

RECEIVED

08/20/2004 SEP 29 2004

DEPARTMENT OF
WATER RESOURCES

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: September 30, 2004

Water right number: 85-2123

STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707
Telephone Number: (208)334-2920

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source): We disagree with State of Idaho, Department of Fish and Game as owners.
2. Describe the changes you wish to make in the proposed recommendation:
The Bonneville Power Administration ^{is} the current owners of the property and the water right should be decreed in their name.
3. Give a brief explanation as to why you disagree with these portions:
IDFG sold the property to BPA in 1999 (see 2 attached documents)
A Change of Ownership form is being filed by BPA concurrent with this Notice of Error.

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 27 Sept. 2004 SIGNATURE: Cynthia Robertson, Staff Biologist, Boise
Please print your name: Cynthia Robertson

IDWR State Office, P.O. Box 83720, Boise, ID 83707-9815

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SEP 29 2004

DEPARTMENT OF
WATER RESOURCES

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 85-2123

NAME AND ADDRESS: STATE OF IDAHO
DEPT OF FISH & GAME
PO BOX 25
BOISE ID 83707

SOURCE: SWEETWATER SPRING

TRIBUTARY: LAPWAI CREEK

QUANTITY: 0.240 CFS

PRIORITY DATE: 09/26/1960

POINT OF DIVERSION:
T33N R04W S4 SESWSW Within NEZ PERCE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
FISH PROPAGATION	3/01 9/30	0.240 CFS

PLACE OF USE: FISH PROPAGATION Within NEZ PERCE County

T33N R04W S04	NWSW	T33N R04W S04	SWSW
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OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

BOARD OF LAND
COMMISSIONERSDIRK KEMPTHORNE
GovernorPETE T. CENARRUSA
Secretary of StateALAN G. LANCE
Attorney GeneralJ.D. WILLIAMS
State ControllerMARILYN HOWARD
Sup't of Public
Instruction

May 24, 1999

35-0658 }
35-0659 } deleted from
35-0660 } records

Bonneville Power Administration
c/o Kenneth Kirkman
P.O. Box 3621 - EWN-4
905 NE 11th
Portland, OR 97208

Subject: State of Idaho Deed No. 13326

Dear Mr. Kirkman:

Enclosed please find the above referenced deed for land purchased from the State of Idaho.

This deed is now ready to be recorded with the Nez Perce County Recorders office and should be done at your earliest opportunity.

Also enclosed is State of Idaho Receipt No. BO158522 reflecting the payment of \$40.00 for the fees in connection with this transaction.

We are glad to have been of service to you.

Sincerely,



Mary Hodges, Technical Specialist
Bureau of Real Estate

mh

Enclosures

CERTIFIED MAIL

c: Tom Parker, F&G

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER

STATE OF IDAHO DEED

NUMBER 13326

Certificate No. 23937

To All to Whom These Presents Shall Come, Greetings:

Whereas, on the 1st..... day of APRIL..... 1958 all that tract or parcel of **SURPLUS-DEPARTMENT OF FISH & GAME** land of the State of Idaho, hereinafter mentioned and particularly described, was sold in the manner provided by law to

- **BONEVILLE POWER ADMINISTRATION** -

of**PORTLAND**....., State of**OREGON**....., for the aggregate price of

----- **ONE HUNDRED FOURTEEN THOUSAND AND NO/100** ----- DOLLARS

And Whereas, the said sum of **ONE HUNDRED FOURTEEN THOUSAND AND NO/100** ----- DOLLARS

has been fully paid to the proper receiving officer for the State of Idaho, by **BONEVILLE POWER ADMINISTRATION - c/o Kenneth Kirkean, P.O. Box 3621-ENW-4 - 905 NE 11th St., Portland, Oregon 97208.**

as shown by the records in the office of the State Board of Land Commissioners, the said sum being the whole amount of the purchase price for the said tract or parcel of land hereinafter described:

Now, Know Ye, That the said State of Idaho, in pursuance of law in such case made and provided, and in consideration of the premises aforesaid, and of the aforesaid sum of

----- **ONE HUNDRED FOURTEEN THOUSAND AND NO/100** ----- DOLLARS

to the said State of Idaho paid, doth by these presents grant, bargain, sell, convey and confirm, in fee, unto the said

- **BONEVILLE POWER ADMINISTRATION** -

Their... heirs and assigns, all of the said tract and parcel of land situated in the County of.....**NEZ PERCE**

and State of Idaho, and described as follows, to-wit: **A tract of land located in the SW1/4 and the NW1/4 of Section 4,**

Township 33 North, Range 4 West, B.M., more particularly described as follows: Commencing at the west one-quarter (1/4) corner of said Section 4, said corner being the REAL POINT OF BEGINNING; thence North 0°00' East, 622.00 feet; thence North 90°00' East, 350.00 feet; thence South 0°00' West, 622.00 feet; thence North 90°00' East, 310.00 feet; thence South 0°00' West, 800.00 feet; thence South 90°00' West, 345.00 feet; thence North 0°00' East, 785.00 feet; thence North 90°00' West, 94.00 feet; thence North 0°00' East, 15.00 feet; thence North 90°00' West, 71.00 feet

their... heirs and assigns, all of the said tract and parcel of land situated in the County of.....NEZ PERCI

and State of Idaho, and described as follows, to-wit: A tract of land located in the SW1/4 and the NW1/4 of Section 4, Township 33 North, Range 4 West, B.M., more particularly described as follows: Commencing at the west one-quarter (1/4) corner of said Section 4, said corner being the REAL POINT OF BEGINNING; thence North 0°00' East, 622.00 feet; thence North 90°00' East, 350.00 feet; thence South 0°00' West, 622.00 feet; thence North 90°00' East, 310.00 feet; thence South 0°00' West, 800.00 feet; thence South 90°00' West, 545.00 feet; thence North 0°00' East, 785.00 feet; thence North 90°00' West, 94.00 feet; thence North 0°00' East, 15.00 feet; thence North 90°00' West, 21.00 feet; returning to the real point of beginning, the above described area containing 15.12 acres, more or less. NOTE: A plot of the tract as drafted by a computer indicates a total acreage of 15.039 acres, more or less. The acreage difference is caused because of an overlap of two (2) deeds that conveyed the property to Fish and Game Department in 1960. SUBJECT to the following rights-of-way as contained in that certain warranty deed dated October 24, 1960 from 21 Ranch, Inc., to State of Idaho for the use and benefit of the Department of F&G. A right-of-way over and across the above described land in favor of 21 Ranch, Inc., its shareholders and employees for the purpose of removing, laying, repairing and maintaining a pipeline from the Sweetwater Spring to provide domestic water for (LEGAL DESCRIPTION CONTINUED ON BACK OF DEED)

To have and to hold the said premises and parcel of land above particularly described, with the appurtenances thereon, unto the said

- BONNEVILLE POWER ADMINISTRATION -

their..... heirs and assigns, in fee simple forever, subject to the provisions of Section 58-604, Idaho Code, as amended by Chapter 44, 1951 Session Laws; which grants over all lands belonging to the State a right of way for ditches constructed by authority of the United States. The State reserves the right to all coal, oil, oil shale, gas phosphate, sodium, asbestos, gold, silver, lead, zinc, copper, antimony and all minerals or deposits of minerals of whatsoever kind or character, including geothermal resources (and associated by products), sand, gravel and pumice, pursuant to Sec. 47-701, Idaho Code.

In Witness Whereof I.....DIRK KEMPTHORNE....., the Governor of the State of Idaho, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the Board of Land Commissioners to be hereunto affixed, this 21st day of May, 1999 A.D.

Countersigned:

Patricia Canavan
Secretary of State

Dirk Kempthorne
Governor of Idaho and President of State Board of Land Commissioners

Countersigned:

Stanley F. Hamilton
Director, Department of Lands

STATE OF IDAHO, } ss.
County of Ada,

On this 21st day of May, 1999, in the year 1999, before
Dirk Kempthorne

In Witness Whereof, I **DIRK KEMPTHORNE**, the Governor of the State of Idaho, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the Board of Land Commissioners to be hereunto affixed, this 21st day of May, 1999 A.D.

Countersigned:

Pete I. Cenarrusa Dirk Kempthorne

Secretary of State

Governor of Idaho and President of
State Board of Land Commissioners

Countersigned:

Stanley F. Hamilton

Director, Department of Lands

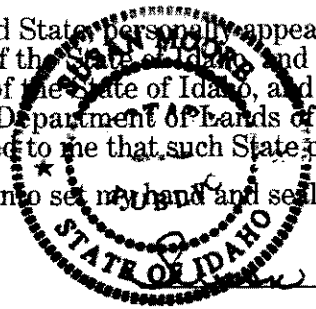
STATE OF IDAHO, } ss.
County of Ada,

On this 21st day of May, in the year 1999, before

me, a Notary Public in and for said State, personally appeared
known to me to be the Governor of the State of Idaho, and
known to me to be the Secretary of the State of Idaho, and
known to me to be the Director, Department of Lands of the State of Idaho, who executed
said instrument and acknowledged to me that such State of Idaho executed the same.

Dirk Kempthorne
Pete I. Cenarrusa
Stanley F. Hamilton

In Witness Whereof, I have hereunto set my hand and seal on the day and year last above witten.



Moore
Notary Public residing at
Boise, Idaho

My commission expires 6-8-2001

LEGAL DESCRIPTION FOR STATE OF IDAHO DEED NO. 13326 CONTINUED:

household and curtilage and subject further to a road right-of-way on and over the above described real property providing access to and from the canyon lying north of the above described lands in favor of Z1 Ranch, Inc., its shareholders and employees, and further subject to the right of Z1 Ranch, Inc., and its assigns, shareholders and employees to appropriate and use the waters of Sweetwater Spring from points of diversion on the above described real property for domestic and household curtilage. And together with a road right-of-way to provide ingress and egress to and from the above described lands and the county road, on and over the W $\frac{1}{2}$ SW $\frac{1}{4}$, Section 4, Township 33 North, Range 4 West, Boise Meridian.