



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

25-Aug-1993

R. KEITH HIGGINSON
Director

LOUIS F RACINE JR
JACK B FUREY
PO BOX 280
CHALLIS ID 83226

Re: Application for Permit No. 71-07170

Gentlemen:

The Department of Water Resources acknowledges receipt of your water right application for permit. The application has been assigned the above referenced identification number. Please refer to this number in all further correspondence.

Enclosed is a copy of an Order establishing a Moratorium on the issuance of new consumptive use permits in the Salmon River drainage. This Order affects your application; therefore, it is will be held without action for the foreseeable future.

If you wish to withdraw the application, please date, sign and return the enclosed withdrawal form. The filing fee will be refunded.

If you have any questions or if this office can be of further assistance, please feel free to contact us.

Very truly yours,

James E. Stanton
Sr. Water Resource Agent

JS:MB

RECEIVED

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

MAY 10 1992

Department of Water Resources
Southern Region Office

IN THE MATTER OF APPLICATIONS AND)
PERMITS FOR THE DIVERSION AND USE) MORATORIUM ORDER
WATER WITHIN THE SALMON AND)
CLEARWATER RIVER BASINS, IDAHO)

The Director of the Department of Water Resources, having responsibility for the administration of the appropriation of the water of the State of Idaho and the protection of rights to the use of water within the state and the public interest in water resources of the state and conservation of the water resources of the state enters the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. The Salmon and Clearwater River basins are free-flowing streams of the state, generally without obstructions from dams and impoundments and serve as habitat for anadromous salmon and steelhead fish.

2. The National Marine Fisheries Service (NMFS) has listed the Snake River sockeye, spring/summer and fall chinook salmon under provisions of the Endangered Species Act (ESA). That action has resulted in the need to take measures to facilitate the recovery of the salmon. Such measures include protection of the habitat conditions as well as modification of the operation of dams which imperil fish passage through the lower Snake and Columbia Rivers.

3. Diversions of water from the Salmon and Clearwater Rivers and their tributaries have the potential of impacting the salmon and steelhead on their migration to the ocean and return to spawning areas in the river basins.

4. Flows of many streams, springs and rivers within the Salmon and Clearwater River basins are considerably below normal due to the effects of drought conditions across Southern Idaho which have prevailed within the recent six-year period.

5. Actions are necessary in the public interest to control the appropriation of water from the Salmon and Clearwater Rivers and their tributaries to the extent practicable to prevent loss of anadromous fish. Such actions, however, will only be meaningful over the long-term if other interests in the region make meaningful efforts to remove or modify the down-river obstructions to fish passage caused by the dams.

CONCLUSIONS OF LAW

1. The Director of the Department of Water Resources is authorized under the provisions of Section 42-1805(7), Idaho Code:

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 minimum flow provisions of the state water plan.

2. The granting of new water right permits within the Salmon and Clearwater River basins could impact salmon and steelhead, which action would be contrary to the local public interest in such fish resources and would be inconsistent with the conservation of water resources within the state of Idaho which the Director is charged to protect under the provisions of Section 42-203A(5), Idaho Code.

ORDER

IT IS, THEREFORE, HEREBY ORDERED THAT a moratorium is established on the processing of applications for permits to appropriate surface water resources within the Salmon and Clearwater River basins subject to the following conditions:

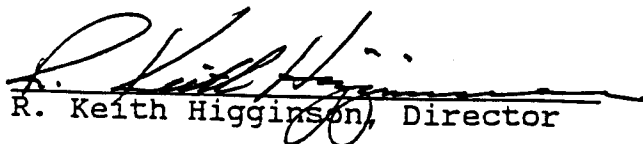
1. This moratorium shall be in effect on and after the date it is entered until withdrawn or modified by further order of the Director. A future decision to continue or rescind the moratorium will consider all efforts being made within the region toward the recovery of the salmon.

2. This moratorium applies to all applications, previously filed, or yet to be filed seeking permits to appropriate surface water within the drainage basins of the Salmon and Clearwater Rivers upstream from their mouths.

3. This moratorium does not apply to the continued development of water under previously-issued permits.

4. This moratorium does not apply to applications for minor stockwatering or domestic purposes as defined in Section 42-111, Idaho Code.

Dated this 15TH day of May, 1992.


R. Keith Higginson, Director