

Skinner, Corey

From: Robin Moore [rmoore@rsidaholaw.com]
Sent: Monday, February 02, 2015 3:44 PM
To: Merritt, Allen
Cc: Skinner, Corey
Subject: Appl for 71-7170 Christianson
Attachments: Christianson 2 2 15 ltr to IDWR.pdf; 2014 2-27 - ROW 2 - Letter from Christianson to USFS dated February 12 2014.pdf

Please see attached correspondence from Gary Slette requesting an extension for his clients Jon and Wei Christianson, and let us know if there are any questions or comments.

Thank you,
Robin

Robin L. Moore

Paralegal

Robertson & Slette, pllc

Attorneys at Law

PO Box 1906

Twin Falls, ID 83303-1906

Telephone: 208.933.0700

Facsimile: 208.933.0701

rmoore@rsidaholaw.com

Robertson & Slette, p.l.l.c.

ATTORNEYS AT LAW

J. EVAN ROBERTSON
GARY D. SLETTE

Robin L. Moore - Paralegal

134 Third Avenue East
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 933-0700
FAX (208) 933-0701



GARY D. SLETTE
gslette@rsidahlaw.com

Via E-mail
RECEIVED

FEB 02 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

February 2, 2015

VIA EMAIL Allen.Merritt@idwr.idaho.gov

Allen D. Merritt, PE
Southern Region Manager
IDWR - Southern Region
1341 Fillmore Street - Suite 200
Twin Falls, Idaho 83301

RE: Jon & Wei Christianson (Application for Permit No. 71-7170)

Dear Allen:

Please consider this letter the Applicants' Status Report regarding processing related to the above-numbered pending application. Enclosed with this request is a copy of a letter dated July 21, 2014, from John Christianson to the USDA-USFS, and we are now awaiting a response.

We realize that this matter has been pending for some time, and more than ever, we are continuing in our efforts to bring this issue to a conclusion. On behalf of my clients, I would request an additional six (6) month time period to continue this process. Thank you for your consideration.

Yours truly,

GARY D. SLETTE

GDS:rlm

Encls.

cc: John & Wei Christianson
Chuck Brockway, Jr.
Alan Schroeder, Esq.
Corey Skinner

rlm\gds\letter\IDWR_merritt.15

**Jon L. & Wei S. Christianson
c/o Gary D. Slette, Esq.
124 Third Avenue East
P.O. Box 1906
Twin Falls, Idaho 83303**

February 12, 2014

via E-mail
RECEIVED

CERTIFIED MAIL, RETURN RECEIPT REQUESTED:

FEB 02 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

Kathryn Conant, Director, Lands
USDA-USFS, Intermountain Region
324 25th Street
Ogden, Utah 84401
Telephone: 801-625-5605

Re: Request by Jon L. & Wei S. Christianson to Approve an “administrative determination” of an RS 2339 Right-of-Way Grant across 0.19 miles of *National Forest System Lands* within a portion of the E1/2 of Section 8 of Township 8 North, Range 14 East, Custer County, State of Idaho, commonly known as the “Williams Ditch” or “Williams Canal”.

Dear Ms. Conant,

Your predecessor, Jeanne A. Evenden, mailed us a letter dated September 4, 2008, wherein she invited us to “provide evidence needed to support” a claim for an RS 2339 Right-of-Way Grant, as described above. We apologize in advance for the delay in responding to Ms. Evenden’s letter.

SUMMARY

The evidence supports that Jon L. & Wei S. Christianson (“Christianson”) hold an RS 2339 Right-of-Way Grant across 0.19 miles of *National Forest System Lands* (“NFSL”) within a portion of the E1/2 of Section 8 of Township 8 North, Range 14 East, Custer County, State of Idaho:

- Christianson owns private land in Custer County, Idaho, southeast of Stanley, Idaho, within at least NWSW, SWSW, SESW of Section 4 of T8N R14E, and within NENW, NWNW, SWNW of Section 9 of T8N R14E (hereinafter referred to as “private land”).
- Christianson owns several water rights that are appurtenant to the private land; most notably is IDWR Water Right 71-10767. See also IDWR Water Right Application 71-7170.

- Water Right 71-10767 confirms the right to divert water from the Salmon River on NFSL within SENESE of Section 8 of T8N R14E for the irrigation of 43.8 acres (and for the irrigation of an additional 15 acres per the pending water right application) upon the private land. The date of priority is May 1, 1959.
- The point of division (“POD”) for Water Right 71-10767 (and for Water Right Application 71-7170), and a portion of the ditch, to convey the water from the Salmon River to the private land lays upon what is now NFSL, legally described as being within E1/2 of Section 8 of Township 8 North, Range 14 East, Custer County, State of Idaho. See Exhibit “A” (which illustrates the general location of the POD and ditch).
- The POD and ditch across E1/2 of Section 8 of T8N R14 E were constructed while the land was still public land and at the time Section 9 of the *Act of July 26, 1866*, still allowed the construction of ditches across the public land. 43 U.S.C. § 661. Specifically, the POD and ditch were constructed on or before May 1, 1959, which is the priority date for Water Right 71-10767.
- The E1/2 of Section 8 of T8N R14E was not reserved from the public land until November 15, 1975, in accordance with Public Land Order 5447 dated November 15, 1974.
- Christianson (and his predecessors-in-interest) have continuously relied upon and used the POD and ditch since the time of construction, which construction occurred before November 15, 1974.

Christianson requests the USFS to approve an “administrative determination” of an RS 2339 Right-of-Way Grant across NFSL within a portion of the E1/2 of Section 8 of Township 8 North, Range 14 East, as related to the ditch, commonly known as the “Williams Ditch” or “Williams Canal”, to the terms prescribed by Water Right 71-10767, as well as by Water Right Application 71-7170.

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DISCUSSION

I. THE LAW.

Section 9 of the *Act of July 26, 1866* states that:

And be it further enacted, That whenever, by priority of possession, rights to the use of water for ... agricultural ..., or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed ...

43 U.S.C. § 661. On October 21, 1976, the *Federal Land Policy and Management Act* ("FLPMA") was enacted and repealed the *Act of July 26, 1866*, including some other rights-of-way laws. 43 U.S.C. § 1701 et seq. However, FLPMA in Section 701 specifically stated that "nothing in this title shall have an effect of terminating any right-of-way or right-of-use heretofore issued, granted, or permitted." 43 U.S.C. § 1769(a). Existing grants under the 1866 Act were not repealed.

Under the 1866 Act, an automatic right-of-way was granted upon meeting the requirements under the law, i.e., it "is hereby acknowledged and confirmed." 43 U.S.C. § 661. The Act did not create any new rights-of-way, it merely acknowledged and confirmed the rights-of-way already established by local custom and law. *Jennison v. Kirk*, 98 U.S. 453, 460 (1878).

II. THE FACTS.

A. Land Status of the Private Land now owned by Christianson that is the place of use of Water Right 71-10767 (and Water Right Application 71-7170).

The place of use for Water Right 71-10767 (and Water Right Application 71-7170) is NWSW, SWSW, SESW of Section 4 of T8N R14E, and NENW, NWNW, SWNW of Section 9 of T8N R14E, Custer County, State of Idaho. This land became patented via two (2) different patents, as follows:

- NENW of Section 9 of T8N R14E, and SWSW of Section 4 of T8N R14E were patented by Glenn L. Achen on October 14, 1913, in accordance with the *Sale-Cash Entry Act* of April 24, 1820. See Exhibit "B" (Patent Accession #35993).
- NWNW and SWNW (i.e. E1/2 of NW1/4) of Section 9 of T8N

R14E, and NWSW and SESW (i.e. E1/2 of SW1/4) of Section 4 of T8N R14E were patented by Glenn L. Achen on June 18, 1920, in accordance with the *Homestead Entry Act* of May 20, 1862. See Exhibit “C” (Patent Accession #757647).

See Exhibit “D” (Map illustration of these quarter-quarter sections).

Christianson is the successor-in-interest to the foregoing patented land, acquiring this private land by Deed on March 15, 2004. See Exhibit “E” (Deed). See also Exhibits “A” and “D” (which illustrate general location of this private land).

B. Land Status of the Federal Land owned by the United States of America that is the point of diversion and part of the ditch associated with Water Right 71-10767 (and Water Right Application 71-7170) .

The Federal Land upon which the point of diversion and a portion of the ditch to convey water for Water Right 71-10767 (and Water Right Application 71-7170) is within E1/2 of Section 8 of T8N R14E., Custer County, State of Idaho. This land became “public land” before or at the time the State of Idaho became a territory of the United States of America on March 4, 1863. See 12 Statute at Large 808. This land officially became part of the State of Idaho on July 3, 1890. This land remained “public land” until it was reserved or otherwise converted to NFSL on November 15, 1974, in accordance with Public Land Order 5447. See Exhibit “F” (Public Land Order dated November 15, 1974). See also Exhibits “A” and “D” (which illustrate general location of this Federal Land). The Public Land Order 5447 explicitly stated that the land subject to the Order was “transferred to the jurisdiction of the Secretary of Agriculture” and added to the “Sawtooth and Challis National Forests” subject to “valid existing rights.” Exhibit “D”.

C. Construction of “Williams Ditch” or “Williams Canal” upon the Federal Land associated with Water Right 71-10767 (and Water Right Application 71-7170).

The point of diversion and a portion of the ditch associated with Water Right 71-10767 and Water Right Application 71-7170 (as well as Water Rights held by others, i.e. Water Right 71-2004A - Mueller; Water Right 71-4037 - Carstenen; Water Rights 71-2085B and 71-10764 - Humphrey) were constructed upon Federal Land at a time when such land was “public land,” as discussed in Section B. above. The evidence that supports the construction of the ditch before 1974 – which is the time the Federal Land in the E1/2 of Section 8 of T8N R14E, was reserved or otherwise converted to NFSL – is the priority date of Christianson’s Water Right 71-10767, which has priority date of May 1, 1959. See also Water Right 71-2004A - Mueller with a priority date of 1909; Water Right 71-4037 - Carstenen with a priority date of 1933; Water Rights 71-2085B and 71-10764 - Humphrey with a priority date of 1959 and 1961, respectively (each of these water rights support that the existence of the POD and ditch across the public land, as of 1909, again in 1933, again in 1959, and again in 1961).

We have additional evidence that supports the construction of the ditch before 1974, but perhaps one of the most compelling is an aerial photograph dated July 6, 1968, which illustrates the "Williams Ditch" thereon. See Exhibit "G". See also Exhibit "H" (which is the Google Earth - Earth Point map, illustrating the POD and ditch).

The continued maintenance and use of the POD and ditch are supported by the relatively recent adjudication by the IDWR of Water Right 71-10767, as well as Water Rights held by others, i.e. Water Right 71-2004A - Mueller; Water Right 71-4037 - Carstenen; Water Rights 71-2085B and 71-10764 - Humphrey.

D. Water Right 71-10767 (and Water Right Application 71-7170) are appurtenant to the private land now owned by Christianson.

(1) Water Right 71-10767.

By way of local customs, laws, and decisions of the court in Idaho, Christianson owns Water Right 71-10767 that is appurtenant to the private land also owned by Christianson. Water Right 71-10767 confirms the right to divert water from the Salmon River, tributary to Snake River, for irrigation of 43.8 acres. The specifics are as follows:

- The allowed rate of use is 3.39 cfs, limited by a claimed duty of 94.0 acre feet per annum.
- The allowed season of use is May 1 to October 31.
- The date of priority is May 1, 1959.
- The point of diversion is T8N, R14E, Sec. 8, SENESE
- The place of use is as follows:

T8N, R14E	Irrigation
Section 4	
NWSW	1.1 acres
SWSW	13.5 acres
SESW	2.3 acres
Section 9	
NENW	3.7 acres
NWNW	18.4 acres
SWNW	4.8 acres
TOTAL	43.8 acres

- The special considerations and conditions are: (a) The total diversion and irrigation use under Water Right 71-10767 is subject to a combined limitation with Water Rights 71-0036A, 71-10768, and 71-2004C; (b) The total use under Water Right 71-10767 is limited to a total combined use of 7.89 cfs and is limited to the irrigation of a combined total of 100.2 acres in a single irrigation season. (c) The diversion limitation applies at the field headgate and does not apply at the head of the source. Practically, this means that an additional authorized 0.36 cfs may be taken from the source to account for water lost by evaporation and transportation from the source to the field headgate. (d) A portion of the diversion under this right, representing 0.36 cfs, is limited to use for conveyance losses in delivery of the right.

See Exhibit "I" (IDWR Water Report for Water Right 71-10767).

(2) Water Right Application 71-7170.

By way of local customs, laws, and decisions of the court in Idaho, Christianson holds an interest in Water Right Application 71-7170 that is appurtenant to the private land also owned by Christianson. Water Right Application 71-7170 intends to confirm the right to divert water from the Salmon River, tributary to Snake River, for irrigation of 15 acres. The specifics are:

- The requested allowed rate of use is only 0.3 cfs.
- The requested season of use is May 1 to September 30.
- The date of priority would intend to be July 29, 1993.
- The point of diversion is the same as to Water Right 71-10767, as well as others; namely, T8N, R14E, Sec. 8, SENESE
- The requested place of use is:

T8N, R14E	
Section 9	
NWNW	10 acres
SWNW	5 acres
TOTAL	15 acres

- The special considerations and conditions are: (a) Water Right Application 71-7170 requires a permit. No permit has been issued in part due to a moratorium on processing and approval of most new permits to appropriate surface water from the Salmon River and Clearwater River Basins that went into effect in 1993. The moratorium was extended and expanded in 1999 to apply to both surface and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. In 2005, the Director of IDWR issued an order rescinding both moratoriums. (b) In November of 2005, IDWR contacted

all applicants, including Christianson, requesting confirmation of continue interest in applying for a permit to appropriate water. (c) In November of 2006, IDWR requested Christianson to augment their application with additional information. (d) In February of 2007, Christianson submitted a substantial report, prepared by Brockway Engineering, to IDWR to support their water right application. (e) On January 15, 2014, the IDWR issued to Christianson an *Order Granting a Delay in Processing* "so that they can explore alternatives to address concerns raised by the Sawtooth National Forest"; namely related to providing the "administrative determination" requested herein.

See Exhibit "K" (IDWR Water Right Application 71-7170). See also Exhibit "L" (*Order Granting a Delay in Process* dated January 15, 2014, for Water Right Application 71-7170).

CONCLUSION

Christianson requests the USFS to approve an "administrative determination" of an RS 2339 Right-of-Way Grant across 0.19 miles of *National Forest System Lands* within the:

SENWSE of Section 8 of Township 8 North, Range 14 East
thence NENWSE of Section 8 of Township 8 North, Range 14 East;
thence SENESE of Section 8 of Township 8 North, Range 14 East;

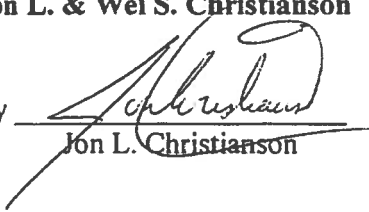
Custer County, State of Idaho, as related to a ditch, commonly known as the "Williams Ditch" or "Williams Canal", to the terms prescribed by Water Right 71-10767, as well as by Water Right Application 71-7170 (since Water Right Application 71-7170 would constitute a de minimis change, i.e. 0.3 cfs, and would not otherwise constitute a *substantial deviation* in the claimed RS 2339 Right-of-Way). See Exhibits "G" and "H".

If you have any questions, please contact me.

Very truly yours,

Jon L. & Wei S. Christianson

By


Jon L. Christianson

Kathryn Conant, Director, Lands
February 12, 2014
Page - 8

cc: w/ Exhibits:

Sharon Browder
Private Lands Administrator
Sawtooth National Forest
5 North Fork Canyon Road
Ketchum, Idaho 83333
Telephone Number: 208-727-5005

P.S. Please note that there is not any Exhibit "J".

EXHIBIT "A"

General Area of Ditch - 1 page

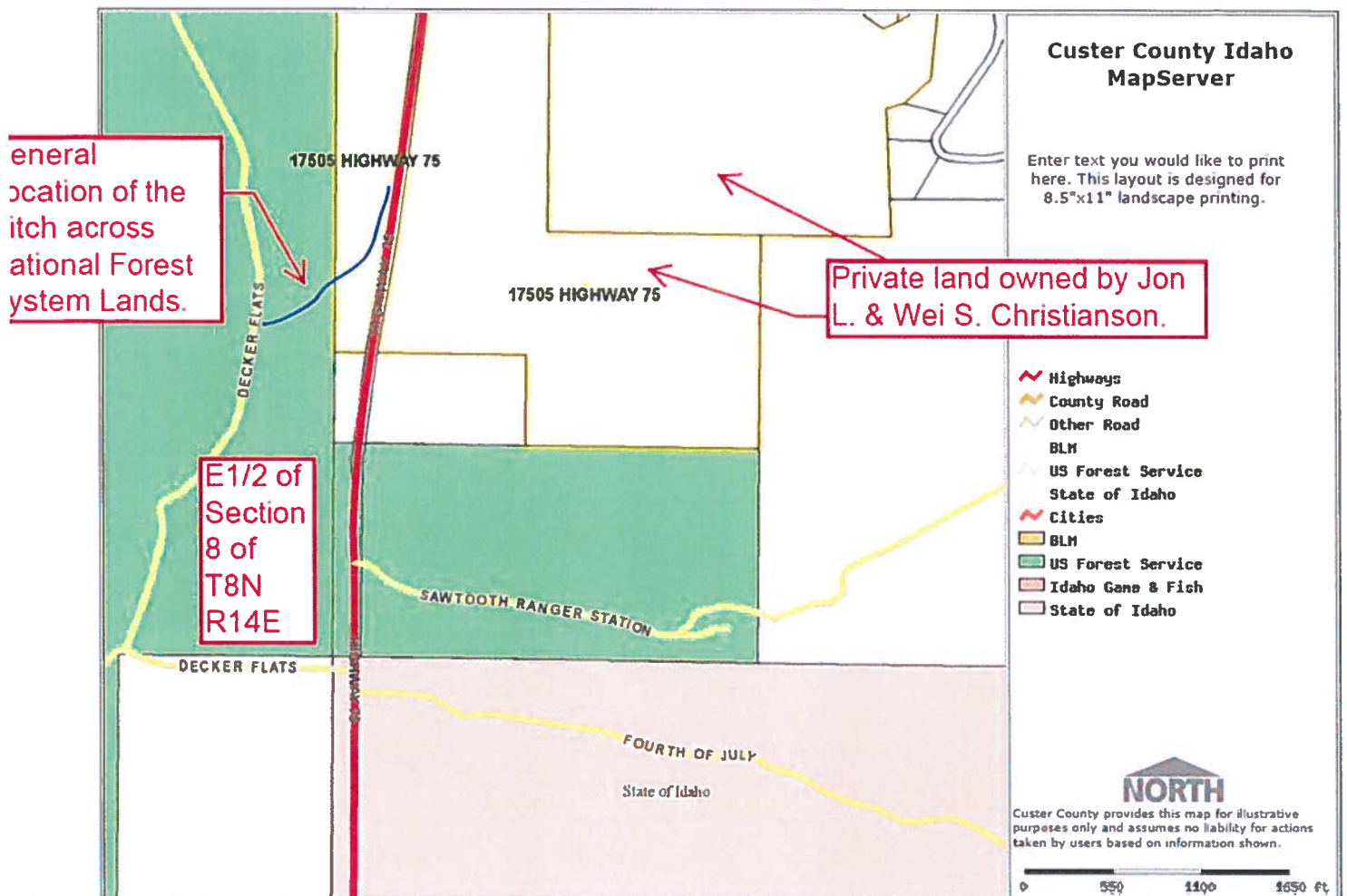


EXHIBIT "B"

Patent dated October 14, 1913

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT							General Land Office Records						
		Search Documents		Reference Center		Support		Shopping Cart					
Search Documents Results List Patent Details													
Accession Nr: 359993 Document Type: Serial Patent State: Idaho Issue Date: 10/14/1913 Cancelled: No													
Patent Details		Patent Image		Related Documents		Printer Friendly							
Names On Document ACHEN, GEORGE W				Miscellaneous Information									
				Land Office:		Hailey							
				US Reservations:		Yes							
				Mineral Reservations:		No							
				Tribe:		---							
				Militia:		---							
Military Rank:				State In Favor Of:		---							
				Authority:		April 24, 1820: Sale-Cash Entry (3 Stat. 566)							
				General Remarks:		---							
Document Numbers				Survey Information									
Document Nr:		0154		Total Acres:		160							
Misc. Doc. Nr:		---		Survey Date:		---							
BLM Serial Nr:		IDH 0000154		Geographic Name:		---							
Indian Allot. Nr:		---		Metes/Bounds:		No							
Land Descriptions													
State		Meridian		Twp - Rng		Aliquots		Section		Survey #		County	
ID		Boise		008N - 014E		W1/4SW1/4		4				Custer	
ID		Boise		008N - 014E		W1/4NW1/4		9				Custer	

EXHIBIT "C"

Patent dated June 18, 1920

U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT <i>PRIVATE CLAIMS</i> General Land Office Record						
	Search Documents	Reference Center	Support	Shopping Cart		
Search Documents Results List Patent Details						
Accession Nr: 757647 Document Type: Serial Patent State: Idaho Issue Date: 6/18/1920 Cancelled: No						
Patent Details		Patent Image		Related Documents		
Names On Document ACHEIL, GLENN L		Miscellaneous Information Land Office: Halley US Reservations: Yes Mineral Reservations: No Tribe: --- Militia: --- State In Favor Of: --- Authority: May 20, 1862: Homestead EntryOriginal (12 Stat. 392) General Remarks: ---				
Military Rank: ---						
Document Numbers Document Nr: 013812 Misc. Doc. Nr: 0 BLM Serial Nr: IDH 0013812 Indian Allot. Nr: ---		Survey Information Total Acres: 160 Survey Date: --- Geographic Name: --- Metes/Bounds: No				
Land Descriptions						
State	Meridian	Twp - Rng	Allquots	Section	Survey #	County
ID	Boise	00811 - 014E	E1/4SW1/4	4		Custer
ID	Boise	00811 - 014E	E1/4NW1/4	9		Custer

General Map of Area - 1 page

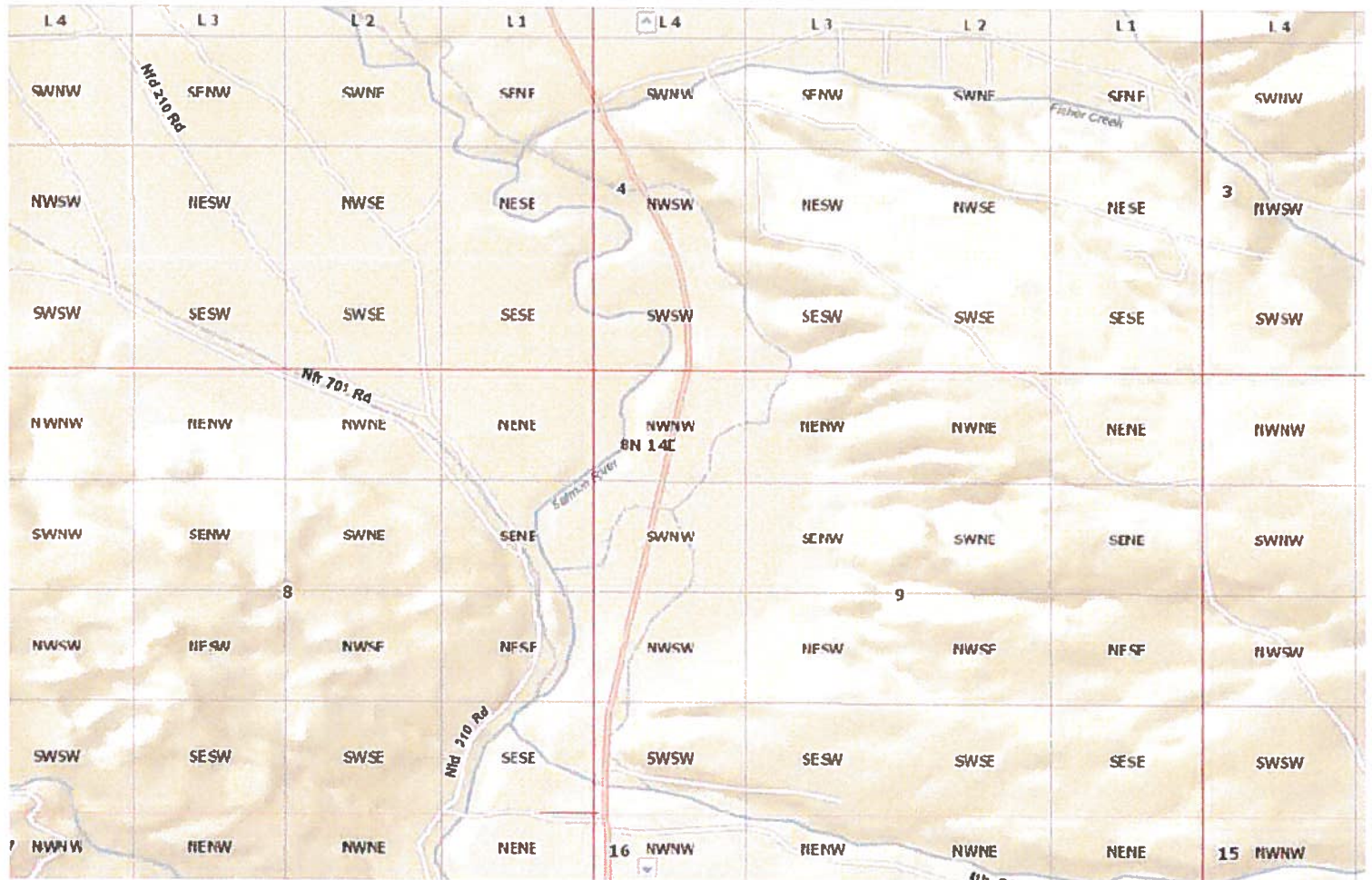


EXHIBIT "E"

Deed - 3 pages



228878
Custer County Reg. of
Blaine City Title Co ECT
Time 11:55AM Date 3/7 2004
Ethel M. Peck, Clerk
Wes Wills \$12.00
Deputy

QUITCLAIM DEED

THIS INDENTURE, Made this 15th day of March, 2004 between
WILDLANDS LLC, a Montana Limited Liability Company

as Grantor and

JOH L. CHRISTIANSON AND WEI S. CHRISTIANSON, husband and wife

as Grantee

whose current address is FOUR TIMES SQUARE, NEW YORK, NY 10036

WITNESSETH That said Grantor for and in consideration in lawful money of the United States of America, in hand paid by the Grantee, the receipt whereof is hereby acknowledged, does by these premises remise, release and forever QUITCLAIM, unto the said Grantee and to its heirs and assigns all that certain lot, piece or parcel of land bounded and particularly described as follows, to-wit:

WATER RIGHT NO(S) 71-00036, R71-00036A, R71-10757, R71-10768, R71-10107, 71-10108, 71-02004 AND R71-02004C APPURTENANT TO THE PROPERTY DESCRIBED IN EXHIBIT "C".

Parcel Number: KP0814EQ44830

TOGETHER With all and singular the tenements, hereditaments and appurtenances therunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof TO HAVE AND TO HOLD, All and singular the said premises, together with the appurtenances, unto the Grantee and to its heirs and assigns forever.

IN WITNESS WHEREOF, The said Grantor has hereunto set its hand and seal the day and year first above written.

WILDLANDS LLC, a Montana Limited
Liability Company

By WES WILLS

By _____

State of IDAHO

ss.

County of BLAINE

On this 15th day of March, 2004, before me, the undersigned, a Notary Public, in and for said State, personally appeared WES WILLS

known to me, and/or identified to me on the basis of satisfactory evidence, to be the MEMBER of the Limited Liability Company that executed the instrument and the foregoing instrument was signed on behalf of said company by authority of its members and acknowledged to me that he executed the same

WITNESS MY HAND AND OFFICIAL SEAL.

Notary Public KRISTEN KLUDT
Residing at: KETCHUM
Commission Expires December 14, 2007



228878

EXHIBIT A

A parcel of land lying within Sections 4 & 9, Township 8 North, Range 14 East, Boise Meridian, Custer County, Idaho, being more particularly described as follows:

Beginning at a brass cap marking the Southwest corner of the said Section 4, which lies South 00°23'53" West, 2645.60 feet from the West Quarter corner of said Section 4, thence South 89°23'02" East, 2630.91 feet along the South boundary of said Section 4 to the proportioned South Quarter corner of said Section 4; thence continuing South 89°23'02" East, 17.14 feet to the intersection of the South boundary of said Section 4 and the West Boundary of White Cloud Subdivision, said point being the REAL POINT OF BEGINNING;

thence North 25°00'00" West, 654.43 feet (Record North 25°00' West, 658.31 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 76°38'02" West, 59.54 feet (Record North 76°41' West, 60.34 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 76°36'41" West, 187.72 feet (Record North 76°45" West, 211.00 feet) to a 2" Iron Pipe;

thence North 29°55'22" West, 989.70 feet (Record North 29°53" West, 989.8 feet) along the Simplot Industries, Inc. parcel to a 2" Iron Pipe;

thence North 44°25'33" East, 176.31 feet (Record North 44°30'00" East, 175.72 feet) to a spike, which bears South 44°26'28" West, 323.39 feet (Record 323.28 feet) from a 2" Iron Pipe;

thence North 48°36'00" West, 127.04 feet to a point;

thence North 55°57'00" West, 275.15 feet to a point;

thence North 30°30'00" West, 209.66 feet more or less, to the East boundary of the NW¼SW¼ of said Section 4;

thence South 00°26'02" West, 2038.49 feet along the East boundary of the W½SW¼ of said Section 4 to its intersection with the Southern boundary of said Section 4;

thence South 00°32'08" West, 2642.70 feet along the East boundary of the W½NW¼ of said Section 9, to the Center West 1/16 corner of said Section 9;

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thence South 89°24'30" East, 1316.70 feet along the South Boundary of the E $\frac{1}{4}$ NW $\frac{1}{4}$ of said Section 9 to the Center quarter corner of said Section 9;

thence continuing South 89°24'30" East, 798.56 feet (Record East 750.00 feet) along the South Boundary of the W $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 9;

thence North 01°37'59" West, 244.49 feet (Record North 01°56' West, 250.00 feet) to a 2" Iron Pipe;

thence North 01°39'56" West, 564.23 feet (Record North 01°56' West, 564.77 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 74°48'40" East, 109.56 feet (Record North 74°27'50" East, 109.80 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 48°33'32" East, 229.11 feet (Record North 48°32'50" West, 229.30 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 06°19'53" East, 492.37 feet (Record North 06°06'50" East, 492.20 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence South 62°42'00" West, 389.78 feet (Record South 62°28'10" West, 389.49 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 54°41'47" West, 450.97 feet (Record North 54°47'50" West, 437.87 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 42°40'22" West, 492.20 feet (Record North 42°47'50" West, 509.12 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 25°17'47" East, 377.17 feet (Record North 25°11'00" East, 377.18 feet) along the boundary of White Cloud Subdivision to a 2" Iron Pipe;

thence North 25°00'00" West, 427.04 feet (Record North 25°00' West, 422.09 feet) along the boundary of White Cloud Subdivision to the REAL POINT OF BEGINNING.

AND THE FOLLOWING:

TOWNSHIP 8 NORTH, RANGE 14 EAST, BOISE MERIDIAN, CUSTER COUNTY, IDAHO.

SECTION 4: W $\frac{1}{4}$ SW $\frac{1}{4}$, EXCEPT a parcel of land situated in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, more particularly described as follows:

228878

Commencing at the Quarter section corner common to Sections 5 and 4, thence South 88°20'30" East, 315.78 feet to the Easterly right-of-way line of highway; thence continuing South 88°20'30" East 1,004.22 feet; thence South 0°02'18" West, 300.00 feet; thence North 88°20'30" West, 887.02 feet; thence North 21°05' West 325.16 feet along the Easterly right-of-way line of said highway to the Point of Beginning.

ALSO EXCEPTING:

A parcel of land in the NW¼SW¼, Section 4, more particularly described as follows: Commencing at the Quarter corner common to Sections 4 and 5; thence South 53°51' East, 534.23 feet to the True Point of Beginning on the Easterly right-of-way boundary of U. S. Highway 93; thence South 88°20'30" East, 901.10 feet; thence South 0°02'18" West, 747.00 feet; thence North 88°20'30" West, 613.52 feet to the Easterly boundary of U. S. Highway 93; thence 151.33 feet along a curve to the left on the Easterly boundary of U. S. Highway 93 with a central angle of 2°59'32", a radius of 2,897.79 feet, and a tangent of 75.68 feet that bears North 18°05'28" West; thence North 21°05'00" West 656.72 feet along the Easterly boundary of U. S. Highway 93 to the True Point of Beginning. (Basis of bearing: U.S. Highway 93, North 21°05' West at Quarter Section Line).

ALSO EXCEPTING:

A parcel of land in the NW¼SW¼, Section 4, more particularly described as follows: Commencing at the Quarter Corner common to Sections 4 and 5; thence South 33°51'49" East, 1,289.16 feet to the True Point of Beginning on the Easterly right-of-way boundary of U.S. Highway 93; thence South 88°20'30" East, 613.52 feet; thence South 0°02'18" West, 147.00 feet; thence North 88°20'30" West, 569.27 feet to the Easterly boundary of U.S. Highway 93; thence 154.72 feet along a curve to the left on the Easterly boundary of U.S. Highway 93, with a central angle of 3°03'33", a radius of 2,897.79 feet, and a tangent of 77.37 feet that bears North 15°01'55" West, to the True Point of Beginning. (Basis of bearing: U.S. Highway 93, North 21°05' West at Quarter Section Line.)

ALSO EXCEPTING HIGHWAY RIGHT OF WAY, NOW KNOWN AS STATE HIGHWAY 75.

SECTION 9: W½NW¼, N½SW¼, EXCEPT that portion of the NW¼SW¼ described as follows:

Commencing at the Southwest corner of said 40-acre tract of land, which is the Point of Beginning; thence East 1,188 feet; thence North 561 feet; thence West 1,188 feet; thence South 561 feet to the Point of Beginning.

ALSO EXCEPTING HIGHWAY RIGHT OF WAY

EXHIBIT "F"

Public Land Order dated November 15, 1974 - 1 page

[Public Land Order 5447]

[Idaho 6480]

IDAHO

Additions to National Forests and the Sawtooth National Recreation Area

By virtue of the authority contained in the Act of August 22, 1972, 16 U.S.C. 460aa (1970), Supplement II, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described Federally owned lands are transferred to the jurisdiction of the Secretary of Agriculture, and are added to the Sawtooth and Challis National Forests as indicated, and reserved as part of the Sawtooth National Recreation Area, subject to all laws and regulations applicable thereto:

SAWTOOTH NATIONAL FOREST

BOISE MERIDIAN

Public Lands

T. 7 N., R. 14 E.

Sec. 2, lots 1 thru 4, $\frac{3}{4}$ N $\frac{1}{2}$, S $\frac{1}{2}$;
Sec. 3, lots 1, 2, S $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 4, lots 3, 4, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 9, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 11, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 14, E $\frac{1}{2}$;
Sec. 15, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$,
W $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 24, N $\frac{1}{2}$, SE $\frac{1}{4}$;
Sec. 25, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 25, NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 8 N., R. 14 E.

Sec. 5;
Sec. 6, lots 1, 2, S $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, E $\frac{1}{2}$;
Sec. 17, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 26, NE $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 28, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 35, lots 5, 6, SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 9 N., R. 14 E.

Sec. 7, E $\frac{1}{2}$;
Sec. 18, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 20, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 30, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 31, E $\frac{1}{2}$;
Sec. 32, W $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, NE $\frac{1}{4}$ NW $\frac{1}{4}$.

Acquired Lands

T. 8 N., R. 14 E.

Sec. 9, S $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described for addition to the Sawtooth National Forest aggregate approximately 7,035.60 acres of public lands, and 80 acres of acquired lands; 5,677.95 acres in Custer County and 1,437.65 acres in Blaine County.

CHALLIS NATIONAL FOREST

BOISE MERIDIAN

Public Lands

T. 10 N., R. 13 E.

Sec. 3, lot 9, lot 2 except that part of Block 8, 4, 5, and Tract 8, 9, and 10 of Stanley townsite survey within said lot, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 4, lots 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 5, lots 3, 4;
Sec. 6, lots 1, 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 8, lots 1 thru 63, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 9, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, lot 7, NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, W $\frac{1}{2}$;
Sec. 15, lots 2 thru 5, 7, 8, E $\frac{1}{2}$;
Sec. 17, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 20, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 22;
Sec. 27, lots 1 and 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 10 N., R. 17 E.

Sec. 14, W $\frac{1}{2}$.

T. 11 N., R. 13 E.

Sec. 34, lot 2, SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, except that part of Block 1 thru 4, and Tract 1 thru 7, of Stanley townsite survey within said subdivisions.

The areas described for addition to the Challis National Forest aggregate 3,691.69 acres in Custer County.

The total acreage involved aggregates approximately 10,807.29 acres in Custer and Blaine Counties.

2. The above described lands, and any lands or minerals which may be acquired within the recreation area, are hereby withdrawn from entry or appropriation under the United States mining laws, 30 U.S.C. Ch. 2, and from disposition under all laws pertaining to mineral leasing and all amendments thereto. The use of subject lands shall be governed by the rules and regulations promulgated by the Secretary of Agriculture.

JACK O. HORTON,
Assistant Secretary
of the Interior.

NOVEMBER 15, 1974.

[FR Doc. 74-27324 Filed 11-21-74; 8:45 am]

EXHIBIT "G"

Aerial Photograph dated July 6, 1968 - 1 page



EXHIBIT "H"

Google Earth - Earth Point Map, of an aerial photograph dated June 23, 2009 - 1 page

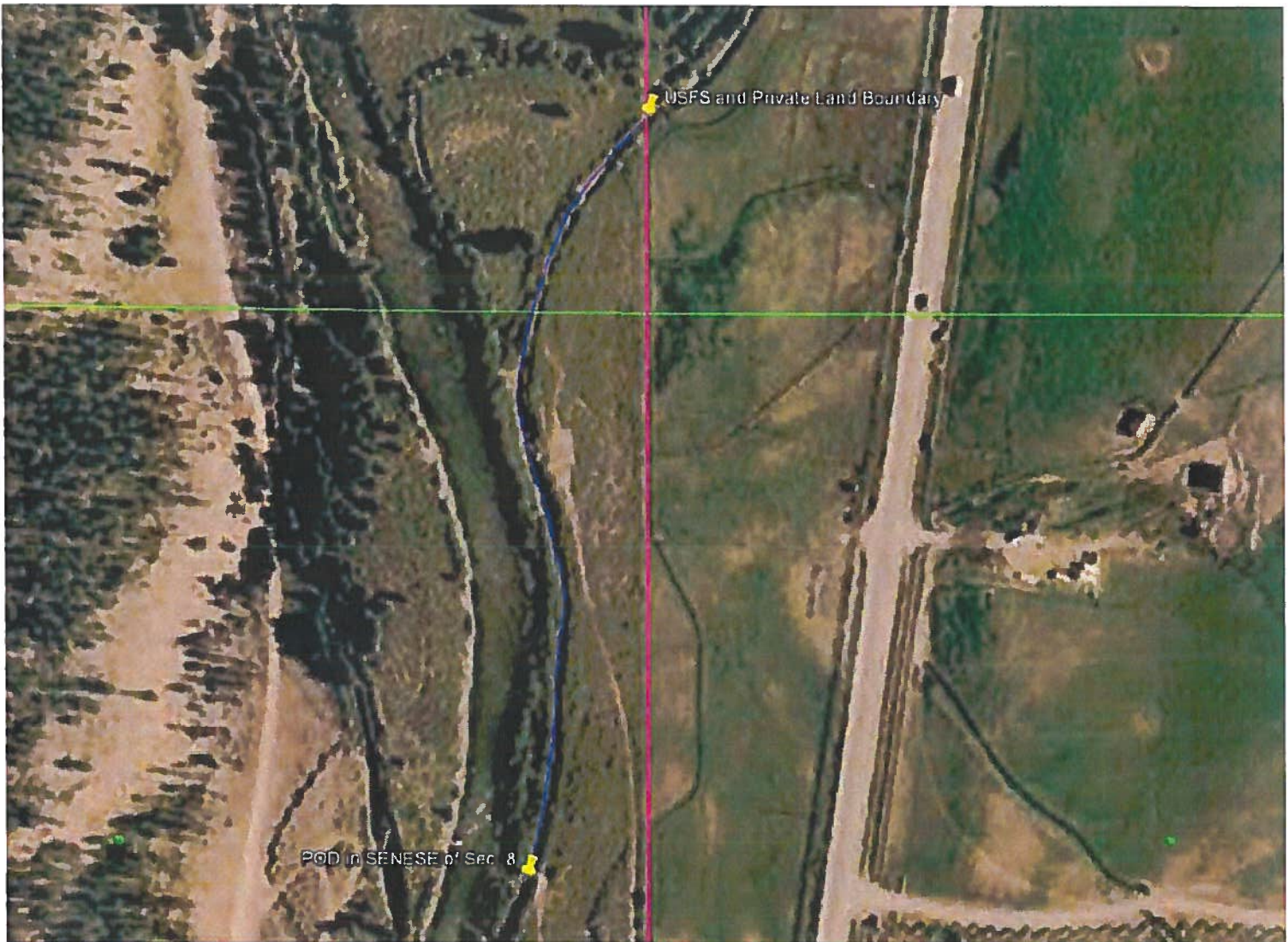


EXHIBIT "I"

Idaho Dept. of Water Resources – Water Report for Water Right # 71-10767 - 3 pages

**IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report**

9/21/2012

WATER RIGHT NO. 71-10767

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JON L CHRISTIANSON C/O JON L CHRISTIANSON FOUR TIMES SQUARE NEW YORK, NY 10036
Current Owner	WEI S CHRISTIANSON C/O WEI S CHRISTIANSON FOUR TIMES SQUARE NEW YORK, NY 10036
Original Owner	JACK B FUREY PO BOX 280 CHALLIS, ID 83226 (208)876-4491
Original Owner	LOUIS F RACINE JR PO BOX 1391 POCATELLO, ID 83204 (208)232-6101

Priority Date: 05/01/1959
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
SALMON RIVER	SNAKE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	5/01	10/31	3.39 CFS	
Total Diversion			3.39 CFS	

Location of Point(s) of Diversion:

|SALMON RIVER|SENESE|Sec. 08|Township 08N|Range 14E|CUSTER County|

Place(s) of use:

Place of Use Legal Description: IRRIGATION CUSTER County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08N	14E	4		NWSW	1.1		SWSW	13.5		SESW	2.3			
		9		NENW	3.7		NWNW	18.4		SWNW	4.8			

Total Acres: 43.8

Conditions of Approval:

1.	USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL COMBINED FIELD HEADGATE REQUIREMENT OF 7.89 CFS FOR IRRIGATION OF 100.2 ACRES. COMBINED RIGHT NOS.: 71-10767, 71-10768, 71-02004C & 71-00036A.
2.	USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 100.2 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 71-00036A, 71-02004C, 71-10768 & 71-10767.
3. C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. C13	THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 71: WATER RIGHT NO. SOURCE NONE NONE THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 71 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL WATER RIGHTS WITHIN BASIN 71 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
5.	0.36 CFS OF THIS RIGHT IS LIMITED TO USE FOR CONVEYANCE LOSSES IN DELIVERY OF THIS RIGHT. THE RIGHTS LISTED BELOW ARE EACH DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE. RIGHT NOS.: 71-02004A, 71-02004B, 71-02063, 71-04037, 71-02085B, 71-10764 & 71-10767.

Dates:

Licensed Date:

Decreed Date: 03/16/1999

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector: AND

Water District Number: 71

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Combined Acres Limit: 100.2

Combined Volume Limit:
Combined Rate Limit: 7.89
Civil Case Number:
Old Case Number:
Decree Plaintiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Kathryn Conant, Director, Lands
February 12, 2014
Page - 23

EXHIBIT "K"

Idaho Dept. of Water Resources – Water Right Application #71-7170 - 6 pages

RECEIVED

JUL 26 1993

Ident. No. 71-07170

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region Office
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Louis F. Racine, Jr. & Jack B. Furey Phone Off. 879-4421
Home. 876-4491
Post office address P.O. Box 280, Challis, Idaho 83226

2. Source of water supply Salmon River which is a tributary of Snake River

3. Location of point of diversion is SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, Govt. Lot _____
Sec. 8 Township 8N. Range 14E., B.M. Custer County; additional
points of diversion if any: None.

4. Water will be used for the following purposes:

Amount .3cfs for irrigation purposes from 5/4/1 to 9/30 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) .3cfs and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Diversion box a short distance from Salmon River is cement--approximately 300 feet on down ditch is a wooden fish control box which is 18 feet wide--on below the wooden box the ditch is 11 feet wide at the top.

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____;

Well was drilled for (well owner)* _____

7. Time required for the completion of the works and application of the water to be proposed beneficial use is
Diversion works are now in existence and water may be diverted immediately.
Allow 1 years (minimum 1 year).

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8N.	14E	9						10	5										

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

11. a. Who owns the property at the point of diversion? U. S. Government

b. Who owns the land to be irrigated or place of use? Louis F. Racine, Jr., & Jack B. Furey

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Water appropriated is surplus originally licensed to Sherman F. Furey, Jr., and Jack B. Furey to irrigate that portion of SW¼NE¼, NE¼SE¼ and NE¼SE¼, Section 32, Twp. 9N, Rge. 14E., B.M. lying westerly and adjoining State Hwy. 75, but which license rights were conveyed to Ernest E. Day and Fred Humphreys, together with additional appurtenant water rights to irrigate approximately 50 acres of that portion of SE¼NE¼ and NE¼SE¼, said Section, Twp. and Rge., lying easterly and adjacent to Highway 75. (See copy of Page 1 of original Warranty D. 1 #172209. Also, see attach. copy of Water License #28070, now renumbered as #7102085, Idaho Dept. of Water Resources. Also, see copy of original Ditch and Water Agreement between Morgan C. Williams and

8. Description of proposed uses (if irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. _____
- Stockwatering; list number and kind of livestock. _____
- Municipal; show name of municipality. _____
- Domestic; show number of households. _____
- Other; describe fully. _____

9. Description of place of use:

- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
8N.	14E	9						10	5										

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. _____

- Who owns the property at the point of diversion? U. S. Government
- Who owns the land to be irrigated or place of use? Louis F. Racine, Jr., & Jack B. Furey
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. _____

12. Remarks: Water appropriated is surplus originally licensed to Sherman F. Furey, Jr., and Jack B. Furey to irrigate that portion of SW¼NE¼, NE¼SE¼ and NE¼SE¼, Section 32, Twp. 9N, Rge. 14E., B.M. lying westerly and adjoining State Hwy. 75, but which license rights were conveyed to Ernest E. Day and Fred Humphreys, together with additional appurtenant water rights to irrigate approximately 50 acres of that portion of SE¼NE¼ and NE¼SE¼, said Section, Twp. and Rge., lying easterly and adjacent to Highway 75. (See copy of Page 1 of original Warranty D. 1 #172209. Also, see attach. copy of Water License #28070, now renumbered as #7102085, Idaho Dept. of Water Resources. Also, see copy of original Ditch and Water Agreement between Morgan C. Williams and

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

(SEE ATTACHED MAP, WHICH, WITH ALL OTHER ATTACHMENTS,
IS INCORPORATED HEREIN BY REFERENCE.)

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Louis F. Racine Jr.
Jack B. Furey (Applicant)

Proposed Priority 1 1-15

Received by R. Foster No ck. Date 7/24/93 Time 10:15 Preliminary check by JF Stanton
Fee \$ 45.00 Receipted by MTS # 5016050 Date 7-29-93
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

14E.

BM 6742

Gravel Pit Mile 890

P.A.

SEC. 4

Fisher

8N.

SEC. 9

Delivery Ditch
P.D.

Sawtooth Valley
Ranger Station

Fourth Creek

SALMON RIVER

Campground

NATIONAL FOREST

20

Wass Lake
Creek

Gravel Pit

16

15

Champion

VALLEY

21

A111008A

bT1

MAL 394

Kathryn Conant, Director, Lands
February 12, 2014
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EXHIBIT "L"

**Idaho Dept. of Water Resources – Order dated January 15, 2014 related to Water Right
Application #71-7170 - 4 pages**



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380

Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

January 15, 2014

JON CHRISTIANSON
WEI CHRISTIANSON
HC 64 BOX 9958
STANLEY, ID 83278

COPY

RE: Order Granting a Delay in Processing, Application for Permit No(s). 71-7170

Dear Applicant(s):

Enclosed please find an Order Granting a Delay in Processing. If you have any questions regarding the enclosed information, please feel free to contact our office at (208) 736-3033. Additional information is also available on our website, www.idwr.idaho.gov.

Sincerely,

Denise Merritt

for: Allen Merritt
Southern Region Manager

Enclosures

cc: Gary D Slette, attorney

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

COPY

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 71-7170 IN THE NAME OF)
JON & WEI CHRISTIANSON)
_____)

**ORDER GRANTING
A DELAY IN PROCESSING**

This matter having come before the Department of Water Resources (Department) as a petition to delay the processing of an application for permit, the Department finds, concludes, and orders:

FINDINGS OF FACT

1. On July 29, 1993, Louis F. Rancine, Jr. and Jack B. Furey applied to the Department for a permit to appropriate 0.30 cfs of water from the Salmon River, a tributary of the Snake River, for irrigation purposes.

2. On January 12, 2006, the Department received an Assignment of Application for Permit 71-7170 assigning the application to Jon & Wei Christianson.

3. Rule 40.01.d. of the Department's Water Appropriation Rules (IDAPA 37.03.08.040.01.d) provides as follows:

An applicant may request in writing that commencement of processing of his or her application be delayed for a period not to exceed one (1) year or that processing be interrupted for a period not to exceed six (6) months. The director at his discretion may approve the request unless he determines that others will be injured by the delay or that the applicant seeks the delay for the purpose of speculation, or that the public interest of the people of Idaho will not be served by the delay. The director may approve a request for delay for a shorter period of time or upon conditions, and may renew the approval upon written request.

4. Since 2007, the Department has received numerous petitions from Gary D. Slette on behalf of his clients, Jon & Wei Christianson, for delays in processing of Application for Permit 71-7170. The delays have been requested in order to address concerns raised by the Sawtooth National Forest regarding the lack of authorization, or application for authorization, to use the point of diversion and conveyance works (ditch) proposed by Application for Permit 71-7170.

5. In response to the petitions requesting delays in the processing of the application, the Department has issued Orders Granting a Delay in Processing of Application for Permit 71-7170. The orders indicated that Jon & Wei Christianson shall provide the Department with information relating to the progress in addressing the concerns raised by the Sawtooth National Forest.

6. On December 6, 2013, the Department received a petition from Gary D. Slette on behalf of his clients, Jon & Wei Christianson, for an additional six month delay in processing of the application. The petition included information relating to ongoing efforts made in an attempt to address the concerns raised by the Sawtooth National Forest regarding the lack of authorization, or application for authorization, to use the point of diversion and conveyance works (ditch) proposed by Application for Permit 71-7170. The additional delay was requested in order to continue ongoing efforts to address concerns raised by the Sawtooth National Forest.

CONCLUSIONS OF LAW

1. It is in the public interest to grant an additional delay in processing of Jon & Wei Christianson's application to appropriate water from the Salmon River so that they can explore alternatives to address concerns raised by the Sawtooth National Forest.

2. Delaying the processing of Application for Permit No. 71-7170 will not injure other water users.

3. The request for an additional delay in processing of Application for Permit No. 71-7170 was not made for speculative purposes.

4. The Department should grant the petition and continue to delay processing Application for Permit No. 71-7170 for up to six months.

ORDER

IT IS HEREBY ORDERED that the petition to continue to delay the processing of Application for Permit No. 71-7170 is **GRANTED**.

IT IS FURTHER HEREBY ORDERED that by July 14, 2014, Jon & Wei Chistianson shall provide the Department with information relating to their progress in addressing the concerns raised by the Sawtooth National Forest.

Dated this 15th day of January, 2014.



Allen Merritt
Southern Region Manager

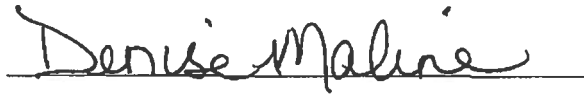
CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of January, 2014, I mailed a true and correct copy, postage prepaid, of the foregoing **ORDER GRANTING A DELAY IN PROCESSING** to the person(s) listed below:

Documents Enclosed: Order Granting A Delay in Processing for Application for Permit No. 71-7170, in the name of Jon and Wei Christianson

JON CHRISTIANSON
WEI CHRISTIANSON
HC 64 BOX 9958
STANLEY, ID 83278

ROBERTSON & SLETTE, PLLC
ATTN: GARY D SLETTE
PO BOX 1906
TWIN FALLS, ID 83303-1906

A handwritten signature in cursive script, reading "Denise Maline", written over a horizontal line.

Denise Maline
Administrative Assistant