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JUN 25 2010

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

In Re SRBA

Case 39576

Subcase 75-2167
(Insert water right number)

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 that 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:

My address is:

My phone number is: Work: Home:

I am an attorney representing: City of Salmon

My name is: Josephine P. Beeman #1806

My address is: BEEMAN & ASSOCIATES, P.C.
409 West Jefferson Street
Boise, Idaho 83702

My phone number is: (208) 331-0950

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 information supporting the filing of a late claim with an early priority date for this existing water use came to my attention only recently.

☐ 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.)

The following documents are attached to document the claimed use of water:

A. Water Right License No. 75-2167.

B. Copy of document dated January 2, 1912 deeding License No. 75-2167 to the City of Salmon.

- C. Copy of IDWR "Water Rights Proof Reading Report dated December 13, 1984 listing License No. 75-2167 in the name of Salmon City Water Co. Ltd. for municipal purposes within the City of Salmon.
- D. Copy of IDWR Memorandum Decision and Order dated June 6, 1981, including on page 3 a summary of testimony from Virgil Schofield, watermaster of Water District 75A (Jesse Creek and Tributaries), noting winter time use of water by the City of Salmon.
- E. Copy of U.S. Forest Service Management Plan for the Salmon Municipal Watershed dated June 1975 estimating at page 3 (un-numbered) the City of Salmon's peak municipal use of water from Jesse Creek during winter at 800 gallons per minute and 3500 gallons per minute during summer.

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 \$_____.
- 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 \$300.00.

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 Tuesday, September 21, 2010, at 1:30 p.m.,
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

Josephine P. Beeman, duly sworn, upon oath, deposes and says:
(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.

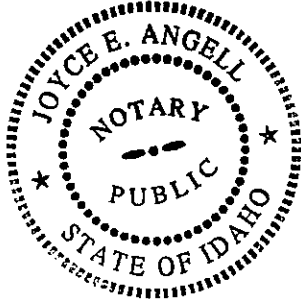
Signature of person filing motion

Josephine P. Beeman
Attorney signing in representative capacity

Subscribed and sworn to before me on:

June 23, 2010

(Insert Date)



Joyce E. Angell
Notary Public for Idaho
Residing at: Boise
My Commission expires: 7-29-14

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 June 23, 2010, 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:

Arrowhead Water District
C/O Jerry Rigby
25 N. 2nd E.
Rexburg, ID 83440

Jon Cummings
Nancy Cummings
P.O. Box 202
North Fork, ID 83466

Edgar & Myrtle Edwards
C/O Randall C. Budge
P.O. Box 1391
Pocatello, ID 83204

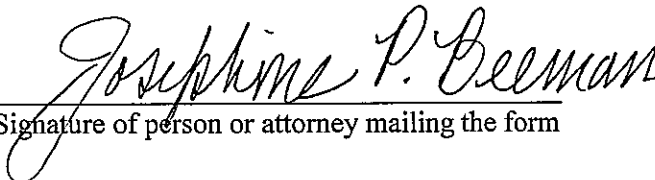
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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, MCS 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

ATTACHMENT A

Water Right License No. 75-2167

- Brief -

Lemhi County
Jesse Creek
2 sec. ft.
Fire and Domestic
Priority 4-21-05

STATE OF IDAHO

- Water License No. 1241 -

WHEREAS, On the 21st day of April, A. D. 1905, SALMON CITY WATER COMPANY, LIMITED of Salmon, County of Lemhi, and State of Idaho, duly made application (No. 1717) to me for a permit to use two cubic feet per second of the waters of Jesse Creek, County of Lemhi, State of Idaho, for water supply, fire and domestic purposes; and,

WHEREAS, On the 18th day of May, A. D. 1905, Permit No. 1241 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 18th day of November, A. D. 1905, and for the application to beneficial use of said water on or before the 18th day of November, A. D. 1905; and,

WHEREAS, On the 25th day of August, A. D. 1905, the holder of said permit duly made proof of the completion of adequate works for the diversion of two cubic feet per second of said waters, as evidenced by my Certificate No. 1241, dated September 6, 1905, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use two cubic feet per second of water, with date of priority of April 21, 1905, and,

WHEREAS, On the 25th day of August, A. D. 1905 proof was duly made of the application to beneficial use of two cubic feet per second of said water;

NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to SALMON CITY WATER COMPANY, LIMITED of Salmon, Idaho, the holder and owner of said Permit No. 1241 a perpetual right, dating from April 21, 1905, to the use of two cubic feet per second of the waters of Jesse Creek, in the County of Lemhi and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point in the SW¹ of NE¹, Section One, Township 21 North, Range 21 East of Boise Meridian, and conducted to Salmon City, Lemhi County, Idaho, for the purpose of water supply, fire, and domestic use, subject, however, to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS My hand and the seal of my office, at Boise, Idaho, this sixth day of September A. D. Nineteen Hundred and five.

Jas. Stephenson, Jr.

Seal

State Engineer.

75 2167

Recorded September 6, 1905.

ATTACHMENT B

Copy of document dated January 2, 1912, deeding
License No. 75-2167 to the City of Salmon

THIS INSTRUMENT, made this 2nd day of January in the year of our Lord one thousand nine hundred and twelve between the Salmon City Water Company, Limited, a corporation, having its principal place of business at the city of Salmon, State of Idaho, organized and existing under and by virtue of the laws of said state, hereinafter called the grantor, party of the first part, and the City of Salmon, Idaho, by its mayor and city council, hereinafter called the grantees, party of the second part.

WITNESSETH, that pursuant to resolutions heretofore regularly passed by the stockholders of aforesaid corporation, and the directors thereof, and in consideration of the sum of Thirty Thousand (\$30,000.00) Dollars, to it in hand paid by the party of the second part, through and by its Mayor and City Council, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, the party of the first part has granted, bargained, sold, conveyed, confirmed, assigned, transferred and set over, and by these presents does grant, bargain, sell, convey, confirm, assign, transfer and set over unto the party of the second part for ever all the following described real estate, situate, lying and being in Lemhi County, State of Idaho, and more particularly described, to wit: all that certain lot, piece or parcel of land situate, lying and being in the Townsite of Salmon City, County and State aforesaid bounded and particularly described as follows, to wit: from the northeast corner of the block of land in Salmon City bounded northerly by Main Street and easterly by Terrace Street run North, sixty one degrees and thirty minutes West, three hundred and five and five tenths (305.5) feet along the southerly side of said Main Street to the place of beginning; thence South twenty four degrees and fifty four minutes West thirty and five tenths (30.5) feet to Southeast corner of lot hereby conveyed; thence north eighty degrees and fifty seven minutes West, seventy-eight and four tenths (78.4) feet to easterly side of Salmon River; thence North thirty nine degrees and fifty minutes East, along the easterly bank of Salmon River, fifty-seven and four tenths (57.4) feet to southerly side of Main Street and thence South sixty-one degrees and thirty minutes East, along southerly side of Main Street, sixty and seven tenths (60.7) feet to the place of beginning, the area of said lot being 3058 feet, more or less, and being the northwest corner of that certain lot conveyed to said Salmon City Water Company, Limited, by Michael O. Spahn and to Michael O. Spahn by Thos. Elder, Probate Judge of Lemhi County by deed dated May 20th, 1884 and recorded in Book of Townsite Deed at page 109 records of said County.

Also all that certain lot, piece or parcel of land situate, lying and being in the Townsite of Salmon City, County and State aforesaid bounded and particularly described as follows: beginning at the Southeast corner of the block of land bounded easterly by First Street and southerly by Washington Street of Tingley's Addition to North Salmon the same point being the Southeast corner of the lot hereby conveyed and running thence South 89°20' West along the northerly line of said Washington Street fifty feet to the Southwest corner of said lot; thence North 0°40' West fifty feet to the northwesterly corner of said lot; thence North 89°20' East fifty feet to the westerly line of said First Street and the northeasterly corner of said lot; thence South 0°40' East along the said westerly line of First Street fifty feet to the place of beginning, the same being a portion of the block on which the Brooklyn School House is located.

Also all that certain lot, piece or parcel of land situate, lying and being in the Southeast quarter of the North-east quarter of Section One, Township twenty-one North of Range Twenty-one East of the Boise Meridian in Lemhi County, State of Idaho, and bounded and described as follows, to wit: beginning at a point on the East line of Fifteenth Street as the same is laid out and platted in the Gilmore Addition to Salmon City, North 0°10'40" West from the Northwest corner of Block twenty-three as platted in said Gilmore Addition, from which point the east quarter corner of said Section One bears South 27°15' East 722.3 feet; thence South 89°49'20" West 95.75 feet; thence North 0°10'40" West 100 feet; thence North 29°49'20" East 100 feet; thence South 0°10'40" East 100 feet; thence South 89°49'20" West 4.25 feet to the place of beginning.

Together with all rights, privileges and benefits accruing to said party of the first part herein under and by virtue of one certain warranty deed of conveyance dated June 23, 1910, signed and acknowledged by Horace O. Pope and Ada P. Pope, his wife, to the Salmon City Water Company, Limited, the party of the first part herein, and recorded in Book "U" of Deeds page 135, in the office of the County Recorder of Lemhi County, Idaho, the special privilege clause of which deed reads as follows: "Together with a full, free and unobstructed right of way through and upon other lands now owned by the said party of the first part situate in the said Southeast quarter of the Northeast quarter of said section one Township 21 North of Range 21 East for the purpose of laying and repairing the pipe and the right to enter upon said lands for said purpose as the said pipe line is now laid and runs over and across said lands, and the said parties of the first part hereby waive all claims for damages for or on account of the same."

2. All these rights, powers, privileges, franchises and easements described in and granted by that certain ordinance of the Village of Salmon City, County of Lemhi, State of Idaho, designated and entitled as follows:—

"Ordinance Number 20" entitled "An ordinance granting the right of way through the streets and alleys of Salmon City to the Salmon City Water Company for the purpose of laying water pipe." Approved on the 5th day of April, A.D. 1897.

3. All rights of way owned or controlled by said party of the first part for the construction, maintenance and operation of water mains, pipes, conduits, etc. therein for the transmission and conducting of water purposes along and upon the course where said water mains, pipes, conduits, etc. are now constructed, laid and placed from the Jesse Creek reservoir of said grantor to all points of distribution throughout said city of Salmon or elsewhere.

4. The grantor herein also conveys to said second party all rights, privileges, benefits, interests, accrued or accruing, established, maintained, recognized, continuing or which may arise, be established, recognized or be admitted under and by virtue of that one certain agreement and contract entered into for and in behalf of the grantor herein, and continued by said grantor to this date, by one R.V. Harris, as agent of grantor herein, by which said Harris negotiated and entered into an agreement and contract with the County of Lemhi, State of Idaho, by and through its Board of County Commissioners, on the first day of September, 1897, by which agreement and contract said Harris was granted permission of carrying and conducting a water main or pipe across the new Salmon River Wooden Truss Bridge across Salmon River in said County, on a line with Main Street of the City of Salmon, Idaho, agreeing and paying therefor the sum of five hundred dollars.

5. All these certain ditches, canals and flumes extending from the intake, of said Salmon City Water Company, Limited, on Jesse Creek to the reservoir of said grantor and being and extending through, to and upon portions of the real premises herein described and conveyed, together with all rights, privileges, easements and appurtenances thereto belonging, or in any wise appurtenant, meaning and intending hereby to convey to the second party herein all ditches, canals, flumes, conduits, rights of way and privileges owned, controlled or used by the said party of the first part in any wise pertaining to said water system, plant and reservoir heretofore owned, controlled and used by said first party.

6. Also twenty-five (25) inches of water of that certain water right to the use of 180 inches of water of Jesse Creek awarded to C.G. Willis and John H. Wheeler by a decree of the District Court of the Fifth Judicial District of the State of Idaho. in and for Lemhi County.

dated September 30, 1893, which decree is duly recorded in the office of the Clerk of said Court in Book "A" of Judgments at page 251. The said C.C. Willis having on the 28th day of June, 1897, conveyed by deed the said twenty-five inches of the waters of Jesse Creek to the Salmon City Water Company, Limited, party of the first part herein, which deed of conveyance was duly acknowledged and recorded on July 12, 1897, in Book "I" of Deeds page 488 in the office of the County Recorder of Lemhi County, Idaho, which twenty-five inches of water, and all rights or interests therein, are hereby conveyed by said grantor to the party of the second part herein.

Also all rights title and interest in and to the water of Jesse Creek in said Lemhi County, State of Idaho, acquired by that certain Water License No. 1241 granted by the State Engineer of Idaho to the grantor herein which license reads as follows: "STATE OF IDAHO. Water License No. 1241. Whereas, on the 21st. day of April, A.D. 1905 Salmon City Water Company, Limited, of Salmon, County of Lemhi, and State of Idaho, duly made application (No. 1717) to me for a permit to use two cubic feet per second of the waters of Jesse Creek County of Lemhi, State of Idaho, for water supply, fire and domestic purposes; and, WHEREAS, On the 18th day of May, A.D. 1905 Permit No. 1241 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 18th day of November, A.D. 1905, and for the application to beneficial use of said water on or before the 18th day of November, A.D. 1905; and, WHEREAS, on the 25th day of August, A.D. 1905 the holder of said permit made proof of the completion of adequate works for the diversion of two cubic feet per second of said waters, as evidenced by my certificate No. 1241, dated September 6, 1905, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use two cubic feet per second of water, with date of priority of April 21, 1905, and, WHEREAS On the 25th day of August A.D. 1905 proof was duly made of the application to beneficial use of two cubic feet per second of said water NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to Salmon City Water Company, Limited, of Salmon, Idaho, the holder and owner of said Permit No. 1241 a perpetual right, dating from April 21, 1905, to the use of two cubic feet per second of the waters of Jesse Creek in the County of Lemhi, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point in the SW¹/₄ of M³⁴, Section One, Township 21 North, Range 21 East of the Boise Meridian, and conducted to Salmon City, Lemhi County, Idaho, for the purpose of water supply, fire and domestic use, subject, however to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which water may be taken, when such rules and regulations have for their object the economical use of such water. WITNESS MY hand and seal of my office, at Boise, Idaho, this sixth day of September, A.D. Nineteen Hundred and five. Jas. S. Stephenson, Jr. State Engineer" Said license was recorded in Book 1 of Licenses page 24. It is intended to hereby convey all interests and benefits, right and title which said grantor holds or be entitled to, to the party of the second part herein. Together with any and all other rights of every kind and character in and to the waters of said Jesse Creek including all the rights, privileges, easements and powers including riparian rights, rights to divert the waters of said Jesse Creek and to construct, maintain and operate all ditches, flumes and canals owned, controlled and used by said party of the first part, acquired by the aforesaid deed and license, by prior appropriation and any and all rights in and to the waters of said Jesse Creek acquired in any other method, manner or procedure.

7. The entire water plant and system owned, operated, controlled and constructed by said grantor including all portions of the plant or system, reservoir, buildings, works equipment, appliances, canals, pipes, tools and supplies and all other machinery, equipment, fixtures, appliances and appurtenances belonging or appertaining to its said water system and plant and business, and all other machinery, apparatus, appliances, appurtenances, materials, supplies, stores, goods, wares and merchandise now owned by the grantor and used in distributing, using, selling, furnishing and supplying water general, domestic, fire and commercial use and all other purposes in and about the City of Salmon, County of Lemhi, State of Idaho.

8. All rights which the grantor has however originating and however acquired to appropriate, divert and use the waters of said Jesse Creek including all riparian rights, water rights and water appropriations, rights to store, divert and use the water of said stream now owned by the grantor and also all dams now owned by the grantor and extending across or entering into Jesse Creek as the same are now located and constructed, together with all headgates, ditches, pipes and flume lines, easements and other appurtenances thereunto belonging or in any wise appertaining.

9. All the property, real, personal and mixed, rights in property whether or not hereinbefore mentioned in or to which it has any estate, right, title, interest, claim or demand as well in law as in equity including all its lands, tenements, hereditaments, licenses, permits, privileges, franchises, grants, immunities, contracts, rights of action, water appropriation, water rights, records, muniments of title, insurance policies, and everything else belonging to the grantor or to which it has any rights, or in which it has any interest and also including all the rights, privileges, easements, tenements, hereditaments and appurtenances belonging to or used by the grantor or in any wise appertaining to said property, real, personal, or mixed, or any thereof and all its estates, rights titles, interests, claims and demands therein or thereto, and also the reversions and reversion, remainder and remainders, and the rents issues and profits thereof from and including January 1, 1912, and no words of particular description of property contained in this indenture shall be deemed, held or construed to limit or curtail the words of general description of property contained in this indenture.

To have and to hold the above granted premises, rights, privileges, franchises and property together with all of the profits, proceeds, rights, easements and appurtenances connected therewith, or pertaining or belonging thereto, unto the said party of the second part, forever, from and after January 1, 1912, to its use and benefit forever.

And the grantor covenants to and with the said party of the second part that it is the owner of all of the above mentioned property and premises, use and operation of said water plant and system; that it has good right to sell and convey said premises and property and the same are free from all incumbrances and said grantor will forever defend all the above described premises and all property intended hereby to be conveyed unto the said grantee against, the right, title, interest, claim or demands of all persons whomsoever claiming or to claim the same, or any portion thereof and that it will from time to time at the request of and costs of said grantees execute all such further assurance for the further or more perfectly or satisfactorily assurance and confirming the premises, property, rights and franchise hereby granted to said grantees as said grantees shall require and as shall be tendered to be done or to be executed.

IN WITNESS WHEREOF, said party of the first part has hereunto set its hand and seal the said and year in this instrument first above written.

SALMON CITY WATER COMPANY, LIMITED,

By W.H. Shoup, Pres.

By F.S. Wright, Sec.

State of Idaho }
County of Lemhi, } ss.

On this Fourth day of January, in the year 1912, before me W.C.

dated September 30, 1895, which decree is duly recorded in the Court in Book "A" of Judgments at page 251. The said O.O. Willis having on the 28th day of June, 1897, conveyed by deed the said twenty-five inches of the waters of Jesse Creek to the Salmon City Water Company, Limited, party of the first part herein, which deed of conveyance was duly acknowledged and recorded on July 12, 1897, in Book "I" of Deeds page 485 in the office of the County Recorder of Lemhi County, Idaho, which twenty-five inches of water, and all rights or interests therein, are hereby conveyed by said grantor to the party of the second part herein.

Also all rights title and interest in and to the water of Jesse Creek in said Lemhi County, State of Idaho, acquired by that certain Water License No. 1241 granted by the State Engineer of Idaho to the grantor herein which license reads as follows: "STATE OF IDAHO. Water license No. 1241. Whereas, on the 21st. day of April, A.D. 1905 Salmon City Water Company, Limited, of Salmon, County of Lemhi, and State of Idaho, duly made application (No. 1717) to me for a permit to use two cubic feet per second of the waters of Jesse Creek County of Lemhi, State of Idaho, for water supply, fire and domestic purposes; and, WHEREAS, On the 18th day of May, A.D. 1905 Permit No. 1241 was issued to said applicant for the diversion of said water, and providing for the completion of the works of diversion therein described on or before the 18th day of November, A.D. 1905, and for the application to beneficial use of said water on or before the 18th day of November, A.D. 1905; and, WHEREAS, on the 25th day of August, A.D. 1905 the holder of said permit made proof of the completion of adequate works for the diversion of two cubic feet per second of said waters, as evidenced by my certificate No. 1241, dated September 6, 1905, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use two cubic feet per second of water, with date of priority of April 21, 1905, and, WHEREAS On the 25th day of August A.D. 1905 proof was duly made of the application to beneficial use of two cubic feet per second of said water NOW, THEREFORE, By virtue of the authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to Salmon City Water Company, Limited, of Salmon, Idaho, the holder and owner of said Permit No. 1241 a perpetual right, dating from April 21, 1905, to the use of two cubic feet per second of the waters of Jesse Creek in the County of Lemhi, and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point in the SW 1/4 of 124, Section One, Township 21 North, Range 21 East of the Boise Meridian, and conducted to Salmon City, Lemhi County, Idaho, for the purpose of water supply, fire and domestic use, subject, however to the laws of the State of Idaho applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which water may be taken, when such rules and regulations have for their object the economical use of such water. WITNESS my hand and seal of my office, at Boise, Idaho, this sixth day of September, A.D. Nineteen Hundred and five. Jas. S. Stephenson, Jr. State Engineer." Said license was recorded in Book 1 of Licenses page 24. It is intended to hereby convey all interests and benefits, right and title which said grantor holds or be entitled to, to the party of the second part herein. Together with any and all other rights of every kind and character in and to the waters of said Jesse Creek including all the rights, privileges, easements and powers including riparian rights, rights to divert the waters of said Jesse Creek and to construct, maintain and operate all ditch, flumes and canals owned, controlled and used by said party of the first part, acquired by the aforesaid deed and license, by prior appropriation and any and all rights in and to the waters of said Jesse Creek acquired in any other method, manner or procedure.

7. The entire water plant and system owned, operated, controlled and constructed by said grantor including all portions of the plant or system, reservoir, buildings, works equipment, appliances, canals, pipes, tools and supplies and all other machinery, equipment, fixtures, appliances and appurtenances belonging or appertaining to its said water system and plant and business, and all other machinery, apparatus, appliances, appurtenances, materials, supplies, stores, goods, wares and merchandise now owned by the grantor and used in distributing, using, selling, furnishing and supplying water general, domestic, fire and commercial use and all other purposes in and about the City of Salmon, County of Lemhi, State of Idaho.

8. All rights which the grantor has however originating and however acquired to appropriate, divert and use the waters of said Jesse Creek including all riparian rights, water rights and water appropriations, rights to store, divert and use the water of said stream now owned by the grantor and also all dams now owned by the grantor and extending across or entering into Jesse Creek as the same are now located and constructed, together with all headgates, ditches, pipes and flume lines, easements and other appurtenances thereunto belonging or in any wise appertaining.

9. All the property, real, personal and mixed, rights in property whether or not hereinbefore mentioned in or to which it has any estate, right, title, interest, claim or demand as well in law as in equity including all its lands, tenements, hereditaments, licenses, permits, privileges, franchises, grants, immunities, contracts, rights of action, water appropriation, water rights, records, muniments of title, insurance policies, and everything else belonging to the grantor or to which it has any rights, or in which it has any interest and also including all the rights, privileges, easements, tenements, hereditaments and appurtenances belonging to or used by the grantor or in any wise appertaining to said property, real, personal, or mixed, or any thereof and all its estates, rights titles, interests, claims and demands therein or thereto, and also the reversions and reversion, remainder and remainders, and the rents issues and profits thereof from and including January 1, 1912, and no words of particular description of property contained in this indenture shall be decided, held or construed to limit or curtail the words of general description of property contained in this indenture.

To have and to hold the above granted premises, rights, privileges, franchises and property together with all of the profits, proceeds, rights, easements and appurtenances connected therewith, or pertaining or belonging thereto, unto the said party of the second part, forever, from and after January 1, 1912, to its use and benefit forever.

And the grantor covenants to and with the said party of the second part that it is the owner of all of the above mentioned property and premises, use and operation of said water plant and system; that it has good right to sell and convey said premises and property and the same are free from all incumbrances and said grantor will forever defend all the above described premises and all property intended hereby to be conveyed unto the said grantee against, the right, title, interest, claim or demands of all persons whomsoever claiming or to claim the same, or any portion thereof and that it will from time to time at the request of and costs of said grantee execute all such further assurance for the further or more perfectly or satisfactorily assurance and confirming the premises, property, rights and franchises hereby granted to said grantee as said grantee shall require and as shall be tendered to be done or to be executed.

IN WITNESS WHEREOF, said party of the first part has hereunto set its hand and seal the said and year in this instrument first above written.

Seal. SALMON CITY WATER COMPANY, LIMITED,
By W.H. Shoup, Pres. By F.S. Wright, Sec.

State of Idaho }
County of Lemhi, } ss. On this fourth day of January, in the year 1912, before me W.O. Smith a Notary Public, personally appeared W.H. Shoup and F.S. Wright known to me to be the president and secretary respectively of the corporation that executed the instrument and ac-

knowledge to me, that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

My commission expires December 31st, 1914

W.C. Smith
Notary Public in and for the County of Lemhi,
State of Idaho.

Recorded at the request of Frank G. Miller, Jan. 15th, 1912, at 15 minutes past 1 o'clock P.M., in Book V of Deeds, pages 9, 10, and 11, Records of Lemhi County, Idaho.

Frank G. Miller
County Recorder

Deputy.

Instrument No. 12294

IN THE PROBATE COURT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI.

In the Matter of the Estate of
Lurdock L. McHicoll, a minor.

DECREE OF DISTRIBUTION OF ESTATE.

Barbara McHicoll, the guardian of the estate of Lurdock L. McHicoll, a minor, having on the 22nd day of April, 1912, filed in this Court her petition, setting forth, among other matters, that her accounts have been finally settled and said estate is in a condition to be closed, and one half undivided interest of the estate hereinafter mentioned remains the sole property of the said ward, Lurdock L. McHicoll, said matter coming on regularly to be heard this 6th day of May, 1912, upon due proof that due and legal notice of such hearing had been given as directed by the order of this Court heretofore made; the said Barbara McHicoll appearing by her counsel, J.P. Nixon, Jr. this Court proceeded to the hearing of said petition; and it appearing, to the satisfaction of this Court, that the residue of said estate, consisting of the property hereinafter particularly described, is now ready for distribution, and that said estate is now in a condition to be closed;

That the whole of the said estate consist of real and personal property.

That the said Barbara McHicoll was duly appointed guardian of the said ward, Lurdock L. McHicoll, by this Court. And that the said ward, Lurdock L. McHicoll is now over the age of twenty-one years.

That all claims against the said estate are fully paid; that all taxes due from the said estate have been paid; and that the estimated expenses of closing said estate will amount to the sum of \$10.85.

That the said Lurdock L. McHicoll is entitled to an undivided one half interest in all real and personal property hereinafter mentioned.

Now on this, the said 6th day of May, 1912, on motion of J.P. Nixon, Jr., Esq. counsel for said Barbara McHicoll

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, That the residue of said estate, of Lurdock L. McHicoll a minor, hereinafter particularly described, and now remaining in the hands of said Barbara McHicoll and any other property not now known or discovered, which may belong to said estate, or in which the said estate may have an interest, be and the same is hereby distributed as follows, to wit:

An undivided one half interest in all real and personal property hereinafter mentioned together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the rents, issues and profits thereof being the sole property of the said ward, Lurdock L. McHicoll.

The following is a particular description of said residue of said estate referred to in this decree, and of which distribution is ordered, adjudged and decreed as aforesaid, to wit:

All of that certain lot, piece or parcel of land situate, lying and being in the Townsite of Salmon City, County of Lemhi, State of Idaho, bounded and described as follows, to wit: Beginning at a point on the northerly side of Main Street, in the said Salmon City, North 61 30' West, and 67 feet and 9 inches distant from the Southeast corner of the Block of land in said townsite bounded southerly by Main Street and easterly by Center Street, and running thence North 61 30' West, along the northerly side of said Main Street, 33 feet and 2 inches to the lot now owned by Ole Johnson; thence North 27 55' East 118 feet and 6 inches; thence south 62 15' East 32 feet and 10 inches to the lot formerly owned by Margaret Williams, and thence South 27 50' West 119 feet and 2 inches to the place of beginning. The said lot being the same heretofore conveyed to H.H. Jeanjaquet by Thomas Rider, Probate Judge of said county, by deed dated March 14, 1887, and recorded in Book "D" of Townsite Deed on page 139; together with the buildings and improvements situated thereon.

All of that certain lot, piece or parcel of land situated, lying and being in the Townsite of Salmon City, Lemhi County, Idaho, bounded and described as follows, to wit: Beginning at the Southeast corner of the Homestead lot formerly owned by Pluma Fuller on the southerly side of Main Street, and running thence South 28 30' West along the Westerly side of the lot now owned and occupied by A.J. MacRab as a residence 30 feet; thence North 61 30' West along the Northerly side of lands now owned by William Peterson 98 feet and 3 inches to the Southeast corner of the lot of land now owned by L.L. Lopherson; thence North 28 30' East 30 feet, and thence South 61 30' East along the Southerly end of the lot conveyed to Geo. L. Shoup by the Probate Judge of said County, and along the Southerly end of the said lot of Pluma Fuller 48 feet and 3 inches to the place of beginning. The lot hereby described being the same heretofore conveyed to Robert McHicoll, deceased, in his lifetime by Emily G. Snook and John W. Snook by deed dated October 24, 1890, and recorded in the office of the County Recorder of the said county of Lemhi in Book "F" of Deeds at page 492; together with all buildings and improvements thereon.

All of that certain lot, piece or parcel of land situated and lying in the said Townsite of Salmon City, bounded and described as follows, to wit: Beginning at a point 364 feet South 61 30' East from the Northeast corner of Main and Andrews Streets, in said Townsite, said point being the Southeast corner of the L.E. Church lot, and from thence North 29 East 117 feet and 6 inches; thence South 61 30' East 100 feet; thence South 29

ATTACHMENT C

Copy of IDWR “Water Rights Proof Reading Report dated December 13, 1984, listing License No. 75-2167 in the name of Salmon City Water Co. Ltd. For municipal purposes within the City of Salmon

WRD417

WATER RIGHTS PROOF READING REPORT

12/13/84

PAGE 1

WATER RIGHT NUMBER 75-2167

OWNER LAST NAME - SALMON CITY WATER CO. LTD.

ADDRESS LINE 1 -

ADDRESS LINE 2 -

SOURCE - JESSE CREEK

STAGE - LICENSE

TOTAL DIV. VOLUME -

DIVERSION POINT - SWNE 01 21N 21E LOT

FROM - TO -

USE - MUNICIPAL

DEGREE NAME -

REMARKS - P/U WITHIN CITY LIMITS OF SALMON.

NON IRRIG USE -

OTHER RIGHTS FOR SAME USE -

PROOF DUE -

PROOF MADE -

DIVERSION MEANS -

FIRST NAME -

ORIG OWNER -

ADDRESS LINE 2 -

CITY - SALMON

TRIBUTARY OF - SALMON RIVER

PRIORITY - 04-21-1905

COUNTY - LEMHI

STATE - ID

ZIP CODE -

STATUS -

00 AFA TRFR/ANEND -

REDIV -

USE - MUNICIPAL

PLACE OF USE - TWN 21N RING 21E SEC 01

DATE -

PROTESTED -

HEARING -

COND. OF APPROVAL -

FLD EXAM -

PERMIT/DENIED -

OLD NO. - 1241

TOTAL ACRES

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ATTACHMENT D

Copy of IDWR Memorandum Decision and Order dated June 6, 1981, including on page 3 a summary of testimony from Virgil Schofield, watermaster of Water District 75A (Jessie Creek and Tributaries), noting winter time use of water by the City of Salmon

(D)

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF
APPLICATION FOR TRANSFER NO. 75-0019 IN THE
NAME OF DALE T. SMEDLEY

MEMORANDUM DECISION
AND ORDER

On October 1, 1979, Dale T. Smedley applied to the Department of Water Resources for a change in the point of diversion and place of use of the waters of Jesse Creek tributary to the Salmon River. The right sought to be changed is evidenced by a decree to John Wheeler and C. C. Willis in the case of E. T. Andrews and W. S. Andrews vs. John Martin, et al dated September 30, 1893 in the Fifth Judicial Court, County of Lemhi. The right was decreed for 3.60 cubic feet per second with the priority date of 1868, designating the point of diversion to be within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 1, Twp. 21N, Rge. 21E B.M., Lemhi County. The water was decreed for the irrigation of 480 acres within the SW $\frac{1}{4}$ of Sec. 31; NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 30; the NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 29; the E $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, Twp. 22N, Rge. 22E B.M., Lemhi County. The portion of the right that is proposed to be changed is 0.30 cubic feet per second of water used for the irrigation of 39.99 acres of land located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 31, Twp. 22N, Rge. 22E B.M. That portion of the right is proposed to be diverted within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2 and NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 10, Twp. 21N, Rge. 21E, B.M. for the irrigation of 20 acres within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 1, and 20 acres within the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 2, Twp. 21N, Rge. 21E B.M., Lemhi County.

Notice of this application was published on October 11 and 18, 1979 in the Recorder-Herald of Salmon, Idaho. On October 19, 1979, the Department received the initial protest against approval of this application from the estate of Walter L. Blackadar, deceased and Shirley C. Blackadar. A second protest was received on October 24, 1979 from the City of Salmon and a third on October 26, 1979 from Carl T. Gaver and Margaret Gaver. On October 29, 1979, additional protests were received from Nan Blackadar, Sue Blackadar and Robert L. Blackadar. The Department received the final protest on October 30, 1979 from John Bryant.

The protests indicated that if the application for transfer was granted it would result in a change in the nature of use, would adversely affect existing water rights and that the major portion of the right sought to be changed had been abandoned or forfeited through nonuse.

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On October 24, 1980, the Department of Water Resources conducted a hearing in this matter at the Lemhi County Courthouse in Salmon, Idaho. The applicant was present and was represented by James C. Herndon, Attorney at Law. Mr. and Mrs. Gaver were present along with representatives of the City of Salmon and were represented by Fred Snook, Jr., Attorney at Law. John Bryant and the Blackadar family were present and represented by Sherman F. Furey, Jr., Attorney at Law.

Prior to proceeding with testimony counsel for the parties involved stipulated that the Department of Water Resources conduct a field examination to determine if there is transmission loss in that reach of Pollard Creek between Smedley's point of diversion and the diversion for the city ditch. It was also stipulated that no more than four acres had been irrigated by John Reddington under right 75-0019 for at least the past ten consecutive years. The applicant and the objectors agreed to waive their right to a proposed decision and to allow the Director to issue a final decision on the matter based upon the testimony and evidence presented at the hearing, the findings of the field exam to be conducted by the Department and the Director's understanding of the law.

REVIEW OF EVIDENCE AND TESTIMONY

Exhibits submitted at hearing.

- 1) Applicant's Exhibit No. 1 - illustration of diversion on Chipps, Pollard and Jesse Creek designating approximate locations and distances between diversions.
- 2) Applicant's Exhibit No. 2 - aerial photo of drainage for water district 75A, Jesse Creek, superimposed with U.S.G.S. 7½ minute series topographic map.
- 3) Applicant's Exhibit No. 3 - entitled warranty deed dated June 26, 1978.
- 4) Applicant's Exhibit No. 4 - entitled deed of water rights dated March 8, 1978.
- 5) Applicant's Exhibit No. 5 - entitled water district role for Water District 75A, Jesse Creek, dated from 1963 to 1980.

TESTIMONY

The applicant testified that the intent of the application was to transfer 7½ miner's inches to his Chipps Creek diversion and 7½ miner's inches to his Pollard Creek diversion. This water would then be used to facilitate a gravity flow irrigation system which he hopes to install. Furthermore, water diverted at these two points would be collected in a reservoir to supplement irrigation later in the year when water was short. He testified that both reservoirs would be less than 100 acre-feet in capacity and that none of the stored water would be used for ordinary

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systems for the proposed subdivision. He also stated that of the 736 acres which he owns, around 350 are irrigable.

John Reddington, witness for the applicant and previous holder of the water right testified he had used the 15 miner's inches of water in question to irrigate 4 acres of land which consisted of a small orchard and pasture. He contended this quantity of water was necessary in order to irrigate the 4 acres because of the gravelly soil.

Witness Leon Manning, consultant for the applicant, testified the duty of water on the Reddington property could easily have been 15 miner's inches for the 4 acres traditionally irrigated. He stated the applicant could definitely use the 15 miner's inches of water requested by the transfer. It was his opinion that the Blackadar water rights and Gaver's domestic well would not be adversely affected by the proposed change of points of diversion. He was unable to determine what effect the transfer of 7½ miner's inches to the applicant's Chipps Creek diversion would have on the water rights for the City of Salmon.

Virgil Schofield, watermaster for Water District 75A and witness for the applicant, testified that about 10 years ago, the City of Salmon changed their points of diversion to their present location on Chipps and Pollard Creeks. He also confirmed that during the winter and July and August, the city diverted all the water from Chipps Creek and that during these periods, the Blackadar and Reddington rights were filled with water rising in Pollard Creek below the city's diversion. He testified that in performing his duties as watermaster since 1962, it had been his experience that the City of Salmon did not require the entire flow of Chipps Creek in order to fill their first right and, therefore, the transfer of 7½ miner's inches to Smedley's upper diversion would not adversely affect the city's right. He also testified that the city's rights were not measured until the water from all three creeks had been combined in the municipal system.

Protestant Carl Gaver testified he is the holder of 15 miner's inches of third right water with a priority of 1888. He has traditionally diverted this water from the city ditch about one-half mile upstream from the Reddington diversion and used the water to irrigate about 10 acres of land. However, he indicated his primary concern was the effect this transfer would have on his culinary well which has historically been recharged with the water remaining in the city ditch below his diversion. Mr. Gaver explained that during those periods prior to 1979 when the ditch was normally dry during the day there would be flows in the ditch at night which recharged the shallow groundwater aquifer. However, in 1979, the city

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modified its municipal system and initiated a storage procedure which stopped the nightly flows in the city ditch and in August his well went dry. Mr. Gaver described his well as consisting of a two-inch galvanized pipe, 23 feet deep and located about 60 feet from the bank of the city ditch.

Protestant Robert Blackadar testified that an 1868 priority right for 65 1/3 miner's inches is appurtenant to the Blackadar Ranch. He stated in 1966 his father, the late Walter Blackadar, initiated procedures to move their point of diversion to its present location. This was completed in 1974. He testified it was his belief the soil types and textures were similar to those found on the Reddington property and that it had been his experience you could irrigate 135 acres of land with 150 miner's inches of water. Mr. Blackadar stated his primary objection to the proposed transfer was that the percent of loss in the creek down to the Blackadar diversion would no longer be shared with the Reddington right.

Robert Locks, county agent for Lemhi County and witness for the Blackadar Estate, testified the City of Salmon has a 10-inch diameter pipe which diverts water from Chipps Creek into Pollard Creek and a 12-inch diameter pipe which diverts the combined water of Chipps and Rollard Creeks into Jesse Creek. He stated the city does divert all the water from Chipps Creek during July and August, during the winter and quite often during those periods there is not sufficient water to fill the city's 12-inch pipe on Pollard Creek. Although the city also diverts water from Jesse Creek, he explained that Chipps and Pollard Creeks are the primary sources for the city's water.

William J. Cannon, mayor of the City of Salmon and witness for the city, testified that although the Pollard Creek pipeline can carry excess water which is released into Jesse Creek for downstream users there are periods of the year when there is not sufficient water in the creeks to meet the city's needs. He testified that to his knowledge the city's first right water has always been filled. He explained when there is insufficient water to fill all of the second water right, the remaining water is apportioned among the owners of the second right water.

DEPARTMENT RECORDS OFFICIALLY NOTICED

- 1) Application for Transfer No. 75-0019 dated October 1, 1979.
- 2) Affidavit of publication dated October 19, 1979.
- 3) Letters of protest dated October 19, 24, 26, 29, and 30, 1979.
- 4) Notice of conference and/or hearing dated May 29, 1980.
- 5) Recess of hearing until July 19 and 20, signed May 29, 1980.
- 6) Stipulation waiving right to proposed decision dated June 12, 1980.

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7) Field report, Department of Water Resources, dated October 8, 1980.

8) Decree in the matter of E. T. Andrews and W. S. Andrews vs. John

Martin, et al dated September 30, 1893.

9) Decree in the matter of George G. Miller vs. Ernest Long, et al, dated June 19, 1925.

10) Decree in the matter of Ada P. Pope as executrix of the estate of Forest G. Pope, deceased vs. Ernest Long, et al, dated January 9, 1939.

FINDINGS OF FACT

1) The portion of water right No. 75-0019 which the applicant is requesting to transfer has been used on approximately 4 acres of ground during the past 10 years.

2) For many years, the domestic well of protestant Carl Gaver diverted water from the shallow groundwater aquifer which was artificially recharged by nighttime flows down the city ditch. These flows ceased when the City of Salmon installed their storage facility in 1979 and began storing water during periods of low demand through the municipal system.

3) The delivery system for the City of Salmon is capable of diverting water from Chipps and Pollard Creeks in excess of the amounts required to fill the water rights claimed by the city on Chipps, Pollard, and Jesse Creeks. These rights, while evidenced by decree, have never been transferred to change the decreed point of diversion, place of use or nature of use.

4) The City of Salmon has traditionally measured its right after the water from Chipps, Pollard and Jesse Creeks have been combined. Any excess water is discharged into Jesse Creek upstream from the city ditch diversion.

5) Water diverted from Chipps Creek above the city's diversion will not adversely affect any right held by the city provided there is water flowing past the city's Jesse Creek diversion.

6) A field exam conducted by personnel of the Department of Water Resources determined that there was no loss due to seepage between the points of diversion proposed in application for transfer 75-0019 and the city ditch diversion.

7) The approval of application for transfer 75-0019 as requested would result in an expansion of the use under the original right.

CONCLUSIONS OF LAW

1) The right being transferred by the applicant is limited to the quantity of water necessary for adequate irrigation of 4 acres.

2) Water rights on Chipps, Pollard and Jesse Creeks will not be adversely

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affected by the establishment of the two points of diversion proposed by the applicant.

4) The applicant is entitled to the transfer he has requested subject to such conditions as are necessary to assure there will be no expansion in the use established under the original right.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Transfer No. 75-0019 is APPROVED subject to the following conditions:

1) Totalizing measuring devices and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works.

2) Use of water under this transfer shall be subject to the control of the watermaster of State Water District 75A, Jesse Creek.

3) Diversion of water under this transfer will be limited to the quantity of water necessary for the irrigation of 4 acres and shall not exceed 12 acre-feet per annum.

Dated this 30th day of June, 1981.


A. KENNETH DUNN

Director

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ATTACHMENT E

Copy of U.S. Forest Service Management Plan for the Salmon Municipal Watershed dated June 1975, estimating at page 3 (un-numbered) the City of Salmon's peak municipal use of water from Jesse Creek during winter at 800 gallons per minute, and during summer at 3500 gallons per minute

MANAGEMENT PLAN

Salmon Municipal Watershed

Watershed Number 0015

Salmon Ranger District

Salmon National Forest

Region 4

Prepared by: A. T. Schubert Date 6/12/75

Recommended by: Stanley E. Ferguson Date 6/16/75

Recommended by: _____ Date _____

Approved by: J. R. Munson Date 6/16/75

A. INTRODUCTION

The Salmon Municipal Watershed consists of the Jesse Creek, Chipps Creek and Pollard Canyon drainages. The lower boundary of the watershed lies approximately one mile west of the City of Salmon.

The Watershed is on the east facing slope of the Salmon River Mountains in Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, T. 21 N., R. 21 E., S.M.; Sections 1 and 12, T. 21 N., R. 20 E., S.M.; Sections 18, 19, 20, 28, 29, 30, 31, 32, 33, 34, and 35, T. 22 N., R. 21 E., S.M.; Sections 24, 25, and 36, T. 22 N., R. 20 E., S.M. It is a tributary of the Salmon River Drainage of the Snake River Basin in the Columbia River system. Portions of the watershed are in the Lower, Intermediate, and Great Zones on the Salmon Ranger District, Salmon National Forest, County of Lemhi, State of Idaho.

The watershed contains approximately 13,240 acres of National Forest land and ranges in elevation from 6420 feet to 9150 feet with a mean elevation of 7230 feet. The area is characterized by narrow, steep walled canyons with numerous slide rock or talus slopes. Most of the drainages have very steep talus slopes or ledges at the head with small cirques or cirque basins immediately beneath these slopes.

The majority of substratum material on the watershed is composed of metamorphosed, impure gray quartzite. However, at the upper reaches of Jesse Creek, granitic formations representing the fringe of the Idaho batholith are present. At the lower reaches, portions of the Garmen formation and Challis volcanics can be found. There are numerous faults within the watershed area, but they are of small displacement and appear to be of no major consequence.

The area contains a degree of mineralization. However, the exact extent is not known. There was a quartzite claim between Turner Gulch and Jesse Creek. A deposit of low grade coal or lignite is located in Pollard Canyon immediately below the Forest boundary.

Soils over the area are variable, ranging from very shallow to moderate in depth. Textures range from silt loams to clays with some granitics at the upper reaches of Jesse Creek.

Precipitation ranges from approximately 9 inches at the lower elevations to 30 inches near the summit. The monthly average precipitation, taken at the Salmon weather station, indicates the precipitation at the lower elevations is fairly well spread with the exceptions of May and June which receive somewhat more precipitation. The majority of the precipitation at the higher elevations comes during the winter in the form of snow. There is a snow measurement course approximately five miles south

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of the area in the head of Williams Creek which is read annually during the last of February and March. Measurements taken from this course show an average water content of 14.17 inches on April 1. The average annual precipitation received at Salmon is about 9.39 inches. Temperatures in the area vary considerably. At the Salmon weather station, for the period 1968 through 1974, the high temperature recorded was 105°F. while the lowest was -25°F., with a mean temperature of 45°F. At a mean elevation of 7230 feet on the watershed, the mean temperature would be approximately 33°F. At the 9150 foot elevation, the mean temperature would be approximately 26°F. The area is subject to high intensity, short duration cyclonic storms during the summer months.

Coniferous timber is the major cover type on the watershed area. Douglas-fir is the predominant species. However, lodgepole pine covers much of the area. At the upper reaches and along the ridges, limber pine is common. Along the canyon bottoms and around the small meadows and pot holes, Engelmann spruce is present. Sage-grass slopes and openings are scattered throughout the lower reaches of the watershed.

The City maintains three intake systems, one in Pollard Canyon, one in Chippis Creek and one in Jesse Creek. The intake system in Chippis Creek picks up water and transports it to Pollard Canyon in a twelve inch pipe. The Pollard Canyon intake system picks up the flow from the canyon and the piped flow from Chippis Creek; and transports it to Jesse Creek in a twelve inch pipe. The water is piped directly into a concrete collection tank. The water from the Jesse Creek drainage is slowed in a settling pond or reservoir with about one acre in surface. From there it flows into a wooden flume that carries it to the collection tank. Part of the flow is by-passed so that it does not enter the collection tank but continues downstream as natural flow. Additional water is pumped from a 10 foot well into the collection tank. From the collection tank, the water is piped down to the City's 75,000 gallon reservoir and chlorination system before entering the City mains.

Under construction in 1975 is a three-pond water treatment and storage facility. The facility, known as a slow sand filter, will store 3 million gallons. It will be completed in 1976 at an estimated cost of \$100,000.

Although the water flow from the watershed is more than adequate for the City's needs, the City cannot take more than it has rights for. The City has first right to only 215 inches. By agreement, it also takes an additional 100 inches and replaces it with irrigation water pumped from the Salmon River. City officials believe the supply is barely adequate to meet the present demand. Water use by both commercial and domestic users is estimated at 3500 gallons per minute peak use in the summer and 800 gallons per minute peak use in the winter. Converting the City's water right, which is stated in miners inches to gallons per minute (1 M. Inch = 9.0 gallons per minute) indicates a maximum water right of 2835 gallons per minute. An additional small gallonage of water is obtained from the well.

A tabulation of the City's water rights is included as appendix material in this report.

Prior to 1973, the water intake in Pollard Canyon was located below the confluence of Chipps Creek and Pollard Canyon. To eliminate sediment sources, the system was extended upstream and divided into a water intake in Chipps Creek and one in Pollard Canyon.

Special land uses are limited. Idaho Power Company has a permit dated 3/26/58 for a powerline right-of-way 75 feet in width which passes through a portion of the watershed area for approximately four miles. The City of Salmon has a permit for water transmission lines, structures, and road across the lower end of the watershed from Pollard Canyon to Jesse Creek. There is also a special use permit issued to Edgar Edwards for an irrigation ditch out of Chipps Creek.

Access into the watershed is very limited. There is a low standard road for about 1/2 mile in Jesse Creek. Limited access is also provided by the Salmon River Mountain Road along the west side of the watershed, the old Leesburg Road along the north side on the watershed and the road to the Forest Service administrative site in Jesse Creek at the lower end of the watershed.

B. HISTORY

Settlement of the Salmon area began in 1856 with the discovery of gold in the Leesburg area. The City of Salmon started as a supply point to the gold fields that were located to the west. Farmers and ranchers followed the early mining activity. As the community grew, so did the ordinary water requirements. In about 1890, E. S. Edwards built the first water system in the City of Salmon. This system was purchased in 1897 by the Salmon City Water Company. Finally in 1911, the City of Salmon purchased the system and it became known as the Salmon City Municipal Water Works.

During early settlement, the mountains surrounding the area were freely used by the settlers for the grazing of their domestic livestock. Timber was cut for lumber, homes, outbuildings, firewood, and many other uses. As time progressed, water from the watershed became the most important resource. Other uses were eliminated or restricted. Domestic sheep grazing was terminated from the area in 1911, and cattle grazing in 1917. Wild animals continue to use the drainages. Deer are the major big game species seen on the area. However, elk may occasionally be in the area. The watershed also supports limited populations of upland game birds such as bluegrouse, ruffed grouse, and chuckars. Because of the lack of access, recreation use, both in the past and in the foreseeable future, is very limited. There are no existing nor planned recreation developments in the watershed. However, a small lake near the head of Pollard Canyon attracts a few picnickers during the summer months. A few big game hunters use the area for a short time in the fall. The settling pond supports a few trout and receives light fishing use.

8.

There are a few exploratory mines scattered in the area. Even the old exploratory holes have been inactive for many years. Records show one claim as being surveyed. This claim, MS-1217 A and B, consists of approximately 45 acres and lies on the ridge between Turner Gulch and Jesse Creek in Sections 32 and 33, T. 22 N., R. 21 E., S.M. This claim has been inactive for many years and is apparently abandoned. Low grade coal was mined below the Forest boundary on private land. A small amount of coal was mined. Due to poor quality, this venture was unsuccessful.

Fire occurrence within the watershed is fairly low. The area is rated as resource value class 6 because of the very important watershed values of the area. The fuel types on the area vary but in general, they are classified as low rate of spread and high resistance to control. The area has been placed in the two hour control zone, but it is doubtful if portions of the interior could be reached within these time limits due to the limited access.

The Forest Service maintains the Jesse Creek administrative site which is within the lower reaches of the municipal watershed. The area is used primarily as a storage area. The use of the administrative site for storage does not affect the municipal water supply as it is downstream from the intake systems. The administrative site was withdrawn from mineral entry May 16, 1964.

C. MANAGEMENT OBJECTIVES

The management objectives for this watershed are to provide maximum watershed protection to Jesse Creek, Chippew Creek, and Pollard Canyon so they can produce the optimum amount of high quality water for on-site and downstream uses without impairing the other resource values of the area. This is to be accomplished within the guidelines set forth in the Salmon Ranger District Multiple Use Plan and the Cooperative Agreement entered into between the Secretary of Agriculture and the City of Salmon June 8, 1939.

D. HYDROLOGY

The watershed produces an estimated average water flow of 6140 acre feet per year. The city water system serves approximately 3,000 people. By using 100 gallons per person per day, the yearly average water consumption would be 330 acre feet of water for domestic purposes. This does not include water which is used by businesses in the area such as service stations, laundromats, car washes, hotels, motels, and the cheese factory, all of which consume large amounts of water. The city does not measure or meter the water so actual amounts used are not known.

Fluctuations in stream flow vary from 30% in June to 3% in February of the total water yield. Of the 6140 acre feet of water flowing from this watershed per year, approximately 80% or 4298 acre feet occurs during May, June, and July. Peak flows from snow melt generally occur between May 22 and June 14. Even though approximately 70% of the water produced flows from the area in a relatively short period of time, the stream channels within the National Forest boundary are stable and handle the flows without channel erosion. The stabilized condition of the channels indicates no flooding history. Flood potential of the forest lands within the watershed are low because of vegetative and ground cover conditions existing on the area. Although much of the area is covered with talus slopes and rock outcrops, only one problem area has been identified. A small clay basin, containing approximately 5 acres located above the holding reservoir, is a major producer of colloidal sediments in the Jesse Creek drainage. The soils in this basin are composed of plastic, very sticky clays. Vegetative cover is quite sparse, but probably approaches maximum density for the site. The problems associated with the site are aggravated by construction of the Pollard Canyon water transmission line. This activity exposed sterile subsoil at the water line as well as at the ditch that is now abandoned. Mechanical treatment would further aggravate the situation as it is unlikely sufficient vegetation could be established on the disturbed area to stabilize soil movement.

E. WATER MANAGEMENT PROBLEMS

Of the water produced on the watershed, quantity and timing present no problem although there is a wide variation in stream flow. Water samples taken and sent to the State each month for bacterial analysis nearly always test out within acceptable limits. This may be due to the fact that the water is chlorinated. Water samples are taken daily by the City and tested for the chlorine content. Chemical content of the water is good with a pH of approximately 6.9.

In 1967, Robert G. Bailey and Larry J. Schmidt, hydrologists from the Forest Service Regional Office, accompanied by forest personnel, made a reconnaissance of the Salmon Municipal Watershed. Followup investigations and a Hydrologic Problem Analysis Report was made in 1968. This report identified and suggests remedial action which could be taken on these problems or problem areas. The findings of these investigations indicate the quantity of water produced should generally be adequate as the mean low flow is approximately 450 percent of the estimated need. However, water rationing for lawn sprinkling has been necessary during dry summers.

Even though extension of the water intakes in Chippis Creek and Pollard Canyon have eliminated many of the sources of sediment and organic material, water quality remains a problem. The problem lies in the Jesse Creek drainage. The problem areas in Jesse Creek are located within the

Forest boundary and consists of the small clay basin above the holding reservoir, the nearly vertical banks at the excavation near the Jesse Creek water intake, access road, and the small gully leading into the excavation. From the standpoint of the municipal water supply, the best solution may be to extend the intake works up Jesse Creek to a point above these problem areas.

F. IMPROVEMENT NEEDS AND DEVELOPMENT PROGRAM

Forest Service lands within the watershed have been closed to domestic livestock grazing and timber harvesting for years. A proposal to withdraw the area from mineral entry is presently in progress. This will give added protection to the National Forest lands within the watershed. There are no land treatment measures planned on National Forest lands. The main problems located on Forest land which affect the municipal water supply, are located in the lower portion of the Jesse Creek drainage and are man made or have been aggravated and accelerated by the activities of man. The area believed to be contributing the majority of sediment is a small (4 or 5 acre) clay basin above the holding reservoir. This basin lays on the north facing slope and drains directly into the holding reservoir. The siltation from this basin occurs primarily during the snow melt period or after a heavy rainstorm. Soils in this basin are predominantly clays, appear to be relatively infertile and unstable. The basic nature of these soils limit the types of treatment which could be applied to the area. Presently, the solutions which appear the most feasible would be to extend the intake works up Jesse Creek to a point above the problem area or collect the runoff from this basin and channel it to some point below the intake system.

The water flowing from this watershed, even during the low flow period of February, exceeds the present and foreseeable needs of the City of Salmon. From this standpoint, it is not believed desirable to attempt to manipulate the quantity or timing of water released from the watershed.

Special use permits and cooperative agreements existing within the watershed boundary consist of:

1. A Cooperative Agreement between the City of Salmon, Idaho and the Secretary of Agriculture, dated June 8, 1939 for the purpose of conserving and protecting the municipal water supply for the City of Salmon. (Copy attached in appendix.)
2. Special use permit, dated 1/11/48, to the City of Salmon for a right-of-way to construct and maintain lines, structures, and a road from Pollard Canyon to Jesse Creek. Permit issued free. (A revised special use permit for the additional facilities the City has on the watershed is expected to be issued in May, 1973.)

*Not completed
as of 1973*

11.

3. Special use permit dated 5/26/58, to the Idaho Power Company for a 75 foot right-of-way for the construction and maintenance of the Salmon-Blackbird Transmission Line.
4. Special use permit, dated 1/28/74, to Edgar Edwards for an irrigation ditch for transmission of water from Chippys Creek. Charge permit.

The City Council has outlined plans to continue developing the water system and watershed in future years. These plans include filling in the excavation at the Jesse Creek water intake, constructing a road across National Forest land and private land from Jesse Creek to Pollard Canyon, and reserving potential rock rip-rap material in Jesse Creek for emergency use by the City or County whenever the emergency might be.

Due to the uncertainty of how and when these proposed plans will become firm projects, there will be no further discussion of them in this plan.

G. ECONOMICS

Due to the fact that National Forest lands have been closed to most uses for many years, there would be negligible impacts to the National Forest in terms of dollar returns if presently permitted uses are terminated. The only permitted use which has a substantial fee applied to it is the Salmon-Blackbird power transmission line. The 1971 fee for this right-of-way was \$270.00. However, should this use be terminated, the effect on the area and persons dependant upon this power source, would be great. Observations and studies do not indicate that this transmission line is presently contributing to unsatisfactory watershed conditions which would require consideration for removing the power line from the municipal watershed.

According to the 1962 timber survey data, there are approximately 31.3 MMBF of merchantable sized sawtimber on the watershed. It is estimated that over one-half of this is not operable due to steep slopes, unstable soil or economics of present logging operations.

The monetary value of this timber, from a sawlog standpoint, is greatly outweighed by its value for watershed protection and other values.

H. MANAGEMENT DECISIONS (See Latest M.U. Plan Revision)

Management decisions for the municipal watershed will be in accordance with the Cooperative Agreement dated 6/8/74 between the City of Salmon and the Forest Service, and patterned after those set forth in the Salmon Ranger District Multiple Use Plan. The management decisions are:

1. Withdraw from mineral entry.
2. Construct no roads unless access is controlled by the City and the water supply will not be degraded.

Appendix

Water Rights - Jesse Creek - 1st Decree

<u>Inches</u>	<u>Decreed To</u>	<u>Present Owner</u>	<u>Remarks</u>
75	Hanful	Aldous	Used by Salmon City in exchange for irrigation water
15	Long	Salmon City	
100	Andrews	Salmon City	
24 2/3	Wheeler Willis	Aldous	Used by Salmon City in exchange for irrigation water
60	Wheeler Willis	Salmon City	
15	Wheeler & Willis (Ostrander Ditch	Salmon City	
15	Shoup and McPherson	Salmon City	
10	?	Salmon City	Harold Noyman, City Clerk, was not sure where this 10 inches came from
<u>315</u> inches			

- 12.
3. Remove the merchantable timber volume from the Forest's inventory.
4. Protect water quality by deferring timber harvesting for the foreseeable future or until methods not requiring roads are feasible.
5. Issue no special use permits which may adversely affect water quality.
6. Continue closure to livestock grazing.
7. Exclude camping and recreational developments. Sign area to discourage recreation use.
8. Apply appropriate watershed restoration practices to correct siltation source in Jesse Creek.
9. Take prompt fire control action on all fires.
10. Give priority to controlling fires in watershed.
11. Use no herbicides nor pesticides within the drainage.
12. Bulldozers will not be used in fireline construction except when fire losses to water quality would exceed the damage caused by their use.
13. Restrict use of fire retardants to absolute minimum. Instruct those in charge of fire management efforts to avoid use of retardants where they may be dropped directly into stream channels.
14. Limit fire retardant use on slopes immediately visible from Salmon.
15. Encourage Salmon City to extend Jesse Creek water inlet upstream above clay basin problem area.
16. Determine if a closure of off-road vehicles is necessary and justified.

