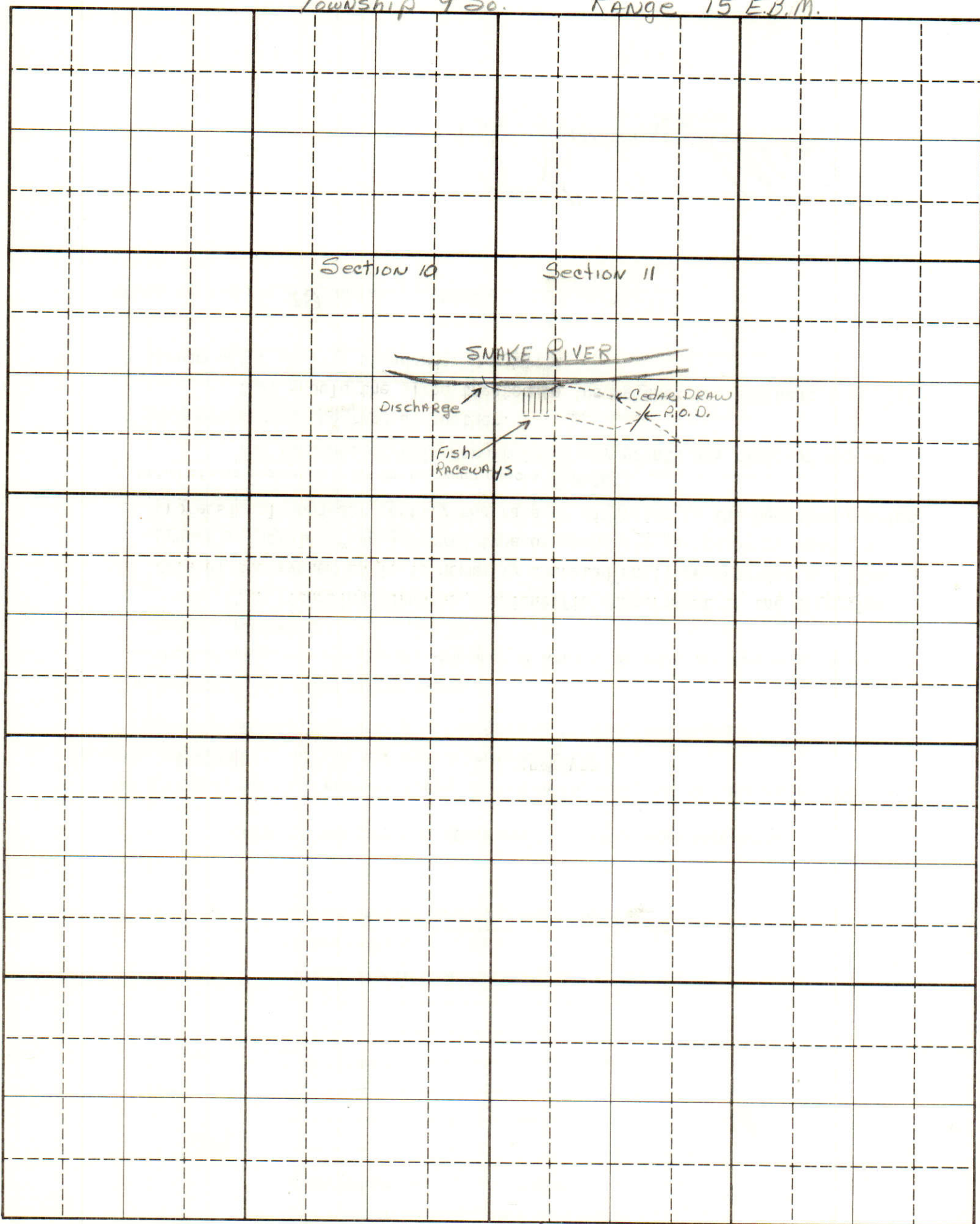


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Township 9 So.

Range 15 E.B.M.



Scale: 2 inches equal 1 mile

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

Richard J. Kelley
(Applicant)

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS }

ss.

Nº 6115

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Richard J. Kelley Buhl, ID 83316 has on 5/25/77 submitted Application No. 47-7398 for a permit to appropriate 150 cubic feet per second of water from Cedar Draw tributary of Snake River by means of Concrete steel headgate, pipe into canal, fish raceways within the NW¼SE¼, Sec. 11, Twp. 9S, Rge. 15E., B.M., Twin Falls County to be used from Jan. 1 to Dec. 31 for fish propagation within the NW¼SW¼, Sec. 11, Twp. 9S, Rge. 15E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before July 5, 1977.

C. STEPHEN ALLRED

Director

PUBLISH: June 16 & 23, 1977

RECEIVED
JUN 24 1977

Department of Water Resources
Southern District Office

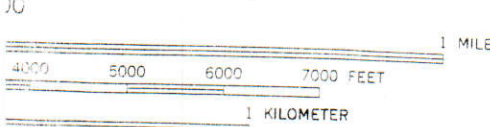
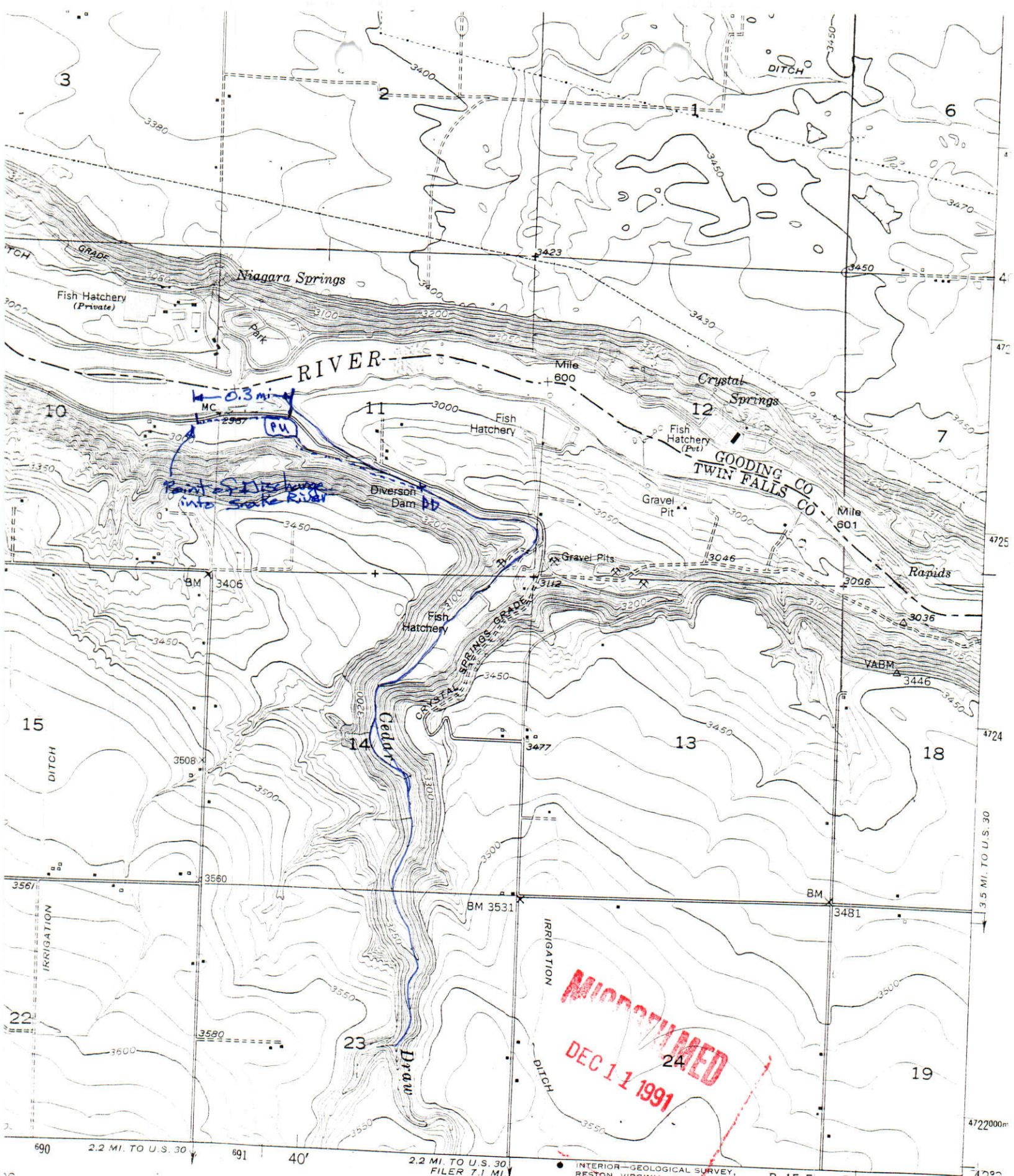
I, Carolynne Jennings being first duly sworn upon oath, depose and say that I am Principal clerk of the TIMES-NEWS, published daily, except Saturday, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated June 16, 19 77, and ending with the issue dated June 23, 19 77.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Carolynne Jennings
Subscribed and sworn to before me on this twenty third day of June, 19 77.

Malcolm L. Clark
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho



MICROFILMED
DEC 11 1991

INTERIOR—GEOLOGICAL SURVEY,
RESTON, VIRGINIA—1980

ROAD CLASSIFICATION

Primary highway, hard surface	Light-duty road, hard or improved surface
Secondary highway, hard surface	Unimproved road

SEC. 5.

HOUSE
HOUSE

80.25
40.00

IMMIGRANT

S. 89° 51' W.

80.56
40.28

S. 89° 46' W.

20.52

1976

40.43

RIM ROCK

N 89° 53' N. 22.97

RE-ESTABLISHED

17.60

35.30

47.37

RIVER

SNAKE

Sec. 11

Sec. 10

81° 42' E

N 82° 6' E

10.20

TELEPHONE

HOUSE

8

NORTH

40.40

40.00

RIM ROCK

AUREAN HOUSE
CRYSTAL SPRING RANCH
BRANDING HOUSE

CEGAR

S. 89° 33' W.
40.57

81.15
40.57

81.40
40.70

DEC 11 1991

47-7398



Diversion Works.
Concrete structure
feeds pipeline.

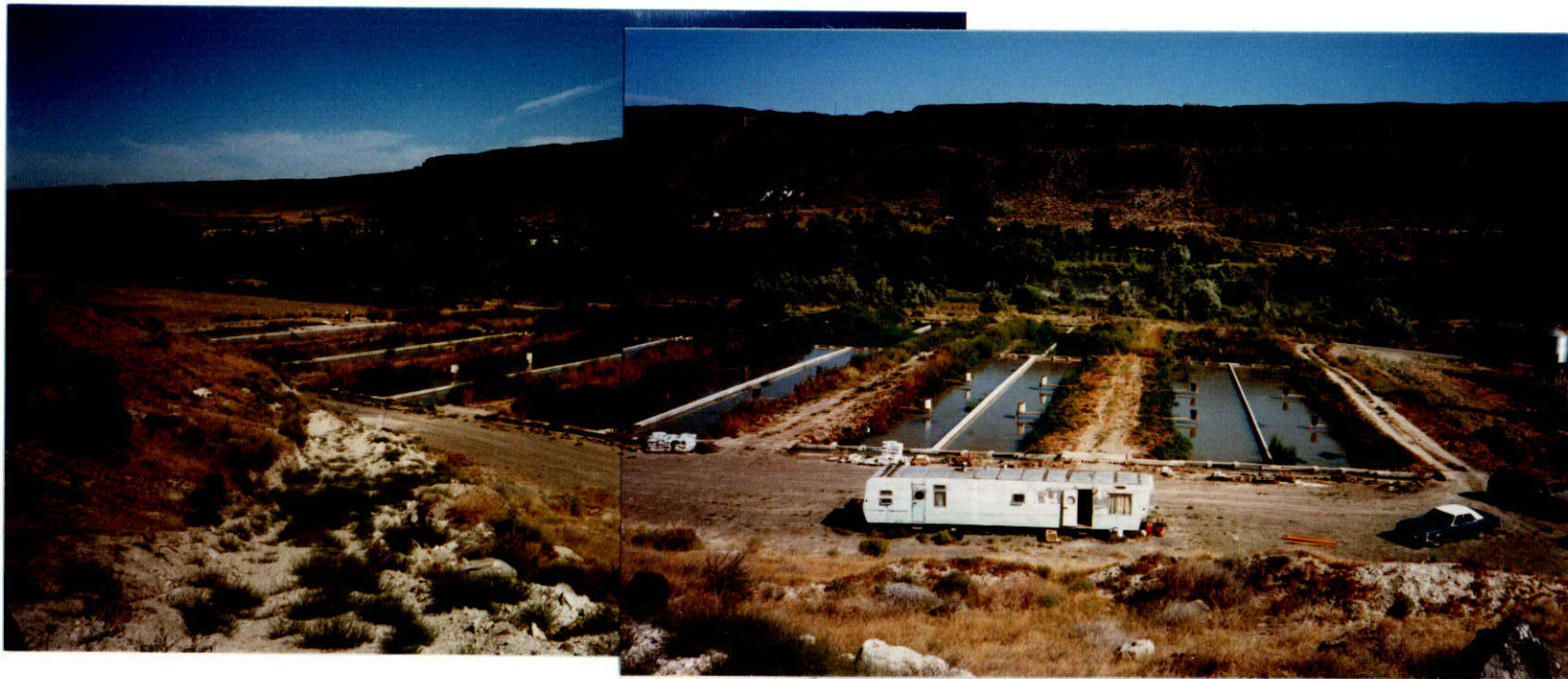


Outlet of pipeline to
concrete measuring
device.

DEC 11 1991

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47-7398



Fish Ponds



Closeup of Ponds

DEC 11 1991

UNRECORDED

47-7398

Drop between
upper & lower
ponds,



Discharge at end
of lower ponds,



REFILMED
DEC 11 1991

RECEIVED

MAY 14 1987

INTER-DEPARTMENT MEMO — 1

FROM

Allen

DATE

5/13/87

TO

Gary Speckman thru Loren Holmes,

LH

SUBJECT

47-7398

As per our phone conversation earlier this month Mr. Evert Wever has orchestrated the assignment from Kelley to PCA of the permit. He has also obtained records showing the ponds were in use in 1980 and 1981. (Please find attached the copies of these documents.) As you may recall Mr. Wever is leasing the property from PCA and presently has fish stocked in the facility. He wants the permit licensed. Please review the file and see if we can re-do the F.E. if P.C.A. pays the exam fee.

MICROFILMED

DEC 11 1991

Adm

SIGNATURE

5151
Pond 19

6418
Pond 12

4984
Pond 24

5151
Pounds

14,200

700

26,180

(2350)

(20,100)

2000

2000

24,760

2000

(1000)

(1200)

FOLLOWUP		OLDEST ITEM	
NAME Richard Kelley - Pioneer Trout			
ADDRESS Route 4			
CITY Buhl		STATE Idaho	ZIP 83316
ACCT. NO.		SHEET NO.	
CREDIT NO.			

DATE	DESCRIPTION	CHARGES	CREDITS	BALANCE	PREVIOUS BALANCE
	Invoice Number				
	Balance Carried Forward			\$ 80,589 ²⁰	
2/1/80	Pond 9-12		17,140 ⁷⁰	63,448 ⁵⁰	
2/1/80		2733 ⁵⁰		66,182 ⁰⁰	
2/4/80	700-Sulfur 2391	290 ⁵⁰		66,472 ⁵⁰	
2/8/80	2430	5039 ⁶⁵		71,512 ¹⁵	
2/8/80	350-TM 2437	500 ⁵⁰		72,012 ⁶⁵	
2/15/80	2494	3869 ²⁵		75,881 ⁹⁰	
2/15/80	2495	390 ⁰²		76,271 ⁹⁰	
2/20/80	2524	390 ⁰⁰		76,661 ⁹⁰	
2/25/80	2544	4766 ³⁰		81,428 ²⁰	
2/26/80	2557	390 ⁰⁰		81,818 ²⁰	
2/29/80	2594	415 ⁰⁰		82,233 ²⁰	
2/28/80	Pond 21-24		18,734 ¹⁰	63,499 ¹⁰	
3-14	Fines up to 3-11				

MICROFILMED
DEC 11 1991

R-15

RECEIVED

DEC 1 1961

NOT TO SCALE



AC
C-1.

A
25.6

A
25.6

B
8.2
B
8.2

C
7.9
C
7.9

D
19.6
D
19.6

12
14
12

Roller Road

5-1-11

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 47-07398

Priority: May 30, 1977

Maximum Diversion Rate: 34.10 CFS

Maximum Diversion Volume: 24687.3 AF

This is to certify, that VIRGINIA LOVELESS
ROBERT M LOVELESS

121 8TH AVE N

BUHL ID 83316

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated May 25, 1977; and
has submitted Proof of Beneficial Use on August 6, 1982. An examination indicates
that the works have a diversion capacity of 34.100 cfs of water from:

CEDAR DRAW

tributary to SNAKE RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
FISH PROPAGATION	01/01 to 12/31	34.10 CFS	24687.3 AF

LOCATION OF POINT(S) OF DIVERSION:

NWSE , Sec. 11, Township 09S, Range 15E
TWIN FALLS County

PLACE OF USE: FISH PROPAGATION
TWN RGE SEC

09S 15E 11

NWSW

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Return water shall be treated to insure that the effluent meets Idaho Water Quality Standards.

DEC 11 1991

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

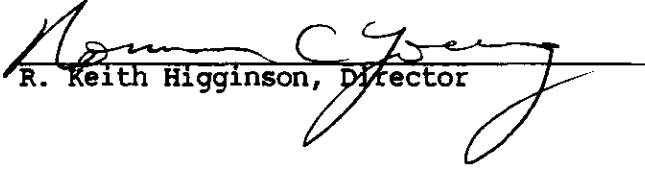
WATER RIGHT NO. 47-07398

CONDITIONS/REMARKS:

6. The Director retains jurisdiction of this license to establish a minimum bypass flow, either upon request or on his own volition. A request must describe the values to be preserved and the bypass flow necessary to preserve the values. If the Director determines that the bypass proposal is meritorious, a hearing will be scheduled to determine whether the proposal should be granted.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 6th day of DECEMBER, 1991.

Acting for


R. Keith Higginson, Director

DEC 11 1991

RECEIVED

SEP 28 1990

Department of Water Resources
Southern Region Office

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF ~~APPLICATION FOR~~ PERMIT

I, Farm Credit Services (formerly Assn. Southern Idaho Production Credit), hereby assign to Robert M. &/or Virginia Loveless
of, 121 8th Ave. North, Buhl, ID 83316
(Full Address)

All my right, title, and interest in and to ~~Application~~ / ~~for~~ Permit
No. 47-07398 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 28 day of September, 1990.

Walter S. Wells
Applicant
Loan Officer

State of Idaho)
County of Twin Falls)^{ss}

On this 28th day of September, 1990, personally appeared before me the signer of the
above instrument, duly acknowledged to me that he (she) (they) executed the same.

seal

Mary A. Baldwin
Notary Public
Gooding ID 83318 **NOT RECORDED**

My commission expires: 10/16/1990

DEC 11 1991

RECEIVED

SEP 28 1990

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT OR LICENSE

Department of Water Resources

Southern Region Office

EVERETT WEAVER and ENNICE WEAVER, husband and wife, hereby assign to ROBERT M. LOVELESS and VIRGINIA LOVELESS, husband and wife, whose address is 9264 Richardson Highway, Salcha, Alaska 99714, all of their right, title and interest in and to Permit No. 47-7398 to appropriate the public waters of the State of Idaho, appurtenant to the following described real property, to-wit:

PARCEL NO. 1: Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho

Section 11: Part of the $W\frac{1}{2}$ $SW\frac{1}{4}$, described as follows:

BEGINNING at the Southeast corner of the $SW\frac{1}{4}SW\frac{1}{4}$ of Section 11 of Township 9 South, Range 15, EBM;
Thence North $0^{\circ}21'31''$ East (North $0^{\circ}06'$ East rec.) along the East line of the $W\frac{1}{2}SW\frac{1}{4}$ for 1406.98 feet to a $\frac{1}{2}$ " rebar which shall be the POINT OF BEGINNING;
Thence South $72^{\circ}57'31''$ West (South $72^{\circ}42'$ West rec.) for 695.81 feet to a point;
Thence North $0^{\circ}21'31''$ East for 1410.51 feet to a $\frac{1}{2}$ " rebar on the $\frac{1}{4}$ Section line;
Thence North $89^{\circ}23'05''$ East along said $\frac{1}{4}$ Section line for 664.06 feet to a $\frac{1}{2}$ " rebar at the Northeast corner of the $NW\frac{1}{4}SW\frac{1}{4}$;
Thence south $0^{\circ}21'31''$ West along the East line of the $W\frac{1}{2}SW\frac{1}{4}$ for 1213.72 feet to the POINT OF BEGINNING.

PARCEL NO. 2: Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County Idaho

Section 11: The North 252 feet of the $W\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$.

MICROFILMED

DEC 11 1991

MADE THIS ____ day of August, 1990.

Everett Weaver

EVERETT WEAVER, Permit holder

Ennice Weaver

ENNICE WEAVER, Permit holder

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

On this 23rd day of August, 1990, before me, the undersigned, a Notary Public in and for said County and State, personally appeared EVERETT WEAVER and ENNICE WEAVER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Mary Lee Penatopoulou
NOTARY PUBLIC FOR IDAHO
Residing at Twin Falls
My commission expires 5-18-93

DEC 11 1991

RECEIVED

MAY 14 1987

State of Idaho
Department of Water Resources

Department of Water Resources

ASSIGNMENT OF PERMIT

Southern Idaho

I, Richard J. Kelley, hereby assign to Production Credit Assoc.
of _____

Address

CHECK ONE



All my right, title, and interest in and to Permit No. 47-7398
to appropriate the public waters of the State of Idaho.



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

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

Made this _____ day of _____, 19 _____.

Richard J. Kelley
Permit Holder

Susan B. Kelley
Spouse of Permit Holder

State of Idaho)
County of Twin Falls) ss.

On this 27th day of April, 19 87, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

seal

Colleen Martin
Notary Public residing at
Twin Falls

DEC 11 1991

My commission expires:

Jan. 1893

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 47-7398 IN THE)
NAME OF RICHARD J. KELLEY) ORDER OF REINSTATEMENT
_____)

WHEREAS, the Department has issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before August 1, 1982; and,

WHEREAS, the Department has notified the permit holder by certified mail that proof was due and instructed the permit holder as to the steps to be taken to make said proof; and,

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

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

WHEREAS, the permit holder has provided a reasonable showing as to why said permit should be reinstated by submitting proof of beneficial use on August 6, 1982;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 47-7398 be REINSTATED and the priority advanced to May 30, 1977.

Dated this 20th day of September, 1982.



L. GLEN SAXTON

Chief, Operations Bureau

RECEIVED
DEC 11 1991

Identification No. _____

Application No. 47-7398

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT

APPROVED

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

1. Name of applicant Richard J. Kelley
post office address Box 87, Buhl, Idaho 83316
2. Source of water supply Cedar Draw which is a tributary of Snake River
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 11 Township 9 So.
Range 15 E. B.M. Twin Falls County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into Snake River at a point in NE $\frac{1}{4}$
of SE $\frac{1}{4}$ of Section 10 Township 9 So. Range 15 E. B.M. Twin Falls County
4. Water will be used for the following purposes:
Amount 150 for fish prop purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 150 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 40 foot concrete steel re-
inforced headgate with large pipe going into a canal which will
transport water to fish raceways for raising fish and then spill
water into Snake River.
b. Height of storage dam None feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 150,000.00.
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 11 Township 9 So.
Range 15 E. B.M.
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: fish propagation

MICROFILMED

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

[illegible]

Total number of acres to be irrigated_____

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

9. a. Who owns the property at the point of diversion Twin Falls Bank & Trust Co. as Trustee

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

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

10. Remarks Polution control will be cared for as use of earth ponds
which will be cleaned out on a regular basis.

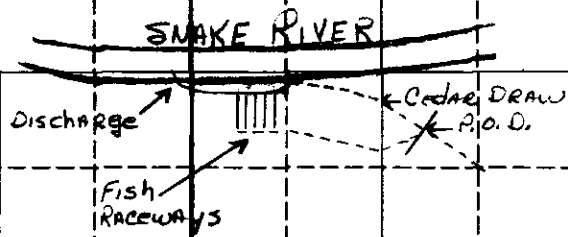
11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

Township 9 So.

Range 15 E.B.M.

Section 10

Section 11



Scale: 2 inches equal 1 mile

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

Richard J. Kelley
(Applicant)

Proposed Priority 5/25/77

Received by ADM Date 5-25-77 Time 3:00 p.m.

Preliminary check by JS Fee \$ 665.00

Received by ADM Date 5-25-77 # 3546

Publication prepared by JS Date 6/8/77

Published in Times News

Publication dates 6/16 + 6/23/77

Publication approved JS Date 6/27/77

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by MLS jo

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 47-7398, and said application is hereby APPROVED.

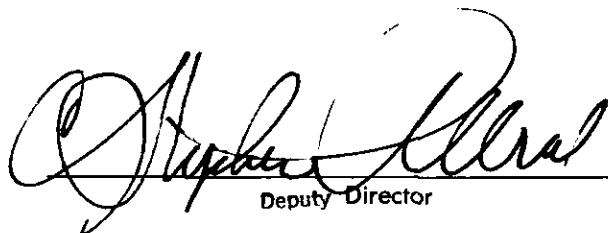
1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before August 1, 19 82.
- c. Other: For licensing purposes a scientific measurement of the diversion rate of the system as it is normally operated shall be provided by either properly installing an approved type of measuring device or by having a professional engineer certify the rate of diversion to the Department prior to submitting proof of beneficial use of water.

The issuance of this permit in no way grants any right-of-way or easement across the land of another.

Return water shall be treated to insure that the effluent meets interstate stream water quality standards.

Witness my hand this 29 day of August, 19 77.


Deputy Director

WARRANTY DEED

For Value Received

MARY ANNE KELLEY, an unmarried woman and JOHN T. GOURLEY, a divorced man

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

RICHARD J. KELLEY and SUSAN E. KELLEY, Husband and Wife

Hereinafter called the Grantee, the following described premises situated in Twin Falls County, Idaho, to-wit:

Township 9 South, Range 15 East of the Boise Meridian, Twin Falls County, Idaho,

Section 10: The North one-half of Lot 7, All of Lot 8, $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ and $SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$,

Section 11: $NW\frac{1}{4}SW\frac{1}{4}$ and $SW\frac{1}{4}SW\frac{1}{4}$.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: March 17, 1971

Bernice J. Josselyn

Mary Anne Kelley
John T. Gourley

Instrument No.

STATE OF IDAHO, COUNTY OF ADA

On this 15th day of March, 1971,

before me, a notary public in and for said State, personally appeared John T. Gourley, a divorced man known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

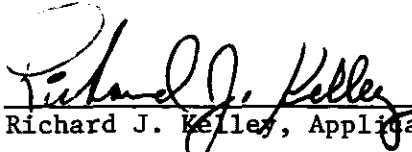
Bernice J. Josselyn
Notary Public

Residing at Boise, Idaho

Commission Expires: 12/14/74

STATEMENT

I, RICHARD J. KELLEY, propose to build approximately sixteen (16) ponds to start with and will eventually have thirty (30) ponds. Construction will begin upon securing of loans and securing of contract to raise fish. Presently there is a verbal contract to raise fish. My partner will be Dave Erickson, local well-known Fish Biologist. File No. 47-7398.


Richard J. Kelley, Applicant

II ER-DEPARTMENT MEMO — 1

FROM

Jan Grover

TO

File

SUBJECT

Financial ability

DATE

9/14/57

In studying the owners assets & liabilities, as submitted, I find them to be financially stable to complete the project. Statement returned to owner as personal papers.

jc

SIGNATURE

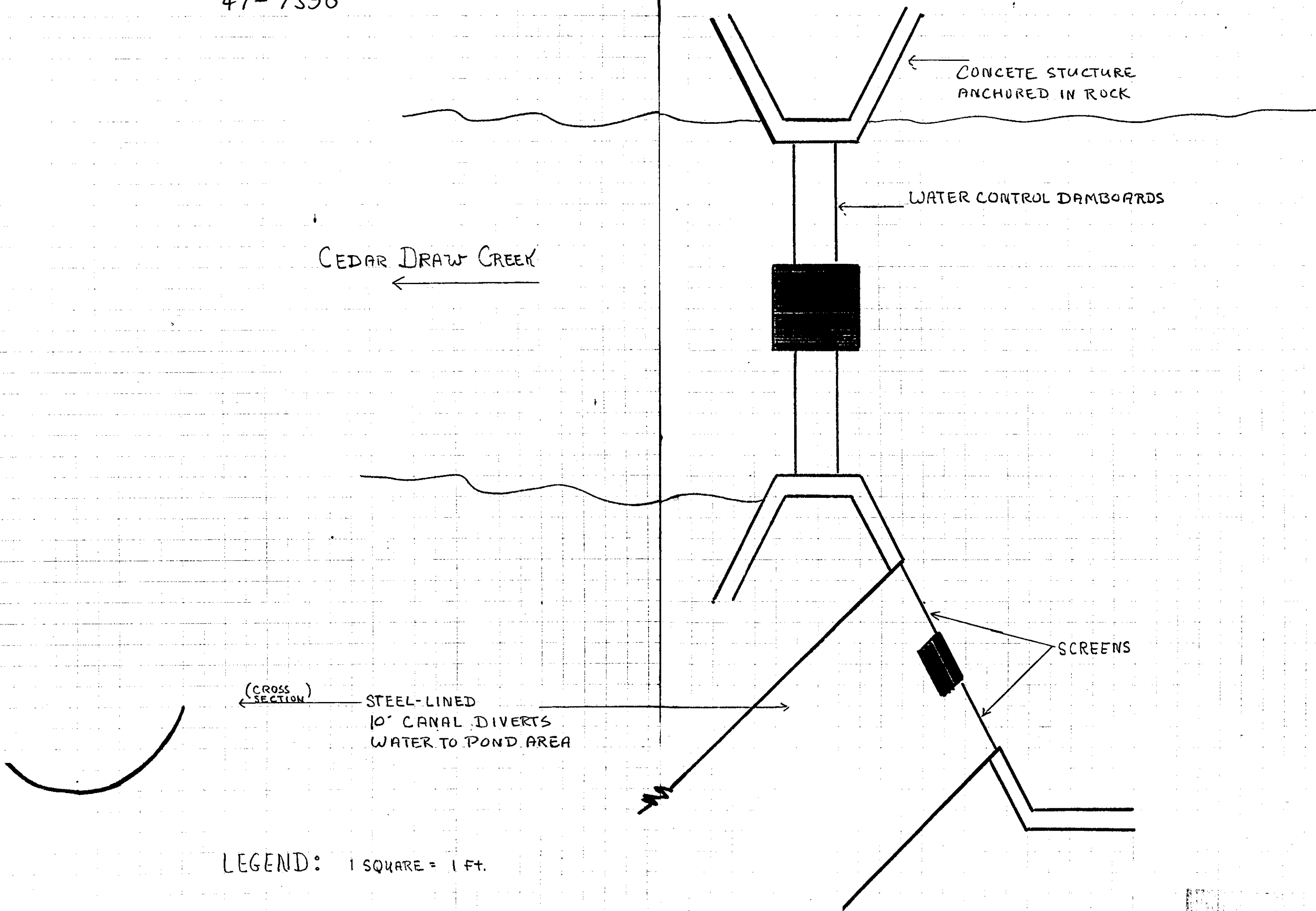
Supplement

a. Tractors:	
Massey Ferguson 65 Diesel	66,600
Ferguson 30	1,200
Oliver Super 55	2,000
Hyster 2 ton Pripene	3,000
Hyster Motor and parts	800
	<u>13,600</u>
b. Spray Equipment:	
Bestler Speed Sprayer	5,000
Bean 250 gallon	1,500
Niagra Duster	500
	<u>7,000</u>
c. Field Equipment:	
Oliver 8' Disc	500
Edwards 7½' Whipper	500
Tractor Hyster	500
Post Hole Digger	200
Woods 4' Roto Tiller	200
Corrigator	100
3 Section Harrow	100
Ditcher	100
Tandom Wagon	200
	<u>2,300</u>
d. Shop Equipment:	
Welder	200
2 Chain Saws	300
2 Power Saws	50
Compressors	200
Other Tools	200
	<u>950</u>
e. Cars & Trucks:	
1972 Lincoln	2,000
1977 Chev. 3/4 T. 4 Wheel	6,000
1949 Ford 1 ton	300
Boat & 70 HP Merc.	700
W.W. 5th Wheel Trailer	3,500
	<u>12,500</u>
f. Apple Packing Equipment:	
FMC 14' Sorter	1,000
FMC 3' 28 Brush Washer	1,000
FMC 4' 33 Brush Washer	1,300
Bin Dumper	500
Cutler Sizer 3 Section 32 bin	2,000
Moving Box Chain	1,000
Box Stapler	1,000
	<u>7,800</u>

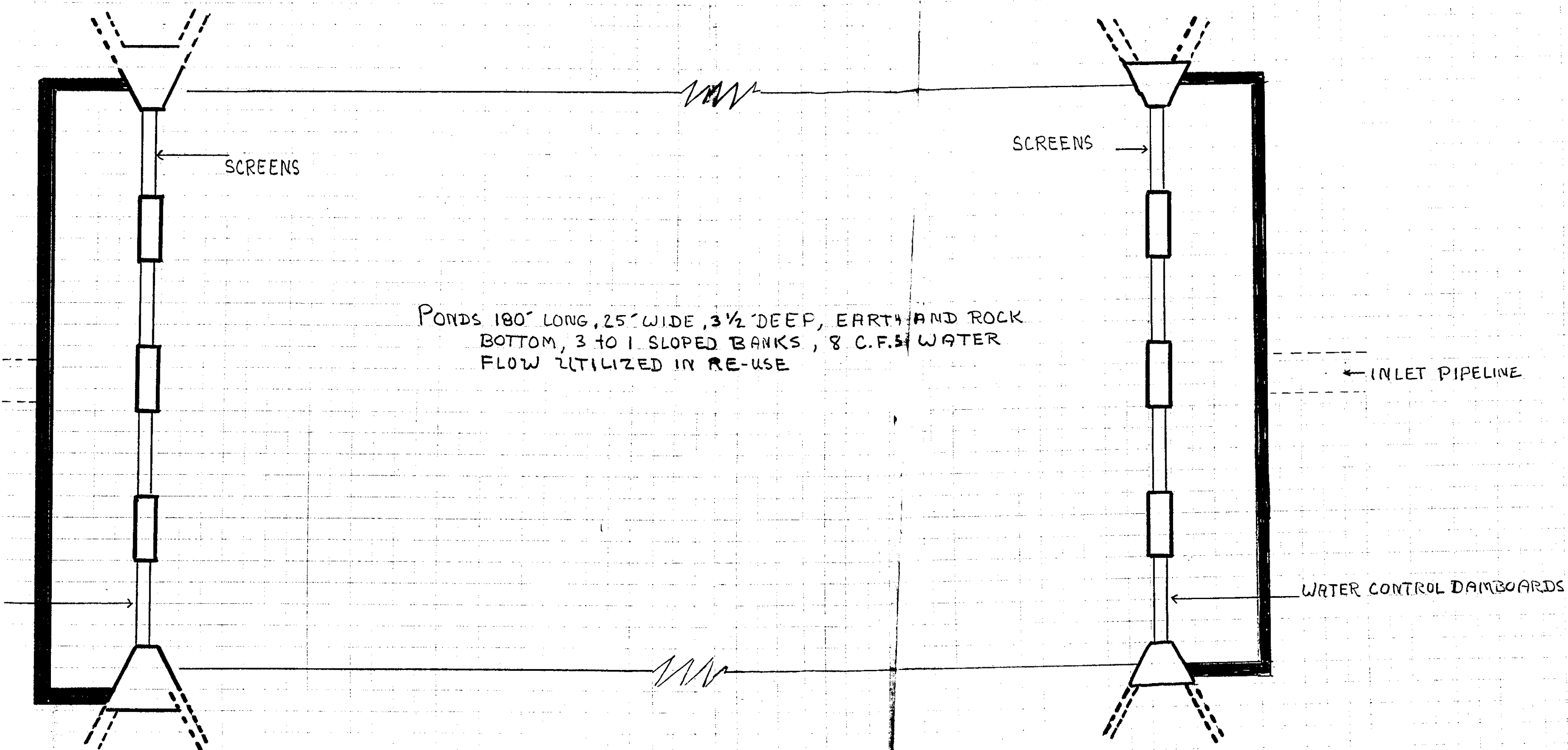
NOTED

RE

Richard Kelley
47-7398



LEGEND: 1 SQUARE = 1 FT.



PONDS 180' LONG, 25' WIDE, 3 1/2' DEEP, EARTH AND ROCK
BOTTOM, 3 TO 1 SLOPED BANKS, 8 C.F.S. WATER
FLOW UTILIZED IN RE-USE

LEGEND: 1 SQUARE = 1 FOOT
——— CONCRETE STRUCTURES
----- BURIED STRUCTURES

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS }

ss.

N^o 6115

I, Carolyn Jennings being first duly sworn upon oath, depose and say that I am Principal Clerk of the TIMES-NEWS, published daily, except Saturday, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Sundays, commencing with the issue dated June 16, 19 77, and ending with the issue dated June 23, 19 77.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Carolyn Jennings
Subscribed and sworn to before me on this twenty-third day of June, 19 77.

Malcolm E. Clark
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

February 22, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Gary Slette
Rosholt, Robertson & Tucker
142 Third Ave N
Twin Falls ID 83301

RE: Application for transfer on right no. 47-07398

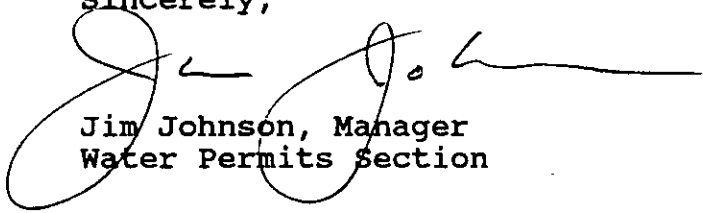
Dear Gary;

In follow-up to our conversation on this date concerning the possibility of the Department of Water Resources approving a future transfer of this right changing the nature of use back to fish propagation, I can provide the following.

1. The Department considers Water Quality Improvement and Fish Propagation, to be both non consumptive and that the water diverted under one use can be converted via a application for transfer to the other use.
2. The rate of diversion and annual volume diverted under the proposed new use of Water Quality Improvement can not exceed the licensed rate and volume listed on the license under the original use of Fish Propagation.
3. The future application for transfer will be processed as provided in section 42-222, Idaho Code.
4. The Department is willing to approve a future application for transfer that proposes to restore the water use back to the use that was originally licensed provided that the requirements of section 42-222, Idaho Code are met.

If you have any questions please let me know.

Sincerely,



Jim Johnson, Manager
Water Permits Section

December 10, 1991

VIRGINIA LOVELESS
ROBERT M LOVELESS
121 8TH AVE N
BUHL ID 83316

RE: WATER RIGHT NO. 47-07398

Dear Water Right Holder(s):

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

Sincerely,

SHARLA CURTIS
Water Resource Agent

SC:blm

Enclosure

RECEIVED
DEC 11 1991

MEMORANDUM

TO: File No. 47-07398
FROM: Gary Spackman *Gary*
DATE: November 14, 1991

RE: Protest Against Issuance of A License

A protest against issuance of a license was filed by David Millard of Crystal Springs Ranches. Millard had subsequently sold a portion of his property which was affected by the water use, and withdrew his protest. I note that the new owner has received notice of Millard's intent to withdraw, and has not filed anything with the Department, or asked to be substituted in Millard's place.

Three issues were raised by Millard's protest:

1. The water right had been forfeited;
2. The measuring device requirement had not been complied with; and
3. The permit holder was diverting all of the flow of Cedar Draw Creek, which is not in the public interest.

In 1987, I reviewed the forfeiture issue with Everett Weaver, a prospective buyer of the fish facility. Information was provided to me which showed that fish had been raised in the facility as late as the fall of 1982, and had been resumed in 1987. I do not have clear evidence of forfeiture. Furthermore, the use apparently has been resumed.

The permit does not require an inflow and outflow measuring device. Apparently this permit was granted prior to when we started requiring outflow and inflow devices.

I do not believe that at this point in time it is ever in the public interest for a water user to fully dry up a natural stream. I suggest the following condition be added to the license:

The director retains jurisdiction of this license to establish a minimum bypass flow, either upon request or on his own volition. A request must describe the values to be preserved and the bypass flow necessary to preserve the values. If the Director determines that the bypass proposal is meritorious, a hearing will be scheduled to determine whether the proposal should be granted.

NOT DETERMINED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

28-Aug-1991

R. KEITH HIGGINSON
Director

G. Richard Bevan
Attorney for Robert M. Loveless
P.O. Box 366
Twin Falls, ID 83303-0066

Re: Proposed license 47-7398

Dear Mr. Bevan:

The department has received notice that David Millard, the protestant in this matter has withdrawn his protest because he has sold the adjacent property.

This office will now consider the matter closed and will not schedule any hearing unless the director finds that he has cause to reopen the matter.

Sincerely,

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

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

MICROFILMED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

28-Aug-1991

R. KEITH HIGGINSON
Director

Crystal Springs Ranch
Rt. 1 Box 119
Filer, ID 83328

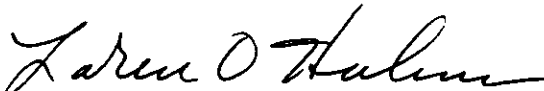
Re: Proposed license 47-7398

Gentlemen:

The department has received notice that David Millard, the protestant in this matter has withdrawn his protest because he has sold the adjacent property.

This office will now consider the matter closed and will not schedule any hearing unless the director finds that he has cause to reopen the matter.

Sincerely,


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

RECORDED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

28-Aug-1991

R. KEITH HIGGINSON
Director

Michael H. Felton
Attorney for Crystal Springs Ranch
P.O. Box 589
Buhl, ID 83316

Re: Proposed license 47-7398

Dear Mr. Felton:

The department has received notice that David Millard, the protestant in this matter has withdrawn his protest because he has sold the adjacent property.

This office will now consider the matter closed and will not schedule any hearing unless the director finds that he has cause to reopen the matter.

Sincerely,

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

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

RECEIVED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

28-Aug-1991

R. KEITH HIGGINSON
Director

Robert M. Loveless
Virginia Loveless
121 8th Ave. N.
Buhl, ID 83316

Re: Proposed license 47-7398

Dear Mr. and Mrs. Loveless:

The department has received notice that David Millard, the protestant in this matter has withdrawn his protest because he has sold the adjacent property.

This office will now consider the matter closed and will not schedule any hearing unless the director finds that he has cause to reopen the matter.

Sincerely,


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

RECORDED

DEC 11 1991



Land Planning & Management

Suite 101, Building A, 4508 Auburn Way No., Auburn, WA 98002 (206)854-1138 • FAX (206)852-0045
Route 1, Box 119, Filer ID 83328 (208)326-5953 • 245 Lancaster Drive, Reno NV 89506 (702)786-4474

August 14, 1991

RECEIVED

AUG 21 1991

Department of Water Resources
Southern Region Office

Mr. Loren O. Holmes, PE
Southern Region Manager
Department of Water Resources
State Of Idaho
222 Shoshone St. E
Twin Falls, ID 83301

RE: Pre-Hearing Conference - Protesting Against Issuance of License
47-7398

Dear Loren:

47-7398
Last month we consummated the sale of the westerly and easterly portions of our ranch, retaining ownership of the center core-area comprising approximately 250 acres. The two portions of our ranch were sold to Robert Kantor, PO Box 610, Ketchum, ID 83340 (208-726-1071). The dilemma I face is that having transferred my interests in the westerly portion of the ranch, I have no further desire to continue with the protest of issuance of this license. I must, in any case, defer my right to protest to the new owner of said property, Bob Kantor.

I request that the Department of Water Resources contact Mr. Kantor direct regarding this matter. By a copy of this letter, I will transmit portions of my file to Bob so that he will have some understanding of my concern about the total diversion of Cedar Draw Creek.

Sincerely Yours,

Crystal Springs Ranch

David R. Millard, PE, PLS

cc: Michael Felton, attorney at law
Robert Kantor

DRM/mj

MICROFILMED

DEC 11 1991

Property Investigations
Feasibility Studies
Financial Proformas

Land Planning
Environmental Studies
Market Studies

Land Reclassification
PUD/Subdivision Processing
Public Agency Interface

Public Relations
Project Management
Construction Management

HOLLIFIELD, TOLMAN & BEVAN

ATTORNEYS AT LAW

249 - THIRD AVENUE EAST

P.O. BOX 66

TWIN FALLS, IDAHO 83303-0066

WILLIAM R. HOLLIFIELD
STEVEN K. TOLMAN
G. RICHARD BEVAN

TELEPHONE (208) 734-5610
FAX (208) 734-8077

August 9, 1991

Michael H. Felton, Sr.
P.O. Box 589
Buhl, ID 83316

Dear Mike:

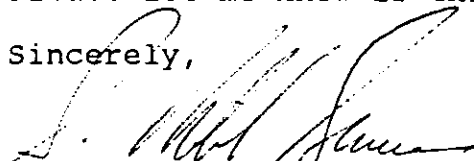
RE: Crystal Springs Ranch Protest--Loveless License

I spoke with Dave Millard on this date referencing his desire to withdraw the protest you filed on his behalf with the Department of Water Resources. Dave assured me he has no desire to pursue this protest.

I would hope, based upon Dave's assurances, that we can notify the Department that the prelitigation hearing may be vacated to allow us the opportunity to resolve this matter.

Please let me know if this arrangement can be worked out.

Sincerely,



G. RICHARD BEVAN

kko

cc: Robert and Virginia Loveless

RECEIVED

AUG 12 1991

Department of Water Resources
Southern Region Office

UNRECORDED

AUG 11 1991

HOLLIFIELD, TOLMAN & BEVAN

ATTORNEYS AT LAW

249 - THIRD AVENUE EAST

P. O. BOX 66

TWIN FALLS, IDAHO 83303-0066

WILLIAM R. HOLLIFIELD
STEVEN K. TOLMAN
G. RICHARD BEVAN

TELEPHONE (208) 734-5610
FAX (208) 734-8077

August 8, 1991

J. Evan Robertson
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906

Dear Evan:

RE: Crystal Springs Ranch Protest.

I appreciated the opportunity to speak with you on the phone today. As we discussed, my clients, Robert and Virginia Loveless, applied for and received the enclosed water right license on or about December 6, 1990. At approximately the same time, Michael Felton, on behalf of Crystal Springs Ranch and Dave Millard, filed a protest. A copy of the protest is enclosed for your review. This matter has been set for prehearing conference before the Department sometime in September.

I was contacted today by Dave Millard, who indicated that he has no further interest in pursuing the protest which he filed against the Lovelesses. I would appreciate it if you could discuss this matter with Bob Cantor, and let us know whether Mr. Cantor will be seeking any similar relief from the Department.

I agree that, as you indicated, Crystal Springs' protest is personal and does not run with the land. In any event, the Lovelesses are at a point where we need to make a decision regarding the future handling of this matter. Mr. Cantor's assurance that he will not seek to enforce Millard's claim will certainly help us speed up the process. Thank you for your assistance with this matter. Please contact me should you have any word from Mr. Cantor.

Sincerely,

G. RICHARD BEVAN

kko
cc: Robert and Virginia Loveless
Enclosure

MICROFILMED

DEC 11 1991 RECEIVED

AUG 12 1991

Department of Water Resources
Southern Region Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

29-Jul-1991

R. KEITH HIGGINSON
Director

G. Richard Bevan
Attorney for Robert M. Loveless
P.O. Box 366
Twin Falls, ID 83303-0066

Re: Rescheduling of pre-hearing conference

Dear Mr. Bevan:

The pre-hearing conference on the Loveless protested license, No 47-7398, is being rescheduled to September 17, 1991.

Formal notice will be served about August 3.

If questions or conflicts arise, please let me know.

Sincerely,

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

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

C: Robert M. Loveless

RECEIVED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

29-Jul-1991

R. KEITH HIGGINSON
Director

Michael H. Felton
Attorney for Crystal Springs Ranch
P.O. Box 589
Buhl, ID 83316

Re: Rescheduling of pre-hearing conference

Dear Mr. Felton:

The pre-hearing conference on the Loveless protested license, No 47-7398, is being rescheduled to September 17, 1991.

Formal notice will be served about August 3.

If questions or conflicts arise, please let me know.

Sincerely,

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

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

C: Crystal Springs Ranch

MICROFILMED

DEC 11 1991

MICHAEL H. FELTON

Attorney at Law

Professional Center

1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
(208) 543-4368
FAX: (208) 543-4360

July 26, 1991

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

RECEIVED

JUL 29 1991

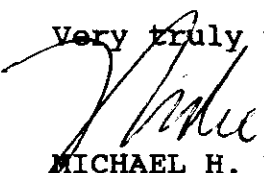
Department of Water Resources
Southern Region Office

Dear Loren:

RE: Pre-Hearing Conference - 8/15/91
Protest Against Issuance of License 47-7398
Our File No. 1056.04

This letter is in response to your July 19 letter that I received July 23. Please be advised that I will be unavailable August 15-17, 1991, as well as the morning of August 19 and the afternoon of August 26. Likewise, I will be unavailable September 4-5 and September 12 and 19. Please reschedule the pre-hearing conference to some time other than August 15 and the other dates listed hereinabove.

Very truly yours,


MICHAEL H. FELTON

MHF:pm

pc: David R. Millard
G. Richard Bevan, Esq.

MICROFILMED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

19-Jul-1991

R. KEITH HIGGINSON
Director

Michael H. Felton
Attorney for Crystal Springs Ranch
P.O. Box 589
Buhl, ID 83316

Re: Protest against issuance of License 47-7398

Dear Mr. Felton:

This office is tentatively scheduling the matter of licensing permit No. 47-7398 for a pre-hearing conference on August 15, 1991 in Twin Falls.

The purpose of the conference will be to discuss issues, arrange for exchange of information, and discuss hearing scheduling. Formal notice of the pre-hearing conference will be served about July 29. If there are conflicts with the August 15 date, please let me know before July 29.

Sincerely,

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

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

C: Crystal Springs Ranch

PROCESSED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

19-Jul-1991

R. KEITH HIGGINSON
Director

G. Richard Bevan
Attorney for Robert M. Loveless
P.O. Box 366
Twin Falls, ID 83303-0066

Re: Protest against issuance of License 47-7398

Dear Mr. Bevan:

This office is tentatively scheduling the matter of licensing permit No. 47-7398 for a pre-hearing conference on August 15, 1991 in Twin Falls.

The purpose of the conference will be to discuss issues, arrange for exchange of information, and discuss hearing scheduling. Formal notice of the pre-hearing conference will be served about July 29. If there are conflicts with the August 15 date, please let me know before July 29.

Sincerely,

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

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

C: Robert Loveless

RECEIVED

DEC 11 1991

April 18, 1991

RE: Water Right No. 47-7398

Robert Loveless
121 8th Ave. N.
Buhl, ID 83316

Dear Mr. Loveless:

As you are aware, a protest has been filed against issuance of a license on the above referenced right. Gary Spackman of this office has notified you that the matter will be scheduled for hearing.

Previously, however, you submitted an amendment form which had been requested for issuance of the license. In looking at the file, I determined that we erred in requesting the amendment. No changes had occurred from the original filing which required an amendment to the permit. For this reason, the filing fee is being returned to you (check enclosed).

Sincerely,

SHARLA CURTIS
Technical Records Specialist

Enclosure

MICROFILMED

DEC 11 1991

EXPENDITURE VOUCHER

AUDITOR USE

STATE OF IDAHO
Office of State Auditor

AGENCY USE

Date	4765
Code	04/11/91
	193002

VENDOR: If you require additional information regarding this payment, please contact the State agency listed below.

AGENCY NAME: DEPT. OF WATER RESOURCES

Document No.	
Pre-Audit	Date
Warrant No.	

CHECK ONE:

(1) MISCELLANEOUS EXPENDITURE

() STATE CONTRACT

() PURCHASE ORDER

() MISCELLANEOUS
ENCUMBRANCE REQUISITION

PAYMENT: () PARTIAL () FINAL

Encumbrance Reference No.

LINE No.	PROGRAM	FUND	ACCT.		DESCRIPTION	LINE AMOUNT	AGENCY USE
			Maj	Min			
1	05 10 199	1238	8831		REFUNDS PER SHARLA CURTIS RECEIPT #C018857 WR #47-7398 4/ 5/91 20.00	20.00	
TOTAL						20.00	

NOTE: Final payment must be accompanied by a receiving copy

TO STATE AUDITOR

Request is hereby made that a warrant be authorized and drawn in payment of the item or items described above. I hereby certify that the items described were ordered by proper authority; that they are necessary in the public service, that the items have been received and accounted for, and that the account as stated is correct and just.

AUDITOR'S CERTIFICATE

I hereby certify that the above account is in proper form; that totals carried hereon are correct; that receipts when required by law or regulation of the State Board of Examiners covering items for which reimbursement is asked are submitted herewith; and that there are funds in the state treasury and balances in appropriation accounts out of which the same may be lawfully paid.

Date

Head of Agency or Institution

State Auditor

MICHAEL H. FELTON

Attorney at Law

Professional Center

1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
(208) 543-4368
FAX: (208) 543-4360

May 15, 1990

RECEIVED

MAY 17 1990

Mr. Loren Holmes
Dept. of Water Resources
2148 4th Avenue East
Twin Falls, ID 83301

Department of Water Resources
Southern Region Office

RE: Cedar Draw Creek - Traxler Well - Crystal Springs
Ranch

Dear Loren:

This letter is to confirm our telephone call of Monday, the 14th of May, wherein you agreed to do some field work to determine if in fact the waters of Cedar Draw Creek had been entirely dried up by Mr. Weaver and further what apparent effect all of this may have had on the Traxler well. I'll look forward to hearing from you and will be checking with you in a couple of weeks.

Very truly yours,



Michael H. Felton
MHF:cjp
Our File No. 1056.04
Letters\Holmes.Tue

MICROFILMED
DEC 11 1991

4-18-90

Dear Loren

Re: Crystal Sage-Rch
David Mottard
Cedar Drow Creek

Approx. 2 wks. ago I wrote
to you regarding this matter.
(total generosity thereby trying
up the creek.
It would appreciate the
kindness of a reply.

Thanks

Mike Feltz

MICROFILMED

DEC 11 1991

MICHAEL H. FELTON

Attorney at Law

Professional Center

1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
(208) 543-4368
FAX: (208) 543-4360

April 9, 1990

RECEIVED

APR 10 1990

Department of Water Resources
Southern Region Office

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

RE: Cedar Creek - Total Diversion - Permit No. 477398

Dear Loren:

David R. Millard, the owner of Crystal Springs Ranch, has asked me to follow-up with you on his letter dated November 11, 1989, wherein he advised you of damages that he has sustained and wherein he also mentioned future and additional damages due to the total and complete diversion of the waters from Cedar Draw Creek. I told him that I expected that a fish ladder would have been required on the permit and I told him that I was quite surprised that the State would permit the total diversion of the stream resulting in completely drying up the creek bed.

In a new development we have recently learned from Earl Traxler, who is a neighbor and who lives on the original ranch headquarters which he purchased in 1983, that his existing well has no water. We expect that this results from the complete and total diversion of the waters of Cedar Draw Creek. The Creek flows in a Northwesterly direction and lies just across the county road from the Traxler home. It is apparent that his old and shallow well is dependent upon the surface flows for aquifer recharge.

We believe that this existing well has an early right and priority based upon use and therefore the waters must be returned to the water course in order to recharge the well. The Traxlers, for the timebeing, are hauling culinary water. An additional and very serious consequence of the permitted diversion and the loss of domestic and irrigation water is that there is no water source of present to combat any fire which might occur threatening the property and the dwelling and other improvements located thereon. I would appreciate

RECEIVED

DEC 11 1991

Mr. Loren Holmes, P.E.
April 9, 1990
Page 2

hearing back from you on this matter at your earliest convenience.

Very truly yours,



Michael H. Felton

MHF:cjp

Enclosures

cc: Mr. Carl Nellis, Regional Supervisor
Idaho Dept. of Fish and Game
P. O. Box 428
Jerome, ID 83338-0428

cc: Mr. David R. Millard, P.E., P.L.S.
Our File No. 1056.04 and 1056.05
Letters\Holmes.Mon

DEC 11 1991

G. RICHARD BEVAN
HOLLIFIELD, TOLMAN & BEVAN
P.O. Box 366
249 Third Ave. East
Twin Falls, Idaho 83303-0066
Telephone: (208) 734-5610

Attorneys for Robert and
Virginia Loveless

RECEIVED

APR 08 1991

Department of Water Resources
Southern Region Office

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

* * * * *

In the Matter of Permit to) NOTICE OF APPEARANCE
Appropriate No. 47-7398)

* * * * *

G. RICHARD BEVAN, of the law firm of Hollifield,
Tolman & Bevan, hereby appears for Robert and Virginia
Loveless in the above-entitled action. Said attorney
hereby requests that all documents and pleadings be served
upon him at the above address, and further requests that the
scheduling of the prehearing conference be expedited.

DATED This 5th day of April, 1991


G. RICHARD BEVAN
Attorney for Loveless

MICROFILMED

DEC 11 1991

RECEIVED

APR 08 1991

Department of Water Resources
Southern Region Office

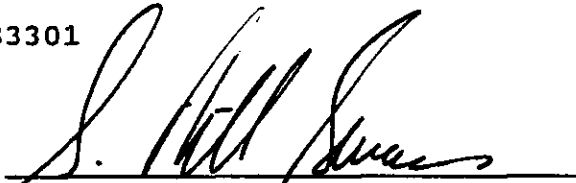
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5 day of April, 1991, a true and correct copy of the foregoing NOTICE OF APPEARANCE was sent to the following persons by way of U.S. mail, postage prepaid.

Michael H. Felton, Esq.
Attorney at Law
1020 Main Street
P.O. Box 589
Buhl, Idaho 83316

Gary Spackman
Dept. of Water Resources
1301 N. Orchard
Boise, Idaho 83720

Loren Holmes, P.E.
Dept. of Water Resources
222 Shoshone St. E.
Twin Falls, Idaho 83301


G. RICHARD BEVAN

RECEIVED
DEC 11 1991

MEMORANDUM

TO: Fiscal
FROM: Sharla
DATE: April 5, 1991
RE: Refund (Rt #47-7398)

Please prepare a \$20.00 refund check for the individual listed below and return the check to me for mailing with correspondence. The refund is being made because a licensing amendment should not have been requested for the water right. The original receipt (never mailed) is attached.

Robert M. Loveless
121 8th Ave. N.
Buhl, ID 83316

MICROFILMED

DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 18, 1991

RECEIVED

MAR 20 1991

Robert M. Loveless
121 8th Ave. N.
Buhl, ID 83316

RE: Permit to Appropriate Water No. 47-07398 Department of Water Resources
Southern Region Office

Dear Mr. Loveless:

Enclosed is a protest against issuance of a license for a fish propagation use, which was originally developed by Richard Kelley, and which our information shows you now own. The protest was received after a field examination had been conducted, and the Department was ready to issue a license.

Although the protest against issuance of a license has not referred to a particular statutory provision allowing the protest, the Department accepts it as a protest filed pursuant to Idaho Code § 42-224. The Department is obligated to schedule the matter for hearing, but will first schedule a prehearing conference.

Respectfully,

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc: Southern Region
Mike Felton

MICROFILMED
DEC 11 1991

MICHAEL H. FELTON

Attorney at Law

Professional Center

February 27, 1991

1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
(208) 543-4368
FAX: (208) 543-4360

Gary Spackman
Department of Water Resources
1301 N. Orchard
Boise, ID 83720

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FEB 28 1991

Dear Gary:

Department of Water Resources

RE: Permit No.: 47-7398
Applicants: Kelley/Weaver/Loveless
Protested By: Crystal Springs Ranch
Our File No.: 1056.04

Thanks very much for your telephone call of Tuesday, February 26. Enclosed herewith from my file are photocopies of the green cards showing delivery on November 1, 1990 to your office and to the Twin Falls office.

Also enclosed please find a copy of the Protest dated October 31, 1990, and the Certificate of Mailing. I trust this matter will be set for hearing on the Protest at sometime in the near future and look forward to hearing from you regarding the date of the hearing.

Very truly yours,


MICHAEL H. FELTON

MHF:pm

Enclosures

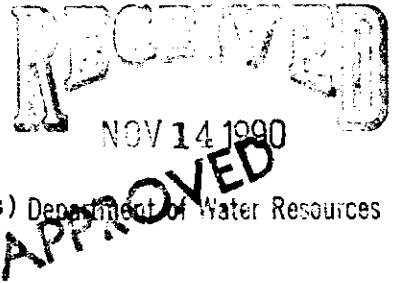
cc: Loren Holmes, P.E. (w/enc.)
David R. Millard (w/enc.)

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47-07398	P	CEDAR DRAW	SNAKE RIVER
47-07464	L	CEDAR DRAW CREEK	SNAKE RIVER
47-07547	A	CEDAR DRAW CREEK	SNAKE RIVER
47-07716	A	CEDAR CREEK	SALMON FALLS CREEK
47-07768	P	CEDAR DRAW	SNAKE RIVER
47-07830	P	CEDAR DRAW	SNAKE RIVER
47-07960	P	CEDAR DRAW	SNAKE RIVER
47-08005	P	CEDAR DRAW	SNAKE RIVER
47-08041	A	CEDAR DRAW	SNAKE RIVER
		SPRINGS	SNAKE RIVER
47-08229	A	CEDAR DRAW CREEK	SNAKE RIVER

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DEC 11 1981

State of Idaho
Department of Water Resources



APPLICATION FOR AMENDMENT
(For Licensing Purposes) Department of Water Resources
WATER RIGHT NO. 47-07398

Date of Priority: May 30, 1977

Maximum Diversion Rate: 34.10 CFS
Maximum Diversion Volume:¹ 24687.3 AF

Comes now

ROBERT M. LOVELESS
VIRGINIA LOVELESS

121 8TH AVE. N.
BUHL, ID 83316

and represents to the Director of the

Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho No. 47-07398, and requests that the permit be changed as follows:

Source: CEDAR DRAW

tributary to SNAKE RIVER

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

ANNUAL VOLUME

FISH PROPAGATION

01/01 to 12/31

34.10 CFS

24687.3 AF

LOCATION OF POINT(S) OF DIVERSION:

NWSE, Sec. 11, Township 09S, Range 15E
TWIN FALLS County

PLACE OF USE: FISH PROPAGATION

TWN RGE SEC

09S 15E 11

NWSW

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

Signed at Buhl, Id, this 10th day of November, 1990.

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Robert M. Loveless
(Signature)

State of Idaho
Department of Water Resources

APPLICATION FOR AMENDMENT
(For Licensing Purposes)
WATER RIGHT NO. 47-07398

FOR DEPARTMENT USE ONLY

Preliminary check by SC Fee ☒ \$20.00 Receipted by 42 Date 11/14/90 #C018857

ACTION OF THE DEPARTMENT OF WATER RESOURCES

I, R. Keith Higginson, of the Department of Water Resources hereby approve the above Application for Amendment for Permit No. 47-07398 with the following;

CONDITIONS/REMARKS:

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Return water shall be treated to insure that the effluent meets Idaho Water Quality Standards.

Witness my hand this 3RD day of December, 1990.

Acting for R. Keith Higginson
R. Keith Higginson, Director

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DEC 11 1991

MICHAEL H. FELTON

Attorney at Law

Professional Center

November 1, 1990

1020 Main
Post Office Box 589
Buhl, Idaho 83316-0589
(208) 543-4368
FAX: (208) 543-4360

Department of Water Resources
1301 N. Orchard St.
Statehouse Mail
Boise, ID 83720

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NOV 8 1990

Department of Water Resources
Southern Region Office

Dear Gentlepersons:

RE: Protest - Crystal Springs Ranch
Our File No. 1056.04

Enclosed please find an original and two copies of a Protest regarding Crystal Springs Ranch. For the reasons stated therein, we ask that this Protest be heard as allowed by law. Please advise.

Very truly yours,

Pam McClain

Pam McClain, Secretary

:pm
Enclosure
cc: David R. Millard

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NOV 8 1990

Department of Water Resources
Southern Region Office

RECEIVED

DEC 11 1991

1 MICHAEL H. FELTON, ESQ.
1020 Main Street
2 Post Office Box 589
Buhl, Idaho 83316
3 Tel. No. (208) 543-4368
FAX No. (208) 543-4360
4 Attorney for Crystal Springs Ranch
(MNO-DOC\105604PRO.031)pm

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NOV 5 1990

Department of Water Resources

RECEIVED

NOV 8 1990

BEFORE THE STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Southern Region Office

* * * * *

11 In the Matter of Permit to) PROTEST BY CRYSTAL SPRINGS
12 Appropriate No. 47-7398) RANCH

* * * * *

14 COMES NOW Crystal Springs Ranch, an Idaho partnership,
15 of Route 1, Box 119, Filer, Idaho, 83328, by and through its
16 attorney of record, Michael H. Felton of Post Office Box 589, Buhl,
17 Idaho, 83316, and does hereby protest the issuance of this permit,
18 the issuance of a right to appropriate and the issuance of a
19 license to appropriate the waters of the State of Idaho on the
20 grounds and for the reasons as follows:

21 1. That the fish hatchery property which is the subject
22 of this permit application was dormant for a period of more than
23 five (5) years beginning in approximately June of 1981 up until
24 1987 when fish production began again on the hatchery property.

26 PROTEST BY CRYSTAL SPRINGS RANCH - 1

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Michael H.
Felton
Attorney
At Law
Buhl, Idaho

1 2. That this nonuse enduring for more than five (5)
2 years amounts to abandonment of the permit.

3 3. That the measuring device/drop structure does not
4 conform to the rules of the Department.

5 4. This application is also protested on the basis that
6 the current Applicant is diverting all of the waters of Cedar Draw
7 Creek in violation of minimum stream flow law and other relevant
8 statutes of the State of Idaho.

9 WHEREFORE, Protestant prays for relief as follows:

10 1. That Applicant be denied a water right and/or a
11 license to appropriate;

12 2. That the permit previously issued herein to
13 Applicant be rescinded forthwith;

14 3. That any license heretofore issued in favor of the
15 Applicant be rescinded in light of the abandonment issue and also
16 in light of the minimum stream flow violation;

17 4. That the Applicant be ordered to discontinue the use
18 of Applicant's fish hatchery property and return all flow to the
19 natural watercourse known as Cedar Draw Creek;

20 5. For such other and further relief as the Department
21 deems appropriate.

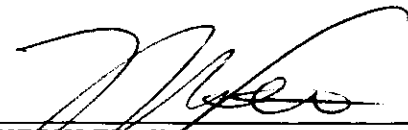
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26 PROTEST BY CRYSTAL SPRINGS RANCH - 2

Michael H.
Felton
Attorney
At Law
Buhl, Idaho

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DEC 11 1994

1 DATED This 31st day of October, 1990.

2 MICHAEL H. FELTON

3
4 By 

5 MICHAEL H. FELTON

6 Attorney for Crystal Springs
7 Ranch

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26 PROTEST BY CRYSTAL SPRINGS RANCH - 3

Michael H.
Felton
Attorney
At Law
Buhl, Idaho

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Loren Holmes, P.E.
Dept. of Water Resources
222 Shoshone St. E.
Twin Falls, ID 83301

~~MICHAEL H. FELTON~~

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November 7, 1990

ROBERT M. LOVELESS
VIRGINIA LOVELESS
121 8TH AVE. N.
BUHL, ID 83316

RE: WATER RIGHT NO. 47-07398

Dear Water Right Holder(s):

The above referenced water right is in the process of being licensed. However, before a license can be issued, your permit must be amended to correspond with the findings of the Department's field examiner.

The enclosed application for amendment contains information that will be included on the license when it is issued. Please review carefully and if you concur, sign the amendment and return with the \$20.00 filing fee within 30 days.

If you do not concur with these findings or if you have any questions, please contact us within the 30-day period.

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosure

RECORDED

DEC 11 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

Robert M. Loveless
121 8th Ave. North
Buhl, ID
83316

October 2, 1990

RE: Water Permit 47-07398

Dear Mr. Loveless;

In response to your recent inquiry regarding the above-referenced permit, the following information is submitted. Richard Kelly was the original permit holder. He then assigned the permit to the Southern Idaho Production Credit Association. They reorganized as Farm Credit Services. Although Everett Weaver owned the land covered by this permit, he never actually owned the permit. He did proceed with development of the fish ponds legally and in good faith, however.

This water system was examined for the permanent license in September of 1989. A flow rate of 34.10 cfs was measured. The pond volume was found to be 307,584 cubic feet.

Licensing of this permit has been held up because the permittee and the landowner were not the same. This has now been cleared up, as I have been able to have the permit assigned to you by Farm Credit Services. Licensing of this permit should now be able to proceed. You may address further questions on this matter to Gary Spackman of our Boise office at 327-7946.

Sincerely,

James E. Stanton

James E. Stanton
Sr. Water Resource Agent

RECORDED

DEC 11 1991

cc: Everett Weaver
Gary Spackman

MEMORANDUM

TO: Jim Stanton
FROM: Mary Baldwin
DATE: 28-Sep-1990
SUBJECT: 47-07398

Robert M. Loveless of (121 8th Ave. North; Buhl, ID 83316; Telephone #543-6148) was in the office on this date to inquire about the above water right. He had purchased some land from Everett Weaver and wanted to make sure that the water rights were put in his name. Please see attached copy of Mr. Loveless' Xerox copy of an assignment from Everett Weaver to Mr. Loveless.

Records show that the field exam was sent to the S.O. on 1/5/90. Field exam was conducted by you. No copy of the approved permit was found at Southern. A check of the database shows the water right still in the original owners name, Richard Kelley.

A call to the S.O. vault indicates that the file contains an assignment from Richard Kelley to Southern Idaho Production Credit.

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RECEIVED

SEP 28 1990

Department of Water Resources
Southern Region Office

Robert M Loveless

121 8th Ave North

Buhl Idaho 83316

Phone 543648

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DEC 11 1991

MEMORANDUM

TO: FILE

FROM: ROXANNE MCCARTHY

RE: ANNUAL VOLUME FOR FISH PROPAGATION

DATE: 7-SEP-1989

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

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

1. 34.10 cfs x 3600/ 115,344 cf= 1.064
2. 2.65 AF x 1.064 x 8760= 24,687.3 AFA
3. 34.10 cfs x 1.9835 x 365 days= 24,687.6 AFA

RECOMMENDATION:

24,687.3 AFA

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NOTE:

facility is limited to nine ~~recesses~~
in use at time of exam

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

47-7398
Permit No.

Staff Analysis Sheet
for
Beneficial Use Field Report

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JAN 04 1990

Department of Water Resources

A. Prior to Conducting the Exam, the File Contains:

- ☒ Blank Field Report Form
- ☒ Copy of Permit
- ☐ Copies of any Amendments/Orders with conditions of approval
- ☐ Computer Data Proof Report
- ☒ Copy of U.S.G.S. Quad
- ☒ Check for Government Lots. If so, make a copy of Government Plat

Check of P/D index 9-29-89 JS (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of exam(s) attached?
Type of Overlap? ☐ Add acres or uses to existing system
☐ Increase rate of flow or volume
☐ Other: _____

Check of P/U index 9-29-89 JS (Initial and date)

Overlap? ☐ yes ☒ no If yes: ☐ copy of water right(s) attached?
Type of Overlap? ☐ Increase rate of flow or volume
☐ Add P/D's
☐ Increase number of acres within tracts
☐ Other: _____

Aerial Photo

Required? ☐ yes ☒ no If yes: ☐ copy attached?

Scheduling Letter sent? _____ (Initial and date)

☐ Appointment made and telephone conversation memo attached

B. After Conducting the Exam, the File Contains:

- ☒ Fully completed and signed Field Report Form
- ☒ Photographs of Point of Diversion and Place of Use
- ☐ Corrected Computer Data Proof Report with recommended license information, and date and signature of examiner.

C. Review and Processing:

Exam Completed 10-4-89 J.F. Stanton (Signature of examiner and date)

Exam Reviewed by Senior Water Resource Agent SR 10/4 (Initial and date)

Exam Reviewed by Manager of Regional Office 2/3/90 JS (Initial and date)

Exam Date Entered in Computer _____ (Initial and date)

Exam sent to State Office _____ (Initial and date)

Copy of Staff Analysis Sheet sent to Manager of Regional Office and Original
Refiled in White File _____ (Initial and date)

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JAN 04 1990

Form 219
6/86

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 47-7398

1. Owner: Everett Wegner Phone No. _____

Current Address: Rt. 4, Ruhl, ID

2. Accompanied by: Mr. Wegner, Loren Holmes EXAM. DATE: 9-29-89

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Cedar Draw Cr. tributary to Snake R.

B. OVERLAP REVIEW

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

☐ Copies Attached

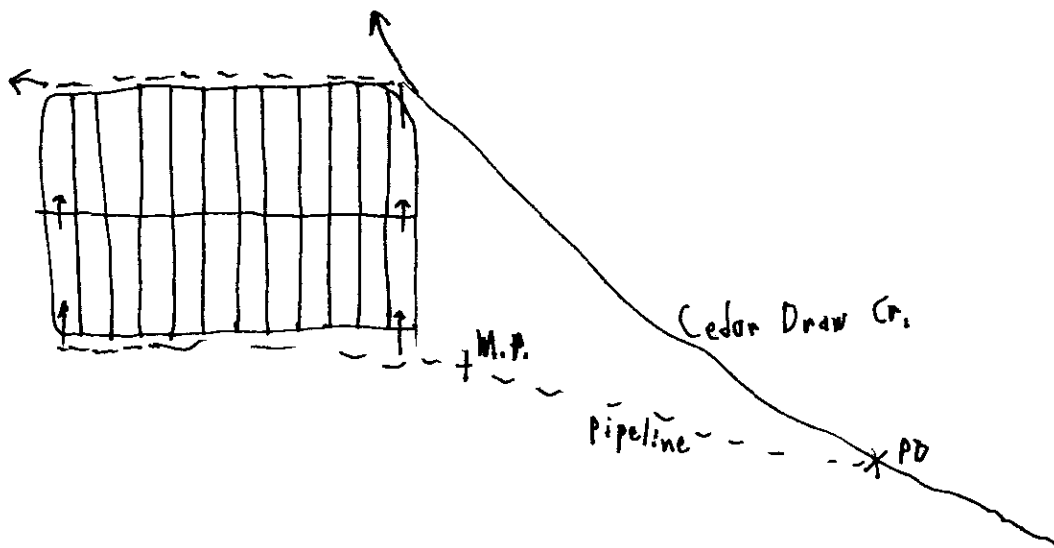
2. Other water rights with same point of diversion: _____

☐ Copies Attached

☐ Copies of Field Exam's Attached

C. SYSTEM DESCRIPTION

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



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Scale: 1" = _____

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

☒ Photo of Diversion and System Attached

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

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

System Description (continued)

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

Concrete check dam, 2200' of 4' pipe, open discharge to 24 dirt fish ponds.
Ponds are 3' average depth x 178' long x 24' wide

☐ See Remarks on page 4 for continuation

4.

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

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

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

Ident. No.	Gov't. Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
		SE	NW	SE	11	9S	15E	Twin Falls	

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

Indicate Method of Determination

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	15E	11									X								

NOT FILMED

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Do not use this space

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D. FLOW MEASUREMENTS

☒ Additional Data Sheets Attached

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
Rect. Contracted Weir					6'	

2. Measurements:

Measured 34,10 cfs.

E. FLOW CALCULATIONS

☒ Additional Computation Sheets Attached

1. Measured Method:

2. Alternate Method for Checking Purposes:

F. PUMP EFFICIENCY DATA (Optional)

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

Total Head: (1) + (2) = _____ (3) ; Flow rate: _____ cfs (4)

Water HP: (3) x (4) ÷ 8.8 = _____ (5)

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

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

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

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

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

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

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

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

2. Volume Calculations for Other Uses:

24 ponds 3' x 24' x 178' = 307,584 cubic feet of pond volume

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H. REMARKS AND OVERLAP REVIEW ANALYSIS

Fish were being grown in 9 of the upper ponds during the exam. The rest of the ponds were heavily overgrown with weeds due to heavy silt load in incoming water. Mr. Weaver stated that the ponds could get in this condition in six months without fish in them. Ponds are not running at full capacity this year. Mr. Weaver plans to concrete the ponds to increase water velocity so silt can be flushed out better, overall facility volume won't increase, and will probably decrease when this work is done.

DRJ 10-19 Discharge back to Snake River: NENESE Sec 10 T9S R1E, Lot 8

I. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Facility Annual Volume
	From	To		V (afa)
Fish Propagation	1-1	12-31	34.10	307,584
Totals:			34.10	307,584

2. Recommended Amendments

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☒ None

☐ Change P.U. as reflected above

☐ Add P.U. as reflected above

☐ Other

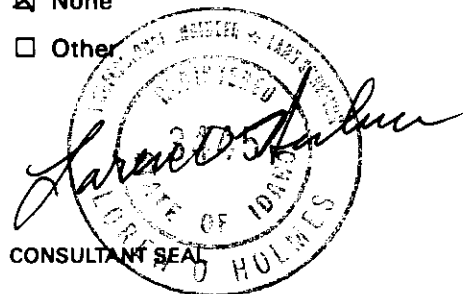
J. AUTHENTICATION

Field Examiner's Name J. E. Stanton

Signature J. E. Stanton

Certification Date ~~10-4-88~~ 2/21/89

Field Report Preparation Date 12/4/89



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

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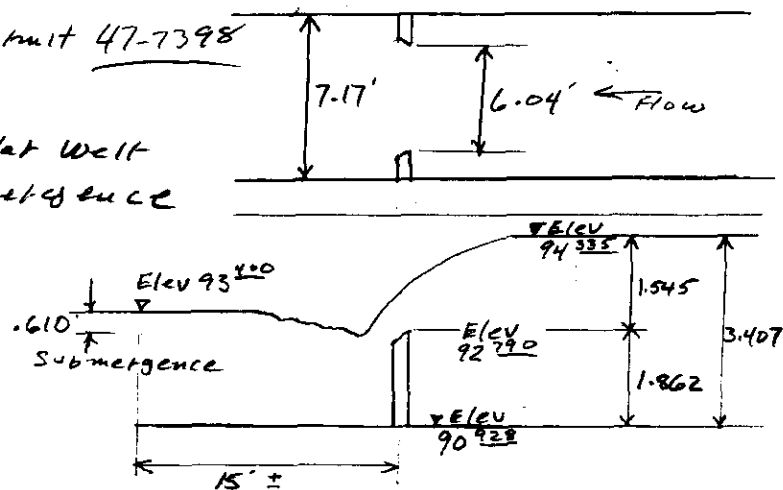
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Everett Weaver, Permit 47-7398
Measured 9/29/89

Contracted Rectangular Weir
With Partial Submergence

Assumed $HI = 100\%$

Ref: USBR Water
Measurement Manual
Chapter II



(1) Compute Q with Francis Formula, $Q = 3.33 H^{3/2} (L - 0.2H)$

$$Q = (3.33)(1.545)^{3/2} [6.04 - (0.2)(1.545)] = 36.65 \text{ cfs}$$

(2) Compute Approach Velocity: $V = \frac{Q}{A}$

$$V = \frac{36.65}{(7.17)(3.407)} = 1.50 \text{ ft/sec}$$

(3) Compute Velocity head, $h_v = 0.0156 V^2$ and

$$\text{Effective head: } D = \left[(H + h_v)^{3/2} - h_v^{3/2} \right]^{2/3}$$

$$h_v = (0.0156)(1.50)^2 = 0.04$$

$$D = \left[(1.545 + 0.04)^{3/2} - 0.04^{3/2} \right]^{2/3} = 1.581 \text{ ft}$$

(4) Re-Compute Q using effective head

$$Q = (3.33)(1.581)^{3/2} [6.04 - (0.2)(1.581)] = 37.89 \text{ cfs}$$

(5) Correct for Submergence.

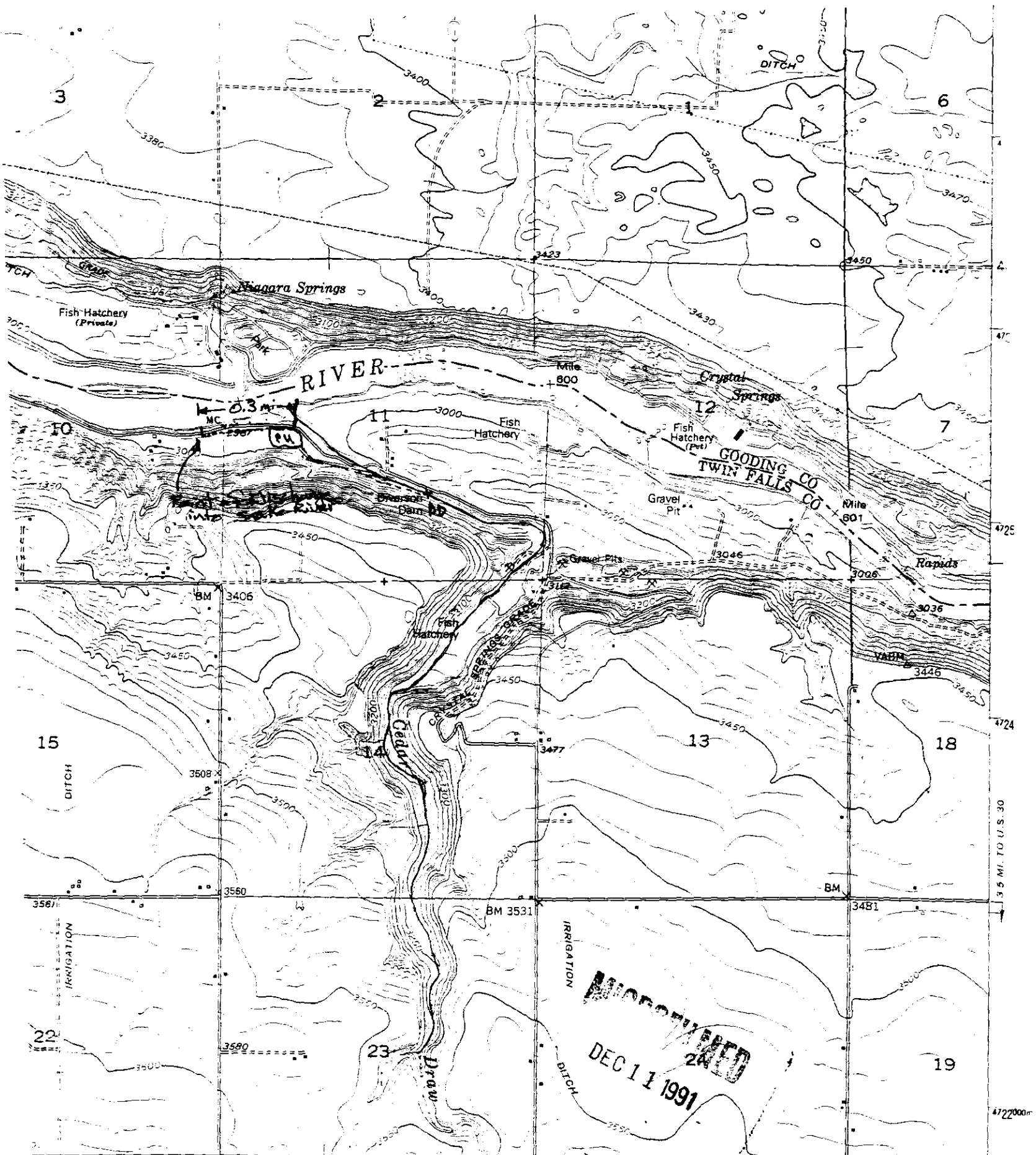
$$\frac{d}{H} = \frac{0.10}{1.581} = 0.39$$

From table 13, $C' = 0.900$

$$Q = (0.900)(37.89) = 34.10 \text{ cfs}$$

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Loren O. Holmes
Loren O. Holmes, P.E.



690 2.2 MI. TO U.S. 30 691 40' 2.2 MI. TO U.S. 30 FILER 7.1 MI

4000 5000 6000 7000 FEET
KILOMETER

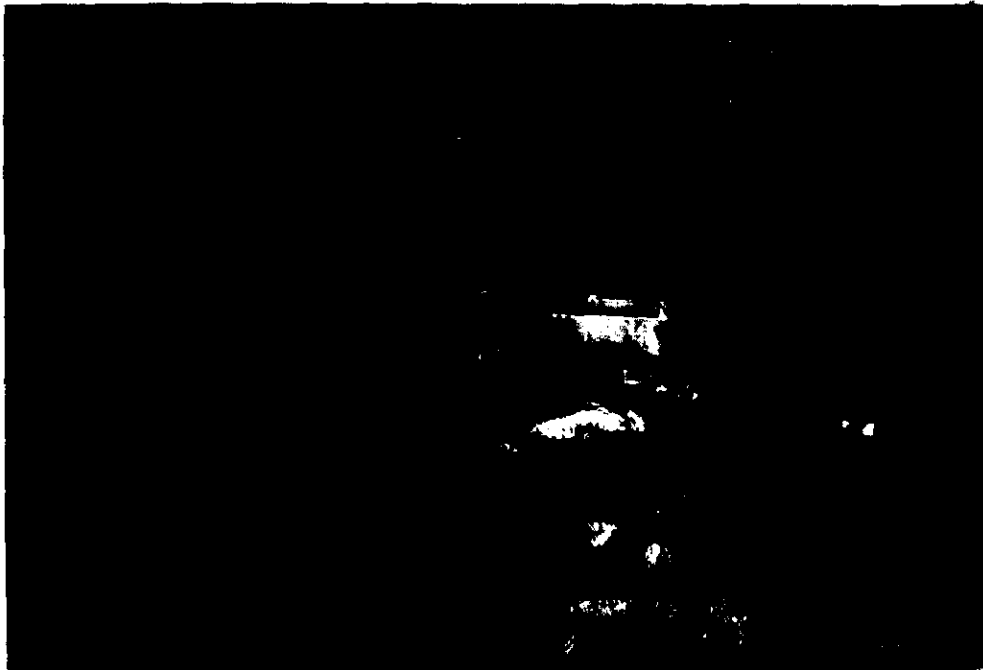
ROAD CLASSIFICATION

Primary highway, hard surface	Light-duty road, hard or improved surface
Secondary highway, hard surface	Unimproved road

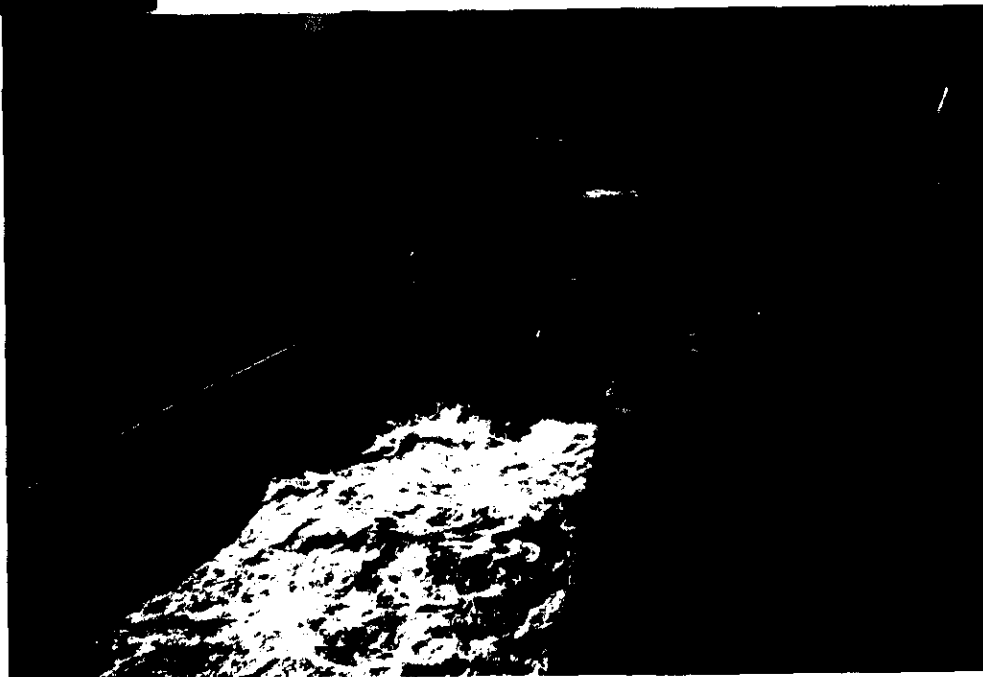
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47-7398

Diversion Works.
Concrete structure
feeds pipeline.



Outlet of pipeline to
concrete measuring
device.



DEC 11 1991

14570

47-7398



Fish Ponds



Closeup of Ponds

DEC 11 1991

47-7398

Drop between
upper & lower
ponds,



Discharge at end
of lower ponds.



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CRYSTAL SPRINGS RANCH, INC.



Route 1, Box 119
Filer, Idaho 83328
(208) 326-3378

November 11, 1989

Mr. Loren Holmes, P.E.
Southern Region Manager
Department of Water Resources
State of Idaho
2148 - 4th Avenue East
Twin Falls, ID 83301

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DEC 18 1989

Department of Water Resources
Southern Region Office

Re: Protest - Permit No. 47-7398

Dear Loren:

In accordance with our discussion in your office on Wednesday, November 8, 1989, we are extremely concerned about the total (100%) diversion of water away from the Cedar Draw Creek natural channel below, or northwesterly of, the "Kelly" diversion structure. It appears that the department is ready to license permit no. 47-7398 in the name of Everett Weaver for 34.10 cfs. During that period of the year (January 1st thru April 15th) when the canal company is not supplementing the Cedar Draw Creek spring water, the creek flow is reduced to +30 cfs or less. A license allowing 34.10 cfs of flow from a system that during 3 1/2 months out of the year has a flow less than the permitted right is inappropriate and in conflict with department policy (as I understand it, an applicant cannot appropriate more water than exists in the system in any case).

Further, total (100%) diversion of water from any stream system, while possibly allowed by department policy, is a direct violation of existing environmental laws. In this case, the half mile of existing creek corridor affected by this diversion contains wetland and wildlife areas, which if eliminated or damaged, must be replaced or enhanced to compensate accordingly, as we understand the law.

Studies conducted by Don Chapman & Associates in the upper reach of this stream system, but below, or north, of Two-Falls, mandated an instream maintenance flow of 25 cfs. Review of Chapman's work by Professor Milo C. Bell, P.E., at the University of Washington, concluded that a substantially lower flow than 25 cfs would result in insignificant loss of fish to the fishery, Pisces Investments, Inc. (now Rod Griffith), impacting approximately 600 feet of stream reach, was required to maintain an instream maintenance flow of 6 cfs. It is our opinion, based on the studies and Fish and Game mandate of instream maintenance

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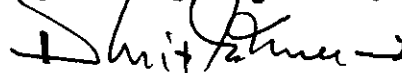
flows of 25 cfs and 6 cfs, that at least 6 cfs be maintained at all times in the stream system to protect the wetland/wildlife corridor, regardless of the water-right license accorded the applicant. On the other hand, the permitted right must be reduced by 10 cfs to 24 cfs, which flow would equal for the most part the lowest flows in the Creek, except during parts of February, March and April, to concur with department policy.

Several years ago we spent a considerable amount of time and money to plat approximately 120 acres of our lower ranch. Since recordation of this plat, known as Crystal Springs Estates, in 1982, eleven of our lots, including the ranch homestead sold to Earl Traxler, are directly impacted by the 100% diversion of water from the natural creek system. Without a substantial amount of analysis and study, we cannot determine the loss in property value to us, but estimate a conservative dollar loss would be \$10,000 per lot, or \$110,000.

Further, since the natural stream course crosses land owned by the Idaho Department of Fish and Game as it leaves our ranch before entering the river, a 400 foot distance, the Fish and Game has failed, for whatever reason, in its duty to protect the public's right and interest in this matter. As a travesty of justice to the public, the allowance of the Kelly diversion structure without a fish ladder, and tolerance of a total (100%) diversion of this lower creek system eliminates this "unfenced and unposted" portion of our ranch, and the creek, as a fishery for the general public.

We understand our downstream neighbor's desire to raise fish, and consequent need for the maximum amount of water possible! We would support diversion of higher flows than permitted during the high-water months of the year, but during the low-water months we must demand that the natural stream system not be dried up through total (100%) diversion. We have to object to the flagrant mismanagement of this natural stream system by the department (diversion), Idaho Department of Fish and Game (fishery) and US Corps of Engineers (wetlands), and serve notice that if a satisfactory solution to this problem is not achieved between the parties, we will pursue a solution, and damages, at law.

Sincerely yours,
Crystal Springs Ranch



David R. Millard, P.E., P.L.S.
Owner

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DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

Everett Weaver
Rt. 4
Buhl, ID
83316

October 3, 1989

RE: Licensing Examination, Permit 47-07398

Dear Mr. Weaver;

During the above-referenced field examination, a flow rate of 34.10 cubic feet per second was measured by Loren Holmes. The original flow rate was slightly higher, but this measurement was in error due to partial submergence of the measuring weir. The rate of 34.10 cfs will be recommended for licensing under this permit, and is also the amount that you will want to claim under the Snake River Basin Adjudication. The claim fee is \$50. plus \$10. per cfs for fish propagation. We are proceeding with the licensing process. If you have any questions, please feel free to contact this office.

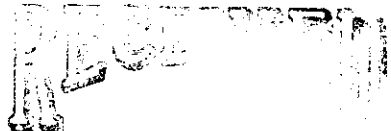
Sincerely,

James E. Stanton
James E. Stanton
Sr. Water Resource Agent

MICROFILMED

DEC 11 1991

4/86



OCT 02 1989

STATE OF IDAHO

Department of Water Resources

DEPARTMENT OF WATER RESOURCES

EXAMINATION FEE INFORMATION

For Office Use Only
Fee Received \$600.
Date 9-29-89
Receipt # 5009467
Receipt by J. E. Stanton
Sent to S.O.

1. Permit No. 47-7398

ONE OF THE FOLLOWING BOXES SHOULD BE MARKED TO DESIGNATE YOUR CHOICE:

☒ I choose to have the department make the field examination of this permit; attached is the examination fee. (If this box is marked, complete items 1 thru 8.)

2. Permit Holder: Everett Weaver

3. Post Office Address: Rt. 4, Buhl, ID 83316

Telephone No. 543-4782

4. Source of Water: Cedar Draw Creek trib. to Snake River

5. Extent of Use:

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

Irrigation _____ (acres) Other/Remark Fish Propagation

6. Total rate &/or volume for which proof is submitted 150 cfs _____ acre-feet

7. Show the date water was first diverted and beneficially used under this permit:

about 1979

8. Person to contact to accompany the department representative during the field examination:

Permittee

(Name)

(Address)

(Telephone Number)

☐ I choose to have the field examination conducted by a certified water right examiner. Attached is a statement from the certified examiner I have selected verifying that he has been retained to conduct the examination. (If this box is marked, complete items 1 thru 7.)

Sept 29 1989
Date

Everett Weaver
Signature of Permit Holder (and title, if appropriate)

DEC 11 1991



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

CECIL D. ANDRUS

Governor

R. KEITH HIGGINSON

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

October 23, 1987

Everett Weaver
Buhl, ID 83316

Re: Permit to Appropriate Water No. 47-7398

Dear Mr. Weaver:

As a follow-up to our telephone conversation on Friday, September 18, 1987, the Department has determined that it will not seek any additional information regarding the forfeiture issue on the above permit. The Department is willing to examine the extent of beneficial use, and license the project. The forfeiture issue will not be resolved, however, as part of the licensing process. When the license is issued, a condition will be imposed stating that the issue of a possible five year period of non-use prior to licensing may be raised in the future.

In a recent trip along the Snake River, I observed the raceways proposed in this permit. They appear to be in severe disrepair. Personnel from the southern regional office will field investigate the raceways, and will determine the amount of water necessary for the extent of beneficial use. The extent of beneficial use will be limited to (1) the extent of beneficial use during the development period, or (2) the extent of beneficial use at the time of the field examination. The examiner will require detailed information about the extent of use, not only in terms of maximum poundage of fish grown, but also the duration of the year over which the fish are being grown.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

CC: Gary Slette
Southern Region

RECORDED

DEC 11 1991

MEMORANDUM

TO: Norm Young and File No. 47-7398

FROM: Gary Spackman *Gary*

DATE: September 18, 1987

RE: Possible Forfeiture of Permit

FACTS

Permit No. 47-7398 was filed by Richard Kelley on May 25, 1977, proposing diversion of 150 cfs from Cedar Draw Creek for fish propagation purposes. The proof was due August 1, 1982, but was not filed until August 6, 1982.

On various occasions from 1982 through 1986, Gary Funderberg of southern region attempted to conduct field examinations, but was frustrated in his attempts because no fish were grown in the pond during the years he tried to conduct the field examination. Gary sent a memo to the state office requesting that the permit be cancelled.

Shortly after Gary's memo was received by the state office, Everett Weaver of Buhl, Idaho, visited with Allen Merritt of southern region, and Allen called me to discuss what our position would be on the permit. Mr. Weaver informed us that Kelley had lost the appurtenant property to Production Credit Association (PCA) and he had purchased it from PCA. I told Allen that if Mr. Weaver would submit evidence of the extent of beneficial use during the permit period and also install the inlet/outlet measuring devices, we would conduct the field exam. Mr. Weaver agreed to install the measuring devices, and sent the state office a record of the fish grown during 1980 and 1981. The records showed that the last time fish were raised was in the spring of 1981.

As a result of the apparent five years of non use, I requested that Mr. Weaver show that a five year period of non use had not occurred, and that the water right had not been forfeited. Weaver stated that he grew fish in the ponds March of 1987. He also attempted to obtain additional information from Kelley, but said that Kelley would not cooperate. Weaver signed

MINOR MED
DEC 11 1991

a written statement, however, that Kelley had grown fish until August of 1982.

Although this statement by Weaver is self serving, and in my mind is suspect, in a memo dated June 26, 1987, I wanted to accept his statement, and proceed with the field examination. It was my understanding from a hand written note on the memo, that we were expected to seek additional information confirming that fish were grown through August of 1982.

Gary Slette of Nelson, Rosholt, etc., representing PCA, wrote a letter arguing that the right should not be forfeited. PCA wants to make good on its sale of the property to Weaver.

FORFEITURE IS NOT FAVORED BY LAW

Although the forfeiture provisions in Idaho Code Section 42-222 are clear, court are not inclined to declare a forfeiture except under circumstances that clearly show a forfeiture of a water right. Forfeitures are not favored, and clear and convincing proof is required to support a forfeiture. Jenkins v. State, Department of Water Resources, 103 Idaho 384, 389, 647 P.2d 1256 (1982). As a result of judicial abhorrence to forfeiture, several defenses have been carved out preventing forfeitures where any facts justify non declaration of a forfeiture. For instance, if there are circumstances over which a water right holder has no control which cause him to fail to use the water, forfeiture is not proper. Alamo Water v. Darrington, 95 Idaho 16, 501 P.2d 700 (1972). The courts have declined to declare a forfeiture if a water right is resumed after the five year period has expired, but before any third parties make a claim to the water. Application of Boyer, 73 Idaho 152, 248 P.2d 540 (1952).

RESUMPTION OF USE OF WATER

Ignoring the statement by Everett Weaver that Kelley grew fish in the fish ponds until August, 1982, it still appears that Mr. Weaver resumed some use of the right in the spring of 1987. Gary Slette argues in his letter that the resumption should prevent the declaration of forfeiture by the Department since no other parties have claimed use of the water. The phrase "make a claim in the water" is subject to various interpretations. The phrase could be interpreted to mean that a person claims a right to the specific water right that was forfeited. It could also be interpreted as referring to a statutory claim. In Jenkins, the court appears to interpret the clauses more broadly, implying that a claim would extend to any junior appropriator that would be injured if a forfeiture was declared.

Jenkins arose in the context of a protested transfer. If no protests were filed, or the action of the Department was not one requiring legal notice and granting the opportunity to protest, such as the issuance of a license, the question remains whether

DEC 11 1991

an affirmative claim in the water is required prior to consideration of the issue by the Department. If the claim must be affirmatively asserted, can it be filed in those cases not requiring legal notice?

I propose that we follow the same rule of law that the courts follow in the licensing process. We should not strain to find a forfeiture, even if there is some evidence that a permit has not been used for a period of greater than five years. We have a responsibility to license for the beneficial use that occurred during the development period. If the water right holder can establish the extent of beneficial use, including the amount of water diverted, we should attempt to license the permit, and let other parties raise the question of forfeiture. If there has been more than five years of non use, perhaps a condition could be imposed on the license indicating that the license in no way confirms the validity of the water right if challenged on the basis of forfeiture.

PREVENTION OF USE BECAUSE OF QUESTION OF TITLE

A judicially created defense to the forfeiture statute is interference with the use of water caused by circumstances beyond control of the water right holder. In this particular case, the defense does not exactly apply, but some close parallels can be drawn. Kelley grew fish until at least the spring of 1981 when he was apparently experiencing financial difficulty. The ownership of the raceways was brought into question by the security holder, PCA, and PCA obtained title to the property by stipulation with Kelley. During the above period of time, ownership of the property was in question, and possibly neither party was in a possessory position to utilize the water.

In light of the apparent judicial position that forfeiture is abhorred, and that imaginative defenses will be accepted, I believe that the question of title in this case, coupled with the short time period of approximately six years within which the water may not have been used, would convince a court that the water right should not be forfeited.

CONCLUSION

I propose that we attempt to field examine the raceways of Everett Weaver and license this permit. The license, however, should be limited to a water volume that relates to the poundage of fish that were grown during the development period. I suggest that no further information be required from Mr. Weaver regarding forfeiture, but that additional information may be necessary to verify the extent of beneficial use during the development period.

MAINTAINED
DEC 11 1991

NELSON, ROSHOLT, ROBERTSON, TOLMAN & TUCKER

Chartered
ATTORNEYS AT LAW

142 3rd AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700

THOMAS G. NELSON
JOHN A. ROSHOLT
J. EVAN ROBERTSON
STEVEN K. TOLMAN
JAMES C. TUCKER
TERRY T. UHLING

TERRY R. McDANIEL
F. BRUCE COVINGTON
JERRY JENSEN
GARY D. SLETTE
CAROLYN M. MINDER
VICKI L. YRAZABAL
BRUCE M. SMITH

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SEP 01 1987

Boise Office
10 MAIN ST., SUITE 390
P.O. BOX 2139
BOISE, IDAHO 83702-2139
TELEPHONE (208) 336-0700

Department of Water Resources

August 31, 1987

Mr. Gary Spackman
State of Idaho Department of Water Resources
State Office
450 W. State Street
Boise, ID 83720

Re: Permit No. 47-7398

Dear Mr. Spackman:

Thank you for your letter of August 19, 1987, regarding the above-numbered permit. It appears that a bit of background information might be helpful in the Department's evaluation of this water rights matter. The parcel of property to which these rights are appurtenant was acquired by my client, Southern Idaho Production Credit Association ("SIPCA"), through a compromise agreement with the former owner, Mr. Kelley. At the time of its receipt of the property, SIPCA was proceeding with the initiation of a foreclosure action against Mr. Kelley as a result of his indebtedness to the SIPCA. Protracted discussions and potential litigation caused a rather lengthy period of time when the water right was not used due to the uncertainty about what would become of the property.

It was SIPCA's understanding that Permit Number 47-7398 was approved in August 1977 with a priority of May 25, 1977. It appears that Mr. Kelley failed to submit proof of beneficial use on a timely basis, but petitioned the IDWR to reinstate the permit on September 20, 1982. With this reinstatement, we understood that it would be necessary to submit proof of beneficial use on or before September 20, 1987.

From recent correspondence and phone calls, there seems to be some discrepancy as to the reinstatement of the

RECEIVED
DEC 11 1991

Mr. Gary Spackman
August 31, 1987
Page - 2

permit. As a result, I wanted to respond to your letter in which you requested that we set forth reasons why the permit should not be forfeited for a period of five years' non-use.

As indicated above, during the time that proof of beneficial use was to have been submitted, SIPCA was proceeding with the initiation of a foreclosure action against Mr. Kelley. Idaho Code §42-204 (1) provides for an extension of time to provide proof of beneficial use when the applicant is involved in litigation of any nature which might bring his title to the water in question. Whether or not the potential for litigation on SIPCA's part meets the exact criteria of this section is unknown. What is known is that the applicant was in a rather tenuous position at that time. As a result, we would ask the Department's indulgence in not declaring a forfeiture because of the state of facts existing at the time when proof was to have been submitted.

Furthermore, SIPCA has been informed that on or about September 20, 1982, an order reinstating the permit was granted to Mr. Kelley pursuant to Idaho Code §42-218a. If that is not the case, then SIPCA, in good faith, was acting under a misapprehension of fact. As such, we would ask that the permit not be forfeited because of SIPCA's good faith actions and the belief that no other water rights would be affected by the allowance of time for furnishing proof of beneficial use.

In the spring of 1987, the Weavers did raise fish in the ponds from fingerlings to processing size. My understanding of Idaho water law is such that if an appropriator puts water to beneficial use prior to a claim of forfeiture, then the appropriator's right is reinstated. In support of that proposition, reference is made to Application of Boyer, 73 Idaho 152, 248 P. 2d. 540 (1942) and Zezi v. Lightfoot, 57 Idaho 707, 68 P. 2d. 50 (1937). Furthermore, forfeiture of water rights is not favored in the law and all intendments are to be indulged in against a forfeiture. Hodges v. Trail Creek Irr. Co., 78 Idaho 10, 297 P. 2d. 524 (1956).

There are a number of extenuating circumstances that exist with regard to this particular permit. Between the potential litigation regarding Mr. Kelley's indebtedness to SIPCA and the alleged order reinstating the permit, the early part of the 1980's is anything but certain. The subsequent use of the water by Mr. Kelley's successor in interest prior to any claims of forfeiture ostensibly militate support in favor of

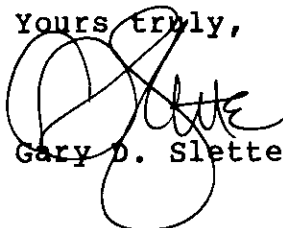
DEC 11 1991

Mr. Gary Spackman
August 31, 1987
Page - 3

allowing additional time to submit proof of beneficial use. Of course, Mr. Weaver is at this time somewhat uncertain about his course of action due to the Department's position. Consequently, we would request that a reasonable extension of time to furnish proof of beneficial use be granted to Mr. Weaver to give him the security needed for any additional expenditures.

Your attention to and assistance in resolving this matter are greatly appreciated. I trust that you will review this matter at your earliest convenience and advise me of your decision.

Yours truly,

A handwritten signature in dark ink, appearing to read "G. Slette", written over the typed name.

Gary D. Slette

GDS/dk
56171

cc: Mr. Everett Weaver
Department of Water Resources, Southern Region

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DEC 11 1991



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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

August 19, 1987

Gary Slette
Attorney at Law
P.O. Box 1906
Twin Falls, ID 83303

Re: Permit to Appropriate Water No. 47-7398

Dear Mr. Slette:

We spoke approximately two weeks ago about the above permit. The place of use was originally owned by Richard J. Kelley, and came into the hands of your client, Production Credit Association. I understand that the property was subsequently sold to Everett Weaver.

During our conversation, we attempted to complete a conference call with Loren Holmes to discuss whether fish production in the ponds had been active until August of 1982. We were unable to connect Loren Holmes into our telephone link, but Loren called me later, and we discussed the information Loren has in his possession. Loren stated that his files were limited to the information that I had forwarded from our files to him. Loren does not have records of fish being grown after the early part of 1981.

Enclosed is a copy of a letter which I wrote to Everett Weaver regarding the need for additional proof of the period in which fish were grown. It would seem to be a minor matter to obtain information from Kelley regarding fish growth through 1982. Should the above action be impossible, I would suggest that you or perhaps Mr. Weaver write a letter to the Department, setting forth reasons why the permit should not be forfeited for

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DEC 11 1991

a period of five years non use. An informal statement of the facts and circumstances surrounding the fish ponds, and reasoning in support of non-forfeiture will be helpful.

Sincerely,

A handwritten signature in cursive script, reading "Gary Spackman".

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosure

CC: Southern Region

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DEC 11 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

July 14, 1987

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

Everett Weaver
Buhl, ID 83316

Re: Permit to Appropriate Water No. 47-7398

Dear Mr. Weaver:

The file for Permit No. 47-7398 was reviewed by the administration of the Department of Water Resources, including the summaries of fish grown in the facilities up until 1981, and the hand written statement you submitted stating that fish were grown until August 6, 1982.

The Department has concluded that additional information must be submitted to show that fish were grown through 1982. This evidence can be in the form of fish production records, or a notarized statement from the person operating the ponds, probably Richard J. Kelley.

I realize we discussed these alternatives previously, and you were not pleased with pursuing them. The Department feels, however, that the evidence is necessary prior to proceeding to licensing.

Please be advised that if you decide to gather the additional evidence, and it satisfies the requirements of the Department, a field examination will be conducted by Department personnel only after payment of an examination fee. An examination fee schedule is enclosed. In addition, measuring devices must be installed as set forth in the permit.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

CC: Southern Region

Enclosure

MICROFILMED

DEC 11 1991

June 9, 1987

Richard Hebley and I spoke on June 6, 1987, at which time he assured me that he was rearing fish on his property, drawing water out of Cedar Draw ~~at~~ Creek, at the time he applied to prove up on his water right on Aug. 6, 1982. Also twice before he had assured me the same thing at different times while we were visiting.

Everett Weaver

Also I started using these ponds early in 1987.

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DEC 11 1991

MEMORANDUM

TO: File and Southern Region
FROM: Gary Spackman *Gary*
DATE: June 26, 1987
RE: Permit to Appropriate Water No. 47-7398

OK
Neg
Exam fee must be paid - measuring devices in evidence linking production data to facility
Allen
Sometime in May, 1987, I spoke to ~~Alan~~ Merritt from Southern Region regarding the above numbered permit. Alan was asking about the status of the permit because of an inquiry made by Everett Weaver, a prospective buyer of the hatchery facility. Specifically, Alan asked about the possibility of licensing the facility when there was some question about the system being completed during the development period. A memorandum in the file from Gary Funderberg, dated March 6, 1986, indicates that the system was not complete.

I questioned Gary Funderberg about his statement, and he stated that the raceways were completely constructed, but that the present owner of the permit, Richard J. Kelley, had refused to maintain inlet and outlet measuring devices. Gary also stated that during several visits to the facilities, he never found the raceways to be completely in use.

I asked Mr. Weaver to submit evidence regarding the extent of beneficial use during the permit period. Mr. Weaver submitted documents showing the number of pounds of fish that were sold from the ponds in question. The last date of use appeared to be June 12, 1981.

After reviewing the evidence which Mr. Kelley submitted, I raised the question of whether the water permit had been forfeited. In response, Everett Weaver submitted a written document stating that Richard Kelley had told him on a couple of occasions that he had raised fish in the facilities up until at least August 6, 1982.

It is my opinion that based on the statement of Mr. Weaver, and also based on the fact that the facilities were essentially complete except for the installation of the measuring devices, that a field examination should be conducted, and a license issued on Permit No. 47-7398, but the total volume of the facility should be restricted to the volume necessary to raise the estimated poundage grown in the ponds during the development period.

Neg
RECORDED
DEC 11 1991

INTER-DEPARTMENT MEMO — 1

FROM NORM YOUNG

DATE 6/8/87

TO GARY SPACKMAN

SUBJECT 47-7398

I am not able to relate the information submitted to the project covered by 47-7398 with any confidence. Our official exam does not reflect any work and specifically says the project is not completed. Permit should have been cancelled in 1983.

A new application seems appropriate to me.

SIGNATURE

FROM Gary
TO Norm

DATE June 4, 1987

SUBJECT

Please refer to my letter inside to
(Ignoring the "reissuance" ~~type~~)
Everett Weaver. Everett called me in response
to the letter, and stated that to his knowledge,
Kelley last raised fish in June 1981,
and Weaver resumed use in March 1987.
More than five years elapsed during which
there was no use.

SIGNATURE

FROM

DATE

TO

SUBJECT

Should we consider a, the possible
forfeiture of a water right prior
to licensing? Or should we examine
the present use and license?

Are there special considerations for
Edgar Draw? Weaver feels he will
not be able to get water if he must
reapply.

Bary

SIGNATURE



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

CECIL D. ANDRUS
Governor

A. KENNETH DUNN
Director

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

May 21, 1987

Everett Weaver
Buhl, ID 83316

Re: Permit to Appropriate Water No. 47-7398

Dear Mr. Weaver:

The State Office of the Department of Water Resources received information you submitted regarding the use of facilities under Permit No. 47-7398. In reviewing the information, I note that the last year of record that fish were grown in the ponds was 1981.

If 1987 is the year that use of water under the permit was resumed, reissuance of a license on the permit may depend on whether the water right was not used for a period of five years, and was forfeited.

This letter is a request for additional information regarding use of the water for fish propagation for the years 1982 through 1986. Please also state when the use of the water was resumed.

Correspondence in the file also mentions that an outlet weir on the facility outlet channel was difficult to maintain in the past. The purpose of the inlet and outlet measuring devices is to verify that no water is being lost through the fish facility. I understand that the race ways in your fish operation are earthen, and there is a substantial possibility that water is lost during its use. You will be required to maintain both inlet and outlet measuring devices unless you can show that the water losses through the system are negligible.

If you have further questions, please don't hesitate to contact me.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

MED

GS:jf
CC: Southern Region

DEC 11 1991

MAY 14 1987

INTER-DEPARTMENT MEMO — 1

FROM

Allen

DATE

5/13/87

TO

Gary Speckman from Loren Williams,

Department of Water Resources

LH

SUBJECT

47-7398

As per our phone conversation earlier this month Mr. Evert Weaver has orchestrated the assignment from Kelso to DCA of the permit. We have also obtained records showing the lands were in use in 1980 and 1981. (Please find attached the copies of these documents.) As you may recall Mr. Weaver is leasing the purchasing the equipment from DCA and probably has a stake in the facility. He wants the permit renewed. Please review the file and see if we can locate the P.C.A. permit the area for

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DEC 11 1991

Adm

SIGNATURE

5151
Pond 19

6418
Pond 12

4984
Pond 24

NAME Richard Kelley - Pioneer Trout

ACCT.
NO.

ADDRESS Route 4

SHEET
NO.

CITY Buhl

STATE Idaho

ZIP 83316

CREDIT
NO.

5151
Pounds

14,200

700

26,180

2350

20,100

2000

2000

24,760

2000

1000

(1200)

DATE	DESCRIPTION	CHARGES	✓	CREDITS	BALANCE	PREVIOUS BALANCE
	Invoice Number					
	Balance Carried Forward				80,589 ²⁰	
2/1/80	Pond 9-12			17,140 ⁷⁰	63,448 ⁵⁰	
2/1/80		2733	50		66,182 ⁰⁰	
2/4/80	700-Sulfa	2391	50		66,472 ⁵⁰	
2/8/80		2430	65		71,512 ¹⁵	
2/8/80	350-TM	2437	50		72,012 ⁶⁵	
2/15/80		2494	25		75,881 ⁹⁰	
2/15/80	2000 Bags	2495	00		76,271 ⁹⁰	
2/20/80	Bags	2524	00		76,661 ⁹⁰	
2/25/80		2544	30		81,428 ²⁰	
2/26/80	Bags	2557	00		81,818 ²⁰	
2/29/80	Sulfa	2594	00		82,233 ²⁰	
2/28/80	Pond 21-24			18,734 ¹⁰	63,499 ¹⁰	
3-14	Finca up to 3-11					

Reorder

Burroughs
Business Forms



Form N 542
Printed in U.S.A.

DEC 11 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED

JUN 20 1986

Permit No. 47-1378

1. Measurement Calculations
a) Field Measurement Calculations (Include theoretical capacities and system capacity)

INTER-DEPARTMENT MEMO — 1

DATE 3/6/86

b) Volu.
V₁
V₂
V₃
c) Vc

2. Overlaid

a) Ot
b) Ot
c) Ar

RECEIVED
MAY 14 1987

FROM GARY Funderburg

TO File

SUBJECT permit 47-7398

Department of Water Resources

I have tried to complete this file. I contacted Permit holder & his Attorney and have received comments that they would see if a waiver would be granted for an Extension of time yet Proof was filed. I contacted the permit holder and his Att. June 85; June 84; May 84; Sept, 1985; Oct 85, System is not complete No Measuring device was ever installed. Applicant refuses to complete his facilities I recommend cancellation of this Permit. Gary Funderburg
SIGNATURE

RECOMMENDED AMOUNTS

- | 3. | Permit No. | Priority | Amount | App. Date | Date Proof Submitted | System Capacity |
|----|------------|----------|--------|-----------|----------------------|-----------------|
| | | | | | | |

4. Permit Holder: _____

Address: _____

5. Source: _____ tributary to _____

6. Beneficial Use	Period of Use From To	Rate of Diversion Q (cfs)	Annual Volume V (afa)

Allowable Maximums: _____

7. Point(s) of Diversion:

[illegible]

8. Place(s) of Use

[illegible]

9. Recommended Conditions/Remarks: _____

10. Recommended Amendments

☐ Change P.D. as reflected above ☐ Add P.D. as reflected above ☒ None

☐ Change P.U. as reflected above ☐ Add P.U. as reflected above ☐ Other _____

11. Examiner's Signature _____ Date _____

Checked in Regional Office by John H. Smith ADm Date 6/25/86

Approved in State Office by _____ Date _____

MICROFILMED
DEC 11 1991

Trout Grower Worksheet

GRO: PIONEER Trout Farm

COLUMN WRITE

Trout Sold	DATE	Pounds	Amount
INVOICE # 0797 - Pond 16	11/21/80	18834	12242 ¹⁰
INVOICE # 0831 - Pond 18	12/1/80	20158	13102 ⁷⁰
INVOICE # 0838 - Pond 8	12/15/80	9418	6121 ⁷⁰
INVOICE # 0840 - Pond 10	12/15/80	11374	7393 ¹⁰
INVOICE # 0842 - Pond 6	12/15/80	10178	6615 ⁷⁰
INVOICE # 0903 - Pond 10	1/23/81	20883	12947 ⁴⁶
INVOICE # 0904 - Pond 9	1/26/81	5876	3643 ¹²
INVOICE # 0906 - Pond 12	1/26/81	5679	3520 ⁹⁸
INVOICE # 0908 - Pond 20	1/26/81	9292	5761 ⁰⁴
INVOICE # 0921 - Pond 14	1/30/81	7628	4729 ³⁶
INVOICE # 0922 - Pond 21	1/30/81	11309	7011 ⁵⁸
INVOICE # 0923 - Pond 22	1/30/81	7446	4616 ⁵²
INVOICE # 0927 - Pond 22	2/3/81	2664	1651 ⁶⁸
INVOICE # 0928 - Pond 23	2/3/81	8029	4977 ⁹⁸
INVOICE # 0929 - Pond 10	2/5/81	13848	8585 ⁷⁶
INVOICE # 0930 - Pond 24	2/5/81	12313	7634 ⁰⁶
INVOICE # 0931 - Pond 5	2/10/81	11743	7280 ⁶⁶
INVOICE # 0933 - Pond 7	2/10/81	11305	7009 ¹⁰
INVOICE # 0940 - Pond 12	2/10/81	10435	6467 ⁷⁰
INVOICE # 0941 - Pond 14	2/10/81	6579	4078 ⁹⁸
INVOICE # 0943 - Pond 20	2/10/81	5776	3581 ¹⁶
INVOICE # 0996 - Pond 1	2/16/81	11296	7003 ⁵⁶
INVOICE # 0993 - Pond 10	2/16/81	11975	7424 ³⁰
INVOICE # 0994 - Pond 7	2/16/81	19704	12216 ⁴²
INVOICE # 0995 - Pond 2	2/16/81	5126	3178 ¹⁶
INVOICE # 0996 - Pond 4	2/16/81	6966	4318 ⁷²
INVOICE # 1006 - Pond 14	2/20/81	4884	3028 ³⁶
INVOICE # 1007 - Pond 2	2/20/81	7622	4765 ⁶¹
INVOICE # 1022 - Pond 20	2/20/81	17037	10562 ⁷⁴
INVOICE # 1009 - Pond 2	2/20/81	9998	6198 ⁷⁶
INVOICE # 1011 - Pond 17	2/30/81	11517	7140 ⁵¹
INVOICE # 1037 - Pond 13	4/10/81	16921	10491 ¹⁶
INVOICE # 1082 - Pond 3	5/18/81	22786	14127 ²⁶
INVOICE # 1083 - Pond 17	5/18/81	10582	6560 ⁸⁴
INVOICE # 1084 - Pond 19	5/18/81	21004	13022 ⁴⁸
INVOICE # 1085 - Pond 1	5/19/81	15305	9489 ¹⁰
INVOICE # 1086 - Pond 3	5/19/81	1924	1192 ³³
INVOICE # 1087 - Pond 12	5/19/81	16666	10326 ⁷⁶
INVOICE # 1088 - Pond 1	5/19/81	21125	13377 ³⁰

MICROFILMED
DEC 11 1991

Trout Sold Cont.	DATE	Pounds	Amount
INVOICE *1091 - Ponds 11+17	5/21/81	370	229 ⁴⁰ / ₁₀₀
INVOICE *1092 - Pond 13	5/21/81	7315	4535 ³⁰ / ₁₀₀
INVOICE *1093 - Pond 19	5/21/81	3939	2442 ¹⁸ / ₁₀₀
INVOICE *1094 - Pond 18	5/22/81	4662	2890 ⁷⁴ / ₁₀₀
INVOICE *1095 - Pond 16	5/22/81	4896	3035 ⁸⁸ / ₁₀₀
INVOICE *1111 - Pond 15	6/12/81	10022	6213 ⁶⁴ / ₁₀₀
INVOICE *1112 - Pond 16	6/12/81	8417	5218 ⁵⁴ / ₁₀₀
INVOICE *1113 - Pond 18	6/12/81	9110	5648 ⁸⁰ / ₁₀₀
		515900*	Avg price: ⁶²⁴⁸ / ₁₀₀ 321956 ⁸⁶ / ₁₀₀

515,900
 193,938
 321,962

Microfilm
 DEC 11 1991

193,738¹⁴ Avg price - .746 144,609²¹

REFILMED
DEC 11 1991

Column	1	2	3	4
	Other Purchases	DATE	Description	Amount
1				
2	INVOICE # 0677-Pond 13	9/11/80	1 BARREL - HYAMINE	798 ⁴³
3	INVOICE # 0569-Pond 5	7/1/80	24 #s Mortality Credit	(19 ²⁰)
4	INVOICE # 0570-Pond 7	7/1/80	32 #s Mortality Credit	(26 ¹⁴)
5	INVOICE # 0571-Pond 9	7/1/80	26 #s Mortality Credit	(20 ⁸⁰)
6	INVOICE # 0572-Pond 17	7/1/80	15 #s Mortality Credit	(12 ³⁴)
7	INVOICE # 0594-Pond 5	7/15/80	5 GALLONS HYAMINE	54 ⁵⁵
8	INVOICE # 0647-Pond 5	8/25/80	3 BARRELS - Formaldehyde	450 ⁰⁰
9	INVOICE # 0716-Pond 19	10/2/80	233 #s Mortality Credit	(173 ⁰⁶)
10	INVOICE # 0772-Pond 1	11/6/80	12 #s Mortality Credit	(8 ¹⁸)
11	INVOICE # 1063-Pond 16	4/30/81	1 # MALACHITE 10 gal Formalin	37 ²⁰
12				<u>1080²⁶</u>
13				
14				
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35				
36				

RECEIVED
DEC 11 1991

Trout Grower Worksheet

Grower: Pioneer Trout Farm

PAGES

FEED PURCHASES	Pounds	FEED	Medication	TOTAL
7/11/80 thru 7/31/80	38760	7461 ³⁰		7461 ³⁰
8/1/80 thru 8/31/80	16240	3132 ²⁰	324 ⁰⁰	3456 ²⁰
9/1/80 thru 9/30/80	60500	11648 ²⁵	190 ⁸⁵	11839 ⁰⁰
10/1/80 thru 10/31/80	118080	22668 ⁹⁰		22668 ⁹⁰
11/1/80 thru 11/30/80	84390	16878 ⁵³		16878 ⁵³
12/1/80 thru 12/31/80	87020	17404 ⁰⁰		17404 ⁰⁰
1/1/81 thru 1/31/81	101800	20372 ⁹⁵	499 ⁵⁰	20872 ⁴⁵
2/1/81 thru 2/28/81	61060	12212 ⁰⁰		12212 ⁰⁰
3/1/81 thru 3/31/81	39720	7949 ⁶⁰	216 ⁰⁰	8165 ⁶⁰
4/1/81 thru 4/30/81	66690	13339 ²³	47 ²⁵	13386 ⁴⁸
5/1/81 thru 5/31/81	14400	2894 ⁰⁰		2894 ⁰⁰
	688660	135961 ⁴⁶	1277 ⁰⁰	137238 ⁴⁶
9/5/81	600	122 ¹⁰		122 ¹⁰
	689260	136083 ⁵⁶	1277 ²²	137360 ⁵⁶

Total Purchases: \$ 283050⁰¹

Grower Gross Profit: \$ 38906¹¹

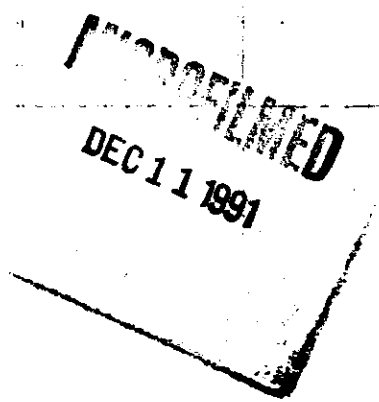
Less Interest @ 13%: (12657²⁰

Grower Net Profit: \$ 26249⁵⁷

Pounds Raised: 321962⁴

Pounds of Feed Conversion to Pounds Raised: 2.14

Profit per Pound Raised: \$.08



TROUT GROWER RECAP SHEET
GRO. #1: MONYER TROUT FA

6/81 Reconciliation

\$ 26249⁵¹

8/1/80 LOSS

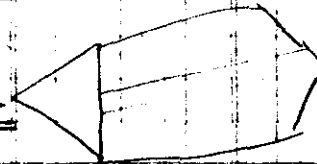
(728901)

INTEREST DUE ON LOSS

(1065⁴⁵)

Amount Due Grower

\$ 17895⁰⁵



A/C 114.00 -⁵ 21,617⁷⁰

A/C 285.00 - (13,722⁶⁵)

RECORDED
DEC 11 1991

CLEAR SPRINGS TRUST COMPANY
Interest @ 13% - Reconciliation
PIONEER TROUT FARM

DATE	BALANCE	Number of Days	Interest Percentage	BALANCE
7/3-7/8	29689 ⁴¹	6	13%	64 ³²
7/9-7/29	29396 ⁵¹	21		223 ⁰²
7/30	20097 ¹²	1		7 ²⁶
7/31	15297 ²²	1		5 ²²
8/1-8/31	7289 ⁰²	31		81 ⁵³
9/1-9/30	7289 ⁰²	30		78 ⁷⁰
10/1-10/31	7289 ⁰²	31		81 ⁵³
11/1-11/30	7289 ⁰²	30		78 ⁷⁰
12/1-12/31	7289 ⁰²	31		81 ⁵³
1/1-1/31	7289 ⁰²	31		81 ⁵³
2/1-2/28	7289 ⁰²	28		73 ⁶⁴
3/1-3/31	7289 ⁰²	31		81 ⁵³
4/1-4/30	7289 ⁰²	30		78 ⁷⁰
5/1-5/18	7289 ⁰²	18		47 ³⁴
				<u>\$ 1065⁴⁵</u>

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DEC 11 1991

CLARK SPRINGS Trout Company

Trout Grower Worksheet

Grower: PIONEER Trout Ponds 5,6,7,8,12,13,*20

Trout Sold	Date	Pounds	Amount
Invoice # 0522 - #5	6/23/80	11776	
0510 - #6	6/20/80	9946	
0520 - #7	6/20/80	14627	
0512 - #8	6/20/80	10213	
0516 - #12	6/20/80	7268	
0475 - #13	6/16/80	11322	
0501 - #20	6/17/80	9509	
		74661# @ .65 per lb.	\$ 48529.65

Trout Purchased	Date	Sample Count	Pounds	Amount
Invoice # 0336 - #5	3/17/80	2.90	9125	6734 ⁵⁵
0340 - #6	3/24/80	2.65	9196	6630 ³¹
0341 - #7	3/24/80	2.59	10224	7310 ¹⁵
0344 - #8	3/27/80	2.53	7011	5012 ¹⁶
0328 - #12	3/13/80	2.51	4126	2950 ²⁹
0331 - #12	3/17/80	3.09	2137	1589 ⁷²
0326 - #13	3/12/80	2.64	10490	7563 ⁵⁹
0274 - #20	6/27/80	2.10	7570	5667 ¹³
			59879# @ .766 per lb.	\$ 43460.81

Feed & Medication Purchased

Month	Pounds	Feed Cost	Med. Cost.	Total Amount
5/2/80 thru 5/31/80	93180	17937 ¹⁵	-	17937 ¹⁵
6/1/80 thru 6/11/80	36800	7054 ⁰⁵	-	7054 ⁰⁵
	129980#			\$ 24991.20

Other Purchases

Invoice # 0345 - Ponds 12+13 - Mortality Credit

Invoice # 0346 - Ponds 5,6,7,8 - Mortality Credit

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DEC 11 1991

Total Purchases:

Sales Profit - Grower

Less: Finance Charge

Net Profit - Grower

\$ 128366²⁷
11827¹³
17003¹⁴

Trout Grower Worksheet

Owner PIONEER TROUT - 6, 8, 11, 13, & 20 (GRADEBACKS)

Trout Sold

Invoice #	Date	Pounds
INVOICE # 0613 - Pond # 6	7/30/80	9946
INVOICE # 0614 - Pond # 20	7/30/80	4360
INVOICE # 0615 - Pond # 13	7/31/80	6887
INVOICE # 0622 - Pond # 8	8/1/80	4292
INVOICE # 0623 - Pond # 11	8/1/80	3404
INVOICE # 0621 - Pond # 11	7/31/80	498
INVOICE # 0624 - Pond # 12	8/1/80	4625

Total

34012

@ \$65 per lb. \$ 22107⁸⁰

Trout Purchased

Date

Sample Count

Pounds

Deducted on original
Settlement

Total

Pounds

Price

\$

\$

Feed & Medication Purchased

Month

Pounds

Feed Cost

Medication Cost

INVOICE # 3675 9/1/80

25800

\$ 4851⁰⁰

\$

INVOICE # 3331 9/27/80

12780

2460¹⁵

\$

INVOICE # 3376 7/3/80

13200

2541⁰⁰

\$

INVOICE # 3407 7/7/80 (FIXE)

1580

292⁶⁰

\$

Total

49660

\$ 9559⁵⁵

\$

9559⁵⁵

Other Purchases

Total Purchases

\$ 9559⁵⁵

Grower Gross Profit

\$ 12548²⁵

Less: Finance Charge

Net Profit to Grower

\$

RECEIVED
DEC 11 1991

WEAVER & DYKAS, P.A.

Attorneys at Law

130 N. BROADWAY
BUHL, IDAHO 83316

PHONE (208) 543-8268

ROBERT C. WEAVER

FRANK J. DYKAS
REGISTERED PATENT
TRADEMARK ATTORNEY

JOHN M. MELANSON

August 15, 1984

RECEIVED

AUG 16 1984

Department of Water Resources
Southern District Office

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

Re: Water Application No. 47-7398
Richard J. Kelly

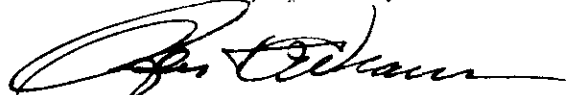
Gentlemen:

Mr. Kelly is preparing to make final proof upon the above application for nonconsumptive water rights in his fish propagation facilities. He has an inlet weir adequately measuring the water as it goes into the fish propagation facility but he is in a position where it is very difficult for him to put an outlet weir on the facility because it dumps almost immediately back into the Snake River from his outlet. The main problem he has is he had an outlet weir at one time at the outlet of the ponds but the high water of the Snake River inundated the outlet weir in such a fashion it not only removed the weir from its station but made it impossible to gauge the water on the outlet.

For that reason Mr. Kelly requests an exemption from having to place the outlet weir on the facilities in order to obtain a water license. Could you please consider this letter as an application for an exemption for that purpose.

If you have any questions concerning this matter you can either contact myself or Mr. Kelly. Thank you for your attention to this matter.

Sincerely yours,



ROBERT C. WEAVER

RCW:sh

MICROFILMED

DEC 11 1991



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

A. Kenneth Dunn
Director

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

October 21, 1985

Richard J. Kelley
Box 87
Buhl, Idaho 83316

Re: Permit

Dear Mr. Kelley:

In regard to our conversation concerning the permit you have for fish propagation from Cedar Draw, unless a measurement from your facilities can be made to show you are using the water for fish propagation, we will have to recommend the permit be cancelled.

Please contact this office at your earliest convenience.

Very truly yours,

Gary L. Funderburg
Sr. Water Resource Agent

LOH:GLF:marya

MICROFILMED

DEC 11 1991

OR-15

Handwritten notes on the left margin, partially obscured.

FC
C-1

A
25.6

B
8.2

C
7.9

D
14.6

TO SCALE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
LICENSING REPORT

RECEIVED
JUN 30 1986
47-1398
Permit No.

1. Measurement Calculations

a) Field Measurement Calculations (Include theoretical capacities and system capacity)

Exam returned to Jim Stanton
4/22/87 per his request...
Permit was assigned (?) to new
party & they want permit... KUD

INTER-DEPARTMENT MEMO — 1

DATE 3/6/86

b) Volume

$V_F = (AC) \times (100 - \text{loss})$
 $V_D = (100 - \text{loss})$
 $V = \dots$

c) Volume

2. Overlay

a) Ot

b) Ot

c) An

FROM Gary Funderburg

TO File

SUBJECT permit 47-7398

I have tried to complete this file. I contacted Permit holder & his Attorney and have received comments that they would see if a waiver would be granted for an Extension of time yet Proof was filed. I contacted the permit holder and his Att. June 85; June 84; May 84; Sept, 1985; Oct 85; System is not complete No measuring device was ever installed. Applicant refuses to complete his facilities I recommend cancellation of this permit. Gary Funderburg
SIGNATURE

Do Not Film.

INTER-DEPARTMENT MEMO — 1

FROM Loten Holmes

DATE 8/30/84

TO Dave Tuthill

SUBJECT 47-7398 Reg. for Waiver of Outlet M.D.

We will go ahead with the Field Exam & may make additional recommendations.

As far as I know, this fish farm is the last water diversion on Cedar Draw.

LT

SIGNATURE

WEAVER & DYKAS, P.A.

Attorneys at Law

130 N. BROADWAY

BUHL, IDAHO 83316

ROBERT C. WEAVER

FRANK J. DYKAS

REGISTERED PATENT
TRADEMARK ATTORNEY

JOHN M. MELANSON

PHONE (208) 543-8268

August 15 1984

RECEIVED
SEP 4 1984

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

Department of Water Resources

AUG 16 1984

Department of Water Resources
Southern District Office

Re: Water Application No. 47-7398
Richard J. Kelly

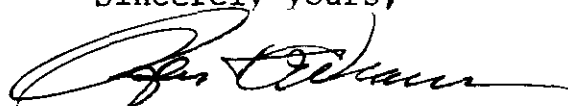
Gentlemen:

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If you have any questions concerning this matter you can either contact myself or Mr. Kelly. Thank you for your attention to this matter.

Sincerely yours,



ROBERT C. WEAVER

RCW:sh

MICROFILMED

DEC 11 1991



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

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

September 24, 1982

Richard Kelley
Rt. 1
Filer, Idaho 83328

Re: Permit No. 47-7398

Dear Mr. Kelley:

We acknowledge receipt of the affidavit submitted as proof of beneficial use for the above referenced permit.

Before a license can be issued, a field examination must be made by a representative of this Department. We cannot tell just when this examination will be made, but our examiner will try to contact you at the time he makes the examination so that you may show him the system.

Field examinations must be done while the system is in operation. For this reason we concentrate on irrigation permits during the summer months and do examinations on permits for other uses during the non-irrigating months.

If you have any questions regarding the field examination, please contact our office.

Sincerely,

Gary L. Funderburg
Sr. Water Resource Agent

LOH:GLF:marya

MICROFILMED
DEC 11 1991

CALCULATION OF NEW PRIORITY DATE

FROM: Rita Fleck

TO: File # 47-7398

DATE: Sept. 15, 1982

Date Proof Received	Aug. 6	218
Proof Due	Aug. 1	<u>213</u>
Number of Days Proof Late		5

Priority Date	May 25, 1977	145
Number of Days Proof Late		<u>5</u>
New Priority Date		150 = <u>May 30, 1977</u>

Remarks

MICROFILMED

DEC 11 1991

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card as a statement that the permit holder(s) has completed development to the extent shown below of Permit No. 47-7398.

Name(s) of Permit Holder:

Richard Kelley

Post Office Address:

RT 1
Idaho

Tel. No. 593 5330

Source of Water:

Cedar Draw

Extent of Use:

☐ Domestic

(number of households)

☐ Stockwater

(number and type of stock)

☐ Irrigation

(acres)

☐ Other

Fish Non Consumptive

Measuring Device:

Required?

☒ Yes

☐ No

Installed?

☒ Yes

☐ No

Access Port:

Required?

☐ Yes

☐ No

Installed?

☐ Yes

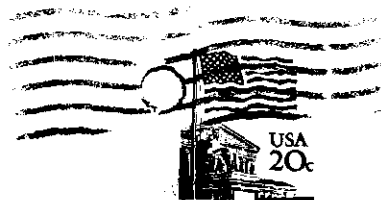
☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

Date

Signature of Permit Holder

Richard Kelley



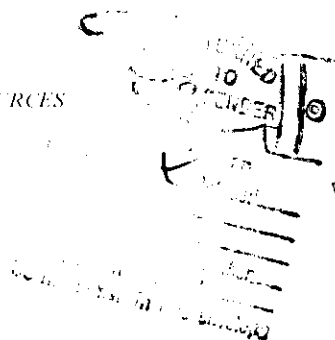
PROCESSED

DEC 11 1991



**IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720**

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Boise, Idaho 83720



RECEIVED

JUN 21 1982
Department of Water Resources

CLASS CHECK
NO
533170

JURCS HOLD

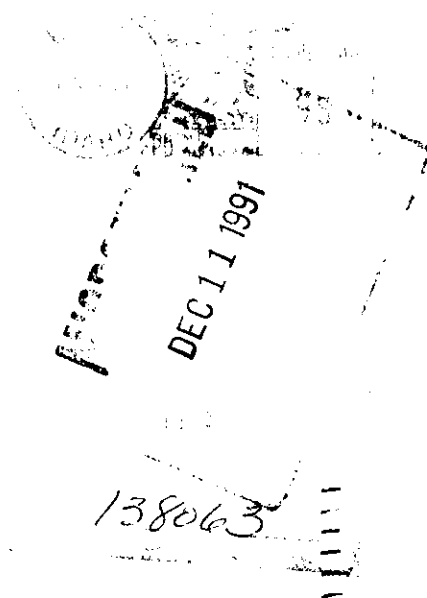
DATE
6/3/82

1ST NOTICE
6/9/82

2ND NOTICE
6/18/82

RETURN

Detached from
PS Form 3840-A
Nov 1979



Sent To Same Address 7-7-82 - E m.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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

KELLY, RICHARD J.
P.O. BOX 87
BUHL, ID

MAY 31, 1982

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 47-7398 WAS THAT EVIDENCE OF THE EXTENT OF DEVELOPMENT MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE AUGUST 01, 1982. (SEE LAST PAGE OF YOUR APPROVED PERMIT). ENCLOSED IS A POST CARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF OF BENEFICIAL USE.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU HAVE NOT PREVIOUSLY RECEIVED AN EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME PROVIDED THE DELAY IS FOR REASONABLE CAUSE AS INDICATED IN SECTION 42-204, IDAHO CODE, AMENDED. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED.

EITHER THE BENEFICIAL USE POST CARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE MENTIONED DATE, OTHERWISE, THE PERMIT WILL LAPSE AND BE OF NO FURTHER FORCE OR EFFECT WITHIN 60 DAYS.

SINCERELY,

RITA FLECK
SR. SECRETARY

ENC: 1

RECEIVED
DEC 11 1991

September 14, 1977

Re: Permit No. 47-7398

Richard J. Kelley
Box 87
Buhl, ID 83316

Dear Mr. Kelley:

Enclosed is a copy of your approved Application for Permit No. 47-7398 . We direct your attention to the conditions of approval as listed on the fourth page.

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

Sincerely,

BOBBY D. FLEENOR
Chief, Operations Bureau

BDF/cah

Enclosure

INTER-DEPARTMENT M 10 — 1

DATE June 15, 1977

FROM Jim Stanton, Water Resources Agent

TO Mike Steele, Regional Supervisor

SUBJECT Pre-Permit Exam on Application 47-7398 of Richard J. Kelley

In connection with application 47-7398, with which Richard J. Kelley proposes to divert 150 cfs from Cedar Draw for fish propagation from January 1 to December 31, I have on this date examined the water source, point of diversion, and place of use as described in the application. There appears to be sufficient water available to fulfill the permit. There appears to be no downstream use of Cedar Draw below the point of diversion, which is near the mouth of the stream. Other aspects of the application appear to be as claimed.



James E. Stanton
SIGNATURE

June 8, 1977

Times News
P. O. Box 548
Twin Falls, ID 83301

Re: Application For Permit #47-7398-Richard J. Kelley

Gentlemen:

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

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

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Michael L. Steele
Southern Region Supervisor

MLS:sm

Enclosure

Bill submitted: _____

NOTICE OF APPLICATION FOR WATER PERMIT

Notice is hereby given that Richard J. Kelley
Buhl, ID 83316
has on 5/25/77 submitted Application No. 47-7398
for a permit to appropriate 150 cubic feet per second ~~acre feet per annum~~ x
of water from Cedar Draw tributary of Snake River
by means of concrete steel headgate, pipe into canal, ~~via~~ fish raceways
within the NW 1/4, Sec. 11, Twp. 9S, Rge. 15E., B.M., Twin Falls County

to be used from Jan. 1 to Dec. 31
for fish propagation

within the NW 1/4, Sec. 11, Twp. 9S, Rge. 15E., B.M.

If issued, this permit will be subject to all prior water rights. Protests against the granting of the permit must be filed with the Idaho Department of Water Resources, 1041 Blue Lakes Blvd., North, Twin Falls, Idaho, 83301 on or before July 5, 1977.

C. Stephen Allred

Director

Published in the Times News
on June 16 and June 23, 1977