

**STARTING
LEFT
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FILE**

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
72-07573 IN THE NAME OF)
THOMPSON CREEK MINING CO)
)
)

PRELIMINARY ORDER

This matter having come before the Department of Water Resources (Department) as a result of a response by the permit holder to an order issued by the Department, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On October 26, 1999, The Director of the Department (Director) issued a Moratorium Order (order) to stop further development of all existing permits to appropriate water within the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Areas, and within areas tributary to those wilderness areas.

2. On December 8, 1999, Thompson Creek Mining Co. (permit holder), by and through its attorneys of record Elam & Burke, P.A. filed a request for an indefinite stay in the development period for Permit No. 72-07573 (permit) in response to Condition 5.b of the order.

3. The permit holder provided information describing the extent of development and beneficial use that had occurred under the permit.

4. The permit holder provided information to show that the project had not been completed due to circumstances over which the permit holder had no control.

CONCLUSIONS OF LAW

1. Section 42-204(1), *Idaho Code* provides that the Department may allow for delays in the development of a permit which are due to certain matters beyond the control of the permit holder.

2. The permit holder has provided sufficient justification for the Director to authorize an indefinite stay in the development period for the permit.

3. The Director should authorize an indefinite stay in the development period with certain conditions.

ORDER

IT IS THEREFORE HEREBY ORDERED that an indefinite stay in the development period for the above captioned permit is **GRANTED** subject to the following conditions and limitations:

1. Additional work by the permit holder in developing a water right under terms of the permit is not authorized until the Department specifically authorizes resumption of work.
2. If resumption of work is authorized under this permit, the development period for this permit shall be extended by the number of days lost as a result of the indefinite stay hereby granted.
3. The permit holder is not authorized to assign ownership of the permit to another party without prior approval of the Department.
4. The Department may rescind or modify the indefinite stay hereby granted if the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Moratorium is modified or rescinded.

Dated this 5th day of January, 2000.



KARL J. DREHER
Director

for

MICROFILMED
AUG 25 2000

**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 AND TRIBUTARY TO THE)
SELWAY-BITTERROOT WILDERNESS)
AREA, GOSPEL-HUMP WILDERNESS AREA,)
AND FRANK CHURCH-RIVER OF NO)
RETURN WILDERNESS AREA)
_____)

MORATORIUM ORDER

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

FINDINGS OF FACT

1. On April 30, 1993, the Director issued an Amended Moratorium Order that stopped the approval of certain applications seeking to appropriate surface water within the Salmon and Clearwater River Basins in Idaho.
2. On December 13, 1993, the United States filed Notices of Claim in the Snake River Basin Adjudication ("SRBA") for federal reserved water rights for the Selway-Bitterroot, Gospel-Hump, and Frank Church-River Of No Return wilderness area designations. On February 27, 1997, a motion to amend the Notices of Claim for all three wilderness area designations was filed with the District Court of the Fifth Judicial District of the State of Idaho (the "SRBA district court") to change the claimed priority dates.
3. As amended, pertinent portions of the claim filed in the SRBA for a federal reserved water right for the Selway-Bitterroot Wilderness are as follows:

Identification Number: A31-11191
Name of Claimant: United States of America

Date of Priority: September 3, 1964, except for Magruder Corridor that has priority date of July 23, 1980

Source of Water Supply: All streams, lakes, ponds, springs, seeps or other natural sources of water including groundwater, whether named or not and whether perennial, intermittent or ephemeral within the boundaries of the Selway-Bitterroot Wilderness. This claim is intended to also include those sources of water which are not presently known or not reasonably susceptible of quantification because of the de minimus and diffuse nature of their flow and which supply wetlands, marshes, or other vegetation which serves such wilderness purposes as habitat protection and drinking water for wildlife. Tributary to Lochsa and Selway Rivers.

Location of Points of Diversion: None

Location of Place of Use: All locations in the Selway-Bitterroot Wilderness where natural sources of water exist.

Instream Flow Beginning

And Ending Points: All locations in the Selway-Bitterroot Wilderness where natural sources of water exist

Total Quantity Claimed: The entire unappropriated flow and all other natural sources of water as of the date of designation, specifically, September 3, 1964.

4. As amended, pertinent portions of the claims filed in the SRBA for federal reserved water rights for the Gospel-Hump Wilderness are as follows:

Identification Numbers: 77-12774, 82-11120

Name of Claimant: United States of America

Date of Priority: February 24, 1978

Source of Water Supply: All streams, lakes, ponds, springs, seeps or other natural sources of water including groundwater, whether named or not and whether perennial, intermittent or ephemeral within the boundaries of the Gospel-Hump Wilderness. This claim is intended to also include those sources of

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water which are not presently known or not reasonably susceptible of quantification because of the de minimus and diffuse nature of their flow and which supply wetlands, marshes, or other vegetation which serves such wilderness purposes as habitat protection and drinking water for wildlife. Tributary to Salmon River.

Location of Points of Diversion: None

Location of Place of Use: All locations in the Gospel Hump Wilderness where natural sources of water exist.

Instream Flow Beginning

And Ending Points: All locations in the Gospel-Hump Wilderness where natural sources of water exist

Total Quantity Claimed: The entire unappropriated flow and all other natural sources of water as of the date of designation, specifically, February 24, 1978.

5. As amended, pertinent portions of the claims filed in the SRBA for federal reserved water rights for the Frank Church-River of No Return Wilderness are as follows:

Identification Numbers: A75-13605, A77-12775

Name of Claimant: United States of America

Date of Priority: July 23, 1980

Source of Water Supply: All streams, lakes, ponds, springs, seeps or other natural sources of water including groundwater, whether named or not and whether perennial, intermittent or ephemeral within the boundaries of the Frank Church-River of No Return Wilderness. This claim is intended to also include those sources of water which are not presently known or not reasonably susceptible of quantification because of the de minimus and diffuse nature of their flow and which supply wetlands, marshes, or other vegetation which serves such wilderness purposes as habitat protection and drinking water for wildlife. Tributary to Salmon River.

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Location of Points of Diversion: None

Location of Place of Use: All locations in the Frank Church-River of No Return Wilderness where natural sources of water exist.

Instream Flow Beginning

And Ending Points: All locations in the Frank Church-River of No Return Wilderness where natural sources of water exist

Total Quantity Claimed: The entire unappropriated flow and all other natural sources of water as of the date of designation, specifically, July 23, 1980.

6. On December 18, 1997, the SRBA district court issued *Order Granting and Denying United States' Motions for Summary Judgment on Reserved Water Rights* for claims made by the United States under the Wilderness Act, Multiple-Use Sustained-Yield Act ("MUSYA"), and Hells Canyon National Recreation Area Act ("HCNRA"), referred to herein as "1997 SRBA Reserved Rights Order." In this order, the SRBA district court ruled that: "The United States is entitled to a federal reserved water right for all unappropriated flows in the Frank Church-River of No Return, the Selway-Bitterroot, and the Gospel-Hump wilderness areas." (1997 SRBA Reserved Rights Order, p. 5). The SRBA district court emphasized its ruling by stating: "The amount of water minimally sufficient to fulfill Congressional intent is the total amount of unappropriated water within each [wilderness] area, **such that none is ever available for future appropriation.**" (1997 SRBA Reserved Rights Order, p. 15, emphasis added).

7. On July 24, 1998, the SRBA district court issued *Memorandum Decision Granting, In Part, and Denying, In Part, the United States' Motion for Summary Judgment on Reserved Water Rights Claims* for claims made by the United States under the Wild and Scenic Rivers Act, referred to herein as "1998 SRBA Wild and Scenic Decision." In this decision, the SRBA district court ruled that under the Central Idaho Wilderness Act, the United States "... **reserved land north and south of the Mainstem of the Salmon River as wilderness, thereby reserving all unappropriated flows of water in the Mainstem**" referring back to the 1997 SRBA Reserved Rights Order in a footnote. (1998 SRBA Wild and Scenic Decision, p. 7, emphasis added). The SRBA district court noted that "Congress declared that the Mainstem of the Salmon River [that segment of the main Salmon River designated as a component of the Wild and Scenic Rivers System] would be administered solely under the Wild and Scenic Rivers Act, not the Wilderness Act." However, the SRBA district court did not describe any limitation on the reservation of unappropriated flows, nor did the court distinguish between that segment of the main Salmon River designated as Wild and Scenic and that segment adjacent to the Gospel-Hump and Frank Church-River of No Return Wilderness Areas that lies downstream of the Wild and Scenic designation.

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8. On October 1, 1999, the Supreme Court of the State of Idaho issued 1999 Opinion No. 113 in the case of *Potlatch Corp. et al. v. United States of America* affirming the 1997 SRBA Reserved Rights Order granting the United States reserved water rights for all unappropriated water in the Frank Church-River of No Return, the Selway-Bitterroot, and the Gospel-Hump Wilderness Areas.

9. As of the date of this Order, there are approximately 60 pending applications for permits to appropriate surface water and ground water in the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Areas, and areas tributary to the wilderness areas. In addition, approximately 90 permits to appropriate water have been issued in these areas for which proof of beneficial use has not yet been submitted.

10. Although the SRBA district court has not issued final decrees for federal reserved water rights in the Selway-Bitterroot, the Gospel-Hump, and the Frank Church-River of No Return Wilderness Areas, the Supreme Court's decision of October 1, 1999, once final, will preclude future appropriations of water within the wilderness areas and in areas tributary to the wilderness areas.

CONCLUSIONS OF LAW

1. The Director is responsible for the allocation of water for new uses in Idaho. Section 42-203A(5), Idaho Code, reads in pertinent part as follows:

... In all applications whether protested or not protested, where the proposed use is such (a) **that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated,** or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions. (emphasis added)

2. The Director is authorized under the provisions of Section 42-1805(7), Idaho Code, as follows:

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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.

3. The claims filed by the United States in the SRBA for federal reserved water rights for all unappropriated water in the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Areas did not limit the claimed amount to unappropriated water arising solely within the wilderness areas as of the date the wilderness areas were reserved, nor did the claims include subordination to existing permits to appropriate water having junior priority dates for private holdings within the wilderness areas. Neither the 1997 SRBA Reserved Rights Order nor the Idaho Supreme Court decision affirming the 1997 SRBA Reserved Rights Order limited the federal reserved water rights to unappropriated water arising solely within the boundaries of the wilderness areas. Therefore, both the SRBA district court and the Idaho Supreme Court have included unappropriated water flowing into the wilderness areas, either above or below land surface, as part of the unappropriated water "in" or "within" the wilderness areas.

4. Neither the 1997 SRBA Reserved Rights Order, the 1998 SRBA Wild and Scenic Decision, nor the Idaho Supreme Court decision affirming the 1997 SRBA Reserved Rights Order excluded portions of the Middle Fork of the Salmon River, the South Fork of the Salmon River, or Big Creek lying upstream of the wilderness area boundaries, or clearly excluded the Mainstem of the Salmon River, from being considered as sources for unappropriated water "in" or "within" the wilderness areas as of the date the wilderness areas were reserved.

5. Although petitions for rehearing are pending before the Idaho Supreme Court, a moratorium on the granting of new permits to appropriate surface water or ground water and on continued development under existing permits is necessary. A moratorium will preserve the status quo until final decrees are issued for federal reserved water rights and limit the potential for resources being expended to develop water rights for which no unappropriated water may be available.

6. Because this moratorium order is issued to preserve the status quo, the order should take effect immediately upon issuance to protect the public interest in accordance with the provisions of Section 67-5247, Idaho Code.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the prior Amended Moratorium Order of the Director issued on April 30, 1993, remains in effect and the requirements listed below also apply.

IT IS FURTHER HEREBY ORDERED that a moratorium is established on the processing of applications for permits to appropriate surface water or ground water within and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church-River of No Return Wilderness Area, subject to the following conditions:

1. This moratorium order shall be in effect on and after its entry and shall remain in effect until withdrawn or modified by order of the Director, except as provided herein.
2. This moratorium order applies to all applications for permit, previously filed or to be filed, and all existing permits for which proof of beneficial use has not been filed with the Department, seeking to appropriate surface water or ground water within the Salmon River Basin upstream from the location where the Salmon River leaves the Gospel-Hump Wilderness Area in Section 3, T24N, R4E, B.M. and in the Clearwater River Basin upstream from the location where the Selway River leaves the Selway-Bitterroot Wilderness Area in Section 7, T31N, R10E, B.M. The wilderness areas and tributary areas affected by this moratorium order are depicted on the attached map.
3. This moratorium order does not apply to any application proposing a non-consumptive use of water.
4. This moratorium order does not prevent the Director from reviewing an application that otherwise would not be approved under terms of this moratorium on a case by case basis, if the Director determines that the use of the water pursuant to the application would have no effect on other water rights due to:
 - (a) the location of use; or
 - (b) the effect on other water rights would be offset through mitigation provided by the applicant.

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5. The holders of all existing permits to appropriate water within the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Areas, and within areas tributary to those wilderness areas, shall upon receipt of this moratorium order immediately stop further development under the permit, and within sixty (60) days of receipt of this order do one of the following:

- (a) file proof of beneficial use documenting the extent of diversion and beneficial use of water that was completed prior to receiving this moratorium order; or
- (b) request a stay in the development period under the permit, in accordance with Section 42-204, Idaho Code, until the conditions that resulted in this order have been alleviated, if such should ever occur.

Dated this 26th day of October, 1999.



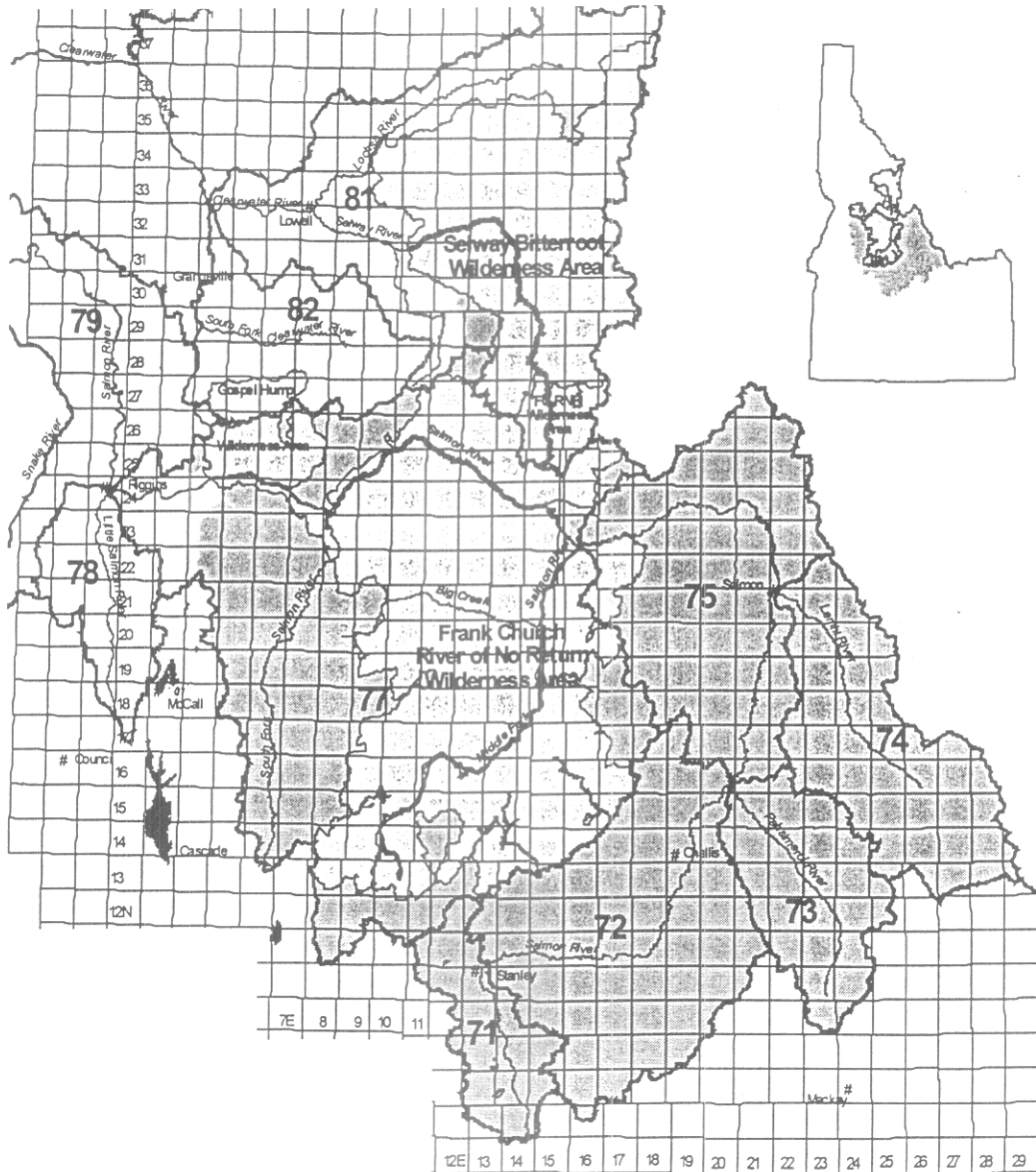
KARL J. DREHER
Director

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Wilderness Moratorium Areas

October 26, 1999



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State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 72-07573

Priority: July 22, 1999

Maximum Diversion Rate:

1.50 CFS

This is to certify, that THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON ID 83227

has applied for a permit to appropriate water from: GROUNDWATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
-----------------------	----------------------	--------------------------

INDUSTRIAL	01/01 to 12/31	1.50 CFS
------------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 2, Township 11N, Range 16E
CUSTER County

PLACE OF USE: INDUSTRIAL

TWN RGE SEC

11N 16E 12

NENE

NWNE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before September 1, 2000.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Prior to diversion and use of water under this right, the right holder shall comply with all bonding requirements of appropriate governmental entities.
6. Industrial use is associated with the mining and milling of molybdenum ore.

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

9th day of September, 1999.

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AUG 25 2000

Karl J. Dreher
Karl J. Dreher, Director
for

(Internet)

RECEIVED

SEP 07 1999

Ident. No. 72-07573

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Send all correspondence
to: Scott L. Campbell
P.O. Box 1539, Boise,
Idaho 83701

RECEIVED

JUL 22 1999

Department of Water Resources
Southern Region

1. Name of Applicant Thompson Creek Mining Co. Phone (208) 838-2200
Mailing address c/o Bert Doughty, P.O. Box 62, Clayton, Idaho 83227

2. Source of water supply ground water which is a tributary of _____

3. Location of point of diversion is Township 11 N Range 16 E Sec. 2, in the NE 1/4,
SW 1/4, NW 1/4, Govt. Lot _____, B.M., Custer County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 1.5 cfs for Industrial purposes from 1/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

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

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

5. Total quantity to be appropriated is (a) 1.5 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source Sump on pit floor and an 8" pipeline to booster station. From there delivered to mine or mill with 8" metal pipeline

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

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

d. Is ground water with a temperature of greater than 85°F being sought? _____

e. If well is already drilled, when? _____; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 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. _____

b. Stockwatering; list number and kind of livestock. _____

c. Municipal; show name of municipality. _____

d. Domestic; show number of households. _____

e. Other; describe fully. Water is used for industrial purposes throughout the mine site, and is associated with the mining and milling of molybdenum ore.

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5. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
11N	16E	12	I	I															

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. 72-07257, 72-07193,
and 72-07414

11. a. Who owns the property at the point of diversion? Thompson Creek Mining Co.

b. Who owns the land to be irrigated or place of use? Thompson Creek Mining Co.

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

12. Remarks: See Attachments A, B, and D

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.)

See Attachment C.
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.

Kim Lough SR. Vice President
General
Signature of Applicant (and title, if applicable) Coun. Sec. L

Received by JF Dutton Date 7-22-99 Time 11 am Preliminary check by JF
Fee \$ 120. Received by JF # 5022383 Date 7-22-99
Publication prepared by MB Date 7/29/99 Published in Challis Messenger
Publication approved MB Date 8/16/99

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AUG 25 2000

72-07573

THOMPSON CREEK MINING COMPANY

APPLICATION FOR PERMIT

ATTACHMENT A

The diversion system is a part of the diversion system for water right number 72-07414. Since that right was licensed in 1995 for 1.1 c.f.s., an additional 1.5 c.f.s. of pump capacity has been added. The additional pump capacity is necessary to remove additional quantities of groundwater and surface water which is accumulating in the mine excavation pit. This accumulation of water will interfere with continued mine activities if it is not pumped out. It is most effectively removed and utilized in the milling process.

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ATTACHMENT A

72-07573

THOMPSON CREEK MINING CO.

APPLICATION FOR PERMIT

ATTACHMENT B

Thompson Creek Mining Company owns some of the land listed as the place of use and the remainder is land under its control by virtue of mining claims on Bureau of Land management and United States Forest Service Lands.

The place of use described in 9(b) is the storage tank at the concentrator site and will act as a distribution point to mine facilities located in all or parts of the following sections:

Township 11N, Range 17E, Sections 5, 6, 8, 9, 21, 27, and 28

Township 11N, Range 16E, Sections 1, 2, 3, 4, 11 and 12

Township 12N, Range 17E, Section 31

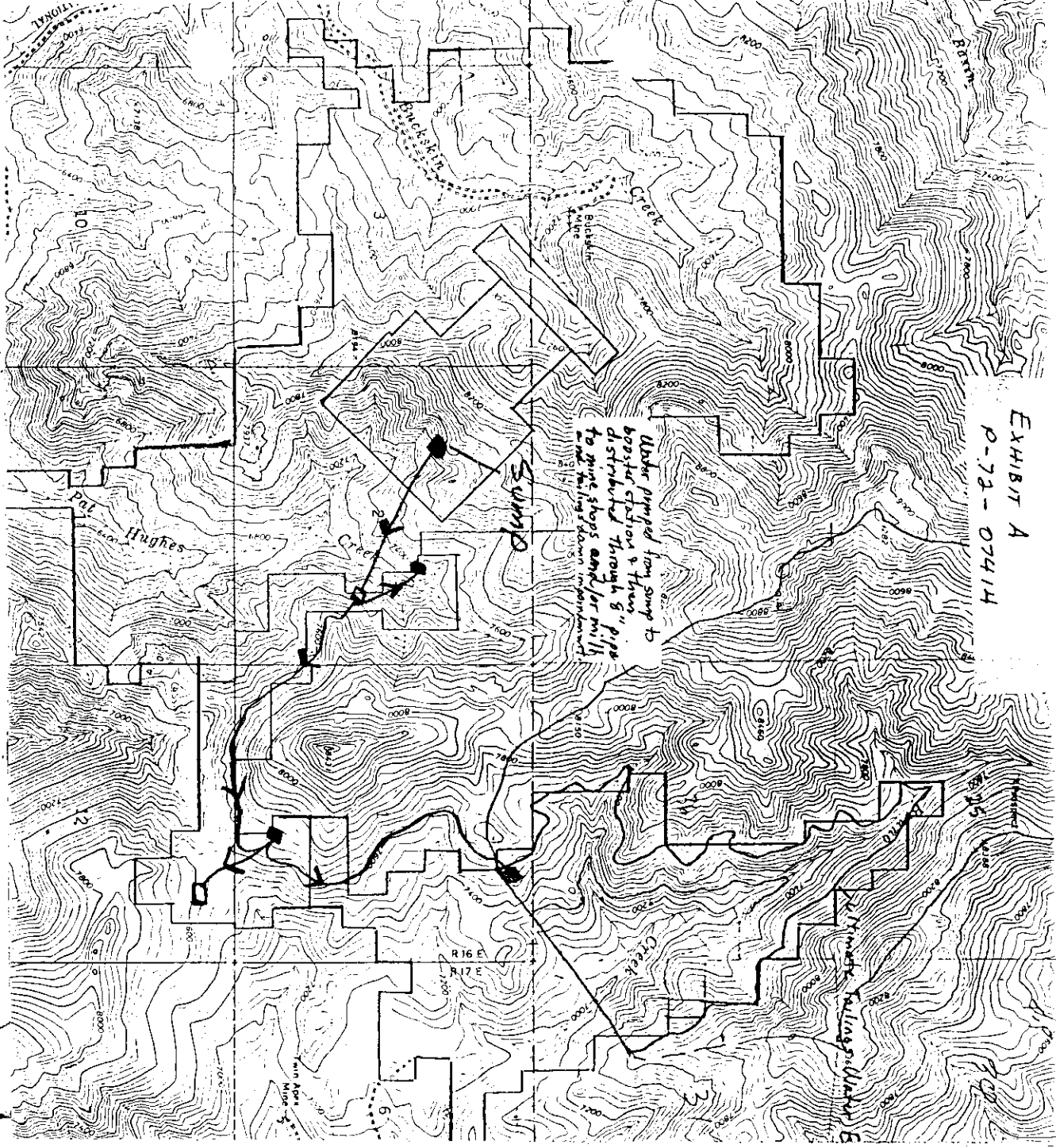
Township 12N, Range 16E, Sections 25, 33, 34, 35 and 26.

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ATTACHMENT B

72-07573

EXHIBIT A
P-72-07414



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ATTACHMENT C

72-07573

Kevin Loughrey
Senior Vice President
and General Counsel

By Facsimile and E-mail

June 11, 1999

Angela D. Schaer
Elam & Burke
Key Financial Center, 702 West Idaho
Boise, ID 83701

**Re: Thompson Creek Mining Co. Water Rights
Applications for Transfer and for Permit**

Dear Ms. Schaer:

In response to your letter of June 11, 1999, listed below are the names and addresses of the corporate officers for Thompson Creek Mining Co.

<u>Office</u>	<u>Name and Mailing Address</u>
President	Richard J. Fiorini 945 West Kenyon Avenue Englewood, CO 80110
Senior Vice President, General Counsel, and Secretary	Kevin Loughrey 945 West Kenyon Avenue Englewood, CO 80110
Vice President	Kent Watson P. O. Box 62, 35 miles SW of Challis Clayton, ID 83227
Vice President, Treasurer, and Assistant Secretary	Vicki P. Byrne 945 West Kenyon Avenue Englewood, CO 80110
Vice President	Richard S. DeCesare 945 West Kenyon Avenue Englewood, CO 80110

Sincerely,

Kevin Loughrey

KL:je

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JUN 23 2005

72-07573
ATTACHMENT D

**NOW
STARTING
RIGHT
SIDE OF
FILE**



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

January 6, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ANGELA D SCHAER
ELAM & BURKE
PO BOX 1539
BOISE ID 83701

RE: Permit 72-07573

Dear Permit Holder(s):

Enclosed is the copy of the **Preliminary Order** issued by the Department granting your request for a stay in the development period of the permit referenced above. Please be sure to thoroughly read the Conditions and Limitations listed on the order.

Also, please be advised that the **preliminary order** of the department is issued pursuant to section 67-5243, Idaho Code. Enclosed are instructions for responding to **Preliminary Orders** if you are in disagreement with the order.

Please feel free to contact the department if you have questions.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jeff Peppersack'.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 6th day of **January, 2000**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: PERMIT 72-07573

**ANGELA D SCHAER
ELAM & BURKE
PO BOX 1539
BOISE ID 83701**


Kari Lynn Townsend
Secretary

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

12-27-99
LHM:m gm

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1639
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-364-5844

FACSIMILE TRANSMISSION

December 27, 1999

Please deliver the following pages to:

NAME: Jeff Peppersack
COMPANY: Idaho Department of Water Resources
ADDRESS:
TEL. #:
FAX #: 327-7866

FROM: Angela D. Schaer
SENDER: Tiffany Hudak Miller
E&B File No.: 0016-9007

TOTAL NUMBER OF PAGES (including this page): 2

FAXED MATERIAL DESCRIPTION OR COMMENTS:

CONFIDENTIALITY NOTICE

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Original documents will:

[]	Follow by regular mail
[]	Follow by Federal Express
[xx]	Not be sent

If you have any problems receiving, please call the FAX operator at (208) 343-5454.

Date Completed: December 27, 1999

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BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

ANGELA D. SCHAEER

E-mail: ads@elam-burke.com

December 27, 1999

SENT VIA FACSIMILE

Jeff Peppersack, Manager
Water Right Permits Section
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Water Right Permits 72-07551 and 72-07573/Thompson Creek Mining Company

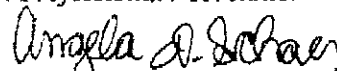
Dear Mr. Peppersack:

I am in receipt of your correspondence dated December 21, 1999. At the outset, I would note that we do not have any indication in our office that we ever received the letter dated December 8, 1999, from Glen Saxton. Therefore, I cannot properly respond to the matters pertaining to that letter, including the 21 days you reference on the second page of your letter. Further, it appears at this stage that it would be most beneficial to gather the appropriate people from your office together with myself and Mr. Campbell, in order to resolve these matters face-to-face. Therefore, we would ask that we schedule a meeting for the first week in January in order to seek resolution of the matters pertaining to Permit Nos. 72-07551 and 72-07573.

Due to the holiday season, it is unlikely that we would be able to schedule a meeting prior to the first week of January. Therefore, it may not be possible to properly respond to your letter within the 21 day time limitation set forth in your earlier correspondence. Therefore, I would ask that you consider delaying that deadline until such time as we can meet. If you have any questions, please do not hesitate to contact Scott Campbell or me.

Very truly yours,

ELAM & BURKE
A Professional Association


Angela D. Schaeer

ADS:thm G:\Thm\WPDATA\001\00111-peppersack.wpd

cc: Karl Dreher, Director, IDWR
Glen Saxton
Kevin Loughrey
Bert Doughty
Scott L. Campbell



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

December 21, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Angela D. Schaer
ELAM & BURKE
P.O. Box 1539
Boise, ID 83701

RE: Water Right Permits 72-07551 and 72-07573

Dear Ms. Schaer:

I have received your letter of December 15, 1999 regarding the request for stay on the above referenced permits. I apologize for the apparent confusion between the information requested to process the stay and information required when submitting proof of application to beneficial use. As I explained in our phone conversation on December 13, the purpose of the questionnaire is to provide assurance to the department that the applicant was proceeding diligently and in good faith with the permit as required by Idaho Code section 42-204. In addition, the information provides documentation to the file of the extent of development under the permit prior to the Director's October 26, 1999 Moratorium Order. The information is not intended to prevent future development under the permit if the Moratorium Order is rescinded and resumption of work is authorized. No fee is required to submit the information.

Submitting proof of application to beneficial use under Idaho Code section 42-217 serves a different purpose. It is considered a statement that the development under the permit has been completed and that water has been applied according to the provisions of the permit. Upon receipt of such proof and the fee as required under Idaho Code 42-221, the department conducts a field examination and issues a license confirming the use found.

As you pointed out in your letter, Permit No. 72-075⁷³~~37~~ was just issued in September of this year. We will assume that there has been little or no development under this permit prior to the moratorium order. If that is an incorrect assumption, please let me know. Otherwise, we plan on processing the request for stay on this permit as soon as possible.

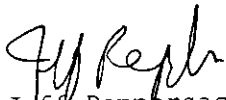
You also pointed out that the extent of development for Permit No. 72-07551 is documented by a recent request for extension of time. I believe the information in the file is sufficient to process the stay request, but in reviewing this file another question has arisen which needs to be addressed before we can process the stay request for this permit. In an agreement between Thompson Creek Mining Co., the Idaho Department of Fish and Game and the Custer Soil and Water Conservation District, Thompson Creek Mining Co. agreed to surrender or withdraw their water right in the Salmon River in exchange for well drilling, pump and sprinkler system costs. The application for permit filed for Permit No. 72-07551 also stated that SRBA Claim No. A72-10488 (Salmon River claim) would be withdrawn upon approval of the permit. It is my understanding that the claim was not withdrawn and is currently recommended in the Director's Report for Reporting Area 4. Please clarify Thompson Creek Mining Company's intentions for the permit.

In a letter dated December 8, 1999, Glen Saxton of this office informed you that the department does not intend to administer the October 26, 1999 Moratorium

Order with respect to Permit No. 72-07551 as a stay on continuing development. This decision was based on the understanding that there would not be additional consumptive use under the permit as long as SRBA Claim No. A72-10488 was relinquished. Since the claim was not withdrawn, additional consumptive use is possible under the permit and the Moratorium Order will apply as a stay on continuing development. We will hold processing of the request for stay on this permit until we receive a response from you clarifying Thompson Creek Mining Company's intentions for this permit relative to SRBA Claim No. A72-10488. If we do not receive a response within 21 days I will recommend that the request for stay be denied and the department will consider issuing a preliminary order voiding Permit No. 72-07551.

If you have any questions, please contact me at 208-327-7940.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Peppersack".

Jeff Peppersack, Manager
Water Right Permits Section

RECEIVED

DEC 16 1999

Department of Water Resources

ANGELA D. SCHAEER

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E-mail: ads@elamburke.com

December 15, 1999

Jeff Peppersack, Manager
Water Right Permits Section
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: December 10, 1999 Letter and Water Right Permits 72-07551 and 72-07573

Dear Mr. Peppersack:

Thank you very much for returning my call, and for your willingness to explain the Department's position regarding the information needed to grant a stay to water right permit holders during the pendency of the Director's October 26, 1999 Moratorium Order. Thompson Creek Mining Company appreciates the Department's desire to ensure that permit holders comply with the Moratorium. However, the information required by your December 10, 1999 letter and the information contained therein really appear to vitiate the Director's alternatives provided in his Moratorium Order.

Specifically, the Moratorium Order provides:

5. The holders of all existing permits to appropriate water within the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Areas, and within areas tributary to those wilderness areas, shall upon receipt of this moratorium order immediately stop further development under the permit, and within sixty (60) days of receipt of this order do one of the following:

- (a) file proof of beneficial use documenting the extent of diversion and beneficial use of water that was completed prior to receiving this moratorium order; or
- (b) request a stay in the development period under the permit, in accordance with Section 42-204, Idaho Code, until the conditions that resulted in this order have been alleviated, if such should ever occur.

(Moratorium Order, p. 8)(emphasis in original). Thus, the Director provided alternatives. However, your letter of December 10, 1999, and the accompanying forms, effectively lead to the result that someone requesting a stay will also have to provide proof of beneficial use.

Certainly, Idaho Code section 42-204 does allow the Department to obtain some information from a party who requests a stay. Specifically, that Section provides:

1. In cases where the applicant is prevented from proceeding with his work by his failure to obtain necessary consent or final approval or rejection from the federal government because of the pendency of an application for right of way or other matter within the jurisdiction of the United States, or by litigation of any nature which might bring his title to said water in question, the department of water resources upon proper showing of the existence of any such condition, and being convinced that said applicant is proceeding diligently and in good faith, shall extend the time so that the amount of time lost by such delays shall be added to the time given in the original permit for each and every action required.

Idaho Code section 42-204. That Thompson Creek is being prevented from proceeding with development of its permits due to litigation cannot be doubted; indeed, the Director's own Moratorium Order following the Supreme Court's wilderness decision orders that result. Further, Thompson Creek certainly understands that the Director needs to be convinced that Thompson Creek has been proceeding diligently and in good faith with its permits.

However, the information required by the forms, and your December 10, 1999, letter's requirement that the forms be completed "in detail" actually seems to require more information than is required when one files proof of beneficial under normal circumstances. Moreover, the Moratorium Order's beneficial use alternative simply requires that the permit holder file proof documenting "the extent of diversion and beneficial use of water that was completed prior to receiving this moratorium order." (Moratorium Order, p. 8). The requirements of the forms you sent require a description of the completion of the diversion works (in detail, according to your December 10, 1999 letter) and a description (again, in detail) of any beneficial use, as well as a description of remaining work to be done. When combined with the threat of recommending that the request for stay be denied, the effect of your December 10, 1999, letter and its forms are to require anyone requesting a stay to also file proof of beneficial use to date. Thus, the alternative options set forth in the Moratorium Order are no longer alternatives.

Thompson Creek will do nothing to jeopardize its permits, which are important to its survival. However, Thompson Creek would simply ask that the Department carefully consider its requirements for granting a stay under the Moratorium Order, particularly in light of the Director's clear plan that the options set forth on page 8 of the Moratorium Order are alternatives.

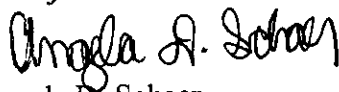
Thompson Creek would also note that with regard to Permit Number 72-07551, it just received an extension of time to prove beneficial use. Thus, the extent of development which has occurred under this permit is already on file with the Department. As to Permit Number 72-07537, that permit was issued in September of this year.

Letter to Jeff Peppersack
December 14, 1999
Page 3

Thank you for your consideration of the points made in this letter. If you have any questions, please do not hesitate to contact Scott Campbell or me.

Very truly yours,

ELAM & BURKE
A Professional Association


Angela D. Schaer

ADS:thm G:\Thm\WPDATA\0016\00110-peppersack.wpd

cc: Karl Dreher, Director, IDWR
Kevin Loughrey
Bert Doughty



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

December 10, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

ELAM & BURKE
ANGELA D SCHAEER
PO BOX 1539
BOISE ID 83701

RE: Water Right Permits 72-07551 & 72-07573

Dear Ms. Schaer:

We are in receipt of your request for a stay in the development period of Permits 72-07551 & 72-07573 that you submitted in connection with the Wilderness Area Moratorium issued on October 26, 1999. In order to process your request, some additional information is required. Please describe in detail the extent of development and beneficial use that has occurred under the permit prior to the date of the moratorium order. Also please describe what remains to be done in order to complete the diversion and use of water under the permit. A form has been enclosed with this letter for your use to provide the requested information.

Unless you provide the requested information within twenty-one days, I will recommend that your request for stay be denied.

If you have any questions, please contact me at 208-327-7940.

Sincerely,

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

Jeff Peppersack, Manager
Water Right Permits Section

Enclosures

cc: Scott Campbell

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
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KEY FINANCIAL CENTER
702 WEST IDAHO
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BOISE, IDAHO 83701

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208-343-5454

FACSIMILE
208-384-5844

ANGELA D. SCHAER

E-mail: ads@elamburke.com

December 8, 1999

VIA HAND-DELIVERY

Karl E. Dreher, P.E.
Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706-2237

Re: In the Matter of Permit Nos. 72-07551 and 72-07573
in the Name of Thompson Creek Mining Company

Dear Mr. Dreher:

Enclosed for filing please find the original and one copy of Thompson Creek Mining Company's Request for Stay in each of the above-referenced matters. I have also enclosed an additional copy of each document to date-stamp and return in the enclosed self-addressed, — *done*
date
stamped envelope.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

Very truly yours,

ELAM & BURKE
A Professional Association


Angela D. Schaer

Scott L. Campbell, ISB #2251
Angela D. Schaer, ISB #5436
ELAM & BURKE, P.A.
Key Financial Center
702 West Idaho Street, 10th Floor
Post Office Box 1539
Boise, Idaho 83701-1539
Telephone: (208) 343-5454
Facsimile: (208) 384-5844

RECEIVED
DEC 8 1999
Department of Water Resources

Attorneys for Thompson Creek Mining Company

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

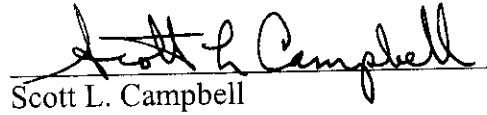
IN THE MATTER OF PERMIT	)	REQUEST FOR STAY
NUMBER 72-07573, IN THE NAME	)	
OF THOMPSON CREEK MINING	)	
COMPANY	)	
_____	)	

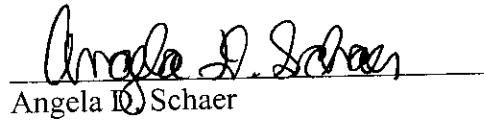
Thompson Creek Mining Company, by and through its attorneys of record Elam & Burke, P.A., and in accordance with Idaho Code section 42-204 and the Director's Moratorium Order dated October 26, 1999, hereby files this request for stay in the development period for the above-captioned permit. This request is based upon the fact that the Director has issued the Moratorium Order prohibiting further development of permits in areas which, *inter alia*, are tributary to the Frank Church River of No Return Wilderness. The above-referenced permit is in that area, and falls within the Moratorium Order.

Therefore, Thompson Creek Mining Company respectfully requests that the Department grant its request for stay with regard to the above-referenced permit.

DATED this 8th day of December, 1999

ELAM & BURKE, P.A.


Scott L. Campbell


Angela D. Schaer

Attorneys for Thompson Creek Mining Co.

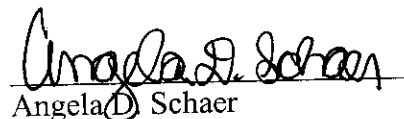
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 1999, I caused a true and correct copy of the foregoing REQUEST FOR STAY to be mailed by depositing same in the United States mail, postage prepaid, to:

Idaho Department of Water Resources
Southern Region
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301

and by hand-delivering the original and one copy to:

Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706-2237


Angela D. Schaer



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

December 1, 1999

Angela Schaer
Elam & Burke
PO Box 1539
Boise, ID 83701

RE: Permit 72-07573

Dear Angela:

I have received your letter concerning the above referenced permit. I apologize that a copy of the permit and associated correspondence was not sent to Scott Campbell. I have enclosed a copy for him. Scott is listed in the water right database with an "A" owner code (Attorney of Record). SRBA computer-generated correspondence is programmed for current owners ("C" owner code) and attorneys of record ("A" owner codes), however, all computer-generated correspondence from our water rights database has been programmed for only current owner codes. Therefore, I cannot guarantee that copies of correspondence will always be sent to Scott, but I have placed a note at the inside bottom of the file so that anyone sending correspondence for this file will hopefully remember to send copies to your office.

As to the other issue raised in your letter, yes this permit is effected by the new wilderness areas moratorium and a copy of the order was sent to the right holder. I have enclosed a copy of that document for Scott. As you can see from the order, further development is now prohibited by the order. The right holder has the opportunity to file proof of beneficial use for any development completed prior to issuance of the order or to request a stay in the development period.

If there is anything else I can provide for you in the way of copies or explanations, please give me a call.

Sincerely,

A handwritten signature in cursive script that reads "Sharla Curtis".

Sharla Curtis

Sr. Water Resource Agent

Enclosures

RECEIVED

NOV 23 1999

Department of Water Resources

ELAM & BURKE

A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE

ANGELA D. SCHAEER

January 12, 1999

208-384-5844

Sharla Curtis
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

Re: Thompson Creek Mining Company Application for Permit No. 72-07573

Dear Ms. Curtis:

I am one of the attorneys providing representation to Thompson Creek Mining Company regarding its water rights. I have previously spoken with Mary Baldwin at the Southern Region office, who indicated that the above referenced Application for Permit was approved on September 9, 1999. When we filed that Application for Permit, we requested that all correspondence regarding that permit be sent to Scott Campbell and myself at Elam & Burke. However, we never received any correspondence or other information from the Department regarding Application for Permit No. 72-07573.

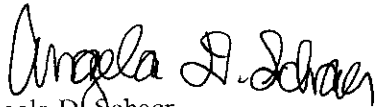
First, I would ask that you please change the Department's records in order to ensure that we do, in the future, receive any and all correspondence and other documents pertaining to that Permit. Second, please send me the Permit and any other documents pertaining to approval of the same.

After the Permit was approved, as you know, the Director of Idaho Department of Water Resources issued a moratorium on the Snake River. One of the regions effected was Basin 72. Please inform me of the Department's position as to the effect of the moratorium order on the above-referenced Application for Permit.

If you have any questions, please do not hesitate to contact me. In the meantime, I look forward to hearing from you regarding the above-referenced issues.

Very truly yours,

ELAM & BURKE
A Professional Association


Angela D. Schaer

ADS:thm G:\Thm\WPDATA\0016\00097-Curtis IDWR.wpd

cc: Bert Doughty
Kevin Loughrey
cc: Karl Dreher

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SENDER:

- Complete items 1 through 2 for additional services.
- Complete items 3, 4, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

72-07573
THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON

ID 83227

4a. Article Number

2269221960

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☒ Return Receipt for Merchandise ☒ COD

7. Date of Delivery

5. Received By: (Print Name)

6. Signature: (Addressee or

X

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December

2269221960

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US Postal Service

Receipt for Certified

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Postage

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Special Delivery Fee

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Return Receipt Showing to Whom & Date Delivered

Return Receipt Showing to Whom, Date, & Addressee's Address

TOTAL Postage & Fees

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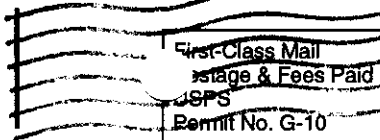
Postmark or Date

PS Form 3800, April 1995

72-07573
THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON
ID 83227

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



• Print your name, address, and ZIP Code in this box •

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1301 N. ORCHARD ST.
BOISE, ID 83706-2237

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Department of Water Resources

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83706-2237



Stick postage stamps to article to cover postage. Add postage and postage meter charges for any selected optional services.

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2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.

3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article RETURN RECEIPT REQUESTED adjacent to the number.

4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse RESTRICTED DELIVERY on the front of the article.

5. Enter fees for the services requested in the appropriate spaces on the front of the receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.

6. Save this receipt and present it if you make an inquiry.

102596-99-M-007



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

October 26, 1999

CERTIFIED MAIL

RE: Procedures Available upon Issuance of Final Moratorium Order

Dear Applicant or Permit Holder:

The accompanying "**Final Order**" by the Director of the Department of Water Resources establishes a moratorium on the processing of applications for permits to appropriate surface water or ground water within and tributary to the Selway-Bitterroot Wilderness Area, the Gospel-Hump Wilderness Area, and the Frank Church-River of No Return Wilderness Area. The order is issued pursuant to Section 67-5246, Idaho Code, and is effective as of October 25, 1999.

This letter provides a statement of the available procedures pursuant to Section 67-5246, Idaho Code, and provides the time limits for filing a petition for reconsideration of the order. The statement is required by the Department's Rule of Procedure 740.02.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order within fourteen (14) days of the service date of the order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be deemed denied by operation of law pursuant to Section 67-5246(4), Idaho Code.

A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

OPPORTUNITY TO REQUEST HEARING

The department did not conduct a hearing prior to issuance of the accompanying order. Section 42-1701A(3) provides, in pertinent part, as follows:

Moratorium Letter
October 26, 1999
Page 2 of 2

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the department of water resources or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by 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 denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing.

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.

For questions regarding the moratorium order please contact Glen Saxton, Water Allocation Bureau Chief, or me at (208) 327-7900.

Sincerely,



Norman C. Young
Administrator
Water Management Division



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

September 10, 1999

KARL J. DREHER
DIRECTOR

THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON ID 83227

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 72-07573

Dear Permit Holder:

The Department of Water Resources (IDWR) 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 IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

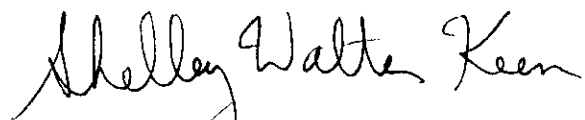
Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed, you should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

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

If you have any questions, please call me at 208-327-7946.

Sincerely,

A handwritten signature in cursive script that reads "Shelley Walter Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SK:klt

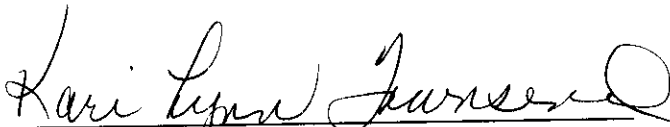
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of **September, 1999**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 72-07573

THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON ID 83227


Kari Lynn Townsend
Secretary

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

RECEIVED

SEP 7 1999

MEMO

Department of Water Resources

FROM: Allen Merritt 

DATE: September 2, 1999

TO: Application for Permit No: 72-07573

In the Name of: Thompson Creek Mining Co.

SUBJECT: Review and Recommendation

This application is for pumping water from a sump in the mine pit where groundwater collects. The application seeks use of this water that is pumped out of the pit for use in the milling operation at the mine.

The application was processed without protest.

RECOMMENDATION

I recommend that the application be approved subject to R06 & 09E.

FILE PROGRESS SUMMARY

APPLICANT:

Thompson Creek
Mining

WATER RIGHT NO. 72-07573

[illegible]

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

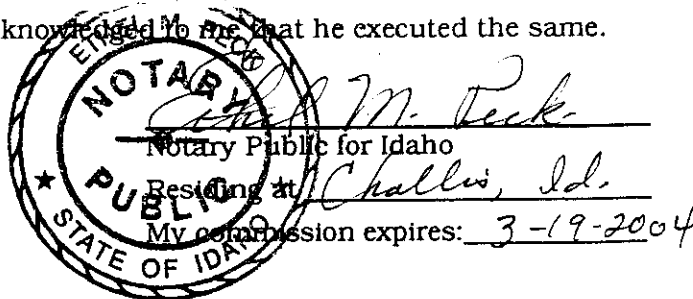
I, Ruth E. Burchill, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated Aug 5 1999 and ending with the issue dated Aug 12 1999.

Ruth E Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 12th day of Aug. in the year of 1999 before me, a Notary Public, personally appeared Ruth E. Burchill 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.



NOTICE OF APPLICATION FOR WATER PERMIT

The following applications have been filed to appropriate the public waters of the State of Idaho:

FOOTHILL DEVELOPMENT

9337 S 1300 E

SANDY UT 84094

Application for Permit No. 72-07572

Source: groundwater

Diversion Pt(s): SW1/4SE1/4, S28, T14N, R19E; Custer County.

Use: 01/01-12/31

Heating (0.12 cfs)

Cooling (0.12 cfs)

Total Diversion: 0.12 cfs

In: SW1/4SE1/4, S28, T14N, R19E

Date Filed: 07/29/1999

THOMPSON CREEK MINING CO
C/O BERT DOUGHTY

PO BOX 62

CLAYTON ID 83227

Application for Permit No. 72-07573

Source: groundwater

Diversion Pt(s): SW1/4NW1/4, S02, T11N, R16E; Custer County.

Use: 01/01-12/31

Industrial (1.5 cfs)

In: N1/2NE1/4, S12, T11N, R16E; Custer County

Date Filed: 07/22/1999

Any protest against the proposed application(s) must be filed with the Department of Water Resources, Southern Region, 1341 Fillmore St., Suite 200; Twin Falls, ID 83301 together with a protest fee of \$25.00 on or before August 23, 1999 to be considered by the Department in its decision to grant or deny any part of the proposed application(s). (Each application requires a separate protest). The protestant must also send a copy of the protest to the applicant.

Karl J. Dreher, Director

Pub: Aug. 5 & 12, 1999.

RECEIVED

AUG 13 1999

Department of Water Resources
Southern Region

STATEMENT

**Custer Publishing, Inc.**

Phone 879-4445

P.O. Box 405

Challis, Idaho 83226

Dept. of Water
1341 Fillmore St., Suite 200
Twin Falls, Id 83301-3380

Job No.	Date	DESCRIPTION	Amount
	8-12-99	Notice of Application for Water Permit 8/5+12/99 45 lines 72-07572 72-07573, OK MB 8/16/99	\$ 56.93
		RECEIVED AUG 13 1999 Department of Water Resources Southern District	

A finance charge of 1½ percent (annual percentage rate of 18%) with a minimum charge of 50¢ will be charged to all accounts not paid within 30 days of billing.

NOTICE OF APPLICATION FOR
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Date Filed: 07/29/1999

THOMPSON CREEK MINING CO

C/O BERT DOUGHTY

PO BOX 62

CLAYTON ID 83227

Application for Permit No. 72-07573

Source: groundwater

Diversion Pt(s): SW1/4NW1/4, S02,
T11N, R16E; Custer County.

Use: 01/01-12/31

Industrial (1.5 cfs)

In: N1/2NE1/4, S12, T11N, R16E;
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a separate protest). The protestant must
also send a copy of the protest to the
applicant.

Karl J. Dreher, Director

Published in The Challis Messenger on
08/05 & 08/12/99.

✓ ✓



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

July 29, 1999

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

**CUSTER PUBLISHING CO
PO BOX 405
CHALLIS ID 83226**

Gentlemen:

Enclosed you will find a legal notice which we wish to have published in your newspaper. We have inserted the required publication dates.

We have attempted to submit this legal as camera ready. Please call me at your earliest convenience and prior to your staff re-typing the legal if it does not meet your specifications so I can possibly make adjustments.

If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Very truly yours,

**Mary Baldwin
Administrative Assistant**

Enclosure

NOTICE OF APPLICATION FOR WATER PERMIT

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9337 S 1300 E
SANDY UT 84094

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Cooling (0.12 cfs)

Total Diversion: 0.12 cfs

In: SW1/4SE1/4, S28, T14N, R19E

Date Filed: 07/29/1999

THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON ID 83227

Application for Permit No. 72-07573

Source: groundwater

Diversion Pt(s): SW1/4NW1/4, S02, T11N, R16E; Custer County.

Use: 01/01-12/31
Industrial (1.5 cfs)

In: N1/2NE1/4, S12, T11N, R16E; Custer County

Date Filed: 07/22/1999

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Karl J. Dreher, Director

Published in The Challis Messenger on 08/05 & 08/12/99.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

July 29, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

SCOTT L CAMPBELL
PO BOX 1539
BOISE ID 83701

Re: Application for Permit No. 72-07573 (Thompson Creek Mining Co)

Dear Mr. Campbell:

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

This office has scheduled advertising the application in The Challis Messenger for 08/05 & 08/12/99. A period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in about five weeks. State office personnel will conduct a complete review prior to final processing of the application and will notify you of the outcome of this review. If a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about eight weeks.

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

Sincerely,

Mary A. Baldwin
Administrative Assistant

MB

CC:
THOMPSON CREEK MINING CO
C/O BERT DOUGHTY
PO BOX 62
CLAYTON ID 83227

RECEIVED

JUL 22 1999

Department of Water Resources
Southern Region

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

ANGELA D. SCHAER

E-mail: ads@elamburke.com

July 21, 1999

James E. Stanton
Sr. Water Resource Agent
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Applications for Permit and Transfer, Thompson Creek Mining

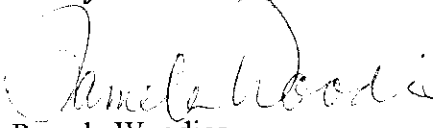
Dear Mr. Stanton:

We are in receipt of your letter dated July 20, 1999, regarding the incorrect check amount. We apologize for the error and enclose herewith a check in the amount of \$320.00.

Thank you very much for your cooperation in this matter.

Very truly yours,

ELAM & BURKE
A Professional Association


Pamela Woodies
Assistant to Angela D. Schaer

Enclosure

72-07573



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 20, 1999

Scott L Campbell
Elam & Burke
PO Box 1539
Boise, ID
83701

RE: Applications for Permit & Transfer, Thompson Creek Mining

Dear Scott;

We have received the above-referenced applications and your check in the amount of \$380. Since the correct filing fee is \$320., we are returning your check for submittal of the correct amount. It is not cost effective for us to make partial refunds of filing fees. We will hold these applications for submittal of the correct fee.

Regards,

James E. Stanton
Sr. Water Resource Agent

72-07573

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
Established in 1928

KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

ANGELA D. SCHAEER

RECEIVED

JUL 13 1999

Department of Water Resources
Southern Region

TELEPHONE
208-343-5454

FACSIMILE
208-384-5844

E-mail: ads@elamburke.com

July 13, 1999

Harold Jones
Idaho Department of Water Resources
Eastern Region
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402

RECEIVED

JUL 15 1999

Department of Water Resources
Eastern District Office

*Re: Thompson Creek Mining Company Water Rights
Applications for Transfer and Application for Permit*

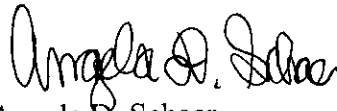
Dear Mr. Jones:

I am enclosing for filing two Applications for Transfer and one Application for Permit filed on behalf of Thompson Creek Mining Company. In addition, I have enclosed a check in the amount of \$320 to cover the statutory filing fee for each application. I have also enclosed an additional copy to be receive-stamped and returned to our offices in the enclosed stamped, self-addressed envelope.

If you have any questions or concerns, please do not hesitate to contact Scott Campbell or me.

Very truly yours,

ELAM & BURKE
A Professional Association


Angela D. Schaer

ADS:pw

Enclosures

G:\Thm\WPDATA\0016\jones 7-13.wpd

cc: Bert Doughty (w/o enc.)
Kevin Loughrey (w/o enc.)

72-07573