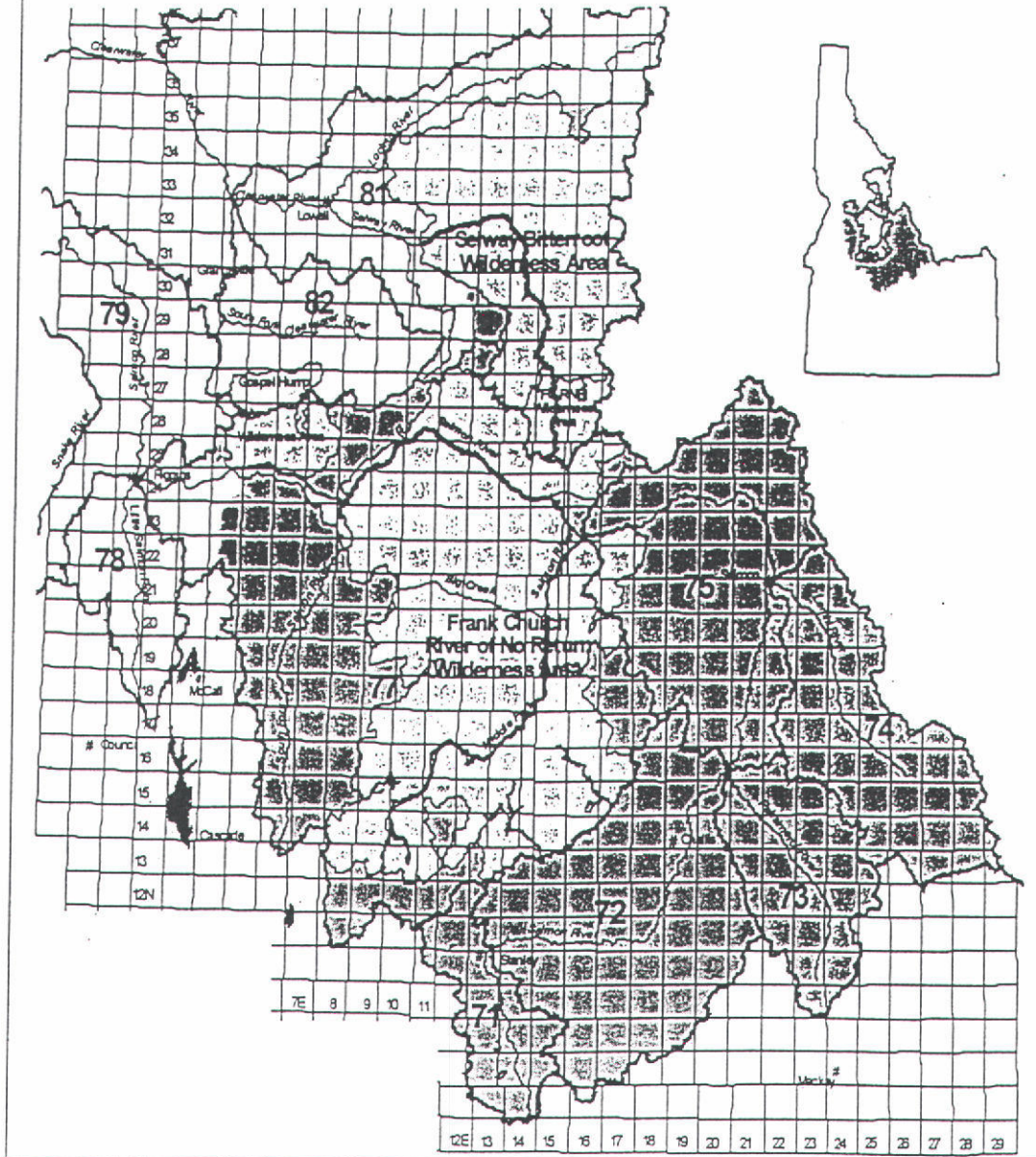


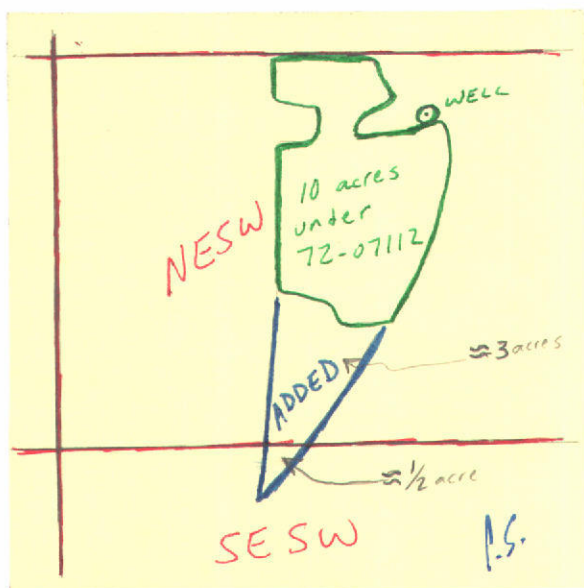
# Wilderness Moratorium Areas

October 26, 1999

-  DWR Administrative Basins with basin number
-  Wilderness Areas
-  Tributary Areas
-  Township/Range

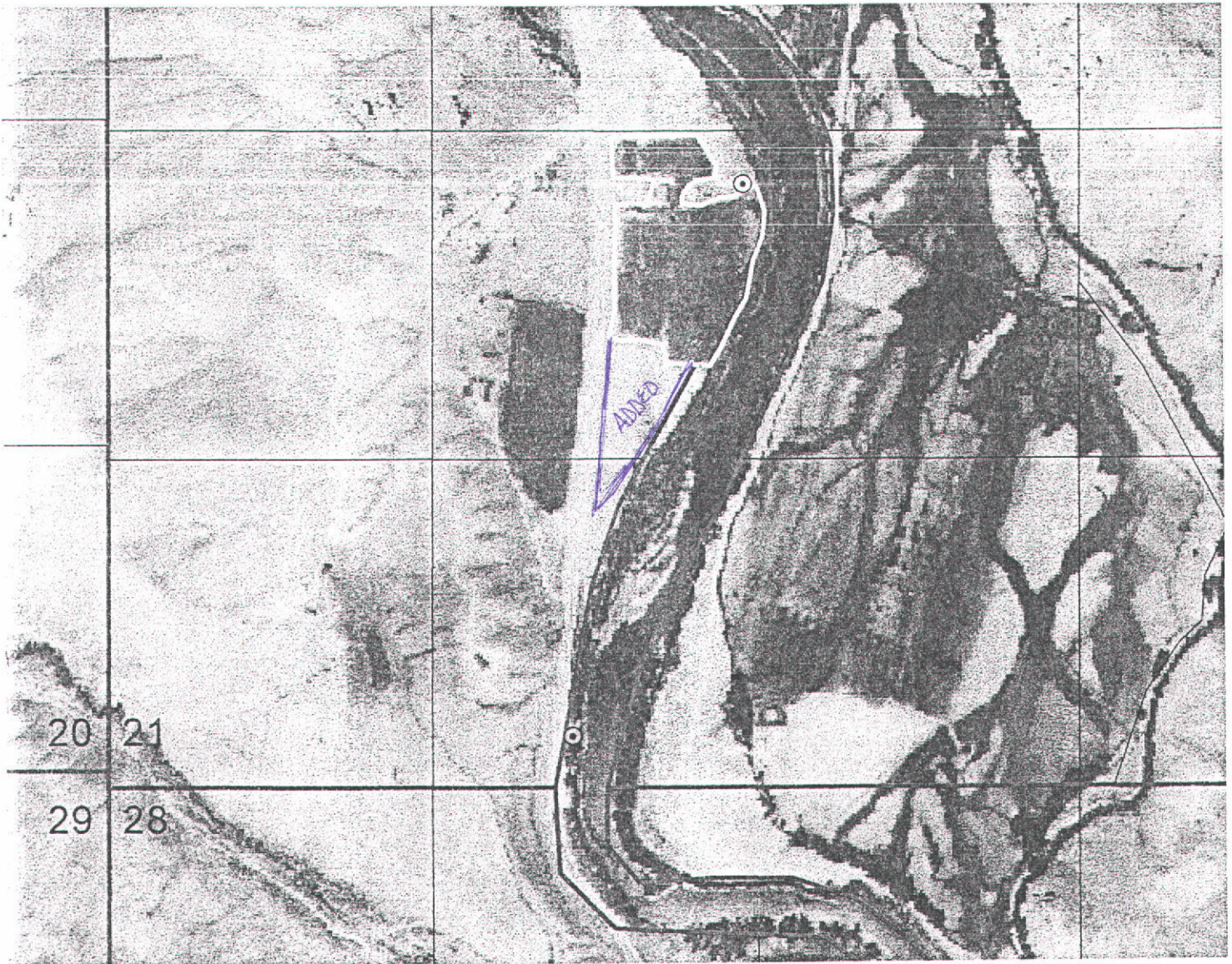


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# IDAHO DEPARTMENT OF WATER RESOURCES

## 72-07112



660 0 660 1320 Feet

- RECOMMENDED PLACE OF USE
- RECOMMENDED POINT OF DIVERSION
- SECTION LINES
- QUARTER-QUARTER LINES
- ∧ STREAMS & DITCH CHANNELS

TWN: 13N  
RNG: 19E  
SEC: 21  
NESW



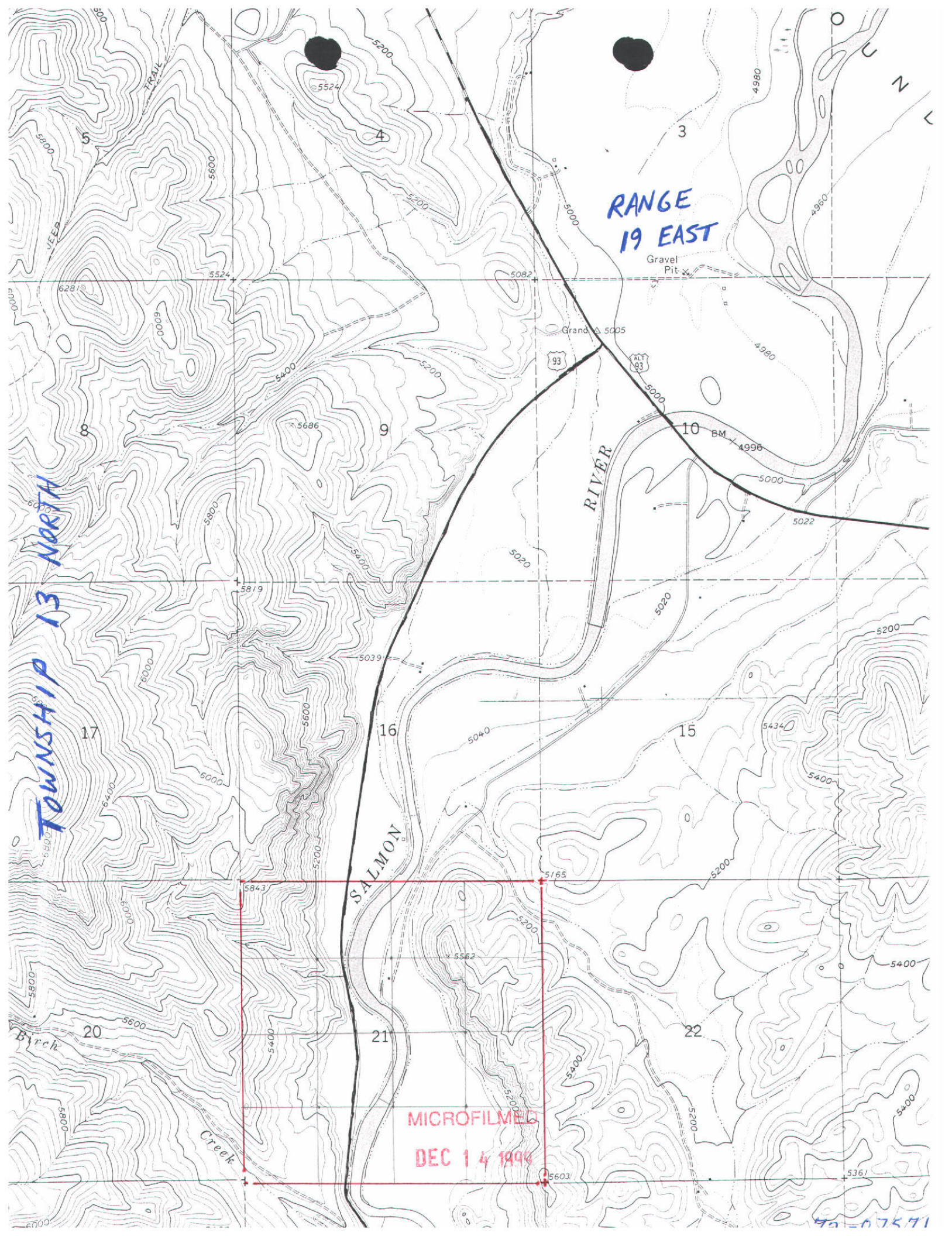
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DEC 14 1999

GIS PLACE OF USE PRESENTATION  
USFS AERIAL PHOTOGRAPHY, 1988  
BY STEVE CLELLAND

DATE: OCT. 30, 1998

72 - 07571



RANGE  
19 EAST

TOWNSHIP 13 NORTH

MICROFILMED  
DEC 14 1994

72-07571

13N19E

|         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |         |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 08 LT04 | 08 LT03 | 08 LT02 | 08 LT01 | 05 LT04 | 05 LT03 | 05 LT02 | 05 LT01 | 04 LT04 | 04 LT03 | 04 LT02 | 04 LT01 | 03 LT04 | 03 LT03 | 03 LT02 | 03 LT01 | 02 LT04 | 02 LT03 | 02 LT02 | 02 LT01 | 01 LT04 | 01 LT03 | 01 LT02 | 01 LT01 |
| 08 SWNW | 08 SENW | 08 SWNE | 08 SENE | 05 SWNW | 05 SENW | 05 SWNE | 05 SENE | 04 SWNW | 04 SENW | 04 SWNE | 04 SENE | 03 SWNW | 03 SENW | 03 SWNE | 03 SENE | 02 SWNW | 02 SENW | 02 SWNE | 02 SENE | 01 SWNW | 01 SENW | 01 SWNE | 01 SENE |
| 08 NWSW | 08 NESW | 08 NWSE | 08 NESE | 05 NWSW | 05 NESW | 05 NWSE | 05 NESE | 04 NWSW | 04 NESW | 04 NWSE | 04 NESE | 03 NWSW | 03 NESW | 03 NWSE | 03 NESE | 02 NWSW | 02 NESW | 02 NWSE | 02 NESE | 01 NWSW | 01 NESW | 01 NWSE | 01 NESE |
| 08 SWSW | 08 SESW | 08 SWSE | 08 SESE | 05 SWSW | 05 SESW | 05 SWSE | 05 SESE | 04 SWSW | 04 SESW | 04 SWSE | 04 SESE | 03 SWSW | 03 SESW | 03 SWSE | 03 SESE | 02 SWSW | 02 SESW | 02 SWSE | 02 SESE | 01 SWSW | 01 SESW | 01 SWSE | 01 SESE |
| 07 NWNW | 07 NENW | 07 NWNE | 07 NENE | 06 NWNW | 06 NENW | 06 NWNE | 06 NENE | 05 NWNW | 05 NENW | 05 NWNE | 05 NENE | 04 NWNW | 04 NENW | 04 NWNE | 04 NENE | 03 NWNW | 03 NENW | 03 NWNE | 03 NENE | 02 NWNW | 02 NENW | 02 NWNE | 02 NENE |
| 07 SWNW | 07 SENW | 07 SWNE | 07 SENE | 06 SWNW | 06 SENW | 06 SWNE | 06 SENE | 05 SWNW | 05 SENW | 05 SWNE | 05 SENE | 04 SWNW | 04 SENW | 04 SWNE | 04 SENE | 03 SWNW | 03 SENW | 03 SWNE | 03 SENE | 02 SWNW | 02 SENW | 02 SWNE | 02 SENE |
| 07 NWSW | 07 NESW | 07 NWSE | 07 NESE | 06 NWSW | 06 NESW | 06 NWSE | 06 NESE | 05 NWSW | 05 NESW | 05 NWSE | 05 NESE | 04 NWSW | 04 NESW | 04 NWSE | 04 NESE | 03 NWSW | 03 NESW | 03 NWSE | 03 NESE | 02 NWSW | 02 NESW | 02 NWSE | 02 NESE |
| 07 SWSW | 07 SESW | 07 SWSE | 07 SESE | 06 SWSW | 06 SESW | 06 SWSE | 06 SESE | 05 SWSW | 05 SESW | 05 SWSE | 05 SESE | 04 SWSW | 04 SESW | 04 SWSE | 04 SESE | 03 SWSW | 03 SESW | 03 SWSE | 03 SESE | 02 SWSW | 02 SESW | 02 SWSE | 02 SESE |
| 18 NWNW | 18 NENW | 18 NWNE | 18 NENE | 17 NWNW | 17 NENW | 17 NWNE | 17 NENE | 16 NWNW | 16 NENW | 16 NWNE | 16 NENE | 15 NWNW | 15 NENW | 15 NWNE | 15 NENE | 14 NWNW | 14 NENW | 14 NWNE | 14 NENE | 13 NWNW | 13 NENW | 13 NWNE | 13 NENE |
| 18 SWNW | 18 SENW | 18 SWNE | 18 SENE | 17 SWNW | 17 SENW | 17 SWNE | 17 SENE | 16 SWNW | 16 SENW | 16 SWNE | 16 SENE | 15 SWNW | 15 SENW | 15 SWNE | 15 SENE | 14 SWNW | 14 SENW | 14 SWNE | 14 SENE | 13 SWNW | 13 SENW | 13 SWNE | 13 SENE |
| 18 NWSW | 18 NESW | 18 NWSE | 18 NESE | 17 NWSW | 17 NESW | 17 NWSE | 17 NESE | 16 NWSW | 16 NESW | 16 NWSE | 16 NESE | 15 NWSW | 15 NESW | 15 NWSE | 15 NESE | 14 NWSW | 14 NESW | 14 NWSE | 14 NESE | 13 NWSW | 13 NESW | 13 NWSE | 13 NESE |
| 18 SWSW | 18 SESW | 18 SWSE | 18 SESE | 17 SWSW | 17 SESW | 17 SWSE | 17 SESE | 16 SWSW | 16 SESW | 16 SWSE | 16 SESE | 15 SWSW | 15 SESW | 15 SWSE | 15 SESE | 14 SWSW | 14 SESW | 14 SWSE | 14 SESE | 13 SWSW | 13 SESW | 13 SWSE | 13 SESE |
| 19 NWNW | 19 NENW | 19 NWNE | 19 NENE | 20 NWNW | 20 NENW | 20 NWNE | 20 NENE | 21 NWNW | 21 NENW | 21 NWNE | 21 NENE | 22 NWNW | 22 NENW | 22 NWNE | 22 NENE | 23 NWNW | 23 NENW | 23 NWNE | 23 NENE | 24 NWNW | 24 NENW | 24 NWNE | 24 NENE |
| 19 SWNW | 19 SENW | 19 SWNE | 19 SENE | 20 SWNW | 20 SENW | 20 SWNE | 20 SENE | 21 SWNW | 21 SENW | 21 SWNE | 21 SENE | 22 SWNW | 22 SENW | 22 SWNE | 22 SENE | 23 SWNW | 23 SENW | 23 SWNE | 23 SENE | 24 SWNW | 24 SENW | 24 SWNE | 24 SENE |
| 19 NWSW | 19 NESW | 19 NWSE | 19 NESE | 20 NWSW | 20 NESW | 20 NWSE | 20 NESE | 21 NWSW | 21 NESW | 21 NWSE | 21 NESE | 22 NWSW | 22 NESW | 22 NWSE | 22 NESE | 23 NWSW | 23 NESW | 23 NWSE | 23 NESE | 24 NWSW | 24 NESW | 24 NWSE | 24 NESE |
| 19 SWSW | 19 SESW | 19 SWSE | 19 SESE | 20 SWSW | 20 SESW | 20 SWSE | 20 SESE | 21 SWSW | 21 SESW | 21 SWSE | 21 SESE | 22 SWSW | 22 SESW | 22 SWSE | 22 SESE | 23 SWSW | 23 SESW | 23 SWSE | 23 SESE | 24 SWSW | 24 SESW | 24 SWSE | 24 SESE |
| 20 NWNW | 20 NENW | 20 NWNE | 20 NENE | 29 NWNW | 29 NENW | 29 NWNE | 29 NENE | 28 NWNW | 28 NENW | 28 NWNE | 28 NENE | 27 NWNW | 27 NENW | 27 NWNE | 27 NENE | 26 NWNW | 26 NENW | 26 NWNE | 26 NENE | 25 NWNW | 25 NENW | 25 NWNE | 25 NENE |
| 20 SWNW | 20 SENW | 20 SWNE | 20 SENE | 29 SWNW | 29 SENW | 29 SWNE | 29 SENE | 28 SWNW | 28 SENW | 28 SWNE | 28 SENE | 27 SWNW | 27 SENW | 27 SWNE | 27 SENE | 26 SWNW | 26 SENW | 26 SWNE | 26 SENE | 25 SWNW | 25 SENW | 25 SWNE | 25 SENE |
| 20 NWSW | 20 NESW | 20 NWSE | 20 NESE | 29 NWSW | 29 NESW | 29 NWSE | 29 NESE | 28 NWSW | 28 NESW | 28 NWSE | 28 NESE | 27 NWSW | 27 NESW | 27 NWSE | 27 NESE | 26 NWSW | 26 NESW | 26 NWSE | 26 NESE | 25 NWSW | 25 NESW | 25 NWSE | 25 NESE |
| 20 SWSW | 20 SESW | 20 SWSE | 20 SESE | 29 SWSW | 29 SESW | 29 SWSE | 29 SESE | 28 SWSW | 28 SESW | 28 SWSE | 28 SESE | 27 SWSW | 27 SESW | 27 SWSE | 27 SESE | 26 SWSW | 26 SESW | 26 SWSE | 26 SESE | 25 SWSW | 25 SESW | 25 SWSE | 25 SESE |
| 31 NWNW | 31 NENW | 31 NWNE | 31 NENE | 32 NWNW | 32 NENW | 32 NWNE | 32 NENE | 33 NWNW | 33 NENW | 33 NWNE | 33 NENE | 34 NWNW | 34 NENW | 34 NWNE | 34 NENE | 35 NWNW | 35 NENW | 35 NWNE | 35 NENE | 36 NWNW | 36 NENW | 36 NWNE | 36 NENE |
| 31 SWNW | 31 SENW | 31 SWNE | 31 SENE | 32 SWNW | 32 SENW | 32 SWNE | 32 SENE | 33 SWNW | 33 SENW | 33 SWNE | 33 SENE | 34 SWNW | 34 SENW | 34 SWNE | 34 SENE | 35 SWNW | 35 SENW | 35 SWNE | 35 SENE | 36 SWNW | 36 SENW | 36 SWNE | 36 SENE |
| 31 NWSW | 31 NESW | 31 NWSE | 31 NESE | 32 NWSW | 32 NESW | 32 NWSE | 32 NESE | 33 NWSW | 33 NESW | 33 NWSE | 33 NESE | 34 NWSW | 34 NESW | 34 NWSE | 34 NESE | 35 NWSW | 35 NESW | 35 NWSE | 35 NESE | 36 NWSW | 36 NESW | 36 NWSE | 36 NESE |
| 31 SWSW | 31 SESW | 31 SWSE | 31 SESE | 32 SWSW | 32 SESW | 32 SWSE | 32 SESE | 33 SWSW | 33 SESW | 33 SWSE | 33 SESE | 34 SWSW | 34 SESW | 34 SWSE | 34 SESE | 35 SWSW | 35 SESW | 35 SWSE | 35 SESE | 36 SWSW | 36 SESW | 36 SWSE | 36 SESE |

UNCLASSIFIED

DEC 14 1999

72-07571

# APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

by *Cindy Sten*No.: 12-7571 Name: Cutler Date: 6/2/99 Ad OK? ☒ ☒ Gvmt Lts: ☒AREA OF CONCERN: - No/Yes: S/C Mor / GWMA / Trust / Non-trust

PROTESTED: - 020 (Protest Agreement) or \*W19 (Order)

## SYSTEM COMPLETED:

- > 1 year - 26A-P17
- ≤ 1 year/no proof - P16

## GROUNDWATER: (✓ FLO-CH)

## DRILLING PERMIT

All wells (✓ WDQ3) - 046-P23In Basin 34? - 085Irr. within WD - P05 (new well location)

WMD (✓ MAP) - North / East / West

> 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres - No MD

## WMD

Supp irr use only - 065-079 (if GW use SW)-(keep SW)-(GW not primary irr source)Supp. irr + uses - 100-101> 0.24 cfs/5 acres - 01M (report when notified)

≤ 0.24 cfs/5 acres - No MD

SURFACE WATER: (✓ FLO-CH) (Surface water that *doesn't sink* is regulated):

FISH &amp; GAME CONTACTED: - YES / NO; WHEN: \_\_\_\_\_ RESPONSE: \_\_\_\_\_

IN/ABOVE MSF (✓ MAP) - \*WB9IN-STREAM DEVELOPMENT - P52 (stream channel alteration)WD (✓ MAP & LISTING) - R04 (WD # \_\_\_\_\_)> 0.20 cfs - 01J-P08 (MD & LD)≤ 0.20 cfs - 01H-P01 (LD), 01P or No MD (in-stream stock)

## WMD (✓ MAP)

> 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres - No MD

## SPRINGS/SINK, INACTIVE WD &amp; REST OF STATE

> 0.24 cfs/5 acres - 01M or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres - No MD

## RIVER BASINS: (\*Surface water):

Snake R (01) - \*W22-P04, NA(02/03-irr) - 007 (w/ remark \*WB9 if above Weiser), NAPayette R(65) - \*W22 (regulated uses), 047-P04 (Payette Lake), NASalmon R (70's) - 029 (fish screens), NAWeiser R (67) - 086, 087

## USE:

STORAGE (✓3 compo.) - 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NAIRR ≤ 5 acres - R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)> 5 acres - R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)STOCKWATER - R37 (BLM/USFS); NAMINING - 054(req) - 081-P10FISH PROPAGATION - 029 (70's only) - 007-042(req) - 081 (WQ) - P10HEATING/COOLING - R07 (injection well)POWER - 17H/17K(+uses) - 08A-025(P18) - 01N-028-081(P10) - 027 (if no other cons. use); 17G (FERC) or 17M (FERC); 18B-P09; >25 cfs - P18

## MUNICIPAL

In restricted area? - 022, 075, 004 (+memo?)Irr., GW supp. to SW? - 102

## DOMESTIC

Surface water - \*WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA>1 in rest. area - 071-070

## FIRE PROTECTION

- 077

## LOCATION:

BOISE FRONT LOGEO - 058 (<85° GW temp only)MITIGATION - 12042-248 AREA - P84 (in 20/30/40/50/60/70/80 (87) basin)

SWAN FALLS FLAG (✓ Code) -

Trust - 051-052-053-P74 (Consumptive Uses), NANon-Trust (1) - 048-049 (Consumptive Uses), NA

## OWNERSHIP:

- 004 (PD/PU) \_\_\_\_\_

## OTHER CONDITIONS:

- \_\_\_\_\_

## STANDARD REMARKS:

- \_\_\_\_\_

## BENEFICIAL USE DUE:

- 6 /1/ 2004

## COMMENTS:

- \_\_\_\_\_

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.    )  
72-07571 IN THE NAME OF        )  
HELEN CUTLER                    )  
                                  )  
                                  )  
\_\_\_\_\_                          )

**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 February 9, 2000, Helen Cutler (permit holder) filed a request for an indefinite stay in the development period for Permit No. 72-07571 (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.

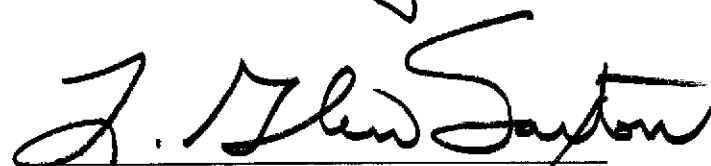
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ORDER

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 10<sup>th</sup> day of February, 2000.

  
for KARL J. DREHER  
Director

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

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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

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.

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APR 18 2003

## 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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APR 18 2000

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 26<sup>th</sup> day of October, 1999.

  
\_\_\_\_\_  
KARL J. DREHER  
Director

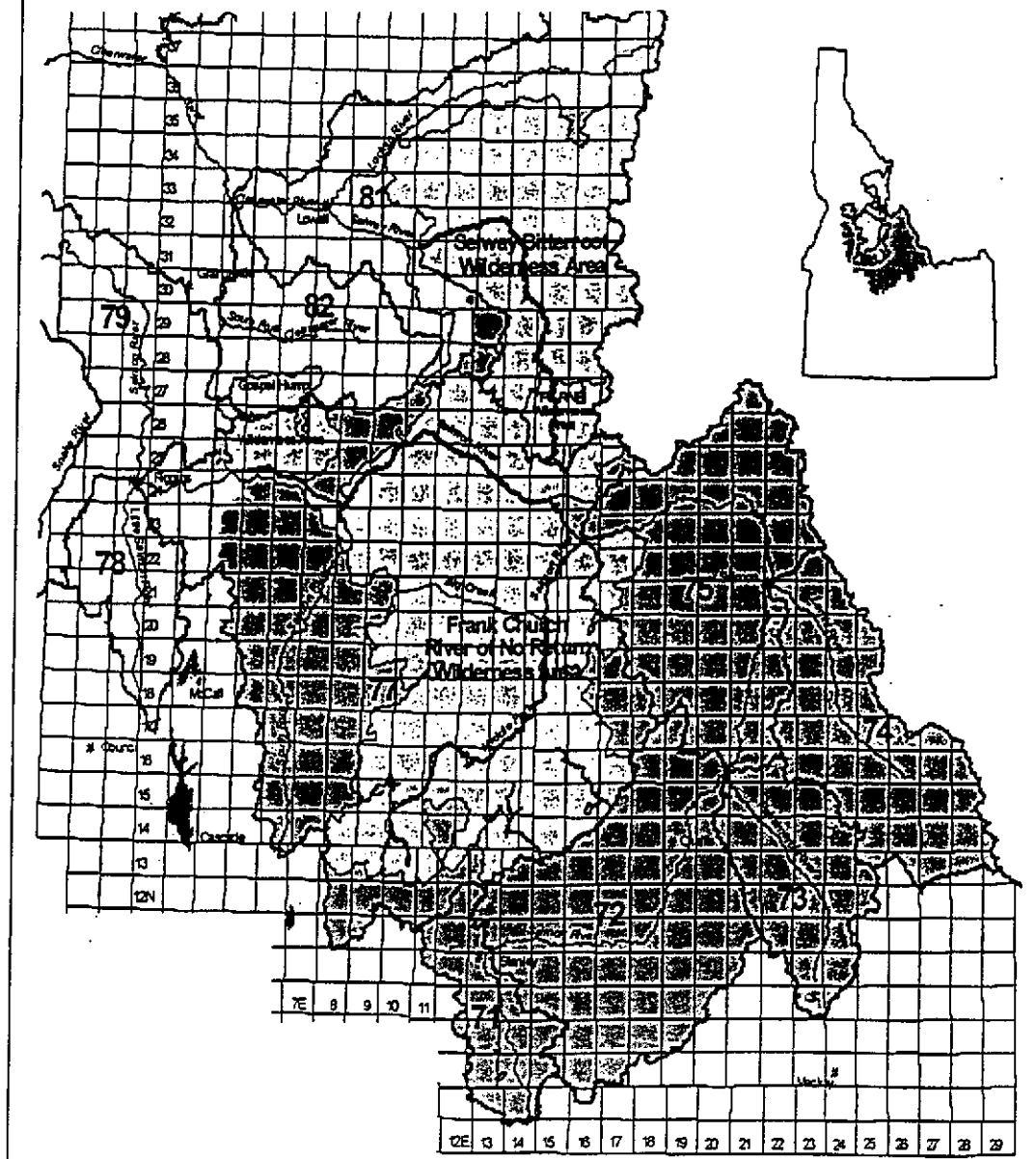
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APR 18 2000

# Wilderness Moratorium Areas

October 26, 1999

-  DWR Administrative Basins with basin number
-  Wilderness Areas
-  Tributary Areas
-  Township/Range



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APR 16 2000

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 72-07571

Proposed Priority: February 25, 1999 Maximum Diversion Rate: 0.17 CFS

This is to certify, that HELEN CUTLER  
PO BOX 209

CHALLIS ID 83226-0209

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> |
|-----------------------|----------------------|--------------------------|
|-----------------------|----------------------|--------------------------|

|            |                |          |
|------------|----------------|----------|
| IRRIGATION | 04/15 to 10/15 | 0.17 CFS |
|------------|----------------|----------|

LOCATION OF POINT(S) OF DIVERSION: Lot 6 ( NESW), Sec. 21, Township 13N, Range 19E  
CUSTER County

PLACE OF USE: IRRIGATION

| <u>TWN</u> | <u>RGE</u> | <u>SEC</u> | <u>ACRES</u>      | <u>ACRES</u>     | <u>ACRES</u> | <u>TOTAL</u> |
|------------|------------|------------|-------------------|------------------|--------------|--------------|
| 13N        | 19E        | 21         | Lot 6 (NESW) 14.0 | Lot 7 (SESW) 1.0 |              | 15.0         |

Total number of acres irrigated: 15.0

## CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 2004.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
5. 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.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 3.5 afa per acre at the field headgate for irrigation of the lands above.

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DEC 14 1999

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 72-07571

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

14<sup>th</sup> day of June, 1999.



Karl J. Dreher, Director

*for*



MICROFILMED

DEC 14 1999

RECEIVED  
CH # 1530  
MAY 12 1999

FORM 202  
2/96

RECEIVED  
CHECK  
FEB 25 1999  
Department of Water Resources  
Southern Region

Department of Water Resources  
Southern Region

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

# APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 72-07571

RECEIVED

MAY 17 1999

Department of Water Resources

1. Name of Applicant HELEN CUTLER Phone 208-879-2276  
Mailing address P.O. Box 209 Challus, Id. 83226
2. Source of water supply Groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is Township 13N Range 19E Sec. 21 in the NE 1/4.  
NE 1/4, SW 1/4, Govt. Lot 6, B.M., Custer County:  
additional points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount .07 cfs for irrigation purposes from 4/15 to 10/15 \* (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount .10 cfs for irrigation purposes from 4/15 to 10/15 (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)  
\* standard season 6/2/99 c.z.
5. Total quantity to be appropriated is (a) .17 cubic feet per second and/or (b) \_\_\_\_\_ acre feet per annum
6. Proposed diverting works:
  - a. Describe type and size of devices used to divert water from the source pump + irrigation pipe
  - 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? 1978, Drilling firm Boyd Lambert  
Well was drilled for (well owner) Steve + Helen Cutler; Drilling Permit No. \_\_\_\_\_
7. Time required for completion of works and application of water to proposed beneficial use is 5 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. \_\_\_\_\_

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DEC 14 1999

9. Description of place of use:

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

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

| TWP   | RGE | SEC | NE |    |    |    | NW |    |    |    | SW    |    |    |       | SE |    |    |    | TOTALS |
|-------|-----|-----|----|----|----|----|----|----|----|----|-------|----|----|-------|----|----|----|----|--------|
|       |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE    | NW | SW | SE    | NE | NW | SW | SE |        |
| * 13N | 19E | 21  |    |    |    |    |    |    |    |    | 14    |    |    | 1     |    |    |    | *  | 15     |
|       |     |     |    |    |    |    |    |    |    |    | LOT 6 |    |    | LOT 7 |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |
|       |     |     |    |    |    |    |    |    |    |    |       |    |    |       |    |    |    |    |        |

\* CHANGES MADE 03/26/99 BY C. SKINNER PER 03/24/99 VOICE MAIL MESSAGE FROM APPLICANT IN RESPONSE TO 3/23/99 LETTER.

Total number of acres to be irrigated 15

10. Describe any other water rights used for the same purposes as described above. 72-07112

11. a. Who owns the property at the point of diversion? Helen Cutler

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

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: this addition will total 1" / acre for 15 acres

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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.)

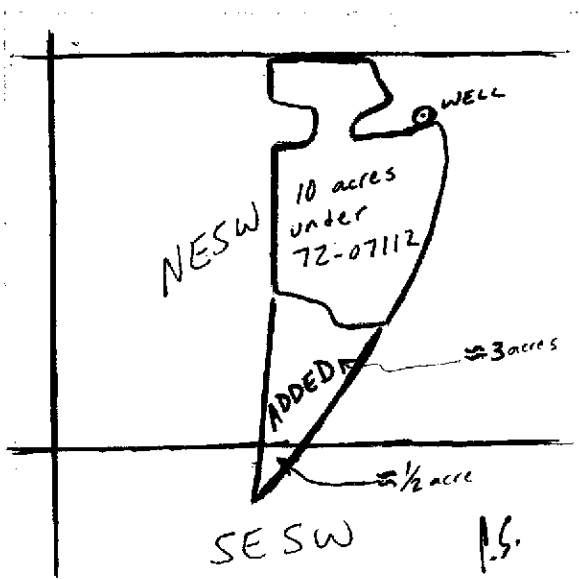
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

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DEC 14 1999

Helen Cutler  
Signature of Applicant (and title, if applicable)

Received by P. SKINNER Date 2/25/99 Time NOONISH Preliminary check by P. SKINNER  
Fee \$ 50.00 Received by P. SKINNER # S021915 Date 3/23/99  
Publication prepared by MB Date 3/30/99 Published in The Challis Messenger  
Publication approved MB Date 5/12/99



# IDAHO DEPARTMENT OF WATER RESOURCES

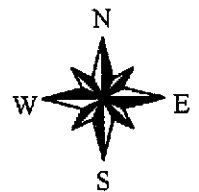
## 72-07112



660 0 660 1320 Feet

- RECOMMENDED PLACE OF USE
- RECOMMENDED POINT OF DIVERSION
- SECTION LINES
- QUARTER-QUARTER LINES
- STREAMS & DITCH CHANNELS

TWN: 13N  
RNG: 19E  
SEC: 21  
NESW



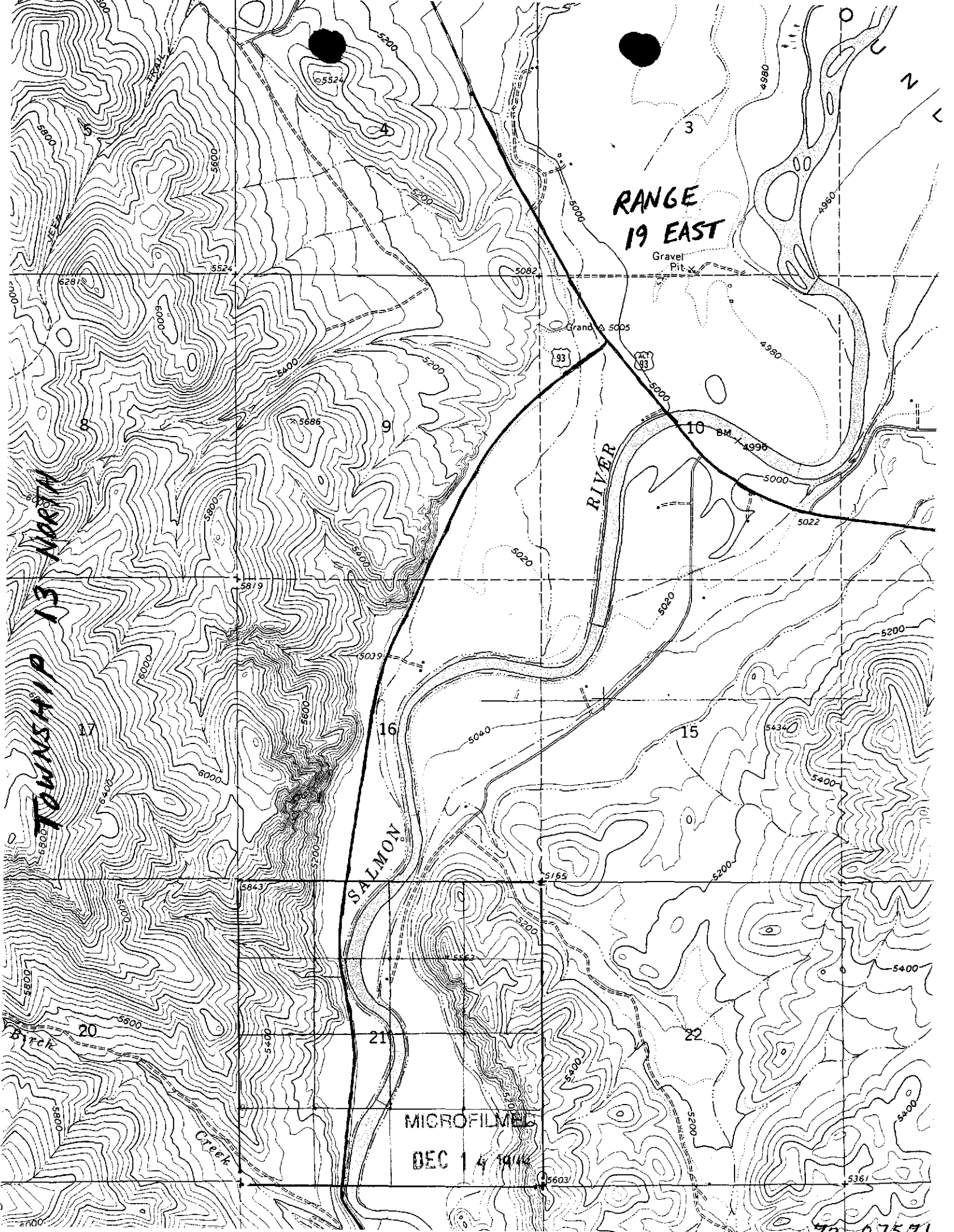
MICROFILMED

DEC 14 1999

GIS PLACE OF USE PRESENTATION  
USFS AERIAL PHOTOGRAPHY, 1988  
BY STEVE CLELLAND

DATE: OCT. 30, 1998

72 - 07571



RANGE  
19 EAST

Gravel  
Pit

Grand A 5005

RIVER

SALMON

MICROFILMED

DEC 14 1944

TOWNSHIP 13 NORTH

Birch

Creek

75-07571

UNCLASSIFIED

72-07571



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

February 10, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226-0209

RE: Preliminary Order for Water Right 72-07571

Dear Ms. Cutler:

The accompanying order 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 unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-327-7940.

Sincerely,

Jeff Peppersack, Manager  
Water Right Permits Section

JP:klt

Enclosures

cc: IDWR - Southern Region

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APR 18 2000

CERTIFICATE OF MAILING

I hereby certify that on the 10th day of February, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER** to the person(s) listed below:

RE: Preliminary order for Water Right 72-07571

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226-0209

  
Kari Lynn Townsend  
Secretary

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APR 18 2000

RECEIVED

FEB - 9 2000

Department of Water Resources

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCESREQUEST FOR STAY IN THE DEVELOPMENT PERIOD AND  
QUESTIONNAIRE TO DETERMINE EXTENT OF DEVELOPMENT

The Idaho Department of Water Resources considers this form a request for stay in the development period of a permit in the Selway-Bitterroot, Gospel-Hump, and Frank Church-River of No Return Wilderness Moratorium Area. In addition, this form is a statement of the permit holder(s) extent of development prior to the Moratorium Order issued October 26, 1999. This form must be completed in order to process a request for stay.

1. Permit No. 72-07571 Telephone No. 208-879-22552. Name(s) of Permit Holder(s): HELEN CUTLER

3. Have you begun construction of the diversion works authorized under this permit?

No ☒Yes ☐ if yes, describe the extent of completion of the diversion works:

4. Have you diverted and beneficially used any water under this permit?

No ☒Yes ☐ if yes, please describe the uses:

Domestic (no. of households): \_\_\_\_\_ Stockwater (no. and type of stock): \_\_\_\_\_

Irrigation (no. of acres): \_\_\_\_\_ Other: \_\_\_\_\_

5. Describe what remains to be done in order to complete the development authorized under this permit:

Pipe has been purchased  
ground has not been plowed or seeded

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APR 18 2000

6. I Request an Indefinite Stay in the Development Period of the Above Numbered Permit ☒ (check here)

The information given on this form is my true statement of the extent to which the above numbered permit has been developed prior to October 26, 1999. I understand that any willful misrepresentations may result in voiding of the permit.

Signature of Permit Holder Helen Cutler Date 2/4/00  
(include your title, if on behalf of company or organization)

MEMORANDUM

Date: February 4, 2000

To: WR File No. 72-07571

From: Jeff Peppersack

Re: Wilderness Moratorium

Helen Cutler called regarding the February 1, 2000 letter requesting action as required in the Wilderness moratorium order. She explained that little work has been done to this point. I explained the difference between filing proof of beneficial use and filing a request for stay. She indicated that she would be filing a request for stay.

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APR 18 2000



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

February 1, 2000

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226-0209

Re: Water Right Permit No. 72-07571

Dear Permit Holder(s):

On October 26, 1999, the Director of the Department of Water Resources issued an order establishing a moratorium on the processing or development of applications and 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 required permit holders to immediately stop further development under the permit, and within sixty (60) days of receipt of the 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 the 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 the order have been alleviated, if such should ever occur.

The order does not apply to non-consumptive uses of water. An in-house domestic use with no associated irrigation or other consumptive uses is considered non-consumptive.

Our records indicate that the order was sent by certified mail to the address listed on your permit. The sixty (60) day period has passed and we have not received any response from you as required in the order.

The purpose of this letter is to request that you take the appropriate action as required in the order. I have enclosed two forms; **either** can be used to avoid cancellation of your permit. The first form is used to file proof of beneficial use. Filing proof of beneficial use is considered your statement that the development under the permit has been completed and that water has been applied to beneficial use according to the provisions of the permit. Upon receipt of such proof and the fee as required under Section 42-221, *Idaho Code*, the department conducts a field examination and issues a license confirming the use found.

The second form is a request for a stay in the development period and questionnaire to determine the extent of development under the permit. This form is used to request an indefinite stay in the development period. If a stay is granted, future development under the permit may be possible if the moratorium order is rescinded and if resumption of work is authorized. No fee is required to request a stay in the development period.

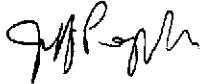
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APR 18 2000

We will withhold further action on this permit for 28 days from the date of this letter in order to allow you time to respond. If we do not receive a response from you within this time period we will begin action to cancel the permit pursuant to Section 42-311(1), *Idaho Code*.

Please call me at 208-327-7940 if you have any questions regarding this matter.

Sincerely,

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

Jeff Peppersack, Manager  
Water Right Permits Section

Enclosures

MICROFILMED  
APR 18 2000

Z 269 221 958

US Postal Service

# Receipt for Certif

No Insurance Coverage Pro

Do not use for International

Sent to

Street & Number

Post Office, State, & ZIP Code

Postage

\$

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered

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

**TOTAL** Postage & Fees

\$

Postmark or Date

ID B3226-0209

PS Form 3800, April 1995

72-07571

HELEN CUTLER

PO BOX 209

CHALLIS

Stick postage stamps to article to cover **First-Class postage**, certified mail fee, and charges for any selected optional services (See front).

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (*no extra charge*).
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 this 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.

102595-99-M-0079

Is your RETURN ADDRESS completed on the back?

# SENDER:

- Complete items 1 and 2 for additional services.
- Complete items 3, 4, and 5.

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.

## 3. Article Addressed to:

72-07571

HELEN CUTLER

PO BOX 209

CHALLIS

ID B3226-0209

## 4a. Article Number

### 4b. Service Type

☐ Registered

☐ Express Mail

☒ Certified

☐ Insured

☐ Collect on Delivery for Merchandise ☐ COD

### 7. Date of Delivery

APR 18 2000-1-99

## 5. Received By: (Print Name)

## 6. Signature: (Addressee or Agent)

X

Helen Cutler

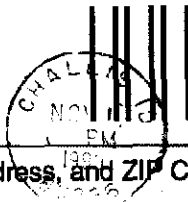
I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address

2. ☐ Restricted Delivery

Consult postmaster for fee.

UNITED STATES POSTAL SERVICE



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

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

DEPARTMENT OF WATER RESOURCES  
1301 N. ORCHARD ST.  
BOISE, ID 83706-2237.

RECEIVED

NOV 4 - 1999

Department of Water Resources

MICROFILMED  
APR 18 2000

WA



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:

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APR 18 2000

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

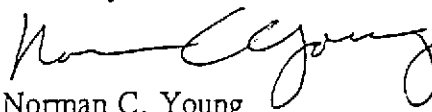
Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county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

MICROFILMED

APR 18 2000



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

June 15, 1999

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226-0209

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 72-07571

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.

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

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.

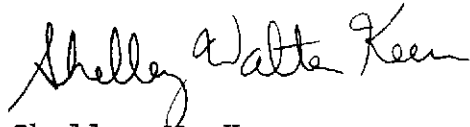
Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change.

DEC 14 1999

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 W. Keen".

Shelley W. Keen  
Water Rights Supervisor

SK:klt

Enclosures

WATER RIGHTS

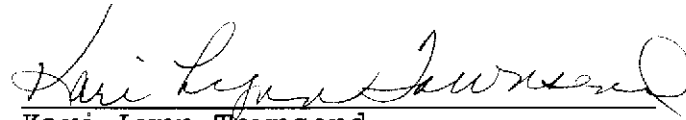
2011-12-15

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of June, 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. 72-07571

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226-0209

  
Kari Lynn Townsend  
Secretary

MICROFILMED

2000 JUN 14 PM 11

## 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.

WICHO-1002  
BPP 1002

### 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.

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DEC 14 1999

# APPLICATION FOR PERMIT STATE OFFICE ANALYSIS

by *Cindy*No.: 12-7571 Name: Cutler Date: 6/2/99 Ad OK? ☒ Gvmt Lts: ☒AREA OF CONCERN: - No/Yes: S/C Mor / GWMA / Trust / Non-trust

PROTESTED: - 020 (Protest Agreement) or \*W19 (Order)

## SYSTEM COMPLETED:

- > 1 year - P17
- ≤ 1 year/no proof - P16

## GROUNDWATER: (✓ FLO-CH)

## DRILLING PERMIT

- All wells (✓ WDQ3) - P23
- In Basin 34? - 086
- Irr. within WD - P05 (new well location)
- WMD (✓ MAP) - North / East / West
- > 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5acres - No MD
- WMD
- Supp irr use only - 065-079 (if GW use SW)-(keep SW)-(GW not primary irr source)
- Supp. irr + uses - 100-101
- > 0.24 cfs/5acres - 01H (report when notified)
- ≤ 0.24 cfs/5acres - No MD

## SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated):

- FISH & GAME CONTACTED: - YES / NO; WHEN: \_\_\_\_\_ RESPONSE: \_\_\_\_\_
- IN/ABOVE MSF (✓ MAP) - \*WB9
- IN-STREAM DEVELOPMENT - P52 (stream channel alteration)
- WD (✓ MAP & LISTING) - R04 (WD # \_\_\_\_\_)
- > 0.20 cfs - 01J-P08 (MD & LD)
- ≤ 0.20 cfs - 01H-P01 (LD), 01P or No MD (in-stream stock)
- WMD (✓ MAP)
- > 0.24 cfs/5 acres - 067 or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5acres - No MD
- SPRINGS/SINK, INACTIVE WD & REST OF STATE
- > 0.24 cfs/5 acres - 01M or No MD (in-stream stock or power)
- ≤ 0.24 cfs/5acres - No MD

## RIVER BASINS: (\*Surface water):

- Snake R (01) - \*W22-P04, NA
- (02/03-irr) - 007 (w/ remark \*WB9 if above Weiser), NA
- Payette R(65) - \*W22 (regulated uses), 047-P04 (Payette Lake), NA
- Salmon R (70's) - 029 (fish screens), NA
- Weiser R (67) - 086, 087

## USE:

- STORAGE (✓ 3 compo.) - 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NA
- IRR ≤ 5 acres - R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)
- > 5 acres - R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)
- STOCKWATER - R37 (BLM/USFS); NA
- MINING - 054(req)-081-P10
- FISH PROPAGATION - 029(70's only)-007-042(req)-081 (WQ)-P10
- HEATING/COOLING - R07 (injection well)
- POWER - 17H/17K(+uses)-08A-025(P18)-01N-028-081(P10)-027 (if no other cons. use); 17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18
- MUNICIPAL
- In restricted area? - 022, 075, 004 (+memo?)
- Irr., GW supp. to SW? - 102
- DOMESTIC
- Surface water - \*WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA
- >1 in rest. area - 071-070
- FIRE PROTECTION - 077

## LOCATION:

- BOISE FRONT LOGEO - 058 (<85° GW temp only)
- MITIGATION - 120
- 42-248 AREA - P84 (in 20/30/40/50/60/70/80 (87) basin)
- SWAN FALLS FLAG (✓ Code) -
- Trust - 051-052-053-P74 (Consumptive Uses), NA
- Non-Trust (1) - 048-049 (Consumptive Uses), NA

## OWNERSHIP:

- 004 (PD/PU) \_\_\_\_\_

## OTHER CONDITIONS:

- \_\_\_\_\_

## STANDARD REMARKS:

- \_\_\_\_\_

## BENEFICIAL USE DUE:

- 6/1/2004

## COMMENTS:

- \_\_\_\_\_

RECEIVED

APR 23 1999

Department of Water Resources  
Southern Region

RECEIVED  
JUN - 1 1999

Department of Water Resources

**AFFIDAVIT OF PUBLICATION**

State of Idaho, County of Custer, ss:

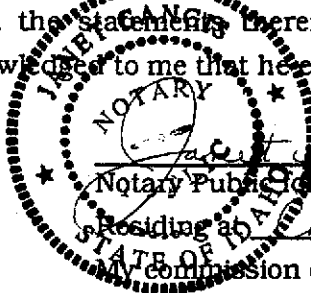
1. Ruth E. Burchill, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated April 15 1999 and ending with the issue dated April 22 1999.

Ruth E. Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 22nd day of April 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.



Notary Public for Idaho

Residing at Challis

My commission expires: 4/30/04

**NOTICE OF APPLICATIONS  
FOR WATER PERMIT**

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

KAREN WHITWORTH

HC 63 BOX 1645

CHALLIS ID 83226

Application for Permit No. 72-07569

Source: Unnamed Stream trib Challis Cr  
Diversion Pt(s): NE1/4NE1/4, S22, T14N, R19E; Custer County.

Use: 01/01-12/31

Wildlife (0.5 afa)

Aesthetic (0.5 afa)

Recreation (0.5 afa)

Total Diversion: 0.5 afa

In: NE1/4NE1/4, S22, T14N, R19E; Custer County.

Date Filed: 03/10/99

Application for Permit No. 72-07570

Source: Unnamed Stream tributary to Salmon River

Diversion Pt(s): NE1/4NE1/4, S22, T14N, R19E; Custer County.

Use: 01/01-12/31

Fish propagation (1.7 afa)

In: NE1/4NE1/4, S22, T14N, R19E; Custer County

Date Filed: 07/02/98

HELEN CUTLER

PO BOX 209

CHALLIS ID 83226

Application for Permit No. 72-07571

Source: groundwater

Diversion Pt(s): Lot 6 (NE1/4SW1/4), S21, T13N, R19E; Custer County.

Use: 04/01-10/31

irrigation (0.17 cfs)

In: 15 acres within E1/2SW1/4, S21, T13N, R19E; Custer County

Date Filed: 02/25/99

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 May 3, 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: April 15 & 22, 1999.

OK MB  
5/12/99

MICROFILMED

DEC 14 1999

## STATEMENT

**Custer Publishing, Inc.**

Phone 879-4445

P.O. Box 405

Challis, Idaho 83226

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

| Job No. | Date    | DESCRIPTION                                                                                                                                                                                                           | Amount                                 |
|---------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
|         | 4-22-99 | Notice of Applications<br>for Water Permit<br>4/15+22/99 57 lines<br>Permit No. 72-07569<br>72-07570<br>Permit No. 72-07571<br><br><b>RECEIVED</b><br>APR 23 1999<br>Department of Water Resources<br>Southern Region | \$<br>72.11<br><br>OK<br>MB<br>5/12/99 |

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.

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DEC 14 1999

**NOTICE OF APPLICATIONS FOR  
WATER PERMIT**

The following applications have been  
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**KAREN WHITWORTH**

**HC 63 BOX 1645**

**CHALLIS ID 83226**

**Application for Permit No. 72-07569**

Source: Unnamed Stream trib Challis Cr

Diversion Pt(s): NE1/4NE1/4, S22,  
T14N, R19E; Custer County.

Use: 01/01-12/31

Wildlife (0.5 afa)

Aesthetic (0.5 afa)

Recreation (0.5 afa)

Total Diversion: 0.5 afa

In: NE1/4NE1/4, S22, T14N, R19E;  
Custer County.

Date Filed: 03/10/99

**Application for Permit No. 72-07570**

Source: Unnamed Stream tributary to  
Salmon River

Diversion Pt(s): NE1/4NE1/4, S22,  
T14N, R19E; Custer County.

Use: 01/01-12/31

Fish propagation (1.7 afa)

In: NE1/4NE1/4, S22, T14N, R19E;  
Custer County

Date Filed: 07/02/98

---

**HELEN CUTLER**

**PO BOX 209**

**CHALLIS ID 83226**

**Application for Permit No. 72-07571**

Source: groundwater

Diversion Pt(s): Lot 6 (NE1/4SW1/4),  
S21, T13N, R19E; Custer County.

Use: 04/01-10/31

irrigation (0.17 cfs)

In: 15 acres within E1/2SW1/4, S21,  
T13N, R19E; Custer County

Date Filed: 02/25/99

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 May 3, 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

Published in The Challis Messenger on  
04/15 & 04/22/99.

MICROFILMED

DEC 14 1999



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

March 31, 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

MICROFILMED

DEC 14 1999

## MEMORANDUM

DATE: May 26, 1999  
TO: File No. 36-08788, 72-07569, 72-07570, & 72-07571  
FROM: Cindy Zimmerman *CZ*.  
SUBJECT: Affidavit of Publication

These files are missing their affidavits of publication. These affidavits are required to verify the applications were advertised correctly.

I spoke with Allen Merritt at Southern Region. Allen wanted me to hold these applications until they sent me the affidavits.

MICROFILMED

DEC 14 1999

## MEMORANDUM

**TO:** Helen Cutler Application for Permit File

**FROM:** Corey Skinner *CS*

**DATE:** March 26, 1999

**SUBJECT:** Staff Review

The enclosed Application for Permit, filed by Helen Cutler, seeks to obtain a water right for additional water out of an existing well located along the Salmon River and Highway 75 a few miles south of Challis. The application should be pretty straight forward, and approvable, but a couple of items may need further clarification.

The first item relates to the priority date of the application. The application and appropriate filing fee were received on February 25th, 1999, here in the Southern Region office. After a quick preliminary review of the application, I had a question regarding the application's exact relationship with existing water right 72-07112. In addition, there was a slight acre discrepancy between the place of use described on the application and the place of use indicated on the map that accompanied the application. I tried several times to contact the applicant by telephone, but I was unable to. Eventually, on March 2nd, I sent the application, filing fee, and a letter to the applicant requesting some clarification regarding the application. On March 22nd, the application, filing fee, and the applicant's response to my request for further clarification were received here at the Southern Region office. I was in a training meeting all day on the 22nd, so the application did not get receipted until the 23rd. Upon review, the only change in the application was a one acre modification to the description of the place of use, with no change in the total amount of acres. Since the application and fee were submitted to the Department on February 25, 1999, and no drastic change has been made to the application, a February 25th priority date appears appropriate.

The second item relates to the application's overlap with existing water right 72-07112. The enclosed application proposes diverting an additional 0.17 cfs from the well that serves as the point of diversion for water right 72-07112. Water right 72-07112 was recently recommended to the SRBA court for the diversion of 0.13 cfs for the irrigation of 10 acres. The enclosed application seeks to increase the total authorized diversion from the well to 0.30 cfs ( $0.17 + 0.13$ ). The 15 acres proposed to be irrigated under the enclosed application includes the same 10 acres authorized under 72-07112. Therefore, between water right 72-07112 and the enclosed application the total diversion rate is 0.30 cfs and the total irrigated acres is 15 acres (one inch/acre).

MICROFILMED

DEC 14 1999

*John Cutler*

RECEIVED

MAY 17 1999

FORM NO.202A  
REVISED 7/31/98

APPLICATION NO. 72-07571 DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO  
IDWR SOUTHERN REGION  
APPLICATION FOR PERMIT ANALYSIS SHEET

INITIAL REVIEW BY C. SKINNER DATE 3/26/99

REQUIRED INFORMATION (Ck if OK)

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.
- ☒ Address
- ☒ Source (see USGS quad for names of water sources)
- ☒ Point of diversion (10 Acres for spring, lot & block descriptions for subdivisions, local name, flow &/or volume.
- ☒ County
- ☒ Quantity (flow &/or volume)
- ☒ Period of use STANDARD ~~PER~~ SEASON FOR AREA IS 04/15 TO 10/15
- ☒ Nature of proposed use (include description of use)
- ☒ Description of diverting works.
- ☒ Time required for beneficial use of water.
- ☒ Place of use or acres irrigated.
- ☒ Map
- ☒ Signature (If applicant is corp., partnership, or municipality, title of signator is required)
- ☒ Fee
- ☒ Yes ☐ No\* In form to receipt?

++++PROPOSED PRIORITY DATE 2/25 1999 \* SEE ATTACHED MEMO

ADDITIONAL INFORMATION

- ☒ Overlapping place of use( Describe source & relationship to present application on the back. 72-07112
- ☒ Overlapping point of diversion. 72-07112
- \_\_\_ Yes ☒ No Is Source Surface Water?  
    If Yes Send Copy to F&G.  
    If Yes Field check/memo required.  
    Field check/memo by \_\_\_\_\_
- \_\_\_ Yes ☒ No Field report attached?
- \_\_\_ Yes ☒ No Critical Ground water area?
- \_\_\_ Yes ☒ No Groundwater management area?
- \_\_\_ Yes ☒ No Measurement District or Groundwater District?  
    What District? \_\_\_\_\_
- \_\_\_ Yes ☒ No Send Dam safety information?
- \_\_\_ Yes ☒ No Send power requirement letter?
- \_\_\_ Yes ☒ No Send fish farm requirement letter?
- \_\_\_ Yes ☒ No Power residency affidavit attached?
- \_\_\_ Yes ☒ No Power efficiency form?
- \_\_\_ Yes ☒ No Within trustwater boundary?(If yes, attach trustwater supplementary analysis sheet.
- \_\_\_ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft? (If yes,attach large diversion supplementary analysis sheet.
- \_\_\_ Yes ☒ No Is Application made to record Pre Nov 1987 Development?  
    If Yes then request clear evidence of when use started.

72-10054  
(OUT OF SEPERATE WELL)

\* REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Date Requested \_\_\_\_\_

Date Sent      Comments Received

SEND COPIES TO:

|                                                         |       |       |
|---------------------------------------------------------|-------|-------|
| <input type="checkbox"/> Idaho Dept of Health & Welfare | _____ | _____ |
| <input type="checkbox"/> USDI BLM                       | _____ | _____ |
| <input type="checkbox"/> Idaho Dept of Fish & Game      | _____ | _____ |
| <input type="checkbox"/> USFS                           | _____ | _____ |
| <input type="checkbox"/> Idaho Dept of Lands            | _____ | _____ |
| <input type="checkbox"/> Water Dist. No. _____          | _____ | _____ |
| <input type="checkbox"/> Adjudication Bureau Unit       | _____ | _____ |
| _____                                                   | _____ | _____ |
| _____                                                   | _____ | _____ |

PROCESSING ☒ Yes ☐ No In form for Advertising?  
☐ Yes ☒ No Statewide Advertising?  
☒ Yes ☐ No Fee amount, receipt date & No. recorded?

☒ Yes ☐ No Has all requested additional information been received?  
If not, describe action taken: \_\_\_\_\_

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received?  
☒ Yes ☐ No Application published correctly? If not, record action taken.

☒ Yes ☐ No Publication dates and paper recorded?  
Final date for protest: \_\_\_\_\_  
☐ Yes ☒ No Protests received?  
☐ Yes ☒ No Protested?  
Describe Resolution: \_\_\_\_\_

☐ Yes ☒ No Measuring device required?  
☐ Yes ☒ No Access port required?  
☐ Yes ☒ No Will water be delivered by watermaster? If yes, what dist? \_\_\_\_\_  
☐ Yes ☒ No Special conditions codes: \_\_\_\_\_

☒ Yes ☐ No Is Evaluation Memo Attached?  
If yes; date of Memo 5/13/99  
Date of priority recommended: 2/25/99

COMMENTS:

RECOMMEND ☒ Approval ☐ Denial

By AB Date 5/13/99

RECEIVED

MAY 17 1999

Department of Water Resources

FROM: Allen Merritt *AM*

DATE: May 13, 1999

TO: Application No. 72-07571  
In the Name of: Helen Cutler

SUBJECT: Review and Recommendation

This application proposes the development of an existing well for irrigation of a total of 15 acres. It is in an area where there is not a moratorium on groundwater development. A portion of the land (10 acres) proposed to be irrigated is presently irrigated by water from the same well under 72-07112. The rate requested (0.17 cfs) is to provide 1"/acre on the presently irrigated land and also the 5 acres to be developed.

I recommend that the application be approved subject to the following conditions:

-This right when combined with other rights shall provide no more than 3.5 afa at the field headgate nor more than 1" per acre.

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DEC 14 1999

Weldon Cutler



~~DEC 14 1999~~

NOTICE APPLICATIONS FOR WATER PERMIT

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

KAREN WHITWORTH  
HC 63 BOX 1645  
CHALLIS ID 83226

Application for Permit No. 72-07569

Source: Unnamed Stream tributary to Challis Creek

Diversion Pt(s): NE1/4NE1/4, S22, T14N, R19E; Custer County.

Use: 01/01-12/31

Wildlife (0.5 afa)  
Aesthetic (0.5 afa)  
Recreation (0.5 afa)

Total Diversion: 0.5 afa

In: NE1/4NE1/4, S22, T14N, R19E; Custer County.

Date Filed: 03/10/99

Application for Permit No. 72-07570

Source: Unnamed Stream tributary to Salmon River

Diversion Pt(s): NE1/4NE1/4, S22, T14N, R19E; Custer County.

Use: 01/01-12/31

Fish propagation (1.7 afa)

In: NE1/4NE1/4, S22, T14N, R19E; Custer County

Date Filed: 07/02/98

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226

Application for Permit No. 72-07571

Source: groundwater

Diversion Pt(s): Lot 6 (NE1/4SW1/4), S21, T13N, R19E; Custer County.

Use: 04/01-10/31

irrigation (0.17 cfs)

In: 15 acres within E1/2SW1/4, S21, T13N, R19E; Custer County

Date Filed: 02/25/99

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 May 3, 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.

MICROFILMED. Dreher, Director

Published in The Challis Messenger on 04/15 & 04/22/99.

DEC 14 1999



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

March 30, 1999

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

HELEN CUTLER  
PO BOX 209  
CHALLIS ID 83226

Re: Application for Permit No. 72-07571

Dear Applicant:

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.

This office has scheduled advertising the application in The Challis Messenger for 04/15 & 04/22/99. 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 yours,

Corey Skinner, E.I.T.  
Safety of Dams Engineer

cs:mb

MICROFILMED

DEC 14 1999



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

March 23, 1999

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Helen Cutler  
PO Box 209  
Challis, ID 83226

Dear Ms. Cutler:

I recently received your Application for Permit and your response to some questions I had regarding your application. I noticed that you made a couple of corrections to the place of use section (#9) of the application. I have enclosed a copy of your application for your reference.

I noticed that you reduced the acreage amount in the NESW  $\frac{1}{4}$  from 15 to 14 acres. I also noticed that you included an acre of irrigation in the SWSE  $\frac{1}{4}$  of Section 21. I believe that this acre should actually be in the SESW  $\frac{1}{4}$  of Section 21, south of your irrigated place of use under water right 72-07112. You also changed one of the totals of the acreage amounts from 15 to 14. It appears that this acreage total should be 15.

With your permission, I can make changes to your application. I would appreciate it if you could let me know if the possible discrepancies pointed out in the preceding paragraph, and on the enclosed copy of your application, need to be corrected. If your application is advertised incorrectly, or approved incorrectly, you will have to amend the application, or approved application, in order to straighten things out. There is a \$50.00 fee for amending an application, or an approved application, so it is best if your application can be as correct as possible before our office processes the application.

I would appreciate it if you could let me know if corrections need to be made to your application. This will help ensure that our office can process an application that represents your intentions. If you have any questions, or if I can be of any assistance, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Corey Skinner'.

Corey Skinner, EIT  
Dam Safety Section

Enclosures

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DEC 14 1999



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

March 2, 1999

RECEIVED

MAR 22 1999

Department of Water Resources  
Southern Region

FROM HELEN CUTLER

Helen Cutler  
P.O. Box 209  
Challis, ID 83226

Dear Ms. Cutler:

Our office recently received an Application for Permit that you filed in order to develop a groundwater irrigation right for property along the Salmon River, near Challis. After an initial review, I had some questions regarding your application. I attempted to contact you several times by telephone, but I was unable to reach you. Please find enclosed, the application that you submitted, along with the \$50.00 filing fee (check #1530).

Upon review of your application, it appears that some clarification needs to be made. I am assuming that this application is an expansion of existing water right 72-07112. It appears that this application seeks to add some additional irrigated acres, and to increase the authorized diversion rate from the well licensed under right 72-07112 to a total of 0.30 cfs. In addition, the application seeks to add approximately five acres of irrigated ground, bringing the total acres authorized to be irrigated with water from the well to a total of 15 acres.

YES -  
this is  
my intent

If the proceeding paragraph describes your intentions, then the application looks to be filled out correctly. However, examining the application, and the map that was included with the application, reveals that a correction may need to be made on the legal description of the property to be irrigated. The map that you included shows an area outlined in purple labeled "added". Examination of this area reveals that part of the area is south of the quarter-quarter line. Therefore, some of the acres in the place of use would be located within the SESW  $\frac{1}{4}$  of Section 21. If the map reflects your intentions, then item #9 on the application should be changed to show an acre amount in the SESW  $\frac{1}{4}$  of Section 21 also.

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March 2, 1999  
PAGE 2

In addition, you submitted a change of ownership form along with your application. The change of ownership form was submitted in order to change the ownership records for rights 72-07112 and 72-10054 into just your name, since they are currently recorded in the name of Stephen and Helen Cutler. Examination of the Divorce Decree that was submitted along with the change of ownership form revealed that the decree specified that you obtained a "house in Custer County". The decree did not mention anything about any land that you obtained. In order to change the ownership records for these two rights, we need documentation that shows that you are the sole owner of the land that the water rights are appurtenant to. This documentation could consist of warranty deeds, quitclaim deeds, tax records, Custer County Assessor records, or perhaps other legal documents.

*Enclosed*

I encourage you to contact me if you have any questions, or if I can be of any assistance. Hopefully, any needed corrections can be made to the application, and the application and fee can be resubmitted to our office, so we can begin processing the application in a timely manner.

Sincerely,



Corey Skinner, EIT  
Dam Safety Section

Enclosures

*Thank you  
for your help! —  
Helen*

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