

Mailing
address

RECEIVED
MAY 12 2005
IDWR/North

Ident. No. 84-12227

RECEIVED
SEP 23 2004
IDWR/North

791-6336 Cell

PO Box 424
Lewiston ID
83501

71967

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant DON R. BERRY Phone 218-476-3834
Mailing address 2818 HUCKLEBERRY BUTTE RD. CROFTON, ID 83544
2. Source of water supply SPRING which is a tributary of SINKS
3. Location of point of diversion is Township 37N Range 3E Sec. 19, in the N42 1/4,
N42 1/4, N42 1/4, Govt. Lot _____, B.M., CLEARWATER County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 0.04 for DOMESTIC purposes from JAN 1 to DEC 31 (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)
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) 0.04 and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works: _____
a. Describe type and size of devices used to divert water from the source CONCRETE RESERVOIR
WITH PIPELINE TO PLACE OF USE
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
d. Is ground water with a temperature of greater than 95°F being sought? _____
e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. 1
e. Other; describe fully. _____

From:

Don BERRY
PO Box 424
Lewiston ID
83501

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	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
37N	2E	13																D	

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? STATE OF IDAHO
- Who owns the land to be irrigated or place of use? APPLICANT
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

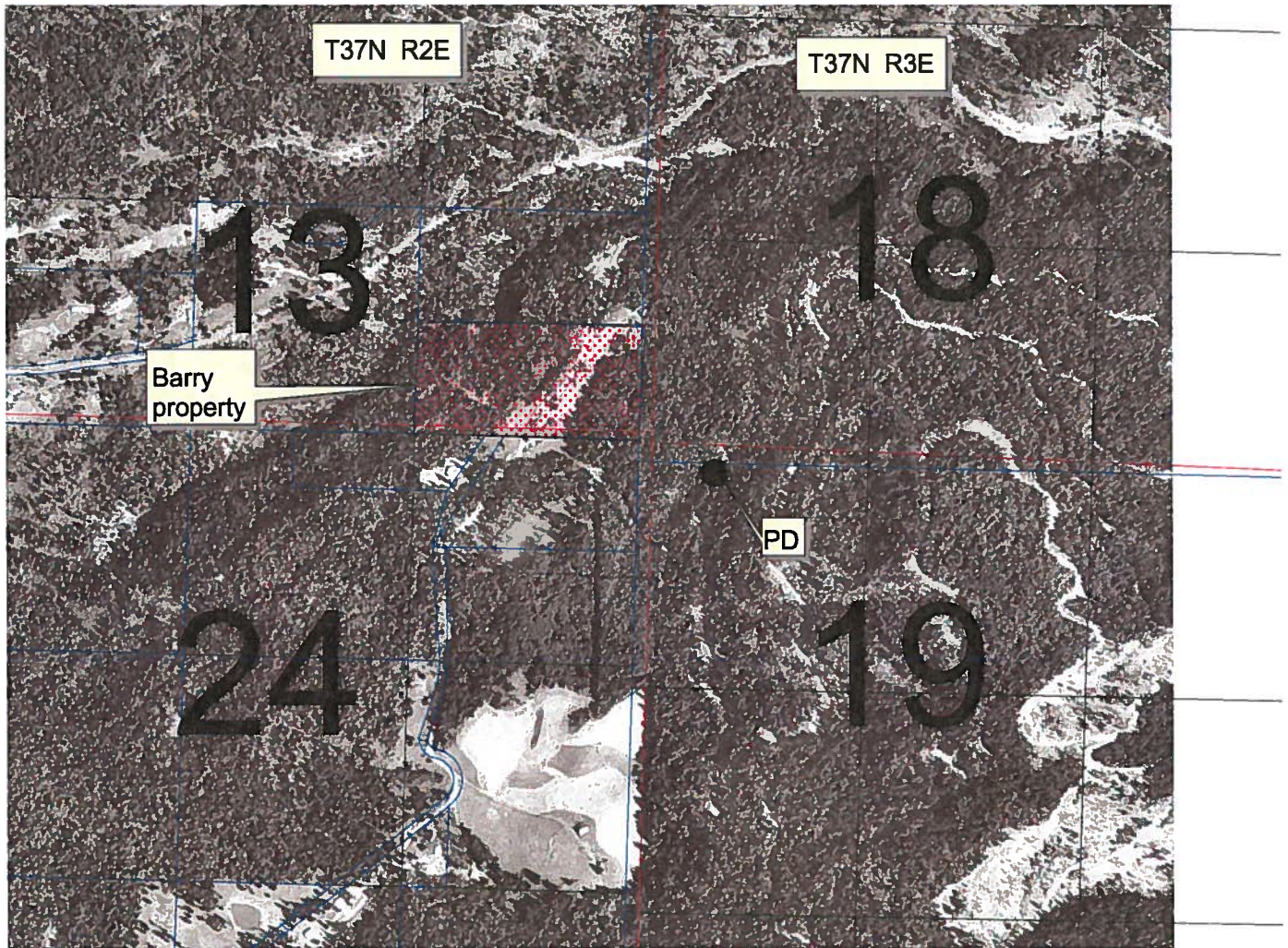
12. Remarks: IN THE PROCESS OF OBTAINING AN EASEMENT FROM THE IDAHO DEPARTMENT OF LANDS

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

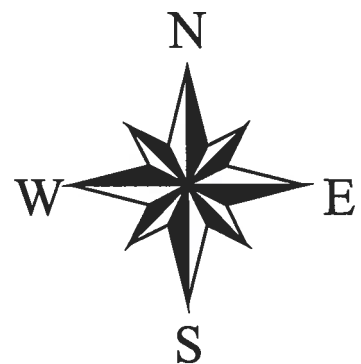
Don R Remy
Signature of Applicant (and title, if applicable)

Received by [Signature] Date 9/23/04 Time 1 30P Preliminary check by _____
 Fee \$ 25.00/75.00 Received by ST. Oka/ [Signature] # C044808/N016562 Date 3/10/99/ 9/23/04
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

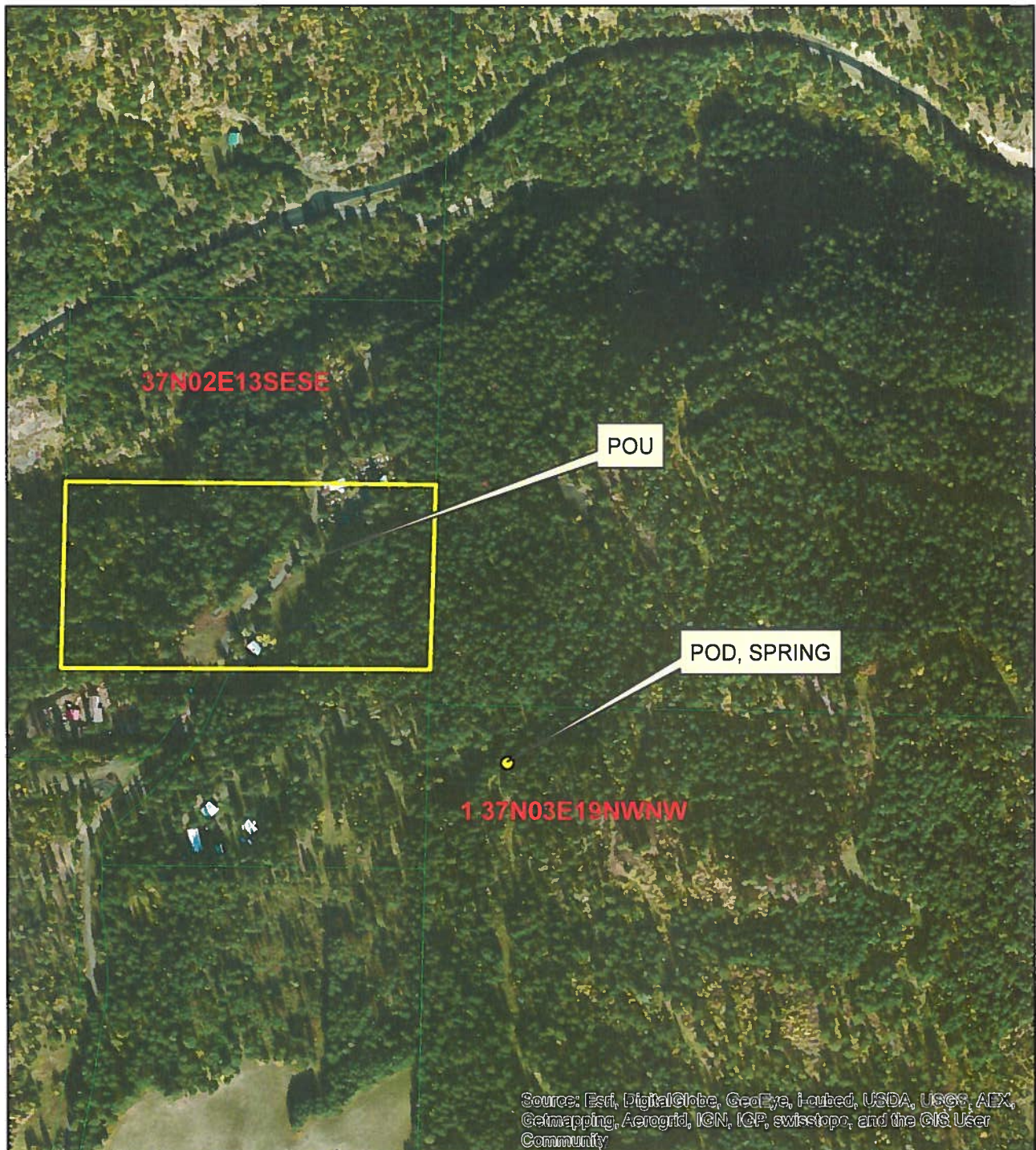


Unknown Units: View1

- Clearwater.shp
- PLSS Section LinesSections.shp
- T37n03e.shp
- T37n02e.shp



84-12227



0 0.05 0.1 0.2 Miles

Legend

- Working_POD
- Working_POU
- Taxlots



Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, September 24, 2013 4:08 PM
To: Legal Notices-Clearwater Tribune
Cc: Franklin, Keith
Subject: Application for Permit No. 84-12227
Attachments: LegalNotice 09-24-13 CT e-mail 84-12227.doc

Good afternoon Marcie and Andrea,

Please publish the enclosed legal notice on the dates indicated, October 3 and 10, 2013 (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

Please send a proof/preview copy for my review before this goes to press. If at all possible, by Thursday morning this week, as I will be out of the office after Thursday noon but will try to respond from home if that is not possible. (Recovering from foot surgery.)

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 10/21/2013. Your cooperation is, as always, greatly appreciated.

Thanks for all the wonderful help in the past, too.

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819

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

84-12227

DON R BERRY

551 HUCKLEBERRY BUTTE RD

OROFINO, ID 83544

STATE OF IDAHO DEPT OF LANDS

300 N 6TH. STE. 103

BOISE, ID 83720-0050

Point of Diversion NWNWNW S19 T37N R03E

CLEARWATER County

Source SPRING tributary SINKS

Use: DOMESTIC 01/01 to 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 5/12/2005

Place of Use: DOMESTIC T37N R02E S13 SESE

Domestic use is for 1 home.

Permits will be subject to all prior water rights. For additional information concerning the property location, contact Northern Region office at (208) 762-2800. 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 Resources, Northern Region, 7600 Mineral Drive, Suite 100, Coeur D' Alene ID 83815 together with a protest fee of \$25.00 for each application on or before 10/21/2013. The protestant must also send a copy of the protest to the applicant.

GARY SPACKMAN, Director

Published on 10/3/2013 and 10/10/2013



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region • 7600 N. Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815-7763

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

September 24, 2013

DON R BERRY
551 HUCKLEBERRY BUTTE RD
OROFINO, ID 83544

STATE OF IDAHO DEPT OF LANDS
JAY SILA
300 N 6TH. STE. 103
BOISE, ID 83720-0050

Application For Permit No. 84-12227

Dear Applicant(s):

The Department of Water Resources has received your water right application. Please refer to the number referenced above in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the CLEARWATER TRIBUNE on 10/3/2013 and 10/10/2013. Protests to this application may be submitted for a period ending ten (10) days after the second publication.

If the application is protested, you will be sent a copy of each protest. All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, the Department will process your application and notify you of any action taken on the application. If your application is approved, the Department will send you a copy of the permit.

Please contact this office if you have any questions regarding the application.

Sincerely,

Keith Franklin
Program Manager

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, September 24, 2013 3:54 PM
To: rhennekey@idfg.idaho.gov; john.cardwell@deq.idaho.gov
Cc: Franklin, Keith
Subject: RE: Application for Permit No. 84-12227 Don Berry & Idaho Dept. of Lands
Attachments: 84-12227_App_and_msps.pdf

Dear Ray and John:

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application is attached for your reference.

This is being prepared for publication in the Clearwater Tribune on October 3 and 10, 2013, with October 21, 2013 as the final date for protests to be received in our office.

Your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

Please contact Keith Franklin at this office if you have any questions regarding this application.

Sincerely,

Dianne Ball

Administrative Assistant
Idaho Department of Water Resources
7600 N Mineral Dr., Ste. 100
Coeur d'Alene, ID 83815
208-762-2800 Fax 208-762-2819



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
September 10, 2013

RECEIVED

SEP 11 2013

DEPARTMENT OF
WATER RESOURCES

RECEIVED
SEP 16 2013
IDWR / NORTH

Shelley Keen
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, Idaho 83720-0098

Re: Application for Permit No. 84-12227

Dear Mr. Keen,

The State of Idaho, Department of Lands ("IDL") and Don R. Berry submit the enclosed Assignment of Application for Permit ("Assignment") to the Idaho Department of Water Resources ("IDWR"). Mr. Berry assigns all his right, title and interest in and to the Application for Permit No. 84-12227 to IDL and Mr. Berry as co-applicants. The Assignment is supported by State of Idaho Term Easement No. 6467 and Amendment to State of Idaho Term Easement No. 6467, which are attached to Assignment.

IDL requests that IDWR place the following remark on the permit to reference the applicable State easement documents:

Ownership of Permit No. 84-12227 and access to the point of diversion is governed by State of Idaho Term Easement No. 6467 recorded in the records of Clearwater County, Idaho, as Instrument No. 197826, and Amendment to State of Idaho Term Easement No. 6467 recorded in the records of Clearwater County, Idaho, as Instrument No. 222833.

Please process the Application for Permit No. 84-12227 with the additional information provided in the Assignment. If you have any questions, please contact me at (208) 334-4549.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tyson K. Nelson".

Tyson K. Nelson
Deputy Attorney General

Shelley Keen
September 10, 2013
Page 2

TKN/mb
Enclosure

cc: Jay Sila, Idaho Department of Lands
Chris Bromley, Deputy Attorney General
Don R. Berry

RECEIVED
SEP 16 2013
IDWR / NORTH

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

I, Don R. Berry, hereby assign to State of Idaho, Dept. of Lands and Don R. Berry
Current applicant New applicant(s)
 of, (see page 2 for the new owners' addresses and phone numbers)
New owner's address including city, state and ZIP Phone

All my right, title, and interest in and to Application for Permit No(s): 84-12227
 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to Application for Permit No(s):

_____, to appropriate the public waters of the State of Idaho.

Describe in detail the portion of the application for permit assigned, listing the number of acres in each 40 acre subdivision, point of diversion location, and amount of the water in cubic feet per second.

Does the new applicant own the property at the:

Point of diversion? ☐ Yes ☐ No
 Place of use? ☐ Yes ☐ No

If no, describe the arrangement enabling the new applicant to access the point of diversion and/or the place of use:

The State of Idaho owns the property at the point of diversion. Don Berry owns the property at the place of use.

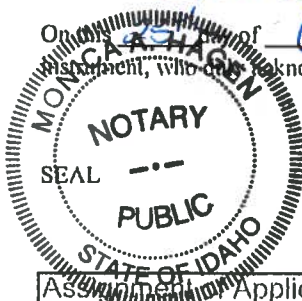
Ownership of the water right and access to the State land are governed by Easement No. 6467 as amended.

Dated this 25 day of July, 2013.

Don R. Berry
 Signature of current applicant Title (if applicable) Signature of current applicant Title (if applicable)

State of Idaho)
 County of Clearwater)ss

On this 25 day of July, 2013, personally appeared before me the signer(s) of the above instrument, who has acknowledged to me that he/she/they executed the same.



Monica A. Hagen
 Notary Public
 My commission expires: 05/14/2017

Assignment of Application for Permit

Permit No. 84-12227

New Owners' Addresses and Phone Numbers

State of Idaho, Department of Lands

300 N. 6th St., Suite 103
P.O. Box 83720
Boise, ID 83720-0050

(208)-334-0200

Don R. Berry

551 Huckleberry Butte Road
Orofino, ID 83544

(208) 476-0488

RECEIVED
SEP 16 2013
IDWR / NORTH

State of Idaho Term Easement No. 6467

and

**Amendment to
State of Idaho Term Easement No. 6467**

RECEPTION ☒ INDEXED ☒
FILMED ☐ DELIVERED ☐
MAILED ☐

197826

ESMT 6467

IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St. PO Box 83720
Boise, Idaho 83720-0050
Phone (208) 334-0200 Fax (208) 334-3698

STATE OF IDAHO

TERM EASEMENT NO. 6467

Instrument # 197826

CLEARWATER COUNTY, OROFINO, IDAHO
2004-12-06 08:00:00 No. of Pages: 6

Recorded for: DEPARTMENT OF LANDS

ROBIN CHRISTENSEN

Ex-Officio Recorder Deputy Fee: 0.00

RETURN TO: * *Cindy Gumm*

THIS INDENTURE, made this 1st day of December, 2004, by and between the **STATE OF IDAHO, Department of Lands**, 954 West Jefferson Street, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **DON R. BERRY**, 2812 Huckleberry Butte, Orofino, Idaho 83544, (Grantee);

WITNESSETH: That for and in consideration of the sum of **TWO HUNDRED FIFTY and no/100ths DOLLARS (\$250.00)**, lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, his heirs and successors, forever, a non-exclusive easement for the purpose of constructing, using, and maintaining a buried domestic water supply pipeline and spring collection box over, under, and across the following described lands situated in **CLEARWATER COUNTY**, State of Idaho, to-wit:

An easement for utility purposes located in the NW1/4 of the NW1/4 of Section 19, Township 37 North, Range 3 East, Boise Meridian, and being more particularly described as follows:

Beginning at the northwest corner of said Section 19; thence S 0° 24' 12" W along the west line of said Section 19 221.00 feet to the **REAL POINT OF BEGINNING**; thence continuing S 0° 24' 12" W along said west line 5.35 feet; thence N 69° 40' 58" E 313.68 feet; thence S 20° 19' 02" E 2.50 feet; thence N 69° 40' 58" E 10.00 feet; thence N 20° 19' 02" W 10.00 feet; thence S 69° 40' 58" W 10.00 feet; thence S 20° 19' 02" E 2.50 feet; thence S 69° 40' 58" W 311.78 feet to the **REAL POINT OF BEGINNING**.

Said parcel contains 0.04 acre, more or less.

Subject to the following terms:

A. General:

1. This easement may be assigned only with the prior written approval of the Grantor. The Grantee must provide the appropriate legal assignment documentation and pay the required easement assignment fee.

B. Limited Purpose:

1. This easement is granted for the sole benefit of the current household located in the S1/2SE1/4SE1/4 of Section 13, Township 37 North, Range 2 East, B.M.

*
DEPARTMENT OF LANDS
954 W. JEFFERSON STREET
P.O. BOX 83720
BOISE, ID 83720-0050

2. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Third party use shall be authorized only by the Grantor. The Grantor shall permit third party use only on the condition that said use shall not interfere with, nor unduly burden the Grantor's estate.

C. Grantees Covenants:

1. It is understood and agreed that the Grantee shall take measures to control noxious weeds within the easement boundary in accordance with Title 22, Chapter 24, Idaho Code. The Grantee shall cooperate with any state or other agency authorized to undertake programs for control or eradication of noxious weeds. Failure to comply would be justification for the Grantor to terminate the easement.

2. The Grantee, heirs and successors, will comply with all federal, state, and local laws, and with all state administrative rules including, but not limited to the Idaho Forest Practices Act, the Stream Channel Protection Act, and all environmental protection laws.

3. It is understood and agreed that the legal description described in this easement is that provided by the Grantee who assumes full responsibility for the buried domestic water supply pipeline and spring collection box being located within the described legal description. The Grantor assumes no responsibility involved with an inaccurate legal description.

4. The Grantee shall indemnify and hold harmless, the Grantor and its representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this easement.

5. The Grantee agrees to indemnify the Grantor against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the easement (unless the release or threatened release is wholly unrelated to the Grantee's activity on the easement), or resulting from the activity of the Grantee on the easement. This agreement applies without regard to whether a release is caused by the Grantee or its agent.

6. Grantee shall not fence the easement area without written authorization from the Grantor.

7. Grantee will, within six (6) months from the date of issuance of this easement, file for a water right on this spring development. **This water right must be filed in the name of the State of Idaho.**

D. Utilities:

1. The domestic water supply pipeline must be buried at least three (3) feet deep.
2. It is fully understood and agreed that if any future road construction or reconstruction affects the buried domestic water supply pipeline or spring collection box, it shall be the sole responsibility and expense of the Grantee for removing, relocating, and reinstalling of said buried domestic water supply pipeline or spring collection box necessitated by such construction or reconstruction. The Grantee agrees to move the buried domestic water supply pipeline or spring collection box, within ninety (90) days after receiving written notice from the Grantor that new construction or improvements are planned.
3. Prior to performing construction, reconstruction or maintenance to a degree that shall cause soil disturbance and or the destruction of vegetation, the Grantee shall obtain written authorization from the Grantor. The authorization shall provide for appropriate operating and reclamation procedures such as leveling the ground surface and reseeding of vegetation, if necessary; prevention of erosion; and any other special provisions appropriate to protect the land and other resources.
4. Grantee will remove the existing abandoned iron pipe waterline sections and dispose of them in an approved manner. The cistern lid will be redesigned so that it stays in place. Grantee will have six (6) months from date of easement to complete these items.
5. Upon termination or abandonment, the Grantee shall have twelve (12) months from the date of receipt of the final notice to remove all facilities or improvements. Grantee will be liable for any damage to Grantor's land or resources thereon caused by removal of such facilities or improvements.

E. Grantors Covenants:

1. The Grantor reserves to itself, its successors and assigns, all timber, present and future, within the easement area.
2. The Grantor reserves to itself, its successors, and assigns, the right to construct and maintain such spur roads over, through, or across the aforementioned easement as it may deem necessary in the administration and use of its adjoining land, provided that such use does not interfere with the rights and privileges hereby authorized to Grantee.
3. The Grantor reserves unto itself, its assigns and its successors in interest the right and privilege to use said easement for any and all purposes deemed necessary or desirable in connection with the control, management, administration, and use of Grantor's lands.
4. Nothing in this instrument will be construed as binding the Grantor to perform beyond its legal authority, or to expend any monies in excess of appropriations or other authorized funds available for such purposes.

5. In the event that the Grantor commences a contractual activity on the property, the Grantor and their contractor will take every precaution to protect the Grantee's pipeline and spring development. If damaged, it shall be restored by said contractor to the condition prior to commencement of said contractual activity.

F. Termination:

1. This easement shall be effective upon execution and shall continue for a period of thirty (30) years (or until DEC. 1 of 2034, subject only to the terms and provisions of this easement. To provide a potable domestic water supply, the grantee will be required to drill a well on privately owned land, before the end of the thirty (30) year term.

2. If at any time prior to termination Grantee determines that the easement, or any segment thereof, is no longer needed for the purposes granted, the easement traversed thereby shall terminate. In the event of such determination by Grantee, Grantee shall furnish to the Grantor or its successors in interests, a statement in recordable form confirming termination.

3. The Grantor may, at its option, terminate this easement for breach of any of the terms of this easement and/or pursue other remedies to enforce the terms of this easement. If termination occurs, the director shall notify the Grantee in writing of the termination. The Grantee shall have thirty (30) days from the date of notification to appeal to the director for reinstatement.

G. Authority:

1. This easement is issued by the authority of the Rules for Easements on State Land (IDAPA 20.03.08) dated July 1993.

H. Acceptance:

1. USE OF THIS EASEMENT BY THE GRANTEE CONSTITUTES ACCEPTANCE OF THE EASEMENT AND AGREEMENT TO BE BOUND BY THE TERMS HEREOF.

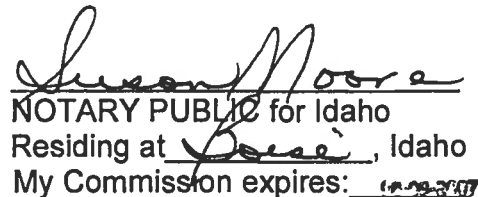
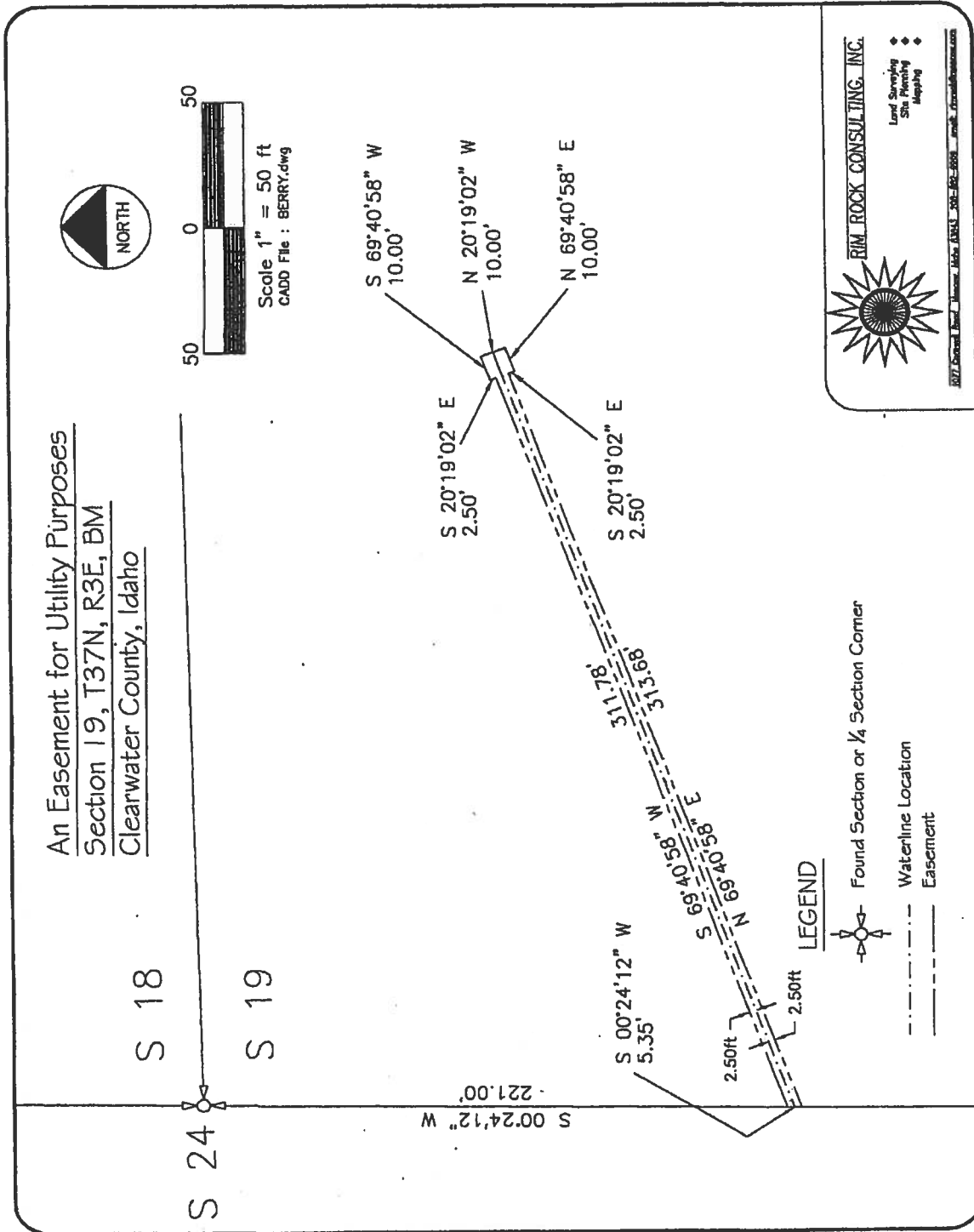


EXHIBIT A



222833

IDAHO DEPARTMENT OF LANDS

Instrument # 222833

CLEARWATER COUNTY, OROFINO, IDAHO

8-30-2013 02:23:00 No. of Pages: 4

Recorded for : IDAHO DEPARTMENT OF LANDS

CARRIE BIRD

Fee: 0.00

Ex-Officio Recorder Deputy

300 N. 6th St, Suite 103

PO Box 83720

Boise, Idaho 83720-0050

Phone (208) 334-0200 Fax (208) 334-3698

AMENDMENT TO STATE OF IDAHO TERM EASEMENT NO. 6467

THIS Amendment to State of Idaho Term Easement No. 6467 ("Amendment"), is made this 22nd day of August, 2013, by and between the **STATE BOARD OF LAND COMMISSIONERS**, 900 North 6th Street, Suite 103, P.O. Box 83720, Boise, Idaho 83720-0050 ("Grantor"), and **Don R. Berry**, 551 Huckleberry Butte Road, Orofino, Idaho 83544 ("Grantee") (Grantor and Grantee, collectively, "Parties");

WHEREAS, Grantor issued State of Idaho Term Easement No. 6467 ("Easement") to Grantee on December 1, 2004, for a buried domestic water supply pipeline and spring collection box on State land;

WHEREAS, the Easement was recorded in the records of Clearwater County, Idaho, on December 6, 2004, as Instrument No. 197826;

WHEREAS, Section C.7. of the Easement required Grantee to file for a water right for the spring development on State land in the name of the State of Idaho within six (6) months of issuance of the Easement;

WHEREAS, Grantee applied to the Idaho Department of Water Resources ("IDWR") for a water right permit for the spring development in Grantee's name only, rather than in the name of the State of Idaho;

WHEREAS, IDWR identified the permit application as Water Right No. 84-12227;

WHEREAS, the permit application has been pending with IDWR since May 12, 2005;

WHEREAS, the Parties agree to amend the water right provision in the Easement to clarify the Parties' respective roles and identify the Parties as co-applicants for the permit so that IDWR can issue the permit for Water Right No. 84-12227; and

WHEREAS, the Parties agree this Amendment shall be effective upon the execution of this Amendment and this Amendment shall be recorded in the records of Clearwater County, Idaho;

NOW THEREFORE, the Parties agree that the above recitals are contractual in nature and that the Easement is hereby amended as follows:

1. Section C.7. of the Easement is hereby deleted in its entirety.

PTNWNW, Sec 19-37-3 EBM

2. New Section I is hereby added to the Easement, to be inserted after existing Section H, to read as follows:

I. Water Right:

1. The diversion of water on Grantor's land for use on Grantee's land requires a permit to appropriate waters of the State of Idaho ("Water Right Permit") issued by IDWR. The Idaho Department of Lands ("IDL"), on behalf of Grantor, and Grantee shall jointly apply to IDWR for the Water Right Permit. The Water Right Permit application shall be in the names of both IDL and Grantee. IDL and Grantee shall file an Assignment of Application for Permit form with IDWR to update the applicants' names on the previously submitted Water Right Permit application.

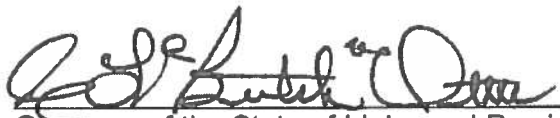
2. Grantee shall pay any fees required by IDWR related to obtaining Water Right No. 84-12227, including, but not limited to, the Water Right Permit application fee and the beneficial use examination fee.

3. In the event of the cancelation, expiration, or otherwise termination of the Easement, any ownership interest held by Grantee in Water Right No. 84-12227 shall cease and IDL shall become the sole owner of the said water right. In such event, Grantee shall waive any right to object to the transfer of Water Right No. 84-12227 to the name of IDL exclusively. Additionally, in such event, IDL shall file with IDWR, or any successor agency, an application to transfer Water Right No. 84-12227 to land owned by the State of Idaho. Grantee hereby waives any right to object to the transfer of the said water right to State land.

3. All other terms and conditions of the Easement not specifically amended herein shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused these presents to be executed on the date of their respective signatures or the date of their respective acknowledgments.

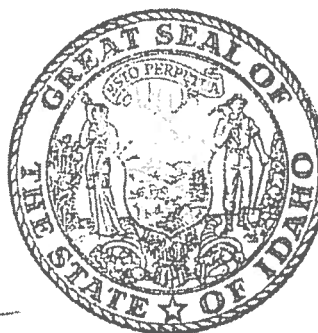
GRANTOR: STATE BOARD OF LAND COMMISSIONERS


Governor of the State of Idaho and President
of the State Board of Land Commissioners

Countersigned:


Secretary of State

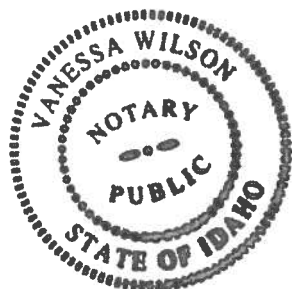

Director, Idaho Department of Lands



STATE OF IDAHO)
) ss.
COUNTY OF ADA)

On this 22nd day of August, 2013, before me, a Notary Public in and for said State, personally appeared **C.L. "BUTCH" OTTER**, known to me to be the Governor of the State of Idaho and President of the State Board of Land Commissioners; **BEN YURSA**, known to me to be the Secretary of State for the State of Idaho; and **THOMAS M. SCHULTZ, Jr.**, known to me to be the Director of Department of Lands of the State of Idaho, that executed the same instrument and acknowledged to me that such State of Idaho and State Board of Land Commissioners executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year written above.




NOTARY PUBLIC for Idaho
Residing at Bose, Idaho
My Commission expires: 8-11-14

GRANTEE: DON R. BERRY

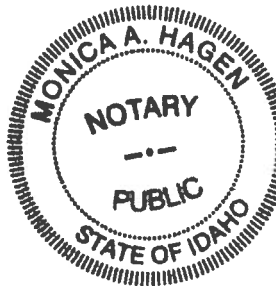
7/25/13
Date

Don R Berry
Don R. Berry

STATE OF IDAHO)
COUNTY OF Clearwater) ss.

On this 25th day of July, 2013, before me, a Notary Public in and for said State, personally appeared **Don R. Berry**, known or identified to me to be the person whose name is subscribed to the written instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year first above written.



Monica A. Hagen
NOTARY PUBLIC for Idaho
Residing at Kamiah, Idaho
My Commission expires: 05/16/2017

November 21, 2005

RECEIVED
DEC 12 2005
IDWR/North

DON R BERRY
PO BOX 424
LEWISTON ID 83501

Re: Application to Appropriate Water no. 84-12227

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 84-12227 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

Enclosed is the order titled *Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium*. The order directs Department staff to begin processing applications to appropriate water that were held during the moratoriums. Applications will be processed in the approximate order of the Department's receipt of the applications. A reasonable number of applications will be processed each month considering other duties assigned to Department staff. A document attached to the order titled "Statement of Available Procedures and Applicable Time Limits" explains possible actions you might take should you disagree with the order.

Because of the passage of time since you filed your application for permit to appropriate water, ownership of land, desire to use water, or other circumstances may have changed. **This letter requests that you inform the Department in writing, at the address in the letterhead, of your continuing interest in applying for a permit to appropriate water. This letter is a request for additional information under Idaho Code § 42-204. If the requested written statement of continuing interest is not received by the Department within thirty (30) days of the date of this letter, the Department will assume you are no longer interested in applying for a permit to appropriate water, and will void your application pursuant to**

SCANNED
DEC 06 2005

November 21, 2005

Page 2

Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

If you have questions, please call the Department at (208)287-4952.

Sincerely,

A handwritten signature in black ink, reading "Gary Spackman". The signature is fluid and cursive, with the first name "Gary" and last name "Spackman" clearly distinguishable.

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE MATTER OF APPLICATIONS AND)	ORDER RESCINDING
PERMITS FOR THE DIVERSION AND USE)	SALMON - CLEARWATER
OF SURFACE WATER AND GROUND)	Basin Moratorium and
WATER IN THE SALMON RIVER AND)	Wilderness
CLEARWATER RIVER BASINS)	MORATORIUM
_____)	

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

1. On May 15, 1992, the Director of the Department of Water Resources ("Director" or "Department") issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* ("Salmon - Clearwater Order"), again enjoining the processing of most applications to appropriate water.

2. The Salmon - Clearwater Order stated:

This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

3. Since the issuance of the Salmon - Clearwater Order, significant efforts have been undertaken in the Salmon River and Clearwater River Basins for the recovery of salmon. These activities include:

- Protection of instream flows in streams and rivers to benefit anadromous fish habitat;
- A process for re-establishment of flows in dewatered anadromous fish streams by delivery of rented or acquired water rights to the dewatered reaches;
- Screening and control of irrigation diversions;
- Consolidation of irrigation diversions;

SCANNED

DEC 06 2005

- Riparian habitat improvement projects; and
- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

4. On October 26, 1999, the Director issued a *Moratorium Order* ("Wilderness Order") enjoining further processing and development of pending applications and permits for the diversion and use of surface and ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Area.

5. The Director issued the Wilderness Order in response to an Idaho Supreme Court decision titled *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). The *City of Challis* decision affirmed a 1997 Snake River Basin Adjudication (SRBA) District Court decision that the United States is entitled to reserved water rights to all unappropriated water within the Selway-Bitterroot, the Gospel-Hump, and the Frank Church River of No Return Wilderness areas. The Director determined the recognition of the federal reserved water rights to include all unappropriated water within and upstream of the wilderness areas.

6. The Wilderness Order affected all water permits and applications for permit for which proof of beneficial use had not been filed with the Department in the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, Township 24 North, Range 4 East, Boise Meridian, and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness in Section 7, Township 31 North, Range 10 East, Boise Meridian.

7. The Wilderness Order required all water permit holders to cease development authorized by the permits. Some permit holders submitted proof of beneficial use for the beneficial use completed as of the date of the Wilderness Order. Other permit holders ceased development, and the requirement for filing proof of beneficial use was stayed until the Wilderness Order was amended or lifted to allow additional development.

8. The Idaho Supreme Court granted a petition for rehearing of the *City of Challis* decision, and, on October 27, 2000, the Idaho Supreme Court issued another decision titled *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000). The Court reversed its previous decision in *United States v. City of Challis* and held the Wilderness Act and associated wilderness designations did not create federal reserved water rights for the Frank Church River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

Wild and Scenic Rivers

9. In the case of *Potlatch Corp. and Hecla Mining v. United States*, 134 Idaho 912, 12 P.3d 1256 (2000), the Idaho Supreme Court determined that federal designation of Wild and Scenic Rivers in Idaho reserved water rights for the federal government to satisfy the intent of the designation. The Idaho Supreme Court remanded the case to the SRBA District Court for quantification of the reserved water rights for the Wild and Scenic Rivers.

10. On November 16, 2004, the SRBA District Court entered an Amended Order Approving Stipulation and Entry of Partial Decrees in SRBA Case No. 39576 (Consolidated Subcase No. 75-13316 Wild & Scenic Act Claims). The amended order and the associated partial decrees define federal reserved water rights nos. 75-13316, 77-11941, 77-13844, 78-11961, 81-10472, 81-10513, and 81-10625 in Wild and Scenic Rivers in the Salmon and Clearwater River basins. A stipulated agreement (hereafter referred to as the "Wild & Scenic Agreement") between the United States and parties to the original subcases prior to consolidation forms the framework for the partial decrees issued by the SRBA District Court. The Wild & Scenic Agreement and the partial decrees defining the federal reserved water rights set forth subordination provisions under which the federal reserved water rights are subordinate to other existing and future water rights, describe limitations on appropriation and beneficial use under existing and future water rights to which the federal reserved water rights are subordinate, and provide specific requirements for the administration of water rights within the Salmon and Clearwater River basins.

CONCLUSIONS OF LAW

1. In issuing the Salmon - Clearwater Order and the Wilderness Order, the Director relied on Idaho Code § 42-1805(7). The subsection grants the Director the authority:

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

2. The Salmon - Clearwater Order was issued after the Director found and concluded that further appropriations of surface water at the time would not be in the local public interest and would not be consistent with conservation of the waters of the State of Idaho.

3. Enhancements to streamflows, other improvements to anadromous fish habitat, the execution of the Wild & Scenic Rivers Agreement, and the determination of related federal reserved water rights, have addressed the underlying basis upon which the *Amended Moratorium Order* was issued.

4. The prohibition of new water right appropriations by the Director's Salmon – Clearwater Order dated April 30, 1993, can be rescinded and processing of applications to appropriate surface water in the Salmon River and Clearwater River Basins can be allowed.

5. The Wilderness Order was issued following the initial Idaho Supreme Court decision of *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). Based on the Court's decision, the Director determined there was no additional water available for appropriation. Upon reconsideration, the subsequent Idaho Supreme Court decision, *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000), determined that the wilderness designations did not reserve water rights for the wilderness. As a result of the latest Supreme Court decision in *Potlatch*, the Wild and Scenic Rivers Agreement, and related federal reserved water rights, there is additional water available for appropriation within the limitations described by the Wild & Scenic Agreement and the partial decrees for related federal reserved water rights.

6. The prohibition of new water right appropriations and development authorized by permits to appropriate water by the Director's Wilderness Order dated October 26, 1999, can be rescinded and processing of applications to appropriate water and continued development authorized under existing permits to appropriate water can be allowed.

7. Permit holders who were prohibited from completing application of water for the beneficial use authorized under existing permits are entitled to additional time to complete application of water for beneficial use. For each permit, the additional time granted for completing development should be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due under the permit. The Department should issue an order subsequent to this order establishing the additional time to complete development delayed by the Wilderness Order and specifying the revised date for filing proof of beneficial use for each permit.

ORDER

IT IS HEREBY ORDERED that the *Amended Moratorium Order*, issued on April 30, 1993, prohibiting appropriations of surface water in the Salmon and Clearwater River Basins, is **RESCINDED**.

IT IS FURTHER ORDERED that the *Moratorium Order*, issued on October 26, 1999, prohibiting appropriations of surface and ground water and development of permits for the use of surface water or ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Areas, is **RESCINDED**.

IT IS FURTHER ORDERED that permit holders who were prohibited from completing beneficial use of water authorized under existing permits by the *Moratorium Order* issued on October 26, 1999, are granted additional time for completing the beneficial use authorized. For

each permit, the additional time granted for completing development shall be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due for the permit. The Department shall issue an order subsequent to this order allowing additional time for completion of beneficial use delayed by the Wilderness Order and specifying a date for filing proof of beneficial use for each permit.

IT IS FURTHER ORDERED that appropriations of ground water and surface water within the Salmon River Basin may resume subject to the requirements of the Wild and Scenic Agreement and the federal reserved water rights decreed in accordance with that stipulated agreement.

IT IS FURTHER ORDERED that Department staff shall process new applications to appropriate water generally in the chronological order of the receipt of the applications. Department staff shall also process a reasonable number of applications per month considering all other duties assigned to Department staff.

Dated this 9th day of November, 2005.



KARL J. DREHER
Director

**EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER**

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

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **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 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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.

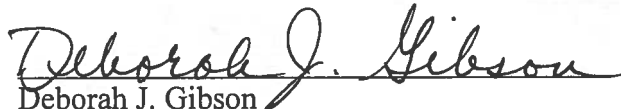
The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2005, a true and correct copy of the above and foregoing documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium
Explanatory Information to Accompany a Final Order

See attached service list.


Deborah J. Gibson
Administrative Assistant

Name	Address	City	State	Postal Code
PATRICK W LEE	C/O JOHN T BROWN PO BOX 61	SUN VALLEY	ID	83353
STANLEY SEWER ASSN	PO BOX 71	STANLEY	ID	83278
SALMON RIVER HEREFORD RANCH	HC 63 BOX 1760	CHALLIS	ID	83226
ELINOR J CORRIGAN	PO BOX 569	CHALLIS	ID	83226
MOUNTAIN SPRINGS WATER INC	PO BOX 628	CHALLIS	ID	83226
US DEPT OF INTERIOR	BUREAU OF LAND MANAGEMENT SALMON DISTRICT 1206 S CHALLIS ST	SALMON	ID	83467
ROBERT A PIVA	HC 63 BOX 1641	CHALLIS	ID	83226
DANA C HURLESS	HC 67 BOX 621	CLAYTON	ID	83227
TRENT J ROMAN	HC 82 BOX 4023-4	CHALLIS	ID	83226
PARKINSON FOUNDATION SEED FARM	C/O BOB PARKINSON PO BOX 65	ELLIS	ID	83235
THOMPSON CREEK MINING CO	PO BOX 62	CLAYTON	ID	83227
CHALLIS IRRIGATION CO	PO BOX 71	CHALLIS	ID	83226
TAIT P JOHNSON	1317 N 141ST AVE	OMAHA	NE	68154
ARCHIE SHERWOOD	PO BOX 163	CLAYTON	ID	83227
L & W STONE CORP	PO BOX 789	CHALLIS	ID	83226
DON M ONEAL	8 ONEAL LN	MAY	ID	83253-2003
US DEPT OF INTERIOR	BUREAU OF LAND MANAGEMENT SALMON DISTRICT 1206 S CHALLIS ST	SALMON	ID	83467
RICHARD L TYLER	796 LEE CREEK RD	LEADORE	ID	83464
ERNEST GEORGE HOLSCHER	BOX 96	LEADORE	ID	83464
ROBERT L THOMAS	12 REBA LN	SALMON	ID	83467
EDWARD M SNOOK	1205 HWY 28	SALMON	ID	83467
STEPHANIE SNOOK	505 W WINDSOR CT	COEUR D ALENE	ID	83815
HARRY L COLEMAN	PO BOX 70	LEADORE	ID	83464-0070
SHIRLEY R COLEMAN	435 TEE CIR	ST GEORGE	UT	84770
JAMES KRUCKEBERG	411 EIGHTEEN MILE RD	LEADORE	ID	83464-5030
GERALD R MORPHEY	PO BOX 625	SALMON	ID	83467-0625
ALBERT D ANDERSON	5425 BUNDY AVE NORTH	KEISER	OR	97303
JERRY G BLACKBURN	PO BOX 41	LEADORE	ID	83464
VELMA MAHAFFEY	PO BOX 14	LEMHI	ID	83465
DALE A PETERSON	PO BOX 67	LEADORE	ID	83464
WILLIAMS LAKE RECREATIONAL WATER & SEWER DISTRICT	PO BOX 82	SALMON	ID	83467
E J SCHWARZENBERGER	PO BOX 146	UCON	ID	83454
MERRIDEE S OVERACKER	1510 HWY 93 N	SALMON	ID	83467
MICHAEL J OVERACKER	162 HIGHWAY 93 N	SALMON	ID	83467-5301
LEWIS E ROSS	HC 10 BOX 112	GIBBONSVILLE	ID	83463
THOMAS CHARLES PIKE	3478 SALMON RIVER RD	SHOUP	ID	83469-6506
J REX TOLMAN	41 CORBETT LN	SALMON	ID	83467
SALMON RIVER PROPERTIES INC	PO BOX 774	SALMON	ID	83467
DONALD L HAWKINS	14429 WATKINS DR	LA MIRADA	CA	90638
DIXIE GRAVES	PO BOX 963	SALMON	ID	83467
GUY M CARLSON	PO BOX 319	RIGGINS	ID	83549
JOE B SCOTT	380 E PARKCENTER BLVD STE 100	BOISE	ID	83706
WELLS LIVESTOCK INC	512 N BROADWAY	BUHL	ID	83316
JACK A WALKER		YELLOW PINE	ID	83677
SALMON RIVER TOURS CO	PO BOX 779	NORTH FORK	ID	83466
KENNETH D CASPER	812 7TH ST S	NAMPA	ID	83651
DALE J LACRONE	BOX 63	NEW PLYMOUTH	ID	83655
UNIVERSITY OF IDAHO REGENTS	C/O GERARD BILLINGTON FINANCE & ADMINISTRATION PO BOX 443162	MOSCOW	ID	83844-3162
BARBARA G PYLE	77 SILVER FOX TR	MC CALL	ID	83638
STEVE M WRIGHT	PO BOX 1450	MCCALL	ID	83638
RICHARD L PULLEN	STAR RT	POLLOCK	ID	83547
ROBERT J KYRK	HC75 BOX 3546	NEW MEADOWS	ID	83654
THOMAS D MEES	1882 POLE CREEK RD	COUNCIL	ID	83612
WAYNE H REDENBAUGH	PO BOX 275	POLLOCK	ID	83547
RAYMOND K STOLTEY	HC 75 BOX 3556	NEW MEADOWS	ID	83654

DELBERT M WELCH	PO BOX 962	VALDEZ	AK	99686
PAUL SAND	PO BOX 16	WHITE BIRD	ID	83554
JAMES E BONATO	PO BOX 350	LUCILE	ID	83542
BONNIE E KANNADA	PO BOX 55	WHITE BIRD	ID	83554
EUGENE H TENNIES	HCR 75 BOX 32	KOOSKIA	ID	83539
RUSSELL C TRAINOR	HCR 75 BOX 38 A	KOOSKIA	ID	83539
USDA FOREST SERVICE	NEZ PERCE NATIONAL FOREST □ SUPERVISORS OFFICE □ 1005 HIGHWAY 13	GRANGEVILLE	ID	83530
US DEPT OF AGRICULTURE	US FOREST SERVICE □ CLEARWATER NATIONAL FOREST □ 12730 HWY 12	OROFINO	ID	83544 9333
FRANK CAPITO	PO BOX 2545	COEUR D ALENE	ID	83816
GARY BOWLING	3366 N CROFT WAY	EAGLE	ID	83616
AHSAHKA WATER & SEWER DIST	PO BOX 37	AHSAHKA	ID	83520
IDAHO WATER RESOURCE BOARD	PO BOX 83720	BOISE	ID	83720-0098
DON R BERRY	PO BOX 424	LEWISTON	ID	83501
CITY OF KOOSKIA	PO BOX 126	KOOSKIA	ID	83539-0126
MARK LADOUX	PO BOX 149	PECK	ID	83545-0149
JOSEPH SCHNELL	RR 2 BOX 311A	GRANGEVILLE	ID	83530
CITY OF KENDRICK	PO BOX 195	KENDRICK	ID	83537
PORT OF LEWISTON	1626 6TH AVE N	LEWISTON	ID	83501



CLEARWATER AREA OFFICE
10230 Highway 12
Orofino, Idaho 83544-9319
Phone (208) 476-4587 Fax (208) 476-7175

WINSTON WIGGINS - DIRECTOR

May 18, 2005

RECEIVED
MAY 20 2005
IDWR/North

State of Idaho
Department of Water Resources
Northern Region
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814-2615

ATTN: Dianne Ball

Dear Ms. Ball:

We have received your faxed application for water use from Don Berry, P.O. Box 424, Lewiston, ID 83501 (Application Permit No. 84-12227).

Mr. Berry obtained an easement to utilize water from a spring located on state land in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 19, Township 37 North, Range 3 East, B.M., for domestic water supply at the household located in the S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 13, Township 37 North, Range 2 East, B.M. This easement (State of Idaho Term Easement No. 6467) was issued on December 1, 2004, and shall be for a term of thirty (30) years and shall expire on December 1, 2034.

This time period shall be stipulated in the published notice and on the approved permit. The easement also stipulates that **"the water right must be filed in the name of the State of Idaho."**

This department has no other recommendations and is in agreement with issuance of the water right.

Please feel free to contact this office if you have any questions.

Sincerely,

Kenneth N. Rea
Resource Supervisor

KNR:leb

cc: Bureau of Real Estate

KEEP IDAHO GREEN
PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYER



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615

(208) 769-1450

Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 18, 2005

STATE OF IDAHO
DEPT OF LANDS
3706 INDUSTRIAL AVE S
COEUR D ALENE, ID 83815

FAXED May 18, 2005

6 pages total

Application to Permit No. 84-12227

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

You may comment by FAX to 769-1454 or by e-mail to Dianne.Ball@idwr.idaho.gov. If you have comments, please respond by or before June 3, 2005.

We will assume you have no comments, concerns, conditions you want applied, or objections to the issuance of this permit if we do not hear from you by that date.

Please contact this office if you have any questions regarding the application.

Dianne Ball
Administrative Assistant

Sincerely,

A handwritten signature in blue ink that reads "Dianne".

Dianne Ball
Administrative Assistant

Enclosure(s)



State of Idaho

DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 18, 2005

STATE OF IDAHO
DEPT OF FISH & GAME
1540 WARNER AVE
LEWISTON, ID 83501

FAXED May 18, 2005
6 pages total

Application to Permit No. 84-12227

STATE OF IDAHO :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a \$25.00 filing fee within 10 days after final publication.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **June 3, 2005**. You may comment by FAX to 769-1454 or by e-mail to Dianne.Ball@idwr.idaho.gov.

We will assume you have no comments, concerns, conditions you want applied, or objections to the issuance of this permit if we do not hear from you by that date.

Please contact this office if you have any questions regarding the application.

A handwritten signature in cursive script that reads 'Dianne'.

Dianne Ball
Administrative Assistant



Rim Rock Consulting, Inc.

JOHN L. DUNN, PLS ID, WA
RONALD P. MONSON, PLS ID, NV, CA

PROFESSIONAL LAND SURVEYORS

LEGAL DESCRIPTION FOR DON BERRY

RECEIVED

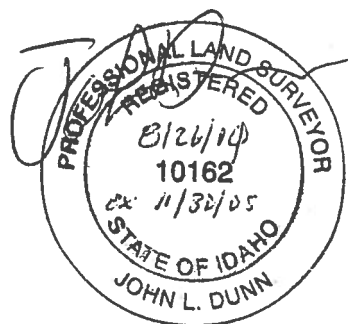
MAY 12 2005

IDWR/North

An easement for utility purposes located in the Northwest Quarter of the Northwest Quarter of Section 19, Township 37 North, Range 3 East of the Boise Meridian, said parcel being more particularly described as follows:

Commencing at the northwest corner of said Section 19; thence S 0° 24' 12" W along the west line of said Section 19 a distance of 221.00 feet to the TRUE POINT OF BEGINNING; thence continuing S 0° 24' 12" W along said west line a distance of 5.35 feet; thence N 69° 40' 58" E a distance of 313.68 feet; thence S 20° 19' 02" E a distance of 2.50 feet; thence N 69° 40' 58" E a distance of 10.00 feet; thence N 20° 19' 02" W a distance of 10.00 feet; thence S 69° 40' 58" W a distance of 10.00 feet; thence S 20° 19' 02" E a distance of 2.50 feet; thence S 69° 40' 58" W a distance of 311.78 feet to the TRUE POINT OF BEGINNING.

Said parcel containing 0.04 acres, more or less.



An Easement for Utility Purposes
 Section 19, T37N, R3E, BM
 Clearwater County, Idaho



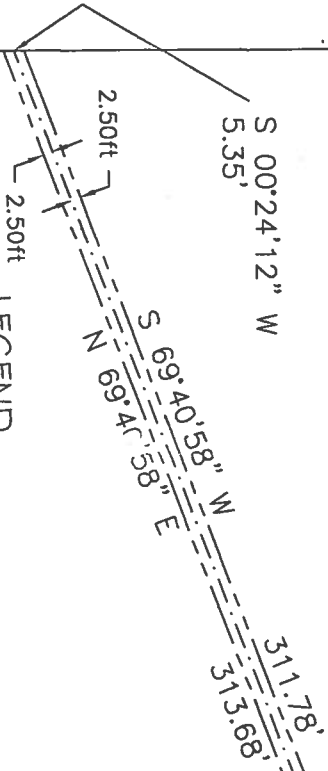
S 24

S 18

S 19

S 00°24'12" W
 221.00'

S 00°24'12" W
 5.35'



S 20°19'02" E
 2.50'

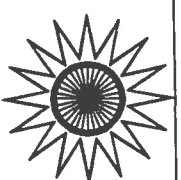
S 69°40'58" W
 10.00'

N 20°19'02" W
 10.00'

S 20°19'02" E
 2.50'

LEGEND

- Found Section or 1/4 Section Corner
- Waterline Location
- Easement



RIM ROCK CONSULTING, INC.

- ◆ Land Surveying
- ◆ Site Planning
- ◆ Mapping

1077 Central Road Moscow, Idaho 83843 208-882-8908 info@rimrockinc.com



CLEARWATER AREA OFFICE
10230 HIGHWAY 12, OROFINO, IDAHO 83544
PHONE - (208) 476-4587
FAX - (208) 476-7175

TRANSMITTAL COVER SHEET

TO: Diane Ball FROM: Ken Per
208-769-1454

DOCUMENT DESCRIPTION: Don Berry Easement

TOTAL NUMBER OF PAGES (Including this page): 8

**BUREAU OF REAL
ESTATE**

954 West Jefferson
Post Office Box 83720
Boise ID 83720-0050
Phone (208) 334-0200
Fax (208) 334-3698



WINSTON A WIGGINS, DIRECTOR
EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor
Ben Ysursa, Secretary of State
Lawrence G. Wasden, Attorney General
Keith L. Johnson, State Controller
Marilyn Howard, Sup't of Public Instruction

December 20, 2004

Don Berry
2812 Huckleberry Butte
Orofino, ID 83644

DEC 22 2004

SUBJECT: State of Idaho Term Easement No. 6467

Dear Mr. Berry:

Enclosed is the executed subject easement and a photocopy of the recordation information. The easement has been recorded in the Clearwater County recorders office.

Thank you for your cooperation in this matter.

Sincerely,

Debra Lady
Administrative Assistant
Bureau of Real Estate

Enclosure

CERTIFIED MAIL

C: CLW

RECEPTION ☒ INDEXED ☒
 FILMED ☐ DELIVERED ☐
 MAILED ☐

197826

IDAHO DEPARTMENT OF LANDS

954 W. Jefferson St. PO Box 83720
 Boise, Idaho 83720-0050
 Phone (208) 334-0200 Fax (208) 334-3698

STATE OF IDAHO

TERM EASEMENT NO. 6467

Instrument # 197826

CLEARWATER COUNTY, OROFINO, IDAHO
 2004-12-08 08:00:00 No. of Pages: 6
 Recorded for: DEPARTMENT OF LANDS
 ROBIN CHRISTENSEN Fee: 0.00
 Ex-Officio Recorder Del. by: *Cindy Gumm*

RETURN TO: *

THIS INDENTURE, made this 1st day of December, 2004, by and between the **STATE OF IDAHO, Department of Lands**, 954 West Jefferson Street, P.O. Box 83720, Boise, Idaho 83720-0050, acting by and through the State Board of Land Commissioners, (Grantor), and **DON R. BERRY**, 2812 Huckleberry Butte, Orofino, Idaho 83544, (Grantee);

WITNESSETH: That for and in consideration of the sum of **TWO HUNDRED FIFTY and no/100ths DOLLARS (\$250.00)**, lawful money of the United States of America, receipt whereof is hereby acknowledged, the Grantor does hereby grant to the Grantee, his heirs and successors, forever, a non-exclusive easement for the purpose of constructing, using, and maintaining a buried domestic water supply pipeline and spring collection box over, under, and across the following described lands situated in **CLEARWATER COUNTY**, State of Idaho, to-wit:

An easement for utility purposes located in the NW1/4 of the NW1/4 of Section 19, Township 37 North, Range 3 East, Boise Meridian, and being more particularly described as follows:

Beginning at the northwest corner of said Section 19; thence S 0° 24' 12" W along the west line of said Section 19 221.00 feet to the **REAL POINT OF BEGINNING**; thence continuing S 0° 24' 12" W along said west line 5.35 feet; thence N 69° 40' 58" E 313.68 feet; thence S 20° 19' 02" E 2.50 feet; thence N 69° 40' 58" E 10.00 feet; thence N 20° 19' 02" W 10.00 feet; thence S 69° 40' 58" W 10.00 feet; thence S 20° 19' 02" E 2.50 feet; thence S 69° 40' 58" W 311.78 feet to the **REAL POINT OF BEGINNING**.

Said parcel contains 0.04 acre, more or less.

Subject to the following terms:

A. General:

1. This easement may be assigned only with the prior written approval of the Grantor. The Grantee must provide the appropriate legal assignment documentation and pay the required easement assignment fee.

B. Limited Purpose:

1. This easement is granted for the sole benefit of the current household located in the S1/2SE1/4SE1/4 of Section 13, Township 37 North, Range 2 East, B.M.

*
DEPARTMENT OF LANDS
954 W. JEFFERSON STREET
P.O. BOX 83720
BOISE, ID 83720-0050

State of Idaho
Term Easement No. 6467
Page 2 of 6

2. This easement does not give the Grantee authority to permit third party use of the easement area for any permanent purpose. Third party use shall be authorized only by the Grantor. The Grantor shall permit third party use only on the condition that said use shall not interfere with, nor unduly burden the Grantor's estate.

C. Grantees Covenants:

1. It is understood and agreed that the Grantee shall take measures to control noxious weeds within the easement boundary in accordance with Title 22, Chapter 24, Idaho Code. The Grantee shall cooperate with any state or other agency authorized to undertake programs for control or eradication of noxious weeds. Failure to comply would be justification for the Grantor to terminate the easement.

2. The Grantee, heirs and successors, will comply with all federal, state, and local laws, and with all state administrative rules including, but not limited to the Idaho Forest Practices Act, the Stream Channel Protection Act, and all environmental protection laws.

3. It is understood and agreed that the legal description described in this easement is that provided by the Grantee who assumes full responsibility for the buried domestic water supply pipeline and spring collection box being located within the described legal description. The Grantor assumes no responsibility involved with an inaccurate legal description.

4. The Grantee shall indemnify and hold harmless, the Grantor and its representatives against and from any and all demands, claims, or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under this easement.

5. The Grantee agrees to indemnify the Grantor against any liability arising from the release of any hazardous substance or hazardous waste (as these terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq. or the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq.) on the easement (unless the release or threatened release is wholly unrelated to the Grantee's activity on the easement), or resulting from the activity of the Grantee on the easement. This agreement applies without regard to whether a release is caused by the Grantee or its agent.

6. Grantee shall not fence the easement area without written authorization from the Grantor.

7. Grantee will, within six (6) months from the date of issuance of this easement, file for a water right on this spring development. **This water right must be filed in the name of the State of Idaho.**

State of Idaho
Term Easement No. 6467
Page 3 of 6

D. Utilities:

1. The domestic water supply pipeline must be buried at least three (3) feet deep.
2. It is fully understood and agreed that if any future road construction or reconstruction affects the buried domestic water supply pipeline or spring collection box, it shall be the sole responsibility and expense of the Grantee for removing, relocating, and reinstalling of said buried domestic water supply pipeline or spring collection box necessitated by such construction or reconstruction. The Grantee agrees to move the buried domestic water supply pipeline or spring collection box, within ninety (90) days after receiving written notice from the Grantor that new construction or improvements are planned.
3. Prior to performing construction, reconstruction or maintenance to a degree that shall cause soil disturbance and or the destruction of vegetation, the Grantee shall obtain written authorization from the Grantor. The authorization shall provide for appropriate operating and reclamation procedures such as leveling the ground surface and reseedling of vegetation, if necessary; prevention of erosion; and any other special provisions appropriate to protect the land and other resources.
4. Grantee will remove the existing abandoned iron pipe waterline sections and dispose of them in an approved manner. The cistern lid will be redesigned so that it stays in place. Grantee will have six (6) months from date of easement to complete these items.
5. Upon termination or abandonment, the Grantee shall have twelve (12) months from the date of receipt of the final notice to remove all facilities or improvements. Grantee will be liable for any damage to Grantor's land or resources thereon caused by removal of such facilities or improvements.

E. Grantors Covenants:

1. The Grantor reserves to itself, its successors and assigns, all timber, present and future, within the easement area.
2. The Grantor reserves to itself, its successors, and assigns, the right to construct and maintain such spur roads over, through, or across the aforementioned easement as it may deem necessary in the administration and use of its adjoining land, provided that such use does not interfere with the rights and privileges hereby authorized to Grantee.
3. The Grantor reserves unto itself, its assigns and its successors in interest the right and privilege to use said easement for any and all purposes deemed necessary or desirable in connection with the control, management, administration, and use of Grantor's lands.
4. Nothing in this instrument will be construed as binding the Grantor to perform beyond its legal authority, or to expend any monies in excess of appropriations or other authorized funds available for such purposes.

State of Idaho
Term Easement No. 6467
Page 4 of 6

5. In the event that the Grantor commences a contractual activity on the property, the Grantor and their contractor will take every precaution to protect the Grantee's pipeline and spring development. If damaged, it shall be restored by said contractor to the condition prior to commencement of said contractual activity.

F. Termination:

1. This easement shall be effective upon execution and shall continue for a period of thirty (30) years (or until Dec 1 of ~~2034~~, subject only to the terms and provisions of this easement. To provide a potable domestic water supply, the grantee will be required to drill a well on privately owned land, before the end of the thirty (30) year term.

2. If at any time prior to termination Grantee determines that the easement, or any segment thereof, is no longer needed for the purposes granted, the easement traversed thereby shall terminate. In the event of such determination by Grantee, Grantee shall furnish to the Grantor or its successors in interests, a statement in recordable form confirming termination.

3. The Grantor may, at its option, terminate this easement for breach of any of the terms of this easement and/or pursue other remedies to enforce the terms of this easement. If termination occurs, the director shall notify the Grantee in writing of the termination. The Grantee shall have thirty (30) days from the date of notification to appeal to the director for reinstatement.

G. Authority:

1. This easement is issued by the authority of the Rules for Easements on State Land (IDAPA 20.03.08) dated July 1993.

H. Acceptance:

1. USE OF THIS EASEMENT BY THE GRANTEE CONSTITUTES ACCEPTANCE OF THE EASEMENT AND AGREEMENT TO BE BOUND BY THE TERMS HEREOF.

An Easement for Utility Purposes
Section 19, T37N, R3E, BM
Clearwater County, Idaho

S 18 S 19

S 24 S 20

Scale 1" = 50 ft
CADD File : BERRY.dwg

NORTH

S 69°40'58" W 10.00'
S 70°19'02" F 2.50'
N 20°19'02" W 10.00'
N 69°40'58" E 10.00'
S 20°19'02" E 2.50'

S 00°24'12" W 5.35'
S 69°40'58" E 311.78'
S 13°35" E 513.68'

LEGEND

Found Section or 1/4 Section Corner
Water-line Location
Easement

RIM ROCK CONSULTING, INC.
Land Surveying
Site Planning
Mapping



State of Idaho
DEPARTMENT OF WATER RESOURCES

NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED
MAY 12 2005
IDWR/North

December 27, 2004

Don R. Berry
2818 Huckleberry Butte Rd.
Orofino, ID 83544

RE: Application for Permit

Dear Mr. Berry:

We are returning your Application for Permit, as it is not acceptable at this time.

Please contact our office and either Bob Haynes or I will be glad to assist you with the items on your filing that are incomplete, or need clarification.

Sincerely,

Allen Beardslee
Sr. Water Resource Agent