

OCT 22 1997

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting an acceptable proof of beneficial use two (2) days late on September 10, 1997.

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 29-07936 is **REINSTATED** with an advance in priority to **March 16, 1990**.

DATED this 16TH day of September, 1997.


L. GLEN SAXTON, Chief
Water Allocation Bureau

RECEIVED

SEP 10 1997

Department of Water Resources

1. Permit No. 29-07936 Telephone No. (208) 776-5820

2. Name(s) of Permit Holder(s): CITY OF LAVA HOT SPRINGS

3. Mailing Address: P.O. BOX 187, LAVA HOT SPRINGS, ID 83246

4. Source of Water: Spring If **GROUNDWATER** (well), Date Drilled: mo. / yr.

a. Well Driller: _____ **Drilling Permit Number:** - - -

b. **OPTIONAL:**
 Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____

5. Use(s) (as authorized by the water right permit):

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

Irrigation (No. of acres): _____ **Other:** Non-consumptive (See contract attached)

6. Total rate of diversion and/or volume for which proof is submitted: .08 cfs OR acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? Yes X or No
 Has the measuring device been installed? Yes or No X (Will be installed
Flow Measurement Port: Is a flow measurement port required? Yes or No X prior to field
 Has the measurement port been installed? Yes or No inspection.)

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Tony Hobson, Maintenance Supervisor **Telephone Number:** (208) 776-5820

Address: P.O. BOX 187, 115 WEST ELM, LAVA HOT SPRINGS, ID 83246

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: *Charles J. Dimick* MICROFILMED Date: 9/8/97

(include your title, if on behalf of company or organization)

CINCPACFLTME: Date: 9/8/97

OCT 22 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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SEP 01 1995

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

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

Permit No. 29-07936

Name(s) of Permit Holder: CITY OF LAVA HOT SPRINGS

Mailing Address: P.O. BOX 187, LAVA HOT SPIRNGS, IDAHO 83246

Date Proof is Due: SEPTEMBER 1, 1995 Telephone No. (208) 776-5820

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

900' of 4" distribution line installed, hot water diverted through distribution line
and returned to river, contract with Lava Spa Motel, Inc. for use of the water signed
(copy attached), geology study initiated, marketing prospectus developed.

Costing \$ 3,195.38

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

Lava Hot Springs Foundation (State entity) development protest and easement
abandonment conflict (evidence attached).

Permit holder(s) request an extension to September 1, 19 97.

FEE: \$50.00

Cando L. Dimmick, City Clerk
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to September 1, 1997.

Signed this 7th day of September, 19 95

Z. Glen Saylor
Chief, Water Allocation Bureau

SEP 14 1995

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 29-07936

Proposed Priority: March 14, 1990 Maximum Diversion Rate: 1.00 CFS
This is to certify, that CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS, ID 83246
has applied for a permit to appropriate water from:

SPRING

tributary of PORINEUF RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
HEATING	01/01 to 12/31	1.00 CFS

LOCATION OF POINT(S) OF DIVERSION: LOT 6(SWSWSW), Sec. 22, Township 08S, Range 38E
BANNOCK County

PLACE OF USE: See Remarks

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 1995.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this permit is subject to control by the watermaster of State Water District No. 29.
5. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this permit.
6. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
7. Use of water under this permit shall be non-consumptive.
8. Water used under this permit if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

MICROFILMED

JAN 28 1991

*Should be
T9S
↓*

Permit To Appropriate Water

NO. 29-07936

CONDITIONS/REMARKS:

9. Place of use is within the city limits of Lava Hot Springs.
10. Construction and operation of the diversion works shall not increase the flow of the spring beyond the current level of discharge. The applicant shall not excavate or drill a well to increase the head or discharge of the spring.
11. If the use of water causes a reduction of head or flow available to prior water rights, use under this right must immediately cease.

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

11 ~~th~~ day of January, 1991.

for R. Keith Higginson, Director

MICROFILMED

JAN 28 1991

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant LAVA Hot SPRINGS, City of Phone 776-5820
Post office address P.O. Box 187, Lava Hot Springs 83246
2. Source of water supply Spring which is a tributary of Portneuf River
3. Location of point of diversion is SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot 6
Sec. 22 Township 8S Range 38E B.M. Bannock County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 1.0 for Municipal purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 1.0 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Spring Box with pump to heat distribution lines within city of Lava Hot Springs
 - b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
 - d. Is ground water with a temperature of greater than 90°F being sought? No
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year).

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JAN 28 1991

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. City of Lava Hot Springs
- d. Domestic; show number of households. _____
- e. Other; describe fully. _____

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
9S	38E	21																	
		22					USED WITH IN CITY LIMITS of LAVA Hot Springs												
		28																	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. NONE

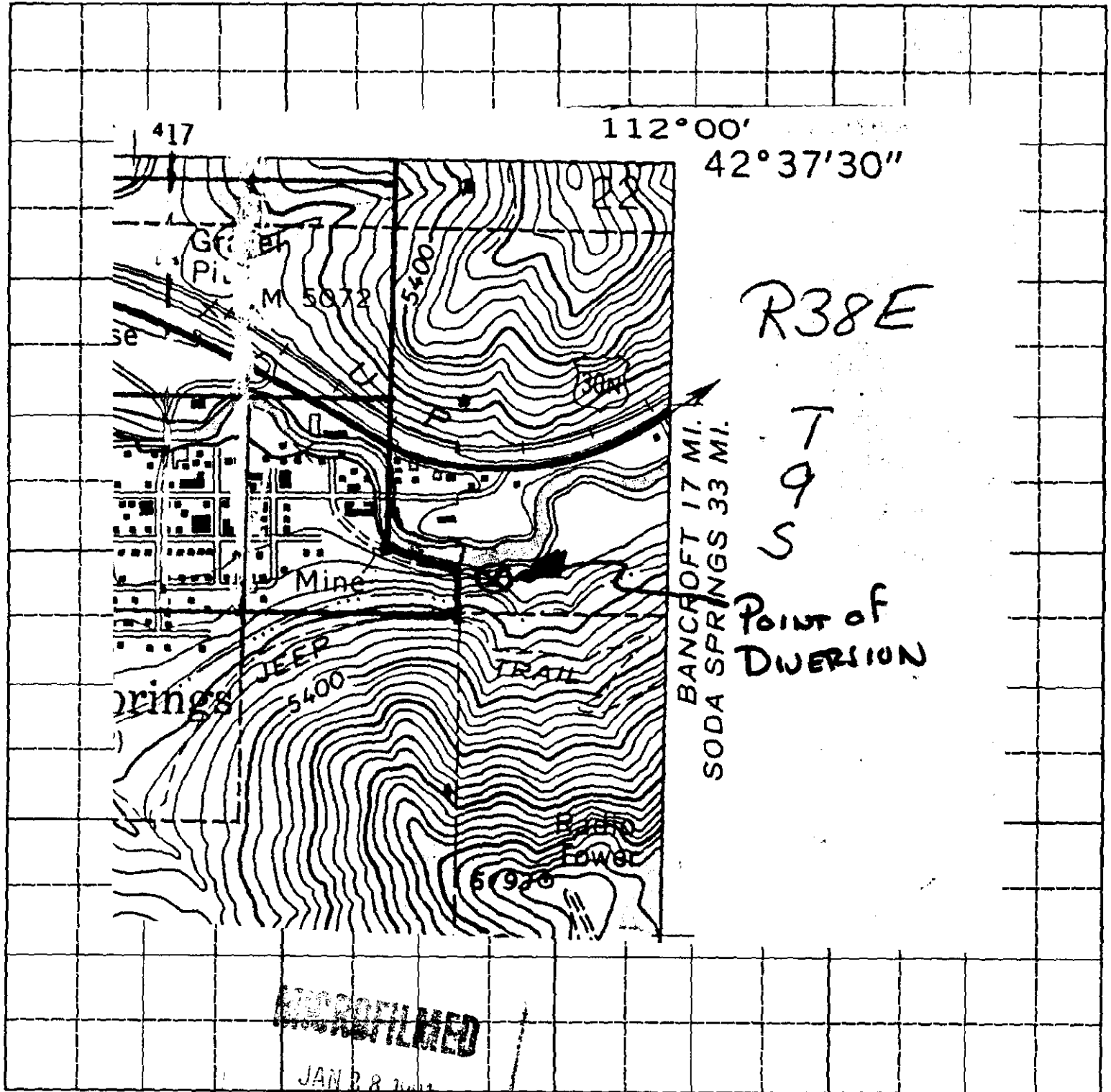
11. a. Who owns the property at the point of diversion? State of Idaho
- b. Who owns the land to be irrigated or place of use? LAVA Hot Springs & Property owners
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. Easement agreement

12. Remarks: Mayor Newton J. Lowe - 776-5605
City Clerk Canda L. Dimick - 776-5820
City Maintenance - Ken Tillotson - 776-5820

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JAN 28 1991

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



Scale: 2 inches equal 1 mile.

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.

Newton J. Lowe
(Applicant)
Title — Mayor

\$45⁰⁰

ASSISTED by Kcw 3/12/1990

Received by QW Date 3-14-90 Time 11:40 A. Preliminary check by _____

Fee \$ 45⁰⁰ Receipted by HWS # E012348 Date 3-14-90

Publication prepared by RB Date 5-12-90 Published in IO State Journal

Publication approved RB Date 6-5-90

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.

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

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

e. Other:



PROOF OF PUBLICATION

RECEIVED

MAY 25 1990

Department of Water Resources
Eastern District Office

STATE OF IDAHO
County of Bannock

ss.

Sandra K. Wann

NOTICE OF APPLICATION FOR WATER RIGHT

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

29-07898

JOHNSON, DEAN C.
JOHNSON, JAQUELYN
193 N. OLD HIGHWAY 91
POCATELLO, ID 83245
Source: PORTNEUF RIVER
Tributary: SNAKE RIVER
Diversion Pt:
SWSW Sec 35 T 07S R 36E
Use: IRRIGATION (.060 CFS)
Total Diversion: (.060 CFS)
Date Filed: 3-6-1990
In: T07S R36E S35 SWSW
2.0 ACRES TOTAL

29-07900

SMITH, EARL H.
9589 E. MAUGHAN RD.
LAVA HOT SPRINGS, ID 83246
Source: DEMPSEY CREEK
Tributary: PORTNEUF RIVER
Diversion Pt:
SWNE Sec 29 T 09S R 38E
Use: FISH PROPAGATION (.480 CFS)
Total Diversion: (.480 CFS)
Date Filed: 3-6-1990
In: T09S R38E S29 NWNE
29-07908

MARINI, JAMES
1502 S. OLD HIGHWAY 91
INKOM, ID 83245
Source: SPRING
Tributary: SINKS
Diversion Pt:
NWNWSE Sec 11 T 08S R 36E
Use: STOCKWATER (.020 CFS)
IRRIGATION (.010 CFS)
Total Diversion: (.030 CFS)
Date Filed: 3-26-1990
In: T08S R36E S11 NWSE
0.5 ACRES TOTAL

29-07930

ANTHONY, JAY N.
ANTHONY, GOLDIE O.
P.O. BOX 210
INKOM, ID 83245
Source: SPRING
Tributary: SINKS
Diversion Pt:
NESWNE Sec 9 T 10S R 38E
Use: DOMESTIC (.040 CFS)
Total Diversion: (.040 CFS)
Date Filed: 3-15-1990
In: T10S R38E S09 SWNE
29-07935

DAYLEY, MORRIS J.
6919 W. PORTNEUF RD.
POCATELLO, ID 83204
Source: GROUNDWATER
Diversion Pt:
SESW Sec 22 T 07S R 35E
Use: IRRIGATION (.400 CFS)
Total Diversion: (.400 CFS)
Date Filed: 3-15-1990
In: T07S R35E S22 NESW SESW
20.0 ACRES TOTAL

29-07936

CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS, ID 83246
Source: SPRING
Tributary: PORTNEUF RIVER
Diversion Pt:
LOT 6 (SWSWSW) Sec 22 T 08S R 38E
Use: MUNICIPAL (1.000 CFS)
Total Diversion: (1.000 CFS)
Date Filed: 3-14-1990
In: T09S R38E S21
S22
S28

29-07939

KIRKHAM, DALE B.
KIRKHAM, JR., DALE B.
P.O. BOX 4026
POCATELLO, ID 83201
Source: SPRING
Tributary: SINKS
Diversion Pt:
NENESW Sec 8 T 07S R 35E
Use: IRRIGATION (.200 CFS)
Total Diversion: (.200 CFS)
Date Filed: 3-26-1990
In: T07S R35E S08 SENW NESW
NWSE
12.0 ACRES TOTAL

29-07940

DAVIS, GLADE H.
21128 S. MARSH CREEK RD.
DOWNEY, ID 83234
Source: GROUNDWATER
Diversion Pt:
NWSE Sec 27 T 11S R 11E
Use: IRRIGATION (2.400 CFS)

being first duly sworn on oath deposes and says: That she was at all times herein mentioned a citizen of the United States of America, more than 21 years of age, and the Principal Clerk of THE IDAHO STATE JOURNAL, a daily newspaper, printed and published at Pocatello, Bannock County, Idaho, and having a general circulation therein.

That the document or notice, a true copy of which is attached, was published in the said IDAHO STATE JOURNAL, on the following dates, to-wit:

17 May 19 90 19

24 May 19 90 19

19 19

19 19

19 19

That said paper has been continuously and uninterruptedly published in said County for a period of seventy-eight weeks prior to the publication of said notice or advertisement and is a newspaper within the meaning of the laws of Idaho.

STATE OF IDAHO

COUNTY OF Bannock

On this 24th day of May in the year of 1990, before me,

a Notary Public, personally appeared Sandra K. Wann

known or identified to me to be the person whose name subscribed to the within instrument,

and being by me first duly sworn, declared that the statements therein are true, and

acknowledged to me that he executed the same.

Notary Public for Idaho

Residing at

My commission expires

MICROFILMED

JAN 28 1991



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

September 15, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

City of Lava Hot Springs
PO Box 187
lava Hot Springs ID 83246

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 29-07936

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The department has issued the enclosed order reinstating the permit and advancing the priority date to March 16, 1990, since proof was received after the proof due date of September 8, 1997.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water. If you have questions concerning the field examination, please contact the **EASTERN** Regional Office of the department in Idaho Falls at (208) 525-7161.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

Enclosure

C: IDWR - Regional Office

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OCT 22 1997

DO NOT SCAN

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 29-07936 Reviewed by Jay Date 9-12-97

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?

heating

yes Address same as permit?

no Proof timely received?

Correct Uses? yes

If not, complete calculation below.

SCANNED

JUN 25 2001

SOURCE OF WATER

✓ Surface water source

 Ground water source

 Drilling permit required?

 Copy in the file? Drilling Permit No.

 Amount paid for permit

 Correct?

 Well log in the file?

LICENSE EXAMINATION FEE

MEASURING DEVICE

yes Required?

yes Required?

50- Amount Submitted

no Installed? -will be soon

yes Correct?

 Waiver requested?

PRIORITY CALCULATION

Date proof received 9-10-97

Date proof due 9-1-97 -

No. of days late 2 =

Priority Date 3-14-90 +

New Priority Date 3-16-90

> 3-16-90

DEFICIENCIES OR ACTION ITEMS

Rein state & advance Priority to March 16, 1990.

Proof acceptable

DATA ENTRY

New Address X Proof Made 9-10-97

To: File No. 29-07936
From: Julie L. Yarbrough
Subject:
Date: September 12, 1997

MEMORANDUM

The permit holder called to ask me if the department would extend the proof due date from Sept. 1, 1997, to Sept. 8, 1997, because they were not given the mandatory 60 day notice. The permit holder supplied me with a copy of the postmarked envelope the proof due notice was mailed in, and it was not postmarked until July 8, 1997. I agreed that the permit holder was not given proper notice and informed them that the department would accept the proof up to September 8, 1997, with no penalty to the priority date. On September 8, 1997, the permit holder faxed the proof along with a copy of the check for \$50.00 for the license examination fee. The department does not consider a proof filed until the form and license exam fee are received and receipted. The proof and exam fee were received at the state office on September 10, 1997, therefore, the department will advance the priority date two (2) days.

MICROFILMED
OCT 22 1997

RECEIVED

SEP 10 1997

AGREEMENT TO SUPPLY WATER

Department of Water Resources

THIS AGREEMENT made and entered into this 7th day of JULY, 1993, between the CITY OF LAVA HOT SPRINGS, a municipal corporation of the State of Idaho, hereinafter "CITY", and LAVA SPA MOTEL, a corporation of the State of Idaho, by and through its President, John R. Berger, hereinafter "MOTEL",

W I T N E S S E T H:

WHEREAS, Resolution¹⁹⁹³⁻² of City dated June 24, 1993, a copy of which is attached hereto as Exhibit "A" authorized CITY to enter into an agreement with MOTEL, to furnish water from Chicken Soup Springs;

NOW, PURSUANT TO said Resolution¹⁹⁹³⁻² and within the limits of its Permit No. 29-07936 of the Idaho Department of Water Resources to appropriate water from Chicken Soup Springs, a copy of which is attached as Exhibit "B";

NOW, THEREFORE, CITY and MOTEL agree as follows:

1. CITY agrees to deliver to the delivery point shown on the diagram attached to Exhibit "A" 40 g.p.m. of water from Chicken Soup Springs at the natural temperature of the spring water for the MOTEL to take from the delivery point to its place of business.
2. MOTEL agrees to pay CITY \$50.00 per month annually in advance for the use of said water with the monthly rate to be re-negotiated annually based on cost of living index and unexpected maintenance expense. Payments start upon completion of the holding tank by MOTEL as provided herein or in ninety (90) days whichever occurs first.
3. This Agreement shall run for five (5) years with an option to renew for five (5) years unless terminated earlier by the parties hereto.

MICROFILMED

OCT 22 1997

4. This Agreement automatically terminates should the City lose its permit, should the water not be available from the spring or because of temperature change not be usable by MOTEL or should MOTEL lose its place of business. Neither party is entitled to damages of any kind from the other party because of termination of this Agreement.

5. CITY will maintain the waterline from the spring to the delivery point and MOTEL will maintain the line from the delivery point to its place of business. CITY reserves the right to allow other users to hook onto its line. MOTEL will install and maintain its own holding tank at the delivery point to accept the water from CITY'S line.

6. MOTEL is solely responsible for meeting water quality discharge standards following its use of the water hereunder.

7. Failure of MOTEL to maintain its portion of the waterline or to pay charges called for hereunder justifies CITY in immediately shutting off the supply of water until the line is repaired or the charges are paid.

SIGNED By the parties at the date indicated opposite their names.

DATE: 7-7-93

CITY OF LAVA HOT SPRINGS

Kenneth Knowles

~~Newt Howe, Mayor~~

Kenneth Knowles, Council President

ATTEST:

Canda L. Dimick
Canda L. Dimick, Clerk

DATE: 7-7-93

LAVA SPA MOTEL

John R. Berger
John R. Berger, President

FACSIMILE

DATE: September 8, 1997

TO: Julie Yarbrough, Secretary
Idaho Department of Water
Resources
FAX # (208) 327-7866

FROM: Canda Dimick, Clerk
City of Lava Hot
Springs
Phone # (208) 776-5820

COMMENTS: Proof of Beneficial Use and copy of payment for field
examination fee. Original mailed Sept. 8, 1997 regular mail.

MICROFILMED

OCT 22 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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

1. Permit No. 29-07936 Telephone No. (208) 776-58202. Name(s) of Permit Holder(s): CITY OF LAVA HOT SPRINGS3. Mailing Address: P.O. BOX 187, LAVA HOT SPRINGS, ID 832464. Source of Water: Spring If GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____

a. Well Driller: _____ Drilling Permit Number: _____ - _____ - _____

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

5. Use(s) (as authorized by the water right permit):

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

Irrigation (No. of acres): _____ Other: Non-consumptive (See contract attached)6. Total rate of diversion and/or volume for which proof is submitted: .08 cfs OR _____ acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?	Yes <u>X</u> or No _____
Has the measuring device been installed?	Yes _____ or No <u>X</u> (Will be installed
Flow Measurement Port: Is a flow measurement port required?	Yes _____ or No <u>X</u> prior to field
Has the measurement port been installed?	Yes _____ or No _____ inspection.)

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Tony Hobson, Maintenance Supervisor Telephone Number: (208) 776-5820Address: P.O. BOX 187, 115 WEST ELM, LAVA HOT SPRINGS, ID 83246

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Candace S. Simcik CITY CLERK Date: 9/8/97
(include your title, if on behalf of company or organization)MICROFILMED
OCT 27 1997

AGREEMENT TO SUPPLY WATER

THIS AGREEMENT made and entered into this 7th day of JULY, 1993, between the CITY OF LAVA HOT SPRINGS, a municipal corporation of the State of Idaho, hereinafter "CITY", and LAVA SPA MOTEL, a corporation of the State of Idaho, by and through its President, John R. Berger, hereinafter "MOTEL",

W I T N E S S E T H:

WHEREAS, Resolution¹⁹⁹³⁻² of City dated June 24, 1993, a copy of which is attached hereto as Exhibit "A" authorized CITY to enter into an agreement with MOTEL, to furnish water from Chicken Soup Springs;

NOW, PURSUANT TO said Resolution¹⁹⁹³⁻² and within the limits of its Permit No. 29-07936 of the Idaho Department of Water Resources to appropriate water from Chicken Soup Springs, a copy of which is attached as Exhibit "B";

NOW, THEREFORE, CITY and MOTEL agree as follows:

1. CITY agrees to deliver to the delivery point shown on the diagram attached to Exhibit "A" 40 g.p.m. of water from Chicken Soup Springs at the natural temperature of the spring water for the MOTEL to take from the delivery point to its place of business.
2. MOTEL agrees to pay CITY \$50.00 per month annually in advance for the use of said water with the monthly rate to be re-negotiated annually based on cost of living index and unexpected maintenance expense. Payments start upon completion of the holding tank by MOTEL as provided herein or in ninety (90) days whichever occurs first.
3. This Agreement shall run for five (5) years with an option to renew for five (5) years unless terminated earlier by the parties hereto.

MICROFILMED

OCT 22 1997

4. This Agreement automatically terminates should the City lose its permit, should the water not be available from the spring or because of temperature change not be usable by MOTEL or should MOTEL lose its place of business. Neither party is entitled to damages of any kind from the other party because of termination of this Agreement.

5. CITY will maintain the waterline from the spring to the delivery point and MOTEL will maintain the line from the delivery point to its place of business. CITY reserves the right to allow other users to hook onto its line. MOTEL will install and maintain its own holding tank at the delivery point to accept the water from CITY'S line.

6. MOTEL is solely responsible for meeting water quality discharge standards following its use of the water hereunder.

7. Failure of MOTEL to maintain its portion of the waterline or to pay charges called for hereunder justifies CITY in immediately shutting off the supply of water until the line is repaired or the charges are paid.

SIGNED By the parties at the date indicated opposite their names.

DATE: 7-7-93

CITY OF LAVA HOT SPRINGS

Kenneth Knowles
~~Mayor~~

Kenneth Knowles, Council President

ATTEST:

Canda L. Dimick
Canda L. Dimick, Clerk

DATE: 7-7-93

LAVA SPA MOTEL

John R. Berger
John R. Berger, President

MICROFILMED
OCT 22 1997

CITY OF LAVA HOT SPRINGS 7-86

BOX 187
LAVA HOT SPRINGS, ID 83246**Ireland Bank**
Integrity Banking Since 1892
146 E. Main, Lava Hot Springs, Idaho 83246

8122

82-85/1241

Aug. 28 1997

PAY FIFTY AND NO/100 DOLLARS \$ 50.00TO
THE
ORDER
OFIDAHO DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD STREET
P.O. BOX 83720
BOISE, ID 83720-0098*Gayman Bailey*
Carla A. Winkler

CITY OF LAVA HOT SPRINGS

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO REFUND OF FEE.

DELUXE FORM WVC-3 V-5

DATE	DESCRIPTION	AMOUNT	DISTRIBUTIONS	
			ACCT. NO.	AMOUNT
8/28/97	8- Permit No. 29-07936 Chicken Soup Springs Proof of Beneficial Use Fee. Original faxed Monday, September 8, 1997	50.00		

EMPLOYEE _____

PERIOD ENDING	TOTAL EARNINGS	DEDUCTIONS							TOTAL DEDUCTIONS	NET PAY
		F.I.C.A.	WITHHOLDING U.S. INC. TAX	STATE INC. TAX						

V-5

MICROFILMED
OCT 22 1997

CITY OF LAVA HOT SPRINGS

115 West Elm -- P. O. Box 187
Lava Hot Springs, Idaho 83246

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SEP 02 1997

Department of Water Resources

August 30, 1997

Julie L. Yarbrough, Secretary
Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

RE: Permit No. 29-07936

Dear Julie:

The City of Lava Hot Springs is working with Clyde Nelson, City Attorney to evaluate and determine the city's position on the above referenced permit.

Because September 1, 1997 is an observed holiday, the city will fax to you either an extension request or proof of beneficial use and mail original form with payment due on Tuesday, September 2, 1997.

Please note that the certified proof due notice mailed to the city was postmarked in Boise on July 8, 1997 (copy enclosed). If it is at all possible the City of Lava Hot Springs would appreciate it if the department would consider extending the expiration date on the permit to September 8, 1997, in accordance with the sixty (60) day notice, so that the city has some extra time to complete the necessary paper work.

Sincerely,



Canda L. Dimick
City Clerk

Enclosure

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OCT 22 1997

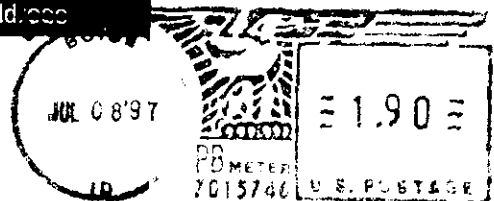
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706-2237

Fold at line over top of envelope to
the right of the return address

CERTIFIED

P 590 062 051

MAIL



1st NOTICE

2nd NOTICE

RETURN

7/10/97

MICROFILMED
OCT 22 1997

83246-0187



June 30, 1997

CITY OF LAVA HOT SPRINGS
PO BOX 187
LAVA HOT SPRINGS ID 83246

PROOF DUE NOTICE

RE: PERMIT NO. 29-07936

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 1, 1997.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

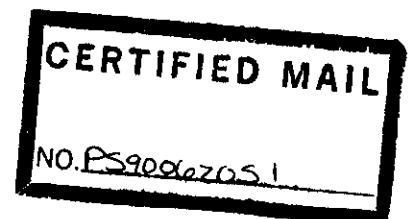
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

OCT 22 1997



DO NOT SCAN

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 2907936 Reviewed by [Signature] Date 9-7-95

BASIC INFORMATION

9-1-95 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

_____ Has adequate work been completed to demonstrate due diligence?

yes Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? yes Requested? _____

_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____

_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN

Recommend extend to Sept. 1, 1997, on basis of litigation.

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address X
Change Proof Due Date 9-1-97
Change Priority Date X



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 8, 1995

City of Lava Hot Springs
P.O. Box 187
Lava Hot Springs, ID 83246

RE: Permit No. 29-07936

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to **September 1, 1997**. Please note that the department has granted this extension based on litigation. It is important that you work diligently toward the completion of this project during the construction period allowed. The department **may not** be able to grant additional extension requests.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

RECEIVED
SEP 14 1995

RECEIVED

SEP 01 1995

Department of Water Resources

AGREEMENT TO SUPPLY WATER

THIS AGREEMENT made and entered into this 7th day of JULY, 1993, between the CITY OF LAVA HOT SPRINGS, a municipal corporation of the State of Idaho, hereinafter "CITY", and LAVA SPA MOTEL, a corporation of the State of Idaho, by and through its President, John R. Berger, hereinafter "MOTEL",

WITNESSETH:

WHEREAS, Resolution¹⁹⁹³⁻² of City dated June 24, 1993, a copy of which is attached hereto as Exhibit "A" authorized CITY to enter into an agreement with MOTEL, to furnish water from Chicken Soup Springs;

NOW, PURSUANT TO said Resolution¹⁹⁹³⁻² and within the limits of its Permit No. 29-07936 of the Idaho Department of Water Resources to appropriate water from Chicken Soup Springs, a copy of which is attached as Exhibit "B";

NOW, THEREFORE, CITY and MOTEL agree as follows:

1. CITY agrees to deliver to the delivery point shown on the diagram attached to Exhibit "A" 40 g.p.m. of water from Chicken Soup Springs at the natural temperature of the spring water for the MOTEL to take from the delivery point to its place of business.

2. MOTEL agrees to pay CITY \$50.00 per month annually in advance for the use of said water with the monthly rate to be re-negotiated annually based on cost of living index and unexpected maintenance expense. Payments start upon completion of the holding tank by MOTEL as provided herein or in ninety (90) days whichever occurs first.

3. This Agreement shall run for five (5) years with an option to renew for five (5) years unless terminated earlier by the parties hereto.

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SEP 14 1995

4. This Agreement automatically terminates should the City lose its permit, should the water not be available from the spring or because of temperature change not be usable by MOTEL or should MOTEL lose its place of business. Neither party is entitled to damages of any kind from the other party because of termination of this Agreement.

5. CITY will maintain the waterline from the spring to the delivery point and MOTEL will maintain the line from the delivery point to its place of business. CITY reserves the right to allow other users to hook onto its line. MOTEL will install and maintain its own holding tank at the delivery point to accept the water from CITY'S line.

6. MOTEL is solely responsible for meeting water quality discharge standards following its use of the water hereunder.

7. Failure of MOTEL to maintain its portion of the waterline or to pay charges called for hereunder justifies CITY in immediately shutting off the supply of water until the line is repaired or the charges are paid.

SIGNED By the parties at the date indicated opposite their names.

DATE: 7-7-93

CITY OF LAVA HOT SPRINGS

Kenneth Knowles

~~Newt Lowe, Mayor~~

Kenneth Knowles, Council President

ATTEST:

Canda L. Dimick
Canda L. Dimick, Clerk

DATE: 7-7-93

LAVA SPA MOTEL

John R. Berger
John R. Berger, President

SEP 14 1995

RESOLUTION NO. 1993-2

A RESOLUTION OF THE CITY OF LAVA HOT SPRINGS, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE MAYOR AND CITY CLERK TO SIGN AN AGREEMENT TO FURNISH WATER FROM CHICKEN SOUP SPRINGS UNDER THE CITY'S PERMIT TO APPROPRIATE WATER THEREFROM TO LAVA SPA MOTEL FOR USE IN ITS PLACE OF BUSINESS, SETTING RATES, PROVIDING FOR MAINTENANCE OF LINES AND APPROVING FOR TERMINATION.

WHEREAS, the City of Lava Hot Springs, a municipal corporation of the State of Idaho, hereinafter called "CITY" is the holder of Permit No. 29-07936 from the State of Idaho Department of Water Resources to appropriate water from Chicken Soup Springs located in Lot 6, (SWSWSW), Section 22, Township 08S, Range 38E, Bannock County;

WHEREAS, CITY is required to apply the water to a beneficial use under the terms of the above permit to complete the appropriation and to secure a license for the water right;

WHEREAS, the CITY owns a distribution line and distribution box as shown on Exhibit "A" attached hereto;

WHEREAS, Lava Spa Motel, hereinafter "MOTEL", desires to contract with CITY for CITY to supply water from the springs to a distribution box owned by MOTEL with MOTEL taking the water from the distribution box to its place of business for use therein;

WHEREAS, MOTEL is prepared to pay the City for the water supplied to it at rates to be determined;

WHEREAS, there may be other businesses willing to pay the CITY for water from the distribution line shown on Exhibit "A";

RECORDED
SEP 14 1995

WHEREAS, the delivery of water to the distribution box and distribution to businesses therefrom or from the distribution line would constitute the application of the water to beneficial uses under the CITY's permit;

WHEREAS, it is to the benefit of the CITY and its citizens to develop the permit into a license to use the water;

NOW, THEREFORE, BE IT RESOLVED By the Mayor and Council of Lava Hot Springs, Idaho, as follows:

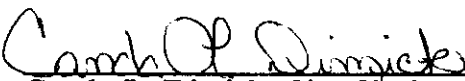
That the Mayor and City Clerk are authorized to enter into an agreement with Lava Spa Motel to supply water to it by delivering water to the distribution box in amounts and at rates to be set between the City and Lava Spa Motel and to make similar agreements with other persons or entities desirous of obtaining such water from the distribution line.

PASSED AND APPROVED this 24th day of JUNE, 1993.

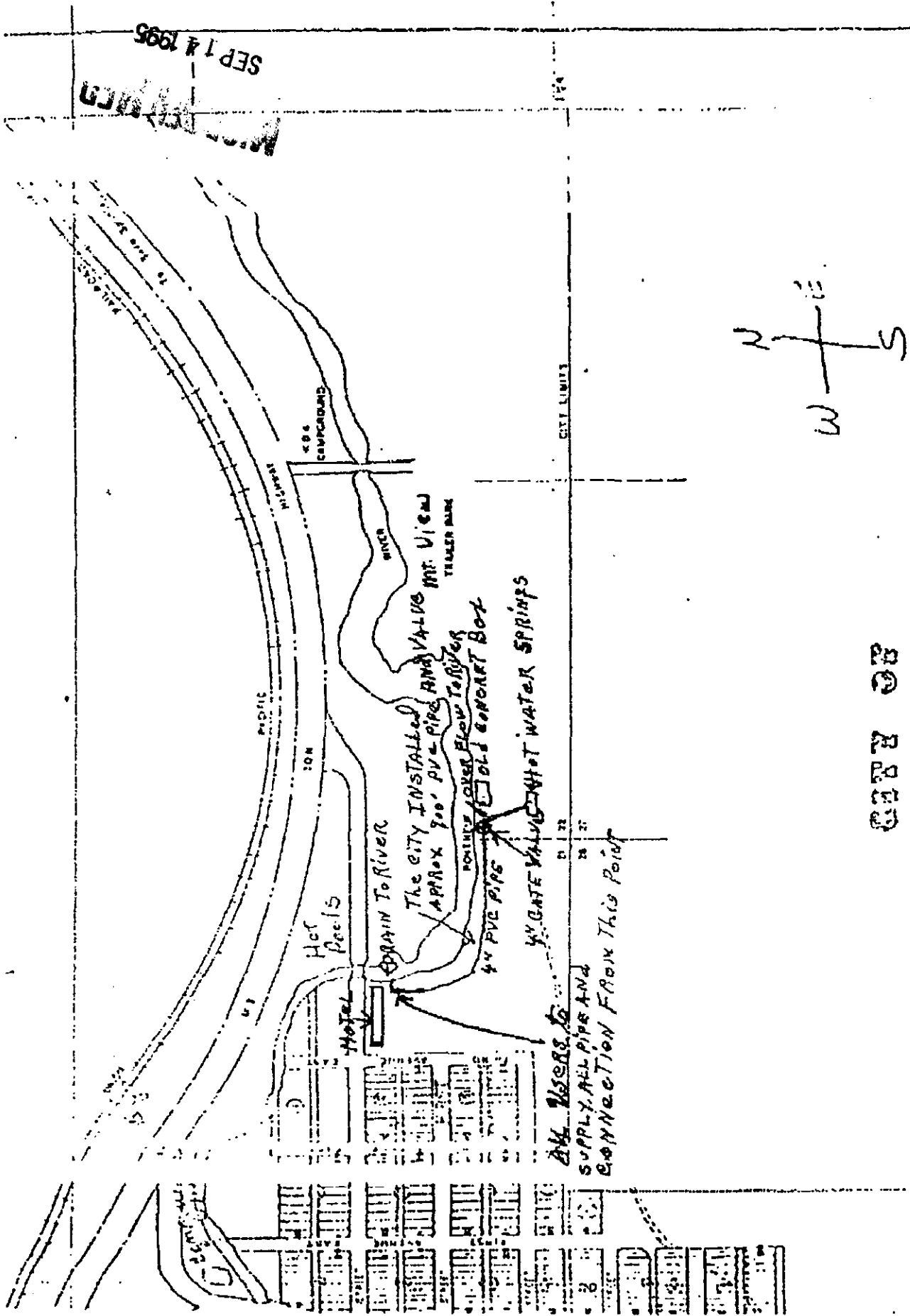
CITY OF LAVA HOT SPRINGS, IDAHO


~~NEW LOWE, Mayor~~
Kenneth Knowles, Council President

ATTEST:


Canda L. Dimick, City Clerk


SEP 14 1995



ବିଜ୍ଞାନ ଓ
ପ୍ରଯୁକ୍ତି ବିଭାଗ

BRUNNEN COUNTY, OHIO
TS 55, R 15 ESW
FEBRUARY 12, 1993

State of Idaho
Department of Water Resources

PERMIT TO APPROPRIATE WATER

NO. 29-07936

Proposed Priority: March 14, 1990 Maximum Diversion Rate: 1.00 CFS
This is to certify, that CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS, ID 83246
has applied for a permit to appropriate water from:

SPRING tributary of PORTNEUF RIVER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
HEATING	01/01 to 12/31	1.00 CFS

LOCATION OF POINT(S) OF DIVERSION: LOT 6(SWSWSW), Sec. 22, Township 08S, Range 38E
BANNOCK County

PLACE OF USE: See Remarks

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 1995.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Use of water under this permit is subject to control by the watermaster of State Water District No. 29.
5. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this permit.
6. The right to the use of water acquired under this permit shall not give rise to any right or claim against the holder of a senior right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
7. Use of water under this permit shall be non-consumptive.
8. Water used under this permit if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

RECEIVED
MAY 4 1995

EXHIBIT

B

State of Idaho
Department of Water Resources

NO. 29-07936

CONDITIONS/REMARKS:

9. Place of use is within the city limits of Lava Hot Springs.
10. Construction and operation of the diversion works shall not increase the flow of the spring beyond the current level of discharge. The applicant shall not excavate or drill a well to increase the head or discharge of the spring.
11. If the use of water causes a reduction of head or flow available to prior water rights, use under this right must immediately cease.

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

11th day of January, 1991.

for L. Glen Saxton
R. Keith Higginson, Director

RECORDED

SEP 14 1995



RECEIVED JUL 28 1994

STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
Statehouse, Room 210
BOISE 83720-1000

LARRY ECHOHAWK
ATTORNEY GENERAL

Telephone: (208) 334-2500
Fax: (208) 334-2500
Criminal Law Division
Telephone: (208) 334-2500
Natural Resource Division
Telephone: (208) 334-2500

July 27, 1994

The Honorable Newton J. Lowe
Mayor
City of Lava Hot Springs
115 West Elm - P.O. Box 187
Lava Hot Springs, Idaho 83246

Re: Development of Chicken Soup Springs

Dear Mayor Lowe:

I am writing on behalf of the Lava Hot Springs Foundation in order to clarify the Foundation's position regarding the potential development of Chicken Soup Springs by the City of Lava Hot Springs.

The Lava Hot Springs Foundation was established by the State of Idaho in 1919 to preserve and enhance the natural artesian hot springs in and around the City of Lava Hot Springs. For the past 75 years, the Foundation has proudly fulfilled its mandate by building a world-class destination resort. People come from around the world to enjoy the natural hot waters of Lava Hot Springs.

The Foundation has been dismayed to learn of plans that may endanger the geothermal resources upon which the Foundation and the City depend. It has come to the Foundation's attention that the City may, in conjunction with a private developer, develop and exploit the geothermal resources of Chicken Soup Springs. Chicken Soup Springs is adjacent to Foundation property and is, in all likelihood, hydrologically connected to the geothermal resources of the Foundation. Although the City at one time utilized Chicken Soup Springs to heat the city pool as well as some private buildings, that use has been abandoned for some 20 or 30 years. The prior use did not affect the Foundation, since it was limited to the natural flow of the springs. Now, however, the City plans to drill into the springs and pump water from the underlying

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SEP 14 1995

Mayor Newton J. Lowe
07/27/94
Page 2

aquifer. Such activities may have a disastrous effect on the age-old free flowing hot springs on which the Foundation relies.

Therefore, the Foundation strongly protests any development of Chicken Soup Springs involving pumping of the underlying aquifer or any withdrawal in excess of natural flow. Such development should proceed only upon the conclusion of rigorous scientific studies demonstrating beyond question that such development will not affect the geothermal resources of the Foundation. In lieu of development of Chicken Soup Springs, the City should explore the use of alternative geothermal resources.

A related issue is the City's alleged desire to gain access to an abandoned easement across State property that is now occupied by the recently completed RV Park, a State lessee. This easement was originally granted to the City for a pipe that directed the natural flow of Chicken Soup Springs for use in the City Pool. The easement has not been utilized for this or any other purpose for over 25 years.

The Idaho Code and the rules of the Department of Lands provide that any easement across State land is presumed to be abandoned and is automatically terminated if the easement is not used for the purpose granted for five consecutive years. Idaho Code § 58-603; IDAPA 20, title 03, Chapter 08, Rule 041.02. Since the City has not used this easement for over 25 years, it is clear that the City no longer holds any rights under the easement. Any renewal of the easement must be approved by the Foundation and the State Board of Land Commissioners. I have enclosed a letter from Donald F. McNarie, Real Estate Specialist for the Department of Lands, confirming these findings.

I hope this letter has clarified the Foundation's position regarding development of Chicken Soup Springs and the abandoned easement. If you would like to discuss these issues further, you can call me at (208) 334-4143.

Sincerely,



Steven W. Strack
Deputy Attorney General
Natural Resources Division

Enclosure
L4149NSA

cc: Land Board Members
Bryce Taylor
Keith Higginson
Bob Meline

SEP 14 1995

CLYDE G. NELSON

ATTORNEY AT LAW

RECEIVED AUG 4 1994

172 SOUTH MAIN STREET
P.O. Box 797
SODA SPRINGS, IDAHO 83276

TELEPHONE
(208) 547-2135
FAX
(208) 547-2136

CLYDE G. NELSON

August 1, 1994

Office of Attorney General
State of Idaho
Statehouse, Room 210
Boise, ID 83720-1000

Attention: Steven W. Strack
Deputy Attorney General
Natural Resources Division

Re: Development of Chicken Soup Springs -
Lava Hot Springs, Idaho

Dear Mr. Strack:

Please be advised that I represent the City of Lava Hot Springs, Idaho. We are in receipt of your letter of July 27, 1994. Mayor Lowe has requested that I respond to your letter.

As your letter implies, the City of Lava Hot Springs, Idaho, has water rights to Chicken Soup Springs. The spring was used to fill and heat the city pool for many years. It is still used to heat a private building or buildings, upon agreement with the City and the owners of the property.

We think your office has a misunderstanding of the situation. Chicken Soup Springs was in operation and supplied water to the City of Lava and the swimming pool for many years while the Lava Foundation operated its facilities. The flow from Chicken Soup Springs does not affect the flow from the Foundation's springs. Chicken Soup Springs continues to flow, but a good share of the flow is emptying into the river due to the floods in 1961. The only thing that the City may attempt to do is to recapture the full flow of the spring. There is no consideration being given to pumping the aquifer "or any withdrawal in excess of natural flow". The only consideration actually being given is to a reestablishment of the natural flow of the spring which may require a minimal amount of excavation work in order to accomplish the same. There is no way that you can take more than the flow of the spring, and the City has no intent to do so. If and when the City does develop Chicken Soup Springs, the only flow taken will be the natural flow

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SEP 14 1995

of the spring. Obviously, this will not effect the Foundation's spring as Chicken Soup Springs operated at the same time as the Foundation's spring and did not detrimentally affect the Foundation spring at that time. Furthermore, it is the City's belief that the same are on different aquifers. That belief would seem to be substantiated by the fact that the springs are located on different mountains with the springs being on opposite sides of the Portneuf River.

The reference to the easement is very troublesome to the City. We hope that the State of Idaho and Foundation would wish to cooperate with the development of the municipality if the same is possible. If the Chicken Soup Springs are developed, the same would compliment the Foundation's facilities, and it would probably bring more tourists and other customers to the area making better use of both facilities. A position adopted by the State that the City has no right of way or cannot use the right of way would only detrimentally affect the economy of the City of Lava Hot Springs and surrounding areas, and also affect the number of jobs available within Southeast Idaho engaged in tourist trade. I am also sure that the Office of the Attorney General does not wish to indicate that the easement should be withdrawn or disputed with the City of Lava Hot Springs merely to protect the Foundation's financial interest in its pool. I am sure that the Land Board and the Office of the Attorney General would not want to discourage development of tourist trade with the City. Basically, what we have with Chicken Soup Springs is a spring which is going to waste by emptying into the river when it could be used for productive purposes within the community. The City is concentrating on attempting to use that water in that method, but it is not attempting to use more than the flow of the spring. As I have stated, it will take a minimal amount of excavation to bring the water to the point where it gravity feeds to the City. We would hope that the State would honor the City's prior easement rights, as it has continued to operate a four inch line across this property, or, in the alternative, that the State would honor the right of the City to proceed with a pipeline down an existing easement which the City maintains from the City to the spring. This roadway crosses State ground.

I am unfamiliar with the rule which you are quoting. I do not read the statute §58-603, I.C. in the same manner as does your office. I would like a copy of the rule or rules which you cite so that I can refer to the same.

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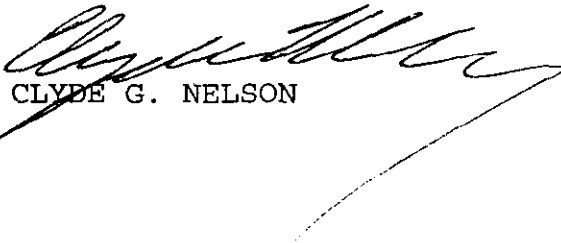
SEP 14 1995

Page -3-
August 1, 1994
Office of Attorney General

There is little likelihood that there will be immediate development of Chicken Soup Springs. However, if and when development is undertaken, we expect to confer with the Foundation and to make the Foundation aware of the City's proceedings. The City wants to maintain a good working relationship with the Foundation. We hope that is the attitude of the Foundation and Land Board as well.

If you have any questions, please do not hesitate to contact me.

Sincerely,



CLYDE G. NELSON

CGN:js
c: Mayor and City Council

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June 30, 1995

CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS ID 83246

PROOF DUE NOTICE

RE: PERMIT NO. 29-07936

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 1, 1995. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

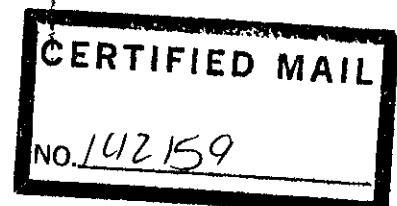
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

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SEP 14 1995



MEMORANDUM

To: File 29-07936
From: L. Glen Saxton 
RE: INQUIRY IN CONNECTION WITH PERMIT FILE 29-07936
Date: February 12, 1993

George Netuschil with the City of Lava Hot Springs contacted me in connection with the above referenced permit. He inquired about a number of matters associated with development authorized by the permit.

I specifically called the following matters to the attention of Netuschil:

1. Use of water under the permit is subject to all prior water rights.
2. The only authorized use is heating.
3. Construction and operation of the diversion works can not increase or decrease the discharge of water from the spring. The city can not excavate the springs or drill a well for the hot water. The city can't pump directly from the spring.
4. The place of use must be within the city limits.
5. The city needs to consult legal counsel relative to the city's ability to sell the hot water to users.
6. The city's use must be non-consumptive.
7. There appear to be questions concerning the ownership of land around the springs and the existence of easements the city might need in connection with the permit.
8. Condition of approval no. 3. concerning the start of construction within a year could prove to be a problem for the city since construction has not been started.
9. The data base shows there are a number of adjudication claims associated with the use of the hot water from the springs. The city should carefully research existing water rights as a part of the feasibility of the city's development.

Netuschil advised that the city likely will hire a consultant to determine feasibility of the proposed project.


SEP 14 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 15, 1991

CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS, ID 83246

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 29-07936

Dear Permit Holder:

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

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

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

Sincerely,

JIM JOHNSON
Water Rights Supervisor

JJ:blm

Enclosures

MICROFILMED

JAN 28 1991

DO NOT SCAN

APPLICATION FOR PERMIT REVIEW

APPLICATION NO. 29-7936

Date: OCTOBER 24, 1990

Reviewer:

~~Jim Johnson~~

GARY SPACKMAN

Existing:

No - 26A-P17

Complete in 1 year - P16

Yes

Proof not submitted - P16

Proof submitted - N/A

Groundwater:

GT. 0.7 cfs - 01G-P03, 01C-P03(existing well)

LT. 0.7 cfs - N/A

Drilling Permit:

Approved w/permit - P99

Not included - 046-P23

Location:

Water Districts - WD No. 29

surface water - 005-P01, 005-01H-P01, 005-01J-P08, P04

groundwater - 005-P05, 005-01H-P01(lock device)

Irrigation Districts - 023

Canal Co. Areas - 023

Drainage Districts - 024

Boise Front (63) - 58 (Groundwater)

Trust (see list) - (051, 052, 053)-P74

Non Trust (see list) - 048, 049

River Basins:

Boise (63) SW - 11D-P72

Payette (65) - 047, 059-P71

Surface - 005,

Snake (01) - 11A, 061-P22

Use:

Fish Propagation - (P06) 002, 06A, 007, 09E-P10, 010, 042, 044

Power - (less than 25cfs P18), 01F-P19, 008, 08A, 09E-P10, 017K, 017G, 017M, 025

Mining - 06A, 006, 09E-P10, 010, 54

Storage - 18A-P09, 18B-P09

Domestic - (restricted areas) 021

Ownership:

Non land owner - 004

Protested:

Agreement - 020

Minimum Stream Flow:

Overlapping uses - 029-P20

Beneficial Use Due Date:

- Sept. 1, 1995

Swan Falls Flag:

- 1

MICROFILMED

JAN 28 1991

Other Conditions : 027, 09E

See also condition in memo dated October 18, 1990

MEMORANDUM

TO: File No. 29-7936
FROM: Gary Spackman *Gary*
DATE: October 18, 1990

RE: Concern Over Hot Water Decline Expressed by the Idaho
Department of Lands

The Idaho Department of Lands has expressed objection to application no. 29-7936 by the City of Lava Hot Springs to appropriate 1.0 cfs of low temperature geothermal water which discharges as springs to the Portneuf River. These springs were used by the city at one time to heat several buildings. Some flooding on the Portneuf River damaged a collection and delivery works which were never repaired.

Provided the city does not attempt to enhance the flows from the springs through extensive excavation and do not drill or pump so as to increase the flow from the springs, I believe the application can be approved. The following condition should be placed on the permit with other standard conditions:

Construction of the point of diversion shall not increase the flow of the springs beyond the current level of discharge. In addition, any pumping or diversion works shall not increase the flow of the springs.

Ben *MS*

Norm *NY*

GARY —

*Will the new
use be non-consumptive?
Discuss approval
with Linda Lou @ Lands
NY*

MICROFILMED

JAN 28 1991

MEMORANDUM

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FROM: Gary Spackman *Gary*
DATE: October 18, 1990

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RECEIVED

JAN 28 1991

STANLEY F. HAMILTON
DIRECTOR

RECEIVED
OCT 5 1990

Department of Water Resources

BOARD OF LAND
COMMISSIONERS

CECIL D. ANDRUS
Governor

PETE T. CENARRUSA
Secretary of State

JIM JONES
Attorney General

J.D. WILLIAMS
State Auditor

JERRY L. EVANS
Sup't. of Public
Instruction

October 3, 1990

Gary Spackman, Manager
Water Right Permits Section
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

SUBJECT: Application for Permit to Appropriate Water No.
29-7936

This letter is in response to your letter dated September 4, 1990, wherein you questioned the need for a study of the geothermal aquifer prior to the approval of the captioned appropriation application.

Since the City of Lava Hot Springs is only proposing to install a spring box with pump to distribute heated water rather than drill a well, your letter tends to indicate that a study to determine the effects of this additional appropriation maybe unfounded.

Your letter stated that prior to approving this appropriation, you would review any additional information that was submitted. To this end we are forwarding this information. A recent inspection of the Lava Hot Springs area and the present developments by Linda Lou of the Bureau of Minerals has revealed the following:

1. The site of the proposed appropriation for 1.0 cfs is from a spring locally known as "Chicken Soup." The present flow of the spring does not appear to approximate the flow of 1.0 cfs, therefore pumping this spring to achieve the 1.0 cfs flow may cause farther draw down of the aquifer than is possible from this spring.

JAN 28 1991

Permit to Appropriate Water No. 29-2736

October 3, 1990

Page 2

Chicken Soup Spring was at one time a developed source which supplied hot water to the City and several property owners for space heating and other domestic uses. This system was destroyed during the flooding of Lava Hot Springs in the 1960's and was never redeveloped.

Title to the water rights from this spring was reserved to the original land owner, John Hall, in land transfers and sales beginning in 1917. Mr. Hall also transferred some of his water rights with the sale of his lands. A complete title search is presently being conducted since one of the present title holders owning lands serviced by this spring is the Lava Hot Springs Foundation.

2. At lease⁺ three shallow wells and hot springs at the Lava Hot Springs Foundation site located down slope from Chicken Soup are already experiencing noticeable draw down. They are:

a. Foundation hot springs, which dropped approximately five inches in the hot bath areas during August of this year. The water depth has since stabilized.

b. Home Hotel, owner Levoy Albertson, has a shallow water well approximately 14 feet deep, which dropped approximately four feet and pump was pulling sand and dirty water into the hotel hot water lines. Owner switched to shutting system down at night to allow the well water level to increase for daily use. This problem occurred within the last two months.

c. Riverside Inn, owner Dr. Joan Martin, has a shallow water well approximately 12 feet deep near the edge of the Portneuf River which has experienced a drop of approximately three feet in the retention cistern.

d. John and Aileen Terrell have a shallow well and pump located in the same proximity as the Riverside Inn. Recently they have experienced lower flow rates (approximately one half of the previous flow) and their pump is pulling sand.

JAN 28 1991

Permit to Appropriate Water No. 29-2736

October 3, 1990

Page 3

3. Within the past year an eight inch well was developed west of the sites experiencing problems. The approved geothermal water permit is for an appropriation of .5 cfs. The owner of the permit is George Katsilometes, aka Lava Hot Springs, Inc.

Mr. Katsilometes is using the hot water for space heating and hot tubs. The pumping of this well may be the cause of the draw down in the above mentioned instances, however without any testing this fact can not be established.

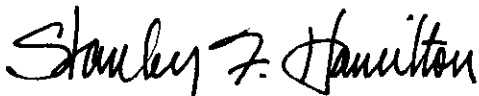
Since the Lava Hot Springs area appears to be experiencing draw down problems, we are recommending that a study of the aquifer be completed.

The State has a very valuable resource in the Lava Hot Springs area and we are concerned that this resource may be in jeopardy, especially if the development of this aquifer continues unabated.

Provided you determine that the appropriation of the 1.0 cfs to the City will not create additional draw down problems, we hereby withdraw our protest.

Please contact me if you have any additional questions.

Sincerely,



Stanley F. Hamilton
Director

SFH:LL:11

CC: Robert Meline

RECEIVED

JAN 14 1991



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

September 4, 1990

Stanley F. Hamilton
Idaho Dept. of Lands
Statehouse Mail
Boise, ID 83720

RE: Application for Permit to Appropriate Water No. 29-7936

Dear Mr. Hamilton:

Thank you for your letter dated August 9, 1990, regarding the City of Lava Hot Springs' application to use a geothermal spring.

Your letter was received after the formal protest period had expired. As a result, your letter cannot be considered as a formal protest. The Department is required to consider all information relative to Idaho Code § 42-203A prior to reaching a decision, however. Technical studies or other information related to the City's application may be submitted to the Department.

We appreciate the need for studies to determine more accurately the availability of water in underground aquifers, particularly low temperature geothermal aquifers. We cannot defer all appropriation of water until we are absolutely certain what the effects may be.

We question why there is great concern over the proposal by the City of Lava Hot Springs. The city is proposing to develop a spring which apparently surface flows into the Portneuf River. The application for permit does not propose the construction of a well. The application only requests construction of a spring box with a pump to heat distribution lines within the City of Lava Hot Springs. Why would a study be necessary prior to approval of this application?

Please respond to this inquiry within thirty (30) days of the date of this letter. If you have not responded by then, we

MICROFILMED

JAN 28 1991

will assume that the application of the City of Lava Hot Springs is not objectionable, and will process the application.

Sincerely,



GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

cc: Eastern Region

MICROFILMED

JAN 28 1991

STANLEY F. HAMILTON
DIRECTOR

RECEIVED
AUG 13 1990

Department of Water Resources

BOARD OF LAND
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Secretary of State

JIM JONES
Attorney General

J.D. WILLIAMS
State Auditor

JERRY L. EVANS
Sup't. of Public
Instruction

August 9, 1990

R. Keith Higginson, Director
Idaho Department of Water Resources
1301 N. Orchard
Statehouse Mail

SUBJECT: APPLICATION FOR PERMIT NO. 29-7936

The captioned application which has been recently brought to my attention covers the geothermal aquifer at Lava Hot Springs.

The Lava Hot Springs area was acquired through a unique state grant in 1902. Statutes regulating this site were established in 1919 for the purpose of operating a bathing facility, resort, hospital and sanitarium, with the Lava Hot Springs Foundation being the institution formed to oversee the administration of the lands and facilities.

This site is also unique as far as state water rights are concerned, since one of the statutory provisions (Section 67-4403) sets aside the "hot springs and hot waters arising and flowing thereon." Thus, an artesian flow is granted by statute for the Foundation Site.

The captioned application was received in the Boise office for review and comment on May 29, 1990. However, due to work load the protest from this agency was not forwarded by the June 4, 1990, deadline set by the Eastern Region. The protest letter was forwarded on June 12, 1990. It is also my understanding that a protest was forwarded to the Eastern Region from the Foundation Director, Robert Meline.

Our protest letter was returned with a statement that it was received after the closing date for protest. Only by checking with your Boise staff did we learn that the

R. Keith Higginson
August 9, 1990
Page II

application was forwarded with a recommendation to process it for approval. Additionally, there were no notices forwarded with the application to indicate that protests were received from this Department and the Foundation.

These protests, copies enclosed, raised several issues which we believe need to be addressed prior to the further processing of the application.

First, the Foundation Director has reported a loss in the flow and level of the geothermal water to the hot pool complex. He has also reported to this department there is subsidence on the foundation grounds.

Second, there is a question that the geothermal resource may have been appropriated for uses such as irrigation which is not an authorized use of the resource.

Third, has there been any studies of the aquifer to determine the amount of water available for appropriation or has there been any determinations of the effect that additional drilling will have on the aquifer?

By this letter, I am requesting a study and analysis be preformed on the geothermal aquifer and until this study has been completed and the issues above stated have been resolved, this Department shall maintain its protest to the further development of the geothermal aquifer.

Please contact me if you have any questions regarding the contents of this letter.

Sincerely,



Stanley F. Hamilton
Director

SFH:LL:sjb

enclosures

CC: Robert Meline

RECEIVED
JAN 28 1991

15 June 1990

Department of Lands
Ms. Linda Lou
Mineral Leasing Specialist
State House
Boise, Idaho 83720



SUBJECT: Request Lava Hot Springs Area be classified as a critical low temperature Geothermal ground water source region.

Recent interests and developments have caused serious concerns over use and impact to existing rights and uses of the Geothermal low temperature water sources in the Lava Hot Springs Area.

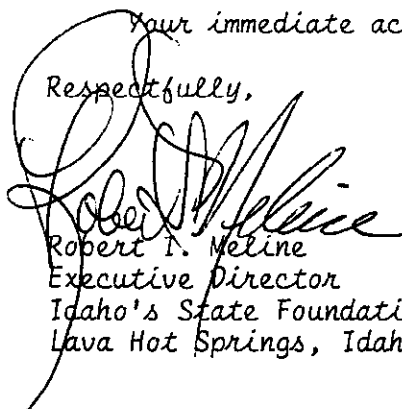
It is the State Foundations understanding that the water rights and uses of these Geothermal waters in this region and other areas of the State comes under the careful scrutiny and protection of the Federal and State government.

We at the State Foundation are very interested in protecting the natural resources of this area. We have been carefully monitoring the flows and levels of our water sources for several years. We recently found a loss in flow and level of our most valued Hot Pool Complex. This loss of hot water could come from several things or a combination of these things. The venting of the ground above the hot Pools by the efforts of both the State and private sector leesee (Majestic Mart service station) working on the petroleum cleanup, could be effecting the ground air pressures at the 50 foot or hot water source level, the dry conditions or drought the past two years, the additional pumping by local wells. The additional permit and new well just west of the Hot Pool area, all of these things could be causing the level of water to drop or maybe just one of them. It is causing great concern here at the State Foundation.

It is requested that all additional permits and uses of these Low Temperature Geothermal waters be stopped until a careful study and analysis be accomplished to determine and assure no further loss of water nor impact on the natural recreational resources of the State come about.

Your immediate action and attention to this matter will be most appreciated.

Respectfully,


Robert T. Meline
Executive Director
Idaho's State Foundation
Lava Hot Springs, Idaho

RECEIVED

JUN 18 1990

June 12, 1990

Lava Hot Springs Foundation
ATTN: Bob Meline, Director
430 E Main
Lava Hot Springs, Idaho 83246

SUBJECT: Application to Appropriate Geothermal Waters
from State Lands

Enclosed is a copy of the letter I forwarded to the Department of Water Resources regarding the appropriation of water rights from the state lands in Section 22: Lot 6, Township 9 South, Range 38 East, B.M.

Provided you see no problem with the city using this resource, you have the option of entering into a geothermal lease with the city. I have enclosed the most current information we have on geothermal leasing. Provided a lease can be negotiated with the city, then an appropriate royalty rate will need to be established.

The state leases the geothermal resources on state lands in the Boise area to the Department of Administration at the rate of 10% of the value of the resource which is set at \$0.15 per therm.

Another point you may want to consider deals with the appropriation of water rights on state land. This department does not permit an outside entity to appropriate water in their name from state land. We allow them to apply for the permit and pay the fees, but the permit must be issued in the name of the State of Idaho.

To protect the geothermal resource in the Lava Hot Springs area you may be interested in having the area classified as a critical ground water area for low temperature geothermal resources. This will require that any new development of the aquifer to be evaluated to determine if the appropriation of water from the aquifer will have detrimental affects on the resource and the uses already in existence.

JAN 28 1991

Application to appropriate geothermal water
June 12, 1990
Page 2

If you have any questions or desire to develop a geothermal lease, please contact me at the above address or call 334-3610. Should you elect to lease the resource, the lease will also need to be processed through this department for Land Board approval.

LINDA LOU
Mineral Leasing Specialist

enclosures

LL:11

MICROFILMED

JAN 28 1991

DATE: 6/15/1990 (of exam) ACCOMPANIED BY: GEORGE KASILIMETES
LES POCEK TOTAL MEASURED: —
ROBERT MELINE

METHOD OF MEASUREMENT: _____ S/N _____

APPLICANT CONTACTED YES: DATE 6/15/1990
NO : DATE _____ REASON: _____

REASON FOR EXAM: CONFIRMATION OF POINT OF DIVERSION, RESEARCH
WRITTEN COMPLAINT SUBMITTED BY ROBERT MELINE FOR
LAKE HOT SPRINGS FOUNDATION. DETERMINE OWNERSHIP OF
POINT OF DIVERSION

ACCESS (location direction): _____

LOCATION: Point of Diversion Confirmed ☒ Yes ☐ No (See sketch)
Place of Use Confirmed ☒ Yes ☐ No (See sketch)

GENERAL OBSERVATIONS: DATA FOR ADMINISTRATIVE DECISIONS

A: Source (Describe in detail i.e., flow, apparent confluence, etc)

SOURCE IS 'CHICKEN SOUP SPRING', A HOT SPRING (~ 120 TO 130° F)
THAT WAS ONCE USED TO HEAT PART OF LAKE HOT SPRINGS AND SUPPLY
SEVERAL HOT TUBS IN TOWN. AFTER FLOOD IN 1960'S, USE WAS
ABANDONED. THE SPRING NOW FLOWS INTO THREE CONCRETE
(OVER)

B: OTHER USES OF SOURCE: NONE AT PRESENT

C: WORK IN AREA RELATED TO APPLICATION: EXISTING COLLECTION

BOXES INSTALLED ~ 1920

SKETCH:

MICROFILMED

JAN 28 1991

REMARKS & OPINIONS: THE MAIN CONCERN OF MR. MELINE IS DEPLETION OF UNDERGROUND HOT WATER SOURCE BY FUTURE DEVELOPMENT. CITY OF LAVA HOT SPRINGS HAS 'EASEMENT' ACROSS STATE (LAVA HOT SPRINGS FOUNDATION) LAND TO ACCESS SPRINGS. VALIDITY OF EASEMENT IS NOT KNOWN AT PRESENT. IF EASEMENT IS STILL IN EFFECT, CITY SHOULD BE ABLE TO ACCESS P.D. DEVELOPMENT INDICATED IN APPLICATION 29-7936 WOULD APPEAR TO BE OF BENEFIT TO THE PEOPLE OF LAVA HOT SPRINGS ECONOMICALLY AS IT WOULD BE USED FOR HEATING AND DEVELOPMENT OF SMALL HOT POOLS. OWNERSHIP OF POINT OF DIVERSION IS IN DEBATE BY THE INVOLVED PARTIES. ACCORDING TO ROBERT MELINE, GEORGE KATSILIMETES AND LES BOCEK, THE ~~LAND~~ CITY OF LAVA HOT SPRINGS OWNS THE POINT OF DIVERSION. (SEE ATTACHED CITY PLAT PROVIDED BY MR. MELINE AND MAP BASED ON TITLE INSURANCE POLICY) HOWEVER, ~~THE~~ THE CITY ENGINEER FOR LAVA HOT SPRINGS INDICATED THAT THE LAND IS OWNED BY THE STATE OF IDAHO. FROM EVIDENCE PROVIDED BY ROBERT MELINE, IT APPEARS THAT THE CITY DOES OWN LAND.

A (CONT.)

COLLECTION BOXES WHICH HAVE BEEN FILLED WITH DEBRIS FROM FLOOD. DEVELOPMENT WILL INCLUDE EITHER CONSTRUCTION OF NEW COLLECTION BOXES OR IMPROVEMENT OF EXISTING BOXES. SPRING ACTUALLY INCLUDES FLOW OF SEVERAL SMALL SPRINGS IN SMALL AREA. ALL ARE TRIBUTARY TO BETHEAF RIVER.

By Paul Meyer

MICROFILMED

JAN 28 1991

George KASTILOWAGES

LES BOCK

KELLY

(CITY ENGINEER)

- Small businessmen's group.

1. Want City to develop Chicken Soup Spring for
MUNICIPAL USE - ECON GROWTH

1. PIPELINE TO RUN THROUGH TOWN TO
HEAT HOMES & BUSINESSES. SOME HOT POOL USE.

2. DIVERGE FROM SPRINGS -

1. DIG OUT MINE, DUMP TO TANK
TO PIPELINE SYSTEM

2. REBUILD COLLECTION BOXES, PIPELINE

3. CITY ENGINEER DOSED - DEEP GEOTHERMAL
WELL (?)

3. AGREEMENT

1. STILL IN PLACE - DO BOTH PARTIES NEED
TO ABANDON. STATE STILL LEGALLY
BOUND ???

RECORDED

JAN 18 1991

6/15/90
1030 - 1145 HRS

ROBERT MACINE - LAWA H² SPRINGS FOUNDATION

1. PRIMARY CONCERN: DEPLETION OF THEIR SPRINGS THRU DEVELOPMENT OF 'CHICKEN SOUP SPRING'

1. FOUNDATION SPRINGS HAVE DECREASED FLOW ALREADY -

SINK HOLES DEVELOPING, & POOL LEVEL ~ 6" BELOW NORMAL

SLUMPS - (HUMAN & R.R.?) B. PETROL STAINS RESURFACING SLIGHTLY

2. DEBATE OVER OWNERSHIP OF LAND -

A. ~~IT~~ APPEARS CITY MAY OWN PROPERTY

COPIES OF DEED, TITLE INS. POLICY W/ EASEMENTS, MAP.

B. TURREL? - HOW DOES HE USE WATER, IF HE DOES

3. BASICALLY UNSURE WHAT CITY IS PLANNING TO

DO

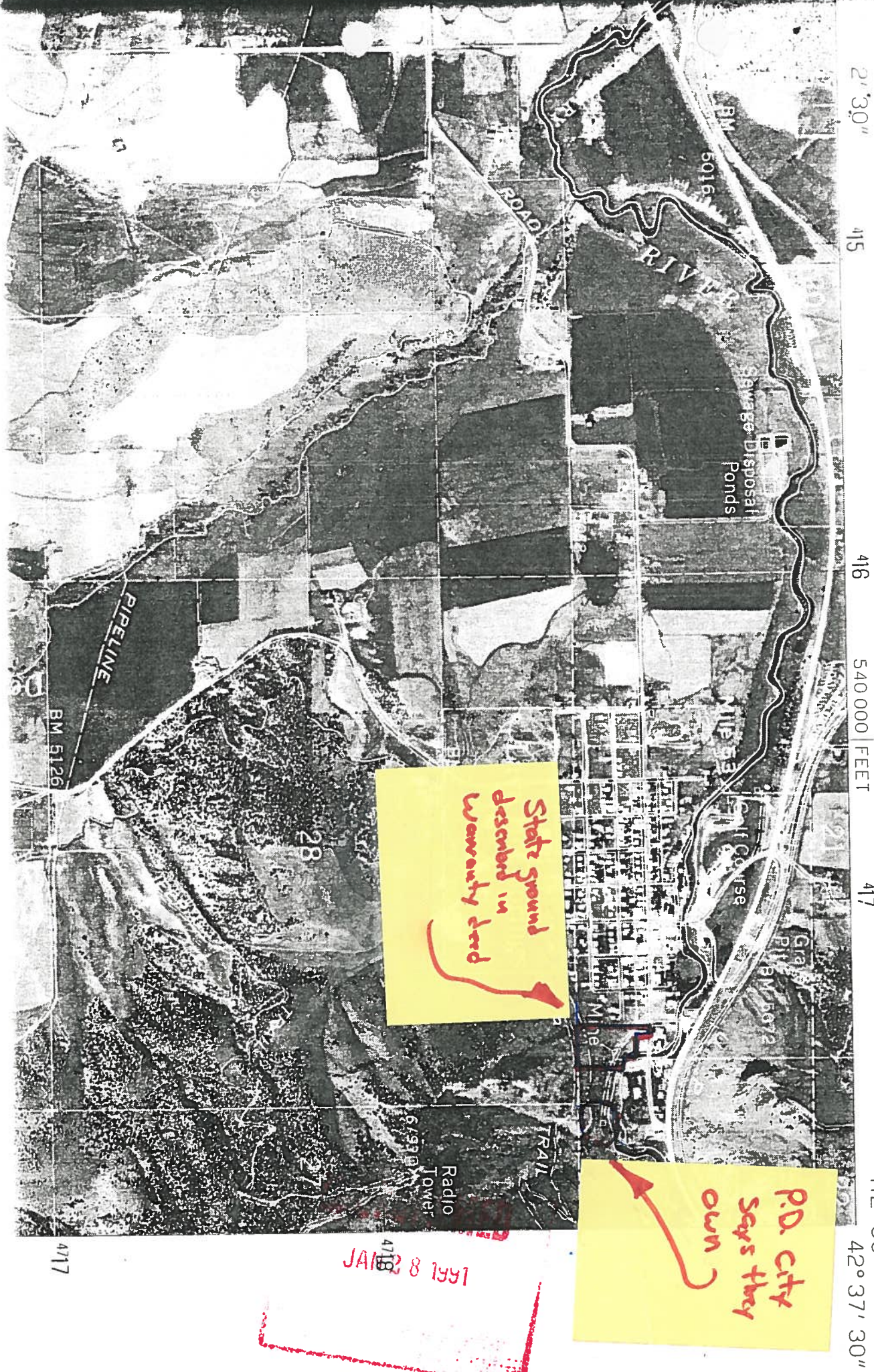
2. SHOWS WILLINGNESS TO MEET W/ CITY

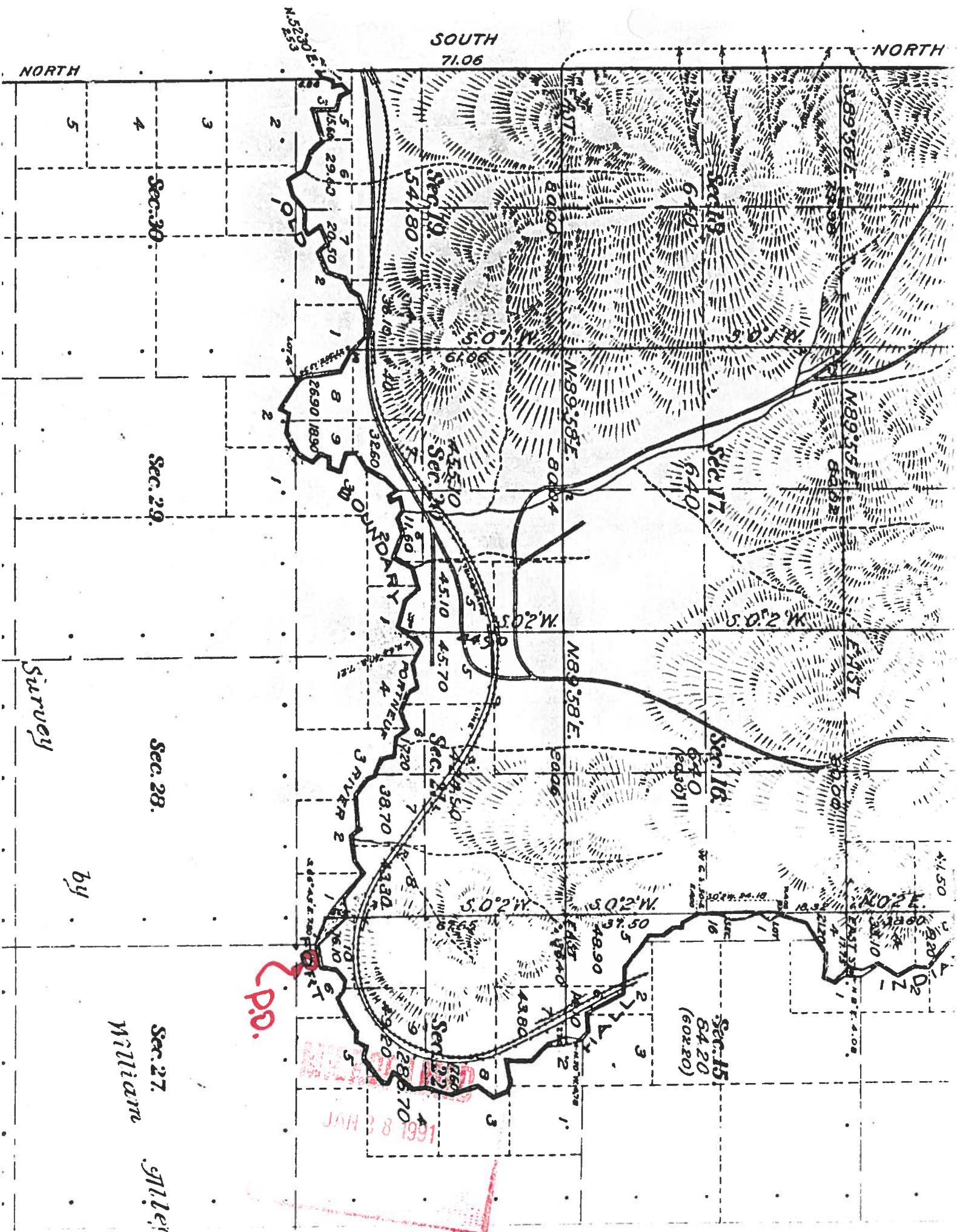
RECEIVED

JUN 21 1991

LAVA HOT SPRINGS QUADRANGLE
IDAHO

7.5 MINUTE SERIES (ORTHO PHOTOQUAD)





JAN 28 1997

80 ac. ±
B.M.
Trade 19 ac
to B.M.
N. E. Side of Hilling

Ord. 1982-8 693014

Lot 9.
49.20

Lot 5
35.75

5 Leaded
Lead

Center 1/4 Cor. Sec. 21

T ₁ Lot 1	21.9-38
T ₁ x 18	1.03
T ₁ - 8	41.36
T ₁ - 39	0.55

State of Idaho
Book 125
Page 211 - 316727

Lot 10.
16.10 P/D

T-2 14.19
Lot 6.

19.00 .

clear persons
family TRUST

To Lot 6

T-2

809986

Glenn Perkins Family
Living Trust

K 80
70 520 - 111220

Tr Lot 1
T- 11 2. 59 A c of Lava Hot
S
Village of Lava
Hot Springs
K 50
40 520 - 1112
Book 50
Page 520 - 111220

FILED
JAN 28 1991

JAN 28 1961

TITLE INSURANCE POLICY DESCRIBING
LAND AND EASEMENT

THE TITLE INSURANCE COMPANY
IN IDAHO

BOISE, IDAHO

Title Insurance Policy

Policy N^o 18-11857

\$4,000.00

Order No. (14084)

THE TITLE INSURANCE COMPANY, a corporation (incorporated under the laws of the State of Idaho, and duly authorized by the State Insurance Commission to insure titles in said State), hereinafter called the Company, for a valuable consideration paid for this policy of title insurance.

Does Hereby Insure

- - - THE STATE OF IDAHO - - -

together with the persons and corporations included in the definition of "the insured" as set forth in the stipulations of this policy, against loss or damage not exceeding

- - - FOUR THOUSAND and NO/100 - - - - - dollars,
which the insured shall sustain by reason of:

1. Title to the land described in Schedule A being vested, at the date hereof, otherwise than as herein stated; or
2. Any defect in, or lien or encumbrance on, said title existing at the date hereof, not shown or referred to in Schedule B; or
3. Any defect in the execution of any mortgage or deed of trust shown in Schedule B securing an indebtedness, the owner of which is insured by this policy, but only insofar as such defect affects the lien or charge of such mortgage or deed of trust upon said land; or
4. Priority over any such mortgage or deed of trust of any lien or encumbrance upon said land existing at the date hereof, except as shown in Schedule B, such mortgage or deed of trust being shown in the order of its priority.

all subject, however, to SCHEDULES A and B, and the STIPULATIONS herein, all of which schedules and stipulations are hereby made a part of this policy.

IN WITNESS WHEREOF, THE TITLE INSURANCE COMPANY has caused its corporate name and seal to be hereunto affixed by its duly authorized officers, this 19th day of June, 1956, at 5:00 P. M.

This policy not valid unless countersigned by

Bannock Title Company

By J. B. Blackhurst or Pershing Hanifen

THE TITLE INSURANCE COMPANY

BANNOCK TITLE COMPANY

By

John B. Bee
President

By

Attest:

J. M. Epeneter
Secretary

SCHEDULE A

The fee simple title to said lands, is at the date hereof, vested in:

The State of Idaho

The land referred to in this policy is described as:

Beginning at a point in the South line of Section 21, Township 9 South, Range 38 East of the Boise Meridian in Bannock County, Idaho, and 356.3 feet West of the Southeast corner of said Section; thence West along said South line of said Section to the East line of Third Avenue East of the Village of Lava Hot Springs, Idaho, projected; thence North at right angles and along the said East line of said Third Avenue East and projection to the South line of Main Street in the Village of Lava Hot Springs, Idaho; thence in an Easterly direction along the South line of said Main Street in said Village of Lava Hot Springs, Idaho, a distance of 50 feet; thence at right angles and in a Southerly direction 110 feet; thence at right angles and in an Easterly direction to the Portneuf River; thence in a Southerly direction along the bank of the Portneuf River to a point 520.7 feet North of the South line of said Section 21, Township 9 South, Range 38 East of the Boise Meridian; thence East to the center of said Portneuf River; thence Southeasterly and up stream following the center line of said river to a point due North of the place of beginning; thence South to the Southerly bank of the Portneuf River; thence continuing South to the place of beginning.

ALSO, beginning at a point 25 feet East of the Northeast corner of Block 20 of the Townsite of Hall City in Section 21, Township 9 South, Range 38 East of the Boise Meridian in Bannock County, Idaho; thence running South 120 feet more or less to the South Section line of said Section 21, Township 9 South, Range 38 East of the Boise Meridian; thence East following along the South line of said Section 21, 375 feet more or less to the East line of said Third Avenue East of Hall City Townsite projected; thence North along the said East line of said Third Avenue East projected to the Southeast intersection corner of Booth

SCHEDULE A (Continued)

Street and said Third Avenue East as shown by
the plat of said Hall City Townsite; thence West
following the South line of said Booth Street
375 feet more or less to the place of beginning.

.....

RECORDED

JAN 28 1901

SCHEDULE B

This policy does not insure against loss by reason of the matters shown or referred to in this Schedule except to the extent that the owner of any mortgage or deed of trust is expressly insured in Paragraphs numbered 3 and 4 on page 1 of this policy.

1. Rights or claims of persons in possession or claiming to be in possession, easements, liens or incumbrances including material or labor liens, which are not shown by the public records; reservations in patents or state grants; mineral rights, water rights, claims or title to minerals or water.

2. Questions of location, boundary and area; overlaps and encroachments by improvements belonging to these or adjoining premises; all dependent upon actual survey for determination.

3. Assessments which are not shown as existing liens by the public records; taxes not yet payable; pending proceedings for vacating, opening or changing streets or highways preceding entry of the final ordinance or order therefor.

4. Any laws, governmental acts or regulations, including but not limited to zoning ordinances, restricting, regulating or prohibiting the occupancy, use or enjoyment of the land or any improvement thereon, or limiting the height of improvements, or prohibiting a reduction in the dimensions or area, or separation in ownership, of any lot or parcel of land; or the effect of any violation of any such restrictions, regulations or prohibitions.

5. Taxes for 1956 an accruing lien.

6. Subject to the following Reservation: Right to enter upon above described land at any time necessary to repair ditch running thru or across said land and also reserving easement right to lay pipes and maintain same across said land for purpose of conveying water from hot springs owned by first party, said pipes to be underground.

7. Subject to Right of Way for pipe lines of Lava Hot Springs Natatorium Company as it now exists under said lands.

(End of Schedule B)

MICROFILMED

JAN 28 1991

STIPULATIONS

1. SCOPE OF COVERAGE

This policy does not insure against, and the Company will not be liable for loss or damage created by or rising out of any of the following: (a) defects, liens, claims, encumbrances, or other matters which result in no pecuniary loss to the insured; (b) defects, liens, encumbrances, or other matters created or occurring subsequent to the date hereof; (c) defects, liens, encumbrances, or other matters created or suffered by the insured claiming such loss or damage; or (d) defects, liens, claims, encumbrances, or other matters existing at the date of this policy and known to the insured claiming such loss or damage, either at the date of this policy or at the date such insured claimant acquired an estate or interest insured by this policy, unless such defect, lien, claim, encumbrance or other matter shall have been disclosed to the Company in writing prior to the issuance of this policy or appeared at the date of this policy on the public records. Any rights or defenses of the Company against a named insured shall be equally available against any person or corporation who shall become an insured hereunder as successor of such named insured.

2. DEFENSE OF ACTIONS, NOTICE OF ACTIONS OR CLAIMS TO BE GIVEN BY THE INSURED

The Company at its own cost shall defend the insured in all litigation consisting of actions or proceedings against the insured, or defenses, restraining orders, or injunctions interposed against a foreclosure or sale of said land in satisfaction of any indebtedness, the owner of which is insured by this policy, which litigation is founded upon a defect, lien, encumbrance, or other matter insured against by this policy, and may pursue such litigation to final determination in the court of last resort. In case any such litigation shall become known to any insured, or in case knowledge shall come to any insured of any claim of title or interest which is adverse to the title as insured or which might cause loss or damage for which the Company shall or may be liable by virtue of this policy, such insured shall notify the Company thereof in writing. If such notice shall not be given to the Company at least five days before the appearance day in any such litigation, or if such insured shall not, in writing, promptly notify the Company of any defect, lien, encumbrance, or other matter insured against, or of any such adverse claim which shall come to the knowledge of such insured, in respect to which loss or damage is apprehended, then all liability of the Company as to each insured having such knowledge shall cease and terminate; provided, however, that failure to so notify the Company shall in no case prejudice the claim of any insured unless the Company shall be actually prejudiced by such failure. The Company shall have the right to institute and prosecute any action or proceeding or do any other act which, in its opinion, may be necessary or desirable to establish the title, or any insured lien or charge, as insured. In all cases where this policy permits or requires the Company to prosecute or defend any action or proceeding, the insured shall secure to it in writing the right to so prosecute or defend such action or proceeding and all appeals therein, and permit it to use, at its option, the name of the insured for such purpose. Whenever requested by the Company the insured shall assist the Company in any such action or proceeding, in effecting settlement, securing evidence, obtaining witnesses, prosecuting or defending such action or proceeding, to such extent and in such manner as is deemed desirable by the Company, and the Company shall reimburse the insured for any expense so incurred. The Company shall be subrogated to and be entitled to all costs and attorneys' fees incurred or expended by the Company, which may be recoverable by the insured in any litigation carried on by the Company on behalf of the insured. The word "knowledge" in this paragraph means actual knowledge, and does not refer to constructive knowledge or notice which may be imputed by the public records.

3. NOTICE OF LOSS, LIMITATION OF ACTION

A statement in writing of any loss or damage for which it is claimed the Company is liable under this policy shall be furnished to the Company within sixty days after such loss or damage shall have been ascertained. No action or proceeding for the recovery of any such loss or damage shall be instituted or maintained against the Company until after full compliance by the insured with all the conditions imposed on the insured by this policy, nor unless commenced within twelve months after receipt by the Company of such written statement.

4. APPORTIONMENT OF LOSS

Whenever the Company shall be obligated to pay a loss under the terms of this policy to an insured owner or purchaser by reason of a defect in the title, the amount of the area insured herein, liability shall be limited to the proportion of the loss amount of this policy which the value of the defective portion bears to the value of the whole at the time of the discovery of the defect.

5. OPTION TO PAY, SETTLE, OR COMPROMISE CLAIMS

The Company reserves the option to pay, settle, or compromise for, or in the name of, the insured, any claim insured against or to pay this policy in full at any time, and payment or tender of payment of the full amount of this policy, together with all accrued costs which the Company is obligated hereunder to pay, shall terminate all liability of the Company hereunder, including all obligations of the Company with respect to any litigation pending and subsequent costs thereof.

6. SUBROGATION UPON PAYMENT OR SETTLEMENT

Whenever the Company shall have settled a claim under this policy, it shall be subrogated to and be entitled to all rights, securities, and remedies which the insured would have had against any person or property in respect to such claim, had this policy not been issued. If the payment does not cover the loss of the insured, the Company shall be subrogated to such rights, securities, and remedies in the proportion which said payment bears to the amount of said loss. In either event the insured shall transfer, or cause to be transferred, to the Company such rights, securities, and remedies, and shall permit the Company to use the name of the insured in any transaction or litigation involving such rights, securities, or remedies.

7. OPTION TO PAY INSURED OWNER OF INDEBTEDNESS AND BECOME OWNER OF SECURITY

The Company has the right and option, in case any loss is claimed under this policy by an insured owner of an indebtedness secured by mortgage or deed of trust, to pay such insured the indebtedness of the mortgagor or trustor under said mortgage or deed of trust, together with all costs which the Company is obligated hereunder to pay, in which case the Company shall become the owner of, and such insured shall at once assign and transfer to the Company, said mortgage or deed of trust and the indebtedness thereby secured, and such payment shall terminate all liability under this policy to such insured.

8. PAYMENT OF LOSS AND COSTS OF LITIGATION. INDORSEMENT OF PAYMENT ON POLICY

The Company will pay, in addition to any loss insured against by this policy, all costs imposed upon the insured in litigation carried on by the Company for the insured, and in litigation carried on by the insured with the written authorization of the Company, but not otherwise. The liability of the Company under this policy shall in no case exceed the face amount of this policy less all payments made on account of principal of any indebtedness secured by the lien of any mortgage, the owner of which is insured by this policy, nor the actual loss of the insured, and costs which the Company is obligated hereunder to pay, and in no case shall such total liability exceed the amount of this policy and said costs. All payments under this policy shall reduce the amount of insurance pro tanto, and payment of loss or damage to an insured owner of indebtedness shall reduce, to that extent, the liability of the Company to the insured owner of said land. No payment may be demanded by any insured without producing this policy for indorsement of such payment.

9. MANNER OF PAYMENT OF LOSS TO INSURED

Loss under this policy shall be payable, first, to any insured owner of indebtedness secured by mortgage or deed of trust shown in Schedule B, in order of priority therein shown, and if such ownership vests in more than one, payment shall be made ratably as their respective interests may appear, and thereafter any loss shall be payable to the other insured, and if more than one, then to such insured ratably as their respective interests may appear. If there be no such insured owner of indebtedness, any loss shall be payable to the insured, and if more than one, to such insured ratably as their respective interests may appear.

10. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "named insured": the persons and corporations named as insured on page one of this policy;
- (b) "the insured": such named insured together with (1) each successor in ownership of any indebtedness secured by any mortgage or deed of trust shown in Schedule B, the owner of which indebtedness is named herein as an insured, (2) any such owner or successor in ownership of any such indebtedness who acquires the land described in Schedule A or any part thereof, by lawful means in satisfaction of said indebtedness or any part thereof, (3) any governmental agency or instrumentality acquiring said land under an insurance contract or guarantee insuring or guaranteeing said indebtedness or any part thereof, and (4) any person or corporation deriving an estate or interest in said land as an heir or devisee of a named insured or by reason of the dissolution, merger, or consolidation of a corporate named insured;
- (c) "land": the land described specifically or by reference in Schedule A and improvements affixed thereto which by law constitute real property;
- (d) "date": the exact day, hour and minute specified in the first page of this policy;
- (e) "public records": those public records which, under the recording laws, impart constructive notice of matters relating to said land.

11. WRITTEN INDORSEMENT REQUIRED TO CHANGE POLICY

No provision or condition of this policy can be waived or changed except by writing indorsed thereon or attached hereto signed by the President, a Vice President, the Secretary, or an Assistant Secretary of the Company.

12. NOTICES, WHERE SENT

All notices required to be given the Company and any statement in writing required to be furnished the Company shall be addressed to it at its home office at 711 Bankers Street, Boise, Idaho.

STATE OF ~~IDAHO~~ CALIFORNIA

COUNTY OF LOS ANGELES.

SS:

On this 9 day of November, in the year 1955, before me the undersigned, a Notary Public in and for said County and State, personally appeared C. Watt Brandon, a [REDACTED] in [REDACTED] known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

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

Valeria M. Vogelberger

Notary Public

June 4, 1959

Residence 1230 E. Windsor Rd

Glendale 5, Calif

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RECEPTION
FEE BOOK
RECORDED
PROOF
TO
INDEXED

Dated _____, 19__

STATE OF IDAHO,
COUNTY OF **Bannock** } ss

I hereby certify that this instrument
was filed for record at the request of
Lava Hot Springs Foundation

at 36 minutes past 4:00

o'clock P. M., this 19th day of

June A. D. 19 56

at my office and duly recorded in Book

4625 of Deeds at page 211

Ex-Officio Recorder

By _____

Fee, \$ 1.75

c/o Max

Leaves, Idaho

GP

440 Rev

Date _____

THIS INDENTURE, made this 9th day of October in the year of our Lord, One Thousand Nine Hundred and Fifty Five ~~between~~

C. Watt Brandon, a single man,
of Kemmerer, County of Lincoln, State of Wyoming
the party of the first part, and State of Idaho

of _____ County of _____ State of Idaho
the party of the second part

WITNESS That the said party of the first part, for and in consideration of the sum of (\$1.00) DOLLARS,

and other good and valuable consideration
~~lawful money of the United States of America, to him in hand paid by the said party of the~~
second part, the receipt whereof is hereby acknowledged does by these presents, Grant, Bar-
gain, Sell and Convey and Confirm unto said party of the second part, and to its successors
and assigns forever: All those certain lot s, pieces or parcels of land situate, lying and
being in the County of Bannock, State of Idaho, bounded and more particularly
described as follows, to-wit: Beginning at a point in the South line of Section
21, Township 9 South, Range 38 East of the Boise Meridian in Bannock
County, Idaho, and 356.3 feet west of the Southeast corner of said
Section; thence west along said south line of said section to the east
line of Third Avenue East of the Village of Lava Hot Springs, Idaho,
projected; thence north at right angles and along the said east line
of said Third Avenue East and projection to the south line of Main Street
in the Village of Lava Hot Springs, Idaho; thence in an easterly direc-
tion along the south line of said Main Street in said village of Lava
Hot Springs, Idaho, a distance of 50 feet; thence at right angles and
in a southerly direction 110 feet; thence at right angles and in an
easterly direction to the Portneuf River; thence in a southerly direc-
tion along the bank of the Portneuf River to a point 520.7 feet north
of the south line of said section 21, township 9 south, Range 38 East
of the Boise Meridian; thence east to the center of said Portneuf River;
thence Southeasterly and up stream following the center line of said
river to a point due north of the place of beginning; thence south to
the southerly bank of the Portneuf River; thence continuing south to
the place of beginning together with 1 miner's inch of water of the
of Fish Creek appurtenant to and beneficially used upon said

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belong-
ing or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and
privileges thereunto incident unto the said party of the second part, and to its successors and
assigns forever and the said party of the first part, and his heirs
warrant the said premises in the quiet and peaceable possession of the said party of the second part,
its successors and assigns against the said party of the first part, and his heirs and
against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and
will warrant and by these presents forever defend.

and seal the day and year first above written.
November 9 - 1955

Signed, Sealed and Delivered in the Presence of
Mary Jane Jones
Miss Eddie Bann Freeman
Valeria M. Vogelbecker, Notary Public

C Watt Brandon
C. Watt Brandon.
[SEAL]
[SEAL]
[SEAL]
[SEAL]

My Commission Expires Jan 4 - 1959



June 28, 1990

RE: Application for Permit No. 29-7936
CITY OF LAVA HOT SPRINGS

John R. Terrell
Grace A. Terrell
P.O. Box 1774
Pocatello, ID 83204

Dear Mr. & Mrs. Terrell:

On June 21, 1990, the Department received your letter in reference to the above captioned application. It is necessary to return your letter as it arrived in this office after the last date of protest and, therefore, cannot be considered as a timely protest.

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

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

MICROFILMED

JAN 28 1991

June 28, 1990

RE: Application for Permit No. 29-7936
CITY OF LAVA HOT SPRINGS

Mr. Robert I. Meline
Executive Director
Idaho's State Foundation
Lava Hot Springs, ID 83246

Dear Mr. Meline:

On June 8, 1990, the Department received your letter in reference to the above captioned application. It is necessary to return your letter as it arrived in this office after the last date of protest and, therefore, cannot be considered as a timely protest.

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

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

MICROFILMED

JAN 28 1991

June 28, 1990

RE: Application for Permit No. 29-7936
CITY OF LAVA HOT SPRINGS

Ms. Linda Lou
Mineral Leasing Specialist
Idaho Department of Lands
Statehouse
Boise, ID 83720

Dear Ms. Lou:

On June 18, 1990, the Department received your letter in reference to the above captioned application. It is necessary to return your letter as it arrived in this office after the last date of protest and, therefore, cannot be considered as a timely protest.

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

Very truly yours,

HAROLD W. JONES
Water Rights Supervisor

HWJ:CW

RECEIVED

JAN 28 1991

29-07936

CITY OF LAVA HOT SPRINGS
P.O. BOX 187
LAVA HOT SPRINGS, ID 83246

Source: SPRING

Tributary: PORTNEUF RIVER

Diversion Pt: LOT 6 (SWSWSW) Sec 22 T 08S R 38E

Use: MUNICIPAL (1.000 CFS)
Total Diversion: (1.000 CFS)

Date Filed: 3/14/ 1990

In: T09S R38E S21
S22
S28

RECORDED & FILMED

JAN 28 1991

10-May-1990

City of Lava Hot Springs

Lava Hot Springs, ID 83246

RE: Application for Permit No. 29-7936

Dear Water Right Applicant:

The Department of Water Resources acknowledges receipt of your water right permit. This office is currently in the process of advertising the application in the Idaho State Journal on MAY 17 & 24, 1990. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

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

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

Sincerely,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb

RECEIVED
JAN 28 1991

10-May-1990

Dept. of Lands
3563 Ririe Hwy.
Idaho Falls, ID 83401

RE: Application for Permit NO. 29-7936

Dear Sir:

We are enclosing a copy of the applications that may be of interest to your department. Please review the applications and submit any comments you may have to our Department as soon as possible. The last date of protest is JUNE 4, 1990, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

HAROLD W. JONES
Water Rights Supervisor

HWJ/rb
enc.

RECEIVED

JAN 26 1991