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RECEIVED

DEC 01 2000

Department of Water Resources  
Southern Region

re; Gary Steed vs Raft River

Dear Allen:

I received your letter dated July 26, 2000 with it's accompanying documents. To help understand the problems with Steeds I have drawn a crude map of the Spring and pond area.

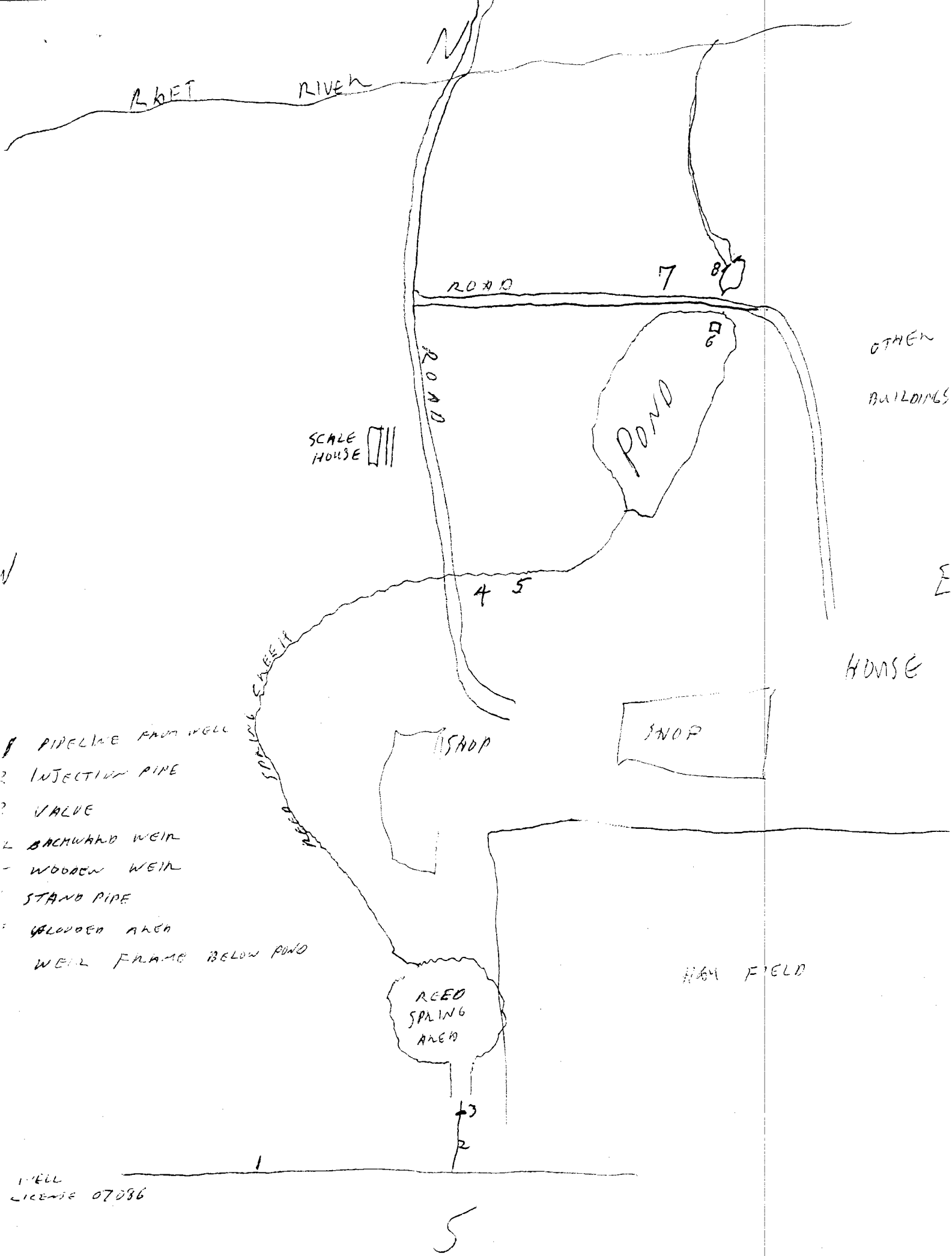
When Steeds turn on their wells Reed Spring dries up almost instantly. A pipeline (#1) carries water to the hayfield and beyond to other fields. A short pipe (#2) branches off to the Spring area and has a valve (#3) which can be opened to let water into the Spring. This valve is actually some 40 feet South of the Spring and has washed a deep gorge from the injection pipe to the Spring area. I have measured as much as 3.5 cfs coming out of the Spring area (measured below the pond) in March before the pumps are turned on. The Spring area is probably less than an acre or so, so obviously it must be very porous terrain to let that much water flow out of it.

When you open the valve on the injection pipe it takes a lot of water to make water run out of the Spring and down Reed Spring Creek. In 1997 in order to get 60" down to the pond I was turning what I estimated to be 4 cfs out of the injection pipe. This water comes out of the pipe at 70 psi about 8-10 feet above the bottom of the gorge and is difficult to estimate. However it mostly collects into one stream by the time it gets to the spring area, so I could more or less measure it's depth, width and velocity there. The spring area would take a long time to fill up and flow out in a stable stream so it is virtually imposible to open the valve and make any reasonable guess about how much water will flow out of the Spring and down the creek. The 3 cfs or so that sinks in the Spring area when the pumps are on probably just sinks back to the well to be repumped.

Pumping the wells and spitting the water into the Spring at 70 psi is costing at least 20 horse power per cfs which would cost several thousand dollars per year just to keep the Spring alive. In 1997 Gary used that as one of his excuses for not putting water into Raft River. I suggested that he put a pipe so the water could bypass the Spring but he said it was worth it to keep the Spring alive for the fishes. Apparently expense is not a significant item with him.

In your July 26, 2000 letter to me re Roscoe Ward Call, you included a memorandum dated August 13, 1997. In the second paragraph it says "Mr. Steed was not discharging water from the well into the Spring but some water may have been flowing from a small domestic well." He showed us the domestic well pipe putting water into the South end of the pond at about #5 on my map. Obviously keeping the Spring alive is not a significant item for Steed either. Gary often contradicts himself from one excuse to the next.

In your July 26 letter you included a copy of a letter I wrote on July 13 1997 in which I documented some of the problems at that time. He claimed he doesn't irrigate on Sundays which I have found to be untrue on other Sundays. He claimed that he put water into the river earlier which was not true. The most difficult part of dealing with Gary Steed is the fact that he suffocates



- 8 PIPELINE FROM WELL
- 2 INJECTION PIPE
- 2 VALVE
- 2 BACKWARD WEIR
- WOODEN WEIR
- STAND PIPE
- 7 GLOVED AREA
- WELL FRAME BELOW POND

WELL  
LICENSE 07086

5

everything with falsehoods and pretended injury to himself until nothing can be gained by talking to him.

In 1997 when Bob Hope first took me around and showed me the diversions on Raft River there was a 24" Cippoletti weir below the pond (#8 on my map). The next time I went back the Weir had been removed. Since then Gary has continually complained that it is unfair for him to have to install a weir.

In 1998 Gary Steed made a written agreement with the water district that he would put a weir in the creek channel above the pond. In 1999 he finally put one in at #4 on my map in the very mouth of the culvert under the road. The water was not particularly directed through this weir and a large portion goes around it on both sides. The weir was installed backwards and off level so even the water that goes through it can not be measured. In the Spring of 1999 I met with IDWR (Georgia Satterlee) several times at Steed's pond and observed Steed's failure to install a weir and listened to their excuses. Finally a board with some plywood nailed on to it was placed in the mud with rocks and mud piled around it to keep it from tipping over at #5 on my map. Although it was not a standard width and not level we measured the various aspects of the stream going through it and Georgia used her calculator and some tables she had and calculated approximately how much water there was. That same day I made a 24" Cippoletti weir and put it in the cement frame #8 where Steed had removed the original weir in 1997. The measurements we made in my weir showed about the same as Georgia's calculations at the plywood weir so we called it good for that day and Steed promised he would put in something better.

Shortly thereafter the plywood weir washed out and before the end of the year they removed the weir I put below the pond, so now there is no weir between Reed Spring and Raft River.

In my July 13, 1997 letter to you I described some problems which I will repeat hear. The water which reaches the pond can not be accurately measured below the pond for the following reasons. The pond has a lot of moss on it which is continually floating down and plugging the standpipe (#6 on my map) which causes the pond to fill up deeper and deeper until it sometimes floods over the bank, across the road and out into the sagebrush (#7). This water is not measureable at the weir (#8) and I am sure the ground does not have water decreed to it.

If you clean the moss from the screen on the standpipe a large stream of water goes through it under the road and through the weir, even though a very small stream may be entering the pond from Reed Spring, until the level of the pond drops down so that the input and output are stabilized and equal. However, when you clean the screen and water starts moving toward the standpipe, moss breaks loose all over the pond and goes over and plugs the standpipe again so equilibrium is never a possibility. The pond is always either gaining water (plugging up) or losing water (freshly cleaned). The only time equilibrium is ever attained is when the stream is so small that it can soak through the moss on the standpipe without cleaning it. At that stage there is certainly not enough to fulfill Steed's obligation to Raft River.

From Steed's it is easy to see someone coming for a couple of miles before they arrive at the pond. Several times I have arrived at the pond to find a freshly cleaned screen and big stream flowing out the standpipe. Steed's mexicans understand that they are supposed to clean the screen if they see me coming so that it looks like they are putting a lot of water in the river

when I get there. The Mexicans think it is very funny.

One day when I arrived I saw Garth Steed going up to the injection pipe. He was there for a few minutes and then came back down to the shop. There was no water running into the pond except the domestic pipe so I went up to the valve and found it wide open with the full pipe of water shooting out several cfs but no water running down below the spring. Out of curiosity I went back a couple of hours later and it was shut off. Several times I have opened the valve and they shut it off as soon as I leave.

In the third paragraph of your August 13, 1997 memorandum: "Mr. Steed agreed to modify his discharge control works so that the watermaster can control said discharge. He also agreed to improve the measuring device below the pond per watermaster requirements". A year and a half later I put in a weir and shortly thereafter Steed removed it. That has been the extent of his cooperation. Several other times Steed has agreed to cooperate and has lied to us every time and so far he has done nothing to benefit the problem. I believe that catering to Gary Steed will never produce any desirable results.

The permit for Steed's pond #43-07322 has several conditions of approval;

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1999.

fact; On November 1, 1999 the weir which I put in below the pond was still there. However in December 1999 he removed my weir. As soon as his "proof of construction" time was over he destroyed my weir. Steed has not installed anything nor maintained anything.

2. Subject to all prior water rights.

fact; He has violated every other water right on Raft River by not putting water in the river.

3. Use of this right may be affected by an agreement between the protestant and the right holder.

fact; The agreement may have no effect, so far Steed has refused to do anything that he agreed to do.

4. Use of water under this right will be regulated by the watermaster of State Water District No. 43B.

fact; When the watermaster opens the valve to put water into the Spring Steeds go up and shut it back off as soon as the watermaster leaves. When the watermaster installs a measuring device they destroy it. Steeds have made the water and themselves uncontrollable.

5. The right holder shall install/maintain permanent measuring devices in such a manner that the amount of water entering the reservoir and the amount of water released from the reservoir can be measured.

fact; Steed has not installed any usable measuring device above or below the reservoir and has destroyed the existing measuring devices, 2 of them.

6. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the department, in a manner that will provide the watermaster suitable control of the diversion.

fact; There is no lockable device.

7. The permit holder shall mitigate losses as determined to be appropriate by the director.

fact; In 1998 while Steed was waiting for this permit to be approved he put water into the river fairly faithfully, more or less 120". In 1999 he put almost no water into the river. In 2000 he put a fair amount of water into the river until the last part of June when Transfer No. 5287 was approved, then he stopped. Gary Steed knows how to put water into the river and he knows how much, but he only mitigates when he needs something from IDWR.

9. Recreation storage is for a private fish pond. fact; The fish I have seen in Steed's pond are trout. Good trout habitat normally has enough movement in the water to oxygenate it. Steed's pond is so stagnant and covered with moss that you can't even see the fish except when they come up for air. In good trout habitat the fish don't have to come up for air. In 1998 when Steed put water into Raft River the river had fish habitat for 4 miles to the confluence with Almo Creek. Not only that but during the entire Summer until Oct. 31 my records show that some 1871 water rights 1.5 miles South of Malta had water. In 1999 and 2000 the river stopped at Reid Stewart's place 18 miles upstream because there was not enough water to reach the next user. So 22 miles of river was dried up the last two Summers because Steed didn't put water into the river. Not only did the fishes die in these 22 miles but the vegetation also dies under these conditions and then the river banks wash out when there is water. If Reed Spring ran 120" continuously, Raft River would be a perennial stream as far as Malta. Gary Steed would have better fish habitat.

The local people tell me that the Spring used to come back within a week or so after the pumps were turned off. Now it comes back very gradually and in fact most of the increase is not until February and March as if it takes all Winter to fill the empty void left after pumping in the Summer. Let me suggest why I think this is happening.

When the previous owners pumped the wells they put about 2.5 cfs into Raft River. In order to do this they were probably feeding 3 cfs into the Spring. Gary Steed does not do this so these 5.5 cfs are going into his irrigation system. The 3 wells are licensed for  $7.30 + 6.23 + 4.32 = 17.85$  cfs, probably because they produced that much when they were tested. However, the total combined use of the 3 wells is only licensed for 12.43 cfs for 954 ac. This is about  $5/8$  inch per acre. If they lose 5.5 cfs putting water into Raft River only 12.35 would be used for irrigation. Either this was planned or else it was measured in action.

Steed is pumping the same wells and keeping his pond wet with a domestic well. The same wells still produce 17.85 cfs which all goes into irrigation. The previous owners sunk 3 cfs into the Spring for 150 days (450 24hr cfs). Steed does not do this so now it takes Reed Spring 6 months to fill up and start running normal at 120".  $2.5 \text{ cfs} \times 180 \text{ days} = 450 \text{ 24hr cfs}$ .

Of course Steed has put some water into the Spring and the Spring is not perfectly dry all Winter but I believe that the amount the Spring does not produce is equal to the amount Steed takes above what he is licensed to. In 1996 and 1997 the Spring only got up to 60", but there were complaints those years that Steed was watering new ground including some of Durfee's.

Steed says Reed Spring is fed from Raft River, but I don't believe it because Raft River is cold. Reed Spring is on a hill higher than Raft River and is warm which indicates it comes from down in the geothermal strata. The local people say the Spring ran 120" steady at 60 degrees f. before they drilled the wells. My experience measuring the Spring makes me believe that is true. I believe that if Steed cuts back his irrigation to 12.43 cfs that the Spring will run dependably again.

In June, Transfer No 5287 was approved for RHL Financial Inc. (Steed) with conditions similar to the pond conditions.

2. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to

the watermaster.

fact; Are there lockable controlling works and measuring devices to control the irrigation water? I was over there Nov. 22 and didn't see any way to lock or measure the water going into Raft River. It is my understanding that they farmed the transfer ground last year. I assume this condition means they will not turn on any pumps until locks and measuring devices are installed.

6. The total instantaneous diversion of water from all points of diversion under Transfer 5287 shall not exceed 12.43 cfs, nor total combined annual volume of 3816.0 af.

fact; 3816 af is approximately 12.43 cfs for 5 months (May-Sept.) so these two limitations are about equal. By taking additional 5.5 cfs (17.85) for 5 months Steed could take about 1600 af more than his license. At the present time there is nothing to prevent this water from going into his irrigation system when he is not putting it into the river.

4. Failure of the right holder to comply with the conditions of this transfer is cause for the director to rescind approval of the transfer.

fact; The pumps obviously produce more than 12.43 cfs or it would be impossible to replace the Spring while irrigating 954 acres. Most of last Summer they did not put water into the river so if they irrigated transfer land it would seem to me they violated conditions 2. and 6.

Idaho code 42-702 Any person, firm or corporation using the channel of any stream or streams or any tributary of such stream or streams in this state as an impounding reservoir shall place therein at a point above and as near as practicable to the backwater of such reservoir such system or device as the department of water resources may require for measuring the flow of water at such point and in accordance with plans and specifications which shall be furnished by the department.

I know that Vickie Hancock gave plans and specifications to Steed in March 1999 and they agreed to install a permanent measuring device above the pond. It seems to me that they are breaking the law by not complying with that condition of their permit.

If Steed wanted to keep the Spring alive he would put water into it like his well license requires. He is not interested in fish. It is a public disgrace and a public nuisance to let Gary Steed dry up Raft River channel when the community is spending so much money trying to restore the river. The main thing the river needs is some water to keep vegetation alive during the last half of the Summer. If Steed were really interested in having fish habitat he would have enough water flowing through it to make a healthy habitat for fish. Instead he has a bunch of horses tromping the banks down all Summer and the water is usually filthy. I think his only interest in the pond is for a distraction while he takes Raft River's water.

In your Roscoe Ward letter you included some information from Glen Saxton showing that Reed Spring has never been decreed as anything but a tributary to Raft River. My understanding of Raft River adjudication is that Raft River water is Raft River water whether it is above ground or below ground and Reed Spring is Raft River water even though Steed pulls it out of his wells. The water which sinks South of Malta in the Winter and is pumped in the Summer is Raft River water. So if Steed takes so much water that he dries up Raft River all winter he is taking Raft River water from the rightful users. Steed's wells dating from 1977 don't have priority over any of the wells or river rights in Malta.

The water district has discussed several times that we should be billing Steed for the water he is taking. This is one reason to have measuring devices. The problem is how much to bill him. Every year at least a third of the districts expenses are for trying to deal with Reed Spring.

In 1999, on April 7, I measured 6.1" deep in the 2.2 ft. wide rectangle which figures out to be 120 inches or 2.4 cfs. From May 1 to Jan. 1 the Spring averaged 35 inches or 0.7 cfs or 1.7 cfs less than the natural flow.  $1.7 \times 240 \text{ days} = \underline{408 \text{ 24hr cfs}}$  total water taken from Raft River.

This year on Jan. 25 I measured 136", in Feb. 136", on March 25-154" On April 24 I measured 171" (7 $\frac{1}{4}$ " deep in the 2.2' wide rectangle). From May to June 14 Steed replaced an average of 104". After June 25 it averaged about 20" until on Nov. 22 I measured 2 $\frac{1}{4}$ " deep which is 29" of flow. Compared to 70" on Nov. 23, 1999 the Spring is coming back slower than last year. So far, if we assume 171" as the natural flow of the Spring, it has been diminished by 3 cfs x 150 days or 450 24hr cfs. If we assume 120" as the natural flow it has been diminished by 2 cfs x 150 days = 300 24hr cfs. I am confident that another 100 24hr cfs will be lost this Winter before the Spring gets up to 120". So pumping will diminish the flow by 400 24hr cfs or more this year.

This year Raft River ran 863 24hr cfs and Clear Creek ran 805 for a total of 1668. The budget was approved for \$2900 or \$1.74 per 24hr cfs. If we bill Steed for 400 24hr cfs the total would come to 2068 and cost \$1.40 per 24hr cfs. This would cost Steed \$560 which I think is very reasonable considering how much he has cost the water district in the last few years.

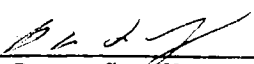
Each of the other water users in District 43-B has a deposit with the district which is approximately equal to one year's water bill. I think that Steed or RHL Financial Inc. should be required to make a deposit like everybody else. Since he has used the water for several years I think that \$560 is a reasonable deposit and certainly doesn't cover his past expenses to the Water District. This would make his total bill \$1120.

To resolve the Steed vs Raft River problem I think it is necessary to enforce the conditions of the pond permit and the transfer. That is; They shall not use more than 12.43 cfs or 3816 af for irrigation, They shall put permanent measuring devices on all diversions, They shall put lockable controls on all diversions. Both the Transfer and the pond permit specify that these things must be done prior to diversion of water. In other words the pond should be drained until the measuring devices and locks are installed. That way in case Mr. Steed fails to cooperate at least it will be possible to make a more reasonable guess about how much water there is this Spring without the moss and ice problem on the standpipe (it was frozen on Nov. 22).

Since Steed diverted water under the transfer last year I think it is important to set some time limits with him and make sure these things are done right before he starts farming. Steed is skilled at installing measuring devices that don't work and pretending that he is busy.

Before I finish my watermaster report and proposed budget I would appreciate any input that anybody has on this matter, preferably by the middle of December.

Sincerely,

  
Dave Sundberg

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

**TRANSFER OF WATER RIGHT**

TRANSFER NO. 5287  
WATER RIGHT NO(S). 43-02557/43-07086/43-07087

This is to certify that: **RHL FINANCIAL INC**  
**2325-A RENAISSANCE DR**  
**LAS VEGAS NV 89119**

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
Right No. 43-02557 : IRRIGATION Priority: 02/21/1963	04/01 to 10/31	7.30 CFS	1512.0 AF
Right No. 43-07086 : IRRIGATION Priority: 07/22/1977	04/01 to 10/31	6.23 CFS	1440.0 AF
Right No. 43-07087 : IRRIGATION Priority: 07/22/1977	04/01 to 10/31	4.32 CFS	864.0 AF
<b>TOTAL:</b>		<b>* 12.43 CFS</b>	<b>3816.0 AF *</b>

SOURCE  
GROUNDWATER

LOCATION OF POINT(S) OF DIVERSION:  
NWSESW , Sec. 13, Township 16S, Range 24E  
SWSENW , Sec. 23, Township 16S, Range 24E  
NENWNW , Sec. 26, Township 16S, Range 24E  
CASSIA County

PLACE OF USE: IRRIGATION

<u>TWN RGE SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
16S 24E 13	NENE 40	NWNE 40	SWNE 40	
	SENE 40	NENW 40	NWNW 15	
	SWNW 40	SENE 40	NESW 40	
	NWSW 40	SWSW 38	SESW 28	
	NESE 40	NWSE 40	SESE 23	544
14	SESW 26	SWSE 37	SESE 19	82
22	SESE 38			38
23	NENE 26	NWNE 22.3	NENW 39	
	SENE 39	NWSW 39	SWSW 38	203.3



TRANSFER NO. 5287  
WATER RIGHT NO(S). 43-02557/43-07086/43-07087

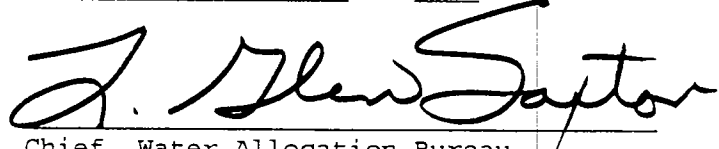
PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
		26	NWNW 12.7	SWNW 36		48.7
		27	NENE 38			38
Total number of acres irrigated:						954

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 43B.
2. Prior to diversion of water under this approval, the right holder shall provide a means of measurement and lockable controlling works for all authorized points of diversion. The means of measurement and controlling works must be suitable for control of the diversions and acceptable to the watermaster.
3. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
4. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
5. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.0 afa per acre at the field headgate for irrigation of the lands above.
- \* 6. The total instantaneous diversion of water from all points of diversion under Transfer 5287 shall not exceed 12.43 cfs, nor total combined annual volume of 3816.0 af.
- \*\* 7. Right 43-02557 is limited to the irrigation of 378 acres within the place of use described above in a single irrigation season.
- \*\* 8. Right 43-07086 is limited to the irrigation of 360 acres within the place of use described above in a single irrigation season.
- \*\* 9. Right 43-07087 is limited to the irrigation of 216 acres within the place of use described above in a single irrigation season.

Dated this 29<sup>th</sup> day of June, 2000.

  
Chief, Water Allocation Bureau