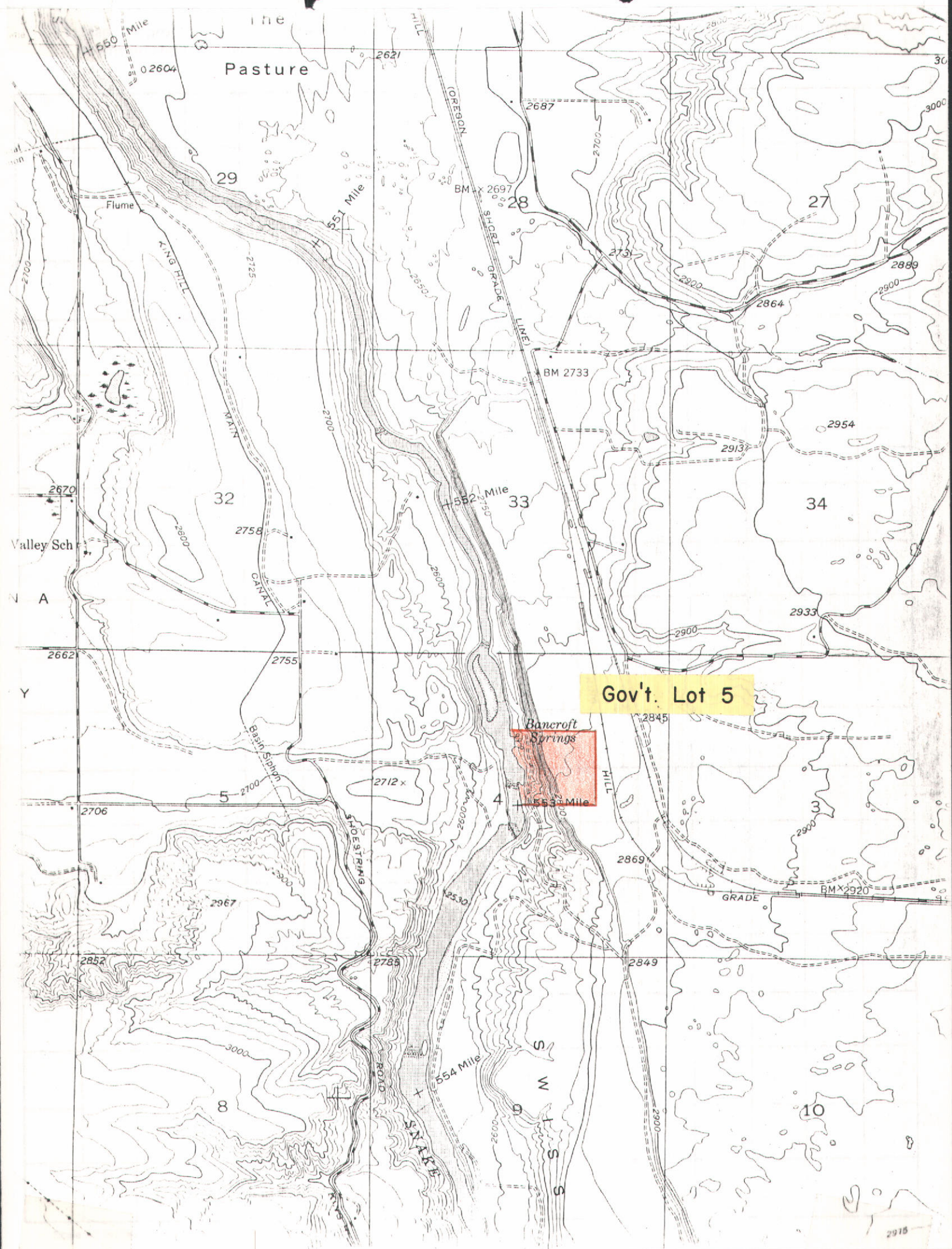




BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

IDAHO WATER RESOURCE BOARD

by M. Reed Hansen
Vice-Chairman (Applicant)

EXHIBIT NO. 5

EXHIBIT 5-A. Bancroft Springs at its confluence with the Snaker River. The main spring flow enters the Snake River directly behind the large grove of trees.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

MICROFILMED

EXHIBIT NO. 5

EXHIBIT 5-B. Looking downstream on Bancroft Springs at the point where the main flow emerges.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

MICROFILMED

EXHIBIT 5

EXHIBIT 5-C. The center portion of Bancroft Springs looking downstream. The full length of the spring has excellent riparian vegetation.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

MICROFILMED

EXHIBIT 5

EXHIBIT 5-D. Adult and juvenile wild rainbow trout obtained in Bancroft Springs in electrofishing operation conducted by Idaho Department of Fish and Game personnel on June 5, 1984.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

MICROFILMED

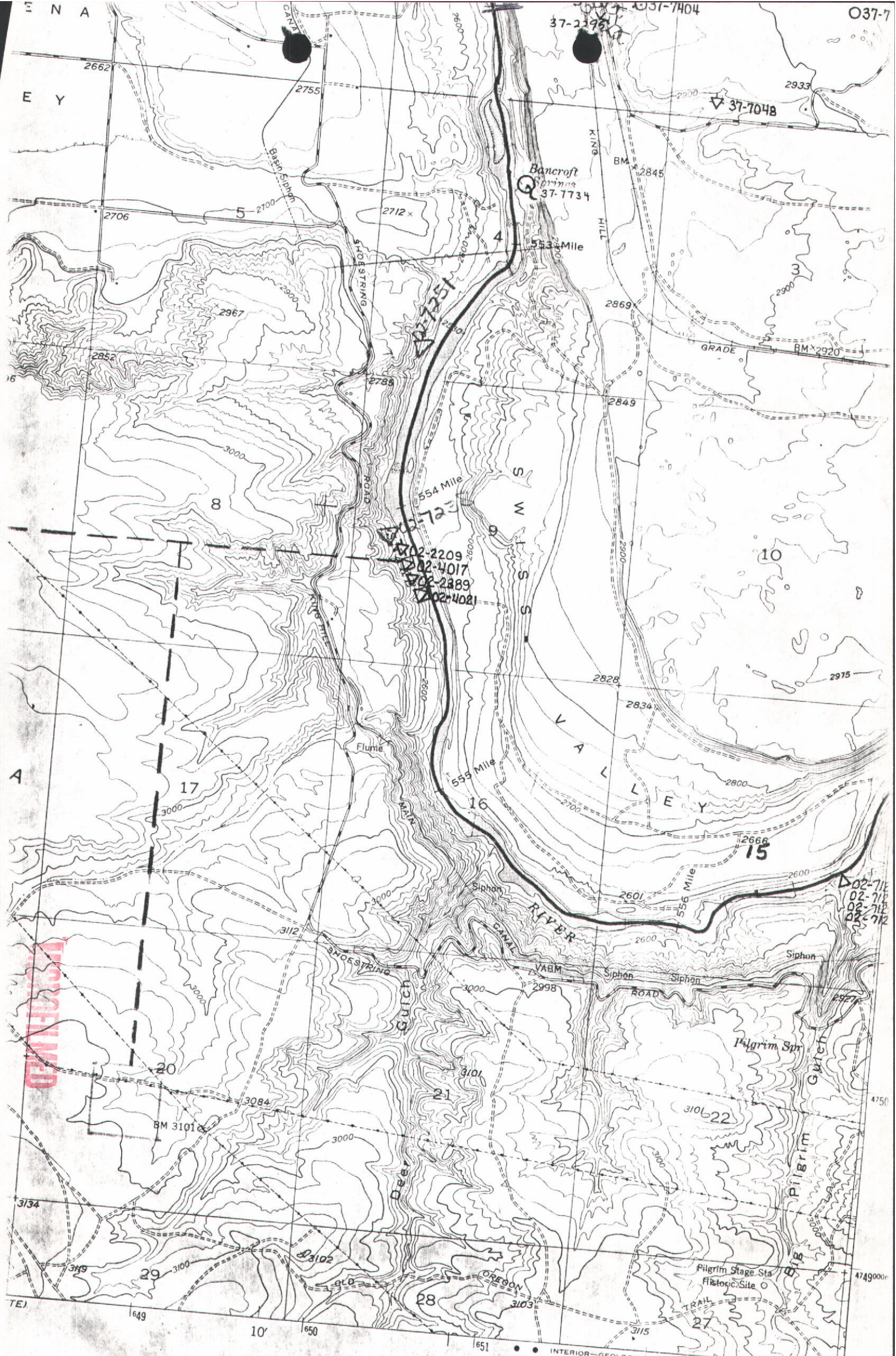
EXHIBIT NO. 5

EXHIBIT 5-E. Bancroft Springs at its confluence with the Snake River. This is a popular fishing site at the spring.



MICROFILMED

Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.



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1 MILE
7000 FEET

ROAD CLASSIFICATION

HARD-SURFACE ALL WEATHER ROADS		DRY WEATHER ROADS	
Heavy-duty	4 LANE 16 LANE	Improved dirt	
Medium-duty	4 LANE 16 LANE	Unimproved dirt	
Loose-surface, graded, or narrow hard-surface			

#2



44/25/79

NOTES FOR HEARING ON CLOSER
W/WHITESPRING, BANCROFT SPRING AND
BANCROFT SPRING

NEWS (36-7821) (37-7734) (36-7822)

I Explain that this hearing is:

- ① Hold pursuant to sec 42-1503
- ② All part of a process of identifying & preserving certain streams & water bodies to protect the fish & wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation, or water quality in the public interest (sec 42-1502) — leads to a review of the app'd by director on basis of record
- ③ Under established law in Idaho — real
- ④ Record will close @ end of hearing unless something to contrary surface in the hearing.
- ⑤ Hold pursuant to adopted rules of practice

II TYPE OF HEARING

① Rule #4 of Steve's notes

- ② Hearing will therefore provide for those persons or entities who feel they have a vested interest to participate — present arguments, evidence, testimony, call witnesses, cross-examine, appeal — etc — Should have filed notice of appearance 5 days ago
- ③ Will also allow participation by interested public who wish to make their views known through public statement — subject to X EXAM but cannot X EXAM

with convention

④ Go off record to update lists

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III Review factors Director can consider in making decision - 42-1503 (2) Other (2)

IV Review dept proc. of apps

Rec'd on Sept 13, 78
adv. on Feb 8 + 15
has postponed
adv on 3/23 + 4/5
3/21

Elmore - Mt. Shasta
Gooding Co. Register
Turn Falls News Times
Jamez - Northside
News

V Judicial notice of dept records printed documents -

To give all interested an opportunity to review this information the staff will make statements to discuss water rights & hydrology

VI Order of appearances

VII Any matters that need to be discussed before we proceed with witness -

VIII Call ~~the~~ Scott Read -

IX Call Glen -

X Call Cecil Thomas

XI Call F & G

Lynn

XII Call Public witnesses

XIII Call Portia

interest

FENNEN

8.62 L. - what status - unknown

Scott REED - IWRB

Bob Stahman - IPCO

FRED FRAMM - IF+G

 GARY WRIGHT - SELF

 Bob Creaver - Valley Trout - Earl HAND

~~Cecil - Your testimony of a general
nature recorded -~~

(Cecil) Make report  ON Blind Canyon
Hearing Floor

 ① Send a copy of tape of
Ken Ellis's testimony of
Wednesday to Mike Almer

Judicial Notice of 362806 - map

Do I need some evidence that
U.S. Fish ~~Department~~ has authorized
Ellis to represent them?

What ^{Yellow} public access to Vineyard Creek

— If additional development did it involve
more diversion just more ponds?

Motion - (1) Leave record open for several weeks
(2) Reserve right of asking question on how many per district extra share
(3) Cecil Thomas - clarification of parking records

HEARING - (4) 4/25/79 (Notes)

1 Scott Read

(2) Glen Saxton -

Accepted STAFF EXHIBIT 1 - Plot of six springs
" STAFF EXHIBIT 2 - Bancroft sp.
" STAFF EXHIBIT 3 - W.R. schematic
" STAFF EXHIBIT 4 - L.W.S. map
" STAFF EXHIBIT 5 - W.R. schematic
" STAFF EXHIBIT 6 - Bancroft map
" STAFF EXHIBIT 7 - W.R. schematic

(3) Cecil Thomas -

accepted - USGS - Exhibit 1 - Plot of all springs
accepted USGS - Exhibit 2 - Hyd of Box Canyon
accepted USGS - Exhibit 3 - Hyd of Blue Spring

(4) F+G

Bob Bell - 100 ft to Snake River
electrofishing 3/6/79 - 14 rainbow 12.5" to 13" water
10 in to 14 1/2" belly

Important for spawning & rearing

F+G Exhibits 1, 2, & 3 - accepted

Bancroft 4, 5, & 6 & 7

8, 9, & 10 - statements & supporting data -

F+G Exhibit 11 - Threatened fish paper

Exhibit 12 - Statement

accepted F+G Exhibit 12 - Stream depth investigation

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 37-7734 Priority September 13, 1978 Amount 17.0 cfs

THIS IS TO CERTIFY, that Idaho Water Resource Board
of Boise, Idaho, has complied with the terms and conditions of Permit
No. 37-7734 issued pursuant to Application for Permit dated September 13, 1978,
and has submitted proof to the Department of Water Resources on June 12, 1984,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of N/A of water from Bancroft Springs,
tributary to Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
Instream Flow	from <u>January 1</u> to <u>December 31</u> at <u>17.0</u> cfs and <u>N/A</u>		
	from _____ to _____ at _____ cfs and _____		
	from _____ to _____ at _____ cfs and _____		

(both dates inclusive)

Subject, however, to the condition that no more than 17.0 cfs of water be ~~diverted~~ ^{maintained} at any one time, and
that the amount of water so ~~diverted~~ ^{maintained} and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used, said waters to
be maintained within Government Lot 5, Section 4, Twp 6S, Rge 11E, Elmore County.

Description and location of place of use: As shown above

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated _____

This instream flow water right is subject to all prior water rights.
The use of water under this right shall be non-consumptive.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, and is subject to all prior water rights, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 10th day of
September, 19 84.

DEPARTMENT OF WATER RESOURCES

Director

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

FEB 27 1980

APPLICATION FOR AMENDMENT OF A PERMIT

Department of Water Resources

To change the point of diversion and/or the place of use.

Comes now the Idaho Water Resources Board

of (address) Statehouse, Boise, Idaho, and represents to the

Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho

No. 37-7734, and requests that the permit and permit map be changed as follows:

1. Conditions: That the following condition be added to permit No. 37-7734:

6) Pursuant to the request of the applicant, permit number 37-7734 (Bancroft Springs) is subordinated to the possible downstream construction of the "DIKE" hydropower project proposed under pending water right application number 02-7251, in the name of Idaho Power Company, such that the holder of permit number 37-7734 waives all right to compensation for any interference with the fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality aspects of the water right, or interference with any other element thereof, caused by the storage of water behind the proposed Dike dam.

Note

See order, attached, which Rejects and Denies Permit No. 02-7251.

Dnr

David R. Tuthill, Jr., P.E.
Supervisor, Water Allocation
Section
9-7-84

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Show 40-acre subdivisions, townships, ranges and ditches.

Scale: 2 inches equal 1 mile.

(Signature)

No fee required Preliminary check by Fee = \$20.00

Fee = \$20.00

Date _____

 V/N

APPROVE this amendment which adds to Permit No. 37-7734 condition No. 6 as shown on

, Director of the Department of Water Resources hereby

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

82

Director

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR PERMIT NOS. 02-7251)

AND 02-7298 IN THE NAME OF IDAHO POWER COMPANY)

ORDER

WHEREAS, on May 25, 1977, Idaho Power Company filed Application for Permit No. 02-7251 in the amount of 17,000 cubic feet per second from the Snake River to be diverted within the NE1/4SW1/4, Sec. 33, Twp. 5S, Rge. 11E B.M., Elmore County, to be used for power generation; and on April 7, 1980, filed Application for Permit No. 02-7298 in the amount of 2,000 acre feet of storage water for power purposes to be used in connection with power generation under Application No. 02-7251; and,

WHEREAS, on February 26, 1980, the applicant amended Application for Permit No. 02-7251 to change the point of diversion and place of use; and,

WHEREAS, the applicant has not submitted plans, specifications, or feasibility information relative to the project or shown to the satisfaction of the Director that the applications were not submitted for delay or speculation purposes; and,

WHEREAS, the applicant has advised the Department that the preliminary permit issued by the Federal Energy Regulatory Commission (FERC) to the applicant has expired and that there currently are no proceedings pending before FERC; and,

WHEREAS, the applicant has not demonstrated that the applications are in the public interest; and,

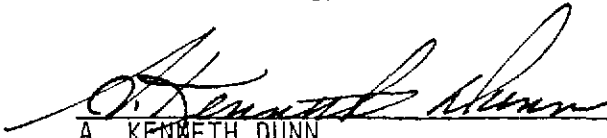
WHEREAS, on January 27, 1984, the Department sent the applicant an Order to Show Cause why the applications should not be rejected for failure to comply with the requirements of Section 42-203, Idaho Code; and,

WHEREAS, the applicant has not responded and has not shown cause why the applications should not be rejected;

IT IS, THEREFORE, HEREBY ORDERED that Applications for Permit Nos. 02-7251 and 02-7298 are REJECTED and DENIED.

Dated this 22nd day of March, 1984.

STANDARD TIME


A. KENNETH DUNN
Director

IN THE HOUSE OF REPRESENTATIVES
HOUSE CONCURRENT RESOLUTION NO. 54
BY WAYS AND MEANS COMMITTEE

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; and

9 WHEREAS, that application submitted by the Water Resource Board and
10 approved by the Director of the Department of Water Resources to
11 appropriate 17 cubic feet per second from Bancroft Springs, a tributary of
12 the Snake River, located on Government Lot 5, of Section 4, Township 6S,
13 Range 11E, in Elmore County, Idaho, and delineated as permit number 37-7734
14 has been submitted to the Legislature for approval under the provisions of
15 Section 42-1503, Idaho Code; and

16 WHEREAS, permit number 37-7734 was amended by the Director of the
17 Department of Water Resources on February 28, 1980, to include a condition,
18 the effect of which is to waive all right to compensation by any party or
19 entity for interference with any aspect or element of permit number 37-7734
20 caused by the storage of water behind the proposed Dike dam.

21 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular
22 Session, Forty-fifth Idaho Legislature, the House of Representatives and
23 the Senate concurring therein, that subject to the provisions hereinafter
24 provided the application of the Water Resource Board to appropriate the
25 unappropriated waters for minimum stream flow, described in Department of
26 Water Resources application for permit number 37-7734, it being an
27 application for a permit to appropriate 17 cubic feet per second from
28 Bancroft Springs, a tributary of the Snake River, located on Government Lot
29 5, of Section 4, Township 6S, Range 11E, in Elmore County, Idaho, be, and
30 the same is hereby approved as amended by the Director of the Department of
31 Water Resources which amendment provides the following condition: 6)
32 Pursuant to the request of the applicant, permit number 37-7734 (Bancroft
33 Springs) is subordinated to the possible downstream construction of the
34 "DIKE" hydropower project proposed under pending water right application
35 number 02-7251, in the name of Idaho Power Company, such that the holder of
36 permit number 37-7734, waives all right to compensation for any
37 interference with the fish and wildlife habitat, aquatic life, recreation,
38 aesthetic beauty, or water quality aspects of the water right, or
39 interference with any other element thereof, caused by the storage of water
40 behind the proposed Dike dam.

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 39

BY RESOURCES AND CONSERVATION COMMITTEE

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 37-7734, it being an application for a permit to appropriate 17 cubic feet
15 per second from Bancroft Springs, a tributary of the Snake River, located
16 on Government Lot 5, of Section 4, Township 6S, Range 11E, in Elmore
17 County, Idaho, be, and the same is hereby approved.

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FEB 27 1980

BEFORE THE IDAHO WATER RESOURCE BOARD Department of Water Resources

IN THE MATTER OF AMENDED APPLICATION	)	
FOR PERMIT NO. 37-7734 (BANCROFT	)	RESOLUTION REQUESTING
SPRINGS) TO ESTABLISH A MINIMUM STREAM	)	CONDITION TO WATER
FLOW IN THE NAME OF THE IDAHO WATER	)	RIGHT PERMIT
RESOURCE BOARD	)	

WHEREAS, the Director of the Idaho Department of Water Resources on July 20, 1979 approved application for permit number 37-7734 for a minimum stream flow of 17.0 c.f.s. of water in Bancroft Springs; and

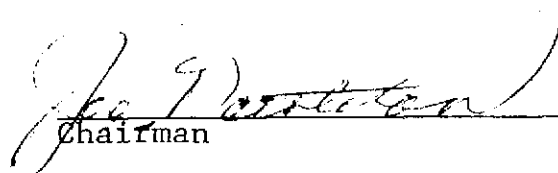
WHEREAS, said application has been submitted to the legislature for final approval pursuant to section 42-1503, Idaho Code; and

WHEREAS, a concern has arisen that final approval of the application would prohibit the possible downstream construction of the "DIKE" hydropower dam and reservoir project;

NOW THEREFORE, BE IT RESOLVED that the Idaho Water Resource Board does hereby request the Director of the Idaho Department of Water Resources to order that the following condition be added to permit number 37-7734:

6) Pursuant to the request of the applicant, permit number 37-7734 (Bancroft Springs) is subordinated to the possible downstream construction of the "DIKE" hydropower project proposed under pending water right application number 02-7251, in the name of Idaho Power Company, such that the holder of permit number 37-7734 waives all right to compensation for any interference with the fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, or water quality aspects of the water right, or interference with any other element thereof, caused by the storage of water behind the proposed Dike dam.

DATED this 27th day of February, 1980.


Chairman

Attest _____
Secretary

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

IN THE MATTER OF AMENDED APPLICATIONS)
FOR PERMIT NOS. 36-7818 (VINYARD CREEK))
AND 37-7734 (BANCROFT SPRINGS) TO ESTABLISH)
MINIMUM STREAM FLOWS IN THE NAME OF THE)
IDAHO WATER RESOURCES BOARD)

MEMORANDUM DECISION
AND ORDER

On September 13, 1978, the Idaho Water Resource Board filed with the Department of Water Resources applications for permit to appropriate water to preserve minimum stream flows on Vinyard Creek and on Bancroft Springs, both tributaries to the Snake River. The applications were filed pursuant to Chapter 15, Title 42, Idaho Code. Both applications were amended on March 20, 1979 to add the appropriate government lot number to the legal descriptions provided on the original applications.

Application No. 36-7818 proposes to appropriate a minimum instream flow of 17 cubic feet per second over the entire length of Vinyard Creek from its confluence with the Snake River, located within Government Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 4, Township 10 South, Range 18 East, B. M., Jerome County, upstream to the outlet of Vinyard Lake, a distance of approximately one-quarter mile. The purpose for the proposed minimum stream flow appropriation is to maintain trout populations, and trout rearing and spawning habitat over the length of the stream; and also to preserve the unique and aesthetic characteristics of the Vinyard Creek area. The period of use for the proposed appropriation is from January 1 to December 31, inclusive.

Application No. 37-7734 proposes to appropriate a minimum instream flow of 17 cubic feet per second at Bancroft Springs as measured at the confluence of the springs with the Snake River, a point located within Government Lot 5, Section 4, Township 6 South, Range 11 East, B.M., Elmore County. The purpose of the proposed appropriation is to preserve the high quality fishery and fish population, and to preserve the aesthetics of the springs and the spring area from the point of confluence with the Snake River to the source of the springs, a distance of approximately sixty yards. The period of use for which the appropriation is proposed is from January 1 to December 31 of each year.

On November 24, 1978, copies of the two applications were sent to the

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NOV 28 1978
WATER RESOURCES

Idaho Departments of Fish and Game, Health and Welfare, and Parks and Recreation for comments. Notice describing the two proposed appropriations and setting the time and place for hearing was published in the Times News, Twin Falls, Idaho on March 23 and March 30, 1979, and in the Mountain Home News, the Gooding County Leader and the North Side News, Jerome, Idaho on March 29 and April 5, 1979.

Two days of public hearings for the purpose of eliciting testimony regarding the applications were conducted in Buhl, Idaho on April 25 and 26, 1979. Norman C. Young of the Idaho Department of Water Resources served as the Hearing Officer. During these two days of hearings, testimony was also received concerning four additional applications for minimum stream flows in the name of the Idaho Water Resource Board. No action is taken by the Department at this time with respect to these other applications.

Approximately fifty people attended the two days of hearings. Parties appearing in a formal capacity included the Idaho Water Resource Board; Idaho Department of Fish and Game; Idaho Power Company; Herb Deuel on behalf of Banbury Hot Springs; Sterling Larsen on behalf of Banbury Pipe Company; Robert C. Weaver, attorney for Valley Trout Farms, Inc.; Earl Hardy and Ken Ellis; Gary Wright; and the U. S. Trout Farmers Association. In addition, formal testimony was presented by the staff of the Idaho Department of Water Resources, and by Mr. Cecil Thomas, a hydrologist for the United States Geological Survey. Numerous other individuals and representatives of various organizations, including the Prairie Falcon Audubon Society, the Magic Valley Fly Fishermans Association, Thousand Springs Trout Farms, and the Idaho Wildlife Federation informally appeared to present their views and comments as public witnesses concerning the pending applications.

After the close of the hearing, the record remained open for fifteen (15) days to allow for the submission of additional written materials and an equal period was allowed for the submission of rebuttal materials. Six individuals or organizations submitted additional written materials for the record which were in turn furnished to the parties. No rebuttal to these additional materials was received from any of the parties.

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. 36-7818 to

appropriate a minimum stream flow on Vinyard Creek, tributary to the Snake River, Elmore County, Idaho.

2) On March 20, 1979, application Nos. 36-7818 and 37-7734 were amended to add the appropriate government lot number to the legal descriptions provided on the original applications.

3) Application for permit No. 36-7818 proposes a minimum stream flow of 17 cubic feet per second on Vinyard Creek, measured at its point of confluence with the Snake River, located in Government Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Section 4, Township 10 South, Range 18 East, B.M., Jerome County, Idaho, to protect the entire length of Vinyard Creek from its confluence with the Snake River upstream to the outlet of Vinyard Lake. The annual period of use is from January 1 to December 31 inclusive.

4) Application for permit No. 37-7734 proposes a minimum instream flow of 17 cubic feet per second on Bancroft Springs, measured at the point of confluence with the Snake River, located in Government Lot 5, Section 4, Township 6 South, Range 11 East, B.M., Elmore County, Idaho, to protect the springs from the point of confluence with the Snake River upstream to their source. The annual period of use is from January 1 to December 31 inclusive.

5) Application for permit Nos. 36-7818 and 37-7734 were filed by the Idaho Water Resource Board upon request of the Idaho Department of Fish and Game and pursuant to the provisions of Chapter 15, Title 42, Idaho Code. The statute provides that stream flow preservation for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation and water quality, when made pursuant to this statute, is in the public interest and is declared to be a beneficial use of such water.

6) All rights acquired under applications for permit Nos. 36-7818 and 37-7734 are for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications having dates of priority earlier than September 13, 1978.

7) Based upon the sworn testimony, documentation and public statements comprising the record in this matter a finding is made that the proposed minimum instream flows proposed by application Nos. 36-7818 and 37-7734 are necessary to maintain existing trout rearing and spawning habitat, fish populations, aquatic life, and recreational values, and to preserve the unique aesthetic characteristics of the stream areas.

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

enjoyment.

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

10) Based upon testimony and evidence submitted by the staff of the Department of Water Resources and by Mr. Cecil Thomas of the United States Geological Survey concerning available flow measurement data a finding is made that the minimum stream flows proposed for Vinyard Creek and Bancroft Springs are generally capable of being maintained.

11) Based upon testimony of the staff of the Department of Water Resources a finding is made that there are no existing diversion rights from Vinyard Creek or Bancroft Springs and that no such applications were filed prior to the filings by the Water Resource Board on September 13, 1978.

CONCLUSIONS OF LAW

1) The proposed minimum stream flow appropriations 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 stream flow appropriations are in the public, as opposed to private, interest.

3) The proposed minimum stream flow appropriations are necessary for the preservation of quality fish spawning and rearing habitat, aquatic life, recreation, aesthetic beauty and the water quality of the streams.

4) The minimum stream flows proposed to be appropriated are the minimum flows required for the purposes cited in Conclusion No. 3 and not the ideal or most desirable flows.

5) The minimum stream flows proposed are capable of being maintained.

ORDER

IT IS, THEREFORE, HEREBY ORDERED That Applications for Permit Nos. 36-7818 (Vinyard Creek) and 37-7734 (Bancroft Springs) are APPROVED subject to the following conditions:

1) Upon the future finding and order of the Director that additional gauging stations are required to maintain the approved minimum stream flows, such measuring devices shall be permanently installed and maintained as specified by the Department.

2) Proof of instream beneficial use of the minimum stream flows appropri-

APPROVED

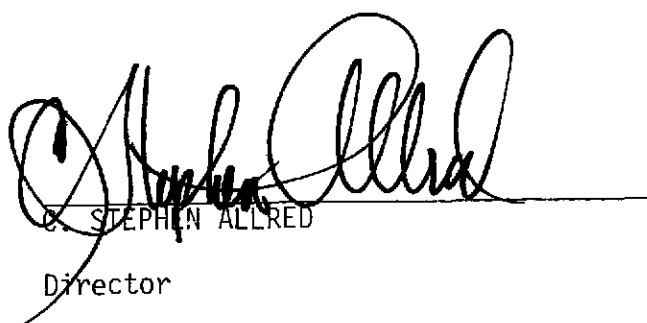
ated shall be submitted in a manner approved by the Department on or before July 1, 1984.

3) The use of water under these permits shall be nonconsumptive.

4) The use of water under these permits is subject to all prior rights.

5) The applications 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 20 day of July, 1979.


STEPHEN ALLRED
Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

AMENDED

AMENDED

To appropriate the public waters of the State of Idaho

1. Name of applicant IDAHO WATER RESOURCE BOARD Phone 384-2215

Post office address Statehouse, Boise, ID

2. Source of water supply Bancroft Springs which is a tributary of Snake River

3. Location of point of diversion is Government Lot 5 $\frac{1}{4}$ of $\frac{1}{4}$ of Section 4 Township 6S

Range 11E B.M. Elmore County, additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 17 for instream flow purposes from 1-1 to 12-31 (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. 17 cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 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 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is **not** for irrigation: Government Lot 5
(1) Give the place of use of water: $\frac{1}{4}$ of $\frac{1}{4}$ of Section 4 Township 6S

Range 11E 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 preserve the high quality fishery,
fish population and aesthetics of the spring area.

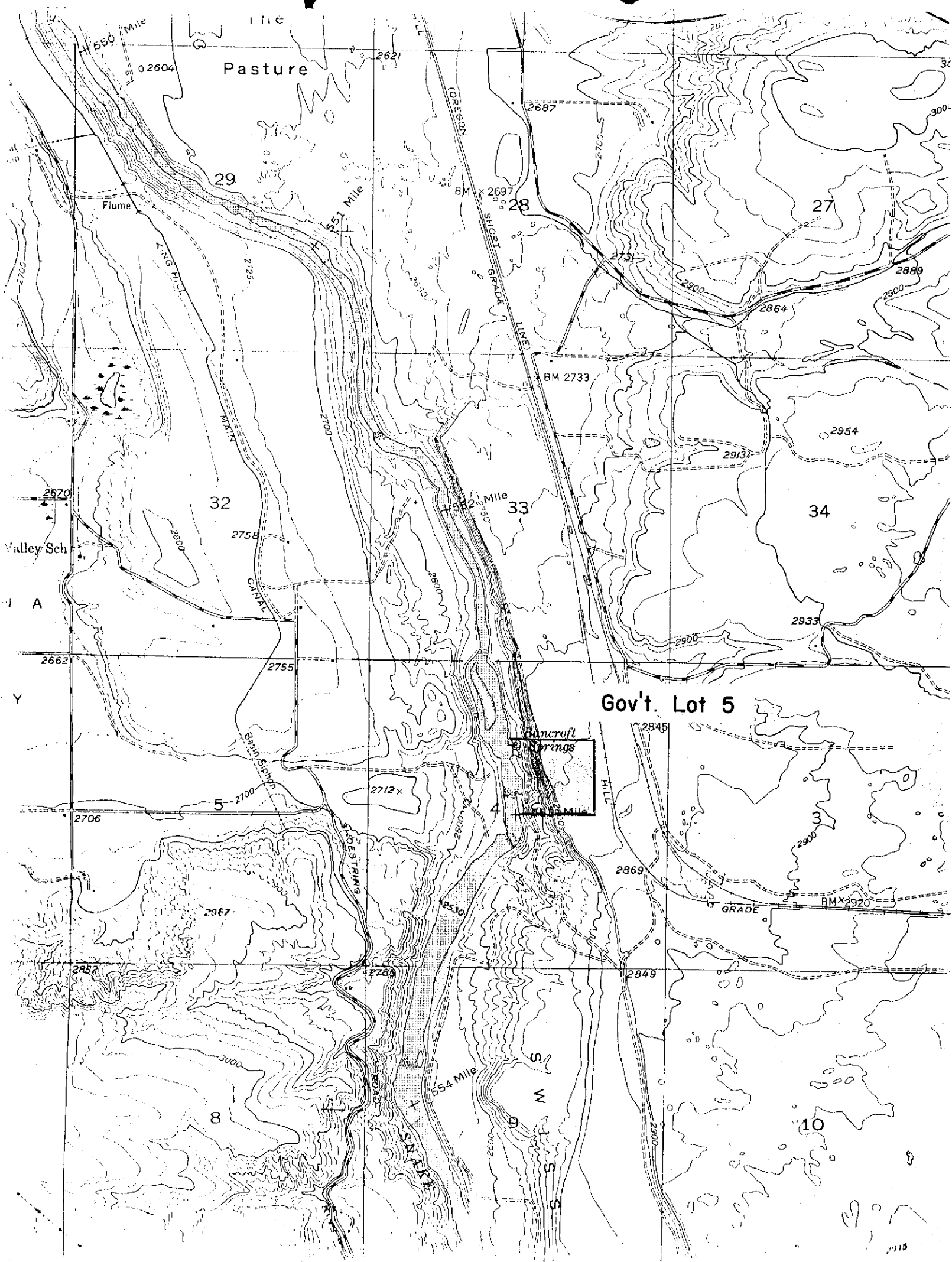
[Faint stamp]

TWP	RANGE	SEC.	NE%			NW%			SW%			SE%		
			NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%
			NE%			NW%			SW%			SE%		
TOTALS			SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%	SW%	SE%	NE%	NW%

Who owns the property at the point of diversion

the applicant, describe the arrangement enabling the

marks See attached sheet.



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.

IDAHO WATER RESOURCE BOARD

by M. Reed Hansen
Vice-Chairman (Applicant)

PRIORITY DATE: September 13, 1978

9-13-78

Date 3-20-79 Time 1:00 p

Received by

Preliminary check by

Fee \$

Received by

Date

Publication prepared by

Date

Published in Northside News, Gooding County Leader, Mountain Home News

Publication dates February 8 and 15, 1979 and March 29 and April 5 and

Times News - March 23 and 30

Publication approved MAH Date February 21, 1979

Protests filed by:

Copies of protests forwarded by

Hearing held by NCY Date April 25 and 26

Recommended for approval denial by

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. 37-7734, 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 be-

fore July 1, 1984.

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 AND ORDER OF THIS DATE.

Witness my hand this 20th day of July, 1979.

for Director

NAME OF STREAM: Bancroft Springs

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:
At its confluence with Snake River, Elmore County, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4,
T6S, R11E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 17 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:
To preserve the high quality fishery, fish population and aesthetics of
the spring area.

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:

Bancroft Springs is a unique spring complex with high aesthetic values and
supports a high quality rainbow trout fishery. Bancroft Springs is one of
the most downstream springs of the Thousand Springs complex originating from
the Snake River aquifer.

The requested instream water right for Bancroft Springs 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:

No field data has been collected from Bancroft Springs. A flow of 17 cfs
is recommended by Idaho Fish and Game biologists to maintain the existing
wild trout populations inhabiting the spring and preserve the aesthetics
of this undeveloped spring.

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

To preserve the unique and undisturbed characteristics of Bancroft Springs,
the requested instream flow is the natural average flow.

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

USGS records indicate the average discharge of Bancroft Spring is 17cfs.
No present diversions exist on the stream.

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

No gage station is located on Bancroft Springs. A gage device located
at its mouth would be sufficient to monitor the requested flow.

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

SEP 18 1970

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

2. Source of water supply Bancroft Springs which is a tributary of Snake River

3. Location of point of diversion is SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4 Township 6S

Range 11E B.M. Elmore County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 17 for instream 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. 17 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 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 _____ 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: SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 4 Township 6S

Range 11E B.M.

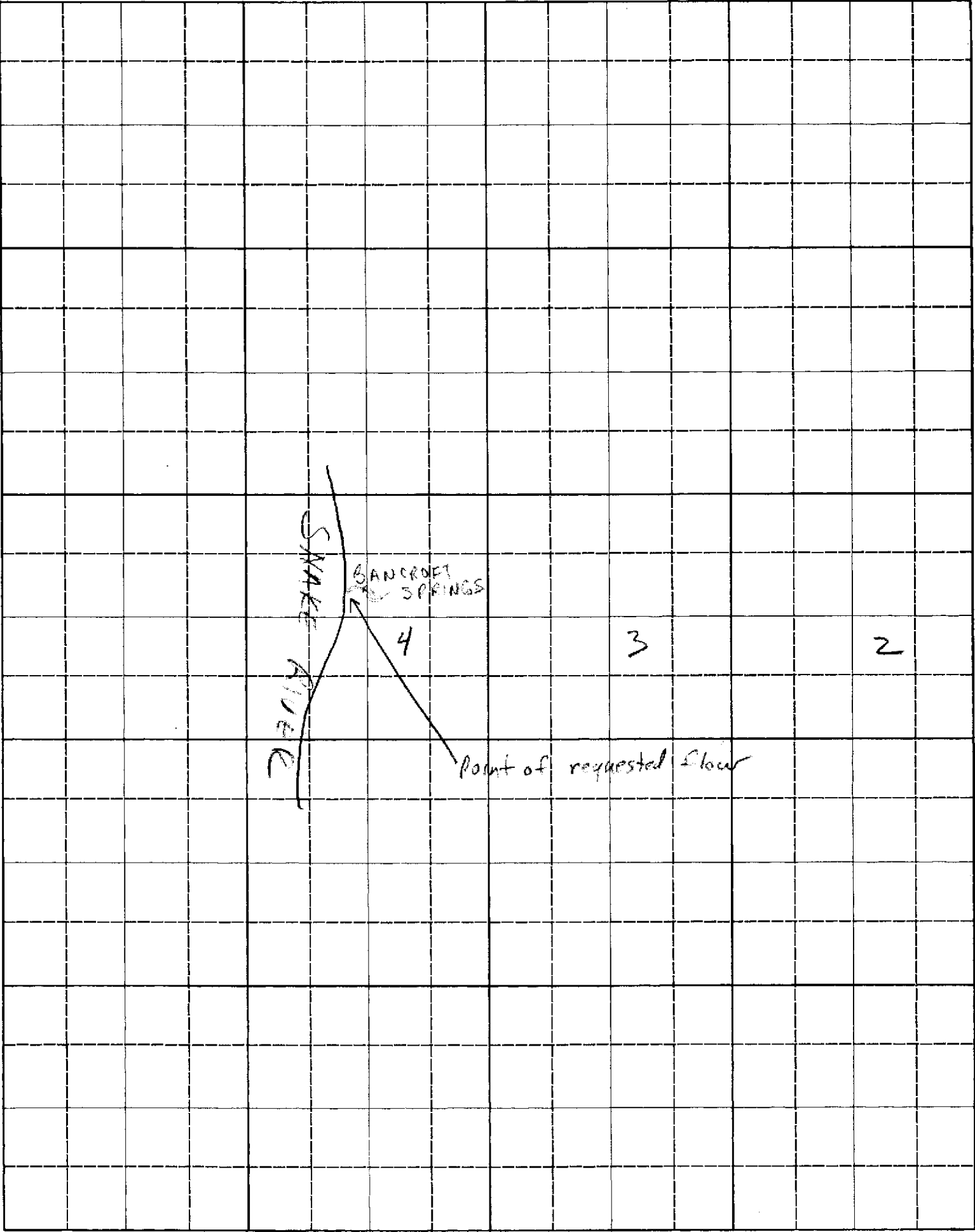
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(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 preserve the high quality fishery,
fish population and aesthetics of the spring area.

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



Scale: 2 inches equal 1 mile.

R. 11 E.

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.

George R. [Signature]
(Applicant)

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

Preliminary check by N.H. Fee \$

Receipted by Date

Publication prepared by Date

Published in

Publication dates

Publication approved N.H. Date 9-14-78

Protests filed by:

Copies of protests forwarded by

Hearing held by Date

Recommended for approval denial by

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. , and said application is hereby

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 be-

fore , 19 .

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:

Witness my hand this day of , 19 .

Director

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

Scott Reed
P. O. Box A
Coeur d' Alene, ID 83814

Reed M. Hansen
Route 5, Box 213
Idaho Falls, ID 83401

Donald R. Kramer
Castleford,
Idaho 83321

Robert W. Stahman
Idaho Power Company
P. O. Box 70
Boise, ID 83707

Frederick J. Frahm
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Robert C. Weaver
130 Broadway North
Buhl, ID 83316

Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

Ken Ellis
Valley Trout Farms, Inc.
Route 3, Box 50
Buhl, ID 83316

Herb Deuel
Banbury Hot Springs
Buhl, ID 83316

Catherine and/or Gary Wright
Route 4
Buhl, ID 83316

Dale R. Christiansen, Director
Idaho Department of Parks and Recreation
Statehouse Mail
Boise, ID 83720

Pete Cole, President
Portneuf Valley Audobon Society
P. O. Box 4755
Pocatello, ID 83201

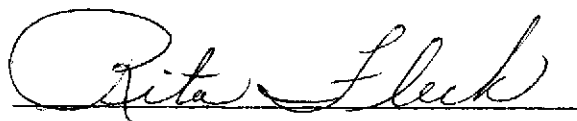
Ed Chaney
Rural Route 1
Eagle, ID 83616

Joe F. Allen, Co-chairman
Water/Power Initiative
American Falls, ID 83211

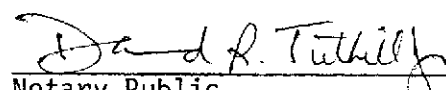
Joe Wyllie, President
Boise Valley Fly Fishermen
P. O. Box 311
Boise, ID 83702

Doli Obee
329 South Phillippi
Boise, ID 83705

Dated this 26th day of July, 1979.



On this 26th day of July, 1979, personally appeared before me the signer of the above instrument, who duly acknowledged to me that she executed the same.



Notary Public
Residing at Boise, Idaho

My commission expires: 9/10/80

RECEIVED

NAME OF STREAM: Bancroft Springs

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:
At its confluence with Snake River, Elmore County, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4,
T6S, R1E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 17 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To preserve the high quality fishery, fish population and aesthetics of the spring area.

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:

Bancroft Springs is a unique spring complex with high aesthetic values and supports a high quality rainbow trout fishery. Bancroft Springs is one of the most downstream springs of the Thousand Springs complex originating from the Snake River aquifer.

The requested instream water right for Bancroft Springs 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:

No field data has been collected from Bancroft Springs. A flow of 17 cfs is recommended by Idaho Fish and Game biologists to maintain the existing wild trout populations inhabiting the spring and preserve the aesthetics of this undeveloped spring.

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

To preserve the unique and undisturbed characteristics of Bancroft Springs, the requested instream flow is the natural average flow.

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

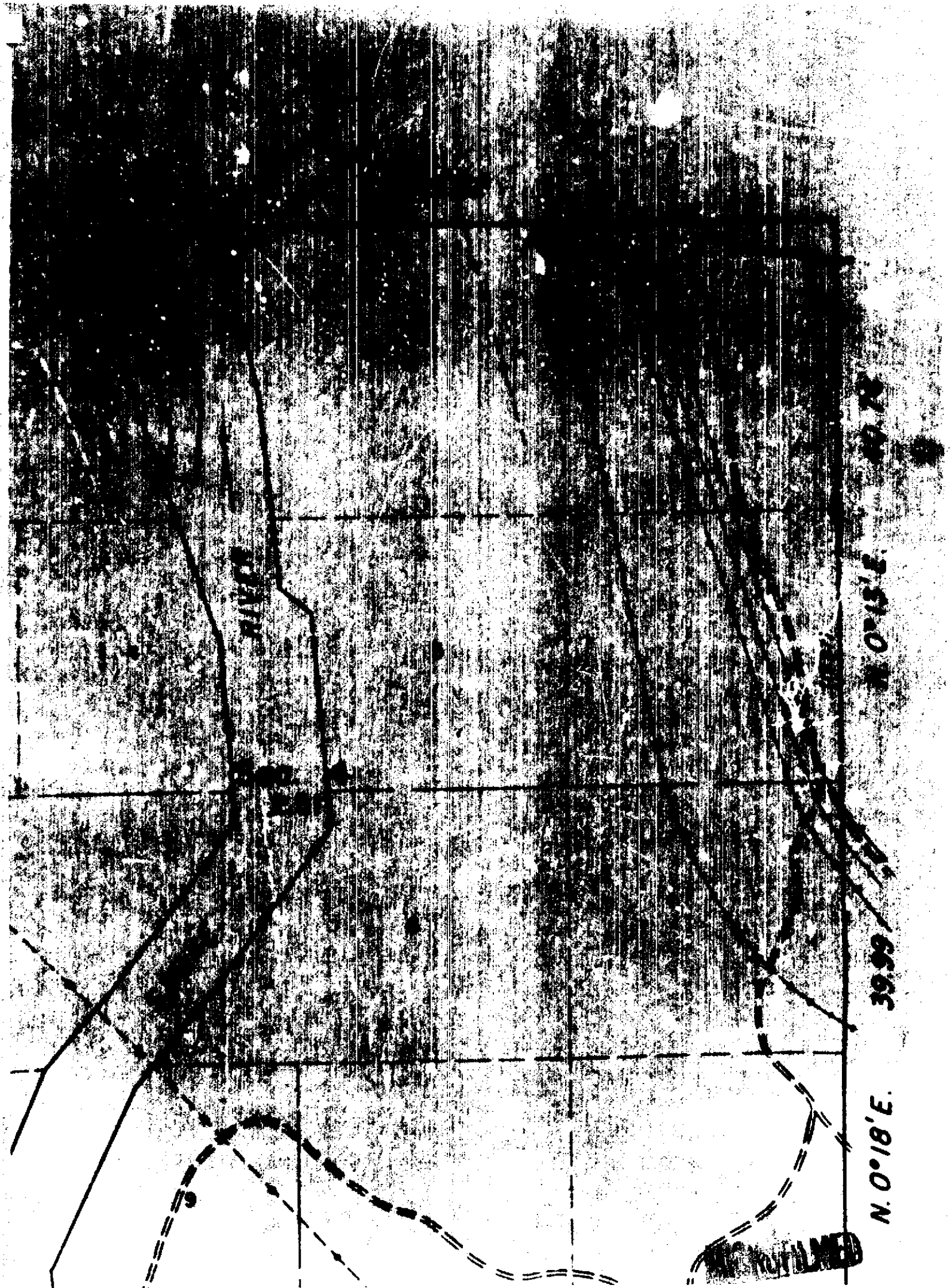
USGS records indicate the average discharge of Bancroft Spring is 17cfs. No present diversions exist on the stream.

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

No gage station is located on Bancroft Springs. A gage device located at its mouth would be sufficient to monitor the requested flow.

MICROFILMED

Bancroft Springs
T 6 S R 11 E Cont lot 5
SEC. 4



**NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW**

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7818

Source: Briggs Springs
Point of minimum streamflow: NW $\frac{1}{4}$ SE $\frac{1}{4}$,
Sec. 4, Twp. 9S, Rge. 14E, B.M., Gooding
County

Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations

Application No. 36-7822

Source: Banbury Springs
Point of minimum streamflow: NE $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 33, Twp. 8S, Rge. 14E, B.M.,
Gooding County

Rate of flow: 97 cubic feet per second.
Season of use: January 1 to December 31
Use: To preserve fish populations,
aesthetics and recreational values

Application No. 36-7820

Source: Blind Canyon Springs
Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 28, Twp. 8S, Rge. 14E, B.M.,
Gooding County

Rate of flow: 8 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations and
aesthetic values

Application No. 36-7821

Source: Lower White Springs
Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$,
Sec. 2, Twp. 7S, Rge. 13E, B.M., Gooding
County

Rate of flow: 11 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve rearing and spawning
habitat for trout

Application No. 37-7734

Source: Bancroft Springs
Point of minimum streamflow: SE $\frac{1}{4}$ NW $\frac{1}{4}$,
Sec. 4, Twp. 6S, Rge. 11E, B.M., Elmore
County

Season of use: January 1 to December 31
Use: To preserve fish populations and
aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979, at the Gooding City Hall, 308 5th Avenue West, Gooding, 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

PUBLISH: Thursday, Feb. 8 and 15, 1979.

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS } ss.

I, John L. Laughlin, being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated February 8, 1979, and ending with the issue dated February 15, 1979.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Subscribed and sworn to before me on this 15th day of

February, 1979

Ray L. Mahay
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

RECEIVED
No. 8008
FEB 16 1979

**NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW**

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978 submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs
Point of minimum streamflow:
NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 9S, Rge.
14E, B.M., Gooding County
Rate of flow: 56 cubic feet per
second
Season of use: January 1 to
December 31
Use: To maintain trout popula-
tions

Application No. 36-7822

Source: Banbury Springs
Point of minimum streamflow:
NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Twp. 8S,
Rge. 14E, B.M., Gooding County
Rate of flow: 97 cubic feet per
second
Season of use: January 1 to
December 31
Use: To preserve fish popula-
tions, aesthetics and recreational
values

Application No. 36-7820

Source: Blind Canyon Springs
Point of minimum streamflow:
NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, Twp. 8S, Rge.
14E, B.M., Gooding County
Rate of flow: 8 cubic feet per
second
Season of use: January 1 to
December 31
Use: To preserve fish popula-
tions and aesthetic values

Application No. 36-7821

Source: Lower White Springs
Point of minimum streamflow:
NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, Twp. 7S, Rge.
13E, B.M., Gooding County
Rate of flow: 11 cubic feet per
second
Season of use: January 1 to
December 31
Use: To preserve rearing and
spawning habitat for trout

Application No. 37-7734

Source: Bancroft Springs
Point of minimum streamflow:
SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, Twp. 6S, Rge.
11E, B.M., Elmore County
Season of use: January 1 to
December 31
Use: To preserve fish popula-
tions and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979 at the Gooding City Hall, 308 5th Avenue West, Gooding, 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 Mountain Home
News Feb. 8 and 15, 1979.

Affidavit of Publication

County of Elmore }
STATE OF IDAHO } ss.

I, John D. Watson do
solemnly swear that I am the foreman, or
publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation,
published once a week at MOUNTAIN HOME,
IDAHO, that the notice attached hereto and
which is a part of the proof of publication
thereof, was published in said newspaper for

2 consecutive weeks, the first publica-
tion having been made on the 8 day
of February, 1979, and
the last publication having been made on the
15 day of February,
1979; every Thursday issue of the paper

during the period and time of publication and
that the notice was published in the newspaper
proper and not in a supplement thereof.

And I further swear that the said MOUN-
TAIN HOME NEWS has been continuously and
uninterruptedly published in said Elmore County
during a period of 78 consecutive weeks prior
to the first publication of the attached notice.

Subscribed and sworn to me this 15th
day of February, 1979.

John D. Watson
Notary Public

RECEIVED
FEB 21 1979
Department of Water Resources
Southern District Office

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Kim R. Compton being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 8 day of February 1979, and the date of the last publication was on the 15 day of February, 1979.

Subscribed and sworn to before me this 15 day of February, 1979.
(SEAL)

Gorman H. H. H.
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 48
Number of Insertions 2
Lines tabular at 315c
Lines straight at 48 21c 10.08
Subsequent lines at 48 15c 7.20
TOTAL COST 17.28

COPY OF NOTICE

Application No. 37-7734
Source: Bancroft Springs
Point of minimum stream-flow: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4,
Twp. 6S, Rge. 11E, B.M.,
Elmore County
Season of use: January 1 to
December 31

Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979 at the Gooding City Hall, 308 5th Avenue West, Gooding, 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.

/s/ C. Stephen Allred
Director
Pub: 2-8, 15

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

No. 1994

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Kim R. Compton

being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 8 day of February 19 79, and the date of the last publication was on the 15 day of February 19 79.

Kim R. Compton

Subscribed and sworn to before me this 15 day of February, 19 79.
(SEAL)

Garnett H. Hio
NOTARY PUBLIC

GOODING COUNTY LEADER Gooding, Idaho COST OF PUBLICATION

Number of Lines in Notice 48
Number of Insertions 2
Lines tabular at 315c
Lines straight at 48 21c 10.08
Subsequent lines at 48 15c 7.20
TOTAL COST 17.28

COPY OF NOTICE (Paste Here)

37-7734
TITLE OF NOTICE
Bancroft Springs
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dyke Water
BILL TO
Resources

PUBLICATION RATES	
(Idaho Code, Rev. Statutes 1971)	
7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

RECEIVED
N^o 1994
FEB 21 1979

Department of Water Resources
District Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

August 9, 1984

Mr. Virgil Moore
State Fisheries Manager
Idaho Department of Fish and Game
600 S. Walnut St.
Boise, ID 83707

Re: Minimum Stream Flows

Dear Virgil:

Throughout the past four months we have had numerous telephone conversations regarding the Idaho Minimum Stream Flow Program. The purpose of this letter is to document the current status of the various minimum stream flow filings for which your Department is the requesting agency. The letter has been organized into three phases corresponding to the stages of water right processing.

Applications

Currently we have four remaining applications for which no hearings have yet been held by this Department. To confirm our earlier conversation, enclosed is a list of projected dates for public meetings to be held in September. As we discussed, we will mail the individual notifications of the meetings based on copies of plats and other information on riparian ownerships that you supply.

Permits

We have received the letter dated July 25, 1984, from Bruce E. Rieman, the Regional Fishery Manager of Region 1, regarding the minimum stream flow permits on Granite Creek, No. 96-7771; Sullivan Springs, No. 96-7772; and, Wolf Lodge Creek, No. 95-7874. The information includes enough documentation of beneficial use for the three permits. However, as we discussed, more thorough stream flow 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 cfs identified in the permit. As another example, the discharge measurements on Granite

RECEIVED
AUG 14 1984

Mr. Virgil Moore

August 9, 1984

Page 2

Creek range from 8.97 cfs to 70.76 cfs. Again, the relationship to the 45 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. This office would be happy to entertain a proposal in this regard.

Because proof of beneficial use is due for these three permits on September 1, 1984, extensions of time will be required to maintain the permits in a valid status while the discharge measurements are being collected. We have prepared the three Requests for Extension of Time forms for the signature of Mr. Don Kramer, the chairman of the Idaho Water Resource Board. By separate letter we are mailing the request forms to Mr. Kramer, with the request that they be signed and returned to this office by August 24, 1984. In this way the dates of priority of the minimum stream flow applications will be preserved.

These are the final three minimum stream flow permits for which further documentation will be required this year. Regarding permits with proof due in upcoming years, you may wish to review the conditions of approval to insure that the needed measurements are being made on a current basis to enable timely filing of statements of beneficial use. I would be happy to review the requirements on the permits at your convenience.

Licenses

As you are aware, water right licenses have been issued for both of the upper reaches on Silver Creek. License Nos. 37-7727 and 37-7728 represent the first two licenses issued as a result of the minimum stream flow program. We have received statements of beneficial use for permit Nos. 37-7734, Bancroft Springs, and 36-7818, Vinyard Creek. We are currently reviewing the data on these files and plan to issue licenses in the near future.

This completes the information that I wanted to summarize regarding the water rights based on requests from your agency. In addition, we would like to request that a study of in-stream flow needs be made on the east fork of Rock Creek, tributary to Rock Creek near American Falls. Minimum stream flow application No. 41-7046 was originally filed by the Idaho Water Resource Board based on a request from the Power County Commissioners. The application was held pending the outcome of an existing protested application for permit located upstream on the east fork of Rock Creek. That application has now been withdrawn and further action can be taken on the application. However, the information provided in the original hearing does not provide a sufficient technical basis for a minimum flow. Therefore, it appears that the next step for action regarding the minimum flow is some type of fishery-related study. Enclosed for

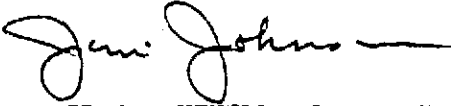
ENCLOSURE

Mr. Virgil Moore
August 9, 1984
Page 3

your information is a copy of the application. Please advise me regarding the possibilities of an instream flow study on not only the proposed reach, but upstream to the source of the stream as well.

If you wish to clarify or add to any portion of this letter, Virgil, please feel free to give me a call. I will be out of the office until August 27 on military leave, but Jim Johnson of this office should be able to assist you until that date. I look forward to working with you and your staff regarding this program in the future.

Sincerely,

for 

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ls

Enclosures

MICROFILMED



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 24, 1984

RE: Permit Nos. 36-7818 & 37-7734

Donald R. Kramer, Chairman
Idaho Water Resource Board
Castleford,
Idaho 83321

Dear Mr. Kramer:

Enclosed herewith are copies of the Water Right Licenses issued on the above referenced permits.

Sincerely,

JIM JOHNSON
Water Distribution Supervisor

JJ:sc

Enclosures

cc: Southern Region

RECEIVED

MEMORANDUM

TO: File No. 37-7734

FROM: Kay Walker

DATE: July 25, 1984

RE: Assessment of Proof of Beneficial Use Data

This assessment is designed to summarize the adequacy of Proof of Beneficial Use Data submitted by the Idaho Department of Fish and Game on behalf of the Idaho Water Resource Board, with respect to two primary considerations, as follows:

1. Has the water been used for the purposes described in the permit?

The water has been applied to beneficial use as indicated in the Department of Fish and Game's report submitted on July 5, 1984.

Through random counts of fishermen using the spring during 1983, Fish & Game determined that 250 anglers used the area for fishing. On May 6, 1979 and on June 5, 1984, Fish & Game electro-shocked the area and found it to be an excellent area for fish habitat, and that it supports a high quality of rainbow trout, as shown in Exhibit 5-D. Exhibits 5-A, 5-B, and 5-C provide evidence of aesthetic values and that there is plenty of riparian vegetation for fish to survive.

2. How much water was used for the purposes described in the permit?

Although the Department of Fish & Game provided only one discharge measurement from the spring, which was taken in January of 1966, that measurement evidenced that 17.0 cfs is available in the spring, to be appropriated.

With consideration of the proof of beneficial use and attachment to said proof, I recommend we license this right for the amount applied for.

✓ DZT

RECEIVED

JUNE 25, 1984

RECEIVED
JUL 5 1984
Department of Water Resources

MINIMUM INSTREAM FLOW APPLICATION NO. 36-7734
ON BANCROFT SPRINGS
FOR 17 CFS OF WATER AT ITS CONFLUENCE WITH THE SNAKE RIVER
IN THE SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, T. 6 S., R. 11 E.,
ELMORE COUNTY, TO PRESERVE AND PROTECT THAT PORTION OF THE SPRINGS
FROM THE POINT OF REQUESTED FLOW UPSTREAM TO ITS SOURCE

The main outlet stream channel from Bancroft Springs flows from its origin for approximately one hundred feet into the Snake River. The spring provides good rainbow trout spawning and rearing habitat and supports a high quality rainbow trout fishery. It is one of the farthest downstream of the Snake River Plain Aquifer springs and is located approximately 5 $\frac{1}{2}$ miles southeast of King Hill, Idaho. While relatively small, it is unique spring with high aesthetic values and is totally undeveloped. In Department of Fish and Game sample electrofishing of portions of the stream has obtained wild trout up to 13.5 inches and fry obtained indicate successful natural reproduction.

The Department of Fish and Game feels this small spring is a very valuable resource and feels it should be preserved in its undeveloped state.

Angling occurs in both the stream proper and at its confluence with the Snake River. The estimated angler use of the spring is summarized in the following table:

EXHIBIT NO. 1

ANGLER USE ESTIMATES IN 1983 ON BANCROFT SPRINGS FROM ITS CONFLUENCE WITH THE SNAKE RIVER UPSTREAM TO ITS SOURCE.

<u>Time Period</u>	<u>Estimated Total Angler Days</u>
Jan. 1 - Dec. 31	250

These estimates were made by Lawrence Smith, local Conservation Officer and were based on random counts throughout the year.

The net value of fishing streams in Idaho (updated with the Consumer Price Index) comparable to this section of Bancroft Springs amounted to approximately \$35.53 in June 1983. Using this figure the annual economic value of this portion of the springs in 1983 would be approximately \$8,882 (35.53 x 250).

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These associated costs are primarily for expenses involved with the transportation to and staying in the fishing area (gas, meals, motel, etc.). Durable costs for permanent items such as fishing or camping gear are not included.

A considerable portion of the trout reared in Bancroft Springs migrate down into the main Snake River and contribute to its sport fishery. This angler use (other than trout caught immediately at the spring's mouth) is not included in the above data.

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EXHIBIT NO. 2

Electrofishing results at Bancroft Springs by Idaho Department of Fish and Game personnel on March 6, 1979.

Length of stream shocked: 80 ft. (24.4 m)

Water temperature: 60°F (15.5°C)

Wild Rb	5.25 in. (134 mm)	8 in.* (203 mm)
	4.75 in. (121 mm)	13.5 in.* (343 mm)
	6.75 in. (172 mm)	4.75 in. (121 mm)
	6.50 in. (165 mm)	7.75 in.* (197 mm)
	5.25 in. (134 mm)	8.75 in.* (223 mm)
	4.25 in. (108 mm)	8.00 in. (203 mm)
	1.25 in. (32 mm)	4.00 in. (102 mm)

* Ripe males.

Hatchery RB

14.5 in.* (368 mm)
10.0 in.** (254 mm)
10.0 in. (254 mm)

* Ripe female.

** Ripe male.

Range Wild Rb

1.25 in. (32 mm) to 13.5 in. (343 mm)
n = 14 $\bar{x}$ = 6.3 in. (160 mm)

Range Hatchery Rb

10.0 in. (254 mm) to 14.5 in. (368 mm)
n = 3 $\bar{x}$ = 11.5 in. (292 mm)

An additional 8 to 10 trout were turned over with the shocker but escaped.

Idaho Department of Fish and Game personnel participating in this electrofishing operation on March 6, 1979, were: Robert J. Bell, Regional Fishery Manager; Tim Cochnauer, Senior Fishery Research Biologist and Bruce Reininger, Biological Aide.

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EXHIBIT NO. 3

Electrofishing results by Idaho Department of Fish and Game personnel on June 5, 1984.

Length of stream shocked: 70 ft. (21.3 m)

Water temperature: 59° F (15° C)

	Total Length	
Wild Rainbow	2 3/4 in. (70 mm)	2 1/2 in. (64 mm)
	8 3/4 in. (222 mm)	4 in. (102 mm)
	6 7/8 in. (175 mm)	4 1/2 in. (114 mm)
	5 1/2 in. (140 mm)	2 1/4 in. (57 mm)
	5 1/2 in. (140 mm)	

Total length range of rainbow 2 1/4-8 3/4 in. (57-222 mm)

Average length of rainbow: 4.7 in. (119 mm)

An additional 6-8 trout were observed turned over with the shocker but escaped.

Idaho Department of Fish and Game personnel participating in this electrofishing operation were: Robert J. Bell, Regional Fishery Manager and Lawrence Smith, Senior Conservation Officer.

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EXHIBIT NO. 4

STREAM FLOW MEASUREMENT TAKEN AT BANCROFT SPRINGS NEAR KING HILL, IDAHO IN 1966.

M13-1537.8 Bancroft Springs near King Hill, Idaho

Location.--In SE $\frac{1}{4}$ NW $\frac{1}{4}$ sec.4, T.6 S., R.11 E., at outlets on right bank of Snake River, at river mile 552.8, 5 $\frac{1}{2}$ miles southeast of King Hill.

Records available.--1966: One measurement.

Altitude.--2,525 ft (from topographic map).

Physical features.--Springs discharge from basalt in several openings near river's edge and enter right bank of Snake River in four short channels. Some flow through rocks is unmeasurable.

Remarks.--No use is made of water between springs and entry to Snake River.

Date - 1-3-66

Discharge - 17.0 cfs

MICROFILMED

WATER INFORMATION BULLETIN NO. 6

RECORDS OF NORTH-SIDE SPRINGS AND OTHER INFLOW TO SNAKE RIVER
BETWEEN MILNER AND KING HILL, IDAHO, 1948-67

By

C. A. Thomas

United States Geological Survey

Prepared by the United States Geological Survey

in Cooperation with

The Idaho Department of Reclamation

Published by

Idaho Department of Reclamation

R. Keith Higginson

State Reclamation Engineer

August 1968

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EXHIBIT NO. 5

EXHIBIT 5-A. Bancroft Springs at its confluence with the Snaker River. The main spring flow enters the Snake River directly behind the large grove of trees.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

UNRECORDED

EXHIBIT NO. 5

EXHIBIT 5-B. Looking downstream on Bancroft Springs at the point where the main flow emerges.

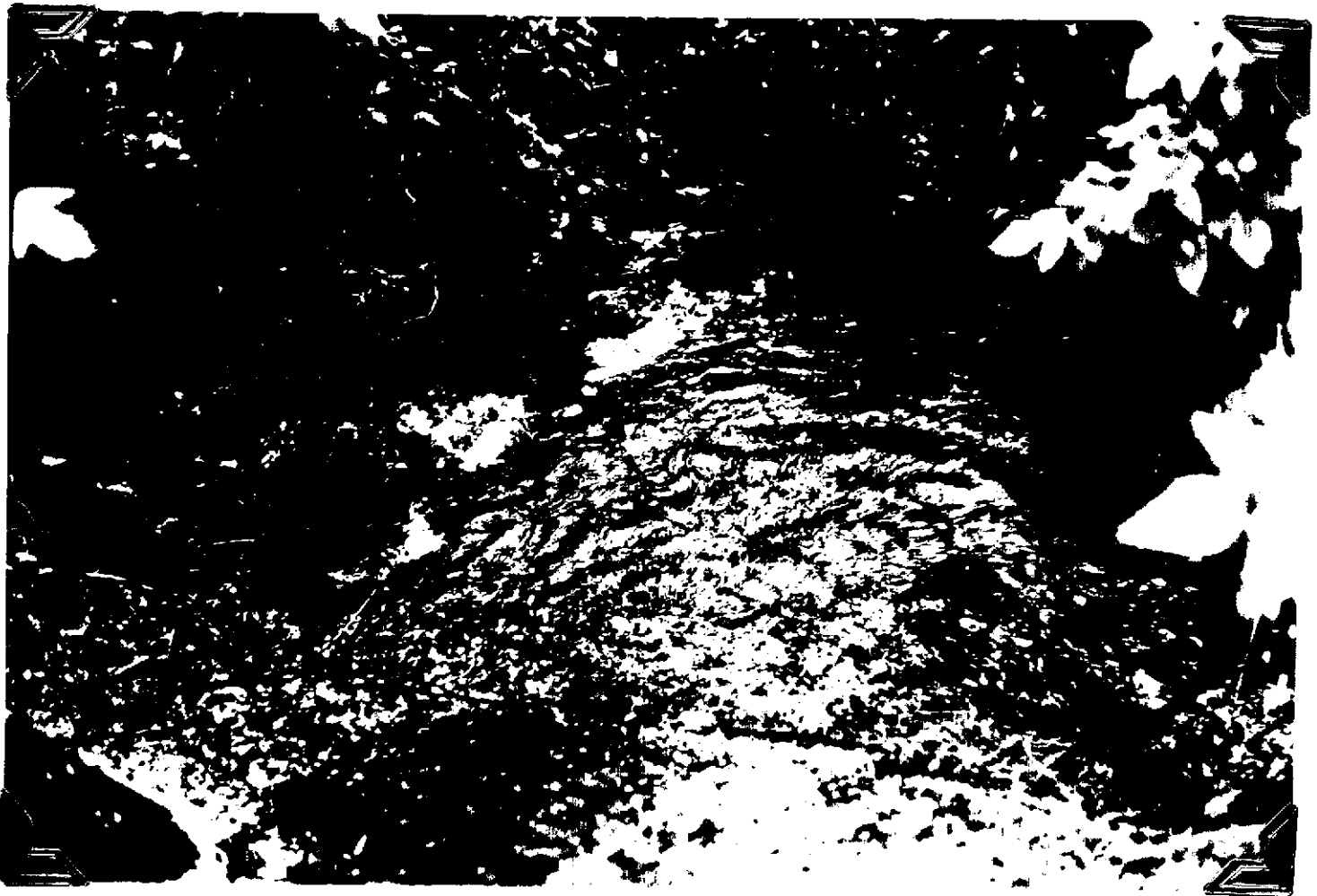


Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

EXHIBIT 5

EXHIBIT 5-C. The center portion of Bancroft Springs looking downstream. The full length of the spring has excellent riparian vegetation.

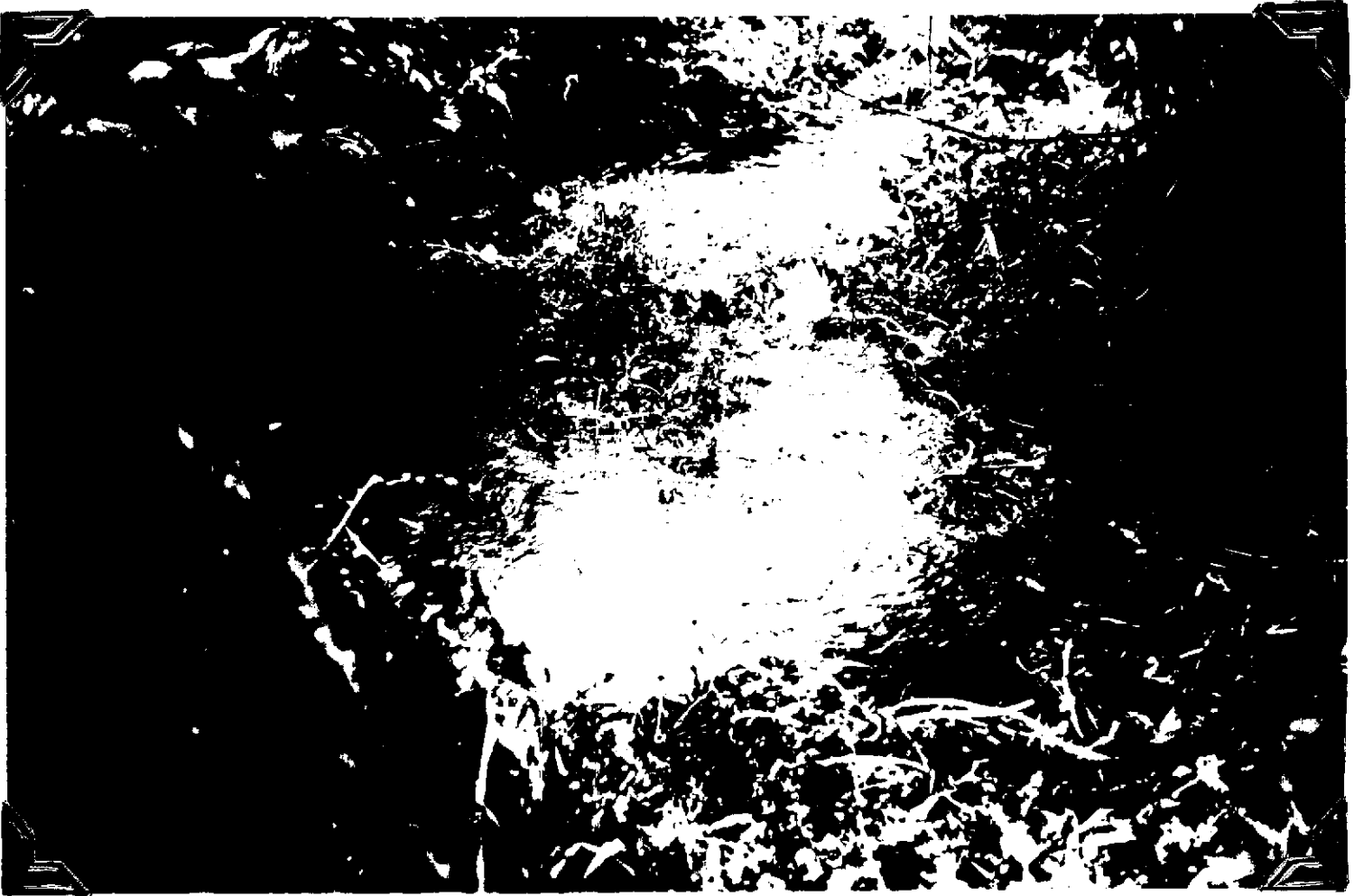


Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

EXHIBIT 5

EXHIBIT 5-D. Adult and juvenile wild rainbow trout obtained in Bancroft Springs in electrofishing operation conducted by Idaho Department of Fish and Game personnel on June 5, 1984.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.

EXHIBIT 5-D
JUN 10 1984
IDaho DEPARTMENT OF FISH AND GAME

EXHIBIT NO. 5

EXHIBIT 5-E. Bancroft Springs at its confluence with the Snake River. This is a popular fishing site at the spring.



Photo taken on June 5, 1984 by Robert J. Bell, Regional Fishery Manager, Idaho Department of Fish and Game.



STATE OF IDAHO

IDAHO WATER RESOURCE BOARD

STATEHOUSE
BOISE, IDAHO 83720

May 7, 1984

Idaho Department of Fish and Game
Statehouse
Boise, ID 83720

Attention: Dave Hanson

Gentlemen:

Re: Minimum Stream Flow Permit Nos. 36-7734 (Bancroft Springs)
36-7818 (Vinyard Creek)

One of the conditions of approval for the above-referenced permits was that the Water Resource Board submit proof of the extent of beneficial use to the Department of Water Resources on or before July 1, 1984.

The Board requests that you provide us the data you have collected within the minimum stream flow reach which will support the following stated purposes of the permits:

Bancroft Springs: To preserve the high quality fishery, fish population and aesthetics of the spring area.

Vinyard Creek: To maintain trout populations, rearing and spawning habitat, and to preserve unique and aesthetic characteristics of the Vinyard Creek area.

Personnel from the department have indicated that photographs demonstrating the beneficial uses, creel and fisherman use data, and stream flow measurements are especially useful in establishing proof of beneficial use.

The next Board meeting is scheduled for June 8 in Weiser. If you could provide the information to me by that date, the Board can review the information and submit the required proof in a timely manner. If you have specific questions regarding appropriate data, you may wish to contact Dave Tuthill of the department's staff at phone 334-4104. Thank you for your assistance in this matter.

Sincerely,

GENE M. GRAMERMAN
Minimum Stream Flow Committee

GMG:alw
cc: Dave Tuthill

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

STATEHOUSE
BOISE, IDAHO 83720
(208) 334-4440
~~CERTIFIED MAIL~~
HAND DELIVERED TO
WAYNE HAAS OF THE
DEPARTMENT

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE, ID 83720

PROOF DUE NOTICE

APRIL 30, 1984

DEAR PERMIT HOLDER:

ONE OF THE CONDITIONS OF APPROVAL OF YOUR WATER PERMIT NO. 37-7734 WAS THAT PROOF OF THE EXTENT OF YOUR BENEFICIAL USE MUST BE SUBMITTED TO THIS OFFICE ON OR BEFORE JULY 01, 1984. (SEE LAST PAGE OF YOUR APPROVED PERMIT OR YOUR LAST APPROVED EXTENSION REQUEST). ENCLOSED IS A POSTCARD WHICH MAY BE USED TO SUBMIT THE REQUIRED PROOF.

IF YOU HAVE NOT FULLY COMPLETED YOUR PROJECT, AND YOU OR A PREVIOUS OWNER OF THIS PERMIT HAVE NOT RECEIVED A PRIOR EXTENSION OF TIME, YOU MAY REQUEST AN EXTENSION OF TIME IF THE DELAY IS FOR REASONABLE CAUSE AS PROVIDED IN SECTION 42-204, IDAHO CODE. IF YOU HAVE BEEN PREVENTED FROM PROCEEDING BY A GOVERNMENTAL AGENCY OR BY LITIGATION, MORE THAN ONE EXTENSION OF TIME CAN BE GRANTED. AN EXTENSION OF TIME REQUEST FORM IS ENCLOSED FOR YOUR CONVENIENCE.

EITHER THE BENEFICIAL USE POSTCARD OR A REQUEST FOR AN EXTENSION OF TIME MUST BE RECEIVED BY THIS DEPARTMENT ON OR BEFORE THE ABOVE DESCRIBED PROOF DUE DATE. IF NEITHER IS RECEIVED, THE DEPARTMENT WILL SEND YOU A LAPSE NOTICE. WITHIN SIXTY (60) DAYS OF THE MAILING OF THE LAPSE NOTICE, THE PERMIT WILL NO LONGER BE OF ANY FORCE NOR EFFECT.

SINCERELY,

RITA FLECK
SECRETARY/RECORDS MANAGER

MICROFILMED

ENCLOSURES

1. *Copy to [unclear]*
2. *[unclear]*
DOVE SPRINGS AND THE NARROWS WATER DISTRICT

Telephone (208) 324-5110
Route 4, Box 4634
Jerome, ID 83338

3. *Cheryl*
November 18, 1983

NOV 25 1983
Dept. of Water Resources

TO: Idaho Power Lawsuit Defendants 01-7021, 02-7128, 02-7138
Water Right Number(s): 36-7872, 36-7818-22, 37-7727+28+34+39,
37-7849 37-7892, 37-7920, 61-7373 22-7369

We are writing this letter to request that you join with us in a matter of great importance to our area as well as the State of Idaho. You have by now heard of the "Swan Falls decision" and you are probably aware that the Idaho Department of Water Resources has declared a moratorium on further processing of water rights, either surface or underground, in the entire Snake River Drainage, including your area.

You may not be aware that last March, Idaho Power Company filed a lawsuit against 7500 water right holders. Idaho Power is seeking damages and an injunction against further use of all our water rights with priority dates later than January 17, 1900. Only one water user defendant has been served so far. It appears that Idaho Power desires to keep publicity at a minimum until it can implement legislation which will prevent any future water development in the Snake River Drainage Basin, upstream from Swan Falls.

We feel the Governor responded correctly to the action challenging the constitutionality of Senate Bill 1180 by refusing to sign the contract until the litigation is concluded. This makes it imperative that we move as soon as possible to protect ourselves and our water rights in the litigation brought against all of us by Idaho Power.

You and we have both been named as defendants in the lawsuit. We have asked Kent W. Foster of Holden, Kidwell, Hahn & Crapo and R. W. Rigby of Rigby, Thatcher, Anderson & Barton to defend our interests in the litigation. We are enclosing a copy of an opinion letter we obtained from Mr. Foster which explains the issues and the background.

We are convinced that a unified effort to defend this litigation is essential. We have a great deal more impact together than individually, and if we all participate, we stand a better chance of being able to bear the economic burden of defending a lawsuit brought by an organization with the resources of the Idaho Power Company.

MICROFILMED

Swan Falls Lawsuit
November 18, 1983
Page 2

We are suggesting that we informally organize a group of the named defendants and other interested individuals to help fund our lawsuit defense. There are other groups and individuals throughout the Snake River Valley doing the same thing. I have arranged for meetings to be held at the following time and places:

November 28, Monday, Idaho Falls, West Bank, 7:30 PM
November 29, Tuesday, Twin Falls, Holiday Inn, 7:30 PM
November 30, Wednesday, Boise, Airport Holiday Inn, 7:30 PM

Kent Foster has agreed to be there to discuss the legal issues and help answer questions.

If you have received more than one letter, feel that Idaho Power has listed your water right--right number shown at the top of this letter--incorrectly, or that you should not be a defendant in this case, please call (208) 324-5110 so that we may correct our records.

In summary, what has happened leaves it up to us to protect our existing rights and future opportunities. We will look forward to seeing you at the meeting.

Yours very truly,

DOVE SPRINGS

Elaine Martin

Elaine Martin

Thomas K. Schafer, Manager
Canyonview Irrigation Co.

Terry G. Martin, President
The Narrows Water District

G. Keith Munsee

William J. Lanting

Enclosure

RECEIVED

DEPARTMENT OF WATER RESOURCES

The Idaho Department of Water Resources will consider this card statement that the permit holder(s) has completed development to the extent shown below of Permit No. 37-7734.

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

Post Office Address: Statehouse, Boise

Tel. No. _____

Source of Water: Bancroft Springs

Extent of Use:

☐ Domestic		(number of households)
☐ Stockwater		(number and type of stock)
☐ Irrigation		(acres)
☒ Other	<u>instream flow</u>	

Measuring Device: Required? ☐ Yes ☒ No Installed? ☐ Yes ☐ No

Access Port: Required? ☐ Yes ☒ No Installed? ☐ Yes ☐ No

The above information is a true statement of the extent to which the above numbered permit has been developed.

June 8 1987
Date

MICROFILMED

Donald Kramer
Signature of Permit Holder

PLACE
13 CENT
STAMP
HERE

RECEIVED

JUN 12 1984



Department of Water Resources IDAHO DEPARTMENT OF WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

MICROFILMED

WILLIAM S. HOLDEN
FRED J. HAHN
KENT W. FOSTER
ROBERT E. FARNAM
WILLIAM D. FALER, P.A.
STEPHEN E. MARTIN
CHARLES A. HOMER
CARY L. HEIKLE
CURT R. THOMSEN
RANDALL K. BARTON
MICHAEL D. CRAPO
JAMES D. HOLMAN
DAYLE A. SORENSON
DONALD L. HARRIS
BRUCE T. SMITH

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 129
IDAHO FALLS, IDAHO 83402
TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (1877-1967)
ROBERT D. HOLDEN (1911-1971)
TEDDY L. CRAPO (1938-1982)

November 5, 1983

Mrs. Elaine Martin
Dove Springs Irrigation
Route 4, Box 4634
Jerome, ID 83338

RE: Swan Falls Issue

Dear Elaine:

We are writing this letter at your request for a brief statement of the problem and our views in the Swan Falls matter. Although the letter may seem lengthy, it really covers only the bare bones of the matter. The issues, background and history are so complex that it would take a very lengthy letter indeed to fully address all facets of the problem, how it developed, and what we think can and should be done with regard to it. We trust the following will be both understandable and sufficiently brief to be helpful.

In 1977 a group of rate payers filed a complaint with Idaho Public Utilities Commission alleging that Idaho Power Company had failed to protect its water rights at its Swan Falls Power Plant and that Idaho Power's rate payers had been over charged. Idaho Power Company responded by filing suit in the Ada County District Court seeking a declaratory judgment, among other things, that its Swan Falls rights were not subject to up stream depletion. On motions for summary judgment, the District Court found that because of a clause in Idaho Power Company's Hell's Canyon Federal Power License, all of Idaho Power Company's water rights were subordinated to future up stream depletion by use of water from Snake River and its tributaries for out of stream consumptive uses. On November 19, 1982, the Supreme Court of Idaho reversed the decision of the District Court and decided that because there was no "subordination clause" in either the State of Idaho water rights documents relating to the Swan Falls plant or the Federal Power License for that plant, the Swan Falls rights were not subordinated.

The case was remanded by the Supreme Court to the District Court for a decision on certain other issues concerning the Swan Falls rights, such as abandonment, forfeiture, adverse possession, estoppel, waiver and laches. However, no further action has yet been taken on the remand.

Upon the filing of the Supreme Court decision, the Idaho Department of Water Resources stopped processing all applications for permits for ground or surface water up stream from Swan Falls in the entire Snake River Water Shed. The Department's concern is that if the Swan Falls rights are not subordinated, all rights to the use of surface or ground waters which are tributary to the Snake River flows at Swan Falls, subsequent in priority to the Swan Falls priorities, (the earliest of which may be January 17, 1900) are in jeopardy and may have to be cut to supply required flows at Swan Falls. Since flows at Swan Falls typically fall below 8400 cubic feet per second, the amount of Idaho Power rights during much of each summer, it appears there is no supply of water available for any future appropriations, except for non-consumptive uses.

Legislation was introduced in the 1983 legislature which would have subordinated all water rights for power production to out of stream consumptive uses such as irrigation. Idaho Power Company was able (by a margin of one vote in the Senate) to defeat this legislation. On the other hand, Idaho Power Company was successful in getting its own bill, S.B. 1180, passed.

On March 30, 1983, Idaho Power Company filed suit against some 7500 holders of water rights above its Swan Falls, Bliss, Lower Salmon Falls, and Upper Salmon Falls power plants. Although the water user defendants have not been served in this suit, the suit seeks damages from them and an injunction against further use of their water rights. S.B. 1180 was then introduced which, among other things, permits the governor to enter into a contract with Idaho Power Company under the terms of which Idaho Power Company is to agree to dismiss its law suit against a number of the named defendants in exchange for a

Mr. Elmer Martin
November 1, 1983

provision which deprives the Idaho Public Utilities Commission of jurisdiction to grant Idaho Power Company rate payers any relief in their pending action or any similar action.

The proposed contract would amount to an agreement by Idaho Power that certain water rights holders who have a decree or license a pending permit or application for permit, or have either beneficially used water or have a substantial investment in a well and irrigation equipment prior to November 19, 1982, become the holders of water rights to which Idaho Power's Swan Falls rights are subordinated. The number of those who might fit into this category is said to be about 5,000. We have discovered that no decreed rights or statutory claims, or even very many licenses, with priorities subsequent to 1900 were listed in the "7500" law suit. This statutory-contractual scheme does not appear to help the 2,000 to 2500 named defendants in the law suit who will not be dismissed, any of the numerous water rights holders who were not named, or those who have used water for many years, but have no permit or recorded evidence of their rights.

The major problem with this statutory-contractual approach is that it leaves the state in an untenable position; there can be no further development which is dependent upon a so called consumptive use of either surface or underground water in any of the Snake River water shed or plain up stream from Swan Falls. That area comprises most of the State of Idaho which is or can be developed for irrigated agriculture. From the date of the execution of the contract, any further water use in this area of the State for irrigation or other agricultural uses, municipal or industrial uses would depend upon whether Idaho Power Company was willing to part with a portion of its water rights, and if so, whether the proposed water use would be economically feasible in light of the price.

Whether there should or should not be any further development of surface or ground water in the major portion of this state where it is still possible, is a policy issue of such significance that it ought not to be decided in this manner. Certain of our clients have already instructed us to take the necessary action on their behalf to challenge the constitutionality of S.B. 1180. Their position is basically that past water development has resulted in increased power production at Swan Falls because of increased low flows so that there is no detriment to Idaho Power Company; that continued future development in a manner similar to what has occurred in the past is part of the Idaho State Water Plan; that such development is unlikely to significantly deplete Snake River flows at Swan Falls in the foreseeable future; and that in any event, the value of the benefits to the State of Idaho which will result from such future development far exceeds the monetary value of any detriments which Idaho Power Company might experience as a result.

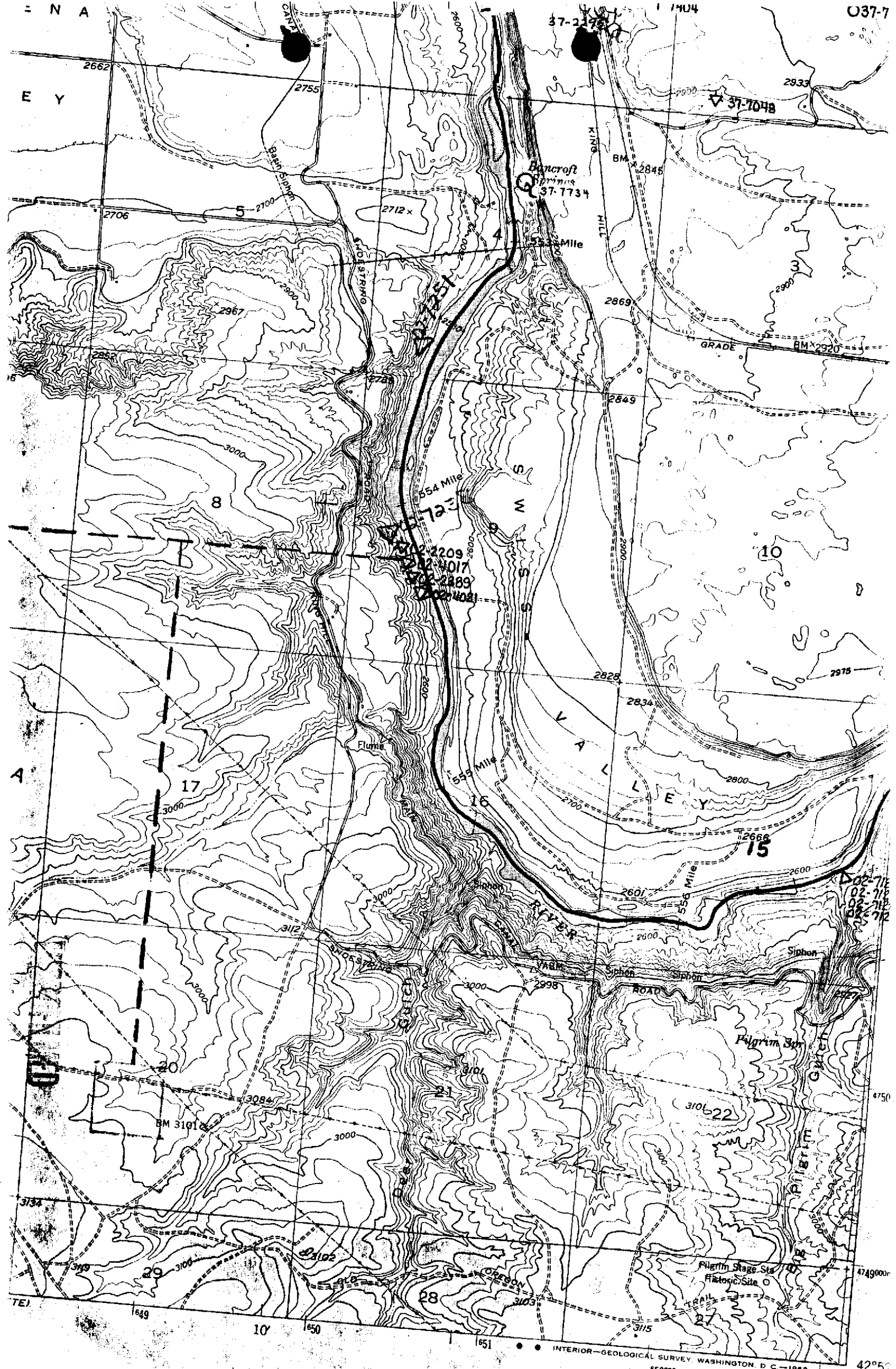
Regardless of what the legislature may do with respect to S.B. 1180 or any proposed subordination bill in the coming session, we think it is essential that the pending litigation, that is, the remand of the Supreme Court decision and the Idaho Power law suit against some 7500 water users, should proceed to its conclusion. There appears to be a substantial argument that all of Idaho Power's water rights are subordinated to future appropriations from the Snake River and its tributaries for irrigation and other so called consumptive out of stream uses, on grounds other than those upon which the November 19, 1982 decision is based. This argument in favor of subordination certainly seems consistent with a long course of conduct on the part of water rights appropriators, the State of Idaho, and even Idaho Power Company itself, which not only acquiesced in the continued development since 1900, but has encouraged much of the ground water pumping development.

Those who legally can and should pursue this litigation to its proper conclusion include not only the named defendants in the two pending law suits, but all water rights holders similarly situated who are holders of a decree, license, permit, application for permit or statutory claim for, or who, although there is no document of record, nevertheless claim a right to the use of surface or underground water within the Snake River water shed or plain up stream from Swan Falls, and whose priority date may be later than January 17, 1900.

We would be pleased to discuss this matter in greater depth with you at your convenience.

Yours very truly,


Kent W. Foster



1 MILE
7000 FEET

ROAD CLASSIFICATION

HARD-SURFACE ALL WEATHER ROADS	DRY WEATHER ROADS
Heavy-duty. ——— 4 LANE 16 LANE	Improved dirt. ———
Medium-duty. ——— 4 LANE 16 LANE	Unimproved dirt. ———
Loose-surface, graded, or narrow hard-surface. ———	



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

M E M O R A N D U M

TO: Jo Beeman

THRU: Glen Saxton

FROM: Dave Tuthill

DATE: 4-28-80

RE: Approval of Minimum Streamflow (MSF) Applications.

During calendar year 1979, the Director approved seven (7) MSF apps. These apps. were sent to the Legislature at the start of the 1980 legislative term. House concurrent resolutions (HCR) were drafted for each. Six (6) of the resolutions were eventually approved by both houses of the Legislature, but HCR 39 (copy attached), which refers to Bancroft Springs, went no further than the House Resources/Conservation Committee. The reason for delay of HCR 39 may have been a possible interference between an Idaho Power project and the MSF app.

Section 42-1503, Idaho Code, states in part that if the legislature "...fails to act prior to the end of the regular session...", a MSF application shall be considered to be approved. Is the fact that HCR 39 was neither approved nor rejected a "failure to act"?

Please advise me on this matter to enable our continued processing of the Bancroft Springs MSF, No. 37-7734.

NOTE: This memo was not sent to Glen because pursuant to a 4-29-1980 telecon with Ken Dunn:

- 1) HCR 54 was drafted to replace & amend HCR 39
- 2) HCR 54 passed the House but not the Senate, but
- 3) No negative action on an MSF certainly means the MSF is approved.

Therefore, 37-7734 is fully approved.

DRR 4-29-80

WATER RIGHT NUMBER 37-7734

ACI
IONOWNER LAST NAME - JUAHU WATER RESOURCE BOARD
ADDRESS LINE 1 - TOWERS BLDG.

CITY - BOISE

STATE - ID ZIP CODE - 83720

SOURCE - RANOCROFT SPRINGS
STAGE - PERMITTRIBUTARY OF - SNAKE RIVER
PRIORITY - 09-13-1978

COUNTY - ELMORE

TOTAL DIV. RATE - 17.0000CFS

TRFR/AMEND - A

DIVERSION POINT - 04 06S 11E LOT 05

FROM - 01-01 TO - 12-31 USE - MINIMUM INSTREAM FLOW

USE DIV. RATE - 17.0000CFS

USE - FISH PROP.

PLACE OF USE - TWN 06S RNG 11E SEC 04 TRACT SEW

REMARKS - USE SHALL BE NONCONSUMPTIVE.

MEASURING DEVICES UPON FUTURE FINDING & ORDER FOR ADDN. GUAGEING

STATION TO MAINTAIN MINIMUM STREAM FLOWS.

NON IRRIG USE - H/PRESERVE FISH PROPAGATION & AESTHETIC.

PROOF DUE - 07-01-1984 PERMIT/DENIED - 07-20-1979

COND. OF APPRVL - 16

DIVERSION MEANS - INSTREAM FLOW.

IDENT. NO.

ID A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]

1000

Identification No. 1 37-7734
Old No. New No.

1. Original Owner: Idaho Water Resource Board

Present Owner: _____

2. Address: Statehouse Towers Bldg

3. City: Boise State: ID Zip:

4. A. Source of Water: Bancroft Springs

B. Tributary of: Snake River

5. A. Stage (A,P,L,D,S,J): ~~P~~

B. Status (D,L,R,C,A,I,F - leave blank if valid):

C. Priority Date: 9-13-1978

D. County: 39

E. Total Diversion Rate: 17.

F. Total Diversion Volume:

G. Transfer/Amendment (P,T of A or blank): ~~A~~

H. Water District: _____

I. DLE/Carey Act (D,C or blank):

J. Right Basis (for adjudication claims A,B,C only):

6. A. Point of Diversion

Tract	Sec.	Twp.	Rge.	Gov't Lot	Rediv.
-------	------	------	------	--------------	--------

4	65	11 ^c	5

7. Period of Use, Use, Diversion Rate/Volume:

from 1-1 to 12-31 for ^N~~12~~ purposes. Amount 17
(cfs or AC-FT/yr)

from _____ to _____ for ~~T~~ purposes. Amount _____

from to for purposes. Amount

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

8. Use code: H

[illegible]

- | | | | | | | | |
|----|-----------------|--|-----------------|--|-----|----------|---|
| 9. | A. Decree Name: | | B. Decree Date: | | 10. | Remarks: | A. Use shall be nonconforming.
B. measuring device upon future finding & order for abn.
C. gauging station to maintain minimum stream flow.
D.
E. |
|----|-----------------|--|-----------------|--|-----|----------|---|

11. Other Uses (Non-irrigation explanatory information): * / *Population & statistics*
12. Other Rights for Same Use:

13. A. Proof Due Date: 4-1-1984
B. Date Permit Approved or Denied: 7-20-1979
C. Protested Date:
D. Hearing Date:
E. Old Number:
F. Proof Made (P or blank):
G. Field Exam Made (P,R,F or blank):
H. Conditions of Approval: ~~16~~ 16

14. Diversion Means (brief narrative): *Indecent Plea.*

FACT SHEET

Source: Bancroft Springs
Tributary To: Snake River
Requestor: ID. Fish & Game
Quantity: 17 cfs
Length of Reach: From Source to Point of Confluence (60 yards) w/Snake R.
Purpose: Preservation of: High Quality Fishery,
Fish Population and Aesthetics
Date Received: 09/13/78
Date Hearing Held: 04/25, 04/26/79
Date Approved by Director: 07/20/79
Other Rights: No Recorded Water Rights.

REMARKS: Average Flow= 17 cfs.

- 5-25-77 Submittal of Idaho Power Co. application for Dike Dam on Snake River.
- 9-13-78 Submittal of IWRB minimum streamflow application on Bancroft Springs
- 4-25-79 Public Hearing held on Bancroft Spring by IWRB & IDWR
- 2-15-80 Submittal of Idaho Power Co. application for fish propagation from Bancroft Spring
- 2-28-80 Amendment of Bancroft Spring permit by IWRB.

FACT SHEET # 2

HEARING

Filings Examined at Hearing 36-7818 (Vinyard Creek) and 37-7734 (Bancroft Springs)

Date Hearing Held 04/25,26,/79

Location of Hearing Buhl

Hearing Officer Norman C. Young

No. of Persons at Hearing about 50

Roster of Attendance

Name

Organization

See Attached

Related Correspondence

Name

Organization

See File

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

Scott Reed
P. O. Box A
Coeur d' Alene, ID 83814

Reed M. Hansen
Route 5, Box 213
Idaho Falls, ID 83401

Donald R. Kramer
Castleford,
Idaho 83321

Robert W. Stahman
Idaho Power Company
P. O. Box 70
Boise, ID 83707

Frederick J. Frahm
Idaho Department of Fish and Game
Statehouse Mail
Boise, ID 83720

Robert C. Weaver
130 Broadway North
Buhl, ID 83316

Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

Ken Ellis
Valley Trout Farms, Inc.
Route 3, Box 50
Buhl, ID 83316

Herb Deuel
Banbury Hot Springs
Buhl, ID 83316

Catherine and/or Gary Wright
Route 4
Buhl, ID 83316

Dale R. Christiansen, Director
Idaho Department of Parks and Recreation
Statehouse Mail
Boise, ID 83720

Pete Cole, President
Portneuf Valley Audobon Society
P. O. Box 4755
Pocatello, ID 83201

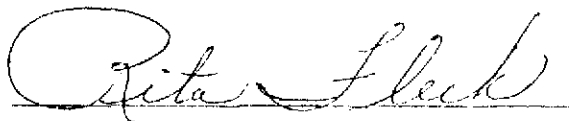
Ed Chaney
Rural Route 1
Eagle, ID 83616

Joe F. Allen, Co-chairman
Water/Power Initiative
American Falls, ID 83211

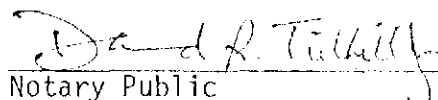
Joe Wyllie, President
Boise Valley Fly Fishermen
P. O. Box 311
Boise, ID 83702

Doli Obee
329 South Phillippi
Boise, ID 83705

Dated this 26th day of July, 1979.



On this 26th day of July, 1979, personally appeared before me the signer of the above instrument, who duly acknowledged to me that she executed the same.



Notary Public
Residing at Boise, Idaho

My commission expires: 9/10/80

FACT SHEET

Source: Bancroft Springs

Tributary To: Snake River

Requestor: ID. Fish & Game

Quantity: 17 cfs

Length of Reach: From Source to Point of Confluence (60 yards) w/Snake R.

Purpose: Preservation of: High Quality Fishery,
Fish Population and Aesthetics

Date Received: 09/13/78

Date Hearing Held: 04/25,04/26/79

Date Approved by Director: 07/20/79

Other Rights: No Recorded Water Rights.

REMARKS: Average Flow= 17 cfs.

RA
11/13/80

WATER RIGHTS WORK SHEET

IDENTIFICATION NUMBER 37-7819

RECORD 01 LAST NAME(40 char.) FIRST NAME(20 char.) ORIG. OWNER

ACTION CODE

RECORD 02 ADDRESS LINE 1(30 char.)

LINE 2(30 char.)

RECORD 03 ADDRESS LINE 3(30 char.)

CITY(23) STATE(2) ZIP(5)

RECORD 04 SOURCE OF WATER(30 char.)

TRIBUTARY OF(30 char.)

RECORD 05

ACTION CODE

A. STAGE(1 char.)
(A,P,L,D,S,J OR BLANK)

B. STATUS(1 char.)
(D,L,R,C,A,I,F OR BLANK)

C. PRIORITY DATE(8 char.)

D. COUNTY OF P/D(2 char.)

E. TOTAL DIVERSION RATE(10 char.)

F. TOTAL DIVERSION VOLUME(10 char.)

G. TRANSFER/AMENDMENT(1 char.)
(P, T, A OR BLANK)

H. WATER DISTRICT NUMBER(3 char.)

I. DLE/CARFY ACT(1 char.)
(D, C OR BLANK)

J. RIGHT BASIS(1 char.)
(for adjudications only A, B, C, D, E, F OR BLANK)

RECORD 06

ACTION CODE POINT OF DIVERSION(16 char.)
TRACT SEC. TWP. RGE. GOV'T. LOT REDIV.

<u>L</u>	<u>NENW</u>	<u>4</u>	<u>6S</u>	<u>11E</u>		

RECORD 07 PERIOD OF USE(8 char.)

ACTION CODE FROM TO USE CODE CFS AFA

RECORD 08 PLACE OF USE

ACTION CODE USE CODE TWP. RGE. SEC. TRACT LOT ACRES

RECORD 09

NAME(60 char.)

DEGREE DATE(8 char.)

RECORD 10

REMARKS(65 char.)

X

(This deletes all remarks.)

A.

B.

C.

D.

E.

RECORD 11, 12 or 14

11

12

14

OTHER USES(65 char.)

OTHER RIGHTS(65 char.)

DIVERSION MEANS(65 char.)

ACTION CODE

RECORD

RECORD 13

ACTION CODE

A. PROOF DUE DATE(8 char.)

B. PERMIT/DENIED DATE(8 char.)

C. PROTESTED DATE(8 char.)

C. HEARING DATE(8 char.)

E. OLD NUMBER(5 char.)

F. PROOF MADE(1 char.)

G. FIELD EXAM MADE(1 char.)

(P, R, F OR BLANK)

H. CONDITIONS OF APPROVAL(3 char.)

(8 CONDITIONS)

L

02

07

090



STATE OF IDAHO

37-7734

IDAHO WATER RESOURCE BOARD

STATEHOUSE
BOISE, IDAHO 83720

January 14, 1980

Dear Legislator:

For the opening of the 1980 legislative session the Idaho Water Resource Board has submitted to the Legislature seven applications for minimum instream flows which have been approved by the Director of the Idaho Department of Water Resources. These applications will become effective under the provisions of I.C. §42-1503 if the legislature passes a concurrent resolution of approval or fails to act at all prior to the end of the regular session.

Recent newspaper stories have reflected considerable misunderstanding and misinformation concerning the minimum flow law which was adopted in 1978 and the action taken by the Idaho Water Resource Board under that act. My purpose in writing to each senator and representative is to try to clarify the law and our actions under that law to date.

Under I.C. §42-1501 the preservation of minimum stream flows for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality is recognized as a beneficial use. The Idaho Water Resource Board is granted the power to apply for a minimum flow right and hold that right if approved. No other agency or individual can either make application or hold a minimum flow water right.

The standards to be used by the Director in determining whether to approve a minimum flow are set forth in I.C. §42-1503. It is very important to note that under the first requirement of that section the Director cannot approve an application for a minimum flow unless he specifically makes a finding that such an appropriation:

Will not interfere with any vested water right, permit, or water application with priority of right date earlier than the date of receipt in the office of the director of a complete application for appropriation of minimum stream flow filed under the provisions of this act.

Minimum flow applications are treated exactly in this same fashion as any diversionary applications. Any right that is granted is subsequent to and inferior to any prior right. The minimum flow rights are subject to the statutory and constitutional rule in Idaho commonly expressed as "first in time is first in right."

On the sources described by the seven applications which were approved by the Director, there were no other applications pending prior to the date of the Board's application. Prior water rights exist on the sources of three of the approved applications, but the applications are junior in priority to the existing water rights.

The Board did submit four other applications in the Thousand Springs area. The testimony at the hearings and the records of the Department of Water Resources indicated that undeveloped water rights exist on the four sources described by the applications. These existing water rights are recorded in the form of unapproved applications and undeveloped permits. The Director has not approved the four applications submitted by the Board but has deferred action to see if the prior filings are developed within the allowable time limits.

The following applications as approved by the Director have been presented to the Speaker of the House and the President Protem of the Senate for your consideration:

- Permit No. 37-7727 Silver Creek, tributary to the Little Wood River, Blaine County, 99 c.f.s.
- Permit No. 37-7728 Silver Creek, tributary to the Little Wood River, Blaine County, 74 c.f.s.
- Permit No. 36-7818 Vinyard Creek, tributary to the Snake River, Jerome County, 17 c.f.s.
- Permit No. 37-7734 Bancroft Springs, tributary to the Snake River, Elmore County, 17 c.f.s.
- Permit No. 95-7874 Wolf Lodge Creek, tributary to Coeur d'Alene Lake, Kootenai County, 30 c.f.s.
- Permit No. 96-7771 Granite Creek, tributary to Pend Oreille Lake, Bonner County, 45 c.f.s.
- Permit No. 96-7772 Sullivan Springs, tributary to Pend Oreille Lake, Bonner County, 45 c.f.s.

January 14, 1980

Page 3

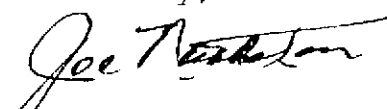
You may be interested in the procedures that were followed. The Department published legal notice of hearings on all applications and in addition news releases concerning the applications were sent to newspapers in the vicinity. The first hearing was on the Silver Creek applications held in the City Hall at Hailey on January 11, 1979. Approximately 40 people attended and twelve testified in support of the applications. There was no opposition at the hearing to either application.

A hearing was held in Buhl on April 25th and 26th on Vinyard Creek and Bancroft Springs along with four other flows in the Thousand Springs area. Approximately 50 people attended the hearing. There was considerable testimony in support of all of the applications with opposition to the request for flows on some of the springs from trout farming interests. There was no testimony in opposition to either Vinyard Creek or Bancroft Springs. Consolidated hearing was held on the three Panhandle applications in Coeur d'Alene on August 2nd. Approximately twenty people attended and all of the testimony was in support of the applications.

Some members of our board were in attendance at each of the hearings. As far as we can determine from the public hearings and the written testimony received by the Department, the applications as approved have very substantial public support and are free from controversy. We believe these seven applications are consistent with the intent of the legislature at the time it unanimously passed the minimum stream flow law as part of its consideration of the State Water Plan.

The approved applications with supporting documentation will be available in the legislative files. If there is any further information that you desire to have, please do not hesitate to call upon us.

Sincerely,


JOSEPH H. NETTLETON
Chairman

JHN:SWR:rh



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

January 7, 1980

The Honorable Reed Budge
President Protem of the Senate
State House
Boise, Idaho 83720

Dear Senator Budge:

Enclosed please find copies of the applications for permit to appropriate water for minimum streamflow purposes that have been approved by this Department during calendar year 1979. They are numbered 37-7734, 37-7728, 36-7818, 37-7727, 95-7874, 96-7772, and 96-7771.

As you are aware, Section 42-1503, Idaho Code requires that these applications be reviewed by the legislature. As defined by the statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted the application shall be considered approved."

Please advise me if you desire either further information or a presentation on the nature of the applications.

Sincerely,

C. STEPHEN ALLRED
Director

CSA:DRT:jg

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

January 7, 1980

The Honorable Ralph Olmstead
Speaker of the House
State House
Boise, Idaho 83720

Dear Mr. Speaker:

Enclosed please find copies of the applications for permit to appropriate water for minimum streamflow purposes that have been approved by this Department during calendar year 1979. They are numbered 37-7734, 37-7728, 36-7818, 37-7727, 95-7874, 96-7772, and 96-7771.

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Please advise me if you desire either further information or a presentation on the nature of the applications.

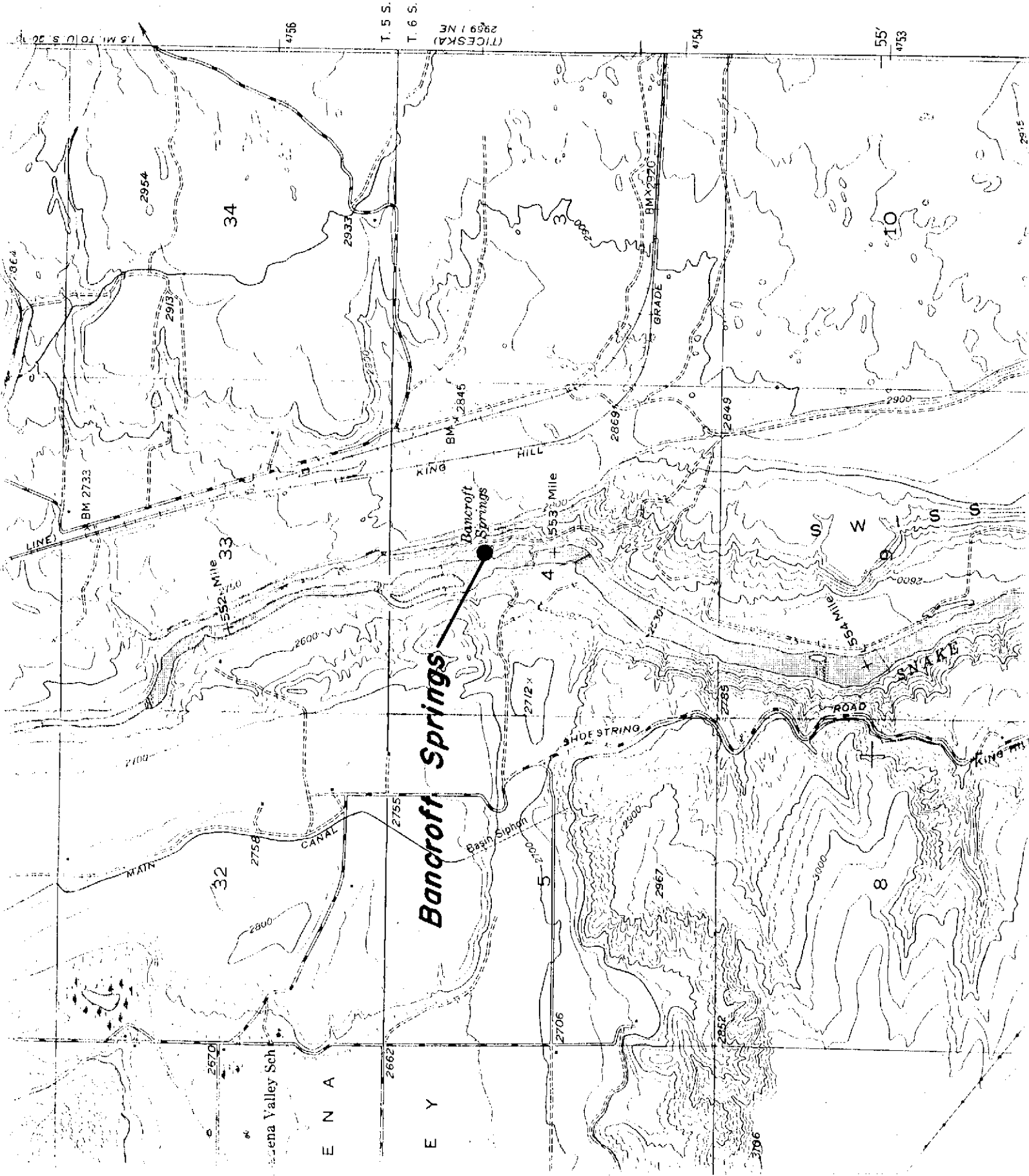
Sincerely,

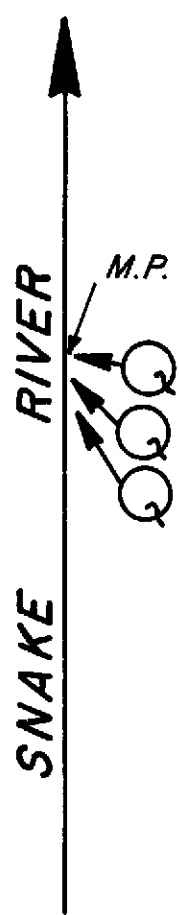
C. STEPHEN ALLRED
Director

CSA:DRT:jg

Enclosure

#2





Bancroft Springs

*17 cfs - Avg. Disch.
No Known Rights
17 cfs - Bd. App.*

4/25/79

NOTES FOR HEARING - ON LOWER
WHITE SPRING, BANBURY SPRING AND
BANBURY SPRING

WS - (36-7821) (37-7734) (36-7822)

I - Explain that this hearing is:

- ① Held pursuant to sec. 42-1503
- ② Are part of a process of identifying & preserving certain streams & water bodies to protect the fish & wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation, or water quality in the public interest (sec. 42-1502) - leads to leg. review if app'd by director on basis of record
- ③ Under established law in Idaho - real
- ④ Record will close @ end of hearing unless something to contrary surface in the hearing.
- ⑤ Held pursuant to adopted rules of practice

II TYPE of hearing

- ① And #4 of Steve's notes
- ② Hearing will therefore provide for those persons or entities who feel they have a vested interest to participate fully - present arguments, evidence, testimony, call witnesses, cross exam., appeal - etc. - Should have filed intent at least 5 days ago
- ③ Will also allow participation by interested public who wish to make their views known through public statement - subject to EXAM - cannot EXAM -
- ④ 6 or 6th record to be updated

III Review factors Director can consider in making decision - 42-1503 (k) (1) & (2)

IV Review dept. proc. of appo

Rec'd on Sept 13, 78

adv. on Feb 8 + 15

has postponed

adv on 3/23 + 4/5
3/29

Elmore - Atlanta Ne

Gooding Co. Snyder

Turn Fall News Time

June - Northside
News

V Judicial notice of dept records printed documents -

To give all interested an opportunity to review this information the staff will make statements to discuss with rights & hypothesis

VI Order of appearance

VII Any matters that need to be discussed before we proceed with witness -

VIII Call ~~then~~ Scott Read -

IX call Glen -

X Call Cecil Thomas

XI Call F + G

LYNN

XII Call Public Interest

XIII Call Portia

Interest

CONNOR

8.00 L. - what status - column

Scott REED - ILWRB

Bob Stahman - IPCO

FRED FRAMM - IF+G

➡ GARY WRIGHT - SELF

➡ Bob Weaver - Valley Trout - Carl HARD

~~Cecil - Your testimony of a general
nature recorder -~~

(Cecil) Make report ➡ ON Blind Canyon
Hearing Floor

➡ ① Send a copy of tape of
Ken Ellis's testimony of
Wednesday to Mike Blane

Judicial Notice of 362806 - map

Do I need some evidence that
U.S. Fish ~~Department~~ has authorized
Ellis to represent them?

What ^{about} public access to Vinograd Creek

if additional development didn't involve
more diversion just more ponds?

Motion - (1) ~~Let record open for second week~~
 (2) Reserve right of asking question on bar
 many for ~~don't~~ ~~extra~~ ~~shake~~
 (3) Cecil Thomas - clarification of ~~points~~ ~~results~~
 (4) HEARING - 4/25/79 (Notes)

1 Scott Read
 2 Glen Saxton -

Accepted STAFF EXHIBIT 1 - Plot of SIX Springs
 " STAFF EXHIBIT 2 - Bancroft Sp.
 " STAFF EXHIBIT 3 - W.R. Schematic
 " STAFF EXHIBIT 4 - L.W.S map
 " STAFF EXHIBIT 5 - W.R. Schematic
 " STAFF EXHIBIT 6 - Bancroft map
 " STAFF EXHIBIT 7 - W.R. Schematic

3 Cecil Thomas -

accepted - USGS - Exhibit 1 - Plot of all springs
 accepted USGS - Exhibit 2 - Hyd of Box Canyon
 accepted USGS - Exhibit 3 - Hyd of Blue Spring

4 F+G

Bob Bell - 100 ft to Snake River
 electrofish 3/6/79 - 14 rainbow 12.5" to 13" water
 10 in to 14 1/2" black

Important for spawning & rearing

F+G Exhibits 1, 2, & 3 - accepted
 Bancroft " 4, 5, & 6 & 7
 " 8, 9, & 10 - statements & supporting data -

F+G Exhibit 11 - Threatened fish paper
 Exhibit 12 - Statement
 accepted F+G Exhibit 12 - stream buffer investigation

Notes - 4/26/79

Buhl Moose Lodge

36-7818 VINYARD CREEK

36-8820 BLIND CANYON SP.

36-7819 BRIGGS SPRINGS

I Explain that hearing is:

- ① Held pursuant to Sec 42-1503
- ② Leads to ^{reg} review 42-1502
- ③ Must be a "due process"
- ④ Prac + Proc

II TYPE of hearing

- ① Need for both "due process" + public input
- ② Two types of participants
- ③ Intervention

III Factors Director can consider. 42-1503

- 1) Not interfere with other rights
- 2) Public not private interest
- 3) Necessary for preservation of fish + wildlife etc
- 4) Min. not ideal
- 5) Capable of being maintained.

IV Rev. dept proc of apps

- 1) Rec'd 9/13/78
- 2) Adv. 2/8 + 15 for hrg in Gooding
- 3) Adv. 3/23 + 3/29 - 4/5

Elmore - Mtn Home News

Gooding Co. Leader

Twin Falls News Times

Jarvis - Northside News

V Take appearances - order of appearance

VI Judicial Notice

VII ANY OTHER Matters

VIII Call Scott Reed - Glen - Sec
Public Witnesses - Parties



STATE OF IDAHO

DEPARTMENT OF HEALTH
AND WELFARE

DIVISION OF ENVIRONMENT
Statehouse
Boise, Idaho 83720

801 Reserve Street

December 8, 1978

Mr. L. Glen Saxton
Chief, Operations Bureau
Department of Water Resources
373 W. Franklin Street
Boise, Idaho
Statehouse Mail

RECEIVED
DEC 11 1978
Department of Water Resources

RE: Applications for Water Rights No.'s 36-7821
36-7822
37-7727
37-7728
37-7734 ✓
37-7739
95-7874
11-7152
36-7818
36-7819
36-7820

Dear Mr. Saxton:

This office has no comments or objections about these applications.

Sincerely,

Jon Wroten
Senior Environmental Quality Specialist

JW/ap

cc: David Sanders

MICROFILMED

Portneuf Valley Audubon Society



January 5, 1979

Norman Young
Dept. Of Water Resources
State House
Boise, Idaho 83720

The Portneuf Valley Audubon Society wishes to lend its support for the approval of the 11 instream flow water rights applications as submitted by Idaho Fish and Game. In particular, this chapter notes the ecological importance of Silver Creek and recommends that the minimum flows of 99 CFS near Picabo and 74 CFS near U.S. Highway 93 between Richfield and Carey be approved.

Respectfully,

PETE

Pete Cole
President of the Portneuf Valley
Audubon Society

✓	76
✓	104
✓	145

1/11/79

32-7734

BOISE VALLEY FLY FISHERMEN

OFFICE OF
Joe Wyllie

P. O. BOX 311

BOISE, IDAHO 83702

November 16, 1978

Water Resource Board
373 W. Franklin Street
Boise, Idaho 83720

Dear Sirs:

The members of the Boise Valley Fly Fishermen are in complete favor of the action taken by the Idaho Fish and Game Department to gain water rights for minimum flows on 11 streams or portions of streams in Idaho. We sincerely hope that you will take action and approve the request.

Sincerely,

Joe Wyllie

Joe Wyllie
President, BVFF

JW:jl

NOV 17 1978

ED CHANEY • Natural Resources • Idaho • (200) 333-0000

October 24, 1978

RECEIVED

OCT 25 1978

Department of Water Resources

George Yost
Chairman, Idaho Water
Resources Department
Statehouse
Boise, Idaho 83720

George Yost:

It is my understanding that the Idaho Water Resources Board has made application for minimum instream flows on ten Idaho streams subject to availability of unappropriated water.

This application is in accordance with the instream flow protection provisions of the State Water Plan and implementing legislation passed by the 1978 legislature, both of which, in my view, reflect the majority view of Idaho citizens.

The ten applications for permit (listed below) appear to include streams of modest potential controversy. Therefore, they should serve as a comparatively painless test of the department's and legislature's commitment to preserving the public instream flow values of Idaho streams not already fully committed to out-of-stream diversions.

I urge your support of these applications and pledge my support of your efforts to that end.

Sincerely,

Ed Chaney

Ed Chaney

P.S. I would appreciate it if your staff could alert me to the time and place of the board meeting at which these applications will be aired.

36-7818 - Vinyard Creek	37-7728 - Silver Creek
36-7819 - Briggs Springs	37-7727 - Silver Creek
36-7820 - Blind Canyon Springs	~~61-7373~~ - Bancroft Springs New #37-7730
36-7821 - Lower White Springs	✓ 95-7874 - Wolf Lodge Creek
36-7822 - Banbury Springs	11-7152 - St. Charles Creek

61-7373
New # 37-7734

121 South Hill Road
Boise, Idaho 83703
November 4, 1978

Mr. George Yost, Chairman
Idaho Water Resource Board
State House
Boise, Idaho 83720

RECEIVED

Nov 5 1978
Department of Water Resources

Dear Mr. Yost,

I am delighted to see that the newly legislated opportunity to apply for minimum stream flows in Idaho has been taken up by the Fish and Game Department. Such a request is very much in the public interest for the citizens of this state. If the water for these minimum flow requests is indeed available, I urge affirmative action be taken by the members of the Idaho Water Resource Board. I refer to the following applications for permits: 36-7818 - Vineyard Creek, 36-7819 - Briggs Springs, 36-7820 - Blind Canyon Springs, 36-7821 - Lower Auto Springs, 36-7822 - Banbury Springs, 37-7727 and 37-7728 - Silver Creek, 61-7373 - Bancroft Springs, 95-7874 - Wolf Lodge Creek, 11-7152 - St. Charles Creek.

I do not think we can any longer operate efficiently with a zero-based budgeting concept for the waters of Idaho. To establish minimum flows for those streams where it is still possible is like putting money in a water savings account. The sooner we move ahead with such a program the more everyone will benefit, and I include the agricultural water user as a very direct beneficiary of such a program.

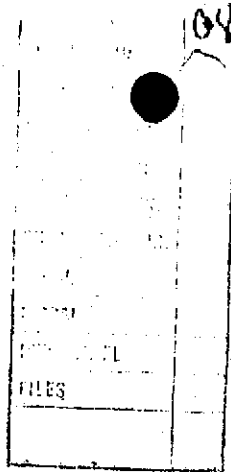
Since the concept of establishing minimum stream flows for Idaho's waters is very long overdue in my estimation, I hope that you can move forward with all possible speed in the granting of these applications.

Sincerely,

Doli Chee

Doli Chee

RECEIVED
NOV 14 1978
DEPT. OF WATER RESOURCES



Copy to:
Board members
Soldiers - water, etc
Site

61-7373

New # 37-7734

American Falls, Idaho
October 24, 1978

RECEIVED

OCT 25 1978

Department of Water Resources

Mr. George Test
Chairman I.W.R.D.
State House
 Boise, Idaho 83720

Dear Mr. Test:

I strongly support the application by the
Water Resources Board for the minimum flows for
the following springs and creeks:

Vinyard Creek
Bridges Springs
Blind Canyon Springs
Lower White Springs
Danbury Springs
Silver Creek 37-7726
Silver Creek 37-7727
Sawcroft Springs
Wolf Lodge Creek
St. Charles Creek

Your favorable consideration of this matter
will be much appreciated.

Yours very truly

Joe F. Allen, Co-chairman
Water/Power Initiative

RECEIVED
OCT 25 1978



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

July 26, 1979

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

Dear Mr. Nettleton:

Re: Application for Permit Nos. 36-7818 and 37-7734

Enclosed are copies of your approved Applications for Permit Nos. 36-7818 and 37-7734 along with a copy of the Memorandum Decision and Order. We direct your attention to the conditions of approval as set forth in the order.

Be sure to note the condition that states that the approval of these applications by the Director does not become finally effective until approved by the legislature pursuant to Section 42-1503, Idaho Code.

Any person who testified at the hearing on these applications before the Department and who is aggrieved by the decision of the Director may request a rehearing before the Director within 20 days, or may appeal the decision to the district court in the manner provided in Sections 67-5215 and 67-5216, Idaho Code.

Sincerely,

David R. Tutthill Jr., Acting

for L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

Enclosures

cc: (See Certificate of Mailing)

RECEIVED

RECEIVED

APR 17 1979

Department of Water Resources

DAVID H. LEROY
Attorney General
State of Idaho
Statehouse, Room 210
Boise, Idaho 83720
Telephone: (208) 384-2400

W. HUGH O'RIORDAN
Deputy Attorney General
Chief, Natural Resources Division

FREDERICK J. FRAHM
Deputy Attorney General
Department of Fish and Game
P. O. Box 25, 600 South Walnut
Boise, Idaho 83707
TELEPHONE: (208) 384-3715

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

In the Matter of Amended)
Applications for Minimum Stream)
Flow: #36-7818, Vinyard Creek;)
#36-7819, Briggs Springs; 36-7820,)
Blind Canyon Springs; #36-7821,)
Lower White Springs; #36-7822,)
Banbury Springs; and #37-7734,)
Bancroft Springs.)

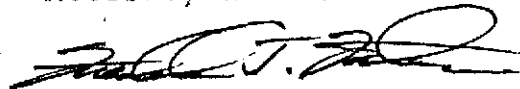
NOTICE OF APPEARANCE

TO: DIRECTOR, DEPARTMENT OF WATER RESOURCES.

YOU ARE HEREBY NOTIFIED THAT FREDERICK J. FRAHM,
Deputy Attorney General for the State of Idaho, hereby enters
appearance as attorney of record for, and on behalf of the
State of Idaho, Department of Fish and Game, for the purpose
of presenting evidence or cross examining witnesses in a
hearing on the above captioned matters.

DATED This 17th day of April, 1979.

DAVID H. LEROY
Attorney General for Idaho



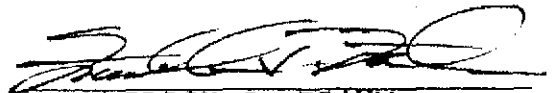
FREDERICK J. FRAHM
Deputy Attorney General
Idaho Department of Fish and Game

FILED

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 17th day of April, 1979,
I mailed a true and correct copy of the above and foregoing Notice
of Appearance to:

Stephen Allred
Director, Department of Water Resources
373 W. Franklin Street
Boise, Idaho 83720


FREDERICK J. FRAHM

37-7734

IDAHO DEPARTMENT of PARKS & RECREATION

Statehouse Mail

2177 Warm Springs Ave.

Boise

Idaho

83720

(208) 384-2154

Dale R. Christiansen, Director
R. P. Peterson, Deputy Director



John V. Evans, Governor

March 5, 1979

Mr. Stephen Allred, Director
Department of Water Resources
Statehouse Mail
Boise, ID 83720

DIRECTOR	
DEPUTY DIR.	
ASSISTANT DIR.	
ADMIN. ASST.	
FIN. ASST.	
LEGAL ASST.	
PLANNING ASST.	
RECREATION ASST.	
TRAILS ASST.	
WATER ASST.	
WILDLIFE ASST.	
YOUTH ASST.	
OTHER	

RECEIVED

MAR 7 1979

Department of Water Resources

RE: Hearing - Fish and Game Department
1,000 Springs Area Application

Dear Mr. Allred:

We have been notified by the Idaho Fish and Game Department of an upcoming hearing on Fish and Game's application for spring flows in the 1,000 Springs area.

Of the five springs (Banbury, Blind, Bancroft, Briggs and Lower White) to be discussed at the hearing, the Idaho Parks and Recreation Department has studied three springs (Banbury, Blind and Bancroft) for possible application for water rights. In 1978 the Department submitted several bills to the legislature for authorization to submit application for water rights on selected springs. Among those bills was a bill for appropriation of water for Banbury Springs. Although no action was taken on those springs, the Department feels that minimum flows for fish, wildlife, recreation and environmental purposes should be established for the entire 1,000 Springs complex.

The Department believes that preservation of minimum flow for each spring in the 1,000 Springs complex would be in the best long-term interests of Idaho. The Springs are a unique feature of Idaho's natural heritage and as such should receive maximum resource protection possible. The Springs, at present, are both of aesthetic and economic importance. The 1,000 Springs area, communities from Bliss to Kimberly including Twin Falls, benefit economically from tourists who visit the area because of its unique natural geologic/hydrologic features. For the Idaho resident in that area, the Springs offer a number of recreation opportunities from fishing, picnicking to photography, as well as environmental for the area's elementary and secondary schools.

Because of these features, the Parks and Recreation Department encourages favorable action on the Department of Fish and Game's request for minimum flows for these Springs.

Sincerely,

Dale R. Christiansen
Director

rvk

EQUAL OPPORTUNITY EMPLOYER

cc: Joseph Greenley, Director

MICROFILMED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

March 21, 1979

Francis McAuthor - City Clerk
Buhl City Hall
201 Broadway North
Buhl, Idaho 83316

Dear Ms. McAuthor:

This is to confirm the use of the basement room of the City Hall for hearings to be held by this Department on Wednesday, April 25, 1979 at 10:00 a.m., and Thursday, April 26, 1979 at 10:00 a.m.

Thank you for your cooperation in this matter.

Sincerely,

Mary A. Hill
Secretary

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

March 21, 1979

North Side News
P. O. Box 468
Jerome, Idaho 83338

Re: Amended Notice of Application for Minimum Stream Flow
36-7819, 36-7822, 36-7820, 36-7821, 37-7734, 36-7818

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Letters and copies to: Gooding County Leader
Mountain Home News
North Side News

RECEIVED
FILMED

AMENDED NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted six (6) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following sources tributary to the Snake River and are further described as follows:

AMENDED APPLICATION NO. 36-7819

Source: Briggs Springs

Point of minimum streamflow: Lot 4 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Sec. 4, Twp. 9S, Rge.

14E, B.M., Gooding County

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

AMENDED APPLICATION NO. 36-7822

Source: Banbury Springs

Point of minimum streamflow: Lot 4 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 33, Twp. 8S, Rge.

14E, B.M., Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

AMENDED APPLICATION NO. 36-7820

Source: Blind Canyon Springs

Point of minimum streamflow: Lot 2 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 28, Twp. 8S, Rge. 14E

B.M., Gooding County

Rate of flow: 8 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetic values

AMENDED APPLICATION NO. 36-7821

Source: Lower White Springs

Point of minimum streamflow: Lot 3, Sec. 2, Twp. 7S, Rge. 13E, B.M.,

Gooding County

Rate of flow: 11 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve rearing and spawning habitat for trout

MICROFILMED

AMENDED APPLICATION NO. 37-7734

Source: Bancroft Springs

Point of minimum streamflow: Lot 5, Sec. 4, Twp. 6S, Rge. 11E, B.M.

Elmore County

Rate of Flow: 17 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetics

AMENDED APPLICATION NO. 36-7818

Source: Vinyard Creek

Point of minimum streamflow: Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 4, Twp. 10S, Rge.

18E, B.M., Jerome County

Rate of flow: 17 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain fish populations and spawning habitat and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m., on Wednesday, April 25, 1979 on Applications 36-7821, 36-7822, and 37-7734 and at 10:00 a.m., on Thursday, April 26, 1979 on Applications 36-7819, 36-7820 and 36-7818 at the Buhl City Hall, 201 Broadway North, Buhl, 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

To be published in: Times News - March 23 and March 30
Mountain Home News - March 29 and April 5
Gooding County Leader - March 29 and April 5
North Side News - March 29 and April 5

MICROFILMED

March 7, 1979

Robert W. Stahman, Attorney
Idaho Power Company
P. O. Box 70
Boise, ID 83707

Dear Mr. Stahman:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1978 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when the
matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

MICROFILMED

March 7, 1979

Catherine B. Wright
Route 4, Box 228
Buhl, ID 83316

Dear Ms. Wright:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1979 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when
the matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

100-1071-223

March 7, 1979

Robert C. Weaver
130 Broadway North
Buhl, ID 83316

Dear Mr. Weaver:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1979 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when the
matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

cc: Earl Hardy
Ken Ellis

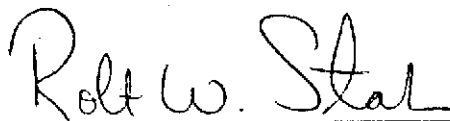
NOT REFILED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

In the Matter of the Five (5) Applications)
submitted by the Idaho Water Resources)
Board on September 13, 1978, proposing)
appropriation of water to preserve the)
minimum stream flows on Briggs Springs,)
Banbury Springs, Blind Canyon Springs,)
Lower White Springs and Bancroft Springs,)
and Public Hearings to be held thereon at)
10:00 am on Thursday, March 8, 1979, at)
the Gooding City Hall.....)
_____)

NOTICE OF
APPEARANCE

Pursuant to Notice published under the provisions of
Section 42-1503, Idaho Code, you will please take notice that I
will appear for and on behalf of Idaho Power Company in the
above-entitled action.



Robert W Stahman
Attorney
Idaho Power Company

Bancroft Springs

- meas. @ 17 cfs
- No known existing rights
- app for 17 cfs

UNRECORDED

~~LIST ADDITIONAL~~ RIGHTS - BANCROFT SPRINGS

~~See Source Book~~

2

MICROFILMED

INTER-DEPARTMENT MEMO — 1

FROM Glen Saxton

DATE

TO File 37-7734

SUBJECT Notice of Hearing

Advise Matt Mulaney of hearing notices.

Ed Chaney

SIGNATURE

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978 submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs

Point of minimum streamflow: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 9S, Rge.

14E, B.M., Gooding County

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-7822

Source: Banbury Springs

Point of minimum streamflow: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Twp. 8S, Rge.

14E, B.M., Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

Application No. 36-7820

Source: Blind Canyon Springs

Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, Twp. 8S, Rge. 14E

B.M., Gooding County

Rate of flow: 8 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetic values

Application No. 36-7821

Source: Lower White Springs

Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, Twp. 7S, Rge.

13E, B.M., Gooding County

Rate of flow: 11 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve rearing and spawning habitat for trout

Application No. 37-7734

Source: Bancroft Springs

Point of minimum streamflow: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, Twp. 6S, Rge.

11E, B.M., Elmore County

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetics

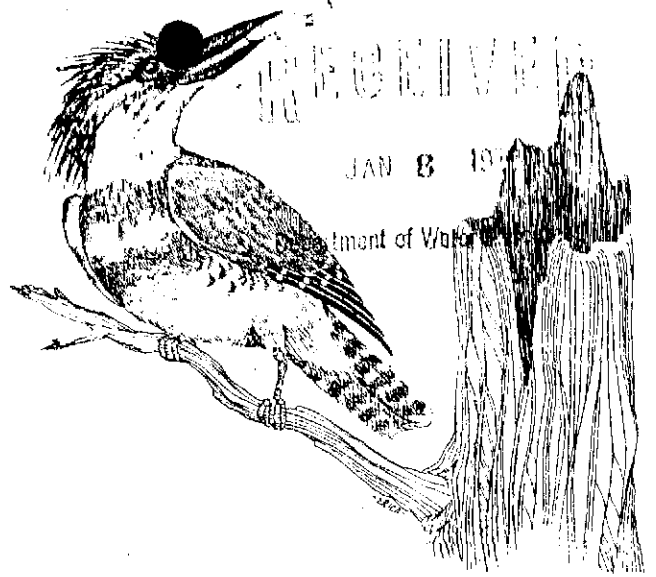
The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979 at the Gooding City Hall, 308 5th Avenue West, Gooding, Idaho for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant 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

Portneuf Valley Audubon Society



January 5, 1979

Norman Young
Dept. Of Water Resources
State House
Boise, Idaho 83720

The Portneuf Valley Audubon Society wishes to lend its support for the approval of the 11 instream flow water rights applications as submitted by Idaho Fish and Game. In particular, this chapter notes the ecological importance of Silver Creek and recommends that the minimum flows of 99 CFS near Picabo and 74 CFS near U.S. Highway 93 between Richfield and Carey be approved.

Respectfully,

PETE

Pete Cole
President of the Portneuf Valley
Audubon Society

✓	1774
	1009
✓	192

RECEIVED
JAN 10 1979
PORTNEUF VALLEY AUDUBON SOCIETY

Compt
ED CHANEY • Rural Route 1 • Eagle, Idaho 83616 • (208) 868-0714

October 24, 1978

George Yost
Chairman, Idaho Water
Resources Department
Statehouse
Boise, Idaho 83720

RECEIVED

OCT 25 1978

Department of Water Resources

George Yost:

It is my understanding that the Idaho Water Resources Board has made application for minimum instream flows on ten Idaho streams subject to availability of unappropriated water.

This application is in accordance with the instream flow protection provisions of the State Water Plan and implementing legislation passed by the 1978 legislature, both of which, in my view, reflect the majority view of Idaho citizens.

The ten applications for permit (listed below) appear to include streams of modest potential controversy. Therefore, they should serve as a comparatively painless test of the department's and legislature's commitment to preserving the public instream flow values of Idaho streams not already fully committed to out-of-stream diversions.

I urge your support of these applications and pledge my support of your efforts to that end.

Sincerely,

Ed Chaney

Ed Chaney

P.S. I would appreciate it if your staff could alert me to the time and place of the board meeting at which these applications will be aired.

36-7818 - Vinyard Creek
36-7819 - Briggs Springs
36-7820 - Blind Canyon Springs
36-7821 - Lower White Springs
36-7822 - Banbury Springs

37-7728 - Silver Creek
37-7727 - Silver Creek
✓ 61-7373 - Bancroft Springs
95-7874 - Wolf Lodge Creek
11-7152 - St. Charles Creek

37-7734

04

Mr. Tolson	
Mr. DeLoach	
Mr. Mohr	
Mr. Bishop	
Mr. Casper	
Mr. Callahan	
Mr. Conrad	
Mr. Felt	
Mr. Gale	
Mr. Rosen	
Mr. Sullivan	
Mr. Tavel	
Mr. Trotter	
Tele. Room	
Mr. Holmes	
Miss Gandy	

37-7734

Copy to:
Board members
Soldiers: water: for
Site

American Falls, Idaho
October 24, 1978

RECEIVED

OCT 25 1978

Department of Water Resources

Mr. George Yost
Chairman I.W.R.D.
State House
Boise, Idaho 83720

Dear Mr. Yost:

I strongly support the application by the
Water Resources Board for the minimum flows for
the following springs and creeks:

Vingard Creek
Briggs Springs
Blind Canyon Springs
Lower White Springs
Banbury Springs
Silver Creek 37-7728
Silver Creek 37-7727
Bancroft Springs
Wolf Lodge Creek
St. Charles Creek

Your favorable consideration of this matter
will be much appreciated.

Yours very truly

Joe F. Allen
Joe F. Allen, Co-chairman
Water/Power Initiative

MICROFILMED



STATE OF IDAHO

DEPARTMENT OF HEALTH
AND WELFARE

DIVISION OF ENVIRONMENT
Statehouse
Boise, Idaho 83720

801 Reserve Street

December 8, 1978

Mr. L. Glen Saxton
Chief, Operations Bureau
Department of Water Resources
373 W. Franklin Street
Boise, Idaho
Statehouse Mail

RECEIVED
DEC 11 1978
Department of Water Resources

RE: Applications for Water Rights No.'s 36-7821
36-7822
37-7727
37-7728
37-7734✓
37-7739
95-7874
11-7152
36-7818
36-7819
36-7820

Dear Mr. Saxton:

This office has no comments or objections about these applications.

Sincerely,

Jon Wroten
Senior Environmental Quality Specialist

JW/ap

cc: David Sanders



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 36-7822, 37-7727, 37-7728,
37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Health and Welfare
State Office Building
700 W. State
Boise, Idaho 83720

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:lr

Enc: 11

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 37-7822, 37-7727, 37-7728, 37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Parks and Recreation
2177 Warm Springs Avenue
Boise, Idaho 83720

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:1r

Enc: 11

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 36-7822, 37-7727, 37-7728, 37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Fish and Game
600 S. Walnut Street
Boise, Idaho 83706

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:lr

Enc: 11

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IDAHO DEPARTMENT of PARKS & RECREATION

Statehouse Mail

2177 Warm Springs Ave.

Boise

Idaho

83720

(208) 384 2154

Dale R. Christiansen, Director
R. P. Peterson, Deputy Director



John V. Evans, Governor

STATEMENT OF DALE CHRISTIANSEN, DIRECTOR
IDAHO STATE PARKS & RECREATION DEPT.
SUPPORTING APPLICATION FOR MINIMUM FLOWS FOR
ELEVEN APPLICATIONS SUBMITTED BY FISH & GAME DEPT.

TO: Idaho Water Resource Board

DATE: November 16, 1978
Boise, Idaho

Mr. Chairman, our department, through our Statewide Outdoor Recreation Plan has identified a need to establish minimum flows as a very high priority for the preservation of certain recreation activities throughout Idaho. Among those activities that rely heavily on Idaho's flowing waters include stream fishing, white water boating, kayaking, and also visual enjoyment. Although, by many standards Idaho has an abundance of flowing waters at certain times, Idaho is also experiencing a rapid decline in the availability of flowing waters for recreation needs. We believe that the establishment of minimum flows for not only fish and wildlife purposes but also for other recreation purposes, is a need that has long been overlooked in the State of Idaho. As a general statement, we support the establishment of maintenance as well as minimum flows for many of Idaho's flowing waters for fish & wildlife purposes as well as for other recreational use of our free flowing waters.

In specifics, we are very supportive of having the Water Resources Board leave intact the application for minimum flows by the Idaho Department of Fish & Game to establish minimum flows for selected springs in the Hagerman Valley (Blind Canyon, Malad River, and Vineyard Creek) which I understand are a part of the applications being studied at this time.

Several of these sections relate to a direct interest our department has via our state park program. Several years ago we started work on the Malad Gorge State Park outside of Bliss, Idaho on the Malad River. We are nearing completion of our Development Phase and expect to have the park opened for use within the next year to year and a half. One of the key and major features of the Malad Gorge State Park is the gorge and the river that runs through it. Much of the water flow in this particular stretch arises from the springs located on state park property at the foot of the gorge. These springs help to improve the quality of the water that runs through the Malad Gorge and also makes it a significant trout fishery. The water is of high quality and is one of the key attractions of the state park. For these reasons, we feel that any depletion of the quality or quantity of the spring waters in the Malad River would have a detrimental effect on our state park program.

EQUAL OPPORTUNITY EMPLOYER

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The Department has also been supportive of the efforts made by other public agencies, notably the Bureau of Land Management, in efforts to establish Vineyard Creek and Devils Corral Area as a recreation area. This area was being looked at as a potential state park but the concept has been set aside as the BLM is working to establish the area as a BLM recreation site. We have been cooperatively working with the BLM over the past year on this project. We feel that Vineyard Creek possesses some unique features that should be preserved for posterity. The establishment of minimum flows would ensure this preservation.

The Department further supports the establishment of minimum flows for Silver Creek as this is one of the finest trout streams in Idaho and a treasure with international recognition. Any request to reduce the quality or quantity of this area should be studied very closely. Although not mentioned in the application under review, we also encourage the Department of Water Resources to investigate setting minimum flows for Devils Corral, Crystal, and Niagra Springs which are located in the Hagerman Valley near Blind, Bancroft, and Vineyard Springs.

We appreciate the Water Resource Board giving us the opportunity to make a statement concerning the pending application for minimum flows. If our department can provide the Board or the Department of Water Resources with any further information, we would be happy to do so.

Thank you.

Dale R. Christiansen
Director

cc: Herm McDevitt
Merle Allison
Joe Greenley

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BOISE VALLEY FLY FISHERMEN

OFFICE OF
Joe Wyllie

P. O. BOX 311

BOISE, IDAHO 83702

November 16, 1978

Water Resource Board
373 W. Franklin Street
Boise, Idaho 83720

Dear Sirs:

The members of the Boise Valley Fly Fishermen are in complete favor of the action taken by the Idaho Fish and Game Department to gain water rights for minimum flows on 11 streams or portions of streams in Idaho. We sincerely hope that you will take action and approve the request.

Sincerely,

Joe Wyllie

Joe Wyllie
President, BVFF

JW:jl

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37-7734

329 South Phillippi
Boise, Idaho 83705
November 4, 1978

Mr. George Yost, Chairman
Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

RECEIVED

NOV 7 1978

Department of Water Resources

Dear Mr. Yost,

I am delighted to see that the newly legislated opportunity to apply for minimum stream flows in Idaho has been taken up by the Fish and Game Department. Such a request is very much in the public interest for the citizens of this state. If the water for these minimum flow requests is indeed available, I urge affirmative action be taken by the members of the Idaho Water Resource Board. I refer to the following applications for permits: 36-7818 - Vinyard Creek, 36-7819 - Briggs Springs, 36-7820 - Blind Canyon Springs, 36-7821 - Lower White Springs, 36-7822 - Banbury Springs, 37-7727 and 37-7728 - Silver Creek, 61-7373 - Bancroft Springs, 95-7874 - Wolf Lodge Creek, 11-7152 - St. Charles Creek.

I do not think we can any longer operate efficiently with a zero-based budgeting concept for the waters of Idaho. To establish minimum flows for those streams where it is still possible is like putting money in a water savings account. The sooner we move ahead with such a program the more everyone will benefit, and I include the agricultural water user as a very direct beneficiary of such a program.

Since the concept of establishing minimum stream flows for Idaho's waters is very long overdue in my estimation, I hope that you can move forward with all possible speed in the granting of these applications.

Sincerely,

Doli Obee

Doli Obee

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

September 13, 1978

MEMO:

FROM: Loren O. Holmes, Southern Region Supervisor

TO: Steve Allred, Director

SUBJECT: Application for Permit - Idaho Water Resource Board

Attached herewith are 10 applications for instream flows from
the Idaho Water Resource Board which were received in this office

on September 13, 1978 at 8:15 a.m.

Southern Region

Application for Permit #36-7818 - Vinyard Creek
Application for Permit #36-7819 - Briggs Springs
Application for Permit #36-7820 - Blind Canyon Springs
Application for Permit #36-7821 - Lower White Springs
Application for Permit #36-7822 - Banbury Springs
Application for Permit #37-7728 - Silver Creek
Application for Permit #37-7727 - Silver Creek

Western Region

Application for Permit ~~#61-7373~~ - Bancroft Springs
*37-7734

Northern Region

Application for Permit #95-7874 - Wolf Lodge Creek

Eastern Region

Application for Permit #11-7152 - St. Charles Creek

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