Kaiser Lease 1974

LEASE AGREEMENT

This lease agreement, made and entered into this 22 day of January, 1974, by and between Myron Sheldon and Louise Sheldon; Howard L. Sheldon and Phyllis Sheldon; Willard B. Sheldon and Hedy Sheldon; and Myriel Trounson and Wes Trounson, hereinafter collectively referred to as the "Lessors" and Richard Kaiser and Edith Kaiser, hereinafter referred to as the "Lessees".

W I T N E S S E T H :

That for and in consideration of the following rents, covenant Lessors hereby lease unto Lessees, the premises described as:

That property located in Gooding County, Idaho, outlined in red on Exhibit "A", which is attached hereto; and

ALSO TOGETHER WITH the right of ingress and egress across the Lessors' property to the leased premises.

TERM: It is understood that the term of this lease will end December 31 in the year 1999.

PURPOSE: Lessee will operate and maintain a fish farm on said premises.

CONSIDERATION: For and in consideration of the lease of said premises, Lessees shall pay to Lessors, the sum equal to fifty (50) percent of the gross sales of fish raised by Lessee on the fish farm under the private production method of calculating. For the farm-out program method, the consideration shall be twenty five (25%) percent of the gross sales. The gross sales shall be calculated at the end of each tax year of the Lessees. The consideration shall be paid directly to each of the four Lessors husband and wife. Payment shall be made annually by the purchaser of the fish and Lessee shall cooperate in any way necessary to effectuate such payment. Annual payment shall be not less than [illegible]

Lessee will not assign or sell lease to another party without permission of Lessors. If

EXHIBIT B

MICROFILMED SEP 20 1990

[redacted] to roll lease to another party, the twenty-five [redacted] consideration received by Lessee shall be [redacted] to the Lessors by the purchaser and divided up [redacted] the method of payment set forth above. (3/4 cash [redacted] to Lessee and 1/4 cash and 1/4 terms to Lessors.

MINERAL, GRAVEL, WATER: Mineral, gravel, water and [redacted] to remain in name of Lessors, and same to be used on said property by Lessee for [redacted]. If Lessee should drill well for well water, water rights to remain in name of Lessors subject to this lease.

TAXES: Lessee shall pay all taxes and assessments on said leased premises. Lessee shall take such action as may be necessary to require separate assessment of the property leased herein and Lessors shall cooperate with Lessee in that regard. In the event of separate assessment of the demised premises cannot be accomplished the parties agree to equitably prorate the total tax bill and assessments for the parcel demised herein, but with all taxes and assessments based upon improvements made on the demised premises to be reimbursed by Lessee to Lessor.

INSURANCE: Lessors shall be named as additional insureds on a policy of liability insurance. Lessee shall maintain a minimum of $100,000 per person and $300,000 per occurrence limits in said policy. A certificate of such insurance shall be supplied to Lessors at their request.

NOTICES: All notices and payments required by the terms of this attached lease shall be sent to each of the above Lessors and Lessees.

ACCOUNTING AND RECORDS: Lessees further agree to keep a true and exact accounting system to be made available to Lessors. It is understood that the Lessee shall not have the right or privilege to in any way create or cause to be created any mechanics or materialmen's [redacted] said premises during the term of this agreement. In the event [redacted] dispute with any report

MICROFILMED
SEP 20 1990

shall have the right to request an independent
ation of public accountants. In the event said statement
reveals in the amount of gross gain of [illegible]
ive (5%) percent, then Lessee shall bear the cost of
said audit.

RIGHTS UPON DEFAULT: Time is of the essence of this agreement, and it is agreed between the parties hereto that if default be made in the payment of the rents above reserved or any part thereof, or in any of the covenants and agreements herein contained, to be kept by the Lessee, it shall be lawful for the Lessors, their heirs and assigns, at their election to declare said term at an end and to re-enter and take possession of said leased premises or any part thereof, with or without process of law, and to remove said Lessee or other persons in possession thereof, using such force as may be necessary to do so, and to repossess the said leased premises without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenants. If either of the parties hereto find it necessary to retain the services of an attorney to enforce their rights under this agreement, the prevailing party will be entitled to recover, in addition to other sums recovered, a reasonable attorney fee.

It is expressly provided, however, that in the event of default said Lessors shall have none of the remedies above mentioned until they have given said ninety (90) days written notice of the default or defaults alleged and the Lessees shall have failed, refused or neglected within said ninety (90) day period to correct the same. ~~However~~ agree that in the event their business to be conducted hereon should in any way be abandoned, ~~all improvements, real estate and~~ ~~construction~~ ~~upon this parcel of land shall revert to the Lessors~~ ~~herein.~~

Lessee in to assume all responsibility of placing water on said land and is to cooperate with other persons using roads and water sources.

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SEP 20 1990

assign to Lessors 10 cfs of water from
filings. Lessees under this lease shall be
40 cfs of first use water from now existing
Upon prior written consent of Lessors, Lessees can
additional water upon payment of $1,000 per year per each 10
cfs used. Upon having obtained consent to use additional water,
Lessees shall be entitled to continue using said water at the
above annual rate. If said use is abandoned, however, then Lessees
must obtain a consent of Lessors again.

Lessors reserve the right to go on said premises for the purpose of inspection, hunting and fishing, at no cost to Lessors, but this privilege shall not be assignable and provided that the Lessors shall properly present themselves to Lessees or notify Lessees of such intent. No fishing or hunting shall be enjoyed by Lessors on or in Lessees' ponds.

This lease shall be binding upon the heirs, representatives and successors, and permitted assigns of the parties hereto.

RIGHT OF FIRST REFUSAL: In the event during the term of this lease, or any renewals or extensions thereof, should Lessors wish to sell said premises, Lessees are hereby granted the right of first refusal to purchase under the following terms and conditions. Lessors shall submit to Lessees any bona fide offer received by them for the purchase of the property setting out terms and conditions of the purchase. Lessee shall have a right of first refusal for a period of thirty (30) days thereafter to enter into a written contract providing for terms and conditions no less favorable than those presented in such bona fide offer. In the event Lessees do not wish to purchase, Lessors shall then be free to sell said premises subject to then existing lease or leases with Lessee herein.

(1) attached

SIGNATURES:

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year in this agreement first above written.

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SEP 2 0 1990

Lessors agree Lessee has no restrictions on amount of water available for 1974. Minimum payment will be based on maximum flow of water used in 1974.

The 1974 flow rate will determine the amount of water in excess of the 47 CFS base of this lease which will be available to Lessors. Lessee will give written statement of the CFS used in 1974 on January 1, 1975. This statement is the written consent agreement specified on page 4 of the lease.

Page 1 annual payment shall be changed to not less than $4,000 (Four-Thousand dollars)

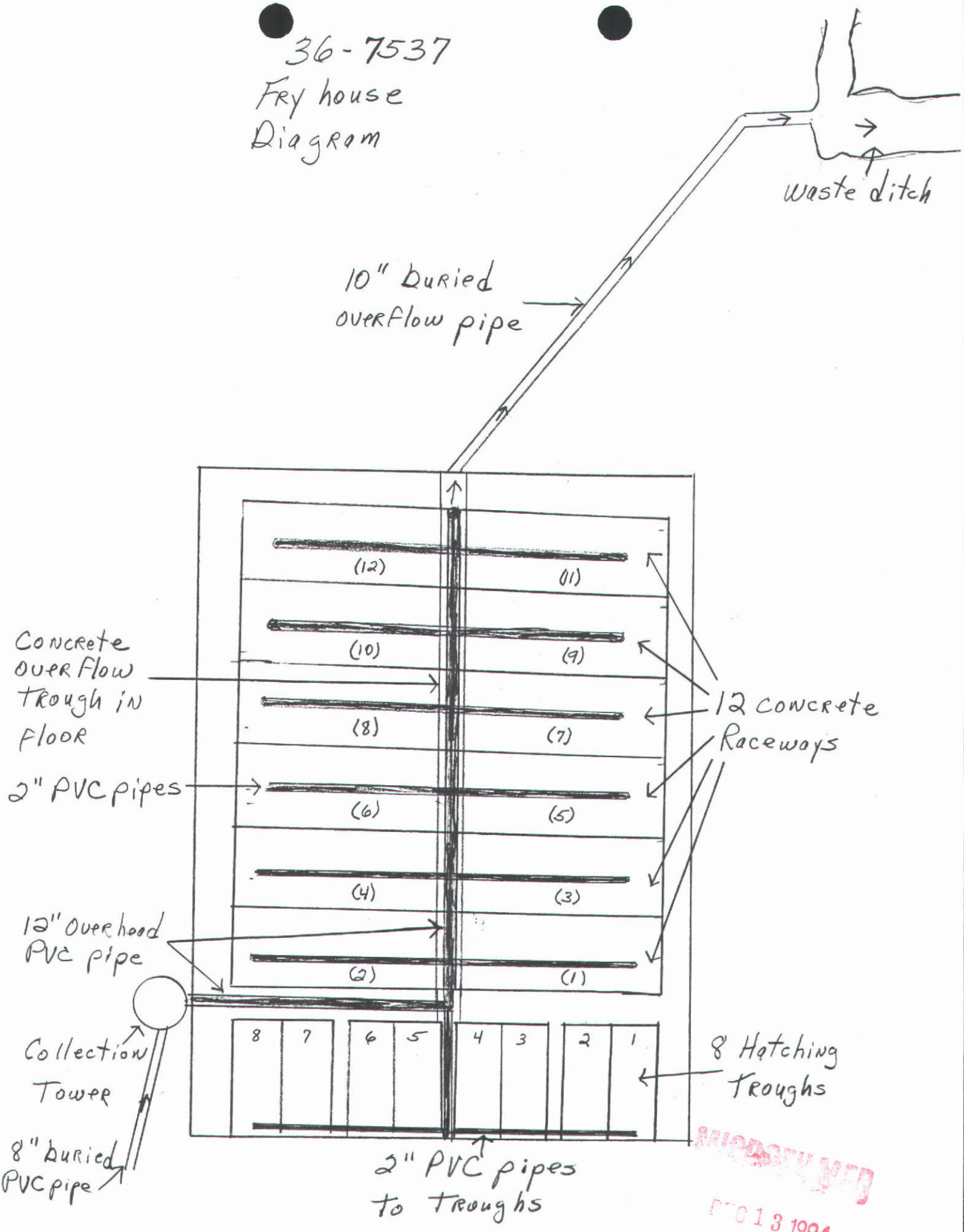
THIS SHEET 4-A IS TO BE INCLUDED PRIOR TO SIGNATURE PARAGRAPH ON PAGE 4.

MICROFILMED
SEP 20 1990

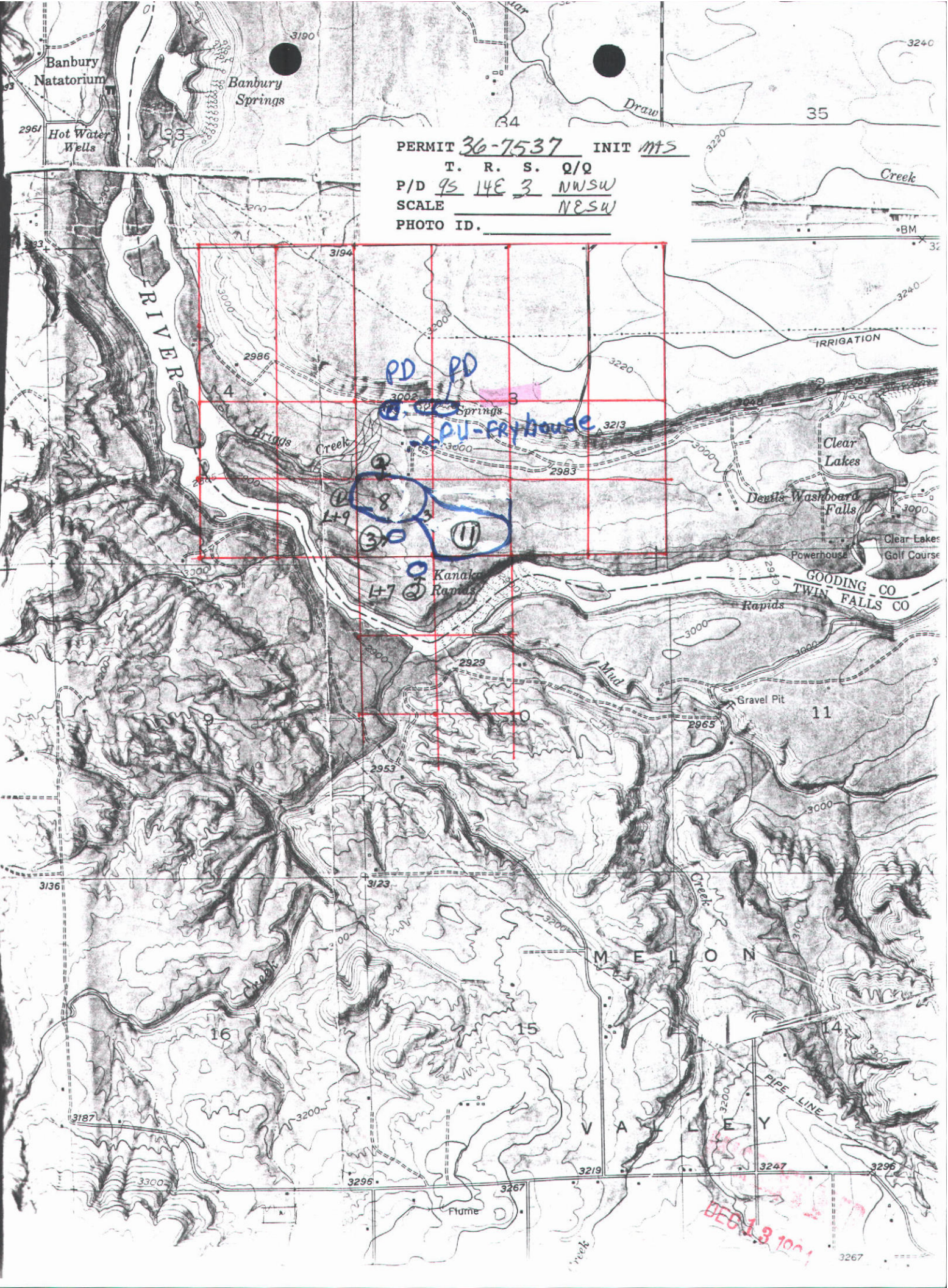


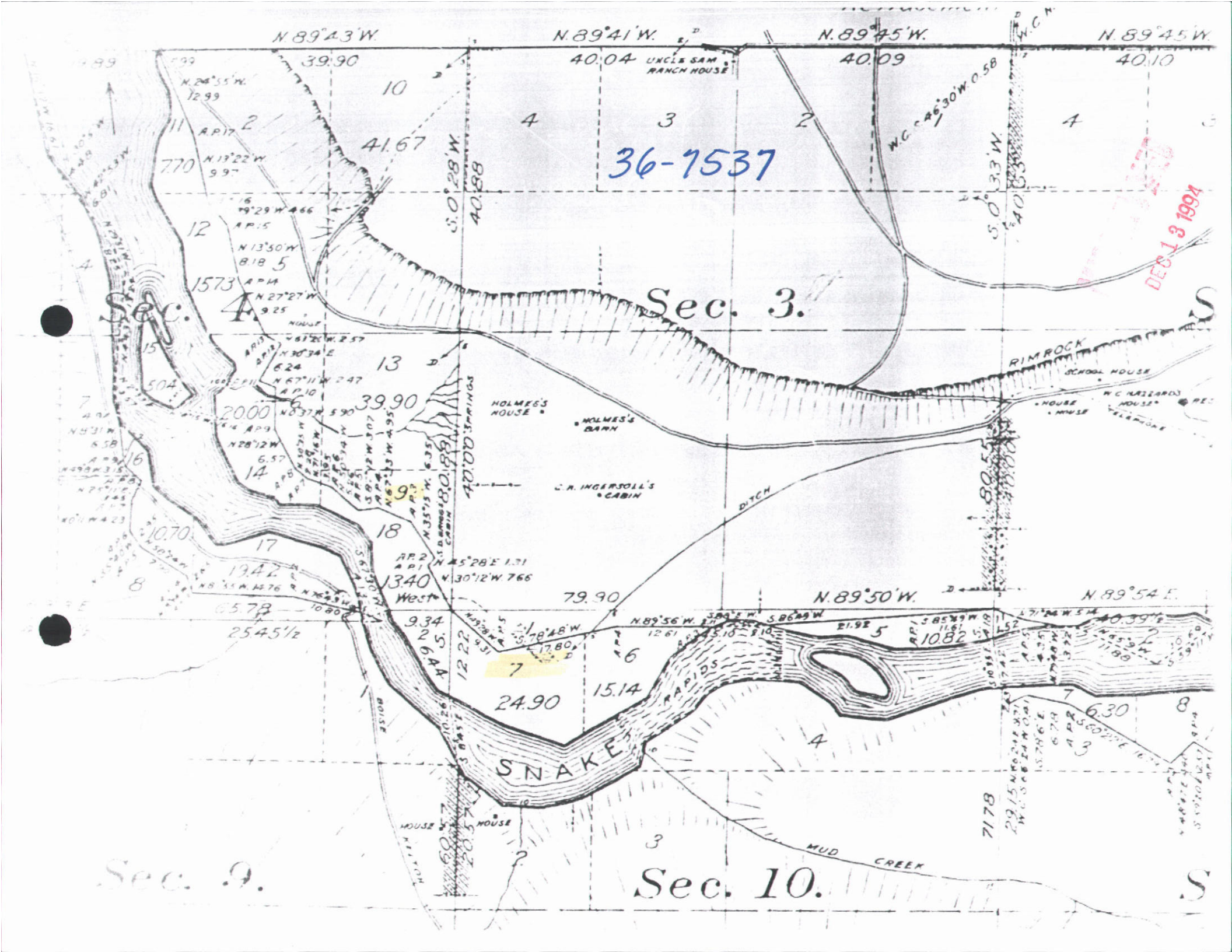
MICROFILMED
SEP 20 1990

36-7537
Fry house
Diagram



RECEIVED
DEC 13 1994


PERMIT 36-7537 INIT MLS
T. R. S. Q/Q
P/D 9S 14E 3 NWSW
SCALE NESW
PHOTO ID.
PD
PD
PU-FRY house
Banbury Natatorium
Banbury Springs
Hot Water Wells
Draw
Creek
BM
RIVER
IRRIGATION
Briggs Creek
Springs
Clear Lakes
Devils Washboard Falls
Clear Lakes Golf Course
Powerhouse
GOODING CO
TWIN FALLS CO
Kanaka Rapids
Rapids
Mud
Gravel Pit
Creek
M E L O N
V A L L E Y
PIPE LINE
Flume
Creek
3190
3240
3220
3194
3000
2986
3002
3213
2983
3200
2929
2965
2953
3136
3123
3187
3296
3219
3247
3267
2961
2940
3100
4
3
8
9
11
7
10
16
15
14
35
34
33
DEC 13 1991


N.89°43'W.
N.89°41'W.
N.89°45'W.
N.89°45'W.
39.90
40.04
40.09
40.10
UNCLE SAM RANCH HOUSE
36-7537
DEC 13 1994
Sec. 4.
Sec. 3.
RIMROCK
SCHOOL HOUSE
HOLMES'S HOUSE
HOLMES'S BARN
C. H. INGERSOLL'S CABIN
DITCH
N.89°50'W.
N.89°54 E.
79.90
SNAKE
RAPIDS
MUD CREEK
Sec. 9.
Sec. 10.

6047-417

R-14E

Shelton, et al
Original

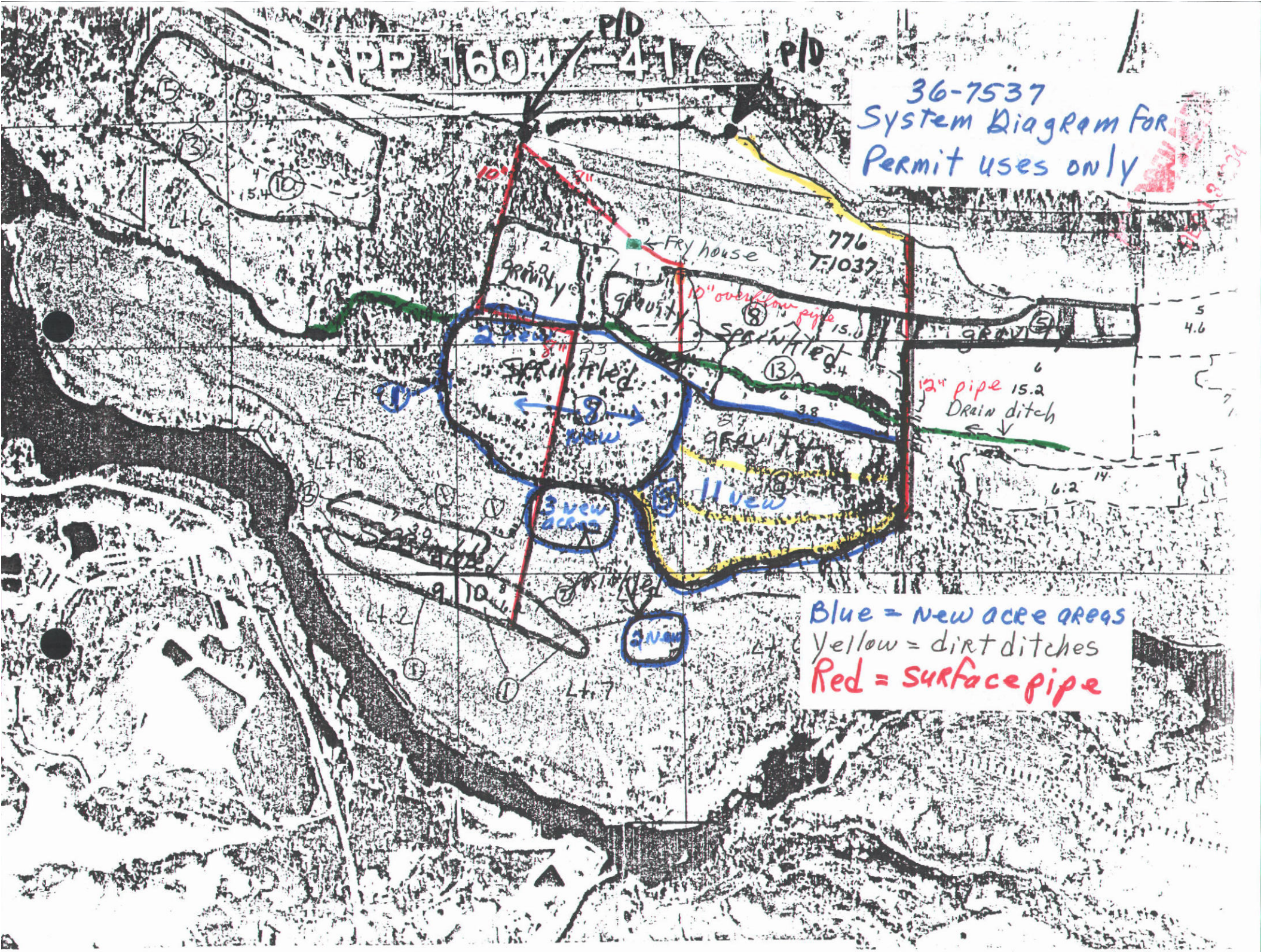
776
T-1037

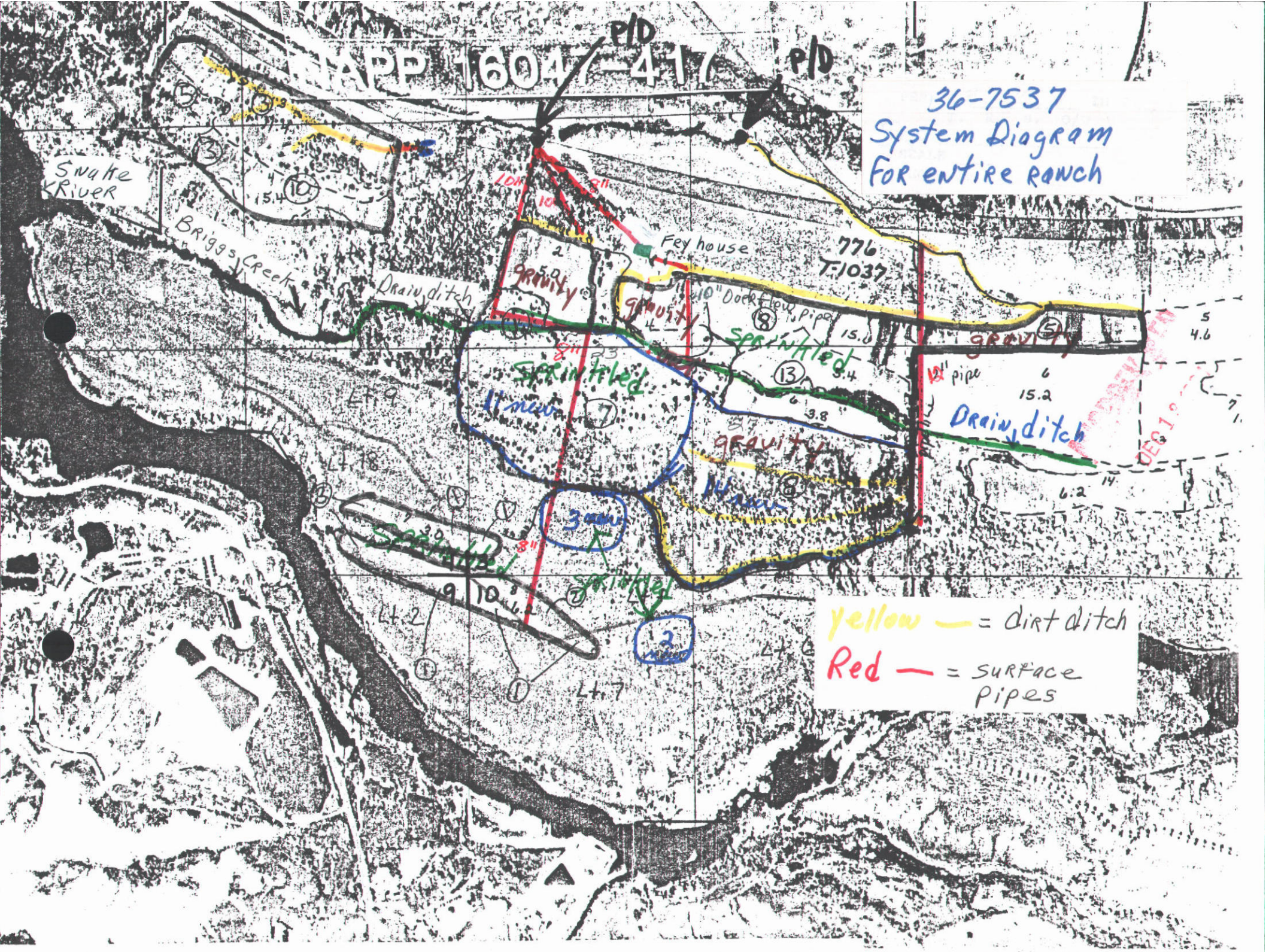
775
T-1036

4	3
9	10

3	2
10	11

SWNE
7+10
2039
NWSE
3
SENE
NWSW
NESW
R-14E
NWSE
Extra
775
T-1036
776
T-1037
NESE
SESE
SWSW
SESW
NENE
NWNW
NENW
5.4
5.0
15.6
5.4
3.8
3.0
6.2
15.2
4.6
2.6
3.7
2.6
12.1
11.9
19.8
6.2
3.1
7.4
1.5
3.6
4.7
5.5
4.3
2.5
4 | 3
9 | 10
3 | 2
10 | 11


APP 1604-417
P/D
P/D
36-7537
System Diagram for
Permit uses only
10"
4"
Fry house
776
T:1037
10" overflow pipe
15.0
12" pipe
15.2
Drain ditch
2 new
8"
9 new
3 new acres
11 new
2 new
Blue = New acre areas
Yellow = dirt ditches
Red = surface pipe


APP 1604-417
P/D
P/D
36-7537
System Diagram
For entire ranch
Snake River
Briggs Creek
Drain ditch
Fey house
776
T:1037
gravity
Sprinkled
11 acres
3 acres
2 acres
10" Dock flow
12" pipe
Drain ditch
yellow — = dirt ditch
Red — = surface pipes

36-7537



#1
View looking East toward Briggs Springs. USGS measurments are taken at this site.



#2.
U.S.G.S. staff guage. Photo #1 was taken from this site.

DEC 13 1994

36-7537



#3
P/D for the East ditch.



#4.
The East ditch about 100' from its P/D. in photo #3.

DEC 13 1994

36-7537



#5
Check dam in East ditch. where 12" pipe originates. 12" pipe is in background of photo



#6.
P/D From Briggs Creek where three PVC pipes are diverted.

DEC 13 1994

36-7537.



#7.
Three PVC pipes diverted from Briggs Creek at site in photo #6.



#8
Part of PIU looking Southwest from road.

DEC 13 1994

36-7537



#9
Part of P/U looking South from road.



#10
Dry house

DEC 13 1994

36-7537



#11
View inside fryhouse



#12.
overflow ditch and 10" pipe from fryhouse to drain ditch

DEC 13 1994

[redacted]ING COMPANY, INC.
[redacted] Morning Tribune
[redacted], P.O. Box 957
[redacted] Idaho 83501
[redacted]08) 743-9411

[redacted]AL ADVERTISING
INVOICE

Date 052490 INVOICE No. L00197174

Account No. 96476 36-07537

Description 97174NOTIC

Times 2 Lines 28

Tab Lines 56

$ 70.00

SOLD TO:

DEPT. OF WATER RESOURCES
2735 AIRPORT WAY
BOISE
ID 83705

NOTICE:This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

RECEIVED
JUN 1 1990
Department of Water Resources

RECEIVED
MAY 29 1990
Department of Water Resources
Western Regional Office

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive [redacted]ext immediately preceding the first publication of this notice, and [redacted]n so published uninterrupted for said period; that the

[redacted]TICE OF EXISTING WATER [redacted]

[redacted]d hereto and which is made a part of this affidavit was published in [redacted] Lewiston Morning Tribune, 2 time(s). Publication be-[redacted] 051790 [redacted], or once a [redacted]WEEK [redacted] for 2 consecutive [redacted]WEEKS[redacted], the first [redacted]ion thereof being on the 051790, and the last pub [redacted]hereof being on the 052490, and said [redacted]

[redacted]TICE OF EXISTING WATER [redacted] published in the regular and entire issue of said newspaper and [redacted] supplement thereof and was so published in every issue and [redacted] of the said paper, during the period and times of publication as [redacted] above.

Sue Baumeister

[redacted]RIBED AND SWORN BEFORE ME THIS THE 24 [redacted] May [redacted] 1990

Sheral M Lantz

Notary Public in and for the State of Idaho,
residing at Lewiston, therein.

97174

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

36-07537

TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355

Source: BRIGGS SPRINGS Tributary: SNAKE RIVER
Diversion Pt: NESW Sec. 3 T 09S R 14E
NWSW Sec. 3 T 09S 14E

Use: IRRIGATION (5.680 CFS)
RECREATION (4.140 CFS)
DOMESTIC (.180 CFS)
Total Diversion (10.000 CFS)

Priority: 4/ 8/ 1975

In: T09S R14E SO3 NESW NWSW SWSW SESW NWSE
SO4 Lot 5 (SWNE) SENE NESE Lot 14 (NWSE)
Lot 9 (SWSE) Lot 18 (SESE)
SO9 Lot 2 (NENE)
S10 Lot 1 (NENW) Lot 7 (NWNW)

284.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filed with the Director, Dept. of Water Resources, State house Mail, Boise, Idaho 83720 on or before JUNE 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.

R. KEITH HIGGINSON, Director

SEP 21 1990

OK TJL 6-4-90

AFFIDAVIT of PUBLICATION

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

Patty Nance, 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 2X consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 16th day of May 1990, and the date of the last publication was on the 23rd day of May, 1990.

Patty Nance

Subscribed and sworn to before me this 23 day of May, 1990.
(SEAL)

Norma DeVoe
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho
COST OF PUBLICATION

RECEIVED
MAY 24 1990
Department of Water Resources

Number of Lines in Notice
Number of Insertions 2X

MICROFILMED
SEP 20 1990

	Lines tabular at	6¢/Pica	a
468	Lines straight at 23.40	5¢/Pica	a
	Subsequent lines at 18.72	4¢/Pica	a
	TOTAL COST 42.12		

COPY OF NOTICE
(Paste Here)

Not. of Existing Wat. Rt. permit
TITLE OF NOTICE

Trounson 36-07537
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

IDWR Boise
BILL TO

NOTICE OF EXISTING WATER RIGHTS PERMIT
Presently recorded as follows:
36-07537
TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355
Source: BRIGGS SPRINGS Tributary: SNAKE RIVER
Diversion Pt: NESW Sec 3 T 09S R 14E; NWSW Sec 3 T 09S R 14E.
Use: IRRIGATION (5.680 CFS)
RECREATION (4.140 CFS)
DOMESTIC (.180 CFS)
Total Diversion: (10.000 CFS)
Priority: 4/8/1975
In: T09S R14E SO3-NESW—NWSW—SWSW—SESW—NWSE—SO4; Lot 5 (SWNE)-SENE—NESE; Lot 14 (NWSE) S09;Lot 9 (SWSE); Lot 18 (SESE); Lot 2 (NENE) S10; Lot 1 (NENW) Lot 7 (NWNW)
284.0 ACRES TOTAL
Permits not developed by July 1, 1985, are being reproceeded in compliance with Section 42-203D, Idaho Code. Protest against the continuance of permits must be filed with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before June 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.
R. KEITH HIGGINSON
Director
Pub: 5-16, 23 **G14964**

insertions.....4¢/Pica

OK TJ. 5-25-90

№ 614

14964

T. Lucas copy.

KANAKA RAPIDS

Old Alfalfa Fields

Old marsh area

Lot 2
Gov't Cor. (6.44 ac.)
Iron Pipe

Lot 7
(24.9 ac.)

M.C. W.T. W.T. + mc

7161 7124 7011

GRAVEL

(WRIGHT'S)

900' (underground) + 2 end metal above ground (repaired in 1987)

Drainage Becomes

new sprinkler lateral mount

Replaced old pipeline with new pipeline 1987

SWAMP AREA

Lot 18
13.4 ac.

SNAKE RIVER

77.82 ac.

Irle Barnyard

Irle Barnyard Road

Front gate

82.18 ac.
Tract No. 1

Island

"JUNGLE"

BRIGGS CREEK

Lot 14

S 59° 40' E 1190.3'

Old marsh area

Lot 13
39.90 ac.

Lot 6
(15.10 ac.)

Sheldon Road

SHORT CUT

Briggs Spring

Diversion

Briggs Creek

Source Most of Water

BLM

20.07 ac.

Cross on Rim

Lot 2

BLM

Diversion

man made channel

Rim

Old grade

BLM

POST OFFICE

P.O. HOMESTEAD SITE

SHELDON HOUSE
Kaster now

Kaster Lease Area

Lot 12
(15.73 ac.)

Irvin's Stone Barn

Lot 5
(27.75 ac.)

Plant

Farm Ponds

Lot 11
7.7 ac.

Lot 2
(6.44 ac.)
45.28 ac

Gravel Pit

APPLICATION = 70 CFS
36-2040 = .47 CFS
36-0199 } = 8 CFS
36-0201-D }
36-2040 = 10 CFS
36-2607 - 60 CFS
36-7537 = 10 CFS extention requested (orange original plot) ■ potential uses
36-7538 = 30 CFS extention requested.

Legend:
= rimrock
= BCR borders
= I.P.Co.
= old meander line
= Stone Cross set by I.P.Co.
■ Gov't Cor. Iron Pipe
— — — Road R/Way
= heavy trees (cedar, hackberry locast, etc)
= gravel road
(prepared by N. McCormick)
(Lot 7 goes off the paper)

(7161, 7124, 7011 = a projected area Trounson planned for himself + Mardi Crupper, if Kaster ever became sole owner. (N. found on Gooding County Tax Map.)

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SEP 20 1990

Lot 3
41.50

Lot 4
41.66

Lot 10 (or 1)?
(41.64 ac.)

FORM No. 770
Copyright 1947,
Stevens-Ness Law Publishing Co.
Portland, Oregon

RECEIPT AND AGREEMENT TO PURCHASE

Hagerman, Idaho May 16, 1979

RECEIVED FROM Aqua Life Inc., by Kenneth S. Ellis, President (hereinafter referred to as Purchaser)
the sum of six thousand and no/100 ($ 6,000.00) Dollars as a deposit and earnest money in part payment of the purchase price of the following described real property situated in County of Gooding State of Idaho, to wit: One-quarter interest in Sheldon Estate as shown by attached map. Portion to be purchased shown in green, together with an assignment of an approved water filings #36-7537 & 36-7538 and an assignment of ¼ interest in the Zaster lease also attached hereto. It is specifically understood that the $6,000. will be disbursed upon receipt of a valid water assignment as mentioned above. Assignment of lease subject to approval of all parties. Sale the same. Hall & Beckstead bill to be paid by buyer. Legal and survey by buyer.

The following items are to be left upon the premises as part of the property purchased: All irrigation fixtures and equipment, plumbing and heating fixtures and equipment (including stoker and oil tanks but excluding fire place fixtures and equipment), water heaters, electric light fixtures, light bulbs and fluorescent lamps, bathroom fixtures, venetian blinds, window and door screens, storm doors and windows, attached linoleum, attached television antennae, all shrubs and trees and all fixtures except none

The following personal property is also included as a part of the property to be offered for sale for said price: none

It is hereby agreed that the total purchase price is the sum of one hundred seventy thousand and no/100 ($ 170,000.00) Dollars payable as follows: The sum of six thousand and no/100 ($ 6,000.00) Dollars hereinabove receipted for and the balance of the purchase price in the sum of one hundred sixty four thousand and no/100 ($ 164,000.00) Dollars to be paid as follows: (If on contract, state terms generally, and if escrow, also name of escrow holder) Escrow at Idaho 1st Nat'l. Bank, Wendell. Escrow setup charges shared equally. $43,000 on closing. Balance on 10 year amortized contract with interest at ~~8~~ 10%.

It is further agreed: 1. Seller shall at his expense furnish Purchaser an Abstract of Title continued to a date subsequent hereto showing merchantable title to the above described property vested in Seller, or in lieu thereof, at Seller's option, a title insurance policy insuring title thereto vested in Seller, free and clear of all liens and encumbrances, except pending probate proceedings.

It is further agreed that the broker assumes no responsibility in regard to the title and broker recommends that Purchaser have the Abstract of Title or title insurance policy examined by an attorney.

2. The real property is to be conveyed by warranty deed conveying ¼ interest in estate as probate allows and the personal property by Bill of Sale, free and clear of all encumbrances except building and zoning ordinances and regulations, building and use restrictions, rights of way and easements, reservations in Federal patents and State deeds and those enumerated in Section 1 above.

3. Sellers shall pay all of the taxes and assessments to Jan. 1, 1980 and Purchaser shall pay all taxes and assessments thereafter. Rents, insurance and interest on mortgage or contract indebtedness shall be pro-rated to ~~XXXXXXXXXXXX~~ May 15, 1979. Encumbrances to be discharged by Seller may at his option be paid out of the purchase money at the date of closing.

4. If Seller does not approve this sale within 15 days hereafter, or if Seller's title is not merchantable or insurable and cannot be made so within a reasonable time after written notice containing statement of defects is delivered to Seller, then said earnest money herein receipted for shall be returned to the Purchaser on demand and all rights of Purchaser terminated unless Purchaser waives said defects and elects to purchase; but if said sale is approved by the Seller and Seller's said title is merchantable or insurable and Purchaser neglects or refuses to complete the purchase or shall fail to pay the balance of the purchase price as hereinabove provided, then said earnest money shall be forfeited to the Seller as liquidated damages and not as a penalty and this Agreement thereupon shall be of no further force or effect or the Seller may demand the enforcement of the specific provisions of this Agreement.

5. In the event the improvements on said property should be destroyed or materially damaged between the date hereof and consummation or settlement of this purchase, this Agreement shall, at the option of the Purchaser, immediately become null and void, and said earnest money deposit shall be returned to said Purchaser on demand.

6. Possession shall be delivered Purchaser on or before the 15th day of May, 19 79.

7. Purchaser enters into this Agreement in full reliance upon his independent investigation and judgment and there are no verbal or other agreements which modify or affect this Agreement.

8. Time is of the essence of this Agreement. Purchaser's rights herein are not assignable without the written consent of the Seller.

Hagerman Realty Broker, By Agents for Aqua Life, Inc., Buyer Seller.

I hereby agree to purchase the above described property and pay the price of one hundred seventy thousand and no/100 ($ 170,000.00) Dollars as set forth above and grant to said agent 15 days hereafter to secure Seller's acceptance hereof, during which period my said offer shall not be subject to revocation.

Address Rt. 3, Box 50, Buhl, Id. 83316
Phone 543-8244

Purchaser

For valuable consideration I/we agree to sell and convey to the Purchaser the above described property on the terms and conditions hereinabove stated and agree to pay to the above named agent a commission of None ($) Dollars for services rendered in this transaction. I/we acknowledge receipt of a copy of the earnest money receipt bearing my/our signature and that of the Purchaser named above. In case the Purchaser fails to comply with any of the conditions of this Agreement, then one-half of the earnest money receipted for shall be retained by the brokes, provided the amount to the broker does not exceed the agreed upon commission due and the balance shall be paid to the undersigned.

Dated this 2 day of June, 19 79

Vee Trounson and Kenneth S. Ellis - Personal Representative - Aqua Life, Inc. Seller

STATE OF IDAHO, County of Gooding } ss.

On this day of In the year 19.

Before me John H. LeMoyne, a Notary Public in and for said State, personally appeared Vee Trounson and Kenneth S. Ellis

known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he executed the same.

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

NOTE: IF ANY BLANK SPACES ARE INSUFFICIENT, USE S-N No. 810 "HANDY PAD", TO BE SEPARATELY SIGNED BY BUYER AND SELLER.

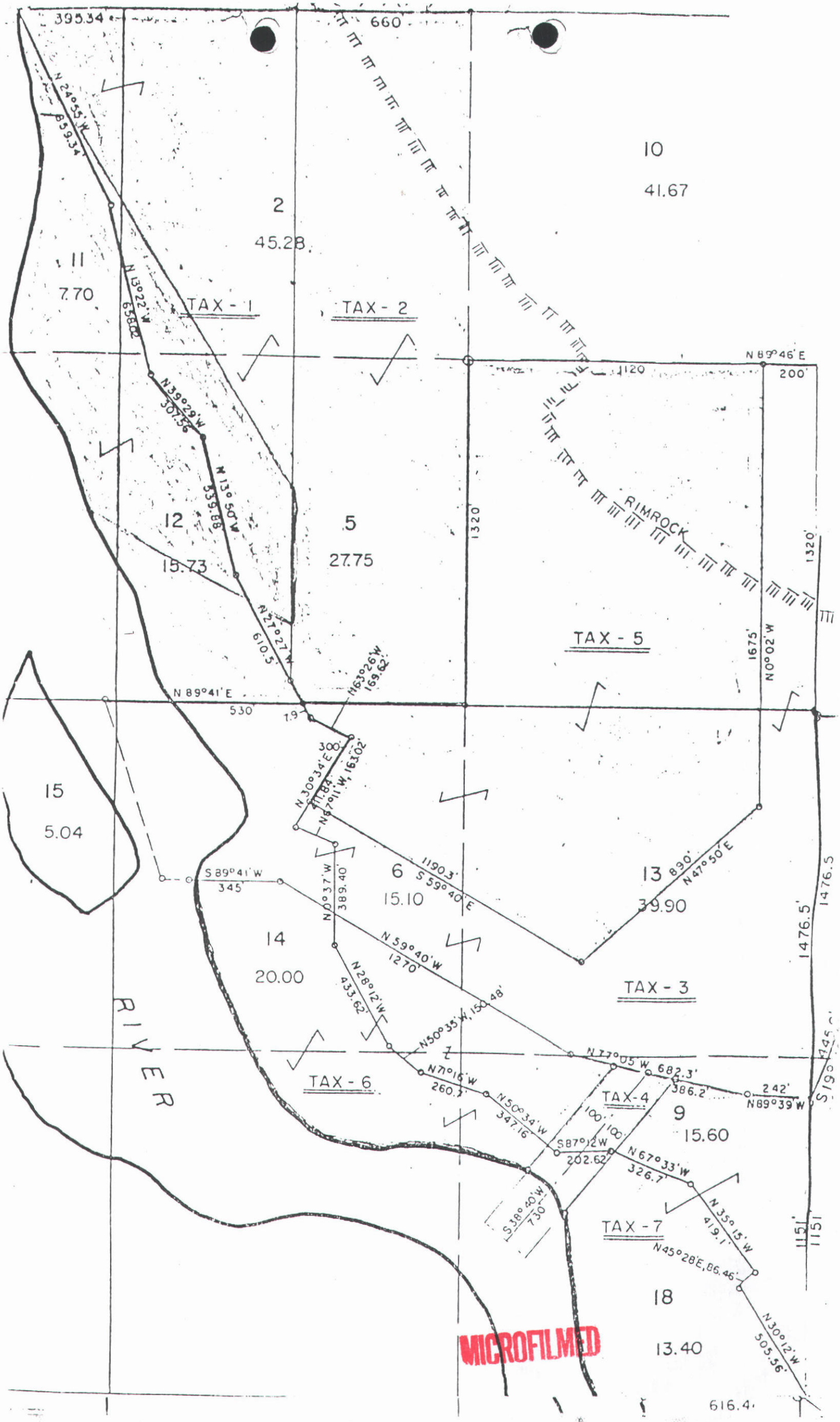
Notary Public for the State of Idaho, Residing at Hagerman, Idaho

PURCHASER'S COPY - WITH ALL SIGNATURES

775

POOR QUALITY ORIGINAL
MICROFILMED

Exhibit # B



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.

RE-21
Revised 12-78

Hagerman, Idaho September 18, 19 79

Kenneth S. Ellis and/or assignees

(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 _____, County of Gooding, State of Idaho, commonly known as part of the Briggs Creek Ranch, legally described as: to be attached, generally described as: all that portion of said ranch lying south & east of the main channel of Briggs Creek being about 210 acres together with 40 cfs of water fof fish & all irrigation water appurtenant.

(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 Six Hundred Twenty Five Thousand Dollars DOLLARS ($ 625,000.00) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of six thousand and np/100 Dollars ($ 6,000.00) 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 _____ day of _____, 19 ___ to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____).

c. All Earnest Money and this agreement shall be held by selling or listing broker or Hagerman Realty for the benefit of the parties hereto.

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

$150,250.00 on closing, balance of $468,750. on a 15 year note at 9½% secured by a first mortgage. Annual payments from closing date, amortized.

Initial escrow charges to be shared equally together with survey charges. Buyer to be guaranteed 40 cfs of water and will lease additional water from sellers if available. Buyer to have right to purchase gravel for construction purposes from seller at 25¢ per yard. Access to & from M. Trounson gravesite to be allowed. Escrow at Land Title & Escrow, Jerom

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of October 18, 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 delivered after payment of the purchase price as herein 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 Buyer shall take title subject to, or which Buyer shall assume are as follows none

4. The parties designate Land Title & Escrow 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 selling or listing broker or Land Title and Escrow Co. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within 30 day(s) of closing this transaction, subject only to specific limitations set out above, the parties shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with the terms and conditions hereof. Upon receipt of the terms specified in the preceding sentence, the closing agent shall proceed to close this transaction as soon as he is reasonably able to do so.

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 _____

The following items of personal property are specifically **included in** the sale: _____

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 31st day of December, 1979. 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 15th day of November, 1979 or closing date whichever is sooner.

10. The parties agree that this agreement contains the following additional terms and conditions: _____

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: none Selling Broker: Hagerman Realty By: [signature]

Buyer Kenneth S Ellis Buyer's Address Rt. 3, Box 50, Buhl, Id. 83316

Buyer Buyer's Phone 543-8244

On this date, _____ 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 none % of selling price or, none DOLLARS ($ none) 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.

Willard B. Sheldon 3259 Knorr St. Phila. Pa. 19149

Seller Judy T. Sheldon Seller's Address

Seller's Business Ph Seller's Residence Ph

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 25th day of Sept, 19 79

STATE OF IDAHO

County of Phila.)

Buyer

On this 25th day of Sept, 19 79, before me, the undersigned, a Notary Public in and for said State, personally appeared WILLARD B. Sheldon 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

GLENN WEINSTEIN
Notary Public, Phila., Phila. Co.
My Commission Expires Dec. 14, 1981

D-1

Glenn Weinstein
Notary Public for State of

5148 FRANKFORD AVE Residing at PHILA PA

MICROFILMED

FORM No. 720
Copyright 1947,
Stevens-Ness Law Publishing Co.
Portland, Oregon

RECEIPT AND AGREEMENT TO PURCHASE

Hagerman, Idaho, May 26, 1979

RECEIVED FROM Aqua Life Inc., by Kenneth S. Ellis, President (hereinafter referred to as Purchaser)

the sum of six thousand and no/100 ($6,000.00) Dollars as a deposit and earnest money in part payment of the purchase price of the following described real property situated in _____ County of Gooding State of Idaho, to wit: One-quarter interest in Sheldon Estate as shown by attached map. Portion to be purchased shown in green, together with an assignment of an approved water filings #36-7537 & 36-7538 and an assignment of ¼ interest in the Kester lease also attached hereto. It is specifically understood that the $6,000. will be disbursed upon receipt of a valid water assignment as mentioned above. Assignment of lease subject to approval of all parties, sale the same. Bill & Beckstead bill to be paid by buyer. Legal and survey by buyer.

The following items are to be left upon the premises as part of the property purchased: All irrigation fixtures and equipment, plumbing and heating fixtures and equipment (including stoker and oil tanks but excluding fire place fixtures and equipment), water heaters, electric light fixtures, light bulbs and fluorescent lamps, bathroom fixtures, venetian blinds, window and door screens, storm doors and windows, attached linoleum, attached television antenna, all shrubs and trees and all fixtures except none

The following personal property is also included as a part of the property to be offered for sale for said price: none

It is hereby agreed that the total purchase price is the sum of one hundred seventy thousand and no/100 ($170,000.00) Dollars payable as follows: The sum of six thousand and no/100 ($6,000.00) Dollars hereinabove receipted for and the balance of the purchase price in the sum of one hundred sixty four thousand and no/100 ($164,000.00) Dollars to be paid as follows: (If on contract, state terms generally, and if escrow, also name of escrow holder) Escrow at Idaho 1st Nat'l. Bank, Wendell. Escrow set-up charges shared equally. $43,000 on closing. Balance on 10 year amortized contract with interest at 10%.

It is further agreed: 1. Seller shall at his expense furnish Purchaser an Abstract of Title continued to a date subsequent hereto showing merchantable title to the above described property vested in Seller, or in lieu thereof, at Seller's option, a title insurance policy insuring title thereto vested in Seller, free and clear of all liens and encumbrances, except pending probate proceedings.

It is further agreed that the broker assumes no responsibility in regard to the title and broker recommends that Purchaser have the Abstract of Title or title insurance policy examined by an attorney.

2. The real property is to be conveyed by warranty deed conveying ¼ interest in estate as probate allows and the personal property by Bill of Sale, free and clear of all encumbrances except building and zoning ordinances and regulations, building and use restrictions, rights of way and easements, reservations in Federal patents and State deeds and those enumerated in Section 1 above.

3. Sellers shall pay all of the taxes and assessments to Jan. 1, 1980 and Purchaser shall pay all taxes and assessments thereafter. Rents, insurance and interest on mortgage or contract indebtedness shall be pro-rated to ~~XXXXXXXXXX~~ May 15, 1979. Encumbrances to be discharged by Seller may at his option be paid out of the purchase money at the date of closing.

4. If Seller does not approve this sale within 15 days hereafter, or if Seller's title is not merchantable or insurable and cannot be made so within a reasonable time after written notice containing statement of defects is delivered to Seller, then said earnest money herein receipted for shall be returned to the Purchaser on demand and all rights of Purchaser terminated unless Purchaser waives said defects and elects to purchase; but if said sale is approved by the Seller and Seller's said title is merchantable or insurable and Purchaser neglects or refuses to complete the purchase or shall fail to pay the balance of the purchase price as hereinabove provided, then said earnest money shall be forfeited to the Seller as liquidated damages and not as a penalty and this Agreement thereupon shall be of no further force or effect or the Seller may demand the enforcement of the specific provisions of this Agreement.

5. In the event the improvements on said property should be destroyed or materially damaged between the date hereof and consummation or settlement of this purchase, this Agreement shall, at the option of the Purchaser, immediately become null and void, and said earnest money deposit shall be returned to said Purchaser on demand.

6. Possession shall be delivered Purchaser on or before the 15th day of May, 1979.

7. Purchaser enters into this Agreement in full reliance upon his independent investigation and judgment and there are no verbal or other agreements which modify or affect this Agreement.

8. Time is of the essence of this Agreement. Purchaser's rights herein are not assignable without the written consent of the Seller.

Hagerman Realty Broker, By _____ Agents for Aqua Life, Inc., Buyer-Seller

I hereby agree to purchase the above described property and pay the price of one hundred seventy thousand and no/100 ($170,000.00) Dollars as set forth above and grant to said agent 15 days hereafter to secure Seller's acceptance hereof, during which period my said offer shall not be subject to revocation.

Address Rt. 3, Box 50, Buhl, Id. 83316

Phone 543-8244

_____ Purchaser

For valuable consideration I/we agree to sell and convey to the Purchaser the above described property on the terms and conditions hereinabove stated and agree to pay to the above named agent a commission of None ($) Dollars for services rendered in this transaction. I/we acknowledge receipt of a copy of the earnest money receipt bearing my/our signature and that of the Purchaser named above. In case the Purchaser fails to comply with any of the conditions of this Agreement, then one-half of the earnest money receipted for shall be retained by the broker, provided the amount to the broker does not exceed the agreed upon commission due and the balance shall be paid to the undersigned.

Dated this 2 day of June, 19 79 Wes Trowbridge

Personal Representative - M.T. Estate Seller

STATE OF IDAHO, County of Gooding } ss.

On this _____ day of _____ in the year 19____, before me John R. LeMoyne, a Notary Public in and for said State, personally appeared Wes Trowbridge and Kenneth S. Ellis known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he executed the same.

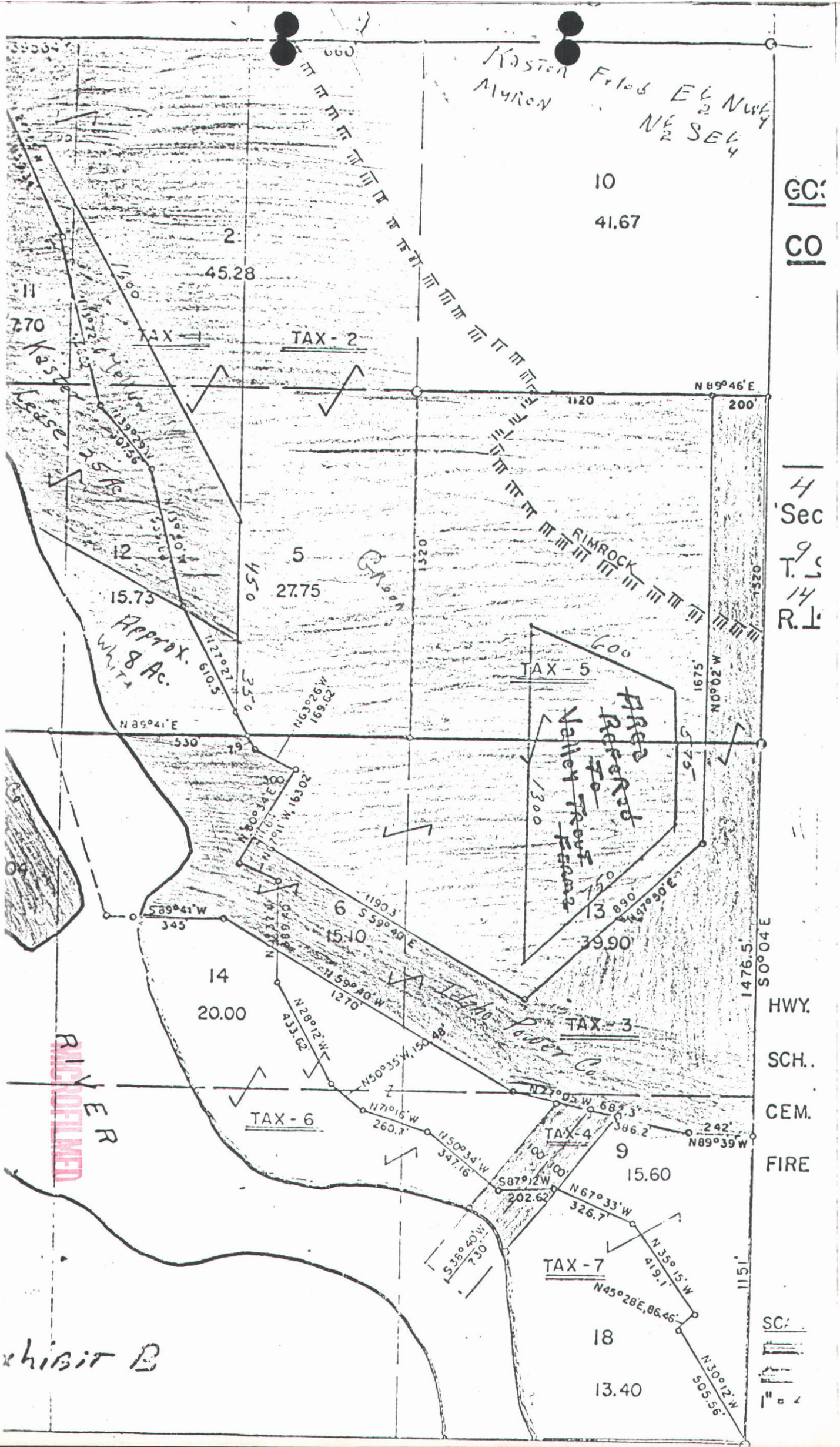
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

NOTE: IF ANY BLANK SPACES ARE INSUFFICIENT, USE S-N No. 810 "HANDY PAD", TO BE SEPARATELY SIGNED BY BUYER AND SELLER.

Notary Public for the State of Idaho, Residing at Hagerman, Idaho

PURCHASER'S COPY - WITH ALL SIGNATURES

775


Koster Files E½ NW¼
Myron
NE¼ SE¼
10
41.67
2
45.28
11
7.70
Kester Lease 2.5 Ac.
TAX - 1
TAX - 2
N 89°46' E
1120
200'
5
27.75
12
15.73
Approx. 8 Ac.
White
1320'
1675'
N 0°02' W
TAX - 5
Area Reserved for Valley Trees Estate
1300
150
13
8.90
39.90
N 47°50' E
N 89°41' E
530
N 27°27' W 610.5
N 63°26' W 169.62
N 80°34' E 330
N 27°11' W 163.02
S 89°41' W 345
6
15.10
S 59°40' E 1190.3
N 59°40' W 1270
Idaho Power Co.
TAX - 3
14
20.00
N 28°12' W 433.62
N 50°35' W 150
N 27°05' W 684.3
386.2
242'
N 89°39' W
TAX - 6
TAX - 4
9
15.60
N 71°16' W 260.3
N 50°34' W 347.16
S 87°12' W 202.62
N 67°33' W 326.7
S 38°40' W 730
N 35°15' W 419.1'
N 45°28' E, 86.46'
N 30°12' W 505.56'
TAX - 7
18
13.40
1151'
S 0°04' E
1476.5'
HWY.
SCH.
CEM.
FIRE
RIVER
MICROFILMED
Exhibit B

3 December 1979

John R. LeMoyne

Hagerman Realty

Hagerman, Idaho 83332

Dear John,

Enclosed is check for $6,000 from the Myriel Trounson estate. As some of the parties have been unable to accept the offer of Agreement to Purchase dated 26 May 1979 by Aqua Life inc. Kenneth S. Ellis I am required to return the money to you as broker, and you in turn will deliver to me the Assignment of Water, permits #36-7537 and #36-7538, which was put in trust with the Hagerman Realty.

George Myron Sheldon has advised me by phone that he is not accepting your offer per letter dated 6 November 1979, and therefore I am unable to accept said offer.

Sincerely yours,

Wes Trounson

Personal Representative for
Myriel Trounson Estate

cc: Clint Shaw, Gooding, Idaho

142

MYRIEL TROUNSON ESTATE
WES TROUNSON, PERS. REP.
ROUTE 2
WENDELL, IDAHO 83355

3 Dec 1979 92-130/1241

Pay to the order of John R. LeMoyne, Hagerman Realty $ 6,000.00

Six Thousand ——— No ——— Dollars.

IDAHO FIRST NATIONAL BANK
WENDELL OFFICE
Wendell, Idaho 83355

Idaho first The Bank

Aqua Life - Kenneth S Ellis Purchase

For Per 26 May 79 Agreement

⑆124⑆0130⑆ 22 08325 2⑈ 1420

Mountain Bank Note LD

Legacy

Wes Trounson

Route #2

Wendell, Idaho 83355

MICROFILMED

John R. L

Route

Hager

PS Form 3811, Aug. 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 ..... 15¢
- ☐ 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:
John R. LeMoyne
RT
Hagerman, ID 83332

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 388154 | INSURED NO.

(Always obtain signature of addressee or agent)
I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent
Peggy L. Moyne

4. DATE OF DELIVERY 12-4-79

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

POSTMARK DEC 4 1979 HAGERMAN, ID

RETURN RECEIPT FOR REGISTERED AND CERTIFIED MAIL

☆ GPO: 1978-272-382

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
County of Gooding }

Robert Compton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 24 day of April, 19 75, and the date of the last publication was on the 1 day of May, 19 75.

Robert Compton

Subscribed and sworn to before me this 19 day of May, 19 75.
(SEAL)

Carmen Hunter
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice	36	36
Number of Insertions	2	2
Lines tabular at 315c		
36 Lines straight at 36 21c		7.56
36 Subsequent lines at 36 15c		5.40
TOTAL COST		12.96

MICROFILMED

COPY OF NOTICE

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Wes and-or Myriel Trounson, Route No. 2, Wendell, Idaho 83355 has on 4-8-75 submitted Application No. 36-7537 for a permit to appropriate 10.00 cubic feet per second of water from Briggs Springs by means of Concrete diversion and pipelines within the NE¼SW¼ Sec. 3, Twp. 9S, Rge 14E, B.M. Gooding County; NW¼SW¼, Sec. 3, Twp. 9S, Rge. 14E, B.M. to be used from January 1-December 31 (Domestic and recreation); March 15-November 15 for Irrigation of 284 acres within the SW¼, NW¼SE¼, Sec. 3; S½NE¼, SE¼, Sec. 4; NE¼NE¼, Sec. 9; N½NW¼, Sec. 10, Twp. 9S, Rge. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before May 12, 1975.

R. KEITH HIGGINSON
Director
4-24-2tc-G

RECEIVED O.K.cc 5-20-75
MAY 20 1975
Department of Water Resources
Southern District Office

PUBLICATION RATES
(Idaho Code, Rev. Statutes 1971)

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

Wtr
6686

No 454

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-07537

Priority: June 4, 1975

Maximum Diversion Rate: 3.71 CFS
Maximum Diversion Volume: 1705.5 AF

This is to certify, that PRISTINE SPRINGS INC
GEORGE SHELDON
WILLARD B SHELDON
HEDWIG SHELDON
HOWARD SHELDON ESTATE
LOUISE SHELDON
PHYLLIS SHELDON
RICHARD H KASTER
EDITH KASTER

201 WARM CREEK RD
JEROME ID 83338

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated April 8, 1975; and has submitted Proof of Beneficial Use on October 28, 1991. An examination indicates that the works have a diversion capacity of 7.300 cfs of water from:

BRIGGS SPRINGS tributary to **BRIGGS CREEK**
BRIGGS CREEK tributary to **SNAKE RIVER**

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

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 10/31	1.52 CFS	120.0 AF
FISH PROPAGATION	01/01 to 12/31	2.19 CFS	1585.5 AF
	Totals	3.71 CFS	1705.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWNESW , Sec. 3, Township 09S, Range 14E
NWNWSW , Sec. 3, Township 09S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
09S	14E	3		NWSW 2		SWSW 14		SESW 11	27
		4	Lot	9(SESE) 1					1
		10	Lot	7(NWNW) 2					2

Total number of acres irrigated: 30

PLACE OF USE: FISH PROPAGATION

TWN	RGE	SEC	
09S	14E	3	NWSW

DEC 13 1994

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 36-07537

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. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
6. Return water shall be treated to insure that the effluent meets Idaho Water Quality Standards.
7. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
8. The fish propagation facility volume is 753.2 cubic feet.

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 9TH day of DECEMBER, 1994.

Acting for R. Keith Higginson, Director

DEC 13 1994

APPROVED

State of Idaho
Department of Water Resources

RECEIVED
NOV 25 1994
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

Date of Priority: June 4, 1975

Maximum Diversion Rate: 3.71 CFS
Maximum Diversion Volume: 1705.5 AF

Comes now PRISTINE SPRINGS INC
GEORGE SHELDON
WILLARD B SHELDON
HEDWIG SHELDON
HOWARD SHELDON ESTATE
LOUISE SHELDON
PHYLLIS SHELDON
RICHARD H KASTER
EDITH KASTER

201 WARM CREEK RD
JEROME ID 83338

and represents to the Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 36-07537, and requests that the permit be changed as follows:

Source: **BRIGGS SPRINGS** tributary to **BRIGGS CREEK**
Source: **BRIGGS CREEK** tributary to **SNAKE RIVER**

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 10/31	1.52 CFS	120.0 AF
FISH PROPAGATION	01/01 to 12/31	2.19 CFS	1585.5 AF
	Totals	3.71 CFS	1705.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWNESW , Sec. 3, Township 09S, Range 14E
NWNWSW , Sec. 3, Township 09S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
09S	14E	3	NWSW	2	SWSW	14	SESW	11	27
		4	Lot 9(SESE)	1					1
		10	Lot 7(NWNW)	2					2

Total number of acres irrigated: 30

PLACE OF USE: FISH PROPAGATION

TWN	RGE	SEC	
09S	14E	3	NWSW

RECEIVED
DEC 13 1994

RECEIVED
SEP - 9 1994
Department of Water Resources
Southern Region Office

State of Idaho
Department of Water Resources

RECEIVED
SEP 12 1994

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Twin Falls, this 8th day of September, 1994.

George M Sheldon
(Signature)

DEC 13 1994

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

****

FOR DEPARTMENT USE ONLY

Preliminary check by RC Fee = 50.00 Receipted by MTS #5017356 Date 9-8-94

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 36-07537 with the following;

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. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
6. Return water shall be treated to insure that the effluent meets Idaho Water Quality Standards.
7. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
8. The fish propagation facility volume is 753.2 cubic feet.

Witness my hand this 9th day of December, 1994.

Acting for R. Keith Higginson, Director

DEC 13 1994

APPROVED

State of Idaho
Department of Water Resources

RECEIVED
NOV 25 1994
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

Date of Priority: June 4, 1975

Maximum Diversion Rate: 3.71 CFS
Maximum Diversion Volume: 1705.5 AF

Comes now PRISTINE SPRINGS INC
GEORGE SHELDON
WILLARD B SHELDON
HEDWIG SHELDON
HOWARD SHELDON ESTATE
LOUISE SHELDON
PHYLLIS SHELDON
RICHARD H KASTER
EDITH KASTER

201 WARM CREEK RD
JEROME ID 83338

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 36-07537, and requests that the permit be changed as follows:

Source: **BRIGGS SPRINGS** tributary to **BRIGGS CREEK**
Source: **BRIGGS CREEK** tributary to **SNAKE RIVER**

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION	04/01 to 10/31	1.52 CFS	120.0 AF
FISH PROPAGATION	01/01 to 12/31	2.19 CFS	1585.5 AF
	Totals	3.71 CFS	1705.5 AF

LOCATION OF POINT(S) OF DIVERSION: NWNESW , Sec. 3, Township 09S, Range 14E
NWNWSW , Sec. 3, Township 09S, Range 14E
GOODING County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
09S	14E	3	NWSW	2	SWSW	14	SESW	11	27
		4	Lot 9(SESE)	1					1
		10	Lot 7(NWNW)	2					2

Total number of acres irrigated: 30

PLACE OF USE: FISH PROPAGATION

TWN	RGE	SEC	
09S	14E	3	NWSW

DEC 13 1994

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

Permit holder asserts that no one will be injured by such change and that such change will be made at permit holder's own risk.

Signed at Buhl Idaho, this 23 day of November, 1994.

Richard Kasten
(Signature)

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DEC 13 1994

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 36-07537

****

FOR DEPARTMENT USE ONLY

Preliminary check by JC Fee = $50.00 Receipted by MTS #5017356 Date 9/8/94

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 36-07537 with the following;

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. This right when combined with all other rights shall provide no more than 4.0 afa per acre for the lands above.
6. Return water shall be treated to insure that the effluent meets Idaho Water Quality Standards.
7. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
8. The fish propagation facility volume is 753.2 cubic feet.

Witness my hand this 9TH day of DECEMBER, 1994.

Acting for R. Keith Higginson, Director

DEC 13 1994

Form 217
07/90

RECEIVED

OCT 28 1991

Department of Water Resources
Southern Region Office

For Office Use Only
Amt. of Fee $ 325.00
Date 10-28-91
Receipt No. 501895
Received by J.F. Clanton

STATE OF IDAHO

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/have 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.

1. Permit No. 36-07537 Telephone No. 326-5687

2. Name(s) of Permit Holder(s): Pristine Springs, Inc., an Idaho Corporation

3. Post Office Address: Route 1, Box 1204, Filer, ID 83328

4. Source of Water: Briggs Springs

   a. If ground water, well driller's name: N/A Date drilled: _____

   b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____

5. Extent of Use:

   Domestic .180 cfs (~~No. of households~~ fountain) Irrigation 284 (No. of acres)

   Stockwater _____ (No. and type of stock) Other Recreation 4.14 cfs

6. Total rate and/or volume for which proof is submitted 10 cfs _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

   Measuring device: Required? X Yes __ No Installed? X Yes __ No

   OR

   Flow Measurement Port: Required? __ Yes X No Installed? __ Yes __ No

8. Fee Enclosed: $ 325 (See License Examination Fee Schedule)

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

   Richard Eggleston (Name) 326-5687 (Telephone No.)

   Route 1, Box 1204, Filer, ID 83328 (Address)

10. 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.

10-28-91 (Date)

By Pristine Springs, ~~Inc.~~ Executive Vice President and General Manager
(Signature and title if on behalf of a company or organization)

RECLAIMED JAN 21 1992

MEMORANDUM

TO: FILES 36-07537 & 36-07538

FROM: PAM SKAGGS

RE: ASSIGNMENT OF PERMITS

DATE: 2-JAN-1992

==========

The assignment of permits from Pristine Springs Inc., as sole owner, to Pristine Springs Inc. and the individuals listed on the attached Exhibit A, will be accepted updating the database to show all as current owners of the water right.

In the event any action will be taken pertaining to this right, ALL PARTIES WILL HAVE EQUAL STANDING AS THE AUTHORIZED RIGHT HOLDERS OF RECORD and SIGNATURES MUST BE OBTAINED FROM ALL RIGHT HOLDERS or a legal representative appointed by all right holders.

MICROFILMED

JAN 21 1992

WATER RIGHT SUMMARY

ACTION	RIGHT NO.	NAME	AMOUNT CFS
Original Application	36-7537	Wes Trounson Myriel Trounson	10.00
Full Assignment	36-7537	Aqua Life, Inc.	10.00
Full Assignment	36-7537	Wes Trounson	10.00
Full Assignment	36-7537	Mary Brush Crupper	10.00
Full Assignment	36-7537	Pristine Springs	10.00
Full Assignment	36-7537	Willard B. Sheldon Hedwig Sheldon Howard Sheldon Estate Louise Sheldon George Sheldon Phyllis Sheldon Richard H. Kaster Edith Kaster Pristine Springs	10.00

RECEIVED
JAN 21 1992

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 36-07537 IN THE NAME OF PRISTINE SPRINGS INC., AND HOWARD B., HEDWIG, LOUISE, GEORGE, AND AND PHYLLIS SHELDON, HOWARD SHELDON ESTATE, AND RICHARD H. AND EDITH KASTER	) ORDER OF REINSTATEMENT

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted on or before September 1, 1991; and,

WHEREAS, the Department notified the permit holder by certified mail that proof was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use; and,

WHEREAS, the Department notified the permit holder that the permit lapsed for failure of the permit holder to submit the proof of beneficial use; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting proof of beneficial use on October 28, 1991;

MICROFILMED
JAN 21 1992

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 36-07537 be REINSTATED with an advance in priority to June 4, 1975.

Dated this 13th day of January, 1992.

L. GLEN SAXTON
Chief, Water Allocation Bureau

MICROFILMED
JAN 21 1992

PARSONS, SMITH, STONE & FLETCHER
ATTORNEYS AT LAW
137 WEST 13TH STREET
P. O. BOX 910
BURLEY, IDAHO 83318

WILLIAM A. PARSONS
RICHARD K. SMITH
RANDOLPH C. STONE
WM. KENT FLETCHER

TELEPHONE
(208) 678-8382
FAX NO.
(208) 678-0146

December 22, 1991

RECEIVED
DEC 24 1991
Department of Water Resources
Southern Region Office

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

RE: Permit Numbers 36-7537 and 36-7538

Gentlemen:

I am enclosing Assignments of portions of two permits from Pristine Springs to named individuals on the Exhibits A. The result of that assignment is that the Sheldon interest owns 75%, Kaster owns 10% and Pristine Springs owns 15%.

If there is anything additional I need in this regard please advise.

Very truly yours,

William A. Parsons

WAP:rt
cc: Joe Beeman
George Sheldon

MICROFILMED
JAN 21 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED 7537
DEC 24 1991
Department of Water Resources
Southern Region Office

ASSIGNMENT OF APPLICATION FOR PERMIT

I, XX PRISTINE SPRINGS, INC. , hereby assign to See Attached Exhibit A

of, _____
(Full Address)

All my right, title, and interest in and to Application for Permit No. _____ to appropriate the public waters of the State of Idaho.

Or (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Application for Permit No. 36-7537 to appropriate the public waters of the State of Idaho.

Describe portion of the application assigned listing the number of acres in each 40 acre subdivision, point of diversion location, and the amount of water in cubic feet per second.

Government Lot 13 - Section 4, T. 9 S, R 14 E-P/Diversion

NW 1/4 SW 1/4 3 - 9 S - 14 - Use

10 c.f.s.

Made this 26 day of November, 1991.

PRISTINE SPRINGS, INC.

Applicant

Executive Vice President and General Manager

State of Idaho)
ss
County of CASSIA)

Wendell M. Hanks, President

On this 26 day of NOVEMBER, 1991, personally appeared before me the signer of the above instrument, duly acknowledged to me that he (she) (they) executed the same.

OFFICIAL SEAL
WILLIAM A. PARSONS
NOTARY PUBLIC STATE OF IDAHO
PRINCIPAL OFFICE IN BURLEY
CASSIA COUNTY
My Commission Expires 7/6/92

Notary Public

My commission expires: _____

MICROFILMED
JAN 21 1992

EXHIBIT A

Willard B. Sheldon
Hedwig Sheldon
Howard Sheldon Estate
Louise Sheldonn
George Sheldon
Phyllis Sheldon
Box 443
Buhl, Idaho 83316

An undivided 75% interest.

Richard H. Kaster
Edith Kaster
Route 3
Buhl, Idaho 83316

An undivided 10% interest

The remaining 15% to be retained by Cristine Springs Inc. per attached letter. CS 01-02-92

MICROFILMED
JAN 21 1992

RECEIVED

OCT 21 1991

Department of Water Resources
Southern Region Office

WARRANTY DEED

FOR VALUE RECEIVED, We, LARRY CRUPPER and MARY BRUSH CRUPPER, husband and wife, hereinafter called the Grantors, hereby grant, bargain, sell and convey unto PRISTINE SPRINGS, INC., an Idaho corporation, hereinafter called the Grantee the following described premises in Gooding County, Idaho, to-wit:

An undivided 1/20th interest in the following described real property:

Township 9 South, Range 14, East of the Boise Meridian, Gooding County, Idaho

Section 3: NW¼SE¼; N½SW¼; SW¼SW¼; N½SE¼SW¼; W½SW¼SE¼SW¼;

Section 4: Lots 2, 5, 6, 9, 11, 12, 13, 14, 18 and SE¼NE¼;

Secion 9: Lot 2;

Section 10: Lots 1, 6, and 7 lying North and West of the following described line:

Beginning at the quarter corner common to Sections 3 and 10;
Thence South 59°46' West, 1545.0 feet to the center of a flattopped boulder marked by three bars and the letters "H.M.I." out by a chisel;
Thence due South to the thread of Snake River;

EXCEPTING THEREFROM tracts of land described and set forth in Warranty Deed dated April 19, 1929, recorded April 29, 1929 in Book 22 Page 332 as Instrument Number 48279, Gooding County records.

EXCEPTING THEREFROM the following parcel:

A parcel of land located in Government Lots 11 and 12 of Section 4, more particularly described as follows:
Beginning at the North quarter corner of said Section 4:

RECORDED

JAN 21 1992

RAYBORN & RAYBORN
ATTORNEYS AT LAW
P.O. BOX 321
FIRST INTERSTATE BANK BLDG.
TWIN FALLS, IDAHO 83301
(208) 733-2600

Thence South 2°15'56" East for a distance of 1341.08 feet to THE TRUE POINT OF BEGINNING;
Thence south 54°52'37" East for a distance of 121.80 feet;
Thence South 25°51'42" East for a distance of 90.79 feet;
Thence South 6°18'27" West for a distance of 107.42 feet;
Thence South 20°48'55" East for a distance of 79.20 feet;
Thence South 67°03'16" West for a distance of 348.82 feet;
Thence North 45°19'36" West for a distance of 86.12 feet;
Thence North 44°40'24" East for a distance of 132.61 feet;
Thence North 23°04'34" East for a distance of 341.00 feet to THE TRUE POINT OF BEGINNING.

AND ALSO EXCEPTING the Grantor's interest in and to the following described parcels:

PARCEL A: (Grave Site)

E½ of the SW¼ of the SE¼ of the SW¼ of Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

PARCEL B: (Trounson Reservation)

W½, SE¼, SE¼, SW¼, Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

PARCEL C: (Brush-Crupper Reservation)

E½, SE¼, SE¼, SW¼, Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

ALSO INCLUDED in this Deed are all of Grantors' interest in all water rights appurtenant to the above-described property, including, but not limited to, the following:

Seller's interest in sixty CFS-water right represented by permit number 32174/36-2607; and

Seller's interest in an Application for permit number 36-7537 and permit number 36-7538 which permits are now on file with the Department of Water Resources, State of Idaho.

Seller's interest in the following numbered water permits, licenses, and decreed rights: 36-00199, 36-08420, 36-02040, 36-02039.

RAYBORN & RAYBORN
ATTORNEYS AT LAW
P.O. BOX 321
FIRST INTERSTATE BANK BLDG.
TWIN FALLS, IDAHO 83301
(208) 733-3600

FILED
JAN 21 1992

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee, its successors in interest and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that the Grantors are the owners in fee simple of said premises; they they are free from all incumbrances except as described above and that Grantors will warrant and defend the same from all lawful claims whatsoever.

DATED this 15 day of April, 1991.

Larry Crupper
LARRY CRUPPER

Mary Brush Crupper
MARY BRUSH CRUPPER

Grantors

STATE OF Texas)
: ss.
County of El Paso)

On this 15 day of April, 1991, personally appeared before me, the undersigned, a notary public in and for said State, LARRY CRUPPER and MARY BRUSH CRUPPER, Grantors, known to me to be the signers of the within instrument, and who duly acknowledged to me that they executed the same.

PATRICIA TEMPLETON
NOTARY PUBLIC
State of Texas
Comm. Exp. 03-30-93

Patricia Templeton
NOTARY PUBLIC
Residence:
My Commission Expires: 3-30-93

144535

STATE OF IDAHO, COUNTY OF GOODING

Filed for record at the request of Rayborn + Rayborn

40 min. past 9 o'clock A M. this 22nd day of April, 1991.

JOHN A. MYERS, Recorder

By Alberta Soto

FEE 9.00

FILMED
JAN 21 1992

RAYBORN & RAYBORN
ATTORNEYS AT LAW
P.O. BOX 321
FIRST INTERSTATE BANK BLDG.
TWIN FALLS, IDAHO 83301
(208) 733-2600

RECEIVED
OCT 21 1991
Department of Water Resources
Southern Region Office

CERTIFICATE OF AUTHENTICITY

I, R. E. Rayborn, of the law firm of Rayborn and Rayborn, P.O. Box 321, First Interstate Bank Building, Twin Falls, Idaho, 83303-0321, do hereby certify that the above and foregoing WARRANTY DEED recorded April 22, 1991 as Instrument No. 144535 records of Gooding County, Idaho is a true and accurate reproduction of the original of said Warranty Deed which is in my care, custody and control.

R. E. RAYBORN

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

On this 17th day of June, 1991, before me, the undersigned, a notary public in and for said State, personally appeared R. E. RAYBORN, Attorney at Law, known to me to be the person whose name is subscribed to the foregoing instrument, and who duly acknowledged to me that he executed the same.

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

NOTARY PUBLIC
Residence: Filer, Idaho
My Commission Expires 2/17/97

MICROFILMED
JAN 21 1992

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 36-7537 IN THE NAME OF MARY BRUSH CRUPPER	CONTINUATION ORDER

This matter having come before the Idaho Department of Water Resources (IDWR) as a requirement of Section 42-203D, Idaho Code, the Department Finds, Concludes and Orders as follows:

FINDINGS OF FACT

1. Section 42-203D, Idaho Code, directs IDWR to review all permits issued prior to July 1, 1985, located within the Swan Falls Trust Water Area, to determine if water was beneficially used prior to said date.

2. If water was not beneficially used until after July 1, 1985, Section 42-203D further directs IDWR to review the permit under the provisions of Section 42-203C, Idaho Code.

3. Section 42-203C requires IDWR to determine whether diversion of water under a permit issued prior to July 1, 1985, causes a significant reduction of trust water available for power production and, if there is a significant reduction, to determine whether the reduction is in the public interest.

4. Permit No. 36-7537 (permit) was issued to Wes and/or Myriel Trounson (later assigned to Mary Brush Crupper) authorizing the diversion of 5.68 cfs of Briggs Spring for irrigation of 284 acres.

MICROFILMED

SEP 20 1990

5. IDWR records show that 84 acres authorized to be irrigated under Permit No. 36-7537 are irrigated with other water rights perfected prior to July 1, 1985.

6. Water diverted and used on or after July 1, 1985 for the irrigation of land under the terms of this permit is trust water.

7. The development and use of water authorized under this permit does not cause a significant reduction of trust water.

CONCLUSIONS OF LAW

1. The water authorized for diversion under Permit No. 36-7537 is trust water.

2. The use of water under the permit satisfies the provisions of Sections 42-203C and 42-203D, Idaho Code.

3. An order continuing the permit should be issued.

ORDER

IT IS HEREBY ORDERED that Permit No. 37-7537 is valid and may CONTINUE as provided in Section 42-203D, Idaho Code, subject to the following additional conditions and limitations.

1. Proof of construction of works and application of water to beneficial use shall be submitted to IDWR on or before September 1, 1991.

2. The use of trust water authorized by this right is subject to review 20 years after the date of this order to determine availability of trust water and to reevaluate the public interest.

3. The construction of diversion works must be commenced within one (1) year of the date of this order and shall proceed

MICROFILMED
SEP 20 1990

diligently and uninterruptedly to completion unless temporarily interrupted by circumstances over which the permit holder has no control.

4. Diversion and use of trust water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.

5. The Director retains jurisdiction of this right to change, add or remove any requirement as determined to be appropriate.

6. All conditions of approval contained in Permit No. 36-7537 are incorporated into and made a part of this order.

Dated this 31st day of August, 1990.

L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED
SEP 20 1990

RECEIVED
MAY 23 1989
Department of Water Resources

State of Idaho

Department of Water Resources

ASSIGNMENT OF PERMIT

I, WES TROUNSON, hereby assign to MARY BRUSH CRUPPER

of 5117 Memory Drive, El Paso, Texas 79932
Address

All my right, title, and interest in and to Permit No. 36-7537 to appropriate the public waters of the State of Idaho.

The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

_____

_____

_____

Made this 22 day of May, 19 89.

Wes Trounson
Permit Holder

_____
Spouse of Permit Holder

MICROFILMED
SEP 20 1990

State of Idaho)
ss
County of Gooding)

On this 22nd day of May, 1989, personally appeared before me the signer(s) of the above instrument, who ~~duly acknowledged~~ to me that he (she) (they) executed the same.

Jack W Hyder

seal

Notary Public residing at Jerome Idaho

My commission expires:
8/30/94

Form 204
4/86

For Office Use Only
$15 FEE Received by CP
Date 1/5/89
Receipt No. C004950

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

RECEIVED
JAN 04 1989
Department of Water Resources

To provide additional time in which to submit proof of beneficial use for a water right permit

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) 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. 36-07537

Name(s) of Permit Holder: Wes Trounson

Post Office Address: Route 2, Box 108 Wendell, Idaho 83355

Telephone No. 536-2043

Date Proof is Due: 1 January 1989

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".)

Approximately 1000 foot pipe from upper Briggs Spring to gravesite for watering and a memorial fountain.

Costing $ 750

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

Litigation during the years 1986, 1987, and 1988 has prevented development of water planned. Case number 19972 and Consolidated case numbers 20004, 19615, 19918, 20287, and 20194, 5th District Court. (see two attached documents)

Permit holder(s) request an extension to 1 January, 19 91.
(1 yr. minimum)

Wes Trounson
(Signature)*

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

FEE: $15.00

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ACTION OF THE DEPARTMENT OF WATER RESOURCES

SEP 20 1990

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 September 1, 1991.

Signed this 31st day of August, 19 90.

R. Gene Taylor
Chief, Water Allocation Bureau

Form 204
3-81

For Office Use Only
Fee Received $10 cg
Date 4-17-85
Receipt # 36400

RECEIVED
APR 17 1985
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

To provide additional time in which to submit proof of beneficial use on a water right permit

Wes Trounson (Name) of Rt. 2, Box 108, Wendell, ID 83355 (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of the State of Idaho No. 36-7537.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before May 1, 19 85.

That he has heretofore performed the following work described under said permit:
(This must be filled out! If no work has been completed put none.)

None

Costing $ *20,000

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:

The water right has been under litigation

* Spent mostly on attorney fees

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations under said permit to May 1, 19 90.
(1 yr. minimum, 5 yrs. maximum)

NOTE
AS OF JULY 1, 1980, THERE IS A $15.00 CHARGE FOR REQUESTS FOR EXTENSION OF TIME.

Wes Trounson
(Signature)*
*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to January 1, 1989.

IT IS FURTHER ORDERED that the Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect public interest.

Signed this 11th day of June, 19 85.

L. Glen Saxton
Chief, Operations Bureau

MICROFILMED

State of Idaho

Department of Water Resources

RECEIVED

OCT 24 1983

Department of Water Resources

ASSIGNMENT OF PERMIT

I, Kenneth Ellis-Pres. AquaLifeCorp., hereby assign to Wes Thomson

of Rt 2 Box 108 Wendell, Idaho 83355
Address

CHECK ONE

☒ All my right, title, and interest in and to Permit No. 36-7537 to appropriate the public waters of the State of Idaho.

☐ The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

Made this 13th day of Oct., 19 83.

Kenneth Ellis Pres.
Permit Holder

AquaLife Corp.
Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss.

On this 13th day of Oct, 19 83, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

seal

Notary Public residing at Burley, Idaho

My commission expires:
Sept 1987

OK tw
12/7/83

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF EXTENDING THE PROOF DUE DATE IN CONNECTION WITH PERMIT NO. 36-7537 IN THE NAME OF AQUA LIFE, INC.	ORDER

WHEREAS, on April 8, 1975, Wes and Myriel Trounson applied to the Department of Water Resources for a permit to appropriate 10.00 cubic feet per second of water from Briggs Springs to be diverted within the NE¼SW¼, NW¼SW¼, Sec. 3, Twp. 9S, Rge. 14E B.M., Gooding County, to be used for irrigation, domestic, and recreational purposes; and,

WHEREAS, on May 28, 1975, the Department approved said application and issued Permit No. 36-7537 with the condition that proof of construction of works and application of water to beneficial use be submitted to the Department on or before May 1, 1980; and,

WHEREAS, on November 6, 1979, the permit holder assigned all right, title, and interest in and to Permit No. 36-7537 to Aqua Life, Inc.; and,

WHEREAS, on April 10, 1980, the permit holder submitted a request for an extension of time; and,

WHEREAS, it appears that under the circumstances, the permit holder has been proceeding with reasonable diligence and has given good cause for delay;

IT IS, THEREFORE, HEREBY ORDERED that the time within which to submit proof of beneficial use of water under Permit No. 36-7537 be extended to May 1, 1985.

Dated this 17th day of April, 1980.

RECEIVED

L. Glen Saxton

L. GLEN SAXTON

Chief, Operations Bureau

RECEIVED

NOV 6 1979

Department of Water Resources
Southern District Office

State of Idaho
Department of Water Resources

STATE OF IDAHO, COUNTY OF GOODING. ss.
Filed for record at the request of Le Moyne
15 min. past 10 o'clock A.M. this 6 day
of Nov. 19 79
MARGARET F. CLEMENTS Recorder
By Judy Dunbar Deputy

ASSIGNMENT OF PERMIT

I, Wes Trounson, hereby assign to Aqua Life, Inc.

of Rt. 3, Box 50, Buhl, Idaho
Address

CHECK ONE

[xx] All my right, title, and interest in and to Permit No.s. 36-7537 & 36-7538 to appropriate the public waters of the State of Idaho.

[ ] The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

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NOV 9 1979
Department of Water Resources

Made this ninth day of May, 19 79.

Wes Trounson
Permit Holder

Spouse of Permit Holder

State of Idaho)
) ss.
County of Gooding)

On this 9th day of May, 19 79, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

seal

John R. Le Moyne
Notary Public residing at
Hagerman, Idaho

My commission expires:
Lifetime

MICROFILMED

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF CHANGING THE MEASURING DEVICE REQUIREMENT FOR PERMIT NO. **36-7537**

ORDER

WHEREAS, the above numbered permit was approved with the condition that a measuring device of a type approved by the Department be permanently installed and maintained as part of the diverting works; and,

WHEREAS, on July 1, 1978, the Department adopted a new water measurement condition which states: "An access port or other device as specified by the Department shall be installed by the permit holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department"; and,

WHEREAS, the former condition required the permit holder to purchase and install a measuring device or hire a professional engineer to certify the rate of diversion; and,

WHEREAS, the measuring device condition effective July 1, 1978, requires less capital expenditure by the permit holder; and,

WHEREAS, to be equitable to holders of permits issued prior to July 1, 1978, the new condition should be retroactive;

NOW THEREFORE, it is hereby ordered that the condition of approval of this permit related to water measurement is hereby changed as follows: "The permit holder shall either install a measuring device or provide a certified measurement by a professional engineer or install an access port or other device as specified by the Department".

Dated this 18th day of August, 1978.

C. STEPHEN ALLRED
Director

MICROFILMED

Identification No. _____

Application No. 36-7537

ASSIGNED TO:
Aqua Life, Inc.
Rt. 3, Box 50
Buhl, ID 83316

APPROVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED
APR 11 1975
Department of Water Resources
Southern District Office

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

1. Name of applicant Wes &/or Myriel Trounson Phone: 536-2043
   post office address Route #2, Wendell, ID 83355
2. Source of water supply Briggs Springs which is a tributary of Snake River
3. a. Location of point of diversion is NE (Goodings) ¼ of SW ¼ of Section 3 Township 9S
   Range 14E B.M. County; additional points of diversion if any: _____
   NW¼SW¼, Sec. 3, Twp. 9S, Rge. 14E, B.M.
   b. If water is not consumed, it will be discharged into _____ at a point in _____ ¼
   of _____ ¼ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
   Amount 5.68 (cfs or acre-feet per annum) for irrigation purpose from Mar. 15 to Nov. 15 (both dates inclusive)
   Amount 0.18 (cfs or acre-feet per annum) for domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)
   Amount 4.14 (cfs or acre-feet per annum) for recreation purpose from Jan. 1 to Dec. 31 (both dates inclusive)
5. Total quantity to be appropriated:
   a. 10.00 cubic feet per second and/or
   b. _____ acre feet per annum.
6. Proposed diverting works:
   a. Description of ditches, flumes, pumps, headgates, etc. Concrete diversion & pipelines to the place of use.
   b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir capacity _____ acre feet, materials used in storage dam: _____
   Period of year during which storage will occur _____ (Mo. Day) to _____ (Mo. Day) inclusive.
   c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years.
   b. Estimated construction cost is $_____.
8. Description of proposed uses: Lot 1, 6, & 7 — 10; Lot 2 — 9; Lot 9, 14, & 18 — 4
   a. If water is **not** for irrigation:
   (1) Give the place of use of water: NW ¼ of SW ¼ of Section 3 Township 9S
   Range 14E B.M.
   (2) Amount of power to be generated: _____ hp under _____ feet of head.
   (3) List number of each kind of livestock to be watered _____
   (4) Name of municipality to be served _____, or number of families to be supplied with domestic water Nine.
   (5) If water is to be used for other purposes describe: Recreation including fishing ponds, wildlife habitat, & landscaping.

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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	
9S	14E	3									15	25	40	40		10			130
		4			Lot 5 15	15									25	L.14 20	L.9 16	L.18 13	104
		9	L.2 6																6
		10					L.1 19	L.7 25											44

Total number of acres to be irrigated 284

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

9. a. Who owns the property at the point of diversion Idaho Power

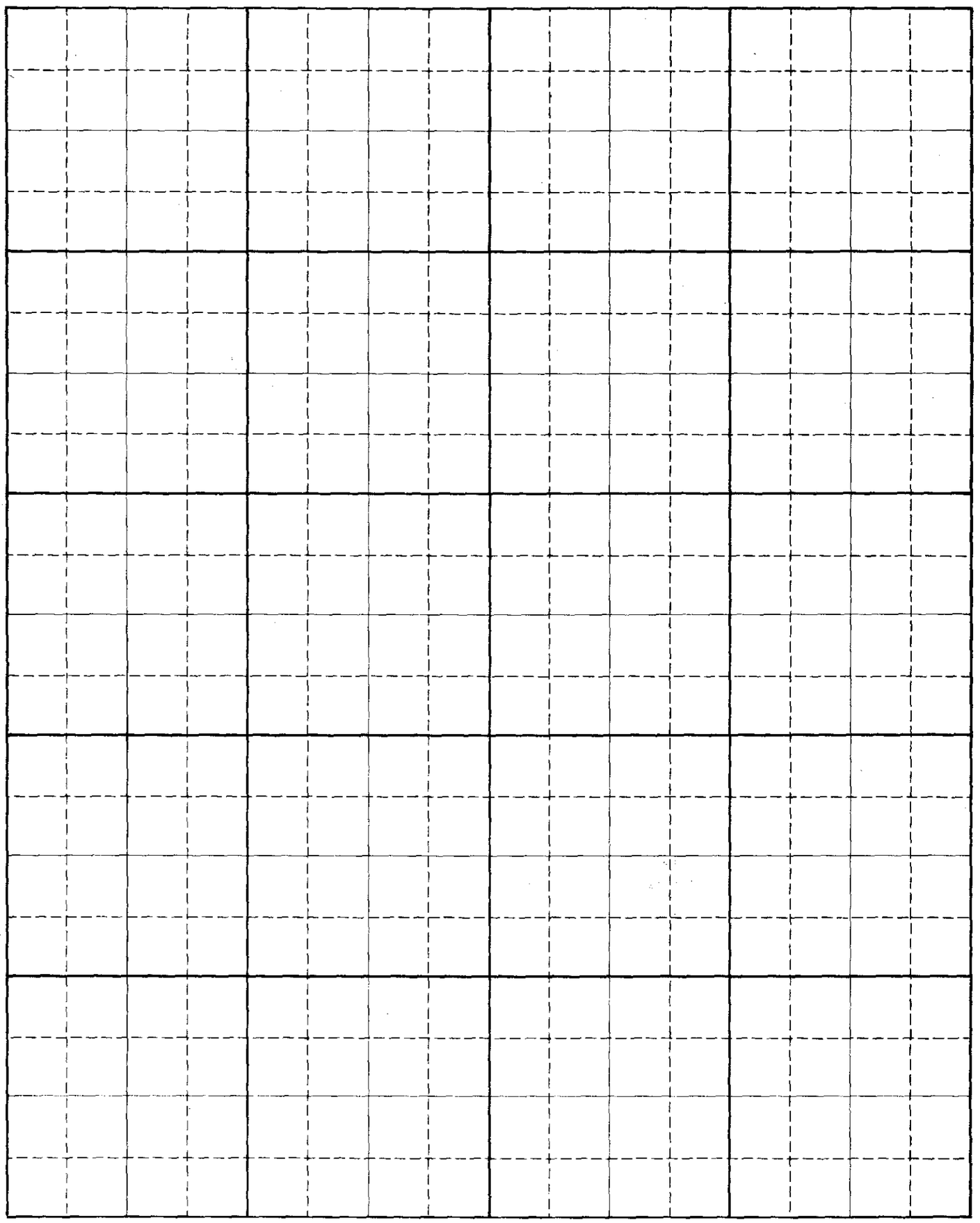
b. Who owns the land to be irrigated or place of use Applicant & family

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

Applicant owns one-fourth undivided interest.

10. Remarks

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.

Wes Trounson
(Applicant)
Myriel S. Trounson

Proposed Priority 4-08-1975

Received by SDF Date 4-8-75 Time 4:45 PM

Preliminary check by SDF Fee $ 115.00

Receipted by ~~ef~~ Date 4-08-75 Rec't # 1927

Publication prepared by CC Date 4-16-75

Published in Gooding County Leader

Publication dates 4-24 & 5-1-75

Publication approved CC Date 5-20-75

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for (approval) denial by JJS

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. 36-7537, 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 May 1, 19 80.

   c. Other: A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

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

Witness my hand this 28 day of May 19 75.

Director

HAEMMERLE & HAEMMERLE, P.L.L.C.

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

400 South Main Street, Suite 102
Tel: (208) 578-0520
Fax: (208) 578-0564

RECEIVED
FEB 12 2003
Department of Water Resources
Southern Region

February 10, 2003

RECEIVED
FEB 14 2003
Department of Water Resources

Idaho Department of Water Resources
c/o Allen Merritt
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Correspondence Relating to Pristine Springs, Inc.

Dear Mr. Merritt:

I am in receipt of a letter dated February 7, 2003, from you to Pristine Springs, Inc. The letter is in reference to calibration devices on hot wells. In the future, please be advised that I am the representative for Pristine Springs, Inc. As such, I respectfully request that you send any correspondence relating to any water right belonging to Pristine Springs, Inc., to my Office.

If you have any questions, please do not hesitate to call. Thank you.

Sincerely,

HAEMMERLE & HAEMMERLE, P.L.L.C.

Fritz X. Haemmerle

FXH: fxh
cc: client

WR database updated - 4.4.03 - Kari Lyons

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

PETER H. BURNO, dba/the Burno Boiler and Engine Works,

Plaintiff,

-vs-

WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, et al.

Defendants.

COPY

CAUSE NO. 19972

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FEB 02 1989
Department of Water Resources

TRANSCRIPT OF PROCEEDINGS

A P P E A R A N C E S

JEFF STOKER, Attorney at Law Box 1597, Twin Falls, Idaho 83301
appearing on behalf of Sheldon's/McCormick's
STEPHEN W. BEANE, Attorney at Law, 824 West Franklin St. Boise, Idaho 83702
appearing on behalf of Kaster.
LARRY PRINCE, Attorney at Law, Box 2527, Boise, Idaho 83701
appearing on behalf of Zions Leasing.

* * * * *

BEFORE HONORABLE GEORGE GRANTATA, JR. JUDGE PRESIDING

* * * * *

MICROFILMED
SEP 20 1990

Reported by Ray W. Patterson, CSR
Official Court Reporter
Cassia County Courthouse
Burley, Idaho 83318 678-9503

management rights of the non- leasehold property with a duty to inform Kasters of any activities concerning the non-leasehold property. The Sheldons and McCormicks shall not make any expenditures in excess of $500 without the Kaster's prior written concent, and the Sheldons and McCormicks shall not make any total expenditures in excess of $1,000 per year without the Kaster's prior written consent. In the event the parties cannot agree as to any such expenditures, the matter shall be submitted to binding arbitration provided, however, that in the event any expenditures of over $500 is made without prior written approval, the person or persons making the expenditures shall not be entitled to reimbursement except if the expenditure results in new income the person or persons making the expenditure may offset the expenditure against the new income.

Next item, the parties agree that no water filings on water to be used on the Briggs Creek Ranch are coming from Briggs springs shall be made without the prior agreement of all parties.

Next item, the parties agree to hold all water rights and tenants in common including the two Trounson water rights and all fish propagation water rights.

Next item, revenues arising out of the use of the non-leasehold property shall be split according to the parties interest in the property and paid by January 15 of each year.

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SEP 20 1990

CERTIFICATE OF COURT REPORTER

THE STATE OF IDAHO)
(
)
(
COUNTY OF CASSIA)

I, RAY W. PATTERSON, Official Court Reporter and Notary Public, in and for the Fifth Judicial District of Cassia County, Idaho, do hereby certify that the above and foregoing typewritten pages contain a full, true and correct transcription of my shorthand notes taken upon the occasion set forth in the caption hereof, as reduced to typewriting by me or under my direction.

Witness my hand, this the 27th day of September, 1988.

RAY W. PATTERSON, CSR
Official Court Reporter and
Notary Public, State of Idaho.
My Commission is for Life.

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SEP 20 1990

AMENDMENT AND CLARIFICATION

TO

LEASE AGREEMENT AND SETTLEMENT STIPULATION

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SEP 2 1989
Department of Water Resources

7. WATER:

c) In the event that Lessors have only 60 C.F.S. of water for fish propagation then the minimum rent as defined in Paragraph 4(a) of this agreement shall be reduced from the sum of $7,000 to $6,000.

9. LESSEES RESIDENCE:

a) Lessees, and anyone residing in the trailer shall not have a total of more than six large animals with six yearlings on the property at any given time.

b) It is understood and agreed between Lessors and Lessees that Dotie Juker, who presently has in excess of twelve cattle on the premises, shall be required to remove all of her cattle from the premises on or before the 15th day of September, 1988. Thereafter the terms and conditions relating to animals to be allowed on the premises shall be governed by the provisions set forth above.

17. TAXES:

a) It is agreed by the parties that, if an aquifer tax has already been assessed but unpaid for the year 1988, the Lessors shall be responsible for payment of the 1988 aquifer tax with Lessees being responsible for payment of all future aquifer taxes assessed against the water used on the leased premises.

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SEP 20 1990

EXHIBIT C

18. DEFAULT:

c) A monetary breach is defined as any breach by Lessees which involves the payment of funds to Lessors.

e) With regard to the payment of aquifer taxes, it is understood and agreed that Gooding County officials will be asked to send duplicate aquifer tax notices to both Lessors and Lessees with Lessees paying said aquifer taxes commencing in the year 1989 and thereafter before the same become delinquent.

19. TENANT IN COMMON MATTERS AND RELEASE

b) 1. The parties further agree that Lessors, before entering into any agreement relating to the non-leased property, shall give Lessees 30 days written notice of their intention to enter into said agreement. Within 15 days from receipt of said written notice, Lessees shall have the right to advise of any alternative arrangements for consideration by Lessors.

f) 1. The parties further agree that a water rights memorandum shall be placed in the State of Idaho Department of Water Resources official files reflecting each of them as **having, as tenants in common, an ownership interest in certain water rights, water permits, and licenses relating to the Briggs Springs,** specifically, Water Permit 36-2040 in the amount of 10.00 C.F.S. for fish propagation, Water Right 36-2607 in the amount of 60.00 C.F.S. for fish propagation, **Water Right 36-7537 in the total amount of 10.00 C.F.S. for irrigation, domestic, and recreational purposes, Water Permit 36-7538 in the total amount of 30.00 C.F.S. for fish propagation and power** and such other water

rights as may be in existence for domestic or irrigation purposes.

DATED this _____ day of August, 1988.

_____ _____

Randy McCormick Nancy McCormick

DATED this _____ day of August, 1988.

_____ _____

Willard Sheldon Hedwig Sheldon

DATED this _____ day of August, 1988.

_____ _____

Howard Sheldon Louise Sheldon

DATED this _____ day of August, 1988.

_____ _____

Richard Kaster Edith Kaster

MICROFILMED
SEP 6 0 1988

Department of Water Resources
Soutnern Regional Office
2148 Fourtn Avenue East
Twin Falls, Idaho 88301

Attention Clerk:

There are four(4) water filings numbered 39356 on file in your office.

Please place tnis letter of notification alongside these filings.

This action will satisfy one of many points of negotiation in a settlement stipulation in Civil Case #19972, Fifth District Court, Gooding, Idaho--Judge Granada presiding.

All parties involved request that the 'Name of Claimant' read thusly:

"Nancy McCormick, a tenant in common, on behalf of Randy McCormick, Willard B. Sheldon, Hedwig Sheldon, Howard Sheldon, Louise Sheldon, George M. Sheldon, Phyllis Sheldom, Richard Kaster, Edith Kaster, tenants in common" PHONE 208-543-4992

Wes Trounson's interest is now Mr. Richard Kaster's.

For confirmation/questions you may need/have, please call Fred Decker, attorney at law, 734-5610.

Sincerely yours,
Mrs. Nancy L. McCormick
543-4992

Copies to:
Decker
Beane
Prince
Kaster
Sheldons

ENCRONALMED
SEP 2 0 1990

1 water file
1- court settlement file

9 copies

JEFF STOKER, P.A.
733 Addison Avenue
P.O. Box 1597
Twin Falls, ID 83303-1597
(208)734-8452

Attorney For: Defendants

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

* * *

PETER H. BURNO, doing business as THE BURNO BOILER AND ENGINE WORKS,

Plaintiff,

-vs-

WILLARD E. SHELDON and spouse, if married, et.al.

Defendants.

Case No. 19972

RECEIVED
FEB 16 1989
Department of Water Resources

CROSS-CLAIM

GEORGE MYRON and PHYLISS SHELDON, HOWARD L. and LOUISE SHELDON, WILLARD and HEDWIG SHELDON, NANCY L. and RANDY MCCORMICK,

Cross-Claimants,

-vs-

RICHARD H. KASTER and EDITH KASTER, husband and wife,

Cross-Defendants.

* * *

Cross-claimants, for their cross-claim against Richard Kaster, do allege:

MICROFILMED
SEP 20 1990

I

This Court has jurisdiction of the parties and subject matter of this case.

II

These Cross-claimants are advised and therefore believe and state that the Cross-defendants, Richard H. and Edith Kaster without the Cross-claimant's authority or consent went upon Corss-claimant's property and in the process of attempting to construct a hydroelectric power plant entered into certain transactions with a Peter H. Burno doing business as Burno Boiler and Engine Works.

III

As a consequence of some transaction between the Cross-defendants, Richard and Edith Kaster and Peter H. Burno relating to the alleged purchase by Cross-defendants of various good, wares, merchandise and services from Burno prior to September 21, 1985 for which the defendant Kaster has allegedly failed to pay Burno, - Burno has caused a Claim of Lien to be filed against the Cross-claimant's property known as the Briggs Creek Ranch including portions of Section 4 in Township 9, South Range 14 East of the Boise Meridian. Furthermore, as a consequence of some transaction between the Cross-defendants, Richard and Edith Kaster and Peter Burno relating to the alleged purchase of goods, wares, merchandise or services for the construction of a power plant upon Cross-claimant's property, Peter Burno has caused a Complaint to be filed against these Defendants to foreclose the above mentioned Claim of Lien.

IV

The Cross-defendant, Richard Kaster, at no time communicated to these Cross-claimants any information relating to any transaction with Peter Burno and was, at no time, authorized

MICROFILMED
SEP 28 1989

to enter into any transaction which would result in any lien being filed against the Cross-claimant's property.

V

Terms and conditions of a lease between Cross-claimaints and Cross-defendants, Kasters, relating to the lease of the portion of the Briggs Creek Ranch for fish propagation, only, specifically prohibits the Defendant from allowing any liens or encumbrances to attach to the subject property.

VI

In the event that Peter Burno should recover any judgment against these Cross-claimants as a consequence of the above mentioned lien and lien foreclosure, these Cross-claimants should have judgment over and against the Defendants, Richard and Edith Kaster for the amount of any judgment including all attorney's fees and costs incurred by Cross-claimants in the defense of the claims by Peter Burno and in the assertion of this Cross-Claim.

VII

It is further requested that Defendant Kasters be required to indemnify the Sheldon's and McCormick's from any claims, liens or damages that may be attributed to the real property owned by the Cross-Claimants.

WHEREFORE, Cross-Claimants pray for judgment against Defendant Kasters as follows:

1. For a judgment against the Defendants for any judgment or damages that might be rendered against the Cross-claimants on behalf of the Plaintiffs.

2. For costs of suit and attorney fees.

MICROFILMED
SEP 24 1990

3. For such other and further relief as the court deems just and equitable in the premises.

As and for a cross-claim against all other named defendants, the cross-claimants do allege as follows:

I

The various parties to this matter claim an interest in and to the real property upon which the hydroelectric plant is built out of which this action arose.

II

It is requested that the court grant declaratory relief to the cross-claimants determining the right title and interest of all parties in regard to said real property, the hydro-electric plant and any leases, contracts, or other agreements which pertain to said property and/or hydroelectric plant.

III

Further, cross-claimants request the court to make a determination as the validity of any liens or mortgages which have been filed against said property by any parties to this action.

IV

It is further requested that the court determine what right title and interest cross-claimants as well as all other parties should have in and to the power agreement entered into between defendant Kasters and Idaho Power Company.

WHEREFORE, cross-claimants pray judgment as follows:

1. For a declaration by the court as to the rights and interests of the respective parties of this action in and to all agreements, mortgages, liens, leases or other documents which

MICROFILMED
SEP 2 0 1990

pertain to the ownership and control of the real property out of which this action arose and the hydroelectric plant which is situated on said property as well as the right title and interest and obligation of all parties in regard to any debts owed on said power plant and/or in regard to any claims made by plaintiff or other parties herein.

2. For costs of suit and attorney fees.

3. For such other and further relief as the court deems just and equitable in the premises.

DATED this 1 day of July, 1987.

Jeff Stoker

FILED
SEP 2 9 1987
CROSS-CLAIM

CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I am a resident attorney of the State of Idaho and that on the 24 day of July, 1987, I served copies of the foregoing document by causing to be deposited copies thereof in the post office at Twin Falls, Idaho, enclosed in envelopes with postage prepaid, addressed to the following:

Jon M. Steele
Idaho First Plaza, Suite 1500
101 South Capitol Blvd.
Boise, ID 83702

Larry Prince
P.O. Box 25257
Boise, ID 83701

Robert E. Williams, III
P.O. Box 168
Jerome, ID 83338

Peter J. Boyd
P.O. Box 1559
Boise, ID 83701

Jeff Stoker

MICROFILMED
SEP 20 1990

Larry E. Prince
Kimbell D. Gourley
HOLLAND & HART, LANGROISE, SULLIVAN
Suite 1400, Idaho First Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 343-3676

RECEIVED
FEB 16 1989
Department of Water Resources

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

PETER H. BURNO, dba/The Burno Boiler and Engine Works, Plaintiff, vs. WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, et al, Defendants.	Case No. 19972 ANSWER TO COUNTERCLAIM AND CROSS-CLAIM
AND CONSOLIDATED CASE NOS. 20004, 19615, 19918, 20287, and 20194,	

COMES NOW Cross-Defendant, The Lockhart Company ("Lockhart Company"), by and through its counsel of record, Holland & Hart, Langroise, Sullivan, and in answer to the Cross-Claim and Counterclaim of Cross-Claimants, Richard H. Kaster and Edith M. Kaster, filed herein, admits, denies and alleges as follows:

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SEP

I.

Cross-Claimants fail to state a claim for relief against Lockhart Company upon which relief can be granted.

II.

Lockhart Company denies each and every allegation contained in Cross-Claimants Consolidated Counterclaim and Cross-Claim not specifically and expressly admitted herein.

III.

In answer to Paragraph I of Cross-Claimants' First Cause of Action, Lockhart Company denies the allegations contained therein to the extent they require an answer.

IV.

In answer to Paragraphs II and III of Cross-Claimants' First Cause of Action, Lockhart Company denies the allegations contained therein for the reason that it is without sufficient information to form a belief as to the truth of the allegations contained therein.

V.

In answer to Paragraph IV of Cross-Claimants' First Cause of Action, Lockhart Company admits it claims an interest, pursuant to that certain assignment executed by Kasters in favor of Lockhart Company, in and to the Idaho Power proceeds received from the Briggs Creek Hydro Plants' production and sale of hydro-electric power, but denies all other allegations contained

SEP 24 1990

therein for the reason that it is without sufficient information to form a belief as to the truth of the allegations contained therein.

VI.

In answer to Paragraphs V through IX of Cross-Claimants' First Cause of Action, Lockhart Company denies the allegations contained therein for the reason that it is without sufficient information to form a belief as to the truth of the allegations contained therein.

VII.

In answer to Paragraph X of Cross-Claimants' First Cause of Acton, Lockhart Company admits that the Kasters have retained the services of Stephen W. Beane, but denies all other allegations contained therein.

VIII.

In answer to Counts II and III of Cross-Claimants' Counterclaim and Cross-Claim, Lockhart Company denies the allegations contained therein for the reason that it is without sufficient information to form a belief as to the truth of the allegations contained therein.

WHEREFORE, having fully answered Cross-Claimants', Richard H. Kaster and Edith M. Kaster, Counterclaim and Cross-Claim herein, Lockhart Company prays for relief as follows:

SEP 2 9 1990

1. That the Counterclaim and Cross-Claim filed herein by Cross-Claimants, Richard H. Kaster and Edith M. Kaster, be dismissed with prejudice and that Cross-Claimants take nothing by their Counterclaim and Cross-Claim;

2. That Lockhart Company be awarded its costs and attorney's fees incurred herein; and

3. For such other and further relief as the Court deems just and proper in the premises.

DATED this 20th day of November, 1987.

HOLLAND & HART, LANGROISE, SULLIVAN

By _____
Kimbell D. Gourley, of the firm
Attorneys for Lockhart Company

MICROFILMED
SEP 2 0 1990

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 1987, I mailed a true and correct copy of the foregoing ANSWER TO COUNTERCLAIM AND CROSS-CLAIM by placing a copy thereof in the United States mail, postage prepaid, addressed to the following:

Jon M. Steele
1500 Idaho First Plaza
101 S. Capitol Blvd.
Boise, ID 83702

Jeff Stoker
P. O. Box 1597
Twin Falls, Idaho 83301

Peter J. Boyd
Kenneth M. Sebby
P. O. Box 1559
Boise, ID 83701

Robert E. Williams
P. O. Box 168
Jerome, ID 83338

Stephen W. Beane
824 W. Franklin Street
Boise, Idaho 83702

Cecil D. Hobdey
125 5th Avenue
P. O. Box 176
Gooding, Idaho 83330

Steven Hoskins
501 Broadway
Idaho Falls, Idaho 83402

of HOLLAND & HART,
LANGROISE, SULLIVAN

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SEP 20 1990

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FEB 16 1989
Department of Water Resources

COPY

JEFF STOKER, P.A.
733 Addison Avenue
P.O. Box 1597
Twin Falls, ID 83303-1597
(208)734-8452

Attorney For: Defendants/Cross-Claimants

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

* * *

PETER H. BURNO, doing business as THE BURNO BOILER AND ENGINE WORKS,

Plaintiff,

-vs-

WILLARD E. SHELDON and spouse if married, et.al.

Defendants.

Case No. 19972

CONSOLIDATED AMENDED COMPLAINT

GEORGE MYRON and PHYLLIS SHELDON, HOWARD L. and LOUISE SHELDON, WILLARD and HEDWIG SHELDON, NANCY L. and RANDY MCCORMICK,

Cross-Claimants,

-vs-

RICHARD H. KASTER and EDITH KASTER, husband and wife, CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, husband and wife, LARRY CRUPPER and MARY E. BRUSH CRUPPER, husband and wife, DALE HIRE, also known as DALE I. HIRE and MARGARET E. HIRE, husband and wife, ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, KASTER BRIGGS CREEK HYDROELECTRIC PLANT, ZIONS LEASING COMPANY, VIOLET MILLER, THE LOCKHARD COMPANY, FARMER'S NATIONAL BANK, and all other parties

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in possession or claiming any right to possession, and DOES I through V,

Defendants.

* * *

Cross-claimants, for their cross-claim against Richard and Edith Kaster, do allege:

COUNT I

I

This court has jurisdiction of the parties and subject matter of this case.

II

These Cross-claimants are advised and therefore believe and state that the Cross-defendants, Richard H. and Edith Kaster without the Cross-claimant's authority or consent went upon Cross-claimant's property and in the process of attempting to construct a hydroelectric power plant entered into certain transactions with a Peter H. Burno doing business as Burno Boiler and Engine Works.

III

As a consequence of some transaction between the Cross-defendants, Richard and Edith Kaster and Peter H. Burno relating to the alleged purchase by Cross-defendants of various good, wares, merchandise and services from Burno prior to September 21, 1985 for which the defendant Kaster has allegedly failed to pay Burno, - Burno has caused a Claim of Lien to be filed against the Cross-claimant's property known as the Briggs Creek Ranch including portions of Section 4 in Township [illegible] South Range 14 East of the Boise Meridian. Furthermore, as a

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consequence of some transaction between the Cross-defendants, Richard and Edith Kaster and Peter Burno relating to the alleged purchase of goods, wares, merchandise or services for the construction of a power plant upon Cross-claimant's property, Peter Burno has caused a Complaint to be filed against these defendants to foreclose the above mentioned Claim of Lien.

IV

The Cross-defendant, Richard Kaster, at no time communicated to these Cross-claimant's any information relating to any transaction with Peter Burno and was, at no time, authorized to enter into any transaction which would result in any lien being filed against the Cross-claimant's property.

V

Terms and conditions of a lease between Cross-claimant's and Cross-defendant's, Kasters, relating to the lease of the portion of the Briggs Creek Ranch for fish propagation, only, specifically prohibits the defendant from allowing any liens or encumbrances to attach to the subject property.

VI

In the event that Peter Burno should recover any judgment against these Cross-claimant's as a consequence of the above mentioned lien and lien foreclosure, these Cross-claimant's should have judgment over and against the defendants, Richard and Edith Kaster for the amount of any judgment including all attorney's fees and costs incurred by Cross-claimant's in the defense of the claims by Peter Burno and in the assertion of this Cross-claim.

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VII

It is further requested that defendant Kasters be required to indemnify the Sheldon's and McCormick's from any claims, liens or damages that may be attributed to the real property owned by the Cross-claimant's.

WHEREFORE, Cross-claimant's pray for judgment against defendant Kasters as to Count I as follows:

1. For a judgment against the defendants for any judgment or damages that might be rendered against the Cross-claimant's on behalf of the plaintiff's or on behalf of other parties.

2. For costs of suit and attorney fees.

3. For such other and further relief as the court deems just and equitable in the premises.

COUNT II

I

At all times mentioned herein Cross-claimant's were owners of real property located in Section 4, Township 9 South, Range 14 East of the Boise Meridian in Gooding County, Idaho, said property commonly and variously known as the Briggs Creek Ranch and Briggs Creek property.

II

At all times mentioned herein the Cross-defendant Kasters were residents of Gooding County, Idaho.

III

Kasters have wrongfully occupied portions of the above-referenced (Briggs Creek) property and have utilized the same for the apparent purpose of constructing a hydroelectric power plant upon the same.

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IV

In connection with the above referenced construction, Kasters have caused roads to be built, have altered stream flows, and have generally undertaken a course of conduct to alter the condition of the Cross-claimant's property.

V

The interference with and alteration of Cross-claimant's property is continuing. The plaintiff's have no adequate remedy at law to protect against the continued trespass upon, and alteration of, their property and plaintiff's have, and will in the future, incur irreparable harm as a result of the defendant's activity.

COUNT III

I

Plaintiff's incorporate by reference the allegations contained in Count II.

II

In separate conversations with two of the Cross-claimant's defendant Richard Kaster agreed that if Cross-claimant's would allow use of their property and water flowing therefrom for power plant construction, that Cross-claimant's and defendant's would share eqully in revenues generated from any plant constructed upon the Cross-claimant's property provided that the actual costs of plant construction be ammortized or repaid to the Kasters. Without making further arrangements or agreements with the Cross-claimant's Kasters unilaterally began construction of a power plant upon the Cross-claimant's property and caused significant alterations to the property.

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III

Gaining knowledge of the Kasters actual construction of the power plant, the Cross-claimant's repeatedly requested that Kaster cease construction of the plant and alteration of the property until the parties reached an agreement regarding use of the property. The defendant represented to the Cross-claimant's that he would in fact, enter into an agreement for use of the Cross-claimant's property in accordance with the intentions expressed by him in the above mentioned conversations. Despite these representations, Kaster continued to resist the Cross-claimant's request that Kaster enter into an agreement setting forth the parties rights.

IV

On April 4th and 5th, 1985, Cross-Claimant's and Richard Kaster entered into actual discussion concerning use of the property. These discussions culminated in an agreement the essential terms of which were that Kaster would pay one-half of revenues produced from generation of power from the plant except that over the first seven years of plant operation the costs of the plant would be ammortized and paid to the Kasters. The parties further agreed that the agreement would be in the form of a lease, the term of which would be for thirty (30) years. Cross-claimant's agreed to cause the agreement to be reduced to writing and did in fact, accomplish this. However, after this was done, Mr. Kaster refused to enter into this agreement.

V

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Cross-claimant's detrimentally relied upon representations

made by Kaster initially, and during the course of construction of the plant, that Kaster would enter into an agreement in accordance with the essential terms and conditions suggested by the Cross-claimant's and subsequently agreed to by Kaster. As a consequence, defendants Kaster should be estopped from denying the terms and contitions of the agreement, should not be allowed further use of Cross-claimant's property, or should be held to be a 20% owner of the hydro plant with Cross-claimant's as 80%.

COUNT IV

I

Cross-claimant's reallege the allegations contained in Counts II and III as if set forth in full.

II

Kaster's actions have been willful and constitute a trespass thereby entitling Cross-claimant's to actual as well as punitive damages in an amount to be determined by the court.

COUNT V

I

Cross-claimant's incorporate by reference the statements contained in Count II, III, and IV herein.

II

It is requested that the court issue an Order directing that any revenues received from operation of the power plant be paid into the court and held pending further determination as to proper distribution of the revenues.

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III

That defendant be required to account for any funds received or earned as a result of the operation of the hydro plant.

IV

That defendant be required to pay Cross-claimant's a portion of said revenues in an amount to be determined by the court.

COUNT VI

I

On the 22nd day of January, 1974, Cross-claimant's and Kasters entered into a Lease Agreement, a copy of which is attached hereto as Exhibit "1".

II

Over the course of many years, Kaster has periodically and continually breached the expressed terms of the Lease Agreement as well as the spirit and intent of said agreement.

III

Because of Kaster's repeated breach of and disregard for the terms and conditions of the Lease Agreement, Cross-claimant's caused a Notice of Default; Notice of Election of Remedies; and Notice to Vacate to be mailed certified mail return receipt requested to the defendants at their address, Route #4, Buhl, Idaho. A copy of the Notice of Default is attached as Exhibit "2". The above mentioned Notice of Default sets out some of the more important breaches and defaults committed by Kasters. Cross-claimant's refer to these enumerated breaches and incorporate them in this Complaint by reference thereto. In addition to the breaches as enumerated, Kasters have, over the course of the lease, repeatedly refused to provide the Cross-claimant's with an accounting which would verify the gross sales of fish produced upon the p[illegible] has repeatedly failed to make the lease payments required on time.

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IV

The Lease Agreement calls for a minimum payment of $4,000 per year for production of fish but contemplates that the Kasters will use their best efforts to produce fish in quanities sufficient to provide a reasonable return for Cross-claimant's. Through the use of sixty cubic feet of water or more each year, Kasters should have and could produce fish in quantities sufficient to provide the Cross-claimant's a reasonable return. Kasters have not paid the Cross-claimant's even the minimum required by the lease for fish production and use of water.

V

More than ninety days have passed since the Cross-claimant's caused their Notice of Default and Notice to Vacate to be mailed to the Kasters. Kasters have failed or refused to cure the enumerated defaults and breaches. Specifically, Kasters remain in possession and control of water permits and water licenses for approximately seventy cubic feet of water which the Kasters are using for the production of hydroelectric power upon the leased property in direct contravention of terms and conditions of the lease which provide that: "mineral, gravel, water, and thermal water rights shall remain in the name of lessors and same shall be used on the property of lessors for fish propagation only".

VI

Kasters have refused and failed to remove mechanic's and materialman's liens from the property. In particular, materialman's lien has been filed by Peterson dba The

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Burno Boiler and Engine Works of Edgerton, Wisconsin, encumbering the subject property in the amount of approximately $299,266.20. This lien encumbers the Briggs Creek property including the property subject to the fish production lease between Cross-claimant's and Kasters.

WHEREFORE, Cross-claimant's pray judgment as to Counts II, III, IV, V and VI against defendant Kasters as follows:

1. For a permanent injunction against Kasters, ordering Kasters to cease and desist from further trespassing upon or interfering with the Cross-claimant's property, further alteration of Cross-claimant's property and for removal of all improvements associated with construction or use of Cross-claimant's property.

2. In respect to Count IV, for monetary damages, for alterations, to Cross-claimant's property and damage to the natural habitat.

3. For punitive damages in an amount to be determined by the court.

4. In respect to Count V, that revenues heretofore received or to be received in the future from operation of the power plant be held by the court for the benefit of the parties and that Kasters be required to pay into court all revenues received from operation of the power plant until resolution of this case.

5. That Kasters be required to give an accounting of all funds received as income or revenue from the hydroelectric plant.

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6. That Kasters be required to pay to Cross-claimant's

a portion of any income received from hydroelectric plant in an amount to be determined by the court.

7. Cross-claimant's pray judgment against the Kasters as to Count VI as follows:

(a) The court declare the termination and forfeiture of the above mentioned Lease Agreement.

(b) The court require that Kasters assign, set over, and convey to the Cross-claimant's all water, thermal or mineral rights in which he has acquired an interest, permit, or license in accordance with terms and conditions of the Lease Agreement.

(c) The court make a finding that Kasters have created but refused to remove a mechanic's and materialman's lien from the property in breach of terms and conditions of the Lease Agreement

(d) The court order the Kasters to pay to Cross-claimant's amounts properly owing for the propagation of fish upon Cross-claimant's property and use of Cross-claimant's water in amounts as shall be subject to proff at the time of trial.

8. For costs of suit and reasonable attorney fees.

9. For such other and further relief as the court deems just and equitable in the premises.

COUNT VII

As and for a cross-claim against all named defendants, and as and for a cause of action against Violet Miller, The Lockhart Company, and Farmer's National Bank, the cross-claimant's do allege as follows:

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I

Cross-claimant's reallege the allegations contained in Counts I thru VI as if set forth in full herein.

II

The various parties to this matter claim interests in and to real property owned by Cross-claimant's upon which defendant Kasters have constructed the hydroelectric plant.

III

It is requested that the court grant declaratory relief to the Cross-claimant's determining the right, title, and interest of all parties in regard to said real property, the hydroelectric plant and any leases, contracts, or other agreements which pertain to said property and/or hydroelectric plant. Specifically, it is requested that a determination be made as to 1) the Burno liens filed of record; 2) the Idaho Power agreement; 3) the Kaster-Sheldon lease; 4) the Kaster-Zions Leasing mortgage&agreements; 5) the Kaster purchase agreements on the 20% interest; 6) all judgments filed against Richard Kaster; 7) any assignments of the Idaho Power contract to Zions Leasing, The Lockhart Company, and Farmer's National Bank; and 8) any other documents that purport to transfer any of defendant Kasters interests in and to the real property or in and to the power plant revenue.

IV

Further, Cross-claimant's request the court to make a determination as the validity of any liens or mortgages which have been filed against said property by any parties to this action.

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V

It is further requested that the court determine what right, title, and interest Cross-claimant's, as well as all other parties should have, in and to the power agreement entered into between defendant Kasters and Idaho Power Company.

WHEREFORE, Cross-claimant's pray judgment as to Count VII as follows:

1. For a declaration by the court as to the rights and interests of the respective parties of this action in and to all agreements, mortgages, liens, leases or other documents which pertain to ownership and control of the real property out of which this action arose and the hydroelectric plant which is situated on said property as well as the right, title, and interest and obligation of all parties in regard to any debts owed on said power plant and/or in regard to any claims made by plaintiff or other parties herein.

2. It is also requested that the court determine who has responsibility for real and personal property taxes on said property.

3. For costs of suit and attorney fees.

4. For such other and further relief as the court deems just and equitable in the premises.

DATED this 4th day of September, 1987.

Jeff Stoker

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CERTIFICATE OF MAILING

I, the undersigned, hereby certify that I am a resident attorney of the State of Idaho and that on the 4th day of September, 1987, I served copies of the foregoing document by causing to be deposited copies thereof in the post office at Twin Falls, Idaho, enclosed in envelopes with postage prepaid, addressed to the following:

Stephen W. Beane
824 West Franklin Street
Boise, ID 83702

Larry Prince
P.O. Box 2527
Boise, ID 83701

Jon M. Steele
Idaho First Plaza, Suite 1500
101 South Capitol Blvd.
Boise, ID 83702

Robert E. Williams, III
P.O. Box 168
Jerome, ID 83338

Peter J. Boyd
P.O. Box 1559
Boise, ID 83701

Steve Hoskins
P.O. Box 279
Idaho Falls, ID 83402

Cecil Hobdey
P.O. Box 176
Gooding, ID 83330

Jeff Stoker

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Attorneys for Defendants/
Counterclaimants Kaster
in Gooding County Case No. 19972

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Attorney for Defendants/
Counterclaimants Kaster
in Gooding County Cases 19615,
19918, 20004, 20194, and 20287

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Department of Water Resources

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

PETER H. BURNO, doing business as THE BURNO BOILER AND ENGINE WORKS, Plaintiff, v. WILLARD E. SHELDON and spouse, if married; HOWARD SHELDON and wife, if married; GEORGE M. SHELDON and wife, if married; CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, husband and wife; LARRY CRUPPER and MARY E. BRUSH CRUPPER, husband and wife; DALE HIRE, also known as Dale I. Hire, and MARGARET E. HIRE, husband and wife; NANCY McCORMICK and spouse, if married; RICHARD H. KASTER, also known as Rick	Case No. 19972 CROSS-DEFENDANTS KASTERS' ANSWER TO CROSS-CLAIM, COUNTERCLAIM, AND CROSS-CLAIM

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1990

Kaster, also known as Dick Kaster, and EDITH KASTER, also known as Edith M. Kaster, husband and wife; ED HAIGHT; MAX HOSKINS; MARK HOSKINS; MIKE HOSKINS; KASTER BRIGGS CREEK HYDROELECTRIC PLANT; ZIONS LEASING COMPANY; and all other parties in possession or claiming any right to possession; and DOES I through V,

Defendants.

RICHARD H. KASTER, also known as Rick Kaster, and EDITH KASTER, also known as Edith M. Kaster, husband and wife,

Counterclaimants,

v.

PETER H. BURNO, doing business as the BURNO BOILER AND ENGINE WORKS,

Counterdefendant.

GEORGE MYRON and PHYLLIS SHELDON; HOWARD L. and LOUISE SHELDON; WILLARD and HEDWIG SHELDON; NANCY L. and RANDY McCORMICK,

Cross-claimants,

v.

RICHARD H. KASTER and EDITH KASTER, husband and wife; CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, husband and wife; LARRY CRUPPER and MARY E. BRUSH CRUPPER, husband and wife; DALE HIRE, also known as Dale I. Hire and MARGARET E. HIRE, husband and wife; ED HAIGHT; MAX HOSKINS; MARK HOSKINS; MIKE HOSKINS; KASTER BRIGGS CREEK HYDRO-ELECTRIC PLANT; ZIONS LEASING

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COMPANY; VIOLET MILLER; THE LOCKART COMPANY; FARMER'S NATIONAL BANK; GEORGE and MERRILEE BRUSH; and all other parties in possession or claiming any right to possession; and DOES I through V,

Cross-defendants.

RICHARD H. KASTER and EDITH M. KASTER, husband and wife,

Counterclaimants/ Cross-claimants,

v.

PETER H. BURNO, doing business as THE BURNO BOILER AND ENGINE WORKS,

Counterdefendant,

and

GEORGE MYRON and PHYLLIS SHELDON; HOWARD L. and LOUISE SHELDON; WILLARD and HEDWIG SHELDON; NANCY L. and RANDY McCORMICK,

Counterdefendants,

and

CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, husband and wife; LARRY CRUPPER and MARY E. BRUSH CRUPPER, husband and wife; DALE HIRE, also known as Dale I. Hire and MARGARET E. HIRE, husband and wife; ED HAIGHT; MAX HOSKINS; MARK HOSKINS; MIKE HOSKINS; KASTER BRIGGS CREEK HYDRO-ELECTRIC PLANT; ZIONS LEASING COMPANY; VIOLET MILLER; THE LOCKART COMPANY; FARMER'S NATIONAL BANK; GEORGE and MERRILEE BRUSH; and all other parties in possession or claiming any right to posses-

FILED
SEP 20 1990

MARY BRUSH CRUPPER and LARRY CRUPPER, husband and wife, Plaintiffs, v. RICHARD and EDITH KASTER, et al., Defendants.	)	Case No. 20287
GEORGE MYRON SHELDON, et al., Plaintiffs, v. RICHARD KASTER, Defendant.	)	Case No. 19918

Defendants/Cross-defendants Richard H. Kaster and Edith Kaster, husband and wife (hereinafter "Kasters"), as and for an answer to cross-claimants' cross-claim on file herein, admit, deny, and allege as follows:

FIRST DEFENSE

Cross-claimants' cross-claim fails to state a cause of action against Kasters upon which relief may be granted.

SECOND DEFENSE

Kasters deny each and every allegation contained in cross-claimants' cross-claim not specifically admitted herein.

THIRD DEFENSE

Count I

I.

In answer to paragraph I of cross-claimants' cross-claim, Kasters admit the allegation contained therein.

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II.

In answer to paragraph II of cross-claimants' cross-claim, Kasters deny each and every allegation contained therein.

III.

In answer to paragraph III of cross-claimants' cross-claim, Kasters admit that Peter H. Burno filed a Claim of Lien and further admit that Peter H. Burno has filed a first amended complaint to foreclose said lien, but deny each and every remaining allegation contained therein.

IV.

In answer to paragraphs IV, V, VI, and VII of cross-claimants' cross-claim, Kasters deny each and every allegation contained therein.

Count II

I.

As to paragraph I of Count II, Kasters admit that cross-claimants collectively own 80 percent of an undivided interest in the property commonly known and referred to as the Briggs Creek Ranch located in Gooding County, Idaho.

II.

Kasters admit the allegations contained in paragraph II of Count II of the cross-claim.

III.

As to paragraph III of Count II of the cross-claim, Kasters admit that pursuant to a Lease Agreement dated January 22, 1974, and as an owner of an undivided interest in the property commonly known and referred to as the Briggs Creek Ranch, Kasters have

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occupied portions of the Briggs Creek Ranch and have utilized the same for fish propagation and the construction and operation of a hydroelectric facility and have done so at their sole and complete expense.

IV.

As to paragraph IV of Count II, Kasters admit that construction of the hydroelectric facility has taken place, but affirmatively deny the nature and extent of the alterations caused by the hydroelectric plant as alleged in paragraph IV of Count II of the cross-claim.

V.

As to paragraph V of Count II, Kasters deny the allegations contained therein, and affirmatively state that the hydroelectric facility was built with the express knowledge and permission of the cross-claimants.

Count III

I.

Kasters reallege and incorporate by reference, as if set forth in full herein, their previous responses to the allegations contained in Count II of said cross-claim.

II.

As to Count III, paragraphs II, III, IV, and V, Kasters deny the allegations contained therein except to admit that there were a number of discussions among the parties regarding the construction of the hydroelectric facility and compensation for the use of cross-claimants 80 percent undivided ownership in the project.

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Count IV

I.

Kasters reallege and incorporate by reference, as if set forth in full herein, their previous responses to the allegations contained in Counts II and III of said cross-claim.

II.

Kasters deny the allegations set forth in Count IV, paragraph II and affirmatively state that at all times herein the Kasters were occupying and utilizing the property upon which they claim a leasehold and undivided ownership interest with the express knowledge and permission of the cross-claimants.

Count V

I.

Kasters reallege and incorporate by reference, as if set forth in full herein, their previous responses to the allegations contained in Counts II, III, and IV of the cross-claim.

II.

Kasters deny the allegations set forth in paragraph II of Count V and affirmatively allege that the court, on numerous previous occasions, has denied this request for relief made by the cross-claimants.

III.

Kasters, in response to Count V, paragraph III, deny the allegations contained therein and affirmatively assert that they have provided and accounted for funds received or earned as a result of the operation of the hydroelectric plant as required by previous court orders.

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IV.

Kasters, in response to Count V, paragraph IV, deny the allegation contained therein, but incorporate by reference herein their previous offers of judgment as submitted in Case No. 19615.

Count VI

I.

Kasters reallege and incorporate by reference, as if set forth in full herein, their previous responses to the allegations contained in Counts II, III, IV, and V of the cross-claim.

II.

Kasters admit the allegations contained in Count VI, paragraph I.

III.

Kasters deny the allegations set forth in Count VI, paragraphs II, III, IV, V, and VI.

FIRST AFFIRMATIVE DEFENSE

Cross-claimants have, by their conduct, waived or are estopped to assert that Kasters violated the terms of the Lease Agreement or to otherwise complain of the use to which the land was put by Kasters.

SECOND AFFIRMATIVE DEFENSE

Cross-claimants are barred by the doctrine of laches to seek the equitable remedy of indemnification.

THIRD AFFIRMATIVE DEFENSE

Cross-claimants have, by their conduct, ratified Kasters' acts respecting the management and use of the Briggs Creek Ranch property.

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FOURTH AFFIRMATIVE DEFENSE

Cross-claimants, who have no monetary investment in the hydroelectric facility other than their undivided interest in the land upon which it is constructed, should be estopped from asserting their claims against Kasters.

FIFTH AFFIRMATIVE DEFENSE

Cross-claimants, as undivided owners of the real property upon which the hydroelectric site has been construction, should be required to contribute to the costs and expenses of the hydroelectric facility to the extent of their interest if they wish to claim any benefit derived from the use, ownership, and operation of the hydroelectric facility.

SIXTH AFFIRMATIVE DEFENSE

Cross-claimants, as a result of their actions and/or omissions and Kasters' reliance thereon, should be estopped from pursuing their claims as set forth in their cross-claim.

SEVENTH AFFIRMATIVE DEFENSE

As a matter of public policy and as guaranteed by the Idaho and Federal Constitutions, the defendants should not be penalized for actively litigating the validity of the lien filed by Peter H. Burno.

EIGHTH AFFIRMATIVE DEFENSE

In the event that there is a sale of any real property in which Kasters have an interest and/or there is a sale of any real property that is commonly known and referred to as the Briggs Creek Ranch, Kasters claim a right of first refusal to purchase said property.

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NINTH AFFIRMATIVE DEFENSE

Cross-claimants waived the right or are estopped from asserting the causes of action alleged in their cross-claim against Kasters and/or failed to comply with conditions precedent as respects the matters alleged in their cross-claim against Kasters.

TENTH AFFIRMATIVE DEFENSE

The real property sought to be charged by Peter H. Burno pursuant to Title 45, Chapter 5, Idaho Code, and Kasters' interest therein, exceeds that permissible under section 45-505, Idaho Code.

ELEVENTH AFFIRMATIVE DEFENSE

Cross-claimants' claim seeking declaratory relief is premature, involves no present legal controversy, interjects issues which could be adequately determined in appropriate, ordinary legal actions, and contains no statements of the declaration sought by cross-claimants.

TWELFTH AFFIRMATIVE DEFENSE

Kasters are entitled to contribution from all other owners of the real property commonly known and referred to as the Briggs Creek Ranch for their prorated share of improvements, taxes, other expenditures, and expenses paid by Kasters or for which Kasters are otherwise obligated to pay.

THIRTEENTH AFFIRMATIVE DEFENSE

Cross-claimants previously authorized or subsequently ratified all actions by Kasters.

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FOURTEENTH AFFIRMATIVE DEFENSE

Peter H. Burno has failed to properly perfect any claim or lien against Kasters' water right for hydroelectric power production.

FIFTEENTH AFFIRMATIVE DEFENSE

Cross-claimants' claims have previously been determined adversely to cross-claimants in Gooding County Case No. 19615.

SIXTEENTH AFFIRMATIVE DEFENSE

Cross-claimants have violated the equitable principle of clean hands precluding any requested equitable relief.

REQUEST FOR ATTORNEYS' FEES

Kasters have been required to retain legal counsel to defend this action and are entitled to recover their reasonable attorneys' fees and costs of suit pursuant to Idaho Code section 12-120 and 12-121 and Rule 54, Idaho Rules of Civil Procedure, section 6-501, et seq., Idaho Code, and the Lease Agreement dated January 22, 1974.

WHEREFORE, Kasters pray that cross-claimants take nothing by their cross-claim herein, that the same be dismissed with prejudice, and that Kasters be awarded their attorneys' fees and costs incurred herein, together with such other and further relief as to the court seems just and equitable in the premises.

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DATED This 2nd day of October, 1987.

ELAM, BURKE AND BOYD

By Kenneth M. Sebby
Kenneth M. Sebby, Of the Firm
Attorneys for Defendants/
Counterclaimants Kaster
in Gooding County Case No. 19972

STEPHEN W. BEANE

By Stephen W. Beane
Stephen W. Beane
Attorney for Defendants/
Counterclaimants Kaster
in Gooding County Case Nos. 19918,
20004, 20194, and 20287

COUNTERCLAIM AND CROSS-CLAIM

Count One

Defendants/Cross-defendants/Counterclaimants/Cross-claimants, Richard H. Kaster and Edith M. Kaster, husband and wife (hereinafter "Kasters"), for cause of action against each of the parties to the above-mentioned litigation claiming any right, title, or interest in the real property described in Counts II and III of plaintiff's first amended complaint, located in Gooding County, Idaho, complains and allege as follows:

I.

Kasters bring this partition action pursuant to Idaho Code section 6-501, et seq.

II.

That upon information and belief, Kasters and counterdefendants George Myron and Phyllis Sheldon, Howard L. [illegible]

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Sheldon, Willard and Hedwig Sheldon, Nancy L. and Randy McCormick, and cross-defendants, Charles Wesley Trounson, and Larry and Mary Brush Crupper are the owners of and claim various undivided interests in the real property located in the county of Gooding, state of Idaho, more particularly described in Counts II and III of plaintiff's first amended complaint, which property is commonly known and referred to as the Briggs Creek Ranch.

III.

Kasters are informed and believe that the interests of each of the counterdefendants and cross-defendants who claim an undivided ownership interest in the property commonly known and referred to as the Briggs Creek Ranch located in Gooding County, Idaho, was acquired as a result of an estate of inheritance.

IV.

Counterdefendants and cross-defendants, who are named as parties in the above-entitled litigation, claim some right, title, or interest to said real property commonly known and referred to as the Briggs Creek Ranch and/or said parties will be materially affected by the partition sought by the Kasters herein.

V.

That the owners of the real property commonly known and referred to as the Briggs Creek Ranch have been unable and unwilling to agree as to the management and use of the Briggs Creek Ranch.

VI.

That the Kasters have expended considerable time, energy, and

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money to put said property to its highest and most beneficial use.

VII.

That the difficulties with management and the persistent litigation between the respective owners of the Briggs Creek Ranch has made it difficult, if not impossible, for the Kasters to put said property to its highest and most beneficial use.

VIII.

That partition of the real property or a portion thereof and the interest therein is in the best interest of all parties.

IX.

Kasters are informed, believe, and allege that the real property or portion thereof commonly known and referred to as the Briggs Creek Ranch is capable of equitable partition between Kasters,counterdefendants and cross-defendants and that such partition can be made without great prejudice to the rights and interests of said parties to this litigation.

X.

That the Kasters, in proceeding with this action for partition for the common benefit of the Kasters, the counter-defendants and the cross-defendants herein have been required to retain the services of attorney Stephen W. Beane and have thus become responsible for the payment of reasonable attorneys' fees in the prosecution of this action which will be for the common benefit of all persons interested in the real property to be partitioned, and Kasters are entitled to their fees and costs incurred herein.

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Count Two

As a further counterclaim against the cross-claimants, Kasters claim and allege as follows:

Defendants/Counterclaimants Richard and Edith Kaster (hereinafter "Kasters"), for a cause of action against the defendants/-cross-claimants known as Sheldon-McCormick represented by attorney Jeff Stoker (hereinafter "Sheldon-McCormick"), complain and allege as follows:

I.

At all times mentioned herein Kasters and Sheldon-McCormick were each undivided owners of real property located in Gooding County, Idaho, said property commonly known as the Briggs Creek Ranch.

II.

With the knowledge and permission of Sheldon-McCormick, Kasters obtained a water permit, governmental licenses, and power sales agreement and financing for a hydroelectric facility which was built upon a small portion of the Briggs Creek Ranch.

III.

Kasters, in reliance upon Sheldon-McCormick representations, constructed a hydroelectric facility, at their sole and complete expense, upon a small portion of the Briggs Creek Ranch at a cost of approximately $1,600,000.

IV.

If Sheldon-McCormick wishes to make any claim as to an ownership interest in said hydroelectric facility and on the water

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right, or if they wish to claim any benefit from the sale of hydroelectric power generated by said hydroelectric facility, then they, as 80 percent owners of an undivided interest in the property, should be required to contribute 80 percent of any and all costs associated with the hydroelectric facility.

Count Three

Kasters, for a third cause of action against Sheldon-McCormick complain and allege as follows:

I.

Kasters, in reliance upon Sheldon-McCormick representations that they would accept a fair, reasonable, and normal rate of return for the use of their property located on a portion of the Briggs Creek Ranch, obtained the necessary water permits, governmental licenses, and power sales agreement with Idaho Power after which he caused to have constructed on a small portion of the Briggs Creek Ranch a hydroelectric facility at his sole and complete expense of approximately $1,600,000.

II.

Kasters have repeatedly offered to pay Sheldon-McCormick, as 80 percent owners of an undivided interest, a fair, reasonable, and normal rate of return for the use of their property, which is jointly held in an undivided interest with the Kasters, but Sheldon-McCormick has failed and refused to abide by the terms of their original representations and agreement.

III.

Sheldon-McCormick, who has no investment in the hydroelectric facility other than their 80 percent undivided ownership in the

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land upon which the hydroelectric facility has been constructed, should be equitably estopped from receiving anything more than a fair, reasonable, and normal rate of return from the revenues received as a result of power production. During the trial of the within legal action, Kasters will present evidence as to what is a fair, reasonable, and normal royalty payment to Sheldon-McCormick.

WHEREFORE, Kasters pray for judgment against all parties claiming any right, title or interest in the real property known and referred to as the Briggs Creek Ranch as follows:

Count One

I.

That the parties claiming any right, title and interest in the real property commonly known and referred to as the Briggs Creek Ranch answer this partition claim setting forth their claimed interest in the real property commonly known as the Briggs Creek Ranch as required by Idaho Code section 6-507.

II.

That this court order the partition of the property or portions thereof commonly known and referred to as the Briggs Creek Ranch, according to the respective rights of the persons interested therein, in the form and in such manner as set forth in Idaho Code section 6-501, et seq.

III.

For Kasters' reasonable attorney's fees and costs incurred in the prosecution of this action for the common benefit of the parties hereto.

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IV.

For such other and further relief as the court may deem just and equitable.

Count Two

I.

For the right of contribution to the extent of the Sheldon-McCormick 80 percent undivided ownership interest and for all costs associated with the hydroelectric facility.

II.

For Kasters reasonable court costs and attorneys' fees.

III.

For such other and further relief this court deems just and proper.

Count Three

I.

That Sheldon-McCormick receives a fair, reasonable, and normal rate of return expressed in terms of a percentage of the gross revenues received as a result of hydroelectric power production in amounts as shall be subject to proof at the time of the trial.

II.

For Kasters reasonable court costs and attorneys' fees.

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DATED This 23rd day of October, 1987.

STEPHEN W. BEANE

By _____
Stephen W. Beane
Attorney for Defendants/
Counterclaimants Kaster
in Gooding County Case Nos. 19918,
20004, 20194, and 20287

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 23rd day of October, 1987, I caused a true and correct copy of the above and foregoing instrument to be mailed, postage prepaid, to:

Jon M. Steele
ELLIS, BROWN, SHEILS & STEELE
Suite 1500, Idaho First Plaza
101 South Capitol Boulevard
Boise, Idaho 83702

Larry Prince
HOLLAND & HART, LANGROISE, SULLIVAN
P.O. Box 2527
Boise, Idaho 83701

Jeff Stoker, P.A.
733 Addison Avenue
P.O. Box 1597
Twin Falls, Idaho 83303-1597

Robert E. Williams, III
P.O. Box 168
Jerome, Idaho 83338

Steve Hoskins
P.O. Box 279
Idaho Falls, Idaho 83402

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

_____
Stephen W. Beane

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Department of Water Resources

Larry E. Prince
Kimbell D. Gourley
HOLLAND & HART, LANGROISE, SULLIVAN
Suite 1400, Idaho First Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 343-3676

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

PETER H. BURNO, dba/The Burno Boiler and Engine Works, Plaintiff, vs. WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, et al, Defendants.	Case No. 19972
AND CONSOLIDATED CASE NOS. 20004, 19615, 19918, 20287, and 20194,	AMENDED ANSWER TO CONSOLIDATED AMENDED CROSS-CLAIM AND CROSS-CLAIM

COMES NOW Cross-Defendant, Zions Leasing (hereinafter "Zions Leasing), by and through its counsel of record, Holland & Hart, Langroise, Sullivan, and in answer to Cross-Claimants' Consolidated Amended Cross-Claim filed herein, admits, denies and alleges as follows:

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I.

Cross-Claimants fail to state a claim for relief against Zions Leasing upon which relief can be granted.

II.

Zions Leasing denies each and every allegation contained in Cross-Claimants Consolidated Amended Cross-Claim not specifically and expressly admitted herein.

III.

In answer to Counts I, II, III, IV, V and VI of Cross-Claimants Consolidated Amended Cross-Claim, Zions Leasing Company denies the allegations contained therein, to the extent they require an answer.

IV.

In answer to Paragraph I of Cross-Claimants Seventh Cause of Action, Zions Leasing denies the allegations contained therein to the extent they require an answer.

V.

In answer to Paragraph II of Cross-Claimants Seventh Cause of Action, Zions Leasing admits it has an interest in and to the real property owned by Cross-Claimants upon which Defendant Kasters have constructed the hydroelectric plant, but denies all other allegations contained therein for the reasons that it is without sufficient information to form a belief as to the truth of the allegations contained therein.

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VI.

In answer to Paragraphs III, IV and V of Cross-Claimants Seventh Cause of Action, Zions Leasing admits that it has an interest in and to the subject real, personal and intangible property rights therein, but denies all other allegations therein.

FIRST AFFIRMATIVE DEFENSE

Zions Leasing affirmatively alleges that Cross-Claimants waived all rights they may have against Zions Leasing Company.

SECOND AFFIRMATIVE DEFENSE

Zions Leasing affirmatively alleges that Cross-Claimants, by their acts and conduct, are estopped to assert their cross-claim against Zions Leasing.

THIRD AFFIRMATIVE DEFENSE

Zions Leasing affirmatively alleges that it has not completed discovery in this case and, therefore, reserves the right to amend its Answer to add additional affirmative defenses, allegations, counterclaims and cross-claims once discovery is completed.

WHEREFORE, having fully answered Cross-Claimants Consolidated Amended Cross-Claim herein, Zions Leasing Company prays for relief as follows:

1. That the Consolidated Amended Cross-Claim filed herein by Cross-Claimants be dismissed with prejudice and t

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Cross-Claimants take nothing by their Consolidated Amended Cross-Claim;

2. That Zions Leasing be awarded its costs and attorneys fees incurred herein; and

3. For such other and further relief as the Court deems just and proper in the premises.

CROSS-CLAIM

COMES NOW Zions Leasing Company (hereinafter "Zions Leasing"), by and through its counsel of record Holland & Hart, Langroise, Sullivan, and as and for its Cross-Claim against Willard E. Sheldon and Hedwig Sheldon, husband and wife, Howard L. Sheldon and Louise Sheldon, husband and wife, George M. Sheldon and Phyllis Sheldon, husband and wife, Randy and Nancy L. McCormick, husband and wife, Charles Wesley Trounson and Lucille Trounson, husband and wife, Larry Crupper and Mary E. Brush Crupper, husband and wife, Dale I. Hire and Margaret E. Hire, husband and wife, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Violet Miller, Farmers National Bank, and George Brush and Merrilee Brush, husband and wife, states and alleges as follows:

I.

That the Court has jurisdiction of the parties and subject matter of the case.

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II.

That on or about the 21st day of June, 1984, Richard Kaster, as seller, entered into a certain Firm Energy Sales Agreement with the Idaho Power Company, as purchaser, whereby Richard Kaster agreed to produce and sell, and Idaho Power Company agreed to purchase, electric energy from the Briggs Creek Hydroelectric Project.

III.

That on or about the 25th day of June, 1984, Richard Kaster and Edith Kaster, as lessees, entered into a certain Master Lease Agreement with Zions Leasing, as lessor, whereby in consideration of Zions Leasing leasing to the Kasters the Briggs Creek Hydroelectric Plant, the Kasters agreed to pay to Zions Leasing approximately $24,856.81 per month (payment varies with floating interest rate) for ten years.

IV.

That in order to secure the payments due under the Master Lease Agreement in accordance with its terms, Richard and Edith Kaster, as assignors, on or about the 25th day of June, 1984, made, executed and delivered to Zions Leasing a certain Assignment for Security, whereby the Kasters did assign, setover, transfer and convey unto Zions Leasing, assignee, all of the assignors' right, title and interest in and to the payments and proceeds to be received from the Idaho Power Company under said Firm Energy Sales Agreement.

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V.

That on or about the 30th day of December, 1985, Richard and Edith Kaster, as lessees, were in default under the terms of said Master Lease Agreement, and entered into an Amendment to Master Lease Agreement, whereby in consideration of Zions Leasing Company forebearing from commencing an action to collect the balance due under said Master Lease Agreement and further agreeing to an extension of time and the terms of repayment set out in the Amendment, the Kasters agreed to provide additional security to Zions Leasing for its investment in the subject property.

VI.

That on or about the 30th day of December, 1985, Richard and Edith Kaster were the owners of certain real, personal and intangible property, including, but not limited, the following:

1. A leasehold interest and/or fee estate on certain real property located in Gooding County, Idaho, described more particularly in Exhibit A attached hereto, and by this reference incorporated herein as though set forth in full;

2. Certain rights, licenses, and easements created by or assigned under a certain Real Property Lease Agreement, attached hereto as Exhibit B;

3. Certain buildings, other constructions, structures, and improvements, together with all appurtenances thereto, and all heating, sprinkler, and electric light systems, boilers, plumbing, electrical switch-gear, duct work, distribution lines, tracts, tanks, and switches and also machinery and equipment, that are located on the property described in Exhibit A;

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4. Said Real Property Lease Agreement.

5. A certain FERC exemption;

6. Certain water rights concerning or related to the real property described in Exhibit A annexed hereto, including, but not limited to, constitutional water rights, decreed water rights, water permits, water licenses, canal company stock or shares, and Idaho Water Permit No. 36-7973;

7. Certain contracts, agreements, general intangibles, accounts, chattel paper, inventory, and equipment relating to the Briggs Creek Hydroelectric facility located on the property described in Exhibit A annexed hereto;

8. Certain licenses, permits, and documents relating to or connected with the operation, maintenance, or other use of the Briggs Creek Hydroelectric facility located on the real property described in Exhibit A hereto;

9. Said Firm Energy Sales Agreement;

10. Certain equipment, machinery, fixtures, goods, and other personal property which were, or hereafter will be, used in, or in any manner related to the Briggs Creek Hydroelectric facility located on the real property described in Exhibit A hereto;

In order to further secure the payment of the Master Lease Agreement as amended in accordance with its terms, Richard and Edith Kaster executed and delivered to Zions Leasing a certain Conditional Assignment for Security, Mortgage and Security Agreement on the above-described property; that the Conditional Assignment for Security, Mortgage, and Security Agreement was duly acknowledged so as to entitle it to be recorded and the same was thereafter recorded, to-wit, on the 13th day of February, 1986, as Instrument No. 19644, records of Gooding County, Idaho.

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VII.

That Zions Leasing is informed and believes that each and all of the Cross-Defendants, Willard E. Sheldon and Hedwig Sheldon, husband and wife, Howard L. Sheldon and Louise Sheldon, husband and wife, George M. Sheldon and Phyllis Sheldon, husband and wife, Randy and Nancy L. McCormick, husband and wife, Charles Wesley Trounson and Lucille Trounson, husband and wife, Larry Crupper and Mary E. Brush Crupper, husband and wife, Dale I. Hire and Margaret E. Hire, husband and wife, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Violet Miller, Farmers National Bank, and George Brush and Merrilee Brush, husband and wife, claim to have some right, title or interest in or to said described real, personal, and intangible property and that any right, title, interest or claim of said Cross-Defendants, or any of them, in or to said:

(1) real property, commonly known as the Briggs Creek Ranch, is:

(a) subject to the rights, powers and privileges of Zions Leasing pursuant to the leasehold estate created by that certain Lease Agreement executed on or about the 22nd day of January, 1974, by Cross-Defendants, George M. and Phyllis Sheldon, Howard and Louise Sheldon, Willard and Hedy Sheldon, Myriel and Wes Trounson, as lessors, and Richard and Edith Kaster, as lessees, which leasehold estate was ther

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assigned to Zions Leasing on or about the 30th day of December, 1985, by said Conditional Assignment for Security, Mortgage, and Security Agreement, and Zions Leasing alleges its rights, powers and privileges in and for possession of said leasehold estate are prior senior and superior to any and all rights, powers and privileges to possession of said leasehold estate claimed by any of said Cross-Defendants.

(b) equal in time and right, subject to said leasehold interest, to the rights, powers and privileges of Zions Leasing herein, pursuant to (1) those certain Contract of Sales executed by Cross-Defendants Wes and Lucille Trounson on January 5, 1984, and Merrilee Brush and Larry Crupper on January 5, 1984, as sellers, and Richard and Edith Kaster, as buyers, which buyers rights were thereafter assigned by the Kasters to Zions Leasing on or about the 30th day of December, 1985, by those certain Assignments of Buyers Equitable Interest; and (2) those certain deeds executed and delivered to Richard and Edith Kaster by George Brush and Dale and Margaret Hire, which ten percent undivided interest in and to the subject real property was encumbered on December 31, 1985 by that certain Mortgage executed and delivered to Zions Leasing by the Kasters, and recorded in the Records of Gooding County as Instrument No. 119644.

(2) Personal and intangible property is subordinate in time and inferior in right, to the rights, powers and privileges of

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Zions Leasing herein, and Zions Leasing alleges its rights, powers and privileges in and to said personal and intangible property pursuant to said Master Lease as amended and said Assignment for Security and Conditional Assignment for Security, Mortgage and Security Agreement hereinabove described are superior in time and right to any and all rights, title, and interest claimed by any of said Cross-Defendants.

VIII.

That Zions Leasing has retained the firm of Holland & Hart, Langroise, Sullivan, to prosecute this action and it is entitled to a reasonable attorney's fee for the prosecution of this action.

WHEREFORE, Cross-Claimant Zions Leasing, respectfully requests the Court to enter judgment against Cross-Defendants, Willard E. Sheldon and Hedwig Sheldon, husband and wife, Howard L. Sheldon and Louise Sheldon, husband and wife, George M. Sheldon and Phyllis Randy and Nancy L. McCormick, husband and wife, Charles Wesley Trounson and Lucille Trounson, husband and wife, Larry Crupper and Mary E. Brush Crupper, husband and wife, Dale I. Hire and Margaret E. Hire, husband and wife, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Violet Miller, Farmers National Bank, and George Brush and Merrilee Brush, husband and wife, as follows:

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1. That Zions Leasing's rights, title and interest in and for possession of said leasehold estate pursuant to said Lease Agreement and Conditional Assignment for Security, Mortgage, and Security Agreement, be decreed to be prior, superior and senior to any and all rights, title and interest claimed by any of said Cross-Defendants;

2. That Zions Leasing's rights, title and interest in and to said real property, encumbered by said leasehold estate and Zions Leasing's interest therein, be decreed to be equal in time and right to any and all rights, title and interest claimed by any of said Cross-Defendants.

3. That Zions Leasing's rights, title and interest in and to said personal and intangible property, pursuant to said Assignment for Security and Conditional Assignment for Security, Mortgage, and Security Agreement, be decreed to be superior in time and right to any and all rights, title, and interest claimed by any of said Cross-Defendants;

4. That Zions Leasing have judgment against said Cross-Defendants for attorney's fees in the amount the Court deems just and equitable;

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5. For costs of this action and for such other and further relief as the Court may deem just and equitable in the premises.

DATED this 22nd day of February, 1988.

HOLLAND & HART, LANGROISE, SULLIVAN

By _____
Kimbell D. Gourley, of the firm
Attorneys for Zions Leasing Co.

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of February, 1988, I mailed a true and correct copy of the foregoing AMENDED ANSWER TO CONSOLIDATED AMENDED CROSS--CLAIM AND CROSS--CLAIM by placing a copy thereof in the United States mail, postage pre-paid, addressed to the following:

Jon M. Steele
1500 Idaho First Plaza
101 S. Capitol Blvd.
Boise, ID 83702

Jeff Stoker
P. O. Box 1597
Twin Falls, Idaho 83301

Peter J. Boyd
Kenneth M. Sebby
P. O. Box 1559
Boise, ID 83701

Robert E. Williams
P. O. Box 168
Jerome, ID 83338

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Stephen W. Beane
824 W. Franklin Street
Boise, Idaho 83702

Cecil D. Hobdey
125 5th Avenue
P. O. Box 176
Gooding, Idaho 83330

Steven Hoskins
501 Broadway
Idaho Falls, Idaho 83402

of HOLLAND & HART,
LANGROISE, SULLIVAN

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EXHIBIT A

A parcel of land located in Gooding County, Idaho, and more particularly described as follows:

TOWNSHIP 9 SOUTH, RANGE 14 EAST OF THE BOISE MERIDIAN

Section 3: NW¼SE¼, SW¼;

Section 4: Lots 2, 5, 6, 9, 11, 12, 13, 14, 18 and SE¼NE¼;

Section 9: Lot 2;

Section 10: Lots 1, 6 and 7 lying North and West of the following described line: BEGINNING at the quarter corner common to Sections 3 and 10; THENCE S 59°46'W 1545.0 feet to the center of a flat-topped boulder marked by three bars and the letters "H.M.I." out by a chisel; THENCE due South to the thread of Snake River; EXCEPT tracts as set forth in Book 22 Deeds, Page 332, dated April 19, 1929, recorded April 29, 1929, Instrument No. 48279, records of Gooding County, Idaho.

The record owners of said real property are Myron Sheldon, Phyllis Sheldon, Howard L. Sheldon, Louise Sheldon, Willard B. Sheldon, Hedy Sheldon, Myriel Shelton Trounson, Wes Trounson, Lucille Trounson, Wes Trounson, Mary Brush Crupper, Larry Crupper, Dale I. Hire, Margaret E. Hire, and George Brush.

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EXHIBIT
A

Koch Lease 1974

LEASE AGREEMENT

This lease agreement, made and entered into this 22 day of January 1974 by and between Myron Sheldon and Louise Sheldon; Willard E. Sheldon and Hedy Sheldon; Myrtle Trounson and Wes Trounson, hereinafter collectively referred to as the "Lessors" and Richard Koch and Edith Koch, hereinafter referred to as the "Lessees".

W I T N E S S E T H :

That for and in consideration of the following facts, covenant Lessors hereby lease unto Lessees, the premises described as:

That property located in Gooding County, Idaho, outlined in red on Exhibit "A", which is attached hereto; and

ALSO TOGETHER WITH the right of ingress and egress across the Lessors' property to the leased premises.

TERM: It is understood that the term of this lease will end December 31 in the year 1995.

PURPOSE: Lessee will operate and maintain a fish farm on said premises.

CONSIDERATION: For and in consideration of the lease of said premises, Lessees shall pay to Lessors, the sum equal to fifty-one (51) percent of the gross sales of fish raised by Lessee on the fish farm under the private production method of calculating [illegible]. For the farm-out program method, the consideration shall be twenty-five (25%) percent of the gross sales. The gross sales shall be calculated at the end of each tax year of the Lessees. ~~The consideration shall be paid directly to each of the four lessors husband and wife. Payment shall be made jointly by the purchasers of the fish and lessees shall cooperate in any way necessary to effectuate such payment.~~ Annual payment shall be not less than [illegible] Lessee will not assign this lease to another party without permission [illegible]

EXHIBIT B

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[redacted] sell lease to another party, the twenty-five [redacted] consideration received by Lessees shall be [redacted] to the Lessors by the purchaser and divided up according to the method of payment set forth above. (3/4 cash [redacted] to Lessees and 1/4 cash and 1/4 terms to Lessors.

MINERAL, GRAVEL, WATER: Mineral, gravel, water and [redacted] reference rights in name of Lessors, and same to be used on said property by Lessees for [redacted]. If Lessee should drill wells for water, water rights to remain in name of Lessors subject to this lease.

TAXES: Lessees shall pay all taxes and assessments on said leased premises. Lessees shall take such action as may be necessary to require separate assessment of the property leased herein and Lessors shall cooperate with Lessee in that regard. In the event of separate assessment of the demised premises cannot be accomplished, the parties agree to equitably prorate the total tax bill and assessments for the parcel demised herein, but with all taxes and assessments based upon improvements made on the demised premises to be reimbursed by Lessees to Lessor.

INSURANCE: Lessors shall be named as additional insureds on a policy of liability insurance. Lessees shall maintain a minimum of $100,000 per person and $300,000 per occurrence limits in said policy. A certificate of such insurance shall be supplied to Lessors at their request.

NOTICES: All notices and payments required by the terms of this attached lease shall be sent to each of the above Lessors and Lessees.

ACCOUNTING AND RECORDS: Lessees further agree to keep a true and exact accounting system to be made available to Lessors. It is understood that the Lessees shall not have the right or privilege to [redacted] create or cause to be created any mechanics or materialmen's [redacted] said premises during the term of this agreement. In the event of disagree with any report

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[redacted] shall have the right to request an independent [redacted] certified public accountants. In the event said [redacted] is in the amount of gross gain of fish [redacted] five (5%) percent, then Lessee shall bear the cost [redacted] audit.

[redacted] FROM DEFAULT: Time is of the essence of this agreement, and it is agreed between the parties hereto that if default be made in the payment of the rents above reserved or any part thereof, or in any of the covenants and agreements herein contained, to be kept by the Lessee, it shall be lawful for the said Lessors, their heirs and assigns, at their election to declare said term at an end and to re-enter and take possession of said leased premises or any part thereof, with or without process of law, and to remove said Lessee and all persons in possession thereof, using such force as may be necessary so to do, and to repossess the said leased premises without prejudice to any remedies which might otherwise be used for arrears of rent or breach of covenants. If either of the parties hereto find it necessary to retain the services of an attorney to enforce their rights under this agreement, the prevailing party will be entitled to recover, in addition to other sums recovered, a reasonable attorney fee.

It is expressly provided, however, that in the event of default said Lessors shall have none of the remedies above mentioned until they have given said ninety (90) days written notice of the default or defaults alleged and the Lessees shall have failed, refused or neglected within said ninety (90) day period to correct the same. [redacted] agree that in the event their business to be conducted hereon should in any way be abandoned, [redacted]

[redacted] Lessors.

[redacted] is to assume all responsibility of placing water on said land and is to cooperate with other parties using roads and water ditches.

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[redacted] assign to Lessors 10 cfs of water from [redacted] filings. Lessees under this lease shall be [redacted] use of 48 cfs of first use water from now existing [redacted] upon prior written consent of Lessors, Lessees can [redacted] additional water upon payment of $1,000 per year per each 10 cfs used. Upon having obtained consent to use additional water, Lessees shall be entitled to continue using said water at the above annual rate. If said use is abandoned, however, then Lessees must obtain a consent of Lessors again.

Lessors reserve the right to go on said premises for the purpose of inspection, hunting and fishing, at no cost to Lessors, but this privilege shall not be assignable and provided that the Lessors shall properly present themselves to Lessees or notify Lessees of such intent. No fishing or hunting shall be enjoyed by Lessors on or in Lessees' ponds.

This lease shall be binding upon the heirs, representatives and successors, and permitted assigns of the parties hereto.

RIGHT OF FIRST REFUSAL: In the event during the term of this lease, or any renewals or extentions thereof, should Lessors wish to sell said premises, Lessees are hereby granted the right of first refusal to purchase under the following terms and conditions. Lessors shall submit to Lessees any bona fide offer received by them for the purchase of the property setting all terms and conditions of the purchase. Lessee shall have a right of first refusal for a period of thirty (30) days thereafter to enter into a written contract providing for terms and conditions no less favorable than those presented in such bona fide offer. In the event Lessees do not wish to purchase, Lessors shall then be free to sell said premises subject to then existing lease or leases with Lessee herein.

SIGNATURES:

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands, the day and year in this agreement first above written.

All attached
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Lessors agree Lessee has no restrictions on amount of water available for 1974. Minimum payment will be based on maximum flow of water used in 1974.

The 1974 flow rate will determine the amount of water in excess of the 47 CFS base of this lease which will be available to Lessee. Lessee will give written statement of the CFS used in 1974 on January 1, 1975. This statement is the written consent agreement specified on page 4 of the lease.

Page 1 annual payment shall be changed to not less than $4,000 (Four-Thousand dollars)

THIS SHEET 4-A IS TO BE INCLUDED PRIOR TO SIGNATURE PARAGRAPH ON PAGE 4.

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RETTIG, FREDERICKSEN & WILLIAMS
Attorneys at Law
117 South Astor Street
P. O. Box 168
Jerome, Idaho 83338
Telephone (208) 324-2303

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Department of Water Resources

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

PETER H. BURNO, doing business as THE BURNO BOILER AND ENGINE WORKS, Plaintiff, vs. WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, GEORGE M. SHELDON and wife, if married, CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, husband and wife, LARRY CRUPPER and MARY E. BRUSH CRUPPER, husband and wife, Dale Hire, also known as DALE I. HIRE, and MARGARET E. HIRE, husband and wife, NANCY McCORMICK and spouse, if married, RICHARD H. KASTER, also known as RICK KASTER, also known as DICK KASTER, and EDITH KASTER, also known as EDITH M. KASTER, husband and wife, ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, KASTER BRIGGS CREEK HYDROELECTRIC PLANT, ZIONS LEASING COMPANY, and all other parties in possession or claiming any right to possession, and DOES I through V, Defendants.	Case No. 19972 ANSWER OF DEFENDANTS LARRY CRUPPER, MARY E. BRUSH CRUPPER, CHARLES WESLEY TROUNSON and LUCILLE TROUNSON Category: I.1.b. Fee: $9.00

COME NOW, the above named Defendants, by and through their attorney of record, ROBERT E. WILLIAMS III, of the firm of Rettig, Fredericksen & Williams, and answer Plaintiff's Complaint as follows:

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COUNT ONE

I.

These Defendants are without sufficient knowledge to admit or deny the allegations of, and hence deny, all allegations contained in Paragraphs I, II, III, IV and V of Count One of Plaintiff's Complaint.

COUNT TWO

I.

Answering Paragraph I of Count Two of Plaintiff's Complaint, these answering Defendants incorporate by reference their answer to Count One of the Complaint as immediately set forth above.

II.

These answering Defendants admit the allegations contained in Paragraph II of Count Two of Plaintiff's Complaint.

III.

These Defendants are without sufficient knowledge to admit or deny, and hence deny the allegations contained in Paragraphs III, V, VI, VII and VIII of Count Two of Plaintiff's Complaint.

IV.

These answering Defendants deny the allegations contained in Paragraph IV of Count Two of Plaintiff's Complaint.

COUNT THREE

I.

Answering Paragraph I of Count Three of Plaintiff's Complaint, these answering Defendants incorporate by reference their answer to Count One of Plaintiff's Complaint.

II.

These answering Defendants admit the allegations contained in Paragraph II of Count Three of Plaintiff's Complaint.

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III.

These answering Defendants are without sufficient information to admit or deny the allegations contained in Paragraphs III, V, VI, VII and VIII of Count Three of Plaintiff's Complaint and hence deny the same.

IV.

These answering Defendants deny the allegations contained in Paragraph IV of Count Three of Plaintiff's Complaint.

FIRST AFFIRMATIVE DEFENSE

I.

Some of these answering Defendants have no interest in the real property, which is the subject matter of this action, and hence are improper defendants.

SECOND AFFIRMATIVE DEFENSE

The interest of any of these answering Defendants in the real property, which is the subject matter of this action, is limited to that of a contract vendor, and superior in right and title to any claimed interest of the Plaintiff.

WHEREFORE, these answering Defendants pray judgment against the above named Plaintiff as follows:

1. That the Complaint of the Plaintiff be dismissed in all respects against these answering Defendants and that the Plaintiff take nothing thereby.

2. That the Plaintiff pay the attorney fees and costs of these answering Defendants incurred in the preparation of this Answer and defense of the matter.

3. For costs of this action.

4. For such other and further relief as to the Court may seem just and equitable.

DATED this 11th day of August, 1986.

RETTIG, FREDERICKSEN & WILLIAMS

BY: _____
ROBERT E. WILLIAMS III
Attorney for Trounsons and Cruppers

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CERTIFICATE OF MAILING

I hereby certify that on the 14th day of August, 1986, a copy of the foregoing ANSWER OF DEFENDANTS LARRY CRUPPER, MARY E. BRUSH CRUPPER, CHARLES WESLEY TROUNSON and LUCILLE TROUNSON, was served upon JON M. STEELE, by depositing a true and correct copy thereof in the United States Mail, with correct postage thereon, addressed to JON M. STEELE, Attorney at Law, Idaho First Plaza, Suite 1500, 101 South Capitol Blvd., Boise, Idaho 83702.

Robin L. White

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SEP 20 1990

JON M. STEELE
ELLIS, BROWN, SHEILS & STEELE, CHARTERED
Idaho First Plaza, Suite 1500
101 S. Capitol Boulevard
Boise, Idaho 83702
Telephone: (208) 345-7832

Attorneys for Plaintiff/ Counterdefendant.

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Department of Water Resources

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

PETER H. BURNO, dba/The Burno Boiler and Engine Works, Plaintiff, vs. WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, et al, Defendants.	Case No. 19972 (Consolidated Case Nos.: 19918, 19615, 20194, 20004, and 20287) FIRST AMENDED COMPLAINT

COMES NOW the plaintiff, Peter H. Burno, doing business as The Burno Boiler and Engine Works, and for a cause of action against the defendants, and each of them, complains and alleges as follows:

COUNT ONE

I

At all times relevant hereto, defendants Richard H. Kaster and Edith Kaster were and are now residents of Twin Falls County, Idaho.

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II

Defendants Kaster purchased from plaintiff various goods, wares and merchandise, and services prior to September 21, 1985, on which there is an unpaid balance due of $298,976.20 plus interest. Defendants are justly indebted to plaintiff for said amount.

III

Despite repeated demands by plaintiff, defendants Kaster have failed to pay the above-mentioned sum and continue to fail and refuse to pay the above-mentioned sum, which is presently due and owing.

IV

Demand has been made on defendants Kaster for payment of said amount due not less than ten days prior to the date of filing of this action.

V

Plaintiff has retained the services of Ellis, Brown, Sheils & Steele, Chartered, to institute this civil action. Plaintiff is entitled to reasonable attorneys' fees for payment of said services pursuant to Idaho Code Section 12-120.

COUNT TWO

I

Plaintiff realleges and incorporates herein by reference each and every allegation contained in Count One hereof.

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II

That the real property subject of the above action is located in Gooding County, Idaho, and is more particularly described in Paragraph IV hereinbelow.

III

That the true names of defendants Does I through V are unknown to plaintiff at the present time, but plaintiff will file amended pleadings at such time as the true names of said defendants are ascertained.

IV

That the defendants Richard H. Kaster and Edith Kaster, Willard E. Sheldon, Howard Sheldon, George M. Sheldon, Charles Wesley Trounson and Lucille Trounson, Larry Crupper and Mary E. Brush Crupper, Dale Hire and Margaret E. Hire, and Nancy McCormick (hereinafter "defendant owners") during all times hereinafter mentioned are and were the owners and reputed owners of the real property and improvements thereon described as follows:

> Township 9 South, Range 14 East of the Boise Meridian, Gooding County, Idaho:
>
> Section 4: The South 750 feet of the SE 1/4 NE 1/4 except the east 200 feet; the north 900 feet of Lot 5; the north 600 feet of Lot 12; the south 200 feet of Lot 11, the south 831 feet of the east 660 feet of Lot 2, the south 350 feet of the west 550 feet of Lot 2; containing approximately 66 acres, more or less.

V

That defendants Kaster Briggs Creek Hydroelectric Plant, and Zions Leasing Company, Vinle Miller, The Lockhart Company, and Farmers National Bank, and each of them, claim

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some right, title or interest in and to the above-described property. That said interest, if any, of said defendants is junior and subservient to that of the plaintiff.

VI

That between march 1, 1984 and September 21, 1985, the plaintiff, at the special instance and request of defendant Richard H. Kaster agreed to furnish and did, in fact, furnish, deliver, and supply power plant equipment and installation of said equipment which were used in the construction of the Briggs Creek Power Plant, which goods and services were in an agreed amount and reasonable value in the sum of approximately two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20), of which there is an outstanding balance due, after deducting all just credits and offsets, in the amount of two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20) to plaintiff.

VII

That the plaintiff caused to be drawn and on November 20, 1985, recorded a claim of lien for such power plant equipment and installation thereof used on the premises, which said lien was filed in the office of the Gooding County Recorder, Gooding, Idaho, at a cost of $256 for the preparation, filing and recording of the same.

VIII

That plaintiff has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered, to

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represent him in this action and is entitled to recover from defendants, and each of them, his reasonable attorneys' fees, costs, and expenses incurred herein.

COUNT THREE

I

Plaintiff realleges and incorporates herein by reference each and every allegation contained in Count One hereof.

II

That the real property subject of the above action is located in Gooding County, Idaho, and is more particularly described in Paragraph IV hereinbelow.

III

That the true names of defendants Does I through V are unknown to plaintiff at the present time, but plaintiff will file amended pleadings at such time as the true names of said defendants are ascertained.

IV

That the defendants Richard H. Kaster and Edith Kaster, Willard E. Sheldon, Howard Sheldon, George M. Sheldon, Charles Wesley Trounson and Lucille Trounson, Larry Crupper and Mary E. Brush Crupper, Dale Hire and Margaret E. Hire, and Nancy McCormick (hereinafter "defendant owners") during all times hereinafter mentioned are and were the owners and reputed owners of the real property and improvements thereon described as follows:

Township 9 South, Range 14 East of the Boise Meridian, Gooding County, Idaho:

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Section 4: the north 900 feet of Lot 5; the north 600 feet of Lot 12.

V

That defendants Kaster Briggs Creek Hydroelectric Plant, and Zions Leasing Company, Violet Miller, The Lockhart Company, and Farmers National Bank, and each of them, claim some right, title or interest in and to the above-described property. That said interest, if any, of said defendants is junior and subservient to that of the plaintiff.

VI

That between march 1, 1984 and September 21, 1985, the plaintiff, at the special instance and request of defendant Richard H. Kaster agreed to furnish and did, in fact, furnish, deliver, and supply power plant equipment and installation of said equipment which were used in the construction of the Briggs Creek Power Plant, which goods and services were in an agreed amount and reasonable value in the sum of approximately two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20), of which there is an outstanding balance due, after deducting all just credits and offsets, in the amount of two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20) to plaintiff.

VII

That the plaintiff caused to be drawn and on November 20, 1985, recorded a claim of lien for such power plant equipment and installation thereof and on the prem-

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ises, which said lien was filed in the office of the Gooding County Recorder, Gooding, Idaho, at a cost of $256 for the preparation, filing and recording of the same.

VIII

That plaintiff has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered, to represent him in this action and is entitled to recover from defendants, and each of them, his reasonable attorneys' fees, costs, and expenses incurred herein.

COUNT FOUR

I

Plaintiff realleges and incorporates herein by reference each and every allegation contained in Count One hereof.

II

That the real property subject of the above action is located in Gooding County, Idaho, and is more particularly described in Paragraph IV of Counts Two and Three herein-above.

III

That the true names of defendants Does I through V are unknown to plaintiff at the present time, but plaintiff will file amended pleadings at such time as the true names of said defendants are ascertained.

IV

That by reason of the said purchase of goods, wares, merchandise and services, plaintiff has benefitted and

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improved the real property by construction of a hydroelectric plant.

V

That plaintiff is entitled to the reasonable value of the improvements to the real property under the theory of quantum meruit and/or unjust enrichment.

VI

That plaintiff has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered, to represent him in this action and is entitled to recover from defendants, and each of them, his reasonable attorneys' fees, costs, and expenses incurred herein.

WHEREFORE, plaintiff prays for judgment as follows:

A. As to Counts One, Two and Three:

1. For the sum of two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20) principal balance outstanding, together with interest thereon, the sum of $256 costs for the cost of preparation and filing of said claim of lien, the cost of the foreclosure report, and for reasonable attorneys' fees incurred in the bringing of this action as against the defendants;

2. That the claim of lien held by plaintiff be foreclosed;

3. That the parties named as defendants, and each of them, and all persons claiming or to claim said premises or any part thereof, by, through, or under said defendants,

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or any of them, be barred and foreclosed of all right, title, interest, claim or equity of redemption in and to the property described in the claim of lien held by the plaintiff or any part of said property.

4. That the usual decree of foreclosure be made for the sale of all of the real and personal property described in the claim of lien of which plaintiff is the holder according to the law and the practice of this court, and that the real and personal property be sold in one parcel by the Sheriff of Gooding County, State of Idaho; that the proceeds of sale of said real and personal property be applied to all payments due the plaintiff, and that defendants, and each of them, and all persons claiming under them, or any of them, either as purchasers, encumbrancers or otherwise, be forever barred and foreclosed of any right, title, interest, claim or equity of redemption of said property, or any part thereof, including the personal property and improvements thereon;

5. That any party to this action may become a purchaser of said sale, and that the Sheriff execute a deed to said purchaser or purchasers and that said purchaser or purchasers be let into possession of the premises upon production of the said Sheriff's Deed, Certificate of Sale, or Bill of Sale thereof;

6. That the plaintiff have judgment and execution against the defendants, and each of them, for any deficiency allowed by law which remains after payment of the

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proceeds of the sale of the property in the manner prayed for in this prayer for relief;

7. That the defendants, and each of them, be required to set forth by proper pleading the nature of their claims in and to said real property, or any part thereof;

8. That the plaintiff have a decree of this court judging and decreeing that he is the owner and is entitled to possession of said property hereinabove described.

9. That the defendants, and each of them, have no right, title, interest, or claim thereof, and that each of them, and all persons claiming under them, and all persons having any lien, claim, judgment or decree against said land, premises and property, or in any part, parcel or portion thereof, either as purchaser or encumbrancer, or otherwise, be barred and foreclosed from all equity of redemption in and to said real property and in and to every part, parcel and portion thereof;

10. For attorney fees;

11. For cost and expenses incurred herein; and

12. For such other and further relief as the Court may deem meet and property in the premises.

B. As to Count Four:

1. For the sum of two hundred ninety-eight thousand nine hundred seventy-six dollars twenty cents ($298,976.20), plus interest;

2. For attorney fees;

3. For costs incurred herein; and

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4. For such other and further relief as the Court may deem proper.

Dated: Sept 29, 1987.

ELLIS, BROWN, SHEILS & STEELE, CHARTERED,
Attorneys for Plaintiff

By _____
Jon M. Steele

CERTIFICATE OF MAILING

I hereby certify that on the 29 day of Sept 1987, I served a copy of the foregoing First Amended Complaint by mailing the same in the United States mail, postage prepaid, to the following:

Jeff Stoker, P.A.
733 Addison Avenue
P. O. Box 1597
Twin Falls, Idaho 83303-1597

Larry Prince
Holland & Hart, Langroise, Sullivan
P. O. Box 2527
Boise, Idaho 83701

Robert E. Williams, III
Rettig Fredericksen & Williams
P. O. Box 168
Jerome, Idaho 83338

Kenneth Sebby
Elam, Burke & Boyd
P. O. Box 1559
Boise, Idaho 83701

Stephen W. Beane
Attorney at Law
824 West Franklin Street
Boise,Idaho 83702

_____
Jon M. Steele

NOV - 3 1988

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Department of Water Resources

Larry E. Prince
Kimbell D. Gourley
HOLLAND & HART, LANGROISE, SULLIVAN
Suite 1400, Idaho First Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 342-5000

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

PETER H. BURNO, dba/The Burno Boiler and Engine Works, Plaintiff, vs. WILLARD E. SHELDON and spouse, if married, HOWARD SHELDON and wife, if married, et al, Defendants.	Case No. 19972 JUDGMENT
AND CONSOLIDATED CASE NOS. 20004, 19615, 19918, 20287, and 20194,	

This matter having come on for trial before the Court on June 20, 1988, and the parties having stipulated in Open Court to the entry of judgment, and the Court having issued its decision and order concerning the execution of settlement documents in order to effectuate the judgment, and good cause appearing therefor, it is

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ORDERED, ADJUDGED AND DECREED, AND THIS DOES ORDER, ADJUDGE AND DECREE:

1. The terms of the Lease agreement and Settlement Stipulation annexed hereto as Exhibit A and the Amendment and Clarification to Lease Agreement and Settlement Stipulation annexed hereto as Exhibit B are approved and incorporated in this judgment as if set forth in full.

2. The parties shall execute the below described instruments and document within fourteen (14) days from the date they are received by the parties. The instruments and document to be executed are the following:

(a) Grant of easement from the Sheldons and McCormicks to the Kasters, a copy of which is annexed hereto as Exhibit C;

(b) Bargain and sale deed from the Sheldons and McCormicks to the Kasters, a copy of which is annexed hereto as Exhibit D;

(c) Release of claims, a copy of which is annexed hereto as Exhibit E; and

(d) Grant of easement from the Kasters to the Sheldons and McCormicks, a copy of which is annexed hereto as Exhibit F.

3. The parties shall authorize their counsel to execute the stipulation and approve the form and content of the judgment concerning Violet Miller's judgment lien within fourteen (14) days from the date of this judgment or their receipt of the same,

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whichever shall occur last. Upon obtaining such authorization, counsel for the parties shall immediately execute the same. A copy of the stipulation and the proposed judgment are annexed hereto collectively as Exhibit G.

4. In the event the instruments and document described in paragraphs 2 and 3 above are not duly executed by the appropriate parties and/or counsel within the period of time set forth in said paragraphs, then, in that event, upon the request of any party, the Court may enter an order pursuant to Rule 70 of the Idaho Rules of Civil Procedure that the documents shall be deemed executed.

5. With the exception of the easements granted by the Sheldons and McCormicks to the Kasters described in Exhibit C annexed hereto, the mortgage lien of Zions Leasing Company on the real property commonly referred to as the Briggs Creek Ranch does not encumber the Sheldons' and McCormicks' 80% interest in the same. As used in this paragraph, the term "Briggs Creek Ranch" does not include the real property to be conveyed by the Sheldons and McCormicks to the Kasters which is described in the bargain and sale deed annexed hereto as Exhibit D. Zions Leasing Company's mortgage lien shall encumber, among other things, the easements described in the grant of easement annexed hereto as Exhibit C and the real property described in the bargain and sale deed annexed hereto as Exhibit D.

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6. That the survey of the real property which was the subject matter of this litigation annexed hereto as Exhibit H shall be, and it hereby is, incorporated into this judgment as if set forth in full.

Dated this 31st day of October, 1988.

/s/
GEORGE GRANATA, JR.
DISTRICT JUDGE

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AMENDMENT AND CLARIFICATION

TO

LEASE AGREEMENT AND SETTLEMENT STIPULATION

17. TAXES:

a) It is agreed by the parties that, if an aquifer tax has already been assessed but unpaid for the year 1988, the Lessors shall be responsible for payment of the 1988 aquifer tax with Lessees being responsible for payment of all future aquifer taxes assessed against the water used on the leased premises.

18. DEFAULT:

c) A monetary breach is defined as any breach by Lessees which involves the payment of funds to Lessors.

e) With regard to the payment of aquifer taxes, it is understood and agreed that Gooding County officials will be asked to send duplicate aquifer tax notices to both Lessors and Lessees with Lessees paying said aquifer taxes commencing in the year 1989 and thereafter before the same become delinquent.

19. TENANT IN COMMON MATTERS AND RELEASE

f) 1. The parties further agree that a water rights memorandum shall be placed in the State of Idaho Department of Water Resources official files reflecting each of them as having, as tenants in common, an ownership interest in certain water rights, water permits, and licenses relating to the Briggs Springs, specifically, Water Permit 36-2040 in the amount of 10.00 C.F.S. for fish propagation, Water Right 36-2607 in the amount of 60.00 C.F.S. for fish propagation, Water Right 36-7537

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EXHIBIT B

EXHIBIT B

in the total amount of 10.00 C.F.S. for irrigation, domestic, and recreation purposes, Water Permit 36-7538 in the total amount of 30.00 C.F.S. for fish propagation and power and such other water rights as may be in existence for domestic or irrigation purposes.

DATED this _____ day of _____, 1988.

_____ _____
Randy McCormick Nancy McCormick

DATED this _____ day of _____, 1988.

_____ _____
Willard Sheldon Hedwig Sheldon

DATED this _____ day of _____, 1988.

_____ _____
Howard Sheldon Louise Sheldon

DATED this _____ day of _____, 1988.

_____ _____
Richard Kaster Edith Kaster

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SEP 20 1990

EXHIBIT B

RETTIG, FREDERICKSEN & WILLIAMS
Attorneys at Law
117 South Williams Street
P. O. Box 163
Jerome, Idaho 83338
Telephone (208) 324-2303

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Department of Water Resources

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

MARY BRUSH CRUPPER and LARRY CRUPPER, wife and husband, Plaintiffs,	Case No. 20287
vs.	COMPLAINT Category: A.1. Fee: $45.00
RICHARD H. KASTER and EDITH KASTER, husband and wife; BUHL CO-OP SUPPLY ASSOCIATION, EVERETT WEAVER, PETER H. BURNO, dba THE BURNO BOILER AND ENGINE WORKS; ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, ZIONS LEASING COMPANY, VIOLET MILLER, and JOHN DOES I through V, Defendants.	

For a cause of action against the above-named Defendants, Plaintiffs complain and allege as follows:

I.

On January 5, 1984, Plaintiffs entered into a Contract of Sale, as Sellers, with Richard H. Kaster and Edith Kaster, husband and wife, for the purchase and sale of an undivided one-twentieth (1/20th) interest in the following described real property:

SEE EXHIBIT "A" ATTACHED HERETO

A copy of said Contract of Sale is attached hereto as Exhibit "B".

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II.

A Memorandum of the original Contract of Sale, a copy of which is attached hereto as Exhibit "C", was recorded February 17, 1984, as Instrument Number 106412, Gooding County, Idaho Records.

III.

On April 28, 1986, the parties to the original Contract entered into an Amendment to Contract of Sale, a copy of which is attached hereto as Exhibit "D".

IV.

On the 5th day of December, 1986, Plaintiffs prepared and had served on Richard H. Kaster and Edith Kaster a Notice of Default, a copy of which is attached hereto as Exhibit "E", advising said Defendants Kaster that they were in default under the Contract of Sale, as amended, in the following respects:

- Failure to pay the November 15, 1986 monthly installment of $700.00; and

- Failure to pay the October 1, 1986 principal installment in the sum of $27,805.34.

Said Notice of Default was served on the Defendants Kaster by certified mail on the 13th day of December, 1986.

V.

Defendants Kaster have failed to cure any part of the defaults described in the Notice of Default, a copy of which is attached hereto as Exhibit "E", within the time limit reserved by the Contract of Sale, as amended, or at all. Plaintiffs therefore elect to declare the full amount of the balance which remains due and owing under the terms of the Contract of Sale, as amended, $83,416.63, together with interest thereon at the rate of Ten Percent (10%) per annum from January 15, 1986, less $4,900.00 applied to interest since that date, to be accelerated and immediately due and owing as of the present date.

VI.

Defendants Buhl co-op Supply Association, Everett Weaver, Peter H. Burnor dba The Burno Boiler and Engine Works; Ed

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Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Zions Leasing Company and Violet Miller, each claim an interest in the above described real property by virtue of liens, judgments, contract assignments, financial statements or other means. Each of the interests so claimed by the Defendants referred to in this paragraph are inferior in right, title and interest to that of the Plaintiffs.

VII.

Defendants John Does are persons or entities claiming, or persons who may claim, an interest in the above-described real property whose interests are inferior to right and time to the Plaintiffs', the identity of which are not presently known to the Plaintiffs.

VIII.

Plaintiffs hereby elect to treat the Contract of Sale, as amended, as a Mortgage and to forclose the same as though it were a mortgage, under the laws of the State of Idaho, which right is granted by the Contract above-described.

IX.

Plaintiffs have been required to retain an attorney to bring and prosecute this action on their behalf. All reasonable attorney fees and costs thereby incurred by Plaintiffs should be paid by the Defendants Kaster.

WHEREFORE, Plaintiffs pray judgment as follows:

AGAINST DEFENDANTS KASTER:

1. That Plaintiffs have judgment against Defendants Richard H. Kaster and Edith Kaster, in the sum of $83,416.63, together with interest thereon at the rate of Ten Percent (10%) per annum from January 15, 1986, less $4,900.00 applied to interest since that date.

2. For reasonable attorney fees of $10,000.00 if this matter is not contested, not prejudicing further such attorney fees should this matter be in any way contested.

3. For costs of this action incurred by Plaintiffs.

AGAINST ALL DEFENDANTS:

4. That the interests of Plaintiffs in the above-described real property be adjudged and declared a first and prior lien upon the above described real property and any appurtenant water rights thereto, in the amount of the total judgment against Richard H. Kaster and Edith Kaster husband and wife, superior to any right, title [illegible]

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interest in said real property on the part of any defendant.

5. That Plaintiffs' lien so declared be foreclosed and ordered to constitute a lien on the above described real property and that said real property be sold in one parcel, together with all appurtenant water rights thereto, in accordance with the laws of the State of Idaho and the custom of this Court; that the usual decree of foreclosure be entered in cases involving foreclosures of mortgages, which decree should allow Plaintiffs to be permitted to be a purchaser at such a sale; that the net proceeds of the foreclosure sale be applied first to the payment of the costs of the sale and then towards the payment of Plaintiffs' judgment; that Plaintiffs have and retain a deficiency judgment against Defendants Richard H. Kaster and Edith Kaster, in the event that a determination of the fair market value of the above described real property and the sum realized at sale entitle the Plaintiffs to such a judgment in accordance with law.

6. That the Court determine the fair market value of the above described real property as of the date of judgment and use the same for the determination of a deficiency judgment, if any there shall be.

7. That the decree of foreclosure to be entered provide that, subsequent to the sale of the above described real property pursuant to the said decree, all right, title, claim and interest of any of the defendants, and any rights of any person claiming by or through any of them, including any claimed right of possession, be forever barred and foreclosed and that the purchaser at such a foreclosure sale be entitled to immediate possession thereof, subject only to such statutory rights of redemption as may be provided by law.

8. For such other and further relief as to this Court may seem just and equitable.

DATED this 13th day of February, 1987.

RETTIG, FREDERICKSEN & WILLIAMS

BY: _____
Attorney for Plaintiffs

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SEP 20 1990

EXHIBIT "A"

Undivided one-twentieth (1/20) interest in and to the following described real property:

TOWNSHIP 9 SOUTH, RANGE 14 EAST OF THE BOISE MERIDIAN

Section 3: NW¼SE¼, SW¼;
Section 4: Lots 2, 5, 6, 9, 11, 12, 13, 14, 18 and SE¼NE¼;
Section 9: Lot 2;
Section 10: Lots 1, 6 and 7 lying North and West of the following described line:

BEGINNING at the quarter corner common to Sections 3 and 10;
THENCE S 59°46'W, 1545.0 feet to the center of a flat-topped boulder marked by three bars and the letters "H.M.I." out of a chisel;
THENCE due South to the thread of Snake River;
EXCEPT tracts as set forth in Book 22 Deeds, Page 332, dated April 19, 1929, recorded April 29, 1929, Instrument No. 48279, records of Gooding County, Idaho.

TOGETHER WITH all of Seller's interest in sixty CFS-water right represented by permit number 32174/36-2607; and

Seller's interest in an Application for permit number 36-7537 and permit number 36-7538 which permits are now on file with the Department of Water Resources, State of Idaho.

TOGETHER WITH any other water rights appurtenant thereto.

SPECIFICALLY EXCEPTING and EXCLUDING FROM SAID SALE the following described property, the ownership of which is hereby retained by Seller:

PARCEL A: (Grave Site)
E½ of the SW¼ of the SE¼ of the SW¼ of Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

PARCEL B: (Trounson Reservation)
W½, SE¼, SE¼, SW¼, Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

PARCEL C: (Brush-Crupper Reservation)
E½SE¼, SE¼, SW¼, Section 3, Township 9 South, Range 14 EBM, Gooding County, Idaho.

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Larry E. Prince
Kimbell D. Gourley
HOLLAND & HART, LANGROISE, SULLIVAN
Suite 1400, Idaho First Plaza
Post Office Box 2527
Boise, Idaho 83701
Telephone: (208) 343-3676

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Department of Water Resources

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

MARY BRUSH CRUPPER and LARRY CRUPPER, wife and husband, Plaintiffs, vs. RICHARD H. KASTER and EDITH KASTER, husband and wife; BUHL CO-OP SUPPLY ASSOCIATION, EVERETT WEAVER, PETER H. BURNO, dba THE BURNO BOILER AND ENGINE WORKS; ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, ZIONS LEASING COMPANY, VIOLET MILLER, and JOHN DOES I through V, Defendants.	Case No. 20287 ANSWER TO COMPLAINT, CROSS CLAIM AND COUNTERCLAIM
PETER H. BURNO, dba THE BURNO BOILER AND ENGINE WORKS, Counterclaimant/ Cross Claimant, vs. MARY BRUSH CRUPPER and LARRY CRUPPER, wife and husband, RICHARD H. KASTER and EDITH KASTER, husband and wife,	

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BUHL CO-OP SUPPLY ASSOCIATION, EVERETT WEAVER, ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, ZIONS LEASING COMPANY, VIOLET MILLER and DOES I through V,

Counterdefendants/ Cross Defendants.

COMES NOW Defendant, Zions Leasing Company ("Zions") and answers Plaintiffs' Complaint and Defendant, Peter H. Burno, d/b/a The Bruno Broiler and Engine Works' Cross Claim and Counterclaim as follows:

I.

The Complaint, Cross Claim and Counterclaim fail to state a claim against Defendant Zions upon which relief can be granted.

II.

Defendant denies each and every allegation not specifically admitted herein.

ANSWER TO COMPLAINT

III.

In answer to Paragraphs I, II, III, IV and V of Plaintiffs' Complaint, Zions denies the allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations.

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In answer to Paragraph VI of Plaintiffs' Complaint Zions admits it claims an interest in the subject real property, but denies all other allegations contained therein.

V.

In answer to Paragraphs VII, VIII and IX of Plaintiffs' Complaint, Defendant Zions denies the allegations therein to the extent they require a response.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs have by their conduct and actions herein waived any claims they may have against Defendant, Zions Leasing Company.

SECOND AFFIRMATIVE DEFENSE

Plaintiffs are estopped by their prior conduct and actions herein from pursuing their complaint against Defendant, Zions Leasing Company.

WHEREFORE, having fully answered Plaintiffs' Complaint, Defendant Zions Leasing Company prays for relief as follows:

1. That Plaintiffs' Complaint be dismissed and that Plaintiffs take nothing thereby;

2. That Defendant Zions Leasing Company receive its costs and attorney's fees incurred herein.

3. For such other and further relief as the Court deems just and appropriate.

ANSWER TO DEFENDANT PETER H. BURNO, D/B/A/ THE BURNO BOILER AND ENGINE WORKS' CROSS CLAIM AND COUNTERCLAIM

VI.

In answer to Paragraphs 1, 2, 3 and 4 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the

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allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations.

VII.

In answer to Paragraph 5 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein.

VIII.

In answer to Paragraph 6 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein.

IX.

In answer to Paragraph 7 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason that it is without sufficient knowledge as to the truth or falsity of the allegations.

X.

In answer to Paragraph 8 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations therein to the extent it requires a response.

XI.

In answer to Paragraph 9 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations contained therein.

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XII.

In answer to Paragraph 10 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions admits it claims an interest in the subject real property, but denies all other allegations contained therein.

XIII.

In answer to Paragraphs 11 and 12 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations.

XIV.

In answer to Paragraphs 13 and 14 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein.

XV.

In answer to Paragraph 15 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegation contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations contained therein.

XVI.

In answer to Paragraph 16 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegation therein to the extent it requires a response.

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XVII.

In answer to Paragraph 17 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations.

XVIII.

In answer to Paragraph 18 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions admits it claims an interest in the subject real property, but denies all other allegations contained therein.

XIX.

In answer to Paragraphs 19 and 20 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason it is without sufficient knowledge as to the truth or falsity of the allegations contained therein.

XX.

In answer to Paragraphs 21 and 22 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein.

XXI.

In answer to Paragraph 23 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein for the reason that it is without sufficient knowledge as to the truth or falsity of the allegations contained therein.

XXII.

In answer to Paragraphs 24 and 25 of Defendant, Peter H. Burno's Cross Claim and Counterclaim, Defendant Zions denies the allegations contained therein.

FIRST AFFIRMATIVE DEFENSE

Defendant, Peter H. Burno, d/b/a The Burno Boiler and Engine Works has by his prior conduct and actions herein waived any claims he may have against Defendant, Zions Leasing Company.

SECOND AFFIRMATIVE DEFENSE

Defendant, Peter H. Burno, d/b/a The Burno Boiler and Engine Works is estopped by his prior conduct and actions herein from pursuing his Cross Claim against Defendant, Zions Leasing Company.

THIRD AFFIRMATIVE DEFENSE

Zions affirmatively alleges that Defendant, Peter H. Burno failed to file his claim of lien on said described property in the time required by Idaho Code § 45-407, and therefore said claim of lien is without effect.

FOURTH AFFIRMATIVE DEFENSE

Zions affirmatively alleges that said claim of lien is void and without effect in that Defendant, Peter H. Burno has no right to such lien under Idaho Code § 45-505, et seq.

WHEREFORE, having fully answered Defendant, Peter H. Burno, d/b/a The Burno Boiler and Engine Works' Cross Claim and Counterclaim, Defendant Zions Leasing Company prays for relief as follows:

1. That Defendant, Peter H. Burno's Cross Claim and Counterclaim be dismissed and that Defendant Peter H. Burno take nothing thereby;

2. That Defendant Zions Leasing Company receive its costs and attorney's fees incurred herein;

3. For such other and further relief as the Court deems just and appropriate.

DATED this 14th day of July, 1987.

HOLLAND & HART, LANGROISE, SULLIVAN

By _____
Kimbell D. Gourley, of the firm
Attorneys for Zions Leasing Company

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July, 1987, I mailed a true and correct copy of the foregoing ANSWER TO COMPLAINT, CROSS CLAIM AND COUNTERCLAILM by placing a copy thereof in the United States mail, postage prepaid, addressed to the following:

Robert E. Williams, III, Esq.
Rettig, Fredericksen & Williams
117 South Adams Street
P. O. Box 168
Jerome, ID 83338

_____
of HOLLAND & HART,
LANGROISE, SULLIVAN

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SEP 20 1990

JON M. STEELE
ELLIS, BROWN, SHEILS & STEELE, CHARTERED
Idaho First Plaza, Suite 1500
101 S. Capitol Boulevard
Boise, Idaho 83702
Telephone: (208) 345-7832

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Attorneys for Defendant/
Counterclaimant Peter H. Burno,
d/b/a The Burno Boiler and Engine Works

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

MARY BRUSH CRUPPER and LARRY CRUPPER, wife and husband,

Plaintiff,

vs.

RICHARD H. KASTER and EDITH KASTER, husband and wife, BUHL CO-OP SUPPLY ASSOCIATION, EVERETT WEAVER, PETER H. BURNO, dba THE BURNO BOILER AND ENGINE WORKS, ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, ZIONS LEASING COMPANY, VIOLET MILLER and JOHN DOES I through V,

Defendants.

Case No. 20287

ANSWER, CROSS CLAIM AND COUNTERCLAIM

PETER H. BURNO, dba THE BURNO BOILER AND ENGINE WORKS,

Counterclaimant/ Cross Claimant,

vs.

MARY BRUSH CRUPPER and LARRY CRUPPER, wife and husband, RICHARD H. KASTER and EDITH KASTER, husband and wife,

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BUHL CO-OP SUPPLY ASSOCIATION, EVERETT WEAVER, ED HAIGHT, MAX HOSKINS, MARK HOSKINS, MIKE HOSKINS, ZIONS LEASING COMPANY, VIOLET MILLER and DOES I through V,

Counterdefendants/ Cross defendants.

ANSWER TO COMPLAINT

COMES NOW defendant Peter H. Burno, dba The Burno Boiler and Engine Works, and answers the Complaint on file herein as follows:

1. As to the allegations contained in Paragraphs I, II, III, IV, and V of said complaint, this answering defendant has no information or belief as to said allegations and, basing his denial on said lack of information and belief, denies each and every, all and singular, the allegations contained therein.

2. As to the allegations contained in Paragraph VI of said complaint, this answering defendant admits that Peter H. Burno, d/b/a The Burno Boiler and Engine Works, claims an interest in the real property which is the subject of the complaint. As to the remaining allegations in Paragraph VI, this answering defendant denies each and every, all and singular, the allegations contained therein.

3. As to the allegations contained in Paragraphs VII, VIII, and IX of said complaint, this answering defendant denies each and every, all and singular, the allegations contained therein.

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CROSS CLAIM AND

COUNTERCLAIM

As and for a counterclaim against counterdefendants Mary Brush Crupper and Larry Crupper, wife and husband, and as and for a cross claim against cross defendants Richard H. Kaster and Edith Kaster, husband and wife, Buhl Co-Op Supply Association, Everett Weaver, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Zions Leasing Company, Violet Miller, and Does I through V, counterclaimant/cross claimant Peter H. Burno, dba the Burno Boiler and Engine Works, alleges:

COUNT ONE

1. At all times relevant hereto, cross defendants Richard H. Kaster and Edith Kaster were and now are residents of Twin Falls County, Idaho.

2. Cross defendants Kaster purchased from cross claimant various goods, wares, and merchandise, and services prior to September 21, 1985, on which there is an unpaid balance due of $298,976.20 plus interest. Cross defendants Kaster are justly indebted to cross claimant for said amount.

3. Despite repeated demands by cross claimant, cross defendants Kaster have failed to pay the above-mentioned sum and continue to fail and refuse to pay the above-mentioned sum, which is presently due and owing.

4. Demand has been made on cross defendants Kaster for payment of said amount due not less than ten days prior to the date of filing of this action.

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5. Cross claimant has retained the services of Ellis, Brown, Sheils & Steele, Chartered, to institute this civil action. Cross claimant is entitled to reasonable attorneys' fees for payment of said services pursuant to Idaho Code Section 12-120.

COUNT TWO

6. Counterclaimant/cross claimant realleges and incorporates herein by reference each and every allegation contained in Count One hereof.

7. That the real property subject of the above action is located in Gooding County, Idaho, and is more particularly described in Paragraph 9 hereinbelow.

8. That the true names of counterdefendants Does I through V are unknown to counterclaimant at the present time, but counterclaimant will file amended pleadings at such time as the true names of said counterdefendants are ascertained.

9. That the counterdefendants Larry Crupper and Mary Brush Crupper and cross defendants Richard H. Kaster and Edith Kaster, husband and wife, together with Willard E. Sheldon, Howard Sheldon, George M. Sheldon, Charles Wesley Trounson and Lucille Trounson, Dale Hire and Margaret E. Hire, and Nancy McCormick (hereinafter "Owners") during all times hereinafter mentioned are and were the owners and reputed owners of the real property and improvements thereon described as follows:

Township 9 South, Range 14 East of the Boise Meridian, Gooding County, Idaho:

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Section 4: The South 750 feet of the SE 1/4 NE 1/4 except the east 200 feet; the north 900 feet of Lot 5; the north 600 feet of Lot 12; the south 200 feet of Lot 11; the south 831 feet of the east 660 feet of Lot 2; the south 350 feet of the west 550 feet of Lot 2; containing approximately 66 acres, more or less.

10. That cross defendants Buhl Co-Op Supply Association, Everett Weaver, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Zions Leasing Company, and Violet Miller, and each of them, claim some right, title or interest in and to the above-described property. That said interest, if any, of said cross defendants is junior and subservient to that of the cross claimant.

11. That between March 1, 1984 and September 21, 1985, the cross claimant, at the special instance and request of cross defendant Richard H. Kaster, agreed to furnish and did, in fact, furnish, deliver and supply power plant equipment and installation of said equipment which were used in the construction of the Briggs Creek Power Plant, which goods and services were in an agreed amount and reasonable value in the sum of approximately $298,976.20, of which there is an outstanding balance due, after deducting all just credits and offsets, in the amount of $298,976.20 to the cross claimant.

12. That the cross claimant caused to be drawn and, on November 20, 1985, recorded a claim of lien for such power plant equipment and installation thereof used on the premises, which said lien was filed in the office of the

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Gooding County Recorder, Gooding, Idaho, at a cost of $256 for the preparation, filing, and recording of the same.

13. That cross claimant has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered to represent him in this action and is entitled to recover from counterdefendants, and each of them, his reasonable attorney fees, costs, and expenses incurred herein.

COUNT THREE

14. Cross claimant realleges and incorporates herein by reference each and every allegation contained in Count One hereof.

15. That the real property subject of the above action is located in Gooding County, Idaho, and is more particularly described in Paragraph 17 hereinbelow.

16. That the true names of counterdefendants Does I through V are unknown to counterclaimant at the present time, but counterclaimant will file amended pleadings at such time as the true names of said counterdefendants are ascertained.

17. That the counterdefendants Larry Crupper and Mary Brush Crupper and cross defendants Richard H. Kaster and Edith Kaster, husband and wife, together with Willard E. Sheldon, Howard Sheldon, George M. Sheldon, Charles Wesley Trounson and Lucille Trounson, Dale Hire and Margaret E. Hire, and Nancy McCormick (hereinafter "Owners") during all times hereinafter mentioned are and were the owners and

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reputed owners of the real property and improvements thereon described as follows:

> Township 9 South, Range 14 East of the Boise Meridian, Gooding County, Idaho:
>
> Section 4: the north 900 feet of Lot 5; the north 600 feet of Lot 12.

18. That cross defendants Buhl Co-Op Supply Association, Everett Weaver, Ed Haight, Max Hoskins, Mark Hoskins, Mike Hoskins, Zions Leasing Company, and Violet Miller, and each of them, claim some right, title or interest in and to the above-described property. That said interest, if any, of said cross defendants is junior and subservient to that of the cross claimant.

19. That between March 1, 1984 and September 21, 1985, the cross claimant, at the special instance and request of cross defendant Richard H. Kaster, agreed to furnish and did, in fact, furnish, deliver and supply power plant equipment and installation of said equipment which were used in the construction of the Briggs Creek Power Plant, which goods and services were in an agreed amount and reasonable value in the sum of approximately $298,976.20, of which there is an outstanding balance due, after deducting all just credits and offsets, in the amount of $298,976.20 to the cross claimant.

20. That the cross claimant caused to be drawn and, on November 20, 1985, recorded a claim of lien for such power plant equipment and installation thereof used on the premises, which said lien was filed in the office of the

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Gooding County Recorder, Gooding, Idaho, at a cost of $256 for the preparation, filing, and recording of the same.

21. That cross claimant has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered, to represent him in this action and is entitled to recover from counterdefendants, and each of them, his reasonable attorney fees, costs, and expenses incurred herein.

COUNT FOUR

22. Cross claimant realleges and incorporates herein by reference each and every allegation contained in Count One, Two and Three.

23. That by reason of said purchase of goods, wares, and merchandise and services, counterclaimant has benefitted and improved the real property by construction of a hydroelectric plant.

24. That counterclaimant/cross claimant is entitled to the reasonable value of the improvements to the real property under the theory of quantum meruit and/or unjust enrichment.

25. That counterclaimant/cross claimant has been required to employ the services of Ellis, Brown, Sheils & Steele, Chartered, to represent him in this action and is entitled to recover from counterdefendants/cross defendants, and each of them, his reasonable attorney fees, costs, and expenses incurred herein.

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WHEREFORE, defendant/counterclaimant/cross claimant prays for relief as follows:

1. As to the complaint on file herein, that plaintiffs take nothing by their complaint on file herein, for recovery of reasonable sums as and for attorney fees, for costs of suit, and for such other and further relief as the court may deem proper.

2. As to Count One, Count Two, and Count Three of the Counterclaim/Cross Claim:

(a) For the sum of $298,976.20 principal balance outstanding, together with interest thereon, the sum of $256 for the cost of preparation and filing of said claim of lien, the cost of the foreclosure report, and for reasonable attorney fees incurred in the bringing of this action as against the counterdefendants;

(b) That the claim of lien held by counterclaimant/cross claimant be foreclosed;

(c) That the parties named as counterdefendants/cross defendants, and each of them, and all persons claiming or to claim said premises or any part thereof, by, through, or under the said counterdefendants/cross defendants, or any of them, be barred and foreclosed of all right, title, interest, claim or equity of redemption in and to the property described in the claim of lien held by the counterclaimant/cross claimant or any part of said property.

(d) That the usual decree of foreclosure be made for the sale of all of the real and personal property

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described in the claim of lien of which counterclaimant/cross claimant is the holder according to the law and the practice of this court, and that the real and personal property be sold in one parcel by the Sheriff of Gooding County, State of Idaho; that the proceeds of sale of said real and personal property be applied to all payments due the counterclaimant/ cross claimant, and that counterdefendants/cross defendants, and each of them, either as purchasers, encumbrancers, or otherwise, be forever barred and foreclosed of any right, title, interest, claim or equity of redemption of said property, or any part thereof, including the personal property and improvements thereon;

(e) That any party to this action may become a purchaser at said sale, and that the sheriff execute a deed to said purchaser or purchasers and that said purchaser or purchasers be let into possession of the premises upon production of the said sheriff's deed, certificate of sale, or bill of sale therefore;

(f) That the counterclaimant/cross claimant have judgment and execution against the counterdefendants/ cross defendants, and each of them, for any deficiency allowed by law which remains after payment of all of the proceeds of the sale of the property in the manner prayed for in this prayer for relief;

(g) That the counterdefendants/cross defendants, and each of them, be required to set forth by proper

pleading the nature of their claims in and to said real property, or any part thereof;

(h) That counterclaimant/cross claimant have a decree of this court judgment and decreeing that he is the owner and is entitled to possession of said property above described;

(i) That the counterdefendants/cross defendants, and each of them, have no right, title, interest, or claim thereof, and that each of them, and all persons claiming under them, and all persons having any lien, claim, judgment or decree against said land, premises, and property, or in any part, parcel, or portion thereof, either as purchaser or encumbrancer, or otherwise, be barred and foreclosed from all equity of redemption in and to said real property, and in and to every part, parcel and portion thereof;

(j) For reasonable attorney fees;

(k) For costs and expenses incurred herein;

(l) For such other and further relief as the court may deem proper.

3. As to Count Four of the counterclaim/cross claim:

(a) That counterclaimant/cross claimant be awarded the sum of $298,976.20 from counterdefendants/cross defendants;

(b) For attorney fees;

(c) For costs of suit incurred herein; and

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(d) For such other and further relief as the court may deem proper.

Dated: April 30, 1987.

ELLIS, BROWN, SHEILS & STEELE, CHARTERED,
Attorneys for Defendant/
Counterclaimant Burno,

By _____
Jon M. Steele

CERTIFICATE OF MAILING

I hereby certify that on the 30 day of April, 1987, I served a copy of the foregoing Answer and Counterclaim by mailing the same in the United States mail, postage prepaid, to the following:

Robert E. Williams, III
Rettig Fredericksen & Williams
P. O. Box 168
Jerome, Idaho 83338

_____
Jon M. Steele

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JEFF STOKER, P.A.
733 Addison Avenue
P.O. Box 1597
Twin Falls, ID 83303-1597
(208)734-8452

Attorney For: Sheldon's/McCormick's

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

* * *

PETER H. BURNO dba THE BURNO BOILER AND ENGINE WORKS Plaintiff, -vs- WILLARD B. SHELDON and spouse, et. al. Defendants.	LEASE AGREEMENT AND SETTLEMENT STIPULATION AND ORDER #19972 and consolidated cases #19615, #20194, #20004, #20287, #19918

AND RELATED CASES * * *

This stipulation and agreement is made and entered into this _____ day of _____, 1988, by and between George and Phyllis Sheldon; Howard and Louise Sheldon; Willard B. and Hedwig Sheldon; and Randy and Nancy McCormick, hereinafter collectively referred to as "lessors", and Richard and Edith Kaster, hereinafter referred to as "lessees".

WITNESSTH:

1. Court Settlement: This agreement is made and entered into as a result of a stipulated settlement of certain lawsuits filed in Gooding County which lawsuits involve the lessors and lessees. The following is intended to set forth the terms of the stipulated settlement and to regulate and control the actions of the parties in regard to the Briggs Creek Ranch.

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EXHIBIT A

EXHIBIT A

2. 1974 Lease: To the extent that any terms of the 1974 lease, entered into between the parties, is not in conflict with the terms of this stipulation then said 1974 lease terms shall be controlling in regard to the rights and responsibilities of the parties.

3. Two Acre Parcel: Lessors agree to convey to lessees all of their right, title and interest in and to a two acre parcel which 2 acre parcel shall include the hydro electric plant presently located on the Briggs Creek Ranch. Lessors will convey and release all of their right, title and interest in and to said hydro electric plant, in and to the 70cfs of water right for hydro electric purposes, permit number 36-7973, and will release all of their interest in and to the Idaho Power contract, the FERC exemption and all equipment and fixtures which are affixed to the hydro electric plant or used in the hydro electric plant. Lessors also agree to grant an easement for ingress and egress on the main road to the hydro plant, an easement for conveying water to the hydro plant and such easements as are necessary for the head works, penstock and power lines which pertain to the hydro plant.

a) The two acre parcel, hereinbefore referred to, shall be identified by a surveyor to be hired by the lessees. It is agreed that lessor shall be consulted concerning the actual layout of the two acre parcel. In the event of any dispute in this regard, then this matter will be submitted to the trial court for a determination which determination will be considered binding on all parties to this agreement, without appeal.

b) Lessees agree to provide easements to Lessors for

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SEP 20 1990

EXHIBIT A

ingress and egress across the two acre parcel. Said easements shall allow lessors access across the two acre parcel on the roads that presently exist.

c) Lessees also grant lessors an easement across the two acre parcel for transfer of water to the fish ponds. Said easement is intended to be created to allow easements through the pipelines that presently exist under the hydro electric plant.

d) Lessees also grant lessors an easement for the use of the raceway and tailrace for transfer of water from the hydro plant to the fish ponds.

e) Lessors waive any claim or rights they may have in and to the hydro electric plant, to any royalties that may hereafter be paid on power generated by said plant or to any royalties arising from any power heretofore generated by said plant. Lessors also release any and all claims they may have against the lessees for the construction of said hydro plant.

f) Lessees agree to pay the sum of $125,000 to lessors as consideration for this settlement of the lawsuits which have arisen between the parties. This money shall be paid at the time of the execution of all documents which may be necessary to transfer the easements hereinbefore referred to and upon the execution of this agreement by all parties. It is also understood and agreed that no part of this payment is allocated to attorney fees as each party has agreed to bear their own costs and fees. Lessors agree to indemnify lessees and hold lessees harmless from any claims on the part of the Healzer Estate for attorney fees rendered by [illegible] on behalf of

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EXHIBIT A

the lessors.

4. Fish Rental Payments: The provision of the 1974 fish lease shall control in regard to any fish crops that have been raised and harvested as of this date for 1988 and shall also apply to the fish crop currently being raised in the fish ponds. It is anticipated that the present crop shall be harvested approximately September, 1988. Within 10 days following lessees receipt of payment for the September fish crop, lessees shall pay to lessors 20% of the monies received for all crops harvested in 1988. Following the September, 1988 crop the fish rent payment shall be as hereinafter set forth.

a) The fish rent to be paid shall be based on the following formula with said rent payments to be paid directly to lessors without any allocation to the lessees for their 20% ownership interest in the Briggs Creek Ranch. The formula is as follows:

> 30% of the gross gain payments or $16,000, whichever is greater shall be paid as fish rental. Provided, however, that in any year where the 30% of gross gain is less than $16,000 then Kaster's will pay 30% or $7,000 whichever is greater. This provision shall be applicable to no more than 4 years of the remaining years in the lease. Kaster shall have the right in any year that the 30% payment is less than $16,000, to pay the $16,000 minimum to avoid having it attributed to the 4 years wherein the minimum rental required may be less than $16,000.

b) Lessees agree to use their best efforts to keep the existing ponds fully stocked with fish.

c) Time of payment: All payments shall be made to lessors directly by the fish company that stocks the ponds. Said fish producers shall be directed by lessees, in writing, to pay 30% of all monies due to the lessors. Said payments shall be made directly to lessors at address to be provided by the fish producer.

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d) The Fish producer shall be directed to make one check payable to Nancy McCormick. The fish producer will also be requested to send appropriate accountings to Nancy McCormick along with the check, said accountings to reflect the amount of fish produced in ponds, the conversion factor, and such other information as may be necessary to properly inform lessors of the fish produced during any given period of time.

e) In the event payments made by the farm pond producer during any calender year are insufficient to satisfy the minimum obligation set forth above then lessees shall have until January 15th to pay the remaining amount due to satisfy the minimum requirement. In the event the final crop is harvested during the month of December, in any given year, then the lessees shall have until February 15th to pay the minimum rental due for said year.

5. Other Production Methods: In the event lessees utilize a method of trout production other than the farm pond method then lessees shall pay as rental the customary rental rate existing in the fish industry based on the production method utilized. However, the minimum payments as set forth in paragraph 4(a) shall still be applicable regardless of which productio method is used. Payments to the lessors, under any alternative production method, shall be made by the producer or trout purchaser and shall be payable in a single check to Nancy McCormic

6. Improvements and Maintenance: The lessee shall have the right to make improvements to the fish ponds. If any such improvements are made they shall be at the sole expense of the lessees. In the event any improvements are made by lessees then,

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EXHIBIT

upon termination of this lease for any reason, the lessees shall not be entitled to bring any claim for unjust enrichment and all improvements shall revert to the lessors with the understanding that 20% of such reversionary rights will belong to lessees due to their 20% ownership interest in the real property.

7. Water: Lessors shall lease to lessees 70cfs of water. This water shall be available to lessees for fish propagation purposes. In the event a determination is made by any appropriate government agency or court that less than 70cfs for fish propagation is available then the minimum rent shall be reduced proportionately.

a) In the event the lessors allow more than 70cfs to flow into the penstock then lessees may utilize said additional water without additional compensation to the lessors.

b) It is understood that the 70cfs of water includes lessees 20% undivided interest in the current water rights.

8. Assignment of Lease: Lessees shall not be entitled to assign their rights under this lease agreement without lessors prior written consent which consent shall not be unreasonably withheld. However, it is agreed that under no circumstances shall the lease be assigned to the following individuals, or any of them: Earl Hardy, Ken Ellis, George Lemmon, or Wes Trounsen.

9. Lessess Residence: Lessees shall be allowed to reside in the home on the leasehold premises and may continue to have a trailer parked on the leasehold premises during the term of the lease. No other residence shall be allowed on the leasehold premises without the written consent of the lessors.

a) During the time that lessees reside on the property

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and during the term of this lease, lessees, and anyone residing in the trailer, shall not have more than 6 large animals with 6 yearlings on the property at any given time.

10. Maintenance of Premises: Lessees agree to maintain the leasehold premises reasonably free of garbage and discarded items. Lessees agree to keep the premises in a clean and orderly condition.

11. Liens: In the event any form of lien is filed as a result of the lessees operation of the fish ponds or as a result of any improvements instituted by the lessees then lessees, at their sole cost and expense, and upon request, shall provide the lessors a defense to any foreclosure action and shall indemni and hold lessors harmless from any such lien or foreclosure action. The filing of a lien against the property shall not constitute a breach of this lease so long as lessees comply with the terms of this paragraph.

12. Trees and Firewood: Lessees shall not cut any live trees or otherwise destroy vegetation on the premises. However, it is recognized that there are dead trees already existing on the premises. It is understood and agreed that lessees shall have the right to cut such dead trees for personal firewood purposes for the residences. Any firewood cut by the lessees shall be cut by the lessees family members and not by non-family members.

13. Other Business Enterprises: It is agreed that lessee shall not operate any business enterprise upon the leased premises except the fish propagation business. Lessee shall not engage in the selling of any gravel, firewood or other product

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SEP 20 1990

EXHIBIT A

which may be produced by, or available on, the leased premises.

14. Lead Ditch: Lessees shall be responsible for maintenance of the canals and ditches bringing water to the hydro plant and to the fish ponds during the term of this lease. Upon termination of this lease then the parties shall be responsible for the maintenance of the ditch based on the amount of water being used from the ditch, it being the intent of the parties that the persons using water from the ditch shall pay a proportionate share of costs for maintenance of the lead ditch based on use of water from said ditch.

15. Maintenance of Fish Ponds: Lessee shall maintain the fish ponds in as good a condition as they are presently in, reasonable wear and tear excepted.

16. Termination Option: Lessees shall have the option, upon 30 days written notice to lessors, to terminate this lease arrangement, said termination to be effective as of the end of the calender year. Upon such termination lessees will vacate the leasehold premises and shall remove any items of personal property from the premises. In the event of such termination lessees shall have no lease obligation for subsequent years.

a) In the event of involuntary termination of this lease, lessees shall have no obligation for rental payments for calender years subsequent to the year the lease is involuntarily terminated.

17. Taxes: Lessees shall pay all aquifer and real property taxes assessed against the leased property and/or assessed against the water used thereon. In the event any aquifer assessments are made for water used for irrigation or for

purposes not involving the leased property then the amount assessed against said non-fish producing water right shall be paid by the lessors with lessees having a 20% responsibility for said obligation(s) based on lessees ownership interest in the property.

18. Default: Any violation of the terms of this agreement by lessees shall constitute a default of this agreement. Upon any such default lessors shall have the rights provided in the 1974 lease except that the following provision shall apply in regard to notification to the lessees.

a) In the event of a non-monetary breach then lessors shall serve a 90 day written notice upon lessees of any such default. Lessees shall have 90 days in which to cure said default before lessors shall be allowed to pursue any remedy that they may have available to them under the 1974 lease or under the laws of the State of Idaho.

In the event of a second non-monetary breach, of an identical nature, then the notice and cure period shall be 30 days.

In the event of a third identical breach then lessors shall not be required to provide any notice or cure period.

b) In regard to any breach involving a monetary obligation then lessors shall have no duty to provide any form of written notice to the lessees and lessors shall have the right to immediately proceed with such remedies as may be available under the 1974 lease or in accordance with Idaho law.

c) A monetary breach is defined as a breach by the lessees which involves the payment of funds to any person or

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organization by the lessees.

d) The parties agree that the filing of any form of bankruptcy by the lessees shall also constitute a non-monetary breach of the lease.

19. Tenant-In-Common Matters and Release: This agreement constitutes a settlement of all pending claims or lawsuits between the parties.

a) The parties recognize that lessees own a 20% undivided interest in the property. Each party agrees to cooperate with one another in regard to expenses related to the maintenance of the non-leasehold property.

b) The parties agree that lessors shall have, in the exercise of their majority interest, management rights over the property except that said management rights shall not apply to the leasehold property during the term of the lease. Lessors shall have a duty to inform the lessees of any activities concerning the non-leasehold property.

1) Lessors agree that they will not make any expenditure in excess of $500 without lessees prior written consent. The lessors also agree that they shall not make any expenditure over and above the total of $1,000 per year without the lessees prior written consent.

2) In the event lessors and lessees cannot agree as to any expenses necessary for the maintenance of the property then the matter shall be submitted to binding arbitration. Said arbitration shall be conducted by each of the parties naming an arbitrator with the two named arbitrators selecting a third. The three arbitrators so named, shall then review the contested

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matter and enter a determination as to whether or not the disputed expenditure should be made. Each party agrees to pay 50% of any costs attributable to any such arbitration.

3) The parties agree that in the event any expenditure is made which exceeds the $500 per expenditure and/or the $1,000 per year without prior written approval from the lessees or without utilizing the arbitration procedure that the person or persons making the expenditure shall not be entitled to reimbursement. The person making such reimbursement, however, shall be entitled to recoup such expenditure from any new income that may be generated by the improvement or expenditure.

c) The parties agree that no water filings can be made in regard to the Briggs Creek Ranch without the agreement of all parties concerned. This shall apply to water filings in regard to water that flows on, across or effects the Briggs Creek Ranch.

d) As part of the settlement the parties agree that no signatory to this agreement, or their heirs or assigns, shall institute an action for partition during the term of this lease. Upon termination of this lease, for whatever reason, any party, or their heirs or assigns, shall have the right to proceed with a partition action in accordance with Idaho law.

e) Lessees have paid the sum of $10,558.83 to Jeff Stoker's Trust Account on behalf of the lessors. It is agreed that this amount shall be retained by the lessors except that lessors shall bring current any unpaid aquifer assessments. This shall not include any aquifer assessment for 1988. Said $10,558.73 shall also be considered as full payment of any rental obligations under the 1974 lease through and including 1987.

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f) The parties agree that all water rights, including water permits or applications, shall be owned by the parties as tenants-in-common. This includes the two Trounsen water rights and all fish propagation rights but does not apply to the permit for 70cfs of water for hydro power purposes.

g) In reference to any income on the non-leasehold property, the parties agree that said income shall be split according to ownership interests. In the event income from any given year is received then lessees shall receive their share of said income on or before the 15th day of January of the next following year.

h) Lessors and lessees agree that they will exercise their best efforts to maximize income from the non-leasehold property during the term of the lease and thereafter.

i) This settlement also represents a settlement of any and all claims or potential claims that may exist between the parties for any expenses arising in regard to maintenance of the property owned in common by the parties.

j) In regard to administrative matters relating to the lease agreement and/or related to the tenant-in-common relationship between the parties, it is agreed that lessees may contact Nancy McCormick and Nancy McCormick will have authority to act on behalf of the lessors in regard to such matters.

k) Lessors agree that their irrigator shall use his best efforts to use only such water as may be necessary for irrigation purposes and to avoid interruption of the water flow to the hydro electric facility and the fish ponds.

SEP 2 0 1990
DEPARTMENT OF FISH AND GAME
FILED

DATED this _____ day of July, 1988.

Mrs. Nancy L. McCormick
Nancy McCormick

Randy McCormick
Randy McCormick

Willard B. Sheldon
Willard B. Sheldon

Hedwig Sheldon
Hedwig Sheldon

Howard Sheldon
Howard Sheldon

Louise Sheldon
Louise Sheldon

George Sheldon
George Sheldon

Phyllis Sheldon
Phyllis Sheldon

Richard H. Kaster
Richard H. Kaster

Edith Kaster
Edith Kaster

Attorneys signatures approving content:

Jeff Stoker

Larry Prince

Stephen Beane

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SEP 20 1990

EXHIBIT A

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

On this 1st day of July, 1988, before me, the undersigned, a Notary Public for Idaho, personally appeared RANDY AND NANCY MCCORMICK, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Jana Hedwig
Notary Public for Idaho
Residence: Twin Falls
Commission expires: 9-92

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

On this 5th day of July, 1988, before me the undersigned, a Notary Public for Idaho, personally appeared WILLARD B. AND HEDWIG SHELDON, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Notary Public for Idaho
Residence: Twin Falls
Commission expires:

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

On this 5th day of July, 1988, before me the undersigned, a Notary Public for Idaho, personally appeared HOWARD SHELDON, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

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

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SEP 20 1990

Notary Public for Idaho
Residence: Twin Falls
Commission expires:

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

On this 5th day of July, 1988, before me the undersigned, a Notary Public for Idaho, personally appeared LOUISE SHELDON, known or identified to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same.

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

Notary Public for Idaho
Residence: Twin Falls, Idaho
Commission expires: 7-2-92

STATE OF ~~IDAHO~~ California)
)ss.
County of Alameda)

On this 11th day of July, 1988, before me the undersigned, a Notary Public for Idaho, personally appeared GEORGE AND PHYLLIS SHELDON, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

OFFICIAL SEAL
PAMELA A. CORNFORD
NOTARY PUBLIC-CALIFORNIA
Principal Office in ALAMEDA County
My Commission Expires June 11, 1991

Notary Public for ~~Idaho~~ California
Residence: 907 Mountain Blvd Oakland Ca 94
Commission expires: June 11, 1991

STATE OF IDAHO)
)ss.
County of Cassia)

On this 9th day of ~~July~~ Sept., 1988, before me the undersigned, a Notary Public for Idaho, personally appeared RICHARD H. AND EDITH KASTER, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

RECORDED

SEP 20 1990

Notary Public for Idaho
Residence: Burley, Idaho
Commission expires: Dec. '89

ORDER

Based on the stipulation of the parties, the Court orders that judgment is hereby entered incorporating all of the terms of said settlement agreement.

DATED this _____ day of July, 1988.

Judge Granata

EXHIBIT A

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

December 9, 1994

PRISTINE SPRINGS INC
GEORGE SHELDON
WILLARD B SHELDON
HEDWIG SHELDON
HOWARD SHELDON ESTATE
LOUISE SHELDON
PHYLLIS SHELDON
RICHARD H KASTER
EDITH KASTER
201 WARM CREEK RD
JEROME ID 83338

RE: WATER RIGHT NO. 36-07537

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit along with a copy of your approved Application for Amendment.

Should you have any questions regarding these documents, please contact me.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:dc

Enclosure

DEC 13 1994

M E M O R A N D U M

DATE: November 22, 1994

TO: File 36-07537

FROM: Shelley W. Keen SWK

RE: Licensing Amendment

==========

We received a licensing amendment with the appropriate fee from George Sheldon on September 9, 1994. However, because of the language in court documents relating to Gooding County case no. 19972, we have sought approval of the licensing amendment from Richard and Edith Kaster as well. The LEASE AGREEMENT AND SETTLEMENT STIPULATION AND ORDER states on page 12 that all water rights shall be owned by the parties "as tenants-in-common." The Sheldons and the Kasters are the parties to which the document refers. Yesterday I called the Gooding County courthouse and was told that on October 31, 1988, Judge Granata issued a judgment that "approved and incorporated" the provisions of the stipulation.

As of today, we have not received the licensing amendment back from the Kasters. However, this morning I spoke with Myron Sheldon at 543-4992, and he said he would discuss the amendment with the Kasters. Myron Sheldon also said that the relationship between the Sheldons and Kasters has not legally changed since the judgment was issued in 1988.

DEC 1 3 1994

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

November 7, 1994

RICHARD H KASTER
EDITH KASTER
RT 3
BUHL ID 83316

RE: WATER RIGHT NO. 36-07537

Dear Mr. and Mrs Kaster:

I previously forwarded to you your copy of an Application for Amendment so that you could amend the above referenced permit to correspond with the findings of the Department's field examiner. As of this date, I have not received a response from you.

As previously stated, the Sheldons have returned their copy and paid the $50.00 amendment fee. The permit cannot be licensed unless all owners are in agreement. If I do not receive the amendment within fourteen (14) days, I will assume you no longer have any interest in the permit and cancellation proceedings will begin. Enclosed for your convenience is another Application for Amendment form.

If you have any questions, please contact me. My telephone number is (208) 327-7947.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

Enclosure

cc: Sheldons et al

DEC 13 1994

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

September 29, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

RICHARD H KASTER
EDITH KASTER
RT 3
BUHL ID 83316

RE: WATER RIGHT NO. 36-07537

Dear Water Right Holder(s):

I previously forwarded to you, and to the Sheldons, Applications for Amendment so that you could amend your permit to correspond with the findings of the Department's field examiner.

Although I received the Amendment from the Sheldons three weeks ago, I have not received your amendment. As all parties must be in agreement before this right can be licensed, I am writing to request that you submit the amendment within the next fourteen (14) days. Enclosed for your convenience is another amendment form in the event the first one was misplaced. Be advised that the amendment fee has already been paid and no fee is due for your amendment.

If you have any questions, please contact me. My telephone number is (208) 327-7947.
Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

Enclosure

REC'D 1 3 1994

MEMORANDUM

DATE: September 2, 1994

TO: File No. 36-07537

FROM: Donna Corless

SUBJECT: TELEPHONE CALL

==========

Cheryl Eggleston, of Pristine Springs, Inc. telephoned this office and said that she is not authorized to make a decision on this Application for Amendment request. She asked for separate copies to be mailed to the Sheldons and the Kasters. These copies were mailed today and the call-up date was extended for an additional 2 weeks.

DEC 13 1994

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 19, 1994

PRISTINE SPRINGS INC
GEORGE SHELDON
WILLARD B SHELDON
HEDWIG SHELDON
HOWARD SHELDON ESTATE
LOUISE SHELDON
PHYLLIS SHELDON
RICHARD H KASTER
EDITH KASTER
201 WARM CREEK RD
JEROME ID 83338

RE: WATER RIGHT NO. 36-07537

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the actual use of water found by a representative of our department at the time of the field examination. The enclosed Application for Amendment contains this information. Please review carefully and if you concur, sign the amendment and return with the $50.00 filing fee within 14 days.

The last page of the Application for Amendment form contains a list of CONDITIONS/REMARKS proposed for the license when it is issued. These conditions/remarks may be modified upon further administrative review.

DEC 13 1994

If you do not concur with this information, or you have any questions, please contact me as soon as possible. My telephone number is (208) 327-7947.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:dc

Enclosure

DEC 13 1994

LICENSE REVIEW CHECKLIST

BRENDA

PERMIT NO. 36-7537 DATE 8-16-94

	Yes	No	
NAME	✓		Or Address Change? Changes
PRIORITY DATE	✓		Advance? DONE Advanced to: June 4, 1975 Order to reinstate needed? Done Incorrect fee for rate recommended? NO
SOURCE	✓		Changes or just clarification of originally intended source? also Briggs Creek/trib Snake R. Notice of Intent to Void necessary?
POINT OF DIV		✓	Amendment needed?
	✓		Overlaps? "R" 36-15180
PLACE OF USE		✓	Amendment needed?
	✓		Overlaps? "R" 36-15180
DIV RATE		✓	Fish measurements + 1.79 Measurement Q = 5.51 Theoretical Q =
			30 X .02 = .60 Briggs Creek/Irr Q = 1.79 cfs Briggs Spring to East Ditch Q = 3.72 cfs Fish Q = 2.19
			Capacity: ____ Combined rates exceed capacity ____ Permit/fee limits: ____ Allowable: ____
ANNUAL VOLUME		✓	Season of use: C/H (4-1 to 10-31) Calculations: 30 X 4 = 120 Fish = 1585.5
			Flow limit: ____ cfs x ____ x 1.9835 = ____ Combined volumes exceed capacity/allowable ____
USES	✓		Change in Nature of Use or additional uses? Change Amendment necessary? YES recreational use to Fish Prop + Delete Domestic
REMARKS		✓	Multiple p/d(s) in ¼ ¼?
	✓	✓	Other Fish facility volume is 753.2 cu ft
CONDITIONS		✓	Measuring/Locking Devices
		✓	Watermaster control - District ____
R26			Irrigation Overlap
R09			Water Quality
R41			Other (for the acres covered under the gravity system) Facility Volume = 753.2 cubic feet

CAPACITY OF IRRIGATION system = 5.51 / 160
R36-15180 = 4.91 (N/A - IGNORE) move pnts to system - but not included here.

COMMENTS: Rate per acre increased based on "Graded Border Evaluation" for wild flooding and conveyance loss used in the adjudication Exams guidelines.

Amend Nature of Use

RECOMMENDED	CFS	VOLUME
Irrigation	1.52	120
Fish	2.19	1585.5
TOTALS	3.71	1705.5

LICENSE ____

ADJUSTMENT MEMO NEEDED ____

1ST AMENDMENT LETTER P46

FINAL AMENDMENT LETTER P47

Form 219
6/92

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

BENEFICIAL USE FIELD REPORT

RECEIVED
DEC 0 9 1993
Department of Water Resources

A. GENERAL INFORMATION

Permit No. 36-7537

1. Owner: Sheldon, et al (See Attached Exhibit "A") Phone No. _____

Current Address: Box 443, Buhl, ID 83316

2. Accompanied by: George Sheldon EXAM DATE: 12-3-92 1-26-93

Address: Box 443; Buhl, ID 83316 Phone No. 543-4992

Relationship to Permit Holder: owner and operator

3. Source: Briggs Springs Briggs Creek. tributary to Snake River Briggs Creek

B. OVERLAP REVIEW

1. Other water rights with the same place of use: "R" 36-15180

2. Other water rights with the same point of diversion: R36-15180, 36-7973, 36-2039, 36-2040, 36-2607, 36-7538

C. DIVERSION AND DELIVERY SYSTEM

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

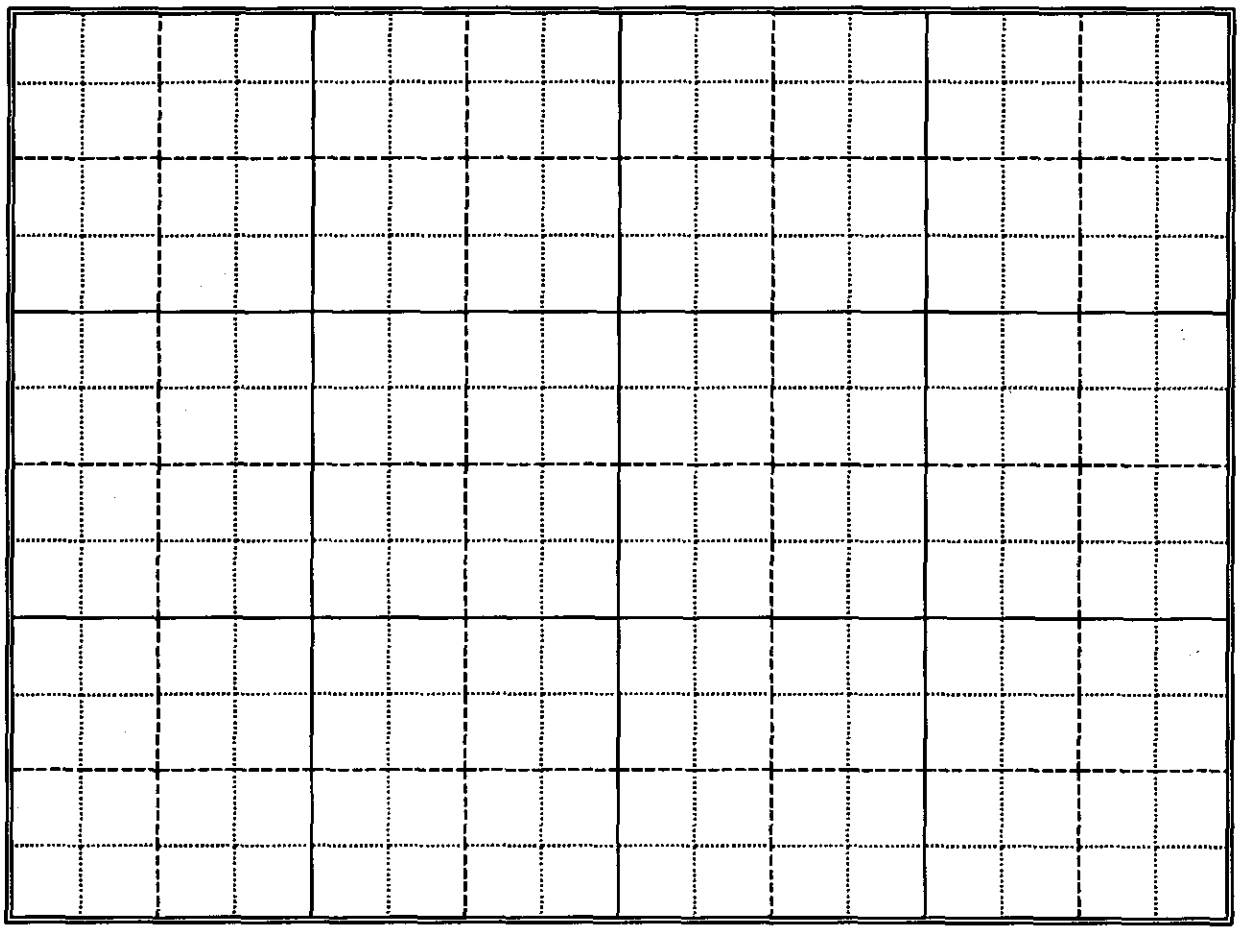
Ident No.	Gov't Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		NW	NE	SW	3	9S	14E	Gooding	Orthophoto quad map
		~~NE~~	~~NW~~	~~SW~~	~~3~~	~~9S~~	~~14E~~	"	" " "
		NW	NW	SW	3	9S	14E	"	" " "

2. **Place(s) of Use:** Indicate Method of Determination _____

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
9S	14E	3										2	14	11					27
		4																1/L9	1
		10						2/L7											2
		3										H							
																			30

DEC 13 1994

3. **Delivery System Diagram**: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe i.d. as applicable. See Aerial Photo



Scale: 1" = _____.

___ Copy of USGS Quadrange Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

_✓_ Aerial Photo Attached (required for irrigation of 10+ acres)

_✓_ Photo of Diversion and System Attached

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

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Polysonic						
Pigmy meter						

2. **Measurements:** Measurements used were taken in Aug. 1990 during adjudication Field exam. Nothing has changed to invalidate those measurements See attached USGS data For measaurements on Briggs Springs.

DEC 2 3 1994

E. NARRATIVE/REMARKS/COMMENTS

See attached.

Have conditions of permit approval been met? ✓ yes ___ no

DEC 2 3 1994

F. FLOW CALCULATIONS X Additional Computation Sheets Attached

Measured Method:

See attached Narrative/Remarks/Comments for explanation.
See attached copies for measurement data.

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{I.R.}$ = (Acres Irrigated) x (Irrigation Requirement) = 30 x 4 = 120 afa.

$V_{D.R.}$ = [Diversion Rate (cfs)] x (Days in Irrigation Season) x 1.9835 = ~~3.10~~ x 214 x 1.9835 = ~~847.9~~ 645.2 MTS
1.52

V = Smaller of $V_{I.R.}$ and $V_{D.R.}$ = 120 afa.

2. Volume Calculations for Other Uses:

See attached for fish propagation volume calculations.

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From	Period of Use To	Rate of Diversion Q (cfs) MTS	Annual Volume V (afa)
Irrigation	4-1	10-31	1.52 ~~3.10~~ cfs	120 afa
Fish propagation	1-1	12-31	2.19	1,585.5
		MTS	3.71	
		Totals:	~~7.29~~ cfs	1705.5

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None
___ Change P.U. as reflected above ___ Add P.U. as reflected above X Other

I. AUTHENTICATION

Field Examiner's Name Mel Schultz Date 12-8-92

Reviewer _____ Date _____

PROFESSIONAL ENGINEER REGISTERED 3445 STATE OF IDAHO OREN O HOLMES

DEC 13 1994

36-7537
NARRATIVE/REMARKS/COMMENTS

This permit adds irrigated acres to the irrigation system in excess of those recommended under claim 36-15180. It also recommends to substitute a fish propagation component in place of the recreation component approved in the permit.

The additional acres were developed by changing some acres from a gravity irrigation system to sprinklers, by adding about 5 new acres under sprinklers and by increasing the efficiency of the remaining gravity system.

The application of irrigation water under the adjudication claim was entirely by gravity from dirt ditches. Eighty one acres of irrigation were recommended in the claim. Some of these acres were irrigated under a wild gravity method and others by a more conventional gravity system. In one field of about 50 acres under wild gravity 16 acres were recommended. By immproving the gravity system or by converting to sprinklers 25 acres were added to this 50 acre field. The figure 25 was calculated based on an estimate that about 80% of the 50 acres was now being irrigated and 15 acres were already recommended in the adjudication claim. (50 x .8 = 40 - 15 = 25) The other 5 acres recommended in this permit are new acres added under sprinkler. Combined, this permit and 36-15180 will include 111 acres of irrigation.

Improvements in the gravity system were made by clearing and pruning brush and trees; cleaning existing ditches and by constructing and/or cleaning collection ditches used to redivert water. A gravity sprinkler system was installed by adding an 8" surface mainline and is described in more detail below. These efforts have brought the land under the two diversion systems for this permit to an estimated 90% coverage. 100% coverage is not obtainable due to the number of large rocks that cover some areas.

The delivery systems for the additional acres under this right consist of two systems. One originates in a 10" PVC surface pipe from Briggs Creek that converts to an 8" aluminum surface pipe with risers. According to George Sheldon, an owner and the operator, he can obtain 22# of gravity pressure in the system without using pumps. This pipe was measured at 1.79 cfs in August 1990 with a polysonic near the P/D from the creek (See attached).

The second system starts at Briggs Springs with a dirt ditch known as the East ditch. About 75% of this ditch flow converts to a 12" surface PVC pipe that empties into another dirt ditch about 1/4 mile South from the origination of the 12" pipe. From this second dirt ditch gravity irrigation is provided using check dams. Two smaller collection ditches are used to collect and redistribute water to improve the efficiency of the

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system. The East ditch was measured during the adjudication exam in August 1990 at 3.72 cfs with a pigmy meter (See attached). It is estimated that 75% of the East ditch is diverted through the 12" pipe (3.72 x .75 = 2.79 cfs).

The diversion rate recommended for the 14 new acres under this permit in the gravity system is the same rate per acre recommended in claim 36-15180. The new acres and rate were calculated as follows:

27 total x .8 = 22 acres less 8 already recommended = 14 x .0857 cfs/acre = 1.20 cfs.

The diversion rate recommmended for the 16 new acres under sprinklers is based on department standards of one inch per acre. It was calculated as follows:

23 total acres x .8 = 18 less 7 already recommended = 11 + 5 new acres = 16 x .02 = .32 cfs.

The total diversion available for irrigation per 1990 measurements is 1.79 cfs + 3.72 = 5.51 cfs.

The total diversion is allocated as follows:

36-15180---	16 acres @	1.37 cfs
"	44 acres @	1.54 cfs
36-07537---	30 acres @	1.52 cfs
	Total	4.43 cfs

The diversion rates per acre for the gravity system exceeds department standards of 1 " per acre but the increased rate is justified by the Graded Border Evaluation for wild flooding and conveyance losses established in the adjudication field exams in 1990 (see attached).

There are two more irrigation delivery systems and additional acres irrigated in the total ranch operation that have no direct impact on the two irrigation systems described in this report. One is a gravity dirt ditch from the EPA ponds that is part of the fish propagation operation covered under permit 36-7538. The ditch irrigates 21 acres West of the fish facility. These acres are covered under 36-15180.

The second system irrigates about 9 acres by gravity from a dirt ditch that is serviced by a second 10" PVC pipe that originates at the same P/D as the 10" irrigation pipe and the 8" fry house pipe described in this report.

The 8" PVC pipe referred to above services a fry house used to hatch trout eggs and raise fry to the fingerling stage before being transferred to other rearing facilities. The pipe flows first into a 48" x 10' corrugated metal collection tower located on the outside of the fry house. From the tower water

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flows into a 12" overhead PVC pipe and then through 2" PVC pipes to individual raceways and hatching troughs. There are 12 each 7'6" x 4'6" x 20" concrete raceways and 8 each 7'8" x 20" x 9" wooden hatching troughs.

Overflow water from the raceways and troughs flows into an open concrete channel in the floor that collects into a buried 10" PVC pipe. The buried pipe flows into an open ditch and then into another 10" PVC pipe that empties into a drain ditch about 500' South of the fry house in the NESWSW, S3, 9S, 14E. The drain ditch empties into Briggs Creek in th NESE, S4, 9S, 14E and Briggs Creek into the Snake River in the NWSE, S4, 9S, 14E. The fish rearing operation is in use at various capacities year around to support other fish producing facilities owned by the permitees. At the time of the first field exam some of the troughs and raceways were being used and during the second exam all of the raceways but none of the troughs were occupied.

The recreation component was not developed and the domestic component is covered under 36-15180. It is recommended to replace the recreation with a fish propagation component of 2.19 cfs which recognizes the measured capacity of the 8" pipe. 2.19 cfs is less than the 4.14 cfs approved for recreation in the permit.

The combined rights, excluding power rights but including this right, divert a total of 109.75 cfs of Briggs Springs water. USGS measurements (see attached) indicate flows sufficient to cover the diversion demand most of the time.

Measuring devices have not been permanently installed as required by the permit conditions. However, since the diversions can be measured, as proven by the polysonic and in stream measurements performed in August 1990, it is recommended the measurement device requirement be waived.

This permit could be split because there are two separate P/D's with separate diversion systems from two different sources. However, since there are no other rights subject to either P/D and since it is very unlikely additional permits will be approved from the same sources; splitting the right appears to be unnecessary.

The source for this right is shown as both Briggs Springs and Briggs Creek so that the source for both 36-15180 and 36-7537 are the same since they overlap and are companion rights.

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36-7537

```
MODE SELECT
        INPUT

OUTER DIAMETER
10.0902  IN

PIPE MATERIAL
?        PVC

WALL THICKNESS
0.1300   IN

INNER LINING
?        NO LING.

KIND OF FLUID
?        WATER

SENSOR MOUNTING
?        U

TYPE OF SENSOR
?        SMALL

DATA CHANGE
?        NO

SPACING
7.460    IN U

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR

08-07 14:0200 *R
+003.00 %  AI2

MODE SELECT
        T0 CHECK

0367.8  MMSEC
100.12  % T0

DAMPING SET
01      SEC

DAMPING SET   ER
20      SEC

DAMPING SET
99      SEC

DAMPING SET
20      SEC

DAMPING SET
99      SEC

08-07 14:0900 *R
+803.875E 0GPM
```

2 pipes - 10"

1 90° to cut & hour one goes west.

= 1.79 cfs

Briggs Creek Measurement. 13 1994

36-7537

.0 .10 .20 .30 .40 .50 .60 .70 .75 .80 .85

Form 219-N
7/88

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Water Right No.
(if applicable)

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: Upper Spring Div. to East Ditch
2. Location:
3. Person conducting measurement: AD
4. Date and time of measurement: 8/7/90 3:00 pm
5. Accompanied by: LW, SCC, JP, HHT
6. Measuring device size and ID no.:
7. Spin test before measurement OK? _____ after measurement OK? _____
8. Purpose of measurement:

B. MEASUREMENT DATA

Angle co-efficient	Dist. from initial point	Width	Depth	Observation depth	Revolutions	Time in seconds	VELOCITY: At point	VELOCITY: Mean in vertical	Adjusted for hor. angle or	Area	Discharge
	2.0	.10	.10		-		.244				.017
	2.2	.25	.75		10	20.5	.488				.091
	2.5	.40	.73		20	22.7	.881				.257
	3.0	.50	.78		40	28.3	1.413				.557
	3.5	.50	.81		40	23.9	1.674				.678
	4.0	.50	.81		40	23.8	1.681				.681
	4.5	.50	.79		40	28.3	1.413				.558
	5.0	.50	.83		40	32.8	1.220				.506
	5.5	.50	.78		20	25.7	0.778				.304
	6.0	.40	.81		5	24.5	0.204				.066
	6.3	.15	.80		-		0.102				.012

.0 .10 .20 .30 .40 .50 .60 .70 .75 .80

3.722 cfs

Briggs Spring to East Ditch Measurement.

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```
MODE SELECT
        INPUT

OUTER DIAMETER
26.0000  IN

PIPE MATERIAL
?       PVC

WALL THICKNESS
.11000   IN

INNER LINING
?       NO LING.

KIND OF FLUID
?       WATER

SENSOR MOUNTING
?       V

TYPE OF SENSOR
?       SMALL

DATA CHANGE
?       NO

SPACING
21.150   IN V

MODE SELECT
        INPUT

OUTER DIAMETER
8.2760   IN

PIPE MATERIAL
?       PVC

WALL THICKNESS
.11000   IN

INNER LINING
?       NO LING.

KIND OF FLUID
?       WATER

SENSOR MOUNTING
?       V

TYPE OF SENSOR
?       SMALL

DATA CHANGE
?       NO

SPACING
5.893    IN V

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR

08-07 14:3100 *R
+003.10 %  AI2

MODE SELECT
        T0 CHECK

0301.5  MMSEC
100.17  % T0
```

36-7537

```
OUTER DIAMETER
8.2760   IN.

PIPE MATERIAL
?       PVC

WALL THICKNESS
.11000   IN

INNER LINING
?       NO LING.

KIND OF FLUID
?       WATER

SENSOR MOUNTING
?       V

TYPE OF SENSOR
?       SMALL

DATA CHANGE
?       NO

SPACING
5.893    IN V

ZERO MODE
        CLEAR

ZERO MODE
        AUT ZERO

ZERO MODE
        ZERO OPR

00-00 00:0400 *R
+003.10 %  AI2

MODE SELECT
        T0 CHECK

0301.5  MMSEC
100.16  % T0

DAMPING SET
20      SEC

MM-DD HH:MM
08-07 14:40

08-07 14:4000 *R
+984.041E 0GPM
```

8" pipe goes to Fish Fry shed then to irrig. ditch

= 2.19 cfs

For Fish Propagation Division

DEC 19 1994

36-759

Annual Volume for Fish Propagation

Fry house

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. 2.19 cfs x 3600/ 753.2 A^3 cf = 10.5

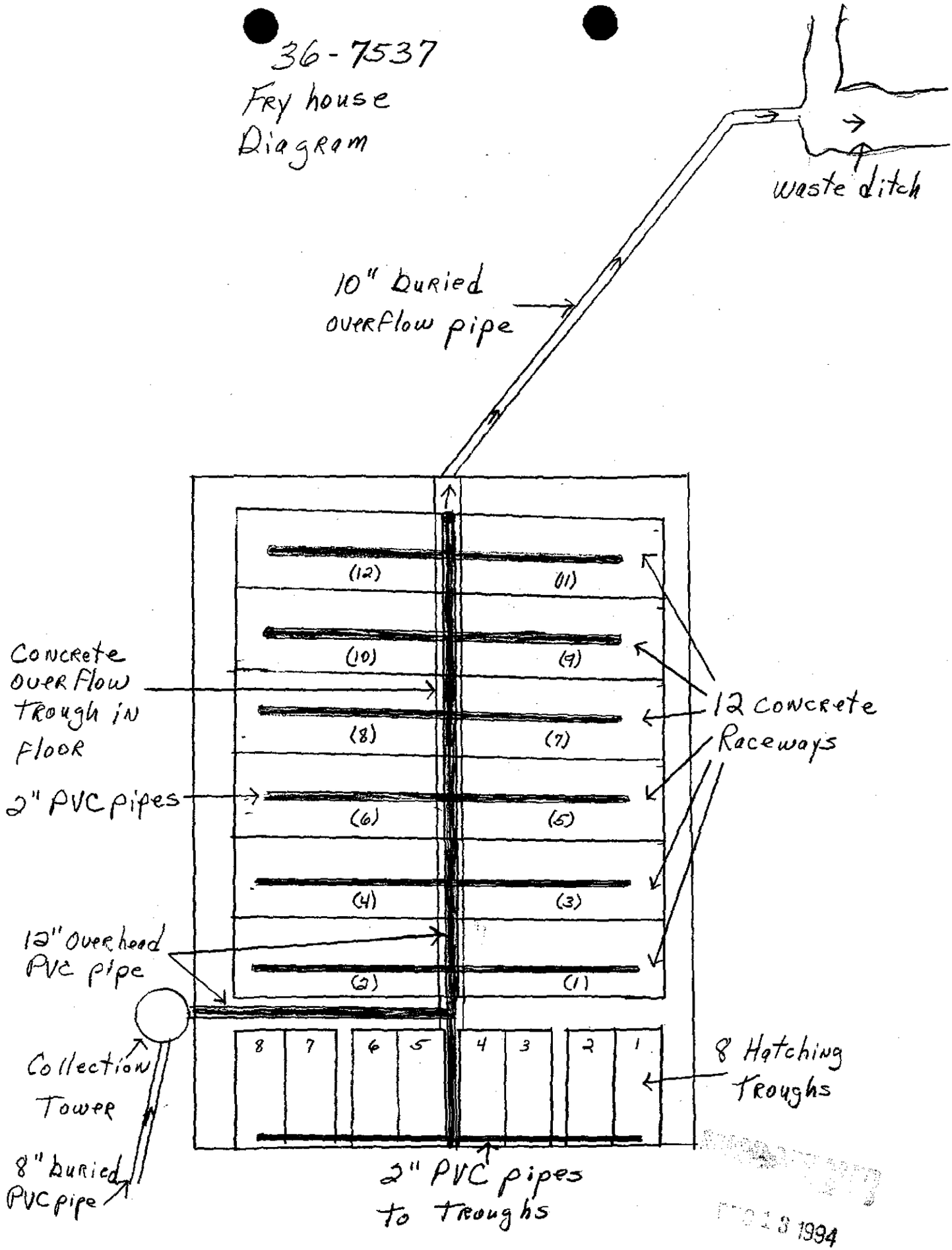
2. .01729 AF x 10.5 x 8760 = 1590.4 AFA

3. 2.19 cfs x 1.9835 x 365 days = 1585.5 AFA

RECOMMENDATION: 1,585.5 AFA

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36-7537
Fry house
Diagram



1994

36-7537 Overlap Analysis Irrigation

	NUMBER	TNS	RNG	SEC	NE				NW				SW				SE				TOTAL	SYSTEM TOTAL
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
PERMIT																						
FOUND																						
OVERLAP																						
DIFFERENCE																						

P/D OVERLAP BUT ACRES NOT OVERLAPPING, USE FOR SYSTEM TOTAL CALCULATIONS

	NUMBER	TNS	RNG	SEC	NE				NW				SW				SE				TOTAL	SYSTEM TOTAL
					NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
P 36-7537		9S	14E	3									15	25	40	40		10				
R 36-15180													8	10	7	20		5			52	
7537 - Recommend													0	2	14	11		0			27	
P 36-7537		9S	14E	4			15	15									25	20	16	13		
R 36-15180							5	3									10	3	1	4	20	
7537 - Recommend.							0	0									0	0	0	1	1	
P36-7537		9S	14E	9	6																	
R36-15180					9																	
7537 - Recom.					0																	
P36-7537		9S	14E	10					19	25												
R36-15180										3											3	
7537 - Recom.									0	2											2	

Recommend 36-7537 = 30 acres

R36-15180 = 81 acres

DEC

36-7537

EXHIBIT A

Willard B. Sheldon
Hedwig Sheldon
Howard Sheldon Estate
Louise Sheldonn
George Sheldon
Phyllis Sheldon
Box 443
Buhl, Idaho 83316

An undivided 75% interest.

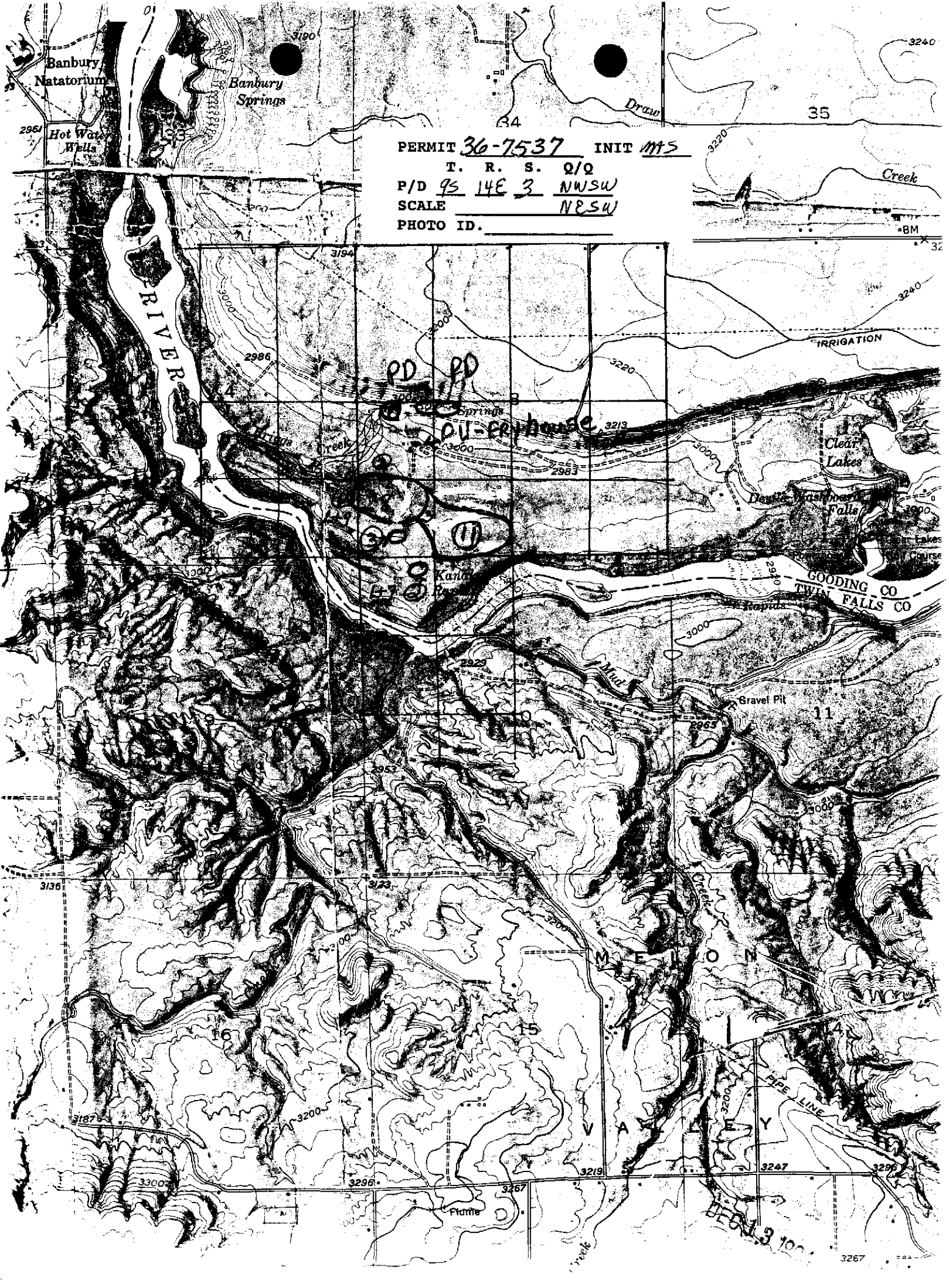
Richard H. Kaster
Edith Kaster
Route 3
Buhl, Idaho 83316

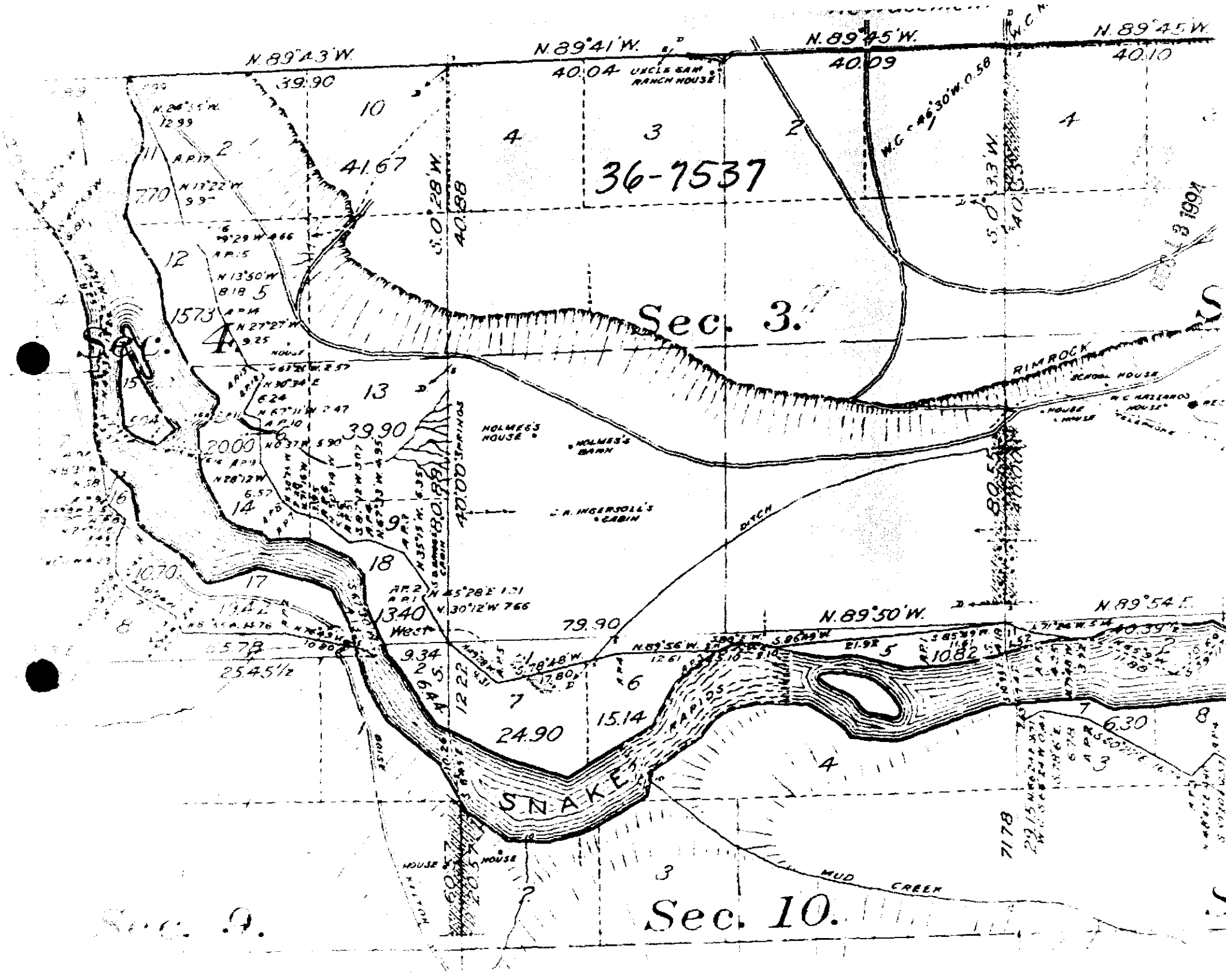
An undivided 10% interest

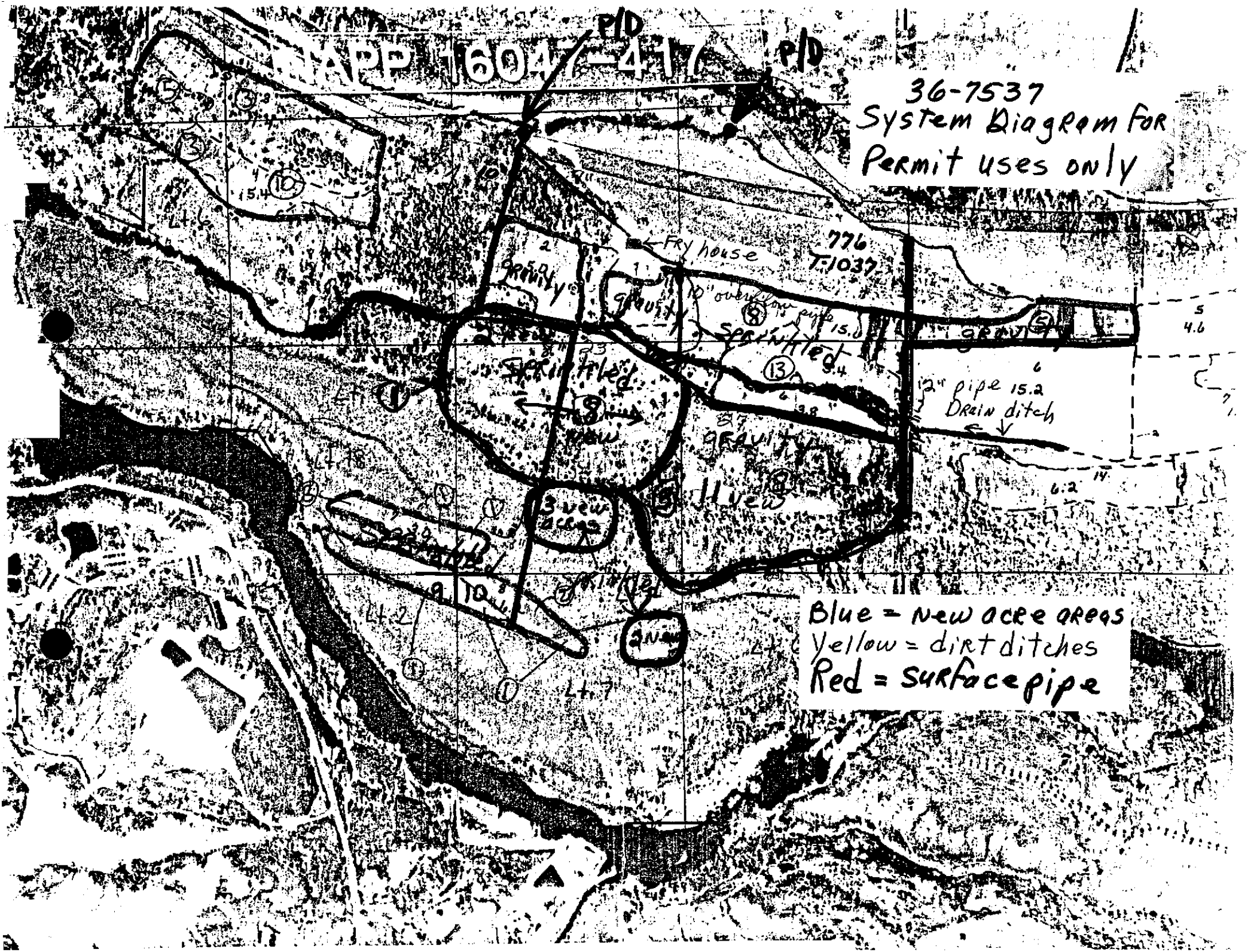
Pristine Springs, Inc.

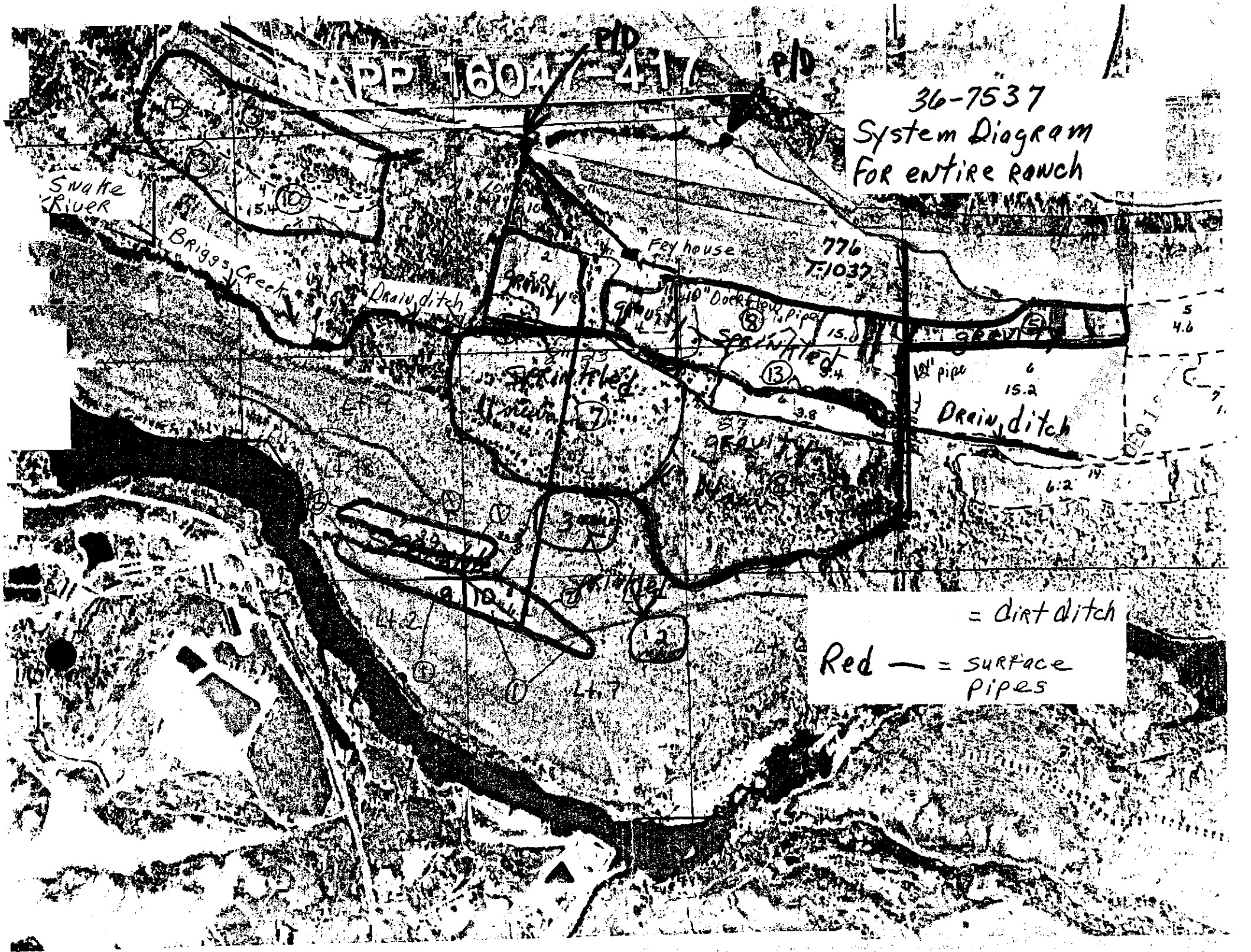
An undivided 15% interest

DEC 13 1994


PERMIT 36-7537 INIT MS
T. R. S. Q/Q
P/D 9S 14E 3 NWSW
SCALE NESW
PHOTO ID.
Banbury Natatorium
Hot Water Wells
Banbury Springs
Draw
Creek
BM
RIVER
IRRIGATION
Springs
Creek
Clear Lakes
Falls
GOODING CO
TWIN FALLS CO
Rapids
Mud
Gravel Pit
Creek
MELON
VALLEY
FIRE LINE
Flume
Creek


N.89°43'W.
N.89°41'W.
N.89°45'W.
N.89°45'W.
39.90
40.04
40.09
40.10
UNCLE SAM RANCH HOUSE
36-7537
Sec. 3.
Sec. 10.
Sec. 9.
RIMROCK
SCHOOL HOUSE
HOLMES'S HOUSE
HOLMES'S BARN
H. INGERSOLL'S CABIN
DITCH
SNAKE
MUD CREEK
N.89°50'W.
N.89°54'E.
79.90
40.39
41.67
39.90
24.90
15.14
25.45½
10.70
6.30
7178
1340
1082
2000
1573
770
1070
578
9.34
12.22
6.44
40.00 STRINGS
80.00 STRINGS
80.55 STRINGS


APP 1604-417
P/D
P/D
36-7537
System Diagram for
Permit uses only
Fry house
776
T-1037
gravity
Scarified
New
3 new acres
Blue = New acre areas
Yellow = dirt ditches
Red = surface pipe


APP 1604 PID 417 PID
36-7537
System Diagram
For entire ranch
Snake River
Briggs Creek
Drain ditch
Frey house
776
T.1037
gravity
Sprinkled
10" Dock flow pipe
10" pipe
Drain ditch
= dirt ditch
Red — = surface pipes

36-7537

30	02/07/92	MAN	66.0	165.	0.63	4.17	104		-3.7	34	0.00	1
	1103	REMARKS: SC = 453 EAST DIV. = 0.07CFS										
31	03/02/92	MAN/JBF	66.0	158.	0.63	4.13	100		-6.5	34	0.00	1
	1320	REMARKS: EAST DIV. = 0.09 SPRINGS RUN										

1 UNITED STATES DEPARTMENT OF INTERIOR - GEOLOGICAL SURVEY - WATER RESOURCES DIVISIO
SUMMARY OF DISCHARGE MEASUREMENT DATA

13095175 DATE PI
BRIGGS SPRING AT HEAD NR BUHL ID

NO.	DATE / TIME	MADE BY	WIDTH	AREA	MEAN VEL.	GAGE HEIGHT	DISCHARGE CFS	SHIFT ADJ.	PCT. DIFF.	NO. SECT.	GHT. CHG.	TI
32	05/04/92	MAN	66.0	151.	0.64	3.97	96.0	98.25	-4.0	34	0.00	1
	1258	REMARKS: SC = 427 EAST DIV = 2.25CFS										
33	06/16/92	CLB	67.0	143.	0.67	3.95	95.6	97.35	-4.2	30	0.00	1
	1100	REMARKS: SC=446 EAST DIV =1.75CFS										
34	07/29/92	MAN	66.0	154.	0.63	3.96	97.5	99.57	-2.5	34	0.00	1
	1323	REMARKS: SC = 448 EAST DIV = 2.07CFS										
35	09/02/92	MAN	66.0	156.	0.67	4.05	105	107.82	+1.0	34	0.00	1
	1419	REMARKS: SC = 448 EAST DIV = 2.82										
36	10/20/92	CLB/BS	66.5	139.	0.78	4.16	108	110.38	0.0	31	0.00	1
	0933	REMARKS: SC=444 EAST DIVERSION=2.38										

PROVISIONAL RECORDS

RECEIVED
DEC 13 1994

14	05/30/90	KLH	66.0	154.	0.69	4.02	106		+3.9	30	+0.01	0
	1243	REMARKS: DATUM=0,SC=420. EAST DIVERSION 2.14 CFS										

1 REGIONAL RECORDS UNITED STATES DEPARTMENT OF INTERIOR - GEOLOGICAL SURVEY - WATER RESOURCES DIVISION
SUMMARY OF DISCHARGE MEASUREMENT DATA

13095175 DATE P
BRIGGS SPRING AT HEAD NR BUHL ID

NO.	DATE / TIME	MADE BY	WIDTH	AREA	MEAN VEL.	GAGE HEIGHT	DISCHARGE CFS	SHIFT ADJ.	PCT. DIFF.	NO. SECT.	GHT. CHG.	TI
15	06/25/90	KLH	66.0	157.	0.69	4.06	108		+3.8	30	0.00	0.
	1148	REMARKS: DATUM=0,SC=432. EAST DIVERSION 2.31 CFS										
16	07/31/90	KLH	66.0	157.	0.67	4.06	105		+1.0	30	0.00	0.
	1236	REMARKS: DATUM=0,SC=440. EAST DIVERSION 3.94 CFS										
17	08/30/90	KLH	66.0	168.	0.65	4.19	110		+0.9	31	0.00	1
	1417	REMARKS: DATUM=0,SC=466. EAST DIVERSION 2.93 CFS										
18	10/03/90	KLH	66.0	170.	0.64	4.30	108	112.79	-5.3	32	+0.01	1
	1220	REMARKS: DATUM=0,SC=441. EAST DIVERSION 4.79 CFS										
19	11/02/90	KLH	66.0	171.	0.65	4.31	112	116.94	-1.8	33	0.00	1
	1320	REMARKS: DATUM=0,SC=490,PH=7.67,DO=94.6%,EAST DIV.=4.94 CFS										
20	12/27/90	MDC	56.0	103.	1.06	4.25	109	109.53	-2.7	26	0.00	0.
	1225	REMARKS: DATUM=0,SC=465,EAST DIVERSION=0.53 CFS										
21	02/12/91	MAN/MDC	57.0	97.9	1.02	4.14	99.8	100.34	-6.7	28	0.00	1.
	1150	REMARKS: DATUM=0,EAST DIV.=0.54 CFS,SC=449										
22	03/19/91	KLH/MAN	66.0	153.	0.68	4.10	104	104.3	-1.0	32	+0.01	0.
	1458	REMARKS: DATUM=0,SC=449,EAST DIVERSION=0.30 CFS										
23	05/08/91	MAN	66.0	160.	0.67	3.98	107	109.19	+5.9	34	+0.01	1.
	1100	REMARKS: DATUM=0,SC=420,EAST DIVERSION=2.19 CFS										
24	06/14/91	MAN	66.0	154.	0.66	3.97	101	101.61	+1.0	34		1.
	1100	REMARKS: DATUM=0,SC=427,EAST DIVERSION=0.61 CFS										
25	07/18/91	MAN	66.0	155.	0.64	3.96	100	102.81	0.0	34	+0.01	1.
	1036	REMARKS: DATUM=0,SC=432,EAST DIVERSION=2.81 CFS										
26	09/05/91	MAN	66.0	165.	0.65	4.16	108	112.64	0.0	34	-0.01	1.
	1127	REMARKS: DATUM=0,SC=468,EAST DIVERSION=4.54 CFS										
27	10/16/91	MAN	66.0	177.	0.66	4.36	116	118.01	0.0	34	0.00	1.
	1004	REMARKS: DATUM=0,SC=435,EAST DIVERSION=2.01 CFS										
28	11/21/91	MAN	66.0	174.	0.65	4.34	113	113.12	0.0	34	0.00	1.
	1004	REMARKS: SC = 457. EAST DIVER. = 0.12										
29	01/08/92	MAN	66.0	168.	0.63	4.23	106	106.14	-4.5	34	0.00	1.
	1202	REMARKS: SC = 466 EAST DIV = 0.14CFS										

DEC 13 1994

UNITED STATES DEPARTMENT OF INTERIOR - GEOLOGICAL SURVEY - WATER RESOURCES DIVISION

13-95175 PROVISIONAL RECORDS SUMMARY OF DISCHARGE MEASUREMENT DATA DATE PROC

BRIGGS SPRING AT HEAD NR BUHL ID

NO.	DATE / TIME	MADE BY	WIDTH	AREA	MEAN VEL.	GAGE HEIGHT	DISCHARGE CFS	SHIFT ADJ.	PCT. DIFF.	NO. SECT.	GHT. CHG.	TIME
3A	09/21/70	ELY	67.0	78.0	1.80		140			29		0.5
2A	09/30/71	RAS	52.0	80.8	1.19		96.0			25		0.4
1A	09/19/80	LCK	13.5				124			22		
		REMARKS: DISCHARGE INCLUDES 4.74 CFS IN EAST DIV.										
								RATING NO. 1.0				
1	04/25/89 1038	SCC	58.0	138.	0.71	3.95	98.6	-1.2		30	0.00	1.1
2	05/02/89 1340	TSB	57.0	136.	0.74	4.03	100	+2.9		30	+0.01	0.8
		REMARKS: SC = 443. EAST DIVERSION 0.07 CFS										
3	05/24/89 0934	KLH	65.0	152.	0.66	3.95	101	+1.2		34	+0.01	1.0
		REMARKS: SC = 424. EAST DIVERSION 5.08 CFS										
4	06/29/89 1145	KLH	66.0	153.	0.62	4.00	94.9	-0.10	-3.2	30	+0.01	0.9
		REMARKS: SC = 426. EAST DIVERSION 5.07										
5	07/27/89 1320	KLH	66.0	157.	0.60	4.04	94.5	-0.10	-4.9	30	0.00	0.9
		REMARKS: SC = 442. EAST DIVERSION 5.43 CFS										
6	09/26/89 1300	KLH	66.0	173.	0.67	4.36	116		0.0	30	+0.01	1.1
		REMARKS: SC = 443. EAST DIVERSION 0.96 CFS										
7	11/03/89 1055	KLH	66.0	176.	0.65	4.40	114		-3.4	30	+0.01	1.1
		REMARKS: SC = 498. EAST DIVERSION 0.98 CFS										
8	12/05/89 0944	KLH	66.0	174.	0.67	4.33	116		+0.9	33	+0.01	1.2
		REMARKS: SC = 448. EAST DIVERSION 0.97 CFS										
9	01/02/90 0945	KLH	66.0	172.	0.63	4.28	109		-3.5	30	+0.02	1.0
		REMARKS: Datum=0.SC=443. EAST DIVERSION 0.68 CFS										
10	01/31/90 0955	KLH	66.0	165.	0.65	4.20	108		-1.8	31	0.00	1.1
		REMARKS: DATUM=0.SC=450. EAST DIVERSION 0.31 CFS										
11	03/02/90 0913	KLH	66.0	163.	0.64	4.14	105		-1.9	31	0.00	1.0
		REMARKS: DATUM=0. EAST DIVERSION 0.55 CFS. CHANNEL IS CLEARER THAN I'VE SEEN										
12	04/05/90 0932	KLH	66.0	159.	0.64	4.07	102		-1.9	31	0.00	0.9
		REMARKS: DATUM=0.SC=429. EAST DIVERSION 1.73 CFS										
13	04/30/90 1315	KLH	66.0	157.	0.68	4.00	106		+3.9	32	0.00	0.9
		REMARKS: DATUM=0.SC=432. EAST DIVERSION 2.14 CFS										

DEC 13 1994

36-7537

GRADED BORDER EVALUATION

Job name: 36-15180 Location: 9814E
By: Shaw Date: Jun 18, 1992

Roughness coefficient (n)= 0.250 Intake family (If)=2.00
Slope (S)= 0.0500 ft/ft Border width (W)= 13 ft
Net application (Fn)= 1.49 inches Border length (L)= 800 ft
Inflow time (Ti)= 8 hours, 0 minutes

Flow per Border (cfs)	Unit Flow (cfs/ft)	Gross Application (in)	Deep Percolation (in)	Runoff (in)	Application Efficiency (percent)	Notes
0.10	Gross depth is less than required gross application depth					
0.20	Gross depth is less than required gross application depth					
0.30	Gross depth is less than required gross application depth					
0.40	Gross depth is less than required gross application depth					
0.50	0.038	16.62	14.79	0.33	9.0	(2)(3)(4)
0.60	0.046	19.94	14.79	3.65	7.5	(2)(3) ← Recommend for each 2 acres
0.70	0.054	23.26	14.79	6.98	6.4	(2)(3)
0.80	0.062	26.58	14.79	10.30	5.6	(2)(3)
0.90	0.069	29.91	14.79	13.62	5.0	(2)(3)
1.00	0.077	33.23	14.79	16.95	4.5	(2)(3)
1.10	0.085	36.55	14.79	20.27	4.1	(2)(3)
1.20	0.092	39.88	14.79	23.59	3.7	(2)(3)
1.30	0.100	43.20	14.79	26.92	3.4	(2)(3)
1.40	0.108	46.52	14.79	30.24	3.2	(2)(3)
1.50	0.115	49.85	14.79	33.56	3.0	(2)(3)
1.60	0.123	53.17	14.79	36.88	2.8	(2)(3)
1.70	0.131	56.49	14.79	40.21	2.6	(2)(3)
1.80	0.138	59.82	14.79	43.53	2.5	(2)(3)
1.90	0.146	63.14	14.79	46.85	2.4	(2)(3)

$\frac{.60}{7} = .0857$ cfs/ac

(2) Erosive stream-- non-sod forming crops.
(3) Erosive stream-- sod forming crops.
(4) Less than minimum recommended depth of flow.

2 acres of South Ridge.

16 acres × .0857 cfs/ac = 1.37 cfs ←

DEC 13 1994

36-7537

	INTAKE FAMILY	DESIGN APPLIC. Inches	FURROW SLOPE Ft/Ft	FURROW SPACING Feet	FURROW LENGTH Feet	INFLOW RATE Gpm	APPROXIMATE INFLOW TIME Hours	ADVANCE TIME Minutes	GROSS IRRIGATION APPLICATION Inches	NET IRRIGATION APPLICATION Inches	RUNOFF Inches	DEEP PERC. In.	IRRIGATION EFFICIENCY %
Longer runs	0.55	1.99	.030	2.00	520	3	24	73.3	6.66	6.31	0.19	4.48	29.87
Short runs	0.55	1.99	.030	2.00	240	3	12	16.7	7.22	3.89	3.29	1.94	27.57

$$4.2 \times \frac{0.25}{30} = 0.0350 \text{ cfs/acre}$$

$$40 \text{ acres} \times 0.0350 = \underline{1.54 \text{ cfs}}$$

DEC 13 1994

36-7537

CONVEYANCE LOSS - WORSTELL

REACH	LENGTH (FT)	AVE WIDTH (FT)	SEEPAGE (FT/DAY)	WORSTELL LOSS (CFS)	DELIVERY (CFS)	DELIVERY LEFT (CFS)	LOSS FACTOR	DELIVERY LOSS (CFS)	FLOW (CFS)
1	2000	2.0	2.00	0.10	2.00	2.00	0.0505	0.10	2.10
2				0.00		0.00	0.0000	0.00	-0.00
3				0.00		0.00	0.0000	0.00	-0.00
4				0.00		0.00	0.0000	0.00	-0.00
5				0.00		0.00	0.0000	0.00	-0.00
6				0.00		0.00	0.0000	0.00	-0.00
7				0.00		0.00	0.0000	0.00	-0.00
8				0.00		0.00	0.0000	0.00	-0.00
9				0.00		0.00	0.0000	0.00	-0.00
10				0.00		0.00	0.0000	0.00	-0.00
11				0.00		0.00	0.0000	0.00	-0.00
12				0.00		0.00	0.0000	0.00	-0.00
13				0.00		0.00	0.0000	0.00	-0.00
14				0.00		0.00	0.0000	0.00	-0.00
15				0.00		0.00	0.0000	0.00	-0.00
16				0.00		0.00	0.0000	0.00	-0.00
17				0.00		0.00	0.0000	0.00	-0.00
18				0.00		0.00	0.0000	0.00	-0.00
19				0.00		0.00	0.0000	0.00	-0.00
20				0.00		0.00	0.0000	0.00	-0.00
TOTALS	2000			0.10	2.00			0.10	

REACH = SECTION OF CHANNEL
LENGTH = LENGTH OF REACH, THE CHANNEL CAN BE DIVIDED INTO EQUAL LENGTH REACHES
OR ACTUAL LENGTHS BETWEEN DELIVERY POINTS
AVE WIDTH = AVERAGE TOP WIDTH OF REACH
SEEPAGE = SOIL SEEPAGE RATE OF REACH
WORSTELL LOSS = CONVEYANCE LOSS IN REACH BASED ON WORSTELL METHOD
DELIVERY = TOTAL DELIVERIES IN REACH
DELIVERY LEFT = SUM(DELIVERIES OF CURRENT AND REMAINING REACHES)
LOSS FACTOR = WORSTELL LOSS/DELIVERY LEFT
DELIVERY LOSS = SUM(LOSS FACTORS OF CURRENT AND PREVIOUS REACHES) X DELIVERY,
REPRESENTS THE LOSSES ASSIGNED TO THE DELIVERIES IN THE REACH
FLOW = TOTAL FLOW AT BEGINNING OF EACH REACH

Two similar ditches

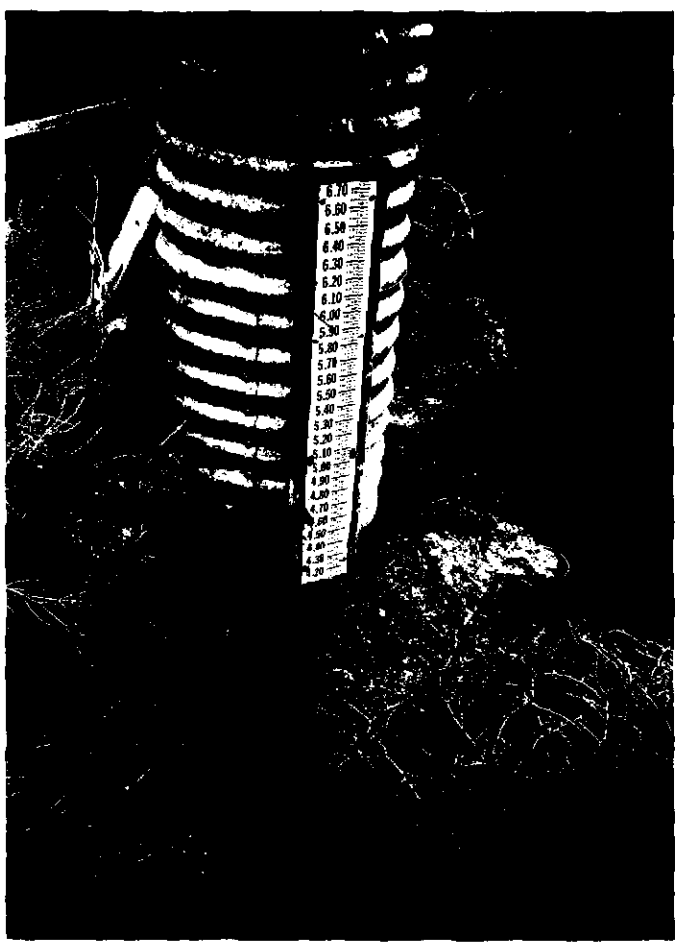
Allow total 0.20 deliverance loss

DEC 13 1994

36-7537



#1
View looking East toward Briggs Springs. USGS measarments are tatten at this site,



#2.
U.S.G.S. staff guage. Photo #1 was taken from this site.

DEC 13 1994

36-7537



#3
P/D for the East ditch.



#4.
The East ditch about 100' from its P/D. in photo #3.

1994

36-7537



#5
Check dam in East ditch. where 12" pipe originates. 12" pipe is in background of photo



#6.
P/D From Briggs Creek where three PVC pipes are diverted.

DEC 13 1994

36-7537.



#7.
Three PVC pipes diverted from Briggs Creek at site in photo #6.



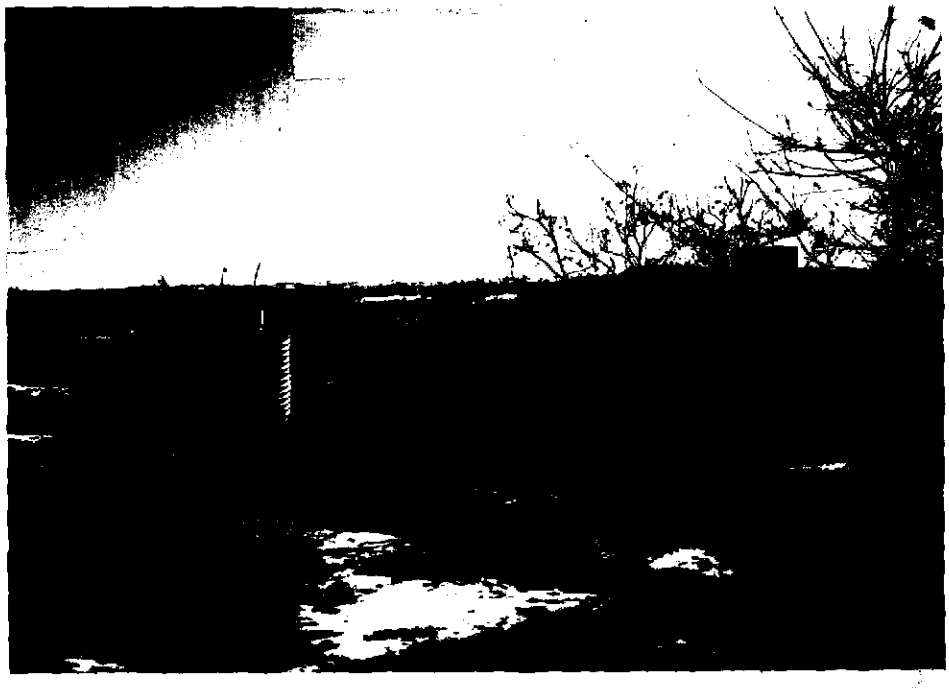
#8
Part of P/U looking Southwest from road.

DEC 13 1984

36-7537



#9
Part of P/4
looking South
from road.



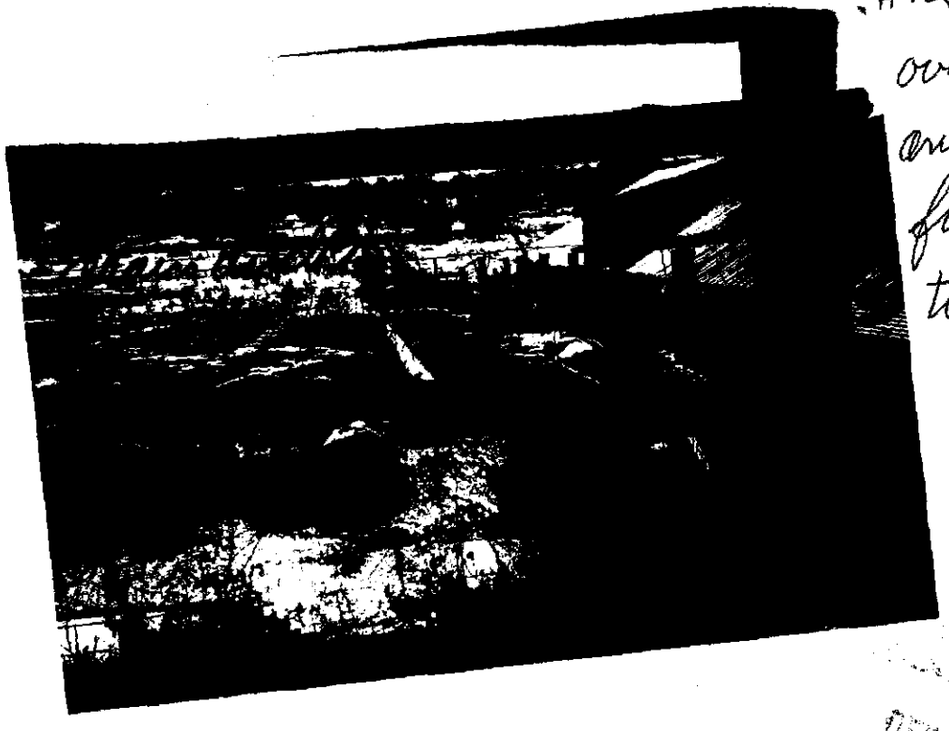
#10
Dry house

DEC 13 1994

36-7537



#11
View inside fryhouse



#12.
overflow ditch and 10" pipe from fryhouse to drain ditch

DEC 13 1994



RECEIVED
JUN 2 7 1994
Department of Water Resources

June 9,1994

State Of Idaho
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise,Idaho 83720-9000

RE: Address change for Pristine Springs Inc.

To whom it may concern;

Please be advised that Pristine Springs Inc. formerly of 4075 N 2000 E Filer, Idaho 83328 has a new address of 201 Warm Creek Road Jerome,Idaho 83338. Please make the neccesary changes to direct our mail to this new address.

Sincerely,

Cheryl Eggleston

Cheryl Eggleston

36-00200
36-7130
7537
7538
7757
8094
8414
8573
8654
8669
2603 B

201 Warm Creek Road
Jerome, Idaho 83338
208-736-1684 or 736-1606
Fax: 208-736-1695

DEC 1 3 1994

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

January 29, 1992

Phyllis Sheldon
P.O. Box 443
Buhl, ID 83316

RE: Assignment of Permits #36-07537 & 36-07538

Dear Mrs. Sheldon:

I am receipt of your letter dated January 22, 1992 regarding the above referenced assignment of permits.

This assignment was unusual because of the nature of the ownership of the permit. It could not be divided to identify separate ownership of portions of the water right because all parties own a percentage of the whole. The only way to reflect that is to have all parties listed as current owners with equal standing, as I previously stated in my letter of January 13, 1992. The Department cannot reflect the percentage of ownership, but the documentation submitted with the assignment has been placed in the files for future reference.

All the current owners will have to be notified of any action taken pertaining to these water rights because all signatures will be needed. I have enclosed a proof report from our water right database that shows all names and addresses have been entered.

I hope this satisfies your concerns in this matter. If you have further questions please feel free to contact me directly at 327-7943.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

Enclosure

DEC 19 1994

36-7537/7538

RECEIVED
JAN 27 1992
Department of Water Resources

January 22, 1992

Mrs. Pamela Skaggs
Technical Records Specialist
State of Idaho
Department of Water Resources
1301 North Orchard St.
Statehouse Mail
Boise, Idaho 83720-9000

Dear Mrs. Skaggs:

We are in receipt of your correspondence of January 13, 1992 regarding the ownership of the water rights.

The majority ownership of the land and water (seventy-five per cent) is vested in Willard B. Hedwig, Louise, George and Phyllis Sheldon and the Howard Sheldon Estate. Minor interests are held by Richard H. and Edith Kaster and Pristine Springs Inc.

We request that all notices be sent to the mailing address of the majority owners. This mailing address is as follows:

Irle Ranch, Inc.
P.O. Box 443
Buhl, Idaho 83316

Please confirm this mailing address change in writing. Thank you.

Sincerely,

Phyllis Sheldon

Phyllis Sheldon
Secretary
Irle Ranch

encl.

January 15, 1992

HOWARD SHELDON ESTATE
RICHARD H KASTER
EDITH KASTER
PRISTINE SPRINGS INC
WILLARD B SHELDON
HEDWIG SHELDON
LOUISE SHELDON
GEORGE SHELDON
PHYLLIS SHELDON
RT 3
BUHL ID 83316

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 36-07537

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order advancing the priority of the permit since the proof was received after the proof due date. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

Enclosure

MICROFILMED
JAN 21 1992

January 13, 1992

Pristine Springs Inc.
Willard B., Hedwig, Louise, George, and Phyllis Sheldon
Howard Sheldon Estate
Richard H. and Edith Kaster
Rt. 1, Box 1204
Filer, ID 83328

Re: Permit Nos. 36-07537 and 36-07538

Dear Permit Holders:

We acknowledge receipt of the correspondence transferring ownership of the above referenced water rights to you. We have modified our computer records to reflect this change in ownership. This appeared to be the intent of the assignment; however, if anyone disagrees, please contact the Department within fifteen (15) days.

In the event any action will be taken pertaining to these rights, ALL PARTIES WILL HAVE EQUAL STANDING AS THE AUTHORIZED RIGHT HOLDERS OF RECORD and SIGNATURES MUST BE OBTAINED FROM ALL RIGHT HOLDERS or a legal representative appointed by all right holders.

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

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

RECEIVED
JAN 21 1992

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 25, 1991

Pristine Springs, Inc.
4075 N. 2000 E.
Filer, ID 83328

RE: Assignment of Permits #36-07537 & 36-07538

Dear Permit Holder:

The Department acknowledges receipt of the warranty deed signed by Larry Crupper and Mary Brush Crupper that assigns all of the above referenced water rights to you. Our records have been updated to reflect the change.

You should be aware, however, that proof of beneficial use was due September 1, 1991 on both permits. The permits are currently in lapse status, and are of no further force nor effect. In order to readily reinstate the permits, an acceptable proof of beneficial use or an acceptable request for extension of time must be submitted to the Department on or before November 1, 1991 for 36-07537 and within 60 days of mailing of the lapse notice for 36-07538.

For your convenience a copy of the proof due letter and lapse notice have been enclosed along with the necessary forms. Thank you for your prompt attention to this matter.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

Enclosure

RECEIVED
JAN 21 1992

ACTION REQUIRED

FROM: Jim Stanton

TO: Permits Section 10-21-91

Permits 36-7537, 7538 are ~~issued~~ assigned via Warranty deed attached. New owners will file proof on extension shortly.

MICROFILMED
JAN 21 1992

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

September 5, 1991

MARY BRUSH CRUPPER
5117 MEMORY DR.
EL PASO TX 79932

LAPSE NOTICE

RE: PERMIT NO. 36-07537

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated June 30, 1991. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifteen dollar ($15) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

L. GLEN SAXTON
Chief, Water Allocation Bureau

LGS:rf

Enclosures

MICROFILMED

JAN 21 1992

CERTIFICATION OF MAILING

I hereby certify that on 9-9-91 a copy/an original of this document was deposited in the United States mail, postage prepaid addressed to the individual(s) named above.

138983

June 30, 1991

MARY BRUSH CRUPPER
5117 MEMORY DR.
EL PASO, TX 79932

PROOF DUE NOTICE

RE: PERMIT NO. 36-07537

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 September 1, 1991. (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
JAN 21 1992

LAW OFFICES
DECKER AND HOLLIFIELD, P.A.

FRED D. DECKER
WILLIAM R. HOLLIFIELD

249-THIRD AVENUE EAST
P. O. BOX 66
TWIN FALLS, IDAHO 83303-0066
TELEPHONE (208) 734-5610 • 734-2950

September 5, 1990

RECEIVED
SEP 19 1990
Department of Water Resources

Rita I. Fleck
Secretary/Records Manager
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Re: Permit Nos. 36-7837 and 36-7838

Dear Mrs. Fleck:

This is in response to your letter of September 4, 1990, to Mrs. Nancy McCormick in Buhl. The request for extension of time was filed by the owner/managers of the water rights under the District Court Order settling litigation with respect to the ownership and control of these permits. Copies of the Court orders and the letter Mrs. Nancy McCormick wrote to R. Keith Higginson, Director, May 28, 1990, concerning these permits are enclosed for your reference and information. Mrs. McCormick has been trying to clarify the ownership and control of these permits for the Director for some time with out much effect.

Please conform the Department records with the Court Orders in these cases to show that the permits are owned by the appropriate Sheldons, McCormicks, Kasters, Crupper and Trounson interests in accordance with the Court Orders. If you wish certified copies of these Court Orders, please let us know. We would be glad to provide them.

Please call if you have any question about these requests to clarify and correct the Department records.

RECEIVED
JAN 21 1992

Sincerely yours,

FRED D. DECKER

cc Nancy McCormick
Richard Kaster
Wes Trounson

Called 9-21-90 & requested enclosures.
Called 10-23-90 & again requested enclosures. MJ

September 6, 1990

RE: Permit No. 36-7537

Mary Brush Crupper
5117 Memory Drive
El Paso, Texas 79932

Dear Ms. Crupper:

We wish to acknowledge the assignment of the above referrenced permit from Wes Trounson to Mary Brush Crupper.

Enclosed is an order that authorizes you to continue development under Permit to Appropriate Water No. 36-7537. Please note in condition #1., page two of the order that you must develop your system and beneficially use the water prior to September 1, 1991. Failure to beneficially use the water before September 1, 1991, could result in a loss of your water right permit.

Also enclosed is a copy of the approved extension of time request. Please be advised that the department has granted this extension of time based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department may not be able to grant additional requests.

Please note the conditions of approval contained in your permit and the continuation order. You must comply with the conditions to fully complete beneficial use.

Sincerely,

TIM LUKE
Sr. Water Resource Agent

TL:blm

Enclosures

MICROFILMED
SEP 20 1990

September 4, 1990

Nancy McCormick
P. O. Box 109
Buhl, ID 83316

Dear Ms. McCormick:

Re: Permit Nos. 36-7837 and 36-7538

Returned are the two request for extension of time forms receipted in the Southern Regional office on January 31, 1989. The department has been holding the requests without action until now.

Wes Trounson is the permit holder of record. The permits are considered as his property. Since you are not the parties of record, the department will not take action on these requests and instead is returning them with the $30 refund.

I have submitted the paperwork for the refund to the Accounting staff. You should receive the refund in several weeks.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

c: Accounting

MICROFILMED
SEP 20 1990

MEMORANDUM

DATE: September 4, 1990

TO: FISCAL SECTION

FROM: Nina Shields or Rita Fleck

RE: REFUND - Permit Nos. 36-7537 and 37-7538

Please prepare a refund of $30.00 (receipt No. S006184). Attached is a copy of a letter which explains why the refund is necessary.

Also, please reference the identification number on any papers returned to me for the file. Thanks.

Attachments: letter
receipt

MICROFILMED
SEP 20 1990

WHITE – State Auditor
YELLOW – Remittance Advice
PINK – State Auditor then Agency
GOLDENROD – Agency Copy

EXPENDITURE VOUCHER

STATE OF IDAHO
Office of State Auditor

AUDITOR USE

Document No.	
Pre-Audit	Date
Warrant No.	

AGENCY USE

2665	
Date	09/05/90
Code	193002

VENDOR: If you require additional information regarding this payment, please contact the State agency listed below.

AGENCY NAME: DEPT. OF WATER RESOURCES

CHECK ONE:

(1) MISCELLANEOUS EXPENDITURE
( ) STATE CONTRACT
( ) PURCHASE ORDER
( ) MISCELLANEOUS ENCUMBRANCE REQUISITION

PAY TO

NANCY MCCORMICK
PO BOX 109
BUHL, ID 83316

PAYMENT: ( ) PARTIAL ( ) FINAL

Encumbrance Reference No.

LINE No.	PROGRAM	FUND	ACCT. Maj	ACCT. Min	DESCRIPTION	LINE AMOUNT	AGENCY USE
1	05 40 199	1238	8831		REFUNDS PER RITA FLECK WR# 36-7537/36-7538 9/ 4/90 30.00	30.00	

MICROFILMED
SEP 20 1990

TOTAL 30.00

NOTE: *Final payment must* be accompanied by a receiving copy

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. *I hereby certify that the items described* were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

MEMORANDUM

To: Rita

From: Glen

RE: ACTION ON EXTENSION REQUESTS FOR 36-7537 AND 36-7538

Date: August 3, 1990

A request for an extension of time is pending on each of the above referenced files. I have requested the submittal of information from attorney Robert E. Williams to attempt to determine whether an extension of time based on litigation is appropriate and if so, evidence to show the length of time to grant the extension. The information has not submitted. The file definitely shows that litigation has occurred but the applicability of the litigation to a Section 42-204 extension has not been shown.

Action which appears appropriate includes the following:

36-7537 - Acknowledge receipt of the assignment of the permit from Wes Trounson to Mary Brush Crupper.

- Approve the extension request submitted by Wes Trounsen on Jan 04, 1989 for a one year period. This approval needs to be coordinated with a continuation order to be prepared by Tim for the same one year period.

- Return the extension request submitted in the name of Nancy McCormick et. al. since they are not the permit holders of record.

36-7538 - This permit is still in the name of Wes Trounsen.

- Approve the extension request for one year to make the proof due date for this permit and permit 36-7537 the same.

- Return the extension request submitted in the name of Nancy McCormick et. al. since they are not the permit holders of record.

Note that the year being granted is to give the permit holders the benefit of the doubt since evidence to definitely justify the extension request and the term has not been provided.

MICROFILMED
SEP 20 1990

Tim:
To you
for
Continuation
order.

MEMORANDUM

To: Files 36-7537 and 36-7538

From: L. Glen Saxton

RE: REVIEW OF REQUEST FOR AN EXTENSION OF TIME

Date: December 1, 1989

In response to the department's request for evidence to show that development of the permit has been delayed due to litigation, the pemit holder's attorney submitted numerous copies of complaints, cross-complaints, etc, most of which dealt with easements and lease of the property.

While it can be argued that that the nature of the litigation has not totally prevented development of the permits, the department should give the benefit of the doubt to the permit holders.

It appears that the earliest complaint provided was filed in February 1987 in Case No. 20287. This case was combined with some others and was ultimately settled in a stipulation signed by the last parties thereto on September 1988. Based on this information, an extension of time can be granted for 1 year and 7 months.

Permit holder should be advised that additional extensions of time can not be granted by the department unless there is additional litigation which prevents development of the permits.

MICROFILMED

SEP 2 0 1990

NOTICE OF EXISTING WATER RIGHT PERMIT
Presently recorded as follows:

36-07537
TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355
Source: BRIGGS SPRINGS
Tributary: SNAKE RIVER
Diversion Pt: NESW Sec 3 T 09S R 14E
NWSW Sec 3 T 09S R 14E
Use: IRRIGATION (5.680 CFS)
RECREATION: (4.140 CFS)
DOMESTIC (10.000 CFS)
Total Diversion: (10.000 CFS)
Priority: 4/8/1975
In: T09S R14E S03 NESW NWSW SWSW SESW NWSE
S04 Lot 5 (SWNE) SENE NESE Lot 14 (NWSE)
Lot 9 (SWSE) Lot 18 (SESE)
S09 Lot 2 (NENE)
S10 Lot 1 (NENW) Lot 7 (NWNW)
284.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filled with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JUNE 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.
PUBLISH: **Thursday**, May 17 and 24, 1990.

Affidavit of Publication

№ 21194

STATE OF IDAHO }
COUNTY OF TWIN FALLS } ss.

I, Linda Copps McGuire being first duly sworn upon oath, depose and say that I am Legal Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive weeks, commencing with the issue dated May 17, 1990, and ending with the issue dated May 24, 1990.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108, Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

RECEIVED
SEP 26 1990
WATER RESOURCES

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 30 day of May in the year of 1990, before me, a Notary Public, personally appeared Linda Copps McGuire, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Trena R. Feltman
Notary Public for Idaho
Residing at Twin Falls County
My commission expires: 5/19/94

OK GJ

S T A T E O F I D A H O
PARTMENT OF WATER RESOURC
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

MAY 9, 1990

Times News
P.O. Box 548
Twin Falls, ID 83301

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JUNE 4, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

MICROFILMED
SEP 20 1990

Proof of Publication

The Post-Register

State of Idaho,
County of Bonneville } ss

I, ... Ted Delezene ....., first being duly sworn, depose and say: That I am the ..... Foreman ..... of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for ..... 2 ..... consecutive weeks, first publication having been made on the ..... 16th ..... day of ..... May ....., 1990..., last publication having been made on the ..... 23rd ..... day of ..... May ....., 19..90., and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Ted Delezene

Subscribed and sworn to before me, this 25th day of May, 19.90

Cathy von Barstel
Notary Public

My commission expires March 5, 19.96

B10

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

36-07537
TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355
Source: BRIGGS SPRINGS; Tributary: SNAKE RIVER
Diversion Pt: NESW Sec 3 T 09S R 14E
NWSW Sec 3 T 09S R 14E
Use: IRRIGATION (5.680 CFS)
RECREATION (4.140 CFS)
DOMESTIC (.180 CFS)
Total Diversion: (10.000 CFS)
Priority: 4/ 8/ 1975
In: T09S R14E S03 NESW NWSW SWSW SESW NWSE
S04 Lot 5 (SWNE) SENE NESE Lot 14 (NWSE)
Lot 9 (SWSE) Lot 18 (SESE)
S09 Lot 2 (NENE)
S10 Lot 1 (NENW) Lot 7 (NWNW)
284.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filled with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JUNE 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.

R. KEITH HIGGINSON, Director

Published: May 16, 23, 1990

RECEIVED
MAY 29 1990
Department of Water Resources

OR
T17

MICROFILMED
SEP 20 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

MAY 9, 1990

Post Register
P.O. Box 1800
Idaho Falls, ID 83401

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JUNE 4, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

MICROFILMED
SEP 20 1990

COMPANY, INC.
ning Tribune
, P.O. Box 957
Idaho 83501
) 743-9411

Date 052490 INVOICE No. L00197174

Account No. 96476 36-07537

Description 97174NOTIC

ADVERTISING INVOICE

Times 2 Lines 28

Tab Lines 56

OLD TO:

DEPT. OF WATER RESOURCES
2735 AIRPORT WAY
BOISE
ID 83705

$ 70.00

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

RECEIVED
JUN 1 1990
Department of Water Resources

RECEIVED
MAY 29 1990
Department of Water Resources
Western Regional Office

STATE OF IDAHO, ss.
County of Nez Perce

Sue Baumeister, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

NOTICE OF EXISTING WATER

attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 051790, or once a WEEK for 2 consecutive WEEKS, the first publication thereof being on the 051790, and the last publication thereof being on the 052490, and said NOTICE OF EXISTING WATER was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Sue Baumeister

SUBSCRIBED AND SWORN BEFORE ME THIS THE 24 day of May 1990

Notary Public in and for the State of Idaho, residing at Lewiston, therein.

OK TJL 6-14-90



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

MAY 9, 1990

Lewiston Morning Tribune
Box 957
Lewiston, ID 83501

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JUNE 4, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

MICROFILMED
SEP 20 1990

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due
42.96

Account Name	Account Number
Idaho Dept Water Resources - State Office - Western	47628

Address	City/State	Zip
1301 N. Orchard	Boise ID	83720

Ordered By	P.O. Number	Rate	Run Dates
S Curtis		nt	May 17, 24, 1990

Identification	Estimated Inches	Real Inches
Notice of Existing Water Right		

Legal Number
5624

[1] Number of Affidavits Requested

NOTICE OF EXISTING WATER RIGHT PERMIT
Presently recorded as follows:
36-07537
TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355
Source: BRIGGS SPRINGS
Tributary: SNAKE RIVER
Diversion Pt.: NESW Sec 3 T09S R14E
NWSW Sec 3 T09S R14S
Use: IRRIGATION (5.680 CFS)
RECREATION (4.140 CFS)
DOMESTIC (.180 CFS)
Total Diversion (10.000 CFS)
Priority: 4/8/1975
In T09S R14E S03 NESW NWSW SWSW SESW NWSE S04 Lot 5 (SWNE) SENE NESE Lot 14 (NWSE)
S09 Lot 2 (NENE)
S10 Lot 1 (NENW Lot 7 (NWNW)
284.0 ACRES TOTAL
Permits not developed by July 1 1985 are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filed with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JUNE 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.
R. Keith Higginson, Director
Pub. May 17, 24, 1990 5624

RECEIVED 6-6-90
JUN 05 1990
Department of Water Resources
Western Regional Office

Debbie Richards, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for 2

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of May 17, 19 90

and ending with the issue of May 24, 19 90

Debbie Richards

MICROFILMED
SEP 20 1990

STATE OF IDAHO)
ss.
COUNTY OF ADA)

On this 24th day of MAY in the year of 1990, before me, a Notary Public, personally appeared Debbie Richards, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Notary Public for Idaho
Residing at Boise, IDAHO
My commission expires: 2/93

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

MAY 9, 1990

The Idaho Statesman
P. O. Box 40
Boise, ID 83707

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JUNE 4, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

MICROFILMED
SEP 20 1990

AFFIDAVIT of PUBLICATION

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

Patty Nance, 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 2X consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 16th day of May 19 90, and the date of the last publication was on the 23rd day of May, 19 90.

Patty Nance

Subscribed and sworn to before me this 23 day of May, 19 90
(SEAL)

Norma DeVoe
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho
COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions 2X

	Lines tabular at	6¢/Pica	
468	Lines straight at 23.40	5¢/Pica	a
	Subsequent lines at 18.72	4¢/Pica	a
	TOTAL COST 42.12		

RECEIVED
MAY 24 1990
Department of Water Resources
MICROFILMED
SEP 20 1990

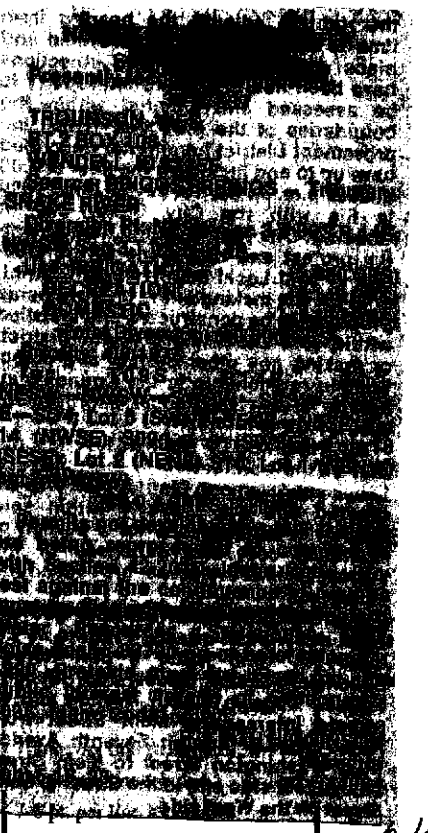
COPY OF NOTICE
(Paste Here)

State of Idaho Wat. Rt. Trans. 1
TITLE OF NOTICE
Transer 36-07537
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Nuckolls Bros
BILL TO



insertions.....4¢/Pica

OK TJT 5-25-90

No 614

14964

S T A T E O F I D A H O
DEPARTMENT OF WATER RESOURCES
State Office
1301 North Orchard St.

Statehouse Mail
Boise, Idaho 83720
(208) 327-7900

MAY 9, 1990

Gooding County Leader
442 Main Box 56
Gooding, ID 83330

Dear Legal Dept.:

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

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

Please send the affidavit of publication and publication billing to this office before JUNE 4, 1990.

Yours truly,

SHARLA CURTIS
Secretary

Encl.

NOTICE OF EXISTING WATER RIGHT PERMIT

Presently recorded as follows:

36-07537

TROUNSON, WES
RT 2 BOX 108
WENDELL, ID 83355

Source: BRIGGS SPRINGS Tributary: SNAKE RIVER

Diversion Pt: NESW Sec 3 T 09S R 14E
NWSW Sec 3 T 09S R 14E

Use: IRRIGATION (5.680 CFS)
RECREATION (4.140 CFS)
DOMESTIC (.180 CFS)
Total Diversion: (10.000 CFS)

Priority: 4/ 8/ 1975

In: T09S R14E S03 NESW NWSW SWSW SESW
NWSE
S04 Lot 5 (SWNE) SENE NESE Lot 14 (NWSE)
Lot 9 (SWSE) Lot 16 (SESE)
S09 Lot 2 (NENE)
S10 Lot 1 (NENW) Lot 7 (NWNW)

284.0 ACRES TOTAL

Permits not developed by July 1, 1985, are being reprocessed in compliance with Section 42-203D, Idaho Code. Protests against the continuance of permits must be filled with the Director, Dept. of Water Resources, Statehouse Mail, Boise, Idaho 83720 on or before JUNE 4, 1990. Protests must be based on the public interest criteria of Section 42-203C, Idaho Code, only.

R. KEITH HIGGINSON, Director

Published 5/16/1990 & 5/23/1990

MICROFILMED

SEP 2 0 1990

MEMORANDUM

TO: FILE/PERMIT NO. 36-7537

FROM: TIM LUKE

RE: SWAN FALLS PROCESSING

DATE: 5-2-90

==========

Reprocessing of this permit under Swan Falls settlement and rules has been delayed for over one year. Delay was result of some confusion concerning ownership and litigation of land, as well as ownership of the permit. At the time of our original review, the Department received two separate assignments from different parties, including the original and current pemit holder of record. We also received some confusing information about prior development under the permit. Attempts by myself to help clarify the ownership and prior development questions did not prove successful and appeared to only result in further conflict among the parties involved in the land dispute. There appeared to be no clear consensus as to when there might be a final settlement.

This permit has again been called up for processing and it is my recommendation that the Department move forward with completing a continuation order and pending extension request. The permit holder of record, Wes Trounson, returned a trust water questionnaire and re-advertisement fee in 1989, when we first began reprocessing. The permit therefore still needs to be readvertised.

Upon completion of advertising, the Department should issue a continuation order and complete the extension request. Review of the 1986 irrigation data and place of use overlap report shows that this permit is supplemental to some existing license and decreed rights, and that some portions of the permit are already classified as irrigated. About 200 of the 284 original permitted acres would appear to be new undeveloped land. The permit therefore is not subject to the additional information requirements of rule 4,5,3.

In regard to the latest assignment of this permit, I recommend that we acknowledge the assignment completed by the permit holder of record Wes Trounson, which assigned permit from Trounson to Mary Brush Crupper.

Note: Acknowledge Assignment w/ continuation & extension Approval letter.

MICROFILMED

SEP 20 1990

PLACE OF USE 1/4 1/4 OVERLAP REPORT

05/02/90

WR-NUMBER	NAME	SIG	SOURCE	T	R	S	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SUM
							NE				NW				SW				SE				
3607537																							
0100005	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
0100016	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
0100212	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
0100213	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
0100215	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
0100220	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	3																	
3600199	IRLE	D	BRIGGS SPRINGS	09S	14E	3									X	X	X	X		X			
3600201	ORME	D		09S	14E	3									X	X	X			X			
3602003A	INGERSOL	L	CLEAR LAKE	09S	14E	3											15	5					20
3602003B	INGERSOL	L	CLEAR LAKE	09S	14E	3											40	35					75
3602506	VAN NOY	L	GROUNDWATER	09S	14E	3		40	40		40	40		20									180
3604019	FRED BRAILSFORD INC.	S	UNNAMED STREAM	09S	14E	3													40		40	40	120
3604036	RUFFING	S	GROUNDWATER	09S	14E	3	40			40													80
3604221	MOORE	S	WASTE WATER	09S	14E	3		24	4		32												60
3607537	TROUNSON	P	BRIGGS SPRINGS	09S	14E	3									15	25	40	40		10			130
	1986 MAPPING DATA ——	-	COUNTY 47 QUAD BB 20	09S	14E	3			30	39			4	21	5	18	17	14	17	3	38	37	243
	1986 MAPPING DATA ——	-	COUNTY 83 QUAD BB 20	09S	14E	3			22	39			4	8					9	2			84
3607537																							
0100004	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100005	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100010	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100016	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100209	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100212	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100213	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100215	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
0100220	NORTH SIDE CANAL CO.	D	SNAKE RIVER	09S	14E	4																	
3600199	IRLE	D	BRIGGS SPRINGS	09S	14E	4				X													
3600201	ORME	D		09S	14E	4				X													
3602039	SHELDON	L	BRIGGS SPRINGS	09S	14E	4																	
3604164	BANBURY PIPE CO.	S	BANBURY SPRINGS	09S	14E	4																	
3604165	BANBURY PIPE CO.	S	BANBURY SPRINGS	09S	14E	4																	
3604166	BANBURY PIPE CO.	S	BANBURY SPRINGS	09S	14E	4																	
3604167	BANBURY PIPE CO.	S	BANBURY SPRINGS	09S	14E	4																	
3607537	TROUNSON	P	BRIGGS SPRINGS	09S	14E	4				15									25				40
4702151	STOOLFIRE	L	UNNAMED COULEE	09S	14E	4												5					5
4702186	SPRECHER	L	UNNAMED STREAM	09S	14E	4							7			10							17
4707312A	KASTER	P	GROUNDWATER	09S	14E	4																	
4707312B	DICKINSON	P	GROUNDWATER	09S	14E	4																	
4707313	OREGON TRAIL SUBDIVISI	P	GROUNDWATER	09S	14E	4																	

SEP 2 0 1990

4707394	KAMBRICH	L	SPRINGS	09S	14E	4		:		:				:	
4707488	RAY	P	GROUNDWATER	09S	14E	4		:		:				:	
4707778	EASTMAN	P	GROUNDWATER	09S	14E	4		:		:				:	
4708083	SKINNER	P	SPRING	09S	14E	4		:		:				:	
4708164	HOWARD	P	SPRING	09S	14E	4		:		:				:	
4708234	LECKENBY	A	GROUNDWATER	09S	14E	4		:		:	5	5		:	10
L4707312A	KASTER	L	GROUNDWATER	09S	14E	4		:		:				:	
L4707312B	DICKINSON	L	GROUNDWATER	09S	14E	4		:		:				:	
L4707488	RAY	L	GROUNDWATER	09S	14E	4		:		:				:	
	1986 MAPPING DATA ---	-	COUNTY 47 QUAD BB 20	09S	14E	4	3	:	6	:		12	14	:	35
	1986 MAPPING DATA ---	-	COUNTY 83 QUAD BB 20	09S	14E	4		:	1	:		2	11	:	14

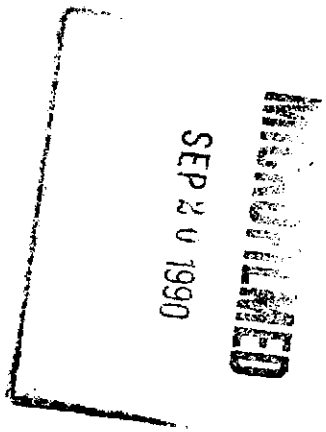
SEP 20 1990

PLACE OF USE 1/4 1/4 OVERLAP REPORT

WR-NUMBER	NAME	SIG	SOURCE	T	R	S	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	SUM
							NE				NW				SW				SE				
3607537																							
0100004	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	9																	
0100010	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	9																	
0100209	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	9																	
3600199	IRLE	D	BRIGGS SPRINGS	09S	14E	9																	
3607537	TROUNSON	P	BRIGGS SPRINGS	09S	14E	9																	
4702143	PARKS	L	UNNAMED COULEE	09S	14E	9	5	15															20
4704008	KERPA	S	WARM SPRINGS	09S	14E	9				10													10
4704026	MELTON	S	UNNAMED STREAM	09S	14E	9										10	20	10					40
4704171	KINYON	S	WASTE WATER	09S	14E	9									20	10	20	5					55
4704177	SMALLEY	S	UNNAMED STREAM	09S	14E	9													20	30			50
4704215	DAVIS	S	IN-2 COULEE	09S	14E	9													2			27	29
4704271	FAIRCHILD	S	SPRING	09S	14E	9													1				1
4707115A	KERPA	L	GROUNDWATER	09S	14E	9				18													18
4707115B	REYNOLDS	L	GROUNDWATER	09S	14E	9				4													4
4707205	LUNTEY	L	GROUNDWATER	09S	14E	9				1													1
4707488	RAY	P	GROUNDWATER	09S	14E	9		30			32												62
4707566	TVRDY	P	GROUNDWATER	09S	14E	9				1													1
4707567	STODDARD	P	GROUNDWATER	09S	14E	9				1													1
4707574	GRUVER	P	GROUNDWATER	09S	14E	9				1													1
4707575	KIENLEN	P	GROUNDWATER	09S	14E	9				2													2
4707825	STAUFFER	A	GROUNDWATER	09S	14E	9				6									3				9
4707826	LUNTEY	P	GROUNDWATER	09S	14E	9				10													10
4707889	FAIRCHILD	P	SPRING	09S	14E	9																3	3
4707892	HARMS	A	GROUNDWATER	09S	14E	9													10				10
4708120	GOHMES	A	WASTE WATER	09S	14E	9				3													3
L4707488	RAY	L	GROUNDWATER	09S	14E	9		30			32												62
L4707574	GRUVER	L	GROUNDWATER	09S	14E	9				1													1
	1986 MAPPING DATA ——	-	COUNTY 47 QUAD BB 20	09S	14E	9				27			8			7	12			13		10	77
	1986 MAPPING DATA ——	-	COUNTY 83 QUAD BB 20	09S	14E	9				22										20			42
3607537																							
0100004	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	10																	
0100010	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	10																	
0100209	TWIN FALLS CANAL CO.	D	SNAKE RIVER	09S	14E	10																	
3600199	IRLE	D	BRIGGS SPRINGS	09S	14E	10																	
3602003A	INGERSOL	L	CLEAR LAKE	09S	14E	10																	
3602003B	INGERSOL	L	CLEAR LAKE	09S	14E	10																	
3604019	FRED BRAILSFORD INC.	S	UNNAMED STREAM	09S	14E	10	10	10			14												34
3607537	TROUNSON	P	BRIGGS SPRINGS	09S	14E	10																	
4702174	FAIRCHILD	L	MUD CREEK	09S	14E	10													25				25
4702175	SYSTER	L	MUD CREEK	09S	14E	10	5																5

SEP 20 1990

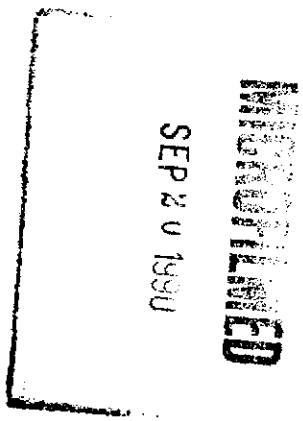
4702179	BRIGGS	L	MUD CREEK	09S 14E 10		26	20	:			:			:									46
4702264	FOSTER & KIENLEN	L	MUD CREEK	09S 14E 10				:			:			10	:			10					20
4704008	KERPA	S	WARM SPRINGS	09S 14E 10				:		15	:				:								15
4704215	DAVIS	S	LN-2 COULEE	09S 14E 10				:			:		5		:								5
4704271	FAIRCHILD	S	SPRING	09S 14E 10				:			:	7			:								7
4704272	FAIRCHILD	S	WASTE WATER	09S 14E 10				:		12	:				:								12
4707115B	REYNOLDS	L	GROUNDWATER	09S 14E 10				:			:				:								
4707123	REYNOLDS	L	GROUNDWATER	09S 14E 10				:			:	3			:								3
4707261A	COLLINS BROTHERS CORP.	L	MUD CREEK	09S 14E 10		7	16	:			:				:								23
4707680	COLLINS BROTHERS CORP.	P	GROUNDWATER	09S 14E 10		25	18	:	2	40	:	40			:	40	40	40					245
4707787	FAIRCHILD	P	SPRING	09S 14E 10				:			:				:								
4708120	GOHMES	A	WASTE WATER	09S 14E 10				:		4	:				:								4



PLACE OF USE 1/4 1/4 OVERLAP REPORT

05/02/90

WR-NUMBER	NAME	SIG	SOURCE	T	R	S	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE	SUM
							NE	NW	SW	SE	
	1986 MAPPING DATA ——	-	COUNTY 47 QUAD BB 20	09S	14E	10	28 34 :	26 5 :	2 23 7 :	15 6	146
	1986 MAPPING DATA ——	-	COUNTY 83 QUAD BB 20	09S	14E	10	30 41 :	21 3 :	17 2 :	24 1	139



PLACE OF USE LOTS OVERLAP REPORT

05/02/90

WR-NUMBER	NE NE	NE NW	NE SW	NE SE	NW NE	NW NW	NW SW	NW SE	SW NE	SW NW	SW SW	SW SE	SE NE	SE NW	SE SW	SE SE	LOT +	SUM
3607537	T09S R14E S 3																	
47 MAPPING: 1L42 2L43 3L43 4L38																		166
83 MAPPING: 1L42 2L44 3L43 4L32																		161
3607537	T09S R14E S 4																	
3600199		2LX	5LX										13LX	14LX	14LX	18LX		
3600201													13LX	14LX		18LX		
3602039		2L2	5L8		11L4													30
3604164						3L4												4
3604165						3L4												4
3604166						3L3												3
3604167						3L2												2
3607537			5L15											14L20	9L16	18L13		64
4707312A						3L13												13
4707312B						3L1												1
4707313								4L10	7L5									15
4707394									7L1									1
4707488												16LX			17LX			64
4707778						3L6												6
4708083									7L1									1
4708164									7L1									1
L4707312A						3L13												13
L4707312B						3L1												1
L4707488												16LX			17LX			64
47 MAPPING: 2L1 3L11 5L5 6L2 10L20 12L7 13L19 14L4																		69
83 MAPPING: 3L5 10L5																		10
3607537	T09S R14E S 9																	
3600199	2LX																	
3607537	2L6																	6
4707488	1L2																	2
L4707488	1L2																	2
83 MAPPING: 1L1																		1
3607537	T09S R14E S10																	

RECEIVED
SEP 27 1990

3600199			:	6LX	7LX			:	:	:	
3602003A			:		1L5			:	:	:	5
3602003B			:		1L10			:	:	:	10
3607537			:	1L19	7L25			:	:	:	44
4707115B			:			2L3		:	:	:	3
4707261A	4L11	4L4	:	4L10			3L10	:	:	:	35
4707787			:			2L3		:	:	:	3

47 MAPPING: 1L2 4L11 5L3 6L1

17

83 MAPPING: [redacted]

7

MICROFILMED
SEP 20 1990

MEMORANDUM

TO: FILE

FROM: JIM JOHNSON

RE: ASSIGNMENT OF PERMITS

DATE: June 6, 1989

==========

The Dept. received assignment of permit on this permit(36-7537) and on permit(36-75380) on May 23,1989.

After reviewing the file it appears that the assignment is in follow up to an effort to resolve ownership of the permit.

Due to the evidence in the file showing that the land covered by the permit is owned by several parties, receipt of one assignment from the original owner to only one person (his daughter) does not resolve the multiple ownership question.

At this point since additional evidence has been received concerning the reasons for the litigation it appears that a review of this information is necessary so that a determination can be made the extension request filed by Wes Trounson on January 4, 1989. The normal acknowledgement of assignment should be delayed until it can be determined by the above stated review is completed. If the extension request is approved then the person named on the assignment can receive correspondence if appropriate.

MICROFILMED
SEP 20 1990

MEMORANDUM

TO: FILE/PERMIT NO. 36-7537

FROM: TIM LUKE

RE: SWAN FALLS PROCESSING

DATE: 5-11-89

==========

The permit holder has responded timely to the departments request for Swan Falls processing information and has paid the required re-advertisement fee. Review of the file however will show that there is some pending litigation involving the lands described under the permit. The permit holder has also asked for an extension of time in which to submit the information required by Water Appropriation Rule 4,5,3,6.

Due to the situation above, I recommend that this permit be omitted from our 1989 review under 42-203D and be re-reviewed next year. The acres under the permit may be included as part of the 20,000 acres of allowable development which will be reviewed and ultimately approved in 1990.

MICROFILMED
SEP 24 1990

May 2, 1989

Robert E. Williams
Attorney at Law
117 So. Adams St.
P.O. Box 168
Jerome, ID 83338

RE: PERMITS 36-7537 AND 35-7538 - WES TROUNSON

Dear Mr. Williams:

Enclosed is a copy of my March 7, 1989 letter to you to which I received no response. Please submit the requested information within twenty (20) days.

If the information is not timely submitted, the department will act on the pending requests for extension of time with the information presently in the file. Based on the review of information presently available, another extension can not be approved.

Please contact the department if you have questions.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 1

c: S. Region

MICROFILMED
SEP 20 1990

APR 20 1989

Department of Water Resources

Box 109
Bald, Idaho

Mr Luca:

Thankyou for calling me Feb. 9, 1989.

I am enclosing several pieces of paperwork for your "education" and future reference.

Briggs Creek Ranch is a family-owned property -portions of which have been in my family three generations.

The present-known owners are:

25% undivided interest = Willard B. Sheldon
25% " " = Howard L. Sheldon
25% " " = George M. Sheldon
5% " " = Nancy McCormick

originally Myriel Sheldon Trounson's

5% Marde Crupper
5% George Brush
5% Dale Hire
5% Wes Trounson

" " = Richard Kaster (under varying sales/purchase contracts

Accompanying the land are certain water filings — as outlined in the first two pages. (#1 + #2)

Numbers 36-2640; 36-2607; 36-0199; 36-0201-D are properly cared for & filed under # 39356.

I was also aware that my uncles + I had "saved" family rights (years ago) on 2 separate filings Wes Trounson had initially filed on in 1975, and then did an extension placed in 1985. (see pages 3-9)

#s = 36-7537 / 36-7538

Also enclosed are three letters, (pages 10 — 16) epitomizing legalities entailed.

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SEP 20 1990

This past year has seen a "settlement" resolved, again restating # 36-7537 and 36-7538 to be property held among "tenants in common;" Mr. Richard Kaster remaining as a tenant; Wes Trounson selling his 5% to R. Kaster.

I gave Mr. Stanton pages from this court-supervised effort; for your convenience, I again submit these pages to you. (pages 17-19.)

Enclosed is a colour-coded map for your use; such has certainly aided my education in the past. If you need to talk to me again; please try Wednesdays; with the use of this map, communication should be more satisfactory.

Thank-you
Mrs. Nancy L. McCormick

(208) 536-2043

Route 2 Box 108

Wendell, Idaho 83355

Wes & Lucille Trounson

14 March 1989

Tim Luke, Sr. Water Resource Agent

Department of Water Resources

1301 North Orchard Street, Statehouse Mail

Boise, Idaho 83720

RECEIVED

MAR 17 1989

Department of Water Resources

Dear Mr. Luke,

Thank you for your letter of February 15th. I have been out of State this past few weeks and thus a slight delay in answering .

I hope that within the next 30 days I will be able to more clearly answer some of the questions. The following may clear up a portion of the questions:

Your question 1)....some of the development is hoped to be in conjunction with Richard Kaster and the Sheldons whom Nancy McCormick represents. Question 2) also is land owned by the Sheldons, Nancy McCormick, my step-daughter Mardi Brush Crupper, and myself. Mardi & I have a contract to sell our interests (less the 15 acres) to Richard Kaster. Presently he is in arrears in his payment and thus may be placed in default shortly.

To date I have paid all filing fees etc. on said water permit. I will be contacting the Sheldons lawyer concerning the possible transfer of a portion of my interests.

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SEP 20 1990

I shall be glad to come to Boise at your convenience to resolve the matter. Please let me know when you wish to see me.

Sincerely,

Wes Trounson

March 7, 1989

Robert E. Williams
Attorney at Law
117 So. Adams St.
P.O. Box 168
Jerome, ID 83338

RE: PERMITS 36-7537 AND 36-7538 - WES TROUNSON

Dear Mr. Williams:

As a follow-up to our telephone conversation today, I am forwarding some blank assignment forms for potential use in connection with the above referenced water right permits. As I described, the permits are the personal property of Mr. Trounson and only Mr. Trounson as presently shown by department records.

The permit holder of record is the only party authorized to perform certain actions associated with a permit, such as file the required proof of beneficial use, amend the permit if needed, etc. Since the property is apparently owned by several parties, it appears reasonable that Mr. Trounson should assign the permit in a manner to more properly reflect the owners of the permit.

In connection with the pending request for extension of time submitted by Mr. Trounson, it is my understanding that you will submit evidence to show the beginning and ending dates of past litigation which clearly can be shown to affect the interests of Mr. Trounson in development of the permit. This information is required as the basis on which to determine the extent of time which can be granted in connection with the proof of beneficial use due date.

Please feel free to contact me if you have questions.

Sincerely,

MICROFILMED
SEP 20 1990

L. GLEN SAXTON, Chief
Water Allocation Bureau

Encl: 2

c: S. Region

FREDERICKSEN & WILLIAMS
ATTORNEYS AT LAW
117 SOUTH ADAMS STREET
P. O. BOX 168
JEROME, IDAHO 83338

AREA CODE 208
324-2303

EUGENE D. FREDERICKSEN
ROBERT E. WILLIAMS, III

RECEIVED
FEB 16 1989
Department of Water Resources

February 15, 1989

Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Attention: Rita I. Fleck

Dear Ms. Fleck:

RE: Permit Nos. 36-7537 and 36-7538

This letter is written on behalf of my client, Wes Trounson, with regard to his application for extension of time with respect to the above referenced permits. This letter will supplement Mr. Trounson's application by providing the information you requested in your letter to Mr. Trounson of January 9, 1989.

I am enclosing with this letter copies of pleadings which demonstrate some of the issues raised in this complex litigation. The final case represented the consolidation of six different cases pending in Gooding County, Idaho, Fifth Judicial District Court, under the case numbers 19972, 19615, 20194, 20004, 20287 and 19918. The original litigation to which my clients, Larry Crupper and Mary Brush Crupper and Wes Trounson, were not party, was commenced by Williard E. Sheldon and others against Richard Kaster in 1984. Peter Burno's foreclosure of mechanic's lien against all parties involved commenced in 1986. Larry and Mary Brush Crupper's complaint foreclosing their contract seller's interest in real property commenced the same year. Also, that same year, Zion's Leasing Company and the Lockhart Company sought relief against all parties with respect to construction of a hydro-electric facility and related water rights, energy contracts, and permits related thereto.

A brief factual synopsis of this matter is as follows:

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SEP 20 1990

Briggs Creek Ranch, a parcel of real property abutting the Snake River in Gooding County, Idaho, was acquired through inheritance by the members of the Sheldon/Brush family through their deceased parents. As some of the original heirs passed away, their interests in the real property were fractionalized among their own heirs.

Richard Kaster acquired a leasehold interest in the entire real property in 1974. The lease gave him the right to use existing water rights on the real property for the production of fish. Mr. Kaster proceeded to construct wasteways and other improvements to the real property which would allow him to pursue his livelihood of fresh fish propogation for commercial purposes. In 1984, Mr. Kaster acquired 20% fee ownership in the real property representing the 5% undivided interest of four different members of the Sheldon/Brush family. Mr. Kaster ultimately acquired and recorded a deed from two of the family members. However, he defaulted on contracts for the purchase of the 5% undivided interest of Wes Trounson and Larry and Mary Crupper, who had sold Mr. Kaster their interests pursuant to a contract of sale with deed in escrow.

In the early 1980s, Kaster acquired a water right for the production of hydro-electric power in connection with his fish propogation facility on the leased property. He had designed and constructed a hydro-electric power facility and negotiated a firm energy sales contract with Idaho Power Company under the firm's co-generation program. The facility came on line in the mid-80s.

Peter H. Burno designed and supplied turbines and related equipment for the facility. He was not timely paid by Kaster. Burno filed a mechanic's lien on the site of the construction of the hydro-electric facility and commenced a legal action to foreclose it. The Sheldon family, except for the four individuals whose interests had been purchased by Kaster, became disenchanted with Kaster as to his conduct of the fish propogation operation and also because they believed that Kaster had constructed the hydro-electric facility in contravention of their lease. The Sheldons instigated litigation to require the termination of the lease with Kaster and also sought to have certain [illegible] the Sheldons

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SEP 20 1990

established in the firm energy sales contract with Idaho Power, the hydro-electric water right, and related permits. **In 1986, Kaster defaulted in this obligations to my clients, the Cruppers and Wes Trounson.** The Cruppers commenced to foreclose their contract interest against Kaster and to have the rights of the parties established in the real property. Zion's Leasing Company and the Lockhart Company, who had been the primary financiers for the construction of the hydro-electric project, then sued all parties seeking to establish their priority in interest in the hydro-electric facility itself, the firm energy sales contract, the hydro-electric water permit, and related rights. All these actions were then combined into the consolidated case which I have mentioned.

In July, 1988, on the eve of trial, the parties entered into a tentative settlement. Thereafter, various disputes concerning the settlement arose. As of this date, a final settlement agreement between Richard Kaster, Larry and Mary Crupper, and Wes Trounson has not been executed. The Sheldon family, Kaster, Zion's Leasing Company, and the Lockhart Company have signed documents suggesting that a final settlement of their differences has been reached but from my last information, still a few loose ends to clear up before that matter can be considered final. In that settlement, the water rights under Permit Nos. 36-7537 and 36-7538 have been addressed, at least obliquely, by the Sheldon family insisting that all parties claiming an interest in the real property must combine together in order to make any further water filings or prove the same up. Since all parties in ownership have undivided interests (the land has not been partitioned into separate identifiable interests for each party), cooperation to avoid the kind of litigation which has taken place the last four years is necessary.

As part of the Crupper and Trounson contracts, Kaster had agreed to acquire certain small amounts of acreage containing the gravesite of Mr. Trounson's deceased wife, Myriel. The contracts also addressed certain water rights that would allow the improvement and maintenance of those parcels. Family members have also discussed the utilization of existing improvements delivering water for fish propogation, hydro-electric purposes to place additional water under beneficial use. The fruition of these arrangements has been necessarily delayed by the litigation which I have described in this letter. I might note that at the time the original water

printed applications were filed by Wes Trounson, he owned only an undivided 5% interest in the real property to which the water rights are appurtenant. The fact that Nancy McCormick and others have also filed for extension of time under the existing applications is fully consistent with the positions they have taken throughout the litigation to the effect that even though the water permit application is in the name of Trounson, they and all other land owners have some beneficial interest therein.

If I can be of any further assistance to you in this matter, please advise me.

Very truly yours,

FREDERICKSEN & WILLIAMS

BY: _____
ROBERT E. WILLIAMS III

REW:rlw
encls.

MICROFILMED
SEP 20 1990

printed applications were filed by Wes Trounson, he owned only an undivided 5% interest in the real property to which the water rights are appurtenant. The fact that Nancy McCormick and others have also filed for extension of time under the existing applications is fully consistent with the positions they have taken throughout the litigation to the effect that even though the water permit application is in the name of Trounson, they and all other land owners have some beneficial interest therein.

If I can be of any further assistance to you in this matter, please advise me.

Very truly yours,

FREDERICKSEN & WILLIAMS

BY: _____
ROBERT E. WILLIAMS III

REW:rlw
encls.

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SEP 20 1990

T. Lucas copy.

KANAKA RAPIDS

(WRIGHT'S)

Old Alfalfa Fields

Old marsh area

Lot 2
Govt. Cor. (6.44 ac.)
Iron Pipe

Lot 7
(24.9 ac.

M.C.

W.T.

7161

7124

7011

GRAVEL

900' (underground) + 2 end metal above ground (replaced in 1987)

Drainage Ditch Becomes

new sprinkler system

(replaced old pipeline in 1987)

SWAMP AREA

Lot 18
13.4 ac.

SNAKE RIVER

77.82 ac.±

Irle Barnyard

Swamp Area

Island

Front gate

82.18 ac.
Tract No. 1

Shelton Road

SHORT CUT

"JUNGLE"

BRIGGS CREEK

Lot 14

Lot 13
(9.90 ac.

Old marsh area

Lot
(15.10 ac)

Briggs Spring

Briggs Creek

Diversion

Source Most of Water

BLM

20.07 ac.

Cross on Rim

BLM

Diversion

main channel

Shelton Road

RIM

Old grade

POST OFFICE

SHELTON HOUSE
Kaster now

Kaster Lease Area

Lot 12
(15.73 ac)

Lot 5
(21.75 ac.)

Irvin's Stone Dam

Septic

Farm Ponds

Lot 11
(7.70 ac.)

Lot 2
(6.44 ac.)
45.28 ac

Gravel Pit

APPLICATION = 70 CFS

36-0199 } = 8 CFS
36-0201-D }

36-2040 = 10 CFS

36-2607 - 60 CFS

36-7537 = 10 CFS extention requested

36-7538 = 30 CFS extention requested.

(orange original plot) ■ potential uses

Lot 4
41.66

Lot 10 (or 1)?
(41.69 ac.)

Lot 3
41.50

Lot 2

(7161, 7124, 7011 = a projected area Trounson planned for himself + Marci Crapper, if Kaster ever became sole owner. (N. found on Gooding County Tax Map.)

Legend:
- = rimrock
- = BCR borders
- = I.P.Co.
- = old meander line
- = Stone Cross set by I.P.Co.
- ■ Gov't Cor. Iron Pipe
- Road R/Way
- = heavy trees (cedar, hackberry locust, etc)
- = gravel road

(prepared by N. McCormick)
(Lot 1 goes off the paper)

MICROFILMED
SEP 20 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

February 15, 1989

Wes Trounson
Rt. 2, Box 108
Wendell, ID 83355

Dear Mr. Trounson:

I have received your response to the Department's questionnaire as well as the required $20.00 re-advertisement fee. I wish to thank you for your prompt reply. A receipt for your check is enclosed with this letter along with a copy of the questionnaire you completed and returned to the Department.

I am presently writing you in order to clear up some confusion on my part as to your responses on the questionnaire. My confusion is as follows:

1) You stated that a portion of the development was completed prior to July 1, 1985 but do not clearly specify what portion. Based on the photographs you presented, it seems possible that perhaps all or a portion of the recreational use was developed along with or including a 5 acre grave site. However, you mentioned later in question #4 that you planned to complete development of the 5 acre grave site. Also, the aerial photo you sent is undated and does not confirm irrigation or use of water on any of the 5 to 15 acres.

2) The copy of the permit which was enclosed with our letter and questionnaire was a permit for an irrigation project of 284 acres. You made no reference to any irrigation project on these 284 acres. Instead, it appears that you intend to use water for recreational and/or landscaping use on 5 to 15 of these 284 acres.

On February 2, 1989, the Department received a request for extension of time for this particular permit from Mrs. Nancy McCormick. I have since spoken to Mrs. McCormick and have learned that you may not have a possessory interest in a majority of the lands described under this permit. I have sent Mrs. McCormick the letter and questionnaire to determine her interest in developing the 284 acres as well as learn about past irrigation on a portion of this land.

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SEP 20 1990

If you are not associated with the irrigation project represented by the permit and/or do not have full possessory interest of the land described under the permit, then you should assign that portion of the permit to the appropriate landowner or interested party. Your failure to properly respond to the Department's requests may jeopardize the standing of this permit.

In the event that you fully assign the permit to another party, the Department can refund both your $20.00 re-advertisement fee and your $15.00 extension request fee. Retaining a portion of the permit may not necessarily result in a refund. I would appreciate your cooperation in resolving this matter.

The information you have thus far submitted will remain on file for thirty (30) days to allow you an opportunity to respond to this second letter.

If you should have any questions, please do not hesitate to call me at this office.

Sincerely,

Timothy J. Luke

TIM LUKE
Sr. Water Resource Agent

TL:hm

Enclosure

cc: Robert Williams
Fredrickson & Williams
P.O. Box 168
Jerome, ID 83338

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SEP 20 1990

RECEIVED

JAN 31 1989

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

GENERAL INSTRUCTIONS: Please answer all questions thoroughly. A separate questionnaire must be completed for each permit.

1. Permit number 36-7537.

2. Was the development or a portion of the development complete and water from the source identified under this permit used before July 1, 1985? Yes X No _____

   If yes, the Department requests that you submit evidence showing the extent of your development existing on July 1, 1985. Evidence should at least include aerial photos (for developments of five acres or more) which are signed and dated by a local ASCS representative. Other evidence may include power records, irrigation equipment records or receipts, and affidavits from persons who are knowledgeable of your operation and dates of past water use.

3. Are you still interested in developing or completing the development under your water right filing?
   Yes X No _____
   If no, please complete and return the attached relinquishment form.
   If yes, please submit the required $20.00 readvertisement fee.

4. If you answered yes to question #3, please indicate the number of acres you intend to develop. 5 ACRes Grave Site & Fount. 2-5 Acre Plots Adjacent - With Domestic Power Generation

5. Remarks: Since Litigation on Property is About over My Daughter, Mary Brust Crumpton and I Will Try To Buy Out Partial Owners on Grave Site & 10 ACRes. Photos of Grave Site, Fountain Attached. Copy of Aerial photo showing Parcels A-B-C

I hereby assert that the responses provided above are true to the best of my knowledge. I understand that any willful misrepresentations may result in voiding of the application or cancellation of the permit by the department.

Permit holder

25 January 1989
Date

Address: Rt 2 Box 108
Weindoll, Idaho 83355

Phone (208) 536-2043

MICROFILMED

SEP 20 1990

RECEIVED
JAN 31 1989
SF Trust Water Readjudication
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

GENERAL INSTRUCTIONS: Please answer all questions thoroughly. A separate questionnaire must be completed for each permit.

1. Permit number 36-7537.

2. Was the development or a portion of the development complete and water from the source identified under this permit used before July 1, 1985? Yes X No ____

   If yes, the Department requests that you submit evidence showing the extent of your development existing on July 1, 1985. Evidence should at least include aerial photos (for developments of five acres or more) which are signed and dated by a local ASCS representative. Other evidence may include power records, irrigation equipment records or receipts, and affidavits from persons who are knowledgeable of your operation and dates of past water use.

3. Are you still interested in developing or completing the development under your water right filing?
   Yes X No ____
   If no, please complete and return the attached relinquishment form.
   If yes, please submit the required $20.00 readvertisement fee.

4. If you answered yes to question #3, please indicate the number of acres you intend to develop. 5 ACRes Grave Site & Fountain 2-5 Acre Plots Adjacent - With Domestic Power Connection

5. Remarks: Since Litigation on Property is about over My daughter, Mary Brush Crumpton, and I Will Try To Buy out Partial Owners of Grave Site & 10 ACRes. Photos of Grave Site, Fountain Attached. Copy of Aerial photo showing Parcels A-B-C

I hereby assert that the responses provided above are true to the best of my knowledge. I understand that any willful misrepresentations may result in voiding of the application or cancellation of the permit by the department.

Permit holder

25 January 1989
Date

Address: RT 2 Box 108
Wendell, Idaho 83355

Phone (208) 536-2043

MICROFILMED
SEP 20 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

January 30, 1989

Copy

RE: PERMIT NO. _____

Dear PERMIT HOLDER:

Due to the Swan Falls litigation, development proposed by the enclosed permit may have been delayed. The Department is presently reviewing the permit and may authorize completion of development proposed under the permit.

The purpose of this letter is to determine: (1) the extent of development under the permit, and (2) your continued interest in developing or completing development under the permit.

Enclosed are two forms which will help the Department expedite the reprocessing of the permit.

Please complete and return the enclosed questionnaire if you wish to continue with your plans of development or have completed all or a portion of your development before July 1, 1985.

Please complete the enclosed relinquishment form and return it to the Department if you have abandoned or have no interest in continuing with your plans for development of the project.

If the entire project was not completed prior to July 1, 1985, and you still wish to proceed with your plans of development, then you must submit a $20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,3. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to cancel the permit.

If the incomplete portion of your project is for irrigation of more than 200 acres, the Department will issue a notice requesting additional information as required by Water Appropriation Rule [illegible] (Copy enclosed).

MICROFILMED
SEP 20 1990

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 334-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke - Water Allocation/Trust Water

Please note that a copy of your permit is enclosed. The permit number is shown on the enclosed questionnaire.

Sincerely,

Timothy J. Luke

TIM LUKE
Sr. Water Resource Agent

Enclosures

MICROFILMED
SEP 20 1990

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRUST WATER INFORMATION QUESTIONNAIRE

GENERAL INSTRUCTIONS: Please answer all questions thoroughly. A separate questionnaire must be completed for each permit.

1. Permit number _____.

2. Was the development or a portion of the development complete and water from the source identified under this permit used before July 1, 1985? Yes _____ No _____

   If yes, the Department requests that you submit evidence showing the extent of your development existing on July 1, 1985. Evidence should at least include aerial photos (for developments of five acres or more) which are signed and dated by a local ASCS representative. Other evidence may include power records, irrigation equipment records or receipts, and affidavits from persons who are knowledgeable of your operation and dates of past water use.

3. Are you still interested in developing or completing the development under your water right filing?
   Yes _____ No _____
   If no, please complete and return the attached relinquishment form.
   If yes, please submit the required $20.00 readvertisement fee.

4. If you answered yes to question #3, please indicate the number of acres you intend to develop. _____

5. Remarks: _____

I hereby assert that the responses provided above are true to the best of my knowledge. I understand that any willful misrepresentations may result in voiding of the application or cancellation of the permit by the department.

_____ _____
Permit holder Date

Address: Phone (____)_____

_____

_____

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SEP 20 1990

case, and second, the ultimate burden of persuasion.

4,4,2. The burden of coming forward with evidence is divided between the applicant and the protestant as follows:

4,4,2,1. The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criteria (a) through (d) of Section 42-203A(5), Idaho Code;

4,4,2,2. The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criterion (e) of Section 42-203A(5), Idaho Code, as to any factor affecting local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable. The protestant shall bear the initial burden of coming forward with evidence for those factors relevant to criterion (e) of Section 42-203A(5), Idaho Code, of which the protestant can reasonably be expected to be more cognizant than the applicant.

4,4,2,3. The protestant shall bear the initial burden of coming forward with evidence for the evaluation of the public interest criteria of Section 42-203C(2), Idaho Code, and of demonstrating a significant reduction, except that the applicant shall provide details of the proposed design, construction, and operation of the project and directly associated operations to allow the impact of the project to be evaluated.

4,4,3. The applicant has the ultimate burden of persuasion for the criteria of Section 42-203A, Idaho Code, and the protestant has the ultimate burden of persuasion for the criteria of Section 42-203C, Idaho Code.

4,4,4. For unprotested applications or permits to be reprocessed, the director will evaluate the application, information submitted pursuant to Rule 4,5,3. and information in the files and records of the department, and the results of any studies the department may conduct to determine compliance with the appropriate criteria.

4,4,5. In unprotested matters the director will take official notice of information as described in Rule 9,16. of the department's adopted Rules of Practice and Procedure, and will, prior to considering, circulate to the parties information from department studies and field examinations concerning the unprotested application or permit being reprocessed, if such information has not otherwise been made a part of the hearing record.

SEP 20 1990

4,5. ADDITIONAL INFORMATION REQUIREMENTS

4,5,1. For unprotested applications and permits being reprocessed, the additional information required by Rule 4,5,3. shall be submitted within 30 days after the director notifies the applicant that the application or permit is being reviewed

for decision. The director may extend the time within which to submit the information upon request by the applicant and upon a showing of good cause.

Failure to submit the required information within the time period allowed will be cause for the director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late. The director will provide opportunity for hearing as provided in Section 42-1701A, Idaho Code.

4,5,2. For protested applications or protested permits being reprocessed, the information required by Rule 4,5,3. may be requested by the director to be submitted within 30 days after notification by the director, may be made a part of the record of the hearing held to consider the protest, or may be made available in accordance with any pre-hearing discovery procedures.

Failure to submit the required information within the time period allowed will be cause for the director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late.

4,5,3. Information to be submitted

The following information shall be submitted for applications to appropriate unappropriated water or trust water and for permits being reprocessed for trust water. The additional information submittal requirements of this rule are waived for filings which seek to appropriate five (5) cfs or less or storage of five hundred acre-feet (500 A-F) or less and for filings seeking reallocation of trust water which the director determines will reduce the flow of the Snake River measured at Murphy Gauge by not more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than 200 acres will be irrigated. However, the director may specifically request submittal of any of the following information for any filing, as he determines necessary.

4,5,3,1. Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

4,5,3,1,1. For applications appropriating springs or surface streams with 5 or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.

4,5,3,1,2. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing

wells and springs and permitted wells within a one-half mile radius of the proposed well.

4,5,3,1,3. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

4,5,3,2. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

4,5,3,2,1. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.

4,5,3,2,2. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

4,5,3,3. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

4,5,3,3,1. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.

4,5,3,3,2. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

4,5,3,4. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

4,5,3,4,1. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.

4,5,3,4,2. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

4,5,3,5. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

4,5,3,5,1. The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Health and Welfare, Division of Environment, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.

4,5,3,6. The following information Relative to the Public Interest Criteria of Section 42-203C(2), Idaho Code, shall be submitted by an applicant seeking reallocation of trust water for a project which the director determines will reduce the flow of the Snake River by more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than 200 acres will be irrigated. The director may request any or all of the following information for any filing seeking the reallocation of trust water.

4,5,3,6,1. A project design and estimate of cost of development shall be submitted. For applications appropriating more than 25 cfs, or 10,000 AF of storage, or generating more than 5 megawatts, the information shall be prepared and submitted by a qualified engineer licensed under the provisions of Chapter 12, Title 54, Idaho Code, unless waived by the director. The design shall be definite enough to reflect the project's impacts and implications as required in subsequent rules.

RECEIVED SEP 24 1990

4,5,3,6,2. If the project proposes development for irrigation purposes, information shall be submitted on crop rotation, including acreages, for lands when newly developed.

4,5,3,6,3. Information shall be submitted concerning the number and kinds of jobs that will be created or eliminated as a direct result of project development including both the construction and operating phases of the project. If jobs are seasonal, the estimated number of months per year of employment shall be submitted.

4,5,3,6,4. For applications or permits being reprocessed for more than 25 cfs, or more than 10,000 AF of storage, or more than 5

megawatts, information shall be submitted concerning the changes to community services that will be required during the construction and operation phases of the project including, but not limited to, changes to schools, roads, housing, public utilities and public health and safety facilities, if any.

4,5,3,6,5. Information shall be submitted concerning the source of energy for diverting and using water for the project, the estimated instantaneous demand and total amount of energy that will be used, the efficiency of use, and energy conservation methods.

4,5,3,6,6. Information shall be submitted concerning the location, amount, and quality of return flow water, and any water conservation features of the proposed project.

4,5,3,6,7. If the project proposes irrigation as a use, information shall be submitted concerning the kinship, if any, of the operator of the land to be irrigated by the project to the applicant, the location and acreage of other irrigated lands owned, leased, or rented by the applicant, the names, addresses and number of shares held by each shareholder if the applicant is a corporation, evidence of tax-exempt status if a corporation is so claiming, a soil survey prepared in accordance with the U.S. Soil Conservation Service irrigable land classification system, and a schedule for bringing into production the project lands.

SEP 20 1990
WATER RESOURCES

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

January 30, 1989

RE: PERMIT NO. _____

Dear PERMIT HOLDER:

Due to the Swan Falls litigation, development proposed by the enclosed permit may have been delayed. The Department is presently reviewing the permit and may authorize completion of development proposed under the permit.

The purpose of this letter is to determine: (1) the extent of development under the permit, and (2) your continued interest in developing or completing development under the permit.

Enclosed are two forms which will help the Department expedite the reprocessing of the permit.

Please complete and return the enclosed questionnaire if you wish to continue with your plans of development or have completed all or a portion of your development before July 1, 1985.

Please complete the enclosed relinquishment form and return it to the Department if you have abandoned or have no interest in continuing with your plans for development of the project.

If the entire project was not completed prior to July 1, 1985, and you still wish to proceed with your plans of development, then you must submit a $20.00 re-advertisement fee to the Department as required by Water Appropriation Rule 4,2,3. and Section 42-221F, Idaho Code.

Failure to return the questionnaire and pay any required re-advertisement fee within thirty (30) days of the date of this letter is cause for the Department to cancel the permit.

If the incomplete portion of your project is for irrigation of more than 200 acres, the Department will issue a notice requesting additional information as required by Water Appropriation Rule 4.5. (copy enclosed).

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SEP 20 1990

If you have questions concerning the content of this letter or about completing the forms, please contact Tim Luke at the address below or by calling directly at 334-7864. The enclosed forms and all other relative information must be returned within thirty (30) days to:

Idaho Department of Water Resources
Statehouse Mail
Boise, Idaho 83720
Attn: Tim Luke - Water Allocation/Trust Water

Please note that a copy of your permit is enclosed. The permit number is shown on the enclosed questionnaire.

Sincerely,

Timothy J. Luke

TIM LUKE
Sr. Water Resource Agent

Enclosures

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SEP 20 1990

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

January 9, 1989

Wes Trounson
Rt. 2 Box 108
Wendell, ID 83355

Dear Mr. Trounson:

RE: Permit Nos. 36-7537 and 36-7538

This office acknowledges receipt of the requests for extension of time received in this office on January 4, 1989.

In order for the department to grant an extension request based on litigation, sufficient documentation to determine when the litigation started; when if applicable, it was resolved and how the nature of the litigation brings the title of water into question. The one page of the pre-trial memorandum and the notice of appearance do not provide enough information to made this determination.

Please provide this information within thirty days.

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

Sincerely,

RITA I. FLECK
Secretary/Records Manager

MICROFILMED
SEP 20 1990

October 31, 1988

138684

WES TROUNSON
RT. 2 BOX 108
WENDELL, ID 83355

PROOF DUE NOTICE

RE: PERMIT NO. 36-07537

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 January 1, 1989. (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 compeleted 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

SEP 20 1990

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 NOT 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

L. GLEN SAXTON
CHIEF, OPERATIONS BUREAU

MICROFILMED
SEP 20 1990

June 12, 1985

Wes Trounson
Rt. 2, Box 108
Wendell, ID 83355

Dear Mr. Trounson:

Re: Permit No. 36-7537

Enclosed is the approved extension of time in connection with the above referenced permit. The time within which to submit the statement of beneficial use is extended to January 1, 1989. The request has been approved with the following condition:

> The Department reserves jurisdiction of this permit for the purpose of adding any applicable conditions to protect the public interest.

Such conditions may be necessary due to statutory or regulatory changes occurring after the date of the extension and before the date that beneficial use is made. However, if conditions are added to your permit, you will be given an opportunity to object to them.

In 1982, the Idaho Legislature added a requirement that as a permit holder you should commence the excavation or construction of diverting works within one year of the date a permit is issued or in the case of this extension, within one year of the date the extension is signed. The enclosed blue postcard must be completed and returned to this office as soon as your commence construction. The commencement of works requirement and the approval of this extension of time should not, however, be considered as encouraging you to commence construction. The Swan Falls litigation is still pending and there are inherent ricks in making expenditures on a project that is subject to litigation. Pending litigation will be considered as a cuse for delaying the commencement of works construction and applying for and receiving additional extensions of time for the proof of beneficial use submittal if the Swan Falls matter is not resolved in the near future.

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If you have questions on this extension approval, please feel free to contact the department.

Sincerely,

RITA I. FLECK
Secretary/Records Manager

Enclosures

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HEPWORTH, NUNGESTER & FELTON
133 Shoshone Street North
Post Office Box 389
Twin Falls, Idaho 83301
Tel. No. 208-734-7510
Attorneys for Plaintiffs

COPY

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

* * * * * * * * *

WES TROUNSEN as Personal Representative of the ESTATE OF MYRIEL TROUNSON, Deceased, and WILLARD SHELDON, HOWARD SHELDON and GEORGE SHELDON, Plaintiffs, Counterdefendants, vs. AQUA LIFE, INC., an Idaho Corporation, and KENNETH S. ELLIS, Defendants, Counterclaimants & Third-Party Plaintiffs, vs. HEDY T. SHELDON & LOUISE W. SHELDON, Third-Party Defendants.	Case No. 18099 MOTION AND ORDER FOR DISMISSAL WITH PREJUDICE

* * * * * * * *

LAW OFFICES HEPWORTH NUNGESTER and FELTON Twin Falls Idaho

MICROFILMED

COME NOW, the parties to the above-entitled action, by and through their attorney of record, and do hereby move this Honorable Court for an Order dismissing the plaintiffs' Complaint against the hereinabove-named defendants, with prejudice, on the grounds and for the reasons that the matters and claims as set forth in plaintiffs' Complaint have been fully compromised and settled to the mutual satisfaction of the parties to this action.

DATED This 31st day of August, 1984.

HEPWORTH, NUNGESTER & FELTON

By _____
John C. Hepworth

O R D E R

UPON READING the above and foregoing Motion, and good cause appearing therefor,

IT IS HEREBY ORDERED that plaintiffs' Complaint on file herein be dismissed, with prejudice.

DATED This 4th day of Sept, 1984.

_____
District Judge

LAW OFFICES
HEPWORTH
NUNGESTER
and
FELTON

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COPY

HEPWORTH, NUNGESTER & FELTON
133 Shoshone Street North
Post Office Box 389
Twin Falls, Idaho 83301
Tel. No. 208-734-7510
Attorneys for Plaintiffs

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

* * * * *

WES TROUNSON as Personal Representative of the Estate of MYRIEL TROUNSON, deceased, and WILLIARD SHELDON, HOWARD SHELDON, and GEORGE SHELDON, Plaintiffs, vs. AQUA LIFE INC., an Idaho corporation, and KENNETH S. ELLIS, Defendants.	Case No. _____ COMPLAINT

* * * * *

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

COUNT ONE

I.

That plaintiff WES TROUNSON is the duly appointed personal representative of the estate of MYRIEL TROUNSON, deceased. Said plaintiff is a resident of Gooding County, Idaho.

II.

That plaintiff WILLIARD SHELDON is a resident of the

LAW OFFICES HEPWORTH NUNGESTER and FELTON Twin Falls Idaho

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State of Pennsylvania. Plaintiff HOWARD SHELDON is a resident of Boise, Idaho. Plaintiff GEORGE SHELDON is a resident of Oakland, California.

III.

That defendant AQUA LIFE INC. is an Idaho corporation. Defendant KENNETH S. ELLIS is the President of Aqua Life, Inc., and is a resident of Twin Falls County, State of Idaho.

IV.

That plaintiffs own in fee simple that real property located in Gooding County, Idaho, and more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof. Each said plaintiff owns an undivided one-fourth (¼) interest in that property.

V.

That appurtenant to that realty described in Exhibit "A" attached hereto are water rights represented by Department of Water Resources Application for Permit No. 36-7537 and No. 36-7538 for 10 cfs and 30 cfs respectively. Each said application for water permit has been approved.

VI.

That on or about May 26, 1979, defendant AQUA LIFE, INC. signed a document entitled "Receipt and Agreement for Purchase." Said document related to a portion of that real property described above and to the appurtenant water rights described above. A copy of said document is attached hereto as Exhibit "B" and by this reference made a part hereof. Said document was prepared by

LAW OFFICES
HEPWORTH
HUNGESTER
and
FELTON

John R. LeMoyne, dba Hagerman Realty, hereafter referred to as LeMOYNE. That on or about June 2, 1979, said document attached hereto as Exhibit "B" was presented to and was signed by the plaintiff WES TROUNSON as personal representative of the estate of Myriel Trounson, deceased. That said agreement for the sale of the said realty and water rights was contingent upon the approval of all fee simple owners to the property, including plaintiffs WILLIARD SHELDON, HOWARD SHELDON, and GEORGE SHELDON. That additionally, the terms and conditions of any such sale were to be reduced to a formal written contract of sale to be prepared by an attorney and to be signed by all parties.

VII.

That on or about May 9, 1979, plaintiff WES TROUNSON at the request of LeMOYNE signed the document entitled "Assignment of Permit", which document purported to convey unto the defendant AQUA LIFE, INC., the said water right permits above referred to. Said document was prepared by and upon signing was delivered to LeMOYNE in anticipation of completing the sale of the land to which the water right permits were appurtenant. Said "Assignment of Permit" is attached hereto as Exhibit "C" and by this reference made a part hereof.

VIII.

That the sale of the realty and water rights referenced by Exhibit "B" attached hereto was never consummated insofar as the approval of all plaintiffs was never obtained. Likewise, no formal written contract was even prepared. That furthermore, LeMOYNE

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and
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advised that defendant AQUA LIFE, INC., was unable to obtain the necessary financing to purchase an undivided one-fourth (¼) interest in the said property.

IX.

That on several occasions during the summer and fall months of 1979, various proposals and offers were made by defendant KENNETH S. ELLIS to one or more of the plaintiffs named herein for the purchase of some or all of that real property described in Paragraph IV above, as well as the water rights described in Paragraph V above. Said proposals were transmitted to plaintiffs by and through LeMOYNE. Attached hereto as Exhibits "D-1" through "D-6" are items of correspondence reflecting the various offers of sale transmitted by LeMOYNE. That at no time did the various proposals, offers, or counterproposals result in an agreement between all parties.

X.

That on or about November 6, 1979, LeMOYNE filed for public record at the Gooding County Recorder's Office as Instrument No. 79712 that "Assignment of Permit" attached hereto as Exhibit "C". Said action was taken by LeMOYNE without the prior knowledge or consent of plaintiffs. That demand has been made of LeMOYNE and defendants KENNETH S. ELLIS and AQUA LIFE, INC., for the return of said "Assignment of Permit" and for the reassignment and release of all claims to said water rights. Said defendants have refused and continue to fail and refuse to comply with plaintiffs' demands.

LAW OFFICES
EPWORTH
UNGESTER
and
FELTON

MICROFILMED

XI.

That at all times mentioned herein LeMOYNE was acting as the agent, representative and servant of defendants AQUA LIFE, INC., and KENNETH S. ELLIS, and all said actions of LeMOYNE were performed in the scope of that agency and employment relationship and with the knowledge and consent of said defendants. That furthermore, said defendants have approved, ratified and confirmed all actions of their agent, LeMOYNE.

XII.

That by virtue of that "Receipt and Agreement to Purchase" attached hereto as Exhibit "B", defendants AQUA LIFE, INC. and/or KENNETH S. ELLIS claim an interest in that real property described in Paragraph IV above. That furthermore, each said defendant or both of them claim an interest in those water rights described in Paragraph V above, said claim being made by virtue of the unauthorized recordation by LeMOYNE of that "Assignment of Permit" attached hereto as Exhibit "C". That all said claims made by defendants are adverse to the rightful ownership and title held by plaintiffs to said property. Defendants' claims are without any right whatever, and defendants have no estate, title, right, lien or interest in or to said property or any part thereof.

COUNT TWO

I.

That plaintiffs replead all of Count One of this Complaint.

LAW OFFICES
EPWORTH
UNGESTER
and
FELTON

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II.

That the plaintiffs allege that the recordation of the "Assignment of Permit" attached hereto as Exhibit "C" was done by LeMOYNE wilfully, wantonly and maliciously and in an attempt to compel plaintiffs to sell the said real property and appurtenant water rights to defendant AQUA LIFE, INC., or defendant KENNETH S. ELLIS. That punitive damages should be awarded in favor of plaintiffs and against defendants in the sum of ONE MILLION AND NO/100 DOLLARS ($1,000,000.00). That as a result of said actions of defendants and the agent of defendants, all of which actions have resulted in a cloud being placed upon the title to said realty and water rights, the plaintiffs have been unable to complete the sale of that land and the appurtenant water rights to other interested parties, all to plaintiffs' additional damage in the sum of ONE MILLION AND NO/100 DOLLARS ($1,000,000.00).

WHEREFORE, plaintiffs pray for judgment against defendants as follows:

1. Declaring that defendants and all persons claiming under them have no estate, right, title, lien or interest in or to said real property or appurtenant water rights, or any part thereof;

2. Declaring that plaintiffs own in fee simple all said real property and appurtenant water rights;

3. For compensatory damages in the sum of $1,000,000.00;

4. For punitive damages in the sum of $1,000,000.00;

LAW OFFICES
HEPWORTH
HUNGESTER
and
FELTON

MICROFILMED

5. For costs of suit and for such other and further relief as the court deems just and proper.

DATED this 7th day of January, 1981.

HEPWORTH, NUNGESTER & FELTON

By _____
John C. Hohnhorst

LAW OFFICES
HEPWORTH
NUNGESTER
and
FELTON

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EXHIBIT "A"

Township 9 South, Range 14 East of the Boise Meridian

Section 3: NW¼SE¼, SW¼

Section 4: Lots 2, 5, 6, 9, 11, 12, 13, 14, 18 and SE¼NE¼

Section 9: Lot 2

Section 10: Lots 1, 6 and 7 lying North and West of the following described line:
Beginning at the quarter corner common to Section 3 and 10;
thence S 59°46' W, 1545.0 feet to the center of the flat-topped boulder marked by three bars and the letters "U.M.I." out by a chisel;
thence due south to the thread of Snake River;
Except tracts as set forth in Book 22 Deeds, Page 332, dated April 19, 1929 recorded April 29, 1929, instrument No. 48279, records of Gooding County, Idaho.

MICROFILMED

FORM No. 750
Copyright 1947
Stevens-Ness Law Publishing Co.
Portland, Oregon

RECEIPT AND AGREEMENT TO PURCHASE

Hagerman, Idaho May 16, 1979

RECEIVED FROM Aqua Life Inc., by Kenneth S. Ellis, President (hereinafter referred to as Purchaser)
the sum of six thousand and no/100 ($ 6,000.00) Dollars as a deposit and earnest money in
part payment of the purchase price of the following described real property situated in County of Gooding
State of Idaho, to wit: One-quarter interest in Sheldon Estate as shown by attached map. Portion to be purchased shown in green, together with an assignment of an approved water filings #36-7537 & 36-7538 and an assignment of ¼ interest in the Zaster lease also attached hereto. It is specifically understood that the $6,000. will be disbursed upon receipt of a valid water assignment as mentioned above. Assignment of lease subject to approval of all parties, sale the same. Hall & Rockstead bill to be paid by buyer. Legal and survey by buyer.

The following items are to be left upon the premises as part of the property purchased: All irrigation fixtures and equipment, plumbing and heating fixtures and equipment (including stoker and oil tanks but excluding fire place fixtures and equipment), water heaters, electric light fixtures, light bulbs and fluorescent lamps, bathroom fixtures, venetian blinds, window and door screens, storm doors and windows, attached linoleum, attached television antenna, all shrubs and trees and all fixtures except none

The following personal property is also included as a part of the property to be offered for sale for said price: none

It is hereby agreed that the total purchase price is the sum of one hundred seventy thousand and no/100 ($ 170,000.00) Dollars payable as follows: The sum of six thousand and no/100 ($ 6,000.00) Dollars hereinabove receipted for and the balance of the purchase price in the sum of one hundred sixty four thousand and no/100 ($ 164,000.00) Dollars to be paid as follows: (If on contract, state terms generally, and if escrow, also name of escrow holder) Escrow at Idaho 1st Nat'l. Bank, Wendell. Escrow set-up charges shared equally. $43,000 on closing. Balance on 10 year amortized contract with interest at 9½%.

It is further agreed: 1. Seller shall at his expense furnish Purchaser an Abstract of Title continued to a date subsequent hereto showing merchantable title to the above described property vested in Seller, or in lieu thereof, at Seller's option, a title insurance policy insuring title thereto vested in Seller, free and clear of all liens and encumbrances, except pending probate proceedings.

It is further agreed that the broker assumes no responsibility in regard to the title and broker recommends that Purchaser have the Abstract of Title or title insurance policy examined by an attorney.

2. The real property is to be conveyed by warranty deed conveying ¼ interest in estate as probate allows and the personal property by Bill of Sale, free and clear of all encumbrances except building and zoning ordinances and regulations, building and use restrictions, rights of way and easements, reservations in Federal patents and State deeds and those enumerated in Section 1 above.

3. Sellers shall pay all of the taxes and assessments to Jan. 1, 1980 and Purchaser shall pay all taxes and assessments thereafter. Rents, insurance and interest on mortgage or contract indebtedness shall be pro-rated to XXXXXXXXXXX May 15, 1979. Encumbrances to be discharged by Seller may at his option be paid out of the purchase money at the date of closing.

4. If Seller does not approve this sale within 15 days hereafter, or if Seller's title is not merchantable or insurable and cannot be made so within a reasonable time after written notice containing statement of defects is delivered to Seller, then said earnest money herein receipted for shall be returned to the Purchaser on demand and all rights of Purchaser terminated unless Purchaser waives said defects and elects to purchase; but if said sale is approved by the Seller and Seller's said title is merchantable or insurable and Purchaser neglects or refuses to complete the purchase or shall fail to pay the balance of the purchase price as hereinabove provided, then said earnest money shall be forfeited to the Seller as liquidated damages and not as a penalty and this Agreement thereupon shall be of no further force or effect or the Seller may demand the enforcement of the specific provisions of this Agreement.

5. In the event the improvements on said property should be destroyed or materially damaged between the date hereof and consummation or settlement of this purchase, this Agreement shall, at the option of the Purchaser, immediately become null and void, and said earnest money deposit shall be returned to said Purchaser on demand.

6. Possession shall be delivered Purchaser on or before the 15th day of May, 19 79.

7. Purchaser enters into this Agreement in full reliance upon his independent investigation and judgment and there are no verbal or other agreements which modify or affect this Agreement.

8. Time is of the essence of this Agreement. Purchaser's rights herein are not assignable without the written consent of the Seller.

Hagerman Realty Broker, By Agents for Aqua Life, Inc., Buyer Seller

I hereby agree to purchase the above described property and pay the price of one hundred seventy thousand and no/100 ($ 170,000.00) Dollars as set forth above and grant to said agent 15 days hereafter to secure Seller's acceptance hereof, during which period my said offer shall not be subject to revocation.

Address Rt. 3, Box 50, Buhl, Id. 83316
Phone 543-8244

Purchaser

For valuable consideration I/we agree to sell and convey to the Purchaser the above described property on the terms and conditions hereinabove stated and agree to pay to the above named agent a commission of None ($) Dollars for services rendered in this transaction. I/we acknowledge receipt of a copy of the earnest money receipt bearing my/our signature and that of the Purchaser named above. In case the Purchaser fails to comply with any of the conditions of this Agreement, then one-half of the earnest money receipted for shall be retained by the brokes, provided the amount to the broker does not exceed the agreed upon commission due and the balance shall be paid to the undersigned.

Dated this 2 day of June, 19 79

Vee Trouson and Kenneth S. Ellis
Personal Representative - Estate
Seller

STATE OF IDAHO, County of Gooding } ss.

On this day of In the year 19

before me John R. LeMoyne, a Notary Public in and for said State, personally appeared Vee Trouson and Kenneth S. Ellis

known to me to be the person(s) whose name(s) is (are) subscribed to the within instrument, and acknowledged to me that he executed the same.

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

NOTE: IF ANY BLANK SPACES ARE INSUFFICIENT, USE S-N No. 810 "HANDY PAD", TO BE SEPARATELY SIGNED BY BUYER AND SELLER.

Notary Public for the State of Idaho, Residing at Hagerman, Idaho

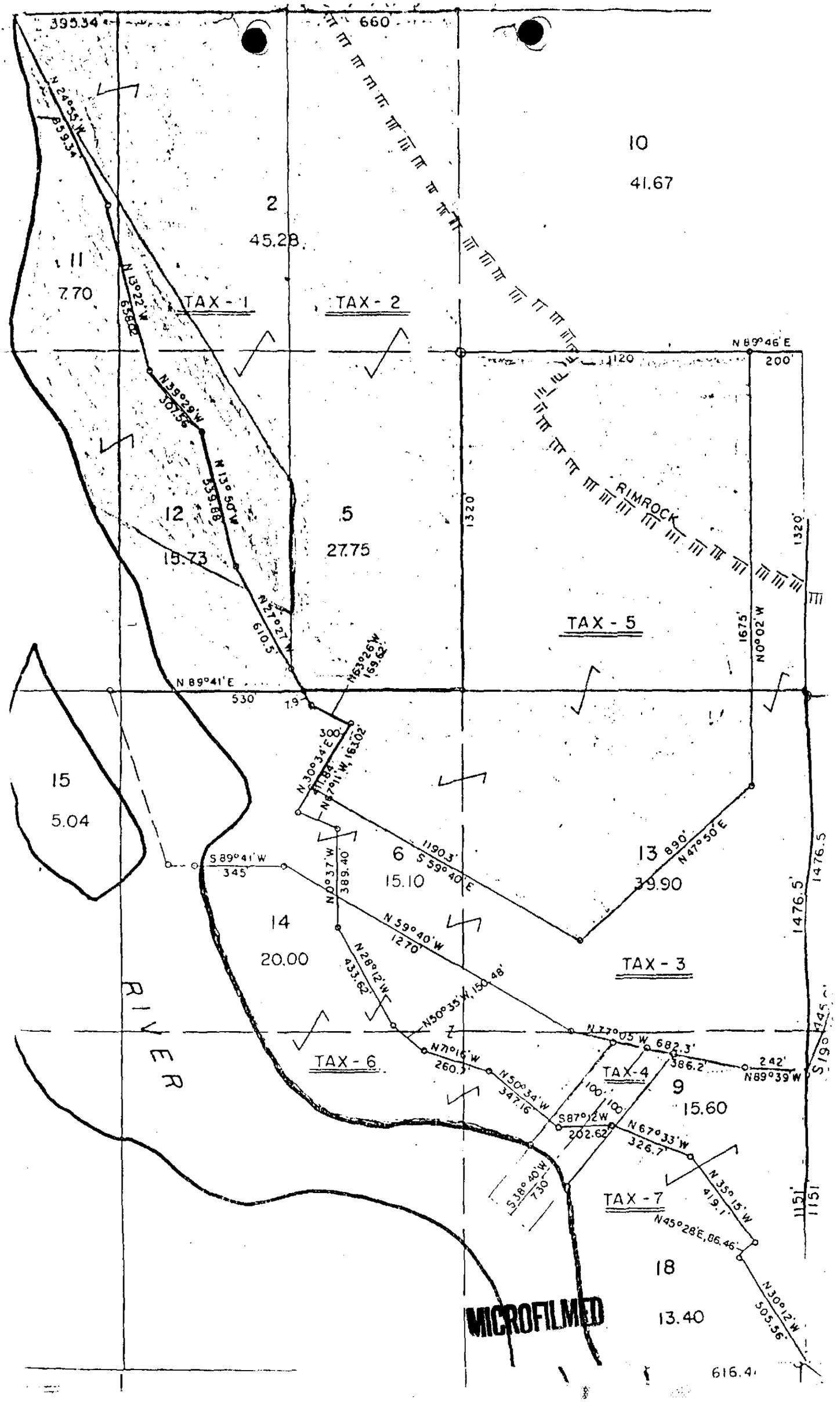
PURCHASER'S COPY - WITH ALL SIGNATURES

773

POOR QUALITY ORIGINAL

MICROFILMED

Exhibit # B


395.34
660
10
41.67
2
45.28
11
7.70
TAX - 1
TAX - 2
N 89°46' E
200'
1320'
RIMROCK
12
15.73
5
27.75
TAX - 5
1675'
N 0°02' W
N 89°41' E
530'
15
5.04
6
15.10
13
39.90
890'
N 47°50' E
S 89°41' W
345'
N 0°37' W
389.40
S 59°40' E
1476.5'
14
20.00
N 59°40' W
1270'
TAX - 3
RIVER
TAX - 6
TAX - 4
9
15.60
N 89°39' W
242'
386.2'
682.3'
TAX - 7
18
13.40
MICROFILMED
616.4'

State of Idaho

Department of Water Resources

STATE OF IDAHO, COUNTY OF GOODING, ss.
Filed for record at the request of Le Moyne
10 min past 10 o'clock A.M. this 6 day
of Nov. 19 79
CLEMENTS Recorder
By Judy Dunbar Deputy
INDEXED
DIRECT
INDIRECT

ASSIGNMENT OF PERMIT

I, Wes Trounson, hereby assign to Aqua Life, Inc.

of Rt. 3, Box 50, Buhl, Idaho
Address

CHECK ONE

[X] All my right, title, and interest in and to Permit No. 36-7537 & 36-7538 to appropriate the public waters of the State of Idaho.

[ ] The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

_____

_____

_____

_____

Made this ninth day of May, 19 79.

Wes Trounson
Permit Holder

_____
Spouse of Permit Holder

State of Idaho)
) ss.
County of Gooding)

On this 9th day of May, 19 79, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

[seal]

_____
Notary Public residing at
Hagerman, Idaho

My commission expires:
Lifetime

Exhibit #C

POOR QUALITY ORIGINAL

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.

RE-21
Revised 12-78

Hagerman, Idaho September 18, 19 79

Kenneth S. Ellis and/or assignees

(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 _____ County of Gooding, State of Idaho, commonly known as part of the Briggs Creek Ranch legally described as: to be attached, generally described as: all that portion of said ranch lying south & east of the main channel of Briggs Creek being about 210 acres together with 40 cfs of water for fish & all irrigation water appurtenant.

(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 Six Hundred Twenty Five Thousand Dollars DOLLARS ($ 625,000.00) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of six thousand and np/100 Dollars ($ 6,000.00) 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 _____ day of _____, 19___ to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____).

c. All Earnest Money and this agreement shall be held by selling or listing broker or Hagerman Realty for the benefit of the parties hereto.

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

$150,250.00 on closing, balance of $468,750. on a 15 year note at 9½% secured by a first mortgage. Annual payments from closing date, amortized.

Initial escrow charges to be shared equally together with survey charges. Buyer to be guaranteed 40 cfs of water and will lease additional water from sellers if available. Buyer to have right to purchase gravel for construction purposes from seller at 25¢ per yard. Access to & from M. Trounson gravesite to be allowed. Escrow at Land Title & Escrow, Jerom

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of October 18, 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 delivered after payment of the purchase price as herein 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 Buyer shall take title subject to, or which Buyer shall assume are as follows none

4. The parties designate Land Title & Escrow 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 selling or listing broker or Land Title and Escrow Co. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within 30 day(s) of closing this transaction, subject only to specific limitations set out above, the parties shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with the terms and conditions hereof. Upon receipt of the terms specified in the preceding sentence, the closing agent shall proceed to close this transaction as soon as he is reasonably able to do so.

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 _____

The following items of personal property are specifically **included** in the sale: _____

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 31st day of December, 1979. 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 15th day of November, 1979 or closing date whichever is sooner.

10. The parties agree that this agreement contains the following additional terms and conditions: _____

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: none Selling Broker: Hagerman Realty By: [illegible]

Buyer Kenneth S Ellis

Buyer

Rt. 3, Box 50, Buhl, Id. 83316
Buyer's Address

Buyer's Phone 543-8244

On this date, _____ 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 none % of selling price or, none DOLLARS ($ none) 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.

Willard B. Sheldon

Seller Judy T. Sheldon

3239 Knorr St, Phila, Pa. 19149
Seller's Address

Seller's Business Ph Seller's Residence Ph

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 25th day of Sept, 19 79.

STATE OF IDAHO
County of Phila.)

Buyer

MICROFILMED

On this 25th day of Sept, 19 79, before me, the undersigned, a Notary Public in and for said State, personally appeared Willard B. Sheldon

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

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

GLENN WEINSTEIN
Notary Public, Phila., Phila. Co.
My Commission Expires Dec. 14, 1981

D-1

Glenn Weinstein
Notary Public for State of residing at 5148 FRANKFORD AVE PHILA PA

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.

RE-21
Revised 12-78

Hagerman, Idaho Oct. 1, 19 79

Kenneth S. Ellis and/or assignees

(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 _____, County of Gooding, State of Idaho, commonly known as part of the Briggs Creek Ranch legally described as: to be attached. ONE QUARTER INTEREST in the following general description: all th portion of said ranch lying south & east of the main channel of Briggs Creek being about 210 acre together with 40 cfs of water for fish & all irrigation water appurtenant.

(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 one hundred fifty six thousand two hundred fifty dollars DOLLARS ($ 156,250.00) payable as follows:

A. Earnest Money.

a. Buyer deposits and receipt is acknowledged of fifteen hundred Dollars ($ 1,500.00) 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 _____ day of _____, 19 ____, to pay or deliver as additional earnest money in part payment of the purchase price for the premises _____ Dollars ($ _____).

c. All Earnest Money and this agreement shall be held by selling or listing broker or _____ for the benefit of the parties hereto.

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

$37,562.50 on closing, balance of $117,187.50 on a 15 year note at 9 3/4% per annum secured by a first mortgage on the property. Down payment on Jan. 10, 1980, semi-annual amortized payment from that date until paid. Partial releases for up to 20 acres at a time upon payment of $2500 per acre will be granted by the seller. Buyer to have right to purchase gravel for construction purposes from seller at 25¢ per yard. Access to pit to be allowed by seller. Access to & from M. Trounson gravesite to be allowed by buyer. Escrow at Land Title & Escrow in Jerome. Initial escrow charges to be shared equally. Survey charges to be shared equally if necessary to determine total acreage.

2. Buyer's offer is made subject to the acceptance of Seller on or before twelve o'clock midnight of October 18, 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 delivered after payment of the purchase price as herein 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 Buyer shall take title subject to, or which Buyer shall assume are as follows none

4. The parties designate Land Title & Escrow Title 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 selling or listing broker or Land Title & Escrow Co. Where not otherwise provided in this agreement or by law, the parties shall each pay one-half of said closing agents fee.

6. Within 30 day(s) of closing this transaction, subject only to specific limitations set out above, the parties shall deposit with the "closing agent" all funds and instruments to complete the sale in accordance with the terms and conditions hereof. Upon receipt of the terms specified in the preceding sentence, the closing agent shall proceed to close this transaction as soon as he is reasonably able to do so.

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: _____

The following items of personal property are specifically **included in** the sale: _____

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 31st day of December, 19 79. 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 15th day of November, 19 79 or closing date, whichever is sooner.

10. The parties agree that this agreement contains the following additional terms and conditions: Conditional upon like terms to be agreed between buyer & Willard Nelson. Also assignment terms for 1st & 2nd years of contract. Possession at time of assignment

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: none Selling Broker: Hagerman Realty By J. LeMoyne

Buyer

Buyer

Buyer's Address Rt. 3, Box 50, Buhl, Id. 83316

Buyer's Phone 543-8244

On this date, _____ 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 none % of selling price or, none DOLLARS ($ none) 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.

Seller

Seller

Seller's Address 2621 Madison, Boise, Id. 83702

Seller's Business Ph 343-1448 Seller's Residence Ph

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 25th day of October, 19 79

STATE OF IDAHO

County of _____)

Buyer

On this _____ day of _____, 19 ____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____

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.

D-B

Notary Public for State of Residing at

MICROFILMED

HAGERMAN REALTY

JOHN R. LEMOYNE
BROKER • APPRAISER

"Service is Our Business"

PHONE 208/837-4463
HOME 208/837-4867

HAGERMAN, IDAHO 83332

June 19, 1979

Mr. Howard, Willard & George Sheldon:

I am in receipt of another offer on a part of your ranch north of Buhl. The man came to me evidently because Howard had referred him to me when he called Howard. He is financially very sound and wants to buy the land which Ellis is not offering on except for the leased portion and about 3 acres south of it.

What he wants is the land east of the jungle. He is not interested in fish so he only wants the irrigation and domestic water rights. This would amount to about 210 acres as near as I can tell from the maps I have available.

He is offering $2,000 per acre with 20% down, 20 year contract on balance with interest at 8%. He also wants release provisions so that he can sell 5 acre parcels if he desires. He wants one 5 acre tract on the river released after the down payment so that he can build there. The other releases would be upon payment of $15,000. He also wants the right of first refusal to buy the remaining property in the event it doesn't sell to Ellis.

This is just a brief resume of the offer, but probably enough to find out if you are interested. Howard said he was waiting for the probate proceedings to finish. If he means the whole thing, rather than just Wes' portion that may be far too long. This offer is good for 60 days.

One other thing about this offer, you will have to pay 6% commission on it. I am not representing him in this instance, I will be representing you.

Sincerely,

John R. LeMoyne

MICROFILMED

D-3

HAGERMAN REALTY

JOHN R. LEMOYNE
BROKER • APPRAISER

"Service is Our Business"

PHONE 208/837-4463
HOME 208/837-4887

HAGERMAN, IDAHO 83332

September 19, 1979

Mr. & Mrs. George Sheldon
Mr. & Mrs. Howard Sheldon
Mr. & Mrs. Willard Sheldon
Mr. Wes Trounson

Dear Heirs:

Enclosed please find an offer to purchase from Ken Ellis and/or assignees for that portion of the ranch east and south of the jungle. This is the final offer Mr. Ellis will make except that he would be interested in buying the whole parcel if you should change your mind and want to sell that way. I have been given to understand by George that the property he is now offering on is what you now want to sell.

Time is certainly of the essence in this instance since the water filing is up in February and someone has to show substantial progress towards putting it to beneficial use in order to hold it. Accordingly, the offer must be acted upon by October 18th in order for them to get moving on construction.

There are some areas where some negotiating can be done such as length of contract, leasing additional water, etc.

You will notice that you have no real estate commission to pay. Mr. Ellis is paying my fee separately. Your only charges would be title insurance, $1557.50; ½ survey estimated at $500.; ½ escrow set-up $246.50. Each party would pay their own attorney. There might be some small closing fee, but I would estimate it would be less than $100.

I think this is a very good offer. If you have any further questions, please feel free to contact me. You may accept the offer by simply where it says seller and returning one copy to me.

Sincerely,

John R. LeMoyne

John R. LeMoyne
Rt. 1, Box 143
Hagerman, Id. 83332

POOR QUALITY ORIGINAL

D-4

MICROFILMED

WLS

HAGERMAN REALTY

JOHN R. LeMOYNE
BROKER • APPRAISER

"Service is Our Business"

PHONE 208/837-4463
HOME 208/837-4887

HAGERMAN, IDAHO 83332

September [illegible], 1979

Howard, Willard & George Sheldon
Wes Trouson

Dear Sirs:

I am writing to inform you of some changes in the offer sent to you on September 19th.

First we are increasing the interest rate on the unpaid balance to 9 3/4% per annum. I think this is very realistic for a long term real estate contract and should make the offer even more attractive to you.

Second, it will not be necessary for the sellers to guarantee 40 cfs of water. All that will be necessary is for you to assign whatever interests you may have in those water filings affecting the 40 cfs.

Third, we will need to have some language in the contracts allowing partial releases from the mortgage for up to 20 acres at a time upon payment of a stated amount per acre. This would allow my parties to get money to build hatcheries, etc. This is a normal procedure. We are figuring that the water is being sold at $5,000 per cfs or $200,000 and the land at about $2100 per acre. For the releases then we would pay $2,500 per acre for that amount to be released. It would have no water except irrigation with it. Of course, the payment would be applied against the overall balance due.

I know the mails are slow nowadays, but I hope to hear from all of you soon. Thank you for your consideration.

Sincerely,

John R. LeMoyne

John R. LeMoyne

D-5

POOR QUALITY ORIGINAL

MICROFILMED

HAGERMAN REALTY

JOHN R. LEMOYNE
BROKER • APPRAISER

"Service is Our Business"

PHONE 208/837-4483
HOME 208/837-4887

HAGERMAN, IDAHO 83332

November 6, 1979

Howard, Willard & George Sheldon
Wes Trounson

Dear Sirs:

Mr. Ellis is very desirous to not lose the property at this stage after he has spent so much time and effort, so he has authorized me to increase his latest offer by adding an incentive payment of 2¢ per pound of trout raised during the ten year life of the contract. In addition he will raise the interest on the contract to 10%. Considering the quality of the water and the fall available, they should be able to raise about 15,000 pounds per foot of water or 600,000 pounds per year from 40 cfs. That would mean an extra $12,000 per year for you during the life of the contract. If you could divert extra water to him the production would go up and if he could get the extra 20 cfs you are renting to Kaster he would increase the payment to 3¢ per pound.

Our total offer is now as follows: $625,000 with 25% down, 10 year 10% contract on the balance, 2¢ per pound of gain on the fish raised in the facility to be constructed. You pay no commission or legal fees or survey charges. We would still need a partial release for the land to build the hatchery and related buildings on and for some land around Muriel's grave that Wes wants to buy back. We will pay $2500 per acre for these releases as they are needed. We understand the frustration and delay all this is causing to all involved and would like to close as soon as possible.

I have already talked to Wes and George about this and they wanted something in writing. Wes tells me that Howard and Willard have already signed our previous offer so we would not need additional signatures from them at this time. We will incorporate these additional items in their contracts. We do need Wes and George to sign authorization for us to proceed and I will be calling Howard and Willard after you have recieved this in order to get your reaction. I feel that this is a rare opportunity for you to participate in some of the action. They can't guarantee a production figure, but it will be the best they can do since they have to get a return for the money they are going to invest. I am sure you will find them honest and straightforward in dealing with you. You will be allowed to check the records at the hatchery to verify production at reasonable times.

Yours truly,

John R. LeMoyne

MICROFILMED

D-6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Statehouse
[illegible], Idaho 83720

CLAIM CHK. NO. 348

HOLD

1 1985

NOTICE

4 10

1 1 10

RETURN

Mailed from [illegible]

CANCELLED

REASON CHECKED
Refused
Unclaimed
Addressee unknown
Insufficient address
No such street
No such office in state
Do not remail this envelope

RECEIVED
MAR 21 1985
Department of Water Resources

temporarily away

CERTIFIED MAIL
138739

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

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

RECEIVED
MAR 21 1985
Department of Water Resources

TROUNSON, WES
RT. 2, BOX 108
WENDELL, ID 83355

PROOF DUE NOTICE

FEBRUARY 28, 1985

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 36-7537 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE MAY 01, 1985. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A FORM WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME 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, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

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

SINCERELY,

Rita Fleck

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

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

138739

TRCUNSON, WES
RT. 2, BOX 108
WENDELL, ID 83355

PROOF DUE NOTICE

FEBRUARY 28, 1985

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SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

ENCLOSURES

MICROFILMED

December 7, 1983

RE: Permit Nos. 36-7537 and 36-7538

Wes Trounson
Rt. 2, Box 108
Wendell, ID 83355

Dear Permit Holder:

This office acknowledges receipt of the Assignment of the above referenced permits to you.

Enclosed for your records are copies of the permits. Be sure to note the special conditions of approval on the fourth pages that identify requirements necessary for developing the permits into licensed water rights.

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

Sincerely,

KAY WALKER
Chief Clerk

KW:sc
Enclosures

December 2, 1983

J. Robert Alexander
BENOIT, ALEXANDER & SINCLAIR
P. O. Box 366
Twin Falls, ID 83303

Dear Mr. Alexander:

Here is a copy of the assignment of Permit Nos. 36-7537 and 36-7538 received recently from Aqua Life, Inc. assigning its interest in the pe permits to Wes Trounson.

An examination of the assignments of May 9, 1979 of the two permits indicates that Wes Trounsen assigned his portion of the permit to Aqua Life, Inc. A conclusion can be reached that the October 13, 1983 assignment has restored the permit to original ownership.

If you have any questions, please let us know.

Sincerely,

BOBBY D. FLEENOR
Chief, Regional Offices Bureau

Enclosure

cc: Wes Trounson
Aqua Life, Inc.

LAW OFFICES
BENOIT, ALEXANDER & SINCLAIR
126 SECOND AVENUE NORTH
POST OFFICE BOX 366
TWIN FALLS, IDAHO 83303-0366

HARRY BENOIT 1893-1966

EDWARD L. BENOIT
J. ROBERT ALEXANDER
J. WALTER SINCLAIR
ROBERT M. HARWOOD
THOMAS B. HIGH

AREA CODE 208
TELEPHONE 733-5483

November 3, 1983

RECEIVED
NOV 4 1983
Department of Water Resources
Southern Division Office

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

RE: Proposed Assignment of Permit
No. 36-7537; 36-7538

Dear Mr. Holmes:

I represent the Sheldon family relative to the above permits. We are advised that Ken Ellis dba Aqua Life Inc. has proposed an assignment of the referenced permits to Mr. Richard Kaster.

On behalf of the Sheldon family, I write to lodge a protest to the assignment. Mr. Ellis does not have title to the permits and therefore cannot assign them. The issue of title is now in litigation scheduled to go to trial in January, 1984, Gooding County Case No. 18099.

The Sheldon family owns an undivided 3/4 interest in those permits and has not been a party to any transfer of title to Mr. Ellis. Please do not approve any assignment of said permits from Mr. Ellis to any entity. Please advise us of hearing on this subject.

Very truly yours,

J. Robert Alexander

JRA/ka

cc: Mr. George A. Sheldon

CONVERSATION MEMORANDUM

DATE March 30, 1983

FILE 36-7537, 36-7538

NAME OF PARTY Howard Sheldon

EMPLOYEE Dave Tuthill

RE: Validity of Permits

On March 29 the above named party visited this office. He indicated to Robyn Carlson that he was concerned about the validity of the permits.

On this day I called Mr. Sheldon to discuss the matter. He indicated that he feels the applications were originally speculative and that Mr. Trounson never intended to develop the water systems as proposed.

I responded that at this point he could provide a letter to the files that we would take into consideration if another assignment is proposed.

DRT

April 18, 1980

D. Brent Martens
HEPWORTH, NUNGESTER, & FELTON
P. O. Box 589
Buhl, ID 83316

Dear Mr. Martens:

Re: Permit No. 36-7537 -- Aqua Life, Inc.

Enclosed is a copy of the order extending the time within which to submit the statement of water to beneficial use to May 1, 1985.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:rf

Enclosure

cc: Aqua Life, Inc.

LAW OFFICES

HEPWORTH, NUNGESTER, AND FELTON

PROFESSIONAL CENTER — 1020 MAIN
Post Office Box 589
BUHL, IDAHO 83316
TELEPHONE (208) 543-4368

RECEIVED

APR 10 1980

Department of Water Resources

JOHN C. HEPWORTH
WM. L. NUNGESTER
MICHAEL H. FELTON
D. BRENT MARTENS
JEFFREY E. ROLIG
JOHN T. LEZAMIZ
JOHN C. HOHNHORST

April 9, 1980

TWIN FALLS OFFICE
Twin Falls Bank & Trust Building
Post Office Box 389
Twin Falls, Idaho 83301
Telephone (208) 734-7510

OUR FILE NUMBER

1326

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

Re: Water Permits No. 36-7537 and 36-7538

Gentlemen:

Enclosed find an Application for Extension of Time as concerns each of the two Water Permits referred to above.

If anything further is needed to complete action on each of the applications, please advise.

Very truly yours,

HEPWORTH, NUNGESTER & FELTON

Brent Martens

D. Brent Martens

DBM:kr
Enclosure

cc: Charles C. Shaw
J. Robert Alexander
Robert C. Weaver

RECEIVED
APR 10 1980
Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION

APPLICATION FOR EXTENSION OF TIME

ok to extend jo

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

Permit No. 36-7537

CHARLES C. SHAW as attorney for WES TROUNSON, acting in his individual capacity and as personal representative of the estate of M. Myriel Trounson; J. ROBERT ALEXANDER as attorney for HOWARD L. SHELDON, WILLARD B. SHELDON and GEORGE M. SHELDON; D. BRENT MARTENS as attorney for NANCY McCORMICK; and ROBERT C. WEAVER as attorney for AQUA LIFE INC., each having been first duly sworn upon oath, depose and say as follows:

That he is the attorney representing the individuals or entities set forth immediately following his name above.

That each individual or entity represented by your affiant is the holder of or claims an interest in that Permit to Appropriate the Public Waters of the State of Idaho No. 36-7537.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before May 1, 1980.

That each individual and or entity represented by your affiant is unable to complete the work required under said Permit within the time specified for the following reasons, to wit:

On March 17, 1976, M. Myriel Trounson, one of the originally named applicants on said Application for Permit, died. Her interest in said Water Permit, together with the lands to which said water is appurtenant, were/are a portion of the property of the estate of M. Myriel Trounson. Said estate has not yet been

settled, nor has all the property of the estate been distributed. There is some uncertainty over the identity of the rightful owners to said Water Permit and the lands to which the same is appurtenant. Said uncertainty and the conflicting claims to said Water Permit and said lands remain to be resolved either by the various claimants themselves, or by court order. Because of the said uncertain status as to the ownership of said Water Permit and said lands, it has been impossible for each individual and/or entity represented by your affiant to complete the work contemplated by said Water Permit within the time permitted.

Wherefore, your affiant asks that the Department of Water Administration extend the time for the completion of obligations under said permit to May 1, 1985.

Charles C. Shaw

CHARLES C. SHAW as attorney for WES TROUNSON, individually and as Personal Representative of the estate of M. Myriel Trounson;
P. O. Box 238
Gooding, ID 83330

SUBSCRIBED AND SWORN to before me this 7th day of April, 1980.

Iris F. Morton

Notary Public for State of Idaho
Residing at Gooding, Idaho

Robert Alexander

J. ROBERT ALEXANDER as attorney for HOWARD L. SHELDON, WILLARD B. SHELDON and GEORGE M. SHELDON;
P. O. Box 366
Twin Falls, ID 83301

SUBSCRIBED AND SWORN to before me this 27th day of March, 1980.

Joan A. Masoner

Notary Public for State of Idaho
Residing at Twin Falls, Id

D. Brent Martens

D. BRENT MARTENS as attorney for
NANCY McCORMICK;
P. O. Box 589
Buhl, ID 83316

SUBSCRIBED AND SWORN to before me this 31st day of March, 1980.

Ann Gannon
Notary Public for State of Idaho
Residing at Buhl

ROBERT C. WEAVER as attorney for
AQUA LIFE INC.;
128 North Broadway
Buhl, ID 83316

SUBSCRIBED AND SWORN to before me this 27th day of March, 1980.

Shirley Hudson
Notary Public for State of Idaho
Residing at Buhl Idaho

ACTION OF THE DEPARTMENT OF WATER ADMINISTRATION

I, _____, Director of the Idaho Department of Water Administration, State of Idaho, hereby _____

_____

_____

_____.

WITNESS my hand this _____ day of _____, 1980.

_____
Director

LAW OFFICES
HEPWORTH
NUNGESTER
and
FELTON

10
41.67

2
45.28

11
7.70

TAX - 1

TAX - 2

N 89°46'E
1120
200'

N 24°55'W
859.34

N 11°22'W
653.02

N 39°29'W
307.56

N 13°50'W
539.88

12
15.73

5
27.75

1320'

Division Ditch

TAX - 5

RIMROCK

N 21°21'W
610.5

N 63°26'W
169.62

N 89°41'E
530'

19.7'

1675'
N 0°02'W

2nd Diversion
NW¼ SW¼
Section 3
Twp 7 S
Range 14 EBM

S 89°32'E
3964.7

Briggs Spring

Idaho Power

Diversion From High Springs

TAX - 1

NE¼ SW¼
Section 3
Township 9 S
Range 14 EBM

15
5.04

N 30°34'E
330'

N 47°11'W, 163.02'

S 89°41'W
345'

N 0°37'W
389.40'

1190.3'
S 59°40'E

6
15.10

13
39.90

N 47°30'

N 54°20'W
195'

257'
N 79°22'W

N 55°55'30"W
338'

384'
N 53°32'W

735'
N 69°32'W

1015'
N 81°24'W

350'
S 72°33'W

545.3'
N 83°57'W

1126.9'
S 0°03'W

14
20.00

N 59°40'W
1270'

N 28°12'W
433.62'

BRIGGS CREEK

TAX - 3

Idle House

TAX - 2

519.7'
S 11°39'W

1476.5'

2640'

RIVER

N 50°35'W, 150.48'

N 77°05'W
682.3'

386.2'

242'
N 89°39'W

N 71°16'W
260.1'

N 50°34'W
347.16'

TAX - 6

TAX - 4

9
15.60

100'

100'

S 87°12'W
202.62'

N 67°33'W
326.7'

S 82°42'W
1403'

S 38°40'W
730'

TAX - 7

N 35°15'W
419.1'

N 45°28'E, 86.46'

18
13.40

N 30°12'W
505.56'

1151'

1320'

Section 4

Section 9

Section 1320'

Section

N 49°28'W
614.46'

TAX - 2

1
18.85

N 89°56'W
832.26'

139.26'

S 88°05'W
336.6'

138.6'

TAX - 1

S 86°49'W
1446.72'

S 85°49'W

5
10.82

2
6.44

616.44'

806.52'

S 78°48'W
1174.8'

7
24.90

TAX - 2

6
15.14

1545'
S 59°46'W

TAX - 1

SNAKE RIVER

SNAKE RIVER

8
5.27

4

ale 16" = 1 Mile

epartment of Water Resources

Application 11 April 1995

Wes And/or Myriel Trounson

10 Cubic Feet Per Second

Area Shaded in Green Covers Application descriptions

MICROFILMED

ts are Circled ○

Wes Trounson

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

February 28, 1980

~~101809~~
101808

Aqua Life, Inc.
Route 3, Box 50
Buhl, ID 83316

Gentlemen:

One of the conditions of approval of your water Permit No. 36-7537 was that evidence of the extent of development must be submitted to this office on or before May 1, 1980. (See last page of your approved permit). Enclosed is a post card which may be used to submit the required proof of beneficial use.

If you have not fully completed your project, and you have not previously received an extension of time, you may request an extension of time provided the delay is for reasonable cause as indicated in Section 42-204, Idaho Code, amended. If you have been prevented from proceeding by a governmental agency or by litigation, more than one extension of time can be granted.

Either the beneficial use post card or a request for an extension of time must be received by this Department on or before the above mentioned date, otherwise, the permit will lapse and be of no further force or effect within 60 days.

Sincerely,

Rita Fleck
RITA FLECK
Sr. Secretary

Enc: 1

cc: Wes Trounson

Meme to File 36-7537 & 7538

Mr Wes Trounson and his wife Lucille visited with me today about the assignment of these permits to Aqua Life, Inc.

MICROFILMED

They feel these assignments were obtained under the pretense of buying the property which was not purchased.

Their attorney will file a court action to void the assignment shortly.

They are concerned about the lapsing of the permit and I indicated that if court action was initiated that would give them sufficient

36-7537 & 7538

Standing to request the extension of time.

Dot Fleming 2-6-80

79712

State of Idaho

Department of Water Resources

STATE OF IDAHO, COUNTY OF GOODING, ss.
Filed for record at the request of La Mayne
15 min. past 10 o'clock A.M. this 6 day
of Nov. 19 79
MARGARET F. CLEMENTS Recorder
By Judy Faulkner Deputy
INDEXED
Direct ✓
Indirect ✓

ASSIGNMENT OF PERMIT

I, Wes Trounson, hereby assign to Aqua Life, Inc.

of Rt. 3, Box 50, Buhl, Idaho
Address

CHECK ONE

[XX] All my right, title, and interest in and to Permit No.s. 36-7537 & 36-7538 to appropriate the public waters of the State of Idaho.

[ ] The following described portion of my right, title, and interest in and to Permit No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within each 40 acre subdivision, the point of diversion and the amount of water in cubic feet per second for direct diversion, or acre feet for storage)

_____

_____

_____

_____

Made this ninth day of May, 19 79.

Wes Trounson
Permit Holder

_____
Spouse of Permit Holder

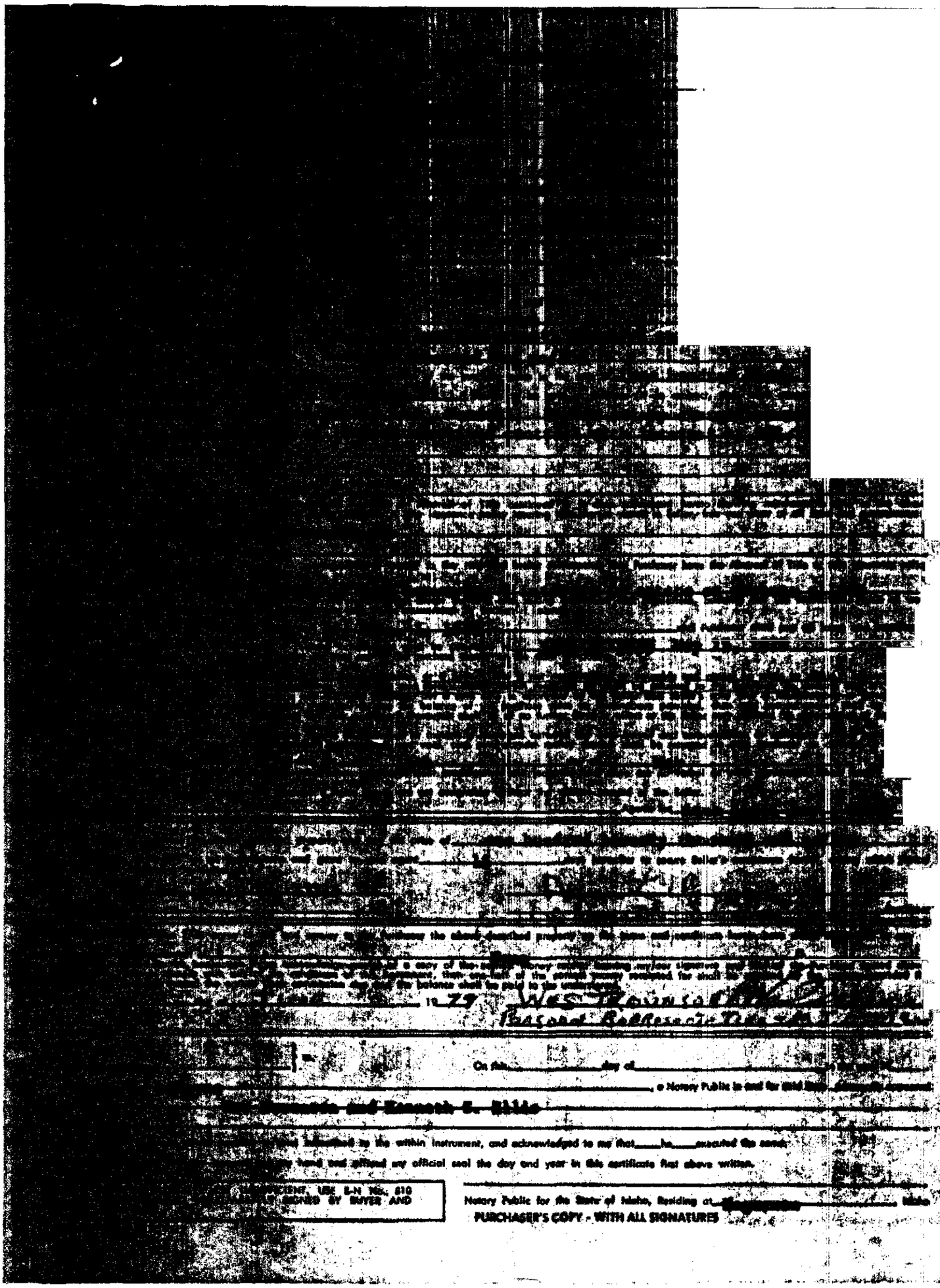
State of Idaho)
) ss.
County of Gooding)

On this 9th day of May, 19 79, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

_____
Notary Public residing at
Hagerman, Idaho

My commission expires:
Lifetime

MICROFILMED



19 79

On this day of

, a Notary Public in and for said

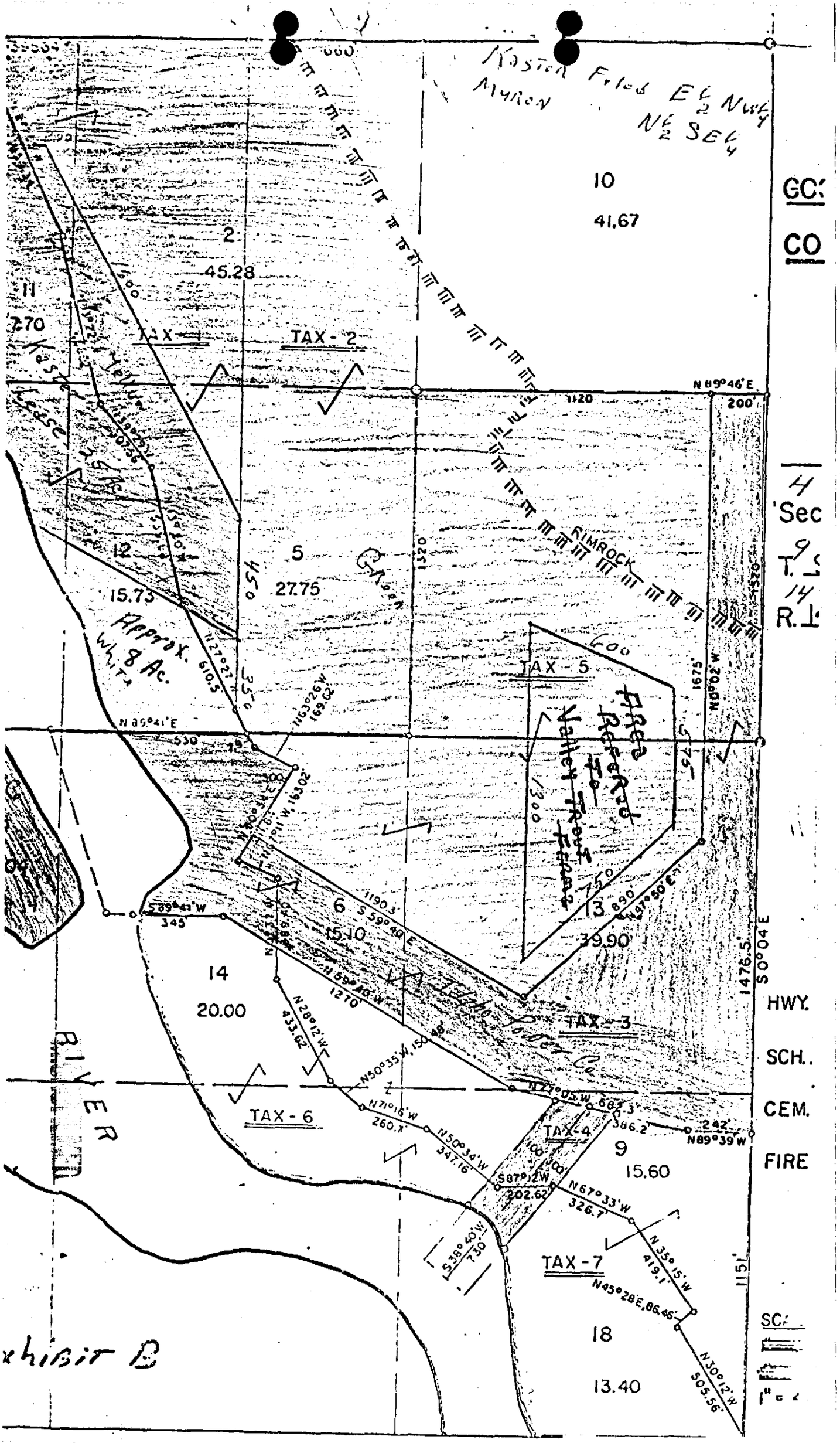
and Kenneth E. Bible

executed the same

hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

Notary Public for the State of Idaho, Residing at Idaho

PURCHASER'S COPY - WITH ALL SIGNATURES


Boston Files E½ NW¼
Myron
NE¼ SE¼
10
41.67
2
45.28
11
2.70
TAX - 1
TAX - 2
N 89°46' E
1120
200
5
27.75
12
15.73
Approx. 8 Ac. Wht.
N 89°41' E
550
19
N 27°27' W 610.5
N 63°26' W 169.62
N 27°11' W 163.02
1320
1675'
S 0°04' E 1476.5'
TAX - 5
Area Reserved for Valley Trail Estates
1300
150
890
N 87°50' E
13
39.90
6
15.10
S 89°41' W
345
S 59°40' E 1190.3
N 59°40' W 1270
14
20.00
N 28°12' W 433.62
N 50°35' W, 150
TAX - 3
TAX - 6
N 71°16' W 260.1
N 50°34' W 347.16
N 27°05' W 683.3
386.2
242'
N 89°39' W
TAX - 4
9
15.60
S 87°12' W 202.62
N 67°33' W 326.7
S 38°40' W 730'
TAX - 7
N 35°15' W 419.1'
N 45°28' E, 86.45'
N 30°12' W 505.56'
18
13.40
1151'
HWY.
SCH.
CEM.
FIRE
RIVER
Exhibit B

3 December 1979

John R. LeMoyne

Hagerman Realty

Hagerman, Idaho 83332

Dear John,

Enclosed is check for $6,000 from the Myriel Trounson estate. As some of the parties have been unable to accept the offer of Agreement to Purchase dated 26 May 1979 by Aqua Life inc. Kenneth S. Ellis I am required to return the money to you as broker, and you in turn will deliver to me the Assignment of Water, permits #36-7537 and #36-7538, which was put in trust with the Hagerman Realty.

George Myron Sheldon has advised me by phone that he is not accepting your offer per letter dated 6 November 1979, and therefore I am unable to accept said offer.

Sincerely yours,

Wes Trounson

Personal Representative for
Myriel Trounson Estate

cc: Clint Shaw, Gooding, Idaho

MYRIEL TROUNSON ESTATE
WES TROUNSON, PERS. REP.
ROUTE 2
WENDELL, IDAHO 83355

142

92-130/1241

3 Dec 1979

Pay to the order of John R. LeMoyne, Hagerman Realty $ 6,000.00

Six Thousand and No/100 Dollars

Idaho First Bank — WENDELL OFFICE

Aqua Life - Kenneth S Ellis Purchase

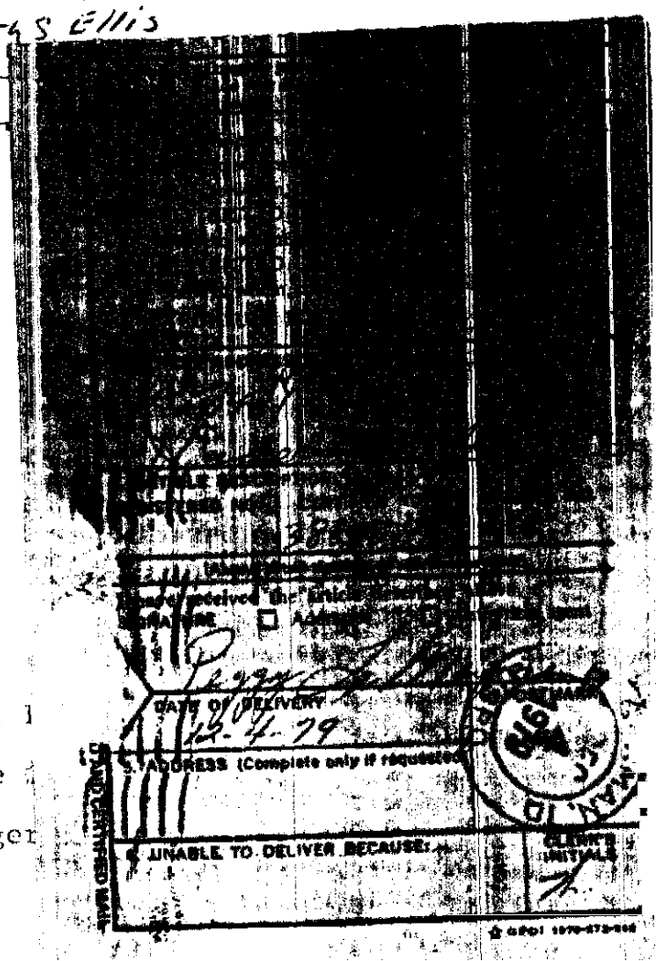
For Per 26 May 79 Agreement

1:124100130: 22 08325 2" 1420

Wes Trounson

Route #2

Wendell, Idaho 83355



John R. L

Route

Hager

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

November 14, 1979

Re: Permit Nos. 36-7537 & 36-7538

Aqua Life, Inc.
Rt. #3, Box 50
Buhl, ID 83316

Gentlemen:

This office acknowledges receipt of the assignments conveying the above referenced permits to you. The assignments have been entered into the Department's records.

Enclosed for your records are copies of the permits and a copy of an order changing the measuring device requirement for permit no. 36-7537.

Sincerely,

JAN GROVER
Water Rights Supervisor

JG:pb

Enclosures

State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

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

September 21, 1979

Dear Wateruser:

The enclosed Order changes the measuring device condition of approval on your water right permit.

The changed condition is less restrictive and provides you the option to install an access port or have your system measured and certified by a professional engineer. Instructions for access port installation are also enclosed.

If you have questions regarding this matter, please contact the Regional Office nearest to you.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR.
Supervisor, Water Allocations Section

DRT:lr

Enclosures

Northern Region Office
Rt. #5, Box 203 Government Way
Coeur d'Alene, Idaho 83814

Eastern Region Office
1515 Lincoln Street
Idaho Falls, Idaho 83401

Southern Region Office
1041 Blue Lake Blvd. North
Twin Falls, Idaho 83301

Western Region Office
92 S. Cole Road
Boise, Idaho 83705

MICROFILMED

May 29, 1975

Re: Permit No. 36-7537

Wes & Myriel Trounson
Route 2
Wendell, ID 83355

Dear Mr. & Mrs. Trounson:

Enclosed is a copy of your approved Application for Permit No. 36-7537 . We direct your attention to the conditions of approval as listed on the fourth page.

Be sure to note that a special condition requiring you to install and maintain a measuring device at your point of diversion has been placed upon your permit. We are enclosing a letter describing different types of measuring devices accepted by this office.

Sincerely,

BOBBY D. FLEENOR
Chief, Water Rights

BDF:jfr

Enclosures

MICROFILMED

AFFIDAVIT of PUBLICATION

State of Idaho, } SS.
County of Gooding }

Robert Compton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 24 day of April, 19 75, and the date of the last publication was on the 1 day of May, 19 75.

Robert Compton

Subscribed and sworn to before me this 1st day of May, 19 75.
(SEAL)

Carmen Mann
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice	36	36
Number of Insertions	2	2
Lines tabular at 315c		
36 Lines straight at 36 21c		7.56
36 Subsequent lines at 36 15c		5.40
TOTAL COST		12.96

COPY OF NOTICE

NOTICE OF APPLICATION FOR PERMIT

Notice is hereby given that Wes and-or Myriel Tromson, Route No. 2, Wendell, Idaho 83355 has on 4-8-75 submitted Application No. 36-7537 for a permit to appropriate 10.00 cubic feet per second of water from Briggs Springs by means of Concrete diversion and pipelines within the NE¼SW¼ Sec. 3, Twp. 9S, Rge 14E, B.M. Gooding County; NW¼SW¼, Sec. 3, Twp. 9S, Rge. 14E, B.M. to be used from January 1-December 31 (Domestic and recreation); March 15-November 15 for Irrigation of 284 acres within the SW¼, NW¼SE¼, Sec. 3; S½NE¼, SE¼, Sec. 4; NE¼NE¼, Sec. 9; N½NW¼, Sec. 10, Twp. 9S, Rge. 14E, B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before May 12, 1975.

R. KEITH HIGGINSON
Director
4-24-2tc-G

RECEIVED O.K. EC 5-20-75

MAY 20 1975

Dept. of Water Resources
Southern Idaho Area

PUBLICATION RATES
(Idaho Code, Rev. Statutes 1971)

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

Wtrs 6686

No 454

April 16, 1975

RE: Application For Permit No. 36-7537 - Wes &/or Myriel Trounson

Gooding County Leader
Box 56
Gooding, Idaho 83330

Gentlemen:

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

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

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

Sincerely,

BOB HAYNES
Southern District Engineer

Bill submitted: 5-20-75 cc

MICROFILMED

Mail

GOODING LEGALS

GALLEY PROOF

NOTICE OF APPLICATION FOR WATER PERMIT

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If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before May 12, 1975.

R. KEITH HIGGINSON
Director
4-24-2tc-G

O.K. ee
4-21-75

MICROFILMED

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Route #2, Wendell, Idaho 83355

has on 4-8-75 submitted Application No. 36-7537

for a permit to appropriate 10.00 cubic feet per second

of water from Briggs Springs

by means of Concrete diversion & pipelines

within the NE¼SW¼, Sec. 3, Twp. 9S, Rge. 14E, B.M. Gooding County; NW¼SW¼, Sec. 3, Twp. 9S, Rge. 14E, B.M.

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R. KEITH HIGGINSON

Director

Published in the Gooding County Leader

on 4-24 and 5-1-75

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