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**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re: SRBA)

Consolidated Subcase No. 75-13316
(Wild and Scenic Rivers claims)

Case No. 39576)

Affidavit of Dr. Thomas B. Hardy

AFFIDAVIT OF DR. THOMAS B. HARDY

AFFIDAVIT OF DR. THOMAS B. HARDY

QUANTIFICATION OF WILD AND SCENIC RIVERS CLAIMS

State of Utah)
County of Cache)

DR. THOMAS B. HARDY, being first duly sworn upon oath, deposes and says:

I. Introduction.

1. Position. I am a Professor of Civil and Environmental Engineering at Utah State University in the Department of Biological and Irrigation Engineering. I am also the Associate Director of the Utah Water Research Laboratory at Utah State University. I hold a Ph.D. in Civil and Environmental Engineering from Utah State University (1988) with emphasis in hydrology, hydraulics and water resources modeling. In addition, I hold a B.S. in Secondary Education (1977) as well as B.S. and M.S. degrees in Biology (1978, 1982) from the University of Nevada at Las Vegas. I am a Certified Fisheries Scientist with the American Fisheries Society (No. 1989). I have over twenty years of professional experience in research and teaching in the field of instream flows and multidisciplinary assessments in the United States and internationally.

As Associate Director of the Utah Water Research Laboratory, I oversee multi-disciplinary research on the development of assessment methodologies applicable to impact assessments in water resource systems.

2. Duties. I have worked for the United States on the quantification of water rights claims in the Snake River Basin Adjudication for over ten years and have worked on the United States' claims directed at protecting fisheries habitat in certain rivers designated under the Wild and Scenic Rivers Act. I have supervised certain field investigations of the six Wild and Scenic Rivers for which the United States filed claims in the Adjudication and was responsible for

quantifying the flows necessary to protect the fisheries resources of these six designated Wild and Scenic Rivers. I have reviewed and am familiar with the proposed Partial Decrees approving these Wild and Scenic Rivers Act claims under the terms of the Stipulation between the United States and the State of Idaho and the other objectors to these claims.

3. Purpose of affidavit. I submit this affidavit to address the quantification of the fisheries component of the Wild and Scenic Rivers Act claims as identified in the Partial Decrees.

4. Wild and Scenic Rivers Act claims overview. The United States Department of Agriculture, Forest Service ("Forest Service") has filed claims pursuant to the Wild and Scenic Rivers Act for six separate river segments in the Snake River Basin Adjudication:

- a. Mainstem of the Salmon River – basin 75, claim no. 75-13316; basin 77, claim no. 77-11941
- b. Middle Fork of the Salmon River – claim no. 77-13844
- c. Rapid River – claim no. 78-11961
- d. Selway River – claim no. 81-10472
- e. Lochsa River – claim no. 81-10513
- f. Middle Fork of the Clearwater River – claim no. 81-10625

The general locations of the rivers are shown in Attachment A.

II. Quantification of water rights.

5. Basis of quantification. The water rights to be decreed by the Partial Decrees were quantified based on the flows necessary to protect the fisheries on each of the rivers, as well as the recreation values for all of the rivers other than the Rapid River. The basis for each element of the Partial Decrees, identification of the outstandingly remarkable values of each of

the rivers, and quantification of the flows necessary to protect recreation values is addressed in the *Affidavit of Jacquelyn A. Diedrich, Wild and Scenic Rivers Claims*, Consolidated Subcase No. 75-13316, dated August 12, 2004, and filed concurrently with this affidavit, as well as in Ms. Diedrich's claim affidavit filed in this matter on or about January 30, 2003, *Affidavit of Jacquelyn A. Diedrich, Wild and Scenic Rivers Claims*, Consolidated Subcase No. 75-13316, dated January 23, 2003.

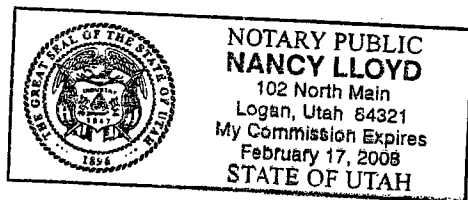
6. **Partial Decrees meet fisheries needs.** I have reviewed the claims, the Stipulation and the Partial Decrees and have consulted with Forest Service experts and employees. Based on my review and my quantification affidavit filed in this matter on or about January 30, 2003, *Affidavit of Dr. Thomas B. Hardy, Quantification of Wild and Scenic Rivers Claims*, Consolidated Subcase No. 75-13316, dated January 23, 2003, I conclude that the flows claimed by the United States, as identified in the Partial Decrees and taking into account the small depletions likely to occur under the subordinations provided for in paragraph 10.b. of the Partial Decrees, provide a sufficient variety, frequency and quantity of flows to protect the outstandingly remarkable fisheries values Congress sought to protect for each of these designated Wild and Scenic Rivers.

7. Further affiant sayeth nought.

Dated this 30th of July, 2004.

Thomas B. Hardy
Thomas B. Hardy

SUBSCRIBED and SWORN to before me this 30th day of July, 2004.



Nancy Lloyd
NOTARY PUBLIC FOR
Residing at: Sigurd, Utah
My Commission Expires: Feb 17 2008

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of August, 2004, I served a true and correct copy of the foregoing Affidavit of Dr. Thomas B. Hardy in Consolidated Subcase no. 75-13316 upon the following parties:

Original by hand delivery to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

Copies by hand delivery or United States Mail, postage prepaid to:

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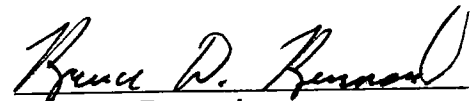
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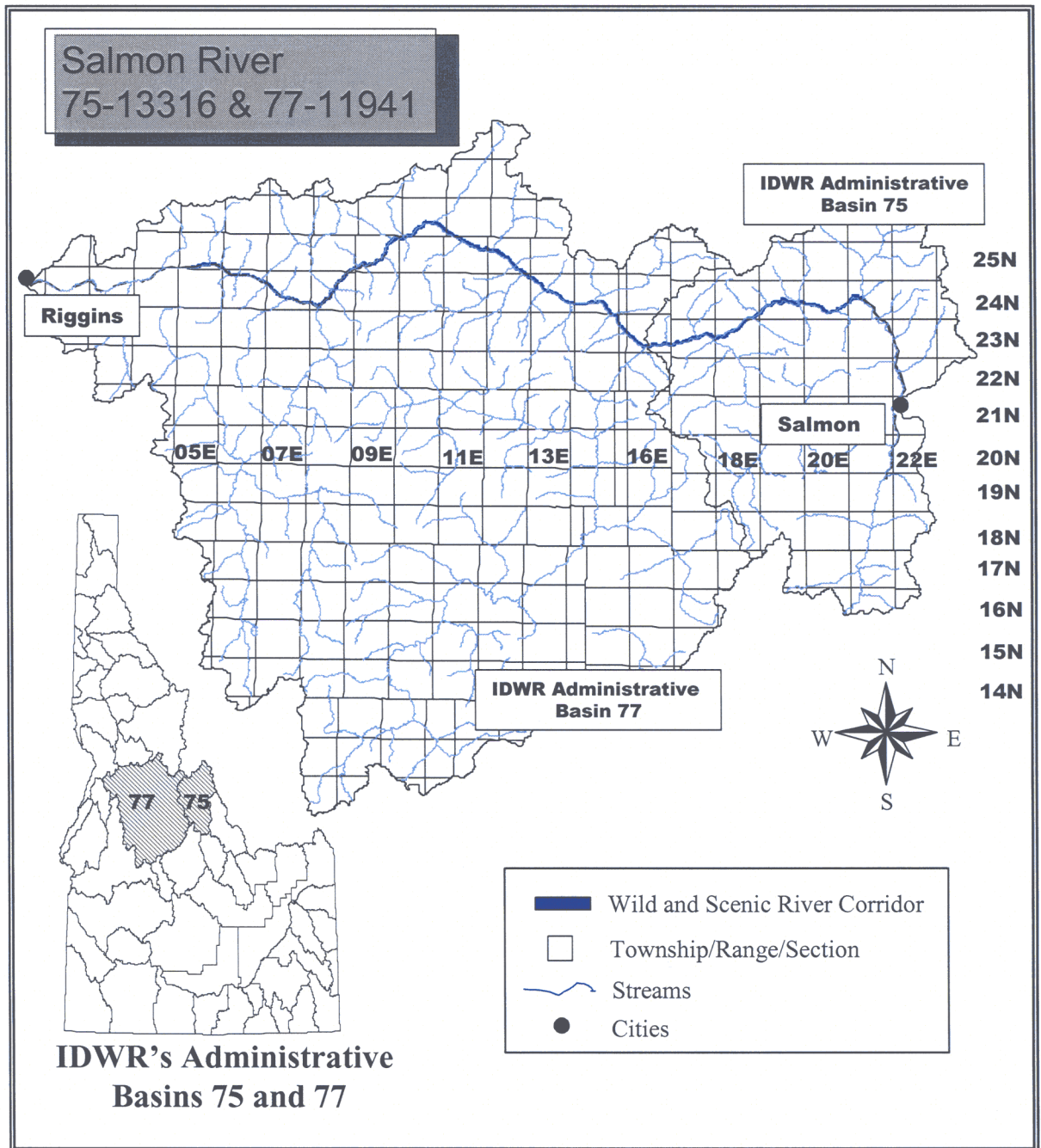
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Bruce D. Bernard

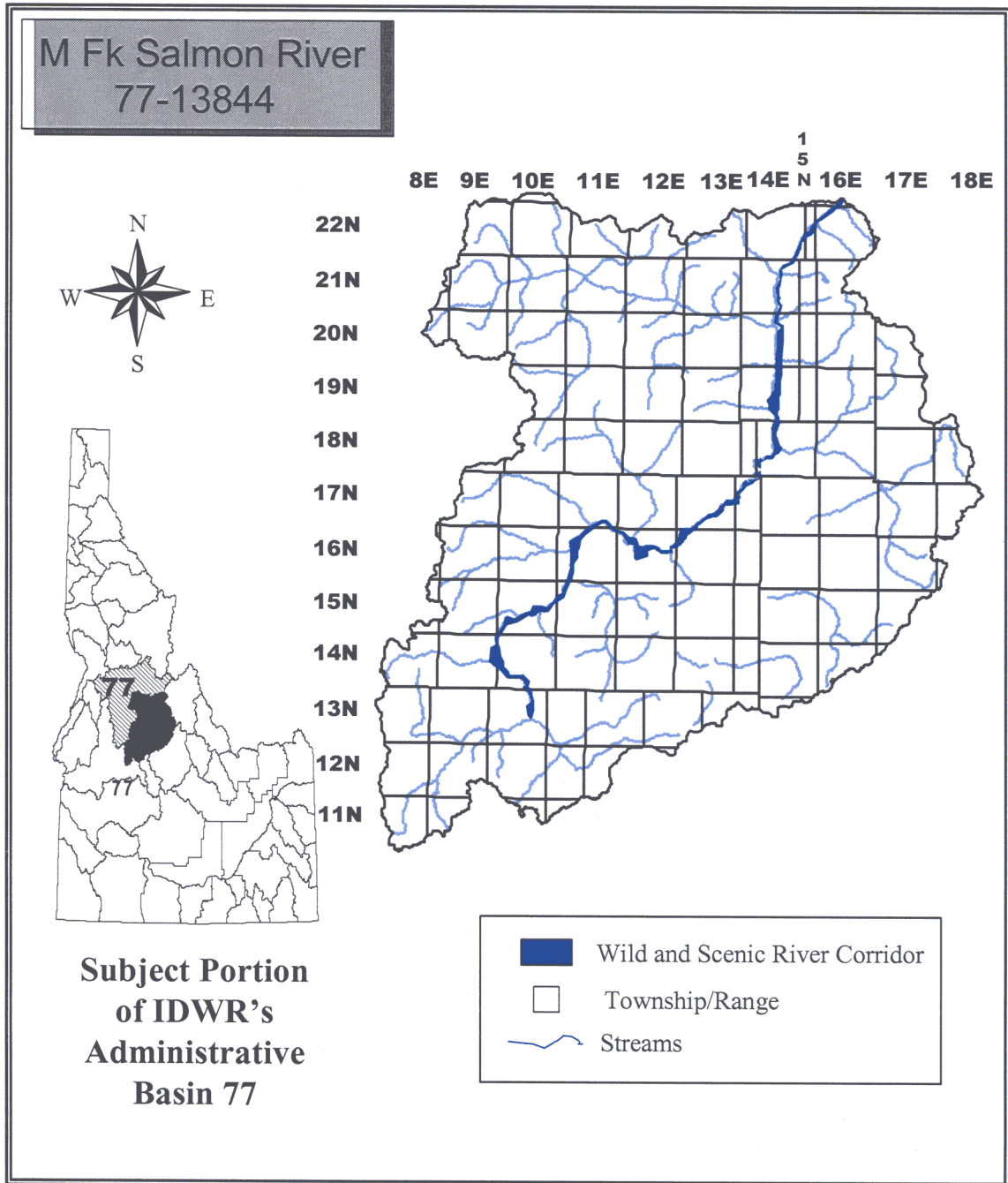
ATTACHMENT A
MAPS OF WILD AND SCENIC RIVERS

Salmon

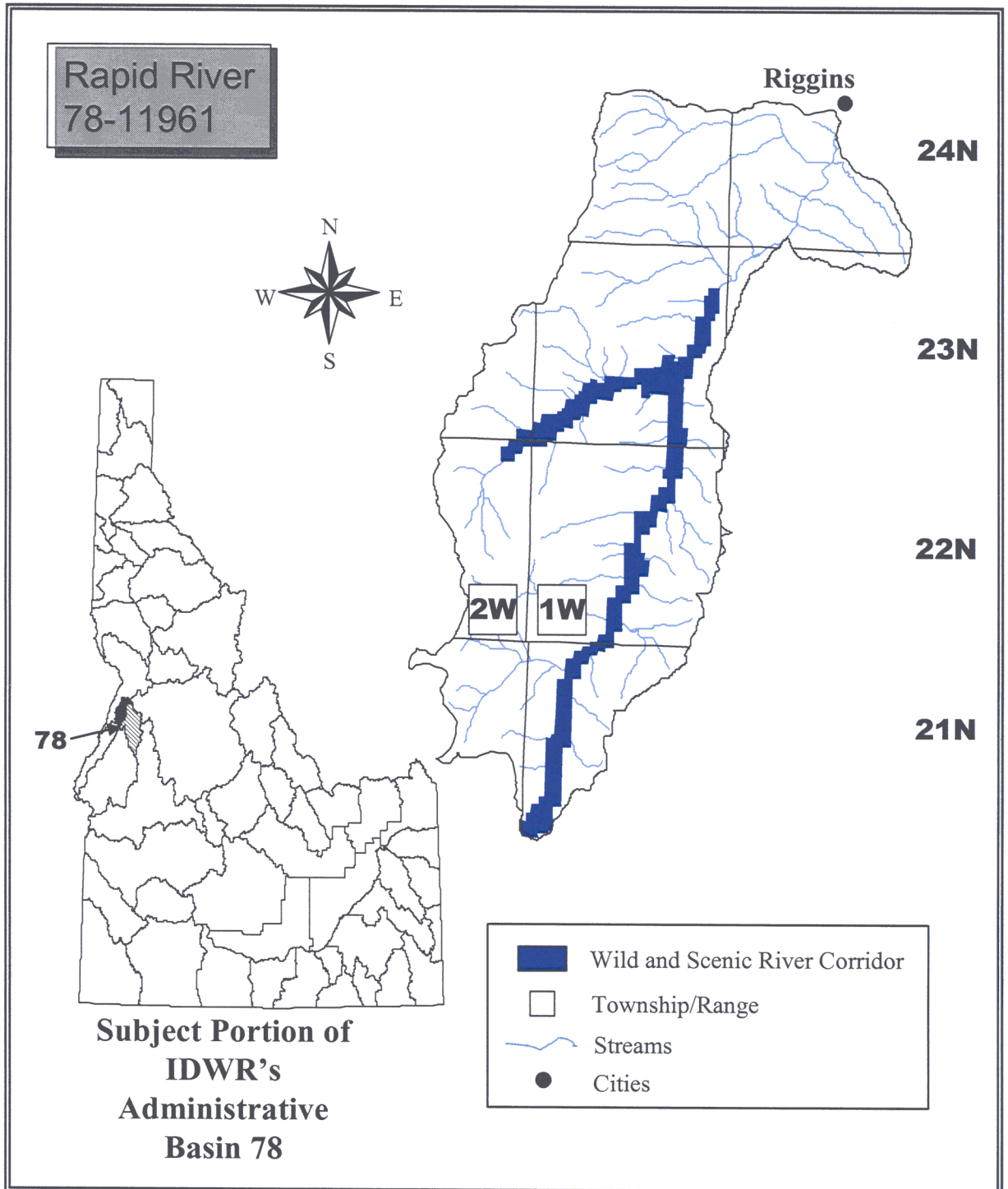
Wild and Scenic River



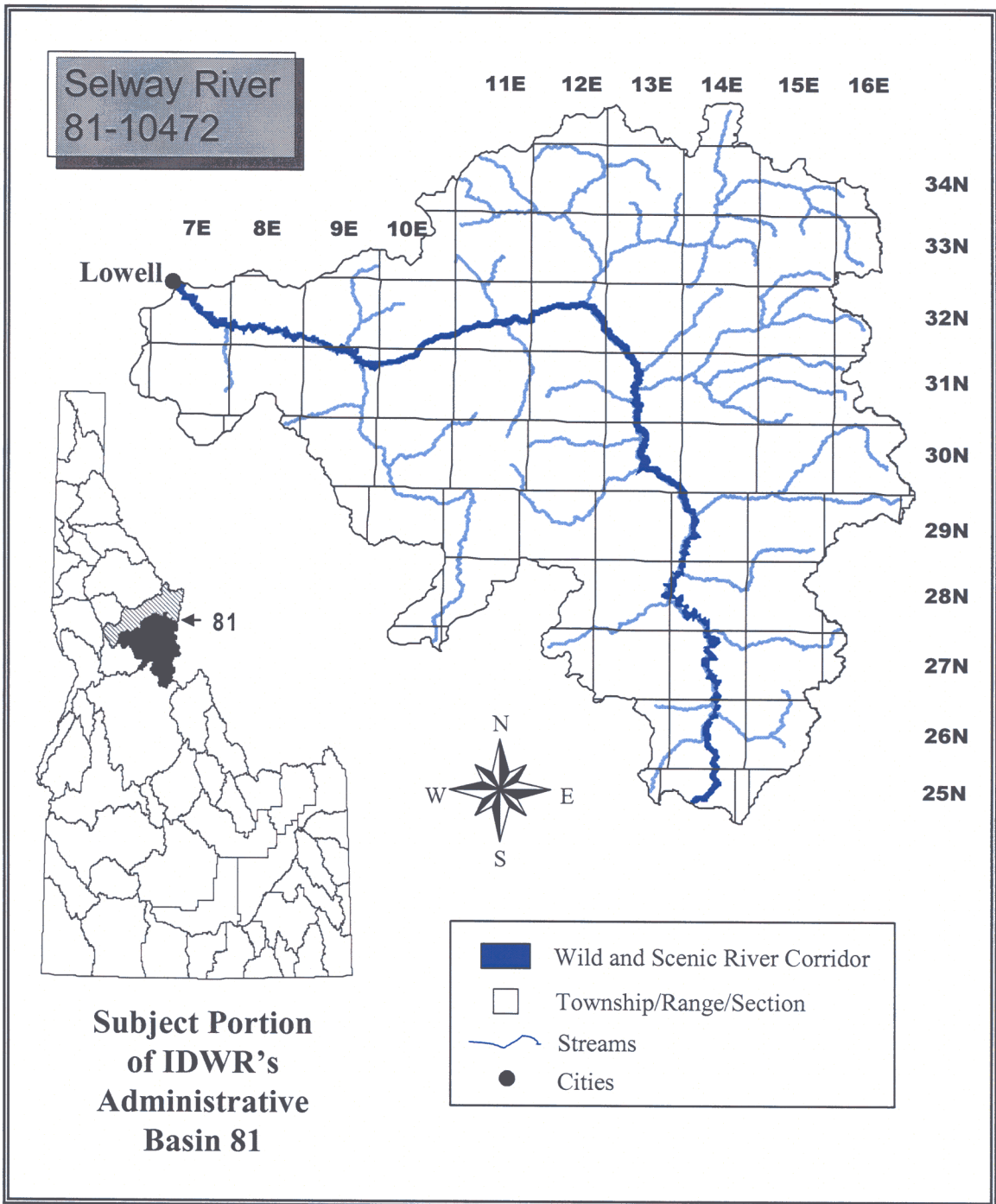
Middle Fork Salmon Wild and Scenic River



Rapid Wild and Scenic River

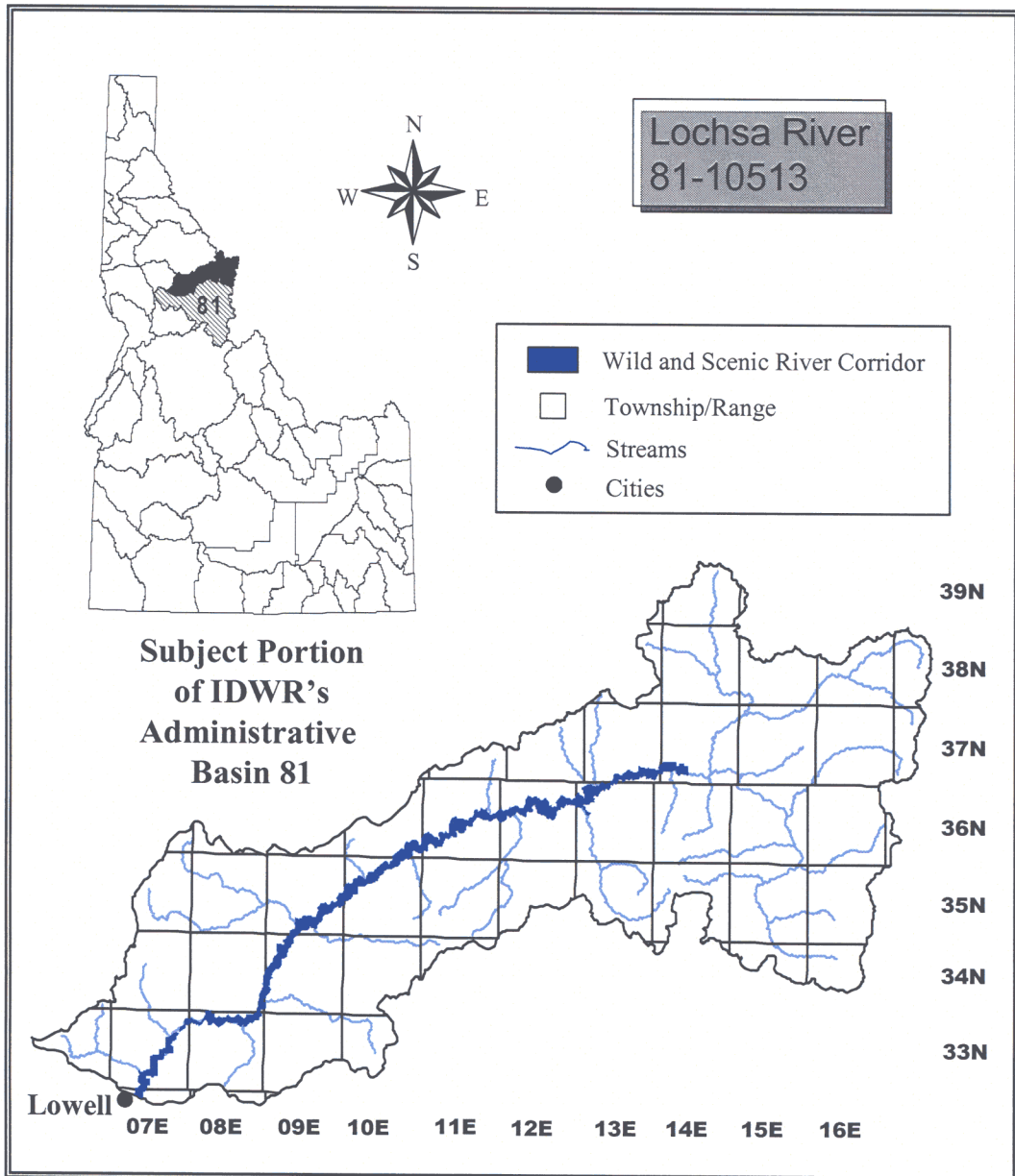


Selway Wild and Scenic River



Lochsa

Wild and Scenic River



Middle Fork Clearwater Wild and Scenic River

