

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



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.

(Applicant)

AFFIDAVIT of PUBLICATION

RECEIVED

DEC 15 1989

State of Idaho, }
County of Blaine } SS.

Department of Water Resources
Southern Region Office

DANIEL J. GORHAM

being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, 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 10th day of Dec, 19 89, and

the date of the last publication was on the 13th day of Dec, 19 89.

[Signature]
Subscribed and sworn to before me this 13th day of Dec, 19 89
(SEAL)

[Signature]
NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice 65
Number of Insertions 2
Lines tabular at 55¢/Pica
Lines straight at 35.75 5¢/Pica
Subsequent lines at 28.60 3¢/Pica
TOTAL COST 64.35

6827

COPY OF NOTICE
(Paste Here)

Notice of Application (3)
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
BILL TO

Three file on water rights

NOTICE OF APPLICATION FOR WATER RIGHT

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

37-08569 ✓

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: UNNAMED DRAIN
Tributary: LOVING CREEK
Diversion Pt: NENESE Sec 14 T
01S R 19E; SENESE Sec 14 T 01S
R 19E

Use: WILDLIFE (2.000 CFS)
FISH PROPAGATION (2.000 CFS)
Date Filed: 10/12/1989
In: T01S R19E S13 NWSW
S14 NESE

37-08570

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: UNNAMED STREAM
Tributary: LOVING CREEK
Diversion Pt: NWNENE Sec 14 T
01S R 19E

Use: WILDLIFE (3.800 CFS)
FISH PROPAGATION (3.800 CFS)
Date Filed: 9/22/1989
In: T01S R19E S13 NWSW
S14 NESE

37-08571

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: GROUNDWATER
Diversion Pt: SESENE Sec 14 T
01S R 19E

Use: WILDLIFE (5.000 CFS)
FISH PROPAGATION (5.000 CFS)
Date Filed: 9/22/1989
In: T01S R19E S13 NWSW
S14 NESE

7- The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code, and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 2148 4th Avenue East, Twin Falls, Idaho 83301, on or before DECEMBER 26, 1989.

R. Keith Higginson, Director
Publish: Wood River Journal-December 6 & 13, 1989.

RECORDED
JUL 27 1992

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Department of Water Resources
2148 4th Avenue East
Twin Falls, ID 83301

Re: Application for permits #37-08569 & 37-08570
Name of William A. McMahan

Dear Sirs:

I wish to take this opportunity to protest the approval of the above Application for Permits to appropriate waters of unnamed streams tributary to Loving Creek.

My reasons are, if approved this diversion will take water above my diversion known as Patterson #15 from Loving Creek, and does not return this water to Loving Creek until below my diversion point. I am of the opinion that this will definitely create a problem in delivery of my decreed water, as well as delivery of the Idaho Fish & Game Hayspur Fish Hatchery water rights from Loving Creek.

I strongly protest the granting of the approval of these applications to appropriate water from this source.

Sincerely,


A. W. Molyneux
P. O. Box 400
Bellevue, ID 83313

RECEIVED

DEC 18 1989

Department of Water Resources
Southern Region Office

MICROFILMED

JUL 27 1992

WATER RIGHT SUMMARY

<u>ACTION</u>	<u>RIGHT NO.</u>	<u>NAME</u>	<u>AMOUNT CFS</u>
~~ORIGINAL APPLICATION~~	~~37-08569~~	~~McMahan, William A~~	~~2.00~~
Full Assignment	37-08569	Aubrey Spring Ranch LLC	2.00

10/23/96

MICROFILMED
NOV 05 1996

OCT 22 1996

Department of Water Resources

State of Idaho
DEPARTMENT OF WATER RESOURCES

For Office Use Only

\$25.00 Filing Fee

Receipt# 5019630Date 22 Oct 96

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, William A. McMahan hereby assign to Aubrey Spring Ranch L.L.C.
 (Permit Holder)
 of P. O. Box 6600, Coeur D'Alene, ID 83816-1933
 (Full address and phone number)

All my right, title, and interest in and to Permit No. 37-08569
 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
 Permit No. _____ to appropriate the public waters of the State of Idaho.

Describe portion of the permit 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.

Made this 16th day of OCTOBER 19 96

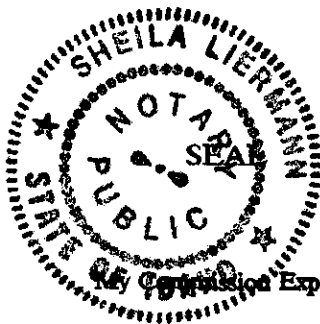
W.A. McMahan
 Permit Holder(s)

State of Idaho)

County of Blaine)
ss

On this 16th day of October, 199 96, personally appeared before me
 the signer of the above instrument, duly acknowledged to me that he/she/they executed the same.

Sheila Liemann
 Notary Public

Expires: May 20, 1998

Signature

MICROFILMED
 NOV 05 1996

RECEIVED

SEP 28 1993

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

OFFICE USE ONLY

Amt. of Fee \$ 125.⁰⁰

Date 9-28-93

Receipt No. C028672

Receipt by J. W. Sargent

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form 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, when necessary, or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 37-08569 Telephone No. (208) 726-9022

2. Name(s) of Permit Holder(s): WILLIAM A. MCMAHAN, Trustee

3. Mailing Address: Post Office Box 3125, Ketchum, Idaho 83340

4. Source of Water: Unnamed Drain

If GROUNDWATER, Well Driller's Name: _____ Date Drilled: _____

OPTIONAL:

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

5. Extent of Use (as authorized by the permit):

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

Irrigation _____ (No. of acres) Other Wildlife and Fish propagation

6. Total rate and/or volume for which proof is submitted 2.0 cfs OR _____ acre/feet

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

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

OR

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

8. Fee Enclosed: \$ 125.00 (See License Fee Schedule on back of Instruction Sheet)

9. Person to contact to accompany the Department representative during field examination of the water system.

WILLIAM A. MCMAHAN

(208) 726-9022

Name

Telephone No.

Post Office Box 3125, Ketchum, Idaho 83340

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.

OCT 20 1993

9/22/93
Date

W. A. McMahon TRUSTEE
Signature (and title, if on behalf of a company or organization)

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 37-08569

Proposed Priority: October 12, 1989 Maximum Diversion Rate: 2.00 CFS

This is to certify, that **WILLIAM A MC MAHAN**
C/O JAMES P SPECK ESQ
PO BOX 987
KETCHUM ID 83340

has applied for a permit to appropriate water from:

UNNAMED DRAIN tributary of **LOVING CREEK**

and a permit is **APPROVED** for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
WILDLIFE	01/01 to 12/31	2.00 CFS
FISH PROPAGATION	01/01 to 12/31	2.00 CFS
	Totals	2.00 CFS

LOCATION OF POINT(S) OF DIVERSION: NENESE , Sec. 14, Township 01S, Range 19E
SENESE , Sec. 14, Township 01S, Range 19E
BLAINE County

PLACE OF USE: WILDLIFE
TWN RGE SEC

01S 19E 13	NWSW
14	NESE

PLACE OF USE: FISH PROPAGATION, same as WILDLIFE use

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **August 1, 1995**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this right is subject to control by the watermaster of State Water District No. 37M.
5. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this right.
6. Water used under this right if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

MICROFILMED

JUL 27 1992

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

NO. 37-08569

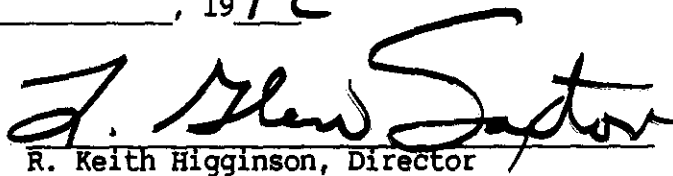
CONDITIONS/REMARKS:

7. Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
8. Use of water under this right shall be non-consumptive.
9. Fish propagation under this right shall be for non-commercial, recreational purposes.
10. The Director of the Department of Water Resources retains jurisdiction over this right to require compensation to other rights, or to the hydrologic system for losses which may occur as a result of this use.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this

30th day of June, 1992

for


R. Keith Higginson, Director

MICROFILMED

JUL 27 1992

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

OCT 12 1989

To appropriate the public waters of the State of Idaho

Department of Water Resources

Southern Region Office

1. Name of applicant William A. McMahan Phone 208-726-4421
c/o James P. Speck
Post office address P.O. Box 987, Ketchum, Idaho 83340

2. Source of water supply Unnamed Drain which is a tributary of Loving Creek

3. Location of point of diversion is NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot 14
Sec. 14 Township 1S Range 19E B.M. Blaine County; additional
points of diversion if any: See attached Addendum. SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 14 T. 1S R. 19E

4. Water will be used for the following purposes:

Wildlife Habitat

Amount 2.0 for FISH PROPAGATION purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount 2.0 for Fish Propagation purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

5. Total quantity to be appropriated is (a) 2.0 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. See attached Addendum

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

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

d. Is ground water with a temperature of greater than 90°F being sought? NO

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

JUL 27 1992

8. Description of proposed uses (if irrigation only, go to item 9):
- Hydropower; show total feet of head and proposed capacity in KW. _____
 - Stockwatering; list number and kind of livestock. _____
 - Municipal; show name of municipality. _____
 - Domestic; show number of households. _____
 - Other; describe fully. Stream and pond storage system for non-commercial fish propagation and habitat for ducks, geese and other wildlife.
9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1S	19E	13										W/H							
1S	19E	14												W/H					

Total number of acres to be irrigated none

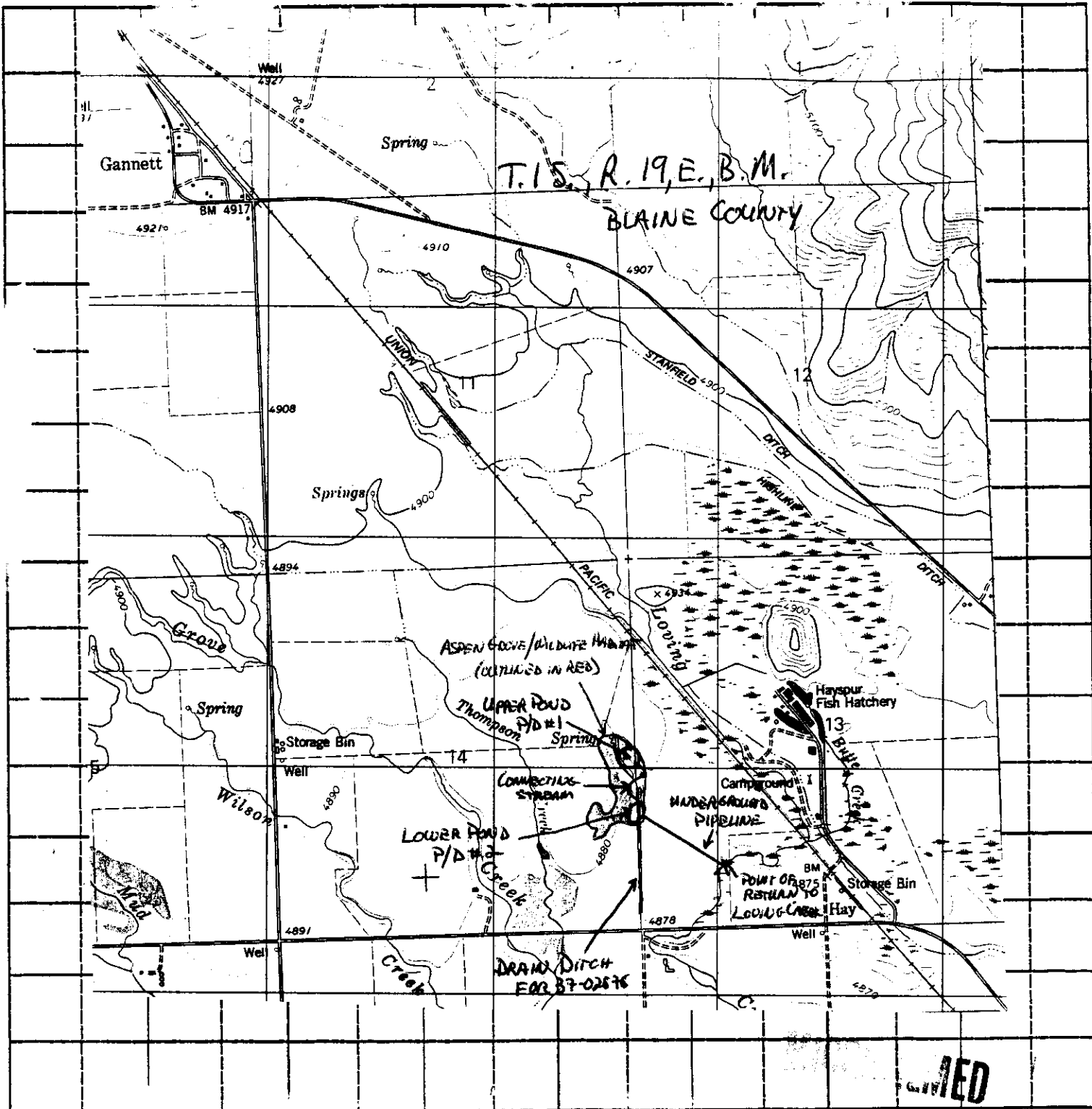
10. Describe any other water rights used for the same purposes as described above. See attached Addendum
11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. N/A
12. Remarks: See attached Addendum

MICROFILMED

JUL 27 1992

37-08569

13. 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.

JUL 27 1992

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

[Signature]

(Applicant)

Received by AC Date 11/17/89 Time 01:00 AM sheet attached
check by J. Johnston
Fee \$ 65.00 Receipted by per LH LP # 5010037 Date 10/13/89
Publication prepared by M. Baldwin Date 11-13-89 Published in Wood River Journal
Publication approved T. Jasper Date 12-18-89

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. _____, and said application is hereby _____.

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 _____, 19____.

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

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

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JUL 27 1992

**ADDENDUM TO
APPLICATION FOR PERMIT - UNNAMED DRAIN
BY
WILLIAM A. MCMAHAN**

6., a. Diversion Works. An unnamed drainage ditch, approximately 1/2 mile in length, was constructed in the late 1950's for Idaho Water Right No. 37-02575, a 2.0 cfs irrigation right, to cause groundwater to flow in the ditch, which could then be pumped into a sprinkler irrigation system, and to create sub-irrigation. Two (2) ponds will now be constructed to a depth below the water table and connected with a stream which will not intrude into the water table. Those portions of the original ditch which will no longer form a part of this system will be filled in. The resulting "diversion works" will be the two (2) ponds which will cause groundwater to collect and flow from the upper pond (P/D #1) to the lower pond (P/D #2), and then, during the non-irrigation season, through an underground pipeline to a return point on Loving Creek.

10. Other Water Rights. Applicant is concurrently applying for the right to divert 5.0 cfs of groundwater and 3.8 cfs of Loving Creek to be used in the same streams and ponds for the same purposes as the drain ditch waters which are the subject of this Application.

12. Remarks. The upper pond will be approximately thirty-five thousand (35,000) square feet in surface area with a maximum depth of twelve (12) feet. The water will flow by gravity through an open stream bed for approximately 1/4 mile to the lower pond, which will be approximately the same size as the upper pond. Approximately 4.0 c.f.s. (of the combined waters from this Application and the 2 other Applications described in paragraph 10, above) will be periodically re-cycled by pumping from the lower pond to the upper pond through a buried pipeline to assure a minimum flow in the system for fish and wetlands habitat.

The system of ponds and connecting stream will be used for non-commercial fish propagation and as a wetlands habitat for ducks, geese and other native wildlife.

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JUL 27 1992

During the irrigation season, the 2.0 cfs to be diverted under this Application will be the same water as 37-02575. This water, together with the water for Permit 37-07810 and Water Rights 37-00252 (2.5 cfs) and 37-00712 (1.3 cfs) will be pumped from the lower pond into a mainline to wheelines and/or handlines for irrigation. During the non-irrigation season, the entire 2.0 c.f.s. will be conveyed from the lower pond to Loving Creek through a buried pipeline.

j:\mcddper.add
10/5/89

ADDENDUM TO APPLICATION FOR
PERMIT - DRAIN DITCH
WILLIAM A. MCMAHAN
PAGE 2

MICROFILMED

JUL 27 1992

AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho, }
County of Blaine } ss.

DEC 15 1989

Department of Water Resources
Southern Region Office

DANIEL J. GORHAM

being first duly sworn, deposes and says that he is the printer (publisher) of the Wood River Journal, a newspaper published every week in Hailey, County of Blaine, 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 6th day of Dec. 19 89, and

the date of the last publication was on the 13th day of Dec. 19 89.

[Signature]
Subscribed and sworn to before me this 13th day of Dec. 19 89
(SEAL)

[Signature]
NOTARY PUBLIC

WOOD RIVER JOURNAL
Hailey, Idaho

COST OF PUBLICATION

Number of Picas per Line 11
Number of Lines in Notice 65
Number of Insertions 2
Lines tabular at 56/Pica
65 Lines straight at 35.75 56/Pica
65 Subsequent lines at 28.60 56/Pica
TOTAL COST 64.35

6827

COPY OF NOTICE
(Paste Here)

Notice of Application (3)
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept. of Water Resources
BILL TO

The following notice has been filed with the public water control of Idaho:
MC MAHON, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340
Source: UNNAMED DRAIN
Tributary: LOVING CREEK
Diversion Pt: NENESE Sec 14 T
01S R 19E; SESENE Sec 14 T 01S
R 19E
Use: WILDLIFE (12,000 CFS)
FISH PROPAGATION (2,000 CFS)
Date Filed: 12/13/1989

S14 NESE
37-08570
MC MAHON, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340
Source: UNNAMED STREAM
Tributary: LOVING CREEK
Diversion Pt: NWNESE Sec 14 T
01S R 19E
Use: WILDLIFE (3,800 CFS)
FISH PROPAGATION (3,800 CFS)
Date Filed: 12/22/1989
In: T01S R19E S13 NWSW
S14 NESE
37-08571

MC MAHON, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340
Source: GROUNDWATER
Diversion Pt: SESENE Sec 14 T
01S R 19E
Use: WILDLIFE (5,000 CFS)
FISH PROPAGATION (5,000 CFS)
Date Filed: 12/22/1989
In: T01S R19E S13 NWSW
S14 NESE

7- The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code; and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 2148 4th Avenue East, Twin Falls, Idaho 83301, on or before DECEMBER 26, 1989.

68



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 23, 1996

AUBREY SPRING RANCH LLC
PO BOX 6600
COEUR D'ALENE ID 83816-1933

RE: PERMIT NOS. 37-07810/37-08569/37-08571

Dear Water Right Holder:

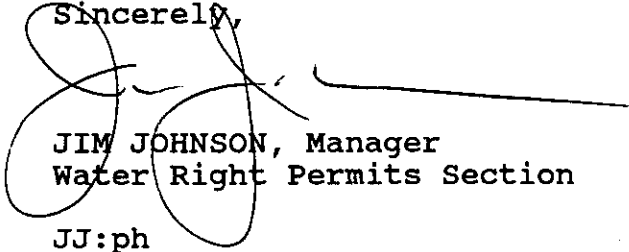
We acknowledge receipt of the correspondence changing ownership of the above referenced water rights to you. We have modified our computer records to reflect these changes in ownership.

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

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address **PRIOR** TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address **AFTER** July 1, 1996, you must notify the department within 120 days of the change.

Failure to report these changes could result in a \$100 late filing fee. Contact any office of the department to obtain the proper reporting form.

Sincerely,



JIM JOHNSON, Manager
Water Right Permits Section

JJ:ph

MICROFILMED
NOV 05 1996

WR0749NP
No. 37-08569

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 10/23/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	AUBREY SPRING RANCH LLC PO BOX 6600 COEUR D'ALENE ID 83816-1933	10/12/1989	WILDLIFE FISH PROPAGATION	01/01 12/31 01/01 12/31	2.000 CFS 2.000 CFS	
TOTAL DIVERSION:					2.000 CFS	

Water Source: UNNAMED DRAIN

Tributary to: LOVING CREEK

Stage: PERMIT

Point(s) of Diversion: T01S R19E S14 NENESE SENESE BLAINE County

Place of use Legal Description for: WILDLIFE

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
---	---	---	:	---	---	---	---	:	---	---	---	---	:	---	---	---	---	:	---	---	---	---	:
01S	19E	13	:					:					:					:					:
01S	19E	14	:					:					:					:					:

Place of use location for FISH PROPAGATION is the same location as described for: WILDLIFE

Pou County: BLAINE

Conditions of Approval:

- 26A - Project construction shall commence within one year from the
- date of permit issuance and shall proceed diligently to
- completion unless it can be shown to the satisfaction of the
- Director of the Department of Water Resources that delays were
- due to circumstances over which permit holder had no control.
- 005 - Use of water under this right is subject to control by the
- watermaster of State Water District No. 37M.
- 01J - A measuring device and lockable controlling works of a type
- acceptable to the Department shall be permanently installed and
- maintained as part of the diverting works prior to diversion of
- water under this right.
- 09E - Water used under this right when discharged into a natural
- channel or subsurface system shall meet Idaho Water Quality
- Standards.
- 044 - Use of water under this right is subject to policies set forth
- in the State of Idaho Water Plan, including Policy No. 5G.
- 027 - Use of water under this right shall be non-consumptive.

Remarks: Fish propagation under this right shall be for non-commercial,
recreational purposes.
The Director of the Department of Water Resources retains
jurisdiction over this right to require compensation to other
rights, or to the hydrologic system for losses which may occur
as a result of this use.

WR0749NP
No. 37-08569

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 10/23/96
PAGE: 2

=====
Dates: App. Received: 10/12/1989 Priority Date: 10/12/1989
Proof Due Date: 08/01/1995 Proof Made Date: 09/28/1993
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: 37M Field Exam Fee: R (Received)

October 1, 1993

WILLIAM A MC MAHAN
PO BOX 3125
KETCHUM ID 83340

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-08569

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. 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

MICROFILMED

OCT 20 1993

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 37-08569

Reviewed by Klg

Date 9/30/93

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
no Address same as permit?
Proof timely received?
If not, complete calculation below.

wildlife fish propagation
Correct Uses? yes

SOURCE OF WATER

✓ Surface water source
Ground water source

NA Drilling permit required?
Copy in the file? Drilling Permit No. _____
Amount paid for permit _____ Correct?
Well log in the file?

LICENSE EXAMINATION FEE

yes Required?
125 Amount Submitted
yes Correct?

MEASURING DEVICE

yes Required?
yes Installed?
NA Waiver requested?

PRIORITY CALCULATION

Date proof received NA
Date proof due _____ - _____
No. of days late _____ = _____
Priority Date _____ + _____
New Priority Date _____

DEFICIENCIES OR ACTION ITEMS

proof acceptable

DATA ENTRY

New Address PO Box 3125 9/30/93 Klg

Proof Made 9/28/93 10/1/93 Klg

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP
JOHN A. SEILLER

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

September 27, 1993

RECEIVED

SEP 28 1993

Department of Water Resources

Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720-9000

Re: William A. McMahan - Permit Nos. 37-08571
and 37-08569

Dear Filing/Recording Clerk:

I enclose the original Proof of Beneficial Use for the
above-referenced Permits and two checks from Mr. McMahan made out
for the amounts of \$200.00 and \$125.00. Please file with your
office.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Verran Livi
Secretary for James P. Speck, Esq.

v1

Enclosures

OCT 20 1993



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

July 1, 1992

WILLIAM A MC MAHAN
% JAMES P SPECK ESQ
PO BOX 987
KETCHUM ID 83340-0987

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-08569

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under Condition No. 1 is the date when the project must be completed. You will receive a "Proof Due Notice" from this Department approximately 60 days prior to the completion date requiring you to file either a Proof of Beneficial Use form stating that the project has been completed or file a Request for an Extension of Time in which to file the proof statement.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Please be advised that water quality is subject to regulations of the Idaho Department of Health and Welfare. We suggest that you check with them before starting construction.

Sincerely,

BRENDA L. MILLER
Technical Records Specialist

BLM:cz

Enclosure

RECORDED

JUL 27 1992

MEMORANDUM

TO: Files Nos. 37-8569 and 37-8571
FROM: Gary Spackman *Gary*
DATE: June 18, 1992

Applications for permit nos. 37-08569 and 37-8571 propose diversion from an unnamed drain and from groundwater, respectively, to maintain two small fish ponds located in the area of Loving Creek, which is tributary to Silver Creek in the Big Wood River Basin. The nature of use for both applications is fish propagation (non-commercial) and wildlife habitat.

Jim Speck has submitted some information about the physical characteristics of the area. I conclude that the project will not result in a significant loss of water. Any percolation will find its way back into Loving Creek or into Silver Creek. The change in the evaporation by the ponds is not significant enough to warrant rejecting the application.

I propose we approve the applications with standard conditions, and the following specific conditions:

Application for Permit No. 37-08569:

1. Fish propagation under this right shall be for non-commercial, recreational purposes.
2. Use of water under this right shall be non-consumptive.
3. The Director of the Department of Water Resources retains jurisdiction over this right to require compensation to other rights, or to the hydrologic system for losses which may occur as a result of this use.

Application No. 37-08571:

1. Fish propagation under this right shall be for non-commercial, recreational purposes.
2. Use of water under this right shall be non-consumptive.
3. The Director of the Department of Water Resources retains jurisdiction over this right to require compensation to other rights, or to the hydrologic system for losses which may occur as a result of this use.
4. The applicant must comply with the drilling permit requirements of Idaho Code § 42-235A. The proposed well must be constructed according to Idaho Well Construction Standards.

RECEIVED
JUL 27 1992

MEMORANDUM

TO: FILE NO. 37-08569, 37-08571

FROM: GEORGE AUSTIGUY *ga*

DATE: JUNE 6, 1992

RE: POTENTIAL LOSSES

I have reviewed the allegations in Mr. Speck's letter of April 27, 1992 regarding information to evaluate potential losses.

Using available aerial photographs and a width of ten feet, the surface area of the old drainage ditch is estimated to be approximately 29,000 square feet. This compares favorably with Mr. Speck's estimate of "in excess of 26,000 square feet". Assuming the acreage claimed for the project's ponds and streams (one acre) is correct, the resulting increase in area is 14560 square feet or approximately 1/3 of an acre. Thus the increase in potential evapotranspiration is less than what would occur under a domestic permit.

The USGS report "Ground Water - Surface Water Relations in the Silver Creek Area" identifies the project's reach along Loving Creek as a gaining reach. Therefore it is likely that any seepage loss will eventually reach Loving Creek.

In summary, the allegations contained in Mr. Speck's April letter appear to be reasonable.

JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP
DONALD E. MITCHELL

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16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

April 27, 1992

RECEIVED
APR 29 1992

Mr. Gary Spackman
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720

Department of Water Resources

Re: Applications for Permit Nos. 37-8569 and 37-8571
William A. McMahan

Dear Gary:

I now understand from our telephone conversation on April 24, 1992, that the Department is going to require some information in order to evaluate potential evapotranspiration losses which might occur as a result of the project developed pursuant to the two above-referenced applications for permit. Since the project falls within the Big Wood River Groundwater Management Area, any losses in excess of those otherwise deemed to be "non-consumptive" (e.g. groundwater used for "domestic purposes") must be compensated for. I also understand that, due to the project's location within the Big Wood River Groundwater Management Area, any seepage or percolation losses are presumed to find their way into Loving Creek and, therefore, do not require compensation.

The project is located in a grove of aspens on Mr. McMahan's property. Since the late 1950s, a drainage ditch has been maintained on the property extending in a north/south direction for approximately one-half mile from the northern edge of the grove south to Highway 20. I believe the total surface area of this ditch, including the immediately adjacent vegetation along its banks, was in excess of 26,000 square feet using 10 feet as the average width. This drainage ditch is easily visible on aerial photographs of the property. The entire portion of this ditch south of the grove has been filled in and the adjacent vegetation removed or covered. Within the grove, the ditch has been filled in or modified to create the two ponds and connecting stream. The surface area of the ponds and streams is approximately one acre. Therefore, the surface area which may

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MICROFILMED

JUL 27 1992

Mr. Gary Spackman
April 27, 1992
Page 2

generate evapotranspiration losses added by this project is less than one-half acre (the current one acre of surface area less the original 26,000 square feet). Thus, any "loss" to the groundwater system created by this project will be less than that of a permitted domestic use which includes one-half acre of irrigation. This permitted one-half acre of irrigation "consumes" water from the system by both evapotranspiration losses from the surface area and crop consumption. In our case, we have less surface area and no "crop consumption." In conclusion, any evapotranspiration losses created by this project in excess of those existing prior to the construction of the project should be deemed "de minimus" and not require any mitigation under the restrictions of the Big Wood River Groundwater Management Area.

As you know, I will be out of the office until May 18, 1992. If you have any further questions concerning these applications, please write me a letter and I will contact you when I return. Thank you again for your continuing cooperation and assistance in these matters.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS\dmk
cc: William A. McMahan

RECEIVED

JUL 27 1992

MEMORANDUM

TO: FILE

FROM: TIM LUKE

RE: APP. NO.s 37-8569 & 37-8571/Rule 4,5,3 Info.

DATE: 4-23-92

The rule 4,5,3. information which has been submitted with this filing appears to be both complete and sufficient. Further processing of the application is recommended.

JUL 27 1992



IDAHO DEPARTMENT
OF HEALTH AND WELFARE

DIVISION OF
ENVIRONMENTAL QUALITY

Post Office Box 1626, Twin Falls, ID 83303-1626, (208) 736-2190

Cecil D. Andrus, Governor Richard P. Donovan, Director

April 17, 1992

RECEIVED
APR 22 1992

Tim Luke
Hydrologist in Training
Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, Idaho 83720-9000

Department of Water Resources

Re: Application Nos. 37-8569 and 37-8571 for William McMahan

Dear Mr. Luke:

The above referenced application by Mr. McMahan consists of appropriations of waters to develop a manmade stream and storage system of ponds for fish and wildlife habitat.

The DEQ Twin Falls office reviewed the related stream channel alteration work with Terry Blau. Based on our site reviews and assessment of potential water quality impacts, this project should not result in violations of Idaho Water Quality Standards. An EPA NPDES waste discharge permit would not be required for a discharge into Loving Creek.

Should any questions arise, please contact me.

Sincerely,

Michael J. McMaster

Michael J. McMaster, Supervisor
Monitoring & Technical Support

MJM/ta

cc: Loren Holmes
James P. Speck

RECORDED
JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
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(208) 788-3567
FAX (208) 788-4230

March 25, 1992

Mr. Mike McMasters
Idaho Department of Health
& Welfare
Division of Environmental Quality
Post Office Box 1626
Twin Falls, Idaho 83301

Re: William A. McMahan - Applications for
Water Permit Nos. 37-8569 and 37-8571

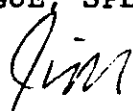
Dear Mike:

Please find enclosed a copy of the March 16, 1992 letter from Tim Luke at the Idaho Department of Water Resources requesting your comments on Mr. McMahan's applications for permit. I understand you are familiar with the project and will write directly to Mr. Luke. Please contact me immediately if you need copies of the applications or any other information.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS\dmk
Enclosure

cc: Mr. William A. McMahan (w/encls.)
Mr. Tim Luke (w/o encls.)

j\corres92\mcmastm

JUL 27 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

March 16, 1992

Jim Speck
Box 987
Ketchum, ID 83340

Re: Application no.s 37-8569 & 37-8571 in name of William McMahan

Dear Jim:

Per our conversation this morning, I am writing to remind you that the Department wishes to request comment from the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ) concerning the project identified under the above referenced applications. DEQ should comment as to whether the intended project will satisfy both Idaho Water Quality standards and any requirements of an NPDES permit.

We will hold the applications until the additional information is submitted. As I also mentioned this morning, Gary Spackman had recommended holding approval on these applications until the Loving Creek transfer application controversy between McMahan and the Idaho Fish and Game Department is resolved. Questions concerning expedited approval of the applications after the DEQ information is submitted should be addressed to Gary.

Sincerely,

A handwritten signature in cursive script that reads "Tim Luke".

Tim Luke
Hydrologist in Training

JUL 27 1992

MEMORANDUM

TO: FILE

PAM SKAGGS & JIM JOHNSON

FROM: TIM LUKE *TL*

RE: APP. NO. 37-8569 & 37-8571/Rule 4,5,3 Information

DATE: 2-15-92

These applications seek to appropriate groundwater and drain water (subwater) for non-commercial fish and wildlife purposes. The proposed groundwater well is an existing well covered by a permit for irrigation. The drain is an existing structure which is used for irrigation under several rights. It appears that both applications have the effect of adding fish and wildlife uses to the existing diversions and rights. Since the uses are essentially non-consumptive uses (other than pond evaporation which will be perhaps four or five acre-feet per year for this project), the filings can be considered for approval despite the groundwater and surface water management designations in the area. Policies for management of both sources generally allows for new non-consumptive uses.

The applications include some detailed remarks describing the proposed use, diversion works and operation. The department recently required submittal of Rule 4,5,3 information. This information, along with the descriptions on the applications, appears to be acceptable as meeting the requirements of Rule 4,5,3. Continued processing of the applications is recommended. I would recommend adding at least our standard water quality conditions. We might also consider measuring device requirements. Also, because of the fish propagation use, we should check with Gary Spackman and ask if the applicants need to get any DEQ approvals prior to any approval of this water permit application.

JUL 27 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

December 6, 1991

James Speck
P.O. Box 987
Ketchum, ID 83340

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

RE: Application no.s 37-8569 & 37-8571/William A. McMahan
Rule 4,5,3. Information

Dear Jim:

Our office recently received the above referenced applications from the region. In April of 1991, the region requested submittal of certain information under Water Appropriation Rule 4,5,3. We have not yet received this information.

As I review the application files I find that there is not a lot of information concerning the proposed uses other than the project description contained in the addendums attached to the original applications. In reviewing the addendums, I am a little confused about the amounts of water which will be used specifically for the fish/wildlife ponds. Will there be a continuous flow of 5 cfs from the groundwater well to the ponds during the non-irrigation season? What is the estimated return flow to Loving Creek during the irrigation and non-irrigation seasons? Is the well to be used in this project an existing well? If not, is there a well drilling plan?

At this time we ask that you submit all of the information required under water appropriation rule 4,5,3. The information should be definite enough to address the above questions and generally provide a more clear understanding of the operation or project along with the existing permits and projects. Given the fact that the proposed use is within the Big Wood River Groundwater management area, the information submitted should address impacts on other uses as well as aquifer characteristics in this area.

Enclosed with this letter is a copy of the information requirements under rule 4,5,3. Enclosed also is a guideline which may assist you with submittal of the information. The guideline however is more suited to irrigation projects. Please submit the additional information at your earliest convenience but no later than 45 days from the date of this letter.

MICROFILMED

JUL 27 1992

Sincerely,

Tim Luke
Tim Luke

Sr. Water Resource Spec.

* See file no. 37-8571 for Rule 4,5,3 info.

APPLICATION FOR PERMIT REVIEW

Application #: 37-8569
Date: 5-9-91 10-28-91

Reviewer: Pam Skaggs

CB Brenda

Existing:

☒ No - 26A-P17
Complete in 1 year - P16

Yes

Proof not submitted - P16

Proof submitted - N/A

Groundwater:

GT. 0.2 cfs - 01G-P03, 01C-P03(existing well)

LT. 0.2 cfs - N/A

Drilling Permit:

Approved w/permit - P99

Not included - 046-P23(All GW, even existing wells)

Location:

☒ Water Districts - WD No. 37M
☒ Surface water - 005, 005-01H-P01(LT.2 w/pump)
005-01J-P08(GT.2)

Groundwater - P05

Irrigation Districts - 023

Canal Co. Areas - 023

Drainage Districts - 024

Boise Front (63) - 058 (Groundwater)

☒ Swan Falls Flag - M (1, Blank or Other)

☒ Trust *Exempt* - 051-052-053-P74(Consumptive Uses)

Non Trust - 048-049

River Basins:

(Surface Water) Water District Control Condition &....

Boise (63) - 05A & 11E

Payette (65) - 047-P04, 059-P71

Snake (01, 02 & 03) - 11A-P04(01), 061-P07(02/03 No W.D.Cond.)

Use:

☒ Fish Propagation - 06A, 09E-P10 & 010 (WQ/Choose One),
042(req.), 002-P06(MD), 07A(Spec.),
044(Policy 5G)

Power - Use Power Review

Mining - 06A or 010, 09E-P10 & 054(req.)

Storage - 18A-for multiple measuring devices(In WD),
18B-P09(Size)

Rec. & Aesthetic - 027(Non-Consumptive)

Domestic - 021(restricted areas)

Ownership:

Non land owner - 004

Protested:

Agreement - 020

☒ Beneficial Use Due Date: - 11-01-1994

Other Conditions Recommended

08-01-1995
05-01-1995
Rule 45.3 Info Needed 02-18-92 CB

JS TB
Mc Mahan, Wm.

Form No. 202a
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY J. P. Stanton DATE 10-26-89 APPLICATION NUMBER 37-08569

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
- ☒ Address
- ☒ Source (See USGS Quad for names of water sources)
- ☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)
- ☒ County
- ☒ Quantity (flow and/or volume)
- ☒ Period of Use
- ☒ Nature of proposed use (Include description of use.)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ Place of use or acres irrigated
- ☒ Map
- ☒ Signature (If applicant is corp. partnership, or municipality, title of signator is required)
- ☒ Fee
- ☒ Yes ☐ No* In form to receipt

ADDITIONAL INFORMATION

- ☐ Overlapping place of use (Describe source & relationship to present application on the back.)
- ☐ Overlapping point of diversion
- ☒ Yes ☐ No Field check required
- ☐ Yes ☐ No Field check by _____
- ☐ Yes ☐ No Field report attached
- ☐ Yes ☒ No Critical groundwater area
- ☐ Yes ☒ No Groundwater management area
- ☐ Yes ☒ No Send dam safety information
- ☐ Yes ☒ No Send power requirement letter
- ☒ Yes ☐ No Send fish farm requirement letter
- ☐ Yes ☒ No Power residency affidavit
- ☐ Yes ☒ No Power efficiency form
- ☒ Yes ☐ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
- ☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)
- ☐ See reverse side for additional information

RECEIVED
APR 26 1991

Department of Water Resources

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT _____

Date Requested _____

PROCESSING ☒ Yes ☐ No In form for advertising
☐ Yes ☒ No Statewide advertising
☒ Yes ☐ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO ☐ Idaho Dept. of Health & Welfare ☐ U.S. BLM
☒ Idaho Dept. of Fish & Game ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☒ 37M Water District
☐ Adjudication Bureau Unit ☐ Other

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received
☒ Yes ☐ No Application published correctly. If not, record action taken.

☒ Yes ☐ No Publication dates & paper, recorded on application
☒ Yes ☐ No Protests received *Protests withdrawn*
Final date for protest *12/26/89*
☐ Yes ☒ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☒ No Recommendations attached
☒ Yes ☐ No Measuring device required
☐ Yes ☒ No Access port required
☒ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. *37-M*
☒ Yes ☐ No Special conditions of approval or cover letter below.

DIR, OS (37M, Little Wood R & S (not CF) 42, 26A, 30
Date of priority recommended *10/12/89* See below for additional information
By *Karen O. Hulman* Date *4/19/91*

STATE OFFICE REVIEW

By _____ See below for additional information
Date _____

ADDITIONAL INFORMATION

LOCAL PUBLIC INTEREST

Comments received from:

<u> </u> City	<u> </u> Idaho Fish & Game	<u> </u> Irrigation District
<u> </u> County	<u> </u> Idaho Health & Welfare	<u> </u> Canal Company
<u> </u> Reservations	<u> </u> Division of Environment	<u> </u> Other <u> </u>

Project impacts/implications report

COMMENTS

MEMORANDUM

DATE: 19-Apr-1991

FROM: Loren Holmes *LH*

TO: Files 37-8569, 8570, 8571; Mc Mahan

SUBJECT: Action to date and current status

The three applications were advertised on December 6 & 13, 1989 with final date for protests December 26, 1989.

Timely protests were received from Bill Molyneux, Fish & Game, and Big Wood Canal Co. Molyneux did not protest application 37-8571.

A protest was received from Nick Purdy on December 28, 1989. He was advised that he had no standing as an original party, and has not filed any motion to intervene.

All timely protests have been withdrawn with the exception of Fish & Game's protest on 37-8570. Fish & Game's withdrawal on 37-8571 is conditional based on an agreed-on condition of approval.

It was noted during file review that the applicant had not been notified of the additional information requirements for fish propagation applications.

SUMMARY OF PROTEST & WITHDRAWAL DATES:

PROTESTANT	37-8569	37-8570	37-8571			
	PROTEST	W'DRAWN	PROTEST	W'DRAWN	PROTEST	W'DRAWN
Molyneux	12/18/89	2/12/90	12/18/89	2/12/90	--	--
F & G	11/20/89	12/20/90	11/20/89	Cont.	11/20/89	12/20/90 (Condition)
BWCC	12/19/89	2/6/90	12/19/89	2/6/90	12/19/89	2/6/90
Purdy	12/28/89		12/28/89		12/28/89	
(late protest, not a party)						

FURTHER ACTION:

- 1) Region will notify applicant of the Rule 4,5 and administrative requirements for information on fish propagation.
- 2) Applications 37-8569 & 37-8571 will be forwarded to the State Office and the applicant directed to send the additional information there.
- 3) Application 37-8570 will be scheduled for pre-hearing conference.

Microfilmed
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Apr-1991

James P. Speck
P.O. Box 987
Ketchum, ID 83340

Re: Applications 37-8569, 37-8570, 37-8571, Mc Mahan

Dear Mr. Speck:

I have reviewed the files and determined that all protests in the matters of 37-8569 and 37-8571 have been withdrawn. Those files are being forwarded to the state office for further action.

On review, I found that you had not been notified of the additional information requirements of Rule 4,5,3. of the Water Appropriation Rules & Regulations. A summary of the rule requirements for these applications is attached. Responses should be sent directly to the state office.

The Department of Fish & Game is the only continuing protestant on 37-8570. I will proceed to schedule a pre-hearing conference for some date after May 16.

If I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

Encl

MISFILED

JUL 27 1992

S. Region
5/89

Application No. 37-8569, 37-8570, 37-8571

ADDITIONAL INFORMATION REQUIREMENTS
FOR FISH PROPAGATION APPLICATIONS
FIVE (5) CFS AND LESS

The following additional information is required to be made part of the application file pursuant to IDAHO CODE section 42-203A and the Rules and Regulations for Water Appropriation:

- 1) Copies of deeds, leases, easments, or other information documenting that you have a possessory interest in the place of use. (Rule 4,5,3,3,1)
- 2) Copies of plans and specifications for the project works. The plans must be definite enough to allow for determination of project impacts and implications. For fish propagation facilities the plans must show the number of ponds proposed and give the length, width and depth dimensions of all ponds. (Rule 4,5,3,4,2)
- 3) You must seek comment on the effects of the construction and operation of the proposed project from the city and/or county within which the project is to be 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 project is to be located. (Rule 4,5,3,5,1) A copy of your application is enclosed for your use in seeking comments.

RECEIVED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Apr-1991

A. W. Molyneux
Box 400
Bellevue, ID 83313

Re: Applications 37-8569, 37-8570, Mc Mahan

Dear Mr. Molyneux:

The department acknowledges the withdrawal of your protest against approval of the above referenced applications.

The department will continue with normal processing of the applications.

Sincerely,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Apr-1991

Richard M. Oneida, Manager
Big Wood Canal Co.
P.O. Box C
Shoshone, ID 83352

Re: Applications 37-8569, 37-8570, 37-8571, Mc Mahan

Dear Mr. Oneida:

The department acknowledges the withdrawal of your protest against approval of the above referenced applications.

The department will continue with normal processing of the applications.

Sincerely,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Apr-1991

Stephen V. Goddard, Esq.
Idaho Dept. of Fish & Game
P.O. Box 25
Boise, ID 83707

Re: Applications 37-8569, 37-8570, 37-8571, Mc Mahan

Dear Mr. Goddard:

The department acknowledges the withdrawal of Fish and Game's protest against approval of applications 37-8569 and 37-8571.

The department will continue with normal processing of the applications.

Jim Speck has advised me that he will be out of town until May 16. I will plan to schedule a pre-hearing conference on application 37-8570 for soon after that.

If I can be of any assistance in this matter, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

c: Region 4

MICROFILMED
JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

December 21, 1990

Mr. Loren Holmes
Idaho Department of Water Resources
222 Shoshone St. East
Twin Falls, ID 83301

RECEIVED

DEC 21 1990

Department of Water Resources
Twin Falls, ID

Re: Applications for Permit 37-08569 and 08571 -
William A. McMahan

Dear Loren:

Attached is a copy of the December 18, 1990 letter to Keith Higgenson from Deputy Attorney General Steve Goddard withdrawing the protests filed by Fish & Game to the above-referenced Applications. Now that all of the protests to these Applications have been resolved, will you please do everything you can to expedite the processing of the Applications by the Department. Kindly contact me if any further information is needed from Mr. McMahan.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Jim
James P. Speck

JPS/j
(enclosures)
cc: Mr. William A. McMahan
Mr. Stephen V. Goddard

MICROFILMED

JUL 27 1992



RECEIVED

DEC 21 1990

Hogue, Speech & Consulting

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

RECEIVED

December 18, 1990

DEC 24 1990

Mr. Keith Higgenson, Director
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

Department of Water Resources
Southern Region Office

RE: Water Right Applications for Permit Nos. 37-08569, 37-08570, and
37-08571

Dear Mr. Higgenson:

In late 1989, Mr. William McMahan filed three Applications to appropriate water. These were 37-08569 for 2 cfs from an unnamed drain, 37-08570 for 3.8 cfs from Loving Creek, and 37-08571 for 5 cfs of groundwater. These applications were for year-round water use for wildlife habitat and fish propagation.

The Idaho Department of Fish and Game (hereinafter Fish and Game) timely filed protests to the applications because of the possible impact of the withdrawals on the operation of its Hayspur Fish Hatchery.

After discussions with counsel for McMahan, Fish and Game agrees to withdraw its protest to Application 37-08569 for water from an unnamed ditch.

Fish and Game and McMahan stipulate and agree that the following condition be placed on the permit issued for Application 37-08571 for groundwater.

The holders of senior water rights may seek review and amendment of the Permit and subsequent License in the event the withdrawal of groundwater pursuant to the permit or license adversely affects the senior water right holders or water rights for the Hayspur Hatchery. The burden of proof shall be upon the persons seeking such review and amendment.

MICROFILMED

JUL 27 1992

Mr. Keith Higgenson, Director
December 18, 1990
Page 2

If this condition is placed on this permit, Fish and Game will withdraw its protest. The attached letters reference the discussions and also the agreed upon language.

However, Fish and Game continues its protest of Application 37-08570 to divert 3.8 cfs of water, year-round from Loving Creek. Fish and game also intends to challenge Transfer Nos. 3198, 3199, and 3200 which transferred the diversion points for licensed rights 37-0252 (2.5 cfs) and 37-0712 (1.3 cfs) from Aubrey Spring and Aubrey Creek to Loving Creek because the diversion from Loving Creek would harm Fish and Game. Fish and Game also will challenge the transfers on the basis 3.8 cfs had not been put to beneficial use and that forfeiture may have taken place. During our discussions, Mr. McMahan was informed that Fish and Game would raise these challenges at the hearing on Application 37-08570. Since the parties were unable to resolve the issues surrounding the Application 37-08570, this matter should proceed to a hearing.

If you have any questions or desire further clarification, please let me know.

Sincerely,



Stephen V. Goddard
Deputy Attorney General

SVG:cb

Enclosure

c: James Speck
Bill Hutchinson
Carl Nellis

RECEIVED
DEC 21 1990

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

120 EAST AVENUE
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FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

September 20, 1990

EXPRESS MAIL

Mr. Steven V. Goddard
Department of fish & Game
P. O. Box 25
Boise, ID 83707

RECEIVED

DEC 24 1990

Department of Water Resources
Southern Region Office

Re: William A. McMahan - Applications for Permit Nos.
37-08569 and 08571

Dear Steve:

This letter will confirm our recent telephone conversations concerning the above-referenced Applications for Permit. First, the Department of Fish and Game (the "Department") will withdraw its protest to Application 37-08569 for the use of water from the unnamed ditch.

Second, the Department will also withdraw its protest to Application 37-08571 for the use of groundwater provided an appropriate condition is imposed on the Permit regarding pumping levels. I suggest the following language:

The holders of senior water rights may seek review and amendment of the Permit or subsequent License in the event the withdrawal of groundwater pursuant to the Permit or License causes such senior water right holders to pump groundwater from below established reasonable pumping levels. The burden of proof shall be upon the persons seeking such review and amendment.

Please let me know if this proposed language is acceptable. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Jim
James P. Speck

JPS/j

cc: William A. McMahan

MICROFILMED

JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
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HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

October 2, 1990

RECEIVED

IDFG

OCT 03 1990

LEGAL PERSONNEL

Steven V. Goddard, Esq.
Deputy Attorney General
Department of Fish & Game
Post Office Box 25
Boise, Idaho 83707

DEC 24 1990

Department of Water Resources
Southern Region Office

Re: William A. McMahan - Application for Permit
Nos. 37-08569, 08570 and 08571

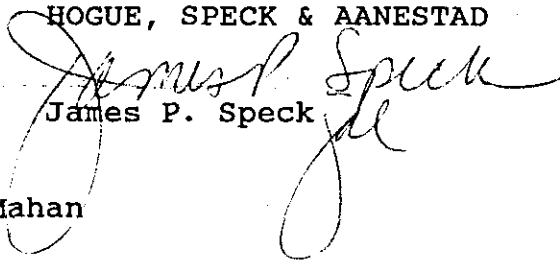
Dear Steve:

I called your office September 28, 1990 to see if you had an opportunity to review and respond to my September 20, 1990 letter. I was hoping to resolve the protest to 37-08569 and 37-08571 before I left the office. I will return November 5, 1990 at which time I want to continue to attempt to resolve the protest to 37-08570. I will contact you at that time.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/jal
cc: Mr. William A. McMahan

MICROFILMED

JUL 27 1992



Copy

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL
STEPHEN V. GODDARD
SUSAN MATTOS
DEPUTY ATTORNEYS GENERAL

DEPARTMENT OF FISH & GAME
600 S. WALNUT STREET
P.O. BOX 25
BOISE, IDAHO 83707
TELEPHONE: (208) 334-3715

November 13, 1990

RECEIVED

DEC 24 1990

Department of Water Resources
Southern Region Office

James P. Speck
Hogue, Speck & Aanestad
120 East Avenue
P.O. Box 987
Ketchum, ID 83340

Dear Mr. Speck:

This is written in response to your letter of October 2, 1990 and our earlier telephone conversations. The Department will withdraw its protest to Application 37-08569 for 2 cfs from an unnamed drain. The Department will also withdraw its protest to Application 37-08571 for the use of groundwater providing that an appropriate condition is added to the permit and subsequent license. The Department would agree to the following language in the condition:

The holders of senior water rights may seek review and amendment of the Permit and subsequent License in the event the withdrawal of groundwater pursuant to the permit or license affects the senior water right holders or water rights for the Hayspur Hatchery.

As you are aware from our earlier conversations, the Department is continuing its protest of Application 37-08570 and intends to challenge approval of the transfer of water rights from diversions on Thompson Creek (Aubrey Creek and Aubrey Springs, Transfer Numbers 3198, 3199, and 3200) on several grounds. The Department intends to challenge any diversion of water that reduces the amount of its water right to the Hayspur Hatchery.

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JUL 27 1992

Celebrate
IDAHO
1890 • CENTENNIAL • 1990

Mr. James P. Speck
November 13, 1990
Page 2

Please let me know if the above-referenced language is acceptable to you. If you approve, I will write the Water Resources Department and inform them of the situation.

Sincerely,



Stephen V. Goddard
Deputy Attorney General

SVG:cb

RECEIVED
JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

RECEIVED

DEC 24 1990

Department of Water Resources
Southern Region Office

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

November 29, 1990

VIA FACSIMILE/ORIGINAL TO FOLLOW BY MAIL

Facsimile Number: 1-334-2114

IDFG

DEC 03 1990

LEGAL/PERSONNEL

Stephen V. Goddard, Esq.
Deputy Attorney General
Department of Fish & Game
Post Office Box 25
Boise, Idaho 83707

Re: William A. McMahan - Application for Permit Nos.
37-08569 and 08571

Dear Steve:

This letter will confirm our telephone conversation on November 26, 1990. Mr. McMahan will stipulate and agree the following condition may be imposed on the Permit issued pursuant to Application For Permit No. 37-08571:

The holders of senior water rights may seek review and amendment of the Permit and subsequent License in the event the withdrawal of groundwater pursuant to the permit or license adversely affects the senior water right holders or water rights for the Hayspur Hatchery. The burden of proof shall be upon the persons seeking such review and amendment.

In return, it is my understanding the Department of Fish and Game (the "Department") will withdrawal its protest to this Application.

Second, the Department will withdraw its protest to Application for Permit No. 37-08569 for the use of water from the unnamed ditch.

I understand you will take the above-described actions on behalf of the Department by forwarding a letter to the Department of Water Resources. Please be certain a copy is sent to Mr. Loren Holmes, Manager of the Southern Regional office in Twin Falls. I also understand you will state in this same

MICROFILMED

JUL 27 1992

Stephen V. Goddard, Esq.
November 29, 1990
Page 2

letter, the Department's intention to continue its protest to
Application For Permit No. 37-08570.

Thank you for continuing to work with me to move these
matters ahead.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Jms
James P. Speck

JPS/rlk
cc: William McMahan

MICROFILMED
JUL 27 1992



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

RECEIVED
DEC 20 1990

Department of Water Resources

TELEPHONE
(208) 334-2400

RECEIVED

DEC 20 1990

Department of Water Resources
Southern Region Office

December 18, 1990

Mr. Keith Higgenson, Director
Idaho Department of Water Resources
Statehouse Mail
Boise, ID 83720

RE: Water Right Applications for Permit Nos. 37-08569, 37-08570, and
37-08571

Dear Mr. Higgenson:

In late 1989, Mr. William McMahan filed three Applications to appropriate water. These were 37-08569 for 2 cfs from an unnamed drain, 37-08570 for 3.8 cfs from Loving Creek, and 37-08571 for 5 cfs of groundwater. These applications were for year-round water use for wildlife habitat and fish propagation.

The Idaho Department of Fish and Game (hereinafter Fish and Game) timely filed protests to the applications because of the possible impact of the withdrawals on the operation of its Hayspur Fish Hatchery.

After discussions with counsel for McMahan, Fish and Game agrees to withdraw its protest to Application 37-08569 for water from an unnamed ditch.

Fish and Game and McMahan stipulate and agree that the following condition be placed on the permit issued for Application 37-08571 for groundwater.

The holders of senior water rights may seek review and amendment of the Permit and subsequent License in the event the withdrawal of groundwater pursuant to the permit or license adversely affects the senior water right holders or water rights for the Hayspur Hatchery. The burden of proof shall be upon the persons seeking such review and amendment.

RECEIVED

JUL 27 1992

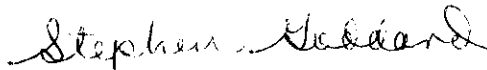
Mr. Keith Higgenson, Director
December 18, 1990
Page 2

If this condition is placed on this permit, Fish and Game will withdraw its protest. The attached letters reference the discussions and also the agreed upon language.

However, Fish and Game continues its protest of Application 37-08570 to divert 3.8 cfs of water, year-round from Loving Creek. Fish and game also intends to challenge Transfer Nos. 3198, 3199, and 3200 which transferred the diversion points for licensed rights 37-0252 (2.5 cfs) and 37-0712 (1.3 cfs) from Aubrey Spring and Aubrey Creek to Loving Creek because the diversion from Loving Creek would harm Fish and Game. Fish and Game also will challenge the transfers on the basis 3.8 cfs had not been put to beneficial use and that forfeiture may have taken place. During our discussions, Mr. McMahan was informed that Fish and Game would raise these challenges at the hearing on Application 37-08570. Since the parties were unable to resolve the issues surrounding the Application 37-08570, this matter should proceed to a hearing.

If you have any questions or desire further clarification, please let me know.

Sincerely,



Stephen V. Goddard
Deputy Attorney General

SVG:cb

Enclosure

c: James Speck
Bill Hutchinson
Carl Nellis

MICROFILMED
JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

120 EAST AVENUE
POST OFFICE BOX 987
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(208) 726-4421
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HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

September 20, 1990

EXPRESS MAIL

Mr. Steven V. Goddard
Department of fish & Game
P. O. Box 25
Boise, ID 83707

Re: William A. McMahan - Applications for Permit Nos.
37-08569 and 08571

Dear Steve:

This letter will confirm our recent telephone conversations concerning the above-referenced Applications for Permit. First, the Department of Fish and Game (the "Department") will withdraw its protest to Application 37-08569 for the use of water from the unnamed ditch.

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Please let me know if this proposed language is acceptable. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD

Jin
James P. Speck

JPS/j

cc: William A. McMahan

MICROFILMED

JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
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HAILEY, IDAHO 83333
(208) 788-3567

October 2, 1990

IDFG

OCT 03 1990
LEGAL/PERSONNEL

Steven V. Goddard, Esq.
Deputy Attorney General
Department of Fish & Game
Post Office Box 25
Boise, Idaho 83707

Re: William A. McMahan - Application for Permit
Nos. 37-08569, 08570 and 08571

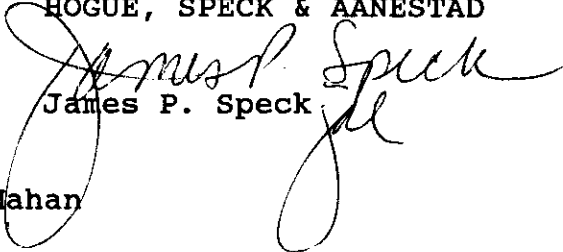
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Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/jal
cc: Mr. William A. McMahan

MICROFILMED

JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
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HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

November 29, 1990

VIA FACSIMILE/ORIGINAL TO FOLLOW BY MAIL

Facsimile Number: 1-334-2114

Stephen V. Goddard, Esq.
Deputy Attorney General
Department of Fish & Game
Post Office Box 25
Boise, Idaho 83707

IDFG

DEC 03 1990
LEGAL/PERSONNEL

Re: William A. McMahan - Application for Permit Nos.
37-08569 and 08571

Dear Steve:

This letter will confirm our telephone conversation on November 26, 1990. Mr. McMahan will stipulate and agree the following condition may be imposed on the Permit issued pursuant to Application For Permit No. 37-08571:

Insert { The holders of senior water rights may seek review and amendment of the Permit and subsequent License in the event the withdrawal of groundwater pursuant to the permit or license adversely affects the senior water right holders or water rights for the Hayspur Hatchery. The burden of proof shall be upon the persons seeking such review and amendment.

In return, it is my understanding the Department of Fish and Game (the "Department") will withdrawal its protest to this Application.

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I understand you will take the above-described actions on behalf of the Department by forwarding a letter to the Department of Water Resources. Please be certain a copy is sent to Mr. Loren Holmes, Manager of the Southern Regional office in Twin Falls. I also understand will state in this same

MICROFILMED

JUL 27 1992

Stephen V. Goddard, Esq.
November 29, 1990
Page 2

letter, the Department's intention to continue its protest to
Application For Permit No. 37-08570.

Thank you for continuing to work with me to move these
matters ahead.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS/rlk
cc: William McMahan

MICROFILMED
JUL 27 1992

RECEIVED

FEB 12 1990

Department of Water Resources
Southern Region Office

Feb. 7, 1990

Department of Water Resources
Southern Region
2148 4th. Ave. east
Twin Falls. Idaho 83301

Dear Sir:

In reg ard to William A. McMahan, permit #37-08569,
37-08570.

After attending the pre-hearing conference, I would
like to withdrow my protest.

Thank you
A.W. Molyneux

A.W. Molyneux
B440
Belleme
Id 83313

MICROFILMED

JUL 27 1992

Big Wood Canal Company

112 S. Apple P.O. Box C
Shoshone, Idaho 83352
886-2331

RECEIVED

FEB 8 - 1990

Department of Water Resources
Southern Region Office

February 6, 1990

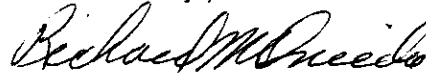
Loren O. Holmes, P. E.
Department of Water Resources
2148 4th Ave. East
Twin Falls, Idaho 83301

RE: Protest to Applications 37-08569,
37-08570, 37-08571 William A. McMahan

Dear Sir:

The Big Wood Canal Company would like to withdraw its
protest to the applications filed by William A. McMahan.

Sincerely,


Richard M. Oneida
Manager

RMO/lma

RECEIVED

JUL 27 1992

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

87-8563, 8570, 8571
Carl H. Nellis, Supervisor
Idaho Dept. of Fish & Game Region 4
P.O. Box 428
Jerome, ID 83338

4. Article Number

924

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt
for Merchandise

Always obtain signature of addressee
or agent and DATE DELIVERED.

5. Signature — Address

X

6. Signature — Agent

X

7. Date of Delivery

**NOT POSTAGE NECESSARY
IF MAILED IN THE UNITED STATES**
ONLY if
requested and fee paid

JUL 27 1992

UNITED STATES POST SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN
TO

MICROFILMED

JUL 27 1992

Print Sender's name, address, and ZIP Code in the space below.

DEPARTMENT OF WATER RESOURCES
2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301



RECEIVED

JAN 24 1990

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

37-3535, 3570, 3571
Richard M. Oneida, Manager
Big Wood Lumber Co.
P.O. Box 1
Shoshone, ID 83353

4. Article Number

923

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee

and DATE DELIVERED.

Addressed to addressee ONLY if requested and fee paid.

5. Signature — Addressee

X

6. Signature — Agent

X

7. Date of Delivery

1/27/90

JUL 27 1992

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

JAN 23 1990

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO

Print Sender's name, address, and ZIP Code in the space below.

RECEIVED

DEPARTMENT OF WATER RESOURCES
2148 4th AVENUE EAST
JUL 27 1992 TWIN FALLS, IDAHO 83301

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

William A. McManis
c/o James P. Speck
P.O. Box 937
Ketchum, ID 83340

4. Article Number

922

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Obtain signature of addressee
agent and **DATE DELIVERED.**

Addressee's Address (ONLY if
registered and fee paid)

5. Signature — Address

X

6. Signature — Agent

X

7. Date of Delivery

UNITED STATES POSTAL SERVICE
OFFICIAL BUSINESS



SENDER INSTRUCTIONS

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

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

JAN 23 1990



PENALTY FOR PRIVATE
USE, \$300

Department of Water Resources
Southern Region Office

RETURN

TO

RECEIVED

Print Sender's name, address, and ZIP Code in the space below.

JUL 27 1992

DEPARTMENT OF WATER RESOURCES

2148 4th AVENUE EAST

TWIN FALLS, IDAHO 83301

● **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

A. W. POLYMER
P.O. Box 400
Bellevue, ID 83813

37-8569, 8570

4. Article Number

925

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee

X 

6. Signature - Agent

X

8. Addressee's Address (ONLY if requested and fee paid)

7. Date of Delivery

1-26 Jan

UNITED STATES POST SERVICE
OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

JAN 29 1990

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

RETURN

Print Sender's name, address, and ZIP Code in the space below.

TO MICROFILMED

DEPARTMENT OF WATER RESOURCES
JUL 27 1992 2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

1. Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☒ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

37-5569, 8570, 8571
Deputy Attorney General
Idaho Dept. of Fish & Game
P.O. Box 35
Boise, ID 83707
JUL 27 1992

4. Article Number

926

Type of Service:

- ☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Address

X

6. Signature - Agent

X

[Signature]

7. Date of Delivery

JAN 22 1990

8. Addressee's Address (ONLY if requested and fee paid)

Box 25

Boise 83707

UNITED STATES POST SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

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

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

JAN 23 1990

Department of Water Resources
Southern Region Office



PENALTY FOR PRIVATE
USE, \$300

RETURN
TO

UNRECORDED

Sender's name, address, and ZIP Code in the space below.

JUL 27 1992
DEPARTMENT OF WATER RESOURCES
2148 4th AVENUE EAST
TWIN FALLS, IDAHO 83301

11/9/90

NAME AND ADDRESS OF SENDER **IDWR** 37-8569, 8570, 8571

Indicate type of mail
☐ Registered
☐ Insured
☒ COD
☐ Certified

Check appropriate block for
☐ Registered Mail
☐ With Postal Insurance
☐ Without Postal Insurance

Postmark and date of receipt stamp here if issued as certificate of mailing or for additional copies of this bill.

FOR REGISTERED, INSURED, C.O.D., CERTIFIED, AND EXPRESS MAIL

PS Form 3877, Feb. 1982

Line	Number of Article	Name of Addressee, Street, and Post-Office Address	Postage	Fee	Handling Charge	Act. Value (If Regis.)	Insured Value	Due Sender If C.O.D.	R. R. Fee	S. O. Fee	S. H. Fee
1	922 ✓	C/O James P. Speck Mc Mahon, William	.25	.85	.95	2.05					
2	923 ✓	C/O Richard Oyde Big Wood Canal Co.									
3	924 ✓	Attn: Carl Nellis I.D. Dept. Fish & Game, Region 4									
4	925 ✓	Molynaux, A.W. Deputy Atty. Gen.									
5	926 ✓	I.D. Dept. Fish & Game									
6		Freid Newby									
7		L.N. Purdy									
8											
9	927	Yraqui, Ed	.25	.85	.95						
10	928	Schnell, Ralph									
11											
12											
13											
14											
15											
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office	POSTMASTER, PER (Name of receiving employee)		The full declaration of value is required on all domestic and international parcels. Special delivery service also includes special handling service.						
6											

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

U.S. GOVERNMENT PRINTING OFFICE

RECEIVED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

Carl H. Nellis, Supervisor
Idaho Dept. of Fish & Game Region 4
P.O. Box 428
Jerome, ID 83338

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Mr. Nellis:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,

A handwritten signature in cursive script, reading 'Loren O. Holmes'.

Loren O. Holmes, P. E.
Southern Region Manager

CC: Deputy Attorney General
Idaho Dept. of Fish & Game
P.O. Box 25
Boise, ID 83707

MICROFILMED

JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

William A. McMahan
c/o James P. Speck
P.O. Box 987
Ketchum, ID 83340

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Mr. Speck:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,


Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED

JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

Richard M. Oneida, Manager
Big Wood Canal Co.
P.O. Box C
Shoshone, ID 83352

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Dick:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,

A handwritten signature in cursive script, reading 'Loren O. Holmes'.

Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED
JAN 27 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

A. W. Molyneux
P.O. Box 400
Bellevue, ID 83313

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Mr. Molyneux:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

JUL 27 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

Reid Newby
Watermaster, Water Dist. 37 & 37M
Box T
Shoshone, ID 83352

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Reid:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,

A handwritten signature in cursive script that reads 'Loren O. Holmes'.

Loren O. Holmes, P. E.
Southern Region Manager

MICROFILMED

JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

26-Jan-1990

L. N. Purdy
Picabo Livestock Co. Inc.
Box 688
Picabo, ID 83348

Re: Cancellation of pre-hearing conference, Applications by
William A. Mc Mahan

Dear Mr. Purdy:

Please be advised that the pre hearing conference scheduled for
Friday February 2, 1989 has been cancelled.

The date conflicted with the Idaho Water Users convention and the
parties have expressed a desire to negotiate prior to proceeding.

Very Truly yours,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED
JAN 27 1990



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

19-Jan-1990

L. N. Purdy
Picabo Livestock Co. Inc.
Box 688
Picabo, ID 83348

Re: Applications for permit 37-8569, 70, 71; William A. McMahan

Dear Mr. Purdy:

Your protest against the above referenced applications was received in this office on December 28, 1989, after the published final date for accepting protests of December 26, 1989. Therefore, pursuant to Idaho Code Section 42-203A, your protest cannot be considered timely.

Enclosed is a notice of a pre-hearing conference scheduled in the matter. Your participation at the conference is invited. It should enable you to determine whether you need to enter the matter as an intervenor.

If I can answer any questions regarding conference or hearing procedure, please let me know.

Very Truly yours,

A handwritten signature in cursive script that reads "Loren O. Holmes".

Loren O. Holmes, P. E.
Southern Region Manager

27 1992

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS)
FOR PERMIT TO APPROPRIATE)
WATER NOS. 37-8569, 37-8570,)
37-8571)

NOTICE OF
PRE-HEARING CONFERENCE

William A. McMahan)

Applicant)

SOURCE: Unnamed Drains
& Streams Tributary
to Loving Creek,
Groundwater

Big Wood Canal Co.,)
Idaho Department of Fish & Game,)
A. W. Molyneux)

Protestants)

COUNTY: Blaine

On September 22, 1989 and October 12, 1989, William A. Mc Mahan, applicant, filed applications with the Department of Water Resources to appropriate the public waters of the State of Idaho. The Department, having received protests against the approval of said applications from Idaho Dept. of Fish & Game on Nov. 20, 1989; A. W. Molyneux on Dec. 18, 1989; and Big Wood Canal Co. on Dec. 19, 1989, has set the combined matters for pre-hearing conference.

The conference is set for Friday, February 2, 1990, at 10:00 AM, in the Blaine County Planning & Zoning Commission room, in the Old Courthouse, First & Croy Streets, Hailey.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with chapter 2, Title 42 of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.

Dated this 19 day of January, 1990.

MICROFILM

Loren O. Holmes
Loren O. Holmes
Southern Region Manager

JUL 27 1992

CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

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

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and oral arguments to the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

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

RECEIVED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

January 3, 1989

A. W. Molyneux
P.O. Box 400
Bellevue, ID 83313

Re: Application for permit No. 37-08569, 37-08570;
William A. McMahan

Dear Mr. Molyneux:

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

This office is tentatively scheduling the matter of protests for a pre-hearing conference for February 1, 1990. Notices formally setting the conference time and place will be mailed about January 18.

At such a conference, the following are the principal items the Department can consider in either approving or denying an application for permit (Section 42-203, IDAHO CODE):

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

MICROFILMED
JUL 27 1992

Page 2

Re: Application for permit No. 37-08569, 37-08570;
William A. McMahan

January 3, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,

Loren O. Holmes

Loren O. Holmes, P. E.
Southern Region Manager

NOT RECORDED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

January 3, 1989

Carl H. Nellis, Supervisor
Idaho Dept. of Fish & Game Region 4
P.O. Box 428
Jerome, ID 83338

Re: Application for permit No. 37-08569, 37-08570, 37-08571;
William A. McMahan

Dear Mr. Nellis:

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

This office is tentatively scheduling the matter of protests for a pre-hearing conference for February 1, 1990. Notices formally setting the conference time and place will be mailed about January 18.

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- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?

MICROFILMED
JUL 27 1992

Page 2

Re: Application for permit No. 37-08569, 37-08570;
William A. McMahan

January 3, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

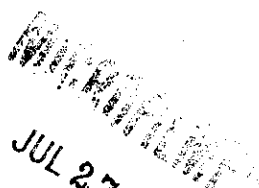
If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,


Loren O. Holmes, P. E.
Southern Region Manager

CC:

Deputy Attorney General
Idaho Dept. of Fish & Game
P.O. Box 25
Boise, ID 83707


JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

January 3, 1989

Richard M. Oneida, Manager
Big Wood Canal Co.
P.O. Box C
Shoshone, ID 83352

Re: Application for permit No. 37-08569, 37-08570, 37-08571;
William A. McMahan

Dear Mr. Oneida:

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

This office is tentatively scheduling the matter of protests for a pre-hearing conference for February 1, 1990. Notices formally setting the conference time and place will be mailed about January 18.

At such a conference, the following are the principal items the Department can consider in either approving or denying an application for permit (Section 42-203, IDAHO CODE):

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

MICROFILMED

JUL 27 1992

Page 2

Re: Application for permit No. 37-08569, 37-08570, 37-08571

January 3, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,

Loren O. Holmes
Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED
JUL 27 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

January 3, 1989

William A. McMahan
c/o James P. Speck
P.O. Box 987
Ketchum, ID 83340

Re: Application for permit No. 37-08569, 37-08570, 37-08571

Dear Mr. Speck:

Enclosed are copies of protests filed against the issuance of permits pursuant to your above referenced applications. The Department suggests you contact the protestants directly in an effort to determine nature of the protests and to attempt to resolve the protests.

This office is tentatively scheduling the matter of protests for a pre-hearing conference for February 1, 1990. Notices formally setting the conference time and place will be mailed about January 18.

At such a conference, the following are the principal items the Department can consider in either approving or denying an application for permit (Section 42-203, IDAHO CODE):

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

MICROFILMED
JUL 27 1992

Page 2

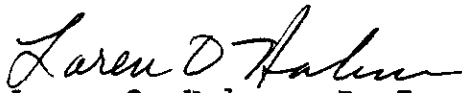
Re: Application for permit No. 37-08569, 37-08570, 37-08571

January 3, 1989

The purpose of the pre-hearing conference is to determine whether the matter can be resolved without a formal hearing and, if a hearing is required, to formulate and simplify issues, obtain admission of fact and documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses and advise parties of the procedure which will be followed at the hearing to be scheduled.

If you have any questions, or if this office can be of assistance in this matter, please contact us.

Very Truly yours,


Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED
JUL 27 1992

PICABO LIVESTOCK CO., Inc.

BOX 688

PICABO, IDAHO 83348

December 27, 1989

RECEIVED

DEC 28 1989

Department of Water Resources
2148 4th Ave East
Twin Falls, Idaho 83301

Department of Water Resources
Southern Region Office

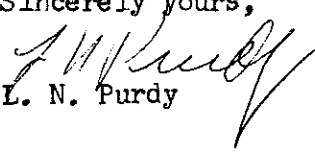
Dear Sir:

I would like to protest the following applications for
water permits filed by William A. McMahan:

No 37-085-69	Surface Water
No 37-085-70	Surface Water
No 37-085-71	Ground Water

The reason for my protest is that until I have more information on these filings, I do not know how they might effect the Picabo Livestock water rights on Silver Creek.

Sincerely yours,


L. N. Purdy

MICROFILMED

JUL 27 1992

Big Wood Canal Company

112 S. Apple P.O. Box C
Shoshone, Idaho 83352
886-2331

RECEIVED

DEC 19 1989

Department of Water Resources
Southern Region Office

December 18, 1989

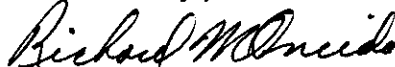
R. Keith Higginson, Director
Department of Water Resources
2148 4th Ave. East
Twin Falls, Idaho 83301

RE: Water Right Applications 37-08569,
37-08570 & 37-08571

Dear Sir:

The Big Wood Canal Company would like to protest the applications filed by William A. McMahan c/o James P. Speck, ESQ., of Ketchum, Idaho on the grounds that such use could be detrimental to Big Wood water rights.

Sincerely,



Richard M. Oneida
Manager

RMO/lma

RECEIVED

JUL 27 1992

Department of Water Resources
2148 4th Avenue East
Twin Falls, ID 83301

Re: Application for permits 887-06369 & 87-08870
Name of William A. McNichols

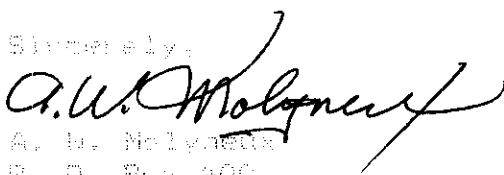
Dear Sirs:

I wish to take this opportunity to protest the approval of the above Application for Permits to appropriate waters of unnamed source tributary to Loving Creek.

My reasons are, if approved this diversion will take water above my diversion known as Patterson #1E from Loving Creek, and does not return this water to Loving Creek until below my diversion point. I am of the opinion that this will definitely create a problem in delivery of my diverted water, as well as delivery of the Idaho Fish & Game Hatchery Fish Hatchery water rights from Loving Creek.

I strongly protest the granting of the approval of these applications to appropriate water from this source.

Sincerely,


A. W. McNichols
P. O. Box 400
Bellevue, ID 83312

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DEC 18 1989

Department of Water Resources
Southern Region Office

MICROFILMED

JUL 27 1990



IDAHO FISH & GAME

REGION 4
868 East Main Street
Jerome, ID 83338
(208) 324-4350

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NOV 20 1989

Department of Water Resources
Southern Region Office

November 16, 1989

Idaho Department of Water Resources
Attention: James E. Stanton
2148 4th Ave. East
Twin Falls, ID 83301

Re: Application Nos. 37-08569, 37-08570, 37-08571

Dear Mr. Stanton:

Due to the proximity of the Hayspur Hatchery and potential impacts on water sources for the hatchery, we are protesting the granting of the above mentioned water rights. Of special importance is the 3.8 c.f.s. in Application No. 37-08570 since this would result in a 28% reduction in the fish producing capability of the hatchery.

Sincerely,

Carl H. Nellis
Supervisor, Region 4

NOT RECORDED

JUL 27 1992

Cecil D. Andrus / Governor
Jerry M. Conley / Director



Working for wildlife since 1938

37-08569

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: UNNAMED DRAIN

Tributary: LOVING CREEK

Diversion Pt: NENESE Sec 14 T 01S R 19E
 SENESE Sec 14 T 01S R 19E

Use: WILDLIFE (2.000 CFS)
 FISH PROPAGATION (2.000 CFS)

Date Filed: 10/12/1989

In: T01S R19E S13 NWSW
 S14 NESE

MICROFILMED

JUL 27 1997

L

**NOTICE OF APPLICATION
FOR WATER RIGHT**

The following application(s) have
been filed to appropriate the pub-
lic waters of the State of Idaho:

37-08569

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: UNNAMED DRAIN
Tributary: LOVING CREEK
Diversion Pt: NENESE Sec 14 T
01S R 19E; SENESE Sec 14 T 01S
R 19E
Use: WILDLIFE (2.000 CFS)
FISH PROPAGATION (2.000 CFS)
Date Filed: 10/12/1989
In: T01S R19E S13 NWSW
S14 NESE

37-08570

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: UNNAMED STREAM
Tributary: LOVING CREEK
Diversion Pt: NWNENE Sec 14 T
01S R 19E
Use: WILDLIFE (3.800 CFS)
FISH PROPAGATION (3.800 CFS)
Date Filed: 9/22/1989
In: T01S R19E S13 NWSW
S14 NESE

37-08571

MC MAHAN, WILLIAM A.
C/O JAMES P. SPECK, ESQ.
P.O. BOX 987
KETCHUM, ID 83340

Source: GROUNDWATER
Diversion Pt: SESENE Sec 14 T
01S R 19E
Use: WILDLIFE (5.000 CFS)
FISH PROPAGATION (5.000 CFS)
Date Filed: 9/22/1989
In: T01S R19E S13 NWSW
S14 NESE

The permit(s) will be subject to all
prior water rights. Protests may
be submitted based on the criteria
of Sec. 42-203A, Idaho Code,
and/or the new public interest cri-
teria of Sec. 42-203C, Idaho Code.
Protests must be filed with the Di-
rector, Dept. of Water Resources,
2148 4th Avenue East, Twin Falls,
Idaho 83301, on or before DE-
CEMBER 26, 1989.

R. Keith Higginson, Director

Publish: Wood River Journal-De-
cember 6 & 13, 1989.

OK
MB
11-20-89

RECEIVED

NOV 20 1989

Department of Water Resources
Southern Region Office

The permit(s) will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code and/or the new public interest criteria of Sec. 42-203C, Idaho Code. Protests must be filed with the Director, Dept. of Water Resources, 2148 4th Avenue East, Twin Falls, Idaho 83301 on or before DECEMBER 26, 1989.

R. Keith Higginson, Director

Published 12/06/1989 & 12/13/1989

ENCLOSURE

JUL 27 1992

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

MICROFILMED

JUL 27 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region
2148 4th Avenue East
Twin Falls, ID 83301
(208)734-3578

NOVEMBER 13, 1989

WOOD RIVER JOURNAL
P.O. BOX 988
HAILEY, ID 83333

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. 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 DECEMBER 26, 1989.

Yours truly,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

MICROFILMED

JUL 27 1992

13-Nov-1989

James P. Speck, Esquire
P.O. Box 987
KETCHUM ID 83340

Re: Applications for Permit Nos. 37-08569, 37-08570, 37-08571 (Mc Mahan)

Dear Mr. Speck:

The Department of Water Resources acknowledges receipt of the water right application for permit on behalf of William A. McMahan. The applications have been assigned the above referenced identification numbers. Please refer to these numbers in all further correspondence.

This office will be advertising the applications in the Wood River Journal on 12/6 & 12/13/89. A period of ten days following the second publication will be allowed for the submittal of protests.

If the application is protested you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

Please see enclosed list of additional information requirements. Please feel free to contact this office if you have any questions regarding this procedure.

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB
Enclosure

RECEIVED

JUL 27 1992

13-Nov-1989

Reid Newby, Watermaster
Water District #37
Box T
SHOSHONE ID 83352

Re: Applications for Permit Nos. 37-08569, 37-08570,
37-08571

Dear Mr. Newby:

Please find enclosed copies of Applications for Permit for
your information and files.

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

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

Enclosures

RECEIVED

JUL 27 1992

13-Nov-1989

Idaho Dept. of Fish & Game
P.O. Box 428
Jerome, ID 83338

Re: Applications for Permit Nos. 37-08569, 37-08570,
37-08571, 72-07427

Gentlemen:

Please find enclosed copies of Applications for Permit for
your information and files.

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

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

Enclosures

MICROFILMED
JUL 27 1992

S. Region
5/89

Application No. 37-08569

ADDITIONAL INFORMATION REQUIREMENTS
FOR FISH PROPAGATION APPLICATIONS
FIVE (5) CFS AND LESS

The following additional information is required to be made part of the application file pursuant to IDAHO CODE section 42-203A and the Rules and Regulations for Water Appropriation:

- 1) Copies of deeds, leases, easements, or other information documenting that you have a possessory interest in the place of use. (Rule 4,5,3,3,1)
- 2) Copies of plans and specifications for the project works. The plans must be definite enough to allow for determination of project impacts and implications. For fish propagation facilities the plans must show the number of ponds proposed and give the length, width and depth dimensions of all ponds. (Rule 4,5,3,4,2)
- 3) You must seek comment on the effects of the construction and operation of the proposed project from the city and/or county within which the project is to be 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 project is to be located. (Rule 4,5,3,5,1) A copy of your application is enclosed for your use in seeking comments.

MICROFILMED

JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

OF

ATTORNEYS

120 EAST AVENUE

POST OFFICE BOX 987

KETCHUM, IDAHO 83340

(208) 726-4421

TELECOPIER (208) 726-0752

HAILEY OFFICE:

16 WEST CROY STREET

SUITE K

POST OFFICE BOX 460

HAILEY, IDAHO 83333

(208) 788-3567

TERRY G. HOGUE

JAMES P. SPECK

DOUGLAS J. AANESTAD

J. STEPHEN CRABTREE

TRACY DUNLAP

November 9, 1989

RECEIVED

NOV 13 1989

Mr. James Stanton
Department of Water Resources
2148 - 4th Avenue East
Twin Falls, Idaho 83301

Department of Water Resources
Southern Region Office

Re: William A. McMahan - Applications for Permit -
Wildlife Habitat and Fish Propagation

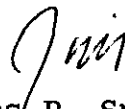
Dear Jim:

This letter will confirm our telephone conversation of November 6, 1989 wherein I explained Mr. McMahan desires to specify wildlife habitat and non-commercial fish propagation as the proposed beneficial uses for the three Applications for Permit he recently filed. We understand the Department does not have specific categories in its computerized database to cover these particular beneficial uses. However, we firmly believe these uses most appropriately describe the proposed project and wish to proceed in that fashion. It is my understanding the processing of these applications will now proceed accordingly.

Thank you again for your continuing cooperation and assistance. Please do not hesitate to call me should you have any further questions about these Applications.

Sincerely yours,

HOGUE, SPECK & AANESTAD



James P. Speck

JPS/jal

cc: Mr. William A. McMahan

JUL 27 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 2148 4th Ave. East, Twin Falls, Idaho 83301 (208) 734-3578

CECIL D. ANDRUS
Governor

October 10, 1989

R. KEITH HIGGINSON
Director

RECEIVED

Hogue, Speck & Aanestad Attorneys At Law
P.O. Box 987
Ketchum, Idaho 83340
Dear Applicant:

OCT 11 1989

Hogue, Speck & Aanestad

Returned herewith is your application for a water permit and any fees submitted.

Preliminary review of the application indicates that some of the information required to make the application acceptable for receipt by the department needs to be completed or clarified.

The attached checklist shows which items need to be completed.

If you need assistance in completing an application, please feel free to contact this office at (208) 734-3578 or visit us at 2148 4th Ave. East, Twin Falls.

Very Truly yours,

Loren O. Holmes, P. E.
Southern Region Manager

RECEIVED

OCT 12 1989

Department of Water Resources
Southern Region Office

*Loren -
Sorry! - Ken's
new check for \$65 -
Jim*

MICROFILMED

JUL 27 1992

37-08569

DEPARTMENT OF WATER RESOURCES - SOUTHERN REGION
APPLICATION PRELIMINARY REVIEW REPORT

Applicant _____

Correction or completion of the following items is required before the application can be accepted for processing by the department:

() Name _____

() Address _____

() Source of water _____

() Point of Diversion _____

() County _____

() Quantity (Flow and/or Volume) _____

() Period of use _____

() Nature of proposed use _____

() Description of diverting works _____

() Time required for beneficial use _____

() Place of use _____

() Map _____

() Signature (If applicant is a corporation, partnership, or municipality, title of signator is required) _____

(X) Fee Correct fee for 2 CFS is \$65.00

ENCLOSURES

The following are enclosed for your use in making a complete application

() Application form

() Instructions

() Map (For use as the required application map)

Reviewed by _____

RECEIVED
JUL 27 1992

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION

OF

ATTORNEYS

120 EAST AVENUE

POST OFFICE BOX 987

KETCHUM, IDAHO 83340

(208) 726-4421

TELECOPIER (208) 726-0752

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
J. STEPHEN CRABTREE
TRACY DUNLAP

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567

October 2, 1989

RECEIVED

OCT 06 1989

Mr. Loren Holmes
Department of Water Resources
2148 4th Ave. East
Twin Falls, Idaho 83301

Department of Water Resources
Southern Region Office

RE: William A. McMahan
Applications for Permit - Fish Propagation and Wildlife
Habitat

Dear Loren:

Enclosed you will find the following:

1. Application for Permit for Fish Propagation and Wildlife Habitat using waters of the unnamed drain;
2. Revised first page of Application for Permit for Fish Propagation and Wildlife Habitat using waters of Loving Creek;
3. Revised first page of Application for Permit for Fish Propagation and Wildlife Habitat using groundwater; and
4. A check in the sum of \$30.00 payable to the Department for Application fee for item 1.

As we discussed during our on-sight meeting on September 25, 1989, Mr. McMahan is proceeding with the construction of the pond and stream system and the ditches and pipelines necessary to divert the waters from Loving Creek into this system and return water back to Loving Creek. It is my understanding this work does not require any stream alteration permits. The proper "404 Permit" has been applied for through the U.S. Army Corps of Engineers. The pond excavation work will also improve the diversion works for Idaho Water License No. 37-02575, an irrigation right owned by Mr. McMahan.

I would like to have all three of these Permits processed and notice published at the same time since they are all part of the same wildlife habitat and fish propagation system project.

NOT RECORDED

JUL 27 1992

37-08569

Mr. Loren Holmes
October 2, 1989
Page 2

Mr. McMahan and I again thank you for taking the time and energy to visit the site of the project and thoroughly discuss the various possibilities as well as the legal requirements for perfecting all the necessary water rights to do this project. As you know, Mr. McMahan is very excited about creating a "natural" system for the fish and other native wildlife. We certainly hope you will again come visit the project once it has been completed.

Please call me if you have any questions. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD



James P. Speck

JPS:rlk
enc.
cc: Mr. McMahan(w/enc.)

RECORDED

JUL 27 1992