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JUN 29 2009

DEPT. OF WATER RESOURCES
SOUTHERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Daniel J. Mahoney III Phone (248) 519-2424
Mailing address 14 Beresford Hill, Bloomfield Hills, MI 48304 Email djmahoney3@aol.com
2. Source of water supply ground water which is a tributary of _____
3. Location of point of diversion is Township 11N Range 12E Sec. 10, in the _____ 1/4, _____ SE 1/4, NE 1/4, Govt. Lot _____, B.M., _____ Custer _____ County, _____
additional points of diversion if any: _____
4. Water will be used for the following purposes:
 - Amount 0.10 cfs for irrigation purposes from 5/01 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
 - Amount 0.15 cfs for diversion for storage purposes from 5/01 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
 - Amount 1 af for storage for aesthetic purposes from 5/01 to 10/31 (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)
5. Total quantity to be appropriated is (a) .15 and/or (b) .1
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 existing well (8" casing, 35' deep) and pump; well may be replaced, if necessary
 - b. Height of storage dam n/a feet; active reservoir capacity n/a acre-feet;
total reservoir capacity n/a acre-feet
 - 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? no
 - e. If well is already drilled, when? unknown; Drilling firm unknown
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 2 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. n/a
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. n/a
 - d. Domestic; show number of households. n/a
 - e. Other; describe fully. Ponds will be used to store water for aesthetics and fire protection and will be filled by the well by pumping from the well to ponds. Ponds may also provide some irrigation storage for less than two acres sprinkled below the pond location.

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	
11N	12E	10			1.0	4.0													5.0

Total number of acres to be irrigated 5.0

10. Describe any other water rights used for the same purposes as described above. Include water delivered by a municipality, canal company, or irrigation district. If this application is for domestic purposes, do you intend to use this water, water from another source, or both, to irrigate your lawn, garden, and/or landscaping? Water right 71-48 will no longer be used at this site and will be placed in the IWSB. The USFS has declined to issue a special use permit for the diversion structure from Elk Creek.

- Who owns the property at the point of diversion? USFS
- Who owns the land to be irrigated or place of use? USFS and applicant
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: special use permit issued 1/25/1988 (copy attached)

12. Describe your proposal in narrative form, and provide additional explanation for any of the items above. Attach additional pages if necessary. See attached

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.


Signature of Applicant


Print Name (and title, if applicable)

For Department Use:

Received by JR Date 6/29/09 Time 10:30 AM Preliminary check by JR
 Fee \$ 100.00 Received by JR Receipt No. 5030974 Date 6/29/09
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____ Dates Published _____

Item 12 of Application for Permit:

This well permit is for an existing well that has not been used for many years. There is a domestic well that serves the property in addition to this well. The IDWR Tag on the domestic well has the identifying number of A0018498. A pump test for the old well referred to in this application has been performed and has been found satisfactory for the purpose of irrigation of approximately 5 acres.

The purpose for this application is to irrigate the land that is currently irrigated via the Elk Creek Diversion under water right # 71-48. It is the desire of the U.S. Forest Service within the Sawtooth National Recreation Area (SNRA) to close the Elk Creek Diversion and Ditch for the purpose of fisheries benefits. In cooperation with the SNRA the Custer Soil and Water Conservation District has secured funding to help defer the cost of installation of a pump that will provide irrigation water for the Mahoney property via the well described in this application.

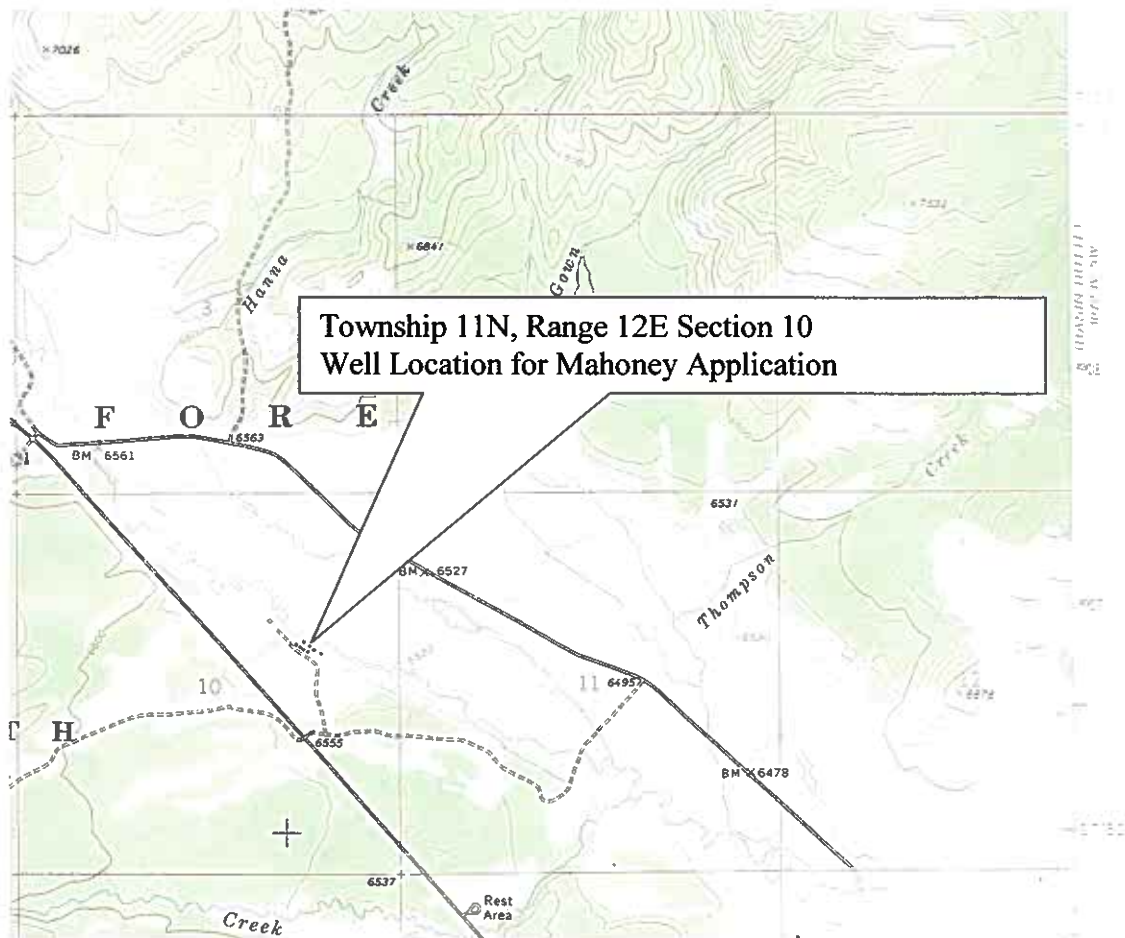
Currently the Mahoney property diverts water from Elk Creek. The diversion rate noted on the water right is 1.6 cfs for 4.8 acres. In order to irrigate in low flows two small ponds were filled at night from the Elk Creek Diversion to allow for water storage for irrigation, aesthetics and also fire protection. This well application addresses continued use of these ponds in the manner in which they have been used in the past. It is important to note the water storage for fire protection will also serve as a benefit to the local fire department and recreational needs through agreement with the Mahoney family to allow storage water from the ponds for structure protection in the area of the Mahoney property including USFS structures and other local residents.

The smaller pond is 31 ft x 31 ft round pond that is approximately 1 foot deep. The second pond is approximately 41 ft x 38 ft. in an odd heart shape that is approximately 1 ½ foot deep. They are located approximately 150 feet from the well location. Water will be delivered from pipe to the first and smaller pond. The second pond only fills if the first pond is full through a pipe that connects the two ponds.

The parties involved, which includes the water users, SNRA and IDFG agree that the use of a well in place of the Elk Creek Water Right is beneficial to the water users, the resource and is in the best public interest.

Attached please find the following information:

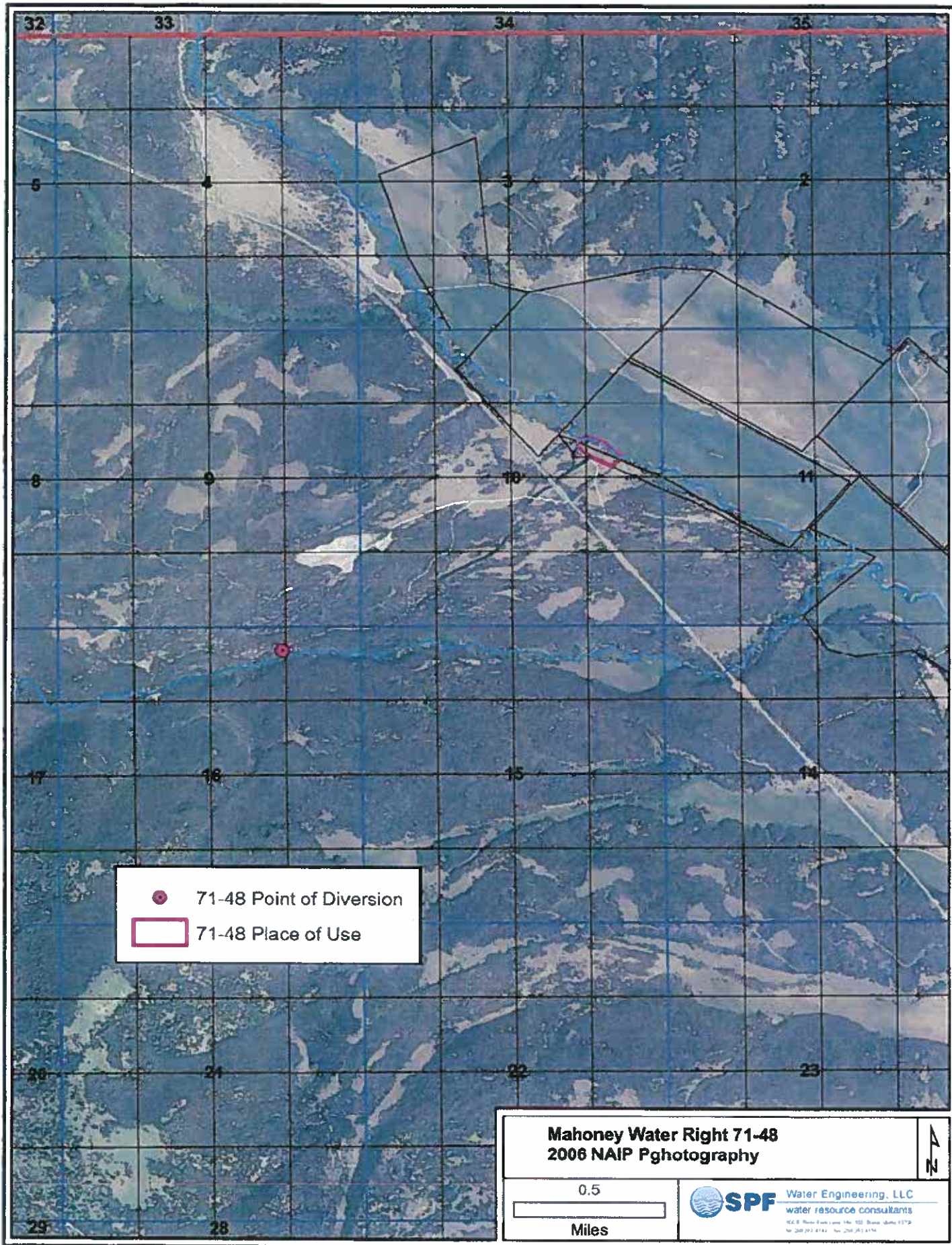
- ✚ Letter of support from USFS, SNRA, Sarah Baldwin
- ✚ Letter of support from Idaho Department of Fish and Game, James R. Lukins
- ✚ Memo from SNRA assuming responsibility for removal of facilities upon securing an alternative water source for irrigation (ie; this well permit)
- ✚ Special Use Permit with USFS.
- ✚ Map of Point of Use
- ✚ Map of Point of Use and Point of Diversion from Elk Creek to show the length of ditch needed to deliver this water right.
- ✚ Topo Map



Topo Map of Mahoney Application for Permit

Point of Use For Well







Well 44°17'54.49"N 115°2'29.34"W

Pond #2 41ft x 38ft x 1 1/2 foot deep

Pond #1 31ft x 31ft x 1 foot deep



United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Sawtooth National Recreation Area

5 North Fork Canyon Road
Ketchum, Idaho 83340
208-727-5000

File Code: 2720

Date: March 9, 2009

Karma Bragg
Custer Soil and Water Conservation District
P. O. Box 305
Challis, ID 83226

Dear Karma,

As you requested, this letter is intended to reaffirm our support, approval, and collaboration with the Custer Soil and Water Conservation District and Mr. Daniel Mahoney in making fundamental changes to their irrigation system of the M-M Ranch. The anticipated change would shift the current water source from Elk Creek to a groundwater source. Both the existing and proposed sources reside on National Forest System Lands. The irrigation serves the small area among Mr. Mahoney's M-M Ranch building cluster, which straddles the property boundary.

The location of the proposed well lies within the Ranch building cluster on the National Forest side of the property line. The general occupancy of the National Forest by this residential use is authorized within Special Use Permit #5335 covering 12.7 acres (enclosed). A well is consistent with the scope and terms of the permit.

We look forward to seeing this positive collaboration complete. As you requested, we have also enclosed a copy of the response we received from the Idaho Department of Fish and Game to our proposed effort in this overall project collaboration – the closure and rehabilitation of the former Elk Creek point of diversion.

Please let me know if you have questions.

Sincerely,

SARA E. BALDWIN
Sawtooth National Recreation Area Ranger

enclosures





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NOV - 4 2008

IDAHO DEPARTMENT OF FISH AND GAME

SALMON REGION

99 Highway 93 North

P.O. Box 1336

Salmon, Idaho 83467

C.L. "Butch" Otter/Governor

Cal Groen/Director

October 31, 2008

Sara Baldwin
Area Ranger
Sawtooth National Recreation Area
HC 64, Box 8291
5 North Fork Canyon Road
Ketchum, ID 83340

Re: Elk Creek #2 Diversion Elimination Project

Dear Sara,

The Idaho Department of Fish and Game, Salmon Region, would like to offer our full support for this very worthy project. The Elk Creek #2 diversion has long been known to inhibit upstream fish passage and this project will have a direct positive impact to the fishery in Elk Creek. The Department's Anadromous Fish Screen Program spent considerable time in the late 1990s unsuccessfully negotiating with irrigators to eliminate this diversion. Persistent efforts by your staff have resulted in project completion. We are pleased to offer our support and to provide the Sawtooth National Recreation Area with any fisheries data or assistance they may need. Please contact Lynn Stratton at 208-756-6022 in the Screen Program if you need assistance. The Screen Program will remove the fish screen whenever it is appropriate. You may include this letter for support in any formal scoping process. Congratulations to you and your staff for completing this very important resource project.

Sincerely,

James R. Lukens
Regional Supervisor

cc: Lynn Stratton
Tom Curet
Paddy Murphy

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-756-2271 • Fax: 208-756-6274 • Idaho Relay (TDD) Service: 1-800-377-3529 • <http://fishandgame.idaho.gov>



United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Sawtooth National Recreation Area

5 North Fork Canyon Road
Ketchum, ID. 83340
208-727-5000

File Code: 2720

Date: February 11, 2009

Daniel J. Mahoney III
14 Beresford Hill
Bloomfield Hills, MI 48304

Dear Mr. Mahoney,

On August 27, 1951, the Forest Service issued a special use permit to "M-Bar-M Ranch (Dan J. Mahoney)" for:

"A right-of-way for a ditch approximately one mile in length [with] sufficient capacity to convey at least 5 second feet of water located in Sec. 10 and 15, T. 11 N., R. 12 E., B.M., including weir on Elk Creek from which stream water will be diverted." (permit includes a map of the facilities)

for the purpose of:

"Irrigation of the lands covered by special use permit and privately owned lands."

It is our understanding you anticipate no further use of these improvements following the 2008 irrigation season, and termination of this authorizing permit is in order. The permit contains a condition requiring the permittee, upon termination, to remove the structures and improvements, and restore the site (condition 11).

In the interest of protecting the resources of the National Forest, and in recognition of your willing participation with the Custer Soil and Water Conservation District in seeking an alternative source for this former use, we agree to assume your responsibility for the removal of the facilities on public land upon your agreement that you have no further need for the facilities.

My signature below indicates our acceptance of this responsibility. To indicate your acceptance of these terms please sign the statement below, and return.

Sincerely,

SARA E. BALDWIN
Area Ranger

I, Daniel J. Mahoney III, the owner of improvements on National Forest System Lands as specified above, do agree to the termination of the special use permit as described above, and relinquish any of my remaining structures and improvements to the United States of America once a Permit to Appropriate Water has been issued for the new source by the Idaho Department of Water Resources.

M-Bar-M Ranch

3/3/09
Date



Caring for the Land and Serving People

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United States Department of Agriculture Forest Service SPECIAL USE PERMIT Act of June 4, 1897 This permit is revocable and nontransferable (Ref. FSM 2710)	a. Record no. (1-2)	b. Region (3-4)	c. Forest (5-6)
	70	04	14
	d. District (7-8)	e. User number (9-12)	f. Kind of use (13-15)
	04	5335	Private Camp
	g. State (16-17)	h. County (18-20)	i. Card no. (21)
	16	037	1

Permission is hereby granted to M-M Ranch, c/o Dan J. Mahoney
 of Palm Beach Newspapers, Inc., 2751 S. Dixie Hwy, West Palm Beach, FL 33405
 hereinafter called the holder, to use subject to the conditions set out below, the following described lands
 or improvements:

Approximately 12.7 acres situated adjacent to H.E.S. 272 and located in sections 10 and 11, Township 11 North, Range 12 East, Boise Meridian, as shown on the attached map (Exhibit A) which becomes a part of this permit.

Approximately 12 acres are fenced in with the adjacent private land (H.E.S. 272) and were previously under permit to M-M Ranch. An additional 0.7 acres outside the fence, designated on the attached map (Exhibit B) as proposed parking area and Access Road, are also attached.

This permit covers approx. 12.7 acres and/or — miles and is issued for the purpose of:

Access, parking, and a building site area for residential and other structures associated with management and use of the M-M Ranch. Six log buildings used for residential and storage purposes, along with most of two additional residences are situated within the permit area. A double tennis court is also located thereon. Residential use is generally summertime seasonal and is exclusive to family and friends except for one residence that is occupied year-long by a caretaker.

1. Construction or occupancy and use under this permit shall begin within — months, and construction, if any, shall be completed within — months, from the date of the permit. This use shall be actually exercised at least 365 days each year, unless otherwise authorized in writing.

2. In consideration for this use, the holder shall pay to the Forest Service, U.S. Department of Agriculture, the sum of two thousand nine hundred Dollars (\$ 2,940.00) for the period from January 1 1988, to December 31, 1988, and thereafter annually on January 1 Two Thousand Nine Hundred Forty Dollars (\$ 2,940.00) :
 Provided, however, Charges for this use may be made or readjusted whenever necessary to place the charges on a basis commensurate with the value of use authorized by this permit.

3. This permit is accepted subject to the conditions set forth herein, and to conditions 4 to 31 attached hereto and made a part of this permit.

HOLDER	NAME OF holder	SIGNATURE OF AUTHORIZED OFFICER	DATE
		<i>Dan J. Mahoney</i>	1/19/88
ISSUING OFFICER	NAME AND SIGNATURE	TITLE	DATE
	<i>Ed Broedel</i>	<i>Richard Stokerson</i> Forest Supervisor	1/25/88

4. Development plans; layout plans; construction, reconstruction, or alteration of improvements; or revision of layout or construction plans for this area must be approved in advance and in writing by the Forest Supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be paid for by the holder as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the holder at no stumpage cost to the holder. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

5. The holder shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

6. This permit is subject to all valid claims.

7. The holder, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

8. The holder shall take all reasonable precautions to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

9. The holder shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation applicable to the National Forests by the holder, or by any agents or employees of the holder acting within the scope of their agency or employment.

10. The holder shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the holder in the exercise of the privilege granted by this permit.

11. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

12. Upon abandonment, termination, revocation, or cancellation of this permit, the holder shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the holder fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the holder of liability for the cost of their removal and restoration of the site.

13. This permit is not transferable. If the holder through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements other

than those owned by the United States situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner provided is qualified as a holder and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises may be authorized by permit to him if, in the opinion of the issuing officer or his successor, issuance of a permit is desirable and in the public interest.

14. In case of change of address, the holder shall immediately notify the Forest Supervisor.

15. The temporary use and occupancy of the premises and improvements herein described may be sublet by the holder to third parties only with the prior written approval of the Forest Supervisor but the holder shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

16. This permit may be terminated upon breach of any of the conditions herein or at the discretion of the regional forester or the Chief, Forest Service.

17. In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provisions thereof, the following clauses will control.

18. (A-6) Pursuant to the Federal Claims Collection Act of 1966, as amended, 31 USC 3101, et seq., and regulations at 7 CFR Part 3, Subpart B, an interest charge shall be assessed on any payment not made by the payment due date. Interest shall be assessed using the most current rate prescribed by the United States Department of the Treasury's Fiscal Manual (TFM-6-8025.20). Interest shall accrue from the date the fee payment was due. In addition, certain processing and handling administrative costs may be assessed in the event the account becomes delinquent and added to the amounts due.

A penalty of 6 percent per year shall be assessed on any payment overdue in excess of 90 days from the payment due date.

Payments will be credited on the date received by the designated collection officer or deposit location. If the payment due date(s) falls on a nonworkday, the interest and penalty charges shall not apply until the close of business of the next workday.

19. (B-8) The holder shall indemnify the United States against any liability for damage to life or property arising from the occupancy or use of National Forest lands under this permit.

20. (B-24) Avalanches, rising waters, high winds, falling limbs or trees, and other hazards are natural phenomena in the Forest that present risks which the holder assumes. The holder has responsibility of inspecting the site, lot, right-of-way, and immediate adjoining area for dangerous trees, hanging limbs, and other evidence of hazardous conditions and, after securing permission from the Forest Service, of removing such hazards.

21. (B-34) The holder shall dispose of refuse resulting from this use, including waste materials, garbage, and rubbish of all kinds, in the following manner, and shall guard the purity of streams and living waters: Pack out or otherwise remove from National Forest land all unburnable refuse resulting from operations under this permit.

22. (D-3) The holder shall protect the scenic esthetic values of the area under this permit, and the adjacent land, as far as possible with the authorized use, during construction, operation, and maintenance of the improvements.

23. (D-14) All butane, propane, or other liquified petroleum gas equipment shall be installed and operated in accordance with the laws and regulations of the State.

24. (E-2) Unless sooner terminated or revoked by the authorized officer, in accordance with the provisions of the authorization, this authorization shall expire and become void on December 31, 1992, but a new special-use authorization to occupy and use the same National Forest System land may be granted provided the holder will comply with the then-existing laws and regulations governing the occupancy and use of National Forest lands and shall have notified the authorized officer not less than six months prior to said date that such new authorization is desired.

25. (G-1) 1. All construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations previously approved by the Forest Service.

2. The holder, in exercising the privileges granted by this authorization, shall comply with all applicable State and Federal laws, Orders, and rules and regulations, and shall comply with all State standards for public health and safety, environmental protection, and siting construction, operation, maintenance if in the opinion of the authorized officer those State standards are more stringent than Federal standards, and promulgation of State standards precede the date of this special-use authorization.

3. The holder shall cut no timber except as authorized by construction stipulations or maintenance agreements.

4. The holder shall provide maintenance so that no damage occurs on

adjacent National Forest land. The holder shall construct and maintain lead-off drainage and water barriers as necessary to prevent erosion.

5. The United States may use the roads without cost for all purposes, including the removal of timber cut in construction or maintenance of the road or other incidental use, deemed necessary or desirable in connection with the protection and administration of the lands or resources of the United States; provided that the road only will be used for commercial hauling purposes, only after payment by the United States of its pro rata share of road maintenance costs.

6. Only the Forest Service may extend rights and privileges for use of the road constructed on the premises to other nonfederal users on the condition that such users shall pay a fair share of the current replacement cost less depreciation of the road and any reconstruction costs necessary to accommodate their use.

7. The Forest Service retains the right to occupy and use the right-of-way. It also may issue other uses including rights-of-way, on and through the permitted area provided that the occupancy and use does not unreasonably interfere with the rights granted herein.

8. The Forest Service shall have the right to cross and recross the premises and road at any place by any reasonable means and for any purpose in such manner as does not unreasonably interfere with use of the road.

9. The holder shall maintain the right-of-way clearing by means of chemicals only after the Forest Supervisor has given specific written approval. Application for such approval must be in writing and must specify the time, method, chemicals and the exact portion of the right-of-way to be chemically treated.

26. (X-3) Nothing in this permit shall be construed to imply permission to build or maintain any structure not specifically named on the face of this permit, or approved by the authorized officer in the form of a new permit or permit amendment.

27. (X-14) This permit is for the occupancy of land for the purposes stated and does not provide for the furnishing of road maintenance, water, fire protection, or any other such service by a Government agency, utility, association, or individual.

28. (X-19) The holder agrees to permit the free and unrestricted access to and upon the premises at all times for all lawful and proper purposes not inconsistent with the intent of the permit or with the reasonable exercise and enjoyment by the holder of the privileges thereof.

29. (X-28) The holder shall restrict all parking to areas approved by the Forest Service.

30. (X-29) No signs or advertising devices shall be erected on the area covered by this permit, or highways leading thereto, without prior approval by the Forest Service as to location, design, size, color, and message. Erected signs shall be maintained or renewed as necessary to meet neat and presentable standards, as determined by the Forest Service.

31. (X-18) This permit supersedes a special-use permit designated:
M-M Ranch, residence, 2/22/84.

EXHIBIT "A"

2720

