

COPY RECEIVED
NOV 10 2008
Department of Water Resources
Adjudication Bureau

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
NOV - 6 2008
By _____ Clerk
_____ Deputy Clerk

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

In Re SRBA	)	Subcase 83-11962
	)	(Insert water right number)
	)	
Case 39576	)	STANDARD FORM 4
	)	
	)	MOTION TO FILE:
	)	☒ LATE NOTICE OF CLAIM
	)	☐ AMENDED NOTICE OF CLAIM
_____	)	

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☒ I have read **SRBA Administrative Order 1, Rules of Procedure** (amended Sept. 30, 1996).

My name is Idaho Water Resource Board

My address is 322 E Front PO Box 83720, Boise, ID 83720-0098

My phone number is: Work (208)287-4800 Home _____

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☒ I did not file a Notice of claim to the use of water in the SRBA because:

The minimum streamflow water right was established by the legislature after the claim deadline. This MSF right is part of the SRBA settlement with the Nez Perce tribe, so it must be processed through the SRBA court process.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☒ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

License for 83-11962

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ N/A.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ N/A.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)

at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

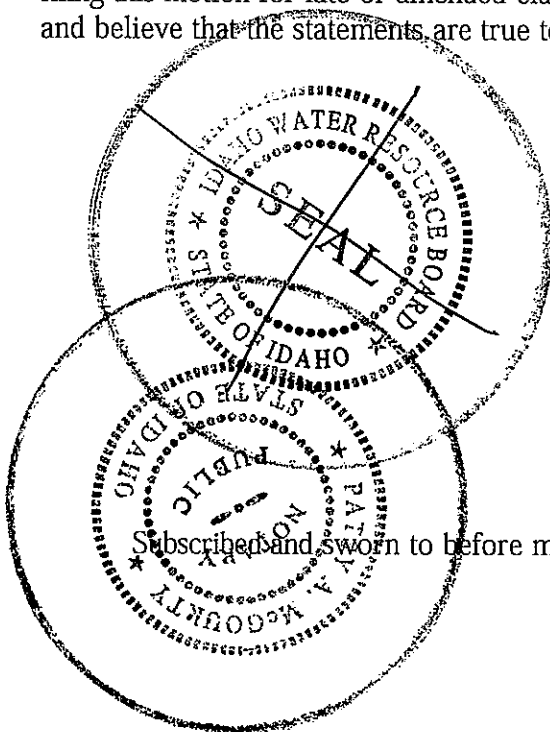
State of Idaho

County of Ada

BRIAN PATTON

(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.



Brian Patton

Signature of person filing motion

FOR THE IDAHO WATER RESOURCE BOARD

Attorney signing in representative capacity

Subscribed and sworn to before me on

November 3, 2008

(Insert Date)

Patty A. McBouty

Notary Public for Boise Idaho

Residing at: Boise

My Commission expires: 8-19-10

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. **FAX filings will not be accepted by the SRBA Clerk of the Court.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 11 5 2008, ~~199~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 83-11962
Date Received: DISTRICT COURT-SRBA
Receipt No: Fifth Judicial District
Received By: County of Twin Falls - State of Idaho

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

NOV - 6 2008

Please type or print clearly

1. Name of Claimant (s) Idaho Water Resource Board Phone (208) 287.4800
Mailing Address 332 E. Front St. PO Box 83720 Boise ID ZIP 83720-0098
Street or Box City State
2. Date of Priority (Only one (1) per claim) 04/01/2005
Month Day Year (YYYY)
3. Source of water supply (Check one) Ground Water () or Other (a) North Fork Clearwater River
which is tributary to (b) Clearwater River
4. a. Location of Point of Diversion is: Township _____, Range _____, Section _____,
_____, 1/4 of _____, 1/4 of _____, 1/4 Govt. Lot _____, BM., County of _____
Additional points of diversion if any: _____
If available, GPS Coordinates _____
- b. If instream flow, beginning point of claimed instream flow is:
Township 39N, Range 10E, Section 18, _____, 1/4 of SW, 1/4 of SW, 1/4
Govt. Lot _____, BM., County of Clearwater
ending point is: Township 40N, Range 07E, Section 6, _____, 1/4 of SE, 1/4 of
NE, 1/4 Govt. Lot _____, BM., County of Clearwater
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. no diversion

Last Name _____ Ident No. _____

6. Water is claimed for the following purposes:

(both dates are inclusive MM-DD)

(cfs)

(acre feet)

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) _____ (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) _____

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total number of acres irrigated _____

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

11. Do you own the property listed above as place of use? Yes _____ No _____

If your answer is No, describe in Remarks below the authority you have to claim this water right.

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

_____ or None ()

13. Remarks: _____

Last Name _____ Ident No. _____

6. Water is claimed for the following purposes: Minimum Stream Flow
(both dates are inclusive MM-DD)

(cfs)

(acre feet)

For MSF purposes from 01/01 to 01/30 amount 1,349 or _____

For MSF purposes from 2/01 to 2/28 amount 1038 or _____

For MSF purposes from 3/1 to 3/31 amount 2885 or _____

For MSF purposes from 4/1 to 4/30 amount 5863 or _____

7. Total quantity claimed (a) 10,396 (cfs) and/or (b) _____ (acre feet)
See attachment for remaining timing & flow (license)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock, Etc.) Minimum stream flow to protect instream values

9. Description of place of use: Between PODs in stream channel

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. 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.

Twn	Rng	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total number of acres irrigated _____

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

11. 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.

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

_____ or None ()

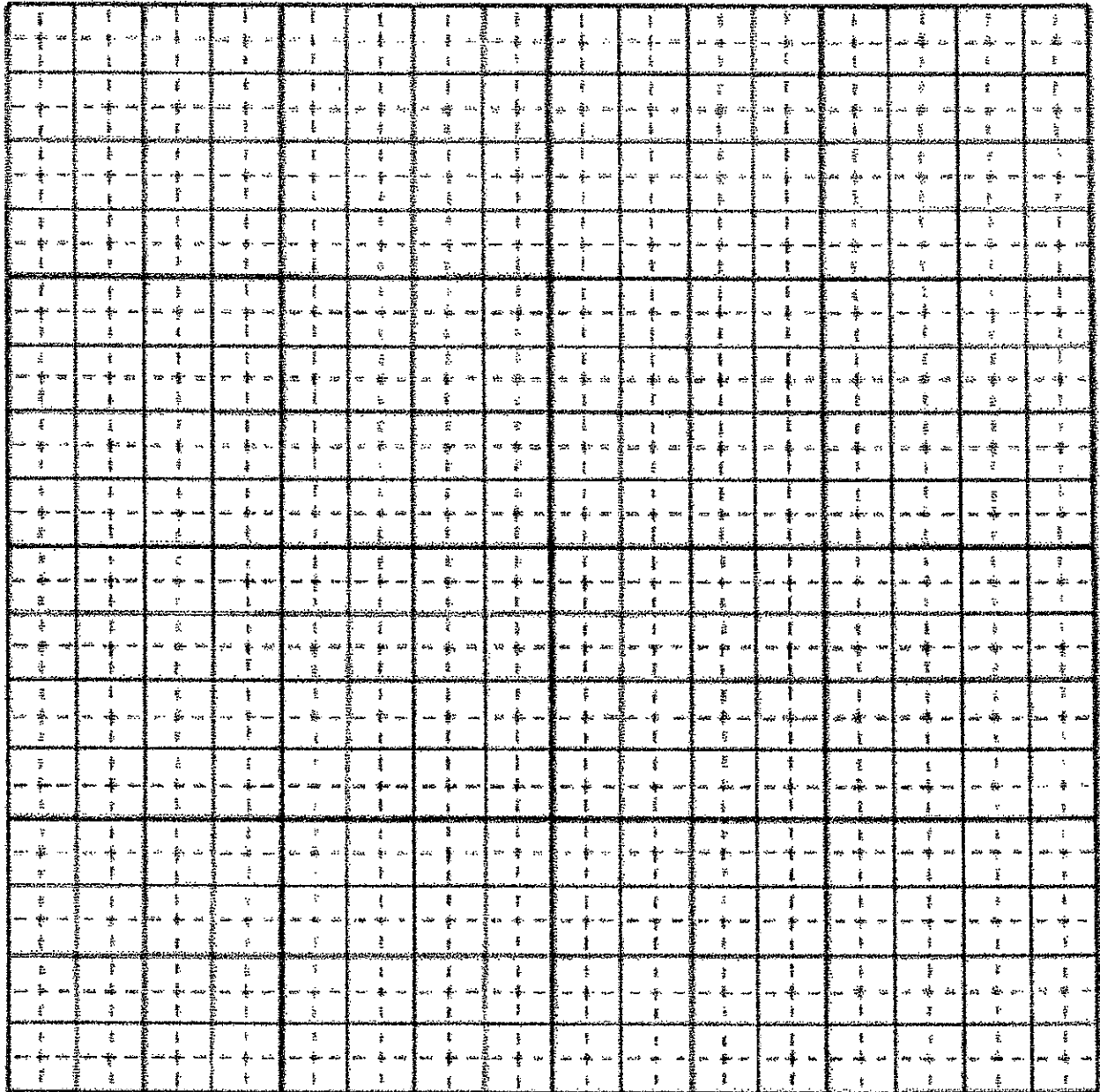
13. Remarks: see attached license for unique conditions of approval

Last Name _____ Ident No. 83-11962

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 Inches equals 1 mile

See attached map



Last Name _____

Ident No. _____

83-11962

14. Basis of Claim (Check One) Beneficial Use _____ Posted Notice _____ License ☒ Permit _____ Decree _____

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 83-11962

15. 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 _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2 (license & map)

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am

BUREAU CHIEF of IDAHO WATER RESOURCE BOARD
Title Organization

that I have signed the foregoing document in the space below as

BUREAU CHIEF of IDAHO WATER RESOURCE BOARD
Title Organization

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

Signature of Authorized Agent [Signature] Date 4 NOV 08

Title and Organization BUREAU CHIEF, IDAHO WATER RESOURCE BOARD

Please Print Name

16. Notice of Appearance:

Notice is hereby given that I, _____, 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 _____

Address _____

Date _____

Last Name _____ Ident No. 83-11962

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 83-11962

Priority: April 1, 2005

Minimum Stream Flow: 10,396 CFS

It is hereby certified that IDAHO WATER RESOURCE BOARD
PO BOX 83720
BOISE ID 83720-0098 has complied with the terms and
conditions of the permit, issued pursuant to Application for Permit dated April 1, 2005; and has
submitted Proof of Beneficial Use on July 9, 2008. A minimum stream flow for:

SOURCE

NORTH FORK CLEARWATER RIVER Tributary: CLEARWATER RIVER

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>MINIMUM STREAM FLOW</u>
MINIMUM STREAM FLOW	01/01 to 01/31	1,349 CFS
MINIMUM STREAM FLOW	02/01 to 02/28	1,838 CFS
MINIMUM STREAM FLOW	03/01 to 03/31	2,885 CFS
MINIMUM STREAM FLOW	04/01 to 04/30	5,863 CFS
MINIMUM STREAM FLOW	05/01 to 05/31	10,396 CFS
MINIMUM STREAM FLOW	06/01 to 06/30	8,470 CFS
MINIMUM STREAM FLOW	07/01 to 07/31	2,331 CFS
MINIMUM STREAM FLOW	08/01 to 08/31	1,128 CFS
MINIMUM STREAM FLOW	09/01 to 09/30	873 CFS
MINIMUM STREAM FLOW	10/01 to 10/31	828 CFS
MINIMUM STREAM FLOW	11/01 to 11/30	1,239 CFS
MINIMUM STREAM FLOW	12/01 to 12/31	1,237 CFS

LOCATION OF POINT(S) OF DIVERSION:

NORTH FORK CLEARWATER RIVER SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 18, Twp 39N, Rge 10E, B.M.
CLEARWATER County (Beginning of Reach)

NORTH FORK CLEARWATER RIVER L7 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) Sec. 6, Twp 40N, Rge 07E, B.M.
CLEARWATER County (Ending of Reach)

CONDITIONS OF APPROVAL

1. Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than the date of priority of this right.
2. Use of water under this right shall be non-consumptive.
3. Upon future finding and order of the Director that gaging stations are required to administer the approved minimum stream flows, the right holder shall permanently install and maintain gaging stations as specified by the Department.

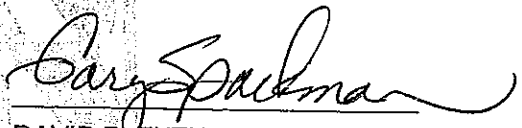
State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 83-11962

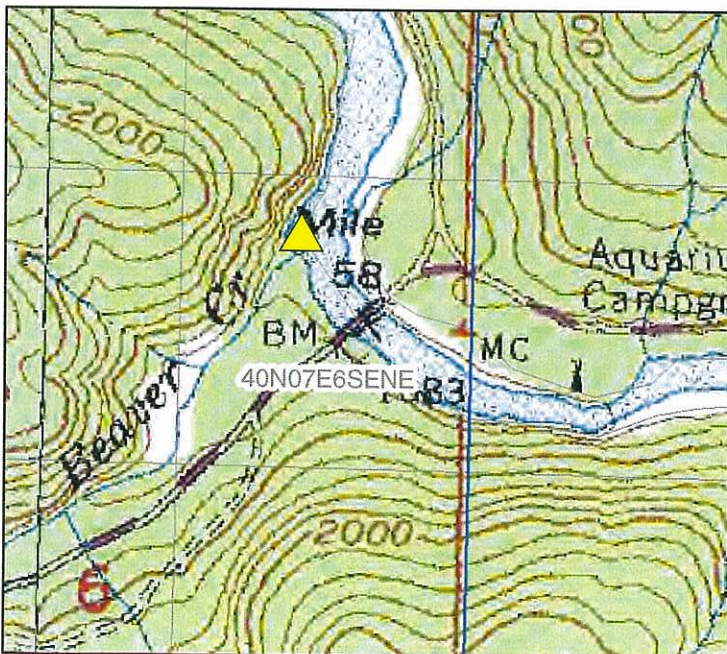
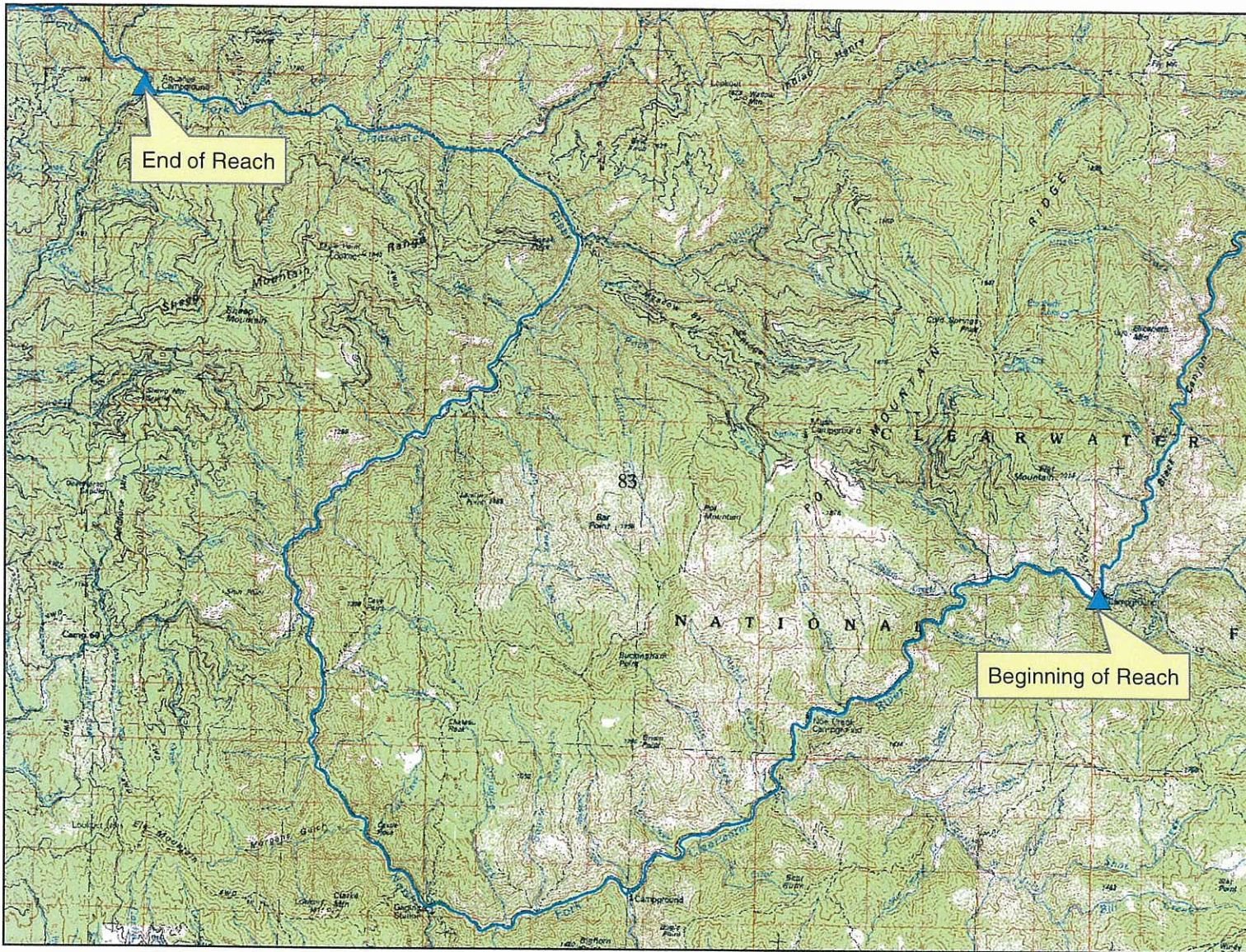
4. The Idaho Water Resource Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to this water right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or notify interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the water right should be amended in the public interest. The burden of proof at the hearing shall be upon the person or parties seeking the amendment to establish that the amendment of this water right would be in the public interest.
5. This minimum stream flow provides for fish habitat.
6. The reach of minimum stream flow approved is described as follows: Beginning at the confluence with Kelly Creek in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 18, T39N, R10E, B.M., Clearwater County, and extending downstream 44.6 river miles to the confluence with Beaver Creek in Lot 7 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 6, T40N, R07E, B.M., Clearwater County.
7. This right is subordinate to future domestic, commercial, municipal, and industrial uses.
8. This right is subordinate to future non-DCMI development of a total flow rate equal to: (i) 74.88 cfs, or (ii) the flow rate exceeding a base flow equivalent to the unimpaired monthly eighty percent (80%) exceedence flow, whichever is less.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

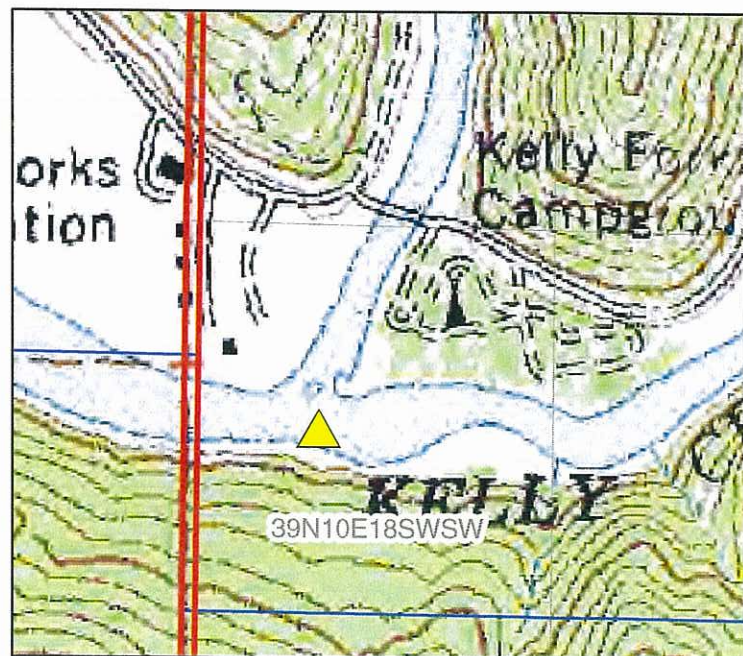
Signed and sealed this 12th day of August, 2008.


DAVID R. TUTHILL, JR.
Director

83-11962 Minimum Stream Flow Reach



End of Reach



Beginning of Reach

