

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 65-23752

Priority: December 26, 2017

Maximum Diversion Rate: 0.04 CFS

This is to certify, that HUGO SCHELLENBERG And
KATHERINE SCHELLENBERG
1498 S BLUE JAY PL
EAGLE ID 83616

has applied for a permit to appropriate water from:

Source: GROUND WATER

and a permit is APPROVED for development of water as follows:

BENEFICIAL USE

DOMESTIC

PERIOD OF USE

01/01 to 12/31

RATE OF DIVERSION

0.04 CFS

LOCATION OF POINT OF DIVERSION:GROUND WATER SW $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 17, Twp 09N, Rge 09E, B.M., BOISE County**PLACE OF USE:** DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
09N	09E	17			X														

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **June 01, 2019**.
2. Subject to all prior water rights.
3. Domestic use is for 1 home.
4. The irrigation occurring under this domestic use shall not exceed 1/2 acre.
5. The point of diversion and place of use are located in Homestead Entry Survey No. 337 Tract B.
6. Point of diversion is located within Lot 37, Blk. 2, Bransons Eightmile Subdivision.
7. Place of use is located within Lot 37, Blk. 2, Bransons Eightmile Subdivision.

Department of Water Resources

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8. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

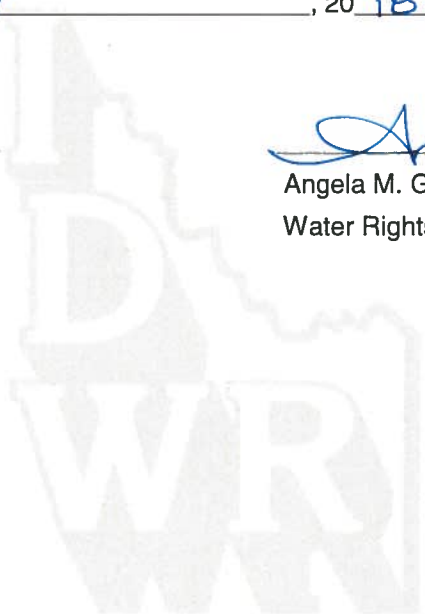
This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Signed this 2 day of MAY, 20 18.



Angela M. Grimm

Water Rights Supervisor



State of Idaho
Department of Water Resources

Attachment to Permit to Appropriate Water

65-23752

This map depicts the DOMESTIC place of use boundary for this water right at the time of this approval and is attached to the approval document solely for illustrative purposes.

09E



-  Point of Diversion
-  Place Of Use Boundary
-  Townships
-  PLS Sections

0 0.035 0.07 0.14 Miles





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 W AIRPORT WAY • BOISE, ID 83705-5082

Phone: (208)334-2190 • Fax: (208)334-2348 • Website: www.idwr.idaho.gov

C.L. "Butch" Otter
Governor

Gary Spackman
Director

May 02, 2018

HUGO SCHELLENBERG
KATHERINE SCHELLENBERG
1498 S BLUE JAY PL
EAGLE ID 83616

RE: Permit No. 65-23752

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.

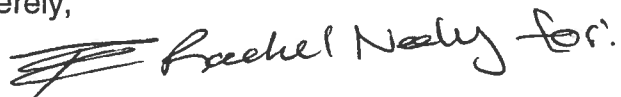
The final step in the water right process is issuance of a water right license. To receive a water right license, you must divert and use water to the full extent intended and submit a *Statement of Completion for Submitting Proof of Beneficial Use* ("Proof") by the date shown in condition no. 1 of your 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. If you have already diverted and used water to the full extent intended, you may complete and submit the enclosed Proof form immediately.

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) 334-2190.

Sincerely,

A handwritten signature in black ink that reads "Rachel Nally for". The signature is written in a cursive, flowing style.

Nick Miller
Regional Manager

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on May 02, 2018, I served a true and correct copy of Permit to Appropriate Water No. 65-23752 by U.S. Mail, postage prepaid, to the following:

HUGO SCHELLENBERG (Current Owners)
KATHERINE SCHELLENBERG
1498 S BLUE JAY PL
EAGLE ID 83616



Rachel Neely
Administrative Assistant 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.

Sommer, Rachel

From: Spencer, Steven M -FS <sspencer@fs.fed.us>
Sent: Thursday, March 15, 2018 4:27 PM
To: Sommer, Rachel
Subject: Application for Permit 65-23752
Attachments: 65-23752 Maps.pdf

RECEIVED

MAR 15 2018

**WATER RESOURCES
WESTERN REGION**

Follow Up Flag: Follow up
Flag Status: Flagged

Rachel,

Thank you for talking with me a few minutes ago. As we discussed I have reviewed Application for Permit 65-23752. It appears that it is on private land north of the Payette River. The attachment is some map I've used to help me understand the situation and area associated with the water right. Because there is a small piece of the SWNE south of the river that is National Forest System (NFS) land I am requesting the a clause be added to the permit and subsequent license that the water right is entirely on Homestead Entry Survey 337 Tract B. This would distinguish that it is on property north of the river on not on NFS land south of the river.

The attached maps include two images from the Boise County Assessors site, a USGS map with a couple of quarter-quarter lines drawn, a portion of the BLM Master Title Plat (MTP), and the survey plat for HES 337.

If you have any questions about this matter 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

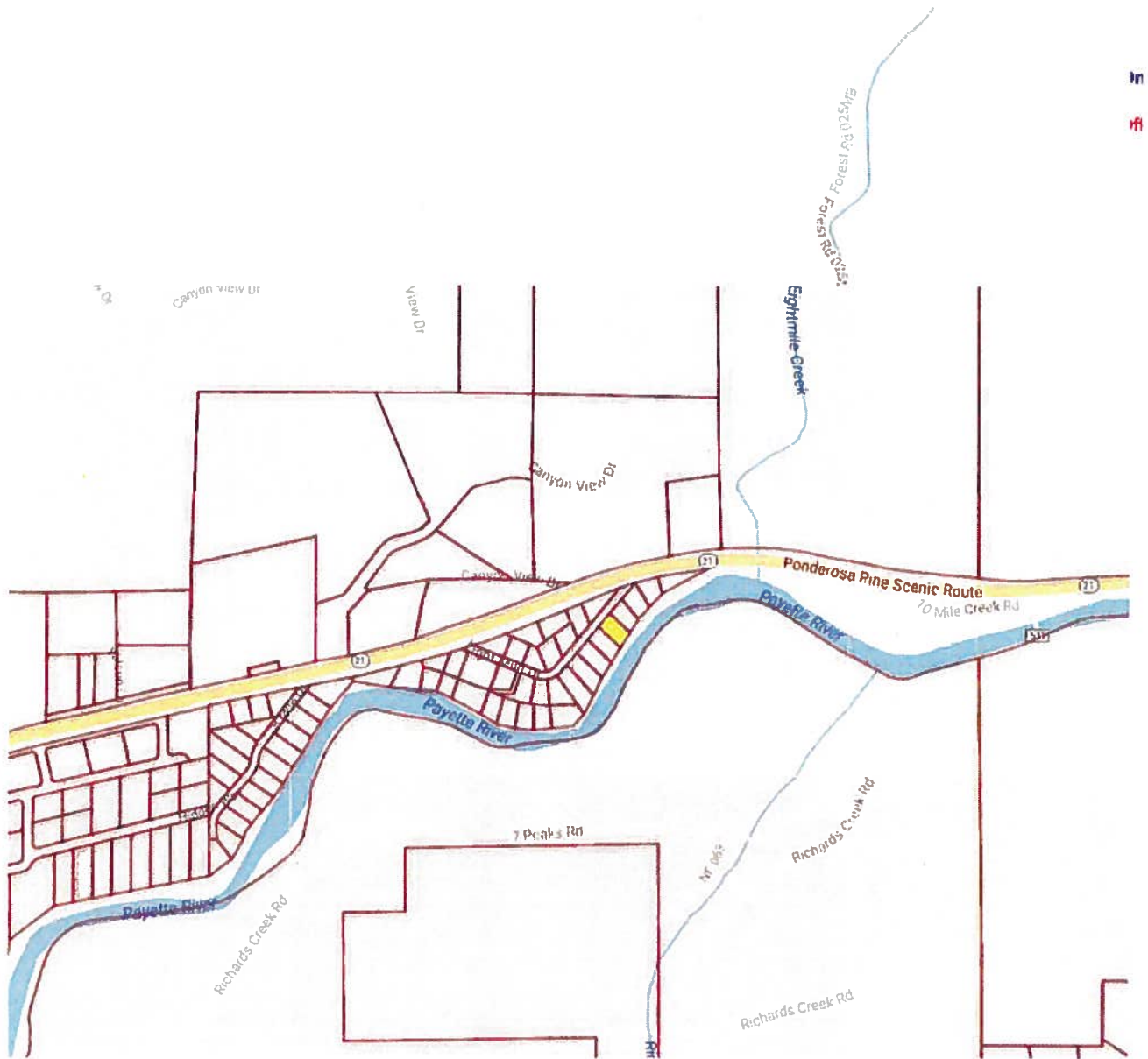
1805 Hwy 16 Rm 5
Emmett, ID 83617

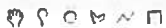
www.fs.usda.gov



Caring for the land and serving people

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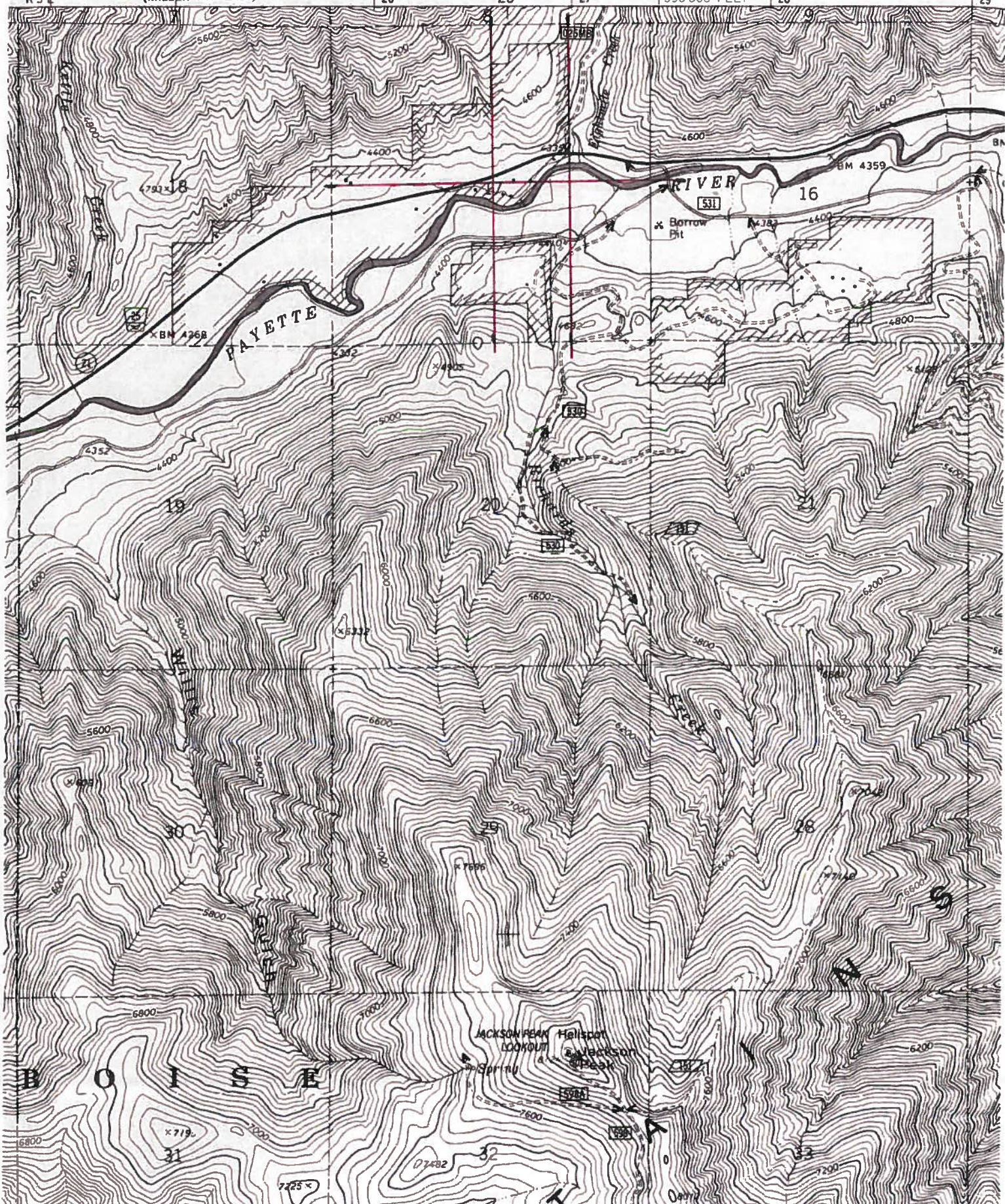




JACKSON PEAK
IDAHO—
7.5 MINUTES SER

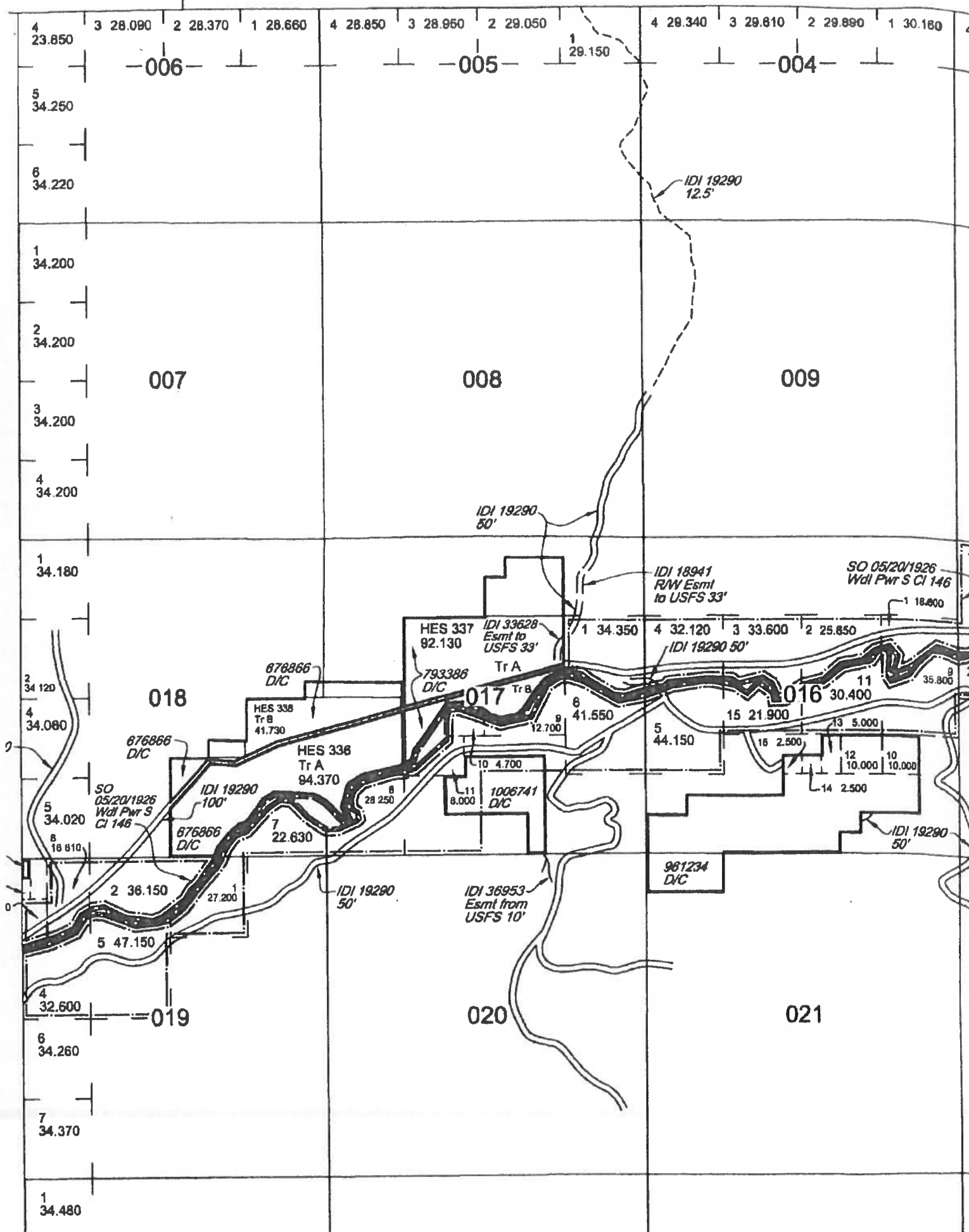
(F.S. NO 243-21)
(MILLER MTN EAST)

R 9 E 26 25' 27 28 29 590 000 FEET



10 N - 8 E

10 N - 9 E



Plat of
**HOMESTEAD
ENTRY SURVEY**

No. 337.

in the

BOISE

NATIONAL FOREST

in

Sec. 17-Surveyed-T.9 N. R.9 E.

of the

BOISE BASE AND MERIDIAN

IDAHO

This plat of Homestead Entry Survey No. 337 State of Idaho, is strictly conformable to the field notes thereof on file in this office, which have been examined and approved.

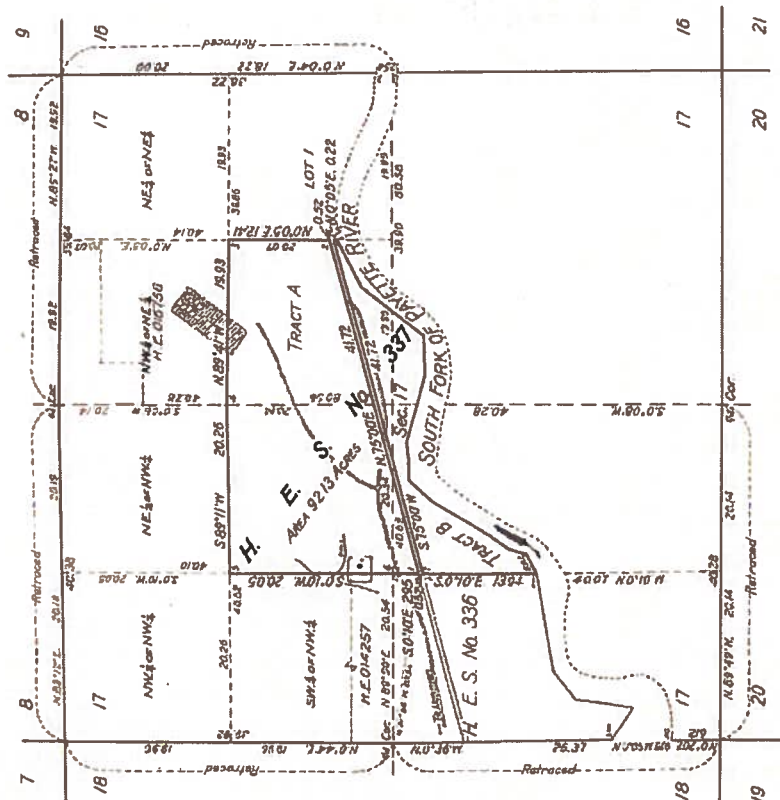
T. S. Surveyor General's Office

Boise Idaho

December 14, 1915

Edward H. Hedden
U.S. Surveyor General

Act of June 11, 1906	Act of March 30, 1904
List No. 4-1000	Dated Sept. 4, 1912
Latitude 44° 07' N	
Longitude 115° 25' W	
Mean Mdg. Dist. 27101.6	
At Corner No. 1	



T.9 N. R.9 E.
Survey accepted

SCALE 10 chains to 1 inch

Areas in Acres	
Confluent	
H. K. Survey No. 337	
In Section 17	92.13
In Section	
In Section	
In Section	
Total	92.13

Surveyor	By whom Surveyed	Area, Acres	By whom Surveyed	Area, Acres	Date of Approval
Subdivisions	Adrian K. Kimmel	287	June 1, 1908	July 30, 1909	Ed. H. Hedden
H. E. S. No. 336	Daniel Parkinson	335	March 27, 1915	June 22, 1915	Ed. H. Hedden
H. E. S. No. 337	Dana Parkinson	337	March 27, 1915	June 22, 1915	Dec. 14, 1915
	Surveyor General's Office				

The Idaho World

P.O. Box 220
Idaho City, ID 83631
(208) 297-8075

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APR 20 2018

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

Eileen Capson, being duly sworn, deposes and says: that she is the Publisher of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with March 21, 2018 and ending with the issue of March 28, 2018.

State of Idaho)
County of Boise)

On this 20 day of April in the year 2018, before me, a notary public, personally appeared Eileen Capson 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 she executed the same.

Notary Public for Idaho Boise (AF)
Residing at Idaho City, Idaho
Commission Expires 07/08/22

The following application has been filed to appropriate the public waters of the State of Idaho:

65-23752 ✓OK RN 4/23/18
HUGO SCHELLENBERG
KATHERINE SCHELLENBERG
1498 S BLUE JAY PL
EAGLE, ID 83616
Point of Diversion SWNE S17
T09N R09E BOISE County Source
GROUND WATER
Use: DOMESTIC 01/01 to 12/31
0.04 CFS
Total Diversion: 0.04 CFS

Date Filed: 12/26/2017
Place of Use: DOMESTIC
T09N R09E S17 SWNE

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Western Region office at (208) 334-2190; or for a full description of the right(s), please see www.idwr.idaho.gov. Protests may be submitted based on the criteria of Idaho Code § 42-203A. Any protest against the approval of the application(s) must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 4/9/2018. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director
Published in the Idaho World on 3/21/2018 and 3/28/2018.

ANTHONY FONDINO
NOTARY PUBLIC
STATE OF IDAHO