

IDAHO DEPARTMENT OF WATER RESOURCES  
Proof Report

6/18/2020

Water Application 36-8570

**Owner Type**      **Name and Address**  
**Status:** See Remarks

**Source**

**Tributary**

**Beneficial Use**

**From**

**To**

**Diversion Rate**

**Volume**

**Source and Point(s) of Diversion**

**Place Of Use**

**Conditions of Approval:**

1. Right 36-08570 has been split into Parts A & B by assignment.

**Comments:**

**Dates and Other Information**

Application Denied Date: 8/27/1993

Number of Protests: 0

Water District Number: TBD

Application Type: New Appropriation

Mitigation Plan: False

**Combined Use Limits**

N/A

**SubCase:**

N/A

**Water Supply Bank:**

N/A

RECEIVED

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT

DEC 13 1990

To appropriate the public waters of the State of Idaho

Department of Water Resources

Southern Region Office

1. Name of applicant Plaque Trust Phone 733-9161Post office address c/o Robert Brailsford, P.O. Box 1291, Twin Falls, ID 833032. Source of water supply Bickel Springs which is a tributary of Snake River3. Location of point of diversion is SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of SE  $\frac{1}{4}$ , Govt. Lot 8Sec. 6 Township 8S Range 14E B.M. Gooding County; additional

points of diversion if any: \_\_\_\_\_

4. Water will be used for the following purposes:

Amount 10.5 for Power purposes from 1-1 to 12-31 (both dates inclusive)  
(cfs or acre-feet per annum)Amount 10.5 for Fish Prop. purposes from 1-1 to 12-31 (both dates inclusive)  
(cfs or acre-feet per annum)Amount 10.5 for Wildlife purposes from 1-1 to 12-31 (both dates inclusive)  
(cfs or acre-feet per annum)Amount 10.5 for Recreation purposes from 1-1 to 12-31 (both dates inclusive)  
(cfs or acre-feet per annum)5. Total quantity to be appropriated is (a) 10.5 and/or (b) \_\_\_\_\_  
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Existing collection works & pipeline  
under Snake River to gravity irrigation system. Installation of generator, raceways,  
and dirt ponds for additional uses.b. Height of storage dam \_\_\_\_\_ feet; active reservoir capacity \_\_\_\_\_ acre-feet; total  
reservoir capacity \_\_\_\_\_ acre-feet; period of year when water will be diverted to storage:  
\_\_\_\_\_ to \_\_\_\_\_ inclusive.

c. Proposed well diameter is \_\_\_\_\_ inches; proposed depth of well is \_\_\_\_\_ feet.

d. Is ground water with a temperature of greater than 90°F being sought? \_\_\_\_\_

7. Time required for the completion of the works and application of the water to the proposed beneficial use is

5 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. 37 KW w/60' head
- Stockwatering; list number and kind of livestock. \_\_\_\_\_
- Municipal; show name of municipality. \_\_\_\_\_
- Domestic; show number of households. \_\_\_\_\_
- Other; describe fully. Fish propagation for commercial or experimental purposes, creation of wildlife habitat in 2 ground ponds, recreation - public fishing in ponds.

9. 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 the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
85	13E	1																LT 10 X, H	
	14E	6										LT 11 X, H	LT 10 X, H				LT 10 X, H		
		7		LT 2 H, P			X H, P	LT 3 X, H											

P = Power, H = Fish Prop. X = Wildlife Habitat

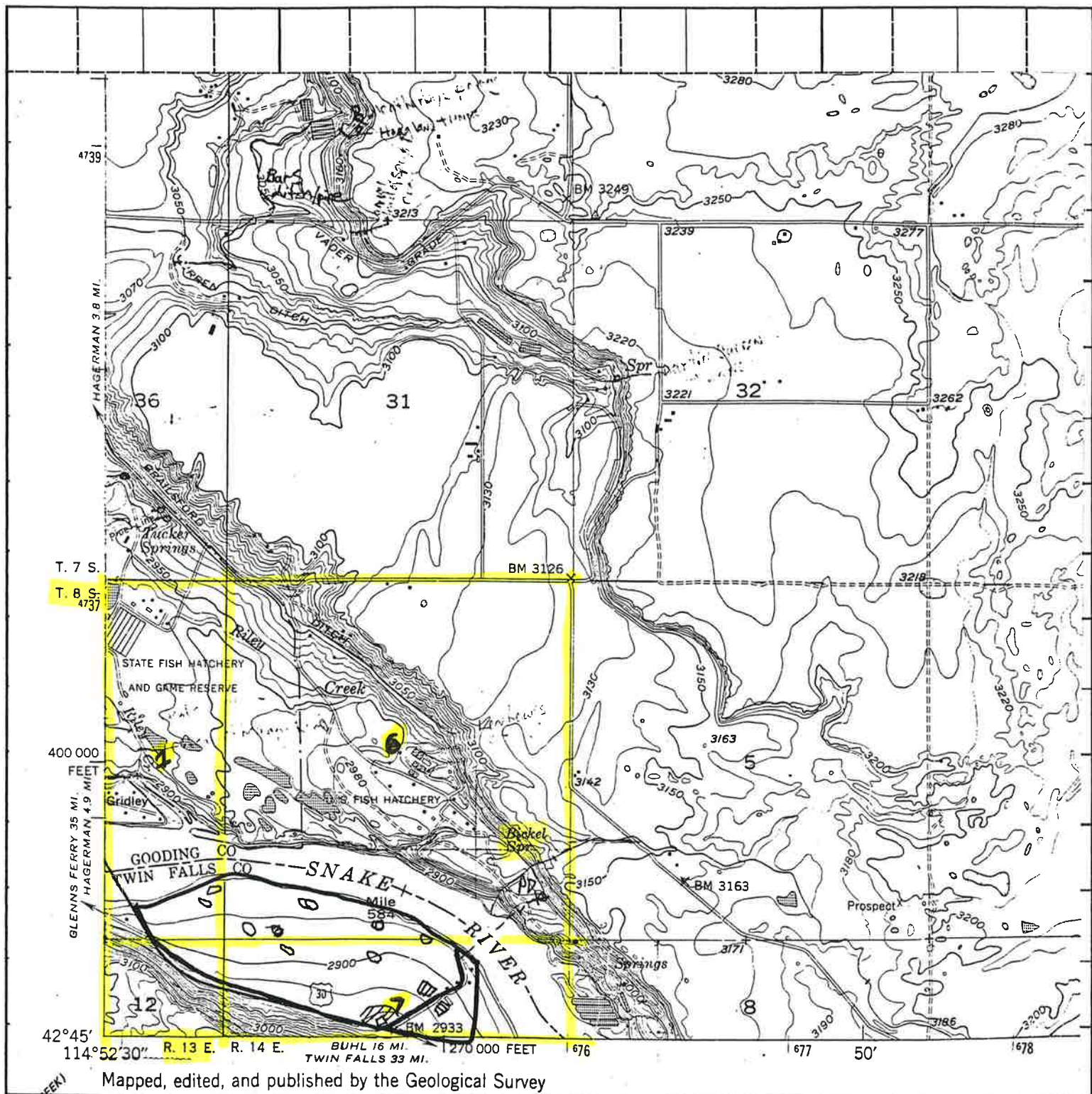
Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. \_\_\_\_\_

- Who owns the property at the point of diversion? Pisces Investments
- Who owns the land to be irrigated or place of use? Applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. \_\_\_\_\_

12. Remarks: 4.98 cfs of  
This water is presently used for irrigation of these same lands under  
Claim 36-4260. Proposal is to add uses to existing system and also to increase  
the use period to all year.  
Trustees are Wm. B. Travers, 671 Sandpoint Rd, Carpinteria, CA 97013  
& Robert B. Travers, 1155 Lakoya Rd, Madera, CA 94558  
Beneficiary is Lisa Brailsford Maddisett, P.O. Box 1291, Twin Falls, ID 83301

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



Scale: 2 inches equal 1 mile.

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

*Robert H. Brailford*  
(Applicant)  
*Platteau Trust Dower*

Received by J.F. Stanton Date 12-12-90 Time 2:25 pm Preliminary check by JS

Fee \$ 245<sup>00</sup> Received by JS # 5012892 Date 12-12-90

Publication prepared by M. Baldwin Date 2-11-91 Published in Gooding Co. Leader; Times News Stateman, Post Register Lewiston am Tribune

Publication approved M. Baldwin Date 3-26-91

## ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. \_\_\_\_\_, and said application is hereby \_\_\_\_\_.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19 \_\_\_\_.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

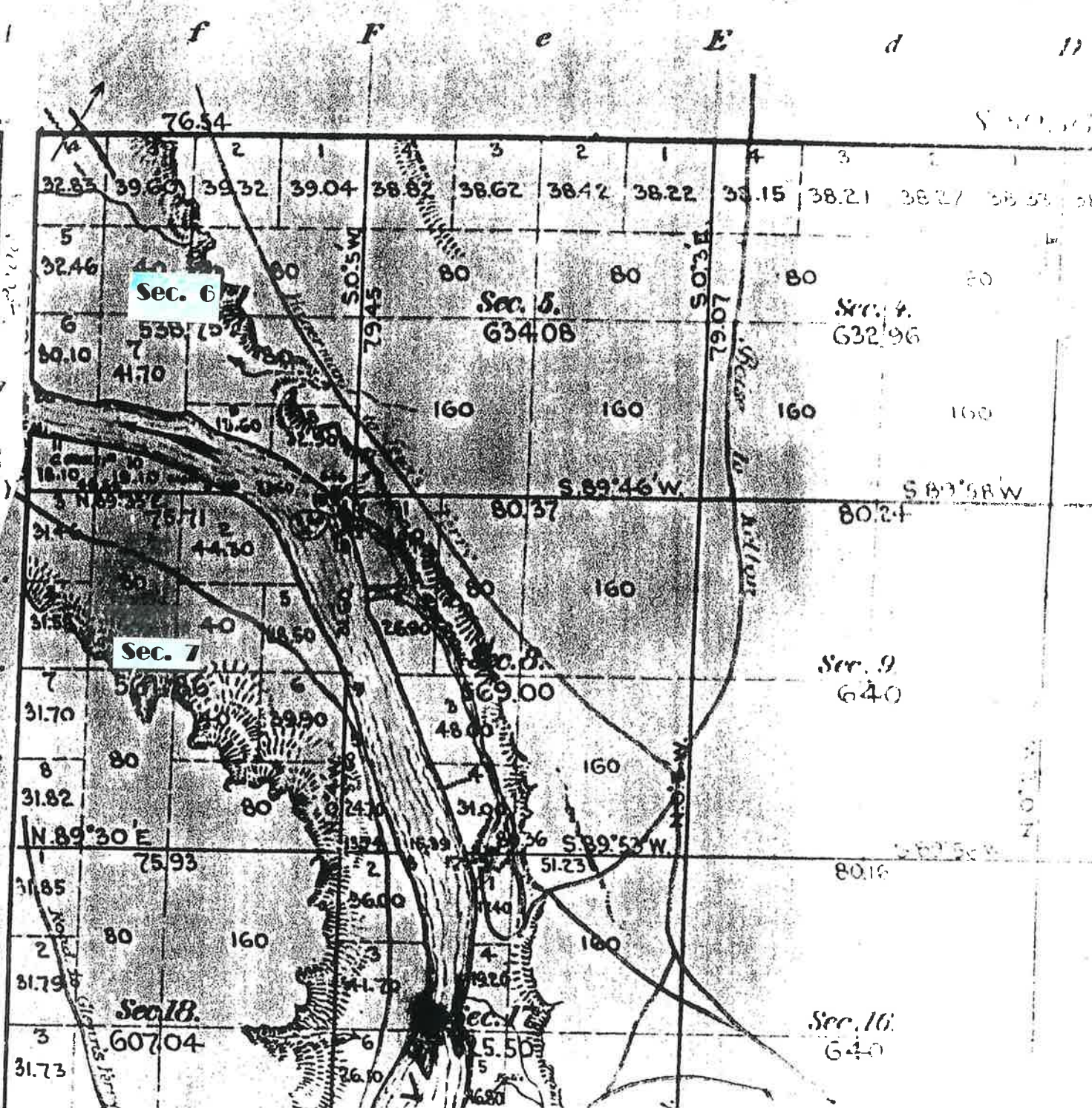
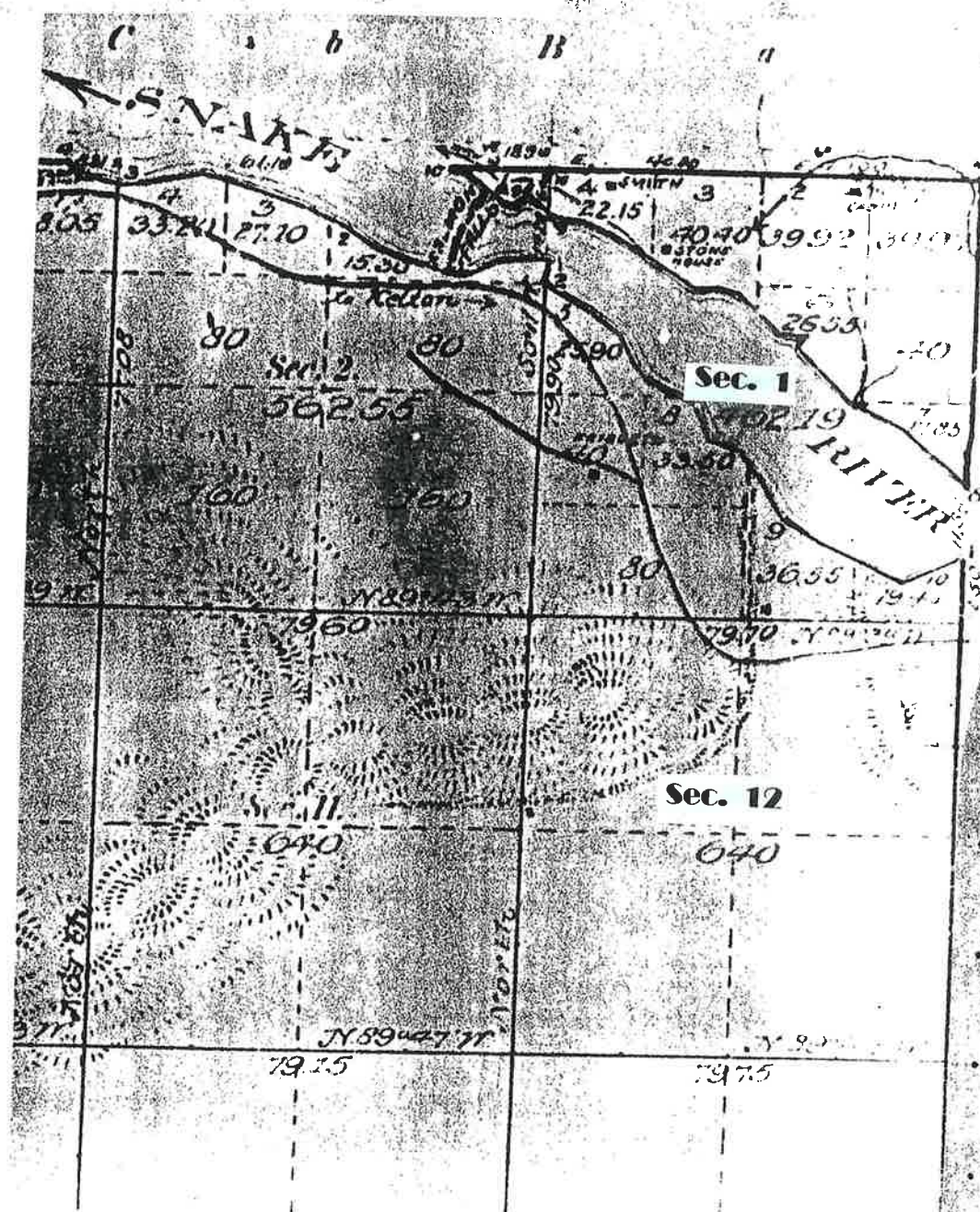
d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:



*Nº 8 South, Range Nº 13 East*

*Township Nº 8 South, Range Nº 14 East*





June 14, 1994

Attached is a copy of the **Final Order** issued in connection with the Application for Permit No. 36-08570 in the Name of Plateau Trust

Copies forwarded to:

IDWR - Northern Region - Bob Haynes

IDWR - Southern Region - Loren Holmes

IDWR - Eastern Region - Ron Carlson

IDWR - Western Region - Dave Tuthill

Legal Division - Phil Rassier

Adjudication Bureau - Dave Shaw

Information Officer - Dick Larsen

Water Allocation Bureau - Glen Saxton

Julie Yarbrough

Tim Luke

Pam Skaggs

Erv Ballou

Darla Block

Brenda Chapman

Cindy Zimmerman

Carolyn Andregg

Jim Johnson

Donna Corless

Scott King

RECEIVED

JUN 16 1994

De

Resources  
Northern Region Office

36-8570



## 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

June 14, 1994

**RE:** In the Matter of Application for Permit No. 36-08570 in the  
Name of Plateau Trust

Dear Interested Party:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

(a) the petition for reconsideration is disposed of; or

(b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.



(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

#### PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5243(4) Idaho Code.

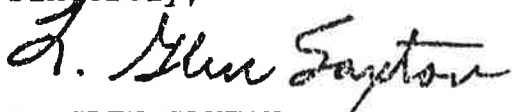
#### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,



L. GLEN SAXTON  
Chief, Water Allocation Bureau

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14<sup>TH</sup> day of June, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

Robert Brailsford  
Plateau Trust  
P.O. Box 1291  
Twin Falls, ID 83303

Steve Goddard  
Idaho Dept. of Fish and Game  
P.O. Box 25  
Boise, ID 83307

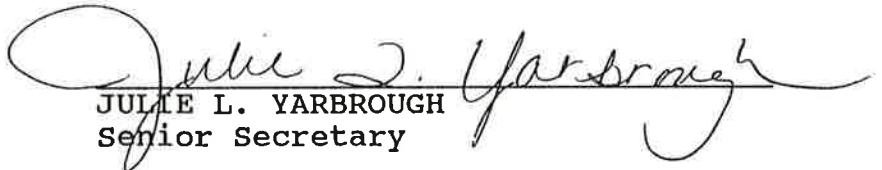
Petrena Thompson  
60 Bell Rapids Rd.  
Hagerman, ID 83332

Wynarda Exon  
014 Bell Rapids Rd  
P O Box 537  
Hagerman, ID 83332

Ned Swisher  
Hagerman Valley Citizens  
Alert  
P.O. Box 32  
Hagerman, ID 83332

Alice Wilson  
58-C Bell Rapids Rd.  
Hagerman, ID 83332

Barbara McLeod  
Bell Rapids Rd.  
Hagerman, ID 83332

  
JULIE L. YARBROUGH  
Senior Secretary

**BEFORE THE DEPARTMENT OF WATER RESOURCES**  
**OF THE**  
**STATE OF IDAHO**

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 36-08570A IN )  
THE NAME OF PLATEAU TRUST )

**FINAL ORDER**

On December 8, 1993, the department issued a Recommended Order in connection with Application for Permit No. 36-08570A in the name of Plateau Trust (applicant). On April 22, 1994, the applicant submitted a Petition for Reconsideration of the Recommended Order (petition). On May 5, 1994, protestant Fish and Game filed a response to the petition. On May 11, 1994, the hearing officer denied the petition for reconsideration.

Based on his understanding of the law, the Director of the Department of Water Resources (Department) makes the following Findings of Fact, Conclusions of Law, Analysis and Final Order:

**FINDINGS OF FACT**

1. On December 12, 1990, the applicant submitted Application for Permit No. 36-08570 to the Department proposing to appropriate 10.5 cubic feet per second (cfs) of water from Bickel Springs to be used year-round for power generation, fish propagation, wildlife and recreation. The application has been divided into part "A" which includes power generation, wildlife and recreation use and part "B" which includes the fish propagation use. This order relates only to Application for Permit No. 36-08570A.

2. The Department advertised the application which was protested by the following parties:

James and Barbara Higgins  
Anthony Bowlen  
Jane Howell  
Wallace and Fay Flournay  
Wynarda Exon  
Bill and Barbara McLeod  
Jason and Anna Lee Brandt  
Adelbert and Beatrice Crow  
Carter and Alice Wilson  
David and Joanne Schults  
Petrena Thompson  
Hagerman Valley Citizen's Alert c/o S.G. Carleton  
Idaho Department of Fish and Game

3. On November 23, 1993, the Department conducted a hearing in connection with the application. The applicant was represented



by Robert Brailsford. Protestant Idaho Department of Fish and Game (Fish and Game) was present and was represented by Steven Goddard. Protestant Hagerman Valley Citizens Alert was represented by Ned Swisher. Protestants Alice Wilson, Petrena Thompson, Barbara McLeod, and Wynarda Exon were also present but did not actively participate in the hearing.

4. Issues identified by the protestants include the following:

- a. That the application was not made in good faith, but for delay and speculative purposes.
- b. That the applicant does not have sufficient financial resources with which to complete the project.
- c. That the application will conflict with the local public interest.

5. Exhibits accepted as part of the hearing record were the following:

Applicant's Exhibits

- a. Exhibit # 1-A - A Plan View of the proposed Plateau Trust Hydroelectric Plant.
- b. Exhibit # 1-B - A drawing of proposed Plateau Trust Hydro Equipment.
- c. Exhibit # 2 - A drawing entitled "Map for Amendment of I.D.W.R. Application No. 36-08570".
- d. Exhibit # 3 - An enlarged part of a U. S. Geological Quadrangle sheet showing the project area.
- e. Exhibit # 4 - Plateau Trust Financial Statement As Of November 27, 1992.

Protestant's Exhibits

- a. F & G # 1 - Letter dated September 16, 1993 from Dale L. Riedesel to the Idaho Department of Fish and Game
- b. F & G # 2 - Letter dated October 8, 1993 from Carl H. Nellis of the Idaho Department of Fish and Game to Dale L. Riedesel.
- c. F & G # 3 - Letter dated October 6, 1993 from Charles H. Lobdell to Dale L. Riedesel.
- d. F & G # 4 - Memorandum dated November 22, 1993 with attachments from George Stephens to Dave Parrish.

6. The applicant owns and uses a pipeline which has the capacity to divert approximately 10.5 cfs of water from Bickel Springs and convey the water across the Snake River to land of the applicant.

7. The applicant filed Snake River Basin Adjudication (SRBA) claim no. 36-04260B for the diversion of 10.5 cfs of water for stockwater, domestic and for the irrigation of 164 acres of land. The Department's recommendation of the claim, however, was that only 4.98 cfs of the 10.5 cfs is beneficially used. The Department's recommendation is of a right to the diversion and use of the 4.5 cfs of water from March 15 to November 15 of each year for irrigation purposes and 0.48 cfs year-round for stockwater and domestic purposes. The applicant has filed an objection to the Department's recommendation regarding the SRBA claim.

8. The applicant states that due to the reduced rate of diversion recommended for SRBA claim no. 36-04260B he may have to install a sprinkler system for the land which is presently flood irrigated in order to obtain the same crop production. The land is sandy loam and quite porous. If the applicant installs a sprinkler irrigation system, the applicant proposes to use the power generated, if this application is approved, to operate the pump which will pressurize the sprinkler system. The applicant has not described or identified the intended use of the power produced during the non-irrigation season.

9. The plans of the proposed hydroelectric facility are schematic in nature, are not prepared to scale and do not show conduit sizes, elevations, dimensions, capacities, the amount of power to be generated or other specific features. The schematics were not prepared by an engineer and specifications were not provided by the applicant.

10. The applicant has not applied to the Federal Energy Regulatory Commission (FERC) or to the Idaho Public Utilities Commission (IPUC) for any needed approvals associated with the proposed hydroelectric use.

11. The land of the applicant is adjacent to the Snake River and is close to a substantial natural wildlife habitat and wetland area.

12. The plans of the proposed ten (10) ponds associated with the wildlife use are also schematic in nature, are not prepared to scale and do not show ditch sizes, elevations, dimensions of the ponds, capacities, or other specific features.

13. The proposed recreational use shown on the application is for hunting.

14. The proposed ponds and the ditches connecting them would lose substantial water due to seepage.

15. Protestant Fish and Game contends that the discharge of water directly from Bickel Springs to the wetland area below the springs adjacent to the Snake River constitutes a better use of the water for wildlife habitat than to pipe Bickel Springs across the Snake River for wildlife habitat use in man made ponds.

#### CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor ...

2. In Shokal v. Dunn, 109 Idaho 330 (1985), the Idaho Supreme Court provided that "the plans should be sufficient to generally apprise the public of the efficacy of the proposed use in the planned facility, and of its potential impact." The court also stated that the Director of the Department has the "affirmative duty to assess and protect the public interest" (emphasis added) and that public interest criteria to be considered by the Department includes fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation, navigation and water quality.

3. Water Appropriation Rule IDAPA 37.03.08040.04.b.i. provides as follows:

The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criteria (a) through (d) of Section 42-203A(5), Idaho Code;

4. Water Appropriation Rule IDAPA 37.03.08040.04.b.ii. provides as follows:

The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criterion (e) of Section 42-203A, Idaho Code, as to any factor affecting local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable. The protestant shall bear the



initial burden of coming forward with evidence for those factors relevant to criterion (e) of Section 42-203A(5), Idaho Code, of which the protestant can reasonably be expected to be more cognizant than the applicant.

5. Water Appropriation Rule IDAPA 37.03.08040.04.b.iii. provides as follows:

The protestant shall bear the initial burden of coming forward with evidence for the evaluation of the public interest criteria of Section 42-203C(2), Idaho Code, and of demonstrating a significant reduction, except that the applicant shall provide details of the proposed design, construction, and operation of the project and directly associated operations to allow the impact of the project to be fully evaluated.

6. The applicant has not provided plans with sufficient detail which will allow the Department or the protestants to evaluate the impact of the proposed uses.

7. The applicant has not shown that man-made wildlife ponds are better habitat or would significantly contribute more to wildlife habitat than the Snake River itself nor has the applicant shown a need for creating wildlife habitat on his property.

8. The applicant has not shown that the water supply (10.5 cfs) is sufficient for the wildlife use or power generation use.

9. Approval of the application will not reduce the quantity of water under existing water rights.

10. The application is speculative in nature in that the proposed uses are not adequately described in enough detail either in the application or in the supporting information.

11. Based on the information submitted, the applicant appears to have sufficient financial resources with which to complete a project such as proposed in the application.

12. The application conflicts with the local public interest in the respect that the effect of the proposed uses on wildlife can not be determined with the information submitted.

13. The application is contrary to the conservation of water resources within the state of Idaho.

14. The applicant has not met the required ultimate burden of proof on each of the decision criteria described in Section 42-203A, Idaho Code.

15. The Department should deny Application for Permit No. 36-08570A since the application is speculative in nature and the

applicant has not shown that the application is in the public interest or that the water supply is sufficient for the purposes intended.

#### ANALYSIS

The parties participating in the November 23, 1993 hearing presented conflicting testimony concerning the purpose and nature for the filing of application for permit no. 36-08570A. The protestants believe the applicant filed the application to procure the difference between the 10.5 cfs claimed to be historically diverted by the applicant and the 4.5 cfs recommended by the Department in the SRBA as the rate which has been beneficially used for irrigation by the applicant through the pipeline. The applicant insists that the application is not related to the recommendation of SRBA claim no. 36-04260B other than that the applicant may need to generate power for a sprinkler irrigation system if the 4.5 cfs recommended by the Department is ultimately determined by the court to be the extent of the irrigation right.

The parties also provided conflicting testimony relative to when the plans for the proposed power generation and wildlife facilities were prepared. The protestants claim the plans had not been prepared by September 14, 1993 when the Department held a conference in the matter. The applicant states that the plans have been in existence for about a year. The plans received as exhibits from the applicant at the hearing are undated and do not clear up this question.

The applicant's motive in filing the application and the timing of plan preparation are essentially not of consequence, since the plans provided by the applicant are not complete enough for the Department or the protestants to evaluate the effects of the proposed project and to consider the application as other than speculative in nature.

#### ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 36-0857A is hereby DENIED.

IT IS FURTHER, hereby, ORDERED that the protests of those parties who did not appear at the hearing are SET ASIDE and will not be further considered in this matter.

Signed this 10<sup>TH</sup> day of JUNE, 1994.

  
R. KEITH HIGGINSON  
Director

#C - message with Donna  
Corless for Carolyn Andregg.  
Instructions given were  
to return orig. copy of  
lease #5223 to  
Mr. Brailsford & to give  
me a call back regarding  
what she found. <sup>mb</sup>  
6/3/94

Bob  
Brailsford  
133-9161  
ask Carolyn  
for original



Sect. 1, 5, 3, 3, 1 Attachment #2

STATE OF IDAHO EASEMENT

NO. 5223

THIS INDENTURE, made this 4th day of March, 1985, by and between the STATE OF IDAHO, acting by and through the State Board of Land Commissioners, as party of the first part (Grantor), and PLATEAU TRUST COMPANY, c/o Robert Brailsford, 300 Morrison Drive, #644, Twin Falls, Idaho 83301, as party of the second part (Grantee);

WITNESSETH: That for and in consideration of the sum of TWO HUNDRED FIFTY AND NO/100ths DOLLARS (\$250.00), lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee an easement for the purpose of constructing, using and maintaining a submarine water pipeline over and across the following described lands situated in TWIN FALLS and GOODING COUNTIES, State of Idaho, to-wit: so much of the following described lands which were below the ordinary or natural high waterline on the date the State of Idaho was admitted to the Union with the right to additions thereto and subject to deletions therefrom which have occurred, causing the boundary of the State's ownership to change;

A strip of land ten (10.00) feet wide, being five (5.00) feet on each side of the following described centerline:

Commencing at the northeast section corner of Section 7, Township 8 South, Range 14 East, Boise Meridian, thence South 65°51'56" West, 1,306.62 feet to a point on the ordinary high waterline on the West bank of the Snake River, said point being the REAL POINT OF BEGINNING; thence North 37°51'27" East, 920.36 feet to a point on the ordinary high waterline on the East bank of the Snake River, said point being the point of terminus of said easement, the above described area containing 0.21 acres, more or less.

It is understood and agreed that the submarine water pipeline is to be constructed and maintained in such a manner that will not obstruct the river channel or hinder or affect navigation, recreation, or other authorized and customary use of the Snake River. The State Board of Land Commissioners reserves the right to terminate this easement for failure to construct and maintain the submarine water pipeline as herein provided, upon thirty (30) days written notice to the Grantee.

It is understood and agreed that this easement authorizes use of this submarine water pipeline only on the lands lying below the ordinary high watermark.

Also subject to State of Idaho Easement No. 4855, issued to Idaho Power Company on February 14, 1980 for an overhead powerline.

It is further understood and agreed that in the event the lands hereinabove described are not used for the purposes herein specified for any five-year period the State Board of Land Commissioners may declare such right of way forfeited and the use of the lands will revert back to the State of Idaho or to the record owner of the lands.

6/3/94

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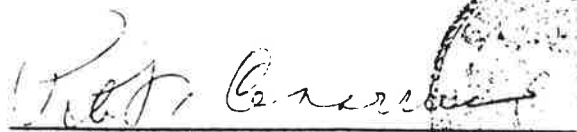
To <u>Carolyn A.</u>	From <u>Mary</u>
Co. <u>S.O.</u>	Co. <u>Southern</u>
Dept.	Phone #
Fax #	Fax #

For file 36-8570 A

IN WITNESS WHEREOF, the State Board of Land Commissioners has caused these presents to be executed by its President, the Governor of the State of Idaho, and countersigned by the Secretary of State and the Director, Department of Lands.

STATE BOARD OF LAND COMMISSIONERS

Countersigned:

  
Secretary of State



  
Governor of the State of Idaho and  
President of the State Board of Land  
Commissioners


  
Director, Department of Lands

\* \* \* \* \*

STATE OF IDAHO    )  
                          ) ss.  
COUNTY OF ADA    )

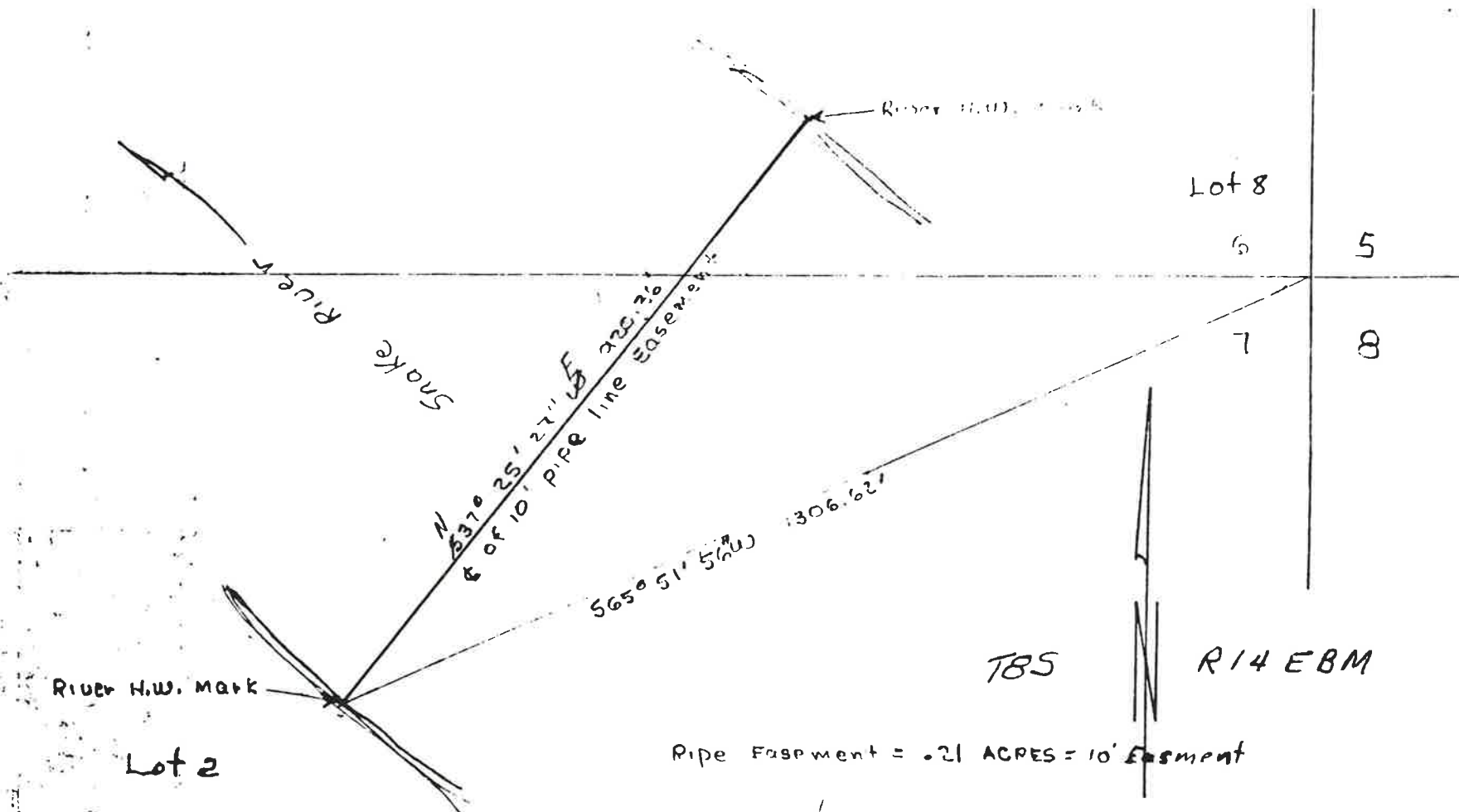
On this 4th day of March, 1985, before me, a Notary Public in and for said State, personally appeared JOHN V. EVANS, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; PETE T. CENARRUSA, known to me to be the Secretary of State of the State of Idaho; and STANLEY F. HAMILTON, known to me to be the Director of the Department of Lands of the State of Idaho, that executed the said instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

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

  
JOHN B. BROGAN, Notary Public residing at  
Idaho City, Idaho

My Bond expires August 25, 1986.

Lot 8  
 Subdivision Lot 2 Sect 7 T. 8 S R. 14 E Boise Meridian





RECEIVED

MAY 12 1994

Dep. Resources  
Southern Region Office

May 11, 1994

TO: DISTRIBUTION LIST

RE: PERMIT NO. 36-08570A - PLATEAU TRUST

Dear Interested Party:

Enclosed is a copy of the Order of the hearing officer Denying Petition for Reconsideration. The department of will be issuing a Final Order to which parties may pursue further administrative or judicial appeals.

If you have any questions regarding this matter, please feel free to contact the Department.

Sincerely,

JULIE L. YARBROUGH  
Senior Secretary

Enclosure

36-08570 A

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 36-08570A IN )  
THE NAME OF PLATEAU TRUST )

ORDER DENYING  
PETITION FOR RECONSIDERATION

On December 8, 1993, the department hearing officer issued a Recommended Order in connection with Application for Permit No. 36-08570A in the name of Plateau Trust (applicant). By letter dated December 21, 1993 and January 11, 1994 and an Order issued April 1, 1994, the hearing officer extended the time for filing a Petition for Reconsideration in this matter to April 22, 1994. On April 22, 1994, the applicant submitted a Petition for Reconsideration of the Recommended Order (petition). On May 5, 1994, protestant Fish and Game filed a response to the petition.

The department has reviewed the petition of the applicant and Fish and Game's response to it and responds to both as follows:

General response:

Most of the information and exhibits offered by the applicant in its Petition for Reconsideration is new information which was not provided at the hearing and can not now be considered by the hearing officer without a further hearing. It is apparent that the applicant contacted an engineer after the hearing and asked for the review of "hydroelectric potential" of the proposed generating facility. Irrespective of this general concern, this order responds to each of the points raised by the applicant.

Specific response:

**Finding of Fact 4.**

The applicant objects to Finding of Fact No. 4 which lists, but does not address, the issues identified by the protestants at the hearing. The applicant's objection discusses the evidence relating to these issues but does not suggest that the issues are incorrectly identified. No change is required.

**Finding of Fact 5.**

The applicant objects to the admission by the hearing officer of Protestant's exhibits, A, B, C, D. The applicant's objection does not justify a change in the finding.

**Finding of Fact 6.**

The applicant's statement concerning the function of the Snake River Basin Adjudication court does not disagree with this

finding and does not justify a change to it.

**Finding of Fact 7.**

The applicant apparently is referring to Finding of Fact No. 9 and is disagreeing with the requirements of a hydropower producer to file with the IPUC or the FERC. Contrary to the applicant's statement, either federal and/or state approval or a disclaimer such as an exemption must be obtained for hydropower projects. A change to this finding is not appropriate.

**Finding of Fact 8.**

Conceptual review of a proposed power generating facility by an engineer after the department has conducted an administrative hearing and has issued a Recommended Order in the contested matter conflicts with the holding of Shokal v. Dunn and can not be considered timely. The letter dated April 20, 1994 from Jack Straubhar can not be considered as a design and does not constitute plans and specifications for the proposed hydropower facility.

**Finding of Fact 9.**

Exhibit #7 either has not been labeled by the applicant or was not included by the applicant as a part of its Petition for Reconsideration.

**Finding of Fact 10.**

The applicant's statement concerning wildlife use of wetland areas does not disagree with the finding and does not justify any change to it.

**Finding of Fact 12.**

Based on information provided in the objection, the hearing officer has changed Finding of Fact No. 12 in the Recommended Order to show that the intended recreation use is hunting.

**Finding of Fact 13.**

The applicant's statement does not disagree with the finding and does not justify any change to it.

**Finding of Fact 14.**

The department's letter dated March 18, 1986 which was not offered as evidence at the hearing, addresses stabilization of a bank of an estuary of the Snake River, does not relate to the application in question and does not justify any change to Finding of Fact 14.

**Conclusion of Law 1.**



Applicant objects to Conclusion of Law No. 1. which lists, but does not address the issues which can be considered by the department in the approval of an application. The objection does not justify a change to this conclusion.

**Conclusion of Law 2.**

The applicant objects to Conclusion of Law No. 2 which describes the holding in Shokal v. Dunn. The applicant's latest submittal of "plans" are neither timely nor sufficiently complete enough to satisfy the holding in Shokal v. Dunn and does not justify any change to the conclusion.

**Conclusion of Law 3.**

The applicant objects to Conclusion of Law No. 3. which describes the text of a water appropriation rule. No change to his conclusion is appropriate.

**Conclusion of Law 4.**

The applicant objects to Conclusion of Law No. 4. which describes the text a water appropriation rule. No change to this conclusion is appropriate.

**Conclusion of Law 5.**

The applicant objects to Conclusion of Law No. 5. which describes the text a water appropriation rule. No change to this conclusion is appropriate.

**Conclusion of Law 6.**

See the response to Finding of Fact 8 above.

**Conclusion of Law 7.**

The applicant's statement does not disagree with this conclusion and does not justify any change to it.

**Conclusion of Law 8.**

The request for reconsideration apparently did not include exhibits 7 and 9. This conclusion should not be changed, since the applicant does not address the conclusion.

**Conclusion of Law 9.**

The applicant's statement does not disagree with the conclusion and does not justify any change to it.

**Conclusion of Law 10.**

See the response to Conclusion of Law 6 above.

**Conclusion of Law 11.**

No change is appropriate since financial ability is not at issue in this contested matter.

**Conclusion of Law 12.**

No change is appropriate, since the applicant has not shown that the application is in the local public interest.

**Conclusion of Law 13.**

No change is appropriate, since the applicant has not shown that the application is not contrary to the conservation of water in Idaho.

**Conclusion of Law 14.**

No change is appropriate, since the applicant has not met the required ultimate burden of proof.

**Conclusion of Law 15.**

The applicant's disagreement with the Recommended Order is not sufficient justification to change the conclusion.

**Response to Analysis**

The analysis section should not be changed, since the applicant has not shown any error in it.

**Summary**

Contrary to applicant's assertion, protestant Fish & Game has visited the spring and the proposed place of use. The failure of the other protestants to make an on-site examination of the applicant's proposed water use facility does not show error by the protestants.

**ORDER**

IT IS THEREFORE, hereby ORDERED that applicant Plateau Trust's Petition for Reconsideration is **DENIED**.

IT IS FURTHER, hereby, ORDERED that the Recommended Order issued December 8, 1993 is modified as specified above under the paragraph headed **Finding of Fact 12**.

Signed this 11<sup>th</sup> day of May, 1994.

  
L. GLEN SAXTON  
Hearing Officer

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on this 11<sup>TH</sup> day of May, 1994, I mailed a true and correct copy, postage prepaid, of the foregoing ORDER DENYING PETITION FOR RECONSIDERATION to the following:

Robert Brailsford  
Plateau Trust  
P.O. Box 1291  
Twin Falls, ID 83303

Steve Goddard  
Idaho Dept. of Fish and Game  
P.O. Box 25  
Boise, ID 83307

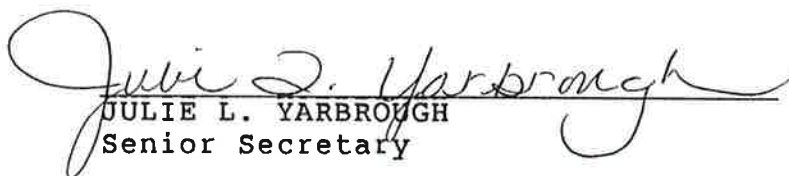
Petrena Thompson  
60 Bell Rapids Rd.  
Hagerman, ID 83332

Wynarda Exon  
Bell Rapids Rd  
Hagerman, ID 83332

Ned Swisher  
Hagerman Valley Citizens  
Alert  
P.O. Box 32  
Hagerman, ID 83332

Alice Wilson  
58-C Bell Rapids Rd.  
Hagerman, ID 83332

Barbara McLeod  
Bell Rapids Rd.  
Hagerman, ID 83332

  
JULIE L. YARBROUGH  
Senior Secretary



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 24, 1994

RECEIVED

JAN 27 1994

Ned Swisher  
Hagerman Valley Citizen's Alert  
P.O. Box 32  
Hagerman, ID 83332

Department of Water Resources  
Southern Region Office

RE: APPLICATION FOR PERMIT NO. 36-08570A IN THE NAME OF PLATEAU TRUST

Dear Mr. Swisher:

I have reviewed your letter dated January 14, 1994 in which you raise questions about the standing of certain parties to the above referenced matter.

The last paragraph of the Recommended Order issued on December 8, 1993 was intended to set aside the protests of those parties who did not show up at the hearing held on November 23, 1993.

The department considers that protestants Alice Wilson, Petrena Thompson, Barbara McLeod and Wynarda Exon are parties in the matter but that your participation in the hearing on behalf of the Hagerman Valley Citizen's Alert also represented their protests. I reached this conclusion since in the pre-hearing conference, I specifically asked them if they wanted to participate in the hearing and they replied something to the effect that your participation for the HVCA was sufficient to represent their interests.

Is there a problem or were you merely seeking clarification of a procedural matter? I am certainly willing to copy the four (4) non-participating protestants with future correspondence in this matter if there is a need to do so.

Sincerely,

L. GLEN SAXTON, Chief  
Water Allocation Bureau

c: Robert Brailsford  
Fish & Game - Steve Goddard  
IDWR - S. Region



HAGERMAN VALLEY CITIZENS' ALERT, INC.  
P.O. Box 32  
Hagerman, ID 83332

RECEIVED

JAN 21 1994

Department of Water Resources

January 14, 1994

Dept. of Water Resources  
Attn: L. Glen Saxton  
Statehouse  
Boise, ID 83720

Re: Application for Permit No. 36-08570A  
Plateau Trust

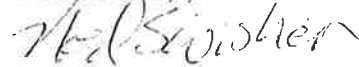
Dear Mr. Saxton:

This is a letter of inquiry regarding standing of four individuals in the above-referenced matter. In the Recommended Order you issued on December 8, 1993, the last paragraph states that "...the protests of those parties who did not appear at the hearing are SET ASIDE...". Earlier in the same document, the presence of Protestants Alice Wilson, Petrena Thompson, Barbara McLeod, and Wynarda Exon at the hearing on November 23, 1993 was acknowledged.

We believe those four individuals should have standing in the matter since they were present at the hearing and there is precedence for this kind of participation in previous Department hearings. Would you please clarify this matter for us?

Thank you for your attention to this request.

Sincerely,



Ned Swisher

President

Hagerman Valley Citizens' Alert, Inc.

P.O. Box 32

Hagerman, ID 83332

cc: Robert Brailsford  
Dept. of Fish and Game



# 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

January 11, 1994

CECIL D. ANDRUS

GOVERNOR

MARK E. HIGGINSON  
DIRECTOR

RECEIVED

JAN 13 1994

Department of Water Resources  
Southern Region Office

Plateau Trust  
c/o Robert H. Brailsford  
P.O. Box 1291  
Twin Falls, ID 83303

RE: APPLICATION FOR PERMIT NO. 36-08570A IN THE NAME OF PLATEAU TRUST

Dear Mr. Brailsford:

I have reviewed your letter dated January 5, 1994 in which you request a transcript of the hearing conducted by the department on November 23, 1993 for the above referenced application and request a second extension of time in which to prepare and file a petition for reconsideration. I note that you apparently did not serve the other parties with a copy of your January 5, 1994 letter.

Procedure Rule 651 provides that any party may have a transcript prepared at its own expense. The estimated cost of preparing the requested transcript is ninety-six dollars (\$96.00). Upon your submittal of this fee, the department will have a transcript of the tape prepared.

I plan to grant an extension of time to allow preparation and review of the transcript, unless the other parties can show within fifteen (15) days of the date of this letter that the granting of another extension will prejudice their position in the contested matter.

By copy of this letter, I am providing notice to the other parties of record of your letter and this response to it. I wish to make clear that the applicant is required to serve the other parties with any future pleadings. Failure of the applicant to serve the other parties with future pleadings as required in Rule of Procedure 302 will be cause for the hearing officer to reject such defective pleadings.

Sincerely,

  
L. GLEN SAXTON  
Hearing Officer

Encl: 1

c: Steve Goddard - Fish and Game  
Ned Swisher - Hagerman Valley Citizen's Alert  
IDWR - S. Region

36-08570A

RECEIVED  
JAN 10 1994  
Department of Water Resources

January 5, 1994

L. Glen Saxton  
Chief, Water Allocation Bureau  
Idaho Department of Water Resources  
State Office  
8201 N. Orchard St.  
Boise, Idaho 83706

RECEIVED

JAN 11 1994

Department of Water Resources  
Southern Region Office

Dear Mr. Saxton:

On behalf of the Plateau Trust, I wish to request an extension of time to prepare for a Petition of Reconsideration of the denial of Application No. 36-08750A, dated December 8, 1993. The extension is needed because I have been unable to get a transcript of the hearing on November 23, 1993.

I requested a copy of the transcript of the hearing shortly after it was held. I was informed that I could get a copy of the tape, but that it would not be transcribed. It was then approximately 3 weeks before I received a copy of the tape. Because the tape is what is called a "slow" tape, I have been unable to find anyone with the equipment to play it. I have made a sincere effort to do so. Therefore, I am requesting a transcribed copy of the hearing and a 30 day extension to submit a Petition of Reconsideration of Application No. 36-08750A.

I believe that an extension is warranted for the above reasons and because I made the original application more than 2 years before a hearing was held.

Sincerely,



Robert H. Brailsford



# 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 21, 1993

RECEIVED

DEC 23 1993

Department of Water Resources  
Southern Region Office

Fish & Game Department  
c/o Steve Goddard  
P.O. Box 25  
Boise, ID 83307

RE: APPLICATION FOR PERMIT NO. 36-08570A IN THE NAME OF PLATEAU TRUST

Dear Mr. Goddard:

Enclosed is a copy of a FAX which Robert Brailsford (applicant) sent to the department on December 20, 1993. Since it does not appear that the applicant served you with a copy, I am forwarding one to you.

As background, the applicant requested a copy of the tape recording made of the hearing held on November 23, 1993. The department did send a copy of the hearing tape to the applicant, but apparently the applicant needs more time to review the tape and to respond to the Recommended Order.

Under Rule of Procedure 52, the date for the filing of a petition for reconsideration in connection with the Recommended Order issued on December 8, 1993, is extended to January 10, 1994. The extended time period is liberal due to the holidays which are within the period.

By copy of this letter, I am advising the applicant that he is required to serve upon the other parties any future documents such as a petition for reconsideration or exceptions to the Recommended Order.

Sincerely,

L. GLEN SAXTON, Chief  
Water Allocation Bureau

Encl: 1

c: IDWR - S. Region  
Robert Brailsford

36-08570A





# 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 21, 1993

Hagerman Valley Citizens Alert  
c/o Ned Swisher  
P.O. Box 32  
Hagerman, ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570A IN THE NAME OF PLATEAU  
TRUST

Dear Mr. Swisher:

Enclosed is a copy of a FAX which Robert Brailsford (applicant) sent to the department on December 20, 1993. Since it does not appear that the applicant served you with a copy, I am forwarding one to you.

As background, the applicant requested a copy of the tape recording made of the hearing held on November 23, 1993. The department did send a copy of the hearing tape to the applicant, but apparently the applicant needs more time to review the tape and to respond to the Recommended Order.

Under Rule of Procedure 52, the date for filing of a petition for reconsideration in connection with the Recommended Order issued on December 8, 1993, is extended to January 10, 1994. The extended time period is liberal due to the holidays which are within the period.

By copy of this letter, I am advising the applicant that he is required to serve upon the other parties any further documents such as a petition for reconsideration or exceptions to the Recommended Order.

Sincerely,

A handwritten signature in dark ink, reading 'L. Glen Saxton'.

L. GLEN SAXTON, Chief  
Water Allocation Bureau

Encl: 1

cc: IDWR - S. Region  
Robert Brailsford

# JUST THE FAX!

**FAX TRANSMITTAL FORM**

DATE 12-20-93 # OF PAGES 2

SENT TO: L. Glen Sayton fax # 327-7866

**ATTENTION:** \_\_\_\_\_

RE: Plateau Trust

[illegible]

**DODDS-STROLBERG INSURANCE**  
**P.O. BOX 47**  
**TWIN FALLS, IDAHO 83303**  
**208-734-6644 FAX #734-4227**

PLEASE REPLY TO: \_\_\_\_\_

FROM:

ROBERT BRAILSFORD

FAX NO. 208-4227

9:30 A.M. DECEMBER 20, 1993

TO:

L. GLEN SAXTON

IDAHO DEPARTMENT OF WATER RESOURCES FAX NO. 208-327-7866

HEARING OFFICER CONDUCTING PLATEAU

TRUST APPLICATION FOR PERMIT NO. 36-08570A

PLATEAU TRUST REQUEST FOR AN EXTENSION OF TIME TO APPLY FOR RECONSIDERATION OF THE DECISION ON APPLICATION NO. 36-08750A.

REASONS:

THE TRUST NEEDS TIME TO ANALYZE THE TESTIMONY RECORDED ON THE TAPE, TO BE ABLE TO SUBMIT MORE SPECIFIC INFORMATION AND TO RESPOND TO THE OBJECTIONS OF THE IDAHO FISH AND GAME DEPARTMENT AND TO THE HAGERMAN VALLEY CITIZENS ALERT

THE APPLICANT, PLATEAU TRUST, REQUESTED A COPY OF THE AUDIO TAPE MADE AT THE HEARING ON NOVEMBER 23, 1993 BASED ON THE HEARING OFFICERS STATEMENT, MADE AT THE OPENING OF THE HEARING, THAT COPIES OF THE TAPE WOULD BE MADE AVAILABLE UPON REQUEST TO THE DEPARTMENT.

UPON RECEIVING THE DENIAL OF THE APPLICATION ROBERT BRAILSFORD, ACTING, UNDER GENERAL POWER OF ATTORNEY, WENT TO THE TWIN FALLS OFFICE OF THE DEPARTMENT OF WATER RESOURCES AND REQUESTED A COPY OF THE TAPE. MARY BALDWIN OF THAT OFFICE IMMEDIATELY CALLED THE STATE OFFICE OF THE DEPARTMENT AND SHE WAS ASSURED THAT I WOULD RECEIVE A COPY BY MAIL. AS OF THE WRITING OF THIS MESSAGE I HAVE NOT RECEIVED THE TAPE AND AS A CONSEQUENCE HAVE TO LITTLE TIME TO ANALYZE THE TESTIMONY IN THE TAPE. AND TO OFFER SPECIFIC INFORMATION REGARDING THE OBJECTIONS.

PLATEAU TRUST REQUESTS AN EXTENSION OF TIME OF FOURTEEN (14) DAYS FROM RECEIPT OF THE TAPE TO PETITION FOR RECONSIDERATION OF THE ORDER MADE BY THE HEARING OFFICER, L. GLEN SAXTON, DENYING THE APPLICATION NO. 36-08570A.

ROBERT BRAILSFORD

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

RECEIVED

NOV 09 1993

Department of Water Resources

IN THE MATTER OF APPLICATION           )  
FOR PERMIT NO. 36-08570A                )  
IN THE NAME OF PLATEAU TRUST           )

NOTICE OF HEARING

On December 12, 1990, Plateau Trust (applicant) filed with the Department of Water Resources (department) application for permit no. 36-08057. The application was protested by a number of individuals and organizations. On June 28, 1993, the application was divided into two parts by the applicant. The department has numbered the two applications 36-08057A and 36-08057B. The department will proceed with action on 36-08057A.

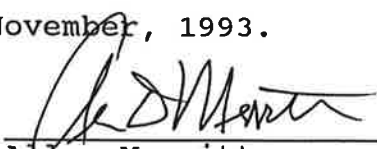
The conference held by the department on September 14, 1993 did not resolve the matter of protest.

The Department has scheduled the matter for hearing on Tuesday, November 23, 1993 at 1:00 p.m. in the Gooding City Hall Multi-Purpose Room, 308 5th Ave. West; Gooding, ID. The hearing will be held in accordance with provisions of chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The presiding officer at the hearing will be Glen Saxton.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act.

If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) prior to the hearing.

Dated this 8th day of November, 1993.

  
\_\_\_\_\_  
Allen Merritt  
for  
Loren O. Holmes  
Southern Region Manager



I hereby certify that on the 8th day of November, 1993, I mailed a true and correct copy, postage prepaid by Certified Mail, of this document to the applicant(s) and protestant(s) listed below:

*Mary A. Baldwin*  
Secretary

ROBERT BRAILSFORD  
PLATEAU TRUST  
PO BOX 1291  
TWIN FALLS ID 83303

JAMES &/OR BARBARA HIGGINS  
300 MORRISON  
TWIN FALLS ID 83301

ANTHONY BOWLEN  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

JANE HOWELL  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

WALLACE &/OR FAY FLOURNAY  
58 BELL RAPIDS RD  
HAGERMAN ID 83332

WINARDA EXON  
BELL RAPIDS RD  
HAGERMAN ID 83332

BILL &/OR BARBARA MC LEOD  
BELL RAPIDS RD  
HAGERMAN ID 83332

JASON BRANDT &/OR  
ANNA LEE BRANDT  
SPORTSMAN TRAILER PARK  
HAGERMAN ID 83332

ADELBERT CROW &/OR  
BEATRICE CROW  
BELL RAPIDS RD  
HAGERMAN ID 83332

CARTER &/OR ALICE WILSON  
58-C BELL RAPIDS RD  
HAGERMAN ID 83332

DAVID &/OR JOANNE SCHULTZ  
62 BELL RAPIDS RD  
HAGERMAN ID 83332

PETRENA THOMPSON  
60 BELL RAPIDS RD  
HAGERMAN ID 83332

S G CARLETON PRESIDENT  
HAGERMAN VALLEY CITIZENS' ALERT INC  
PO BOX 32  
HAGERMAN ID 83332

ATTN CARL NELLIS SUPERVISOR  
IDAHO FISH & GAME  
PO BOX 428  
JEROME ID 83338

NAME AND  
ADDRESS  
OF SENDER

Indicate type of mail

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☐ Insured  
☐ COD  
☐ Certified ☐ Express MailCheck appropriate block for  
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☐ Without Postal InsuranceAffix stamp here if issued as  
certificate of mailing or for  
additional copies of this bill.

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PS Form 3877, Feb. 1982

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1	1444	<sup>DET 11-1-93 37-08057</sup> GARY D. Babbitt	.29	1.00	1.00	2.29					
2	1445	<sup>DET 11-1-93 37-08057</sup> PAT BENNETT	.29	1.00	1.00	2.29					
3	1446	<sup>DET 11-1-93 37-08057</sup> STrom Ranches INC.	.29	1.00	1.00	2.29					
4	1447	<sup>11/8/93 36-8570</sup> Robert Brailsford Plateau Trust	.29	1.00	1.00	2.29					
5	1448	James/Barbara Higgins									
6	1449	Anthony Bowlen									
7	1450	Jane Howell									
8	1451	Wallace/Fay Flourney									
9	1452	Winarda Epon									
10	1453	Bill/Barbara McLeod									
11	1454	Jason/Anna Lee Brandt									
12	1455	Adelbert/Beatrice Crow									
13	1456	Carter/Alice Wilson									
14	1457	David/Joanne Schultz									
15	1458	Petrona Thompson									
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international mail. The maximum indemnity payable for nonnegotiable documents under Express Mail reconstruction insurance is \$50,000 per piece subject to a limit of occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$400 for Insured Mail. Special handling charges apply only to Third-Class parcels. Special delivery service also includes special handling service.						

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\* U.S. GOVERNMENT PRINTING OFFICE

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ADDRESS  
OF SENDER

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☐ Insured  
☐ COD  
☐ Certified ☐ Express Mail

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1	1459	56 Carleton Hag. Valley Citizens Alert Assoc.	29	1.00	1.00	2.29						
2	1460 (14)	Carl Nellis Ed. F + G	}	}	}	}						
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Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)			The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for nonnegotiable documents under Express Mail is \$50,000 per piece subject to a limit of \$500,000. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for Registered Mail, \$400 for Insured Mail. Special handling charges apply only to Third- and Fourth-class parcels. Special delivery service also includes special handling service.						

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State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

12-Oct-1993

R. KEITH HIGGINSON  
Director

JAMES &/OR BARBARA HIGGINS  
26 BELL RAPIDS RD  
HAGERMAN ID 83332

Application for Permit # 36-08570A, 36-08570B (Plateau Trust)

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If you have any questions, please contact this office.

Very truly yours,

*Loren O. Holmes*  
Loren O. Holmes, P.E.  
Southern Region Manager

RECEIVED

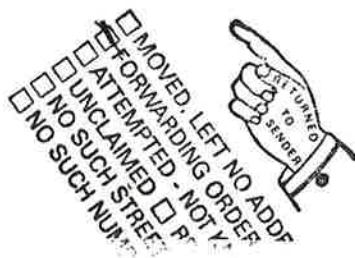
OCT 14 1993

LH:MB

Department of Water Resources  
Southern Region Office

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
222 Shoshone Street East • Twin Falls, Idaho • 83301-6105

*These people  
moved to  
Twin Falls, ID  
in 11/90*



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IDAHO FISH & GAME  
PO BOX 428  
JEROME ID 83338

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Southern Region Manager

LH:MB



HAGERMAN VALLEY CITIZENS' ALERT, INC.  
P.O. Box 32  
Hagerman, ID 83332

RECEIVED  
OCT 12 1993  
Department of Water Resources

RECEIVED

OCT 08 1993  
Department of Water Resources  
Southern Region Office

October 7, 1993

Department of Water Resources  
222 Shoshone St. East  
Twin Falls, ID 83301

Re: Application Nos. 36-08570-A  
36-08570-B  
Plateau Trust

Hagerman Valley Citizens' Alert, Inc. hereby affirms its protest of both of the above-referenced applications. We have concerns about #36-08570-A on water quality and speculation issues. Our concerns about #36-08570-B remain those stated in our letter of March 5, 1991.

Enclosed please find our letter of this date to Mr. Brailsford iterating the above.

Sincerely,

*Ned Swisher*

Ned Swisher  
President  
Hagerman Valley Citizens' Alert, Inc.  
P.O. Box 32  
Hagerman, ID 83332

Enc. ✓

HAGERMAN VALLEY CITIZENS' ALERT, INC.  
P.O. Box 32  
Hagerman, ID 83332

RECEIVED

October 7, 1993

OCT 08 1993

Robert Brailsford  
POB 1291  
Twin Falls, ID 83303

Department of Water Resources  
Southern Region Office

Re: Application Nos. 36-08570-A & B  
Plateau Trust

Dear Mr. Brailsford:

Thank you for taking the time recently to meet informally with me and other protestants to the above-referenced water applications. I also appreciate the time you spent showing me and Dave Parish the diversion works for the source of water for the applications.

Having discussed the matter with members of Citizens' Alert's Board of Directors, I must advise you we still have concerns. While we all applaud your apparent attempts to remove sediments from your point source discharge through wetlands and settling ponds, what now enters the river as clean water during non-irrigation season will necessarily be less clean after your proposed usage. Moreover, some of our members see the hydroelectric usage as speculation if you are not going to pursue the FERC licensing process and sell the wattage you are not using to a utility company.

While we are sympathetic to your situation vis a vis the adjudication process, our members have decided we must sustain our protest on both parts of your application.

Sincerely,



Ned Swisher

President

Hagerman Valley Citizens' Alert, Inc.  
P.O. Box 32  
Hagerman, ID 83332

cc: Department of Water Resources ✓  
Department of Fish and Game



State of Idaho

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06-Oct-1993

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HAGERMAN ID 83332

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Re: 36-08570A (Plateau Trust)

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BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	NOTICE OF
FOR PERMIT NO. 36-08570A	)	PRE-HEARING CONFERENCE
IN THE NAME OF PLATEAU TRUST	)	

On December 12, 1990, Plateau Trust (applicant) filed with the Department of Water Resources (department) application for permit no. 36-08057. The application was protested by a number of individuals and organizations. On June 28, 1993, the application was divided into two parts by the applicant. The department has numbered the two applications 36-08057A and 36-08057B. The department will proceed with action on 36-08057A

The Department has scheduled the matter for a pre-hearing conference on Tuesday, September 14, 1993 at 1:00 PM, in the Gooding City Hall, 308 5th Ave. West, Gooding. The conference will be held in accordance with provisions of chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the department and Water Appropriation Rules 40 and 45. A copy of the rules may be obtained from the department upon request. The person conducting the conference will be Loren Holmes.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans With Disabilities Act.

If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) prior to the hearing.

Dated this 27 day of August, 1993.

  
Loren O. Holmes  
Southern Region Manager

I hereby certify that on the 27th day of August, 1993 I mailed a true and correct copy, postage prepaid by certified mail, of this document to the applicant(s) and protestant(s) listed below:

Mary A. Baldwin  
Secretary

ROBERT BRAILSFORD  
PLATEAU TRUST  
PO BOX 1291  
TWIN FALLS ID 83303

JASON BRANDT &/OR  
ANNA LEE BRANDT  
SPORTSMAN TRAILER PARK  
HAGERMAN ID 83332

JAMES &/OR BARBARA HIGGINS  
26 BELL RAPIDS RD  
HAGERMAN ID 83332

ADELBERT CROW &/OR  
BEATRICE CROW  
BELL RAPIDS RD  
HAGERMAN ID 83332

ANTHONY BOWLEN  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

CARTER &/OR ALICE WILSON  
58-C BELL RAPIDS RD  
HAGERMAN ID 83332

JANE HOWELL  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

DAVID &/OR JOANNE SCHULTZ  
62 BELL RAPIDS RD  
HAGERMAN ID 83332

WALLACE &/OR FAY FLOURNAY  
58 BELL RAPIDS RD  
HAGERMAN ID 83332

PETREÑA THOMPSON  
60 BELL RAPIDS RD  
HAGERMAN ID 83332

WINARDA EXON  
BELL RAPIDS RD  
HAGERMAN ID 83332

S G CARLETON PRESIDENT  
HAGERMAN VALLEY CITIZENS'  
ALERT INC  
PO BOX 32  
HAGERMAN ID 83332

BILL &/OR BARBARA MC LEOD  
BELL RAPIDS RD  
HAGERMAN ID 83332

ATTN CARL NELLIS SUPERVISOR  
IDAHO FISH & GAME  
PO BOX 428  
JEROME ID 83338

## CONFERENCE AND HEARING PROCEDURE

### APPLICATION FOR PERMIT

#### ISSUES

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1. Will the proposed appropriation injure other water rights?
2. Is the water supply sufficient for the purpose for which it is sought to be appropriated?
3. Was the application made in good faith or for delay or speculative purposes?
4. Does the applicant have sufficient financial resources with which to complete the proposed project?
5. Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
6. Is the proposed use contrary to conservation of water resources within the state of Idaho?

#### BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, 3, 4, and 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

#### PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

#### CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

#### HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

#### EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer.

#### AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.

AND  
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DER



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1416	J. Evan Robertson 6/16/93/44 TR 37-008182	.29	1.00	1.00	2.29							
1417	Friends of Big Wood River 8/9/93/24											
1418	Strom Ranches 37-08057	.29	1.00	1.00	2.29							
1419	Gary D. Babbitt											
1420	Pat Bennett 8/27/93 LH/36-8570											
1421	Robert Brailsford	.29	1.00	1.00	2.29							
1422	James Higgins											
1423	Anthony Bawlen											
1424	Jane Howell											
1425	Wallace Flourmay											
1426	Winorda Epton											
1427	Bill McLeod											
1428	Jason Brandt											
1429	Adelbert Crow											
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POSTMARK AND DATE OF RECEIPT

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. D. Fee	S. H. Fee
1	1430	Carter Wilson 36-8570 Cent.	.29	1.00	1.00	2.29					
2	1431	David Schultz									
3	1432	Lebrona Thompson									
4	1433	Hagerman Valley Citizens Alert S G Carleton Pres.									
5	1434	Ed. Fish & Laine ATTN Carl Nellis Supervisor									
6											
7											
8											
9											
10											
11											
12											
13											
14											
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Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)			The full declaration of value is required on all domestic and international mail. The maximum indemnity payable for nonnegotiable documents under reconstruction insurance is \$50,000 per piece subject to a limit of occurrence. The maximum indemnity payable on Express Mail merchandise is \$500. The maximum indemnity payable is \$25,000 for Registered Mail and \$400 for Insured Mail. Special handling charges apply only to Third class parcels. Special delivery service also includes special handling service.					

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

\* U.S. GOVERNMENT PRINTING OFFICE



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

20-Aug-1993

R. KEITH HIGGINSON  
Director

ROBERT BRAILSFORD  
PLATEAU TRUST  
PO BOX 1291  
TWIN FALLS ID 83303

Re: application 36-08570 A&B by Plateau Trust

Dear Mr. Brailsford:

The department acknowledges assignment and amendment of the application which divides the matter into two parts as follows:

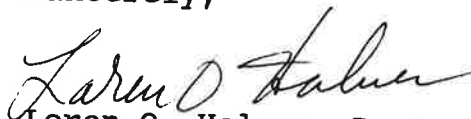
- \* Application 36-08570A proposes to divert 10.5 cfs of water for the purposes of power generation, wildlife and recreation.
- \* Application 36-08570B proposes to use 10.5 cfs of water for fish propagation.

I have sent notice of the change to all protestants and advised them of their rights as parties in this matter.

I am planning to schedule application 36-08570A for a pre-hearing conference on September 14, 1993. Formal notices will be sent about August 27, 1993.

If you have any questions, please contact this office.

Sincerely,

  
Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

ATTN CARL NELLIS SUPERVISOR  
IDAHO FISH & GAME  
PO BOX 428  
JEROME ID 83338

Re: application 36-08570 A&B by Plateau Trust

Gentlemen:

This application has been divided into two separate matters by the applicant.

Based on the change made by the applicant, the department has changed its records to reflect the following:

- \* Application 36-08570A proposes to divert 10.5 cfs of water for the purposes of power generation, wildlife and recreation.
- \* Application 36-08570B proposes to use 10.5 cfs of water for fish propagation.

All uses were previously combined in a single application.

Your standing as an original party is unaffected by this change. As a result of the change, you may wish to amend or withdraw your protest against one or both of the current applications. Any such amendment or withdrawal must be made in writing to this office.

**I am planning to schedule application 36-08570A for a pre-hearing conference on September 14, 1993. Formal notices will be sent about August 27, 1993.**

The applicant has indicated he does not wish to proceed with 36-08570B at this time.

If you have any questions, please contact this office.

Sincerely,

Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

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Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

S G CARLETON PRESIDENT  
HAGERMAN VALLEY CITIZENS' ALERT INC  
PO BOX 32  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

Dear Protestants:

This application has been divided into two separate matters by the applicant.

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**I am planning to schedule application 36-08570A for a pre-hearing conference on September 14, 1993. Formal notices will be sent about August 27, 1993.**

The applicant has indicated he does not wish to proceed with 36-08570B at this time.

If you have any questions, please contact this office.

Sincerely,

Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

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Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

PETRENA THOMPSON  
60 BELL RAPIDS RD  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

Dear Protestant:

This application has been divided into two separate matters by the applicant.

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The applicant has indicated he does not wish to proceed with 36-08570B at this time.

If you have any questions, please contact this office.

Sincerely,

Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

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19-Aug-1993

R. KEITH HIGGINSON  
Director

DAVID &/OR JOANNE SCHULTZ  
62 BELL RAPIDS RD  
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Southern Region Manager





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19-Aug-1993

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State of Idaho

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19-Aug-1993

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19-Aug-1993

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State of Idaho

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

CECIL D. ANDRUS  
Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

WINARDA EXON  
BELL RAPIDS RD  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

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19-Aug-1993

R. KEITH HIGGINSON  
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WALLACE &/OR FAY FLOURNAY  
58 BELL RAPIDS RD  
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Southern Region Manager





State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

JANE HOWELL  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

Dear Ms. Howell:

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Southern Region Manager



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

ANTHONY BOWLEN  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

Dear Mr. Bowlen:

This application has been divided into two separate matters by the applicant.

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Sincerely,

Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

19-Aug-1993

R. KEITH HIGGINSON  
Director

JAMES &/OR BARBARA HIGGINS  
26 BELL RAPIDS RD  
HAGERMAN ID 83332

Re: application 36-08570 A&B by Plateau Trust

Dear Protestants:

This application has been divided into two separate matters by the applicant.

Based on the change made by the applicant, the department has changed its records to reflect the following:

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If you have any questions, please contact this office.

Sincerely,

Loren O. Holmes, P. E.  
Southern Region Manager



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

24-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ROBERT BRAILSFORD  
PLATEAU TRUST  
PO BOX 1291  
TWIN FALLS ID 83303-1291

Re: Application for Permit No. 36-08570 (Plateau Trust)

Dear Mr. Brailsford:

We regret to inform you that it is necessary to schedule advertisement of the above referenced application in the Post Register in Idaho <sup>Falls</sup> on 3/5 & 3/12/92 with the last date for the final submitting of protests on 3/23/92.

We have received verification from the Post Register that they did not publish the legal as originally requested on 2/21 & 2/28/91. At that time we published in the five statewide newspapers as required by the Department's Rules & Regulations but the Post Register was the only newspaper that did not publish correctly.

If we receive any additional protests from this publication, we will send you a copy.

We apologize for any inconvenience this delay may have caused you. If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

24-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ATTN KARLEEN POEHLER  
POST REGISTER  
PO BOX 1800  
IDAHO FALLS ID 83402

Dear Ms. Poehler:

Thank you for your letter of 2/19/92 with verification of non-publication of the legal ad for Plateau Trust, 36-08570, that was originally scheduled for 2/21 & 2/28/91.

Enclosed please find another copy of that legal that we need to publish on 3/5 & 3/12/92.

Legal ads submitted by the Regional Office in Twin Falls are to be run as submitted unless changes are authorized by the Department. The publication dates, set up by Idaho Code, usually fall on the first and third publishing date of the month unless holidays intervene.

Also, please alert your billing staff that the Departmental address within the legal determines which office should receive the galley proof, affidavit of publication and the billing statement.

If you have any questions, please feel free to contact me.

Very truly yours,

Mary Baldwin  
Secretary/Office Coordinator

Enclosure

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

36-08570

PLATEAU TRUST  
C/O ROBERT BRAILSFORD  
P.O. BOX 1291  
TWIN FALLS, ID 83303

Source: BICKEL SPRINGS

Tributary: SNAKE RIVER

Diversion Pt: LOT 8 (SESESE) Sec 6 T 08S R 14E

Use: WILDLIFE	( 10.500 CFS)
FISH PROPAGATION	( 10.500 CFS)
POWER	( 10.500 CFS)
RECREATION	( 10.500 CFS)
Total Diversion:	( 10.500 CFS)

Date Filed: 12/12/ 1990

In: T08S R13E S01	Lot 10 (SESE)		
R14E S06	Lot 11 (SWSW)	Lot 10 (SESW)	Lot 10 (SWSE)
S07	Lot 2 (NWNE)	NENW	Lot 3 (NWNW)

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before March 23, 1992.

R. Keith Higginson, Director

Published 3/5 & 3/12/92





State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ROBERT BRAILSFORD  
PLATEAU TRUST  
PO BOX 1291  
TWIN FALLS ID 83303-1291

RE: APPLICATION FOR PERMIT NO. 36-08570

Dear Mr. Brailsford:

Enclosed are copies of protests filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

You have previously requested additional time to prepare information prior to a hearing on this matter. This office will correspond with you annually to request an update on planning for the project.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB

Enclosure(s)

*Protest*

Attachment to letter dated 06-Feb-1992

To all parties in the matter of  
Application for permit No. 36-08570  
In the name of Plateau Trust

**PROTESTED APPLICATION FOR PERMIT:  
ISSUES CONSIDERED, CONFERENCE PROCEDURE**

In processing all applications for permit, the department must consider the following issues, which are specified in Section 42-203A of the IDAHO CODE:

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

When an application is protested, the statute requires the department to conduct a hearing to create a record of the evidence considered in approving or denying the application.

Normally, an informal pre-hearing conference is held prior to the actual hearing. The objectives of the informal conference are as follows:

- 1) To familiarize all parties with the application and the issues being raised.
- 2) To provide a forum for discussion and possible resolution of the matter among the parties.
- 3) To provide information to the parties about the department's hearing procedure in deciding protested applications.
- 4) To discuss scheduling of the matter for hearing.

Notices setting the time and place for the conference will be sent by certified mail to all parties at least 10 days prior to the conference. This is the same procedure specified by law for serving notice of hearings.

Conferences are conducted under Rules for Practice and Procedure adopted under the Idaho Administrative Procedures Act.



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

JAMES &/OR BARBARA HIGGINS  
26 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ANTHONY BOWLEN  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Mr. Bowlen:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

JANE HOWELL  
20 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Ms. Howell:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

WALLACE &/OR FAY FLOURNAY  
58 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure





State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

WINARDA EXON  
BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Ms. Exon:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

BILL &/OR BARBARA MC LEOD  
BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

JASON &/OR ANNA LEE BRANDT  
SPORTSMAN TRAILER PARK  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ADELBERT &/OR BEATRICE CROW  
BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

~~06-Feb-1992~~

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

CARTER &/OR ALICE WILSON  
58-C BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

DAVID &/OR JOANNE SCHULTZ  
62 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

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If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

PETRENA THOMPSON  
60 BELL RAPIDS RD  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestant:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure





State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

S G CARLETON PRESIDENT  
HAGERMAN VALLEY CITIZENS' ALERT INC  
PO BOX 32  
HAGERMAN ID 83332

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Dear Protestants:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure



State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

06-Feb-1992

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

ATTN CARL NELLIS SUPERVISOR  
IDAHO FISH & GAME  
PO BOX 428  
JEROME ID 83338

RE: APPLICATION FOR PERMIT NO. 36-08570 (Plateau Trust)

Gentlemen:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

Loren O. Holmes, P.E.  
Southern Region Manager

LH:MB  
Enclosure

PROTEST OF IDAHO DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT NO. 36-08570

WE, the undersigned, hereby protest Department of Water Resources Application for Permit No. 36-08570 (Plateau Trust) under public interest criterion. Our residences are immediately downstream of the proposed project. We are concerned about the quality of the water which will be receiving the point source discharge of the proposed fish propagation operation. This stretch of the Snake River is in dire straits already; another point source discharge from a fish farm can only have a negative impact on recreation (boating, water skiing and fishing), aesthetics, and air and water quality. We urge the Department to deny this application.

NAME

ADDRESS

~~Barbara Higgins~~ 026 Bell Rapids Rd.  
Barbara Higgins 026 Bell Rapids Rd Hagerman, Id.  
Anthony Bowser 20 Bell Rapids Rd Hagerman, Id.  
Jane Howell 20 Bell Rapids Rd. Hagerman, ID.  
#1 Fay Blackman 58 Bell Rapids R. Hagerman, ID.  
Upwarda Brown Bell Rapids R. Hagerman, Id.  
Bill Miller Bell Rapids Rd " "  
Barbara McLeod Bell Rapids Rd Hagerman, Id.  
Jason Brandt Sportman Trails Pl Hagerman, Id.  
Anna Lee Brandt Sportman Trails Pl Hagerman, Id.  
Albert A Crow Bell Rapids Hagerman, Id.  
Beatrice B. Crow Bell Rapids Rd. Hagerman, Id.  
Agent Alice Miller 58C Bell Rapids Rd. Hagerman, Id.  
11-1-1991 Ed. Wil 58-C Bell Rapids Rd. Hagerman, Id.  
#1 Wallace Johnson 58 Bell Rapids Rd.  
Joanne Schultz 62 Bell Rapids Rd.  
David Schultz 62 Bell Rapids Rd. Hagerman.  
Petrona Thompson 60 Bell Rapids Rd Hagerman

RECEIVED

MAR 11 1991



**IDAHO FISH & GAME**

REGION 4  
868 East Main Street  
Jerome, ID 83338  
(208) 324-4350

**RECEIVED**

**FEB 21 1991**

February 19, 1991

**Department of Water Resources  
Southern Region Office**

Idaho Department of Water Resources  
ATTN: Loren Holmes  
222 Shoshone Street East  
Twin Falls, Idaho 83301

RE: Application 36-08570 - Plateau Trust/Bickel Springs

Dear Loren:

We are opposed to this application because further diversion of high quality spring water from the Snake River and subsequent use for fish farming will negatively impact fish habitat in the Snake River. The Snake River in this reach currently suffers from an overabundance of nutrients and additional withdrawal would exacerbate the problem. The net result is damage to a beneficial use (coldwater fish).

We are willing to meet with the applicant to discuss his plans for the area as the application states intended uses also include wildlife habitat and public fishing. Further examination of the project, including more detailed plans, would allow us to make better informed comments on the application. If we believe, based on a review of the project, damage to the Snake River would be insignificant or non-existent, we would drop our opposition at that time. Thank you for the opportunity to comment on this application.

Sincerely,

Carl H. Nellis  
Regional Supervisor

Cecil D. Andrus / Governor  
Jerry M. Conley / Director



Working for wildlife - since 1938

*Hagerman Valley Citizens' Alert, Inc.*

*P.O. Box 32*

*Hagerman, Idaho 83332*

RECEIVED

MAR - 7 1991

March 5, 1991

Department of Water Resources  
Southern Region Office

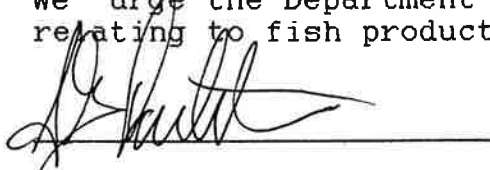
Department of Water Resources  
222 Shoshone St. East  
Twin Falls, ID 83301

Re: Application No. 36-08570  
Plateau Trust

Hagerman Valley Citizens' Alert, Inc. hereby protests the above-referenced application on public interest grounds.

Point sources of pollution, including but not limited to discharges from numerous fish farms, have combined with non-point source pollution and recent low water years to make the middle Snake River an unbelievable morass. The application in question apparently will include discharge from a fish production facility to the middle Snake River within shouting distance of the diversion gates for the Upper Salmon Power Plant. We do not believe it is in the public interest for the slackwater, backwater in this area of the river to be subjected to additional nutrient loading.

We urge the Department to deny that portion of this application relating to fish production.



S.G. Carleton  
President  
Hagerman Valley Citizens' Alert, Inc.  
POB 32  
Hagerman, ID 83332

*Hagerman Valley Citizens' Alert, Inc.*

*P.O. Box 32*

*Hagerman, Idaho 83332*

April 16, 1991

Robert Brailsford  
POB 1291  
Twin Falls, ID 83303

Re: Department of Water Resources  
Application No. 36-08570  
Plateau Trust

RECEIVED

APR 22 1991

Department of Water Resources  
Southern Region Office

Dear Mr. Brailsford:

Thank you for taking the time to meet with members of this group and others on Wednesday, April 10, 1991, to discuss the above-referenced application.

I wish I shared your confidence in the state and federal authorities who control permits regulating waste discharge. Although there have been some rather blatant violations of discharge permits in recent years, not one fish hatchery has been shut down by anyone.

When your application with the Department of Water Resources is complete, and you have the necessary permits in hand, I am hopeful Citizens' Alert can work with you to avoid the necessity of a formal hearing in this matter.

Sincerely,



S.G. Carleton  
President  
Hagerman Valley Citizens' Alert, Inc.  
POB 32  
Hagerman, ID 83332

cc: Department of Water Resources  
Department of Fish and Game  
Other interested parties



**MARVIN HEMPLEMAN**

CHAIRMAN  
COUNTY COMMISSIONER  
SECOND DISTRICT  
BOX 126  
736-4000

**BONNIE BRUNING**

TREASURER  
BOX 88  
736-4008

# TWIN FALLS COUNTY

**DORTHY HAMBY**

ASSESSOR  
BOX 265  
736-4010

**JAMES F. FRALEY**

COUNTY COMMISSIONER  
THIRD DISTRICT  
BOX 126  
736-4000

425 SHOSHONE STREET NORTH  
TWIN FALLS, ID 83303-0126

**LINDA E. WRIGHT**

CLERK  
BOX 126  
736-4004

**NORMA BLASS**

COUNTY COMMISSIONER  
FIRST DISTRICT  
BOX 126  
736-4000

April 17, 1991

RECEIVED

APR 19 1991

Loren Holmes  
ID Dept. of Water Resources  
222 Shoshone Street East  
Twin Falls, Idaho 83301

Department of Water Resources  
Southern Region Office

RE: Application for additional year-round water rights for fish farming by Robert Brailsford.

Dear Mr. Holmes:

The Twin Falls Board of County Commissioners have been presented a plan by Mr. Brailsford for the raising of fish on his farmland in the Thousand Springs area of Twin Falls County.

The Commissioners feel Mr. Brailsford has a very good plan for returning clean water back into the Snake River. Much research has been sought out and applied to this plan, and he has land area to allow him to carry out his plans.

We are members of the Middle Snake River Study Group and are greatly concerned about any further pollution being added to the Snake River. However, until further regulations may be applied, Mr. Brailsford's application should be approved.

Sincerely,

  
Marvin Hempleman, Chairman

MH/cj

cc: Robert Brailsford



*Hagerman Valley Citizens' Alert, Inc.*

*P.O. Box 32*

*Hagerman, Idaho 83332*

RECEIVED

March 21, 1991

Robert Brailsford  
POB 1291  
Twin Falls, ID 83303

MAR 22 1991

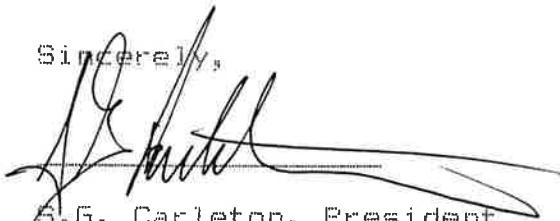
Department of Water Resources  
Southern Region Office

Re: Department of Water Resources  
Application No. 36-08570  
Plateau Trust

Dear Mr. Brailsford:

This letter will serve as confirmation of our informal meeting on Wednesday, April 10, 1991, at Sportsman's Cafe at 2:00 P.M. to discuss the above-referenced application for year round use of 10.5 cfs of water for which you presently have an irrigation right.

Sincerely,



S.G. Carleton, President  
Hagerman Valley Citizens' Alert, Inc.  
POB 32  
Hagerman, ID 83332

RECEIVED

MAR 22 1991

Department of Water Resources  
Southern Region Office

cc: Department of Water Resources  
Department of Fish and Game  
Other interested parties



State of Idaho

DEPARTMENT OF HEALTH AND WELFARE  
Division of Environmental Quality

CECIL D. ANDRUS  
Governor

RICHARD P. DONOVAN  
Director

P.O. Box 1626  
Twin Falls, ID 83303-1626  
(208) 734-9520

March 18, 1991

RECEIVED

MAR 20 1991

Gary Funderburg  
Senior Water Resource Agent  
Department of Water Resources  
222 Shoshone Street East  
Twin Falls, Idaho 83301

Department of Water Resources  
Southern Region Office

Re: Water Right Application 36-08570 - Plateau Trust, Bickel  
Springs, Snake River

Dear Gary,

We have reviewed the above referenced water right application by  
Bob Brailsford and submit the following comments:

1. The proposed water use for fish propagation will require  
submission of plans and specifications to our office for  
review and approval of the propagation facilities and  
fish waste management system.
2. An EPA NPDES permit must be obtained prior to operation  
of the fish propagation facilities.

Should any questions arise, please contact me.

Sincerely,

*Michael J. McMaster*

Michael J. McMasters  
Water Quality Field Supervisor

MJM/ta  
cc: Susan Martin

STANLEY F. HAMILTON  
DIRECTOR

RECEIVED

MAR 11 1991

March 6, 1991 Department of Water Resources  
Southern Region Office

BOARD OF LAND  
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GARRY ECHOHAWK

Attorney General

J.D. WILLIAMS

State Auditor

JERRY L. EVANS

Sup't of Public  
Instruction

TO: Department of Water Resources  
Southern Region

FROM: Bryce D. Taylor *Bryce Taylor*  
Leasing Specialist (SR)

RE: 36-08570  
Plateau Trust

The above application to appropriate the public waters of the State of Idaho does not involve a navigable waterway. A permit is not needed from Department of Lands. The existing pipeline under the river is secure under easement No. 5223 issued in 1985.

BDT:lr

PROTEST OF IDAHO DEPARTMENT OF WATER RESOURCES  
APPLICATION FOR PERMIT NO. 36-08570

WE, the undersigned, hereby protest Department of Water Resources Application for Permit No. 36-08570 (Plateau Trust) under public interest criterion. Our residences are immediately downstream of the proposed project. We are concerned about the quality of the water which will be receiving the point source discharge of the proposed fish propagation operation. This stretch of the Snake River is in dire straits already; another point source discharge from a fish farm can only have a negative impact on recreation (boating, water skiing and fishing), aesthetics, and air and water quality. We urge the Department to deny this application.

NAME

ADDRESS

*Anthony Bowen* 026 Bell Rapids Rd.  
*Barbara Higgins* 026 Bell Rapids Rd Hagerman, Id.  
*Anthony Bowen* 20 Bell Rapids Rd Hagerman, Id.  
*Jane Howell* 20 Bell Rapids Rd. Hagerman, Id.  
*Larry Blackman* 58 Bell Rapids R. Hagerman, Id.  
*Wynalda Brown* Bell Rapids R. Hagerman, Id.  
*Bill Miller* Bell Rapids Rd 11 4  
*Barbara McLeod* Bell Rapids Rd Hagerman, Id.  
*Jason Brandt* Sportsman Trailer 1A Hagerman, Id.  
*Imma Lee Brandt* Sportsman Trailer Pk Hagerman, Id.  
*Albert Crow* Bell Rapids Hagerman, Id.  
*Bertie A. Crow* Bell Rapids Rd. Hagerman, Id.  
*Allie Milp* 58C Bell Rapids Rd. Hagerman, Id.  
*Ed Hill* 58-C BELL RAPIDS RD. HAGERMAN, ID.  
*Wallace Johnson* 58 Bell Rapids Rd.  
*James Schultz* 62 Bell Rapids Rd.  
*David Schultz* 62 Bell Rapids Rd. Hagerman.  
*Peterson Thompson* 60 Bell Rapids Rd Hagerman

- Agent  
Curtis Wilson

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MAR 11 1991

Department of Water Resources  
Southern Region Office

*Hagerman Valley Citizens' Alert, Inc.*

*P.O. Box 32  
Hagerman, Idaho 83332*

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MAR - 7 1991

March 5, 1991

Department of Water Resources  
Southern Region Office

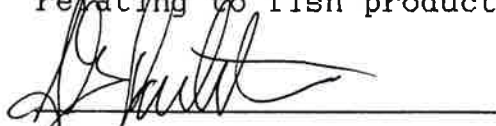
Department of Water Resources  
222 Shoshone St. East  
Twin Falls, ID 83301

Re: Application No. 36-08570  
Plateau Trust

Hagerman Valley Citizens' Alert, Inc. hereby protests the above-referenced application on public interest grounds.

Point sources of pollution, including but not limited to discharges from numerous fish farms, have combined with non-point source pollution and recent low water years to make the middle Snake River an unbelievable morass. The application in question apparently will include discharge from a fish production facility to the middle Snake River within shouting distance of the diversion gates for the Upper Salmon Power Plant. We do not believe it is in the public interest for the slackwater, backwater in this area of the river to be subjected to additional nutrient loading.

We urge the Department to deny that portion of this application relating to fish production.



S.G. Carleton  
President  
Hagerman Valley Citizens' Alert, Inc.  
POB 32  
Hagerman, ID 83332



**IDAHO FISH & GAME**

REGION 4  
868 East Main Street  
Jerome, ID 83338  
(208) 324-4350

**RECEIVED**

**FEB 21 1991**

February 19, 1991

**Department of Water Resources  
Southern Region Office**

Idaho Department of Water Resources  
ATTN: Loren Holmes  
222 Shoshone Street East  
Twin Falls, Idaho 83301

RE: Application 36-08570 - Plateau Trust/Bickel Springs

Dear Loren:

We are opposed to this application because further diversion of high quality spring water from the Snake River and subsequent use for fish farming will negatively impact fish habitat in the Snake River. The Snake River in this reach currently suffers from an overabundance of nutrients and additional withdrawal would exacerbate the problem. The net result is damage to a beneficial use (coldwater fish).

We are willing to meet with the applicant to discuss his plans for the area as the application states intended uses also include wildlife habitat and public fishing. Further examination of the project, including more detailed plans, would allow us to make better informed comments on the application. If we believe, based on a review of the project, damage to the Snake River would be insignificant or non-existent, we would drop our opposition at that time. Thank you for the opportunity to comment on this application.

Sincerely,

Carl H. Nellis  
Regional Supervisor

Cecil D. Andrus / Governor  
Jerry M. Conley / Director



Working for wildlife - since 1938





State of Idaho

# DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
Governor

R. KEITH HIGGINSON  
Director

12-Feb-1991

PLATEAU TRUST  
C/O ROBERT BRAILSFORD  
PO BOX 1291  
TWIN FALLS ID 83301

Re: Application for Permit No. 36-08570

Dear Applicant (s):

The Department of Water Resources acknowledges receipt of your application for a water right permit. The application has been assigned identification No. 36-08570. Please refer to this number in all further correspondence.

A legal notice of the application is being prepared for publication in the Gooding County Leader on 2/20 & 2/27/91 as well as in the Idaho Statesman, Post Register, Lewiston Morning Tribune, and Times News on 2/21 & 2/28/91. A period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested you will be notified and sent a copy of all protests filed.

Review of your application indicates that additional information is required to be made part of the application file pursuant to Idaho Code provisions and the department's Rules and Regulations for Water Appropriation. The attached sheet(s) give details regarding the information which is required.

The required additional information must be submitted within 30 days after the final date for receiving protests March 11, 1991. The time may be extended upon request and showing of good cause that additional time is required to submit the information.

Very truly yours,

Gary Funderburg  
Sr. Water Resource Agent

GF:MB  
enclosure



S. Region  
5/89

Application No. 36-08570

ADDITIONAL INFORMATION REQUIREMENTS  
FOR FISH PROPAGATION APPLICATIONS  
GREATER THAN 5 CFS

The following additional information is required to be made part of the application file pursuant to IDAHO CODE section 42-203A and the Rules and Regulations for Water Appropriation:

- 1) Copies of deeds, leases, easements, or other information documenting that you have a possessory interest in the place of use. (Rule 4,5,3,3,1)
- 2) Copies of plans and specifications along with estimated construction costs for the project works. The plans must be definite enough to allow for determination of project impacts and implications. For fish propagation facilities the plans must show the number of ponds proposed and give the length, width and depth dimensions of all ponds. (Rule 4,5,3,4,2)
- 3) A certified financial statement or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the proposed use. (Rule 4,5,3,4,1)
- 4) You must seek comment on the effects of the construction and operation of the proposed project from the city and/or county within which the project is to be located, the Idaho Department of Fish and Game, the Idaho Department of Health and Welfare, Division of Environment, and any irrigation district or canal company within which the project is to be located. (Rule 4,5,3,5,1) A copy of your application is enclosed for your use in seeking comments.
- 5) If the source is surface water and has five (5) or fewer existing users, a list of the number of impacted rights, the names and addresses of the users, locations of the points of diversion, and the nature of use of the existing water rights. (Rule 4,5,3,1,1)
- 6) If the source is groundwater, a plat showing the position of all existing wells relative to the proposed well is required. (Rule 4,5,3,1,2)
- 7) A statement of design, construction, or operation techniques which will be used to reduce impact on existing rights. (Rule 4,5,3,1,3)

S. Region  
5/89

Application No. 36-08570

ADDITIONAL INFORMATION REQUIREMENTS FOR POWER APPLICATIONS  
MORE THAN 5 CFS AND MORE THAN 500 HP

The following additional information is required to be made part of the application file pursuant to Idaho Code provisions and the department's Rules and Regulations for Water Appropriation:

- 1) An affidavit to establish residence and indicate the ownership of any existing man-made works to be used in the project must be completed and filed with your application. (Sections 42-205 through 208, Idaho Code) A form is enclosed for your completion and return.
- 2) All information required by rule 4,5,3 of the Rules and Regulations for Water Appropriation. This requirement may be met in one of two ways:
  - A) Submit all information required by rule 4,5,3 to the department for review. The department may then act on your application independently of actions of the Federal Energy Regulatory Commission (FERC) and/or the Idaho Public Utilities Commission (PUC).
  - B) Submit all required approvals of FERC and/or PUC.

Attach: Copy of Rule 4,5,3