

Address all communications to

W. L. Bakes
P. O. 2002 Lemhi Street, Boise, Idaho 83705

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

RECEIVED
JUN 8 1966
11:55 A.M.
Department of Reclamation

Application No. 41095
Permit No. 33448
District No. _____

1. Name of Applicant: Rim View Trout Company, Inc.
Post Office address Wendell County Gooding State Idaho

If applicant is a corporation, give:

(a) Date and place of incorporation: Sept. 10, 1952 Boise, Idaho
(b) Amount of Capital stock: \$ 100,000.00 (c) Amount paid in: \$ 100,000.00
(d) Names and addresses of directors: W. L. Bakes, 2002 Lemhi St., Boise, Idaho.
Robert Teachout, 3027 Grover St., Boise, Idaho.
Thurlief Rangen, 115 13th Ave., South, Buhl, Idaho.

The financial resources of the applicant are: (a) Cash on hand: \$ 120,000.00
(b) Treasury stock: _____ (c) Bonds to be issued: _____
(d) Other resources: _____

2. Quantity of water claimed: 100 cubic feet per second

3. Source of water supply: Niagara Springs
which is tributary of Snake River

4. Location of point of diversion: 580 Bearing S 12 degrees West feet distant from the Northeast corner of Section 10, Twp. 9 S, Rge. 15 E, B. M., and is in the NE 1/4 NE 1/4 (lat 1) of Section 10, Twp. 9 S, Rge. 15 E, B.M., County of Gooding

5. Water is to be used for: Fish Propagation (Non-consumptive)

6. If for any non-irrigation purpose, give:

(a) Point of use of water: _____ feet distant from NE corner of Section 10, Twp. 9 S, Rge. 15 E, B. M., in the NE 1/4 NE 1/4 of Section 10, Twp. 9 S, Rge. 15 E, B. M.
(b) Amount of power generated: None H. P., under _____ feet head.
(c) Water is to be returned to Snake River at a point _____ feet distant from the NE 1/4 NE 1/4 corner of Section 10, Twp. 9 S, Rge. 15 E, B. M., in the _____ of Section 10, Twp. 9 S, Rge. 15 E, B. M.

7. Estimated cost of works: \$ _____

8. Kind of works: See Exhibit A and Explanation
(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam _____ feet; length of dam at top _____ feet; length of dam at bottom _____ feet; material used in dam _____

(If height of dam will exceed 10 feet or will store more than 100 acre feet of water, send to Department of Reclamation for Regulations.)

10. Size of headgate: Width None feet; Height _____ feet

11. Ditch: Width at bottom 8 feet; Width at water line 10.5 feet; Depth of water 30 inches feet;

Dimensions of flume -0-; Diameter of pipe -0- inches;

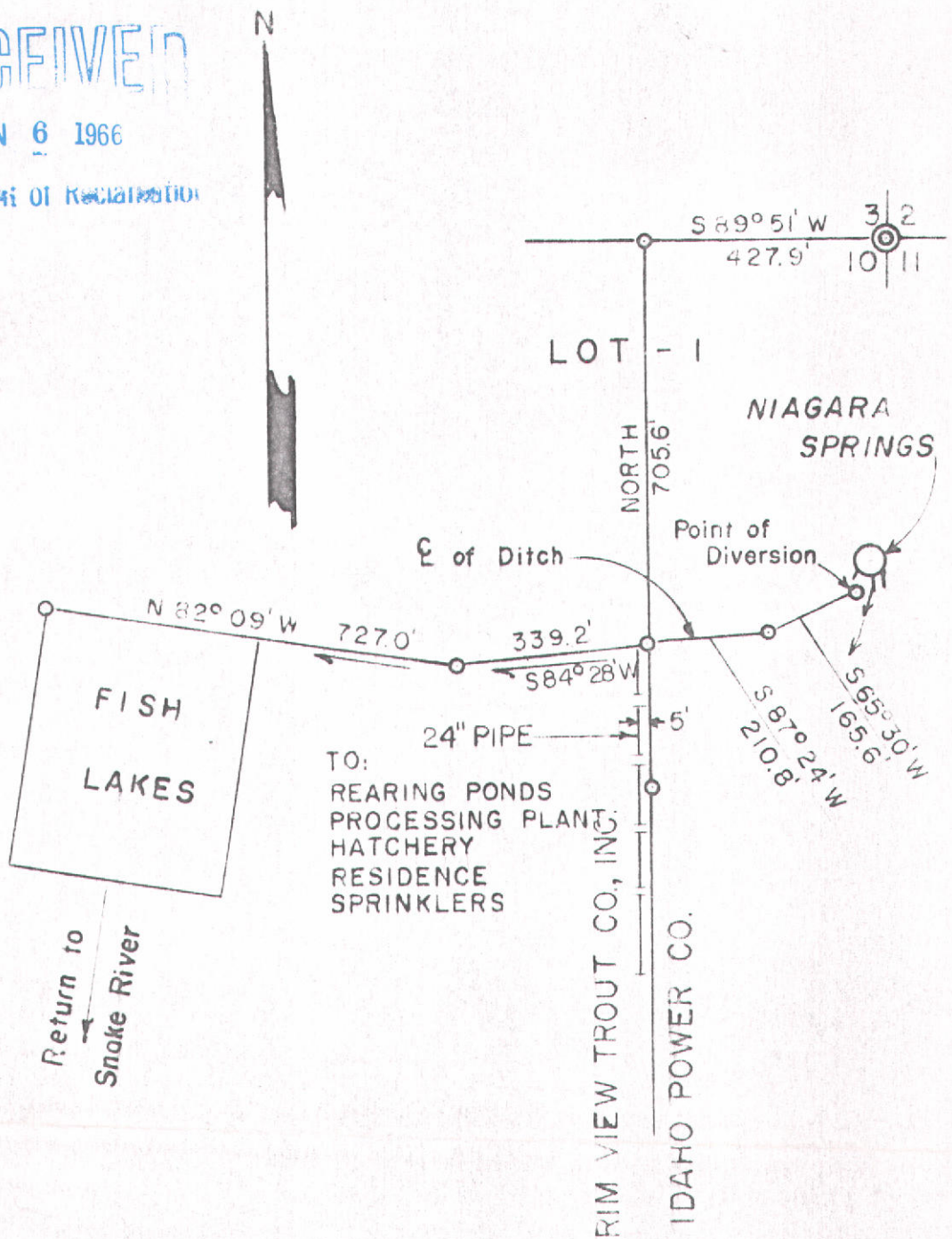
Length of conduit -0- miles. Average grade per mile 45 feet.

33448

T. 9 S., R. 15 E., B.M.

RECEIVED
JUN 6 1966

Department of Reclamation



APPROVED
FEB 8 1967
33448

SURVEYOR'S CERTIFICATE

I, Orvie A. Jensen of Jerome, Idaho, a Land Surveyor licensed by the State of Idaho, do hereby certify that this map was made from notes taken during an actual survey made by me on May 28, 1966, and that it correctly represents the works described in the accompanying application.

Orvie A. Jensen
REGISTERED LAND SURVEYOR
5-693
STATE OF IDAHO

MAP TO ACCOMPANY APPLICATION FOR PERMIT
BY: RIM VIEW TROUT CO., INC.
WENDELL, IDAHO
MAY 28, 1966
Scale: 1 Inch = 300 Feet

33448

DEPARTMENT OF WATER ADMINISTRATION

FIELD REPORT

1. Name of permit holder Commercial State Bank
 Postoffice address 117 North 8th St., Boise, Idaho Phone _____
 Person to contact "Gary", Manager of the Ranch (in the house Phone _____
next to the processing building)

2. Source of water supply: Groundwater Surface water Niagara Springs
 (name spring, stream, etc.)
 Tributary to Snake River

3. Water will be used for the following purposes:

Amount 100.0 c.f.s. for Fish Propagation
 _____ AF/Annum (nature of use)

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

Amount 0.03 c.f.s. for Domestic
 _____ AF/Annum (nature of use)

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

Amount 0.06 c.f.s. for Irrigation
 _____ AF/Annum (nature of use)

Period of Use: from March 15 to November 15
 (mo.-day) inclusive (mo.-day)

Other uses: Beneficial use affidavit listed 0.5 c.f.s. for domestic
and irrigation purposes

4. Total amount to be appropriated:

Max Rate of Diversion 100 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 9 N/S, Range 15 E/W, B.M., Section 10, Subdivision NE 1/4 NE 1/4, Gooding
 County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 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: Niagara Springs into concrete diversion
channel, into rock dirt ditch, then to various points for
raceways and domestic use.

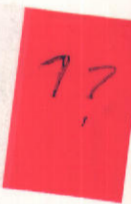
Measuring device required: yes no

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	
9S	15E	10	3																3
			X																

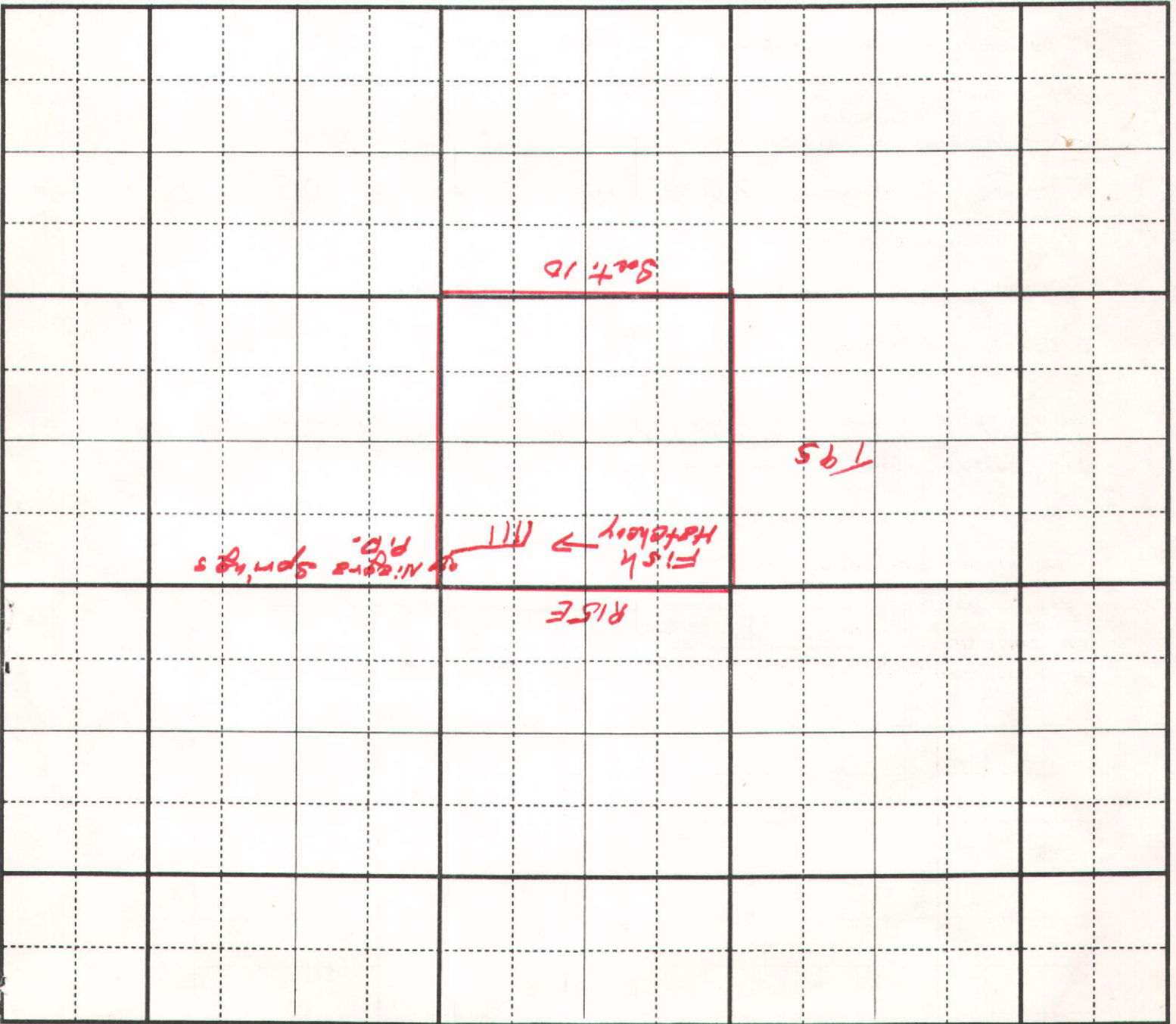
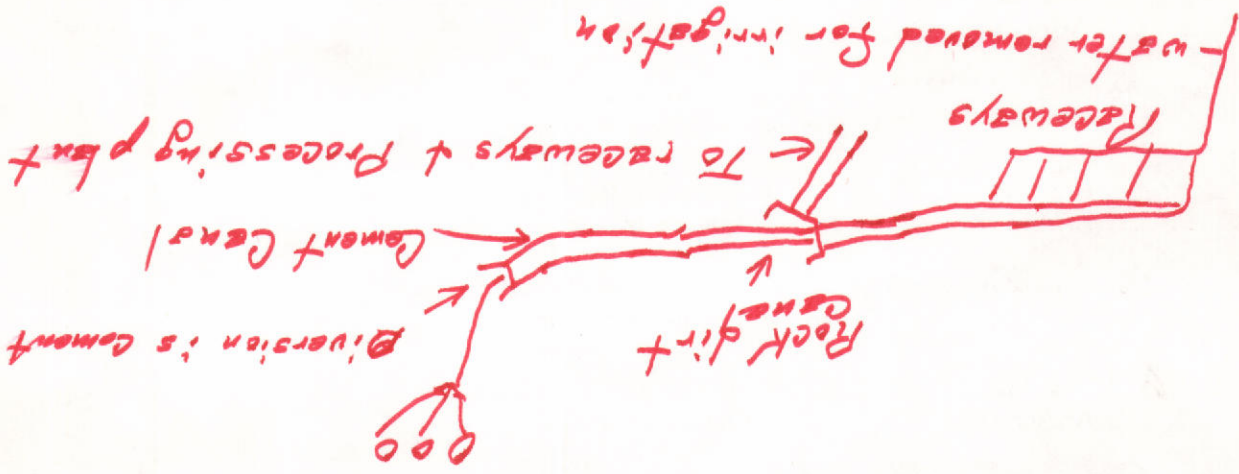
TOTAL ACREAGE 3

Permit No. 33448/36-2680
 Examination for Commercial State Bank



36 2680

Diagram of System



regarding these and all other issues over which they are now in dispute, and the parties intending to be legally bound hereby;

NOW, THEREFORE, it is hereby stipulated and agreed between the parties that:

I

The Rimview Trout Company, Inc., in filing its Application No. 41095 for 100 cfs of water from Niagara Springs, is seeking a total appropriation of not to exceed 100 cfs of water from Niagara Springs, which 100 cfs includes therein the 40 cfs which Rimview is now, and has for some time been, diverting and using in conjunction with its trout hatchery operation, and Rimview agrees that the additional water appropriation herein sought over and above the 40 cfs now being diverted and used by said Rimview will be limited by the amount of such additional appropriation which Rimview can actually put to beneficial use pursuant to its Application No. 41095.

II.

That the parties hereto agree between themselves, for the purposes of their proceedings now before the State Reclamation Engineer upon Rimview Application No. 41095, and upon Idaho Power Company Application No. 40874, that the following priorities shall exist between the parties concerning their applications and appropriations of water from Niagara Springs:

1. First priority shall be to the 40 cfs now being diverted and used by Rimview Trout Company, Inc.
2. Second priority shall be to Idaho Power Company for 110 cfs, that being the approximate amount of water which Idaho Power is now putting to beneficial use pursuant to its Application No. 40874.
3. Third priority shall be to Rimview Trout Company, Inc. for not to exceed 60 cfs of water based upon its Application No. 41095, limited by the actual amount of said 60 cfs which Rimview shall actually put to beneficial use.

33448

EXHIBIT A

Explanation of Item 8 - Listing of existing works and planned works.

1. EXISTING WORKS

- a. Canal - Capable of carrying approximately 40 cubic feet per second from Niagara Springs to Rim View property.
- b. Water Supply Facilities - See attached drawings.
- c. Hatchery Facilities - At present there are:
 1. 19 Raceways and rearing ponds
 2. 4 Nursery raceways
 3. Hatchery space for approximately 350,000 eggs.
- d. Processing Plant - Packaging and freezing facilities.

2. PLANNED WORKS - To be placed within 5 years.

- a. Canal - Relocation present canal by moving head of the ditch approximately 40 feet upstream and placing a 54 inch pipe, 100 cubic feet per second, can be readily transported to the Rim View property.
- b. Hatchery Facilities
 1. Placing of 20 to 30 more raceways and rearing ponds.
 2. 5 nursery raceways
 3. Hatchery facilities to meet the requirements of increased production.
- c. Processing Plant - For cleaning, deboning, packaging and freezing of fish for the market.

RECEIVED
JUN 6 1966

Department of Reclamation

33448

7

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC
WATERS OF THE STATE OF IDAHO, IN ACCORDANCE WITH THE
PROVISIONS OF SECTION 42-203, IDAHO CODE

NOTICE IS HEREBY GIVEN, That W. L. Bakes, President, Rim View Trout Company, Inc. of Wendell, County of Gooding, and State of Idaho, has made application No. 41095 on the 6th day of June, 1966, to appropriate 100 c.f.s. of water from Niagara Springs, tributary of Snake River for Fish Propagation purposes (non consumptive.)

That the point of diversion is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T. 9 S., R. 15 E., B.M., Gooding County.

The place of use of said water is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T. 9 S., R. 15 E., B.M. and the water is to be returned to Snake River at a point in the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, T. 9 S., R. 15 E., B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objection to the approval of said application.

Dated this 7th day of June, 1966

R. KEITH HIGGINSON
Deputy State Reclamation Engineer

Date of First Publication June 17, 1966
Date of Last Publication July 15, 1966
Last Date for Protest July 17, 1966

SERVICE OF THE FOREGOING, by copy, is hereby acknowledged this
day of _____, 1966.

Applicant

By _____

33 448

36-

Application For Permit To Appropriate the Public Waters of the State of Idaho

APPLICATION No. 41095
PERMIT No. 33448
DISTRICT No.

W. L. Bakes
2002 Lemhi Street, Boise, Idaho
83705

1. Name of Applicant: Rim View Trout Company, Inc.
 Postoffice address: Wendell County: Gooding State: Idaho
 I. If applicant is a corporation, give:
 (a) Date and place of incorporation: Sept. 10, 1952, Boise, Idaho
 (b) Amount of capital stock: \$100,000.00
 (c) Amount paid in: \$100,000.00
 (d) Names and addresses of directors: W. L. Bakes, 2002 Lemhi St., Boise; Robert Teachout, 3027 Grover St., Boise, Idaho; Thurlief Rangen, 115 - 13th Avenue South, Buhl, Idaho
 II. The financial resources of the applicant are:
 (a) Cash on hand: \$120,000.00 (c) Bond to be issued:
 (b) Treasury stock: (d) Other resources:
2. Quantity of water claimed: 100.0 cubic feet per second.
3. Source of water supply: Niagara Springs which is a tributary of Snake River.
4. Location of point of diversion: 580 bearing S 12 degrees W feet distant from the Northeast corner of Section 10, T. 9 S, R. 15 E, B.M., and is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ (LOT 1) of section 10, T. 9 S, R. 15 E, B. M., County of Gooding
5. Water is to be used for Fish propagation (Non-consumptive)
6. If for mining, milling, power or manufacturing purposes, give:
 (a) Point of use of water: feet distant from NE corner of Section 10 T. 9 S, R. 15 E, B.M., in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section of 10, T. 9 S, R. 15 E, B.M.
 (b) Amount of power generated: none H.P., under feet head.
 (c) Water is to be returned to Snake River at a point feet distant from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ corner of Section 10, T. 9 S, R. 15 E, B.M., in the of Section 10, T. 9 S, R. 15 E, B.M.
7. Estimated cost of works: \$
8. Kind of works: See exhibit A and explanation in file.
9. Height of dam feet; length of dam at top feet; length of dam at bottom
 feet; material used in dam:
10. Size of headgate: Width none feet; height feet.
11. Ditch: Width at bottom 8 feet; width at water line 10.5 feet; depth of water 30 inches ~~feet~~;
 dimensions of flume: -0-
 Diameter of pipe -0- inches; length of conduit -0- miles.
 Average grade per mile 45 feet.
12. The time required for the completion of such work is 5 years.
13. The time required for the complete application of the water to the proposed use is 6 additional years.
14. The land to be irrigated is described in the following tabulation: See remarks.
15. Existing water rights and/or valid permits appurtenant to the lands to be irrigated are: none

16. (a) Is reservoir to be used? yes, see remarks If so, fill in (b) and (c) below:
 (b) Name of Reservoir and number of Storage Permit: N/A
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

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

RIM VIEW TROUT CO., INC.

Applicant.

By /s/ W. L. BAKES, President

Agent.

Date of first receipt at Department of Reclamation: June 6, 1966 11:55 A.M.

Returned to applicant for correction:

Corrected application received:

Approval of State Reclamation Engineer

The number of this permit is 33448

Recorded in Book 117 Page 33448 Approved February 7, 1967

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

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

Work to begin on or before April 7, 1967

and to continue diligently and uninterruptedly to completion,

unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before August 7, 1969

The whole of said work to be completed on or before February 7, 1972

Beneficial use of water appropriated in accordance herewith, to be made on or before February 7, 1978

WITNESS My hand this 7th day of February, 1967

/s/ R. Keith Higginson
State Reclamation Engineer.

IN TESTIMONY WHEREOF, WE, DON SAMUELSON, Governor of the State of Idaho,

and EDSON H. DEAL, Secretary of State of the State of Idaho, have caused this instrument to

be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 7th

day of February, 1967

STATE OF IDAHO

Countersigned:

(SEAL) By /s/ EDSON H. DEAL
Secretary of State.

By /s/ DON SAMUELSON
Governor.

REMARKS: Water is not to be impounded. The natural flow will be slowed in the ponds and raceways, but all the water will be returned to the Snake River.

14.

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	
ASSIGNMENT OF PERMIT																			
<p>THE RIM VIEW TROUT CO., a Corporation aka THE RIM VIEW TROUT FARM, INC., hereby assign to Commercial State Bank, of 117 North 8th Street, Boise, Idaho, all my right, title, and interest, in and to Permit No. 33448 to appropriate the public waters of the State of Idaho.</p> <p>This assignment is collateral to a note to Commercial State Bank, Boise, Idaho, and any future advances as may be made by said bank.</p> <p>Made this 15th day of November, 1968.</p> <p style="text-align: right;">/s/ RIM VIEW TROUT CO., a Corporation aka RIM VIEW TROUT FARM, INC. Permit Holder W. Lowell Bakes, President Marvin E. Sparrell, Secretary</p>																			
<p>State of Idaho) County of Ada) ss.</p> <p>On this 15th day of November, 1968, personally appeared before me the signers of the above instrument, who duly acknowledged to me that they executed the same.</p> <p style="text-align: right;">/s/ Ruth Putnam Notary Public residing at Boise, Idaho Commission expires 10-30-70</p>																			
<p>(Seal) My commission expires 10-30-70</p> <p style="text-align: center;">LICENSE ISSUED FOR 90.30 SEC. FT. LICENSE PAGE NO.</p>																			

• •

This
Right has been
Decreed in the
SRBA.

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

In the Matter of Requiring)
Measuring Devices on Diversions)
of Water From Niagara Springs and)
Niagara Springs Creek)
_____)

ORDER

The Director of IDWR makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. The public has demonstrated a concern as to the depletion of flows in Niagara Springs and Niagara Springs Creek. The department has been requested by concerned right holders and citizens to determine rates of diversion from the stream, and a petition has been received requesting the department to require measuring devices. Department staff has been unable to obtain accurate measurements of the rates of flow at all diversions.

2. There are six (6) existing diversions from Niagara Springs (the springs) and Niagara Springs Creek (the creek).

3. Not all of the diversions from the springs and creek presently have adequate measuring devices.

4. Diversion rights on the springs and creek consist of licenses and beneficial use claims.

5. The maximum permissible rates of diversion under the licensed rights are known and the uses under the claimed rights are well enough

defined to determine a maximum permissible rate of diversion.

CONCLUSIONS OF LAW

1. Section 42-602, Idaho Code, provides in relevant part:

It shall be the duty of the department of water resources to have immediate direction and control of the distribution of water from all of the streams to the canals and ditches diverting therefrom. The department must execute the laws relative to the distribution of water in accordance with rights of prior appropriation.

2. Section 42-701, Idaho Code, provides in relevant part:

The appropriators or users of any public waters of the state of Idaho shall ... construct and maintain, when required by the department, a rating flume or other measuring device at such point as is the most practical in such canal or ditch for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said ditch from the stream.

3. The Director of IDWR has the authority and duty to order the installation and maintenance of measuring devices for diversions from Niagara Springs and Niagara Springs Creek. The Director has the authority on his own motion to initiate a proceeding to require measuring devices.

4. There is a need for installation of measuring devices to properly determine the amount of water diverted from Niagara Springs and Niagara Springs Creek, and to insure that water is diverted in accordance with rights of prior appropriation.

ORDER

THEREFORE, THE DIRECTOR ON HIS OWN MOTION PURSUANT TO SECTIONS 42-602 AND 42-701, IDAHO CODE, HEREBY ORDERS THAT:

1. Each holder of a water right for diversion of water from Niagara Springs or Niagara Springs Creek shall install and maintain at

the point(s) of diversion a measuring device with provision for continuously recording and monitoring the diverted flows in a manner acceptable to IDWR. The Director may waive this requirement upon written request and his determination that the diversion capacity has a significant effect on stream flow.

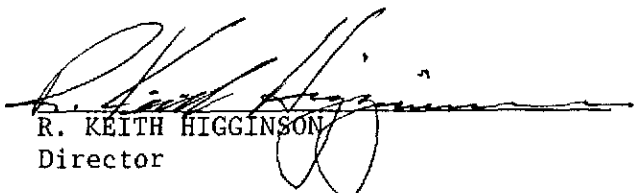
2. The installation shall also be readily accessible to IDWR personnel.

3. The water right holder shall provide to IDWR a description of the device to be installed and plans for its construction for review and approval prior to the start of construction.

4. All diversion rate data collected shall be submitted to the department within 30 days of collection or as otherwise requested by the Director.

IT IS FURTHER hereby ORDERED that the measuring devices be installed and operable by May 1, 1988.

Dated this 7th day of April, 1988.


R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this the 7th day of April, 1988, a true and correct copy of the foregoing MEASURING DEVICE INSTALLATION ORDER was mailed, postage prepaid to:

Earl Hardy
Rim View Trout Co.
1301 Vista Avenue
Boise, ID 83705

Jerry Conley
Idaho Dept. of Fish and Game
600 S. Walnut
Boise, ID 83707

Robert O'Connor, Chairman
Idaho Power Co.
P. O. Box 70
Boise, ID 83707



ANITA WARNTJES

Idaho Department of Water Resources

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. 33448/36-2680 Priority June 6, 1966 Amount 90.30 cfs

THIS IS TO CERTIFY, that COMMERCIAL STATE BANK
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 33448/36-2680 issued pursuant to Application for Permit dated June 6, 1966,
and has submitted proof to the Department of Water Administration on February 8, 1972,
that he has applied water to a beneficial use; an examination by the Department indicates that the
works have a capacity of 90.30 cfs, and that the water has in fact been applied to a
beneficial use; a right to the use of water from Niagara Springs
tributary of the Snake River, is hereby confirmed in the following amounts:

Amount 90.30 cfs for Fish Propagation from Jan. 1 to Dec. 31 (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 90.30 cfs of water be diverted at
any one time, said waters to be diverted within the _____
NE¹/₄NE¹/₄ (Lot #1) of Sec. 10, Twp. 9 S, Rge. 15 E, B. M.

in the county of Gooding; and that the amount of water so diverted and to which such
right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can
actually be beneficially used and shall not exceed 65,919 acre feet per year ~~xx~~

Description and location of 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	
9 S	15 E	10	X																

Total number of acres irrigated _____

Use of water under this license is affected by an agreement and stipulation between
Idaho Power Company and Rim View Trout Company, Inc., dated October 5, 1966.

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

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 19 day of
June, 19 73.

R. Kirk Higgins
Director

STATE OF IDAHO

COUNTY OF Ada

} ss.

On this 26th day of January in the year 1972, before me _____

the undersigned _____,

a notary public in and for said county and state, personally appeared

W. Brent Robinson, known to me to be the Vice President of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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



Notary Public for Idaho

Residing at Boise, Idaho,

Idaho

My commission expires October 26, 1974

STATE OF IDAHO
OFFICE OF STATE RECLAMATION ENGINEER
POWER OF ATTORNEY

The undersigned owner (s) of Permit (Application) No. 36-2680 of the State Reclamation Engineer of the State of Idaho hereby nominates and appoints W. Lowell Bakes, whose address is 2212 Norcrest, Boise, Idaho as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all matters pertaining to Application or Permit. Such acts shall include, but not be limited to the filing of applications, receiving of all notices, the signing and filing of applications for extension of time and for amendment of said Permit, and the submission of proofs of completion of works and beneficial use of water. Authority herein granted shall not include any authority to transfer, assign, convey, or otherwise encumber said Permit.

Dated this 26th day of January, 1972.

COMMERCIAL STATE BANK
W. Brent Rubin
Vice President

STATE OF IDAHO)
) ss
County _____)

On this _____ day of _____ 19____, personally appeared before me the signer (s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

Notary Public

My Commission expires:

ST. Approved

RECEIVED

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

NOV 22 1968

Department of Reclamation

ASSIGNMENT OF PERMIT

THE RIM VIEW TROUT CO., a Corporation aka

I, THE RIM VIEW TROUT FARM, INC., hereby assign to Commercial State Bank,
Name

of 117 North 8th Street, Boise, Idaho ✓,
Address

CHECK ONE

All my right, title, and interest, in and to Permit No. 33448
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. (Give that portion of the permit being assigned by describing
the land list and the point of diversion - describe by acreage within each
40-acre subdivision.)

This assignment is collateral to a note to Commercial State Bank,
Boise, Idaho, and any future advances as may be made by said bank.

Made this 15th day of November, 19 68.

RIM VIEW TROUT CO., a Corporation aka
RIM VIEW TROUT FARM, INC.

Permit Holder

W. Lawrence Baker

President

XXXXXXXXXXXXXXXXXXXX
Alvin Eganell

Secretary

State of Idaho)
County of Ada) ss.

8 On this 15th day of November, 19 68, personally ap-
peared before me the signer(s) of the above instrument, who duly acknowledged to me
that ~~he~~ (she) (they) executed the same.

John L. Furtman

Notary Public residing at Boise, Ida.

Commission expires 10-30-70

My commission expires 10-30-70

33448

County of Gooding }
STATE OF IDAHO } ss

I, ~~John Howard~~ ^{Joanne} Todd, being duly sworn, say that I am the ~~manager~~ editor of THE WENDELL IRRIGATIONIST, a weekly newspaper of general circulation published at Wendell, in the County of Gooding, State of Idaho; that the attached printed copy hereto annexed was published in THE WENDELL IRRIGATIONIST, in the regular edition thereof and not in a supplement, for ~~three~~ consecutive weeks, commencing on the 16 day of June, 1966, and ending on the 30 day of June, 1966.

Joanne Todd, Editor

Subscribed and sworn to before me this 5th day of July, 1966.

Donald S. Conrad

Notary Public in and for the County of Gooding, State of Idaho

My commission expires Dec. 8, 1968

First published in the Irrigationist, Wendell, Idaho, Thursday, June 16, 1966, for three consecutive issues ending on Thursday, June 30, 1966.

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE

NOTICE IS HEREBY GIVEN, That W. L. Bakes, President, Rim View Trout Company, Inc. of Wendell, County of Gooding, and State of Idaho, has made application No. 41095 on the 6th day of June, 1966, to appropriate 100 c.f.s. of water from Niagara Springs, tributary of Snake River for Fish Propagation purposes (non consumptive.)

That the point of diversion is in the NE 1/4 NE 1/4, Sec. 10, T. 9 S., R. 15 E., B. M., Gooding County.

The place of use of said water is in the NE 1/4 NE 1/4, Sec. 10, T. 9 S., R. 15, B.M. and the water is to be returned to Snake River at a point in the NE 1/4 NE 1/4, Sec. 10, T. 9 S., R. 15 E., B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objection to the

its useage in everyday life and in political situations

Approval of State Reclamation Engineer

33448

The number of this permit is.....

Recorded in Book 117 Page 33448 Approved FEB 7 1967

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

Bond in the sum of \$..... to be filed before.....

Work to begin on or before April 7, 1967, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before August 7, 1969

The whole of said work to be completed on or before February 7, 1972

Beneficial use of water appropriated in accordance herewith, to be made on or before February 7, 1978

Witness my hand this 7th day of....., 1967

R. Keith Higgins
State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, DON SAMUELSON Governor of the State of Idaho,

and EDSON H. DEAL, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this 7th day of February, 1967

Countersigned:
By *Edson H. Deal*
Secretary of State.

STATE OF IDAHO
By *Don Samuelson*
Governor.

No. **33448**

PERMIT

Date of first receipt at office of State Reclamation Engineer

June 6, 1966 11:55 A.M.

Returned to applicant for correction

Corrected application received

Fees, \$ 29.75

FILING FEES FOR USE PERMIT:

For the first Sec. Ft. \$5.00

For each additional Sec. Ft. or Fraction

Thereof 25

33448

Address all communications to

Form No. 1
5M 1-65

W. L. Bakes

P. O. 2002 Lemhi Street, Boise, Idaho 83705

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

RECEIVED
JUN 8 1952
11:55 AM
DEPARTMENT OF RECLAMATION

Application No. 4167

Permit No. 33448

District No. _____

1. Name of Applicant: Rim View Trout Company, Inc.

Post Office address: Wendell County Gooding State Idaho

If applicant is a corporation, give:

(a) Date and place of incorporation: Sept. 10, 1952 Boise, Idaho

(b) Amount of Capital stock: \$ 100,000.00 (c) Amount paid in: \$ 100,000.00

(d) Names and addresses of directors: W. L. Bakes, 2002 Lemhi St., Boise, Idaho.

Robert Beachout, 3027 Grover St., Boise, Idaho.

Thurlief Rangen, 115 14th Ave., South, Buhl, Idaho.

The financial resources of the applicant are: (a) Cash on hand: \$ 120,000.00

(b) Treasury stock: _____ (c) Bonds to be issued: _____

(d) Other resources: _____

2. Quantity of water claimed: 100 cubic feet per second

3. Source of water supply: Ningara Springs

which is tributary of Snake River

4. Location of point of diversion: 580 Bearing S 12 degrees West distant from the Northeast corner

of Section 10, Twp. 9 S, Rge. 15 E, B. M., and is in the NE 1/4 NE 1/4 (not D)

of Section 10, Twp. 9 S, Rge. 15 E, B.M., County of Gooding

5. Water is to be used for: Fish Propagation (Non-consumptive)

6. If for any non-irrigation purpose, give:

(a) Point of use of water: _____ feet distant from NE corner of Section 10

Twp. 9 S, Rge. 15 E, B. M., in the NE 1/4 NE 1/4 of Section 10, Twp. 9 S, Rge. 15 E, B. M.

(b) Amount of power generated: None H. P., under _____ feet head.

(c) Water is to be returned to Snake River at a point _____ feet

distant from the NE 1/4 NE 1/4 corner of Section 10, Twp. 9 S, Rge. 15 E, B. M., in the

of Section 10, Twp. 9 S, Rge. 15 E, B. M.

7. Estimated cost of works: \$ _____

8. Kind of works: See Exhibit A and Explanation

(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam _____ feet; length of dam at top _____ feet; length of dam at bottom _____

feet; material used in dam _____

(If height of dam will exceed 10 feet or will store more than 100 acre feet of water, send to Department of Reclamation for Regulations.)

10. Size of headgate: Width None feet; Height _____ feet

11. Ditch: Width at bottom 8 feet; Width at water line 10.5 feet; Depth of water 30 inches feet;

Dimensions of flume -0-; Diameter of pipe -0- inches;

Length of conduit -0- miles. Average grade per mile 45 feet.

33448

16. (a) Is reservoir to be used? Yes - See remarks (If so, fill in (b) and (c) below.)
 (b) Name of reservoir and number of Storage Permit: N. A.
 (c) Date of filing of Application for Storage Permit and Name of Applicant: _____

Remarks: Water is not to be impounded. The natural flow will be slowed in the ponds and raceways, but all the water will be returned to the Snake River.

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.

Rin View Trout Company, Inc. Applicant.
 By W. P. Baker President, Agent

Affidavit of Permission to File on Springs *

(Not to be used when spring is situated on lands owned by applicant.)

I, _____, of _____, County of _____, State of _____, do hereby certify that I am the owner of the land on which the spring mentioned in the application of _____ is located, to-wit: _____

and that I do hereby grant unto the said _____ permission to file on the said spring as set forth in the foregoing application.

STATE OF IDAHO)
 County of _____) ss.

On this _____ day of _____, 19____, before me, a Notary Public for the State of Idaho, residing at _____, personally appeared _____ known to me to be the person... whose name... subscribed to the foregoing certificate, and acknowledged to me that ...he... executed the same.

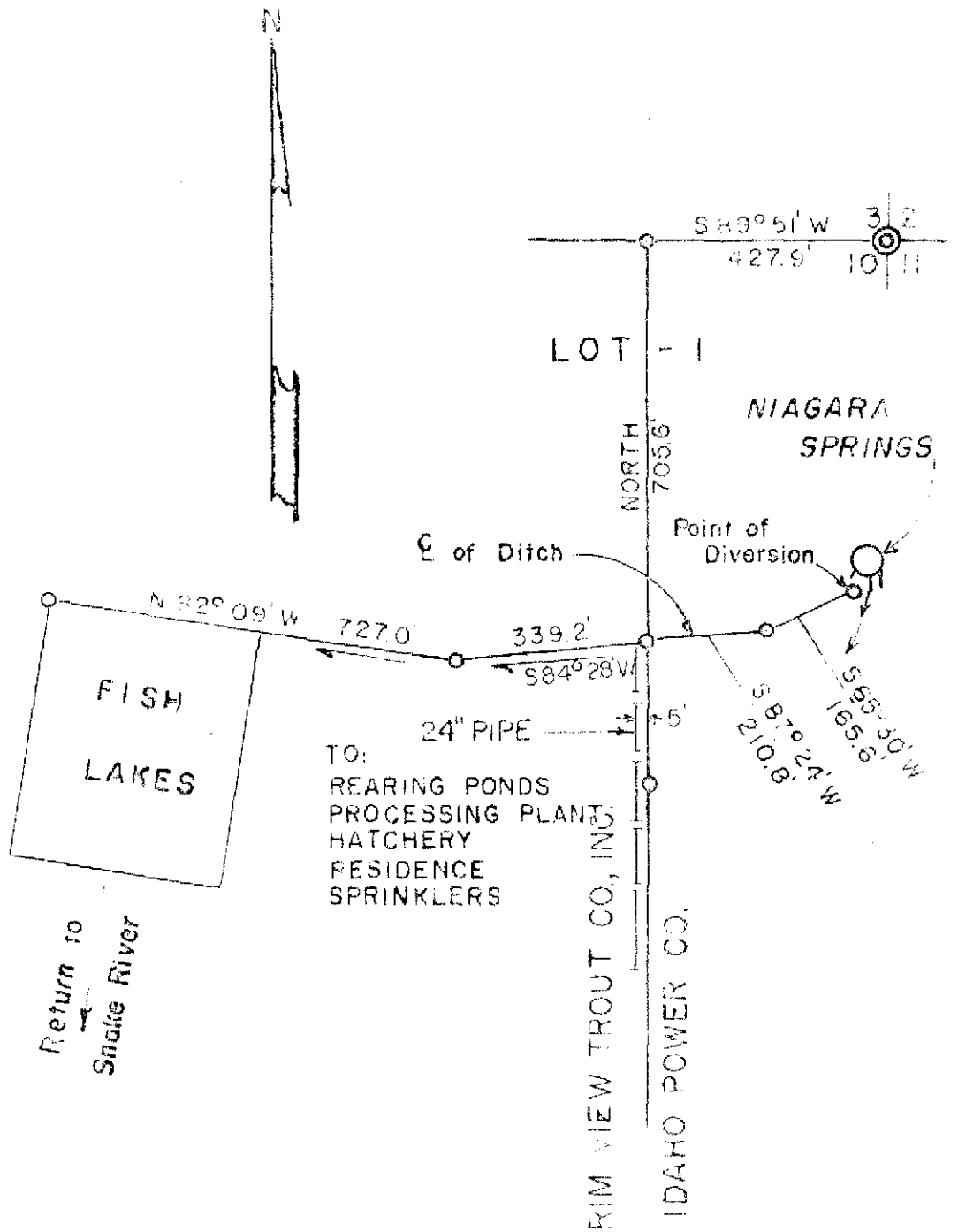
Witness my hand and seal, the day and year in this certificate first above written.

My commission expires _____ Notary Public.

* See Exhibit B.

33448

T. 9 S., R. 15 E., B.M.

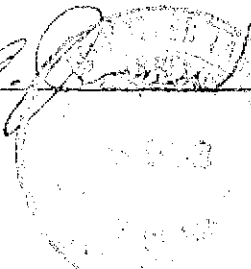


33448

SURVEYOR'S CERTIFICATE

I, Orvie A. Jensen of Jerome, Idaho, a Land Surveyor licensed by the State of Idaho, do hereby certify that this map was made from notes taken during an actual survey made by me on May 28, 1966, and that it correctly represents the works described in the accompanying application.

Orvie A. Jensen



MAP TO ACCOMPANY APPLICATION FOR PERMIT
 BY: RIM VIEW TROUT CO., INC.
 WENDELL, IDAHO
 MAY 28, 1966
 Scale: 1 Inch = 300 Feet

33448

This
Right has been
Decreed in the
SRBA.

* For informational purposes

RE: 36-2680 ✓
36-2711
36-2704
36-4032
36-4020
36-7167

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

In the Matter of Requiring)
Measuring Devices on Diversions)
of Water From Niagara Springs and)
Niagara Springs Creek)
_____)

ORDER

The Director of IDWR makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. The public has demonstrated a concern as to the depletion of flows in Niagara Springs and Niagara Springs Creek. The department has been requested by concerned right holders and citizens to determine rates of diversion from the stream, and a petition has been received requesting the department to require measuring devices. Department staff has been unable to obtain accurate measurements of the rates of flow at all diversions.
2. There are six (6) existing diversions from Niagara Springs (the springs) and Niagara Springs Creek (the creek).
3. Not all of the diversions from the springs and creek presently have adequate measuring devices.
4. Diversion rights on the springs and creek consist of licenses and beneficial use claims.
5. The maximum permissible rates of diversion under the licensed rights are known and the uses under the claimed rights are well enough

defined to determine a maximum permissible rate of diversion.

CONCLUSIONS OF LAW

1. Section 42-602, Idaho Code, provides in relevant part:

It shall be the duty of the department of water resources to have immediate direction and control of the distribution of water from all of the streams to the canals and ditches diverting therefrom. The department must execute the laws relative to the distribution of water in accordance with rights of prior appropriation.

2. Section 42-701, Idaho Code, provides in relevant part:

The appropriators or users of any public waters of the state of Idaho shall ... construct and maintain, when required by the department, a rating flume or other measuring device at such point as is the most practical in such canal or ditch for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said ditch from the stream.

3. The Director of IDWR has the authority and duty to order the installation and maintenance of measuring devices for diversions from Niagara Springs and Niagara Springs Creek. The Director has the authority on his own motion to initiate a proceeding to require measuring devices.

4. There is a need for installation of measuring devices to properly determine the amount of water diverted from Niagara Springs and Niagara Springs Creek, and to insure that water is diverted in accordance with rights of prior appropriation.

ORDER

THEREFORE, THE DIRECTOR ON HIS OWN MOTION PURSUANT TO SECTIONS 42-602 AND 42-701, IDAHO CODE, HEREBY ORDERS THAT:

1. Each holder of a water right for diversion of water from Niagara Springs or Niagara Springs Creek shall install and maintain at

the point(s) of diversion a measuring device with provision for continuously recording and monitoring the diverted flows in a manner acceptable to IDWR. The Director may waive this requirement upon written request and his determination that the diversion capacity has a significant effect on stream flow.

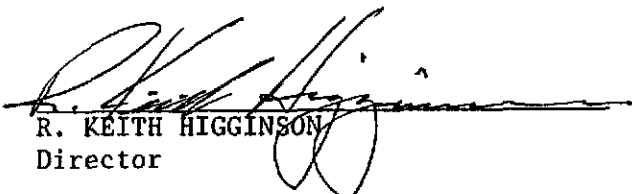
2. The installation shall also be readily accessible to IDWR personnel.

3. The water right holder shall provide to IDWR a description of the device to be installed and plans for its construction for review and approval prior to the start of construction.

4. All diversion rate data collected shall be submitted to the department within 30 days of collection or as otherwise requested by the Director.

IT IS FURTHER hereby ORDERED that the measuring devices be installed and operable by May 1, 1988.

Dated this 7th day of April, 1988.


R. KEITH HIGGINSON
Director

April 6, 1988

138489
CERTIFIED MAIL

Robert O'Connor, Chairman
Idaho Power Company
P. O. Box 70
Boise, ID 83707

Dear Mr. O'Connor:

RE: MEASURING DEVICE INSTALLATION ORDER - NIAGARA SPRINGS AND
NIAGARA SPRINGS CREEK

Enclosed is an order which requires the installation and maintenance of a measuring device for each diversion from Niagara Springs and Niagara Springs Creek. Requests for a waiver of this requirement will be considered upon receipt of written request if the capacity of the diversion creates an insufficient effect on stream flows.

Please note the measuring device is to be installed and operable on or before May 1, 1988. The department has information available upon request relative to typical types of measuring devices which are acceptable. Department approval of the device and installation plans is required prior to beginning construction.

You have the right to an administrative hearing and judicial review of this order under the provisions of Sec. 42-1701A, Idaho Code. Any request for hearing must be received by the department in writing within 21 days after receipt of this order.

If you have questions relative to specific location of the measuring device, please feel free to contact our Southern Regional office in Twin Falls (phone 734-3578).

Sincerely,

NORMAN C. YOUNG
Administrator, Resources Administration Division

c: S. Region
Robert Stahman
Steve Goddard
Rinda Ray Just
William Ringert

April 6, 1988

138490
CERTIFIED MAIL

Jerry Conley
Idaho Dept. of Fish and Game
600 S. Walnut
Boise, ID 83707

Dear Mr. Conley:

RE: MEASURING DEVICE INSTALLATION ORDER - NIAGARA SPRINGS AND
NIAGARA SPRINGS CREEK

Enclosed is an order which requires the installation and maintenance of a measuring device for each diversion from Niagara Springs and Niagara Springs Creek. Requests for a waiver of this requirement will be considered upon receipt of written request if the capacity of the diversion creates an insufficient effect on stream flows.

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Sincerely,

NORMAN C. YOUNG
Administrator, Resources Administration Division

c: S. Region
Robert Stahman
Steve Goddard
Rinda Ray Just
William Ringert

April 6, 1988

138491
CERTIFIED MAIL

Earl Hardy
Rim View Trout Co.
1301 Vista Avenue
Boise, ID 83705

Dear Mr. Hardy:

RE: MEASURING DEVICE INSTALLATION ORDER - NIAGARA SPRINGS AND
NIAGARA SPRINGS CREEK

Enclosed is an order which requires the installation and maintenance of a measuring device for each diversion from Niagara Springs and Niagara Springs Creek. Requests for a waiver of this requirement will be considered upon receipt of written request if the capacity of the diversion creates an insufficient effect on stream flows.

Please note the measuring device is to be installed and operable on or before May 1, 1988. The department has information available upon request relative to typical types of measuring devices which are acceptable. Department approval of the device and installation plans is required prior to beginning construction.

You have the right to an administrative hearing and judicial review of this order under the provisions of Sec. 42-1701A, Idaho Code. Any request for hearing must be received by the department in writing within 21 days after receipt of this order.

If you have questions relative to specific location of the measuring device, please feel free to contact our Southern Regional office in Twin Falls (phone 734-3578).

Sincerely,

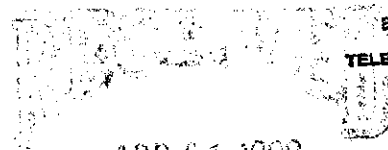
NORMAN C. YOUNG
Administrator, Resources Administration Division

c: S. Region
Robert Stahman
Steve Goddard
Rinda Ray Just
William Ringert

Ringert, Clark, Harrington, Reid, Christenson & Kaufman
CHARTERED
LAWYERS

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

WILLIAM F. RINGERT
D. BLAIR CLARK
ANDREW M. HARRINGTON
JAMES G. REID
JEFFREY R. CHRISTENSON
JAMES P. KAUFMAN
MICHAEL J. GAFFNEY
LAURA E. BURRI
LEA C. ADAMS
SAMUEL KAUFMAN (1921-1988)



APR 01 1988

March 31, 1988

Department of Water Resources

Mr. Stephen V. Goddard
Deputy Attorney General
Idaho Department of Fish & Game
600 South Walnut, P. O. Box 25
Boise, ID 83707

Ms. Rinda Ray Just
Deputy Attorney General
Idaho Department of Parks
and Recreation
Statehouse Mail
Boise, ID 83720

Re: Petition for Installation and Maintenance
of Measuring Devices on Niagra Springs Creek

Dear Mr. Goddard and Ms. Just:

A copy of your joint petition for Installation of Measuring Devices, directed to the Idaho Department of Water Resources, was received in my office on March 17, 1988. Since the mailing list did not name Rim View Trout Company, I assume that the mailing was intended to effect service on Rim View Trout Company through me, as its attorney.

I have not been authorized to accept service on behalf of Rim View Trout Company in this matter. If you want me to request such authorization, I will be glad to do so.

Please advise.

Yours very truly,


W. F. Ringert

WFR:am
cc: R. Keith Higginson ✓
Rim View Trout Company

JIM JONES
ATTORNEY GENERAL
STATE OF IDAHO

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

STEPHEN V. GODDARD
Deputy Attorney General
Idaho Department of Fish and Game
600 South Walnut, P.O. Box 25
Boise, ID 83707
Telephone (208) 334-3715

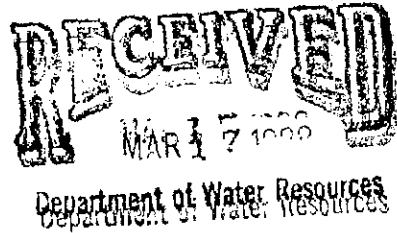
RINDA RAY JUST
Deputy Attorney General
Idaho Department of Parks and Recreation
STATEHOUSE MAIL
Boise, ID 83720
Telephone (208) 334-2154

Attorneys for Petitioners

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IDAHO DEPARTMENT)	
OF PARKS AND RECREATION)	PETITION FOR INSTALLATION
AND IDAHO DEPARTMENT)	AND MAINTENCE OF MEASURING
OF FISH AND GAME,)	DEVICES
)	
Petitioners)	SOURCE: NIAGRA SPRINGS
)	COUNTY: GOODING

Come now the petitioners herein, the Idaho Department of Fish and Game (Fish and Game) and the Idaho Department of Parks and Recreation (Parks) and request that the director of the department of water resources (IDWR) exercise the authority granted the department in Idaho Code §42-701 to require appropriators of water from Niagra Springs and Niagra Springs Creek to locate, install, and maintain such suitable measuring devices and regulating works as are determined by IDWR engineers to be necessary to assure proper distribution of the waters of Niagra Springs.



101
D

Idaho Code §42-701 provides in relevant part:

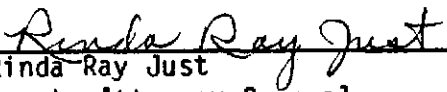
The appropriators or users of any public waters of the state of Idaho shall... construct and maintain, when required by the department, a rating flume or other measuring device at such point as is most practical in such canal or ditch for the purpose of assisting the watermaster or department in determining the amount of water that may be diverted into said ditch from the stream.

This request is based on evidence contained in the record in the case of In The Matter of Application For Permit To Appropriate Water No. 36-7200. Flow records submitted into the record in that proceeding suggest two things: First, that record keeping by some appropriators is non-existent, or sporadic, or when available, unverifiable; and second, that over-appropriation is not uncommon.

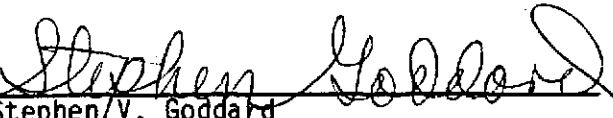
The Idaho Department of Parks and Recreation is holder of permit no. 36-7200 for all unappropriated water up to 264 cfs. in Niagra Springs and Niagra Springs Creek from the headwaters of the spring to and including the lowermost Idaho Power Company diversion. Memorandum Decision and Order on Rehearing, p. 24, January 29, 1988. Parks can only receive its permitted water if prior upstream appropriators do not over-appropriate. Since only one of the several upstream appropriators (Idaho Power Company) currently maintains a verifiable measuring device on its diversion, Parks has no way of knowing if it is receiving the water to which it is entitled. Parks will never be able to determine if it is receiving the water to which it is entitled until appropriate measuring devices are placed on the existing diversions in easily accessible locations and until readings are taken on a regular basis. Both the obligation and authority to assure the distribution of waters from Niagra Springs in accordance with rights of prior appropriation rest with the department of water resources. Idaho Code §42-602, 42-701.

Petitioners respectfully request that the director of the department assume the obligations imposed upon him by statute by ordering the location, installation, and maintenance of such suitable measuring devices and regulating works as are determined by IDWR engineers to be necessary to assure proper distribution of the waters of Niagra Springs.

DATED this 14th day of March, 1988.



Rinda Ray Just
Deputy Attorney General
Idaho Department of
Parks and Recreation



Stephen V. Goddard
Deputy Attorney General
Idaho Department of
Fish and Game

CERTIFICATE OF MAILING

I hereby certify that I served true and correct copies of the following document on the persons listed below by mailing in the U.S. mail, first class, with correct postage affixed thereto on this 16th day of March, 1988.

DOCUMENT SERVED: PETITION FOR INSTALLATION OF MEASURING DEVICES

PERSONS SERVED:

Robert Stahman
Idaho Power Co.
P.O. Box 70
Boise, Idaho 83707

William F. Ringert
P.O. Box 2773
Boise, Idaho 83704

Steve Goddard
Idaho Dept. of Fish and Game
P.O. Box 25
Boise, ID 83707

A. Lynne Krogh-Hampe
Deputy Attorney General
Idaho Department of Water
Resources
Statehouse Mail
Boise, ID 83720

Rinda Ray Just
Deputy Attorney General

January 5, 1976

Re: License No. 33448/36-2680

Commercial State Bank
Attn: Mr. George Lewis
Vice President
P.O. Box 2900
Boise, Idaho 83701

Dear Mr. Lewis:

We have received your letter of December 30, 1975, in connection with releasing the assignment previously made under the above referenced license.

We wish to advise you, however, that the Department has no procedure for changing its records once a permit has been licensed. When a license is issued it becomes appurtenant to the land and ownership is automatically conveyed with the land unless it is specifically withheld in a sales transaction.

We will place your letter in our file for future reference as to present ownership.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:DR

RECEIVED

DEC 31 1975

Department of Water Resources



COMMERCIAL STATE BANK

December 30, 1975

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83707

Re: Permit No. 33448/36-2680
Rim View Trout Co.

Gentlemen:

An assignment of the above permit was taken by Commercial State Bank in connection with a loan to Rim View Trout Farm. This loan has been paid in full and we would like to release our assignment.

Very truly yours,

A handwritten signature in cursive script that reads "George Lewis".

George Lewis
Vice President

GL:rp

June 20, 1973

Re: Permit No. 33448/36-2680

Commercial State Bank
117 North 8th Street
Boise, Idaho 83702

Gentlemen:

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

Sincerely,

BOBEY D. FLEENOR
Assistant Director

BDF:DE
Enclosure

cc: Mr. W. Lowell Bakes
Mr. Robert E. Bakes

36 2680

December 11, 1975

Rimview Trout Company
2903 West Idaho Street
Boise, Idaho 83702

Gentlemen:

Enclosed are copies of Permit No's 36-7167, License No. ~~36-2600~~³⁶⁻²⁶⁹⁰ and Claim
No. 36-4032.

If you need anything further, please contact this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:JFR

Enclosure

RECEIVED
JUN 15 1973
Department of Water Administration

June 14, 1973

JDF

Department of Water Administration
State House Annex
Boise, Idaho

ATTENTION: Bobby D. Fleenor, Assistant Director

RE: Rim View Permit #33448/36-2680

Dear Mr. Fleenor:

Regarding your letter of May 15, 1973, to Commercial State Bank regarding Rim View Permit No. 33448/36-2680, we have reviewed our file and find that the domestic and irrigation use referred to in your letter was part of our constitutional use right established many years prior to the filing of Permit No. 33448. As you know, Rim View Trout Farm has been in operation to varying degrees for many years, and the use rights have developed over a long period of time. We have documented the constitutional use right by filing a Claim To Water Right, No. 47-4014, which was originally filed on February 8, 1972. That filing lists the domestic and irrigation use. Therefore, it is our view that the domestic and irrigation use is documented and it will not be necessary to amend Permit No. 33448, which is our filing for an additional subsequent water right.

Therefore, would you please go ahead and issue the water license.

Yours very truly,

RIM VIEW TROUT CO., INC.

BY W. Lowell Bakes
W. Lowell Bakes
Vice President

36 2680

RECEIVED

MAY 29 1973

Department of Water Administration

451 West State Street
Boise, Idaho
May 25, 1973

State of Idaho
Department of Water Administration
Statehouse - Annex 2
Boise, Idaho 83720

ATTENTION: Bobby D. Fleenor, Assistant Director

RE: Permit No. 33448/36-2680

Dear Sir:

I finally received a copy of your letter dated May 15, 1973, to Commercial State Bank regarding the above entitled permit, a copy of which letter is attached. It was my distinct impression that domestic and irrigation uses were listed under the permit and therefore no amendment was necessary. Therefore I would like to ask that the matter be stayed and the water license not be issued without listing the domestic and irrigation uses until I can review the matter with you.

Yours very truly,


Robert E. Baker

REB:bh

Enclosure

36 2680

May 15, 1973

Commercial State Bank
117 North 8th Street
Boise, Idaho 83702

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 33448/36-2680 and has found the following:

Quantity of water diverted: 90.30 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 90.30 cfs

The maximum quantity diverted shall not exceed 65,932.2 acre feet per year.

Beneficial use: Fish propagation purposes, domestic use and the irrigation of 3 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, Twp. 9S, Rge. 15E, B. M.

Point of diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot #1), Sec. 10, Twp. 9S, Rge. 15E, B. M.

Priority date established: June 6, 1966

Domestic and irrigation use was not listed under the original permit, therefore, it will be necessary to amend the permit to include these uses before a water license can be issued. We have enclosed a partially completed application for amendment for your use in this matter. Please sign the amendment application and return it to this office with a \$10.00 filing fee within 10 days of the date of this letter in order that we may issue the water license as set forth above.

If you do not concur with these findings, or have any questions, please contact us within the 10 day period.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enc: Amendment form

cc: Mr. W. Lowell Bakes
2212 Norcrest, Boise, Idaho

36 2680

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION



Cecil D. Andrus
Governor
R. Keith Higginson
Director

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Waste Disposal Wells
Stream Channel Protection

May 15, 1973

Commercial State Bank
117 North 8th Street
Boise, Idaho 83702

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. 33448/36-2680 and has found the following:

Quantity of water diverted: 90.30 cfs

Amount of water that can be recognized as beneficially used under Idaho law: 90.30 cfs

The maximum quantity diverted shall not exceed 65,932.2 acre feet per year.

Beneficial use: Fish propagation purposes, domestic use and the irrigation of 3 acres within the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, Twp. 9S, Rge. 15E, B.M.

Point of diversion: NE $\frac{1}{4}$ NE $\frac{1}{4}$ (Lot #1), Sec. 10, Twp. 9S, Rge. 15E, B.M.

Priority date established: June 6, 1966

Domestic and irrigation use was not listed under the original permit, therefore, it will be necessary to amend the permit to include these uses before a water license can be issued. We have enclosed a partially completed application for amendment for your use in this matter. Please sign the amendment application and return it to this office with a \$10.00 filing fee within 10 days of the date of this letter in order that we may issue the water license as set forth above.

If you do not concur with these findings, or have any questions, please contact us within the 10 day period.

Sincerely,


BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enc: Amendment form

cc: Mr. W. Lowell Bakes ✓
2212 Norcrest, Boise, Idaho

33 2680

INTER-DEPARTMENT MEMO — 1

DATE

RECEIVED

MAY 9 1973

Department of Water Administration

FROM Mike Steele

TO Bob Fleenor

SUBJECT

These are the supplemental waters as per our conversation:

1. 200 Rev. 30 sec.
16" pipe 4½" full

$$R = \frac{200}{30} = 6.67$$

$$A_{\text{area}} = C_d \cdot d^2 = 0.18 \cdot 1.33^2 = 0.32 \text{ ft}^2$$

$$V_{\text{Ave}} = 0.98 \cdot 6.67 + .04 = 6.58 \text{ ft/sec}$$

$$Q = VA = 6.58 \cdot 0.32 = 2.10 \text{ cfs}$$

2. 100 Rev. 30 sec.
16" pipe full pipe
 $A_{\text{area}} = \pi \cdot 0.67^2 = 1.40$

$$R = \frac{100}{30} = 3.33$$

$$V_{\text{max}} = 0.98 \cdot 3.33 + .04 = 3.30 \text{ ft/sec}$$

Pipe is made of corrugated steel. $V_{2 \text{ Ave}} = \frac{V_{2 \text{ max}}}{2} = 1.65 \text{ ft/sec}$

$$Q = VA = 1.65 \cdot 1.40 = 2.31 \text{ cfs}$$

Pygmy

$$V = 0.980R + .04$$

Calc JDF 5/19/73

Mike
SIGNATURE

36 2680

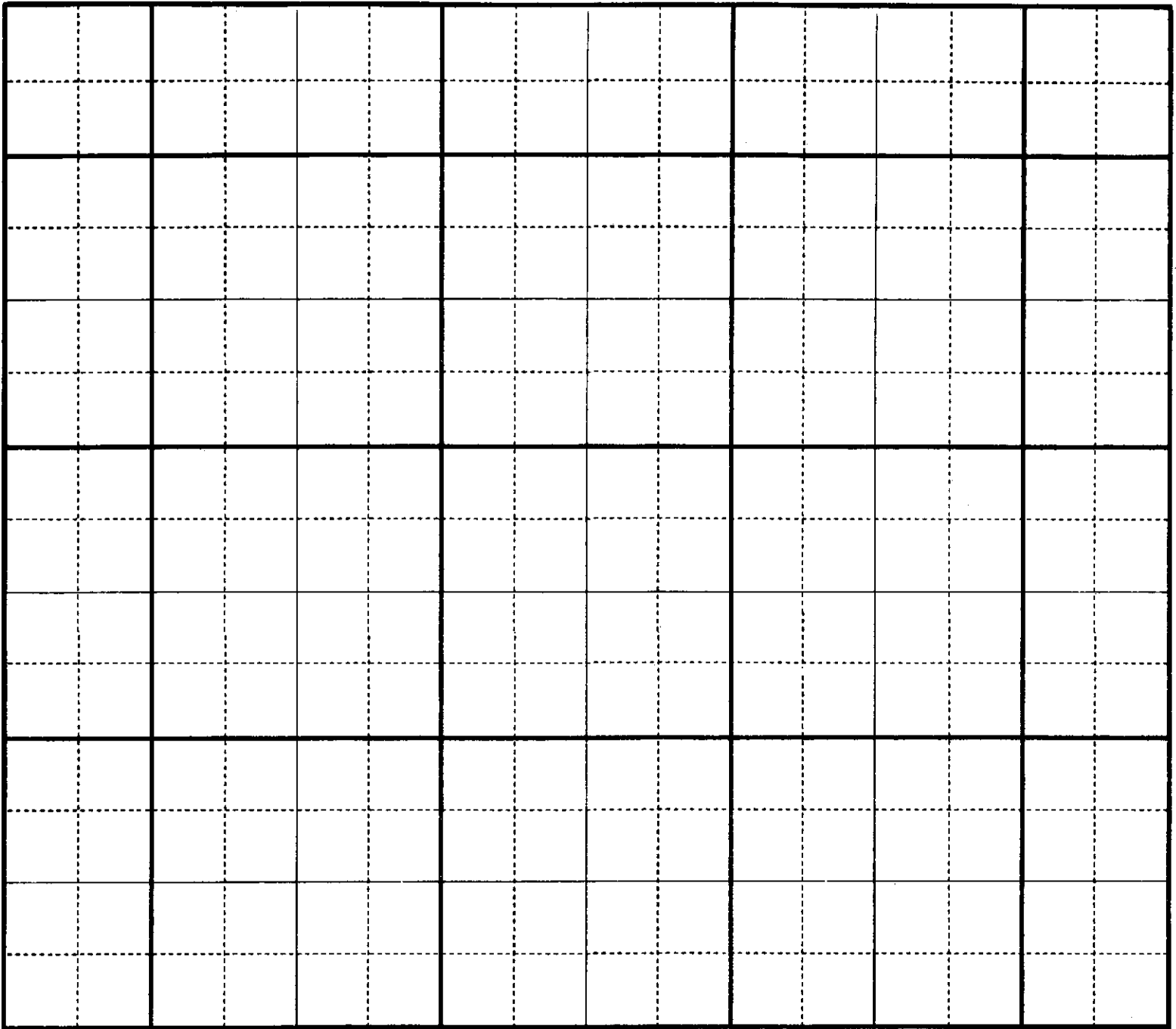


Diagram of System

DATE OF EXAM 9-21-72

ACREAGE
Found _____
Recommended _____

Irrigation Requirement _____ Ac Ft/Ac

USE Fish Prop 85.89 c.f.s. V= 62050 AF/Ann. from JAN-1 to Dec 31
~~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 _____

Is water co-mingled? yes _____ no X

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 85.89 Method of measurement A. Meter

Total Q recommended _____ Meter No. R-624 Type A-meter Condition Good

Total V recommended _____

Recommended Amendments:
P.D. _____
Place of Use _____
Other _____
None _____

MEASUREMENT CALCULATION:
- Attached.
Add Q from two additional pipes Q₁ = 2.10 cfs Q₂ = 2.31 cfs
Q_{Total} = 85.89 + 2.10 + 2.31 = 90.30 cfs
AF calc. 90.3(2)365 = 65,919 AF

SYSTEM DESCRIPTION: Concrete ditch into irrigation springs
leading to rock lined ditch to roadward.

REMARKS: Gary Olson was present during measurement.

Examiner's Signature Michael Steele Date 9-21-72
Checked by Bob Harper Date 12-6-72
Approved by _____ Date 20 2000

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Gray
O/Serv
mgr

Date 9-21, 1972 DISCHARGE MEASUREMENT NOTES

Stake S River at Naqia Springs


Angle coef- ficient	Dist. from initial point	Width	Depth	Observa- tion depth	Revo- lutions	Time in sec- onds	VELOCITY		Adjust- ed for hor angle or -----	Area	Discharge
							At point	Mean in ver- tical			
	EW		2.3								
2.5					100	48	4.61			1.15	4.50
2.5					60	41	3.23	3.92		1.15	
2.10					150	56	5.92			1.15	5.57
2.10					80	47	3.78	4.85		1.15	
2.15					150	52	6.87			1.15	5.92
2.20					80	45	3.94	5.15		1.15	
2.20					150	51	6.44			1.15	6.44
2.25					100	47	4.71	5.60		1.15	
2.25					150	50	6.67			1.15	6.76
2.30					100	43	5.14	5.82		1.15	
2.30					150	49	6.25			1.15	6.98
2.30					100	41	5.39	6.07		1.15	
2.35					150	49	6.25			1.15	7.10
2.40					150	59	5.62	6.18		1.15	
2.45					150	49	6.72			1.15	7.33
2.45					150	55	6.02	6.38		1.15	
2.45					150	47	7.04			1.15	
2.45					150	59	5.62	6.33		1.15	7.28
2.50					150	41	8.03			1.15	
2.50					150	59	5.64	4.82		1.15	7.49
2.55					150	44	7.52			1.15	
2.55					100	45	4.92	6.22		1.15	7.15
2.60					150	46	7.19			1.15	
2.60					100	47	4.15	6.88		1.15	6.80

M E M O R A N D U M

To: File No. 36-2680

Date: September 15, 1972

On September 1, 1972 Mr. Myron Sparrell, representing Mr. R. E. Bakes, came into the office and requested that the license¹⁴ of this permit be held until the week of September 18, 1972, when Mr. Bakes can be in the office and register a complaint concerning the measurement of the field examination in connection with his permit. I recommend that any action be deferred until Mr. Bakes has a chance to review this matter.



INTER-DEPARTMENT MEMO — 1

FROM **Bob Fleenor**

DATE **Sept. 14, 1972**

TO **Bob Haynes**

SUBJECT **Permit # 36-2680**

Rim View has requested a re-examination of the quantity on Thursday, September 21st at 2:00 pm.

At the time of the original exam, they had not dispersed the fry to the ponds and, therefore, were not diverting the maximum required quantity.

We need to determine also whether they wish to amend the permit to include the domestic and irrigation uses.

If you want to change the time of the exam call Lowell Bakes at 343-1981.

BDF:dr

Attached: Exam report

SIGNATURE

36 2680

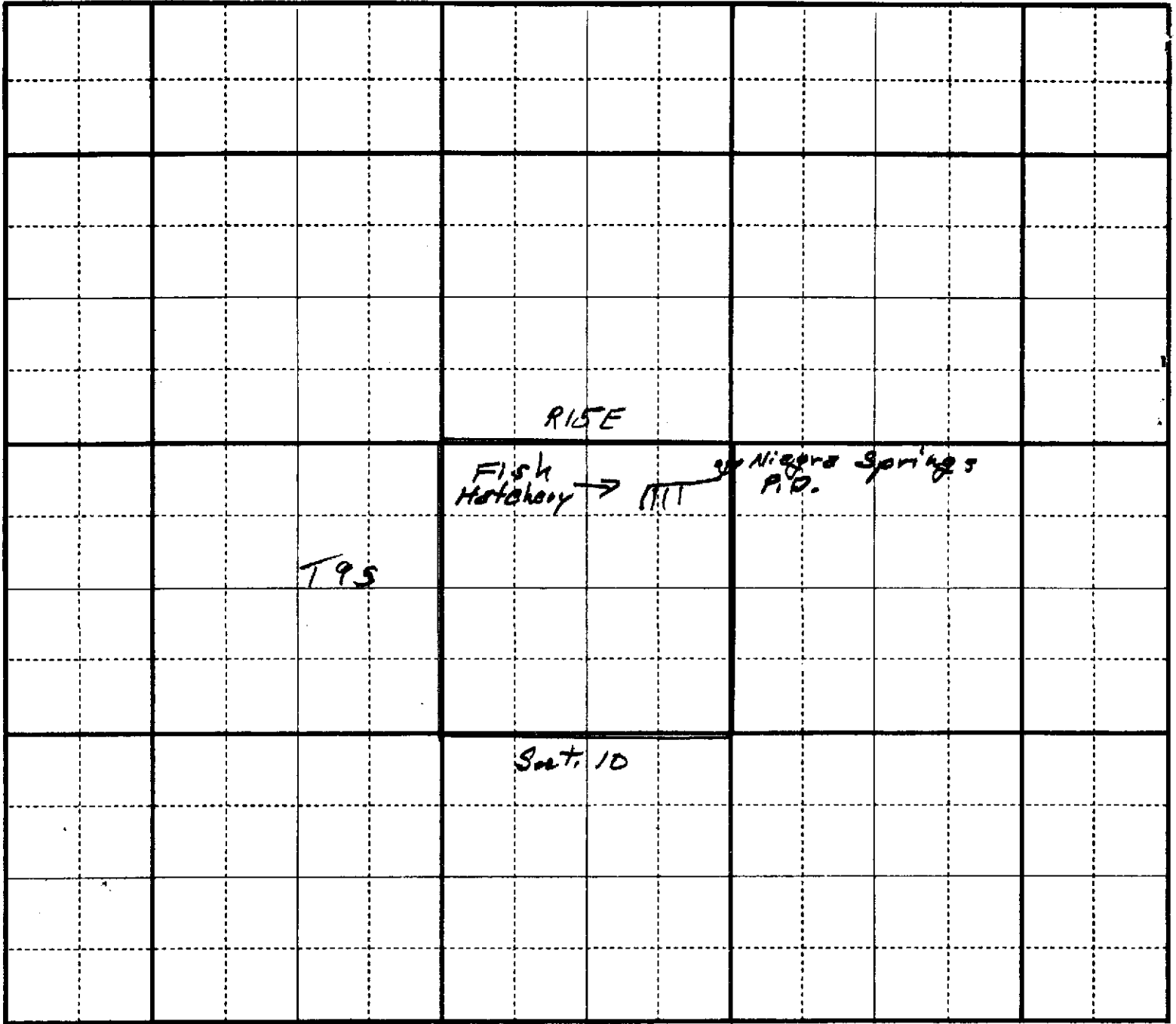
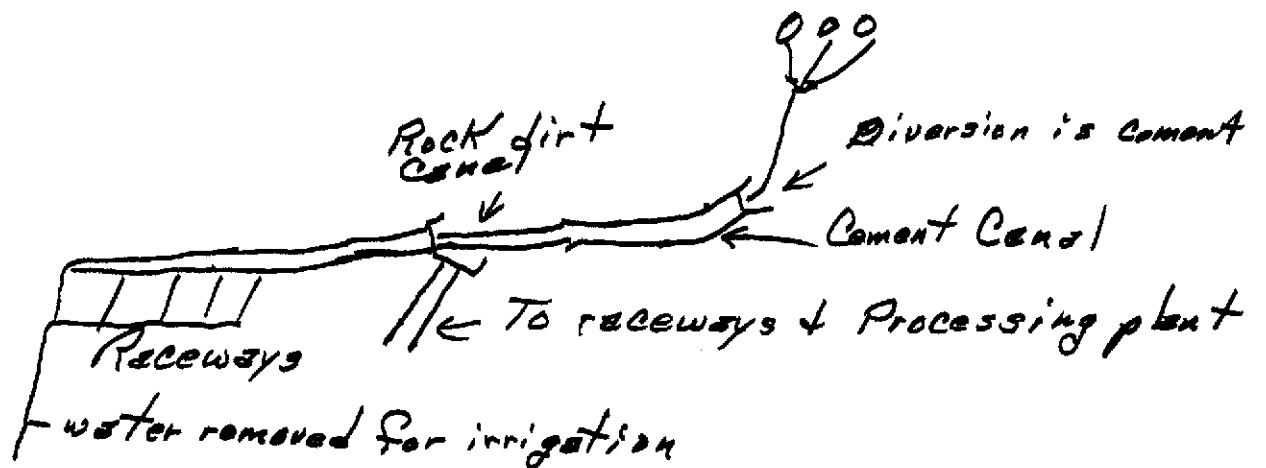


Diagram of System



Angle of the cut	Dist. from initial point	Width	Depth	Obsers- tion depth	Revo- lutions	Time in sec- onds	VELOCITY		Adjust- ed for hor. angle or -----	Area	Discharge
							At point	Mean in ver- tical			
	EW	2.3	2.3		-	-		0		0	0
	0.5	1.5	2.3	1.8	100	51	4.34	3.69	1.15	4.24	
	1.0	"	"	1.8	60	44	3.04		1.15	5.00	
	1.5	"	"	1.8	80	50	3.55		1.15	5.14	
	2.0	"	"	1.8	100	41	5.89	4.47	1.15	5.53	
	2.5	"	"	1.8	80	50	3.55		1.15	6.05	
	3.0	"	"	1.8	100	46	4.81		1.15	6.29	
	3.5	"	"	1.8	100	45	4.92		1.15	6.57	
	4.0	"	"	1.8	150	55	6.02	5.47	1.15	6.62	
	4.5	"	"	1.8	100	41	5.39		1.15	6.76	
	5.0	"	"	1.8	150	52	6.97	5.76	1.15	6.19	
	5.5	"	"	1.8	100	42	5.26		1.15	5.98	
	6.0	"	"	1.8	150	51	6.49	5.88	1.15	5.68	
				1.8	100	52	4.26				
				1.8	150	52	6.37	5.26			
				1.8	80	44	4.03				
				1.8	150	55	6.02	4.94			
				1.8	80	46	3.86				

Date Aug 3, 1922 DISCHARGE MEASUREMENT NOTES River at Niagara Springs

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

LJ-200
1-53

DATE OF EXAM August 3, 1972

ACREAGE
Found 3
Recommended 3

Irrigation Requirement 4.0 Ac Ft/Ac

USE
Irrigation Q = 1.06 c.f.s. V = 12.0 AF/Ann. from March 15 to Nov 15
Domestic Q = 1.03 c.f.s. V = 4.0 AF/Ann. from Jan 1 to Dec 31
~~Livestock Q = 20.04 c.f.s. V = AF/Ann. from Jan 1 to Dec 31~~
Fish Propagation

Is water co-mingled? yes _____ no X

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

Exchange? yes _____ no X

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 70.07 c.f.s. Method of measurement "A" meter

Total Q recommended 70.07 Meter No. R-624 Type Current Condition Good

Total V recommended _____

Recommended Amendments:

P.D. _____
Place of Use _____
Other _____
None

MEASUREMENT CALCULATION:

See attached A meter readings

SYSTEM DESCRIPTION:

Niagra Springs into concrete diversion canal into rock dirt ditch then to various points for roadways and domestic use

REMARKS:

Irrigation water is used after the water is used for fish propagation.

Examiner's Signature Kenneth F. Edwards Date 8/3/72

Checked by _____ Date _____

Approved by _____ Date _____

February 8, 1972

Re: Permit No. 33448/36-2680 - Rim View Trout Company, Inc.
-Assignee- Commercial State Bank

Mr. W. Lowell Bakes
2212 Norcrest
Boise, Idaho

Dear Mr. Bakes:

We acknowledge receipt of the affidavit 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 from this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system. If someone other than you should be contacted by the examiner, please advise.

Very truly yours,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

cc: Robert E. Bakes
4904 Hill Road
Boise, Idaho

STATE OF IDAHO
OFFICE OF STATE RECLAMATION ENGINEER
POWER OF ATTORNEY

The undersigned owner (s) of Permit (Application) No. 36-2680 of the State Reclamation Engineer of the State of Idaho hereby nominates and appoints W. Lowell Bakes, whose address is 2212 Norcrest, Boise, Idaho as attorney-in-fact, with full authority to act for and on behalf of the undersigned in all matters pertaining to Application or Permit. Such acts shall include, but not be limited to the filing of applications, receiving of all notices, the signing and filing of applications for extension of time and for amendment of said Permit, and the submission of proofs of completion of works and beneficial use of water. Authority herein granted shall not include any authority to transfer, assign, convey, or otherwise encumber said Permit.

Dated this 26th day of January, 1972.

• COMMERCIAL STATE BANK

W. Brent Robinson
Vice President

STATE OF IDAHO }
COUNTY OF Ada } ss.

On this 26th day of January in the year 1972, before me the undersigned, a notary public in and for said county and state, personally appeared

W. Brent Robinson, known to me to be the Vice President of the corporation that executed the foregoing instrument, and acknowledged to me that such corporation executed the same.

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

Keith Robinson
Notary Public for Idaho

Residing at Boise, Idaho,
Idaho
My commission expires October 26, 1974

Identification No. _____

Permit No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Rim View Trout Co.

b) Post Office Address 2901 Idaho St., Boise, Idaho, or Wendell, Idaho

2. Permit Number 33448/36-2680

3. Date of Priority that you are prepared to establish *(See explanation below)

4. a) Source from which water was appropriated Niagara Spring

b) Location of the point of diversion: N.E. 1/4 N.E. 1/4, Section 10

Township 9 South, Range 15 East Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:

amount 39.5 cfs * for fish propagation purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

amount 60.0 cfs * for " " purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

amount .5 cfs for Domestic & irrigation purposes from Jan. 1 to Dec. 31 incl.
(cfs and/or acre feet per annum) (Month-Day) (Month-Day)

b) Total amount appropriated 100 cfs and/or acre feet per annum

c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: 99 sec. ft. was measured by George Lemmon of Hagerman, Idaho. Method-cross section and rate of flow.

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:

a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: The means of diversion and conveyance are owned by Permit-holder, upon an easement across Idaho Power property.

b) Describe the agreement or understanding by which you take water from the works: Permit holder owns the works.

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) Concrete head works and concrete canal. The dimensions are approximately 7 feet wide and 4 feet deep.

b) Describe the type and size of measuring device which you have installed at your point of diversion: None. At the time the application was filed no measuring device was required.

c) Give well drillers name and address and date the well was completed Not applicable

*Rim View Trout Co. claims a use right for the first 40 cfs with a priority dating from 1939. The balance of 60 cfs in the application is based upon a June 6, 1966, priority date. (See the Stipulation between Rim View Trout Co. and Idaho Power Co. on file in this file and in the Idaho Power Co. application, Permit No. _____). The domestic and irrigation right is part of the use right in the first 40 cfs. The balance of the application, i.e. 60.0 cfs, is entirely for fish propagation purposes.

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION**

PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Rim View Trout Co.
 b) Post Office Address 2901 Idaho St., Boise, Idaho, or Wendell, Idaho
2. Permit Number 33448/36-2680
3. Date of Priority that you are prepared to establish *(See explanation below)
4. a) Source from which water was appropriated Niagara Spring
 b) Location of the point of diversion: N.E. 1/4 N.E. 1/4, Section 10
 Township 9 South, Range 15 East Boise Meridian, Other points of diversion: _____

5. a) The amount of water and use to which the water has been applied:
- | | |
|---|---|
| amount <u>39.5 cfs *</u> for <u>fish propagation</u> | purposes from <u>Jan. 1</u> to <u>Dec. 31</u> incl. |
| (cfs and/or acre feet per annum) | (Month-Day) (Month-Day) |
| amount <u>60.0 cfs *</u> for <u>" "</u> | purposes from <u>Jan. 1</u> to <u>Dec. 31</u> incl. |
| (cfs and/or acre feet per annum) | (Month-Day) (Month-Day) |
| amount <u>.5 cfs</u> for <u>Domestic & irrigation</u> | purposes from <u>Jan. 1</u> to <u>Dec. 31</u> incl. |
| (cfs and/or acre feet per annum) | (Month-Day) (Month-Day) |
- b) Total amount appropriated 100 cfs and/or acre feet per annum
- c) Describe how and by whom measurement of rate of flow or amount of storage was made and the qualifications of the person making the measurement: 99 sec. ft. was measured by George Lemmon of Hagerman, Idaho. Method-cross section and rate of flow.

6. If the means of diversion and conveyance are owned by someone other than the Permit Holder:
- a) Give the name or description of the canal, ditch or other works by which the water is conducted to the place of use: The means of diversion and conveyance are owned by Permit-holder, upon an easement across Idaho Power property.
- b) Describe the agreement or understanding by which you take water from the works: Permit holder owns the works.

7. a) Briefly describe the works for diverting and conveying the water to the place of use, (If from a subterranean source, give the pump size, motor size, size of well casing, depth of well; if from surface water, give brief description of diversion structure and/or canal or ditch) Concrete head works and concrete canal. The dimensions are approximately 7 feet wide and 4 feet deep.

b) Describe the type and size of measuring device which you have installed at your point of diversion: None. At the time the application was filed no measuring device was required.

c) Give well drillers name and address and date the well was completed Not applicable

***Rim View Trout Co. claims a use right for the first 40 cfs with a priority dating from 1939. The balance of 60 cfs in the application is based upon a June 6, 1966, priority date. (See the Stipulation between Rim View Trout Co. and Idaho Power Co. on file in this file and in the Idaho Power Co. application, Permit No. _____. The domestic and irrigation right is part of the use right in the first 40 cfs. The balance of the application, i.e. 60.0 cfs, is entirely for fish propagation purposes.**

February 7, 1972

State Reclamation Engineer
614 State Street
Boise, Idaho

RE: Rim View Trout Co.

Dear Sir:

Enclosed is an original and one copy of a Proof of Application of Water to Beneficial Use, and an original and one copy of a Claim to a Water Right. Also enclosed is an original and one copy of a Power of Attorney executed by Commercial State Bank.

These are the same documents which were originally offered for filing at your office on January 21, 1972, but were refused by your department because of the failure to submit the Power of Attorney with the filing.

If you have any questions, would you please contact me here.

Yours very truly,

Robert E. Bakes
Robert E. Bakes
One of the Owners
4904 Hill Road
Boise, Idaho

REB:bh
Enclosures



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

Statehouse - Annex 2
Boise, Idaho 83707
(208) 384-2215

Re: Permit No. 33448 (New No. 36-2680)

Mr. Robert E. Bakes
BAKES, WARD & BATES
P.O. Box 2832
Boise, Idaho 83701

Dear Mr. Bakes:

Pursuant to your request of August 2, 1971, please find enclosed an affidavit for submitting proof of beneficial use along with a set of instructions. Also enclosed is an order modifying the requirements under the above referenced permit.

Since the permit has been assigned as collateral to Commercial State Bank, the affidavit of proof should be submitted in the name of the assignee or bear both the signatures of the officials of Rim View Trout Company and Commercial State Bank.

If you have any questions, please feel free to call this office.

Very truly yours,

C. STEPHEN ALLRED
Deputy Director

CSA:dr
Enclosures (2)

cc: Commercial State Bank
Rim View Trout Co., Inc.

36 2680

LAW OFFICES
BAKES, WARD & BATES

ROBERT E. BAKES
JOHN C. WARD
JAY F. BATES

612 HAYS STREET
P. O. BOX 2832
BOISE, IDAHO 83701
TELEPHONE: (208) 342-8915

August 2, 1971

R. Keith Higginson, Reclamation Engineer
Statehouse-Annex #2
Boise, Idaho

Re: Application of Rim View Trout Farm, Permit #33448

Dear Mr. Higginson:

Rim View Trout Farm is now prepared to make proof of application to beneficial use of the waters appropriated in the above entitled permit, pursuant to section 42-217 Idaho Code. Would you please forward the forms which our office has prepared for that purpose together with any instructions which you may have. Upon receipt of these documents we will prepare the application and submit them to your office.

Yours very truly,

BAKES, WARD & BATES


Robert E. Bakes

REB:pb

36 2680

November 29, 1968

Re: Permit No. 33448

Commercial State Bank
117 North 8th Street
Boise, Idaho

Gentlemen:

Enclosed herewith is a copy of your assignment you submitted for recording. The original has been placed in our files.

If we may be of further assistance to you, please contact us.

Very truly yours,

M. Russell Bosch
Administrative Assistant

MRB:dj
Enclosure

33448

C
O
P
Y

RECORDED

STATE OF IDAHO

NOV 22 1968

DEPARTMENT OF RECLAMATION

ASSIGNMENT OF PERMIT

Department of Reclamation

THE RIM VIEW TROUT CO., a Corporation aka

I, THE RIM VIEW TROUT FARM, INC., hereby assign to Commercial State Bank,
Name

of 117 North 8th Street, Boise, Idaho,
Address

CHECK ONE

All my right, title, and interest, in and to Permit No. 33448
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. (Give that portion of the permit being assigned by describing
the land list and the point of diversion - describe by acreage within each
40-acre subdivision.)

This assignment is collateral to a note to Commercial State Bank,
Boise, Idaho, and any future advances as may be made by said bank.

Made this 15th day of November, 19 68.

RIM VIEW TROUT CO., a Corporation aka
RIM VIEW TROUT FARM, INC.

Permit Holder

W. Harold Barber
President

XXXXXXXXXXXXXXXXXXXX
Alvin E. Johnson
Secretary

State of Idaho)
County of Ada) ss.

On this 15th day of November, 19 68, personally ap-

peared before me the signer(s) of the above instrument, who duly acknowledged to me
that he ~~(she)~~ (they) executed the same.

Arch T. Tuttle
Notary Public residing at Boise, Ida.
Commission expires 10-30-70

My commission expires 10-30-70

33448

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Nº 33241

Boise, Idaho, June 6, 1966

RECEIVED FROM Finch Investment Co. Inc. of Merrill, Idaho \$ 29.75
Twenty Nine Dollars and seventy five cents DOLLARS

FOR

Carey Act Trust Fund - - -	\$	
Application for Permit No. <u>2975</u> - - -	\$	<u>29.75</u>
Proofs - - - - -	\$	
Certified Copy - - - - -	\$	
Recording Deed - - - - -	\$	
Certificate - - - - -	\$	
TOTAL - - -	\$	<u>29.75</u>

Cecil F. Rogers
 State Reclamation Engineer

By Mary L. Landon 33448

February 20, 1967

**Re: Permit No. 33448
Rim View Trout Co., Inc.**

**W. L. Bakes
2002 Lemhi Street
Boise, Idaho 83705**

Dear Mr. Bakes:

**Enclosed find your permit No. 33448 which has been allowed
subject to the conditions on the fourth page of the permit.**

Very truly yours,

**Donald J. Watts
Engineer**

DJW:nw

Enclosure: Application

33448

C

O

P

Y

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

RECEIVED
JAN 16 1967

POST OFFICE

BOISE, IDAHO

JAN 13 1967

BOISE, IDAHO

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

RETURN
TO

NAME OF SENDER

DEPT OF RECL

STREET AND NO. OR P.O. BOX

ROOM 107 STATEHOUSE

CITY, STATE, AND ZIP CODE

BOISE, IDAHO 83701

655-16-71548-7

POD Form 3811 Jan. 1965

1/13/67

33448

DATE DELIVERED

SHOW WHERE DELIVERED (only if requested)

INSURED NO.

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

CERTIFIED NO.

REGISTERED NO.

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

Received the numbered article described below.

RECEIPT**INSTRUCTIONS TO DELIVERING EMPLOYEE**

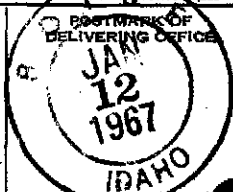
Show to whom and when delivered
 Show to whom, when, and address where delivered
 Deliver ONLY to addressee

(Additional charges required for these services)

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

RECEIVED
JAN 12 1967



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

RETURN
TO

NAME OF SENDER

STREET AND NO. OR P.O. BOX

POST OFFICE, STATE, AND ZIP CODE

Ida. Dept. of Reclamation

Room 107, Statehouse

Boise Idaho

83348

INSTRUCTIONS TO DELIVERING EMPLOYEE

Show to whom and when delivered

Show to whom, when, and address where delivered

Deliver ONLY to addressee (Additional charges required for these services)

RECEIVED BY COMPANY
Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

INSURED NO.
19194

DATE DELIVERED

JAN 12 1967

1

2

SIGNATURE OR NAME OF ADDRESSEE (Markings to be filled in)

P. O. BOX 770

SIGNATURE OF ADDRESSEE
PEISE, IDAHO

Ida Peise

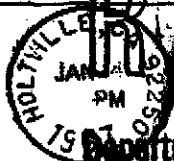
SHOW WHERE DELIVERED (only if requested)

33448

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

545-8



JAN 16 1967



Department of Reclamation

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

RETURN
TO

NAME OF SENDER

Ida Dept of Reclamation

STREET AND NO. OR P.O. BOX

Room 107, Statehouse

POST OFFICE, STATE, AND ZIP CODE

Barre Idaho

83348

POB

33148

SHOW WHERE DELIVERED (only if requested)

DATE DELIVERED

1/14/67

INSURED NO.

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

19193

CERTIFIED NO.

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

REGISTERED NO.

Received the numbered article described below.

RECEIPT

INSTRUCTIONS TO DELIVERING EMPLOYEE

Show to whom and when delivered
 Show to whom, when, and address where delivered
 Deliver ONLY to addressee

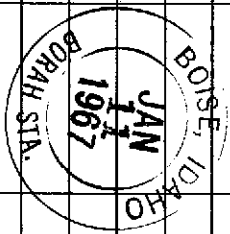
(Additional charges required for these services)

NAME AND ADDRESS OF SENDER

Indicate type of mail:
 Registered Registered O.O.D.
 Certified

Affix stamp here if issued as certificate of mailing or for additional copies of this bill.
 POSTMARK AND DATE OF RECEIPT

NUMBER OF ARTICLE	NAME OF ADDRESSEE, STREET, AND POST OFFICE ADDRESS	POSTAGE	FEE	R. R. FEE	REG. FEE	ACTUAL VALUE	SURCHARGE	REMARKS
1	19193 Foster A. Bant, Astoria, California	05	30	10				
2	19194 Selma Powers Co. 1220 S. St Baker, Okla.	05	30	10				
3	19195 F. J. Jones III, 6005 Walnut Grove, Okla	05	30	10				
4								
5								
6								
7								
8								
9								
10								
11						33148		
12								
13								
14								
15								
16								
17								
18								
19								
20								



TOTAL NO. OF PIECES LISTED BY SENDER

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

POSTMASTER, (type of receipt)

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

APPLICATION FOR REGISTRATION OR CERTIFICATION

(Surcharges are not required on international registered mail)

FD-36 (Rev. 3-22-64)

33418

RECEIVED
OCT 5 1966

33448

Department of Reclamation

CANAL EASEMENT

THIS INDENTURE, Made this 3rd day of October, 1966, by and between IDAHO POWER COMPANY, a corporation, with its principal place of business in Boise, Idaho, as party of the first part, and RIMVIEW TROUT COMPANY, a corporation, of Wendell, Idaho, as party of the second part:

WITNESSETH: That for ONE DOLLAR (\$1) and other valuable consideration, receipt of which is hereby acknowledged, the party of the first part does hereby convey and grant a canal right-of-way unto the Rimview Trout Company, its successors or assigns for the purpose of maintaining, reconstructing and enlarging a canal presently existing between the property of the second party across the property of the first party to Niagara Springs located in Gooding County, Idaho, more particularly described as follows, to-wit:

A strip of land twenty (20) feet in width extending ten (10) feet on either side of the center line of the existing Rimview Canal described as follows:

Beginning at a common corner to Sections 3, 2, 10 & 11, Township 9 South, Range 15 East, Boise Meridian; thence S. 89°51' W., 427.9 feet to a point, which point is the northwest property corner of Niagara Springs Tract No. 1; thence south along west boundary of Niagara Springs Tract No. 1 832.0 feet to a point more or less in center line of Rim View Ditch; thence N. 78°30' E., 139 feet to a point; thence East, 122 feet to a point; thence N. 77°30' E., 80 feet to a point; thence N. 59° E., 43 feet to a point, which is on the west edge of the main body of water of Niagara Springs, the point of diversion.

Also a strip of land five (5) feet in width beginning at a point along the center line of the existing Rimview canal approximately twelve (12) feet N. 78°30' E. of the west boundary line of the Niagara Springs Tract No. 1, where the existing 24" pipe enters said Rimview canal, said 5 foot strip extending southwesterly approximately Thirty (30) feet to the intersection of the west line of Niagara Springs Tract No. 1, and to generally follow the course of said existing 24" pipe from its inlet on the Rimview canal, to its outlet on the Rimview property.

For the purpose of performing construction work and maintenance, the second party shall have the use of such additional land adjacent to said canal as is reasonably necessary for the movement of equipment and personnel.

Executed this 5TH day of October, 1966.

ATTEST:
[Signature]
Secretary

IDAHO POWER COMPANY
By [Signature] 33448
Vice President

DATED at Boise, Idaho, this 19th day of July, 1966.

IDAHO POWER COMPANY
1220 Idaho Street
Boise, Idaho

By James E. Boney
Secretary & General Counsel

STATE OF IDAHO)
) ss
County of Ada)

J F Emery, being first duly sworn, deposes and says:

That he is Vice President and General Manager of Idaho Power Company, protestant in the above entitled matter; that he has read the foregoing Protest and knows the contents thereof; that the statements made therein are true to the best of his knowledge and belief.

J F Emery

Subscribed and sworn to before me this 19th day of July, 1966.

Mary L. Maston
Notary Public
Residing at Boise, Idaho

(NOTARIAL SEAL)

33448

DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO
STATE RECLAMATION ENGINEER
BOISE, IDAHO

IN THE MATTER OF APPLICATION NO)
41095 FOR PERMIT BY RIMVIEW)
TROUT COMPANY, INC. TO APPROPRIATE) AGREEMENT AND STIPULATION
100 CFS OF WATER FROM NIAGARA SPRINGS)
_____)

WHEREAS, Rimview Trout Company, Inc., has heretofore filed Application No. 41095 for 100 cfs of water from Niagara Springs to be used for fish propagation purposes; and

WHEREAS, the Idaho Power Company has filed a protest with the State Reclamation Engineer against the allowing of said Application; and

WHEREAS, the Idaho Power Company is the owner of the land upon which Niagara Springs is located, and Idaho Power Company has heretofore filed Application No. 40874 for 152 cfs of water from Niagara Springs for use in the fish hatchery that it has constructed; and

WHEREAS, Rimview Trout Company, Inc., now and for several years past has diverted and used approximately 40 cfs of water from Niagara Springs, and in making its Application No. 41095, Rimview Trout Company, Inc., is seeking to increase its water right to a total of 100 cfs, including therein the 40 cfs which it has been diverting and using for fish propagation purposes for several years; and

WHEREAS, certain differences have arisen between the Idaho Power Company and the Rimview Trout Company, Inc., concerning the right of the Rimview Trout Company, Inc., to expand its canal presently crossing the Idaho Power Company property, and also concerning the relative priorities to water rights between the Rimview Application and the Idaho Power Company Application; and

The parties hereto having compromised their differences

33448

regarding these and all other issues over which they are now in dispute, and the parties intending to be legally bound hereby;

NOW, THEREFORE, it is hereby stipulated and agreed between the parties that:

I

The Rimview Trout Company, Inc., in filing its Application No. 41095 for 100 cfs of water from Niagara Springs, is seeking a total appropriation of not to exceed 100 cfs of water from Niagara Springs, which 100 cfs includes therein the 40 cfs which Rimview is now, and has for some time been, diverting and using in conjunction with its trout hatchery operation, and Rimview agrees that the additional water appropriation herein sought over and above the 40 cfs now being diverted and used by said Rimview will be limited by the amount of such additional appropriation which Rimview can actually put to beneficial use pursuant to its Application No. 41095.

II.

That the parties hereto agree between themselves, for the purposes of their proceedings now before the State Reclamation Engineer upon Rimview Application No. 41095, and upon Idaho Power Company Application No. 40874, that the following priorities shall exist between the parties concerning their applications and appropriations of water from Niagara Springs:

1. First priority shall be to the 40 cfs now being diverted and used by Rimview Trout Company, Inc.
2. Second priority shall be to Idaho Power Company for 110 cfs, that being the approximate amount of water which Idaho Power is now putting to beneficial use pursuant to its Application No. 40874.
3. Third priority shall be to Rimview Trout Company, Inc. for not to exceed 60 cfs of water based upon its Application No. 41095, limited by the actual amount of said 60 cfs which Rimview shall actually put to beneficial use.

4. Fourth priority shall be to Idaho Power Company for the 42 cfs which represents the balance of the water sought by the Idaho Power Company under its Application No. 40874.

III.

Concurrently with the execution of this agreement, the Idaho Power Company agrees to execute a canal easement granting to the Rimview Trout Company, Inc., an easement for a canal to conduct up to 100 cfs of water over a strip of land 10 feet on either side of the center line of the existing Rimview canal across the Idaho Power Company property, together with such additional area as is reasonably necessary for the movement of equipment and personnel in performing any construction work and maintenance upon the canal to be maintained and constructed within said 20 foot strip.

IV.

Based upon the foregoing agreements, Idaho Power hereby withdraws its protest filed against the Application of Rimview, No. 41095, and consents to the granting of a permit based upon said Application, subject to the conditions set out in this agreement.

V.

This agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

Dated this 5th day of October, 1966.

IDAHO POWER COMPANY

By NR Moore
Vice President

ATTEST:

J. H. Rogers
Assistant Secretary

RIMVIEW TROUT COMPANY, INC.

By W. Lowell Baker
President

ATTEST:

Maurice Farrell
Secretary

33448

STATE OF IDAHO)
) SS.
COUNTY OF ADA)

On this 5th day of October, 1966, before me, the undersigned, a Notary Public, personally appeared H. R. Moore, and J. H. Rogers, known to me to be the Vice President and Assistant Secretary of Idaho Power Company, and the persons executing the foregoing instrument on its behalf, and acknowledged to me that said corporation 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.

Mary J. Morton
Notary Public for Idaho
Residing at Boise, Idaho

33448

33448

Department of Reclamation

DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO
STATE RECLAMATION ENGINEER
BOISE, IDAHO

IN THE MATTER OF APPLICATION NO)	
41095 FOR PERMIT BY RIMVIEW)	
TROUT COMPANY, INC. TO APPROPRIATE)	WITHDRAWAL OF PROTEST
100 CFS OF WATER FROM NIAGARA SPRINGS)	
)	

WHEREAS, Rimview Trout Company, Inc., has heretofore filed an application for 100 cfs of water from Niagara Springs to be used for fish propagation purposes; and

WHEREAS, the Idaho Fish and Game Department has filed an objection to the Application of Rimview; and

WHEREAS, the State of Idaho Fish and Game Department is satisfied with the agreement and stipulation concluded between the Idaho Power Company and the Rimview Trout Company, Inc.;

NOW, THEREFORE, the Idaho Fish and Game Department hereby withdraws its objections to the Application No 41095 filed by the Rimview Trout Company, Inc., and consents that a water permit be issued to said Rimview on Application 41095.

Dated this _____ day of October, 1966.

STATE OF IDAHO FISH AND GAME DEPARTMENT

By *L. J. Jones III*

33448

3448

Permit 32711 D.O.
32037 Lester Bant

App. 41095 - Rim View Trout Company

100 cfs - NIAGARA SPRINGS

BOB BANKS - PROPOSE TO AMEND ANTIWAL WATER FROM STAGS
AND CHANGE IN POINT OF DIVERSION

EXISTING RIGHT TO 40 CFS - WHICH HAS INCREASED FROM
1949 TO 1962
ARE LOSING CONSIDERABLE WATER.

TOTAL OF 100 CFS NOT 100 CFS INCREASE
INTAKE MOVE UPSTREAM ACROSS ROAD - APPROVED BY
I.P. Co. - LETTER OF CONSENT TO 40 CFS ONLY -
NOT AGREEMENT TO DIVERT 100 CFS -

JAMES E. BRUCE - I.P.

I.P. HAS NOT CONCLUDED WHAT POSITION IT IS GOING TO
TAKE. - CONSENT THAT UNDER EXISTING STATUTE - I.P. MUST
CONSENT TO QUANTITY OF WATER TO BE APPROPRIATED. ORIGINAL
USE RIGHT OF SENECA PEOPLE WAS VIOLATED IN TRESPASS.
AGREEMENT IN 1952 GRANTING PERMISSIVE USE RIGHT - THIS
WAS TERMINATED IN 1966 BY NEW AGREEMENT UP TO 20 CFS.

APPLICANTS CLAIM THIS IS PUBLIC WATER. - LICENSES ISSUED BY
DEPARTMENT AND FILING BY POWER COMPANY ITSELF.

JAMES SIMPSON - F & G.

33448

PUBLIC INTEREST IN NIAGARA SPRINGS. WOULD NOT
WATER DIVERTED TO DECREASE AESTHETIC BEAUTY. MINIMUM

OF 50 CFS REQUIRED:
 MINIMUM FLOW ~~249~~ CFS 198 CFS 1968 NOT WARRANTED
 AVE DISCHARGE - 40 CFS - MAY 65

Wayne Trans - U.S.G.S.

Records show considerable change in flow of springs
 due to changes in water at Snake River plain

Blue Lakes
 Box Canyon
 Niagara Springs

THREE EXISTING LONG-TERM
 GAGING STATIONS.

1902 - 107 CFS

1917 - 250-260 CFS

1924 - 270 CFS

1950 - 300 CFS

1955 - 320 CFS

1959 - 300 CFS

GAGE INSTALLED -

1965 - 300 CFS

TAKEN UNDER ADVICE. — SET FOR
 FORMAL HEARING —

33448

33448

August 30, 1966

Re: Application No. 41095
Rimview Trout Co., Inc.

James C. Simpson, Acting Director
Idaho Fish and Game Department
BUILDING

Dear Mr. Simpson:

You are hereby notified that pursuant to Idaho Code, 67-5209b, a hearing will be held at 2:00 P. M., on September 7, 1966, in the office of the State Reclamation Engineer, Room 107 Statehouse, Boise, Idaho, with regard to protests and objections to Application No. 41095 of the Rimview Trout Co., Inc. to appropriate 100 cubic feet per second of the water of Niagara Springs, for propagation purposes.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

33448

33448

August 30, 1966

Re: Application of Rimview Trout Co., Inc.

W. L. Bakes, President
Rimview Trout Co., Inc.
2002 Lemhi Street
Boise, Idaho

Dear Mr. Bakes:

You are hereby notified that pursuant to Idaho Code, 67-5209b, a hearing will be held at 2:00 P. M., on September 7, 1966, in the office of the State Reclamation Engineer, Room 107, Statehouse, Boise, Idaho, with regard to protests and objections to Application No. 41095, of the Rimview Trout Co., Inc. to appropriate 100 cubic feet per second of the water of Niagara Springs, for propagation purposes.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

cc: Kiser & Bakes
Attorneys at Law
5000 Fairview Ave/
Boise, Idaho

33448

33448

August 30, 1966

Re: Application No. 41095
Rimview Trout Co., Inc.

James E. Bruce, Secretary
Idaho Power Company
P. O. Box 770
Boise, Idaho

Dear Mr. Bruce:

You are hereby notified that pursuant to Idaho Code, 67-5209b, a hearing will be held at 2:00 P. M., on September 7, 1966, in the office of the State Reclamation Engineer, Room 107, Statehouse, Boise, Idaho, with regard to protests and objections to Application No. 41095 of the Rimview Trout Co., Inc. to appropriate 100 cubic feet per second of the water of Niagara Springs, for propagation purposes.

Very truly yours,

R. KEITH HIGGINSON
State Reclamation Engineer

RKH:ew

33448

KISER AND BAKES
LAWYERS
5000 FAIRVIEW AVENUE
BOISE, IDAHO 83704

AREA CODE 208
TELEPHONE 344-7857

ALFRED C. KISER
ROBERT E. BAKES

August 26, 1966



Mr. Keith Higginson
Statehouse
Boise, Idaho

Re: Application of Rimview Trout Farm

Dear Mr. Higginson:

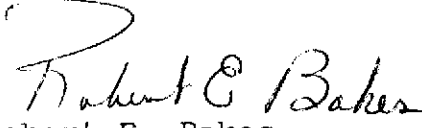
Pursuant to our telephone conversation yesterday, this will confirm the setting of the hearing on the objections and protests filed on the application of the Rimview Trout Farm for 100 sec. ft. of water from Niagara Springs. The parties have agreed to the hearing date of September 7, 1966, at 2:00 o'clock p.m., and since this date is agreeable with you, we will plan on that date and time for the hearing.

I am sending a copy of this letter to Mr. Jim Bruce, Attorney for the Idaho Power Company, so that he may confirm this understanding. I assume that you notify any other parties who are entitled to a notice of hearing.

Thank you for your cooperation in this matter.

Yours very truly,

KISER AND BAKES

By 
Robert E. Bakes

REB/js

33448

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

IN THE MATTER OF PERMIT
No. 32711

RESCINDING PREVIOUS ACTION
IN GRANTING PERMIT
ORDER

APPLICATION FOR PERMIT NO. 40874 was filed by the Idaho Power Company on January 31, 1966, and sought 152 second feet of water from Niagara Springs for operation of fish hatchery, domestic, fire protection and fish rearing. Said application was subject to the provisions of Section 42-203, Idaho Code, which requires that notice be prepared by this department and published in a newspaper printed in the county wherein the point of diversion lies, which notice should advise that any protest against the approval of the application may be filed with the Department of Reclamation. However, such notice was not prepared nor published and no opportunity was given for filing of protests, and therefore, the subsequent action of this office in granting Permit No. 32711 on said application is invalid by reason thereof.

IT IS THEREFORE ORDERED, and action of this office in granting Permit No. 32711 is hereby vacated, rescinded and set aside and said permit is held in suspense until such time as notice can be published and all other required action is taken. No proof of completion of works or beneficial use of the water will be received and no certificate or license will be issued by this office until such time as said permit is reinstated.

DATED THIS 15th. day of August, 1966


Deputy State Reclamation Engineer

334148

S T A T E O F I D A H O
D E P A R T M E N T O F R E C L A M A T I O N

IN THE MATTER OF PERMIT
No. 32037

RESCINDING PREVIOUS ACTION
IN GRANTING PERMIT

ORDER

APPLICATION FOR PERMIT NO. 40171 was filed by Lester A. Bornt on August 25, 1964, and sought the appropriation of 100 second feet of water from Niagara Springs for operation of a fish hatchery. Said application was subject to the provisions of Section 42-203, Idaho Code, which requires that Notice be prepared by this department and published in a newspaper printed in the county wherein the point of diversion lies, which notice should advise that any protest against the approval of the application may be filed with the Department of Reclamation. However, such notice was not prepared nor published and no opportunity was given for filing of protests, and therefore, the subsequent action of this office in granting Permit 32037 on said application is invalid by reason thereof.

IT IS THEREFORE ORDERED, and action of this office in granting Permit 32037 is hereby vacated, rescinded and set aside and said permit is held in suspense until such time as notice can be published and all other required action is taken. No proof of completion of works or beneficial use of the water will be received and no certificate or license will be issued by this office until such time as said permit is reinstated.

DATED THIS 15th day of August, 1966.


Deputy State Reclamation Engineer

33448



IN REPLY REFER TO:

UNITED STATES
DEPARTMENT OF THE INTERIOR

RECEIVED
JUL 26 1966

GEOLOGICAL SURVEY
Water Resources Division
Room 215, 914 Jefferson Street, Boise, Idaho 83702
Department of Reclamation

July 22, 1966

Mr. Carl E. Tappan
State Reclamation Engineer
Statehouse
Boise, Idaho 83702

33448

Dear Mr. Tappan:

Subject: Application of the Rimview Trout Co. for diversion from
Niagara Springs, sec.10, T.9 S., R.15 E.

Reference is made to the application of the Rimview Trout Co. for permit to divert 100 cubic feet per second of the flow of Niagara Springs for use in a commercial fish hatchery. It is understood that a hearing on this matter is scheduled for 2 p.m. on August 3, 1966.

The Geological Survey, in cooperation with the State of Idaho, has been operating a recording gaging station on the outflow from Niagara Springs since October 1958. This is one of three gaging stations on spring outlets which are being operated to monitor the outflow from the Snake Plain aquifer in relation to irrigation development on the Snake River plain. It is extremely important that conditions be maintained which will permit the continued operation of the Niagara Springs gaging station.

Recently the station facilities were moved under our direction by the Idaho Power Co. to accommodate the construction of the fish hatchery by that company which is to be used in transferring the anadromous fish runs from the Snake River to the Salmon River. The proposed diversion by the Rimview Trout Co. will require the installation of additional gaging facilities to maintain the Niagara Springs record. Therefore, it is requested that if a permit for the diversion is granted the company be required to construct and maintain facilities for continuously recording the flow in the diversion and to pay for the additional cost of record collection incurred by the Geological Survey. The design of gaging facilities should be subject to the approval of the Idaho Department of Reclamation and the Geological Survey.

33448

C. E. Tappan - 7-22-66

RECEIVED
JUL 26 1966

It will be appreciated if your office will enter this request at the hearing on August 3. A representative from this office can appear at the hearing if you determine this to be necessary.

Department of Reclamation

Sincerely yours,

W L Burnham

W. L. Burnham
District Chief

In duplicate

33 448

33448

July 21, 1966

Re: Application No. 41095

James E. Bruce, Secretary
Idaho Power Company
P. O. Box 770
Boise, Idaho

Dear Mr. Bruce:

You are hereby notified that pursuant to Rule 8 of the adopted rules of practice of this department, a conference will be held at 2:00 o'clock P. M., on Wednesday, August 3, 1966, in Room 107, Statehouse, Boise Idaho, with regard to protests to Application No. 41095 to appropriate 100 c.f.s. from Niagara Springs, in the name of the Rim View Trout Co.

Very truly yours,

R. KEITH HIGGINSON, Deputy
State Reclamation Engineer

RKH:ew

C
O
P
Y

33448

33448

July 21, 1966

Re: Application No. 41095

James C. Simpson, Acting Director
Idaho Fish and Game Department
BUILDING

Dear Mr. Simpson:

You are hereby notified that pursuant to Rule 8 of the adopted rules of practice of this department a conference will be held at 2:00 P. M., Wednesday, August 3, 1966, at the Statehouse, in Room 107, Boise, Idaho, with regard to the protests to Application No. 41095, in the name of the Rim View Trout Company, to appropriate 100 c.f.s. from Niagara Springs.

Very truly yours,

R. KEITH HIGGINSON, Deputy
State Reclamation Engineer

RKH:ew

33448

33448

July 21, 1966

Re: Application No. 41095
Rim View Trout Co.

W. L. Bakes
2002 Lemhi Street
Boise, Idaho 83705

Dear Mr. Bakes:

We enclose protests from the Idaho Power Co.
and the Idaho Fish and Game Department filed against
Application No. 41095, Rim View Trout Company.

Therefore you are hereby notified that pursuant
to Rule 8 of the adopted rules of practice of this depart-
ment, a conference will be held at 2:00 P. M., Wednesday,
August 3, 1966, in Room 107, Statehouse, Boise, Idaho,
with regard to these protests.

Very truly yours,

R. KEITH HIGGINSON, Deputy
State Reclamation Engineer

RKH:ew

Enclosures

33448



33448

ROBERT E. SMYLIE, Governor
COMMISSION
GLENN STANGER, Idaho Falls
R. J. HOLMES, Twin Falls
ARLIE JOHNSON, Boise
WILLIAM B. DURBON, Moscow
FRANK CULLEN, Coeur d'Alene

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

IDAHO FISH AND GAME DEPARTMENT

July 20, 1966

RECEIVED
JUL 21 1966

Department of Reclamation

The State Reclamation Engineer
Statehouse
Boise, Idaho

Dear Sir:

Reference is made to Permit Application 41095 by the Rimview Trout Company, Incorporated, for the diversion of 100 second feet of water from Niagara Springs. It is our understanding that Idaho Power Company currently has application on 120 second feet which will be used in the operation of the Niagara Springs Hatchery.

A review of the U. S. Geological Survey records on discharge from the Springs shows that minimum flows as low as 198 second feet (1964) can occur. Further review shows flows consistently below 250 second feet for several months each year. Niagara Springs Falls and the Creek have long been one of the scenic attractions in Magic Valley and is heavily used by fishermen year-round. Withdrawal of additional water will certainly detract from the recreational qualities of the area.

The Idaho Fish and Game Department will offer no protest to this application providing a minimum flow of 170 second feet or more is maintained below the diversion point of Rimview Trout Company for fishing and fish cultural purposes; and providing the diversion of Rimview Trout Company is not extended upstream; and providing that during any construction, proper precautions are taken to preclude release of silt or extraneous material into the water intake for the Niagara Springs Hatchery operated by the Idaho Fish and Game Department.

Sincerely,

IDAHO FISH AND GAME DEPARTMENT
John R. Woodworth, Director

James C. Simpson
James C. Simpson
Acting Director

cc: Idaho Power Company

33448

SNAKE RIVER



HYDRO POWER

IDAHO POWER COMPANY

BOX 770 • BOISE, IDAHO 83701

July 20, 1966

33448

State of Idaho
Department of Reclamation
Boise, Idaho

Gentlemen:

I am filing herewith original plus two copies of Protest by Idaho Power Company to Application No 41095. This protest is made upon the grounds of failure to comply with the provisions of 42-212 and 213, Idaho Code.

Very truly yours,

James E Bruce
Secretary

JEB:mlm

Encls



33448

RECEIVED
JUL 20 1966

Department of Reclamation

DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO
STATE RECLAMATION ENGINEER
BOISE, IDAHO

RECEIVED
JUL 20 1966
Department of Reclamation

IN THE MATTER OF APPLICATION NO)
41095 FOR PERMIT BY RIM VIEW)
TROUT COMPANY TO APPROPRIATE)
100 CFS OF WATER FROM NIAGARA)
SPRINGS)

PROTEST

33448

COMES NOW, Idaho Power Company and protests the Application No 41095 filed by Rim View Trout Company for the appropriation of 100 cfs of water from Niagara Springs, on the following grounds:

I

Exhibit B of Applicant's application shows that the diversion will be from Niagara Springs and that the point of diversion will be located on property that does not belong to the Applicant, but does belong to Idaho Power Company.

II

That the application is deficient in that it fails to contain the affidavit of permission to file on springs and the information required in accordance with the provisions of 42-213, Idaho Code.

III

That failure to contain the information required by 42-213, Idaho Code, and particularly the failure to show that written permission has been obtained from Idaho Power Company, the owner of the land upon which the Niagara Springs is situated, renders the application defective and the Department of Reclamation cannot under the provisions of 42-212, Idaho Code, issue a permit for the appropriation of the waters of Niagara Springs by Rim View Trout Company.

WHEREFORE, it is hereby respectfully requested that the Department of Reclamation, acting by and through the State Reclamation Engineer, reject and deny the application of Applicant and require the Applicant to obtain the written consent or permission of Idaho Power Company to its filing for the appropriation of waters of Niagara Springs, all in accordance with the provisions of 42-212 and 213, Idaho Code.

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RECEIVED
JUL 20 1936

DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO
STATE RECLAMATION ENGINEER
BOISE, IDAHO

Department of Reclamation

IN THE MATTER OF APPLICATION NO)
41095 FOR PERMIT BY RIM VIEW)
TROUT COMPANY TO APPROPRIATE)
100 CFS OF WATER FROM NIAGARA)
SPRINGS)

PROTEST

COMES NOW, Idaho Power Company and protests the Application No 41095 filed by Rim View Trout Company for the appropriation of 100 cfs of water from Niagara Springs, on the following grounds:

I

Exhibit B of Applicant's application shows that the diversion will be from Niagara Springs and that the point of diversion will be located on property that does not belong to the Applicant, but does belong to Idaho Power Company.

II

That the application is deficient in that it fails to contain the affidavit of permission to file on springs and the information required in accordance with the provisions of 42-213, Idaho Code.

III

That failure to contain the information required by 42-213, Idaho Code, and particularly the failure to show that written permission has been obtained from Idaho Power Company, the owner of the land upon which the Niagara Springs is situated, renders the application defective and the Department of Reclamation cannot under the provisions of 42-212, Idaho Code, issue a permit for the appropriation of the waters of Niagara Springs by Rim View Trout Company.

WHEREFORE, it is hereby respectfully requested that the Department of Reclamation, acting by and through the State Reclamation Engineer, reject and deny the application of Applicant and require the Applicant to obtain the written consent or permission of Idaho Power Company to its filing for the appropriation of waters of Niagara Springs, all in accordance with the provisions of 42-212 and 213, Idaho Code.

33448

DATED at Boise, Idaho, this 19th day of July, 1966.

IDAHO POWER COMPANY
1220 Idaho Street
Boise, Idaho

33448

By James E. Bower
Secretary & General Counsel

STATE OF IDAHO)
) ss
County of Ada)

J F Emery, being first duly sworn, deposes and says:

That he is Vice President and General Manager of Idaho Power Company, protestant in the above entitled matter; that he has read the foregoing Protest and knows the contents thereof; that the statements made therein are true to the best of his knowledge and belief.

J F Emery

Subscribed and sworn to before me this 19th day of July, 1966.

Mary J. Morton
Notary Public
Residing at Boise, Idaho

(NOTARIAL SEAL)

33448

June 7, 1966

RE: Application No. 41095

W. L. Bakes, President
Rim View Trout Company, Inc.
Wendell, Idaho

33448

Dear Mr. Bakes:

Enclosed are three copies of a legal notice in regard to the above noted permit application. Kindly check to be sure there are no errors.

Complete the blank spaces at the bottom of each notice. Give the original to a paper printed in Gooding County for publication in three (3) successive weekly issues, first publication within ten (10) days of your receipt of this notice. Return one copy to this office and keep one copy for your file.

Remit the affidavit of publication promptly after the last publication.

Very truly yours,

M. Russell Bosch
Office Manager

MRB:mr

Enc. legal notice 3

33448

EXHIBIT A

Explanation of Item 8 - Listing of existing works and planned works.

1. EXISTING WORKS

- a. Canal - Capable of carrying approximately 40 cubic feet per second from Niagara Springs to Rim View property.
- b. Water Supply Facilities - See attached drawings.
- c. Hatchery Facilities - At present there are:
 1. 13 Raceways and rearing ponds
 2. 4 Nursery raceways
 3. Hatchery space for approximately 350,000 eggs.
- d. Processing Plant - Packaging and freezing facilities.

2. PLANNED WORKS - To be placed within 5 years.

- a. Canal - Relocation present canal by moving head of the ditch approximately 40 feet upstream and placing a 54 inch pipe, 100 cubic feet per second, can be readily transported to the Rim View property.
- b. Hatchery Facilities
 1. Placing of 20 to 30 more raceways and rearing ponds.
 2. 5 nursery raceways
 3. Hatchery facilities to meet the requirements of increased production.
- c. Processing Plant - For cleaning, deboning, packaging and freezing of fish for the market.

EXHIBIT B

Attached is a copy of a notarized agreement between Idaho Power, owner of land surrounding Niagara Springs and Rim View Trout Company. On page 3, paragraph II (a) Rim View is granted an easement for water across Idaho Power property.

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RECORDED

JUN 6 1966

Department of Reclamation

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AGREEMENT

AGREEMENT, Made this 18th day of February, 1966, between IDAHO POWER COMPANY, a corporation, hereinafter called "Company", and RIM VIEW TROUT COMPANY, a corporation, hereinafter called "Rim View",

33448

WHEREAS, Company and Rim View have heretofore entered into a license agreement for the utilization by Rim View of certain property belonging to Company; and

7

WHEREAS, Company is now required by the Federal Power Commission, pursuant to its license FPC No 1971, to construct a fish hatchery, which hatchery will be constructed on the Company's Niagara Springs property and will require the utilization of the area of Company's land now used by Rim View,

NOW, THEREFORE, in consideration of the terms, covenants and conditions hereinafter set forth, it is agreed between the parties hereto:

I

Company will:

(a) Install a culvert with a capacity designed to carry a flow of 26 cfs, which culvert will be installed in the existing ditch which presently serves the Rim View trout facilities. The culvert will be approximately 60 feet in length with approximately 10 feet of this length being situated on Niagara Springs Tract #1, as said tract is described hereinafter, and 50 feet situated on property owned by Rim View. This culvert will serve to transport a maximum flow of 26 cfs under proposed access road to the Niagara Springs fish hatchery to be constructed by Company. Copy of a drawing showing the location of the culvert and access road are attached hereto as Exhibit A, and by reference made a part hereof.

(b) Construct a water supply facility designed to supply 14 cfs to the rearing ponds located on Rim View property and to the hatching facility located on said property. Said facilities to be constructed are as follows:

Beginning at a point in the existing ditch serving the Rim View rearing facilities, said point located approximately 12 feet East of the

33448

West boundary of the Niagara Springs Tract #1, install a conduit sized to transport a maximum capacity of 15 cfs, which conduit will connect with a distribution structure (denominated Structure #1) to be located approximately 65 feet South of the center line of the existing road to the Niagara Springs property and approximately 25 feet West of the East boundary of Rim View property. From this distribution structure a conduit of a size to transport 14 cfs will be installed extending Southward approximately 280 feet to an energy dissipating structure (denominated Structure #2) located near the Northeast corner of the Northeasterly rearing pond presently located on Rim View property. This conduit, its supports, and the structures located at either end of the conduit will occupy a strip of land designated as the East 5 feet of Lots 1 and 9 for a distance of approximately 280 feet between structures #1 and #2. From structure #2, an additional conduit of a size to transport 14 cfs will be installed approximately 140 feet in length and extending to a point near the Southeast corner of the Southeasterly rearing pond on Rim View property. This conduit will serve as a distribution facility to the three extra rearing ponds and will be provided with a total of five (5) outlets equipped with slide gate or other suitable flow controls.

Extending from structure #1 a second outlet conduit will be provided to transport 1 cfs of water to the existing flume serving the Rim View facility. This conduit will be approximately 65 feet in length and will occupy a strip of land 5 feet in width extending 2½' on either side of a center line which will begin at structure #1 and extend South 66° West 65' to the existing flume.

The existing domestic and sprinkler system water supply will be interconnected in the water distribution system in order to supply water to the house and packing sheds.

All of said water supply facility will be installed as shown on the drawing attached hereto as Exhibit A, and by reference made a part hereof.

33448

II

Rim View agrees:

(a) To immediately vacate and cease to use and remove its movable property from the Company's premises, which use has been made in accordance with a license agreement between the parties. Such vacation of use will not extend, however, to the existing canal across the Company's premises for which the Company will grant to Rim View an easement of water from Niagara Springs for the purpose of aiding appropriation.

(b) To grant to Company an easement across the following described property belonging to Rim View for the construction of an access road:

A strip of land twenty (20) feet in width extending ten (10) feet on either side of the following described centerline:

Beginning at the common corner of Sections 3, 2, 10, and 11, Township 9 South, Range 15 East, Boise Meridian; thence S 89°51' W, 427.9 feet to a point, which point is the north-west property corner of Niagara Springs Tract No 1; thence south along the west boundary of Niagara Springs Tract No 1, 949.5 feet, more or less, to a point, which point is the intersection of said west boundary with an existing roadway; thence south 45.0 feet along said west boundary of said Niagara Springs Tract No 1 to the true Point of Beginning of said centerline; thence N 76°00' W, 132.0 feet to a point on the centerline of an existing road, excepting that portion of the above described strip of land which may lie on an existing road right of way.

III

It is understood and agreed that the license agreement between the parties originally dated as of December 18, 1952, will no longer be of any force or effect and is hereby declared to be terminated.

IV

For the purposes of this agreement Niagara Springs Tract No 1 is described as follows:

A tract of land lying within Section 10, Township 9 South, Range 15 East, Boise Meridian, Gooding County, Idaho, described as follows:

Beginning at the section corner common to Sections 2, 3, 10 and 11 of Township 9 South, Range 15 E, BM, as shown on the official plat of the U S Dependent Resurvey dated April 7, 1918; thence South 89°51' West upon and along the North section line of said Section 10 a distance of 427.9 feet; thence South a distance of 1863.8 feet to a point on the

33448

right bank of Snake River in the said Section 10; thence continuing South to the thread of Snake River; thence upstream along the thread of said Snake River to the Section line between said Sections 10 and 11; thence North 8°44' W along and upon said Section line to the meander corner on right bank of Snake River between said Sections 10 and 11; thence North upon and along the Section line between said Sections 10 and 11 a distance of 2073.1 feet to the section corner common to said Sections 2, 3, 10 and 11, the point of beginning, containing 20 acres, more or less.

V

This agreement and all the provisions thereof shall be binding upon the heirs, representatives, successors and assigns of the parties hereto and the respective easements granted to the parties shall be covenants running with the land.

IN WITNESS WHEREOF, The parties hereto have executed this agreement on the day and year first above written.

IDAHO POWER COMPANY

By H.R. Moore
Vice President

ATTEST:

James E. Brown
Assistant Secretary

RIM VIEW TROUT COMPANY

By M.J. Schrock
President

ATTEST:

Elsie I. Schrock
Secretary

33448

STATE OF IDAHO)
) ss
County of Ada)

On this 18th day of February, 1966, before me, Mary L. Morton
_____, a Notary Public in and for said County and State, personally
appeared H R MOORE and JAMES E BRUCE, known to me to be the Vice President and
the Assistant Secretary of Idaho Power Company, and the persons executing the
foregoing instrument on its behalf, and acknowledged to me that said corporation
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.

(NOTARIAL SEAL)

Mary L. Morton
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission expires: April 1, 1968

STATE OF IDAHO)
) ss
County of Ada)

On this _____ day of February, 1966, before me, Mary L. Morton
_____, a Notary Public in and for said County and State, personally
appeared M J SCHMECKPEPER and ELSIE I SCHMECKPEPER, known to me to be the
President and Secretary of Rim View Trout Company, and the persons executing
the foregoing instrument on its behalf, and acknowledged to me that said corp-
oration 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.

(NOTARIAL SEAL)

Mary L. Morton
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission expires: April 1, 1968

33448

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 42-203, IDAHO CODE

NOTICE IS HEREBY GIVEN, That W. L. Bakes, President, Rim View Trout Company, Inc. of Wendell, County of Gooding, and State of Idaho, has made application No. 41095 on the 6th day of June, 1966, to appropriate 100 c.f.s. of water from Niagara Springs, tributary of Snake River for Fish Propagation purposes (non consumptive.)

That the point of diversion is in the NE1/4, Sec. 10, T. 9 S., R. 15 E., B.M., Gooding County.

The place of use of said water is in the NE1/4, Sec. 10, T. 9 S., R. 15 E., B.M. and the water is to be returned to Snake River at a point in the NE1/4, Sec. 10, T. 9 S., R. 15 E., B.M.

That any protests against the approval of this application must be filed in the Department of Reclamation, at Boise, Idaho, within forty (40) days from the date of this notice, and such protest shall state the name and address of the protestant, and shall clearly set forth his objection to the approval of said application.

Dated this 7th day of June, 1966

R. Keith Higginson
R. KEITH HIGGINSON
Deputy State Reclamation Engineer

Date of First Publication June 16, 1966

Date of Last Publication June 30, 1966

Last Date for Protest July 17, 1966

SERVICE OF THE FOREGOING, by copy, is hereby acknowledged this _____ day of _____, 1966.

W. L. Bakes
Applicant

By June 13, 1966

33448

NOTICE OF APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC
WATERS OF THE STATE OF IDAHO, IN ACCORDANCE WITH THE
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Dated this 7th day of June, 1966

R. KEITH HIGGINSON
Deputy State Reclamation Engineer

Date of First Publication June 17, 1966
Date of Last Publication July 1, 1966
Last Date for Protest July 17, 1966

SERVICE OF THE FOREGOING, by copy, is hereby acknowledged this
day of _____, 1966.

Applicant

By _____

33 448