

## Young, Norm

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**From:** Yenter, Cindy (Hodges)  
**Sent:** Tuesday, May 14, 2002 3:53 PM  
**To:** Young, Norm; Rassier, Phil  
**Subject:** Alpheus Creek Call

John Rosholt sent me signed agreements between BLCC and both BLTrout and Pristine Springs. Each agreement stipulates that BLTrout and Pristine will not object to pumping rates of up to 2.9 cfs by BLCC so long as total diversions do not exceed 2.5 af/day.

Under the presently indicated priority cutoff of 1972, BLCC would be able to divert its senior rights, 2083A and B for 1.2 cfs plus the .14 cfs just rented from City of Twin Falls via water bank. Right 8593 for 0.7 cfs would be cut.

I'm faxing you copy of just one of the agreements - they are similar and the paragraph in question is identical. On page 2, paragraph 1, does the language imply subordination of BLTrout/Pristine rights during times when BLCC is diverting 1300 gpm (2.9 cfs)?

How would you incorporate this agreement into delivery protocol??

cindy

## TRANSMITTAL COVER SHEET

RECEIVED

MAY 14 2002

TO: NORM / PHIL

Department of Water Resources

TOTAL PAGES SENT: 3  
(including cover sheet)

DOCUMENT DESCRIPTION: \_\_\_\_\_

## FROM:

IDAHO DEPARTMENT OF WATER RESOURCES

1341 FILLMORE ST, STE 200

TWIN FALLS ID 83301-3380

PHONE: 736-3033

FAX: 736-3037

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The charge for your fax copies is: \_\_\_\_\_

Please remit to the above address.

SENDER: Cindy YenterCOMMENTS: The plot thickens... see my email.

### AGREEMENT

THIS AGREEMENT, made and entered this 29<sup>th</sup> day of January, 1993, between BLUE LAKES TROUT FARM, INC., an Idaho corporation (hereinafter "Trout") and the BLUE LAKES COUNTRY CLUB, INC., an Idaho corporation (hereinafter "Club");

WHEREAS, Trout and Club own adjoining real estate in the Snake River Canyon in Jerome County, Idaho, and are both dependent on Blue Lakes Springs and Alpheus Creek for the full use of their properties; and

WHEREAS, Club owns Water License No. 21079 (36-02083) with a priority of May 26, 1949, for the use of 1.2 c/f/s for the irrigation of approximately 93 acres with the waters of Alpheus Creek; and

WHEREAS, Trout owns Water Licenses 36-2356 for 100 c/f/s with a May 29, 1958 priority, 36-7427 for 52.23 c/f/s with a December 28, 1973 priority, and 36-7720 for 40 c/f/s with a June 3, 1977 priority, all for fish propagation purposes; and

WHEREAS, the water supply would be sufficient to supply all water rights from the Blue Lakes Spring Complex but for declining spring flows over the last 25 years, which said reductions result in not being able to fill all of the junior rights of Trout; and

WHEREAS, after filing an adjudication claim for the 1.2 c/f/s (diversion rate of 538 g/p/m); it was discovered in 1991 that Club was diverting 1.9 c/f/s (852 g/p/m) so Club obtained Permit 36-08593 to increase the diversion rate to 1.9 c/f/s for the same 93 acres, and finally it was discovered in 1992 that improvements in the sprinkler system would allow diversion of up to 2.9 c/f/s (1,300 g/p/m); and

WHEREAS, diversions of up to 1,300 g/p/m maximum would allow Club to irrigate the same 93 acres in less hours per day, while not exceeding a total consumptive use of 279 acre feet annually, which is the limit on Club's Adjudication Claim No. 36-02083A; and

WHEREAS, a diversion of 538 g/p/m on a 24 hour-a-day basis is less efficient than a nighttime application of 1,300 g/p/m on the same 93 acres for eight hours; and

WHEREAS, the current moratorium of Idaho Department of Water Resources on irrigation diversions precludes Club from seeking a permit to validate a diversion rate of 1,300 g/p/m for a shorter period daily during the irrigation season, but resulting in a total season diversion of approximately 350 acre feet annually, well within the consumption limit of 279 acre feet annually permitted for the 93 acres;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Trout will not object or protest the Club's diversion or the filing of appropriate paperwork to validate up to 1,300 g/p/m to a maximum diversion of 2.5 acre feet per day during irrigation season of March 15 through November 15 under Adjudication Claim 36-02083A for 1.2 c/f/s, Permit 36-08593 for .7 c/f/s, and a subsequent application for permit for 1.0 c/f/s when the present moratorium goes off, so long as Club does not extend its irrigation to more than 93 acres under said right, with a total maximum diversion of 350 acre feet annually, with a total consumption of no more than 279 acre feet annually.

2. Nothing herein shall prevent Club from developing other water supplies for consumptive use on the premises so long as such supplies are not tributary to Alpheus Creek and subject to the diversion rights of Trout.

3. This Agreement shall bind the parties and their successors and assigns.

IN WITNESS WHEREOF, the parties have hereunto signed this Agreement on the date and year first above written.

BLUE LAKES TROUT FARM, INC., an Idaho corporation

By: *Henry J. Greene*  
President

Attest:

*Nedra W. Greene*  
Secretary

BLUE LAKES COUNTRY CLUB, an Idaho corporation

By: *Richard J. Boyd*  
President

Attest:

*Linda Ritchie*  
Secretary

STATE OF IDAHO )

County of Santer Lake )

)ss.

On this 29th day of January, 1993, before me, a Notary Public, in and for said County and State, personally appeared Bruce M. Greene and Nedra H. Greene known or identified to me to be the President and Secretary, respectively, of the Blue Lakes Trout Farm, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that such corporation 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.

Dorothy C. Greene  
NOTARY PUBLIC FOR IDAHO  
Residing at Santer Lake, Idaho  
My commission expires: 10/1/98

STATE OF IDAHO )

County of Blaine )

)ss.

On this 2nd day of February, 1993, before me, a Notary Public, in and for said County and State, personally appeared James F. Boyd and Linna Riche, known or identified to me to be the President and Secretary, respectively, of the Blue Lakes Country Club, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that such corporation 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.

[Signature]  
NOTARY PUBLIC FOR IDAHO  
Residing at Blaine, Idaho  
My commission expires: 6/21/93

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