

**RINGERT CLARK CHARTERED
FAX COVER LETTER**

From: Daniel V. Steenson
455 South Third Street
Boise, Idaho 83702
ph: (208) 342-4591
fax: (208) 342-4657

Time:

Date: January 23, 2006

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME: **Carter Fritschle**

WITH: **Idaho Department of Water Resources**

CITY & STATE: **Boise, ID**

TELEPHONE NO.: **(208) 287-4800**

FAX. NO.: **(208) 287-6700**

SENDER: **Daniel V. Steenson**

WE ARE TRANSMITTING 7 PAGES (INCLUDING THIS COVER LETTER)

ADDITIONAL INFORMATION:

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: March 3, 2006

Water Right Number: 77-14219

MIDDLE FORK HOLDING CO INC.
60 EAST 42 STREET, ROOM 2440
NEW YORK, NY 10165
Telephone Number: (212) 972-1095

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

The remark that is included in the proposed recommendation under the priority date.

2. Describe the changes you wish to make in the proposed recommendation:

Remove the aforementioned remark.

3. Give a brief explanation as to why you disagree with these portions:

(1) The factual predicate for the proposed remark does not apply to this water right. The Thomas Creek diversion for Water right no. 77-14219 (hydropower) is on federal land within the Frank Church - River of No Return Wilderness. The same diversion is used for irrigation water right no. 77-14218. These two water rights are owned by Middle Fork Holding Company, and are conveyed across federal land through a pipeline for beneficial use on Homestead Entry Survey No. 77. (Copies of the proposed recommendations and maps for these two water rights are attached.) There are no other upstream diversions from Thomas Creek, no owners of Thomas Creek water rights other than Middle Fork Holding Company, and no other private lands that could receive water from Thomas Creek. Water diverted from Thomas Creek and used for hydropower generation at Homestead Entry Survey No. 77 is discharged to the Middle Fork of the Salmon River a short distance upstream from the confluence of Thomas Creek and the Salmon River. Thus, there is no "historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes," and no junior water rights that could be subject to a delivery call to supply water right no. 77-14219.

(2) IDWR has no authority to include the proposed remark in this water right.

_____ I AGREE with this proposed recommendation; no changes need to be made.

DATE: 1/23/06

SIGNATURE: *Daniel Steenson*

Please print your name: Daniel V. Steenson

IDWR State Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, (208) 287-4800

01/05/2006

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

RIGHT NUMBER: 77-14218

NAME AND ADDRESS: MIDDLE FORK HOLDING CO INC
60 EAST 42ND STREET, ROOM 2440
NEW YORK NY 10165

SOURCE: THOMAS CREEK

TRIBUTARY: MIDDLE FORK SALMON RIVER

QUANTITY: 2.400 CFS

PRIORITY DATE: 08/24/1898

POINT OF DIVERSION: T16N R12E S20 SESWNE within CUSTER County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	03/01 11/15	2.400 CFS
PLACE OF USE:	<u>IRRIGATION Within CUSTER County</u>		
	T16N R12E S16 NWSW	0.50	T16N R12E S16 SWSW 9.50
	T16N R12E S17 NESE	1.60	T16N R12E S17 SESE 6.20
	T16N R12E S20 NENE	14.00	T16N R12E S20 SENE 0.20
	T16N R12E S21 NWNW	11.00	
	43 ACRES TOTAL		

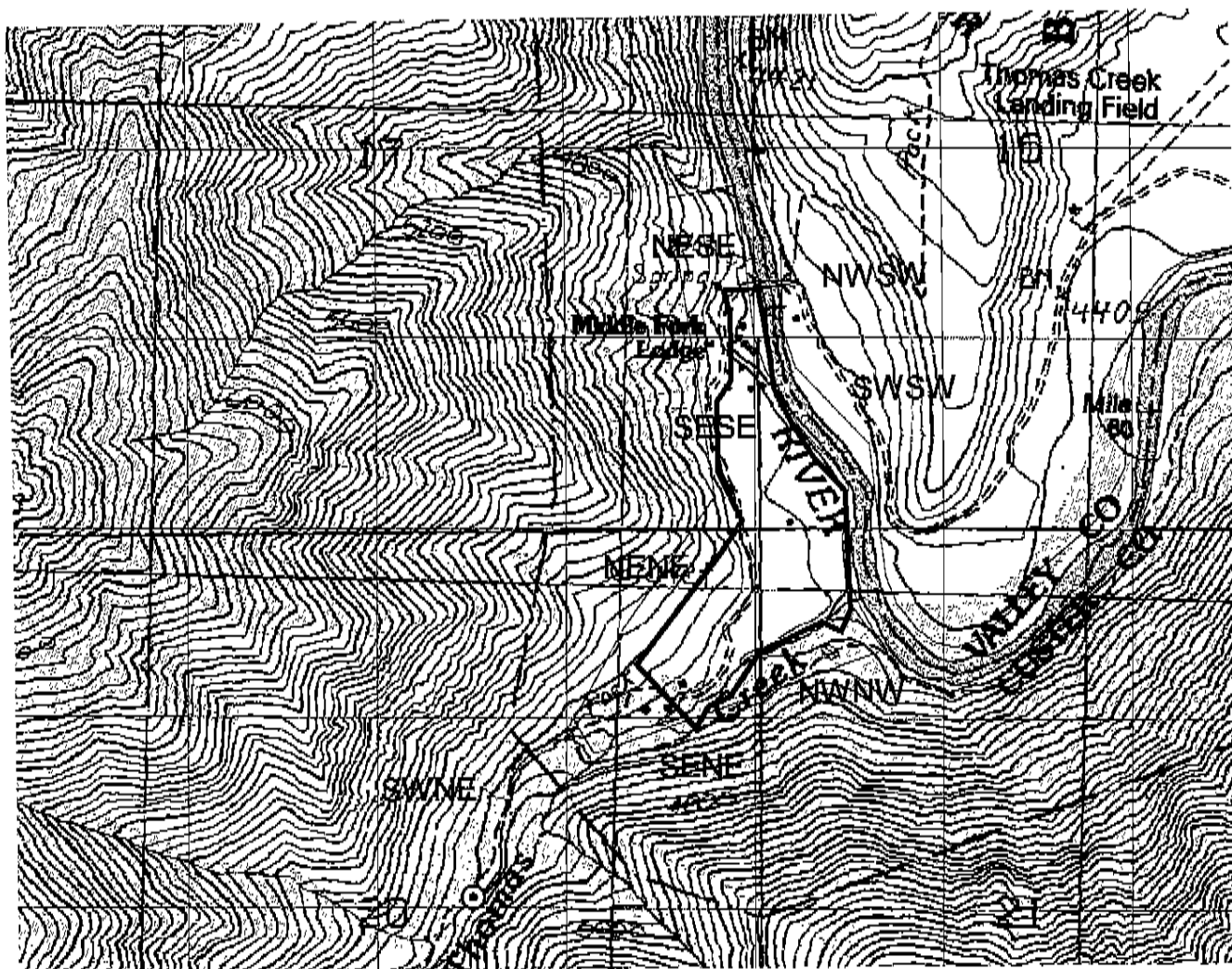
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Property is also known as Homestead Entry Survey No. 77.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

77-14218



0 1000 2000 Feet



Sections 16, 17, 20 & 21
T16N R12E



⊙ Point of Diversion

□ Place of Use

Map prepared on October 24, 2005
By Kenneth Knoblock
Idaho Department of Water Resources

01/05/2006

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

RIGHT NUMBER: 77-14219

NAME AND ADDRESS: MIDDLE FORK HOLDING CO INC
60 EAST 42ND STREET, ROOM 2440
NEW YORK NY 10165

SOURCE: THOMAS CREEK

TRIBUTARY: MIDDLE FORK SALMON RIVER

QUANTITY: 3.000 CFS

PRIORITY DATE: 07/01/1938

The appropriator shall exercise this right in a manner that recognizes the historic practice that the use of water for power generation is incidental to the rights of others to the use of water for other purposes. The appropriator shall not make a delivery call for hydropower generation except as against junior hydropower rights.

POINT OF DIVERSION:

T16N R12E S20 SESWNE Within CUSTER County

PURPOSE AND
PERIOD OF USE:PURPOSE OF USEPERIOD OF USEQUANTITY

POWER

01/01 12/31

3.000 CFS

PLACE OF USE:

POWER Within CUSTER County

T16N R12E S16

SWSW

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

Property is known as Homestead Entry Survey No. 77.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This is a detailed topographic map of a mountainous region. The map features a grid of latitude and longitude lines. The terrain is characterized by numerous contour lines, indicating steep slopes and high elevations. A prominent river, labeled 'MIDDLE FORK RIVER', flows through the center of the map. To the right, the river joins a larger body of water, with the label 'RIVER' visible. Key locations marked on the map include 'Middle Fork Lodge' and 'Spring'. A 'Mile 60' marker is also present. The map includes various other labels such as 'SWSW', 'SWN', 'Cree', 'Valley', and 'Canyon'. The overall appearance is that of a technical or military map, given the grid overlay and specific labeling.

[illegible]

Place of Use

Map prepared on October 6, 2005
By Kenneth Knoblock
Idaho Department of Water Resources