

RECEIVED
NOV 03 2014
Department of Water Resources
Eastern Region

Ident. No. 13-7924

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of applicant(s) John Lambregts Phone (208) 552-9675
Name connector (check one): ☐ and ☐ or ☐ and/or
Mailing address 34 Colgate Street City Pocatello
State Idaho Zip 83201 Email john@dutchboyfarms.com

2. Source of water supply Spring which is a tributary of Smith Creek

3. Location of point(s) of diversion:

TWP	RGE	SEC	Govt Lot	¼	¼	¼	County	Source	Local name or tag #
11S	40E	8		SE	SE	SE	Caribou	Spring	

4. Water will be used for the following purposes:

Amount 3.6 for fish propagation purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year)

5. Total quantity to be appropriated is (a) 3.6 cubic feet per second (cfs) and/or (b) _____ acre feet per year (af).

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source. a concrete dam with an 18-inch pipe to raceways

b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet. If the reservoir will be filled more than once each year, describe the refill plan in item 11. For dams 10 feet or more in height OR reservoirs with a total storage capacity of 50 acre-feet or more, submit a separate Application for Construction or Enlargement of a New or Existing Dam. Application required? ☐ Yes ☐ No

c. Proposed well diameter is N/A inches; proposed depth of well is N/A feet.

d. Is ground water with a temperature of greater than 85°F being sought? ☐ Yes ☐ No

e. If well is already drilled, when? _____; drilling firm _____;
well was drilled for (well owner) _____; Drilling Permit No. _____.

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

a. Hydropower; show total feet of head and proposed capacity in kW. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; complete and attach the Municipal Water Right Application Checklist.

d. Domestic; show number of households _____

e. Other; describe fully. fish propagation

8. Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11S	40E	9											H						

Total number of acres to be irrigated: _____

9. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping?
13-7578 and 13-7561

10. a. Who owns the property at the point of diversion? Smith Warm Springs Ranch
- b. Who owns the land to be irrigated or place of use? Smith Warm Springs Ranch
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:
lease of property

11. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary.
Applicant presently has the right to divert 3.6 cfs for fish propagation under water rights 13-7578 and 13-7561. This application simply allows the applicant to add additional fish rearing facilities with water presently diverted under water rights 13-7578 and 13-7561.

12. Time required for completion of works and application of water to proposed beneficial use is 5 years (minimum 1 year).

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½" x 11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.

The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant

Signature of Applicant

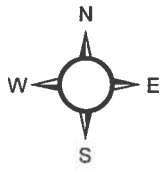
T.J. Budge, Attorney for Applicant

Print Name (and title, if applicable)

Print Name (and title, if applicable)

For Department Use:

Received by _____ Date _____ Time _____ Preliminary check by _____
Fee \$ _____ Received by _____ Receipt No. _____ Date _____



Legend

- Point of Diversion
- ▨ Place of Use
- ▭ TR Lines
- ▭ Section Lines
- ▭ Quarter Quarters

18-7924



LEASE AGREEMENT WITH OPTION TO PURCHASE

THIS AGREEMENT is made and entered into effective as of the 1st day of November, 1999, by and between EDWIN P. SMITH and WILLADENE SMITH, husband and wife, residing at 405 River Road, Grace, Idaho, hereinafter referred to as "Lessor" and JOHANNES A.D. LAMBREGTS and MARSHA J. LAMBREGTS, husband and wife, residing at 1978 Danbury Circle, Idaho Falls, Idaho, hereinafter referred to as "Lessees".

WITNESSETH:

The Lessors have leased and by these presents do lease unto the Lessees on the terms herein mentioned the real property located at 405 River Road, Grace, Caribou County, Idaho, described as follows:

Approximately two (2) acres located at 405 River Road, more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED.

TOGETHER WITH all appurtenances, to have and to hold the said premises with the appurtenances thereon from the 1st day of November, 1999.

1. Term. The term of this Lease shall be from November 1, 1999 to November 1, 2009. This lease may be renewed for another ten (10) years if written notice of intent to extend the lease (after both parties have renegotiated the rental terms of the lease) is provided by Lessees to Lessors no later than November 1, 2008. If no such notice is given, then this lease shall terminate on Midnight of November 1, 2009, and Lessees shall promptly vacate the premises. After Lessees have leased the real property for a period of two (2) terms (or a total of 20 years), Lessees shall have the first right of refusal for any consecutive rental terms.

2. Rental. Lessees agree to pay to the Lessors as rent for said premises the sum of \$600.00 per month, which shall be due and payable on or before the 10th day of each month, beginning November 10, 1999. Said rent shall increase five percent (5%) each year, beginning in November, 2000, but said rental shall not exceed a period of ten (10) years. After the ten (10) year term has expired, the rent will be renegotiated between the parties. The rent will be based on the value of the resource, not the value of the improved farm. In the event of a dispute regarding the renegotiated rent, the same shall be resolved by arbitration. In the case that the lessees do not provide the water, the rights and permits to use

the entire estimated flow of 3.5 cfs of geothermal water, or any portion thereof, the rent will be prorated according to the amount of flow available for fish farming.

3. Power and Electrical. Lessees shall pay all power and utility expenses incurred on the leased real property. Additionally, Lessees shall pay for any electric service extension, with the Lessors providing a right of way.

4. Survey. The leased premises will be surveyed within thirty (30) days of the execution of this Agreement. The survey shall include an easement for ingress and egress from Carter Road and an easement for maintenance and installation of a pipeline from the spring to the leased premises. The parties will share the cost associated with said survey.

Once the leased premises has been surveyed the Lessees shall fence off the property and shall maintain said fences during the term of this Lease.

5. Geothermal Water Right. Lessors shall provide to Lessees the available natural flow of geothermal water pursuant to Permit No. 13-07561 (1.8 cfs non-consumptive right for fish propagation) to enable Lessees to use such water for fish propagation. Lessors will file an Application for Permit with the Idaho Department of Water Resources to obtain an additional non-consumptive water right for fish propagation on the remaining flows available from the same spring. Any permit or license so obtained shall be included in this lease pursuant to this paragraph along with Permit No. 13-07561. In the event Lessors do not obtain a water right for the remaining available flows as contemplated by February 1, 2001, Lessees may terminate this lease at their option upon first giving 30 days written notice to Lessors.

Lessees right to the use of the above described geothermal water available from the spring shall except and be subject to the reserved prior right of Lessors to 100 gallons per minute currently used for domestic purposes, including irrigation and stock water at Lessor's residence at 405 River Road. Lessees will provide a point of diversion for this use from the main pipeline.

Lessors provide no guarantee or warranty and make no representation regarding the quality or quantity of water available pursuant to this Lease..

6. Non-consumptive Water Right. Lessors shall file and establish non-consumptive water rights for the leased property, and allow the Lessees to operate under these rights. Lessees are to comply with all appropriate discharge laws, permits, etc, required by the State of Idaho. All costs associated with the non-consumptive water right will be the sole responsibility of the Lessors.

7. Inspection of Premises. Lessors or Lessors' agent may inspect the leased premises at reasonable times and upon reasonable notice.

8. New Construction. Lessees shall submit the plans for any new construction or development to be undertaken on the leased premises to Lessors for Lessors' approval prior to commencement of any project or improvement. Said approval will not be unreasonably withheld.

9. Liens and Encumbrances. Neither party shall allow or cause any liens or encumbrances to be placed on the real property which is the subject of this Lease during the term of this Lease without prior written approval of the other party.

10. Ingress and Egress. Lessees shall have the right of ingress and egress from River Road to the leased real property upon the existing roadway. Lessors shall not interfere with or hinder said ingress and egress in any manner. Further, Lessees shall be permitted to construct improvements on the existing road from the existing farm driveway on River Road to the leased property. Lessees shall be allowed ingress and egress at all times by said road to the leased property and lessees shall be responsible for installing cattle guards and for the opening and shutting of gates on the roadway so Lessors' livestock can be contained.

Lessees shall also have the right to establish a second right of ingress and egress from Carter Road to the leased real property. If such easement is established by Lessees, Lessors shall not interfere with or hinder said ingress and egress in any manner.

Further, Lessees shall have an easement to install, maintain, and if necessary, improve the spring itself and the pipeline from the spring to the leased real property. Lessees shall also have the same easement rights for installing, maintaining and/or improving the electrical, phone and other utilities on the leased real property.

11. Taxes. Lessees shall pay all real property taxes assessed against the leased lands during the term of this Lease, including taxes assessed against all improvements or structures erected by Lessees or put in place at lessees' request, and including any use change by the Lessees.

12. Maintenance and Insurance. Lessees intend to operate a fish propagation business on the leased premises. It is understood that the operation and management thereof is under the sole and exclusive control of Lessees; however, Lessees shall comply with all applicable state and federal laws. Additionally, Lessees shall have total and complete control over the nature and extent of facilities constructed upon the premises for fish propagation, and the variety and amount of fish to be propagated. However, Lessees agree to take every precaution to keep Lessees' business and operation totally separate and apart from Lessors and to minimize all liability to Lessors. Lessees further agree to maintain a general and products liability policy of insurance in good standing at all times for the protection of Lessors as well as Lessees in the minimum coverage of \$500,000/1,000,000. Lessors will be provided

proof of insurance annually, and given notice of any termination or change in such insurance. Should Lessors be held accountable for any debt or assessment against the business, Lessees will be responsible to lessors for full reimbursement.

Additionally, Lessees will hold harmless and indemnify the Lessors from all liability of whatever nature may accrue to Lessors by virtue of Lessees' use and occupancy of the premises above described.

13. First Right of Refusal. If, during the term of this Lease, Lessors receive an offer to buy the above described property, including the water rights or any extensions thereof, from a third person, other than Lessor's family members, Lessees shall have the first right of refusal to purchase the real property upon the same terms and conditions as the original proposed offer. Should the within First Right of Refusal come into effect, Lessors will first determine that the prospective Buyer is a qualified and bona fide buyer. Lessors will then advise Lessees in writing of the specific terms and conditions of the offer. Lessees will have forty-five (45) days thereafter within which to review the offer and to respond to Lessors with an acceptance of the terms and conditions or a rejection of the same. No response by Lessees within the term set out will constitute a rejection. In the event that lessees accept the terms of the offer, the sale will close as set forth in the notice so long as Lessees are given a reasonable time of not less than thirty (30) days after acceptance within which to secure closing funds. Unless otherwise mutually agreed, closing will take place under the direction of First American Title, Idaho Falls, Idaho, in the customary and standard fashion with Lessees to receive clear title, subject only to the usual or general exceptions.

Non-Assignment by Lessees. Lessees agree that the Lease may not be assigned by them at any time without the Lessors' consent, which consent will not be unreasonably withheld.

15. Improvements. At the end of the term of this Lease for whatever cause or reason, all improvements and facilities set in place upon the premises shall remain in place and shall become the property of Lessors, including but not limited to dams, raceways, ponds, head gates, or other structures, fences roads, ditches, utilities. In no event upon termination shall lessors owe lessees for cost of the improvements. In any event, all liens, debts or other encumbrances will be satisfied by Lessees in regard to the property remaining on the leased premises at the time of termination. However this clause shall not affect the provisions contained in the "Lessors Buy-Back" paragraph set forth below. The personal property or movables and equipment, however, shall remain the property of Lessees upon termination.

16. Lessors Buy-Back. At the end of the first Lease period ending Nov. 1, 2010, should Lessees elect to renew as provided above, Lessors shall have the counter-right, or

right, to buy back the remaining lease term from Lessees. If Lessors so elect to purchase or buy back, Lessees shall be entitled to a cash payment as mutually agreed upon, but if agreement cannot be mutually reached, then the price shall be determined based upon the appraised value of the ten year lease. The valuation to be determined shall not include value of the improvements, land or water, but will include the business value and profit potential. In the event of a dispute regarding selection of an appraiser, the same shall be resolved by arbitration.

17. Mediation. In the event a disagreement or dispute arises in connection with this Lease, the parties agree that prior to either bringing or filing a suit or cause of action against the other, they will submit the dispute to mediation.

18. Exclusive Use. Lessors and Lessees agree that the water furnished by Lessors will be used exclusively for fish propagation and that excessive amounts, not dictated by good fish propagation practices, will not be used. It is also agreed that to the extent of his control, Lessors will not permit any fish propagation operation other than Lessees' to exist on the water source or the flow of the water to the leased premises.

19. Agricultural Lands. No facilities or uses will be employed by Lessees that may unreasonably interfere with, damage or detrimentally affect agricultural uses currently in place upon the lands held by Lessors, whether the injury occurs, or would occur, upon the leased lands or the surrounding lands of Lessors.

20. Option to Purchase. In further consideration of the promises and covenants contained herein, upon the death of both of the Lessors, Lessors grant to Lessees the exclusive, irrevocable option to purchase the real property above described, including the water rights described in paragraph 5, upon the following terms and conditions:

(a) Purchase Price: The purchase price of the real property, including easement for ingress and egress, and easements for maintenance, repair and necessary improvements, shall be the sum of FIFTY THOUSAND AND NO/100THS DOLLARS (\$50,000.00), lawful money of the United States of America.

(b) Term. This option shall be for a term to run concurrently with the lease term set forth above, until 90 days after the Lessees have been notified of the death of both Lessors at the address contained herein. So long as Lessees continue to renew the lease, this option to purchase shall also renew concurrent with the renewal of the lease.

(c) Manner of Exercise of Option. This option may be exercised anytime after the death of both Lessors, by Lessees giving written notice of intent to exercise this option, delivered to the representatives of the Lessors at the following address:

Law Offices of Racine, Olson, Nye, Budge and Bailey
Attn: Randall Budge.
P.O. Box 1391
Pocatello, Idaho 83204-1391

(d) Proration. Taxes and assessments shall be prorated as of the date of closing.

(e) Title Insurance. Lessors shall purchase, at their own expense, and deliver to Lessees within thirty (30) days of the receipt of the notice to exercise option, a policy of title insurance insuring good and marketable title in the real property in the amount of the full purchase price, subject only to this agreement, existing easements and rights-of-way, and such tax liens for future years as may exist at the time of the title insurance being issued, and such other special exceptions agreed to the Lessees in writing prior to closing.

(f) Inspection: As Is. Lessees agree and warrant as part of the consideration for the sale to them of said premises that they have personally inspected the same and that they are not relying upon any representations made by Lessors, or by any servant or agent of Lessors, and that they are relying upon their own personal knowledge of the premises and that they know the situation, character, quality and condition of the premises, and of the quantity of land acquired hereunder, and of the existence of noxious weeds and/or rock thereon, and are purchasing the property "AS IS".

(g) Warranty Deed: Bill of Sale at Closing. At closing, Lessors shall execute and deliver to Lessees a Warranty Deed conveying good and marketable title to the real property, subject only to existing easements and rights-of-way, and such tax liens for future years as may exist at the time of the title insurance being issued, and such other special exceptions agreed to by Lessees in writing prior to closing. A bill of sale transferring title to the personal property shall also be provided free and clear of any and all encumbrances.

(h) Closing. Closing shall take place at First American Title, Idaho Falls, Idaho. The parties shall equally divide the costs of closing.

(i) Integration. Lessors and Lessees acknowledge that the terms, conditions and covenants of this agreement shall supersede any prior negotiations and agreements of the parties, that there are no other agreements not contained in this agreement, and that this agreement shall be the final expression of the agreement of the parties and shall control. No modifications of this agreement shall be valid unless in writing and executed by all the parties hereto.

(j) Memorandum of Options. Both parties agree to record a memorandum of this option in the form attached hereto and incorporated as Exhibit "A" in the records of Caribou County, State of Idaho.

21. Default. Should either party default in their duties and responsibilities contained herein, and should the defaulting party fail to cure said default within thirty (30) days after receiving written notice of said default, this Agreement may be terminated by the non-defaulting party. Upon default, the non-defaulting party shall have any and all remedies allowed at law or equity.

22. Litigation and Attorney Fees. In the event of any litigation between the parties concerning their respective rights and obligations hereunder, the prevailing party shall be entitled to a judgment for its costs of suit, reasonable litigation expenses, and attorney fees reasonably incurred, in addition to any other relief awarded by the court.

23. Representation. This lease was prepared by the attorneys for Lessees. The parties acknowledge their right to individual counsel. Each party agrees to pay all of its respective attorney fees incurred in negotiation and execution of this agreement.

24. Recording. Both parties agree that once the leased lands have been selected and set forth by Lessees as set forth above, the parties will execute a Memorandum of Lease or an abstract setting forth the parties, the property, the first right of refusal and other pertinent data which may be recorded.

25. Binding Effect. The provisions of this contract shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of the parties hereto.

IN WITNESS HEREOF, the parties hereto set their hands the day and year first above written:


EDWIN P. SMITH


JOHANNES A. D. LAMBREGTS


WILLADENE SMITH


MARSHA J. LAMBREGTS

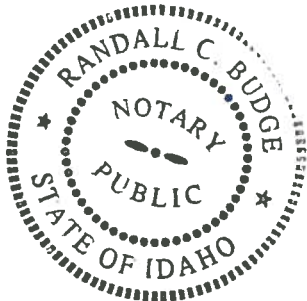
“Lessors”

“Lessees”

STATE OF IDAHO)
County of Bannock) ss.

On this 26 day of Jan., 2000, before me, the undersigned, a Notary Public in and for Said County and State, personally appeared JOHANNES A. D. LAMBREGTS known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



R. Budge
NOTARY PUBLIC FOR IDAHO

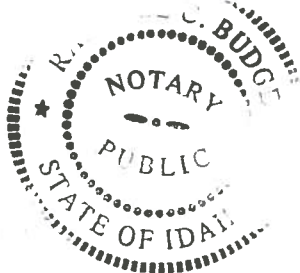
Residing at Poc., Id.

My commission expires 10/11/2000

STATE OF IDAHO)
County of Bannock) ss.

On this 20 day of Jan, 2000, before me, the undersigned, a Notary Public in and for Said County and State, personally appeared MARSHA J. LAMBREGTS known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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



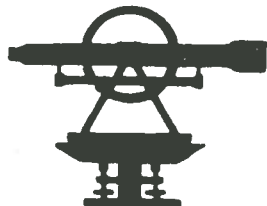
R. Budge

NOTARY PUBLIC FOR IDAHO

Residing at: Poc., Id.

My Commission Expires: 10/11/2000

LEASE AGREEMENT WITH OPTION TO PURCHASE, Page 9



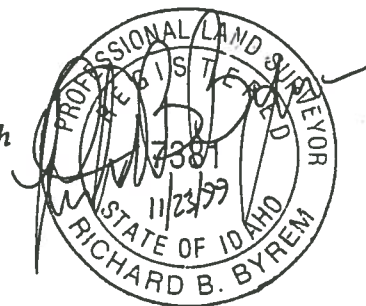
RICHARD B. BYREM

Professional Land Surveyor

Licensed in Idaho, Montana, Wyoming, Colorado & Utah

LEGAL DESCRIPTION

EDWIN P. SMITH LEASE PARCEL
PREPARED FOR: JOHN LAMBREGTS



A PARCEL OF LAND BEING A PORTION OF THAT LARGER PARCEL OF LAND PREVIOUSLY DESCRIBED IN BOOK 54, AT PAGE 59, IN THE OFFICE OF THE CARIBOU COUNTY CLERK AND RECORDER, LYING ENTIRELY WITHIN THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 9, TOWNSHIP 11 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN, CARIBOU COUNTY, IDAHO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SW CORNER OF SAID SECTION 9, AS FILED FOR RECORD AT INSTRUMENT NO. 151875 IN SAID CARIBOU COUNTY RECORDS; THENCE N 40°11'40"E A DISTANCE OF 227.36 FEET TO THE POINT OF BEGINNING, BEING THE SW CORNER OF THE SUBJECT PARCEL; THENCE N 42°10'50"W A DISTANCE OF 135.51 FEET; THENCE ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF AN EXISTING COUNTY ROAD FOR THE FOLLOWING TWO COURSES:

1.) N 59°41'20"E A DISTANCE OF 153.07 FEET;
2.) N 32°23'30"E A DISTANCE OF 180.45 FEET;
THENCE N 89°02'40"E A DISTANCE OF 448.50 FEET; THENCE S 01°45'15"W A DISTANCE OF 178.24 FEET TO THE SE CORNER OF THE SUBJECT PARCEL; THENCE N 85°22'50"W A DISTANCE OF 233.44 FEET; THENCE S 76°07'10"W A DISTANCE OF 139.98 FEET; THENCE S 55°44'10"W A DISTANCE OF 256.81 FEET TO THE POINT OF BEGINNING; CONTAINING 2.53 ACRES, AND BEING SUBJECT TO A SIXTY FOOT EASEMENT FOR THE GENTILE VALLEY CANAL PARALLEL AND ADJACENT TO SAID SOUTHERLY RIGHT-OF-WAY LINE OF THE EXISTING COUNTY ROAD AS DESCRIBED ABOVE;

TOGETHER WITH TWO EASEMENTS DESCRIBED AS FOLLOWS:

1.) AN EASEMENT BEING TWENTY FEET IN WIDTH FOR THE PURPOSE OF WATER DIVERSION FROM AN EXISTING SPRING ON SAID PROPERTY DESCRIBED IN BOOK 54, AT PAGE 59, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT LIES N 42°10'50"W A DISTANCE OF 48.00 FEET FROM THE SW CORNER OF THE ABOVE DESCRIBED PARCEL; THENCE S 77°13'20"W A DISTANCE OF 490.00 FEET TO THE POINT OF TERMINUS;

2.) AN EASEMENT BEING TWENTY FEET IN WIDTH FOR THE PURPOSE OF INGRESS AND EGRESS ACROSS SAID PROPERTY DESCRIBED IN BOOK 54, AT PAGE 59, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT THAT LIES N 01°45'15"E A DISTANCE OF 100.00 FEET FROM THE SE CORNER OF THE ABOVE DESCRIBED PARCEL; THENCE N 73°24'10"E A DISTANCE OF 440.00 FEET; THENCE S 50°58'40"E A DISTANCE OF 184.00 FEET; THENCE EAST A DISTANCE OF 65.00 FEET TO AN EXISTING COUNTY ROAD.

Richard B. Byrem-PLS, Chartered
P.O. Box 1687 • Idaho Falls, Idaho 83403 • (208) 535-0612

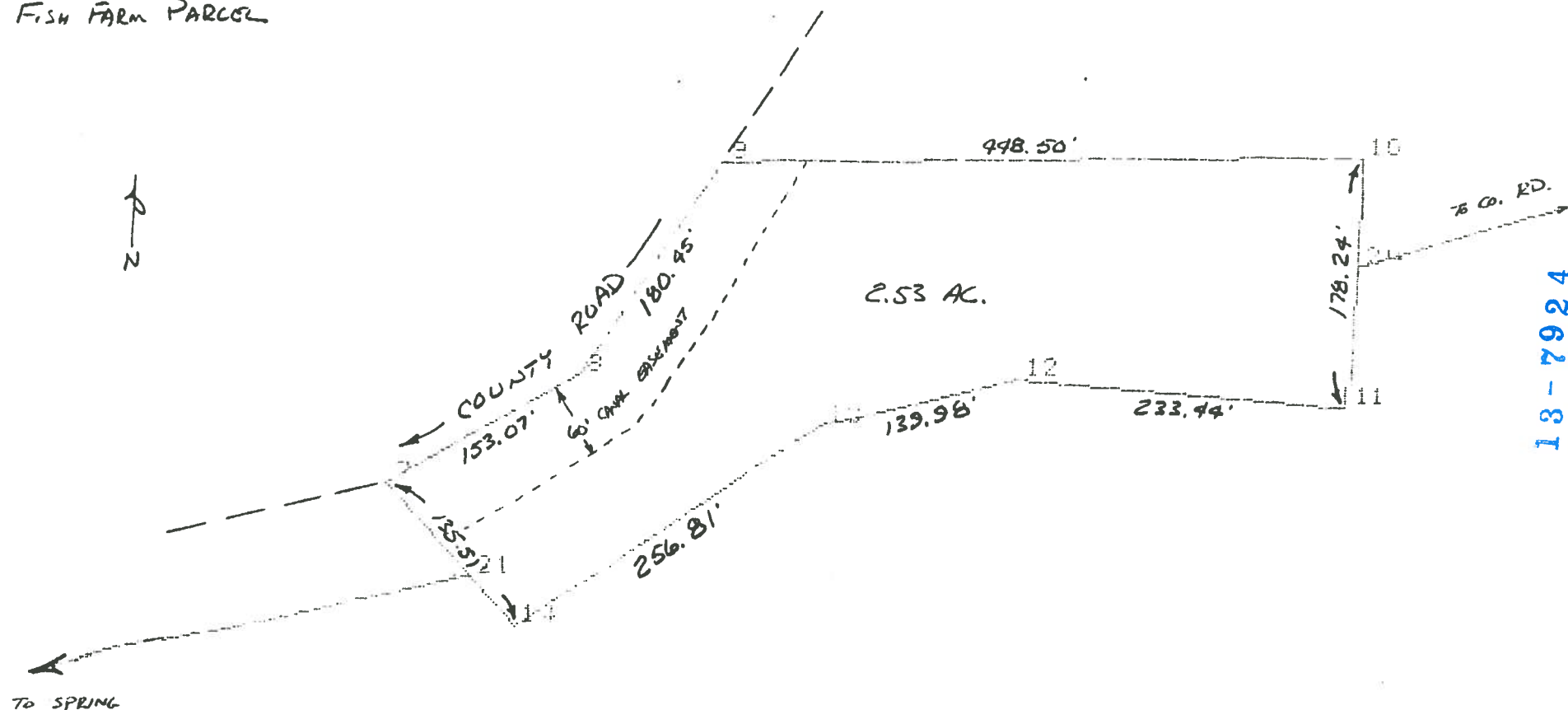
From Bear Lake Call 945-9688

From Other Locations in ID, MT, & WY Call (888) 535-0612

187924

JOHN LAMBRETT'S
FISH FARM PARCEL

Exh. A, P. 2



13-7924



RACINE
OLSON
NYE
BUDGE
BAILEY

201 E. Center St.
P.O. Box 1391
Pocatello, ID 83204
O 208.232.6101
F 208.232.6109
racinelaw.net

Thomas J. Budge
tjb@racinelaw.net

RECEIVED

OCT 29 2014

Department of Water Resources
Eastern Region

October 24, 2014

James Cefalo
Idaho Department of Water Resources
900 N Skyline Dr., Ste. A
Idaho Falls, ID 83402

**Re: Licensing of Permits 13-7561 and 13-7578
Application for New Permit**

Dear James,

This letter follows up on our conversation concerning permit nos. 13-7561 and 13-7578 which appropriate water for fish propagation on the Edwin Smith property near Thatcher. The hatchery is operated by John Lambregts under a lease from the Smith family.

As you know, these permits do not account for the full extent of fish propagation that has historically occurred at this hatchery. Enclosed is a new Application for Permit to authorize the historic water use, and to allow expansion of the facility. I have enclosed a \$370.00 check for the filing fee, along with a duplicate copy of the first page of the Application. Please conform stamp and return the duplicate cover page in the enclosed envelope.

We would like the Department to proceed with licensing permit nos. 13-7561 and 13-7578 in conjunction with processing the Application. Toward that end, let me address the questions you raised about the permits.

There is no lockable controlling device at the point of diversion. The diversion structure is designed to divert the entire flow of the spring, at the head of the spring. The entire flow has been diverted since the facility was constructed in the late 1990s. It has nowhere else to go.

As long as the new Application for Permit is approved, there will be no need to regulate the flow at the point of diversion, because the water right will authorize the diversion of the entire spring flow. Mr. Lambregts is opposed to installing a control device because it will create unnecessary risk of harm. Were the diversion closed, the creek or adjacent canal would wash out and there would be extensive fish kill.

As for measurements, the raceways have weirs that can be used to measure flow, and a measuring device can be added to the hatchery building, if there is a need to

measure flow through the facility. Mr. Lambregts can do this if required by the Department, but does not see the need given this water use is non-consumptive.

Concerning fish screens, the facility is not regulated by IDF&G, but instead by the Department of Agriculture, which does require fish screens. Fish screens are in place at the outlet of the facility, but not at the point of diversion because the spring is sterile (fish cannot survive) due to temperature, low oxygen, and nitrogen levels, and there is no connection between the spring and the creek.

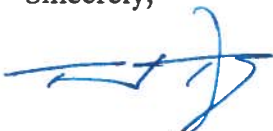
It is important that permit nos. 13-7561 and 13-7578 each be licensed for 1.8 cfs without a combined limit, as the IDWR back file notes. Mr. Lambregts is not aware of any agreement with IDF&G to the contrary.

These permits are not being used for irrigation. Rather, water right no. 13-619, which may also be diverted from creek adjacent to the spring, is used for the land application that occurs in conjunction with the operation of this facility.

Lastly, you mentioned that water is used to fill tanker trucks used to transport fish from the facility. This is an inherent part of fish propagation and accounts for a small amount of water. Water used to transport fish out of the facility is partially offset by water injected into the facility when fish are transported into the facility. To my knowledge, no fish facilities are required to have separate water rights for the small amount of water used to transport fish.

Please let me know if you have any questions regarding these matters. Otherwise, we look forward to getting Permits 13-7561 and 13-7578 licensed, and the new permit approved.

Sincerely,



T. J. BUDGE



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

November 13, 2014

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

JOHN LAMBREGTS
34 COLGATE STREET
POCATELLO, ID 83201

Application For Permit No. 13-7924

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the CARIBOU COUNTY SUN on November 20 and 27, 2014. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Sharla Cox
Administrative Assistant



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N Skyline Dr., Ste A, Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 FAX: (208) 525-7177 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

November 13, 2014

Idaho Department of Environmental Quality
444 Hospital Way #300
Pocatello ID 83201

Application to Permit No. 13-7924

DEQ:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is enclosed for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact this office if you have any questions regarding the application.

Sincerely,

A handwritten signature in blue ink that reads "Sharla Cox". The signature is written over the printed name and title.

Sharla Cox
Administrative Assistance

Enclosure(s)

Cox, Sharla

From: Cox, Sharla
Sent: Thursday, November 13, 2014 9:08 AM
To: 'Caribou County Sun (ccsun10@aol.com)'
Subject: Legal Notice for your paper
Attachments: Caribou County Sun E-Mail.rtf

Contacts: Caribou County Sun

Sharla

*Sharla Cox
Administrative Assistant
Idaho Dept of Water Resources
900 N Skyline Dr. Ste A.
Idaho Falls ID 83402
sharla.cox@idwr.idaho.gov
208-525-7161 phone
208-525-7177 fax*

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

13-7924

JOHN LAMBREGTS
34 COLGATE STREET
POCATELLO, ID 83201
Point of Diversion
SESESE S8 T11S R40E
CARIBOU County
Source SPRINGS Tributary SMITH CREEK
Use: FISH PROPAGATION
01/01 to 12/31 3.6 CFS
Total Diversion: 3.6 CFS
Date Filed: 11/3/2014
Place Of Use: FISH PROPAGATION
T11S R40E S9 SWSW

25-14418

GRAYS LAKE LLC
301 BENCH LAGO ROAD
GRACE, ID 83241
Point of Diversion
SWNE S17 T05S R43E
CARIBOU County
Source GROUND WATER Tributary
Use: STOCKWATER
01/01 to 12/31 0.09 CFS
Total Diversion: 0.09 CFS
Date Filed: 10/21/2014
Place Of Use: STOCKWATER
T05S R43E S17 NENE SWNE SENE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Eastern Region office at (208) 525-7161. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before December 8, 2014. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on November 20 and 27, 2014