

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 37-21610
Date Received: 11/10/2005
Receipt No:
Received By:

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

1. Name of Claimant(s)

AWALT FAMILY REVOCABLE TRUST Phone:
PO BOX 392
SAN MIGUEL CA USA 93451-0392

2. Date of Priority: 03/08/1970

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
06S	13E	35	SW	NW	SW	GOODING	
06S	13E	35	SW	SE	SW	GOODING	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
FISH PROPAGATION	01/01	12/31	6	4340

7. Total Quantity Appropriated is:
6 C.F.S. and/or 4340 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 4 ponds

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
06S	13E	34	NE	SE	FISH PROPAGATION	
06S	13E	35	NW	SW	FISH PROPAGATION	
			SE	SW	FISH PROPAGATION	

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:

14. Remarks:

Claim filed to establish earlier development date of system covered in license 37-7116. Evidence of priority submitted with claim.

15. Basis of Claim: Beneficial Use

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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

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

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
	37-21610	-			
	37-1175A	-			

RECEIVED

OCT 27 2006

DEPT. OF WATER RESOURCES
SOUTHERN REGION

2. The following **REQUIRED** information must be submitted with this form:
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or SURVEY MAP clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s) Simms Credit Shelter Trust & Clifford J Simms Jr
17816 Hwy 30, Bliss, ID 83314 Family Trust
4. New Owner/Claimant(s) Awalt Family Revocable Trust
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address PO Box 392, San Miguel, CA 93451-0392
- City, State and ZIP Code _____
- New Telephone Number () _____
5. Date you acquired the property _____

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

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

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

7. Signature of New Owner(s) or Claimant(s) *X Christy Lee Luwall*
(include title if applicable) _____

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

For Office Use Only

Received by *[Signature]* Date 10-27-06 Fee —
 Received by — Date — Receipt No. —
 Processed by — AJ Date — WR — Date —

6060138

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

J. K. George, Esq.
GEORGE + CYR, LLP
2238 Bayview Heights Drive, Suite J
Post Office Box 6129
Los Osos, CA 93412

MAIL TAX STATEMENTS TO:

Norval Rex Awalt &
Christy Lou Awalt, Trustees
Post Office Box 392
San Miguel, CA 93451-0392

QUITCLAIM DEED

FOR VALUE RECEIVED, NORVAL REX AWALT AND CHRISTY LOU AWALT, husband and wife, ("Grantors"), do hereby quitclaim, transfer and convey to NORVAL REX AWALT AND CHRISTY LOU AWALT, in their capacity as Trustees of the AWALT FAMILY REVOCABLE TRUST u/d/t dated February 18, 2005 ("Grantee") whose current address is Post Office Box 392, San Miguel, CA 93451-0392, all of Grantors' right, title and interest in and to the real property situate in Gooding County, Idaho, subject to all easements, liens, and encumbrances of record, more particularly described on Exhibit A attached and incorporated b this reference.

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

DATED effective the 26th day of May, 2006.

Instrument # 216587

GOODING, GOODING, IDAHO

2006-06-02 03:17:51 No. of Pages: 4

Recorded for: GOODING TITLE

DENISE M. GILL

Fee: 12.00

Ex-Officio Recorder Deputy


Norval Rex Awalt


Christy Lou Awalt

ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On this ___ day of May, 2006, before me, the undersigned, a notary public in and for said County and State, personally appeared NORVAL REX AWALT and CHRISTY LOU AWALT, husband and wife, personally known to me—OR—proved to me on the basis of satisfactory evidence to be the person whose names are subscribed to the within instrument and acknowledge to me that they executed the same.

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

NOTARY PUBLIC FOR California

Residing at: _____

My commission expires: _____

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN LUIS OBISPO)

On May 26, 2006, before me, S. Josephson, Notary Public, personally appeared Norval Rex Awalt and Christy Lou Awalt, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

S. Josephson
Notary Public

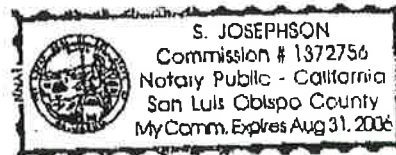


EXHIBIT A

Parcels of land located in Sections 34 and 35 of Township 6 South, Range 13 East, Boise Meridian, Gooding County, Idaho and being more particularly described as follows:

PARCEL NO. 1

A parcel of land located in the E $\frac{1}{2}$ E $\frac{1}{2}$ of Section 34, Township 6 South, Range 13 East, Boise Meridian, Gooding County, Idaho and being more particularly described as follows:

Commencing at the Northeast Section Corner of said Section 34 from which the East One Quarter (E $\frac{1}{4}$) corner of said Section 34 bears South 00°30'38" West-2633.78 feet, Thence South 00°30'38" West along the East boundary of said Section 34 for a distance of 625.60 feet to the TRUE POINT OF BEGINNING;

Thence South 72°52'09" West for a distance of 1376.00 feet to a point on the West boundary of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section, said point being located North 00°30'27" East-276.00 feet from the Southwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section (record Southwesterly to a point 276.00 feet North of the Southwest corner NE $\frac{1}{4}$ NE $\frac{1}{4}$);

Thence South 00°30'27" West along the West boundary of the E $\frac{1}{2}$ E $\frac{1}{2}$ of said Section 34 for a distance of 2809.12 feet to a point that is located North 00°30'27" East-99.00 feet from the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 34 (record-South along West line E $\frac{1}{2}$ E $\frac{1}{2}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$, 2818.00 feet, more or less, to a point 6 rods or (99 feet) North of the Southwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$);

Thence South 89°29'31" East parallel with the South boundary of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ for a distance of 1311.14 feet to a point on the East boundary of said Section 34 (record-East parallel with the South boundary of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ -1320.0 feet to the East line of Section 34);

Thence North 00°30'38" East along the East boundary of said Section 34 for a distance of 3228.07 feet to the TRUE POINT OF BEGINNING (record-North along said East line of Section 34-3235.4 feet, more or less, to The Point of Beginning).

EXCEPT:

The tracts conveyed to the State of Idaho for Highway purposes as set forth in the following instruments:

1. Deed dated August 9, 1955, recorded August 31, 1955 in Book 46 Deeds, Page 286.
2. Deed dated August 9, 1955, recorded October 5, 1955 in Book 46 Deeds, Page 304.
3. Deed dated August 10, 1955, recorded October 5, 1955 in Book 46 Deeds, Page 306.
4. Second Judgment and Decree of Condemnation dated March 20, 1964, recorded March 20, 1964 as microfilmed instrument No. 10908, records of Gooding County, Idaho.

AND

PARCEL NO. 2

A parcel of land located in Section 35, Township 6 South, Range 13 East, Boise Meridian, Gooding County, Idaho and being more particularly described as follows:

Commencing at the Northwest corner of said Section 35 from which the West One Quarter (W $\frac{1}{4}$) corner of said Section 35 bears South 00°30'38" West 2633.78 feet;

Thence South 00°30'38" West along the West boundary of said Section 35 for a distance of 625.60 feet to the TRUE POINT OF BEGINNING:

Thence North 76°49'34" East for a distance of 207.30 feet to a point 577.00 feet South of the North boundary of the NW¼ of said Section 35 (record Northeastly 207.3 feet to a point 577 feet South of the North line of said Section 35);

Thence South 86°18'27" East for a distance of 43.30 feet;

Thence South 3°39'38" West for a distance of 74.12 feet;

Thence South 02°21'17" West for a distance of 726.27 feet;

Thence North 89°31'12" East for a distance of 112.54 feet;

Thence North 65°29'51" East for a distance of 32.88 feet;

Thence North 79°06'12" East for a distance of 980.86 feet to a point on the East boundary of the NW¼NW¼ of said Section 35;

Thence South 00°39'08" West along the East boundary of the NW¼NW¼ of said Section 35 for a distance of 144.49 feet to the Southeast corner of the NW¼NW¼ of said Section;

Thence South 89°38'08" East along the North boundary of the SE¼NW¼ of said Section 35 for a distance of 435.00 feet (record East along the North boundary of the SE¼NW¼ 435.00 feet);

Thence South 02°03'48" West for a distance of 1609.25 feet to a found monument (Malad Gorge State Park record South 02°20'00" West 1610.82 feet);

Thence South 02°17'12" West for a distance of 1023.74 feet (Malad Gorge State Park record South 02°20'00" West 1023.74 feet);

Thence North 88°53'51" East for a distance of 209.36 feet to a found monument (Malad Gorge State Park record North 89°05'00" East-209.36 feet);

Thence North 89°03'22" East for a distance of 590.64 feet (Malad Gorge State Park record North 89°05'00" East 590.64 feet);

Thence South 39°47'38" East for a distance of 330.00 feet to a found monument (Malad Gorge State Park record South 39°55'00" East 330.00 feet);

Thence South 39°42'01" West for a distance of 878.88 feet to a found monument (Malad Gorge State Park record South 39°45'00" West 880.00 feet);

Thence South 71°17'35" West for a distance of 875.68 feet to a point on the West boundary of the SE¼SW¼ of said Section 35, said point being North 00°39'05" East-124.00 feet from the Southwest corner of the SE¼SW¼ of said Section 35 (record South 70°30'00" West 880.00 feet to a point on the West boundary of the SE¼SW¼ and 124.00 feet North of the Southwest corner of the SE¼SW¼);

Thence North 00°39'05" East along the West boundary of the SE¼SW¼ of said Section 35 for a distance of 1195.29 feet to the Northwest corner of the SE¼SW¼ of said section 35 (record North along the West line of the SE¼SW¼ 1196.00 feet to the Northwest corner of the SE¼SW¼);

Thence North 89°33'08" West along the South boundary of the NW¼SW¼ of said Section 35 for a distance of 1314.30 feet to the Southwest corner of the NW¼SW¼ of said Section 35 (record West along the South boundary of the NW¼SW¼ to the Southwest corner of the NW¼SW¼);

Thence North 00°30'38" East along the West boundary of said Section 35 for a distance of 3325.07 feet to the TRUE POINT OF BEGINNING (record North along the West boundary of said Section 35 3334.4 feet).

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 37-21610
Date Received: 11/10/2005
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

AWALT FAMILY REVOCABLE TRUST Phone:

PO BOX 392
SAN MIGUEL CA USA 93451-0392

2. Date of Priority: 03/08/1970

3. Source: BIRCH CREEK , BIRCH CREEK Trib. to: SNAKE RIVER , SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
06S	13E	35	SW	NW	SW	GOODING	
06S	13E	35	SW	SE	SW	GOODING	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A
FISH PROPAGATION	01/01	12/31	6		4340

7. Total Quantity Appropriated is:
6 C.F.S. and/or 4340 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 4 ponds

10. Place of use:

Township	Range	Section	1/4 of	1/4 Lot	Use	Acres
06S	13E	34	NE	SE	FISH PROPAGATION	
06S	13E	35	NW	SW	FISH PROPAGATION	

SE SW

FISH PROPAGATION

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:

14. Remarks:

Claim filed to establish earlier development date of system covered in license 37-7116. Evidence of priority submitted with claim.

15. Basis of Claim: Beneficial Use

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 37-21610

Date Received 11/10/2005

Receipt Number 5028153

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
NOV 10 2005
Department of Water Resources
Southern Region

Please type or print clearly

1. Name of Claimant (s) Simms Credit Shelter Trust, Barbara Simms Trustee Phone (208) 837-4537
Mailing Address 17816 Highway 30, Bliss, Idaho Zip 83314

2. Date of Priority (Only one (1) per claim) March 8, 1970

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

4. a. Location of existing point of diversion is: Township 06S Range 13E Section 35,
SW 1/4 of NW 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Gooding

Additional points of diversion if any: SWSESW, Sec. 35

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

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

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

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

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

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

Check dam to ditch to uppermost pond, the ditches and pipes to other ponds. See IDWR investigation of 37-7116.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Fish propogation purposes from 1/1 to 12/31 amount 6.0 or 4340

For purposes from to amount or

For purposes from to amount or

For purposes from to amount or

7. Total quantity claimed (a) 6.0 (cfs) and/or (b) 4340 (acre feet)

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

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 4 ponds

10. Description of place of use:

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
06S	13E	34													X				
06S	13E	35										X		X					

712894

Total number of acres irrigated

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
37-7116 or None ()

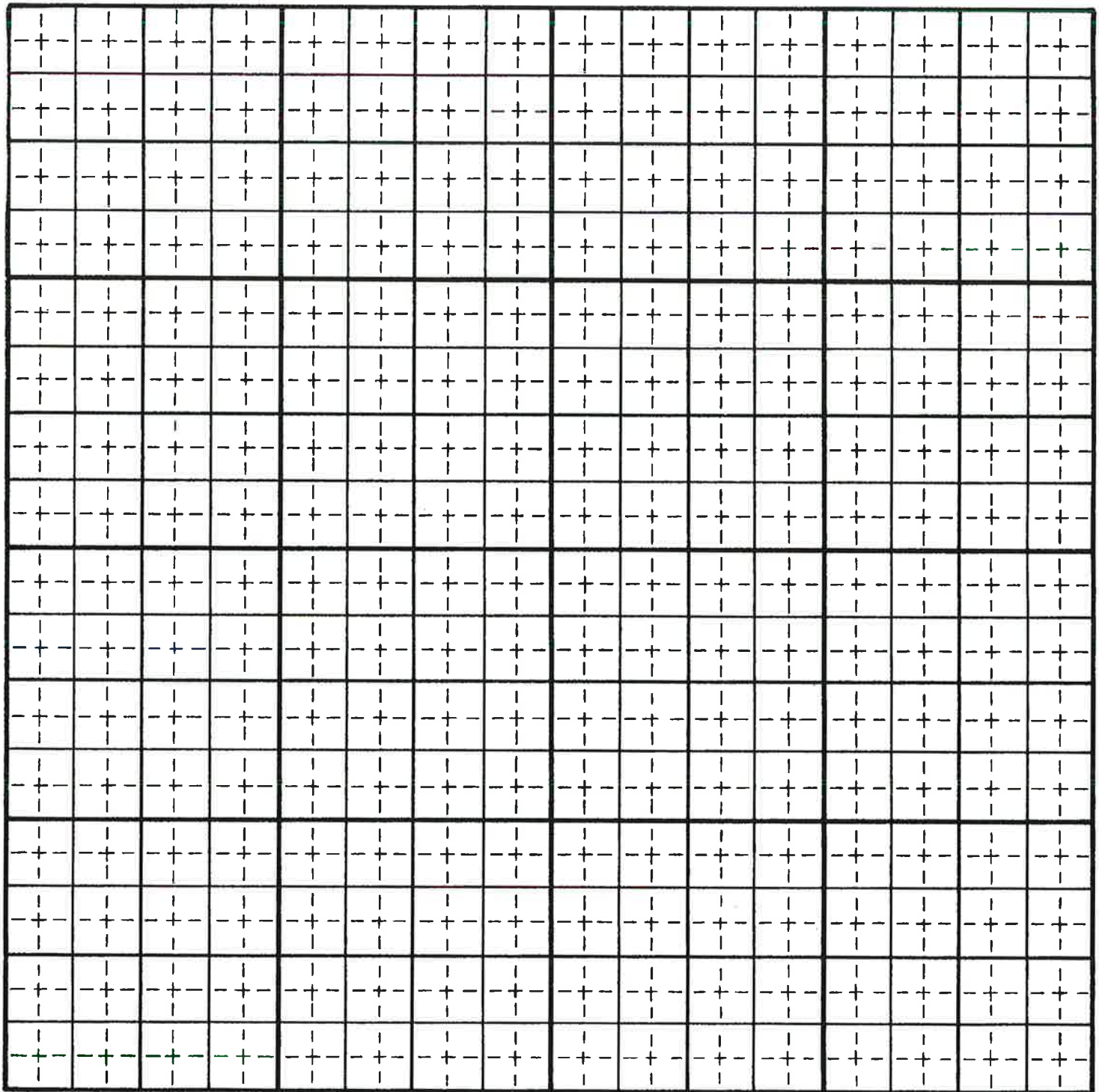
14. Remarks:

Last Name Simms Ident No.

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

See attached .



Last Name Simms Ident No.

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

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

Number of attachments _____ Aerial, Affidavit and 2
For Individuals: I do solemnly swear that the statements contained in the foregoing document are true
and correct.

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

For Organizations: I do solemnly swear or affirm that I am _____ Trustee
of _____ Title
Simms Credit Shelter Trust, that I have signed the foregoing
document in the space below as _____ same _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Barbara Simms
Title and Organization _____ Barbara Simms, Trustee of Simms Credit Shelter Trust Date 7/6/05

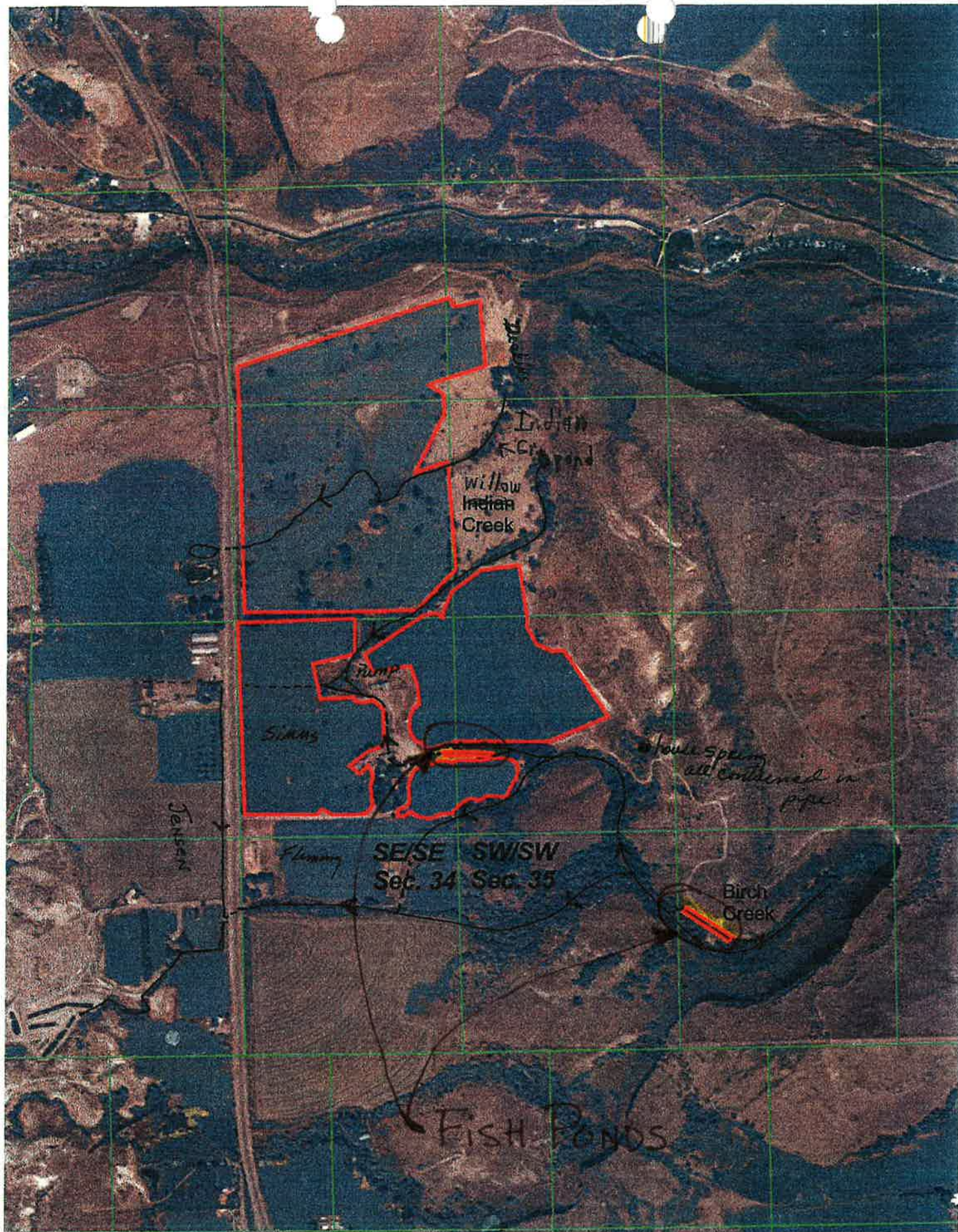
State of Idaho/or _____
County of Twin Falls
Subscribed and sworn (or affirmed) before me this _____ day of November 19 2005
SEAL
Notary Public _____
Residing at Twin Falls, ID
My Commission Expires 11/14/08
Please Print Name

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

Signature Patrick Brown
Address Hutchinson & Brown LLP, P.O. Box 207, Twin falls, ID 83303-0207
Date 11/8/05

Last Name Simms Ident. Number _____

2004



Keith E. Hutchinson, Esq.
Patrick D. Brown, Esq.

**HUTCHINSON
&
BROWN, LLP**
ATTORNEYS AT LAW

PHONE: (208) 733-9300
WATS: (800) 753-2529
FAX: (208) 733-9343

November 10, 2005

RECEIVED
NOV 10 2005
Department of Water Resources
Southern Region

Southern Region
IDAHO DEPARTMENT OF WATER RESOURCES
1341 Fillmore St., Ste. 200
Twin Falls ID 83301-3380

Re: **Simms Family Trust & Simms Credit Shelter Trust -- Water Rights**

Dear Sirs:

Enclosed herewith please find NOTICE OF CLAIM TO A WATER RIGHT (together with our check in the amount of \$110 representing payment of the filing fee), AFFIDAVIT OF NYAL HOFFMAN IN SUPPORT OF WATER RIGHT CLAIM, and AFFIDAVIT OF GEORGE TALBOT IN SUPPORT OF WATER RIGHT CLAIM.

Thank you.

Sincerely,



Patrick D. Brown

/cb
Enc.
cc: Barbara Simms, w/enc.

AFFIDAVIT OF NYAL HOFFMAN IN SUPPORT OF WATER RIGHT CLAIM

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

RECEIVED

NOV 10 2005

Department of Water Resources
Southern Region

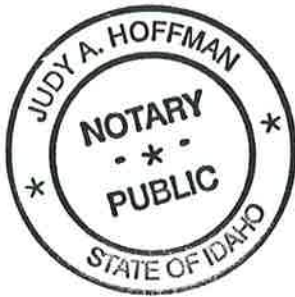
NYAL HOFFMAN, being first duly sworn on oath, deposes and states:

1. I make the statements in this affidavit based on my personal knowledge. I am otherwise competent to make the statements set forth in this affidavit.
2. I am familiar with the water right claim being made in this case because I worked with George Talbot, who owned the property where these fish ponds were built, and I helped Mr. Talbot build them.
3. We constructed the upper two ponds in 1969 where I assisted George in removing the rocks.
4. Two other lower ponds were constructed in 1970 and in full use that year.
5. The article in Fish Farming Industries, *Idaho Trout Farmer Profits on 10-Cent Margin*, which was in the July 1971 magazine (a copy of which is attached hereto as Exhibit "A"), accurately describes the fish ponds in terms of their size, configuration and use.
6. I personally know that the water used to fill the ponds, including the upper two ponds, was in full use before the March 8, 1970, article in The Salt

Lake Tribune entitled *Farmers Tell Some Real Fish Stories* (a copy of which is attached hereto as Exhibit "B"). The photograph is of one of those ponds.


Nyal Hoffman

SUBSCRIBED and SWORN to before me this 24th day of October, 2005.




NOTARY PUBLIC
Residence: Filer ID
My Commission Expires: 6-22-11

JULY, 1971

FARE-GENERAL INDUSTRIES

CAGED CATFISH IN THE EVERGLADES

Fare-General Makes it Work

Tank Culture: A New Way to Raise Catfish
At Southern Bluewater Catfish Farms

EXHIBIT

A

FISH FARMING INDUSTRIES

Editorial Staff

BERNARD E. HEFFERNAN
Editor

DON TIMMONS
Eastern Editor

ROGER THORNGREN
Presentation Editor

LAURANCE LASKOS
Asst. Presentation Editor

Advertising Sales

ORVEL H. COCKREL
Vice President &
Publishing Director

See page 42 for
Advertising Sales Offices

Business Staff

LESLIE A. WATT
President and Publisher

E. E. RUTHER
Vice President and
Secretary-Treasurer

ORVEL H. COCKREL
Vice President

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Vice President

MARTIN DE KONING
Circulation Director

DON W. WELCH
Printing Production Manager

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Advertising Office Manager

Companion Publications

COMPANION PUBLICATIONS owned and published by Watt Publishing Co.: Poultry Tribune, Poultry Meat, Farm Supplier, Industria Avicola, Poultry International, Who's Who in the Egg and Poultry Industries, Turkey World and American Dairy Review.

JULY, 1971 VOLUME 2, NUMBER 3

A Watt Publication

Features

- 7 Closed-system fish culture imminent predicts Delaware researcher
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Departments

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- 6 Editorial: Keep your eye on intensive culture
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District Conservationist
Soil Conservation Service

A TROUT FARMER in the cattle business? A cattleman in the trout business?

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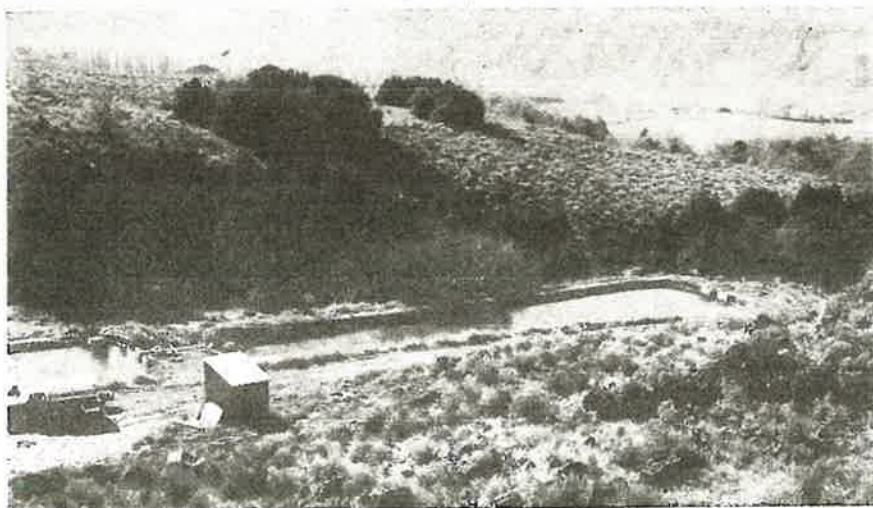
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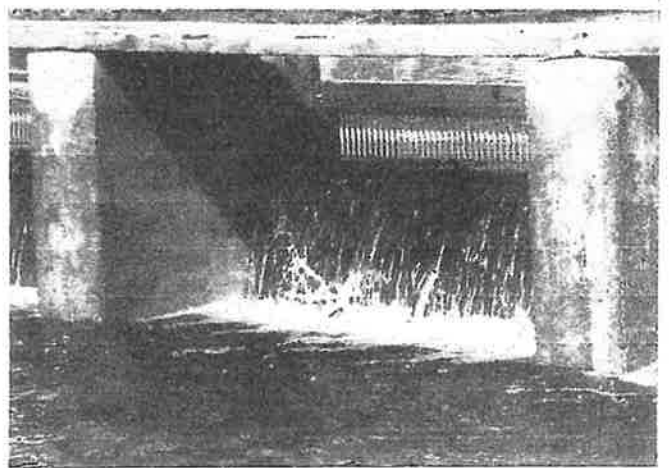
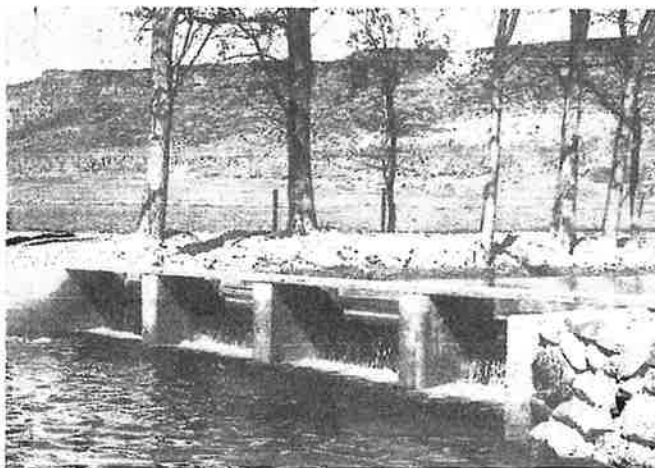
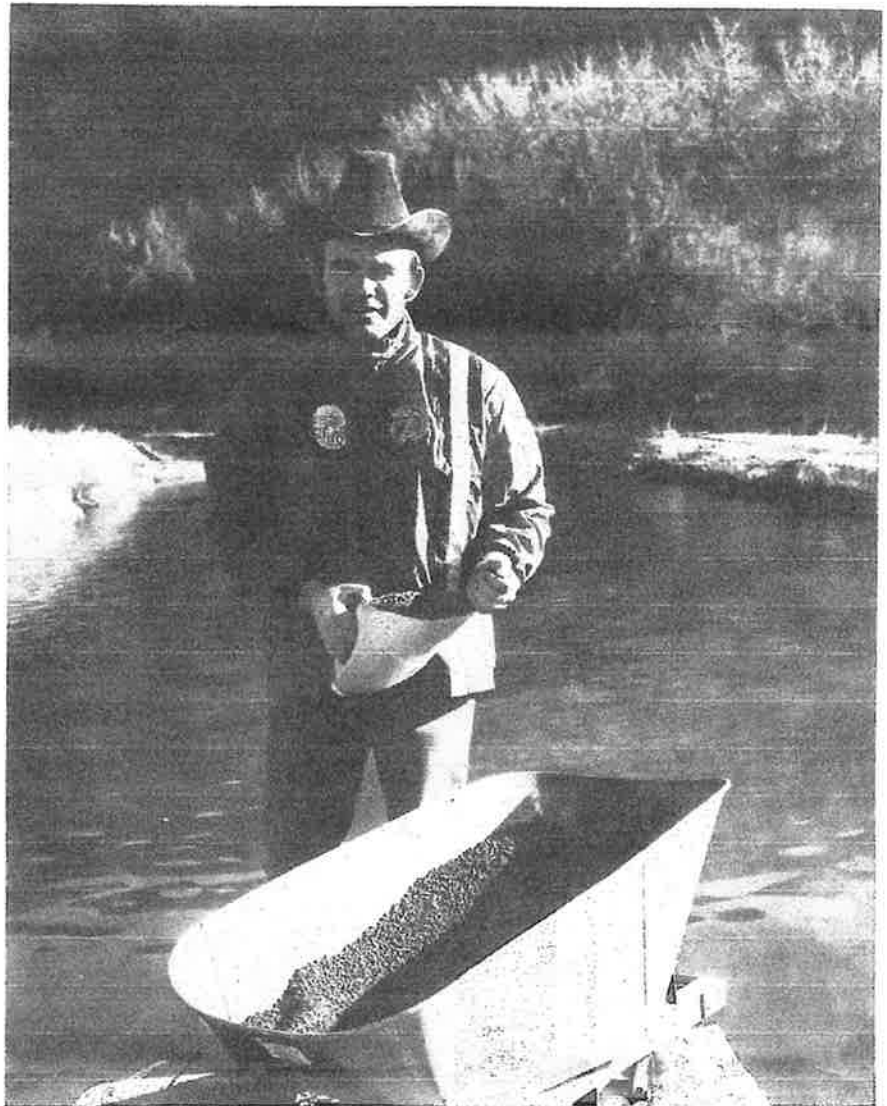
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Hatcheries Take Over Fields

Farmers Tell Some Real Fish Stories

Special to The Tribune
HAGERMAN, IDAHO — Trout-raising could be the latest diversification industry for farming.

In the Buhl-Hagerman area, trout hatcheries are becoming common, producing nearly 87 percent of the trout consumed in the United States.

Ted Eastman of the Clear

Lakes hatchery supplies trout to farmers with suitable spring-water supplied ponds.

He stocks the ponds with Rainbow trout four to five inches in length, furnishes feed (commercially prepared to fatten fish quickly) and retrieves the trout when they reach pound-size for the table market.

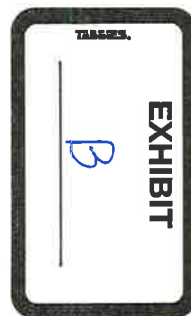
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One trout rancher, George Talbot sold his first Eastman parented trout from one of his two ponds near the confluence of the Malad and Snake rivers. The second pondful of about 42,000 trout will soon be ready for sale.

Mr. Eastman not only

stocks the ponds but provides technological service. He tells farmers they only need service the ponds and feed fish twice daily. As well, trout have no dormant stages they would in seasonally cold water. Through spring feeders, the temperature remains at 57 degrees above zero year around, allowing fish grow continuously.



George Talbot, owner of an Idaho trout farm, surveys pond where he raises 42,000 fish.

TABERN

B

EXHIBIT

AFFIDAVIT OF GEORGE TALBOT IN SUPPORT OF WATER RIGHT CLAIM

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

RECEIVED
NOV 10 2005
Department of Water Resources
Southern Region

GEORGE TALBOT, being first duly sworn on oath, deposes and states:

1. I make the statements in this affidavit based on my personal knowledge. I am otherwise competent to make the statements set forth in this affidavit.

2. I am familiar with the ponds for which the water rights are being claimed in this case because I constructed and operated those ponds beginning 1969.

3. Attached hereto as Exhibit "A" is a true and accurate copy of a Salt Lake Tribune article, along with a picture of me and one of the upper ponds dated March 8, 1970.

4. The two upper ponds were constructed by Nyal Hoffman and me in 1969 and were using about 8 cfs of water flowing from one pond to the next during that time frame.

5. Attached hereto as Exhibit "B" is a true and accurate copy of an article published in Fish Farming Industries in 1971 entitled *Idaho Trout Farmer Profits on 10-Cent Margin*, which shows the photographs of myself, the ponds and the structures. That article accurately describes the size and configuration

of the ponds, including the fact that the ponds provided for two complete changes of water per hour and used about 8 cfs of water.

6. To my knowledge, those ponds have been continuously used since the first two went into operation in 1969 and the other two went into operation in 1970.

George Talbot
George Talbot

~~SUBSCRIBED and SWORN to before me this ____ day of October, 2005.~~

Justin M. Fuchs
NOTARY PUBLIC *Please see attached*
Residence: Juror. (new FNCA)
My Commission Expires: _____

JURAT

State of California

County of Amador

Subscribed and sworn to (or affirmed) before me on this 2nd day

of NOVEMBER, 2005, by _____

George Talbot

~~personally known to me~~ or proved to me on the basis of satisfactory evidence

to be the person(s) who appeared before me.

(Seal)

Signature

Kristie M. Freitas



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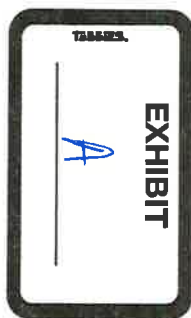
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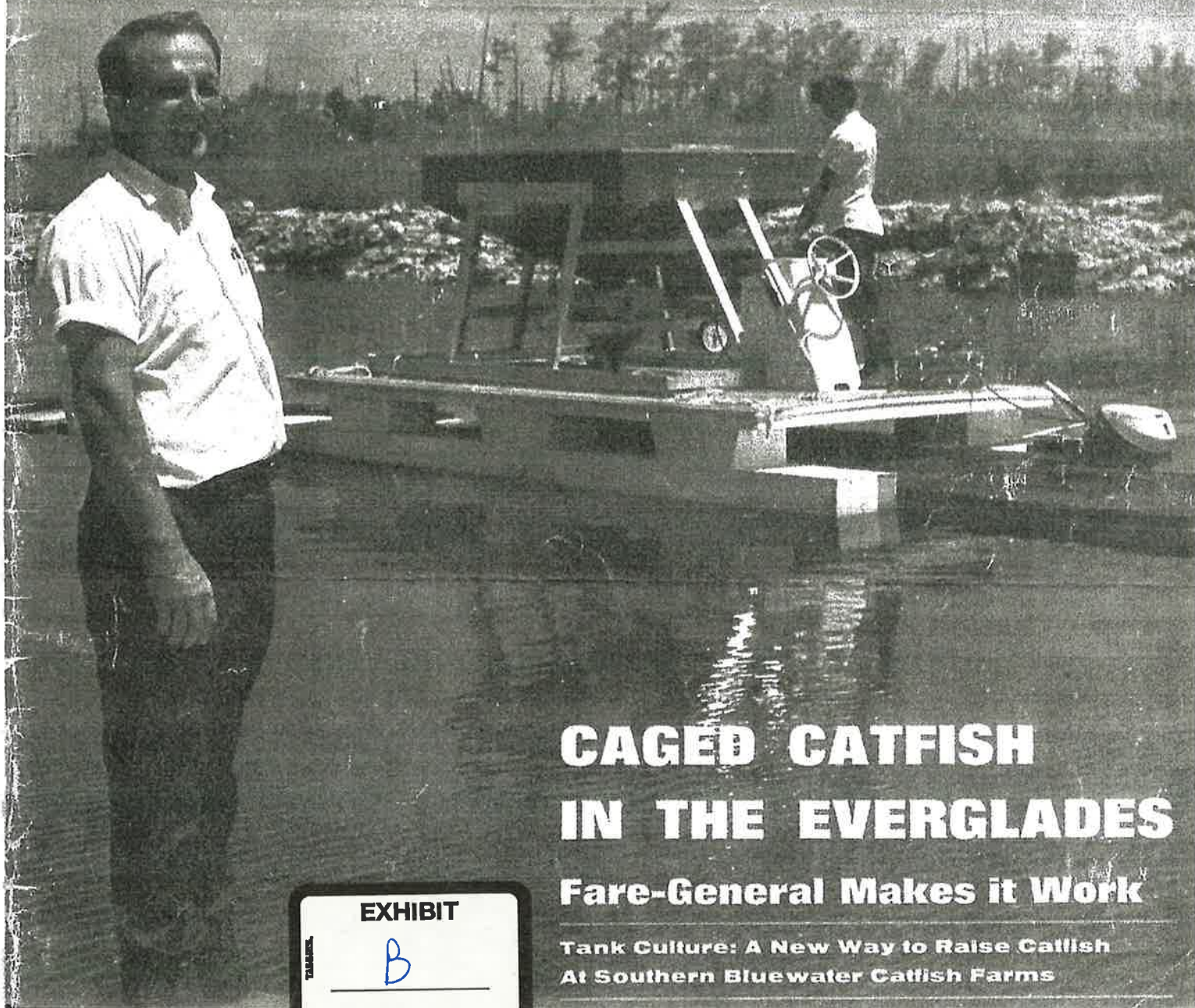


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JULY, 1971

INDUSTRIES



CAGED CATFISH IN THE EVERGLADES

Fare-General Makes it Work

Tank Culture: A New Way to Raise Catfish
At Southern Bluewater Catfish Farms

EXHIBIT

B

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JULY, 1971 VOLUME 2, NUMBER 3

A Watt Publication

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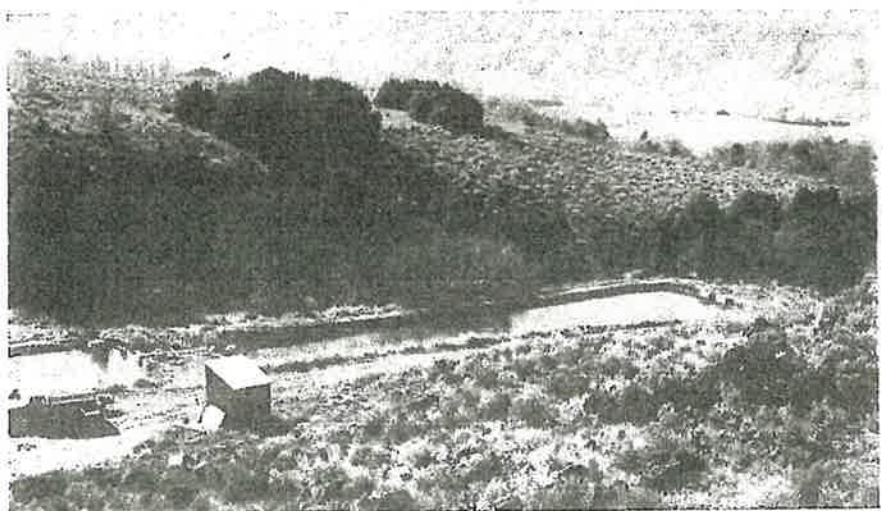
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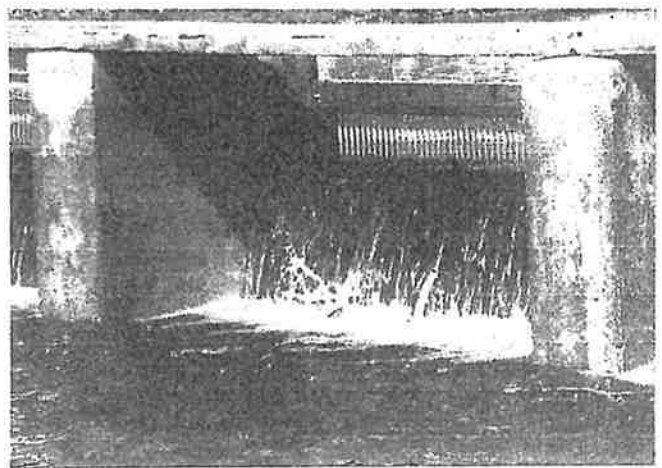
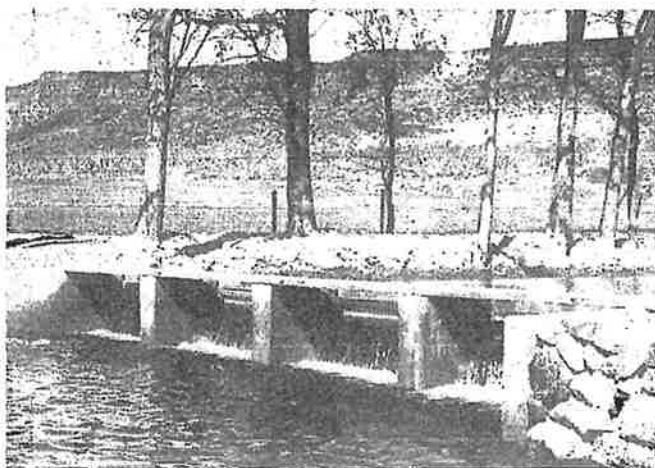
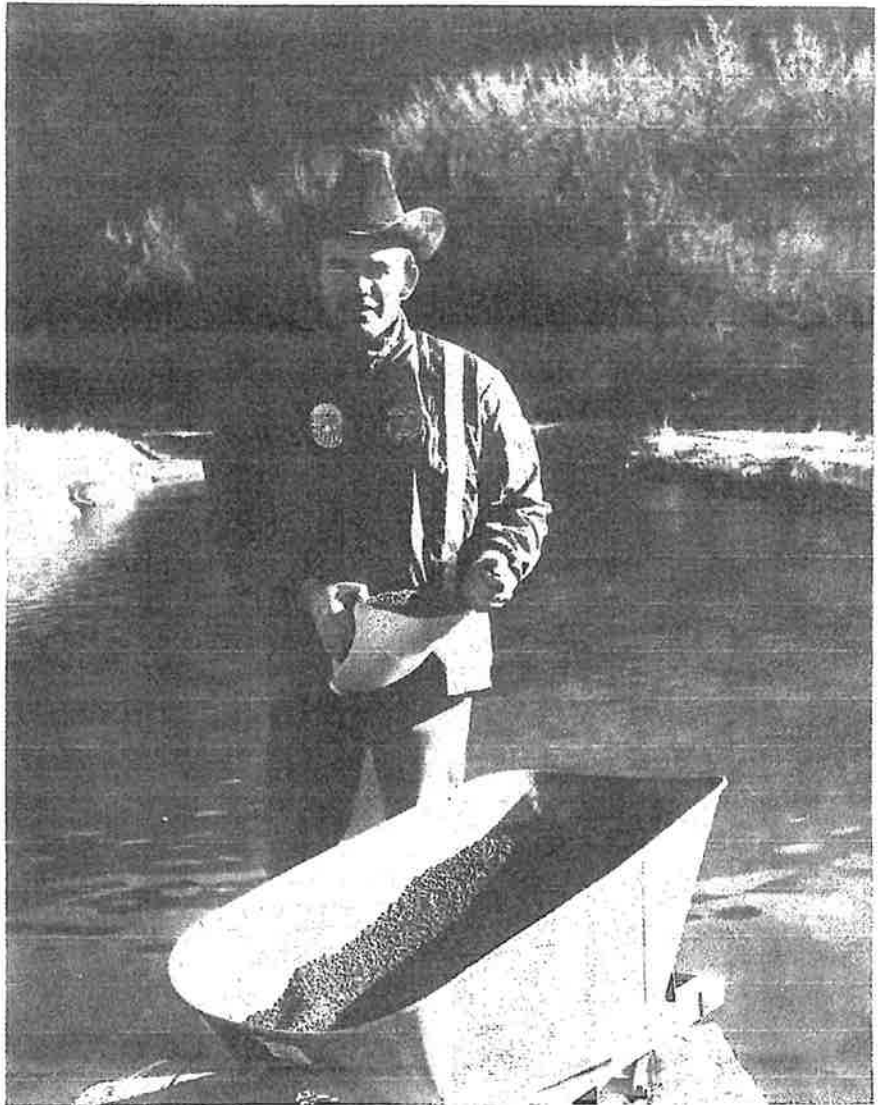
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State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 37-07116

Priority: January 12, 1984

Maximum Diversion Rate: 6.00 CFS
Maximum Diversion Volume: 4,340.0 AF

It is hereby certified that SIMMS CREDIT SHELTER TRUST
BARBARA SIMMS TRUSTEE
17816 HWY 30
BLISS ID 83314

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated November 15, 1971; and has submitted Proof of Beneficial Use on January 12, 1984. An examination indicates that the works have a diversion capacity of 7.5 cfs of water from:

SOURCE

BIRCH CREEK

Tributary: SNAKE RIVER

and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL DIVERSION VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	6.00 CFS	4,340.0 AF

LOCATION OF POINT(S) OF DIVERSION:

BIRCH CREEK	SW¼NW¼SW¼ Sec. 35, Twp 06S, Rge 13E, B.M.	GOODING County
BIRCH CREEK	SW¼SE¼SW¼ Sec. 35, Twp 06S, Rge 13E, B.M.	GOODING County

PLACE OF USE: FISH PROPAGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S 13E 34													X				
06S 13E 35									X		X						

CONDITIONS OF APPROVAL

1. Use of water under this right shall be non-consumptive.
2. This right authorizes the simultaneous diversion and use of up to 6.00 cfs of water from Birch Creek at each of the two authorized points of diversion.
3. The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
4. Rights 37-797 and 37-799 are also diverted through the point of diversion in the SW¼NW¼SW¼ Sec. 35, T6S, R13E, B.M., described above.
5. Rights 37-797, 37-799 and 37-7116 when combined shall not exceed a total diversion rate of 6.00 cfs.

State of Idaho
Department of Water Resources
Water Right License

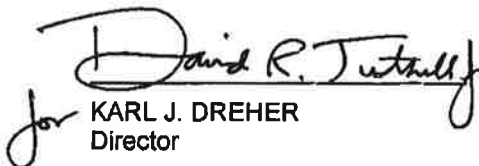
WATER RIGHT NO. 37-07116

CONDITIONS OF APPROVAL CONTINUED

6. The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
7. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 130.
8. The agreement dated March 30, 1972, among Vernon J. Huff, E. Bud Jensen and Paul Fleming, is a part of this right for purposes of delivering water between the parties or their successors in interest, as long as their rights to divert and use water from Birch Creek are confirmed in the Snake River Basin Adjudication.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 7th day of July, 2005.


for KARL J. DREHER
Director

12/22/2006

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

RIGHT NUMBER: 37-21610

NAME AND ADDRESS: AWALT FAMILY REVOCABLE TRUST
PO BOX 392
SAN MIGUEL CA 93451-0392

SOURCE: BIRCH CREEK

TRIBUTARY: SNAKE RIVER

QUANTITY: 6.000 CFS
4,340.000 AFY

For each authorized point of diversion, the right holder shall maintain a means of measurement and lockable controlling works acceptable to the Department.

Rights 37-7116 and 37-21610 when combined shall not exceed a total diversion rate of 6.00 cfs, and a total annual maximum diversion volume of 4340.0 af at the field headgate.

This right authorizes the simultaneous diversion and use of up to 6.00 cfs of water from Birch Creek at each of the two authorized points of diversion.

Rights 37-797, 37-799, 37-7116 and 37-21610 when combined shall not exceed a total diversion rate of 6.00 cfs.

PRIORITY DATE: 03/08/1970

POINT OF DIVERSION:

T06S R13E S35 SWNWSW Within GOODING County

T06S R13E S35 SWSESW Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
FISH PROPAGATION	01/01 12/31	6.000 CFS 4,340.00 AFY

PLACE OF USE: FISH PROPAGATION in GOODING County

T06S R13E S34 NESE T06S R13E S35 NWSW

T06S R13E S35 SESW

This right is for the same fish ponds authorized under Right 37-7116, but with an earlier priority.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

12/22/2006

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Rights 37-797, 37-799 and 37-7116 are also diverted through the point of diversion in the SW~~1~~NW~~1~~SW~~1~~ Sec. 35, T6S, R13E, B.M., described above.

The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.

The agreement dated March 30, 1972, among Vernon J Huff, E. Bud Jensen and Paul Fleming, is a part of this right for purposes of delivering water between the parties or their successors in interest.



Idaho Department of Water Resources

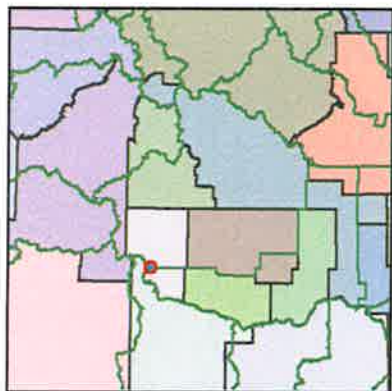
SRBA Recommendation:

37-21610

(Fish Propagation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Gooding County
IDWR Basin 37



0 0.1 0.2 Miles

Prepared by J. Stanton
On Friday, December 22, 2006
2004 Aerial Photography

Owner: Awak Family Revocable Trust

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-7116 V1

WATER RIGHT NUMBER: 37-7116 V1

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	SIMMS CREDIT SHELTER TRUST BARBARA SIMMS TRUSTEE 17816 HWY 30 BLISS, ID 83314 (208)837-4537
Original Owner	CLIFFORD J SIMMS JR FAMILY TRUST BARBARA SIMMS TRUSTEE 17816 HWY 30 BLISS, ID 83314 (208)837-4537
Previous Owner	CHRISTY LOU AWALT PO BOX 392 SAN MIGUEL, CA 93451 (805)238-1315
Previous Owner	NORVAL REX AWALT PO BOX 392 SAN MIGUEL, CA 93451 (805)238-1315
Current Owner	AWALT FAMILY REVOCABLE TRUST PO BOX 392 SAN MIGUEL, CA 93451-0392

Priority Date: 01/12/1984

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
BIRCH CREEK	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
FISH PROPAGATION	01/01 to 12/31	6.000 CFS	4,340.00 AF
	<u>Total Diversion:</u>	6.000 CFS	4,340.00 AF

Location of Point(s) of Diversion

BIRCH CREEK	SW1/4SE1/4SW1/4	Sec. 35, Twp 06S, Rge 13E, B.M.
GOODING County		
BIRCH CREEK	SW1/4NW1/4SW1/4	Sec. 35, Twp 06S, Rge 13E, B.M.
GOODING County		

Place of Use

FISH PROPAGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06S	13E	34													X				

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-7116 V1

06S 13E 35				X	X	
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Conditions of Approval:

- Y 1. C18 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.
- E Y 2. 122 The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
- G Y 3. The agreement dated March 30, 1972, among Vernon J. Huff, E. Bud Jensen and Paul Fleming, is a part of this right for purposes of delivering water between the parties or their successors in interest.
- E Y 4. X36 Rights 37-797 and 37-799 are also diverted through the point of diversion in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 35, T6S, R13E, B.M., described above.
- Q Y 5. X35 Rights 37-797, 37-799 and 37-7116 when combined shall not exceed a total diversion rate of 6.00 cfs. *add B104*
- ~~6. 027~~ Use of water under this right shall be non-consumptive.
- Q Y 7. T18 For each authorized point of diversion, the right holder shall maintain a means of measurement and lockable controlling works acceptable to the Department.
- Q Y 8. This right authorizes the simultaneous diversion and use of up to 6.00 cfs of water from Birch Creek at each of the two authorized points of diversion.

Remarks:*This R44 B10 limited to 6*Comments:

1. CFRITSCH 10/24/2005 Update

Comment: Updated recommendation to match amended license.

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits: