

Fisheries Dev. 36-7800

← Indian Springs



MICROFILMED

JUN 30 1993

36-7800

MICROFILMED

MAY 11 1993

Retain Photos!

Fisheries Dev. 36-7800



Small Weir at lower Springs.



Collection of Water from other Springs.



Water From Pond below Springs

MICROFILMED
JUN 30 1993

36-7800
MICROFILMED

MAY 11 1993

Retain Photos!

PLAT OF SURVEY FOR RALEIGH W. STEVENS

Located in NE⁴NE⁴ Sec. 13, T7S, R.13E., B.M.

Gooding County, Idaho

Brass Cap Set
1/16 Cor.



Big Pond Springs

Big Pond

Indian Springs

1316.74

N 89° 56' 40" W

1066.21

250'

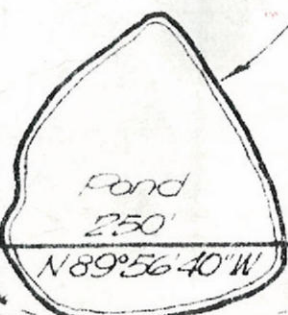
364.78 Ravenscroft
Springs

47.6

350'
S 0° 01' 2" W

450.00

534.93'
N 28° 35' 10" E



N 89° 56' 40" W



110.84
S 79° 33' 59" E

Ruby Springs
Diversion

Ruby Springs

Gardner Springs

wet spots

Stevens Springs
& Diversion Box

BILLINGSLEY
CREEK

NE⁴NE⁴

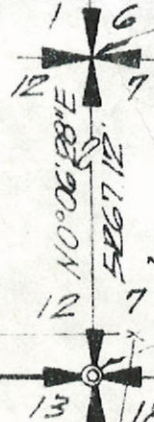
STEVENS PROPERTY

37.75 Ac.

- 2.53 Ac.

35.22 Ac. Rem.

Leach Spring
Diversion Box for Leach Spr



1316.78
N 0° 06' 28" E

JUN 30 1993

FILED

966.88

CEMETERIAL

MAY 1 1993

36-7800

CEMETERIAL

JUN 30 1993

NE & NE4
STEVENS PROPERTY
37.75 Ac.
- 2.53 Ac.
35.22 Ac. Rem.

36-7080
36-7664
36-7800

Hedgerman Water
Users Spring
Maske Spring

Leach Spring
River diversion Box for Leach Spr

Stevens Springs
diversion Box

wet spots

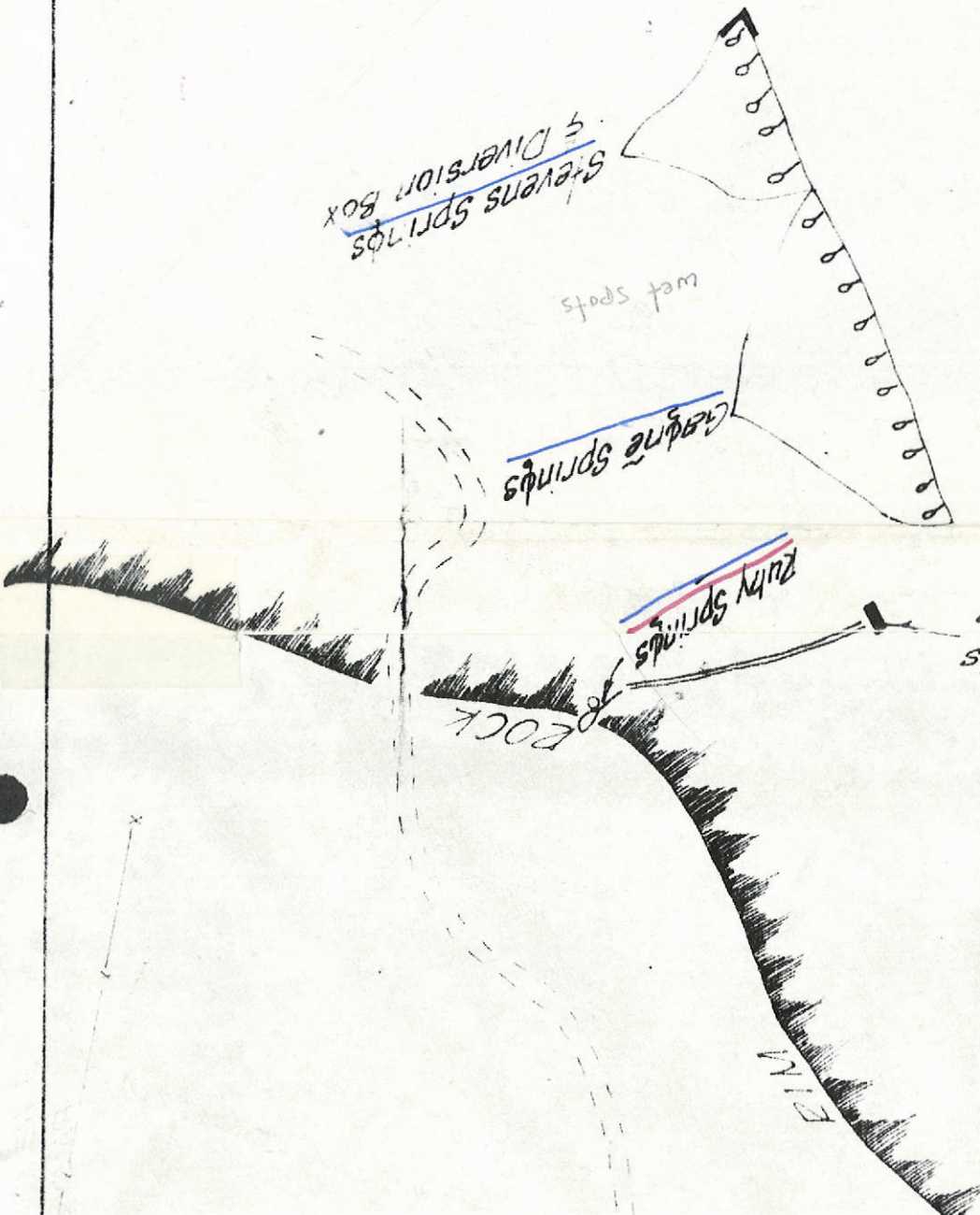
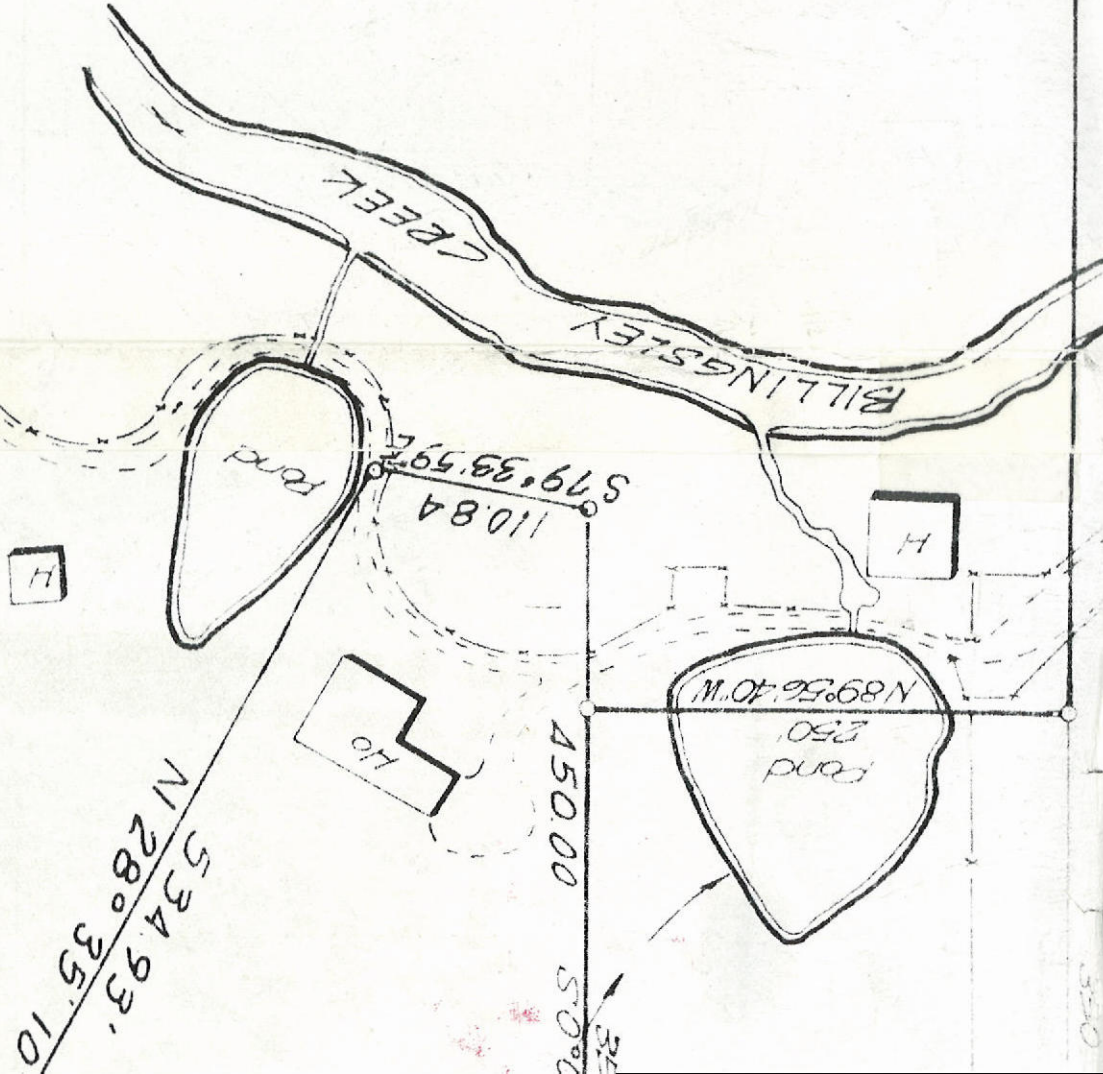
Gedone Springs

Ruby Springs

Ruby Springs
diversion

Rock

ELM



1316.78
N 0° 06' 28" E

1314 28'

S 80° 52' 58" E

Ponds covered by 36-07080 (7.7 AF facility volume) 11.54 of Springs } total Capacity 15.02
 Ponds covered by L36-07331 (2.5 AF Facility volume) 15.00 of Springs }

total facility volume 10.23

41,625

SWSESE

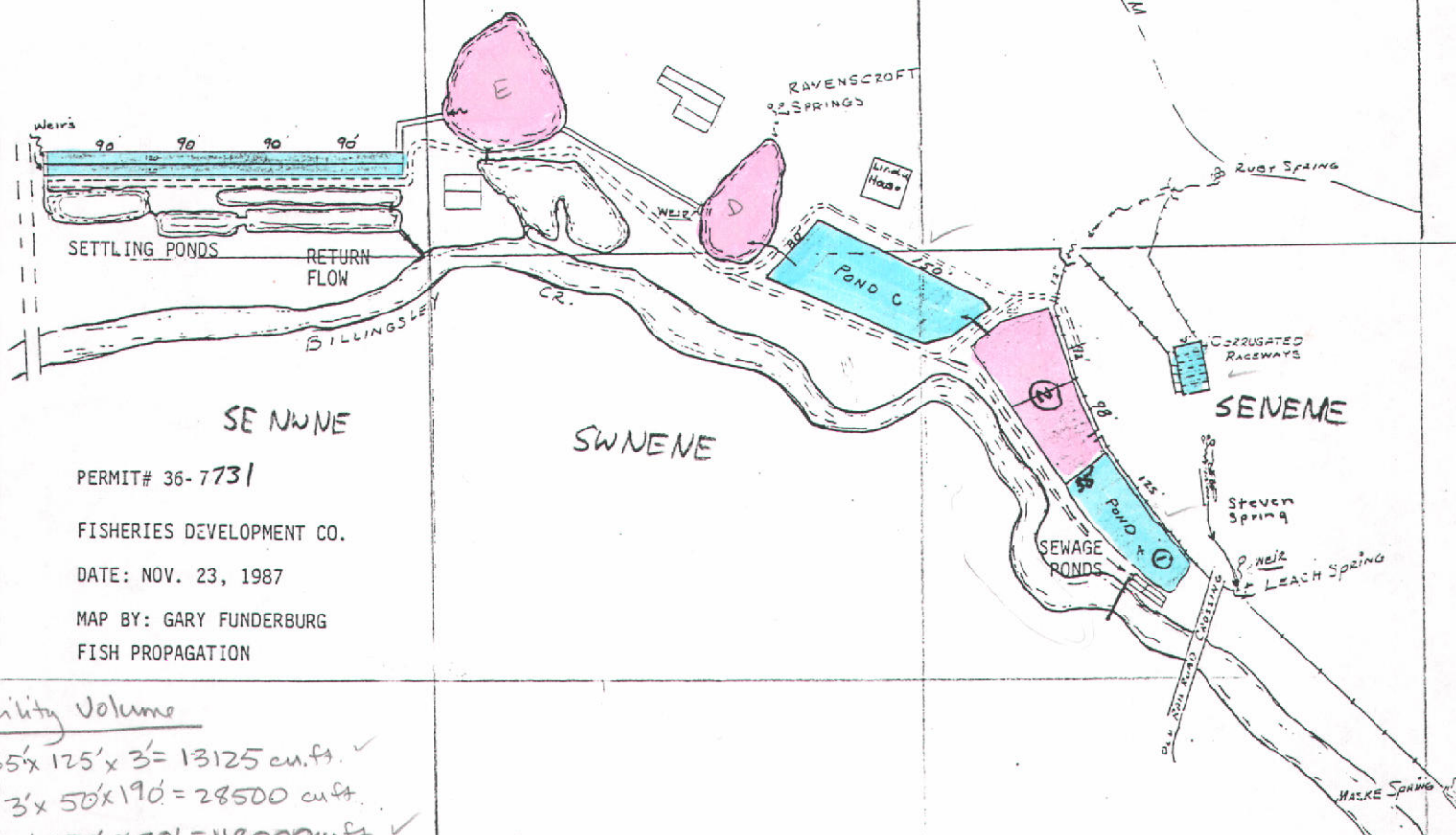
SESESE

NE NW NE
 TOWNSHIP 7 SOUTH RANGE 13 EAST
 SECTION 13

NW NE NE

NE NE NE

12 7
 13 18



PERMIT# 36-7731

FISHERIES DEVELOPMENT CO.

DATE: NOV. 23, 1987

MAP BY: GARY FUNDERBURG
 FISH PROPAGATION

Ponds where fish are raised.

These computations by Helen Harrington-Thornton.
 Spring of 1992
 Gary S.

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 OCT 23 1992

Facility Volume

- (1) 35' x 125' x 3' = 13125 cu. ft. ✓
- (2) 3' x 50' x 190' = 28500 cu. ft. ✓
- (3) 4' x 150' x 80' = 48000 cu. ft. ✓
- (4) 62' x 95' x 12' = 70680 cu. ft. ✓
- (5) 100' x 200' x 12' = 240,000 cu. ft. ✓
- Corrugated Raceways: 6 x 4' x 45' x 2' = 2160 ✓
- Raceways (West End) 8 x 90' x 20' x 3' = 43,200

Total Facility Vol. 445,665 cu. ft. ÷ 43500 = 10.23 AF

36-07080
 Facility Volume
 336,280 cu. ft.
 7.7 AF
 B+D+E
 volume of 25600 at exam

36-07731
 Facility Volume
 109,385 cu. ft.
 2.5 AF
 A+C+ Raceways + Enlarged capacity of B (28500 - 25600 = 2900 cu. ft.)



THIS IS THE LAYOUT OF THE FISH FACILITIES FOR FISHER DEVELOPEMENT.

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OCT 23 1992

36-7731
FISHERIES DEVELOPMENT CO.



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WASTE PONDS. WATER RUNS THROUGH THE FISH REARING PONDS CARRYING WASTE
TO THESE PONDS.

OUTLET OF THE FISH
FACILITIES



Water Right
36-~~7550~~
-7731

T7S
R13E

12 7
C257 13 18

place of
use

C272
(677c)
A
3.2

C256
(675c)

C321
(688c)
20.0

C107

C309
B
7.5
(646c)

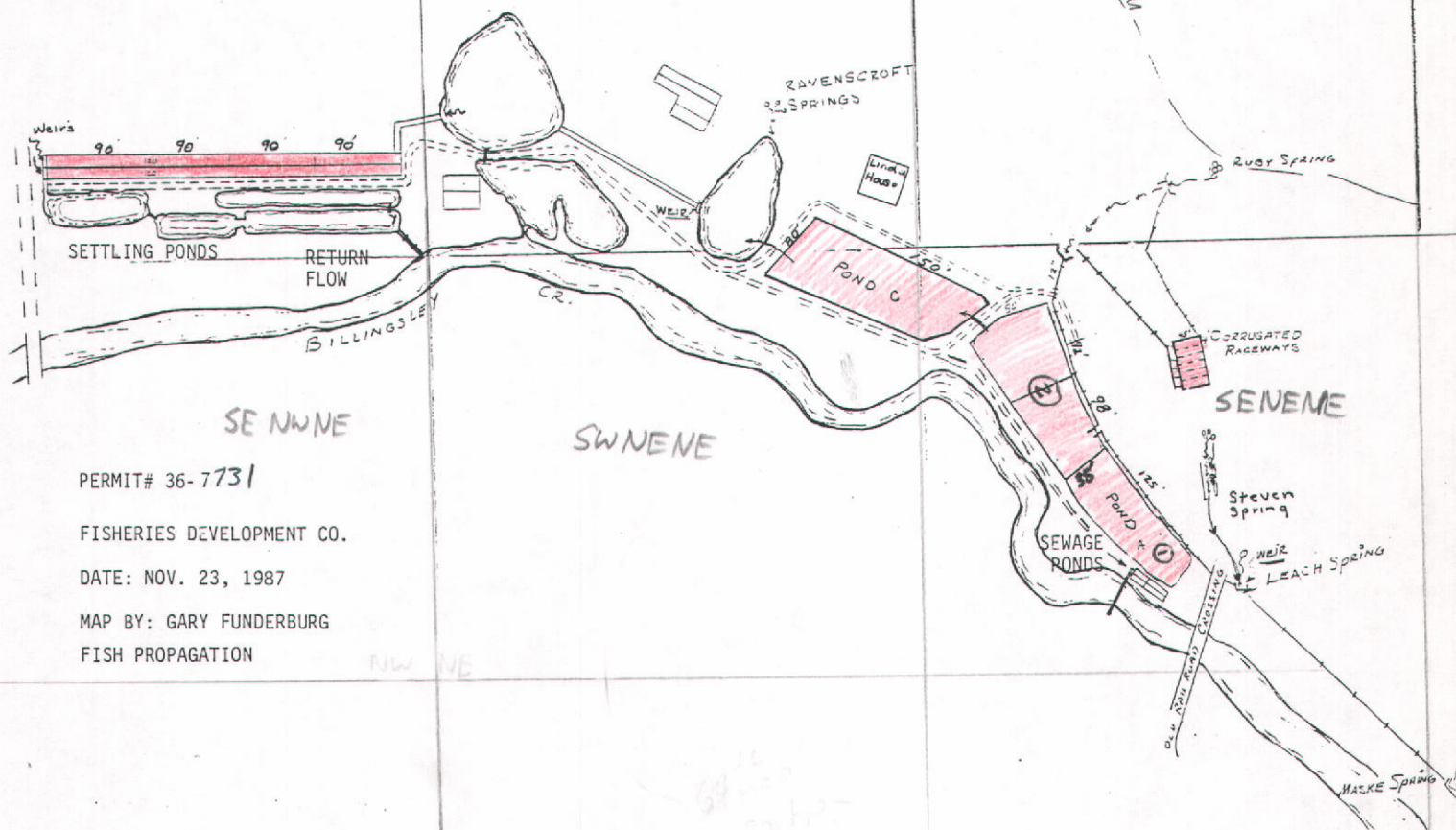
C128
A
7.6
(658c)

C129
A
3.9
(579c)

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"NOT TO SCALE"

TOWNSHIP 7 SOUTH RANGE 13 EAST
SECTION 13



PERMIT# 36-7731

FISHERIES DEVELOPMENT CO.

DATE: NOV. 23, 1987

MAP BY: GARY FUNDERBURG

FISH PROPAGATION

Ponds where fish are
raised.

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Department of Water Resources

2000 APR 10 AM 10:19
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) ORDER OF PARTIAL DECREE

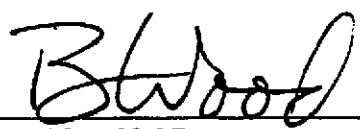
Case No. 39576

) For Water Right 36-07731
)
)
)

The Notice of Challenge filed in the above subcase having been heard and ruled upon, IT IS
THEREFORE ORDERED that water right 36-07731 is hereby **decreed** as set forth in the attached
Partial Decree Pursuant to I.R.C.P. 54(b).

IT IS SO ORDERED.

DATED APR 10 2000



BARRY WOOD
Administrative District Judge and
Presiding Judge of the
Snake River Basin Adjudication

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APR 11 2000

Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
_____)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-07731

2000 APR 10 AM 10:20

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME & ADDRESS: CLEAR LAKES TROUT CO INC
1301 VISTA AVE
BOISE ID 83705

SOURCE: SPRINGS TRIBUTARY: BILLINGSLEY CREEK

QUANTITY: 15.00 CFS
10745.2 AFY

PRIORITY DATE: 07/08/1977

POINT OF DIVERSION: T07S R13E S13 NENENE Within GOODING County
NWNENE
SENEENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	FISH PROPAGATION	01-01 12-31	15.00 CFS 10745.2 AFY

PLACE OF USE: FISH PROPAGATION Within GOODING County
T07S R13E S13 NENE NWNENE

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

A MEASURING DEVICE OF A TYPE APPROVED BY IDWR SHALL BE
MAINTAINED AS A PART OF THE DIVERTING WORKS.

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

THIS WATER RIGHT DOES NOT AUTHORIZE ANY ENLARGEMENT IN THE
PHYSICAL DIMENSIONS OF THE RACEWAYS.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



BARRY WOOD
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

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APR 11 2000

Department of Water Resources

CERTIFICATE OF MAILING

I hereby certify that true and correct copies of the **ORDER OF PARTIAL DECREE with attached PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)** were mailed on April 10, 2000, with sufficient first-class postage to the following:

IDWR Document Depository
PO Box 83720
Boise, ID 83270-0098

Chief, Natural Resources Div
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources
Division
550 West Fort Street, MSC 033
Boise, ID 83724

Dana Hofstetter
Beeman & Hofstetter
PO Box 1427
Boise, ID 83701-1427

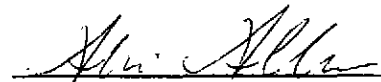
D. Craig Lewis
University of Idaho
College of Law
6th and Rayburn Street
Moscow, ID 83844-2321

Daniel Steenson
Ringert & Clark, Chtd
PO Box 2773
Boise, ID 83702-2773

Norman Semanko
Rosholt Robertson & Tucker
PO Box 1906
Twin Falls, ID 83303

Patrick Brown
109 S Adams
Jerome, ID 83338

John Hepworth
Hepworth Lezamiz & Hohnhorst
PO Box 389
Twin Falls, ID 83303


Deputy Clerk of the Court

• •

This
Right has been
Decreed in the
SRBA.

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-07731

Priority: July 8, 1977

Maximum Diversion Rate: 15.00 CFS
Maximum Diversion Volume: 10745.2 AF

This is to certify, that CLEAR LAKES TROUT CO INC
1301 VISTA AVE
BOISE ID 837050000

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated July 8, 1977; and
has submitted Proof of Beneficial Use on June 29, 1984. An examination indicates
that the works have a diversion capacity of 15.020 cfs of water from:

SPRINGS tributary to BILLINGSLEY CREEK

source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	15.00 CFS	10745.2 AF

LOCATION OF POINT(S) OF DIVERSION:

NENENE , Sec. 13, Township 07S, Range 13E
NWNENE , Sec. 13, Township 07S, Range 13E
SENENE , Sec. 13, Township 07S, Range 13E
GOODING County

PLACE OF USE: FISH PROPAGATION
TWN RGE SEC

07S 13E 13 NENE NWNE

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Use of water under this water right will be regulated by the watermaster of State Water District No. 36A.
6. Return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.

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OCT 23 1987

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-07731

CONDITIONS/REMARKS:

7. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
8. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
9. Facility volume = 109,385 cubic feet or 2.5 acre-feet.
10. Total facility volume could fluctuate depending on the water levels maintained by the outlet structures. This license does not, however, authorize any enlargement in the physical dimensions of the raceways.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 30TH day of SEPTEMBER, 19 72.

Acting for R. Keith Higginson, Director

OCT 28 1992

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	36-07731	R W Stevensen	18.00
~~Full Assignment~~	~~36-07731~~	~~Fisheries Development Co~~ ~~Mae C Martin~~ ~~Jeffrey M Martin~~ ~~Joy Martin~~ ~~Michael K Martin~~ ~~Vicki Martin~~	~~18.00~~
~~Full Assignment~~	~~36-07731~~	~~Fisheries Development Co~~	~~18.00~~
Full Assignment	36-07731	Clear Lakes Trout Co Inc	18.00

OCT 23 1992

Department of Water Administration

ASSIGNMENT OF PERMIT

X, FISHERIES DEVELOPMENT COMPANY, hereby assign to CLEAR LAKES TROUT CO., INC.
of 1301 Vista Ave., Boise, Idaho 83705

Address

CHECK ONE



All my right, title, and interest, in and to Permit No. 36-7731
to appropriate the public waters of the State of Idaho.



The following described portion of my right, title, and interest in and
to Permit No. _____ to appropriate the public waters of the State
of Idaho. (Describe that portion of the permit being assigned by list-
ing the acreage within each 40-acre subdivision, the point of diversion
and the amount of water in cubic feet per second for direct diversion,
or acre feet for storage.)

Made this _____ day of September, 19 86

FISHERIES DEVELOPMENT COMPANY

BY Nyal Hoffman Pres
Permit Holder

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FEB 04 1987

Department of Water Resources

ATTEST: Judith A. Hoffman Secy
Spouse of Permit Holder

State of Idaho)
County of Jerome) ss.

On this 19th day of September, 19 86, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged
to me that NYAL HOFFMAN, President
~~to me that he, personally, executed the same.~~

Larry Palmer
Notary Public residing at

Boise, Idaho

My commission expires: 6-30-91

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MAR '00 1901

FROM

Robyn

DATE

4-20-82

TO

SUBJECT

All of the following files are
connected. Review these before
licensing

36-7697

36-7731✓

36-7725

36-7800✓

36-7080 (field exam done)

36-7664

36-8074

Do not Film!!

SIGNATURE

RECEIVED

ASSIGNMENT OF PERMIT

Mac C. Martin, Jeffrey M. Martin and Joy Martin, husband and wife, JUN 12 1984
Michael k. martin and Vicki Martin, hereby assign to FISHERIES DEVELOPMENT COMPANY
 husband and wife,
an Idaho corporation, Route 1, Filer, Idaho Department of Water Resources
 Address

CHECK ONE

- ☒ All my right, title, and interest, in and to Permit No. 36-7731
 to appropriate the public waters of the State of Idaho.
- ☐ The following described portion of my right, title, and interest in and
 to Permit No. _____ to appropriate the public waters of the State
 of Idaho. (Describe that portion of the permit being assigned by list-
 ing the acreage within each 40-acre subdivision, the point of diversion
 and the amount of water in cubic feet per second for direct diversion,
 or acre feet for storage.)

Made this 12th day of August, 1983.

Mac C. Martin
 Permit Holder

Permit Holder

Michael k. Martin
 Permit Holder

Permit Holder

Mac C. Martin
 Permit Holder

Permit Holder

State of Idaho)
 County of Twin Falls) ss.

On this 12th day of August, 1983, personally
 appeared before me the signer(s) of the above instrument, who duly acknowledged
 to me that ~~hexxxxxxxx~~ Mac C. Martin executed the same.



Reva A. Johnson
 Notary Public residing at
Twin Falls, Idaho

My commission expires: Life

STATE OF Idaho)

County of Bonneville)

ss.

On this 12 day of August, 1983, before me, the undersigned, a Notary Public in and for said State, personally appeared JEFFREY M. MARTIN and JOY MARTIN, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Doris Toone
NOTARY PUBLIC
Residence: Idaho Falls, Id

STATE OF Idaho)
County of Bonneville)

ss.

On this 12 day of August, 1983, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL K. MARTIN and VICKI MARTIN, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Doris Toone
NOTARY PUBLIC
Residence: Idaho Falls, Id

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 36-7731)
IN THE NAME OF FISHERIES DEVELOPMENT CO., MAC)
MARTIN, FEFFREY M. & JOY MARTIN, MICHAEL K.) ORDER
& VICKI MARTIN)
_____)

WHEREAS, the Department has issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before July 1, 1984; and,

WHEREAS, on March 30, 1984 the Department issued an order whereby the permit holders were required to show cause on or before May 5, 1984 why the permit should not be cancelled; and,

WHEREAS, the Department determined it necessary for the permit holders to respond to the Show Cause Order before requesting submittal of the proof of construction of works and application of water to beneficial use notice; and,

WHEREAS, the permit holders did show cause why the permit should not be cancelled; and,

WHEREAS, Section 42-204, Idaho Code provides that permit holders must be given sixty days notice prior to the date the proof of construction of works and application of water to beneficial use is due;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit the proof of construction of works and application of water to beneficial use be extended to August 1, 1984.

Dated this 31st day of May, 1984.


L. GLEN SAXTON
Chief, Operations Bureau

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

IN THE MATTER OF PERMIT	)	
NO. 36-7731 IN THE NAME	)	
OF FISHERIES DEV. CO. &/OR	)	ORDER TO SHOW CAUSE
MAC C. MARTIN &/OR JEFFREY M.	)	
&/OR JOY MARTIN &/OR MICHAEL K.)	)	
&/OR VICKI MARTIN	)	
_____	)	

WHEREAS, on July 20, 1979 the Department issued the above-captioned permit for the diversion of 18.0 cfs of water from unnamed springs with point of diversion located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 13, Township 7 South, Range 13 East for fish propagation purposes; and,

WHEREAS, amendment of Section 42-204, Idaho Code in 1982 required that every permit holder must within one year from the date of permit issuance commence the excavation or construction of the works by which water would be diverted unless temporarily interrupted through no fault of the permit holder by circumstances over which he has no control; and,

WHEREAS, amended Section 42-204, Idaho Code also provided that existing permit holders have one (1) year from the date of notification by the Director of the construction of works requirement to meet the provisions of the amended section; and,

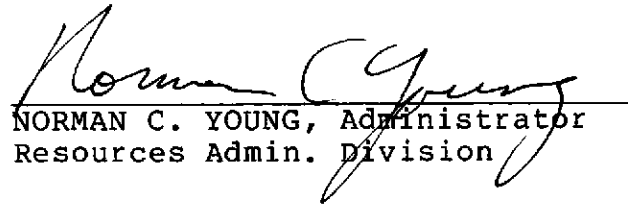
WHEREAS, the Director has provided the required notice to holders of existing permits and to holders of newly issued permits of the provisions of Section 42-204, Idaho Code; and,

WHEREAS, the Department has no evidence to show that the holders of the above referenced permit have complied with the requirement; and,

WHEREAS, Section 42-311, Idaho Code provides the Department may cancel permits, the owners of which failed to comply with the law as to the date of commencing work;

IT IS, THEREFORE, ORDERED that the holders of the above-captioned permit show cause on or before May 5, 1984 why the permit should not be cancelled.

Dated this 30th day of MARCH, 1984.


NORMAN C. YOUNG, Administrator
Resources Admin. Division

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APR 22 1983

Department of State Resources
Sawtooth Forest Office

QUITCLAIM DEED

*OK to proceed
as assignment
RC 5-3-83*

THIS INDENTURE, made this 27th day of October, 1982, by and between RALEIGH W. STEVENS as Trustee of the Estate of Grace S. Henry, party of the first part, and FISHERIES DEVELOPMENT COMPANY, an Idaho Corporation, MAC C. MARTIN, an unmarried man, JEFFREY M. MARTIN and JOY MARTIN, husband and wife, and MICHAEL K. MARTIN and VICKI MARTIN, husband and wife, whose address is 664 Buchanan, Twin Falls, Idaho 83301, party of the second part,

WITNESSETH:

That the party of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) to him in hand paid by the parties of the second part, receipt whereof is hereby acknowledged, and of other good and valuable consideration, does hereby sell, convey, remise, release and forever quitclaim unto the said party of the second part, their heirs and assigns forever, all the right, title, interest, claim and demand which the said party of the first part now has or may hereafter acquire, in and to the real property situate in the County of Gooding, State of Idaho, to-wit:

As described in Exhibit "A" attached hereto and by reference incorporated herein as though fully set forth herein.

THIS DEED IS GIVEN IN FULL AND COMPLETE SATISFACTION OF THAT CERTAIN JUDGMENT ENTERED JANUARY 22, 1982 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL OF THE STATE OF IDAHO, IN AND

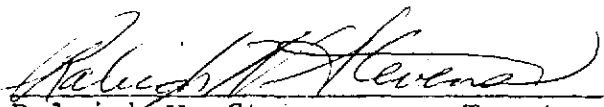
RECORDED

FOR THE COUNTY OF TWIN FALLS, CASE NO. 32008, IN FAVOR OF FISHERIES DEVELOPMENT COMPANY, AN IDAHO CORPORATION AND AGAINST RALEIGH W. STEVENS AND VIRGINIA STEVENS IN THE AMOUNT OF \$326,698.66 AND IN FULL AND COMPLETE SATISFACTION OF THAT CERTAIN JUDGMENT ENTERED JANUARY 22, 1982 IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS, CASE NO. 32008, IN FAVOR OF MAC C. MARTIN, MICHAEL K. MARTIN AND VICKI MARTIN, HUSBAND AND WIFE, AND JEFFREY M. MARTIN AND JOY MARTIN, HUSBAND AND WIFE, AND AGAINST RALEIGH W. STEVENS AND VIRGINIA STEVENS IN THE AMOUNT OF \$75,000.00 and costs. BY ACCEPTANCE HEREOF GRANTEEES AGREE THAT THE SAID JUDGMENTS ARE FULLY AND COMPLETELY SATISFIED.

All of the provisions of the attached "Estoppel Affidavit" are by this reference incorporated herein and made a part thereof.

TO HAVE AND TO HOLD the same, together with all and singular, the appurtenances and privileges thereunto belonging or in anywise appertaining, and all estate, right, title, interest and claim whatever, of the party of the first part thereto, either at law or in equity, to the only proper use, benefit and behoof of the parties of the second part, and their assigns forever.

IN WITNESS WHEREOF, the party of the first part has set his hand the day and year first above written.


Raleigh W. Stevens, as Trustee of
the Estate of Grace S. Henry

STATE OF IDAHO)

) ss.

County of Gooding)

On this 27th day of October, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared RALEIGH W. STEVENS, known or identified to me to be the person whose name is subscribed to the foregoing instrument as Trustee of THE ESTATE OF GRACE S. HENRY, and 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 last above written.

Dary W. Shaw
Notary Public for Idaho
Residing at Gooding Idaho

MICROFILMED

The following described real estate, all in Gooding County,
Idaho:

Township 7 South, Range 13 East of the Boise Meridian.

Section 13: Part of the NW1/4NE1/4 described as follows: Beginning NE corner of said NW1/4NE1/4; thence South along the East line of said NW1/4NE1/4, 395.00 feet, to true point of beginning; thence South along the said East Line of NW1/4NE1/4, 390.18 feet; thence N 88° 39' W, 659.40 feet to a County Road; thence N 14° 29' E, along said County Road, 257.71 feet to the centerline of an access road; thence along the centerline of said access road the following courses and distances: N 83° 58' E, 510.02 feet; N 46° 25' E, 100.00 feet; N 82° 02' E, 25.35 feet to the true point of beginning. TOGETHER WITH ALL water and ditch rights appurtenant thereto.

Township 7 South, Range 13 East of the Boise Meridian.

Section 13, NE1/4NE1/4. EXCEPTING THEREFROM a tract of land described as follows: Commencing at the Northwest corner of NE1/4NE1/4; thence East 250 feet; thence South 350 feet; thence West 250 feet; thence North 350 feet to the point of beginning. ALSO EXCEPTING THEREFROM a tract of land described as follows: Beginning at the Northeast corner of Section 13, thence N 89° 56' W, 701.46 feet along the Northerly boundary of Section 13 to the TRUE POINT OF BEGINNING; thence N 89° 56' 40" W, 364.78 feet along the Northerly boundary of Section 13; thence S 0° 01' 21" W, 450.00 feet; thence S 79° 33' 59" E, 110.84 feet to the center of an existing driveway; thence N 28° 35' 10" E, 534.93 feet to a point in the Northerly boundary of Section 13, THE TRUE POINT OF BEGINNING. TOGETHER WITH all water and ditch rights appurtenant thereto.

TOGETHER WITH all right, title and interest in and to the following:

Application for Water Right Permit No. 36-7080
for 17.2 CFS.

Application for Water Right Permit No. 36-7664
for 10 CFS.

Application for Water Right Permit No. 36-7725
for 100 CFS.

Application for Water Right Permit No. 36-7731
for 18 CFS.

Application for Water Right Permit No. 36-7800
for 8 CFS.

Application for Water Right Permit No. 36-8074
for 100 CFS for hydropower.

EXHIBIT "A" of EXHIBIT 5

ESTOPPEL AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Gooding)

RALEIGH W. STEVENS as Trustee of the Estate of Grace S. Henry, being first duly sworn, disposes and says:

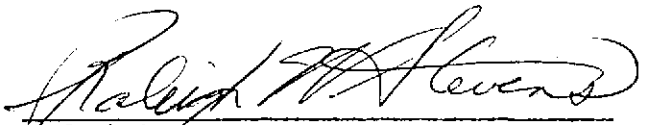
1. That he made, executed and delivered the attached Quitclaim Deed, as Grantor, to Fisheries Development Company, an Idaho Corporation, Mac C. Martin, an unmarried man, Jeffrey M. Martin and Joy Martin, husband and wife, and Michael K. Martin and Vicki Martin, husband and wife, as Grantees.

2. Said Deed is an absolute conveyance of title to the real estate, Water Applications, Permits and Rights therein described to the Grantees named therein, in effect as well as in form, and is not intended as a mortgage, trust conveyance, or security of any kind. The consideration for said Deed is payment to Grantor of the sum of One Dollar (\$1.00) by Grantees, receipt of which is hereby acknowledged, and the full and complete satisfaction of that certain Judgment entered January 22, 1982 in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, Case No. 32008, in favor of Fisheries Development Company, an Idaho Corporation and against Raleigh W. Stevens and Virginia Stevens in the amount of \$326,698.66 and in full and complete satisfaction of that certain Judgment entered January 22, 1982 in the District Court of the Fifth Judicial District of the State of Idaho, in and for the

County of Twin Falls, Case No. 32008, in favor of Mac C. Martin, Michael K. Martin and Vicki Martin, husband and wife, and Jeffrey M. Martin and Joy Martin, husband and wife, and against Raleigh W. Stevens and Virginia Stevens in the amount of \$75,000.00 and costs.

3. The said Deed was voluntarily executed and delivered by the undersigned to Grantees and is intended to convey to Grantees all estate, right, title, interest and claim whatever, of Grantor in and to the property therein described,

4. This affidavit is made for the protection and benefit of the aforementioned Grantees, their heirs, successors and assigns, and all other parties hereafter dealing with or who may acquire an interest in the property described in the Deed to which this affidavit is attached.


Raleigh W. Stevens, as Trustee
of the Estate of Grace S. Henry

MICROFILMED

STATE OF IDAHO)
) ss.
County of Gooding)

On this 27th day of October, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared RALEIGH W. STEVENS, known or identified to me to be the person whose name is subscribed to the foregoing instrument as Trustee of THE ESTATE OF GRACE S. HENRY, and 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 last above written.

Gay W. Shaw
Notary Public for Idaho
Residing at Gooding Idaho

97689

STATE OF IDAHO, COUNTY OF GOODING, ss.

Filed for record at the request of Manning Holmes Winnell

12 min. past 9 A. M. 3rd day

of November, 1982.

MARGARET F. ELMERIS Recorder

By Virginia Estes, Deputy

MICROFILMED

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

IN THE MATTER OF REHEARING REQUEST
FOR PERMIT NO. 36-7731 IN THE NAME
OF R. W. STEVENS

DENIAL OF REHEARING REQUEST

On July 20, 1979, the Director of the Department of Water Resources issued a Memorandum Decision and Order approving Application for Permit No. 36-7731.

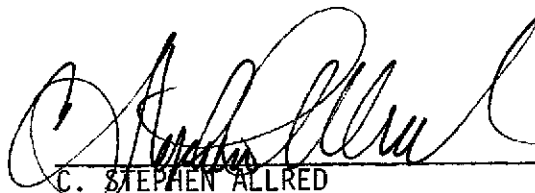
On August 2, 1979, the protestant, James V. Norwood requested a rehearing on several grounds.

The grounds for rehearing as set out in the request have been reviewed by the Director and he finds that those grounds were all issues on which evidence was presented at the hearing.

The Director agrees that several of the Findings of Fact proposed by the protestant could have been included in the Memorandum Decision, but their inclusion would not have affected the decision reached.

Therefore, the petition for a rehearing is DENIED.

Dated this 27 day of September, 1979.



C. STEPHEN ALLRED

Director

RECORDED

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO)

COUNTY OF ADA)

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have on this date served a true and correct copy of the foregoing DENIAL OF REHEARING REQUEST by depositing a copy thereof in the United States mail, postage prepaid and addressed to:

Robert C. Weaver
130 North Broadway
Buhl, ID 83316

R. W. Stevens
P. O. Box 402, Route 1
Hagerman, ID 83332

James V. Norwood
Route 1, Box 448
Hagerman, ID 83332

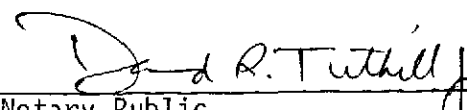
Matthew Mullaney
Capitol Park Plaza East
512 W. Bannock
Boise, ID 83702

Hagerman Water Users Association, Inc.
Louis Koopman, President
Hagerman, ID 83332

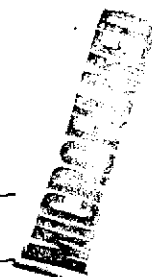
Dated this 2nd day of October, 19 79.



On this 2nd day October, 19 79, personally appeared before me the signer of the above instrument, who duly acknowledged to me that he (she) executed the same.


Notary Public
Residing at Boise, ID

Commission expires: 9/10/80



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

IN THE MATTER OF PROTESTS AGAINST APPROVAL }
OF APPLICATION FOR PERMIT NO. 36-7731 IN }
THE NAME OF R. W. STEVENS }

MEMORANDUM DECISION
AND ORDER

On July 8, 1977, R. W. Stevens filed Application for Permit No. 36-7331 to appropriate for fish propagation purposes 18.00 cubic feet per second of water from seven unnamed springs, one of which is known as Hagerman Water Users Spring. These seven springs are located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M., Gooding County and the water will be used in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M.

Notice of this application for permit was published in the Gooding County Leader, Gooding, Idaho on July 21 and 28, 1977. Protests were received from James V. Norwood on August 3, 1977 and from the Hagerman Water Users Association, Inc. on August 9, 1977. On January 9, 1978, Mr. Edward C. Shokal, who had protested as a member of the Hagerman Water Users Association, Inc., withdrew his individual portion of the protest.

On January 9 and 10, 1978, a hearing was held at Twin Falls, Idaho in accordance with the rules and regulations and practice and procedures of the Department. The applicant was present and represented by Matthew Mullany, attorney at law. The protestant, James V. Norwood, was present and represented by Robert C. Weaver, attorney at law. The protestant, Hagerman Water Users Association, Inc. did not appear.

The main issue is whether the applicant will interfere with the prior water rights of the protestants if allowed to divert the spring known as the Hagerman Water Users Spring located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M.

The Director of the Department of Water Resources after consideration of the available evidence makes the following Findings of Fact, Conclusions of Law, Analysis, and Order:

FINDINGS OF FACT

1. The protestant, James V. Norwood, diverts 10.00 cubic feet per second of water under water right License No. 36-7159, 2.64 cubic feet per second under water right License No. 36-7160 and 10.00 cubic feet per second under License No. 36-7092, for fish propagation. The water is diverted from unnamed springs at points

within the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E and SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, Twp. 7S, Rge. 14E B.M.

2. The Hagerman Water Users Spring is located within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M. as is the point where water is diverted into the Hagerman Water Users' ditch. The ditch crosses the land of the protestant, James V. Norwood, and he has constructed a diversion works from the ditch to his fish ponds.

3. There are several other springs located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M. on the protestant's land which are also used in his fish ponds.

4. The water if not diverted into the Hagerman Water Users' ditch would flow in a natural channel across the applicant's land and into Billingsley Creek.

5. Permit No. 36-7159 was originally issued by the Director with one of the points of diversion located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M. and also with the following condition:

2. That Permit No. 36-7159 is subject to all prior water rights and more explicitly those of Herbert L. Maske from the two springs that are located on Mr. Maske's property, to the extent that such rights do exist.

Mr. R. W. Stevens, the applicant, is now the owner of the Maske property located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13.

6. On November 21, 1975, a field examination was conducted of the protestant's fish facilities so that water right licenses could be issued on Permit Nos. 36-7159, 36-7160 and 36-7092. The field examination reports indicated that water was being diverted only at points in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E and SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 18, Twp. 7S, Rge. 13E B.M.

7. The Hagerman Water Users Association made no appearance at the hearing.

CONCLUSIONS OF LAW

1. The protestant, James V. Norwood, is not entitled to the water of the Hagerman Water Users spring located in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 7S, Rge. 13E B.M. under License Nos. 36-7159, 36-7160 or 36-7092. Therefore, the diversion of water proposed by the applicant is not subject to the water right established by those licenses.

2. The protest of the Hagerman Water Users Association must be set aside.

ANALYSIS

The water right License Nos. 36-7159, 36-7160 and 36-7092 do not describe as a point of diversion the heading of the Hagerman Water Users' ditch and, therefore, no water right is established at that point. The taking of the water at an overflow point along the ditch could have established a right, senior to the water right

requested by this application, except that the sources of water shown on the licenses at the point of diversion are unnamed springs.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 36-7731 is APPROVED subject to the following conditions:

1. Subject to all prior water rights.
2. That proof of construction of works and application of water to beneficial use shall be submitted to the Department on or before July 1, 1984.
3. A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

Dated this 20 day of July, 1979.



A handwritten signature in dark ink, appearing to read 'Stephen Allred', is written over a horizontal line.

G. STEPHEN ALLRED

Director

Identification No. _____

Application No. 36-7731

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

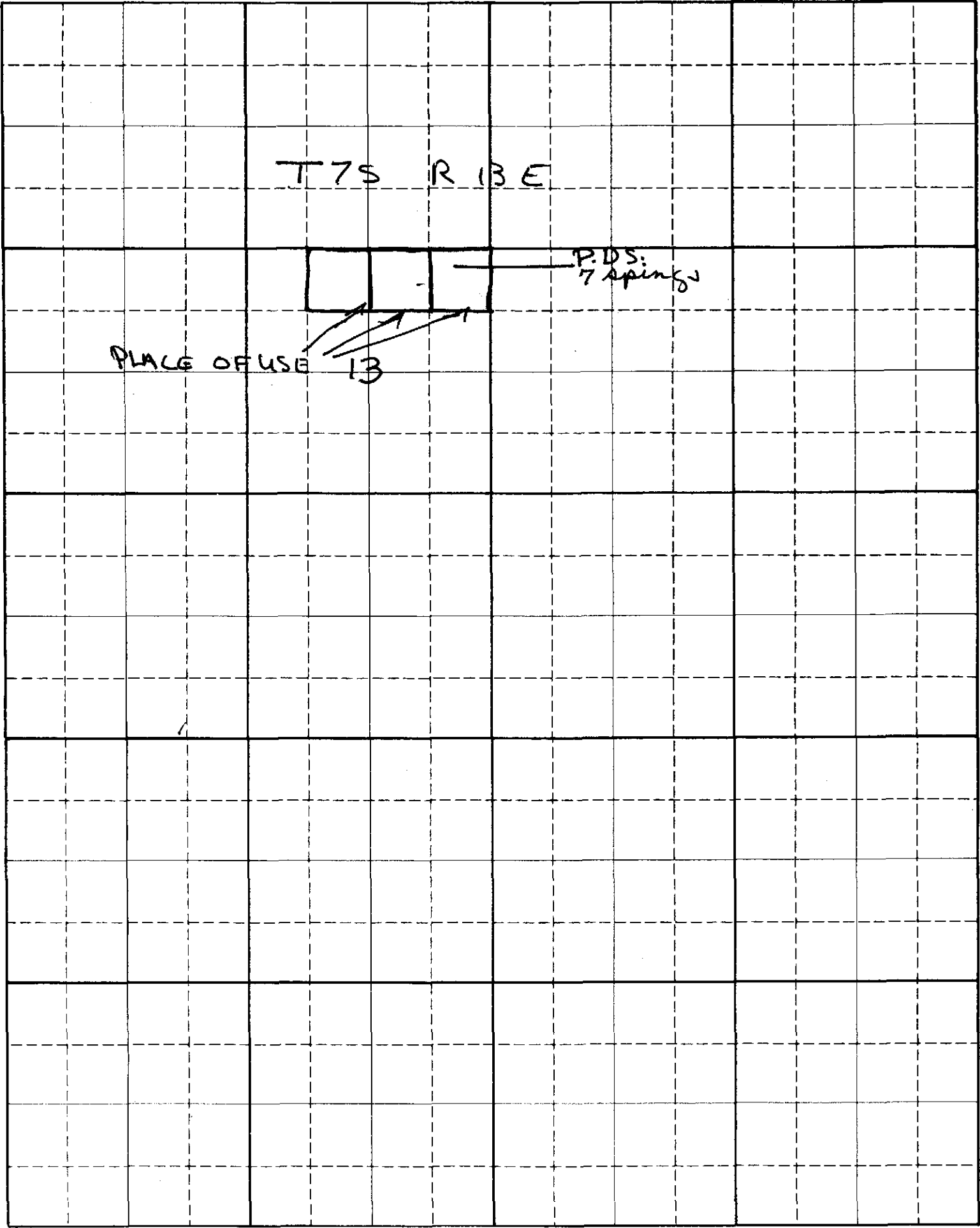
To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant R. W. Stevens Phone: 837-4954
post office address P. O. Box 402, Route #1, Hagerman, ID 83332
2. Source of water supply unnamed springs which is a tributary of _____
3. a. Location of point of diversion is NE 1/4 of NE 1/4 of Section 13 Township 7S
Range 13E., B.M. Gooding County; additional points of diversion if any: 6 unnamed springs and 1 spring locally known as the Hagerman Waterusers' spring.
- b. If water is not consumed, it will be discharged into _____ at a point in _____ 1/4
of _____ 1/4 of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 18.0 cfs for fish prop. purpose from Jan. 1' to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 18.0 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. concrete headgates with permanent measuring devices, weirs and pipes to a series of fish ponds.
- b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is \$ 7,800.00.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: NE 1/4 of NE 1/4 of Section 13 Township 7S
Range 13E., B.M. NW 1/4 NE 1/4, NE 1/4 NW 1/4, Sec. 13, Twp. 7S, Rge. 13E., B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____



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



Scale: 2 inches equal 1 mile

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

[Signature]
(Applicant)

APPROVED
JAN 11 1964

PROPOSED PRIORITY: 7/8/1977

Received by MD Date 7/8/77 Time 8:15 a.m.
Preliminary check by BA Fee \$ 195.00 # 8626
Received by MD Date 7/8/77
Publication prepared by MD Date 7/1/77
Published in Bozeman City Bozeman
Publication dates 7/21 & 7/28/77
Publication approved MD Date 8/1/77
Priority reduced to _____ Reason _____

Protests filed by: Hagerman Water Users Assn., Inc.
James V. Norwood

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 36-7731, and said application is hereby APPROVED.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before July 1, 19 84.

c. Other: _____

PURSUANT TO MEMORANDUM DECISION AND ORDER

2. Denial of said application is for the following reasons: _____

Witness my hand this 20 day of July 19 79.

Deputy Director

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

COUNTY OF ADA

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have on this date served a true and correct copy of the foregoing MEMORANDUM DECISION AND ORDER by depositing a copy thereof in the United States mail postage prepaid and addressed to:

R. W. Stevens
P. O. Box 402, Route 1
Hagerman, ID 83332

James V. Norwood
Route 1, Box 448
Hagerman, ID 83332

Hagerman Water Users Association, Inc.
Louis Koopman, President
Hagerman, ID 83332

Robert C. Weaver
130 North Broadway
Buhl, ID 83316

Matthew Mullaney
Capitol Park Plaza East
512 West Bannock Street
Boise, ID 83702

Dated this 26th day of July, 19 79.

Rita Lusk

On this 26th day of July, 19 79, personally appeared before me the signer of the above instrument, who duly acknowledged to me that he (she) executed the same.

David R. Tuttle
Notary Public
Residing at Boise, ID

My commission expires 9/10/80

FILED
JUL 27 1979
IDAHO
BOISE

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Kim R. Compton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 21 day of July

19 77 and the date of the last publication was on the 28

day of July, 19 77

Kim R. Compton

Subscribed and sworn to before me this 28

day of July, 19 77.
(SEAL)

Garrett H. Hise
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 36 36

Number of Insertions 2 2

Lines tabular at 315c

36 Lines straight at 36 21c 7.56

36 Subsequent lines at 36 15c 5.40

TOTAL COST 12.96

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that R.W. Stevens Hagerman, Id., 83332 has on 7/8/77 submitted Application No. 36-7731 for a permit to appropriate 18.0 cubic feet per second of water from unnamed springs by means of concrete headgates, weirs & pipes to fish ponds within the NE 1/4-NE 1/4, Sec. 13, Twp. 7S, Rge. 13E., B.M., Gooding County to be used from Jan. 1 to Dec. 31 for fish propagation within the NE 1/4 NE 1/4, Sec. 13, Twp. 7S, Rge. 13E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before August 8, 1977.

/s/ C. Stephen Allred
Director
Pub: 7-21, 28

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

20803

N^o 1306

AFFIDAVIT of PUBLICATION

COPY C NOTICE

(Paste Here)

Stewart

W.P. 36-7731

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

Dept of Water

State of Idaho,

County of Gooding

SS.

Deputy

Kim R. Compton

being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 21 day of July

19 77 and the date of the last publication was on the 28

day of July, 19 77

Kim R. Compton

Subscribed and sworn to before me this 28

day of July, 1977.

(SEAL)

Garrett H. H. H.
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 36 36

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TOTAL COST 12.96

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

20803

Nº 1306

This
Right has been
Decreed in the
SRBA.

See
Memo of
June 08, 1993

10/8/92

DARLA,
AFTER THIS FILE ³⁶⁻⁷⁸⁰⁰ IS
FILMED, THE FIELD EXAM
SHOULD NOT BE DESTROYED,
BUT SHOULD BE FILED IN
FILE NO. 36-07731.

Gary Spackman

MICROFILMED

MICROFILMED

MAY 11 1993

JUN 30 1993

MEMORANDUM

TO: File no. 36-7731
FROM: Darla Block
DATE: June 08, 1993
RE: Field exam for permit no. 36-7800

The following field examination for permit no. 36-7800, completed in November, 1989, is being retained in file no. 36-7731 to show the complete beneficial use developed pursuant to permit no. 36-7731. Permit no. 36-7800 was voided because the examiner found all the water use was completely developed under permit no. 36-7731.

RECEIVED

JUN 30 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

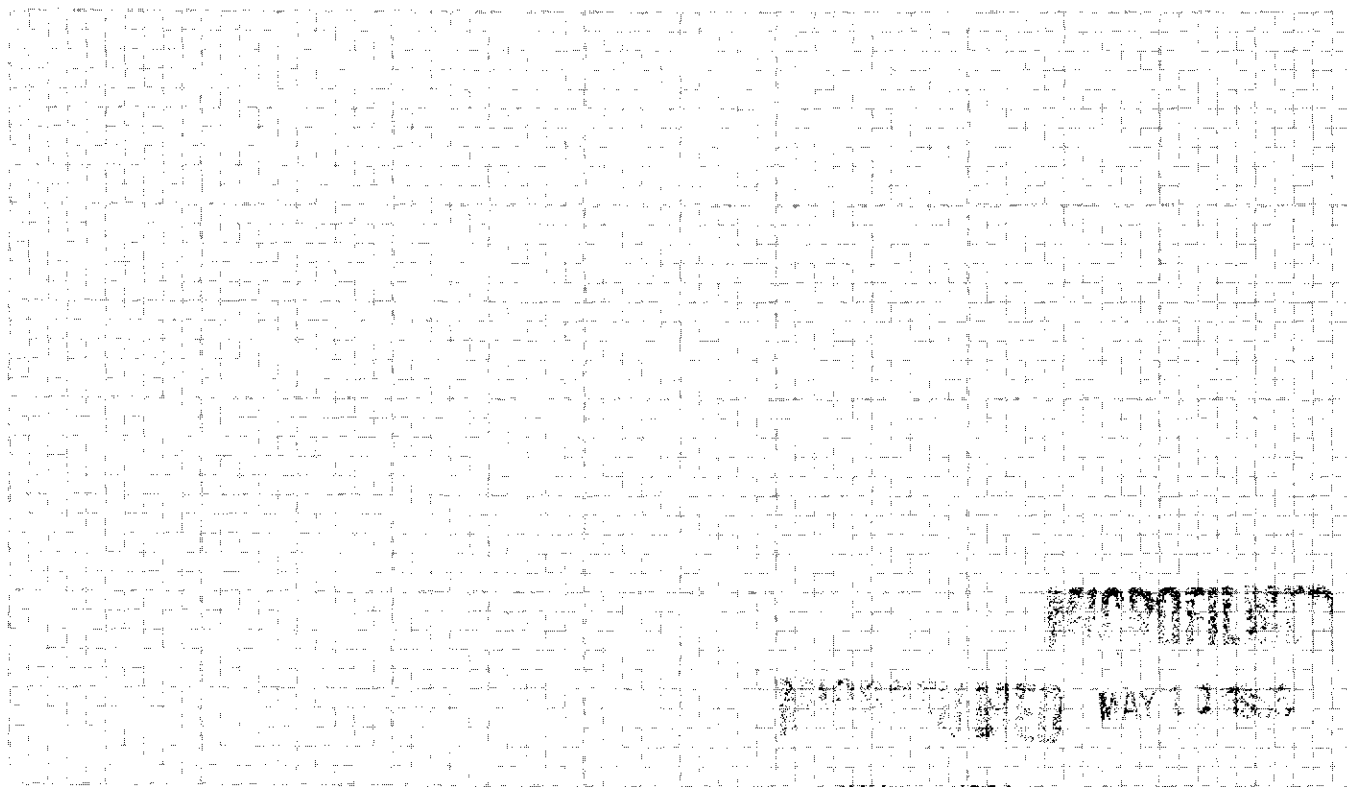
1. Owner: Fisher's Development Permit No. 36-7800
Current Address: Rte 1, Filer, Ida Phone No. _____
2. Accompanied by: Niel Hoffman EXAM. DATE: 11-10-89
Address: _____ Phone No. _____
Relationship to Permit Holder: owner
3. Source: _____ tributary to _____

B. OVERLAP REVIEW

1. Other water rights with same place of use: 36-7080 - 36-7697 ☐ Copies Attached
2. Other water rights with same point of diversion: 36-7080 - 36-7697
☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached



JUN 30 1993

Scale: 1" = _____

2. ☐ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required). ☐ Aerial Photo Attached
(required for irrigation of 10 acres or more).
☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater.

[Faint, illegible markings]

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

5. Point(s) of Diversion:

[illegible]

Indicate Method of Determination.

6. Place(s) of Use:

[illegible]

Do not use this space

SECRET

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

over Weirs 11.27 cfs. at High Peak
Flow of Springs

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Ampsx .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

MICROFILMED

JUN 30 1993

MICROFILMED

MAY 11 1993

MAY 1 1993

JUN 8 0 1993

RECEIVED
WATER RESOURCES DIVISION
JUN 8 1993

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.

CONSULTANT SEAL

Gregory Funderberg
Gregory Funderberg

Field Examiner's Name
Signature
Certification Date
Field Report Preparation Date

J. AUTHENTICATION

- ☐ Change P.D. as reflected above
- ☐ Change P.U. as reflected above
- ☐ Add P.D. as reflected above
- ☐ Add P.U. as reflected above
- ☐ None
- ☐ Other

2. Recommended Amendments

Totals:

1. Recommended Amounts

I. RECOMMENDATIONS

H. REMARKS AND OVERLAP REVIEW ANALYSIS

This remark should be cancelled
There has been no change in spring flow
and there has been no change in existing
facilities. Under existing water rights
36-7080 & 36-7697

Fisheries Dev. 36-7800

← Indian Springs



RECEIVED

JUN 30 1993

36-7800

MICROFILMED

MAY 11 1993

Retain Photos!

Fisheries Dev. 36-7800



Small Weir at Lower Springs.



Collection of Water from other Springs.



Water from Pond below Springs

JUN 30 1993

36-7800

MAY 11 1993

Retain Photo 1

PLAT OF SURVEY FOR RALEIGH W. STEVENS

Located in NE⁴NE⁴ Sec. 13, T7S, R.13E., B.M.

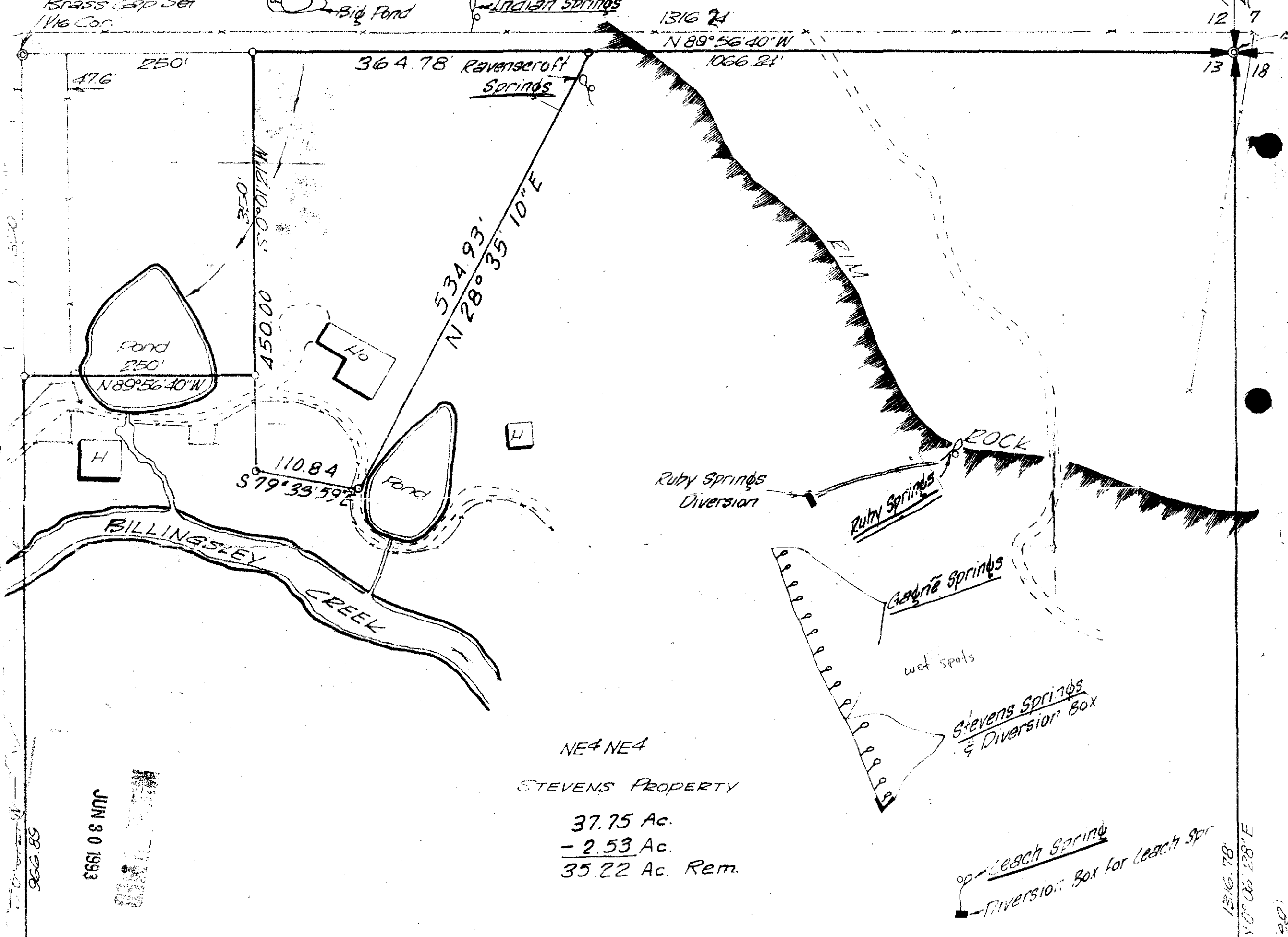
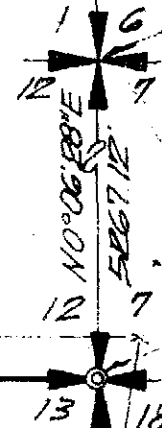
Gooding County, Idaho

Big Pond Springs

Big Pond

Indian Springs

Brass Cap Set
1/16 Cor.



NE⁴NE⁴

STEVENS PROPERTY

37.75 Ac.

- 2.53 Ac.

35.22 Ac. Rem.

JUN 30 1993

Stevens Springs
Diversion Box

Leach Spring
Diversion Box for Leach Spr

1316.78
N 89° 56' 40" E

Microfilm

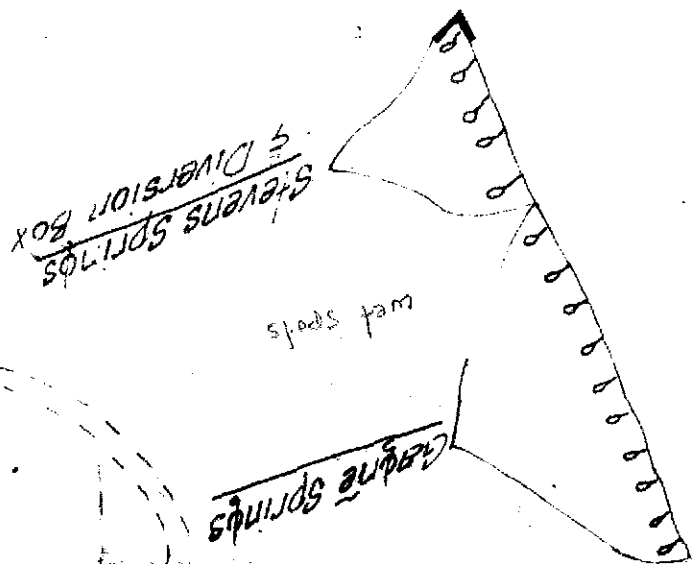
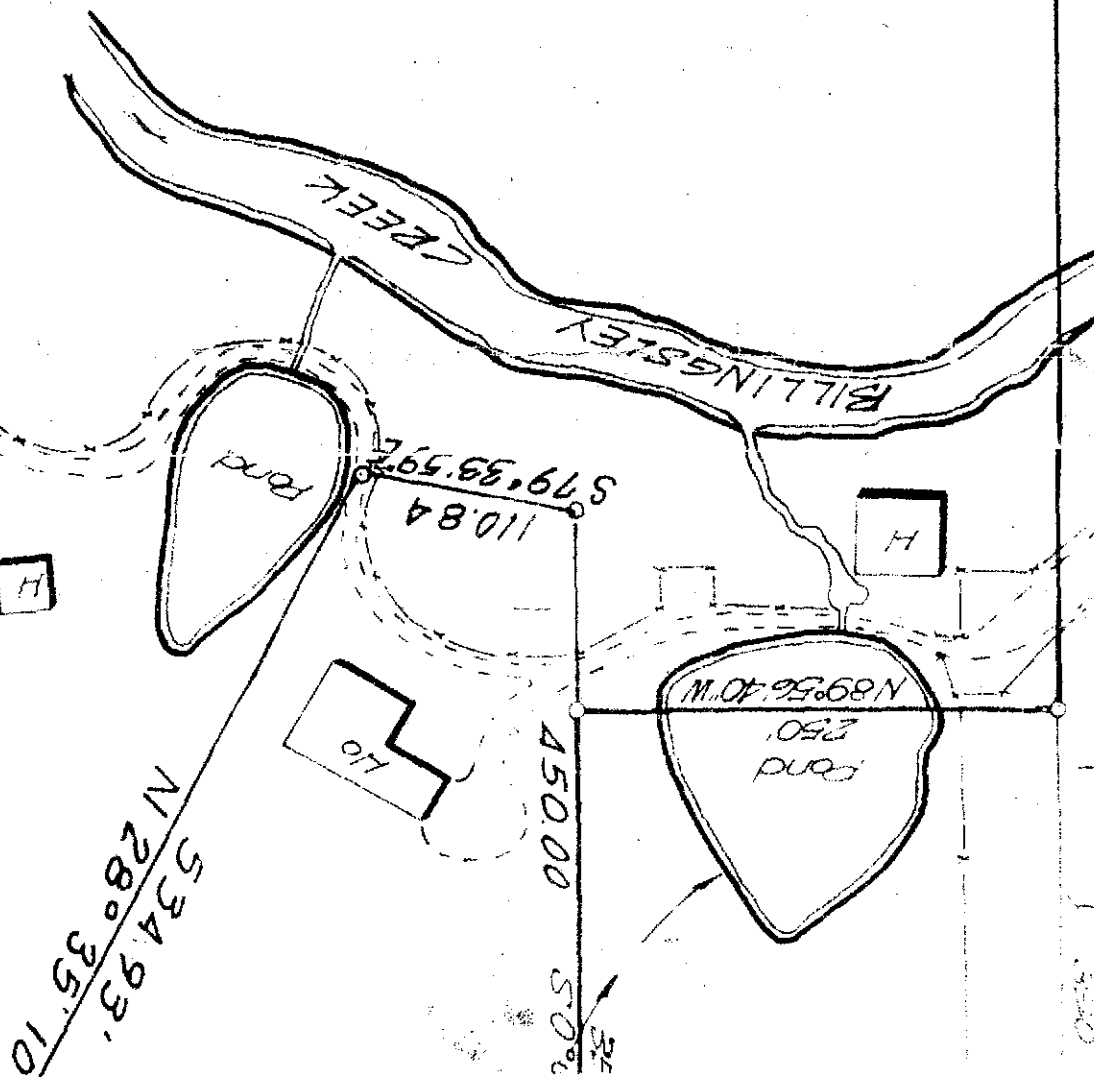
MAY 11 1993

36-7800

JUN 30 1993

NEED NE4
STEVENS PROPERTY
37.75 Ac.
- 2.53 Ac.
35.22 Ac. Rem.

36-7080
36-7664
36-7800



Heiderman Water
Users Spring
Mastke Spring

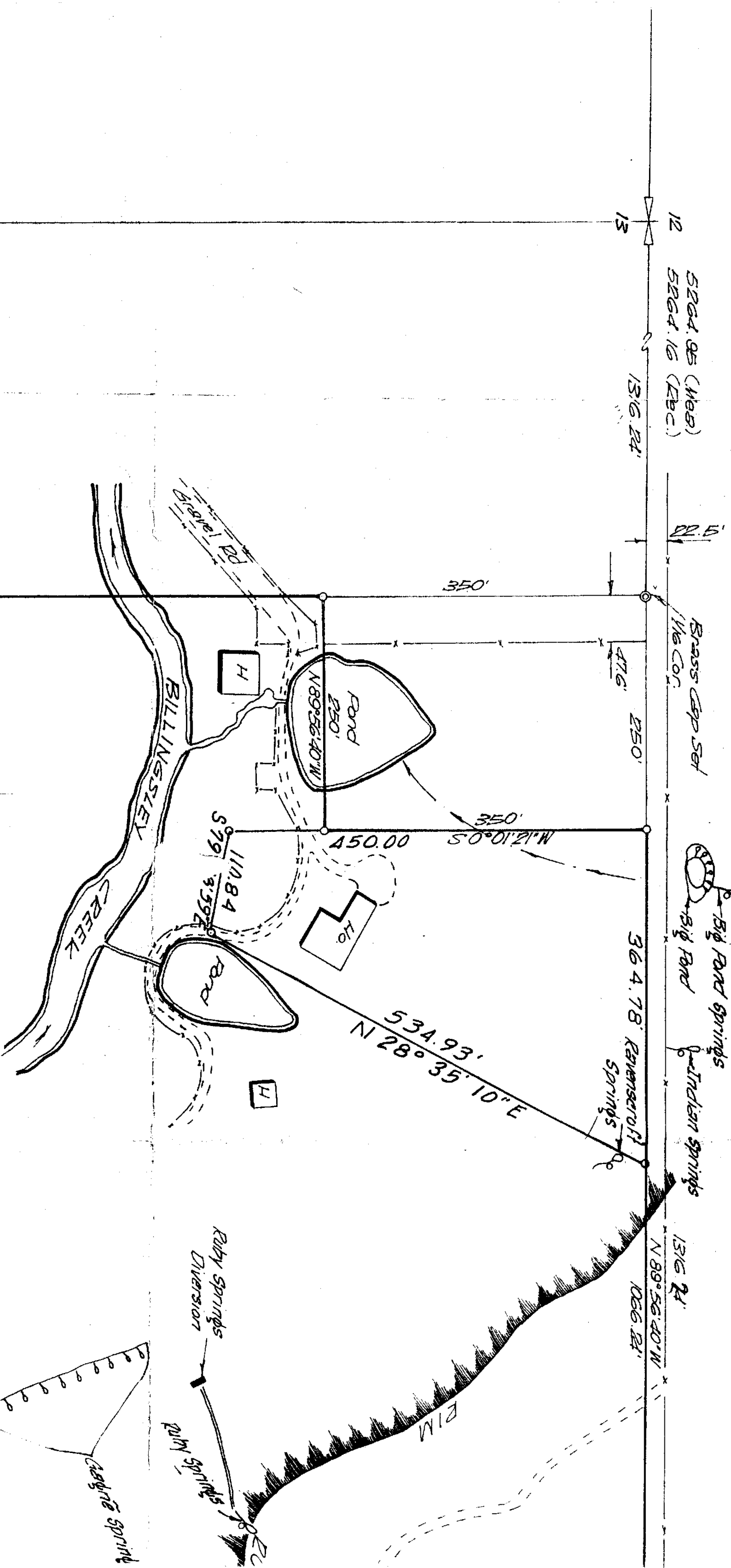
NO. 06.28'E

1314 28'

PLAT OF SURVEY FOR RALEIGH W. STEVENS

located in NE⁴NE⁴Sec. 13, T.7S, R.13E, B.M.

Gooding County, Idaho



RECEIVED

MAY 1 1 1993

✓ 36-7800

RECEIVED

JUN 30 1993

October 2, 1992

CLEAR LAKES TROUT CO INC
1301 VISTA AVE
BOISE ID 837050000

RE: WATER RIGHT NO. 36-07731

Dear Water Right Holder(s):

Enclosed herewith is a copy of the Water Right License issued on the above referenced permit.

Sincerely,

PAMELA SKAGGS
Water Resource Agent

PS:cz

Enclosure

OCT 28 1992

MEMORANDUM

TO: File No. 36-7731
FROM: Gary Spackman *gary*
DATE: September 8, 1992

RE: Overlap of rights nos. 36-7080, 36-7731 and 36-7800

We have withheld issuance of a license for water right no. 36-07731 because permit no. 36-7800, which was issued for development of the same project, was found by the field examiner to be unnecessary. The examiner found that the entire use will be described by water right license no. 36-7080 and the prospective license 36-07731.

An order voiding or canceling right no. 36-7800 will be prepared.

In my discussions regarding this matter with Earl Hardy, principal for Clear Lakes Trout Company Inc., Earl disputed the volume calculations which were done by Gary Funderburg. I agreed to add the following to license no. 36-07731:

Total facility volume could fluctuate depending on the water levels maintained by the outlet structures. This license does not, however, authorize any enlargement in the physical dimensions of the raceways.

We also need to change the facility volume for right no. 36-07731 to 109,385 cubic feet or 2.5 acre-feet. Helen Harrington-Thornton recalculated the total facility volume on the attached map and computation sheet.

RECEIVED
SEP 23 1992

Ponds covered by 36-07080 (7.7 AF facility volume) 11.54 of Springs } total capacity 15.02
 Ponds covered by L36-07331 (2.5 AF Facility volume) 15.00 of Springs }

total facility volume 10.23

41,625

SWSESE

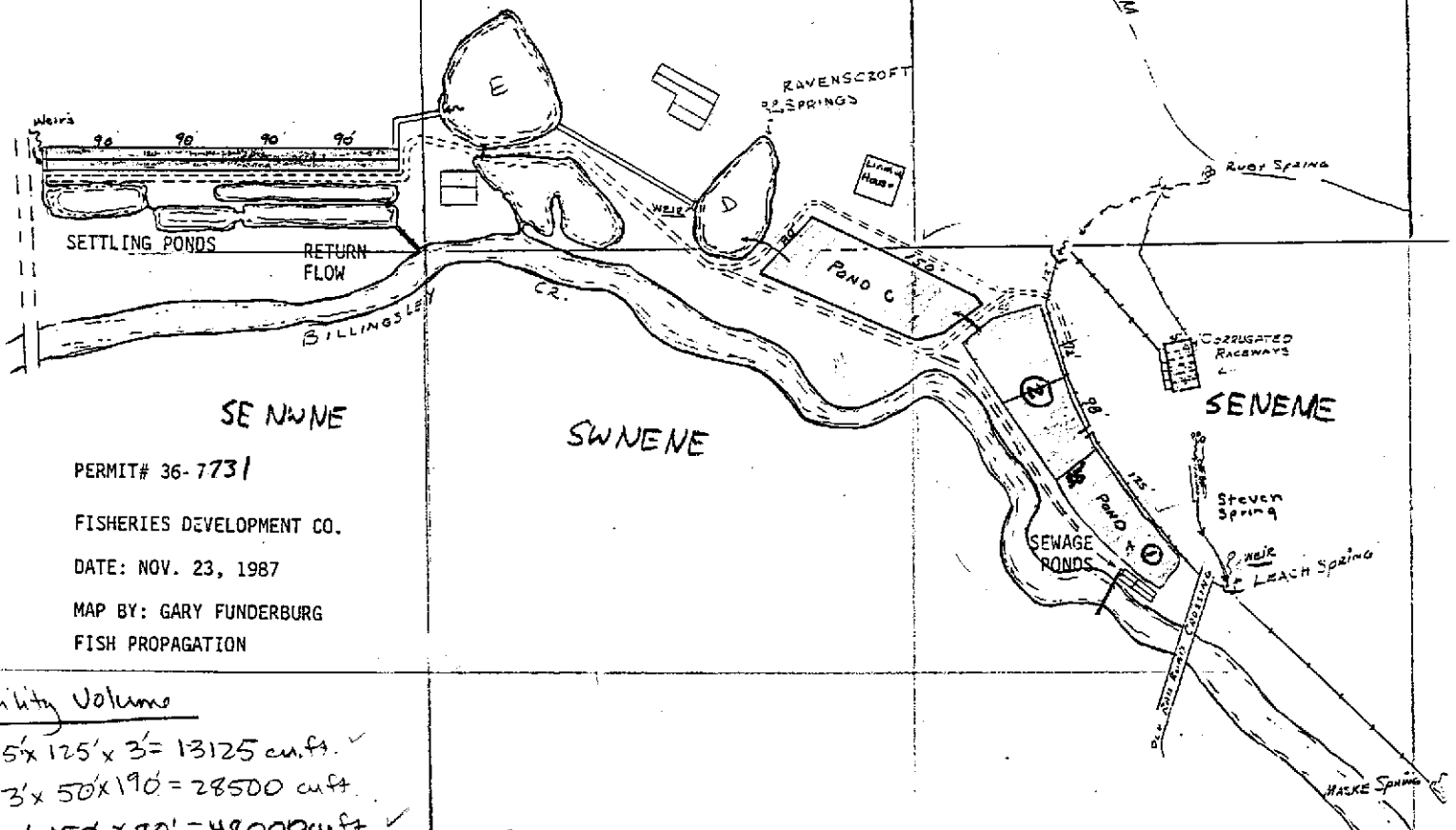
SESESE

NE NW NE
 TOWNSHIP 7 SOUTH RANGE 13 EAST
 SECTION 13

NW NENE

NENE NE

12 7
 13 18



PERMIT# 36-7731

FISHERIES DEVELOPMENT CO.

DATE: NOV. 23, 1987

MAP BY: GARY FUNDERBURG
 FISH PROPAGATION

Facility Volume

- (1) 35' x 125' x 3' = 13125 cu ft. ✓
- (2) 3' x 50' x 190' = 28500 cu ft. ✓
- (3) 4' x 150' x 80' = 48000 cu ft. ✓
- (4) 62' x 95' x 12' = 70680 cu ft. ✓
- (5) 100' x 200' x 12' = 240,000 cu ft. ✓
- Corrugated Raceways: 6 x 4' x 45' x 2' = 2160 ✓
- Raceways (West End) 8 x 90' x 20' x 3' = 43,200 ✓

Total Facility Vol. 445,665 cu ft ÷ 43560 = 10.23 AF

Ponds where fish are raised.

These computations by Helen Harrington-Thornton.

Spring of 1992
 Gary S.

OCT 23 1992

36-07080
 Facility Volume
 336,280 cu ft -
 7.7 AF

36-07731
 Facility Volume
 109,385 cu ft
 2.5 AF

B + D + E
 volume of 25600 at exam

A + C + Raceways + Enlarged capacity of B (28500 - 25600 = 2900 cu ft)

MEMORANDUM

TO: GARY

FROM: JIM JOHNSON

RE: REVIEW OF PERMIT BEFORE LICENSING

DATE: December 18, 1991

=====

Gary, this right has passed all of the normal requirements and is ready to be licensed. You have had some exposure, I believe, to this particular development. I thought that you would like to see it before it goes to Norm.

OCT 23 1992

MEMORANDUM

TO: File No(s): 36-07731
FROM: Brenda Miller
DATE: May 14, 1991
RE: Documents Sent

=====

The following documents were sent to Mr. Earl Hardy [Clear Lakes Trout Co. Inc.] for the third time:

1. Copy of the field exam
2. Copy of the amendment
3. Copy of the March 28, 1991 letter

OCT 23 1992

March 28, 1991

CLEAR LAKES TROUT CO. INC.
1301 VISTA AVE.
BOISE, ID 837050000

RE: WATER RIGHT NO. 36-07731

Dear Water Right Holder(s):

We previously forwarded to you an Amendment for Water Permit so that you could amend your permit to correspond with the findings of the Department's field examiner.

As of this date, we have not received this amendment. If we do not receive the amendment within fifteen (15) days, we will issue a Water Right License which reduces the amount that could have been allowable to you. Enclosed for your convenience is another amendment form in the event the first one was misplaced.

If you have any questions, please contact us.

Sincerely,

SHARLA CURTIS
Technical Records Specialist

SC:blm

Enclosure

RECEIVED
OCT 28 1991

January 8, 1990

CLEAR LAKES TROUT CO. INC.
1301 VISTA AVE.
BOISE, ID 837050000

RE: PERMIT NO. 36-07731

Dear Permit Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the findings of the Department's field examiner.

The enclosed application for amendment contains information that will be included on the license when it is issued. Please review carefully and if you concur, sign the amendment and return with the \$20.00 filing fee within 30 days.

If you do not concur with these findings or if you have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc

Enclosure

RECEIVED

OCT 23 1992

MEMORANDUM

TO: FILE

FROM: ROXANNE MCCARTHY

RE: ANNUAL VOLUME FOR FISH PROPAGATION

DATE: 7-SEP-1989

Per a memo dated 1-15-88, volume is calculated in this way:

1. calculate changes per hour:
total flow into facility x 3600/facility volume(cf)=changes
 2. calculate annual volume:
facility volume(AF) x changes x 8760=AFA
 3. calculate volume given by permitted flow:
flow rate(cfs) x 1.9835 x 365 days=AFA
 4. recommend lower figure
-

1. 15.02 cfs x 3600 / 140,610 cf = 0.38
2. 140,610 / 13,560 AF x 0.38 x 8760 = 10,745.24 AFA
3. 15.0 cfs x 1.9835 x 365 days = 10,859.66 AFA

RECOMMENDATION: 10,745.24 AFA

OCT 23 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Staff Analysis Sheet
for
Beneficial Use Field Report

36-7731

~~36-7730~~

Permit No.

RECEIVED
MAR 11 1988

Department of Water Resources

A. Prior to Conducting the Exam, the File Contains:

☒ Blank Field Report Form

☒ Copy of Permit

☒ Copies of any Amendments/Orders with conditions of approval

☒ Computer Data Proof Report

☒ Copy of U.S.G.S. Quad (photo)

☒ Check for Government Lots. If so, make a copy of Government Plat

Check of P/D index C.F. 10/20/87 (Initial and date)

Overlap? ☐ yes ☐ no If yes: ☐ copy of exam(s) attached?

Type of Overlap? ☐ Add acres or uses to existing system

☐ Increase rate of flow or volume

☐ Other: _____

Check of P/U index C.F. 10/20/87 (Initial and date)

Overlap? ☐ yes ☐ no If yes: ☐ copy of water right(s) attached?

Type of Overlap? ☐ Increase rate of flow or volume

☐ Add P/D's

☐ Increase number of acres within tracts

☐ Other: _____

Aerial Photo

Required? ☒ yes ☐ no If yes: ☐ copy attached?

Scheduling Letter sent? C.F. 10/20/87 (Initial and date)

☐ Appointment made and telephone conversation memo attached

B. After Conducting the Exam, the File Contains:

☒ Fully completed and signed Field Report Form

☒ Photographs of Point of Diversion and Place of Use Wally

☐ Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

C. Review and Processing:

Exam Completed LF 10/20/87 (Signature of examiner and date)

Exam Reviewed by Senior Water Resource Agent ADL 12/28/87 (Initial and date)

Exam Reviewed by Manager of Regional Office LF 3/10/89 (Initial and date)

Exam Date Entered in Computer _____ (Initial and date)

Exam sent to State Office _____ (Initial and date)

Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original
Refiled in White File _____ (Initial and date)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

A. GENERAL INFORMATION

1. Owner: Fisheries Development Co. Permit No. 36-7731
Current Address: Rte 1 Filer, Ida Phone No. 326-5680
2. Accompanied by: Nyle & Linda Hoffman EXAM. DATE: Oct-20, 1987
Address: _____ Phone No. 837-4548
Relationship to Permit Holder: owner
3. Source: Springs tributary to Billingsley Cr.

B. OVERLAP REVIEW

1. Other water rights with same place of use: 36-7725, 36-7697, 36-7800
2. Other water rights with same point of diversion: 36-7725, 36-7697, 36-7800
☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

1. **Diversion System Diagram:** Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. ☐ Alternative diagram attached

See Attachment.

Scale: 1" = _____

2. ☐ Copy of U.S.G.S. Quadrangle Attached ☐ Aerial Photo Attached
Showing location(s) of point(s) of diversion and (required for irrigation of 10 acres or more).
☐ Photo of Diversion and System Attached
(required for all but single household domestic groundwater, and stockwater).

3. Narrative: Description (As operating at time of measurement, indicate pressure, number of sprinklers, etc.) No Hydro Power. Only Fish Propagation was found.

No Hydro Power. Only Fish Propagation was found.

☐ See Remarks on page 4 for continuation

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size

*Code to correspond with No. on map and aerial photo

5. Point(s) of Diversion:

Ident. No.	Gov't. Lot	%	%	%	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SW 33	53	12	75	13 E	Gooding		
		NW 33	13	75	13 E	"			
		SE 33	13	75	13 E	"			
		NE 33	13	75	13 E	"			

6. Place(s) of Use:

Indicate Method of Determination.

[illegible]

MEMORANDUM

DATE: 28-Dec-1987

FROM: Gary Funderburg

TO: File 36-7731

During the field examination for water permit 36-7731 the following information was found: Indian springs were unable to be reached due to the heavy growth of brush; from above the spring area water could be seen and heard running down thru the brush and rocks. This water co-mingles with other water from other springs and could not be devided as I would liked to have been able to. This water runs into large ponds where it collects before being discharged to the raceways for raising fish. Below the raceways the water is ran thru settling ponds before being discharged into Billingsley Creek. At the time of the application Indian Springs were not clearly defined by the legal description. Therefore, the license should include the other springs which were at one time called Indian Springs. This water runs into all of the ponds which should also be included in this license. (See attached Map) The total water measured at the outflow of the lower raceways which represents the total spring flow was 15.02 cfs.

RECEIVED
OCT 23 1987

OCT 23 1987

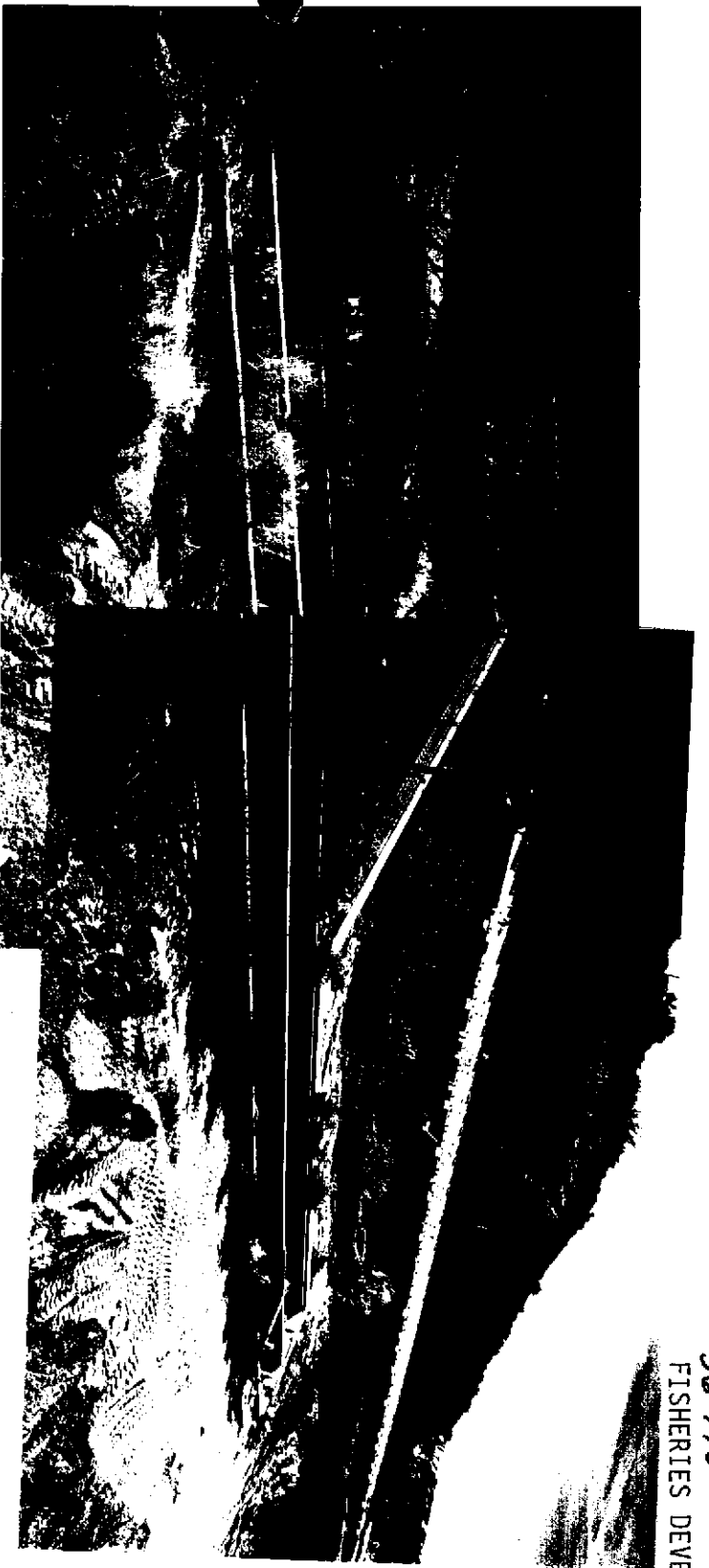
36.773/
FISHERIES DEVELOPMENT CO.



THIS IS THE LAYOUT OF THE FISH FACILITIES FOR FISHER DEVELOPMENT.

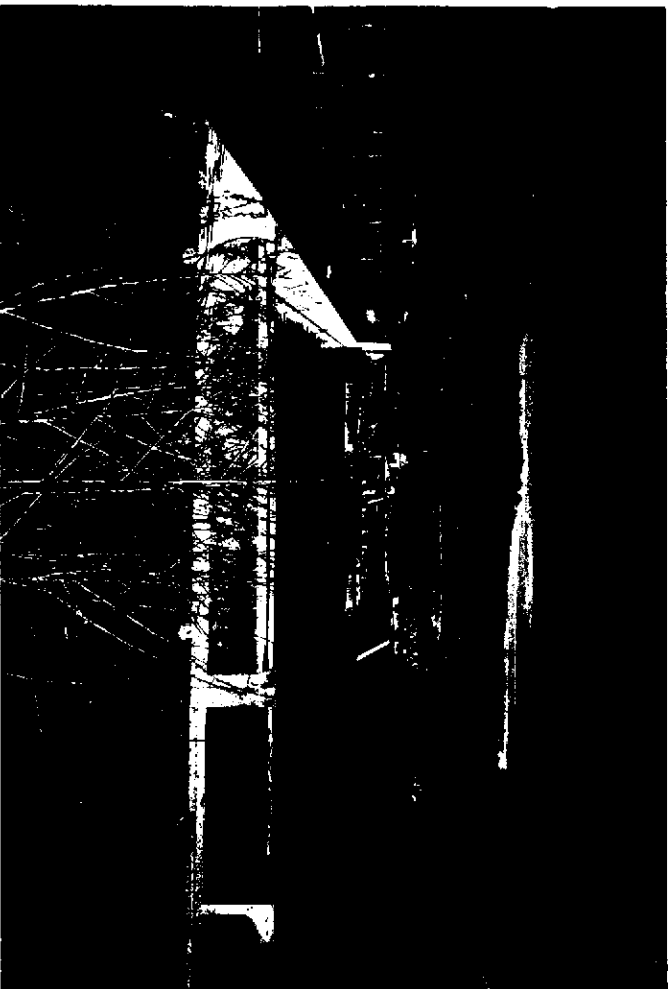
OCT 23 1992

36-7731
FISHERIES DEVELOPMENT CO.



WASTE PONDS. WATER RUNS THROUGH THE FISH REARING PONDS CARRYING WASTE
TO THESE PONDS.

OUTLET OF THE FISH
FACILITIES



OCT 28 1992

Water Right
36-7500
-7731

T75
R13E

12 7
C257 13 18

place of
use

272
7160

9A
9B

C256
(6760)

200

NOT TO SCALE

SWSESE

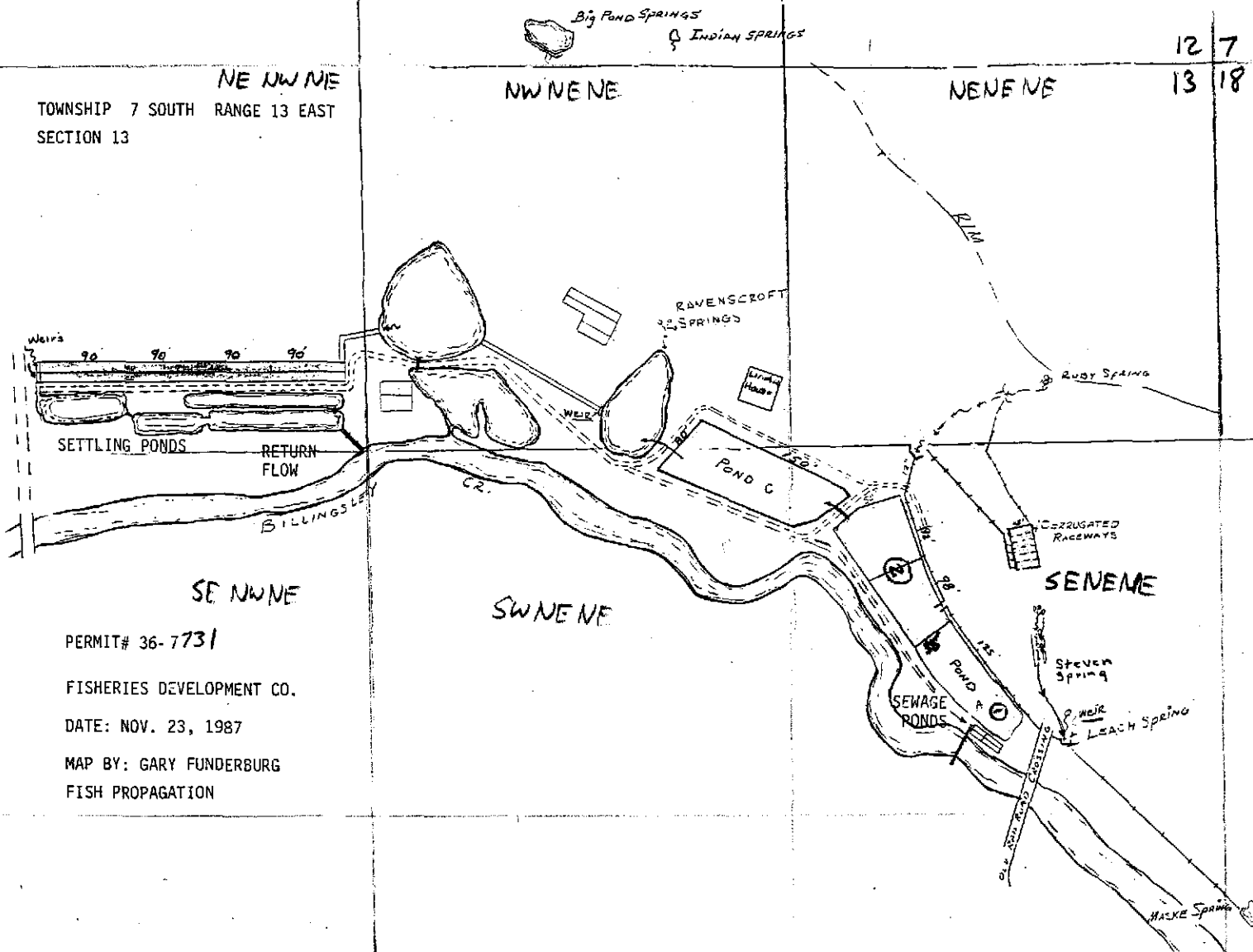
SESESE

NE NW NE
TOWNSHIP 7 SOUTH RANGE 13 EAST
SECTION 13

NW NE NE

NE NE NE

12 7
13 18



PERMIT# 36-7731

FISHERIES DEVELOPMENT CO.

DATE: NOV. 23, 1987

MAP BY: GARY FUNDERBURG
FISH PROPAGATION

Ponds where fish are
raised.

RECEIVED
OCT 23 1992

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date

2. Measurements:

Weir 3' Contracted Reading.
1. Reading - .87 = 7.64 cfs.
2. Reading - .85 = 7.38
15.02 Allow 15.00 cfs extra fee
62575

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

Discharge Pressure: _____ psi x 2.31 = _____ ft (1); Dynamic pumping level: _____ ft (2)

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

Meter Input KW: 3.6 x _____ KH x _____ CTR or _____ MULT x _____ PTR x _____ N/ _____ T = _____ (6)

Meter Input HP: (6) x 1.34 = _____ (7)

Panel Input KW: _____ Ave PF x _____ Ave Volts x _____ Ave Amps x .001732 = _____ (6)

Panel Input HP: (6) x 1.34 = _____ (7) Efficiency: (5)/(7) x 100 = _____ %

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____

$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____

$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

140,610 cubic ft.

H. REMARKS AND OVERLAP REVIEW ANALYSIS
 This right when combined w/ other rights shall not exceed the capacity of the diversion rate. 15,02 cfs

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
	From To	Q (cfs)	V (afa)
154 propagation	Jan. 1 Dec. 31	1502	15,002.5
Totals: 15,002.5			

J. AUTHENTICATION

2. Recommended Amendments

☐ Change P.D. as reflected above

☒ Add P.D. as reflected above

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

☐ None

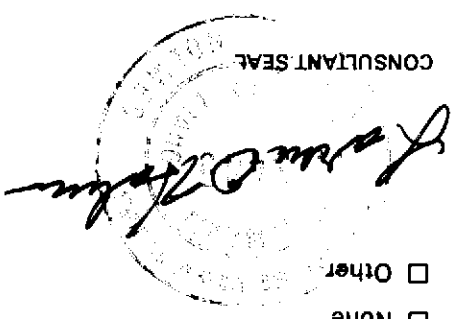
Field Examiner's Name: Greg Jundenburg

Signature: Greg Jundenburg

Certification Date: 5/15/87

Field Report Preparation Date: 10/20/87

K. Licensing recommendation shall be prepared by an Idaho Department of Water Resources employee on a computer printout attached hereto.



DEPARTMENT OF WATER RESOURCES FIELD REPORT

RECORD

JUL 6 1978

1. Name of permit holder Raleigh W. Stevens 737-4954
- Post office address Box 402, Rt 1, Hagerman, Id Phone Department of Water Resources Southern District Office
- Person to contact _____ Phone _____
2. Source of water supply: Groundwater ☐ Surface water ☒ springs, Railroad Gap, Chalet d. Chalet Pond, Gatehouse Pond
(name spring, stream, etc.)
- Tributary to _____

3. Water will be used for the following purposes:

Amount 17.2 c.f.s. for fish propagation
AF/Annum (nature of use)

Period of Use: from 1-1 to 12-31
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

Permit No. 36-7080
Examination for _____

4. Total amount to be appropriated:

Max Rate of Diversion 17.2 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 7S N/S, Range 13E E/W, B.M., Section 12, Subdivision SE 1/4 SE 1/4 Gooding
County "

Township _____ N/S, Range _____ E/W, B.M., Section 13, Subdivision NE 1/4 NE 1/4, _____
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____
County

Other Points of Diversions: _____

Description of diverting works: waters are collected and piped to ponds

Measuring device required: yes ☒ no inlet & outlet devices

6. Lands to be irrigated or place of use.

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
<u>7S</u>	<u>13E</u>	<u>12</u>																<u>X</u>	
		<u>13</u>	<u>X</u>																

OCT 23 1992

TOTAL ACREAGE _____

REPRODUCED

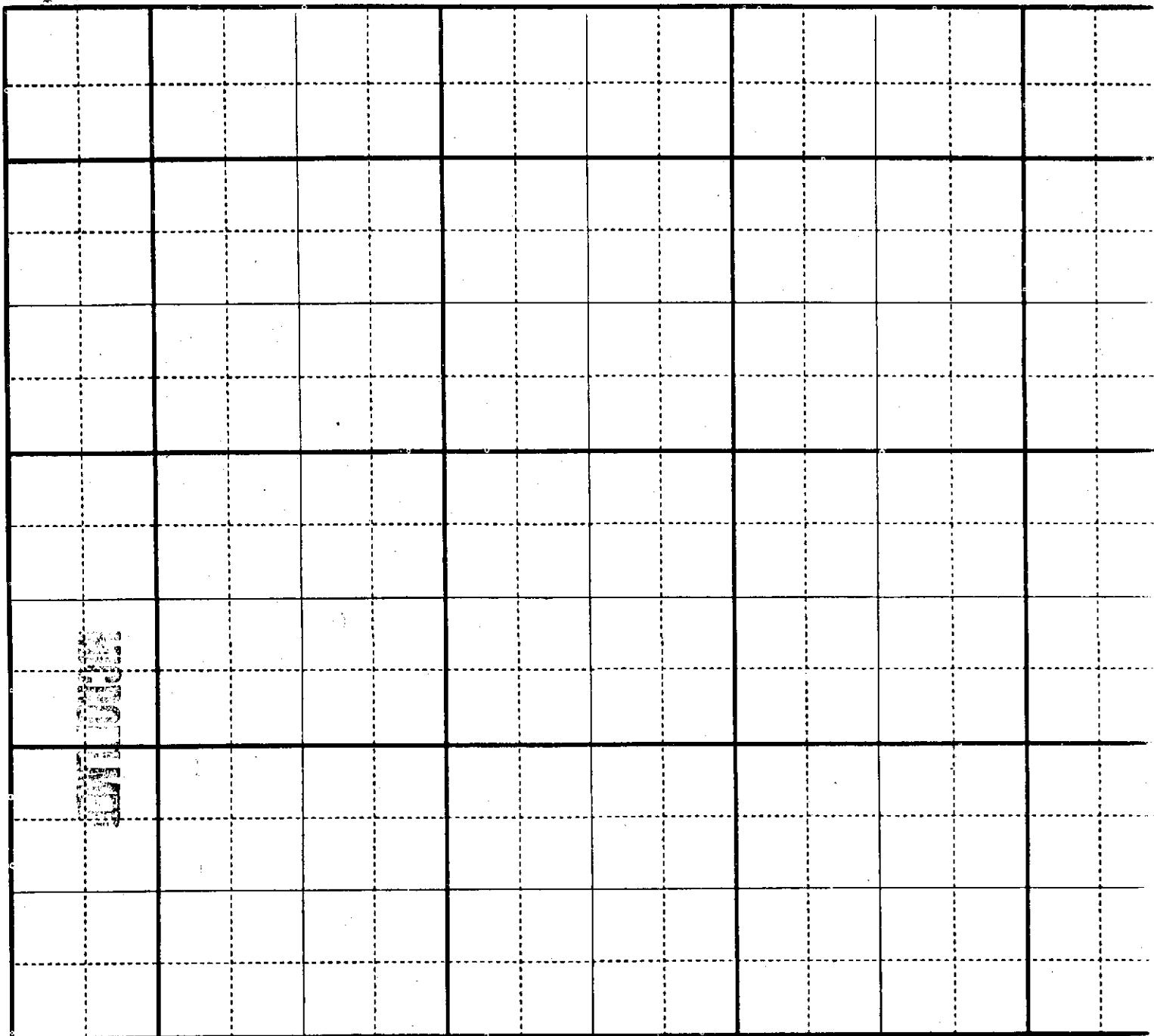


Diagram of System

(SEE MAP)

RECEIVED
OCT 28 1992

DATE OF EXAM Dec- 18, 1979

ACREAGE
Found ✓
Recommended ✓

Irrigation Requirement ✓ Ac Ft/Ac

USE
Irrigation Q= c.f.s. V= AF/Ann. from to
Domestic Q= c.f.s. V= AF/Ann. from to
Livestock Q= c.f.s. V= AF/Ann. from to
Fish Propagation Q= 11.54 CFS V= N/A from 1-1 to 12-31

Is water co-mingled? yes no ✓

Name source:
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4
County

Exchange? yes no

Name source exchanged with:
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4
County

Point of injection:
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4
County

Point of exchange:
twp. N/S, Rge E/W, B.M., Sec. , Sub. 1/4 1/4
County

Total Q measured 11.54 CFS Method of measurement Spalling Meter & W

Total Q recommended 11.54 CFS Meter No. Type ✓ Condition ✓

Total V recommended

Recommended Amendments:

P.D.
Place of Use
Other
None

MEASUREMENT CALCULATION:

(SEE MEASUREMENT NOTES) 11.54 CFS

SYSTEM DESCRIPTION:

(SEE MEASUREMENT NOTES)

Facility Volume

✓ Pond B $32 \times 200 \times 4 = 25,600 \div 43,560 = .6 \text{ AF}$ ✓
✓ Pond D $62 \times 95 \times 12 = 70,680 \div 43,560 = 1.6 \text{ AF}$
✓ Pond E $100 \times 200 \times 12 = 240,000 \div 43,560 = 5.5 \text{ AF}$

REMARKS:

Allen Merritt, Mac Martin, Charles Brockway
were present during the exam.

Examiner's Signature Gary Funderburg Date JAN/7/1980

Checked by Loren D. Halmer Date JAN 11, 1980

Approved by John Date 4-20-82

June 4-21-82 Overlap Review Attached

March 3, 1987

RE: Permit No. 36-7731

Clear Lakes Trout Co., Inc.
1301 Vista Ave.
Boise, ID 83705

Dear Permit Holder(s):

This office acknowledges receipt of the Assignment of the above referenced permit to you. Enclosed for your records is a copy of the permit.

In reviewing the permit, we find that the next step towards licensing of the permit will be for our regional office to examine your water right system.

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:sc
Enclosures

MICROFILMED

MAR 06 1987

Permit No. 36-7731

ASSIGNMENT REVIEW CHECK LIST

1. Signature of Permit Holder? Yes
2. Notary? Yes
3. a. Full Assignment? Yes
b. Partial Assignment?
4. "No assignment" condition on permit? No
5. Commencement of Works received? B/u rec'd
 - a. Commencement of works requested?
 - b. Show Cause Order drafted & sent?
 - c. Cancellation necessary?
6. Affidavit of residency required? No
7. Extension granted due to litigation?
(If yes, commencement of works is not required.)

1. Type permit summary sheet. ✓
2. Coding sheet. ✓
3. Acknowledgement letter type.
4. Copy to region. ✓

Shavla —

Shavla —

#45

Shavla —

Date 2-26-87

Employee Jin

MICROFILMED

MAR 06 1987

Ringert, Clark, Harrington, Reid, Christenson & Kaufman

CHARTERED
LAWYERS

WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JAMES G. REID
JEFFREY R. CHRISTENSON
JAMES P. KAUFMAN
MICHAEL J. GAFFNEY
SAMUEL KAUFMAN (1921-1986)

599 WEST BANNOCK STREET
P.O. BOX 2773
BOISE, IDAHO 83701
TELEPHONE (208) 342-4591

February 3, 1987

RECEIVED
FEB 04 1987

Department of Water Resources

Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Permits No. 36-7800, 36-8074, 36-7731, 36-7664
and 36-7725

Gentlemen:

Enclosed are Assignments of Permit from Fisheries Development Company to Clear Lakes Trout Co., Inc., covering each of the above numbered water permits. Please file the Assignments in your records pertaining to the respective permits.

Yours very truly,



W.F. Ringert

WFR:am
Enclosures
cc: Earl Hardy
Harry DeHaan

MICROFILMED

MAR 06 1987

4/86

RECEIVED
JUN 18 1986
DEPARTMENT OF WATER RESOURCES
EXAMINATION FEE INFORMATION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EXAMINATION FEE INFORMATION

For Office Use Only
Fee Received 450.00
Date 6/16/86
Receipt # 40179
Receipt by TB
Sent to S.O. 6/17/86

RECEIVED

JUN 18 1986

1. Permit No. 36-7731

ONE OF THE FOLLOWING BOXES SHOULD BE MARKED TO DESIGNATE YOUR CHOICE. Department of Water Resources

☒ I choose to have the department make the field examination of this permit; attached is the examination fee. (If this box is marked, complete items 1 thru 8.)

2. Permit Holder: Fisheries Development Co.

3. Post Office Address: Rt #1 Filer ID, 83328

Telephone No. 326-5680

4. Source of Water: Springs

5. Extent of Use:

Domestic _____ (No. of households) Stockwater _____ (No. and type of stock)

Irrigation _____ (acres) Other/Remark Fish Production

6. Total rate &/or volume for which proof is submitted 15.0 cfs 3.5 acre-feet (vol) of ponds

7. Show the date water was first diverted and beneficially used under this permit:

July 1979

8. Person to contact to accompany the department representative during the field examination:

Nyal Hoffman (Name)

Rt #1 Filer (Address) 326-5680 (Telephone Number)

☐ I choose to have the field examination conducted by a certified water right examiner. Attached is a statement from the certified examiner I have selected verifying that he has been retained to conduct the examination. (If this box is marked, complete items 1 thru 7.)

Date 6-16-86

Fisheries Development Co. by Nyal Hoffman
Signature of Permit Holder (and title, if appropriate) Pres,

NO Exam r/fall TB



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

36-7731
FISHERIES DEVELOPMENT CO.
P.O. BOX 421
TWIN FALLS, ID 83301

Mailing address:

Statehouse
Boise, Idaho 83720

138261

April 17, 1986

CERTIFIED MAIL

EXAMINATION FEE NOTICE

Dear Permit Holder:

Department records show that proof of beneficial use has been submitted for the above-referenced permit, but that a field examination has not yet been conducted to determine the extent of beneficial use of the water for licensing purposes.

House Bill 671 (effective April 4, 1986) enacted by the 1986 Idaho Legislature requires the payment of a fee before this department can conduct the field examination needed to issue a license confirming use of water under the permit. This letter is notification that the license examination fee is due within sixty (60) days of the date of this letter. The examination fee information sheet (enclosed) must be returned with the fee.

As an alternative to submitting the fee, the department will accept a field examination report completed by a certified water right examiner from the private sector. If you choose to have the examination done by a certified water right examiner, you need not submit the license examination fee to the department, but you must within sixty (60) days of the date of this letter return to the department, the examination fee information sheet showing appropriate information together with a statement from the certified examiner to verify that you have retained a certified examiner to conduct the field examination. If you choose this alternative, a completed field examination report must be submitted within one year of the date of this letter. You cannot later change your decision to use this alternative and submit the fee needed for the department to conduct the field examination, but you may change to another certified examiner.

Certified water right examiners are licensed engineers, geologists, or land surveyors certified by the department to conduct water right examinations. The procedure for certifying examiners results from the recently enacted HB 671 and is being developed at this time. A listing

APR 20 1986

of certified water right examiners will be available from this department when examiners have been certified.

If your permitted use, in fact, has already been examined by the department and you have not asked to have the examination repeated, the fee requirement is not applicable to your permit. If you believe this is the case, please contact the department.

The license examination fee is to be based on the amount of water you indicate you have developed, as listed in item 6 on the examination fee information sheet. The amount of water on which the examination fee is based can be less than the permitted amount, if less water has been diverted and beneficially used. The licensed amount of water, however, will not exceed the amount you claim on the examination fee information sheet. The enclosed license examination fee schedule shows a listing of applicable fees.

FAILURE TO SUBMIT WITHIN THE SIXTY (60) DAY PERIOD, THE FEE OR THE STATEMENT THAT A CERTIFIED EXAMINER HAS BEEN RETAINED TO MAKE THE FIELD EXAMINATION, WILL BE CAUSE TO ADVANCE THE PRIORITY OF THE PERMIT ONE DAY FOR EACH DAY THAT THE FEE SUBMITTAL IS LATE.

FAILURE TO SUBMIT THE FEE OR THE COMPLETED FIELD EXAMINATION REPORT WITHIN A YEAR WILL BE CAUSE TO CONSIDER THE PROOF OF BENEFICIAL USE TO BE INCOMPLETE AND TO LAPSE THE PERMIT.

The attached examination fee information sheet and the fee may be submitted to the following department offices.

Northern Region

Idaho Dept. of Water Resources
4055 Government Way
Coeur d'Alene, ID 83814
Phone: 765-4639

Eastern Region

Idaho Dept. of Water Resources
150 Shoup Ave., Suite 15
Idaho Falls, ID 83401
Phone: 525-7161

Southern Region

Idaho Dept. of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301
Phone: 734-3578

Western Region

Idaho Dept. of Water Resources
450 W. State St., (Third Floor)
Boise, ID 83720
Phone: 334-2190

Sincerely,

L. Glen Saxton

L. GLEN SAXTON
Chief, Operations Bureau

Enclosures

MAR 06 1981

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1841 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

JULY 26, 1984

FISHERIES DEVELOPMENT CO.
P. O. BOX 421
TWIN FALLS ID 83301

RE: Permit No. 36-7731

Dear Permit Holder:

We acknowledge receipt of your statement submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this department.

~~A condition of approval of your original permit required the installation of a measuring device which, according to the proof card submitted by you, has not been installed. A measuring device must be installed and operating at the time the field examination is made. If a measuring device is not installed your permit may be subject to cancellation.~~

A field examiner will contact you to arrange to examine your system.

If you have any questions regarding the field examination, please contact this office by phone at 734-3578 or in person at our office at 1841 Blue Lakes Blvd. N. Twin Falls, Idaho.

Sincerely,
Mary E. Newby
Secretary

MICROFILMED

MAR 06 1987

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 36-7731.

Name(s) of Permit Holder: Fisheries Development Co.

Post Office Address: P.O. Box 421, Twin Falls, ID. 83301

Tel. No. 326-5680

Source of Water: UN Named Springs

Extent of Use:

☐ Domestic	(number of households)
☐ Stockwater	(number and type of stock)
☐ Irrigation	(acres)
☒ Other <u>Full</u>	

RECEIVED

JUN 29 1984

Measuring Device:	Required?	☒ Yes ☐ No	Installed?	☒ Yes ☐ No
Access Port:	Required?	☐ Yes ☐ No	Installed?	☐ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

June 29, 1984
Date

Fisheries Development Co.
Jerry D. Kogman, V.P.
Signature of Permit Holder

PLACE
TEN CENT
STAMP
HERE

RECEIVED

RECEIVED

JUL 5 1984

JUN 26 1984



Department of Water Resources
Southern District Office

Department of Water Resources

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

RECEIVED
JUN 20 1984

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

May 31, 1984

Department of Water Resources

CERTIFIED MAIL

Fisheries Development Co., Mac Martin,
Jeffrey M. and Joy Martin, Michael K. and Vicki Martin
664 Buchanan
Twin Falls, ID 83301

Ladies and Gentlemen:

Re: Permit No. 36-7731

PROOF DUE NOTICE

One of the conditions of approval of your water permit No. 36-7731 was that proof of the extent of your beneficial use must be submitted to this office on or before August 1, 1984. (See the copy of the enclosed order). Enclosed is a postcard which may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time provided the delay is for reasonable cause as described in Section 42-204, Idaho Code. If you have been prevented from proceeding by a government agency or by litigation, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either the beneficial use postcard or a request for an extension of time must be received by this department on or before the above-described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rita Fleck", is written over the typed name.

RITA FLECK
Secretary/Records Manager

Enclosures

RECEIVED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Statehouse

Boise, Idaho 83720



RECEIVED

JUN 20 1984

Department of Water Resources

Underline
Addresses
Insufficient
No such
No such office
Do not attach to this envelope

RECEIVED

Only you can

prevent forest fires



CLAIM CHECK
No.

273390

☐ HOLD

DATE

6-2

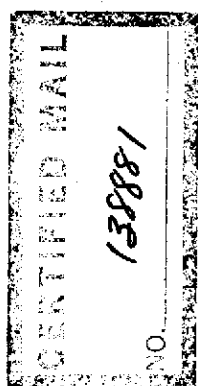
1ST NOTICE

6-7

2ND NOTICE

6-17

RETURN



Detached from
PS Form 3843-A
Oct 1980

Fisheries Development Co.
Mac Martin, et al
664 Buchanan
Twin Falls, ID 83301



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

June 19, 1984

RE: Water Right Nos. 36-7080, 36-7664, 36-7725, 36-7731 & 36-8074

Fisheries Development Company
c/o Nyal Hoffman, President
Box 421
Twin Falls, ID 83303

Dear Mr. Hoffman:

We are in receipt of the Assignments of Permit that you provided to our office. With regard to each of the assignments, we offer the following.

Right 36-7080 is a licensed right as mentioned in my letter of May 2, 1984. We have placed the assignment of the right in the file for future reference. Since we sent you a copy of this license in our correspondence of May 2, we are not enclosing another copy with this letter.

Rights 36-7664, 36-7725 and 36-7731 are all still in permit form. We have enclosed copies of these rights for your records. Please note the conditions of approval for each of these rights that are necessary for developing these permits into licensed water rights.

As for Right 36-8074; as mentioned in our letter of May 2, 1984, this right was withdrawn by the applicants before it had become a permit. I am returning the assignment of this right to you. The right does not exist any more. I am enclosing a copy of the withdrawal from our microfiche records for your information.

If you have any questions or if we can be of any assistance to you, please feel free to contact our office.

Sincerely,

KAY WALKER
Technical Records Specialist

KW:sc
Enclosures

MICROFILMED

Permit No. 36-7731

ASSIGNMENT REVIEW CHECK LIST

1. Signature of Permit Holder? ✓
2. Notary? ✓
3. ☒ a. Full Assign?
b. Partial Assign?
4. "No assignment" condition on permit? NO
5. Commencement of works received? yes
6. Affidavit of Residency required? no

1. Type Permit Summary sheet ✓
2. Coding sheet ✓
3. Acknowledgement letter type #1
4. Copy to region kw

Date: 6-13-84

Employee: R. Walker

RECEIVED

Fisheries Development Company

P.O. BOX 421
TWIN FALLS, ID 83303
(208) 326-5680



June 11, 1984

RECEIVED
JUN 12 1984

STATE OF IDAHO
Department of Water Resources
State Office
450 W. State St.
Boise, Idaho 83720

Department of Water Resources

RE: Permits # 36-7725, 37-7080
36-7664, 36-8074 and 36-7731

Gentlemen:

As per your recommendation please find enclosed the
"Assignment of Permit" documents for above numbered permits
to be placed of record with the Department of Water Resources.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Nyal Hoffman". The signature is written in dark ink and is positioned above the printed name.

Fisheries Develop. Co.
Nyal Hoffman, President

MICROFILMED

May 31, 1984

CERTIFIED MAIL

Fisheries Development Co., Mac Martin,
Jeffrey M. and Joy Martin, Michael K. and Vicki Martin 12888/
664 Buchanan
Twin Falls, ID 83301

Ladies and Gentlemen:

Re: Permit No. 36-7731

PROOF DUE NOTICE

One of the conditions of approval of your water permit No. 36-7731 was that proof of the extent of your beneficial use must be submitted to this office on or before August 1, 1984. (See the copy of the enclosed order). Enclosed is a postcard which may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time provided the delay is for reasonable cause as described in Section 42-204, Idaho Code. If you have been prevented from proceeding by a government agency or by litigation, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either the beneficial use postcard or a request for an extension of time must be received by this department on or before the above-described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

RITA FLECK
Secretary/Records Manager

Enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse
Boise, Idaho 83720
(208) 334-4440

May 2, 1984

RE: Water Right Nos. 36-7080, 36-7664, 36-7725, 36-7731, 36-7800,
36-8058 & 36-8089

Nyal Hoffman
Box 421
Twin Falls, ID 83303

Dear Mr. Hoffman:

Upon receipt of the Affidavits for Water Rights to be used for power purposes for Permit Nos. 36-7800, 36-8058 and 36-8089, I have reviewed your water rights and find the following:

Your letter of April 11, 1984, is sufficient in answer to the Department's Order to Show Cause of March 30, 1984. We will not, at this time, take any further action in regard to cancelling these permits.

The proof of beneficial use of Permit No. 36-7731 is due on July 1, 1984, and the proof of Permit No. 36-7800 is due on August 1, 1984. In your letter regarding these permits, I note that you wish to file an extension of time for these permits. I am enclosing two applications for extension of time with instructions, for your use in this matter.

I have also noticed that Permit Nos. 36-7731, 36-7800, 36-7725 and 36-7664 belong to Fisheries Development Co., Mac C. Martin, Jeffrey M. &/or Joy Martin, and Michael K. &/or Vicki Martin. Even though you now own Fisheries Development Company, the Company and the Martins are the owners of these water right permits. It would be in your interest to have the Martins assign their interest in these permits to you since you are now the owner. I have enclosed four assignment forms for your convenience.

Permit Nos. 36-8058 and 36-8089 (which were approved in January and March of 1984, respectively), are in good standing at this time. Be sure to submit a statement of commencement of works as noted on the Orders approving these permits.

MICROFILMED

Nyal Hoffman
May 2, 1984
Page 2

Right 36-7080 is now a licensed water right in the name of Fisheries Development Company, Mac D. Martin, Jeffrey M. & Joy Martin, and Michael K. & Vicki Martin. Since this right has been licensed, it is appurtenant to the land for which it was issued. I am enclosing a copy of the License for your records.

As for the Affidavits you submitted, as mentioned in the beginning of this letter, I have included them in the water right file for which they are appurtenant.

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

Sincerely,

KAY WALKER
Technical Records Specialist

KW:sc

Enclosures

cc: Southern Region

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM KAY WALKER

DATE 4/20/1984

TO Files 36-7731 and 36-7800

SUBJECT Address Change

Per telecon with Gary Funderburg this morning (Mr. Nyle Hoffman was in his office regarding the show cause order) the Fisheries Development Company's correspondence should be sent to:

Fisheries Development Company
c/o Nyle Hoffman
P.O. Box 421
Twin Falls, ID 83303

MICROFILMED

SIGNATURE

Fisheries Development Company

P.O. BOX 421
TWIN FALLS, ID 83303
(208) 326-5680



RECEIVED
APR 12 1984

MR. JIM JOHNSON
WATER DISTRIBUTION SUPERVISER
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
STATE OFFICE
450 West State St.
Boise, Idaho 837020

Department of Water Resources

RE: Permits no. 36-7731 and 36-7800

Dear Mr. Johnson:

Fisheries Development Company being the permit holder of the above mentioned permits is now in the ownership of Nyal and Judy Hoffman, Rt 1 Filer, Idaho, 83328.

I would like to explain our position as purchasers of Fisheries Development Company. The Company had been in litigation for several years between Raleigh Stevens and Mac Martin and upon final judgment title went to Mac Martin. August 12, 1983, Fisheries Development Company, along with all of its stock and assets to include all water rights were purchased by Nyal and Judy Hoffman.

The water described in both permits had been in use for fish propoation for an unknown time before the litigation, and is being used for that purpose at the present time.

We are in the process of trying to unscramble the spring sources and prepare for final proof of application of water to beneficial use.

The cause of non-compliance referred to in your letter of April 3, 1984, is after reading both permits my only information was that permit no. 36-7800 had until August 1, 1984, for proof of construction and application to beneficial use, permit no. 3607731 until July 1, 1984.

This property has been torn up and is the result of unusual planning. At this time I would like to apply for an extension of time on both permits of 1 year to betterplan and reconstruct diversions and measuring devices to better fit the ecology of the property. Some obtrusive pipelines and concrete structures have already been removed and with some planning can be ecologically acceptable. Reconstruction will facilitate better landscaping and use of the property. All uses will remain the same and all diversion points will remain the same.

Asking for your indulgence in this matter, I remain.

Sincerely yours,

Nyal Hoffman
President Fisheries Development Company

SENDER:

Complete items 1, 2, and 3.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)

- ☒ Show to whom and date delivered. \$
☐ Show to whom, date and address of delivery. \$
☐ RESTRICTED DELIVERY
 Show to whom and date delivered. \$
☐ RESTRICTED DELIVERY.
 Show to whom, date, and address of delivery. \$ _____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Fishers Dev. Co., Et al
 664 Buchanan
 Twin Falls, ID 83301

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. | INSURED NO.

33057

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

Mac Martin

DATE OF DELIVERY

APR 5 1984

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

36-7731 SC

☆ GPO : 1979-288-848

MICROFILMED

RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address, and ZIP Code in the space below.

- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

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



RETURN
TO

RECEIVED

APR 6 1984

DEPARTMENT OF WATER RESOURCES

STATE HOUSE

BOISE, IDAHO 83720

(Name of Sender)

(Street or P.O. Box)

Department of Water Resources

(City, State, and ZIP Code)

MICROFILMED

April 3, 1984

CERTIFIED MAIL #33057

RE: Permit No. 36-7731

Fisheries Dev. Co. &/or
Mac C. &/or Jeffrey M. &/or
Joy &/or Michael K. &/or
Vicki Martin
664 Buchanan
Twin Falls, ID 83301

Dear Permit Holders:

Enclosed is an Order to Show Cause why Permit No 36-7731 in your name, should not be cancelled.

Note that any information in response to this Order must be submitted by May 5, 1984. Please contact this office if you have any questions.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

June 24, 1982

Dear Permit Holder:

Your water right permit(s) may be affected by a change made in Section 42-204, Idaho Code, by the 1982 Idaho Legislature.

Because of the change, you must commence the excavation and construction of the diverting works for your permit(s) no later than July 1, 1983. The statute further requires that you then proceed with due diligence in completing the diverting works and applying the water to beneficial use.

Permits in the following three categories are not subject to this requirement:

1. Rate of flow is greater than 25 cubic feet per second.
2. Proof of Beneficial Use has already been submitted.
3. Proof of Beneficial Use is required on or before July 1, 1983.

To maintain the validity of your permit(s) you must return one Commencement of Works postcard for each permit subject to the requirement. Note that on the card you can indicate that either (1) you have commenced construction or (2) you have been prevented from initiating development due to a factor beyond your control, such as the Idaho Power Moratorium, a required approval of the federal government, or litigation which prevents development of the project.

Enclosed you will find the number of cards that our records indicate you will need. Note that the card(s) should be returned to this office by July 1, 1983. If you have further questions, please contact the regional office shown below that is nearest you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P. E.
Supervisor, Water Allocation Section

DRT:jg Enclosure

NORTHERN REGION, IDWR
Rt. #5, Box 203
4055 Government Way
Coeur d'Alene, ID. 83814
Tel. 667-6484

SOUTHERN REGION, IDWR
1041 Blue Lakes Blvd. N.
Twin Falls, ID. 83301
Tel. 734-3578

EASTERN REGION, IDWR
150 Shoup Ave.
Idaho Falls, ID. 83401
Tel. 525-1761

WESTERN REGION, IDWR
92 South Cole Road
Boise, ID. 83709
Tel. 334-2190

CERTIFICATE OF MAILING

I David R. Tuthill, Jr., hereby certify that on June 30, 1982 I caused to be mailed to the water right permit holders annotated in the attached Exhibit A, a form letter such as the attached Exhibit B along with an appropriate number of Commencement to Works cards (Exhibit C), where the number of cards sent is shown directly beneath each address in Exhibit A.

David R. Tuthill Jr.

Subscribed and sworn to before me this 1st day of July, 1982.

Roberta M. Garrett
County of Ada

My Commission expires life

RECORDED

GOODING 1 ID 83330	HAROLD BRIANT RT. 2	DORAN CLABER RT. 1
FLOYD P. DEWITT P.O. BOX 164	GOODING 1 ID 83330	GOODING 1 ID 83330
GOODING 1 ID 83330	FAULKNER LAND & LIVESTOCK CO. RT. 2	RICHARD GRAVES RT. 2
JIM KNIGHT BOX 58A	GOODING 1 ID 83330	GOODING 1 ID 83330
GOODING 1 ID 83330	JOHN W. MCIVER P.O. BOX 516	GERHARD SCHMIDT CALIFORNIA ST.
KENNARD SCHMIDT RT. 1	GOODING 1 ID 83330	GOODING 1 ID 83330
GOODING 1 ID 83330	MITCHELL SCHMIDT 315 7TH AVE. W.	DAVID RA SMITH RT. 2
LARRY T. STRICKLAND RT. 2	GOODING 1 ID 83330	GOODING 1 ID 83330
GOODING 1 ID 83330	RONALD H. ADAMS RT. 1 BOX 102	VERL C. BELL RT. 1
BELL RAPIDS MUTUAL IRRIGATION CO.	HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	BEND OF THE RIVER RANCH C/O NELSE SISIAM, MANAGER P. O. BOX 521 HAILEY 1 ID 83332	BLIND CANYON AQUA RANCH INC. BOX 218
ALAN K. BUYER RT. 1 BOX 223	BUCKEYE LAND CO. RT. 1	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	LYLE W. CALLOA BOX #126
BENJAMIN DEAN CHRISTENSEN BOX 282	WILBUR J. CROOK RT. 1 BOX 85	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	ROBERT C. CUNNINGHAM P.O. BOX 237
LYING TRIANGLE, INC.	DORIS GRIDLEY ROUTE #1 BOX #301	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	BLAINE T. HARPER C/O BLAINE T. HARPER RT. 1 BOX 87
JOHN R. HOYNE 1	LITTLE SMOKY ENTERPRISES INC. C/O DAN COATES BOX 358	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	LAWRENCE A. MC CRY RT. 1 BOX 258
MARION E. (GENE) PADGETT BOX 238	HAROLD SMITH RT. 1	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	R. W. STEVENS RT. 1 P.O. BOX 402
RALEIGH W. STEVENS RT. 1 BOX 402	C. A. VERNUM ROUTE #1	HAGERMAN 1 ID 83332
HAGERMAN 1 ID 83332	HAGERMAN 1 ID 83332	YA TA HAY INVESTMENTS INC. P.O. BOX 424



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

August 5, 1983

Fisheries Development Co.
Mac C. Martin
Jeffrey M. & Joy Martin
Michael K. & Vicki Martin
664 Buchanan
Twin Falls, Id 83301

Dear Ladies & Gentlemen,

This office acknowledges assignment of the following water rights to you.

Permit No. 36-7080
Permit No. 36-7664
Permit No. 36-7725
Permit No. 36-7731
Permit No. 36-7800
Application for Permit No. 36-8074

Enclosed for your records are copies of those listed water rights. Be sure to note on the Permits the special conditions of Approval on the fourth page that identifies requirements necessary for developing the permits into licensed water rights.

Enclosed also are several Affidavit for Water Rights to be used for Power purposes. Please have one form completed by each party owning interest in Application for Permit No. 36-8074 and return to our office.

If you have any further questions, please contact me at 334-4123.

Sincerely

ROBYN CARLSON
Technical Records Specialist

RC:jvv
Enclosure

cc: Nyal Hoffman
Rt. 1
Filer, Id 83328

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

August 4, 1983

Nyal Hoffman
Rt. 1
Filer, Id 83328

RE: Water Right Assignment for 36-7080, 36-7080,
36-7664, 36-7725, 36-7731, 36-7800, & 36-8074

Dear Mr. Hoffman,

Thank you for your letter of July 14, 1983. Enclosed you will find a copy of the acknowledgement letter for the above referenced water right.

In your letter you also stated Water Right No. 36-8089. Our records show this right as a protested Application for permit in the name of Fisheries Development Co.

If you have any further questions, please do not hesitate to contact our office.

Sincerely

ROBYN CARLSON
Technical Records Specialist

RC:jvv
Enclosure

RECEIVED
AUG 10 1983
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Nyal Hoffman
Rt 1
Filer, Idaho 83328
July 14, 1983

RECEIVED

JUL 15 1983

STATE OF IDAHO
Department of Water Resources

Dear Sirs:

As we are in the final negotiation in the purchase of the stock in Fisheries Development, an Idaho corporation, owned by Mac Martin, an unmarried man, Jeffery M. Martin and Joy Martin, husband and wife, and Michael K. Martin and Vicki Martin, husband and wife.

We would like the information as to the status of the following water applications:

-36-7080	17.2	C.F.S.	Fish Propagation
-36-7664	10	C.F.S.	Fish Propagation
-36-7725	100	C.F.S.	Fish Propagation
-36-7731	18	C.F.S.	Fish Propagation
-36-7800	8	C.F.S.	Fish Propagation
-36-8074	100	C.F.S.	Hydro Electric
36-8089	150	C.F.S.	Hydro Electric

We are particularly concerned with application # 367725 in this amount of 100 C.F.S. Fish Propagation. In reviewing this application and its extension, we find that your department must approve any sale or assignment.

In a telephone conversation with Mr. Fleenor on July 14, 1983, he indicated that as long as Fisheries Development remain owner nothing as far as permits are concerned, is changed.

We need a letter from your department affirming this position.

We plan to develop this property as soon as possible and try to restore the construction damage that has been done.

As time is of the essence in this transaction any considerations by your department soon would be greatly appreciated.

Sincerely yours,

Nyal Hoffman
Nyal Hoffman

Bob

MATTHEW MULLANEY, Attorney at Law

Capitol Park Plaza East / 512 West Bannock Street / Boise, Idaho 83702 / 208-344-2860

August 3, 1979

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Attn: Bob Fleenor

Gentlemen:

Enclosed please find an original and one copy of the Opposition
of Raleigh W. Stevens to the Application for Rehearing filed by
the Protestant, James V. Norwood, the the matter of Permit No.
7731
36-3371.

Very truly yours,

Matthew Mullaney
Matthew Mullaney, Esquire

11/11/79

1 ROBERT C. WEAVER
WEAVER AND DYKAS
2 Attorneys at Law
130 North Broadway
3 Buhl, Idaho 83316
Telephone: (208) 543 8268

RECEIVED

WATER RESOURCES

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10 BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
11 OF THE
12 STATE OF IDAHO

13 * * * * *

14 IN THE MATTER OF PROTEST AGAINST)
15 THE APPROVAL OF APPLICATION FOR) APPLICATION FOR
16 PERMIT NUMBER 36-7731 IN THE NAME) RE-HEARING
17 OF R. W. STEVENS)

18 * * * * *

19 COMES NOW, James V. Norwood, protestant, in the approval
20 of the above named application and requests the board to re-hear
21 the above entitled matter on the following grounds:

22 1. That the Findings of Fact are not in conformance
23 with the evidence listed at the hearing and that the Findings of
24 Fact should be ammended to include the following findings not
25 included in the Department's Findings of Fact.

26 2. That the water from the Hagerman Water Users
27 Spring located in the Northeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 13,
28 Township 7 South, Range 13 East, B.M. has been continuously diverted
29 from that spring's source in a Hagerman Water Users ditch in ac-
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31 date of April 7, 1907, through Court decree entered March 26, 1932,
32 in New International Mortgage Bank vs. Idaho Power Company, Equity
33 No. 1602 (USDC Idaho). And have more specifically flowed upon
34 and across the lands of the protestant Norwood since the filing

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4 of the applications 36-7159, 36-7160, and 36-7092.

5 3. That the spring in the Northeast $\frac{1}{4}$ Northeast $\frac{1}{4}$ of
6 Section 13, Township 7 South, Range 13 East, B.M., has been
7 diverted by the protestant, James V. Norwood, since January of
8 1972, at points of diversion located in the Southeast $\frac{1}{4}$ Northeast $\frac{1}{4}$
9 of Section 13, Township 7 South, Range 13 East, B.M., and Northwest $\frac{1}{4}$
10 Southwest $\frac{1}{4}$ of Section 18 Township 7 South, Range 13 East, B.M.

11 4. That the protestant, James V. Norwood, has beneficially
12 used the water from Hagerman Water Users Spring, subject to the
13 interruption by the Hagerman Water Users Association pursuant
14 to an agreement, continuously since January 10, 1972.

15 5. That the applicant, R. W. Stevens, has made no
16 beneficial use of the spring known as the Hagerman Water Users
17 Spring.

18 6. That the applicant, R. W. Stevens, had actual
19 knowledge prior to the application of permit No. 36-7731, that
20 the protestant, James V. Norwood, was diverting the water from
21 the spring known as Hagerman Water Users Spring at a point on the
22 protestant's own land from the Hagerman Water Users Ditch.

23 PROTESTANT FURTHER SUBMITS that the above should be
24 part of the records as far as Findings of Fact and Conclusion of
25 Law and is amply supported by evidence previously entered in the
26 Court record January 9th and 10th, 1978, when the matter came
27 on for hearing before the department.

28 PROTESTANT FURTHER SUBMITS that if the Findings of Fact
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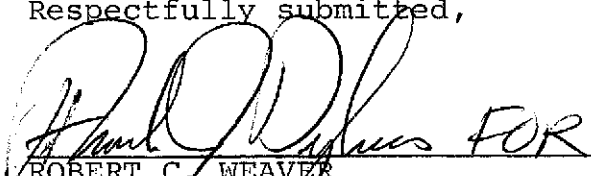
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fore, the diversion of water proposed by the applicant would be subject to the water rights established by the licenses.

2. Petitioner does not intend to produce further evidence to change said Findings of Fact unless required by the director to produce evidence at re-hearing.

WHEREFORE, the protestant prays that the above Findings of Fact and Conclusions of Law be made a part of the Memorandum of Decision and Order and that the Memorandum of Decision and Order be changed accordingly.

Respectfully submitted,

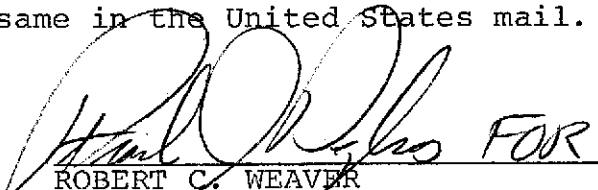

ROBERT C. WEAVER
Attorney for Applicant

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of August, 1979, I mailed a true and correct copy of the above and foregoing PETITION FOR RE-HEARING to:

Mathew Mullaney	Hagerman Water Users Assoc., Inc.
Capitol Park Plaza East	Louis Coopman, President
512 West Bannock Street	Hagerman, Idaho 83332
Boise, Idaho 83702	

by placing the same in sealed envelopes, with postage pre-paid thereon, and deposited the same in the United States mail.


ROBERT C. WEAVER

MATTHEW MULLANEY, ESQUIRE
512 West Bannock
Capitol Park Plaza East
Boise, Idaho 83702
208-344-2860

ATTORNEY FOR R. W. STEVENS

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST	)	
APPROVAL OF APPLICATION FOR PERMIT	)	OPPOSITION TO APPLICATION
NO. 36-7731, IN THE NAME OF R. W.	)	FOR REHEARING
STEVENS	)	

The hearing in this matter occurred more than 18 months ago. The hearing was recorded but not transcribed. The Department of Water Resources has enjoyed access to the hearing tapes. Frankly, it is often difficult for counsel for the parties to remember after 18 months what is contained in the record and what is just private conversations with their clients. The Department is in the best position to know what is and what is not in the record under the circumstances.

The undersigned counsel will state his best recollection of the evidence relating to each of the paragraphs of the Protestant's Application for Rehearing.

1. The Applicant does not believe the findings of fact should be amended as suggested by the Protestant. Moreover, some amended findings tendered by the Protestant, even if supported by the evidence, are not material or relevant to the decision of the Department here.

2. The Applicant does not contest the right of Hagerman Water Users Association (HWUA) to its decreed water. Applicant's right

OPPOSITION TO APPLICATION FOR REHEARING - Page One.

MATTHEW MULLANEY, ESQUIRE
512 WEST BANNOCK STREET
BOISE, IDAHO 83702
208-344-2860

MICROFILMED

is expressly subject to the prior right of HWUA. See, paragraph 1 of the Memorandum Decision and Order, page 3.

We recall the evidence to be that the Applicant has with the knowledge and permission of the HWUA used the spring water from time to time to do some earth moving work on Applicant's property. The water from the HWUA spring passes across the property of the Protestant in an improved ditch and is no longer public water.

3 and 4. Counsel does not recall the date in question, but the date is not relevant. Beneficial use of whatever time or duration cannot ripen to a right as against the Applicant. The statutory appropriation process dictated by Sections 42-103 and 42-201, Idaho Code, is the mandatory, exclusive process for obtaining water rights after July 1, 1971. State of Idaho, Department of Parks v. Idaho Department of Water Resources, 96 Idaho 440, 445 (1974).

Counsel recalls further that any use of HWUA water by the Protestant was by leave of HWUA and not adverse to their interests much less the interests of the Applicant.

5. From time to time, the Applicant has used the waters of the HWUA spring with the permission of the HWUA. Whether or not the Applicant has applied the water to beneficial use is immaterial, however, just as is the action of the Protestant. Applicant claims a right in the water under the exclusive statutory appropriation process and not by virtue of any constitutional use right. The Protestant can claim no more.

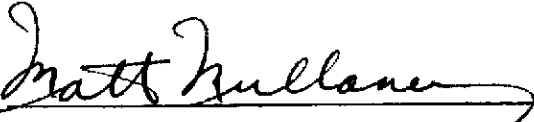
6. There is absolutely no evidence to our recollection that the Applicant had knowledge in fact that the Protestant was diverting the waters of HWUA. In any event, actual knowledge is of no consequence here. Protestant must establish any right to these waters through the statutory appropriation process. The

Department has ruled consistent with the record that the Protestant has not done so. Consequently, that water over and above the prior rights of HWUA is subject to appropriation under Permit No. 36-3371.

Protestant's primary conclusion of law is inconsistent with the record. The Protestant is not entitled to waters of the HWUA spring at the expense of the Applicant.

The Application for Rehearing should be denied without further argument or hearing pursuant to Rule 11 of the Rules of Practice and Procedure of the Department.

DATED: AUGUST 2, 1979.

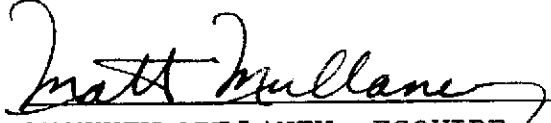

MATTHEW MULLANEY, ESQUIRE
ATTORNEY FOR APPLICANT, R. W. STEVENS

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing Opposition to Application for Rehearing was mailed, postage prepaid, this 3rd day of August, 1979, to:

Robert C. Weaver, Esquire
130 North Broadway
Buhl, Idaho 83316
Counsel for Protestant

Hagerman Water Users Association
c/o Louis Coopman, President
Hagerman, Idaho 83332


MATTHEW MULLANEY, ESQUIRE

RECEIVED

MAR 2 1970

DEPARTMENT OF WATER RESOURCES

1 ROBERT C. WEAVER
WEAVER AND DYKAS
2 Attorneys at Law
130 North Broadway
3 Buhl, Idaho 83316
Telephone: (208) 543 8268
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9

10 BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
11 OF THE
12 STATE OF IDAHO
13

* * * * *

14 IN THE MATTER OF PROTEST AGAINST)
15 THE APPROVAL OF APPLICATION FOR) APPLICATION FOR
16 PERMIT NUMBER 36-7731 IN THE NAME) RE-HEARING
17 OF R. W. STEVENS)

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8 the director to produce evidence at re-hearing.

9 WHEREFORE, the protestant prays that the above Findings
10 of Fact and Conclusions of Law be made a part of the Memorandum
11 of Decision and Order and that the Memorandum of Decision and
12 Order be changed accordingly.

13 Respectfully submitted,
14
15

16 ROBERT C. WEAVER
Attorney for Applicant

17 CERTIFICATE OF MAILING

18 I hereby certify that on the ____ day of ____
19 1979, I mailed a true and correct copy of the above and foregoing
20 PETITION FOR RE-HEARING to:

21 Mathew Mullaney Hagerman Water Users Assoc., Inc.
22 Capitol Park Plaza East Louis Coopman, President
512 West Bannock Street Hagerman, Idaho 83332
23 Boise, Idaho 83702

24 by placing the same in sealed envelopes, with postage pre-paid
25 thereon, and deposited the same in the United States mail.
26

27 ROBERT C. WEAVER
28
29
30
31
32
33
34

MATTHEW MULLANEY, ESQUIRE
512 West Bannock
Capitol Park Plaza East
Boise, Idaho 83702
208-344-2860

ATTORNEY FOR R. W. STEVENS

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST	)	
APPROVAL OF APPLICATION FOR PERMIT	)	OPPOSITION TO APPLICATION
NO. 36-7731, IN THE NAME OF R. W.	)	FOR REHEARING
STEVENS	)	

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OPPOSITION TO APPLICATION FOR REHEARING - Page One.

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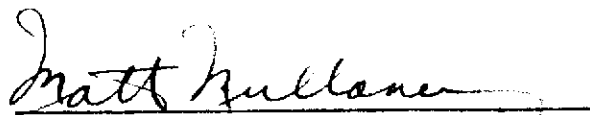
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Protestant's primary conclusion of law is inconsistent with the record. The Protestant is not entitled to waters of the HWUA spring at the expense of the Applicant.

The Application for Rehearing should be denied without further argument or hearing pursuant to Rule 11 of the Rules of Practice and Procedure of the Department.

DATED: AUGUST 2, 1979.



MATTHEW MULLANEY, ESQUIRE
ATTORNEY FOR APPLICANT, R. W. STEVENS

CERTIFICATE OF MAILING

I hereby certify that a copy of the foregoing Opposition to Application for Rehearing was mailed, postage prepaid, this 3rd day of August, 1979, to:

Robert C. Weaver, Esquire
130 North Broadway
Buhl, Idaho 83316
Counsel for Protestant

Hagerman Water Users Association
c/o Louis Coopman, President
Hagerman, Idaho 83332



MATTHEW MULLANEY, ESQUIRE

MATTHEW MULLANEY, Attorney at Law
Capitol Park Plaza East / 512 West Bannock Street / Boise, Idaho 83702

Attn: Bob Fleenor

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720





State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

July 26, 1979

R. W. Stevens
P. O. Box 402, Route 1
Hagerman, ID 83332

Dear Mr. Stevens:

Re: Application for Permit No. 36-7731

Enclosed is a copy of your approved Application for Permit No. 36-7731 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the order.

Be sure to note the special condition requiring you to install and maintain a measuring device at your point of diversion prior to submitting proof of beneficial use of water. We have enclosed a letter describing the different types of measuring devices accepted by this office.

The exercise of this permit may also be affected by the court's determination of water rights in the case of Idaho Power Company v. State of Idaho, et al., Civil No. 62237, currently pending before the district court of Ada County.

Idaho Power officials tell us that because of Case No. U-1006-124 filed before the Idaho Public Utilities Commission, Idaho Power Company is asking the district court of Ada County to determine whether the Power Company's water rights on the Snake River are protected against subsequent upstream appropriations in the waters of the Snake River and surface and subterranean tributaries between Milner Dam and Hells Canyon.

Since the use of water under your permit may affect the flows in the reach of the Snake River, the final decision in Idaho Power Company v. State of Idaho, et al. (Ada County Civil No. 62237) may determine to what extent the exercise of your permit may be subject to the water rights of Idaho Power.

While the Ada County court is examining this question, Idaho Power Company has not filed a specific protest to your permit. However, the Department of Water Resources has been advised that the Power Company is not waiving any of its rights to contest or limit the exercise of your permit on a subsequent license or water right.

MICROFILMED

R. W. Stevens

Page 2

July 26, 1979

Any person who does not agree with the decision of the Department may request a rehearing before the Director within twenty days, or may appeal directly to the district court within sixty days of the date the decision is mailed.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR.
Acting Chief, Operations Bureau

DRT:rf

Enclosures

cc: Hagerman Water Users Assn., Inc.
Matthew Mullaney
James V. Norwood
Robert C. Weaver

RECEIVED
JUL 27 1979

July 20, 1979

Matthew Mullaney
Capitol Park Plaza East
512 West Bannock Street
Boise, ID 83702

Dear Matt:

RE: Application for Permit No. 36-7731

Your May 3, 1979 letter requests that I issue a proposed decision on Application for Permit No. 36-7731 in the name of R. W. Stevens.

Your position is that a proposed decision is required by the Idaho Administrative Procedures Act, Section 67-5211. I have asked the Department's legal counsel to advise me of the necessity of such a procedure. In the meantime, I am issuing a memorandum decision and order in accordance with the Department's usual procedures. As you are aware, under these procedures a rehearing before the Director may be requested within 20 days after service of the decision.

Sincerely,

C. STEPHEN ALLRED
Director

CSA:JPB:dlc

cc: Robert C. Weaver, Esq.
Counsel for Hidden Springs Trout Ranch, Inc.

MATTHEW MULLANEY, Attorney at Law

Capitol Park Plaza East / 512 West Bannock Street / Boise, Idaho 83702 / 208-344-2860

RECEIVED

MAY 4 1979

May 3, 1979

Department of Water Resources

Steven Allred, Director
Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

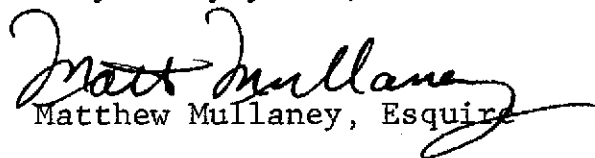
Re: Application of R. W. Stevens
for Permit No. 36-7731

Dear Steve:

The grapevine leads me to believe that you are near to a decision in the above-referenced matter. I write at this time to repeat my call for you to issue a proposed decision with appropriate findings and conclusions before a final decision issues in order to comply with the Idaho Administrative Act, Section 67-5211, Idaho Code. Whatever the outcome of the proceeding, it would eliminate this risk of error on the procedural side.

Thank you for your consideration of this matter.

Very truly yours,


Matthew Mullaney, Esquire

cc: Robert C. Weaver, Esquire
Counsel for Hidden Springs Trout Ranch, Inc.

Raleigh W. Stevens

RECEIVED

April 3, 1978

RECEIVED
APR 3 1978

HAND-DELIVERED

Department of Water Resources

Idaho Department of Water Resources
Statehouse
Boise, Idaho 83720

Attn: Bob Fleenor

Re: Application for Permit No. 36-7731
Application for Permit No. 36-7659
Application for Permit No. 36-7642

Gentlemen:

Re Application for Permit No. 36-7731:

We must object to receipt and consideration of Post Hearing Brief of James Norwood dba Hidden Springs Ranch. That brief was due on February 10. It is fifty (50) days late. Applicant's brief was timely filed. A proposed decision should have been served upon the parties by this time. The Department should not have waited this long for Protestant's brief. It should be returned to the Protestant.

Re Application for Permit No. 36-7659:

We direct the Department's attention to H.B. No. 620 approved by the Second Regular Session of the Forth-fourth Legislature adding a local public interest criteria to Departmental review under Section 42-203, Idaho Code. H.B. No. 620 contains an emergency clause and became effective when Governor Evan signed the bill on March 29, 1978. It bears the chapter number 306. The record in this matter clearly shows that the appropriation of the amount of water proposed from Billingsley Creek is contrary to the local public interest. The Department should deny the application.

Re Application for Permit No. 36-7642:

This matter must be scheduled for further hearing. We suggest that the Department informally contact counsel for all parties before setting a firm hearing date.

Respectfully submitted,

Matthew Mullaney
Matthew Mullaney, Esquire

cc: Robert C. Weaver, Esquire

MICROFILMED

1 ROBERT C. WEAVER
2 Attorney at Law
3 130 North Broadway
4 Buhl, Idaho 83316
5 Telephone (208) 543-8268

RECEIVED

MAR 31 1978

Department of Water Resources
Southern District Office

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

8 In the Matter of)

9 Protest Against Approval of)
Application for Permit No.)

10 36-7731 in the name of)
11 R. W. Stevens)

POST HEARING BRIEF OF
JAMES NORWOOD dba
HIDDEN SPRINGS RANCH

* * * * *

12 STATEMENT OF FACTS

13 R. W. Stevens filed for application of water right permit
14 No. 36-7731 in July of 1977 for 18 second feet of public water from
15 six unnamed springs and one spring locally known as the Hagerman
16 Wateruser Spring within the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 13, Township 7 South,
17 Range 13 East, Boise Meridian, year around for fish propagation.
18 The protestant Norwood protested only the right of the applicant
19 Stevens to the use of the one local spring know as the Hagerman
20 Wateruser Spring.

21 Protestant Norwood claims a right to the use of said
22 Hagerman Wateruser Spring by virtue of his water licenses 36-7160,
23 36-7092 and 36-7159, all of which water licenses were combined for
24 a total of 22.64 c.f.s. of water for fish propagation. As part of
25 the record in the hearing on the merits, the protestant entered into
26 evidence a contractual agreement between himself and the Hagerman
27 Waterusers Association, wherein permission was granted to Norwood and
28 his predecessor in interest to file on the Hagerman Wateruser's water
29 in the off season for fish propagation.

30 Evidence was elicited at trial to indicate that Norwood
31 and his predecessors in interest had diverted the Hagerman Wateruser's
32 stream flow to their fish pond facilities at a diversion point on
33 Norwood's property to the head race of Norwood's fish facilities
34 where he applied it to beneficial use. Evidence pointed out that

1
2 Norwood had continually used the waters from the Hagerman Waterusers
3 Association including the spring and contention from the year 1972
4 until the present time. The only interruption in that flow,
5 according to the testimony of the protestant Norwood, was during
6 the time in the summer months when the Hagerman Waterusers were
7 irrigating with those waters pursuant to their water license and
8 decreed right from the New International Mortgage Bank case. From
9 the testimony of the agent for the Department of Water Administration,
10 Gary Funderberg, it appeared that an inspection had been made
11 pursuant to the requirements of Norwood and his predecessors obtaining
12 a water license on the Hagerman Wateruser Spring and said inspection
13 by Funderberg showed the diversion of said water from the man-made
14 ditch of Hagerman Wateruser was at a spot on said man-made ditch
15 which had been continually used as a spill by the Hagerman Waterusers
16 and was thereafter used to place the water into the head race of the
17 fish ponds of the protestant Norwood and was shown as his point of
18 diversion on the water license.

19 Evidence further showed, both from the testimony of the
20 applicant Stevens and the protestant Norwood, that the particular
21 spring in question, the Hagerman Wateruser Spring, had continually
22 flowed in the man-made ditch created by the Hagerman Waterusers
23 Association and flowed from properties belonging to Stevens over
24 and across lands belonging to Norwood to a place where either the
25 Hagerman Waterusers Association mingled it with other waters and
26 placed it in their pipeline or spilled the water on the protestant
27 Norwood's land where he later utilized it as part of his water
28 license for his fish facilities.

29 A review of the application and the later water license of
30 the 36-7160, 36-7159 and 36-7092 all show points of diversion
31 within properties being owned by the defendant Norwood. As shown
32 by the evidence of the defendant Norwood, he has always intended
33 his place of diversion to be exactly where he has stated it to be,
34

1
2 that is, from the existing ditch of the Hagerman Waterusers Association
3 where it has always spilled upon their property. The applicant's
4 post hearing brief makes much to do about the application for the
5 water licenses of Mr. Norwood, that is 36-7160 and companion licenses.
6 However, none of the matters to which he is referring in his brief
7 were matters brought forth in evidence in the application of Mr. Stevens
8 for this particular water permit. Therefore, I think the department
9 cannot look into matters which were not made part of the
10 record and which are not in evidence in this particular proceeding.

11 It would appear that where the Norwood's claim to the water
12 is uncontroverted as far as their actual use and their place of
13 diversion was at a point on their own property from the stream of
14 water created by the Hagerman Waterusers Association whom they had
15 contractually agreed with for the use of the water, Mr. Stevens cannot
16 be heard now to say that he is being adversely effected by the
17 continued use by Norwoods of the water in question. Assuming even
18 that the department was to hold the license defective because
19 the point of diversion was found to have been shown in the license
20 application to have been on Mr. Stevens' property even though
21 the actual diversion point from the stream was in fact on Mr.
22 Norwood's property, Mr. Stevens would be estopped to assert that
23 defence now after the waters had run in that course and channel
24 and been appropriated and beneficially used by Mr. Norwood for
25 a period of approximately five years of continuous use.

26 The Idaho Supreme Court has ruled on a similar situation
27 in the Hillcrest Irrigation District vs. Nampa and Meridian Irrigation
28 District where the court was considering both the question of the
29 legalities of the description for the points of diversion and the
30 question of laches and estoppel on page 118 of 66 P.2d, the court
31 said:

32 "The contention has also been made that the description
33 of the water rights or appropriations transferred
34 were insufficient to work a legal transfer from the

1
2
3 original points of diversion to the new point of
4 diversion at the headgate of the New York Canal.
5 This contention is answered by the fact that that
6 description has for more than twenty years proved
7 sufficient and practical application to enable the
8 various watermasters to identify it and to make
9 diversion from year to year so that in practice
10 there has been no controversy or dispute over the
11 particular water rights or appropriations that
12 were intended to be, and, in fact, were transferred.
13 Since the description given was sufficient to enable
14 the parties, who had to deal with the property, to
15 acturately identify and locate it, it must be held
16 sufficient for all practical purposes. . . (emphasis added)

17 ". . .

18 "Long and continuous knowing acquiescence in
19 another use and enjoyment of a property or privilege
20 may preclude one from subsequently asserting his claim.
21 (citations omitted)."

22 In Ryan vs Wooten, the just and fair rule is stated as
23 follows:

24 "Courts of equity do not favor antiquated or stale
25 demands and refuse to interfere where there has been
26 gross laches in commencing the proper action, or long
27 acquiescence in the assertion of adverse rights."

28 Here the change of point of diversion and use, whether regular
29 and legal or not, was actually accomplished and thereafter used
30 and enjoyed adversely.

31 ARGUMENT

32 It would appear, therefore, that not only has the protestant
33 claimed the water adversely for this period of time but the applicants
34 should be estopped and laches should apply to his claim of right to
35 use the waters under application here. Mr. Stevens has eluded
36 in his own brief in paragraph 2 at page 5 that even a casual
37 view of the Hagerman Spring and surrounding area makes it clear
38 that if the waters of the Hagerman Springs were allowed to flow
39 naturally without diversion they would reach Billingsly Creek
40 over Stevens' land. It would also appear quite clear that Mr.
41 Stevens, with a casual view of the properties in question, could have
42 known for a fact that Mr. Norwood and the Hagerman Springs Waterusers
43 had continually for a long period of time diverted the spring on his

1
2 own property and should not now be heard to say he was merely relying
3 upon the records as to water rights claimed by any of the parties.
4 If a casual view would show the waters would normally flow over his
5 properties to Billingsly Creek, they would certainly show they have
6 been diverted to properties belonging to Mr. Norwood over that
7 period of time.
8

9 It is the protestant Norwood's position that the point
10 of diversion location is not patently defected because the actual
11 diversion point used and was on the properties owned by the
12 defendants Norwood. The Department of Water Resources thereafter
13 went upon properties belonging to the defendants Norwood for the
14 purposes of examining the diversion facilities for licensing purposes
15 and found no fault in the manner in which the waters were diverted
16 and subsequently gave the Norwoods the water licenses hereinabove
17 mentioned.

18 Therefore, the protestant requests that the Department
19 deny the application of the applicant, R. W. Stevens, insofar as
20 that particular spring known as Hagerman Wateruser Spring is
21 concerned.

22 DATED This 31st day of March, 1978.

23 ROBERT C. WEAVER

24 

25 Robert C. Weaver
26 Attorney for Protestant Norwood

27 CERTIFICATE OF MAILING

28 I hereby certify that a copy of the foregoing Post
29 Hearing Brief of James Norwood dba Hidden Springs Ranch was
30 served upon counsel for Raleigh W. Stevens by mailing a copy
31 thereof, postage prepaid, to his address of record this 31st
32 day of March, 1978.

33 
34 ROBERT C. WEAVER

MATTHEW MULLANEY, ESQUIRE
1002 Warm Springs Avenue
Boise, Idaho 83702
208-344-2860
Attorney for R. W. Stevens

RECEIVED

JAN 30 1978

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 36-7731, IN
THE NAME OF R. W. STEVENS.

POST-HEARING BRIEF OF R. W. STEVENS

The application before the department of water resources was filed by R. W. Stevens on July 8, 1977 and advertised on July 21 and 28, 1977. Stevens proposes to divert and use 18 cfs of public water from "6 unnamed springs and 1 spring locally known as the Hagerman Waterusers' spring" within the NE⁴NE⁴ of Section 13, T7S, R13E, B.M., year round for fish propagation. Stevens owns most of the NE⁴NE⁴ of Section 13. Among the springs rising on his land is one commonly known as the Hagerman Water Users' Spring (hereinafter the "Hagerman Spring"). The rights to the waters of that spring are in contention here. The department is well aware of the profusion of springs throughout this part of Gooding County.

Protests to Stevens' application were filed by the Hagerman Water Users Association (hereinafter the "Association") and by Hidden Springs Trout Ranch, Inc. through its vice-president James V. Norwood. Both protestants contend that the Stevens' application should be denied or conditioned in so far as it proposes to appropriate water from the Hagerman Spring, alleging that they have prior rights to that water.

The Association claims rights under a court decree of March 22, 1932 in New International Mortgage Bank v. Idaho Power Company, Equity No. 1602 (USDC Idaho). According to that decree, the Association holds the following rights with priority dates of April 7, 1906:

5.0 cfs from Spring No. 1 "about the center of the north side of NE⁴NE⁴ of Section 13, T7S, R13E" (The spring in question here).

11.2 cfs from Spring No. 2 "about center of NW⁴SW⁴, Section 18, T7S, R14E."

20.0 cfs from Spring No. 3 near Big Springs (source of water supply for Big Springs Water Users Association which is located in the NW⁴SW⁴, Section 18, T7S, R14E).

Hidden Springs claims a prior right to the waters of Hagerman Spring on Stevens' land pursuant to license no. 36-7160 held by Virgil and Ardith Norwood.

MICROFILMED

The application and protests were noticed up for hearing in Twin Falls on January 9, 1978 at 3:00 p.m. Hidden Springs appears through counsel, Robert Weaver, and its vice-president, James Norwood. There was no appearance by the Association. After a brief pre-hearing conference, the hearing was continued until the next morning when the same appearances were again noted.

Stevens contends that the protest of the Association should be disallowed for want of an appearance and prosecution of the protest. Stevens recognizes the prior rights of the Association to the Hagerman Spring on Stevens' land. He acknowledges that any permit and license issued by the director of the department of water resources in this matter is not a basis for interference with the prior right of the Association. Most of the demand for water on the Association's system occurs during the irrigation season. The Hagerman Spring on Stevens' land flow year round. Stevens has already made intermittent use of this water at times it would not conflict with the use of the water by the Association. Stevens intends to use the waters of Hagerman Spring whenever the Association advises him that it does not need the water. Likewise, he intends to stop diverting that water when the Association advises him that it needs the water again, all without regard to strict dates of use or nonuse, since Stevens recognizes that the irrigation season is variable.

Stevens contends that Hidden Springs Trout Ranch, Inc. and Virgil and Ardith Norwood have no legal right to the waters of Hagerman Spring and that the protest should be disallowed without causing any conditions to attach to permit no. 36-7731.

The method whereby the Norwoods acquired license no. 36-7160 is fatally defective under Idaho law and gives them no right or grounds to protest the Stevens application. To demonstrate our point, it is necessary to review the history of license no. 36-7160 as well as its companion license no. 36-7159.

* * * * *

The application for permit no. 36-7160 was filed by Virgil and Ardith Norwood on February 18, 1971 for 18 cfs of water from unnamed springs tributary to Billingsley Creek for use between October 15 and April 15 for fish propagation. The application was advertised on March 11 and March 18, 1971. The points of diversion specified in the application were within the SW¹/₄ and the NW¹/₄ of Section 18, T7S, R14E, B.M.

The application was amended and readvertised in August, 1971, after the protest conference, to change the legal description of the place of use and to amend the period of use to November 1 - April 1. The points of diversion remained the same and were so advertised twice more.

Also on February 18, 1971, the Norwoods filed a companion application for permit no. 36-7159 for 10 cfs from unnamed springs tributary to Billingsley Creek. According to this application, there were to be 16 points of diversion within the

NE⁴NE⁴ and the SE⁴NE⁴, Section 13, T7s, R13E and
Lot 2, SW⁴NW⁴ and Lot 3, NW⁴SW⁴, Section 18, T7S, R14E, B.M.

This application was also later amended to change the legal description and the place of use. Again the points of diversion remained the same.

The application for permit no. 36-7160 was protested by Don Wallace to protect his rights in Sherman Springs. The Hagerman Water Users Association also filed a protest. The application for permit no. 36-7159 was protested by Don Wallace. It was also protested by Herbert L. Maske. Mr. Maske is the predecessor in interest to R. W. Stevens as to both the NE⁴NE⁴, Section 13, T7S, R13E and to permit no. 36-7080. The points of diversion under the Maske-Stevens permit no. 36-7080 are within the NE⁴NE⁴ of Section 13.

These two applications filed by the Norwoods were heard together on April 20, 1971 at the Gooding County Courthouse. It is important to note that Mr. Maske and his legal counsel, John Hepworth, at no time protested 36-7160. They were lead to believe that Maske had no interest whatsoever in 36-7160 because the points of diversion and use were not within the NE⁴NE⁴, Section 13, T7S, R13 E, where the water rights and real property interests of Maske were located.

Don Wallace withdrew his protest to 36-7160. The Association and the Norwoods filed with the department an Agreement dated April 21, 1971 whereby the Association consented to the Norwoods filing under 36-7160. Permit No. 36-7160 was issued without a written decision by the director on September 22, 1971. The director approved the amended application advertised in August, 1971. Permit No. 36-7160 gave the Norwoods no right to use any springs rising in the NE⁴NE⁴, Section 13, T7S, R13E, B.M.

Permit No. 36-7159 as amended to change the place of use was issued on October 29, 1971 pursuant to a Memorandum Decision and Order of that date conditioning the permit on the prior rights of the protestants including Maske. An Amended Memorandum Decision and Order was issued on January 10, 1972 to correct some errors in the earlier decision.

License No. 36-7160 was issued on August 16, 1976 for 2.64 cfs from November 1 - April 1 to Virgil and Ardith Norwood. The points of diversion were the

SE⁴NE⁴, Section 13, T7S, R13E, and
SW⁴NW⁴ and the NW⁴SW⁴, Section 18, T7S, R14E, B.M.

Two things should be noted about the points of diversion in this license. First, the points of diversion differ substantially from the points of diversion on the application, amended application, and from the four newspaper notices of March 11, March 18, August 12

and August 19, 1971. The point of diversion underscored is not even within the same Township and Range as stated in the application, amended application and newspaper notices. Secondly, the license - apart from its inconsistency with all that has preceded it - gives no rights to the Norwoods to public waters from springs arising in the NE¹/₄NE⁴/₄, Section 13, T7S, R13E.

The change in the point of diversion is apparently in response to an Application for Amendment filed by the Norwoods on August 9, 1976. That amendment was approved on August 16, 1976 by the director, the same day he issued License No. 36-7160. The Application for Amendment was not advertised. If the department believes that it is this amendment that makes it possible for the Norwoods to claim a right to water from Hagerman Spring on Stevens' land, then the department has violated the requirements of Section 42-211, Idaho Code, for the rights of Mr. Stevens have been adversely affected and notice was required.

* * * * *

We now procede to the legal arguments in support of the contention of Mr. Stevens. The point of diversion is that point where public waters owned by the state of Idaho are diverted into some ditch, canal, conduit or other works for transportation of water and not a point within the ditch or transportation system. I. C. 42-110; 42-202. At the point specified in License No. 36-7160, the water from Hagerman Spring is no longer public water subject to the appropriation process. Hutchins, The Idaho Law of Water Rights, pp. 6 and 10.

The point of diversion is no idle thing. It is the point where one holding a water right is entitled to a flow of water. Hutchins, The Idaho Law of Water Rights, p. 28 and cases cited in footnote 139. The point of diversion is an important part of the statutory appropriation process. The application must state the "location of the point of diversion and description of the proposed ditch." I. C. 42-202. The application must be advertised twice in a newspaper and that notice must state the "approximate location of the point of diversion." I. C. 42-203. A point of diversion may not be changed without a formal application, newspaper notice, and time to object. I. C. 42-222.

It is extremely important that the point of diversion of water from the public water supply be stated with precision in this region of many, many springs since we have no means of identifying the springs filed on other than the legal description of the points of diversion. Quite frankly, if the applicants and the department are going to be so indiscriminate in the appropriation procedures in this region of Gooding County, the public

would be better served by returning to the turn-of-the-century method of appropriation which required posting of notice at the point of diversion. A correctly stated point of diversion is part and parcel to a description of the "source of the water supply" (I. C. 42-202 and 42-203) in this part of the state of Idaho.

Even a casual view of the Hagerman Spring and the surrounding area makes it abundantly clear that if the waters of Hagerman Spring were allowed to flow naturally without diversion, they would reach Billingsley Creek over Stevens' land in the NE⁴NE⁴, Section 13, T7S, R13E and not over the land of the Norwoods in the SE⁴NE⁴ of Section 13, the belatedly described point of diversion.

The department should not allow an applicant to file on one source of water and then go wandering over the countryside until he finds some water and then give him a license on a source of water not described in the application and permit. A license is not valid if issued other than in substantial compliance with the terms of the underlying permit. Basinger v. Taylor, 36 Idaho 591, 597-598, 211 Pac. 1085 (1922).

The Agreement between the Association and the Norwoods is of no consolation to the protestant in this matter for two reasons. First, the Agreement only consents to Norwood's filing on water from the Association's system as specified in application no. 36-7160. The Hagerman Spring on Stevens' land and the Norwood diversion in the SE⁴NE⁴, Section 13, T7S, R13E are not a part of the application and Agreement. The application and Agreement can only be read to refer to the Hagerman springs and works located in the SW⁴ of Section 18, T7S, R14E (Springs No. 2 and 3 in the judicial decree in New International Mortgage Bank). Secondly, the Agreement does not excuse the Norwoods from substantial compliance with the provisions of chapter 2, title 42, Idaho Code, especially giving notice of the intent to appropriate water rising from the land of another.

Stevens testified that he took the deliberate precaution of checking the records of the department of water resources before buying his land from Maske to ascertain the rights of others to waters rising on that land. There appeared no rights of record in the Norwoods or Hidden Spring Trout Ranch, Inc. Mr. Stevens should be able to rely on the records of the department of water resources as to statutory appropriations.

If the Norwoods have a valid water right to Hagerman Spring on Stevens' land under 36-7160, the Association would be precluded from changing the direction of their ditch or abandoning their old ditch, because it would interfere with the flow of water to Norwoods' point of diversion. That is certainly not the intent of the Agreement between the Norwoods and the Association.

The director is not bound by Section 42-220 to find in favor of Hidden Springs and the Norwoods. The issue here does not go to the amount of water to which they are entitled but to the source of that water. License No. 36-7160 does not on its face, irrespective of the amendment to the point of diversion, entitle the Norwoods to appropriate public waters rising on the land of R. W. Stevens.

The director of the department of water resources may deny an application, grant an application in part or on conditions whenever he finds that a "proposed use is such that it will reduce the quantity of water under existing water rights." I. C. 42-203. The director is expected to ascertain for the purpose of granting the permit whether existing rights will be impaired. Hutchins, Selected Problems in the Law of Water Rights in the West, p. 346. If as Stevens contends, Hidden Springs and the Norwoods have no ground for protest because they have no legal right to the waters of Hagerman Spring on Stevens' land, the director must make a finding on that issue, regardless of the fact that such a finding would not constitute a judicial determination of the rights of the protestants. Hutchins, Selected Problems, p. 347.

* * * * *

Before concluding this brief, two procedural points must be made. It was agreed at the close of the hearing in Twin Falls that the parties and the Hearing Officer would view the land and works at issue on the afternoon of January 18, 1978. Stevens was the only party to make himself available for the view. Neither James Norwood nor his counsel was present. The Hearing Officer did not view the property. He sent another employee
No photographs were taken.
from the department in Boise to view the property./By his own admission, that employee

"didn't know until five minutes before I left Boise that I was to make the view and I don't know anything about the case."

Mr. Stevens protested and we must protest again. This is no reflection on that department employee. The department must give its professional attention to these matters just as it must give its professional attention to the description of the points of diversion in this part of Idaho. The parties have spent substantial sums of money contesting this application 36-7731 and license no. 36-7160. The department should respond accordingly.

A view of the property is a part of the record of this proceeding. Yet we have no photographs. We do not have a view by the Hearing Officer as agreed to. We hope that Stevens is not prejudiced by any finding of fact not consistent with ground level reality.

This proceeding is conducted pursuant to chapter 52, title 67, Idaho Code.

Section 67-5211 requires that the official who renders a final decision in a contested case must hear the case or read the record or he shall not issue a final decision until a proposal for decision is served upon the parties. The parties then have an opportunity to file exceptions and make argument. Because we have not had a view of the property by the Hearing Officer or the director, we must hold the department to the requirements of Section 67-5211, Idaho Code.

Respectfully submitted

January 30, 1978
DATE

Matthew Mullaney
MATTHEW MULLANEY, ESQUIRE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief of R. W. Stevens was mailed, postage prepaid, to Robert Weaver, Esquire, counsel for Hidden Springs Trout Ranch, Inc., at 130 N. Broadway, Buhl, Idaho 83316 on January 30, 1978.

Matthew Mullaney
Matthew Mullaney

RECEIVED

DEC 19 1977

Department of Water Resources
Southern District Office

December 19, 1977

Re: Permit Application No. 36-7642

R. W. Stevens
R BAR S RANCH
Route 1
Hagerman, Idaho 83332

Dear Mr. Stevens:

Your December 8 letter indicates that you are still not satisfied with the proposed stipulated agreement that resulted from our hearing last July.

The agreement that we originally proposed was taken from the tape recording made at the July hearing but apparently that agreement is no longer acceptable to you, therefore, we have asked Mr. Steele of our Southern Regional office to contact you to work out an agreement acceptable to you and Mr. Norwood.

The specific comments made are, of course, important issues but again the only issues we can consider in approving or denying a permit are:

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

Page 2
Mr. R. W. Stevens
December 19, 1977
Re: App. for Permit No. 36-7642

We reject totally your suggestion that Judge Scoggin, a very capable person, be appointed arbitrator since there are no statutory provisions to allow this and further, we resent the intimation that the Department is on one side. The application for permit was filed by Mr. Norwood and protested by you.

This matter has been set for hearing on January 9th and hopefully, can be resolved then.

Sincerely,

C. STEPHEN ALLRED
Director

CSA:BDF:jfr

cc: Region

NAME	AMOUNT OF WATER IN SECOND FEET AND SOURCE	PRIORITY OF APPROPRIATION	DIVERSION POINT
36-0055 GRIDLEY, WALTER, AND ANNA GRIDLEY	1.5 Riley Creek .3 Riley Creek	May 1, 1883 May 1, 1883	Gridley Ditch No.1 Gridley Ditch No.2

(The point of diversion of Gridley Ditch No. 1 is on the bank of Riley Creek immediately above Riley Falls. The diversion point of Gridley Ditch No. 2 is 75 yards below the diversion point of the Conyers Ditch elsewhere described.)

Two unsurveyed tracts of land situate in Sec. 1, Twp. 8 S. R. 13 E. B. M. as follows: A certain island known as Weatherby Island containing about 30 acres located in Snake River between Gooding County and Twin Falls County, in the above named section, and a certain tract of about three acres of land below the rimrock and on the mainland immediately north of said island in said section.

36-0057 HAGERMAN	5	Spring	April 7, 1908	Spring No. 1;
36-0057 WATER USERS	11.2	Spring	April 7, 1908	Spring No. 2;
36-0057 ASSOCIATION	20	Springs	April 7, 1908	Numerous small springs;

(Said Spring No. 1 is located about the center of the north side of the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 13, Twp. 7 S. R. 13 E. B. M.; Spring No. 2 is located about the center of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 13, Twp. 7 S. R. 14 E. B. M. Said numerous small springs are located about 100 yards north of the "Big Springs", the source of the water supply of the Big Spring Water Users Association.)

36-0060 HIGLEY, ALBERT	.5	Spring	Dec. 12, 1901	Weatherby Spr (Hoagland Tunnel)
---------------------------	----	--------	---------------	------------------------------------

All the North Half of the Southwest Quarter of the Northeast Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Sec. 36, Twp. 7 S. R. 13 E. B. M., excepting that portion thereof, containing approximately 2.07 acres, lying west of the center of the channel of the ditch intersecting said premises, commonly known as the "Brailsford Ditch," the center channel of which ditch intersects the south line of said premises at a point 204.4 feet east of the west boundary of said subdivision, thence running north 9 degrees 29' west 350 feet, thence north 20 degrees 15' west 360 feet to the northwest corner of said SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of said section, township and range.

36-0061 HOFFMAN, L. W., and MRS. L. W. HOFFMAN	2.22	Spring	Dec. 12, 1901	Weatherby Spr (Hoagland Tunnel)
--	------	--------	---------------	------------------------------------

36-7731 ➤

Take Notice of 36-7092, 7092A, 7159, 7160
Memo Decision, Advertisement, Field Exam

Letter date 1976 describing P.D.

File ~~36-7160~~ Agreement April 27, 197

Decree New International Mort

Gary Funderburg -

Primary Issue is the spring in N.E. NE Sec 13
and the description of the P.D.

Is water diverted by Norwood from Hagerman Ditch ^{on Norwood Property}
that flow from springs on Mr Stevens land is subject
the the prior rights of Mr Norwood.

My Question ➡ Is there any other channel from the spring on Mr Stevens
land besides the Hagerman Water Users Ditch. Yes a natural Gully

X - exam

— Mr Stevens —

Hagerman Water Users Spring will only be used
in the non-irrigation season. —

Several Spring

Amount of flow in Hagerman Spring 2. cfs +

First Use ¹⁹⁷⁰ ~~1969~~ of these springs = hydraulic earth moving = concrete
work. ➡

20
5
4 7000
39,000

Finding - This spring is not private water -

1. Financial Ability, Claim
2. Not to be sold

Norwoods have no diversions on Stevens property

→ Dept. will visit the spring prior to the ~~decision~~ ^{decision}

X-exam

First use of spring 1970 ^{by Stevens} during late ~~Feb~~ - Feb & March -

Concrete work 72, 73, 74, 75, 76, 77 - done summer & winter

Concrete slabs, retaining walls, catch basins

Hooked onto Hagerman Water users diversion facilities

Water will be used in the same facilities

Direct - James Norwood

Sketch map of area - Protestants Exhibit #1

Protest against the Hagerman Water Users Spring -

Copy of
Agreement

Agreement ¹⁹⁷¹ with Hagerman Water Users for use of the water
Used Nov 1 to April

Several Springs are collected along the ditch -

How long has ditch existed - 1947 - no other channel
historically ditch spilled during the winter on Norwood property about same as P.D. #1
Water License issued for P.D. from Hagerman Ditch

P.D. #1 approx 100 yds north of Hagerman pipeline

~~£~~ This water is necessary to continue to ^{operate} ~~divert~~ the hatchery

License for right of the springs ~~&~~ involved in the suit
with Hagerman Water users is 36-7160-, 36-7159, 36-7192.

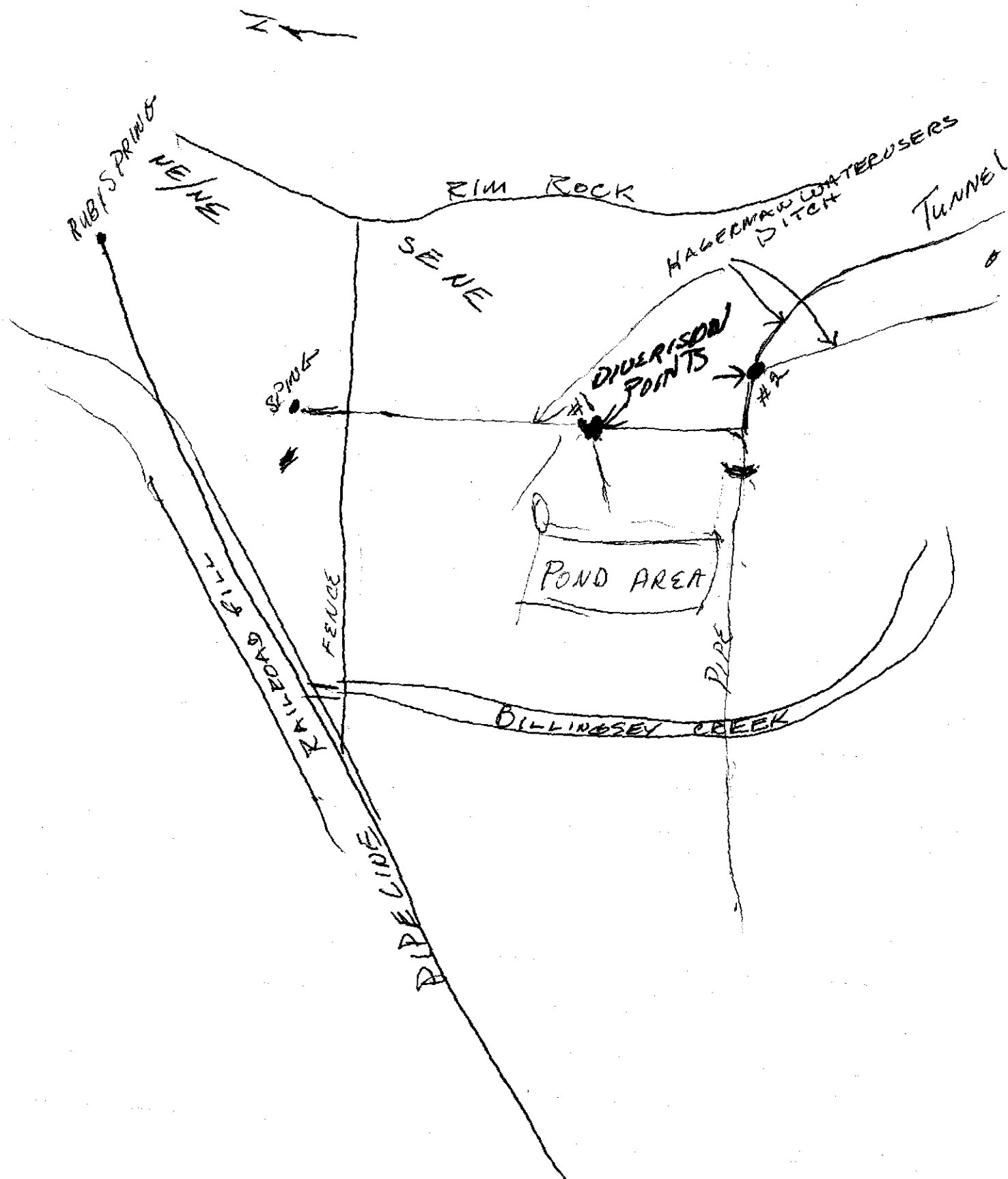
X-exam

Agreement has not been assigned.

Field exam tentatively set for Jan. 18 at 1 o'clock

MICROFILMED

Protestant Exhibit #1
admitted 1-10-78



MICROFILMED

I hereby withdraw any protest I have against
the approval of permit no. 36-7731 in the name of
R. W. Stevens. My protest was submitted on August 5, 1977
as a member of Hagerman Water Users Association.

Signed at Twin Falls Idaho on January 9, 1978

Edward Shkal

UNRECORDED

36-7731 - R. W. Stevens

Office of Dept. of Water Resources, Twin Falls, Idaho

January 9, 1978, 3:00 p.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Robt. Cleaver	Buhl, Idaho	Jim Norwood
Jim Norwood	Hagerman, Id.	Self
Michael L. Steel	T. F.	I.D.W.R.
R. W. Stevens	Hagerman, Id.	Self
Watt Mullany	Boss, Id.	Stevens
Gary Sunderland	T. F.	I.D.W.R.

RECEIVED
JAN 11 1978
TWIN FALLS, IDAHO

NAME AND ADDRESS OF SENDER
 IDAHO DE. ART. ENT. CO. INC.
 SOUTHERN DISTRICT OFFICE
 1041 BLUE LAKES BLVD. NORTH
 TWIN FALLS, IDAHO 83301

Indicate type of mail:
☐ REGISTERED ☐ C.O.D.
☒ REGISTERED ☐ C.O.D.

After stamp here if issued as certificate of mailing or for additional copies of this bill.
 POSTMASTER AND DATE OF RECEIPT
 12/14/77

36-7731-*Heaven Springs*

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET AND POST OFFICE ADDRESS	POSTAGE	FEE	R.R. FEE	POST. DEL. FEE	ACTUAL VALUE	HANDLING CHARGE	REMARKS
640	Robert H. Stevens	13	.60					
641	Virginia M. Adell Woodward	"	"					
642	Robert C. Weaver	Bull						
643	James Woodward (State House)	"	"					
644	James Woodward (State House)	"	"					
645	Butt Bill (State House)	"	"					
7								
8								
9								
10								
11								
12								
13								
14								
15								
16								
17								
18								
19								
20								

TOTAL NO. OF PIECES LISTED BY SENDER

6

TOTAL NO. OF PIECES RECD. AT P.O.

POSTMASTER, PER (Name of receiving employee)

*Show under "Remarks" class postage paid if other than first class or international

APPLICATION FOR REGISTERED, REGISTERED C.O.D. AND CERTIFIED MAIL

Declaration of value is required on international registered mail.

FORM MUST BE MADE OUT IN INK OR BALL POINT PEN

* U. S. GOVERNMENT PRINTING OFFICE: 1974-0-539-212

STATE OF IDAHO

Michael L. Steele
Michael L. Steele
Southern Region Supervisor

DEPARTMENT OF WATER RESOURCES
- STAFF ANALYSIS -

Item Initial Date

Application No. 36-7731 - R. W. Stevens

☒ Source
☒ Point of Diversion
☒ County
☒ Quantity of Water and Period of Use
☒ Description of Diverting Works
☒ Time required for B/U of water
☒ Place of Use or Acres Irrigated
☒ Map
☒ Signature
☒ Fee

(1) GA 7/8/77

In form to receipt

(2) _____

Send Copies to:

Idaho State Health Department

Idaho Fish and Game Department

Bureau of Land Management

(3) _____

Request Special Use Permit from U.S.F.S.

Request Easement from B.L.M.

Request Information from Applicant

(4) _____

In form for advertising

(5) _____

Platted on Map No. _____

(6) _____

Located within Water District No. _____

(7) _____

Critical groundwater area: yes _____ no _____

(8) _____

Groundwater levels:

_____ Declining, _____ Stable, _____ Increasing

(comment) _____

(9) _____

Other rights on the same place of use

(10) _____

Comments: _____

(11) DF 8/1/77

Affidavit of Publication received(date) 7/29/77

(12) sm 7/11/77

Final date for protests 8/8/77

Protests received: yes ☒ no ☐
8/3/77

(13) _____

All requested information received from agencies or applicant: yes _____ no _____

(14) _____

Action recommended:

_____ Approve _____ Deny

_____ Proposed Priority

_____ Reason for Reduction _____

_____ Measuring device required

_____ See attached sheet for other conditions of approval

_____ No special conditions for approval

(15) District _____ By _____ Date _____

cc sent to Boise 7/13/77 D

MICROFILMED

August 3, 1977

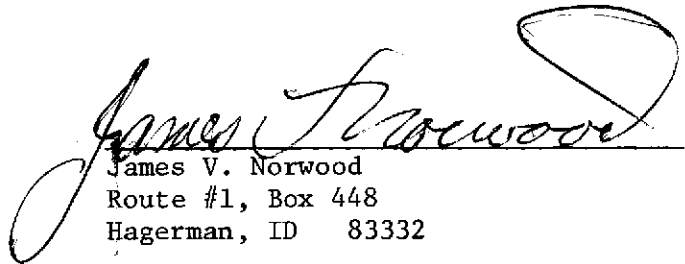
Mr. Michael L. Steele
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301

Dear Mr. Steele:

I would like to protest Application for Permit No. 36-7731 in the name of R. W. Stevens, Hagerman, Idaho, to appropriate waters of the unnamed springs and the spring locally known as the Hagerman Waterusers' Spring for fish propagation.

I protest this application for the following reasons:

1. It will reduce the water under existing rights.
2. There is not 18cfs. of water to be appropriated out of the spring.


James V. Norwood
Route #1, Box 448
Hagerman, ID 83332

RECEIVED
AUG 10 1977

August 15, 1977

Dear Protestant:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for per (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for the delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

If this office can be of further assistance, please contact us.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS/dj

August 16, 1977

R. W. Stevens
Rt. # 1
Hagerman, Idaho 83332

Re: Application for Permit No. 36-7731 - R. W. Stevens

Dear Mr. Stevens:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 36-7731. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?

If this office can be of further assistance, please contact us.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS/dj

RECEIVED

Hagerman, Idaho
August 5, 1977

Mr. Stephen Allred, Director
Idaho Department of Water Resources
1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301

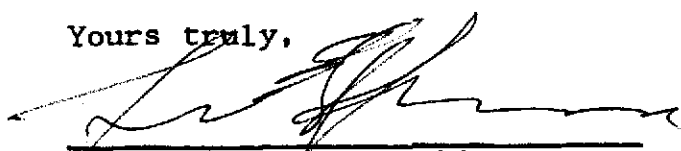
Dear Mr. Allred:

This is a letter of protest for the issuance of 18 cu./ft./sec. of water requested by R. W. Stevens in application 36-7731, which concerns six unnamed springs and one spring locally known as the Hagerman Water Users' spring.

This protest is based on the fact that the Hagerman Water Users' spring has been used to supply irrigation water for the Hagerman Water Users Association, Inc., since historic times.

This water has been put to a beneficial use and valuable farming land will be damaged if any of the Hagerman Water Users' spring water is diverted to any new appropriation.

Yours truly,


Louis Koopman, President
Hagerman Water Users Assoc., Inc.
Hagerman, Idaho 83332

Members of Hagerman Water Users Association, Inc.

E.C. Stokel, Hagerman, Route 1 Box 410 Idaho 83332

Bill Snape, Hagerman, Box 101, Idaho 83332

Bill Jones Hagerman Rt-1-

Percy Pollard Hagerman Rt-1-

G.P. Russell Hagerman Rt-1-

MICROFILMED

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that R. W. Stevens

Hagerman, ID 83332

has on 7/8/77 submitted Application No. 36-7731

for a permit to appropriate 18.0 cubic feet per second ~~acre feet per annum~~

of water from unnamed springs

by means of concrete headgates, weirs & pipes to fish ponds

within the NELNE, Sec. 13, Twp. 7S, Rge. 13E., B.M., Gooding County

to be used from Jan. 1 to Dec. 31

for fish propagation

within the NELNE, Sec. 13, Twp. 7S, Rge. 13E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before August 8, 1977.

C. Stephen Allred

Director

Published in the Gooding County Leader

on 7/21 and 7/28/77

MICROFILMED

LEGAL - le 4/06 4/20/77
NOTICE OF APPLICATION
FOR WATER PERMIT

Notice is hereby given that R.W. Stevens Hagerman, Id., 83332 has on 7/8/77 submitted Application No. 36-7731 for a permit to appropriate 18.0 cubic feet per second of water from unnamed springs by means of concrete headgates, weirs & pipes to fish ponds within the NE 1/4-13E, B.M., Gooding County to NE 1/4, Sec. 13, Twp. 7S, Rge. 13E, B.M., Gooding County to NE 1/4NE 1/4, Sec. 13, Twp. 7S, Rge. 13E, B.M. If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before August 8, 1977.

/s/ C. Stephen Allred
Director
Pub: 7-21, 28

July 11, 1977

Gooding County Leader
Box 56
Gooding, ID 83330

Re: Application For Permit No. 36-7731 - R. W. Stevens

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:sm

Enclosure

Bill submitted: _____

100-271-1111