

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE
WATER RIGHT NO. 95-07874

Priority: September 13, 1978 Minimum Stream Flow: 30.00 CFS

This is to certify, that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated September 13, 1978; and
has submitted Proof of Beneficial Use on September 1, 1989. A minimum stream flow
water right in:

WOLF LODGE CREEK tributary to COEUR D ALENE LAKE

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>FLOW RATE</u>
MINIMUM STREAM FLOW	07/01 to 11/15	7.00 CFS
MINIMUM STREAM FLOW	11/16 to 06/30	30.00 CFS

LOCATION OF STREAM REACH:

Beginning of Stream Flow Reach
End of Stream Flow Reach

NWSW , Sec. 21, Township 50N, Range 02W
NWNE , Sec. 5, Township 49N, Range 02W
KOOTENAI County

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of water under this license shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file issued by the Director under provisions of Chapter 2, Title 42 Idaho Code, with the priority of the water right dated earlier than the priority date of this license.
5. The use of the water under this license shall be non-consumptive.
6. Upon the future finding and order of the Director that gauging stations are required to maintain the aproved minimum flow on Wolf Lodge Creek, the measuring devices shall be permanently installed as specified by the Department.

RECORDED

AUG 11 1994

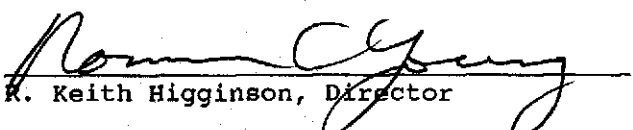
State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 95-07874

CONDITIONS/REMARKS:

7. The Director retains jurisdiction to review and amend any and all parameters of this license. Any person seeking review and amendment of the license shall file a request with the Board, which request shall include the amendment sought, the reasons for the amendment, and a statement of the change in circumstances since the license was issued or last reviewed that merit a review of the license. A copy of the petition shall be served upon the Director of the Department of Water Resources. The Board may petition the Director for an amendment to the license. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or parties known to be interested in the proposed change, and conduct a hearing for the purpose of determining whether the license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or party seeking the amendment to establish that amendment of the license would be in the public interest.
8. This minimum stream flow reach is between a point in the NWSW, S21, T50N, R2W and a point in the NWNE, S5, T49N, R2W, where Wolf Lodge Creek flows under Interstate Highway 90.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 15th
day of July, 1994.


R. Keith Higginson, Director

AUG 11 1994

RECEIVED

STATE OF IDAHO SEP 01 1989

DEPARTMENT OF WATER RESOURCES
Department of Water Resources
PROOF OF BENEFICIAL USE

For Office Use Only
Fee Received _____
Date _____
Receipt # _____
Receipt by _____
Reviewed by _____
Sent to region _____

The Idaho Department of Water Resources will consider this form as a statement that the permit holder(s) has completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

Permit No. 95-7874

Name(s) of Permit Holder: Idaho Water Resource Board

Post Office Address: Statehouse, Boise, ID 83720

Telephone No. _____

Source of Water: Wolf Lodge Creek

Extent of Use:

Domestic _____ (number of households) Stockwater _____ (number and type of stock)

Irrigation _____ (acres) Other/Remark Minimum stream Flow

Total rate and/or volume for which proof is submitted 30 cfs _____ acre-feet

Show the date water was first diverted and beneficially used under this permit: n/a

Measuring Device: Required? ☐ Yes ☒ No
Installed? ☒ Yes ☐ No
Fee enclosed \$ _____
(See License Examination Fee Schedule)

Flow Measurement Port: Required? ☐ Yes ☐ No
Installed? ☐ Yes ☐ No

Person to contact to accompany the Department representative during the field examination:

William D. Horton 334-3791
(Name) (Telephone Number)

P.O. Box 25, Boise, ID 83707
(Address)

The above information is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the state of Idaho.

Date

Signature of Permit Holder (and title, if appropriate)

2-1-89
William D. Horton - For the Idaho Water Resource Board

For Office Use Only	
Fee Received	NONE
Date	REQ'D
Receipt #	

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

REQUEST FOR EXTENSION OF TIME

AUG 28 1984

To provide additional time in which to submit
proof of beneficial use on a water right permit

Department of Water Resources

Idaho Water Resource Board of Statehouse, Boise
(Name) (Address)

State of Idaho, deposes and says:

That he is the holder, or the duly authorized agent of the holder*, of Permit to Appropriate the Public Water of
the State of Idaho No. 95-7874.

That under the terms and conditions of said permit, work thereunder was required to be completed on or before
September 1, 19 84.

That he has heretofore performed the following work described under said permit: _____
(This must be filled out! If no work has been completed put none.)

Beneficial use is recorded pursuant to a letter dated July 25, 1984
from Region 1, Idaho Department of Fish and Game
Costing \$ _____

That he is unable to complete the remainder of the work within the required time for the following reasons, to-wit:
More flow measurement data is needed prior to licensing

Wherefore, he asks that the Department of Water Resources extend the time for the completion of obligations
under said permit to September 1, 19 89.
(1 yr. minimum, 5 yrs. maximum)

NOTE
AS OF JULY 1, 1980,
THERE IS A \$15.00
CHARGE FOR REQUESTS
FOR EXTENSION OF
TIME.

Donald Kramer
Chairman, Idaho Water Resource Board
(Signature)*
*IF OTHER THAN HOLDER, Power of Attorney must be supplied.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above application for extension of time be APPROVED and the time within
which to submit the statement of beneficial use is extended to September 1, 1989.

Signed this 30th day of August, 19 84.

J. Glen Saxton
Chief, Operations Bureau

RECORDED

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 36
BY RESOURCES AND CONSERVATION COMMITTEE

Amended

1 A CONCURRENT RESOLUTION
2 APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAM FLOW.

3 Be It Resolved by the Legislature of the State of Idaho:

4 WHEREAS, the Water Resource Board may apply for a permit to appropriate
5 unappropriated waters of any stream for minimum stream flow; and,

6 WHEREAS, under the provisions of Section 42-1503, Idaho Code, no permit
7 shall become finally effective until affirmatively approved by the
8 Legislature.

9 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular
10 Session, Forty-fifth Idaho Legislature, the House of Representatives and
11 the Senate concurring therein, that the application of the Water Resource
12 Board to appropriate the unappropriated waters for minimum stream flow,
13 described in Department of Water Resources application for permit number
14 95-7874, it being an application for a permit to appropriate 30 cubic feet
15 per second from Wolf Lodge Creek, a tributary of ~~the~~ Coeur d'Alene ^{lake} River,
16 located on the NW 1/4 of NE 1/4 of Section 5, Township 49N, Range 2W, in
17 Kootenai County, Idaho, be, and the same is hereby approved.

MICROFILMED

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

IN THE MATTER OF APPLICATION FOR PERMIT)
NO. 95-7874 TO ESTABLISH A MINIMUM)
INSTREAM FLOW ON WOLF LODGE CREEK IN THE)
NAME OF THE IDAHO WATER RESOURCE BOARD)

MEMORANDUM DECISION
AND ORDER

On September 13, 1978 the Idaho Water Resource Board filed with the Department of Water Resources an application for permit to appropriate water to preserve minimum stream flows on Wolf Lodge Creek tributary to Coeur d'Alene Lake. The application was filed in accordance with the provisions of Chapter 15, Title 42, Idaho Code.

Notice describing the proposed appropriation and setting the time and place for the required hearing was published in the Coeur d'Alene Press on July 5 and 12, 1979. A public hearing was held at Coeur d'Alene, Idaho on August 2, 1979. C. Stephen Allred, Director of the Department served as hearing officer.

Parties appearing in a formal capacity included the Idaho Water Resource Board and the Idaho Department of Fish and Game. Formal testimony was also presented by the staff of the Idaho Department of Water Resources. Other individuals who informally appeared to present their views and comments as public witnesses included State Senator Arthur Manley; Lester M. Larsen on behalf of the Kootenai Environmental Alliance; and Carl Brautigan, a fisherman from Coeur d'Alene.

Based upon the sworn testimony, documentation and public statements included in the record and upon his understanding of the facts and the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1) On September 13, 1978 the Idaho Water Resource Board pursuant to Chapter 15, Title 42, Idaho Code, filed application for permit No. 95-7874 to appropriate a minimum instream flow on Wolf Lodge Creek which is tributary to Coeur d'Alene Lake.

MICROFILMED

2) Application for permit No. 95-7874 proposes to appropriate a minimum instream flow of 30 cfs from the crossing of Wolf Lodge Creek under Interstate highway 90 in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 5, Township 49 North, Range 2 West, Kootenai County, upstream on Wolf Lodge Creek for a distance of three miles.

3) The annual period of use proposed is from January 1 to December 31.

4) The purpose of the proposed instream appropriation is to maintain trout spawning and rearing habitat throughout the stream reach for which the flow is requested.

5) All rights acquired under application for permit No. 95-7874 are for instream nonconsumptive uses and will be subject to all vested water rights, permits, or water applications having priority earlier than September 13, 1978.

6) Based upon the sworn testimony, documentation and public statements comprising the record in this matter, a finding is made that the proposed minimum instream flow proposed by application No. 95-7874 is necessary to maintain the existing trout passage, spawning and incubation habitat of the stream area.

7) Based upon testimony presented at the hearing, a finding is made that the benefits to be derived from the minimum instream flow application will be enjoyed by members of the public as opposed to being limited to private use or enjoyment.

8) Based upon testimony and evidence submitted by the Idaho Department of Fish and Game, a finding is made that the flow requested in the application is the minimum flow required to preserve the existing unique characteristics of the stream for the public benefit, and is not the ideal or most desirable flow which could be utilized for that purpose.

9) Based upon testimony and evidence submitted concerning available flow measurement data, a finding is made that the minimum instream flow proposed for Wolf Lodge Creek is generally capable of being maintained. This testimony noted that flow data are limited for Wolf Lodge Creek at the suggested point of measurement at the Interstate 90 crossing.

10) Based upon testimony of the staff of the Department of Water Resources, a finding is made that seven permit and license rights with priorities earlier than application No. 95-7874 on Wolf Lodge Creek and tributaries are recorded with the Department with a total diversion rate of 1.52 cfs. One permit for 0.20 cfs from Wolf Lodge Creek with a priority later than application No. 95-7874 is recorded with the Department. Three claims of water rights, based upon diversion and beneficial use have been filed with the

Department claiming a diversion rate of 0.18 cfs from Wolf Lodge Creek and tributaries.

CONCLUSIONS OF LAW

1) The proposed minimum instream flow appropriation will not interfere with any vested water right, permit, or right under an application having a priority date earlier than September 13, 1978.

2) The proposed minimum instream flow appropriation is in the public, as opposed to private, interest.

3) The proposed minimum instream flow appropriation is necessary for the preservation of quality fish passage, spawning and incubation habitat of the stream.

4) The minimum instream flow proposed to be appropriated is the minimum flow required for the purposes cited in Conclusion of Law No. 3 and not the ideal or most desirable flow.

5) The minimum instream flow proposed is generally capable of being maintained.

ORDER

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit No. 95-7874 is APPROVED subject to the following conditions:

1) Measuring devices of a type and at locations approved by the Director of the Department of Water Resources shall be installed and maintained to monitor the flow of Wolf Lodge Creek.

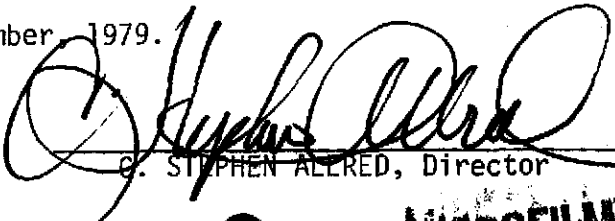
2) Proof of instream beneficial use of the minimum instream flow appropriated shall be submitted in a manner approved by the Department on or before September 1, 1984. The proof submitted shall include at least three years of flow data for the water course. The frequency of the data accumulation shall be approved by the Director.

3) The use of water under the permit shall be nonconsumptive.

4) The use of water under this permit is subject to all prior rights.

5) The application hereby approved by the Director shall be submitted to the Idaho Legislature by the fifth day of the next regular legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.

Dated this 18 day of September, 1979.


C. STEPHEN ALLRED, Director

MICROFILMED

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

COUNTY OF ADA

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have on this date served a true and correct copy of the foregoing MEMORANDUM DECISION AND ORDER by depositing a copy thereof in the United States mail postage prepaid and addressed to:

Joseph H. Nettleton, Chairman
Idaho Water Resource Board
Murphy, ID 83650

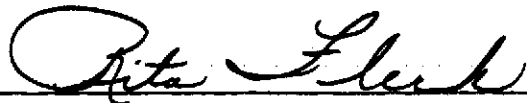
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Senator Arthur Murphy
1109 11th
Coeur d'Alene, ID 83814

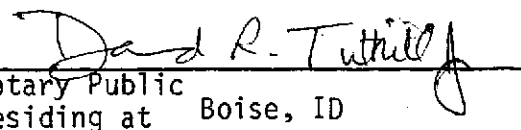
Lester M. Larsen
Kootenai Environmental Alliance
Route 4, Box 307 K-12
Coeur d'Alene, ID 83814

Carl Brautigan
Route 1, Box 88
Coeur d'Alene, ID 83814

Dated this 26th day of September, 19 79.



On this 26th day of September, 19 79, personally appeared before me the signer of the above instrument, who duly acknowledged to me that he (she) executed the same.


Notary Public
Residing at Boise, ID

My commission expires 9/10/80

NAME OF STREAM: Wolf Lodge Creek

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:
At Interstate 90, Kootenai County, NW $\frac{1}{4}$, NE $\frac{1}{4}$, Section 5, T49N, R2W.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 30 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain trout spawning and rearing from the point of requested flow to a point three miles upstream.

THE PERIOD OF TIME OR SEASON OF YEAR DURING WHICH APPROPRIATION IS PROPOSED:
All year.

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT, OR WATER APPLICATION OF EARLIER DATE OF PRIORITY:

The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST:

Wolf Lodge is a major tributary of Coeur D'Alene Lake and is utilized heavily for spawning and juvenile rearing of trout residing in the lake. Many of the cutthroat trout harvested in Lake Coeur D'Alene and the popular spring fishery in the Spokane River are produced in the Wolf Lodge Drainage. This stream has the heaviest concentrations of lake-run westslope cutthroat spawners we know of in Idaho. Fishery contributes to North Idaho's second most important industry.

The requested instream water right will be held in trust for the people of Idaho by the Idaho Water Resource Board.

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE:

During 1976, personnel of the Idaho Department of Fish and Game collected data from Wolf Lodge Creek and using this data with instream flow methodologies, determined that the above requested flow is necessary for maintaining the existing trout spawning and rearing habitat. Methodologies, techniques and instream flow recommendations are presented in the following publication:

Cochmauer, Tim. 1977. Stream Resource Maintenance Flow Determinations of Idaho Streams. Job Performance Report, Project F-66-R-2, Job II. 85 pp. Idaho Department of Fish and Game.

EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW:

The ideal flow would be approximately 50 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS:

No flow records are maintained for Wolf Lodge Creek.

LOCATION OF EXISTING GAGING STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION:

No gage station is located on Wolf Creek Lodge. A gaging device at Highway 90 bridge would be sufficient to monitor the requested flow.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

SEP 18 1978

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern District Office

1. Name of applicant Idaho Water Resource Board Phone 384-2215
Post office address Statehouse, Boise, Idaho 83720
2. Source of water supply Wolf Lodge Creek which is a tributary of Coeur d'Alene River
3. Location of point of diversion is NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 5 Township 49 N
Range 2 W B.M. Kootenai County, additional points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 30 cfs for in stream flow 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)
5. Total quantity to be appropriated:
a. 30 cubic feet per second and/or b. _____ acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. None - instream flow

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 5 Township 49 N
Range 2 W B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.
(5) If water is to be used for other purposes describe: To maintain trout spawning and rearing habitat

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

[illegible]

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

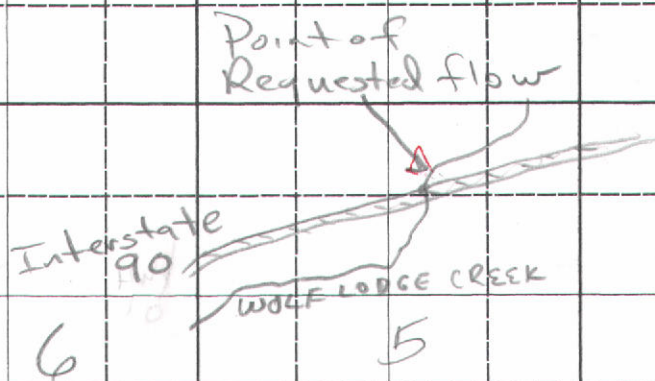
9. a. Who owns the property at the point of diversion _____

b. Who owns the land to be irrigated or place of use

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

10. Remarks See attached sheet

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



T. 49 N.

Scale: 2 inches equal 1 mile.

R 2 W.

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)

Received by Manly Date 9-13-78 Time 8:15 a.m.

Preliminary check by _____ Fee \$ N.A.

Receipted by _____ Date _____

Publication prepared by _____ Date _____

Published in _____

Publication dates July 5, 12, 1979

Publication approved _____ Date _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by CSA Date 8-2-79

Recommended for approval denial by 141

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

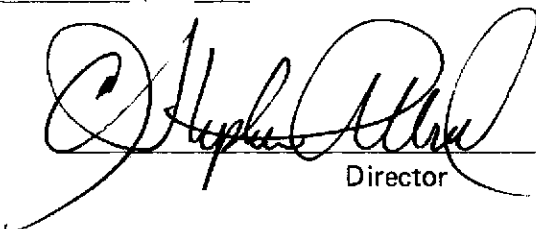
This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 95-7874, and said application is hereby APPROVED.

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before September 1, 19 84.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

PURSUANT TO MEMORANDUM DECISION & ORDER OF THIS DATE.

Witness my hand this 18 day of September, 19 79.


Director

WR0749NP
No. L95-07874

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 03/07/94
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	STATE OF IDAHO IDAHO WATER RESOURCE BOARD STATEHOUSE BOISE ID 83720	09/13/1978	MINIMUM INSTREAM FLOW MINIMUM INSTREAM FLOW	07-01 11-15 11-16 06-30	7.00 CFS 30.00 CFS	
TOTAL DIVERSION:					30.00 CFS	

Water Source: WOLF LODGE CREEK

Tributary to: COEUR D ALENE RIVER

Stage: LICENSE

Point(s) of Beginning Stream Reach: T50N R02W S21

NWSW

KOOTENAI County

Point(s) of Ending Stream Reach: T49N R02W S05

NWNE

KOOTENAI County

Pou County:

Remarks: Use of water under this license shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file issued by the Director under provisions of Chapter 2, Title 42 Idaho Code, with the priority of the water right dated earlier than the priority date of this license.

The use of the water under this license shall be non-consumptive. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on Wolf Lodge Creek, the measuring devices shall be permanently installed as specified by the Department.

The Director retains jurisdiction to review and amend any and all parameters of this license. Any person seeking review and amendment of the license shall file a request with the Board, which request shall include the amendment sought, the reasons for the amendment, and a statement of the change in circumstances since the license was issued or last reviewed that merit a review of the license. A copy of the petition shall be served upon the Director of the Department of Water Resources. The Board may petition the Director for an amendment to the license. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or parties known to be interested in the proposed change, and conduct a hearing for the purpose of determining whether the license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or party seeking the amendment to establish that amendment of the license would be in the public interest.

This minimum stream flow reach is between a point in the NWSW, S21, T50N, R2W and a point in the NWNE, S5, T49N, R2W.

Dates: App. Received: 09/13/1978 Priority Date: 09/13/1978
Proof Due Date: 09/01/1989 Proof Made Date: 09/01/1989
Exam Made Date: 09/01/1989 Exam Sent to S.O.: 09/01/1989
Licensed Date:

Misc: Water District Number: Field Exam Fee:

MEMORANDUM

To: File 95-07874
From: L. Glen Saxton
RE: **MINIMUM STREAM FLOW REACH DESCRIPTION**
Date: September 23, 1993

Application for permit no. 95-07874 described the reach in which a minimum flow was sought as a point in the NW1/4NE1/4 Section 5, T49N, R2W, B.M. where Wolf Lodge Creek flows under Interstate Highway 90 to a point three (3) miles upstream. The upstream point was not further defined with a legal description in any of the subsequent water right proceedings.

The three (3) mile reach measures approximately to the mouth of Marie Creek located in the NW1/4SW1/4 Section 21, T50N, R2W, B.M. Marie Creek is the major tributary of Wolf Lodge Creek.

In the license that the department issues, it is appropriate to more definitively describe the upstream point of the minimum flow reach in terms other than three miles above a given point. Hence, the license should show the upstream point of the minimum stream flow reach at the mouth of Marie Creek as above described.

WILSON

SEP 11 1994

MEMORANDUM

TO: Minimum Streamflow Permits for Wolf Lodge Creek, Granite Creek, and Sullivan Springs; Water Right Nos. 95-7874, 95-7771, and 96-7772 Respectively
FROM: Gary Spackman
DATE: March 1, 1990

RE: Adequacy of Proof of Maintainability of Flows

Wolf Lodge Creek, Granite Creek and Sullivan Springs are all tributaries to Pend Oreille Lake. Fish and Game has represented that they are important spawning streams in which minimum flows must be maintained to support the fishery, both wild and hatchery.

All three minimum streamflow applications were approved on September 18, 1979. The order portion in all three decisions contains identical language regarding the installation of measuring devices and the accumulation of flow data. The orders read:

- (1) Measuring devices of a type and at locations approved by the Director of the Department of Water Resources shall be installed and maintained to monitor [the flow of the streams].
- (2) Proof of instream beneficial use of the minimum instream flow appropriated shall be submitted in a manner approved by the Department on or before September 1, 1984. The proof submitted shall include at least three years of flow data for the water course. The frequency of data accumulation shall be approved by the Director.

Proof of beneficial use was due on or before September 1, 1984.

In August of 1984, the Idaho Water Resource Board requested an extension of time for all three filings for the purpose of gathering additional flow data. The extensions of time were granted, and the Board was given until September 1, 1989, to submit proof of beneficial use. On September 1, 1989, the Board submitted proof of beneficial use. The proof of beneficial use was accompanied by flow measurements from the three sources of water. The flow measurements are an apparent attempt to comply with the conditions of the permits.

AUG 11 1994

Strictly applied, the conditions required installation of a measuring device approved by the Director at a location approved by the Director. The conditions required three years of flow data, measured with a frequency approved by the Director. I have searched the files for information regarding the three requirements that called for Department approval. A letter to Virgil Moore on August 9, 1984, from Dave Tuthill, signed by Jim Johnson, discussed the flow measurements that would be needed. It states:

. . . more thorough streamflow information will be required before licenses can be issued. For example the discharge measurements for Sullivan Springs range from a minimum of 5.85 cfs to a maximum of 9.95 cfs. It is unclear how these measurements relate to the 45.0 cfs identified in the permit. As another example, the discharge measurements on Granite Creek range from 8.97 cfs to 70.76 cfs. Again, the relationship to the 45.0 cfs identified in the permit is unclear. For all three permits, a series of gauge readings is needed to augment the staff gauge-discharge relationships that have been developed. The frequency of gauge reading should be a minimum of once every two weeks throughout the year.

The data originally submitted did not cover three full years. For Wolf Lodge Creek, no data was submitted for December of any year. For the months of January through May, only one measurement was taken. Measurements were very sporadic. Bill Horton informed me later, however, that the USGS installed a permanent gauging station on Wolf Lodge Creek in 1986, and has compiled data since that time. He later delivered a copy of the data to me.

For Granite Creek, the information is even more sketchy. Flows were not measured in January, February, March and April. Only one measurement was made in May. The flows were sporadically measured in June, July and August. The fall months have very few measurements.

Flows in Sullivan Springs were not measured with any more frequency than the flows of Granite Creek. Flows of Sullivan Springs appear to be more constant, however, requiring fewer measurements.

Dave Tuthill's letter could be interpreted to mean that only one more year of full measured data is required. Even viewed liberally in this way, the data that has been submitted still does not comply with his request. Flows were not measured weekly over an entire one year span, except for USGS measurements of Wolf Lodge Creek flows.

I can find no discussion in the file or in the material submitted about the requirement that a measuring device approved

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by the Department be installed and that it be located in a place approved by the Department.

I recommend the following action on each of the filings:

Sullivan Springs

I recommend licensing permit no. 96-7772 for 7.0 cfs. Most staff gauge readings for 1984 read 0.98 inches which appears to correspond to a flow rate of between 7.0 and 7.5 cfs.

Wolf Lodge Creek

Based on the USGS data, I recommend licensing for 7.0 cfs for July 1 through November 15, and 30.0 cfs from November 16 through June 30. I have not statistically analyzed the data, but feel that the amounts recommended reflect probable normal flows. The recommendation may seem liberal when reviewing the data, but the data is artificially low as a result of drought conditions during the data collection period. Water use demands on Wolf Lodge Creek are not heavy at the present time.

Granite Creek

I recommend that we license Granite Creek for 10.0 cfs which is close to the minimum flow measured. Lack of data prevents me from recommending more.

All of the minimum streamflows should be conditioned as follows:

1. Use of water under this license shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file issued by the Director under provisions of Chapter 2, Title 42, Idaho Code, with the priority of the water right dated earlier than the priority date of this license.

2. The use of the water under this license shall be non-consumptive.

3. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on (source). Such measuring devices shall be permanently installed as specified by the Department.

4. The Director retains jurisdiction to review and amend any and all parameters of this license. Any person seeking review and amendment of the license shall file a request with the Board, which request shall include the amendment sought, the reasons for the amendment, and a statement of the change in circumstances since the license was issued or last reviewed that merit a review of the license. A copy of the petition shall be

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served upon the Director of the Department of Water Resources. The Board may petition the Director for an amendment to the license. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or parties known to be interested in the proposed change, and conduct a hearing for the purpose of determining whether the license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or party seeking the amendment to establish that amendment of the license would be in the public interest.

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MINIMUM STREAM FLOW PERMIT NO. 95-7874
for WOLF LODGE CREEK

Wolf Lodge Creek is a tributary to Lake Coeur d'Alene and is a major spawning and rearing area for cutthroat trout residing in the lake. The stream originates in the Coeur d'Alene mountains and Coeur d'Alene National Forest and flows southwesterly through public and private land, entering the lake in the northeastern portion. Wolf Lodge Creek drains approximately 64 square miles of forested and pastured land. Lake Coeur d'Alene is a beautiful, popular, 25,000 acre coldwater, oligotrophic lake that has developed into one of the cornerstones of North Idaho's economy. Part of its high value is based in the fishing recreation provided by trout and salmon produced in Wolf Lodge Creek.

Wolf Lodge Creek is the only tributary to Lake Coeur d'Alene that the Idaho Department of Fish and Game (Department) stocks with fall chinook salmon for the lake fishery. Since 1982, the Department has stocked between 10,000 and 60,000 chinook fingerlings, averaging five inches in length. The chinook fishery has escalated to approximately 100,000 hours of angling effort in recent years. This is between one-third and one-half of the total effort on the lake. Based on a 1985 survey of economic values for sport fishing, the Lake Coeur d'Alene fishery contributes a minimum of \$1.6 million to the local economy. Wolf Lodge Creek is an important element in providing for that fishery (Exhibits 1 and 2).

The Department is currently managing Wolf Lodge Creek as a wild trout stream with emphasis on protecting cutthroat trout. It is the only major tributary that supports cutthroat trout fishing in the north end of the lake, where most of the fishing pressure occurs. In June 1983, a gasoline pipeline was ruptured approximately five (5) miles upstream from the mouth. This break poured more than 20,000 gallons of gasoline into the creek and killed all aquatic life from that point downstream. The loss included brook trout and cutthroat trout and caused the Department to close the fishery to allow the fastest possible recovery of the fish populations. It has remained closed since. Information on trout densities and estimated mortalities is included in Tables 1 and 2. A settlement with the pipeline company for \$85,000 was made to mitigate for losses and help rehabilitate the stream, which will take many years to recover, even under ideal conditions. The settlement value awarded for this portion of Wolf Lodge Creek is an indication of its value as a free flowing stream. Maintenance of instream flows to provide suitable spawning and rearing habitat is critical to lasting recovery efforts.

The habitat in the Wolf Lodge Creek drainage is in relatively good condition now (Exhibit 3). The Department has been working with Geomax, Inc. (engineering and hydrology consultants), the Department of Water Resources, the U.S. Forest Service (Horizon-Logging Environmental Impact Statement), and land owners to stabilize stream banks and prevent habitat loss. The Department of Transportation is creating habitat improvement structures in the drainage as part of Interstate 90

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Department of Water Resources

construction activities. All of the above activities are directed at keeping Wolf Lodge Creek in a condition capable of protecting and enhancing the westslope cutthroat trout populations and habitat, and to contribute to the satisfaction of the angling public.

On September 13, 1978 the Idaho Department of Fish and Game requested a minimum stream flow of 30 cubic feet per second (cfs) for year round flows in Wolf Lodge Creek. Table 3 provides discharge measurements and staff gage readings from June 1982 to October 1985 to substantiate that request. The information provided shows that 30 cfs cannot be found throughout the year. The Department requests that the unallocated flow be the minimum stream flow when it drops below 30 cfs.

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Exhibit No. 3. Typical stream habitat in lower Wolf Lodge Creek.

WOLF LODGE CREEK
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FACT SHEET

Source: WOLF LODGE CR.
Tributary To: COEUR D'ALENE RIVER
Requestor: ID DEPT OF FISH & GAME
Quantity: 30 cfs
Length of Reach: 3.0 mi
Purpose: MAINTENANCE OF TROUT SPAWNING AND REARING

Date Received: 9/13/78
Date Hearing Held: 8/2/79 IN COEUR D'ALENE
Date Approved by Director: 9/18/79

Other Rights: - 7 Permit & License rights w/ PRIORITIES
EARLIER THAN THIS APP., TOTALING 1.52 cfs.
- 3 CLAIMS TOTALING 0.18 cfs., 1 JUNIOR PERMIT FOR .2 cfs.

REMARKS: AVERAGE FLOW A MOUTH IN WATER YEAR 1959 WAS
80 cfs.

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MINIMUM STREAMFLOW REQUEST/APPLICATION

PROCESSING CHECKLIST

Legislative Approval Procedure
(For use after a MSF application is approved by the Director)

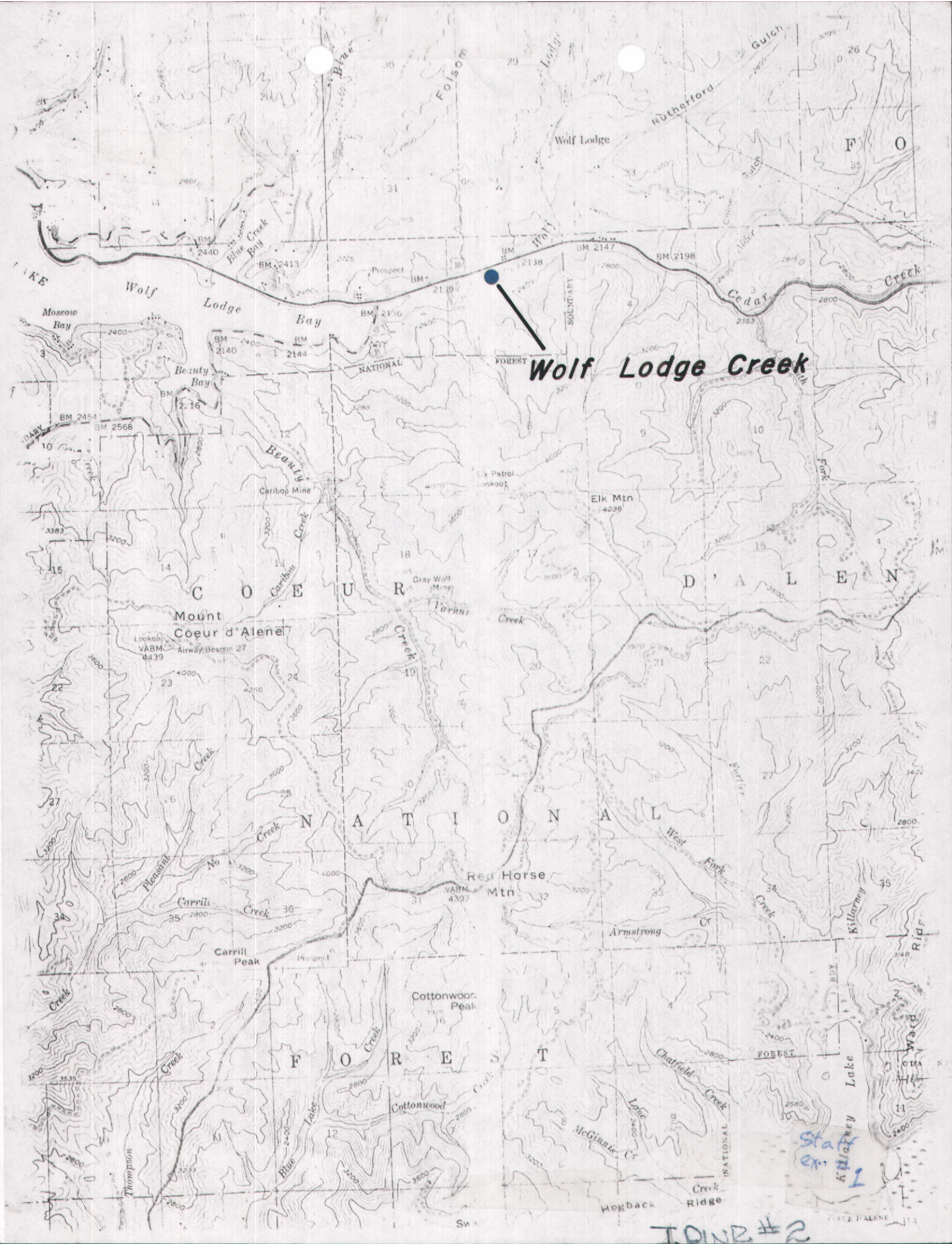
	<u>ASSIGNED TO</u>	<u>INITIALS/DATE</u>
1. Fact sheet prepared.	Section Supervisor	<u>DRT 1/5/80</u>
2. Copy of application sent to Speaker of the House and President Protem of the Senate.	Section Supervisor	<u>DRT 1/7/80</u>
3. Approval/Denial legislation placed in file.	Records Chief	<u>DRT 4/1/80</u>
4. Applicant notified of legisla- tive Approval/Denial.	Records Chief	<u>DRT 4/1/80</u>

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FACT SHEET

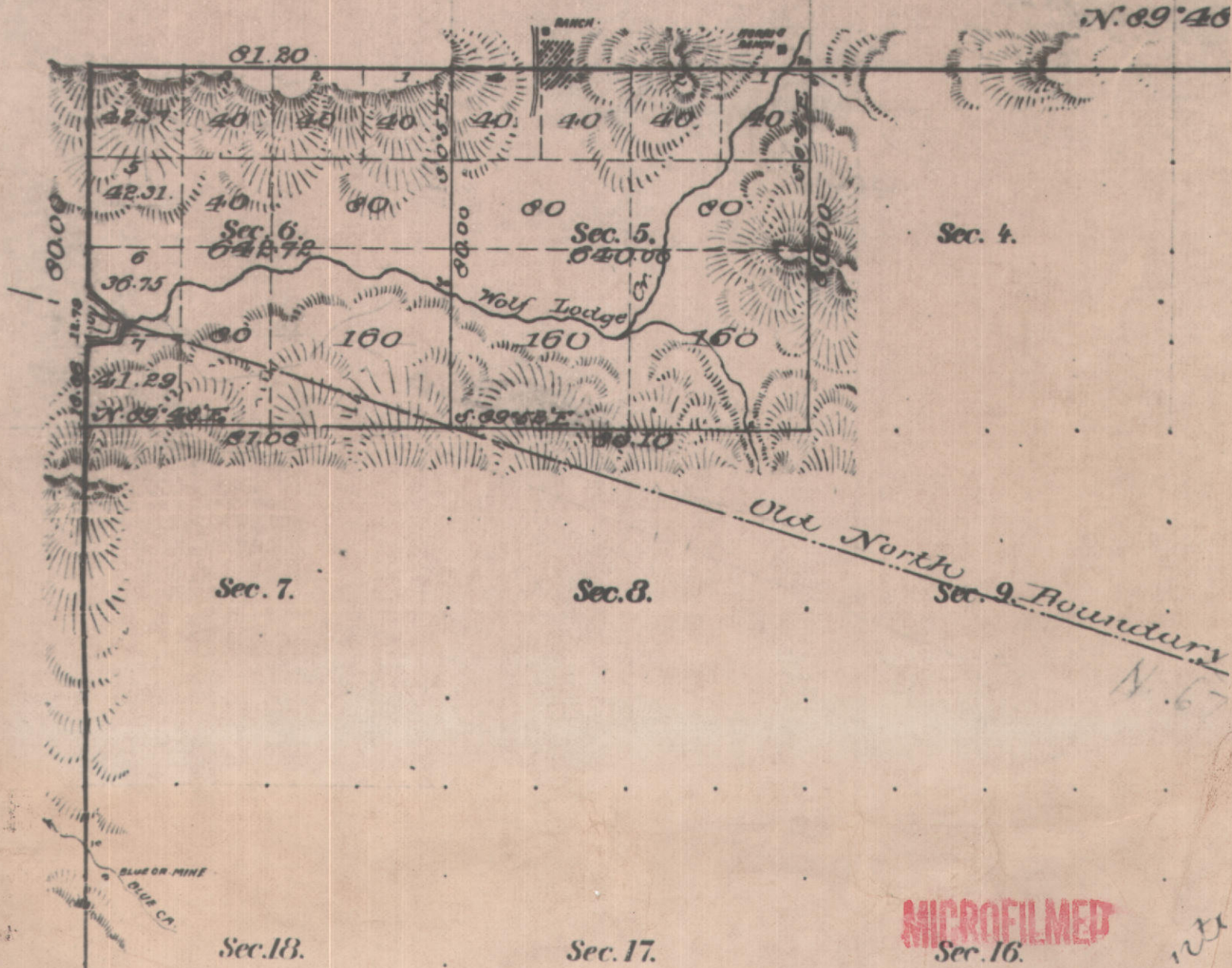
Source: Wolf Lodge CreekTributary To: Coeur d'Alene RiverRequestor: Idaho Dept. of Fish & GameQuantity: 30 cfsLength of Reach: 3.0 mi.Purpose: Maintenance of trout spawning and rearingDate Received: 9-13-78Date Hearing Held: 8-2-79 in Coeur d'AleneDate Approved by Director: 9-18-79Other Rights: -7 Permit & License rights with priorities earlier than
this application, totaling 1.52 cfs.-3 Claims totaling 0.18 cfs, 1 Junior Permit for .2 cfs.REMARKS: Average flow a month in water year 1959 was 80 cfs.

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TRAIL #2

G f F e E d D



*Please
final*

MEMORANDUM

TO: Norm Young

FROM: Bill Ondrechen, Hydrology Section

SUBJECT: Hydrology of Wolf Lodge Creek, Granite Creek and Sullivan Springs
(Instream Flow Applications 95-7874, 96-7771 and 96-7772)

Wolf Lodge Creek (95-7874)

Wolf Lodge Creek Drains a 61 square mile area on the east side of Coeur d'Alene Lake. There are no continuous streamflow records for the stream, but it has been measured occasionally. Most of the measurements were made about one mile upstream from the point where the flow is requested. The drainage area at this upstream point is about 39 square miles. The discharge data are as follows:

<u>DATE</u>	<u>DISCHARGE (cfs)</u>	<u>DATE</u>	<u>DISCHARGE (cfs)</u>
11/03/58	4.8	04/10/75	39
12/08/58	64	04/11/75	53
01/18/59	118	04/12/76	389
03/05/59	63	04/15/76	283
04/08/59	191	04/21/76	167
05/08/59	139	04/28/76	146
06/18/59	48	05/18/76	111
07/30/59	10.5	06/09/77	38
08/29/59	8.7	06/20/77	22
11/22/74	12	07/05/77	14
03/05/75	165	07/11/77	11

The record is not sufficient to define a frequency of occurrence to the 30 cfs requested flow, but it appears as though ^{THE FLOW} at the upstream point commonly drops below 30 cfs. Downstream at the point described in the application, flows will most likely be greater ^{THAN THE MEASURED VALUES} due to the increased drainage area. Most of the additional area is drained by Cedar Creek, which enters ^{WOLF LODGE} Wolf Creek about 1/4 mile upstream from the requested point of flow. **FIGURE 1** ILLUSTRATES ESTIMATED MONTHLY FLOWS OF WOLF LODGE CR. FOR WATER YEAR 1959.

Because the drainage area varies from 61 to 39 square miles within the lower portion of the reach specified in the application, the request for 30 cfs throughout the entire reach is somewhat inconsistent. Perhaps only 70 percent of the total flow will exist in the reach upstream from Cedar Creek.

Granite Creek (96-7771)

Granite Creek Drains an area of approximately 27 square miles in the Bitterroot Range on the east side of Lake Pend Oreille. Most of the basin is forested, with elevations ranging from 2100 to over 6000 feet above sea level. The stream has only been measured 10 times, all during 1977. The data are as follows:

<u>DATE</u>	<u>DISCHARGE (CFS)</u>
04/06/77	16
04/13/77	23
04/20/77	26
04/28/77	39
05/05/77	26
05/12/77	28
05/18/77	21
06/08/77	13
06/29/77	9
08/18/77	5

From the description of the measuring section and the sketch map provided by the applicant, it appears that these measurements were made just upstream of the confluence of Granite Creek and Sullivan Springs. The application ^{states} ~~mentions~~ that during the winter months when fish spawning occurs, most of the flow in Granite Creek is from Sullivan Springs. Since the 45 cfs requested in the application is for the reach from the Sullivan Springs confluence to Pend Oreille Lake, the main factor in water availability is the flow of Sullivan Springs.

Sullivan Springs (96-7722)

No continuous flow records exist for Sullivan Springs. A measurement was made on July 20, 1977 by Department of Fish and Game personnel. The observed flow was 45 cfs.

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted one (1) application for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflow from Wolf Lodge Creek, tributary to the Coeur d'Alene River which is further described as follows:

APPLICATION NO. 95-7874

SOURCE: Wolf Lodge Creek

POINT OF MINIMUM STREAMFLOW: NWNE, Sec. 5, T49N, R2W B. M,
Kootenai County

RATE OF FLOW: 30 cubic feet per second

SEASON OF USE: January 1 to December 31.

USE: To maintain trout spawning and rearing habitat.

The Director of the Department of Water Resources will hold a public hearing on the application at 1:30 p.m., on Thursday, August 2, 1979, at the Idaho Department of Water Resources Northern Region Office, 4055 Government Way, Coeur d'Alene, Idaho, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

If issued, these permits will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED
Director

Published in the Coeur d'Alene Press, on July 5, and July 12, 1979.

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