STARTING

LEFT

SIDE OF

FILE

State of Idaho
Department of Water Resources

Permit to Appropriate Water

NO. 85-15505

Priority: August 19, 2004

Maximum Diversion Volume: 10.0 AF

This is to certify, that JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

has applied for a permit to appropriate water from:

Source: UNNAMED STREAM **Tributary:** MILL CREEK

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

BENEFICIAL USE	PERIOD OF USE	ANNUAL VOLUME
WILDLIFE STORAGE	01/01 to 12/31	10.0 AF

LOCATION OF POINTS OF DIVERSION:

UNNAMED STREAM NW¼ NE¼ Sec. 27, Twp 30N, Rge 03E, B.M. IDAHO County
UNNAMED STREAM NE¼ NW¼ Sec. 27, Twp 30N, Rge 03E, B.M. IDAHO County

PLACE OF USE: WILDLIFE STORAGE

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
30N 03E 27		X			X												

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **April 01, 2007.**
2. Subject to all prior water rights.
3. Water shall not be diverted under this right when flows in the Clearwater River are below established minimum flow amounts.
4. Prior to the diversion and use of water under this approval, the right holder shall comply with all fish screening and/or fish passage requirements of the Idaho Department of Fish and Game.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 17th day of April, 2006.

Shelley W. Keen
FOR KARL J. DREHER, Director

FORM 282
12/99

RECEIVED
MAY 14 2004
WATER RESOURCES
WESTERN REGION

RECEIVED
APR 17 2006
DEPARTMENT OF WATER RESOURCES

85-15505

Ident. No. RECEIVED
MAY 21 2004
IDWR/North

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
AUG 19 2004
IDWR/North

1. Name of Applicant JOSEPH SCHNELL Phone 208-983-9705
   Mailing address R.R. 2 BOX 311 A GRANGEVILLE, ID. 83530
2. Source of water supply ~~SURFACE RUNOFF~~ UNNAMED STREAM which is a tributary of MILL CREEK
3. Location of point of diversion is Township 30 N. Range 3 E. Sec. 27, in the ~~NW~~ NW ¼, NE NW ¼, _____ ¼, Govt. Lot _____, B.M., IDAHO County;
   additional points of diversion if any: MILL CREEK ~~SW OF~~ SE¼ OF NE¼ trib to S Fk Clearwater
4. Water will be used for the following purposes:
   Amount 10 A.F. (cfs or acre-feet per annum) for WILDLIFE POND STORAGE purposes from JAN 1 to DEC 31 (both dates inclusive)
   Amount 0.20 (cfs or acre-feet per annum) for DIV. TO STORAGE purposes from 4/1 to 12/31 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated is (a) .20 cubic feet per second and/or (b) 10 acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source DAM IN RUNOFF BED, 1" PVC PIPE TO MILL CREEK
   b. Height of storage dam 9.90' feet; active reservoir capacity 10 acre-feet; total reservoir capacity 13 acre-feet
   c. Proposed well diameter is N.A. inches; proposed depth of well is N.A. feet
   d. Is ground water with a temperature of greater than 85°F being sought? NO
   e. If well is already drilled, when? N.A.; Drilling firm N.A.;
   Well was drilled for (well owner) N.A.; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (*minimum 1 year*)
8. Description of proposed uses (*if irrigation only, go to item 9*):
   a. Hydropower; show total feet of head and proposed capacity in kW. N.A.
   b. Stockwatering; list number and kind of livestock. N.A.
   c. Municipal; show name of municipality. N.A.
   d. Domestic; show number of households. N.A.
   e. Other; describe fully. POND FOR WILDLIFE THRU USDA EQIP PROGRAM

NW ¼ NE ¼
NE ¼ NW ¼ 2 pts

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols. SW1/4 OF NW1/4 OF NE1/4 OF NW1/4

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
30N	3E	27		*			*												10 AF

Total number of acres to be irrigated N.A. * = STORAGE FOR WILDLIFE

10. Describe any other water rights used for the same purposes as described above. _____

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

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

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

12. Remarks: POND IS TO BE USED AS WILDLIFE HABITAT USING SURFACE RUNOFF, WITH A 1" PVC PIPE FROM MILLCREEK AS DRYWEATHER BACKUP

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

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

Joseph Schnell
Signature of Applicant (and title, if applicable)

Received by sk Date 5-14-04 Time 10:30 A Preliminary check by _____
Fee $ 100.00 Receipted by sk # W031696 Date 5-14-04
Publication prepared by ⊕ Date 11/12/05 Published in Id Co Free Press 11/19 + 26/05
Publication approved ⊕ Date 2/1/05

10 R
SONMAPP 5075
22
23
17
26
MILL CREEK
1" PVC PIPE
POND
WATER DRAINAGE

NOW

STARTING

RIGHT

SIDE OF

FILE

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 18, 2006

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

RE: Permit No. 85-15505

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

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

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

Sincerely,

Shelley W. Keen

Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2006 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 85-15505

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

Kari Lynn Townsend
Secretary

EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

> Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:
>
> (a) the petition for reconsideration is disposed of, or
>
> (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

MEMORANDUM

Date: April 17, 2006

To: Water Right File 85-15505

From: eretelle

Re: permit review

No WD

Formerly in Salmon-CW moratorium. Comments from Fish & Game received and applicant modified his application accordingly.

No protest or overlap.

Min Stream Flow CW River 85-07583

Recommend approval as suggested by IDWR Northern.

MEMO TO: FILE
FROM: KEITH FRANKLIN
DATE: MARCH 17, 2006

RECEIVED
APR 17 2006
DEPARTMENT OF
WATER RESOURCES

Mr. Schnell originally made application for a wildlife storage pond, on an unnamed stream and a diversion from Mill Creek to supplement the pond in years of drought. The application was advertised without protest however; the Fish and Game Department raised a concern about diverting water from Mill Creek, since it was a stream with a minimum flow designation.

Due to the uncertainty on when a permit might be issued, that is associated with a minimum flow stream, Mr. Schnell decided to withdraw his request to supplement the wildlife storage pond from Mill Creek, by letter to the department, received on March 13, 2006 and pursue a water right from Mill Creek by a separate application sometime in the future.

The original data entry, for the application, included the diversion from Mill Creek, which has since been edited out and only the wildlife storage component remains for appropriation consideration.

Robin Schnell
231 Mill Creek Ln.
Grangeville, ID 83530

SPOKANE WA 992

11 MAR 2006 PM 4 T

KEITH FRANKLIN
DEPT. WATER RESOURCES
1910 N.W. BLVD.
COUERD-ALENE ID 83814-2615

83814+2615 C008

MR. FRANKLIN:

THIS LETTER IS TO REQUEST THAT THE WATER RIGHTS FOR MILL CREEK BE DROPED, BUT THE WATER RIGHTS FOR THE POND BE COMPLETED. I WILL RE FILE FOR MILL CREEK LATER AS PER PHONE CALL. THANK YOU!

Joseph Schnell

208-983-9705

RECEIVED
MAR 13 2006
IDWR/North

IDAHO FISH & GAME
CLEARWATER REGION
1540 Warner Avenue
Lewiston, Idaho 83501-5699

Dirk Kempthorne / Governor
Steven M. Huffaker / Director

January 27, 2005

Entered on computer 2/2/05 D

RECEIVED
FEB 02 2005
IDWR/North

RECEIVED
FEB 28 2005
IDWR/North

Mr. Robert Haynes
Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

Dear Mr. Haynes:

REFERENCE: #85-15505 JOSEPH SCHNELL WATER RIGHT APPLICATION

Joseph Schnell has requested a right to construct a dam to impound 10 acre feet of water from an unnamed tributary to Mill Creek in Idaho County, and for a supplementary withdrawal from Mill Creek, to be pumped to the pond during dry weather. The pond is intended to create wildlife habitat as part of a USDA Natural Resource Conservation Service environmental quality improvement project (EQIP).

Typically, IDFG recommends that ponds be constructed off channel to preserve natural fish, wildlife and hydrologic values of intermittent and ephemeral streams. In this instance, NRCS informs us that the pond would not be constructed in a live channel; rather, the dam would capture primarily surface runoff to create the pond. NRCS also informs us that the pond will help resolve some erosion problems on the subject property. Therefore, we have no objection to constructing the pond where proposed.

Although we do not object to construction of the pond in the unnamed tributary as proposed, we recommend that you do not permit the supplementary withdrawal from Mill Creek.

NRCS indicated to us that a supplementary withdrawal was not part of the EQIP project design. We assume that NRCS designed the dam to impound adequate water to meet the EQIP habitat goals without supplemental water from Mill Creek. In addition, supplementary dry-period withdrawal from Mill Creek would concentrate impacts from withdrawal on the creek during the most critical flow periods. Therefore, we believe no water should be allocated from Mill Creek for the proposed pond as requested. If additional water is needed to meet EQIP project goals, we suggest that the applicant consider early season withdrawal and storage from Mill Creek or other alternatives.

THIS WOULD BE FINE.
Joseph

Thank you for the opportunity to comment.

Sincerely,

Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Tracey Trent
Joseph Schnell
Richard Spencer

WD

RECEIVED
NOV 30 2005
DEPARTMENT OF
WATER RESOURCES

TO: DEPARTMENT OF WATER RESOURCES:

THIS LETTER IS TO INFORM THE DEPARTMENT OF THE CONTINUING INTEREST TO RECEIVE A PERMIT TO APPROPRIATE WATER.

WATER APPLICATION NO. 85-15505

Joseph Schnell

Box 311A, RR 2
Grangeville, ID 83530

RECEIVED
DEC 02 2005
IDWR/North

Attachment 1- List A Minimum Stream Flows

Quantification Location	Stream Name	Tributary to	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
75	Elk Creek	North Fork Clearwater River	119	193	229	482	260	90	27	19	24	32	58	77
1078	Alturas Lake Creek	Salmon River	21	21	37	115	305	313	82	35	26	24	25	23
389	American River	South Fork Clearwater River	29	38	66	262	447	227	51	22	19	22	30	28
382	Big Elk Creek	American River	7	8	15	58	98	51	11	5	4	5	7	6
4	Canyon Creek	Little N.F. Clearwater River	45	78	169	293	198	114	51	46	42	40	62	36
94	Cayuse Creek	Kelly Creek	159	248	318	1152	1767	919	168	81	78	112	186	209
14	Collins Creek	Skull Creek	23	35	46	168	260	134	24	11	11	16	27	30
396	Cougar Creek	South Fork Clearwater River	2	3	5	19	31	17	4	2	1	2	2	2
420	Crooked River	South Fork Clearwater River	19	25	44	168	291	145	34	14	13	15	19	19
1018	East Fork Salmon River	Salmon River	91	92	100	166	437	1014	462	198	144	139	125	100
1052	East Fork Salmon River	Salmon River	37	35	35	51	196	528	351	135	74	63	52	42
1053	East Pass Creek	Herd Creek	9	8	8	11	40	91	39	20	13	11	10	9
962	Eightmile Creek	Yankee Fork	3.8	3.7	6.4	21	54	56	14	6.1	4.6	4.3	4.5	4.0
216	Eldorado Creek	Lolo Creek	22	56	98	147	135	80	21	10	11	10	19	19
9	Foehl Creek	Little N.F. Clearwater River	25	43	94	157	114	60	28	26	23	22	35	20
102	Fourth of July Creek	North Fork Clearwater River	27	41	54	188	301	155	28	13	13	19	32	35
556	French Creek	Salmon River	26	24	25	85	396	421	122	45	34	41	39	30
1060	Germania Creek	East Fork Salmon River	16	15	17	23	88	238	157	62	34	29	24	19
826	Hat Creek	Salmon River	10	9	9	12	53	108	45	22	16	12	12	10
1042	Herd Creek	East Fork Salmon River	22	20	19	28	98	217	92	47	34	27	26	23
23	Isabella Creek	North Fork Clearwater River	19	33	71	126	84	45	21	19	17	16	26	15
81	Kelly Creek	North Fork Clearwater River	317	404	706	2827	4782	2479	550	236	204	241	319	301
40	Lake Creek	North Fork Clearwater River	33	51	68	241	385	196	35	17	16	24	40	44
964	Lightning Creek	Yankee Fork	4.1	4.0	6.9	22	57	59	15	6.6	5.0	4.6	4.8	4.2
24	Little N.F. Clearwater	North Fork Clearwater River	286	487	1094	1780	1248	682	326	287	262	250	389	232
466	Little Slate Creek	Slate Creek	29	41	53	186	371	244	33	12	11	17	24	22
373	Meadow Creek	South Fork Clearwater River	7	9	17	66	114	57	13	6	5	6	8	7
10042	Meadow Creek	Valley Creek	4.1	4.1	6.8	22	57	59	15	6.6	5.0	4.6	4.8	4.3
417	Mill Creek	South Fork Clearwater River	7	9	16	61	104	54	12	5	5	5	7	7
358	Newsome Creek	South Fork Clearwater River	18	23	41	168	281	145	32	13	12	14	19	18
533	North Fork Salmon River	Salmon River	42	41	53	144	366	335	86	47	42	46	49	44
600	Panther Creek	Salmon River	132	111	130	269	925	1297	431	201	158	143	153	131
735	Panther Creek	Salmon River	22	22	28	77	193	173	45	24	22	24	25	23
385	Peasley Creek	South Fork Clearwater River	3	4	7	27	47	24	5	2.3	2.0	2.3	3.1	2.9
586	Pine Creek	Salmon River	6	6	8	21	54	49	12	7	6	7	7	6
422	Red River	South Fork Clearwater River	56	71	129	492	842	434	93	41	37	43	57	53
344	S. Fork Clear Creek	Clear Creek	7	11	15	52	82	42	8	4	3	5	9	9

November 21, 2005

RECEIVED
DEC 12 2005
IDWR/North

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

Re: Application to Appropriate Water no. 85-15505

Dear Applicant:

The records of the Idaho Department of Water Resources (the Department) show that you filed an application to appropriate water no. 85-15505 with the Department proposing diversion of water from a water source in the Salmon River Basin or the Clearwater River Basin. In April 1993, a moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water sources in the Salmon River and Clearwater River Basins. In October 1999, a second moratorium order signed by the Director of the Department prohibited processing and approval of most new permits to appropriate water proposing to divert and use water from surface water and ground water sources within and upstream of designated wilderness areas in the Salmon River and Clearwater River Basins. Recently, the Director of the Department issued an order rescinding both moratoriums.

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

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

SCANNED

Idaho Code § 42-204. If you wish to voluntarily withdraw your application, please complete the enclosed withdrawal form and return it to this office.

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

Sincerely,

Gary Spackman, Chief
Water Allocations Bureau

Enclosures (2)

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

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

FINDINGS OF FACT

Salmon - Clearwater Basin Moratorium

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

2. The Salmon – Clearwater Order stated:

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

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

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

SCANNED
DEC 1 [illegible] 2015

- Riparian habitat improvement projects; and

- Administration of water rights following creation of the Upper Salmon River Water District (creation anticipated at the end of 2005).

Wilderness Moratorium

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

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

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

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

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

Wild and Scenic Rivers

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

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

CONCLUSIONS OF LAW

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

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

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

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

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

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

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

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

ORDER

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

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

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

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

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

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

Dated this 9th day of November, 2005.

KARL J. DREHER
Director

EXPLANATORY INFORMATION
TO ACCOMPANY A
FINAL ORDER

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

(Required by Rule of Procedure 740.02)

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

PETITION FOR RECONSIDERATION

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

REQUEST FOR HEARING

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

CERTIFICATE OF SERVICE

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

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

See attached service list.

Deborah J. Gibson
Deborah J. Gibson
Administrative Assistant

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

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

RECEIVED
FEB 28 2005
IDWR/North

DEAR MR. ROBERT HAYNES:

IN RESPONSE TO THE ENCLOSED LETTER: NO, SUPPLEMENT WATER FROM MILL CREEK IS NOT IN THE EQIP DESIGN. THE EQIP DESIGN WAS JUST THE DAM. I WAS WANTING AN ALTERNATIVE WAY TO ADD WATER IF NEEDED. THE PROPOSED REQUEST THAT WATER NOT BE TAKEN FROM MILL CREEK DURING DRY-PERIODS IS FINE, AS I KNOW THE IMPORTANCE OF WATER FLOW FOR OTHER LIFE. THE SOIL IN THE POND AREA IS VERY GOOD CLAY AND HOLDS WATER VERY WELL, SO ANY SUPPLEMENT I MAY NEED CAN BE DONE FROM MILL CREEK DURING WETTER PERIODS.

I HOPE THIS WILL RESOLVE THE CONCERN OF THE FISH + GAME, AND PROCESSING OF APPLICATION CAN CONTINUE.

THANK YOU

Joseph Schnell

PERMIT # 85-15505

Perhaps Ray
Can e-mail us
some dates?

85-15505

T30N R3E Section 27

Point of Diversion

Place of Use

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

February 17, 2005

JOSEPH SCHNELL
RR2 BOX 311A
GRANGEVILLE ID 83530

Re: Application for Permit 85-15505

Dear Mr. Schnell:

Enclosed is a copy of the letter from Fish and Game in response to our request for their comment in regards to your application for permit referenced above. As you can see, they have concerns regarding the diversion you propose out of Mill Creek.

Your application for permit will be held without action until we receive written documentation from you or Fish and Game showing that an agreement has been made between the parties and listing the specifics of that agreement. Processing of your application will continue after that has occurred.

If you have any questions, please give me a call.

Sincerely,

AL BEARDSLEE
Sr. Water Resource Agent

Enclosure

bcc
Ray
Hennekey

IDAHO FISH & GAME
CLEARWATER REGION
1540 Warner Avenue
Lewiston, Idaho 83501-5699

Dirk Kempthorne / Governor
Steven M. Huffaker / Director

January 27, 2005

Entered on computer 2/2/05

RECEIVED
FEB 02 2005
IDWR/North

Mr. Robert Haynes
Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

Dear Mr. Haynes:

REFERENCE: #85-15505 JOSEPH SCHNELL WATER RIGHT APPLICATION

Joseph Schnell has requested a right to construct a dam to impound 10 acre feet of water from an unnamed tributary to Mill Creek in Idaho County, and for a supplementary withdrawal from Mill Creek, to be pumped to the pond during dry weather. The pond is intended to create wildlife habitat as part of a USDA Natural Resource Conservation Service environmental quality improvement project (EQIP).

Typically, IDFG recommends that ponds be constructed off channel to preserve natural fish, wildlife and hydrologic values of intermittent and ephemeral streams. In this instance, NRCS informs us that the pond would not be constructed in a live channel; rather, the dam would capture primarily surface runoff to create the pond. NRCS also informs us that the pond will help resolve some erosion problems on the subject property. Therefore, we have no objection to constructing the pond where proposed.

Although we do not object to construction of the pond in the unnamed tributary as proposed, we recommend that you do not permit the supplementary withdrawal from Mill Creek.

NRCS indicated to us that a supplementary withdrawal was not part of the EQIP project design. We assume that NRCS designed the dam to impound adequate water to meet the EQIP habitat goals without supplemental water from Mill Creek. In addition, supplementary dry-period withdrawal from Mill Creek would concentrate impacts from withdrawal on the creek during the most critical flow periods. Therefore, we believe no water should be allocated from Mill Creek for the proposed pond as requested. If additional water is needed to meet EQIP project goals, we suggest that the applicant consider early season withdrawal and storage from Mill Creek or other alternatives.

Thank you for the opportunity to comment.

Sincerely,

Cal Groen

Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Tracey Trent
Joseph Schnell
Richard Spencer

IDAHO FISH & GAME
CLEARWATER REGION
1540 Warner Avenue
Lewiston, Idaho 83501-5699

Dirk Kempthorne / Governor
Steven M. Huffaker / Director

January 27, 2005

Entered on computer 2/2/05

RECEIVED
FEB 02 2005
IDWR/North

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Idaho Department of Water Resources
Northern Region
1910 Northwest Blvd, S 210
Coeur d'Alene, ID 83814

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Thank you for the opportunity to comment.

Sincerely,

Cal Groen
Clearwater Regional Supervisor

CG/rh/ss

c: Tracey Trent
Joseph Schnell
Richard Spencer

RECEIVED
FEB 01 2005
IDWR/North

AFFIDAVIT OF PUBLICATION

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

81-11924

WILLIAM C ATHENS
1924 S UTICA - STE 810
TULSA OK 74104
Point(s) of Diversion SWSENE S15 T30N R13E IDAHO County
Source SPRING Tributary To SELWAY RIVER
Use: DOMESTIC 01/01 To 12/31 0.04 CFS
Total Diversion: 0.04 CFS
Date Filed: 08/16/2004
Place Of Use: DOMESTIC T30N R13E S15 NWSW
Remark: Domestic use is for 1 home.

85-15505

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530
Point(s) of Diversion NWNE, NENW S27 T30N R03E IDAHO County
Source UNNAMED STREAM Tributary To MILL CREEK
Point(s) of Diversion SWNE S27T30N R03E IDAHO County
Source MILL CREEK Tributary To SOUTH FORK CLEARWATER RIVER
Use: WILDLIFE STORAGE 01/01 To 12/31 10 AFA
Total Diversion: 0.2 CFS 10 AFA
Date Filed: 08/19/2004
Place Of Use: WILDLIFE STORAGE T30N R03E S27 NWNE NENW

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

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Northern Region, 910 Northwest Blvd, Suite 210, Coeur D' Alene ID 83814 together with a protest fee of $25.00 for each application on or before 02/07/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on 1/19 and 1/26/2005

J19-26

STATE OF IDAHO
County of Idaho - ss.

Andrew J. McNab, being first duly sworn, says he is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho County, State of Idaho, and is of general circulation in said county and state, that the said legal notice, of which the one hereto attached is a true copy, was published in said paper for two weeks, being published two times, the first publication being on the 19th day of January, 2005; and the last publication on the 26th day of January, 2005; and that the said legal notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said legal notice of advertisement.

STATE OF IDAHO)
)
COUNTY OF IDAHO)

On this 26th day of January in the year of 2005, before me a Notary Public personally appeared Andrew J. McNab, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

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

JOLENE RUPP NOTARY PUBLIC STATE OF IDAHO

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

81-11924

WILLIAM C ATHENS
1924 S UTICA - STE 810
TULSA OK 74104

Point(s) of Diversion SWSENE S15 T30N R13E IDAHO County

Source SPRING Tributary To SELWAY RIVER

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

Total Diversion: 0.04 CFS

Date Filed: 08/16/2004

Place Of Use: DOMESTIC T30N R13E S15 NWSW
Remark: Domestic use is for 1 home.

85-15505

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

Point(s) of Diversion NWNE, NENW S27 T30N R03E IDAHO County

Source UNNAMED STREAM Tributary To MILL CREEK

Point(s) of Diversion SWNE S27 T30N R03E IDAHO County

Source MILL CREEK Tributary To SOUTH FORK CLEARWATER RIVER

Use: WILDLIFE STORAGE 01/01 To 12/31 10 AFA

Total Diversion: 0.2 CFS 10 AFA

Date Filed: 08/19/2004

Place Of Use: WILDLIFE STORAGE T30N R03E S27 NWNE NENW

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KARL J DREHER, Director Published on 1/19 and 1/26/2005

State of Ida.
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Emailed to Nona 1/12/05 db

January 12, 2005

NONA DONALDSON
LEGAL NOTICE DEPARTMENT
IDAHO COUNTY FREE PRESS
PO BOX 690
GRANGEVILLE ID 83530

RE: Application for Permit No. 81-11924 and 85-15505

Dear Nona:

Enclosed you will find a legal notice which we wish to have published in your newspaper on the dates indicated, January 19 and 26, 2005, (once a week for two consecutive weekly issues). If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 02/07/2005. Your cooperation is GREATLY appreciated, as always.

Sincerely

db

Dianne Ball
Administrative Assistant

Ball, Dianne

From: Ball, Dianne
Sent: Wednesday, January 12, 2005 3:43 PM
To: Legal Notices-ID CO Free Press (E-mail)
Subject: Legal notice for publication on January 19 and 26, 2005

A Very Good Day to you, Nona,

Attached is our cover letter requesting publication of a legal notice on January 19 and 26, 2005. The legal notice is also attached.

If you have ANY questions, please call me at 208-769-1450.

Please FAX a proof prior to publication so I can make a last minute check to make sure I have everything correct. My FAX number is 208-769-1454.

I have been off on medical leave for 2+ months and it is amazing how much things have stacked up. The proof is just so I can do a double check while I am playing catch-up.

Thanks and have a happy day,

Dianne

Dianne Ball, Administrative Assistant
Idaho Department of Water Resources
1910 Northwest Blvd., Suite 210
Coeur d'Alene, ID 83814
Phone 208-769-1450 FAX 208-769-1454

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
(208) 769-1450 Fax (208) 769-1454

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

January 12, 2005

JOSEPH SCHNELL
RR 2 BOX 311A
GRANGEVILLE ID 83530

RE: Application for Permit No 85-15505

Dear Applicant(s):

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

A legal notice of the application has been prepared and is scheduled for publication in the Idaho County Free Press on January 19 and 26, 2005. Submittal of protests to this application will be allowed for a period ending ten days after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved. A typical processing time for an unprotested application is about eight to twelve weeks.

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

Sincerely,

Allen Beardslee

Allen Beardslee
Senior Water Resource Agent

State of Idaho
DEPARTMENT OF WATER RESOURCES
NORTHERN REGION, Suite No. 210 • 1910 Northwest Blvd. • Coeur d'Alene, Idaho 83814-2615
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January 12, 2005

RAY HENNEKEY
STATE OF IDAHO
DEPT OF FISH & GAME
1540 WARNER AVE
LEWISTON, ID 83501

FAXED TO RAY 1/12/05 - 4 PAGES TOTAL

Application to Permit No. 85-15505

STATE OF IDAHO :

The Department of Water Resources is seeking written comment and/or recommendations from your agency regarding the above referenced water right application. A copy of the application follows for your reference.

This office can publish notice of the application as soon as the initial review is completed; therefore, your prompt response to this request is appreciated. If your agency desires to formally protest the approval of this application, you may do so after the notice is published by filing a written protest along with a $25.00 filing fee within 10 days after final publication.

You can comment by e-mail to Dianne.Ball@idwr.idaho.gov

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

Sincerely,

Dianne

Dianne Ball
Administrative Assistant

Enclosure(s)