

AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho, }
County of Jerome } SS.

FEB 28 1991

Department of Water Resources
Southern Region Office

Patty Nance, being first duly sworn, deposes and says that he is the printer (publisher) of the Jerome North Side News, a newspaper published every week in Jerome, County of Jerome, 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 20th day of Feb.

1991, and the date of the last publication was on the 27th

day of Feb., 1991.

Subscribed and sworn to before me this 27th

day of Feb., 1991.
(SEAL)

Vincent Grandjean
NOTARY PUBLIC

NORTH SIDE NEWS

Jerome, Idaho

COST OF PUBLICATION

Numer of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2X

Lines tabular at _____ 6¢/Pica

Lines straight at 23.91 5¢/Pica

Subsequent lines at 19.13 4¢/Pica

TOTAL COST 43.04

COPY OF NOTICE

(Paste Here)

TITLE OF NOTICE

R. Yanke
36-08573
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

NOTICE OF APPLICATION FOR WATER RIGHT

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

36-08573

YANKE, RONALD C.

P.O. BOX 5405

BOISE, ID 83705

Source: WASTE WATER— Tributary: SNAKE RIVER

Diversion Pt: LOT 14 (SWSWNE) Sec 29 T 09S R 17E

LOT 11 (SWNWNW) Sec 29 T 09S R 17E

Use: WATER QUAL. IMPROVEMENT (4.000 CFS)

Total Diversion: (4.000 CFS)

Date Filed: 12/21/1990

In: T09S R17E S19 Lot 13 (SWSE) Lot 13 (SESE)

S29 Lot 12 (SWNE) Lot 9 (NENW) Lot 10 (NWNW) Lot 11 (SWNW)

Lot 11 (SENW) Lot 15 (NESW) Lot 16 (NWSW) Lot 17 (SESW)

Lot 14 (NWSE) Lot 18 (SWSE) Sec 30 Lot 8 (NENE) Lot 9 (NWNE) Lot 13 (SENE)

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, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before MARCH 11, 1991.

R. Keith Higginson, Director
Pub: 2-20, 27 N5251

No 3486

AUG 22 1991

5251

RECEIVED
JUN 4 1992

OFFICE USE ONLY
Amt. of Fee \$ 175.00
Date 6-4-92
Receipt No. 6024415
Receipt by [Signature]

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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. 36-08573 Telephone No. 326-3237

2. Name(s) of Permit Holder(s): Pristine Springs Inc

3. Mailing Address: RT#1 Box 1204 Filer, Idaho 83328

4. Source of Water: Waste water 6/4/92 Klg
Water quality improvement is accomplished by processing fish
effluent through land application
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 Water Quality Improvement

6. Total rate and/or volume for which proof is submitted 4.00 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: \$ 175.00 (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.

Pristine Springs Inc Rick Eggleston 326-3237
Name Telephone No.

RT# 1 Box 1204 Filer, Idaho 83328
Address

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

MICROFILMED

JUN 24 1992

6/1/92
Date

Rick Eggleston
Signature (and title if on behalf of a company or organization)

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 36-08573

Proposed Priority: December 21, 1990 Maximum Diversion Rate: 4.00 CFS
This is to certify, that **PRISTINE SPRINGS INC.**

4075 N. 2000 E.
FILER, ID 83328

has applied for a permit to appropriate water from:

WASTE WATER tributary of **SNAKE RIVER**

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>
WATER QUAL. IMPROVEMENT	01/01 to 12/31	4.00 CFS

LOCATION OF POINT(S) OF DIVERSION: LOT 11(SWNWNW), Sec. 29, Township 09S, Range 17E
LOT 14(SWSWNE), Sec. 29, Township 09S, Range 17E
JEROME County

PLACE OF USE: WATER QUAL. IMPROVEMENT
TWN RGE SEC

09S 17E 19	LOT 13(SWSE)	LOT 13(SESE)	
29	LOT 12(SWNE)	LOT 9(NENW)	LOT 10(NWNW)
	LOT 11(SWNW)	LOT 11(SENW)	LOT 15(NESW)
	LOT 16(NWSW)	LOT 17(SESW)	LOT 14(NWSE)
	LOT 18(SWSE)		
30	LOT 8(NENE)	LOT 9(NWNE)	LOT 13(SENE)

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **August 3, 1992**.
2. Subject to all prior water rights.
3. Any license issued by IDWR pursuant to the permit or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
4. Diversion and use of water under this permit is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
5. The Director retains jurisdiction of the permit and/or subsequent license issued to change, add or remove any requirement as determined to be appropriate.
6. Water Quality Improvement is accomplished by processing fish effluent through land application.
7. Prior to diversion of water under this permit, the permit holder must obtain approval of the Idaho Department of Health and Welfare, Division of Environmental Quality.

MICROFILMED
AUG 22 1991

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 36-08573

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

2nd day of August, 19 91.

for J. Glen Saxton
R. Keith Higginson, Director

RECEIVED

AUG 22 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF APPLICATION FOR PERMIT

I, Ronald C. Yanke, hereby assign to PRISTINE SPRINGS, INC.

Of, 4075 North 2000 East, Filer, Idaho 83328
(Full Address)

All my right, title, and interest in and to Application for Permit
No. 36-08573 to appropriate the public waters of the State of Idaho.

Or (for partial assignments)

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

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

Made this 11th day of June, 1991.

Ronald C. Yanke
Ronald C. Yanke, Applicant

State of Idaho)

Linda L. Yanke
ss Linda L. Yanke, Spouse of Applicant

County of ADA)

On this 11th day of June, 1991, personally appeared before me the signer of the
above instrument, duly acknowledged to me that he (she) (they) executed the same.

[Signature]
Notary Public
Residing at: BOSU

seal

My commission expires: 7/12/95

AUG 22 1991

RECEIVED

Form 202 DEC 21 1990
6/85

Ident. No. 36-08573

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Ronald C. Yanke Phone 342-8901
Post office address P.O. Box 5405, Boise, ID 83705
2. Source of water supply Wastewater which is a tributary of Sage R.
3. Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot 11
Sec. 29 Township 9S Range 17E B.M. Jerome County; additional
points of diversion if any: Lot 14 (SW/SW/NE) Sec. 29 T.9S R.17E
4. Water will be used for the following purposes:
Amount 4.0 for Water Quality purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum) Improvement
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 4.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Diversion from existing fish-raising facility to holding ponds. Pump from ponds to sprinklers
 - 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? _____
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).

AUG 22 1991

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. Improvement of water quality of fish-pond effluent thru
land application of collected waste & portion of the discharge water

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.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
95	17E	29			Lt 12 X		Lt 9 X	Lt 10 X	Lt 11 X	Lt 11 X	Lt 15 X	Lt 16 X		Lt 17 X		Lt 14 X	Lt 18 X		
		19															Lt 13 X	Lt 13 X	
		30	Lt 8 X	Lt 9 X		Lt 13 X													

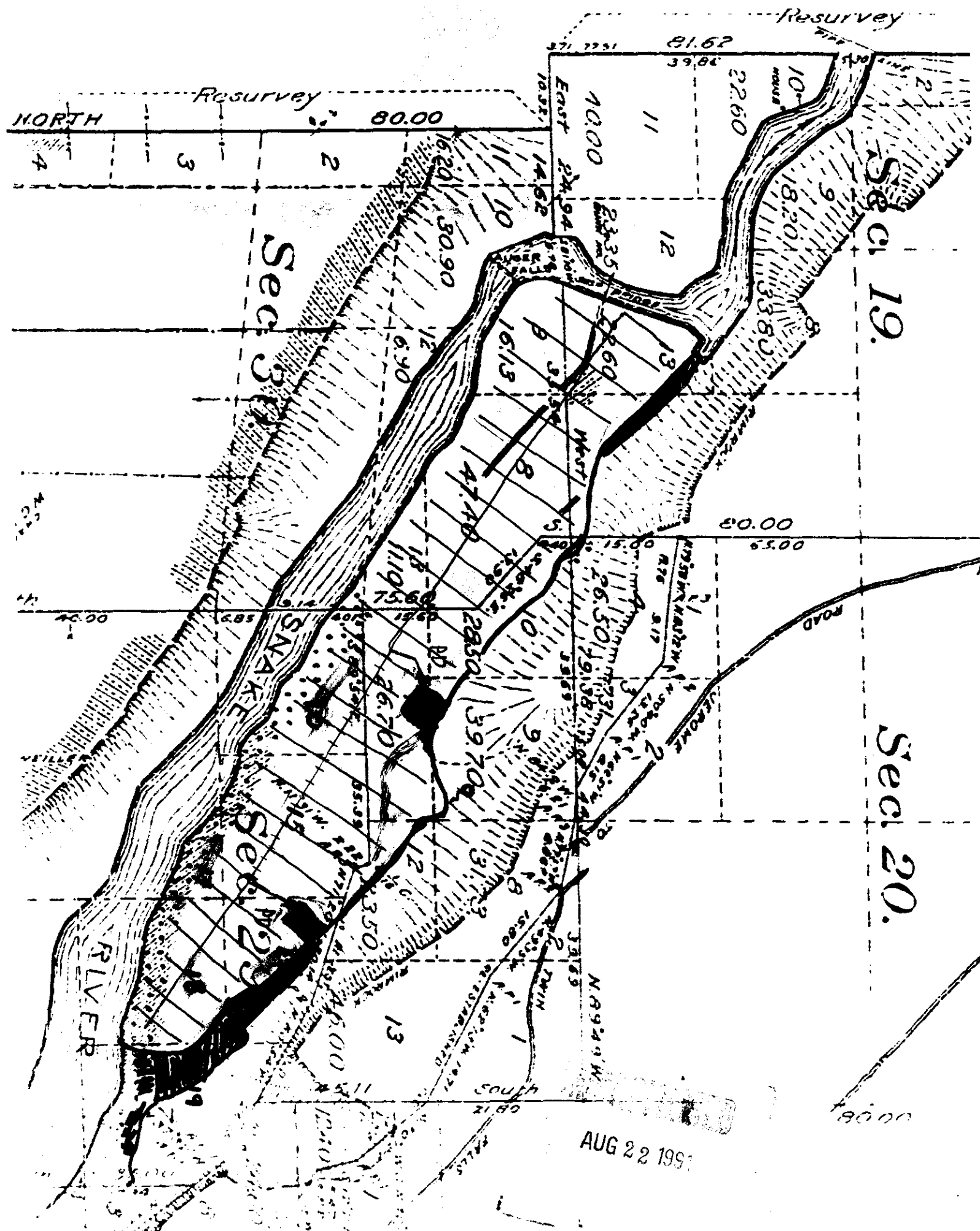
Total number of acres to be irrigated _____

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

- Who owns the property at the point of diversion? Applicant
- Who owns the land to be irrigated or place of use? "
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Water is diverted from Alpheus Cr. for fish propagation under License
36-2603 (27.2 cfs). Flow from this source will not increase under this
application.

AUG 22 1991



A full-page view of a blank sheet of graph paper. The grid consists of small squares formed by thin black lines. In the lower right quadrant, there is a faint, rectangular stamp. The stamp contains the word "RECEIVED" at the top, followed by some illegible text, and the date "AUG 22 1991" at the bottom.

C. B. [Signature]
(Applicant)
Power of Attorney

Received by J. E. Stanton Date 12/21/90 Time 11:40 AM Preliminary check by DRJ
Fee \$ 105.00 Received by L. B. # 5012904 Date 12/21/90
Publication prepared by M. B. Baldwin Date 2-11-91 Published in North Side News
Publication approved M. Baldwin Date 3-26-91

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:

RECORDED

AUG 22 1991

RECEIVED

DEC 21 1990

P.2

Department of Water Resources
Southern Region Office

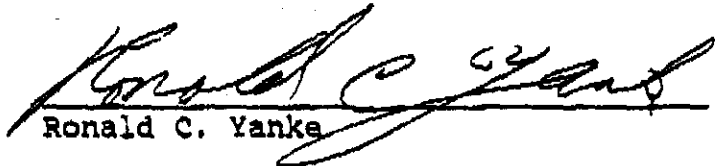
SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That I, RONALD C. YANKE have made, constituted, and appointed, and by these presents do make, constitute and appoint BISHOP BEYMER of Twin Falls, Idaho, as my true and lawful Attorney-in-Fact for and in my name, place and stead, and for my use and benefit as follows:

To sign on my behalf all applications and documents which may be required by the Idaho Department of Water Resources pertaining to the filing of Application No. 36-7757, Amended for the appropriation of 215 cfs of water, and for an application for a change in use designation for 4 cfs of water under License No. 36-2603, providing both applications for use on those parcels of real property owned by me in Jerome County, Idaho.

Giving and granting unto said Attorney-in-Fact full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the above stated premises, as fully to all intents and purposes as the undersigned might or could do if personally present, and hereby ratifying and confirming all that said Attorney-in-Fact shall lawfully do or cause to be done in the above stated premises by virtue of these presents.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the 21st day of December, 1990.


Ronald C. Yanke

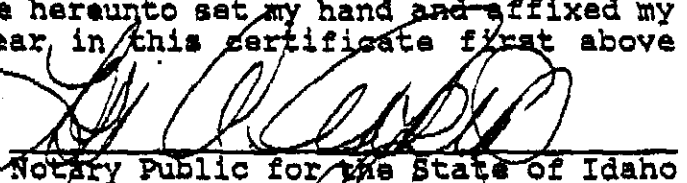
STATE OF IDAHO)
) ss
COUNTY OF ADA)

On this 21st day of December in the year 1990, before me, a Notary Public, for the State of Idaho, personally appeared RONALD C. YANKE and acknowledged to me that he is the person described in the above Special Power of Attorney and acknowledged to me that he executed the same.

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

(SEAL)

AUG 22 1991


Notary Public for the State of Idaho

Residing at: 

My commission expires: 7/12/95

36-08573

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State of Idaho, }
County of Jerome } SS.

FEB 28 1991

Department of Water Resources
Southern Region Office

Patty Nance, being first duly sworn, deposes and says that he is the printer (publisher) of the Jerome North Side News, a newspaper published every week in Jerome, County of Jerome, 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 20th day of Feb

1991, and the date of the last publication was on the 27th

day of Feb, 1991.

Patty Nance

Subscribed and sworn to before me this 27th

day of Feb, 1991.

(SEAL)

Robert C. Grandage
NOTARY PUBLIC

NORTH SIDE NEWS

Jerome, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 2 X

Lines tabular at 1 6¢/Pica

478.1 Lines straight at 23.91 5¢/Pica

Subsequent lines at 19.13 4¢/Pica

TOTAL COST 43.04

COPY OF NOTICE

(Paste Here)

TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

YANKE DONALD C.
P.O. BOX 248
8008 S. 27TH
SUNNYVALE, CALIF. 94586
Source: WASTE WATER - Treating
SHAKE RIVER
DIVISION PLOT 14 (SW 1/4) Sec 20
T 08S R 17E
LOT 11 (SW 1/4) Sec 20 T 08S R
17E
WATER OASIS ENVIRONMENT
(L 200 CF)
Total Division 14,000 CF
Daily Peak 1,000 GPM
In: T 08S R 17E Lot 12 (SW 1/4) Lot
13 (SE 1/4)
Sec 20 Lot 12 (SW 1/4) Lot 13 (SE 1/4) Lot
10 (NW 1/4) Lot 11 (SW 1/4)
Lot 11 (SE 1/4) Lot 12 (NE 1/4) Lot 13
(NW 1/4) Lot 17 (SW 1/4)
Lot 14 (NW 1/4) Lot 15 (SW 1/4)
Sec 20 Lot 16 (SW 1/4) Lot 17 (SW 1/4)
Lot 18 (SW 1/4)
The permits will be subject to all other
water rights. Permits may be submitted
based on the criteria of Sec. 42-2004,
Idaho Code and/or the new public in-
terest criteria of Sec. 42-2005, Idaho
Code. Permits must be filed with the
Director, Dept. of Water Resources, 222
Shoshone St., 2nd Fl., Boise, Idaho
83725-1000.
Feb. 28, 91

OK
MB
3-26-91

AUG 22 1991

No 3486

5.251

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

Attorneys & Counselors at Law

Fritz X. Haemmerle
Jennifer L. K. Haemmerle

P. O. Box 1800
Hailey, ID 83333

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

February 10, 2003

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

RECEIVED

FEB 12 2003

Department of Water Resources
Southern Region

RECEIVED

FEB 14 2003

Department of Water Resources

Re: *Correspondence Relating to Pristine Springs, Inc.*

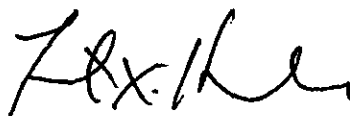
Dear Mr. Merritt:

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

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

Sincerely,

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



Fritz X. Haemmerle

FXH: fxh
cc: client

W. data last updated - 4-10-03



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 13, 2002

WENDELL STARK
274 KAY DRIVE
TWIN FALLS ID 83301

RE: Operation of Geothermal Well at Pristine Springs – Notice of Over-appropriation and Unauthorized Change in Place of Use

Dear Mr. Stark:

On January 23, 2002 I conducted a field inspection at Pristine Springs for the purpose of collecting information for license recommendations on Water Right Permit nos. 36-7757 (Alpheus Creek), 36-8573 (waste water), 36-8414 (Sunnybrook Springs) and 36-8094 (geothermal ground water). Butch Tadlock and Jason Miciak accompanied me on this exam.

The process of license recommendation includes both an overview of present beneficial uses and an analysis of existing rights. During this process I identified uses of geothermal ground water at the Pristine Springs facility which are outside the limits of the existing authorizing right, and which do not fall within the development limits authorized by the later in time geothermal permit.

The geothermal well at Pristine Springs was developed under right no. 36-7130. A partial decree bearing the same water right number was issued in the Snake River Adjudication on December 29, 1997, authorizing a maximum diversion rate of 4.5 cfs for fish propagation using geothermal water. Over the past two years, recorded diversions from the geothermal well have increased from around 4.5 cfs to between 6 and 7 cfs. Also, the place of use under the right has been changed from Lot 14 (SWNE) Section 29, T09S R17E, at the Big C Raceways, to a location in Lot 10 (NWNW) Section 29 and Lot 8 (NENE) Section 30, T09S R17E, known as the DEFG Raceways. While expansions in non-consumptive uses would be allowable under this right, a change in place of use is not authorized without the approval of a water right transfer. Further, any diversion for fish propagation in excess of 4.5 is not authorized under 36-7130 and must be considered an illegal appropriation.

Permit no. 36-8094 authorizes the development of a maximum diversion of 7.0 cfs for power production, from the same geothermal well decreed under 36-7130. However, Idaho Code §42-233 states that geothermal resources in the state of Idaho "shall be utilized primarily for heat value and secondarily for the value as water." Permit 36-8094 contains the following condition of use:

"License No. 36-7130 authorized diversion from the same point of diversion authorized by this permit. The validity of this permit and any subsequent license depends on use of the low temperature geothermal water for rearing of warm water fish, or some other beneficial use which extracts the heat value from the water."

Diversions under 36-8094 are limited to what may be beneficially used under 36-7130, and that use is limited by decree to 4.5 cfs. Since no water rights appear to authorize the additional diversions, or the changed place of use under 36-7130 as described above, I request your immediate cooperation in identifying what water right covers your development, if our records are not correct. If you cannot identify valid water rights which cover both the increased rate of flow and the changed place of use, please explain why IDWR should not take legal action to cause you to cease diversions of geothermal ground water in excess of 4.5 cfs and beneficial use of geothermal water within Lot 10 Section 29 and Lot 8 Section 30.

Please respond to our office within 14 days of the date of this letter as to the status of your project. Please note that to divert water in Idaho without a valid water right is illegal pursuant to §42-351, Idaho Code and pursuant to §42-1701B, Idaho Code, civil penalties for illegal use may be imposed.

I am continuing to work toward licensing recommendations for the Alpheus Creek, Sunnybrook Springs and waste water permits. At this time, I am prepared to make a water right license recommendation for 36-8094, limiting the maximum diversion for power production to 4.5 cfs. If you have information which might substantiate a different recommendation, please submit it at your earliest convenience.

Thank you for your attention to this matter. Please contact me or Allen Merritt at 208-736-3033 if you have any questions or comments.

Sincerely,



Cindy Yenter
Sr. Water Resource Agent
Water Distribution Section

cc: Butch Tadlock.- Pristine Springs
Jason Miciak
Tim Luke, Norm Young – IDWR State Office

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

JOSEPHINE BEEMAN
(208) 338-8233

July 29, 1992

RECEIVED
JUL 31 1992
Department of Water Resources

Mr. L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

Re: NPDES Permit for Sunnybrook Facility
Water Right Permit 36-7757
Water Right Permit 36-8573

Dear Glen:

Attached for your information is the NPDES Permit for the Sunnybrook facility issued July 21, 1992.

Please call me if you have any questions.

Sincerely,

DAVIS WRIGHT TREMAINE


Josephine P. Beeman

JPB:md
Enclosure

cc: Wendell M. Starke (w/o encl.)
Rick Eggleston (w/o encl.)
Loren Holmes (w/ encl.)

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

United States
Environmental Protection
Agency

Region 10
1200 Sixth Avenue
Seattle WA 98101

Alaska
Idaho
Oregon
Washington



RECEIVED

JUL 31 1992

Reply To
Attn Of: WD-134

Department of Water Resources

JUL 21 1992

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Rick Eggleston, EVP & Manager
Pristine Springs, Inc.
Sunnybrook Springs
Route 1, Box 1204
Filer, Idaho 83328

Re: NPDES Permit No. ID-002501-1
Pristine Springs, Sunnybrook Facility

Dear Mr. Eggleston:

We are issuing the above referenced National Pollutant Discharge Elimination System (NPDES) permit. The enclosed document authorizes the referenced facility to discharge to the receiving waters indicated in the permit. Also included is the Agency's response to the comments received during the public notice period on the draft permit.

This permit will become effective 30 days after the issuance date unless a request for an evidentiary hearing which meets the requirements of 40 CFR 124.74 is received. A copy of these requirements is enclosed for your information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles E. Findley".

Charles E. Findley
Director, Water Division

Enclosures

cc: IDHW-DEQ (HQ)
IDHW-DEQ Twin Falls

**RESPONSE TO COMMENTS
NPDES Permit ID-002501-1**

During the public notice period, comments were received from the State of Idaho Division of Environmental Conservation (DEQ), and Idaho Department of Fish and Game, Cogeneration, Inc. (owners of the Auger Falls hydroelectric project), and the United States Fish and Wildlife Service. Comments were also received from the permittee. This Response to Comments documents has been prepared pursuant to 40 CFR 124.17. It briefly describes, summarizes and responds to all significant comments received during the public comment period.

Comment: Cogeneration Inc. and the U.S. Fish and Wildlife Service expressed concern that the Sunnybrook facility would be discharging ultimately to the Snake River below the diversion structure to the proposed Auger Falls hydroelectric project. Their concern is that the proposed expansion of the Sunnybrook facility translates to increased discharge flow, which at critical times may constitute up to fifty percent (50%) of the flow in the bypass reach of the river. Both commenters' concern was that as Cogeneration withdrew water for their hydroelectric project upstream, the discharge from the Sunnybrook facility, downstream, would constitute a greater percentage of the flow and therefore, might result in water quality problems.

Response: According to the Idaho Department of Water Resources, Pristine Springs Sunnybrook facility has a senior water right over the Auger Falls diversion project, filed in 1977. The Cogeneration, Inc. water right was filed in 1981. As both facilities have to have Idaho State water quality 401 certification, it is the State which has the lead in determining how water quality issues will be addressed. The State of Idaho was aware of the chronology of the water rights in this case when water quality 401 certification was granted to Pristine Springs.

Comment: Idaho Division of Environmental Quality (DEQ) requested the reopener clause in the permit be modified to accept development of an approved nutrient management plan.

Response: The suggested change was made to the reopener clause to allow incorporation of appropriate effluent limits and conditions.

Comment: DEQ and the permittee suggested that the best management practices plan (BMP) be subject to modification based on ongoing research being conducted on BMPs by the industry and incorporation of improved BMPs in the nutrient management plan.

Response: The BMP in the permit may be modified at any time to incorporate changes as needed to achieve the goals of the permit.

Comment: DEQ and the permittee noted that under Section I., Effluent Limitations and Monitoring Requirements on page 5, subsections d. and j. are duplications.

Response: Subsection (j) was deleted

Comment: The permittee requested that all references to irrigation be deleted from the permit since no irrigation will take place at the Sunnybrook facility.

Response: All references to irrigation were deleted from the permit.

Comment: The permittee requested all references to "Sunnybrook Springs" be changed to the "Sunnybrook" facility.

Response: All references to "Sunnybrook Springs" were changed to "Sunnybrook" facility.

Comment: In Attachment A to the permit, Permittee noted the calculation of the natural log value average should have a divisor of four rather than five.

Response: The divisor was changed to four.

Comment: The permittee requested that the "instantaneous maximum" effluent limit (section I.A.1) for Total Suspended Solids (TSS) be changed to "Daily Maximum".

Response: The terms "Instantaneous Maximum" and "Daily Maximum" are interchangeable for the purpose of this permit. "Daily Maximum" is not calculated by averaging grab or composite samples over a 24hr period, it represents the maximum value at any given time. The final permit retains "Instantaneous Maximum".

Comment: The U.S. Fish and Wildlife Service recommended biomonitoring be included in the permit to assess potential toxic effects of drugs and chemicals used by fish hatcheries in general.

Response: Permit language (section I.C.9.) prohibits the discharge of any drugs, chemicals or medications in toxic amounts. When toxic chemicals are used in raceways or ponds the resulting contaminated water must be detoxified before it can be discharged. There is no reasonable potential to cause a water quality problem

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due to toxic effects, therefore no biomonitoring has been included in the permit.

Comment: Idaho Fish & Game recommended that a more detailed description of species being reared at the facility be included in the permit.

Response: EPA does not list the species in the permit. The permittee is required to list the species in the permit application. The permit application lists rainbow trout, salmon, golden trout, tilapia and other warmwater species. Other warmwater species were not specifically identified because at the time of application the permittee was unsure of the species that were going to be reared. They are supposedly going to raise crayfish on an experimental basis. The permittee is required to apply for a license with Idaho Fish & Game annually. In this application the permittee is required by Idaho Fish & Game to list the species being reared. Idaho Fish & Game has the ability to regulate the species being reared at the facility and the manner in which they will be reared. Therefore, the NPDES permit will not require additional reporting requirements for the facility to submit an updated list of species raised at the facility.

Environmental Protection Agency

40 CFR Ch. I (7-1-90 Edition)

§ 124.74 Requests for evidentiary hearing.

(a) Within 30 days following the service of notice of the Regional Administrator's final permit decision under § 124.15, any interested person may submit a request to the Regional Administrator under paragraph (b) of this section for an evidentiary hearing to reconsider or contest that decision. If such a request is submitted by a person other than the permittee, the person shall simultaneously serve a copy of the request on the permittee.

(b)(1) In accordance with § 124.76, such requests shall state each legal or factual question alleged to be at issue, and their relevance to the permit decision, together with a designation of the specific factual areas to be adjudicated and the hearing time estimated to be necessary for adjudication. Information supporting the request or other written documents relied upon to support the request shall be submitted as required by § 124.73 unless they are already part of the administrative record required by § 124.15.

NOTE: This paragraph allows the submission of requests for evidentiary hearings even though both legal and factual issues may be raised, or only legal issues may be raised. In the latter case, because no factual issues were raised, the Regional Administrator would be required to deny the request. However, on review of the denial the Administrator is authorized by § 124.91(a)(1) to review policy or legal conclusions of the Regional Administrator. EPA is requiring an appeal to the Administrator even of purely legal issues involved in a permit decision to ensure that the Administrator will have an opportunity to review any permit before it will be final and subject to judicial review.

(2) Persons requesting an evidentiary hearing on an NPDES permit under this section may also request an evidentiary hearing on a RCRA or UIC permit. PSD permits may never be made part of an evidentiary hearing under Subpart E. This request is subject to all the requirements of paragraph (b)(1) of this section and in addition will be granted only if:

(i) Processing of the RCRA or UIC permit at issue was consolidated with the processing of the NPDES permit as provided in § 124.4;

(ii) The standards for granting a hearing on the NPDES permit are met;

(iii) The resolution of the NPDES permit issues is likely to make necessary or appropriate modification of the RCRA or UIC permit; and

(iv) If a PSD permit is involved, a permittee who is eligible for an evidentiary hearing under Subpart E on his or her NPDES permit requests that the formal hearing be conducted under the procedures of Subpart F and the Regional Administrator finds that consolidation is unlikely to delay final permit issuance beyond the PSD one-year statutory deadline.

(c) These requests shall also contain:

- (1) The name, mailing address, and telephone number of the person making such request;

- (2) A clear and concise factual statement of the nature and scope of the interest of the requester;

- (3) The names and addresses of all persons whom the requester represents; and

- (4) A statement by the requester that, upon motion of any party granted by the Presiding Officer, or upon order of the Presiding Officer *ex sponte* without cost or expense to any other party, the requester shall make available to appear and testify, the following:

- (i) The requester;

- (ii) All persons represented by the requester; and

- (iii) All officers, directors, employees, consultants, and agents of the requester and the persons represented by the requester.

- (5) Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions (including permit denials) which, in the judgment of the requester, would be required to implement the purposes and policies of the CWA.

- (6) In the case of challenges to the application of control or treatment technologies identified in the statement of basis or fact sheet, identification of the basis for the objection, and the alternative technologies or combination of technologies which the requester believes are necessary to meet the requirements of the CWA.

- (7) Identification of the permit obligations that are contested or are inseparable from contested conditions and should be stayed if the request is granted by reference to the particular contested conditions warranting the stay.

- (8) Hearing requests also may ask that a formal hearing be held under the procedures set forth in Subpart F. An applicant may make such a request even if the proceeding does not constitute "initial licensing" as defined in § 124.111.

- (d) If the Regional Administrator grants an evidentiary hearing request, in whole or in part, the Regional Administrator shall identify the permit conditions which have been contested by the requester and for which the evidentiary hearing has been granted. Permit conditions which are not contested or for which the Regional Administrator has denied the hearing request shall not be affected by, or considered at, the evidentiary hearing. The Regional Administrator shall specify these conditions in writing in accordance with § 124.60(c).

(e) The Regional Administrator must grant or deny all requests for an evidentiary hearing on a particular permit. All requests that are granted for a particular permit shall be combined in a single evidentiary hearing.

(f) The Regional Administrator (upon notice to all persons who have already submitted hearing requests) may extend the time allowed for submitting hearing requests under this section for good cause.

Permit No.: ID-002501-1

United States Environmental Protection Agency
Region 10
1200 Sixth Avenue
Seattle, Washington 98101

**AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM**

In compliance with the provisions of the Clean Water Act, 33 U.S.C. §1251 et seq., as amended by the Water Quality Act of 1987, P.L. 100-4, the "Act",

PRISTINE SPRINGS, INC.
Sunnybrook Facility
Route #1 Box 1204
Filer, Idaho 83328

is authorized to discharge from a facility located in Jerome County, Idaho, to receiving waters named Snake River, in accordance with discharge point(s), effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective August 20, 1992

This permit and the authorization to discharge shall expire at midnight, August 20, 1997

Signed this 21st day of July, 1992


Director, Water Division, Region 10
U.S. Environmental Protection Agency

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I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

- A. Fish Rearing Discharges. Discharge 001 (D6 on site plan 2) to the Snake River - During the period beginning on the effective date of this permit and lasting through the expiration date, all discharges from the facility, including but not limited to raceways, ponds, biofiltration systems, natural and manmade wetlands and lakes, to the Snake River shall be limited and monitored as specified below:

1. FLOW AND SOLIDS

<u>Characteristics</u> (Units)	<u>Effluent Limitations</u>		<u>Monitoring Requirements</u>	
	Monthly Average	Instantaneous Maximum	Minimum Frequency	Sample Type
Flow (mgd) Influent and Effluent	-	-	1/week	24 hr. total
Total Suspended Solids*	5.0 mg/l -	- 15.0 mg/l	1/month none required**	8 or 24 hr. comp. Grab
Settleable Solids*	0.1 ml/l	-	2/month	Grab

* See Part I.A.2.a. below

** See Part I.A.2.e. below

2. NUTRIENTS

<u>Characteristics</u> (Units)	<u>Effluent Limitations</u>	<u>Influent/Effluent Monitoring Requirements</u>	
		Minimum Frequency	Sample Type
Nitrate - Nitrite (as N) (mg/l) and (lb/day)	no net increase above influent	1/month	24 hr. composite
Ammonia (as N) (mg/l) and (lb/day)	no net increase above influent	1/month	24 hr. composite
Total Kjeldahl Nitrogen (mg/l) and (lb/day)	no net increase above influent	1/month	24 hr. composite
Total Phosphorus (as P) (mg/l) and (lb/day)	no net increase above influent	1/month	24 hr. composite

a. The permittee may either elect to report the effluent gross value or calculate and report the effluent net value for Total Suspended Solids (TSS) and Settleable Solids.

b. The net value is calculated as follows:

$$\text{Effluent Gross Value} - \text{Influent Value} = \text{Net Value}$$

c. If the net value is reported, influent water samples must be taken on the same day, during the same time period that the effluent sample is taken. In addition, if the net value is reported the permittee is required to report the gross and influent values.

d. A flow proportioned sample of all influent waters shall be taken at the point where the intake waters enter the facility prior to mixing with other flows.

e. The instantaneous maximum limit for TSS shall be in effect at all times; monitoring is optional. If the permittee elects to perform a grab sample for TSS, in addition to the 8 or 24 hour composite, the effluent gross, or calculated net value, (as described in I.A.2.a. above), shall not exceed the instantaneous maximum limit.

f. Should a facility choose to sample TSS more than once per month (for non-processing discharges), the monthly average TSS is to be reported. The permittee must calculate the geometric mean as per Attachment A.

g. Effluent samples shall be taken prior to mixing with the receiving water or any other flow.

h. There shall be no discharge of floating solids or visible foam in other than trace amounts.

i. Nutrient parameters shall be reported as net values. In addition to the net values, the permittee is required to report the gross and influent values. The net value is calculated as described in I.A.1.b. above.

B. Best Management Practices (BMP) Plan.

1. The permittee shall, during the term of this permit, operate and maintain the facility in accordance with a BMP plan and the standard management practices included within the plan.
2. The permittee shall develop a plan which establishes BMPs to be followed as part of facility operation. The plan shall identify and describe practices which ensure compliance with permit limitations and conditions, and ensure that the discharge of pollutants is minimized.
3. The plan shall be signed and certified as required in Part IV.H. and be submitted to EPA and the Idaho State Department of Health and Welfare, Division of Environmental Quality (DEQ) within six months of the effective date of this permit. A copy of the Plan shall be submitted to EPA and DEQ for approval within six months of the effective date of the permit. EPA and/or DEQ shall have the right to disapprove the BMP Plan within 60 days of notice, after which the Plan shall be deemed approved, if neither agency disapproves of the submittal. The Plan shall be implemented as soon as possible but no later than twelve months from the effective date of the permit. No departure from the Plan is allowed which may result in higher concentrations of any discharged pollutant.
4. The permittee shall during the term of this permit operate the facility in accordance with the BMP Plan or in accordance with subsequent amendments to the Plan. The permittee shall also amend this Plan, to incorporate practices to achieve the objectives and specific requirements listed below, and a copy shall be submitted to EPA and DEQ for approval within three months of the effective date of the permit. EPA and/or DEQ shall have the right to disapprove the BMP Plan within 60 days of notice, after which the Plan shall be deemed approved, if neither agency disapproves of the submittal. The amended Plan shall be implemented as soon as possible but no later than six months from the effective date of the permit. No departure from the existing or amended Plan is allowed which may result in higher concentrations of any discharged pollutant.
5. Upon approval, the BMP plan becomes an enforceable part of this permit and shall be implemented by the permittee. No part of the plan shall be construed as relieving the permittee from compliance with any part of this permit.
6. The permittee shall amend the BMP plan whenever there is a change and/or expansion in facility design, operation, or maintenance which affects the potential for the discharge of pollutants. Amendments to the plan shall be reviewed and approved by EPA as outlined in Part I.B.3. above.
7. a. Form and structure of the BMP Plan. The BMP Plan shall be documented in narrative form, including any necessary plot plans,

drawings or maps, and shall be developed in accordance with good engineering practices. The BMP Plan shall be organized and composed in the following structure.

1. Name and location of the facility.
 2. Statement of BMP policy and objective.
 3. Specific objectives for the reduction of pollutant discharges and potential pollutant discharges.
- b. Specific objectives. The BMP Plan shall address at a minimum the following elements:
1. Collection of solids from raceways and rearing ponds. Include a description of pollution control equipment and associated preventive maintenance program; a description of methods for determining appropriate cleaning frequencies (to minimize accumulation of settled solids); and a description of how cleaning activities will be conducted to minimize the disturbance and discharge of settled solids.
 2. Biofiltration Systems. Include a description on how the biofiltration and wetland system will be operated to provide for nutrient removal, including quantitative information regarding the wetlands and biofiltration systems' capacity, vegetation, etc., their operation and effectiveness in the winter. A description and designation of alternative systems to be used if the wetlands and biofiltration systems are not effective. In addition, a description of waterfowl interaction and minimization of disturbances to waste solids ponds.
 3. Land Application of Wastewater. Include a description of the land application system and land application site; alternative and/or backup systems and plans for the waste handling system, should pumps malfunction or fail.
 4. Waste receiving/settling ponds. Include a description of maintenance practices and design capacity (i.e., volume, reserved volume for precipitation, design settling time, and actual settling time), as well as a description of methods to determine appropriate cleaning frequencies.

5. Fish feeding activities. Include a description of feeding methods which will minimize the amount of excess feed in the discharge.
 6. Fish release, stocking, grading, and harvesting activities. Include a description of how the disturbance and discharge of solids will be minimized during such activities.
 7. Solid waste handling. Include a description of solid waste collection, storage, and disposal practices. (Solid wastes of concern include settled solids, fish mortalities, and spawning wastes.)
 8. Employee training. Include a description of the training to be provided to employees to ensure that they understand and comply with the goals, objectives, and requirements of the BMPs and the NPDES permit.
- c. Documentation. The permittee shall maintain a copy of the BMP plan at the facility and provide it for inspection upon request.
- d. Review and amendment. The permittee shall review and evaluate the adequacy of the BMP plan annually in light of applicable technological developments, modifications of the facility and its processes, and the condition of the receiving waters. The permittee shall revise the BMP plan as necessary and appropriate.
- e. Conditions for modification. If the BMP program proves to be ineffective in achieving its general purpose or specific objectives, the BMP program and/or NPDES permit shall be subject to modification to incorporate revised BMP requirements.

C. Other Requirements and Conditions.

1. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner that will prevent any pollutant from such materials from entering waters of the United States.
2. Fish mortalities and spawning or processing wastes shall be disposed of in such a manner that will prevent such materials from entering waters of the United States.
3. Discharging untreated cleaning wastes (e.g., obtained from a vacuum or standpipe bottom drain system) to waters of the United States is prohibited.

4. There shall be no discharge from waste receiving ponds, (ponds where waste products from vacuuming of raceways is stored, #19 and #10, on the site plan).
5. Sweeping accumulated solids from raceways or ponds to waters of the United States is prohibited.
6. Practices, such as removing or raising dam boards in raceways or ponds, which allow accumulated solids to discharge to waters of the United States, are prohibited.
7. Rearing of fish within settling ponds, cleaning waste treatment ponds, biofiltration systems (ponds #21 and #22 on the site plan) and wetland habitat lakes (ponds # 26, 27, 28, and 29) is prohibited.
8. In addition to requirements outlined under III.E. Proper Operation and Maintenance, the permittee shall comply with the following:

Cleaning of raceways and/or ponds shall occur on a frequent basis such that accumulation of solids is minimized. Raceways and/or ponds shall be inspected for excessive buildup of solids on a regular basis. Washing or eroding of solids up and over the top of dam boards into waters of the United States is prohibited. Solids which build up in raceways and/or ponds shall be removed before washing or eroding occurs.

All operating activities in raceways and/or ponds shall be performed to minimize the disturbance of accumulated solids.

The methods used to remove accumulated solids from a cleaning waste treatment pond (or settling pond) shall be implemented to prevent the unnecessary release of accumulated settled material. The following measures shall be implemented to the extent possible:

- a. The water level in the ponds shall be lowered slowly to prevent the escapement of accumulated settled material into waters of the United States in amounts or concentrations exceeding applicable permit limitations.
 - b. During the removal of material there will be no discharge from the pond into waters of the United States in amounts or concentrations exceeding applicable permit limitations.
9. The discharge of any drugs, chemicals, or medications in toxic amounts (i.e., exceeding EPA's Water Quality Criteria and those criteria as subsequently amended) to waters of the United States is prohibited. When a raceway is disinfected with chlorine, the water within that raceway must be neutralized

before it can be discharged. When other chemicals are used to disinfect a raceway, the water within that raceway must be detoxified before it can be discharged.

10. Use of drugs, medications, and disease control chemicals is limited to those which: are approved for hatchery use by the United States Food and Drug Administration (USFDA) or the United States Environmental Protection Agency; are exempt from registration for fishery use; or are declared as "generally regarded as safe" (GRAS) by USFDA. Approved products shall be used in accordance with permitted uses and application practices specified on product labels, where provided.
11. The permittee shall record and report on the respective month's DMR the date(s) the settling pond(s) and/or cleaning waste treatment pond(s) were cleaned.
12. A copy of this NPDES permit must be kept at the facility at all times and made available to all employees or the Director upon request.

D. Reopener Clause.

EPA may reopen this permit on the basis of monitoring results, other reported information, or other causes consistent with federal regulations, to modify and/or establish specific monitoring requirements, effluent limitations, or other permit conditions. In addition, at such time that wasteload allocations and/or an approved nutrient management plan is developed in the Snake River, this permit may be reopened to incorporate the appropriate effluent limitations and conditions.

E. Production Changes.

1. If during the term of this permit, the projected annual production is less than 20,000 pounds per year and feeding rate is less than 5,000 pounds of food during the calendar month of maximum feeding, the permittee is exempt from the monitoring requirements of Part I.A. Additionally, the permittee must notify EPA of the projection. The permittee may assume that the facility is exempt from the monitoring requirements of this permit 30 days after submittal of the notice, unless EPA disapproves of the exemption.

If, following the period of low production, the projected production is expected to exceed the above criteria, the permittee must notify EPA and begin immediately to follow the monitoring requirements of this permit.

F. Definitions.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

2. "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.
3. "Daily Minimum" means the minimum value attained on any day.
4. A "Grab" sample is a single sample or measurement taken at a specific time or over as short a period of time as is feasible.
5. "Instantaneous Maximum" is the value attained at any given time.
6. "mg/l" = milligrams per liter.
7. "mgd" = millions of gallons per day.
8. "ml/l" = milliliters per liter.
9. "Monthly Average" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
10. "Representative Sample": Multiple outfalls with similar waste streams can be sampled and combined into one sample for just one analysis. The sample volume from each outfall shall be apportioned according to the volume of flow at the time of sampling. These apportioned samples can then be combined into one representative sample and sent to the laboratory for analysis.
11. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
12. A "composite" sample shall mean a flow-proportioned mixture of not less than 8 discrete aliquots. Each aliquot shall be a grab sample of not less than 100 ml and shall be collected and stored in accordance with procedures prescribed in the most recent edition of Standard Methods for the Examination of Water and Wastewater.
13. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations

because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

II. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Part I shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- C. Reporting Requirements. Monitoring results shall be summarized each month on a Discharge Monitoring Report (DMR) form (EPA No. 3320-1). If no discharge to waters of the United States occurs during a given month, the monthly report shall indicate "No Discharge" and shall be submitted as required below. Alternatively, for longer periods of no discharge, the permittee may submit written notice listing the expected or actual date operations ceased, and the expected date the facility will resume operation.

The reports listed below (1. and 2.) shall be submitted monthly and are to be postmarked by the 10th day of the following month. Legible copies of these, and all other reports, shall be signed and certified in accordance with the requirements of Part IV.H., Signatory Requirements, and submitted to the Director, Water Division and the State agency at the following addresses:

original to: United States Environmental Protection Agency (EPA)
 Region 10
 1200 Sixth Avenue, WD-135
 Seattle, Washington 98101

copy to: Idaho Department of Health and Welfare (IDHW-DEQ)
 Division of Environmental Quality
 1410 North Hilton
 Boise, Idaho 83706

- 1. Reporting of Monitoring Results. Monitoring results shall be summarized each month on the Discharge Monitoring Report (DMR) form (EPA No. 3320-1).
- 2. Reporting of Usage of Medications, Drugs, Chemicals, and Disinfectants. The permittee shall report any use of medications, drugs, disease control chemicals, and disinfectants. The report shall be summarized each month and submitted

with the monthly Discharge Monitoring Reports and shall include information specified in II.E.2. below.

- D. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- E. Records Contents.
1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
 2. The permittee shall also keep records on all medications, drugs, disease control chemicals, and disinfectants used within the hatchery and discharged to waters of the United States. The records shall include:
 - a. Person responsible for the administration of the medications, drugs, chemicals, or disinfectants.
 - b. Date, time, and pond or raceway being treated or disinfected.
 - c. The trade name of the applied medication, drug, chemical, or disinfectant.
 - d. Pond or raceway treatment concentration of the active ingredient, duration of treatment, and amount in gallons or pounds of the medication, drug, chemical, or disinfectant used.
 - e. Estimate of concentration of active ingredient at the point of discharge to the receiving water.
- F. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings

for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time. Data collected on-site, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on-site during the duration of activity at the permitted location.

G. Twenty-four Hour Notice of Noncompliance Reporting.

1. The following occurrences of noncompliance shall be reported by telephone within 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part III.G., Bypasses of Treatment Facilities.);
 - c. Any upset which exceeds any effluent limitation in the permit (See Part III.H. @ Upset Conditions.); or
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
2. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and
 - d. Steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
3. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Compliance Section in Seattle, Washington, by phone, (206) 553-1213.
4. Reports shall be submitted to the addresses in Part II.C., Reporting of Monitoring Results.

- H. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part II.C. are submitted. The reports shall contain the information listed in Part II.G.2.
- I. Inspection and Entry. The permittee shall allow the Director, or an authorized representative (including an authorized contractor acting as a representative of the Administrator), upon the presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

III. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions.
1. Civil Penalty. The Act provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be subject to a civil penalty, not to exceed \$25,000 per day for each violation.
 2. Criminal Penalties:
 - a. Negligent Violations. The Act provides that any person who negligently violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment for not more than 1 year, or by both.

- b. **Knowing Violations.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act shall be punished by a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment for not more than 3 years, or by both.
- c. **Knowing Endangerment.** The Act provides that any person who knowingly violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. A person which is an organization shall, upon conviction of violating this subparagraph, be subject to a fine of not more than \$1,000,000.
- d. **False Statements.** The Act provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than 2 years, or by both.

Except as provided in permit conditions in Part III.G., Bypass of Treatment Facilities and Part III.H., Upset Conditions, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

- C. **Need to Halt or Reduce Activity not a Defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. **Duty to Mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. **Proper Operation and Maintenance.** The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

F. Removed Substances. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering navigable waters.

G. Bypass of Treatment Facilities:

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.
2. Notice:
 - a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass.
 - b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting.
3. Prohibition of bypass.
 - a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
 - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The permittee submitted notices as required under paragraph 2 of this section.
 - b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions.

1. **Effect of an upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph 2 of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
 2. **Conditions necessary for a demonstration of upset.** A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under Part II.G., Twenty-four Hour Notice of Noncompliance Reporting; and
 - d. The permittee complied with any remedial measures required under Part III.D., Duty to Mitigate.
 3. **Burden of proof.** In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- I. **Toxic Pollutants.** The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

IV. GENERAL REQUIREMENTS

A. Changes in Discharge of Toxic Substances. Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/l);
 - b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).
2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/l);
 - b. One milligram per liter (1 mg/l) for antimony;
 - c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
 - d. The level established by the Director in accordance with 40 CFR 122.44(f).

B. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

1. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source as determined in 40 CFR 122.29(b); or
 2. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Part IV.A.1.
- C. Anticipated Noncompliance. The permittee shall also give advance notice of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- D. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- E. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The application should be submitted at least 180 days before the expiration date of this permit.
- F. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- G. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- H. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
1. All permit applications shall be signed as follows:
 - a. For a corporation: by a responsible corporate officer.
 - b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Director.
 - b. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
3. Changes to authorization. If an authorization under paragraph IV.H.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.H.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- I. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the State water pollution control agency and the Director. As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.

- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers.
1. The Permittee may request automatic transfer of this permit, including all responsibilities, duties, and other rights attached to it, to a new permittee, effective on the date specified in the agreement mentioned in Part IV.M.1.b. (below) if:
 - a. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date; and
 - b. The notice includes a written agreement between both the existing permittee and the proposed transferee, signed by both parties, that contains the proposed date of transfer of the permit and an acknowledgment that the transferee accepts all rights, duties, responsibilities, and other liabilities attached to the permit.
 2. If notification to the Director of a request for permit transfer is not received at least 30 days in advance of the proposed transfer date:
 - a. Changes in ownership or operational control of a facility will be processed as minor modifications of the permit as outlined by 40 CFR § 122.63(d); and
 - b. The effective date of transfer of the permit to the transferee shall be the date of receipt by the Director of the request for transfer. In order for a transfer request to be sufficient, it must contain a written agreement signed by both parties, stating that the current permit holder agrees to transfer all rights and liabilities in the existing permit to the transferee.
 3. Neither category of transfer request (Part IV.M. paragraphs 1 or 2) shall be considered if the Director notifies the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit under Part IV.D.

- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by Section 510 of the Act.

Attachment A

The geometric mean of the TSS samples is calculated as follows:

- Step 1. Convert the values to logarithmic scale by taking the natural log, Ln, of the values.
- Step 2. Take the average of the converted values. Sum the values and then divide by the number of values.
- Step 3. Convert back to the actual value by taking e^x where the average value calculated above equals x.

Example:

<u>TSS values</u>	Natural Log (Ln) of TSS values
5 mg/l	1.61
8 mg/l	2.08
2 mg/l	2.69
12 mg/l	<u>2.48</u>
	sum total 6.87
Average of Ln values	= <u>sum total of the samples</u> number of samples
	= <u>6.87</u>
	4
	= 1.72

e^x where x = 1.72

The geometric mean of the TSS samples equals 5.57mg/l

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

RECEIVED
JUL 13 1992

Department of Water Resources

JOSEPHINE BEEMAN
(208) 338-8233

July 10, 1992

Mr. L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

Re: **Permit 36-08573 -- Water Quality Improvement
Pristine Springs**

Dear Glen:

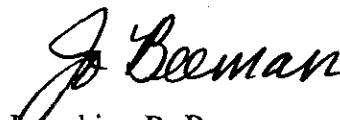
I am including a letter dated June 9, 1992, from Doug Conde, Deputy Attorney General for Health & Welfare, which states that Pristine Springs will not be required to apply for a land application permit in connection with its water quality improvement permit 36-08573.

Please note from the attached correspondence that a request to Health & Welfare regarding the need for a land application permit was made in August, 1991. The June 9, 1992 letter from Doug Conde is the response. It states that Pristine Springs does not need to apply for a land application permit because it is covered by the terms that will be incorporated in the NPDES permit for the Sunnybrook facility.

Please call me if you have any questions.

Sincerely,

DAVIS WRIGHT TREMAINE


Josephine P. Beeman

JPB:md
Enclosures

cc: Wendell M. Starke (w/o encls.)
Rick Eggleston (w/o encls.)

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

LARRY ECHOHAWK
ATTORNEY GENERAL

CURT A. FRANSEN
DOUGLAS M. CONDE
TERESA A. HAMPTON
KEVIN J. BEATON
LORE BENDEL
DEPUTY ATTORNEYS GENERAL

DIVISION OF ENVIRONMENTAL QUALITY
DEPARTMENT OF HEALTH & WELFARE
1410 N. HILTON, 2ND FLOOR
BOISE, IDAHO 83708
TELEPHONE: (208) 334-0494
FACSIMILE: (208) 334-0576

June 9, 1992

RECEIVED

JUN 10 1992

DAVIS WRIGHT TREMAINE

Roy L. Eiguren
Davis Wright Tremaine
702 W. Idaho, Ste. 700
Boise, ID 83702

Re: The Pristine Springs Facility

Dear Roy:

We have in the past discussed whether Pristine Springs must apply for a land application permit in connection with the operation of the Sunny Brook facility. It is the Department's position that it will not require Pristine Springs to apply for a land application permit because Pristine Springs' land application is covered by the terms of the BMP Plan that is incorporated into the NPDES permit.

Yours very truly,

A handwritten signature in cursive script, appearing to read "D. Conde".

Douglas M. Conde
Deputy Attorney General

DMC/pjs

cc: Tim Litke

31539-3
Lam.

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

ROY L. FIGUREN
PARTNER IN CHARGE

August 29, 1991

HAND DELIVERED

Mr. Doug Conde
Deputy Attorney General
Idaho Division Environmental Quality
1410 North Hilton
Boise, Idaho 83706

Dear Doug:

I'm writing as a follow up to our meeting of last Friday to outline (1) Pristine Spring's understanding of DEQ's proposed response to our prior expressed concerns relative to NPDES permitting matters and (2) our response thereto. We understand that you will be sending to me this or next week DEQ's written response on the following matters:

1. Plans and Specifications Approval.

A. DEQ Position. We understand that DEQ, pursuant to Idaho Code § 39-118, will review the expansion plans submitted by Rick Eggleston to you at our meeting and either (1) approve the plans as submitted or (2) identify the particular matters that need to be modified to gain DEQ approval. We further understand that Mike McMasters, who is the DEQ official conducting the review, will provide a written response to the submittal by no later than the second week of September.

B. Pristine Springs Response. Assuming that DEQ acts in the manner as outlined above, Pristine Springs will not contest DEQ's authority to review and approve the plans and will conform the hatchery expansion construction exactly to the plans as approved.

2. NPDES Section 401 Certification.

A. DEQ Position. We understand that DEQ, prior to final promulgation of a new nutrient water quality standard, will provide NPDES Section 401 certification for discharges from the expanded fish hatchery only if Pristine Springs can demonstrate that (1)

FAX: (208) 338-8299

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Mr. Doug Conde
August 29, 1991
Page 2

discharges to the Snake River will not contain phosphorus levels greater than the levels contained in the influent water to Pristine Springs as measured at the four water intakes identified as D1 through D4 on the submitted plans plus Alpheus Creek and (2) other standard DEQ terms and conditions for such certifications will be met. The burden of making this showing is on Pristine Springs. We further understand that DEQ, through Mike McMasters, will soon provide us with the monitoring criteria DEQ will require for Pristine Springs to meet this burden. Finally, we understand that DEQ plans to promulgate a final nutrient water quality standard by no later than 1994 and may chose to promulgate an interim standard prior to that time.

B. Pristine Springs Response. Provided that DEQ provides the monitoring criteria listed above, Pristine Springs will (1) conduct the required monitoring, (2) make the necessary showing and (3) participate in the nutrient water quality standard rulemaking proceeding.

3. Sewage Disposal System Construction Permit.

A. DEQ Position. We understand that DEQ has taken this matter under advisement but that its initial position is that a sewage disposal system construction permit pursuant to IDAPA 01,3005 will not be required for construction of the expansion to the existing fish hatchery.

B. Pristine Springs Response. DEQ's position is acceptable.

4. Wastewater-Land Application Permit.

A. DEQ Position. We understand that DEQ has also taken this matter under advisement but that its initial position is that a wastewater-land application permit pursuant to IDAPA 01.17000 is not required for effluent application to Pristine Springs property. We further understand that in the event a permit is not required, terms and conditions associated with the application of effluent may be contained as terms and conditions of the plans and specifications approval.

B. Pristine Springs Response. DEQ's position is acceptable.

Mr. Doug Conde
August 29, 1991
Page 3

Thank you again for your setting up last Friday's meeting as well as DEQ's willingness to begin the process of resolving our concerns. We look forward to both receiving your written response as well as working together in the future.

With regards,

DAVIS WRIGHT TREMAINE

A handwritten signature in dark ink, appearing to read 'Roy', with a stylized flourish at the end.

Roy L. Eiguren

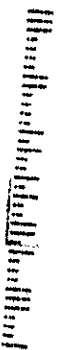
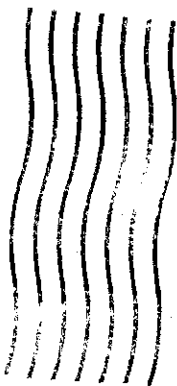
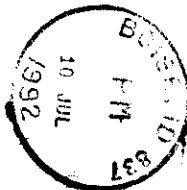
RLE/np

DAVIS WRIGHT TREMAINE

LAW OFFICES

KEY FINANCIAL CENTER
702 WEST IDAHO STREET, SUITE 700
BOISE, IDAHO 83702

Mr. L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706



June 12, 1992

PRISTINE SPRINGS INC.
RT 1 BOX 1204
FILER ID 83328

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 36-08573

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

JUN 24 1992

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 36-08573

Reviewed by Leg

Date 6/4/92

GENERAL CONSIDERATIONS

TYPES OF USE

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

water quality improvement
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?
175 Amount Submitted
yes Correct?

MEASURING DEVICE

NA Required?
/ Installed?
/ 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 Rt #1 Box 1204 6/12/92
leg

Proof Made 6/4/92
6/12/92 leg

May 31, 1992

PRISTINE SPRINGS INC.
4075 N. 2000 E.
FILER ID 83328

PROOF DUE NOTICE

RE: PERMIT NO. 36-08573

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before August 1, 1992. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

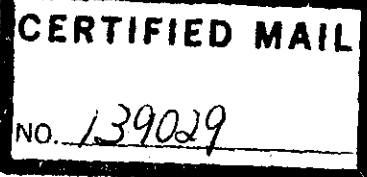
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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

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

SINCERELY,

Karen L. Gustafson
Secretary/Records Manager

Enclosures



MICROFILMED

JUN 24 1992

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

JOSEPHINE BEEMAN
(208) 338-8233

August 16, 1991

L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

Re: Permit 36-8573

Dear Glen:

We have recently filed correspondence with Water Resources regarding Permit 36-8573 on behalf of our client Pristine Springs, Inc.

Pristine Springs has asked Davis Wright Tremaine to be its counsel for purposes of any correspondence, action, and notice regarding this water right.

This letter will confirm our representation of Pristine Springs, Inc. A similar letter has been prepared for each of the water right files for Pristine Springs: decree 36-0200, license 36-2603B, license 36-7130, permit 36-7757, permit 36-8414, permit 36-8573 and application 36-8094. We are also proceeding to become counsel of record for Pristine Springs in the Snake River Basin Adjudication for claims A36-0200, A36-2603B, A36-7130, and A36-15218.

Sincerely,

DAVIS WRIGHT TREMAINE



Josephine P. Beeman

JPB:md

cc: Wendell M. Starke
Rick Eggleston

RECEIVED

JUN 24 1992

FAX: (208) 338-8299

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RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

ER-DEPARTMENT MEMO — 1

DATE 8-2-91

FROM Cam Skaggs

TO File 36-8573

SUBJECT Copies of Correspondence

Copies of all correspondence should be sent

to: Jo Beeman

Dennis Wright Tremaine
702 W. Idaho St. #700
Boise, ID 83702

RECEIVED

AUG 22 1991

Cam Skaggs

SIGNATURE



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 -(208) 327-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

August 9, 1991

PRISTINE SPRINGS INC.
4075 N. 2000 E.
FILER, ID 83328

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 36-08573

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.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed you should complete and submit this form immediately.

This permit authorizes the appropriation of trust water. Trust water is defined as that portion of a particular hydropower water right which exceeds certain minimum stream flows established by state action, and is held in trust by the State of Idaho for the use and benefit of the people within the state. Conditions pertaining to a term review, annual use fee and jurisdiction of the permit are trust water conditions.

Sincerely,

PAMELA SKAGGS
Technical Records Specialist

PS:blm

Enclosures

RECEIVED
AUG 22 1991

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

RECEIVED
JUL 29 1991

JOSEPHINE BEEMAN
(208) 338-8233

July 26, 1991

Department of Water Resources

Norman C. Young
Idaho Department of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706
Attention: Glen Saxton

Re: Application No. 36-8573

Dear Mr. Young:

Our client, Pristine Springs, Inc., recently purchased a fish farm located in the Snake River Canyon north of Twin Falls and immediately adjacent to the Blue Lakes Trout Farm. The legal description of this property is found in Schedule A of the enclosed warranty deed. The associated water rights for this property are licenses 36-2603B and 36-7130, decreed water right 36-0200, permits 36-8414 and 36-7757, and applications 36-8094 and 36-8573, including Snake River Basin Adjudication (SRBA) claims A36-0200, A36-2603B and A36-7130.

Enclosed is the assignment of application for permit 36-8573 by Ronald C. Yanke to Pristine Springs, Inc., executed on June 11, 1991.

Please change your records to reflect this new ownership. If there is need for any additional information, please do not hesitate to call me at 338-8233.

Sincerely,

DAVIS WRIGHT TREMAINE



Josephine P. Beeman

Enclosures

cc: Loren C. Holmes - IDWR Southern Region (w/encls.)

FILED
AUG 22 1991

FAX: (208) 338-8299

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RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

(3)

PLEASE RECORD AND RETURN TO:
Rayborn & Rayborn
Attorneys At Law
First Interstate Bank Building
P.O. Box 321
Twin Falls, ID 83303-0321

WARRANTY DEED

For Value Received RONALD C. YANKE and LINDA L. YANKE, husband and wife, the Grantors, whose address is 4414 S. Gekeler Lane, Boise, Idaho 83705, do hereby grant, bargain, sell and convey unto PRISTINE SPRINGS, INC., an Idaho corporation whose business address is 101 4th Avenue South, Buhl, ID 83316, the Grantee, the following described premises, in JEROME COUNTY, IDAHO to wit:

All that real property which is more particularly described as Parcels A, B and C in Schedule "A" attached hereto and by this reference made a part hereof;

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. The said Grantors do hereby covenant to and with the said Grantee that they are the owners in fee simple of said premises; that they are free from all encumbrances except current year's taxes, levies, and assessments, and except restrictions, reservations and easements of record and easements visible upon the premises, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: *January 29, 1991*

AUG 22 1991

GRANTORS:

Ronald C Yanke

Ronald C. Yanke

Linda L. Yanke

Linda L. Yanke

912089

RECORD REQUEST
OF Land Title & Escrow, Inc.

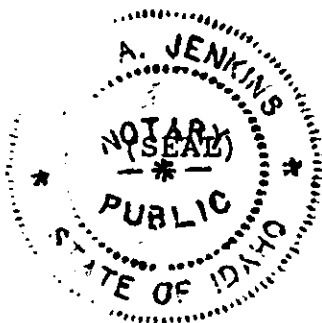
JUN 14 4 43 PM '91

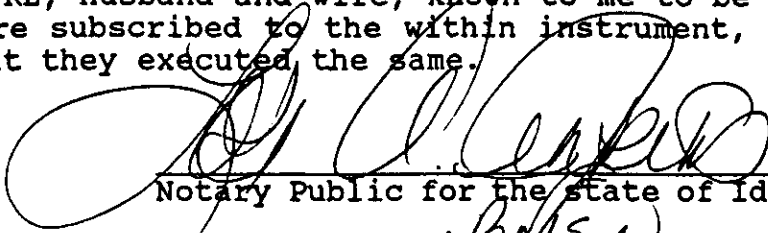
JEROME COUNTY, IDAHO

FEES 27.00 DEP

STATE OF IDAHO)
) ss
COUNTY OF ADA)

On this 29th day of January, 1991, before me, a notary public in and for said state, personally appeared RONALD C. YANKE and LINDA L. YANKE, husband and wife, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.





Notary Public for the state of Idaho
Residing at: BHSE
My commission expires: 7/12/95

AUG 22 1991

SCHEDULE "A"

PARCEL A:

TOWNSHIP 9 SOUTH, RANGE 17, EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

THAT PART OF:

- Section 19: Lot 13; NE $\frac{1}{4}$ SE $\frac{1}{4}$; SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Section 20: Lots 3 and 4;
Section 29: Lots 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18;
Section 30: Lots 8, 9, 13 and 14;

All of which is more particularly described as follows:

Commencing at the North one-sixteenth corner between Sections 29 and 30;

Thence running South 71°48' East for 4,082.0 feet to a large lava boulder marked by a chiseled cross, said lava boulder being THE REAL POINT OF BEGINNING;

Thence along the Westerly boundary of a tract of land owned by Percy Green and Harold S. Miller known as the Blue Lakes Trout Farm Property on the following courses:

South 59°18' West for 380.0 feet;

Thence South 48°30' East for 430.0 feet;

Thence South 35°45' East for 320.0 feet;

Thence South 22°41' West for 190.0 feet;

Thence South 11°37' West for 131.0 feet, more or less, to the Mean High Water Mark of the right bank of the Snake River;

Thence running along the High Water Mark of the Snake River in the Northwesterly direction for 7900.0 feet, more or less;

Thence in a Northeasterly direction along said high water line for 2000.0 feet, more or less, to the Northerly boundary of Lot 13 of Section 19;

Thence Easterly along said Northerly boundary to the Northeast corner of said Lot 13;

Thence Northerly along the Westerly boundary of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ to the intersection of said Westerly boundary and the top edge of the rimrock;

Thence in a Southeasterly direction for 7900.0 feet, more or less, to the Easterly boundary of Lots 14 and 18 of Section 29 extended;

C o n t i n u e d

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AUG 22 1991

Thence Southerly along said Easterly boundary to the Northerly boundary of the above described Blue Lakes Trout Farm Property;
Thence North 44°30' West for 45.0 feet, more or less, to THE REAL POINT OF BEGINNING.

EXCEPTING THEREFROM the Sunnybrook Subdivision No. 1 in a part of Lot 4 of Section 20 and in a part of Lots 9 and 10 of Section 29.

AND EXCEPTING THEREFROM the following described parcel of land:

Lots 8, 9, 10, 11, 12, 14, 15, 18 and 19 of Section 29, Township 9 South, Range 17, East of the Boise Meridian, being more particularly described as follows:

Commencing at the North one-sixteenth corner between Sections 29 and 30;

Thence running South 71°48' East for 4,082.0 feet to a large lava boulder marked by a chiseled cross, said lava boulder being THE REAL POINT OF BEGINNING;

Thence along the Westerly boundary of a tract of land owned by Percy Green and Harold S. Miller known as the Blue Lakes Trout Farm Property on the following courses:

South 59°18' West for 380.0 feet;

Thence South 48°30' East for 430.0 feet;

Thence South 35°45' East for 320.0 feet;

Thence South 22°41' West for 190.0 feet;

Thence South 11°37' West for 131.0 feet, more or less, to the Mean High Water Mark of the right bank of the Snake River;

Thence running along the High Water Mark of the Snake River in the Northwesterly directions for 1690 feet, more or less, to the West line of Lot 18 of said Section 29;

Thence North along the West line of Lots 18 and 14 of said Section 29 for 1,480.0 feet;

Thence North 54°00' West for 710.0 feet, more or less, to the centerline of a fork in an existing road;

Thence Northwesterly along the centerline of the North fork of said road for 695 feet;

Thence South 85°00' West for 375.0 feet;

Thence North 58°00' West for 440 feet;

Thence North 85°00' West for 154.0 feet, more or less, to the centerline of a fork in an existing road;

Thence Northwesterly along the centerline of the

C o n t i n u e d

AUG 22 1991

West fork of said road for 1,786.0 feet, more or less, to the West line of Lot 10 of said Section 29;

Thence North along said West line for 175.00 feet, more or less, to the Northwest corner of said Section 29, being a United States Geodetic Survey Brass Cap;

Thence East along the North line of Lot 10 of said Section 29 for 210.67 feet to the Northwestern boundary of Sunnybrook Subdivision No. 1;

Thence South 32°57' West along said Northwestern boundary for 44.10 feet to the Western most point of said subdivision;

Thence Southeasterly along the Southwestern boundary of said Subdivision for the following 18 courses and distances:

South 51°20.4' East, 100.50 feet;

South 71°52.6' East, 175.86 feet;

South 54°34' East, 96.54 feet;

South 24°53' East, 101.97 feet;

South 51°21.6' East, 116.07 feet;

South 47°33' East, 104.00 feet;

South 38°33.4' East, 102.21 feet;

South 65°54.3' East, 98.96 feet;

South 37°13.5' East, 50.03 feet;

South 55°43.9' East, 83.51 feet;

North 77°42' East, 100.00 feet;

South 47°33' East, 10.00 feet;

South 26°42' West, 85.00 feet;

South 32°51.4' East, 118.04 feet;

South 50°09.5' East, 99.46 feet;

South 64°51.7' East, 102.43 feet;

South 49°00.4' East, 99.50 feet;

North 39°00' East, 40.0 feet, more or less, to the centerline of an existing road;

Thence Easterly along the centerline of said road for 560.0 feet;

Thence North 54°37' East for 400.00 feet;

Thence South 44°00' East, 3,385.00 feet, more or less, to THE REAL POINT OF BEGINNING.

AND EXCEPTING THEREFROM a tract of land located in Lot 13 of Section 19, Township 9 South, Range 17, East of the Boise Meridian, described as follows:

Beginning at the Southeast corner of Lot 13 of said Section 19;

Thence North along the East line of said Lot 13 for 310.0 feet;

Thence West and parallel to the South line of said Lot 13 for 69.0 feet to THE REAL POINT OF BEGINNING;

C o n t i n u e d

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AUG 22 1991

Thence continuing West and parallel to the South line of said Lot 13 for 865.5 feet, more or less, to the Mean High Water Mark of the right bank of the Snake River;
Thence running along the High Water Mark of the Snake River in the Northeasterly direction for 1950.6 feet, more or less, to the North line of Lot 13 of said Section 19;
Thence East along the North line of said Lot 13 for 335.8 feet, more or less, to a point 69.0 feet West of the East line of said Lot 13;
Thence South 69.0 feet West of and parallel to the East line of said Lot 13, 1010.0 feet, more or less, to THE REAL POINT OF BEGINNING.

AND EXCEPTING THEREFROM the following described parcel of land:

Commencing at the Northwest corner of Government Lot 16 of Section 29, which is marked by a G.L.O. Brass Cap;
Thence South $71^{\circ}48'$ East for a distance of 4082.0 feet (recorded) (4078.76 feet measured) to a chiseled cross in a large lava boulder;
Thence along the Westerly boundary of the Blue Lakes Trout Farm on the following courses:
 South $59^{\circ}18'$ West, 380.0 feet;
 South $48^{\circ}30'$ East, 430.0 feet;
 South $35^{\circ}45'$ East, 20.0 feet to THE TRUE POINT OF BEGINNING;
Thence continuing South $35^{\circ}45'$ East for a distance of 300.0 feet;
Thence South $22^{\circ}41'$ West for a distance of 190.0 feet;
Thence South $11^{\circ}37'$ West for a distance of 131.0 feet to the mean high water of the Snake River;
Thence leaving the Westerly boundary of the Blue Lakes Trout Farm and along the mean high water of the Snake River on the following courses:
 South $51^{\circ}31'23''$ West, 18.13 feet;
 South $75^{\circ}44'55''$ West, 132.14 feet;
 North $79^{\circ}22'50''$ West, 35.54 feet;
 North $73^{\circ}32'15''$ West, 68.09 feet;
 North $70^{\circ}12'42''$ West, 10.00 feet;
Thence leaving the mean high water of the Snake River North $17^{\circ}25'30''$ East for a distance of 588.69 feet to THE TRUE POINT OF BEGINNING.

C o n t i n u e d

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AUG 22 1901

PARCEL B:

TOWNSHIP 9 SOUTH, RANGE 17, EAST OF THE BOISE MERIDIAN,
JEROME COUNTY, IDAHO

Section 29: A tract of land located in Lots 8, 9, 10, 11, 12, 14, 15, 18 and 19, described as follows:

Commencing at the North one-sixteenth corner between Sections 29 and 30;

Thence running South 71°48' East for 4,082.0 feet to a large lava boulder marked by a chiseled cross, said lava boulder being THE REAL POINT OF BEGINNING;

Thence along the Westerly boundary of a tract of land owned by Percy Green and Harold S. Miller known as the Blue Lakes Trout Farm Property on the following courses:

South 59°18' West for 380.0 feet;

Thence South 48°30' East for 430.0 feet;

Thence South 35°45' East for 320.0 feet;

Thence South 22°41' West for 190.0 feet;

Thence South 11°37' West for 131.0 feet, more or less, to the Mean High Water Mark of the right bank of the Snake River;

Thence running along the High Water Mark of the Snake River in the Northwesterly directions for 1690 feet, more or less, to the West line of Lot 18 of said Section 29;

Thence North along the West line of Lots 18 and 14 of said Section 29 for 1,480.0 feet;

Thence North 54°00' West for 710.0 feet, more or less, to the centerline of a fork in an existing road;

Thence Northwesterly along the centerline of the North fork of said road for 695 feet;

Thence South 85°00' West for 375.0 feet;

Thence North 58°00' West for 440 feet;

Thence North 85°00' West for 154.0 feet, more or less, to the centerline of a fork in an existing road;

Thence Northwesterly along the centerline of the West fork of said road for 1,786.0 feet, more or less, to the West line of Lot 10 of said Section 29;

Thence North along said West line for 175.00 feet, more or less, to the Northwest corner of said Section 29, being a United States Geodetic Survey Brass Cap;

Thence East along the North line of Lot 10 of said Section 29 for 210.67 feet to the Northwesterly

C o n t i n u e d

boundary of Sunnybrook Subdivision No. 1;
 Thence South 32°57' West along said Northwesterly
 boundary for 44.10 feet to the Western most
 point of said subdivision;
 Thence Southeasterly along the Southwesterly bound-
 ary of said Subdivision for the following 18
 courses and distances:
 South 51°20.4' East, 100.50 feet;
 South 71°52.6' East, 175.86 feet;
 South 54°34' East, 96.54 feet;
 South 24°53' East, 101.97 feet;
 South 51°21.6' East, 116.07 feet;
 South 47°33' East, 104.00 feet;
 South 38°33.4' East, 102.21 feet;
 South 65°54.3' East, 98.96 feet;
 South 37°13.5' East, 50.03 feet;
 South 55°43.9' East, 83.51 feet;
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 South 47°33' East, 10.00 feet;
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 South 32°51.4' East, 118.04 feet;
 South 50°09.5' East, 99.46 feet;
 South 64°51.7' East, 102.43 feet;
 South 49°00.4' East, 99.50 feet;
 North 39°00' East, 40.0 feet, more or less,
 to the centerline of an existing road;
 Thence Easterly along the centerline of said road
 for 560.0 feet;
 Thence North 54°37' East for 400.00 feet;
 Thence South 44°00' East, 3,385.00 feet, more or
 less, to THE REAL POINT OF BEGINNING.

TOWNSHIP 9 SOUTH, RANGE 17, EAST OF THE BOISE MERIDIAN,
 JEROME COUNTY, IDAHO

Section 19: A tract of land located in Lot 13, described as
 follows:

Beginning at the Southeast corner of Lot 13 of said
 Section 19;
 Thence North along the East line of said Lot 13 for
 310.0 feet;
 Thence West and parallel to the South line of said
 Lot 13 for 69.0 feet to THE REAL POINT OF
 BEGINNING;
 Thence continuing West and parallel to the South
 line of said Lot 13 for 865.5 feet, more or
 less, to the Mean High Water Mark of the right
 bank of the Snake River;
 Thence running along the High Water Mark of the
 Snake River in the Northeasterly direction for
 1950.6 feet, more or less, to the North line of

C o n t i n u e d

AUG 22 1991

Lot 13 of said Section 19;
Thence East along the North line of said Lot 13 for
335.8 feet, more or less, to a point 69.0 feet
West of the East line of said Lot 13;
Thence South 69.0 feet West of and parallel to the
East line of said Lot 13, 1010.0 feet, more or
less, to THE REAL POINT OF BEGINNING.

TOGETHER WITH a 50 foot wide ditch and access road
easement thru Lots 19, 18, 17, 15 and 16 of Section
29, Lots 13, 8 and 9 of Section 30, Lot 13 and the
SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 19, all in Township 9 South,
Range 17, East of the Boise Meridian. Said
Easement being 20 feet on the South side and 30
feet on the North Side of the existing centerline.

TOGETHER WITH a 50 foot wide ditch and access road
easement thru Lot 10 of Section 29, Lot 8 of
Section 30, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ and Lot 13 of Section 19,
all in Township 9 South, Range 17, East of the
Boise Meridian. Said easement being 20 feet on the
South side and 30 feet on the North side of the
existing centerline.

TOGETHER WITH the right of ingress and egress over
and across all existing roadways leading to and
from the above described tracts of land.

The above described Tracts of land are based on the
Dependent Resurvey of Sections 19, 20, 28, 29, 30
and 33 of Township 9 South, Range 17, East of the
Boise Meridian, as approved April 17, 1918 by the
Surveyor General and a supplemental plat of
Sections 28, 29 and 30 approved August 16, 1923.
Also based on a survey plat of Sunnybrook
Subdivision No. 1 as filed with the office of Clerk
and Recorder, Jerome County, Idaho.

PARCEL C:

Lots 1, 2, 3 and 4 in Block 1 and Lots 1, 2, 3, 4, 5, 6, 7,
8, and 9 in Block 2 of Sunnybrook Subdivision No. 1, Jerome
County, Idaho, as shown of record by Plat filed September 14,
1965 under Instrument Number 165247, Jerome County records.

TOGETHER WITH all water, water rights, ditches, canals and rights thereto,
which are appurtenant to the above described Parcels A, B and C specifically
including, but not limited to the following enumerated water rights:

- (1) License No. 36-2603B
- (2) License No. 36-7130
- (3) Decreed Water Right 36-00200
- (4) Permit No. 36-08414
- (5) Permit No. 36-07757
- (6) Application For Permit No. 36-08573

Page 7
Continuation

RECORDED
AUG 22 1991

APPLICATION FOR PERMIT REVIEW

Application #: 36-8573
Date: 6-25-91

Reviewer: Pam Skaggs ^{CS}

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. _____
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 - (1, Blank or Other)
✓ Trust - 051-052-053-P74 (Cons.), 041 (DCMI, w/Irr
Non Trust - 048-049 or Irr & Dom)

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: - 08-03-1992
✓ Other Conditions Recommended Outside Agency Conditions - DEQ

AUG 22 1991

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

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JUN 24 1991

Department of Water Resources

JOSEPHINE BEEMAN
(208) 338-8233

June 24, 1991

L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

HAND-DELIVERED

Re: Application 36-08573 for Water Quality Improvement

Dear Glen:

To the extent that my letter of June 21, 1991, did not emphasize the continuing nature of the land application process under Permit Application 36-08573, I want to clarify that fact. The pending permit is for an existing practice, the land application of effluent, which has continued for many years at the site. The application is also associated with planned expansion of the facility.

Sincerely,

DAVIS WRIGHT TREMAINE



Josephine P. Beeman

JPB:md

cc: Wendell M. Starke
Rick Eggleston

AUG 22 1991

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

County Of Jerome Planning & Zoning

(208) 324-8811, Ext. 50, 51

300 North Lincoln • P.O. Box 407 • Jerome, Idaho 83338

April 9, 1991

Mr. Loren O. Holmes, P.E.
Southern Region Manager
Department of Water Resources
222 Shoshone Street East
Twin Falls, ID 83301

RECEIVED

APR 10 1991

Department of Water Resources
Southern Region Office

Re: Application #36-08573

Dear Mr. Holmes:

This application for use of wastewater for water quality improvement does not impact the preservation status of the canyon as defined in the Jerome County Zoning Ordinance. Therefore, this office does not have any objections to the granting of this permit.

Respectfully,



Glenn Elwell
Planning and Zoning Administrator

GE:yl

Enclosure

cc: Jerome County Commissioners
John Horgan, Jerome County Prosecutor

MAILED

AUG 22 1991

36-8573

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

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JUN 21 1991

Department of Water Resources

JOSEPHINE BEEMAN
(208) 338-8233

June 21, 1991

L. Glen Saxton
Chief of Water Allocation Bureau
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706

hand-delivered

Re: Application 36-08573 for Water Quality Improvement

Dear Glen:

My client, Pristine Springs, recently purchased the property for which Application 36-08573 was filed. Pursuant to our telephone conversation on Tuesday, June 18, 1991, I am writing this letter to address specific concerns raised by the water appropriation rules and regulations administered by the Idaho Department of Water Resources.

In particular, Rule 5,2,3 and Rule 5,3,9 affect this application. The proposed permit is for the use of wastewater tributary to the Snake River between Milner Dam and Swan Falls Dam. This wastewater would be used for water quality improvement year around.

Rule 5,2,3 addresses diversion of water for irrigation purposes and the presumption that such diversions in the reach of the Snake River between Milner Dam and Swan Falls Dam cause "a significant reduction." On behalf of Pristine Springs, I would like to respond to the concerns raised by Rule 5,2,3. The proposed permit for water quality improvement will not cause a significant reduction in the Snake River between Milner Dam and Swan Falls because other larger diversions for irrigation purposes have been issued by Water Resources. This application for 4.0 c.f.s. is also not for irrigation purposes because it is a land application of effluent.

Rule 5,3,9 also addresses direct diversion of water for irrigation purposes from the Snake River between Milner Dam and Swan Falls. There is a presumption that such diversions are not in the public interest as defined by § 42-203(c), Idaho Code. Pristine Springs' application is in the public interest because the land application of effluent will limit or decrease potential pollution in this reach of the river. It is also an existing practice which is not for irrigation purposes.

I understand that this application is in the final stages of review by the state office of Water Resources in Boise. As we discussed, a letter in the file indicates that the Idaho

FAX: (208) 338-8299

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RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

MAILED
AUG 22 1991

Davis Wright Tremaine

L. Glen Saxton
June 21, 1991
Page 2

Department of Health and Welfare, Division of Environmental Quality, has no objection to the issuance of the permit. I appreciate your discussion with me of the processing of Application 36-08573.

Please do not hesitate to contact me, if any additional response is necessary.

Sincerely,

DAVIS WRIGHT TREMAINE



Josephine P. Beeman

JPB:md

cc: Wendell M. Starke
Rick Eggleston

AUG 22 1991

Form No. 202a
4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY DR DATE 1/2/91 APPLICATION NUMBER 36-08573

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 ***PROPOSED PRIORITY DATE 12/21/90

ADDITIONAL INFORMATION

- ☐ Overlapping place of use (Describe source & relationship to present application on the back.)
☐ Overlapping point of diversion
☒ Yes ☒ No Field check required
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
JUN 11 1991

Department of Water Resources

SWAN FALLS HOLD? No
per Tim Luke
telecon 12/21/90

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT Detailed map of diversion and distribution & application system including all interconnections and new pond locations (w/ dimensions)
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 ☐ Water District
☐ Adjudication Bureau Unit ☒ Other Jerome County

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
Final date for protest 3/11/91
☐ 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. _____
☒ Yes ☐ No Special conditions of approval or cover letter below. _____

016, 26A

See below for additional information

Date of priority recommended

12/21/90

By

Larry D. Kuhn

Date

6/10/91

STATE OFFICE REVIEW

See below for additional information

By

Date

ADDITIONAL INFORMATION

See file 36-7757 - May include Agency comments on
this proposal.

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



State of Idaho
DEPARTMENT OF HEALTH AND WELFARE
Division of Environmental Quality

P.O. Box 1626
Twin Falls, ID 83303-1626
(208) 734-9520

CECIL D. ANDRUS
Governor
RICHARD P. DONOVAN
Director

March 21, 1991

RECEIVED

MAR 22 1991

Department of Water Resources
Southern Region Office

Loren O. Holmes, Supervisor
Department of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

Re: Identification No. 36-0857, Water Quality Improvement Permit
for Rick Eggleston, Sunnybrook Springs Hatchery (Pristine
Springs)

Dear Mr. Holmes:

On March 15, 1991 we reviewed Mr. Eggleston's plans for the land
application of 4 cfs of water associated with his hatchery's waste
management system. We find the proposal acceptable with the
following provisions:

1. Land applied wastewater will be contained on property.
2. Wastewater will not be applied when the ground is frozen.
3. Wastewater will be applied at a rate to minimize odors.
4. Land application rate will not create a potential for
groundwater contamination.

If you have any questions, please call me at 734-9520.

Sincerely,

Ward Harshman
Water Quality Compliance Officer

WH/ta

cc: Don Gibbins
Mike McMasters
Rick Eggleston

RECEIVED

AUG 22 1991



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

2/21/91

Bish Beymer

P.O. Box 34

Twin Falls, ID 83303

Re: Application 36-8573, Water Quality Improvement

Dear Bish,

This letter is following up our visit today and formally requests written comments from IDHW-DEQ, Jerome County Commissioners, and IDF&G.

Attached is a copy of the application and a supporting map to assist the agencies in understanding the project.

If you or the agencies have any questions please contact me.

Sincerely,

Douglas Jones

cc Ronald Yanke

MAILED

AUG 22 1991

File copy



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

14-Feb-1991

R. KEITH HIGGINSON
Director

RONALD C YANKE
PO BOX 5405
BOISE ID 83705

Re: Application for Permit No. 36-08573

Dear Mr. Yanke:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

This office will be advertising the application in the North Side News on 2/20 & 2/27/91. 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.

Additional information needed to process this application includes a detailed map of diversion, distribution and application system including all interconnections as well as new pond locations and dimensions.

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

*Completed per
office visit by
Mr Bishop Beymer
2/21/91*

Very truly yours,

Douglas Jones, E. I. T.
Water Resources Engineering Specialist

AUG 22 1991

36-08573

YANKE, RONALD C.
P.O. BOX 5405
BOISE, ID 83705

Source: WASTE WATER

Tributary: SNAKE RIVER

Diversion Pt: LOT 14 (SWSWNE) Sec 29 T 09S R 17E
LOT 11 (SNNWNW) Sec 29 T 09S R 17E

Use: WATER QUAL. IMPROVEMENT (4.000 CFS)
Total Diversion: (4.000 CFS)

Date Filed: 12/21/ 1990

In: T09S R17E S19 Lot 13 (SWSE) Lot 13 (SESE)
S29 Lot 12 (SWNE) Lot 9 (NENW) Lot 10 (NWNW) Lot 11 (SNNW)
Lot 11 (SENN) Lot 15 (NESW) Lot 16 (NWSW) Lot 17 (SESW)
Lot 14 (NWSE) Lot 18 (SWSE)
S30 Lot 8 (NENE) Lot 9 (NWNE) Lot 13 (SENE)

AUG 22 1991

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, 222 Shoshone St. East, Twin Falls, Idaho 83301 on or before MARCH 11, 1991.

R. Keith Higginson, Director

Published 2/20/1991 & 2/27/1991

AUG 22 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region
222 Shoshone Street East
Twin Falls, ID 83301
(208)734-3578

FEBRUARY 11, 1991

NORTH SIDE NEWS
P.O. BOX 468
JEROME, ID 83338

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 MARCH 11, 1991.

Yours truly,

Mary Baldwin
Secretary/Office Coordinator

Enclosure

11
MAY 12 1991