

Ya-ta-Hay

Sec. 2 & 11 - T. 7

07S13E02

NW4SE4

Sec. 2 - T. 7

SW4SE4

Sec. 2 - T. 7

NW4NE4

07S11E11

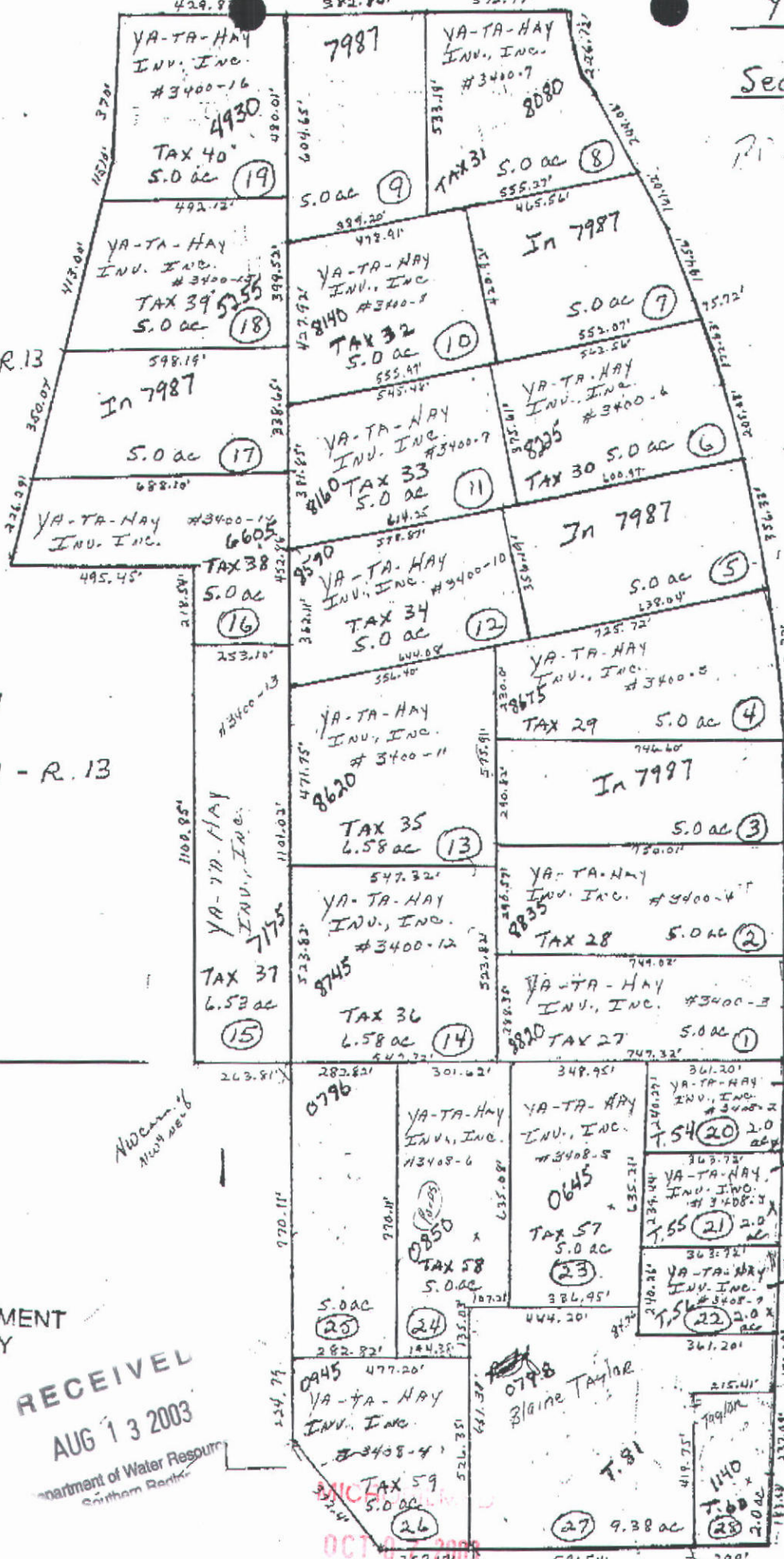
07S13E11

Lot 6

c. 2 - T. 7 - R. 13

Lot 7

ec. 2 - T. 7 - R. 13



FOR ASSESSMENT ONLY

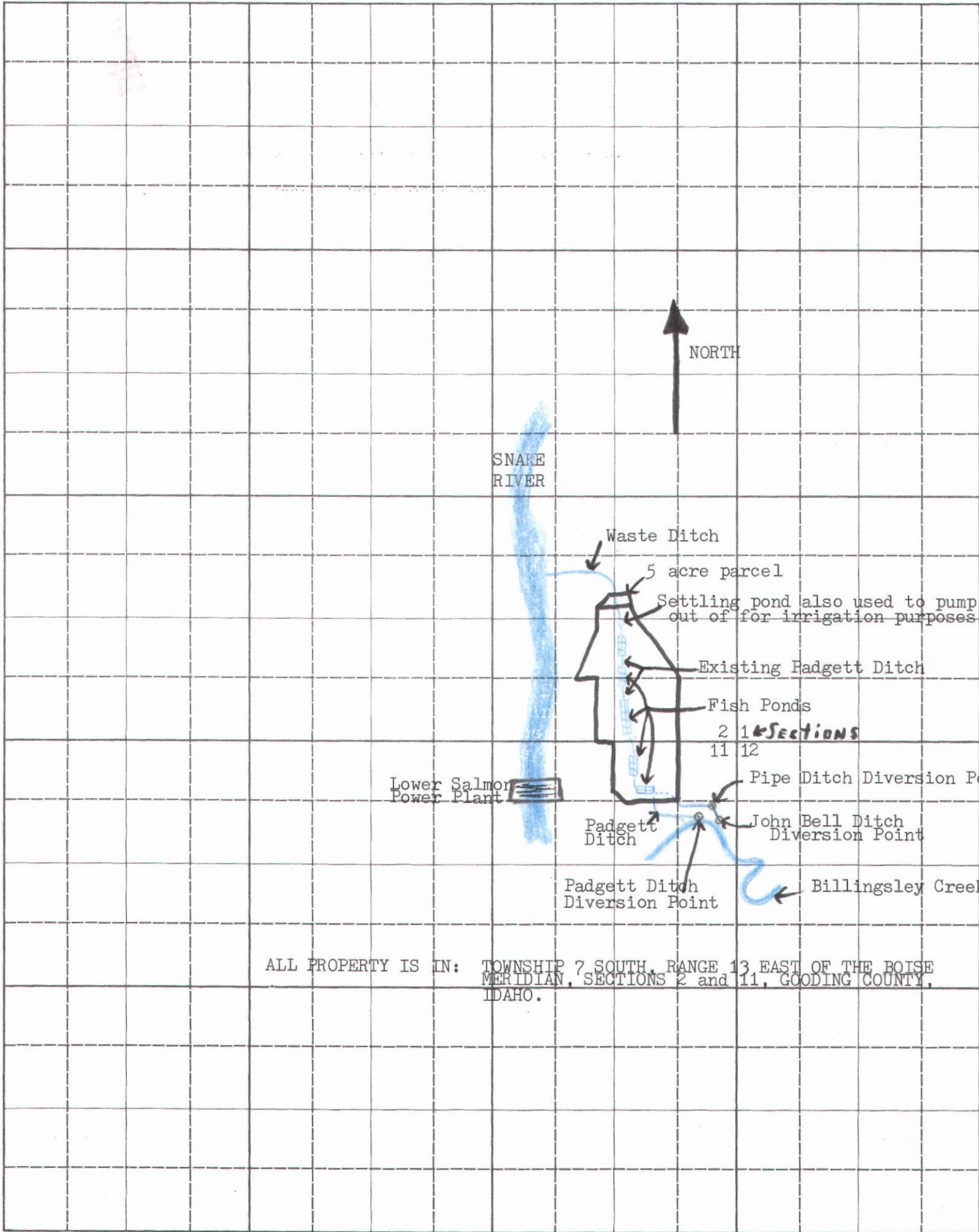
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Department of Water Resources
Southern Park

3408

OCT 13 2003

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



Scale: 2 inches equal 1 mile.

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

MICROFILMED

ya La Day Investments Inc
Fred S. Banta
(Applicant)

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Sary Gosh, 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 8 day of November

19 79, and the date of the last publication was on the 15

day of November, 19 79.

Subscribed and sworn to before me this 15

day of November, 19 79.
(SEAL)

Gemma Clara
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice	<u>72</u>
Number of Insertions	<u>2</u>
Lines tabular at	315c
Lines straight at <u>72</u>	21c <u>15.12</u>
Subsequent lines at <u>72</u>	15c <u>10.80</u>
TOTAL COST	<u>25.92</u>

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

36-7875

YA-TA-HAY INVESTMENTS, INC.

P.O. BOX #424, HAGERMAN, ID 83332

Source: BILLINGSLEY CREEK tributary to SNAKE RIVER

Date Filed: 10/24/1979

Amount: 10.00 CFS

Diversion Point: SENE Sec 11 T 07S R 13E, GOODING Co.

Use: FISH PROP. (10.00 CFS) from 01/01 to 12/31
Place of Use: NWNE Sec 11 T 07S R 13E SWSE NWSE Sec 02 T 07S R 13E
Diversion Means: DIVERSION TO PONDS VIA PIPE & PADGETT DITCHES

37-7804

SCHMIDT, KENNARD
ROUTE 1, GOODING, ID 83330

Source: WASTEWATER & DOG CREEK tributary to DRY CREEK

Date Filed: 10/25/1979

Amount: 2.40 CFS

Diversion Point: SWNE Sec 11 T 05S R 14E, GOODING Co.

Use: IRRIGATION (2.40 CFS) from 04/01 to 11/01
Place of Use: SWNE SENE SENW Sec 11 T 05S R 14E
FOR 120 ACRES

Diversion Means: PUMP TO SPRINKLER SYSTEM

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before NOVEMBER 26, 1979.

/s/ C. Stephen Allred
Director

Pub: 11-8, 15

Department of Water Resources
Southern District Office

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

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NOV 27 1991

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 36-07875

1. Owner: Y4 Tr Hxx Investments Phone No. _____

Current Address: E/O Mary R. Barrett, 813 W. Kiowa, Hobbs, NM 88240

2. Accompanied by: Cliff Jensen EXAM. DATE: 3-28-80

Address: P.O. Box 201, Hagerman, ID 83332 Phone No. 837-6116

Relationship to Permit Holder: Manager 837-6179 PM

3. Source: Billingsley Cr. tributary to Snake R.
via Padgett Ditch

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____

☐ Copies Attached

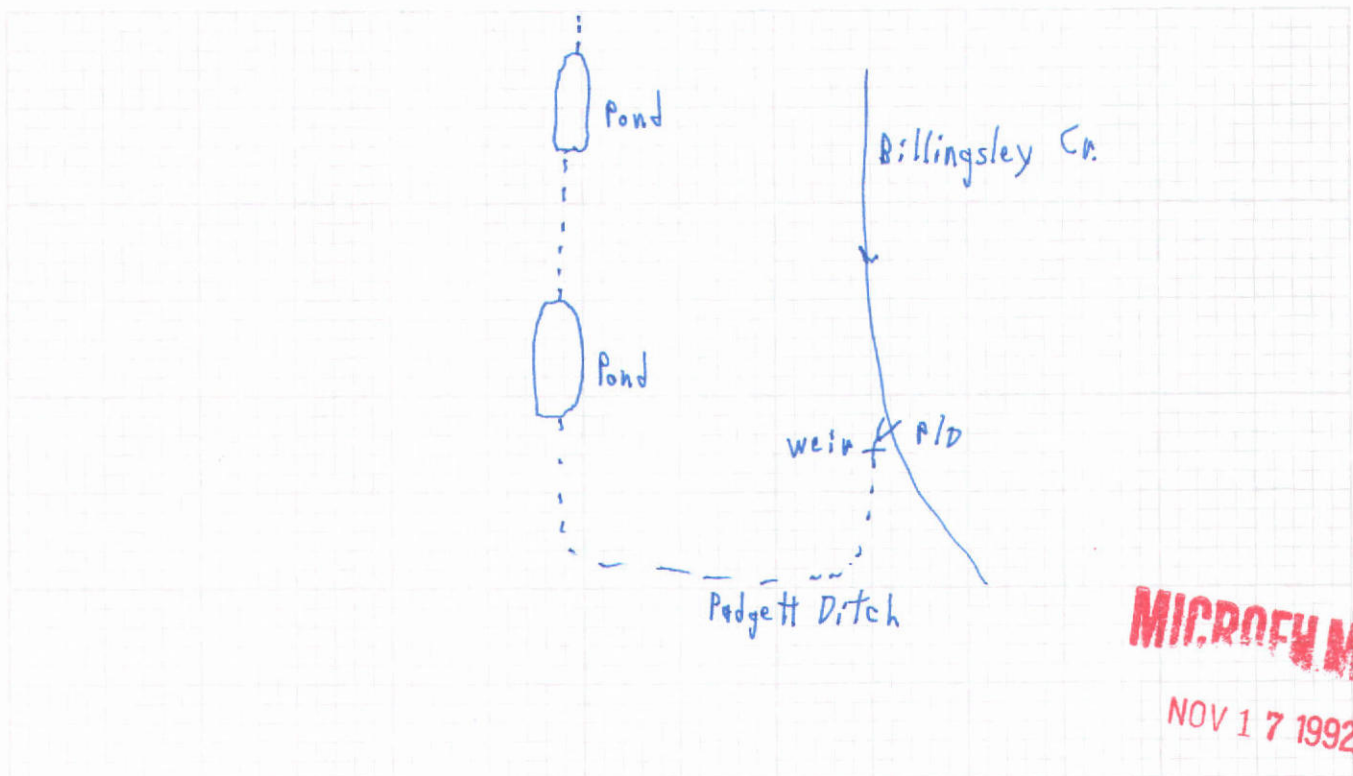
2. Other water rights with same point of diversion: several decreed irrigation rights

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

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



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Scale: 1" = _____

2. ☒ Copy of U.S.G.S. Quadrangle Attached
Showing location(s) of point(s) of diversion and
place(s) of use (required).

☒ Photo of Diversion and System Attached

(required for all but single household domestic groundwater, and stockwater.)

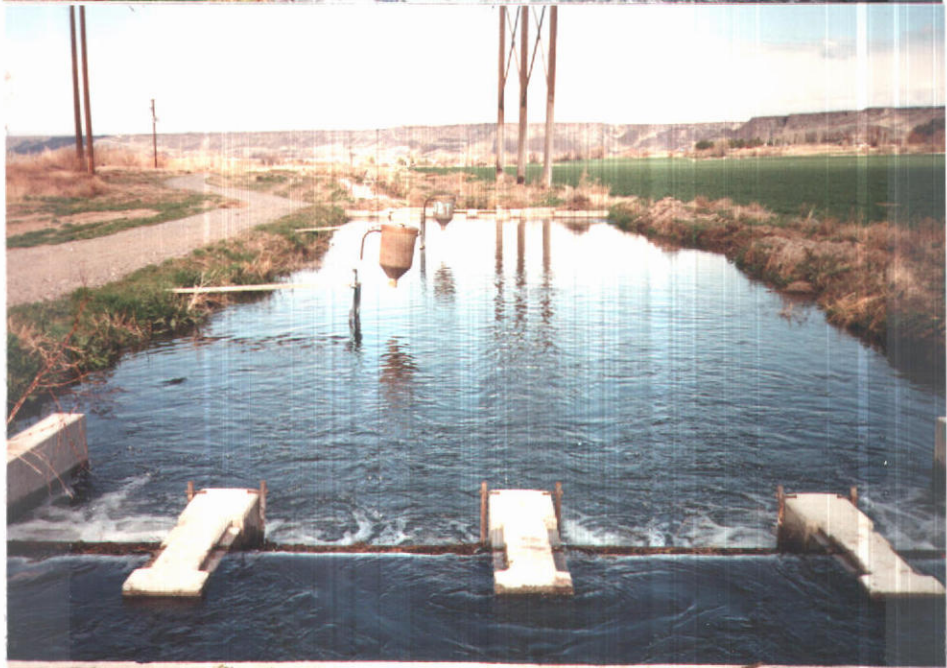
☐ Aerial Photo Attached
(required for irrigation of 10 acres or more).

36-7875

Diversion &
Measuring Device



Upper Pond
Looking North

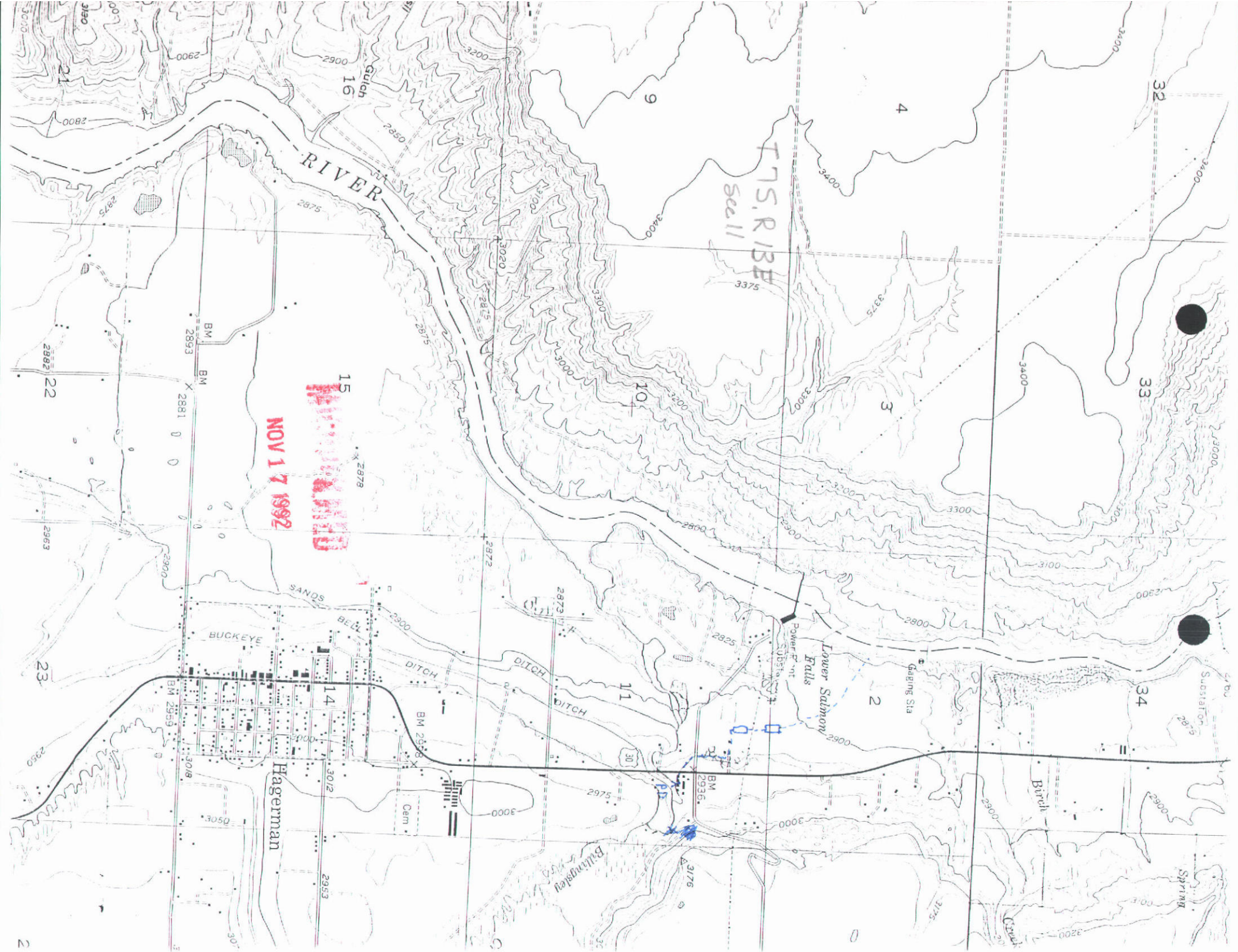


Lower Pond
Looking North



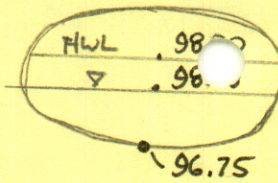
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NOV 17 1992



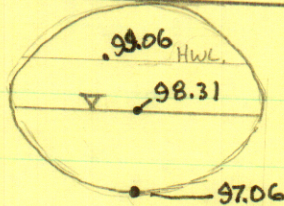
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-1+22



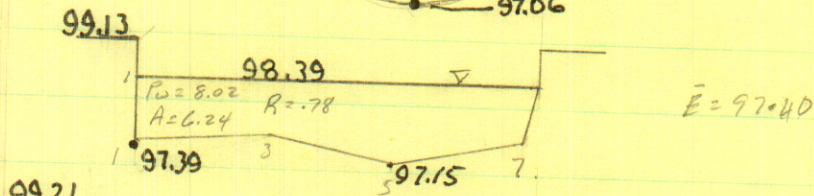
B.M. ← Elev. 100.00

0+00
Inlet Culvert

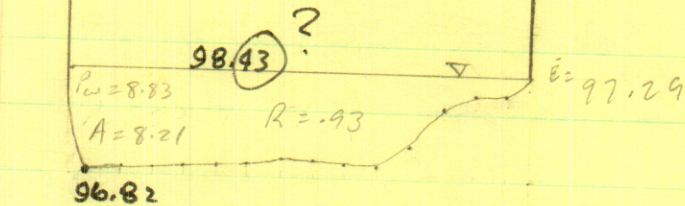


36" X 48" Culvert

0+25

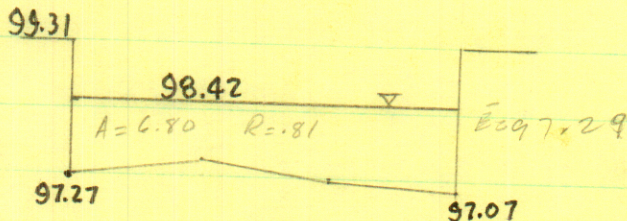


0+50
@ Bridge



5' for water surface = .0032

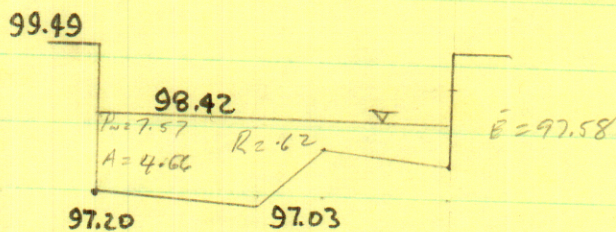
0+75



$\bar{R} = .78$

$\bar{A} = 6.06$

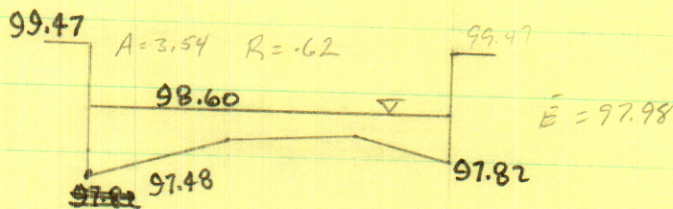
1+00



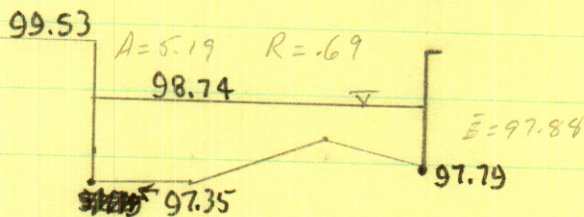
$$Q = \frac{1.49}{n} A R^{2/3} S^{1/2}$$

$n = .067$

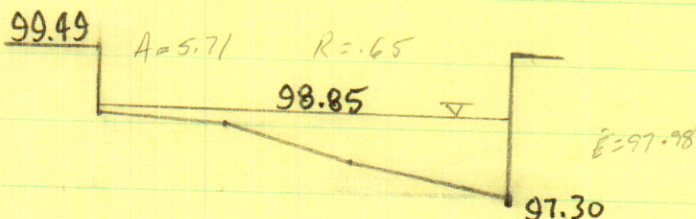
1+25



1+50

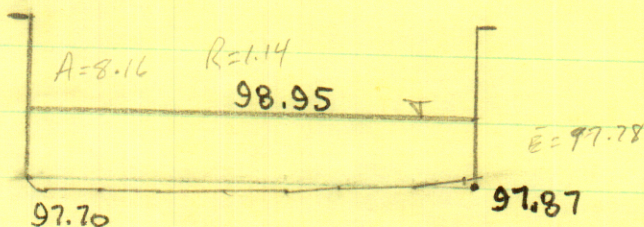


1+75



2+00

@ Headgate



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stevens #10



Stevens # 11



Stevens #7



Stevens #8



stevens # 9



Stevens #6



Stevens # 5



Steven #4



St. John's #3



Stevens 42



Stevens St

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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Department of Water Resources

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
36-10283A					
36-07875					

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Ya-Ta-Hay Investments, Inc.
813 W. Kiowa Hobbs, NM. 88240
4. New Owner/Claimant(s) Lynn J. & Kathy L. Babington, one half interest.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 2849 South 850 East
- City, State and ZIP Code Hagerman, ID. 83332
- New Telephone Number (208) 837-4860
5. Date you acquired the property _____

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Department of Water Resources
Southern Region

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

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AUG 15 2003
DEPARTMENT OF WATER RESOURCES

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

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Water Right No(s)	Adjudication Claim No(s)	Split	Water Right No(s)	Adjudication Claim No(s)	Split
36-10283A					
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- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
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PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Ya-Ta-Hay Investment, Inc.
813 W. Kiowa Hobbs, NM. 88240
4. New Owner/Claimant(s) Clifton E. Jensen and Suzanne K. Jensen, one half interest.
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
P.O. BOX 201
 New Mailing Address
Hagerman, ID. 83332
 City, State and ZIP Code
 New Telephone Number (208) 837-6116
5. Date you acquired the property _____

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6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right(s) will not be split, skip this area and proceed to item 7)

Water Right and/or Adjudication Claim Number _____

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

Signature of New Owner(s) or Claimant(s)
(include title if applicable)

[Handwritten signatures: Joseph P. Kelly, Kathy L. Balmington, Cynthia Jensen, Doreen K. Jensen]

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by [Signature] Date 8/14/03 Fee 50.00
 Received by [Signature] Date 8/14/03 Receipt No. 0026051
 Processed by [Signature] AJ Date _____ WR _____ Date _____

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Department of Water Resources
Southern Region

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CORPORATE WARRANTY DEED

For Value Received

YA-TA-HAY INVESTMENT, INC., a Texas Corporation

a corporation duly organized and existing under the laws of the State of Idaho, does hereby Grant, Bargain, Sell, and Convey unto

LYNN J. BABINGTON and KATHY L. BABINGTON, Husband and Wife, as to an undivided one-half interest, and CLIFTON E. JENSEN and SUZANNE K. JENSEN, Husband and Wife, as to an undivided one-half interest

the grantee(s), whose current address is: **P.O. Box 201, Hagerman, ID. 83332**

the following described real estate, situated in **GOODING** County, Idaho, to-wit:

See Attached Exhibit "A"

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), his/her/their heirs and assigns forever. And the said Grantor(s) do(es) hereby covenant to and with the said Grantee(s), that he/she/they are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U.S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that he/she/they will warrant and defend the same from all lawful claims whatsoever.

IN WITNESS WHEREOF, The Grantor, pursuant to a resolution of its board of directors has caused its corporate name to be hereunto subscribed by its President this 20th day of July, 2003.

YA-TA-HAY INVESTMENTS, INC., a Texas Corporation

Mary Ruth Barrett
By: Mary Ruth Barrett, President

Rebecca J. Barrett
Rebecca J. Barrett, Secretary

State of New Mexico }
County of Bee } ss.

On this 20th day of July, in the year 2003, before me, the undersigned, personally appeared Mary Ruth Barrett and Rebecca J. Barrett, known or identified to me to be the president, or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Nancy D. McLaughlin
Notary Public
Residing At: North Idaho 88240
Commission Expires 12-03-2004

Instrument # 201860

GOODING, GOODING, IDAHO
2003-07-24 04:10:30 No. of Pages: 3
Recorded for : GOODING TITLE
HELEN EDWARDS
Ex-Officio Recorder Deputy Penny Watson

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Department of Water Resources
Southern Region

EXHIBIT A
G030326

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho

Section 2: Part of Lots 2, 3, 6 and 7, and the W $\frac{1}{4}$ SE $\frac{1}{4}$ described as follows:

BEGINNING at the South Quarter corner of Section 2, Township 7 South, Range 13 East, Boise Meridian;
THENCE West 4 chains, recorded angle and distance (North 89°02'12" West 263.81 feet measured angle and distance) to an Idaho Power monument marked "M-27";
THENCE North 20 chains recorded angle and distance (North 0°08'30" East 1,320.33 feet measured angle and distance) to an Idaho Power monument marked "M-28", point being on the South boundary of Lot 6,
Section 2;
THENCE West 482.4 feet recorded angle and distance (North 89°01'49" West 495.45 feet measured angle and distance) along said South boundary of Lot 6 to a point marked by a $\frac{1}{2}$ inch steel pin;
THENCE North 14°40' East 1,120 feet recorded angle and distance (North 14°28'33" East 1,104.00 feet measured angle and distance) to a point marked by a $\frac{1}{2}$ inch steel pin;
THENCE North 5°13' East 370.00 feet recorded angle and distance (North 4°39'33" East 370.00 feet measured angle and distance) to a point marked by a $\frac{1}{2}$ inch steel pin;
THENCE North 89°47'20" East 1,188.54 feet to a point on the Westerly right-of-way of a certain Highway known as U.S. 30 Idaho Department of Highway Project F-2361 (18) as constructed in 1964, which point is 943.99 feet South of the North boundary of said Section 2;
THENCE South 14°30'52" East 223.80 feet along the cord of a 12°36'18" curve having a radius of 454.53 feet and arc length of 226.12 feet;
THENCE South 28°46'06" East 405.08 feet to a point on said Westerly right-of-way marked by brass cap monument which is 50' right of Idaho Department of Highway Station 235 + 41;
THENCE South 18°47'45" East 194.56 feet along said Westerly right-of-way to a brass cap monument marked "50' right Station 237 + 35.56";
THENCE South 18°10'22" East 248.35 feet along said right-of-way to a brass cap monument marked "50' right Station 239 + 85.56";
THENCE South 9°27'50" East 974.13 feet along the chord of a 1°31'08" curve right, having a radius of 3,769.72 feet and an arc length of 976.86 feet to a brass cap monument marked "50' right Station 249 + 75.56";
THENCE South 0°47'07" East 248.17 feet along said Westerly right-of-way to a brass cap monument marked "50' right Station 252 + 25.56";
THENCE South 0°11'54" East 405.93 feet along said Westerly right-of-way to a brass cap monument marked "50' right Station 256 + 31.33";
THENCE South 0°00'25" West 167.97 feet along said right-of-way to a point on the South boundary of Section 2;
THENCE West 1,294.62 feet along the South boundary of Section 2, to the South Quarter corner of said Section 2, the TRUE POINT OF BEGINNING.

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho

Section 11: NW $\frac{1}{4}$ NE $\frac{1}{4}$

EXCEPTING THEREFROM a tract described as follows:

BEGINNING at a point which is 994.9 feet South 0°15' West of the North Quarter corner of said Section 11;
THENCE South 0°15' West 319.3 feet to a point;
THENCE South 89°29' East 1,317.3 feet to a point in the West boundary of highway;
THENCE North 0°15' East 20.0 feet to a point;
THENCE North 89°29' West 1,097.2 feet to a point;
THENCE North 35°58' West 372.4 feet to the POINT OF BEGINNING.

EXCEPTING from the above lands in Section 11, highway right-of-way as described in Second Judgment and Decree of Condemnation out of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Gooding, Case No. 10473, recorded April 17, 1964 as Instrument No. 11164.

ALSO EXCEPTING THEREFROM the following described property:

Parcel 1

Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho

Section 11: Part of the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

COMMENCING at the Northwest corner of the said Northwest Quarter of the Northeast Quarter;
THENCE South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;
THENCE South 36°08'20" East 372.4 feet;
THENCE South 89°49'00" East 257.17 feet to the TRUE POINT OF BEGINNING;
THENCE South 89°49'00" East 581.54 feet;
THENCE North 0°11'00" East 419.75 feet;
THENCE East 215.41 feet to the Westerly right of way boundary of U.S. Highway 30;
THENCE North 2°24'05" East 8.79 feet along said Westerly right of way boundary to a point 50.00 feet right of Station 266+71.33;

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Department of Water Resources
Southern Region

THENCE Northerly along said Westerly right of way boundary 150.08 feet on the arc of a curve left with a radius of 22,868.32 feet, a central angle of 0°22'34", and a chord which bears North 2°14'54" East 150.08 feet;
THENCE West 361.20 feet;
THENCE North 1°09'08" East 84.76 feet;
THENCE West 444.19 feet;
THENCE South 0°04'31" West 661.38 feet to the TRUE POINT OF BEGINNING.

Parcel II

Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho

Section 11: Part of the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

COMMENCING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
THENCE South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;
THENCE South 36°08'20" East 372.4 feet;
THENCE South 89°49'00" East 838.71 feet to the TRUE POINT OF BEGINNING;
THENCE South 89°49'00" East 200.00 feet to the Westerly right of boundary of U.S. Highway 30;
THENCE Northerly along said Westerly right of way boundary of 183.63 feet on the arc of a non tangent curve to the right with a radius of 17,238.74 feet, a central angle of 0°36'37" and a chord which bears North 2°07'44" East 183.63 feet to a point of curvature 50.00 feet right of Station 269+17.62;
THENCE North 2°24'05" East 237.09 feet along said Westerly right of way boundary;
THENCE West 215.41 feet;
THENCE South 0°11'00" West 419.75 feet to the TRUE POINT OF BEGINNING.

RESERVING UNTO THE GRANTORS an easement for the purpose of ingress and egress over a strip of land located in the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

BEGINNING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
THENCE North 90°00'00" East a distance of 1,294.64 feet along the northerly boundary of said Northwest Quarter of the Northeast Quarter to the Westerly boundary of State Highway No. 30;
THENCE southerly along said westerly boundary 719.97 feet on the arc of a non-tangent curve to the right with a radius of 22,868.32 feet, a central angle of 1°48'14" and a chord which bears South 1°09'42" West a distance of 719.97 feet to the Northeast corner of Parcel 27 of Ya-Ta-Hay Investments property as shown on record Survey as Instrument No. 82083, recorded March 17, 1990 in the records of survey of Gooding County, Idaho, and the TRUE POINT OF BEGINNING;
THENCE Southerly 30.02 feet on the arc of a curve to the right with a radius of 22,868.32 feet, a central angle of 0°04'31" and a chord which bears South 2°06'29" West a distance of 30.02 feet along said Westerly boundary of State Highway 30;
THENCE South 90°00'00" West a distance of 148.89 feet;
THENCE North 0°00'00" East a distance of 30.00 feet;
THENCE North 90°00'00" East a distance of 150.00 feet to the TRUE POINT OF BEGINNING.

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Department of Water Resources
Southern Region

MICHAEL J. [illegible]

AUG 13 2003

SCHEDULE A**1. Commitment Date:** June 26, 2003 at 8:00 AM**Commitment No.** G030326**2. Policy or Policies to be issued:**

(a) Owners Policy
Form 1402-92 (10-17-1992)
Proposed Insured:

525,000.00

1,722.50

LYNN J. BABINGTON and KATHY L. BABINGTON and CLIFTON E. JENSEN and SUZANNE K. JENSEN

(b) Loan Policy
ALTA Loan Policy
Form 1056-92 (10-17-1992)
Proposed Insured:

0.00

0.00

(c) Endorsements

Premium Total: 0.00
1,722.50

3. FEE SIMPLE Interest in the land described in this Commitment is owned at the Commitment Date, by:

YA-TA-HAY INVESTMENTS, INC., a Texas Corporation

4. The land referred to in this Commitment is described as follows:

See Attached Exhibit "A"

The records of the County Tax Rolls disclose the above property address as:
Hobbs, Nm 88241

RECEIVED**AUG 13 2003**Department of Natural Resources
Southern RegionMICHAEL J. JENSEN
DEPT. 5-2-2003

No. G030326

EXHIBIT "A"

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho

Section 2: Part of Lots 2, 3, 6 and 7, and the W $\frac{1}{4}$ SE $\frac{1}{4}$ described as follows:

BEGINNING at the South Quarter corner of Section 2, Township 7 South, Range 13 East, Boise Meridian;

THENCE West 4 chains, recorded angle and distance (North 89°02'12" West 263.81 feet measured angle and distance) to an Idaho Power monument marked "M-27";

THENCE North 20 chains recorded angle and distance (North 0°08'30" East 1,320.33 feet measured angle and distance) to an Idaho Power monument marked "M-28", point being on the South boundary of Lot 6, Section 2;

THENCE West 482.4 feet recorded angle and distance (North 89°01'49" West 495.45 feet measured angle and distance) along said South boundary of Lot 6 to a point marked by a $\frac{1}{2}$ inch steel pin;

THENCE North 14°40' East 1,120 feet recorded angle and distance (North 14°28'33" East 1,104.00 feet measured angle and distance) to a point marked by a $\frac{1}{2}$ inch steel pin;

THENCE North 5°13' East 370.00 feet recorded angle and distance (North 4°39'33" East 370.00 feet measured angle and distance) to a point marked by a $\frac{1}{2}$ inch steel pin;

THENCE North 89°47'20" East 1,188.54 feet to a point on the Westerly right-of-way of a certain Highway known as U.S. 30 Idaho Department of Highway Project F-2361 (18) as constructed in 1964, which point is 943.99 feet South of the North boundary of said Section 2;

THENCE South 14°30'52" East 223.80 feet along the cord of a 12°36'18" curve having a radius of 454.53 feet and arc length of 226.12 feet;

THENCE South 28°46'06" East 405.08 feet to a point on said Westerly right-of-way marked by brass cap monument which is 50' right of Idaho Department of Highway Station 235 + 41;

THENCE South 18°47'45" East 194.56 feet along said Westerly right-of-way to a brass cap monument mark "50' right Station 237 + 35.56";

THENCE South 18°10'22" East 248.35 feet along said right-of-way to a brass cap monument marked "50' right Station 239 + 85.56";

THENCE South 9°27'50" East 974.13 feet along the chord of a 1°31'08" curve right, having a radius of 3,769.72 feet and an arc length of 976.86 feet to a brass cap monument marked "50' right Station 249 + 75.56";

THENCE South 0°47'07" East 248.17 feet along said Westerly right-of-way to a brass cap monument marked "50' right Station 252 + 25.56";

THENCE South 0°11'54" East 405.93 feet along said Westerly right-of-way to a brass cap monument marked "50' right Station 256 + 31.33";

THENCE South 0°00'25" West 167.97 feet along said right-of-way to a point on the South boundary of Section 2;

THENCE West 1,294.62 feet along the South boundary of Section 2, to the South Quarter corner of said Section 2, the TRUE POINT OF BEGINNING.

RECEIVED

MILWAUKEE (continued)

OCT 10 / 2003

TWIN FALLS TITLE DEPARTMENT
Gooding County, Idaho

Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho

Section 11: NW $\frac{1}{4}$ NE $\frac{1}{4}$

EXCEPTING THEREFROM a tract described as follows:

BEGINNING at a point which is 994.9 feet South 0°15' West of the North Quarter corner of said Section 11;

THENCE South 0°15' West 319.3 feet to a point;

THENCE South 89°29' East 1,317.3 feet to a point in the West boundary of highway;

THENCE North 0°15' East 20.0 feet to a point;

THENCE North 89°29' West 1,097.2 feet to a point;

THENCE North 35°58' West 372.4 feet to the POINT OF BEGINNING.

EXCEPTING from the above lands in Section 11, highway right-of-way as described in Second Judgment and Decree of Condemnation out of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Gooding, Case No. 10473, recorded April 17, 1964 as Instrument No. 11164.

ALSO EXCEPTING THEREFROM the following described property:

Parcel I

Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho

Section 11: Part of the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

COMMENCING at the Northwest corner of the said Northwest Quarter of the Northeast Quarter;

THENCE South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;

THENCE South 36°08'20" East 372.4 feet;

THENCE South 89°49'00" East 257.17 feet to the TRUE POINT OF BEGINNING;

THENCE South 89°49'00" East 581.54 feet;

THENCE North 0°11'00" East 419.75 feet;

THENCE East 215.41 feet to the Westerly right of way boundary of U.S. Highway 30;

THENCE North 2°24'05" East 8.79 feet along said Westerly right of way boundary to a point 50.00 feet right of Station 266+71.33;

THENCE Northerly along said Westerly right of way boundary 150.08 feet on the arc of a curve left with a radius of 22,868.32 feet, a central angle of 0°22'34", and a chord which bears North 2°14'54" East 150.08 feet;

THENCE West 361.20 feet;

THENCE North 1°09'08" East 84.76 feet;

THENCE West 444.19 feet;

THENCE South 0°04'31" West 661.38 feet to the TRUE POINT OF BEGINNING.

(continued)

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AUG 13 2003

Department of Water Resources
Southern Region

MICROFILMED
OCT 14 2003

Parcel II

Township 7 South, Range 13, East of the Boise Meridian, Gooding County, Idaho

Section 11: Part of the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

COMMENCING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
THENCE South 0°04'31" West 994.90 feet along the Westerly boundary of said Northwest Quarter of the Northeast Quarter;

THENCE South 36°08'20" East 372.4 feet;

THENCE South 89°49'00" East 838.71 feet to the TRUE POINT OF BEGINNING;

THENCE South 89°49'00" East 200.00 feet to the Westerly right of boundary of U.S. Highway 30;

THENCE Northerly along said Westerly right of way boundary of 183.63 feet on the arc of a non tangent curve to the right with a radius of 17,238.74 feet, a central angle of 0°36'37" and a chord which bears North 2°07'44" East 183.63 feet to a point of curvature 50.00 feet right of Station 269+17.62;

THENCE North 2°24'05" East 237.09 feet along said Westerly right of way boundary;

THENCE West 215.41 feet;

THENCE South 0°11'00" West 419.75 feet to the TRUE POINT OF BEGINNING.

RESERVING UNTO THE GRANTORS an easement for the purpose of ingress and egress over a strip of land located in the Northwest Quarter of the Northeast Quarter being more particularly described as follows:

BEGINNING at the Northwest corner of said Northwest Quarter of the Northeast Quarter;
THENCE North 90°00'00" East a distance of 1,294.64 feet along the northerly boundary of said Northwest Quarter of the Northeast Quarter to the Westerly boundary of State Highway No. 30;

THENCE southerly along said westerly boundary 719.97 feet on the arc of a non-tangent curve to the right with a radius of 22,868.32 feet, a central angle of 1°48'14" and a chord which bears South 1°09'42" West a distance of 719.97 feet to the Northeast corner of Parcel 27 of Ya-Ta-Hay Investments property as shown on record Survey as Instrument No. 82083, recorded March 17, 1990 in the records of survey of Gooding County, Idaho, and the TRUE POINT OF BEGINNING;

THENCE Southerly 30.02 feet on the arc of a curve to the right with a radius of 22,868.32 feet, a central angle of 0°04'31" and a chord which bears South 2°06'29" West a distance of 30.02 feet along said Westerly boundary of State Highway 30;

THENCE South 90°00'00" West a distance of 148.89 feet;

THENCE North 0°00'00" East a distance of 30.00 feet;

THENCE North 90°00'00" East a distance of 150.00 feet to the TRUE POINT OF BEGINNING.

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AUG 13 2003

Department of Water Resources
Southern Region

MICROFILMED

2003

No. G030326

SCHEDULE B - SECTION 1**Requirements**

The following requirements must be met:

- (a) Pay the Agreed amounts for the interest in the land and/or the mortgage to be insured.
 - (b) Pay us the premiums, fees and charges for the policy.
 - (c) Documents satisfactory to us creating the interest in the land and/or the mortgage to be insured must be signed, delivered and recorded.
 - (d) You must tell us in writing the name of anyone not referred to in this Commitment who will get an interest in the land or who will make a loan on the land. We may then make additional requirements or exceptions.
 - (e) You must give us the following information
 - 1. Any off record leases, surveys, etc.
 - 2. Statement(s) of Identity, all parties
 - 3. Other
- 1. We require a certified copy of the corporate resolution authorizing the sale and directing the execution of the forthcoming deed.
 - 2. Deed transferring title from vestee to LYNN J. BABINGTON and KATHY L. BABINGTON and CLIFTON E. JENSEN and SUZANNE K. JENSEN.

NOTE: For more information regarding this title report, please contact:

GOODING TITLE & ESCROW COMPANY
342 MAIN STREET, P.O. BOX 446
GOODING, IDAHO 83330
(208) 934-4427 - (208) 934-4741 - FAX

TITLE OFFICER: TAMARA J. MCENTARFER - 736-2424 OR 736-3737 - FAX
ESCROW OFFICER: JARROD BALL

RECEIVED**AUG 13 2003**Department of Water Resources
Southern Region

MICHAEL J. JENSEN

08/13/2003

No. G030326

**SCHEDULE B - Section 2
Exceptions**

Any Policy we insure will have the following exceptions unless they are taken care of to our satisfaction.

Part I:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes of assessments on real property or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of said land or by making inquiry of persons in possession thereof.
3. Easements, claims of easement or encumbrances which are not shown by the public records.
4. Discrepancies, conflicts in boundary line, shortage in area, encroachments or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.
6. Any lien, or right to a lien, for services, labor or material theretofore or hereafter furnished, imposed by law and not shown by the public records.

Part II:

7. General Taxes for 2003 are an accruing lien, not yet due or payable.

NOTE: Total taxes for 2002 were \$793.02. Said amount is the combined total on all parcels included in this transaction. Said taxes have been paid in full.

8. Levies and assessments due County for Solid Waste.
9. Any assessments levied by a local irrigation district, including but not limited to assessments for delivery of water which was adjudicated by Decree in the District Court of the United States for the District of Idaho Southern Division, dated March 22, 1932, recorded April 19, 1932 in Book 6 of Judgments at Page 31, records of Gooding County, Idaho.
10. Levies and assessments of the Lower Snake River Aquifer district.
11. An Easement and the terms and provisions thereof, in favor of Great Shoshone and Twin Falls Water Power Company, a corporation recorded December 16, 1911 in Book J of Deeds, page 269, as Instrument No. n/a.
12. An Easement and the terms and provisions thereof, in favor of Great Shoshone and Twin Falls Water Power Company, a corporation recorded January 19, 1912 in Book J of Deeds, page 311, as Instrument No. n/a.
13. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded July 1, 1930 in Book 3 of Miscellaneous, page 338, as Instrument No. .
14. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded October 22, 1945 in Book 5 of Miscellaneous, page 594, as Instrument No. n/a.

(Continued)

Exceptions 1-4 & 6 may be eliminated in an ALTA Extended Coverage Policy.

RECEIVED**AUG 13 2003**Department of Water Resources
Southern Region

No. G030326

**SCHEDULE B - Section 2
Exceptions - Continued**

15. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded March 8, 1950 in Book 6 of Miscellaneous, page 510, as Instrument No. n/a.
16. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded May 29, 1953 in Book 7 of Miscellaneous, page 254, as Instrument No. n/a.
17. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded October 24, 1962, as Instrument No. 5944.
18. Subject to conditions of Second Judgment and Condemnation Decree recorded April 17, 1964 as Instrument No. 11164.
19. An Easement for right-of-way and the terms and provisions thereof, in favor of Pacific Power and Light Company, a corporation, its successors and assigns recorded July 28, 1978, as Instrument No. 71629.
20. All matters, covenants, conditions, restrictions, easements and any rights, interest or claims which may exist by reason thereof, disclosed by Record of Survey, recorded March 17, 1980, as Instrument No. 82083, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c).
21. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded September 22, 1980, as Instrument No. 85368.
22. An Easement and the terms and provisions thereof, in favor of Idaho Power Company, a corporation recorded December 15, 1995, as Instrument No. 163662.

*cf per
Journal*

RECEIVED

AUG 13 2003

Department of Water Resources
Bozeman, Montana

RECORDED

AUG 13 2003

Ya-Ta-Hay

Sec. 2 & 11 - T. 7

07S13E02

NW4 SE4

Sec. 2 - T. 7

SW4 SE4

Sec. 2 - T. 7

NW4 NE4

Sec. 11 - T. 7

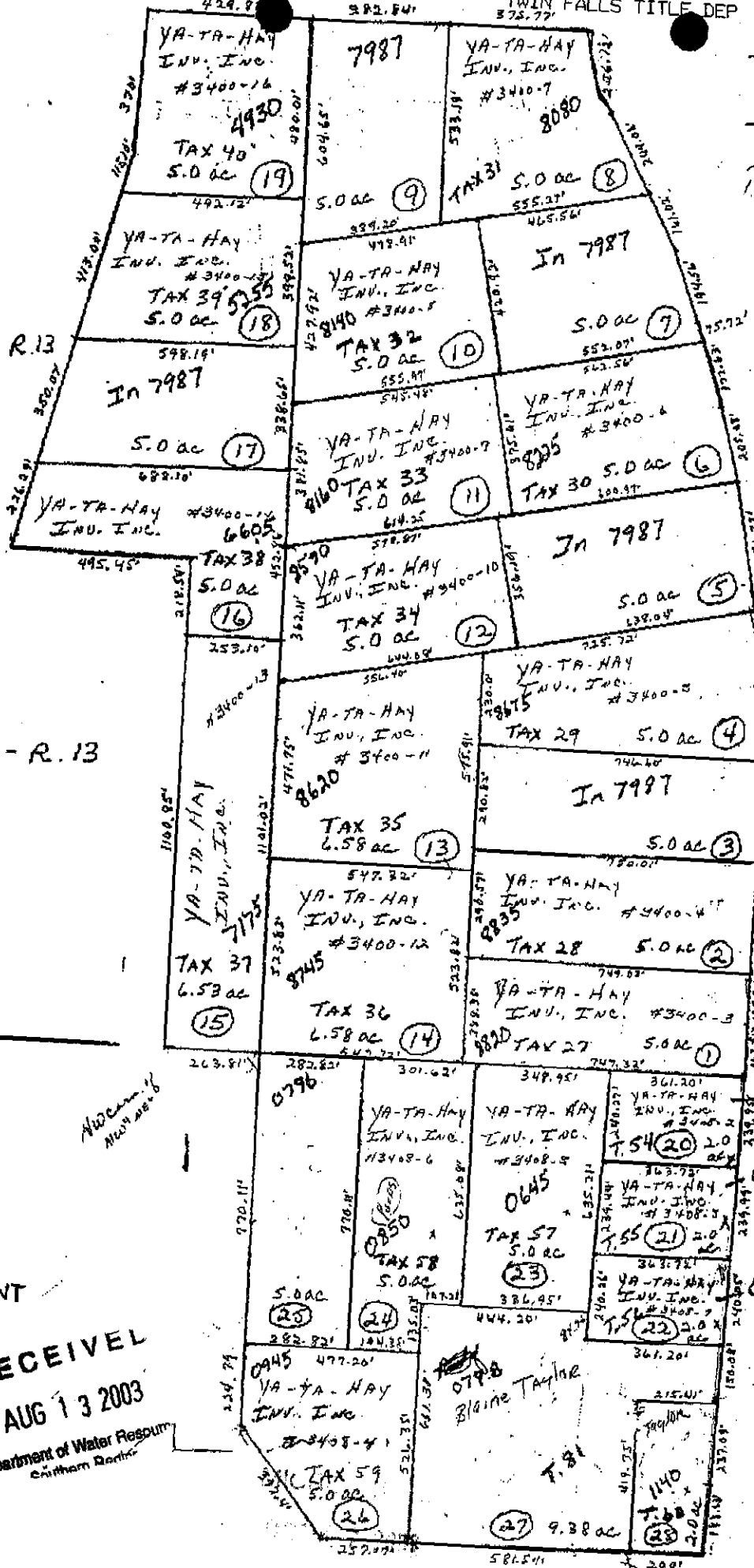
07S13E11

Lot 6

c. 2 - T. 7 - R. 13

Lot 7

cc. 2 - T. 7 - R. 13

FOR ASSESSMENT
ONLY

RECEIVED

AUG 13 2003

Department of Water Resources
Southern District

3408

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-07875

Priority: October 24, 1979

Maximum Diversion Rate: 10.00 CFS
Maximum Diversion Volume: 7239.8 AF

This is to certify, that YA TA HAY INVESTMENTS INC

C/O MARY R BARRETT

813 W KIOWA1

HOBBS NM 882400000

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated October 24, 1979; and has submitted Proof of Beneficial Use on September 28, 1988. An examination indicates that the works have a diversion capacity of 12.860 cfs of water from:

BILLINGSLEY CREEK

tributary to SNAKE RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	10.00 CFS	7239.8 AF

LOCATION OF POINT(S) OF DIVERSION:

SENE , Sec. 11, Township 07S, Range 13E
GOODING County

PLACE OF USE: FISH PROPAGATION

TWN RGE SEC

07S 13E	2	SWSE
	11	NWNE

CONDITIONS/REMARKS:

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

MICROFILMED

NOV 17 1992

State of Idaho
Department of Water Resources

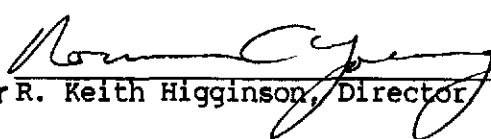
WATER RIGHT LICENSE

WATER RIGHT NO. 36-07875

CONDITIONS/REMARKS:

7. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 27TH day of OCTOBER, 1992.


Acting for R. Keith Higginson, Director

RECORDED

NOV 17 1992

4/86

RECEIVEDSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only

\$15 FEE Received by afDate 2-12-87Receipt # 41444

FFB 9 1987

REQUEST FOR EXTENSION OF TIME

Department of Water Resources
Southern Region OfficeTo provide additional time in which to submit proof
of beneficial use for a water right permit**RECEIVED**
FEB 11 1987

The Idaho Department of Water Resources will consider this form as a request that the Department be granted an additional period of time in which to complete development of a water right under the provisions of Section 42-204, Idaho Code.

Permit No. 36-7875Name(s) of Permit Holder: Ya-Ta-Hay Investments, Inc.Post Office Address: c/o Cliff Jensen, P. O. Box 201, Hagerman, ID 83332Telephone No. 837-6116Date Proof is Due: March 1, 1987

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Two dirt ponds have been constructed. Water comes into the ponds through existing irrigation
ditches from Billingsley Cr.

Costing \$ 10,000 or more

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

The principle permittee was killed in an auto accident about a year ago. His widow now
lives in Texas, and has slowly been getting his business affairs in order. Her health was
also affected by the accident, but is now improving.

Permit holder(s) request an extension to March 1, 1992.
(1 yr. minimum)

ya ta hay investments inc
Mary Ruth Barrett
(Signature)*

FEE: \$15.00

*IF OTHER THAN PERMIT HOLDER,
POWER OF ATTORNEY MUST BE SUPPLIED.

MICROFILMED

MAR 06 1987

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to October 1, 1988.

Signed this 23 day of February, 1987.

A. Glen Saxton
Chief, Operations Bureau

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL	)	ORDER ADOPTING
OF APPLICATION FOR PERMIT NO. 36-7875 IN	)	PROPOSED MEMORANDUM DECISION
THE NAME OF YA TA HAY INVESTMENTS, INC.	)	AND ORDER

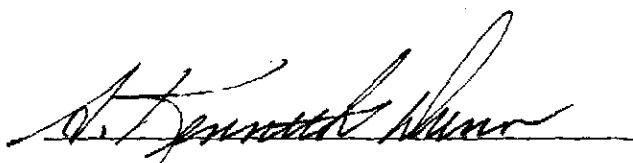
WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties thereto on February 8, 1982, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Section 67-5211, Idaho Code; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exceptions to that Proposed Memorandum Decision and Order have been received;

IT IS, THEREFORE, HEREBY ORDERED That said Proposed Memorandum Decision and Order be adopted as the Final Decision and Order and that proof of construction of works and application of water to beneficial use be submitted on or before March 1, 1987.

Dated this 11 day of March, 1982.



A. KENNETH DUNN

DIRECTOR

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

APPROVED

To appropriate the public waters of the State of Idaho

Jason Smith

1. Name of applicant Ya-Ta-Hay Investments, Inc., a Texas Corp. Phone 837-4962

Post office address P. O. Box #424, Hagerman, Idaho 83332

2. Source of water supply Billingsley Creek via Padgett & Pipe Ditches which is a tributary of Snake River

3. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 11 Township 7 South

Range 13 E., B.M. Gooding County, additional points of diversion if any: N/A

NOTE: The Pipe Ditch is diverted out of the John Bell Ditch.

4. Water will be used for the following purposes:

Amount 10 CFS for Fish Propagation purposes from Jan. 1st to Dec. 31st (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. Ten (10) cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Existing water will run through dirt fish ponds, approximately 100 feet by 50 feet in size, with concrete head and tail works. Ponds will have concrete center partitions which will double the number of ponds and also make it easier to concrete the ponds in the future. The ditch used between each series of fish ponds will be the existing irrigation ditch.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

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

8. Description of proposed uses:

a. If water is **not** for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 11 Township 7 South
Range 13 E., B.M. 2, Township 7 South, Range 13 East of the Boise Meridian, Gooding County, Idaho. Water will also be used in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section

(2) Amount of power to be generated: _____ horsepower 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: Property has an 1881 priority right for irrigation and livestock purposes, and we will continue to use existing water for these purposes after running the water through the fish ponds.

MICROFILMED

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	

Total number of acres to be irrigated _____

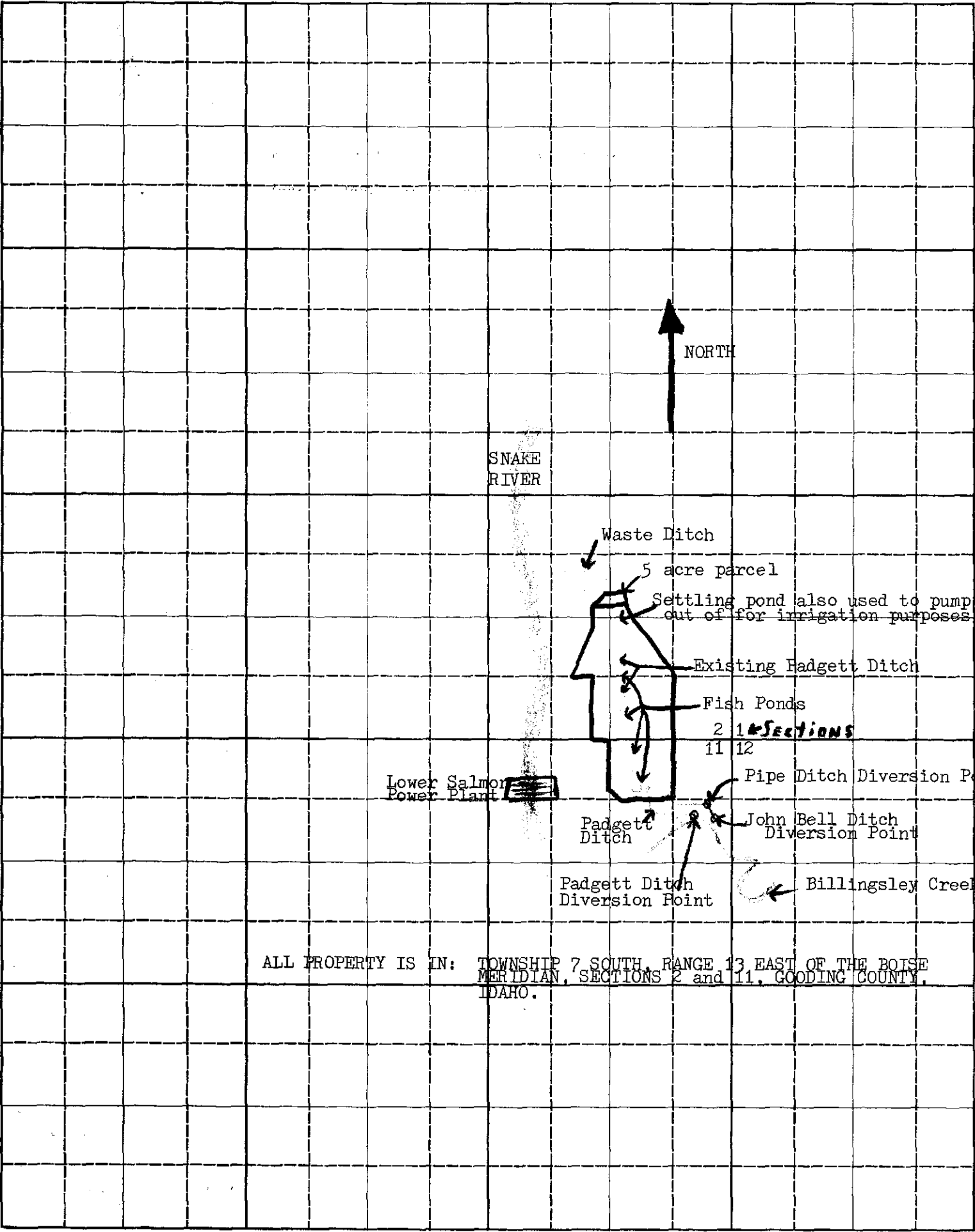
c. Describe any other water rights used for the same purposes as described above. The property has the following 1881 priority water rights: 0.60 CFS from the John Bell Ditch, 1.20 CFS from the Pipe Ditch, and 5.70 CFS from the Padgett Ditch. Above water was decreed March 22, 1932.

9. a. Who owns the property at the point of diversion Raleigh W. Stevens
- b. Who owns the land to be irrigated or place of use Lloyd Jensen, Jack M. Martin, & Lillias P. Martin
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing We are purchasing the property from the present owners. See the attached Earnest Money Agreement dated October 22, 1979 with attached legal description.

10. Remarks On September 30, 1979, we had Mr. George Lemmon of Hagerman measure the water presently flowing in the Padgett Ditch. At that time, Mr. Lemmon stated that there were between 7 CFS and 7.50 CFS. By using the water from the Padgett Ditch along with the 1.20 CFS from the Pipe Ditch, we would have approximately 8.70 CFS. Thus, by applying for 10 CFS, we will be assured that we can use all of the water that is presently flowing in the two ditches for fish propagation. We will obtain a written statement from Mr. Lemmon stating the above. Also written statements from several local people stating that the flow of water in the Padgett Ditch has not changed from it's present flow for several years and that it flows all year will be forthcoming. The existing water flows through our property in a Northerly direction, through a 5 acre parcel which has 6 inches of water from the Padgett Ditch, and then empties into a waste ditch which flows directly into the Snake River. Thus, we are basically the only water users prior to the water emptying into the Snake River once it is on our property.

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



Scale: 2 inches equal 1 mile.

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

MICROFILMED

John H. Hay Investments Inc
John S. Hay
(Applicant)

Priority: October 24, 1979

Received by LH Date 10-24-79 Time 3:15
Preliminary check by JA Fee \$ 125.00 # 13370
Receipted by maria Date 10/24/79
Publication prepared by maria Date 10/26/79
Published in Gasburg Co. Leader
Publication dates 11/8 & 11/15/79
Publication approved maria Date 10/31/79
Protests filed by: OE Smith - Raleigh & Virginia Stevens

Copies of protests forwarded by _____
Hearing held by BDF/LH Date 2-21-80
Recommended for approval denial by LH

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

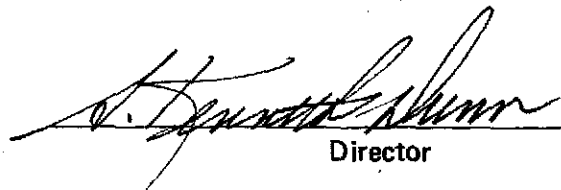
This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 36-7875, and said application is hereby APPROVED.

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 March 1, 19 87.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

PURSUANT TO PROPOSED MEMORANDUM DECISION AND ORDER and ORDER ADOPTING
PROPOSED MEMORANDUM DECISION AND ORDER.

Witness my hand this 11 day of March, 19 82.


Director

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL
OF APPLICATION FOR PERMIT NO. 36-7875 IN
THE NAME OF YA TA HAY INVESTMENTS, INC.

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 8th day of February, true and correct copies
of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND
ORDER, were mailed, postage prepaid to:

Ya-Ta-Hay Investments, Inc.
P. O. Box 424
Hagerman, ID 83332

Leon Smith
SMITH & BEEKS
Box 508
Twin Falls, ID 83301

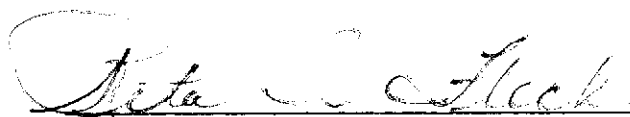
R. W. Stevens
Route 1
Hagerman, ID 83332

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

Richard L. Cook, Pres.
Sands Ditch Water Users
Hagerman, ID 83332

O. S. Smith
Bliss, ID 83314

Dale Boyer
Hagerman, ID 83332



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL	)	CERTIFICATE
OF APPLICATION FOR PERMIT NO. 36-7875 IN	)	OF
THE NAME OF YA TA HAY INVESTMENTS, INC.	)	MAILING

I HEREBY CERTIFY that on this 12th day of March, 1982, a true and correct copy of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER, was mailed, postage prepaid to:

Ya Ta Hay Investments, Inc.
P. O. Box 424
Hagerman, ID 83332

Leon Smith
SMITH & BEEKS
Box 508
Twin Falls, ID 83301

R. W. Stevens
Route 1
Hagerman, ID 83332

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

Richard L. Cook, President
Sands Ditch Water Users
Hagerman, ID 83332

O. S. Smith
Bliss, ID 83314

Dale Boyer
Hagerman, ID 83332



RITA I. FLECK
Sr. Secretary
Idaho Department of Water Resources

MICROFILMED

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL)	
OF APPLICATION FOR PERMIT NO. 36-7875 IN)	
THE NAME OF YA TA HAY INVESTMENTS, INC.)	ORDER ISSUING
	PROPOSED DECISION

A. Kenneth Dunn, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposal for decision pursuant to Idaho Code, § 67-5211 and orders that said proposed decision and a copy of this order be served upon each of the parties to these proceedings who appeared at the hearing on February 21, 1981, of this matter or upon their attorneys in accordance with Rule 7.3 of the Rules of Practice and Procedure of this Department.

Each party to these proceedings who appeared at the hearing is hereby afforded the opportunity, pursuant to Idaho Code §§ 42-1701A and 67-5211, to file exceptions to the attached proposed decision and to present briefs and oral arguments in accordance with the provisions of this order. Exceptions may not be filed and briefs and oral arguments may not be presented by parties who did not appear at the hearing of this case. If no timely and proper exceptions are received, an order by the Director will be entered adopting and issuing the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision, and
2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions.

B. Exceptions not in compliance with the above stated requirements will not be considered and will be deemed an acceptance of the proposed decision.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. Any party desiring to file a brief in response to any exceptions filed by any other party may do so by filing such brief with the Director on or before the 15th day following the last day any exceptions by any other party were served upon that party desiring to respond.

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III.
ORAL ARGUMENTS

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exceptions.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral arguments in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposal for decision shall be heard at the discretion of the Director, pursuant to Idaho Code § 42-1701A. After all exceptions, briefs and requests for oral arguments have been received, the Director will decide whether to hear oral arguments. If oral arguments are to be heard, the Director will, within a reasonable time, set the case for oral arguments and notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.
CERTIFICATION OF SERVICE

A. All exceptions, briefs, requests for oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.
FINAL DECISION

A. Following the submission of all exceptions and briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

DATED this 8th day of February, 1982.


A. KENNETH DUNN
Director
Department of Water Resources

MICROFILMED

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL)
OF APPLICATION FOR PERMIT NO. 36-7875 IN) PROPOSED MEMORANDUM
THE NAME OF YA TA HAY INVESTMENTS, INC.) DECISION AND ORDER
_____)

On October 24, 1979, Ya Ta Hay Investments, Inc., filed an application for permit with the Department of Water Resources to appropriate 10 cubic feet per second of water from Billingsley Creek.

The application proposed to divert the water by means of the Padgett and Pipe ditches in the SE1/4NE1/4, Sec. 11, Twp. 7S, Rge. 13E, B.M., Gooding County, and use it for the commercial propagation of fish within the NW1/4NE1/4, Sec. 11 and the W1/2SE1/4, Sec. 2, Twp. 7S, Rge. 13E B.M.

Notice of the application was published in the Gooding County Leader on November 8 and 15, 1979. Protests against the granting of the application were received from O. S. Smith on November 19, 1979; R. W. Stevens and Virginia Stevens on November 21, 1979; Dale E. Boyer, and Sands Ditch Waterusers, Richard Cook, President, on November 26, 1979.

A hearing in the matter was held in Gooding, Idaho on February 21, 1980. The applicant was represented by Fred S. Barrett, President of Ya Ta Hay, Investments, Inc., and by Leon Smith, attorney. Protestant R. W. Stevens was present and was represented by Matthew Mullaney, attorney. Protestants Richard Cook, President of Sands Ditch Waterusers, O. S. Smith and Dale Boyer were also present and were not represented by counsel.

The issues raised by the protestants are as follows:

- 1) That the water supply is insufficient for the purpose for which it is sought to be appropriated;
- 2) That the proposed use of the water would interfere with existing rights;
- 3) That the applicant's proposal is not in the local public interest in that it would deplete the flow of Billingsley Creek, reducing water quality and streambed quality; and
- 4) That the capacity of the Padgett Ditch is not sufficient to carry the requested flow and that enlargement of the ditch would cause property damage and would interfere with existing aesthetic uses of water.

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Fred Barrett, President of Ya Ta Hay, Cliff Jensen, real estate agent, George Lemmon, watermaster of Water District 36-A, and Nyal Hoffman, contractor appeared on behalf of the applicant.

Mr. Barrett stated his objective in filing the application was to use the water delivered to his land under existing irrigation rights for the additional use of fish propagation and to divert an additional 2.5 cfs of water to supplement the existing amount of use. The water would be used year around for the production of fish.

The applicant introduced uncontradicted evidence that water is normally allowed to flow year around in the Padgett ditch. Testimony was also uncontradicted that the project is financially and physically feasible for the applicant.

Protestant Richard Cook stated that the flows in Billingsley Creek are at times insufficient to fill the existing rights decreed to the Sands Ditch.

O. S. Smith stated that if all existing rights on Billingsley Creek are filled no additional water would be available.

Protestant R. W. Stevens introduced evidence that he had rebuilt and landscaped the Padgett ditch that crosses his property. He stated that the diversion of additional water into the Padgett ditch would decrease the freeboard of the ditch and increase the danger of flooding his property.

Evidence was inconclusive regarding the flows and capacity of the Padgett ditch where it crosses the Steven's property. The parties stipulated to allow the Department to conduct an inspection of the ditch to obtain factual information concerning the ditch capacity.

On February 22, 1980, following the hearing, water measurements were made on the Steven's property and a survey of the 200 foot reach of ditch from the diversion to the end of the property was made. The survey indicated that the capacity of the ditch is controlled by the section of ditch between the Steven's property and the applicant's property downstream from the culvert.

Based upon the evidence and his understanding of the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1) All recorded water rights diverted through the Bell and Pipe ditches and Padgett ditch are evidenced by decree in the case of New International Mortgage Bank vs. Power Company, U.S. District Court, March 22, 1932.

The rights are subject to delivery by the watermaster of Water District 36-A and total 7.5 cfs.

2) The application seeks to divert 2.5 cfs of water in excess of that reaching the applicant's place of use under existing irrigation rights. the application also requests the diversion of 10 cfs of water during the non-irrigation season.

3) There are portions of the year when there is sufficient water in Billingsley Creek to satisfy this request and existing downstream rights.

4) During times of shortage, the proposed facility could operate, but less profitably, with only the water that is decreed for irrigation being diverted through the fish raceways prior to its use for irrigation.

5) The Padgett ditch will not carry the additional 2.5 cfs of water with the same safety factor as now enjoyed by the protestant Stevens.

CONCLUSION OF LAW

1) Use of water delivered under existing irrigation rights for fish propagation purposes will not interfere with other existing rights.

2) Billingsley Creek flows may be at times insufficient to supply the amount of water requested but is available a sufficient amount of the time to be used beneficially. The applicant is entitled to appropriate the water available after all prior rights are filled.

3) The applicant must obtain permission, right-of-way or easement across the land of the other upstream ditch owners to enlarge the ditch to the requested capacity. Their ability to divert the additional 2.5 cfs of water depends directly on their success in obtaining that permission.

4) The diversion of 2.5 cfs of water from Billingsley Creek would not cause a measurable change in the water quality. The most critical time for water quality problems is during the period of low flow on Billingsley Creek at which time no water will be available to fill the additional 2.5 cfs of water requested.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 36-7875 is APPROVED subject to the following conditions:

1) Subject to all prior water rights.

2) Proof of construction of works and application of water to beneficial use shall be submitted on or before the date indicated on the Final Decision and Order.

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3) The permit shall not be assigned or sold without first securing the written approval of the Department of Water Resource.

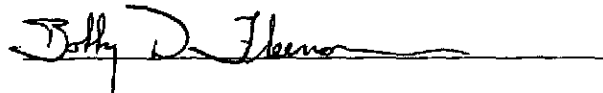
4) Use of water under this permit is subject to control by the water-master of State Water District 36-A.

5) A measuring device of a type approved by the Department shall be permanently installed and maintained as part of the diverting works.

6) The issuance of this permit in no way grants any right-of-way or easement across the land of another and further, the rate of diversion shall not exceed the decreed rate until a copy of the right-of-way or easement is filed with the Director of the Department of Water Resources.

7) The Director of the Department of Water Resources retains jurisdiction over this permit to assure compliance with its conditions.

Dated this 8 day of February, 1982.



BOBBY D. FLEENOR

HEARING OFFICER

MICROFILMED

November 1, 1979

RECEIVED

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

NOV 3 1979

Department of Water Resources
Southern District Office

Dear Gentlemen:

We, the undersigned, hereby state that the quantity of water presently flowing through the Padgett Ditch located in Hagerman, Idaho, which is a tributary of Billingsley Creek, has relatively remained the same for a period to exceed ten years, and that the water flows all year except in times of cleaning and maintaining said Ditch.

NAME

ADDRESS

<u>Lloyd Jensen</u>	<u>Box 201, HAGERMAN, IDA.</u>
<u>Jack Martin</u>	<u>Box 281 Hagerman, Idaho</u>
<u>Frank Erwin</u>	<u>RT#1 Box 453 Hagerman, Ida.</u>
<u>Dick Pore</u>	<u>Hagerman, Idaho</u>
<u>Marlee C. Cusley</u>	<u>Hagerman, Idaho</u>
<u>Ronald L. Beyer</u>	<u>Hagerman, Idaho</u>

STATE OF IDAHO

ss.

County of Gooding

On this 2nd day of November, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared LLOYD JENSEN, JACK MARTIN, FRANK ERWIN, DICK PORE, MARLEE CUSLEY, AND RONALD L. BEYER

known to me to be the persons who signed the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the say and year first above written.

Lloyd Jensen HAGERMAN, Idaho
Residing at

MICROFILMED

REAL ESTATE PURCHASE AND SALE AGREEMENT

(With Earnest Money Provision)

THIS CONTRACT CONTROLS THE TERMS OF SALE OF THE PROPERTY.
READ CAREFULLY BEFORE SIGNING: IF ANY QUESTION, CONSULT YOUR ATTORNEY.

Hagerman, Idaho, October 22, 1979

Ya-Ta-Hay Investments, Inc., a Texas Corporation

(hereinafter called "Buyer") agrees to purchase, and the undersigned Seller agrees to sell the following described real estate hereinafter referred to as "premises" located in the City of 2 1/2 miles North of the City of Hagerman, County of Gooding State of Idaho, commonly known as the John Sanborn Ranch and later known as Pine Lane Acres legally described as: A tract of land located in Township 7 South, Range 13 East of the Boise Meridian, in Sections 2 and 11 containing 136 acres more or less, including all homes, outbuildings, and improvements. See the attached three page Exhibit "A" for the complete legal description. (A FULL AND COMPLETE LEGAL DESCRIPTION MUST BE INSERTED, ATTACHED OR WRITTEN ON THE REVERSE HEREOF PRIOR TO EXECUTION BY SELLER. Buyer hereby authorizes broker to insert over his signature the correct legal description of the premises if unavailable at time of signing, or to correct the legal description previously entered if erroneous or incomplete.)

1. TOTAL PURCHASE PRICE IS Three Hundred and Thirteen Thousand Seven Hundred and Fifty Dollars and no/100 ----- DOLLARS (\$ 313,750.00) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of Ten Thousand Dollars and no/100 ----- Dollars (\$ 10,000.00) Dollars evidenced by ☐ Cash, ☒ Personal Check, ☐ Cashiers Check, ☐ Note due, paid or delivered as earnest money in part payment of the purchase price for the premises.

b. Buyer further agrees on or before N/A day of N/A, 19 , to pay or deliver as additional earnest money in part payment of the purchase price for the premises N/A Dollars (\$ N/A) evidenced by ☐ Cash, ☐ Personal Check, ☐ Note due, or N/A

c. All Earnest Money and this agreement shall be held by Jensen Real Estate Trust Account for the benefit of the parties hereto.

B. Balance of purchase price to be paid as follows:

\$58,000.00 is to be paid at the time of closing which will be on December 1, 1979. Buyer is to assume the existing Federal Land Bank Association loan of approximately \$56,499.00 and pay, at closing, the Sellers for their stock in the amount of \$3,500 at which time the stock will be transferred to Buyer. The balance of \$189,251.00 will be on a five (5) year mortgage at 9% interest with equal yearly payments plus interest. The first of such equal yearly payments plus interest will be due on or before December 1, 1980 and thereafter on or before December 1st of each and every year until paid in full. Buyer has the right to pre-pay this mortgage in part or in full at any time without penalty after January 1, 1980. The legal and escrow fees will be divided equally. October 22, 1979

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of October 22, 1979. If Seller does not accept this agreement within the time specified, the earnest money shall be refunded to Buyer on demand.

3. Title of Seller is to be conveyed by Warranty deed, unless otherwise provided, and is to be marketable and insurable except for rights reserved in federal patents, state or railroad deeds, building or use restrictions, building and zoning regulations and ordinances of any governmental unit, and rights of way and easements established or of record. Liens, encumbrances or defects to be discharged by Seller may be paid out of purchase money at date of closing. Any liens, encumbrances or defects which are to be discharged or assumed by Buyer or to which title is taken subject to (not otherwise set forth above) are: None

4. The parties designate Jensen Real Estate company to provide the necessary title insurance and commitment for title insurance required by this agreement.

5. It is hereby agreed that the "closing agent" for the transaction represented by this agreement shall be Jensen Real Estate. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within 40 days after acceptance by seller, or upon removal of any liens, encumbrances or defects to title by Seller, as provided herein, whichever is later, Buyer and Seller shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with terms and conditions hereof. Upon receipt of the items specified in the preceding sentence the closing agent shall close this transaction.

7. All attached floor coverings, attached television antenna, attached plumbing, bathroom and lighting fixtures, window screens, screen doors, storm windows, storm doors, shades, venetian blinds, curtain rods, trees, plants, shrubbery, water heating apparatus and fixtures, attached fireplace equipment, awnings, ventilating, cooling and heating systems including built in and "drop in" ranges, (but excepting all other ranges) fuel tanks and irrigation fixtures and equipment, all water and water rights, and ditches and ditch rights appurtenant thereto that are now on or used in connection with the premises shall be included in the sale unless otherwise provided herein.

The following items of property now on the premises are specifically excluded from the sale: None

The following items of personal property are specifically included in the sale: The following water rights: 0.60 CFS from the John Bell Ditch, 1.20 CFS from Pipe Ditch, and 5.70 CFS from the Padgett Ditch.

8. Taxes and water assessments (using the last available assessment as a basis), rents, insurance premiums, interest and reserves on liens, encumbrances or obligations assumed and utilities shall be pro-rated as of the 1st day of December, 19 79 or on the date of closing, whichever shall last occur. Buyer shall pay for fuel in tank, the amount to be determined by the supplier at Seller's expense.

9. Seller shall deliver possession of the premises to Buyer on or before the 1st day of December, 19 79 or on the date of closing, whichever shall last occur. Present renter has cattle on property until January 1, 1980.

10. The parties agree that this agreement contains the following additional terms and conditions: After each mortgage payment, a 20 acre partial release will be given or additional releases may be obtained based on \$2,000.00 per acre on ground located in Section 24 only.

11. The provisions contained on the reverse side of this page shall also constitute part of the agreement of the parties. Each of the parties acknowledges reading this agreement in full.

Listing Broker: Jensen Real Estate

Selling Broker: Jensen Real Estate

By [Signature]

Ya-Ta-Hay Investments, Inc.

P. O. Box #1216, Hobbs, New Mexico 88240

Buyer Mary Ann Bennett and S. Barnett

Buyer's Address 505-392-8959

Buyer October 22, 1979

Buyer's Phone

On this date, October 22, 1979 I/We hereby approve and accept the sale set forth in the above agreement and

agree to carry out all the terms thereof on the part of the Seller and the undersigned further agrees to pay a commission of N/A % of selling price or, ten thousand dollars and no/100 ----- DOLLARS (\$ 10,000.00)

to the above broker for services. In the event earnest money is forfeited, it shall be apportioned to the Seller and Brokers equally after payment of costs set out in the above agreement provided the amount to brokers does not exceed the agreed commission. I/We further acknowledge receipt of a true copy of this agreement with the complete legal description of the premises inserted and signed by both parties.

[Signature] Seller P.O. Box #241 HAGERMAN, Idaho 83332

[Signature] Seller's Address Box #281 HAGERMAN, IDAHO 83332

Seller 83332 Seller's Business Ph. 83332 Seller's Residence Ph. 23 rd

A true copy of the foregoing agreement, signed by the Seller and containing the full and complete legal description of the premises, is hereby received on this

day of October, 19 79

STATE OF IDAHO

County of Gooding

[Signature] Buyer

On this 22nd day of October, 19 79, before me, the undersigned, a Notary Public in and for said State, personally appeared

Jack Martin & Lillas P. Martin, husband and wife and Lloyd Jensen, a single man

known to me to be the person(s) who signed the foregoing instrument as Seller(s) and acknowledged to me that (t)he(y) executed the same.

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

[Signature]
Notary Public for State of Idaho

Hagerman, Idaho
Residing at

MICROFILM

LAND DESCRIPTION

for

JACK MARTIN & ASSOC.TOWNSHIP 7 SOUTH, RANGE 13 EAST, BOISE MERIDIAN
SECTION 2

A tract of land located in Section 2, Township 7 South, Range 13 East, Boise Meridian, Gooding County, Idaho described as follows:

Beginning at the South quarter corner of said Section 2, marked by a Brass Cap, the TRUE POINT OF BEGINNING;

Thence N $89^{\circ} 02' 12''$ W, 263.81 feet to an Idaho Power monument marked "M-27";

Thence N $0^{\circ} 08' 30''$ E, 1,319.60 feet to an Idaho Power monument marked "M-28", point being in the South boundary of Lot 6, Section 2;

Thence N $89^{\circ} 01' 49''$ W, 495.45 feet along said South boundary of Lot 6 to a point marked by a $\frac{1}{2}$ " steel pin;

Thence N $14^{\circ} 28' 20''$ E, 1,104.00 feet to a point marked by a $\frac{1}{2}$ " steel pin;

Thence N $4^{\circ} 39' 33''$ E, 370.00 feet to a point marked by a $\frac{1}{2}$ " steel pin;

Thence N $89^{\circ} 47' 20''$ E, 1,188.54 feet to a point in the Westerly Right-of-way of a certain Highway known as U. S. 30, Idaho Department of Highways Project F-2361 (18) constructed in 1964;

Thence S $14^{\circ} 30' 52''$ E, 223.80 feet along the chord of a $12^{\circ} 36' 18''$ curve left having a radius of 454.53 feet and arc length of 226.12 feet;

Thence S $28^{\circ} 46' 06''$ E, 405.08 feet to a point in said Westerly Right-of-way marked by Brass Cap monument which is 50' Right of Idaho Department of Highways Station 235+41;

Thence S $18^{\circ} 47' 45''$ E, 194.56 feet along said Westerly Right-of-way to a Brass Cap monument marked "50' Right of Station 237+35.56";

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Thence S $18^{\circ} 10' 22''$ E, 248.35 feet along said Right-of-way to a Brass Cap monument marked "50' Right Station 239 + 85.56";

Thence S $9^{\circ} 27' 50''$ E, 974.13 feet along the chord of a $1^{\circ} 31' 08''$ curve Right, having a radius of 3769.72 feet and an arc length of 976.86 feet to a Brass Cap monument marked "50' Right Station 249 + 75.56";

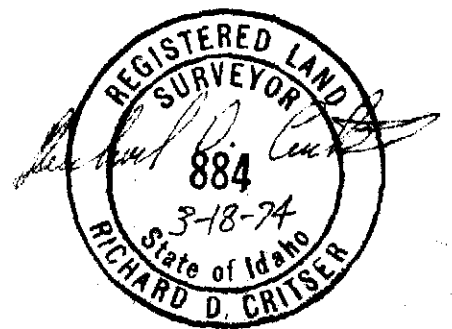
Thence S $0^{\circ} 47' 07''$ E, 248.17 feet along said Westerly Right-of-way to a Brass Cap monument marked "50' Right Station 252 + 25.56";

Thence S $0^{\circ} 11' 54''$ E, 405.93 feet along said Westerly Right-of-way to a Brass Cap monument marked "50' Right Station 256 + 31.33";

Thence S $0^{\circ} 0' 25''$ W, 167.97 feet along said Right-of-way to a point in the South boundary of Section 2;

Thence WEST 1,294.62 feet along the South boundary of Section 2, to the South quarter corner of Section 2, the TRUE POINT OF BEGINNING;

Said tract of land containing 99.97 acres, more or less.



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LEGAL DESCRIPTION

Township 7 South, Range 13 East of the Boise Meridian, Section 11:

NW $\frac{1}{4}$ NE $\frac{1}{4}$, except tract described as follows:

Beginning at a point which is 994.9 feet South 0° 15'
West of the North Quarter corner of said Section 11;
thence South 0° 15' West, 319.3 feet to a point;
thence South 89° 29' East, 1,317.3 feet to a point
in the West boundary of highway;
thence North 0° 15' East, 20.0 feet to a point;
thence North 89° 29' West, 1,097.2 feet to a point;
thence North 35° 58' West, 372.4 feet to the point
of beginning.

COUNTY OF GOODING, STATE OF IDAHO

MICROFILMED

A. F. JAMES
ATTORNEY AT LAW
GOODING, IDAHO

March 15, 1938.

Mr. John Sanborn,
Hagerman, Idaho.

Dear Mr. Sanborn:

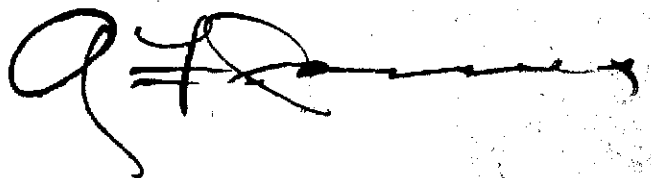
After spending several months corresponding and meeting with the attorneys for the other parties in the Hagerman Valley water suit and making a number of trips to Boise, we have finally been able to work out the details of a decree in that matter, without the necessity of you and your witnesses making a trip to Boise and submitting proof, and on Tuesday of this week, Judge Cavanaugh, the United States District Judge, at Boise, Idaho, signed the Findings of Fact, Conclusions of Law, and Decree and the entire matter is fully adjusted. The water right decreed to you is as follows:

- 30 inches of Billingsley Creek diverted through the John Bell Ditch, with a priority of June 26, 1881;
- 60 inches of Billingsley Creek, diverted through the Pipe line, with a priority of June 26, 1881;
- 285 inches of Billingsley Creek, diverted through the Padgett Ditch, with a priority of June 26, 1881;

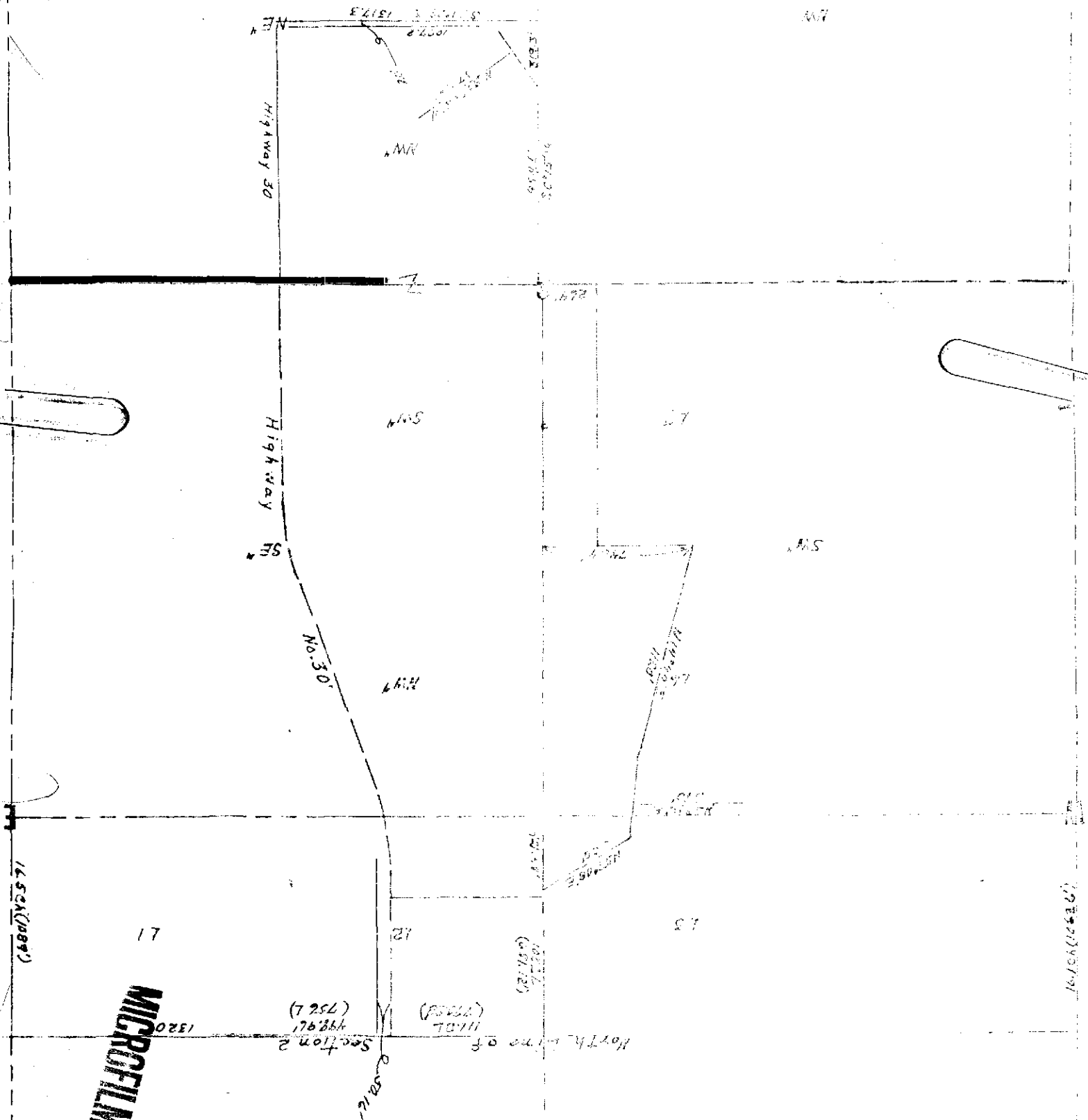
As you will remember, the fee which you were to pay me was \$40.00, on which you have paid \$20.00, leaving a balance of \$20.00. Will you therefore kindly forward me your check to cover this balance?

Very truly yours,

AFJ:BW



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AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding, } SS.

Sary Groat 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 8 day of November

19 79, and the date of the last publication was on the 15

day of November, 19 79.

Subscribed and sworn to before me this 15

day of November, 19 79.
(SEAL)

Carroll Davis
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 72
Number of Insertions 2
Lines tabular at 315c
Lines straight at 72 21c 15.12
Subsequent lines at 72 15c 10.80
TOTAL COST ... 25.92

NOTICE OF PUBLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

36-7875

VA TA HASE, MINIST
MAN, ID 83332

Source: BILLINGSLEY CREEK tributary to SNAKE RIVER

Date Filed: 10/24/1979

Amount: 10.00 CFS

Diversion Point: SENE Sec 11 T 07S R 13E, GOODING Co.

Use: FISH PROP. (10.00 CFS) from 01/01 to 12/31

Place of Use: NWNE Sec 11 T 07S R 13E SWSE NWSE Sec 02 T 07S R 13E

Diversion Means: DIVERSION TO PONDS VIA PIPE & PADGETT DITCHES

37-7804

SCHMIDT, KENNARD
ROUTE 1, GOODING, ID 83330

Source: WASTEWATER & DOG CREEK tributary to DRY CREEK

Date Filed: 10/25/1979

Amount: 2.40 CFS

Diversion Point: SWNE Sec 11 T 05S R 14E, GOODING Co.

Use: IRRIGATION (2.40 CFS) from 04/01 to 11/01

Place of Use: SWNE SENE SENW Sec 11 T 05S R 14E FOR 120 ACRES

Diversion Means: PUMP TO SPRINKLER SYSTEM

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before NOVEMBER 26, 1979.

/s/ C. Stephen Allred
Director

Pub: 11-8, 15

Department of Water Resources
Southern District Office

MICROFILMED



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 14, 2004

Lynn J. Babington
Lynclif Farms
2849 S 850 E
Hagerman, ID 83332

Clifton E. Jensen
Lynclif Farms
P. O. Box 201
Hagerman, ID 83332

Re: Distribution of Water Right No. 36-07875

Gentlemen:

I have reviewed your two letters dated December 18, 2003, which were received by the Department of Water Resources on December 22, 2003. The first letter described your acquisition of property including agricultural land, aquaculture rearing ponds, and associated water rights. This letter also described the lack of water available for water right no. 36-07875. You also asked whether the Department has any record of water right no. 36-07875 being invalid or forfeited and when you could expect a response to this question and to your second letter, which demanded administration of water rights in water districts to supply this right.

In response to your inquiry about whether the Department has any record of water right no. 36-07875 being invalid or forfeited, we have completed an initial review of our records and have not found information that would suggest water right no. 36-07875 is invalid or has been forfeited. However, we are continuing to look for information that would confirm the results of our initial review.

In response to your demand for administration of water rights in water districts, your demand will be treated as a call for water delivery 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>

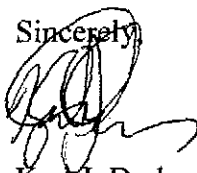
These rules prescribe how IDWR is to respond to a call for water delivery made by a holder of a senior priority surface or ground water right against the holders of junior priority ground water rights. Rule 40 of the Conjunctive Management Rules prescribe procedures for responding to delivery calls against 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.

Lynn J. Babington and Clifton E. Jensen
January 14, 2004
Page 2 of 2

Water right no. 36-07875 is diverted from Billingsley Creek through the Padgett Ditch under a priority date of October 24, 1979. Since 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 to July 13, 1962, your delivery call may be moot.

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,

A handwritten signature in black ink, appearing to read 'Karl J. Dreher', written over the word 'Sincerely,'.

Karl J. Dreher
Director

c: Glen Saxton - IDWR
Tim Luke - IDWR

DEC 27 2003

JANUARY 17 2004

Date: 12/18/03

To: Karl Dreher, Director
Idaho Department of Water Resources

From: Lynn Babington, Owner
Cliff Jensen, Owner
Lynclif Farms

Re: Water Right No. 36-7875

In July 2003 Lynclif acquired a piece of property that includes agriculture land, aquaculture rearing ponds, and water rights 36-10283A and 36-7875. August 15, 2003 Jeff Peppersack of IDWR acknowledged receipt and modified records to reflect the change in ownership of water rights 36-7875 and 36-10283A to Jensen's and Babington's.

The agriculture land is currently in production and Lynclif Farms desires to make repairs to the aquaculture facility and then culture, sturgeon and trout as allowed by water right 36-7875.

Leo Ray was the previous operator of the aquaculture facility having fish in the ponds up until the early summer of 2003, at which time the Water master of District 36A requested that Leo remove the fish because he was going to curtail the diversion of water from Billingsley Creek of water right 36-7875. This was done to allow Senior down stream water right owners to help fulfill their prior rights as prescribed by Idaho law, with which we fully agree. Our understanding is that Senior water rights downstream were unable to full fill their water rights and expensive sturgeon being cultured died due to the lack of water available in the lower reaches of Billingsley Creek. According to the Idaho Department of Environmental Quality and others Billingsley Creek had a flow of "0" c.f.s. into the Snake River at times during the summer of 2003.

Fish like any other crop requires much advanced planning, and expenditures to assure a successful harvest. Sturgeon even more so due to the fact that caviar is not harvested from mature female sturgeon until 10-13 years of age in Idaho's cool water. It is common for sturgeon to live and grow in the same pond for 2, 3, and 4 year periods.

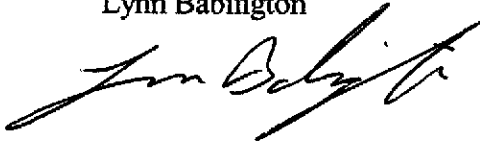
To culture fish in water provided for by the Idaho Department of Water Resources water right 36-7875 it is essential that an uninterrupted flow be available to our diversion point from the Eastern Snake River Plain Aquifer System. Given the current situation we are forced to make a call on our water and expect the state of Idaho and you as the director of the Water Resources Department to curtail any upstream diversions of our water supply

that are junior to water right 36-7875. Time is of the essence and to help facilitate this situation we are requesting a response to the following:

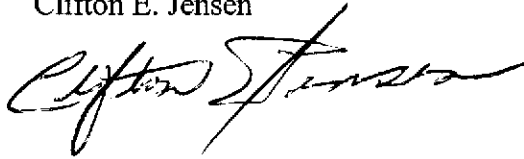
- 1) Does IDWR have any record of water right 36-7875 being invalid or forfeited?
- 2) When can we expect a response from IDWR regarding their decision on the call, and item 1 above?

Thank you in advance for your help in this matter.

Lynn Babington

A handwritten signature in cursive script, appearing to read "Lynn Babington".

Clifton E. Jensen

A handwritten signature in cursive script, appearing to read "Clifton E. Jensen".

December 18, 2003

Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, Idaho 83706

Re: Delivery of Water to Water Right No. 36-7875

Dear Mr. Dreher:

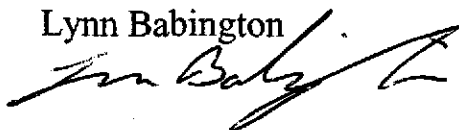
Water Right No. 36-7875 is entitled to delivery of 10.0 c.f.s from Billingsley Creek for fish propagation under a priority date of October 24, 1979.

The Water master of District 36-A was unable to make full delivery of the entitled 10.0 c.f.s during the summer of 2003.

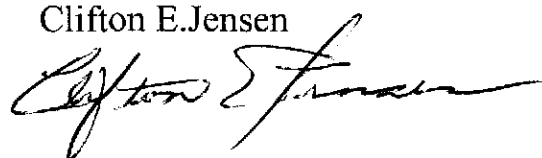
Demand is hereby made that you direct the District Water masters to administer water rights in the Water Districts as required by Idaho Code § 42-607 in order to supply this prior right. This demand is for the period of January 1 to December 31 as specified in the water right.

Sincerely,

Lynn Babington



Clifton E. Jensen





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

August 15, 2003

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CLIFTON E JENSEN
SUZANNE K JENSEN
PO BOX 201
HAGERMAN ID 83332

LYNN J BABINGTON
KATHY L BABINGTON
2849 S 850 E
HAGERMAN ID 83332

RE: Change of Ownership for Water Rights 36-7875 and 36-10283A

Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water rights to you. The department has modified its records to reflect the changes in ownership and has enclosed computer-generated reports for your records.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,

for Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

ACT 8 / 2003



GOODING
TITLE & ESCROW
COMPANY

August 12, 2003

VIA Mail

IDWR Southern Region
Attn: John or Trish
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380

Re: Order No. G030326
Babington / Ya-Ta-Hay

Dear John or Trish:

In connection with the above mentioned order, attached please find our check no. 3004 in the amount of \$50.00, representing: Notice of Water Right Change.

Also attached are copies/originals of the following document(s):

- ☒ Notice of Change in Water Right Ownership
- ☒ Warranty Deed/Grant Deed.
- ☒ Commitment

Thank you for using Gooding Title & Escrow Company. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Missy J. Brown
Escrow Assistant
Gooding Title & Escrow Company

/mjb

encl.

RECEIVED

AUG 13 2003

Department of Water Resources
Southern Region

MICROFILMED

OCT 07 2003



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

October 27, 1992

YA TA HAY INVESTMENTS INC
C/O MARY R BARRETT
813 W KIOWA1
HOBBS NM 882400000

RE: WATER RIGHT NO. 36-07875

Dear Water Right Holder(s):

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

Sincerely,

A handwritten signature in cursive script that reads 'Pamela Skaggs'.

PAMELA SKAGGS
Water Resource Agent

PS:cz

Enclosure

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NOV 17 1992

LICENSE REVIEW CHECKLIST

Permit # 36-7875

Date 10/19/92

NAME	<u>Yes</u>	<u>No</u>	Address Change?
PRIORITY DATE	<u>Yes</u>	<u>No</u>	Advance? _____
	<u>Yes</u>	<u>No</u>	Memo to Advance _____
	<u>Yes</u>	<u>No</u>	Order to Reinstate Needed? _____
TOTAL CFS	<u>Yes</u>	<u>No</u>	Incorrect Fee for rate recommended? _____
	<u>Yes</u>	<u>No</u>	Disagree with Actual Measurement? _____
	<u>N/A</u>	<u>Yes</u>	Disagree with Theoretical? _____
	<u>Yes</u>	<u>No</u>	Limited by Capacity? _____
TOTAL VOLUME			Rate/ac _____ AFA Irr. Season _____
	<u>Yes</u>	<u>No</u>	Standard Irr. Season _____
	<u>Yes</u>	<u>No</u>	Season Recommended _____
	<u>Yes</u>	<u>No</u>	Disagree with Examiner's Calculations? _____
	<u>Yes</u>	<u>No</u>	<u>Based on Facility Volume</u>
	<u>Yes</u>	<u>No</u>	Limited by Flow? _____
SOURCE	<u>Yes</u>	<u>No</u>	Changes? Clarification of <u>Originally</u>
	<u>Yes</u>	<u>No</u>	<u>Intended</u> source _____
	<u>Yes</u>	<u>No</u>	Notice of Intent to Void. _____
P/D	<u>Yes</u>	<u>No</u>	Verify with Map _____
	<u>Yes</u>	<u>No</u>	Amendment Needed? _____
	<u>Yes</u>	<u>No</u>	Is Overlap Analysis a Consideration? _____
P/U	<u>Yes</u>	<u>No</u>	Verify with Map _____
	<u>Yes</u>	<u>No</u>	Amendment Needed? _____
	<u>Yes</u>	<u>No</u>	Is Overlap Analysis a Consideration? _____
USES	<u>Yes</u>	<u>No</u>	Change(s) in Nature of Use? _____
	<u>Yes</u>	<u>No</u>	Amendment Needed? _____
REMARKS	<u>Yes</u>	<u>No</u>	Multiple P/Ds in 1/4 1/4? _____
	<u>Yes</u>	<u>No</u>	Non-Irr. Uses _____
	<u>Yes</u>	<u>No</u>	Special Overlap Condition _____
	<u>Yes</u>	<u>No</u>	Other _____
CONDITIONS	<u>Yes</u>	<u>No</u>	Measuring Device _____
	<u>Yes</u>	<u>No</u>	W/Master Control _____
	<u>Yes</u>	<u>No</u>	Overlap _____
	<u>Yes</u>	<u>No</u>	Water Quality _____
	<u>Yes</u>	<u>No</u>	DATES/MISC _____
	<u>Yes</u>	<u>No</u>	Water Dist. _____
	<u>Yes</u>	<u>No</u>	App Rec'd _____
	<u>Yes</u>	<u>No</u>	Exam Made _____

COMMENTS/MEMOS NEEDED: _____

License ✓ 10-Day _____ 15-Day _____ Special Correspondence _____

32

DATE: 10/19/92
PAGE: 1

Audit: 10/19/92 CURTIS

MEMORANDUM

TO: File 36-7875
FROM: Sharla
DATE: October 19, 1992
RE: Annual Volume for Fish Propagation

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

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

1. 10.0 cfs x 3600/ 20,988 cf = 1.71526
2. 0.5 AF x 1.71526 x 8760 = 7,512.8 AFA
3. 10.0 cfs x 1.9835 x 365 days = 7,239.8 AFA

RECOMMENDATION: 7,239.8 AFA

UNCLASSIFIED

NOV 17 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
NOV 27 1991

Department of Water Resources

A. GENERAL INFORMATION

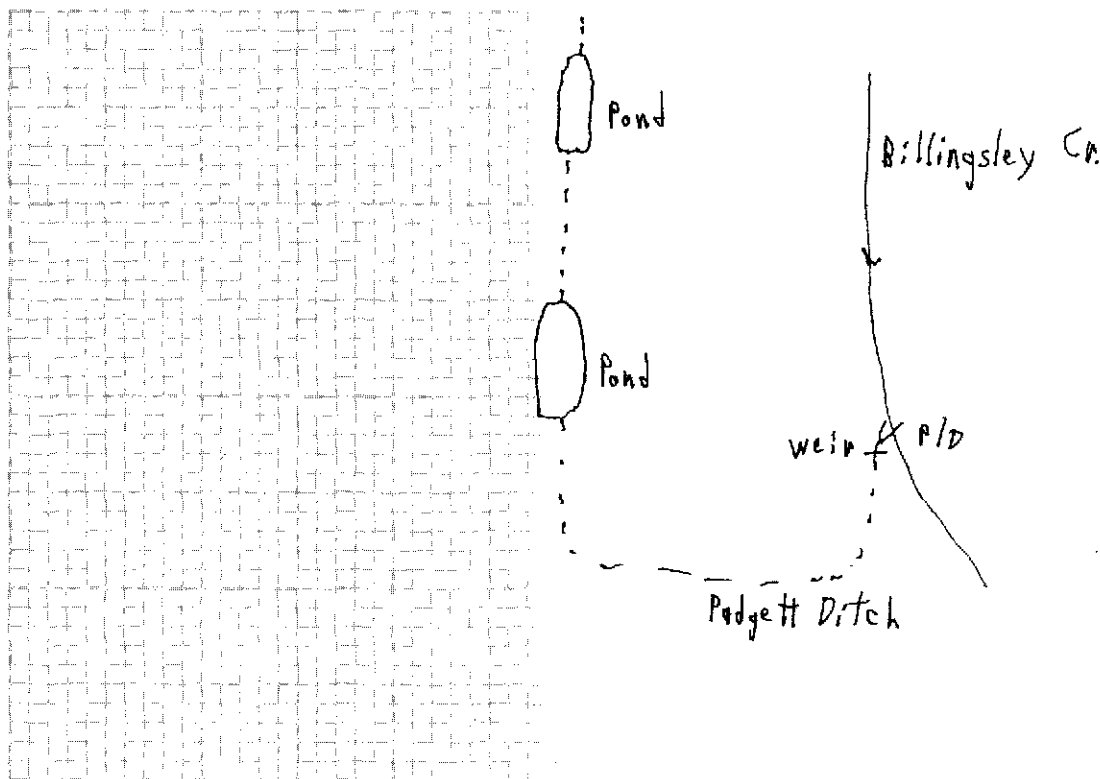
1. Owner: Y4 Tr Hqx Investments Permit No. 36-07875
Current Address: E/O Mary R. Barrett, 813 W. Kiowa, Hobbs, NM 88240 Phone No. _____
2. Accompanied by: CLIFF Jensen EXAM. DATE: 3-28-80
Address: P.O. Box 201, Hagerman, ID 83332 Phone No. 837-6116
Relationship to Permit Holder: Manager 837-6179 PM
3. Source: Billingsley Cr. tributary to Snake R.
via Padgett Ditch

B. OVERLAP REVIEW

1. Other water rights with same place of use: _____ ☐ Copies Attached
2. Other water rights with same point of diversion: several decreed irrigation rights
_____ ☐ Copies Attached ☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

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



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Scale: 1" = _____

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

System Description (continued)

3. **Narrative:** Description (As operating at time of measurement. Indicate pressure, number of sprinklers, etc.)

Submerged orifice headgate at head of Padgett Ditch. Padgett Ditch to 2 dirt ponds built directly on the Ditch. Lower pond 99' x 25' x 4' deep. Upper pond is 99' x 28' x 4' deep.

Facility volume = 20,988 ^{cu. ft.} _{sq. ft.} ✓

☐ See Remarks on page 4 for continuation

4.

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

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

5. **Point(s) of Diversion:**

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		NW	SE	NE	11	7S	13E	Gooding	

6. **Place(s) of Use:**

Indicate Method of Determination

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
7S	13E	2															H		
		11				H													

MICROFILMED

Do not use this space

NOV 17 1992

Do not use this space

D. FLOW MEASUREMENTS

☐ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Submerged Orifice					5' wide	

2. Measurements:

Upstream - 1.78', Downstream - 0.7'
 Orifice - 5' w x 0.5' high = 2.5 sq. ft.
 Measured 12.86 cfs. Allow 10 cfs under permit.

E. FLOW CALCULATIONS

☐ Additional Computation Sheets Attached

1. Measured Method:

$$Q = 1.61 A \sqrt{2gh} = 1.61 \times 2.5 \times \sqrt{64.4 \times 1.08} = 12.72 \text{ cfs}$$

$$v = Q/A = \frac{12.72}{10} = 1.27 \quad R = \frac{v^2}{2g} = .025$$

2. Alternate Method for Checking Purposes:

$$Q = 1.61 \times 2.5 \sqrt{64.4 (1.08 + .025)} = 12.86 \text{ cfs}$$

F. PUMP EFFICIENCY DATA (Optional)

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

Total Head: (1) + (2) = _____ (3)

; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

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

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

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

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

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

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 NOV 17 1992

H. REMARKS AND OVERLAP REVIEW ANALYSIS

Use of water for fish propagation does not interfere with irrigation uses. Mr. Jensen said that diversion thru Pipe Ditch is insignificant, so it is not shown as a point of diversion. Water leaves lower pond, then flows thru 2 additional properties before entering the Snake River in the SW1/4 NE1/4 SW1/4 Sec. 2 (according to Mr. Jensen).

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Facility Annual Volume V (af) cu. ft.
	From	To		
Fish Propagation	1-1	12-31	10.0	20,988 sq. ft.
Totals:				

2. Recommended Amendments

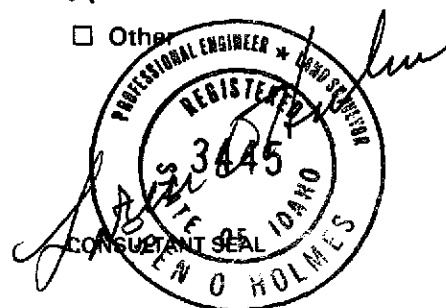
- ☐ Change P.D. as reflected above ☐ Add P.D. as reflected above
☐ Change P.U. as reflected above ☐ Add P.U. as reflected above

☒ None

☐ Other

J. AUTHENTICATION

Field Examiner's Name J. E. Stanton
 Signature J. E. Stanton
 Certification Date 4/10/91
 Field Report Preparation Date 7-13-90



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

MICROFILMED

NOV 17 1992

MICROFILMED

NOV 17 1992

DATE 2-27-91

FROM Jim Stanton

TO File

SUBJECT Statement Required As Condition of Approval, Permit 36-07875 (Ya Ta Hay Investments)

The attached statement shows that permission has been obtained to enlarge the Padgett Ditch so that the ditch can carry the permitted water to the fish ponds developed under this permit. According to the permittee, the ditch was enlarged only where it crosses the Crandlemire land and the permittee's land. It was ~~14~~ already large enough in other sections to carry the water allowed under the permit.

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NOV 17 1992



SIGNATURE

RECEIVED

FEB 26 1991

Department of Water Resources
Southern Region Office

February 7, 1991

Idaho Department of Water Resources
Southern Region
222 Shoshone Street East
Twin Falls, Idaho 83301

Dear Sirs:

I, Roger C. Crandlemire, have purchased the parcel of ground directly South of the property owned by Ya-Ta-Hay Investments. The clean-up process of my ground included the cleaning and enlargement of the Padgett Ditch, which flows through to the Ya-Ta-Hay property. This process enables the increased flow of water through the Padgett Ditch.

Sincerely,



Roger C. Crandlemire

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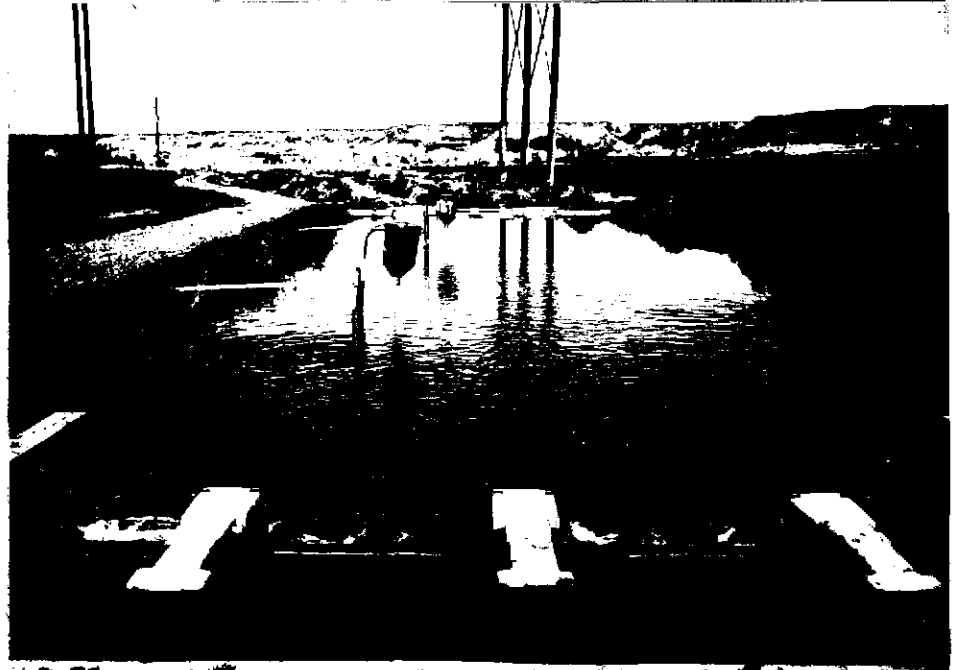
NOV 17 1992

36-7875

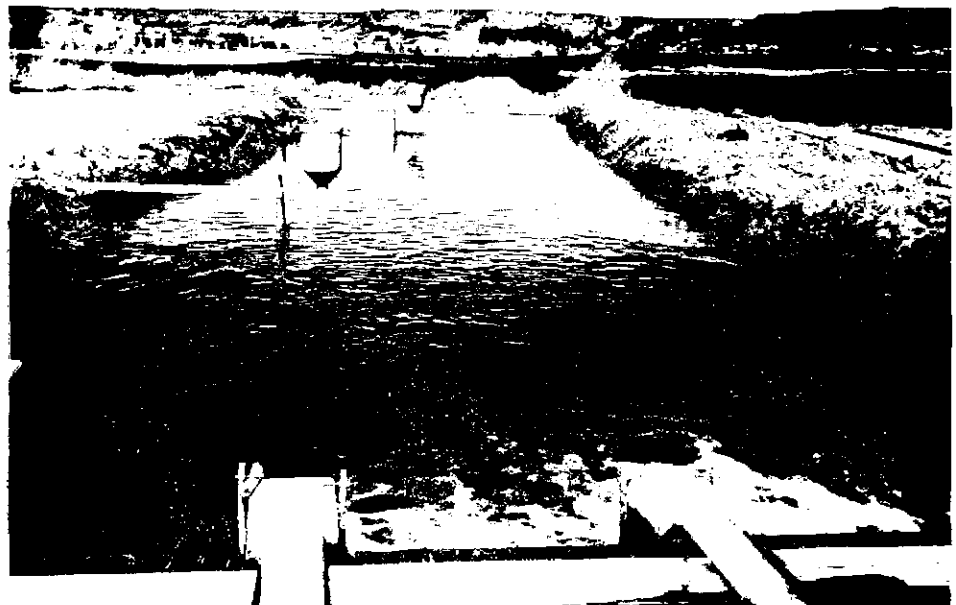
Diversion &
Measuring Device



Upper Pond
Looking North

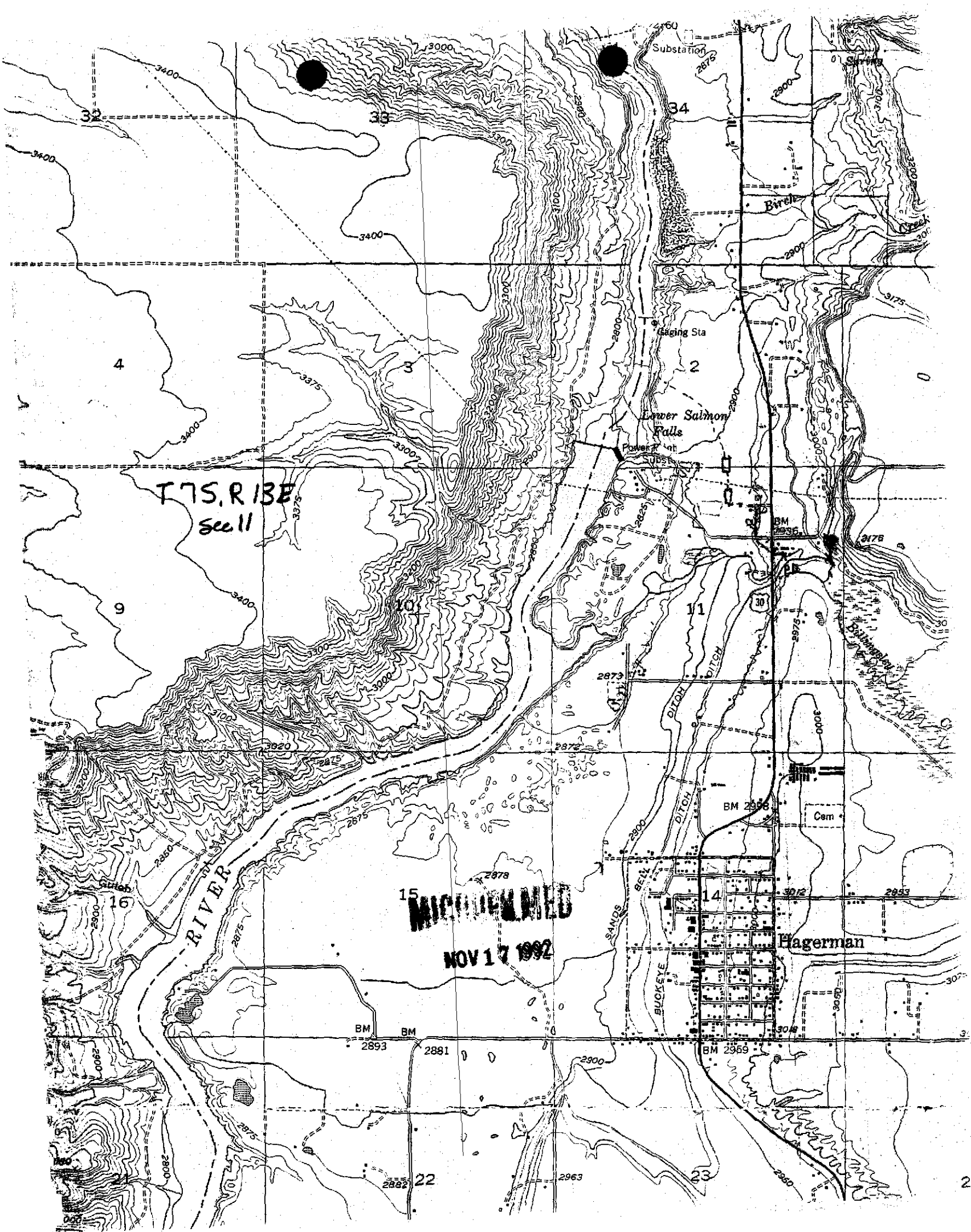


Lower Pond
Looking North



NOV 17 1992

NOV 17 1992



1/88

PROOF OF BENEFICIAL USE

ANALYSIS SHEET

Permit No. 36-7875

Date: 10/13/88

General Considerations:

Y Name same as permit
Y Signature the same as permit holder
Y Address change _____ If yes, prepare a data entry
Y Proof received timely _____
_____ Reinstated

Source of Water:

Y Surface water
_____ Groundwater
_____ 1. well log in file
_____ 2. drilling permit
_____ A. amount of drilling fee paid for proposed uses

Extent of Use and Rate of Diversion:

Y Rate of diversion appropriate for uses
Y Is rate or volume and fee appropriate?
Y Has permit holder indicated when water was first put to a beneficial use?

Measuring Device:

Y Is a measuring device or access port required?
Y Has one been installed?
N/A Waiver or modification of measuring device requested

Remarks:

Proof acceptable

N/A

Priority Calculation:

Date proof received	_____	_____
Date proof due	_____	- _____
No. of days late	_____	= _____
Priority date	_____	+ _____
NEW PRIORITY DATE	_____	= _____

SEND FILES TO DATA ENTRY AND THEN TO MICROFILM

Form 217
03/84

RECEIVED

SEP 28 1988

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

For Office Use Only
Fee Received \$325.00
Date 9/29/88
Receipt # 002734
Receipt by CR
Reviewed by GS
Sent to region

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 36-07875

Name(s) of Permit Holder: YA-TA-HAY INVESTMENTS, INC, c/o Mary Ruth Barrett

Post Office Address: 813 West Kiowa, Hobbs, New Mexico 88240

Telephone No. 505-392-1132

Source of Water: Billingsley Creek via the Padgett Ditch, John Bell Ditch & Pipe Ditch

Extent of Use:

Domestic (number of households)

Stockwater (number and type of stock)

Irrigation (acres)

Other/Remark Fish Propagation

Total rate and/or volume for which proof is submitted 10.0 cfs acre-feet

Show the date water was first diverted and beneficially used under this permit: September 26, 1988

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

Fee enclosed \$ 325.00
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☒ No
Installed? ☐ Yes ☒ No

Person to contact to accompany the Department representative during the field examination:

Clifton E. Jensen, P. O. Box #201, Hagerman, Idaho 83332

208-837-6116

(Name)

(Telephone Number)

(Address)

OCT 14 1988

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

9-26-88

Date

Mary Ruth Barrett, President

Signature of Permit Holder (and title, if appropriate)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Statehouse
Boise, Idaho 83720
(208) 334-7900
Certified Mail
July 31, 1988

138179

YA-TA-HAY INVESTMENTS INC
C/O CLIFF JENSEN
P.O. BOX 201
HAGERMAN, ID 833320000

PROOF DUE NOTICE
RE: PERMIT NO. 36-07875

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before October 1, 1988. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

SINCERELY,

Rita Fleck
Secretary/Records Manager

Enclosures

MICROFILMED

OCT 14 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 36-7875
Name(s) of Permit Holder(s): Ya-Ta-Hay Investments Inc.
Post Office Address: P. O. Box 424
Hagerman, ID Tel. No. 837-4962

☒ I hereby certify that construction of diversion works for the above referenced permit began on Sept 1, 1983. I understand that I must continue to develop the water conservation programme to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:
Oct 1, 1983

*Note: A financing difficulty is not an acceptable reason.

Date

Signature of Permit Holder

6-9-83

Frederic S. Barnett

PLACE
STAMP
HERE



OCT 14 1988

IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
COMMENCEMENT OF WORKS

Permit No. 36-7875

Name(s) of Permit Holder(s): Ya-Ta-Hay Investments Inc.

Post Office Address: P. O. Box 424

Hagerman, ID Tel. No. 837-4962

☒ I hereby certify that construction of diversion works for the above referenced permit began on Sept 1, 1983. I understand that I must continue to develop the water project in accordance to maintain a valid permit.

☐ I hereby certify that construction of diverting works on the above referenced project has not yet begun due to the following reason beyond my control*:

*Note: A financing difficulty is not an acceptable reason.

6-9-83

Date

Fred S. Barnett
Signature of Permit Holder

February 24, 1987

Ya-Ta-Hay Investments, Inc.
c/o Cliff Jensen
P. O. Box 201
Hagerman, ID 83332

Dear Mr. Jensen:

Re: Permit No. 36-7875

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to October 1, 1988.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosure

RECEIVED

MAR 03 1987

STAFF REVIEW SHEET - EXTENSION OF TIME

Permit No. 36-7875

Reviewed by [Signature]

Date 2-23-1987

BASIC INFORMATION

- y Date stamp received
y Extension received timely
 (not prior to 6 month before proof due date or after reinstatement period)
y Fee received and receipted
y Name and signature same as permit
y Address change (indicate on coding sheet)

BASIS FOR EXTENSION REQUEST

- y Has adequate work been completed to demonstrate due diligence?
y Has the cost incurred been adequate to demonstrate an intent to complete the project?
y Has the permit been involved in litigation?
 a. Swan Falls yes Dismissed from Swan Falls 1st dismissal
 Other Identify
 b. Is supporting documentation needed to complete the file? Requested
 c. Calculate the period of delay

Date litigation completed 10-1-1984

Date litigation began - 3-1-1983

Total period of delay = 7mo. 1 yr

Present proof due date + 3-1-1987

NEW PROOF DUE DATE = 10-1-1988

- N/A Is delay by a government agency?
 Is supporting documentation needed to complete the file? Requested?

ACTION TAKEN - Recommend approval based on Swan Falls litigation - until 10-1-1988

Special conditions or remarks:

N/A Reinstatement Date extension received _____ = _____
 Proof due date _____ = _____
 No. of days late _____ = _____
 Priority date _____ = _____
 ADJUSTED PRIORITY DATE _____ = _____

____ Prepare coding sheet
 ____ Change rolodex card



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

EXTENSION OF TIME

February 19, 1987

Ya-Ta-Hay Investments, Inc.
c/o Cliff Jensen,
P. O. Box 201
Hagerman, ID 83332

PERMIT NO. 36-7875

We are in receipt of the \$15 extension fee for Extension(s) of Time to provide additional time in which to submit proof of beneficial use on a water right permit.

Your request for extension(s) of time is being reviewed by staff. You will be informed of our decision when review has been completed.

Enclosed is our receipt No. 41444.

Roberta Garrett
Records Supervisor

Enclosure

MAILED
MAR 5 1987

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
CERTIFIED MAIL
DECEMBER 31, 1986

YA-TA-HAY INVESTMENTS INC
P. O. BOX 424
HAGERMAN, ID 83332

138577

PROOF DUE NOTICE

RE: PERMIT NO. 36-7875

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF THE ABOVE REFERENCED WATER PERMIT WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MARCH 1, 1987. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST.) ENCLOSED IS A FORM WHICH WHEN ACCOMPANIED BY THE LI-CENSE EXAMINATION FEE OR A COMPLETED FIELD EXAMINATION REPORT PREPARED BY A CERTIFIED WATER RIGHT EXAMINER MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION WHICH MIGHT BRING TITLE TO THE WATER IN QUESTION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER AN ACCEPTABLE PROOF OF BENEFICIAL USE SUBMITTAL OR AN ACCEPTABLE REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

RECEIVED
DEC 31 1986
MAIL ROOM



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

SEPTEMBER 1, 1985

DEAR PERMIT HOLDER:

ACCORDING TO OUR RECORDS, YOU ARE THE HOLDER OF A WATER PERMIT ON WHICH PROOF OF BENEFICIAL USE OF WATER WAS NOT SUBMITTED BEFORE JULY 1, 1985, WHICH INDICATES YOUR PROJECT IS NOT COMPLETE. THEREFORE, YOU NEED TO BE AWARE OF CHANGES IN IDAHO LAW, EFFECTIVE JULY 1, 1985, WHICH IMPACT ALL WATER PERMITS ISSUED BY THIS DEPARTMENT.

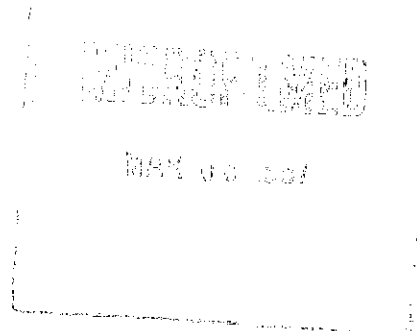
SPECIFICALLY, PURSUANT TO SECTION 42-203D, IDAHO CODE, THE DEPARTMENT MUST REVIEW ALL PERMITS FOR WHICH DEVELOPMENT OF WATER USE WAS NO COMPLETED ON OR BEFORE JULY 1, 1985, TO DETERMINE IF THEY MEET THE NEW REQUIREMENTS OF CHAPTER 2, TITLE 42, IDAHO CODE. RULES AND REGULATIONS GOVERNING THE RE-EVALUATION OF PERMITS ARE NOT YET FINALIZED. HOWEVER, IF YOU COMPLETED THE DEVELOPMENT UNDER YOUR PERMIT BEFORE JULY 1, 1985, YOU SHOULD SUBMIT A PROOF OF BENEFICIAL USE STATEMENT, STATING THAT THE PROJECT WAS COMPLETED BEFORE JULY 1, 1985 SO THAT YOUR PERMIT WILL NOT BE SUBJECT TO THE REVIEW REQUIREMENTS OF SECTION 42-203D, WHICH READS AS FOLLOWS:

42-203D. REVIEW OF PERMITS - OPPORTUNITY FOR HEARING. - (1)THE DEPARTMENT SHALL REVIEW ALL PERMITS ISSUED PRIOR TO THE EFFECTIVE DATE [JULY 1, 1985] OF THIS SECTION, EXCEPT TO THE EXTENT A PERMIT HAS BEEN PUT TO BENEFICIAL USE PRIOR TO JULY 1, 1985, TO DETERMINE WHETHER THEY COMPLY WITH THE PROVISIONS OF CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PROPOSED USE DOES NOT SATISFY THE CRITERIA OF CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL EITHER CANCEL THE PERMIT OR IMPOSE THE CONDITIONS REQUIRED TO BRING THE PERMIT INTO COMPLIANCE WITH CHAPTER 2, TITLE 42, IDAHO CODE. IF THE DEPARTMENT FINDS THAT THE PERMIT SATISFIES THE CRITERIA ESTABLISHED IN CHAPTER 2, TITLE 42, IDAHO CODE, THEN THE DEPARTMENT SHALL ENTER AN ORDER CONTINUING THE PERMIT. (2)THE DEPARTMENT SHALL PROVIDE AN OPPORTUNITY FOR HEARING IN ACCORDANCE WITH SECTION 42-1701A, IDAHO CODE, AND SECTIONS 67-5209 THROUGH 67-5215, IDAHO CODE, FOR EACH HOLDER OF A PERMIT THAT IS PROPOSED EITHER TO BE CANCELLED OR MADE SUBJECT TO NEW CONDITIONS.

YOU MAY OBTAIN PROOF OF BENEFICIAL USE FORMS FROM THE DEPARTMENT. IF YOU HAVE ANY QUESTIONS, PLEASE LET US KNOW.

SINCERELY,

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU



INTER-DEPARTMENT MEMO — 1

FROM

LH

DATE

TO

FILE 36-7875

SUBJECT

Stevens Exhibit #12 (Attached)

Mr Stevens has requested return of the photograph
when a decision is issued.

MICROFILMED

Returned April 9th
1982.

[Signature]

[Signature]

SIGNATURE

March 12, 1982

Ya Ta Hay Investments, Inc.
P. O. Box 424
Hagerman, ID 83332

Gentlemen:

Re: Application for Permit No. 36-7875

Enclosed is a copy of the Order Adopting the Proposed Memorandum Decision as the Final Decision and Order of the Director together with a copy of the Proposed Memorandum Decision and Order and a copy of the application.

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

Any person who does not agree with the decision of the department may request a rehearing before the Director within twenty (20) days, or may appeal directly to the district court within thirty (30) days of the date the decision is mailed.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: See certificate of mailing

MICROFILMED

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

36-7875

Inc.

INITIAL REVIEW BY: J. C. Stanton

APPLICATION NUMBER: Ya-Ta-Hay Investments,

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☒ Yes ☐ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

latchery plane

SEND COPIES TO:

- ☒ Idaho State Health Department.
☒ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☐ U.S. Forest Service.
☐ Other _____

Copies sent by: _____ Date: _____

PROCESSING:

- ☐ Yes ☐ No Platted by: _____ Map No. _____
☐ Yes ☐ No Other rights on same place of use. _____
☐ Yes ☒ No* In form for advertising.
Final date for protests: 11/26/79
☒ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 11/20/79
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application.
☒ Publication dates and paper, recorded on application.
☒ Protests, dates, withdrawal, etc., recorded on application.
☒ Recommendation & initial, recorded on application.
☒ Yes ☐ No Measuring device required.
☐ Yes ☒ No Access port required.
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what district? 3C-A
10-24-79 Date of priority recommended.
Special conditions of approval or cover letter. Per Memo. Decision & order

By: Loren O. Halmer Date: 3-20-80

STATE OFFICE REVIEW:

See Memo of Decision return photo w/cover letter

- ☐ See attached sheet for more information.

By: [Signature] Date: 4/2/81

MICROFILMED

R-
11/2/79

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301-0508
(208) 733-6684

RECEIVED

FEB 8 1982

Department of Water Resources

Attorneys at Law

February 5, 1982

Leon E. Smith, Jr.

Paul M. Beeks

A. Kenneth Dunn
Director
Department of Water Resources
Statehouse
Boise, Idaho 83720

Dear Ken:

As of February 21, 1982, it has been two years since we had a hearing on Ya Ta Hay, Permit Application No. 36-7875. I have periodically written the Department seeking some indication of when we could expect a decision on this matter. A couple of times I received a response that it would be forthcoming shortly. My client was in again yesterday requesting that I contact you to see when the decision will be made.

Ours is a rather small application for water. We are merely asking the Department to reaffirm the 8.7 CFS of decreed water for year round use, as has been the practice anyway. We have asked for an additional 1.3 CFS, so that we can have a total of 10 CFS with which to irrigate and raise trout. During the last year the Department has apparently granted a Permit to use 7 or 8 CFS of that same water for power generation.

We would certainly appreciate it if we could get a decision on this matter so that we could proceed with construction of facilities.

Thank you for your attention to this matter.

Yours truly,

SMITH & BEEKS


Leon E. Smith, Jr.
LES/vu
cc: F. Barrett

MICROFILMED

file 36-7875

October 1, 1981

Leon E. Smith, Jr.
Smith & Beeks
210 6th Ave. East
Box 508
Twin Falls, ID 83301

Dear Mr. Smith:

A decision on this matter, Ya-Ta-Hay application, should be sent to you shortly.

The delay in issuing our decision in this case is due to several factors, such as the public concern about Billingsley Creek, the study that was conducted on the ditch, the decrease in our budget coupled with the most applications ever filed in any year.

We will expedite this application and issue the decision as quickly as possible.

Sincerely,

NORMAN C. YOUNG
Administrator
Resources Administration Division

NCY:alw

MICROFILMED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

RECEIVED

SEP 22 1981

Department of Water Resources

Attorneys at Law

Leon E. Smith, Jr.

Paul M. Beeks

September 21, 1981

Mr. Kenneth Dunn
Director
Department of Water Resources
State Office
450 West State Street
Boise, Idaho 83720

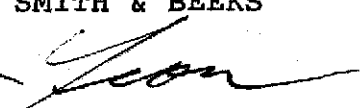
RE: Ya-Ta-Hay Water Application

Dear Ken:

It has been almost a year and one-half since our hearing was held in Gooding, on the Ya-Ta-Hay Water Application for permit #36-7875. As pointed out in previous letters to the Department, this application was more for a clarification of existing water rights than anything else. The only thing actually involved was an increase from 8.7 cfs to a total of 10 cfs of Billingsley Creek Water, which was not to be returned to Billingsley Creek. This application should not be included in any Billingsley Creek studies or delays, for the reason that it is of little impact on the stream and has its point of return in the Snake River. I would appreciate your asking someone in your Department to let me know what the status of my clients case is. I realize the burdens on your office from the imposition of budgetary constraints, but I do hope that we will soon have a decision on this question. Thank you for your attention to this matter.

Yours truly,

SMITH & BEEKS


Leon E. Smith, Jr.

LES/rjf

cc: Loren Holmes

MICROFILMED

RECEIVED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

APR 28 1981

Department of Water Resources

Attorneys at Law

Leon E. Smith, Jr.

Paul M. Beeks

April 27, 1981

Mr. Kenneth Dunn
Director
Department of Water Resources
State Office
450 West State Street
Boise, ID 83720

Re: Ya-Ta-Hay Water Application

Dear Mr. Dunn:

I am writing on behalf of Ya-Ta-Hay Investments' application for Permit No. 36-7875. This application was heard at a hearing dated February 21, 1980, in Gooding, Idaho. It has been one year and two months since that hearing was held. It was a rather small application for water, increasing the adjudicated water of 8.7 cfs to a total of 10 cfs from Billingsley Creek in Hagerman, Idaho. We have been waiting a long time to receive the order of the Department reaffirming our adjudicated rights and adding approximately 1.3 cfs for a round number of 10 cfs. We would certainly appreciate your doing whatever you can to give us a decision on that application.

To my numerous letters, we finally received a letter from Loren Holmes dated December 3, 1980. That letter indicated that we would be getting a decision after the Billingsley Creek report was completed by Jim Winner. That report is now complete and before the Department. We would appreciate anything you can do to expedite the order. Thanking you in advance.

Yours truly,

SMITH & BEEKS


Leon E. Smith, Jr.

LES:db

cc: Mr. Matt Mullaney
Client

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

December 3, 1980

Leon E. Smith, Jr.
Smith & Beeks
Attorneys at Law
Box 508
Twin Falls, Idaho 83301

Dear Mr. Smith:

Attached are results of a survey of the Padgett Ditch, made at the request of parties at the hearing on application 36-7875 filed by Ya-Ta-Hay Investments, Inc.

The survey was made on February 22, 1980. A cross section of the ditch was made at 25-foot intervals along the 200 foot section of ditch on the Stevens property.

Two water measurements, made about 2½ hours apart, indicated an average flow of 6.46 cfs.

A check with the Division of Highways office in Shoshone, indicated the culvert installed at the downstream of the Stevens property is a 50 x 31 inch CMP Arch, 124 feet long.

The information collected was used to plot a profile of the ditch bank, water surface, and ditch bottom, and to compute a water surface profile within the culvert.

The resulting plot of the water surface at the observed flow lead me to conclude that the capacity of the ditch is influenced more by conditions downstream from the culvert than by conditions on the Stevens property. The fact that the water surface rises above the normal depth of flow in the culvert indicates the capacity of the ditch to carry water away from the culvert would have to be improved in order for modifications to the portion of the ditch upstream from the culvert to be very effective.

MICROFILMED

Page -2-
36-7875
Dec. 3, 1980

I am proceeding with drafting of a decision on the application, however, a decision probably will not be issued prior to completion of the study of Billingsley Creek currently being conducted by the Department.

If I can provide any other information, please contact me.

Very truly yours,

LOREN O. HOLMES
Southern Region

LOH:marya

Encl:

cc: Fred Barrett
Bob Fleenor-IDWR

MICROFILMED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

RECEIVED

JUN 11 1980

Department of Water Resources
Southern District Office
Leon E. Smith, Jr.
Paul M. Beeks

Attorneys at Law

June 9, 1980

Mr. Bob Fleenor
Department of Water Resources
Statehouse
Boise, ID 83720

Re: Ya-Ta-Hay Application for Permit No. 36-7875

Dear Bob:

It has been almost four months since we had the hearing in Gooding on the water application for Ya-Ta-Hay (Permit No. 36-7875). As yet, I have not had any information from your office regarding the measurements taken, results of your study, or on the pending decision. Can you enlighten me?

Yours truly,

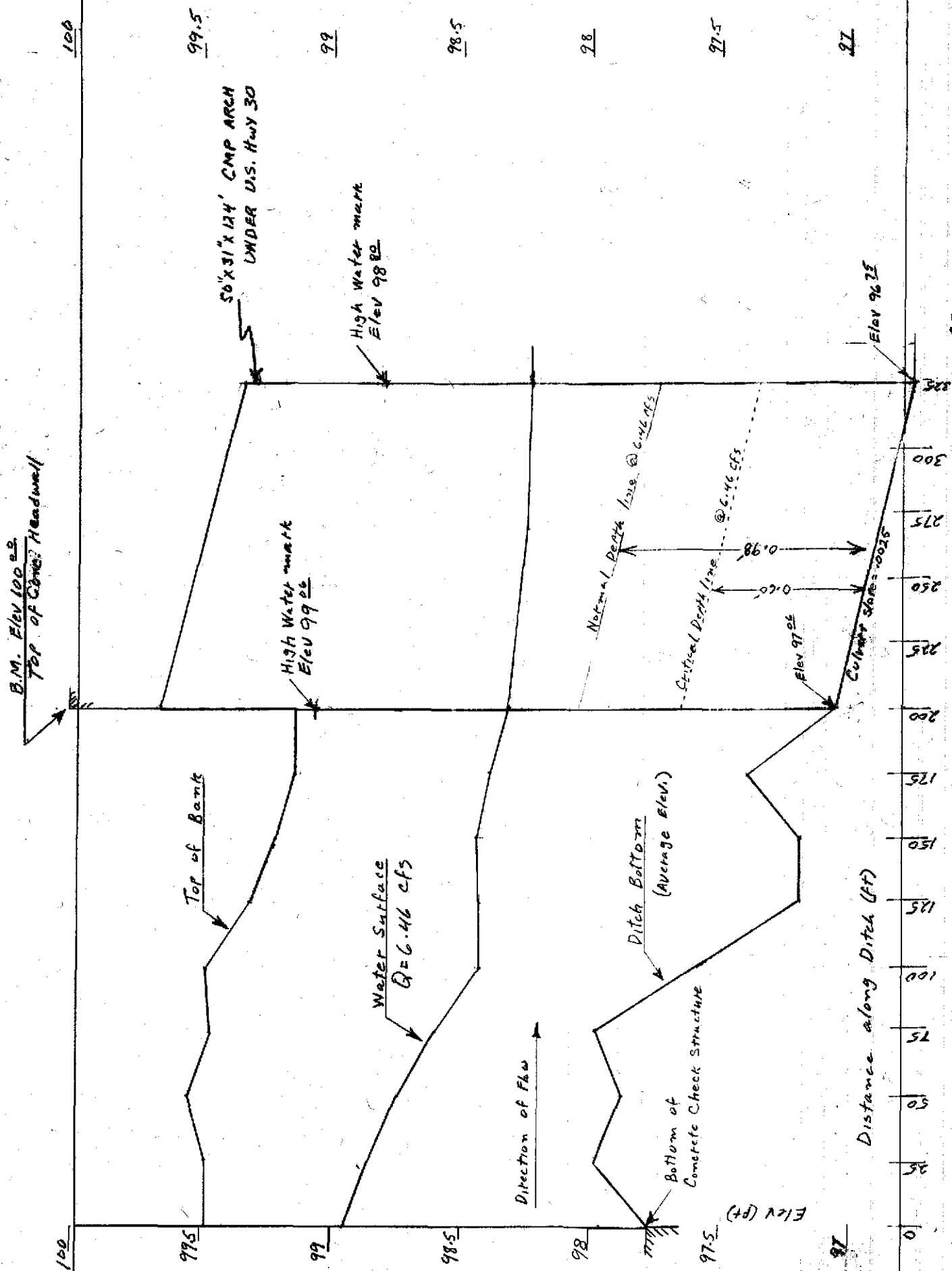
SMITH & BEEKS

Leon E. Smith, Jr.

LES:db

X cc: Mr. Loren O. Holmes
Ya-Ta-Hay Investments, Inc.

MICROFILMED



MICROFILMED

Solution for Normal & Critical Depth in the
50" x 31" x 124' CORR ATCH Culvert under U.S. Hwy 30.

Invert Elev at inlet = 97.06

" " " Outlet = 96.75

$$\text{Culvert slope} = \frac{(97.06 - 96.75)}{124} = .0025$$

Manning's $n = .030$ $Q = 6.46 \text{ cfs}$

From Manning's Equation; $AR^{2/3} = \frac{Qn}{1.49\sqrt{S}} = \frac{(6.46)(.030)}{(1.49)\sqrt{.0025}} = 2.60$

Table of Depth, D , vs $AR^{2/3}$ Derived from Table 4-12

Depth, D	Rise %	Atch %	R %	AREA	Hyd. Radius, R	$AR^{2/3}$	Top Width T	Section Factor $Z = AV\sqrt{S}$
.5	19	15	45	1.31	.36	.66		
.6	23	22	55	1.91	.44	1.10	4.117	1.586
.7	27	25	65	2.18	.51	1.78	4.094	2.084
.8	31	30	71	2.61	.63	2.24	4.060	2.644
.9	35	35	80	3.05	.68	2.69	4.014	3.240
1.0	39	40	86	3.48	.73	3.17	3.958	4.359
1.1	43	45	92	3.92	.76	3.69	3.909	4.732
1.2	46	51	96	4.44				

Numerical Analysis of Data Pairs $D, AR^{2/3}$
Gives the following relationship over the
range of Depths between .5 & 1.2

$$D = .596(AR^{2/3})^{.523} \quad r^2 = .99$$

$$\text{For } AR^{2/3} = 2.60, D = .596(2.60)^{.523} = .98$$

For critical depth, the Section factor, $Z = \frac{Q}{\sqrt{S}} = \frac{6.46}{\sqrt{.0025}} = 1.14$

Analysis of $D=f(Z)$ gives the Relationship $D = .565 Z^{.475}$

$$D_{cr} = (.565)(1.14)^{.475} = .60$$

MICROFILMED

Water Surface Profile inside 50"x31"x124' CMP Arch Culvert
 Confirms that .030 is the correct n value for the Culvert
 $Q = 26.46 \text{ cfs}$ $n = .030$ $S = .0025$

% Full Depth	Y	A	R	$R^{4/3}$	V	$\frac{V^2}{2g}$	E	ΔE	SP	$\bar{S}_f$	$S_o - \bar{S}_f$	Δx	x
57	1.48	5.83	.870	.831	1.1081	.0191	1.4991	.0006					
53	1.37	5.57	.931	.781	1.1598	.0209	1.3909	.1082	.0007	.00065	.0019	56.9	56.9
48	1.25	4.70	.791	.732	1.3745	.0293	1.2793	.1116	.0010	.0009	.0016	69.8	126.7

Plotting Data

% Depth	Depth	Distance from Ditch Head	Invert Elev	W.S. Elev
57	1.48	325	96.75	98.23
53	1.37	268	96.89	98.26
48	1.25	200	97.06	98.31

MICROFILMED

RECEIVED

Smith & Beeks

NOV 26 1980

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Department of Water Resources

Attorneys at Law

*Leon E. Smith, Jr.
Paul M. Beeks*

November 25, 1980

Mr. Bob Fleenor
Department of Water Resources
Statehouse
Boise, ID 83720

*Lozem will send information
this week
OK to file*

Re: Ya-Ta-Hay Application for Permit No. 36-7875

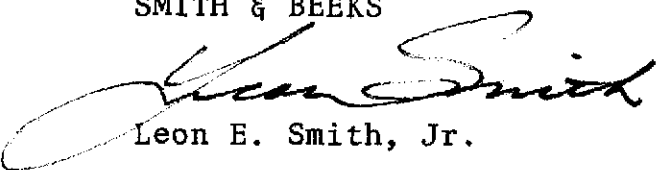
Dear Mr. Fleenor:

About every two months I write you a letter asking for the same information regarding the above application. This matter came up for hearing about nine months ago. At the hearing, you indicated you were going to immediately perform a study on the capacity of the waterway to carry the 10 CFS applied for. You said the results of that study would be immediately sent to us. I understand that study was made about eight months ago. We met in Gooding about three months ago, and you apologized for not getting me the results of that study and the reason for not answering any of my correspondence. To date, I have received nothing from you.

As a party to this action, petitioner for the use of that water, I would think that we should be entitled to receive the results of your study and at least an answer to our correspondence. I would appreciate it if you would do me this courtesy.

Yours truly,

SMITH & BEEKS


Leon E. Smith, Jr.

LES:db

cc: Mr. & Mrs. Fred S. Barrett

MICROFILMED

RECEIVED

AUG 21 1980

Department of Water Resources

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Attorneys at Law

Leon E. Smith, Jr.
Paul M. Beeks

August 20, 1980

Answered by Loren

ok to file
DDF

Mr. Bob Fleenor
Department of Water Resources
Statehouse
Boise, ID 83720

Re: Ya-Ta-Hay Application for Permit No. 36-7875

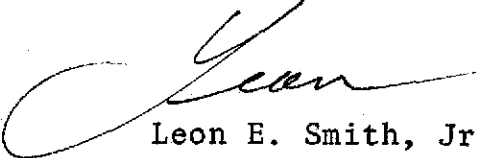
Dear Bob:

It has now been about six months since we had the hearing in Gooding on the water application for Ya-Ta-Hay (Permit No. 36-7875). Still we have not had any information from your office regarding the measurements taken, results of your study, or the pending decision.

The measurements were taken almost six months ago, and I understand they were supplemented about one month or two later. You promised me I would have the results of those measurements in very short order, as they certainly are to be considered by you as evidence under your pronouncement at the hearing. I would like to know what evidence you are using to arrive at the proposed decision that I presume you are making. May I hear from you?

Yours truly,

SMITH & BEEKS


Leon E. Smith, Jr.

LES:db

c: Mr. Loren O. Holmes
Ya-Ta-Hay Investments, Inc.

MICROFILMED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

RECEIVED

JUN 11 1980

Department of Water Resources

Attorneys at Law

Leon E. Smith, Jr.
Paul M. Beeks

June 9, 1980

Mr. Bob Fleenor
Department of Water Resources
Statehouse
Boise, ID 83720

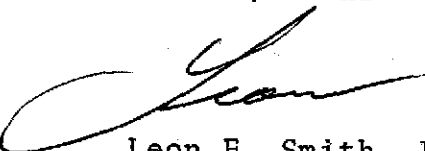
Re: Ya-Ta-Hay Application for Permit No. 36-7875

Dear Bob:

It has been almost four months since we had the hearing in Gooding on the water application for Ya-Ta-Hay (Permit No. 36-7875). As yet, I have not had any information from your office regarding the measurements taken, results of your study, or on the pending decision. Can you enlighten me?

Yours truly,

SMITH & BEEKS



Leon E. Smith, Jr.

LES:db

cc: Mr. Loren O. Holmes
Ya-Ta-Hay Investments, Inc.

Loren will send Mr Smith a copy of the measurements taken and ask for comments

Bob 6-13-80

MICROFILMED

Bob

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Attorneys at Law

RECEIVED

Leon E. Smith, Jr.
Paul M. Beeks

March 31, 1980

APR 1 1980

Department of Water Resources

Mr. Bob Fleenor
Department of Water Resources
Statehouse
Boise, ID 83720

4/6/80
Asked Loren if study
was done by memo.
SDF

Re: Ya-Ta-Hay Application for Permit No. 36-7875

Dear Bob:

It has been a month and one-half since we had the hearing in Gooding on this water application. At the conclusion of the hearing, you indicated that you intended to go to Hagerman Valley and make some water measurements and cross section measurements of the Padget ditch.

I believe you indicated that the results of that study would be available to us after completion. To date, I have received nothing on the study regarding cross sectional area and capacity of the ditch or volume of water going through the ditch at the time you visited the site. I am also led to believe that the water level in the ditch had dropped from what it was just prior to your visit, indicating that someone might have reduced the quantity of water flowing through the ditch.

At any rate, Bob, I would appreciate your letting me know if anything has developed toward a decision in this case and what the results of your study on the ditch were. Thank you for your anticipated response to this correspondence.

Yours truly,

SMITH & BEEKS

Leon
Leon E. Smith, Jr.

LES:db

cc: Ya-Ta-Hay Investments, Inc.

RECEIVED

Table 4-12B Full-Flow Data for Corrugated Steel Pipe-Arches
 Corrugations 6 x 2 in.
 Corner Plates 15 pi Radius (Rc) = 31 in.

Span	Rise	Area	Hydraulic Radius
13' 3"	9' 4"	97Ft ²	2.68'
13' 6"	9' 6"	102	2.74'
14' 0"	9' 8"	105	2.78'
14' 2"	9' 10"	109	2.83'
14' 5"	10' 0"	114	2.90'
14' 11"	10' 2"	118	2.94'
15' 4"	10' 4"	123	2.98'
15' 7"	10' 6"	127	3.04'
15' 10"	10' 8"	132	3.10'
16' 3"	10' 10"	137	3.14'
16' 6"	11' 0"	142	3.20'
17' 0"	11' 2"	146	3.24'
17' 2"	11' 4"	151	3.30'
17' 5"	11' 6"	157	3.36'
17' 11"	11' 8"	161	3.40'
18' 1"	11' 10"	167	3.45'
18' 7"	12' 0"	172	3.50'
18' 9"	12' 2"	177	3.56'
19' 3"	12' 4"	182	3.59'
19' 6"	12' 6"	188	3.65'
19' 8"	12' 8"	194	3.71'
19' 11"	12' 10"	200	3.77'
20' 5"	13' 0"	205	3.81'
20' 7"	13' 2"	211	3.87'

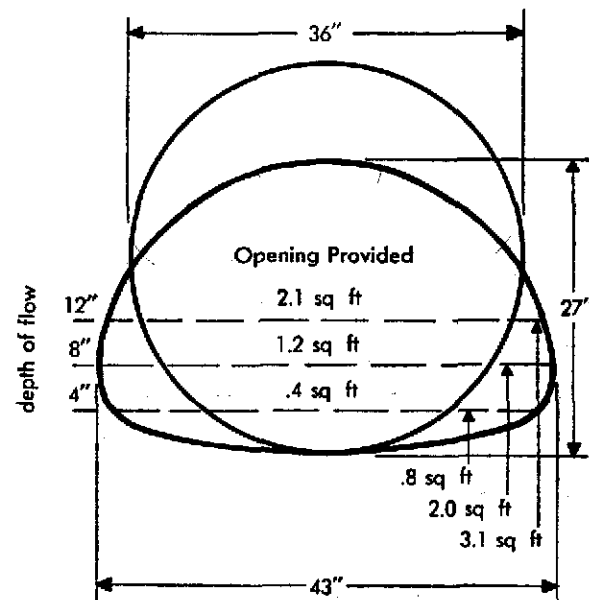


Fig. 4-27. Comparison of waterway cross-sectional areas at equal depths of flow in steel pipe and pipe-arch. The pipe-arch handles a larger volume at the lower levels of flow.

2. Shape of Culvert

The shape of a corrugated metal culvert—circular pipe, vertically elongated pipe, pipe-arch or arch—is generally chosen for reasons of headroom and/or strength rather than for hydraulic reasons. However, as the accompanying chart shows, a pipe-arch carries roughly 50 percent more water at depths up to half full. See Fig. 4-27. This keeps the headwaters at a lower level.

3. Single vs. Multiple Opening

A single culvert opening is, in general, the most satisfactory because of its greater ability to handle floating debris and driftwood. However, in many cases the greater portion of the waterway should be kept low to get the water through quickly without ponding or flooding of the land upstream. In such cases, the solution may consist of using either an arch or pipe-arch, or using a battery of two or more openings, or both. See Fig. 4-28.

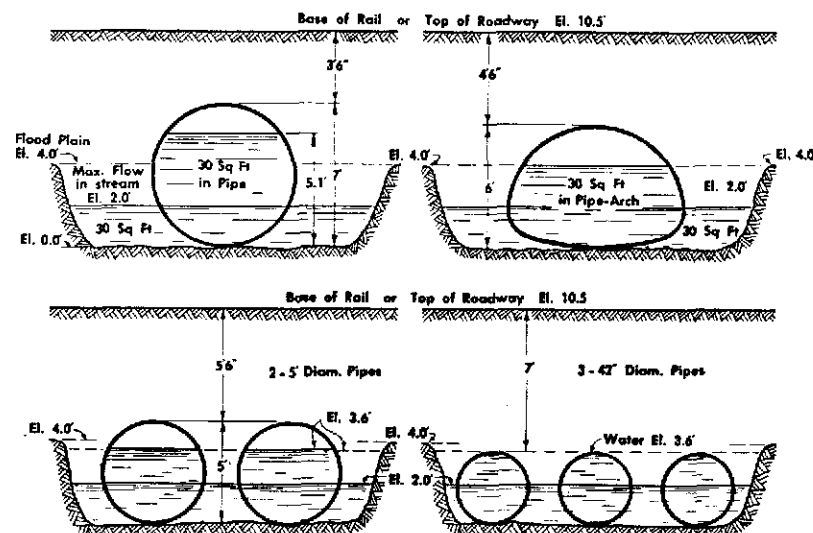


Fig. 4-28. Diagrams showing four choices for a culvert opening. For the assumed conditions, a single large pipe will cause the water to back up and flood the adjacent land. A twin or triple opening, while less efficient hydraulically, offers the best solution.—from *Railway Track & Structures*.

4. Slope of Culvert

Culvert location and length are described and pictured in detail under the subject of Culvert Applications.

For hydraulic and other reasons, a culvert may be installed on the same general grade as the approach and exit channels of the stream or waterway. However, on steeply sloping areas or hillsides, the culvert may be put on the critical slope or a flatter grade to reduce outlet velocities or for other reasons of discharge control.

The use of drop inlets, pipe spillways, paved approaches, and cantilevered ends are means of controlling the slope and consequently the outlet velocity.

For culverts flowing with inlet control, increasing the bottom slope reduces the headwater depth slightly. The slope is classified as steep, critical, or mild;

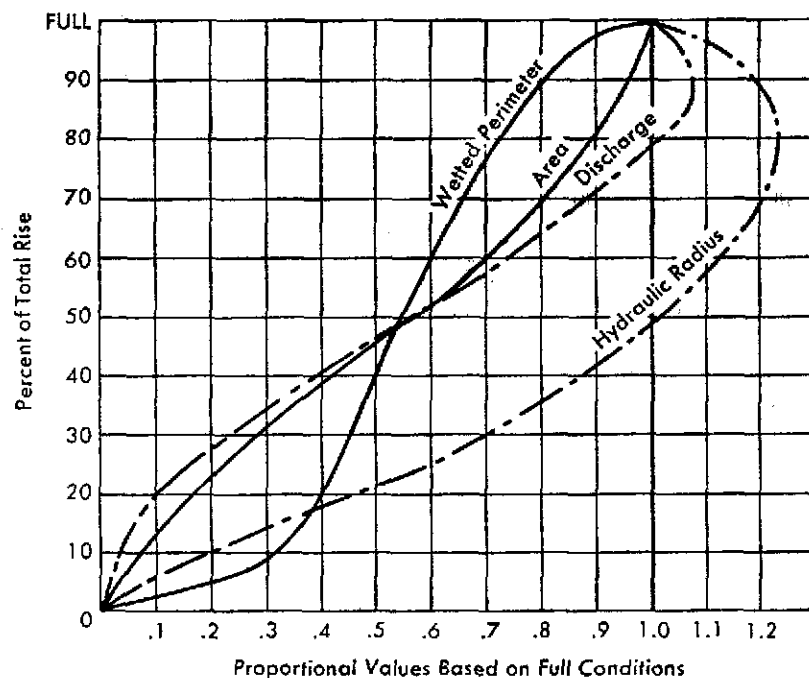


Fig. 4-26. Hydraulic properties of corrugated steel and structural plate pipe-arches.

Table 4-12 Full-Flow Data for Corrugated Steel Pipe-Arches

Corrugations $2\frac{1}{2} \times \frac{1}{2}$ in.

Dimensions in Inches			Waterway Area in Sq Ft	Hydraulic Radius $A/\pi D$ in Feet
Pipe Diam.	Pipe-Arch			
	Span	Rise		
15	18	11	1.1	0.280
18	22	13	1.6	0.340
21	25	16	2.2	0.400
24	29	18	2.8	0.446
30	36	22	4.4	0.560
36	43	27	6.4	0.679
*42	50	31	8.7	0.791
*48	58	36	11.4	0.907
*54	65	40	14.3	1.012
*60	72	44	17.6	1.120
*66	79	49	21.3	1.233
*72	85	54	25.3	1.342

Corrugations 3×1 in.

66	73	55	22	1.273
72	81	59	26	1.379
78	87	63	31	1.518
84	95	67	35	1.592
90	103	71	40	1.698

*These sizes apply to both types of corrugations: $2\frac{1}{2} \times \frac{1}{2}$ and 3×1 in.

Table 4-12A Full-Flow Data for Structural Plate Pipe-Arches

Corrugations 6×2 in.

Corner Plates 9 pi

Radius (Rc)=18 in.

Dimensions Ft.-In.		Waterway Area in Sq. Ft.	Hydraulic Radius in Feet
Span	Rise		
6' 1"	4' 7"	22	1.29'
6' 4"	4' 9"	24	1.35'
6' 9"	4' 11"	26	1.39'
7' 0"	5' 1"	28	1.45'
7' 3"	5' 3"	30	1.51'
7' 8"	5' 5"	33	1.55'
7' 11"	5' 7"	35	1.61'
8' 2"	5' 9"	38	1.67'
8' 7"	5' 11"	40	1.71'
8' 10"	6' 1"	43	1.77'
9' 4"	6' 3"	45	1.81'
9' 6"	6' 5"	48	1.87'
9' 9"	6' 7"	51	1.93'
10' 3"	6' 9"	54	1.97'
10' 8"	6' 11"	57	2.01'
10' 11"	7' 1"	60	2.07'
11' 5"	7' 3"	63	2.11'
11' 7"	7' 5"	66	2.17'
11' 10"	7' 7"	70	2.23'
12' 4"	7' 9"	73	2.26'
12' 6"	7' 11"	77	2.32'
12' 8"	8' 1"	81	2.38'
12' 10"	8' 4"	85	2.44'
13' 5"	8' 5"	88	2.48'
13' 11"	8' 7"	91	2.52'
14' 1"	8' 9"	95	2.57'
14' 3"	8' 11"	100	2.63'
14' 10"	9' 1"	103	2.67'
15' 4"	9' 3"	107	2.71'
15' 6"	9' 5"	111	2.77'
15' 8"	9' 7"	116	2.83'
15' 10"	9' 10"	121	2.89'
16' 5"	9' 11"	125	2.92'
16' 7"	10' 1"	130	2.98'

OTHER HYDRAULIC EFFECTS

Hydraulic capacity of a culvert is affected by factors other than size of opening. In order of consideration here, these include:

- Flow conditions through culvert
- Shape of culvert
- Single vs. multiple opening
- Slope of culvert
- Length of culvert
- Roughness of culvert interior
- Approach channel
- Type of culvert inlet
- Type of culvert outlet
- Ponding at entrance
- Height of tailwater

1. Flow Conditions Through Culvert

For culverts on a steep slope, the discharge is controlled at the inlet, depending on headwater depth*; on mild slopes, outlet control usually exists.

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Table 4-12B Full-Flow Data for Corrugated Steel Pipe-Arches

Corrugations 6 x 2 in.

Corner Plates 15 pl

Radius (Rc) = 31 in.

Span	Rise	Area	Hydraulic Radius
13' 3"	9' 4"	97 Ft ²	2.68'
13' 6"	9' 6"	102	2.74'
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15' 10"	10' 8"	132	3.10'
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16' 6"	11' 0"	142	3.20'
17' 0"	11' 2"	146	3.24'
17' 2"	11' 4"	151	3.30'
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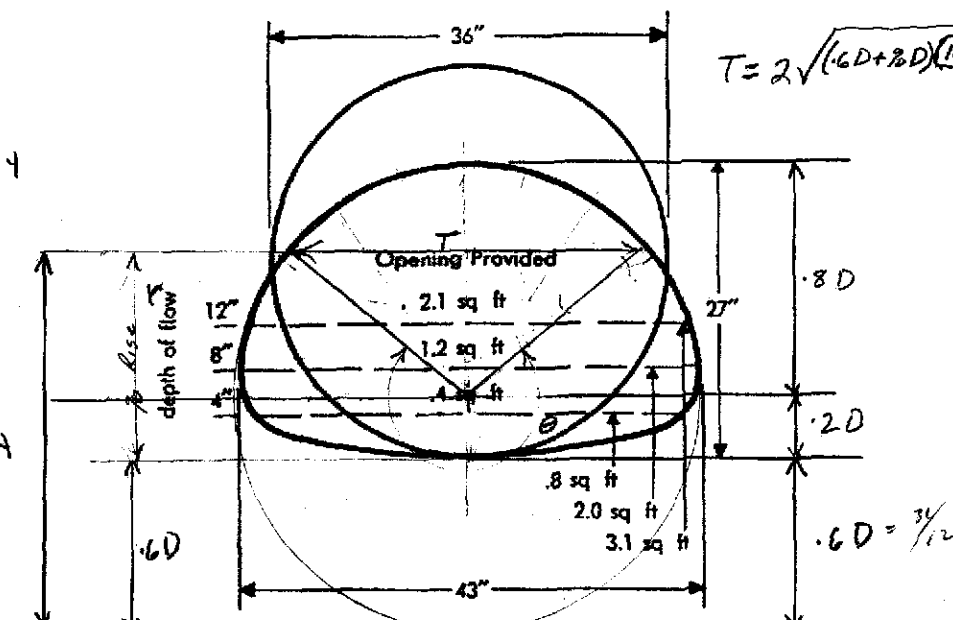


Fig. 4-27. Comparison of waterway cross-sectional areas at equal depths of flow for steel pipe and pipe-arch. The pipe-arch handles a larger volume at the lower levels of flow.

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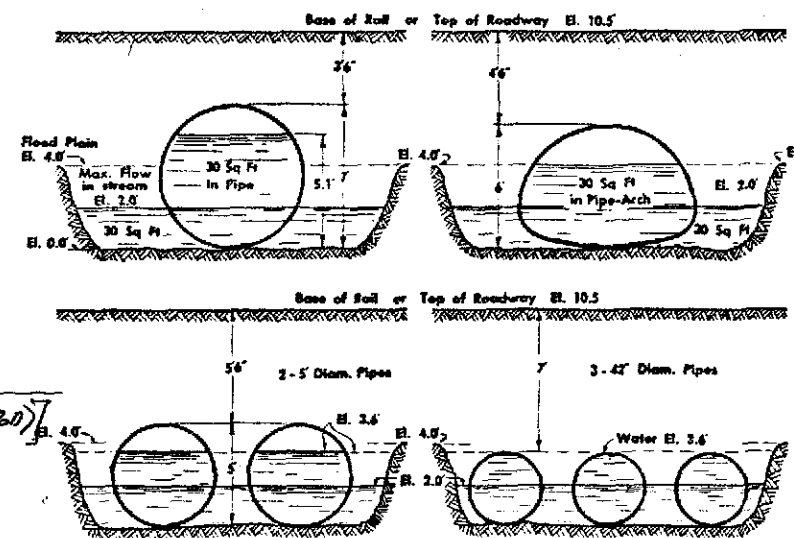


Fig. 4-28. Diagrams showing four choices for a culvert opening. For the assumed conditions, a single large pipe will cause the water to back up and flood the adjacent land. A twin or triple opening, while less efficient hydraulically, offers the best solution from Railway Track & Structures.

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The use of drop inlets, pipe spillways, paved aprons and cantilevered ends are means of controlling the slope and consequently the outlet velocity.

For culverts flowing with inlet control, increasing the barrel slope reduces the headwater depth slightly. The slope is steep, critical or mild.

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W. C. C. C.

.80
 .85
 .90
 .92
 .94
 .96
 .97
 .98
 .99
 1.00
 .99
 .98
 .97
 .96
 .94
 .92
 .90
 .85
 .80

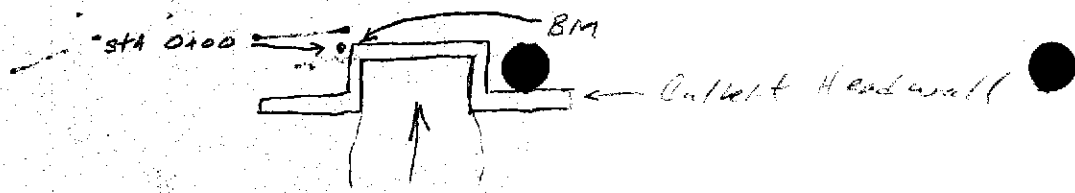
Padgett Ditch River at Downstream edge of East bridge

LEAD

REW

WIP

Contest 1226



Elevations & cross section along Left bank

B.S. to B.M. 8.65

H.I. = 103.65

P.W. 8.62

Culvert Inlet

0+25	452 LBK	659 WL 125 REN 620 WL 10 10	How mark 20 612 30 650 30 614 70	73 Row
------	------------	-----------------------------------	---	--------

0+50

444 LBK	683 04 EW WL 161
------------	---------------------

X Section from 1000. WL Rod = 5.22

0+75

434 LBK	638 WL 115 10 EW
------------	---------------------

618 32	648 50	655 70
--------	--------	--------

WL Rod = 5.23
P.W. = 14.43 A = 6.80

1+00

416 LBK	645 WL 122 15 EW
------------	---------------------

602 40	570 50	573 70
--------	--------	--------

416
R.B.K. R = 42
WL Rod = 5.23
P.W. = 2.57

1+25

418 R.B.K.	583 078 15 WL
---------------	------------------

542 30	546 50	612 70
--------	--------	--------

WL Rod = 5.05
P.W. = 7.74 R = .46
A = 2.54

1+50

412 R.B.K.	580 095 15 WL
---------------	------------------

550 30	628 50	632 70
--------	--------	--------

WL Rod = 4.91

1+75

416 R.B.K.	635 155 15 WL
---------------	------------------

583 40	531 60	519 80
--------	--------	--------

WL Rod = 4.80

2+00
Headworks

7' wide Turn of Curve @ 255
WD 1'08 F.S. to bottom of inlet 578

Culvert:

B.M. 7.30

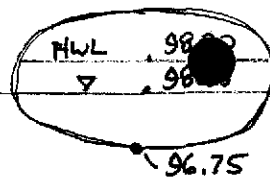
Invert at outlet 11.05

water depth 1'08

Flow 2'05

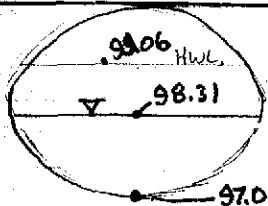
MICROFILMED

-1+22



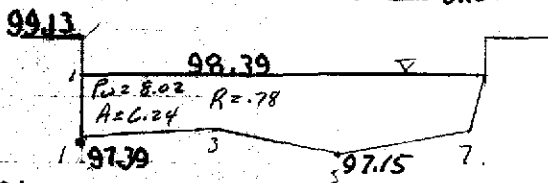
B.M. ← Elev. 100.00

0+00
Inlet Culvert



36" x 48" Culvert

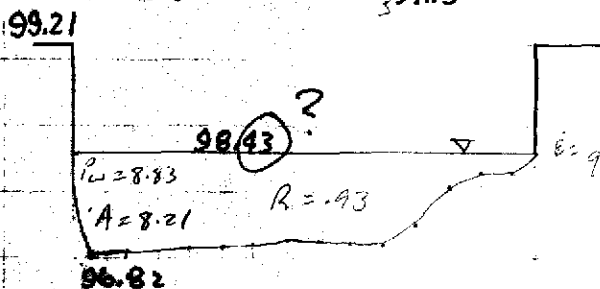
0+25



$\bar{E} = 97.40$

0+50

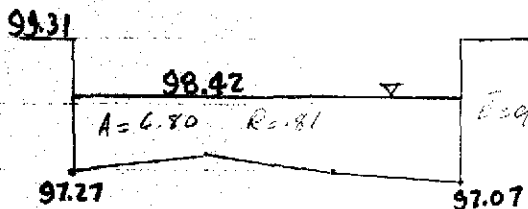
@ Bridge



$\bar{E} = 97.29$

$\bar{S}$ at under surface = .0032

0+75

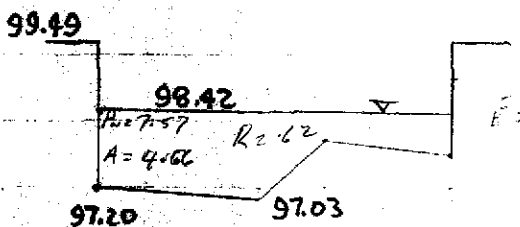


$\bar{E} = 97.29$

$\bar{S} = .78$

$\bar{A} = 6.06$

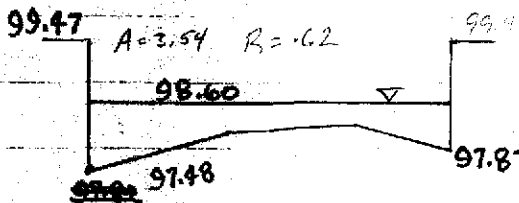
1+00



$\bar{E} = 97.58$

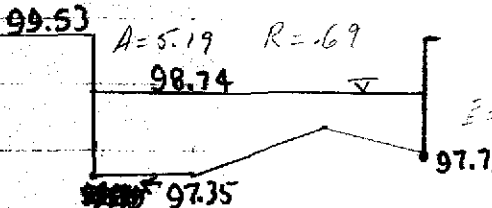
$n = .067$

1+25



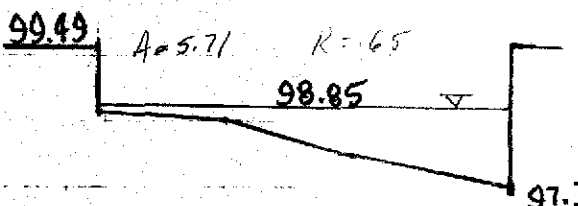
$\bar{E} = 97.98$

1+50



$\bar{E} = 97.84$

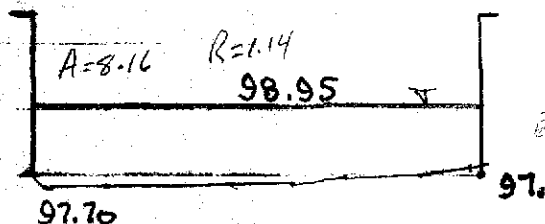
1+75



$\bar{E} = 97.78$

2+00

@ Headgate



$\bar{E} = 97.78$

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Culvert slope based on culvert H/L

$$0.00213$$

Culvert slope based on ∇ mens

$$0.00066$$

Culvert slope based on bottom of pipe

$$0.00254$$

$$Q = \frac{1.49}{n} A R^{2/3} S^{1/2}$$

$$S = 0.0021$$

$$A = 5.34$$

$$R = \frac{A}{WP} = \frac{5.34}{7.85} = 0.68$$

$$n = 0.024$$

$$11.75$$

$$n \Rightarrow 0.04$$

$$Q = \frac{1.49}{0.04}$$

$$A = 9.92$$

$$R = 1.15$$

$$S = 0.0021$$

$$Q_{\text{crit.}} \Rightarrow$$

$$18.61$$

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Section 0+25

Slope of water surface

Control

$S = 0.0022$

Slope of Bottom of channel

surface of pipe

bottom of pipe

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0+25

98.39
97.27 } ΔH 1.12

$$Q = C L H^{3/2}$$

$$L = 6.4'$$

$$C = .86$$

$$H_{\text{net}} = 1.86$$

$$Q = 0.86 \cdot 6.4 \cdot (1.86)^{3/2}$$

$$Q = 13.96 \text{ cfs.}$$

MICROFILMED



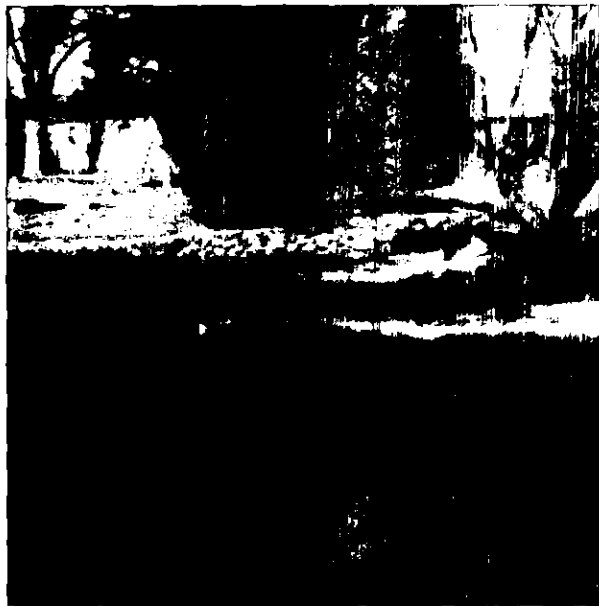
Stevens #10

7517514032

20140320

Island #2
Artificial

Smob



Stevens # 11

7117014002

POLAROID

Kids swimming pool and
wading ditch - all concrete
bottom, etc.



Stevens #7



7137014082

POLAROID®

water into wedding pool/

Smb



Stevens #8

1117014002

POLAROID

Pool and islands

Sub



stevens #9

VE27024002

POLAROID

Kids swimming hole and
artificial Island.

Smr



steven 16

WEL024882

POLARSIDE

Entrance to (notice
Padgett ditch) weir

Small



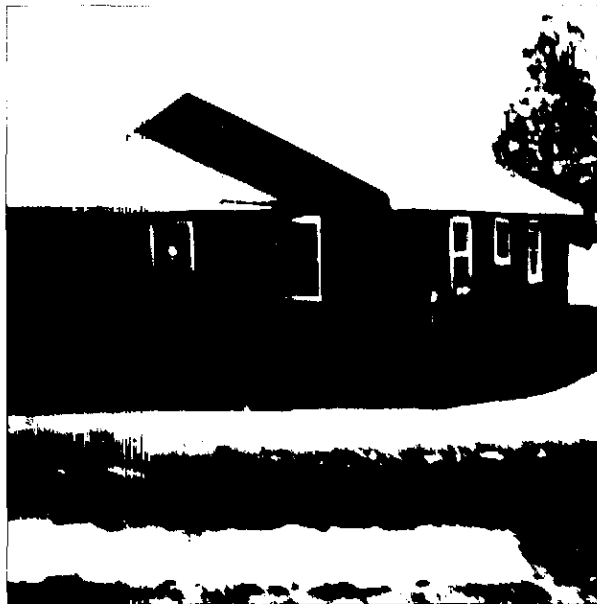
STEWART

V137914002

POLANDIC®

32' From ditch TO House

Cont



Steven #2

112761400E

PC LARCID0

32' From ditch to
Basement

End

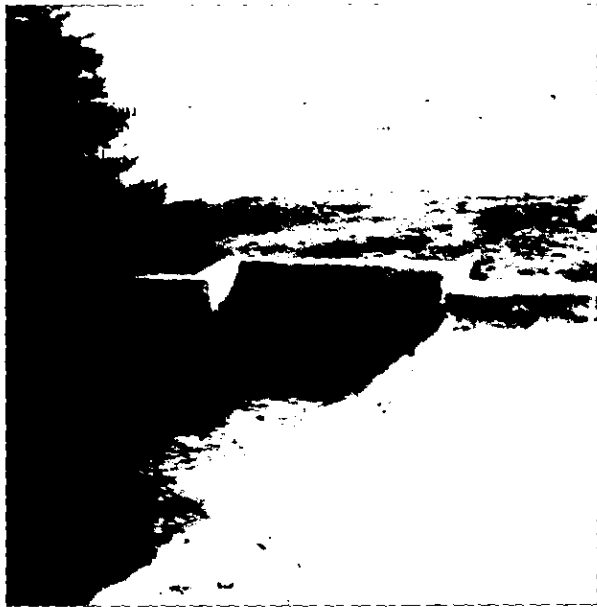


Stevens #3

117014002

POLAROID

When full tumbleweed can
back water into basement.
Cmb



Stevenson d.c.

711701A002

701A0010°

60" wide corrugated
33" deep under Road
Sub



Stevens #1

0010014002

POLAROID

6' wide 4" Freeboard
21" To The Moss 125' Long and

36-7875

Stevens Exhibits #1 thru 11

RECEIVED
FBI - NEW YORK
JAN 10 1975

Ya-Ta-Hay

Initial Conf.

Mulloney:

Issue: Does Padgett ditch have capacity for amount
filled on?

R. Stevens claims Aesthetic use of water.

Cook: Not Adequate water to maintain existing rights

Lourence Smith: - Could set up B.C. - Not in Pub. interest

Boyer: would water be used in winter? - Yes

~~issue~~ Could deeded water be used in winter?

Formal Hearing

Attorneys:

Leon Smith - Applicant

Matt Mulloney - P.W. Stevens

Smith direct exam Pled S. Battett - Applicant

Ya-Ta-Hay is a family Corp. - ^{presently President} Lee in Idaho
Battett is an owner but ~~not an officer~~.

Took Possession of Sanguin Pk 1 Dec 79

1.4 cfs John Bell

5.7 - Padgett

Pipe Ditch

water Rights on Property

\$925,000 + Not worth in Corp.

75,000 Liquid Assets

Apps. Ex #1 Submitted. - Plan of Ponds

8.2 Padgett

1.2 Pipe

1.60 J. Bell

State down of water in app.

Smith adds Present deeded rights to Battetts

Applicant has received estimate of \$60,000 for

Construction

Water would be used for irrigation of

Pumpings to sprinklers after use for
fish.

Water Naturally flows in ditch Ya-Ta-Hay.

MICROFILMED

(2)
Mullaret x exam: Butteft

Could John Bell ditch water be used? Yes

Pipe under Hurt is 12 to 14 in Dia.

Yatakat has Title to Property.

Padgett Ditch measured 2-7.5 cfs in Sept.

Pore: - has V.C. Trouillo right - diverted upstream
over Simpson - has 6" of Sanborn right at
downstream end of Property.

Recess for Mullaret to Review Financial stmt.

T. 52
Bud Smith Questions - Priority & Rights

Boyer: is 10 cfs additional to existing Right?

A: NO - 10 is max total.

Dick Cook - Sands Ditch would withdraw if Pile
reduced to 7.5 cfs

Sands diverts below Padgett ditch

Smith Re-Direct:

ANN Ex #2 Submitted - Letter of credit

Mullaret: more questions -

ditch could carry 5-6 more cfs

ANN Ex #1 & 2 Admitted - ex 1 Not to scale

Smith direct exam: Cliff Jensen. Realtor - Sold Sanborn Ranch.

Estimates that Ditch carries 10 cfs.

Ditch runs Year-Round.

Estimates could 2-3 more cfs

Does not think additional flow would
endanger Stevens Property.

Mullaret x-exam Jensen.

Buttett's were informed of leased water right
when sold the Property

Ranch was originally 143 Acres

Bud Smith Question - No knowledge of uses made
of water - Year-Round.

MICROFILMED

Smith Direct Exam: N. Val Hoffman.

Experience in Building Fish Farms

5 cfs/Raceway would be Economical

Malloney X exams Hoffman.

Has previously acted as a Consultant
on Fish Farm Construction

Estimates 60 \$70,000 Cost of Facility
for 10 cfs.

Smith Direct Exam: George Lemmon - watermaster 36-A

Measures water Avg 3 times monthly in the District

Measured Padgett ditch twice in Sept 30, 79

Measured 7 & 7.5 cfs

Ditch normally flows Vent-Round.

Ditch will carry double normal flow
if kept clean.

Estimates flow of 150 cfs in B. Creek.

Additional diversion must require upgrading
of diversions to divert full rights

Malloney X exam: Lemmon.

Ditch could carry ≈ 14 cfs down to Sackett Rd.

would recommend $\frac{1}{3}$ total Capacity as freeboard.

Ditch is sized for mining use - & may have
scoured to over size.

Dept will measure water & capacity of Ditch within one week.

~~underwater - has been~~

Dick Cook Question - How was water measured -

Portable Cippolatti Wier - 3'

Brad Smith Question: What uses are decreed.

Smith Re direct: Lemmon:

Does R. Stevens have rights in Padgett ditch - No.

MICROFILMED

Mulloney - Requests Official Notice of New International Decree
of Sands Vs Dilatush Decree

Mulloney Direct exam: Raleigh Stevens

Hagerman Resident Since 1957

Stevens #12 - Photo of Stevens home & Padgett ditch

Ditch is less than 20 ft from house.

home values at \$200,000 +

175 ft of ditch between head of U.S. 30.

Stevens widened & lined ditch. increased capacity by $1\frac{1}{2}$ to 2x

Depth averages 24" width runs from 49" to 6'

Ditch goes under Hwy 30 in 33x60 CMP.

7 CY Per Year of Silt accumulates in ditch

max capacity is 7.5 cfs ~

Velocities 40 sec/foot to 120 ^{sec}/₁₀₀ ft

Stevens #6 - Photo of headwaters.

Stevens claims Constitutional right to

Aesthetic use of water in Billingslet Creek

due to improvements

Condition of Pipe Ditch

"Flagrantly Bad" - 2 1/2 inches flows in bottom of 12" pipe

Photos As Exhibits Taken 2-15-80

#1 thru 11 Submitted

No flood insurance is available for Stevens Prop

Stevens would like 1 foot of freeboard in ditch

Stevens Exhibits 1 thru 12 Admitted.

Smith X exam: Stevens:

Stevens cleans ditch & Control's wet with
no objection of neighbors

was not present when dimensions measured
ditch

Applicants Ex 3 Submitted - Statement of Capacity of ditch.

Mulloney Re-Direct: Stevens:

J

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Bud Smith: statement

if filings on record are used there
is not enough water.

Filing is not in local public interest

Smith questions Bud Smith:

extra water would not run thru lower
Salmon Power Plant.

Dale Boyer:

~~would additional diversion~~

Not enough water to fill all rights
at lower end of B. Creek.

Mullaney question — no question

Dick Cook statement:

No objection to re-use of decree
will appeal if more.

Mullaney Questions Dick Cook:

Sands Ditch has 2004 inch right (40 cfs)

Sands Ditch has M.D. & dierts Year-Round

max diversion is about 1500 inches in may

Can divert full decree in winter

If 10 cfs granted would shift Sands Ditch.

Smith Questions Dick Cook

Sands Ditch rights are prior.

Smith Summation: Ditch carries 7.5 ft Normally & has
for some time — by G. Lennon measurement.

Asks for 5.6 cfs Rights
1.2 pipe
6 J. Box

+ 2.6 cfs New water.

Mullaney Summation.

1. Diversion would interfere with Stevens Asthore use
2. must be a minimum Freeboard for
Safety factor.
3. Ditch should be hand cleaned.

MICROFILMED

36-7875 Ya Ta Hay Investments
Fred Barrett

Feb 21, 1980

Decreed

~~4.6~~ John Bell - This right would not be used in the ponds

1.2 Pipe Ditch

5.7 Padgett Ditch

~~6.9~~ Total is presently decreed for irrigation - irrigation will continue
Applicant requesting 3.1⁵⁰ additional water
Water

Issue - Stevens

1. The carrying capacity of Padgett Ditch is not sufficient
for additional water

2.

Cook

1. Not Sufficient Water -

Bud Smith

1. Not Sufficient Water -

2. Not in the local public interest

3. Concerning ^{ed about} the change from irrigation to fish prop

Boyer

1.

MICROFILMED

Hearing - 36-7875

2-21-80

Mr. Leon Smith

Fred Barrett -

Ya Ta Hay, Inc is a family corporation
- is ~~is~~ a Texas Corp.

Possession Dec. 1 1979

Present rights for the irrigation of the land

.6 John Bell

1.2 Pipe

5.7 Padgett

President - Fred Barrett -

Sec. - Mary Ruth wife

- 1,194,000 Asset

- 268,000 Liabilities

\$925,800, Net Worth

Liquid Assets - \$75,000

Applicants Ex #1 Diagram of the Pond

Requesting Water Source

.6 John Bell

1.2 Pipe

8.2 Padgett

Flow in Padgett Ditch would be increased by 2.5 cfs

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Construction will begin as soon as possible

10 Ponds 14' x 120' x 3½ to 4' deep

Construction Cost estimate - \$60,000

Matt Objected to the truth of the estimate

Ponds Will be constructed of concrete

Water will be released from the settling pond into the Padgett ditch

Plan the irrigated with sprinkler - land presently flood irrigated

Only used on padgett ditch -

→ Owen Simpson uses water below - 0.12 cfs. -

No adverse effect on the community

Think this will improve the economy

X-exam - ^{of Fred B.} Mullaney

Clarification of Position in Corp

Applicant has title to the property.

→ Size of settling pond ^{that} will be used

Water measured by George at 7 to 7.5 cfs

Land now being used for pasture -

Not familiar with maintenance requirements of the padgett ditch

Visited the site about 3 times a year during the last 5 years

MICROFILMED

X-exam (Cont.)



Knowledge of ditch capacity thru Stevens property
 to appear to have extra capacity.

Review of Financial Statement

The entries were self evaluated
 This application was not discussed with Mr. Stevens
 Cliff Jensen - Realtor

Mr OS Smith by Bud Smith →

Dale E. Boyer →

- Mr. Cook

Concern about lack of water →

Re-direct

Experience with farming and water con

Applicant
 Exhibit #2 - letter from the bank - \$100,000 loan offer

Offer of Exhibit #1 & #2 -

Re-cross - Amount of Free board

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Direct - Cliff Jensen by Leon Smith

Real Estate - Agent that sold the property to the Barretts

Q-estimate - 10 cfs - year around ~~the~~ flow - for as

long as he can remember 33 years old

opinion that ditch can carry additional 2 to 3 cfs with no danger to Stevens property

Stevens has no water rights in Padgett Ditch -

X-exam - M.M.

Property showed in July or August -

Water measured by George Lemmon

Experience - Farmed, Fish Pond Owner, Real Estate -

Has right of 200" for irrigation

→ Talked with Raleigh Stevens - Objected to - Question withdrawn
Did

- Ya Ta Hay purchased 136 acres

X-exam - Dick Cook

- Was there an agreement -

X-exam - Bud Smith

→ Direct - Nyle Hoffman

Familiar with project -

Background - Raised Trout since 1950 -

Q required - about 10 cfs -

→ Plans to expand no. of ponds later -

Fall would make oxygen available

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Notice

X-exam

- Not hired by Mr. Barrett
- Has spent 2 hours talking yesterday about the
- Has been paid - by Earl Hardy -
- Would 7.5 cfs be adequate - Return would not be as great
- ~~Objection~~ ^{Sustained} - ~~Cost~~ - between 60 and 70 thousand dollars.

Re-direct -

- Don't know if applicants have contacted other fish raisers

Direct - George Lemmon

- Have taken many water measurement
- Makes measurement 3 times/mo during summer
- Measured Sept. 30, 1979 Padgett Ditch
- 7.0 and 7.5 - the 7.0 velocity of approach is too high -
- Measured by weir -
- Padgett Ditch runs all year -
- Measurement was between Ya Ta Hay and Pope place -
- Estimates that if ditch is clean it could carry twice the amount in the ditch. -
- No - Measurements ever made by George on Billingsley CK.
- No other users below the Sandborn place
- Will this 8.2 cfs reduce Q under existing rights - Not sure
- One-foot - passes all the diversion points -
- That no diversion is capable of shutting off the entire flow

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X-exam - M.M.

George Lemmon

Would like to see $\frac{1}{3}$ of capacity of ditch as freeboard

Ditch about $1\frac{1}{2}$ deep - thru Stevens property -
W.M. doesn't control headgate at Padgett ditch -

~~W.E.~~

Estimate that at 7.5 cfs the flow thru Stevens property
would be 6" deep.

Visited the ditch 3 weeks ago

Width of Steven ditch is about 4' wide -

- The Department will make measurement
within the week of the Padgett Ditch.

$$1 \times 4 = 4$$

$$10 \text{ ft}^3 \div 4 \text{ ft}^2 = 2.5 \text{ ft}$$

$$\frac{7.5}{2} = 3.75$$

- No complaint from users of Sandborn ditch -
not recently -

X-exam - by Dick Cook

Used - Cipolletti Weir - 3 ft. crest ?

X-exam by Bud Smith

Re-direct -

Any No water right from Padgett Ditch for Stevens -

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Direct by M.M.

Take Judicial notice of the decree ^{New International Decree}
Take J " " " Sand decree case 1612
1920 -

Ralph Stevens -
lived there 18 years -

Exh 12

Stevens Ex 12 - To be returned
Padgett ditch less than 20 ft from the house - Grade 2:1
Split level ~~ditch~~ house - water would run into house

→ Size of Padgett Ditch

About 175' on Stevens property -
Bottom of ditch is solid basalt - walls are
Size is 24" deep width 29" to 72"
Culvert 60" wide 30" deep - Arch culvert

Exh 2

Exhibit 2 show culvert
Normal water level is 3 inches below crown of culvert
Max. carrying capacity of ditch is 7.5 cfs if with no safety factor
" " " " " is 6.0 if safety is considered

listen - $V = 100 \text{ ft in } 40 \text{ sec.}$

Exh 6

Headworks of the Padgett Ditch Exh #6
Water regulated by Mr Stevens -
Ditch would need to be cleaned every 2 weeks
Sept. 30 at George measurement - ditch had just been cleaned.
Water level was $1\frac{1}{2}$ " below the top of the ditch

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21

Direct of Stevens (Cont)

wading pond, landscape islands

Claims a right to aesthetic ~~use~~ water flow in the ditch →

^{My} Question: When did ^{aesthetic} uses begin? →

These ponds and islands are downstream on Ck below Padgett ditch and would be dried up by a diversion

Flow was cut by 50% by installation of checks in the ditch -
Photographs taken last Friday -
Exhibits -

1. From Weir 120' of ditch free board 1 foot
2. Culvert
3. Bridge to culvert
4. Slope from ditch to house
5. Slope from X- Sect
6. Entrance to Padgett Ditch & Wading Pond
7. Swimming Area
8. Exit from pond
9. Stepping area
10. Swimming
11. Swimming area camera point away from house
12. Photograph of house

Freeboard needed - Desire 1 foot - Minimum 6" needed -

→ No objection to the use of the ~~the~~ water only that property interests be protected

X-exam - by Leon Smith

Mr Stevens has operated the headgates -

Mr Stevens was gone =

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X-exam of Stevens

Present Capacity of Padgett Ditch is 7.0 cfs -

Ditch reworked by Stevens 7 years ago -

Re-directed

Matt Mullaney →

~~Mr~~

Mr Bud Smith - Statement

If filings are all used there would be no additional water

The return water doesn't flow thru the lower Salmon Falls power plant. -

Mr. Dale Boyer - Statement

Water must be rotated ~~22~~ by the users of Billingsley Creek below -

X-exam

Mr Cook Statement

Object to filing for more water than the decreed amount

Problems of shortage -

Do not object to 7.5 -

X-exam of Cook by Mullaney

low flow is 1500 into Sands Ditch - Right is 4000 ± inches, L

Occurs during May -

X-exam of Cook by Smith -

The new use would b

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B

Summary by Leon Smith

- 7.5 measurement by
- Requesting 7 additional from Bill Ck. thru Padgett Ck.
- Available during the winter time at least
- Summary -
- 1st Part - Address decreed water -
- 2nd Part 2.6 feet - additional

Summary by Matt Mullaney

1. Interferes with Mr Stevens aesthetic uses - and right that have been
2. Damage to Mr Stevens due to overflow -

Suggested Conditions

1. 6" freeboard minimum on the ditch
2. Applicant be required to clean the ditch by hand -

~~2/17/80 with 1/24/80~~

→

Summary by O.S. Smith by Bud Smith

The priority must - by 10-24-80 -

MICROFILMED

36-7875 - YA-TA-HAY INVESTMENTS

Commissioner's Room - Gooding County Courthouse - Gooding, Idaho

Thursday, February 21, 1980 - 10:00 a.m.

ROSTER OF ATTENDANCE

Name	Address	Representing
Leon Smith	Box 508 Twin	Applicant
Fred Barrett	Box 424 Hagerman	" Self
Matt McManey	Paris, Idaho	Protestant
W. Hagerman	Rt 1 Box 402	Hagerman
Brud Smith	Bliss Ida	SAND'S DICK
Edith Cook	HAGERMAN, Idaho	
Dale E. Bayne	HAGERMAN Idaho	Hagerman
Clifton Jensen	P.O. Box #201	Hagerman
Geo Lemmon	Box 218	Hagerman
Mary Ruth Barrett	Box 424	Hagerman
Becky Barrett	Box 424	Hagerman
Myal C. Hoffman	Box 326	Hagerman
Judy Hoffman	Box 326	Hagerman
Lawrence J. Smith	Star Route	Bliss, No. 83314

MICROFILMED



THE FIRST NATIONAL BANK

BROWNFIELD, TEXAS 79316

DAVID B. COVEY
VICE PRESIDENT

February 2, 1980

Gentlemen:

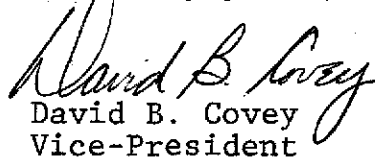
This letter is to introduce Mr. Fred S. Barrett. Mr. Barrett has been a customer of our bank since 1978. We have made loans in excess of \$250,000.00 and all of his business has been handled in a satisfactory manner.

I would not hesitate to recommend Mr. Barrett in any venture up to \$100,000.00. I feel that he has the necessary financial net worth to easily handle any indebtedness up to this amount.

If you have any questions regarding Mr. Barrett's financial status at our bank or his character, I would be happy to send that information directly to you.

Thank you for your consideration.

Sincerely yours,


David B. Covey
Vice-President

DBC:skf

CC

URGENT

November 1, 1979

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Dear Gentlemen:

We, the undersigned, hereby state that the quantity of water presently flowing through the Padgett Ditch located in Hagerman, Idaho, which is a tributary of Billingsley Creek, has relatively remained the same for a period to exceed ten years, and that the water flows all year except in times of cleaning and maintaining said Ditch.

NAME

ADDRESS

<u>Lloyd Jensen</u>	<u>Box 201, HAGERMAN, IDA.</u>
<u>Jack Martin</u>	<u>Box 201 Hagerman Idaho</u>
<u>Frank Erwin</u>	<u>Rt #1 Box 453 Hagerman, Ida</u>
<u>Dick Poff</u>	<u>Hagerman Id</u>
<u>Walter C. Caskey</u>	<u>Hagerman Id</u>
<u>Ronald L. Buyer</u>	<u>Hagerman Idaho</u>

STATE OF IDAHO

County of Gooding

ss.

On this 2nd day of November, 1979, before me, the undersigned, a Notary Public in and for said State, personally appeared LLOYD JENSEN, JACK MARTIN, FRANK ERWIN, DICK POFF, WALTER CASKEY, AND RONALD L. BUYER

known to me to be the persons who signed the foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the say and year first above written.

Lloyd Jensen HAGERMAN, Idaho
Residing at

MICROFILMED

MAIL AND ADDRESS
BY SENDER

44-74-104-
36-7875
2/1/80

Indicate type of mail
☐ REGISTERED ☐ COD
☐ INSURED ☐ CERTIFIED

I certify that we have
☐ Commercial Insurance
of \$

Affix stamp here if issued as
evidence 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	Handling Charge	Actual Value (if Registered)	DATE SENDER IF C.O.D.	R.R. FEE	S.D. FEE	S.H. FEE	REG. DEL. FEE	REMARKS
1 325	44-74-104	15	80	45							
2 326	Richard L. Cook - Rand. detl.	15	80	45							
3 327	O C Smith										
4 328	mother's miscellaneous - attorney										
5 329	John A. Taylor										
6 330	Levi E. Smith, Jr. attorney										
7											
8											
9											
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TOTAL NUMBER OF ARTICLES LISTED BY SENDER
TOTAL NUMBER OF PIECES RECEIVED AT POST OFFICE
POSTMASTER, PER (Name of receiving employee)
The full declaration of value is required on all domestic and international registered mail. Commercial Insurance—Payment of the full amount of the deductible exceeds \$1,000. The maximum indemnity payable is \$10,000 for registered mail, \$300 for COD and \$200 for insured mail. Special handling charges apply only to third- and fourth-class parcels. Special delivery service also includes special handling service.

FORM MUST BE COMPLETED BY TYPEWRITER, INK OR BALL POINT PEN

MICROFILMED

PS Form 3811, Jan. 1979

- **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

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

(CONSULT POSTMASTER FOR FEES)

2. **ARTICLE ADDRESSED TO:**

Matthew Mullaney attorney
 512 W. Bannock St.
 Boise, Idaho 83702

3. **ARTICLE DESCRIPTION:**

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

328

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

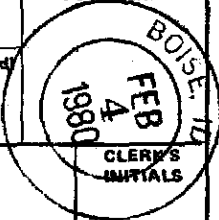
☐ Addressee☒ Authorized agent

4.

DATE OF DELIVERY

FEB - 4 1980

POSTMARK

5. **ADDRESS** (Complete only if requested)6. **UNABLE TO DELIVER BECAUSE:**

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

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



RECEIVED

FEB 5 1980

RETURN

Department of Water Resources
Southern District Office



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

Ya Ta Hay

36-7875

PS Form 3811, Jan. 1978

● **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

☒ Show to whom and date delivered. \$

☐ Show to whom, date and address of delivery. \$

☐ RESTRICTED DELIVERY

Show to whom and date delivered. \$

☐ RESTRICTED DELIVERY.

Show to whom, date, and address of delivery. \$

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Richard L. Cook, Pres
Sands Ditch Waterusers
Hagerman, Idaho 83332

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

326

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee☐ Authorized agent

4.

DATE OF DELIVERY

2-2-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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



RETURN TO

1041



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

IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD NORTH

TWIN FALLS, IDAHO 83301
IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD NORTH
TWIN FALLS, IDAHO 83301

(City, State, and ZIP Code)

Ya-Ta-Hay

36-7875

● SENDER:

Complete items 1, 2, and 3.

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

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

☒ Show to whom and date delivered.....¢☐ Show to whom, date and address of delivery.....¢☐ RESTRICTED DELIVERY

Show to whom and date delivered.....¢

☐ RESTRICTED DELIVERY.

Show to whom, date, and address of delivery.\$ ____

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:

Dale E. Boyer
Hagerman, Idaho 83332

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

329

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee☐ Authorized agent

4.

DATE OF DELIVERY

2-2-80

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CARRIER'S
INITIALS

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

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



**RETURN
RECEIPT**

FEB 5 1980

Department of Water Resources
Southern District Office

IDAHO DEPARTMENT OF WATER RESOURCES,
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

Ya Ta Hay

36-7875

PS Form 3811, Jan. 1979

- **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

☒ Show to whom and date delivered.....¢

☐ Show to whom, date and address of delivery.....¢

☐ **RESTRICTED DELIVERY**

Show to whom and date delivered.....¢

☐ **RESTRICTED DELIVERY (980)**

Show to whom, date, and address of delivery.\$____

Department of Water Resources
(CONSULT POSTMASTER FOR FIDES)
Southern District Office

2. ARTICLE ADDRESSED TO:

Leon E. Smith, Jr. attorney
Box 508
Twin Falls, Idaho 83301

3. ARTICLE DESCRIPTION:

REGISTERED NO.

CERTIFIED NO.

INSURED NO.

330

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE

☐ Addressee☐ Authorized agent

4.

DATE OF DELIVERY

POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

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



**RETURN
TO**



**IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83301**

(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)

O.E. Smith

-1875

PS Form 3811, Jan. 1979

- **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

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

(CONSOLIDATION MASTER FOR FEES)

2. **ARTICLE ADDRESS TO:** District Office

O. E. Smith

Bliss, Idaho 83314

3. **ARTICLE DESCRIPTION:**

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	327	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☒ Authorized agent

Lawrence J. Smith

DATE OF DELIVERY

POSTMARK

2-6-80

5. **ADDRESS** (Complete only if requested)6. **UNABLE TO DELIVER BECAUSE:**CLERK'S
INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

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

**RETURN
TO**



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN DISTRICT OFFICE
1041 BLUE LAKES BLVD. NORTH
TWIN FALLS, IDAHO 83401
(Name of Sender)

(Street or P.O. Box)

(City, State, and ZIP Code)



Ya Ta Hay Inc. 36-7875

PS Form 3811, Jan. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

- **SENDER:** Complete items 1, 2, and 3.
Add your address in the "RETURN TO" space on reverse.

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

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

(CONSULT POSTMASTER FOR FEES)

2. **ARTICLE ADDRESSED TO:**

Ya Ta Hay Investments, Inc.
P. O. Box 424
Hagerman, Idaho 83332

3. **ARTICLE DESCRIPTION:**

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	325	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

4. **DATE OF DELIVERY**

2-7-80

5. **ADDRESS** (Complete only if requested)

6. **UNABLE TO DELIVER BECAUSE:**

CLERK'S
INITIALS

UNITED STATES POSTAL SERVICE

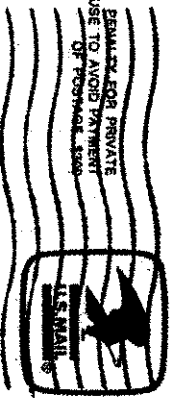
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

- Print your name, address, and ZIP Code in the space below.
- Complete items 1, 2, and 3 on the reverse.
- Attach to front of article if space permits.
- Otherwise affix to back of article.
- Endorse article "Return Receipt Requested"
- Indicate to number.



PERMIT FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, 1980



RECEIVED

FEB 8 1980

RETURN TO



Department of Water Resources
Southern District Office

LEWIS H. ... (Name of Sender) RESOURCES

... OFFICE

... (Street or P.O. Box)
TWIN FALLS, IDAHO 83421

(City, State, and ZIP Code)

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

IN THE MATTER OF PROTESTS AGAINST APPROVAL)
OF THE APPLICATION FOR PERMIT NO. 36-7875)
IN THE NAME OF YA-TA-HAY INVESTMENTS, INC.)
a Texas Corp.)

NOTICE OF CONFERENCE
AND/OR HEARING

On October 24, 1979, Ya-Ta-Hay, Inc., a Texas Corp., filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. On November 19, 1979, the Department received protests against approval of said application from O. S. Smith, Matthew Mullaney, attorney, submitted in behalf of Raleigh W. and Virginia Stevens, Dale E. Boyer, and Richard L. Cook, president Sands Ditch Water Users.

The Department has set the matter of protests for conference and/or hearing for Thursday, February 21, 1980, at 10:00 a.m., in the Commissioner's room, Gooding County Courthouse, Gooding, Idaho. Any hearing will be held in accordance with provisions of Chapter 2, Title 42, and Chapter 52, Title 67, of the Idaho Code and adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

In accordance with Idaho Code, Section 42-203, the following issues are involved in the consideration of the application and protests:

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

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 at the expense of the requesting party. Any party may have such stenographic notes of oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

MICROFILMED

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be submitted to the parties and the parties will be afforded an opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by Idaho Code, Section 67-5211.

By written stipulation, the parties may waive compliance with Idaho Code Section 67-5211. If the hearing is conducted by a hearing officer, the hearing officer will ask the parties at the close of the hearing whether they would like to make such a stipulation.

Failure to waive compliance with Idaho Code, Section 67-5211 will not prejudice the Director's review of a party's evidence and arguments. However, such a waiver will shorten the decision-making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 67-5211 is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to Rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Failure to appear at the time and place set for hearing by the applicant or protestants may allow the Department to dismiss without prejudice 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 1st day of February, 1980


LOREN O. HOLMES
Southern Region Supervisor

MICROFILMED

HAGERMAN, Idaho
Nov. 24, 1979

DIRECTOR OF WATER RESOURCES:

I DALE E. BOYER wish to Protest
filing NO. 36-7875 YASTA-HAY
INVESTMENTS, INC., ON THE GROUNDS OF
INSUFFICIENT WATER TO GRANT THIS PERMIT
AND ALSO HAVE ADEQUATE WATER FOR
DECREED WATER RIGHTS BELOW SAID
PROPOSED DIVERSION. If this permit
is GRANTED I will be FORCED TO APPEAL
THIS MATTER.

Dale E. Boyer

MICROFILMED

RECEIVED

NOV 26 1979

Department of Water Resources
Southern District Office

HAGERMAN, Idaho
Nov. 23, 1979

STEPHEN HUNRED
DIRECTOR OF WATER RESOURCES:

THE SANDS DITCH WATER USER'S
ASSOCIATION WISHES TO PROTEST
PERMIT NO. 36-7875, YA-TA-HAY
INVESTMENTS INC. ON THE GROUNDS
OF INSUFFICIENT WATER FOR THE
PROPOSED USE AND ALSO MAINTAIN
ADEQUATE WATER FOR DECREED RIGHTS
BELOW THE PROPOSED DIVERSION.

SANDS DITCH WATER USERS
Richard L. Goff Pres.

MICROFILMED

RECEIVED

NOV 26 1979

Department of Water Resources
Southern District Office



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3570

February 1, 1980

Sheriff
Gooding County
Gooding County Courthouse
Gooding, Idaho

Dear Sir:

This is to confirm the use of the commissioners room for conference and/or hearing to be held by this office on Wednesday, February 20, 1980 and Thursday, February 21, 1980 at 10:00 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

MICROFILMED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Attorneys at Law

Leon E. Smith, Jr.

Paul M. Beeks

Gregory S. Goss

January 21, 1980

Mr. Loren O. Holmes
Southern Region Supervisor
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301

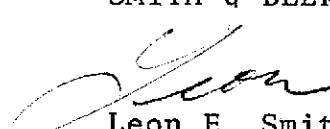
Re: Application for Permit No. 36-7875-Ya-Ta-Hay Investments,
Inc.

Dear Loren:

As yet, I have had no response from you or the Department in Boise in response to my December 6 letter asking for a hearing date. I am herewith requesting that this date be set as soon as possible. The statute says thirty days, and that standard time has long since come and gone. We would like to get this matter decided as quickly as possible so that my clients can plan on spring construction. It is very important to their irrigation that we have a determination of this as soon as possible. Will you please let me know what date the Department sets for this hearing. Thank you for your cooperation.

Yours truly,

SMITH & BEEKS



Leon E. Smith, Jr.

LES:db

cc: Mr. C. Stephen Allred
Ya-Ta-Hay Investments, Inc.

MICROFILMED

RECEIVED

DEC 7 1979

Department of Water Resources

*Bob
proctor?*

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Attorneys at Law

Leon E. Smith, Jr.

Paul M. Beeks

Gregory S. Goss

December 6, 1979

Mr. Loren O. Holmes
Southern Region Supervisor
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301

RECEIVED
DEC 7 1979
Department of Water Resources
Southern District Office

Re: Application for Permit No. 36-7875-Ya-Ta-Hay Investments, Inc.

Dear Loren:

I am in receipt of your November 27, 1979, letter to my clients, Ya-Ta-Hay Investments, Inc. I will be representing Ya-Ta-Hay Investments, Inc., on this water application, and I would appreciate your noting that in the file so that I receive notices when appropriate.

As I am sure you are aware, the possibility of resolving the protests of the Hagerman Valley residents, which have been filed in this case, is rather remote. In accordance with the instructions set forth in your letter, I would ask that the department immediately proceed to set this matter for hearing pursuant to statute. I am sending a copy of this letter to the Director, C. Stephen Allred, so that his office will also be aware of our request for the hearing and that same may be established as soon as possible, probably latter part of January or early part of February. I appreciate the crowded schedule of the hearing examiners and that some flexibility must be maintained in order to schedule these matters.

Thank you for your attention to this matter.

Yours truly,

SMITH & BEEKS

Leon Smith
Leon E. Smith, Jr.

LES:db

cc: Mr. C. Stephen Allred
Ya-Ta-Hay Investments, Inc.

MICROFILMED

Smith & Beeks

210 6TH AVE. EAST
BOX 508
TWIN FALLS, IDAHO 83301
(208) 733-6684

Attorneys at Law

Leon E. Smith, Jr.

Paul M. Beeks

Gregory S. Goss

December 6, 1979

RECEIVED

DEC 7 1979

Department of Natural Resources
Southern District Office

Mr. Loren O. Holmes
Southern Region Supervisor
1041 Blue Lakes Blvd. North
Twin Falls, ID 83301

Re: Application for Permit No. 36-7875-Ya-Ta-Hay Investments, Inc.

Dear Loren:

I am in receipt of your November 27, 1979, letter to my clients, Ya-Ta-Hay Investments, Inc. I will be representing Ya-Ta-Hay Investments, Inc., on this water application, and I would appreciate your noting that in the file so that I receive notices when appropriate.

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Thank you for your attention to this matter.

Yours truly,

SMITH & BEEKS

Leon E. Smith, Jr.
Leon E. Smith, Jr.

LES:db

cc: Mr. C. Stephen Allred
Ya-Ta-Hay Investments, Inc.

UNRECORDED

File with Ya Ta Had Application

Fagerman, Idaho

11-2-79

Subject: Fred Borrett's Water Right
(Sandberrin Ranch)

Idaho Dept. Water Resources

1st 41 Blue Lakes Blvd. North

Twin Falls, Idaho 83301

RECEIVED

NOV 24 1979

Department of Water Resources
Southern District Office

Dear Sir:

On 9-30-79 I measured the water
in the Padgett ditch where it intersects
the Lower Salmon Road and found it to
be carrying approximately 7 C. F. S. by
averaging two measurements taken at
different locations and conditions.

Sincerely Yours
Geo. H. Lemmon

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 27, 1979

Ya Ta Hay Investments, Inc.
P. O. Box 424
Hagerman, Idaho 83332
(Jenson Realty (Twin Falls, Idaho)

Re: Application for Permit No. 36-7875 - Ya-Ta-Hay Investments, Inc.

Gentlemen:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to your Application No. 36-7875. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for 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?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

Encl:

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 27, 1979

Richard L. Cook, Pres.
Sands Ditch Water Users
Hagerman,
Idaho 83332

Re: Application for Permit No. 36-7875 - Ya Ta Hay

Dear Mr. Cook:

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

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

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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?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 27, 1979

Dale E. Boyer
Hagerman,
Idaho 83332

Re: Application for Permit No. 36-7875 - Ya Ta Hay

Dear Mr. Boyer:

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

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

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4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 27, 1979

Matthew Mullaney
Attorney at Law
512 West Bannock Street
Capitol Park Plaza East
Boise, Idaho 83702

Re: Application for Permit No. 36-7875 - Ya-Ta-Hay Investments, Inc.

Dear Mr. Mullaney:

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

If you do not advise us within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference and/or hearing. At such a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying an application for 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 purpose 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?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

Loren O. Holmes
Southern Region Supervisor

LOH:marya

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

November 27, 1979

O. S. Smith
Bliss,
Idaho 83314

Re: Application for Permit No. 36-7875 - Ya Ta Hay Investments, Inc.

Dear Mr. Smith:

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

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

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4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

MICROFILMED

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

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES

IN RE: APPLICATION OF
YA-TA-HAY INVESTMENTS, INC.
FOR PERMIT NO. 36-7875

o0o

PROTEST

RECEIVED

DEC 21 1973

Department of Water Resources
Southern District Office

o0o

COMES NOW RALEIGH W. and VIRGINIA STEVENS, Route One, Hagerman, Idaho, by and through the undersigned counsel, and protests the granting of the above-captioned permit for 10 c.f.s of Billingsley Creek water for fish propagation purposes to YA-TA-HAY INVESTMENTS, INC. The Protestants reside and own property riparian to Billingsley Creek above Highway 30 to Hagerman and below the proposed point of diversion. The Padgett Ditch passes over the property of the Protestants.

Protestants oppose granting of Permit No. 36-7875 as being inconsistent with the provisions of Section 42-203, Idaho Code. In particular, Protestants oppose granting the permit for the following reasons:

1. The appropriation would deplete the flow of Billingsley Creek at the property of the Protestants, thereby adversely affecting the water quality and stream bed quality of Billingsley Creek. The depletion will, inter alia, increase the intensity and duration of the noxious smells of Billingsley Creek, decrease the ability of the stream to move the suspended solids, increase the build up of suspended solids and associated aquatic life and deplete the oxygen supply of the stream and adversely affect the native fishery.
2. The Padgett Ditch is incapable of carrying the amount of water filed upon by the applicants. Protestants have spent substantial sums improving the Padgett Ditch as it passes over their property and have a property interest in maintaining the improvements and not suffering any further encroachment or encumbrance

upon their property.

3. Further depletion of Billingsley Creek will lower the property values of the Protestants and negate much of their work to integrate their residence and the stream.

Protestants demand that the applicant meet its burden of proof under all of the criteria listed in Section 42-203, Idaho Code. In particular, the Department of Water Resources must make available for inspection to Protestants any information it receives regarding the financial resources and credit worthiness of the applicant to complete the project.

Protestants further allege that the application taken together with other outstanding licenses, permits, and applications filed on Billingsley Creek for fish propagation is not in the local public interest and that the public interest requires a moratorium upon the granting of further applications until such time as the impact of these diversions upon water quality, recreation and aesthetic values, the native fishery, irrigation uses, and riparian rights along Billingsley Creek is well known and understood. See Page 4, Final Decision and Order of the Director regarding Trout Co. application for Permit No. 36-7834, dated November 14, 1979.

Wherefore, these Protestants pray that the application for Permit No. 36-7875 be denied.

DATED and mailed this 20th day of November, 1979.


MATTHEW MULLANEY, ESQUIRE

MICROFILMED

Bliss, Idaho
November 15, 1979

Idaho Dept. of Water Resources
1041 Blue Lakes Blvd N.
Twin Falls, Idaho

RECEIVED

NOV 20 1979

Department of Water Resources
Southern District Office

Dear Sir:

I wish to protest filing # 36-7875
for 10' of water in Billingsley Creek
on the grounds that insufficient
water exists in the creek
to full existing appropriations.

MICROFILMED

Yours truly,

O. S. Smith
Bliss Ida.

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

36-2825-

YA-TA-HAY INVESTMENTS, INC.

P.O. BOX #424, HAGERMAN, ID 83332

Source: BILLINGSLEY CREEK tributary to SNAKE RIVER

Date Filed: 10/24/1979

Amount: 10.00 CFS

Diversion Point: SENE Sec 11 T 07S R 13E, GOODING Co.

Use: FISH PROP. (10.00 CFS) from 01/01 to 12/31

Place of Use: NWNE Sec 11 T 07S R 13E SWSE NWSE Sec 02 T 07S R 13E

Diversion Method: DIVERSION TO PONDS VIA PIPE & PADGETT DITCHES

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301 and received on or before NOVEMBER 26, 1979.

C. STEPHEN ALLRED

Director

Published 11/8 & 11/15.

MINORITY MED

LEGAL (257) 1e

**NOTICE OF APPLICATION
FOR WATER RIGHT**

Notice is hereby given
that the following applica-
tion(s) have been submitted
for permit to appropriate the
public waters of the State of
Idaho:

36-7875

YA-TA-HAY INVEST-
MENTS, INC.

P.O. BOX #424, HAGER-
MAN, ID. 83332

Source: BILLINGSLEY
CREEK tributary to SNAKE
RIVER

Date Filed: 10/24/1979

Amount: 10.00 CFS

Diversion Point: SENE Sec
11 T 07S R 13E, GOOD-
ING Co.

Use: FISH PROP. (10.00
CFS) from 01/01 to 12/31

Place of Use: NWNE Sec 11
T 07S R 13E SWSE NWSE

Sec 02 T 07S R 13E

Diversion Means: DIVER-
SION TO PONDS VIA PIPE
& PADGETT DITCHES

*ab
meyer
10/31/79*

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

OCTOBER 26, 1979

Goodins County Leader
P.O. Box 56
Goodins, Idaho 83330

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review 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 along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billings to this office before NOVEMBER 26, 1979.

Yours truly,

Mary A. Hill
Secretary

Encl.

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 25, 1979

Mr. Bob Bell, Regional Fisheries Biologist
Idaho Fish & Game Department
Region #4
P. O. Box 428
Jerome, Idaho 83338

Re: Application for Permit No. 36-7875 - Ya-Ta-Hay Investments, Inc.

Dear Mr. Bell:

Enclosed is a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

October 25, 1979

Mr. Alex Schaefer
Department of Health & Welfare
Division of Environment
P. O. Box 1626
Twin Falls, Idaho 83301

Re: Application for Permit No. 36-7875 - Ya-Ta-Hay Investments, Inc.

Dear Mr. Schaefer:

Enclosed is a copy of the above referenced application for permit for your information and files.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Encl:

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