

Ident. No. 77-14272

RECEIVED
DEC 01 2005
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Brian M. Howard Phone 208-467-4230
Mailing address 7999 S. Powerline Rd., Nampa, ID 83686
2. Source of water supply South Fork Salmon River which is a tributary of Salmon River
3. Location of point of diversion is Township 23N Range 08E Sec. 6, in the NE $\frac{1}{4}$,
NE $\frac{1}{4}$, — $\frac{1}{4}$, Govt. Lot —, B.M., Idaho County;
additional points of diversion if any: None
4. Water will be used for the following purposes:
Amount 0.04 CFS for Domestic purposes from 01/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount — for — purposes from — to — (both dates inclusive)
(cfs or acre-feet per annum)
Amount — for — purposes from — to — (both dates inclusive)
(cfs or acre-feet per annum)
Amount — for — purposes from — to — (both dates inclusive)
(cfs or acre-feet per annum)
Amount — for — purposes from — to — (both dates inclusive)
(cfs or acre-feet per annum)
Amount — for — purposes from — to — (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.04 CFS and/or (b) 1.2 AF
cubic feet per second acre feet per annum
6. Proposed diverting works:
 - a. Describe type and size of devices used to divert water from the source 5 HP High Pressure Pump
on River with pipe to home
 - b. Height of storage dam — feet; active reservoir capacity — acre-feet; total
reservoir capacity — acre-feet
 - c. Proposed well diameter is — inches; proposed depth of well is — feet
 - d. Is ground water with a temperature of greater than 85°F being sought? —
 - e. If well is already drilled, when? —; Drilling firm —;
Well was drilled for (well owner) —; Drilling Permit No. —
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. —
 - b. Stockwatering; list number and kind of livestock. —
 - c. Municipal; show name of municipality. —
 - d. Domestic; show number of households. one, Lot 9 Capehart Subdivision
 - e. Other; describe fully. —

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	08E	6				X													
						D													

Total number of acres to be irrigated —

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

1. a. Who owns the property at the point of diversion? applicant (common area Copeland Sub, lot 25)

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

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

2. Remarks: Domestic Use Lot 9 only

3. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

B. M. H. /
Signature of Applicant (and title, if applicable)

Received by DB Date 12-1-05 Time 11:30AM Preliminary check by Ly
 Fee \$ 100- Received by DB # W033644 Date 12-1-05
 Publication prepared by DB Date 12-28-06 Published in Id. County Free Press 1-3 + 10, '07
 Publication approved DB Date 1-25-07

2
3/22/64

T24N

36/31

T23N

1/6

BURGDORF SUMMIT QUADRANGLE

IDAHO-II O CO.

7.5 MINUTE SERIES (TOPOGRAPHIC)

614 32' 30"

R7E

R8E

615

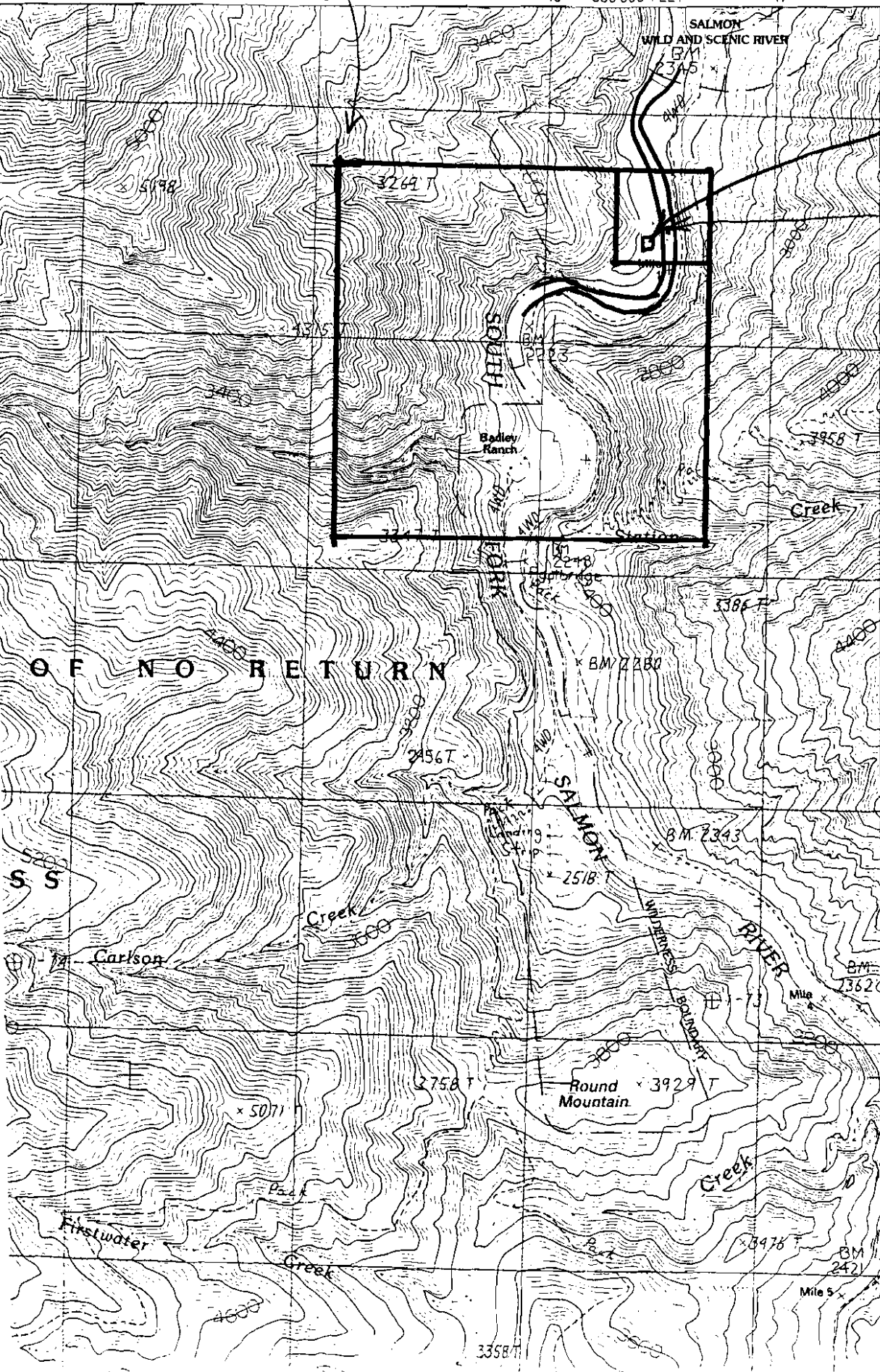
616

560 000 FEET

617

115° 30'

45° 22' 30"



Home
9
1000
FEET

Division

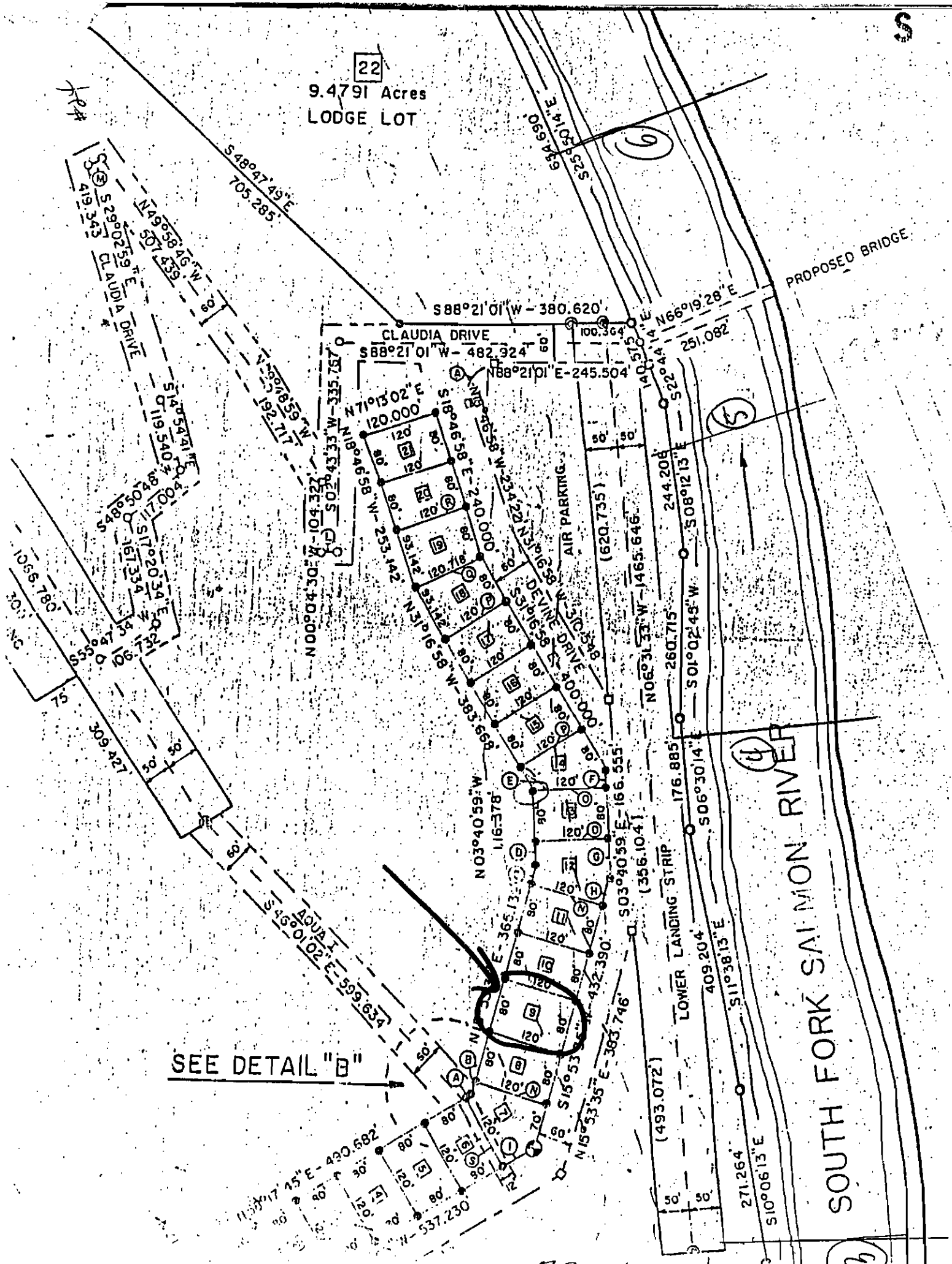
OF NO RETURN

govt lots N/A

Applicant obtained
map with projected
section lines (unsurveyed
AREA) per IDWR
files - SL 12/15/05

Doc 77-14272

22
9.4791 Acres
LODGE LOT



Idaho Department of Water Resources Receipt

Receipt ID W033644

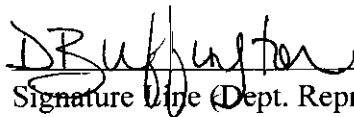
Payment Amount \$100.00 **Date Received** 12/1/2005 12:32:00 PM **Region** Western **Status** ☐
Payment Type Check **Check Number** 1451

Payer HOWARD, DR. BRIAN M (OR) LAURA

Comment APPLICATION FOR PERMIT

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$100.00	PERMITS	0229	21	62103	1155



Signature Line (Dept. Representative)

AFFIDAVIT OF PUBLICATION

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

77-14272

BRIAN M HOWARD
7999 S POWERLINE RD
Nampa ID 83686-9405
Point(s) of Diversion NENE S6T23N
R08E IDAHO CountySource SOUTH
FORK SALMON RIVER Tributary To
SALMON RIVER

Use: DOMESTIC 01/01 To 12/31
0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 12/01/2005

Place Of Use: DOMESTIC

T23N R08E S6 SENE

Remark: Place of use is located within
Lot 9, Copenhagen Subdivision.

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

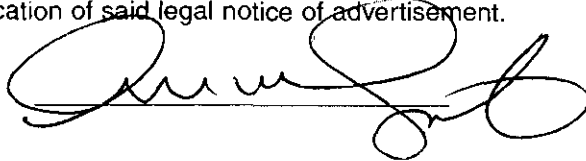
Any protest against the approval of this
application must be filed with the Direc-
tor, Dept. of Water Resource, Western
Region, 2735 Airport Wy, Boise ID
83705 together with a protest fee of
\$25.00 for each application on or before
01/22/2007. The protestant must also
send a copy of the protest to the appli-
cant.

KARL J DREHER, Director Published
on January 3 & 10, 2007

J3-10

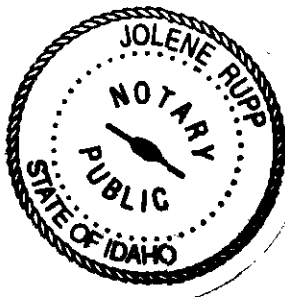
STATE OF IDAHO
County of Idaho - ss.

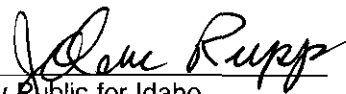
Andrew J. McNab, being first duly sworn, says he is the
Publisher of the IDAHO COUNTY FREE PRESS, a weekly news-
paper published and issued weekly at Grangeville, Idaho County,
State of Idaho, and is of general circulation in said county and
state, that the said legal notice, of which the one hereto attached
is a true copy, was published in said paper for two weeks, being
published two times, the first publication being on the 3rd day of
January, 2007; and the last publication on the 10th day of
January, 2007; and that the said legal 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 seventy-eight consecutive weeks prior
to the publication of said legal notice of advertisement.



STATE OF IDAHO)
COUNTY OF IDAHO)

On this 10th day of January in the year of 2007, before me a
Notary Public personally appeared Andrew J. McNab, known or
identified to me to be the person whose name subscribed to the
within instrument, and being by me first duly sworn, declared that
the statements therein are true, and acknowledged to me that he
executed the same.




Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 1-29-07

RECEIVED

JAN 18 2007

WATER RESOURCES
WESTERN REGION

✓
OK DB 1-25-07



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

December 29, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

Robert Dodge
PO Box 209
Mc Call ID 83638-0209

Re: Application No(s). 77-14272

Dear Mr. Dodge:

Attached are copies of one or more applications that may be of interest to you. Please contact the applicant(s) if you have concerns about the application(s).

If you desire to file a formal protest against approval of the application(s), a written protest along with the \$25.00 protest fee for each application protested must be received in this office by January 22, 2007.

Please contact this office at 208-334-2190 if you have any questions regarding the application(s).

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington". The signature is written in dark ink and is positioned above the printed name and title.

Denise Buffington
Administrative Assistant

Enclosure

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, December 28, 2006 4:54 PM
To: 'eleitinger@idfg.idaho.gov'
Subject: Comment Letter



77-14272 IDFG
letter.doc



77-14272.pdf

Thank You,

Denise Buffington
Western Region
Department of Water Resources

December 28, 2006

ERIC LEITZINGER
ID DEPT FISH & GAME
PO BOX 25
BOISE ID 83707

Re: Water Right Application(s) 77-14272

Dear Mr. Leitzinger:

Attached are copies of one or more applications that may be of interest to your agency. Please contact the applicant(s) if your agency has concerns about the application(s). It is not necessary to provide agency comments to the Idaho Department of Water Resources (IDWR), although your comments are welcome if you think IDWR would benefit from them.

If your agency desires to file a formal protest against approval of the application(s), a written protest along with the \$25.00 protest fee for each application protested must be received in this office by January 22, 2007

Please contact this office at 334-2190 if you have any questions regarding the application(s).

Sincerely,

Denise Buffington
Administrative Assistant

Enclosure

Buffington, Denise

From: Buffington, Denise
Sent: Thursday, December 28, 2006 3:29 PM
To: Idaho County Free Press (E-mail)
Subject: Legal Ad

Please run the attached ad, as requested. Please contact me if you have any questions.



77-14272
letter.RTF



77-14272 Ad.RTF

Thank you,

Denise Buffington
Western Region
Department of Water Resources

December 28, 2006

Legal Notice Department
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

RE: Application for Permit No. 77-14272

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 01/22/2007. Your cooperation is appreciated.

Sincerely,

Denise Buffington
Administrative Assistant

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

77-14272

BRIAN M HOWARD
7999 S POWERLINE RD
NAMP ID 83686-9405

Point(s) of Diversion NENE S6 T23N R08E IDAHO County Source SOUTH FORK SALMON RIVER
Tributary To SALMON RIVER

Use: DOMESTIC 01/01 To 12/31 0.04 CFS

Total Diversion: 0.04 CFS

Date Filed: 12/01/2005

Place Of Use: DOMESTIC

T23N R08E S6 SENE

Remark: Place of use is located within Lot 9, Copenhagen Subdivision.

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/22/2007. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 3 & 10, 2007

MEMORANDUM

DATE: April 18, 2006
TO: Steve Lester *SL*
FROM: Shelley W. Keen *SKK*
THROUGH: Jeff Peppersack *JP*
RE: Relinquishment of Permit 77-7360

RECEIVED
APR 19 2006
WATER RESOURCES
WESTERN REGION

We reviewed the memos you and Lori submitted concerning Permit 77-7360, which was issued for the diversion of 0.04 cfs from the South Fork of the Salmon River for domestic use within Lot 10 of Copenhaver Subdivision. Permit 77-7360 is closely associated with License 77-7359, which arose from a nearly identical permit issued for the use of water on Lot 9 of Copenhaver Subdivision. In 2002 IDWR issued License 77-7359 for the beneficial use of water occurring on both Lot 9 and Lot 10, and the permit holder, Brian Howard, voluntarily relinquished Permit 77-7360. In your memo, you requested that IDWR consider reinstating Permit 77-7360 to recognize that a water line was stubbed-in for domestic use on both lots.

The Beneficial Use Field Reports prepared for Permits 77-7359 and 77-7360 allow for a couple of possible interpretations. The interpretation made by state office staff was that Brian Howard had his "home" on two lots, even though the house is entirely on one lot, and that he did not intend to establish a second domestic use on the other lot in the near future. This interpretation may have been influenced by a couple of factors. First, the field report for 77-7360 states that Lot 9 was "used as lawn/fire protection area in association with lot 10, where the home and more lawn are located." The report did not indicate that Lot 9 was being prepared for sale and development, as would be expected in a subdivision situation where the stub-in "rule" is normally applied. Second, both permits carried a condition prohibiting the permit holder from irrigating the lot if a home had not been constructed on it. Licensing of both permits, allowing a domestic use on each of the two lots, would have made the ongoing irrigation of Lot 9 a violation of the conditions of the permit.

Based on the interpretation of the field reports, IDWR explained to Brian Howard that a single right could cover all the existing beneficial use, and the second permit could be relinquished. Had Mr. Howard left Lot 9 bare instead of incorporating it into his own household, it may have been easier to recognize and license the stub-in to the lot as a domestic water right. However, IDWR makes interpretations of law in its water rights program every day. Because the stub-in allowance is really recognition of intent to establish more individual domestic water uses, only Mr. Howard could have know if the interpretation was incorrect. When he relinquished Permit 77-7360, he concurred with the interpretation of beneficial use made during the licensing process. Once relinquished, a permit should not be reinstated whenever a permit holder changes his or her plans.

The interpretation of the field reports for 77-7359 and 77-7360 was an evaluation of the circumstances presented in those two files. It did not repudiate the notion that the stub-in rule can be applied to both surface and ground water development.

RECEIVED

MAR 8 2006
DEPT. OF
WATER RESOURCES

MEMORANDUM

TO: Jeff Peppersack and Shelley Keen

FROM: Steve Lester 

DATE: March 7, 2006

RE: Surface Water and Stubbed Lines

Lori Graves did a good job in preparing the attached documentation regarding credit for stubbed lines from surface water systems. As you know, we have been back and forth on this issue over the years ... "maybe yes, maybe no."

My first encounter with this issue was in the 1986 field examination¹ of 63-8206, which ultimately ended up under Trinity Springs ownership. The 1994 license covered a hot spring to heat a lodge but did not include stubbed lines for some cabin sites.

Somewhere along the line after that, I recall a reversal that allowed licensing of stubbed lines from surface water. However, I cannot recall any specific details or time frame on that.

In addition to the 2000 vintage document in Lori's memo, please see the 1997 document from the Allocation Bureau Chief. It clearly authorized credit for surface water stubs.

At least three high-ranking IDWR leaders have sanctioned this practice. Perhaps the issue is settled and not in need of any clarification. Perhaps not ... if I have learned anything over the years, it is that there is often more to the story.

Any clarification you can provide on this matter would be welcome. Please help us determine the best response to applicant Howard. I favor reinstatement and licensing of 77-7360, accompanied by returning his new application that replaces 77-7360.

¹ That was the first year of the temporary examiner program. As you can imagine, this led to much confusion for, and many questions from, temporary examiners, including me.

Graves, Lori

From: Keen, Shelley
Sent: Wednesday, March 01, 2006 7:57 AM
To: Graves, Lori
Subject: RE: Stubbed Domestics

Lori,

To my knowledge there is no statute, rule, or memo describing the "stub-in" practice employed by IDWR to recognize beneficial use in subdivisions. The closest thing I can find is a letter to Jim Speck that I wrote for Norm in 2000 regarding Water Right 37-8203. You should be able to find it in among the scanned images for that water right.

I vaguely recall the surface water vs. ground water question arising 8 to 10 years ago. I think Steve was involved. My recollection is that we ultimately decided that while the "stub-in" practice could almost always apply to ground water, it would have to be applied on a case-by-case basis for surface water. For example, it may be okay to apply the stub-in practice on an unregulated surface water source with lots of water available for appropriation, but it might not be prudent to apply it to a highly regulated source.

Have you talked with Steve yet? He may recall some elements of the discussion that I can't.

Let me know.

Shelley

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

From: Graves, Lori
Sent: Tuesday, February 28, 2006 10:59 AM
To: Keen, Shelley
Subject: Stubbed Domestics

Hey Shelley, can you provide me with the administrative memo or other that indicates credit for domestic stubs found in place on ground water systems -vs- no credit for domestic stubs found in place on surface water systems. Call me if you need more info. Thx Shelley. lg

MEMORANDUM

RECEIVED

JUN 03 1997

WATER RESOURCES
WESTERN REGION

To: Regional Offices

From: L. Glen Saxton

RE: COMMENTS TO QUESTIONS RAISED DURING PERMIT SECTION
TRAINING PROVIDED TO THE REGIONAL OFFICES

Date: May 30, 1997

On April 17, April 30 and May 1, 1997, staff from Permits Section in the state office met with Western, Eastern and Southern regions respectively relative to a number of activities conducted in the state office. The regional offices raised a number of good questions, responses to which are described below:

- Ownership changes

The department should process and has been processing ownership changes which are voluntarily submitted from areas outside the required areas as provided in Section 42-248(4), Idaho Code. There is currently no reason to actively pursue ownership or address changes outside the required areas.

- Stubbed-in water to subdivision lots

heating { The department should give credit to "stubbed in" heating water in a subdivision if the heating use is not larger than authorized under the definition of "domestic purposes" and the heat in the water is "first" used before using the water outside the home and there is no other reason not to allow an outside use. To be considered "stubbed in", the permit holder must have installed the mainline which will provide service to the individual lots in a subdivision.

not limited to heating { A surface water source as compared to a groundwater source should make no difference relative to allowing credit for stubbed in lots in a subdivision.

- Domestic use and stacked water rights.

The domestic use problem is not new. Water Allocation Bureau prepared a guidance memo in final form on May 25, 1995 but was not finalized and issued.

The amendment of Section 42-111, Idaho Code, in 1995 provides guidance on new uses which may attempt to circumvent filing on domestic uses. The SRBA treatment of stacked domestic claims and action in Water Allocation bureau should be as consistent as possible.

MEMORANDUM

TO: Steve Lester, Jeff Peppersack, Shelley Keen

FROM: Lori Graves

DATE: 2/28/2006

RE: Licensing Domestic Surface Water For Stubbed-In Lots

The department received an application for permit from Brian Howard for domestic use from the South Fork of the Salmon River 12/01/2005. Brian owns Lots 9 & 10 in Copenhaver Subdivision. The application proposes domestic use on Lot 9.

History: Permit 77-7359 originally covered domestic use from the South Fork of the Salmon River for Lot 9 and permit 77-7360 covered the same use and source for Lot 10, both in the name of Brian Howard. I conducted a field exam on the permits 9/7/2001 and found lawn irrigation and a stub for domestic use on Lot 9 and a home and more lawn area on Lot 10. Please note that both lots combined are less than ½ acre in size. Internal/external domestic use was recommended for licensing for both permits.

Based on the assumption that the department did not credit stub-in lots for surface water systems, Kay Walker licensed right 77-7359 to cover lots 9 & 10 for the uses found (one existing home and yard) and voided right 77-7360. As a result, Mr. Howard did not get credit for the domestic stub-in located on lot 9. He now wishes to build a second home on lot 9.

Permit 77-7360 was voided in 2002. In 2000, the department submitted the attached supplemental report to the SRBA court endorsed by Karl Dreher and Dave Tuthill that set forth the department's practice for licensing or recommending domestic rights for which the delivery system is in place. The report indicated that the department recognizes stub-ins on surface water systems. Please note that this report predates Kay's recommendation for voiding permit 77-7360.

Question: Should we process Mr. Howard's application for permit based on the assumption that the department **does not** recognize surface water domestic stub-ins or reinstate permit 77-7360 based on the assumption that the department **does** recognize surface water domestic stub-ins?

2-11

**SUPPLEMENTAL REPORT BY IDWR
SETTING FORTH ITS PRACTICE FOR LICENSING OR RECOMMENDING
DOMESTIC RIGHTS FOR WHICH THE DELIVERY SYSTEM IS IN PLACE**

**In Re SRBA
Twin Falls County Civil Case No. 39576
Subcase No. 63-07035C**

Supplemental Report to the SRBA District Court

**Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Adjudication Bureau Chief**

February 10, 2000

BACKGROUND

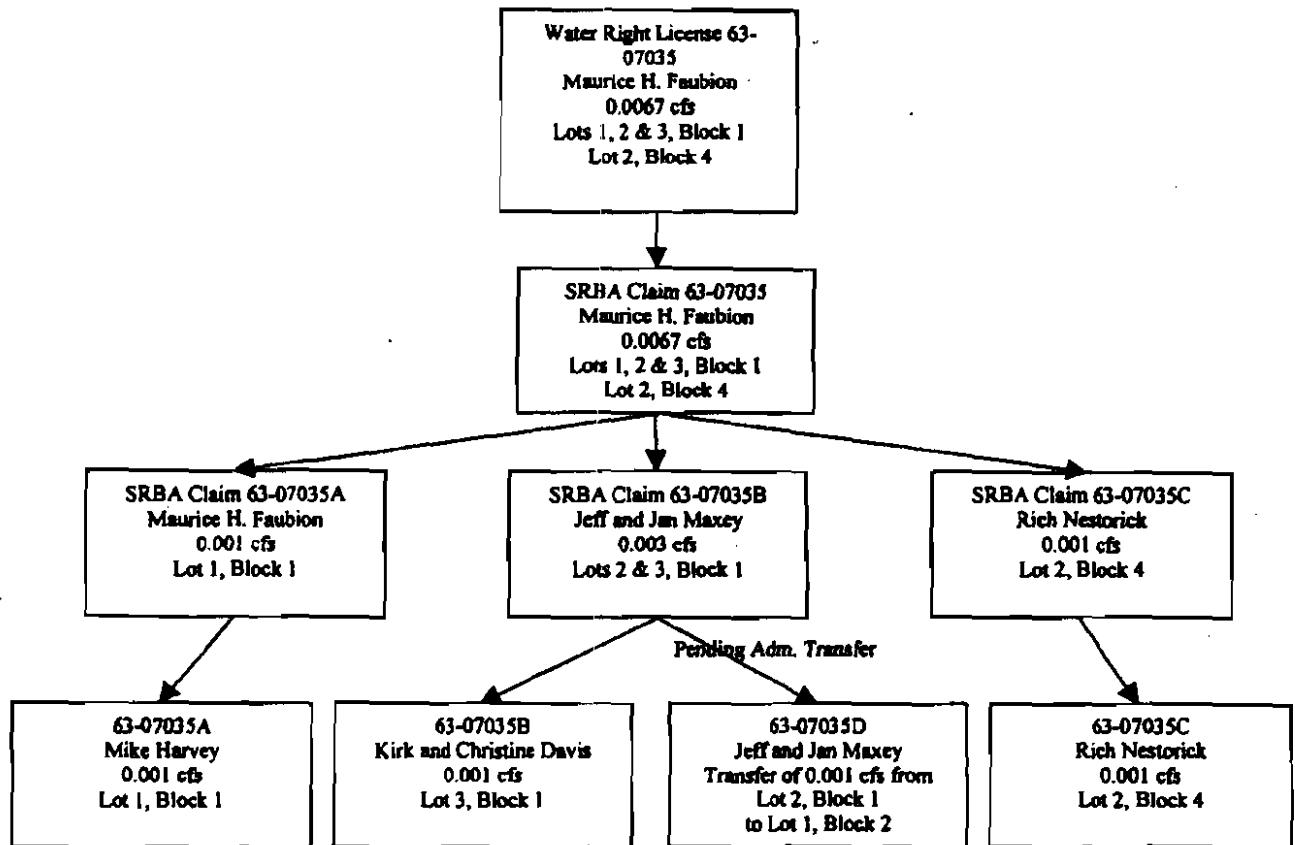
In 1967, Maurice Faubion applied for a permit to appropriate the water of an unnamed spring in the Robie Creek area near Boise. Mr. Faubion sought to develop the spring for domestic use on four cabin sites. The application was approved, and assigned the number 63-07035. A copy of the approved permit is attached as Exhibit 1.

IDWR received Mr. Faubion's *Proof of Application of Water to Beneficial Use* on November 17, 1969. A copy of the form is attached as Exhibit 2. Mr. Faubion indicated that a quantity of 3 gallons per minute was being diverted from the unnamed spring into a storage tank and subsequently being delivered via pipeline to four cabin sites in The Pines Subdivision.

IDWR staff conducted a field examination of Permit 63-07035 on November 25, 1969. A copy of the *Report of Examiner* is attached as Exhibit 3. The examiner found the diversion works to be as described by Mr. Faubion on the *Proof*. The spring flow was collected at the source, piped to a storage tank, then piped underground to four cabin sites. The examiner's report further states, "One hydrant is now located and *in use* on each lot." (emphasis added). IDWR understands a hydrant to be a discharge valve from a water mainline, most commonly a faucet. IDWR also refers to this type of development as "stubbed-in".

A license for water right 63-07035 was issued on November 25, 1969. The license reflected the domestic use of water from the unnamed spring on four lots in The Pines Subdivision.

Mr. Faubion filed an SRBA claim on his water right in 1989. The claim represented the right as licensed. Subsequent to that filing, all four lots have changed ownership as represented by the following diagram:



The Director's recommendations for the resulting water rights divided the "parent" right into four separate rights, one for each original, stubbed-in lot. IDWR has previously discussed with the court the need to add additional language to these recommendations to overcome the limitations of our current database and associated printing equipment.¹

The bottom tier of this chart represents the current ownership of the water rights resulting from the sale of lots originally shown on license 63-07035.

GENERAL LICENSING CONSIDERATIONS

IDWR has a longstanding practice of licensing domestic water use for stubbed-in lots in subdivisions. This practice recognizes that the development and sale of subdivision lots may take longer than the period IDWR can authorize for the development of the water delivery

¹ IDWR's current database cannot store quantity values with greater precision than 0.001 cfs. The four water rights arising from 63-07035 would each have a quantity of 0.001675 cfs.

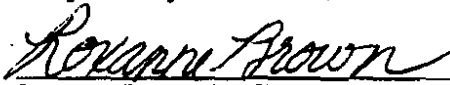
system to those lots. A developer may go to considerable expense and effort to construct a water distribution system to lots that may not sell for a number of years. By issuing a water right license for domestic uses that have been stubbed-in, IDWR avoids large numbers of individual filings as the lots are sold. This allows the developer to obtain necessary funding for development by assuring financial institutions that a water right is available for each parcel being sold.

Another important reason for this practice is to circumvent problems with water delivery in times of shortage. It would be nearly impossible to administer delivery if each neighbor in a subdivision had a different priority date from the same delivery system.

RECOMMENDATION OF 63-07035

At the time of licensing 63-07035, IDWR followed its historical guidelines concerning stubbed-in developments. In addition, it would not have been unusual for "cabin site" owners in that area to use domestic water other than in permanent dwellings. For instance: a travel trailer might be "hooked-up" during the summer months but removed in the winter, water might be used for irrigation of trees or other landscaping. Water might even be used by the lot owners for camping trips to their own property. The United States Forest Service holds many licensed rights for domestic use that amount to a single faucet or hand-pump providing water to campers. In such circumstances, where the water was physically available to the stubbed-in lots, IDWR assumed the beneficial use of water might be intermittent. (The field exam notes that the faucets were not only stubbed-in but *used*.) The possibility of intermittent use would have been considered both at the time of licensing and recommendation in the SRBA.

Respectfully Submitted,


Roxanne Brown, Sr. Water Resource Agent
Idaho Dept. of Water Resources

February 11, 2000

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 77-7359

WATER RIGHT NUMBER: 77-7359

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BRIAN M HOWARD 7999 S POWERLINE RD NAMPA, ID 83686-9405 (208)467-4230
Original Owner	ROD D BLACKSTEAD 11760 W EXECUTIVE DR STE 120 BOISE, ID 83713 (208)376-2727

Priority Date: 06/30/1997

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
SOUTH FORK SALMON RIVER	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	01/01 to 12/31	0.040 CFS	1.20 AF
<u>Total Diversion:</u>		0.040 CFS	1.20 AF

Location of Point(s) of Diversion

SOUTH FORK SALMON RIVER	NE1/4NE1/4	Sec. 6,	Twp 23N,	Rge 08E, B.M.
IDAHO County				

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
23N	08E	6				X													

Conditions of Approval:

- Cherry Spring*
1. Rights 77-07366 and 77-07359 when combined shall be limited to 1 home, the irrigation of no more than a combined total of 1/2 acre, and shall not exceed 13,000 gallons per day.
 2. 029 The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
 3. X60 Place of use is located within Lots 9 & 10, Copenhaver Subdivision.

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4. 103 When ordered by the Director, the right holder shall provide mitigation acceptable to the Director to offset depletion of lower Snake River flows needed for migrating anadromous fish. The amount of water required for mitigation, which is to be released into the Snake River or a tributary for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this right. Any order of the Director issued in accordance with this paragraph shall be in conformance with applicable rules allowing the right holder due process as the need for mitigation and the amount of mitigation are determined.
5. X36 Right 77-07362 is also diverted through the point of diversion described above.

Remarks:Comments:

1. kwalker 12/3/2002 License Review

Comment: The point of diversion and place of use need to be amended before license can be issued.

2. kwalker 12/4/2002 Use of this water

Comment: This right covers domestic use from the South Fork Salmon River. Rt. 77-07360 was for the same use and same source. Since the 2 lots recommended under this right are less than 1/2 acre in size when combined we are licensing both lots under this proposed license and recommending Rt. 77-07360 be voided.

3. kwalker 12/26/2002 Point of Diversion

Comment: Brian Howard came into the office regarding the amendments that were needed for his permits. Mr. Howard stated that he uses the same irrigation pump and delivery system across air strip that is used under Rt. 77-7362. That point of diversion is located in the NENE, S6, T23N, R8E. Mr. Howard stated that they use the same system so that only one ditch/pipeline has to go across the airstrip. Mr. Howard corrected the licensing amendment to reflect this change.

Dates and Other Information:

Licensed Date: 12/27/2002

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant:

Decree Plaintiff:

Civil Case Number:

Judicial District:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank: