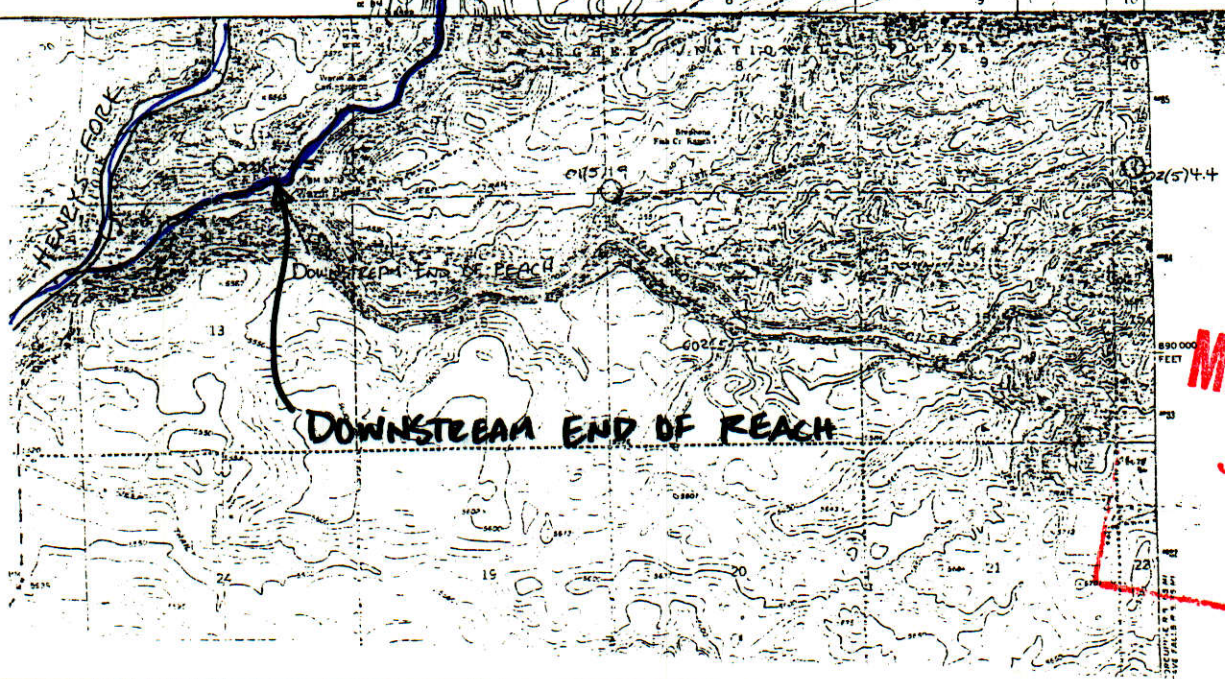
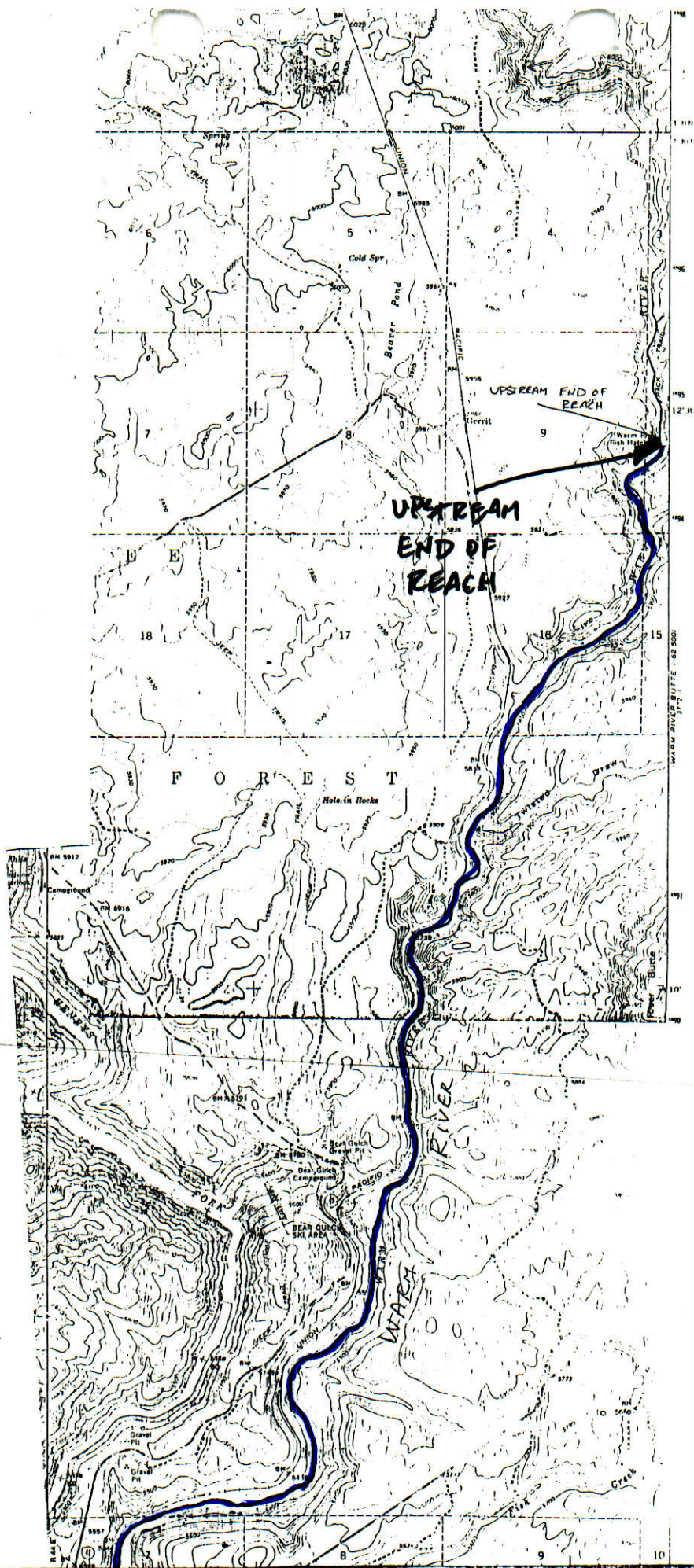




MICROFILMED
JAN 06 1989

AFFIDAVIT OF
PUBLICATION

State of Idaho

County of Fremont

ss.

Carol Bessey

being first duly sworn, upon his
oath, deposes and says:

That she is the editor.....
of The Ashton Herald, a newspaper
as defined by Idaho Codes Anno-
tated, section 58-106, as amended,
and that said newspaper is a
weekly newspaper printed and
published at St. Anthony, in Fre-
mont County, Idaho, having a
general circulation in said county,
and that said newspaper has been
printed and published as a weekly
newspaper in said county for more
than 78 consecutive weeks prior to
the first publication of the attached
notice, advertisement or publica-
tion of Notice.....

Application for.....

Minimum Stream Flow

21-7355

And affiant further says that said
notice, advertisement of publica-
tion, as per clipping attached, was
published in said newspaper, in the
regular and entire issue thereof,
and not in any supplement issue
thereof, for 2..... consecutive
issues thereof; first publication

having been made on the 12th.....

day of Nov....., 1984,

and the last publication on the

8th day of Nov.....

1984...

And affiant further says that at the
times herein mentioned said news-
paper was made up of at least four
pages of at least five columns each,
printed from type matter, of at
least seventeen and three-fourths
inches deep.

Carol Bessey
Subscribed in my presence and

sworn to before me this 13th.....

day of November.....

1984.

James E. Halcomb

Notary Public for the
[SEAL] State of Idaho, residence
and post office address:
St. Anthony, Idaho.
Ashton

RECEIVED

NOV 14 1984

Department of Water Resources
Eastern District Office

NOTICE

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

NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water
Resource Board has on September 27,
1984 submitted application 21-7355 for a
permit to the Department of Water
Resources proposing the appropriation of
141.0 cubic feet per second from January 1
to December 31 of water within the
SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 9N, R. 43E, up-
stream to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10, T10N, R.
44E, B.M., Fremont County to preserve the
minimum stream flow subject to all prior water
rights for aesthetic and recreation purposes
in Warm River tributary to the Snake River.

Pursuant to Title 42, Chapter 15 of the
Idaho Code a legal notice will be published at
a later date setting a time and a place for a
hearing during which opportunity will be
provided for public comment.

A. KENNETH DUNN
Director

Publ. Nov. 1 and 8, 1984 AH

MICROFILMED

JAN 06 1989

THE CHRONICLE-NEWS

ST. ANTHONY, IDAHO

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Fremont

ss

I, Terry Weatherston
being first duly sworn, depose and say, that I am
the printer of THE CHRONICLE-NEWS, a weekly
newspaper printed and published weekly at St.
Anthony, Fremont County, Idaho; and I do
solemnly swear that the

Notice Of Public Meeting

a copy of which notice appears attached here-
to, was published in the regular and entire issue
of said newspaper, and not in any

supplement issue thereof for 2
consecutive issues, the first publication hav-

ing been made on September 13, 1984
and the last publication having been made

on September 20, 1984

Further, that said newspaper is one of general
circulation in said county; that it is a legal
newspaper, conforming to legal specifications
under the Idaho Statutes; that it has at least two
hundred bona fide subscribers living within the
county of publication; and that it has been
continuously and uninterruptedly published in said
county during a period of seventy-eight con-
secutive weeks prior to the first publication of the
said notice.

Terry Weatherston

Subscribed to and sworn to before me

this September 21, 1984

Jane L. Lerner

Notary Public

(SEAL)

My commission expires 11/1/85

NOTICE OF PUBLIC MEETING

Notice is hereby given that an informal
public meeting will be conducted by the
Idaho Water Resource Board on Wed-
nesday, September 26, 1984 at 7:30 p.m.
in the Courtroom, Fremont County Cour-
thouse, St. Anthony, Idaho to receive
comments on minimum streamflow ap-
plications as follows:

No. 21-7281 proposing the appropriation
of 140 cfs of water from Fall River tributary to
Henry's Fork Snake River. The location of
the reach is the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, T. 8N,
R. 41E, upstream approximately 8 miles to
State Highway 32 in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec.
18, T. 8N, R. 43E.

No. 21-7283 proposing the appropriation
of 141 cfs from Warm River tributary to
Henry's Fork Snake River. The location of
the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, T. 8N,
R. 43E, upstream approximately 1/2 mile to
State Highway 47 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12,
T. 8N, R. 43E, B.M., both in Fremont
County.

On Thursday, September 27, 1984 at
7:30 p.m. in the Courtroom, Teton County
Courthouse, Driggs, Idaho an additional
public meeting will be held to receive
comments on minimum streamflow ap-
plications as follows:

No. 22-7369 proposing the appropriation
of 108 cfs from Teton River tributary to
Henry's Fork Snake River. The location of
the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T. 7N,
R. 44E, upstream approximately 9 miles to
State Highway 33 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23,
T. 8N, R. 44E.

No. 22-7370 proposing the appropriation
of 28 cfs from the Birch Creek tributary to
Teton River. The location of the reach is the
NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T. 7N, R. 44E, up-
stream approximately 6 miles to State
Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, T.
7N, R. 45E, B.M., both in Teton County.

All of the above applications were filed to
protect the quality of the fisheries habitat
within the specified reach on each stream.

LUCINDA B. DUNN

Recorder

Filed Sept. 23 and 20, 1984

RECEIVED

OCT 4 1984

Department of Water Resources
Eastern District Office

MICROFILMED
JAN 06 1989

Proof of Publication
The Post-Register

RECEIVED

SEP 24 1984

Department of Water Resources
Eastern District Office

State of Idaho, }
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 13th day of September, 1984, last publication having been made on the 20th day of September, 1984, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 21st day of September, 1984

[Signature]
Notary Public

My commission expires September 30, 1984

B10, 1M,

NOTICE OF PUBLIC MEETING

Notice is hereby given that an informal public meeting will be conducted by the Idaho Water Resource Board on Wednesday, September 26, 1984 at 7:30 p.m. in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho to receive comments on minimum streamflow applications as follows:

No. 21-7281 proposing the appropriation of 140 cfs of water from Fall River tributary to Henry's Fork Snake River. The location of the reach is the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14, T. 8N, R. 41E, upstream approximately 8 miles to State Highway 32 in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, T. 8N, R. 43E.

No. 21-7283 proposing the appropriation of 141 cfs from Warm Rivrer tributary to Henry's Fork Snake River. The location of the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, T. 9N, R. 43E, upstream approximately $\frac{1}{2}$ mile to State Highway 47 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 9N, R. 43E, B.M., both in Fremont County.

On Thursday, September 27, 1984 at 7:30 p.m. in the Courtroom, Teton County Courthouse, Driggs, Idaho an additional public meeting will be held to receive comments on minimum streamflow applications as follows:

No. 22-7369 proposing the appropriation of 106 cfs from the Teton River tributary to Henry's Fork Snake River. The location of the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T. 7N, R. 44E, upstream approximately 9 miles to State Highway 33 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 23, T. 6N, R. 44E.

No. 22-7370 proposing the appropriation of 28 cfs from Bitch Creek tributary to Teton River. The location of the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T. 7N, R. 44E, upstream approximately 6 miles to State Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17, T. 7N, R. 45E, B.M., both in Teton County.

All of the above applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

A. KENNETH DUNN
Director

Published: September 13, 20, 1984

MICROFILMED

JAN 06 1989

TRIBUNE PUBLISHING COMPANY, INC.

The Lewiston Morning Tribune

505 C St., P.O. Box 957

Lewiston, Idaho 83501

(208) 743-9411

Date 102485 INVOICE No. 100059634Account No. 44660Description 59634LEGALTimes 2 Lines 62

Tab Lines

**LEGAL ADVERTISING
INVOICE**

SOLD TO:

STATE OF IDAHO
DEPT. OF WATER RESOURCES
150 SHOUP AVE. SUITE 15
TWIN FALLS
ID 83402\$ 54.25

Department of Water Resources

Eastern District Office

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.

AFFIDAVIT OF PUBLICATIONSTATE OF IDAHO, ss.
County of Nez PerceS. L. Stone

being duly sworn,

deposes and says, I am the Legal Clerk
of the Tribune Publishing Company, a corporation organized and existing
under and by virtue of the laws of the State of Idaho, publishers of the
LEWISTON MORNING TRIBUNE, a newspaper of general circulation
published at Lewiston, Nez Perce County, Idaho; That the said Lewiston
Morning Tribune is an established paper and has been published regular-
ly and issued regularly at least once a day for more than 21 consecutive
years next immediately preceding the first publication of this notice, and
has been so published uninterrupted for said period; that the

LEGAL NOTICE Notice has been given

attached hereto and which is made a part of this affidavit was published in
the said Lewiston Morning Tribune, 2 time(s). Publication be-
ing on 101785

week for two consecutive weeks, the first
publication thereof being on the 101785, and the last pub-
lication thereof being on the 102485, and said

LEGAL NOTICE Notice has been given

was so published in the regular and entire issue of said newspaper and
not in a supplement thereof and was so published in every issue and
number of the said paper, during the period and times of publication as
set forth above.

S. L. StoneSUBSCRIBED AND SWORN BEFORE ME THIS THE 25day of October 1985Kerol M. LantzNotary Public in and for the State of Idaho,
residing at Lewiston, therein.**LEGAL NOTICE**

59634

Notice has been given that the fol-
lowing applications have been sub-
mitted for permit to appropriate the
public waters of the State of Idaho:

**NOTICE OF APPLICATION FOR
MINIMUM STREAM FLOW.**

Notice is hereby given that the
Idaho Water Resource Board has
submitted the following applications
for permits to the Department of
Water Resources:

On June 19, 1985, application No.
21-7283 proposing the appropriation
of 141 cfs of water from Warm River
tributary to Henrys Fork Snake Riv-
er. The location of the reach is the
NWNW, Sec. 13, T. 9N, R. 43E, up-
stream approximately 1/2 mile to
State Highway 47 in the SWSE, Sec.
12, T. 9N, R. 43E.

On September 27, 1984, applica-
tion No. 21-7355 proposing the appro-
priation of 141 cfs from Warm River
tributary to Henrys Fork. The loca-
tion of the reach is the SWSE, Sec.
12, T. 9N, R. 43E, from State High-
way 47 upstream approximately 8
miles to Warm River Springs in the
NWSW, Section 10, T. 10N, R. 44E,
B.M., both in Fremont County.

The applications were filed to
protect the quality of the fisheries
habitat within the specified reach on
each stream.

The director of the Department of
Water Resources will hold a public
hearing on the applications in the
Courtroom, Fremont County Court-
house, St. Anthony, Idaho at 9:30
a.m. November 20, 1985, for the pur-
pose of hearing evidence in regard to
the applications. The hearing will be
held pursuant to the provision of Sec-
tion 42-1503, Idaho Code.

Any party who wishes to formally
appear at this proceeding for the

purpose of presenting evidence or
cross-examining witnesses should
file a notice of appearance with the
Director of the Department of Water
Resources, Statehouse, Boise, Idaho,
five (5) days prior to the hearing.
Other parties will be given an oppor-
tunity to informally present their
views and comments without the ne-
cessity of filing a notice of appear-
ance.

If issued the permit will be subject
to all prior water rights.

A. KENNETH DUNN
DirectorMICROFILMED
JAN 06 1989

Proof of Publication

The Post-Register

RECEIVED

OCT 26 1985

Department of Water Resources
Eastern District Office

State of Idaho, {
County of Bonneville { ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 17th day of October, 1985, last publication having been made on the 24th day of October, 1985, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 24th day of October, 1985

Robert Napier
Notary Public

My commission expires September 30, 1988

B10, 1M,

LEGAL NOTICE

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

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1981 application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm River tributary to Henrys Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, application No. 21-7355 proposing the appropriation of 141 cfs from Warm River tributary to Henrys Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10, T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provi-

sion of Section 42-1503, Idaho Code.

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

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Published: October 17, 24, 1985

MICROFILMED

JAN 06 1989

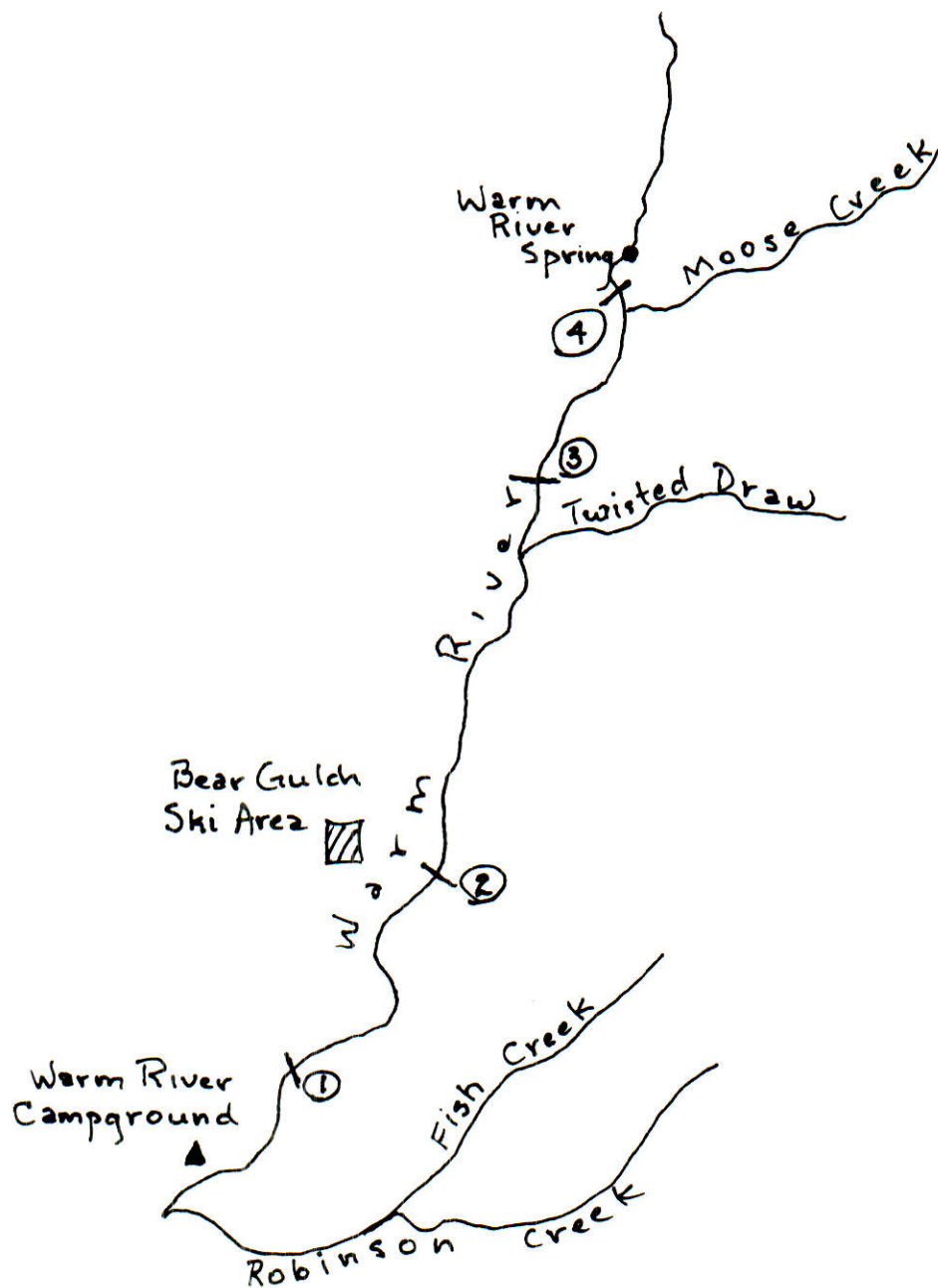
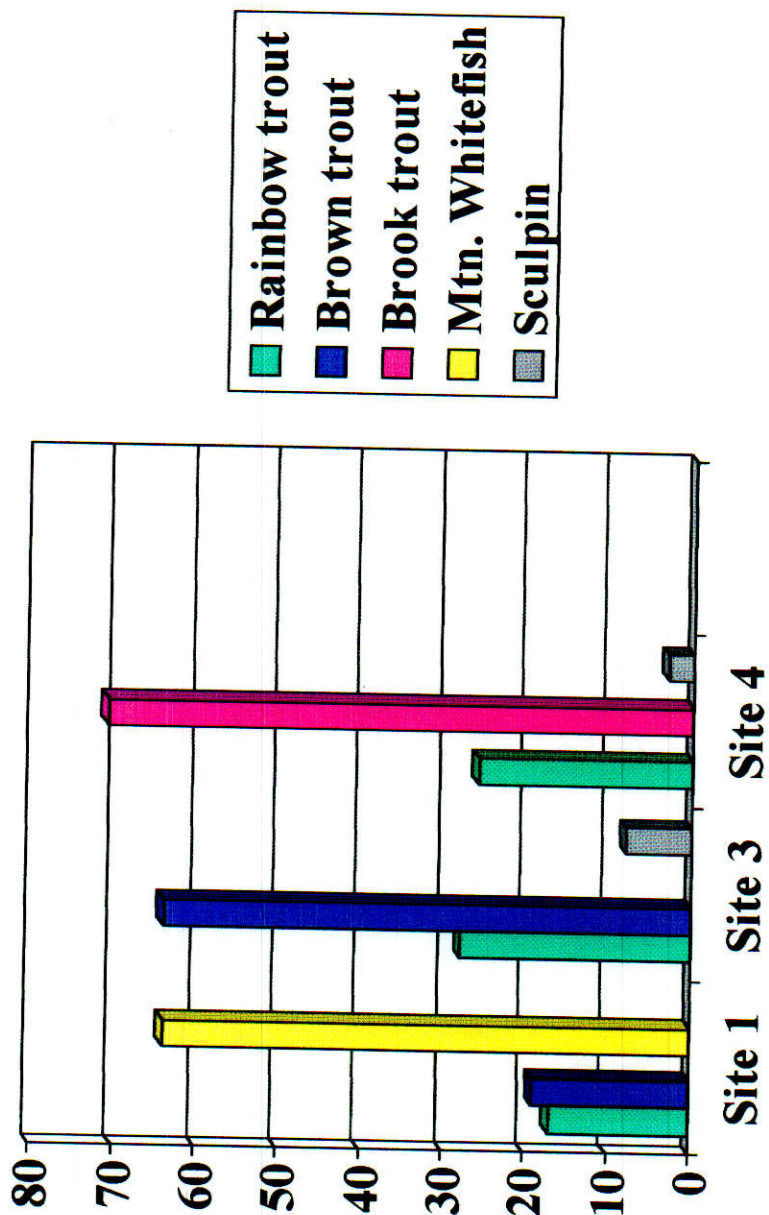


Figure 1. Location of study sites, Warm River, Idaho, August 1998. Study sites denoted by numbers. Map not to scale.

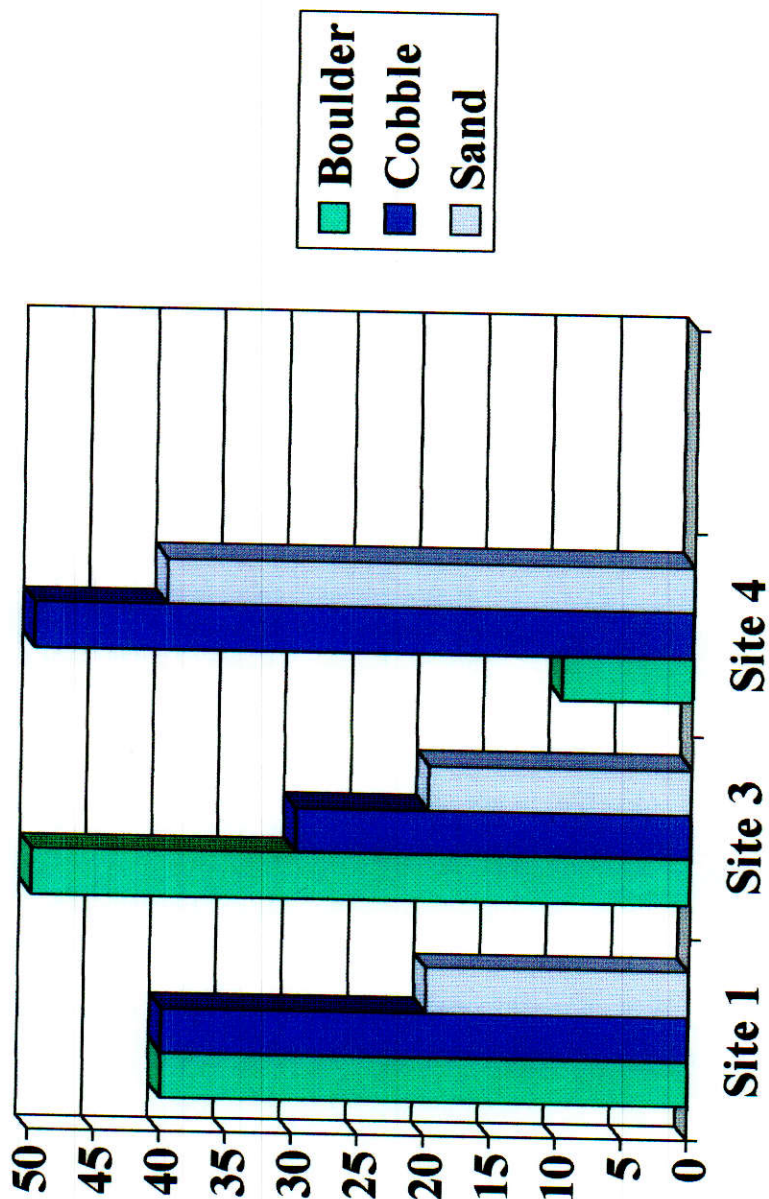
MICROFILMED
AUG 23 1999

Figure 2. Percent fish species composition, Warm River, Idaho, by study site



MICROFILMED
AUG 23 1999

Figure 3. Percent stream bed composition, by study site,
Warm River, Idaho.

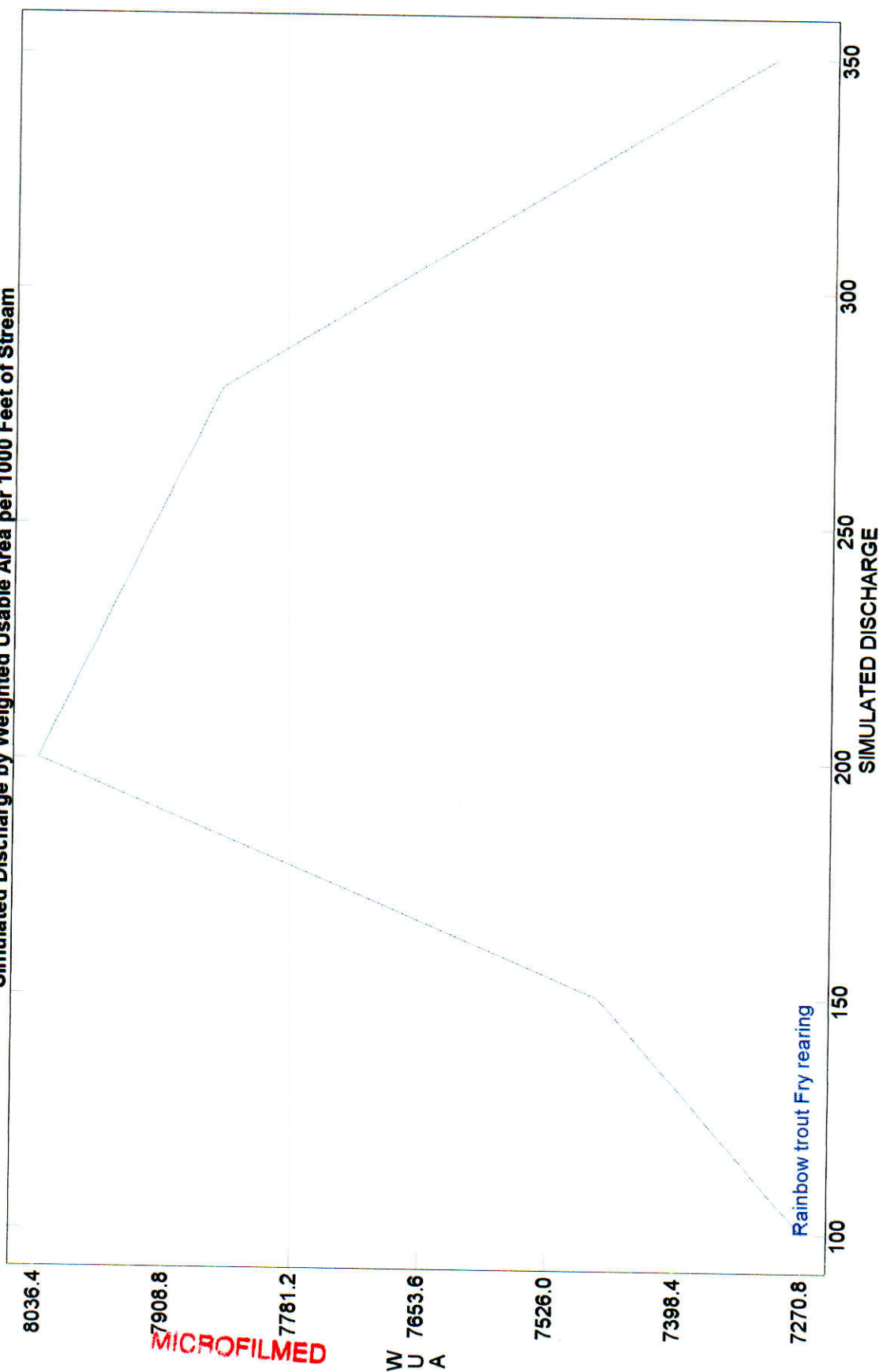


MICROFILMED

AUG 23 1999

Figure 4.

HABITAT SIMULATION FOR RAINBOW TROUT JUVENILES
WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream

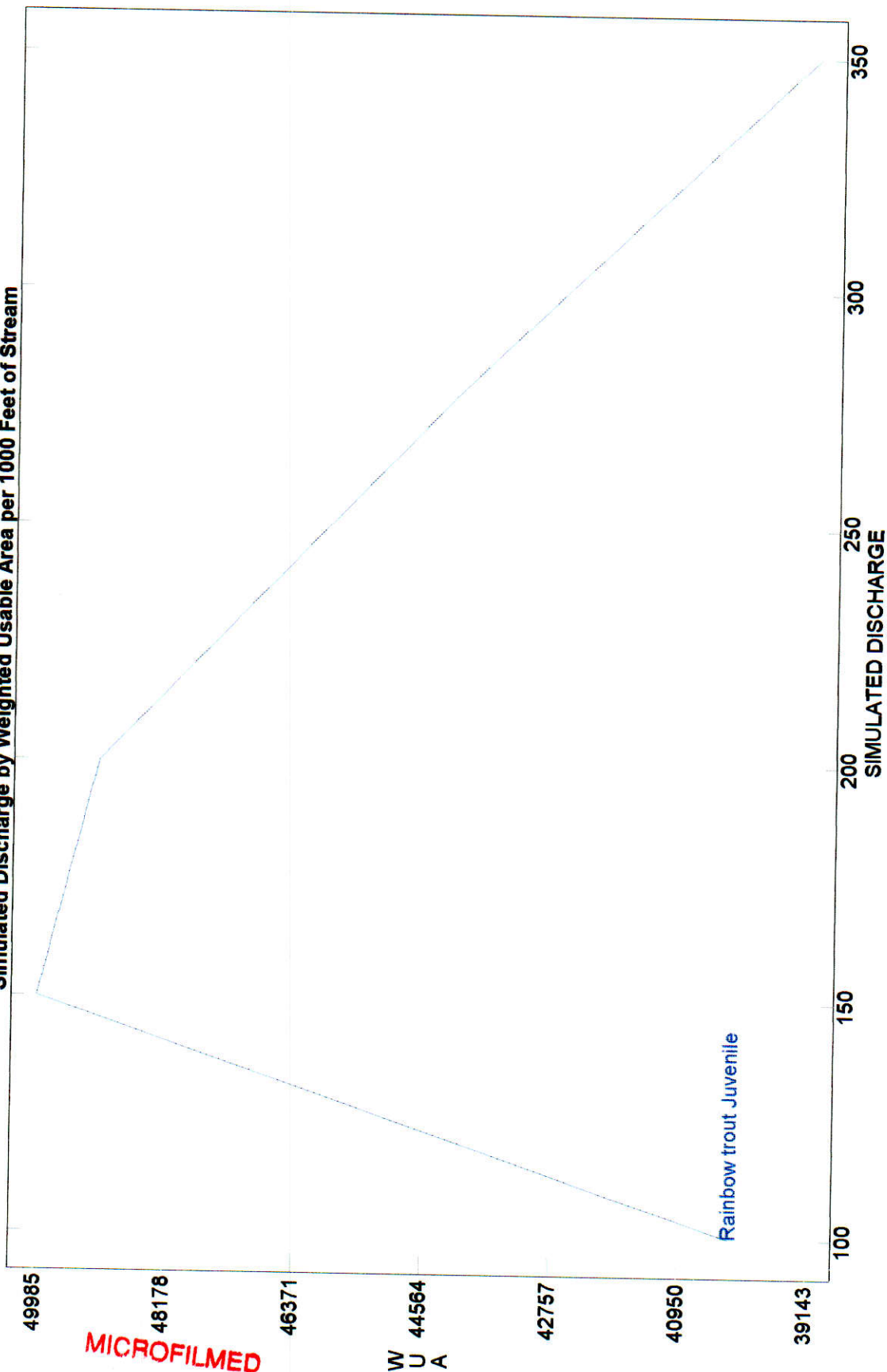


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AUG 23 1999

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Figure 5.

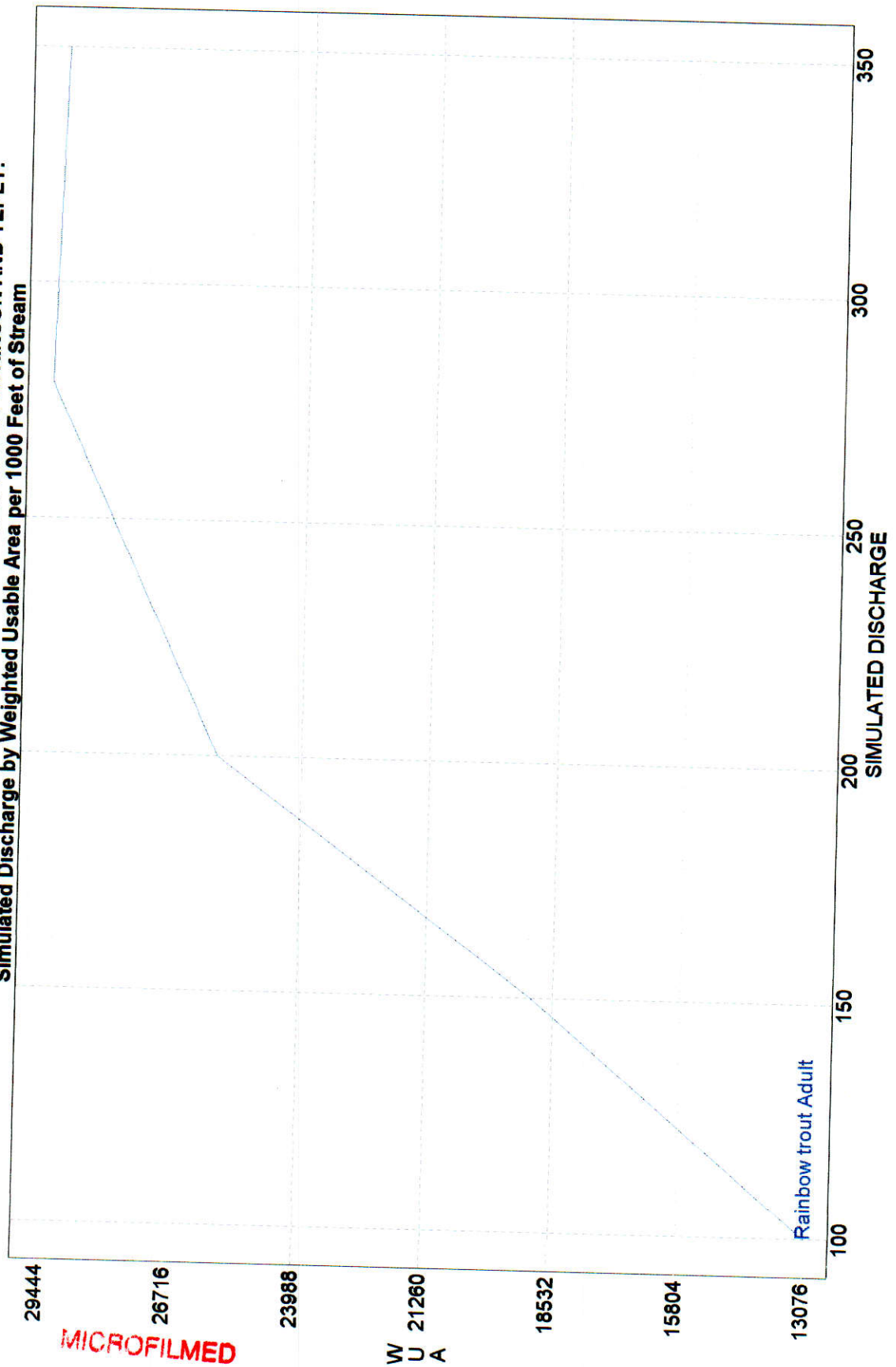
HABITAT SIMULATION FOR RAINBOW TROUT JUVENILES
WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



MICROFILMED
AUG 23 1999

Figure 6.

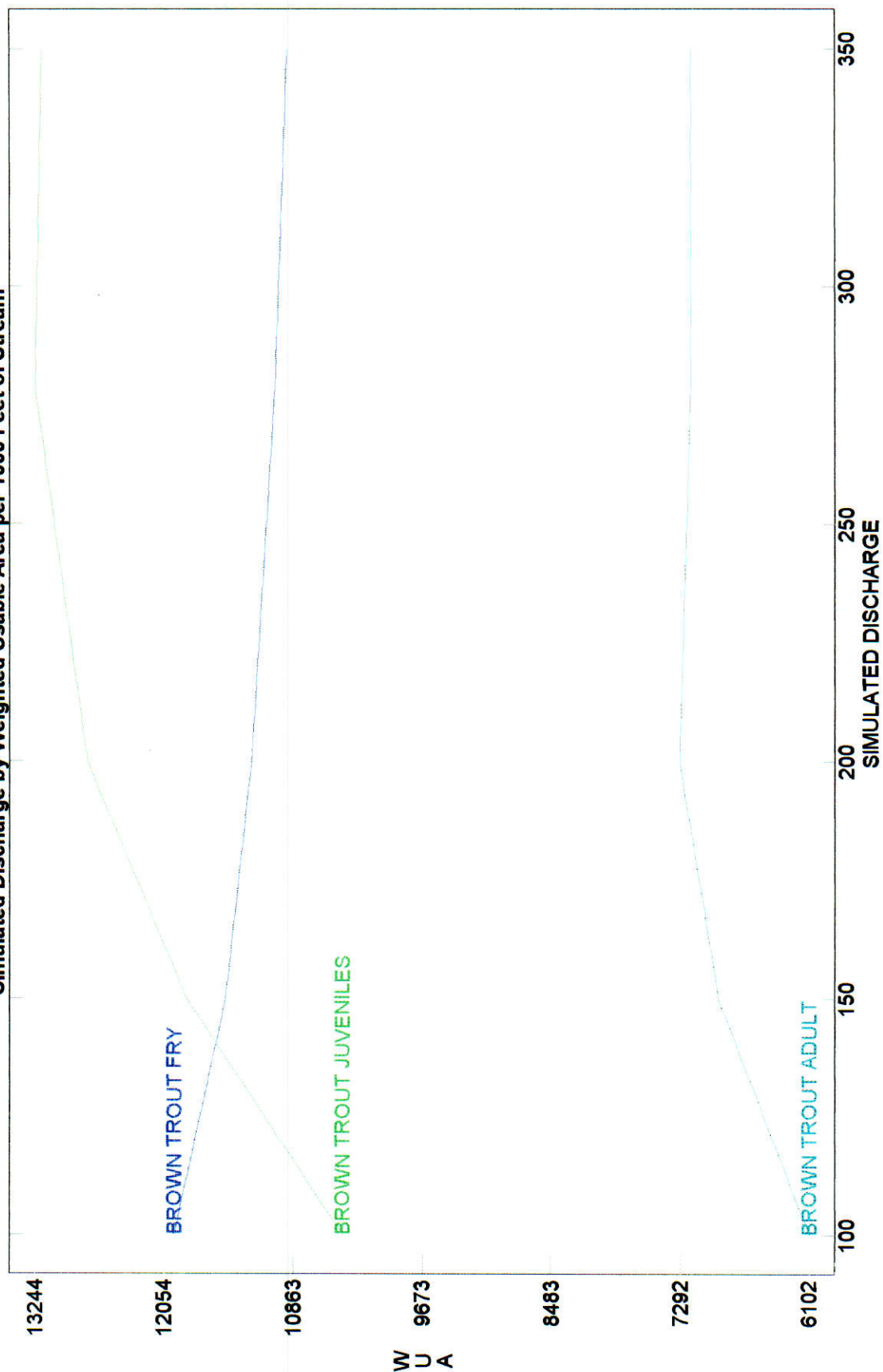
HABITAT SIMULATION FOR RAINBOW TROUT ADULTS
WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



MICROFILMED
AUG 23 1999

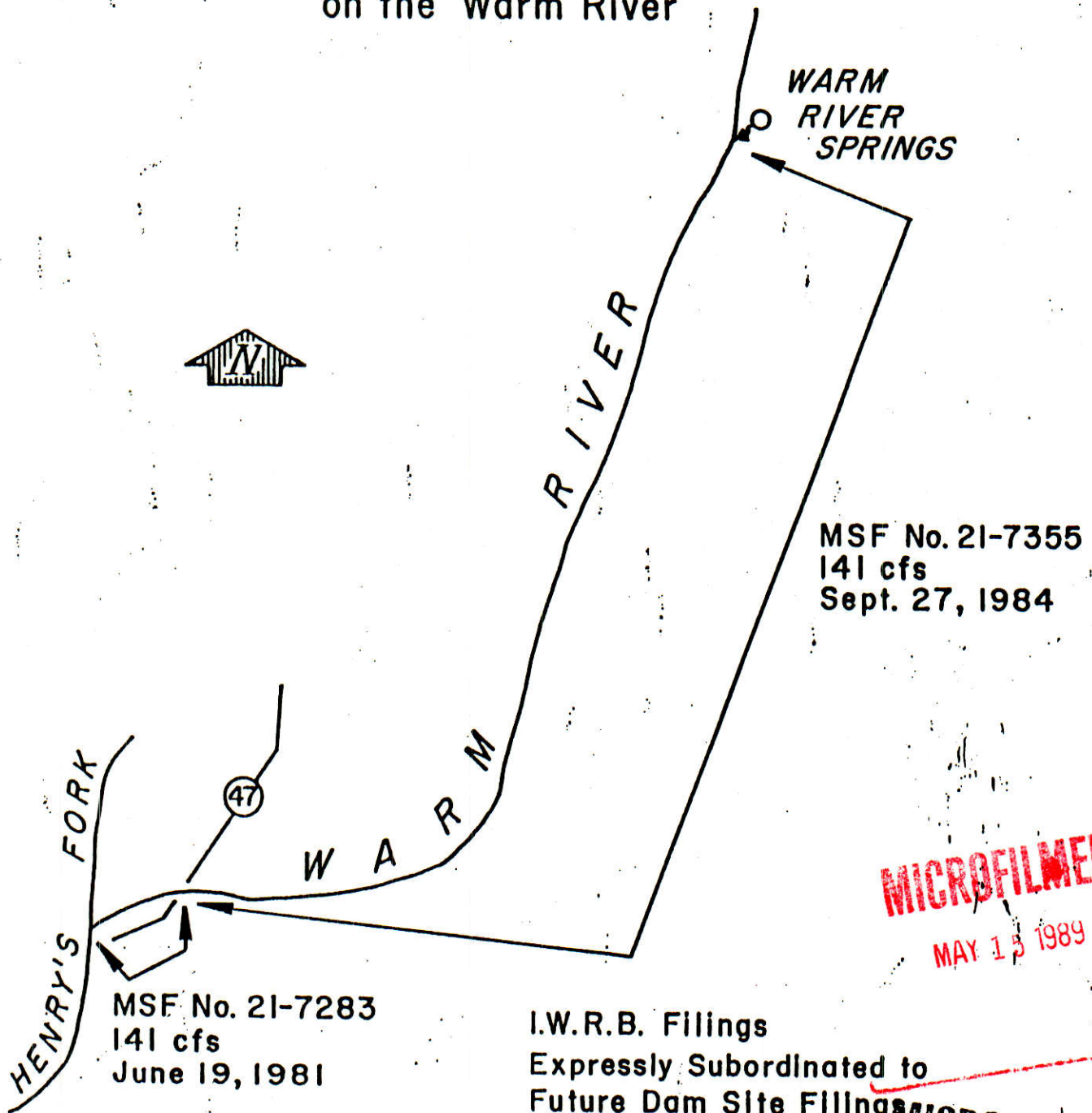
Figure 7.

WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



MICROFILMED
AUG 23 1999

Minimum Stream Flow Applications on the Warm River



MICROFILMED
MAY 15 1989

I.W.R.B. Filings
Expressly Subordinated to
Future Dam Site Filings

MICROFILMED

JAN 06 1989

IDWR STAFF

EXHIBIT

AFFIDAVIT OF
PUBLICATION

State of Idaho

County of Fremont

ss.

being first duly sworn, upon his oath, deposes and says:

That she is the *business clerk* of The Ashton Herald, a newspaper as defined by Idaho Codes Annotated, section 58-106, as amended, and that said newspaper is a weekly newspaper printed and published at St. Anthony, in Fremont County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper in said county for more than 78 consecutive weeks prior to the first publication of the attached notice, advertisement or publication of *notice of correction*.

Correction No. 21-7355

And affiant further says that said notice, advertisement of publication, as per clipping attached, was published in said newspaper, in the regular and entire issue thereof, and not in any supplement issue thereof, for *2* consecutive issues thereof; first publication

having been made on the *14th*

day of *November*, 19*85*,

and the last publication on the

21st day of *November*

19*85*.

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each, printed from type matter, of at least seventeen and three-fourths inches deep.

Subscribed in my presence and

sworn to before me this *25th*

day of *November*,

19*85*.

Linda Sheldon

Notary Public for the
[SEAL] State of Idaho, residence
and post office address:
St. Anthony, Idaho.
Ashton

RECEIVED
NOV 27 1985
Department of Water Resources
Eastern District Office

NOTICE OF CORRECTION

Notice is hereby given that application No. 21-7355 by the Idaho Water Resource Board for minimum streamflow was advertised incorrectly on Oct. 17 and 24, 1985. The location of the reach was advertised as SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSE Sec. 10 T. 10N R. 44E, B.M., Fremont County.

WHEREAS, the actual location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10, T. 10N R. 44E.

A. KENNETH DUNN
Director

Publ. Nov. 14 and 21, 1985AH

MICROFILMED

JAN 06 1989

MAR 03 1999

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

FOR OFFICE USE ONLY
 Amt. of Fee \$: _____
 Receipt No. _____
 Receipt By: _____
 Date Received: _____

Signature of permit holder: Lawrence Jarn Date: March 3, 1999
(include your title, if on behalf of company or organization)
Chairman, Idaho Water Resource Board

RECEIVED

MAR 16 1994

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

For Office Use Only
\$15 Fee Received by N/A
Date _____
Receipt No. _____

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time in which to complete development of water right under the provisions of Section 42-204, Idaho Code.

Permit No. 21-7355

Name(s) of Permit Holder: IDAHO WATER RESOURCE BOARD

Mailing Address: Statehouse, Boise, ID 83720

Date Proof is Due 4/1/94 Telephone No. (208) 327-7910

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

None

Costing \$ _____

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Inadequate data has been collected to show that the permitted flow is the minimum
needed to protect the resources. Additional time is needed to collect the data.

Permit holder(s) request an extension to 4/1, 19 99.

FEE: \$15.00

[Signature]
(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to April 1, 1999.

MICROFILMED

AUG 23 1993

Signed this 11 day April, 19 94

[Signature]
Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR	)	
PERMIT NO. 21-7283 & 21-7355	)	ORDER ADOPTING
(WARM RIVER) TO ESTABLISH A MINIMUM	)	PROPOSED MEMORANDUM
STREAMFLOW IN THE NAME OF THE IDAHO	)	DECISION AND ORDER
WATER RESOURCE BOARD	)	
	)	

WHEREAS, a Proposed Memorandum Decision and Order in the above-captioned matter has been issued and a copy served on the parties; and,

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

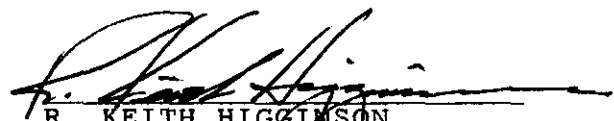
WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order and proof of construction of works and application of water to beneficial use shall be submitted on or before April 1, 1994.

Dated this 23RD day of DECEMBER, 1988.

MICROFILMED

JAN 06 1989


R. KEITH HIGGINSON
Director

CERTIFICATE OF MAILING

I certify that on the 23rd day of December, 1988, I mailed a true and correct copy, postage prepaid, of the Order Adopting Proposed Memorandum Decision and Order to:

Leigh Chantrill
Newdale, ID 83436

Dave Rydalch
Rt. 2 Box 108
St. Anthony, ID 83445

Idaho Dept. of Fish & Game
Steve Goddard
Box 25
Boise, ID 83720

Ted Sorenson
550 Linden
Idaho Falls, ID 83401

Gene Gray
2393 Watts Lane
Payette, ID 83661

Diana Schuett
DIANA SCHUETT, Clerical
Assistant

RECEIVED

JAN 05 1989

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NOS. 21-7283 AND 21-7355)
(WARM RIVER) TO ESTABLISH A)
MINIMUM STREAMFLOW IN THE NAME OF)
THE IDAHO WATER RESOURCE BOARD)

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Bobby D. Fleenor, who conducted the hearing or who has read the record in the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 421701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

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

IN THE MATTER OF APPLICATIONS FOR)
FOR PERMIT NOS. 21-7283 AND)
21-7355 (WARM RIVER) TO ESTABLISH)
A MINIMUM STREAMFLOW IN THE NAME)
OF THE IDAHO WATER RESOURCE BOARD)

PROPOSED MEMORANDUM
DECISION AND ORDER

On June 19, 1981, the Idaho Water Resource Board (Board) filed with the Idaho Department of Water Resources (Department) Application for Permit to Appropriate Water No. 21-7283, seeking to preserve a minimum streamflow on Warm River which is tributary to Henrys Fork, Snake River. The application proposed the establishment of a minimum streamflow in the reach of Warm River beginning at the confluence with the Henrys Fork, and extending upstream about one half mile to the Idaho State Highway 47 bridge.

On September 27, 1984, the Board filed an additional Application for Permit to Appropriate Water No. 21-7355 with the Department, which seeks to preserve a minimum flow in an additional eight miles of Warm River. The additional proposed minimum flow reach begins at State Highway 47 bridge, the upstream end of the reach proposed under Application No. 21-7283, and extends upstream to Warm River Springs.

Both applications seek a flow of 141 cubic feet per second (cfs) for the purpose of maintaining high quality fisheries and spawning and rearing habitat.

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13, T9N, R43E, B.M., Fremont County, at the confluence of Warm River and Henrys Fork, and extending upstream approximately one-half mile to the intersection of State Highway 47 with Warm River located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T9N, R43E, B.M., Fremont County.

2. Application for Permit No. 21-7355 proposes the establishment of a minimum streamflow of 141 cfs from the intersection of State Highway 47 and Warm River, located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T9N, R43E, B.M., Fremont County, and extending upstream approximately eight (8) miles to a point where the flows from Warm River Springs discharge into Warm River, located within the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10, T10N, R44E, B.M., Fremont County.

3. Historical records from 1912 through 1932 reveal that flows dropped below the requested minimum streamflow rate on only two occasions.

4. Fish & Game modeled the flows on Warm Springs to determine the minimum streamflow below which a substantial loss of fish habitat and aquatic food growth would occur. The studies were limited to four transects located in the lower one-half mile reach that is defined by Application for Permit No. 21-7283. Based upon Fish & Game studies, 141 cfs is the minimum streamflow in the one-half mile reach proposed by Application for Permit No. 21-7283 and is not the optimum or most desirable streamflow.

5. Warm River is an extraordinary river because of its constant flow, and the high quality of its water. Large numbers of fish residing in Henrys Fork spawn in Warm River.

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6. Angler use is approximately 4,000 to 5,000 angler days per year. The river is heavily fished, particularly the lower reach defined by Application No. 21-7283.

7. The transects used for determination of a minimum flow do not represent the entire reach of river flow for which a minimum streamflow is being sought. The lower portion, where all the transects were located, is open and flows more slowly, while the upper portion which was not evaluated by using transects is more narrow and turbulent.

8. Only two water rights were found that list points of diversion within the proposed minimum flow reach. The diversions for those water rights are small, are prior in time, and will not affect the proposed minimum flows.

9. Policy 4D of the Idaho State Water Plan lists a portion of the proposed minimum streamflow reaches as a possible reservoir site. The Board requested that the minimum flow be subordinated to the proposed reservoir.

CONCLUSIONS OF LAW

1. Idaho Code § 42-1501 provides that streamflow preservation for the protection of fish and wildlife habitat, and recreation, is in the public interest and is declared to be a beneficial use of such water.

2. Idaho Code § 42-1503 sets forth the criteria to be considered by the Department in reviewing an application for minimum streamflow:

Upon the conclusion of the hearings and completion of any investigation conducted by the director, he shall file his findings in writing approving the application in whole, or in part, or upon conditions or rejecting said

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application. Approval of any such application must be based upon a finding that such appropriation of minimum streamflow:

- (a) will not interfere with any vested right, permit, or water right application with priority of right dated earlier than the date of receipt in the office of the director of a complete application for appropriation of minimum streamflow filed under the provisions of this act;
- (b) is in the public as opposed to private, interest;
- (c) is necessary for the preservation of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation, or water quality of the stream;
- (d) is the minimum flow or lake level and not the ideal or most desirable flow or lake level; and,
- (e) is capable of being maintained as evidence by records of stream flows, water levels, and the existing or future establishment of necessary gauging stations and bench marks.

3. Any right to be acquired under the application is for instream non-consumptive use and is subject to all vested water rights, permits, or water right applications having dates of priority earlier than June 19, 1981 for Application No. 21-7283 and September 27, 1984 for Application No. 21-7355.

4. A minimum streamflow appropriation is necessary to preserve recreational value and fish and wildlife habitat.

5. The establishment of a minimum streamflow on Warm River is in the public as opposed to the private interest.

6. Policy 4D of the Idaho State Water Plan lists potential reservoir sites which should be protected from significant land use change. Policies set forth in the State Water Plan are deemed to be statements of public interest. Warm River the sites specifically listed in Policy 4D.

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7. The minimum flow on Warm River was modeled using transects from only the one half mile reach sought under Application No. 21-7283.

8. The minimum streamflow of 141 cfs is a true minimum, and not the ideal or most desirable flow for the minimum flow reach from the confluence of Warm River with Henrys Fork to the intersection of Warm River with State Highway 47, the minimum flow reach identified by Application No. 21-7283.

9. In the eight mile reach identified under Application No. 21-7355, however, the stream channel characteristics are dramatically different than the reach identified by Application No. 21-7283 and representative transects must be identified and the flow modeled to establish a minimum and not an optimum flow.

10. The minimum flow sought is capable of being maintained.

11. The Director of the Department of Water Resources has considerable flexibility and authority to grant appropriations subject to future appropriations for uses which the public interest may show to be of greater importance. Shokal v. Dunn, 109 Idaho 330, 337, 707 P.2d 441 (1985).

12. A perpetual commitment of a significant amount of water from Warm River without a workable method of changing the terms of that use could at some future date adversely affect the public interest.

ORDER

IT IS HEREBY ORDERED that Applications for Permit Nos. 21-7283 and 21-7355 are APPROVED subject to the following conditions:

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1. The use of water under the permits shall recognize and allow the continued beneficial diversion of water for irrigation and other purposes under any prior existing water rights established by diversion and application to beneficial use or by any application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than June 19, 1981, for Application No. 21-7283 and September 27, 1984, for Application No. 21-7355.

2. Upon the future finding and order of the Director that gauging stations are required to determine the approved minimum flows on Warm River are being maintained, such measuring devices shall be permanently installed and maintained as specified by the Department.

3. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license. Any person seeking review and amendment of the permit or license shall file a request with the Board, which request shall describe the amendment sought, the reasons for the proposed amendment, and a statement of the change in circumstances since the permit or license was issued or last reviewed that merit a review of the permit or license. A copy of the petition shall be served upon the Director of the Department of Water Resources. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the permit or license. The petition must set forth any significant change in

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circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the permit or subsequent license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or party seeking the amendment to establish that amendment of the permit or license would be in the public interest.

4. Proof of instream beneficial use of the minimum streamflow appropriated shall be submitted in a manner approved by the Department within 5 (five) years after the permit approval is finally effective as herein provided. Proof shall be filed in the following manner:

Application No. 21-7283

Sufficient proof of beneficial use has been made regarding the extent of use, the availability of flows, and finally, the establishment of a minimum flow through professional studies so that no further studies or data will be required for filing of proof. Following affirmative action by the legislature, proof can be filed on Application No. 21-7283.

Application No. 21-7355

Sufficient proof has been filed with the Department regarding the need of a minimum flow for fish habitat and recreational values, and the availability of flows in Warm River. Following affirmative action by the legislature, information

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sufficient to establish the minimum, not optimum, flow shall be submitted to the Department with proof of beneficial use.

This minimum flow is subordinated to the future construction of a dam on Warm River and storage behind the dam that might inundate portions or all of the proposed minimum flow reach. If the Board determines that a reservoir site on Warm River is no longer in the public interest, removal of the site from the State Water Plan will also remove the subordination of this minimum flow to the proposed reservoir.

Dated this 28 day of November, 1988.

Bobby D. Fleenor
BOBBY D. FLEENOR, Hearing Officer
Department of Water Resources

CERTIFICATE OF MAILING

I hereby certify that on the 28th day of November, 1988, I mailed a true and correct copy, postage prepaid, of this Proposed Memorandum Decision and Order to:

Leigh Chantrill
Newdale, ID

Idaho Fish & Game
Steve Goddard
Box 25
Boise, ID 83720

Gene Gray
2393 Watts Lane
Payette, ID 83661

Dave Rydalch
Rt. 2, Box 108
St. Anthony, ID 83445

Ted Sorenson
550 Linden
Idaho Falls, ID 83401

Heidi Miller
HEIDI MILLER, Receptionist

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Idaho Water Resource Board Phone 334-4440

Post office address Statehouse Boise, ID 83720

2. Source of water supply Warm River which is a tributary of Henry's Fork

3. Location of reach is from SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 12 Township 9N

Range 43E B.M. Fremont County, Upstream to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10

T. 10N, R. 44E, B.M. Fremont County

4. Water will be used for the following purposes:

Amount 141.0 for Instream flow purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 141.0 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. _____

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is **not** for irrigation: SAME AS REACH DESCRIBED IN ITEM 3 ABOVE

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____

Range _____ B.M.

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

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: To maintain high quality fisheries and spawning and rearing habitat within the defined reach from State Highway 47 upstream to Warm River Springs.

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. This water right is directly upstream from and adjoining Minimum Stream Flow water right #21-7283

9. a. Who owns the property at the point of diversion Multiple Ownerships

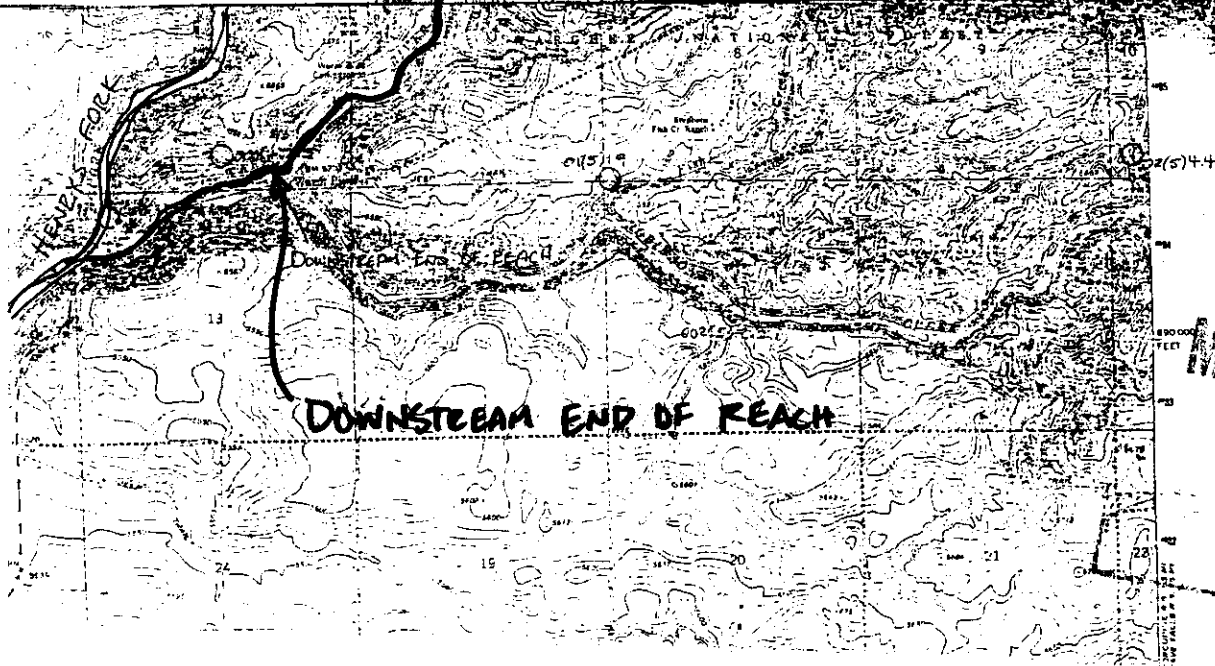
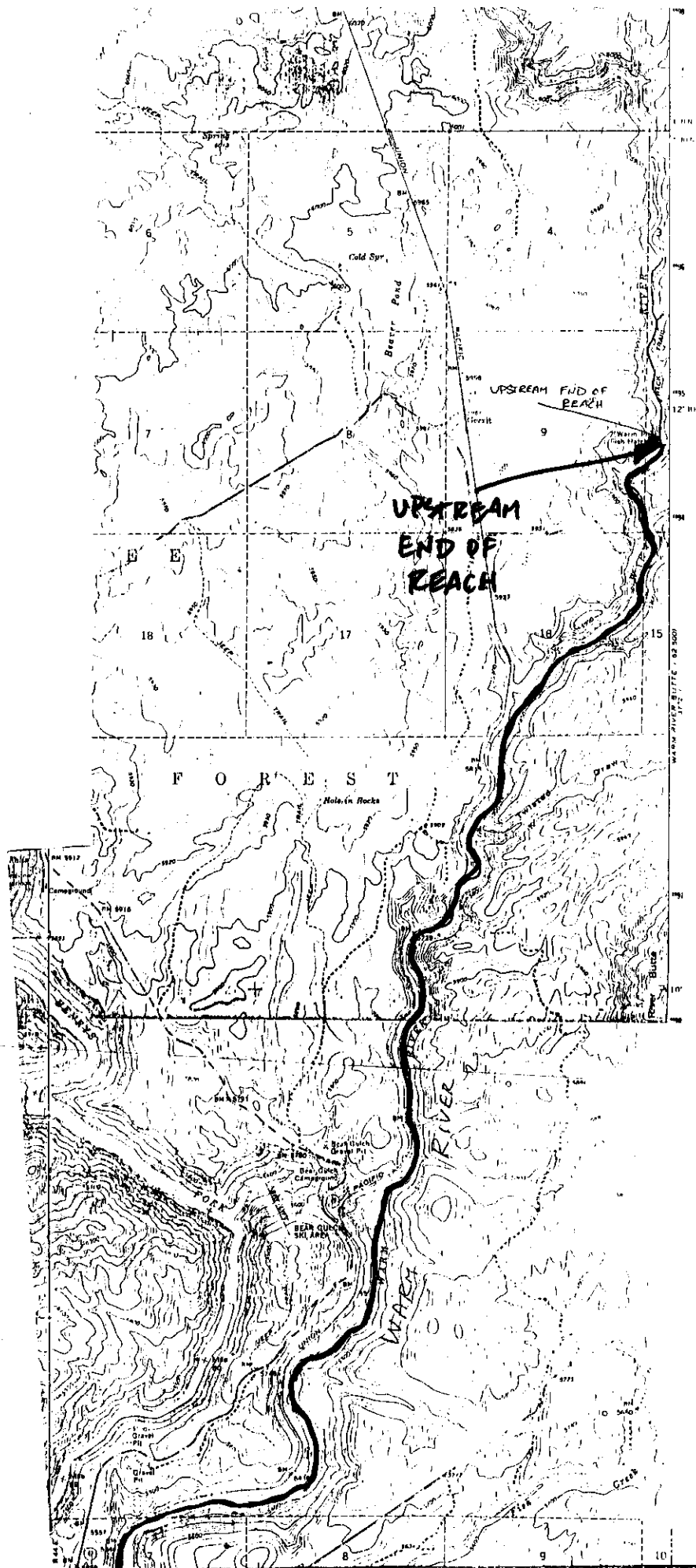
b. Who owns the land to be irrigated or place of use Multiple Ownerships

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

10. Remarks _____

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

Scale: 2 inches equal 1 mile.

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

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JUL 10 1999

Donald Kramer

(Applicant)

CHAIRMAN, IDAHO WATER RESOURCE BOARD

Received by RDC^{ew} Date 10-16-84 Time 1:30 P.
Preliminary check by HWS Fee \$ 11.00
Receipted by _____ Date _____
Publication prepared by City^{Mr} Date 10-24-84
Published in Ashton Herald
Publication dates 11-1-85 11-8-85 RE-AD: 10/17 & 10/24/85
Publication approved CW Date 11-15-84 Post Register
Protests filed by: _____ Ashton Herald
Fremont Cty Chron
Idaho Statesman
Lewiston Morn Trib
Times News
Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

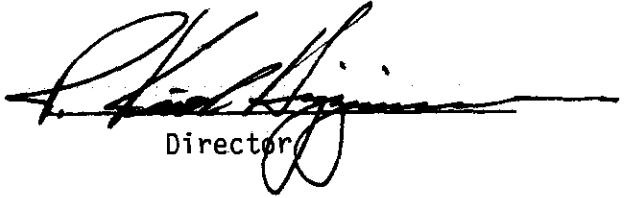
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

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

Witness my hand 23RD day of December, 1988


Director

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NAME OF STREAM - Warm River, a tributary of Henry's Fork Snake River

LEGAL DESCRIPTION OF THE REACH WHERE STREAM FLOW IS REQUESTED - Location of reach is from SW1/4 SE1/4, Sec. 12, T. 9N, R. 43E, B.M., upstream to NW1/4 SW1/4, Sec. 10, T. 10N, R. 44E, B.M., Fremont County.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND - 141 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED - To maintain high quality fisheries and spawning and rearing habitat.

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

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT OR WATER APPLICATION OF EARLIER DATE OF PRIORITY - The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST - Warm River supports a high quality fishery. Sections of the river are being managed as a high quality and trophy fish fishery for rainbow trout.

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

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE - During 1977, personnel of the Idaho Department of Fish and Game collected field data for use with instream flow methodologies in the determination of necessary flows for fish and wildlife resources.

Methodologies, techniques and flow recommendations are provided in the following publication:

Cochner, Tim and Edwin Buettner. 1978. Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report. Project F-69-R-3, Job II, Idaho Department of Fish and Game. 88 pp.

EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW - The ideal flow would be bank full discharge or approximately 350 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS - No flow records are available.

LOCATION OF EXISTING GAGING STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION - None.

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Department of Water Resources
Eastern District Office

STATE OF IDAHO)
) ss.
COUNTY OF ADA)

Laura Gay Barnes

, being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for Two (2) consecutive weekly insertions beginning with the issue of

October 17, 1985, and ending with the issue of October 24, 1985.

Laura Gay Barnes

Subscribed and sworn to before me this 24th day of October, 1985.

Jeanne M Hawke

Notary Public for Idaho, Residing at Boise, Idaho.

LEGAL NOTICE

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

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1981, Application No. 21-7283, proposing the appropriation of 141 cfs of water from Warm River tributary to Henry's Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, Application No. 21-7355, proposing the appropriation of 141 cfs from Warm River tributary to Henry's Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10, T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m., November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

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

If issued, the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Pub. Oct. 17, 24, 1985

9361

AFFIDAVIT OF
PUBLICATION

State of Idaho

County of Fremont

ss.

Carol Bessey
being first duly sworn, upon his
oath, deposes and says:

That she is the editor
of The Ashton Herald, a newspaper
as defined by Idaho Codes Anno-
tated, section 58-106, as amended,
and that said newspaper is a
weekly newspaper printed and
published at St. Anthony, in Fre-
mont County, Idaho, having a
general circulation in said county,
and that said newspaper has been
printed and published as a weekly
newspaper in said county for more
than 78 consecutive weeks prior to
the first publication of the attached
notice, advertisement or publica-
tion of Notice of Application.

Application for
Minimum Stream Flow
It - 21-7355

And affiant further says that said
notice, advertisement of publica-
tion, as per clipping attached, was
published in said newspaper, in the
regular and entire issue thereof,
and not in any supplement issue
thereof, for 2 consecutive
issues thereof; first publication

having been made on the 12th

day of Nov, 1984,

and the last publication on the

8th day of Nov

1984.

And affiant further says that at the
times herein mentioned said news-
paper was made up of at least four
pages of at least five columns each,
printed from type matter, of at
least seventeen and three-fourths
inches deep.

Carol Bessey
Subscribed in my presence and

sworn to before me this 13th

day of November,

1984.

James E. Holcomb

Notary Public for the
[SEAL] State of Idaho, residence
and post office address:
St. Anthony, Idaho.
Ashton

NOV 14 1984

NOTICE

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

NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water
Resource Board has on September 27,
1984 submitted application 21-7355 for a
permit to the Department of Water
Resources proposing the appropriation of
141.0 cubic feet per second from January 1
to December 31 of water within the
SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 9N, R. 43E, up-
stream to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10, T10N, R.
44E, B.M., Fremont County to preserve the
minimum stream flow subject to all prior water
rights for aesthetic and recreation purposes
in Warm River tributary to the Snake River.

Pursuant to Title 42, Chapter 15 of the
Idaho Code a legal notice will be published at
a later date setting a time and a place for a
hearing during which opportunity will be
provided for public comment.

A. KENNETH DUNN
Director

Publ. Nov. 1 and 8, 1984 AH

THE CHRONICLE-NEWS
ST. ANTHONY, IDAHO

AFFIDAVIT OF
PUBLICATION

STATE OF IDAHO } ss
County of Fremont

I, Terry Weatherston,
being first duly sworn, depose and say, that I am
the printer of THE CHRONICLE-NEWS, a weekly
newspaper printed and published weekly at St.
Anthony, Fremont County, Idaho; and I do
solemnly swear that the

Notice Of Public Meeting

a copy of which notice appears attached here-
to, was published in the regular and entire issue
of said newspaper, and not in any

supplement issue thereof for 2
consecutive issues, the first publication hav-
ing been made on September 13, 1984
and the last publication having been made

on September 20, 1984.

Further, that said newspaper is one of general
circulation in said county; that it is a legal
newspaper, conforming to legal specifications
under the Idaho Statutes; that it has at least two
hundred bona fide subscribers living within the
county of publication; and that it has been
continuously and uninterruptedly published in said
county during a period of seventy-eight con-
secutive weeks prior to the first publication of the
said notice.

Terry Weatherston

~~~~~

Subscribed to and sworn to before me  
this September 21, 1984

*Jeri Lerner*  
Notary Public

(SEAL)

My commission expires 11/1/85

NOTICE OF PUBLIC MEETING

Notice is hereby given that an informal  
public meeting will be conducted by the  
Idaho Water Resource Board on Wed-  
nesday, September 26, 1984 at 7:30 p.m.  
in the Courtroom, Fremont County Cour-  
thouse, St. Anthony, Idaho to receive  
comments on minimum streamflow ap-  
plications as follows:

No. 21-7281 proposing the appropriation  
of 140 cfs of water from Fall River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T. 8N,  
R. 41E, upstream approximately 8 miles to  
State Highway 32 in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec.  
18, T. 8N, R. 42E.

No. 21-7283 proposing the appropriation  
of 141 cfs from Warm River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 13, T. 8N,  
R. 43E, upstream approximately 1/2 mile to  
State Highway 47 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 12,  
T. 8N, R. 43E, B.M., both in Fremont  
County.

On Thursday, September 27, 1984 at  
7:30 a.m. in the Courtroom, Teton County  
Coothouse, Driggs, Idaho an additional  
public meeting will be held to receive  
comments on minimum streamflow ap-  
plications as follows:

No. 22-7369 proposing the appropriation  
of 106 cfs from Teton River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N,  
R. 44E, upstream approximately 9 miles to  
State Highway 33 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 23,  
T. 8N, R. 44E.

No. 22-7370 proposing the appropriation  
of 28 cfs from the Birch Creek tributary to  
Teton River. The location of the reach is the  
NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N, R. 44E, up-  
stream approximately 6 miles to State  
Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 17, T.  
7N, R. 45E, B.M., both in Teton County.

All of the above applications were filed to  
protect the quality of the fisheries habitat  
within the specified reach for each stream.

J. EDWARD DUNN

Checker

Full page 10 lines 20, 1984

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OCT 4 1984

Department of Water Resources  
Eastern District Office

RECEIVED  
JAN 06 1985

AFFIDAVIT OF  
PUBLICATION

State of Idaho

County of Fremont

55.

Carol Bessey

being first duly sworn, upon his  
oath, deposes and says:

That she is the editor.....  
of The Ashton Herald, a newspaper  
as defined by Idaho Codes Anno-  
tated, section 58-106, as amended,  
and that said newspaper is a  
weekly newspaper printed and  
published at St. Anthony, in Fre-  
mont County, Idaho, having a  
general circulation in said county,  
and that said newspaper has been  
printed and published as a weekly  
newspaper in said county for more  
than 78 consecutive weeks prior to  
the first publication of the attached  
notice, advertisement or publica-  
tion of .....

Notice of Public.....  
Meeting.....

And affiant further says that said  
notice, advertisement of publica-  
tion, as per clipping attached, was  
published in said newspaper, in the  
regular and entire issue thereof,  
and not in any supplement issue  
thereof, for .....2..... consecutive  
issues thereof; first publication

having been made on the 12<sup>th</sup>.....

day of September, 1984.

and the last publication on the

20<sup>th</sup> day of September.

1984.

And affiant further says that at the  
times herein mentioned said news-  
paper was made up of at least four  
pages of at least five columns each,  
printed from type matter, of at  
least seventeen and three-fourths  
inches deep.

Carol Bessey  
Subscribed in my presence and

sworn to before me this 25<sup>th</sup>.....

day of September.....

1984

Lisa Johnson

Notary Public for the  
[SEAL] State of Idaho, residence  
and post office address:  
St. Anthony, Idaho  
186012

RECEIVED

SEP 27 1984

Department of Water Resources  
Eastern District Office

NOTICE OF PUBLIC MEETING

Notice is hereby given that an informal  
public meeting will be conducted by the  
Idaho Water Resource Board on Wed-  
nesday, Sept. 26, 1984, at 7:30 p.m. in the  
Courtroom, Fremont County Courthouse, St.  
Anthony, Idaho to receive comments on  
minimum streamflow applications as follows:

No. 21-7281 proposing the appropriation  
of 140 cfs of water from Fall River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T. 8N,  
R. 41E, upstream approximately 8 miles to  
State Highway 32 in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec.  
18, T. 8N, R. 43E.

No. 21-7283 proposing the appropriation  
of 141 cfs from Warm River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 13, T. 9N,  
R. 43E, upstream approximately  $\frac{1}{2}$  mile to  
State Highway 47 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 12,  
T. 9N, R. 43E, B.M. both in Fremont County.

On Thursday, September 27, 1984 at  
7:30 p.m. in the Courtroom, Teton County  
Courthouse, Driggs, Idaho and additional  
public meeting will be held to receive  
comments on minimum streamflow ap-  
plications as follows:

No. 22-7369 proposing the appropriation  
of 106 cfs from the Teton River tributary to  
Henry's Fork Snake River. The location of  
the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N,  
R. 44E, upstream approximately 9 miles to  
State Highway 33 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 23,  
T. 6N, R. 44E.

No. 22-7370 proposing the appropriation  
of 28 cfs from Bitch Creek tributary to Teton  
River. The location of the reach is the  
NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N, R. 44E, up-  
stream approximately 6 miles to State  
Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 17, T.  
7N, R. 45E, B.M., both in Teton County.

All of the above applications were filed to  
protect the quality of the fisheries habitat  
within the specified reach on each stream.

A. KENNETH DUNN  
Director

Publ. Sept. 13 and 20, 1984AH

# AFFIDAVIT OF PUBLICATION

State of Idaho )

) 99

County of Teton )

I, De Ann Hatch,  
being first duly sworn depose and  
say that I am the secretary  
of the Teton Valley News, a  
newspaper as defined by Idaho  
Codes Annotated, Section 58-106,  
as amended, and that said  
newspaper is a weekly newspaper  
printed and published at Driggs, in  
Teton County, Idaho, having a  
general circulation in said county,  
and that said newspaper has been  
printed in said county for more  
than 78 consecutive weeks prior to  
the first publication of the attached  
notice, advertisement or publica-  
tion of

Notice of Public  
Meeting

And affiant further says that said  
attached notice, advertisement or  
publication, as per clipping  
attached, was published in said  
newspaper, in the regular and  
entire issue thereof, and not in any  
supplement issue thereof, for 2  
consecutive issues thereof; first  
publication having been made on  
the 13 day of Sept, 1984  
and last publication on the 20 day  
of Sept, 1984

And affiant further says that at  
the times herein mentioned said  
newspaper was made up of at least  
eight pages of at least five columns  
each, printed from type matter, of  
at least sixteen inches deep.

De Ann Hatch

Subscribed in my presence and  
sworn to before me this 14 day of  
Sept, 1984  
(SEAL) Notary Public for the state  
of Idaho, residence and postoffice  
address, Driggs, Idaho.

Rudie Hamner  
My Commission expires

9/29 1986

NOTICE OF PUBLIC MEETING  
NOTICE IS HEREBY GIVEN,  
that an informal public meeting  
will be conducted by the Idaho  
Water Resource Board on  
Wednesday, September 26,  
1984 at 7:30 p.m. in the  
Courtroom, Fremont County  
Courthouse, St. Anthony,  
Idaho to receive comments on  
minimum streamflow  
applications as follows:

No. 21-7281 proposing the  
appropriation of 140 cfs of  
water from Fall River tributary  
to Henry's Fork Snake River.  
The location of the reach is the  
NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T. 8N, R.  
41E, upstream approximately 8  
miles to State Highway 32 in  
the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 18, T. 8N,  
R. 43E.

No. 21-7283 proposing the  
appropriation of 141 cfs from  
Warm River tributary to Henry's  
Fork Snake River. The location  
of the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
Sec. 13, T. 9N, R. 43E,  
upstream approximately  $\frac{1}{2}$   
mile to State Highway 47 in the  
SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 12, T. 9N, R.  
43E, B.M., both in Fremont  
County.

On Thursday, September 27,  
1984 at 7:30p.m. in the  
Courtroom, Teton County  
Courthouse, Driggs, Idaho an  
additional public meeting will  
be held to receive comments  
on minimum streamflow  
applications as follows:

No. 22-7369 proposing the  
appropriation of 106 cfs from  
the Teton River tributary to  
Henry's Fork Snake River. The  
location of the reach is the  
NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N, R.  
44E, upstream approximately 9  
miles to State Highway 33 in  
the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 23, T. 6N,  
R. 44E.

No. 22-7370 proposing the  
appropriation of 28 cfs from  
Bitch Creek tributary to Teton  
River. The location of the reach  
is the NW $\frac{1}{4}$ Ne $\frac{1}{4}$ , Sec. 20, T.  
7N, R. 44E, upstream  
approximately 6 miles to State  
Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
Sec. 17, T. 7N, R. 45E, B.M.,  
both in Teton County.

All of the above applications  
were filed to protect the quality  
of the fisheries habitat within  
the specified reach on each  
stream.

A. Kenneth Dunn, Director.  
Published in the Teton Valley  
News on September 13 and  
20, 1984.

RECEIVED

SEP 24 1984

Department of Water Resources  
Eastern District Office

# Proof of Publication The Post-Register

RECEIVED

SEP 24 1984

Department of Water Resources  
Eastern District Office

State of Idaho, }  
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 13th day of September, 1984, last publication having been made on the 20th day of September, 1984, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 21st day of September, 1984.

[Signature]  
Notary Public

My commission expires September 30, 1984.

B10, 1M,

## NOTICE OF PUBLIC MEETING

Notice is hereby given that an informal public meeting will be conducted by the Idaho Water Resource Board on Wednesday, September 26, 1984 at 7:30 p.m. in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho to receive comments on minimum streamflow applications as follows:

No. 21-7281 proposing the appropriation of 140 cfs of water from Fall River tributary to Henry's Fork Snake River. The location of the reach is the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T. 8N, R. 41E, upstream approximately 8 miles to State Highway 32 in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 18, T. 8N, R. 43E.

No. 21-7283 proposing the appropriation of 141 cfs from Warm River tributary to Henry's Fork Snake River. The location of the reach is the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 13, T. 9N, R. 43E, upstream approximately  $\frac{1}{2}$  mile to State Highway 47 in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 12, T. 9N, R. 43E, B.M., both in Fremont County.

On Thursday, September 27, 1984 at 7:30 p.m. in the Courtroom, Teton County Courthouse, Driggs, Idaho an additional public meeting will be held to receive comments on minimum streamflow applications as follows:

No. 22-7369 proposing the appropriation of 106 cfs from the Teton River tributary to Henry's Fork Snake River. The location of the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N, R. 44E, upstream approximately 9 miles to State Highway 33 in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 23, T. 6N, R. 44E.

No. 22-7370 proposing the appropriation of 28 cfs from Birch Creek tributary to Teton River. The location of the reach is the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 20, T. 7N, R. 44E, upstream approximately 6 miles to State Highway 32 in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 17, T. 7N, R. 45E, B.M., both in Teton County.

All of the above applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

A. KENNETH DUNN  
Director

Published: September 13, 20, 1984

MICROFILMED

JAN 06 1989

**TRIBUNE PUBLISHING COMPANY, INC.**

The Lewiston Morning Tribune

505 C St., P.O. Box 957

Lewiston, Idaho 83501

(208) 743-9411

Date 102485 INVOICE No. 100059634Account No. 44660Description 59634LEGALTimes 2 Lines 62

Tab Lines \_\_\_\_\_

**LEGAL ADVERTISING  
INVOICE**

SOLD TO:

STATE OF IDAHO  
DEPT. OF WATER RESOURCES  
150 SHOUP AVE. SUITE 153  
TWIN FALLS  
ID 83402\$ 54.25Department of Water Resources  
Eastern District OfficeNOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.  
Please Retain This Invoice as Your Statement Will Refer To Invoice by No. Only.**AFFIDAVIT OF PUBLICATION****LEGAL NOTICE**

Notice has been given that the following applications have been submitted for permit to appropriate the public waters of the State of Idaho:

**NOTICE OF APPLICATION FOR  
MINIMUM STREAM FLOW.**

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1985, application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm River tributary to Henrys Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, application No. 21-7355 proposing the appropriation of 141 cfs from Warm River tributary to Henrys Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Section 10, T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

The director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Court-house, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

Any party who wishes to formally appear at this proceeding for the

purpose of presenting evidence or cross-examining witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN  
DirectorSTATE OF IDAHO, ss.  
County of Nez PerceS. L. Stone, being duly sworn,  
deposes and says, I am the Legal Clerk

of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established paper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the

LEGAL NOTICE Notice has been given  
attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 101785, or once a week for two consecutive weeks, the first publication thereof being on the 101785, and the last publication thereof being on the 102485, and saidLEGAL NOTICE Notice has been given  
was so published in the regular and entire issue of said newspaper and not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.SUBSCRIBED AND SWORN BEFORE ME THIS THE 25  
day of October 1985Harold M. Lentz  
Notary Public in and for the State of Idaho,  
residing at Lewiston, therein.

# LEGAL NOTICE

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

## NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1981 application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm River tributary to Henrys Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, application No. 21-7355 proposing the appropriation of 141 cfs from Warm River tributary to Henrys Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10, T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

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

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN  
Director

PUBLISH: Thursday, October 17, and 24, 1985.

## Affidavit of Publication

STATE OF IDAHO.

COUNTY OF TWIN FALLS }

ss.

Nº 15581

I, Linda Capps McSwine being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for Two consecutive Weeks, commencing with the issue dated October 17, 1985, and ending with the issue dated October 24, 1985.

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

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

Linda Capps McSwine  
Subscribed and sworn to before me on this 24 day of

October, 1985  
Quana Shuler

Notary Public in and for the County of Twin Falls,  
State of Idaho, residing at Twin Falls, Idaho

# Proof of Publication

## The Post-Register

RECEIVED

OCT 25 1985

Department of Water Resources  
Eastern District Office

State of Idaho, }  
County of Bonneville } ss.

I, J. Robb Brady, first being duly sworn, depose and say: That I am the Principal Clerk of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers having been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eighty (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for two consecutive weeks, first publication having been made on the 17th day of October, 1985, last publication having been made on the 24th day of October, 1985, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this 24th day of October, 1985

Donald Napier  
Notary Public

My commission expires September 30, 1988

B10, 1M,

### LEGAL NOTICE

Notice is hereby given that the following applications have been filed with the Department of Water Resources for the purpose of appropriating the public waters of the State of Idaho:

#### NOTICE OF APPLICATION FOR WATER RIGHTS

FOR MINOR WATER RIGHTS TO FLOW  
Notice is hereby given that the Idaho Water Resource Board has received the following applications for permits to the Department of Water Resources:

On June 10, 1985 application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm Springs Creek to Henrys Fork Snake River. The location of the reach is the NW 1/4 Sec. 12, T. 12N, R. 12E, S. 12E, upstream approximately 1/2 mile from Highway 47 in the Warm Springs area.

On September 10, 1985 application No. 21-1305 proposing the appropriation of 25 cfs of water from Warm Springs Creek to Henrys Fork Snake River. The location of the reach is the NW 1/4 Sec. 12, T. 12N, R. 12E, S. 12E, upstream approximately 1/2 mile from Highway 47 in the Warm Springs area.

It is the policy of the Department of Water Resources to encourage the development of water resources for the benefit of the people of the State of Idaho.

For more information regarding these applications, contact the Department of Water Resources, Eastern District Office, 1000 N. 1st St., Idaho Falls, Idaho 83402.

Section of Section 42-1503, Idaho Code.

Any party who wishes to formally object to the proposed appropriation of water rights shall file a written objection with the Department of Water Resources, Eastern District Office, 1000 N. 1st St., Idaho Falls, Idaho 83402, within thirty (30) days of the date of publication of this notice. The objection shall be in the form of a petition and shall set forth the reasons therefor. If the objection is not filed within the prescribed time, the proposed appropriation shall be deemed to be approved.

It is the policy of the Department of Water Resources to encourage the development of water resources for the benefit of the people of the State of Idaho.

A. KENNETH DUNN  
Director

Published: October 17, 24, 1985

MICROFILMED

JAN 06 1989

# THE CHRONICLE-NEWS

ST. ANTHONY, IDAHO

## AFFIDAVIT OF PUBLICATION

STATE OF IDAHO }  
County of Fremont } ss

I, Terry Weatherston

being first duly sworn, depose and say, that I am the printer of THE CHRONICLE-NEWS, a weekly newspaper printed and published weekly at St. Anthony, Fremont County, Idaho; and I do solemnly swear that the

### Legal Notice

a copy of which notice appears attached hereto, was published in the regular and entire issue of said newspaper, and not in any

supplement issue thereof for 2 consecutive issues, the first publication hav-

ing been made on Oct. 7, 1985 and the last publication having been made

on Oct. 24, 1985

Further, that said newspaper is one of general circulation in said county; that it is a legal newspaper, conforming to legal specifications under the Idaho Statutes; that it has at least two hundred bona fide subscribers living within the county of publication; and that it has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the first publication of the said notice.

*Terry Weatherston*

~~~~~

Subscribed to and sworn to before me
this Oct. 25, 1985

Doris Garner
Notary Public.

(SEAL)

My commission expires life

RECEIVED

NOV 7 1985

Department of Water Resources
Eastern District Office

LEGAL NOTICE

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

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1981 application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm River tributary to Henrys Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, application No. 21-7355 proposing the appropriation of 141 cfs from Warm River tributary to Henrys Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10 T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specific reach on each stream.

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

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

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Publ. Oct. 17 and 24, 1985CN.

RECORDED

JAN 11 1986

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 21-07355 Reviewed by [Signature] Date 8-10-99

GENERAL CONSIDERATIONS

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

min. flow

Correct Uses? yes

SOURCE OF WATER

☒ Surface water source

☐ Ground water source

☐ Drilling permit required?

☐ Copy in the file? Drilling Permit No. _____

☐ Amount paid for permit _____ Correct?

☐ Well log in the file?

LICENSE EXAMINATION FEE

NO Required? exempt

+ Amount Submitted

+ Correct?

MEASURING DEVICE

NO Required?

+ Installed?

+ Waiver requested?

PRIORITY CALCULATION

Date proof received	_____	<u>/</u>	_____
Date proof due	_____		_____
No. of days late	_____		_____
Priority Date	_____		_____
New Priority Date	_____		_____

DEFICIENCIES OR ACTION ITEMS

Proof Acceptable

DATA ENTRY

New Address [Signature] Proof Made 3-3-99



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

August 10, 1999

IDAHO WATER RESOURCE BOARD
P O BOX 83720
BOISE ID 83720-0098

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 21-07355

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

The next step in the process of recommending a minimum stream flow is for the department to review the information submitted and make a recommendation.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary, Water Allocation Bureau

c: IDWR - Eastern Region

MICROFILMED
AUG 29 1999

Proof of Beneficial Use for Warm River (21-07355)

Idaho Department of Fish and Game conducted fish population and habitat assessment surveys on the Warm River, Idaho, during July and August, 1998. The eight mile stretch of river between Warm River Spring and the Warm River Campground was divided into approximately four equal-length reaches. With each reach, we selected a representative site, ranging in length from 75 to 120 yards (Figure 1). Data were collected on fish species composition; stream bed substrate composition; water velocity and depth; and water temperature and cover components.

Fish species identification and percent composition data were collected by snorkeling. Stream bed substrate composition and cover components were visually estimated. Water column depth and velocity were measured at a single transect within each site with a Swoffer model 2100 flow meter and handheld wading rod (Table 1). Water temperature was measured with a handheld thermometer at the time of the snorkeling survey. Site 2 was located in a high gradient, boulder/cascade habitat type that was too difficult and dangerous to snorkel. Only water depth and velocity data were obtained at this site.

We observed rainbow trout, brown trout, brook trout, mountain whitefish, and sculpin. Rainbow trout were observed throughout the entire study area, but were not the dominant species at any site. Mountain whitefish were observed only at site 1 and brook trout were found only at site 4, near the old Warm Springs Hatchery. Brown trout outnumbered rainbow trout at sites 1 and 3, but were not found at site 4 (Figure 2).

Cobble and boulder were the dominant substrate types at all sites (Figure 3). Hiding cover for fish consisted largely of boulders, submerged aquatic vegetation, and undercut banks. Overhanging vegetation provided only minimal cover. Water temperatures ranged from 53° F to 61° F (Table 2).

We used RHABSIM ver. 2.0 software to model fish habitat availability for at a variety of flows. Rainbow and brown trout were selected as target species and simulated flow regimes ranged from 100 cfs to 350 cfs. The hydraulic data calibration data set was collected during August 1998, when river flows measured approximately 250 to 300 cfs. The results of the habitat simulation runs are displayed in figures 4 through 7. In most cases, the habitat/flow relationship is greatest at flows equal to or greater than 200 cfs. Flows of less than 200 cfs would provide the greatest habitat availability for rainbow trout juveniles and brown trout fry. One should keep in mind that the RHABSIM models used only account for the relationship between two physical habitat variables (velocity and depth) and flow. It does not take into account more dynamic and difficult to model biological variables, such as fish age class

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AUG 29 1998

variability, food production potential, or species interactions, such as competition and predation. These factors are not directly related to stream flow characteristics and thus cannot be incorporated into the RHABSIM models.

The current, licensed instream flow water right for 141 cfs only provides a marginally acceptable level of protection of the aquatic environment in this eight-mile reach of Warm River. Flows of 200 cfs or more would provide better protection for the aquatic resources, while the natural flow regime would be considered optimum.

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Table 1. Transect hydraulic data for study sites on Warm River, Idaho.

	<u>Site Number</u>			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Transect width (ft)	88	71	95	95
Avg. velocity (fps)	1.95	1.62	1.82	1.65
Avg. Depth (ft)	1.61	2.07	1.44	1.60
Length (yds)	120	NS	90	75
Discharge (cfs)	309	282	273	257

Table 2. Water temperatures and cover components for study sites on Warm River, Idaho.

	<u>Site Number</u>			
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Overhanging veg.	N	ND	N	N
Undercut banks	N	ND	Y	Y
Large woody debris	Y	ND	Y	Y
Submerged veg.	Y	ND	Y	Y
Boulders	Y	ND	Y	Y
Temperature (°F)	61	60	57	53

Y= yes; N=no; ND= no data

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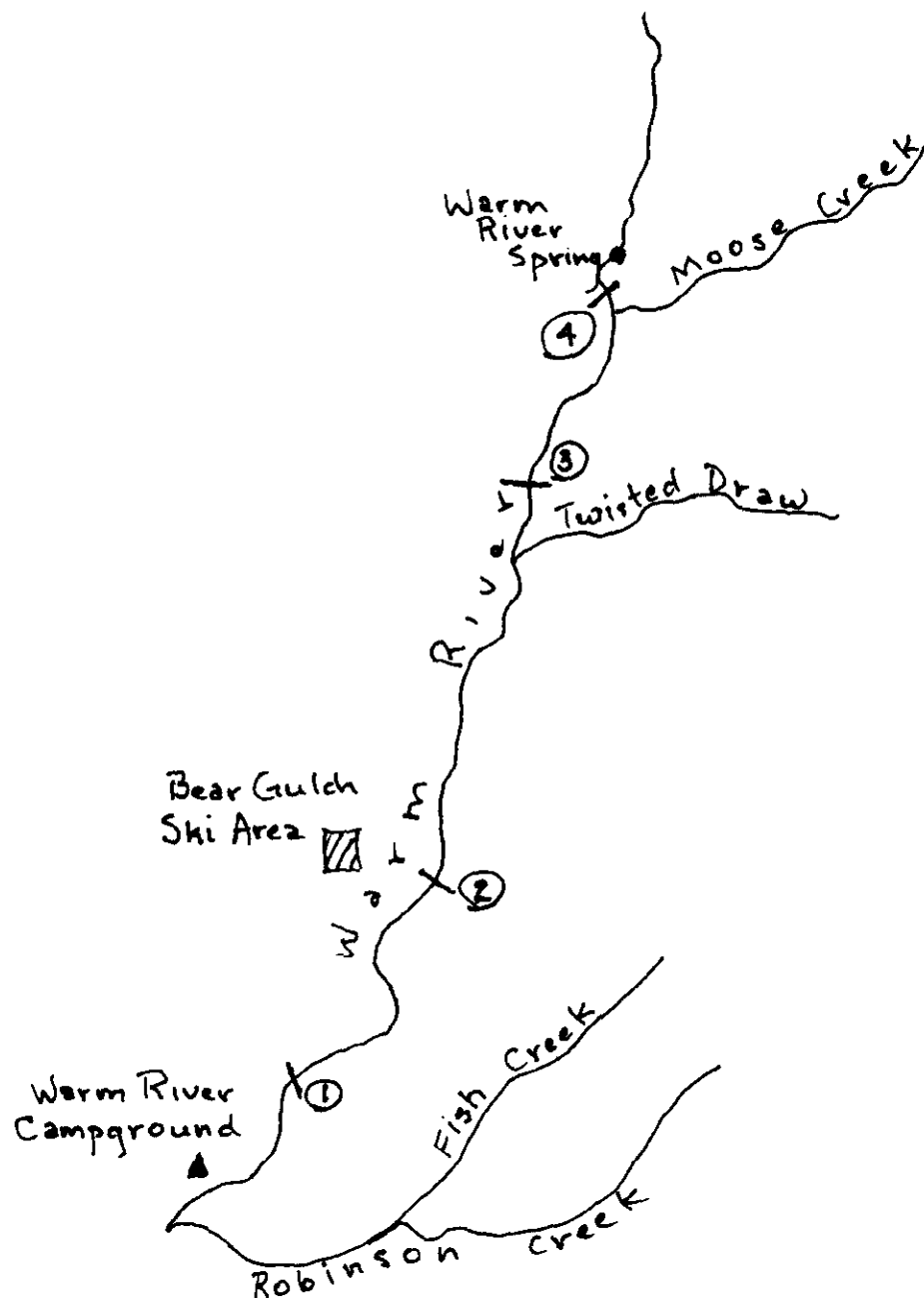
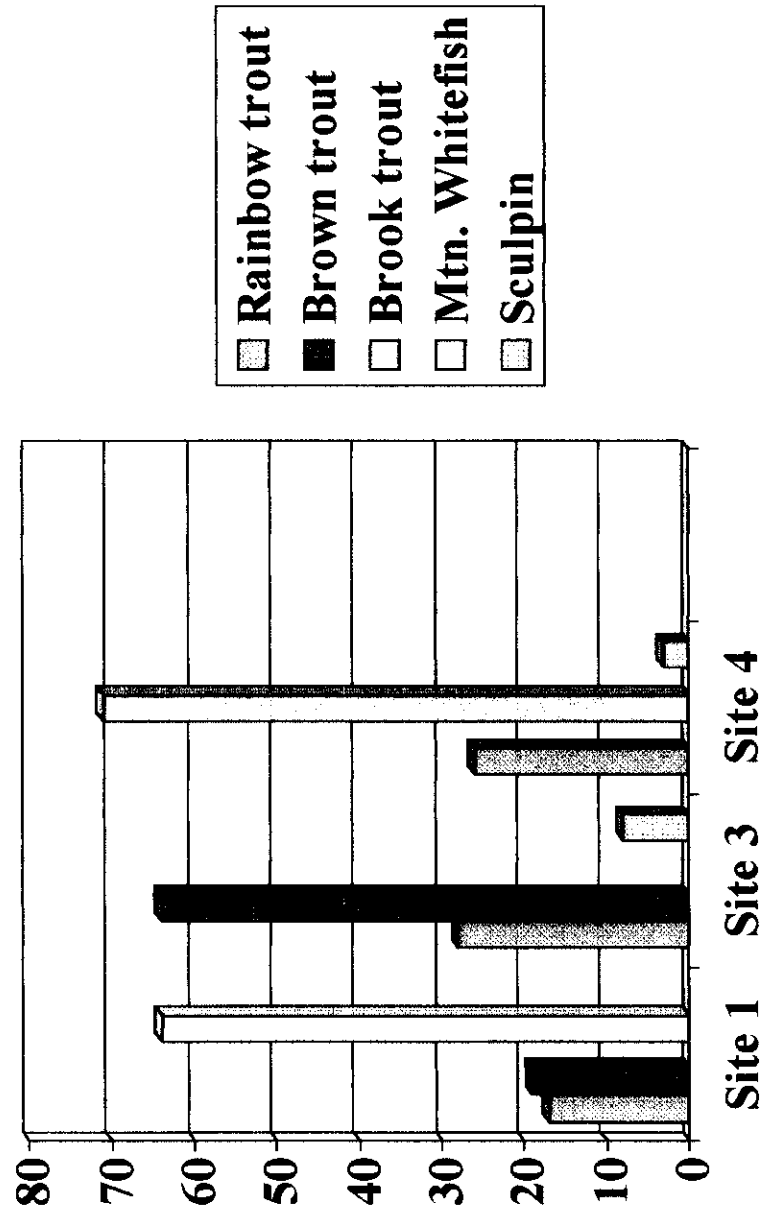


Figure 1. Location of study sites, Warm River, Idaho, August 1998. Study sites denoted by numbers. Map not to scale.

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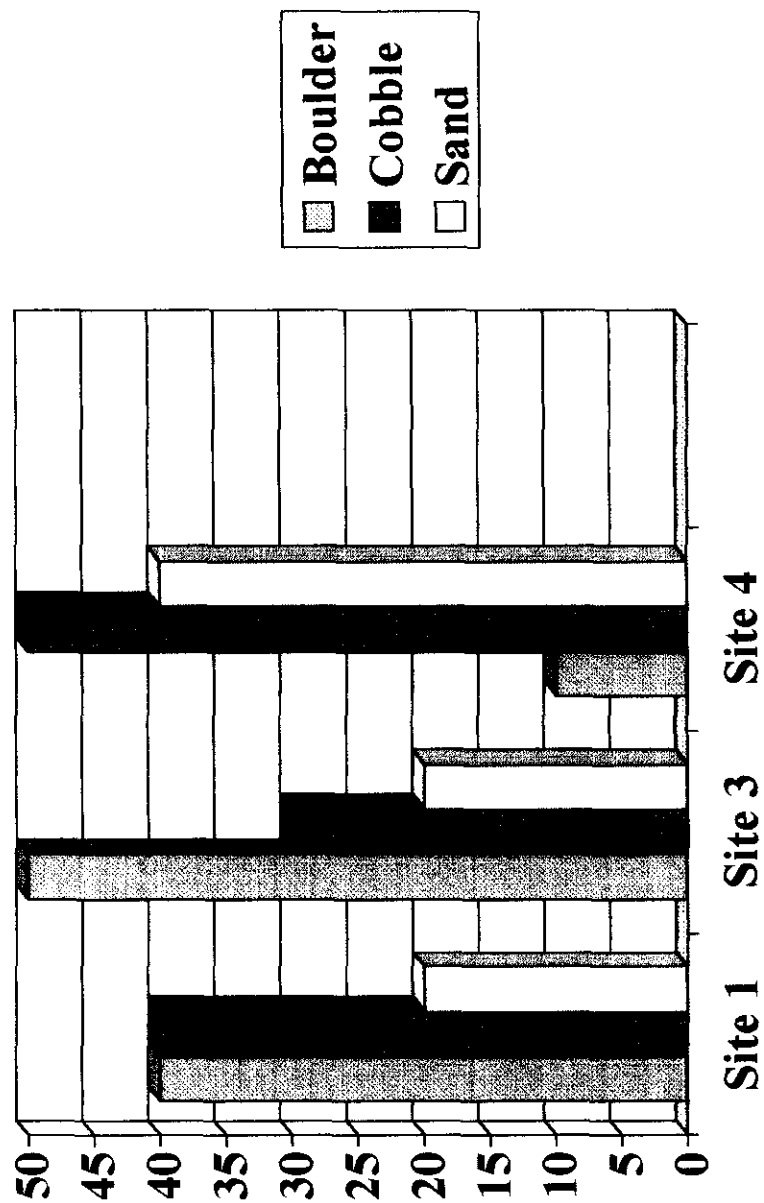
Figure 2. Percent fish species composition, Warm River, Idaho, by study site



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Figure 3. Percent stream bed composition, by study site,
Warm River, Idaho.

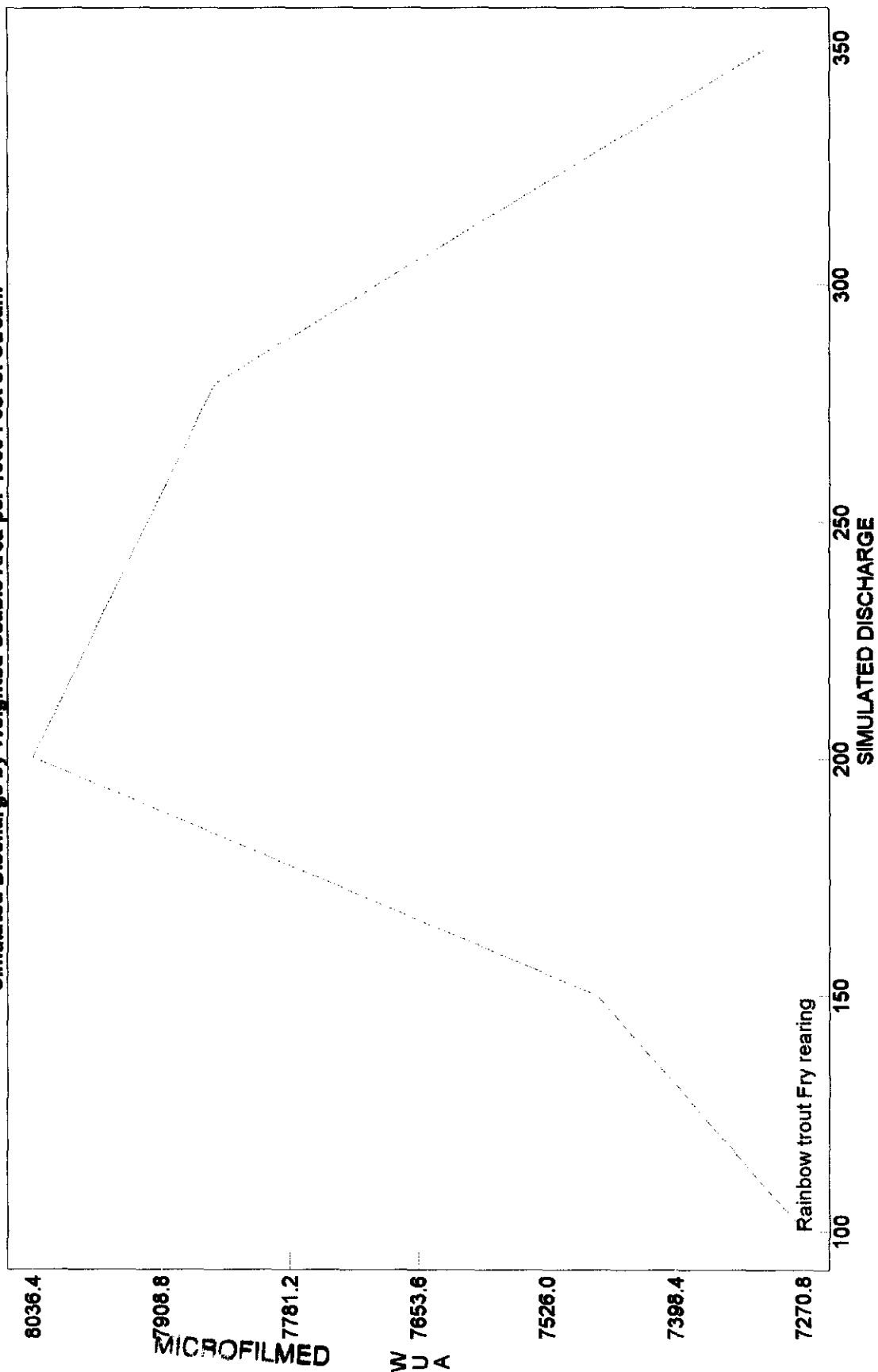


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Figure 4.

HABITAT SIMULATION FOR RAINBOW TROUT JUVENILES
WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream

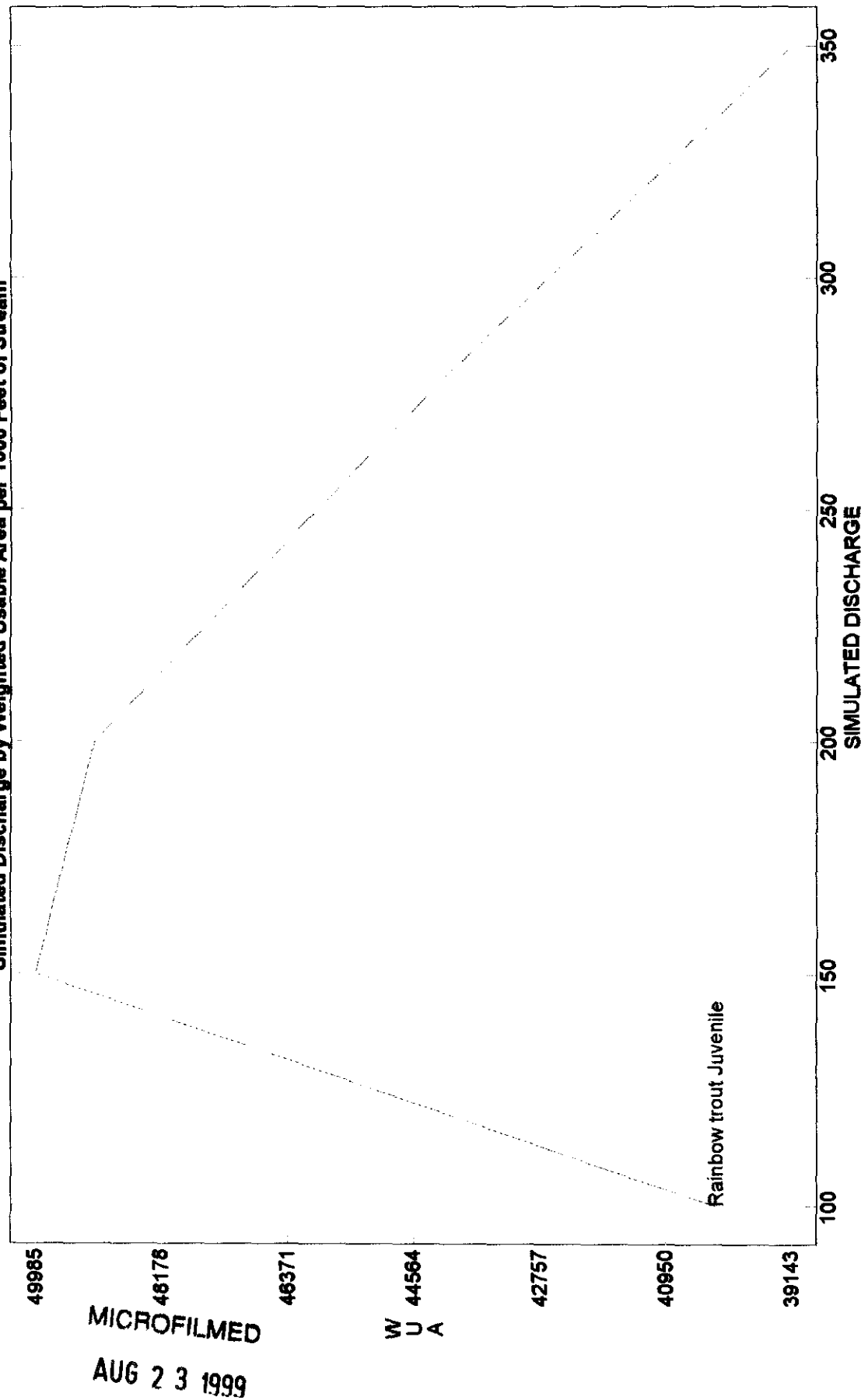


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Figure 5.

HABITAT SIMULATION FOR RAINBOW TROUT JUVENILES
 WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
 Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



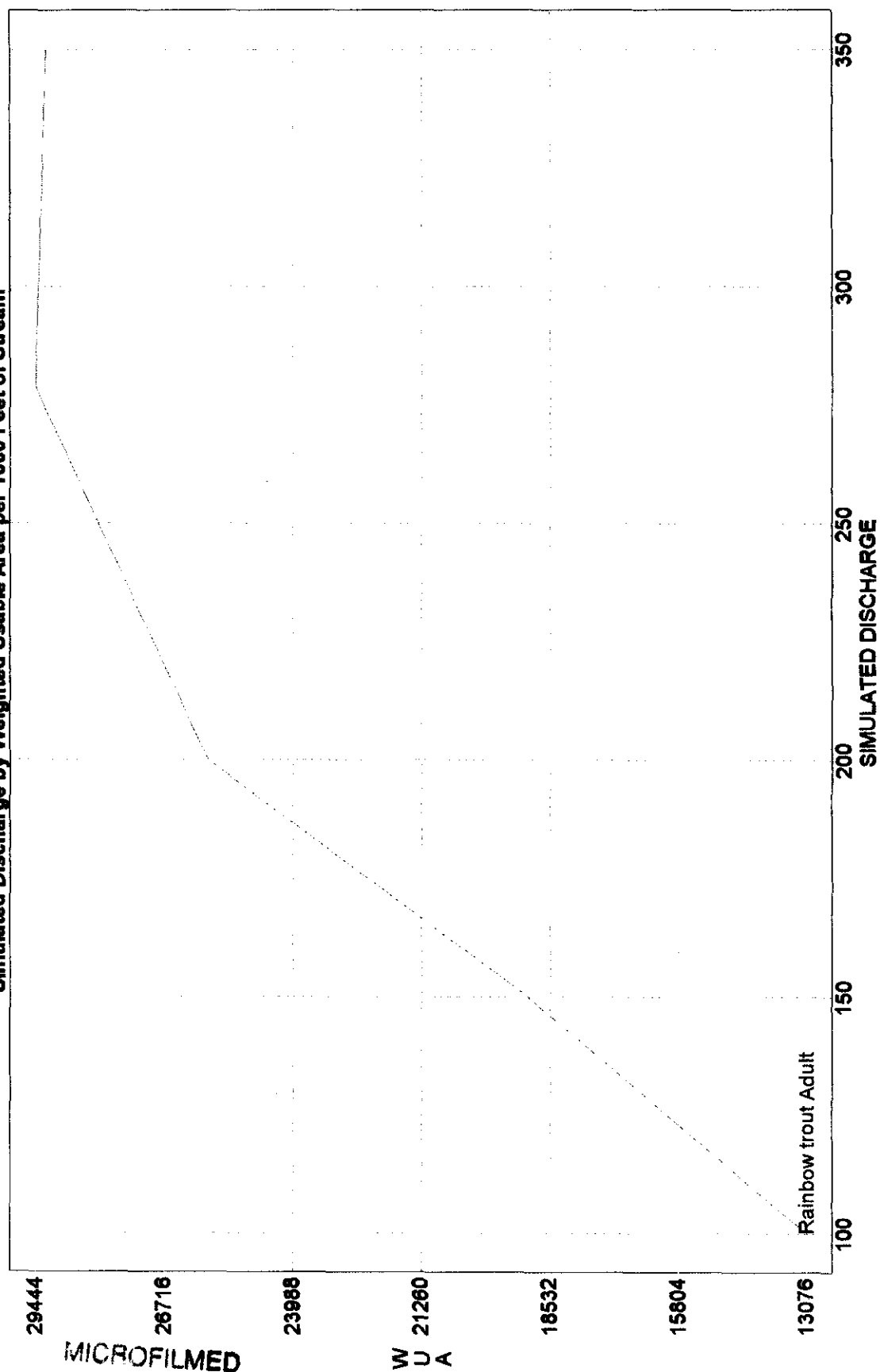
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Figure 6.

HABITAT SIMULATION FOR RAINBOW TROUT ADULTS
WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



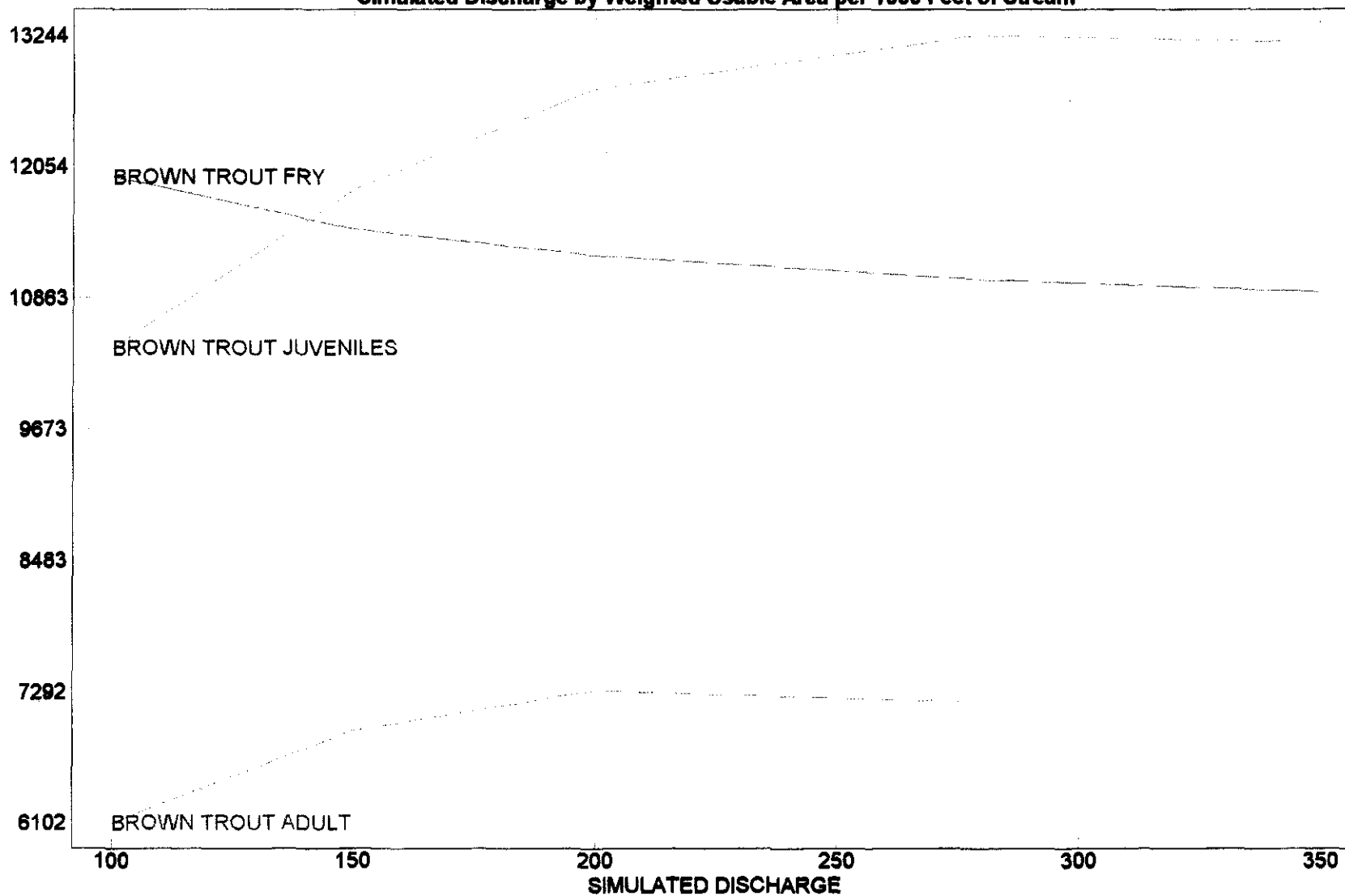
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Figure 7.

WARM RIVER FLOW STUDY, AUGUST 5, 1998. DATA COLLECTION BY ATKINSON AND TEPLY.
Simulated Discharge by Weighted Usable Area per 1000 Feet of Stream



AUG 23 1999

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A

January 31, 1999

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

PROOF DUE NOTICE

RE: PERMIT NO. 21-07355

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before April 1, 1999.

(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures



ANALYSIS SHEET
FOR
EXTENSION OF TIME

Permit No. 21-07355 Reviewed by [Signature] Date 3-28-94

BASIC INFORMATION

3-16-94 Date stamp received
yes Extension received timely
— Fee received and receipted - none required
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

— Has adequate work been completed to demonstrate due diligence?
— Has the permit been involved in litigation?
— Is supporting documentation needed to complete the file? Requested? —
— Is delay by a government agency?
— Is supporting documentation needed to complete the file? Requested? —
— Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN

Recommend extend to April 1, 1999 for Gov. Delay

PRIORITY CALCULATION

Date extension received		=	
Proof due date		=	
Number of days late		=	
Priority date		=	
New Priority Date		=	

DATA ENTRY

New Address —
Change Proof Due Date 4-1-99
Change Priority Date —

APR 29 1999

January 31, 1994

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

PROOF DUE NOTICE

RE: PERMIT NO. 21-07355

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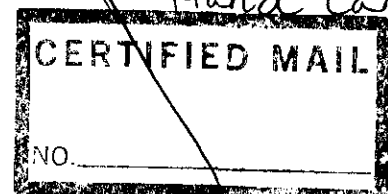
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

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AUG 23 1999



IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 104

BY RESOURCES AND ENVIRONMENT COMMITTEE

A CONCURRENT RESOLUTION

APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow; and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the legislature, except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved; and

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 21-7355 on December 23, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in Warm River of 141 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the intersection of State Highway 47 and Warm River, located in the SW1/4SE1/4, Sec. 12, T9N, R43E, B.M., Fremont County, and extends upstream approximately eight (8) miles to a point where the flows from Warm River Springs discharge into Warm River, located within the NW1/4SW1/4, Sec. 10, T10N, R44E, B.M., Fremont County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

MAILED

MAY 15 1989

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER
FOR MINIMUM STREAMFLOW
21-7355

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

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NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty Ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated November 28, 1988, adopted by the Director of the Department of Water Resources.

INDEXED
MAY 15 1989

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21-7355

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MAY 18 1989

SUMMARY OF HEARING FOR WARM RIVER
MINIMUM STREAMFLOW
WATER RIGHT NOS. 21-7355 & 21-7283
FEBRUARY 28, 1989

BY: Gary Spackman

A public information meeting was conducted on September 26, 1984. Nine letters were received by the Board, and they were all favorable for the minimum streamflow. In response to public support, the Board decided to file an additional application to include the upper eight miles of the river.

The hearing was originally scheduled for November of 1984, but was delayed because of Swan Falls related matters being heard by the Board.

Part of the hearing, a letter in favor of the proposal was received from Bruce Staples and a letter opposing the minimum streamflow was received by Ted Sorenson.

At the hearing, the Board expressly requested that the minimum streamflow be subordinated to a future dam site on Warm River identified in the Idaho State Water Plan. The Board also stated that the minimum streamflow would not interfere with vested water rights.

Fish & Game estimates on Warm River angler use is approximately 4000 angler days per year. Warm River is an important spawning tributary of the Henrys Fork.

Leigh Chantrill opposed the minimum streamflow because of possible closure to development. He stated that the percent of people in the local area using electricity was much higher than the percent of people using the fishery. He also stated that, in his opinion, the water users in the area were against the minimum streamflow.

His position was that we should not do anything until someone else proposes something. He stated that he was speaking for the Idaho water users, and also stated that nothing could be done with the water except develop it for hydropower purposes. He stated that the local people should say how the water should be controlled.

Ted Sorenson, representing the Independent Power Producer Council of the State of Idaho, stated that sufficient studies had not been conducted in the upper reach to justify the minimum streamflow. He felt that the minimum streamflow would foreclose options in the future for hydropower development. He also stated

that, in the federal review of a proposed hydropower plant, that the Federal Energy Regulatory Commission requires detailed coordination with environmental agencies, and regularly establishes a minimum streamflow. He also stated that, in his opinion, the full social and economic values of the hydropower possibilities versus recreation possibilities had not been explored.

Brian Christenson, an employee of the U.S. Forest Service, stated that the upper reach was within the National Forest, and that it had unique value. He estimated angular days of 5000 angular per year. He also stated that at Pole Bridge Campground, there were 9000 visitor days per year, and at the Warm River Campground, there were 37,500 visitor days per year. These numbers were estimated by sampling counts at the campgrounds.

Mark Loosen, an outfitter and tackle business proprietor, stated that there are a lot of fish in both the upper and lower portions of Warm River, including the Cascade area. He stated that he employs thirteen guides during the summer months, and that much of the fishing occurs on Warm River. He strongly supported the minimum streamflow.

Dale Swenson of the Freemont Madison Irrigation District testified that the district was opposed to the minimum streamflow on Warm River, and that he supported Ted Sorenson's position. He stated that there was no need for minimum streamflows, and that he was opposed to the whole concept.

He also stated that there was no irrigable land within the minimum streamflow reach. A statement was made regarding possible reduction in pumping costs which could be defrayed if a hydropower facility was built.

Ronald Heck, a guide that lives in Island Park, stated that Warm River was an excellent fishery, and that it was an important resource to the area.

Harold Roberts of Trout Unlimited, stated that Trout Unlimited supported the minimum streamflow.

WARM RIVER
MINIMUM STREAMFLOW
FACT SHEET

Water Right No.: 21-7355

Source: Warm River

Applicant: Idaho Water Resource Board

Requesting Agency: Fish & Game

Date Application Filed: September 27, 1984

Rate of Flow: 141 cubic feet per second

Location of Spring: Located in the SW1/4SE1/4, Sec. 12, T9N, R43E, B.M., Fremont County, and extending upstream approximately eight (8) miles to a point where the flows from Warm River Springs discharge into Warm River, located within the NW1/4SW1/4, Sec. 10, T10N, R44E, B.M., Fremont County.

Purpose: To preserve fish and wildlife habitat and recreation

Hearing: November 20, 1985 in St. Anthony, Idaho

Attended by 29 people

Comments were mixed.

Leigh Chantrill opposed the application because it might prevent the water from being used for some future beneficial use.

Ted Sorenson opposed the project because the modeling was not representative of the entire river.

Permit: Order Adopting Proposed Decision dated December 23, 1988

Special Conditions: Studies modeling the minimum streamflow for the reach included in this permit must be submitted at the time proof of beneficial use is filed.

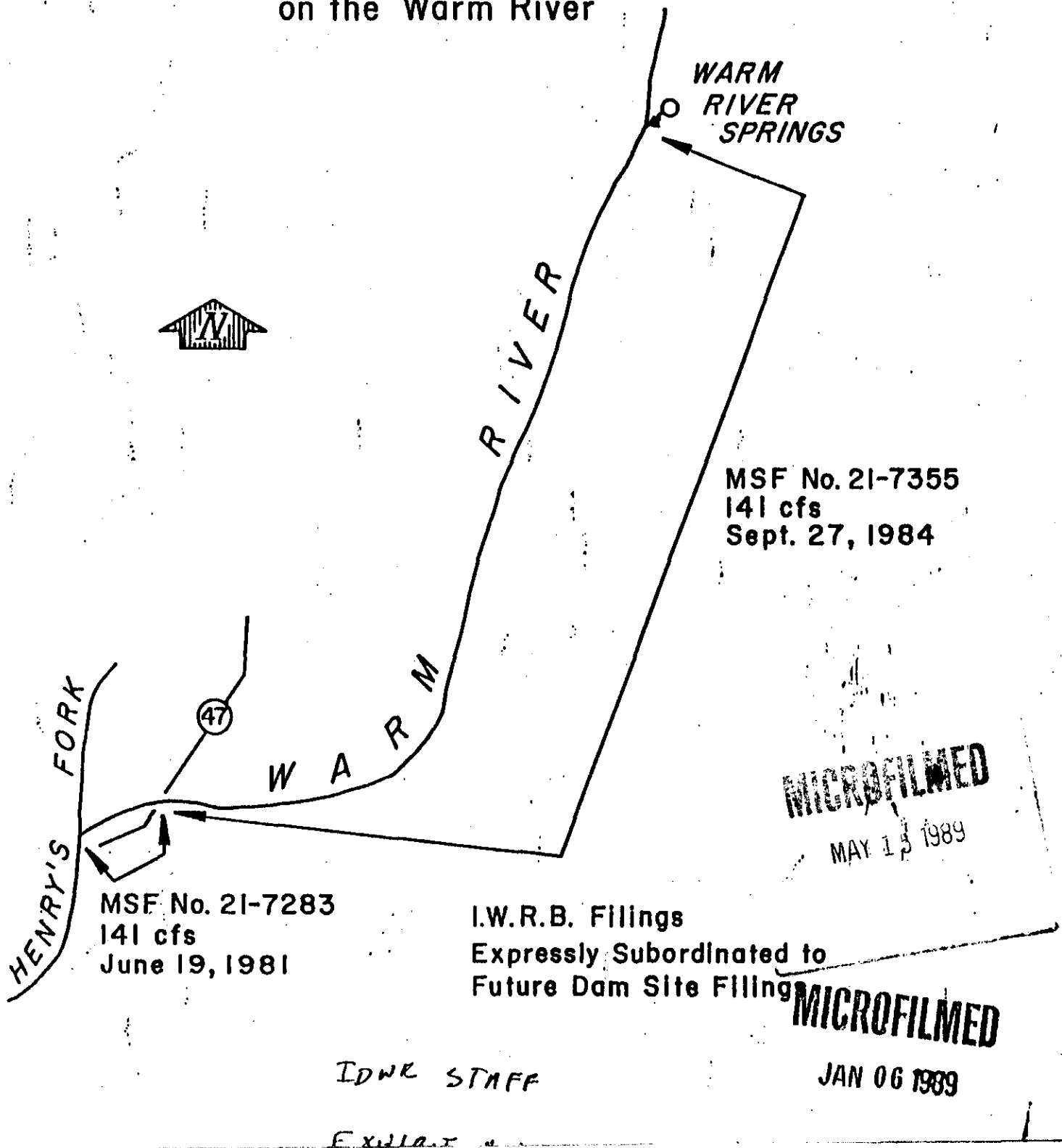
Retained jurisdiction for change. Proposed amendment must initially be submitted to the Board.

Subordinate to dam site identified in the State Water Plan.

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MAY 1 1989

General Information: No conflicting hydropower filing

Minimum Stream Flow Applications on the Warm River





State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 9, 1989

Representative Tom Boyd, Speaker
House of Representatives
Statehouse
Boise, ID 83720

RE: Water Right Applications for Permit for Minimum Streamflow

RE: Water Right Applications for Permit for Minimum Streamflow
Nos.: 36-8374 and 36-8330, Crystal Springs; 22-7370, Bitch
Creek; 37-7920, Malad River; 36-8337, Box Canyon Creek;
21-7283 and 21-7355, Warm River; 47-8073, Shoshone Creek;
97-7275, Lion Creek; and 97-7274, Indian Creek; 36-7820,
Blind Canyon Springs.

Dear Representative Boyd:

Enclosed please find copies of the above referenced
Applications for Permit. Enclosed with the applications are the
decisions and orders which conclude the administrative processing
of the applications.

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

This letter constitutes submittal of the applications to the
legislature for approval. Please advise me if you desire further
information or presentation on the nature of the applications.
Department personnel are also willing to assist with preparation
of draft concurrent resolutions if requested.

Sincerely,


R. KEITH HIGGINSON
Director

GS:ds
Enclosures

CC: Legislative Council

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MAY 11 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 9, 1989

Senator Michael Crapo, President
Senate pro Tem
Statehouse
Boise, ID 83720

RE: Water Right Applications for Permit for Minimum Streamflow
Nos.: 36-8374 and 36-8330, Crystal Springs; 22-7370, Bitch
Creek; 37-7920, Malad River; 36-8337, Box Canyon Creek;
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Dear Senator Crapo:

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Sincerely,


R. KEITH HIGGINSON
Director

GS:ds
Enclosures

CC: Legislative Council

FILED

MAY 18 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

December 23, 1988

Ted Sorenson
550 Linden
Idaho Falls, ID 83401

Re: Application for Permit No. 21-7283 and 21-7355

Dear Mr. Sorenson:

Please find a copy of the Order Adopting Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355 (Warm River) to establish a minimum stream flow in the name of the Idaho Water Resource Board.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

GARY SPACKMAN, Manager
Water Rights Permits Section

GS:ds

Enclosure

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JAN 06 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 23, 1988

Dave Rydalch
Rt. 2 Box 108
St. Anthony, ID 83445

Re: Application for Permit No. 21-7283 and 21-7355

Dear Mr. Rydalch:

Please find a copy of the Order Adopting Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355 (Warm River) to establish a minimum stream flow in the name of the Idaho Water Resource Board.

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Sincerely,

GARY SPACKMAN, Manager
Water Rights Permits Section

GS:ds

Enclosure

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JAN 06 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 23, 1988

Gene Gray
2393 Watts Lane
Payette, ID 83661

Re: Application for Permit No. 21-7283 and 21-7355

Dear Mr. Gray:

Please find a copy of the Order Adopting Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355 (Warm River) to establish a minimum stream flow in the name of the Idaho Water Resource Board.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Manager
Water Rights Permits Section

GS:ds

Enclosure

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JAN 06 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

December 23, 1988

Idaho Dept. of Fish & Game
c/o Steve Goddard
Box 25
Boise, ID 83720

Re: Application for Permit No. 21-7283 and 21-7355

Dear Mr. Goddard:

Please find a copy of the Order Adopting Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355 (Warm River) to establish a minimum stream flow in the name of the Idaho Water Resource Board.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

GARY SPACKMAN, Manager
Water Rights Permits Section

GS:ds

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JAN 06 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

December 23, 1988

Leigh Chantrill
Newdale, ID 83436

Re: Application for Permit No. 21-7283 and 21-7355

Dear Mr. Chantrill:

Please find a copy of the Order Adopting Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355 (Warm River) to establish a minimum stream flow in the name of the Idaho Water Resource Board.

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Sincerely,

A handwritten signature in cursive script that reads 'Gary Spackman'.

GARY SPACKMAN, Manager
Water Rights Permits Section

GS:ds

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JAN 10 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

November 28, 1988

Leigh Chantrill
Newdale, ID 83436

Re: Application for Permit Nos. 21-7283 and 21-7355

Dear Mr. Chantrill:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355. The application, filed by the Idaho Water Resource Board, proposes a minimum streamflow on Warm River.

Any party who disagrees with the proposed decision may file exceptions to the decision within fifteen (15) days of service of the proposed decision.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

RECEIVED

JAN 06 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

November 28, 1988

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Idaho Fish & Game
Steve Goddard
Box 25
Boise, ID 83720

Re: Application for Permit Nos. 21-7283 and 21-7355

Dear Mr. Goddard:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355. The application, filed by the Idaho Water Resource Board, proposes a minimum streamflow on Warm River.

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Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

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JAN 06 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

November 28, 1988

Idaho Water Resource Board
c/o Gene Gray
Statehouse
Boise, ID 83720

Re: Application for Permit Nos. 21-7283 and 21-7355

Dear Mr. Gray:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355. The application, filed by the Idaho Water Resource Board, proposes a minimum streamflow on Warm River.

Any party who disagrees with the proposed decision may file exceptions to the decision within fifteen (15) days of service of the proposed decision.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

MICROFILMED

JAN 05 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

November 28, 1988

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Dave Rydalch
Rt. 2, Box 108
St. Anthony, ID 83445

Re: Application for Permit Nos. 21-7283 and 21-7355

Dear Mr. Rydalch:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355. The application, filed by the Idaho Water Resource Board, proposes a minimum streamflow on Warm River.

Any party who disagrees with the proposed decision may file exceptions to the decision within fifteen (15) days of service of the proposed decision.

Sincerely,

A handwritten signature in cursive script that reads 'Gary Spackman'.

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

RECEIVED

JAN 10 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

November 28, 1988

Ted Sorenson
550 Linden
Idaho Falls, Id 83401

Re: Application for Permit Nos. 21-7283 and 21-7355

Dear Mr. Sorenson:

Please find enclosed a copy of the Proposed Memorandum Decision and Order and Order Issuing Proposed Memorandum Decision and Order for Application Nos. 21-7283 and 21-7355. The application, filed by the Idaho Water Resource Board, proposes a minimum streamflow on Warm River.

Any party who disagrees with the proposed decision may file exceptions to the decision within fifteen (15) days of service of the proposed decision.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:ds

RECEIVED

DEC 6 1985

INTER-DEPARTMENT MEMO — 1

DATE

December 5, 1985

FROM Eastern

TO Dave Tuthill *DM* → *Linda S.*
Department of Water Resources

SUBJECT Application No. 21-7355

Please add this affidavit to the file.

RECEIVED

DEC 6 1985

Department of Water Resources
Western Regional Office

Michele

SIGNATURE

AFFIDAVIT OF
PUBLICATION

State of Idaho

County of Fremont

ss.

Helene G. Gruber

being first duly sworn, upon his
oath, deposes and says:

That he is the *business clerk*
of The Ashton Herald, a newspaper
as defined by Idaho Codes Anno-
tated, section 58-106, as amended,
and that said newspaper is a
weekly newspaper printed and
published at St. Anthony, in Fre-
mont County, Idaho, having a
general circulation in said county,
and that said newspaper has been
printed and published as a weekly
newspaper in said county for more
than 78 consecutive weeks prior to
the first publication of the attached
notice, advertisement or publica-
tion of *Matthew J. Carson*

Carson, Matthew J. 21-7-85

And affiant further says that said
notice, advertisement of publica-
tion, as per clipping attached, was
published in said newspaper, in the
regular and entire issue thereof,
and not in any supplement issue
thereof, for *2* consecutive
issues thereof; first publication

having been made on the *14th*

day of *November*, 19*85*,

and the last publication on the

21st day of *November*

19*85*.

And affiant further says that at the
times herein mentioned said news-
paper was made up of at least four
pages of at least five columns each,
printed from type matter, of at
least seventeen and three-fourths
inches deep.

Helene G. Gruber

Subscribed in my presence and

sworn to before me this *25th*

day of *November*,

19*85*.

Lucia Sheldon

Notary Public for the
[SEAL] State of Idaho, residence
and post office address:
St. Anthony, Idaho.
ashton

NOV 27 1985
Department of Water Resources
Eastern District

NOTICE OF CORRECTION
Notice is hereby given that application
for a right of way was filed in the
County of Fremont, Idaho, on the
14th day of November, 1985, for the
purpose of establishing a right of way
across the SW 1/4, Sec. 12, T. 6N, R. 43E, from
Highway 47 upstream approximately
1/2 mile from River Springs in the
SW 1/4, T. 6N, R. 44E, S. 1E, 1E, 1E,
County of Fremont, Idaho.
WHEREAS, the actual location
of the right of way is the SW 1/4, Sec. 12, T. 6N, R. 43E,
from Highway 47 upstream
approximately 1/2 mile from River Springs
in the SW 1/4, T. 6N, R. 44E, S. 1E, 1E, 1E,
County of Fremont, Idaho.
Filed Nov. 14 and 21, 1985AH
BY: [Signature]

MICROFILMED

JAN 06 1989

November 13, 1985

Fremont County Clerk
Fremont County Courthouse
St. Anthony, ID 83445

Gentlemen:

This is to confirm the use of the Courtroom for water right hearings to be held by this Department on November 20, 1985 beginning at 9:30 a.m.

Thank you for your cooperation in this matter.

Very truly yours,

COLLEEN WRAY
Adm. Secretary

MICROFILMED

JAN 06 1989

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

NOVEMBER 6, 1985

The Ashton Herald
P. O. Box 258
Ashton, Idaho 83420

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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 DECEMBER 2, 1985.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

INDEXED

JAN 06 1989

NOTICE OF CORRECTION

Notice is hereby given that application No. 21-7355 by the Idaho Water Resource Board for minimum streamflow was advertised incorrectly on Oct. 17 and 24, 1985. The location of the reach was advertised as SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSE, Sec. 10, T. 10N, R. 44E, B.M., Fremont County.

WHEREAS, the actual location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSW, Sec. 10, T. 10N, R. 44E.

A. KENNETH DUNN

Director

Published in the Ashton Herald, Ashton, Idaho on 11/14 & 11/21/85.

MICROFILMED

JAN 06 1989

AFFIDAVIT OF
PUBLICATION

State of Idaho

County of Fremont

ss.

Helene J. Luch

being first duly sworn, upon ^{her} oath, deposes and says:

That she is the *business clerk* of The Ashton Herald, a newspaper as defined by Idaho Codes Annotated, section 58-106, as amended, and that said newspaper is a weekly newspaper printed and published at St. Anthony, in Fremont County, Idaho, having a general circulation in said county, and that said newspaper has been printed and published as a weekly newspaper in said county for more than 78 consecutive weeks prior to the first publication of the attached notice, advertisement or publication of

*Notice of public hearing
Fremont County*

And affiant further says that said notice, advertisement of publication, as per clipping attached, was published in said newspaper, in the regular and entire issue thereof, and not in any supplement issue thereof, for 2 consecutive issues thereof; first publication

having been made on the 17.....

day of October....., 1985,

and the last publication on the

24^s day of October.....

1985.

And affiant further says that at the times herein mentioned said newspaper was made up of at least four pages of at least five columns each, printed from type matter, of at least seventeen and three-fourths inches deep.

Helene J. Luch

Subscribed in my presence and

sworn to before me this 29^s.....

day of October.....

1985.

James E. Hickman

Notary Public for the
[SEAL] State of Idaho, residence
and post office address:
St. Anthony, Idaho.
Ashton

RECEIVED

OCT 30 1985

Department of Water Resources
Eastern District Office

LEGAL NOTICE

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

NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has submitted the following applications for permits to the Department of Water Resources:

On June 19, 1981 application No. 21-7283 proposing the appropriation of 141 cfs of water from Warm River tributary to Henrys Fork Snake River. The location of the reach is the NWNW, Sec. 13, T. 9N, R. 43E, upstream approximately 1/2 mile to State Highway 47 in the SWSE, Sec. 12, T. 9N, R. 43E.

On September 27, 1984, application No. 21-7355 proposing the appropriation of 141 cfs from Warm River tributary to Henrys Fork. The location of the reach is the SWSE, Sec. 12, T. 9N, R. 43E, from State Highway 47 upstream approximately 8 miles to Warm River Springs in the NWSE, Sec. 10, T. 10N, R. 44E, B.M., both in Fremont County.

The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courthouse, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

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

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN
Director

Publ. Oct. 17 and 24, 1985AH

MINIMUM STREAMFLOW REQUEST/APPLICATION

PROCESSING CHECKLIST

	<u>ASSIGNED TO</u>	<u>INITIALS/DATE</u>
1. Request received and checklist attached.	Receptionist	<u>EG 10/11-84</u>
2. Request indexed.	Records Chief	<u>ag/10-11-84</u>
3. Preliminary review. Application prepared for signature.	Section Supv.	<u>DET 9-27-84</u>
4. Streamflow information requested from hydrology.	Section Supv.	<u>obtained for 21-7203 Adjacent.</u>
5. Region advised of request.	Section Supv.	<u>DET 9-27-84</u>
6. Acknowledgment letter sent.	Section Supv.	<u>None Req'd</u>
7. Copy of request routed to: Reg. Off. Bur. Chief; Oper. Bur. Chief; Admin.; Director.	Records Chief	<u>ag/10-11-84</u>
8. Copy of request routed to Administrator, Resources Analysis Division for placement on Board Agenda.	Records Chief	<u>ag/10-11-84</u>
9. Water Rights researched & abstracted.	Records Chief	<u>DET 11/85</u>
10. Visual aid request prepared.	Section Supv.	<u>DWG 11/85</u>
11. Visual aid reviewed.	Section Supv.	<u>DET 11/85</u>
12. Request and related data presented to Board.	Administrator, Res. Admin. Div.	<u>DET 9/84</u>
13. Filed or Rejected by Board.	Sec. Supv. et.al.	<u>9-27-84 Filed</u>
14. Board action indexed.	Records Chief	<u>RG 10-11-84</u>
15. Original application sent to region.	Records Chief	<u>ag/10-11-84</u>
16. Copy of application sent to F&G, H&W, Parks & Recreation (mandatory)	Region	<u> </u>
17. Notice sent to each water right holder or applicant on MSF reach.	Sec. Supv.	<u>DET 11/85</u>
18. Application advertised w/o hearing date.	Region	<u> </u>
19. Personal contact made with riparian land owners.	Requestor	<u> </u>
20. Need for informal public meeting determined. If yes, proceed with step 21. If no, skip to step 24.	Both Administrators & IWRB	<u>Unneeded</u>
21. Informal public meeting advertised in legal notices.	Region	<u> </u>
22. Notification of informal public meeting sent to:		<u> </u>
a. IWRB members	Section Supv.	<u> </u>
b. Local Legislators	Section Supv.	<u> </u>
c. Watermaster	Section Supv.	<u> </u>
d. Department Personnel	Section Supv.	<u> </u>

e. Local TV & Radio Stations	Section Supv.	<u> </u>
f. Water Right Holders	Requestor	<u> </u>
g. Riparian Owners	Requestor	<u> </u>
23. Information provided to IWRB for decision to proceed, modify, or abandon.	Section Supv.	<u>DNR 9/84</u>
24. Notice of formal hearing advertised in legal notices.	Region	<u>✓ 10/85</u>
25. Notification of formal hearing sent to:		
a. IWRB members	Section Supv.	<u>DNR 9/85</u>
b. Local Legislators	Section Supv.	<u>DNR 10/85</u>
c. Watermaster	Section Supv.	<u>DNR 10/85</u>
d. Department Personnel	Section Supv.	<u>DNR 10/85</u>
e. Local TV & Radio Stations	Section Supv.	<u>DNR (KW) 10/85</u>
f. Water right holders	Section Supv.	<u>DNR 10/85</u>
g. Attendees of informal public meetings.	Section Supv.	<u>DNR 10/85</u>
h. Riparian Owners	Requestor	<u>DNR 10/85</u>
26. Hearing held (mandatory).	Hearing Officer & Regional Rep.	<u> </u>
27. Standard approval procedure for memorandum decision.	Hearing Officer	<u> </u>
28. If application is approved, Legislative approval procedure attached.	Records Chief	<u> </u>

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY: HWT APPLICATION NUMBER: 21 7355

CHECK:

- ☒ Source.
NA ☒ Point of diversion.
☒ County.
☒ Quantity of water and period of use.
NA ☒ 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: _____

SEND COPIES TO:

- | | | |
|--|-----------------------|-----------------|
| ☐ Idaho State Health Department. | Copies sent by: _____ | Date: _____ |
| ☒ Idaho Fish and Game Department. | <u>Boise</u> | <u>10-25-84</u> |
| ☒ Idaho Department of Lands. | <u>aw</u> | <u>10-25-84</u> |
| ☒ U.S. Bureau of Land Management. | <u>aw</u> | <u>10-25-84</u> |
| ☒ U.S. Forest Service. | <u>aw</u> | <u>10-25-84</u> |
| ☒ Other <u>Health & Welfare - State Parks & Recreation</u> | <u>aw</u> | <u>10-25-84</u> |

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. _____
☐ Yes ☒ No Other rights on same place of use. _____
☒ Yes ☐ No* In form for advertising.
Final date for protests: 11-19-84 11-04-85
☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received. Date: 11-15-84
☐ Application published correctly. If not, record action taken: _____
☐ Fee amount, receipt date & number, recorded on application.
☐ Publication dates and paper, recorded on application.
☐ 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
IDAHO STREAM CODE INDEX						

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						

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						

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The applications were filed to protect the quality of the fisheries habitat within the specified reach on each stream.

1 of 2

RECEIVED

JAN 06 1989

The Director of the Department of Water Resources will hold a public hearing on the applications in the Courtroom, Fremont County Courthouse, St. Anthony, Idaho at 9:30 a.m. November 20, 1985, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provision of Section 42-1503, Idaho Code.

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

If issued the permit will be subject to all prior water rights.

A. KENNETH DUNN

Director

Published in the Post Register, Ashton Herald,
Fremont County Chronicle, Idaho Statesman, Lewiston Morning
Tribune, and Times News on 10/17 and 10/24/85.

RECORDED
INDEXED

JAN 17 1986

IDAHO DEPARTMENT of PARKS & RECREATION

2177 Warm Springs Ave., Statehouse Mail, Boise, Idaho 83720

(208) 334-2154

Robert L. Meinen, Director



John V. Evans, Governor

November 26, 1984

RECEIVED

NOV 27 1984

Department of Water Resources
Eastern District Office

Mr. Ernest Carlsen
Assistant Regional Supervisor
Idaho Dept. of Water Resources
150 Shoup, Suite 15
Idaho Falls, ID 83402

Dear Mr. Carlsen:

Thank you for offering us the opportunity to comment upon the minimum flow application for Warm River. Warm River is a valuable recreation resource for the citizens of the State of Idaho. We support the intent of this minimum flow application.

Sincerely,

A handwritten signature in cursive script, appearing to read "Robert L. Meinen".

Robert L. Meinen
Director

RLM/691E

cc: Jerry Conley, IDFG

MICROFILMED

JAN 06 1989

IDAHO DEPARTMENT OF FISH AND GAME
REGION 6
1515 Lincoln Road
Idaho Falls • Idaho • 83401

RECEIVED

NOV 19 1984

Department of Water Resources
Eastern District Office

November 19, 1984

Mr. Ernest Carlsen
Assistant Regional Supervisor
Department of Water Resources
150 Shoup - Suite 15
Idaho Falls, ID 83402

Re: Application for Permit No. 21-7355
Idaho Water Resources Board

Dear Ernie:

Idaho Department of Fish and Game strongly supports the proposed instream minimum flow water right. Warm River is primarily a spring fed system which supports resident populations of rainbow, brook and brown trout. It represents an excellent fishery in Southeastern Idaho. Current research indicates it is a very important spawning stream for brown trout and rainbow trout from the Henrys Fork above Ashton Dam.

The Department believes setting a minimum flow will help preserve the aquatic resources of a unique river system which is very valuable to the public of Idaho.

Sincerely,



Tom Reinecker
Regional Supervisor
Region 6

TR:SE:ai

cc: USFWS

Jim Smith, Island Park Ranger District, USFS
Bureau of Program Coordination
Bureau of Fisheries

MICROFILMED

JAN 06 1989

number and location of the hearings and suggested the Board could better determine the dates of the hearings at its next meeting in December.

Agenda Item No. 5. IWRB Minimum Stream Flow Applications - Discussion of Results of Public Meetings and Determine Future Actions

- A. Falls River
- B. Warm River
- C. Teton River
- D. Bitch Creek

David Tuthill, department staff, reported on the information contained in the department's files in regard to minimum stream flow applications filed by the Board on June 19, 1981 on the streams of Falls River, Warm River, Teton River, and Bitch Creek. The Board held public meetings in late September to receive comments on the applications. Since the meetings, the department has received letters in opposition and in favor of the applications. Mr. Tuthill passed the letters to the Board members for their review.

A. Falls River, tributary to Henry's Fork Snake River, minimum stream flow application No. 21-7281 was filed by the Board at the request of the Fish and Game Department for 140 cfs on approximately eight miles reach of the river. The result of the gauge analysis shows that the proposed minimum flow is met 90 percent of the time except in July and August. The flows at the gauging station are likely lower than it is upstream due to major canals within four miles upstream. Falls River has a significant amount of exchange water--Fremont Madison Irrigation District shows that 35,832 af/yr are exchanged through Falls River. The Fremont Madison Irrigation District objects to the minimum stream flow because in this reach it would inhibit the ability to exchange water through Falls River.

Gene M. Gray, Vice Chairman and chairman of the Minimum Stream Flow Committee, moved the Board not place a minimum stream flow on this stretch of Falls River and withdraw its application. James Shawver, Member, seconded the motion.

Motion passed by voice vote: 7 Ayes, Jones, Nay.

B. Warm River, tributary to Henry's Fork Snake River, minimum stream flow application No. 21-7283 was filed by the Board for 141 cfs. The summary hydrograph of the flows at the gauging station, located at the upper end of the reach, shows a flat average flow rate indicating that the source of water supply for the river is ground water recharge.

Gene M. Gray, Vice Chairman and chairman of Minimum Stream Flow Committee, explained that the Board members after the public meeting elected to extend the minimum stream flow filing upriver to the general area known as the springs, approximately eight miles. The Board made a minimum stream flow application on the reach of Warm River located in an area designated in the State Water Plan as a future dam site. The Board recommended a dam.

JAN 06 1989

site and that the minimum stream flow applications on Warm River will be subordinated to the dam site as indicated in the State Water Plan.

Gene M. Gray, Vice Chairman and chairman of the Minimum Stream Flow Committee, moved the Board file an additional application (ATTACHMENT 1) on Warm River to extend the flow from the original application upriver to and including the general area known as the springs. Franklin Jones, Secretary, seconded the motion.

Motion passed by voice vote: 8 Ayes, 0 Nays.

Gene M. Gray, Vice Chairman and chairman of the Minimum Stream Flow Committee, moved the Board request the Director of the Department of Water Resources to proceed with the public hearings in regard to the original stream flow application and the second minimum stream flow application to extend the reach on Warm River. F. Dave Rydalch, Member, seconded the motion.

Motion passed by voice vote: 8 Ayes, 0 Nays.

C. Teton River, tributary to Henry's Fork Snake River, minimum stream flow application No. 22-7369 was filed by the Board for 106 cfs on approximately an eight mile reach of the river. The water rights which could impact the flow in this reach of the river total 171 cfs. The low flows in this river are during the winter period. During the period of water right diversions (June, July, August, September), the river is at its highest flows. Based on the flow duration curve at the Felt Dam site (report published in 1982 by CH2M Hill), the 106 cfs minimum stream flow request is available 100 percent of the time at a point downstream on the reach where one could expect the lower flow areas. The Teton River flows are diverted in exchange for flows provided downstream by the Fremont Madison Irrigation District. In the district's objection, a possible problem was indicated with interference to the exchange water. The exchange amount of water is 2308 acre feet annually.

Gene M. Gray, Vice Chairman and chairman of Minimum Stream Flow Committee, explained that at the Board's public meeting the Fish and Game Department and the utility had some misgivings about what each other was saying had happened at prior dates.

Gene M. Gray, Vice Chairman and chairman of Minimum Stream Flow Committee, moved the Board table this minimum stream flow application on the Teton River until the department has more information and there is an understanding on the events involved among the parties. F. Dave Rydalch, Member, seconded the motion.

Motion passed by voice vote: 8 Ayes, 0 Nays.

D. Bitch Creek, tributary to Teton River, minimum stream flow application No. 22-7370 was filed by the Board for 28 cfs. There is one recorded water right, in addition to the Board's filing on the stream, for a power generation site upstream point of diversion near the beginning of the reach where the

NOV 10 1984

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF MINIMUM STREAM FLOW
APPLICATIONS NOS. 21-7283, 21-7355,
and 22-7370.

A RESOLUTION

WHEREAS, pursuant to Chapter 15, Title 42, Idaho Code, the Idaho Water Resource Board (Board) has the authority to appropriate the unappropriated waters of streams in Idaho for the purpose of establishing minimum stream flows; and,

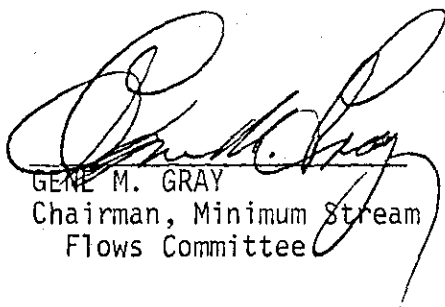
WHEREAS, the Board has submitted to the Director of the Idaho Department of Water Resources (Director) three applications to appropriate water for minimum stream flows identified as follows: No. 21-7283, Warm River; No. 21-7355, Warm River; and No. 22-7370, Bitch Creek; and,

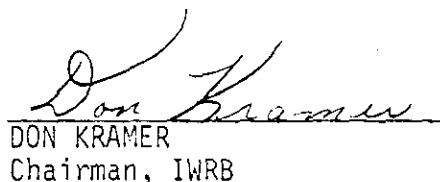
WHEREAS, in accordance with the adopted guidelines on minimum stream flow applications, the Board has conducted informal public meetings to determine public interest with respect to said applications; and,

WHEREAS, the Board has reviewed the public comments and has determined that each of the said applications is reasonable and in the public interest;

NOW, THEREFORE, BE IT Resolved that the Board requests the Director to proceed with administrative actions on each of the three said applications.

Dated this 2nd day of November, 1984.


GENE M. GRAY
Chairman, Minimum Stream
Flows Committee


DON KRAMER
Chairman, IWRB

Attest: 
FRANKLIN JONES
Secretary, IWRB

MICROFILMED

JAN 06 1989

WATERMASTER COMMENTS

I have reviewed Application for Permit No. 21-7355 and
have the following comments/objections to the approval of this
application for permit:

No objections

Oct 29/1984 RDCarlson
Date RONALD D. CARLSON, WATERMASTER
Water District No. 01

RECORDED

JAN 06 1989

October 25, 1984

RE: Application for Permit No. 21-7355 IDAHO WATER RESOURCE BOARD

Idaho Department of Lands
Rt. #1, Box 400
Idaho Falls, ID 83401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is November 19, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

October 25, 1984

RE: Application for Permit No. 71-7355 IDAHO WATER RESOURCE BOARD

U. S. Forest Service
324 25th Street
Ogden, Utah 84401

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is November 19, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

October 25, 1984

RE: Application for Permit No. 21-7355 IDAHO WATER RESOURCE BOARD

Department of Health & Welfare
150 North Third
Pocatello, Idaho 83201

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is November 19, 1984, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure

October 25, 1984

RE: Application for Permit No. 21-7355 IDAHO WATER RESOURCE BOARD

State of Idaho
Department of Parks & Recreation
Statehouse
Boise, ID 83720

Gentlemen:

We are enclosing a copy of an application that may be of interest to your agency. Please review the application and submit any comments you may have to our Department as soon as possible. The last date of protest is November 19, 1984, and we are required to take final action shortly thereafter.

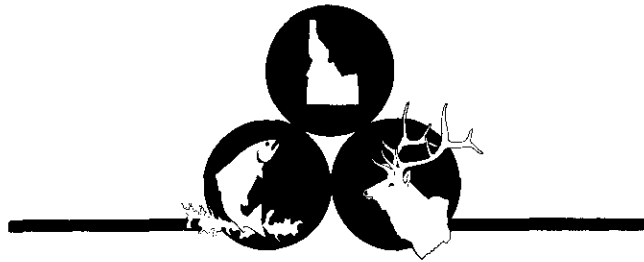
If we may be of further assistance, please feel free to contact us.

Respectfully submitted,

ERNEST CARLSEN
Assistant Regional Supervisor

EC:cw

Enclosure



IDAHO DEPARTMENT OF FISH AND GAME
REGION 6

1515 Lincoln Road
Idaho Falls • Idaho • 83401

September 27, 1984

Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

Dear Board Members:

The Idaho Department of Fish and Game requests an addition to the minimum instream flow application on Warm River (Water Right Application 21-7283) under the application of the Idaho Resource Board. The original application was for approximately one-half mile from NW1/4 of NW1/4 of Section 13, Township 9N, Range 43 EBM, Fremont County upstream to Forest Service Road 082. The application was for 141 c.f.s. (see attached application).

The original application asked for the minimum flow to be maintained only in a 1/2 mile section near the mouth of Warm River. At this time the Idaho Department of Fish and Game requests the application for the area covered be extended upstream to the Warm River Springs (NW1/4 of SW1/4 of Section 10, Township 10N, Range 44E). The stream hydrology, flows and fish populations are similar from the mouth of Warm River upstream to the Warm River Springs and thereby justify the extension of the minimum flow to protect and preserve aquatic resources in the Warm River.

Idaho Fish and Game wishes to have the Water Resource Board make the filing to provide for the extended area covered by the 141 c.f.s. minimum flow. Idaho Department of Fish and Game requests the filing not jeopardize or amend the original filing date for the original application near the mouth of Warm River.

Sincerely,

Tom Reinecker
Regional Supervisor
Region 6

RECEIVED

TR:SE:dnb

cc: USFWS
Program Coordination
Fisheries

JAN 26 1989

IDENT. NO. **21 7355**

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

WATER RIGHT
DATA ENTRY LOG

[illegible]

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Eastern Region

150 Shoup Ave., Suite 15
Idaho Falls, Idaho 83402
(208) 525-7161

OCTOBER 24, 1984

The Ashton Herald
P. O. Box 258
Ashton, Idaho 83420

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. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. 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 billing to this office before NOVEMBER 19, 1984.

Yours truly,

RONALD D. CARLSON
Supervisor
Eastern Region

Encl.

RECEIVED

JAN 03 1985

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

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 27, 1984 submitted application 21-7355 for a permit to the Department of Water Resources proposing the appropriation of 141.0 cubic feet per second from January 1 to December 31 of water within the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 9N, R. 43E, upstream to the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 10, T. 10N, R. 44E, B.M., Fremont County to preserve the minimum stream flow subject to all prior water rights for aesthetic and recreation purposes in Warm River tributary to the Snake River.

Pursuant to Title 42, Chapter 15 of the Idaho Code a legal notice will be published at a later date setting a time and a place for a hearing during which opportunity will be provided for public comment.

A. KENNETH DUNN

Director

Published in the Ashton Herald, Ashton, Idaho, 11/1 & 11/8/84.

RECORDED
JAN 06 1989