



United States Department of Agriculture
Office of the General Counsel

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OCT 30 2003

*Mountain Region
P.O. Box 25005
Denver, CO 80225-0005*

*Telephone:
Facsimile:*

Department of Water Resources
303-275-5555
303-275-5557

October 17, 2003

Allen Merritt
Southern Regional Manager
Idaho Department of Water Resources
1341 Fillmore St. STE 200
Twin Falls, ID 83301

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OCT 22 2003

Department of Water Resources
Southern Region

Re: In the Matter of Application for Transfer No. 66616 (45-04114) and Application for Permit No. 45-07745.

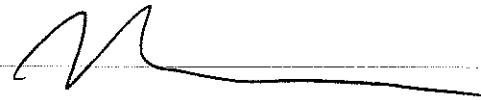
Dear Allen,

We are writing to update you on the status of the above titled case. On April 18, 2002, the Department held a prehearing conference in this case. At that conference the parties concluded that further settlement discussions would be useful in order to resolve the matter. In accordance with those discussions the parties have attempted to resolve this matter through negotiation. Specifically, experts for the parties developed a favorable water balance for the proposed use at Pomerelle Ski Resort. A copy is enclosed. As a result, the development of water facilities, mainly the storage ponds, would likely be reduced from those shown on original plans. This proposal would seem to address the protestant's concerns. However, we have not had any success bringing this issue to closure and regretfully believe that it is necessary to move forward to a hearing with IDWR on the matter.

In light of our lack of success in resolving this matter through negotiations, we request that IDWR schedule another prehearing conference in order to narrow the issues for trial. At that prehearing conference, we believe it would be appropriate to attempt to narrow the issues that would be contested in the proceeding. We would also be prepared to propose a scheduling order governing the exchange of proposed exhibits, designation of expert witnesses, and filing of any pretrial memoranda. We also believe that a prehearing conference may be useful to obtain admissions of fact and documents, limit witnesses, consolidate examination of witnesses and determine the procedure for subsequent hearings. We suggest that this prehearing conference be scheduled in January 2004.

I appreciate your assistance on this matter. You may contact me at 303-275-5537 if you have any questions.

Sincerely,



Randall J. Bramer
Office of General Counsel

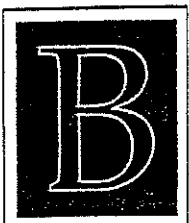
enclosure

cc: Norman Semanko, counsel for Earl Warthen
Roger Ling, counsel for Andrwood, Inc. d/b/a Pomerelle
Leo Bell
Fred Hawker
Scott Nannenga, USDA Forest Service, District Ranger
Michael Collette, USDA Forest Service, BAT

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Department of Water Resources
Southern Region



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

November 13, 2002

Mr. Norm Semanko
205 North 10th Street, Ste 530
Boise, ID 83702

Mr. Pat Brown
P.O. Box 207
Twin Falls, ID 83303

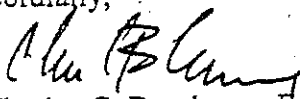
Re: USFS water right applications - Pomerelle ski resort
Project No. 197-01-1997

Dear Norm and Pat:

Enclosed is a hydrologic plan and mitigation proposal for the transfer and permit applications for the Pomerelle ski resort. The proposal essentially reflects the verbal concurrence that Terry Scanlan and I reached regarding the water balance for the facility and the effect on the Howell Creek watershed. The main change from the original proposal is that the on-hill storage would be largely refilled by continued diversion from the springs after snowmaking ceases. This greatly reduces the volume of natural snowmelt captured by the storage, and results in an augmentation of spring runoff in the Howell Creek drainage by an estimated 13.1 acre-feet. Consumptive use would be mitigated by reduction of irrigation under water right 45-311.

Please review the proposal and discuss it with your clients and Terry. I would request that we have a telephone conference during the first week of December with you, myself, Terry, Roger Ling, Randy Bramer, and Steve Spencer. I will contact you toward the end of November to set up the conference.

Cordially,


Charles G. Brockway, P.E.

Enc: Mitigation Proposal

Cc: Woody Anderson
Roger Ling
Randy Bramer
Steve Spencer

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Department of Water Resources
Southern Region

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208 • 736 • 8543

FAX: 736 • 8506

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Hydrologic Plan for Mitigating the Impact of Water Withdrawal and Storage at the Pomerelle Ski Area

Water right Transfer Application No. 5194
Water right Permit Application No. 45-7745
November 13, 2002

Prepared by
C. G. Brockway, P.E.

The proposed use at the Pomerelle Ski Area involves artificial creation of snow using two standard 60-gpm snowmaking guns. The process will occur over a 75-day period from October 15 through December 31 each year, with approximately 55 days of actual snowmaking occurring within this period for 16 hours per day.

A total of 19.4 acre-feet per season will be required for snowmaking. It is proposed to supply this water through a combination of withdrawal from Howell Creek via the existing pump during the snowmaking period, and from on-hill storage. An analysis of the timing and magnitude of water uses and the effects on Howell Creek was performed assuming a maximum of 27 gpm can be withdrawn from the springs (Bennett Springs plus Pomerelle Spring). 27 gpm withdrawn for 75 days provides 8.9 acre-feet, or about 46% of the total water requirement. The remaining 10.5 ac-ft will be supplied from on-hill storage.

An analysis was made of the projected water usage for snowmaking, and the potential impact on the Howell Creek watershed. Please refer to the enclosed diagram showing the water flow paths and the spreadsheet detailing the water balance calculations.

Snowmaking water will be applied to the hill and stored along with the natural snowpack. During the snowmaking process, some of the water is consumptively used. Based on previous studies by Brockway Engineering for the Sun Valley Company and for Bogus Basin, a reasonable average estimate of consumptive use is 10% of the total water volume. Thus, of the 19.4 acre-feet used for snowmaking, about 1.94 acre-feet will be consumed, leaving 17.5 acre-feet of snow on the hill above that which falls naturally. At the end of the snowmaking period, the on-hill storage will be depleted. Water will continue to be pumped from Bennett Springs from January 1 through April 15 to refill the reservoirs and minimize capture of snowmelt by the reservoirs. No pumping to storage will occur from April 15 through October 15 unless water is available to fully supply all downstream irrigation rights with earlier priority dates.

The artificial snowpack will melt along with the natural snow and augment spring runoff. The attached calculations show that the net effect on surface runoff will be an increase of 13.1 acre-feet.

There will be early- and late-season overlap of the Bennett Spring pumping period with the recognized irrigation season in the Marsh Creek area, and hence a potential for conflict exists. Decreed rights from Howell Creek typically have priority dates of 1880 or earlier. This conflict will be resolved in the same manner as on all decreed streams in

Idaho: by the watermaster applying the priority-date system of administration. Any time a decreed right (or any non-subordinated right with a priority date earlier than the Pomerelle right) cannot be fully delivered, and shutting off the Pomerelle right will bring relief, the watermaster will be authorized to do so. In no case will a 2001 priority date water right trump an 1880 decree.

The water balance analysis indicates that the irrigators on Howell Creek will not be impacted and in fact there will be an augmentation of surface runoff. However, there will still be consumptive use from the reservoir surface and sublimation from the artificial snow in the amount of 8.3 acre-feet. This consumptive use needs to be mitigated to satisfy IDWR's typical requirement that there be no new consumptive use, even if the timing of the consumptive use is favorable to other water users. 8.3 acre-feet per year is equivalent to 2.8 acres of irrigation, using IDWR's standard 3.0 ac-ft/acre consumptive use allowance. It is proposed to reduce irrigation by 2.8 acres under water right 45-311, a decreed right from Marsh Creek which is owned by the applicant. The water right has a 4/1/1876 priority, a very early priority on the creek. This acreage reduction will be adequate to mitigate the basin-wide consumptive use of the proposed snowmaking.

In summary, the proposed hydrologic plan, including mitigation, has the following components:

1. Pump from Bennett Springs and/or Pomerelle Spring at a maximum rate of 27 gpm generally from October 15 through April 15 (but see #5, below). Make snow from October 15 through December 31 in the amount of 19.4 acre-feet (liquid water volume).
2. Construct on-hill storage with a maximum capacity of 16.0 acre-feet.
3. Fill the storage with wintertime pumping from the springs to the maximum extent possible.
4. Line the storage reservoir(s) with a membrane liner to reduce seepage to essentially zero.
5. No water will be diverted to snowmaking storage from April 15 to October 15 unless water is available to fully supply all downstream irrigation rights with earlier priority dates.
6. Rely on the Watermaster of District 45 to administer the rights based on the priority system, as he does all other rights. Pomerelle's late-priority rights will not be allowed to trump earlier-priority non-subordinated rights when such rights cannot be filled.
7. "Basin-wide" consumptive use of the snowmaking and reservoirs will be offset by reducing irrigated acreage under 37-311 by 2.8 acres.

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WATER BALANCE ANALYSIS FOR PROPOSED SNOWMAKING AT THE POMERELLE SKI AREA

Brockway Engineering 5/29/02
For 11/13/02 mitigation proposal

PROPOSED MITIGATION

27 gpm pumping from Bennett Springs during snowmaking period

No spill back to creek during snowmaking (all water stored on hill)

New earthen storage reservoir on hill, re-filled with:

- 27 gpm pumping from Bennett Springs from 1/1 - 4/15, ending prior to spring snowmelt
- Remainder from spring snowmelt

Snowmaking period	10/15 - 12/31
Total days in period	75
No. of days of snowmaking	55
Number of snowmaking guns	2
Output of guns	60 gpm
Operating hours / day	16 hrs/day
Volume of water required for snowmaking	19.4 acre-feet
Average daily demand of guns	115200 gpd
Average flow rate to guns	80 gpm
Average surface area of reservoir(s)	2 acres
Pond evaporation 1/1 - 12/31	38 inches (est. from NOAA data)

During snowmaking period:

	Bennet Rd	Howell Rd	
Howell Creek average flow	2.0	2.4 cfs	
Total creek volumetric discharge	297.5	357.0 acre-feet	
Pumping rate	27	27 gpm or	0.06 cfs
Volume pumped from creek for snowmaking	8.9	8.9 acre-feet	
Percent of total discharge	3.0%	2.5%	
Estimated consumptive use percentage	10.0%		
Total annual consumptive use	1.94	ac-ft	

Howell Creek average discharge volumes:

	Bennet Rd	Howell Rd
Estimated average annual surface runoff	2050	3930 ac-ft (measured)
Estimated average base flow discharge	830	1000 ac-ft (210 days)
Estimated average annual discharge	2880	4760 ac-ft

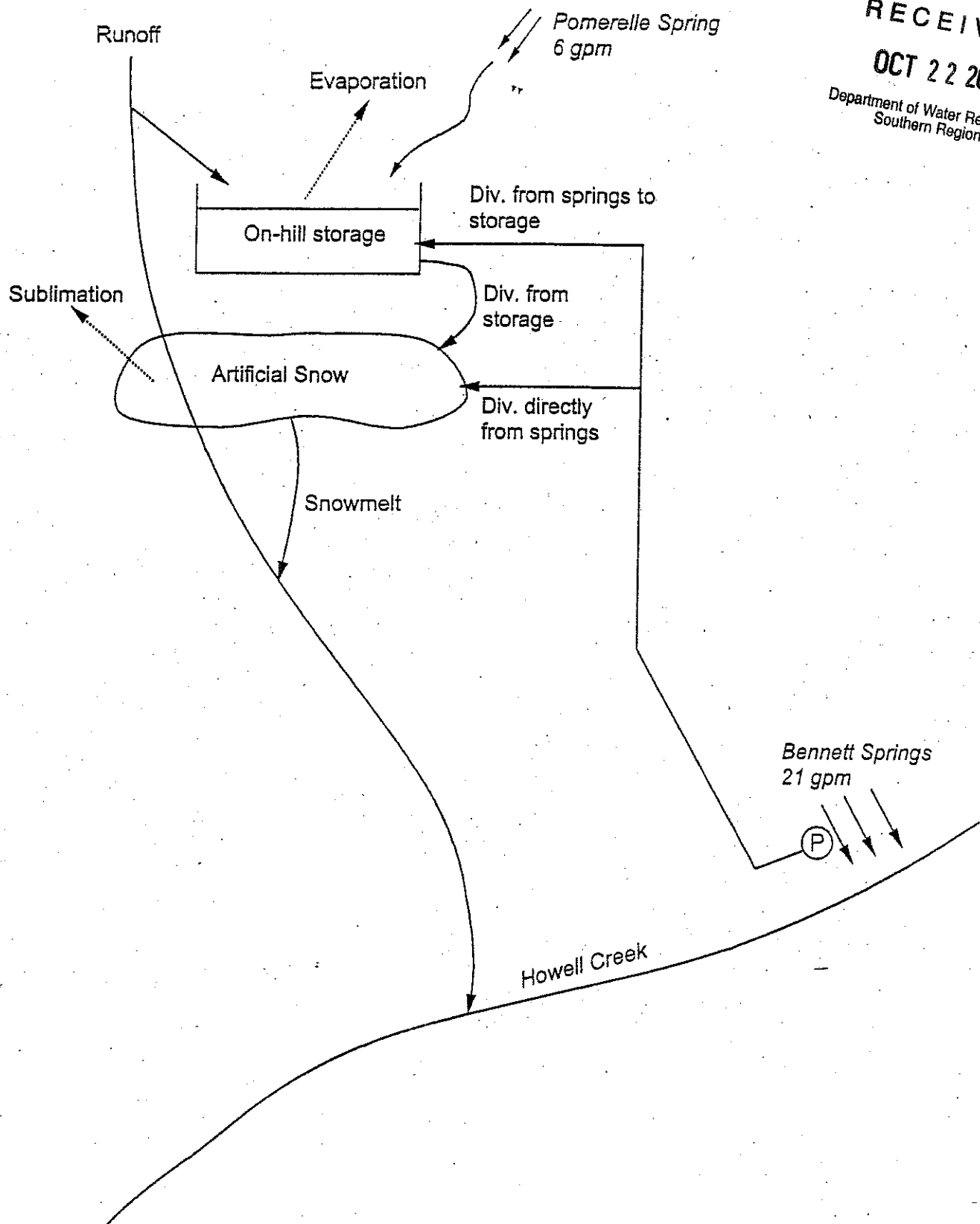
Water balance:

Total applied to hill 10/15 - 12/31	19.45 ac-ft
Drawn from Bennett Springs during 10/15 - 12/31	8.95 ac-ft (27 gpm for 75 days)
Drawn from reservoir during 10/15 - 12/31	10.50 ac-ft
Volume pumped from springs 1/1 - 4/15 for reservoir refill	12.41 ac-ft (27 gpm for 104 days)
Lost to reservoir evaporation	6.33 ac-ft
Spring runoff stored	4.42 ac-ft (res draw + evap - refill from springs)
Lost to consumptive use - snowmaking	1.94 ac-ft
Volume which melts and contributes to runoff	17.50 ac-ft (water stored on hill - consumptive loss)
NET EFFECT ON SPRING / SUMMER RUNOFF	13.08 ac-ft
NET EFFECT ON CREEK FROM 10/15 TO 12/31	-8.95 ac-ft
NET EFFECT ON CREEK FROM 1/1 TO 4/15	-12.41 ac-ft
TOTAL CONSUMPTIVE USE	-8.28 ac-ft

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Southern Region



POMERELLE WATER BALANCE SCHEMATIC FOR MITIGATION PROPSAL

United States
Department of
Agriculture

Forest
Service

Boise Adjudication Team
Recreation and Lands
Intermountain Region

161 East Mallard, Suite A
Boise, ID 83706

Reply to: 2540

Date: February 3, 2003

Leo Bell
HC 36 Box 26
Albion, ID 83311-9702

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Department of Water Resources
Southern Region

Fred Hawker
361 W 400 S
Burley, ID 83318

Dear Msrrs. Bell and Hawker:

Brockway Engineering prepared a hydrologic plan and mitigation proposal for the water right transfer and permit applications the USDA Forest Service has filed for water use at Pomerelle ski resort. This plan, developed in concert with Mr. Terry Scanlan, concludes that the proposed water uses at Pomerelle, specifically snowmaking, will result in an estimated increase of 13.1 acre-feet of water in the Howell Creek drainage. In addition mitigation is offered. Consumptive use of water for snowmaking at Pomerelle that results in decreased flows in Howell Creek would be mitigated by reducing the irrigated acreage under water right 45-311.

If we understand your protest issues correctly, you are primarily concerned with possible damage to your senior irrigation water rights in Howell Creek. We strongly believe that this plan and associated mitigation would address the issues raised in your protest; that there is a possibility of increasing stream flow in Howell Creek; and in the event mitigation is needed, mitigation is offered and available.

A copy of the Brockway documents accompanies this letter. We want to assure that you have an opportunity to consider the plan and proposal. If you would like to discuss this proposal and pursue settlement of your protest, please contact Steve Spencer in Boise at (208) 331-5944 by March 1, 2003.

Sincerely,



MICHAEL E. COLLETTE
Regional Water Rights Coordinator

Attachment

Cc: Allen Merritt
Marsh Creek Water District 45F
Roger Ling
Woody Anderson
Scott Nannenga
Randy Bramer
Charles Brockway, Jr.

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STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

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MAY 23 2002

Department of Water Resources
Southern Region

601 Pole Line Road, Suite 2 • Twin Falls, Idaho 83301-3035 • (208) 736-2190

May 22, 2002

Mr. Earl Warthen
Albion, ID 83311

RE: Pomerelle Mountain Resort

Dear Mr. Warthen:

This letter is in response to our phone conversation we had on May 14, 2002 in reference to the Pomerelle Mountain Resort.

There are a number of issues we discussed and you were concerned about.

1. The change in use of water from domestic to commercial is under the jurisdiction of the Idaho Department of Water Resources (IDWR). The IDWR should schedule a hearing at which time the public should have the opportunity to comment.
2. The United States Forest Service (USFS) owns the land on which the ski area is located. They are responsible, through their permit, that the project and any improvements are protective of the environment. I contacted Mr. Zimmerman with the USFS and it is his opinion that the planned parking lot will not impact surface waters.
3. The South Central District Health Department (SCDHD) is responsible for the wastewater drain fields in the Pomerelle area. Mr. Scott Arnell with SCDHD said you have been in contact with him and have provided him with additional information.

I appreciate your concerns and hopefully you find the above information helpful. Both the USFS and the IDWR should hold hearings as part of their approval process.

If you need any other information or have questions, please contact myself or Dave Anderson at our Twin Falls Office at 736-2190.

Sincerely,


Doug Howard
Regional Administrator

DH/pr

cc: Dave Mabe, IDEQ State Office
Representative Scott Bedke
Senator Denton Darrington
Representative Bruce Newcomb
Scott Arnell, SCDHD
Zeke Zimmerman, USFS Burley Office
Dave Anderson, IDEQ Twin Falls Regional Office
Norm Semanko, Attorney
Allen Merritt, IDWR Twin Falls

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JUN - 7 2002

Department of Water Resources

Don Cavender
Watermaster 45F
P.O. Box 125
Albin, ID 83311

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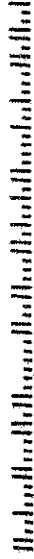
APR 23 2000

Department of Water Resources
Southern Region

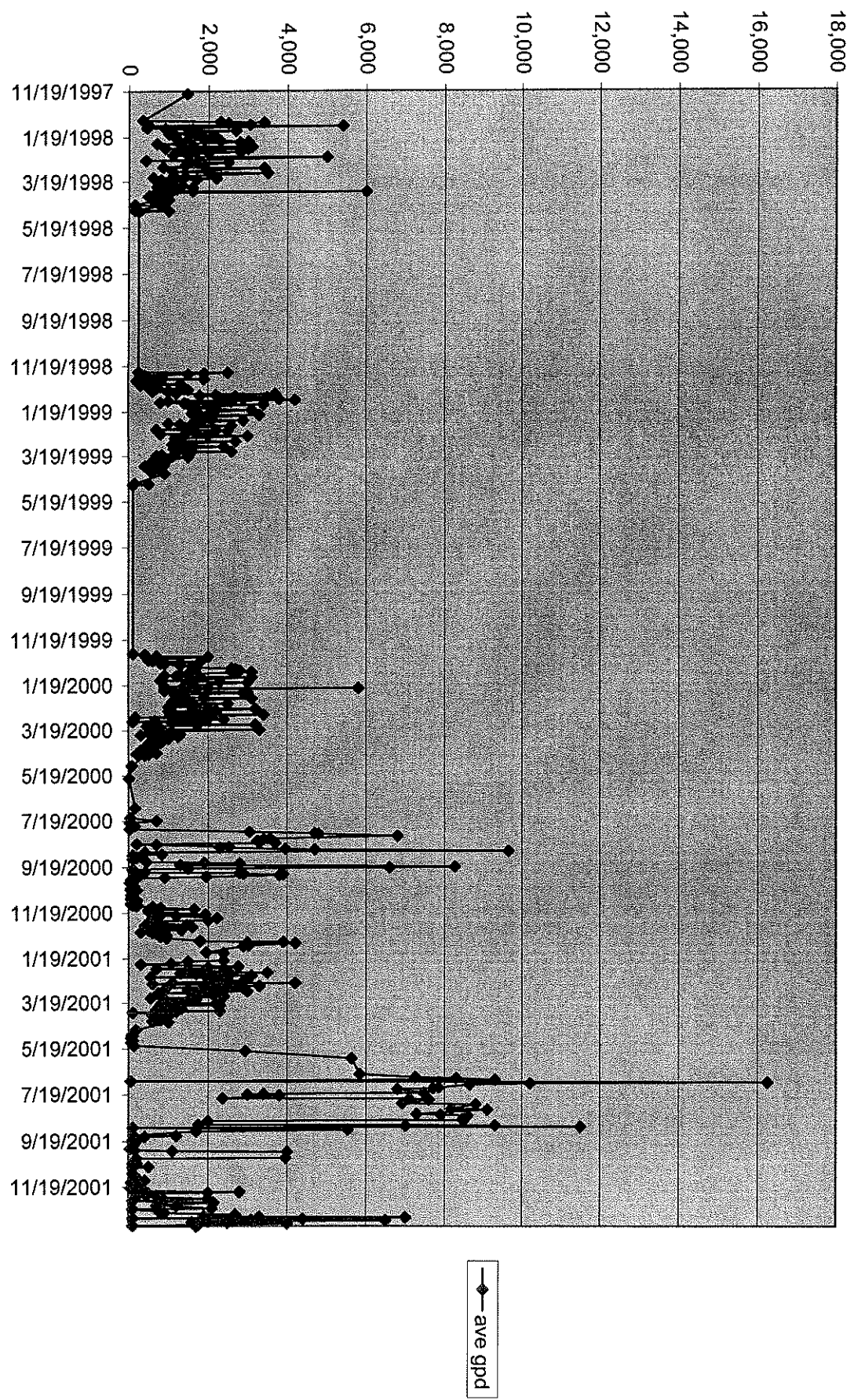
Ms. Allen Merritt
Idaho Dept. of Water Resources
1341 Fillmore St. Suite 200
Twin Falls, Idaho 83301-3380



83301/3380



Pommerville average gpd



Mr. Allen Merritt

04/15/2002

The attached copy of Pomerelle log sheet is for the year 2001. This I generated off of their sheets, which I have included for your review. The year 2000, I have yet to post. Instead of running three or four months out of the year they are operating the full 12 months and when they have run out of their 60,000 gallon storage, they then request a refill for FIRE PROTECTION, as a Watermaster and a water right user, I feel they are no different than anyone else as to fire protection and I have received this complaint from others that are aware of the Liability that was presented in your data submitted May 31, 2000. I do feel the engineering specks that were submitted to your Department on the Pomerelle expansion does need to be reviewed.

Regards;

Don G. Gunderson,
Watermaster 45F

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APR 22 2002

Department of Water Resources
San Diego County

2001
POWERELLE WATER USAGE
DAILY FLOW METER READING
A.M. READING

January	February	March	April	May	June	July	August	September	October	November	December	Day
11208	11841	12403	12853			15848			20064			1
11237	11856	12426	12859			15950		19978	20104	20464	20630	2
		12456	12865	12957								3
			12875			16123	18224	20012				4
	11932	12471	12882				18315			20469	20648	5
	11967	12492									20649	6
	11980	12509		12960						20474	20692	7
	11997	12526								20478		8
	12016	12550				16437						9
11393	12047	12574	12901	12962		16514		20018	20421			10
11417			12909			16582		20030	20423			11
	12058	12585	12915					20034		20480	20720	12
	12081	12594	12921				18752			20482	20732	13
	12106	12611	12931	12967			18831			20483		14
	12127	12626					18917					15
	12149					16955			20429	20486	20795	16
	12178	12644				16989		20039	20431	20487	20796	17
						17019		20041	20432			18
						17057		20042		20488		19
	12200	12688					19340			20489	20819	20
	12242	12696					19425			20490	20827	21
11657	12248	12719		13173	14963		19445		20452	20493	20836	22
11672	12273	12730				17152		20047	20453	20497		23
	12292	12740	12949			17223		20048		20525	20890	24
	12325					17299		20049		20545		25
11704					15253					20550	20928	26
11707	12344	12780			15336		19533			20554	20961	27
	12373	12787					19626	20050			21031	28
	12388	12797			15522		19696			20568	21032	29
11790		12820				17645					21076	30
11810		12832	12954			19811						31
11834	12402	12833	12955	13736	15523	17733	19812	20053	20461	20570	21107	
-11208	-11835	-12403	-12834	-12956	-13737	-15524	-17734	-19813	-20054	-20462	-20571	
626	567	430	121	780	1786	2209	2078	240	407	108	536	Total gals x100 meter
62600	56700	43000	12100	78000	178600	220900	207800	24000	40700	10800	53600	988800
										21107	-11208	988900

Pomerelle Water Usage

Daily Flow Meter Reading

A.M. Reading

2001

9899 x
100
989,900 gals.

Date	Nov. Reading a.m.	Dec. Reading a.m.	Jan. Reading a.m.	Feb. Reading a.m.	Mar. Reading a.m.	Apr. Reading a.m.	May Reading a.m.	Problem
1		10733	11208	11841	12403	12853		June
2			11237	11856	12436	12835		
3					12436	12835		
4		10777					12957	
5		10781		11932	12471	12875		
6		10787		11947	12492	12882		
7		10803		11980	12509		12960	
8		10809		11947	12520			
9				12016	12550	12901		
10			11393	12047	12574	12905	12962	
11		10849	11417			12913		
12		10854		12058	12585	12921		
13		10863		12081	12594	12931		
14	105494	10866		12106	12611		12967	
15	105499	10872		12127	12620			
16	10504	10879		12147				
17	10511			12178	12644			
18		10898						
19		10907		12200	12635			
20	10569	10115		12247	12690			
21	10577		11657	12247	12719		13173	14963
22	10589	10934	11672	12273	12730			
23				12292	12740	12949		
24				12225				
25	10656	10988	11704	12344	12780			15253
26		11106	11709	12344	12780			15336
27		11045		12373	12797			15332
28	10716	11075		12388	12797			
29	10722	11117	11790		12840			
30	10727		11810		12832	12954		
31		11162	11934				13136	

626
62,600

554
55,400

444
44,400

122
12,200

782
78,200

2172
217,200

Pomerelle Water Usage

Daily Flow Meter Reading

A.M. Reading

July 01

Aug. 01

Sept. 01

Oct. 01

Nov. 01

Dec. 01

Jan. 02

02

Date	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Problem
1				20064			21172	
2	15848			20104	20464		21198	
3	15950		19978				21208	
4							21233	
5	16123		20012				21273	
6		18224			20469	20649		
7		18315			20474	20692	21308	
8					20478		21326	
9	16437							
10	16514		20018	20421				
11	16582		20030	20423				
12			20034		20480	20720		
13		18752			20482	20732		
14		18831			20483			
15		18917						
16	16955			20429	20486	20795		
17	16989		20039	20431	20487	20796		
18	17019		20041	20432	20487.5			
19	17057		20042		20488			
20		19340			20489	20819		
21		19425			20490	20827		
22		19443		20452	20493	20836		
23	17152			20453	20497			
24	17223		20047		20525	20890		
25	17299		20048		20545			
26			20049		20550	20928		
27		19533			20551	20961		
28		19626	2005			21031		
29		19696			20568	21032		
30	17645					21076		
31	17733					21107		

1885

2078

23953

400

104

539

188,500

207,800

23,900

40,000

10,400

53,900

Pomerelle Water Usage

Daily Flow Meter Reading

1999 - 2000

A.M. Reading

Date	Nov Reading a.m.	Dec Reading a.m.	Jan Reading a.m.	Feb Reading a.m.	Mar Reading a.m.	Apr Reading a.m.	May Reading a.m.	Problem
1			069432	075229	07983			
2			070222	075555	08015	083411		
3			070335	075774	080339	083449		
4			070444	07605	080552	083551	084422	
5			070556		080552	083605		
6			070774		080771	083773		
7		066333	07105	076550	080771	083773		
8		066337		07661	080771			
9		066471		07661	080771			
10		066478		07661	080771			
11		066668	07153	07661	080771			
12			07161	07715	08147	08352		
13			07170		08147	08352		
14		065877	07199	07746	08147	08352		
15		06697	07225	07757	08154	08405		
16		06697		07769	08167	08413		
17		06703		07784	08170	08413		
18		06724		07804	08203	08413		
19		06734	07205	078310	08219	08427		
20		06744	07294		08227	08431		
21		06751	07311	7880	08232		084413	
22			07331	07860	08242			
23	OPEN For Season	067777	07389	07901	08242			
24		06793	07398	07923	08255			
25			07412		08258			
26		06827	07431	7944				
27		06853	07431	07998	08283			
28		06880	07462		08293			
29		06907	07491		08308			
30		06935			08316			
31		06961	07515					

$\uparrow$ 55,400
 $\downarrow$ 52,300
 $52,300 \times 100 =$
 116.53

4125
 112,500

Pomerelle Water Usage

Daily Flow Meter Reading

A.M. Reading

July 2000 Aug. Sept

Date	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Problem
1	08507		09781					
2		08670	09782					
3								
4		08764	09788					
5		08812	09790					
6								
7			09792					
8		09016						
9								
10								
11		09123	09810					
12		09157	09829					
13			09857					
14	08512	09222		X 100				
15			09883					
16		09288						
17		09325						
18	08540	09327	10131					
19		09334	10197					
20			10212					
21	08541		10213					
22	08541	09410	10214					
23		09433						
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25	08547	09512	10226					
26		09559						
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28	08547	09752						
29	08548	09756						
30								
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Read from records
John Brown

1719 x 100 =
171,900 gals

171,900

Pomerelle Water Usage

31 July 2000

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Daily Flow Meter Reading

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Date	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Reading a.m.	Problem
1	08507		09781	10399	10437				
2		08670	09782	10408	10434				
3				10410					
4		08764	09788		10436				
5		08812	09790	10411					
6				10411	10431				
7			09792		10430				
8		09016			10440				
9				10412	10442				
10				10412	10443				
11		09123	09810	10412	10445				
12		09157	09829	10412	10456				
13			09857	10417	10489				
14	08512	09222							
15			09883						
16		09288		10419					
17		09325		10419					
18	08540	09327	10131	10420					
19		09334	10197	10422					
20			10213	10423					
21	08541		10213	10423					
22	08541	09410	10214						
23		09433							
24									
25	08547	09512	10226	10426					
26		09559	10254	10427					
27			10283	10427					
28	08547	9758	10322						
29	08548	9756	10360						
30				10429					
31				10430					

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Pomerville Water Usage

Daily Flow Meter Reading

A.M. Pos

50 10430

2001

Date	Nov Reading a.m.	Dec Reading a.m.	Jan Reading a.m.	Feb Reading a.m.	Mar Reading a.m.	Apr Reading a.m.	May Reading a.m.	Problem
1		10733	11208	11841				
2			11237	11856				
3								
4		10777						
5		10781		11932				
6		10787		11967				
7		10803		11980				
8		10809		11982				
9				12019				
10			11393	12049				
11		10849	11417					
12		10854		12058				
13		10863		12081				
14	10494	10866						
15	10499	10872						
16	10504	10879						
17	10511							
18		10898						
19		10907						
20	10569	10915						
21	10577		11657					
22	10589	10934	11672					
23								
24								
25	10656	10988	11704					
26		11000	11709					
27		11045						
28	10716	11075						
29	10722	11117	11798					
30	10727		11810					
31			11839					

207 10000

110 10000

102 10000

SOUTH IDAHO PRESS

BURLEY, IDAHO

AFFIDAVIT OF PUBLICATION

County of Cassia,)
) ss.
STATE OF IDAHO)

Brenda Cooper, being first
duly sworn, deposes and says that She is the

Clerk of the South Idaho
Press, a daily newspaper published at Bur-
ley Idaho, in the county aforesaid and that
the paper is of general circulation therein.
Deponent further states that the printed no-
tice attached hereto was duly published
according to law in the regular editions of

The South Idaho Press for Two
consecutive weeks, commencing with the issue
dated July 1 1980, and ending
with the issue dated July 8, 1980.

Brenda Cooper

Subscribed and sworn to before me

this 10th day of July

1980.

Norma M. Peterson Notary Public
Cost of Publication 46.97

Notary Fee _____

Total Cost 46.97

NOTARY PUBLIC RESIDING AT
RUPERT, IDAHO. MY COMMISSION
EXPIRES JUNE 21, 1981

45-4114
U.S. DEPARTMENT OF AGRICULTURE, FOREST
SERVICE, FEDERAL BLDG., 324 25TH ST., OGDEN,
UT 84401, Source: SPRING tributary to BENNETT
SPRINGS, Priority Date: 05/01/1965, Amount:
0.0150 CFS, Diversion Point: NENE Sec 01 T 13S R
24E, CASSIA Co., Use: DOMESTIC (0.0150 CFS)
from 01/01 to 12/31, Place of Use: NENE Sec 01
T 13S R 24E, Diversion Means: PIPE.

Any exception to any claim of water right may
be filed with the Director of the Idaho Department
of Water Resources, 1041 Blue Lakes Blvd. North,
Twin Falls, Idaho 83301.

C. STEPHEN ALLRED
Director

Published in the South Idaho Press on July 1, 8,
1980.

ok memo

RECEIVED

JUL 14 1980

Department of Water Resources
Southern District Office

MICROFILMED

45-4114

100-443887-100

Department of Labor Resources
Southern District Office

STATE OF IDAHO²⁹ 1989
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT

154

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights in the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-236 of Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that United States of America Forest Service
Forest Office Bld. Cedar Creek (Name of Claimant)
 (Mailing Address) 89141 (Zip Code)
 Telephone No. 626-3561

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) May 1, 1965

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) Spring

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed: tributary to Bennett Springs

(cfs, gpd, AFA)		(Domestic, Irrigation, Stock, Etc.)		(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity	2015 cfs	Use	Domestic	Period of Use From Jan 1	To Dec 31
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
Quantity		Use		Period of Use From	To
TOTAL QUANTITY USED.					

(5) A) Point of diversion: (Location of point where water is diverted from its source)
 NE 1/4 NE 1/4, Sec. 1 Twp. 13 S Rge. 24 E B.M., County of Cassia
 Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Handled with pipe to storage and distribution system

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

Domestic use for General Ski Lodge

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization:

MICROFILMED

Claim No.

DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming right of use of the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-223 of the Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that United States of America Forest Service
(Name of Claimant)

10/19/97

10/19/97

(Mailing Address)

of October

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) May 1, 1965
- A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Spring

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, gpd, AFA) (Domestic, Irrigation, Stock, Etc.)

Quantity	Price	Total Revenue
0	10	0
1	9	9
2	8	16
3	7	21
4	6	24
5	5	25
6	4	24
7	3	21
8	2	16
9	1	9
10	0	0

Quantity	Use
1	1
2	2
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99	99
100	100

TOTAL QUANTITY USED.

(cfs, gpd, AFA)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

N/E $\frac{1}{4}$ N/E $\frac{1}{4}$, Sec. 1 Twp. 13 S Rge. 24 E B.M., County of Cassia

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and, give the date of the change. *Handbox with pipe to storage and distribution section*

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

Domestic use for Pomerville Ski Lodge

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization:



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

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DEC 13 2001

SOUTHERN REGION

December 11, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

FRED HAWKER
361 W 400 S
BURLEY ID 83318

EARL L WARTHEN
PO BOX 145
ALBION ID 83311

ATTN WOODY ANDERSON
ANDRWOOD, INC
dba POMERELLE
PO BOX 158
ALBION ID 83311

WILLIAM LEVERE
ZEKE ZIMMERMAN
USDA-FOREST SERVICE
2647 KIMBERLY RD EAST
TWIN FALLS ID 83301

NORMAN M SEMANKO ESQ
ATTORNEY AT LAW
410 S ORCHARD, STE# 144
BOISE ID 83705

ROGER D LING
LING & ROBINSON
PO BOX 396
RUPERT ID 83350

ATTN STEVE SPENCER
USDA-FOREST SERVICE
380 EAST PARK CENTER
SUITE #330
BOISE ID 83706

Re: Application for Permit No. 45-07745 and Transfer No. 66616 filed in the name of USDA-Forest Service

Gentlemen:

Pursuant to recent correspondence from Fred Hawker, **the Pre-hearing conference scheduled for January 29, 2002 has been CANCELLED and furthermore,**

Mr. Hawker has requested a delay in any further proceedings regarding the above referenced contested matters until **after March 20, 2002.**

Please indicate the dates you are available for a Pre-Hearing Conference on the enclosed calendars and return them to this office by December 21, 2001.

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

Very truly yours,

Allen D. Merritt, P.E.
Regional Manager

AM:MB

Enclosures

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 16th day of November, 2001.



Allen D. Merritt, P.E.
Regional Manager

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DEC 03 2001

Department of Water Resources
Southern Region

Mr. Merritt:

I had everything scheduled around the Nov. 26th Pre conference hearing. I was not notified by anyone of a change until I received your letter, rescheduling it for Jan. 29. We were scheduled to be gone until Mar. 20, and I won't be available for that date. I would appreciate it if you would reschedule it for when I'm here.

Thank you

Fred Hawken

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JAN - 4 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

Department of Water Resources

IN THE MATTER OF APPLICATION FOR TRANSFER)
NO. 66616)

USDA-FOREST SERVICE,)
Applicant)

EARL L. WARTHEN,)
Protestant)

AND)

IN THE MATTER OF APPLICATION FOR PERMIT)
NO. 45-07745)

USDA-FOREST SERVICE,)
Applicant)

EARL L. WARTHEN, FRED HAWKER)
Protestants)

NOTICE OF PRE-HEARING CONFERENCE

Source: Surface Water
County: Cassia

On January 05, 1998 the USDA-Forest Service, applicant, filed with the Department of Water Resources an application to transfer the public waters of the State of Idaho. On September 3, 1999 the USDA-Forest Service also filed with the Department of Water Resources an application to appropriate the public waters of the State of Idaho. The Department has received a protest against the approval of said applications from the above captioned protestants.

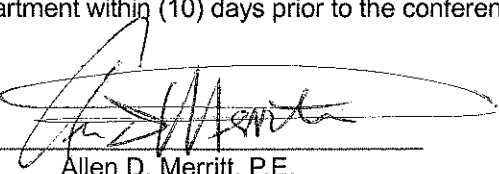
The Department has set the matter of protest for conference on **Thursday – April 18, 2002 in the Conference Room, USDA-Forest Service Building, 3650 South Overland Avenue; Burley ID commencing at 1:00 p.m.**

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 4th day of January, 2002.


Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 4th day of January, 2002 a true and correct copy of the foregoing Notice of Pre-Hearing Conference was forwarded with all required charges prepared, by regular U.S. Mail, to the parties listed:


Secretary

STEVE SPENCER
USDA-FOREST SERVICE
380 PARKCENTER-STE #330
BOISE ID 83706

ATTN WOODY ANDERSON
ANDRWOOD, INC
PO BOX 158
ALBION ID 83311

ZEKE ZIMMERMAN
USDA-FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301

ROGER D. LING
LING NIELSEN & ROBINSON
PO BOX 396
RUPERT ID 83350

EARL L. WARTHEN
PO BOX 145
ALBION ID 83311

FRED HAWKER
361 W 400 S
BURLEY ID 83318

NORMAN M. SEMANKO ESQ
ATTORNEY AT LAW
410 S ORCHARD, STE# 144
BOISE ID 83705

Allen! Please advise me of sales after Mar. 26
I will try to be flexible.

Fred

361 W 400 S

Fred Hawker
Burley Id.
83318

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DEC 27 2001

Department of Water Resources
Southern Region

14 Water Users AD500. 2003442744 P.01
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DEC 21 2001

Department of Water Resources
Southern Region

NORMAN M. SEMANKO
ATTORNEY AT LAW
410 S. ORCHARD, SUITE 144
BOISE, IDAHO 83705

FAX COVER SHEET

FAX TO:

Mary Baldwin

OFFICE:

DWR

PHONE:

736-3033

FAX NUMBER:

736-3037

DATE:

12-12-01

PAGE 1 OF

4

SUBJECT:

Application for Permit No. 45-07745
and Transfer No. 66616 (Forest Service)

FROM:

Norm Semanko (Earl Warthen)

NOTE:

I have marked out our
unavailable dates during March,
April and May, as requested.

PHONE: 208-344-6690
FAX: 208-344-2744

ROGER D. LING
BRENT T. ROBINSON

JASON D. WALKER
TIMOTHY J. SCHNEIDER
ASSOCIATES

LING & ROBINSON
ATTORNEYS AT LAW
615 "H" STREET
P. O. BOX 396
RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

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DEC 14 2001

Department of Water Resources
Southern Region

December 13, 2001

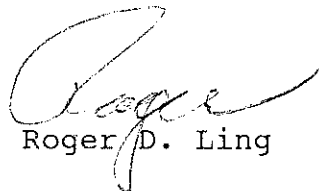
Allen D. Merritt, P.E.
Southern Region Manager
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Application for Transfer No. 66616
and Application for Permit No. 45-07745

Dear Allen:

Enclosed is a calendar with my available dates for the pre-hearing conference.

Very truly yours,


Roger D. Ling

RDL:jb

enc

RECEIVED

APR 22 2002

MEMO

FROM: Allen Merritt 

Department of Water Resources

DATE: April 19, 2002

TO: USFS (Pomerelle Ski Area) Transfer 66616 and application for permit 45-7745

SUBJECT: Pre-hearing conference

Yesterday I conducted a pre-hearing conference in Burley with all parties present. The USFS was represented by Randy Breamer and others. Andrwood was represented by Roger Ling with Brockway Jr. as consultant. Earl Warthen was represented by Norm Semanko (also Travis Thompson) with Terry Scanland as consultant. Leo Bell was represented by Pat Brown. Fred Hawker represented himself. There were numerous other interested parties at the conference which included community leaders, banking interests and also other water users. Estimated about 50 people since all did not sign attendance sheet.

Applicants and Andrwood explained applications involve planned expansion of the ski facility. There will be a new lodge built, new ski runs developed and some additional snow making equipment installed. (3 guns max 60 gpm/gun) Plans on file with FS. Three ponds are planned to be constructed to store 19 af of water to be used for snow making. New ponds will collect runoff and water from Ski Hill springs. Existing facility pumps water from Bennett Spr (Howell Creek drainage) and water from Ski Hill Spring to 60,000 gal storage vault. Estimated use per skier is 3 gpm/day.

Warthen issues are numerous impacts on watershed probably classed as public interest. Also injury to existing WR. Bell issues are injury to his and neighbors decrees. Hawker issues are injury to his WR and expansion of historic use. Watermaster commented that recent figures indicate that facility has moved from seasonal to more of a year round use which now impacts irrigators.

Issues related to impacts of sublimation of snow on new runs, diversion of runoff during irrigation season, expansion of use as number of skiers increase during ski season as well as during summer months.

Brockway study finds no impact or consumption (minimal). Scanland estimates 9 af depletion but does not have details of proposal.

Resolved that consultants would review with each other their calculations. Parties will continue to talk with mitigation a possibility. Parties will let me know by June 4th if they can resolve issues and layout schedule if hearing needed. If this goes to hearing will need a couple of days.

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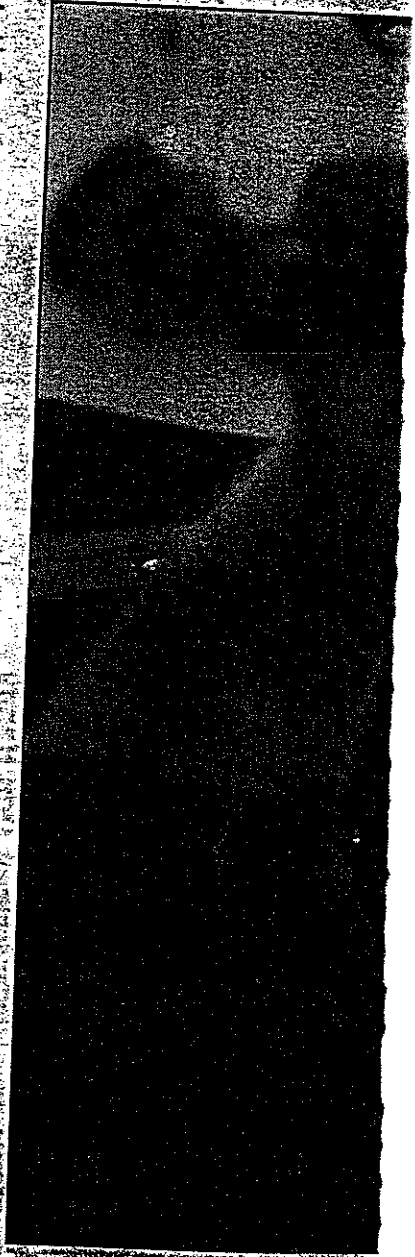
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High School - A competition
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join of fiddlers with names to
times the must play in group
to and without warning.
Preliminary competition for
the finals begins at 8 o'clock
Saturday morning at the high
school and continues all day
with the finals commencing at 7
p.m.

All events are open to the
public and free.
The event coordinator, Fidler
Ken Worthington, 66 of
Bellevue, a retired school
Please see FIDDLERS, Page B3

Archie Turner of Twin Falls performs with members of the Old Time Fiddlers Association Thursday at Atkinson's Market in Halley. The group met up with performers from all over the state for a practice performance all over town before the Old Time Fiddlers' State Contest begins today. The competition will run through Saturday.



Parties continue to address water rights

By Nate Johnson
Times-News Writer

BURLEY - There is still no permit in place to allow artificial snow to be made at Poinsett Mountain Resort, but the parties involved in a dispute about that issue may be closer to a resolution.

The parties agreed on a direction to a possible consensus at what Allen Merritt, southern regional manager of the Idaho Department of Water Resources, called the most heavily attended pre-hearing conference he has facilitated.

Thursday's conference in Burley could have led to a settlement or a hearing. Instead,

hydrologists and lawyers from both sides agreed to work to find if the water rights will negatively affect people who hold water rights downstream. They will also attempt to find whether the proposed manner of snowmaking would amount to a consumptive use of water. The parties will meet again before June 5 to try to reach an agreement acceptable to all.

"We want to exhaust all possibilities for settlement before we go to a hearing," said Randy Brainer, attorney for the U.S. Department of Agriculture.

The U.S. Forest Service has already approved an expansion plan for the ski area. In order to please see WATER, Page B3

Events mark interment camp an

By Robert Mayer
Times-News writer

TWIN FALLS - It's a celebration of the human spirit and of spring's arrival.

But it's also an educational remembrance of humanity's darker moments.

In commemorating the 60th anniversary of Japanese-American relocation and internment camps, events ranging from a baseball game to a cherry blossom festival will be offered in Twin Falls Friday and Saturday.

The idea is to both entertain and to raise awareness of what took place in the Magic Valley 60 years ago, said organizer Maya Lennon.

During World War II, the U.S. government rounded up hundreds of thousands of Japanese and Japanese-Americans in the

Marking 60 years

Twin Falls events planned to observe the 60th anniversary of Japanese-American relocation and internment

- Today
 - 5 p.m. - Commemorative baseball game at the College of Southern Idaho. In addition to a 21-gun salute, a former Hunt Camp resident will throw the first pitch.
- Saturday
 - 11:30 a.m. - Lunch at CSI, Taylor Building, Room 277.
 - 1 p.m. - Free presentation at the

name of national security. In the Magic Valley, more than 10,000 were kept at the Minidoka relocation center, also known as Hunt Camp.

Not much remains at the Jerome County site, now a national monument, but a restoration is planned, with

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HEIDI TUTTLE/TIMES-NEWS

Commerce subcommittee on energy and air quality. Abraham's first public defense of the Bush administration's recom-

new burial site for high-level nuclear waste, now stored at 131 around the country.

Water

Continued from B1

make that expansion profitable, Pomerelle needs to have the capability to make snow early in the season," said Woody Anderson, one of the owners of the resort.

To allow Pomerelle to make snow, the Forest Service applied for a water right and asked that an existing water right be transferred from domestic to commercial use. Some of the water from the transferred right would go to snowmaking and some would be used at a new lodge.

Two Cassia County men, Fred Hawker and Earl Warthen, objected to the applications, voicing concerns the new permits would decrease the amount of water that flows onto their lands. Another man with water rights on Howell Creek, Leo Bell, filed a motion of intervention against the applications.

Based on the information the Forest Service had gathered, Pomerelle's owners have determined the new water rights would not cause an injury to the rights of those downstream and the snowmaking will not consume water, said Roger Ling, attorney for Anderwood, the company that owns Pomerelle Mountain Resort. Rather, snowmaking would store the water on the mountain to flow downstream later.

When Bogus Basin and Sun Valley ski resorts applied for permits to make snow, Water Resources granted those applications because it determined snowmaking was not a consumptive use of water, Ling said.

The proposed snowmaking equipment would spray 19 acre feet of water onto the mountain-side using water from an existing diversion at Howell Spring and two or three new storage reservoirs, said Chuck Brockway, an engineer who has worked on the project. The snow would later melt and flow back down the creek.

"There's a lot more gory details, but if you do the water balance - all the plusses and minuses - you come out to a little bit of a net benefit to Howell Creek," Brockway said.

Brockway and Forest Service personnel have not calculated the amount of water that will evaporate off the reservoirs, said Pat Brown, an attorney representing Bell. Sun Valley and Bogus Basin did not have ponds in their snowmaking plans, Brown said.

If evaporation and other water losses resulting from the permits amount to a consumptive use of water, the Forest Service must provide some sort of mitigation or the applications cannot go forward, said Norm Semanko, Warthen's attorney. Water Resources has a moratorium on all new consumptive uses of

The water rights dispute

□ The plan - The owners of Pomerelle Mountain Resort have received permission from the U.S. Forest Service to expand the ski area. They are also seeking a new water right which will allow them to create artificial snow, which they say is needed as part of the expansion plan.

□ The water right - A new water right would actually be assigned to the Forest Service. That agency has also asked that an existing water right be transferred from domestic to commercial use. Some of the water from the transferred right would be used for snowmaking and some would be used to supply water to a new ski lodge.

□ The protests - Three men, Fred Hawker, Leo Bell and Earl Warthen, are concerned the changes in water rights and uses may decrease the water flowing off the mountain and onto their lands.

water, Semanko said.

If there is indeed some consumption of water involved in the new permits, the Forest Service and Pomerelle will consider mitigating the situation, Ling said.

Protesters also expressed willingness to find a mutually satisfactory agreement.

"If you can enlighten us so we are comfortable with the notion our water rights won't be injured," the protesters might drop the intervention, Brown said.

"I've got nothing against skiing, and if they can do this without reducing the flow, more power to them, but I see no reason to issue another license on a creek that's already over-licensed," Hawker said.

Hawker was also concerned about water the resort would use during the summer. Because water rights downstream are older than the resort's water rights, Pomerelle will be the first forced to shut off its pumps when there is not enough water to go around, Bramer said.

The increased use of water in relation to the expansion would lower water quality, Warthen said. "I could spend a month with you people trying to point out what I believe is abuse of our watershed," he said.

Most of Warthen's concerns, however, had to do with the environmental condition of the resort in general, rather than the water rights.

About 45 area residents attended Thursday's hearing, but hearing procedures did not allow the general public to comment on the issues.

Times-News writer Nate Johnson can be reached at the Mini-Cassia Bureau at 677-4042, Ext. 637, or by e-mail at njohnson@magicvalley.com.

ken in first-quarter fund-raising

etter postmarked that reality fully in ar that if I ignore y of a strong and Democrat candi at my own peril" to write off maxi- contributions from butors, Anthony w York and D.H. e Overmeyer of, because their ed. He also turned contribution from lene Tribe. d another \$97,000 interest political ittees to average onth from January ch. Last year when re-election effort in raised just over \$1 average of about th. who faces Dave oise in the May pri- other \$45,000 from special interest com- taking his total as filed no informa-

tion with the Federal Election Commission.

The cash cushion built up last year by Craig with \$845,000 in the bank on April 1. Blinks had \$145,000 and only because of his personal loan.

Still, his allies offered the financial report as evidence that his campaign has broad support and was not a self-financed political bid by a wealthy businessman, who now lives in Sun Valley.

His list of financial supporters is studded with political and other stars. Among them are: Vernon Jordan, former president of the National Urban League and adviser to former Presidents Clinton and Carter; Lloyd Cutler, former White House counsel in the Clinton administration; former Seagram's chief executive Edgar Bronfman; Teresa Heinz, widow of the former Republican senator from Pennsylvania who is now married to Democratic Sen. John Kerry of Massachusetts and has a home in Sun Valley; former Republican state Rep. M. Reed

Hansen of Idaho Falls; RCA entertainment director William Sarnoff, entertainer Barbra Streisand and actors Ben Stiller, Edward Norton and Timothy Dalton.

Blinks has already paid \$123,000 to Democratic consultant Bob Beckel, who worked in the Carter administration and was Walter Mondale's campaign manager in 1984. He has also spent \$85,000 on the television advertisement that has been airing recently and another \$21,000 on a poll.

Craig has spent over \$145,000 on direct mail solicitations like the one sent out earlier this month and another \$18,000 on other fund-raising strategies. He spent nearly \$300,000 on direct mail last year.

Facing Democratic business Walt Minnick in 1996, Craig went into debt spending \$2.8 million to win a second term with 57 percent of the vote. Minnick spent over \$2 million - half from his own pocket - to get just under 40 percent.

l over years of per- ise most requested ntinue to include ssom Special and nonball. contest has been at- tion since 1961. Robert E. Smylie a friend, the late w, of Fairfield, to tho's fiddlers to per-

form for the state's centennial celebration.

Now there are 10 districts in the state that keep fiddlin' alive, and to produce contestants for the national competition, which Idaho will host this year in Weiser in June.

The art of fiddlin' is an acquired skill, handed down by generations, and involves men,

women and children in virtually every walk of life.

Worthington said fiddlers as young as 3 years old have competed in contests. He said he believes 93-year-old Loretta Brandt, who lives in the St. Benedict's nursing home in Jerome, is the oldest active Idaho "fiddler," although she no longer travels to competitions.

learn calligraphy and origami.

While the events' first priority is people's enjoyment, Lemmon also wants it to serve an educational role, allowing the internments to serve as a cautionary tale.

"You don't want the same thing happening again to other people," she said. "It was a gross mistake."

Times-News writer Robert Mayer can be reached at 735-3231 or via e-mail at rmayer@magicvalley.com.

ational Park Service plans for the Hunt Also, a group of idren will present a

resentation on the follow the lunch at 1 om 108 of the Aspen The talk features ims, a Boise State professor, and the fore- rt on the Minidoka Rita Takahashi, a San ate University profes- piler of more than 400

Japanese-American oral histories.

Afterward, a bus will be provided to take people on a tour of the camp's barracks building at the Idaho Farm and Ranch Museum in Jerome as well as the original site of the Minidoka camp itself. Seating is limited, and a \$10 donation is requested.

The day will wrap up with a cherry blossom festival at Twin Falls City Park starting 5 p.m. Along with traditional dancing, drumming and martial arts, the public will have opportunities to

RE: Application for Permit No. 45-7745 & Application for Transfer No. 66616

PLACE: Conference Room, USDA-Forest Service Building, 3650 South Overland Avenue; Burley ID.

DATE: Thursday - April 18, 2002 at 1:00 p.m

CONFERENCE OFFICER: Allen D. Merritt

ASSISTED BY: None

Joint Pre-Hearing Conference
ROSTER OF ATTENDANCE

NAME	ADDRESS	REPRESENTING
Charles G. Brockway	2016 N. Washington Tr	Applicant
Bennie Smay	Albion Ida	Self
Scott Nannemeyer	3650 S. Overland	USDA Forest Service
Roger D. Eling	P.O. Box 396, Rurest ID	Andewood, Inc.
Les Kurnau	Box 548 Burley	
Elke Zimmermann	3650 S. Overland	Forest Service
Anthony F West	380 Parkcenter Blvd Suite 330	Forest Service
Steve Spencer	"	Forest Service
TOM GEARY	964 S 950E ALBION ⁸³³¹¹	SELF water district 45-F
DON GUENDERSON	P.O. Box 125 Albion	Water Master 45F
Mechelle McFarland	P.O. Box 638 Heyburn	Mini-Cassia Co. Gov.
Bob Egan	216 Church St. Burley	Bob Egan
Norman Kayman	1101 East 4th St.	Burley ID, Self
Susan Anderson	2330 Burton Ave	Mayor/Burley
JON ANDERSON	2330 Burton Burley	Mayor
Nick Rakic	420 W - 5th St	Farmer
Greg Betts	932 Sandy Glen Ln	Pomerelle Ski Patrol
John Surrows	Albion Ida	Pomerelle Ski Area
Off Chaburn	Albion	Chaburn Ranch
Mike Shinn	Burley	Timber-North
London Branson	2165 Overland Burley	Pine Tree Sports
JIGGS ELPHISON	336 S 600W HEYBURN	SUPER 8 MOTEL
Dean Asson	P.O. Box Heyburn	MINI-CASSIA CHAMBER
Glenn E. Egan	1659 Conant Burley	Self
Seneca Moorman	1352 Six S Ranch 6 Docks	Six S Ranch
Mike Ross	1352 Six S Ranch 6 Docks	Six S Ranch
Val L. Lockman	P.O. Box 543 Albion	Rodman Ranch

Name	Address	Representing
Kent Gunnell	Mkt + Main Albion Id.	D.L. Evans Bank
Paul Turner	724 E 500 S Burley	Self
MARK MITTON	2411 Boardwalk	Self
Fred Hawker	361 W. 400 S.	SELF
Norm Semanko	P.O. Box 2139 Boise 83701	Earl Wathen
Travis Thompson	P.O. Box 2139 Boise 83701	Earl Wathen
David Bell	HC 36 Box 25	Leo Bell
Leo Bell	HC 36 Box 46	Leo Bell
Pat Brown	Box 207 T.F	Leo Bell

Wally Anderson
 Mrs. Anderson
 Mr. Kempton
 Tony Scrutland
 Earl Wathen

Merritt, Allen

From: Merritt, Allen
Sent: Monday, April 01, 2002 4:30
To: Larsen, Dick; 'Joan Asson'
Cc: Young, Norm
Subject: RE: Need information

Dear Ms Asson:

The development or expansion of the Pomerelle Ski area is associated with two applications pending before the Department. Both applications have been filed by the USDA Forest Service. Both applications have been protested by various parties and are considered contested cases.

Application for Transfer 5194 proposes modification of a historic water right to include snow making. This application is protested by Earl Warthen of Albion. Mr. Warthen is represented by Norm Semanko, an attorney out of Boise.

Application for a new water permit No. 45-07745 proposes diversion and storage of water for snow making. This application is protested by Earl Warthen and Fred Hawker of Albion.

Andrwood, Inc has intervened into both of these contested cases and is represented by Roger Ling, an attorney from Rupert. Andrwood Inc. participation in these matters is in support of the applications.

Recently Leo Bell from Albion has petitioned to intervene into these contested cases. His petition will be considered in the next day or so. He wishes to intervene in objection to these applications.

Currently there is a pre-hearing conference scheduled for these matters on April 18 at 1:00 pm at the Forest Service building at 3650 South Overland Ave in Burley.

As you may understand, since these matters are considered contested cases before the department, no representative of the department should speak "for" or "against" the proposal. You may wish to contact the parties referenced above to see if they wish to speak at your meeting.

Allen Merritt
Southern Region Manager

-----Original Message-----

From: Larsen, Dick
Sent: Monday, April 01, 2002 3:26 PM
To: 'Joan Asson'; Merritt, Allen
Cc: Young, Norm
Subject: RE: Need information

Dear Ms. Asson:

Thank you for your email regarding a speaker dealing with potential water rights in the Pomerelle Resort area. I will forward your request to Allen Merritt, our Southern Region Manager, the IDWR region in which the Pomerelle area falls. He will respond directly to you.

Dick Larsen
Public Information Officer
Idaho Department of Water Resources

4/2/2002

1301 N. Orchard St.
Boise, ID 83706
Tel - (208) 327-7933

-----Original Message-----

From: Joan Asson [mailto:mcidcham@minicassiachamber.org]

Sent: Monday, April 01, 2002 1:42 PM

To: dlarsen@idwr.state.id.us

Subject: Need information

Hello,

I don't know if I came to the right place with regards to my request for information. I hope you will be able to direct me to the appropriate person or agency.

I am the Executive Director of the Mini-Cassia Chamber of Commerce, located in Heyburn. We have scheduled Woody Anderson from Pomerelle Mountain Resort to speak at our April member luncheon on the proposed future expansion of his ski area. The Chamber directors are excited about this expansion, however, we understand that Mr. Anderson's project has met with obstacles on the water rights that is included with this proposal. My directors would like to provide as much information on this expansion project as possible to the general Chamber membership to expose both sides of this issue. Do you know who I can contact to come speak at the Chamber membership luncheon regarding the other side of this issue? Please let me know as soon as possible because, due to the time limits. By the way, our luncheon is April 11th at noon. Waiting for your response.

Thank you,
Joan Asson
Executive Director
Mini-Cassia Chamber of Commerce
1177 7th Street
PO Box 640
Heyburn, Idaho 83336
208-679-4793
FAX: 208-679-4794

RECEIVED

APR - 5 2002

BEFORE THE DEPARTMENT OF WATER RESOURCES

Department of Water Resources

OF THE STATE OF IDAHO

IN THE MATTER OF PETITION TO)
INTERVENE IN PROTESTED)
APPLICATION FOR PERMIT NO.)
45-7745 AND APPLICATION FOR)
TRANSFER NO. 5194 IN THE NAME)
OF USDA FOREST SERVICE)

**ORDER GRANTING
PETITION TO INTERVENE**

On March 22, 2002, Leo Bell ("petitioner") submitted to the Department of Water Resources ("Department") a Petition To Intervene ("petition") as authorized in Rule of Procedure IDAPA 37.01.01350 (Rule 350) in the matter of Application for Permit No. 45-7745 and Application for Transfer No. 5194 both in the name of USDA Forest Service ("applicant").

The current parties (applicant, protestants &/or intervenors) to these contested cases did not file any motions opposing the petition as provided in IDAPA 37.01.01354 (Procedure Rule 354).

Since petitioner has shown sufficient direct and substantial interest in the above captioned matters, the Department should conditionally grant the petition.

ORDER

IT IS THEREFORE HEREBY ORDERED that the petition of Leo Bell requesting intervention in the above captioned matters is **GRANTED** conditioned as follows:

1. The petitioner shall not broaden the issues to be heard at hearing. The petitioner is limited to participate in the issue of "potential injury to existing water rights".
2. The petitioner's intervention and participation shall not be a basis for any delay or extension of time in the proceeding.

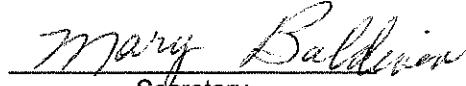
DATED 2nd day of April, 2002



Allen D. Merritt, PE
Pre-hearing Conference Officer

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of April, 2002 a true and correct copy of the foregoing Order Granting Petition to Intervene was forwarded with all required charges prepared, by regular U.S. Mail, to the parties listed:


Secretary

STEVE SPENCER
USDA-FOREST SERVICE
380 PARKCENTER-STE #330
BOISE ID 83706

ATTN WOODY ANDERSON
ANDRWOOD, INC
PO BOX 158
ALBION ID 83311

ZEKE ZIMMERMAN
USDA-FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301

ROGER D. LING
LING NIELSEN & ROBINSON
PO BOX 396
RUPERT ID 83350

EARL L. WARTHEN
PO BOX 145
ALBION ID 83311

FRED HAWKER
361 W 400 S
BURLEY ID 83318

NORMAN M. SEMANKO ESQ
ATTORNEY AT LAW
410 S ORCHARD, STE# 144
BOISE ID 83705

LEO BELL
1137 E 1000 S
ALBION ID 83311

Leo Bell
1137 E 1000 S
Albion, ID 83331
(208) 673-5372

RECEIVED

APR - 5 2002

Department of Water Resources

RECEIVED

MAR 22 2002

Department of Water Resources
Southern Region

5024662

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF APPLICATION	)	
FOR TRANSFER NO. 5194 AND	)	
APPLICATION FOR PERMIT NO.	)	
45-07745 IN THE NAME OF	)	PETITION FOR INTERVENTION
USDA FOREST SERVICE	)	
_____	)	

COMES NOW Leo Bell and petitions for an Order from the presiding officer granting Leo Bell intervention to become a party in the above proceedings, and in support of said petition, alleges:

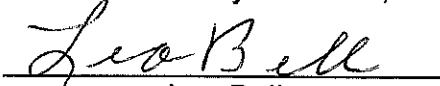
1. Leo (David) Bell, holds valid water right numbers A45-00320A and A45-00321A from Howell Creek with a priority of May 1, 1877 that is delivered through a common ditch know as the Brim Ditch, with Randy Brackenbury and Jim Kempton also having similar rights delivered in the same ditch system.
2. The primary source of our water comes from the South Fork of Howell Creek, which encompasses the Pomerelle Ski area. As there are no springs of any size in this area, the main source of water is snowmelt from the South Fork. When the snow is gone our water is gone. The streambed is dry very soon after the snow is gone.

3. Any development of water pursuant to the above listed applications will injure our existing water rights.

4. Although my rights are delivered by Water District #45-F, the withdrawal of protest by stipulation of Water District #45-F is not in my interest and was done without my consent.

WHEREFORE, petitioner prays for an Order granting petitioner Leo Bell, intervention as a party in the above-mentioned proceedings.

Dated this 21st day of March, 2002



Leo Bell

Enclosure: Filing Fee

CERTIFICATE OF MAILING

I hereby certify that on the 21st day of March 2002 a true and correct copy of the above and foregoing document was forwarded with all required charges prepared, by Regular U.S. Mail to the parties listed:

Zeke Zimmerman
USDA-Forest Service
2647 Kimberly RD East
Twin Falls, ID 83301

ATTN Steve Spencer
USDA-Forest Service
380 East Park Center
Suite #330
Boise, ID 83706

Earl Warthen
P.O. Box 145
Albion, ID 83311

Norman M. Semanko ESQ
Attorney At Law
410 S Orchard, Ste# 144
Boise, ID 83705

Chairman V Thomas Geary
P.O. Box 53
Albion, ID 83311

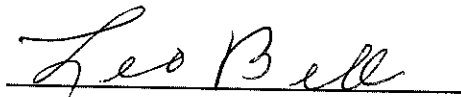
ATTN Woody Anderson
Andrwood, Inc
dba Pomerelle
P.O. Box 158
Albion, ID 83311

Roger D Ling
Ling and Robinson
P.O. Box 396
Rupert, ID 83350

Fred Hawker
361 W 400 S
Burley, ID 83318

Idaho Dep. Of Water Resources
1341 Fillmore Street
Suite # 200
Twin Falls, ID 83301

Dated this 21st day of March 2002.

A handwritten signature in cursive script, reading "Leo Bell", is written over a horizontal line.

Leo Bell



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 19, 2002

Leo Bell
1137 E 1000S
Albion, ID 83311

HAND DELIVERED

RE: Application for Transfer No. 5194 (66616) filed in the name of USDA Forest Service
Application for Permit No. 45-7745 filed in the name of the USDA Forest Service

Dear Mr. Bell:

Our office received one protest form filed against the above referenced applications on 3/18/2002 with a check for \$25.00. **Since the protest period ended 2/12/1998 for the transfer and 12/3/1999 for the application for permit , I must reject your protest and return the document and check to you.**

However, since other timely protests were received on these pending applications the Department's "Rules of Procedure" provides a means for intervention into contested cases.

A Petition for Intervention for each application must be filed with the Department along with the required \$25.00 filing fee for each petition. After review of any petition(s) filed the department may grant or deny the motion. Please also note that when filing a petition to intervene you must mail copies to all other parties to the case (Rule 301 and 302).

If you need a copy of these rules, please contact this office. The Rules of Procedure are also available on the Internet by using the IDWR Homepage at the following electronic address:

<http://www.idwr.state.id.us/apa/idapa37/0101.htm>

If you have questions about this process, please feel free to get in touch with us.

Sincerely,

Allen Merritt, PE
Southern Region Manager

AM:MB

Enclosure

*vault
file*

MEMO

FROM: Allen Merritt

DATE: April 19, 2002

TO: USFS (Pomerelle Ski Area) Transfer 66616 and application for permit 45-7745

SUBJECT: Pre-hearing conference

Yesterday I conducted a pre-hearing conference in Burley with all parties present. The USFS was represented by Randy Breamer and others. Andrwood was represented by Roger Ling with Brockway Jr. as consultant. Earl Warthen was represented by Norm Semanko (also Travis Thompson) with Terry Scanland as consultant. Leo Bell was represented by Pat Brown. Fred Hawker represented himself. There were numerous other interested parties at the conference which included community leaders, banking interests and also other water users. Estimated about 50 people since all did not sign attendance sheet.

Applicants and Andrwood explained applications involve planned expansion of the ski facility. There will be a new lodge built, new ski runs developed and some additional snow making equipment installed. (3 guns max 60 gpm/gun) Plans on file with FS. Three ponds are planned to be constructed to store 19 af of water to be used for snow making. New ponds will collect runoff and water from Ski Hill springs. Existing facility pumps water from Bennett Spr (Howell Creek drainage) and water from Ski Hill Spring to 60,000 gal storage vault. Estimated use per skier is 3 gpm/day.

Warthen issues are numerous impacts on watershed probably classed as public interest. Also injury to existing WR. Bell issues are injury to his and neighbors decrees. Hawker issues are injury to his WR and expansion of historic use. Watermaster commented that recent figures indicate that facility has moved from seasonal to more of a year round use which now impacts irrigators.

Issues related to impacts of sublimation of snow on new runs, diversion of runoff during irrigation season, expansion of use as number of skiers increase during ski season as well as during summer months.

Brockway study finds no impact or consumption (minimal). Scanland estimates 9 af depletion but does not have details of proposal.

Resolved that consultants would review with each other their calculations. Parties will continue to talk with mitigation a possibility. Parties will let me know by June 4th if they can resolve issues and layout schedule if hearing needed. If this goes to hearing will need a couple of days.

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

JUNE 25, 1980

U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE, FEDERAL BLDG.
324 35TH ST.
OGDEN UT 84401

RE: Claim No. 45-4114

Dear Claimant:

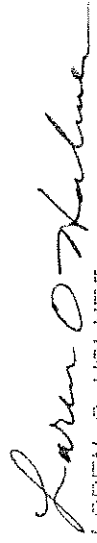
The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,


LOREN O. HOLMES
Southern Region Supervisor

Enclosure

MICROFILMED

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: J. E. Stanton
Right Number 45-4114 Applicant USA Forest Service

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS
INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO
THE CLAIMANT ALONG WITH THE APPROPRIATE COVER
LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☐ Exceptions processed.

By Larry D. Hansen Date 8-22-80

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By Maureen Date 8/26/80

MICROFILMED

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

45-4114-

U.S. DEPARTMENT OF AGRICULTURE

FOREST SERVICE, FEDERAL BLDG., 324 25TH ST., OGDEN, UT 84401

Source: SPRING tributary to BENNETT SPRINGS

Priority Date: 05/01/1965

Amount: 0.0150 CFS

Diversion Point: NENE Sec 01 T 13S R 24E, CASSIA Co.

Use: DOMESTIC (0.0150 CFS) from 01/01 to 12/31

Place of Use: NENE Sec 01 T 13S R 24E

Diversion Means: PIPE.

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301.

C. STEPHEN ALLRED

Director

Published 7/01 & 7/08.

RECEIVED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

JUNE 25, 1980

South Idaho Press
P.O. Box 190
Burley, Idaho 83318

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before JULY 18, 1980.

Yours truly,

Mary A. Hill
Secretary

Encl.

RECEIVED
JUN 25 1980



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

June 5, 1980

Jeff M. Simmon
Deputy Regional Forester for Resources
U. S. Forest Service
Federal Office Building
Ogden, Utah 84401

Dear Mr. Simmon:

A review of the attached Claim to a Water Right has turned up a discrepancy in the legal description. The claim shows the point of diversion and place of use in the NENE, Sec. 11, while the map shows the NENE Sec. 1. Please correct this error and return the claim to this office for further processing.

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

Sincerely,

James E. Stanton
Senior Water Resource Agent

JES:

Encl:

RECEIVED
JUN 11 1980

UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

324 25th Street
Ogden, Utah 84401

2540
JUN 12 1980

RECEIVED



Mr. James E. Stanton
Senior Water Resource Agent
Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

JUN 16 1980

Department of Water Resources
Southern District Office

Dear Mr. Stanton:

The discrepancy on the enclosed Claim to a Water Right has been corrected.

We are returning the claim to your office for further processing.

Adrian E. Dalton
(for) Deputy Regional Forester
Resources

Enclosure

6200-11 (1/69)

**SOUTH IDAHO PRESS
BURLEY, IDAHO**

AFFIDAVIT OF PUBLICATION

County of Cassia,)
) ss.

STATE OF IDAHO)

Brenda Cooper, being first

duly sworn, deposes and says that she is the

owner of the South Idaho Press, a daily newspaper published at Burley Idaho, in the county aforesaid and that the paper is of general circulation therein. Deponent further states that the printed notice attached hereto was duly published according to law in the regular editions of

The South Idaho Press for Two
consecutive weeks, commencing with the issue
dated July 1 1980, and ending
with the issue dated July 8, 1980.

Brenda Cooper

Subscribed and sworn to before me

this 10th day of July
1980.

James M. Peterson Notary Public

Cost of Publication \$16.97

Notary Fee

Total Cost \$16.97

NOTARY PUBLIC RESIDING AT
RUPERT, IDAHO. MY COMMISSION
EXPIRES JUNE 21, 1981

45-4114

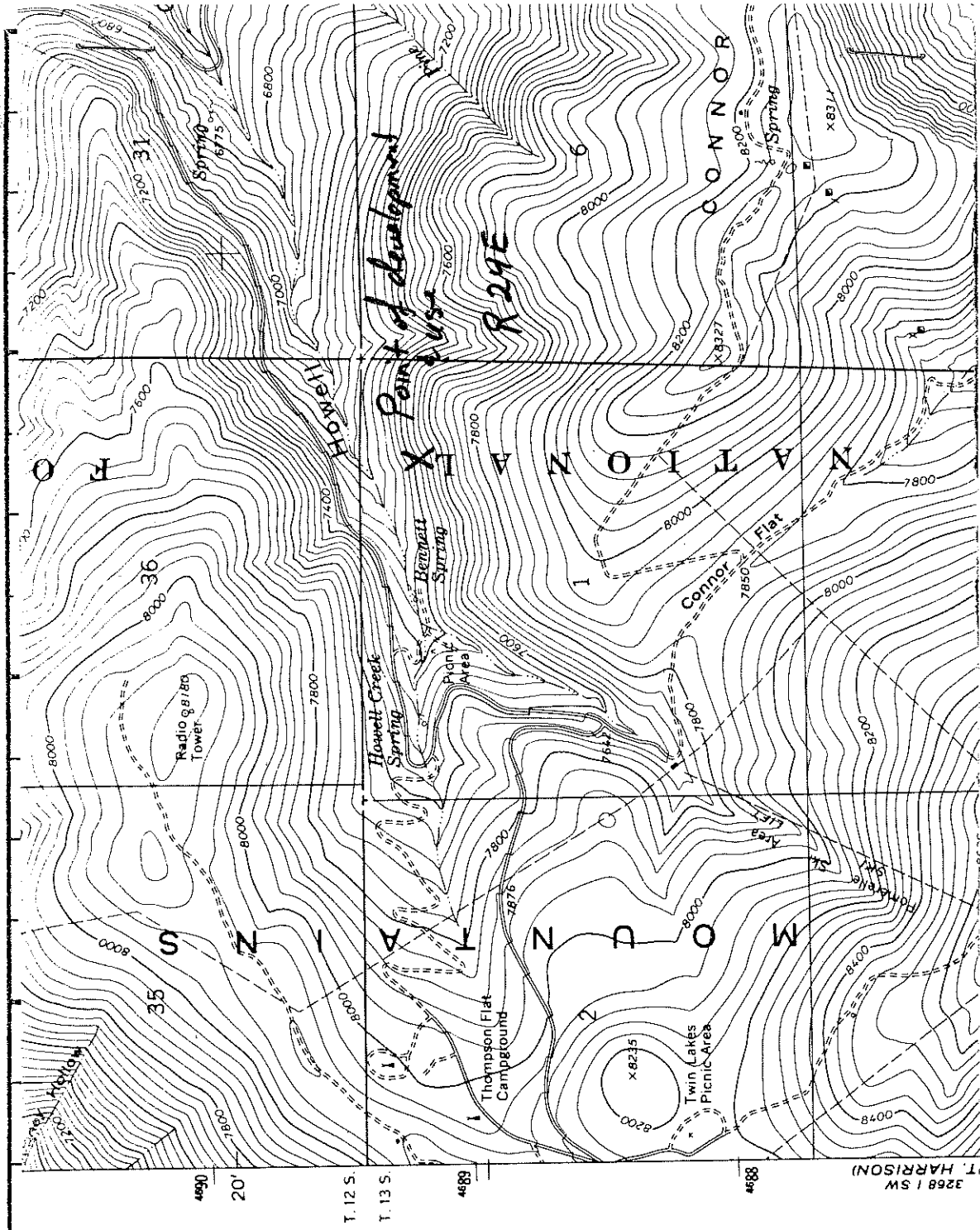
U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, FEDERAL BLDG., 324 25TH ST., OGDEN, UT 84401, Source: SPRING tributary to BENNETT SPRINGS, Priority Date: 05/01/1965, Amount: 0.0150 CFS, Diversion Point: NENE Sec 01 T 13S R 24E, CASSIA Co., Use: DOMESTIC (0.0150 CFS) from 01/01 to 12/31, Place of Use: NENE Sec 01 T 13S R 24E, Diversion Means: PIPE.

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301.

C. STEPHEN ALLRED
Director

Published in the South Idaho Press on July 1, 8, 1980.

RECEIVED
JUL 12 1980
Department of Water Resources
Southern District Office
MICROFILMED



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Weber) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge. **United States of America, Forest Service** *[Signature]*

Sworn to before me this 27 day of May, 19 80. Forester, Resources

Colleen Saxton
Notary Public
Residing at Ogden, Utah

My commission expires	6	19	\$3
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FOR DEPARTMENT USE ONLY

Received by	Date	Exception filed by:	Forwarded to	Date
Prelim. check by <u>managa</u>	<u>6/4/80</u>			
\$20.00 fee received by <u>managa</u>	<u>6-16-80</u>			
Published in <u>South side press</u>	<u>7-14-80 #16511</u>			
Dates <u>7/1</u> <u>+ 7/8/80</u>				

2

000010025

STATE OF IDAHO^{29 1980}
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

23
F-1
Calvin
C. C. C.
C. C. C.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

39401
(Zip Code)

Telephone No. _____

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) May 1, 1965
- A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) tributary to Beaverfoot Springs
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed: Spring

(cfs, gpd, AFA) (Domestic, Irrigation, Stock, Etc.)

(Both dates inclusive)

Quantity 2015 cfs Use Domestic

Period of Use From: 1-1-71 To Dec 31

Quantity	Use
1	1
2	2
3	3
4	4
5	5
6	6
7	7
8	8
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10	10
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Period of Use	From	To
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	1902	1903
	1903	1904
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	2026	

Quantity	Use
100	100
200	200
300	300
400	400
500	500
600	600
700	700
800	800
900	900
1000	1000
1100	1100
1200	1200
1300	1300
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Period of Use From _____ To _____

Quantity	Use
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Period of Use From _____ To _____

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Period of Use From _____ To _____

1-6 and 17-21

TOTAL QUANTITY USED.

- (5) A) Point of diversion: (Location of point where water is diverted from its source)

NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 1 Twp. 13S Rge. 24E B.M., County of Cassia

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Headbox with pipe to storage and distribution system

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

No. of acres

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

Demostrierte Per Pannelle Ski bogel

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization: _____

CONTINUED



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 20, 2001

ATTN STEVE SPENCER
USDA-FOREST SERVICE
380 EAST PARK CENTER
SUITE #330
BOISE ID 83706

RECEIVED

APR 25 2001

Department of Water Resources

Re: Application for Transfer No. 5194 (45-04114) & Application for Permit No. 45-07745

Dear Mr. Spencer:

This office acknowledges receipt of the Settlement Agreement on behalf of Marsh Creek Water District 45-F regarding the above referenced applications.

Since there were multiple protestants, the concerns of the other protestants will need to be addressed by the Department before final processing of the applications can be completed.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:mb

Cc: Certificate of Mailing

CERTIFICATE OF MAILING

I hereby certify that on the 23rd day of April, 2001a true and correct copy of the foregoing Acknowledgment Letter and Stipulation to Resolve Protests were forwarded with all required charges prepared, by regular U.S. Mail, to the parties listed:



Secretary

STEVE SPENCER
USDA-FOREST SERVICE
380 PARKCENTER-STE #330
BOISE ID 83706

CHAIRMAN V THOMAS GEARY
MARSH CR WATER DIST #45-F
PO BOX 53
ALBION ID 83311

WILLIAM LEVERE
ZEKE ZIMMERMAN
USDA-FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301

DON GUNDERSON WATERMASTER
WATER DISTRICT #45-F
PO BOX 125
ALBION ID 83311

EARL L WARTHEN
PO BOX 145
ALBION ID 83311

ATTN WOODY ANDERSON
ANDRWOOD, INC
PO BOX 158
ALBION ID 83311

NORMAN M SEMANKO ESQ
ATTORNEY AT LAW
410 S ORCHARD, STE# 144
BOISE ID 83705

ROGER D LING
LING NIELSEN & ROBINSON
PO BOX 396
RUPERT ID 83350

FRED HAWKER
361 W 400 S
BURLEY ID 83318

Re: TR# 5194 (66616)-45-04114 & App. for Permit No. 45-07745

United States Department of Agriculture

Forest Service
Boise Adjudication Team
Recreation and Lands
Intermountain Region

380 ParkCenter, Suite 330
Boise, ID 83706

Allen Merritt
Idaho Department of Water Resources
1341 Fillmore Street, STE 200
Twin Falls, ID 83301

Reply to: 2540

Date: March 22, 2001

RECEIVED

MAR 23 2001

Department of Water Resources
Southern Region

Dear Allen:

The Forest Service and Marsh Creek Water District 45F have been working together for several months to resolve their protests to transfer application no. 5194 for 45-04114 and application for permit no. 45-07745. We are pleased to report that a settlement has been reached. A Stipulation to Resolve Protests has been prepared and signed by the Counsel for the United States and the Chairman of Marsh Creek Water District 45F and is attached hereto.

We appreciate your patience in allowing us the time to work things out to the satisfaction of the parties. If you have any questions about this matter, please contact Steve Spencer in this office at 331-5944.

Sincerely,



MICHAEL E. COLLETTE
Team Leader
Boise Adjudication Team

Attachment

Cc: Marsh Creek Water District 45F
Roger Ling
Woody Anderson
Bill Levere
Zeke Zimmerman

RECEIVED

MAR 23 2001

Department of Water Resources
Southern Region

Names of Parties Filing Document:

UNITED STATES OF AMERICA

MARSH CREEK WATER
DISTRICT 45 F

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE UNITED)
STATES TRANSFER APPLICATION)
NO. 5194 FOR 45-04114 AND)
APPLICATION FOR PERMIT NO. 45-)
07745 IN THE NAME OF THE UNITED)
STATES FOREST SERVICE)

STIPULATION TO RESOLVE
PROTESTS

DESCRIPTIVE SUMMARY

This is a stipulation between the United States of America, acting on behalf of the United States Department of Agriculture, Forest Service (hereinafter "Forest Service"), applicant and Marsh Creek Water District 45 F (hereinafter "District") to resolve their protests to transfer number 5194 for water right number 45-04114 and to water right application number 45-07745.

STIPULATION

WHEREAS, it is Forest Service policy to file application for and secure water rights in the name of the United States in accordance with state law for water used by permittees on National Forest System Lands; and

WHEREAS, Pomerelle Ski Area (hereinafter "Pomerelle") is authorized by a special use permit on the Sawtooth National Forest as a recreation resort; and

WHEREAS, the Forest Service filed claim number 45-04114 for water use at Pomerelle in 1980; and

WHEREAS, the Forest Service approved a Master Development Plan in 1997 authorizing new developments at Pomerelle, including snow making that could include three new storage reservoirs with a combined storage capacity of 16.3 acre feet; and

WHEREAS, in the Master Development Plan the Forest Service restricted water diversions from existing surface sources to those already in use and claimed as water right no. 45-04114, as amended; and

WHEREAS, the Forest Service filed transfer application no. 5194 for 45-04114 to add snowmaking places of use; and

WHEREAS, the Forest Service filed application no. 45-07745 for a new water use related to snow making at Pomerelle as described in the application; and

WHEREAS, Marsh Creek Water District #45-F filed a protest to transfer application no. 5194 for 45-04114 and application no. 45-07745; and

WHEREAS, the parties recognize that Pomerelle Ski Area, as authorized by the Forest Service, is an important use of the National Forest System Lands and that continued availability and use of water at Pomerelle in accordance with State Law is in the best interest of the Forest Service, the District, the local community and the general public; and

WHEREAS, it is likely that snow making at Pomerelle will result in an increased snow pack and increase in water produced by snow melting in the spring and summer; and

WHEREAS, the possible increases in water available as a result of snowmaking activities at Pomerelle cannot occur if proposed development does not occur; and

WHEREAS, the water users within the District would be the primary beneficiaries of any increases in water production and that if the estimated benefits do not materialize, water rights would continue to be administered according to state law; and

WHEREAS, the District and the Forest Service wish to resolve the protest to the above referenced application for a water right without litigation expense and delay.

THEREFORE, the parties stipulate and agree as follows:

1. The use of water at Pomerelle must be in accordance with applicable state law and federal policy and that such water rights be held by the United States for use at Pomerelle.
2. The United States has complied with State Law by filing claims, applications for permit and applications for transfer with the Idaho Department of Water Resources for water uses at Pomerelle.
3. Domestic water use at Pomerelle during the summer at a caretakers residence and a bunkhouse be recognized as domestic and administered under state law as any other domestic water use at a residence. This includes that use would not exceed 13,000 gallons per day.
4. The developments approved by the Forest Service in the Master Development Plan for Pomerelle involve water use for snow making as anticipated in application no. 45-07745, specifically the construction of 3 storage reservoirs whose primary source of water will be surface water from melting snow.
5. That for purposes of administration, Pomerelle Spring (aka Ski Run Spring) be considered the primary source of water used at Pomerelle and that Bennett Spring be considered a secondary, backup or supplemental source.
6. The existing diversion of water under claim no. 45-04114 from Bennett Spring to the planned storage reservoirs shall be coordinated with and in accordance with the normal District irrigation season and existing water right priority dates.
7. With respect to number 6 above, when water is available or becomes available during the irrigation season the Water Master of the Water District will administer water rights and water deliveries making water available for approved uses at Pomerelle in accordance with 45-04114 and 45-07745.

8. In accordance with Idaho Code 42-701, appropriate devices be installed to measure the volume of water pumped into the planned reservoirs.
9. The Forest Service and Water District agree to coordinate and improve communications for their mutual benefit with respect to all existing and future (including new plans and proposals) water uses and water supply directly tributary to or effecting water sources within Marsh Creek Water District 45F.
10. The District agrees to withdraw with prejudice its protest to the United States application for transfer no. 5194 for 45-04114 and its protest to the United States application for permit no. 45-07745.
11. This stipulation was reached through negotiations for the purpose of resolving legal disputes, including pending litigation. All parties agree that no offers and/or compromises made in the course of the negotiations shall be construed as admissions against interest or be used in any legal proceeding.
12. All parties agree to bear their own costs and attorney fees in connection with this matter.
13. This stipulation was entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

PROTESTANT:

Thomas V. Geary 2/7/01
Thomas V. Geary Date
Chairman, Marsh Creek Water District 45F

CLAIMANT:

Randall J. Bramer 2/28/01
RANDALL J. BRAMER Date
United States Of America

RECEIVED
DEC 27 1999

Department of Water Resources

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF PETITION TO)
INTERVENE IN THE MATTER OF PROTESTED)
APPLICATION FOR TRANSFER NO. 5194)
IN THE NAME OF the USDA-Forest Service)
_____)
ORDER GRANTING
PETITION TO INTERVENE

On January 5, 1998 the USDA-Forest Service (applicant) filed with the Department of Water Resources (department) an Application for Transfer of Right No. 45-04114. A timely protest was filed by Earl L. Warthen, raising all issues described in §42-222 against the approval of the application.

On December 3, 1998 Andrwood, Inc dba Pomerelle (petitioner), by their legal counsel, Roger D. Ling, submitted to the department a petition for an order to intervene in the above described matter as authorized in Rule of Procedure IDAPA 37.01.01350 (Rule 350). An Order Granting Intervention to Andrwood, Inc. was granted on December 11, 1998.

On **December 14, 1999** Marsh Creek Water District #45-F submitted to the department a petition for an order to intervene in the above described matter as authorized in Rule of Procedure IDAPA 37.01.01350 (Rule 350). After reviewing said protestants' original protests and said petitioner's petition, it is found that the petitioner has shown sufficient interest in the matter without unduly broadening the issues.

ORDER

IT IS THEREFORE HEREBY ORDERED that the petition requesting intervention in any conference and/or hearing scheduled by the department in connection with the above captioned matter is **GRANTED to Marsh Creek Water District #45-F.**

Dated this 22nd day of December, 1999.



Allen Merritt
Hearing Officer

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of December, 1999 a true and correct copy of the foregoing Order Granting Intervention was forwarded with all required charges prepared, by regular U.S. Mail, to the parties listed:

Mary Baldwin
Secretary

USDA-Forest Service
380 EAST PARKCENTER
SUITE #330
BOISE ID 83706

NORMAN M SEMANKO
ROSHOLT ROBERTSON & TUCKER
PO BOX 1906
TWIN FALLS ID 83303-1906

ATTN WILLIAM LA VERE
USDA-FOREST SERVICE
2647 KIMBERLY RD
TWIN FALLS ID 83301

JIM CHATBURN CHAIRMAN
MARSH CR WATER DIST #45-F
PO BOX 53
ALBION ID 83311

ATTN RANDY BREMER
AJ BAT TEAM
380 PARK CENTER - STE 330
BOISE ID 83706

ANDRWOOD, INC
Dba Pomerelle
PO BOX 158
ALBION ID 83311

EARL L WARTHEN
PO BOX 145
ALBION ID 83311

ROGER D LING
LING NIELSEN & ROBINSON
PO BOX 396
RUPERT ID 83350

DEC 21 1999

Department of Water Resources
Suzanne Dwyer

Norman M. Semanko
ROSHOLT, ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, Idaho 83303-1906
Telephone: (208) 734-0700
Fax: (208) 736-0041
ISB# 4761
(nms99/idwr/notice rep)

Attorneys for Protestant Earl L. Warthen

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

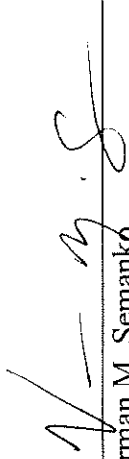
IN THE MATTER OF TRANSFER NO.) NOTICE OF REPRESENTATION
5194 AND LICENSE NO. 45-04114 IN)
THE NAME OF THE UNITED STATES)
OF AMERICA - USDA FOREST SERVICE))

The Idaho Department of Water Resources (IDWR), is hereby notified, pursuant to IDWR Rules of Procedure 200-205 (IDAPA 37.01.01.200 through IDAPA 37.01.01.205), that Earl L. Warthen will be represented in the above entitled matter by Norman M. Semanko, in place of James Annett. All documents should be served upon both Norman M. Semanko and Earl Warthen at the following addresses:

Norman M. Semanko	Earl Warthen
Rosholt, Robertson & Tucker	Box 145
P.O. Box 1906	Albion, ID 83311
Twin Falls, ID 83303-1906	

DATED this 21 day of December, 1999.

ROSHOLT, ROBERTSON & TUCKER

By: 
Norman M. Semanko

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CERTIFICATE OF MAILING

I hereby certify that on this 21 day of December, 1999, I served a copy of the foregoing NOTICE OF REPRESENTATION, by depositing same in the United States mail, postage prepaid, in an envelope, addressed to the following:

U.S. Forest Service
2647 Kimberly Road E.
Twin Falls, ID 83301

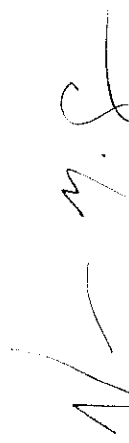
U.S. Forest Service
380 E. Park Center, Ste 330
Boise, ID 83706

Roger D. Ling
Ling, Nielsen & Robinson
P.O. Box 396
Rupert, ID 83350

Marsh Creek Water District #45-F
P.O. Box 53
Albion, ID 83311

James Annest
Attorney at Law
P.O. Box 686
Burley, ID 83318

Earl Warthen
Box 145
Albion, ID 83311


Norman M. Semanko

See undated copy

RECEIVED
for review 12/14/99
DEC 16 1999

Department of Water Resources
Southern Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED

DEC 07 1999

Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION)
OF TRANSFER OF WATER RIGHT)
5194 OF THE UNITED STATES)
DEPARTMENT OF AGRICULTURE-)
FOREST SERVICE.)
_____)

PETITION FOR INTERVENTION

Comes Now Marsh Creek Water District #45-F, Albion, Idaho, petitions for an Order from the presiding officer granting Marsh Creek Water District #45-F intervention to become a party in the above proceedings, and in support of said petition, alleges:

1. That Marsh Creek Water District #45-F, operates an irrigation district under the laws of the State of Idaho pursuant to (Idaho State Code (s)).
2. That the application for water permit described in Application for transfer of Water Right No. 5194 is an application for a transfer of water right that will be used by petitioner in the operation of said ski area, and is "unessential" to the operation of said ski area.
3. Marsh Creek Water District requests Petition For Intervention for the following Reasons:
 - A. That the Watermaster of Marsh Creek Water District #45-F or Marsh Creek Water District #45-F was never formally notified of the request of USDA Forest Service application for transfer of water right #5194 and did not have a chance to review said transfer.
 - B. Transfer #5194 is requesting an increase of .05 CFS from the current .01 CFS shown under the statutory claim shown for water right 45-04114.

Stanton, Jim

From: Stanton, Jim
Sent: Tuesday, December 14, 1999 11:30 AM
To: Merritt, Allen
Cc: Stanton, Jim
Subject: App. for Transfer #5194, USFS (Pomerelle Ski Area)

The Marsh Creek Water District filed a petition to intervene yesterday, but it was returned due to the lack of a filing fee. Today, Ron Sorensen came in and paid the fee. There was a copy of the petition in the file, which I annotated with the receipt information. Ron said that he would return the original petition as soon as he got it in the mail. He knows that the applicant has a week to object to the intervention. I have returned the file to the protest drawer.

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: 9022717

Date: 12/14/1999
Time: 11:16:00

Received
From: MARSH CREEK WATER DIST.

Type of Payment	Program A cct	Amount
PET. TO INTERVENE IN T. 5194 USFS	229 21 1155	25.00
CHECK	174	
	Total	\$ 25.00

Region: SOUTHERN

Signature: J. Stanton



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

December 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

JIM CHATBURN CHAIRMAN
WATER DISTRICT #45-F
PO BOX 53
ALBION ID 83311

Re: Application for Transfer No. 5194 (45-04114)-USDA (Forest Service)

Dear Mr. Chatburn:

This office received your Petition for Intervention on 12/07/99 regarding the above referenced application; however, the filing fee of \$25.00 was missing.

If you still wish to file your Petition for Intervention, please return it and a check or money order for \$25.00 immediately.

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

Sincerely yours,

Mary A. Baldwin
Administrative Assistant

Enclosure

COPY

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED

DEC 07 1999

Department of Water Resources
Southern Region

IN THE MATTER OF APPLICATION)
OF TRANSFER OF WATER RIGHT)
5194 OF THE UNITED STATES)
DEPARTMENT OF AGRICULTURE-)
FOREST SERVICE.)
_____)

PETITION FOR INTERVENTION

Comes Now Marsh Creek Water District #45-F, Albion, Idaho, petitions for an Order from the presiding officer granting Marsh Creek Water District #45-F intervention to become a party in the above proceedings, and in support of said petition, alleges:

1. That Marsh Creek Water District #45-F, operates an irrigation district under the laws of the State of Idaho pursuant to (Idaho State Code (s)).
2. That the application for water permit described in Application for transfer of Water Right No. 5194 is an application for a transfer of water right that will be used by petitioner in the operation of said ski area, and is "unessential" to the operation of said ski area.
3. Marsh Creek Water District requests Petition For Intervention for the following Reasons:
 - A. That the Watermaster of Marsh Creek Water District #45-F or Marsh Creek Water District #45-F was never formally notified of the request of USDA Forest Service application for transfer of water right #5194 and did not have a chance to review said transfer.
 - B. Transfer #5194 is requesting an increase of .05 CFS from the current .01 CFS shown under the statutory claim shown for water right 45-04114.

- C. Transfer of water right #5194 moves the .05 CFS requested on 45-04114 to a prior priority date of 5-1-65 for the additional .05 CFS requested.
- D. No existing water rights for the USDA Forest Service are on file with the Idaho Department of Water Resources showing that they have a water right out of the Bennett Springs tributary to Howell Creek drainage.
- E. Water District #45-F maintains there has been an illegal point of diversion in Bennett Springs which does not constitute a water right.

4. The address of petitioner is P.O. Box 53 Albion, Idaho 83311.

5. That intervention by petitioner will not disrupt these proceedings or prejudice any existing parties, or in any way unduly broaden the issues pending before the Department of Water Resources.

WHEREFORE, petitioner prays for an Order granting petitioner Marsh Creek Water District #45-F intervention as a party in these proceedings in denial of the Application of the USDA- Forest Service.

DATED this 6th day of December, 1999.

Marsh Creek Water District #45-F

By: 
Jim Chatburn
Chairman Water District #45-F

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of December 1999, I served copies of the foregoing Petition for Intervention upon:

Office of the General Counsel
United States Dept. of Agriculture
Forest Service
380 Park Center, Suite 330
Boise, Idaho 83724

Norman M. Semanko, Esq.
ROSHOLT, ROBERTSON & TUCKER
Attorneys at Law
P.O. Box 1906
Twin Falls, Idaho 83303-1906

Andrwood, Inc., d/b/a Pomerelle
P.O. Box 158
Albion, Idaho 83311

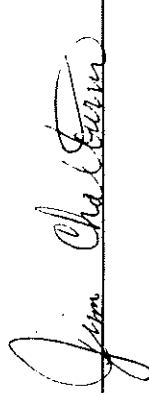
Earl Lavell Warthen
P.O. Box 145
Albion, Idaho 83311

Roger D. Ling
LING, NIELSEN AND ROBINSON
Attorneys at Law
615 H Street
P.O. Box 396
Rupert, Idaho 83350

Donald G. Gunderson
WaterMaster 45-F
P.O. Box 125
Albion, Idaho 83311

By depositing said copies in the United States mail, postage prepaid, in envelopes addressed to said parties at the foregoing addresses.

BY:


Jim Chatburn

Received by JE Stanton
Received Date: 12-14-99
Receipt No. S022717

BEFORE THE DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 15 1998

OF THE

Department of Water Resources

STATE OF IDAHO

IN THE MATTER OF PETITION TO)
INTERVENE IN THE PROTESTED)
APPLICATION FOR TRANSFER NO. 5194)
IN THE NAME OF USDA-FOREST SERVICE)

ORDER GRANTING
PETITION TO
INTERVENE

On January 05, 1998 the USDA-Forest Service, (applicant), filed with the Department of Water Resources (department) an application to transfer the public waters of the State of Idaho. On February 10, 1998, Earl L. Warthen, (protestant), filed a timely protest raising all issues described in §42-222 against the approval of the application.

On December 03, 1998 a petition for an order to intervene in the above described matter as authorized in Rule of Procedure IDAPA 37.01.01350 (Rule 350) was submitted to the department by Roger D. Ling, Attorney on behalf of Andrwood, Inc., d/b/a Pomerelle (petitioner).

After reviewing said protestant's original protest and said petitioner's petition, it is found that the petitioner has shown sufficient interest in the matter without unduly broadening the issues.

ORDER

IT IS THEREFORE HEREBY ORDERED that the petition of Andrwood, Inc. requesting intervention in any conference and/or hearing scheduled by the department in connection with the above captioned matter is GRANTED.

Dated this 11th day of December, 1998.



Allen Merritt
Hearing Officer

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of December, 1998 a true and correct copy of the foregoing Order Granting Petition to Intervene was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary Baldwin
Secretary

ATTN ED WALDAPFEL
USDA-FOREST SERVICE
2647 KIMBERLY RD EAST
TWIN FALLS ID 83301

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

ATTN RANDY BREMER
AJ BAT TEAM
380 PARK CENTER - STE 330
BOISE ID 83706

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

EARL L WARTHEN
PO BOX 145
ALBION ID 83311

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

JAMES ANNEST
PO BOX 686
BURLEY ID 83318

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

ANDRWOOD, INC
dba POMERELLE
PO BOX 158
ALBION ID 83311

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

ROGER D LING
PO BOX 396
RUPERT ID 83350

Hand delivered
U.S. Mail-Regular
U.S. Mail-Certified
Fax

☒
☐
☐
☐

ROGER D. LING
ROBERT M. NIELSEN
BRENT T. ROBINSON
BRENT C. TINGEY

LING, NIELSEN & ROBINSON

ATTORNEYS AT LAW

615 "H" STREET

P. O. BOX 396

RUPERT, IDAHO 83350-0396

AREA CODE 208
TELEPHONE 436-4717
FAX 436-6804

RECEIVED

DEC 04 1998

Department of Water Resources
Southern Region

RECEIVED

DEC 03 1998

Department of Water Resources
Eastern Region

Karl J. Dreher, Director
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402

Re: In the Matter of Application for Transfer No. T5194 of
the United States Department of Agriculture - Forest
Service, for Change of Water Right

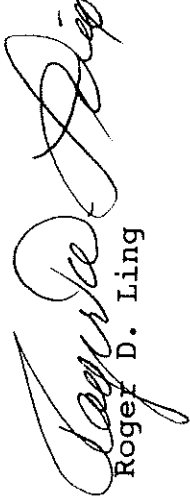
Dear Mr. Dreher:

Enclosed for filing is a Petition for Intervention with
regard to the above-captioned matter, which we are filing on
behalf of Andrwood, Inc., d/b/a Pomerelle. Also enclosed is
our firm's check in the amount of \$25.00 for the petition fee.

Very truly yours,

RDL: jkb

encs


Roger D. Ling

Receipt # E024655

RECEIVED

DEC 03 1998

Department of Water Resources
Eastern Region

ROGER D. LING
LING, NIELSEN & ROBINSON
Attorneys at Law
615 H Street
P. O. Box 396
Rupert, Idaho 83350
Telephone (208) 436-4717
Facsimile (208) 436-6804

Attorneys for Andrwood, Inc.
d/b/a Pomerelle

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR TRANSFER NO. T5194 OF THE)
UNITED STATES DEPARTMENT OF)
AGRICULTURE - FOREST SERVICE,)
FOR CHANGE OF WATER RIGHT.)
_____)
PETITION FOR INTERVENTION

COMES NOW Andrwood, Inc., d/b/a Pomerelle, and petitions
for an Order from the presiding officer granting Andrwood, Inc.
intervention to become a party in the above proceedings, and in
support of said petition, alleges:

1. That Andrwood, Inc., d/b/a Pomerelle, operates a ski lift and resort under the name of Pomerelle, pursuant to a permit issued by the United States Department of Agriculture, Forest Service.
2. That the water right acquired as described in the Forest Service Amended Notice of Claim, Identification No. 45-4114, is the water right used by petitioner in the operation of said ski area, and is essential to the operation of said ski area.
3. That Transfer Application No. 5194 relates to said water right claim filed by the USDA - Forest Service, and such

PETITION FOR INTERVENTION

1 Transfer Application is necessary to petitioner in the economic
2 operation of said ski area pursuant to its permit with the Forest
3 Service.

4 4. That petitioner and its predecessor-in-interest have
5 historically used the water right claimed by the Forest Service
6 herein referred to, and petitioner seeks to obtain approval of the
7 Application for Transfer if such application is required to
8 accommodate the use of the water for snowmaking purposes, which use
9 is and constitutes an integral part of any ski facility.

10 5. That no formal hearing or pre-hearing conference has
11 been set by IDWR in regard to these transfer proceedings.

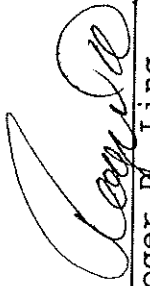
12 6. The address of petitioner is P. O. Box 158, Albion,
13 Idaho 83311.

14 7. That intervention by petitioner will not disrupt
15 these proceedings or prejudice any existing parties, or in any way
16 unduly broaden the issues pending before the Department of Water
17 Resources.

18 WHEREFORE, petitioner prays for an Order granting
19 petitioner Andrwood, Inc. intervention as a party in these
20 proceedings in support of the Application of the Forest Service.

21 DATED this 2nd day of December, 1998.

22 LING, NIELSEN & ROBINSON

23 By: 

24 Roger D. Ling
25 Attorney for Andrwood, Inc.
26 d/b/a Pomerelle
27

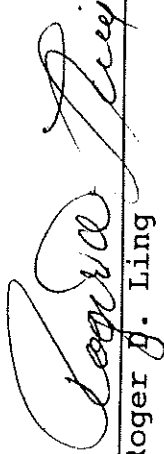
CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of December, 1998,
I served copies of the foregoing *Petition for Intervention* upon:

Randall J. Bramer
Office of the General Counsel
United States Dept. of Agriculture
Forest Service
380 Park Center, Suite 330
Boise, ID 83724

Earl L. Warthen
P. O. Box 145
Albion, ID 83311

by depositing said copies in the United States mail, postage
prepaid, in envelopes addressed to said parties at the foregoing
addresses.


Roger G. Ling



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 20, 1998

James Annest
PO Box 686
Burley, ID 83318

Randy Breamer
AJ Bat Team
380 Park Center, Suite 330
Boise, ID 83706

Earl Warthen
PO Box 145
Albion, ID 83311

Ed Waldapfel
Sawtooth National Forest
2647 Kimberly Rd East
Twin Falls, ID 83301

RE: CANCELLATION OF PRE-HEARING CONFERENCE
Protested Application for Transfer #5194

Gentlemen:

Based on my understanding that all parties involved in the above referenced matters have agreed that the pre-hearing conference scheduled for December 1, 1998 be vacated and it is your desire to continue further informal negotiation in an effort to resolve the protested matters; **I do hereby cancel the pre-hearing conference scheduled for December 1, 1998.**

It is my understanding that rescheduling of a conference in the latter part of January may be necessary. I will contact the parties prior to rescheduling if necessary.

Thank you for your continuing efforts to resolve this matter. If you have questions please contact me at my office.

Sincerely,

Allen Merritt
Southern Region Manager

RECEIVED

NOV 02 1998

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

Department of Water Resources

IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 5194

NOTICE OF
PRE-HEARING CONFERENCE

USDA-FOREST SERVICE,

Applicant

EARL L. WARTHEN,

Protestant

SOURCE: Springs
Tributary to Howell Creek
COUNTY: Cassia

On January 05, 1998 the USDA-Forest Service, applicant, filed with the Department of Water Resources an application to transfer the public waters of the State of Idaho. The Department has received a protest against the approval of said application from the above captioned protestant.

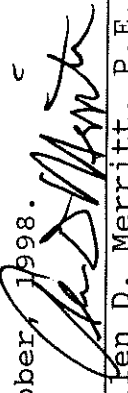
The Department has set the matter of protest for conference on **Tuesday-December 1, 1998 at 10:00 a.m.** in the University of Idaho Conference Room 2, Cassia County Extension Office, 1451 Overland; Burley, ID.

The purpose of the conference is to formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

The conference will be held in accordance with Chapter 2, Title 42, of the Idaho Code and the adopted Rules of Practice and Procedure of the Department of Water Resources.

The conference will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 30th day of October, 1998.


Allen D. Merritt, P.E.
Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 30th day of October, 1998 a true and correct copy of the foregoing Notice of Pre-Hearing Conference was forwarded with all required charges prepared, by the method(s) indicated below, to the parties listed:

Mary Baldwin
Secretary

ATTN ED WALDAPFEL
USDA-FOREST SERVICE
2647 KIMBERLY RD EAST
TWIN FALLS ID 83301

Hand delivered _____
U.S. Mail-Regular x _____
U.S. Mail-Certified _____
Fax _____

ATTN STEVE SPENCER
AJ BAT TEAM
380 PARK CENTER - STE 330
BOISE ID 83706

Hand delivered _____
U.S. Mail-Regular x _____
U.S. Mail-Certified _____
Fax _____

EARL L WARTHEN
PO BOX 145
ALBION ID 83311

Hand delivered _____
U.S. Mail-Regular x _____
U.S. Mail-Certified _____
Fax _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

Department of Water Resources

RECEIVED

MAR 16 1998

March 13, 1998

ATTN ED WALDAPFEL
USDA-FOREST SERVICE
2647 KIMBERLY RD EAST
TWIN FALLS ID 83301

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: APPLICATION FOR TRANSFER NO. 5194 (45-04114)

Dear Mr. Waldapfel:

Enclosed is a copy of a protest filed against the above referenced application.

The Department suggests you contact the protestant(s) directly to determine the exact nature of the protest(s) and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

CC:
ATTN STEVE SPENCER
AJ BAT TEAM
380 PARK CENTER - STE 330
BOISE ID 83706

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR TRANSFER ISSUES

Section 42-222, Idaho Code, identifies the following potential issues that the department can consider in connection with an application for transfer:

1. Will the proposed transfer injure other water rights?
2. Will the proposed transfer constitute an enlargement in the use of the original right?
3. Is the proposed transfer in the local public interest, where local public interest is defined as the affairs of the people in the area directly affected by the proposed use?
4. Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The applicant has the initial burden of proof for issues 1, 2, and 4 above and must provide evidence for the department to evaluate these criteria. The initial burden of proof on issue 3 above lies with both the applicant and protestant as to factors of which they are most knowledgeable and cognizant. The applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a pre-hearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement or make settlement offers, schedule hearings, establish procedure at hearing and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. The department may issue a "pre-conference statement order" which requires response to the inquiries.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon request and the payment of the cost of reproducing the tape. The hearing likely will be conducted by a hearing officer appointed by the Director rather than by the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director. Parties may by written stipulation waive the right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer. As part of the conference a date may be set by which exchange of exhibits and witness lists must occur.

EFFECT OF FAILURE TO APPEAR AT A CONFERENCE OR HEARING

Failure to appear at the time and place set for a conference or hearing by the applicant or protestant(s) may allow the department to dismiss without prejudice the protest(s) or the application. Any and all cost incurred by reason of such non-appearance may be assessed against such non-appearing party.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within (10) days prior to the hearing.



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

March 13, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

EARL L. WARTHEN
PO BOX 145
ALBION ID 83311

RE: APPLICATION FOR TRANSFER NO. 5194 (45-04114)

Dear Mr. Warthen:

Your protest against the approval of the above referenced application has been received and a copy has been sent to the applicant with the suggestion that he contact you directly to determine the exact nature of the protest and, if possible, to resolve the matter without action by the Department.

The attachment to this letter describes the issues which the Department must consider in taking action on an application. It also gives a brief description of the conference and hearing procedure followed by the Department in resolving protested applications.

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

Very truly yours,

Allen D. Merritt, P.E.
Southern Region Manager

AM:MB
Enclosure(s)

*copy, Resources
Date*

STATE OF IDAHO DEPARTMENT OF WATER RESOURCES NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Notice of Proposed Change of Water Right No. T# 5194

a. Also held in question; Amended Notice of Claim to a Water Right - Civil Case Number: 39576; Ident # 45-4114

1. Matter being protested Earl Lavell Warthen

2. Name of protestant Earl Lavell Warthen

3. Protestant's representative for service (If different than protestant)

I don't think any; but if needed their will be.

4. Service mailing address Box 145 3 miles S. E. Albion, Idaho 83511

5. Service telephone no. Home 673-5385 Work 673-6418

6. Basis of protest (including statement of facts and law upon which the protest is based)

My basis for this protest is that this continued abuse of our watershed by the United States Forest Service for commercial use is and only will continue to impact water users, their rights and others within the State of Idaho brought on by these transfers and claims. The laws which I base by protest are sections 42-222 also 42-501 Idaho Code.
This transfer will also impact Matter in Permit # 45-07642

(additional pages may be attached to describe the nature of the protest)

7. What would resolve your protest? For The State Department to Water Resources to limit and allow correction to United States Forest Service of their original adjudication claim prior to amended claim #A45-04114 of D.O.S or D2 CES and supplement it needed from their now questionable point of diversion at Bennett Springs and a Use Period of Sept 15 to March 15.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 7th day of February, 19 98.

REGIM


FEB 10 1998
PROTESTANT

Department of Water Resources
Southern Region

PROTESTANT'S REPRESENTATIVE

SUPPLEMENT TO NOTICE OF APPEAL
POMERELLE SKI AREA MASTER DEVELOPMENT PLAN

TO: CHRISTOPHER L. PYRON
UNITED STATES OF AGRICULTURE
FOREST SERVICE
INTERMOUNTAIN REGION
324 25TH STREET
OGDEN, UTAH
84401-2310

APPELLENT: Earl Lavell Warthen
P.O. Box 145
Albion, Idaho 83311
208-673-5385
208-673-6418

FILE CODE: 1570-1
#98-04-00-0085

This Supplement to Notice of Appeal is brought pursuant to 36 CFR 215.

The basis of this Supplement is the availability of additional information received after the date upon which Appellant was to submit the Notice of Appeal. Specifically, the Supplement provides certain contradictory information supplied by the U.S. Forest Service regarding water information, which Appellant does desire to include in paragraph 5 of the Notice of Appeal, but which Appellant did not receive until subsequent to the Appeal filing date of January 5th, 1998. Appellant does submit the following Exhibits in support of the untimely Supplement filing:

Exhibit A: South Idaho Press publication of legal notice of January 26th, 1998
Exhibit B: Amended Notice of Claim to a Water Right

Appellant does submit that the information contained in the Amended Notice of Claim to a Water Right is inconsistent with the recitals of the Finding of No Significant Impact. The Finding, to which the Appellant has filed an appeal, finds at Appendix AA, Warthen, paragraph 1(c) that "the Forest Service has no evidence that Pomerelle is built on a spring" The contrary indication is made at paragraph 5 of Exhibit B.

Appellant submits that the additional information and contrary indication of the Forest Service should be considered on appeal to compel the review of the Finding of No Significant Impact and the manner in which the Finding was prepared, and reverse the decision below.

Respectfully Submitted

RECEIVED

FEB 10 1998

Department of Water Resource
Intermountain Region

EARL LAVELL WARTHEN



United States
Department of
Agriculture

Forest
Service

Intermountain
Region

324 25th Street
Ogden, UT 84401-2310

File Code: 1570-1
#98-04-00-0085

Date: **JAN 22 1998**

Mr. Earl Lavell Warthen
Box 145
Hwy 77, 3 miles SE
Albion, ID 83311

CERTIFIED MAIL - RETURN
RECEIPT REQUESTED

Dear Mr. Warthen:

We have received your December 26, 1997 appeal of Forest Supervisor William P. LeVere's decision to authorize the expansion of the Pomerelle ski area on the Sawtooth National Forest. In accordance with your request, enclosed is a copy of your appeal which shows the date received in this office.

The appeal was received in a timely manner and will be processed in accordance with the provisions of 36 CFR 215. Vern Fleisher is the Appeal Reviewing Officer (ARO) for this appeal. By February 9, he will review the appeal record and forward it to me with a written recommendation on the disposition of the appeal.

The Responsible Official, Forest Supervisor LeVere, will forward the decision documentation to me by January 23. Mr. LeVere will contact you and offer to meet and discuss resolution of the issues raised in your appeal. This meeting must be held on or before January 23.

I will issue a written decision or otherwise give notice to you concerning the disposition of this appeal by February 23.

Implementation of this project may not occur for 15 days following the date of appeal disposition.

Questions regarding the processing of this appeal should be directed to Stacey Grimes, Appeal and Litigation Staff, at 801-625-5764.

Sincerely,

CHRISTOPHER L. PYRON
Appeal Deciding Officer
Deputy Regional Forester

Enclosure



**IN THE GENERAL ADJUDICATION
RIGHTS TO THE USE OF WATER FROM
SNAKE RIVER BASIN WATER SYSTEM**

CIVIL CASE NUMBER: 39576

Ident. Number

Date Received

Receipt Number

AMENDED

RECEIVED

NOTICE OF CLAIM

OCT 28 1997

TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

Department of Water Resources
Southern Region

Type or print clearly

United States of America
Sawtooth National Forest

Phone (208) 737-3200

2647 Kimberly Road East
Twin Falls, Idaho

Zip 88301-7976

mailing Address

Date of Priority (Only one (1) per claim) May 1, 1965

Source of water supply (a) Two unnamed springs locally known as
Pomerelle or Ski Run Spring and Bennett Spring
which is tributary to (b) Howell Creek

Location of existing point of diversion is: Township 13 South Range 24 East Section 11

NW 1/4 of NE 1/4 of NE 1/4, Govt. Lot, B.M., County of Cassia

Additional points of diversion if any: NW 1/4 of NE 1/4 of NW 1/4 of Section 1, see attached remarks

1. If instream flow, beginning point of claimed instream flow is:

ownership Range Section 1/4 of 1/4 of 1/4

Govt. Lot B.M., County of

ending point is: Township Range Section 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. The first water systems for this use were:
1) Pomerelle Spring collection system. All gravity feed beginning with perforated pipe to an onsite headbox, then by 2" pipe continuing down to the Lodge. (2) At the same time a second spring near the parking lot was collected into a headbox and pumped up to the lodge. Later parking lot expansion resulted in filling this location with boulders and gravel for an enlarged parking lot and accomplished change in point of diversion to Bennett Spring in 1976.

Applicable provide IDWR Water Right Number _____ Decree _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

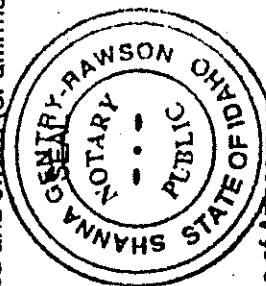
nature (s)
By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled
show you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not XX
wish to receive and pay a small annual fee for monthly copies of the docket sheet.
Number of attachments _____

Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true,
except.
nature of Claimant (s) William P. DeVan Date 10/28/97
_____ Date _____

Organizations: I do solemnly swear or affirm that I am Forest Supervisor Title _____
Sawtooth National Forest Organization _____
in the space below as Forest Supervisor of Sawtooth National Forest
Title _____ Organization _____
the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent William P. DeVan
Title and Organization Forest Supervisor-Sawtooth National Forest Date 10/28/97

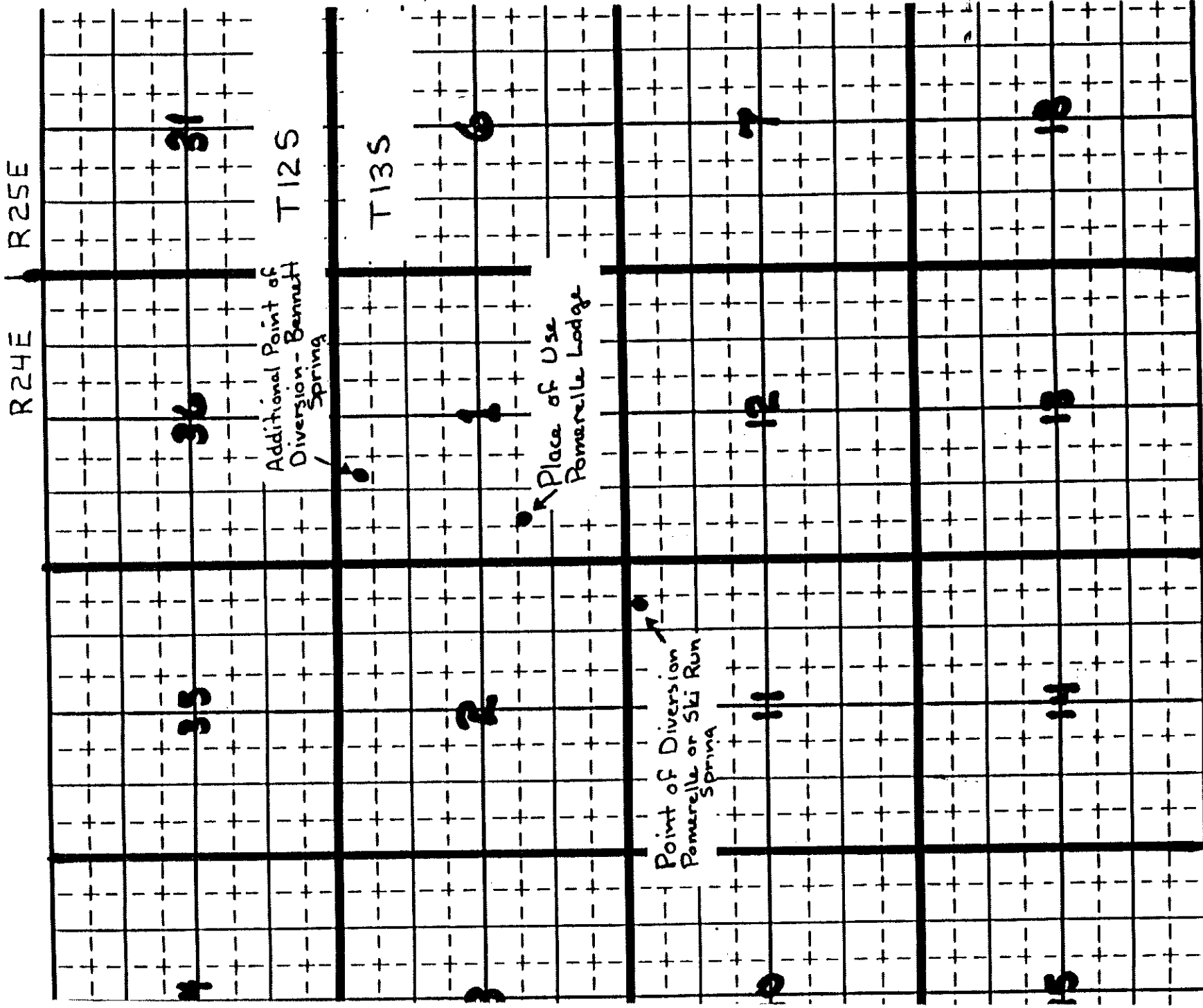
State of Idaho (or affirmed) before me this 28th day of October 19 97
I, Shanna Henry-Rawson, SS.
Twin Falls



My Commission Expires 5/15/2003
Please Print Name
I, Randall J. Bramer, will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
be mailed to me at the address listed below.

Randall
380 E. Parkcenter, Suite 330, Boise, ID 83706 (208) 387-0835
10/27/97

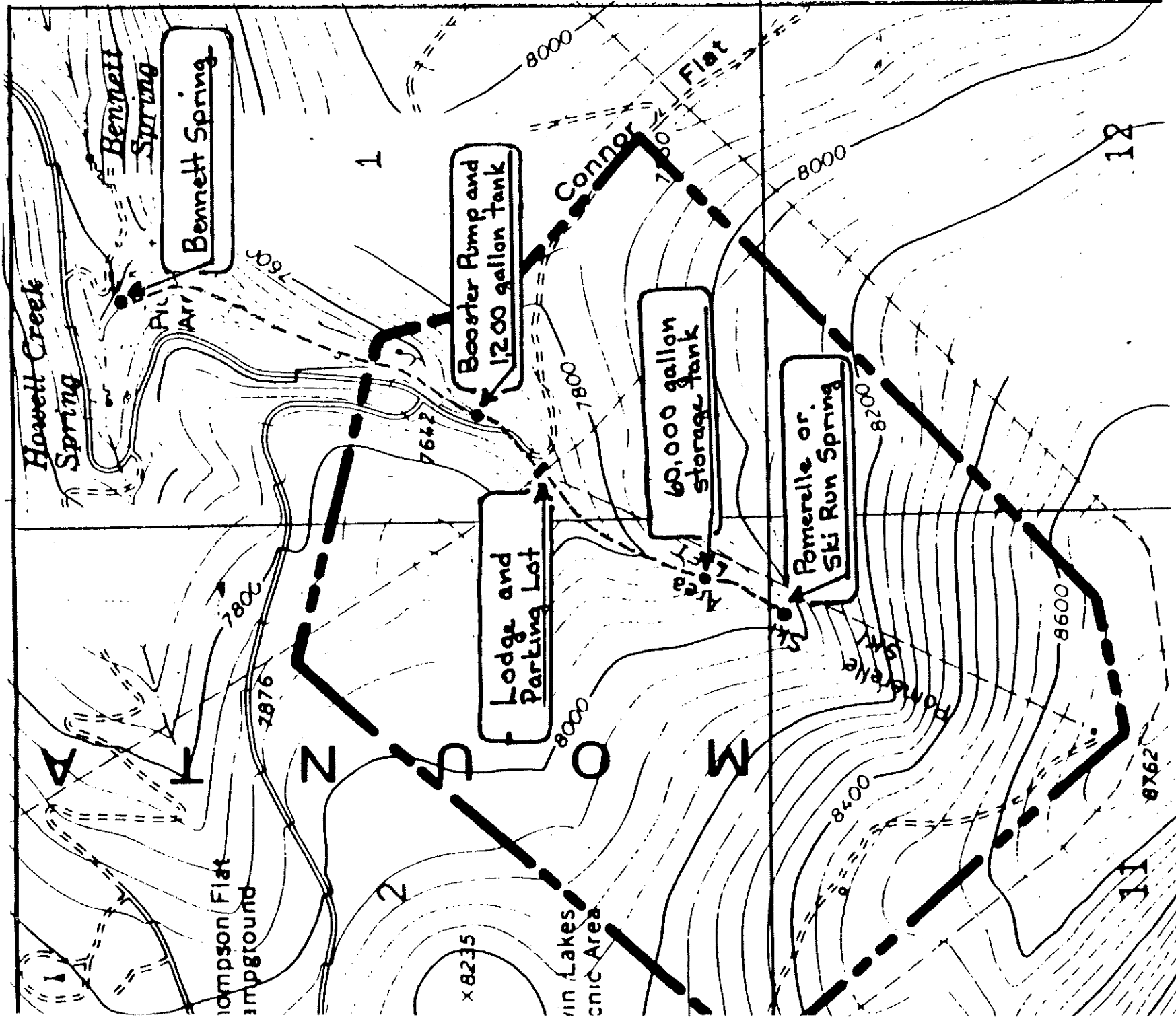
ches equals 1 mile



POMERELLE WATER CLAIM
WATER RIGHT NUMBER 45-04114

Additional information and remarks to the amended notice of claim to a water right acquired under state law.

1. Number 3 (a) needs to read: 2 unnamed springs locally known as Pomerelle or Ski Run Spring and Bennett Spring. The spring in Section 11 is locally known as Pomerelle or Ski Run Spring. The spring in Section 1 is between springs identified on the USGS topographic map as Howell Creek Spring and Bennett Spring. The spring being claimed as a source and point of diversion is not either spring shown on the USGS map (see accompanying map), but is nevertheless also known as Bennett Spring. This information may need to be in REMARKS or OTHER INFORMATION NECESSARY TO ADMINISTER THE WATER RIGHT.
2. Number 4 a needs include the following information pertaining to the additional points of diversion. The NE NW of Section 1 is actually 48.1 acres and properly described by government survey as Lot 3 of Section 1. Applying traditional survey templates or overlays on this section yields the NW NE NW of Section 1.
3. Additional information about the diversions: The 1976 works collect water from Bennett Spring into a 4 foot diameter by 6 foot tall fiberglass tank. Water is pumped approximately $\frac{1}{2}$ mile up to a 1200 gallon tank in the NWSW Section 1, approximately $\frac{1}{8}$ mile below the lodge. A booster pump conveys water through an iodine disinfection system to either the distribution system around the lodge or through the original 2 inch galvanized pipe up to the 60,000 gallon storage tank.
4. Commercial use at Pomerelle Ski area consists of use at the lodge, including 175 seat restaurant, kitchen, restrooms, ski rental service, ski patrol headquarters with first aid facilities, and a ticket office. In addition there is also a managers residence, employee bunkhouse, maintenance shop and outside irrigation of approximately 2 acres of grounds and associated landscaping. The area has an average visitor use of 350 daily and peak use of 1,000 daily.





United States
Department of
Agriculture

Forest Service
Sawtooth National Forest

Supervisor's Office
2647 Kimberly Road East
Twin Falls, Idaho 83301
(208)737-3200

File Code: 1950

November 21, 1997

Dear Winter Sports Friends:

I am pleased to announce my decision extending new opportunities to Pomerelle Ski Area. Because you have expressed an interest in Pomerelle and how it is managed, I am sending you a copy of the Decision Notice and Finding of No Significant Impact.

The Decision provides for extending the term of the ski area Special Use Permit, allows for expansion of the Permitted Area and approves new developments for the continued safety and satisfaction of a growing skier/snowboarder population. At the same time, the Decision protects the natural resources of the area by limiting the withdrawal of water from Howell Creek.

If you have questions about this decision, or would like additional information, please contact Terry Fletcher at Sawtooth National Forest, 2647 Kimberly Rd. East, Twin Falls, ID 83301, 208-737-3224 or Pete Peterson, Burley Ranger District, Sawtooth National Forest, 3650 So. Overland Ave., Burley ID 83318, 208-678-0430.

Sincerely,

Bill LeVere

Bill LeVere
Forest Supervisor

enclosure



Caring for the Land and Serving People

Decision Notice
and
Finding of No Significant Impact

Pomerelle Ski Area Master Development Plan
Burley Ranger District, Sawtooth National Forest
Cassia County, Idaho

It is my decision to approve Alternative D, the Forest Service Proposed Action Alternative. The Alternative includes expansion of the Special Use Permit boundary, provides for development by Andruwood Corp., of new lodge and parking facilities, installation of snowmaking equipment and water storage facilities, installation of new lifts and tows and development of additional runs, improvement of timber stand conditions, expansion of the night skiing operations, modification of existing runs, construction of non-motorized trails and operation of the complete facility as a year round resort.

Pomerelle will be required to submit detailed plans of any earthwork or major structure for Forest Service approval prior to initiating any disturbance or construction. Water quality of Howell Creek and its tributaries will be maintained by strict adherence to the standards of the Clean Water Act of 1977 and the associated rules administered by the Idaho Department of Health and Welfare, Division of Environmental Quality. Erosion control plans will be a required part of any major earthwork project.

Rationale

Evaluation of the potential effects of the Proposed Action has determined that it would have minimal impact to the environment. Although limited in the amount of water withdrawn from Howell Creek for snowmaking or other purposes, the Alternative will meet the Proponent's minimum need for producing snow.

This Alternative meets the directives, standards and guides of the Forest Land and Resource Management Plan. Selection of this Alternative avoids incurring any additional impacts to resident fisheries before better population and habitat information can be gathered and considered.

The initial scoping as well as comments received in response to the pre-decisional Environmental Assessment indicate general support for the proposal among local residents, businesses and resort patrons.

On-site searches for Threatened, Endangered, or Sensitive plant or animal species have found that none exist within the project area. Biological Assessments/Evaluations of the effects of the proposed action on Threatened, Endangered or Sensitive animals and plants have declared that there would be no effect on such species.

Mitigations and Monitoring

To assure that Howell Creek is not degraded by activities of the ski area I will require that Andruwood continue to monitor the discharge of water from the lower parking area and the culverted drainage system and coordinate with the Department of Health and Welfare, Division of Environmental Quality on further actions needed to protect Howell Creek. Additionally, I will encourage Andruwood to demonstrate their protective activities through environmental and cultural education opportunities at the proposed Learning Center for both summer and winter programs.

To assure that loss of vegetative productivity and acceptable minimums, erosion control plans will be required for all ground disturbing activities. The Permit Administrator will monitor successful implementation of all protective measures identified.

To minimize disruption of opportunities for snowmobile activity I will require that Andruwood identify a route near the east end of the current parking area to provide safe, effective access from the snowmobile parking area to Connor Ridge.

Alternatives Considered

The No Action Alternative, Alt. A., considered continuation of the current activities and developments with only increases in use as might be applicable to the existing operation.

The Proponent's Proposal, Alt. B., considered expanding the permitted area by approximately 65 acres, developing a new complex of lodge, parking, ski school facilities, improving timber vegetation in conjunction with modifications to the ski runs, expanding the night lighting system, and installation of a snowmaking system which would require up to 150 gals/min. to be pumped from Bennett Spring. Operation of the resort for summer activities would include development of a system of non-motorized trails, use of lifts to support hiking and bicycling and lodge services for conferences, arts, and other public and private events.

Alternative C, titled Reduced Snowmaking Alternative was generated to examine withdrawing less water from the Bennett Spring/Howell Creek watershed during a time period which might conflict with critical spawning needs for brook trout. It would maintain all provisions of Alternative B, but limit the water use to no more than 60 gal/min., introduce a series of water storage reservoirs and would therefore allow for lesser quantities of snow to be made.

The Forest Service Proposed Action Alternative, Alt. D is also similar to Alt.C except that it would limit the use of water from Bennett Spring/Howell Creek to no more than the volume currently pumped, approx. 20 gal/min.

Scoping And Public Involvement

In March, 1996, the Sawtooth National Forest initiated public involvement in this project by making formal public announcement and issuing a Scoping Document which summarized the Proposed Master Development Plan and requested public input. From that effort the Forest received 121 letters. The following issues were identified from that response:

1. Conflict with existing water rights might occur
2. Concern for increased use of the Howell Canyon road was expressed
3. Need for increased recreation opportunity in addition to winter activities.
4. Concern was expressed for forest health
5. Possibility of conflict between the boundary expansion of the area and current snowmobile use was expressed.

These issues were used to refine the Master Plan to that which was examined in the pre-decisional Environmental Assessment (EA).

During the public review of the pre-decisional EA, nine individuals responded. The questions raised and responses to them are contained in Appendix AA to the EA (attached).

FINDING OF NO SIGNIFICANT IMPACT

It is my determination that the effects described in the pre-decisional Environmental Assessment of the Pomerelle Ski Area Master Development Plan do not constitute significant impact. The noted effects will be local in nature, affect relatively few people, do not concern historic resources nor other critical areas, would not impact any listed Threatened, Endangered or Sensitive plant or animal species, would not establish any specific precedent, and would not contribute to any cumulative significant impact.

The installation of the Learning Center complex will disturb only limited areas of soil and vegetation. The manipulation of timber stand components will result in long term enhancement to the area esthetics as well as wildlife habitat. The watershed of Howell Creek can be protected. The installation of snowmaking can be accomplished without increasing risk to resident fisheries. Local economies and the regional skiing market will benefit by the continuation of a needed resource.

This decision is subject to appeal pursuant to 36 CFR 215.7. A written Notice of Appeal must be postmarked within 45 days after the date this notice is published in the TIMES-NEWS, TWIN FALLS, IDAHO. The Notice of Appeal should be sent to, USDA, Forest Service, Intermountain Region, ATTN: Appeals Deciding Officer, 324 25th Street, Ogden, Utah 84401. (801)-625-5605. > *Copies of stamps & dates*

Appeals must meet content requirements of 36 CFR 215.14. For further information on this decision, contact Terry Fletcher, Sawtooth National Forest, 2647 Kimberly Rd. East, Twin Falls, Idaho 83301, or phone (208) 737-3224.

If no appeal is received, implementation of this decision may occur on, but not before, 5 business days from the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

Bill Levere

BILL LEVERE
FOREST SUPERVISOR
SAWTOOTH NATIONAL FOREST
2647 KIMBERLY RD. EAST
TWIN FALLS, ID 83301

11/21/97
DATE

Comments Received During Public Review and Forest Service Responses

City of Burley

- 1) Is it possible to increase the reservoir capacity to capture run-off in October, November, December period as suggested in 4.3 Alt D.?
- The reservoirs proposed would be pond-type structures rather than tank-type installations. Run-off could be captured from snow melt in the spring season or pumped from Bennett Spring. Several sites have been identified which could support such developments.

V. Bloch

- 1) "The number and variety of runs are, we feel, sufficient for intermediate and "neophyte" skiers for the foreseeable future."
- Pomerelle anticipates needing to provide service to an expanding skier market in the local area. Maximizing the use of the permitted area is thought to be preferable to developing a new area.
- 2) "Except for removal of dead timber, we would not approve of cutting live timber in order to widen runs or/and create "crossovers". "...is unnecessary and could cause problems of congestion at the points of intersection."
- The silvicultural examination which recommends removing some of the live timber is targeted at reducing existing insect and disease problems. Failing to deal with these existing problems could soon destroy the timber stands altogether. Loss of whole stands could eliminate skiing on substantial portions of the area. Small areas of run widening are intended to accommodate the anticipated increase in skier use. Much of this activity would occur at the intersections of runs to address the congestion question.

Fowler

- 1) Doesn't feel brook trout should be sacrificed for skiing.
- The intention of Alt. D, the Forest Service Proposed Action Alternative is to retain the current population of brook trout while at the same time allow the ski area to take advantage of seasonally available water opportunities for snowmaking.

R. Smver

- 1) "...I feel that the added business will help all the business in Albion... This area is (in my opinion) in a much distressed condition and any help in generation more business is greatly welcomed."

Augmentation of local business is seen as a positive effect from the proposed improvements at Pomerelle.

Idaho Dept. of Fish and Game

- 1) "There is no fish or wildlife mitigation defined in the Alternatives or in the Environmental Consequences section, yet, impacts to fish and wildlife habitat are identified within each action alternative. We recommend fish and wildlife mitigation be developed for action alternatives prior to a decision on the proposed action."

No specific impacts to either fish or terrestrial wildlife species have been associated with the present level of use and development. Changes in the terrestrial habitat are anticipated to be minor in nature and are not

expected to result in measurable effects to current populations. The Proposed Action Alternative is designed to avoid creating any impact to fisheries. Mitigation of these circumstances is not required. Opportunities to enhance terrestrial wildlife habitat during timber management activities, such as snag retention or avoidance of critical nesting seasons, can be included in project plans.

- 2) "We believe you need to evaluate at least the affects of increased hiker and mountain bikes on the soils, hydrology, and wildlife resources. There also needs to be a discussion on the potential for conflicts between sportsmen and hikers/mountain bikers in the fall."

Use of the permitted area by new activities has been examined. We do not anticipate that hiking or mountain biking on developed trails will produce unwarranted effects. Proper locations and design will be reviewed prior to installation of trails. Such developments occur routinely in Forest environments without noticeable effect. We do not anticipate that any wildlife species will be displaced by this new use. Pomerelle Ski Area has for years been closed to the use of firearms because of the inherent risk to ski area personnel and the potential for damage to ski area equipment. This closure will be continued.

- 3) "We found no significant discussion concerning the cumulative effects of this action. The proposed increase in use during the summer and winter, expansion of the facility coupled with the 1992 Howell Canyon Forest Health and Vegetation Management Decision, past and continued livestock grazing management, and the newly paved road to the top of Mt. Harrison need to be evaluated as cumulative effects on the environment."

Effect of the Proposed Action and other Alternatives has been described as inconsequential for most all resource concerns. Accumulation of these minimal effects is also thought to be of very limited proportion. Effects on wildlife populations and habitats is described as "negligible". Grazing, although active in the same area as the ski area, is not being addressed in this decision. Pomerelle's proposal to expand both summer and winter programs is in direct response to the anticipated growth in public use in Howell Canyon due to the paving of the Howell Canyon road. Providing needed public services is thought to be a preferred outcome rather than leaving the user unattended.

Brockway Engineering

- 1) Provided additional information regarding flow of Howell Creek. Letter on file in the project record.

The review of hydrology input appears to be correct and is reasonable. The difference in water level caused by a withdrawal from the creek of 60 GPM during low flow would be very small, probably in the order of 0.01 feet. This change would not be readily visible in most places. However, this amount is still about 8% of the projected minimum flow, and the reduction could result in a larger proportion of streambed being left bare or pools being effectively eliminated. Further study is needed before the actual effect on fish habitat can be determined. In the absence of such information, only the theoretical position can be asserted.

- 2) The FS fails to give reasoned analysis of tradeoffs when administering a "multiple-use" forest region.

management have been analyzed and Standards for management are declared in that document.

Warthen

1) "Present and future growth of Pomerelle will have effects on Water District 45-F Marsh. Have witnessed the following:"

- a) Presently the area has no sewage treatment facilities...and if treated would leach into Bennett Sp. waters and those of the water district.... also that which Pomerelle consumes for its own water supply.
Pomerelle does treat it's sewage by means of State approved septic tanks and drain fields. No evidence of contamination is identified with this system.
- b) Presently contaminants around the existing shop and parking are a threat to water quality.
Uncertain as to what materials are being addressed as contaminants. Pomerelle does routinely police it's area and has installed containments around their fuel storage as a precautionary measure.
c) ...the area is built on a spring or water recharge area.
Although springs are known to exist in the surrounding area, the Forest has no evidence that Pomerelle is built on a spring.
- d) Machine snow packing and summer slope grooming drive frost deeper into surface soil which affects runoff and recharge ability.
There is no evidence that frost depths have been influenced by either winter grooming of snow or summer grooming of ski runs.
- e) Further development will increase disruption of forest growth as well as surface and subsurface soils.
Minor disturbances of vegetation and soils are anticipated with this development. Appropriate measures will be taken to minimize effects.
- f) Adding snowmaking equipment will effect ground water recharge, add to flooding during thaws in early fall, winter or spring.
While snowmaking may add to the ground water recharge, there is no correlation with flood effects.
- g) Stock water users and other consumptive and non-consumptive users will be effected.
Water for livestock will continue to be available from Pomerelle Spring. Livestock now water in un-restricted fashion in most of Howell Canyon.
- h) This area was given as Minidoka Bird Sanctuary. Yearly use of this area is having affect on those populations, bringing about deterioration of forest and watershed. You can see this in the abundance of pine-beetles.
There is no known connection between the condition of the forest and bird populations in this area. It is uncertain what effect the title of Minidoka State Bird Sanctuary may have on this situation.
- i) Remember "Typhoid Mary". You can see that in the grave markers.
The Sawtooth National Forest is not acquainted with "Typhoid Mary".

2) New Lodge septic system would be in addition to continuing problems of the existing septic system.

Present considerations for septic sewer system design would not link the existing with the proposed new installation. No new "problems" are anticipated and no existing problems have been identified.

- 3) Pomerele lays on "Fissured aquifer"... may be associated with underground beds of peat and decaying vegetation.....
Discussions of "fissured aquifers" and "underground beds of peat and decaying vegetation" do not appear relevant in this geological setting.
- 4) Discolored snow plowed from road tends to undermine mountain snowpack. These discolored snows consist of oil base, litter, sands, gravels, salts. This type of activity will only continually degrade the watershed and fisheries of Howell Cr.
- Recent on-site inspection did not demonstrate injurious effect of salts nor of unusual amounts of sands. A minimal amount of litter was observed.
- 5) Monitoring of water quality for 1 year is short evaluation.
One year is indeed a short period for monitoring a stream. Little effect, either positive or negative, can be determined in so little time. Continuing to monitor the stream would be worthwhile.
- 6) The continuous use of slopes by ski activity, machine packing, and grooming, impacts vegetation in spring and summer months leading to deterioration of these open clear cuts.
The open groomed ski slopes are better vegetated, have better soil protection, less water runoff and surface erosion from wind and water than the other adjacent slopes in the watershed.
- 7) Fall line runs lack site characteristics to control snow or water temperatures and run-off rates. Thus creating little ground water recharge and adding to excessive erosion. Glaciation has produced many areas of shallow soils and rock outcrops - areas of low to moderate resiliency and highly susceptible to compaction and erosion from loss of vegetation.
Same as 6) above. There is no evidence of glacial activity within the ski area itself. Glacial activity is evident at higher locations of Mt.Harrison.
- 8) Bald and golden eagles do occur in the project area.
Habitat for bald eagles does not occur in the project area. Random sightings of transient birds may be possible.
- 9) Native artifacts have been observed in this area and other parts of Mt. Harrison.
Native artifacts may well exist in this area. No resources which would qualify this area for nomination to the National Register of Historic Places have been identified in the project area.
- 10) Catch basins for water storage on a yearly basis would interfere with other prior water rights in District 45F by this storage for snow making. The valid water right #45-04114...in the amount of .02 CFS or 9 gpm domestic use would be too insufficient to maintain all of what is called for in the Environmental Assessment of the Pomerele Ski Resort Master Development Plan.

11) The following are comments to issues not addressed in the environmental assessment:

- a) Will this expansion propose problem with the fact that this area is a(n) Idaho State Bird Sanctuary.

All lands and most resources within the project area are administered by the Sawtooth National Forest. The name "State Bird Sanctuary" has no significance in managing these resources.

- b) Will this expansion continue to limit hunting to only the permittee and not the general public - In reference to keep out sign posted during hunting season.

Pomerelle Ski Area has been closed to use of firearms for many years to provide protection to ski area workers and equipment. The closure is expected to continue.

- c) Will this expansion take business away from those that deal in those that are mentioned in the E.A. - Because these business's pay private property taxes that support local government along with schools that support the ski area.

Pomerelle Ski Area pays taxes just as any other business. In addition, a portion of the fees paid by Pomerelle to the Forest Service, for use of the land, is returned to the county in lieu of other property tax revenues.

- d) Will the expansion cause conflict(s) between skiers on snowmobilers. In reference to: Monitoring and Evaluation Report for the Sawtooth National Forest = 1991-1995 Page2 top left paragraf (sp).

Pomerelle Ski Area and the Mt. Harrison Snowmobile Club consulted early in the planning process to resolve potential conflicts of use areas. Provision is made for a route through the Ski Area permit to Conner Ridge.

PART 1**6. General Information:**

- a. Description of diversion system Water from Pomerelle Spring is conveyed to 60,000 gal. storage tank and water from Bennett Spring is pumped into a 1200 gal. tank and then to the 60,000 gal. storage tank. Water is then piped to the lodge and related buildings, and will be pumped into snowmaking nozzles for snowmaking.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? Yes ☒ No ☐ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

N/A**d. Remarks:**

Existing water supply would be used for snowmaking when necessary during the period of use. All snow, upon melting, would provide runoff to the same water course which receives a portion of its water supply from the springs.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 45-04114

STAGE: STATUTORY CLAIM

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
DOMESTIC	01/01 to 12/31	0.01 CFS
<u>SOURCE</u>	<u>TRIBUTARY OF</u>	
SPRING	BENNETT SPRINGS	

Priority: 05/01/1965

LOCATION OF POINT(S) OF DIVERSION:NENE , Sec. 1, Township 13S, Range 24E
CASSIA CountyPLACE OF USE: DOMESTICTWN RGE SEC
13S 24E 1 NENECONDITIONS/REMARKS:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 45-4114 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☒ Other federal domain

- 3. Source of water** Pomerelle and Bennett Springs tributary to Howell Creek
- 4. Date or priority** May 1, 1965

5. Water is used for the following purpose:

amount .06 cfs for commercial purposes from Jan. 1 to Dec. 31
(cfs/ac-ft) amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft) amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right .06 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	NE	11	13S	24E	Cassia	
	NW	NE	NW	1	13S	24E	Cassia	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4			NW 1/4			SW 1/4			SE 1/4			Totals.
			NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	
13S	24E	1								C					

9. Describe any other water rights used for the same purpose as described above None

Total acres 2

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use? _____

No _____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4			NW 1/4			SW 1/4			SE 1/4			Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

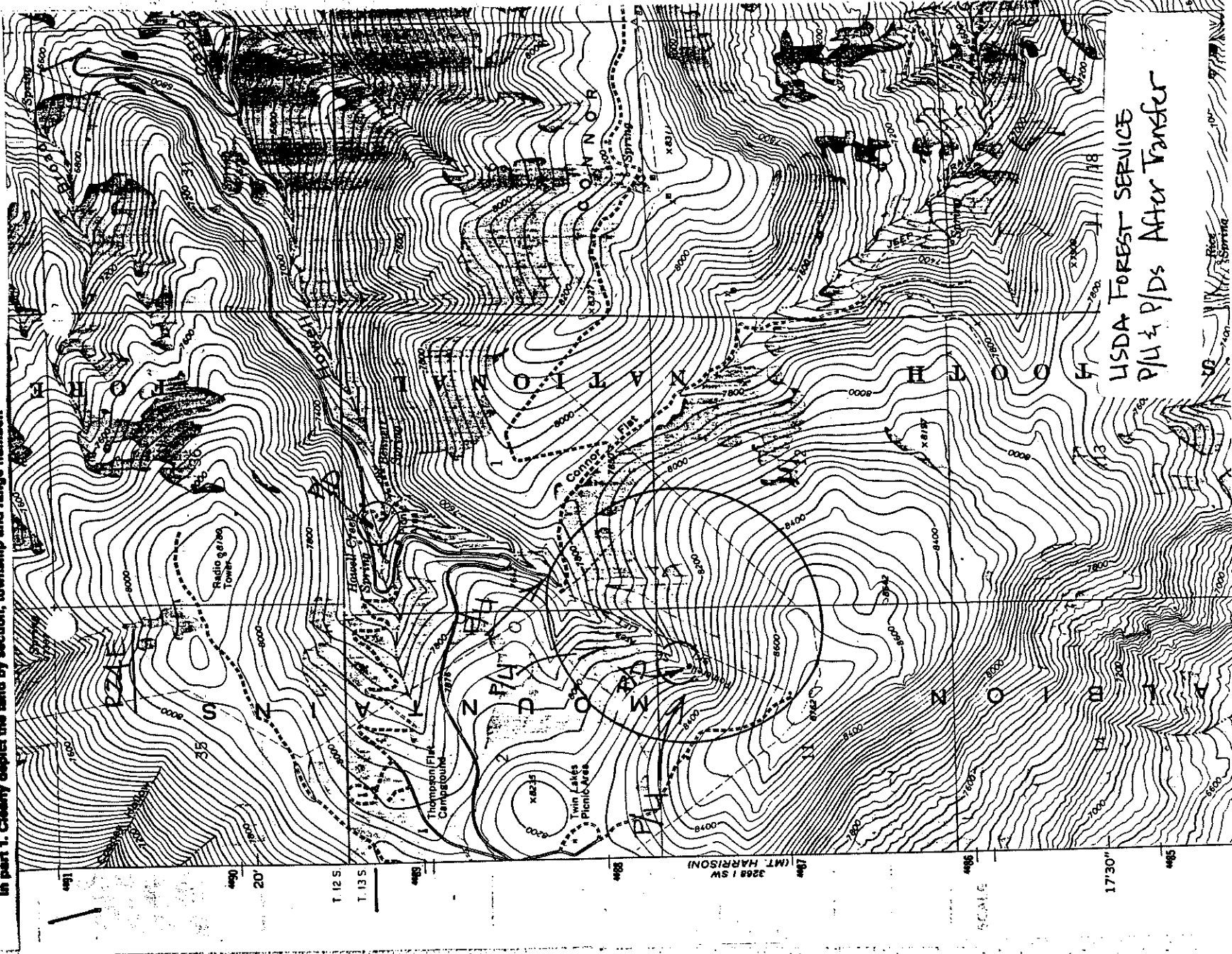
Twp.	Rge.	Sec.	NE 1/4			NW 1/4			SW 1/4			SE 1/4			Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SNOWMAKING AREA BOUNDARY

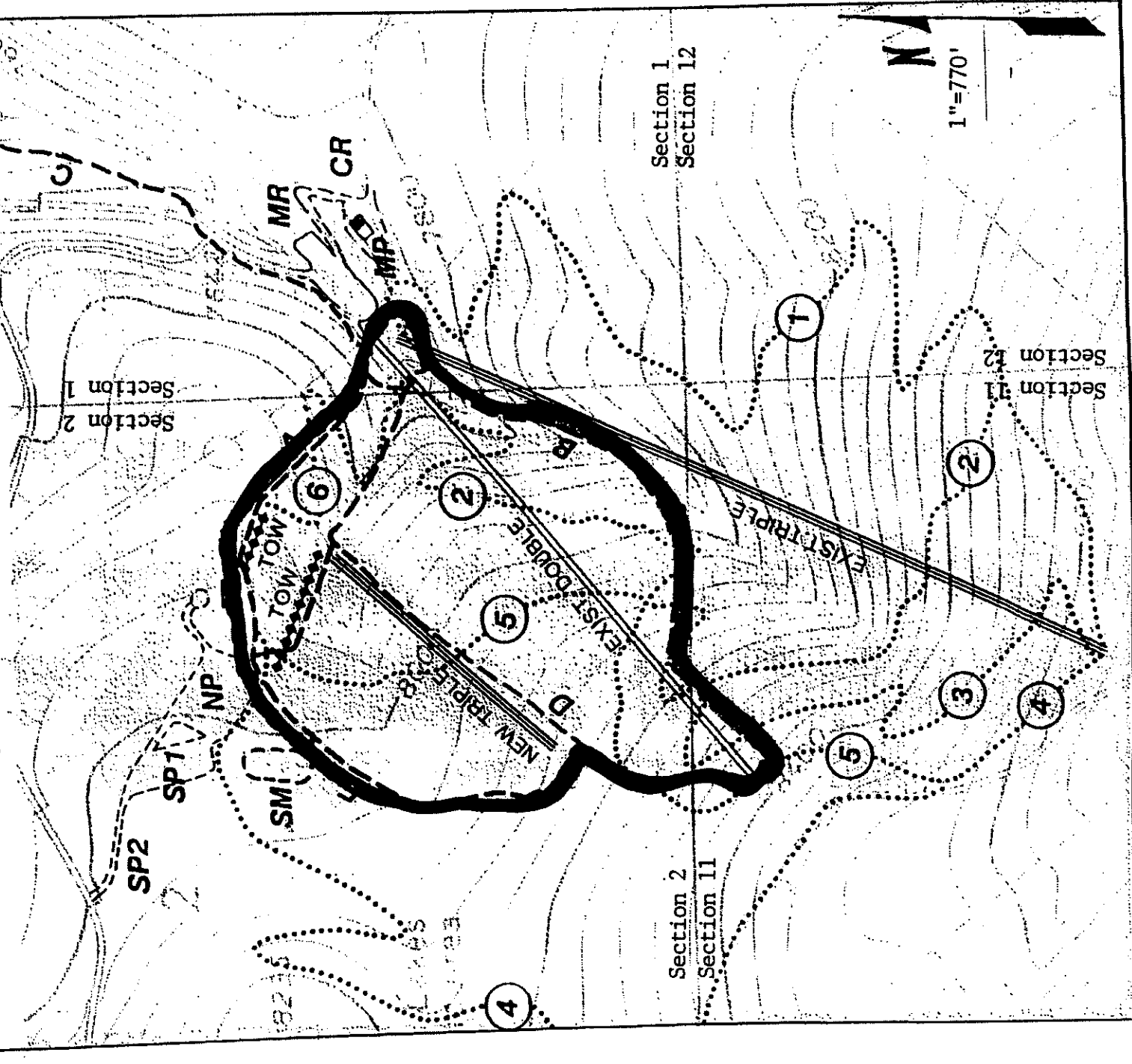
Twp. 13S, Rge. 24E

Figure 9

Snowmaking Corridors and Summer Trails

-  New Building Location
-  New Roads, Parking
-  New Mountain Bike Route
-  New Snowmaking Corridor

-  Double Chair Lift
-  Triple Chair Lift
-  Handle Tow



PART 3

B. CHANGES IN NATURE OF USE

1 Snowmaking 0.06 cfs 55 days Oct. 15 to Dec. 31
 Amount (cfs/ac-ft) Hours/days/year Period of Use
0.06 cfs 55 days Oct. 15 to Dec. 31
to

2. Quantity and quality of return flows and location of discharge:

All water converted to snow will return to Howell Creek as surface runoff during the spring thaw.

3. Describe effects on other water uses resulting from the proposed change:

None. There will be no measureable consumptive use. Other water uses for the waters of Howell Creek will not be affected, as 98% of such water use occurs during the irrigation season, and the melting additional snow will be beneficial to those uses.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

United States of America (USDA-Forest Service)

William P. Blackwell

(for) JACK A. BLACKWELL, (Signature of Applicant) Regional Forester
2nd day of January, 19 98

Subscribed and sworn to before me this

Guillermo Preciado
 (Notary Public)

My commission expires 6/29/99

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 2 attachments

Received by GLS Date 12-Jan-98 Protest filed by

Prelim. check by Date \$100 5020811

Received by GLS Date 05-Jan-98

Published in So. So Press
 Pub. dates 1/26 + 2/2/98

Watermaster recommendation requested on N/A

Copies of protest forwarded by

Hearing held by

Recommended for

☐ approval ☐ denial

by

Copy of transfer sent to lien holder



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 5, 1998

Sawtooth National Forest
Attention: Mr. Ed Waldapfel
2647 Kimberly Road East
Twin Falls, ID. 83301

RE: Proposed Application for Transfer (A45-041114)

Dear Mr. Waldapfel,

Enclosed is the receipt for the application for transfer fee. The application for transfer will be processed and we will proceed with the advertisement, however, I would like to point out a concern.

Initially in October 1996, there was a complaint filed with our office that the Pomerelle ski area was illegally using water for the practice of snow making. Research of our records showed the claim, A45-041114, was for domestic purposes for the ski facility.

On August 21, 1997, Allen Merritt and Doug Jones had an informal meeting with Forest Service representatives. The discussion was about the different options regarding the snow making issue. Some of the options discussed were:

1. Obtaining an existing valid permit or water right for the development.
2. Filing an application for a new water right with proof of non-consumptive use.

In October of 1997, the SRBA claim was amended. The domestic use with a rate of 0.02 cfs was changed to commercial use with a rate of 0.06 cfs.

The application for transfer proposes to add a use for snow making. My concern is that the additional use can be construed as an expansion of an existing right, which would be possible grounds for denial of the application for transfer. Eventually evidence will need to be submitted in order to substantiate that this is not an enlargement.

If you have questions regarding this matter feel free to contact our office.

Cordially,

Georgia Satterlee

Georgia Satterlee
Water Resource Agent



USDA FOREST SERVICE
Sawtooth National Forest

ED WALDAPFEL
Public Affairs

2647 Kimberly Road East
Twin Falls, Idaho 83301

Office (208) 737-3200
FAX (208) 737-3236

Home (208) 737-3301



SOUTHERN REGION
222 SHOSHONE AVE
TWIN FALLS, ID 83301
(208) 736-3033 FAX (208) 736-3037

GOVERNOR

KARL J DREHER
DIRECTOR

November 7, 1996

Sawtooth National Forest

Forest Supervisor, Don Shaff - IDWR (State Office)

2647 Kimberly Rd E - ADJUDICATION USFS

Twin Falls, ID 83301 - POMERELLE SKI AREA

Earl Warthen

RE: Potential illegal water use

Dear Sir:

Our office has had a complaint about the practice of snow making at the Pomerelle ski area by a downstream wateruser. One of our agents has contacted Woody Anderson of the ski facility and also Dale Hom with the USFS. From these contacts we understand that at times water is diverted from Bennett Spring for domestic/commercial use at the ski facility and for snow making.

I have searched our water right records and find that no water right clearly records a use for snow making. I have found SRBA claim A45-04114 in the name of the USFS for domestic purposes for the ski facility.

Please be aware that since 1963, to develop any use except domestic use as defined in §42-111, IDAHO CODE, from groundwater and since 1971, to develop any use from surface water, you are required first to obtain a water right permit. Since no right or permit exists in our records which clearly documents the snow making use, I request your cooperation in:

- identifying what water right covers your development if our records are not correct.

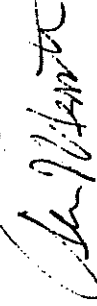
- do not start the diversion of water for snow making if you do not have a water right.

- &/or obtain a valid permit or water right for your development.

Please respond to our office within 14 days of the date of this letter as to the status of your project. Please also note that to divert water in Idaho without a valid water right is illegal pursuant to §42-351, IDAHO CODE and subject to civil penalties of up to \$100 per day.

If you have questions regarding this matter please feel free to contact our office.

Sincerely,



Allen Merritt, PE
Southern Region Manager

CC: Glen Saxton & Don Shaff - IDWR (State Office)
Randy Braemer - ADJUDICATION USFS
Woody Anderson - Pomerelle Ski Area
Earl Warthen



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

IN RE November 14, 1997 ADJUDICATION

OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

PHILIP E. BAIT
GOVERNOR

KARL J. DREHER
DIRECTOR

AMENDED
NOTICE OF CLAIM

RANDALL BRAMER, ATTORNEY
ENVIRON AND NAT RESOURCE DIV
US DEPT OF JUSTICE
380 E PARKCENTER, SUITE 330
BOISE ID 83706

ACQUIRED UNDER STATE LAW

RE: Amended claim A45-04114, Pomerelle Ski Area

PLEASE TYPE OR PRINT CLEARLY
Dear Mr Bramer: Sawtooth National Forest
2007 Gibbon Road East

Representatives of the Sawtooth National Forest recently submitted amendments to the above referenced claim. Please find the enclosed updated computer record for this claim. Review this data for completeness and accuracy and notify this office if you find an error or if there are any questions.

It is my understanding that this claim represents a non-de minimis use of water and as such should not appear in the upcoming Domestic and Stock Director's Report scheduled for later this Fall. At this time there isn't a scheduled Director's Report for non-D&S uses for Reporting Area #10.

Additional notice of amendment if any IDWR will be contacting Sawtooth officials to coordinate priority date evidence submittal and any needed field investigations. By copy of this letter, with enclosures, I am notifying the Sawtooth National Forest.

Sincerely,
Douglas Jones

Regional Director
B.M. County of

Douglas Jones, P.E.,
Water Rights Supervisor
Southern Adjudication Unit

- (1) Encircle Spring challenge status. All status is required to an active number, the file also containing the name of the owner & cc: file per the per the was collected by a member of Lodge. L. Valdon Hancock, SNF in relation to this location gravel for an enlarged service and waterline change to point Bennett Spring in 1976.

T# 5/93



(both sides are to be filed)



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

CIVIL CASE NUMBER: 39576
45-4114

IN RE THE GENERAL ADJUDICATION

Ident. Number

OF RIGHTS TO THE USE OF WATER FROM

Date Received

THE SNAKE RIVER BASIN WATER SYSTEM

Receipt Number

AMENDED

RECEIVED

NOTICE OF CLAIM

OCT 28 1997

Department of Water Resources
Southern Region

WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly

United States of America

1. Name of Claimant (s)

Sawtooth National Forest

Phone (208) 737-3200

Mailing Address

2647 Kimberly Road East

Twin Falls, Idaho

Zip 88301-7976

2. Date of Priority (Only one (1) per claim)

May 1, 1965

Two unnamed springs locally known as

3. Source of water supply (a)

Pomerelle or Ski Run Spring and Bennett Spring

which is tributary to (b)

Howell Creek

4. a. Location of existing point of diversion is: Township 13 South Range 24 East Section 11

NW 1/4 of NE 1/4 of NE 1/4 of Govt. Lot, B.M., County of Cassia

Additional points of diversion if any: NW $\frac{1}{2}$ of NE $\frac{1}{2}$ of NW $\frac{1}{2}$ of Section 1, see attached remarks

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of 1/4 of

1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
Including the dates of any changes or enlargements in use, the dimensions of the diversion works as

constructed and as enlarged and the depth of each well. The first water systems for this use were:

(1) Pomerelle Spring collection system. All gravity feed beginning with perforated pipe
to an onsite headbox, then by 2" pipe continuing down to the Lodge. (2) At the same time
a second spring near the parking lot was collected into a headbox and pumped up to the
Lodge. Later parking lot expansion resulted in filling this location with boulders and
gravel for an enlarged parking lot and accomplished change in point of diversion to
Bennett Spring in 1976.

(both dates are inclusive)

For	Commercial Drive	purposes from	January to	Dec. 31	amount	.06 cfs	or
For		purposes from	to		amount		or
For		purposes from	to		amount		or
For		purposes from	to		amount		or
For		purposes from	to		amount		or

7. Total quantity claimed (a) .06 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Commercial use at Pomerelle Ski Area. See accompanying page.

10. Description of place of use. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

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

[illegible]

Total number of acres irrigated	2
---------------------------------	---

11. In which county (ies) are lands listed above as place of use located?

12. Do you own the property listed above as place of use? Yes x No
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

14. Remarks: Pomerelle or Ski Run Spring is also used by the claimant as the point of diversion for 45-11985, a de minimus stockwater claim for cattle grazing on the Sawtooth National Forest. Additional remarks and information pertaining to water use at Pomerelle Ski Area are on an accompanying page.

Last Name JKFS

Of Claim (check one) Decree
 If applicable provide IDWR Water Right Number
 Court Case Number Decree Date

Plaintiff vs Defendant

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do XX do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments

For individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct. Date 10/28/97

Signature of Claimant (s) William P. Dineen Date 10/28/97

For Organizations: I do solemnly swear or affirm that I am Forest Supervisor that I have signed the foregoing

of Sawtooth National Forest of Sawtooth National Forest

document in the space below as Forest Supervisor Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent William P. Dineen Title Organization

Title and Organization Forest Supervisor-Sawtooth National Forest Date 10/28/97

State of Idaho (or)
 County of day of October 1997

Subscribed and sworn (or affirmed) before me this 28th day of October 1997



Notary Public Shanna Gentry-Crawson
 Residing at Libertyville, Illinois
 My Commission Expires 5/15/2003

17. Notice of Appearance: Randall J. Bramer
 Notice is hereby given that Randall J. Bramer will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Randall J. Bramer
 Address 380 E. Parkcenter, Suite 330, Boise, ID 83706 (208) 387-0835

Date 10/27/97

5. Pictorial
Cont.

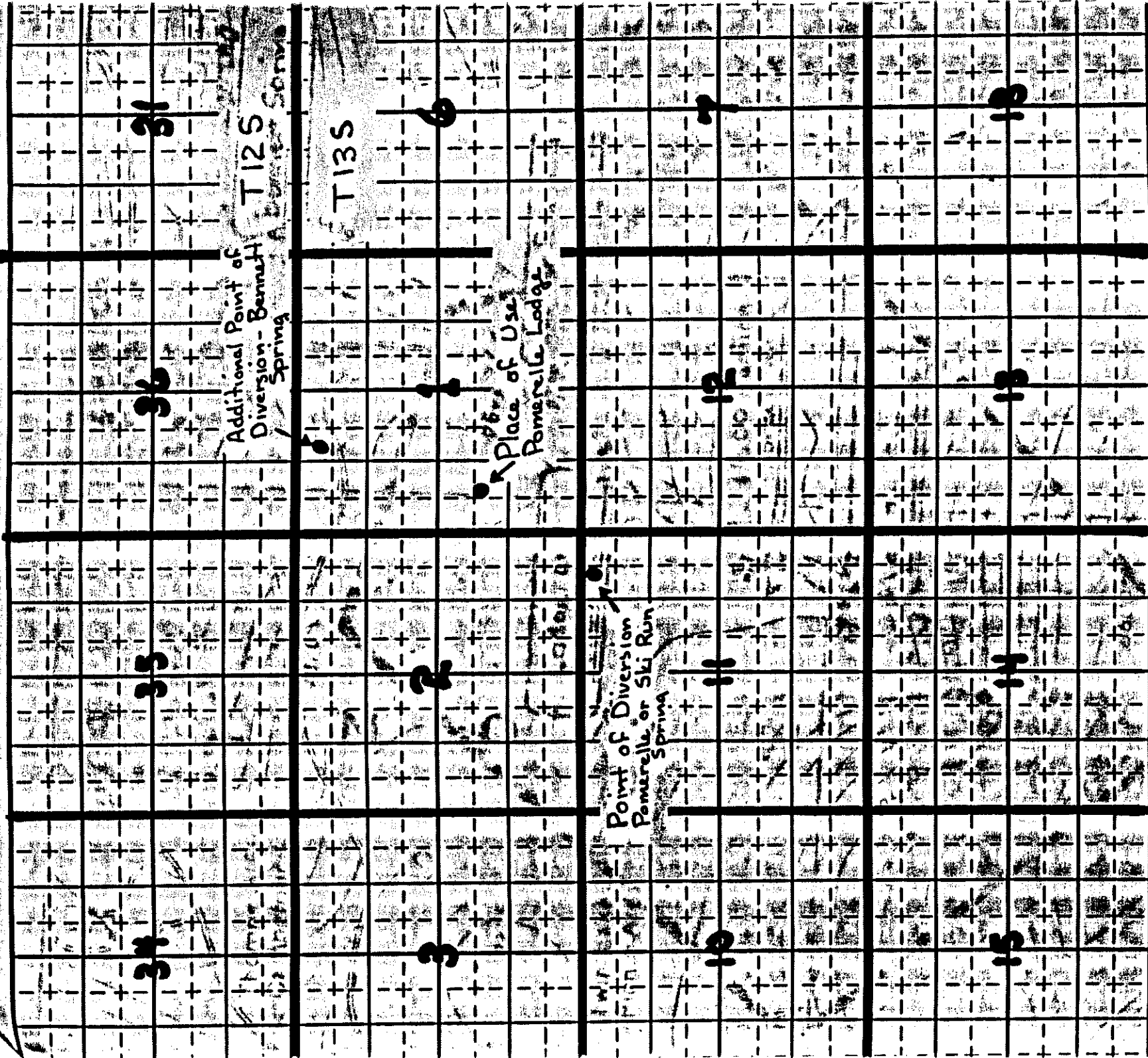
1 inch equals 1 mile

POMERELLE

AREA

R24E

R25E 114



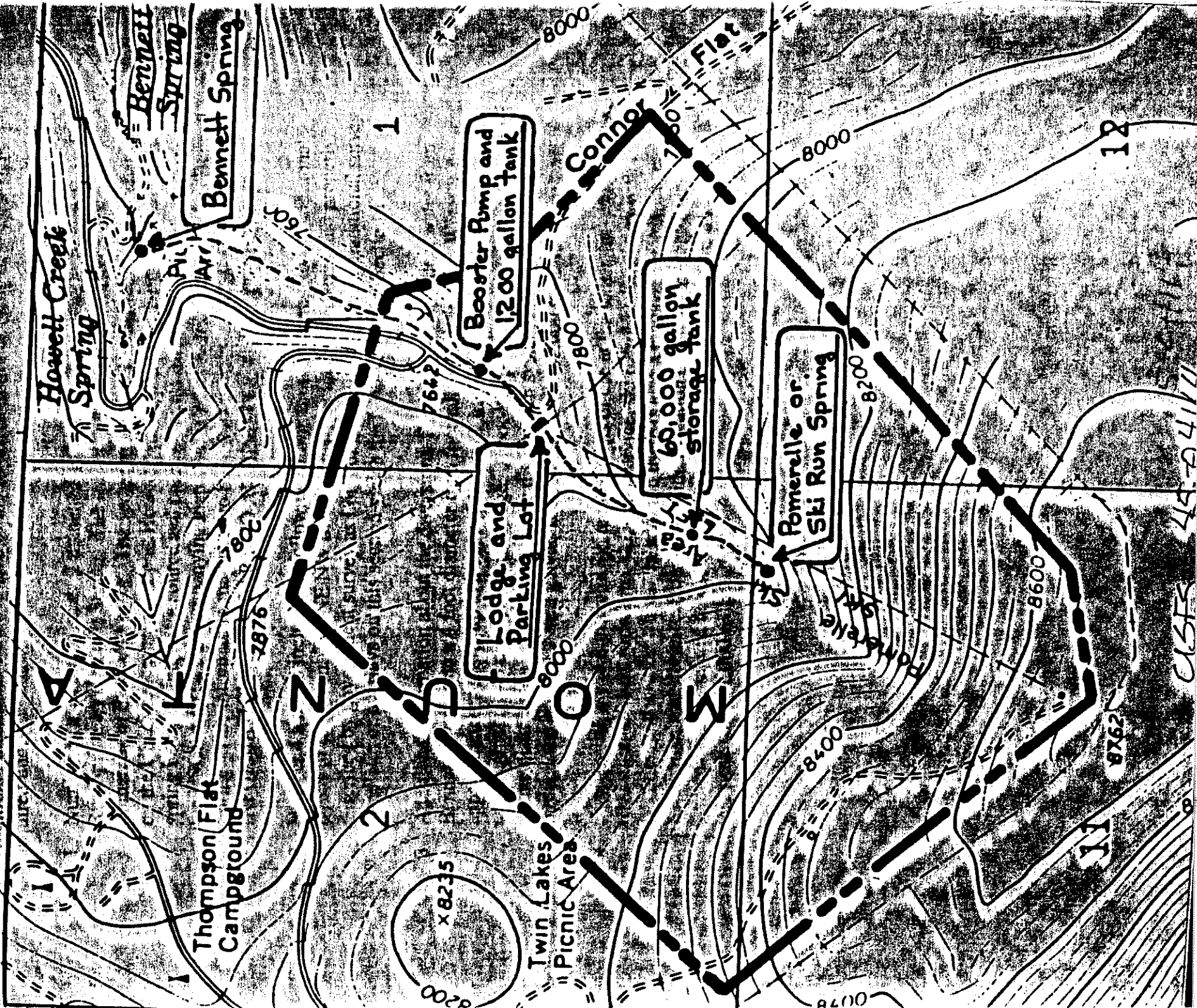
Last Name

Ident No. 45-04114

Cookes White State Yellow-Clamant

POMERELLE SKI AREA

45-04114



POMERELLE WATER CLAIM
WATER RIGHT NUMBER 45-04114

Additional information and remarks to the amended notice of claim to a water right acquired under state law:

1. Number 3 (a) needs to read: 2 unnamed springs locally known as Pomerelle or Ski Run Spring and Bennett Spring. The spring in Section 11 is locally known as Pomerelle or Ski Run Spring. The spring in Section 1 is between springs identified on the USGS topographic map as Howell Creek Spring and Bennett Spring. The spring being claimed as a source and point of diversion is not either spring shown on the USGS map (see accompanying map), but is nevertheless also known as Bennett Spring. This information may need to be in REMARKS or OTHER INFORMATION NECESSARY TO ADMINISTER THE WATER RIGHT.

2. Number 4 a needs include the following information pertaining to the additional points of diversion. The NE NW of Section 1 is actually 48.1 acres and properly described by government survey as Lot 3 of Section 1. Applying traditional survey templates or overlays on this section yields the NW NE NW of Section 1.

3. Additional information about the diversions: The 1976 works collect water from Bennett Spring into a 4 foot diameter by 6 foot tall fiberglass tank. Water is pumped approximately 1/2 mile up to a 1200 gallon tank in the NWSW Section 1, approximately 1/8 mile below the lodge. A booster pump conveys water through an iodine disinfection system to either the distribution system around the lodge or through the original 2 inch galvanized pipe up to the 60,000 gallon storage tank.

4. Commercial use at Pomerelle Ski area consists of use at the lodge, including 175 seat restaurant, kitchen, restrooms, ski rental service, ski patrol headquarters with first aid facilities, and a ticket office. In addition there is also a managers residence, employee bunkhouse, maintenance shop and outside irrigation of approximately 2 acres of grounds and associated landscaping. The area has an average visitor use of 350 daily and peak use of 1,000 daily.

USFB 45-04114

Greetings: United States Forest Service
 A.T.T.N. Bill LeDere Supervisor
 2647 Kimberly Road East
 excessive, 2647 Kimberly Road East
 #1 Facts = Pomerelle Lodge, Idaho 83301

Topic: began making a report regarding
 comments regarding
 Environmental Assessment
 color of Pomerelle Ski Resort
 the new Master Development Plan.
 underground water

By Craig Farley & Lowell Warthen

Box 145 New 77 S.E.

Albion, Idaho 83311

Phone: 673-5385

208-673-6418

Wastes & Recycling

Noted below for further seasons, facts,

ease for the service. All local

comments issues and viable impacts

that need to be addressed further

groundwater supplies

In The Environmental Assessment for

the Pomerelle Ski Resort.

#1. The project to upgrade roadways

is a reference to 2.2.2. timber

New Lodge Complex = New septic

sewer facilities would be developed

for this complex. Existing Pomerelle

day lodge septic continue

Continue to be a problem.



SEP 22 1997

Department of Water Resources
 Idaho Region

T #5194

#1 Comment to Septic Sewer facilities toward ground water contamination and excessive nitrate accumulations.

#1 Facts - Pomerele Lags on a fissured aquifer. Groundwaters are generally free of suspended solids and objectional color. In some instances, however, the water may be associated with under ground beds of peat and decaying vegetation which contribute substantial amounts of color-producing organic matter to the supply. There is usually no contamination of ground water by sewage or industrial wastes except in fissured aquifers where surface pollution may be easily transmitted to the ground water reservoir. Also contamination may also result from the use of reclaimed wastes to recharge ground water supplies.

Refer Handbook of applied Hydrology
Vilen Ts Chow - Editor-in Chief

#2 Comment toward roadways and parking water maintenance.

#3 Comment to the fact that surface and ground water contamination is continuing over

#4 Facts: Contaminants
Discolored snow plowed from road
way areas tend to under-
mountain snow pack. These discolored
snows consist of now oil base litter
sand, gravel and salts. Salts consists
of approximately two thousand pounds
per truck load of sand used on
these roads for winter driving.
This type of activity will only
continually degrade the water-
shed and fisheries of Howell Creek.
Dealing with ground water

#5 In reference to 4.1.4 Hydrology
The Idaho Division of Environmental
Quality monitoring of Howell Creek 97

#3 Comment to monitoring of Howell
Creek and its

#3 Facts = One year of monitoring
of a stream is in short evaluation.
General findings frame for a stream
flow evaluation would 7 to 14 years.
In reference to 4.2.2

#4 In ~~soils~~ reference to Soils 4.1.5

#5 Comment to portions of the

open ski slopes not considered
#5 In this assessment the following
do occur in the project area

#4 Facts: Continuous use by ski activity, machine packing and grooming of these open slopes impacts vegetation growth in the spring and summer months leading to further deterioration of these open clear cuts. These present cleared ski runs that run in the fall line of the mountain lack adjacent site characteristics to

control snow or water temperatures and drainage rates. This in turn creates little ground water recharge and adding to excessive erosion. Further more glagiation in this area has produced many areas of shallow soils x rock outcrops. These soils have low to moderate resiliency and are moderate to highly susceptible to compaction and then erosion from loss of vegetation due to heavy winter use of further summer recreation.

#5 Inference to 42.2.2 & 412.3

#5 Comment to Threatened Endangered or Sensitive Species

#5 Facts Bald and Golden Eagles do occur in the project area.

#8 Comment

#6 Interpretation to 4.1.6 and 4.2.6.

#6 Comment to Heritage Resources

#6 Fact: Native artifacts have been observed in this area and other parts of Mount Harrison.

#7 Interpretation to 4.3.8 and 4.4.8

#7 Comments toward proposed snowmaking storage ponds and Water Rights.

#7 Facts: Catch basins for water storage on a yearly basis would interfere with other prior water rights. District 45 ft by this storage for snowmaking.

One valid water right #45-04114 with a point of diversion in T13S - R24E - Sec 1 - NW-SW-SW 1/4 in the amount of 0.2 CFS or 99.9 gal a minute for domestic use would be too insufficient to maintain all of what is called for in The Environmental Assessment of Pomerelle Ski Resort Master Development Plan.

#8. Comments to issues not addressed in the environmental assessment for pomereille ski resort.

a. Will this expansion propose a problem with the fact that this area is a Idaho State Bird Sanctuary.

b. Will this expansion continue to limit hunting to only the permittee and not the general public. In tolerance to keep out signs posted during the hunting season.

c. Will this expansion take business away from those that deal in those that are mentioned in the E.A. = Because these business pay private property taxes that support local government along with schools that support the ski area.

d. Will this expansion cause conflict between skiers on snowmobilers. In reference to Monitoring and Evaluation Report for the Sawtooth National Forest = 1991-1995 Page 2 top left paragraph.

After careful review of my
own documentation and scoping
letter I find that no further
expansion or extension of current
Special Use Permit be authorized
to Andoverwood, Inc. and/or Pomereille
Ski Resort.

Signed



9-22-97

L.C. To

U.S. Forest Service
Supervisor B. J. LeDore

Department Water
Resources Karl J. Dreher
Director
and
Allen Merritt
South Regional
Manager

Pgs 8-23 are documents, photos, articles... not in +
file but in AS File

W. H. Harkness

Box 145

Ishiko, Idaho

83311

OCT 21 1996

Dear Mr. Merritt

Pomona Valley Ski Area in the
year last few years have been
engaged in artificial snow making.

This affecting stream flows of
District 45-F - The area is located
in T-13-S - R-24-E - Sec. 20 or more.
To the best of my knowledge
the area has no permit for this
practice.

According to the Times News
date of Friday October 18, 1996
front page they are actively making
artificial snow again.

Would you please look into
this matter and return to me
by mail an acknowledgment
of the legality of this activity.

Your prompt
Attention would
be appreciated

Thank you

Carl L. K. K.

PART 1

6. General Information:

- a. Description of diversion system Water from Pomerelle Spring is conveyed to 60,000 gal. storage tank and water from Bennett Spring is pumped into a 1200 gal. tank and then to the 60,000 gal. storage tank. Water is then piped to the lodge and related buildings, and will be pumped into snowmaking nozzles for snowmaking.
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ X No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

N/A

d. Remarks:

Existing water supply would be used for snowmaking when necessary during the period of use. All snow, upon melting, would provide runoff to the same water course which receives a portion of its water supply from the springs.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No.

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 45-04114

STAGE: STATUTORY CLAIM

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
DOMESTIC	01/01 to 12/31	0.01 CFS
<u>SOURCE</u>	<u>TRIBUTARY OF</u>	
SPRING	BENNETT SPRINGS	

Priority: 05/01/1965

LOCATION OF POINT(S) OF DIVERSION:NENE , Sec. 1, Township 13S, Range 24E
CASSIA CountyPLACE OF USE: DOMESTICTWN RGE SEC

13S 24E 1

NENE

CONDITIONS/REMARKS:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
 in case of _____ vs. _____
 dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. 45-4114 on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice

☐ Warranty Deed

☒ Other federal domain

3. Source of water Pomerelle and Bennett Springs tributary to Howell Creek

4. Date or priority May 1, 1965

5. Water is used for the following purpose:

amount .06 cfs for commercial purposes from Jan. 1 to Dec. 31
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

6. Total amount of water under right .06 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
	NW	NE	NE	11	13S	24E	Cassia	
	NW	NE	NW	1	13S	24E	Cassia	

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
13S	24E	1																	

9. Describe any other water rights used for the same purpose as described above None

Total acres 2

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No _____ If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4			NW 1/4			SW 1/4			SE 1/4			Totals
			NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4			NW 1/4			SW 1/4			SE 1/4			Totals
			NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	NE 1/4	NW 1/4	SW 1/4	

Total acres _____



SNOWMAKING AREA BOUNDARY

Twp. 13S, Rge. 24E

Figure 9

Snowmaking Corridors and Summer Trails

- New Building Location
- - - New Roads, Parking
- New Mountain Bike Route
- - - New Snowmaking Corridor

- Double Chair Lift
- Triple Chair Lift
- Handle Tow

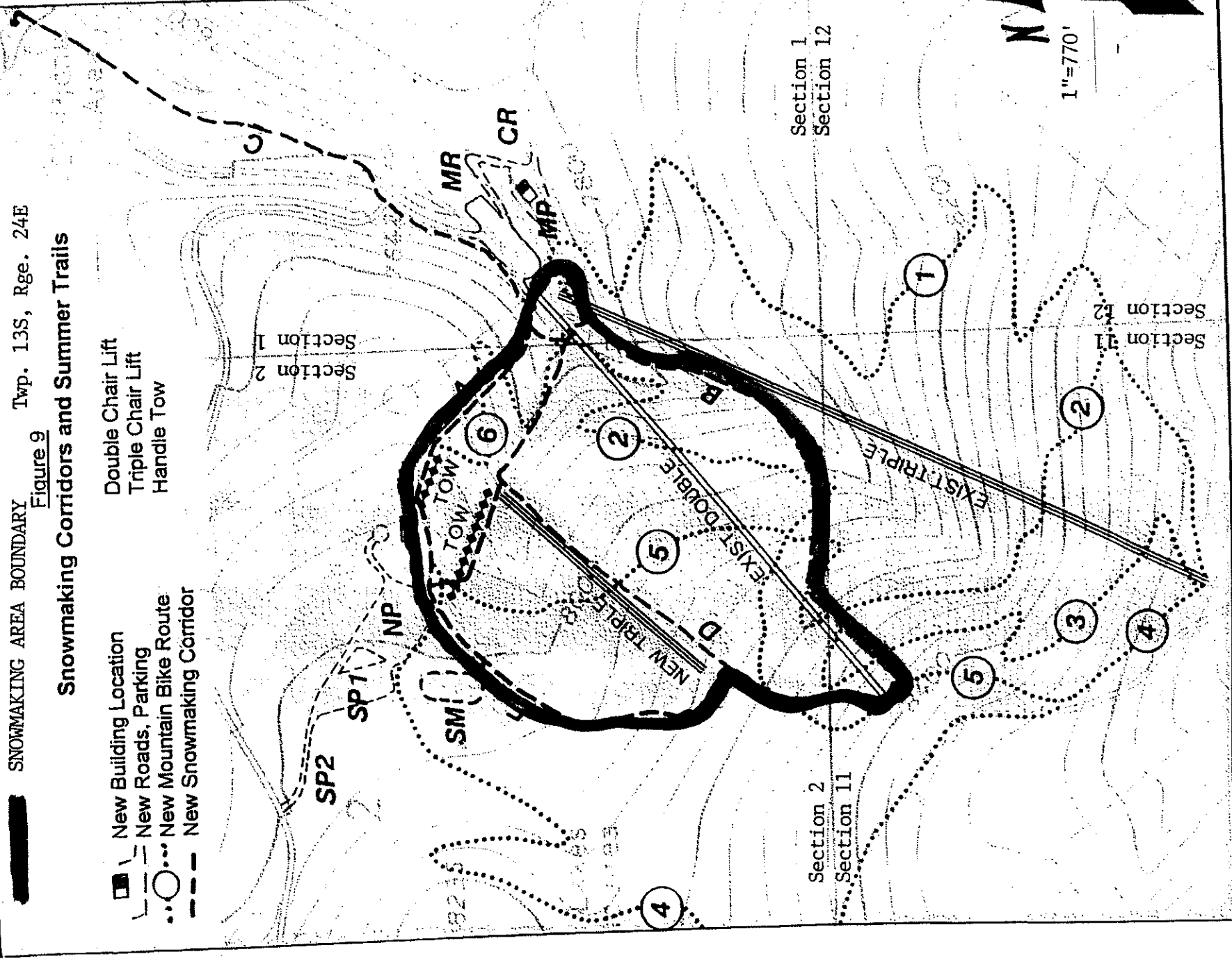
Section 1
Section 2

Section 1
Section 12

Section 2
Section 11

Section 11
Section 12

1"=770'



PART 3

B. CHANGES IN NATURE OF USE

- 1 Snowmaking .06 cfs 55 days Oct. 15 to Dec. 31
Amount Hours/days/year Period of Use
(cfs/ac-ft)
2. Quantity and quality of return flows and location of discharge:
All water converted to snow will return to Howell Creek as surface runoff during
the spring thaw.
3. Describe effects on other water uses resulting from the proposed change:
None. There will be no measureable consumptive use. Other water uses for the
waters of Howell Creek will not be affected, as 98% of such water use occurs during
the irrigation season, and the melting additional snow will be beneficial to those
uses.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

United States of America (USDA-Forest Service)

William P. Blackwell

(for) JACK A. BLACKWELL, (Signature of Applicant) Regional Forester
 Subscribed and sworn to before me this 2nd day of January, 19 98.

(Notary Public)

My commission expires 6/29/99

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 2 attachments

Received by GLS Date 12 Jan 98 Protest filed by _____

Prelim. check by _____ Fee \$100 S020811

Received by GLS Date 05 Jan 98

Published in So. 90 Press

Pub. dates 1/26 + 2/2/98

Watermaster recommendation requested on N/A

Copies of protest forwarded by _____
 Hearing held by _____ Date _____
 Recommended for ☐ approval ☐ denial

by _____

Copy of transfer sent to lien holder _____