

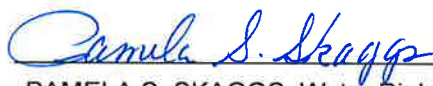
State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 75-14898

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2023**.
2. Subject to all prior water rights.
3. Prior to diversion of water under this right, the right holder shall install a lockable device, subject to the approval of the Department, in a manner that will provide the watermaster suitable control of the diversion.
4. The right holder shall install or construct a straight length of conduit or ditch suitable for installation of a device for measuring the entire flow of water being diverted in connection with this right. If the right holder uses conduit, the straight length of conduit shall be at least fifteen times the diameter of the conduit and shall be above ground or otherwise easily accessible.
5. Upon specific notification by the Department, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
6. When notified by the Department or by a watermaster with regulatory authority over this right, the right holder shall report the amount of water diverted in connection with this right. The report shall be submitted in the manner and frequency specified by the Department or the watermaster.
7. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.
8. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the place of use.
9. Domestic use is for 1 home.
10. Stockwater use is for 5 horses.
11. Point of diversion and place of use are located on a 5.0 acre parcel of private property in the Moose Creek Hydraulic Placer Claim, Mineral Survey 3057, specifically described as the third of three subdivisions from the Moose Creek Hydraulic Placer Claim in Public Land Ordinance 5522.
12. The point of diversion and place of use are not located on federal land.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 12th day of June, 2018.



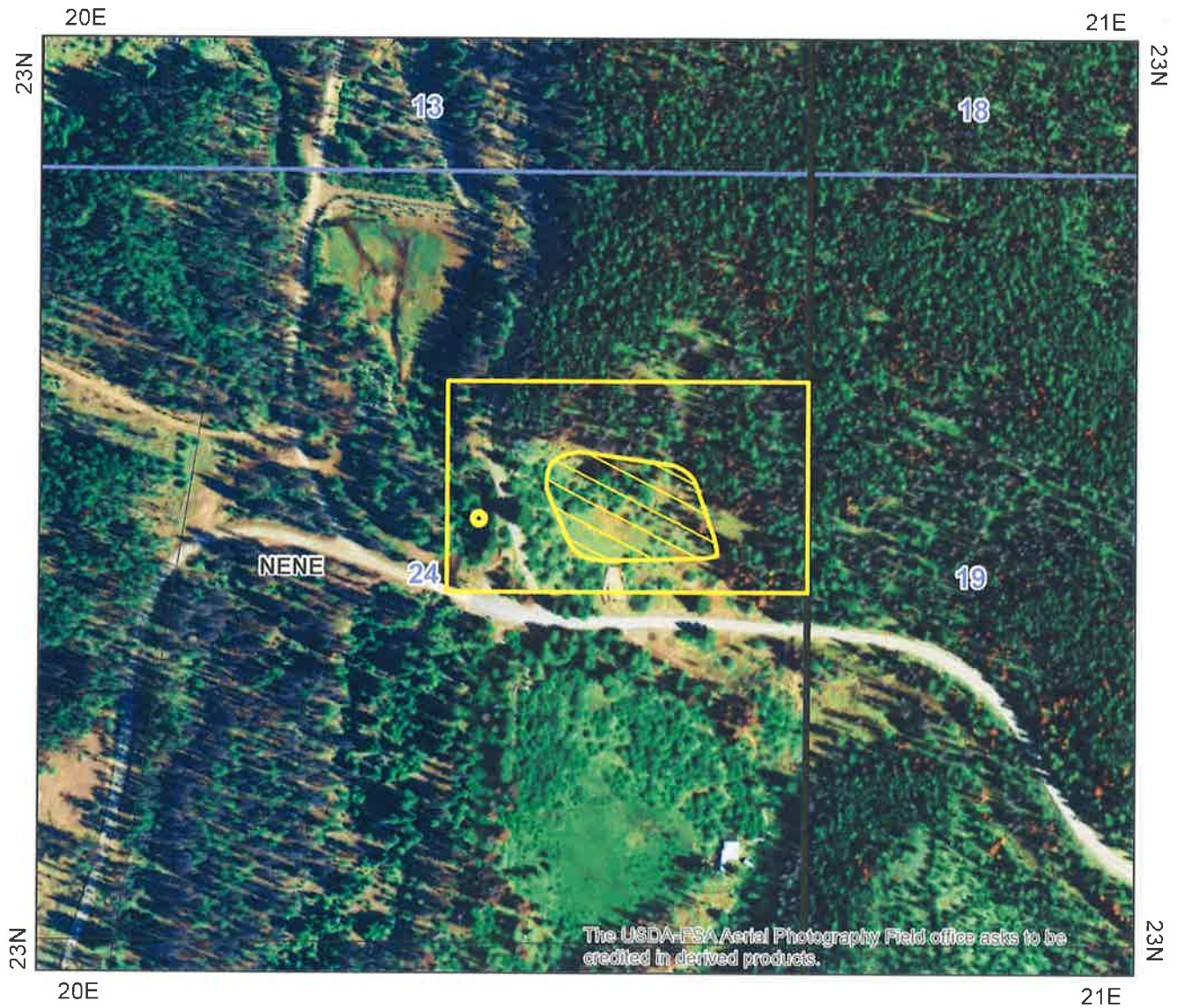
PAMELA S. SKAGGS, Water Rights Supervisor

State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

75-14898

This map depicts the DOMESTIC, STOCKWATER, and IRRIGATION places of use boundaries for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.



-  Point of Diversion
-  Place of Use Boundary: DOMESTIC; STOCKWATER
-  Place of Use Boundary: IRRIGATION
-  Townships
-  PLS Sections
-  Quarter Quarters

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

322 E FRONT ST STE 648 PO BOX 83720 • BOISE, ID 83720-0098

Phone: (208)287-4800 • Fax: (208)287-6700 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

June 13, 2018

SAMUEL W WING
TREVA K WING
PO BOX 686
SALMON ID 83467

RE: Permit No. 75-14898

Permit Approval Notice

Dear Permit Holder(s):

The Department of Water Resources ("Department") has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review all the conditions of approval listed on your permit. The conditions include requirements that you must accomplish, such as timely submittal of proof of beneficial use or installation of a measuring device, as well as information about how your water use may be administered, such as regulation by a watermaster in a water district. Failure to comply with the conditions of approval may result in your permit lapsing or being canceled.

The permit is a PRELIMINARY ORDER issued pursuant to Rule 730 of the Department's Rules of Procedure (IDAPA 37.01.01.730). It can and will become a final order without further action by the Department unless a party petitions for reconsideration, files exceptions, or requests a hearing as described in the enclosed information sheet.

The final step in the water right process is issuance of a water right license. To receive a water right license, you must first commence the excavation or construction of your diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is complete. In addition, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* by the date shown in condition no. 1 of your permit. The Department will send you a *Proof Due Notice* approximately 60 days prior to the date listed in condition no. 1 of your permit.

You may also require approvals from other Department programs, such as Ground Water Protection, Safety of Dams, or Stream Channel Protection, to accomplish your proposed development. Please call or visit any Department office or see the Department's website at idwr.idaho.gov for more information about these programs.

Also, please note that permit holders are required to report any change of ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Forms to assign ownership or update your address are available from any office of the Department or on the Department's website.

If you have any questions concerning the enclosed information, please contact me at (208) 287-4951.

Sincerely,



Pamela S Skaggs
Water Rights Supervisor

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2018, I served a true and correct copy of Permit to Appropriate Water No. 75-14898 by U.S. Mail, postage prepaid, to the following:

SAMUEL W WING (Current Owner)
PO BOX 686
SALMON ID 83467

TREVA K WING (Current Owner)
PO BOX 686
SALMON ID 83467



Darla Block
Technical Records Specialist I

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: June 6, 2018
To: Application for Permit 75-14898
From: Dave Betts
Re: Requested conditions from USFS

Comments from US Forest Service

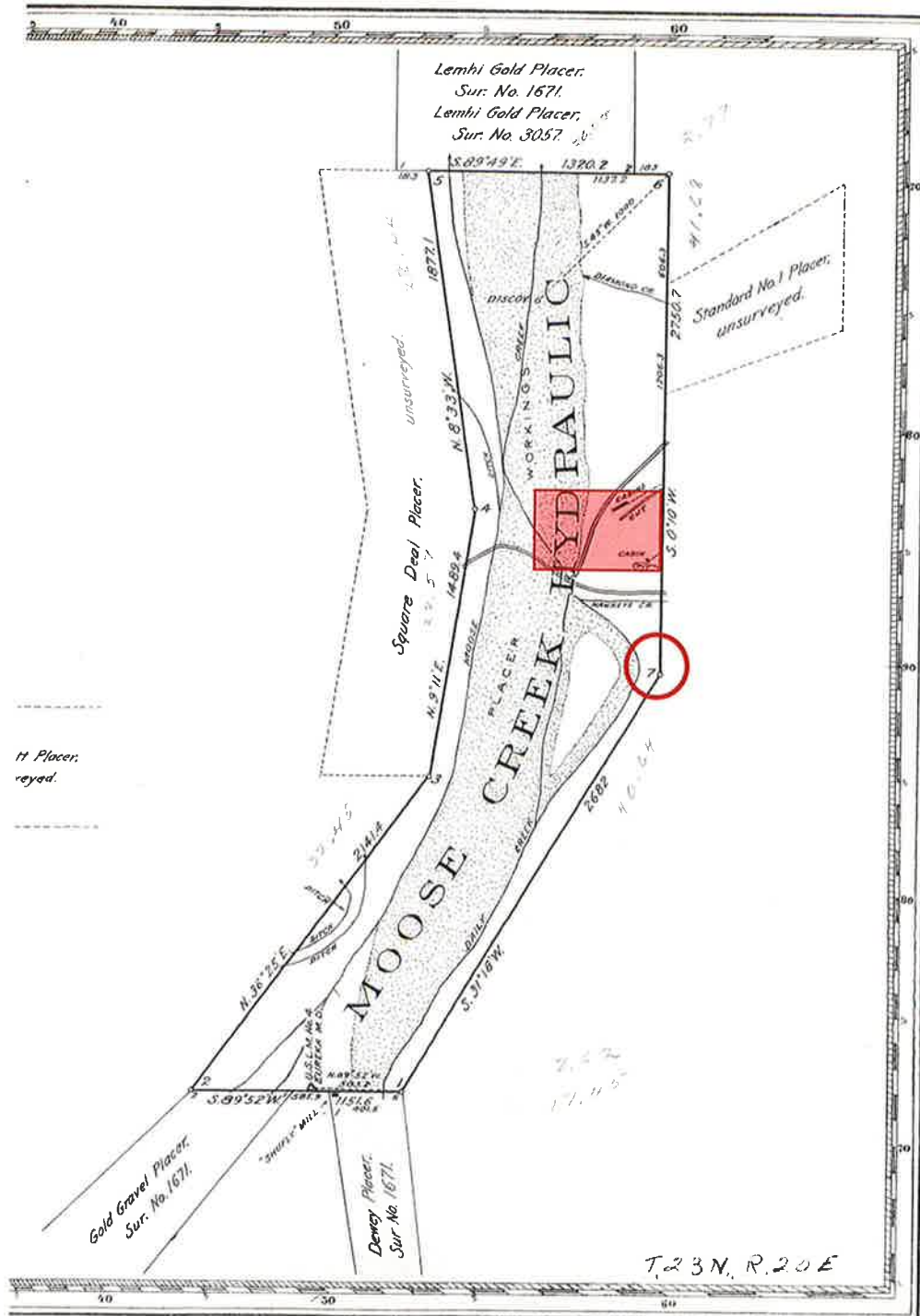
On May 14, 2018, Steven Spencer, on behalf of the US Forest Service (USFS), emailed concerns about the legal descriptions of the places of use (POUs) and point of diversion (POD). USFS concerns are that the application for permit is in an unsurveyed area, the legal description for the permit is based on a projected estimate of the Public Land Survey System (PLSS), and the majority of the land within the quarter-quarter legal description belongs to the United States. Mr. Spencer said that the USFS did not oppose the application, but wanted to ensure that the conditions of the permit included specific language to limit the permit to the identified private land. USFS wants to ensure that the POD and POUs will not extend onto federal lands, including into other portions of the Moose Creek Hydraulic Placer Claim, of which the private parcel is only a fraction of the original claim.

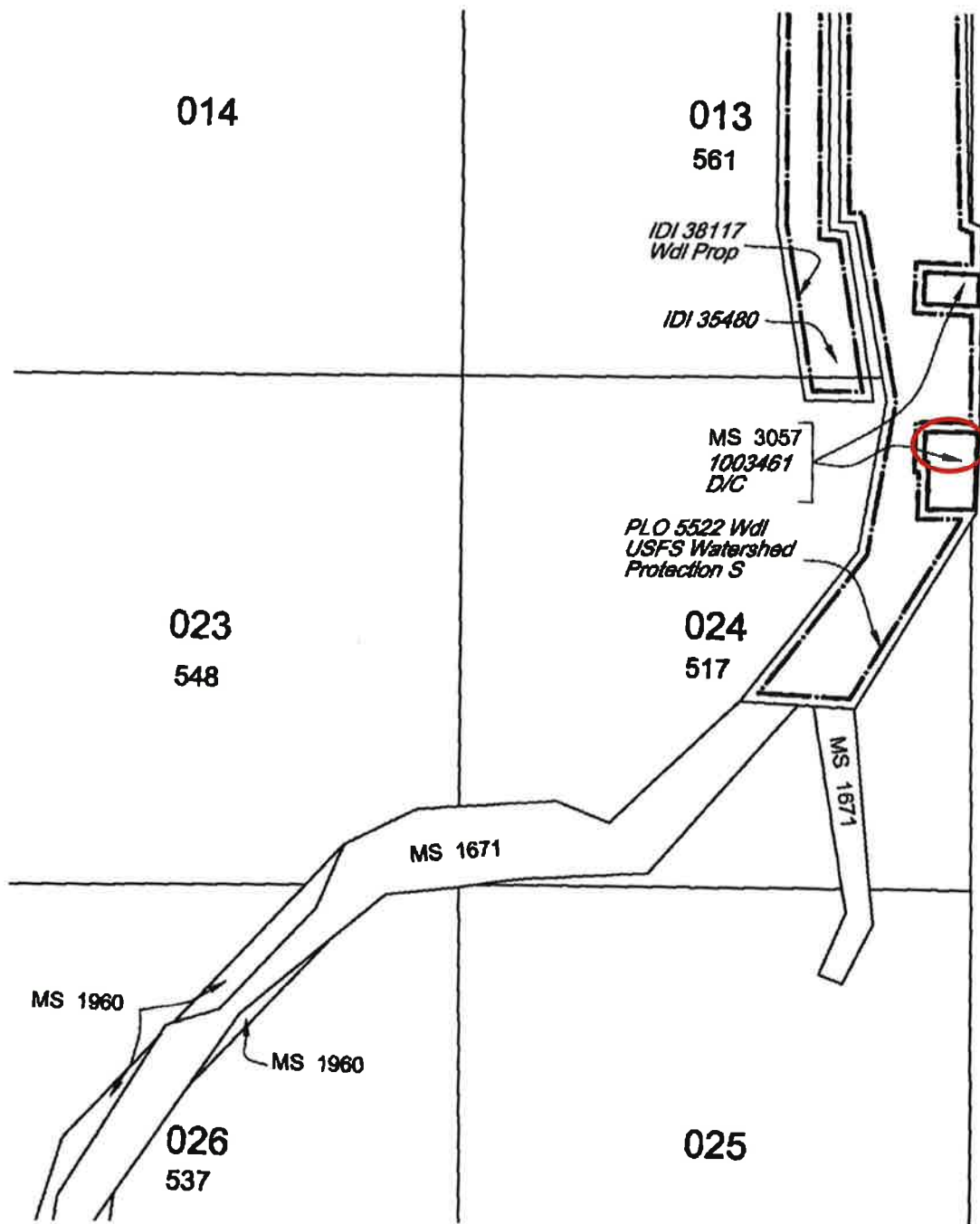
Additional Description of Private Parcel

The Moose Creek Hydraulic Placer is a part of Mineral Survey (MS) 3057, with a total of 287 acres. In 1972 the United States acquired all of the Moose Creek Hydraulic Placer Claim except for three parcels (16 acres) identified by Public Land Order (PLO) 5522. The proposed POD and POUs are the last parcel (5.0 acres) described by PLO 5522. The PIN for this parcel is RP99000007021D.

A copy of the description from PLO 5522 is below, followed by a portion of MS 3057 with the survey description highlighted.

A fraction of the Moose Creek Hydraulic Placer, Mineral Survey No. 3057, more particularly described as follows, to wit: Commencing at Corner No. 7 of said Moose Creek Hydraulic Placer, run thence N. 0° E., 518.7 feet to the point of beginning and the southeast corner of the tract of land herein described; continuing thence N. 0°10' E., 360.0 feet; thence N. 89°50' W., 624.9 feet, more or less, to a point in the center of Moose Creek; thence southerly along the center of Moose Creek 369.0 feet, more or less, to a point which lies N. 89°50' W., from the point of beginning; thence S. 89°50' E., 622.5 feet to the point of beginning. Containing 5.0 acres.





A section of the BLM Master Title Plat (MTP) for T23N R20E (below) also illustrates the private parcel (circled) with respect to the assumed projection of the PLSS used for the legal description of the permit.

Betts, David

From: Spencer, Steven M -FS <sspencer@fs.fed.us>
Sent: Monday, May 14, 2018 4:13 PM
To: Betts, David
Subject: Application 75-14898
Attachments: USGS Quad.pdf; BLM MTP Enlarged.pdf; MS 3057 Plat.pdf

Dave,

Thank you for talking with me a few minutes ago about Application for Permit 75-14898. It is clear that this water right is intended to be on private land owned by the applicants and we do not oppose the application. We do have a concern with the legal description – NENE Sec 24 T23N R20E. Part of the NENE is private land and part is National Forest System (NFS) land. In these situations it is desirable to include extra language, narrowing and clarifying the legal location of the POD and POU. The department has some standard clauses that have been developed over several years addressing these situations.

It is true that the private land is part of Mineral Survey (MS) 3057. MS 3057 is 287 acres that was patented in 1927. It is the only legal survey of the land. However in 1972 the United States acquired all but 16 acres of MS 3057 pursuant to PLO 5522. This is complicated but nevertheless important because the entire area is unsurveyed in the PLS realm. The PLS sections, townships and ranges are only projections.

With 94% of MS 3057 being NFS land a clause that might be used in this situation to more precisely describe the legal location of the POD and POU of the water right might be that:

This water right is entirely on private land that is part of Mineral Survey 3057.

Or the POD and POU for this water right are entirely on private land that is part of Mineral Survey 3057.

Then to protect the NFS land also include that 'the water right does not include federal land.'

The first attachment is a portion of a USGS quad available to me.

The second attachment is an enlarged portion of the BLM Master Title Plat (MTP) for T23N R20E.

The third attachment is the MS 3057 Plat. Notice that that 'left' part stacks on top of the 'right' portion of the diagram. Then MS 3057 is long, approximating the shape shown on the BLM MTP.

After you have had a chance to look at this information if you have any questions please contact me.

Steve



Steven M. Spencer
Water Use Specialist
Idaho Water Right Coordinator

Forest Service
Intermountain & Northern Regions

p: 208-365-7055

sspencer@fs.fed.us

1805 Hwy 16 Rm 5
Emmett, ID 83617

www.fs.usda.gov



Caring for the land and serving people

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APPLICATION FOR APPROPRIATION
OF PUBLIC WATERS

The following application(s) have been
filed to appropriate the public waters of
the State of Idaho:

75-14898

SAMUEL W WING

TREVA K WING

PO BOX 686

SALMON, ID 83467

Point of Diversion NENE S24 T23N R20E

LEMHI County

Source MOOSE CREEK Tributary
DUMPCREEK

Use: DOMESTIC

01/01 to 12/31

0.04 CFS

Use: IRRIGATION

04/01 to 10/31

0.02 CFS

Use: STOCKWATER

01/01 to 12/31

0.02 CFS

Total Diversion:

0.08 CFS

Date Filed: 4/2/2018

Place Of Use: IRRIGATION

STOCKWATER DOMESTIC

T23N R20E S24 NENE

This application proposes the diver-
sion and use of water from a tributary of
the Salmon River Wild & Scenic River. The
decreed minimum stream flow rights for
the federal Wild & Scenic Rivers are sub-
ordinate to certain categories of water
use and to specific amounts of water use
established after the minimum stream flow.
The water use proposed in this applica-
tion will benefit from the subordination
provision because the diversion rate and
acre will be applied to the subordination
amounts specified in the decree for the
Wild & Scenic River listed above.

Permits will be subject to all prior wa-
ter rights. For additional information con-
cerning the property location, contact the
State office at (208) 287-4800; or for a full
description of the right(s), please see
HYPERLINK "[https://idwr.idaho.gov/apps/
ExtSearch/WRAApplicationResults/](https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/)" [https://
idwr.idaho.gov/apps/ExtSearch/
WRAApplicationResults/](https://idwr.idaho.gov/apps/ExtSearch/WRAApplicationResults/). Protests may be
submitted based on the criteria of Idaho
Code § 42-203A. Any protest against the
approval of this application must be filed
with the Director, Dept. of Water Re-
sources, State Office, 322 E Front St, PO
Box 83720, Boise, ID 83720 together with
a protest fee of \$25.00 for each applica-
tion on or before 6/4/2018. The protestant
must also send a copy of the protest to
the applicant.

GARY SPACKMAN, Director 5-17-2tc

Affidavit of Publication

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (print-
ers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and
of general circulation therein. That the **APPLICATION FOR APPROPRIATION**, a true printed
copy of which is attached to the margin hereof, has been and was correctly printed and published
in the regular and entire issue of every number of said newspaper and not in any supplement
thereof or thereto for **TWO (2)** consecutive issue(s), commencing with the issue dated **5-17-2018**
and ending with the issue dated **5-24-2018**.

STATE OF IDAHO

County of Lemhi

ss.

On this **24th day of May** in this year of 2018 before me, A Notary Public, personally appeared
RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that the statements therein are true,
and acknowledged to me that he executed the same.

Residing At Salmon, Idaho

Notary Public for Idaho

My Commission expires: 4-10-2023

Publication Fee \$136.80

RECEIVED

MAY 29 2018

DEPARTMENT OF
WATER RESOURCES

