

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 98-07856

Priority: October 10, 2006

Maximum Diversion Rate: 0.05 CFS

This is to certify, that DANIEL H DEISS And/Or
GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860

has applied for a permit to appropriate water from:

Source: MOYIE RIVER

Tributary: KOOTENAI RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/15 to 10/31	0.05 CFS	1.5 AF
DIVERSION TO STORAGE	04/15 to 10/31	0.05 CFS	
WILDLIFE STORAGE	01/01 to 12/31		0.1 AF

LOCATION OF POINT OF DIVERSION:

MOYIE RIVER L4 (NW¼ NW¼ NW¼) Sec. 2, Twp 64N, Rge 02E, B.M. BOUNDARY County

PLACE OF USE: WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
64N 02E 2						X											
						L 4											

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
64N 02E 2						1.5											1.5
						L 4											

Total Acres: 1.5

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **May 01, 2008**.
2. Subject to all prior water rights.
3. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
4. The quantity of water diverted under this right shall not exceed 2,500 gallons per day.
5. Wildlife storage use is for a pond.

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 98-07856

6. This right when combined with all other rights shall provide no more than 0.05 cfs nor more than 1.5 afa at the field headgate for irrigation of the land described above.
7. Water shall not be diverted under this right when flows in the Moyie River are below established minimum flow amounts.
8. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
9. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 1st day of June, 2007.

Shelley W. Kean
for DAVID R. TUTHILL, JR., Director

73241

Ident. No. 98-7856

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 31 2006

APPLICATION FOR PERMIT (REVISED)

DWR/North

To appropriate the public waters of the State of Idaho

1. Name of Applicant DANIEL H. AND/OR GWYNADYS E. DEISS Phone (208) 265-0421
Mailing address 3681 WESTMOND ROAD, SABLE, ID 83860 OR (208) 267-3897
2. Source of water supply MOXIE RIVER which is a tributary of KOOTENAI RIVER
3. Location of point of diversion is Township 64N Range 2E Sec. 2, in the NW $\frac{1}{4}$,
NW $\frac{1}{4}$, NW $\frac{1}{4}$, Govt. Lot 4, B.M., BOUNDARY County;

additional points of diversion if any:

4. Water will be used for the following purposes:

- Amount 0.05 for DIVERSION TO POND purposes from 4/15 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
Per Settlement Amount 0.05 for ASTHETICS purposes from 4/15 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.10 for WILDLIFE STORAGE purposes from 4/15 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
Per Settlement Amount 0.05 for IRRIGATION purposes from 4/15 to 10/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.10 for ASTHETIC STORAGE purposes from 4/15 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)

5. Total quantity to be appropriated is (a) 0.05 cubic feet per second and/or (b) 0.1 acre feet per annum

6. Proposed diverting works: GASOLINE OR ELECTRIC PUMP NEAR RIVER BANK
a. Describe type and size of devices used to divert water from the source 2" OR 3" PUMP @ 5-8 h.p.
WITH FOOT VALVE IN RIVER AND $\pm$ 450' OF $\frac{1}{2}$ " WATERING LINE
b. Height of storage dam POND $\pm$ 5' deep feet; active reservoir capacity 0.1 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 85°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 HOUSEHOLD - FOR WATERING LAWN/TREES
e. Other, describe fully. AND SHRUBS; FILLING/MAINTAINING 18'x25'x5' deep pond.

9. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. 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	
64N	2E	2						1.5											1.5
								W											
								HA											

Total number of acres to be irrigated 1.5

10. Describe any other water rights used for the same purposes as described above. NONE

11. a. Who owns the property at the point of diversion? APPLICANTS

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

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

12. Remarks: THIS APPLICATION IS FOR A PERMIT AND WATER RIGHTS TO PUMP WATER FROM THE MOYIE RIVER FOR PURPOSES OF WATERING LANDSCAPING ON 1.5 ACRE WATERFRONT PROPERTY AND FILLING/ MAINTAINING STORAGE POND USED FOR WILDLIFE WATERING & AESTHETICS.

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.

Daniel N Denis OCT 23, 2006

AND/OR Shelley E Denis
Signature of Applicant (and title, if applicable)

Received by φ Date 10/31/06 Time 1:30 P Preliminary check by # NO17932 Date 10/12/06
Fee \$ 100.00 Received by Dianne Published in Bonner Ferry Record Date 12/7 & 14/06
Publication prepared by φ Date 11/30/06 Date 1/3/07
Publication approved φ

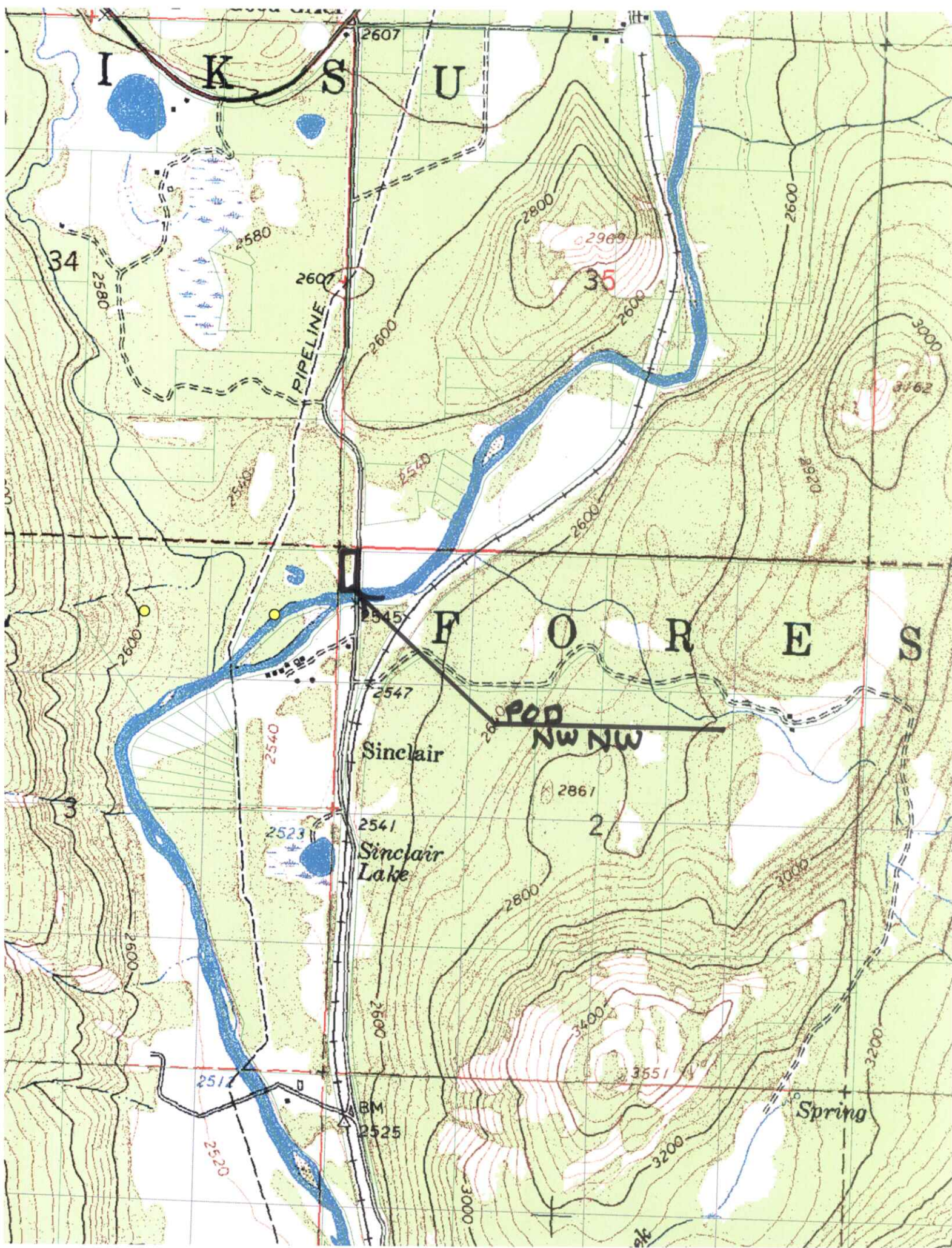
98-7856



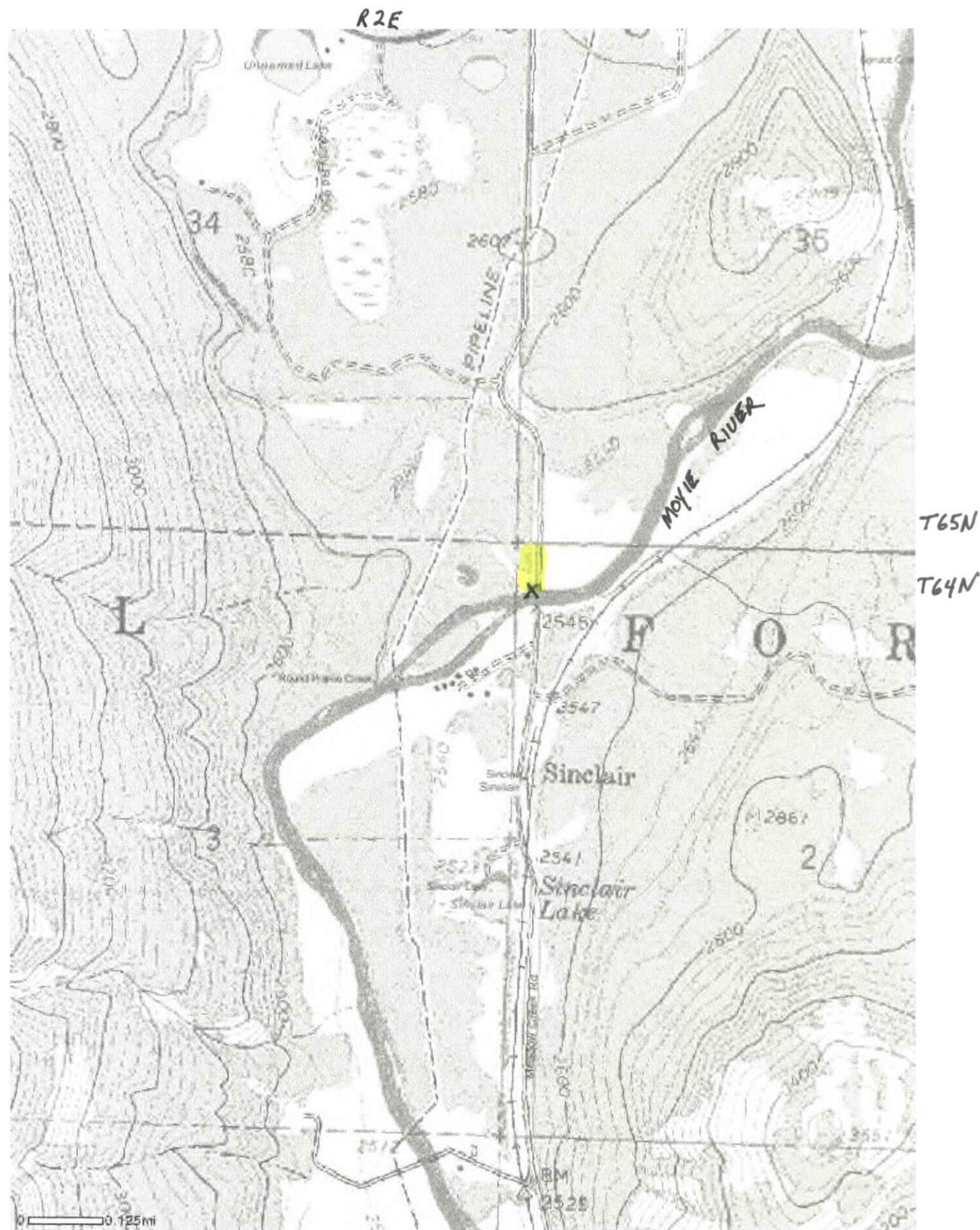
0.03 0 0.03 0.06 Miles

-  Boundary taxlots
-  GCDB65N02E GCDB
-  GCDB64N02E GCDB
-  Foster.shp
-  Application POD
-  Pou.shp
-  Administrative BasinsAdminbas.shp









subject

1 1/2 Acre DEISS PROPERTY

Sec. 2, Twp. 64 N., R. 2 E., B.M.

THIS DRAWING IS TO BE USED FOR REFERENCE PURPOSES ONLY, AND THE COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.



1	2	3	4	5	6	7	8	9	10	11	12
13	14	15	16	17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	32	33	34	35	36
37	38	39	40	41	42	43	44	45	46	47	48
49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72
73	74	75	76	77	78	79	80	81	82	83	84
85	86	87	88	89	90	91	92	93	94	95	96
97	98	99	100	101	102	103	104	105	106	107	108
109	110	111	112	113	114	115	116	117	118	119	120

Assessor's Parcel Map
BOUNDARY COUNTY
IDAHO

REVISIONS

INITIALS	ACTIVITY	DATE

MADE FILE: 120301
DRAWING FILE: 64ND020200A
DOCUMENT FILE: 120301000

NOTES:

All Sections are plotted from the Bureau of Land Management (BLM) Geographic Coordinate Data Base (GCS). This data base portrays the Public Land Survey System (PLSS) in a digital format.

Features such as ditches, creeks, rivers, lakes, roads, etc., were digitized over the existing 1988 Assessor Map where more specific or accurate information is not available.

Individual parcels are plotted from the best available information of record and correlated to the digitized features where required.

Records of Survey used:

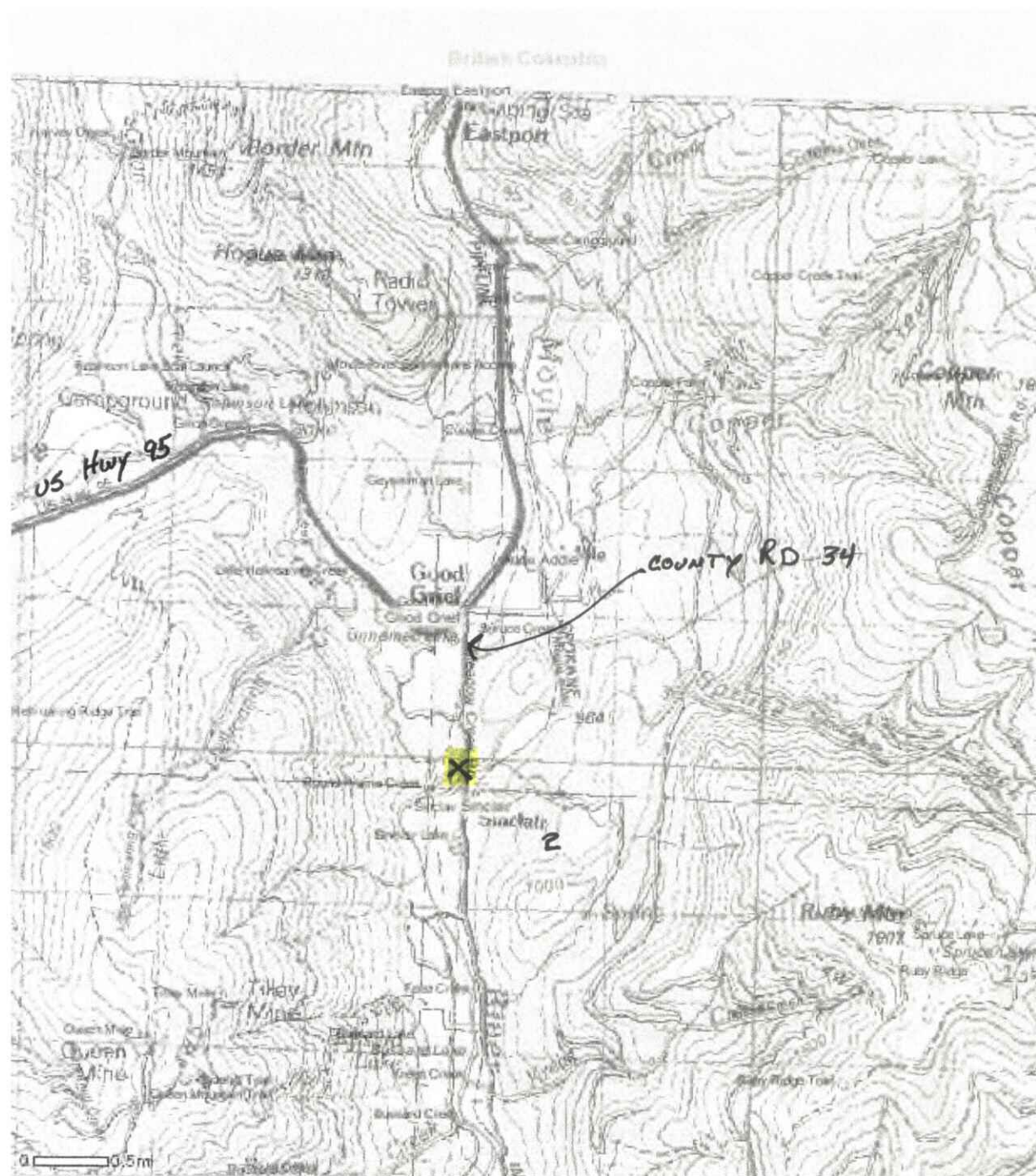
BY/PC	DESCRIPTION
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RP64ND02020010A

RP64ND02021810A

SCALE: 1 INCH = 400 FEET



X = PROPOSED PROTECT

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IDWR/North

Note 8 Irrigation allotment

$$1.5 \text{ acres} \times 0.03 \text{ cfs/AC} = 0.045 \text{ cfs}$$

or rounded
to 0.05 cfs

Pond size 8

$$15' \times 25' \times 5' = 1,875 \text{ ft}^3 / 43,560 \text{ ft}^3/\text{Acft}$$
$$= 0.043 \text{ acft}$$

round to 0.1 acft,
for storage.

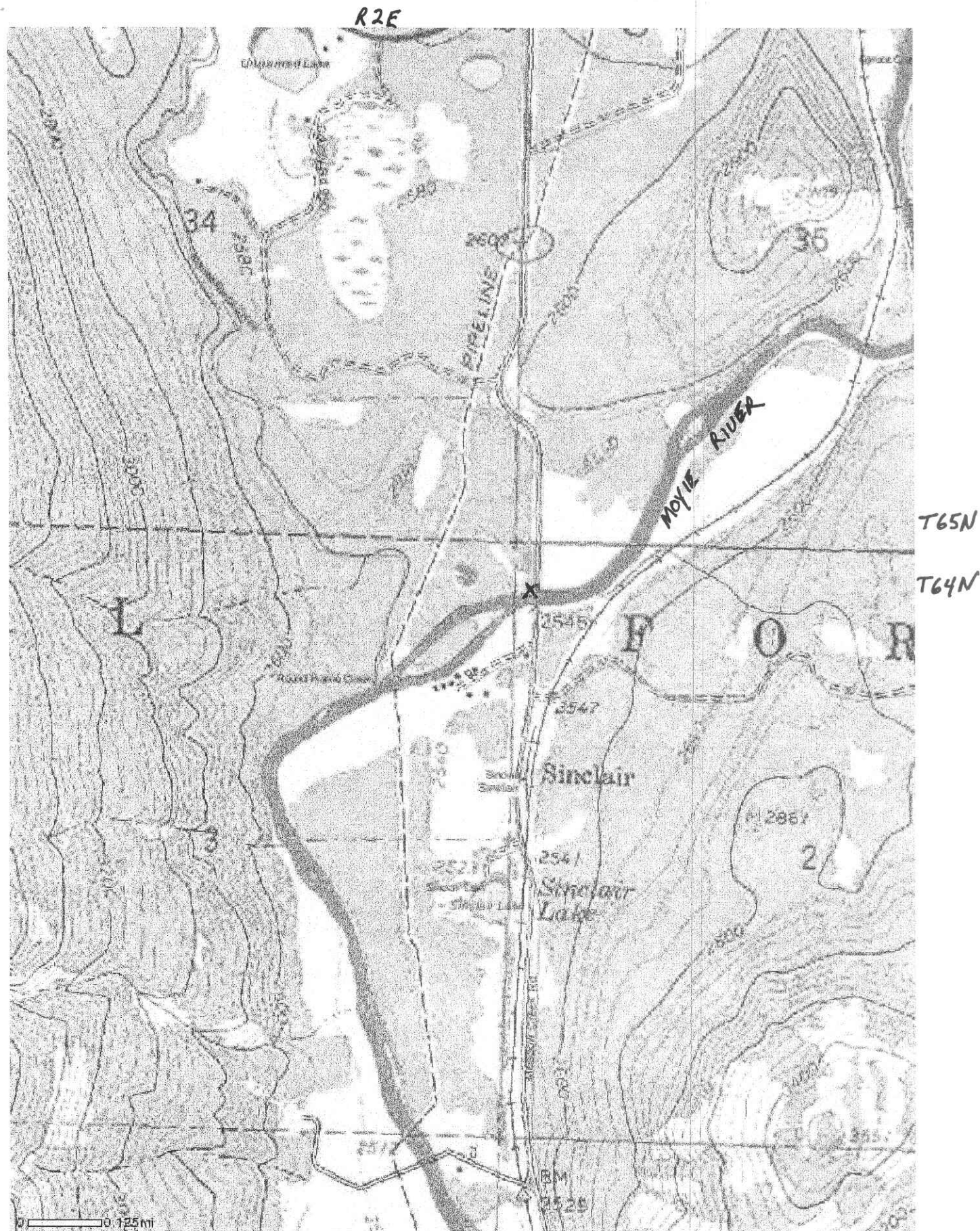


T65N

T64N

X = PROPOSED PROJECT

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IDWR/North



<http://fishandgame.idaho.gov/ifwis/huntplanner/mapcenter.aspx>

= 1 1/2 ACRES WATERFRONT LOT
X = PROPOSED PROJECT

RECEIVED

OCT 31 2006

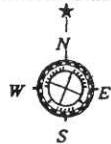
IDWR/North

10/2/2006

subject *Appellate* $\frac{1}{2}$ Acre DEISS PROPERTY

Sec. 2, Twp. 64 N., R. 2 E., B.M.

THIS DRAWING IS TO BE USED FOR REFERENCE PURPOSES ONLY, AND THE COUNTY IS NOT RESPONSIBLE FOR ANY INACCURACIES HEREIN CONTAINED.



1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	32

Assessor's Parcel Map
BOUNDARY COUNTY
IDAHO

REVISIONS

INITIALS	ACTIVITY	DATE

IMAGE FILE: A000000.dwg 00-00-00
DRAWING FILE: A000000.dwg 00-00-00
DOCUMENT FILE: \FILE\A000000.DWG 00-00-00

NOTES:

All Sections are plotted from the Bureau of Land Management (BLM) Geographic Coordinate Data Base (GCS83). The data base portrays the Public Land Survey System (PLSS) in a digital format.

Features such as ditches, creeks, rivers, lakes, roads, railroad, etc. were digitized over the existing PLSS. Assessor maps where more specific or accurate information is not available.

Included parcels are plotted from the best available information of record and correlated to the digitized features where required.

Records of Survey used:

BL/PL DESCRIPTION



RECEIVED
OCT 31 2006
IDWR/North

RP64N02E020010A

RP64N02E021810A

SCALE: 1 INCH = 400 FEET

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

June 5, 2007

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

DANIEL H DEISS
GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860

RE: Permit No. 98-7856

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a PRELIMINARY ORDER issued by the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

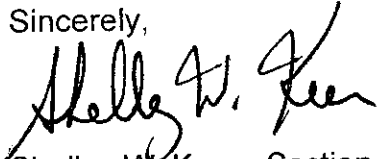
Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

Please note that a separate stream channel alteration permit must be obtained from the Department prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-287-4947

Sincerely,

A handwritten signature in black ink, appearing to read "Shelley W. Keen". The signature is fluid and cursive, with the first name "Shelley" being more prominent.

Shelley W. Keen, Section Manager

Water Right Permits Section

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2007 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

98-7856

**DANIEL H DEISS
GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860**

A handwritten signature in cursive script, reading "Darla Block", is written over a horizontal line.

**Darla Block
Technical Records Specialist**

Statement of Available Procedures and Applicable Time Limits

RESPONDING TO PRELIMINARY ORDERS ISSUED BY THE IDAHO DEPARTMENT OF WATER RESOURCES (To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **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 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case 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 this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

Retelle, Erin

From: Franklin, Keith
Sent: Thursday, May 31, 2007 2:23 PM
To: Retelle, Erin
Subject: RE: 98-07856 Deiss

Erin,
It is OK to give the wildlife storage a year round use, but everything else is limited to 4/15 to 10/31.
Keith.

-----Original Message-----

From: Retelle, Erin
Sent: Wednesday, May 30, 2007 1:29 PM
To: Franklin, Keith
Subject: 98-07856 Deiss

Keith,

I think I already know the answer to this question, but I thought I'd ask anyway :-)

On your draft permit for this one, you listed 4/15-10/31 for all three uses, including wildlife storage. We usually allow storage year round, with a restriction on the season of diverting to storage. Is the intent to allow storage year round? # 3 in the protest resolution agreement from fish & game says "The water usage period will be April 15 to October 31, annually, for both irrigation and diversion to storage purposes." It doesn't say anything about the wildlife storage use. What do you think?

Thanks,
Erin

Erin Retelle
Senior Water Resource Agent

phone: (208) 287-4949
fax: (208) 287-6700

M E M O R A N D U M

Date: May 23, 2007
To: Water Right File 98-7856
From: eretelle
Re: permit review

No WD or moratorium
over 8 miles upstream of Min Stream Flow 98-7704

Protest withdrawn - conditions included
No PoD overlap
No PoU overlap (98-7478 is across the street)

Recommend approval as suggested by IDWR Northern

MEMORANDUM

March 9, 2007

To: The File
From: Keith Franklin, Senior Water Resources Agent
Subject: Protest Settlement

On January 23, 2007 the applicant met with the Department of Fish & Game to try and settle the concerns of that department. A protest settlement was agreed to as follows:

1. Period of Use shall be between 4/15 and 10/31 for all uses.
2. Change the application to reflect the following uses and amounts:
 - a. Diversion to storage 0.05 cfs
 - b. Wildlife storage 0.10 Acre-foot
 - c. Irrigation 0.05 cfs
3. The water right can only use up to a maximum of 2,500 gpd.
4. Pump intake must be screened to 0.25-inch mesh or less.
5. Pump intake approach velocity cannot exceed 0.5 ft/sec.
6. The annual irrigation volume for this right cannot exceed 1.5 acre-feet per year.
7. Water shall not be diverted under this right when flows in the Moyie River are below established minimum flow amounts.

Follow up letters of agreement, by both the applicant and the protestant are in the file for further review. A draft permit has been prepared and is also in the file for review and consideration.



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter / Governor
Cal Groen / Director
March 9, 2007

Mr. Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

RECEIVED

MAR 13 2007

IDWR/North

Dear Keith:

REFERENCE: DEISS DRAFT PERMIT: 98-7856

We have received and reviewed the Draft Permit for Gwladys and Daniel Deiss. The Draft Permit incorporates all of our concerns that were discussed in our previous meeting and communications with yourself and the applicant; therefore, IDFG agrees to withdraw our Protest.

Thank you for your attention to this matter.

Sincerely,

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB

C: Tracey Trent, IDFG Boise
Cindy Robertson, IDFG Boise
Daniel & Gwladys Deiss, 3681 Westmond Road, Sagle, ID 83860

File: IDWR Deiss draft permit

Keeping Idaho's Wildlife Heritage

Mr. Keith E. Franklin
Senior Water Resources Agent
Idaho Department of Water Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

RECEIVED

MAR 01 2007

IDWR/North

February 28, 2007

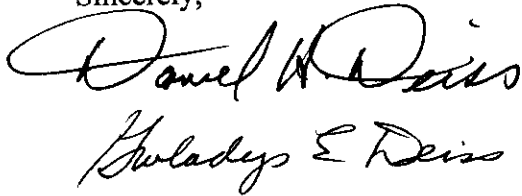
RE: Draft Permit to Appropriate Water - Daniel and Gwladys Deiss - No. 98-07856

Dear Mr. Franklin:

We have reviewed the Draft Permit to Appropriate Water No. 98-07856 transmitted by your February 23, 2007 letter. The draft permit containing the settlement conditions is acceptable to us. Please proceed with the final processing of the application.

Thank you for your continued assistance in this matter.

Sincerely,

The block contains two handwritten signatures in black ink. The first signature is "Daniel H. Deiss" and the second is "Gwladys E. Deiss".

Daniel H. Deiss
Gwladys E. Deiss



State of Idaho

DEPARTMENT OF WATER RESOURCES

7600 Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

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

NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

February 23, 2007

MARY TERRA BERNES
IDAHO DEPARTMENT OF FISH & GAME
2885 KATHLEEN AVE.
COEUR D' ALENE, ID 83815

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
No. 98-7856, Daniel and Gwladys Deiss.

Dear Mary:

The Department of Water Resources has received the protest settlement terms and conditions from Fish & Game and Mr. & Mrs. Deiss and has prepared a draft permit, containing the settlement conditions for your review. If this is acceptable, please let me know, by letter, within the next 10 days. Once I receive concurrence from both parties, I will assume the protest has been satisfied and will proceed with the final processing of the application.

If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Encl/kf

COPY



State of Idaho

DEPARTMENT OF WATER RESOURCES

7600 Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

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

NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

February 23, 2007

Daniel and Gwladys Deiss
3681 Westmond Rd.
Sagle, ID 83815

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho
No. 98-7856, Daniel and Gwladys Deiss.

Dear Mr. and Mrs. Deiss:

The Department of Water Resources has received the settlement terms and conditions from both parties and has prepared a draft permit, containing the settlement conditions for your review. If this is acceptable, please let me know, by letter, within the next 10 days. Once I receive concurrence from you and Fish & Game, I will assume the protest has been satisfied and will proceed with the final processing of the application.

If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Encl/kf

COPY

State of Idaho
Department of Water Resources

DRAFT**Permit to Appropriate Water****DRAFT**

NO. 98-07856

Priority: October 10, 2006

Maximum Diversion Rate: 0.05 CFS
Maximum Diversion Volume 1.6 AF

This is to certify, that DANIEL H DEISS
3681 WESTMOND RD
SAGLE ID 83860

GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860

has applied for a permit to appropriate water from:

Source: MOYIE RIVER**Tributary:** KOOTENAI RIVER

and a permit is APPROVED for development of water as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DIVERSION TO STORAGE	04/15 to 10/31	0.05 CFS	
WILDLIFE STORAGE	04/15 to 10/31		0.1 AF
IRRIGATION	04/15 to 10/31	0.05 CFS	1.5 AF

LOCATION OF POINT(S) OF DIVERSION:

MOYIE RIVER L4 (NW1/4NW1/4NW1/4) Sec. 2, Twp 64N, Rge 02E, B.M.
BOUNDARY County

PLACE OF USE: WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
64N 02E 2						X											
						L 4											

PLACE OF USE: IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
64N 02E 2						1.5											1.5
						L 4											

Total Acres: 1.5

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 98-07856

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before .
2. Subject to all prior water rights.
3. The quantity of water under this right shall not exceed 2,500 gallons per day.
4. When notified by the Department, the right holder shall install and maintain a measuring device of a type acceptable to the Department as part of the diverting works.
5. Water shall not be diverted under this right when flows in the Moyie River are below established minimum flow amounts.
6. A fish screen of 0.25 inch or smaller mesh shall be installed and maintained at the point of diversion.
7. The approach velocity at the point of diversion shall not exceed 0.5 feet per second.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this _____ day of _____, 20_____.

DAVID R. TUTHILL, JR., Interim Director

Mr. Charles E. Corsi
Regional Supervisor
Idaho Department of Fish and Game
2885 West Kathleen Avenue
Coeur d'Alene, ID 83815

RECEIVED
JAN 25 2007
IDWR/North

January 24, 2007

Re: Protest Resolution Agreement; Application for Water Rights Permit - DEISS: 98-7856

Dear Mr. Corsi:

The purpose of this letter is to document agreements reached at our informal resolution meeting held in your office on January 23, 2007. This meeting was the result of our request to seek resolution to your protest of our application to divert water from the Moyie River for irrigation and other uses. Participant's at the meeting included Charles Corsi and Mary Terra-Berns of the Idaho Department of Fish and Game, Keith Franklin and Greg Taylor of the Idaho Department of Water Resources, and applicants Gwladys and Daniel Deiss.

To begin the meeting, the applicants provided an overview of their intended water uses and the planned diversion methods and equipment. In response, Fish and Game representatives clarified their protest concerns which included the potential for (1) adverse cumulative effects of diversions during low flow periods, (2) mortality to fish from the diversion equipment, (3) streambank and streambed disturbance at the diversion site, and (4) inappropriate aesthetic use (water sprays, etc.).

The discussions which followed resulted in agreement by the Applicants and the Department of Fish and Game to the following application adjustments, conditions and stipulations:

1. Applicants will limit diversion site streambank and streambed disturbance. Diversion site equipment/disturbance will include a pipe or hose lay over the existing bank into the river, with minimum disturbance at the inlet end.
2. Applicants will screen the inlet end of the diversion pipe or hose inlet in accordance with code to prevent fish mortality caused by the equipment.
3. The water usage period will be April 15 to October 31 annually, for both irrigation and diversion to storage purposes.
4. Total maximum diversion is limited to 2,500 gallons per day.
5. The Idaho Department of Water Resources will adjust the application (Part 4) to reflect the following uses: (1) Diversion to Storage (.05 cfs); (2) Wildlife Storage (.1 ac. ft.); and (3) Irrigation (.05 cfs).

*Eliminate
Feeding*

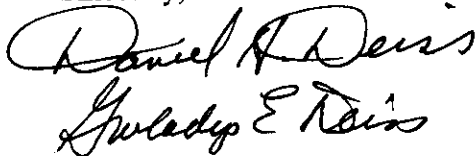
6. In recognition of these adjustments, conditions and stipulations, and upon receipt of this documentation letter, the Department of Fish and Game will withdraw its protest to the application via letter to the Department of Water Resources with a copy to the Applicants.

7. Upon receipt of the protest withdrawal letter from Fish and Game, the Department of Water Resources will make the necessary application adjustments and will process the application in accordance with regulations and procedures.

By signature below, the Applicants agree to the above conditions. If any of the items in the summary require adjustment to meet your expectations, please contact us immediately.

We would like to thank all of the participants of the resolution meeting. We believe everyone was sincere in seeking resolution and are pleased it was achieved.

Sincerely,

The block contains two handwritten signatures in black ink. The first signature is 'Daniel H. Deiss' and the second is 'Gwladys E. Deiss'. Both are written in a cursive, flowing style.

Daniel H. Deiss
Gwladys E. Deiss
3681 Westmond Road
Sagle, ID 83860
Telephone/ Fax: (208) 265-0421

cc: Mr. Keith Franklin
Department of Water Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

Franklin, Keith

From: Franklin, Keith
Sent: Monday, February 12, 2007 9:39 AM
To: Keen, Shelley
Subject: Protest Settlement, WR Application 98-7856

Shelley,

Attached is an attempt at a draft permit, which contains provisions of an agreement between the applicant and the Dept. of Fish & Game, to settle a protest of the application.

I would like for you to look it over, before I send it out to the parties for their review. Once I get the go ahead from the parties, I can then forward it to Erin for further processing.



Deiss Draft Permit,
98-7856.RT...



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

C.L. "Butch" Otter / Governor
Cal Groen / Director

January 29, 2007
RECEIVED
FEB 06 2007
IDWR/North

Mr. Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

Dear Keith:

REFERENCE: DEISS: 98-7856

We have received a follow-up letter from Gwladys and Daniel Deiss documenting our meeting on January 23, with you, Greg Taylor, Mary Terra-Berns, the applicants, and myself.

The follow-up letter reflects the discussion and agreements made during the meeting. The applicants agree to the following conditions.

1. Limit disturbance to the stream bank at the diversion site. The applicants have indicated that their intention is to simply rest a hose/pipe on the ground that will extend a short distance into the water.
2. The water intake will be screened to prevent entrainment or impingement of fish. The maximum screen mesh size should be 0.25 inches; intake approach velocities should not exceed 0.5 ft/second to prevent losses of juvenile fish.
3. Water use (irrigation and storage) will occur between April 15 and October 31 unless Moyie River Minimum Stream Flow (WR 98-7704) takes precedence.
4. A maximum of 2,500 gallons per day will be allowed.
5. Beneficial uses will include Diversion to Storage (.05 cfs), Wildlife Storage (.10 ac ft), and Irrigation (.05 cfs).

IDFG agrees to withdraw our Protest assuming the above conditions are reflected in the permit.

Keeping Idaho's Wildlife Heritage

Equal Opportunity Employer • 208-769-1414 • Fax: 208-769-1418 • Idaho Relay (TDD) Service: 1-800-377-3529 • <http://fishandgame.idaho.gov>

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chip Corsi', with a long horizontal flourish extending to the right.

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB:kh

C: Tracey Trent, IDFG Boise
Cindy Robertson, IDFG Boise
Daniel & Gwladys Deiss, 3681 Westmond Road, Sagle, ID 83860

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 98-7704

WATER RIGHT NUMBER: 98-7704

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	STATE OF IDAHO IDAHO WATER RESOURCE BOARD 322 E FRONT ST PO BOX 83720 BOISE, ID 83720-0098 (208)287-4800

Priority Date: 06/15/1992

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
MOYIE RIVER	KOOTENAI RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
MINIMUM STREAM FLOW	4/01 to 7/31	354.000 CFS	
MINIMUM STREAM FLOW	8/01 to 3/31	149.000 CFS	
<u>Total Diversion:</u>		354.000 CFS	

Location of Point(s) of Diversion

MOYIE RIVER	NW1/4NE1/4NW1/4	Sec. 11, Twp 62N, Rge 02E, B.M.
BOUNDARY County	(Ending of Reach)	
MOYIE RIVER	SW1/4SW1/4SW1/4	Sec. 12, Twp 63N, Rge 02E, B.M.
BOUNDARY County	(Beginning of Reach)	

Place of UseConditions of Approval:

1. 027 Use of water under this right shall be non-consumptive.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 98-7704

2. This minimum stream flow may be depleted by future municipal and domestic diversions from the Moyie River and its tributaries within and upstream of the minimum streamflow reach. The minimum streamflow shall not be depleted by diversions for irrigation uses or other large consumptive purposes authorized by a future municipal or domestic use water right.
- Specifically, because of the generalization of the Tennant method, the Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
- Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with a priority of water right date earlier than 06/15/1992. Upon a future finding and order of the Director that gauging stations are required to maintain the approved minimum flows on the Moyie River, such measuring devices shall be permanently installed and maintained as specified by the Director.
- This minimum stream flow is for the protection of fish and wildlife habitat, aquatic life and recreational values.
- This minimum stream flow begins at the confluence of the Moyie River with Meadow Creek in the SWSWSW, S12, T63N, R2E and ends at the backwaters of Moyie Dam Reservoir in the NWNENW, S11, T62N, R2E.

Remarks:Comments:Dates and Other Information:

Licensed Date: 10/24/1995
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 98-7704

Water Supply Bank:





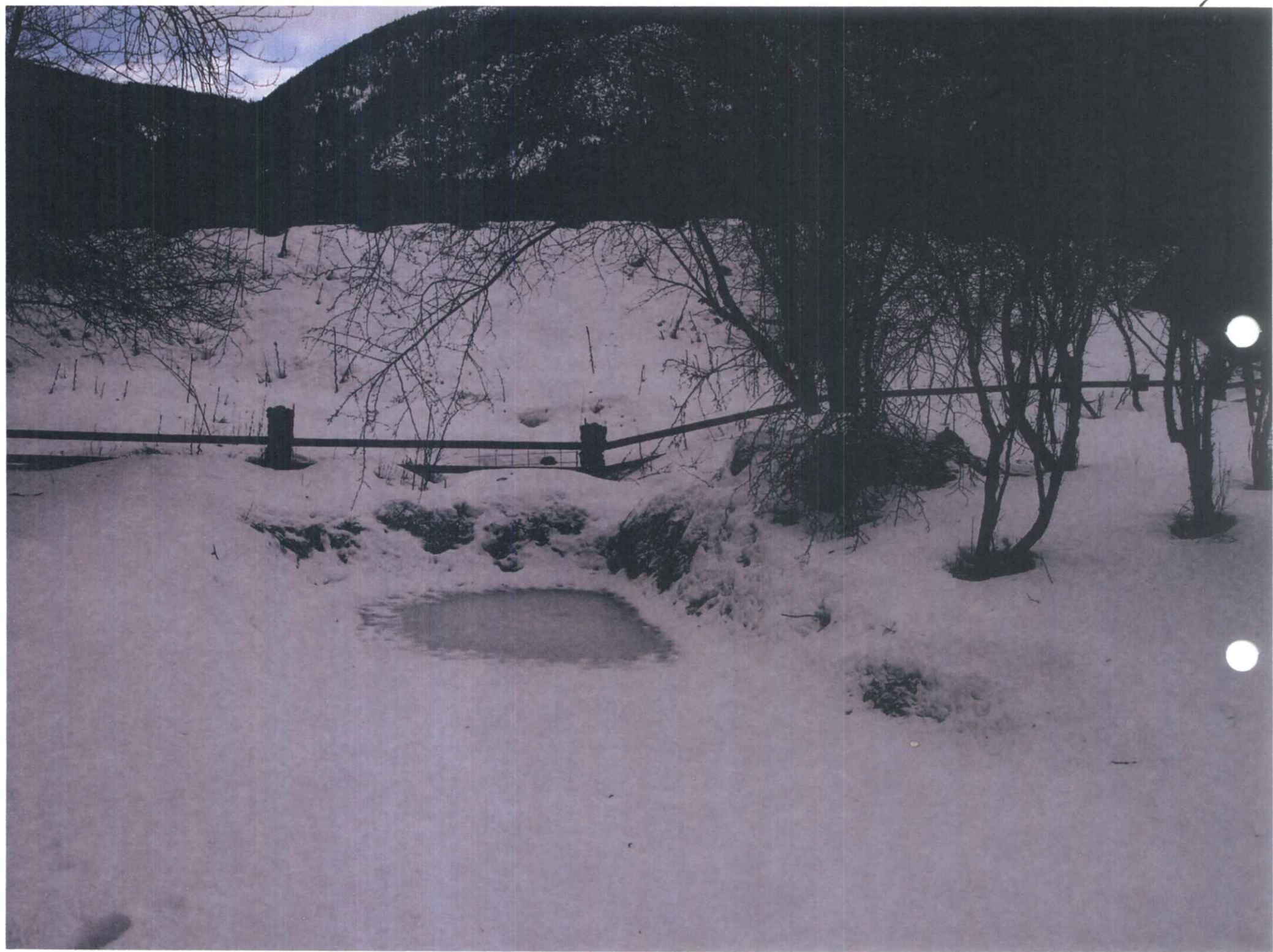












Mr. Charles E. Corsi
Regional Supervisor
Idaho Department of Fish and Game
2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

January 2, 2007

RECEIVED
JAN 04 2007
IDWR/North

CERTIFIED - RETURN RECEIPT

Re: Application for Water Rights Permit - DEISS: 98-7856 (Your 12/26/06 protest against approval of the application)

Dear Mr. Corsi:

We have received notification from the Idaho Department of Water Resources of your protest of our application for water diversion from the Moyie River for purposes of irrigation and pond maintenance on our 1.5 acre waterfront property in Boundary County. As per Regional Manager Haynes' suggestion, we are contacting you directly to initiate informal discussion to see if resolution of your protest is possible.

By way of background, we would like to explain our proposal as submitted to the IDWR. We purchased a small waterfront lot and home on the Moyie River in Boundary County in the spring of 2006. Vegetation on the lot is in a decadent condition, consisting mainly of lodgepole pine, with some spruce, larch, Douglas fir, and cottonwood. Because 2006 had drought-like conditions in mid-summer, vegetation on the lot suffered mortality from moisture stress and associated insect mortality. There was also wind damage and mortality to mature trees. We believe it will be necessary to reforest the lot on a continuous basis over the coming years as we replace the current stand of dying trees. These efforts began in the fall of 2006. Twelve trees between the height of ten and twenty feet were planted. These efforts showed us there was a complete lack of soil moisture (talcum powder dry) from ground surface to three feet deep. Newly planted trees cannot survive and/or establish in such an environment, indicating a continuing need for irrigation during moisture deficient periods. Needing topsoil to bed the new trees, we excavated a depression on the property which we turned into a small pond (25'x15'x5') after stockpiling the topsoil for future use. We estimate the capacity of the pond to be 14,000 gallons or .04 acre feet of water. The completed pond will serve as a wildlife watering source on the property. This small pond will also add aesthetic value to the property.

These actions and needs prompted our application for a diversion of water from the Moyie River. The amount of water needed is quite small by irrigation standards, and we understand the 0.05cfs requested is the minimum approved allocation by IDWR. We estimate the yearly quantity of water needing to be diverted is less than one acre/foot per year for both irrigation and pond maintenance. While the amount of water is small, we cannot rely on our existing domestic well to supply these needs. Water quality from this well is poor, and the system is filtered for sediments which are increased by pumping when the system is used for irrigation. In addition, our neighbors who have lived in the area for many years did not water their landscaping last summer for fear they would pump their well dry. We have the same fears.

In addressing the issues raised in your protest, we do not believe the question at hand is whether ground water could be made available for irrigation, but rather the question is whether we are entitled as property owners in Boundary County to obtain diversionary water rights for legitimate water use under the laws, regulations, and limitations of the State of Idaho. Our need for irrigation is very real, despite the small amount of water needed and the small property size. As we're sure you are aware, this waterfront property on the Moyie River represents substantial financial investment to us as well as significant property tax value to Boundary County. The property needs continuous vegetation management (dependent upon an adequate water supply) to maintain its values.

As to the cumulative effects of lot owners applying for water diversions from the Moyie River as discussed in your protest, we believe it is inappropriate to address this issue during the individual permit approval process unless a comprehensive, programmatic cumulative effects analysis and management plan for the river system have been prepared and approved so as to enable tiering to individual diversion applications. Such analysis and planning would include all water user needs for the river system, including water flow to maintain viable fish populations. This would involve comprehensive interagency consultation and public involvement.

Because 2006 was a unique year for the Moyie River (at least as we are told by local residents), we had the opportunity to see the river at flood levels in the spring as well as at very low levels in summer caused by a significant lack of summer rainfall. We are able therefore to recognize possible concerns about water diversion during the low flow period which we believe is from late July through September. However, this is the same period in which irrigation is most critical, and therefore we cannot adjust our request for irrigation water during this period. ***We are willing however, to agree to irrigation limits which would restrict the amount of water pumped per day or week if IDWR would recognize such restrictions in their permit. Additionally, as water for pond maintenance is not critical to our need during this period, we are willing to forgo pumping for pond maintenance during this period if it will lead to resolution of your protest.***

We are willing to meet with you at your office (or via telephone conference) to resolve your protest and to adjust or modify our application so it meets both our needs. We also invite you to visit the project area with us, and we are willing to host a meeting on site to better explain our water needs and planned diversion improvements. Please write or telephone us to set up a resolution meeting or telephone conference. You may reach us at the address shown below, or at either our Sagle telephone number (208) 265-0421 or our Moyie River number (208) 267-3897. We look forward to hearing from you at your earliest convenience.

In the event we are unable to reach resolution of your protest, we will seek additional information and documentation which served as the basis for your protest. We will need this information for the formal protest procedures with IDWR and possible future appeals and/or litigation. Topics may include, but are not limited to, your agency's planning and analysis for the Moyie River

(3)

including fish population inventories and targets; biological evaluations for species viability (including consultations with the U.S. Fish and Wildlife Service) which support your concern for the cumulative effects of small property water diversions; habitat needs relating to flow levels at critical spawning and rearing times; studies identifying habitat conditions which are limiting factors in attainment of population goals; in-stream flow data and other historic river data; cumulative effects estimates which you used to support your protest; your agency's water rights protest records for the Moyie River including copies of past protest letters and informal resolutions; and, records describing your agency's public involvement and notification process which disclosed your need and intent to protest water diversion applications in the Moyie River drainage. We recognize the expense and time demands relating to such a request, and therefore hope they can be avoided through informal resolution.

If you need additional information relating to our application, please do not hesitate to contact us.

Thank you for your attention to this matter.

Very truly yours,



Daniel H. Deiss

Gwladys E. Deiss

3681 Westmond Road

Sagle, ID 83860

(208) 265-0421 and/or (208) 267-3897

cc: Robert Haynes, P.E.

Regional Manager, IDWR

Attn: Keith Franklin



IDAHO DEPARTMENT OF FISH AND GAME

PANHANDLE REGION

2885 West Kathleen Avenue
Coeur d'Alene, Idaho 83815

Mr. Keith Franklin
Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Ste 100
Coeur d'Alene, ID 83815

James E. Risch/Governor
Steven M. Huffaker/Director

December 26, 2006

RECEIVED
DEC 26 2006
IDWR/North

Dear Keith:

REFERENCE: DEISS: 98-7856

We have reviewed the above-named application by Daniel and Gwladys Deiss to extract 0.05 cfs from the Moyie River for aesthetics, wildlife storage, irrigation, and aesthetic storage.

The Moyie River is managed by IDFG as a wild trout fishery and it is becoming increasingly popular with sport fishing anglers. This waterway provides important spawning areas for native rainbow (redband) trout and provides year-round holding and foraging habitat for salmonids.

Although the amount requested in this particular application is small (0.05 cfs), we are concerned that the cumulative effects of recreational lot owners applying for diversions for aesthetic ponds can be harmful to this increasingly popular fishery. Additionally, the applicant is requesting water for irrigation; however, it appears that the property is located in the Moyie River floodplain, which should provide adequate ground water for landscaping trees.

The Department believes that this request is in conflict with the local public interest and protests issuing this permit.

Please initiate the Interagency Billing process for the applicable fee for this protest. The PCA is 19110 and the ABC code is B7TX. Please send the billing documents to IDFG Headquarters Office, Attention: Cindy Robertson, P.O. Box 25, Boise, ID 83707.

We are willing to meet with the applicant to discuss the project and potential alternatives. If you have questions concerning our comments please call us at 769-1414.

Thank you for your attention to this matter.

Sincerely,

Charles E. "Chip" Corsi
Regional Supervisor

CEC:MTB:kh

C: Tracey Trent, IDFG Boise
Cindy Robertson, IDFG Boise
David Barber, AG, Boise

File: IDWR Deiss PROTEST 98-7856

Keeping Idaho's Wildlife Heritage



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 27, 2006

CHARLES E. "CHIP" CORSI
REGIONAL SUPERVISOR
IDAHO DEPT OF FISH & GAME
2885 W KATHLEEN AVE
COEUR D ALENE ID 83815

Re: Application to Permit No. 98-7856 - DEISS

Dear Mr. Corsi:

The Department of Water Resources acknowledges receipt of your protest against the approval of the above referenced application. A copy of your protest has been sent to the applicant. The Department suggests that you contact the applicant directly for details regarding the application, and if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are criteria the Department must consider in either approving or denying the application (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH/db

Cc: Daniel & Gwladys Deiss



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 27, 2006

DANIEL H &/OR GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860

Re: Application to Permit No. 98-7856

Dear Mr. & Mrs. Deiss:

Enclosed is a copy of a protest filed against the approval of the above referenced application. The Department suggests you contact the protestant directly to determine the nature of the protest and, if possible, to resolve the matter without action by the Department. In our experience, informal discussion between the parties prior to initiation of formal proceedings often leads to resolution of the protest.

If the protest cannot be resolved informally, the matter will be scheduled for conference and/or hearing. The following are the criteria the Department must consider in either approving or denying the application (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use conflict with the local public interest?
6. Will the proposed use be contrary to the conservation of water resources within the State of Idaho?
7. Will the proposed use adversely affect the local economy of the watershed or local area within which the source of water for the proposed use originates, in the case where the place of use is outside of the watershed or local area where the source of water originates?

You will be notified at a later date of the time and place of the conference and/or hearing. Please contact this office if you have any questions regarding this procedure.

Sincerely,

ROBERT G. HAYNES, P.E.
Regional Manager

RGH:db

Enclosure – Copy of Protest by Fish and Game

Ball, Dianne

From: Ball, Dianne
Sent: Tuesday, December 26, 2006 3:36 PM
To: Allen, Debbie
Subject: Inter-agency billing request

Good afternoon, Debbie,

I trust that you had a wonderful Christmas.

We have an inter-agency billing request from Idaho Dept. of Fish & Game. This is for the \$25.00 fee to file a protest against the DEISS file, Water Right application 98-7856. Final date for protest on this application is today, and Bob OK'd this.

I have attached a copy of the letter of protest, which is also a request for the Interagency Billing, giving the PCA and other information you should need..

If you have ANY questions, please call me or Bob Haynes, or e-mail either or both of us.

Thanks very much, and have a terrific New Year.

Dianne



DEISS
98-7856-Protest.pdf

RECEIVED

JAN 03 2007

IDWR/North

AFFIDAVIT OF PUBLICATION

State of Idaho

SS

County of Boundary, Gail Brown

being first duly sworn on oath deposes and says that he/she is Office Manager of the Bonners Ferry Herald, a newspaper printed and published at Bonners Ferry, Boundary County, Idaho; that the said newspaper has been continuously and uninterruptedly published in said Boundary County during a period of 12 months prior to the first publication of the hereto attached notice of publication in the case

of: #6069 Appropriate Public Waters
#98-7856 and #98-7857

as it was published in the regular and entire issue of the said paper for a period of 2 consecutive weeks, commencing on 7 day of December, 2006 and ending on the 14 day of December, 2006 and that said notice was published in said newspaper.

Gail Brown

SUBSCRIBED AND SWORN TO before me, this

14 day of December, 2006.

LEGAL NOTICE

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

98-7856
DANIEL H DEISS
GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860
Point(s) of Diversion L4 (NWNWNW) S2 T64N R02E BOUNDARY County
Source MOYIE RIVER - Tributary To KOOTENAI RIVER
Use: IRRIGATION 04/15 To 10/31 0.05 CFS
Use: WILDLIFE STORAGE 01/01 To 12/31 0.1 AFA
Use: AESTHETIC 01/01 To 12/31 0.05 CFS
Use: AESTHETIC STORAGE 01/01 To 12/31 0.1 AFA
Use: DIVERSION TO STORAGE 01/01 To 12/31 0.05 CFS
Total Diversion: 0.05 CFS

Date Filed: 10/10/2006
Place Of Use: ALL USES - T64N R02E S2 NWNW Lot 4
Number of Acres 1.5
98-7857

BOB WYMAN
HC1 BOX 397B
NAPLES ID 83847
Point(s) of Diversion SWSW S15 T60N R01W BOUNDARY County
Source GROUND WATER

Use: IRRIGATION 04/01 To 10/31 0.06 CFS
Use: IRRIGATION STORAGE 04/01 To 10/31 0.5 AFA
Use: IRRIGATION FROM STORAGE 04/01 To 10/31 0.5 AFA
Use: COMMERCIAL 01/01 To 12/31 0.06 CFS
Use: RECREATION STORAGE 01/01 To 12/31 0.5 AFA
Use: FIRE PROTECTION STORAGE 01/01 To 12/31 0.5 AFA
Use: DIVERSION TO STORAGE 01/01 To 12/31 0.06 CFS
Total Diversion: 0.06 CFS

Date Filed: 10/18/2006
Place Of Use: COMMERCIAL
T60N R01W S15 SWSW
Place Of Use: FIRE PROTECTION STORAGE
T60N R01W S16 SESE
Place Of Use: IRRIGATION
T60N R01W S15 NWSW SWSW
T60N R01W S16 SENE NESE SESE
Number of Acres 39.3
Place Of Use: IRRIGATION STORAGE & RECREATION STORAGE
T60N R01W S16 SESE

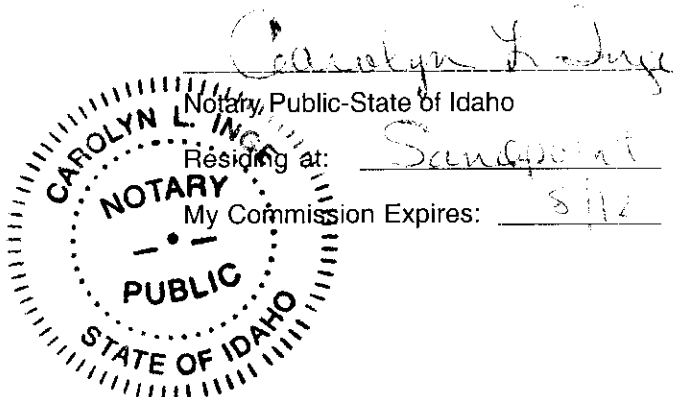
Remark: Recreation storage is for fishing, boating and swimming.
Commercial use is for bottled drinking water.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, 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 12/26/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Legal BFH# 6069
December 7, 14, 2006



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

98-7856

DANIEL H DEISS

GWLADYS E DEISS

3681 WESTMOND RD

SAGLE ID 83860

Point(s) of Diversion L4 (NWNWNW) S2 T64N R02E BOUNDARY County

Source MOYIE RIVER - Tributary To KOOTENAI RIVER

Use: IRRIGATION 04/15 To 10/31 0.05 CFS

Use: WILDLIFE STORAGE 01/01 To 12/31 0.1 AFA

Use: AESTHETIC 01/01 To 12/31 0.05 CFS

Use: AESTHETIC STORAGE 01/01 To 12/31 0.1 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 0.05 CFS

Total Diversion: 0.05 CFS

Date Filed: 10/10/2006

Place Of Use: ALL USES - T64N R02E S2 NWNW Lot 4

Number of Acres 1.5

98-7857

BOB WYMAN

HC1 BOX 397B

NAPLES ID 83847

Point(s) of Diversion SWSW S15 T60N R01W BOUNDARY County

Source GROUND WATER

Use: IRRIGATION 04/01 To 10/31 0.06 CFS

Use: IRRIGATION STORAGE 04/01 To 10/31 0.5 AFA

Use: IRRIGATION FROM STORAGE 04/01 To 10/31 0.5 AFA

Use: COMMERCIAL 01/01 To 12/31 0.06 CFS

Use: RECREATION STORAGE 01/01 To 12/31 0.5 AFA

Use: FIRE PROTECTION STORAGE 01/01 To 12/31 0.5 AFA

Use: DIVERSION TO STORAGE 01/01 To 12/31 0.06 CFS

Total Diversion: 0.06 CFS

Date Filed: 10/18/2006

Place Of Use: COMMERCIAL

T60N R01W S15 SWSW

Place Of Use: FIRE PROTECTION STORAGE

T60N R01W S16 SESE

Place Of Use: IRRIGATION

T60N R01W S15 NWSW SWSW

T60N R01W S16 SENE NESE SESE

Number of Acres 39.3

Place Of Use: IRRIGATION STORAGE & RECREATION STORAGE

T60N R01W S16 SESE

Remark: Recreation storage is for fishing, boating and swimming.

Commercial use is for bottled drinking water.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, 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 12/26/2006. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director Published on Dec/ 7 & 14, 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 FAX: (208) 762-2819 www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 29, 2006

GAIL BROWN
LEGAL NOTICE DEPARTMENT
BONNERS FERRY HERALD
PO BOX 539
BONNERS FERRY ID 83805

e-mailed to bfherald@cdapress.com and
to gbrown@cdapress.com

Please FAX proof copy before this goes to press, to 762-2819
Thanks, Dianne

RE: Application for Permit No. 98-7856

Dear Gail:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, December 7 and 14, 2006, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

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 12/26/2006. Your cooperation is, as always, GREATLY appreciated.

Thank you, it's a pleasure working with you.

Sincerely

Dianne

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Thursday, November 30, 2006 9:00 AM
To: Legal Notices-BFHerald (E-mail); Legal Notices-BFHerald-Gail Brown (E-mail)
Subject: Legal notice for publication Dec. 7 and 14, 2006

Good morning, Gail

Attached is our cover letter requesting publication on December 7 and 14, 2006 of a legal notice, also attached.

If you have ANY questions, please call me at 208-762-2800.

Also, Please FAX a proof copy prior to publication.

Thanks **very much** for all your good help, and have a happy, although no doubt chilly, day. (We have lots of snow in Coeur d'Alene - about 4 inches of new fluffy white stuff fell over night, and it's about 20 degrees this morning - up from about 15-16 yesterday!)

Dianne

*Dianne Ball
Administrative Assistant
Idaho Dept of Water Resources
7600 Mineral Drive Suite 100
Coeur d'Alene, ID 83815
Phone (208)762-2800 FAX (208)762-2819*



CoverLetter
1-29-06 BFHerald ..



LegalNotice
1-29-06 BFHerald ..



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 29, 2006

DANIEL H DEISS
GWLADYS E DEISS
3681 WESTMOND RD
SAGLE ID 83860

RE: Application for Permit No 98-7856

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Bonners Ferry Herald on December 7 & 14, 2006. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). 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, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

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

Sincerely,

Keith E. Franklin
Senior Water Resource Agent

Enclosure(s) – Receipt No. N017932



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 21, 2006

MARY TERRA-BERNS
IDAHO DEPARTMENT OF FISH & GAME
2750 KATHLEEN AVE
COEUR D ALENE ID 83815

FAXED TO MARY 11/21/2006
6 pages total

Re: Water Permit Application No. 98-7856

Dear Mary:

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.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **December 22, 2006**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by **FAX to 762-2819**, or by e-mail to Keith.Franklin@idwr.idaho.gov, or to me, Dianne.Ball@idwr.idaho.gov.

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

Sincerely,

Dianne Ball
Administrative Assistant



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

November 21, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

JIM BRADY, RESOURCE MANAGER
IDAHO DEPARTMENT OF LANDS
PEND OREILLE SUPERVISORY AREA
2550 HIGHWAY 2 WEST
SANDPOINT ID 83864-7307

FAXED TO JIM 11/21/06
6 pages total

Re: Water Permit Application No. 98-7856

Dear Jim:

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.

We are sending this to you for your comments, and would appreciate receiving your comments by no later than **December 22, 2006**. If we do not hear from you by that date, we will assume that no comment from you means you have no objection to, concerns about, or conditions pertaining to the issuance of this permit.

You may send comments by regular mail to the address above, by **FAX to 762-2819**, or by e-mail to Keith.Franklin@idwr.idaho.gov, or to me, Dianne.Ball@idwr.idaho.gov.

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

Sincerely,

Dianne Ball
Administrative Assistant

Idaho Department of Water Resources
Northern Region
7600 Mineral Drive, Suite 100
Coeur d'Alene, ID 83815

October 23, 2006

RECEIVED
OCT 31 2006
IDWR/North

Attn: Keith Franklin

Re: Revised Application for Permit to appropriate the public waters of the State of Idaho

Dear Sirs:

Please find our revised Application for Permit for a proposed water diversion on the Moyie River. We have made changes to our original permit application after discussions with Keith Franklin of your office.

The fee for this permit was included with our original application.

If you have any questions, please phone us at (Sagle Residence) 265-0421 or (Moyie River Cabin) 267-3897.

Very truly yours,



Daniel H. Deiss
Gwladys E. Deiss

enclosures



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 7600 Mineral Drive, Suite 100, Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

October 13, 2006

Daniel H. Deiss
3681 Westmond Road
Sagle, ID 83860

Re: Application For Permit to Appropriate the Public Waters of the State of Idaho.

Dear Mr. Deiss:

As per our telephone conversation on October 13, 2006, I have enclosed a new application for you to complete and return as soon as possible. Also enclosed is an example of what should be included in sections 4 and 9 on the application form.

If you have any questions, don't hesitate to contact me at this office.

Thank you.

Sincerely,

Keith E. Franklin
Senior Water Resources Agent

Encl/kf

C O P Y

Idaho Department of Water Resources
1910 Northwesy Blvd., Suite 210
Coeur d'Alene, ID 83814

RECEIVED

OCT 10 2006

IDWF/North

October 3, 2006

Re: Application for Permit to appropriate the public waters of the State of Idaho

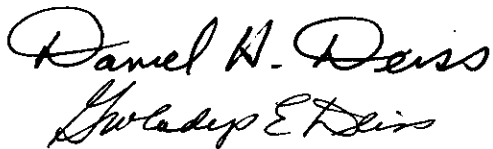
Dear Sirs:

Enclosed please find our Application for Permit, maps, and associated fee for a proposed water diversion on the Moyie River in T64N, R2E, Sec.2, Lot 4, (lying north of the Moyie River and west of County Road 34), Boundary County, Idaho, for 2.4 acre-feet of water per annum.

The purpose of the diversion is for watering landscaping (lawn, shrubs and trees) and for filling and maintaining a small (approx. 15' x 25' x 5' deep) aesthetic/wildlife watering pond. We recently purchased this property and the existing domestic well is not adequate for these purposes. We believe a small 2" or 3" (6-8 hp.) pump with a foot valve in the river and a 1 1/2" watering line to sprinkler heads and the pond will meet our needs.

If you have any questions concerning this application, please do not hesitate to contact us.

Very truly yours,



Daniel H. Deiss
Gwladys E. Deiss

enclosures