R-1140

APPLICATION FOR PERMIT

To Construct a Reservoir and Appropriate and Store
The Public Waters of the State of Idaho

Application No. R 38875
Permit No. R 1140

Idaho Department of Fish and Game
518 Front Street
Boise, Idaho

1. Name of Applicant: State of Idaho, Department of Fish and Game, by and through John R. Woodworth, its Director
Post office address: 518 Front St., Boise County Ada State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation:

(b) Amount of Capital Stock: $

(c) Amount paid in: $

(d) Names and addresses of directors:

II. The financial resources of the corporation are:

(a) Cash on hand: $

(b) Treasury Stock: $

(c) Bonds to be issued: $

(d) Other resources:

2. Quantity of water to be stored: 3,500 acre feet per annum.

3. Source of water supply is Horsethief Creek, / of Big Creek (Creek) (~~River~~) (Spring), a tributary of N. Fk. Payette River.

4 The outlet of the proposed reservoir is located S.72°30'E. 1910 feet, distant from the west quarter corner of Section 36, Township 14 N, Range 4 E. (bearing), B.M. and is in the NW ¼ of SW ¼ of Section 36, Township 14 N, Range 4 E., B.M. County of Valley

5. Fill out either (a) or (b).

(a) The reservoir is located in the channel of Horsethief (Creek) (~~River~~).

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located feet distant from the corner of Section, Township, Range, B.M., and is in the (bearing) ¼ of ¼ of Section, Township, Range, B.M.; width at bottom feet, width at top feet, depth of water feet; average grade per mile feet; Capacity cubic feet per second

6. (a) The area of the high water line of the reservoir is 275 acres.

(b) The reservoir capacity is 3,500 acre feet.

7. Height of reservoir dam 55 feet, length at top 160+ feet, length at bottom 35 feet, size of outlet 36-inch iron pipe feet by feet. The dam is to be constructed of materials as follows: concrete

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

8. (a) Will water stored in reservoir be diverted to canal or aqueduct, thence to land to be irrigated without commingling with natural flow of Horsethief (Creek) (~~River~~)? No

(b) Water stored in reservoir will be carried in the channel of No diversion from the creek channel is proposed. (Creek) (River) a distance of miles to point of diversion located feet, distant from the corner of Section (bearing), Township, Range, B.M., and in the ¼ of ¼ of Section Township, Range, B.M.

9. (a) Area of watershed above dam site 8.5 square miles.

(b) Estimated maximum flow of stream 50 cubic feet per second.

10. Water is to be used for storage for the propagation of fish and wildlife purposes.

11. If for mining, milling, power or manufacturing purposes give:

(a) Point of use of water feet, distant from Corner of Section, Township, Range (bearing), B.M., and is in the ¼ of ¼ of Section, Township, Range, B.M.

(b) Amount of power generated: H.P., under feet head

(c) Water is to be returned to (Creek) (River) (Spring) at a point (bearing) feet distant from the corner of Section, Township, Range, B.M. in the ¼ of ¼ of Section, Township, Range, B.M.

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No. , which is hereby referred to and made a part hereof.

13. Kind of diversion works: None, normal return to the stream channel (Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows:

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

15. Size of headgate: Width feet, Height feet.

16. Diversion Canal: Width at bottom feet, width at water line feet, depth of water feet, Dimensions of Flume

Diameter of Pipe inches; Length of Conduit miles. Average grade per mile feet.

17. Estimated Cost of Works: Storage Works: $ 100,000.00 Diversion Works: $

18. Time required for completion of work five years.

19. Time required for complete application of water to proposed beneficial use is five years.

20. The land to be irrigated is described in the following tabulation:

(Give Irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total Number of Acres to Be Irrigated

21. Existing rights and/or valid permits appurtenant to lands described above are

REMARKS: It is proposed to construct a dam in the stream channel to create a reservoir with a surface area of 275 acres. When the reservoir is filled, which is estimate to be the first spring runoff period of time following completion of the dam, the reservoir will be maintained by the natural flow of the stream. All surplus waters will run off through the spillway of the dam and enter the natural stream channel.

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and appropriate and store the public waters of Idaho as herein set forth, and that the enclosed map is hereby made a part of this application.

STATE OF IDAHO, Department of Fish and Game, *Applicant.*

By s/ John R. Woodworth Director

Date of first receipt at Department of Reclamation: 10:00 A.M. November 6, 1962

Returned to applicant for correction:

Corrected application received:

APPROVAL OF STATE RECLAMATION ENGINEER

The number of this permit is R 1140

Recorded in book R 5, page 1140. Approved November 14, 1962

This is to certify that I have examined the within application for a permit to construct a reservoir and appropriate and store the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of $, to be filed on or before

Work to begin on or before January 14, 1963 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before May 14, 1965

The whole of said work to be completed on or before November 14, 1967

Beneficial use of water stored in accordance herewith, to be made on or before November 14, 1972

Witness my hand this 14th day of November, 19 62

s/ CARL E. TAPPAN
Assistant *State Reclamation Engineer.*

IN TESTIMONY WHEREOF, We, ROBERT E. SMYLIE, Governor of the State of Idaho, and ARNOLD WILLIAMS, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 14th day of November, 19 62.

COUNTERSIGNED

STATE OF IDAHO

By s/ ARNOLD WILLIAMS *Secretary of State.*

By s/ ROBERT E. SMYLIE *Governor.*

(SEAL)

5-16-69

ISSUANCE OF LICENSE
UNDER R-1221 IS
BEING HELD PENDING
WITHDRAWAL OR CLARIFICATION
OF PROTEST ON R1140

Dean R

R-1140

STATE OF IDAHO

ROBERT E. SMYLIE
GOVERNOR

COMMISSION
GLENN STANGER IDAHO FALLS
R. J. HOLMES TWIN FALLS
ARLIE JOHNSON BOISE
TOM FELTON MOSCOW
FRANK CULLEN COEUR D'ALENE

Department of Fish and Game

JOHN R. WOODWORTH
DIRECTOR

518 FRONT STREET BOISE, IDAHO

November 2, 1962

RECEIVED
NOV 6 1962
Department of Reclamation

Horsethief Basin

Mr. Geo. N. Carter
State Reclamation Engineer
State House
Boise, Idaho

Dear Mr. Carter:

Enclosed herewith is an application for permit to construct a reservoir and appropriate and store the public waters of the State of Idaho, as indicated therein.

Sincerely,

IDAHO DEPARTMENT OF FISH AND GAME

John R. Woodworth

John R. Woodworth
Director

Enclosure

IDAHO TERRITORIAL CENTENNIAL 1863 1963

R-1140

NAME OF APPLICANT State of Idaho, Dept of Fish & Game

Form No. 0



T 14N R.4E BM
T 13N, R.4E BM

Permit Map No. R-1140
As Approved NOV 14 1962
GEO. N. CARTER
State Reclamation Engineer

SCALE: 2 Inches Equal 1 Mile. Draw Plan In Ink.

R-1140

November 29, 1962

Re: Permit No. R-1140

Mr. John R. Woodworth, Director,
Idaho Department of Fish & Game,
518 Front Street,
Boise, Idaho.

Dear Mr. Woodworth:

We enclose Permit No. R-1140 in which we direct your attention to the limitations and conditions as given on the fourth page under approval of the State Reclamation Engineer.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer
By

(MRS.) EDNA P. RULE
Chief Clerk

EPR:pmk

R-1140

Form 6 A

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho
August 2, 1967

Re: Permit No. R-1140

John R, Woodworth, Director
Idaho Department of Fish and Game
518 Front Street
Boise, Idaho

Dear Sir:

Under the terms of your Permit No. R-1140 you are required to complete your diversion works on or before November 14, 1967. I enclose blank affidavit to be filled out, sworn to by you before a Notary Public, or a Justice of the Peace, and returned to this office on or before the above date, or within ten days thereafter, for the purpose of making proof of completion under the said permit. Upon receipt of this affidavit in this office, provided the same satisfactorily shows the completion of the works substantially in accordance with the terms of the permit, a Certificate of Completion will be issued to you.

The certificate to be issued under this proof will not give a perpetual right to the use of water for which application was made, as it only confirms the completion of works of a capacity to divert and convey to the place of intended use a certain amount of water. The law requires that another proof be submitted when the water has been fully applied to a beneficial use, at which time license is issued for the amount of water actually in use. Information in regard to this last proof will be furnished on request.

Very truly yours,

State Reclamation Engineer

Enc. Form 6

R-1140



RECEIVED
SEP 8 1967
Department of Reclamation

DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DURBON, Moscow
RAY SIMS, Banners Ferry

IDAHO FISH AND GAME DEPARTMENT

JOHN R. WOODWORTH, Director
POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

September 6, 1967

Re: Horsethief Dam
R-1140

Mr. R. Keith Higginson, State Reclamation Engineer
Idaho Department of Reclamation
S T A T E H O U S E

Sir:

Enclosed herewith is an Affidavit of Proof of Completion of Works, R-1140, Horsethief Dam, Valley County, Idaho.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT

John R. Woodworth

John R. Woodworth
Director

Enclosure

R-1140

FORM 6

Permit No. R-1140

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO
County of ADA } ss.

Idaho Fish and Game Department
JOHN R. WOODWORTH, as Director of the/ being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to Appropriate the Public Waters of the State of Idaho, No. R-1140, and that his postoffice address is 600 South Walnut, Boise, State of Idaho.

Second: That the name of the stream from which said water is to be diverted is Horsethief Creek

Third: That the point of diversion of said water is S. 72°30' E. 1,340 feet a distance from West quarter corner of Sec. 36, T.14 N., R. 4 E.B.M. and is in SW/4 SW/4 of said section

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by November 14, 19 67. Propagation of fish and wildlife for filling, storage, maintenance & replenishment of the waters of Horsethief Dam.

Fifth: That the use for which said water is intended is

Sixth: That on the date above mentioned, the works constructed under said permit were ~~(or were not)~~ fully completed and consisted of the following:

I. Kind of Works: A dam and reservoir (Horsethief Dam)
(RESERVOIR, DAM, DITCH, FLUME, PIPE OR OTHERWISE)

II. Dimensions of work:

(a) Height of dam 55 feet, length of dam at top 160 feet, length of dam at bottom 35 feet. Material used in construction earthfill
(STATE WHETHER WOOD, EARTH STONE OR CONCRETE)

(b) Capacity of reservoir 5,000 acre feet.

(c) Size of headgate: Width 24" / concrete pipe - 258' long - Concrete spillway 6' high, 20' wide. feet, height feet.

(d) Conduit Not applicable width at bottom feet, width at water line
(STATE WHETHER DITCH, FLUME OR PIPE)
feet, depth of water feet; diameter of pipe inches, average grade per mile is feet. Length of conduit is miles.

Seventh: That said works are capable of conducting to the place of intended use Not applicable second feet of water.

Eighth: That water appropriated under said permit is available for storage over/ 270 acres of land described as follows: Lot 4, Sec. 30, T 14 N, R 5 EBM and SE/4 Sec. 25, and the N/2 NE/4, SW/4 NE/4, E/2 NW/4, N/2 SW/4, SE/4 SW/4, W/2 SE/4 of Sec. 36, T 14 N, R 4 EBM

Ninth: Remarks:—That Waters of Horsethief Creek are to be stored in the Reservoir of Horsethief Dam for the propagation of fish and wildlife, and for filling, maintaining, and replenishment of said reservoir. The discharge of surplus waters will flow through the dam spillway into the natural stream channel for normal flow.

STATE OF IDAHO, FISH AND GAME DEPARTMENT by J. R. Woodworth
(SIGN HERE)
John R. Woodworth, Director

Subscribed and sworn to before me this 6th day of September, 19 67

T. D. Balderson
NOTARY PUBLIC

My commission expires November 21, 1968

October 6, 1967

Re: Permit R-1140
Idaho Fish & Game Department

John B. Woodworth, Director
Idaho Fish and Game Department
518 Front Street
Boise, Idaho

Dear Mr. Woodworth:

The Department of Reclamation is returning the Proof of Completion of Works Affidavit of Holder submitted September 8, 1967 on the above referenced permit.

After careful review of the Idaho Code, the department finds that it will be necessary for you to advertise your intent to submit proof of completion of works, four consecutive weeks in the county newspaper that the diversion is located in; following which a representative of the Department of Fish and Game must appear before a notary public with two disinterested witnesses to fill out depositions in connection with your proof of completion of works. These depositions, along with an affidavit of publication from the newspaper, must be submitted to the department in order that a field examination be conducted on the proof submitted.

Under Idaho Statutes, any permit for reservoir which impounds 1600 acre feet or more, the proof of completion of works submitted for this permit must be examined by the Department of Reclamation prior to issuance of the Certificate of Completion of Works.

Thank you for your assistance in this matter.

Very truly yours,

Donald W. McEldowney
Water Rights Clerk

DWM:nw

Enclosure: Forms 36 & 11

Form 6

R-1140

October 17, 1967

Re: Permit R-1140

John R. Woodworth, Director
Idaho Fish & Game Department
P.O. Box 25
600 South Walnut Street
Boise, Idaho 83707

Dear Mr. Woodworth:

Pursuant to our telephone conservation on October 16, 1967, we are forwarding a blank Form 18, Notice of Proof of Completion of Works and Application of Water to Beneficial Use, for use on the above referenced permit, as you requested.

Very truly yours,

Donald W. McEldowney
Water Rights Clerk

DWM:nw

Enclosure: Form 18

R-1140

October 24, 1967

Re: Permit No. R-1140

John R. Woodworth, Director
State of Idaho, Fish & Game Dept.
P. O. Box 25
Boise, Idaho 83707

Dear Mr. Woodworth:

This acknowledges receipt of the notice of intent to make proof of completion of works and application of water to beneficial use for permit R-1140.

We have mailed the notice to the Cascade News to be published once a week for four consecutive weeks prior to November 27, 1967, which is the hearing date when the permit holder State of Idaho, Fish and Game Department and two disinterested witnesses must appear before Anne Epeldi, notary public, to complete the enclosed depositions. The witnesses must be familiar with the works and permit.

After the hearing, the depositions and an affidavit of publication must be submitted to this office. The affidavit may be obtained from the newspaper when the advertising bill is paid by John R. Woodworth, Director, State of Idaho, Fish and Game Department. Be sure all the forms have the notary's seal and are signed.

Please feel free to contact us if we may be of any assistance.

Very truly yours,

Donald W. McEldowney
Water Rights Clerk

DWM:dj

Enc: Depositions

cc: Notary

R-1140

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

Re: Permit R-1140

Proof of completion of works ~~and application of water to beneficial use~~ for the above referenced permit is due not later than November 14, 1967.

Under the terms of your permit, it is required that a notice be published once a week for four consecutive weeks in a local newspaper showing your intent to submit proof. The proof will consist of depositions which the permit holder and two disinterested witnesses must complete before the listed notary public, and must be accompanied by an affidavit of publication of the legal notice.

We have prepared the enclosed notice from the information on your permit. The complete name and address of a notary public of the State of Idaho must be entered together with a date for you to appear before the notary. Allow at least 40 days from the date the notice is mailed to this department for your appearance before the notary.

If you find any discrepancy in the notice or have made any changes, please advise this department and we will assist you in doing whatever may be necessary to assure correct publication.

If the enclosed notice is correct, complete the blank spaces and sign the form authorizing us to publish the notice at your expense and return all forms. At the time we send the notice to the newspaper, you will be supplied with further instructions.

If you do not desire to complete the proofs and obtain a license of water right, you are requested to complete the relinquishment portion of this form below and return it to the Department of Reclamation.

R Keith Higginson

State Reclamation Engineer

RELINQUISHMENT

I hereby relinquish to the State of Idaho, all my right, title and interest in and to Permit to Appropriate the Public Waters of the State of Idaho, No. _____.

Dated _____.

_____

permit holder

R-1140

ROBERT H. REMAKLUS
ATTORNEY AT LAW
CASCADE, IDAHO

November 29, 1967

RECEIVED
NOV 30 1967
Department of Reclamation

State Department of Reclamation
Room 107, State House
Boise, Idaho

Re: Permit Nos. R-1140 and 32646
Idaho Fish and Game Department

Gentlemen:

Enclosed herewith is the protest of Warner Ditch Company to the appropriation and impoundment of waters under the above permits.

Very truly yours,

Robert H. Remaklus

bb
encs

R-1140

R-1140

ROBERT H. REMAKLUS
ATTORNEY AT LAW
CASCADE, IDAHO

RECEIVED
DEC 1 1967

November 30, 1967

State Reclamation Engineer
State Department of Reclamation
State House
Boise, Idaho

Dear Sir:

Pursuant to the provisions of Section 42-203, Idaho Code, notice is hereby given that Forest E. Robb of Cascade, Idaho, J. R. Simplot Company, a Nevada corporation qualified to do business in Idaho, whose address is Simplot Building, Boise, Idaho, protest against the approval of the application filed by the State of Idaho Fish and Game Department to appropriate and store waters of Horsethief Cree, a tributary of Big Creek in Valley County, Idaho, under permits numbered R-1140 and 32646 issued by your office.

As grounds for such protests the said protestants claim prior right to appropriate for irrigation purposes, the waters of Big Creek in Valley County, Idaho, at diversion points downstream from the confluence of said Horsethief Creek and Big Creek, under the provisions of the permits to appropriate such waters issued by your office to said Forest E. Robb, as follows:

Permit No. 19968, dated November 14, 1946,
Permit No. 32483, dated August 10, 1965.

This protest is lodged by said Forest E. Robb as the owner of the real property covered by said Permits numbered 19968 and 32483, and J. R. Simplot Company as the lessee of such real property with an option to purchase the same.

Very truly yours,

Robert H. Remaklus
Attorney for Protestants

ccs Forest E. Robb
J. R. Simplot Company

R-1140

Cascade, Idaho
November 29, 1967

State Department of Reclamation
Room 107, State House
Boise, Idaho

Gentlemen:

Warner Ditch Company does hereby protest the application of the State of Idaho Fish and Game Department to appropriate the waters of Horsethief Creek, a tributary of Big Creek in Valley County, Idaho, under permit number R-1140 and 32646. Such waters were appropriated by the ditch company for irrigation purposes many years ago and have been so used continuously since the appropriation thereof.

This protest is made to the appropriation and impoundment of such waters during the irrigation season.

Please advise the date of hearing on this protest.

Very truly yours,

WARNER DITCH COMPANY

Secretary

RECEIVED
NOV 30 1967
Department of Reclamation

R-1140

Form 16 - 2M.
5-5-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

Permit No. R-1140

RECEIVED
DEC 7 1967
Department of Reclamation

* * * * * * *

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
and Completion of Works

DEPOSITION OF HOLDER

Ques. 1. State your name, residence occupation and postoffice address: J. R. Woodworth, Director, Idaho Fish and Game Department, 600 So. Walnut, Boise

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf:

Acting for and on behalf of the Idaho Fish and Game Department as its Director

Ques. 3. State number, approval date of permit, and date of priority: R-1140, approved November 14, 1962, Priority date November 6, 1962

Ques. 4. State source of water supply: Horsetheif Creek, Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian / Give location of point of diversion, showing subdivision, section, township and range

NW¼NW¼, Sec. 36, Twp. 14 N., R. 4 E., B. M.

Ques. 5. Describe your works of diversion: Natural flow of Horsetheif Creek into Horsetheif Reservoir; state amount of water they are capable of conveying from point of diversion to place of use: 50.0 c.f.s; Give name of canal or ditch or other works by which water is conducted to such place of use: Horsetheif Creek; if a well, state depth of well _____; depth and size of casing _____; depth to water _____; if pump is used, state discharge of pump: _____; tell how it was measured or determined _____; if sprinkler irrigation, give number and size of nozzles and operating pressure: _____

Ques. 6. State for what purpose water is used: Storage for propagation of fish and wildlife (If for irrigation, name each subdivision in which used and number of acres in each subdivision that have actually been irrigated with said water:

State nature of all improvements which have been made as a direct result of said use:

The construction of a dam and storage of water in the amount of 5,000 acre feet

Ques. 6-a: If this is a ground water permit, give name and address of person that drilled the well: _____

Ques. 7. If for other than irrigation purposes, show full legal description of place of use and state purpose for which water is used Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian and SW^4 NE^4, W^2 NE^4, SE^4 NE^4 of Section 25 and N^2 NE^4, SW^4 NE^4, E^2 NW^4, N^2 SW^4, SE^4 SW^4, W^2 SE^4 of Section 36, Township 14 North, Range 4 East Boise Meridian. Water is stored in the reservoir of Horsetheif Dam and used for the propagation of fish and wildlife.

Ques. 8: If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder:

_____

Quest. 9: State when and in what amount the water diverted under above mentioned permit has been first used: October 1, 1967 - Time used since first use:

and used continuously since that date

_____

Ques. 10. Describe all other water rights appurtenant to same place of use: Water flow rights in the amount of 10 c.f.s. , Permit No. 32646, for filling, storage maintenance and replenishment of Horsetheif Dam Reservoir, R-1140.

_____

State of Idaho
Fish and Game Department

(sign) John R. Woodworth

By: John R. Woodworth, Director

* * * * * * * * * *

I hereby certify that the foregoing testimony was read to the above subscribed, before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Boise, County of Ada State of Idaho, on this 27th day of November, A. D. 1967.

Anne Epeldi
Anne Epeldi
Notary Public
Boise, Idaho

My commission expires: June 1, 1970

Form 17A - 4M
5-6-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

Permit No. R-1140

* * * * * * *

RECEIVED
DEC 7 1967
Department of Reclamation

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
and Completion of Works

DEPOSITION OF WITNESS

The deposition of two witnesses on this form, taken separately, required in each case.

Ques. 1 State your name, age, residence, occupation and postoffice address:

Jack Fisher, of legal age, Boise, Civil Engineer, 6815 Holiday Drive, Boise

Ques. 2 Are you acquainted with John R. Woodworth - Idaho Fish & Game Dept, the holder of Permit No. R-1140 ? How long have you known him and where does he reside?

Five years Boise, Idaho

Ques. 3. Have you read or heard said Permit No. R-1140 read, and are you familiar with its provisions and conditions: Yes X No. _____

Ques. 4. State source of water supply: Horsethief Creek

Give location of place of diversion, showing subdivision, section, township and range

Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian;

Describe works for conveying water to place of use: Natural stream course

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use: 50.0 c.f.s. How much water have you seen being so conveyed? 10.0 c.f.s.

Ques. 6 If for irrigation, show number of acres irrigated in each subdivision, giving full legal description:

Water storage for propagation of fish and wildlife

Ques. 7. If for other than irrigation purposes, show full legal description of place of use, and state purpose for which water is used. Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian and SW^4 NE^4, W^2 NE^4, SE^4 NE^4 of Section 25 and N^2 NE^4, SW^4 NE^4, E^2 NW^4, N^2 SW^4, SE^4 SW^4, W^2 SE^4 of Section 36, Township 14 North, Range 4 East, Boise Meridian. Water is stored in the reservoir of Horsetheif Dam and is used for the propagation of fish and wildlife.

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Five thousand acre feet for aquatic plant cultivation and fishery production.

Ques. 9. Have you any ownership interest in the works, water or lands above mentioned? If so, in what way and to what extent? No

Ques. 10. When did you first see this water used? October 1, 1967

Other times you have seen such use: About at two week intervals

(Signed): Jack Fisher

* * * * * * * Jack Fisher, Civil Engineer

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this 27th day of November, A. D. 1967

Anne Epeldi

Anne Epeldi
Notary Public for the State of Idaho

Residing at Boise

My commission expires June 4, 1970

Form 17A - 4M
5-6-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

Permit No. R-1140

* * * * * * * *

RECEIVED
DEC 7 1967
Department of Reclamation

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
and Completion of Works

DEPOSITION OF WITNESS

The deposition of two witnesses on this form, taken separately, required in each case.

Ques. 1 State your name, age, residence, occupation and postoffice address:

Monte R. Richards, Jr., of legal age, Boise, Fishery Biologist, 1218 North Wilson St, Boise

Ques. 2 Are you acquainted with John R. Woodworth, the holder of Permit No. R-1140 ? How long have you known him and where does he reside?

Five years Boise, Idaho

Ques. 3. Have you read or heard said Permit No. R-1140 read, and are you familiar with its provisions and conditions: Yes X No. _____

Ques. 4. State source of water supply: Horsethief Creek

Give location of place of diversion, showing subdivision, section, township and range

Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian;

Describe works for conveying water to place of use: Natural stream course

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use: 50.0 c.f.s. How much water have you seen being so conveyed? 10.0 c.f.s.

Ques. 6 If for irrigation, show number of acres irrigated in each subdivision, giving full legal description:

Water storage for propagation of fish and wildlife

Form 17A - 4M
5-6-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Boise, Idaho

Permit No. R-1140

* * * * * * * *

RECEIVED
DEC 7 1967
Department of Reclamation

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE
and Completion of Works

DEPOSITION OF WITNESS

The deposition of two witnesses on this form, taken separately, required in each case.

Ques. 1 State your name, age, residence, occupation and postoffice address:

Monte R. Richards, Jr., of legal age, Boise, Fishery Biologist, 1218 North Wilson St, Boise

Ques. 2 Are you acquainted with John R. Woodworth, the holder of Permit No. R-1140 ? How long have you known him and where does he reside?

Five years Boise, Idaho

Ques. 3. Have you read or heard said Permit No. R-1140 read, and are you familiar with its provisions and conditions: Yes X No. _____

Ques. 4. State source of water supply: Horsetheif Creek

Give location of place of diversion, showing subdivision, section, township and range

Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian;

Describe works for conveying water to place of use: Natural stream course

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use: 50.0 c.f.s. How much water have you seen being so conveyed? 10.0 c.f.s.

Ques. 6 If for irrigation, show number of acres irrigated in each subdivision, giving full legal description:

Water storage for propagation of fish and wildlife

Ques. 7. If for other than irrigation purposes, show full legal description of place of use, and state purpose for which water is used. **Lot 4, Section 30, Township 14 North, Range 5 East Boise Meridian and SW^4 NE^4, W^2 NE^4, SE^4 NE^4 of Section 25 and N^2 NE^4, SW^4 NE^4, E^2 NW^4, N^2 SW^4, SE^4 SW^4, W^2 SE^4 of Section 36, Township 14 North, Range 4 East, Boise Meridian. Water is stored in the reservoir of Horsetheif Dam and is used for the propagation of fish and wildlife.**

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Five thousand acre feet for aquatic plant cultivation and fishery production.

Ques. 9. Have you any ownership interest in the works, water or lands above mentioned? If so, in what way and to what extent? **No**

Ques. 10. When did you first see this water used? **October 1, 1967**

Other times you have seen such use: **About at two week intervals**

(Signed):

Monte R. Richards

Monte R. Richards, Fishery Biologist

* * * * * * * * *

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Boise, County of Ada, State of Idaho, on this 27th day of November, A. D. 19 67

Anne Epeldi

Anne Epeldi
Notary Public for the State of Idaho

Residing at Boise

My commission expires June 1, 1970

PUBLISHER'S AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Valley)

Glen B. Youngblood, being first duly sworn, deposes and says: That he is the editer of the Star-News, a Weekly newspaper published at Cascade, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county aforesaid and is a legal newspaper; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for four consecutive weeks in the regular and entire issue of every number thereof during the period and time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began November 2, 1967, and ended November 23, 1967

Glen B. Youngblood

Subscribed and sworn to before me, a Notary Public in and for the County of Valley, and the State of Idaho, this 11th day of December, 1967

Roberta Lewis, Notary Public.

My commission expires 10/29, 1969

Department of Reclamation
DEC 14 1967
RECEIVED

NOTICE OF PROOF OF COMPLETION OF WORKS and APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN THAT ON THE 27th day of November, 1967, at Boise, County of Ada, State of Idaho before Anne Epeldi, Notary Public at 600 South Walnut, Boise, Idaho, proof will be submitted of Completion of Works for the diversion of 3500 acre feet of storage, of waters of Horsethief Creek of Big Creek, and of the application to Beneficial Use of said water, in accordance with the terms and conditions of Permit No. R-1140 ,heretofore issued by the Department of Reclamation of the State of Idaho

1. The name and postoffice address of the person or corporation holding said permit is Idaho Fish and Game Department, 600 South Walnut, Boise, Idaho

2. Said works of diversion of water for storage will be fully completed on the date set for such completion and the amount of water which said works are capable of conveying to the place of storage is 50 c.f.s.

3. Reservoir capacity is 5000 acre feet.

4. The use to which said water has been applied is storage for propagation of fish and wildlife purposes, and the amount applied to beneficial use is 3500 acre feet.

5. The point of diversion of said waters for beneficial use is NW¼ SW¼, Sec. 36, T.14N, R.4E, B.M., and the amount which can be diverted is 3500 acre feet

6. The place where said water is used is within portions of Sec. 30, T.14N, R, 5E, B.M. and Sec. 25 and 36, T.14.N, R. 4E, B.M., Valley County.

7. The date of priority which said user is prepared to establish is November 6, 1962

R. KEITH HIGGINSON
State Reclamation Engineer

R-1140

October 24, 1967

Re: Permit No. R-1140
Idaho Fish and Game Department

Cascade News
Cascade, Idaho 83611

Gentlemen:

Enclosed is a legal notice which we wish to have published for four consecutive weeks prior to November 27, 1967. The expense of the publication is to paid by John R. Woodworth, Director, State of Idaho, Fish & Game Dept., Box 25, Boise, Idaho 83707, to whom you should furnish the affidavit of publication on or before the above date. Please acknowledge receipt of this notice by furnishing this office with a tear sheet for checking prior to the first publication.

Very truly yours,

Donald W. McKldowney
Water Rights Clerk

DWM:dj

R-1140

Form 18 - Reservoir Permit

NOTICE OF PROOF OF COMPLETION OF WORKS
and
APPLICATION OF WATER TO BENEFICIAL USE

NOTICE IS HEREBY GIVEN THAT ON THE 27th day of November, 19 67 at Boise, County of Ada, State of Idaho before Anne Lpeldi, Notary Public at (address) 600 South Walnut, Boise, Idaho, proof will be submitted of Completion of Works for the diversion of 3500 acre feet of storage, of waters of Horsethief Creek of Big Creek, and of the application to Beneficial Use of said water, in accordance with the terms and conditions of Permit No. R-1140, heretofore issued by the Department of Reclamation of the State of Idaho

1. The name and postoffice address of the person or corporation holding said permit is Idaho Fish and Game Department, 600 South Walnut, Boise, Idaho

2. Said works of diversion of water for storage will be fully completed on the date set for such completion and the amount of water which said works are capable of conveying to the place of storage is 50/ c.f.s. cubic feet per second.

3. Reservoir capacity is 3000 acre feet.

4. The use to which said water has been applied is storage for propagation of fish and wildlife purposes, and the amount applied to beneficial use is 3500 acre feet.

5. The point of diversion of said waters for beneficial use is

NW¼SW¼, Sec. 36, T. 14 N, R. 4 E, B.M., and the amount which can be diverted is 3500 acre feet

6. The place where said water is used is

within portions of Sec. 30, T. 14 N, R. 5 E, B.M. and Sec. 25 and 36, T. 14 N, R. 4 E, B.M., Valley County.

7. The date of priority which said user is prepared to establish is November 6, 1962.

R. KEITH HIGGINSON

State Reclamation Engineer

R-1140

Form 11

OCT 24 1967

Department of Reclamation

(This completed form authorizes the Department of Reclamation to publish the required notice at your expense.)

State Reclamation Engineer:

You are hereby authorized to have the attached notice published at my expense in the Cascade News **of** Cascade **; published in the county in which the works are situated.**

State of Idaho, FISH AND GAME DEPARTMENT

John R. Woodworth

(signature) John R. Woodworth, Director

P. O. Box 25

Boise, Idaho 83707

(address)

October, 1967

(date)

In case of canals or other works designed to divert and carry more than 50 cubic feet of water per second, the following certificate must be signed by a well known and competent engineer when proof is for completion of works.

I hereby certify that the facts set forth in the attached notice are true.

_____

Engineer

R-1140



DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DURBON, Moscow
RAY SIMS, Banners Ferry

IDAHO FISH AND GAME DEPARTMENT

JOHN R. WOODWORTH, Director
POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

October 22, 1967

Re: Horsethief Creek
R-1140

RECEIVED
OCT 24 1967

Mr. R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
S T A T E H O U S E

Dear Sir:

Enclosed herewith is authorization to publish notice of Completion of Works and Application of Water to Beneficial Use, R-1140.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT

John R. Woodworth

John R. Woodworth
Director

Enclosure

R-1140



RECEIVED
DEC 14 1967
Department of Reclamation

DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DURBON, Moscow
RAY SIMS, Bonners Ferry

IDAHO FISH AND GAME DEPARTMENT

JOHN R. WOODWORTH, Director
POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

December 13, 1967

Re: Permit R-1140

Mr. R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
S T A T E H O U S E

Sir:

Enclosed herewith is publisher's affidavit of proof of publication regarding Permit No. R-1140.

The Disposition of Holder and Disposition of Witness pertaining to Permit R-1140 were previously submitted to your office.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT
John R. Woodworth, Director

T. D. Biladeau, Land Agent
Business Administration Division

TDB:cw

R-1140

January 17, 1968

Re: Permits No. 32646 and R-1140

State of Idaho
Departmentoof Fish & Game
Statehouse,
Boise, Idaho

Attentipn: Mr. Bob Salters

Gentlemen:

Enclosed are copies of protests received in opposition to the proof of completion of works and application of water to beneficial use submitted under the above referenced permit. The Department of Reclamation will advise you at a later date as to the time and place set for a conference and hearing to review the protest matter.

Please contact us if we may assist you in any manner.

Very truly yours,

Donald W. McIldowney
Water Rights Clerk

DWM:ks

Enclosure: Copies of protests

COPY

R-1140

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO

DEPARTMENT OF RECLAMATION
107 STATE HOUSE
BOISE, IDAHO 83701

January 23, 1968

Re: Permit No. R-1140 and 32646 and
Application No. 63-7014 and 63-7015

Clerk of the District Court
Courthouse,
Cascade, Idaho

Gentlemen:

We wish, by this letter, to confirm the use of your courtroom on February 6, 1968 at 10:00 a.m. and again at 1:30 p.m. for public conferences and hearings being held by the State Reclamation Engineer.

Please contact us immediately if these times are not satisfactory.

Very truly yours,

C. Stephen Allred,
Assistant State Reclamation Engineer

CSA:DM:ks

R-1140

January 23, 1968

Re: Permit No. R-1140 and 32646

State of Idaho Department of Fish and Game
600 South Walnut Street
Boise, Idaho

Attention : Bob Salters

Gentlemen:

Please be advised that the Department of Reclamation has scheduled a conference and hearing for February 6, 1968 at 1:30 p.m. in the Valley County Courthouse, Cascade, Idaho.

Enclosed are copies of the protests filed in opposition with the licensing of the above referenced permits.

You or your representative are required to attend.

Very truly yours,

C. Stephen Allred
Assistant State Reclamation Engineer

DSA:DM:ks

Enclosure: Copies of protests

COPY

R-1140

January 23, 1968

Re; Permit No. R-1140 and 32646
Fish and Game Department

Warner Ditch Co.
Cascade,
Idaho

Gentlemen:

Please be advised that the Department of Reclamation has scheduled a conference and hearing on the above referenced permits on February 6, 1968 at 1:30 p.m. in the Valley County Courthouse, Cascade, Idaho.

You or your representative are required to attend.

Very truly yours,

C. Stephen Allred
Assistant State Reclamation Engineer

CSA:DM:ks

COPY

R-1140

January 23, 1968

Re: Permit No. R-1140 and 32646
Fish and Game Department

Robert H. Remaklus
Attorney at Law
Cascade, Idaho

Dear Mr. Remaklus:

Please be advised that the Department of Reclamation has scheduled a conference and hearing on the above referenced permits on February 6, 1968 at 1:30 p.m. in the Valley County Courthouse, Cascade, Idaho.

You or your representative are required to attend.

Very truly yours,

C. Stephen Allred
Assistant State Reclamation Engineer

CSA:DM:ks

COPY

R-1140

January 23, 1968

Re: Permit No. R-1140 and 32646
Fish and Game Department

F. B. Robb
c/o Robert H. Remaklus
Cascade, Idaho

Dear Mr. Robb:

Please be advised that the Department of Reclamation has scheduled a conference and hearing on the above referenced permits on February 6, 1968 at 1:30 p.m. in the Valley County Courthouse, Cascade, Idaho

You or your representative are required to attend.

Very truly yours,

C. Stephen Allred
Assistant State Reclamation Engineer

CSA:DM:ks

COPY

R-1140

January 23, 1968

Re: Permit No. R-1140 and 32646

J. R. Simplot
805 Idaho
Boise, Idaho

Dear Mr. Simplot:

Please be advised that the Department of Reclamation has scheduled a conference and hearing on the above referenced permits on February 6, 1968 at 1:30 p.m. in the Valley County Courthouse, Cascade, Idaho.

You or your representative are required to attend.

Very truly yours,

C. Stephen Allred
Assistant State Reclamation Engineer

CSA:DM:kb

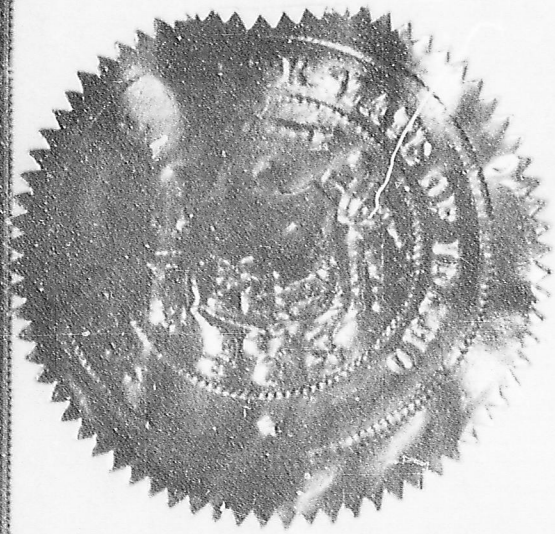
COPY

R-1140

State of Idaho

Department of State.

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho and custodian of the Seal of said State, do hereby certify that the annexed is a full, true and complete transcipt of articles of incorporation of WARNER DITCH COMPANY, an Idaho corporation, received and filed in this office as of the 20th day of January, 1920, as appears of record in this office.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Idaho.

Done at Boise, Idaho, this 2nd *day of* February *A.D., 19* 68 .

Pete T. Cenarrusa

Secretary of State

Margaret Sawyer

Corporation Clerk

Certificate of Certified Copy

R-1140

ARTICLES OF INCORPORATION

of

WARNER DITCH COMPANY

****

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, all bona fide residents of the State of Idaho, have this day voluntarily associated ourselves, and do hereby and by these Articles of Incorporation unite and associate ourselves for the purpose of forming a corporation under the laws of the State of Idaho for the purposes hereinafter set forth.

I.

The name of this corporation shall be "WARNER DITCH COMPANY".

II.

The period of the existance of this corporation shall be Fifty (50) years.

III.

The principal office and principal place of business of said corporation shall be at the city of Cascade, County of Valley, State of Idaho.

IV.

The purposes, for which this corporation is formed, are as follows:--

(a). To acquire water rights either by appropriation, purchase, lease or otherwise and to acquire main and lateral ditches by purchase, lease, construction or otherwise for the purpose of distributing the water acquired by this corporation to the lands owned or held by the stockholders of this corporation.

(b). To purchase, own, hold, rent, lease, mortgage, or otherwise dispose of such real or personal property as may be necessary for the purpose of this corporation.

R. 440

(c). To borrow money for the purposes of this corporation and to execute and deliver as evidence of such indebtedness, notes, bonds, bills of exchange or other commercial paper of this corporation at such rates of interest and on such terms and under such conditions as the directors of this corporation shall deem for its best interest and to secure the payment of sums so borrowed by mortgage, or trust deed or other proper or necessary instruments upon the property of this corporation if necessary.

(d). And in general to do any and all things of whatsoever kind or nature necessary and proper for the purpose of acquiring water rights and operating a ditch system such as is necessary for irrigating the lands of the stockholders of this corporation

~~to~~

V.

The number of directors of this corporation shall be Three (3) and shall be elected annually at the meeting of the stockholders of this corporation, on such date as may be provided for in the By-laws of this corporation, and the names and residences of the persons who are selected as directors for the first year from and after the date of the incorporation of this corporation are as follows:

Names	Residences:
M. L. Warner,	Cascade, Idaho.
J. S. Logue	Cascade, Idaho.
F. I. Newhouse	Boise, Idaho.

VI.

The total amount of the capital stock of this corporation is Fifteen Hundred Dollars ($1500.00) to be divided into fifteen Hundred (1500) shares at the par value of One Dollars ($1.00) each.

R-1140

VII.

Of the capital stock there has been actually subscribed three (3) shares by the following named persons with the number of shares and amount set opposite their names, to-wit:

Name	No. Shares	Amount.
M. L. Warner	1	$1.00
J. S. Logue	1	1.00
F. I. Newhouse	1	1.00

IN WITNESS WHEREOF, We have hereunto set our hands and seals this day of January 1920.

M L Warner
J S Logue
F I Newhouse

STATE OF IDAHO)
) SS.
COUNTY OF AD)

On this 10th day of January, 1920, before me, Thos. L. Martin, a Notary Public in and for said County and State, personally appeared M. L. Warner, J. S. Logue, and F. I. Newhouse, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed

...y of Valley ...

I, during vacancy Kate B. Barry, Deputy Recorder in charge, Recorder of said county, hereby certify that the above and foregoing instrument is a true copy of the original Articles of Incorporation between

.....

.....

and filed in my office January 13th 1920, at 9 A. M., Book Incorporations dated January 1920 of said articles of

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 15th day of January, 1920.

Cascade, Idaho January 15th, 1919

R-1140

VII.

Of the capital stock there has been actually subscribed three (3) shares by the following named persons with the number of shares and amount set opposite their names, to-wit:

Name	No. Shares	Amount.
M. L. Warner	1	$1.00
J. S. Logue	1	1.00
F. I. Newhouse	1	1.00

IN WITNESS WHEREOF, We have hereunto set our hands and seals this day of January 1920.

M L Warner
J. S. Logue
F I Newhouse

STATE OF IDAHO)
SS.
COUNTY OF ADA)

On this 10th day of January, 1920, before me, Thos. L. Martin, a Notary Public in and for said County and State, personally appeared M. L. Warner, J. S. Logue, and F. I. Newhouse, known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same.

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

Thos. L. Martin.
Notary Public.
Residence: Boise, Idaho.

R-1140

Certified Copy of the Articles of Incorporation of

Warner Motors

Company.

Filed this 13th day of January, 1920.

Arthur C. Tracy
Clerk, auditor & Rec.
By. Kate B. Barry
Deputy.

MARTIN & MARTIN
ATTORNEYS AT LAW
BOISE, IDAHO

DEPARTMENT OF STATE,
Secretary's Office.
Filed this 20th day of
January, 1920 at 1
o'clock A. M. and Recorded in Book
A-12 of Dom. Corps.
on page 46-48.
Records of the State of Idaho.
Robert O. Jones,
Secretary of State.
By. B. C. Williams
Chief Clerk.

$10.00
1.20
3.00
$14.20

INDEXED CORPORATION

R-1140-32646 FISH & GAME DEPARTMENT

FISH & GAME T.J. JONES III

WARNER DITCH) RR MAKUS

ROBB
SIMPLOT) RR MAKUS

INFORMAL CONFERENCE

JACK FISHER — CONCERNED IDEA MANY YEARS AGO 51' HIGH DAM ABOVE BRD ROCK — HAS EVACUATION & OUTLET IN BOTTOM — COVERS 270 ACRES SURFACE AREA — STORES 5200 ACRE FEET — ONCE DAM IS FILLED ALL FLOW OF STREAM WILL PASS DOWN HORSE THIEF CREEK AND BIG CO.

RR MAKUS — IRRIGATION SEASON — DISAGREE THAT IT ENDS SEPT 28. HORSE THIEF CREEK IS ESSENTIALLY ONLY STREAM RUNNING INTO RESERVOIR IN LATE SEASON. EVAPORATION RATE WILL NOT EXCEED 8"/MONTH

OBJECT TO ANY RIGHT ON BASE FLOW OF STREAM.

ISSUE AS TO VALIDITY OF MILL RIGHT 4674

14325 - WARNER DITCH - 18 CFS
14968 - ROBB, FORMAT R. - 3 CFS
32983 - ROBB, FORMAT R. - 3 CFS
26 CFS

R-1140

HORSETHIEF CREEK SUPPLIES ABOUT 10% OF FLOW OF BIG CREEK.

HAVE NO OBJECTION TO USE DURING NON-IRRIGATION SEASON.

~~1200~~ SHARES? 1500 SHARES − 1210 ISSUED

18 CFS OR WATER

TAKE POSITION DO NOT OBJECT TO IMPOUNDMENT OR FLOOD WATERS DURING NON-IRRIGATION SEASON - OBJECT TO FILING ON NATURAL FLOW DURING IRRIGATION SEASON.

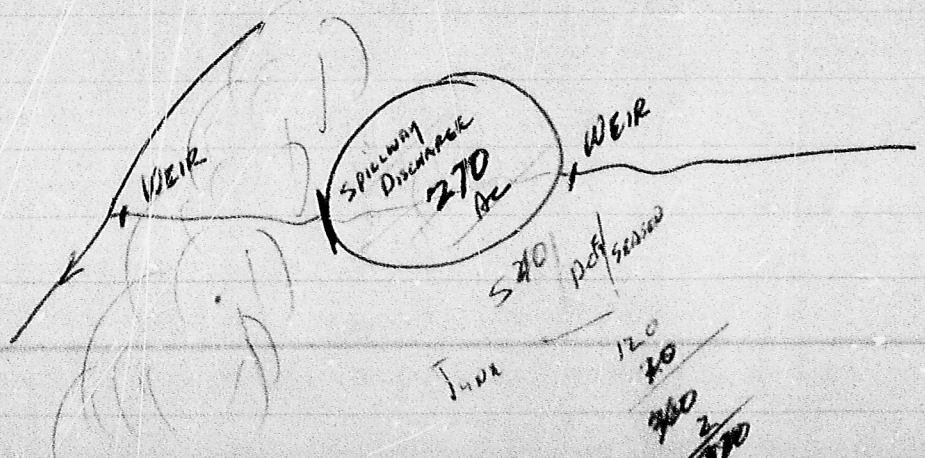
DO NOT CLAIM ANY RIGHT UNDER 4674 (SAWMILL)

WISH TO RESERVE THE EFFECT OF (WAIVING RIGHTS) 4674 AND WOULD CLAIM ANY OTHER RIGHTS WHICH MAY BE IN EXISTENCE.

ASSUME LICENSE IS ISSUED

$\frac{900''}{1210 \text{ SHARES}} = .74''/\text{SHARE}$

OPINIONS BASED ON SHEER CONJECTURE —



R-1140

SUGGESTION FOR INVESTIGATION

1. INSTALL PERHAPS 2 WEIRS OR FLUMES AT COST OF FISH & GAME
2. READINGS BY DEPARTMENT
3. THROUGHOUT 1968 IRRIGATION SEASON
4. IF RESERVOIR DOES NOT FILL BEFORE July 1, 1968 WOULD INSTALL SIPHON TO CONVEY SAME AMOUNT OF WATER AS MEASURED AT UPPER WEIR.
5. WARNER DITCH COMPANY TO INSTALL PERMANENT MEASURING DEVICE AT HEAD OF CANAL AND KEEP RECORDS OF CANAL FLOWS.
6. NO ACTION TO BE TAKEN BY DEPT. AS TO ISSUANCE OF LICENSES

R-1140

INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. P690

INSURED NO.

DATE DELIVERED

SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*)

Robert H. Lewables

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Bob L. Boulder

SHOW WHERE DELIVERED (*only if requested*)

655—16—7164-10 GPO

R-1140

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

POSTMARK OF DELIVERING OFFICE

CASCADE JAN 24 AM 1968 IDAHO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

R-1140 & 32646

INSTRUCTIONS: Show name and address below and complete instructions on other side, where applicable. Moisten gummed ends, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE AND ZIP CODE

Boise, Idaho 83701

Form 3811 Apr. 1967

655—16—71649-10



INSTRUCTIONS TO DELIVERING EMPLOYEE

☐ Show to whom, date, and address where delivered ☐ Deliver ONLY to addressee

(Additional charges required for these services)

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO. 19689

INSURED NO.

DATE DELIVERED

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in) Robert H. Renaldson

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Ruth L. Boulden

SHOW WHERE DELIVERED (only if requested) R-1140

655—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

R-1140 + 336.46

POD Form 3811 Apr. 1957

655—16—71549-10

INSTRUCTIONS: Show name and address below and complete instructions on other side where applicable. Detach stamped ends and attach to back of article. Print or type name and address of sender. Fill in article number and check RECEIPT REQUESTED. RETURN

NAME OF SENDER
Department of Reclamation

STREET AND NO. OR P.O. BOX
Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE
Boise, Idaho 83701

RETURN TO

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE, $300

POSTMARK OF DELIVERING OFFICE

CASCADE JAN 24 AM 1958 IDAHO

NAME AND ADDRESS OF SENDER: Dept. of Reclamation 19688

Indicate type of mail: ☐ INSURED ☐ C. O. D. ☑ CERTIFIED

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.

POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS	POSTAGE	FEE	DUE SENDER IF C. O. D.	ENDORSEMENT [1]	R. R. FEE	S. D. FEE	S. H. FEE [2]	RESTRICTED DELIVERY FEE / REMARKS
1	19688 Supt of the U of D, Moscow	.80	30			10			42127
2	19689 Supt W. Gamble, Cascade	.06	30			10			R-1140 & 33646
3	19690 Supt E. Babb, Cascade % Gamble	.06	30			10			R-1140 & 33646
4	19691 J.R. Simplot - 805 Main - Boise	.06	30			10			R-1140 & 33646
5	19692 Everett Allen - Cascade	.06	30			10			R-1140 & 33646
6	19693 Payne Ditch Co	.06	30			10			63-7014 63-7015
7	19694 Lloyd & Amanda Meadows, Caly	.06	30			10			R-1140 & 33644
8	19695 Peter E. & Maria Meadows, Boise	.06	30			10			63-7013 63-7014
9	19696 Dept of Fish & Game - Boise	.06	30			10			63-7012 63-7015
10						10			R-1140 & 33646
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BOISE, IDAHO JAN 23 1959 BOISE STA.

TOTAL NUMBER OF PIECES LISTED BY SENDER

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE

POSTMASTER, PER (Name of receiving employee)

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile Liquid," and "FLU" if "Fragile Liquid—This Side Up."

[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

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U. S. GOVERNMENT PRINTING OFFICE

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JONES & JONES
ATTORNEYS & COUNSELORS AT LAW
1611 WEST JEFFERSON STREET
BOISE, IDAHO 83702

TELEPHONE 344-7676
AREA CODE 208

THOMAS J. JONES, JR.
T. J. JONES, III
L. ALAN SMITH
MAUREEN J. WARREN

March 12, 1968

RECEIVED
MAR 14 1968
Department of Reclamation

Mr. Robert H. Remaklus
Attorney at Law
Cascade, Idaho

Five

In re: Matter of the Licensing of Permit Nos. R-1140 and 32646 by the State of Idaho Fish and Game Department to Appropriate and Store Waters of Horsethief Creek, Valley County, Idaho.

Dear Mr. Remaklus:

Pursuant to the instructions of the State Reclamation Engineer at the close of the hearing on the above-entitled matter on February 6, 1968, at Cascade, please find enclosed herewith original and two copies of the proposed Stipulation and Order.

If the same meets with your approval, will you also sign this and forward the original and one copy to the State Reclamation Engineer for his signature.

Very truly yours,

T. J. Jones, III
Special Counsel
Idaho Fish and Game Dept.

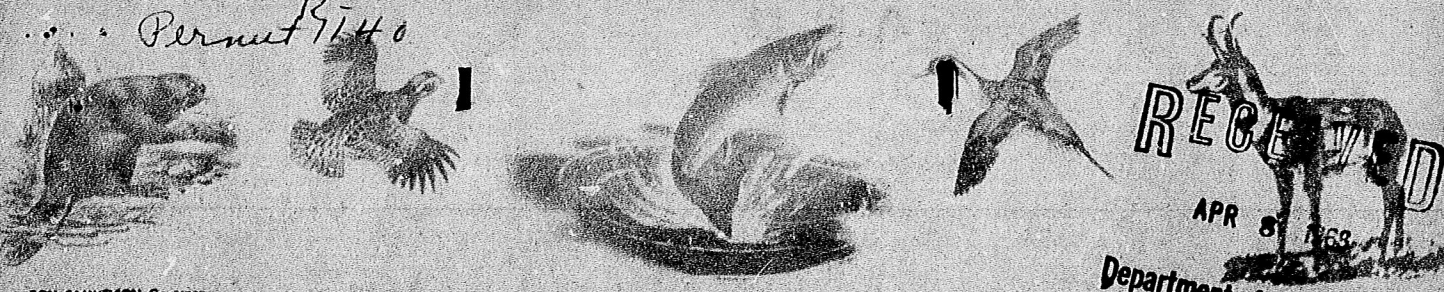
TJJ/sdm

Enclosures

cc: ✓Mr. Higginson
Mr. Biladeau

R-1140

Permit R-1140



RECEIVED
APR 8 1968
Department of Reclamation

DON SAMUELSON, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM S. DURSON, Moscow
RAY SIMS, Banners Ferry

IDAHO FISH AND GAME DEPARTMENT

JOHN R. [illegible] Director
POST OFFICE BOX 25
600 SOUTH WALNUT STREET
BOISE, IDAHO 83707

April 5, 1968

Mr, R. Keith Higginson
State Reclamation Engineer
Idaho Department of Reclamation
107 State House
Boise, Idaho 83701

In re: In the Matter of the Licensing of Permit Nos. R-1140 and 32646 by the State of Idaho Fish and Game Department to Appropriate and Store Waters of Horsethief Creek, Valley County, Idaho.

Dear Mr. Higginson:

Enclosed herewith please find original Stipulation and Order in the above-entitled matter arising out of the pre-hearing conference conducted before you on February 6, 1968, at Cascade, Idaho.

The Stipulation has been signed by myself as attorney for the Idaho Fish and Game Department and by Mr. Robert H. Remaklus as attorney for the Warner Ditch Company, Forest E. Robb and J. R. Simplot Company, Protestants.

Will you please execute the Order and place this instrument in your file on this matter and advise Mr. Remaklus and myself as to the date that you executed and filed said Order.

Very truly yours,

T. J. Jones, III
Special Counsel
Idaho Fish and Game Dept.

TJJ/sdm
Enclosure

cc: Mr. Robert H. Remaklus
Idaho Fish and Game Department

RECEIVED
APR 8 1968
Department of Reclamation

BEFORE THE STATE RECLAMATION ENGINEER, STATE OF IDAHO

In the Matter of the Licensing of Permit Nos. R-1140 and 32646 by the State of Idaho Fish and Game Department to Appropriate and Store Waters of Horsethief Creek, Valley County, Idaho.

STIPULATION AND ORDER

WHEREAS, protests of the Warner Ditch Company, Forest E. Robb and the J. R. Simplot Company, a Nevada corporation qualified to do business in Idaho, to the licensing of permit numbers R-1140 and 32646 by the State of Idaho Fish and Game Department to appropriate and store waters of Horsethief Creek in Valley County, Idaho, came on for Pre-Hearing Conference before the State Reclamation Engineer of the State of Idaho on February 6, 1968, at 1:30 o'clock p.m., in the Valley County Courthouse, Cascade, Idaho, and

WHEREAS, it was agreed between counsel for the parties that certain matters be stipulated in the above-entitled matter,

NOW THEREFORE, it is hereby stipulated by the applicant and the protestants that:

1. That the Idaho Fish and Game Deparcment will install at its expense three weirs for the measurement of the stream flow of Horsethief Creek as soon as weather permits. One weir will be installed above the headwaters of Horsethief Reservoir, and if adaptable, the Fish and Game Department will use for this upstream weir the existing highway culvert above the headwaters of said reservoir. One temporary weir will be installed on the spillway of the Horsethief Reservoir Dam. The third weir will be installed at a site above the confluence of Horsethief Creek and Big Creek, the location of the said site of this weir below the Horsethief Reservoir Dam and above the confluence of Horse-

R-1140

thief Creek and Big Creek is to be established by agreement between field representatives of the State of Idaho Department of Reclamation, the Idaho Fish and Game Department and the Warner Ditch Company.

2. Periodic measurements at all three weirs will be conducted at least once a week during the irrigation season by Idaho Fish and Game Department personnel with spot checks of the same to be made by representatives of the Warner Ditch Company and the State of Idaho Department of Reclamation. These measurements are to commence as soon as the weirs are installed, but in no event not later than July 1, 1968.

3. Measurement data compiled from the aforementioned checks will be furnished monthly by the party making the same to all other involved parties, that is, to the Idaho Fish and Game Department, the Warner Ditch Company and the State Department of Reclamation.

4. Prior to July 1, 1968, the Warner Ditch Company will install at its own expense a weir on its canal at its head near the point of diversion on Big Creek. Measurements at this weir will be made at least weekly by the Warner Ditch Company and furnished to all parties monthly with spot checks to be made by the State Department of Reclamation at its discretion.

5. The plans and specifications for all weirs to be installed by either the Idaho Fish and Game Department or the Warner Ditch Company are to be furnished to the State Department of Reclamation for its approval prior to commencement of construction.

6. Should the Horsethief Reservoir fail to fill during the year 1968, and should the protestants thereupon make a showing to the State Department of Reclamation and clearly demonstrate to the satisfaction of the said Department of Reclamation that the installation of a siphon or other device across, through, or under the Horsethief Reservoir Dam is necessary for downstream irrigation requirements pursuant to valid licenses and a permit held by the protestants, then and in that event and pursuant to the order of the State Department of Reclamation, the Idaho Fish and Game Department will, at its own expense, install such device or devices as may be necessary at the dam for the carriage of the same amount of water as would be passing the upstream weir located above the headwaters of Horsethief Reservoir.

DATED This 30 day of March, 1968.

T. J. Jones, III
Attorney for Idaho Fish
and Game Department

Robert H. Remaklus
Attorney for Warner Ditch
Company, Forest E. Robb
and J.R.Simplot Company

ORDER

Based upon the above and foregoing Stipulation, and good cause appearing therefor, it is hereby

ORDERED, that no further action will be taken by the State of Idaho Department of Reclamation upon the licensing of permit Nos. R-1140 and 32646 until a further hearing in the matter is set down by the Stateof Idaho Department of Reclamation or until one is requested by either the parties hereto upon proper notice in writing for the same served upon the State of Idaho Department of Reclamation and the opposing party.

DATED This 9th day of April, 1968.

R. Keith Higginson
State Reclamation Engineer

R-1140

1-sem STIPULATION AND ORDER

April 9, 1968

Re: Permit No. R-1140

Mr. Robert H. Remaklus
Attorney at Law
Cascade, Idaho 83611

Dear Mr. Remaklus:

This letter is to advise that I have this date signed the order based upon the stipulation by the Idaho Fish and Game Department and the protestants relative to Horsethief Basin Reservoir.

As soon as the weather permits we will appreciate being advised so that we may make a on-the-site inspection of the area to determine the location for the measuring device to be installed above the confluence of Horsethief Creek and Big Creek.

The stipulation and order will be placed in the records of this department.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

cc: Mr. T. J. Jones, III
Idaho Dept. of Fish and Game
Building

COPY

R-1140

April 9, 1968

Re: Permit No. R-1140

Mr. T. J. Jones, III
Special Counsel
Idaho Fish and Game Dept.
Building

Dear Mr. Jones:

This letter is to advise that I have this date signed the order based upon the stipulation by the Idaho Fish and Game Department and the protestants relative to Horsethief Basin Reservoir.

As soon as the weather permits we will appreciate being advised so that we may make a on-the-site inspection of the area to determine the location for the measuring device to be installed above the confluence of Horsethief Creek and Big Creek.

The stipulation and order will be placed in the records of this department.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

COPY

Water Rises To Half Point In Horsethief

12-26-1968

Horsethief Reservoir, Idaho's newest man-made trout fishery east of Cascade, is filled to about the halfway mark and good snow conditions this winter should bring the water level to its capacity of 270 surface acres with a depth of 40 feet, the Idaho Fish and Game Department said Tuesday.

The reservoir was built entirely with fish and game funds for the sole purpose of establishing a new trout fishery, according to Jack Fisher, Department engineer. It was completed during summer, 1967, and the gates closed and the reservoir started filling in September. But the water level never reached reservoir capacity because of the light snowpack.

January 3, 1969

Re: Permits R-1140; R-1221
and 65-7032

Mr. Robert H. Remaklus
Attorney at Law
Cascade, Idaho

Dear Mr. Remaklus:

Reference is made to the above numbered filings which provide for storage of water in the Fish and Game Department's Horse Thief Basin Reservoir in Valley County.

The stipulation and order of this office, dated April 9, 1968, provided that the Fish and Game Department would install measuring devices above the head waters of Horse Thief Reservoir in the spillway of the dam and at a site above the confluence of Horse Thief Creek and Big Creek. The Warner Ditch Company was to install a measuring device at the head of its canal. In each case readings were to be made on the various weirs at least weekly and furnished to this office monthly. To date we have received no information concerning these measurements. I am also advised that the Warner Ditch Company has not installed the measuring device in its canal.

I would appreciate being advised by the parties as to how they wish to proceed with this matter so that we may resolve the protest against the licensing of Permit R-1140 and the protest against the application of the Fish and Game Department for permit to divert 30 second feet of water from Big Creek into the reservoir. If this first full season of operation of the reservoir has satisfied the objections thereto, I would appreciate a letter withdrawing the protests.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

January 3, 1969

Re: Permits R-1140; R-1221
& 65-7032

Idaho Department of Fish and Game
Attn: T. J. Jones, Special Counsel
BUILDING

Gentlemen:

Reference is made to the above numbered filings which provide for storage of water in the Fish and Game Department's Horse Thief Basin Reservoir in Valley County.

The stipulation and order of this office, dated April 9, 1968, provided that the Fish and Game Department would install measuring devices above the head waters of Horse Thief Reservoir in the spillway of the dam and at a site above the confluence of Horse Thief Creek and Big Creek. The Warner Ditch Company was to install a measuring device at the head of its canal. In each case readings were to be made on the various weirs at least weekly and furnished to this office monthly. To date we have received no information concerning these measurements. I am also advised that the Warner Ditch Company has not installed the measuring device in its canal.

I would appreciate being advised by the parties as to how they wish to proceed with this matter so that we may resolve the protest against the licensing of Permit R-1140 and the protest against the application of the Fish and Game Department for permit to divert 30 second feet of water from Big Creek into the reservoir. If this first full season of operation of the reservoir has satisfied the objections thereto, I would appreciate a letter withdrawing the protests.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

R-1140

JONES & JONES
ATTORNEYS & COUNSELORS AT LAW
1611 WEST JEFFERSON STREET
BOISE, IDAHO 83702

TELEPHONE 344-7676
AREA CODE 208

THOMAS J. JONES, JR.
T. J. JONES, III
L. ALAN SMITH
MAUREEN J. WARREN

T. J. JONES, SR., 1858-1939
F. T. JONES, 1894-1928

RECEIVED
JAN 27 1969
Department of Reclamation

January 24, 1969

Mr. R. Keith Higginson
State Reclamation Engineer
State of Idaho
Department of Reclamation
Statehouse - Annex 2
Boise, Idaho 83707

In re: Permits R-1140, R-1221 and 65-7032 - Horsethief Basin Reservoir

Dear Mr. Higginson:

Reference is had to your letter of January 3, 1969, to me regarding the above permits. I am enclosing herewith a copy of correspondence from Mr. Jack Fisher, Chief Engineer of the Idaho Fish and Game Department, relative to the permits and protests and the performance of the Fish and Game Department under the Stipulation and Order in this matter issued by your office subsequent to the hearing on February 6, 1968, at Cascade, Idaho.

In view of Mr. Fisher's letter, the Fish and Game Department wishes to withdraw and cancel permit #65-7032 for the diversion of water from Big Creek to Horsethief Reservoir. Also, in view of the department's compliance with all of the provisions of the Stipulation and Order, we feel that the protests filed against permit no. R-1140 by the Warner Ditch Company, Forest E. Robb and the J. R. Simplot Company should be dismissed. We are of the further opinion and belief that the Department of Reclamation should insist that the Warner Ditch Company during the irrigation season for 1969, fully comply with the provisions of the Stipulation and Order, which the ditch company entered into with the Fish and Game Department in March, 1968.

Very truly yours,

JONES & JONES

T. J. Jones, III

TJJ:mjl
cc Jack Fisher

R-1140

RECEIVED
JAN 28 1969
Department of Reclamation

ROBERT H. REMAKLUS
ATTORNEY AT LAW
CASCADE, IDAHO 83611

January 27, 1969

Mr. R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
State House - Annex 2
Boise, Idaho 83707

Re: Permits R-1140; R-1221
and 65-7032

Dear Mr. Higginson:

With reference to the above numbered filings concerning storage of water in Horsethief Basin Reservoir in Valley County, Idaho, it is my understanding that the measruing devices set forth in the stipulation were not installed.

Last summer was a short water year and it was necessary for the Fish and Game Department to install a siphon to pump water over Horsethief Basin Dam in order to provide a flow of water thru the reservoir for the benefit of Warner Ditch Company and J. R. Simplot Co.

Warner Ditch Company officials informed me that when they wne to install the proper measuring device at the head of Warner Ditch it was determined that the water level of the entire reservoir would have to be raised about a foot. At that time it would have necessitated the cessation of irrigation for a number of days during the crucial part of the growing season. For that reason the device was not installed.

I shall contact Mr. Jones, attorney for the Fish and Game Department and further advise you immediately.

Very truly yours,

Robert H. Remaklus

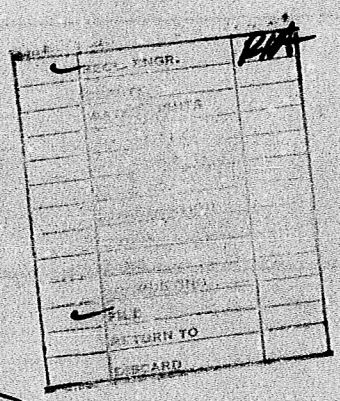
Robert H. Remaklus

bb
ccs Pat Allen
Les Whitson

ROBERT H. REMAKLUS
ATTORNEY AT LAW
CASCADE, IDAHO 83611

RECEIVED
APR 18 1969
Department of Reclamation

April 17, 1969



Mr. R. Keith Higginson
State Reclamation Engineer
Department of Reclamation
State House - Annex 2
Boise, Idaho 83707

Re: Permit No. R-1140 & R1221
Warner Ditch Company
Forest E. Robb
J. R. Simplot Company

Dear Mr. Higginson:

Please refer to your letter of March 12, 1969, which has been unanswered due to an oversight on my part.

I shall discuss with my clients whether or not their protests may be withdrawn and advise you immediately.

I have further advised Warner Ditch and other users that the measuring device must be installed prior to the beginning of the 1969 irrigation season.

Very truly yours,

Robert H. Remaklus

bb

R-1140

March 12, 1969

Re: Permit No. R-1140 & R-1221

Warner Ditch Company
Forrest E. Robb
J. R. Simplot Company
c/o Robert H. Hemaklus
Cascade, Idaho 83611

Gentlemen:

Reference is made to the above numbered permits held by the State Department of Fish and Game for construction and use of waters stored in Horsethief Basin Reservoir near Cascade, Idaho.

You will recall that in connection with this matter and the protests filed by your clients, a pre-hearing conference was held on February 6, 1968. As a result of that conference a stipulation and order was prepared in which the parties agreed to certain matters. From information received by this office it would appear that the State Fish and Game Department has fully complied with the stipulation and order through the installation of the required measuring devices and a siphon capable of drawing water from the reservoir when required to equal the quantity flowing into the reservoir. It also appears, however, that the Warner Ditch Company and others diverting water from Big Creek have failed to install the required measuring device as they agreed to do.

It is our feeling that the operation of this reservoir during the 1968 season has demonstrated that it can be so used that other rights will not be injured. I am, therefore, writing to determine whether your clients still wish to pursue their protests or whether such protests may be withdrawn. If the protests are not withdrawn we will schedule a hearing concerning this matter at an early date.

R-1140

You should also be advised that the Warner Ditch and other users must comply with the order dated April 9, 1968 by installing a measuring device of the type approved by this department before the beginning of the irrigation season. If such device is not installed this office will not require any replacement of water from the Horsethief Basin Reservoir.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

cc: T. J. Jones, III
Idaho Department of Fish & Game
Building

COPY

May 16, 1969

Warner Ditch Company
Forest E. Robb
J. R. Simplot Company
c/o Robert H. Remaklus
Attorney at Law
Cascade, Idaho 83611

Dear Sirs:

My prior letter to you, dated March 12, 1969, asked that you advise this Department concerning the interest of your clients in further pursuing the protest against the licensing of Permit R-1140 of the Idaho Fish & Game Department. In your reply which we received on April 18,1969, you indicated that you would discuss the matter with your clients and advise us immediately.

I am sure that you understand that the protest is related to the proof of completion of works and beneficial use of the water under a permit which has been granted by this office. The only items that your clients could challenge would be whether the works have been completed and there has been a quantity of water appropriated.

We would like very much to resolve this matter so that we can take final action concerning R-1140 and R-1121. Please let me know of your decision concerning your protest.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH/jlb

cc: Idaho Fish & Game Dept.

R-1140

Fish Ck

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

M E M O R A N D U M

July 31, 1969

TO: R. Keith Higginson

FROM: Jack A. Barnett

Jack Fisher of the Fish & Game called with respect to the measuring devices that were to be installed on Horsethief Dam. He indicated that the Fish & Game has installed the necessary devices but that the irrigation water users have not. He stated that your letter of March 12 indicated that the Fish & Game would not be bound by the stipulated agreement if the water users did not put in a measuring device.

With this in mind he has instructed his people not to release water down the creek for irrigation purposes. He is using the siphon to draw water that is low in oxygen off the bottom of the lake at a rate sufficient to keep the lake level at or near the spillway height.

He requested that this memo of our phone conversation be placed in our files.

We are not able to find your letter of March 12.

If not found 32446-The Fish and Game Plan

R-1140

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMITS # R-1140, # R-1221, #32646 in the name of IDAHO DEPARTMENT OF FISH AND GAME	AN ORDER DENYING PROTEST

Permits #R-1140, #R-1221 and #32646 cover storage and use of water in the Horsethief Basin Reservoir, constructed by the Idaho Department of Fish and Game.

Permit #R-1140 was issued on November 14, 1962, and provided for storage of 3,500 acre feet of water behind a dam to be located within the NW¼SW¼, Section 36, T. 14 N., R. 4 E. The water was to be used for "propagation of fish and wildlife".

Permit #R-1221 was issued on July 5, 1966, and provided for appropriation of 5,000 acre feet of water in the Horsethief Basin Reservoir, to be used for "fishing and recreation purposes".

Permit #32646 was issued on December 28, 1965, and provided for diversion of 10 second feet of water for "filling, storage, maintenance and replenishment of the reservoir, and for the propagation of fish and wildlife, and for public recreation".

Proof of completion of works and beneficial use of water have been submitted in connection with each of these three permits. These proofs were protested by the Warner Ditch Company, Forest E. Robb and J. R. Simplot Company. A conference concerning their objections was held at Cascade, Idaho, on February 6, 1968. Pursuant to that conference the protestants and applicant agreed to a Stipulation and Order which was issued by the State Reclamation Engineer on April 9, 1968. The six provisions of this Stipulation are set out below:

1. That the Idaho Fish and Game Department will install at its expense three weirs for the measurement of the stream flow of Horsethief Creek as soon as weather permits. One weir will be installed above the headwaters of Horsethief Reservoir, and if adaptable, the Fish and Game Department will use for this

upstream weir the existing highway culvert above the headwaters of said reservoir. One temporary weir will be installed on the spillway of the Horsethief Reservoir Dam. The third weir will be installed at a site above the confluence of Horsethief Creek and Big Creek, the location of the said site of this weir below the Horsethief Reservoir Dam and above the confluence of Horsethief Creek and Big Creek is to be established by agreement between field representatives of the State of Idaho Department of Reclamation, the Idaho Fish and Game Department and the Warner Ditch Company.

2. Periodic measurements at all three weirs will be conducted at least once a week during the irrigation season by Idaho Fish and Game Department personnel with spot checks of the same to be made by representatives of the Warner Ditch Company and the State of Idaho Department of Reclamation. These measurements are to commence as soon as the weirs are installed, but in no event not later than July 1, 1968.

3. Measurement data compiled from the aforementioned checks will be furnished monthly by the party making the same to all other involved parties, that is, to the Idaho Fish and Game Department, the Warner Ditch Company and the State Department of Reclamation.

4. Prior to July 1, 1968, the Warner Ditch Company will install at its own expense a weir on its canal at its head near the point of diversion on Big Creek. Measurements at this weir will be made at least weekly by the Warner Ditch Company and furnished to all parties monthly with spot checks to be made by the State Department of Reclamation at its discretion.

5. The plans and specifications for all weirs to be installed by either the Idaho Fish and Game Department or the Warner Ditch Company are to be furnished to the State Department of Reclamation for its approval prior to commencement of construction.

6. Should the Horsethief Reservoir fail to fill during the year 1968, and should the protestants thereupon make a showing to the State Department of Reclamation and clearly demonstrate to the satisfaction of the said Department of Reclamation that the installation of a siphon or other device across, through, or under the Horsethief Reservoir Dam is necessary for downstream irrigation requirements pursuant to valid licenses and a permit held by the protestants, then and in that event and pursuant to the order of the State Department of Reclamation, the

upstream weir the existing highway culvert above the headwaters of said reservoir. One temporary weir will be installed on the spillway of the Horsethief Reservoir Dam. The third weir will be installed at a site above the confluence of Horsethief Creek and Big Creek, the location of the said site of this weir below the Horsethief Reservoir Dam and above the confluence of Horsethief Creek and Big Creek is to be established by agreement between field representatives of the State of Idaho Department of Reclamation, the Idaho Fish and Game Department and the Warner Ditch Company.

2. Periodic measurements at all three weirs will be conducted at least once a week during the irrigation season by Idaho Fish and Game Department personnel with spot checks of the same to be made by representatives of the Warner Ditch Company and the State of Idaho Department of Reclamation. These measurements are to commence as soon as the weirs are installed, but in no event not later than July 1, 1968.

3. Measurement data compiled from the aforementioned checks will be furnished monthly by the party making the same to all other involved parties, that is, to the Idaho Fish and Game Department, the Warner Ditch Company and the State Department of Reclamation.

4. Prior to July 1, 1968, the Warner Ditch Company will install at its own expense a weir on its canal at its head near the point of diversion on Big Creek. Measurements at this weir will be made at least weekly by the Warner Ditch Company and furnished to all parties monthly with spot checks to be made by the State Department of Reclamation at its discretion.

5. The plans and specifications for all weirs to be installed by either the Idaho Fish and Game Department or the Warner Ditch Company are to be furnished to the State Department of Reclamation for its approval prior to commencement of construction.

6. Should the Horsethief Reservoir fail to fill during the year 1968, and should the protestants thereupon make a showing to the State Department of Reclamation and clearly demonstrate to the satisfaction of the said Department of Reclamation that the installation of a siphon or other device across, through, or under the Horsethief Reservoir Dam is necessary for downstream irrigation requirements pursuant to valid licenses and a permit held by the protestants, then and in that event and pursuant to the order of the State Department of Reclamation, the

Idaho Fish and Game Department will, at its own expense, install such device or devices as may be necessary at the dam for the carriage of the same amount of water as would be passing the upstream weir located above the headwaters of Horsethief Reservoir.

The Department of Reclamation has withheld further action concerning this matter until it could be determined from the measuring devices agreed to be installed what effect, if any, the operation of Horsethief Reservoir had upon the established rights of the protestants. Evidence available to the office indicates that the Department of Fish and Game has fully complied with the terms of the Stipulation, but that the protestants have failed to install the required measuring devices. It was also apparent that the reservoir has been operated during the last two seasons without substantial interference with the water supply of Big Creek. It should be pointed out that the only basis for objection to the issuance of license in connection with these three permits would be that the applicant had failed to complete the works and apply the water to beneficial use. There appears to be adequate evidence that all conditions of the permits and the Stipulation and Order have been met by the applicant.

It is therefore ordered that the protests of the Warner Ditch Company, Forest E. Robb and J. R. Simplot Company against the issuance of license confirming the appropriation of water under Permits #R-1140, #R-1221 and #32646 be set aside and the Department will proceed to immediately issue such licenses.

DATED this 15th day of August, 1969.

R. KEITH HIGGINSON
State Reclamation Engineer

Source of supply Horsethief Creek

a tributary of Big Creek

Location of P.D.(s) On Stream Reservoir

Water is used for Fishing, Recreation & Wildlife

Quantity of water found ~~3500~~ AF. Capacity ~~5500~~ DRE

How was the measurement made? Used Fish & Game Survey

Measurement calculations Reservoir area approx. 300 Acres Dam 633 Ft. long, 51.8 Ft high. Slopes 3:1 upstream 2:1 downstream Spillway, 6' X 20' X 178'; from 40' Spillway reduced to 40' X 17' X 20' with 8.0' stilling pool. Outlet pipe (24"), with cut off collars each 16', - 275' Long. Outlet Tower To Top of Dam in upstream face. Sheet piling 2.2' above W.S. Outlet Well measurement - 6' X 6' X 56'. Armco gate Lift. Trash Rack above outlet. 4" Siphon over Top of Dam To discharge natural flow To downstream users. Inflow & outflow measured by V-notch Weirs.

Diversion works description and diagram

See plans in Reservoir file

Indicate area irrigated in each subdivision on the map.

Total acreage irrigated

If water is used for purposes other than irrigation, fully describe how the water is used and what is done with it after the use.

~~Dam height 65 Ft.~~ fishing & Wildlife purposes

Who represented the permit holder at the examination?

Jack Fisher - Fish & Game dept

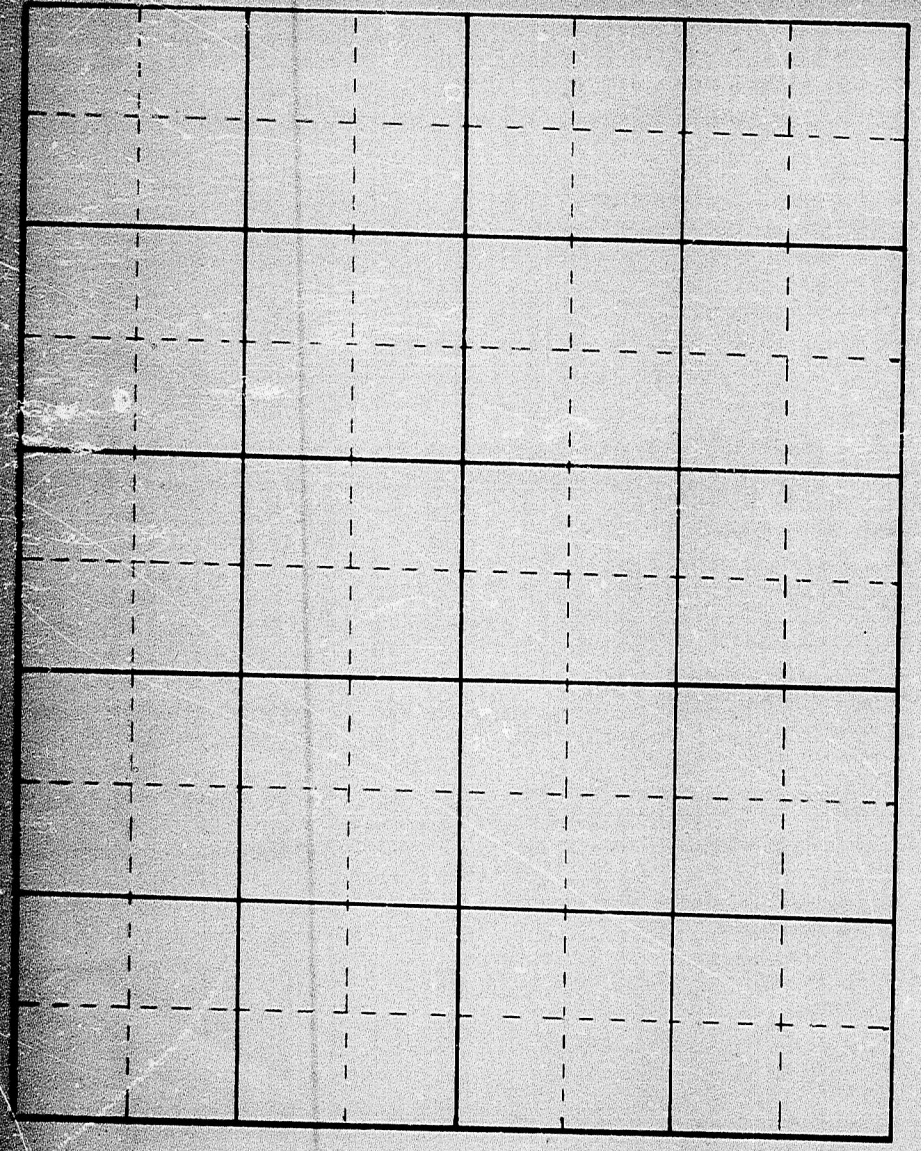
Recommended allowance for licensing 3500 AF.

Description of required amendments. Comments.

Report checked?

Examination date 8-14-68

Signature Robert W. Hamilton



Permit No. R-1140

Name of Applicant Fish & Game Department, State of Idaho

Source of Water Horsethief Creek of Big Creek

a tributary of N. Fk. Payette

Location of P.D. S. 72°30', E. 1340 ft. from W¼ corner of Sec. 36, T. 14 N, R. 4 E, B. M. and is in the NW¼SW¼, Sec. 36, T. 14 N, R. 4 E, B. M., Valley County

Water is used for storage for the propogation of fish & wildlife

Quantity of water claimed: Permit 3,500 A.F. Depositions

Type of measuring device installed or method of measurement and general description of diversion works reservoir - Proposed to construct a dam in the stream channel to create a reservoir with a surface area of 275 A. When reservoir is filled, which is estimated to be the first spring runoff period of time following completion of the dam, the reservoir will be maintained by the natural flow of the stream. All surplus waters will run off through the spillway of the dam & enter the natural stream channel.

Land to be irrigated or place of use:

TWP.	RGE.	SEC.	Description

Total acreage

Other rights and acreage covered: (Indicate amounts, source, licensed or decreed, and acreage covered by subdivision; also show land covered on the map.

MEMO

Re: R-1140

There is no licensing fee required under this permit. The fee paid under permit No. R-1121 will cover the required licensing fee for R-1140.

C. Stephen Allred, Acting Deputy
State Reclamation Engineer

R-1140

October 8, 1969

Re: Permit Nos. R-1140 and R-1221

State of Idaho
Department of Fish and Game
Building Mail

Dear Sirs:

Enclosed you will find your Water Licenses issued on the above numbered permits.

Very truly yuurs,

C. Stephen Allred, Acting Deputy
State Reclamation Engineer

CSA:kh

Enclosures

R-1140

State of Idaho

WATER LICENSE

Water License No. R-1140 Priority November 6, 1962 Amount 3500 acre feet

THIS IS TO CERTIFY, that STATE OF IDAHO, DEPARTMENT OF FISH AND GAME of Boise, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated November 6, 1962; that Permit R-1140 was issued pursuant to said application; that the proposed works were completed on or about October 1, 1967, with a storage/or carrying capacity of 5000 acre feet, said works consisting of earth fill dam and reservoir; and that on November 27, 1967, proof was made to the satisfaction of the State Reclamation Engineer, of the beneficial use of N.A. acre feet per season, with a maximum rate of diversion of 3500 acre feet ~~cubic feet per second~~ of the waters of Horsethief Creek a tributary to Big Creek / which is, tributary of N. Fork Payette River, for the purpose of storage for the propogation of fish and wildlife from January 1 to December 31; and for _____ from _____ to _____; and for _____ from _____ to _____; and that the use of said waters has been made in accordance with the laws of Idaho, and is hereby confirmed by the State Reclamation Engineer and entered in the records of the Idaho Department of Reclamation: the point of diversion is located in NW ¼ SW ¼, Sec. 36, T. 14 N, R. 4 E, B.M., and other additional points _____, in the County of Valley; and that the amount of water to which such right is entitled and which is hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes and shall not exceed N.A. acre feet per year.

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated _____

The right to the use of the water hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 8th day of October, 1969.

E. Lloyd Higginson
State Reclamation Engineer

R-1140

KEYPUNCHED

✓ ✓ 65 2957

VALLEY-BOISE SURFACE WATER

VALLEY-BOISE SURFACE WATER

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE ST[illegible] OF IDAHO, IN AND FOR THE CO[illegible]TY OF GEM Valley.

RECEIVED
JUN [illegible] 1970
Department of Reclamation

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHT TO THE USE OF THE SURFACE AND GROUND WATERS OF THE PAYETTE RIVER DRAINAGE BASIN

NOTICE OF CLAIM TO A WATER RIGHT

IDENT. NO. 65-2957

MAP NO.

Notice is hereby given that the State of Idaho Fish and Game Department (Name of Claimant),

Box 25, Boise, Idaho 83707 (Mailing Address), claims a right to the diversion and beneficial use of the surface or groundwater, of or tributary to the Payette River;

The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) November 6, 1962

(2) Describe source of water: (Name of stream, lake, spring, etc., or subterranean) Horsethief Creek Trib Big creek.

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

Use ~~Storage for the propagation of~~ Fish and Wildlife (Domestic, irrigation, stock, etc.) 3500 A F Period of Use From Jan. 1 (Mo., Day) To Dec. 31 (Mo., Day) (Both Dates Inclusive)

Use Fish propagation & storage (Domestic, irrigation, stock, etc.) Period of Use From [blank] (Mo., Day) To [blank] (Mo., Day) (Both Dates Inclusive)

Use [blank] (Domestic, irrigation, stock, etc.) Period of Use From [blank] (Mo., Day) To [blank] (Mo., Day)

(4) Quantity of water claimed: [blank] Cubic Feet Per Second, or 3,500 Acre Feet Per Annum, and/or [blank] Gals. Per Minute.

(5) A) Point of Diversion: Give location of point where water is diverted from its source NW ¼ SW ¼, Sec. 36, Twp. 14 N, Rge. 4 E., B.M.; additional points: [blank]

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. An earth fill dam - 55' in height and 160 feet in length, the capacity of storage is 5,000 acre feet.

(6) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE¼				NW¼				SW¼				SE¼				TOTAL
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14 N	5 E	30											X						
14 N	4 E	25			X	X					X			X	X	X	X	X	
14 N	4 E	36	X	X	X		X			X	X	X		X	X		X		

Total No. of acres 500

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: Storage of waters for the propagation of fish and wildlife

(7) Effluent, sewage waste, or return water from this use is discharged into Wildhorse Creek

(8) If you are claiming water as a member of an organization, list name of organization. State of Idaho - Fish & Game Department

(9) Remarks (Horse Thief reservoir) (This at when combined w/ 65-2818 shall provide no more than 3,500 AFA)

(10) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use.
☐ B) Right decreed by court, cite title of case [blank]
☒ C) Right based on application, license, or claim filed with State Reclamation Engineer, Office No.: License #R-1140 65-2957

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

XXXXXXX State of Idaho, Fish and Game Dept.

(Date)

John R Woodworth
(Signature of Claimant)

by its Director
(Signature of Spouse)

KEYPUNCHED
Organization RP 8/29/78 alw 2-17-78

(Signature of Authorized Agent)

State of Idaho
County of Ada } ss. Organization Seal

On this 25th day of May, in the year 1970, before me, a notary public, personally appeared John R. Woodworth, as director of the State of Idaho Fish & Game Dept. known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or [blank]) executed the same. on behalf of said Dept.

Notary Public residing at Boise, Idaho Anne Epeldi

My commission expires June 1, 1970 2KN 1/3/78

State of Idaho

WATER LICENSE

Water License No. R-1140 Priority November 6, 1962 Amount 3500 acre feet

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Description and location of place of use:

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			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated ____

The right to the use of the water hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the State Reclamation Engineer, affixed at Boise, Idaho, this 8th day of October, 1969.

E. Keith Higgins
State Reclamation Engineer

65 2957

R-1140