

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

OCT 18 1999

Mark L. & Jo Anne W. Luper
 dba EPICENTER AQUACULTURE
 HC 61, Box 3016
 Challis, ID 83226
 USA

s of the State of Idaho

Department of Water Resources
 Southern Region

Phone 879-5786Warm Spring Creek

1. Name of Applicant:

Mailing address _

2. Source of water supply Scrap Springswhich is a tributary of Salmon River

3. Location of point of diversion is Township 12 N Range 20 E Sec. 9, in the SE 1/4,
SE 1/4, NE 1/4, Govt. Lot _____, B.M., Custer County;

additional points of diversion if any: Warm Springs Creek; NE/NW/SW Sec. 10 T. 12 N R. 20 E

4. Water will be used for the following purposes:

Amount 1.1 cfs for Fish propagation purposes from Jan 1 to Dec 31 (both dates inclusive)
 (cfs or acre-feet per annum)

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

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

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 (cfs or acre-feet per annum)

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

5. Total quantity to be appropriated is (a) 1.1 and/or (b) _____
 cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source existing canal & concrete head structure (8" pipe to be added).

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

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

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner) _____; Drilling Permit No. _____

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

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

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

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

c. Municipal; show name of municipality. _____

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	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	20E	9																	
			H			H													

H = Fish Propagation

Total number of acres to be irrigated _____

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

Same water is licensed for 0.92 cfs in a smaller facility under 72-07209

11. a. Who owns the property at the point of diversion? bois inc

b. Who owns the land to be irrigated or place of use? bois inc

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: See attached lease

12. Remarks: Applicant wishes to divert deep springs to existing concrete raceway built 5 years ago.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

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

Mark Imbler
Signature of Applicant (and title, if applicable)

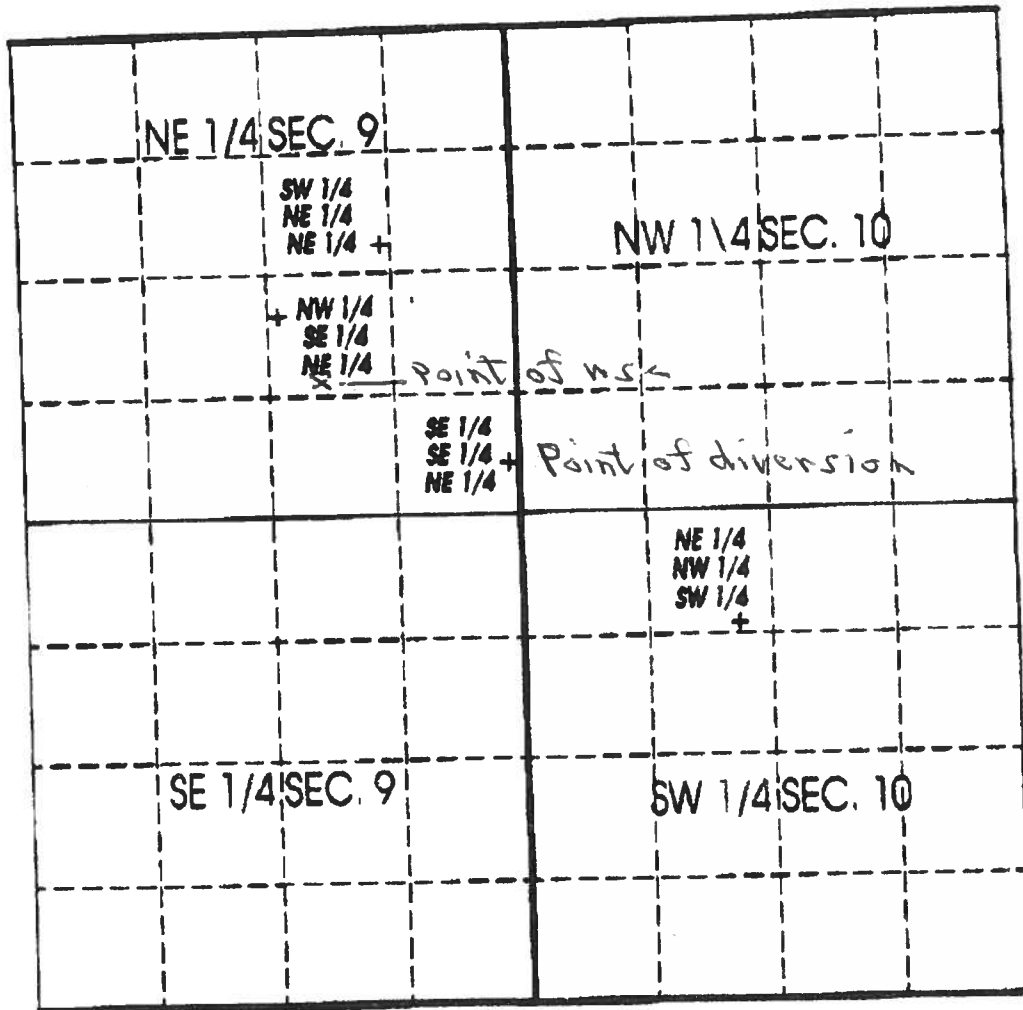
Received by J. F. Patton Date 10-4-99 Time 1 pm Preliminary check by JF
Fee \$ 120. Receipted by JF # 5022608 Date 10-14-99
Publication prepared by mb Date 12/27/99 Published in Charlie Messenger
Publication approved mb Date 1/31/00

72-0757



72-07577

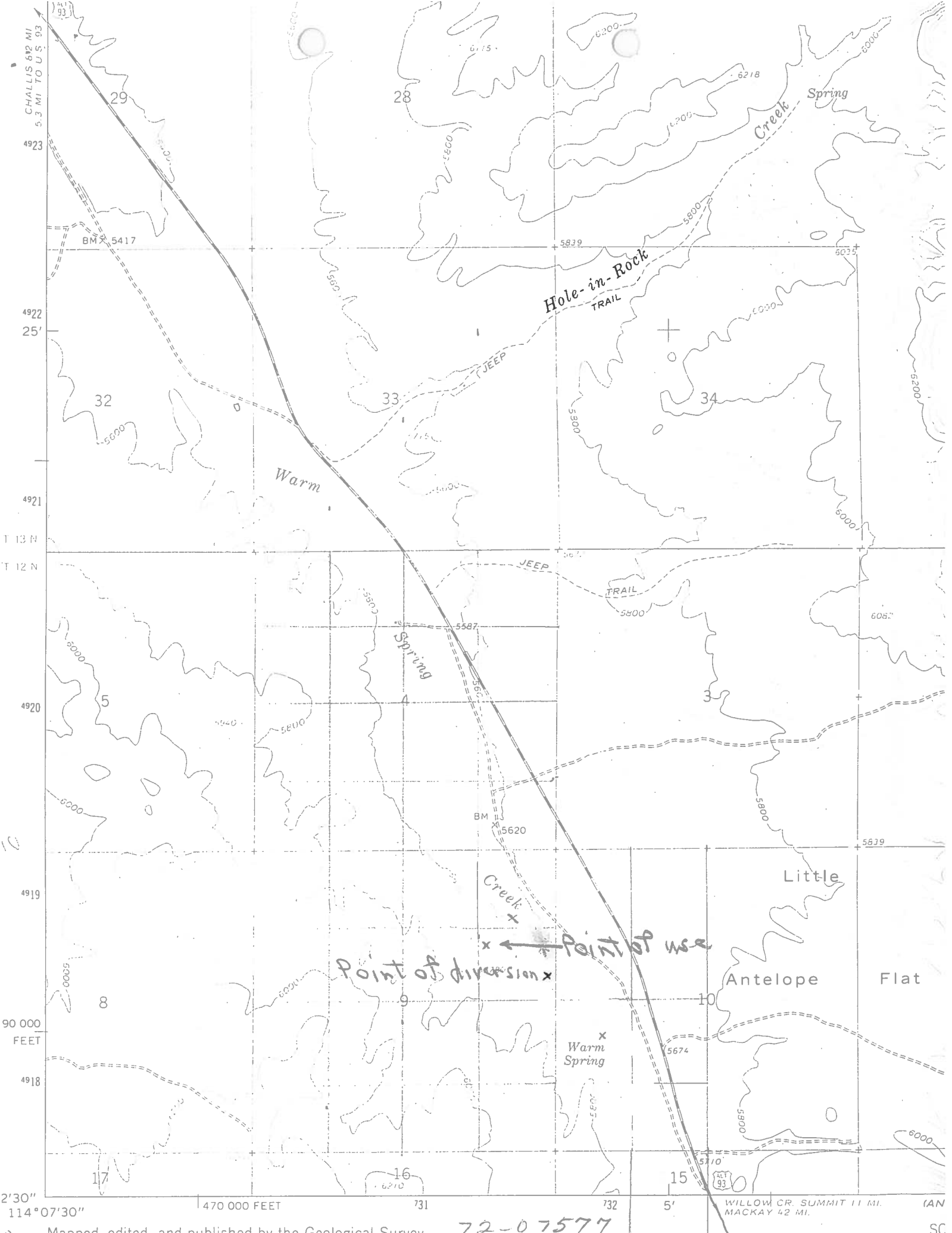
LUPHER POINT OF DIVERSION LOCATIONS
LOCATED IN SECTION 9 & 10, T. 12 N., R. 20 E., B.M., CUSTER CO., STATE OF IDAHO



+ = POINT OF DIVERSION LOCATIONS



ERICKSON SURVEYING SERVICES
P.O. BOX #606
MACKAY, ID. 83261
PH. 208-588-3112
FAX. 208-588-2463



CHALLIS 612 MI
5.3 MI TO U.S. 93

4923

4922
25'

4921

T 13 N

T 12 N

4920

4919

90 000
FEET

4918

2'30"
114°07'30"

470 000 FEET

731

732

5'

WILLOW CR. SUMMIT 11 MI.
MACKAY 42 MI.

(AN

MEMO

FROM: Allen Merritt 

DATE: June 22, 2000

TO: Transfer File No. 5647
Water Right(s): 72-07209

Applications for Permit 72-07577
72-07578

In the Name of: Mark Lupher dba Epicenter Aquaculture

TO: Glen Saxton, Norm Young, Phil Rassier, Tim Luke

SUBJECT: Pre-hearing Conference

On 6/21 I held a conference for these protested matters. These applications are protested by Alfred Morganroth dba L&M Ranch. Mr. Morganroth, his son and a friend were at the conference with his attorney Bruce Smith. The Lupher's and their attorney Bill Hollifield were also in attendance. Tim Luke also attended.

Mr. Lupher explained the purpose of the applications. There did not appear to be a question about what was being proposed. Mr. Lupher used a model of the facility to describe his operation and was questioned about how water was measured. The discussion then turned to how and where it may impact the Morganroth facilities downstream. Mr. Morganroth then described or augmented Mr. Lupher's description of the Morganroth facilities downstream. Morganroth accused the fish farm of causing fluctuations in his powerplant, loss of revenue, fluctuations at a pump used for irrigation, general loss of over 1.0 cfs further down the system resulting in crop loss. The accusations were disputed by the applicant's attorney.

The protestant through their attorney indicated the department could not approve the applications since the lease agreement was in default &/or the applicant did not own the land. He indicated the department did not have jurisdiction.

Smith presented to me a motion to allow discovery and a draft order for my signature authorizing the motion. He requested that I sign it on the spot. He also presented a copy of a letter from him to Hollifield about default. I was not inclined to sign the letter so I called the SO to consult with legal council; eventually I talked with Norm. I described the situation and the jurisdiction question. Norm indicated the department would assign a hearing officer and they could deal with the motion.

On returning to the conference I informed them that I would not sign the order but a hearing officer would be assigned and consider it. We turned our time to discussion about scheduling a hearing but both parties wanted to go through discovery and indicated it was pre-mature to set a hearing.

I inquired about the possibility of settlement on the transfer since it essentially is trying to get the license recorded to the proper location where the facility currently exists. Smith was not willing to settle. He asked about the water not being used correctly and I told him in the worst case if the transfer was denied the facility may be subject of a NOV if continued to operate.

We then turned our time to the petition for appointment of a lateral ditch manager. Both parties agreed that one was needed. A discussion ensued about what was to be measured and it was expressed that there was a need to have it automated to eliminate question and improve trust in data. Some where during this discussion Morganroth left and never returned but the discussion continued. Some local people's names were mentioned. The parties expressed the need to keep the cost down. Tim was going to look into this matter further and provide further direction.

The conference ended. After the conference Smith asked to talk to me. In our conversation he indicated that if the department approves these applications they would sue the department for any damages. I responded that I don't know if the department was going to approve these but I guessed he could sue. He indicated he just wanted to be clear of their intentions. He then asked what we would do if he motioned for a "cease and desist". I told him we would consider the motion.

.....

In summary the issue revolves around the lease agreement and potential injury.

This matter needs to be reviewed by hearing officer and legal staff. **I will forward copy of lease and motions received 6/21 via postal mail to Glen Saxton.** I don't know if it is possible "Could the department issue a pre-hearing order staying processing these applications and any potential "cease and desist" until the flaws in lease are resolved?"

I recommend that measuring devices with data loggers be placed on the inflow and outflow from the fish facility and all diversions to and from the canal above the powerplant including diversions above the fish facility. Maybe Foster could be appointed to download data periodically and be the lateral ditch person and charge for the services. One thing not made clear at the conference was that these two parties to my knowledge are the only users on the canal (lateral ditch). Other users mentioned during the conference I understand divert from Warm Springs Creek, not on the canal.

Attached are photos taken of Luper's model. I have provided copies of same to both party's attorneys.

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER
NO. 5647 and Application for Permit Nos.
72-07577 & 72-07578

Mark L. &/or JoAnne Lupher,
dba Epicenter Aquaculture,

Applicants

Alfred Morganroth,

Protestant

NOTICE OF JOINT PRE-HEARING

CONFERENCE

SOURCE: Springs and Warm Springs

County: Custer

On October 14, 1999 Mark L. &/or JoAnne Lupher, dba Epicenter Aquaculture (applicants), filed with the Department of Water Resources an Application to Transfer Water Rights and two Applications for Permit to appropriate the public waters of the State of Idaho. The Department has received a protest against the approval of said applications from the above captioned protestant.

The Department has set the matter of protests for a joint conference on **Wednesday-June 21, 2000 at 1:30 p.m.** in the IDWR Conference Rm-Southern Regional Office, 1341 Fillmore St.-Ste# 200; Twin Falls, ID.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing. **In addition**, the Petition to Appoint a lateral ditch Manager will be addressed at the conference.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

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

Dated this 17th day of May, 2000.



Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of May, 2000 a true and correct copy of the foregoing Notice of Joint Pre-Hearing Conference was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary Baldwin

Secretary

MARK &/OR JO ANNE LUPHER
dba EPICENTER AQUACULTURE
HC 61 BOX 3016
CHALLIS ID 83226

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

WILLIAM R HOLLIFIELD
HOLLIFIELD AND BEVAN
PO BOX 66
TWIN FALLS ID 83301

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

ALFRED MORGANROTH
L & M RANCH
HC 61 BOX 3070
CHALLIS ID 83226

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

BRUCE M SMITH
MOORE SMITH BUXTON TURCKE
225 N 9th STREET #420
BOISE ID 83702-5769

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

BOB FOSTER
ID DEPT OF WATER RESOURCES
VAN DREFF OFFICES-STE 8
SALMON ID 83467

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

ATTN TIM LUKE
IDAHO WATER RESOURCES
PO BOX 83720
BOISE ID 83720-0098

Hand delivered _____
U.S. Mail-Regular x
U.S. Mail-Certified _____
Fax _____

Hollifield and Bevan, P.A.

249 Third Avenue East
P.O. Box 66
Twin Falls, Idaho 83303-0066

William R. Hollifield, Attorney at Law
G. Richard Bevan, Attorney at Law

Telephone: (208) 734-5610
FAX: (208) 734-8077

February 10, 2000

RECEIVED

FEB 11 2000

Department of Water Resources
Southern Region

Allen D. Merritt
State of Idaho, Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

Dear Mr. Merritt:

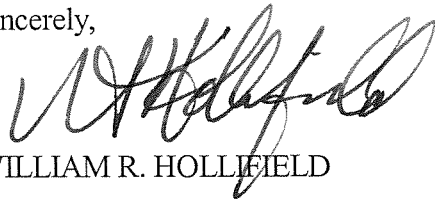
RE: Applications for Permit No. 72-07577 & 72-07578

Mark and Joanne Lupher have forwarded your January 31, 2000 letter and Notice of Protest to me. I will be representing them concerning their applications. Please provide my office a copy of IDWR's complete file concerning the above water rights, including letters, memoranda, notes, field reports and other documents.

If you will let me know when the records are ready, I will have someone pick them up. After I review the material, I will notify you if we want a preliminary conference and/or formal hearing.

Thank you for your courtesy and assistance in this matter.

Sincerely,



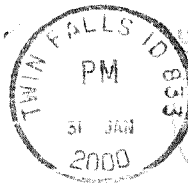
WILLIAM R. HOLLIFIELD

ws

cc Mark Lupher

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RETURN SERVICE REQUESTED



RECEIVED
FEB 09 2000
Department of Water Resources
Southern Region

BRUCE M SMITH
MOORE SMITH BUXTON TURCKE
999 MAIN ST-STE# 210
DRAWER A
BOISE ID 83702-5769

SMITH999* 837022014 1099 05 02/07/00
RETURN TO SENDER
MOORE SMITH BUXTON & TURCKE MCFADDEN
225 N 9TH ST #420
BOISE ID 83702-5769
RETURN TO SENDER

83301/3380





State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

January 31, 2000

MARK L. LUPHER
JO ANNE W LUPHER
dba EPICENTER AQUACULTURE
HC 61 BOX 3016
CHALLIS ID 83226

RE: APPLICATIONS FOR PERMIT NO. 72-07577 & 72-07578

Dear Applicants:

Enclosed is a copy of a protest filed against the above referenced applications. The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

Please note that your application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

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

If you wish to proceed with a Pre-hearing Conference &/or formal Hearing, please notify this office or if you have any questions please feel free to contact us.

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

January 31, 2000

ALFRED & LOIS MORGANROTH
L & M ANGUS RANCH
HC 61 BOX 3020
CHALLIS ID 83226

RE: APPLICATIONS FOR PERMIT NO. 72-07577 & 72-07578 (Epicenter Aquaculture)

Dear Protestant(s):

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

Please note that the application is considered a contested case and subject to the Rules of Procedure adopted by the Department.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

cc:
BRUCE M SMITH
MOORE SMITH BUXTON TURCKE
999 MAIN ST-STE# 910
DRAWER A
BOISE ID 83702

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

JAN 10 2000

Department of Water Resources
Southern Region

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

Matter being protested MARIC + JODY LUPHER
WATER RIGHT APPLICATION # 72-07598

Name of protestant LTM AUGUS RANCH / LOIS MORGAN ROTH / ALFRED MORGAN

Protestant's representative for service (If different than protestant)
BRUCE SMITH / ATTN. AT LAW

Service mailing address HC 61 BOX 3020 CHALL, ID 83226

Service telephone no. (208) 879-5130

Basis of protest (including statement of facts and law upon which the protest is based)
LUPHER HAS BEEN FOUND IN DEFAULT OF HIS ORIGINAL
WATER RIGHT (by you) HIS FIRST FARM COST US \$20,000⁰⁰ IN DAMAGE
LAST YEAR (HYDRO ELECTRIC) 12,500⁰⁰ ALONE, I HAVE MANY WITNESSES,
I HAVE PICTURES AND EVIDENCE FROM DEPT OF ENERGY I WILL GO TO
THE GOVERNORS OFFICE IF THIS IS ALLOWED (WITH MY EVIDENCE)
(additional pages may be attached to describe the nature of the protest)

What would resolve your protest? TO NOT ALLOW IT

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also certify that I have served a copy of this protest upon the applicant.

Signed this 9TH day of JANUARY, 2000

Alfred Morgan Roth
PROTESTANT

BRUCE SMITH (208) 331-1800
PROTESTANT'S REPRESENTATIVE

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If the protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by JS Date 1-12-00 Time 11 am

\$25.00 fee Received by JS # 5022798 Date 1-12-00

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

OCT 18 1999

Mark L. & Jo Anne W. Lupher
dba EPICENTER AQUACULTURE

s of the State of Idaho

Department of Water Resources
Southern Region

HC 61, Box 3016

Challis, ID 83226

IISA

Phone 879-5786

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Mailing address

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Well was drilled for (well owner) _____; Drilling Permit No. _____

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H = Fish Propagation

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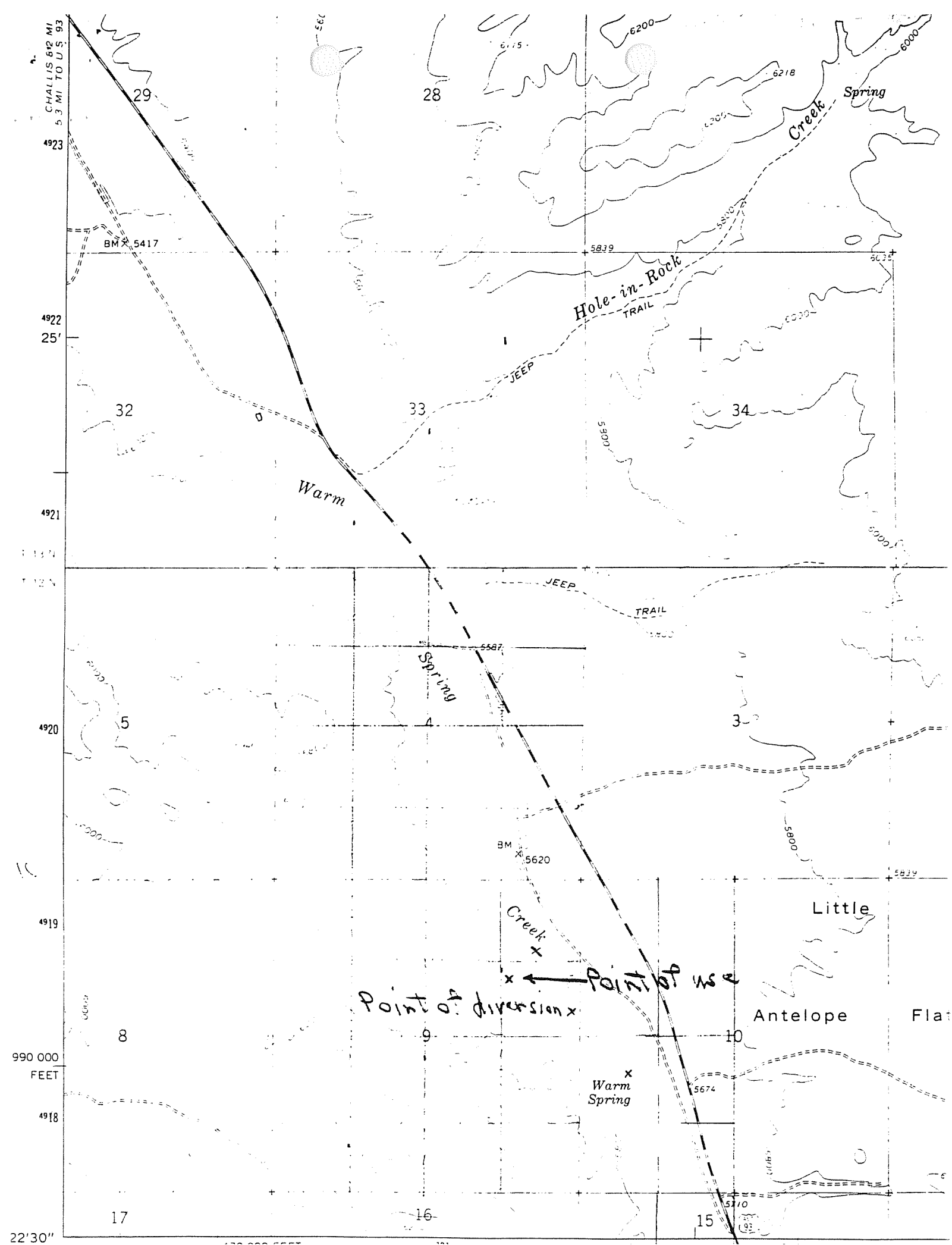
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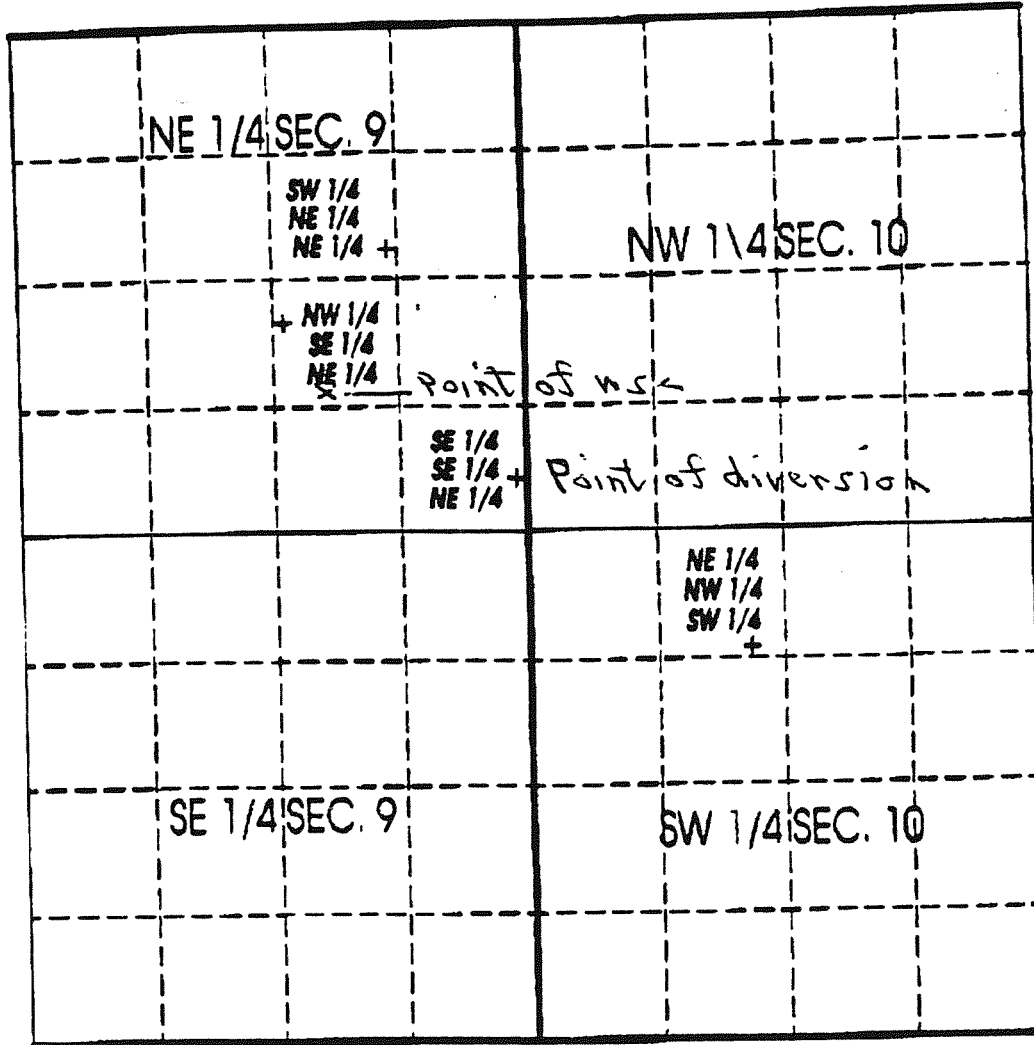
Mark Imbler
Signature of Applicant (and title, if applicable)

Received by J. F. Stanton Date 10-4-99 Time 1pm Preliminary check by J
Fee \$ 120. Received by J # 5022608 Date 10-14-99
Publication prepared by me Date 12/27/99 Published in Challis Messenger
Publication approved _____ Date _____

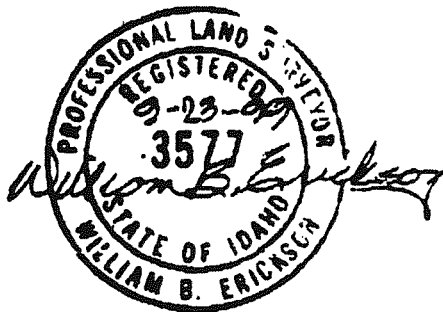


LUPHER POINT OF DIVERSION LOCATIONS

LOCATED IN SECTION 9 & 10, T. 12 N., R. 20 E., B.M., CUSTER CO., STATE OF IDAHO



+ = POINT OF DIVERSION LOCATIONS



ERICKSON SURVEYING SERVICES
P.O. BOX 1606
MACKAY, ID. 83261
PH. 208-688-3112
FAX. 208-688-2463



MEMO

TO: File

DATE: 11-19-1999

FROM: J E STANTON

SUBJECT: Apps. For Permit, Epicenter Aquaculture

On 11-11-99, I spent several hours with applicant Mark Lupher on this property reviewing these applications. He has a 30 year lease on a portion of the former Ingram ranch, and has been there for 5 years. The Ingrams were ranchers, not fish raisers, so had various raceways and ponds at various locations on their property at various times. Lupher has a background in commercial fish production, so he has done away with most of what Ingram had and replaced it with a modern facility. Some dirt ponds and one raceway built by Ingram will be retained if the necessary permits are approved by IDWR, but these facilities are not in use at this time. One Ingram pond will be used a settling pond above the main settling pond on Warm Creek (Warm Springs Creek on the quad map).

Warm Springs Creek is dry when it enters the Lupher property, having been diverted and stored by upstream users. Warm Springs is a series of several springs that flow out of the side of a hill just south of his mobile home. A canal collects these springs, carrying them north to Lupher's fish facility. Water enters the upper raceways (5), flows underground to the lower raceways (12), then to various settling facilities. Some water goes to an old Ingram pond for settling, then runs into Warm Springs Creek. A pond on the creek further settles the water. Some of the water settles in a ditch before being pumped back to the upper raceways for re-use. The ditch also dumps into the pond on the creek. Water in this pond flows out thru a culvert and measuring device to two smaller relief pumps that take it back to the upper raceways. This water eventually gets back into the Warm Springs Canal for use downstream by Mr. Morganroth. According to Lupher, he carefully measures this water so that there is at least as much water going back into the canal as he diverts from it. Water arising below the head of the canal offsets any evaporation loss in the raceways; see discussion below. Two of the upper raceways were closed off to reduce the diversion rate out of the canal to the licensed flow. The brood ponds just south of the raceways are also shut off at this time. The two raceways and the ponds will be put back into production if the necessary water permit is approved.

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

OCT 18 1999

Mark L. & Jo Anne W. Lupher
dba EPICENTER AQUACULTURE

s of the State of Idaho

Department of Water Resources
Southern Region

HC 61, Box 3016
Challis, ID 83226
USA

Phone 879-5786Warm Spring Creek

1. Name of Applicant

Mailing address

2. Source of water supply Scrap Springswhich is a tributary of Salmon River3. Location of point of diversion is Township 12 N Range 20 E Sec. 9 in the SE 1/4,SE 1/4, NE 1/4, Govt. Lot _____, B.M., Custer County;additional points of diversion if any: Warm Springs Creek; NE/NW/SW Sec. 10 T.12 N R. 20 E

4. Water will be used for the following purposes:

Amount 1.1 cfs for Fish propagation purposes from Jan 1 to Dec 31 (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)

5. Total quantity to be appropriated is (a) 1.1 and/or (b) _____

cubic feet per second

acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source existing canal & concrete head structure (8" pipe to be added).

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

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

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

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

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

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

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

c. Municipal; show name of municipality. _____

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	
12N	20E	9																	
			H			H													

H = Fish Propagation

Total number of acres to be irrigated _____

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

Same water is licensed for 0.92 cfs in a smaller facility under 72-07209

11. a. Who owns the property at the point of diversion? Lois Inc

b. Who owns the land to be irrigated or place of use? Lois Inc

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: See attached lease

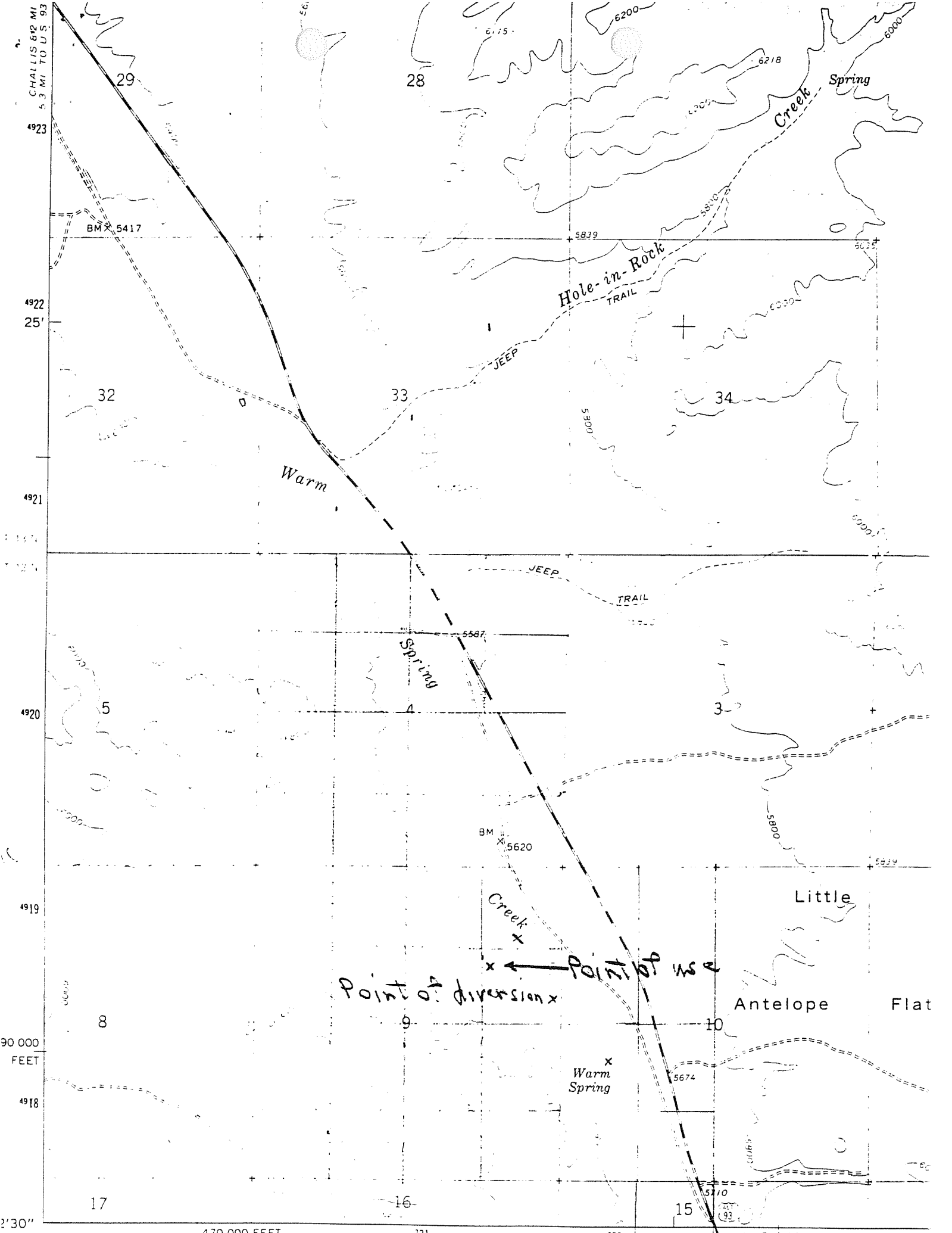
12. Remarks: Applicant wishes to divert seep springs to existing concrete raceway built 5 years ago.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" 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.)

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

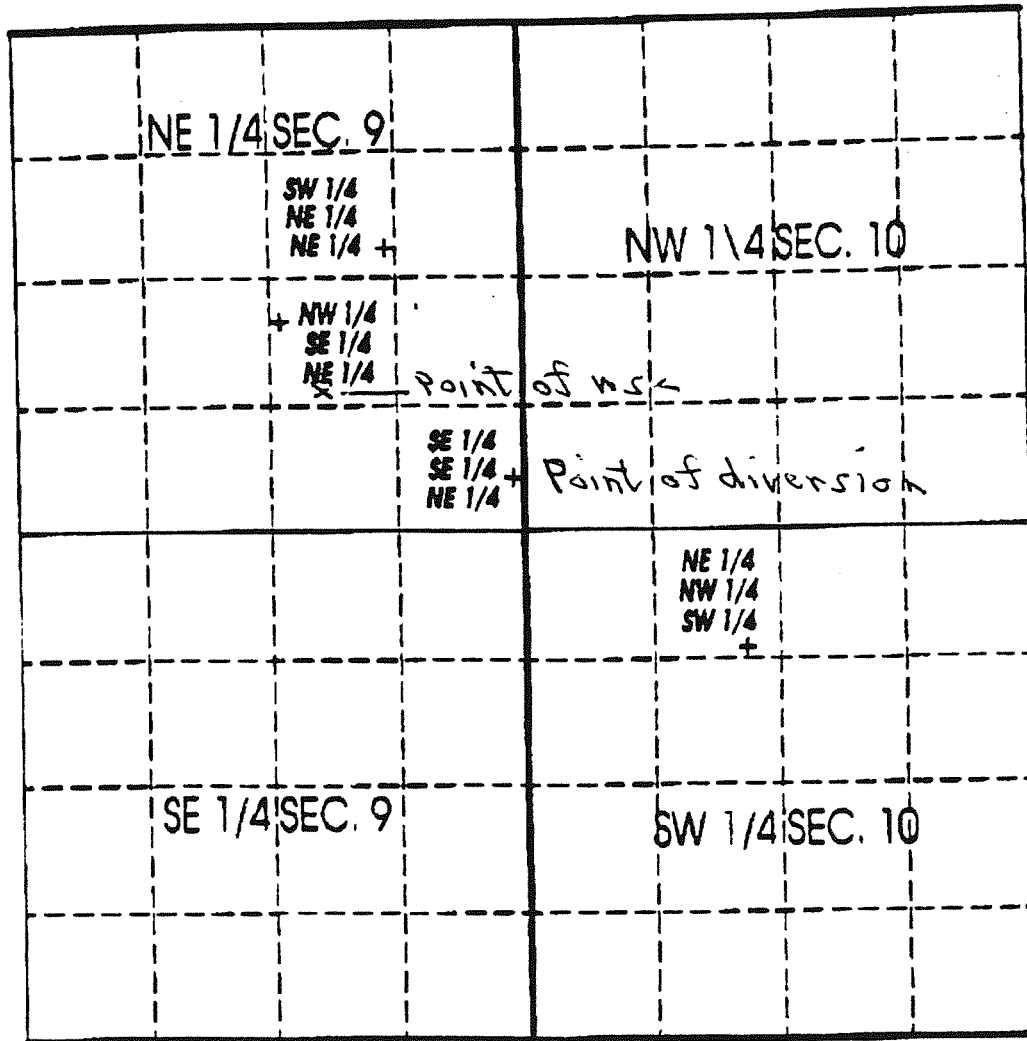
Mark Imph
Signature of Applicant (and title, if applicable)

Received by J. F. Stanton Date 10-4-99 Time 1pm Preliminary check by J
Fee \$ 120. Receipted by J # 5022608 Date 10-14-99
Publication prepared by MB Date 12/27/99 Published in Challis Messenger
Publication approved _____ Date _____

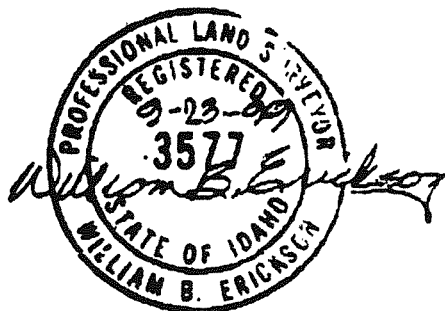


LUPHER POINT OF DIVERSION LOCATIONS

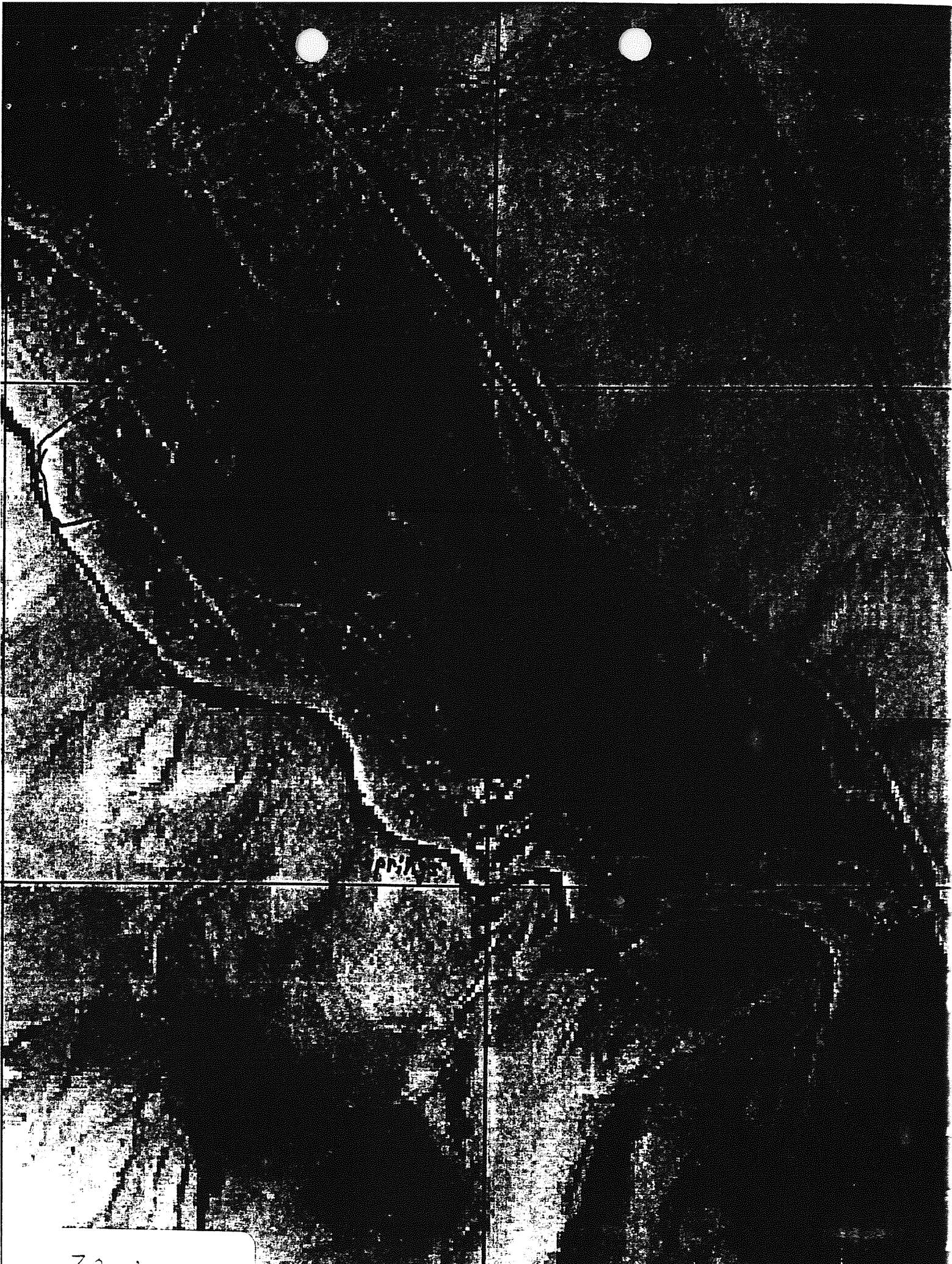
LOCATED IN SECTION 9 & 10, T. 12 N., R. 20 E., B.M., CUSTER CO., STATE OF IDAHO



+ = POINT OF DIVERSION LOCATIONS



ERICKSON SURVEYING SERVICES
P.O. BOX #606
MACKAY, ID. 83261
PH. 208-688-3112
FAX. 208-688-2463



MEMO

TO: File

DATE: 11-19-1999

FROM: J E STANTON

SUBJECT: Apps. For Permit, Epicenter Aquaculture

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AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

I, Ruth E. Burchill, representing the
Challis Messenger, a weekly newspaper, pub-
lished at Challis, Idaho, do solemnly swear that
the notice hereto attached and made a part here-
of, was published in the regular and entire issue
of the Challis Messenger for 2
consecutive weeks, commencing with the issue
dated Jan 6 ~~19~~ 2000 and ending with
the issue dated Jan 13 ~~19~~ 2000.

Ruth E Burchill

STATE OF IDAHO

COUNTY OF CUSTER

RECEIVED

JAN 14 2000

Department of Water Resources
Griffiths Region

On this 13th day of January in the
year of 2000 before me, a Notary Public,
personally appeared Ruth E. Burchill
known or identified to me to be the person
whose name subscribed to the within instru-
ment, and being by me first duly sworn, declared
that the statements therein are true, and ac-
knowledge to me that he executed the same.

NOTARY
JANET LANGIS
Notary Public for Idaho
Residing at Challis
My commission expires: 4/30/04

NOTICE OF APPLICATION FOR WATER RIGHT

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

72-07577

EPICENTER AQUACULTURE,
DBA
LUPHER, MARK L., LUPHER,
JOANNE, HC 61 BOX 3016,
CHALLIS, ID 83226.

Source: SEEP SPRINGS
Tributary: WARM SPRINGS
CREEK
Source: WARM SPRINGS
CREEK

Tributary: SALMON RIVER
Diversion Pt: SESENE Sec 9 T
12N R 20E in CUSTER County.
NENWSW Sec 10 T 12N R 20E
in CUSTER County.

Use: FISH PROPAGATION
(1.100 CFS)

Total Diversion: (1.100 CFS)

Date Filed: 10/14/1999

In: CUSTER County

T12N R20E S09 NENE SENE

72-07578

EPICENTER AQUACULTURE,
DBA LUPHER, MARK L LUPHER,
ANNE W, HC 61 BOX 3016,
CHALLIS, ID 83226

Source: WARM SPRINGS
Tributary: WARM SPRINGS
CREEK

Diversion Pt: SENWSW Sec 10 T
12N R 20E in CUSTER County.

Use: FISH PROPAGATION
(13.100 CFS)

Total Diversion: (13.100 CFS)

Date Filed: 12/14/1999

In: CUSTER County

T12N R20E S09 NENE SENE

The permit(s) will be subject to
all prior water rights. Any protest
must be filed with the Director,
Dept. of Water Resources, South-
ern Region, 1341 Fillmore St.,
Suite 200, Twin Falls, ID 83301,
together with a protest fee of
\$25.00 on or before JANUARY 25,
2000. The protestant must also
send a copy of the protest to the
applicant.

Karl J. Dreher, Director

Pub: Jan. 6 & 13, 2000.

RECEIVED

JAN 14 2000

STATEMENT

Department of Water Resources
Custer Region**Custer Publishing, Inc.**

Phone 879-4445

P.O. Box 405

Challis, Idaho 83226

Dept. of Water
1341 Fillmore St., Suite 200
Jurn Falls, Id 83301-3380

Job No.	Date	DESCRIPTION	Amount
	1-13-00	Notice of Application for Water Right	\$77.28
		<u>72-07577</u> & <u>72-07578</u>	
		1-6+13-00 56 lines	
			OK MB 1/31/00

A finance charge of 1½ percent (annual percentage rate of 18%) with a minimum charge of 50¢ will be charged to all accounts not paid within 30 days of billing.

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Source: WARM SPRINGS CREEK Tributary: SALMON RIVER

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 NENWSW Sec 10 T 12N R 20E in CUSTER County.

Use: FISH PROPAGATION (1.100 CFS)
 Total Diversion: (1.100 CFS)

Date Filed: 10/14/1999

In: CUSTER County NENE SENE
 T12N R20E S09

72-07578

EPICENTER AQUACULTURE, DBA
LUPHER, MARK L
LUPHER, ANNE W
HC 61 BOX 3016
CHALLIS, ID 83226

Source: WARM SPRINGS Tributary: WARM SPRINGS CREEK

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Karl J. Dreher, Director

Published: 1/ 6/2000 & 1/13/2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

DECEMBER 27, 1999

Legal Notices Department
CUSTER PUBLISHING COMPANY
PO BOX 405
CHALLIS, ID 83226

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JANUARY 25, 2000.

Yours truly,

Mary Baldwin
Administrative Assistant

Enclosure

MEMO

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