorney Phone No.: (208) 336-0700

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

II. STATEMENT OF THE OBJECTION

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

1. ☐ Name and Address: I object to the name and/or address of the owner of the water right.
2. ☐ Source: I object to the source of water.
3. ☐ Quantity: I object to:
 - a. ☐ the total quantity of water used in cubic feet per second; or
 - b. ☐ the total quantity of water stored in acre-feet per year; or
 - c. ☐ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☐ Priority Date: I object to the priority date.
5. ☐ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☐ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☐ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☐ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☐ Place of use: I object to:
 - a. ☐ the legal description of the place of use; or
 - b. ☐ the number of irrigated acres within each forty (40) acre subdivision.
10. ☐ Consumptive Use: I object to the annual volume of consumptive use.
11. ☐ Remarks: I object to the "remarks" listed with the water right.

(Over)

12. ☐ Water Right Recommendation: I object to:
- ☐ this water right being recommended at all; or
 - ☐ this water right not being recommended.
13. ☐ Description of Reservation: I object to the legal description of the reservation.
14. ☒ Other: I object to:

This right being decreed as recommended, or as claimed, until all issues pending, or subsequently raised, before the Court in *Rim View Trout Co., Inc. v. Idaho Department of Fish & Game and Idaho Department of Water Resources*, a subcase(s) in Civil No. 39576, are resolved either through litigation or negotiation.

REASONS SUPPORTING EACH BOX CHECKED

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

Box 14: Litigation between Rim View Trout Company and Idaho Department of Fish and Game has not been concluded.

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.

Recommendation of this right should be withheld until the completion of litigation involving this right.

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

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

VERIFICATION (Must be Completed)

State of Idaho

County of Ada

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

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Signature of person filing objection

By: Patrick Madigan
(Attorney signing in representative capacity)

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



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

(Over)

RECEIVED
NIDBCE WED

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 29th day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

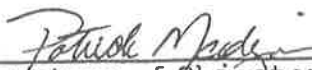
Owner name: RIM VIEW TROUT COMPANY
Owner's address: 1301 Vista Avenue
Boise, Idaho 83705

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environmental and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83724



Signature of Objector or attorney
mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-26-1993
PAGE: A-2

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: NIAGARA SPRINGS		TRIBUTARY: SNAKE RIVER				
36-04032B	RIM VIEW TROUT CO 1301 VISTA AVE BOISE ID 83705	01/16/1959	DOMESTIC	01-01 12-31	.08 CFS	BENEFICIAL USE
			FISH PROPAGATION	01-01 12-31	7.06 CFS	
					~~10497.7~~ AFY	
					5111.2 AFY	
				TOTAL QUANTITY:	7.06 CFS	
					~~10497.7~~ AFY	
					5111.2 AFY	

NON-IRRIGATION-USES:

DOMESTIC, 2 HOMES, OFFICE, SHOP; FISH PROPAGATION, COMMERCIAL HATCH

POINT OF DIVERSION:

T09S R15E S10 LOT 1 (SENENE)

PLACE OF USE: DOMESTIC

T09S R15E S10 Lot 1 (NENE) Lot 9 (SENE)

PLACE OF USE: FISH PROPAGATION

T09S R15E S10 Lot 1 (NENE) Lot 2 (NWNE) Lot 10 (SWNE) Lot 9 (SENE)

REMARKS: ~~PORTION OF RIGHT FORFEITED/ABANDONED.~~

FACILITY VOLUME 696,960 CU. FT.

USE OF THIS RIGHT WITH COMBINED RIGHTS LISTED BELOW IS LIMITED
TO A TOTAL FACILITY VOLUME OF 696,960 CU. FT.COMBINED RIGHTS: 36-04032A, 36-02680, ~~36-04032C~~ & 36-07167.THE COMBINED RIGHTS LISTED ABOVE ARE ALSO DIVERTED THROUGH THE
POINT OF DIVERSION DESCRIBED ABOVE.MICROFILMED
OCT 18 1994

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

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

Case No. 36-04032B -0003

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

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

2. Person who filed objection:

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

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449
Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

14. |X| Other: I respond to the objection concerning:

PENDING SUB-CASE REGARDING NIAGARA SPRINGS
BETWEEN RIM VIEW TROUT COMPANY AND IDAHO
DEPARTMENT OF FISH AND GAME.

REASONS SUPPORTING EACH BOX CHECKED

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

The objection fails to allege any errors in the director's report or any portions of the director's report that should be changed, and therefore should be dismissed.

In the alternative, IDWR responds as follows: Idaho Power Company, Rim View Trout Company, and the Idaho Department of Fish and Game are the only claimants of rights to water from Niagara Springs; each of IDWR's recommendations of claims to water from Niagara Springs are contested by one or more of these three claimants; the use of water from Niagara Springs is a source of long-standing dispute among these three claimants; and Idaho Power Company has made the same objection to each right recommended to Rim View Trout Company and the Idaho Department of

Fish and Game. If this objection is not dismissed, then IDWR concurs that all issues as to the description of the water rights from Niagara Springs raised by the objections should be determined at the same time, by consolidation into a single sub-case.

There are errors in the diversion volume and remarks in the description of this right in the director's report. The recommendation should be corrected as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

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

No. of
Pages

The notice of claim is attached to IDWR's response
to Objection No. 36-04032B-0001
Recommended Water Rights Acquired Under State Law

1

(Over)

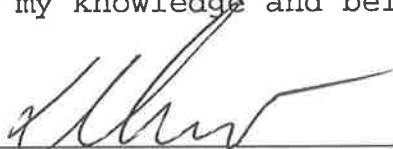
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

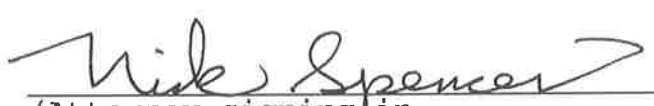
David B. Shaw, being first duly sworn, upon oath, deposes and says:

That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.



Signature of person filing response

By:



(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 30th day of August,
1993.



Notary Public for Idaho

Residing at: _____

My Commission expires _____

Danni Smith, Notary Public
Residing at Boise, Idaho
My Commission Expires December 5, 1994

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of August, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Name: WILLIAM F RINGERT
Address: PO BOX 2773
BOISE ID 83705

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

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

DATE: AUG-26-1993

PAGE: A-2

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: NIAGARA SPRINGS		TRIBUTARY: SNAKE RIVER				
36-04032B	RIM VIEW TROUT CO 1301 VISTA AVE BOISE ID 83705	01/16/1959	DOMESTIC	01-01 12-31	.08 CFS	BENEFICIAL USE
			FISH PROPAGATION	01-01 12-31	7.06 CFS	
					~~10497.7~~ AFY	
					~~5111.2~~ AFY	
			TOTAL QUANTITY:		7.06 CFS	
					~~10497.7~~ AFY	
					~~5111.2~~ AFY	

NON-IRRIGATION-USES:

DOMESTIC, 2 HOMES, OFFICE, SHOP; FISH PROPAGATION, COMMERCIAL HATCH
POINT OF DIVERSION:

T09S R15E S10 LOT 1 (SENE)

PLACE OF USE: DOMESTIC

T09S R15E S10 Lot 1 (NENE) Lot 9 (SENE)

PLACE OF USE: FISH PROPAGATION

T09S R15E S10 Lot 1 (NENE) Lot 2 (NWNE) Lot 10 (SWNE) Lot 9 (SENE)
REMARKS: ~~PORTION OF RIGHT FORFEITED/ABANDONED.~~

FACILITY VOLUME 696,960 CU. FT.

USE OF THIS RIGHT WITH COMBINED RIGHTS LISTED BELOW IS LIMITED
TO A TOTAL FACILITY VOLUME OF 696,960 CU. FT.

COMBINED RIGHTS: 36-04032A, 36-02680, ~~36-04032C~~ & 36-07167.

THE COMBINED RIGHTS LISTED ABOVE ARE ALSO DIVERTED THROUGH THE
POINT OF DIVERSION DESCRIBED ABOVE.

 MICROFILMED
001815

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

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

Case No. 36-04032B -0001

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

RESPONSE TO OBJECTION

Petitioner,

vs.

The United States; the State
of Idaho; and all Claimants to
the use of water from the Snake
River Basin Water System,

Respondents.

I. GENERAL INFORMATION

1. Person responding to objection:

Name: R. KEITH HIGGINSON, DIRECTOR

Address: IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Briefly describe your interest in this water right:

IDWR is required to file a response to an objection to part
I of the director's report pursuant to I.C. section 42-1412(2).

(Over)

MICROFILMED
OCT 18 1994

2. Person who filed objection:

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

3. If this response is filed by an attorney:

Attorney Name(s): NICHOLAS B. SPENCER
Attorney Address: DEPUTY ATTORNEY GENERAL(S)
IDAHO DEPARTMENT OF WATER RESOURCES
P.O. BOX 44449
BOISE, ID 83711-4449

Attorney Phone No.: (208) 327-7900

II. STATEMENT OF THE RESPONSE

3. ☒ Quantity: I respond to the objection concerning:
- 3a. ☒ The total quantity of water used in cubic feet per second.
4. ☒ Priority Date: I respond to the objection concerning the priority date.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

GENERAL PROVISIONS 5 & 7

REASONS SUPPORTING EACH BOX CHECKED

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

Rim View Trout Company claimed right no. 34-04032A with a diversion rate of 10 cfs and a priority date of 1926, and claimed right no. 36-04032B for an additional 15 cfs with a priority date

of 1951, for use through the same diversion system. Rim View thus claimed a total diversion of 25 cfs as of 1951. However, measurement data from the United States Geological Survey shows diversions of a maximum of 3.54 cfs in the early 1950's, and a maximum of 10.6 cfs in the late 1950's. IDWR therefore recommended 3.54 cfs for right no. 34-04032A, with the claimed priority of 1926, and an additional 7.06 cfs for right no. 36-04032B, with a priority of 1959. This results in a total diversion rate of 10.6 cfs, which is the total diversion rate confirmed by the U.S.G.S. data for 1959. The recommended priority date is 1/6/1959, which is the date of the 10.6 cfs measurement by the U.S.G.S.

In response to Statement of the Objection item 11.1, and all allegations of the objection regarding this item, IDWR responds as follows:

There are errors in the remarks in the description of this right in the director's report. The statement "portion of right forfeited/abandoned" is the result of a data-entry coding error and should be deleted. The basis for IDWR's recommendation of a diversion rate less than claimed is that information currently available to IDWR does not support a finding that a diversion rate greater than recommended was appropriated by beneficial use as of the priority date recommended. In addition, because claim no. 36-04032C was recommended for disallowal, the reference to claim no. 36-04032C should be deleted from the remarks.

In response to Statement of the Objection item 11.2, and all allegations of the objection regarding this item, IDWR responds as follows. Idaho Code section 42-1411(2) provides that the director's report shall include "such other matters as are necessary to define the right." The facility volume correctly describes the current use of water diverted for fish propagation purposes. Description of the current use is necessary to define the right and to prevent future expansions in use of the right.

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

IDWR denies this portion of the objection.

There are errors in the annual diversion volume in the description of this right and right nos. 36-04032A and 36-02680 in the director's report. The annual diversion volume for this right should be 5111.2 AFY, for 36-04032A should be 2562.8 AFY, and for 36-02680 should be 57,701 AFY, for a total combined annual diversion volume for the three rights of 65,375 AFY.

(Over)

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CHANGES TO THE DIRECTOR'S REPORT

See attached List of Recommended Water Rights Acquired under State Law.

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

	No. of Pages
Notice of Claim No. A36-04032B	4
Recommended Water Rights Acquired Under State Law	1

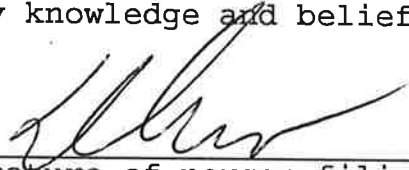
VERIFICATION (Must be Completed)

State of IDAHO

County of ADA

David B. Shaw, being first duly sworn, upon oath, deposes and says:

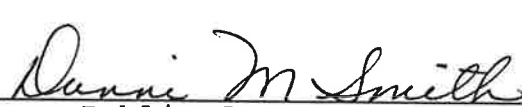
That R. Keith Higginson, in his official capacity as director of the Idaho Department of Water Resources, is a party to this proceeding, as defined by I.C. 42-1401A(1) and (7); that I am the Adjudication Bureau Chief for IDWR and am authorized by R. Keith Higginson, in his official capacity as director of IDWR, to verify this response; and that I have read the foregoing response, know its contents and that the statements contained therein are true to the best of my knowledge and belief.


Signature of person filing response

By:

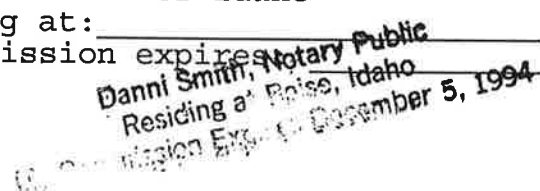

(Attorney signing in representative capacity)

Subscribed and sworn to before me this 30th day of August, 1993.


Notary Public for Idaho

Residing at:

My Commission expires


Danni Smith, Notary Public
Residing at Boise, Idaho
Commission Expires December 5, 1994

(Over)

MICROFILMED

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of August, 1993, I mailed the original and copies of the foregoing response, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepared and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

See No. 3

3. One copy to the party who filed the objection, or if represented by an attorney, to their attorney; and you must fill in the following information:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83734



Signature of Respondent or attorney
mailing on Respondent's behalf

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: AUG-26-1993
PAGE: A-2

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: NIAGARA SPRINGS		TRIBUTARY: SNAKE RIVER				
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			FISH PROPAGATION	01-01 12-31	7.06	CFS
					~~10497.7~~	~~AFY~~
					5111.2	AFY
				TOTAL QUANTITY:	7.06	CFS
					~~10497.7~~	~~AFY~~
					5111.2	AFY

NON-IRRIGATION-USES:

DOMESTIC, 2 HOMES, OFFICE, SHOP; FISH PROPAGATION, COMMERCIAL HATCH

POINT OF DIVERSION:

T09S R15E S10 LOT 1 (SENENE)

PLACE OF USE: DOMESTIC

T09S R15E S10 Lot 1 (NENE)

PLACE OF USE: FISH PROPAGATION

Lot 9 (SENE)

T09S R15E S10 Lot 1 (NENE)

REMARKS: ~~PORTION OF RIGHT FORFEITED/ABANDONED.~~

Lot 2 (NWNE)

Lot 10 (SWNE)

Lot 9 (SENE)

FACILITY VOLUME 696,960 CU. FT.

USE OF THIS RIGHT WITH COMBINED RIGHTS LISTED BELOW IS LIMITED
TO A TOTAL FACILITY VOLUME OF 696,960 CU. FT.COMBINED RIGHTS: 36-04032A, 36-02680, ~~36-04032C~~ & 36-07167.THE COMBINED RIGHTS LISTED ABOVE ARE ALSO DIVERTED THROUGH THE
POINT OF DIVERSION DESCRIBED ABOVE.MICROFILMED
OCT 18 1994

RECEIVED

APR 29 1993

Department of Water Resources
Adjudication Bureau

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

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

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

*
*
*

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

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

Petitioner,)

-vs-)

The United States; the State of)
Idaho; and all claimants to the)
use of water from the Snake River)
Basin Water System,)

Respondents.)

Case No. 36-04032B
(You must insert the
water right number you
are objecting to)

OBJECTION

36-04032B -0001/
93-04-0263

INSTRUCTIONS

This form must be used to file an objection to any water
right recommended in the Director's Report. You may object to
one water right per objection form. The water right number you

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are objecting to must be indicated above in the blank space following "Case No." To object to more than one water right, you must file a separate objection form for each. Forms may be obtained from the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form, as long as it is identical to the court's form. You must file your objection to the deadline shown in the notice that IDWR mailed to you. The objection must be received by the court on or before the deadline specified. Instructions for mailing this objection are found at Page 6, and must be strictly followed.

Any party physically filing 25 (twenty-five) or more objections must make an appointment with the Clerk of the Adjudication Court and arrange for an appointment to file multiple objections.

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

I. GENERAL INFORMATION

Please fill in the following information:

1. Person objecting:

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

Briefly describe your interest in this water right:
OWNER

2. Owner of the water right:

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

3. If this objection is filed by an attorney:

Attorney name: William F. Ringert
Attorney Address: P. O. Box 2773
Boise, ID 83701
Attorney Phone No.: (208) 342-4591

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JAN 11 1991
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RECEIVED

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

II. STATEMENT OF THE OBJECTION

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

1. ☒ Name and address: I object to the name and/or address of the owner of the water right.
2. ☒ Source: I object to the source of water.
3. ☒ Quantity: I object to:
 - a. ☒ the total quantity of water used in cubic feet per second
 - b. ☒ the total quantity of water stored in acre-feet per year; or
 - c. ☒ the total quantity of water reserved for each and every purpose, including all present and future uses.
4. ☒ Priority Date: I object to the priority date.
5. ☒ Points of Diversion: I object to the legal description of the point(s) of diversion.
6. ☒ Instream Flow: I object to the legal description of the beginning and ending points of the instream flow.
7. ☒ Purpose(s) of Use: I object to the purpose(s) of use.
8. ☒ Period of Year: I object to the period of year when water is used or is necessary for the purpose stated.
9. ☒ Place of Use: I object to:
 - a. ☒ the legal description of the place of use; or
 - b. ☒ number of irrigated acres within each forty (40) acre subdivision.
10. ☒ Consumptive Use: I object to the annual volume of consumptive use.

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11. X Remarks: I object to the "remarks" listed with the water right.
12. ☒ Water Right Recommendation: I object to:
- a. ☒ this water right being recommended at all; or
- b. ☒ this water right not being recommended.
13. ☒ Description of Reservation: I object to the legal description of the reservation.
14. X Other: I object to: General Provision No. 5; General Provision No. 7.

REASONS SUPPORTING EACH BOX CHECKED

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

3a. The total quantity of water for fish propagation should be 14.2 cfs.

4. The priority date should be December 31, 1951.

11. 1. No portion of the right has been abandoned or forfeited.

2. The facility volume is neither required nor authorized by statute. An increase in facility volume does not necessarily involve an expansion of use, and any expansion of use resulting from increase in facilities volume for fish production is within the scope of the water right as established by the original facilities volume. Claimant does not know how volume was calculated and challenges the stated volume.

14. 1. Idaho Code § 42-1410 requires the Director to continue his examination of the water system covered by the Snake River Basin Adjudication "for such a period of time as is necessary to evaluate the extent and nature of each water right for which a notice of claim has been filed. The director may conduct any fact-finding hearing necessary for a full and adequate disclosure of the fact." General Provision No. 5 violates this statutory requirement and claimants whose water rights are in springs fed by the Snake Plain

aquifer should not be required to file objections against any ground water rights recommended in Basin 36 until such time as the Director has determined the hydraulic connection between the ground water within the Snake Plain aquifer and the springs that are fed by the Snake Plain aquifer.

CHANGES TO THE DIRECTOR'S REPORT

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

1. Change the quantity for fish propagation to 14.2 cfs.
2. Change the priority date to December 31, 1951.
3. Change total quantity to 15 cfs.
4. Delete statement of facility volume.
5. Delete General Provision 5. The Director's Report should be held in abeyance until such time as the necessary investigations have been completed, and the report then should be supplemented or amended, and an additional period of time should be allowed for filing objections to ground water claims in Basin 36.
6. Delete General Provision 7.

Please 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. _____

Copy of statutory claim, Section 42-225a, Idaho Code.
3 pages.

10-0000000-0

VERIFICATION (Must be Completed)

State of Idaho

County of Ada

William F. Ringert, being first duly sworn, upon oath, deposes and says:

That I am the person or entity filing this objection, that I am a water claimant or party in this proceeding, as defined by I.C. § 42-1401A(1) and (7), and that I have read the foregoing objection, know its contents and that the statements contained therein are true to the best of my knowledge and belief.

Rain View Trout Company
Signature of person filing objection

By: W F Ringert
(Attorney signing in
representative capacity)

Subscribed and sworn to before me this 28th day of April, 1993.

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

INSTRUCTIONS FOR MAILING

You must mail the objection, including all attachments, to the Clerk of the Court. FAX filings will not be accepted by the Clerk of the Court. You must also send a copy to the owner of the water right, if other than yourself; to the Office of the Attorney General, State of Idaho; and to the United States Department of Justice, as set out below in the Certificate of Mailing. Finally, you must sign the Certificate of Mailing to show that you followed these steps.

CERTIFICATE OF MAILING

I hereby certify that on the 28 day of April, 1993, I mailed the original and copies of the foregoing objection, including all attachments, to the following persons, by mailing the original and/or true and correct copies, postage prepaid and addressed as follows:

1. Original to:

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

2. One copy to the owner of the water right, and you must fill in the following information:

Owner name: Rim View Trout Company
Owner's address: 1301 Vista Avenue
Boise, ID 83705

3. One copy to:

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

4. One copy to:

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, Box 33
Boise, Idaho 83724



Signature of Objector or Attorney
mailing on Objector's behalf

OCT 6 1975

Identification No. 56-4432
 Claim No. 42-40147
 Map No. _____

POOR ORIGINAL

STATE OF IDAHO
 DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT
 Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

- Name of claimant Rim View Trout Co., Inc.
 post office address 2901 Idaho St., Boise, Idaho, or Wendell, Idaho
- The point of diversion is in NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 10 Township 9S
 Range 15E B.M. located on Niagara Spring
(Name of source)
 tributary to Snake River in Gooding County.
- Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:	<u>Fish Prop.</u>	-	<u>1926</u>		<u>10.0</u>	
	<u>Fish Prop.</u>	-	<u>1951</u>	amount:	<u>14.5</u>	c.f.s. or _____ acre feet
	<u>Irrigation</u>	-	<u>1951</u>		<u>0.4</u>	
	<u>Domestic</u>	-	<u>1951</u>	amount:	<u>0.1</u>	c.f.s. or _____ acre feet
	<u>Fish Prop.</u>	-	<u>1962</u>	amount:	<u>15.0</u>	c.f.s. or _____ acre feet
	Total claimed					<u>40.0</u> c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use Fish Propagation period of use from Jan. 1 to Dec. 31 (both dates inclusive)

use Fish Propagation period of use from Jan. 1 to Dec. 31 (both dates inclusive)

use Domestic period of use from Jan. 1 to Dec. 31 (both dates inclusive)

use Irrigation period of use from Mar. 15 to Nov. 15 (both dates inclusive).

- Description of diverting works:

a. Surface water diversion dam and/or headgate: material ^{was} ~~is~~ composed of rock and dirt
 _____; length is _____ feet; height is _____ feet;
 width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known Original diversion was by a rock and dirt fill canal. In 1967, a concrete canal was constructed which replaced approximately one-half the original canal.

b. Underground water diverting works: is well flowing or pumped _____; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
 capacity of pump is _____ g.p.m.; name and address of well driller is _____

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b. Do you get water through a ditch owned by several users? No If yes, give the name of the ditch
The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered N/A

7. Where water is used for domestic or municipal purposes give number of families served approx. 3
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use,
and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible,
giving dates and quantities. Water is used primarily for fish preparation purposes
with minor domestic uses for employees living on property, and irrigation uses
on the premises.

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

State of Idaho

County of _____

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the
foregoing claim to a water right, together with all attached information, and that the matters and facts therein are
true to the best of the affiant's knowledge.

W. Lawrence Baker Pres
Claimant

Sworn to before me this 25 day of February, 1972

John C. Wilson
Notary Public
Residing at Baile, Idaho

My commission expires 1973

For Department Use Only

Received by e1 Date 2-8-72

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by JEB Date 2-8-72

Fee received by e1 Date 2-8-72 Fee \$10.00

Approved for publication by De

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POOR ORIGINAL

NOTICE OF ERROR

RESPONSE

CORRECTED R PROOF

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JAN 28 1993

AUG-24-1992

NOTICE OF ERROR FORM

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

RECEIVED

SEP 23 1992

Department of Water Resources

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: 36-04032B

2. Name: Rim View Trout Co.

Address: 1301 Vista Avenue, Boise, ID 83705

Attorney: W. F. Ringert

Address: P.O. Box 2773, Boise, ID 83701

Weekday Telephone Number: Rim View Trout Co. - 344-7321

W. F. Ringert - 342-4591

RECEIVED

SEP 28 1992

Department of Water Resources

Southern Region Office

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JAN 28 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:
Total quantity - 7.06 cfs; total volume 10,497.70 AFY.
Remarks - Portion of right forfeited/abandoned. Facility volume 696,960 cu. ft. and total facility volume of 696,960 cu. ft.

4. Describe the changes you wish to have made in the proposed recommendation:
Total quantity 15.00 cfs. Delete total volume remarks. Delete portion of right forfeited/abandoned, facility volume and total facility volume.
Priority date 12-31-51.

5. Describe why you disagree with the proposed recommendation:
The evidence supports total quantity of 15.00 cfs and 1951 priority. There is no evidence of forfeiture or abandonment. The facility volume is neither required nor authorized by statute. If total volume is a proper item, it is incorrectly calculated in the proposed recommendation.
6. Date: September 17, 1992.

SIGNATURE





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

20-Oct-1992

Mr. W. F. Ringert, Attorney
PO Box 2773
Boise, ID 83701

RE: Snake River Basin Adjudication (SRBA)
Notices of Error

Hardy - A36-07510
Clear Lakes Trout Co., Inc - A36-07800, A36-07731,
A36-07725, A36-07080, A36-07004, A36-02659,
Rim View Trout Co. - A36-07167, A36-02680, A36-10819,
A36-04032A, A36-04032B, A36-04032C

Dear Mr. Ringert:

We are in receipt of the Notices of Error on the above referenced claims. Each Notice of Error will be addressed below.

Hardy - A36-07510

No changes have been made to the recommendation. The recommendation is based on a field examination of the place of use which identified the actual acres under irrigation and other IDWR information. The diversion rates and volumes and consumptive use volume are based in IDWR standards for beneficial use and crop requirements.

Clear Lakes Trout Co., Inc. - A36-07800, A36-07731, A36-07725

As to the completion of licensing process remarks, these remarks shown in the recommendations on the above referenced claims are based on Idaho Code 42-1421(3). No change will be made to the recommendation.

Clear Lakes Trout Co., Inc. - A36-07080

Regarding the measuring device condition, this remark is based on Idaho Code 42-701 and conditions set forth in the license. Regarding the effluent standards remark, this remark is carried over to the recommendation as a condition is set forth in the license. As to facility volume, this remark is based on Idaho Code 42-1411(2)(j) which provides that Director's Report

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JAN 28 1993

of water right appropriated under state law shall include such other matters necessary to define the right; facility volume is necessary to prevent future expansion in use of the right. No changes will be made to the recommendation.

Clear Lakes Trout Co., Inc. - A36-02659, A36-07004

Regarding facility volume remarks, see discussion in paragraph immediately above. Regarding the other rights diverted at the recommended points of diversion, the points of diversion recommended for both rights included the same three 10-acre tracts. As you stated in your Amended Notice of Error, a portion of A36-02659 is diverted through the same diversion structure as this right. Both claims referenced above described the same facility system with co-mingled water. Therefore, with the same points of diversion and facility, it is appropriate to include the remarks on both recommendations. Also, the remarks describing rights owned by Clear Springs Trout Co. specifically identify only two of the 10-acre tracts, thereby clearly showing that only a portion of the points of diversion are shared. No changes will be made to the recommendations.

Rim View Trout Co. - A36-02680

See paragraph under A36-07080 for discussion on facility volumes. The total volume is calculated based on the diversion rate over 365-day period. The diversion rate recommended is based on IDWR records and documents relating to this and associated rights. No changes will be made to the recommendation.

Rim View Trout Co. - A36-04032A, A36-04032B

The recommendations are based on measurement data available for the diversion rates corresponding to the dates of priority recommended. See A36-07080 above for facility volume discussion. No changes will be made to the recommendations.

Rim View Trout Co. - A36-04032C

The recommendation is based on measurements and records reflecting the balance of diversion rate put to beneficial use was diverted under development described in 36-02680. No changes will be made to the recommendation.

Rim View Trout Co. - A36-10819

The remarks have been changed to identify recommendation for 36-02680 as the right under which this water use is described.

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This recommendation is based on measurements and records supporting the development of the water use at the priority date recommended. No other changes will be made to the recommendation.

Rim View Trout Co. - A36-07167

See paragraph under A36-07080 for discussion of measuring devices, effluent standards and facility volumes. For clarification the total diversion volume of the system based on the season of use and diversion rate. The facility volume described in the remarks is a description of the facility dimensions. No changes will be made to the recommendation.

If you still do not agree with the proposed IDWR recommendation to the court, you may file an objection with the court after you receive the final recommendation of your water right. The objection process will be explained when you receive your final recommendation of your water right.

Sincerely,



Helen Harrington-Thornton
Water Resource Agent

HHT

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JAN 28 1993

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

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RIM VIEW TROUT CO 1301 VISTA AVE BOISE ID 83705 (208) 344-7321	01/16/1959	FISH PROPAGATION DOMESTIC	01-01 12-31 01-01 12-31	7.06 CFS 0.08 CFS	10497.7 AFA
TOTAL DIVERSION:					7.06 CFS	10497.7 AFA

Water Source: NIAGARA SPRINGS

Tributary to: SNAKE RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion:

T09S R15E S10 Lot01(SENENE)

GOODING County

Place of use Legal Description for: FISH PROPAGATION

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
09S	15E	10	:	01-F	02-F	10-F	09-F	:					:					:					:

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
09S	15E	10	:	01-D			09-D	:					:					:					:

POU County: GOODING

Non-Irrigation Uses: DOMESTIC, 2 HOMES, OFFICE, SHOP;FISH PROPAGATION,COMMERCIAL HATCH

Other Rights: 36-02680, 36-07167, 36-04032A & 36-04032C

Conditions of Approval:

C09 - PORTION OF RIGHT FORFEITED/ABANDONED.

Remarks:

FACILITY VOLUME 696,960 CU. FT.
USE OF THIS RIGHT WITH COMBINED RIGHTS LISTED BELOW IS LIMITED
TO A TOTAL FACILITY VOLUME OF 696,960 CU. FT.
COMBINED RIGHTS: 36-04032A, 36-02680, 36-04032C & 36-07167.
THE COMBINED RIGHTS LISTED ABOVE ARE ALSO DIVERTED THROUGH THE
POINT OF DIVERSION DESCRIBED ABOVE.

Dates:

Exam Made Date: 04/30/1991

Verified Date:

Misc:

Water District Number:

Field Inspection Flag:

Presumption Flag:

Comments:

Date: 05/15/1991 User-ID: CLELLAND Subject: COPIED FROM REMARKS
ITEM 9 ABOVE: THE 1951 PRIORITY FOR .10 DOMESTIC USE ORIGINALLY
COVERED USE FOR 3 HOMES. THE WATER USE WAS LATER CHANGED FOR
USE FOR 2 HOMES AND AN EMPLOYEE CHANGE ROOM, OFFICE AND SHOP.

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JAN 28 1993

AJ0749NP
No. R36-04032B

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

=====

DATE: 10/20/92
PAGE: 2

Comments: Date: 05/15/1991 User-ID: CLELLAND Subject: CHANGE IN USES
NO IRRIGATION USES FOUND. LIMITED TO 1/2 ACRE UNDER THE DOMESTIC
USE FOR TWO HOUSES.

Audit: 10/20/92 THORNTON

JAN 28 1993

RECEIVED

R PROOF



CVR



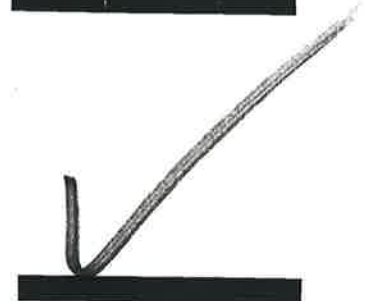
MAPS



PHOTOS



MISC



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JAN 28 1993

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

Water Right Number - R36-04032B Prefix Translation: RESEARCH Old (D) Number -

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

*** A - ATTORNEY ***
RINGERT WF 1 - PO BOX 2773
2 -
3 -
City- BOISE State- ID Zip- 83704
Phone - 208-000-0000

*** C - CURRENT OWNER ***
RIM VIEW TROUT CO 1 - 1301 VISTA AVE
2 -
3 -
City- BOISE State- ID Zip- 83705
Phone - 208-344-7321

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
01/16/1959 17 SOUTHERN J - BENEFICIAL USE

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

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

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
43 - DOMESTIC 01/01 12/31 0.080
19 - FISH PROPAGATION 01/01 12/31 7.060 10497.70

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
7.060 10497.70 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
09S 15E 10 NE NE 1 19 FISH PROPAGATION (47) GOODING
09S 15E 10 NW NE 2 19 FISH PROPAGATION (47) GOODING
09S 15E 10 SW NE 10 19 FISH PROPAGATION (47) GOODING
09S 15E 10 SE NE 9 19 FISH PROPAGATION (47) GOODING
09S 15E 10 NE NE 1 43 DOMESTIC (47) GOODING
09S 15E 10 SE NE 9 43 DOMESTIC (47) GOODING

Total Acres:

+ - - Diversion Means - CONCRETE HEADWORKS, TWO 42" HEADGATES, 7'X 4' CONCRETE CHANNEL
+ - - Non-Irrigation Use - DOMESTIC, 2 HOMES, OFFICE, SHOP;FISH PROPAGATION,COMMERCIAL HATCH

Prefix Translation: RESEARCH

Court Report Filing	- 00/00/0000	Field Inspection Made	- 04/30/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 10/11/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- C002869	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:38:23
07/24/90

PAGE: 14
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-04032B

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	Y		4-30-91 SCU	N		RV. W 3/30/92	SCU 5-15-91	RV. W 3/30/92
POINT OF DIV	Y			(Y)				
SOURCE	Y			N				
PLACE OF USE	Y			(Y)	1,2,4,5,6			
DIV. AMOUNT CFS/VOLUME	Y			(Y)	6,5			
CONSUMPTIVE USE	-			(N)				
PURPOSES				(Y)	5,12,4 5,6			
PERIOD OF USE				N				
BASIS OF CLAIM	Y			N				
REMARKS	Y			(Y)	6			

"VERIFIED BY" CODES

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

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

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:38:23
07/24/90

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-04032B

LAST: RINGERT
ADDRESS: P.O. BOX 2773
CITY: BOISE
PHONE NUMBER: 208-000-0000

FIRST: W.F.
STATE: ID ZIP: 83704

OWNER CODE: A

LAST: RIM VIEW TROUT CO.
ADDRESS: 1301 VISTA AVE.
CITY: BOISE
PHONE NUMBER: 208-344-7321

FIRST:
STATE: ID ZIP: 83705

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS: ITEM 9 ABOVE: THE 1951 PRIORITY FOR .10 DOMESTIC USE ORIGINALLY
COVERED USE FOR 3 HOMES. THE WATER USE WAS LATER CHANGED FOR
USE FOR 2 HOMES AND AN EMPLOYEE CHANGE ROOM, OFFICE AND SHOP.

RECEIVED
JAN 28 1991

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:

RECEIVED
JAN 28 1993

A. AJ CLAIM: # A36-04032B PRIORITY DATE: 12-31-1951 STAGE: J
B. WR RECORD: # 36-04032 PRIORITY DATE: 06-01-1926 STAGE: S

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

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

REMARKS: proof filed ~~12-31-90~~ 12-10-90

RECOMMENDED PRIORITY DATE:

12-31-1951

REVIEWED BY

gu

DATE

5-15-91

RECORDED
JAN 28 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-04032B	09S	15E	10	SE	NE	NE	1	GOODING

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX	R PREFIX
A36-04032C	NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-02001
36-02680
36-02704
36-07167
36-07200
36-07628
36-07789
36-07791
36-07983
36-08347

SOURCE: NIAGARA SPRINGS

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-04032	09S	15E	10		NE	NE		GOODING

OTHER WR RECORDS WITH SAME WR POD

36-04020

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX	R PREFIX
NONE	NONE

SOURCE: NIAGARA SPRING

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

DUE TO POD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
Y

FIELD
EXAMINER

[Signature]

XEROFILMED
JAN 28 1993

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP. RGE. SEC. 1/4 1/4 1/4 LOT COUNTY

— — — — —
— — — — —

SOURCE:

REVIEWED BY:

TRIB:

DATE:

5-15-91

RECORDED

JAN 28 1993

A. ROOT WATER RIGHT NUMBERS: A36-04032A
A36-04032B

A36-04032C

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
09S	15E	10	NE	NE	1	RINGERT, W.F.	A36-04032B / 3.5	-	/		
						RIM VIEW TROUT CO.	A36-02680 /	36-02680	/		
						RIM VIEW TROUT CO.	A36-04032A /	-	/		
						RIM VIEW TROUT CO.	A36-04032C /	-	/		
						RIM VIEW TROUT CO. INC.	A36-10819 /	-	/		
						RIM VIEW TROUT CO.	A36-07167 /	36-07167	/		
						RIM VIEW TROUT CO. INC.		36-07791	/		
						STATE OF IDAHO		36-08347	/		
						RIM VIEW TROUT CO. INC.		36-07789	/		
09S	15E	10	NE	NE	1	RINGERT, W.F.	A36-04032B /	-	/		
						RIM VIEW TROUT CO.	A36-02680 /	36-02680	/		
						RIM VIEW TROUT CO.	A36-04032A /	-	/		
						RIM VIEW TROUT CO.	A36-04032C /	-	/		
						RIM VIEW TROUT CO. INC.	A36-10819 /	-	/		
						RIM VIEW TROUT CO.	A36-07167 /	36-07167	/		
						RIM VIEW TROUT CO. INC.		36-07791	/		
						STATE OF IDAHO		36-08347	/		
						RIM VIEW TROUT CO. INC.		36-07789	/		
09S	15E	10	NE	NE	1	RINGERT, W.F.	A36-04032B /	-	/		
						RIM VIEW TROUT CO.	A36-02680 /	36-02680	/		
						RIM VIEW TROUT CO.	A36-04032A /	-	/		
						RIM VIEW TROUT CO.	A36-04032C /	-	/		
						RIM VIEW TROUT CO. INC.	A36-10819 /	-	/		
						RIM VIEW TROUT CO.	A36-07167 /	36-07167	/		
						RIM VIEW TROUT CO. INC.		36-07791	/		
						STATE OF IDAHO		36-08347	/		
						RIM VIEW TROUT CO. INC.		36-07789	/		
09S	15E	10	NW	NE	2	RINGERT, W.F.	A36-04032B / 3.5	-	/		
						RIM VIEW TROUT CO.	A36-02680 /	-	/		
						RIM VIEW TROUT CO.	A36-04032A /	-	/		
						RIM VIEW TROUT CO.	A36-07167 /	36-07167	/		
						RIM VIEW TROUT CO.	A36-04032C /	-	/		
						RIM VIEW TROUT CO. INC.		36-07791	/		
						RIM VIEW TROUT CO. INC.		36-07789	/		
09S	15E	10	NW	NE	2	RINGERT, W.F.	A36-04032B /	-	/		
						RIM VIEW TROUT CO.	A36-02680 /	-	/		
						RIM VIEW TROUT CO.	A36-04032A /	-	/		
						RIM VIEW TROUT CO.	A36-07167 /	36-07167	/		
						RIM VIEW TROUT CO.	A36-04032C /	-	/		
						RIM VIEW TROUT CO. INC.		36-07791	/		
						RIM VIEW TROUT CO. INC.		36-07789	/		

14N 28 1993

Dom

Fish

Fish

09S 15E 10	NW	NE	2	RINGERT , W.F.	A36-04032B /	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SW	NE	10	RINGERT , W.F.	A36-04032B / 3.5	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SW	NE	10	RINGERT , W.F.	A36-04032B /	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SW	NE	10	RINGERT , W.F.	A36-04032B /	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SE	NE	9	RINGERT , W.F.	A36-04032B / 3.5	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				IDAHO POWER CO.	A36-02704 / 2.0	36-02704	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				STATE OF IDAHO		36-08347	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SE	NE	9	RINGERT , W.F.	A36-04032B /	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				IDAHO POWER CO.	A36-02704 / 2.0	36-02704	/	
				RIM VIEW TROUT CO. INC.		36-07791	/	
				STATE OF IDAHO		36-08347	/	
				RIM VIEW TROUT CO. INC.		36-07789	/	
09S 15E 10	SE	NE	9	RINGERT , W.F.	A36-04032B /	-	/	
				RIM VIEW TROUT CO.	A36-02680 /	-	/	
				RIM VIEW TROUT CO.	A36-04032A /	-	/	
				RIM VIEW TROUT CO.	A36-04032C /	-	/	
				RIM VIEW TROUT CO.	A36-07167 /	36-07167	/	
				IDAHO POWER CO.	A36-02704 / 2.0	36-02704	/	

Fish

Done

RECORDED
JAN 28 1993

RIM VIEW TROUT CO. INC.
STATE OF IDAHO
RIM VIEW TROUT CO. INC.

36-07791 /
36-08347 /
36-07789 /

TOTAL ACRES A36-04032B 14.00

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

PRESUMPTION FLAG:

REMARKS:

Found No irrigation — allow 1/2 acre^{Total} under the Domestic Use
See PHOTOS

Handy Affidavit also confirms irrigation use was decreased in 1967.
(I reconfirmed with a reexam on 5-16-91)

RECOMMENDATIONS:

TOTAL ACRES: ~~14.00~~

REVIEWED BY: See

DATE: 5-15-91

NOT FILLED

JAN 28 1993

A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
~~A36-04032B IRRIGATION~~	~~FROM 03-15 TO 11-15~~	~~.400 CFS~~
A36-04032B DOMESTIC	FROM 01-01 TO 12-31	.100 CFS
A36-04032B FISH PROPAGATION	FROM 01-01 TO 12-31	14.500 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		15.000 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-04032 IRRIGATION	FROM 03-15 TO 11-15	.400 CFS
36-04032 DOMESTIC	FROM 01-01 TO 12-31	.100 CFS
36-04032 FISH PROPAGATION	FROM 01-01 TO 12-31	39.500 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		40.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y() N()

RECOMMEND TO WR STANDARDS OR OTHER?

Y() N() Explain in remarks, below.

REMARKS:

RECORDED

JAN 28 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y(✓) N()

AJ TOTAL CLAIMED DIVERSION RATE: 15.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 40.000 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

FIELD
DATABASE EXAMINER
Y Y

B. FLOW MEASUREMENT

MEASUREMENT METHOD See Below , SEE ATTACHED CALCULATIONS.

Memo from Loren Holmes = 124.17 cfs

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

OTHER RIGHTS LISTED IN CLAIM: A36-02680, A36-07167, DIFFERENT USES, A36-04032A, A36-04032C

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

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

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-04032B	DOMESTIC	RINGERT , W.F.	FROM 01-01 TO 12-31	.100 CFS	
A36-04032B	FISH PROPAGATION	RINGERT , W.F.	FROM 01-01 TO 12-31	14.500 CFS	
A36-02680	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	90.300 CFS	
A36-04032A	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	10.000 CFS	
A36-04032C	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	15.000 CFS	
A36-10819	FISH PROPAGATION	RIM VIEW TROUT CO. INC.	FROM 01-01 TO 12-31	.250 CFS	
A36-07167	FISH PROPAGATION	RIM VIEW TROUT CO.	FROM 01-01 TO 12-31	50.000 CFS	

4-30-91 see

(see photo sheet w/ Field Notes)

I made an estimate of flow using the orange peel method. I made 10 velocity readings in a 10' stretch of the 7' channel. The water is 46" deep.

The average velocity = 2.211 sec/10' = 4.52 ft/sec

4.52 ft/sec X 7' X 3.83' = 121 cfs
(V) (A) (Q)

(∴ supports the measurement made by L.H. on 4-5-91 as per above Memo.)

D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

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

1b. CALCULATIONS

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 = 42.0 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()

** Capacity exists for this water right
dominant limits use for fish right to 14.5 cfs*

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

** Domestic use is taken from IDWR Standard*

5-16-91 su

DW Vol. = 14.5 x 1.9835 x 365 = 10,498 AF.

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
~~IRRIGATION~~	~~03-15 11-15~~	~~0.400~~	~~42.0~~	~~42.0~~
DOMESTIC	01-01 12-31	0.100 <u>0.08</u>	<u>N/A</u>	
FISH PROPAGATION	01-01 12-31	14.500 <u>14.50</u>	<u>10,860</u>	
TOTAL FOR THIS RIGHT		~~15.000~~ <u>14.58</u>	<u>10,498</u>	

REVIEWED BY: See

DATE: 5-16-91

Remarks:

"use of this right w/ others..."

< see A36-02680 >

See Kroghe-Hampe memo

5/29/91
6/10/90

COA

(R09)

JAN 28 1993

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED	NEEDS REVIEW
()	()
()	()
()	()

negotiation use

RECEIVED
JAN 28 1993

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-04032

DATABASE
40.000

EXAMINER

CFS

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
A36-04032	A36-04032A	10.000	-		36-04032	40.000
A36-04032	A36-04032B	15.000	-		36-04032	40.000
A36-04032	A36-04032C	15.000	-		36-04032	40.000
TOTAL CFS		40.000				40.000

OK

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
N

FIELD
EXAMINER

N

REMARKS:

AUTHENTICATION:

SIGNATURE: _____

DATE: _____

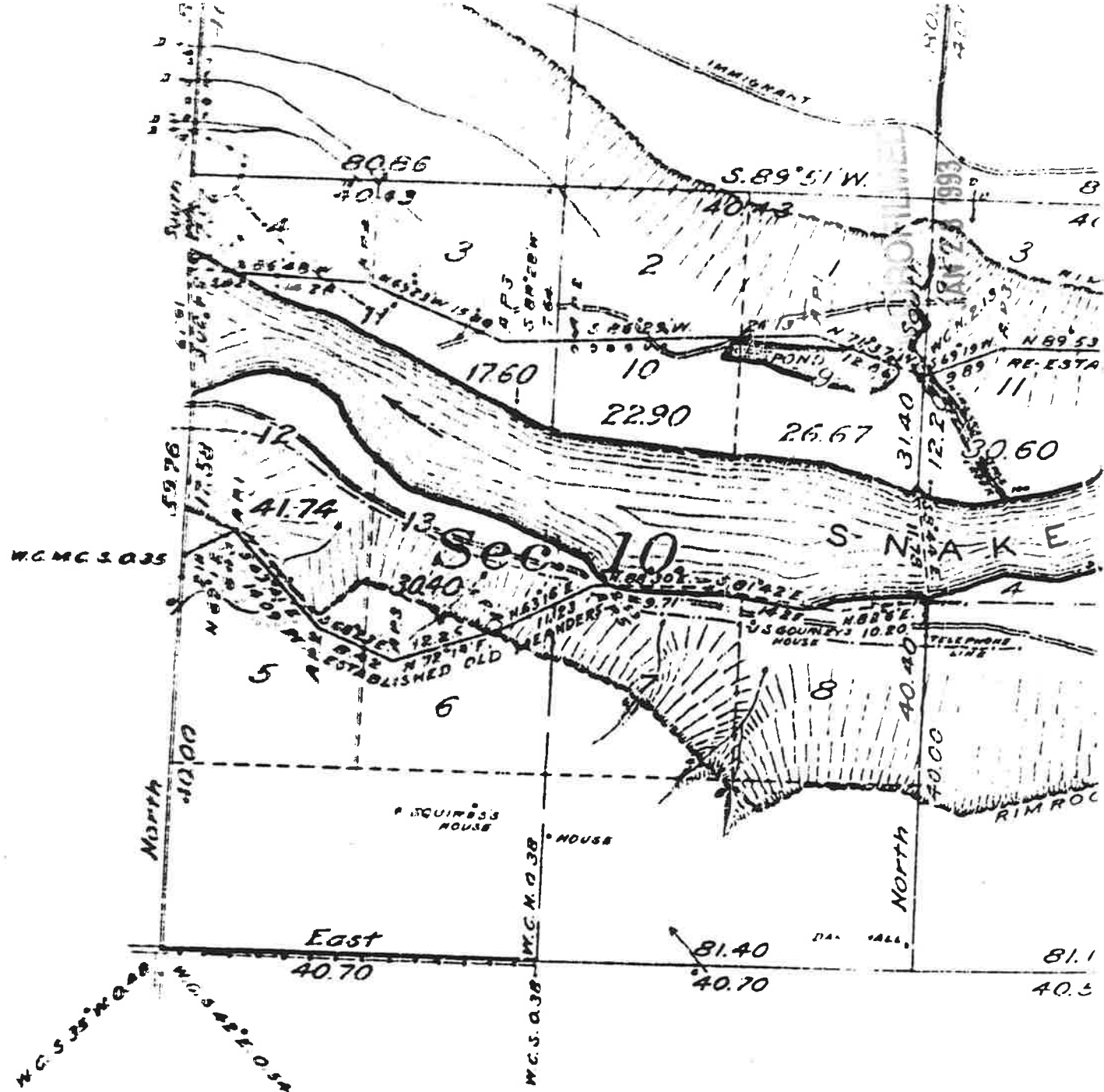
NAME OF FIELD EXAMINER: _____

TITLE: _____

R.V. 28
3/30/92

T 95
R 15E
Sec 10

1920 Survey.



RIM View
A36-04032B

5-15-91

T95

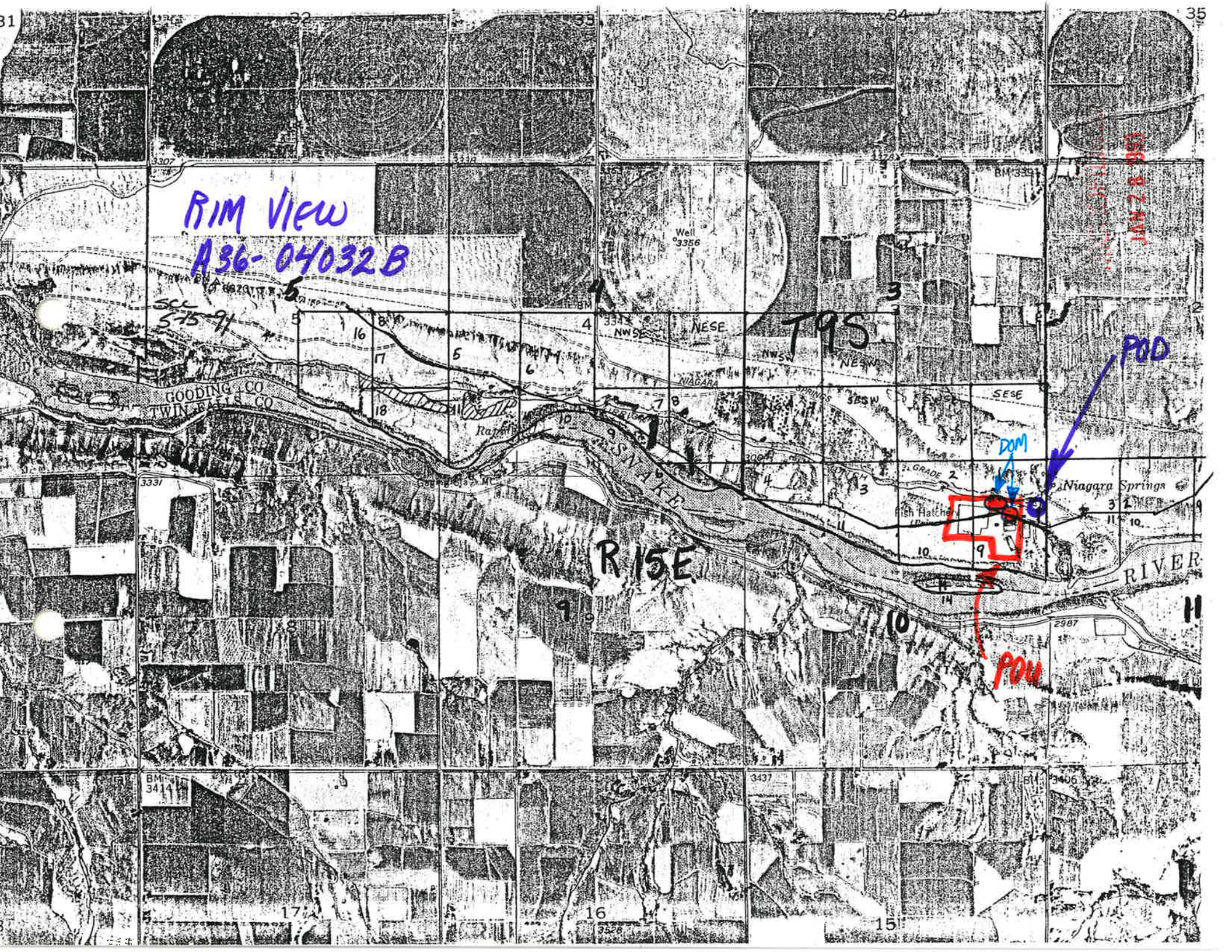
R15E

POD

DOM

POU

JAN 28 1991





UNCLASSIFIED

JAN 28 1993



Rim View Trout
Two Areas of IRRIGATION

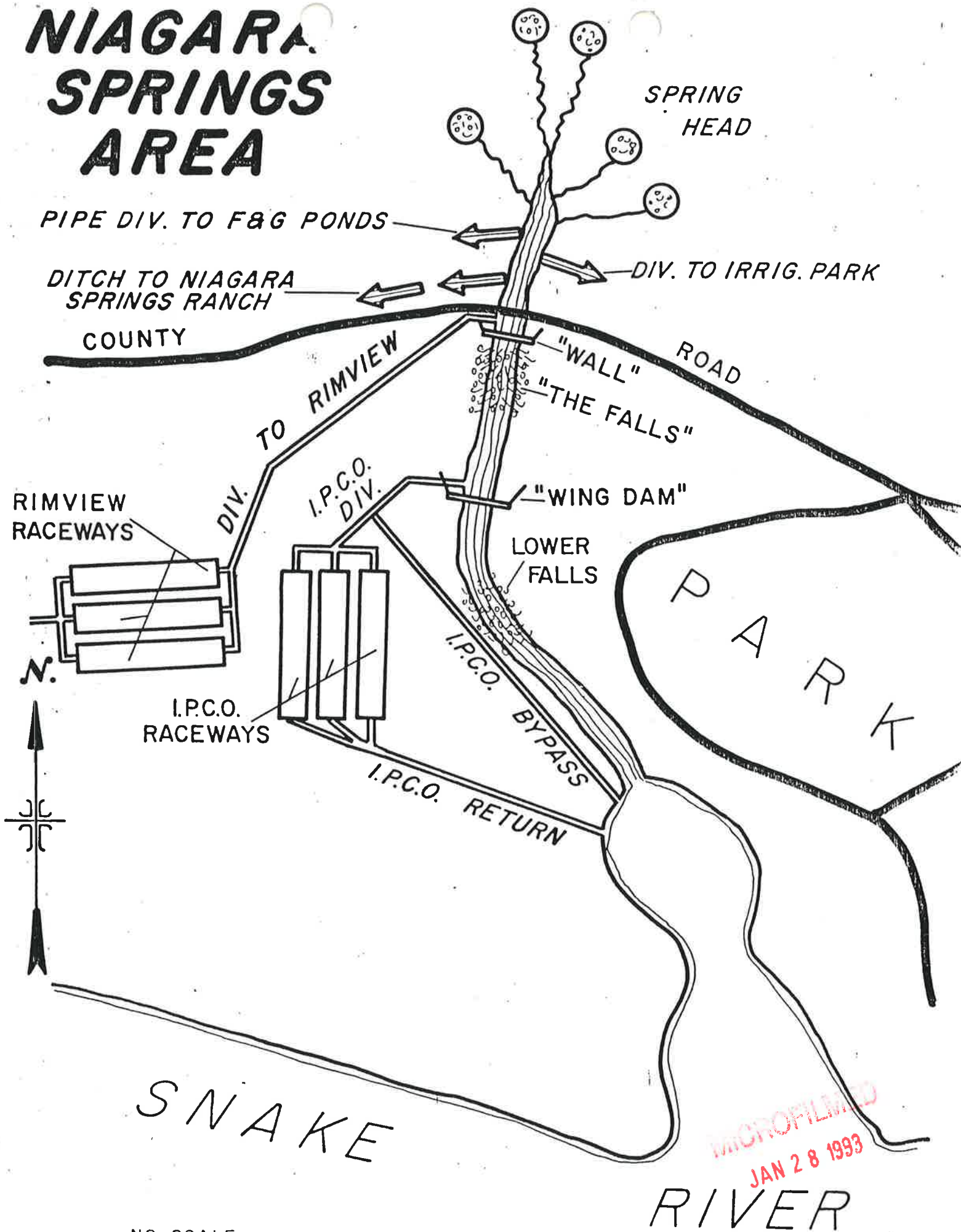


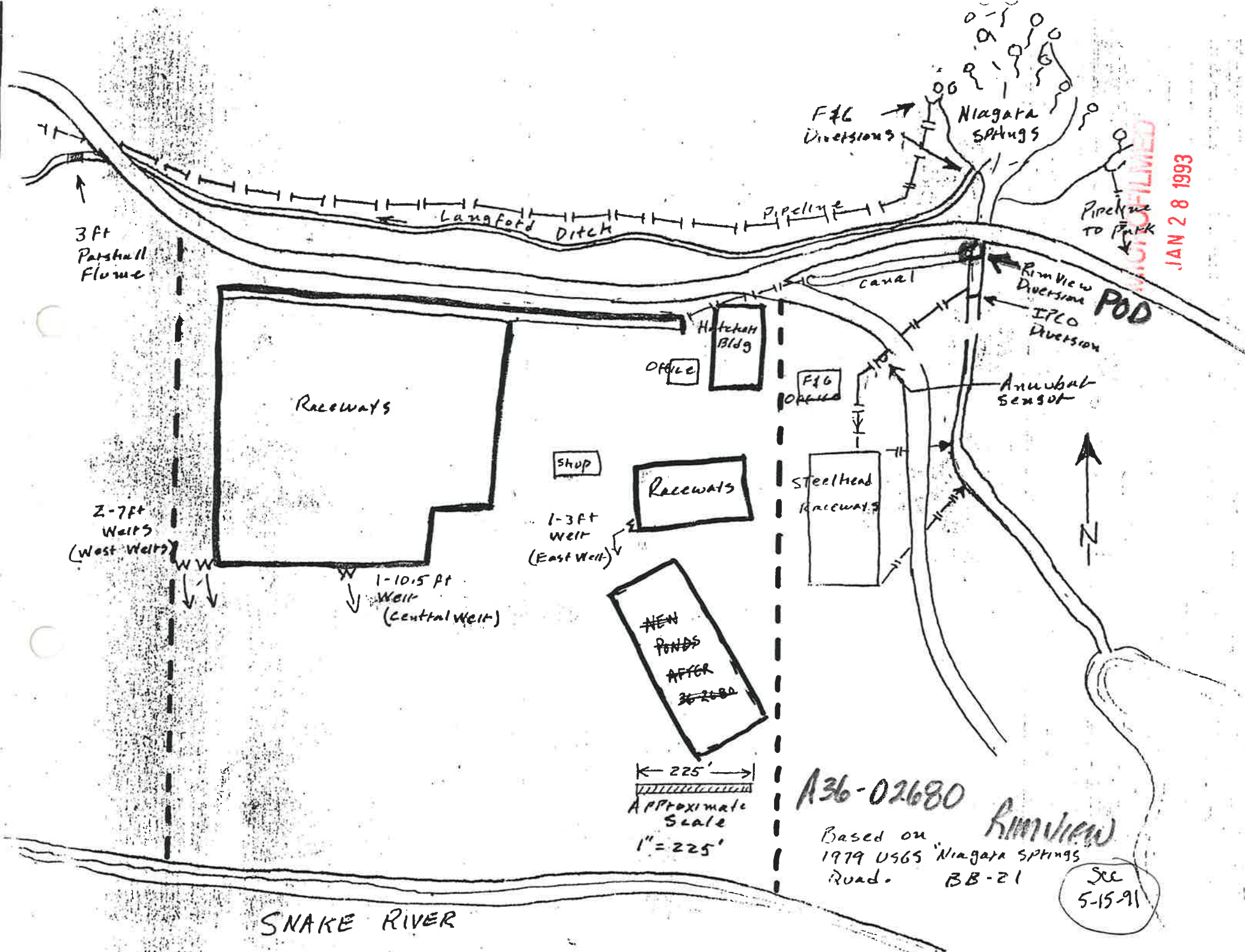
RIM VIEW TROUT
NON-IRRIGATION

UNRECORDED
JAN 28 1993



NIAGARA SPRINGS AREA





JAN 28 1993

POD

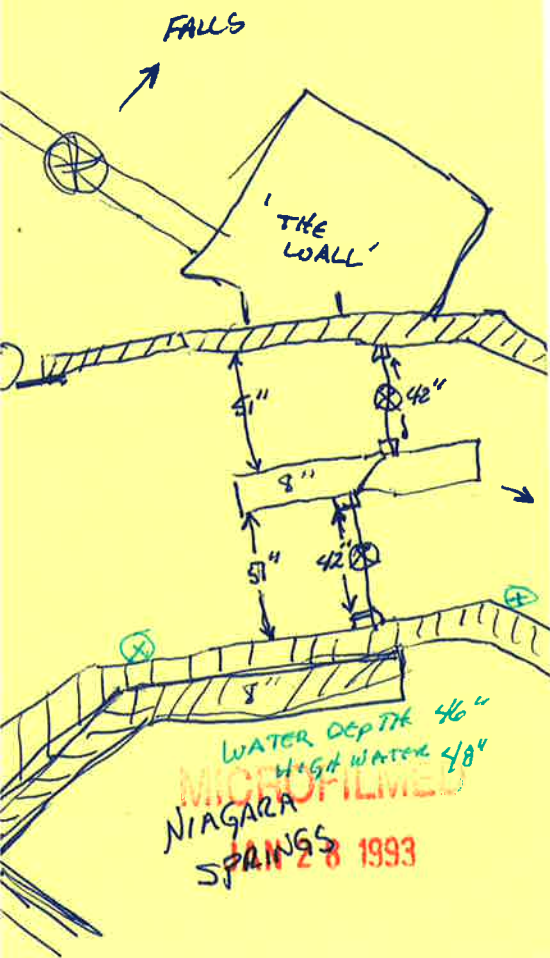
A36-02680

Rimview

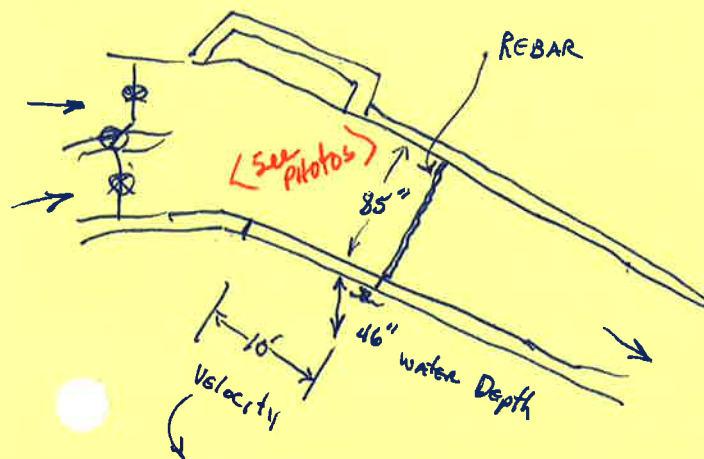
Based on
1979 USGS 'Niagara Springs'
Road. BB-21

See
5-15-91

SNAKE RIVER



NIAGARA 4-30-91 RIM VIEW
H₂O MEAS. EST.



10

2.22 sec.

1.88

2.35

2.00

2.59

2.16

2.03

2.88

2.00

2.00

2.00

2.00

2.00

MICROFILMED

JAN 28 1993

X = 2.211

$$Q = VA$$

$$\frac{16'}{2.211 \text{ sec.}} \times \frac{7'}{2.211} \times 3.83'$$

$$4.52 \text{ ft/sec} \times 7 \times 3.83$$

$$= 121 \text{ cfs}$$

536-2283

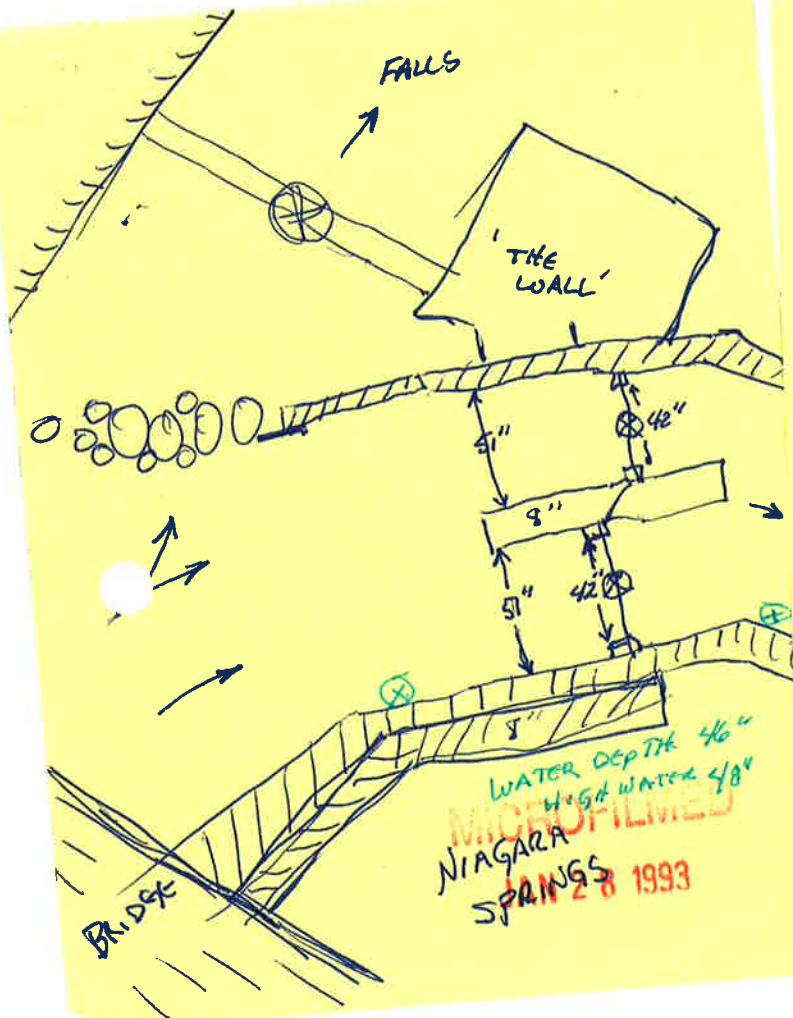
F&G

Hatchery

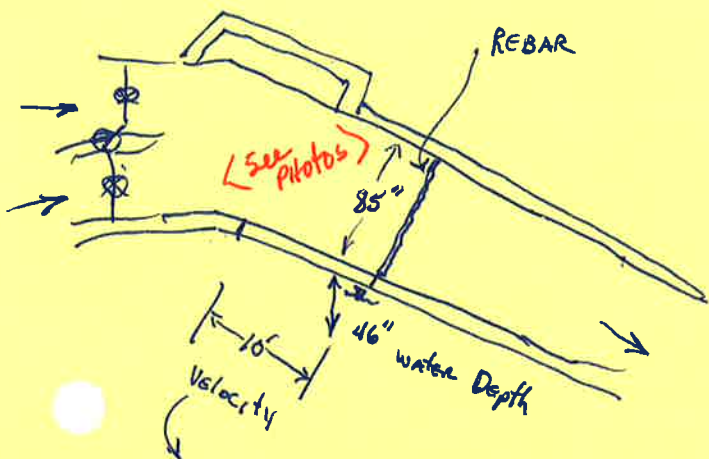
MICROFILMED

JAN 28 1993

NIAGARA



NIAGARA 4-30-91 R.M. Vireo
H₂O MEAS. EST.



2.22 sec.	
1.88	2.98
2.35	2.00
2.00	2.00
2.59	
2.16	
2.03	
X = 2.211	



JAN 28 1993

RIM VIEW FACILITIES

4-30-91
SCL

MICROFILMED
JAN 28 1993

Rim View
POD



Rim View
HATCHERY

M E M O R A N D U M

DATE: August 27, 1992
TO: File #A36-04032A, A36-04032B, A36-04032C & A36-02680
FROM: Don Shaff 
RE: USGS Measurement Records/36-8597

U.S. Geological Survey measurement records found in application file 36-8597 prove noteworthy. The measurements contradicted the amounts and, in some cases, priorities, made by the claimant. A copy of these measurement records are in the file. Although this file shows some development occurred with the 1926 appropriation, the measurement records noted herein show a diversion not exceeding 10 cfs during the period from March, 1950 through December, 1958. For this reason, the amount of water for the 1926 appropriation under A36-04032A is recommended as 3.54 cfs, the largest recorded measurement thus far shown earlier than April 11, 1955.

The first diversion to exceed 10 cfs was recorded on January 16, 1959. To acknowledge this appropriation, claim 36-04032B is recommended with a January 16, 1959 priority date and a diversion amount of 7.06 cfs.

The USGS measurement records do not show 40 cfs being diverted until after the application for permit in 1966 was filed. Consequently, claim 36-04032C is recommended for disallowal in deference to the balance of the 40 cfs being appropriated with 36-02680. The field examination confirming the beneficial use of water under 36-02680 showed a total diversion rate of 90.3 cfs. Although the License was issued for this amount, this claim is recommended for 79.7 cfs for a total appropriation under this right and the two earlier rights of 90.3 cfs. Correspondingly, no change is recommended today for 36-07167 that culminated the total appropriation of 140 cfs to that date.

The measurement records from the USGS were a part of the folder 36-8597 in a file jacket titled, "Exhibits, Hearing Notes, Hearing Tapes, Roster of Attendance".

MICROFILMED

JAN 28 1993

M E M O R A N D U M

DATE: August 27, 1992

TO: File #A36-04032A, A36-04032B, A36-04032C & A36-02680

FROM: Don Shaff 

RE: USGS Measurement Records/36-8597

U.S. Geological Survey measurement records found in application file 36-8597 prove noteworthy. The measurements contradicted the amounts and, in some cases, priorities, made by the claimant. A copy of these measurement records are in the file. Although this file shows some development occurred with the 1926 appropriation, the measurement records noted herein show a diversion not exceeding 10 cfs during the period from March, 1950 through December, 1958. For this reason, the amount of water for the 1926 appropriation under A36-04032A is recommended as 3.54 cfs, the largest recorded measurement thus far shown earlier than April 11, 1955.

The first diversion to exceed 10 cfs was recorded on January 16, 1959. To acknowledge this appropriation, claim 36-04032B is recommended with a January 16, 1959 priority date and a diversion amount of 7.06 cfs.

The USGS measurement records do not show 40 cfs being diverted until after the application for permit in 1966 was filed. Consequently, claim 36-04032C is recommended for disallowal in deference to the balance of the 40 cfs being appropriated with 36-02680. The field examination confirming the beneficial use of water under 36-02680 showed a total diversion rate of 90.3 cfs. Although the License was issued for this amount, this claim is recommended for 79.7 cfs for a total appropriation under this right and the two earlier rights of 90.3 cfs. Correspondingly, no change is recommended today for 36-07167 that culminated the total appropriation of 140 cfs to that date.

The measurement records from the USGS were a part of the folder 36-8597 in a file jacket titled, "Exhibits, Hearing Notes, Hearing Tapes, Roster of Attendance".

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JAN 28 1993

MEMO

TO: File A36-4032A, 4032B, 4032C
FROM: A. Lynne Krogh-Hampe
DATE: June 10, 1990
RE: Changes in "R" record

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

1. Condition R09 was deleted; this will be covered by a general conclusion in the preamble of the report.

2. Diversion volume was changed to show diversion volume to nearest tenth.

3. Combined use remark was deleted; the rights are not supplemental, and the diversion volume for each right is based solely on the diversion rate for each right.

4. Basis of claim changed from statutory claim to beneficial use. Statutory claim is not a basis for a water right; it only designates a type of document in the water right database.

UNRECORDED

JAN 28 1993

MEMORANDUM

DATE: 08-Apr-1991

FROM: Loren Holmes *LH*

TO: Norm Young

SUBJECT: Measurement of Niagara Springs diversions, 4/5/91

On April 5, 1991, at 3:45 PM, I made an unannounced visit to Niagara Springs to read measuring devices.

Based on the corrected rating tables for the Rim View hatchery, the discharge from the hatchery was 124.17 cfs.

The Fish & Game/Langdon ditch diversion was 10.9 cfs.

The Fish & Game/IPCO hatchery diversion was 108 cfs.

Both the Rim View and IPCO regulating headgates at "the Wall" were full open and clear of the water surface. All water going through the wall headgate was being diverted at the wing dam to the IPCO hatchery.

Fish & Game employees at the hatchery indicated that their determination of flows over Rim View's weirs had been based on USBR standard weir tables.

Summary of measurements:

LOCATION	H	Q(cfs)	MD TYPE
West $\frac{1}{2}$ Rim View west weir:	1.17	30.91*	7' Supp. Rect
East $\frac{1}{2}$ Rim View west weir	0.97	23.12*	7' Supp. Rect
Rim View center weir:	1.55	70.14*	10.5' Supp. Rect
Fish & Game/Langdon ditch:	0.87	10.90	4' Cipp. Weir
Fish & Game/IPCO hatchery		108.0	Annubar/recorder

* Q values from 3/29/88 rating table corrected for approach velocity.

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JAN 28 1993

Identification No. 36-4032Claim No. 47-4014

Map No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Rim View Trout Co., Inc.
post office address 2901 Idaho St., Boise, Idaho, or Wendell, Idaho

2. The point of diversion is in NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 10 Township 9S
Range 15E B.M. located on Niagara Spring
(name of source)

tributary to SNAKE RIVER in Gooding County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:	Fish Prop.	- 1926	10.0	
	Fish Prop.	- 1951	amount: 14.5	c.f.s. or _____ acre feet
	Irrigation	- 1951	0.4	
	Domestic	- 1951	amount: 0.1	c.f.s. or _____ acre feet
	Fish Prop.	- 1962	amount: 15.0	c.f.s. or _____ acre feet
	Total claimed 40.0 c.f.s. or _____ acre feet.			

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use Fish Propagation period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use Fish Propagation period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use Domestic period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use Irrigation period of use from Mar. 15 to Nov. 15 (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material ^{was} ~~is~~ composed of rock and dirt
; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; with at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known Original diversion was by a rock and dirt fill canal. In 1967, a concrete canal was constructed which replaced approximately one-half the original canal.

b. Underground water diverting works: is well flowing or pumped _____; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

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_____, if so, give dates and explain _____

- dimensions. In 1967 the ditch was reconstructed of concrete.

- if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

describe _____

- 0.5 c.f.s. is used for irrigation & domestic use - balance for fish propagation.

[illegible]

Total number of acres to be irrigated 14

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____
Irrigation and domestic use has slowly increased.

JAN 28 1993

b. Do you get water from a ditch owned by several users? No If yes give the name of the ditch _____ The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered N/A

7. Where water is used for domestic or municipal purposes give number of families served approx. 3
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities. Water is used primarily for fish propagation purposes
with minor domestic uses for employees living on property, and irrigation uses
on the premises.

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

State of Idaho

County of _____

33.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

W. Samuel Baker Pres
Claimant

Sworn to before me this 25 day of February, 1972

John C. Edwards
Notary Public
Residing at Boise, Idaho

Residing at Boise, Idaho

My commission expires 1973

For Department Use Only

Received by ej Date 2-8-72

Exception filed by:

Forwarded to _____ Date _____
claimant by: _____

Prelim. check by JEB Date 2-8-72

Fee received by ef Date 2-8-72 Fee \$10.00

Approved for publication by De

Published in Gooding County Dates 3-9 & 3-16
Leader

ant by: _____

 _____ JAN 28 1993
 35

36-04032

Identification No. _____

Claim No. _____

Map No. 36-4032

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Rim View Trout Co., Inc.
post office address 2901 Idaho St., Boise, Idaho, or Wendell, Idaho

2. The point of diversion is in NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Section 10 Township 9 South
Range 15 East B.M. located on Niagara Spring
(name of source)

tributary to Snake River in Gooding County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:
Fish propagation - 1926 amount: approx. 10 c.f.s. or _____ acre feet
Fish propagation (14.5 cfs) & irrig. 1951 amount: " 15 c.f.s. or _____ acre feet
& dom. (.5 cfs)
Fish propagation - 1962 amount: " 15 c.f.s. or _____ acre feet
Total claimed 40 c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use fish propagation period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use " " period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use " " period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material was ~~is~~ composed of rock and dirt
; length is _____ feet; height is _____ feet;

width at bottom is _____ feet; with at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known Original diversion was by a rock and dirt fill canal. In 1967, a concrete canal was constructed which replaced approximately one half the original canal.

b. Underground water diverting works: is well flowing or pumped _____; depth of well is _____ feet; diameter of well is _____ inches; type of pump is _____
capacity of pump is _____ g.p.m.; name and address of well driller is _____

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RECORDED

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attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain _____

- c. Conveying works: length of ditch to place of use is 300 feet; width of ditch at top is 7 feet; width of bottom of ditch is 7 feet; depth of water is 2-3 feet; grade of ditch per 1000 feet is 25 feet; material through which ditch passes is ditch is concrete-thru soil & rock; maximum length of pipe line to first place of use is _____ feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____.

Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible. ditch was originally rock and dirt of varying dimensions. In 1967 the ditch was reconstructed of concrete.

- d. If water is stored: name of reservoir Not applicable.; total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet; year construction commenced _____; year completed _____; date first used _____; period of storage is from _____ to _____; is reservoir drained each year _____; is reservoir on or off stream _____ explain _____

if feeder canal is used give maximum carrying capacity _____ c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions _____

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and describe _____

5. a. Where water is used for irrigation, describe area irrigated by 40-acre subdivisions and give total acres: .5 cfs is used for irrigation & domestic use-balance for fish propagation

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	15E	10	14																14

Total number of acres to be irrigated _____

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____

Irrigation and domestic use has slowly increased.

b. Do you get water through a ditch owned by several users? No. If yes, give the name of the ditch _____. The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered Not applicable

7. Where water is used for domestic or municipal purposes give number of families served approx. 3
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities. Water is used primarily for fish propagation purposes with minor domestic uses for employees living on property, and irrigation uses on the premises.

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation

State of Idaho }
County of Ada } ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

RIM VIEW TROUT CO., INC.
W. J. Davis et al.

RIM VIEW TROUT CO., INC.

By H. Russell Baker
President Claimant

Sworn to before me this 1st day of December, 19 71

Notary Public
Residing at **Boise, Idaho**

My commission expires _____

For Department Use Only

Received by _____ Date 11/11/11

Exception filed by:

Forwarded to
claimant by:

Date _____

Prelim. check by RP Date 8 Feb 72

Fee received by _____ Date _____ Fee \$ 10.00

Approved for publication by _____

Published in _____ Dates _____

36 40322 8 1993