

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: A36-07040
Date Received: 8/24/1988
Receipt No: 5002014
Received By: DS

COPY

FOR YOUR FILES
DO NOT RETURN

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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

2. Date of Priority: SEP 04, 1968

3. Source: BOX CANYON CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	14E	28	SW	NW	NE		GOODING

5. Description of diverting works:
CHECK DAM, 1/4 MILE OF CONCRETE DITCH, 3 PIPELINES TO RACEWAYS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01		0.200	
FISH PROPAGATION	01/01	12/31		300.000	

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL TROUT PRODUCTION

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08S	14E	28	SW	NW	3	REC	
			SW	NW	3	IRR	10.0

A36-07040

Page 1

Date: 08/26/88

MICROFILMED
OCT 19 1988

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08S	14E	28	SW	NW	3	FISH	
			NW	SW	4	REC	
			NW	SW	4	FISH	
						Section Acres	10.0
						Total Acres	10.0

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:
NONE

14. Remarks:

POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS) RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PRODUCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER THE ADJUDICATION, IT WILL NOT BE CLAIMED.

15. Basis of Claim: LICENSE

MICROFILMED
Oct 19 1994

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: - 2 -

For Organizations:

I do solemnly swear or affirm that I am President of
Clear Springs Trout Company, that I have signed the foregoing
Organization document in the space below as President of
Clear Springs Trout Company and that the statements contained in the
Organization foregoing document are true and correct.

[Signature]
Signature of Authorized Agent

President Clear Springs Trout Company
Title and Organization

8/30/88

Date

State of Idaho)
County of Trin Lake) SS.

Subscribed and sworn (or affirmed) before me this 31th day
of August 19 88

[Signature]
Notary Public

Seal

Residing at Bull ID

My Commission Expires 11-17-92

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: **A36-07040**
Date Received: 9/ 1/1988
Receipt No: S002014
Received By: _____

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

1. Name: CLEAR SPRINGS FOODS INC 208-543-4316
Address: PO BOX 712
BUHL ID 83316

2. Date of Priority: SEP 4, 1968

3. Source: BOX CANYON CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08S	14E	28	SW	NW	NE		GOODING

5. Description of diverting works:
CHECK DAM, 1/4 MILE OF CONCRETE DITCH, 3 PIPELINES TO RACEWAYS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.200		
FISH PROPAGATION	01/01	12/31	300.000		

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

8. Total consumptive use is 30.0 Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL, FISH, TROUT PRODUCTION, RECREATION, FISHING

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08S	14E	28	SW	NW	3	IRR	10.0
			SW	NW	3	FISH	
			SW	NW	3	REC	

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08S	14E	28	NW	4	FISH	
			NW	4	REC	

Section Acres 10.0

Total Acres 10.0

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:
NONE

14. Remarks:

POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS) RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PRODUCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER THE ADJUDICATION, IT WILL NOT BE CLAIMED.

15. Basis of Claim: LICENSE

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

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

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 _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 5, 1993

RECEIVED

JAN 08 1993

Department of Water Resources
Southern Region Office

Patrick D. Brown
Hepworth, Nungester and Lezamiz Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Snake River Basin Adjudication, Twin Falls County Case No. 39576

Dear Mr. Brown:

In response to your request in your letter dated December 29, 1992, I am writing to confirm that our records have been updated to reflect Clear Springs Trout Company's name change to Clear Springs Foods, Inc.

The records for the following claim numbers have been updated to reflect this change:

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	A36-02048	A36-07201
36-04013A	A36-02703	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A47-13466
36-07040	A36-04013B	A47-13467
36-07083	A36-04013C	A47-13468
36-07148	A36-07040	A47-13469
36-07151	A36-07083	A47-13470
36-07201		

Thank you for sending a copy of the Certificate of Amendment of Clear Springs Trout Company filed with the Secretary of State. If you have any further questions regarding this matter, please call me at 327-5444.

Sincerely,

Jodi I. Schultz
JODI I. SCHULTZ

Legal Assistant

Idaho Department of Water Resources

cc: Judy Givens, IDWR Southern Region Office

MICROFILMED

FEB 03 1993

LAW OFFICES

H_N&L

Chartered

Hepworth, Nungester & Lezamiz

December 29, 1992

Twin Falls Office

John C. Hepworth
Wm. L. Nungester
John T. Lezamiz
Jeffrey E. Rolig
John C. Hohnhorst
Jeffrey J. Hepworth
Penelope Parker**
Eileen A. McDevitt*
Patrick D. Brown

Boise Office

J. Charles Hepworth*
John J. Janis

*Member CA Bar
**Member UT Bar

RECEIVED

JAN 5 1993

Department of Water Resources

Jodi I. Schultz
Legal Assistant
Idaho Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, ID 83720-9000

Re: Clear Springs Foods, Inc.

Dear Ms. Schultz:

Enclosed is the Certificate of Amendment of Clear Springs Trout Company and the portion of the articles of amendment which reflect the name change from Clear Springs Trout Company to Clear Springs Foods, Inc. Consistent with those documents, I ask that you revise your records for each water right claimed under the name of Clear Springs Trout Company to reflect the name change.

Thank you for making the change and please forward a letter to me confirming that the change has been made.

Very truly yours,

HEPWORTH, NUNGESTER & LEZAMIZ,
CHARTERED

By: 

Patrick D. Brown

PDB:bjs
Enclosures
cc: Tim Hanifen

(1229SCHU.BJS)

Twin Falls Office

Blick Building
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID
83303-0389
(208) 734-7510
FAX: (208) 734-4115

Boise Office

537 West Bannock
P.O. Box 2582
Boise, ID 83701-2582
(208) 343-7510
FAX: (208) 342-2927

MICROFILMED

FEB 03 1993

State of Idaho

Department of State

CERTIFICATE OF AMENDMENT OF

CLEAR SPRINGS TROUT COMPANY

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Amendment to the Articles of Incorporation of CLEAR SPRINGS FOODS, INC. duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Amendment to the Articles of Incorporation and attach hereto a duplicate original of the Articles of Amendment.

October 25, 1991



Pete T. Cenarrusa

SECRETARY OF STATE

Lee J. Clark

Corporation Clerk

MICROFILMED

FEB 03 1993

ARTICLES OF AMENDMENT
TO THE
ARTICLES OF INCORPORATION
OF
CLEAR SPRINGS TROUT COMPANY

RECEIVED
SEC. OF STATE

91 OCT 9 AM 8 49

RECEIVED
SEC. OF STATE

91 OCT 25 AM 10 19

Pursuant to the provisions of Idaho Code 30-1-59, etc., the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

FIRST: The name of the corporation is Clear Springs Trout Company.

SECOND: The following amendments of the Articles of Incorporation were adopted by the shareholders of the corporation on September 30, 1991, in the manner prescribed by Idaho Code Section 30-1-59 etc.

1. That ARTICLE I of the Articles of Incorporation of Clear Springs Trout Company be amended to read as follows:

The name of the corporation is and shall be Clear Springs Foods, Inc.

2. That ARTICLE IV(i) of the Articles of Incorporation of Clear Springs Trout Company be amended to read as follows:

(i) The preferential rights and restrictions granted to the corporation and the remaining shareholders shall not apply or pertain where an existing shareholder desires to sell, convey, give or otherwise transfer any or all of his shares to such stockholder's spouse, former spouse, issue or child, or other lineal descendent, or any trust or other institutional recipient established and created for the direct maintenance or benefit of such shareholder, shareholder's spouse, former spouse, issue or child, or lineal descendent. In the event a shareholder shall desire to sell, convey, give or otherwise transfer any or all of his shares as herein provided, such stockholder shall, upon request of the secretary or other duly authorized officer of the corporation present such proof or evidence as the corporation may deem necessary to demonstrate and provide the existence of the relationship described above.

THIRD: The number of shares of the corporation outstanding at the time of such adoption was 1,671,758; and the number of shares entitled to vote thereon was the same.

FOURTH: The corporation only has one type or class of stock. All stockholders were eligible to vote.

FIFTH: At a special meeting of the stockholders held on September 30, 1991, at the corporate headquarters at Buhl, Idaho, after due and legal notice was given, the number of shares voted for such amendment was 1,349,277; and the number of shares voted against such amendment was 3,400. The amendments were therefore duly passed.

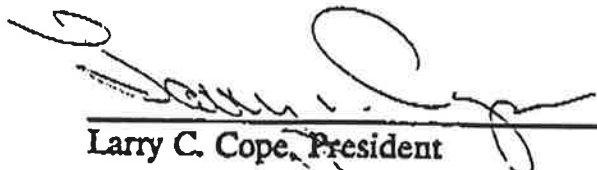
ARTICLES OF AMENDMENT - 1

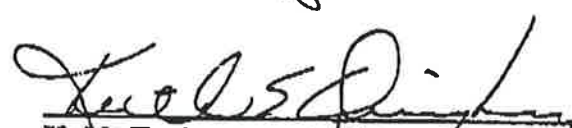
MICROFILMED

FEB 03 1993

Dated this 30th day of September, 1991.

CLEAR SPRINGS TROUT COMPANY


Larry C. Cope, President


Keith E. Quigley, Assistant Secretary

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

The undersigned, a notary public, does hereby certify that on this 30th day of September, 1991, personally appeared before me Larry W. Cope and Keith E. Quigley who, being first duly sworn by me, declared that they are the President and Assistant Secretary respectively of Clear Springs Trout Company, that they signed the foregoing document as President and Assistant Secretary of the corporation, and that the statements therein contained are true.


NOTARY PUBLIC FOR IDAHO

Residing at: 

My Commission Expires: 12-22-91

(WLN\81019ART.003)

MEMORANDUM

To: Judy Givens

From: Helen Harrington-Thornton
Marci Sterling

Date: February 21, 1992

Subject: Incorrect Entry of Attorney/Notice of Appearance

=====

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

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

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

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

cc: Anna Baumhoff

MICROFILMED

FEB 03 1993

From: DWR60::SOUTH1 "MIKE" 21-JUN-1991 15:50:53.16
To: DWR03::STERLING
CC:
Subj: RE: IRRIGATION AT BOX CANYON HATCHERY

Clear Springs Trout paid Banbury for the water use, but they said they NEVER used it (and so never irrigated anything). Right, the irrigation water would have been from a different source.

-Mike

MICROFILMED

FEB 03 1993

From: DWR03::STERLING 21-JUN-1991 14:53:46.04
To: DWR60::SOUTH1
CC: STERLING
Subj: IRRIGATION AT BOX CANYON HATCHERY

MIKE-

DO YOU REMEMBER THE IRRIGATION QUESTION I HAD AT THE BOX CANYON HATCHERY? DID YOU INTERPRET THEM AS SAYING THAT THEY HAD NEVER GOTTEN THE WATER TO IRRIGATE THE 10 ACRES OF LAND OR THAT THEY HAD NOT IRRIGATED FOR SOME TIME? ALSO, DIDN'T THE GUY AT THE HATCHERY SAY THAT THEY WERE SUPPOSED TO GET THAT WATER FROM BANBURY, NOT ACROSS THE RIVER? I'M JUST WONDERING WHY IT WOULD BE ON THE SAME LICENSE AS THE FISH PROPAGATION WHEN THE SOURCE WASN'T EVEN THE SAME AS THE REST OF THE LICENSE. LET ME KNOW WHAT YOU REMEMBER.

MARCI

MICROFILMED

FEB 03 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 16, 1992

RECEIVED

DEC 18 1992

Department of Water Resources
Southern Region Office

Patrick D. Brown
Hepworth, Nungester, Lezamiz, Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Snake River Basin Adjudication, Twin Falls County Case No. 39576

Dear Mr. Brown:

We received your Notice of Appearance on behalf of Clear Springs Foods, Inc. The records for the following claim numbers have been updated to reflect this change:

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	A36-02048	A36-07201
36-04013A	A36-02703	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A47-13466
36-07040	A36-04013B	A47-13467
36-07083	A36-04013C	A47-13468
36-07148	A36-07040	A47-13469
36-07151	A36-07083	A47-13470
36-07201		

The Notice of Appearance indicates that the ownership of the above claims has been changed from Clear Springs Trout Co. to Clear Springs Foods, Inc. However, we have not received the required Notice of Change of Water Right Ownership form. Without authorization from Clear Springs Trout Co. or written proof of the change of ownership (a Deed copy to confirm the reconveyance and legal description), we are not able to change the claimant's name on the claims filed by Clear Springs Trout Co.

Please complete the enclosed Notice of Change of Water Right Ownership form (one form may be used for all of the claims) and return it to our Southern Region office at 222 Shoshone St. East, Twin Falls, ID 83301.

MICROFILMED

FEB 03 1993

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APR 11 2000

Department of Water Resources

2000 APR 10 AM 10:18

CLERK OF DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

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

In Re SRBA

)

ORDER OF PARTIAL DECREE

)

Case No. 39576

)

For Water Right 36-07040

)

The Notice of Challenge filed in the above subcase having been heard and ruled upon, IT IS
THEREFORE ORDERED that water right 36-07040 is hereby decreed as set forth in the attached
Partial Decree Pursuant to I.R.C.P. 54(b).

IT IS SO ORDERED.

DATED APR 10 2000



BARRY WOOD
Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

APR 11 2000

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 SRBA)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-07040

200 APR 10 AM 10:19
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: CLEAR SPRINGS FOODS INC
PO BOX 712
BUHL ID 83316

SOURCE: BOX CANYON CREEK TRIBUTARY: SNAKE RIVER

QUANTITY: 300.00 CFS

USE OF THIS RIGHT WITH RIGHT LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 300.00 CFS.
OTHER RIGHT NOS.: 36-07824 & 36-08080.

PRIORITY DATE: 09/04/1968

POINT OF DIVERSION: T08S R14E S28 NESWNE Within GOODING County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	FISH PROPAGATION	01-01 12-31	300.00 CFS

PLACE OF USE: FISH PROPAGATION Within TWIN FALLS County
T08S R14E S28 Lot 3 (SWNW) Lot 4 (NWSW)

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

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
MAINTAINED AS A PART OF THE DIVERTING WORKS.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

RULE 54(b) CERTIFICATE

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

B Wood

BARRY WOOD
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

DEC 15 1998

Department of Water Resources

North Snake Ground Water District,
May Farms, Ltd., and Faulkner Land
& Livestock Company

RECEIVED

DEC 22 1998

Department of Water Resources

D. Craig Lewis
University of Idaho
College of Law
Moscow, Idaho 83843
(208) 885-6422
Fax: (208) 885-7609

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

In Re SRBA

Case No. 39576

) Subcase Nos. 36-02708, 36-07201,
) 36-07218, 36-02048, 36-02703,
) 36-04013A, 36-04013B, 36-04013C,
) 36-07040, 36-07148, and 36-07568
) (Clear Springs Foods)

NOTICE OF APPEARANCE

Please take notice that D. Craig Lewis enters his appearance as co-counsel for the North Snake Ground Water District, May Farms, Ltd., and Faulkner Land & Livestock Company. You are requested to serve all future papers and pleadings on him at the address listed below:

D. Craig Lewis
University of Idaho
College of Law
Moscow, Idaho 83843
(208) 885-6422
Fax: (208) 885-7609

DATED this 14th day of December, 1998.


D. Craig Lewis

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of December, 1998, I caused to be served copies of the foregoing **Notice of Appearance** by the method indicated below:

Patrick D. Brown
Parker Warr & Brown
812 Shoshone St. East
Twin Falls, Idaho 83301
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

The Prospect Co
P. O. Box 712
Buhl, ID 83316
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Dan Steenson
Ringert Clark
P. O. Box 2773
Boise, Idaho 83701-2773
☐ U.S. Mail ☐ Fed Ex ☐ Hand ☒ Fax

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

Chief, Natural Resources Division
Office of the Attorney General
P. O. Box 83720
Boise, Idaho 83720-0010
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax

United States Department of Justice
Environment & Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724
☒ U.S. Mail ☐ Fed Ex ☐ Hand ☐ Fax



Dana L. Hofstetter

D:\1780\2b\CFS\2576

RECEIVED

SEP 29 1998

North Snake Ground Water District, on behalf of
its members, including May Farms, Ltd. and
Faulkner Land & Livestock Company

Department of Water Resources
Adjudication Bureau

RECEIVED
SEP 28 1998
OFFICE OF THE
ATTORNEY GENERAL

Josephine P. Beeman
Dana L. Hofstetter
BEEMAN & HOFSTETTER, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
(208) 388-8900
(208) 388-8400 (Facsimile)
beehof@micron.net

RECEIVED

OCT 05 1998

Department of Water Resources
Southern Region

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

In Re SRBA

Case No. 39576

) Subcase Nos. 36-02048, 36-02703,
) 36-04013A, 36-04013B, 36-04013C,
) 36-07040, 36-07148, and 36-07568
)

NOTICE OF EXPEDITED HEARING
ON MOTION TO CONTINUE
HEARING

PLEASE TAKE NOTICE that a telephonic hearing on the *NSGWD's Motion to Continue Hearing on Motion to Alter or Amend and Motion to Set Scheduling Conference* has been scheduled for **September 24, 1998 at 9:00 a.m.** before Judge Hurlbutt. Undersigned counsel, will initiate the telephonic conference call.

DATED this 23rd day of September, 1998.

MAIL



20186

BEEMAN & HOFSTETTER, P.C.

By

Dana L. Hofstetter

Dana L. Hofstetter

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of September, 1998, I caused to be served copies of the foregoing **Notice of Expedited Hearing on Motion to Continue Hearing** by the methods indicated below:

Patrick D. Brown
Parker Warr & Brown
812 Shoshone St. East
Twin Falls, Idaho 83301

Via Facsimile (208) 735-8820

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

Via Facsimile 327-5400

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

U.S. Mail Postage Prepaid



Dana L. Hofstetter

D:\1780\2\ac\2320

South
D J
RECEIVED
SEP 24 1998

Department of Water Resources
Adjudication Bureau

North Snake Ground Water District, on behalf of
its members, including May Farms, Ltd. and
Faulkner Land & Livestock Company

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SEP 29 1998

Department of Water Resources
Southern Region

Josephine P. Beeman
Dana L. Hofstetter
BEEMAN & HOFSTETTER, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
(208) 388-8900
(208) 388-8400 (Facsimile)
beehof@micron.net

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

In Re SRBA

Case No. 39576

) Subcase Nos. 36-02048, 36-02703,
) 36-04013A, 36-04013B, 36-04013C,
) 36-07040, 36-07148, and 36-07568
)
)

**MOTION TO CONTINUE HEARING
ON MOTION TO ALTER OR AMEND,
MOTION TO SET SCHEDULING
CONFERENCE, and
MOTION FOR EXPEDITED HEARING**

The North Snake Ground Water District ("NSGWD"), on behalf of its members including May Farms, Ltd. and Faulkner Land & Livestock Company, by and through its attorneys of record, Beeman & Hofstetter, P.C., hereby moves this Court to vacate the hearing on the *Motion to Alter or Amend* currently scheduled for September 28, 1998, at 9 a.m., and requests that the Court hold a scheduling conference at that time instead. The NSGWD further moves for an expedited telephonic hearing for Thursday morning, September 24, 1998, on these matters.

for hearing on September 28, 1998. *Id.* Nor was it listed on the August 1998 SRBA Docket Sheet. Thus, the NSGWD had no notice, constructive or otherwise, of the existence of the *Supplemental Findings*. Since the *Supplemental Findings* amend the basis for the Special Master's recommendations, the NSGWD needs additional time to revise its briefing and adequately prepare for hearing on these matters. *Id.*

3. Facility volume remarks were included in certain of the SRBA claims in subcases scheduled for hearing on September 28, 1998 (e.g., 36-07040 and 36-07568). The claimant subsequently objected to facility volume designations, but never sought to file amended claims. The attempt to delete facility volume remarks through the objection process is improper. Based on SRBA Court precedent, the claimant cannot seek to amend its claims without filing a motion to amend. Additional time is necessary for the claimant to seek the amendment of its claims.

DATED this 23rd day of September, 1998.

BEEMAN & HOFSTETTER, P.C.

By 
Dana L. Hofstetter



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

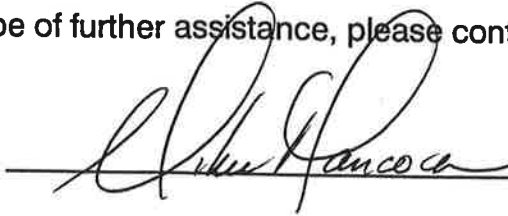
Date 6-9-98
Name Beeman & Hoyer
Address Boise

No. of Copies	Materials	Cost
788	Copies @ .05	\$39.40
	Complete files	
	Claim numbers: A36-07040	
	A36-02703 - 02048 - 07148	
	- 04013 A, B, C, - 07568	
	Clear Springs Trout	
TOTAL		\$39.40

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

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

Sincerely,



AUG 31 1998

Department of Water Resources
Southern Region

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AUG 19 1998

Department of Water Resources
Adjudication Bureau

North Snake Ground Water District

Josephine P. Beeman
Dana L. Hofstetter
BEEMAN & HOFSTETTER, P.C.
608 West Franklin Street
P. O. Box 1427
Boise, ID 83701-1427
(208) 388-8900
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

In Re SRBA

Case No. 39576

) Subcase Nos. 36-02048, 36-02703,
) 36-04013A, 36-04013B, 36-04013C,
) 36-07040, 36-07148, and 36-07568
)

**NOTICE OF CHANGE OF
HEARING DATE AND TIME**

PLEASE TAKE NOTICE that the August 24, 1998 hearing on the *Motion to Alter or Amend* previously set for 11:00 a.m. has been changed to **September 28, 1998 at 9:00 a.m.** Undersigned counsel certifies that all counsel to these subcases have indicated they do not oppose this change in date and time.

DATED this 12th day of August, 1998.

BEEMAN & HOFSTETTER, P.C.

By

Josephine P. Beeman
Josephine P. Beeman

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August, 1998, I caused to be served copies of the foregoing **Notice of Change of Hearing Date and Time** by the methods indicated below:

Patrick D. Brown
Parker Warr & Brown
812 Shoshone St. East
Twin Falls, Idaho 83301

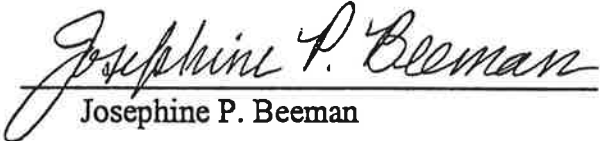
*Via Facsimile (208) 735-8820
and U.S. Certified Mail Postage Prepaid*

Idaho Department of Water Resources
Document Depository
P. O. Box 83720
Boise, Idaho 83720-0098

U.S. Mail Postage Prepaid

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

U.S. Mail Postage Prepaid


Josephine P. Beeman

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MAY 01 1998

Department of Water Resources
Southern Region

MAR 27 1998

Department of Water Resources
Adjudication Bureau

SOUTHERN
FYI

1998 MAR 25 AM 11:37

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

In Re SRBA

) Subcases See Exhibit A

Case No. 39576

) ORDER PARTIALLY VACATING
) TRIAL and DEADLINES
)

Special Master Haemmerle issued *Findings of Fact and Conclusions of Law (Facility Volume)* on February 24, 1998. A *Stipulation* was filed by the claimants and IDWR on February 24, 1998.

All the subcases on Exhibit A are currently set for trial. However, subcases 36-02048, 36-02703, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07151, and 36-07568 have all been settled per the *Stipulation* and *Findings of Fact*. Therefore, since the aforementioned subcases are settled the trial and the deadlines are vacated. Trial is still scheduled July 6 and 7, 1998, for subcases 36-02708, 36-07201, and 36-07218.

DATED March 25, 1998.


FRITZ X. HAEMMERLE
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

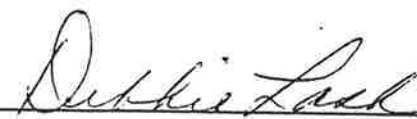
I certify that a true and correct copy of the ORDER PARTIALLY VACATING TRIAL DATE AND DEADLINES was mailed on March 25, 1998, with sufficient first-class postage to the following:

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

Patrick D. Brown
P O Box 389
Twin Falls, Idaho 83303-0389

Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

Daniel V. Steenson
P O Box 2773
Boise, Idaho 83701-2773


Deputy Clerk

ORDER PARTIALLY VACATING TRIAL DATE and DEADLINES

SUBCASE NO. 36-07040

	CLAIM (8/24/88)	AMENDED CLAIM	RECOMMENDATION	OBJECTION
NAME	Clear Springs Trout Co.	N/A	Clear Springs Foods Inc. (see notes)	XX Clear Springs Foods Inc.
BASIS OF CLAIM	License		License	
SOURCE	Box Canyon Creek		Box Canyon Creek	
QUANTITY	300.000 cfs		300.00 cfs	
PRIORITY DATE	09/04/1968		09/04/1968	
PURPOSE OF USE	Irrigation / Fish Propagation / Comm. Trout Production		Fish Propagation/Comm. Trout Production/ Recreation/Fishing	
PERIOD OF USE	Irr.: 4/1 - 11/1 F.P.: 1/1 - 12/31		F.P.: 1/1 - 12/31	
POINT OF DIVERSION	T08S R14E S28		T08S R14E S28	
PLACE OF USE	T08S R14E S28 10 acres		T08S R14E S28	
REMARKS			+ see below	XX "Facility Volume" is not an element of the water right.

Notes: IDWR, in its response, stated a change of ownership was filed with the department after the filing of the director's report and recommended that name and address of the claimant should be changed. IDWR also stated a diversion volume was erroneously included in the description of this right (217193.0 AFY--not shown on this report) and struck it out in the recommendation.

+ A measuring device of a type approved by IDWR shall be maintained as a part of the diverting works.

Facility volume 1,134,000 cu. ft.

Rights listed below are also diverted through point of diversion described above, and the total combined rate of diversion of these rights is limited to 300.00 cfs.

Other right nos.: 36-07824 & 36-08080.

R PROOF

CVR

MAPS

PHOTOS

MISC

UNCLASSIFIED

001 19 100

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. 36-07040 -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)

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OCT 19 1994

901 43 1000
MICROFILMED

2. Person who filed objection:

Name: CLEAR SPRINGS FOODS INC
Address: PO BOX 712
BUHL ID 83316

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

1. ☒ Name and Address: I respond to the objection concerning the name and/or address of the owner of the water right.
10. ☒ Consumptive Use: I respond to the objection concerning the annual volume of consumptive use.
11. ☒ Remarks: I respond to the objection concerning the "remarks" listed with the water right.
14. ☒ Other: I respond to the objection concerning:

ALL MATTERS RAISED IN THE CLAIMANT'S ANSWER,
AFFIRMATIVE DEFENSES AND PRAYER FOR RELIEF.

REASONS SUPPORTING EACH BOX CHECKED

In response to Statement of the Objection item 1, and all allegations of the objection regarding this item, IDWR responds as follows:

After the director's report was filed a notice of change in ownership was filed with IDWR. The name and address of the claimant should be changed as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In response to Statement of the Objection item 10 and all allegations of the objection regarding this item, IDWR responds as follows:

The maximum quantity in AFY is a diversion volume, and not a consumptive use volume. This diversion volume was erroneously included in the description of this right, and should be deleted as shown in the attachment entitled "Recommended Water Rights Acquired Under State Law."

In response to Statement of the Objection item 11 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. The recommendation of the director to the SRBA court as to how the right should be decreed does not constitute a taking, because it is simply a recommendation and not a final determination by the court; the eventual decree by the SRBA Court of the water right based on the actual beneficial use of the water diverted does not constitute a taking, because a water right is limited to the actual beneficial uses of the water diverted.

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

See attached "IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant."

In response to the sentence listed in Changes to the Director's Report, whereby the claimant attempts to "reserve the right to claim all purposes of use and quantities of use as shown by the evidence at trial", IDWR responds as follows:

Insofar as this purported reservation of rights may constitute an attempt to reserve the right to amend at trial the claimant's notice of claim, the claimant improperly seeks to use the objection process to amend the claim. A claimant must obtain leave of the court to amend a claim just as a party must obtain leave of court to file a late claim after the director's report is filed.

(Over)

001 13 132
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The notice of claim attached to this response is a copy. IDWR will supplement its response with the original claim at a later date.

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
Copy of Notice of Claim No. A36-07040	3
Recommended Water Rights Acquired Under State Law	1
IDWR's Response to Answer, Affirmative Defenses and Prayer for Relief of Claimant	4

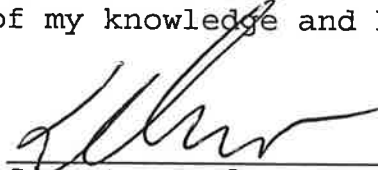
VERIFICATION (Must be Completed)

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 10th day of September, 1993.



Notary Public for Idaho

Residing at:

My Commission expires Public

Danni Smith, Notary Public

Residing at Boise, Idaho

My Commission Expires December 5, 1994

(Over)

MICROFILMED

001 100M
MICROFILMED

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of September, 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:

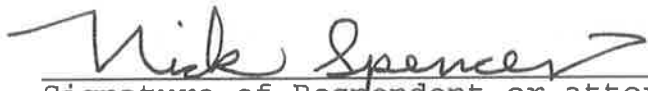
See No. 3

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: HEPWORTH NUNGESTER & LEZAMIZ
Address: PATRICK D BROWN
PO BOX 389
TWIN FALLS ID 83303

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

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: A36-07040

Date Received: 8/24/1988

Receipt No: 5001014

Received By: DS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

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

2. Date of Priority: SEP 04, 1968

3. Source: BOX CANYON CREEK Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
08S	14E	28	SW NW NE		GOODING

5. Description of diverting works:
CHECK DAM, 1/4 MILE OF CONCRETE DITCH, 3 PIPELINES TO RACEWAYS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01			0.200
FISH PROPAGATION	01/01	12/31	300.000		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
COMMERCIAL TROUT PRODUCTION

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08S	14E	28	SW NW	3	REC	
			SW NW	3	IRR	10.0

A36-07040

Page 1

Date: 08/26/88

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08S	14E	28	SW	NW	3	FISH	
			NW	SW	4	REC	
			NW	SW	4	FISH	
Section Acres							10.0
Total Acres							10.0

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:
NONE

14. Remarks:

POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS) RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PRODUCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER THE ADJUDICATION, IT WILL NOT BE CLAIMED.

15. Basis of Claim: LICENSE

A36-07040

Page 2

Date: 08/26/88

32x1

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: .0

For Organizations:

I do solemnly swear or affirm that I am President of Clear Springs Trout Company, that I have signed the foregoing document in the space below as President of

Clear Springs Trout Company and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent
President Clear Springs Trout Company
Title and Organization

8/30/88 Date

State of Idaho }
County of Blaine Falls } ss.

Subscribed and sworn (or affirmed) before me this 31st day
of August 19 88

Seal

Notary Public

Residing at Bldg ID

My Commission Expires 11-17-92

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OCT 19 1994

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAWDATE: SEP-2-1993
PAGE: A-1

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	PURPOSE OF USE	PERIOD OF USE FROM TO	MAXIMUM QUANTITY	BASIS OF CLAIM
SOURCE: BOX CANYON CREEK		TRIBUTARY: SNAKE RIVER				
36-07040	CLEAR SPRINGS FOODS INC PO BOX 712 BUHL ID 83316	09/04/1968	FISH PROPAGATION	01-01 12-31	300.00 CFS ~~217193.0~~ AFY	LICENSE
					TOTAL QUANTITY:	300.00 CFS
NON-IRRIGATION-USES:						
COMMERCIAL TROUT PRODUCTION; RECREATION, FISHING						
POINT OF DIVERSION:						
T08S R14E S28 NESWNE						
PLACE OF USE: FISH PROPAGATION						
REMARKS: T08S R14E S28 Lot 3 (SNNW) Lot 4 (NWSW)						
A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE						
MAINTAINED AS A PART OF THE DIVERTING WORKS.						
FACILITY VOLUME 1,134,000 CU. FT.						
RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF						
DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF						
DIVERSION OF THESE RIGHTS IS LIMITED TO 300.00 CFS.						
OTHER RIGHT NOS.: 36-07824 & 36-08080.						

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OCT 19 1994

IDWR'S RESPONSE TO ANSWER, AFFIRMATIVE DEFENSES AND PRAYER FOR
RELIEF OF CLAIMANT

This portion of the response addresses the multi-page attachment to the objection (hereinafter "the attachment"), wherein the claimant admits or denies all sections of Parts I, II, and III of the director's report, asserts 27 affirmative defenses, and alleges a prayer for relief. The attachment contains the following sections, corresponding to the various sections of the director's report:

- (1) I. GENERAL RESPONSE
- (2) II. DESCRIPTIVE SUMMARY, (first unnumbered page of Part I of the director's report)
- (3) III. TABLE OF CONTENTS (second and third unnumbered pages of Part I of the director's report)
- (4) IV. 1. INSTRUCTIONS FOR USING THIS REPORT PART I (page 1 of Part I of the director's report)
- (5) IV. 2. SCOPE OF THE ADJUDICATION (pages 1-3 of Part I of the director's report)
- (6) IV. 3. PURPOSE OF THIS REPORT PART I (pages 3-4 of Part I of the director's report)
- (7) V. 1. BOUNDARIES OF BASIN (pages 4-6 of Part I of the director's report)
- (8) V. 2. WATER SOURCES (page 6 of Part I of the director's report)
- (9) V. 3. DEVELOPMENT OF WATER USE (pages 6-9 of Part I of the director's report)
- (10) VI. GENERAL PROVISIONS 1-8 APPLY TO ALL WATER RIGHTS IN BASIN 36 (page 9 of Part I of the director's report)
- (11) VI. General Provision 1. EFFECT OF ADJUDICATION (page 9 of Part I of the director's report)
- (12) VI. General Provision 2. GENERAL ADMINISTRATIVE PROVISIONS (pages 9-10 of Part I of the director's report)
- (13) VI. General Provision 3. CONJUNCTIVE ADMINISTRATION (page 10 of Part I of the director's report)
- (13) VI. General Provision 4. ADMINISTRATION OF GROUND WATER RIGHTS (page 10 of Part I of the director's report)
- (14) VI. General Provision 5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (page 10 of Part I of the director's report)
- (15) VI. General Provision 6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (page 11 of Part I of the director's report)
- (16) VI. General Provision 7. MEASURING DEVICES AND CONTROL

MICROFILMED
OCT 19 1994

- WORKS (page 11 of Part I of the director's report)
- (17) VI. General Provision 8. FIRE FIGHTING PURPOSES (page 11 of Part I of the director's report)
 - (18) VI. General Provision 9. CONSUMPTIVE USE (page 12 of Part I of the director's report)
 - (19) VI. GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (page 12 of Part I of the director's report)
 - (20) VI. General Provision 10. DOMESTIC USE (page 12 of Part I of the director's report)
 - (21) VI. GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (22) VI. General Provision 11. STOCK WATER USE (page 13 of Part I of the director's report)
 - (23) VI. GENERAL PROVISIONS 12-16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (page 13 of Part I of the director's report)
 - (24) VI. General Provision 12. IRRIGATION USE (pages 13-14 of Part I of the director's report)
 - (25) VI. General Provision 13. DIVERSION VOLUME FOR IRRIGATION (page 14 of Part I of the director's report)
 - (26) VI. General Provision 14. CONSUMPTIVE USE FOR IRRIGATION (pages 14-15 of Part I of the director's report)
 - (27) VI. General Provision 15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION (page 15 of Part I of the director's report)
 - (28) VI. General Provision 16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE (pages 15-16 of Part I of the director's report)
 - (30) VI. 17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS (pages A-i through A-iii of Part I of the director's report)
 - (31) VI. 18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW (pages A-1 through B-25 of Part I of the director's report)
 - (32) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART II)
 - (33) DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36), (DIRECTOR'S REPORT PART III)

The attachment also contains part VIII, AFFIRMATIVE DEFENSES (pp. 20 through 28) and a PRAYER FOR RELIEF (untitled, p. 28).

In response to each of the items enumerated above IDWR responds that pursuant to Section 4 a.(2)(c) of SRBA Administrative Order 1, Rules of Procedure, IDWR generally denies each and every allegation, if any, contained in each enumerated portion of the attachment. IDWR affirmatively responds that neither SRBA Administrative Order 1, Rules of Procedure, nor Title 42, Chapter 14, Idaho Code, make provision for IDWR to affirm, amplify, or otherwise respond to the claimant's admissions, or to deny the claimant's denials, and that IDWR therefore does not believe that it is required to do so. Title 42, Chapter 14, Idaho Code solely defines the content and scope of the director's report. It is to contain a description of the water system and is to provide a recommendation as to each water right claimed and as to those matters necessary for administration of those water rights. Therefore, the content and scope of the objection is limited to those same matters. The attachment to the present objection asserts or otherwise raises matters not directly addressing the elements of the water right as recommended, the description of the water system, or the general provisions. Rather, the attachment raises broad issues as to the constitutional, statutory and administrative efficacy of the entire adjudication process. All such issues should be raised by means of motions to designate basinwide issues and similar procedural vehicles specifically designed to provide for basinwide notice and participation. They should not be permitted to divert the focus of any individual subcase away from the issues directly connected to the elements of the water right and the administration thereof. Therefore, because the attachment to the present objection is not within the scope of the statutory purpose of an objection it should be stricken.

However, in the event that the court should determine that all or part of the attachment is properly within the scope of the objection, IDWR further responds as follows:

IDWR affirmatively responds that all statements within the director's report are properly included therein pursuant to Title 42, Chapter 14, Idaho Code, and in particular pursuant to Idaho Code §§ 42-1411 and 42-1412(8); and that the provisions of the Idaho Rules of Civil Procedure regarding pleadings are inapplicable to the extent that they are in conflict with the statutory requirements. Therefore IDWR denies all allegations directed at the contents of the director's report.

As to the enumerated portions of the attachment addressing the listings of recommended water rights, abstracts of federal reserved water right claims, or negotiated agreements, other than the individual recommendation that is the subject of this objection, IDWR responds that such claims or agreements are not brought before this court by this objection.

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Responding to the 27 affirmative defenses asserted in the attachment, IDWR generally denies each and every affirmative defense asserted. IDWR further responds that affirmative defense numbers 1, 2, 4, 5, 10, 11, 12, 18, and 22, asserting various violations of civil or constitutional rights, fail to comply with the requirements I.R.C.P. 9(b) providing that in all averments of violation of civil or constitutional rights the factual circumstances constituting such violation must be stated with particularity. Accordingly, IDWR asserts that those affirmative defenses should be stricken.

In response to that portion of the multi-page attachment to the objection wherein the claimant asserts a prayer for relief, IDWR responds as follows:

1. IDWR denies that the director's report asserts any claims against the claimant; rather, the director's report contains only the recommendation of the director as to how the claimant's water right should be decreed and administered.
2. IDWR denies that the claimant is entitled to have the water right decreed as claimed unless in the director's report the water right has been recommended as claimed.
3. IDWR denies that any acts upon its part constitute the taking of private property for which just compensation should be allowed and awarded.
4. IDWR denies that the claimant is entitled to recover court costs and reasonable attorney fees.
5. IDWR denies that the claimant by this objection has raised any claims against IDWR entitling such claimant to any relief other than the eventual judicial determination and decree of the various elements of the claimant's water right, if any, and of those related matters necessary to describe and administer that water right.

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

- 07040

Receipt No: S015470

Date: 3/ 9/1993
Time: 10:40:39

Received
From: CLEAR SPRINGS FOODS

Type of Payment	Program Acct Class	Amount
COPIES/ADJ FILES		
	64100	
	229 21 1760	57.36

Total

CHECK 191650

\$57.36

Region: SOUTHERN

Signature:

Janie Robertson

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OCT 19 1993

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

01-Mar-1993

TIM HANIFEN
CLEAR SPRINGS FOODS INC
PO BOX 712
BUHL ID 83316

RE: Copy of SRBA File(s): 36-02048, 36-02703, 36-02708, 36-04013ABC,
36-07040, 36-07083, 36-07148, 36-07151,
36-07201, 36-07218, 36-07568

Dear Mr. Hanifen:

Please find enclosed the copies of documents you recently requested contained in the above referenced SRBA file(s) as of this date. Please note that copies of orthophoto quad maps or NAPP photography or aerial slides which may have been used in the review of your claim(s) have not been included since they are not easily reproduced. These items are however available for your review at our office. Please also note that in some situations some water rights may have other associated files which contain privileged information between IDWR staff and our legal council which has not been copied.

Please remit the following for the cost of the copies and postage:

\$57.36

Sincerely,

Jeanie Robertson
Records Clerk

Encl:

Clear Spring book

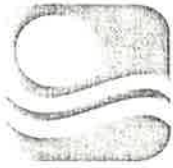
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CLEAR SPRINGS FOODS, INC.
Corporate Office P.O. Box 712, Buhl, Idaho 83316

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

February 15, 1993

Mr. Steve Clelland, Water Agent
Adjudication Bureau
DEPARTMENT of WATER RESOURCES
222 Shoshone St. East
Twin Falls, Idaho 83301

R E C E I V E D

FEB 17 1993

Department of Water Resources
Southern Region Office

Re: Clear Springs Foods Water Filings

Dear Steve:

I am writing to request complete copies of the Clear Springs, Basin 36 water right files listed below.

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	36-07151	A36-07201
36-04013A	36-07201	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A36-07040
36-07040	A36-04013B	A36-07083
36-07083	A36-04013C	A36-02048
36-07148	A36-02703	

Please have the files copied and mailed to my attention at the letterhead address. The cost of reproducing and mailing these files should also be billed to my attention.

Thank you for your attention to this matter.

Sincerely,

CLEAR SPRINGS FOODS, INC.


Tim Hanifen
Vice President, Operations

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APR 30 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

Case No. A36-07040
(You must insert the
water right number you
are objecting to)

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

OBJECTION

Petitioner,

36-07040 -0001/
93-04-0281

vs.

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

Respondents.

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: Clear Springs Foods, Inc.

Address: P. O. Box 712

Buhl, Idaho 83316

Briefly describe your interest in this water right:

Owner of the water right

2. Owner of the water right:

Name: Clear Springs Foods, Inc.

Address: P. O. Box 712

Buhl, Idaho 83316

3. If this objection is filed by an attorney:

Attorney Name: Patrick D. Brown

Attorney Address: Hepworth, Nungester & Lezamiz

P.O. Box 389, Twin Falls, ID 83303

Attorney Phone No.: (208) 734-7510; Fax: (208) 734-4115

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)

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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. ☒ Other: I object to: See attached

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.

See page 7

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.

See page 7

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. Exhibit "A": January

5, 1993 letter from Jodi I. Schultz to Patrick D. Brown-
1 pages. Exhibit "B": October 2, 1992, letter from Marci
Sterling to Timothy J. Hanifen- 2 pages.

VERIFICATION (Must be Completed)

State of Idaho

County of Twin Falls.

TIMOTHY J. HANIFEN

(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. Sec 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.

Timothy J. Hanifen
Signature of person filing objection

By: [Signature]

(Attorney signing in
representative capacity)

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

Christ. Hanawalt
Notary Public for Idaho

Residing at: Twin Falls

My Commission Expires: 9-20-94

(Over)

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: Clear Springs Foods, Inc.

Owner's address: P. O. Box 712

Buhl, Idaho 83316

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, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

REASONS SUPPORTING EACH BOX CHECKED, page 4

Box 1 - See Paragraph 1, page 2, and Exhibit "A" for correct name and/or address.

Box 10 - The maximum quantity in AFY should be deleted. See the second paragraph of Exhibit "B".

Box 11 - "Facility Volume" is not an element of the water right. There is no basis in law or fact for imposing such limitations and doing so constitutes a taking.

CHANGES TO DIRECTOR'S REPORT, page 4

The report should be changed to correct the name and to eliminate the restrictions noted in the "Reasons Supporting Each Box Checked."

Objectors reserve the right to claim any additional uses and quantities of use shown by the evidence at trial.

Question 14., page 4, Other

I.

GENERAL RESPONSE

Except as specifically admitted herein, objectors deny each and every allegation contained in the Director's Report, any related or subsidiary pleadings, and/or any attachments thereto.

II.

DESCRIPTIVE SUMMARY

(DIRECTOR'S REPORT PART I)

(hereinafter DRP-I)

(DRP-I at first unnumbered page)

The objectors admit that Part I of the Director's recommendation contains some claims to water rights appropriated under state law from Reporting Area 3. The objectors deny all other averments because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the averments.

III.

TABLE OF CONTENTS

(DRP-I at 2nd and 3rd unnumbered pages)

The objectors admit that the Table of Contents reflects the page numbers of the referenced sections and deny all other averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment, expressed or implied, is so

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indefinite that it prevents the objectors from knowing what would be admitted or denied.

IV.

INTRODUCTION

1. INSTRUCTIONS FOR USING THIS REPORT PART I. (DRP-I at page 1)

The objectors admit that Part I consists of seven sections; that the description of the water system includes a brief description of Reporting Area 3 and an illustration of the boundaries of the reporting area; that the water rights and the list of the recommended rights are grouped alphabetically by source and listed chronologically by priority date; that the rights or claims in the list of claims/rights not recommended are listed numerically by water right number; and that brief instructions are found at the beginning of the applicable sections. The objectors deny that any description or any implication that the description of the water system or the illustrations are true and accurate due to lack of knowledge or information regarding the truth of the averment; deny that the general provisions apply to all water rights or define or limit classes of water rights; and deny that the general provisions "will affect your water right," based upon insufficient knowledge or information upon which to form a belief as to the truth of the averments.

2. SCOPE OF THE ADJUDICATION. (DRP-I at page 1 - 3)

The objectors deny all averments in paragraph a., due to lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments.

Regarding paragraph b., the objectors lack sufficient information or knowledge upon which to form a belief as to whether water rights which are not claimed in the adjudication will or will not exist upon entry of the court's decree and, therefore, deny such averment. The objectors admit that the court entered an order dated January 17, 1989, but presently lack sufficient knowledge to know whether any of the other averments concerning the court's order are true or accurate and, therefore, deny the same. The objectors deny that a right must be adjudicated before water may be distributed by the director. The objectors deny all other averments in paragraph b.

3. PURPOSE OF THIS REPORT PART I. (DRP-I at page 3 - 4)

The objectors admit that portion of the first sentence which states "This report contains the Director's recommendations to the SRBA District Court as to the nature and extent of water rights," but deny that such recommendations "are necessary for administration of water rights in Reporting Area 3," and further deny the Director has authority to "administer" such rights.

Regarding the second paragraph, the objectors admit that all water rights remain subject to the applicable law generally, but deny the remainder of the second paragraph.

Regarding the third paragraph of this section, the objectors deny all averments therein based upon lack of knowledge or information upon which to form a belief as to the truthfulness of the averments.

V.

DESCRIPTION OF THE WATER SYSTEM: BASIN 36

1. BOUNDARIES OF BASIN. (DRP-I at pages 4 - 6)

Regarding the first paragraph of this section, the objectors deny all averments due to a lack of knowledge or information upon which to admit or deny.

Regarding the second, third and fourth paragraphs of this section, the objectors admit that as broad statements, those paragraphs are generally accurate but the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to know what would be implicitly admitted or denied and therefore, deny the same.

With respect to the fifth paragraph of this section, the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred and, therefore, deny the averments.

2. WATER SOURCES. (DRP-I at page 6)

The objectors admit that the Snake River Plain Aquifer is the source of outflows of springs located along the Snake River Canyon Wall in the Hagerman Valley. The objectors presently lack sufficient knowledge or information upon which to form an opinion as to the truth of the other averments set out in this section and, therefore, deny the same.

3. DEVELOPMENT OF WATER USE. (DRP-I at pages 6 - 9)

The objectors admit that numerous factual and historical averments are set out in this section, which may be accurate, but

these objectors have no basis for knowing whether some or all of the averments are intended to relate to the objectors' claims and, thus, are prevented from knowing what would be admitted or denied. Therefore, the averments are denied.

VI.

GENERAL PROVISIONS

GENERAL PROVISIONS 1 - 8 APPLY TO ALL WATER RIGHTS IN BASIN 36.

(DRP-I at page 9)

The objectors deny that "General Provisions 1 - 8" apply to all water rights in Basin 36 as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to know what would be explicitly admitted or denied. The objectors also specifically deny that general provisions 1-8 apply to the objectors' right.

1. EFFECT OF ADJUDICATION. (DRP-I at page 9)

With respect to paragraph a., the objectors presently have no knowledge or information upon which to form a belief as to the truth of whether a future decree would supersede prior decrees, or whether unclaimed rights would cease to exist and, therefore, deny the same.

Regarding paragraph b., the objectors deny that the Director has any powers to administer water rights other than those specifically delegated by the Legislature of the State of Idaho, and which do not violate the objectors' state and federal constitutional rights, and therefore the averments are denied.

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2. GENERAL ADMINISTRATIVE PROVISIONS. (DRP-I at pages 9 - 10)

The objectors admit paragraphs a. and b.

3. CONJUNCTIVE ADMINISTRATION (DRP-I at page 10)

The objectors deny the conjunctive administration provisions based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because any averment expressed or implied is so indefinite that it prevents the objectors from fairly understanding what would be admitted or denied. Additionally, the objectors deny that the Department of Water Resources has any statutory or regulatory authority for the "conjunctive administration" as therein described.

4. ADMINISTRATION OF GROUND WATER RIGHTS (DRP-I at page 10)

The objectors deny the averments within this section.

5. ADMINISTRATION OF BASIN 36 RELATIVE TO THE SNAKE RIVER (DRP-I at page 10)

The objectors admit that the springs are hydrologically interconnected with the Snake River Aquifer, but deny all other averments based upon the objectors' lack of sufficient information or knowledge upon which to form a belief as to the averments herein. The objectors additionally deny any said averments expressed or implied because the averments are so indefinite and generalized as to prevent the objectors from fairly understanding what would be admitted or denied.

6. ADMINISTRATION OF SMALL DOMESTIC AND STOCK WATER RIGHTS (DRP-I at page 11)

The objectors admit that part of the first sentence of subparagraph a. to the effect that "small domestic and stock water rights from surface water are not subject to administration," but deny the balance of said sentence and said paragraph.

The objectors admit the first sentence of paragraph b., and deny the balance of that paragraph because the criteria set forth therein ("if the director determines that administration is necessary") is so ambiguous, indefinite and uncertain that it prevents the objectors from knowing what would be admitted or denied, and by further reason of the fact that no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department.

The objectors deny the averments in paragraph c. as the averments are inaccurate and because the objectors lack sufficient knowledge or information upon which to form a belief as to the truth of the matters averred.

7. MEASURING DEVICES AND CONTROL WORKS (DRP-I at page 11)

The objectors deny all averments contained herein as such averments are based upon an indeterminate subjective standards which are so ambiguous and indefinite as to prevent the objectors from fairly knowing what would be admitted or denied. Additionally, no statutory or regulatory authority exists conferring such sweeping and unlimited authority upon the Director or the Department as is alleged in this paragraph.

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8. FIRE FIGHTING PURPOSES (DRP-I at page 11)

The objectors admit that subparagraph a. and subparagraph b. are generally accurate statements of present law, but deny the averments are in any way relevant to defining the objectors' right.

9. CONSUMPTIVE USE (DRP-I at page 12)

The objectors admit the averments in this section.

GENERAL PROVISION 10 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH DOMESTIC USE AS A PURPOSE OF USE (DRP-I at page 12)

The objectors deny that "General Provision 10" applies to all water rights in Basin 36 shown with domestic use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water rights, that the objectors are unable to fairly understand what would be explicitly admitted or denied and, therefore, deny the same.

10. DOMESTIC USE (DRP-I at page 12)

The objectors deny that the definition of "domestic use" contained in paragraphs a., b., and c. is consistent or in conformity with the definition of such term for purposes of the Idaho Constitution, or statutory definition contained in I.C. Section 42-111 as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein exist, are in force, or apply or serve in any way to limit objectors' rights.

GENERAL PROVISION 11 APPLIES TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH STOCK WATER USE AS A PURPOSE OF USE. (DRP-I at page 13)

The objectors deny that "General Provision 11" applies to all water rights in Basin 36 shown with stock water use as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right, that the objectors are unable to fairly understand what would be admitted or denied and, therefore, deny the same.

11. STOCK WATER USE (DRP-I at page 13)

The objectors deny the averments herein as beyond the scope and applicability of the definition as provided by Idaho law as now, or as heretofore in effect at relevant times. The objectors further deny that the limitations set forth therein limit the objectors' right or are relevant to the right.

GENERAL PROVISIONS 12 - 16 APPLY TO ALL WATER RIGHTS IN BASIN 36 SHOWN WITH IRRIGATION AS A PURPOSE OF USE (DRP-I at page 13)

The objectors deny that "General Provisions 12 - 16" apply to all water rights in Basin 36 shown with irrigation as a purpose of use as the statements are so broad and attenuated from any matter relevant to the objectors' water right that the objectors are unable to fairly understand what would be admitted or denied.

12. IRRIGATION USE. (DRP-I at pages 13 - 14)

The objectors deny all averments based upon the objectors' lack of sufficient knowledge or information upon which to form a belief as to the truth of the averments and because

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averments expressed and implied are so indefinite and vague as to prevent the objectors from fairly knowing what would be admitted or denied; because the standard utilized ("as determined by the director") is ambiguous, subjective and indefinite so as to prevent objectors from knowing what would be admitted or denied; and because it is both expressly and implicitly in excess of the power and authority conferred upon the State of Idaho, the Director or the Department by the Constitutions of the United States and State of Idaho, pertinent provisions of the Idaho Code or valid applicable regulations, if any, adopted by the Department in conformity with law. Therefore, the objectors deny the same.

13. DIVERSION VOLUME FOR IRRIGATION. (DRP-I at page 14)

The objectors admit that Figure 1 generally depicts certain lands in Basin 36; however, the objectors deny all other averments as they are so attenuated from any matter relevant to the objector's right.

14. CONSUMPTIVE USE FOR IRRIGATION. (DRP-I at page 14 and 15)

The objectors admit that the recommended water rights contained within the Director's Report show only the irrigation use listed unless otherwise indicated in "Remarks." The objectors deny all other averments contained within this section, because the averments are so attenuated from any matter relevant to the objector's rights.

15. AMOUNT OF COMBINED WATER RIGHTS FOR IRRIGATION. (DRP-I at page 15)

The specific averments have no relationship to or basis in fact relating to the individual needs or rights of the objectors, and accordingly, objectors deny this section in its entirety. In addition, no statutory or regulatory authority exists conferring upon the Director, or the Department, the power to limit use and ownership of objectors' private property rights as alleged.

16. DIVERSION RATES IN EXCESS OF .02 CFS PER ACRE. (DRP-I at page 15 - 16)

The objectors deny the averments contained in this section in its entirety.

17. INSTRUCTIONS FOR USE OF LIST OF RECOMMENDED WATER RIGHTS. (DRP-I at page A-i, A-ii and A-iii)

The objectors admit that each water right in the list of recommended water rights includes a description including right number, name and address, source, maximum quantity, consumptive use, priority date, point of diversion, purpose of use, period of use, place of use, basis of right and others. The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said descriptions other than that the descriptions allegedly include the Director's or Department's version of the facts as they relate to the matters identified. Objectors deny the accuracy of the substantive allegations or information set forth with regard to the objectors' right.

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18. IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW. (DRP-I, pages A-1 - B-25)

The objectors lack sufficient knowledge or information upon which to form a belief as to the truth of any matter averred in said recommended water rights other than those specific admissions contained in Questions 1 - 12 of the attached individual objection, and therefore deny the same.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART II)

I.

Objectors do not understand the allegations, averments or contents of Part II of the Director's Report for Reporting Area 3 (Basin 36) to pertain or relate to objectors or their claims, and do not believe any response is required. To the extent a response is required, objectors deny the same in its entirety.

DIRECTOR'S REPORT FOR REPORTING AREA 3 (BASIN 36)

(DIRECTOR'S REPORT PART III)

I.

No report denominated as Part III of the Director's Report for Reporting Area 3 (Basin 36) has been filed, and accordingly objectors are unable to admit, deny or otherwise response to the same. Objectors do not understand that the contemplated subject matter of such Part III will relate or pertain to objectors or their claims, and no response is required in any case. To the extent any response is required, objectors deny the same in its entirety.

VIII.

AFFIRMATIVE DEFENSES

Pursuant to I.R.C.P. 8(c), objectors herewith state the following matters of affirmative defense or avoidance:

AFFIRMATIVE DEFENSE NO. 1

The objectors' water right is an incorporeal form of real property (as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes) protected by Section 14, Article 1, of the Idaho Constitution, and the Fifth Amendment to the United States Constitution, and allege that the actions of the Director in recommending, limiting and/or regulating said rights is an unconstitutional infringement upon and a taking of private property, without just compensation and violation thereof.

AFFIRMATIVE DEFENSE NO. 2

The adjudication authorization legislation, I.C. Section 42-1401, et seq., on its face and as applied by the Director and the Department constitutes an improper delegation of constitutional power and authority conferred upon the executive, legislative and/or judicial branches of government and as such violate the provisions governing separation of powers set forth in Article 2, Section 1, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 3

The procedure set forth in the adjudication authorization legislation, statutes, I.C. Section 42-1401, et seq., and any rules, regulations, procedures, policies or standards promulgated by the Director and/or the Department, if any, are vague and so

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lacking in reasonable specificity so as to render them impossible of reasonable comprehension, or consistent and meaningful application.

AFFIRMATIVE DEFENSE NO. 4

The procedures, rules, regulations, policies or standards, if any, adopted, implemented and applied by the Department and/or the Director violate the equal protection and due process clauses of the Fourteenth Amendment, United States Constitution, and Article 1, Sections 2 and 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 5

The adjudication authorization legislation, Idaho Code Section 42-1401, et seq., and the actions of the Director and Department in recommending, limiting and/or regulating the objectors' water right constitutes a violation of 42 U.S.C. Section 1983.

AFFIRMATIVE DEFENSE NO. 6

The water right owned by the objectors is the subject of valid existing license issued by the Director and Department, which license is binding upon the State of Idaho, the Department and the Director. As a result, the State of Idaho, the Department and the Director are precluded by the doctrines of res judicata, collateral estoppel, judicial estoppel and the like from relitigating or questioning the validity, existence or priority of such right, and/or from taking any position in the Director's Report, or otherwise, which is inconsistent with such license.

AFFIRMATIVE DEFENSE NO. 7

The Director's recommendations are contrary to decreed rights, historical use and extent licenses and permits issued by the Department. There has been no forfeiture nor abandonment of the objectors' water rights, nor have the objectors' water rights been prescriptively or adversely possessed, nor have such decrees been vacated or such licenses and permits revoked.

AFFIRMATIVE DEFENSE NO. 8

The Directors' Report fails to state a claim to the extent the same asserts a forfeiture, abandonment, prescriptive or adverse acquisition or loss, or loss resulting from estoppel, of the objectors' water right in the absence of any fact upon which forfeiture, abandonment, prescriptive or adverse acquisition for loss, or loss resulting from estoppel, may be based or asserted.

AFFIRMATIVE DEFENSE NO. 9

The objectors' water right is an incorporeal form of real property, as defined by Idaho Code Sections 7-703, 73-114, 55-101, and like statutes, and, as such, pursuant to Idaho Code Section 7-904, et. seq., the actions of the Director in attempting to limit, reduce and/or regulate such rights, and the assertion of some inconsistent proprietary ownership or right to use or control by the State of Idaho, constitutes an unauthorized and invalid taking of private property without the payment of just compensation, or compliance with statutory requirements, all in violation of Title 7, Chapter 7, Idaho Code.

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AFFIRMATIVE DEFENSE NO. 10

The actions of the Director, the Department and their agents, servants and employees in recommending, limiting, reducing and/or regulating objector's water rights, either as alleged in the Director's Report or as in fact applied, violates objectors' rights as secured by Art. 1, Section 1; Art. 15, Sections 3, 4 and/or 5; and/or as otherwise provided in the Constitution of the State of Idaho.

AFFIRMATIVE DEFENSE NO. 11

The various allegations, statements and assertions contained in the Director's Report concerning the Department and/or the Director's position or intentions with regard to the adjudication, as well as the implementation of statutes and/or regulations, as well as the administration of water or management of water rights or claims to the beneficial uses of water, if implemented, constitute a violation of various provisions the United States and Idaho constitutions, and/or a violation of the letter, spirit and/or intent of various statutes enacted by the legislature, and/or constitute an exercise of purported authority or powers either in excess of those conferred by law, or in a manner inconsistent with those conferred by law, or both.

AFFIRMATIVE DEFENSE NO. 12

The individual recommendations relating to the specific water right of the objectors as set forth in the Director's Report are (1) not based upon substantial evidence and/or are not, in fact, the product of any reasonable, complete or accurate

investigation as required by law; (2) are the product of arbitrary and capricious action on the part of the Department or the Director; (3) have been made in excess of the constitutional and statutory authority of the Department and the Director; (4) have been made upon an unlawful and invalid procedure; (5) are affected by various and sundry errors of law; and/or (6) are clearly erroneous in view of the reliable, probative and substantial evidence.

AFFIRMATIVE DEFENSE NO. 13

The Director's Report is a pleading subject to the provisions of the Idaho Rules of Civil Procedure, including, but not limited to the requirement of I.R.C.P. 8(a)(1) that such pleadings contain a clear and plain statement of the facts, demonstrating an entitlement to relief. The Director's Report violates such provision.

AFFIRMATIVE DEFENSE NO. 14

The Director's Report fails to state a claim upon which relief may be granted.

AFFIRMATIVE DEFENSE NO. 15

The Director's Report is subject to, and must comply with, the requirements of Idaho Code Section 42-1411. The Director's Report does not comply with the requirements of the statute.

NOT FOR DISSEMINATION

AFFIRMATIVE DEFENSE NO. 16

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1410.

AFFIRMATIVE DEFENSE NO. 17

In conducting the investigation and compiling the Director's Report, the Department and the Director have not complied with the requirements of Idaho Code Section 42-1416.

AFFIRMATIVE DEFENSE NO. 18

The procedures specified in the authorizing legislation and procedural rules promulgated in accordance therewith serve to deny objectors due process of law in violation of Amendment Fourteen to the Constitution of the United States and Art. 1, Section 13, Idaho Constitution.

AFFIRMATIVE DEFENSE NO. 19

The "General Provisions" and "Other Statements" contained in the Director's Report, along with the Claims Investigation Manual, Adjudication Memoranda and other materials of a similar nature used or employed by the Department, the Director and/or their agents, servants and/or employees constitute rules and regulations which were required to be proposed, promulgated, adopted and approved in conformity with the Administrative Procedures Act and other applicable statutory provisions. The Department, Director and their agents, servants and employees have failed to comply with such requirements, and accordingly, the

"General Provisions," "Other Statements", Claims Investigation Manual and the like are invalid, void and of no force or effect.

AFFIRMATIVE DEFENSE NO. 20

Neither the "General Conditions," the Claims Adjudication Manual, Adjudication Memoranda or other promulgations, adoptions, policies, or the like have been submitted to or approved by the Legislature as required by Idaho Code Section 67-5217.

AFFIRMATIVE DEFENSE NO. 21

The relief requested by the Department and the Director in the Director's Report are beyond and in excess of the subject matter jurisdiction of the Court.

AFFIRMATIVE DEFENSE NO. 22

The actions of the Legislature, or the Department and the Director to enact, adopt, implement or enforce statutes, regulations, rules or policies subsequent to November 19, 1987, and to apply or enforce the same for the purpose of, or with the effect of recommending, diminishing or altering objectors' water rights, constitute a violation of Amendment Fourteen, United States Constitution; Art. 1, Section 13, Idaho Constitution; the SRBA authorization legislation; and Idaho Code Sections 73-101 and 73-106.

AFFIRMATIVE DEFENSE NO. 23

These proceedings are subject to the requirements and provisions of Idaho Code Sections 12-117, 12-121, 12-123 and I.R.C.P. 11, and the provisions of the private attorney general doctrine, and other related doctrines, and the Department, Director

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OCT 19 1994

and State of Idaho are obligated to objectors for the payment and reimbursement of any and all reasonable costs or attorney fees incurred herein.

AFFIRMATIVE DEFENSE NO. 24

The Director's Report asserts what amounts to be a taking of private property by power of eminent domain as governed by Idaho Code Section 7-701 et seq., and as such, venue is therefore improper.

AFFIRMATIVE DEFENSE NO. 25

The Department and the Director are equitably estopped from seeking any reduction in the quantity, quality or priority of objectors' water rights by virtue of prior statements, representations and actions of the Department, Director or their agents, servants and employees.

AFFIRMATIVE DEFENSE NO. 26

The Department and the Director are barred by laches and the applicable statutes of limitation, including, but not limited to, Idaho Code Sections 5-202, 5-203, 5-204, 5-206, 5-207, 5-208, 5-215, 5-218, 5-219(2), 5-224 and/or 5-241.

AFFIRMATIVE DEFENSE NO. 27

Objectors hereby reserve the right to assert any further affirmative defenses not expressly stated herein, but which subsequently become apparent.

WHEREFORE, the objectors pray for judgment as follows:

1. That the State of Idaho take nothing by reason of its Directors' Report, and that this action, and any claims

asserted against objectors, be dismissed.

2. That a decree be entered adjudicating the existence, validity, amount and priority of objectors' water rights in accordance with objectors' claims.

3. That to the extent the acts of the Department or Director constitute a taking of objectors' property for public use, that objectors be allowed and awarded just compensation therefor.

4. That the objectors be allowed all costs of suit and reasonable attorney fees incurred herein.

5. For such further relief to which the Court finds objectors justly entitled.

(WATER\FISH)



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 5, 1993

RECEIVED

JAN 08 1993

Department of Water Resources
Southern Region Office

Patrick D. Brown
Hepworth, Nungester and Lezamiz Chtd.
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Snake River Basin Adjudication, Twin Falls County Case No. 39576

Dear Mr. Brown:

In response to your request in your letter dated December 29, 1992, I am writing to confirm that our records have been updated to reflect Clear Springs Trout Company's name change to Clear Springs Foods, Inc.

The records for the following claim numbers have been updated to reflect this change:

36-02048	36-07218	A36-07148
36-02703	36-07568	A36-07151
36-02708	A36-02048	A36-07201
36-04013A	A36-02703	A36-07218
36-04013B	A36-02708	A36-07568
36-04013C	A36-04013A	A47-13466
36-07040	A36-04013B	A47-13467
36-07083	A36-04013C	A47-13468
36-07148	A36-07040	A47-13469
36-07151	A36-07083	A47-13470
36-07201		

Thank you for sending a copy of the Certificate of Amendment of Clear Springs Trout Company filed with the Secretary of State. If you have any further questions regarding this matter, please call me at 327-5444.

Sincerely,

Jodi I. Schultz
JODI I. SCHULTZ
Legal Assistant
Idaho Department of Water Resources

cc: Judy Givens, IDWR Southern Region Office

A



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

October 2, 1992

Timothy J. Hanifen
Clear Springs Trout Company
P.O. Box 712
Buhl, Idaho 83316

RE: Response to Notices of Error in Snake River Basin
Adjudication for Rights: 36-02048, 36-02703, 36-02708,
36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083,
36-07148, 36-07218, & 36-07568

Dear Mr. Hanifen:

This letter is in response to the remaining Notices of Error you submitted on your claims in Basin 36. The following will outline our recommendations per item.

Diversion Volume

Claim numbers: 36-07148 & 36-07040

The diversion volumes which were included on both of these rights are being removed from the recommendations. Both of the diversion volumes were added to the rights in error. Diversion volume is not a necessary element of a water right if the source of the water is surface water.

Claim number: 36-02708

The diversion volume is not being removed from this recommendation. This right is based on a license for which a diversion volume was described. Since a diversion volume was included in the original license, it may not be removed at this time.

Facility Volume

Claim numbers: 36-02048, 36-02703, 36-02708, 36-04013A, 36-04013B, 36-04013C, 36-07040, 36-07083, 36-07148, 36-07218, & 36-07568

Based on our understanding of the law, the facility volume associated with the priority date of a water right is an essential element of that right. Any expansion of the facility volume would require the appropriation of a new water right. We have used all available information in an attempt to recommend a facility volume which correctly describes the volume for the date pertaining to each right.

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OCT 19 1992
B=

Diversion Rate

Claim numbers: 36-02048, 36-02703, 36-04013A, 36-04013B, & 36-04013C

The combined diversion rate for these rights was recommended as 116.0 cfs because the highest record of flow rate which you supplied for your Snake River Hatchery was 116.0 cfs. The 1.67 cfs licensed under 36-07148 flows into one of the pipes leading to the hatchery before the measuring device measures the flow through that pipe. Because of this, that 1.67 cfs then becomes a part of the flow for which you have submitted records. Unless evidence of greater flow rates is submitted to us by October 16, 1992, the recommendation will remain the same.

You will be sent notice of the Director's final recommendation to the court and if you disagree with this final recommendation, you may file an objection with the court. The objection process will be explained when you receive your final recommendation.

Sincerely,

Marci Sterling

Marci Sterling
Engineering Specialist (EIT)

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JAN 28 1993

NOTICE OF ERROR



RESPONSE



CORRECTED R PROOF



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FEB 03 1993
FEB 03 1993

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
36-07040	CLEAR SPRINGS FOODS INC PO BOX 712 BUHL ID 83316	09/04/1968	FISH PROPAGATION	01-01 12-31	300.00 CFS	LICENSE
					TOTAL DIVERSION RATE:	300.00 CFS
					TOTAL DIVERSION VOLUME:	0.00 AFA

SOURCE: BOX CANYON CREEK

TRIBUTARY: SNAKE RIVER

POINT OF DIVERSION:

T08S R14E S28 NESWNE

PLACE OF USE: FISH PROPAGATION

T08S R14E S28 Lot 3 (SWNW) Lot 4 (NWSW)

CONDITIONS OF APPROVAL:

- M01 - A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
- MAINTAINED AS A PART OF THE DIVERTING WORKS.

REMARKS: FACILITY VOLUME 1,134,000 CU. FT.

RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF
DIVERSION OF THESE RIGHTS IS LIMITED TO 300.00 CFS.

OTHER RIGHT NOS.: 36-07824 & 36-08080.

OTHER RIGHTS: NONE

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FEB 03 1993



**CLEAR
SPRINGS
FOODS™**

RECEIVED

SEP 28 1992

Department of Water Resources
Southern Region Office

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

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

NOTICE OF ERROR FORM

RECEIVED

SEP 23 1992

Continued:

Department of Water Resources

RIGHT NUMBER: 36-07040

#3 Describe the portion of proposed recommendation with which you disagree:

1. MAXIMUM QUANTITY (AFY)
2. REMARKS:
 - A. Facility volume

#4 Describe the changes you wish to have made in the proposed recommendation:

1. Maximum quantity designation of 300.00 CFS for fish propagation should be retained. However, the respective designation for AFY should be stricken because this is an irrigation designation and has no relationship to the non-consumptive fish propagation use.
- 2A. The fish propagation facility has a rearing capacity of 1,601,010 CU.FT. Right should not be limited to any specific facility volume. This is a non-consumptive right which cannot be equated to an irrigation right. The facility volume must be allowed to expand, as technologies advance, without an increase in diversion rate. To suggest otherwise would preclude economic expansion. A permit should be required only in the event of a proposed increase in diversion rate.

#5 Describe why you disagree with the proposed recommendation:

SEE #4 ABOVE.

#6 Date: September 21, 1992

SIGNATURE

Prithvi J. Narayan

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FEB 03 1993



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

October 2, 1992

Timothy J. Hanifen
Clear Springs Trout Company
P.O. Box 712
Buhl, Idaho 83316

RE: Response to Notices of Error in Snake River Basin
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FEB 03 1993

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Sincerely,

Marci Sterling

Marci Sterling
Engineering Specialist (EIT)

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FEB 03 1993

Water Right Number - R36-07040

Prefix Translation: RESEARCH

Old (D) Number -

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

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

1 - PO BOX 712

2 -

3 -

City- BUHL

State- ID Zip- 83316

Phone - 208-543-4316

+ - - Priority Date - - +
09/04/1968+ - - Region - - - +
17 SOUTHERN+ - - Stage - - - +
L - LICENSE

+ - - Status - - - +

+ - - Source - - - - - +
BOX CANYON CREEK+ - - Tributary - - - - - +
SNAKE RIVER+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County

08S 14E 28 NE SW NE (47) GOODING

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
19 - FISH PROPAGATION 01/01 12/31 300.000 217193.00+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
300.000 0.0+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
08S 14E 28 SW NW 3 19 FISH PROPAGATION (83) TWIN FALLS
08S 14E 28 NW SW 4 19 FISH PROPAGATION (83) TWIN FALLS

Total Acres:

+ - - Diversion Means - CHECK DAM, 1/4 MILE OF CONCRETE DITCH, 3 PIPELINES TO RACEWAYS

+ - - Non-Irrigation Use - COMMERCIAL TROUT PRODUCTION; RECREATION, FISHING

+ - - Other Rights for Same Use - NONE

+ - - - - Remarks - - - - - +
FACILITY VOLUME 1,134,000 CU. FT.
RIGHTS LISTED BELOW ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF
DIVERSION OF THESE RIGHTS IS LIMITED TO 300.00 CFS.
OTHER RIGHT NOS.: 36-07824 & 36-08080.

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FEB 03 1993

Water right number - R36-07040

Prefix Translation: RESEARCH

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

+ - - - - Conditions of Approval - - - - +
M01 - A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
- MAINTAINED AS A PART OF THE DIVERTING WORKS.

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

+ - - - - Comments- - - - - +
Date: 06/24/1991 User Id: STERLING Subject: COPIED FROM REMARKS
POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS)
RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PRODUCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER THE ADJUDICATION, IT WILL NOT BE CLAIMED.

Date: 06/24/1991 User Id: STERLING Subject: CHANGES FROM LICENSE
THE SIZE OF THE FACILITY HAS INCREASED FROM 1,733,400 CU FT TO 2,165,400 CU FT. 40 NEW PONDS, 18' X 150' X 4', HAVE BEEN ADDED TO THE SOUTH END OF THE FACILITY. NO NEW WATER IS USED FOR THE PONDS, THEY ARE BEING SUPPLIED WITH USED WATER. THE IRRIGATION USE INCLUDED ON THE LICENSE AND CLAIM WILL NOT BE RECOMMENDED. NO WATER HAS EVER BEEN USED TO IRRIGATE THE 10 AC. LICENSED, EVEN THOUGH THEY HAVE ALWAYS PAID A FEE TO BANBURY FOR THE WATER USE. IT APPEARS THAT EVEN IF THE WATER WAS AVAILABLE, THE SOURCE WOULD HAVE BEEN DIFFERENT THAN THAT FOR THE REST OF THE RIGHT. *****

5/22/92 THE FACILITY WAS EXPANDED ONE OTHER TIME BETWEEN 1974 & THE TIME THE CLAIM WAS FILED. THE VOLUME IN 1974 WAS 1,134,000 CU FT ACCORDING TO PUBLICATION, "AQUACULTURE IN IDAHO AND NATION- WIDE" BY IDWR IN MARCH, 1975. NO POND VOLUMES ARE GIVEN IN LICENSING FILE, SO 1,134,000 CU FT WILL BE ASSUMED AS ORIGINAL POND VOLUME WHEN LICENSED.

Date: 08/11/1992 User Id: THORNTON Subject: DATA ENTRY STANDARDS CORRECTION
Date: 09/24/1992 User Id: SCHULTZ Subject: NOTICE OF ERROR (NOE)
RECEIVED NOE 9/23/92. CHANGED NOE FLAG FROM BLANK TO A. CLAIM VERIFIED 8/11/92. DID NOT REVERIFY ANY PART OF CLAIM.

Date: 10/02/1992 User Id: SOUTH1 Subject: NOE - RESPONSE
DIVERSION VOLUME REMOVED FROM RECOMMENDATION. FACILITY VOLUME WILL REMAIN UNCHANGED. LETTER SENT 10/2/92. M. STERLING

+ - - Audit Fields - - +
10/02/92 SOUTH1

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 06/18/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 10/02/1992	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	- C

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FEB 03 1993

R PROOF

X

CVR

X

MAPS

X

PHOTOS

X

MISC

X

Water Right Number - R36-07040

Prefix Translation: RESEARCH

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State- ID Zip- 83316

+ - - Priority Date - - +

09/04/1968

+ - - Region - - - +

17 SOUTHERN

+ - - Stage - - - +

L - LICENSE

+ - - Status - - - +

+ - - Source - - - - +

BOX CANYON CREEK

+ - - Tributary - - - - +

SNAKE RIVER

+ - - Point of Diversion - - - - -

+ Tw n Rng Sec Tract Lot RFlg County

08S 14E 28 NE SW NE (47) GOODING

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

300.000

217193.00

0.0

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08S 14E 28 SW NW 3 19 FISH PROPAGATION (83) TWIN FALLS

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DIVERSION OF THESE RIGHTS IS LIMITED TO 300.00 CFS.
OTHER RIGHT NOS.: 36-07824 & 36-08080.

diversion volume removed
& verified.
10/2/92 m. Steuting

VERIFIED ADJ

MICROFILMED

FEB 03 1993

Water right number - R36-07040

Prefix Translation: RESEARCH

+ - - - - Old Water Right Numbers - - - - - +
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+ - - - - Comments- - - - - +
Date: 06/24/1991 User Id: STERLING Subject: COPIED FROM REMARKS
POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS)
RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PROD-
UCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER
THE ADJUDICATION, IT WILL NOT BE CLAIMED.
Date: 06/24/1991 User Id: STERLING Subject: CHANGES FROM LICENSE
THE SIZE OF THE FACILITY HAS INCREASED FROM 1,733,400 CU FT TO 2,165,400 CU FT. 40 NEW PONDS, 18' X 150' X 4', HAVE BEEN ADDED
TO THE SOUTH END OF THE FACILITY. NO NEW WATER IS USED FOR THE PONDS, THEY ARE BEING SUPPLIED WITH USED WATER. THE IRRIGATION
USE INCLUDED ON THE LICENSE AND CLAIM WILL NOT BE RECOMMENDED. NO WATER HAS EVER BEEN USED TO IRRIGATE THE 10 AC. LICENSED, EVEN
THOUGH THEY HAVE ALWAYS PAID A FEE TO BANBURY FOR THE WATER USE. IT APPEARS THAT EVEN IF THE WATER WAS AVAILABLE, THE SOURCE WOULD
HAVE BEEN DIFFERENT THAN THAT FOR THE REST OF THE RIGHT. *****
5/22/92 THE FACILITY WAS EXPANDED ONE OTHER TIME BETWEEN 1974 & THE TIME THE CLAIM WAS FILED. THE VOLUME IN 1974 WAS 1,134,000
CU FT ACCORDING TO PUBLICATION, "AQUACULTURE IN IDAHO AND NATION- WIDE" BY IDWR IN MARCH, 1975. NO POND VOLUMES ARE GIVEN IN
LICENSING FILE, SO 1,134,000 CU FT WILL BE ASSUMED AS ORIGINAL POND VOLUME WHEN LICENSED.

+ - - Audit Fields - - +
08/04/92 MERRITT

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 06/18/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 08/04/1992	Old Judicial District	-
Claim Received Date	- 09/01/1988	Last Amended Date	- 00/00/0000	Temporary Right	- P
		Receipt Number	- S002014	Water District	-
		POU Ownership Flag	- Y	Federal/State Indicator	- S
		Name Connector	-	Presumption Flag	-
				Notice of Error Flag	-

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:21:50
05/10/91

PAGE: 12
QUICKLOOK INFORMATION

CLAIM NUMBER: A36-07040

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	N			N		mpj 5/10/91	mpj 10/25/91	mpj 6/17/92
POINT OF DIV	Y		mpj 6/18/91	Y	1,4,6	mpj 6/21/91		
SOURCE	N			N				
PLACE OF USE	X N			N Y	1,4,5,6	1/31/92		
DIV. AMOUNT CFS/VOLUME	Y			Y	5,6	mpj 10/24/91	11/11/91	
CONSUMPTIVE USE	-			N		mpj 7/11/92		
PURPOSES	X N			Y	5	mpj 6/21/91		
PERIOD OF USE	X N			N				
BASIS OF CLAIM	N			N				
REMARKS				Y (Put in Comments)	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.

RECEIVED

FEB 03 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:21:50
05/10/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A36-07040

LAST: CLEAR SPRINGS TROUT CO. FIRST:
ADDRESS: P.O. BOX 712
CITY: BUHL STATE: ID ZIP: 83316
PHONE NUMBER: 208-543-4316

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER
N

CLAIM REMARKS: POND VOLUME IS 1,733,400 CU FT., CONSISTING OF 140 RACEWAYS 18' X 4' X 170' LONG, 20 RACEWAYS 5.5' X 3' X 60' LONG (FRY RACEWAYS) RECREATION SHOWN ON THE LICENSE IS FISHING IN HEAD CANALS BY KIDS & SENIOR CITIZENS. THIS IS INCIDENTAL TO COMMERCIAL TROUT PRODUCTION RATHER THAN BEING A SEPARATE USE. NO FEE IS CHARGED FOR THIS. DUE TO THE UNREASONABLE COST OF CLAIMING THIS USE UNDER THE ADJUDICATION, IT WILL NOT BE CLAIMED.

Std. Remark: DOL

FIELD EXAMINATION INFORMATION

CONTACT PERSON: Tim Hanifen

PHONE NUMBER: () 543-4316

DATE OF FIELD EXAM: 6/18/91 APPOINTMENT MADE: Y(X) N()

TIME: 8:30 A(M) P()

ACCOMPANIED BY: Tim Hanifen

PHONE NUMBER: () 543-4316

RELATIONSHIP TO CLAIMANT: Director of Operations

DIRECTIONS TO PROPERTY / REMARKS:

~~The~~ The size of the facility has increased since the claim was filed. 40 new ponds, 18ft x 150ft x 4ft, have been added to the south end of the facility. No more water is being used, but the total pond volume is increased to 2,165,400 cu. ft. The new ponds are supplied with used water from the other ponds.

Pond volume, assuming a water depth of 3ft, is now 1,629,000 ft³ or 37.3 ac-ft.

Total pond volume was increased also at some point between 1974 & the time the claim was filed. The pond volume in 1974 was 1,134,000 ft³ according to publication, Aquaculture in Idaho & Nationwide, by the Dept. of Water Resources, from March 1975. No pond volume is given in the licensing file, so 1,134,000 ft³ will be assumed. mjs 5/22/92

UNRECORDED

FEB 03 1993

A. AJ CLAIM: # A36-07040 PRIORITY DATE: 09-04-1968 STAGE: L

B. WR RECORD: # 36-07040 PRIORITY DATE: 09-04-1968 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER
N

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

REMARKS:

=====

RECOMMENDED PRIORITY DATE:
09-04-1968

REVIEWED BY mp8

DATE 5/10/91

=====

RECORDED

FEB 03 1993

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A36-07040	08S	14E	28	SW	NW	NE		GOODING

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT

36-07091
36-07334

SOURCE: BOX CANYON CREEK

TRIB: SNAKE RIVER

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
36-07040	08S	14E	28		SW	NE		GOODING

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

36-07091
36-07334
36-07824

NONE NONE

SOURCE: BOX CANYON CREEK

TRIB: SNAKE RIVER

C. FIELD EXAM REQUIRED?

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

DATABASE
Y
N

FIELD
EXAMINER
Y
N

REMARKS:

Water now runs across the river through 3 pipes. The third was added in the early '80s. Water is diverted through a concrete ditch, which begins in the NESWNE. Map in file shows the location where the ditch begins. Recommend P/D ~~there~~ in NESWNE Sect. 28.

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RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	COUNTY
<u>08S</u>	<u>14E</u>	<u>28</u>	<u>NE</u>	<u>SW</u>	<u>NE</u>	<u>-</u>	<u>Gooding</u>

SOURCE: BOX CANYON CREEK

TRIB: SNAKE RIVER

REVIEWED BY: ms

DATE: 6/21/91

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FOU LISTING					AJ	WR	LANDSAT	FIELD	RECOMM.		
TWP	RNG	SEC	1/4	1/4	LOT	NAME	#/ACRES	#/ACRES	DATA	EXAM.	ACRES
08S 14E 28	Fish Prop.	SW	NW	3	CLEAR SPRINGS TROUT CO.	A36-07040	/	-	/		
					CLEAR SPRING TROUT COMPANY	A47-13468	/	-	/		
					BANBURY PIPE COMPANY INC.	A36-10906	/ 5.0	-	/		
					BANBURY , J. W.			36-02038	/35.0		
					BANBURY PIPE CO.			36-04160	/ 4.0		
					BANBURY PIPE CO.			36-04161	/ 4.0		
					BANBURY PIPE CO.			36-04162	/ 4.0		
					CLEAR SPRINGS TROUT CO.			36-07040	/		
08S 14E 28	Irrig.	SW	NW	3	CLEAR SPRINGS TROUT CO.	A36-07040	/10.0	-	/		
					CLEAR SPRING TROUT COMPANY	A47-13468	/	-	/		
					BANBURY PIPE COMPANY INC.	A36-10906	/ 5.0	-	/		
					BANBURY , J. W.			36-02038	/35.0		
					BANBURY PIPE CO.			36-04160	/ 4.0		
					BANBURY PIPE CO.			36-04161	/ 4.0		
					BANBURY PIPE CO.			36-04162	/ 4.0		
					CLEAR SPRINGS TROUT CO.			36-07040	/ 10.0		
~~08S 14E 28~~	Rec.	SW	NW	3	~~CLEAR SPRINGS TROUT CO.~~	~~A36-07040~~	~~/~~	~~-~~	~~/~~		
					~~CLEAR SPRING TROUT COMPANY~~	~~A47-13468~~	~~/~~	~~-~~	~~/~~		
					~~BANBURY PIPE COMPANY INC.~~	~~A36-10906~~	~~/ 5.0~~	~~-~~	~~/~~		
					~~BANBURY , J. W.~~			~~36-02038~~	~~/35.0~~		
					~~BANBURY PIPE CO.~~			~~36-04160~~	~~/ 4.0~~		
					~~BANBURY PIPE CO.~~			~~36-04161~~	~~/ 4.0~~		
					~~BANBURY PIPE CO.~~			~~36-04162~~	~~/ 4.0~~		
					~~CLEAR SPRINGS TROUT CO.~~			~~36-07040~~	~~/~~		
08S 14E 28	Fish Prop.	NW	SW	4	CLEAR SPRINGS TROUT CO.	A36-07040	/	-	/		9.0
					CLEAR SPRINGS TROUT COMPANY	A47-13466	/	-	/		
					CLEAR SPRINGS TROUT COMPANY	A47-13467	/	-	/		
					BANBURY PIPE COMPANY INC.	A36-10906	/23.0	-	/		
					BANBURY PIPE COMPANY INC.	R36-10906	/ 9.0	-	/		
					BANBURY , J. W.			36-02038	/43.0		
					BANBURY PIPE CO.			36-04160	/13.0		
					BANBURY PIPE CO.			36-04161	/13.0		
					BANBURY PIPE CO.			36-04162	/13.0		
					CLEAR SPRINGS TROUT CO.			36-07040	/		
BANBURY PIPE CO.			36-08141	/							
~~08S 14E 28~~	Rec.	NW	SW	4	~~CLEAR SPRINGS TROUT CO.~~	~~A36-07040~~	~~/~~	~~-~~	~~/~~		9.0
					~~CLEAR SPRINGS TROUT COMPANY~~	~~A47-13466~~	~~/~~	~~-~~	~~/~~		
					~~CLEAR SPRINGS TROUT COMPANY~~	~~A47-13467~~	~~/~~	~~-~~	~~/~~		
					~~BANBURY PIPE COMPANY INC.~~	~~A36-10906~~	~~/23.0~~	~~-~~	~~/~~		
					~~BANBURY PIPE COMPANY INC.~~	~~R36-10906~~	~~/ 9.0~~	~~-~~	~~/~~		
					~~BANBURY , J. W.~~			~~36-02038~~	~~/43.0~~		
					~~BANBURY PIPE CO.~~			~~36-04160~~	~~/13.0~~		
					~~BANBURY PIPE CO.~~			~~36-04161~~	~~/13.0~~		
					~~BANBURY PIPE CO.~~			~~36-04162~~	~~/13.0~~		
					~~CLEAR SPRINGS TROUT CO.~~			~~36-07040~~	~~/~~		

COMM.
CRÉS

FEB 03 1993

TOTAL ACRES

A36-07040

10.00

18.00

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
YFIELD
EXAMINER
N

PRESUMPTION FLAG:

REMARKS:

License includes recreation use in NWSW & SWNW, but they have not claimed that use. No other discrepancies. Claimants stated during field exam that no irrigation was taking place & had not ever taken place in the past

RECOMMENDATIONS:

TOTAL ACRES:

~~10.0~~ 0

REVIEWED BY:

YMS

DATE:

5/24/91

Place of use is in Twin Falls County, not Gooding County as claimed & licensed.

1/31/92

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A. AJ CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A36-07040 IRRIGATION	FROM 04-01 TO 11-01	.200 CFS
A36-07040 FISH PROPAGATION	FROM 01-01 TO 12-31	300.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		300.000 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
36-07040 IRRIGATION	FROM 04-01 TO 11-01	.200 CFS
36-07040 RECREATION	FROM 01-01 TO 12-31	40.00 AF/A
36-07040 FISH PROPAGATION	FROM 01-01 TO 12-31	300.000 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		300.000 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

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

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y(X) N()

RECOMMEND TO WR STANDARDS OR OTHER?

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

REMARKS:

Recreation has not been claimed as a use, so should not be recommended, but may be mentioned in Non-Irrigation Uses. Irrigation is not taking place & hasn't in the past, so it will be disallowed, leaving only fish propagation.

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SEP 03 1993

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(X) N()

AJ TOTAL CLAIMED DIVERSION RATE: 300.000 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 300.000 CFS

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

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER
Y N

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

B.

FLOW MEASUREMENT

MEASUREMENT METHOD , SEE ATTACHED CALCULATIONS.

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

OTHER RIGHTS LISTED IN CLAIM: NONE

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

CLAIM	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A36-07040	BOX CANYON CREEK	CLEAR SPRINGS TROUT CO.	300.000	30.000		
A36-10906	BANBURY SPRINGS	BANBURY PIPE COMPANY INC.	2.060	0.020		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A36-07040	FISH PROPAGATION	CLEAR SPRINGS TROUT CO.	FROM 01-01 TO 12-31	300.000 CFS	
A47-13468	DOMESTIC	CLEAR SPRING TROUT COMPANY	FROM 01-01 TO 12-31	.040 CFS	
A47-13466	DOMESTIC	CLEAR SPRINGS TROUT COMPANY	FROM 01-01 TO 12-31	.040 CFS	
A47-13467	DOMESTIC	CLEAR SPRINGS TROUT COMPANY	FROM 01-01 TO 12-31	.040 CFS	

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D. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES x 0.02 CFS/ACRE = CFS
(Taken from p/u review)

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 30.0 AF/A

ACRES 0 x CONSUMPTIVE VOL. AF/A FOR AREA 3.0 =

TOTAL CONSUMPTIVE USE AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES 0 x DIVERSION VOL. AF/A FOR AREA 4.0 =

TOTAL DIVERSION VOLUME AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N(X)

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

There is no consumptive use at this facility other than evaporation.

Consumptive use due to evaporation may be considered 'de minimus'. mjs 3/7/1992

Div. Volume for Fish Prop: $(300 \text{ cfs}) \left(\frac{1.984 \text{ ac-ft/day}}{1 \text{ cfs}} \right) \left(\frac{365 \text{ days}}{\text{yr}} \right) = 217,248 \text{ ac-ft/yr}$

Cons. Use " " " : $\frac{37.5}{50.0} \text{ ac-ft}$

1b. CALCULATIONS

1,134,000 mjs 5/22/92
Total pond volume = $\frac{1,134,000}{3 \text{ ft}} = 378,000 \text{ cu. ft.}$
(assuming 3 ft water depth)
Surface area = $\frac{378,000 \text{ cu. ft.}}{3 \text{ ft}} = 126,000 \text{ sq. ft.}$
 $\frac{126,000 \text{ sq. ft.}}{43,560 \text{ sq. ft./ac}} = 2.89 \text{ ac}$
Surface area = 12.5 acres
Cons. Use = $(12.5 \text{ ac}) \left(\frac{3.0 \text{ ac-ft}}{\text{ac}} \right) = 37.5 \text{ ac-ft}$
 $\frac{37.5}{50.0}$

no div. volume needed
because source is surface
water & div. volume hasn't
been claimed

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
<u>Fish Propagation</u>	<u>01-01 12-31</u>	<u>300.00</u>	<u>217,248.0</u>	<u>37.5 50.0</u>
TOTAL FOR THIS RIGHT		<u>300.00</u>	<u>217,248.0</u>	<u>37.5 50.0</u>
REVIEWED BY: <u>mp</u>		DATE: <u>10/24/91</u>	<u>mp 11/14/91</u>	<u>mp 11/16/92</u>

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A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	(X)	()
FORFEIT/ABANDON _____	(X)	()
ADDITIONAL DIV. AMOUNT _____	(X)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 36-07040

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 300.000	EXAMINER <u>300.00</u>	CFS
-----------------------------------	---------------------	---------------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A36-07040	300.000	-		36-07040	300.000
TOTAL CFS		300.000				300.000

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, is the written review sheet attached? (Y/N)

DATABASE Y	FIELD EXAMINER <u>Y</u>
---------------	-------------------------------

REMARKS:

AUTHENTICATION:

SIGNATURE: Marci Sterling

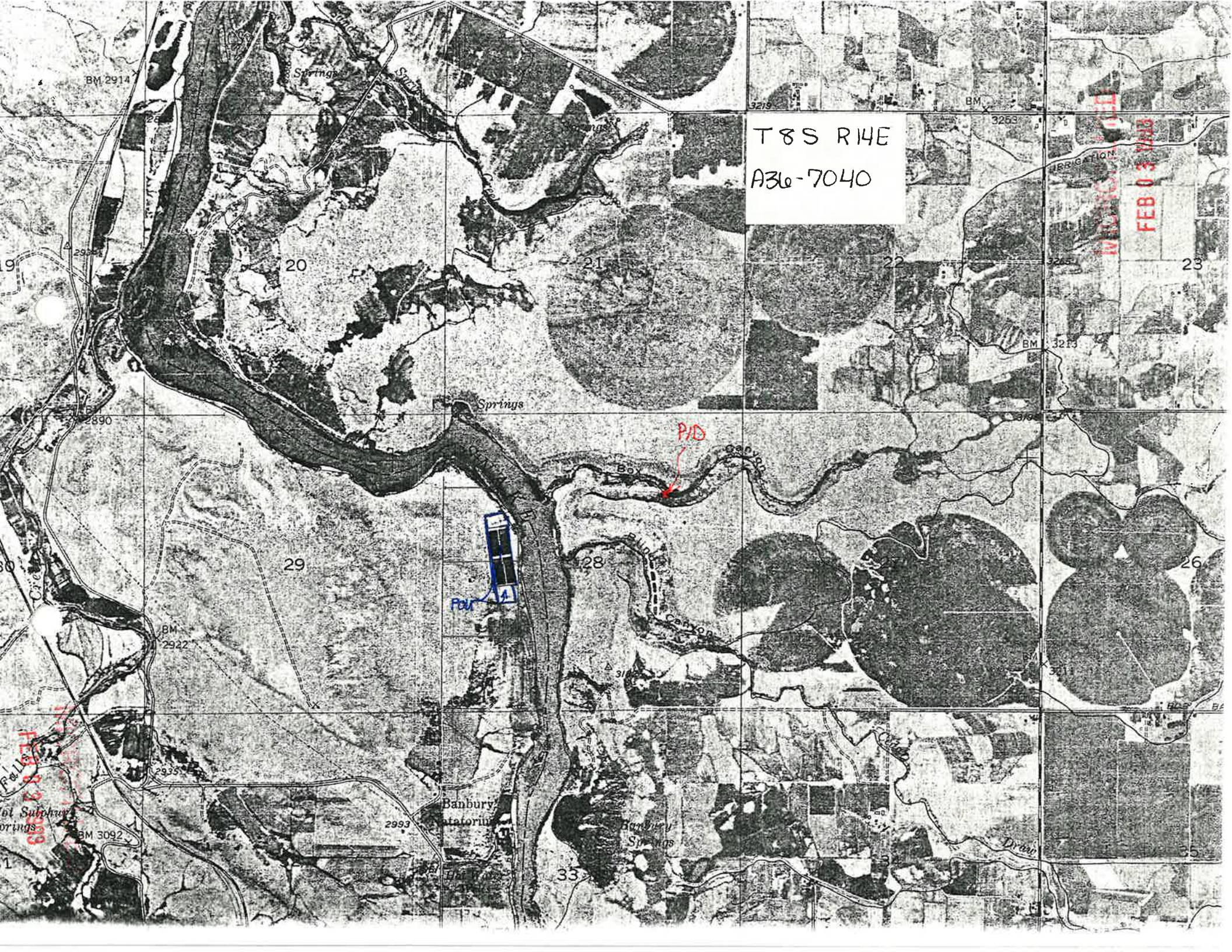
DATE: 6/17/92

NAME OF FIELD EXAMINER: Marci Sterling

TITLE: _____

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FEB 03 1993



T8S R14E

A36-7040

FEB 03 1983

FEB 03 1983

Banbury

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BM 5480

BM 5490

BM 5500

BM 5510

BM 5520

BM 5530

BM 5540

BM 5550

BM 5560

BM 5570

BM 5580

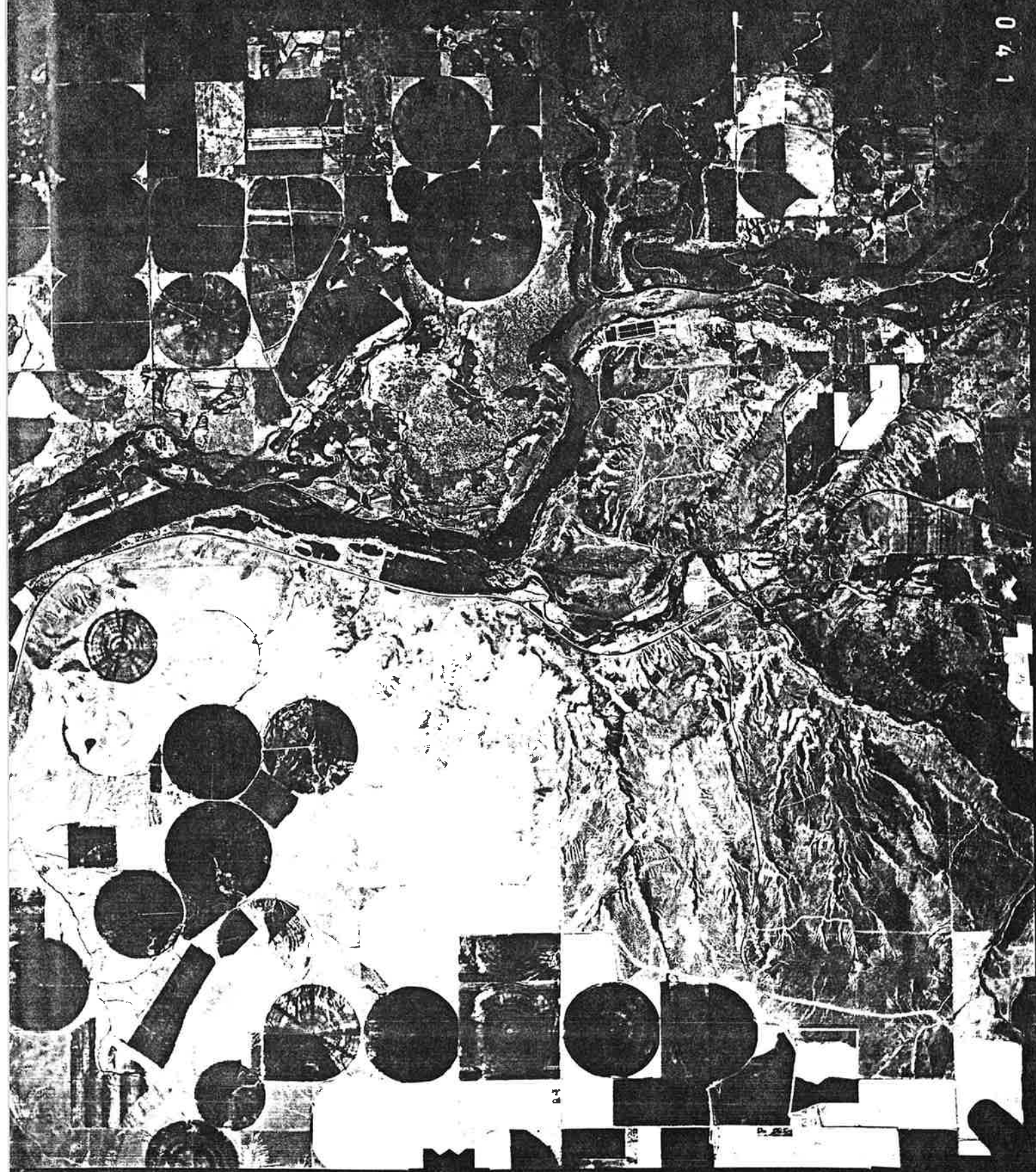
BM 5590

BM 5600

BM 5610

BM 5620

0 4 1



0004 90

20 21
29 28

1321.7

N. 89°48' W.

Stone

697'

LOT 1

Cross On Rim

624.1'

S. 57°39'E. 1245.0'

N. 56°42'E. 1020'
N. 66°30'E. 1350'

Box Canyon

Stone Mk'd With Cross

655.7'

100'

365.3'

100'

393.6'

100'

311.2'

100'

N. 53°22' W. 3'

Blind

LOT 2
1930AC.

Pressure Box

N. 7°20' W. 240.0'

N. 3°51' W. 129.2'

N. 23°49' W. 612.8'

N. 10°3' W.

262.4'

865.9'

188.6'

357'

Cross On Rim

188.6'

265.6'

S. 81°46' W.

N. 75°07' W.

S. 57°39'E. 14.6'

S. 82°17'E. 1156.6'

N. 82°19' W. 530.0'

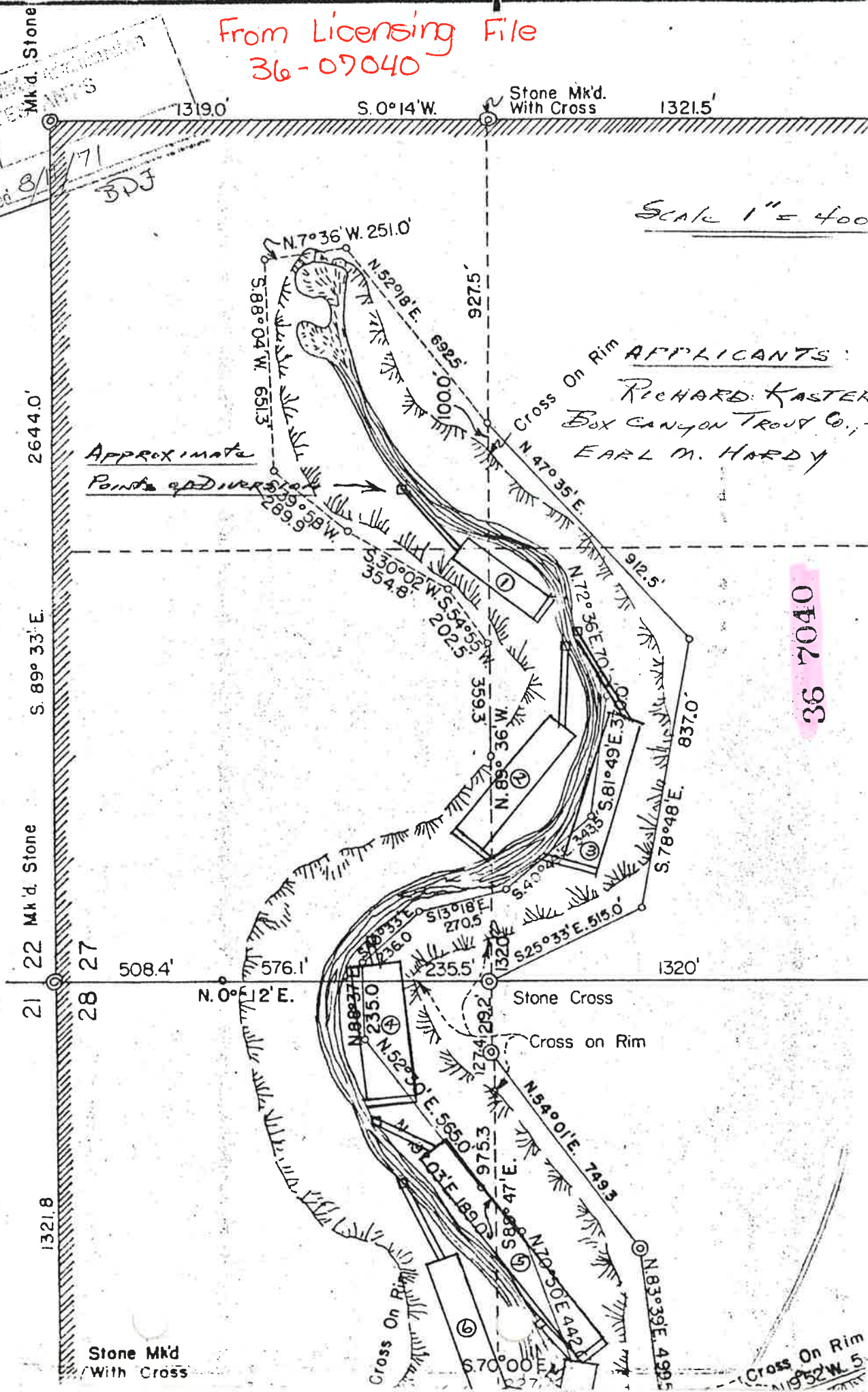
N. 67°40' W. 1982'

N. 74°00'E.

N. 53°22' W. 3'

From Licensing File
36-07040

Department of Natural Resources
PROTECTOR
Exhibit A
Date Admitted 8/1/71
3D3



Scale 1" = 400'

APPLICANTS:
RICHARD KASTER
Box Canyon Trout Co.
EARL M. HARDY

36 7040

Stone Mk'd
With Cross

Cross On Rim
N 1952' W. 5'

08S14E

[illegible]

MICROFILMED

FEB 03 1993

AUG-24-1992

NOTICE OF ERROR FORM

RECEIVED

SEP 23 1992

Department of Water Resources

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

Idaho Department of Water Resources

Statehouse Mail

Boise, Idaho 83720-9000

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: 36-07040
2. Name: CLEAR SPRINGS TROUT COMPANY
TIMOTHY J. HANIFEN, VICE PRESIDENT/OPERATIONS
Address: P.O. BOX 712
BUHL, IDAHO 83316

Weekday Telephone Number: (208) 543-4316

MICROFILMED

TEAR AT PERFORATIONS AND COMPLETE FORM ON OTHER SIDE

FEB 03 1993

- (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:

SEE ATTACHED.

4. Describe the changes you wish to have made in the proposed recommendation:

SEE ATTACHED.

5. Describe why you disagree with the proposed recommendation:

SEE ATTACHED.

6. Date:

SIGNATURE



Claim Identification No. A36-07040



Date: 6/18/91

Time: ~ 11:00 a.m.

3 pipelines where water resurfaces after being piped underground
& under river. Power is generated, then water is sent to ponds to left &
right of this.

MICROFILMED

FEB 03 1993

Permits from Box Canyon

36-07091 Hardy - Kester
10/27/1969 300 cfs (Fish)
Permit Proof Due 4/1/1995

36-07334 Box Canyon Trout - Hardy
4/30/1973 600 cfs (Fish)
Permit Proof Due 4/1/1995

36-08080 Clear Springs Trout Co.
4/20/1982 300 cfs (Power)
Permit Proof Due 7/1/1989
Proof Made 1/25/1985
F.E. 3/28/1990

36-07175 Hardy
5/18/1971 330 cfs (Fish)
Permit Proof Due 1/16/1990
Proof Made

Same
with 25
36-07090 &
36-07829

MICROFILMED

FEB 03 1993

ch 1975

AQUACULTURE IN IDAHO and Nationwide

by

George W. Klontz
Fishery Resources

and

John C. King
Watershed Management

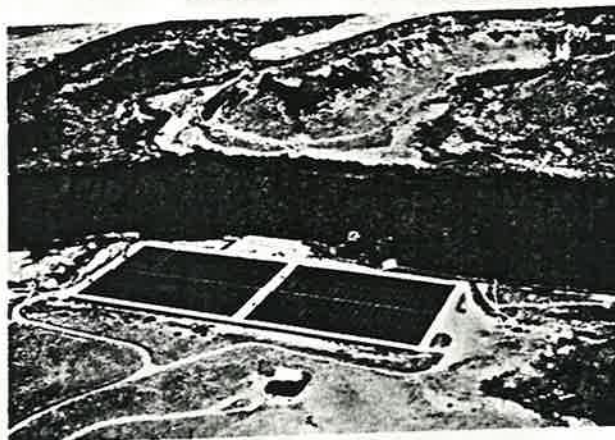
College of Forestry, Wildlife and Range Sciences

Idaho Water Resources Research Institute
University of Idaho
Moscow, Idaho

John S. Gladwell, Director

Department of Water Resources
Statehouse
Boise, Idaho 83720

IDAHO STATE LIBRARY
BOISE, IDAHO



BOX CANYON TROUT FARM

Clear Springs Trout Co.
Route 4, Box 548
Buhl, Idaho 83316

Started in 1973

Water Source: Box Canyon Springs

Water Discharge: Snake River

Map Location: N-7

Water Flow: 325 CFS (Max.)
242 CFS (Min.)

Water Temp.: 58°F 15.0°C

Water Chemistry:

Dissolved Oxygen	11.10 ppm
pH	8.45
Nitrate	0.62 ppm
Hardness (Calcium)	86 ppm
Calcium	17.5 ppm
Potassium	7 ppm

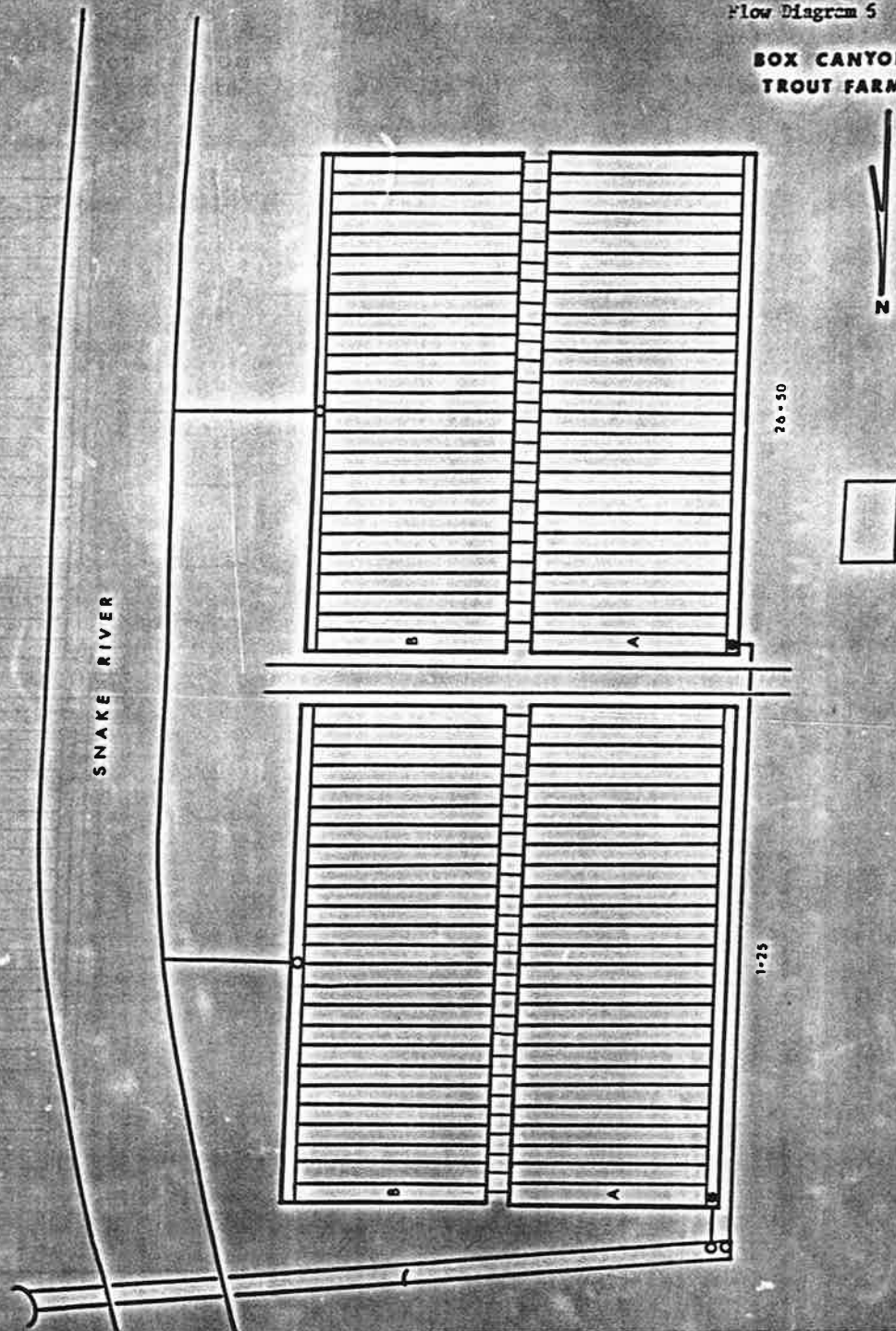
Alkalinity	120 ppm
Conductivity	648 µmhos
Phosphate	0.29 ppm
Hardness (Total)	188 ppm
Sodium	31 ppm
Magnesium	19 ppm

Fish Rearing Space: 1,134,000 cubic feet in 100 ponds

Water Replacement Time: 58-78 minutes

Flow Diagram 5

BOX CANYON
TROUT FARM



Started in 19

Water Sources

Water

Water Chemistry

Dissolved

pH

Nitrate

Hardness

Calcium

Potassium

Fish Rearing Sp

Water Replacement

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Claim No. 36-4162
36-4160 + 4161 are same
but w/o domestic portion



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Banbury Pipe Company (Name of Claimant)
% Maurice Miller, Rt. #3, Box 427, Buhl, ID. 83316 Telephone No. 543-5953
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) Mar. 11, 1924

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Banbury Springs tributary to Snake River

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

	(cfs, gpd, AFA)	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive) (Mo., Day) (Mo., Day)	
Quantity	<u>1.0 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>Mar. 15</u>	To <u>Nov. 15</u>
Quantity	<u>.02 cfs</u>	Use <u>Domestic</u>	Period of Use From <u>Jan. 1</u>	To <u>Dec. 31</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

(4) 1.0 cfs TOTAL QUANTITY USED.
(cfs, gpd, AFA)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
NW 1/4 SE 1/4, Sec. 33 Twp. 8S Rge. 14E B.M., County of Gooding
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Collection ditch to 4'x4'x7' concrete head box, 20" pipeline from box 200' where it reduces to a 16" pipeline. This pipeline is flumed across

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.
the river. There is approx 3000' from spring to 1st lateral pipeline. Thus Northwest 3500' to approx. 650' of 12" (Sec. 33)

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			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	
8	14E	28							<u>13</u>			<u>13</u>	<u>31X</u>						55

No. of acres 55

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Domestic
Use for one house.

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization:

(8)

MICROFILMED
FEB 03 1993

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

County of Twin Falls

Banbury Pipe Co.
Maurice D Miller Pres
(Claimant)

Laren O Harlmer
Notary Public
Residing at Twin Falls, ID

FOR DEPARTMENT USE ONLY

Exception filed by:

Date _____

Twp 8S. Rge. 14E

110-A
A-3

New house
replaces old

112-A
A-4

7.6

7.6

7.6

7.6

7.6

1.6
1.4
1.9

3-A
1.5

PD

16" steel

300' x 20'