

MEMORANDUM

TO: Extension to Avoid Forfeiture Applications
65-2946C, 65-7052E and 65-7535

FROM: Steve Lester *SL*

DATE: May 21, 2007

RE: Evaluation of Sufficiency of Information Submitted

*Superseded by
1/22/2013 IDWR
Letter ("void")*
MEMO FILED IN 65-2946C

SEE 5/21/2007 FILE COVER NOTE FOR DOCUMENT ARRANGEMENT.

TERRY SCANLAW
Contact person for the applicant is ~~Jennifer Sukow~~ at SPF Water Engineering.

The applications propose protecting the rights for up to five years while development planning is completed for the newest owner, the applicant. The site is near West Mtn. Road and the North Fork Payette River about four miles west of Lake Fork, generally southwest of McCall.

Extensions are processed outside of Workflow at the regional office level – application numbers and so forth are not applicable.

Summary of Information Submitted

Authority to File: The applicant bought the property and/or water rights in January 2005. The applicant filed ownership changes in April 2005 and these applications on 10/18/2005. Current IDWR records indicate the ownership changes remain incomplete at SO. Assuming the ownership information is adequate, the applicant has authority to file the applications.

Water Right Validity: The rights were decreed in the SRBA on 10/31/2000, shortly after the end of the irrigation season.¹ The applicant is unsure of the date of last beneficial use. The five-year period following the decrees concluded on 10/31/2005.

All three rights include storage and use from storage. One right also involves natural flow irrigation. The periods of use generally include year around storage and use from storage during the irrigation season. One of the rights only authorizes storage for a brief period and use from storage for the first few months of the irrigation season for 10 acres (65-7535).

One could split hairs about the applications being filed on 10/18/05 a few days after the end of the decreed irrigation season and argue that forfeiture occurred due to five years of non-use (assumes no use since the 2000 decrees).

However, the applications were filed within five calendar years of the partial decrees. Also, two of the three rights include year around storage, suggesting that the 10/18/2005 applications started within the five-year window for at least for two of the three rights. Last but not least,

¹ Two of the rights have a 4/15-10/15 season, presumably carried over from the Payette Adjudication. The current standard season for the site runs through 10/31. The other right describes an abbreviated season.

** 2/27/2013 updates
-SL*

IDWR has considered maintenance of a storage system as a beneficial use even if storage water is not used to irrigate the place of use (example: T66135 regarding Blackwell Lake).

The rights cover portions of storage for one reservoir and all the storage for another reservoir as shown in Table 1. Both dams include 2004 certificates of approval from IDWR Dam Safety Section, indicating both systems remained in good (viable) condition during the five years following the SRBA decrees.

The rights are presumed to be valid based on the above information.

The attached diagram from 65-7535 backfile sketches the layout for these two reservoirs.

Table 1. Reservoirs Details.

NAME	DAM SAFETY	WATER RIGHTS
Blackhawk Lake (was Hait Upper)	D65-7052	65-2946B-D, 65-7052B, 65-7052D-F, 65-12136A
Banana Lake (was Hait Lower)	D65-7535	65-7535

Other Issues: Injury and enlargement are not found. Nothing contrary to local public interest or conservation of water resources issues can be identified.

Misc. Information

The partial decrees are the active records in the database.

The Payette River Watermaster did not object to the applications.

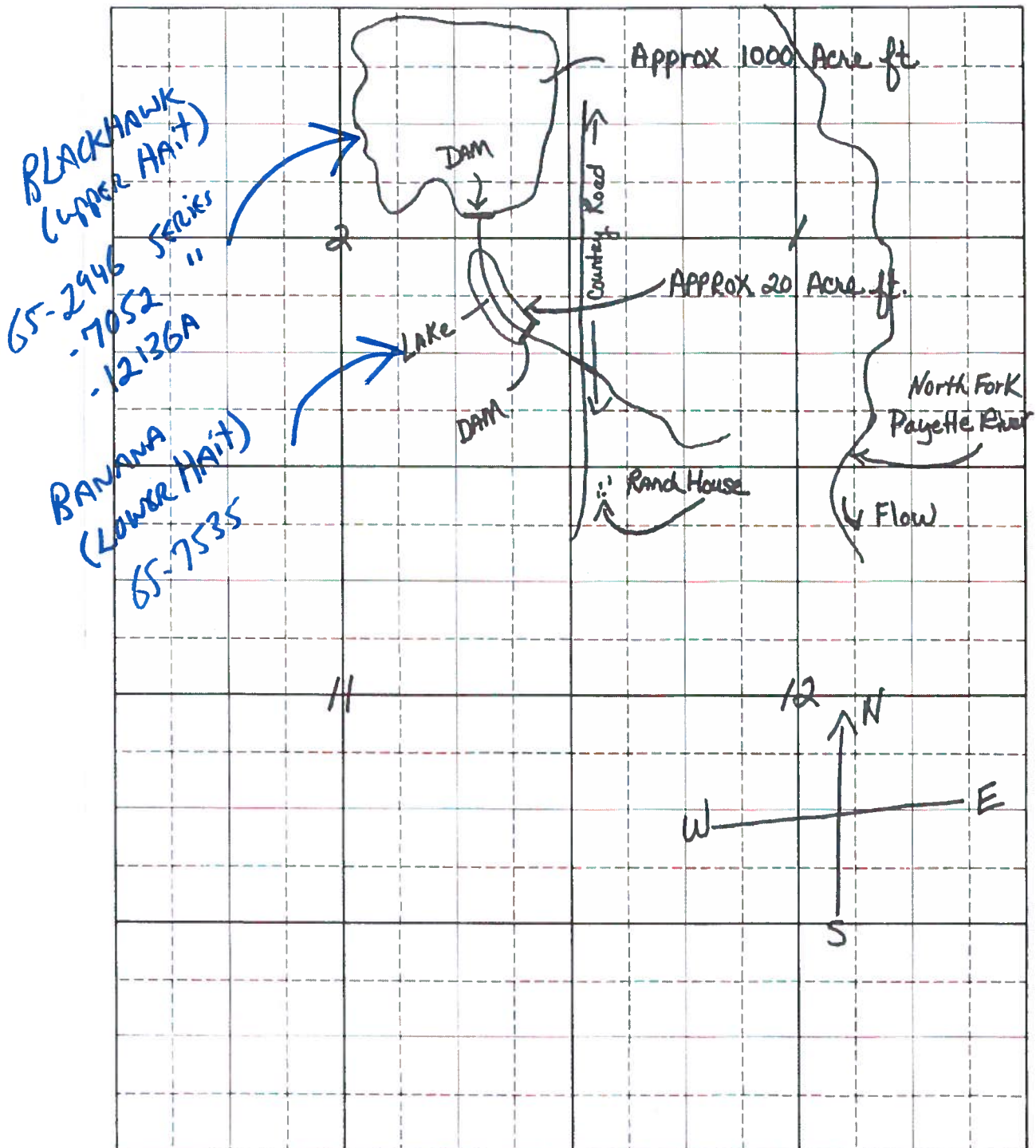
Protests against the application were filed but resolved. The parties did not include any conditions of approval in settling the protests.

Overlapping natural flow rights are not affected by these applications. The other storage rights for Blackhawk Lake are owned by other parties and are not affected by these applications.

CONCLUSION

Ownership changes can be completed. The applications should be approved for five years. A copy of the decisions should be provided to the consultant.

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



Scale: $\frac{1}{4}$ inches equal 1 mile

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.

(Applicant)

James M. Hait

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Notes - SL 5/21/07