

Nelson, Dan

From: James Zehner [jzehner@idahocounty.org]
Sent: Thursday, February 15, 2007 3:42 PM
To: Nelson, Dan
Subject: RE: Question of Ownership of HomeStead Entry 707

Daniel,
The owners in that section and HES 707 are

JAMES CAMPBELL RP 25N09E296310 26.21 AC
ORVILL GROVES RP 25N09E296320 1.06 AC
SALMON RIVER TOURS RP 25N09E266330 .31 AC
SALMON RIVER TOURS RP 25N09E296340 .25 AC

OTHER OWNERS OF
~~HES~~ HES 707
Thought to be
77-10054 ;

From: Nelson, Dan [mailto:Dan.Nelson@idwr.idaho.gov]
Sent: Thursday, February 15, 2007 2:19 PM
To: James Zehner
Subject: Question of Ownership of HomeStead Entry 707

Dear Mr. Zehner,

I am currently working on some documents for ownership of property located in Township 25 North, Range 9 East, Section 29. This land is further described as Homestead Entry 707. I am working on the water rights for James and Jeanne Cambell. My problem is that it appears as though there are multiple owners within Homestead Entry 707. I am assuming that some of this land is still owned by a Joe B. Scott. I would like to ask if you could check your records and let me know the names of all of the owners in Homestead Entry 707. The reason for this request is to ensure that we assign all the water rights to the proper owners. If the Cambell's own all of HES 707, then they are entitled to all of the water rights. However, if Mr. Scott still retained a portion of this tract of land, then he should retain a portion of the right.

Thank you so much for your time and effort.

Respectfully,

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources



STATE OF IDAHO
DEPARTMENT OF
ENVIRONMENTAL QUALITY

1118 F STREET • LEWISTON, IDAHO 83501 • (208) 799-4370

JAMES E. RISCH, GOVERNOR
TONI HARDESTY, DIRECTOR

January 24, 2007

Mr. James Campbell
PO Box 1978
McCall, ID 83638-1978

RE: Water Right Application 77-7161

Dear Mr. Campbell,

RECEIVED

JAN 26 2007

WATER RESOURCES
WESTERN REGION

DEQ has received your information and request for our comments on the approval of your application to draw water from Lemhi Creek, Idaho County. Assuming all federal, state and local permits have been obtained, regulations met, and reviews completed, we offer the following comments.

1. In the Idaho Water Quality Standards, the Lemhi Creek water body identification number is ID17060207SL011_02 (IDAPA 58.01.02.130.09). Lemhi Creek is listed in section 3 of the 2002 Integrated Report and is not assessed.
2. There are currently no flow based pollutant load allocations that would be affected by reduced flow.
3. Flow data for Lemhi Creek is not included with the request for comment; therefore, DEQ cannot determine if removal of 2.0 cfs will impact existing aquatic life beneficial uses.
4. In order to protect and maintain aquatic life beneficial uses, stream flow adequate to sustain existing aquatic life needs to be maintained (IDAPA 58.01.02.100.01). We recommend that stream flow be maintained at a level suitable to protect and maintain that aquatic life during the withdrawal and at no time should the stream be allowed to go dry as a result of legally appropriated and allowable water withdrawals.

Thank you for the opportunity to comment on your application. If you have any questions regarding the Idaho Water Quality Standards or the conditions listed above, please call us at (208) 799-4370.

Sincerely,

A handwritten signature in black ink that reads "Kerby M. Cole". The signature is fluid and cursive.

Kerby M. Cole, P.E.
Regional Administrator

KMC:cb

CC: John Westra, IDWR
Ray Hennekey, IDFG
Marti Bridges, IDEQ



IDAHO DEPARTMENT OF FISH AND GAME

SOUTHWEST REGION

McCALL OFFICE

555 Deinhard Lane

McCall, Idaho 83638

C.L. "Butch" Otter / Governor
Terry M. Mansfield / Interim Director

Mr. Dan Nelson
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

February 13, 2007

RECEIVED

FEB 14 2007

WATER RESOURCES
WESTERN REGION

RE: WR #77-7161 James Campbell

Dear Mr. Nelson;

I have reviewed the water application #77-7161 with Mr. James Campbell about uses of water from Lemhi Creek at his property on the Salmon River. Placement of the water diversion and its screening should prevent fish losses into the pipeline. Lemhi creek is very steep and fish are likely absent in the area of the diversion. The diversion does not capture all flow in Lemhi creek. I do not see any significant fishery concerns. Please use this letter as our concurrence on issuance of the water right.

Please contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale B. Allen".

Dale B. Allen
Regional Fishery Manager

da



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

January 9, 2007

JAMES E. RISCH
Governor

KARL J. DREHER
Director

JAMES CAMBELL
283 WILDHORSE DR
PALM DESERT CA 92211

RE: APPLICATION FOR PERMIT 77-7161

Dear Mr. and Ms. Cambell:

I sent the enclosed letter to your McCall address on 12/8/2006 and the letter was returned. I am resending the letter to a previous mailing address in hopes of contacting you.

In the enclosed letter, it states that you have 60 days to respond to the letter. Whereas the letter was returned, the 60-day time limit will begin with the sending of this letter. Therefore, you will have until 3/12/2007 to supply this information.

If you have any questions or concerns please contact me at the above address.

Respectfully,

A handwritten signature in black ink that reads "Daniel A. Nelson". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Daniel A. Nelson
Sr. Water Right Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 8, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

JAMES G AND JEANNE D CAMPBELL
PO BOX 1978
MCcALL ID 83638

Re: Application for Permit 77-7161

Dear Mr. and Ms. Cambell:

I have worked with you to establish a new water permit that was originally filed in 1982 from Lemhi Creek, which is a water source within the Salmon River basin. I informed you in May, 2006, that I had to delay processing your application for permit until the Idaho Department of Water Resources (IDWR) and other state agencies could find a way to work through the agreements that allowed the Salmon River and Wilderness moratoriums to be lifted, which in turn allowed your application to resume processing. The committee working on this issue has created a process to review these applications to avoid any harm to the habitat for endangered or threatened fish species protected by the Endangered Species Act. It has been decided that additional information is needed to fully evaluate your proposal. IDWR is working with other agencies of the State of Idaho regarding projects requiring new water right approval within the Salmon River basin.

Please see the enclosed attachment about additional information for your application. Page 1 of the attachment outlines the legal basis and reasons for this request. That page also provides contact information for the other state agencies that will be involved in this process. Page 2 of the attachment lists the Water Appropriations rules about this request for more information. Please be sure to state why you think that any of the items on page 2 do not apply to your application.

Please note the deadline for your written reply to this request. Water Appropriation Rule 40.01.d allows an applicant to request that IDWR interrupt processing an application for up to six months if more time is needed by the applicant. IDWR can approve the request if it (a) will not injure others, (b) is consistent with the public interest, and (c) is not for speculative purposes. Applications are normally voided if applicants do not provide timely written responses.

If you have any questions or concerns please contact me at the above address.

Sincerely,

Daniel A. Nelson
Senior Agent
Western Region
Idaho Department of Water Resources

Enclosure

IDAHO DEPARTMENT OF WATER RESOURCES

Applying for a Permit to Appropriate Water in the Salmon and Clearwater River Basins

Idaho Code § 42-203A(5) requires IDWR to evaluate the following criteria for applications to appropriate water:

- The potential to reduce the quantity of water under existing water rights
- The sufficiency of the water supply for the proposed appropriation
- The good faith nature of the application
- The adequacy of the applicant's financial resources
- The local public interest in the public water resource
- The conservation of water resources in Idaho
- Impacts to the economy of the local area or watershed

To ensure that IDWR has sufficient information to evaluate the criteria, Rule 40.05 of the Water Appropriation Rules (IDAPA 37.03.08.040.05) requires water right applicants to submit additional information to IDWR in connection with their applications.

The additional information requirement is usually waived for applications proposing the appropriation of 5.0 cfs or less or the storage of 500 af or less. Because the waters of the Salmon River and Clearwater River drainages are habitat for fish species listed as endangered or threatened under the federal Endangered Species Act, caution is necessary to ensure that new appropriations of water do not undermine efforts to protect and restore the ESA listed fish species and other public values in the basins' rivers and streams. IDWR is, therefore, requiring that applicants submit the additional information required by Water Appropriation Rules 40.05.c through 40.05.g, even when the applications are for less than the usual 5.0 cfs/500 af threshold. Only certain applications for small domestic and stockwater uses and applications to divert ground water for domestic use in multiple homes are exempt from the additional information requirement. A copy of Water Appropriation Rules 40.05.c-g is enclosed.

Please submit the information required by Water Appropriation Rules 40.05.c-g to IDWR. IDWR will hold your application until you have submitted the additional information. If you believe that a particular piece of information is not relevant to your application, please explain why. **Your response, or a request for more time to make your response, must be received within 60 days from the date of this mailing.** The application will be voided without a timely written reply.

The following are agency representatives who will help you respond to the local public interest requirement of Rule 40.05.g. **Please contact these agency representatives at least 15 days prior to the end of your 60 day response period.**

IDFG contact list for water right applications:

Panhandle Region: Mary Terra-Berns at 208-769-1414 Clearwater Region: Ray Hennekey at 208-799-5010
McCall Subregion: Dale Allen at 208-634-8137 Southwest Region: Eric Leitzinger at 208-465-8465
Salmon Region: Tom Curet at 208-756-2271

IDEQ contact list for water right applications:

Lewiston: Kerby Cole at 208-769-4370 (Clearwater or lower Salmon River basins)
Cascade: Leslie Freeman at 208-382-6808 (South Fork Salmon River basin)
Idaho Falls: Troy Saffle at 528-2650 (Upper Salmon, Lemhi, Pahsimeroi basins)

Water Appropriation Rules 40.05.c through 40.05.g

c. The following information shall be submitted for applications to appropriate unappropriated water. . . .

Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows:

- i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted.
- ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well.
- iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights.

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows:

- i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year.
- ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source.

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code.
- ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials.

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows:

- i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed.
- ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications.

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows:

The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the director.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 10, 2006

JAMES CAMBELL
283 WILDHORSE DR
PALM DESERT CA 92211

***RE: REQUEST FOR EXTENSION OF TIME TO SUPPLY
ADDITIONAL***

Dear Mr. Cambell:

I received your letter dated 1/31/2006 requesting additional time to supply the information requested in my 1/12/2006 letter. Your request has been granted. I will hold the file, but am willing to work with you on this application any time you are in the area. Our office is right next to the Boise Airport, so we may be able to work on these issues during one of your travel periods.

If you have any questions or concerns please contact me at the above address.

Respectfully,

Daniel A. Nelson
Sr. Water Right Agent

Jim Campbell
P O Box 1978
McCall, Idaho 83638

RECEIVED

FEB 03 2006

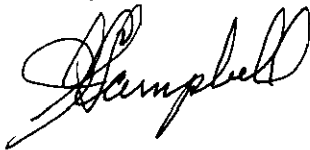
WATER RESOURCES
WESTERN REGION

January 31, 2006

Mr. Nelson,

As per our conversation on the telephone today concerning my application for permit #77-7161 I would like to request a one year delay to give me time to get home and collect my information. I expect to be in McCall this summer and will call for an appointment. I am enclosing a copy of the letter I received from the forest service that I found in my papers here.

Sincerely,

A handwritten signature in cursive script, appearing to read "Campbell", written in dark ink.



United States
Department of
Agriculture

Forest
Service

Nez Perce National Forest

Route 2, Box 475
Grangeville, ID 83530
(208) 983-1950
TTY (208) 983-2280

File Code: 2700

Date: February 4, 2005

Jim Campbell
P.O. Box 1978
McCall, ID 83638

Signed & Returned

Dear Jim,

Enclosed please find a Special Use Permit for a water transmission line on your private property purchased from Joe Scott. Please sign where marked and return the permit to the Nez Perce National Forest Supervisor's Office, Attn: Ja'nice Cash, Route 2 Box 475, Grangeville, ID 83530 as soon as possible, but no later than 60 days from the date of this letter. An approved, signed copy will be sent to you.

Also enclosed is Bill No. BF011701F0027 for the period 02/01/2005 thru 12/31/2005 in the amount of \$55.00 due no later than March 4, 2005. Please make your payment by money order, bank draft or check, payable to USDA Forest Service. Mail your payment, along with a copy of the enclosed Bill for Collection to USDA Forest Service, P.O. Box 894183, Los Angeles, CA 90189-4183. Be advised that it takes approximately 5 days for a payment to reach Los Angeles.

Interest at the current rate, administrative charges and penalty fees at 2% may be charged on any portion of this payment remaining unpaid after the due date. Fees shall accrue from the due date shown on the enclosed Bill for Collection. If the debt remains unpaid it may be referred to Treasury for collection action. The debtor will be responsible for the additional costs incurred in this referral.

If you have any questions, please contact Michael Cook at 208 983-7001 or Ja'nice Cash at 208 983-7005.

Sincerely,

Michael Cook

for JANE L. COTTRELL
Forest Supervisor

Enclosure

cc: Resources
District Ranger - Salmon River RD

jmc

The permit is in McCall





State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

1/12/2006

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JAMES G AND JEANNE D CAMBELL
283 WILDHORSE DR
PALM DESERT CA 9221

COPY

Re: Application for Permit 7161

Dear Mr. and Ms. Cambell:

This office recently opened processing of applications for permit in the area of your application for permit, 77-7161. I have been asked to review and process this application. This application for permit was originally received on 1/8/1982, and was put on hold with very little review of the proposal. There are several issues and additional information that now must be clarified and submitted to allow this application for permit to be processed and approved. Please address all of the issues listed below:

1.) DIVERSIONS ON PUBLIC LANDS:

A.) USDA FOREST SERVICE LAND OWNERSHIP:

Your proposal involves a point of diversion on Lemhi Creek, which appears to be on public land administered by the USDA Forest Service. Apparently you do not have the necessary approval from that agency to operate on public land.

Typically in the past, public land management agencies have protested new applications for permit involving public land. The agencies have done this to ensure that their requirements under federal and/or state law have been satisfied (special use permit, right-of-way etc.). Typically these agencies have withdrawn protests once those requirements have been met or, in some cases, once sufficient progress in that regard has been achieved.

To avoid a lengthy and sometimes costly application protest process in your case, the Idaho Department of Water Resources (IDWR) suggests you contact the USDA Forest Service to obtain approval to operate on public land.

1/12/2006

Page 2

Please provide written confirmation from the USDA Forest Service that you have either:

1. obtained written approval from that agency to legally enter the public land for the purposes stated in your application for permit; or
2. made sufficient progress in obtaining that approval to allow the agency to forego protesting your application for permit.

IDWR will process your application for permit upon receiving the above referenced confirmation. This should avoid a protest based on USDA Forest Service land ownership or land access concerns. IDWR will process your application for permit even without receiving the confirmation, although that option practically ensures a protest will be filed.

B.) FEDERAL ENERGY REGULATORY COMMISSION:

Whereas you are diverting water from point located on Public Lands power generation purposes, you may be under the Federal Energy Regulation Commission (FERC) jurisdiction. You will need to contact this agency and determine if your project will be subject to their control. We can continue processing the application, but approvals may be delayed pending FERC approval of the project. Please supply information that shows that you have contacted this organization, and inform us of what the agency will or will not require for your project.

The current contact information we have for FERC is:

Federal Energy Regulatory Commission
888 1st ST NE
Washington DC 20426
Telephone Number 1-800-847-8885

2.) RETURN FLOWS TO SALMON RIVER:

Your application for permit proposes to run water through a diversion point into a power generation system that will discharge water into the Salmon River. Any approval of this application for permit will only deal with diversion of water from Lemhi Creek. In order to discharge water back into the Salmon River, you may need to file a Joint Stream Channel Alteration Permit with our office and the Army Corp of Engineers. I have included the forms for this type of permit. The same application form is used by both agencies, however, each agency must approve the Stream Channel Operation Permit. For more information you can call Erv Ballou, (208) 287 4941, at the Idaho Department of Water Resources State Office.

1/12/2006

Page 3

Our office will continue processing your application for permit without the Stream Channel Alteration Permit, but you will be subject to fines and penalties, if you discharge water into the Salmon River without the retaining proper permits from these two agencies.

3.) POWER USE REQUIREMENTS:

Your application for permit asked for a Power use, or the ability to generate hydroelectricity or hydropower. In order for our office to grant a water right for hydropower, there are several documents that you will need to submit. As mentioned earlier, you will need to submit documentation that informs us if FERC will regulate your facility, and a list of the requirements or limitations that they will require for your proposed use. The original applicant submitted some of the required information, but you are a new owner and some of the information is no longer valid. The application was also submitted over 20 years ago, and many of the hydropower systems have improved and changed in that time frame. Therefore, you will need to supply the following information:

- a.) An Affidavit establishing residency and ownership of the facilities is required. I have enclosed an affidavit with this letter titled form 205/206 12/99. This will need to be filled out and returned to my office.
- b.) You will need to supply the amount of power to be generated, gross head in feet (elevation differences between the point of diversion and the power plant), design flow for the power generation facility (amount of water flow in cfs to be run through the system), type of power generator to be used (water wheel, Pelton wheel, Hydraulic turbine), and efficiency in percent of the generator to be used.
- c.) We would also like a new diagram showing the current proposed design of the project.

4.) FIRE PROTECTION REQUIREMENTS:

Your application for permit requests a fire protection use. The description of the use was a pond to be used to fight an existing fire. Definitions of fire protection have been re-defined since the application for permit was filed. The current definition for fire protection is the ability to fight an existing fire from a known water source. Your proposal asks to store water to fight a possible fire in the future. This would require a different type of description. The needed fire protection description in your case would be described as fire protection storage.

1/12/2006

Page 4

In order to determine the proper way to list this use on the application for permit form, you will first need to determine the proposed dimensions of the pond. You will need to determine the proposed surface area of the pond and the depth of the pond. With this information we can determine the proposed volume of water the pond will store for fire protection storage by multiplying the surface area (SA) by the depth (D) to get the volume in acre-feet. Once you determined the volume of the pond, part 4 of the application should read as follows:

Amount 2.00 cfs for fire protection purposes from 1/1 to 12/31

Amount 2.00 cfs for diversion to storage purposes from 1/1 to 12/31

Amount (SA X D)* af for fire protection storage purposes from 1/1 to 12/31

*(SA X D) = pond surface area X pond depth.

Please make sure that you include the pond dimensions in the remarks area, so we can verify the volume needed.

4.) DOMESTIC USE AND POSSIBLE IRRIGATION REQUIREMENTS:

The original application for permit requested Domestic use for 2 homes. The diversion rate for this domestic use will only allow in-house use and no yard irrigation, but there was no clear designation in section 8A that it was for in-house use only. With two homes on the application, we can only allow in-house use anyway, but it does seem a bit confusing if it isn't properly designated in section 8A.

If you wish to irrigate any of this property you will need to list this use separately. Generally, we allow 0.03 cfs per acre for everything up to 5 acres of irrigation and if you plan to irrigate more than 5 acres you are limited to 0.02 cfs. To include irrigation, you would need to add the following information in Section 4:

Amount (0.02 cfs X Acres) cfs for irrigation purposes from 3/15 to 10/31

CONCLUSION:

Unfortunately, there is a great deal of information that is required to continue processing this application for permit. In looking over the information, I think it would be best to complete a new application form, and mark it at the top as an "amended." This will make it easier to read and better understood when sent to our State Office for licensing. I included a new application for permit form for you. Just mark amended anywhere on the top of page 1.

1/12/2006

Page 5

You can also attach the affidavit, diagram, map, correspondence with FERC, Army Corp of Engineers, and the USDA Forest Service to the amended application form. You can enter the pond dimensions, and power system information in the remarks portion. If you add irrigation, you will also need to supply a map showing where the irrigation will occur.

Don't forget to fill out each portion of the amended application and sign the amended application. It would be best if both you and your wife signed the application. I have also sent a copy of the original application for permit to assist you with filling out the amended application form. There is no need to return the copy, so keep it for your records.

Most of this information is a little complex, so I included a list of known water right consultants. These consultants assist folks in getting their water right information correct, and follow it through the process. They are invaluable to those that have very little experience with Idaho water rights.

The Department will hold further processing of your application for 30 days, or until 2/13/2006, to allow submittal of the required information. Additional time may be granted by the Department upon receipt of a written request and sufficient justification for an extension. After that time, if adequate information is not received, the Department will issue a preliminary order to void, reject, or deny the application.

I apologize for the length of this letter, but a great deal has happened since the original filing of this application. If you have any questions or concerns, please contact me at the above address. If you need to meet with me to go over what is needed, please call and make an appointment. My office is located right next to the Boise Airport.

Respectfully,

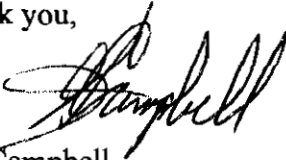
A handwritten signature in black ink, appearing to read "Daniel A. Nelson", with a long horizontal flourish extending to the right.

Daniel A. Nelson
Senior Water Right Agent
Western Region – Idaho Dept. of Water Resources

Mr. John Westra,

Please pursue the process to complete my water right # 77-7161 as we discussed on 1/05/2006. I will be in California until May and can be reached at 760-346-2565 or 283 Wildhorse Dr. Palm Desert Ca. 92211.

Thank you,



Jim Campbell

RECEIVED

JAN 09 2006

WATER RESOURCES
WESTERN REGION

NOTE NEW ADDRESS FOR D'BASE UPDATE
PER ATTACHED 5/1/05 memo

-92 1/11/06

January 6, 2005.

Jim Campbell, application no. 77-7161, sent in a change of ownership with a check for \$25.00. There was no fee for this change. We attempted to send his check back with a letter saying that there was no fee for this. The letter was returned saying he was temporarily away, return to sender. This address was provided to us by Mr. Campbell the 9th of December 2004. We have tried to call him but could not reach him. We will hold this check in the file for a while and try to return it to him again.

Sue Kreger

SFW Called 1/31/05 - Winter in California 760-346-2565
Mr. Campbells address:
283 Wildhorse DR
Palm ~~Des~~ Desert
CA 92211

RECEIVED

DEC 08 2005

WATER RESOURCES
WESTERN REGION

November 21, 2005

JAMES CAMPBELL
JEANNE CAMPBELL
PO BOX 1978
MC CALL ID 83638-1978

Re: Application to Appropriate Water no. 77-7161

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 77-7161 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

Enclosed is the order titled *Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium*. The order directs Department staff to begin processing applications to appropriate water that were held during the moratoriums. Applications will be processed in the approximate order of the Department's receipt of the applications. A reasonable number of applications will be processed each month considering other duties assigned to Department staff. A document attached to the order titled "Statement of Available Procedures and Applicable Time Limits" explains possible actions you might take should you disagree with the order.

Because of the passage of time since you filed your application for permit to appropriate water, ownership of land, desire to use water, or other circumstances may have changed. **This letter requests that you inform the Department in writing, at the address in the letterhead, of your continuing interest in applying for a permit to appropriate water. This letter is a request for additional information under Idaho Code § 42-204. If the requested written statement of continuing interest is not received by the Department within thirty (30) days of the date of this letter, the Department will assume you are no longer interested in**

SCANNED

November 21, 2005

Page 2

applying for a permit to appropriate water, and will void your application pursuant to Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

If you have questions, please call the Department at (208)287-4952.

Sincerely,

A handwritten signature in black ink, reading "Gary Spackman". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

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

IN THE MATTER OF APPLICATIONS AND	)	ORDER RESCINDING
PERMITS FOR THE DIVERSION AND USE	)	SALMON - CLEARWATER
OF SURFACE WATER AND GROUND	)	BASIN MORATORIUM AND
WATER IN THE SALMON RIVER AND	)	WILDERNESS
CLEARWATER RIVER BASINS	)	MORATORIUM
_____	)	

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

1. On May 15, 1992, the Director of the Department of Water Resources ("Director" or "Department") issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* ("Salmon - Clearwater Order"), again enjoining the processing of most applications to appropriate water.

2. The Salmon - Clearwater Order stated:

This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

3. Since the issuance of the Salmon - Clearwater Order, significant efforts have been undertaken in the Salmon River and Clearwater River Basins for the recovery of salmon. These activities include:

- Protection of instream flows in streams and rivers to benefit anadromous fish habitat;
- A process for re-establishment of flows in dewatered anadromous fish streams by delivery of rented or acquired water rights to the dewatered reaches;
- Screening and control of irrigation diversions;
- Consolidation of irrigation diversions;

SCANNED

- Riparian habitat improvement projects; and
- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

4. On October 26, 1999, the Director issued a *Moratorium Order* (“Wilderness Order”) enjoining further processing and development of pending applications and permits for the diversion and use of surface and ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Area.

5. The Director issued the Wilderness Order in response to an Idaho Supreme Court decision titled *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). The *City of Challis* decision affirmed a 1997 Snake River Basin Adjudication (SRBA) District Court decision that the United States is entitled to reserved water rights to all unappropriated water within the Selway-Bitterroot, the Gospel-Hump, and the Frank Church River of No Return Wilderness areas. The Director determined the recognition of the federal reserved water rights to include all unappropriated water within and upstream of the wilderness areas.

6. The Wilderness Order affected all water permits and applications for permit for which proof of beneficial use had not been filed with the Department in the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, Township 24 North, Range 4 East, Boise Meridian, and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness in Section 7, Township 31 North, Range 10 East, Boise Meridian.

7. The Wilderness Order required all water permit holders to cease development authorized by the permits. Some permit holders submitted proof of beneficial use for the beneficial use completed as of the date of the Wilderness Order. Other permit holders ceased development, and the requirement for filing proof of beneficial use was stayed until the Wilderness Order was amended or lifted to allow additional development.

8. The Idaho Supreme Court granted a petition for rehearing of the *City of Challis* decision, and, on October 27, 2000, the Idaho Supreme Court issued another decision titled *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000). The Court reversed its previous decision in *United States v. City of Challis* and held the Wilderness Act and associated wilderness designations did not create federal reserved water rights for the Frank Church River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

Wild and Scenic Rivers

9. In the case of *Potlatch Corp. and Hecla Mining v. United States*, 134 Idaho 912, 12 P.3d 1256 (2000), the Idaho Supreme Court determined that federal designation of Wild and Scenic Rivers in Idaho reserved water rights for the federal government to satisfy the intent of the designation. The Idaho Supreme Court remanded the case to the SRBA District Court for quantification of the reserved water rights for the Wild and Scenic Rivers.

10. On November 16, 2004, the SRBA District Court entered an Amended Order Approving Stipulation and Entry of Partial Decrees in SRBA Case No. 39576 (Consolidated Subcase No. 75-13316 Wild & Scenic Act Claims). The amended order and the associated partial decrees define federal reserved water rights nos. 75-13316, 77-11941, 77-13844, 78-11961, 81-10472, 81-10513, and 81-10625 in Wild and Scenic Rivers in the Salmon and Clearwater River basins. A stipulated agreement (hereafter referred to as the “Wild & Scenic Agreement”) between the United States and parties to the original subcases prior to consolidation forms the framework for the partial decrees issued by the SRBA District Court. The Wild & Scenic Agreement and the partial decrees defining the federal reserved water rights set forth subordination provisions under which the federal reserved water rights are subordinate to other existing and future water rights, describe limitations on appropriation and beneficial use under existing and future water rights to which the federal reserved water rights are subordinate, and provide specific requirements for the administration of water rights within the Salmon and Clearwater River basins.

CONCLUSIONS OF LAW

1. In issuing the Salmon - Clearwater Order and the Wilderness Order, the Director relied on Idaho Code § 42-1805(7). The subsection grants the Director the authority:

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

2. The Salmon - Clearwater Order was issued after the Director found and concluded that further appropriations of surface water at the time would not be in the local public interest and would not be consistent with conservation of the waters of the State of Idaho.

3. Enhancements to streamflows, other improvements to anadromous fish habitat, the execution of the Wild & Scenic Rivers Agreement, and the determination of related federal reserved water rights, have addressed the underlying basis upon which the *Amended Moratorium Order* was issued.

4. The prohibition of new water right appropriations by the Director's Salmon – Clearwater Order dated April 30, 1993, can be rescinded and processing of applications to appropriate surface water in the Salmon River and Clearwater River Basins can be allowed.

5. The Wilderness Order was issued following the initial Idaho Supreme Court decision of *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). Based on the Court's decision, the Director determined there was no additional water available for appropriation. Upon reconsideration, the subsequent Idaho Supreme Court decision, *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000), determined that the wilderness designations did not reserve water rights for the wilderness. As a result of the latest Supreme Court decision in *Potlatch*, the Wild and Scenic Rivers Agreement, and related federal reserved water rights, there is additional water available for appropriation within the limitations described by the Wild & Scenic Agreement and the partial decrees for related federal reserved water rights.

6. The prohibition of new water right appropriations and development authorized by permits to appropriate water by the Director's Wilderness Order dated October 26, 1999, can be rescinded and processing of applications to appropriate water and continued development authorized under existing permits to appropriate water can be allowed.

7. Permit holders who were prohibited from completing application of water for the beneficial use authorized under existing permits are entitled to additional time to complete application of water for beneficial use. For each permit, the additional time granted for completing development should be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due under the permit. The Department should issue an order subsequent to this order establishing the additional time to complete development delayed by the Wilderness Order and specifying the revised date for filing proof of beneficial use for each permit.

ORDER

IT IS HEREBY ORDERED that the *Amended Moratorium Order*, issued on April 30, 1993, prohibiting appropriations of surface water in the Salmon and Clearwater River Basins, is **RESCINDED**.

IT IS FURTHER ORDERED that the *Moratorium Order*, issued on October 26, 1999, prohibiting appropriations of surface and ground water and development of permits for the use of surface water or ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Areas, is **RESCINDED**.

IT IS FURTHER ORDERED that permit holders who were prohibited from completing beneficial use of water authorized under existing permits by the *Moratorium Order* issued on October 26, 1999, are granted additional time for completing the beneficial use authorized. For

each permit, the additional time granted for completing development shall be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due for the permit. The Department shall issue an order subsequent to this order allowing additional time for completion of beneficial use delayed by the Wilderness Order and specifying a date for filing proof of beneficial use for each permit.

IT IS FURTHER ORDERED that appropriations of ground water and surface water within the Salmon River Basin may resume subject to the requirements of the Wild and Scenic Agreement and the federal reserved water rights decreed in accordance with that stipulated agreement.

IT IS FURTHER ORDERED that Department staff shall process new applications to appropriate water generally in the chronological order of the receipt of the applications. Department staff shall also process a reasonable number of applications per month considering all other duties assigned to Department staff.

Dated this 9th day of November, 2005.



KARL J. DREHER
Director

**EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2005, a true and correct copy of the above and foregoing documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness
Moratorium
Explanatory Information to Accompany a Final Order

See attached service list.


Deborah J. Gibson
Administrative Assistant

Name	Address	City	State	Postal Code
PATRICK W LEE	C/O JOHN T BROWN□ PO BOX 61	SUN VALLEY	ID	83353
STANLEY SEWER ASSN	PO BOX 71	STANLEY	ID	83278
SALMON RIVER HEREFORD RANCH	HC 63 BOX 1760	CHALLIS	ID	83226
ELINOR J CORRIGAN	PO BOX 569	CHALLIS	ID	83226
MOUNTAIN SPRINGS WATER INC	PO BOX 628	CHALLIS	ID	83226
US DEPT OF INTERIOR	BUREAU OF LAND MANAGEMENT□ SALMON DISTRICT□ 1206 S CHALLIS ST	SALMON	ID	83467
ROBERT A PIVA	HC 63 BOX 1641	CHALLIS	ID	83226
DANA C HURLESS	HC 67 BOX 621	CLAYTON	ID	83227
TRENT J ROMAN	HC 82 BOX 4023-4	CHALLIS	ID	83226
PARKINSON FOUNDATION SEED FARM	C/O BOB PARKINSON□ PO BOX 65	ELLIS	ID	83235
THOMPSON CREEK MINING CO	PO BOX 62	CLAYTON	ID	83227
CHALLIS IRRIGATION CO	PO BOX 71	CHALLIS	ID	83226
TAIT P JOHNSON	1317 N 141ST AVE	OMAHA	NE	68154
ARCHIE SHERWOOD	PO BOX 163	CLAYTON	ID	83227
L & W STONE CORP	PO BOX 789	CHALLIS	ID	83226
DON M ONEAL	8 ONEAL LN	MAY	ID	83253-2003
US DEPT OF INTERIOR	BUREAU OF LAND MANAGEMENT□ SALMON DISTRICT□ 1206 S CHALLIS ST	SALMON	ID	83467
RICHARD L TYLER	796 LEE CREEK RD	LEADORE	ID	83464
ERNEST GEORGE HOLSCHER	BOX 96	LEADORE	ID	83464
ROBERT L THOMAS	12 REBA LN	SALMON	ID	83467
EDWARD M SNOOK	1205 HWY 28	SALMON	ID	83467
STEPHANIE SNOOK	505 W WINDSOR CT	COEUR D ALENE	ID	83815
HARRY L COLEMAN	PO BOX 70	LEADORE	ID	83464-0070
SHIRLEY R COLEMAN	435 TEE CIR	ST GEORGE	UT	84770
JAMES KRUCKEBERG	411 EIGHTEEN MILE RD	LEADORE	ID	83464-5030
GERALD R MORPHEY	PO BOX 625	SALMON	ID	83467-0625
ALBERT D ANDERSON	5425 BUNDY AVE NORTH	KEISER	OR	97303
JERRY G BLACKBURN	PO BOX 41	LEADORE	ID	83464
VELMA MAHAFFEY	PO BOX 14	LEMHI	ID	83465
DALE A PETERSON	PO BOX 67	LEADORE	ID	83464
WILLIAMS LAKE RECREATIONAL WATER & SEWER DISTRICT	PO BOX 82	SALMON	ID	83467
E J SCHWARZENBERGER	PO BOX 146	UCON	ID	83454
MERRIDEE S OVERACKER	1510 HWY 93 N	SALMON	ID	83467
MICHAEL J OVERACKER	162 HIGHWAY 93 N	SALMON	ID	83467-5301
LEWIS E ROSS	HC 10 BOX 112	GIBBONSVILLE	ID	83463
THOMAS CHARLES PIKE	3478 SALMON RIVER RD	SHOUP	ID	83469-6506
J REX TOLMAN	41 CORBETT LN	SALMON	ID	83467
SALMON RIVER PROPERTIES INC	PO BOX 774	SALMON	ID	83467
DONALD L HAWKINS	14429 WATKINS DR	LA MIRADA	CA	90638
DIXIE GRAVES	PO BOX 963	SALMON	ID	83467
GUY M CARLSON	PO BOX 319	RIGGINS	ID	83549
JOE B SCOTT	380 E PARKCENTER BLVD□ STE 100	BOISE	ID	83706
WELLS LIVESTOCK INC	512 N BROADWAY	BUHL	ID	83316
JACK A WALKER		YELLOW PINE	ID	83677
SALMON RIVER TOURS CO	PO BOX 779	NORTH FORK	ID	83466
KENNETH D CASPER	812 7TH ST S	NAMPA	ID	83651
DALE J LACRONE	BOX 63	NEW PLYMOUTH	ID	83655
UNIVERSITY OF IDAHO REGENTS	C/O GERARD BILLINGTON□ FINANCE & ADMINISTRATION□ PO BOX 443162	MOSCOW	ID	83844-3162
BARBARA G PYLE	77 SILVER FOX TR	MC CALL	ID	83638
STEVE M WRIGHT	PO BOX 1450	MCCALL	ID	83638
RICHARD L PULLEN	STAR RT	POLLOCK	ID	83547
ROBERT J KYRK	HC75 BOX 3546	NEW MEADOWS	ID	83654
THOMAS D MEES	1882 POLE CREEK RD	COUNCIL	ID	83612
WAYNE H REDENBAUGH	PO BOX 275	POLLOCK	ID	83547
RAYMOND K STOLTEY	HC 75 BOX 3556	NEW MEADOWS	ID	83654

DELBERT M WELCH	PO BOX 962	VALDEZ	AK	99686
PAUL SAND	PO BOX 16	WHITE BIRD	ID	83554
JAMES E BONATO	PO BOX 350	LUCILE	ID	83542
BONNIE E KANNADA	PO BOX 55	WHITE BIRD	ID	83554
EUGENE H TENNIES	HCR 75 BOX 32	KOOSKIA	ID	83539
RUSSELL C TRAINOR	HCR 75 BOX 38 A	KOOSKIA	ID	83539
USDA FOREST SERVICE	NEZ PERCE NATIONAL FOREST □ SUPERVISORS OFFICE □ 1005 HIGHWAY 13	GRANGEVILLE	ID	83530
US DEPT OF AGRICULTURE	US FOREST SERVICE □ CLEARWATER NATIONAL FOREST □ 12730 HWY 12	OROFINO	ID	83544 9333
FRANK CAPITO	PO BOX 2545	COEUR D ALENE	ID	83816
GARY BOWLING	3366 N CROFT WAY	EAGLE	ID	83616
AHSAHKA WATER & SEWER DIST	PO BOX 37	AHSAHKA	ID	83520
IDAHO WATER RESOURCE BOARD	PO BOX 83720	BOISE	ID	83720-0098
DON R BERRY	PO BOX 424	LEWISTON	ID	83501
CITY OF KOOSKIA	PO BOX 126	KOOSKIA	ID	83539-0126
MARK LADOUX	PO BOX 149	PECK	ID	83545-0149
JOSEPH SCHNELL	RR 2 BOX 311A	GRANGEVILLE	ID	83530
CITY OF KENDRICK	PO BOX 195	KENDRICK	ID	83537
PORT OF LEWISTON	1626 6TH AVE N	LEWISTON	ID	83501

RECEIVED

DEC 08 2005

WATER RESOURCES
WESTERN REGION

November 21, 2005

FRANK SANTOS
BESSIE SANTOS
PO BOX 500
MC CALL ID 83638

Re: Application to Appropriate Water no. 77-7161

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 77-7161 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

Enclosed is the order titled *Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium*. The order directs Department staff to begin processing applications to appropriate water that were held during the moratoriums. Applications will be processed in the approximate order of the Department's receipt of the applications. A reasonable number of applications will be processed each month considering other duties assigned to Department staff. A document attached to the order titled "Statement of Available Procedures and Applicable Time Limits" explains possible actions you might take should you disagree with the order.

Because of the passage of time since you filed your application for permit to appropriate water, ownership of land, desire to use water, or other circumstances may have changed. **This letter requests that you inform the Department in writing, at the address in the letterhead, of your continuing interest in applying for a permit to appropriate water. This letter is a request for additional information under Idaho Code § 42-204. If the requested written statement of continuing interest is not received by the Department within thirty (30) days of the date of this letter, the Department will assume you are no longer interested in**

SCANNED

November 21, 2005

Page 2

applying for a permit to appropriate water, and will void your application pursuant to Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

If you have questions, please call the Department at (208)287-4952.

Sincerely,

A handwritten signature in black ink, reading "Gary Spackman". The signature is fluid and cursive, with the first name "Gary" and last name "Spackman" clearly legible.

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

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

IN THE MATTER OF APPLICATIONS AND	)	ORDER RESCINDING
PERMITS FOR THE DIVERSION AND USE	)	SALMON - CLEARWATER
OF SURFACE WATER AND GROUND	)	Basin Moratorium and
WATER IN THE SALMON RIVER AND	)	Wilderness
CLEARWATER RIVER BASINS	)	MORATORIUM
_____	)	

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

1. On May 15, 1992, the Director of the Department of Water Resources ("Director" or "Department") issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* ("Salmon – Clearwater Order"), again enjoining the processing of most applications to appropriate water.

2. The Salmon – Clearwater Order stated:

This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

3. Since the issuance of the Salmon – Clearwater Order, significant efforts have been undertaken in the Salmon River and Clearwater River Basins for the recovery of salmon. These activities include:

- Protection of instream flows in streams and rivers to benefit anadromous fish habitat;
- A process for re-establishment of flows in dewatered anadromous fish streams by delivery of rented or acquired water rights to the dewatered reaches;
- Screening and control of irrigation diversions;
- Consolidation of irrigation diversions;

STANDARD

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- Riparian habitat improvement projects; and
- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

4. On October 26, 1999, the Director issued a *Moratorium Order* (“Wilderness Order”) enjoining further processing and development of pending applications and permits for the diversion and use of surface and ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Area.

5. The Director issued the Wilderness Order in response to an Idaho Supreme Court decision titled *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). The *City of Challis* decision affirmed a 1997 Snake River Basin Adjudication (SRBA) District Court decision that the United States is entitled to reserved water rights to all unappropriated water within the Selway-Bitterroot, the Gospel-Hump, and the Frank Church River of No Return Wilderness areas. The Director determined the recognition of the federal reserved water rights to include all unappropriated water within and upstream of the wilderness areas.

6. The Wilderness Order affected all water permits and applications for permit for which proof of beneficial use had not been filed with the Department in the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, Township 24 North, Range 4 East, Boise Meridian, and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness in Section 7, Township 31 North, Range 10 East, Boise Meridian.

7. The Wilderness Order required all water permit holders to cease development authorized by the permits. Some permit holders submitted proof of beneficial use for the beneficial use completed as of the date of the Wilderness Order. Other permit holders ceased development, and the requirement for filing proof of beneficial use was stayed until the Wilderness Order was amended or lifted to allow additional development.

8. The Idaho Supreme Court granted a petition for rehearing of the *City of Challis* decision, and, on October 27, 2000, the Idaho Supreme Court issued another decision titled *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000). The Court reversed its previous decision in *United States v. City of Challis* and held the Wilderness Act and associated wilderness designations did not create federal reserved water rights for the Frank Church River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

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10. On November 16, 2004, the SRBA District Court entered an Amended Order Approving Stipulation and Entry of Partial Decrees in SRBA Case No. 39576 (Consolidated Subcase No. 75-13316 Wild & Scenic Act Claims). The amended order and the associated partial decrees define federal reserved water rights nos. 75-13316, 77-11941, 77-13844, 78-11961, 81-10472, 81-10513, and 81-10625 in Wild and Scenic Rivers in the Salmon and Clearwater River basins. A stipulated agreement (hereafter referred to as the “Wild & Scenic Agreement”) between the United States and parties to the original subcases prior to consolidation forms the framework for the partial decrees issued by the SRBA District Court. The Wild & Scenic Agreement and the partial decrees defining the federal reserved water rights set forth subordination provisions under which the federal reserved water rights are subordinate to other existing and future water rights, describe limitations on appropriation and beneficial use under existing and future water rights to which the federal reserved water rights are subordinate, and provide specific requirements for the administration of water rights within the Salmon and Clearwater River basins.

CONCLUSIONS OF LAW

1. In issuing the Salmon - Clearwater Order and the Wilderness Order, the Director relied on Idaho Code § 42-1805(7). The subsection grants the Director the authority:

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

2. The Salmon - Clearwater Order was issued after the Director found and concluded that further appropriations of surface water at the time would not be in the local public interest and would not be consistent with conservation of the waters of the State of Idaho.

3. Enhancements to streamflows, other improvements to anadromous fish habitat, the execution of the Wild & Scenic Rivers Agreement, and the determination of related federal reserved water rights, have addressed the underlying basis upon which the *Amended Moratorium Order* was issued.

4. The prohibition of new water right appropriations by the Director's Salmon – Clearwater Order dated April 30, 1993, can be rescinded and processing of applications to appropriate surface water in the Salmon River and Clearwater River Basins can be allowed.

5. The Wilderness Order was issued following the initial Idaho Supreme Court decision of *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). Based on the Court's decision, the Director determined there was no additional water available for appropriation. Upon reconsideration, the subsequent Idaho Supreme Court decision, *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000), determined that the wilderness designations did not reserve water rights for the wilderness. As a result of the latest Supreme Court decision in *Potlatch*, the Wild and Scenic Rivers Agreement, and related federal reserved water rights, there is additional water available for appropriation within the limitations described by the Wild & Scenic Agreement and the partial decrees for related federal reserved water rights.

6. The prohibition of new water right appropriations and development authorized by permits to appropriate water by the Director's Wilderness Order dated October 26, 1999, can be rescinded and processing of applications to appropriate water and continued development authorized under existing permits to appropriate water can be allowed.

7. Permit holders who were prohibited from completing application of water for the beneficial use authorized under existing permits are entitled to additional time to complete application of water for beneficial use. For each permit, the additional time granted for completing development should be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due under the permit. The Department should issue an order subsequent to this order establishing the additional time to complete development delayed by the Wilderness Order and specifying the revised date for filing proof of beneficial use for each permit.

ORDER

IT IS HEREBY ORDERED that the *Amended Moratorium Order*, issued on April 30, 1993, prohibiting appropriations of surface water in the Salmon and Clearwater River Basins, is **RESCINDED**.

IT IS FURTHER ORDERED that the *Moratorium Order*, issued on October 26, 1999, prohibiting appropriations of surface and ground water and development of permits for the use of surface water or ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Areas, is **RESCINDED**.

IT IS FURTHER ORDERED that permit holders who were prohibited from completing beneficial use of water authorized under existing permits by the *Moratorium Order* issued on October 26, 1999, are granted additional time for completing the beneficial use authorized. For

each permit, the additional time granted for completing development shall be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due for the permit. The Department shall issue an order subsequent to this order allowing additional time for completion of beneficial use delayed by the Wilderness Order and specifying a date for filing proof of beneficial use for each permit.

IT IS FURTHER ORDERED that appropriations of ground water and surface water within the Salmon River Basin may resume subject to the requirements of the Wild and Scenic Agreement and the federal reserved water rights decreed in accordance with that stipulated agreement.

IT IS FURTHER ORDERED that Department staff shall process new applications to appropriate water generally in the chronological order of the receipt of the applications. Department staff shall also process a reasonable number of applications per month considering all other duties assigned to Department staff.

Dated this 9th day of November, 2005.



KARL J. DREHER
Director

**EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

The accompanying order is a "Final Order" issued by the department pursuant to section 67-5246, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of this order as shown on the certificate of service. **Note: The petition must be received by the Department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See section 67-5246(4), Idaho Code.

REQUEST FOR HEARING

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person who is aggrieved by the action of the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the action. The person shall file with the director, within fifteen (15) days after receipt of written notice of the action issued by the director, or receipt of actual notice, a written petition stating the grounds for contesting the action by the director and requesting a hearing. See section 42-1701A(3), Idaho Code. **Note: The request must be received by the Department within this fifteen (15) day period.**

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

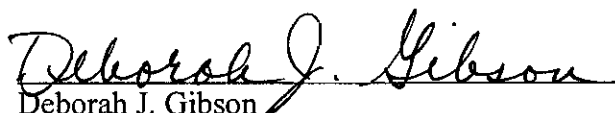
The appeal must be filed within twenty-eight (28) days of: a) the service date of the final order, b) an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November, 2005, a true and correct copy of the above and foregoing documents described below were served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

Document(s) Served: Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium
Explanatory Information to Accompany a Final Order

See attached service list.


Deborah J. Gibson
Administrative Assistant

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THOMAS D MEES	1882 POLE CREEK RD	COUNCIL	ID	83612
WAYNE H REDENBAUGH	PO BOX 275	POLLOCK	ID	83547
RAYMOND K STOLTEY	HC 75 BOX 3556	NEW MEADOWS	ID	83654

DELBERT M WELCH	PO BOX 962	VALDEZ	AK	99686
PAUL SAND	PO BOX 16	WHITE BIRD	ID	83554
JAMES E BONATO	PO BOX 350	LUCILE	ID	83542
BONNIE E KANNADA	PO BOX 55	WHITE BIRD	ID	83554
EUGENE H TENNIES	HCR 75 BOX 32	KOOSKIA	ID	83539
RUSSELL C TRAINOR	HCR 75 BOX 38 A	KOOSKIA	ID	83539
USDA FOREST SERVICE	NEZ PERCE NATIONAL FOREST □ SUPERVISORS OFFICE □ 1005 HIGHWAY 13	GRANGEVILLE	ID	83530
US DEPT OF AGRICULTURE	US FOREST SERVICE □ CLEARWATER NATIONAL FOREST □ 12730 HWY 12	OROFINO	ID	83544 9333
FRANK CAPITO	PO BOX 2545	COEUR D ALENE	ID	83816
GARY BOWLING	3366 N CROFT WAY	EAGLE	ID	83616
AHSAHKA WATER & SEWER DIST	PO BOX 37	AHSAHKA	ID	83520
IDAHO WATER RESOURCE BOARD	PO BOX 83720	BOISE	ID	83720-0098
DON R BERRY	PO BOX 424	LEWISTON	ID	83501
CITY OF KOOSKIA	PO BOX 126	KOOSKIA	ID	83539-0126
MARK LADOUX	PO BOX 149	PECK	ID	83545-0149
JOSEPH SCHNELL	RR 2 BOX 311A	GRANGEVILLE	ID	83530
CITY OF KENDRICK	PO BOX 195	KENDRICK	ID	83537
PORT OF LEWISTON	1626 6TH AVE N	LEWISTON	ID	83501

RECEIVED

DEC 08 2005

WATER RESOURCES
WESTERN REGION

November 21, 2005

JOE B SCOTT
380 E PARKCENTER BLVD
STE 100
BOISE ID 83706

Re: Application to Appropriate Water no. 77-7161

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 77-7161 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

Enclosed is the order titled *Order Rescinding Salmon-Clearwater Basin Moratorium and Wilderness Moratorium*. The order directs Department staff to begin processing applications to appropriate water that were held during the moratoriums. Applications will be processed in the approximate order of the Department's receipt of the applications. A reasonable number of applications will be processed each month considering other duties assigned to Department staff. A document attached to the order titled "Statement of Available Procedures and Applicable Time Limits" explains possible actions you might take should you disagree with the order.

Because of the passage of time since you filed your application for permit to appropriate water, ownership of land, desire to use water, or other circumstances may have changed. **This letter requests that you inform the Department in writing, at the address in the letterhead, of your continuing interest in applying for a permit to appropriate water. This letter is a request for additional information under Idaho Code § 42-204. If the requested written statement of continuing interest is not received by the Department within thirty (30) days of the date of this letter, the Department will assume you are no longer interested in**

November 21, 2005

Page 2

applying for a permit to appropriate water, and will void your application pursuant to Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

If you have questions, please call the Department at (208)287-4952.

Sincerely,

A handwritten signature in black ink, reading "Gary Spackman". The signature is fluid and cursive, with the first name "Gary" and last name "Spackman" clearly distinguishable.

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

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

IN THE MATTER OF APPLICATIONS AND	)	ORDER RESCINDING
PERMITS FOR THE DIVERSION AND USE	)	SALMON - CLEARWATER
OF SURFACE WATER AND GROUND	)	BASIN MORATORIUM AND
WATER IN THE SALMON RIVER AND	)	WILDERNESS
CLEARWATER RIVER BASINS	)	MORATORIUM
_____	)	

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

1. On May 15, 1992, the Director of the Department of Water Resources ("Director" or "Department") issued a *Moratorium Order* enjoining the processing of most applications to appropriate surface water sources within the Salmon and Clearwater River Basins. On April 30, 1993, the Director issued an *Amended Moratorium Order* ("Salmon - Clearwater Order"), again enjoining the processing of most applications to appropriate water.

2. The Salmon - Clearwater Order stated:

This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

3. Since the issuance of the Salmon - Clearwater Order, significant efforts have been undertaken in the Salmon River and Clearwater River Basins for the recovery of salmon. These activities include:

- Protection of instream flows in streams and rivers to benefit anadromous fish habitat;
- A process for re-establishment of flows in dewatered anadromous fish streams by delivery of rented or acquired water rights to the dewatered reaches;
- Screening and control of irrigation diversions;
- Consolidation of irrigation diversions;

- Riparian habitat improvement projects; and
- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

4. On October 26, 1999, the Director issued a *Moratorium Order* (“Wilderness Order”) enjoining further processing and development of pending applications and permits for the diversion and use of surface and ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Area.

5. The Director issued the Wilderness Order in response to an Idaho Supreme Court decision titled *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). The *City of Challis* decision affirmed a 1997 Snake River Basin Adjudication (SRBA) District Court decision that the United States is entitled to reserved water rights to all unappropriated water within the Selway-Bitterroot, the Gospel-Hump, and the Frank Church River of No Return Wilderness areas. The Director determined the recognition of the federal reserved water rights to include all unappropriated water within and upstream of the wilderness areas.

6. The Wilderness Order affected all water permits and applications for permit for which proof of beneficial use had not been filed with the Department in the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, Township 24 North, Range 4 East, Boise Meridian, and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness in Section 7, Township 31 North, Range 10 East, Boise Meridian.

7. The Wilderness Order required all water permit holders to cease development authorized by the permits. Some permit holders submitted proof of beneficial use for the beneficial use completed as of the date of the Wilderness Order. Other permit holders ceased development, and the requirement for filing proof of beneficial use was stayed until the Wilderness Order was amended or lifted to allow additional development.

8. The Idaho Supreme Court granted a petition for rehearing of the *City of Challis* decision, and, on October 27, 2000, the Idaho Supreme Court issued another decision titled *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000). The Court reversed its previous decision in *United States v. City of Challis* and held the Wilderness Act and associated wilderness designations did not create federal reserved water rights for the Frank Church River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

Wild and Scenic Rivers

9. In the case of *Potlatch Corp. and Hecla Mining v. United States*, 134 Idaho 912, 12 P.3d 1256 (2000), the Idaho Supreme Court determined that federal designation of Wild and Scenic Rivers in Idaho reserved water rights for the federal government to satisfy the intent of the designation. The Idaho Supreme Court remanded the case to the SRBA District Court for quantification of the reserved water rights for the Wild and Scenic Rivers.

10. On November 16, 2004, the SRBA District Court entered an Amended Order Approving Stipulation and Entry of Partial Decrees in SRBA Case No. 39576 (Consolidated Subcase No. 75-13316 Wild & Scenic Act Claims). The amended order and the associated partial decrees define federal reserved water rights nos. 75-13316, 77-11941, 77-13844, 78-11961, 81-10472, 81-10513, and 81-10625 in Wild and Scenic Rivers in the Salmon and Clearwater River basins. A stipulated agreement (hereafter referred to as the “Wild & Scenic Agreement”) between the United States and parties to the original subcases prior to consolidation forms the framework for the partial decrees issued by the SRBA District Court. The Wild & Scenic Agreement and the partial decrees defining the federal reserved water rights set forth subordination provisions under which the federal reserved water rights are subordinate to other existing and future water rights, describe limitations on appropriation and beneficial use under existing and future water rights to which the federal reserved water rights are subordinate, and provide specific requirements for the administration of water rights within the Salmon and Clearwater River basins.

CONCLUSIONS OF LAW

1. In issuing the Salmon - Clearwater Order and the Wilderness Order, the Director relied on Idaho Code § 42-1805(7). The subsection grants the Director the authority:

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

2. The Salmon - Clearwater Order was issued after the Director found and concluded that further appropriations of surface water at the time would not be in the local public interest and would not be consistent with conservation of the waters of the State of Idaho.

3. Enhancements to streamflows, other improvements to anadromous fish habitat, the execution of the Wild & Scenic Rivers Agreement, and the determination of related federal reserved water rights, have addressed the underlying basis upon which the *Amended Moratorium Order* was issued.

4. The prohibition of new water right appropriations by the Director's Salmon – Clearwater Order dated April 30, 1993, can be rescinded and processing of applications to appropriate surface water in the Salmon River and Clearwater River Basins can be allowed.

5. The Wilderness Order was issued following the initial Idaho Supreme Court decision of *United States v. City of Challis*, 133 Idaho 525, 988 P.2d 1199 (1999). Based on the Court's decision, the Director determined there was no additional water available for appropriation. Upon reconsideration, the subsequent Idaho Supreme Court decision, *Potlatch Corp. v. United States of America*, 134 Idaho 916, 12 P.3d 1260 (2000), determined that the wilderness designations did not reserve water rights for the wilderness. As a result of the latest Supreme Court decision in *Potlatch*, the Wild and Scenic Rivers Agreement, and related federal reserved water rights, there is additional water available for appropriation within the limitations described by the Wild & Scenic Agreement and the partial decrees for related federal reserved water rights.

6. The prohibition of new water right appropriations and development authorized by permits to appropriate water by the Director's Wilderness Order dated October 26, 1999, can be rescinded and processing of applications to appropriate water and continued development authorized under existing permits to appropriate water can be allowed.

7. Permit holders who were prohibited from completing application of water for the beneficial use authorized under existing permits are entitled to additional time to complete application of water for beneficial use. For each permit, the additional time granted for completing development should be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due under the permit. The Department should issue an order subsequent to this order establishing the additional time to complete development delayed by the Wilderness Order and specifying the revised date for filing proof of beneficial use for each permit.

ORDER

IT IS HEREBY ORDERED that the *Amended Moratorium Order*, issued on April 30, 1993, prohibiting appropriations of surface water in the Salmon and Clearwater River Basins, is **RESCINDED**.

IT IS FURTHER ORDERED that the *Moratorium Order*, issued on October 26, 1999, prohibiting appropriations of surface and ground water and development of permits for the use of surface water or ground water in and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church River of No Return Wilderness Areas, is **RESCINDED**.

IT IS FURTHER ORDERED that permit holders who were prohibited from completing beneficial use of water authorized under existing permits by the *Moratorium Order* issued on October 26, 1999, are granted additional time for completing the beneficial use authorized. For

each permit, the additional time granted for completing development shall be equal to the number of days from the date the Wilderness Order was issued to the date proof of beneficial use was originally due for the permit. The Department shall issue an order subsequent to this order allowing additional time for completion of beneficial use delayed by the Wilderness Order and specifying a date for filing proof of beneficial use for each permit.

IT IS FURTHER ORDERED that appropriations of ground water and surface water within the Salmon River Basin may resume subject to the requirements of the Wild and Scenic Agreement and the federal reserved water rights decreed in accordance with that stipulated agreement.

IT IS FURTHER ORDERED that Department staff shall process new applications to appropriate water generally in the chronological order of the receipt of the applications. Department staff shall also process a reasonable number of applications per month considering all other duties assigned to Department staff.

Dated this 9th day of November, 2005.



KARL J. DREHER
Director

**EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER**

(To be used in connection with actions when a hearing was not held)

(Required by Rule of Procedure 740.02)

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RICHARD L PULLEN	STAR RT	POLLOCK	ID	83547
ROBERT J KYRK	HC75 BOX 3546	NEW MEADOWS	ID	83654
THOMAS D MEES	1882 POLE CREEK RD	COUNCIL	ID	83612
WAYNE H REDENBAUGH	PO BOX 275	POLLOCK	ID	83547
RAYMOND K STOLTEY	HC 75 BOX 3556	NEW MEADOWS	ID	83654

DELBERT M WELCH	PO BOX 962	VALDEZ	AK	99686
PAUL SAND	PO BOX 16	WHITE BIRD	ID	83554
JAMES E BONATO	PO BOX 350	LUCILE	ID	83542
BONNIE E KANNADA	PO BOX 55	WHITE BIRD	ID	83554
EUGENE H TENNIES	HCR 75 BOX 32	KOOSKIA	ID	83539
RUSSELL C TRAINOR	HCR 75 BOX 38 A	KOOSKIA	ID	83539
USDA FOREST SERVICE	NEZ PERCE NATIONAL FOREST SUPERVISORS OFFICE 1005 HIGHWAY 13	GRANGEVILLE	ID	83530
US DEPT OF AGRICULTURE	US FOREST SERVICE CLEARWATER NATIONAL FOREST 12730 HWY 12	OROFINO	ID	83544 9333
FRANK CAPITO	PO BOX 2545	COEUR D ALENE	ID	83816
GARY BOWLING	3366 N CROFT WAY	EAGLE	ID	83616
AHSAHKA WATER & SEWER DIST	PO BOX 37	AHSAHKA	ID	83520
IDAHO WATER RESOURCE BOARD	PO BOX 83720	BOISE	ID	83720-0098
DON R BERRY	PO BOX 424	LEWISTON	ID	83501
CITY OF KOOSKIA	PO BOX 126	KOOSKIA	ID	83539-0126
MARK LADOUX	PO BOX 149	PECK	ID	83545-0149
JOSEPH SCHNELL	RR 2 BOX 311A	GRANGEVILLE	ID	83530
CITY OF KENDRICK	PO BOX 195	KENDRICK	ID	83537
PORT OF LEWISTON	1626 6TH AVE N	LEWISTON	ID	83501



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 16, 2004

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JAMES CAMPBELL
PO BOX
MCCALL ID 83638

RE: Notice of Change in Water Right Ownership: 77-7161

Dear Claimants

This office has received your Notice of Change in Water Right Ownership (copy enclosed), recently submitted. We also received check number 7241 in the amount of \$25; however, we are returning it to you, as the ownership change fee is not required for this particular water right claim. This claim has not yet been decreed by the SRBA Court.

Thank you for your patience and cooperation. If you have any further questions, feel free to contact this office at (208) 334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Sue Kruger".

Water Allocation Section
Western Region

SK: sk

Enclosures

December 6, 2004

John Westra
2735 Airport Way
Boise Idaho, 83705-5082

RECEIVED

DEC 09 2004

WATER RESOURCES
WESTERN REGION

Mr. Westra,

I am the new owner of China Bar formerly owned by Joe Scott. I recently received your letter concerning permit #77-7161. I am currently waiting for the paperwork to transfer this permit to me as the new owner. Please keep this file active.

Thank you,

Jim Campbell
P.O. Box 1978
McCall, Id. 83638

283 Wildhorse Dr
Palm Desert CA 92211

12/5/05⁰⁵FW.

Left message on home phone 634-4242
Concerning check noting



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 2, 2004

JB Scott
PO Box 70001
Boise, ID 83707-0101

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RE: Application for Permit #77-7161—Power, Domestic, Fire Protection
Filed: January 1982

Dear Applicant:

The Department is in the process of reviewing and updating applications that have been held without action for an extended period, application copy attached. The last written communication regarding your application was in 1990.

If you still plan to develop the project as identified, and wish the application continued to be held, please advise this office of your intentions, **OR** sign and return the enclosed application withdrawal if the project is going to be abandon. Please respond by **January 15, 2005**. If no response is received, the Department will consider voiding the application pursuant to Idaho Code §42-204.

Should you have any questions please contact me at the Western Regional Office, 334-2190.

Sincerely,

A handwritten signature in cursive script that reads 'John Westra'.

John Westra
Western Regional Manager.

Enclosure.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705 - (208) 334-2190

January 03, 1990

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

Joe Scott
380 E. Parkcenter Blvd.
Boise, Idaho 83706

RE: Application For Permit No. 77-7161

Dear Mr. Scott:

Our office is in the process of reviewing the above application for possible approval, but before a final decision can be made some additional information from the Idaho Fish and Game will be required. Our office needs to know the impact your water right would have on Lemhi Creek and any recommendations the Fish and Game may have. The person you will need to contact at the Idaho Fish and Game, is Mr. Will Reid, Staff Biologist at 334-2598 or 600 South Walnut Boise, Idaho 83707. I have enclosed a copy of your application for your convenience in answering any questions they may have about it.

Please contact me at 334-2190 or 2735 Airport Way, Boise, Idaho 83705, if I can be any further assistance to you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Melvin'.

Melvin Gene Gibson
Sr. Water Resource Agent

RECEIVED

State of Idaho
Department of Water Resources

FEB 24 1987

ASSIGNMENT OF PERMIT

Application for

Department of Water Resources

I, Frank & Bessie Santos, hereby assign to Joe Scott
of 380 East Parkcenter Blvd., Boise, Idaho 83706
Address

CHECK ONE

☒

All my right, title, and interest in and to Permit No. 77-7161
to appropriate the public waters of the State of Idaho.

☐

The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 10 day of February, 19 87.

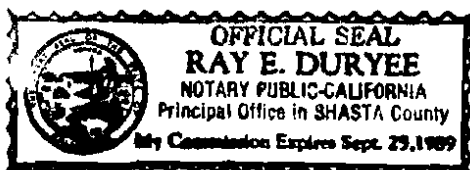
Frank Santos
Permit Holder

Bessie Santos
Spouse of Permit Holder

State of ~~Idaho~~ CALIFORNIA)
County of SHASTA) ss.

On this 10 day of FEBRUARY, 19 87, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that ~~he~~ (she) (they) executed the same.

seal



Ray E. Duryee
Notary Public residing at
SHASTA COUNTY - CALIFORNIA

My commission expires:

SEPT. 29, 1989

RECEIVED
FEB 1 1987

CONVERSATION MEMORANDUM

DATE 6/17/87

FILE 77-7161

NAME OF PARTY Carl Meyers

EMPLOYEE Dave Turrell

RE: FERC Requirement

Carl called to advise that his office is obtaining

approval documentation of some form from FERC

(perhaps in a form other than an exemption). He

will send in the form 205-206 with the FERC info.

DCT



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS

Governor

A. KENNETH DUNN

Director

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

March 26, 1987

Joe Scott
380 E. Parkcenter Blvd.
Boise, ID 83706

Dear Mr. Scott:

We acknowledge receipt of the assignment submitted on Application for Permit No. 77-7161 in which Frank & Bessie Santos assigned this application to you. Enclosed is a copy of this application for your records.

Also enclosed is an Affidavit for Water Rights to be Used for Power Purposes which must now be completed by you. This form is required from applicants on all power applications.

Sometime ago, Mr. & Mrs. Santos spoke of applying to the Federal Energy Regulatory Commission(FERC) for an exemption from having to comply with the rules and regulations FERC requires on power projects. An exemption is usually granted where the power is only to be used for private purposes. We are holding approval of this application awaiting word from FERC as to the status of their application for exemption. Please contact us as soon as possible as to the status of their exemption application, in order for this application for permit to be processed.

If you have any questions concerning this matter, please feel free to contact this office.

Sincerely,

JAN SHURTE
Sr. Water Resource Agent

JS:j
Enclosure

LAW OFFICES
MEULEMAN & MILLER
700 WEST WASHINGTON
POST OFFICE BOX 955
BOISE, IDAHO 83701

CONSTRUCTION LAW

RECEIVED

FEB 24 1987

Department of Water Resources

WAYNE V MEULEMAN
ROBERT L. MILLER
ANTHONY G. HALL
KEVIN S. BORGER
MICHELLE R. FINCH

BOISE (208) 342-6066
IDAHO FALLS (208) 529-0580

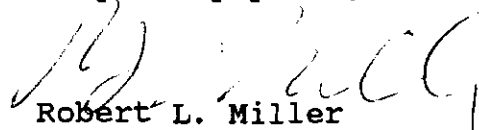
February 18, 1987

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

Gentlemen:

Enclosed please find an original Assignment of Permit for assigning Idaho Department of Water Resources Permit No. 77-7161 from Frank and Bessie Santos to Joe Scott. This permit covers the right to appropriate waters from Lemhi Creek near its confluence with the main Salmon River in Idaho County.

Very truly yours,


Robert L. Miller

RLM/cp

enclosure

cc: Joe Scott w/encl.

RECEIVED
FEB 18 1987

Department of Water Resources
Western Regional Office

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY:

Jan Glover

APPLICATION NUMBER:

77-1101

CHECK:

- ☒ Source.
☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
☒ Description of diverting works.
☒ Time required for beneficial use of water.
☒ Place of use or acres irrigated.
☒ Map.
☒ Signature.
☒ Fee.
☐ Yes ☒ No Field check required.
☐ Yes ☒ No Critical groundwater area.
☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
☒ Yes ☐ No* In form to receipt.

Field check by: _____

Date: _____

Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

Need to establish residence - see letter dated 1/27/82. jg
Rec'd 2/10/82. jg

SEND COPIES TO:

- ☐ Idaho State Health Department.
☐ Idaho Fish and Game Department.
☐ Idaho Department of Lands.
☐ U.S. Bureau of Land Management.
☒ U.S. Forest Service.
☐ Other _____

Copies sent by: _____

Date: _____

PROCESSING:

- ☐ Yes ☒ No
☐ Yes ☒ No
☒ Yes ☐ No*

Platted by: _____ Map No. _____

Other rights on same place of use. _____

In form for advertising.

Final date for protests: *4/12/82*

Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: *4/5/82*
☒ Application published correctly. If not, record action taken: _____
☒ Fee amount, receipt date & number, recorded on application. *65.00 / 21857*
☒ Publication dates and paper, recorded on application. *Idaho County News Press 3/25 & 4/1/82*
☐ Protests, dates, withdrawal, etc., recorded on application.
☐ Recommendation & initial, recorded on application.
☐ Yes ☐ No Measuring device required.
☐ Yes ☐ No Access port required.
☐ Yes ☐ No Will water be delivered by watermaster? If yes, what district? _____

Date of priority recommended.

Special conditions of approval or cover letter. _____

By: _____

Date: _____

STATE OFFICE REVIEW:

- ☐ See attached sheet for more information.

By: _____

Date: _____

POINT OF DIVERSION AND STREAM INDEX INFORMATION

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
SWSW	29	25N	09E	--	--	000.3

IDAHO STREAM CODE INDEX

2720.0920.1880.-----

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
SESW	29	25N	09E	--	--	000.2

IDAHO STREAM CODE INDEX

2720.0920.1880.-----

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
NWNN	33	25N	09E	--	--	000.4

IDAHO STREAM CODE INDEX

2720.0920.1880.-----

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-----	-----	-----	-----	-----	-----	-----

IDAHO STREAM CODE INDEX

TRACT	SEC	TWP	RGE	gov't lot	rediv. (R)	REACH
-----	-----	-----	-----	-----	-----	-----

IDAHO STREAM CODE INDEX

To: Idaho D. t. Water Resources

Date: 06 March 1986

From: Frank Santos

subject:

PERMIT # 77-7161

INTENDED USE OF POWER SYSTEM IS
PERSONAL USE ONLY.

ESTIMATED COST OF CONSTRUCTION,
OF \$5000⁰⁰, NO FINANCING WAS
REQUIRED. SYSTEM COMPLETED IN
1981.

Frank Santos

Diagram attached:

Statement of intended use
personal residence or
marketed power

- diagram ✓
 - estimate of cost ✓
 - statement that no
financing is req'd
-
- Exemption from FERC

CONVERSATION MEMORANDUM

DATE 8/5/86FILE 77-7161NAME OF PARTY Quentin Codser FERC 503 - 294-5844EMPLOYEE Jan Shute

RE:

Phoned in response to my letter stating that an exemption must be filed by Mr. & Mrs. Santos & go through all of the paperwork there before it could be granted. If the Post Service says it is OK then maybe they could get by.

Phoned U.S.F.S. & it appears they do not waive requirement, ~~so~~ an exemption bill need to be filed.



State of Idaho
DEPARTMENT OF WATER RESOURCES
WESTERN REGION, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-2190

July 22, 1986

Federal Energy Regulatory Commission
Regional Engineer's Office
Attn: Mr. Jerry Leach
6th Floor, 333 Market Street
San Francisco, CA 94105

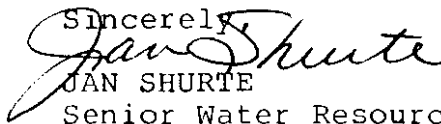
Gentlemen:

We have an application for permit filed by Frank and/or Bessie Santos for the use of the water of Lemhi Creek for power purposes. This power use is for personal use and not for selling to a power company.

Our problem is that the point of diversion is on U.S. Forest Service property, therefore, before we can approve this application an exemption from your agency must be received.

Mr. & Mrs. Santos are very anxious about this application's approval and would appreciate a prompt response from you.

Enclosed is a copy of the application for your review and if you have any questions, please contact us.

Sincerely,

JAN SHURTE
Senior Water Resource Agent

JS: amb
cc: Frank & Bessie Santos

DATE 7/10/86

FROM Dave T

TO Jan

SUBJECT

We discussed this one briefly, & it looked to me like we could approve. As I review it, however, I have noticed that the P/D is on USFS land. This means that an exemption must be obtained from FERC before we can proceed, as described in Ervin's conv memo dated 6/Mar/86.

SIGNATURE

Dave

CONVERSATION MEMORANDUM

DATE 06 March 1986

FILE 77-7161

NAME OF PARTY Frank Santos

EMPLOYEE Ervin Ballou

RE: Mr Santos came into the office today to check on his application filed in 1982 after talking w/ Mr. Santos and Dave T. I had Mr Santos write a statement of new estimate of cost + financing and draw a general diagram of the system location, sizes. He will write to FERC and request an exemption due to nature & size of our system



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 92 South Cole Road, Boise, Idaho 83709

JOHN V. EVANS
Governor

(Office at the corner of
Franklin and Cole Roads)

A. KENNETH DUNN
Director

(208) 334-2190

January 27, 1982

Frank &/or Bessie Santos
Box 500
McCall, Id. 83638

Dear Mr. and Mrs. Santos:

We have received your application for permit for domestic, power and fire protection purposes. However, before we can continue processing the application, there is another form that needs to be filled out.

Since this application includes power purposes an affidavit to establish residence in Idaho needs to be completed. This also has a question concerning your power project on it.

Please sign this form before a notary and return it to this office in order that processing can continue.

If you have any questions, do not hesitate to contact us.

Sincerely,

Jan Grover
Senior Water Resource Agent

JG:jp

Enc:

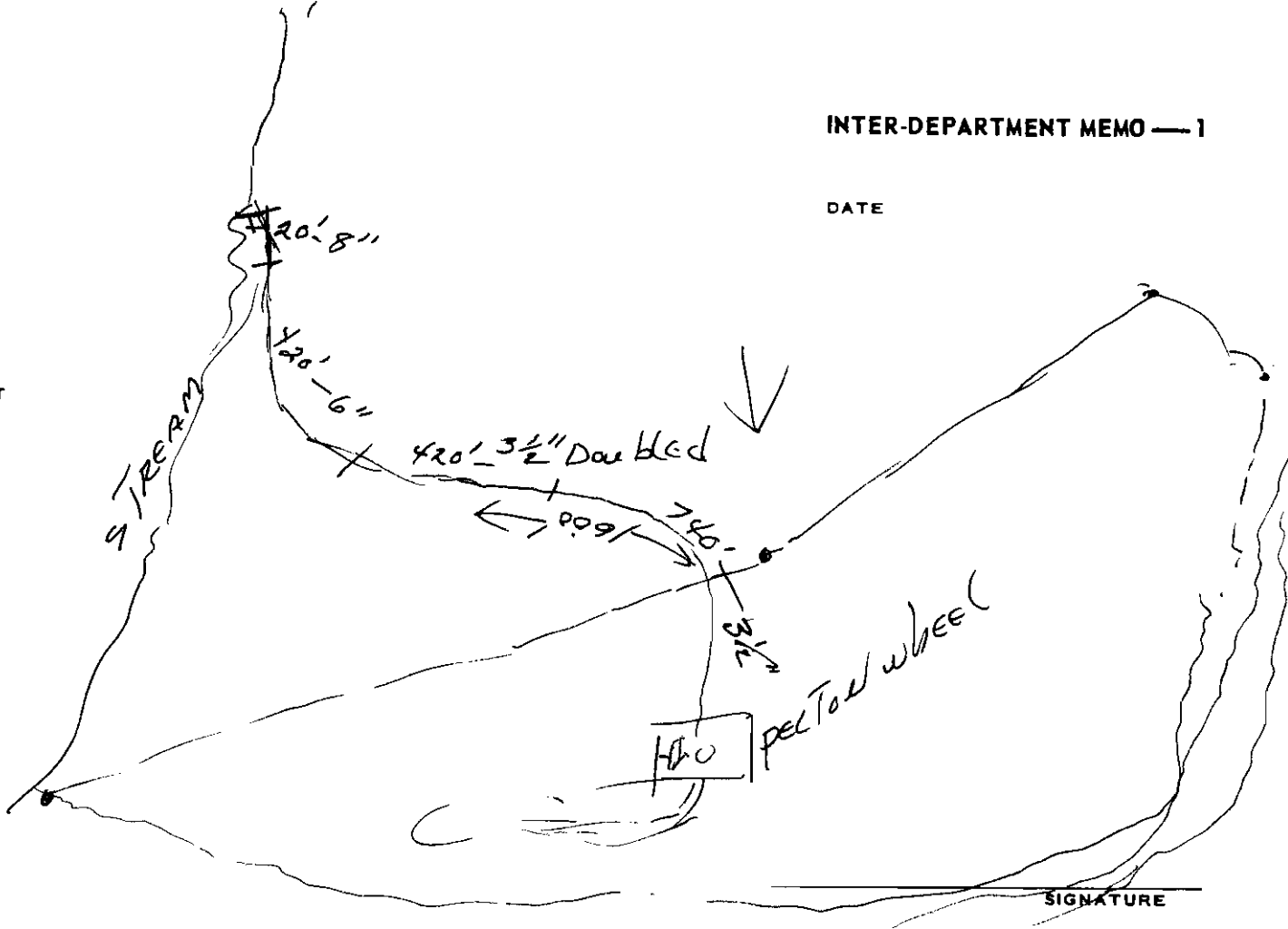
INTER-DEPARTMENT MEMO — 1

FROM

DATE

TO

SUBJECT



FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

77-7141

SANTOS, FRANK &/or
BESSIE
P.O. BOX 500, McCALL, ID
83838

Source: LEMHI CREEK
tributary to SALMON
RIVER

Date Filed: 01/08/1982

SW
SE
NW Sec 28 T 25N R 07E,
IDAHO Co.

Use: POWER (2.00 CFS)
from 01/01 to 12/31

DOMESTIC (0.04 CFS) from
01/01 to 12/31

FIRE PROTECTION (4.96
CFS) from 01/01 to 12/31

Place of Use: SWSW NWSW
NESW Sec 29 T 25N R 09E

Diversion Means:
HEADGATE & PIPE

77-7142

LEXA, KENNETH
BRUCE, LEO
P.O. BOX 103, PRIEST
RIVER, ID 83856

Source: FITZ CREEK
tributary to CROOKED
CREEK

CROOKED CREEK, WEST
FORK tributary to
CROOKED CREEK

CROOKED CREEK
tributary to SALMON
RIVER

Date Filed: 03/05/1982

Amount: 1.00 CFS

Diversion Point: SWSE Sec
29 T 25N R 07E SENW SENW
Sec 28 T 25N R 07E, IDAHO
Co.

Use: MINING (1.00 CFS)
from 01/01 to 12/31

Place of Use: SWNE SENW
NWSW NESW Sec 28 T 25N R
07E SWSE Sec 29 T 25N R
07E

Diversion Means:
PIPELINE

If issued, the permit(s)
will be subject to all prior
water rights. Protest
against the granting of any
permit must be filed with the
Director of the Idaho
Department of Water
Resources, 92 S. Cole Road,
Boise, Idaho 83709 on or
before APRIL 12, 1982.

A. KENNETH DUNN

Director

Published 03/24 & 04/31/82

M24-31

AFFIDAVIT OF PUBLICATION

Nona Donaldson being first duly
sworn, says he is the Office Manager
of the IDAHO COUNTY FREE PRESS, a weekly newspaper which
is published and issued weekly at Grangeville, Idaho County,
State of Idaho, and which is of general circulation in said county
and state; that the said notice, of which the one hereto attached
is a true copy, was published in said paper for 2 weeks,
being published 2 times, the first publication being
on the 27th day of March, 19 82
and the last publication on the 31st day of
March, 19 82, and that the said notice
was published in the newspaper proper and not a supplement;
that said newspaper has been continuously and uninterruptedly
published in said county during a period of more than seventy-
eight consecutive weeks prior to the first publication of said
notice or advertisement.

Nona Donaldson

Subscribed and sworn to before me this 1st day
of April, 19 82

[Signature], Notary Public
for State of Idaho, residing at Grangeville, Idaho.

RECEIVED

APR 5 1982

Department of Water Resources
Western Regional Office



State of Idaho

DEPARTMENT OF WATER RESOURCES

WESTERN REGION, 92 South Cole Road, Boise, Idaho 83709

JOHN V. EVANS

Governor

(Office at the corner of
Franklin and Cole Roads)

A. KENNETH DUNN

Director

(208) 334-2190

March 19, 1982

Ronald Tew
Boise National Forest
1075 Park Blvd.
Boise, Id. 83706

RE: 67-7564, 77-7161, 77-7162

Dear

Enclosed is a copy of the above referenced application for permit which may be of interest to your agency. Please review the application and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter.

If you have any questions regarding the application, please contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read "David B. Shaw", is written over the typed name.

DAVID B. SHAW
Western Region Supervisor

DBS:jp

Enclosure

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region

92 South Cole Road
Boise, Idaho 83709
(208) 334-2198

MARCH 18, 1982

Idaho County Free Press
Box 267
Grangeville, ID 83530

Gentlemen:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billings to this office before APRIL 12, 1982.

Yours truly,

HELEN L. HARRINGTON
Secretary

Encl.

NOTICE OF APPLICATION FOR WATER RIGHT

Notice is hereby given that the following application(s) have been submitted for permit to appropriate the public waters of the State of Idaho:

If issued, the permit(s) will be subject to all prior water rights. Protests against the granting of any permit must be filed with the Director of the Idaho Department of Water Resources, 92 S. Cole Road, Boise, Idaho 83709 on or before APRIL 12, 1982.

A. KENNETH DUNN

Director

Published ²⁴03/25 & ^{3/31}04/01/82.

ZZ-Z161-

SANTOS, FRANK &/or BESSIE

P. O. BOX 500, MCCALL, ID 83638

Source: LEMHI CREEK tributary to SALMON RIVER

Date Filed: 01/08/1982

Amount: 2.00 CFS

Diversion Point: SWSW SESW Sec 29 T 25N R 09E NWNW Sec 32 T 25N R 09E,
IDAHO Co.

Use: POWER	(2.00 CFS)	from 01/01 to 12/31
DOMESTIC	(0.04 CFS)	from 01/01 to 12/31
FIRE PROTECTION	(2.00 CFS)	from 01/01 to 12/31

Place of Use: SWSW NWSW NESW Sec 29 T 25N R 09E

Diversion Means: HEADGATE & PIPE

