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APR 11 2000
Department of Water Resources

2000 APR 10 AM 10:18
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

| | | |
|---|---|---|
| **In Re SRBA** | ) | **ORDER OF PARTIAL DECREE** |
| | ) | |
| **Case No. 39576** | ) | **For Water Right 36-07071** |
| | ) | |

The Notice of Challenge filed in the above subcase having been heard and ruled upon, IT IS THEREFORE ORDERED that water right 36-07071 is hereby **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.

IT IS SO ORDERED.

DATED APR 10 2000.

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

SCANNED
MICROFILMED APR 14 2003
APR 10 2004

RECEIVED
APR 11 2000
Department of Water Resources

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

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

In Re SRBA )
)
Case No. 39576 )
)

PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR

Water Right 36-07071

NAME & ADDRESS: DELORIS D JONES
JOHN W JONES JR
PO BOX 265
HAGERMAN ID 83332

| SOURCE: | TRIBUTARY: |
|---|---|
| WEATHERBY SPRINGS | BILLINGSLEY CREEK |
| THREE SPRINGS | BILLINGSLEY CREEK |
| HOAGLAND TUNNEL | BILLINGSLEY CREEK |

QUANTITY: 73.05 CFS

THE APPROPRIATOR SHALL CONTINUOUSLY ALLOW 6.50 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM MARCH 1 UNTIL NOVEMBER 1 OF EACH YEAR, AND SHALL CONTINUOUSLY ALLOW 4.00 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO THE BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM NOVEMBER 1 UNTIL MARCH 1 OF EACH YEAR.

PRIORITY DATE: 07/08/1969

POINT OF DIVERSION: T07S R14E S30 SESENW SENESW Within GOODING County

PURPOSE AND PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|---|---|---|
| FISH PROPAGATION | 01-01 12-31 | 73.05 CFS |
| 90 RACEWAYS | | |

PLACE OF USE:

| FISH PROPAGATION | Within GOODING County |
|---|---|
| T07S R14E S30 | NESW |

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

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

RULE 54(b) CERTIFICATE

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

B L Wood

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



SCANNED
APR 14 2003
MAR 10 2004

# JASON R. MICIAK, P.C.

**Attorney at Law**

*139 River Vista Place, Suite 102* **Phone: (208) 734-5444**
**P.O. Box 2632** **FAX: (208) 734-5605**
**Twin Falls, Idaho 83303-2632** **Email:jrmiciak@yahoo.com**



RECEIVED
JAN 23 2004
Department of Water Resources


January 21, 2004

Director Karl Dreher
Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, Idaho 83720-0098
VIA FAX: (208) 327-7866

RE: Amendment of Clerical Error in January 9, 2004
Call for water

Dear Director Dreher:

Due to a clerical error in my office, the Department was given the wrong "Bill Jones" water right for which I am making a call for water. I represent the Mr. And Mrs. Bill Jones that claim water right number 36-07071 under the name Deloris D. Jones and John W. Jones Jr. as decreed in the SRBA. The water right is one for 73.05 cfs, of which the Jones state they are receiving around half. The priority date is July 8, 1969. Please note that it is for this water right – and this Bill Jones – that I make our call for water, and not those previously listed.

For better or worse the issues to be decided in the next few weeks are bigger than any single claimant and hopefully this error is easily rectified. I am willing to help your staff in any way to right this situation.

Sincerely,

Jason R. Miciak, P.C.

JRM/anc


MICROFILMED
MAR 10 2004

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 16, 2004

Jason R. Miciak
139 River Vista Place, Suite 102
P. O. Box 2632
Twin Falls, ID 83303-2632

VIA FACSIMILE TO (208) 734-5605 AND FIRST CLASS MAIL

Re: Distribution of Water to Pristine Springs, SeaPac of Idaho, and William D. Jones

Dear Mr. Miciak:

I have reviewed your letter dated January 9, 2004, which was received by the Department of Water Resources on January 12, 2004, in which you demand administration of water rights on behalf of your clients pursuant to Idaho Code, Title 42, Chapter 6. Your demand will be treated as a call for water delivery against junior priority ground water rights under the "Rules for Conjunctive Management of Surface and Ground Water Resources" (IDAPA 37.03.11) ("Conjunctive Management Rules"). The rules are available at the following website:

http://www2.state.id.us/adm/adminrules/rules/idapa37/0311.pdf

These rules prescribe how IDWR is to respond to a call for water delivery made by a holder of a senior priority surface or ground water right against the holders of junior priority ground water rights. Rule 40 of the Conjunctive Management Rules prescribes procedures for responding to delivery calls against junior priority ground water rights that are within a water district where ground water regulation is included in the function of such district. There are two water districts upgradient of the springs supplying Billingsley Creek that regulate ground water diversions. These districts are Water District No. 120 and Water District No. 130.

I am currently writing an order in response to a delivery call pursuant to Rule 40 of the Conjunctive Management Rules against ground water rights in Water Districts Nos. 120 and 130 junior in priority to July 13, 1962. In reviewing the partial decrees and Director's Reports enclosed with your letter for water rights held by your clients, I note that only three of the rights are senior to July 13, 1962. Assuming the water supply for these three earlier rights is adequate, your delivery call may be mooted, as a result of the prior delivery call.

MICROFILMED
MAR 1 0 2004

I anticipate issuing the order described above prior to January 31, 2004. Therefore, I intend to hold your delivery call without further action until after I have issued this order.

Sincerely,

Karl J. Dreher
Director

c: Glen Saxton – IDWR
Tim Luke – IDWR

MICROFILMED
MAR 10 2004

RECEIVED
JAN 1 2 2004
Department of Water Resources

**JASON R. MICIAK, P.C.**
**Attorney at Law**

**139 River Vista Place, Suite 102**
**P.O. Box 2632**
**Twin Falls, Idaho 83303-2632**

**Phone: (208) 734-5444**
**FAX: (208) 734-5605**
**Email:jmiciak@yahoo.com**

January 9, 2004

Mr. Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard
P.O. Box 83720
Boise, Idaho 83720-0098

RE: Delivery of Water to Pristine Springs, Inc.,
SeaPac of Idaho, Inc. and William D. Jones, Jr.

Dear Director Dreher,

This letter will address the only remaining option to the above water users in an effort to preserve their right to use water as outlined in their licenses and decrees. Exhibit one sets forth the senior water rights belonging to the above parties which are experiencing intolerable injury. These water rights are all within Water District 130 which was set up specifically to allocate water by priority under Chapter 6 of the Idaho Code. So far, the water is not being administered in accordance with the prior appropriation doctrine because senior surface water rights are severely diminished while junior groundwater users are pumping at all time highs. This situation cannot continue. As the situation stands, Idaho bears little resemblance to a prior appropriation state and, at least with respect to groundwater, riparian law seems to be in force.

My clients demand that you undertake the obligation lawfully proscribed to you in Idaho Code Title 42 Chapter 6, and administer and deliver water in strict accordance with the prior appropriation doctrine.

My clients are well aware of the complex and difficult nature of their demand, however the law of the State of Idaho is clear and it is their right and obligation to make such a demand. I look forward to hearing from you as to how the Department will carry out its constitutional and statutory duty to my clients.

Sincerely,

Jason R. Miciak, P.C.

JRM/anc
attachment
Cc: Clients

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

In Re SRBA )
)
Case No. 39576 )
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 36-07071

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

RECEIVED
JAN 12 2004
Department of Water Resources

NAME & ADDRESS: DELORIS D JONES
JOHN W JONES JR
PO BOX 265
HAGERMAN ID 83332

SOURCE: WEATHERBY SPRINGS — TRIBUTARY: BILLINGSLEY CREEK
THREE SPRINGS — BILLINGSLEY CREEK
HOAGLAND TUNNEL — BILLINGSLEY CREEK

QUANTITY: 73.05 CFS

THE APPROPRIATOR SHALL CONTINUOUSLY ALLOW 6.50 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM MARCH 1 UNTIL NOVEMBER 1 OF EACH YEAR, AND SHALL CONTINUOUSLY ALLOW 4.00 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO THE BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM NOVEMBER 1 UNTIL MARCH 1 OF EACH YEAR.

PRIORITY DATE: 07/08/1969

POINT OF DIVERSION: T07S R14E S30 SESENW SENESW — Within GOODING County

PURPOSE AND PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|---|---|---|
| FISH PROPAGATION | 01-01 12-31 | 73.05 CFS |
| 90 RACEWAYS | | |

PLACE OF USE: FISH PROPAGATION — Within GOODING County
T07S R14E S30 NESW

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

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

RULE 54(b) CERTIFICATE

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

B J Wood

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



MICROFILMED
MAR 13 2000

TOTAL P.02

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7072

WATER RIGHT NUMBER: 36-7072

| Owner Type | Name and Address |
|---|---|
| Original Owner | PISCES INVESTMENTS INC<br>3069 OSTER LAKES RD<br>HAGERMAN, ID 83332<br>(208) 837-6541 |
| Current Owner | SEAPAC OF IDAHO INC<br>PO BOX 548<br>BUHL, ID 83316<br>(208) 326-3100 |

Priority Date: 09/05/1969

Basis: Decreed

Status: Active

| Source | Tributary |
|---|---|
| THOUSAND SPRINGS | SNAKE RIVER |

| Beneficial Use | From To | Diversion Rate | Annual Volume |
|---|---|---|---|
| FISH PROPAGATION | 1/01 to 12/31 | 148.200 CFS | |
| | Total Diversion: | 148.200 CFS | |

Location of Point(s) of Diversion

| | | | | |
|---|---|---|---|---|
| THOUSAND SPRINGS<br>GOODING County | L1 (NE1/4NW1/4NW1/4) | Sec. 8, | Twp 08S. | Rge 14E, B M |
| THOUSAND SPRINGS<br>GOODING County | L8 (SE1/4SE1/4SE1/4) | Sec. 6, | Twp 08S. | Rge 14E, B M. |
| THOUSAND SPRINGS<br>GOODING County | L1 (NW1/4NW1/4NW1/4) | Sec. 8, | Twp 08S. | Rge 14E, B M. |
| THOUSAND SPRINGS<br>GOODING County | L1 (SE1/4NW1/4NW1/4) | Sec. 8, | Twp 08S. | Rge 14E, B M. |

Place of Use

FISH PROPAGATION Within GOODING County

T08S R14E S05 SWSW T08S R14E S06 Lot 8 SESE
T08S R14E S08 Lot 1 NWNW

Conditions of Approval

Remarks:

Mic[illegible]

MAR 1 2 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7072

| | | |
|---|---|---|
| 1. | Quantity | FACILITY VOLUME IS 602,600 CUBIC FEET. THE RATE OF DIVERSION FROM SPRINGS 1, 2 & 3 SHALL NOT EXCEED 38.5 CFS AND FURTHER, THAT OF THE 38.5 CFS, 13.5 CFS LESS THE AMOUNT OF WATER FLOWING IN THE BRAILSFORD PIPELINE, MEASURED AT POINT B, SHALL BE RELEASED AT EITHER POINT C (THE MEASURING DEVICE AT THE UPPER POND) OR THROUGH THE HILL FLUME INTO THE UPPER POND. |
| 2. | Explanatory | FISH PROPAGATION/ COMMERCIAL HATCHERY |
| 3. | Point of Diversion | TWO POINTS OF DIVERSION LOCATED IN T08S, R14E, S06, LOT 8 SESESE TWO POINTS OF DIVERSION LOCATED IN T08S, R14E, S08, LOT 1 NWNWNW FOUR POINTS OF DIVERSION LOCATED IN T08S, R14E, S08, LOT 1 SENWNW |

Dates and Other Information:

Decreed Date 12/29/1997

MAR 1 8 2004

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-7866

WATER RIGHT NUMBER: 36-7866

| Owner Type | Name and Address |
|---|---|
| Original Owner | PISCES INVESTMENTS INC<br>3069 OSTER LAKES RD<br>HAGERMAN, ID 83332<br>(208) 837-6541 |
| Current Owner | SEAPAC OF IDAHO INC<br>PO BOX 546<br>BUHL, ID 83316<br>(208) 326-3100 |

Priority Date: 07/11/1979

Basis: Decreed

Status: Active

| Source | Tributary |
|---|---|
| SPRINGS | SNAKE RIVER |

| Beneficial Use | From To | Diversion Rate | Annual Volume |
|---|---|---|---|
| POWER | 1/01 to 12/31 | 9.000 CFS | 6,515.80 AF |
| DOMESTIC | 1/01 to 12/31 | 0.040 CFS | 2.60 AF |
| | Total Diversion: | 9.000 CFS | 6,515.80 AF |

Location of Point(s) of Diversion

SPRINGS LB (SE1/4SE1/4) Sec. 6, Twp 08S, Rge 14E, B.M.

GOODING County

Place of Use

POWER Within GOODING County

T08S R14E S06 Lot 8 SESE

DOMESTIC Within GOODING County

T08S R14E S06 Lot 8 SESE

Conditions of Approval

1. L05 THIS RIGHT SHALL BE JUNIOR AND SUBORDINATE TO ALL RIGHTS FOR THE USE OF WATER, OTHER THAN HYDROPOWER, WITHIN THE STATE OF IDAHO THAT ARE INITIATED LATER IN TIME THAN THE PRIORITY DATE OF THIS RIGHT AND SHALL NOT GIVE RISE TO ANY RIGHT OR CLAIMS AGAINST ANY FUTURE RIGHTS FOR THE USE OF WATER, OTHER THAN HYDROPOWER, WITHIN THE STATE OF IDAHO INITIATED LATER IN TIME THAN THE PRIORITY DATE OF THIS RIGHT.
2. N10 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR DOMESTIC USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. N12 THE QUANTITY OF WATER UNDER THIS RIGHT FOR DOMESTIC USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

Remarks:

Dates and Other Information:

Decreed Date: 12/29/1997

MICROFILMED

MAR 1 3 2014

12/17/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 36-8356

WATER RIGHT NUMBER: 36-8356

| Owner Type | Name and Address |
|---|---|
| Original Owner | PISCES INVESTMENTS INC<br>3069 OSTER LAKES RD<br>HAGERMAN, ID 83332<br>(208) 837-6541 |
| Current Owner | SEAPAC OF IDAHO INC<br>PO BOX 546<br>BUHL, ID 83316<br>(208) 326-3100 |

Priority Date: 05/09/1988

Basis: License

Status: Active

| Source | Tributary |
|---|---|
| SPRINGS | SNAKE RIVER |

| Beneficial Use | From To | Diversion Rate | Annual Volume |
|---|---|---|---|
| FISH PROPAGATION | 01/01 to 12/31 | 45.000 CFS | 32,600.00 AF |
| | Total Diversion: | 45.000 CFS | 32,600.00 AF |

Location of Point(s) of Diversion

SPRINGS L1 (SE1/4NW1/4NW1/4) Sec. 8, Twp 08S, Rge 14E, B M.

GOODING County

Place of Use

FISH PROPAGATION Within GOODING County

T08S R14E S08 Lot 1 NWNW

Conditions of Approval

1. 027 Use of water under this right shall be non-consumptive.
2. 122 The right holder shall not divert water at a rate exceeding what is reasonably necessary for the beneficial use authorized by this right.
3. X35 Rights 36-07072 and 36-08356 when combined shall not exceed a total diversion rate of 148.2 cfs
4. X36 Right 36-07072 is also diverted through the point of diversion described above.

Remarks

Dates and Other Information

Licensed Date: 6/5/2002

MAR 1 0 2003

# Affidavit of Publication

State of Idaho,
County of Gooding } ss.

Alfred Hagan, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspapr proper and not in a supplement; that the date of the first publication of said advertisement was on the 12 day of April, 1973 and the date of the last publication was on the 19 day of April, 1973

Alfred Hagan

Subscribed and sworn to before me this 19 day of April, 1973
(SEAL)

Mary Ann Hagan
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

## COST OF PUBLICATION

Number of Lines in Notice..... ——— ———

Number of Insertions ..... ——— ———

———Lines at 14¢ ——— ———

———Lines at 10¢ ——— ———

TOTAL COST.... ———

## COPY OF NOTICE

Title of Notice

water permit

**NOTICE OF PROPOSED AMENDMENT TO WATER PERMIT**

**Notice is hereby given that on August 26, 1970, Permit No. 36-7071 was issued to Jones & Sandy Livestock Company of Hagerman, Idaho, for the diversion of 75.0 c.f.s. of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼ SW¼ and SE¼ NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼ SW¼, Sec. 30, T. 7S, R. 14E, B.M.**

**The permit holder now proposes to amend Permit No. 36-7071, requesting 75.0 c.f.s. of water from Weatherby Springs, Three Springs and Hoagland Tunnel from a point within the NE¼ SW¼, and SE¼ NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼ SW¼, Sec. 30, T. 7S, R. 14E, B.M.**

Any protest against the amending of this permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho 83301 on or before May 7, 1973.

R. KEITH HIGGINSON,
Director

4-19-2tc

PUBLICATION RATES:
(Idaho Code, (Rev. Statutes) 1956

| | |
|---|---|
| 7 pt. per line, straight | 14c |
| 7 pt. per line, tabular | 20c |
| 7 pt. per line, successive insertions | 10c |
| 6 pt. per line, straight | 15c |
| 6 pt. per line, tabular | 20c |
| 6 pt. per line, successive insertions | 10c |

No 1814

36 7071

MAP of Proposed Project

Jones & Sandy Livestock Co.

Hagerman, Idaho



the return to the stream are in such a manner and in such form as will not interfere with the rights of protestant.

Dated this 31st day of July, 1969.

Arthur Kaster

Russell Boyer

Ronald L. Boyer

K. A. Barton

Stan Workeen Jr.

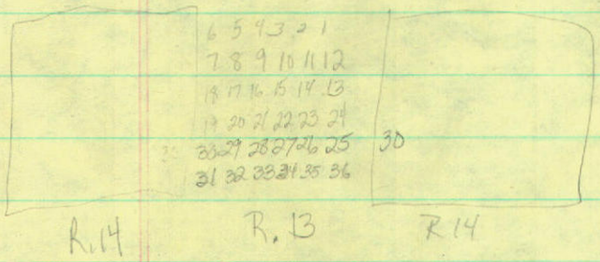
Stan Workeen

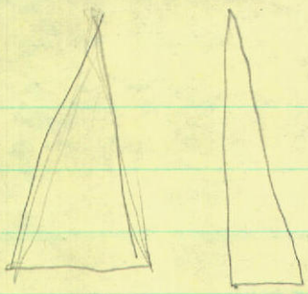
W. W. Stewart

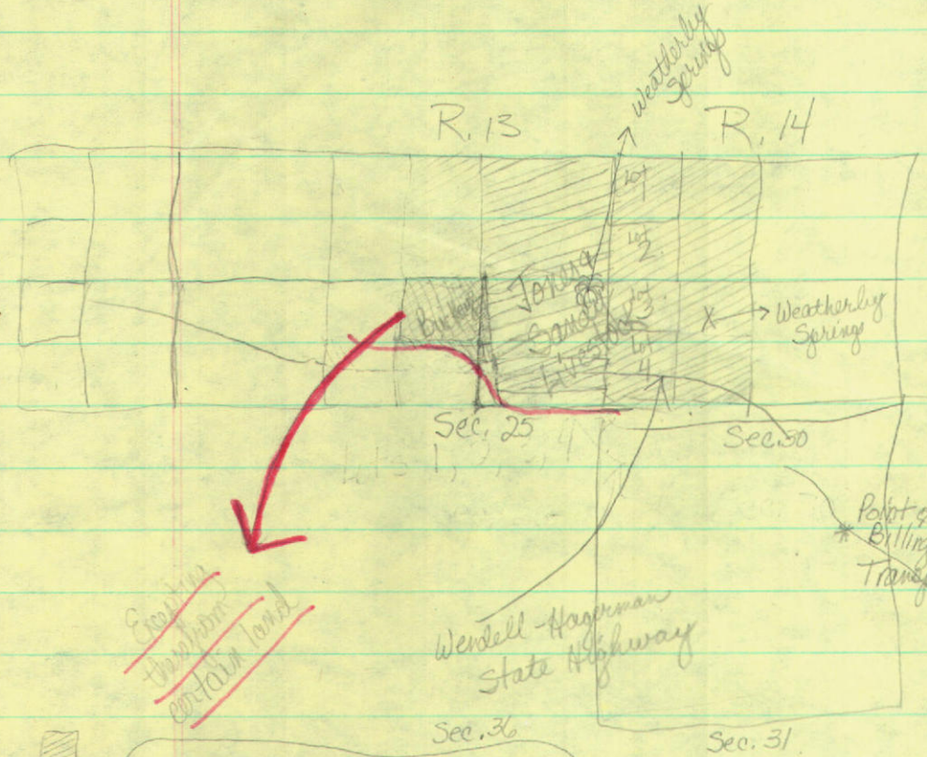
Mrs. Ted Bell

Orland Peterson

James Crist

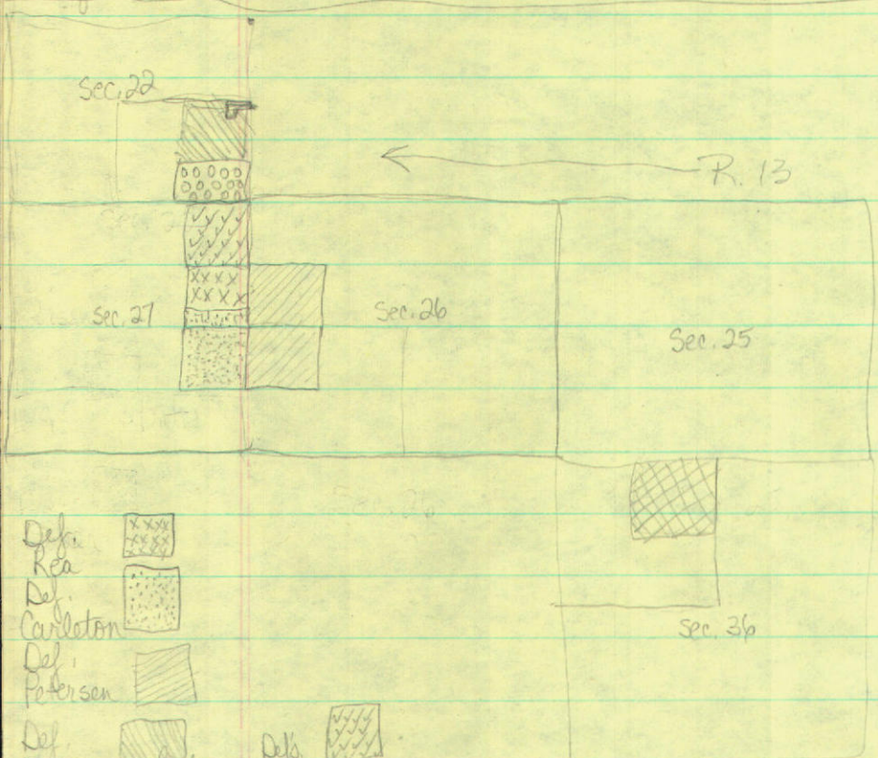





Pl.

Def. Buckeye → Includes the shaded triangle ~~with exception therefrom~~ (there is a problem with defendants land located in ~~pl.~~ seems to own part of this land)




Def. Rea

Def. Carleton

Def. Petersen

Def. Lorainger + Bates

Def's. Subdivision

Def. Sauer

Def. Hookover

MICROFILMED

Billingsly Creek – Water District 36-A.

Complaint – See attached diagram for land ownerships

Weatherby Springs

In effect, the decree in this case would supplement the New International Ltg. Co. decree, but w/o compliance with the summary supplemental adjudication procedures

1) Defs. Buckeye & predecessors were decreed a right in 1932 to use water from Weatherby Springs.

Elem of adverse possession of a decreed right (water dist. 36-A) which it is claimed has been forfeited or abandoned.

2) Def. Buckeye and predecessors have constructed a conveyance system over the land of pls.

Illegal wasting of water

I guess I don't understand why we need to be a party. If a water district has already been created, it would seem that we are bound by the decree by statute under 42-607 and that we don't need to be made a party unless we have failed to comply with our statutory duties under 42-607 or 42-701 as mentioned.

3) Def. Buckeye's predecessors contracted with various other defendants obligating themselves to transport through their conveyance system from Weatherby Springs the water of defendants.

4) Def. Buckeye and predecessors have diverted little, if any, water from Weatherby Springs for many years

5) Def's rights from Weatherby Springs abandoned and forfeited; Only rights possessed by Def. are out of Billingsly Ck. to be transported through the Curran Ditch.

Did you want the petitioner to establish a pattern of use?

6) Buckeye has improved conveyance system from Weatherby Springs and began diverting water.

Obviously, if legal issues arise that the Dept. has an interest in putting before the court we would want to intervene.

7) Plaintiff objects because plaintiffs have used much of said water of Weatherby Springs; partial use of said water has been a continuous, open, notorious, adverse, and exclusive possession of such water; because of said use plaintiffs have a right superior to that of defendants. [Pursuant to a license for fish propagation during the nonirrigation season (Nov. 1 to Apr. 15)

MICROFILMED

8) Pls. are entitled to priority over all other persons diverting from Weatherby Springs.

9) Diversion by Def. Buckeye from Weatherby Springs is ~~unr~~ of unreasonable quantity in that the enlarged conveyance system is of insufficient size to transport the water diverted.

10) Wasting of Water
willful 18-4302
interferes with pls. use of said water

If, according to the affidavit, the pl. has a licensed right to water for fish propagation purposes, why does pl. (in the complaint) rely upon a right established by adverse use, (adverse use of the defendants right for irrigation purposes?)

Pls. want to enjoin the def. from interfering with the pls. licensed right for fish propagation during the non-irrigation season, (def. has a decreed right for irrigation purposes).

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 1906
TWIN FALLS, IDAHO 83301
(208) 733-3722

R. P. PARRY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
[redacted]
J. EVAN ROBERTSON
THOMAS G. WALKER, JR.
JAMES C. TUCKER

T. M. ROBERTSON (1911-1977)
JOHN H. DALY (1913-1968)

RECEIVED
MAR 30 1978
Department of Water Resources

March 29, 1978

Josephine P. Beeman
Assistant Attorney General
Idaho Department of Water Resources
Statehouse
Boise, ID 83707

Re: Jones and Sandy Livestock v. Reservoir Land Company, Inc.

Dear Jo:

Enclosed are papers concerning the Bar "S" Ditch in Water District No. 36A which involves Billingsley Creek. The diversion was decreed in New International v. IPC in 1932. The plaintiff has agreed not to contest a Motion to Intervene by the department on their own behalf and on behalf of the watermaster.

My concern is that the State and watermaster should be parties so as to properly control headworks after the final judgment. Would you consider a voluntary intervention without a motion to join you as an indispensable party?

Sincerely,

John A. Rosholt

JOHN A. ROSHOLT

JAR:vjs

Enclosures

cc: Mr. Steve Allred
without enclosures

MICROFILMED

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 1906
TWIN FALLS, IDAHO 83301
(208) 733-3722

R. P. PARRY
GEORGE LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
J. EVAN ROBERTSON
THOMAS G. WALKER, JR.
JAMES C. TUCKER

T. M. ROBERTSON (1911-1977)
JOHN H. DALY (1913-1968)

RECEIVED
MAR 30 1978
Department of Water Resources

March 29, 1978

Josephine P. Beeman
Assistant Attorney General
Idaho Department of Water Resources
Statehouse
Boise, ID 83707

Re: Jones and Sandy Livestock v. Reservoir Land Company, Inc.

Dear Jo:

Enclosed are papers concerning the Bar "S" Ditch in Water District No. 36A which involves Billingsley Creek. The diversion was decreed in New International v. IPC in 1932. The plaintiff has agreed not to contest a Motion to Intervene by the department on their own behalf and on behalf of the watermaster.

My concern is that the State and watermaster should be parties so as to properly control headworks after the final judgment. Would you consider a voluntary intervention without a motion to join you as an indispensable party?

Sincerely,

John A. Rosholt
JOHN A. ROSHOLT

JAR:vjs

Enclosures

cc: Mr. Steve Allred
without enclosures

| | |
|---|---|
| DIRECTOR | CW |
| DEPUTY DIR. | |
| RESO. ADMIN. | |
| RESO. ANALYSIS | |
| OPER. BUREAU | JDF |
| TECH. SER. BUR. | |
| PROJ. STUD. BUR. | |
| LEGAL | |
| FISCAL | |
| PERSONNEL | |
| FILES | |
| | |

have Glen S. or Bob F. look into this and see if the Dept. should become involved

MICROFILMED

April 25, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Jones and Sandy Livestock Company
Hagerman, Idaho
83332

Gentlemen:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application No. 36-7071. One more name has been added to the second page of the protest. We have corresponded with you in the past concerning this protest filed in connection with this amended application. Information contained in that letter pertains to this protest also.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest.

If we may be of any assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

Enc.

36 7071

April 25, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Doris Boyer Gridley
Hagerman, Idaho
83332

Dear Ms. Gridley:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit; approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

36 7071

Bob Haynes
*District Engineer*
Southern District

BH:alw

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Mr. Ted Monaghan
Route 1
Hagerman, ID 83332

Dear Mr. Monaghan:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code)

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

36 7071

BH:alw

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Jones and Sandy Livestock Company
Hagerman, ID
83332

Gentlemen:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application for Amendment No. 36-7071. You should be aware that the following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the applicant through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
*Southern District*

36 7071

BH:alw
Enc.

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Jenny Stewart
Hagerman, ID
83332

Dear Ms. Stewart:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
*District Engineer*
Southern District

36 7071

BH:alw

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Prudy Ouisley
Route 1
Hagerman, ID 83332

Dear Ms. Ouisley:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit. (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
*Southern District*

BH:alw

36 7071

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Mr. Nevada Omohundro
Route 1, Box 67
Hagerman, ID 83332

Dear Mr. Omohundro:

This is to ackrowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit. (Section 42-203, Idaho Code)

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

36 7071

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Kerr Land & Livestock Co.
John Muirhead, Mgr.
Route 3
Buhl, ID 83316

Dear Mr. Muirhead:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit approve the permit for a quantity of water less than applied for or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

36 7071

BH:alw

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Hazel Monaghan
Route 1
Hagerman, ID 83332

Dear Ms. Monaghan:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle itmes we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

36 7071

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Janaye B. Williams
Route 1
Hagerman, ID 83332

Dear Ms. Williams:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through actionoutside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
*District Engineer*
Southern District

BH:alw

28

April 8, 1975

Re: Application Nos. 36-7071 - James A Sandy Livestock Company
36-7215 - A. M. Ambrose
37-4037 - Robert M. Brown
37-7216 - Lynn E. Stevenson
37-7217 - Lynn E. Stevenson
37-7218 - John J. Flatley
37-7219 - Wayne L. Hart

Keeling County Leader
Box 51
Keeling, IA 53335

Gentlemen:

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

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

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

"I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

_____

(signature of claimant)

Very truly yours,

Bob Haynes
District Engineer
Southern District

Bill submitted _____ by _____

Enc: Legal Notices (7)

36 7071

NOTICE OF PROPOSED AMENDMENT

TO WATER PERMIT

Notice is hereby given that on August 26, 1970, Permit No. 36-7071 was issued to Jones & Sandy Livestock Company of Hagerman, Idaho, for the diversion of 75.0 c.f.s. of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼SW¼ and SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.

The permit holder now proposes to amend Permit No. 36-7071, requesting 75.0 c.f.s. of water from Weatherby Springs, Three Springs, and Hoagland Tunnel from a point within the NE¼SW¼, and SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.

Any protest against the amending of this permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho 83301 on or before April 30, 1973.

R. KEITH HIGGINSON

Director

Published in the Gooding County Leader, Gooding, ID on April 12 and April 19, 1973.

36 7071

RECEIVED
APR 11 2000
Department of Water Resources

2000 APR 10 AM 10: 13
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

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

| | | |
|---|---|---|
| **In Re SRBA** | ) | **ORDER OF PARTIAL DECREE** |
| | ) | |
| **Case No. 39576** | ) | **For Water Right 36-07071** |
| | ) | |

The Notice of Challenge filed in the above subcase having been heard and ruled upon, IT IS THEREFORE ORDERED that water right 36-07071 is hereby **decreed** as set forth in the attached ***Partial Decree Pursuant to I.R.C.P. 54(b)***.

IT IS SO ORDERED.

DATED APR 10 2000.

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

RECEIVED
APR 11 2000
Department of Water Resources

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

| | | |
|---|---|---|
| In Re SRBA<br><br>Case No. 39576 | ) | PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b) FOR<br><br>Water Right 36-07071 |

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

NAME & ADDRESS: DELORIS D JONES
JOHN W JONES JR
PO BOX 265
HAGERMAN ID 83332

| SOURCE: | | TRIBUTARY: |
|---|---|---|
| | WEATHERBY SPRINGS | BILLINGSLEY CREEK |
| | THREE SPRINGS | BILLINGSLEY CREEK |
| | HOAGLAND TUNNEL | BILLINGSLEY CREEK |

QUANTITY: 73.05 CFS

THE APPROPRIATOR SHALL CONTINUOUSLY ALLOW 6.50 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM MARCH 1 UNTIL NOVEMBER 1 OF EACH YEAR, AND SHALL CONTINUOUSLY ALLOW 4.00 CFS FROM WEATHERBY SPRINGS TO BE DELIVERED INTO THE BAR S DITCH FROM THE OUTLET OF FISH OPERATION DESCRIBED ABOVE FROM NOVEMBER 1 UNTIL MARCH 1 OF EACH YEAR.

PRIORITY DATE: 07/08/1969

POINT OF DIVERSION: T07S R14E S30 SESENW SENESW Within GOODING County

PURPOSE AND PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|---|---|---|
| FISH PROPAGATION | 01-01 12-31 | 73.05 CFS |

90 RACEWAYS

PLACE OF USE: FISH PROPAGATION Within GOODING County
T07S R14E S30 NESW

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

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

RULE 54(b) CERTIFICATE

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

B L Wood

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

# THIS

# RIGHT HAS BEEN

# DECREED IN THE

# SRBA

DISTRICT COURT
GOODING CO. IDAHO

'79 APR 27 AM 9:00

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

| | |
|---|---|
| JOHN W. JONES, JR., and DELORIS D. JONES, et al<br><br>Plaintiffs,<br><br>vs.<br><br>RESERVOIR LAND COMPANY, INC., et al,<br><br>Defendants. | CASE NO. 16676<br><br>MEMORANDUM OPINION |

The matter before the court is defendants' motion to amend the order of this Court dated January 22, 1979 incorporating a stipulation by all parties concerning their respective water rights in Weatherby Springs. The defendants' contend that their attorneys signed the stipulation under the mistaken impression that it called for 325 miner's inches of water to be delivered through the Billingsley Creek Siphon. In fact, the stipulation states that the water is to be delivered into the Bar S Ditch from the outlet of plaintiffs' fish hatchery operation. Though some comment was made at oral argument and in defendants' brief as to counsels' lack of authority to make the stipulation as worded, there is nothing in the affidavits filed with the Court to support that proposition. If there was a mistake in the formation of the stipulation it was unilateral, not mutual. Typically, a mutual mistake is required to make a contract voidable. Restatement, Contracts § 503. The stipulation explicitly deals with the problem of water loss in the Bar S Ditch. If the defendants place a suitable enclosed pipe line along the ditch by January 1, 1980 they are entitled to 325 miner's inches year round. If not, they are entitled to merely 200 inches from November 1 to March 1 of each year. The stipulation underscores the fact that the parties were well aware of the excessive water loss problem in the Bar S ditch at the time it was signed. It is well recognized in Idaho that only a reasonable loss in transport is allowed to the holder of a water right. Glenn Dale Ranches Inc. v. Shaub 94 Idaho 585, 494 P.2d 1029 (1972). The Court cannot believe that the dispute now before it centers around an amount of water which would constitute a reasonable loss. It must involve water substantially in excess of that amount. If so, the defendants are not entitled to the water under the Glenn Dale Ranches case. Accordingly, the Court sees no reason to excercise its discretion in favor of the defendants. The motion to alter or amend is denied. There appears no reason to order specific performance of the stipulation at this time.

However, the Court will not hesitate to enforce its order should it be necessary to do so. No attorney's fees will be allowed.

Dated this 24 day of April, 1979.

Douglas D. Kramer
District Judge

STATE OF IDAHO
COUNTY OF GOODING } ss

I hereby certify that the foregoing
is a true copy of the original instrument
on file in my office.
Date 6-29 19 83
MARGARET F. CLEMENTS
District Court Clerk
By Dorothy Jackson Deputy Clerk

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife, ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

* * * * * * * * * * * *

Civil No. 16676

EX-PARTE ORDER GRANTING MOTION TO AMEND COMPLAINT TO ADD ADDITIONAL DEFENDANTS AND ORDER TO SHOW CAUSE

OFFICES
EPWORTH
NGESTER
And
ELTON
hl, Idaho

Plaintiff's Ex-Parte Motion To Amend Complaint To Add Additional Defendants and Affidavit in Support thereof, having come on before this court this 6th day of March, 1978, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

(1) That Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. be named as additional parties defendant and that service of process and the Amended Complaint be made upon said parties.

(2) That Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. appear before this Court on Monday, at 10:00 A.M. March 13, 1978, and show cause, if any they have, why they should not be named as additional parties defendant in this proceeding.

DATED this _____ day of March, 1978.

DISTRICT JUDGE



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

RECEIVED
APR 30 1979
Department of Water Resources

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

* * * * * * * * * * * *

| | |
|---|---|
| JOHN W. JONES, JR. and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,<br><br>Plaintiffs,<br><br>vs.<br><br>RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,<br><br>Defendants. | Civil No. 16676<br><br>MOTION AND ORDER OF DISMISSAL WITH RESPECT TO DEFENDANTS, HAROLD V. WOLINE AND LOIS C. WOLINE |

* * * * * * * * * * * *

Plaintiffs respectfully move this Court for an Order dismissing the above action without prejudice with respect to defendants, Harold V. Woline and Lois C. Woline, husband and wife.

DATED this 28 day of February, 1978.

HEPWORTH, NUNGESTER & FELTON
Attorneys for Plaintiffs

By D. Brent Martens
D. Brent Martens, of the firm

O R D E R

UPON READING THE foregoing motion;

IT IS HEREBY ORDERED That the above-entitled action be, and is hereby dismissed without prejudice with respect to defendants, Harold V. Woline and Lois C. Woline, husband and wife. This Order in no way affects the status of the above-entitled action against the other defendants.

DATED this 13 day of March, 1978.

DISTRICT JUDGE

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho 83316, and one of the attorneys for the plaintiffs in the above-entitled matter, hereby certifies that he caused copies of the foregoing Motion and Order of Dismissal with Respect To Defendants, Harold V. Woline and Lois C. Woline, to be mailed to the following:

Mr. Cecil D. Hobdey
James, Hobdey & Varin
P. O. Box 176
Gooding, Idaho 83330

Mr. J. Robert Alexander
Benoit & Alexander
P. O. Box 366
Twin Falls, Idaho 83301

on the 28th day of February, 1978.

D. Brent Martens

D. Brent Martens



LAW OFFICES
EPWORTH
UNGESTER
And
FELTON
Buhl, Idaho

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HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; ~~HAROLD V. WOLINE and LOIS C. WOLINE,~~ husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

NOTICE OF HEARING

* * * * * * * * * * *

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

TO: SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO., defendant; BUCKEYE LAND CO., defendant; BENOIT & ALEXANDER, attorneys for defendants, and PARRY, ROBERTSON, DALY & LARSON, attorneys for defendants.

YOU WILL PLEASE TAKE NOTICE that on Monday, March 27, 1978, at 10:00 a.m., of said day, or as soon thereafter as counsel can be heard, at the above-named Court, at the courthouse, in the City of Gooding, County of Gooding, State of Idaho, the above-named plaintiffs will call up and present for disposition by the Court the Court's Order To Show Cause why Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. should not be named as additional parties defendant in this proceeding, and the Court's Order To Show Cause Why Preliminary Injunction Should Not Issue restraining defendants from interfering with the plaintiffs' exclusive right to the water specified in the Complaint on file in this action, why defendants should not be restrained from diverting the waters of Weatherby Springs until such times as they have exausted their water rights through the Curran Ditch, why defendants should not be restrained during the pendency of this action from diverting the waters of Weatherby Springs through that fifteen and one-half inch steel pipeline located on the Bar-S Ditch, and crossing Billingsly Creek, and furthery why defendants should not be restrained from wasting any of the waters diverted from Weatherby Springs.

DATED this 17 day of March, 1978.

HEPWORTH, NUNGESTER & FELTON

By /s/
D. Brent Martens, of the firm
Attorneys for Plaintiffs



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the state of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho, and one of the attorneys for the plaintiffs in the above-entitled action, hereby certifies that he caused to be mailed copies of the foregoing Notice of Hearing to the following:

Mr. Donnie B. McFadden
Buckeye Land Co.
725 Walnut Avenue North
Ketchum, Idaho 83340

Mr. Donnie B. McFadden
Buckeye Land Co.
Route #1
Hagerman, Idaho 83332

Mr. John Rosholt
Parry, Robertson, Daly & Larson
P. O. Box 1906
Twin Falls, Idaho 83301

Mr. J. Robert Alexander
Benoit & Alexander
P. O. Box 366
Twin Falls, Idaho 83301

on the 17 day of March, 1978.

/s/
D. Brent Martens



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

RECEIVED
APR 19 1976
Department of Water Resources

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife, ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

REQUEST FOR TRIAL SETTING

* * * * * * * * * * *

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

TO: CLERK OF THE DISTRICT COURT, GOODING COUNTY, IDAHO:

You are hereby notified that the above-entitled case is at issue upon plaintiffs' Complaint and defendants' Answer thereto. Therefore, plaintiff requests that the above action be placed upon the calendar for the next term of the above-entitled Court, and you are informed as follows:

1. The above-entitled action concerns conflicting claims made to certain waters and water rights, which waters have their source in the Hagerman Valley and at what is commonly known as Weatherby Springs, located in the Northeast Quarter of the Southwest Quarter (NE¼ SW¼) of Section 30, Township 7 South, Range 14, E., B.M., Gooding County, Idaho. Plaintiffs, by their complaint, allege that defendants have lost any and all rights to the said waters by abandonment and forfeiture, and that the rights to said waters are now established in favor of the plaintiffs. Defendants, Reservoir Land Company, Inc. and Buckeye Land Company answered plaintiffs' Complaint denying the above allegations of plaintiffs' Complaint and by Counterclaim alleged that its rights to said waters are prior as a result of decree entered in the Federal District Court for Idaho in the case of New International Mortgage Co. v. Idaho Power Co., Equity No. 1602 entered March 22, 1932. Defendants, Clifford Peterson, Omer E. Loranger and Beverly B. Loranger, husband and wife, Wallace W. Bates and Lolcita V. Bates, husband and wife, Richard P. Sauer and Lucille B. Sauer, husband and wife, Sheldon G. Carleton and Barbara S. Carleton, husband and wife, Edna M. (Bell) Rea, Stanley



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

J. Hoskovec and Betty Hoskovec, husband and wife, and Alfred H. Cole and Phyllis A. Cole, husband and wife, answered plaintiffs' Complaint in a joint pleading and in so doing did likewise assert the above Federal Court decree as a basis upon which they rely in their claim to the prior rights and use of said water. Defendants, Harold V. Woline and Lois C. Woline, husband and wife, have been dismissed from this proceeding. No appearance has been made by defendants Ellis & Weir, Inc., and Fred Sturtevant and Joyce E. Sturtevant, husband and wife, and default has been entered against them.

Plaintiff answered the Counterclaim of defendants, Reservoir Land Co., Inc. and Buckeye Land Co., realleging that any rights which the defendants had to these waters under the Federal Court decree has been abandoned and forfeited and that said waters and the rights to said waters are now the property of plaintiffs. The case is at issue and ready for trail setting.

2. A jury trial has been demanded.

3. A pre-trial conference is requested.

4. The time estimated for trial is three days.

5. The attorney who will try the case for plaintiffs is John C. Hepworth.

6. The dates on which plaintiff's attorney will not be available for trial are as follows: the months of April, May and June, July 24 through July 28th, August 14 through August 25th, October 30, and 31st, November 13th, and December 18 through 31st.

DATED this 13th day of April, 1978.



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON

By D. Brent Martens
D. Brent Martens, of the firm

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the state of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho 83316, and one of the attorneys for the plaintiffs in the above-entitled matter, hereby certifies that he caused a copy of the foregoing Request For Trial Setting to be mailed to the following:

J. Robert Alexander
Benoit & Alexander
P.O. Box 366
Twin Falls, Idaho 83301

John A. Rosholt
Parry, Robertson, Daly & Larson
P.O. Box 1906
Twin Falls, Idaho 83301

Cecil D. Hobdey
James, Hobdey & Varin
P.O. Box 176
Gooding, Idaho 83330

on the 13th day of April, 1978.

D. Brent Martens
D. Brent Martens



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

APR 17
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR GOODING COUNTY

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

COUNTERDEFENDANTS' ANSWER TO COUNTERCLAIM OF RESERVOIR LAND CO., INC. AND BUCKEYE LAND COMPANY AND DEMAND FOR JURY TRIAL

* * * * * * * * * * *

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

COMES NOW the Counterdefendants and answer counterclaimants' Counterclaim as follows:

I.

That counterdefendants deny paragraph I of said Counterclaim, and do specifically and affirmatively allege that counterclaimants and their agents and servants have historically manipulated and controlled the headworks and diversion of waters into the Bar-S Ditch, and have in their own right been acting contrary and in violation of Idaho law.

II.

That counterdefendants deny paragraphs II and III of said Counterclaim.

FIRST AFFIRMATIVE DEFENSE

That any rights which counterclaimants possess in the waters of the Bar-S Ditch and having its source at Weatherby Springs and as decreed in the case of New International Mortgage Co. v. Idaho Power Company, Equity No. 1602 entered March 22, 1932, in the Federal District Court for the State of Idaho, have been abandoned and forfeited, in part, if not in total, as the result of historical non-use.

SECOND AFFIRMATIVE DEFENSE

That counterdefendants rights to the beneficial use of the waters having its source at Weatherby Springs is superior and prior to those rights of counterclaimants as a result of counterdefendants historical use of said water and as a result of that Water Right No. 36-7071, issued by the Department of



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

Water Resources in favor of counterdefendants. Said water right reflects a priority date of July 8, 1969, and further indicates 73.05 c.f.s. as the amount of water pertaining to that water right and license.

DATED this 13 day of April, 1978.

HEPWORTH, NUNGESTER & FELTON

By D. Brent Martens
D. Brent Martens, of the firm

COUNTERDEFENDANTS HEREBY DEMAND TRIAL BY JURY.

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho 83316, and one of the attorneys for the Plaintiffs-Counterdefendants in the above-captioned action, hereby certifies that he caused a true copy of the foregoing Counterdefendants' Answer To Counterclaim Of Reservoir Land Co., Inc. and Buckeye Land Co. to be mailed to the following:

J. Robert Alexander
Benoit & Alexander
P.O. Box 366
Twin Falls, Idaho 83301

John A. Rosholt
Parry, Robertson, Daly & Larson
P.O. Box 1906
Twin Falls, Idaho 83301

Cecil D. Hobdey
James, Hobdey & Varin
P.O. Box 176
Gooding, Idaho 83330

on the 13th day of April, 1978.

D. Brent Martens
D. Brent Martens

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APR 7 1978
Department of Water Resources

PARRY, ROBERTSON, DALY & LARSON
P. O. Box 1906
Twin Falls, Idaho 83301
Telephone: 733-3722
Attorneys for Buckeye Land Company

BENOIT & ALEXANDER
P. O. Box 33
Twin Falls, Idaho 83301
Telephone: 733-5463
Attorneys for Reservoir Land Company, Inc.

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

* * * * * * * * * * *

| | |
|---|---|
| JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W.A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,<br><br>Plaintiffs,<br><br>vs.<br><br>RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO., and VIEJO MANAGEMENT CO., d/b/a BUCKEY LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,<br><br>Defendants. | Civil No. 16676<br><br>ANSWER AND COUNTERCLAIM OF RESERVOIR LAND COMPANY, INC. AND BUCKEYE LAND COMPANY |

* * * * * * * * * * *

COMES NOW the defendants Reservoir Land Company, Inc., and Buckeye Land Company, and answer the amended complaint as follows:

I.

Admit the allegations of paragraphs I, II, and III of the complaint.

II.

The answering defendants have insufficient knowledge to admit or deny the allegations of paragraph IV through XI of the complaint.

III.

Admit the allegations of XII, Xlll, and XIV of the complaint.

IV.

Acknowledge that the predecessors of defendant Buckeye Land Company obligated themselves for the conveyance and delivery of certain waters from Weatherby Springs through the Bar-S ditch to certain of the other defendants named in paragraph XV of the complaint, but the answering defendants have insufficient evidence at this time to delineate specifically those arrangements herein.

V.

Acknowledge that the defendant Buckeye Land Company has water rights which are diverted through ditches other than the Bar-S ditch, but deny the remaining allegations of paragraph XVI of the complaint.

VI.

Deny the allegations of paragraph XVII of the complaint.

VII.

Acknowledge that the defendant Reservoir Land Company, Inc., the predecessor of Buckeye Land Company, operated

and maintained the conveyancing system from Weatherby Springs for the Bar-S ditch diversion to carry the decreed water rights of defendants, but deny that the plaintiffs have a superior right or that they have been damaged, and further deny that any diversion was of a large or unreasonable quantity as alleged in paragraph XVIII of the complaint.

VIII.

In response to paragraph XIX of plaintiffs' complaint, answering defendants specifically and affirmatively allege that the Billingsley Creek watershed in Gooding County, Idaho, is within an officially organized and existing Water District (No. 36-A) as established by the Idaho Department of Water Resources in accordance with the Idaho Code and is under the jurisdiction of a duly elected watermaster. Answering defendants affirmatively allege that Idaho Code §42-607 precludes any claim by a wateruser to adverse possession of the right of any other wateruser as plaintiffs allege in paragraph XIX.

IX.

Answering defendants specifically deny the provisions of paragraph XX, XXI, and XXII of plaintiffs' complaint.

COUNTERCLAIM

Answering defendants' counterclaim against the plaintiffs as follows:

I.

That plaintiffs have wrongfully manipulated and controlled the headworks for the Bar-S ditch at Weatherby Springs within the organized Water District No. 36-A of the State of Idaho, contrary to State law, and that such control can only be legally exercised by duly appointed watermaster or the Idaho Department of Water Resources.

II.

That defendants have a right of way in the Bar-S ditch to the Weatherby Springs and plaintiffs should be henceforth precluded from interfering with necessary operation and maintenance work of the defendants in maintaining said Bar-S ditch.

III.

The defendants' rights to the beneficial use of the water from the Bar-S ditch decreed pursuant to New International Mortgage Company v. Idaho Power Company, Equity No. 1602, entered March 22, 1932 in the Federal District Court for Idaho. Such rights should be reaffirmed in the defendants and plaintiffs be enjoined from interfering with the diversions of said water pursuant to said decree from the Weatherby Springs into the Bar-S Ditch.

WHEREFORE, defendants pray that plaintiffs take nothing by their complaint, and that judgment be entered as follows:

1. That this Court order that only the duly elected watermaster or the Idaho Department of Water Resources be entitled to operate the control works at Weatherby Springs for diversions into the Bar-S ditch, and that plaintiffs be permanently restrained from exercising such control.

2. That plaintiffs be permanently enjoined from interfering with operation and maintenance activities of the Bar-S ditch owners in maintaining, constructing, reconstructing, or doing those things necessary for the proper operation of the Bar-S ditch within the right of way of the Bar-S ditch owners.

3. That this Court affirm the water rights of the defendants in the Bar-S ditch in accordance with the previous decree entered in the case of New International Mortgage

Company v. Idaho Power Company.

4. For the costs of this action.

5. For attorneys fees as provided by Idaho Code §12-120 and §12-121.

6. For such other and further relief as this Court deems just.

DATED this _____ day of April, 1978.

BENOIT & ALEXANDER

By: _____
Attorneys for Defendant
Reservoir Land Company, Inc.

PARRY, ROBERTSON, DALY & LARSON

By: John A. Rosholt
Attorneys for Defendant
Buckeye Land Company

CERTIFICATE OF MAILING

The undersigned attorney certifies that he deposited a correct copy of the hereto attached Answer in the United States mail at Twin Falls, Idaho, on the ____ day of April, 1978, addressed to:

D. Brent Martens
Hepworth, Nungester & Felton
P. O. Box 589
Buhl, Idaho 83316

Cecil D. Hobdey
P. O. Box 176
Gooding, Idaho 83330

Ellis & Weir, Inc.
Hagerman, Idaho 83332

Mr. and Mrs. Fred Sturtevant
Hagerman, Idaho 83332

_____
John A. Rosholt

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

* * * * * * * * * * *

Civil No. 16676

ORDER TO SHOW CAUSE WHY PRELIMINARY INJUNCTION SHOULD NOT ISSUE

2:00 p

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

In this matter, the plaintiffs have filed motion and affidavit requesting the issuance of an Order To Show Cause directing the defendants to appear and show cause why a preliminary injunction should not issue restraining them from interfering with the plaintiffs' use of certain waters until April 1, 1978, and further why defendants should not be restrained from diverting any of the waters of Weatherby Springs until they have exhausted their water rights through the Curran Ditch, and further why it should not be restrained during the pendency of this action from diverting waters of Weatherby Springs through that fifteen and one-half inch steel pipe located on the Bar-S Ditch, and crossing Billingsly Creek, and further why defendants should not be restrained from wasting any of the waters diverted from Weatherby Springs. Good cause appearing for the issuance of such an order to show cause,

IT IS HEREBY ORDERED that the defendant, Buckeye Land Co. be and appear before me or one of the Judges of this Court at the hour of 10:00 a.m. on Monday, the 13 day of March, 1978, in the District Courtroom of the County Courthouse at Gooding, Idaho, then and there to show cause if any they have, why a preliminary injunction should not issue restraining defendants and each of them from interfering with the plaintiffs' exclusive right to the water specified in the Complaint and specified in the affidavit of John W. Jones Jr., filed contemporaneously herewith, through March 31, 1978, and further why it should not be restrained from diverting the waters of Weatherby Springs until such times as it has exhausted its water rights through the Curran Ditch, and further why it should not be restrained during the pendency of this action from diverting the waters of Weatherby Springs through that fifteen and one-half inch steel

pipeline located on the Bar-S Ditch, and crossing Billingsly Creek, and further why it should not be restrained from wasting any of the waters diverted from Weatherby Springs.

WHEREFORE, let a copy of this Order To Show Cause be served upon the defendant not later than 5 days prior to the date of hearing here specified.

DATED this 6th day of March, 1978.

/s/ Geo. Granata Jr.
DISTRICT JUDGE



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

MOTION FOR PRELIMINARY INJUNCTION

* * * * * * * * * *

LAW OFFICES
HEPWORTH
UNGESTER
And
FELTON
Buhl, Idaho

The plaintiffs in the above-entitled action move the Court for the issueance of a preliminary injunction restraining the defendants from interfering with the plaintiffs' exclusive use of the water specified in the Complaint and in the affidavit of John W. Jones, Jr., filed contemporaenously herewith, prior to April 1, 1978, by reason of the rights of the plaintiff as granted by the water rights licenses issued by the State of Idaho, Department of Water Resources.

Plaintiffs do further move for the issuance of preliminary injunction enjoining defendants from diverting water from Weatherby Springs until such time as they have exhausted their rights to the water through Curran Ditch, and do further move for the issuance of a preliminary injunction restraining the defendants from diverting water from Weatherby Springs through that fifteen and one-half inch steel pipe located on the Bar-S Ditch, and crossing Billingsly Creek.

That furthermore, defendants be restrained from wasting any of thw waters diverted from Weatherby Springs.

DATED this 6 day of March, 1978.

HEPWORTH, NUNGESTER & FELTON

By D. Brent Martens
D. Brent Martens, of the firm

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho, and one of the attorneys for the plaintiffs in the above-entitled action, hereby certifies that he caused to be mailed copies of the foregoing Motion For Preliminary Injunction,



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

Affidavit In Support of Request For Preliminary Injunction And For The Issuance Of An Order To Show Cause, and Order To Show Cause Why Preliminary Injunction Should Not Issue, to the following:

Mr. Tom Nelson
Parry, Robertson, Daly & Larson
P. O. Box 1906
Twin Falls, Idaho 83301

Mr. J. Robert Alexander
Benoit & Alexander
P. O. Box 366
Twin Falls, Idaho 83301

on the 6th day of March, 1978.

D. Brent Martens

D. Brent Martens



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * *

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| JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,<br><br>Plaintiffs,<br><br>vs.<br><br>RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,<br><br>Defendants. | Civil No. 16676<br><br>AFFIDAVIT IN SUPPORT OF REQUEST FOR PRELIMINARY INJUNCTION AND FOR THE ISSUANCE OF AN ORDER TO SHOW CAUSE |

* * * * * * * * * *

LAW OFFICES
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And
FELTON
Buhl, Idaho

STATE OF IDAHO )
) ss.
County of Twin Falls )

JOHN W. JONES, JR., being first duly sworn, deposes and says:

1. That affiant is a partner in the plaintiff partnership known as Jones & Sandy Livestock, and, as such, is personally familiar with the situation of the partnership and has personal knowledge of the facts here set out.

2. Pursuant to a water license issued by the State of Idaho, Department of Water Resources, the plaintiff is entitled to the full flow of waters having their source at the Weatherby Springs situated in the Northeast Quarter of the Southwest Quarter of Section 30, Township 7 South, Range 14 E., B.M., Gooding County, Idaho, through the non-irrigation season, for fish propagation. The license held by the plaintiff entitles the plaintiff to c.f.s. of the water of that spring during the above stated period of time. This entitlement is pursuant to license No. issued by the State of Idaho, Department of Water Resources.

3. That defendant, Buckeye Land Co., has on or about the 3rd day of March, 1978, caused to be diverted in opposition to the prior right of plaintiff, certain waters of Weatherby Springs. The affiant believes that unless restrained from doing so, the defendant, Buckeye Land Co., will increase that diversion.

4. That relying upon the licenses above specified, the plaintiff has undertaken the propagation of a large number of trout in its fish propagation facilities, which trout population is dependent upon the full stream of water specified. Any significant reduction of this water otherwise available to plaintiff prior to April 1, 1978, will result in severe and irreparable damages, through the death of trout.



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5. That affiant is informed and believes that defendant, Buckeye Land, Co., intends to use the waters sought to be diverted for irrigation purposes. That the historical irrigation season does not commence within the Hagerman Valley until on or about April 1, 1978, in the absence of unusual climactic conditions. That your affiant is further informed and understands that the moisture content received to date meets or exceeds the normal conditions, and plaintiffs have accordingly relied upon the historical date of April 1, 1978, as the point in which irrigation could be expected to commence.

6. That the defendat, Buckeye Land Co., and his predecessors in interest have on no prior occasions to the memory of your affiant commenced irrigation at the early date which they have done so this year. That furthermore, defendant, Buckeye Land Co. and its predecessors have historically resorted first to those waters available through the Curran Ditch for irrigation purposes prior to diverting the waters of Weatherby Springs for irrigation purposes. As such, defendants have historically diverted none of the waters of Weatherby Springs for irrigation until some date after April 1st of each year when the water available at the Curran Ditch became insufficient to satisfy defendant's needs. Furthermore, defendant, Buckeye Land Co., and its predecessors in interest have diverted little, if any, water through the Bar-S Ditch and from the Weatherby Springs source. This practice would continue throughout the irrigation season. That recently, defendant's predecessor, Reservoir Land Co., Inc., did make substantial improvements to the diversionary system on the Bar-S Ditch, and it has only been subsequent to those improvements that defendant, Buckeye Land Co., and its predecessors in interest have undertaken to divert significant



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quantities of the water from Weatherby Springs. That most notable amongst these improvements, was the installation of a new fifteen and one-half inch steel pipe which serves as a flume to divert the waters across Billingsly Creek. That prior to the addition of this new pipeline, defendant and its predecessors had only a twenty-one and one-half inch pipeline available to carry water across Billingsly Creek. As a result of this single improvement, the capability of defendant, Buckeye Land Co., to transport the waters from Weatherby Springs has increased approximately fifty percent.

7. That your affiant contends that no diversion by defendant, Buckeye Land Co., should properly be allowed for irrigation uses prior to April 1, 1978, that being the commencement of the irrigation season. That additionally, affiant contends that thereafter, defendant, Buckeye Land Co., should be entitled to divert waters from Weatherby Springs and through the Bar-S Ditch only after defendant determines that those waters to which he has a right at the Curran Ditch is insufficient to satisfy his irrigable needs. Finally, affiant contends that any diversion from Weatherby Springs by the defendant and through the Bar-S Ditch should be limited to the water that can be transported through the single twenty one and one-half inch steel pipe, and that defendant should not be entitled to make use of the fifteen and one-half inch steel pipe insofar as the same was only recently installed, and has not been in historical use.

John W. Jones, Jr.

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1978.

Notary Public for Idaho
Residing at Buhl, Idaho



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NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

RECEIVED
MAR 30 1976
Department of Water Resources

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

ANOTHER SUMMONS

2:00 P

B-2

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NUNGESTER
And
FELTON
Buhl, Idaho

THE STATE OF IDAHO SENDS GREETINGS TO: Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co.

YOU ARE HEREBY NOTIFIED That an Amended Complaint has been filed against you in the District Court of the Fifth Judicial District of the State of Idaho, in and for Gooding County, by the above-named Plaintiff; and

YOU ARE HEREBY DIRECTED To file a written answer or written motion in defense to the said Complaint within twenty (20) days of the service of this Summons; and

YOU ARE FURTHER NOTIFIED That unless you do so within the time herein specified, Plaintiff will take judgment against you as prayed in said Complaint.

WITNESS my hand and the seal of said District Court this 6th day of March, 1978.

/s/ Margaret F. Clements
CLERK

By /s/ Mary Godley
Deputy



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NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife, ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

EX-PARTE ORDER GRANTING MOTION TO AMEND COMPLAINT TO ADD ADDITIONAL DEFENDANTS AND ORDER TO SHOW CAUSE

* * * * * * * * * * *

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Plaintiff's Ex-Parte Motion To Amend Complaint To Add Additional Defendants and Affidavit in Support thereof, having come on before this court this 6th day of March, 1978, and good cause appearing therefor,

IT IS HEREBY ORDERED as follows:

(1) That Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. be named as additional parties defendant and that service of process and the Amended Complaint be made upon said parties.

(2) That Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. appear before this Court on Monday, Marcy 13, 1978, and show cause, if any they have, why they should not be named as additional parties defendant in this proceeding.

DATED this 6th day of March, 1978.

/s/ George Granata
DISTRICT JUDGE



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And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d/b/a JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; SNAKE EYE LAND & CATTLE CO. and VIEJO MANAGEMENT CO. d/b/a BUCKEYE LAND CO.; BUCKEYE LAND CO.; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife; ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

AMENDED COMPLAINT

2.00

* * * * * * * * * * *

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And
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COME NOW the plaintiffs named above, and for cause of action against the defendants, complain and allege as follows:

I

That plaintiffs, John W. Jones, Jr. and Deloris D. Jones are husband and wife, and are residents of the County of Gooding, State of Idaho. That plaintiffs, W. A. Sandy and Florence M. Sandy are husband and wife, and are residents of the County of Gooding, State of Idaho. That said plaintiffs are the owners of the following described real property located in the County of Gooding, State of Idaho:

> Township Seven (7) South, Range Thirteen (13) East of the Boise Meridian;
>
> Section 25: The E 1/2 except a tract descreibed as follows: Beginning at the Southwest corner of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of Section Twenty Five (25), Township Seven (7) South, Range Thirteen (13) E., B.M.;
>
> THENCE running East 397 feet,
> THENCE northerwesterly to a point distant 1870 feet on the section line from the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) of said Section,
> THENCE South 1870 feet to the place of beginning.
>
> Township Seven (7) South, Range Fourteen (14) E., B.M.;
>
> Section 30: Lots One (1), Two (2), Three (3) and Four (4) and the East Half of the Northwest Quarter (E 1/2 NW 1/4) and the East Half of the Southwest Wuarter (E 1/2 SW 1/4), EXCEPT a tract of land for Highway purposes across the South Half of the Southeast Quarter (S 1/2 SE 1/4), Section Twenty Five (25), Township Seven (7) South, Range Thirteen (13) E., B.M. and across Lot Four (4), and the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) Section Thirty (30), Township Seven (7) South, Range Fourteen (14) E., B.M. as set forth in deed to State of Idaho, dated June 10, 1938 and recorded June 21, 1938 in Book 30 of Deeds, Page 100, according to the official plat of the Gooding County Recorder, State of Idaho.



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II.

That plaintiffs, John W. Jones, Jr. and Deloris D. Jones, husband and wife; and W. A. Sandy and Florence M. Sandy, husband and wife, are doing business on the above described real property as a partnership known as Jones & Sandy Livestock.

III.

That defendant, Reservoir Land Company, Inc., is an Idaho corporation, doing business in Idaho, with its principal office at Route 1, Jerome, Idaho. Defendant, Reservoir Land Company, Inc., did until the first day of October, 1976, own the following described real property located in the County of Gooding, State of Idaho. That on October 1, 1976, the following described property was sold by Reservoir to the Buckeye Land Co., a partnership comprised of Snake Eye Land Co. and VIEJO Management Co., hereinafter collectively referred to as Buckeye:

> Township Seven (7) South, Range Thirteen (13) E., B.M.;
>
> Section 25: All that part of the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) North of the Wendell-Hagerman State Highway, and that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4) and the Northwest Quarter of the Southeast Quarter (NW 1/4 SE 1/4) described as follows:
>
> Beginning at a point on the West line of said Southwest Quarter of the Southeast Quarter (SW 1/4 SE 1/4), 1000 feet North of the SW corner of said SW 1/4 SE 1/4;
> THENCE East 219 feet, more or less to the County Gravel Road;
> THENCE Northwesterly along the West boundary of said gravel road to point of intersection with the North-South center line of Section Twenty Five (25);
> THENCE South along the North-South center line a distance of 870 feet to the point of beginning, and
> The Northeast Quarter of the Southwest Quarter (NE 1/4 SW 1/4), excepting therefrom the following:
>
> a. Beginning at a point on the East line of said Southwest Quarter (SW 1/4), 1590 feet North of the Southeast corner of said SW 1/4,



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THENCE running North 34° West 468 feet;
THENCE North 20° West 685 feet to within fifteen (15) feet of the North line of said SW¼;
THENCE North 89°18' East five hundred (500) feet to the East line of said SW¼;
THENCE South along said East line 1035 feet, more or less, to the point of beginning (being that part of said 40 acres East of the Curran Ditch).

b. A strip of land eighty (80) feet in width and a strip of land fifty (50) feet in width, for highway purposes as set forth in deed to State of Idaho, dated June 9, 1938, and recorded June 21, 1938 in Book 30 Deeds, Page 99, records of Gooding County, Idaho.

Township Seven (7) South, Range Thirteen (13) East of the Boise Meridian;

Section 23: The Southwest Quarter (SW¼)

Section 26: The North half of the Northwest Quarter (N½NW¼), Southeast Quarter of the Northwest Quarter (SE¼NW¼), West Half of the Northeast Quarter (W½NE¼), West Half of the Southeast Quarter (W½SE¼), Southeast Quarter of the Southeast Quarter (SE¼SE¼), East Half Southwest Quarter (E½SW¼), Southwest Quarter of the Southwest Quarter (SW¼SW¼), EXCEPT a parcel of land described as follows:

Beginning at the SW corner of the Northeast Quarter of the Southeast Quarter (NE¼SE¼) said Section 26;
THENCE North and parallel with the East line of Section 26 to the NW corner of the Northeast Quarter of the Northeast Quarter (NE¼NE¼) of Section 26; thence West along the North line of said Section 26 to a point which is 30 feet West of the West bank of the Big Bend Ditch;
THENCE Southerly along a line running 30 feet West of the West bank of said Big Bend Ditch to a point which is directly West of the Southwest corner of the Northeast Quarter of the Southeast Quarter (NE¼SE¼) of said Section 26;
THENCE East and parallel with the North line of Section 26, to the point of beginning.



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Section 35: Northeast Quarter (NE¼), the East Half of the Northwest Quarter (E½NW¼) Northwest Quarter of the Northwest Quarter (NW¼NW¼), North Half of the Southeast Quarter (N½SE¼), and the Northeast Quarter of the Southwest Quarter (NE¼SW¼), EXCEPT the following land:

Beginning at the Northeast corner of the Southeast Quarter of the Southeast Quarter (SE¼SE¼) said Section 35;
THENCE North along said Section line 3440 feet;
THENCE West 1201 feet;
THENCE in a Southeasterly direction 3531 feet more or less to a point on the North line of the Southeast Quarter of the Southeast Quarter (SE¼SE¼) 401 feet West of the POINT OF BEGINNING;
THENCE East 401 feet to the POINT OF BEGINNING.

Section 36: Northwest Quarter of the Northwest Quarter (NW¼NW¼), EXCEPT twenty five (25) feet of public road right-of-way across:

East side of Southeast Quarter of the Southeast Quarter (SE¼SE¼) Section 26,
East side of the East Half of the Northeast Quarter (E½NE¼) and Northeast Quarter of the Southeast Quarter (NE¼SE¼) Section 35 and
West side of the Northwest Quarter of the Northwest Quarter (NW¼NW¼) Section 36,
CONVEYED to State of Idaho by deed recorded in Book 1 of Deeds, Page 434, records of Gooding County, Idaho.

And also except tract of land for Highway purposes across the Southeast Quarter of the Southeast Quarter (SE¼SE¼) Section 26, the Northwest Quarter of the Northwest Quarter (NW¼NW¼) of Section 36 and a portion of the Northeast Quarter of the Northeast Quarter (NE¼NE¼) of Section 35, all in Township 7 South, Range 13 East of the Boise Meridian, as set forth in Deed to State of Idaho, dated July 12, 1962 and recorded December 5, 1962 as microfilmed instrument No. 6315, records of Gooding County, Idaho, recorder.

IV

That defendant, Clifford Peterson, hereinafter referred to as "Peterson" is the owner of the following described real

property:

Township Seven (7) South, Range Thirteen (13) E., B.M.

Section 26: Northwest Quarter of the Southwest Quarter (NW¼SW¼) and the Southwest Quarter of the Northwest Quarter (SW¼NW¼), Gooding County, State of Idaho, according to the official plat of recorder of said County.

V

That defendants, Omer E. Loranger and Beverly B. Loranger, husband and wife; and Wallace W. Bates and Loleita V. Bates, husband and wife, hereinafter referred to as "Loranger" and "Bates" are the owners of the following described real property:

Township Seven (7) South, Range Thirteen (13) E., B.M.

Section 22: Northeast Quarter of the Southeast Quarter (NE¼SE¼) except the following described real property:
COMMENCING at the Northeast corner of the Northeast Quarter of the Southeast Quarter (NE¼SE¼), Section 22, thence running West along the Northern boundary line of the Northeast Quarter of the Southeast Quarter (NE¼SE¼) 692 feet, thence South 145 feet, thence East 167 feet, thence North 95 feet, thence East 525 feet, thence North 50 feet to the point of beginning, Gooding County, State of Idaho, according to the official plat of the recorder of said County.

VI

That defendants, Richard P. Sauer and Lucille B. Sauer, husband and wife, hereinafter referred to as "Sauer" are the owners of the following described property:

Township Seven (7) South, Range Thirteen (13) E., B.M.

Section 36: Northeast Quarter of the Northwest Quarter (NE¼NW¼) Gooding County, State of Idaho, according to the official plat of the recorder of said County.

VII

That defendants, Sheldon G. Carleton and Barbara S. Carleton, hereinafter referred to as "Carleton" are the owners of the following described real property:

Township 7 South, Range 13 E., B.M.

Section 27: Northeast Quarter of the Southeast Quarter (NE¼SE¼) and the South Fifteen (15) acres of the Southeast Quarter of the Northeast Quarter (SE¼NE¼), Gooding County, State of Idaho, according to the official plat of the recorder of said County.

VIII

That defendant, Edna M. (Bell) Rea, hereinafter referred to as "Bell" is the owner of the following described real property:

Township 7 South, Range 13 E., B.M.

Section 27: North twenty five (25) acres of the Southeast Quarter of the Northeast Quarter (SE¼NE¼) Gooding County, State of Idaho, according to the official plat of the recorder of said County.

IX

That defendants, Stanley J. Hoskovec and Betty Hoskovec, husband and wife, hereinafter referred to as "Hoskovec," are the owners of the following described real property:

Township 7 South, Range 13 E., B.M.

Section 22: Southeast Quarter of the Southeast Quarter (SE¼SE¼), Gooding County, State of Idaho, according to the official plat of the recorder of said County.

X

That defendants, Alfred H. Cole and Phyllis A. Cole, hereinafter referred to as "Cole;" Ellis & Weir, Inc.; Harold V.



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Woline and Lois C. Woline, hereinafter referred to as "Woline;" and Fred Sturtevant and Joyce E. Sturtevant, hereinafter referred to as "Sturtevant," are the owners of real property in the following tract, which tract has been subdivided:

Township 7 South, Range 13 E., B.M.

Section 27: Northeast Quarter of the Northeast Quarter (NE¼NE¼), according to the official plat of the Gooding County Recorder, State of Idaho.

XI

That defendants, Does I thru V, are owners of real property located within Township 7 South, Range 13, E., B.M., Gooding County, State of Idaho, whose real names are unknown to plaintiffs, and who may have some interest in these proceedings. Plaintiffs do ask that leave of Court be granted to insert their true names in this proceeding when the same become known to plaintiffs.

XII

That on plaintiffs' real property described above, and most particularly, on the Northeast Quarter of the Southwest Quarter of Section 30, Township 7 South, Range 14 E., B.M., there arises and is found what is commonly known as the Weatherby Springs, a.k.a. Jones Spring.

XIII

That by Decree entered in the District Court of the United States, for the District of Idaho, Southern Division, in New International Mortgage v. Idaho Power Company, Equity No. 1602, on March 22, 1932, defendants and/or their predecessors in interest were granted a right to divert, appropriate, and apply

to beneficial use upon their respective real properties, certain quantities of water having its source at Weatherby Springs

XIV

That defendant Buckeye and its predecessors in interest have constructed and maintained a conveyance system over and across the properties of numerous persons, including plaintiffs, for the transportation of irrigation water from Weatherby Springs to real property owned by defendant Buckeye, and described above.

XV

That predecessors in interest of defendant Buckeye have, by and through various written agreements, obligated themselves, and their successors in interest, including Buckeye, to transport through their conveyance system from Weatherby Springs, water of defenants, Peterson, Loranger, Bates, Sauer, Carleton, Bell, Hoskovec, Cole, Ellis & Weir, Inc., Woline, Sturtevant, and Does I thru V.

XVI

That defendant Buckeye and its predecessors have, for many years, diverted little, if any, water from Weatherby Springs, but has rather diverted its water, and the water of other defendants from a point on Billingsly Creek in the Southeast Quarter of the Northeast Quarter of Section 31, Township 7 South, Range 14 E., B.M., Gooding County, State of Idaho. Said water has been transported from said diversion point to defenants' real property by what is known as Curran Ditch.

XVII

That any rights defendants possessed to divert and appropriate water from Weatherby Springs have been lost, aban-



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doned, or forfeited, and any rights now possessed by defenants for the diversion and appropriation of water pertains to that historical appropriation made at the head of Curran Ditch.

XVIII

That defendant Reservoir has recently improved, renovated, and enlarged the conveyance system from Weatherby Springs, and Reservoir and Buckeye have commenced diverting a large and unprecedented quantity of water from Weatherby Springs despite the objections of plaintiff herein, who have used much of said water of Weatherby Springs, and who do, because of said use, have a right superior and prior to that of defendants. Plaintiffs, because of the actions of defenant Reservoir and Buckeye in diverting said water, have been damaged in the sum of TEN THOUSAND DOLLARS ($10,000.00).

XIX

That plaintiffs' partial use of said water at Weatherby Springs has been a continuous, open, notorious, adverse and exclusive possession of such water.

XX

That plaintiffs are entitled to priority over all other persons in the use of such water having its source at Weatherby Springs.

XXI

That the diversion of water at Weatherby Springs by defendant Buckeye is of such a large and unreasonable quantity that the conveyance system in its improved and enlarged capacity is of insufficient size to transport said water, with the result that a great portion of said water is wasted before the same reaches the properties of the defendants.



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XXII

That wasting of irrigation water is not only illegal under Idaho Code Section 18-4302, but said wasting of water by Buckeye does interfere with plaintiffs' use of such water. Such diversion and interference by defendant will irreparably injure plaintiffs. Plaintiffs have no adequate remedy at law to prevent and protect them against such interference and injury and do ask that an order issue from this Court requiring defendant Buckeye to appear and show cause why it and its agents and servants should not be restrained and prevented, during the pendency of this action, from wasting irrigation water by diverting a greater quantity of water from Weatherby Springs than can be transported through its conveyance system.

WHEREFORE, plaintiffs pray that judgment be entered as follows:

1. For damages against defendants Reservoir and Buckeye in the sum of TEN THOUSAND DOLLARS ($10,000.00);

2. For a determination as to the respective rights of plaintiffs and defenants to divert water at Weatherby Springs;

3. For an Order to Show Cause requiring defendants Buckeye to appear and show cause why it should not be restrained from wasting irrigation water during the pendency of this action;

4. For a permanent order restraining defendant Buckeye from wasting irrigation water;

5. For costs of this action;

6. For attorney fees as provided by Idaho Code 12-120 and 12-121;

7. For such other and further relief as to the Court



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And
FELTON
Buhl, Idaho

seems just.

DATED this 6th day of March, 1978.

HEPWORTH, NUNGESTER & FELTON

By D. Brent Martens
D. Brent Martens, of the firm

STATE OF IDAHO )
) ss.
County of Twin Falls )

John W. Jones, Jr., being duly sworn, states as follows:

That he is one of the plaintiffs in the above-entitled action, that he has read the foregoing Amended Complaint, and the facts therein stated are true to the best of his knowledge.

John W. Jones Jr.
John W. Jones, Jr.

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1978.

Lois Benckem
Notary Public for Idaho
Residing at Buhl, Idaho



LAW OFFICES
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NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543-4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife, ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

EX-PARTE MOTION TO AMEND COMPLAINT TO ADD ADDITIONAL DEFENDANTS

* * * * * * * * * * *

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

Comes now the plaintiffs, by and through their attorney of record, and do move this Court for leave to amend the Complaint to add as additional parties defendant Snake Eye Land & Cattle Co. and VIEJO Management Co. d/b/a Buckeye Land Co. and Buckeye Land Co. This motion to amend is made pursuant to Rule 15 of the Idaho Rules of Civil Procedure and as further supported by the affidavit of D. Brent Martens filed contemporaneously herewith.

A copy of the proposed amended pleadings is attached hereto as Exhibit "A".

DATED this 6th day of March, 1978.

HEPWORTH, NUNGESTER & FELTON

By D Brent Martens
D. Brent Martens, of the firm

CERTIFICATE OF MAILING

The undersigned, a resident attorney of the State of Idaho, with offices in the Professional Center, 1020 Main, Buhl, Idaho, and one of the attorneys for the plaintiffs in the above-entitled action, hereby certifies that he caused to be mailed copies of plaintiffs' Ex-Parte Motion To Amend Complaint To Add Additional Defendants, Amended Complaint, Affidavit in Support of Motion To Amend Complaint and Ex-Parte Order Granting Motion To Amend Complaint To Add Additional Defendants And Order To Show Cause, to the following:

Mr. Tom Nelson
Parry, Robertson, Daly & Larson
P. O. Box 1906
Twin Falls, Idaho 83301

Mr. J. Robert Alexander
Benoit & Alexander
P. O. Box 366
Twin Falls, Idaho 83301



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

on the 6th day of March, 1978.

D. Brent Martens

D. Brent Martens



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

HEPWORTH, NUNGESTER & FELTON
1020 Main, Buhl, Idaho 83316
Tel. No. 208-543,4368
Attorneys for Plaintiffs

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

* * * * * * * * * * *

JOHN W. JONES, JR., and DELORIS D. JONES, husband and wife; and W. A. SANDY and FLORENCE M. SANDY, husband and wife, d.b.a. JONES AND SANDY LIVESTOCK,

Plaintiffs,

vs.

RESERVOIR LAND COMPANY, INC., an Idaho corporation; CLIFFORD PETERSON; OMER E. LORANGER and BEVERLY B. LORANGER, husband and wife; WALLACE W. BATES and LOLEITA V. BATES, husband and wife; RICHARD P. SAUER and LUCILLE B. SAUER, husband and wife; SHELDON G. CARLETON and BARBARA S. CARLETON, husband and wife; EDNA M. (BELL) REA; STANLEY J. HOSKOVEC and BETTY HOSKOVEC, husband and wife, ALFRED H. COLE and PHYLLIS A. COLE, husband and wife; ELLIS & WEIR, INC., a domestic corporation; HAROLD V. WOLINE and LOIS C. WOLINE, husband and wife; FRED STURTEVANT and JOYCE E. STURTEVANT, husband and wife; and DOES I thru V,

Defendants.

Civil No. 16676

AFFIDAVIT IN SUPPORT OF MOTION TO AMEND COMPLAINT

* * * * * * * * * * *

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

STATE OF IDAHO )
) ss.
County of Twin Falls )

Comes Now your affiant, D. Brent Martens, being first duly sworn upon oath, and says as follows:

That your affiant is one of the attorneys for the plaintiffs in the above-entitled action. That at the time the Complaint in the above-entitled action was prepared and filed, that property described in paragraph III of the Complaint was owned by the defendant, Reservoir Land Co., Inc. That in dispute in the lawsuit was the extent of water rights in Weatherby Springs which were appurtenant to that real property.

That subsequent to the filing of the above-entitled action, and most specifically on or about October 1, 1976, a portion, if not all, of that realty described in paragraph III of plaintiffs' original Complaint was transferred by warranty deed by the defendant, Reservoir Land Co., Inc., to Buckeye Land Co., a partnership. As a portion of that transaction, the water rights appurtenant to the real property described in paragraph III of plaintiffs' original Complaint was likewise transfered to Buckeye Land Co. An examination of the public records on file with the Gooding County Recorder in Gooding, Idaho, reveals that Buckeye Land Co. is a partnership comprised of Snake Eye Land & Cattle Co. and VIEJO Management Co. Insofar as the above-named partners and partnership does now purportedly have an interest in those water rights which are the subject matter of this action, it is essential that they be added as party defendants. Full and final resolution of the dispute set forth in plaintiffs' complaint cannot be achieved in the absence of those additional parties presence.

D. Brent Martens

D. Brent Martens

LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1978.,

Notary Public for Idaho
Residing at Buhl, Idaho



LAW OFFICES
HEPWORTH
NUNGESTER
And
FELTON
Buhl, Idaho

State of Idaho

Department of Water Administration

# WATER RIGHT LICENSE

License of Water Right No. 36-7071 Priority July 8, 1969 Amount 73.05 cfs

THIS IS TO CERTIFY, that Jones & Sandy Livestock Co.

of Hagerman, Idaho, has complied with the terms and conditions of Permit No. 36-7071 issued pursuant to Application for Permit dated July 8, 1969, and has submitted proof to the Department of Water Administration on August 29, 1972, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 73.05 cfs of water from Weatherby Springs, Three Springs and the Hoagland Tunnel, tributary to Billingsley Creek, and that the permit holder has applied to a beneficial use & established a right to use water as follows:

| Beneficial Use | Period of Use | | Rate of Diversion | Annual Volume |
|---|---|---|---|---|
| Fish Propagation | from Jan. 1 | to Dec. 31 | at 73.05 cfs and | 52,794 acre feet |
| | from | to | at cfs and | |
| | from | to | at cfs and | |

(both dates inclusive)

Subject, however, to the condition that no more than 73.05 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 52,794 acre feet per year, said waters to be diverted within the $NE\frac{1}{4}SW\frac{1}{4}$ & $SE\frac{1}{4}NW\frac{1}{4}$ of Sec. 30, Twp. 7 S, Rge. 14 E, B. M. in the County of Gooding

Description and location of place of use:

| Twp. | Range | Sec. | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | Totals |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| 7 S | 14 E | 30 | | | | | | | | | X | | | | | | | | |
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Total number of acres irrigated _____

A measuring device of a type approved by this Department shall be permanently maintained as part of the outlet works.

**NOTE:** Modifications to or variance from this license must be made within the limits of Section 42-222, **Idaho Code**, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

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 2 day of April, 19 74

Director

36-7071

RECEIVED
1973
Department of Water Administration
State Office

4 9574 1002
alw

# STATE OF IDAHO
## DEPARTMENT OF WATER ADMINISTRATION

APPROVED

## APPLICATION FOR AMENDMENT

LICENSE ISSUED FOR 73.05 SEC. FT.
LICENSE PAGE NO. _____,

Permit No. 36-7071

Comes now Jones and Sandy Livestock Company of (address) Hagerman, ID 83332, and represents to the State Reclamation Department of Water Administration

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 36-7071, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NE ¼ SW ¼, Sec. 30, T. 7S, R. 14E, B.M. Other points of diversion SE¼NW¼, Sec. 30, T. 7S, R. 14E from Weatherby Springs, Three Springs and the Hoagland Tunnel (See attached sheet)

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

| | | | mo. - day | | mo. - day | |
|---|---|---|---|---|---|---|
| Amount | 75 (cfs or acre-feet per annum) | for Fish Prop. | purpose from | Jan. 1 | to | Dec. 31 (both dates inclusive) |
| Amount | _____ (cfs or acre-feet per annum) | for _____ | purpose from | _____ | to | _____ (both dates inclusive) |
| Amount | _____ (cfs or acre-feet per annum) | for _____ | purpose from | _____ | to | _____ (both dates inclusive) |
| Amount | _____ (cfs or acre-feet per annum) | for _____ | purpose from | _____ | to | _____ (both dates inclusive) |
| Amount | _____ (cfs or acre-feet per annum) | for _____ | purpose from | _____ | to | _____ (both dates inclusive) |

3. Place of use or land to be irrigated:

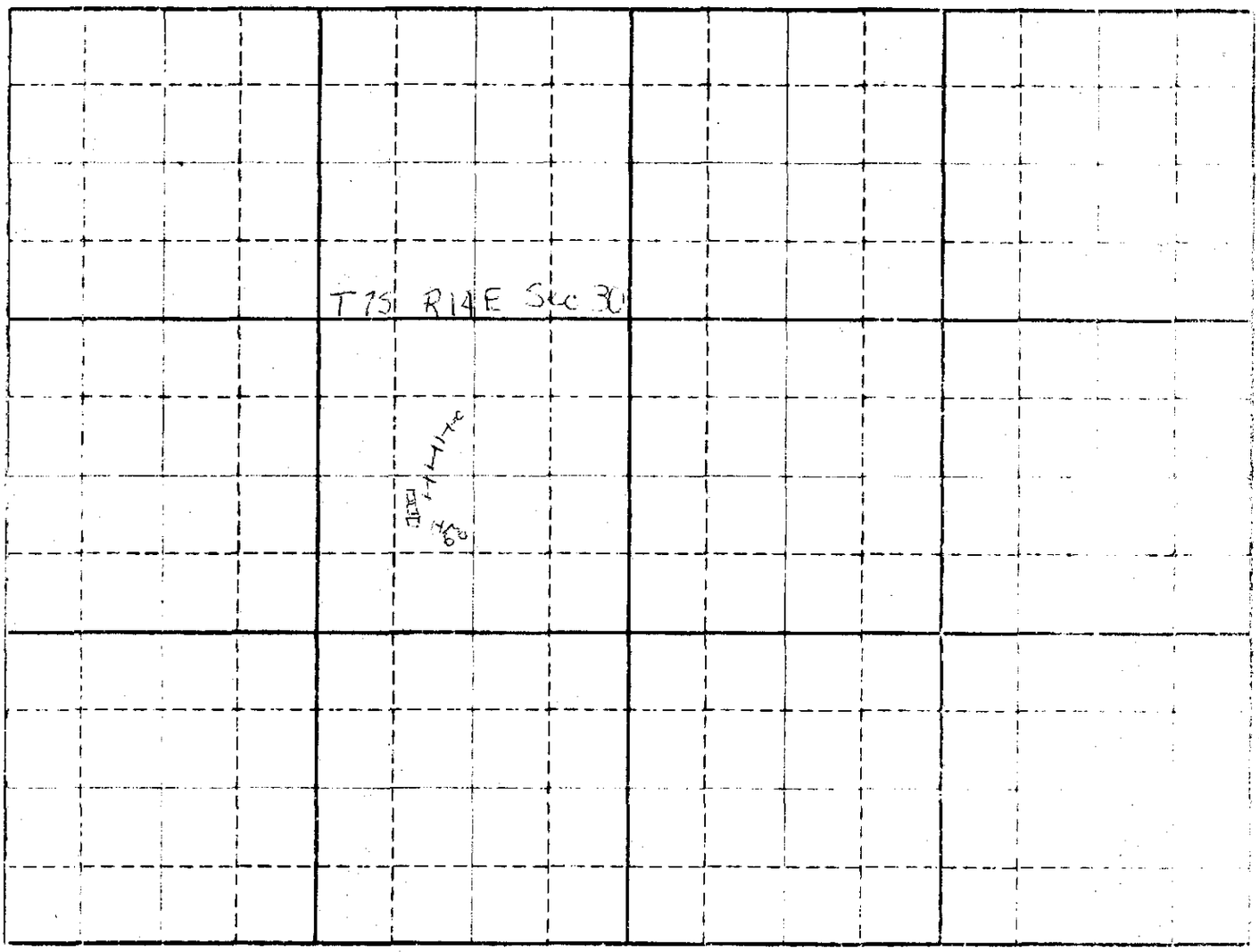
| TWP. | RANGE | SEC. | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| 7S | 14E | 30 | | | | | | | | | X | | | | | | | | -0- |
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Total number of acres to be irrigated

36-7071

36 7071

Complete the following map by showing land and point of diversion as proposed by this amendment. Show 40 acre subdivisions, sections, townships, ranges, and ditches.




Scale: 2 inches equal 1 mile

That no one will be injured by such change, and that such change will be made at permit holder's own risk

Signed at Hagerman Idaho, this 23 day of Feb, 1973

Jones & Sons
By John W. Jones Jr.
(signature)

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

I, R. KEITH HIGGINSON, Director of the Department of Water Administration

hereby approve the above application for amendment for Permit No. 36-7071 subject to the conditions (1) that no new construction at the springs or development of seepage water be made, (2) that the amendment be and is subject to all prior water rights.

Witness my hand this 4th day of June, 19 73

R. Keith Higginson
Director

RKH

Hoagland Tunnel is an additive source of water to Weatherby Springs. It is collected at the diversion point of Weatherby Spring due to natural seepage through the rocks from the tunnel, which is located directly above our collection and diversion point of Weatherby Springs. We have continuously used this water from the tunnel since the installation of the diversion for Weatherby and therefore, feel it should be included as a source of water for our operation.

Jones & Jones

By John W. Jones Jr.

# Affidavit of Publication

State of Idaho,
County of Gooding } ss.

Alfred Hagan, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspapr proper and not in a supplement; that the date of the first publication of said advertisement was on the 12 day of April, 1973 and the date of the last publication was on the 19 day of April, 1973

Alfred E. Hagan

Subscribed and sworn to before me this 19 day of April, 1973
(SEAL)

Mary Ann Hagan
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

## COST OF PUBLICATION

| | | |
|---|---|---|
| Number of Lines in Notice | | |
| Number of Insertions | | |
| Lines at 14¢ | | |
| Lines at 10¢ | | |
| TOTAL COST | | |

## COPY OF NOTICE
Title of Notice

water permit

[redacted]

**WATER PERMIT**

**Notice is hereby given that on August 26, 1970, permit No. 36-7071 was issued to Jones & Sandy Livestock Company of Hagerman, Idaho, for the diversion of 75.0 c.f.s. of [redacted] Springs, [redacted] tributary to [redacted] Creek, from a point within the NE¼ SW¼ [redacted] Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.**

**The permit holder now proposes to amend Permit No. 36-7071, requesting 75.0 c.f.s. of water from Weatherby Springs, Three Springs and Hoagland Tunnel from a point within the NE¼SW¼, and SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.**

**Any protest against the amending of this permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho 83301 on or before May 7, 1973.**

**R. KEITH HIGGINSON, Director**

**4-19-2tc**

[redacted] RATES:
(Idaho Code, (Rev. Statutes) 1956

| | |
|---|---|
| 7 pt. per line, straight | 14c |
| 7 pt. per line, tabular | 20c |
| 7 pt. per line, successive insertions | 10c |
| 6 pt. per line, straight | 15c |
| 6 pt. per line, tabular | 20c |
| 6 pt. per line, successive insertions | 10c |

**No 1814**

36 7071

Identification No. 36-7071

Application No. _____

# STATE OF IDAHO
## DEPARTMENT OF RECLAMATION
# APPLICATION FOR PERMIT

APPROVED

LICENSE ISSUED FOR 7.05 SEC. FT.
LICENSE PAGE NO. _____

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

1. Name of applicant Jones & Sandy Livestock Co. C/o W. A. Sandy
post office address Hagerman, Idaho 83332
2. Source of water supply Unnamed Springs & Three Springs which is a tributary of Billingsley Creek
3. a. Location of point of diversion is NE ¼ of SW ¼ of Section 30 Township 7S Range 14 E B.M. Gooding County; additional points of diversion if any:
SE ¼ of NW ¼ Sec 30 T7S R14E BM Gooding County

b. If water is not consumed, it will be discharged into Billingsley Creek at a point in Lot 3 of SW ¼ of Section 30 Township 7S Range 14 E B.M. Gooding County
4. Water will be used for the following purposes:
Amount 75 (cfs or ~~acre-feet~~ per annum) for Fish Raising purpose from Year around to _____ (both dates inclusive)
Amount _____ (cfs or acre-feet per annum) for _____ purpose from Jan. 1 to Dec 31 (both dates inclusive)
Amount _____ (cfs or acre-feet per annum) for _____ purpose from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated:
a. 75 cubic feet per second ~~and/or~~
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 2 headgates 1500 ft of 36" pipeline
b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
b. Estimated construction cost is $ 65,000.00.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: NE ¼ of SW ¼ of Section 30 Township 7S Range 14 E B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____
(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe: Commercial Trout Raising

36 7071

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

| TWP. | RANGE | SEC. | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
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Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes _____

9. a. Who owns the property at the point of diversion Jones & Sandy Livestock Co.

b. Who owns the land to be irrigated or place of use Jones & Sandy Livestock Co.

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

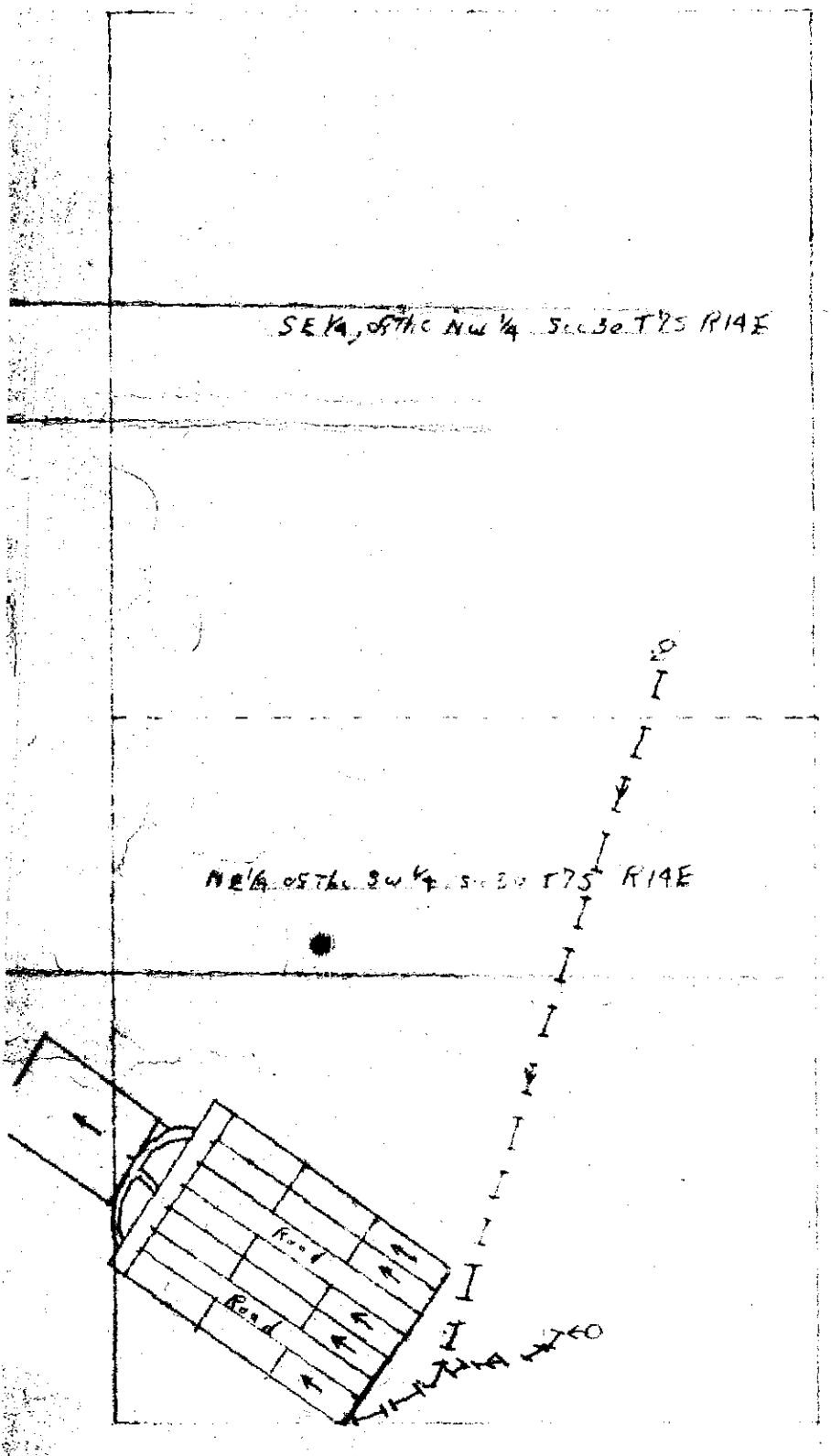
10. Remarks

This Proposed use of Water for Commercial Trout Raising will in No Way effect use of Water for irrigation.

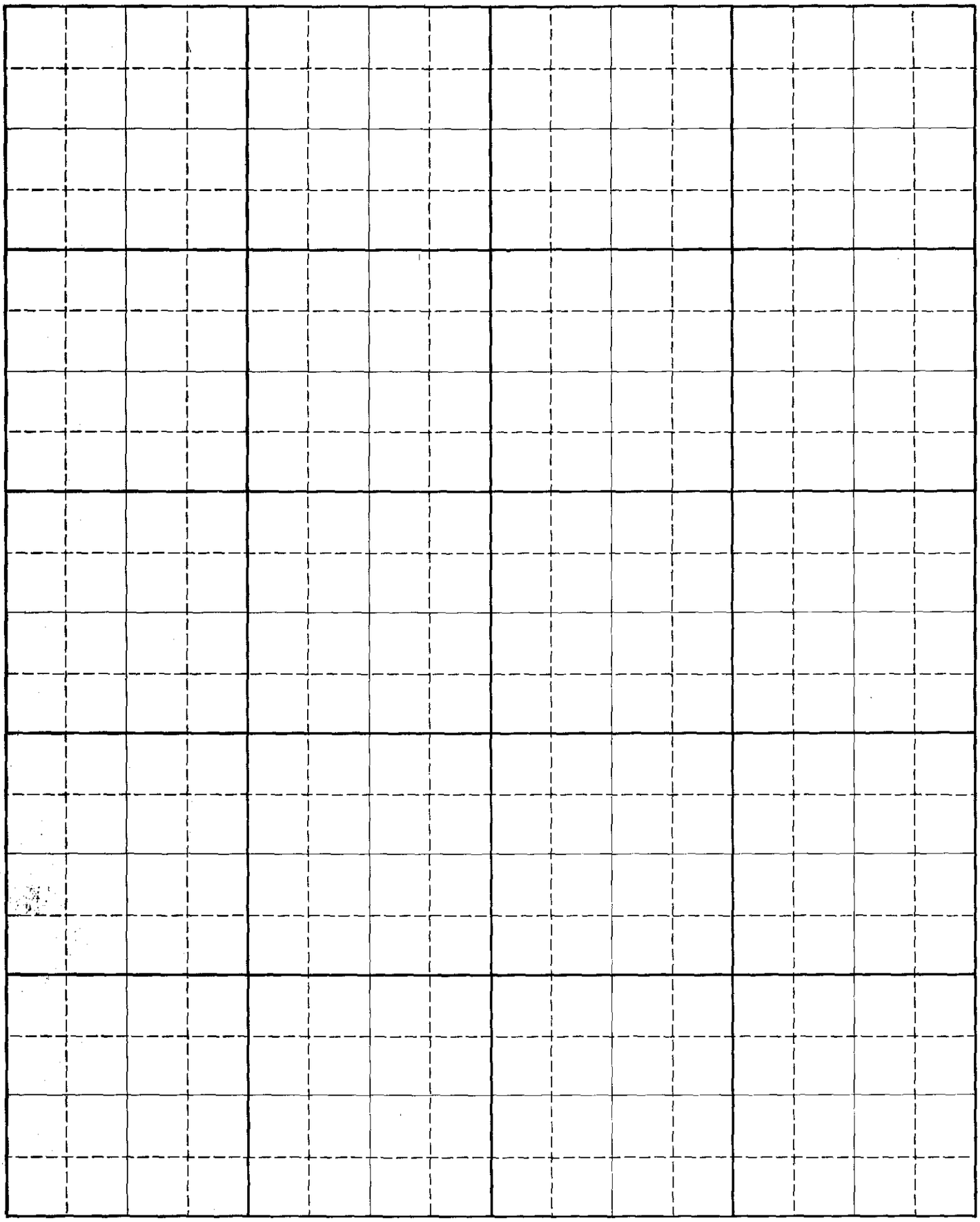
MAP of Proposed Project

Jones & Sandy Livestock Co.

T20S R14E Hagerman, Idaho



11. Map of proposed project: (see enclosed sheet)



Scale: 2 inches equal 1 mile

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

Irene & Sandy Livestock Co.
(Applicant)
by Irene Sandy

36 7071

Received by ef Date 7-8-69 Time 9:30 am
Preliminary check by [illegible] Fee $ 100.00
Receipted by ef Date 7-8-69
Publication prepared by tg Date ?
Published in Hooding Leader
Publication dates 7-17+24-69
Publication approved dr Date 8-22-69
Priority reduced to _____ Reason _____

Protests filed by: see file

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for (approval) denial by [signature]

APPROVED

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 36-7071, and said application is hereby APPROVED.

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 19 72.

c. Other: That permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project. That the permit cannot be assigned or sold without the written consent of the Department of Water Administration, and that failure to receive such consent will be deemed by the Department to be an admission that the permit was obtained for speculative purposes and as such will be subject to cancellation. The applicant will be given a period of two years within which to construct the facility and apply the water to a beneficial use, with the understanding that an extension of time can be granted if requested at the end of that period and conditioned upon the permit holder making reasonable and diligent progress.

Witness my hand this 26th day of August 19 70.

[signature]
Deputy State Reclamation Engineer

BEFORE THE STATE RECLAMATION ENGINEER

STATE OF IDAHO

* * * * * * * *

RE: APPLICATION NO. 36-7071 )
) ANSWER TO PROTEST
JONES AND SANDY LIVESTOCK CO. )

* * * * * * * * * * * *

COMES NOW, Jones and Sandy Livestock Co. through their attorney, John C. Hepworth, of the firm of Hepworth, Walker, Nungester and Felton, and answers the protest filed to the above application as follows:

(1) In answer to the protest filed by Art Kaster and other users of Three Springs, and by John Barton, K. A. Barton and other users of Weatherby Springs, we wish to respectfully note that these protestants have no objection to the granting of the application provided the diversions of waters thereunder and the return to the stream are in such a manner and in such form as it will not interfere with the rights of protestants. Inasmuch as this is the sole concern of these particular protestants, there is no problem. It is not the intent of Jones and Sandy Livestock Co. to interfere with the established rights of these protestants [redacted] jch [redacted].

Jones and Sandy Livestock Co. certainly acknowledge the superior rights in these streams by the above protestants and have



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AND
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BUHL, IDAHO

no plans which would in any way interfere with their vested rights, and Jones and Sandy Livestock Co. respectfully represent that they will respect and honor those rights and protect them from any interference as a result of the proposal contained in the Jones and Sandy Livestock Co. application above referred to.

(2) With respect to the protest of Idaho Springs Trout Company, Jones and Sandy Livestock Co. answer said protest as follows:

First, Jones and Sandy Livestock Co., for lack of information, does not admit that Idaho Springs Trout Company has any water right as set forth on the first page of the original protest. However, Jones and Sandy Livestock Co. does contend and represent hereby that any right Idaho Trout Springs Company may have, as set forth in their protest, would not be jeopardized, damaged or infringed upon by the allowance of the application of Jones and Sandy Livestock Co.

Jones and Sandy Livestock Co. further answer Idaho Springs Trout Company's protest as follows:

(1) It is not the intent of Jones and Sandy Livestock Co. to shut down the waters of Billingsly Creek or any other source proposed to be used by Jones and Sandy Livestock Co. As a matter of fact, the proposal is to divert said stream for the purpose of the nonconsumptive use set forth, and return the waters of that stream to its natural channel so that all rights now existing in the stream may still be satisfied.

Jones and Sandy Livestock Co. contend that the public policy of the State of Idaho encourages the multiple use of its natural resources, particularly in public water. Jones and Sandy



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AND
FELTON
BUHL, IDAHO

Livestock Co. proposes to pursue that public policy and use said water for the nonconsumptive purpose of trout propagation and return the water to its natural stream for such other uses as may be consistent with established rights.

(2) Jones and Sandy Livestock Co. deny that the water returned to Billingsly Creek, or any other stream which has been used by Jones and Sandy Livestock Co., will be polluted.

It seems strange indeed that such an allegation should be urged by Idaho Springs Trout Company inasmuch as that company diverts water from the public stream, uses it for fish propagation and then dumps the water, after having been used for this purpose, back into the natural channel where it is thereafter used for irrigation and other purposes.

The allegation that the waste from fish ponds, fish manure, ammonia, nitrogen, nitrates and nitrites and carbon dioxide and also fish diseases will flow into the trout ponds of Idaho Springs Trout Company and adversly affect the trout being raised therein to the irreparable loss of Idaho Springs Trout Company, is untrue and contrary to the common experience of the trout industry and is in no sense founded on fact.

The obvious purpose of Idaho Springs Trout Company is to prejudice the Idaho State Department of Reclamation in an effort to keep out competition in the trout industry. This very precept is contrary to the basic philosophy of our free enterprise system, and contrary to the public policy of the State of Idaho which advocates and encourages the multiple use of our state's public waters.



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AND
FELTON
BUHL, IDAHO

36 7071

(3) The third allegation of Idaho Springs Trout Company, which provides in affect that if the application is allowed and Jones and Sandy Livestock Co. is permitted to use the water as proposed in said application, that Jones and Sandy Livestock Co. will be guilty of a misdemeanor under the provisions of Idaho Code Sections 18-4301 and 36-1101 is so ridiculous as to be undeserving of reply. It would seem sufficient to point out that if this allegation were true, then surely Idaho Springs Trout Company is guilty of the offenses set forth in paragraph No. 3 of this protest. Idaho Springs Trout Company uses water and, after use, dumps the water back into the public stream. If this constitutes a public offense, then surely Idaho Springs Trout Company is guilty of it.

Jones and Sandy Livestock Company affirmatively states that upon approval of their permit, they will comply with the laws of the State of Idaho and of the USA, and will do nothing to interfere, prejudice or impair the rights or property of others.

Dated this 12th day of December, 1969.

JONES AND SANDY LIVESTOCK CO.

By F. A. Sandy
President

HEPWORTH, WALKER, NUNGESTER & FELTON

By John A. Hepworth
Attorneys for Jones and Sandy Livestock Company,
Residing at 1020 Main, Buhl, Idaho.



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AND
FELTON
BUHL, IDAHO

36 7071

BEFORE THE STATE RECLAMATION ENGINEER

STATE OF IDAHO

-oΘo-

RE APPLICATION NO. 36-7071 )
JONES AND SANDY LIVESTOCK CO. ) P R O T E S T
)

COMES NOW, the undersigned protestants and protest the granting to Jones and Sandy Livestock Co. of Hagerman, Idaho a permit to divert 75 cubic feet per second of water from Weatherby Springs and Three Springs, tributory of Billingsley Creek Water under the above application for the reasons hereinafter set forth.

DECREED RIGHTS TO THREE SPRINGS:

| | |
|---|---|
| Art Kaster | Hagerman, Idaho |
| Russell Boyer | Hagerman, Idaho |
| Roland Boyer | Hagerman, Idaho |

DECREED RIGHTS TO WEATHERBY SPRINGS:

| | |
|---|---|
| John Barton & K.A. Barton, a partnership, | Hagerman, Idaho |
| Walter Stewart | Hagerman, Idaho |
| Stan Hoskovec | Hagerman, Idaho |
| Stan Hoskovec, Jr. | Hagerman, Idaho |
| Mrs. Ted Bell | Hagerman, Idaho |
| Orland Peterson | Hagerman, Idaho |
| James Crist | Hagerman, Idaho |

That the foregoing protestants own lands in Hagerman, Idaho to which are appurtenant all of the available water of Three Springs and Weatherby Springs the same having been previously appropriated and decreed to be appurtenant to said lands; that during certain times of the irrigation season the waters produced by said springs are insufficient to fill the protestants' water rights; that the waters proposed to be appropriated by applicant for fish raising will be diverted above and upstream from the point of diversion of the protestants and then will be returned to Billingsley Creek below the point of diversion of protestants; that protestants have no objection to the granting of the above application provided the diversion of waters thereunder and

the return to the stream are in such a manner and in such form as will not interfere with the rights of protestant.

Dated this 31st day of July, 1969.

Ronald L. Boyer

K. A. Barton

Stan Hoskeer, Jr.

Stan Hoskeer

W. Stewart

Mrs. Ted Bell

James Gist

OR 70171

HARRY POVEY
ATTORNEY AT LAW
115 2ND STREET WEST
TWIN FALLS, IDAHO

TELEPHONE 733-3181

P. O. Box 344

July 30, 1969

RECEIVED
Department of Reclamation

Hon. R. Keith Higginson
State Reclamation Engineer
State Reclamation Department
Capitol Building
Boise, Idaho 83700

In re Idaho Springs Trout Company
Jones & Sandy Livestock Co.

Dear Mr. Higginson:

In connection with the application of Jones & Sandy Livestock Co. to appropriate the waters of Billingsley Creek, Identification No. 36-7071 I am enclosing herewith Protestof Idaho Springs Trout Company against the issuance of permit to Jones & Sandy Livestock Co. and will ask you to kindly file the same.

As soon as a date of hearing has been fixed will you kindly notify Idaho Springs Trout Company and the writer of the date and place of hearing.

Thanking you, I remain,

Very truly yours,

Harry Povey

HP/p
Enc.

36 7071

BEFORE THE DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO.

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In the Matter of the Application for Permit of )
JONES & SANDY LIVESTOCK CO. )
to appropriate the public waters of Billingsley )
Creek in Gooding County, Idaho. )

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PROTEST OF IDAHO SPRINGS TROUT COMPANY

COMES NOW Idaho Springs Trout Company, a corporation organized and existing under the laws of the State of Idaho, having its registered office at the residence of Robert A. Erkins, near Buhl, Idaho, P.O.Box 232 Buhl, Idaho, and respectfully represents:

That it is the owner and holder of Water License No. 32600 issued by the State Reclamation Engineer of the State of Idaho on the 28th day of March, 1967 for 100 cubic feet per second of the waters of Billingsley Creek, in Gooding County, Idaho, for fish propagation and domestic use, which waters have been continuously used by said Idaho Springs Trout Company since and prior to the issuance of said water license, for trout hatchery and domestic purposes; that the point of diversion is located in two points in Lot 1 of Section 19. T. 7 S., R. 14 E.B.M. and said water is returned to Billingsley Creek at a point 49 deg. E. 520 feet distant from the SWcorner of Section 18, T. 7 S. R. 14 E.B.M. and at a point S. 88 deg. E. 570 feet distant from the SW corner of Section 18, T. 7 S., R. 14 E.B.M. Reference to said License and Certificate of Water Right and Application for Permit and Permit are hereby made for a more complete description of the details thereof;

That on July 8, 1969 said Jones & Sandy Livestock Co. filed in the office of the Department of Reclamation their application (Identification No. 36-7071) to appropriate 75 feet of the

36 7071

waters of Billingsley Creek in Gooding County, Idaho, for fish raising purposes, with point of diversion located in NE¼SW¼, of Section 30, T. 7 S., R. 14 E.B.M., and additional points of diversion, if any, in SE¼NW¼, Sec. 30, T. 7 S., R. 14 E.B.M., and if water is not consumed it will be discharged into Billingsley Creek at a point in Lot 3 of SW¼ of Sec. 30, T. 7 S., R. 14, E.B.M.; That Notice of Application for Water has been published in the Gooding Leader, published at Gooding, Idaho, in the issues of that newspaper published July 17,1969 and July 24, 1969, stating that any protest against said application must be filed with the Department of Reclamation within ten days from the last date of said notice;

NOW, THEREFORE Idaho Springs Trout Company, an Idaho, corporation hereby protests against the issuance to Jones & Sandy Livestock Co. of permit to appropriate the public waters of the State of Idaho as set forth in said application for permit (Identification No. 36-7071) upon the following grounds, to-wit:

1. That on the face of said application for permit it is indicated that said Jones & Sandy Livestock Co. may use all of the 75 cubic feet per second of the waters of Billingsley Creek and shut down the waters to which Idaho Springs Trout Company is entitled downstream from the proposed diversion of Jones & Sandy Livestock Co. and prevent said Idaho Springs Trout Company from using all the water to which it is entitled.

2. That if said application of said Jones & Sandy Livestock Co. is allowed the water which is returned to Billingsley Creek will be polluted and contaminated by various contaminants originating from the trout hatchery of said Jones & Sandy Livestock Co., including waste from the fish ponds and fish manure, ammonia, nitrogen, nitrates and nitrites and carbon dioxide and also fish diseases, which will flow into the trout ponds of Idaho Springs Trout Company and deleteriously affect the trout being raised

therein, to the irreparable loss and damage of Idaho Springs Trout Company.

5. That if said application of said Jones & Sandy Livestock Company is allowed and the water is used in the manner in said application, said Jones & Sandy Livestock Co. will be guilty of a misdemeanor under the provisions of Idaho Code, Sec. 18-4301 for emptying or placing or causing to be emptied into said stream rubbish, filth or obstruction to the free flow of water and would be using said water in violation of Idaho Code, sec. 36-1101.

WHEREFORE Idaho Springs Trout Company, acorporation, respectfully prays that said application of Jones & Sandy Livestock Co. to appropraite the waters of Billingsley Creek be denied and disallowed.

Dated this 30th day of July, 1969.

IDAHO SPRINGS TROUT COMPANY

By _____
President

Harry Lotz

Attorney for Idaho Springs Trout Company, residing at Twin Falls Idaho.

# Affidavit of Publication

State of Idaho, County of Gooding } SS.

Thomas D Miller, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 17 day of July, 1969, and the date of the last publication was on the 24 day of July, 1969

Thomas D Miller

Subscribed and sworn to before me this 8 day of August, 1969
(SEAL)

Audrey L. Belsher
NOTARY PUBLIC

**NOTICE OF APPLICATION FOR WATER**

Notice is hereby given that Jones and Sandy Livestock Company, c/o W. A. Sandy. Hagerman. Idaho have on July 8, 1969 applied for permit under application No. 36-7071 to divert 7.5 cubic feet per second of water from Weatherby Springs and Three Springs tributary of Billingsley Creek Water will be diverted by headgates and pipeline within the NE¼SW¼, SE¼NW¼, Sec. 30, T. 7 S, R. 14 E, B.M. and is to be used from January 1 to December 31 for fish raising in the NE¼SW¼, Sec. 30, T. 7 S, R. 14 E, B.M. Any protest against this aplication must be filed with the Department of Reclamation within ten days from the last date of this notice.

R. Keith Higginson
State Reclamation Engineer

7-17-2tc

GOODING COUNTY LEADER
Gooding, Idaho

## COST OF PUBLICATION

| | | |
|---|---|---|
| Number of Lines in Notice | | |
| Number of Insertions | | |
| Lines at 14c | | |
| Lines at 10c | | |
| TOTAL COST | | |

Bill submitted 8-22-69

**PUBLICATION RATES:**
(Idaho Code, (Rev. Statutes) 1956

| | |
|---|---|
| 7 pt. per line, straight | 14c |
| 7 pt. per line, tabular | 20c |
| 7 pt. per line, successive insertions | 10c |
| 6 pt. per line, straight | 15c |
| 6 pt. per line, tabular | 20c |
| 6 pt. per line, successive insertion | 10c |

No 544

36-7071

# Affidavit of Publication

State of Idaho,
County of Gooding } SS.

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

was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 17 day of July, 1969, and the date of the last publication was on the 24 day of July, 1969

Thomas D Miller

Subscribed and sworn to before me this 8 day of August, 1969
(SEAL)

Audrey L. Belcher
NOTARY PUBLIC

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**GOODING COUNTY LEADER**

**Gooding, Idaho**

## COST OF PUBLICATION

| | | |
|---|---|---|
| Number of Lines in Notice..... | | |
| Number of Insertions ..... | | |
| ——————Lines at 14c | | |
| ——————Lines at 10c | | |
| | TOTAL COST ..... | |

Bill submitted
8-22-69

Sunday Guests
Mr. and Mrs. Bob Hogue
and sons visited Sunday with
Mr. and Mrs. Jim Hogue,
Twin Falls.
Visits In Rupert
Mr. and ...

Application for ... ter

Title of Notice

Jones & Sandy
Twin Falls Atty

Plaintiff Attorney

Defendant

Plaintiff

Bill to

Department of
Reclamation
Statehouse Annex 2
Boise, Idaho
83707

**PUBLICATION RATES:**
(Idaho Code, (Rev. Statutes) 1956

| | |
|---|---|
| 7 pt. per line, straight | 14c |
| 7 pt. per line, tabular | 20c |
| 7 pt. per line, successive insertions | 10c |
| 6 pt. per line, straight | 15c |
| 6 pt. per line, tabular | 20c |
| 6 pt. per line, successive insertion | 10c |

No. 544

# This Right has been Decreed in the SRBA.

MICROFILMED
JUN 0 2 2004

**MEMORANDUM**

**TO:** NORM YOUNG

**FROM:** TIM LUKE

**DATE:** August 27, 1993

**RE:** VISIT & MEASUREMENTS AT JONES FISH HATCHERY

==========

On August 26, 1993, Loren Holmes and I visited the Jones Fish Hatchery and diversions from Weatherby Springs, Three Springs and Hoagland Tunnel. Accompanying us on this visit was the fish hatchery owner, Bill Jones, and Water District 36-A watermaster George Lemmon.

Attached to this memo is a diagram of the fish hatchery and spring diversions. Listed below is a summary of the measurements made by Loren and myself. The summary shows the amount of water being diverted to the fish hatchery.

| Location/Source of Measurement | Method | Discharge |
|---|---|---|
| Sum of hatchery raceway weir measurements, including hatchery inflow from irrigation overlow | Weirs | 34.79 cfs |
| Pipeline with co-mingled water from Three Sprgs. & Weatherby Sprgs. | Polysonic Meter | 8.95 cfs |
| Hoagland Tunnel (meas. on ditch) | Swoffer 2100 Current Meter | 6.05 cfs |

The total amount of water diverted to the Jones hatchery was 34.79 cfs. The total measured spring flow from Three Springs, the Weatherby Springs complex and Hoagland Tunnel was 46.67 cfs. This later amount was derived by summation of the Hoagland Tunnel measurement (6.05 cfs), the comingled pipeline measurement (8.95 cfs), and the sum of the hatchery raceway weirs (34.79 cfs) less the overflow to the hatchery from the comingled pipeline (3.12 cfs).
The equation for total spring flow therefore is:

$$Q = 6.05 + 8.95 + (34.79 - 3.12) = 46.67 \text{ cfs}$$

This total spring flow does not include some water from a lower elevation spring which was discharging directly into a small

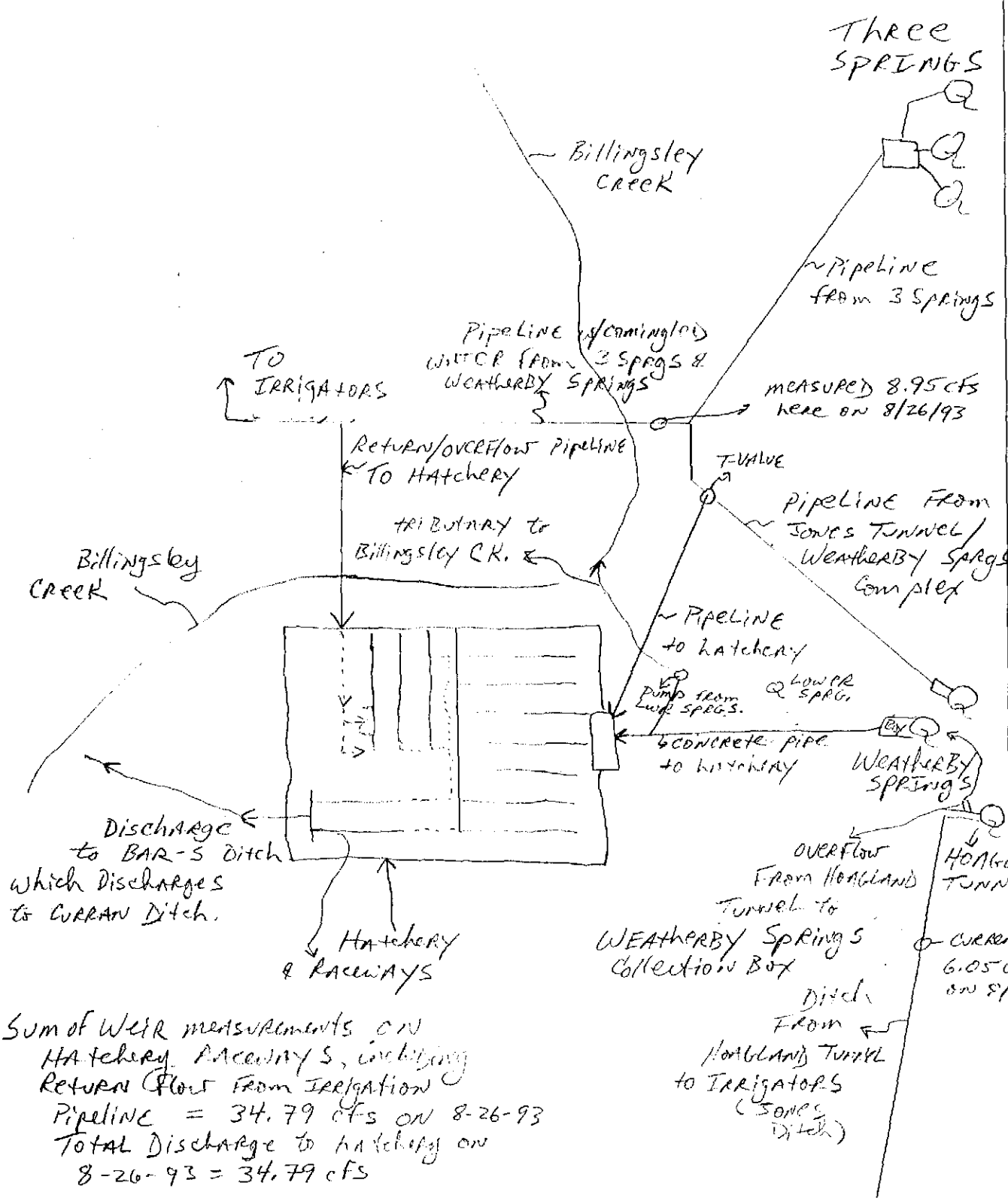
MICROFILMED

JUN 0 2 2004

creek tributary to Billingsley Creek. The lower spring was not measured. Mr. Jones explained that he has a pump which can divert about 3.0 to 3.5 cfs from this lower spring to the hatchery.

The 3.12 cfs overflow to the hatchery from the comingled pipeline was determined by taking the difference of two weir discharge measurements in a single hatchery raceway. The overflow pipe discharges to this raceway in between the two weirs.

MICROFILMED
JUN 0 2 2004




Sum of Weir measurements on Hatchery Raceways, including Return Flow from Irrigation Pipeline = 34.79 cfs on 8-26-93
Total Discharge to hatchery on 8-26-93 = 34.79 cfs

Total Discharge from 3 Spgs, Weatherby Spgs & Hoagland Tunnel =

| | |
|---|---|
| | 31.67 |
| | 8.95 |
| | 6.05 |
| | 46.67 |

Unaccounted Lower Spring Discharge to Creek ≅ 4.00 cfs
Total Estimated Spring Q = 46.67 + 4.00 ≅ 51.00 cfs

MICROFILMED
JUN 8 2 2004

**MEMORANDUM**

**TO:** Water District 36-A File

**FROM:** TIM LUKE TJL

**DATE:** August 30, 1993

**RE:** Water Rights and Diversions from Weatherby Springs, Three Springs and Hoagland Tunnel

==========

Following my summary of the measurements made at the Jones Fish Hatchery and from the above referenced springs (see memo to file dated August 27, 1993), I made a review of the water rights listed for these sources. These listings are attached to this memo. Three of the four attached listings identify existing decreed rights and any administrative rights from the three sources. A fourth listing identifies water rights from Hoagland Tunnel as currently recommended by the Department in the Snake River Basin Adjudication (SRBA) Basin 36 Director's Report. This latter report was generated because the Department's decreed and administrative computer water rights data base did not reflect that some rights in the New International decree listed both Weatherby Springs and the Hoagland Tunnel as a source of water. All the rights identified as being from Hoagland Tunnel on this attached abstract from the SRBA Director's Report database however were originally decreed from both Weatherby Springs and Hoagland Tunnel.

When the measurements were made on August 26, some of the flow from the Weatherby Springs complex was diverted and commingled with all of the flow from the Three Springs complex. The commingled water was used for both the fish hatchery and some irrigation diversions. All of the flow from Hoagland Tunnel was diverted directly for other irrigation uses. The total flow from all the springs on August 26 was about 50 cfs.

As per the attached lists, there are two decreed rights from Three Springs for irrigation purposes which are senior to the Jones' 1969 priority fish propagation right. The sum of the water right rate of diversion for the two rights is 7.7 cfs. The total irrigation water rights rate of diversion senior to the Jones right from Weatherby Springs and Hoagland Tunnel is 55.29 cfs. The total rate of diversion listed for those rights from Hoagland Tunnel which are senior to the Jones right in the Director's Report is 6.40 cfs. Subtraction of the 6.40 cfs for Hoagland Tunnel from the Weatherby Springs Water Master Report means that there is a total of 48.89 cfs under the senior irrigation rights.

Based on the August 26 measurements, all irrigation rights recommended from Hoagland Tunnel, except a portion of the most junior right, was being filled. Since some water from Weatherby

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Springs and Three Springs was commingled, it is easier to compare the combined flow of Weatherby and Three Springs, which was 40.62 cfs on August 26, with the total senior irrigation rights from the two sources, which is 56.59 cfs.

Since a portion of the total fish hatchery diversion was overflow water from the irrigation pipeline diversion from Weatherby and Three springs, it may be assumed that the irrigation demands with rights which are filled from this pipeline were satisfied. Also, it may be assumed that all other irrigation demands with rights from Weatherby Springs were satisfied since the re-diversion of water from the hatchery to the Bar-S irrigation ditch exceeded the minimum 325 inches (6.5 cfs) which is required to maintain that ditch.

In summation, the August 26 measurements indicate that the irrigation diversions from the springs covered by the senior water rights did not exceed the total amount of water which could have been diverted under those rights. The reminaing flow from the springs not diverted directly for irrigation was available for use at the hatchery. Due to the limited available supply of flow from the springs and some irrigation use by senior water rights holders, only a portion of the 1969 priority Jones water right license for 73.05 cfs (license no. 36-7071) could be filled.

MICROFILMED
JUN 0 2 2004

OD-5813
WR5813NP
SELECTION FILE: WHTBY

IDAHO DEPARTMENT OF WATER RESOURCES
WATER MASTER REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 08/27/93
TIME: 15:39:18
PAGE: 1

| WATER RIGHT NUMBER | CURRENT OWNER NAME | PRIORITY DATE | STG | POINT OF DIVERSION | POD FLAG | TOTAL DIVERSION | TOTAL ACRES | WATER USES |
|---|---|---|---|---|---|---|---|---|
| **WATER SOURCE: HOAGLAND TUNNEL** | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| **WATER SOURCE: THREE SPRINGS** | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| **WATER SOURCE: WEATHERBY SPRINGS** | | | | | | | | |
| 36-00086A | PENFOLD, JOHN T. | 02/01/1888 | D | 07S 14E 30 | NESW | 1.980 CFS | 46.0 | 01 |
| 36-00086B | PRICE, VARNELL H. | 02/01/1888 | D | 07S 14E 30 | NESW | 0.020 CFS | | 43 |
| 36-00045 | FARMER, J. EUGENE | 02/01/1888 | D | 07S 14E 30 | NESW | 0.500 CFS | | 01 |
| *** 36-00068 | JONES, DANIEL | 02/01/1888 | D | 07S 14E 30 | NESW | 12.500 CFS | | 01 |
| ** 36-00177 | LEMMON, GUY | 02/01/1888 | D | | | 1.780 CFS | | 01 → |
| *** 36-00069 | JONES, DANIEL | 02/01/1888 | D | 07S 14E 30 | NESW | 1.000 CFS | | 01 |
| 36-00118 | VADER, EARL | 12/12/1901 | D | 07S 14E 30 | NESW | 0.100 CFS | | 01 |
| 36-00060 | HIGLEY, ALBERT | 12/12/1901 | D | 07S 14E 30 | NESW | 0.500 CFS | | 01 |
| 36-00061 | HOFFMAN, L. W. | 12/12/1901 | D | 07S 14E 30 | NESW | 2.220 CFS | | 01 |
| 36-00116 | UNSINN, RUTH | 12/12/1901 | D | 07S 14E 30 | NESW | 1.610 CFS | | 01 |
| 36-00119 | VADER, FRANK J. | 12/12/1901 | D | 07S 14E 30 | NESW | 0.200 CFS | | 01 |
| 36-00009 * | BARTON, R. W. | 03/08/1902 | D | 07S 14E 30 | NESW | 0.800 CFS | | 01 |
| 36-00011 * | BARTON, W. C. | 03/08/1902 | D | 07S 14E 30 | NESW | 1.300 CFS | | 01 |
| 36-00033 * | CLIFFORD, EDNA N. | 03/08/1902 | D | 07S 14E 30 | NESW | 3.000 CFS | | 01 |
| 36-00015 * | BEDINGFELD, J. C. | 03/08/1902 | D | 07S 14E 30 | NESW | 10.900 CFS | | 01 |
| 36-00044 * | ELIASON, JACOB | 03/08/1902 | D | 07S 14E 30 | NESW | 0.700 CFS | | 01 |
| 36-00105 * | STROUD, FLORENCE OWENS | 03/08/1902 | D | 07S 14E 30 | NESW | 1.000 CFS | | 01 |
| 36-00010 * | BARTON, R. W. | 03/08/1902 | D | 07S 14E 30 | NESW | 0.400 CFS | | 01 |
| 36-00016 * | BEDINGFIELD, J. C. | 04/04/1910 | D | 07S 14E 30 | NESW | 0.300 CFS | | 01 |
| 36-00042 | ELIASON, ARMEDIA | 04/04/1910 | D | 07S 14E 30 | NESW | 0.400 CFS | | 01 |
| 36-00062 | HOFFMAN, L. W. | 05/01/1912 | D | 07S 14E 30 | NESW | 0.280 CFS | | 01 |
| 36-02023 | VADER, FRANK C. | 07/08/1915 | L | 07S 14E 30 | NENW | 0.500 CFS | 25.0 | 01,43 |
| 36-00120 | VADER, FRANK J. | 07/08/1915 | D | 07S 14E 30 | NESW | 0.500 CFS | | 01 |
| 36-00063 | HOFFMAN, L. W. | 11/01/1915 | D | 07S 14E 30 | NESW | 0.800 CFS | | 01 |
| 36-00017 * | MC CARTY, MARY | 12/09/1916 | D | 07S 14E 30 | NESW | 12.000 CFS | | 01 |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| 36-07740 * | BUCKEYE FARMS INC. | 09/24/1987 | P | 07S 14E 30 | NESW | 6.500 CFS | | 16,19,46,52 |
| 36-08686 | ANDERSON, HALLIE | 11/02/1992 | P | 07S 14E 30 | SENESW | 0.020 CFS | | 43 |

134.26

2 comingled in Jones Ditch per George L.

3.51 cfs

38.41 cfs

55.29 cfs

MICROFILMED
AUG 27 1993

* per George Lemmon - these Rts. are diverted from SAR - S Ditch

** per George Lemmon - this Rt. was transferred to Big Springs in 1912 BJ 9-16-93

*** per George Lemmon - these Rts not Div. thru Jones Ditch originally, but rather thru ~~Hatchery~~ Jones Hatchery via Wh+Bg Springs.

OD-5813
AJ5813NP
SELECTION FILE: AHOAG

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION WATER MASTER REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 08/27/93
TIME: 15:51:51
PAGE: 1

| WATER RIGHT NUMBER | CURRENT OWNER NAME | PRIORITY DATE | STG | POINT OF DIVERSION | POD FLAG | TOTAL DIVERSION | TOTAL ACRES | WATER USES |
|---|---|---|---|---|---|---|---|---|
| WATER SOURCE: HOAGLAND TUNNEL | | | | | | | | |
| 36-00069 | JONES JR, JOHN W | 02/01/1888 | D | 07S 14E 30 SENESW | | 1.000 CFS | 401.0 | 01 |
| 36-00041B | OMOHUNDRO, NEVADA B | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.020 CFS | | 43 |
| 36-00041A | DICE, PHILIP F | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.020 CFS | 0.7 | 01 |
| 36-00041F | MORELAND, MARY L | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.030 CFS | 1.5 | 01 |
| 36-00061 | MORRIS, HOWARD L | 12/12/1901 | D | 07S 14E 30 SENESW | | 2.220 CFS | 121.0 | 01,04,43 |
| 36-00060 | BROOKS, ANDREE G | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.500 CFS | 14.0 | 01 |
| 36-00116 | MUSSER, J ALVIN | 12/12/1901 | D | 07S 14E 30 SENESW | | 1.140 CFS | 57.0 | 01 |
| 36-00041C | BYBEE, GERTRUDE B OWSLEY | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.060 CFS | 2.0 | 01 |
| 36-00041E | GRIDLEY, DORIS M | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.510 CFS | 25.5 | 01 |
| 36-00119 | LITTLEFAIR, TARA G | 12/12/1901 | D | 07S 14E 30 SENESW | | 0.200 CFS | 15.0 | 01 |
| 36-00062 | MORRIS, RHONDA K | 05/01/1912 | D | 07S 14E 30 SENESW | | 0.200 CFS | 121.0 | 01 |
| 36-00120 | LITTLEFAIR, TARA G | 07/08/1915 | D | 07S 14E 30 SENESW | | 0.500 CFS | 15.0 | 01 |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SENESW | | 73.050 CFS | | 19 |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SESENW | | 73.050 CFS | | 19 |
| WATER SOURCE: THREE SPRINGS | | | | | | | | |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SENESW | | 73.050 CFS | | 19 |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SESENW | | 73.050 CFS | | 19 |
| WATER SOURCE: WEATHERBY SPRINGS | | | | | | | | |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SESENW | | 73.050 CFS | | 19 |
| 36-07071 | JONES, DELORIS D | 07/08/1969 | L | 07S 14E 30 SENESW | | 73.050 CFS | | 19 |

Rights from HOAGLAND TUNNEL as recommended in SRBA BASIN 36 Directors Report. TJL 8-30-93

reduced — 36-00116

reduced — 36-00062

6.40 cfs

CD-5813
WR5813NP
SELECTION FILE: HOAG

IDAHO DEPARTMENT OF WATER RESOURCES
WATER MASTER REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 08/27/93
TIME: 15:44:55
PAGE: 1

| WATER RIGHT NUMBER | CURRENT OWNER NAME | PRIORITY DATE | STG | POINT OF DIVERSION | POD FLAG | TOTAL DIVERSION | TOTAL ACRES | WATER USES |
|---|---|---|---|---|---|---|---|---|
| **WATER SOURCE: HOAGLAND TUNNEL** | | | | | | | | |
| 36-00041 | ELIASON, ARMEDIA | 12/12/1901 | D | 07S 14E 30 | NESW | 0.800 CFS | | 01 |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | SENW | 73.050 CFS | | 19 |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| **WATER SOURCE: THREE SPRINGS** | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | SENW | 73.050 CFS | | 19 |
| **WATER SOURCE: WEATHERBY SPRINGS** | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | | 19 |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | SENW | 73.050 CFS | | 19 |

MICROFILMED
JUN 0 7 2013

OD-5813
WR5813NP
SELECTION FILE: THREESP

IDAHO DEPARTMENT OF WATER RESOURCES
WATER MASTER REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 08/27/93
TIME: 15:43:32
PAGE: 1

| WATER RIGHT NUMBER | CURRENT OWNER NAME | PRIORITY DATE | STG | POINT OF DIVERSION | POD FLAG | TOTAL DIVERSION | TOTAL ACRES | WATER USES |
|---|---|---|---|---|---|---|---|---|
| WATER SOURCE: HOAGLAND TUNNEL | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | 19 | |
| WATER SOURCE: THREE SPRINGS | | | | | | | | |
| 36-00046 | FARMER, J. EUGENE | 02/17/1896 | D | 07S 14E 30 | SENW | 5.700 CFS | 01 | |
| 36-00029 | BOYER, LEE | 02/17/1896 | D | 07S 14E 30 | SENW | 2.000 CFS | 01 | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | 19 | 7.7 cfs |
| WATER SOURCE: WEATHERBY SPRINGS | | | | | | | | |
| 36-07071 | JONES & SANDY LIVESTOCK CO. | 07/08/1969 | L | 07S 14E 30 | NESW | 73.050 CFS | 19 | |

Per George Lemmon this & 36-0045 is commingled water from both Three & Weatherby Springs.

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 27, 1993

Mr. Patrick Brown
HEPWORTH NUNGESTER & LEZAMIZ
P.O. Box 389
Twin Falls, ID 83303-0389

Re: Request for Distribution of Water from Weatherby Springs, Three Springs, and Hoagland Tunnel for Right No. 36-07071 (Jones)

Dear Mr. Brown:

This letter is in response to your letter dated August 24, 1993 regarding distribution of water for right No. 36-07071 (Jones). Records of the Idaho Department of Water Resources (IDWR) indicate that this right receives water from three sources: Weatherby Springs, Three Springs, and Hoagland Tunnel.

Tim Luke, IDWR staff, met with George Lemmon, Watermaster for District 36-A yesterday and reviewed the distribution of water to rights from these sources. Mr. Luke is now using the field notes to complete the calculations of flows observed. Based upon this field review, IDWR will immediately take all appropriate actions to assure the proper distribution of water.

We will keep you advised of the results of our investigation and actions in this matter.

Sincerely,

R. KEITH HIGGINSON
Director

RKH:dc

MICROFILMED
JUN 0 2 2004

LAW OFFICES
HN&L
Chartered
Hepworth, Nungester & Lezamiz

Twin Falls Office

John C. Hepworth
Wm. L. Nungester
John T. Lezamiz
John C. Hohnhorst
Jeffrey J. Hepworth
Penelope Parker**
Eileen A. McDevitt*
Patrick D. Brown

Boise Office

J. Charles Hepworth*
John J. Janik

*Member CA Bar
**Member UT Bar

August 24, 1993

Mr. George Lemmon
Watermaster, District 36A
2727 South 1050 East
Hagerman, Idaho 83332

Mr. R. Keith Higginson, Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83720-9000

Gentlemen:

Mr. John W. Jones, Jr., and Mrs. Delores D. Jones, my clients, are the owners of a licensed right to use 73.05 cfs of water for fish propagation. The water they are entitled to receive under that right is not being delivered to their diversion at Weatherby Springs. In fact, because water is not presently being delivered to the Jones' diversion, the Jones' fish propagation facility has numerous empty raceways. The lack of water at the springs is causing and will continue to cause significant financial injury to my clients.

In the Snake River Basin Adjudication, the Department of Water Resources has assigned the number A36-07071 to this licensed water right. It is important to note that according to IDWR's recommendation in the SRBA, IDWR agrees that the Jones' are entitled to that water according to a July 8, 1969 priority date for year-around use. Both I and my clients are also aware that IDWR admits that the springs are interconnected with the Snake Plain Aquifer; that junior right holders are pumping from the aquifer, and that every gallon pumped from the aquifer ultimately effects the amount of water available at the springs.

Consequently, Mr. and Mrs. Jones have instructed me to demand that you take whatever action is necessary in order for you to deliver to their diversion at Weatherby Springs the full amount of water the Jones' are entitled to receive under their licensed right.

Twin Falls Office
Slick Building
133 Shoshone St. N.
P.O. Box 389
Twin Falls, ID
83303-0389
(208) 734-7510
FAX: (208) 734-4115

Boise Office
537 West Bannock
P.O. Box 2582
Boise, ID 83701-2582
(208) 342-7510
FAX: (208) 342-2927

MICROFILMED
JUN 0 2 2004

This demand for distribution and delivery of water is made pursuant to Idaho Code Section 42-601, et seq., generally, and more particularly under Idaho Code Section 42-602.

We look forward to receiving your response and the full amount of water. If I can be of any assistance, please do not hesitate to contact me.

Very truly yours,

HEPWORTH, NUNGESTER & LEZAMIZ, CHARTERED

By: _____
Patrick D. Brown

PDB:crh
(21530ltr.823)

MICROFILMED
AUG 27 2003

**FAX TRANSMISSION**

**DATE:** August 24, 1993

**TIME:** 10:15am

**TO:** R. Keith Higginson, Director, IDWR
Fax No. 327-7866

**FROM:** Patrick D. Brown
Return Fax No. (208)734-4115

**RE:** John W. Jones and Delores Jones
Hagerman Water Right Owners, Inc.
File No. 92-1-530

This transmission consists of 3 pages, including this cover page. If you do not receive the entire transmission, please call Chris at (208)734-7510.

1) developing rules
2) instituting water mgmt
3) contested case proceedings
4) issues raised on appeal & response to

MICROFILMED
JUN 0 2 2004

P/C

NW SW, 26, 7S, 13E

36-2029

36-0007

36-0010

NE SW, 26, 7S, 13E

36-0015 Thru 36-0018

We don't know what right Buckeye Land has from Wetherby Springs. Before we can tell if they have been changed we need to know.

Bob

36-7740 For Fish

36- Power

MICROFILMED

JUN 0 2 2004

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

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

June 30, 1983

Robert F. McLaughlin
McLaughlin Law Offices
700 N. 3rd E. St.
Box 580
Mtn. Home, ID 83647

Dear Mr. McLaughlin:

Your June 7 letter asked whether the water rights on Weatherby Spring have been modified since November 26, 1968.

We searched our records and did not find any changes in license No. 36-7071 since it was issued on April 2, 1974. A copy of that license is enclosed.

We also recall that there was some action filed in District Court involving Weatherby Springs back in 1978 or 1979 over a stipulation. The case, No. 16676 in the 5th Judicial District Court, is entitled John W. Jones, Jr. and Deloris D. Jones, et al., vs. Reservoir Land Company, Inc. et al. We, however, do not have either a copy of the original stipulation or of the final judgement, if there was one, in this matter but this stipulation may have affected your client's water rights.

Perhaps this information will assist you in determining whether changes have occurred. If you would like us to search our records further, please identify in which water right you are specifically interested.

Sincerely,

Bobby D. Fleenor

BOBBY D. FLEENOR
Chief, Regional Offices Bureau

BDF:sc

Enclosure

MICROFILMED
JUN 0 2 2004

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 31, 1993

George Lemmon
Watermaster, District 36-A
Rt. 1, Box 218
Hagerman, ID 83332

Re: Measurements and Water Right Distribution of Weatherby Springs, Three Springs and Hoagland Tunnel; Demand to Deliver Water to Water Right License No. 36-7071 by John and Delores Jones.

Dear George:

Attached to this letter are copies of two memos which I prepared for the Water District 36-A file. The first memo dated August 27, 1993, is a summary of the measurements which Loren Holmes and I made on August 26. You will recall that I reviewed these measurements with you during our phone conversation of August 27. The second memo dated August 30, 1993, provides a summary and abstract listing of the water rights from the above referenced sources. In the latter memo I concluded that only a portion of license no. 36-7071 could be filled due to the available supply of spring flow and use of water for irrigation purposes under existing water rights which are senior to the Jones' 1969 priority license. I also concluded that the sum of the irrigation diversions on August 26 did not exceed the sum of the diversion rates listed for all of the senior irrigation water rights.

In order to address the demand made by Mr. and Mrs. Jones, the Department directs you to make immediate and regular inspections of all the diversions from Three Springs, Weatherby Springs and Hoagland Tunnel. During such inspections, you should affirm that water diverted under senior irrigation rights is beneficially used and could not otherwise be made available to fill a portion of the Jones's 1969 priority right. In other words, please make every effort possible to assure that as much of the available supply of spring flow as possible can be delivered to license no. 36-7071.

If you have questions regarding our direction or about any of the attached information, please call me or Norman Young directly at this office.

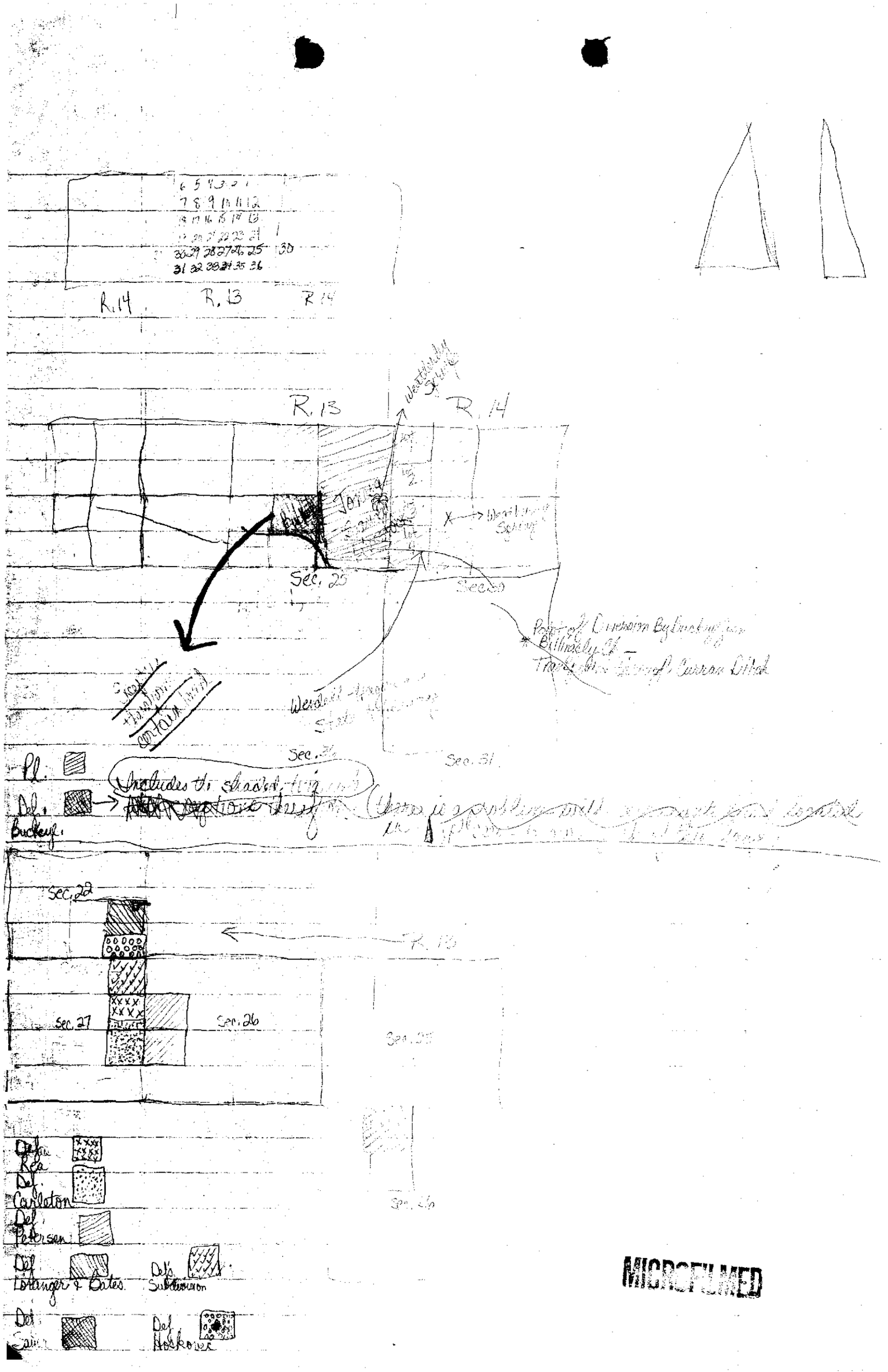
Sincerely,

Tim Luke

TIM LUKE
Hydrologist, Water Allocations

cc: Southern Region
Mr. and Mrs. John W. Jones
Pat Brown

MICROFILMED
JUN 02 2004




MICROFILMED

Billingsly

Complaint – See attached

In effect, the decree in this case would supplement the New International Ditch Co. decree

Claim of ... possession of ... decreed right ... dist. 36-A) which it is claimed has been ... abandoned. ...

Does Dept understand ... need to be a party, ... of a water district ... that we are bound by the decree by virtue of ... 42-607 ... and that we don't ... by virtue ... have filed ... to the Dept ... 42-607 or ... 42-701 as ... Did you want the petitioners to petition a portion of the ... ? ... Dept have ... intent to petition ... 42-701 ...

1) Def. Buick ... Right is RSD to ... Ditch No. ...

2) Def. Buick ... 2 second ... valued at ... in the ... Ditch ... Applicant.

3) Def. Buick ... valued at ... in the ... Ditch ... Applicant.

4) Def. ... water for ... Ditch ...

5) Def. ... Order ... Ditch ...

6) ...

7) Plaintiff ... Water ... waterhole, ... [illegible] ...

[illegible] ... Def. to ...

8)

9)

10)

night

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 1906
TWIN FALLS, IDAHO 83301
(208) 733-3722

R. P. PARRY
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
[redacted]
J. EVAN ROBERTSON
THOMAS G. WALKER, JR.
JAMES C. TUCKER

T. M. ROBERTSON (1911-1977)
JOHN H. DALY (1913-1968)

RECEIVED
MAR 30 1978
Department of Water Resources

March 29, 1978

Josephine P. Beeman
Assistant Attorney General
Idaho Department of Water Resources
Statehouse
Boise, ID 83707

Re: Jones and Sandy Livestock v. Reservoir Land Company, Inc.

Dear Jo:

Enclosed are papers concerning the Bar "S" Ditch in Water District No. 36A which involves Billingsley Creek. The diversion was decreed in New International v. IPC in 1932. The plaintiff has agreed not to contest a Motion to Intervene by the department on their own behalf and on behalf of the watermaster.

My concern is that the State and watermaster should be parties so as to properly control headworks after the final judgment. Would you consider a voluntary intervention without a motion to join you as an indispensable party?

Sincerely,

John A. Rosholt
JOHN A. ROSHOLT

JAR:vjs

Enclosures

cc: Mr. Steve Allred
without enclosures

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 1906
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T. M. ROBERTSON (1911-1977)
JOHN H. DALY (1913-1968)

RECEIVED
MAR 30 1978
Department of Water Resources

March 29, 1978

Josephine P. Beeman
Assistant Attorney General
Idaho Department of Water Resources
Statehouse
Boise, ID 83707

Re: Jones and Sandy Livestock v. Reservoir Land Company, Inc.

Dear Jo:

Enclosed are papers concerning the Bar "S" Ditch in Water District No. 36A which involves Billingsley Creek. The diversion was decreed in New International v. IPC in 1932. The plaintiff has agreed not to contest a Motion to Intervene by the department on their own behalf and on behalf of the watermaster.

My concern is that the State and watermaster should be parties so as to properly control headworks after the final judgment. Would you consider a voluntary intervention without a motion to join you as an indispensable party?

Sincerely,

John A. Rosholt
JOHN A. ROSHOLT

JAR:vjs

Enclosures

cc: Mr. Steve Allred
without enclosures

DIRECTOR
DEPUTY DIR.
RESO. ADMIN.
RESO. ENGINEERS
OPNS. ENGRG.
TECH. ASST.
PROJ. SPEC.
LEGAL
FISCAL
PERSONNEL
FILES

have Glen S. -- Pltf to [illegible] and
the Dept. should be [illegible]

PARRY, ROBERTSON, DALY & LARSON
ATTORNEYS-AT-LAW
P. O. BOX 1906
IDAHO FIRST NATIONAL BANK BUILDING
TWIN FALLS, IDAHO 83301
(208) 733-3722

RECEIVED
APR 3 [illegible]
Department of Water Resources

Date: 5/6/78

To: Jo Beeman

Re: Enclosed is a Copy of our Answers in Jones-Sandy V. Buckeye Land Co. We will file Today. We would like to have You in ....

PARRY, ROBERTSON, DALY & LARSON

By .....

February 16, 1978

Mrs. Edna Bell
Box 543
Wendell, Idaho 83855

Dear Mrs. Bell:

We have forwarded your February 9 letter to our Regional office in Twin Falls and they will be contacting you shortly to discuss this problem with you.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Offices

BDF:jfr

MICROFILMED

February 16, 1978

MEMO

TO: SOUTHERN REGION

FROM: BOB FLEENOR

RE: ATTACHED LETTER FROM MRS. BELL

Here is a letter from Mrs. Bell asking for our assistance in the protection of their existing water rights. Please meet with Mrs. Bell and discuss the problem with her. There have been problems of the same nature in the past involving Jones and Sandy Livestock as they tend to ignore some of the agreements that have been made in past years. Enclosed also is a copy of the agreement referred to by Mrs. Bell for your information.

MICROFILMED

Wendell, Idaho
Feb. 9, 1978

RECEIVED
FEB 10 1978
Department of Water Resources

Department of Water Resources
State House, Boise, Idaho

Dear Sirs:

I am writing in regard to Permit No. 36-7071 issued to Jones and Sandy Livestock Company for fish propagation.

On May 6, 1970, I, among other protestors to the application for this permit, agreed to with draw our protest on condition , as stated by Jones and Sandy, that they recognized our prior and subsisting consumptive water rights in Weatherby Springs for irrigation purposes and that they would not interfere with these rights in any way.

This written agreement, signed by all parties, included the statement that the State Reclamation Engineer would protect our prior consumptive rights.

I am writing to tell you that Jones and Sandy Livestock Co. are violating the terms of this agreement. All of the water from Weatherby Springs is now going down the hill, through their fish ponds leaving the head of our irrigation ditch dry. I am asking for an investigation by your department and a revoking of Permit No. 36-7071 for refusing to abide by their agreement to respect our prior irrigation rights.

Sincerely Yours,
Edna M. Bell

I am now living in Wendell but still own my farm in Hagerman. I signed the agreement papers as Mrs. Ted Bell.

MICROFILMED

August 27, 1976

Re: Permit No. 36-7071

Mrs. Edna M. Bell
Box 543
Wendell, Idaho 83355

Dear Mrs. Bell:

Enclosed is a copy of license no. 36-7071 in the name of Jones and Sandy Livestock Company.

Please notice that the requirements of the permit have been met and a water right license has been issued for the use of this water. The original permit was protested by several of the water users on Weatherby Springs and Three Springs. We have enclosed a copy of that original protest, the Jones and Sandy Livestock Co. answer to the protest and also the agreement to withdraw the protest filed by the water users on Weatherby Springs.

I hope this provides the information you were seeking. If you have any questions, please let us know.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosures

MICROFILMED

Wendell, Idaho
August 20, 1976

State of Idaho,
Dept. of Water Administration
Statehouse- Annex 2
Boise, Idaho

Dear Sirs.

Would you please send me a copy of Permit No. 36- 7071 obtained by Jones and Sandy Livestock of Hagerman, Ida. They have filed a law suit against the water users for irrigation as they want to put in more fish ponds. Have there been complaints or correspondence pertaining to Jones and Sandy fulfilling the conditions of the permit? If these are available, please send copies, as the rumor is that there have been complaints but we need proof. I hold a water right in the Weatherby Springs and have a letter dated Aug. 26, 1970, from your office , saying if I have questions to feel free to contact your office and that a copy of the Permit 36- 7071 could be obtained upon request.

The answer to the law suit must be filed within twenty days so I would appreciate an answer soon.

Sincerely Yours,

Edna M. Bell
Box 543
Wendell, Idaho
83355

April 3, 1974

Re: Permit No. 36-7071

Jones & Sandy Livestock Company
c/o W. A. Sandy
Hagerman, Idaho 83332

Gentlemen:

Enclosed herewith is a copy of theewater license issued on the above referenced permit.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

jfr

Enclosure

36-7071

March 15, 1974

Jones & Sandy Livestock Company
c/o W. A. Sandy
Hagerman, Idaho 83332

Gentlemen:

A representative of this Department has made an examination of the works covered by your Permit No. ~~36-7071~~ and has found the following:

Quantity of water diverted: ~~73.05 cfs~~ Source: ~~Weatherby Springs,~~ Three Springs & the Hoagland Tunnel

Amount of water that can be recognized as beneficially used under Idaho law: ~~73.05 cfs~~

The maximum quantity diverted shall not exceed ~~52,794~~ acre feet per year.

Beneficial use: ~~For fish propegation within the NE 1/4 SW 1/4, Sec. 30, Twp. 7 S, Rge. 14 E~~

Point of diversion: ~~NE 1/4 SW 1/4 & SE 1/4 NW 1/4, Sec. 30,~~ Twp. 7 S, Rge. 14 E, B.M.

Priority date established: ~~July 8, 1969~~

If you do not concur with these findings, please advise us within 10 days; otherwise, a license will be issued as set forth in this letter.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

jfr

36-7071

Permit # 36-7071 Jones & Sandy Livestock Co.

Date 11-16-73

standard 4 ft. Rectangular weirs.

Small Races.

1. .36' = 2.82 cfs
2. .38' = 3.06 "
3. .32 = 2.37 "
4. .38 = 3.06 "
5. .35' = 2.71 cfs
6. .36' = 2.82 "
7. .35' = 2.71 "
8. .34 = 2.60 "

total 22.15 cfs

All measurements were taken looking at races from the hatchery. Left to Right.

Large Races.

1. (A). .38' = 3.06 cfs
2. (A) .38' = 3.06 "
3. (A), .32' = 2.37 "
4. (A). .38' = 3.06 "
5. (A). .36' = 2.82 "
6. (A) .30' = 2.16 "
7. (A) .31' = 2.26 "
8. (A) .32' = 2.37 "
9. (A). .33' = 2.48 "
10. (A). .31' = 2.26 "

(B). .37' = 2.94 cfs
(B). .32' = 2.37 "
(B). .32' = 2.37 "
(B). .33' = 2.48 "
(B). .37' = 2.94 "
(B). .35' = 2.71 "
(B). .30' = 2.16 "
(B). .30' = 2.16 "
(B). .30' = 2.16 "
(B) .35' = 2.71 "

total 50.90 cfs

22.15 "

Q = 73.05 cfs

36 7071

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

OF THE

STATE OF IDAHO

In the Matter of Permit No. 36-7071 in the name of JONES & SANDY LIVESTOCK CO.

ORDER

WHEREAS, on July 8, 1969, Jones & Sandy Livestock Co. filed with the Department of Water Administration (formerly the Department of Reclamation) an application to appropriate 75.0 cfs of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼SW¼ and SE¼NW¼ of Sec. 30, Twp. 7 S, Rge. 14 E, B.M., Gooding County, to be used for fish propagation purposes; and,

WHEREAS, on August 26, 1970, the Department approved said application and issued Permit No. 36-7071 with the conditions that proof of construction of works and application of water to beneficial use be submitted to the Department on or before September 1, 1972; and that permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project; and,

WHEREAS, proof of beneficial use was received by the Department on August 29, 1972; and,

WHEREAS, on October 6, 1972, the Department received a request from the permit holder for the removal of the measuring device requirement on the inlet of the raceway system; and,

WHEREAS, it has been determined by the Department that the permit holder has shown just cause to relieve the measuring device requirement at the inlet works;

IT IS, THEREFORE, HEREBY ORDERED that the condition of approval of Permit No. 36-7071 that a measuring device be placed at the inlet works is REMOVED. The permit holder should be aware, however, that the Department will require a measuring device to be placed and maintained at the outlet works.

Dated this 13 day of November, 1972.

R. KEITH HIGGINSON
Director

BDF:DR

36 7071

# DEPARTMENT OF WATER ADMINISTRATION

FIELD REPORT

Permit No. 36-7071

Examination for ____ b/u

1. Name of permit holder Jones & Sandy Livestock Company

   Post office address % W.A. Sandy, Hagerman, Idaho Phone ____

   Person to contact ____ Phone ____

2. Source of water supply: Groundwater ☐ Surface water ☒ Weatherby Springs & Three Springs
   (name spring, stream, etc.)

   Tributary to Billingsley Creek

3. Water will be used for the following purposes:

   Amount 75.0 c.f.s. for Fish Propagation
   ____ AF/Annum (nature of use)

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

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

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

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

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

   Other uses: ____

4. Total amount to be appropriated:

   Max Rate of Diversion 75.0 cubic feet per second and annual volume ____ AF/Annum.

5. Location of Point(s) of Diversion:

   Township 7 S N/S, Range 14 E E/W, B.M., Section 30, Subdivision NE ¼ SW ¼, Gooding County

   Township ____ N/S, Range ____ E/W, B.M., Section 30, Subdivision SE ¼ NW ¼, ____ County

   Township ____ N/S, Range ____ E/W, B.M., Section ____, Subdivision ____ ¼ ____ ¼, ____ County

   Other Points of Diversions: ____

   Description of diverting works: headworks (concrete) and pipelines from points of diversion to points of use at hatchery

   * Measuring device required: yes ☒ no ☐

   * That permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project.

6. Lands to be irrigated or place of use.

| TWP. | RANGE | SEC. | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
| 7 S | 14 E | 30 | | | | | | | | | X | | | | | | | | -0- |
| | | | | | | | | | | | | | | | | | | | |
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36-7071

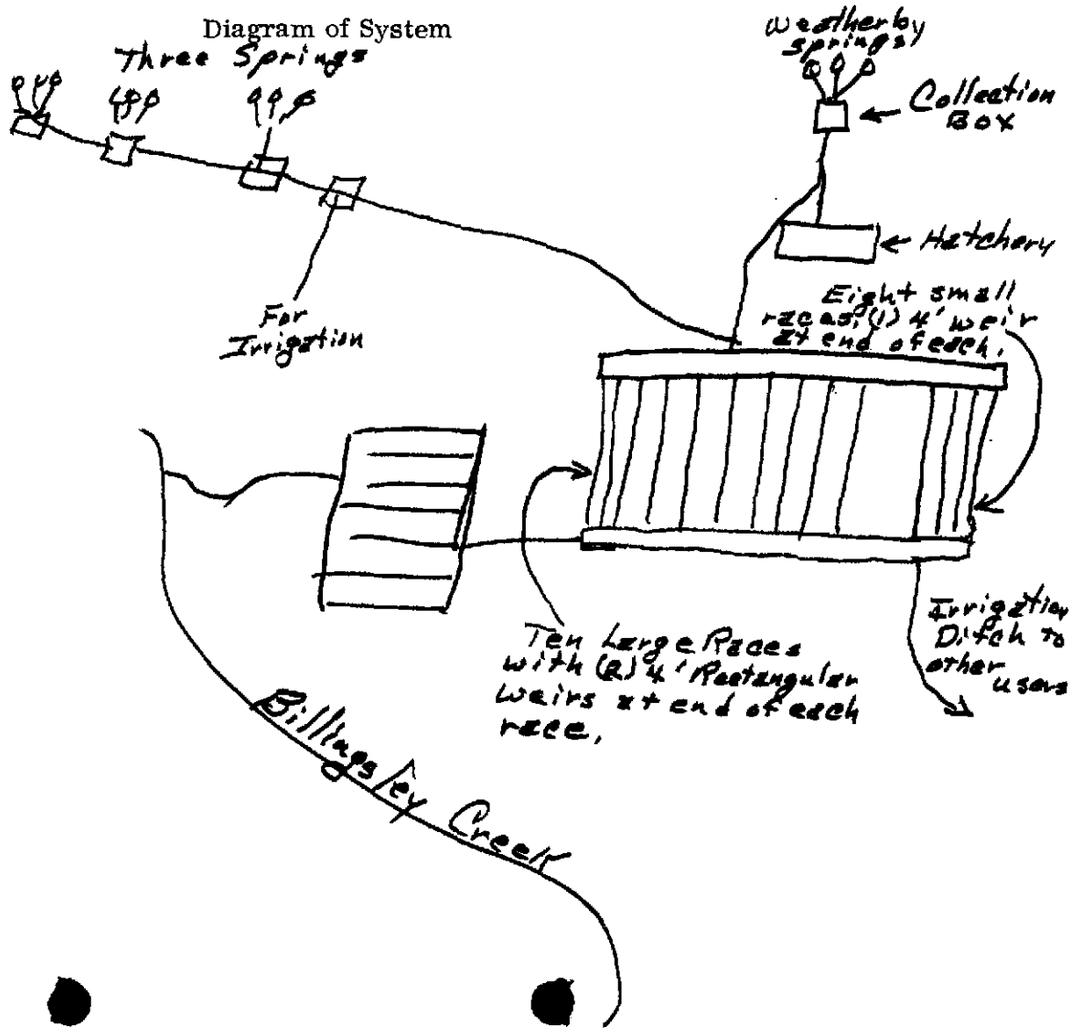
TOTAL ACREAGE ____

R. 14 E

T. 7 S

30

Diagram of System



DATE OF EXAM 11-15-73

ACREAGE
Found _____
Recommended _____

Irrigation Requirement _____ Ac Ft/Ac

USE
Irrigation Q=_____c.f.s. V=_____ AF/Ann. from _____ to _____
Domestic Q=_____c.f.s. V=_____ AF/Ann. from _____ to _____
Livestock Q=_____c.f.s. V=_____ AF/Ann. from _____ to _____
Fish Propagation
Q= 73.05 cfs V=52,793.23 AF/Ann from Jan. 1 to Dec. 31

Is water co-mingled? yes_____ no ✓

Name source: _____
twp._____N/S, Rge_____E/W, B.M., Sec._____, Sub._____¼_____¼_____
County

Exchange? yes_____ no ✓

Name source exchanged with: _____
twp._____N/S, Rge_____E/W, B.M., Sec._____, Sub._____¼_____¼_____
County

Point of injection:
twp._____N/S, Rge_____E/W, B.M., Sec._____, Sub._____¼_____¼_____
County

Point of exchange:
twp._____N/S, Rge_____E/W, B.M., Sec._____, Sub._____¼_____¼_____
County

Total Q measured 73.05 cfs Method of measurement 4' rectangular weirs See attached sheet

Total Q recommended 73.05 cfs Meter No._____ Type_____ Condition New

Total V recommended ~~not 73.05 cfs~~ 52,793.23

Recommended Amendments:

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

MEASUREMENT CALCULATION:
Q = See attached sheet

V = (365 da)(73.05 cfs)(1.98) = 52,793.23 ~~cfs~~ KD AF/Ann

SYSTEM DESCRIPTION:
Springs are collected in cement boxes and diverted to hatchery and raceways. Estimate zero leakage in racesdue to location on side of a hill. Water is distributed through 18 raceways. (10) large ones have (2) 4' rectangular weirs at effluent, (8) smaller ones have (1) 4' rectangular weir at effluent. Water then goes into cement spillway to other races down below prior to discharging into Billingsley Creek.

REMARKS:
Dept. personnel determined this was best suitable location for measuring devices. See attached waiver of devices on inlet. Owner intends to install these, however in near future. Due to the amount of fill dirt around the races, they can not stand any leakage from races or the whole project would possibly slide into Billingsley Creek.

Examiner's Signature KD Flowerdew Date 11-19-73

Checked by Michael L. Steele Date 12-12-73

Approved by _____ Date _____

June 5, 1973

Re: Permit No. 36-7071

Jones and Sandy Livestock Company
Hagerman,
Idaho 83332

Gentlemen:

Enclosed please find a copy of the approved application for amendment in connection with the above referenced permit.

Sincerely,

D. Darlene Reich
Water Rights Supervisor

jc
Enclosure
cc: John Hepworth
John Reshelt
Enc: Copy of amendment

36-7071 - Jones and Sandy Livestock Company

Gooding County Courthouse, Gooding, Idaho

May 31, 1973 - 1:30 pm

ROSTER OF ATTENDANCE

| Name | Address | Representing |
|---|---|---|
| JOHN ROSHOLT | P.O. 525 Twin Falls, Idaho | Weatherby Springs Hongland Tunnel Interagency Assn. |
| John C. Hasworth | 1020 main Buhl, Idaho | Jones + Sandy Livestock Co. |

35

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

OF THE

STATE OF IDAHO

| | |
|---|---|
| In the Matter of Protest Against Approval of Application for Amendment No. 36-7071 in the name of Jones and Sandy Livestock Co. | NOTICE OF CONFERENCE AND/OR HEARING |

On February 23, 1973, Jones and Sandy Livestock Company filed with the Department of Water Administration an application for amendment . On April 18, 1973, the Department received a protest against approval of said application from Janaye B. Williams, Hazel Monaghan, Ted Monaghan, Kerr Land & Livestock Co, Nevada Omohundro, Prudy Ouisley, Jenny Stewart, and Doris Boyer Gridley.

The Department has set the matter of protest for conference and/or hearing for Thursday, May 31, 1973, at 1:30 p.m., in the Gooding County Courthouse, Gooding, Idaho. Any hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Administration. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party desiring the taking of stenographic notes by a qualified court reporter must request such in writing at least five (5) days before the date set for hearing and must submit to the director the name of a qualified reporter who is available on the date set for hearing. The party requesting the reporter shall bear the expense of the reporter's attendance fees. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestant may allow the Department without prejudice to dismiss the protest or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this seventeenth day of May, 1973.

Bob Haynes

BOB HAYNES
District Engineer

36 7071

**SENDER: Be sure to follow instructions on other side**

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
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*Received the numbered article described below*

REGISTERED NO.

CERTIFIED NO.
58

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DATE DELIVERED
MAY 18 1973

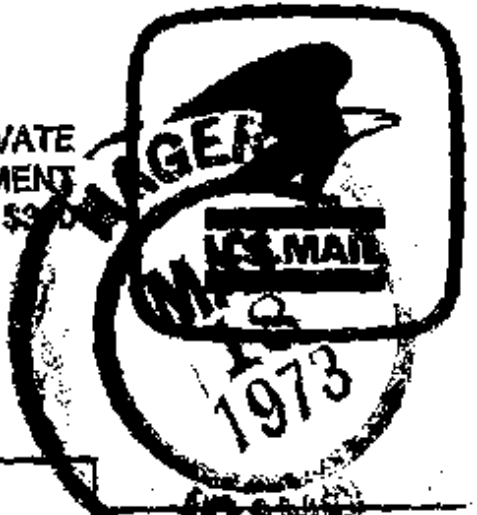
① SIGNATURE OR NAME OF ADDRESSEE *(Must always be filled in)*
John & Sandy Loth

② SIGNATURE OF ADDRESSEE'S AGENT, IF ANY
D Jones

③ SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*

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P.S. Form 3811 Nov. 1970 e65-16-814774

38 2071

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CERTIFIED NO.
64

INSURED NO.

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

① 

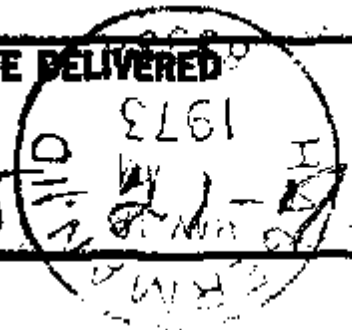
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② 

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MAY 222 1973

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Department of Water Administration
Southern District Office

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SOUTHERN DISTRICT OFFICE
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TWIN FALLS, IDAHO 83301

3S 7071

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REGISTERED NO.

CERTIFIED NO.

65

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Jeremy Stewart

② SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

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33

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Water Resource Agency

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U.S. POSTAGE
MAY 18 1973

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IDAHO DEPARTMENT OF WATER ADMINISTRATION
SOUTH [illegible] DISTRICT OFFICE
104 [illegible] LAWYER BLVD. NORTH
[illegible], IDAHO 83301

36 7C

PS Form 3811 Nov. 1970 495-10-811-974-1

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CERTIFIED NO.
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INSURED NO.

DATE DELIVERED

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2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

3 SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*

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OFFICIAL BUSINESS

PENALTY FOR PRIVATE
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MAY 21 1973
Water Resource Regulation

MAR
16
1973

Postmark of Delivering Office

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SOUTHERN DISTRICT OFFICE
[illegible] BLUE LAKES BLVD. NORTH
[illegible] FALLS, IDAHO 83301

36 7071

PS Form 3811 Nov. 1970 405-10-[illegible]-1

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60

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1 SIGNATURE OF ADDRESSEE *(Must always be filled in)*

Ed Monaghan

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

MAY 18 19[illegible]

3 SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*

36 [illegible]

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MAY 1973
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Southern District

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IDAHO DEPARTMENT OF WATER ADMINISTRATION
SOUTHERN DISTRICT OFFICE
1341 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

36 3071

PS Form 3811 Nov. 1970 c55-18-91277-1

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CERTIFIED NO.
59

INSURED NO.

① SIGNATURE OR NAME OF ADDRESSEE *(Must always be filled in)*
Lawyer B. Williams

② SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED
MAY 18 1973

③ SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*
36 7071

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Department of Water Administration
Southern District Office

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SOUTHERN DISTRICT OFFICE
[illegible] BLUE LAKES BLVD. [illegible]
[illegible] FALLS, IDAHO 83301

36 7071

PS Form 3811 Nov. 1970 c55-10-81277-1

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☐ Deliver ONLY to addressee

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**REGISTERED NO.**

**CERTIFIED NO.**
63

**INSURED NO.**

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

1 Mamie Lee Seaman

2 **SIGNATURE OF ADDRESSEE'S AGENT, IF ANY**

**DATE DELIVERED**

3 **SHOW WHERE DELIVERED** ***(Only if requested, and include ZIP Code)***

36 707!

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MAY 27 1973
Department of Water Administration
Southern District




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PS Form 3811 Rev. 1970 [illegible]

CS 7071

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☐ Deliver ONLY to addressee

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REGISTERED NO.

CERTIFIED NO.

61

INSURED NO.

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

① [signature]

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

②

DATE DELIVERED

MAY 18 19 ③

SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*

[illegible] 2071

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OFFICIAL BUSINESS

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IDAHO DEPARTMENT OF WATER ADMINISTRATION

104)

36 N 71

PS Form 3811 Nov. 1970

WENDELL OFFICE

IDAHO FIRST National Bank

ESTABLISHED 1867
WENDELL, IDAHO

State of Idaho
Department of Water Administration
Southern District Office
1041 Blue Lakes Blvd North
Twin Falls, Idaho 83301

TO WHOM IT MAY CONCERN:

RE: PROTEST # 36-7071:

WILL YOU PLEASE CORRECT THE NAME AND SPELLING OF MY NAME AND ADDRESS. THE MAIL IS BEING SENT TO Prudy Ouisley: The Correct Name and Address is

TRUDY OWSLEY
P.O. BOX 516
WENDELL, IDAHO

YOUR IMMEDIATE ATTENTION IN THIS MATTER WOULD BE APPRECIATED.

Sincerely

Trudy Owsley

CERTIFIED MAILING LIST

| No. | Name | Address |
|---|---|---|
| 58 | Jones and Sandy Livestock Company | Hagerman, Idaho 83332 |
| 59 | Ms. Janaye B. Williams | Route 1, Hagerman, Idaho 83332 |
| 60 | Mrs. Hazel Monaghan | Route 1, Hagerman, Idaho 83332 |
| 61 | Mr. Ted Monaghan | Route 1, Hagerman, Idaho 83332 |
| 62 | Kerr Land & Livestock Co.<br>John Muirhead, Mgr. | Route 3, Buhl, ID 83316 |
| 63 | Mr. Nevada Omohundro | Route 1, Box 67, Hagerman, ID |
| 64 | Ms. Prudy Ouisley * | Route 1, Hagerman, ID 83332 |
| 65 | Ms. Jenny Stewart | Hagerman, Idaho 83332 |
| 66 | Ms. Doris Boyer Gridley | Hagerman, Idaho 83332 |

* Correct name spelled: Trudy Owsley — P. O. Box 516, Wendell, ID 83355

36 [illegible]

*STATE OF IDAHO*
*DEPARTMENT OF WATER ADMINISTRATION*
Statehouse – Annex 2
Boise, Idaho 83707

9-5-11

May 17, 1973

Gooding County Courthouse
Clerk of the District Court
Gooding, ID 33330

Gentlemen:

This is to confirm the use of the Courtroom for conference and/or hearing to be held by this office on Thursday, May 31, 1973, at 1:30 p.m.

Thank you for your cooperation in this matter.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

38 2071

April 26, 1973

John Rosholt
Parry, Robertson, Daly and Larson
P. O. Box 525
Twin Falls, ID 83301

Dear John:

In reply to your request for information concerning Application for Permit by Jones and Sandy Livestock Company, we have no Application for Permit pending. However, there is an Application for Amendment for an existing permit. The Application No. is 36-7071 and involves an additional source of water for operations in the fish hatchery already built. The existing permit has had a proof of beneficial use filed on it and is awaiting action on the Application for Amendment before a field exam is made by the Department.

If we can be of any further assistance, don't hesitate to contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

36 7071

RECEIVED
APR 26 1973
Department of Water Administration
Southern District Office

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
THE IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 525
TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY (1913-1968)
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
ROBERT C. PAINE

April 25, 1973

Mr. Robert G. Haynes
Department of Water Administration
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

Dear Bob:

I'm interested in knowing if you have any applications for permit by Jones-Sandy Livestock Company, or any other application to the Weatherby Springs waters, Section 19 or 20, Township 7 South, Range 14 East, Boise Meridian. The filing I'm interested in is apparently in application form and publication is supposedly now being made.

Thank you for your cooperation.

Sincerely,

John A. Rosholt (ddm)

JOHN A. ROSHOLT

JAR:ddm

36 [illegible]

April 25, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Jones and Sandy Livestock Company
Sherman, Idaho
83332

Gentlemen:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your application No. 36-7071. The name has been added to the second page of the protest. We have corresponded with you in the past concerning this protest filed in connection with this amended application. Information contained in that letter pertains to this protest also.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest.

If we may be of any assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:clw

Enc.

36 7071

April 25, 1973

Re: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Doris Boyer Gridley
Hagerman, Idaho
83332

Dear Ms. Gridley:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

RH:aiw

36 7071

[illegible] 19, 1973

Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

[illegible] Monaghan

[illegible]an, ID 83332

Dear Mr. Monaghan:

[illegible]s to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principal items we can consider at conference and/or hearing in either approving or denying an application for permit [illegible]ection 42-203, Idaho Code:

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes proposed?

3. Is the application made in good faith or for delay or speculative purposes?

4. Does the applicant have sufficient financial resources to complete the project?

The Department may reject an application and refuse issuance of a permit, approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not [illegible] may convey or establish a right-of-way over private or governmental lands. Any right of way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

[illegible] Haynes
District Engineer
Southern District

Eng[illegible]

36 7071

April 19, 1973

Re: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Jones and Sandy Livestock Company
Hagerman, ID
83332

Gentlemen:

We have enclosed a copy of the protest filed against the issuance of a permit pursuant to your Application for Amendment No. 36-7071. You should be aware that the following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section [illegible], Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water [illegible] sufficient for the purpose intended?

3. Is the application made in good faith and for a beneficial purposes?

4. Has the applicant sufficient financial resources available to complete the project?

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or [illegible] lands. Any right-of-way or easement must be obtained by the applicant through action outside of this water right proceedings.

You will be notified at a later date as to the time and place set for a conference and/or hearing to discuss the matters of protest. Legal counsel is not mandatory at any proceeding before the Department, although you may desire to employ an attorney in your behalf.

If we may be of any assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:lw
Enc.

36 7071

April 19, 1973

Re: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Jenny Stewart
Hagerman, ID
83332

Dear Ms. Stewart:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for a permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes sought?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-ofway over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

36 7071

April 19, 1983

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Prudy Ouisley
Route 1
Hagerman, ID 83332

Dear Ms. Ouisley:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit. (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes proposed?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources available to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right of entry or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Rob Haynes
District Engineer
Southern District

RH:aly

36 7071

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Mr. Nevada Omohundro
Route 1, Box 67
Shoshone, ID 83332

Dear Mr. Omohundro:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the purposes intended?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

RH:lw

36 7071

April 19, 1973

Re: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Kahr Land & Livestock Co.
John Muirhead, Mgr.
Route 3
Buhl, ID 83316

Dear Mr. Muirhead:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or rejecting an application for permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposal [illegible] insufficient [illegible]?

3. Is the application made in good faith and for a beneficial purposes?

4. Has the applicant sufficient financial resources [illegible] complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit approve the permit for a quantity of water less than requested, or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any right-of-way or easement must be obtained by the individuals concerned through action outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

36 7071

...11 19, 1973

Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

...dazel Monaghan
...e 1
...mpa, ID 83332

...s. Monaghan:

...s to acknowledge receipt of your protest to issuance of a permit pursuant to ...ove referenced application. The following are the principle items we can consider ...conference and/or hearing in either approving or [illegible] an application for ...ion 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed use [illegible] insufficient for the purposes stated in the application?

3. Is the application made in good faith or for speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

...Department may reject an application and refuse issuance of a permit partially ...the permit, approve the permit for a quantity of water less than applied for or ...ve the permit subject to special conditions.

...permit issued by this office is subject to all prior water rights and does not in any ...way convey or establish a right-of-way over private or governmental lands. Any right-...of-way or easement must be obtained by the individuals concerned through action outside ...the water right proceedings.

...will be notified at a later date as to the time and place set for conference and/ ...hearing to discuss the matters of protest. If we may be of further assistance, please ...contact us.

...Very truly yours,

Bob Haynes
District Engineer
Southern District

...ljm

36 7071

April 19, 1973

RE: Application for Amendment No. 36-7071 - Jones and Sandy Livestock Co.

Ms. Janaye B. Williams
Route 1
Hagerman, ID 83332

Dear Ms. Williams:

This is to acknowledge receipt of your protest to issuance of a permit pursuant to the above referenced application. The following are the principle items we can consider at a conference and/or hearing in either approving or denying an application for permit (Section 42-203, Idaho Code).

1. Will the proposed use reduce the quantity of water under existing water rights?

2. Is the proposed water supply insufficient for the uses included?

3. Is the application made in good faith or for delay or speculative purposes?

4. Has the applicant sufficient financial resources with which to complete the project?

The Department may reject an application and refuse issuance of a permit, partially approve the permit, approve the permit for a quantity of water less than applied for or approve the permit subject to special conditions.

A permit issued by this office is subject to all prior water rights and does not in any way convey or establish a right-of-way over private or governmental lands. Any rights of way or easement must be obtained by the individuals concerned through actions outside of the water right proceedings.

You will be notified at a later date as to the time and place set for conference and/or hearing to discuss the matters of protest. If we may be of further assistance, please contact us.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:kw

Idaho Department of Water Administration
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

8

The following are our reasons for protesting the amendment to the water permit number 36-7071, requesting water rights in the Hoagland Tunnel and Weatherby Springs.

1 --- The development of seepage areas below the above tunnel endangers the flow of water in the tunnel through drainage.

2 --- Previous actions i. e. the changing and enlarging of outlet on the cement ditch ( belonging solely to the users of irrigation water, namely Ted and Hazel Monoghan, Janaye Cox Williams, Doris Boyer Gridley, Trudy Owsley, Jenny Stewart, Nevada Onohondro and Kerr Cattle Company ) was done without notification or permission of any of the above persons.
This action alone denotes to us that future water actions would also be done without any consideration of our rights and wishes.

3 --- Our lands demand this water as a means of livelihood of which would be endangered by lessening our water supply by seepage and lower tunnel development.

4 --- If stipulations not to develope seepage below the Hoagland Tunnel were not adhered to, the lawyers could tie up pursitive litagation so long it could and would cause undue hardship and disasterous results to the water users.

5 --- We do not feel our water should be endangered for any advantage of supposed seepage to the extended fish industry of Jones and Sandy Live Stock Company and we wish this danger dispersed through denial of any such amended permit rather than submit to future concern and attendent litagation.

Idaho Department of Water Administration
1041 Blue Lakes Boulevard North
Twin Falls, Idaho 83301

Signed

Janaye B Williams
RR. N. Hagerman. Ida
837-4910

Nevada Omohundro
Rt 1 Box 67
Hagerman, Idaho
837-4497

Hazel Monaghan
Route #1
Hagerman, Idaho.
837-4868

Rudy Ousley
Route # 1
Hagerman, Idaho
837-4853

Ted Monaghan
HAGERMAN, IDAHO
837-4868

Jenny Stewart
Hagerman-Idaho
837-4977

Zeu Land & Livestock Co
John Muirhead mgr.
PH 3 Burl Idaho
83316
Phone 543-4091

Boris Boyer Gudley
Hagerman
Idaho

[illegible]

Gentlemen:

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

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

An affidavit of publication must be submitted to the Department along with the publication bill. In order to receive payment, the following certification must appear on the bill:

> "I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid."

_____

(signature of claimant)

Very truly yours,

Bob Haynes
District Engineer
Southern District

Bill submitted _____ By _____

[illegible]

38 7071

NOTICE OF PROPOSED AMENDMENT

TO WATER PERMIT

Notice is hereby given that on August 26, 1970, Permit No. 36-7071 was issued to Jones & Sandy Livestock Company of Hagerman, Idaho, for the diversion of 75.0 c.f.s. of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼SW¼ and SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.

The permit holder now proposes to amend Permit No. 36-7071, requesting 75.0 c.f.s. of water from Weatherby Springs, Three Springs, and Woodland Tunnel from a point within the NE¼SW¼, and SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼SW¼, Sec. 30, T. 7S, R. 14E, B.M.

Any protest against the granting of this amendment must be filed with the Idaho Department of Water Administration, 1 1 Jus Lakes Boulevard North, Twin Falls, Idaho 83301 on or before April 30, 1973.

R. KEITH HIGGINSON

Director

Published in the Gooding County Leader, Gooding, ID on April 12 and April 19, 1973.

36 7071

Need Galley Proof .....

**NOTICE OF PROPOSED AMENDMENT TO WATER PERMIT**

Notice is hereby given that on August 26, 1970, Permit No. 36-7071 was issued to Jones & Sandy Livestock Company of Hagerman, Idaho, for the diversion of 75.0 c.f.s. of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼ SW¼ and SE¼ NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼ SW¼, Sec. 30, T. 7S, R. 14E, B.M.

The permit holder now proposes to amend Permit No. 36-7071, requesting 75.0 c.f.s. of water from Weatherby Springs, and Hoagland Tunnel from a point within the NE¼ SW¼, and SE¼ NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding County, to be used for fish propagation purposes within the NE¼ SW¼, Sec. 30, T. 7S, R. 14E, B.M.

Any protest against the amending of this permit must be filed with the Idaho Department of Water Administration, 1041 Blue Lakes Boulevard North, Twin Falls, Idaho 83301 on or before April 30, 1973.

R. KEITH HIGGINSON,
Director

4-12-2tc

Changed "Three Springs" by phone
ald 4-12-73

Protest date 4
May 7, 1973

March 7, 1973

Re: Permit No. 36-7071

Bob Haynes, District Engineer
Department of Water Administration
1041 Blue Lakes Blvd., North
Twin Falls, Idaho 83301

Dear Bob:

We have reviewed the Amendment filed by Jones and Sandy in connection with Permit No. 36-7071. We feel that the intent of this amendment should be advertised as was the original application. We would ask that the advertising be done by the district office.

We also want the intent of the amendment to be explained in greater detail. It appears that they are adding Hoagland Tunnel as a source of water supply and there is no other changes to the permit proposed. If this is the case, please emphasize the detail of the change on the application.

After it has been advertised and the protest period is up, please resubmit it to our office with your comments on final action.

Very truly yours,

Donald W. McEldowney
Water Rights Administrator

DWM/cg

Enclosures

36 7071

February 23, 1973

RE: Amendment No. 36-7071

John W. Jones Jr.
Jones and Sandy
Hagerman, ID 83332

Dear Mr. Jones:

Attached is your Receipt No. 9574 for $10.00 for the above referenced Amendment which was received in our office under the above date.

Very truly yours,

Bob Haynes
District Engineer
Southern District

BH:alw

Enc.

36 7071

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION

OF THE

STATE OF IDAHO

In the Matter of Permit No. 36-7071 in the name of JONES & SANDY LIVESTOCK CO.

ORDER

WHEREAS, on July 8, 1969, Jones & Sandy Livestock Co. filed with the Department of Water Administration (formerly the Department of Reclamation) an application to appropriate 75.0 cfs of water from Weatherby Springs and Three Springs, tributary to Billingsley Creek, from a point within the NE¼SW¼ and SE¼NW¼ of Sec. 30, Twp. 7 S, Rge. 14 E, B.M., Gooding County, to be used for fish propagation purposes; and,

WHEREAS, on August 26, 1970, the Department approved said application and issued Permit No. 36-7071 with the conditions that proof of construction of works and application of water to beneficial use be submitted to the Department on or before September 1, 1972; and that permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project; and,

WHEREAS, proof of beneficial use was received by the Department on August 29, 1972; and,

WHEREAS, on October 6, 1972, the Department received a request from the permit holder for the removal of the measuring device requirement on the inlet of the raceway system; and,

WHEREAS, it has been determined by the Department that the permit holder has shown just cause to relieve the measuring device requirement at the inlet works;

IT IS, THEREFORE, HEREBY ORDERED that the condition of approval of Permit No. 36-7071 that a measuring device be placed at the inlet works is REMOVED. The permit holder should be aware, however, that the Department will require a measuring device to be placed and maintained at the outlet works.

Dated this 13 day of November, 1972.

R. KEITH HIGGINSON
Director

BDF:DR

November 15, 1972

Re: Permit No. 36-7071

Jones & Sandy Livestock Co.
% W.A. Sandy
Box 265
Hagerman, Idaho 83332

Gentlemen:

Enclosed please find a copy of the Order which removes the measuring device requirement at the inlet works under the above referenced permit.

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR
Enclosure

bc: Southern District Office

36-7071

INTER-DEPARTMENT MEMO — 1

DATE

FROM Bob Haynes

TO Bob Eleanor

SUBJECT I have inspected this installation and would recommend that the requirements be waived Losses are negligible in the system. They were advised by someone from the SCS that weirs could be installed in the inlet channels, but the water is flowing to fast for that to work. It is my opinion that they did try to comply with the requirement but to install a measuring device on the ~~would be very costly~~

SIGNATURE

the water can be measured at the outlet of the raceways.

RECEIVED
OCT 6 1972
Department of Water Administration
Southern District Office

Hagerman, Idaho

October 5, 1972

State of Idaho
Department of Water Administration
Robert G. Haynes, District Engineer
1041 Blue Lakes Blvd. N.
Twin Falls, Idaho
83301

Dear Sir:

We request waivering the requirement for measuring device on the inlet of Raceway System because the nature of piping makes it difficult to install the devices.

The Raceways are concrete so the losses are negligible.

The permit is Water Permit #36-7071, Jones and Sandy Livestock Co., Box 265, Hagerman, Idaho, 83332.

Sincerely,

Jones & Sandy Livestock Co.

John W. Jones Jr.

John W. Jones Jr.

ddj

36 7071

August 29, 1972

Re: Permit No. 36-7071

Jones & Sandy Livestock Co.
c/o W.A. Sandy
Hagerman, Idaho 83332

Gentlemen:

We acknowledge receipt of your 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 of 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 field examiner, please contact our Southern District Office at 1041 Blue Lakes Blvd. North, Twin Falls, Idaho.**

Sincerely,

BOBBY D. FLEENOR
Assistant Director

BDF:DR

bc: Southern District Office
Enc: Field exam report

38 7071

Identification No. 36-7271

Permit No. _____

RECEIVED

1972

Department of Water Administration

# STATE OF IDAHO
# DEPARTMENT OF RECLAMATION

## PROOF OF APPLICATION OF WATER TO BENEFICIAL USE

1. a) Name of Permit Holder Jones & Sandy Livestock Co.

   b) Post Office Address Hagerman, Idaho 83332 Box 265

2. Permit Number _____

3. Date of Priority that you are prepared to establish (Date of Application) 7-8-69 (Began using water) 5-1-71

4. a) Source from which water was appropriated Weatherby Springs & Three Springs

   b) Location of the point of diversion: NE ¼ SW ¼, Section 30

   Township 7S, Range 14 E Boise Meridian, Other points of diversion:

   SE¼ of NW¼ Sec. 30 T7S R 14 E.B.M. Gooding County

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

   amount 75 for Fish Raising purposes from JAN. 1 (Month-Day) to DEC. 31 (Month-Day) incl.
   (cfs ~~and/or acre feet per annum~~)

   amount _____ for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   (cfs and/or acre feet per annum)

   amount _____ for _____ purposes from _____ (Month-Day) to _____ (Month-Day) incl.
   (cfs and/or acre feet per annum)

   b) Total amount appropriated 75 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: With current meter by SCS Technician

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: _____

   b) Describe the agreement or understanding by which you take water from the works: _____
   On Three Springs our Point of diversion is below Irrigation Point of diversion. Weatherby Springs is diverted to Hatchery at old head structure.

7. a) Breifly 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 breif description of diversion structure and/or canal or ditch) Head works (Concrete) and Pipelines from Points of diversion to Points of Water use at hatchery. (13AR S ditch)

   b) Describe the type and size of measuring device which you have installed at your point of diversion: Rectangular Weirs ~~in~~ ft.

   c) Give well drillers name and address and date the well was completed _____

Exam typed 8-29-72 by [illegible]

36 [illegible]

8. If for other than irrigation, describe the beneficial use to which you have applied the water and the place of use Fish Raising NE¼ of SW¼ Sec. 30 T 7S R 14 E.B.M. & domestic use for 6 employees.

9. Irrigation uses: Describe the lands irrigated by giving the acreages irrigated within each 40 acre subdivision:

| TWP. | RANGE | SEC. | NE¼ | | | | NW¼ | | | | SW¼ | | | | SE¼ | | | | TOTALS |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | |
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Total number of acres irrigated

10. Remarks:

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

Aug 28-1972
(Date)

Jones + family Livestock Co.
By John W. Jones Jr.
(Signature)

State of Ida )
County of Gooding ) ss.

On this 28th day of August, 1972, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

David (P.) Nicholson
Notary Public residing at Hagerman Ida

My commission expires 7-13-1975

Jones & Sandy Lvst Co.
Box 265
Hagerman, Idaho
83332

36 7071

RETURN RECEIPT REQUESTED

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

**SENDER: Be sure to follow instructions on other side**

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
*(Additional charges required for these services)*

☐ Show to whom, date and address where delivered

☐ Deliver ONLY to addressee

## RECEIPT

***Received the numbered article described below***

REGISTERED NO.

CERTIFIED NO.
23763

INSURED NO.

1 2

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

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED
JUL 26 [illegible]

3

SHOW WHERE DELIVERED *(Only if requested, and include ZIP Code)*

U.S. POSTAL SERVICE
OFFICIAL BUSINESS

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

26 1972

Postmark of Delivering Office

**SENDER INSTRUCTIONS**

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

- If special services are desired, check block(s) on other side.
- Moisten gummed ends and attach to back of article.

RETURN TO

DEPARTMENT OF WATER ADMINISTRATION
STATEHOUSE - ANNEX #2
BOISE, IDAHO 83707

38 7071

PS Form 3811 Nov. 1970 555—10—81277-1

June 30, 1972 CERTIFIED MAIL # 23763

Re: Permit No. 36-7071

Jones & Sandy Livestock Co.
c/o W.A. Sandy
Hagerman, Idaho 83332

Gentlemen:

One of the conditions of approval of your water Permit No. 36-7071 (see last page of your approved permit) was that evidence of the extent of development be submitted as proof of application of water to beneficial use to this office on or before September 1, 1972. Enclosed is an affidavit form which must be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use affidavit or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise the permit will lapse and be of no further force or effect.

R. Keith Higginson

R. KEITH HIGGINSON
Director

Enc: Proof affidavit
dr

38 [illegible]

LAW OFFICES
HEPWORTH, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
AREA CODE 208
PHONE 543-4368
BUHL, IDAHO -- 83316

JOHN C. HEPWORTH
WM. L. NUNGESTER
MICHAEL H. FELTON

August 24, 1971

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

Attention: R. Keith Higginson

Re: Permit No. 36-7071

Dear Keith:

Bill Jones and Al Sandy contacted me with respect to a letter received from you dated August 16, 1971, concerning the above numbered permit. They asked that I reply to your letter and at the same time invite you to meet with them at their place in Hagerman.

In your letter you suggested that they may have violated the agreement which was entered into with those persons who protested their application, by destroying a part of the original ditch from Three Springs. We are uncertain as to precisely what you are referring to. The only thing that we can imagine is an old ditch that was at one time located along the hillside near the point where the water spills. If we are right in this assumption, it should be pointed out that this old ditch has not been used for at least 40 years.

Your letter stated that the pipeline carrying the water for my clients, Boyers, and others has not been properly installed. Frankly, this pipeline was installed at the specific direction of the other parties. We followed their instructions despite the fact that my clients tried to persuade them that it should probably be located at a different point.

Your letter pointed out that the protestants claim that they have experienced considerable fluctuation in the water available

to them. Frankly, we are unaware of any fluctuation that has occurred. There is a dike ditch that has been used for many years. This ditch has broken out repeatedly and is still leaking in a number of places. My clients have been and are still willing to participate in the repairing and cleaning of this dike ditch. The other people have been unwilling to participate in this endeavor. I think that if you will examine this ditch, you will appreciate the reason why there may have been some fluctuation. My clients have been put to real expense because of this leakage and are just as anxious to take care of these matters as anyone else. Apparently, they are more willing than the others, in as much as the others seem unable or unwilling to cooperate in the needed repairs.

I think that both of us appreciate the difficulties involved in discussing these matters independent of all parties being present. My principal purpose in writing is to urge you or someone from your department to set up a meeting at the location in question where all parties interested can attend and discuss the matters. I think that if this is done, the problems can be corrected and any misunderstandings can be erased.

My clients are most anxious not only to comply with their license, but also to have a good relationship with their neighbors. Again, I think that these matters can probably be resolved by meeting with the interested parties at the site of the problem. We will be happy to attend such a meeting at any time the department determines.

Very truly yours,

HEPWORTH, NUNGESTER & FELTON

John C. Hepworth

JCH:klh

August 16, 1971

Re: Permit No. 36-7071

Jones & Sandy Livestock Company
c/o W. A. Sandy
Hagerman, Idaho 83332

Dear Mr. Sandy:

Last week at the request of the users of water from Three Springs I visited the location of this development near Hagerman, Idaho.

From what I could observe it appears that you may have violated the agreement you entered into with those persons who protested your application for Permit Number 36-7071. That agreement reads in part as follows:

> " 1. With respect to Three Springs, it is agreed that first party's appropriation of the waters from Three Springs shall be limited to those waters which spill to the west. First party agrees that it will not take water from second parties' ditch nor in any way interfere with second parties' prior water right nor with second parties' ditch."

The field examination indicated that not only have you destroyed part of the original ditch from the Three Springs but you have also inserted sandbags for the purpose of turning the water down the hill into your own collection system.

It is my understanding that the pipeline which has been installed may not be properly designed to carry the water needed by those holding prior rights and that you are at the present time delivering water to them from Weatherby Springs. No authorization has been given to change the point of diversion of the protestants' water rights.

These people also claim that they experienced considerable fluctuation in the water available to them at the end of the ditch system. These fluctuations may be caused by changes you necessarily must make to accommodate your sprinkler system operation.

I will appreciate it if you will review this matter with your attorney and advise me of what steps you intend to take to correct any deficiency in your present system and operation. You should be aware that it is possible for this office to place the entire diversion and use of water from this area under the jurisdiction of a water master whose duty it would be to see that all rights are satisfied in order of their priority.

36 7071

I will appreciate hearing from you so that we can determine what further action to take.

Very truly yours,

R. KEITH HIGGINSON
Director

RKE:pk

COPY

BEFORE THE DIRECTOR

of the

IDAHO DEPARTMENT OF WATER ADMINISTRATION

In the Matter of Application for )
)
Permit No. 36-7071 in the name of ) MEMORANDUM DECISION
)
JONES & SANDY LIVESTOCK COMPANY )
)

On July 8, 1969, the applicant, Jones & Sandy Livestock Company of Hagerman, Idaho, submitted an Application for Permit to the Department of Reclamation (now the Department of Water Administration) requesting authority to divert 75 cubic feet per second of water for fish propagation from January 1 to December 31 of each year. Water is to be diverted from Weatherby Springs and Three Springs, tributary to Billingsley Creek. The location of the point of diversion is the NE¼SW¼ of Section 30, T. 7S, R. 14E, and the SE¼NW¼ of Section 30, T. 7S, R. 14E, Gooding County. Water is to be discharged after use into Billingsley Creek in Lot 3 of the SW¼ of Section 30, T. 7S, R. 14E. The applicant proposed to raise trout in a commercial fish hatchery. Notice of the Application was published as required by Law in the Gooding County Leader. Protests were received from the Idaho Springs Trout Company, Henry Povey, and Arthur Kaster et al.

A conference was held on December 16, 1969. The matter was set for formal hearing on May 12 and 13, 1970. On April 21, 1970, a stipulation was received withdrawing the protest submitted by Idaho Springs Trout Company, and an order was issued by the State Reclamation Engineer setting aside that protest. On May 8, 1970, the Department received agreements to withdraw the protests of the remaining protestants. These agreements and stipulations generally recognize the protesting parties' prior rights to the water in agreeing that any use the applicant may gain by virtue of the Permit will be limited to nonconsumptive uses.

The Department of Water Administration must consider four points in approving or denying an Application for Permit:

36-7071

(1) Is the water supply sufficient for the purpose for which it is sought to be appropriated?

(2) Would the granting of the Permit decrease the supply to prior water rights?

(3) Was the application made in good faith or for delay or speculative purposes?

(4) Does the applicant have sufficient financial resources to complete the proposed project?

Based upon the information supplied by the applicant and information of the Department, the Director of the Department of Water Administration enters the following findings:

(1) Although specific records are not available of the flow of the specific springs involved, there appears to be water over and above that requested by the applicant. The applicant intends to raise 460,000 pounds of fish annually. At the rule-of-thumb figure of 10,000 to 15,000 pounds per c.f.s. of water, this would require 45 c.f.s.

(2) The applicant states that it will take approximately four years to complete construction and obtain full operation. The applicant owns the property at the point of diversion and place of use. To insure that reasonable progress is made, time limits should be placed on the construction schedule and the beginning date of operation of the facility. The applicant estimates that the minimum construction cost would be in the neighborhood of $65,000. The applicant has presented a letter from the Idaho First National Bank verifying that, in their opinion, the applicant has sufficient financial resources but, however, would be willing to extend necessary credit to complete the facility. It would appear that the applicant has sufficient financial resources to implement the project as outlined.

Based on the above findings, the Director enters the following decision: That the Application be approved for 75 c.f.s. of water subject to all prior rights and permits, and subject to the following specific conditions:

36-7071

(a) That the applicant be given a period of two years within which to construct the facility and apply the water to a beneficial use, with the understanding that an extension of time can be granted if requested at the end of that period and conditioned upon the permit holder making reasonable and diligent progress.

(b) That the permit cannot be assigned or sold without the written consent of the Department of Water Administration, and that failure to receive such consent will be deemed by the Department to be an admission that the permit was obtained for speculative purposes and as such will be subject to cancellation.

(c) That permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project.

Dated this 25th day of August, 1970.

C. STEPHEN ALLRED
Deputy Director

36-1071

DEPARTMENT OF WATER ADMINISTRATION

STAFF ANALYSIS

Rush

Application No. 36-7071 Name Jones & Sandy Livestock

Source Weatherby Springs & Three Springs, trib. Billingsley Creek

Point of Diversion NE¼SW¼ & SE¼NW¼, Sec. 30, T. 7S, R. 14E, B.M., Gooding

Quantity 75 Use fish propagation Period Jan. 1 - Dec. 31

Quantity _____ Use _____ Period _____

Quantity _____ Use _____ Period _____

Well Size _____ Diameter _____ Proposed Depth _____ Feet

Use commercial trout raising

Date Forwarded 8-6-70 Date Returned _____ Received by _____

COMMENTS: Quantity is not excessive based on water required for volume of ponds. Quantity of fish to produced is low but within reasonable limits.

RECOMMENDED:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Applied: | Qty. 75 | Use F.P. | Period Jan-Dec | AF/A _____ | AF _____ |
| | Qty. _____ | Use _____ | Period _____ | AF/A _____ | AF _____ |
| | Qty. _____ | Use _____ | Period _____ | AF/A _____ | AF _____ |
| Maximum: | Qty. _____ | Use _____ | Period _____ | AF/A _____ | AF _____ |
| | Qty. _____ | Use _____ | Period _____ | AF/A _____ | AF _____ |
| | Qty. _____ | Use _____ | Period _____ | AF/A _____ | AF _____ |

ACTION: Approved ✓ Denied _____

Conditions of approval or reason for denial: _____

Subject to cancellation after one year if work is not progressing satisfactorily or delay is due to circumstances beyond applicants control as determined by Dept. of Water Admin. Director

ENGINEERING By M. K. Dunn Title Asst. Dir

Date 8-14-70

36-7071

AFTER FIVE DAYS RETURN TO
**DEPARTMENT OF RECLAMATION**
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

Hepworth, Walker, Nungester & Felton
Mr. John C. Hepworth
1020 Main
Buhl, Idaho 83316

36-3071

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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☐ Deliver ONLY to addressee

*(Additional charges required for these services)*

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22091

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DATE DELIVERED

6-28-70

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

Hayworth, Parker Insurance

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Dellon

By Ada Gannon

3 SHOW WHERE DELIVERED (*only if requested*)

6-70 11

c55—16—71548-10 GPO

36-7071

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

BUHL, ID 83316
AUG 28
PM
1970

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POD Form 3811 Apr. 1967 055—10—71848-10

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

[signature]

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

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3 SHOW WHERE DELIVERED (*only if requested*)

5-6-1971

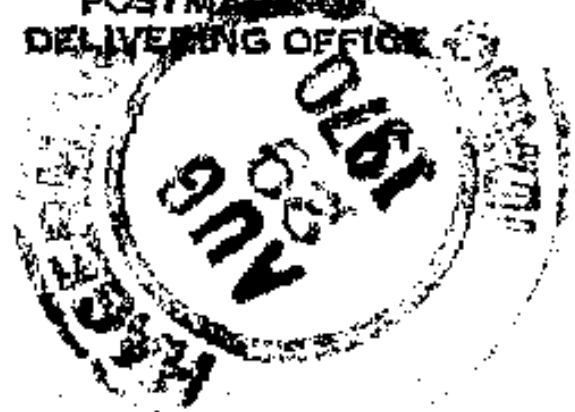
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36-7071

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POD Form 3811 Apr. 1967 456—16—71548-10

*STATE OF IDAHO*
*DEPARTMENT OF WATER ADMINISTRATION*
Statehouse – Annex 2
Boise, Idaho 83707

Printed
36-7071

**NAME AND ADDRESS OF SENDER** Dept. of Water Administration

*Indicate type of mail*
☐ INSURED ☐ C. O. D. ☒ CERTIFIED

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

| | NUMBER OF ARTICLE | NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS | POSTAGE | FEE | DUE SENDER IF C. O. D. | ENDORSEMENT [1] | R. R. FEE | S. D. FEE | S. H. FEE [2] | RESTRICTED DELIVERY FEE / REMARKS |
|---|---|---|---|---|---|---|---|---|---|---|
| 1 | 22090 | Jones & Sandy Livestock Company | 06 | 30 | | | 15 | | | 36-7071 |
| 2 | | c/o Mr. W. A. Sandy Hagerman | | | | | | | | |
| 3 | 22091 | Hepworth, Walker, Rungeling & Fulton | 06 | 30 | | | 15 | | | 36-7071 |
| 4 | | Mr. John C. Hepworth 1020 Main | | | | | | | | |
| | | Boise Idaho | | | | | | | | |
| 6 | | | | | | | | | | |
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TOTAL NUMBER OF PIECES LISTED BY SENDER: 2

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE:

POSTMASTER, PER (*Name of receiving employee*)

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."
[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

36-7071

Copies: Mr. Russell Boyer, Hagerman, Idaho 83332
Mr. Art Ka[redacted]er, Hagerman, Idaho 83332
Mr. Roland Boyer, Hagerman, Idaho 83332
John & K. A. Barton, Hagerman, Idaho 83332
Mr. Walter Stewart, Hagerman, Idaho 83332
Mr. Stan Hoskovec, Hagerman, Idaho 83332
Mr. Stan Hoskovec, Jr., Hagerman, Idaho 83332
Mr. Orland Peterson, Hagerman, Idaho 83332
Mrs. Ted Bell, Hagerman, Idaho 83332

August 26, 1970

Re: Permit No. 36-7071
Jones and Sandy Livestock

Mr. James Crist
Hagerman,
Idaho 83332

Dear Mr. Crist:

This letter is to advise you that Permit No. 36-7071 has been approved subject to the following conditions:

1. That the applicant be given a period of two years within which to construct the facility and apply the water to a beneficial use, with the understanding that an extension of time be granted if requested at the end of that period and conditioned upon the permit holder making reasonable and diligent progress.

2. That the permit cannot be assigned or sold without the written consent of the Department of Water Administration, and that failure to receive such consent will be deemed by the Department to be an admission that the permit was obtained for speculative purposes and as such will be subject to cancellation.

3. That permanent measuring devices of a type approved by the Department be placed and maintained at such locations as to accurately measure the amount diverted to the project and the effluent from the project.

If you should have any questions, please feel free to contact this office. A copy of this permit can be obtained upon request.

Very truly yours,

C. Stephen Allred
Deputy Director

CSA:KH

36-7071

August 26, 1970

Re: Permit No. 36-7071

Jones & Sandy Livestock Company
c/o Mr. W. A. Sandy
Hagerman, Idaho 83332

Dear Mr. Sandy:

Enclosed is a copy of your approved Application for Permit No. 36-7071 and a memorandum decision setting forth the conditions for approval.

Be sure to note the condition requiring you to install and maintain measuring devices. We are enclosing a letter describing different types of measuring devices accepted by this office.

Very truly yours,

C. Stephen Allred
Deputy Director

CSA:kh

Enclosures: Copy of permit
Memorandum Decision
Receipt No. 3257 for $100
1 letter

certified # 22090

36-7071

August 26, 1970

Re: Permit No. 36-7071

Hepworth, Walker, Nungester & Felton
Mr. John C. Hepworth
1020 Main
Buhl, Idaho 83316

Dear John:

Enclosed is a copy of a Memorandum Decision setting forth the conditions of approval of your client's above numbered permit.

Very truly yours,

C. Stephen Allred
Deputy Director

CSA:kh

Enclosure

certified # 22091

36-7071

August 26, 1970

Re: Permit No. 36-7071

Idaho Springs Trout Company
Mr. Robert A. Erkins
Box 232
Buhl, Idaho 83316

Dear Mr. Erkins:

Enclosed is a copy of a Memorandum Decision setting forth the conditions of approval of the above numbered permit. This should be of interest to you since you protested the approval of this permit.

Very truly yours,

C. Stephen Allred
Deputy Director

CSA:KH

Enclosure

cc. Parry, Robertson, Daly & Larson
Mr. John A. Rosholt
P.O. Box 523
Twin Falls, Idaho 83301

36-7071

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21484

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

Max J. F. Crist

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

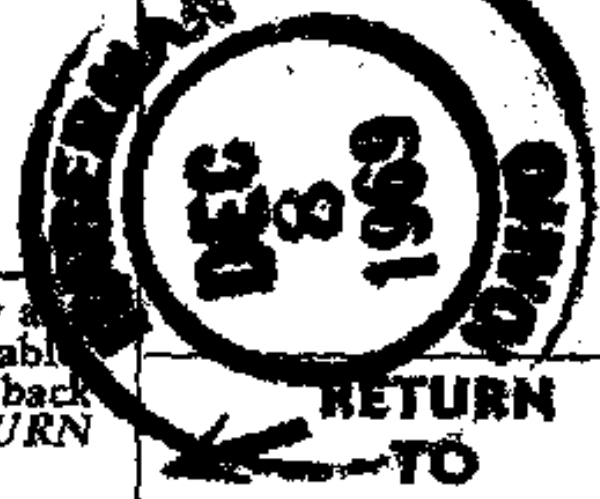
36-7071

055—16—71648-10 GPO

POST OFFICE DEPARTMENT
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Department of Reclamation

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Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

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21482

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

Mrs Earl Bell

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

12/6/69

3 SHOW WHERE DELIVERED (*only if requested*)

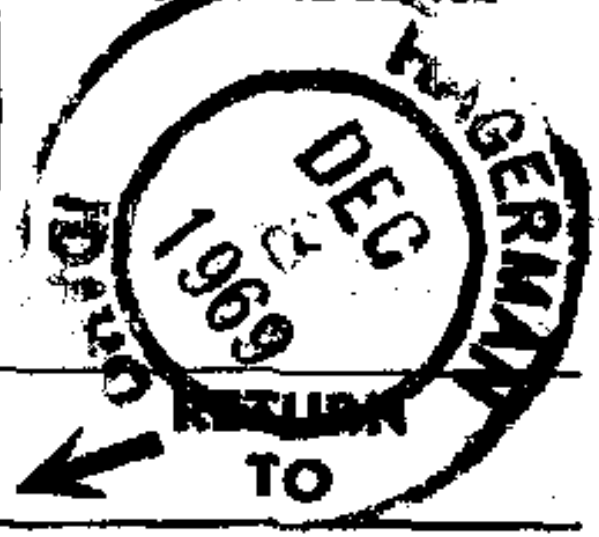
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21481

INSURED NO.

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

1 John K Burton

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 DEC 8 1969

SHOW WHERE DELIVERED (*only if requested*)

56-7071

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POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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056—16—71649-16

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21480

INSURED NO.

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

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Mrs. Stanley Hasbrouck Jr.

DATE DELIVERED

DEC 10 19

3 SHOW WHERE DELIVERED (*only if requested*)

12-6-71

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

Stan Moore

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

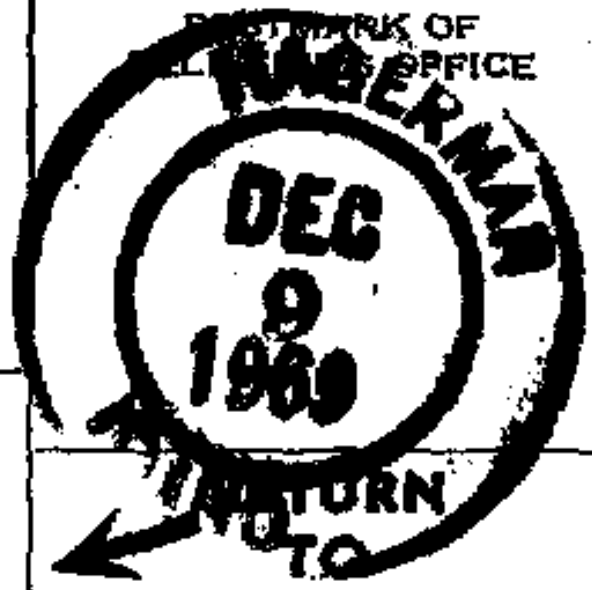
3 SHOW WHERE DELIVERED (*only if requested*)

76-7071

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POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

PENALTY FOR PRIVATE USE TO AVOID
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INSURED NO.

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

W S Leinert

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

e55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

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21477

INSURED NO.

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

Mr. Roland Boyer

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

John Boyer

DATE DELIVERED

12/6/69

3 SHOW WHERE DELIVERED (*only if requested*)

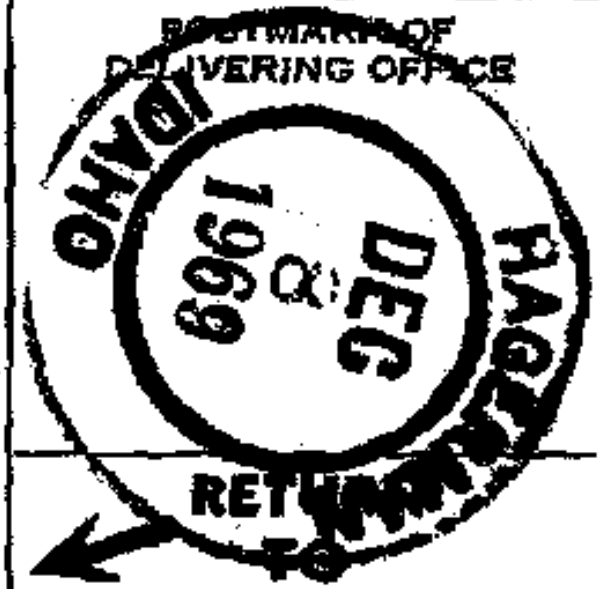
56-7071

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

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INSURED NO.

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

Russell Boyce

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

12/6/69

3 SHOW WHERE DELIVERED (*only if requested*)

16-2071

6961

030 5

055—16—71648-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

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# INSTRUCTIONS TO DELIVERING EMPLOYEE

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*(Additional charges required for these services)*

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CERTIFIED NO.

21483

INSURED NO.

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

Orland Peterson

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

12-9-69

3 SHOW WHERE DELIVERED (*only if requested*)

76-2071

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING POST OFFICE

DEC 8 1969

IDAHO

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NAME OF SENDER

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Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

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*(Additional charges required for these services)*

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***Received the numbered article described below.***

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21475

INSURED NO.

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

Arthur Reuter

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

DEC 11 19

3 SHOW WHERE DELIVERED (*only if requested*)

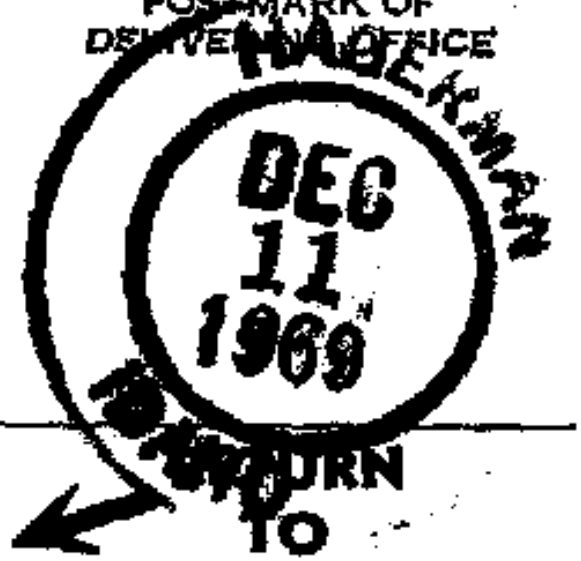
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POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING POST OFFICE




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NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Staten use

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967 635—16—71648—10

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CERTIFIED NO.

21474

INSURED NO.

DATE DELIVERED

DEC 8 1969

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

Henry Perry

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Kathleen Perry

3 SHOW WHERE DELIVERED (*only if requested*)

36-2021

c55-16-71648-10 GPO

**POST OFFICE DEPARTMENT**
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE




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

**RETURN TO**

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

PUD Form 3811 Apr. 1967 035—16—71649-10

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

# RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21472

INSURED NO.

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

Wm. John W. Jones Jr.

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

56-7071

c55—18—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE




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

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967 055—16—71548-10

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

# RECEIPT

*Received the numbered article described below.*

REGISTERED NO.

CERTIFIED NO.

21485

INSURED NO.

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

Nancy Robertson
for Addressee

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Ray E Lawson Agent

DATE DELIVERED

DEC 8 69

3 SHOW WHERE DELIVERED (*only if requested*)

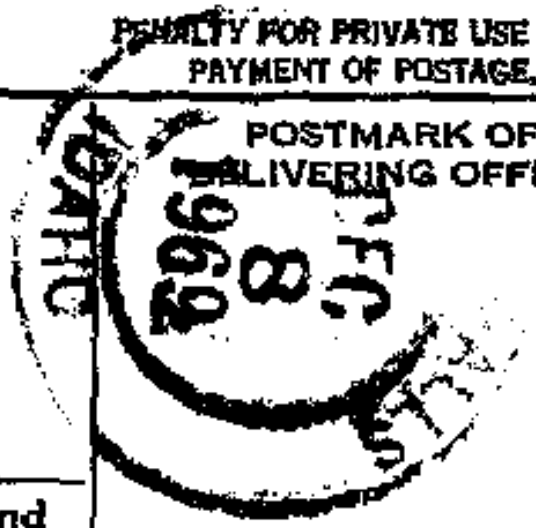
76-7071

c55—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE




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

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Stateh.use

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967 c65—16—71543-10

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

3 14 7 3

INSURED NO.

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

Dr Dako Springs Trust Co,

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Dirk D Brown

DATE DELIVERED

12/8/69

3 SHOW WHERE DELIVERED (*only if requested*)

56-2021

c53—16—71548-10 GPO

POST OFFICE DEPARTMENT
OFFICIAL BUSINESS

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

POSTMARK OF DELIVERING OFFICE

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

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O.

Annex # 2 State use

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3811 Apr. 1967

65—16—71643-16

AFTER FIVE DAYS RETURN TO
**DEPARTMENT OF RECLAMATION**
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

Jones & Sandy Livestock Co.
c/o W. A. Sandy
Hagerman, Idaho 83332

36-7071

NAME AND ADDRESS OF SENDER: Dept. of Reclamation

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

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

POSTMARK AND DATE OF RECEIPT

| | NUMBER OF ARTICLE | NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS | POSTAGE | FEE | DUE SENDER IF C. O. D. | ENDORSEMENT [1] | R. R. FEE | S. D. FEE | S. H. FEE [2] | RESTRICTED DELIVERY FEE / REMARKS |
|---|---|---|---|---|---|---|---|---|---|---|
| ✓ 1 | 21476 | Russell Boyer, Hagerman, Idaho | .06 | 30 | | | 15 | | | 36-7071 |
| ✓ 2 | 21477 | Roland Boyer, Hagerman, Idaho | .06 | 30 | | | 15 | | | 36-7071 |
| ✓ 3 | 21478 | Walter Stewart, Hagerman, Idaho | .06 | 30 | | | 15 | | | 36-7071 |
| ✓ 4 | 21479 | Stan Hoskovec, Hagerman, Idaho | .06 | 30 | | | .15 | | | 36-70[redacted] |
| ✓ 5 | 21480 | Stan Hoskovec, Jr. Hagerman, Idaho | .06 | 30 | | | .15 | | | 36-7071 |
| ✓ 6 | 21481 | John Barton & K. R. Barton, Hagerman Idaho | .06 | .30 | | | .15 | | | 36-7071 |
| ✓ 7 | 21482 | Ted Bill, Hagerman Idaho | .06 | .30 | | | .15 | | | 36-7071 |
| ✓ 8 | 21483 | Orland Peterson, Hagerman, Idaho | .06 | .30 | | | .15 | | | 36-7071 |
| ✓ 9 | 21484 | Lance Crist, Hagerman, Idaho | .06 | .30 | | | .15 | | | 36-7071 |
| ✓ 10 | 21485 | Perry, Robertson, Daly & Larson | .06 | .30 | | | .15 | | | 36-7071 |
| 11 | | Attn: John A. Rashalt, P.O. Box | | | | | | | | |
| 12 | | 525, Twin Falls, Idaho | | | | | | | | |
| 13 | | | | | | | | | | |
| 14 | | | | | | | | | | |
| 15 | | | | | | | | | | |
| 16 | | | | | | | | | | |
| 17 | | | | | | | | | | |
| 18 | | | | | | | | | | |
| 19 | | | | | | | | | | |
| 20 | | | | | | | | | | |

TOTAL NUMBER OF PIECES LISTED BY SENDER: 10

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE:

POSTMASTER, PER (Name of receiving employee)

BOISE IDAHO DEC 1960

[1] Use "A" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Bottles," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."

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

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

36-7071

NAME AND ADDRESS OF SENDER: Dept. of Reclamation

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

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

POSTMARK AND DATE OF RECEIPT

| | NUMBER OF ARTICLE | NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS | POSTAGE | FEE | DUE SENDER IF C. O. D. | ENDORSEMENT [1] | R. R. FEE | S. D. FEE | S. H. FEE [2] | RESTRICTED DELIVERY FEE / REMARKS |
|---|---|---|---|---|---|---|---|---|---|---|
| ✓ 1 | 21466 | Norman L Standal & Lloyd Lemen | .06 | .30 | | | .15 | | | 36-7072 |
| 2 | | Star Route, Bliss, Idaho | | | | | | | | |
| ✓ 3 | 21467 | Percy Robertson, Daly & Larsen | .06 | .30 | | | .15 | | | 36-7072 |
| 4 | | Attn. John A. Rockett, P.O. Box 525 | | | | | | | | [redacted] |
| 5 | | Twin Falls, Idaho | | | | | | | | |
| ✓ 6 | 21468 | Robert Brailsford, Brailsford Bros | .06 | .30 | | | .15 | | | 36-7072 |
| 7 | | Inc., R.R. 4, Buhl, Idaho | | | | | | | | |
| ✓ 8 | 21469 | John R. Le Moyne, Hagerman, Idaho | .06 | .30 | | | .15 | | | 36-7072 |
| ✓ 9 | 21470 | Snake River Ski Club, m. Farrell, | .06 | .30 | | | .15 | | | 36-7072 |
| 10 | | Harwood, Admiral, Hagerman, Idaho | | | | | | | | |
| 11 | ~~21471~~ | ~~Idaho Power Company, Thos. J.~~ | ~~.06~~ | ~~.30~~ | | | .15 | | | ~~36-7072~~ |
| 12 | | ~~Kerr, Vice President, Twin Falls, Idaho~~ | | | | | | | | |
| 13 | | ~~Box 880, Boise, Idaho~~ | | | | | | | | |
| ✓ 14 | 21472 | Jones & Sandy Livestock Co., c/o W. A. | .06 | .30 | | | .15 | | | 36-7071 |
| 15 | | Sandy, Hagerman, Idaho | | | | | | | | [redacted] |
| ✓ 16 | 21473 | Idaho Springs Trout Company, | .06 | .30 | | | .15 | | | 36-7071 |
| 17 | | Robert A. Erskine, President, P.O. Box 232, | | | | | | | | |
| 18 | | Buhl, Idaho | | | | | | | | |
| ✓ 19 | 21474 | Harry Povey, P.O. Box 344, Twin Falls Ida | .06 | .30 | | | .15 | | | 36-7071 |
| 20 | 21475 | Art Kasta, Hagerman Idaho | .06 | .30 | | | .15 | | | 36-7071 |

TOTAL NUMBER OF PIECES LISTED BY SENDER: 9

TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE: nine

POSTMASTER, PER (Name of receiving employee): Dunlavy

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Bulky," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up." Weight charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE

C48—16—72948-2

36-7071

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

* * * * * * * * * * * * * * * * * *

IN THE MATTER OF APPLICATION FOR )
PERMIT NO. 36-7071 OF )
) AGREEMENT TO
JONES & SANDY LIVESTOCK COMPANY ) WITHDRAW PROTEST

* * * * * * * * * * * * * * * * * *

COMES NOW, Jones & Sandy Livestock Company as first party, and Art Kaster, Russell Boyer and Ronald Boyer, as second parties.

WHEREAS, Jones & Sandy Livestock Company of Hagerman, Idaho, filed an application to appropriate water of Weatherby Springs and Three Springs for the purpose of trout propagation, and,

WHEREAS, the second parties filed a protest to such application provided that the protestants had no objection to the application "provided that the diversion of waters thereunder and the return to the stream are in such a manner and in such form as will not interfere with the rights of protestants", and,

WHEREAS, a prehearing conference was held in the Twin Falls City Hall. The second parties, who were in attendance at said conference, agreed that they would withdraw the protest if the State Reclamation Engineer would protect their prior consumptive irrigation water rights, and,

WHEREAS, the parties wish to avoid the hearing scheduled for the 12th and 13th of May, 1970, by second parties withdrawing



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

their protest conditioned upon first party agreeing that it recognizes the second parties' prior and subsisting consumptive water rights for irrigation purposes and agreeing that the first party's use of said water applied for shall be nonconsumptive for fish propagation and will not interfere with second parties' prior rights.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements herein made, the parties agree as follows:

1. With respect to Three Springs, it is agreed that first party's appropriation of the waters from Three Springs shall be limited to those waters which spill to the west. First party agrees that it will not take water from second parties' ditch nor in any way interfere with second parties' prior water right nor with second parties' ditch.

The undersigned, being the second parties herein, withdraw their protest made with respect to the application of Jones & Sandy Livestock Company to appropriate 75 cubic feet per second of water from Weatherby and Three Springs, tributaries of Billingsley Creek. The withdrawal of said protest is conditioned upon first party agreeing that any rights it gains to the water applied for will be limited to the nonconsumptive use of fish propagation and that first party recognizes second parties' prior consumptive rights of said waters and that first party will do, nor cause to be done, nothing to interfere with those prior consumptive rights of second parties.

2. First party agrees that second parties have prior consumptive rights in the waters which first party has applied



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36-7071

for. First party agrees that such rights are prior to any rights which first party has or will obtain in said waters and that if second parties withdraw their protest, first party will do nothing to interfere or impair the prior rights in said waters of second parties.

3. The parties join in withdrawing the protest made and in asking that the hearing scheduled be cancelled and that the application of first party to appropriate the waters above referred to be approved, subject to the prior rights of protestants who are the second parties herein.

4. Pursuant to the foregoing agreement, the parties stipulate to the withdrawal of said protest.

Dated this 7th day of May, 1970.

JONES & SANDY LIVESTOCK COMPANY

By _____
John W. Jones Jr.

_____
Art Kaster

_____
Russell Boyer

_____
Ronald Boyer

O R D E R

Pursuant to the foregoing stipulation,



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

IT IS HEREBY ORDERED, that the protest to the above-entitled Application for Permit be, and the same is hereby dismissed.

Dated this 8TH day of May, 1970.

R. Keith Higginson
State Reclamation Engineer
State of Idaho



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

RECEIVED
MAY 8 1970
Department of Reclamation

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

* * * * * * * *

IN THE MATTER OF APPLICATION FOR )
PERMIT NO. 36-7071 OF )
JONES & SANDY LIVESTOCK COMPANY )

AGREEMENT TO WITHDRAW PROTEST

* * * * * * * * * * * * * * * * *

COMES NOW, Jones & Sandy Livestock Company as first party and Art Kaster, K. A. Barton, Stan Hoskovec, Stan Hoskovec, Stan Hoskovec, Jr., Walter Stewart, Mrs. Ted Bell, Orland Peterson and James Crist as second parties.

WHEREAS, Jones & Sandy Livestock Company of Hagerman, Idaho, filed an application to appropriate water of Weatherby Springs and Three Springs for the purpose of trout propagation, and,

WHEREAS, the second parties filed a protest to such application provided that the protestants had no objection to the application "provided that the diversion of waters thereunder and the return to the stream are in such a manner and in such form as will not interfere with the rights of protestants", and,

WHEREAS, a pre-hearing conference was held in the Twin Falls City Hall. The second parties who were in attendance at said conference agreed that they would withdraw the protest if the State Reclamation Engineer would protect their prior consumptive irrigation water rights, and,



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NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

WHEREAS, the parties wish to avoid the hearing scheduled for the 12th and 13th of May, 1970, by second parties withdrawing their protest conditioned upon first party agreeing that it recognizes the second parties' prior and subsisting consumptive water rights for irrigation purposes and agreeing that the first party's use of said water applied for shall be nonconsumptive for fish propagation and will not interfere with second parties' prior rights.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements herein made, the parties agree as follows:

1. The undersigned, being the second parties herein, withdray their protest made with respect to the application of Jones & Sandy Livestock Company to appropriate 75 cubic feet per second of water from Weatherby and Three Springs, tributaries of Billingsley Creek. The withdrawal of said protest is conditioned upon first party agreeing that any rights it gains to the water applied for will be limited to the nonconsumptive use of fish propagation and that first party recognizes second parties' prior consumptive rights of said waters and that first party will do, nor cause to be done, nothing to interfere with those prior consumptive rights of second parties.



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BUHL, IDAHO

36-7071

2. First party agrees that second parties have prior consumptive rights in the waters which first party has applied for. First party agrees that such rights are prior to any rights which first party has or will obtain in said waters and that if second parties withdraw their protest, first party will do nothing to interfere or impair the prior rights in said waters of second parties.

3. The parties join in withdrawing the protest made and in asking that the hearing scheduled be cancelled and that the application of first party to appropriate the waters above referred to be approved, subject to the prior rights of protestants who are the second parties herein.

4. Pursuant to the foregoing agreement, the parties stipulate to the withdrawal of said protest.

Dated this 7th day of May, 1970.

JONES & SANDY LIVESTOCK COMPANY

By _____

John W. Jones Jr.
First Party

_____
Art Kaster

_____
K. A. Barton

_____
Stan Hoskovec



LAW OFFICES
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NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

Stan Hoskovec, Jr.
Stan Hoskovec, Jr.

Walter Stewart
Walter Stewart

Mrs. Ted Bell
Mr. Ted Bell

Orland Peterson
Orland Peterson

J. P. Crist
James Crist
Second Parties

O R D E R

Pursuant to the Foregoing Stipulation,

IT IS HEREBY ORDERED, that the Protest to the above entitled Application for Permit be, and the same is hereby dismissed.

DATED this 8TH day of May, 1970.

R. Keith Higginson
R. Keith Higginson
State Reclamation Engineer
State of Idaho



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

Jones + Sandy Livestock
Box 265
Hagerman, Idaho 83332




CERTIFIED
No 88743
MAIL

R. Keith Higginson
Dept of Reclamation
State House - Annex 2
Boise Idaho 83707

96-7071

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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*(Additional charges required for these services)*

# RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21784

INSURED NO.

DATE DELIVERED

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

Russell Boyer

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Alma Boyer

3 SHOW WHERE DELIVERED (*only if requested*)

56-7071

55—16—71648-10 GPO

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

POSTMARK OF DELIVERING OFFICE

0161

[illegible]. Show name and address below and additional instructions on other side, where applicable. Remove contents with care, detach and hold *firmly to back* of article. Affix to front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamati

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

[illegible]

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21783

INSURED NO.

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

Roland Boyer

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

o55—16—71548-10 GPO

[illegible] DEPARTMENT
[illegible] SERVICE

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

POSTMARK OF DELIVERING OFFICE




RETURN TO SENDER

INSTRUCTIONS: Show name and address below and [illegible] instructions on other side, where applicable. Unless postage paid, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

NAME OF SENDER

Department of Reclamatic

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

36-7011

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

# RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21782

INSURED NO.

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

Walter Stewart

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

36-7011

685—16—71648-10 GPO

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

POSTMARK OF DELIVERING OFFICE



Department of Reclamation

Annex # 2 Statehouse

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21779

INSURED NO.

DATE DELIVERED

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

John + K A Barton

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

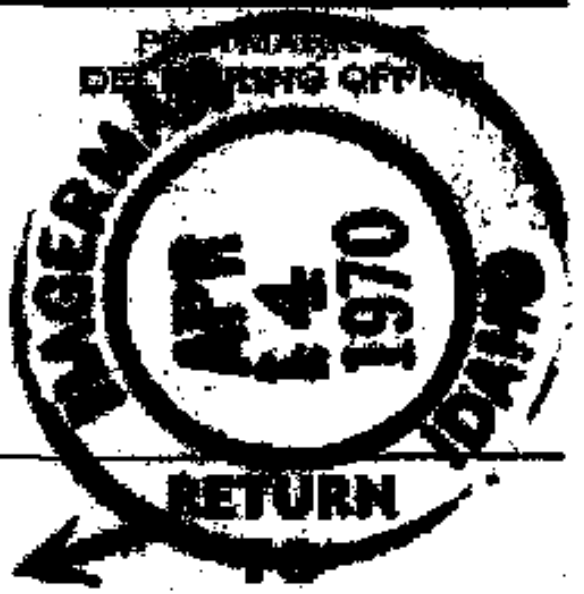
Karen Barton

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

c55—16—71548-10 GPO

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




RETURN. Show name and address below and complete instructions on other side, where applicable. If return envelope ends, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21778

INSURED NO.

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

Mrs. Ted Bell

2. SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3. SHOW WHERE DELIVERED (*only if requested*)

36-7071

c55—16—71548-10 GPO

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



RETURN RECEIPT REQUESTED. Show name and address below and on reverse. Attach to back of article, where applicable. Fill in your name and address on reverse, fasten and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

NAME OF ADDRESSEE (Number, Street, City, State, and ZIP Code)

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

# RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21777

INSURED NO.

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

Richard Petrone

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

APR 8 1970

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

c63—16—71548-10 GPO

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

WATERMARKED
APR 8
1970
83702

POSTMARK OF DELIVERING OFFICE

INSTRUCTIONS: Show name and address below and [illegible] instructions on other side, where applicable. [illegible] gummed ends; attach and hold firmly to back [illegible] on front of article RETURN [illegible] REQUESTED.

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

~~Boise, Idaho 83707~~

POD Form 3811, Jul

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21776

INSURED NO.

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

J. P. Crist

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

4-4-70

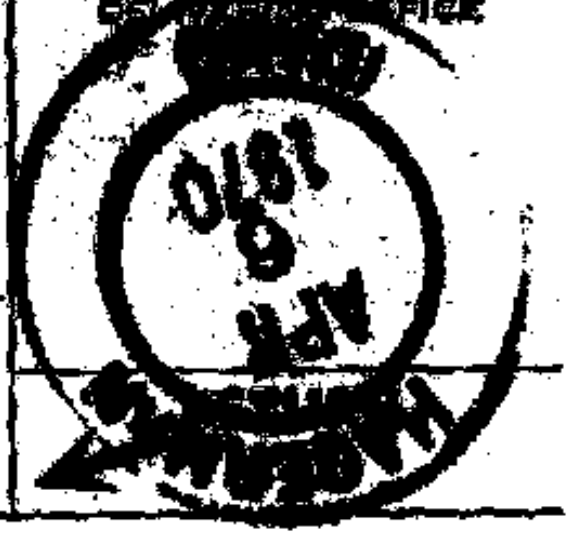
3 SHOW WHERE DELIVERED (*only if requested*)

36-2071

c55—16—71548-10 GPO

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

POSTMARK OF [illegible] POST OFFICE



RETURN TO [illegible]. Show name and address below and [illegible] assumptions on other side, where applicable. [illegible] unusual ends, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

NAME OF SENDER

STREET AND NO. OR P.O. BOX Department of Reclamation
Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21775

INSURED NO.

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

Lorin + Sandy Levitch

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

E S Jones

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

56-7071

o55—16—71548-10 GPO

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

POSTMARK OF DELIVERING OFFICE




RETURN TO SENDER. Show name and address below and [illegible] on other side, where applicable. [illegible] attached ends, attach and hold firmly to back of article. Print on front of article RETURN RECEIPT REQUESTED.

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21785

INSURED NO.

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

Harry Povey by Kramer

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Lorky

DATE DELIVERED

APR 6

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

c55—16—71548-10 GPO

POSTAL SERVICE ADDRESS CHANGE NOTICE

PENALTY FOR PRIVATE USE TO AVOID PAYMENT OF POSTAGE AND FEES PAID

POSTMASTER OF DESTINATION OFFICE

TWIN FALLS APR 6 1970 IDAHO

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

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21786

INSURED NO.

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

Mrs. Arthur Kaster

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

APR 6 1970

3 SHOW WHERE DELIVERED (*only if requested*)

36-7071

o55—16—71545-10 GPO

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

POSTMARK OF DELIVERING OFFICE




INSTRUCTIONS: Sign your name and address below and complete instructions on other side, where applicable. Endorse unstamped ends, attach and fold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21787

INSURED NO.

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

Lake Springs Temple

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

Dupree Barton

DATE DELIVERED

4/7/70

3 SHOW WHERE DELIVERED (*only if requested*)

26-7071

c55—16—71548-10 GPO

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

POSTMARK OR DELIVERING OFFICE

BUHL, ID 83316
APR 6
4 AM
1970

INSTRUCTIONS: Show name and address below and additional instructions on other side, where applicable. If return receipt card, attach and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

POD Form 3800

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21788

INSURED NO.

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

Hayworth Rougeaux

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Teller

By Alta Gannon

DATE DELIVERED

3 SHOW WHERE DELIVERED (*only if requested*)

56-7071

o55—16—71548-10 GPO

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

POSTMARK OF DELIVERING OFFICE

BUHL ID 83316
APR 6 PM
1970

INSTRUCTIONS: Print name and address below and complete information on other side, where applicable. Fasten gummed ends, if any, and hold firmly to back of article. Print on front of article *RETURN RECEIPT REQUESTED.*

RETURN TO

NAME OF SENDER

Department of Reclamati

STREET AND NO. OR P.O. BOX

Annex #2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21789

INSURED NO.

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

John Poskett

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

By Eleanor Skeen

DATE DELIVERED

APR 6 1971

3 SHOW WHERE DELIVERED (*only if requested*)

26-2071

c55—16—71648-10 GPO

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

POSTMARK OF DELIVERING OFFICE




RETURN TO: Show name and address below and on reverse. Make any instructions on other side, where applicable. Fasten to article with gummed tape, attach and hold firmly to back of article. Print RETURN RECEIPT REQUESTED on front of article.

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

Boise, Idaho 83707

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

## RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21780

INSURED NO.

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

Alan Blackmore Jr

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

APR 10 1970

3 SHOW WHERE DELIVERED (*only if requested*)

36-107

c55—18—71548-10 GPO

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

APR 10 1970

RETURN TO

Department of Reclamation
Annex #2 Statehouse
Boise, Idaho 83707

NAME OF SENDER

STREET AND NO. OR P.O. BOX

POST OFFICE, STATE, AND ZIP CODE

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

*(Additional charges required for these services)*

# RECEIPT

***Received the numbered article described below.***

REGISTERED NO.

CERTIFIED NO.

21281

INSURED NO.

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

Harold Hoskovec

2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

3 APR 10 1970

SHOW WHERE DELIVERED (*only if requested*)

36-7071

c55—18—71548-10 GPO

[redacted]

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

[redacted]




[redacted]

[redacted] your name and address below and [redacted] instructions on other side, where applicable. [redacted] postage, attach and hold firmly to back [redacted] piece, on front of article RETURN [redacted] REQUESTED.

NAME OF SENDER

Department of Reclamation

STREET AND NO. OR P.O. BOX

Annex # 2 Statehouse

POST OFFICE, STATE, AND ZIP CODE

~~Boise, Idaho 83707~~

# INSTRUCTIONS TO DELIVERING EMPLOYEE

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

(Additional charges required for these services)

IDAHO FALLS 10 APR 1970 DIV

MAY 1 DAY U.S.A.

FREEDOM UNDER THE LAW

## RECEIPT

*Received the numbered article described below.*

| | |
|---|---|
| REGISTERED NO. | SIGNATURE OR NAME OF ADDRESSEE (*Must always be filled in*) |
| CERTIFIED NO. 21798 | 1 |
| INSURED NO. | 2 SIGNATURE OF ADDRESSEE'S AGENT, IF ANY Ted Mass |
| DATE DELIVERED APR 10 1970 | SHOW WHERE DELIVERED (*only if requested*) 36-7071 |

c56—16—71548-10 GPO

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

POSTMARK OF DELIVERING OFFICE




RETURN TO

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

NAME OF SENDER

Dept. of Reclamation

STREET AND NO. OR P.O. BOX

Statehouse Room 2

POST OFFICE, STATE, AND ZIP CODE

Boise Idaho

AFTER FIVE DAYS RETURN TO
DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

May 8, 1970

Re: Application for Permit No. 36-7071

Mr. James H. Crist
Hagerman,
Idaho 83332

Dear Mr. Crist:

This letter is to advise you that the hearing we scheduled for May 12th has been cancelled, since the protests against the above numbered application for permit have been withdrawn.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

May 8, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. Walter Stewart
Hagerman,
Idaho 83332

Dear Mr. Stewart:

This letter is to advise you that the hearing we scheduled for May 12th has been cancelled, since the protests against the above numbered application for permit have been withdrawn.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

May 8, 1970

Re: Application for Permit No. 36-7071

Mr. Roland Boyer
Hagerman,
Idaho 83332

Dear Mr. Boyer:

This letter is to advise you that the hearing we scheduled for May 12th has been cancelled, since the protests against the above numbered application for permit have been withdrawn.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

May 8, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. Russell Boyer
Hagerman,
Idaho 83332

Dear Mr. Boyer:

This letter is to advise you that the hearing we scheduled for May 12th has been cancelled, since the protests against the above numbered application for permit have been withdrawn.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

May 8, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. Art Kaster
Hagerman,
Idaho 83332

Dear Mr. Kaster:

This letter is to advise you that the hearing we scheduled for May 12th has been cancelled, since the protests against the above numbered application have been withdrawn.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

April 24, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. Art Kaster
Hagerman,
Idaho 83332

Dear Mr. Kaster:

This letter is to advise you that Idaho Springs Trout Company has withdrawn their protest to the approval of the above numbered application for permit. Your protest is still on record and will be heard at the conference scheduled for May 12th at 9:30 a.m., in the District Court room, Twin Falls, Idaho.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh

This letter was sent to the following people: ( All of Hagerman, Idaho )

Russell Boyer
Roland Boyer
John Barton & K. A. Barton
Walter Stewart
Stan Hoskovec
Stan Hoskovec, Jr.
Mrs. Ted Bell
Orland Peterson
James Crist

36-7071

April 24, 1970

Re: Application for Permit No. 36-7071

COPY

Parry, Robertson, Daly & Larson
Mr. John A. Bosholt
P.O. Box 525
Twin Falls, Idaho 83301

Dear John:

Enclosed is a copy of a stipulation and order to withdraw the protest your clients had against the above numbered permit application. There still remains a protest against approval of this permit and this protest will be discussed at the conference scheduled for May 12th at 9:30 a.m., in the District Court room, Twin Falls, Idaho.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh

Enclosure

36-7071

April 24, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. John C. Hepworth
Hepworth, Walker, Nungester & Felton
1020 Main
Buhl, Idaho 83316

Dear John:

Enclosed is a copy of the Stipulation To Withdraw Protest and the Order, signed by Mr. Higginson, which you submitted to this office. There still remains a protest against approval of the permit and this protest will be discussed at the conference scheduled for May 12th at 9:30 a.m. in the District Court room, Twin Falls, Idaho.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh

Enclosure

36-7071

April 24, 1970

Re: Application for Permit No. 36-7071

COPY

Idaho Springs Trout Company
Mr. Robert A. Erkins, President
P.O. Box 232
Buhl, Idaho 83316

Dear Mr. Erkins:

We are enclosing a copy of the stipulation and order withdrawing your protest to approval of the above numbered application for permit. There still remains a protest against approval of this permit and this protest will be discussed at the conference scheduled for May 12th at 9:30 a.m., in the District Court room, Twin Falls, Idaho.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh
Enclosure

36-7071

April 24, 1970

Re: Application for Permit No. 36-7071

COPY

Jones & Sandy Livestock Company
c/o W. A. Sandy
Hagerman, Idaho 83332

Dear Mr. Sandy:

Enclosed is a copy of a stipulation withdrawing the protest of Idaho Springs Trout Company against approval of your application for permit. You should be advised that there is still a protest filed against your permit application. This protest will be discussed at the conference scheduled for May 12th at 9:30 a.m. in the District Court room, Twin Falls, Idaho.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh

Enclosure

36-7071

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO -- 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083

SUN VALLEY, IDAHO 83353
(208) 726-5861

April 17, 1970

Dept. of Reclamation
614 West State
Boise, Idaho 83707

Gentlemen:

Please find enclosed the Stipulation to withdraw the protest of Idaho Springs Trout Company. As the attorney for Jones and Sandy Livestock Company, it would be greatly appreciated if we could receive the approved water application as soon as possible.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

John C. Hepworth

JCH:bh

Encl.

36-7071

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

---

| | | |
|---|---|---|
| In the Matter of Application for | ) | |
| | ) | |
| Permit No. 36-7071 of | ) | STIPULATION TO |
| | ) | |
| JONES & SANDY LIVESTOCK COMPANY | ) | WITHDRAW PROTEST |

---

IT IS HEREBY STIPULATED by and between the parties that the Idaho Springs Trout Company be allowed to withdraw its Protest in the above entitled matter.

Dated this 15th day of April, 1970.

PARRY, ROBERTSON, DALY & LARSON
Residing at Twin Falls, Idaho

by John A. Rosholt
Attorneys for Idaho Springs
Trout Company

HEPWORTH, WALKER, NUNGESTER, & FELTON
Residing at Buhl, Idaho

by John C. Hepworth
Attorneys for Jones & Sandy
Livestock Company.

ORDER

Pursuant to the Foregoing Stipulation,

IT IS HEREBY ORDERED, that the Protest to the above entitled Application for Permit be, and the same is hereby dismissed.

Dated this 22nd day of April, 1970.

R. Keith Higginson
R. Keith Higginson
State Reclamation Engineer
State of Idaho

36-7071

MEMO

Re: Application for Permit No. 36-7071

Mr. Harry Povey, Attorney, is deceased and correspondence concerning this permit should no longer be sent to his office. Mr. John A. Rosholt, Parry, Robertson, Daly & Larson, P.O. Box 525, Twin Falls, Idaho is now the attorney for Idaho Springs Trout Company

36-7071

**NAME AND ADDRESS OF SENDER** Dept of Reclamation

*Indicate type of mail*
☐ INSURED ☐ C. O. D. ☒ CERTIFIED

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

POSTMARK AND DATE OF RECEIPT

| | NUMBER OF ARTICLE | NAME OF ADDRESSEE, STREET, AND POST-OFFICE ADDRESS | POSTAGE | FEE | DUE SENDER IF C. O. D. | ENDORSEMENT [1] | R. R. FEE | S. D. FEE | S. H. FEE [2] | RESTRICTED DELIVERY FEE / REMARKS |
|---|---|---|---|---|---|---|---|---|---|---|
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| 2 | | olsen, 485 East St, Idaho falls Ida. | | | | | | | | |
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| 1 | | |

[1] Mark "F" if "Fragile," "P" if "Perishable," "E" if "Eggs," "EH" if "Eggs for Hatching," "B" if "Butter," "FL" if "Fragile-Liquid," and "FLU" if "Fragile-Liquid—This Side Up."
[2] Special-handling charges apply only to fourth-class parcels. Special-delivery service also includes special-handling service.

POD Form 3877-A—July 1958

U. S. GOVERNMENT PRINTING OFFICE C48—16—72948-2

56-7071

April 3, 1970

Re: Application for Permit No. 36-7071

COPY

Clerk of the District Court
Twin Falls County Court House
Twin Falls, Idaho

Dear Sir:

This letter is to confirm the use of a room at the court house, on May 12th and 13th, 1970, for a hearing to be held by this office.

We appreciate very much your cooperation.

Very truly yours,

Donald W. McEldowney
Appropriation Supervisor

DWM:kh

36-7071

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION )
FOR PERMIT NO. 36-7071 in the )
name of JONES & SANDY LIVESTOCK CO. )

NOTICE OF
FORMAL HEARING

On July 8, 1969, Jones & Sandy Livestock Company, by W. A. Sandy, filed with the Department of Reclamation an application to appropriate the public waters of the State of Idaho. On July 31, 1969, Harry Povey, Attorney at Law, filed, in behalf of Idaho Springs Trout Company, Buhl, Idaho, a protest against approval of application No. 36-7071. On August 4, 1969, a protest against approval of this application was received from the following people: Art Kaster, Russell Boyer, Roland Boyer, John Barton & K. A. Barton ( a partnership ), Walter Stewart, Stan Hoskovec, Stan Hoskovec, Jr., Mrs. Ted Bell, Orland Peterson, and James Crist all of Hagerman, Idaho.

The Department of Reclamation has set the matter of protest for a formal hearing, on May 12th and 13th, 1970. The hearing will begin at 9:30 a.m. on each of these days. Said hearing will be held in the District Court room, Twin Falls County Court House, Twin Falls, Idaho. This hearing will be held in accordance with the Rules and Regulations of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Reclamation. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department of Reclamation without prejudice to dismiss the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 2 day of April, 1970.

Donald W. McEldowney
Appropriation Examiner

Mailed this 3rd day of April, 1970, to Jones & Sandy Livestock Co., c/o W. A. Sandy, Hagerman, Idaho, certified No. 21775; James Crist, Hagerman, Idaho, certified No. 21776; Orland Peterson, Hagerman, Idaho, certified No. 21777; Mrs. Ted Bell, Hagerman, Idaho, certified No. 21778; John Barton & K. A. Barton, Hagerman, Idaho, certified No. 21779; Stan Hoskovec, Jr., Hagerman, Idaho, certified No. 21780; Stan Hoskovec, Hagerman, Idaho, certified No. 21781; Walter Stewart, Hagerman, Idaho, certified No. 21782; Roland Boyer, Hagerman, Idaho, certified No. 21783; Russell Boyer, Hagerman, Idaho, certified No. 21784; Harry Povey, P.O. Box 344, Twin Falls, Idaho, certified No. 21785; Art Kaster, Hagerman, Idaho, certified No. 21786; Idaho Springs Trout Co., Robert A. Erkins, President, P.O. Box 232, Buhl, Idaho, certified No. 21787; John C. Hepworth, Hepworth, Walker, Nungester & Felton, Professional Center, 1020 Main Street, Buhl, Idaho, certified No. 21788; John A. Rosholt, Parry, Robertson, Daly & Larson, P.O. Box 525, Twin Falls, Idaho , certified No. 21789
Dennis M. Olsen, Petersen, Moss & Olsen, 485 E. Street, Idaho Falls, Idaho; certified No. 21798

BY K Henderson

36-7071

Please forward copies
of all pertinent correspondence
to: Harry Posey
and
John A. Roshult
36 7071
(address on file)

IN THE DEPARTMENT OF RECLAMATION OF THE STATE OF IDAHO

IN THE MATTER OF THE APPLICATION FOR )
PERMIT No. 36-7070 of JONES & SANDY ) SUBPOENA-DUCES TECUM
LIVESTOCK CO. )

THE DEPARTMENT OF RECLAMATION SENDS GREETINGS TO:

L. DEAN MARRIAGE

WE COMMAND YOU, That, all and singular business and excuses being laid aside, you appear and attend a hearing on the above Application before The Department of Reclamation of the State of Idaho, to be held at the Twin Falls County Courthouse , District Court Room, Twin Falls, Idaho, on the 12th day of May, 1970, at 10:00 o'clock A.M., then and there to testify in the above entitled action, now pending before the Department of Reclamation, on the part of the applicant, Jones & Sandy Livestock Co; and you are further commanded to bring with you, and then and there produce in evidence all reports concerning quality tests of the water of Billingsly Creek and its headwaters and tributaries.

Dated this 2nd day of April, 1970.

ATTEST: My hand and seal of said Department of Reclamation, State of Idaho, the day and year last above written.

DEPARTMENT OF RECLAMATION
STATE OF IDAHO

By _____
Keith Higginson
Engineer

36-7071

CSA D

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

* * * * * * * * * * *

IN THE MATTER OF APPLICATION FOR )
PERMIT NO. 36-7070 of ) NOTICE TO TAKE DEPOSITION
JONES & SANDY LIVESTOCK COMPANY )

* * * * * * * * * * *

TO: IDAHO SPRINGS TROUT CO., protestant, and to its attorneys, PARRY, ROBERTSON, DALY & LARSON

PLEASE TAKE NOTICE that at 10:00 o'clock on the 31st day of March, 1970, at the Courtroom in the Courthouse in Twin Falls, Idaho, the applicants in the above-entitled action will take the depositions of Robert Erkins, Dave Erickson and Arlie Partin upon oral examination pursuant to the Rules of Practice and Procedure as adopted by the State of Idaho Department of Reclamation, before a Notary Public, or before some other officer authorized by law to administer oaths. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

HEPWORTH, WALKER, NUNGESTER & FELTON
1020 Main, Buhl, Idaho
Attorneys for Applicant

By John C. Hepworth



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

* * * * * * * * * * * *

IN THE MATTER OF APPLICATION FOR )

PERMIT NO. 36-7070 of ) NOTICE TO TAKE DEPOSITION

JONES & SANDY LIVESTOCK COMPANY )

* * * * * * * * * * * *

TO: IDAHO SPRINGS TROUT CO., protestant, and to its attorneys, PARRY, ROBERTSON, DALY & LARSON.

PLEASE TAKE NOTICE that at 10:00 o'clock on the 31st day of March, 1970, at the Courtroom in the Courthouse in Twin Falls, Idaho, the applicants in the above-entitled action will take the depositions of Robert Erkins, Dave Erickson and Arlie Partin upon oral examination pursuant to the Rules of Practice and Procedure as adopted by the State of Idaho Department of Reclamation, before a Notary Public, or before some other officer authorized by law to administer oaths. The oral examination will continue from day to day until completed. You are invited to attend and cross-examine.

HEPWORTH, WALKER, NUNGESTER & FELTON
1020 Main, Buhl, Idaho
Attorneys for Applicant

By John C. Hepworth



LAW OFFICES
HEPWORTH
NUNGESTER
AND
FELTON
BUHL, IDAHO

36-7071

CA

LAW OFFICES

HEPWORTH, WALKER, NUNGESTER, AND FELTON

PROFESSIONAL CENTER
1020 MAIN

AREA CODE 208
PHONE 543-4368

BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT

P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3089

SUN VALLEY, IDAHO 83353
(208) 726-5861

March 4, 1970

Department of Reclamation
Statehouse-Annex 2
Boise, Idaho 83707

Atten: C. Stephen Allred Re: Permit No. 36-7071

Dear Steve:

I apologize for not having replied to Mr. Rosholt's proposed pre-hearing conference order concerning the above permit. The proposed order seems agreeable to me.

I have tried to reach John Rosholt to arrange to take Mr. Erkins' deposition as well as that of his foreman. I have been unable to do so as Mr. Rosholt is out of town. I have in mind taking their depositions to learn more precisely the basis for this protest so that I can have witnesses available to submit evidence on those particular points. For these reasons I would not wish to see a hearing scheduled until this discovery has been completed.

I would appreciate your consideration in this matter and would think in the long run this would be more expeditious for everybody.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

John C. Hepworth

JCH:bh

36 7071

February 23, 1970

Re: Application for Permit No. 36-7071

COPY

Mr. John C. Hepworth
Hepworth, Walker, Nungester & Felton
Professional Center
1020 Main Street
Buhl, Idaho 83316

Dear John:

Some time ago, Mr. Rosholt submitted a copy of a proposed pre-hearing conference order on Application for Permit No. 36-7071. As of yet, I have not received your comments as to that proposed order.

I would appreciate receiving your comments on the proposed order prior to March 6, 1970. If you have any questions, please contact me.

Very truly yours,

C. STEPHEN ALLRED
Deputy State Reclamation Engineer

CSA/jlb

cc: John Rosholt

36 7071

PARRY, ROBERTSON, DALY & LARSON

LAWYERS

FIDELITY BANK BUILDING

P. O. BOX 525

TWIN FALLS, IDAHO 83301

TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY (1913-1968)
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER
ROBERT C. PAINE

January 22, 1970

Mr. C. Stephen Allred
Deputy State Reclamation Engineer
Department of Reclamation
State House -- Annex 2
Boise, Idaho 83707

RE: Application for Permit No. 36-7071

Dear Steve:

Enclosed is my draft of a pre-hearing conference order in the above matter. I am also sending a copy of this draft to John Hepworth, attorney for the applicants. I presume that he may have some comments and some further suggestions, and consequently, I will retain the original copy until we have heard from him, and made those changes which we agree should be made.

In regard to a hearing date, my preference would be some time later in February because of the fact that I may have some difficulty in scheduling some witnesses. If we could have about three weeks notice, I would think this should be adequate.

Sincerely,

John A. Rosholt

JOHN A. ROSHOLT

JAR/ clm
cc: John Hepworth

PARRY, ROBERTSON, DALY & LARSON

LAWYERS

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JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER

February 16, 1970

Mr. C. Stephen Allred
Deputy State Reclamation Engineer
Department of Reclamation
State House -- Annex 2
Boise, Idaho 83707

RE: Jones & Sandy Livestock - Erkins

Dear Steve:

As of this date I have also not heard from Mr. Hepworth regarding the pre-conference order I drafted and sent both to you and to him. Previously he acknowledged receiving the same.

It does not concern me that you would like to schedule both hearings at approximately the same time except for the fact that I will be out of town the previous week. If the Jones-Sandy -- Erkins hearing is to be set for approximately the same time, I would appreciate receiving confirmation as soon as possible because I will have substantial research to get done so that I might be prepared for two hearings on one day, or two hearings within two days.

Sincerely,

John

JOHN A. ROSHOLT

JAR/clm

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

| | |
|---|---|
| In the Matter of Application for Permit No. 36-7071 of JONES & SANDY LIVESTOCK COMPANY | PRE-HEARING CONFERENCE ORDER |

A pre-hearing conference on the above application was held on December 16, 1969, at 1:00 o'clock p. m., in the Twin Falls City Hall, Twin Falls, Idaho, before R. Keith Higginson, State Reclamation Engineer, for the State of Idaho. Mr. John Hepworth, of the firm of Hepworth, Walker, Nungester, & Felton, appeared for the applicant, Jones & Sandy Livestock Company. Mr. John Rosholt, of the firm Parry, Robertson, Daly & Larson, appeared for the protestant, Idaho Springs Trout Company. Several other irrigation water users who had protested the application appeared on their own behalf.

## AGREED FACTS

On July 8, 1969, Jones & Sandy Livestock Company filed with the Idaho Department of Reclamation an application to appropriate 75 cubic feet per second of water from January 1st to December 31st for the purpose of fish culture with the point of diversion to be located in the Northeast Quarter of the Southwest Quarter (NE 1/4 SW1/4) of Section 30, Township 7 South, Range 14 East, Boise Meridian, Gooding County, Idaho. On July 31, 1969, the Idaho Springs Trout Company filed a protest against the approval of application for Permit No. 35-7071. On August 4, 1969, a protest was filed by some ten Hagerman Valley irrigation water users. Following a discussion at the pre-hearing conference, the ten irrigation water users agreed that they would withdraw their protest if the State Reclamation Engineer would protect their prior downstream consumptive irrigation water rights by the insertion of adequate protective conditions in any permit which might be granted to the applicant.

That the Idaho Springs Trout Company is the owner and holder of water license No. 32600 issued by the State Reclamation Engineer of the

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO

State of Idaho on the 28th day of March, 1967, for the use of 100 cubic feet per second of waters of Billingsly Creek for fish propagation and domestic use and that the waters covered under such license are the same waters as applicant proposes to divert and non-consumptively use for fish culture purposes at a point upstream from protestant's point of diversion.

## DISPUTED FACTUAL ISSUES

Following further discussion at the pre-hearing conference, the following issues were controverted and are hereby set forth as protestant's claims, as denied by the applicant, for the purpose of setting forth those issues upon which evidence will be heard at a formal hearing on Application No. 35-7071:

1. That in accordance with Idaho Code Section 42-203, the granting of application No. 35-7071 will reduce the quantity of water under existing water rights as hereinafter more particularly set out:

A. That trout diseases, including but not limited to viral, bacterial, fungal, and protozoan, will be communicated to protestant's fish from any fish facility constructed by applicant under any permit issued pursuant to application No. 35-7071.

B. That the construction of a fish facility pursuant to said application will cause water temperature changes detrimental to growth or cause mortality to the protestant's fish.

C. That the introduction of toxic materials into the stream which are excreted from fish to be raised by the applicants will be detrimental to protestant's use of the water for fish culture.

2. That fluctuations in protestant's water supply would be detrimental to protestant's fish culture operation.

## LEGAL ISSUE

Idaho Code Section 42-203, states that the State Reclamation Engineer may deny an application for permit to divert water when the issuance of a permit would reduce the quantity of water under existing water rights. Protestant alleges and applicant denies that this portion of Idaho Code Section

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO

42-203 authorizes the State Reclamation Engineer to deny a permit where the quality as well as the quantity of water of a prior appropriator would be reduced.

ORDER

It is hereby ordered that the applicant and protestant may present evidence on the above delineated and disputed issues at a formal hearing to be hereinafter set by this office.

DATED this _____ day of January, 1970.

State Reclamation Engineer

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO

IN THE DEPARTMENT OF RECLAMATION

OF THE STATE OF IDAHO

| | |
|---|---|
| In the Matter of Application for Permit No. 36-7071 of JONES & SANDY LIVESTOCK COMPANY | PRE-HEARING CONFERENCE ORDER |

A pre-hearing conference on the above application was held on December 16, 1969, at 1:00 o'clock p. m., in the Twin Falls City Hall, Twin Falls, Idaho, before R. Keith Higginson, State Reclamation Engineer, for the State of Idaho. Mr. John Hepworth, of the firm of Hepworth, Walker, Nungester, & Felton, appeared for the applicant, Jones & Sandy Livestock Company. Mr. John Rosholt, of the firm Parry, Robertson, Daly & Larson, appeared for the protestant, Idaho Springs Trout Company. Several other irrigation water users who had protested the application appeared on their own behalf.

AGREED FACTS

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That the Idaho Springs Trout Company is the owner and holder of water license No. 32600 issued by the State Reclamation Engineer of the

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO

36 7071

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## DISPUTED FACTUAL ISSUES

Following further discussion at the pre-hearing conference, the following issues were controverted and are hereby set forth as protestant's claims, as denied by the applicant, for the purpose of setting forth those issues upon which evidence will be heard at a formal hearing on Application No. 35-7071:

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B. That the construction of a fish facility pursuant to said application will cause water temperature changes detrimental to growth or cause mortality to the protestant's fish.

C. That the introduction of toxic materials into the stream which are excreted from fish to be raised by the applicants will be detrimental to protestant's use of the water for fish culture.

2. That fluctuations in protestant's water supply would be detrimental to protestant's fish culture operation.

## LEGAL ISSUE

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PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO



63-7071

42-203 authorizes the State Reclamation Engineer to deny a permit where the quality as well as the quantity of water of a prior appropriator would be reduced.

ORDER

It is hereby ordered that the applicant and protestant may present evidence on the above delineated and disputed issues at a formal hearing to be hereinafter set by this office.

DATED this _____ day of January, 1970.

State Reclamation Engineer

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
TWIN FALLS, IDAHO

LAW OFFICES
HEPWORTH, WALKER, NUNGESTER, AND FELTON
PROFESSIONAL CENTER
1020 MAIN
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PHONE 543-4368
BUHL, IDAHO - 83316

JOHN C. HEPWORTH
LLOYD J. WALKER
WM. L. NUNGESTER
MICHAEL H. FELTON

OTHER OFFICES AT
P. O. BOX 23
TWIN FALLS, IDAHO 83301
(208) 733-3083
SUN VALLEY, IDAHO 83353
(208) 726-5861

RECEIVED
JAN 26 1970
Bureau of Land Management
Boise District

January 23, 1970

Mr. C. Stephen Allred
Dept. of Interior
Bureau of Reclamation
230 Collins Road
Boise, Idaho 83700

Re: Application for Permit No. 36-7071

Dear Steve:

Regarding the hearing on the protest to the above application, I would appreciate receiving John Rosholt's proposed draft of the prehearing order. My present trial schedule is such that it will probably be towards the end of March before I have any open dates, however, I have a trial scheduled beginning March 9 that could possibly be settled and if it was, any time in March or late February would be agreeable. I certainly would like to expedite this matter.

Very truly yours,

HEPWORTH, WALKER, NUNGESTER & FELTON

John C. Hepworth

JCH:ag

cc: John A. Rosholt

January 21, 1970

Re: Application for Permit No. 36-7071

Mr. John A. Rosholt
Parry, Robertson, Daly & Larson
P. O. Box 525
Twin Falls, Idaho 83301

Dear John:

With regard to the above-numbered Application, at our conference on December 16th at Twin Falls you agreed to draft a pre-hearing order.

I would very much like to set the date for hearing and get this matter solved as soon as possible, perhaps sometime during the month of February. If you have a suggestion as to the dates that we might hold such a hearing, I'd appreciate your comments.

I would also appreciate an indication as to when you could supply us with a draft of the pre-hearing order.

Very truly yours,

C. STEPHEN ALLRED
Deputy State Reclamation Engineer

CSA/jlb

cc: John Hepworth

36-7071

36-7071 - JONES & SANDY LIVESTOCK

APPLICANT - JOHN HEPWORTH

PROPOSED IS TO DIVERT 75 CFS DIRECTLY AT THE SOURCE OF SPRINGS TO RAISE RAINBOW TROUT - WOULD BE PUT BACK INTO STREAM. HAVE NO QUARREL OVER RIGHTS OF INDIVIDUAL. PROTESTANTS ARE CONCERNED OVER PROBLEMS OF WASHOUT OF THEIR DITCH ABOVE APPLICANTS FISH FACILITY.

DIVERSIONS UNDER WHICH WATER IS CURRENTLY) 10 CFS 3/10/02
.33
12 CFS / /46

- WOULD NOT WANT TO TAP INTO SOURCE OF SPRING
- STIPULATE TO AMENDMENT TO SHOW DIVERSION BELOW SPRING TO TAKE SPILL OVER WATER
- MEASURING DEVICES

PROTESTANT - IDAHO SPRINGS TROUT CO. - JOHN ROSHOLT

MOVES TO STRIKE ANSWER TO PROTEST AS NOT BEING TIMELY FILED - TAKEN UNDER ADVISEMENT

(1) PRIMARY OBJECTION IS POLLUTION OF WATER - RECOGNIZE THAT STATUTES DO NOT GIVE S.R.E. DIRECT AUTHORITY TO CONSIDER POLLUTION

(2) CONTEND THAT WATERS OF STREAM ARE FULLY APPROPRIATED

(3) FLUCTUATION OF WATER - CONCERN FOR 350,000 #/YR. HATCHERY PERIODIC FLUSHING OF PONDS UPSTREAM.

DIVERSION DAM I.S.T.CO. BASED UPON NATURAL RUNOFF CONDITIONS AND OLD

MEMO

Re: Application for Permit No. 36-7071

Dated: December 24, 1969

By: C. Stephen Allred

A conference was held,on December 16, 1969, at Twin Falls, Idaho. The applicant was represented by John C. Hepworth, attorney at law, Buhl, Idaho, and the protestant Idaho Springs Trout Company was represented by John Rosholt, attorney at law, Twin Falls, Idaho. The remaining protestants represented themselves.

After discussing the application with the applicant and the protestants, other than Idaho Springs Trout Company, it was decided that the protection sought by those protestants would be supplied by law and by the restrictions placed on the permit, if approved. It appeared to be the consensus of those protestants that they would not appear at a formal hearing.

The protestant, Idaho Springs Trout Company, through their attorney, John Rosholt, moved to strike the answer to the protest submitted by the applicant in that it was not submitted timely. The State Engineer said that he would take the matter under advisement and would issue a decision prior to the hearing. It was further decided that Mr. Rosholt would draft a prehearing order covering the points at issue for hearing. Those would be primarily as follows:

1. The question of pollution of the water and the effect of that pollution on existing prior water rights.

2. Contention that the waters of the stream were fully appropriated.

3. That the fluctuation required for operation of such a facility would injure downstream appropriators.

It was also related that parties would be given at least thirty days notice in order that they might obtain expert witness. A hearing should be set as soon as possible.

36 7071

36-7071 - Jones & Sandy Livestock Co.

Twin Falls City Hall, Twin Falls, Idaho

December 16, 1969 at 1:00 p.m.

ROSTER OF ATTENDANCE

| Name | Address | Representing |
|---|---|---|
| John Roshol | P.O. Box 525 Twin Falls | Idaho Springs Trout Co. |
| J. David Erickson | Box 232 Buhl Id. | Idaho Springs Trout Co. |
| Robert Erkins | Box 232 Buhl. Idaho 83316 | Idaho Springs Trout Co. Inc |
| John C. Howorth | 1020 Main Buhl, Idaho | Jones & Sandy Livestock |
| W. R. Sandy | Hagerman, Ida | " |
| John W. Jones Jr. | Hagerman, Idaho | Livestock |
| C Stephen Hurley | Boise Idaho | DEPT RECLAMATION |
| Richard Boyer | Hagerman | |
| Ronald L Boyer | Hagerman | |
| J. P. Gray | Hagerman | |
| Stanley J Rokovec | Hagerman | |
| K. A. Barton | " | |
| Mrs. Ted Bell | | |
| ~~Robert Brailsford~~ | ~~Twin Falls~~ | |

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

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

December 12, 1969

Re: Application for Permit No. 36-7071
Jones and Sandy Livestock Co.

Enclosed please find a copy of the Answer to Protest received by the Department on this date in connection with the above referenced application for permit.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

Enclosure

SENT TO:
Art Kaster
Russell Boyer
Ronald L. Boyer
John Barton & K.A. Barton
Walter Stewart
Stan Hoskovec
Stan Hoskovec, Jr.
Mrs. Ted Bell
Orland Peterson
James Crist
Robert A. Erkins
Harry Pover, Attorney
John A. Roshalt, Attorney

36 7071

December 5, 1969

COPY

Twin Falls City Hall
Twin Falls,
Idaho 83301

Dear Sirs:

This letter is to confirm the use of a room for conferences to be held by this office on December 16, 1969. These conferences will start at 1:00 p.m. with the last one starting at 4:00 p.m. Thank you for your co-operation.

Very truly yours,

C. Stephen Allred, Deputy
State Reclamation Engineer

CSA:kh

36 7071

BEFORE THE STATE RECLAMATION ENGINEER

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT )
NO. 35-7071 in the name of JONES & SANDY LIVESTOCK CO. ) CONFERENCE
)

On July 8, 1969, the Department of Reclamation received from Jones & Sandy Livestock Co., an application to appropriate the public waters of the State of Idaho. On July 31, 1969, Harry Povey filed, in behalf of Idaho Springs Trout Company, a protest against approval of application No. 35-7071. On August 4, 1969, a protest was received from the following people: Art Kaster, Russell Boyer, Roland Boyer, John Barton & K. A. Barton ( a partnership ), Walter Stewart, Stan Hoskovec, Stan Hoskovec, Jr., Mrs. Ted Bell, Orland Peterson, and James Crist all of Hagerman, Idaho.

The Department of Reclamation has set the matter of protest for an informal conference on December 16, 1969, at 1:00 p.m., at the Twin Falls City Hall, Twin Falls, Idaho. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

Failure to appear at the time and place set for conference by the applicant or protestants may allow the Department of Reclamation without prejudice to dismiss the protests or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing parties.

Dated this 4th day of December, 1969.

C. Stephen Allred, Deputy
State Reclamation Engineer

Mailed this 5th day of December, 1969, to Jones & Sandy Livestock Co., c/o W. A. Sandy, Hagerman, Idaho - certified no. 21472; Idaho Springs Trout Company, Robert A. Erkins, President, P.O. Box 232, Buhl, Idaho - certified no. 21473; Harry Povey, P.O. Box 344, Twin Falls, Idaho - certified No. 21474; Art Kaster, Hagerman, Idaho - certified No. 21475; Russell Boyer, Hagerman, Idaho - certified No. 21476; Roland Boyer, Hagerman, Idaho - certified No. 21477; Walter Stewart, Hagerman, Idaho certified No. 21478; Stan Hoskovec, Hagerman, Idaho - certified No. 21479; Stan Hoskovec, Jr., Hagerman, Idaho - certified NO. 21480; John Barton & K. A. Barton, Hagerman, Idaho - certified No. 21481; Mrs. Ted Bell, Hagerman, Idaho - certified No. 21482; Orland Peterson, Hagerman, Idaho - certified No. 21483; James Crist, Hagerman, Idaho - certified No. 21484; Parry, Robertson, Daly & Larson, P.O. Box 525, Attn: John A. Rosholt, Twin Falls, Idaho - certified No. 21485.

By Kaye Henderson

Copy of protest sent to Jones & Sandy Livestock Co.

Harry Povey

36 7071

RECEIVED
OCT 27 1969
Department of Reclamation

October 23, 1969

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

Re: Application for Permit No. 36-7071
Jones & Sandy Livestock Company

Dear Mr. Higginson:

Enclosed herewith is preliminary design of proposed hatchery facilities. The estimated annual production is 460,000 lbs.

Start of construction will be immediately upon approval of application. Some production will begin when a portion of the facilities are built. Finish of construction will be within four years, at which time the hatchery will be in full operation.

Enclosed is a letter from our bank indicating our financial resources to cover cost of constructing hatchery facilities.

We shall be glad to furnish any additional information which your office might desire.

Sincerely yours,

Jones & Sandy Livestock Company

by W. A. Sandy

cs

Enclosures

36 7071

WENDELL OFFICE

The Idaho First National Bank

BOX 516 ESTABLISHED 1867 83355

WENDELL, IDAHO

October 23, 1969

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

Re: Application for Permit No. 36-7071
Jones & Sandy Livestock Company

Dear Mr. Higginson:

The purpose of this letter is to advise you that W. A. Sandy and John W. Jones are valued customers of this bank. This Company has the financial resources available to complete the hatchery facilities which they propose. Our Bank would be willing to assist them if necessary.

The Jones & Sandy Livestock Company is one of the most substantial livestock operations in our area and have been in business for many years. They have operated on their own capital.

We have had no loan requests but would be willing to extend the credit necessary to complete their hatchery facilities.

Sincerely yours,

Charles E. Ireton
Manager, Wendell Office

CEI:jp

36 7071

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

# STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

September 26, 1969

Re: Application for Permit No. 36-7071

Jones and Sandy Livestock Company
c/o Mr. W. A. Sandy
Hagerman, Idaho 83332

Gentlemen:

In order to further consider your application for permit, we will require some additional information not included with your application.

1. A financial statement indicating the resources available to you to complete the project as described in the application (See Section 42-203, Idaho Code).

2. A preliminary design of the hatchery facilities indicating size of raceways, general layout, size of pipelines or other diversion works and such other information as will fully describe the method and means of diversion and verify the need for the quantity of water you have asked to appropriate.

3. A justification, based upon the preliminary design and the estimated production of the hatchery, for the amount of water requested.

4. An estimated schedule of construction, giving dates for the start of construction, finish of construction, and date that full operation of the hatchery is anticipated.

You should be aware that all applications, if approved, will require the installation and maintenance of adequate measuring devices, both at the point of diversion and the point of return of the water to the river. These devices must be of a type approved by the Department of Reclamation. They can

36 7071

be any generally recognized standard measuring device. You should include the installation of these devices in your preliminary plans for construction.

I would appreciate receiving this information by October 27, 1969. Thank you for your cooperation.

Very truly yours,

C. Stephen Allred, P. E.
Acting Deputy State
Reclamation Engineer

CSA:tg

Enc: none

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

# STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

September 17, 1969

Re: Application for Permit Nos:

| | | |
|---|---|---|
| 36-7066 | George Lemmon & Norman Standal | - 6/19/69 |
| 36-7068 | Wesley E. Reynolds and/or Donald Hinze | - 6/27/69 |
| 36-7069 | Wesley E. Reynolds and/or Donald Hinze | - 6/27/69 |
| 36-7071 | Jones & Sandy Livestock Company | - 7/08/69 |
| 36-7072 | Norman S. Standal and George Lemmon | - 7/17/69 |

Mr. John A. Rosholt
PARRY, ROBERTSON, DALY & LARSON
P.O. Box 525
Twin Falls, Idaho 83301

Dear Mr. Rosholt:

In response to your letter of September 10, 1969, please be advised that application no. 36-7072 held by Lemmon and Standal is junior in priority to application numbers 36-7068 and 36-7069, however, the source of water supply under 36-7072 is Thousand Springs and not Box and Blind Canyon Creek. The application that, I believe, you are interested in is 36-7066, a copy of which we are enclosing. You will note that the priority date is senior to the above referenced permits and it is on Box and Blind Canyon Creek.

As you have requested, we are enclosing a copy of application no. 36-7071 along with copies of the protests. We will mark this file accordingly so that copies of all pertinent correspondence will be submitted to Harry Povey, attorney-at-law, and also to your attention.

As to your final request, the water supply information bulletin which you have requested has been completely distributed and we do not have additional copies. We will loan you a copy from our library for a period of 30 days. We are also

36 7071

Mr. John A. Rosholt
PARRY, ROBERTSON, DALY & LARSON

September 17, 1969

enclosing, from our library, a copy of our Water Information Bulletin # 9 pertinent to the same area. Both of these documents must be returned within 30 days from the date of their receipt.

If we can be of further assistance, please do not hestitate to advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:dr

Enc: Copy of application no. 36-7066
Copy of application no. 36-7071 w/protests
Water Information Bulletin # 6
Water Information Bulletin # 9

36 7071

RECEIVED
SEP 11 1969
Department of Reclamation

PARRY, ROBERTSON, DALY & LARSON
LAWYERS
FIDELITY BANK BUILDING
P O BOX 525
TWIN FALLS, IDAHO 83301
TELEPHONE
(208) 733-3722

R. P. PARRY
T. M. ROBERTSON
JOHN H. DALY (1913-1966)
BERT LARSON
C. G. McINTYRE
JOHN R. COLEMAN
THOMAS G. NELSON
JOHN A. ROSHOLT
FRED D. DECKER

September 10, 1969

Mr. Don McEldowney
Water Rights Division
Idaho State Reclamation Office
Statehouse Annex 2
Boise, Idaho 83707

Dear Don:

Enjoyed our telephone conversation of today and thank you for the information.

The one item in the conversation that upset me was your making mention of the fact that the Standal application 36-7072 was prior to 36-7068 and 36-7069 as filed by Reynolds and Company.

Unless the last pages of the applications as copied for me by Russ Bosch are backwards, my copies indicate that the Standal permit was filed on July 17, 1969, and the two Reynolds permits were filed on June 27, 1969, if I am backwards, please notify me since I have already written to an interested third party indicating that the Reynolds applications would appear to be prior.

Another purpose of my letter is to inform you that we have been requested by Bob Erkins, President of the Idaho Springs Trout Company to assist Harry Povey, a Twin Falls Lawyer, in the representation of the Idaho Springs Trout Company in protesting the Jones and Sandy Livestock Company application 36-7071. In this regard, would you please send me copies of any protests which have been filed by persons other than the Idaho Springs Trout Company and also send me any supplemental information which may have been filed by the applicants.

I would officially request that copies of all notices, orders, etc. be sent to this office as well as a copy to Mr. Povey, the present attorney of record. If you would kindly send the copies of this information we will remit by return mail.

36 7071

Also if you have an extra copy of Water Information Bulletin No. 6 which is the record of North Side Springs and other inflow to the Snake River between Milner and King Hill, Idaho, 1948 - 1967, it would certainly be appreciated.

Finally, if you have any idea as to when the hearing on this permit will be held, we would appreciate as much advance notice as possible.

Thanks for your continuing help.

Sincerely,

John A. Rosholt

JOHN A. ROSHOLT

JAR:ps

August 29, 1969

COPY

Re: Application for Permit No. 36-7071

Jones & Sandy Livestock Co.
c/o W. A. Sandy
Hagerman, Idaho 83332

Dear Mr. Sandy:

We have enclosed copies of two protests filed against the issuance of permit pursuant to your application no. 36-7071 by the Idaho Springs Trout Company and (see copy of protest). The following are the only provisions which will be considered in a conference and/or hearing:

1. Whether or not the source of water supply is public water and is subject to appropriation.

2. Whether or not there is sufficient water supply at anytime during a five (5) year period for this application under its proposed priority.

3. Whether or not the application is made in good faith or for delaying or speculative purposes.

4. Whether or not the lands to be irrigated are covered by a perfected water right which provides 1/50 cubic feet per second of water per irrigated acre and/or 5 acre feet per annum per irrigated acre.

5. Whether or not the applicant possesses sufficient financial resources to complete the project.

Legal counsel is not mandatory, although you may desire to employ an attorney. You may also, if you so desire, submit a written answer to the protests within ten (10) days.

36 7071

The State Reclamation Engineer may reject such application and refuse issuance of permit therefore, or may partially approve and grant permit for a less quantity of water than applied for or may grant permit upon conditions.

A permit issued by this office does not in anyway convey or establish right-of-ways over private or governmental lands. Right-of-ways or easements must be obtained by individuals concerned through action outside of the water right proceedings.

If you have any questions, please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

COPY

DWM:DR

Enc: Copy of protests

DON SAMUELSON
GOVERNOR

R. KEITH HIGGINSON
State Reclamation Engineer

# STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE – ANNEX 2
BOISE, IDAHO 83707

August 29, 1969

Re: Application for Permit No. 36-7071
Jones & Sandy Livestock Co.

We are in receipt of your correspondence concerning the above referenced. The following are the only provisions which will be considered in the hearing and/or conference:

1. Whether or not the source of water supply is public water and is subject to appropriation.

2. Whether or not there is sufficient water supply at anytime during a five (5) year period for this application under its proposed priority.

3. Whether or not the application is made in good faith or for delaying or speculative purposes.

4. Whether or not the lands to be irrigated are covered by a perfected water right which provides 1/50 cubic feet per second of water per irrigated acre and/or 5 acre feet per annum per irrigated acre.

5. Whether or not the applicant possesses sufficient financial resources to complete the project.

Please bear in mind that the State Reclamation Engineer may reject such application and refuse issuance of permit therefor, or may partially approve and grant permit for a less quantity of water than applied for or may grant permit upon conditions.

36 7071

August 29, 1969

A permit issued by this office does not in anyway convey or establish right-of-ways over private or governmental lands. Right-of-ways or easements must be obtained by the individuals concerned through action outside of the water right proceedings.

If we may be of further assistance, please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:DR

Sent to:

Art Kaster
Russell Boyer
Ronald L. Boyer
John Barton & K. A. Barton
Walter Stewart
Stan Hoskovec
Stan Hoskovec, Jr.
Mrs. Ted Bell
Orland Peterson
James Crist

} Hagerman, Idaho

Robert A. Erkins
Idaho Springs Trout Co.
Box 232
Buhl, Idaho w/ cc: Harry Povey, Attorney
Box 344
Twin Falls, Idaho

36 7071

August 13, 1969

Re: Application for Permit No. 36-7071

Mr. Earl Hardy
1220 Vista
Boise, Idaho

Dear Mr. Hardy:

Enclosed please find a copy of the Application for Permit, No. 36-7071, in the name of Jones & Sandy Livestock Company, per your request.

If we can be of any further assistance please advise.

Very truly yours,

Donald W. McEldowney
Appropriation Examiner

DWM:sc
Enc.

COPY

## NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Jones and Sandy Livestock Company, c/o W. A. Sandy, Hagerman, Idaho have on July 8, 1969 applied for permit under application No. 36-7071 to divert 75 cubic feet per second of water from Weatherby Springs and Three Springs tributary of Billingsley Creek. Water will be diverted by headgates and pipeline within the NE¼ SW¼, SE¼ NW¼, Sec. 30, T. 7 S, R. 14 E, B.M. and is to be used from January 1 to December 31 for fish raising in the NE¼ SW¼, Sec. 30, T. 7 S, R. 14 E, B.M. Any protest against this aplication must be filed with the Department of Reclamation within ten days from the last date of this notice.

R. Keith Higginson
State Reclamation
Engineer

7-17-2tc

R. KEITH HIGGINSON
State Reclamation Engineer

# STATE OF IDAHO

DEPARTMENT OF RECLAMATION
STATEHOUSE - ANNEX 2
BOISE, IDAHO 83707

Re: Application for Permit No. 47-7069-France, Inc.
Application for Permit No. 36-7071-Jones and Sandy Livestock Company

Application for Permit Nos. 36-7069 and 36-7068-Wesley E. Reynolds and/or Donald J. Hinze

Gooding Leader
Gooding, Idaho

**Gentlemen:**

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

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

**An affidavit of publication must be submitted to the Department of Reclamation, along with the publication bill. In order to receive payment, the following certification must appear on the bill:**

> **I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of same has been paid.**

_____
**Signature of claimant**

**Very truly yours,**

Donald W. McEldowney
Appropriation Examiner

DWM:tg
Enc: Legal Notices (4)

36 7071

NOTICE OF APPLICATION FOR WATER

Notice is hereby given that Jones and Sandy Livestock Company, c/o W. A. Sandy, Hagerman, Idaho have on July 8, 1969 applied for permit under application No. 36-7071 to divert 75 cubic feet per second of water from Weatherby Springs and Three Springs ~~tirubtary of Bil~~lingsley Creek Water will be diverted by headgates and pipeline within the NE¼SW¼, SE¼NW¼, Sec. 30, T. 7 S, R. 14 E, B. M. and is to be used from January 1 to December 31 for fish raising in the NE¼SW¼, Sec. 30, T. 7 S, R. 14 E, B. M.

Any protest against this application must be filed with the Department of Reclamation within ten days from the last date of this notice.

R. KEITH HIGGINSON
State Reclamation Engineer

Published in the Gooding Leader, Gooding, Idaho,
on July 17 and July 24, 1969.

36 7071