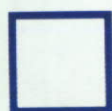
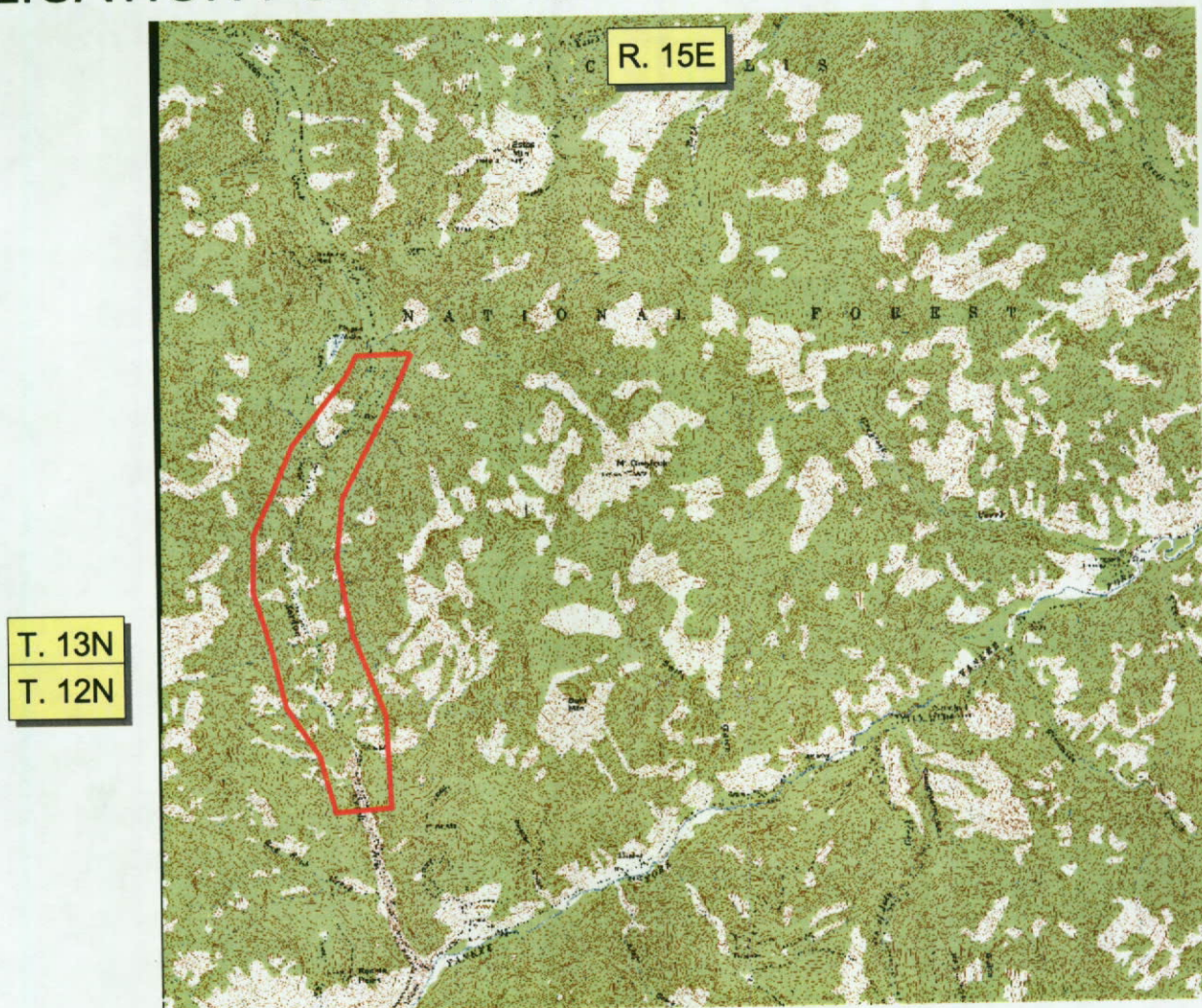
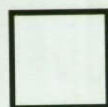


IDAHO DEPT. OF WATER RESOURCES

APPLICATION FOR TRANSFER - EUGENE MOON



Section Lines



Quarter-Quarter Lines

General Location: A 2 1/2 mile stretch of Jordan Creek Between
Pinyon Lake & Red Rock Creek



P/U & P/D (Possible Mining Sites)

Note: Land is unsurveyed - no gcdb available

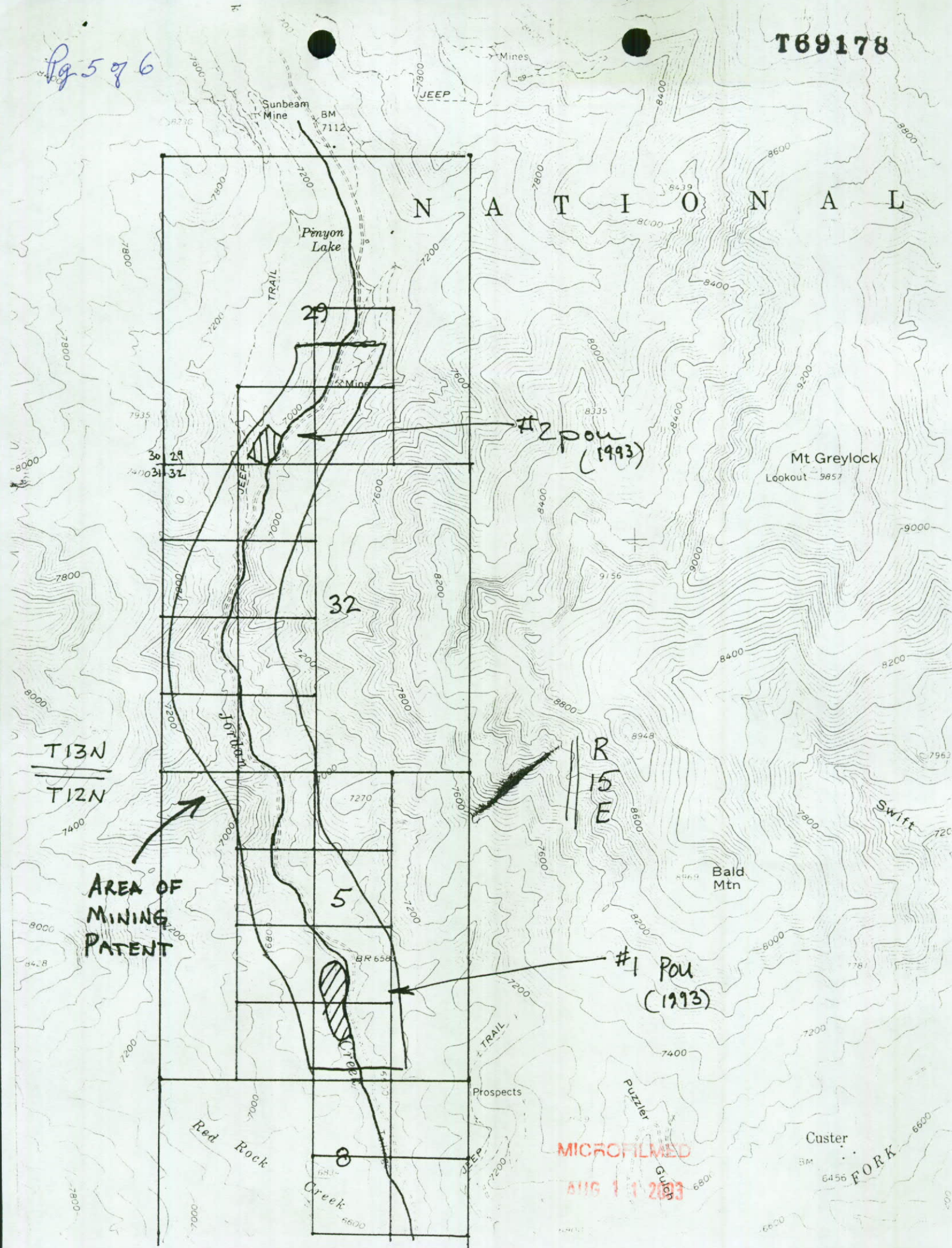


Prepared By J E Stanton 5-31-01

1986/87 NAPP Data
T69178

Pg 576

T69178



N A T I O N A L

T13N
T12N

AREA OF
MINING
PATENT

#2 pou
(1993)

R
15
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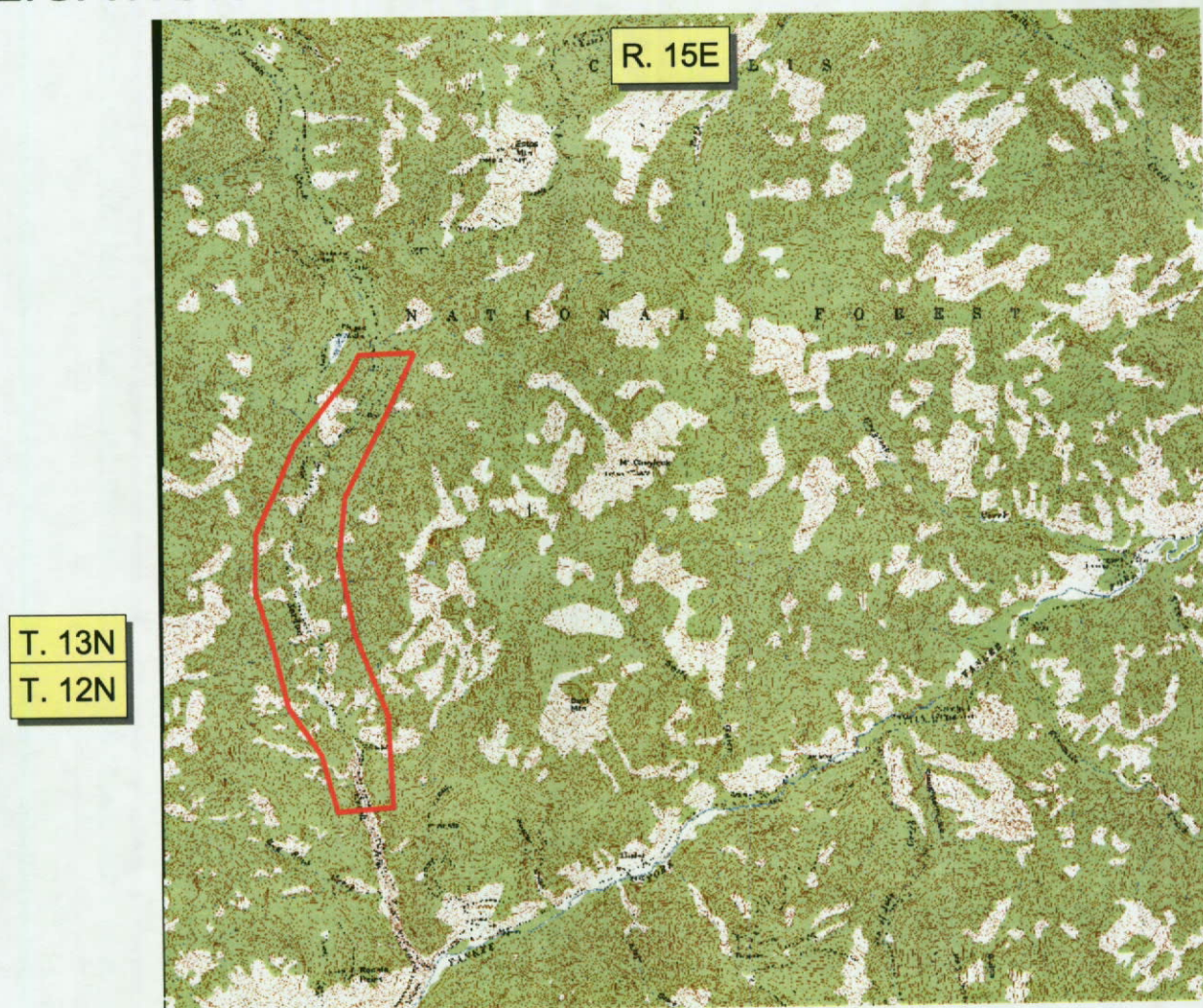
#1 Pou
(1993)

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AUG 11 2003

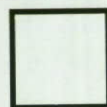
CUSTER
FORK

IDAHO DEPT. OF WATER RESOURCES

APPLICATION FOR TRANSFER - EUGENE MOON



Section Lines



Quarter-Quarter Lines

General Location: A 2 1/2 mile stretch of Jordan Creek Between
Pinyon Lake & Red Rock Creek



P/U & P/D (Possible Mining Sites)

Note: Land is unsurveyed - no gcdb available



Prepared By J E Stanton 5-31-01

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1986/87 NAPP Data
T69178

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 69178

This is to certify that: EUGENE DURELL MOON
677 GREENBRIER DR
HEYBURN ID 83336
(208)679-0637

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acres	Total	Source
72-4053	WR/Decreed	01/01/1961	2.00 cfs	N/A	N/A	N/A	JORDAN CREEK

Purpose of Transfer (Changes Proposed)

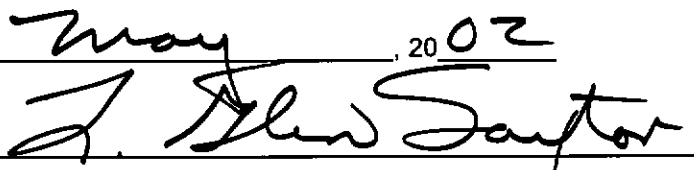
Current Number	Split	POD	POU	Add-POD	Period of Use	Nature of Use
72-4053	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
72-4053	72-4053	2.00 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A
TOTALS		2.00 cfs	N/A	N/A	N/A		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 17th day of May, 2002


Chief, Water Allocation Bureau

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AUG 11 2003

WATER RIGHT NO. 72-4053
As Modified by Transfer No. 69178

In accordance with the approval of Transfer No. 69178, Water Right No. 72-4053 is now described as follows.

Right Holder: EUGENE DURELL MOON
 677 GREENBRIER DR
 HEYBURN ID 83336

Priority Date: 01/01/1961

Source: JORDAN CREEK

Tributary: YANKEE FORK

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MINING	04/15	to 11/15	2.00 CFS	N/A
			2.00 CFS	N/A

LOCATION OF POINT(S) OF DIVERSION:

JORDAN CREEK	NENW	Sec. 5	Twp 12N	Rge 15E	CUSTER County
JORDAN CREEK	SENW	Sec. 5	Twp 12N	Rge 15E	CUSTER County
JORDAN CREEK	NWSE	Sec. 5	Twp 12N	Rge 15E	CUSTER County
JORDAN CREEK	SWSE	Sec. 5	Twp 12N	Rge 15E	CUSTER County
JORDAN CREEK	SESW	Sec. 29	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	NWSE	Sec. 29	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	SWSE	Sec. 29	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	NENW	Sec. 32	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	SWNW	Sec. 32	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	SENW	Sec. 32	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	NESW	Sec. 32	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	NWSW	Sec. 32	Twp 13N	Rge 15E	CUSTER County
JORDAN CREEK	SESW	Sec. 32	Twp 13N	Rge 15E	CUSTER County

PLACE OF USE: MINING

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12N	15E	5					X			X						X	X		
13N	15E	29												X		X	X		
13N	15E	32					X		X	X	X	X		X					

CONDITIONS OF APPROVAL

- The total instantaneous diversion of water from all points of diversion under Right 72-4053 shall not exceed 2.00 cfs.
- Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all active authorized points of diversion which will allow determination of the total rate of diversion.

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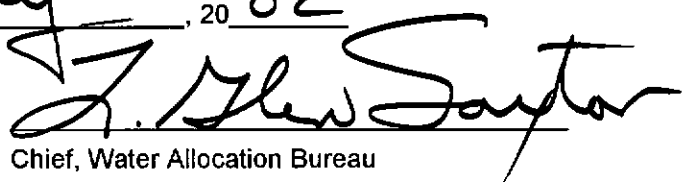
WATER RIGHT NO. 72-4053
As Modified by Transfer No. 69178

CONDITIONS OF APPROVAL

3. This right is limited to the quantity of water beneficially used for mining purposes as described under this right.
4. After specific notification by the Department, the right holder shall measure the diversion 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. The mining operation authorized under this approval shall comply with applicable county, state and federal requirements.
6. Use of water under this approval shall comply with applicable water quality standards of the Department of Environmental Quality.
7. The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
8. Use of water under this right may be affected by a Snake River Basin Adjudication stipulation agreement between United States, acting on behalf of United States Department of Agriculture, Forest Service, and the right holder.
9. Approval of Transfer 69178 does not grant any right-of-way or easement for use of this right on property owned by person(s) other than the right owner.
10. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
11. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
12. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
13. The place of use located in portions of unsurveyed Section 29, Township 13N, Range 15E, is also identified as patented private land recorded as The Square Deal Placer and New Deal Placer, part of Mineral Survey 3644.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 17th day of May, 2002


Chief, Water Allocation Bureau

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AUG 11 2003

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MAY 24 2001

Form 1-222
12-92

(Internet)

Department of Water Resources
Southern RegionPage 1 of 6STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 69178

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Revd S.O.
9-14-2001
IDWRName of applicant Eugene D. Moon &/or Marilyn Moon Phone 579-0637Post Office address 677 Green Brier Drive, Heyburn, ID 83336

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☒ Other Add place of use
2. Describe the reason for the proposed changes Right was decreed on patented mining claims. Transfer will allow water to be used on adjacent unpatented claims.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
<u>72-4053</u>	<u>1-1-1961</u>	<u>2.0 cfs</u>	<u>Mining</u>	<u>4-15</u> to <u>11-15</u>
				to
				to
				to

2. Total amount of water being transferred 2.0 cubic feet per second and/or _____ acre-feet per annum.3. Source of water Jordan Creek tributary to Yankee Fork Salmon River4. Point(s) of Diversion: Same as Place of Use

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13N	15E	5					X			X						X	X		
							~~1/4~~												
13N	15E	29											X			X	X		
		32					X		X	X	X	X		X					MICROFILMED

69178

Total acres _____

PART 1

6. General Information:

- a. Description of diversion system Movable check dam & hose. Pump where gravity diversion won't work
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? N/A Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.
- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:
Mining could occur anywhere in the specified area.
- d. Remarks:
The proposed POD & POU ^{are} the same as what was originally recommended in the SRBA process.
Water has not been used since 1992 due to litigation with Hecla Mining Co. I plan to resume use of this right as soon as the USFS allows.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

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AUG 1 2003

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 72-4053

Priority Date: 01/01/1961

Origin: Water Right

Basis: Beneficial Use

Status: Closed

JORDAN CREEK Tributary to: YANKEE FORK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
MINING	4/15	11/15	2.00 CFS	0.0 AFA	
	Total Diversion		2.00 CFS		

Source and Point(s) of Diversion:

<u>Source</u>	<u>Twp</u>	<u>Range</u>	<u>Section</u>	<u>1/4 of 1/4 of 1/4</u>	<u>Lot</u>	<u>County</u>
JORDAN CREEK	13N	15E	29	SWSE		CUSTER
JORDAN CREEK	13N	15E	29	SESW		CUSTER
JORDAN CREEK	13N	15E	29	NWSE		CUSTER

PLACE OF USE: MINING

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	15E	29																X	X	X	

Conditions/Remarks:

1. THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. UNSURVEYED SECTION SITUATED IN APPROXIMATE SECTION 29. PATENTED PRIVATE LAND RECORDED THE SQUARE DEAL PLACER AND NEW DEAL PLACER, PART OF MINERAL SURVEY 3644.

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T69178

Page 4 of 6

**IDAHO DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 2**

Current Water Right No. 72-4053

Documentation of Ownership of the Current Place of Use

Is this property subject to any liens, deeds of trust, mortgages, or contracts or other encumbrances?

Describe the affect on the current place of use for this water right if the place of use is changed pursuant to this transfer

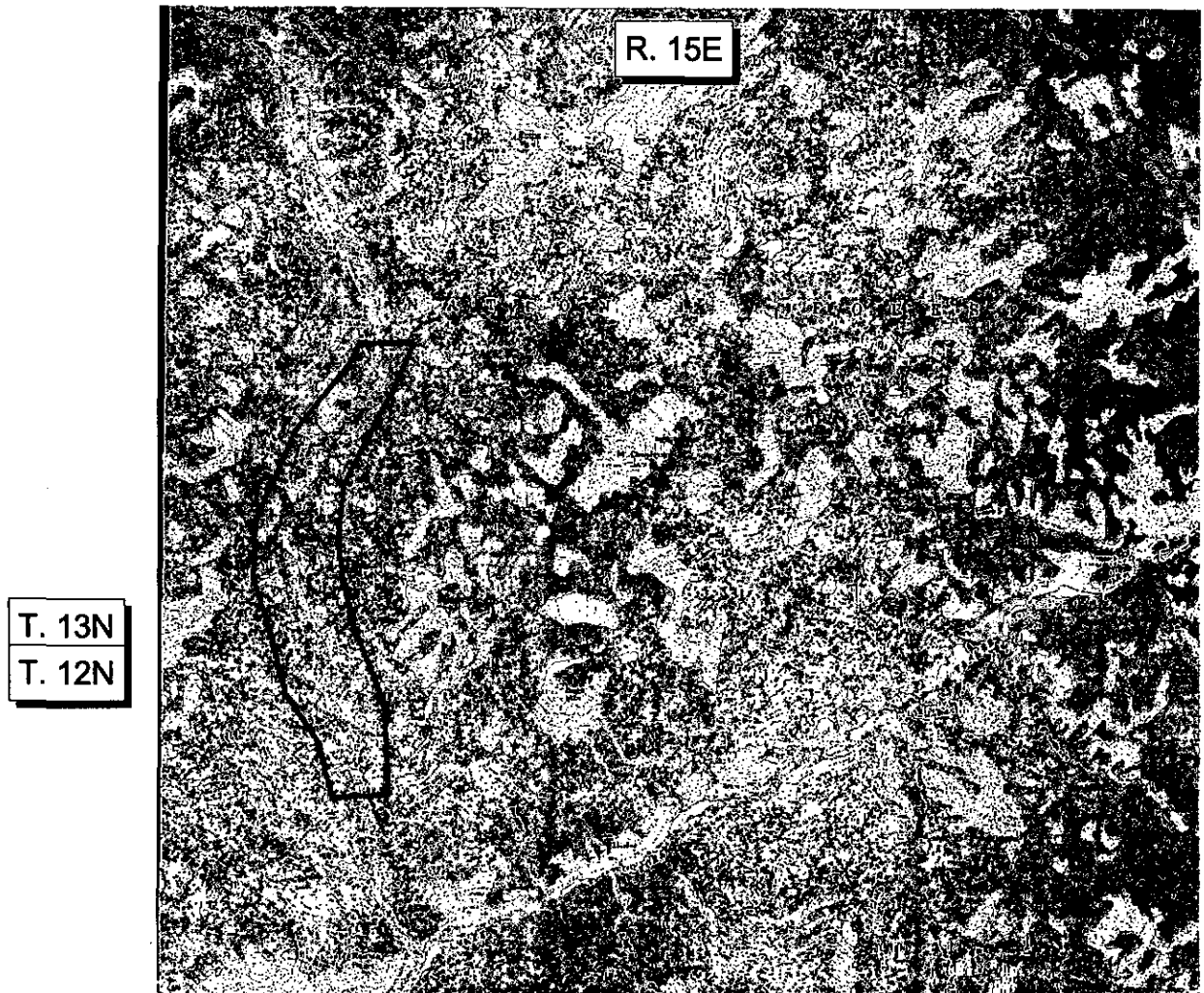
To your knowledge, has any portion of the water right undergone a period of five(5) or more consecutive years of non-use?

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AUG 11 2003

IDAHO DEPT. OF WATER RESOURCES

APPLICATION FOR TRANSFER - EUGENE MOON



Section Lines



Quarter-Quarter Lines

General Location: A 2 1/2 mile stretch of Jordan Creek Between
Pinyon Lake & Red Rock Creek

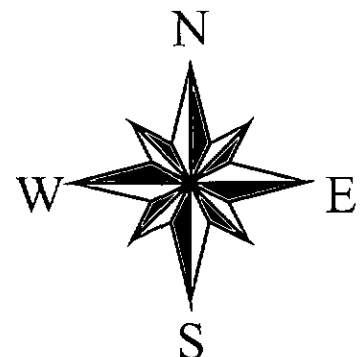


P/U & P/D (Possible Mining Sites)

Note: Land is unsurveyed - no gcdb available

NOT FILMED

AUG 11 2003

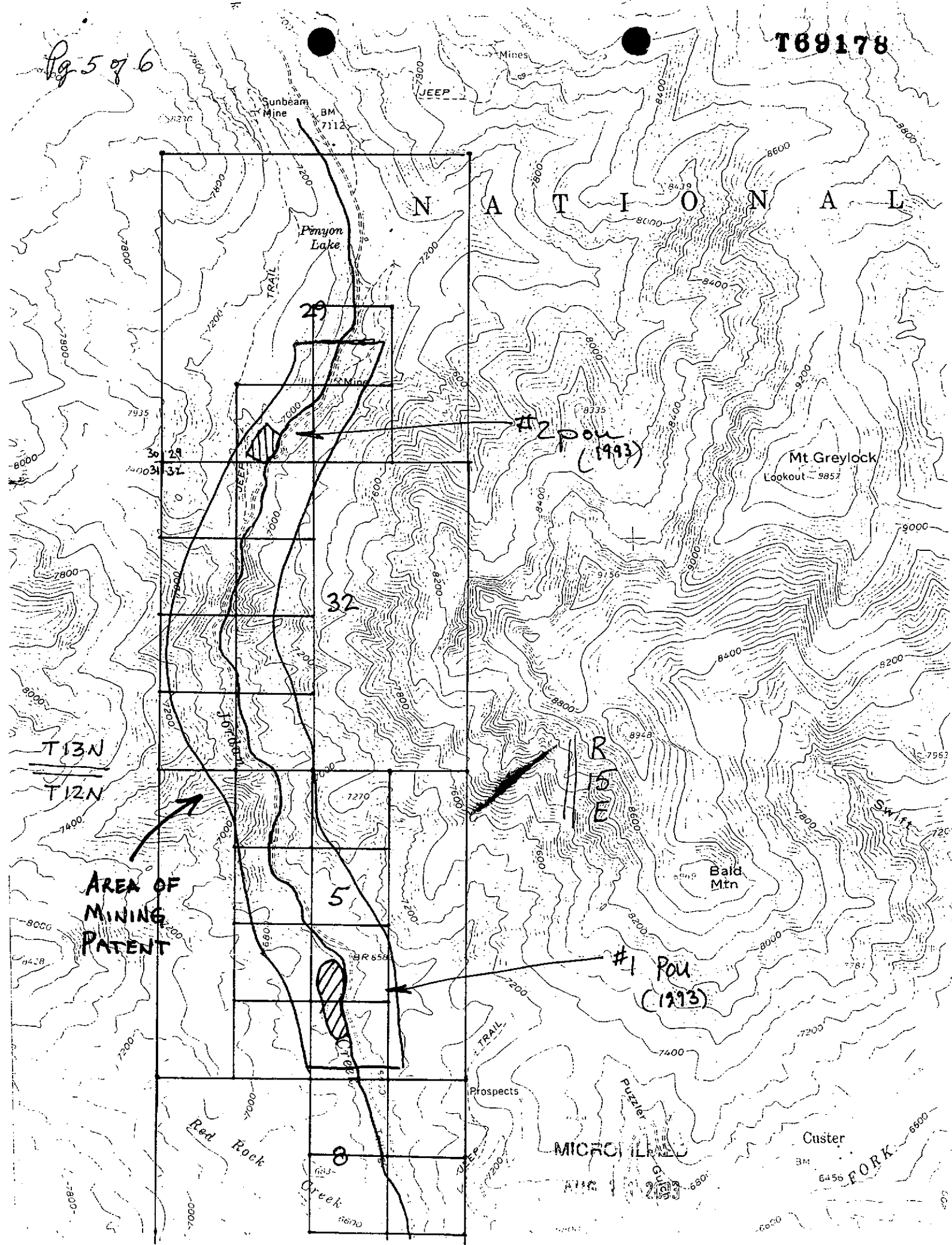


Prepared By J E Stanton 5-31-01

1986/87 NAPP Data
T69178

pg 5 of 6

T69178



T69178

Page 6 of 6

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				_____ to _____
				_____ to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



Subscribed and sworn to before me this

34th

day of

May, 2001E. D. Moen (Eugene D. Moen)

(Signature of Applicant)

J. B. Stanton

(Notary Public)

My commission expires

10-25-2006

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 2 attachmentsReceived by J. B. Stanton Date 5-24-01Protest filed by NonePrelim. check by JS Fee \$290. 5033982Received by JS Date 5-24-01Published in Idaho Falls Messenger

Copies of protest forwarded by _____

Pub. dates 7/19 & 7/26/01

Hearing held by _____ Date _____

Watermaster recommendation requested on N/ARecommended for ☒ approval ☐ denial

rec'd.

by _____

Copy of transfer sent to lien holder _____

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AUG 11 2003

RECEIVED

JAN - 9 2001

Department of Water Resources

2001 JAN - 8 AM 8:57

FILED
JAN 11 2001
IDAHO

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) ORDER OF PARTIAL DECREE

Case No. 39576

) For Water Right 72-04053

On September 19, 2000, a *Special Master's Report and Recommendation* was filed for the above water right. No Challenges were filed to the *Special Master's Report and Recommendation* and the time for filing Challenges has now expired.

Pursuant to I.R.C.P. 53(e)(2) and *SRBA Administrative Order 1*, Section 13f, this Court has reviewed the Findings of Fact and Conclusions of Law contained in the *Special Master's Report* and wholly adopts them as its own.

Therefore, IT IS ORDERED that water right 72-04053 is hereby decreed as set forth in the attached *Partial Decree Pursuant to I.R.C.P. 54(b)*.

DATED 1-8-01

R Burdick

ROGER BURDICK
Presiding Judge of the
Snake River Basin Adjudication

ORDER OF PARTIAL DECREE

MICROFILMED ^{Page 1}

AUG 11 2001

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JAN - 9 2001

Department of Water Resources

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
Case No. 39576)
)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 72-04053

2001 JAN -8 AM 8:57

FILED
TWIN FALLS CO., IDAHO

NAME AND ADDRESS: EUGENE DURELL MOON
677 GREEN BRIER DR
HEYBURN, ID 83336

SOURCE: JORDAN CREEK

TRIBUTARY: YANKEE FORK

QUANTITY: 2.00 CFS

PRIORITY DATE: 01/01/1961

POINT OF DIVERSION: T13N R15E S29 SESW Within Custer County
NWSE
SWSE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Mining	04-15 TO 11-15	2.00 CFS

PLACE OF USE:	Mining		Within Custer County
	T13N R15E S29	SESW NWSE	NWSE

UNSURVEYED SECTION SITUATED IN APPROXIMATE SECTION 29.
PATENTED PRIVATE LAND RECORDED THE SQUARE DEAL PLACER AND NEW
DEAL PLACER, PART OF MINERAL SURVEY 3644.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

SRBA PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 72-04053

PAGE 1
Dec-26-2000

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AUG 11 2003

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JAN - 9 2001

Department of Water Resources

2001 JAN 05 PM 02:00
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

CERTIFICATE OF MAILING

Water Right(s): 72-04053

CERTIFICATE OF MAILING

I certify that a true and correct copy of the PARTIAL DECREE
PURSUANT TO I.R.C.P. 54(b) for WATER RIGHT 72-04053 was mailed
on January 05, 2001, with sufficient first-class postage prepaid
to the following:

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

EUGENE DURELL MOON
Represented by:
JAMES ANNEST
PO BOX 686
BURLEY, ID 83318
Phone: 208-678-7783

USDA FOREST SERVICE
Represented by:
US DEPARTMENT OF JUSTICE
ENVIRONMENT & NATL' RESOURCES
550 WEST FORT STREET, MSC 033
BOISE, ID 83724
Phone: 208-387-0835

DIANA DELANEY
Chief Deputy Clerk

CERTIFICATE OF MAILING

PAGE 1
01/05/01

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AUG 11 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 20, 2002

EUGENE DURELL MOON
677 GREENBRIER DR
HEYBURN ID 83336

RE: Transfer No.: 69178 - Water Right 72-4053 - Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

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

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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

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

Sincerely,

for 
Jeff Peppersack, Manager
Water Rights Permits Section

JP:klt

Enclosure(s)

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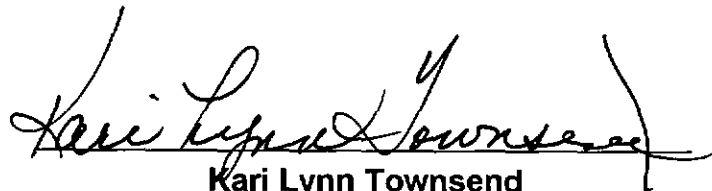
AUG 1 1 2003

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

RE: TRANSFER NO. 69178 - WATER RIGHT 72-4053

**EUGENE DURELL MOON
677 GREENBRIER DR
HEYBURN ID 83336**


Kari Lynn Townsend
Secretary

MICROFILMED
AUG 11 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED
AUG 11 2003

FINAL ORDER

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

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

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

TRANSFER REVIEW SHEET

(05-01)

TRANSFER # 69178

DATE REVIEWED 5-15-2002

SPLIT POD ADD POD ☒ POU ☒ PERIOD or NATURE of USE

ALL OF RIGHT(S) W Water Right C=SRBA Claim R=SRBA Recommendation

W 172-4053 / SRBA Dece / /
/ / / / /
/ / / / /
/ / / / /

PART OF RIGHTS(S)	(Unchanged)	(Changed)
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Standard Season NA to Standard Volume NA

- (1) ☒ Priority (2) ☒ Use (3) ☒ Season/W61 (4) ☒ Rate (5) Volume
 (6) ☒ Source (7) P/D (8) P/U (9) ☒ Proof/Owner Recent Dece (10) ☒ Map
 (11) NA Water District (12) Pertinent Conditions (13) Expansion
 WM/Rcvd

(7) & (8) Add PDs to P/Ds + P/U - pump/dam along Jordan Creek to sites along creek.

Applicant provided history of litigation as defense of forfeitures (X per JP + LGS.
 Conditions/Remarks WB4, T17, 0210, Modified 083/State + Federal, 029, 106
Limited to B/U, W57 " 020/Forest Service
T07, T08, T19

WRs for Update Comments NA

Database Updated to Reflect Final Action 5-17-2002 38

RECEIVED

MAY - 9 2002

Department of Water Resources

May 3, 2002

Pamela S. Skaggs
Sr. Water Rights Agent
Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Dear Pamela;

We are in receipt of your letter of May 1, 2002 requesting information on why we have not used our water right 72-4053. I am including information showing the reasons we have not been able to use this water right.

Please note the letter of July 20, 2000 addressed to Mr. Jay Biladeau. In this letter it shows that the Forest Service illegally allowed Hecla Mining Company to build a major road through the length of our placer claims on Jordan Creek. As shown in 1993 we brought suit against the U. S. Government and Hecla for willfully trespassing on our mining claims. The Forest Service officials who allowed this trespass to take place were illegally conspiring with Hecla to allow this trespass to take place. Their motive in working with Hecla was to prevent us from patenting our placer claims. At the this time we were well into the patenting process.

In 1996 the BLM was also attempting to stop us from patenting the claims by their dishonest and unethical mineral evaluators working with Scott H. Nichols in the Department of Lands. See the letter of March 13, 2002 written to Bob Lewis where Nichols shows his bias against mining and his dishonesty in trying to prevent our patenting. The enclosed letter dated September 19, 2000 to Martha Hahn shows the BLMs attempts to prevent us from patenting and mining our claims.

With the hostile environment to mining and the dishonest personnel in the Department of Lands, Forest Service and BLM it was obvious we would never be allowed a Dredge Permit or other permits necessary to mine our claims. Consequently, we were not able to use our water right.

We have been in court since 1993 and the patent process was started in 1991. It is a terrible situation we have been involved in for the last eleven years, where corrupt government officials and employees have done everything in their power to stop small miners from operating their claims. The legal action on our suit to date has cost us approximately \$100,000.00 and there still is no end in sight. At this time we have very little faith in the American dream.

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We have all the voluminous data to back up the facts that we have mentioned. You are welcome to this information but it is an epoch tome. I hope this will suffice for the information you required.

Very truly,

ED Moon
Marilyn Moon
E. D. and Marilyn Moon

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AUG 11 2003

CERTIFIED MAIL July 20, 2000

Mr. Jay Biladeau
Dept. of Lands
954 West Jefferson
Boise, Idaho 83720

Re: Scott Nichols' Letter of March 13, 1996 (1)

Dear Mr. Biladeau:

As per your telephone conversation of July-19-2000, we would like to take this opportunity to explain the very serious consequences of the above letter. We appreciate the opportunity to point out the distortion of the facts in this letter to your department and we will do so in an honest and forthright manner.

Mr. Nichols works for the Idaho Department of Lands and his letter was addressed to Mr. Bob Lewis, an unlicensed BLM mineral evaluator. Mr. Lewis was doing the field work on a mineral report for the Moon's placer claims working under the direction of Robert DeTar, a licensed BLM mineral evaluator.

Moons began their patent process on nine placer claims on Jordan Creek in 1991. By February, 1992 all administrative work had been completed on the claims and the BLM issued a First Half Final Certificate. This certificate gave Moons equitable title to the property.

In 1993 Hecla Mining Company commenced constructing a major road though the full length of our placer claims with the permission of the Forest Service. Moons tried to prevent this road from being built as it would destroy their placer mining property. The road was built far exceeding the EIS specifications which further complicated our ability to mine the claims. Consequently, in 1993 Moons brought suit against the U.S. Government (Forest Service) and Hecla.

Later Moons dropped the government from this lawsuit with a stipulation that the government would not furnish witnesses for Hecla to use during the legal action. This stipulation specifically stated Robert DeTar and Robert Lewis were not to testify in our case. (2)

Within two weeks of our trial on this matter Hecla filed a BLM PROTEST

against our claims. They stated our claims did not have sufficient gold to justify the mining and environmental costs. This action was filed on September 5, 1997.

The BLM Protest hearing commenced on April 14, 1998, with BLM Hearing Judge Kuzmac presiding. Robert Lewis did testify at this hearing even though we had a government stipulation to the contrary. He testified there was \$7.5 million dollars worth of gold on our placer claims not counting the amount covered by the large new road. He further testified our claims could not be mined economically due to reclamation costs of \$300,000 per acre. This figure of \$300,000 per acre for reclamation costs was derived from Scott Nichols' letter of March 13, 1996. The 20 acres mentioned in Nichols' letter had 6-plus acres of riparian land and he stated it would cost \$2,000,000.00 to reclaim. Consequently, Nichols' letter and the \$300,000 per acre cost were used throughout the hearing by Hecla's witnesses.

If the facts in Scott Nichol's letter were accurate we would not be in this situation today! Listed below are the major errors of fact which it appears he purposely made to help deny our patent and to void our mining claims:

1. In his letter written to Mr. Lewis, an unlicensed BLM Mineral Examiner, he states in the second paragraph that it is very unlikely that an operator would be permitted for stream channel alteration. This is not a concern of the Land Department but the Department of Water Resources. On June 8, 1998, Mr. Ervin E. Ballou wrote a letter to our attorney stating that Water Resources follows the law and that the final decision for stream alterations is that of the Water Resource Department. (3)

Hecla and Doug Baker both received stream alteration permits to work on the Yankee Fork during this time period.

2. Also, in the second paragraph of Nichol's letter, he states from Jan. 1, 1986, they have received 194 placer mining permit applications. In fact only 96 applications were received. This, again, questions his competence. (4)

3. Nichols also states of the 194 applications not one gold operation has been permitted to alter a stream channel. Mr. Ballou furnished us with at least six examples where stream channel permits had been issued for gold mining operations. Two of these permits were issued on the Yankee Fork, one for Mr. Baker and one for Hecla Mining.

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4. Finally, the last sentence in the second paragraph states, "Our experience indicates that bond and restoration costs prohibit an economic operation." On what basis was this statement made and where is his proof?

5. In his third paragraph he mentions "in 1994 Hecla Mining Company completed a reclamation and restoration project on Jordan Creek." He states he contacted the primary contractor, Copeland Construction. "On Feb. 28, 1995, Dan Copeland confirmed with me via personal communication that the cost of the 20-acre restoration on Jordan Creek was \$2,000,000.00. This cost did not include topsoil handling or engineering design and oversight. Mr. Copeland indicated that Hecla could have reduced this cost by including the primary contractor in the planning phase of the project." If Mr. Nichols was wanting to do a cost analysis, he should have requested detailed, audited accounts of expenses from Hecla. Also, if he would have looked at THE ECOSYSTEM RESEARCH INSTITUTE REPORT written for Hecla during February of 1995, on Page 7, under Mitigation Activities, he would note the \$2,000,000.00 mitigation cost included very much more than mitigation on lower Jordan Creek. (5)

Mr. Lewis approached every agency in the State and Federal Government concerned with placer mining operations to have them write him a letter to help deny Moon's patent. Also during Lewis' testimony he stated it was the policy of the BLM to deny patents. Mr. Nichols was the only person working for any government agency to write the letter Mr. Lewis was soliciting. All other agencies stated they would not pre-judge any mining application. (6)

It is interesting to note that mineral evaluators have the same code of ethics as that required for engineers. This code of conduct states the mineral evaluator is to keep the claimant apprised of his actions in doing the mineral evaluation. The data the mineral evaluator obtains for his report is to be kept confidential. Moons never heard from Lewis from the time he began his evaluation until the start of the BLM hearing. Moons had regularly written letters from 1992 to the date of the BLM hearing inquiring as to when the mineral evaluation report was to be completed. When Lewis appeared at the hearing (See Stipulation mentioned above) he had a completed draft mineral report which he submitted to the Court.

Hecla's attorneys had talked with Lewis and they were allowed to see this report ten days prior to the hearing. Robert Lewis was completely unethical and dishonest to do this and it, also, appears he and Nichols were also dishonest in conspiring together to deny our claims being patented. The BLM Hearing Judge cited Nichols' letter in his November 15, 1999 DECISION in invalidating our placer mining claims on Jordan Creek. We sent the BLM our APPEAL on March 16, 2000, after having spent approximately \$55,000 just for this appeal process only. In Hecla Mining Company's Supplement Answer to our APPEAL, dated May 15 of this year, they, again, referred to Scott Nichols' letter as proof we have no right to our claims. (7)(8)

What was Scott Nichols' motivation to write such unethical, misleading, and false statements when he knew Lewis was planning to use this letter to deny us our constitutional rights under the mining laws.

Unfortunately, this is not the first time the Land Department has materially interfered with our mining operation. We have a Stipulation from the Seventh Judicial District Court issued on April 29, 1991, which allows us to mine up to two-yards per hour by any method without an operating plan, bond or jurisdiction by the Land Department over our operation. If you would like to know why this happened, please check the records. (9)

If Scott Nichols is willing to give us an affidavit under oath stating he was in error on every item we have listed in this letter and the motivation for his making these statements, we will drop any action against him. Also, he must let us know if Hecla had any influence on him writing the letter in question. This affidavit will have to be approved by the Moons.

If Scott Nichols is not willing to supply such an affidavit then we need to discuss with the Land Department what other options are available to resolve this injustice.

Respectfully submitted,

E. D. & Marilyn Moon
Moon Mining
677 Greenbrier Dr.
Heyburn, ID 83336

Page 4

Encls

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AUG 11 2000

IDAHO DEPARTMENT OF LANDS

854 W. Jefferson St., PO Box 83720
 Boise, Idaho 83720-0080
 Phone (208) 334-0200 Fax (208) 334-2335

STANLEY F. HAMILTON - DIRECTOR

Department of Water Resources

BOARD OF LAND
COMMISSIONERS

PHILIP E. REED

Governor

PETER F. CONNELLEY

Secretary of State

ALAN G. LANGE

Attorney General

J. L. WILLIAMS

State Controller

ANNIE F. FEE

Dept. of Public

Administration

RECEIVED

MAR 15 1996

BLM Cottonwood
Idaho 83522

March 13, 1996

Bob Lewis, Minerals Administrator
 Cottonwood Resource Area, Bureau of Land Management
 Route 3, Box 181
 Cottonwood, Idaho 83522

SUBJECT: Reclamation and Bonding Costs for Placer Mining
 Operations

This letter is in response to your inquiry of February 1996. I understand that the BLM is seeking information on actual reclamation costs of placer mined stream systems, and the Idaho Department of Lands' bonding and reclamation criteria.

In response to your first question, it is very unlikely that an operator would be permitted for stream channel alteration. Under the Idaho Dredge and Placer Protection Act all placer mine operators are required to obtain a placer mining permit and bond from the Idaho Department of Lands. Since January 1, 1986, we have received 194 placer mining permit applications. These applications did not include suction dredging or exploration operations impacting less than one-half acre. Of the 194 applications, not one gold operation has been permitted to alter a stream channel. Our experience indicates that bond and restoration costs prohibit an economic operation.

Between 1986 and 1994 reclamation bond were estimated based on cat. performance handbook information, local equipment costs, and a document published by Interfluv, Incorporated entitled, "Handbook for Reclamation of Placer Mine Stream Environments in Western Montana".

In response to your second question, there are several examples of stream restoration costs in Idaho. In 1994 Hacia Mining Company completed a reclamation and restoration project on Jordan Creek, a tributary to the Yankee Fork of the Salmon River. The restoration work included all of the components and standards in a placer mine operation. I contacted the primary contractor, Copeland Construction. On February 28, 1996, Dan Copeland confirmed with me via personal communication that the cost of the 20-acre restoration project on Jordan Creek, was \$2,000,000.00. This cost did

KEEP IDAHO GREEN
 PREVENT WILDFIRE

EQUAL OPPORTUNITY EMPLOYMENT

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Exhibit 2 - DeTar 11 1 2003
 Second Supp. Affid.

Reclamation and Bonding Costs

Page 2

not include topsoil handling or engineering design and oversight. Mr. Copeland indicated that Hecla could have reduced this cost by including the primary contractor in the planning phase of the project.

Please note that any proposal to mine through a stream channel is carefully scrutinized by the IDL, Idaho Departments of Water Resources and Fish & Game, the U.S. Fish & Wildlife Service and Army Corps of Engineers. In IDL's experience, when stream channel alteration is proposed by a mining operator, the agencies agree the stream channel must be restored, not just reclaimed.

Your third question involved reclamation bonding on placer mine operations. The Idaho Dredge and Placer Mining Protection Act allows a maximum bond of \$1,800.00 per affected acre, regardless of the estimated reclamation costs. However, both the Department of Water Resources and the Corps of Engineers have regulatory authority and require bonding for stream channel alterations.

In summary, bonding and restoration costs usually prohibit placer operators from affecting the stream channels. If any operator proposes to mine in a stream channel, they will continue to be held to a high standard of bonding and restoration. Idaho has a number of good examples where stream restoration and mitigation work has been completed. In these instances the operators had a thorough understanding of the environmental protection and restoration goals, and the financial ability to properly design, construct and bond these proposals.

I hope this information helps with your reviews. If you have any questions or comments, please feel free to contact me at the above address or telephone (208) 334-0261.



SCOTT H. NICHOLS
Mined-Land Reclamationist

SEN:ljg

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AUG 11 2003

TOTAL P.03

September 19, 2000

Martha C. Hahn, Director
Bureau of Land Management
Boise, Idaho 83709-1657

CERTIFIED MAIL-RRR

Dear Director Hahn:

Re: Dishonest and unethical conduct of
mineral evaluators and other BLM
employees.

Moon Mining owns certain unpatented mining claims on Jordan Creek in Central Idaho. Patent application was filed for nine of these claims on May 5, 1991. The claims filed in the application for patenting were as follows: Olga Marie 1-6, Mickey Marie 1-2 and the Moonbeam. (encl. 1 a-d) On October 1, 1991, Terry Maley with the BLM requested additional information to supplement our patent application. On January 8, 1992 E. D. Moon supplied the additional information requested by Maley. (encl. 2)

On February 20, 1992 a First Half Final Certificate, containing no exceptions or inclusions, was issued for the Jordan Creek claims. (encl. 3 a-b)

During this same time period Hecla was designing an upgraded road to access their Grouse Creek mine located on the headwaters of Jordan Creek. This upgraded road was to traverse the entire length of Moon's placer claims.

Moons drilled their Jordan Creek placer claims during August of 1992 to confirm previous discoveries. This drilling took place under the supervision of three certified Forest Service mineral evaluators.

On August 20, 1993, Ken Rodgers with the Forest Service wrote a letter to John Haan of Hecla giving Hecla permission to start constructing the upgraded road through Moon's claims. (encl. 4) No right-of-ways or easements were discussed with the Moons even though we held equitable title to the claims from the First Half Final Certificate. All contracts for the road and other construction stated it was subject to valid rights of claim holders. Moons have protested this road and associated construction many times by letter, telephone and other methods from the very beginning up to the present time. (encl. 5 a-g)

Moons brought suit against Hecla and the U. S. Government after the start of construction during the summer of 1993.

On June 27, 1994, Greg Johnson with the Forest Service informed Moons that the BLM has patent responsibility for Moon's Jordan Creek claims. (encl. 6) During the complete time period from when the First Half Final Certificate was issued until recently Moons were writing letters to the Forest Service and the BLM trying to find out what was causing the delay in completing a Final Mineral Evaluation. (encl. 7 a-q)

Page 1

AUG 11 2000

Moons first encounter with the BLM mineral evaluators was a chance unscheduled meeting E. D. Moon had with Robert DeTar and Robert Lewis on the Jordan Creek claims in late September or early October of 1995. At that time Lewis and DeTar were looking for claim corners and I helped them locate some of these corners. At that time no further assistance from the Moons was requested.

On November 1, 1995 Mr. DeTar submitted an affidavit concerning the mineral evaluation of Moon's placer claims. (encl. 8) In this affidavit in Section 7, DeTar states additional field work must be completed "(i) sampling of minerals within the mapped bench areas;" Only one bench area was mapped and it was included as reserves on the "Ray Wallace Expert Witness Report." (encl. 9, pages 5, 9) "(ii) sampling of minerals within the mapped alluvial fans." Moons claimed no gold bearing gravel on any alluvial fans and any additional work on these fans is only busy work for no purpose. Our mineral evaluation has been delayed many times before and in this Section and in Section 11 he states our patent process will again be further delayed.

In Section 9, DeTar states "the narrowness of the valley creates significant question about whether the placer gravel near bedrock could be effectively mined given the angle of repose that would be needed for walls of the excavated areas to avoid structural failure of those walls." Hecla mined the lower end of Jordan Creek under the same conditions without any difficulty. Also, when you are on bedrock there is no angle of repose. DeTar is not an engineer and the angle of repose and related structural problems are outside his area of expertise. Both E. D. and Darr Moon are licensed engineers and can handle these types of problems.

In Section 10, DeTar alludes to the critical habitat for certain species of salmon. He is no expert in this field and he is not knowledgeable about Moon's First Half Final Certificate date fixing environmental conditions for the patent process.(encl. 10, Chapter III, Section 10, forth paragraph.)(encl. 14, page 11, 39, 40)

In Section 12, Detar estimates the upgraded road covers only seven percent of the total claim area.(encl. 14, page 38) He makes no attempt to estimate the area of minable gold gravel that has been covered by the road. The claims listed for patent total 86.3 acres. By using DeTar's seven percent of 86.3 acres one arrives at 6.0 acres. R. Wallace, a retired FS mineral examiner, hired by the Moons mapped the placer gravel on the claims to be patented at 22.3 acres prior to the road being upgraded. (encl. 9, summary page) R. Lewis in his undated "Draft Mineral Patent Report" showed the same claims contained 16.2 acres of placer gravel after the Hecla road upgrade. (encl. 12, page Summary of Drilling Data) The difference between the Wallace and Lewis calculations is 6.1 acres, which is in close agreement with DeTar's seven percent or 6.0 acres. The

difference between Wallace's acreage and the BLM's is the amount of gold bearing gravel acreage covered by Hecla's upgraded road that Lewis did not consider. More on this will be covered later.

Moons had surveyed the area covered by the upgraded road and had made maps with profiles showing how the upgraded road material covered placer gravel and interfered with their proposed mining operation. DeTar never once made inquiries to the Moons for this sort of information. Both E. D. Moon and Darr Moon are licensed surveyors.

Moon's lawsuit instigated against Hecla and the U. S. Government was due to the upgraded road not conforming to specifications and it's interference with Moon's future mining. The road was to be 22 feet wide and generally follow the contours of the valley floor with very little fill. (encl. 13 a-b) The road as built exceeds 30 feet in width and there is up to 17 feet of fill in places. As mentioned above the road covers a considerable amount of gold bearing gravel that can never be mined. Also, the size and location of the upgraded road precludes mining other areas of the claims due to a lack of space for operating.

In Section 13, DeTar expresses concerns about whether the Department of Interior will conclude that there has been a discovery of valuable mineral deposits. At that time it was presumptive for DeTar to be making those kinds of assumptions. That statement was definitely to cast Moon's claims in a poor light with no basis for the statement.

It is interesting to note that in DeTar's deposition of August 27, 1997, on page 18 and 19, he states concerning road width " when I did my calculations I estimated it to be approximately 30 feet wide as an average." (encl. 14) Also, see in his deposition that he had no detailed knowledge of the size or location of the old Jordan Creek road.(encl. 14, Pages 8, 10, 12, 13, 18, 19, 20, 30, 31, 34, 35, 36, 37, 38 and 39) On pages 37 and 38 of his deposition DeTar states it does not appear to be a major problem to access the claims from the upgraded Hecla road. It is obvious that DeTar has no experience in road construction as it would be a major expense to build access roads to reach the valley floor.

Finally, as mentioned previously Hecla's main problem in the lawsuit with the Moon's was the damage and interference caused by their upgraded road. It is interesting to look at pages 3, 4, 33 and 34 of DeTar's deposition.(encl. 14) On those pages it shows that Hecla's attorneys, (Scott Hardt, Elizabeth Savage and some other fellow), helped DeTar write his affidavits. At that point in time DeTar compromised his honesty and ability to write an unbiased mineral evaluation report. At this time there became a direct conflict of interest between DeTar, the BLM and Hecla. It should also be noted in this deposition that the BLM attorney,

Mr. Derbidge, was aware that DeTar was having these influencing contacts with Hecla's attorneys and he made no effort to discourage them.(encl. 14, pages 3, 34) This compromising of DeTar's and Derbidge's ethics is sufficiently serious that it should render any report written by DeTar for Moon's placers useless. DeTar was not unbiased and he was unethical when it came to Moon's mineral evaluation. One has to wonder what his personal benefit would be in order to allow such a breach or conflict. There is much written about how a mineral evaluator should conduct themselves with honesty and integrity which is of the utmost importance. Some of the Sections dealing with ethics are as follows: (encl. 10 , Chapter I, Section 2, Section 3, second, third and forth paragraph), (encl. 11 Meeting the Public, Professional Ethics, Cannons of Ethics for Engineers Forward, (* special note); Professional Life, Sections 2, 3, 5, 6*, 7*, 8*(claimant is the client), 9, 10, 12, 13, 14 (* very important), 15, 16 , 18 (*very important); American Law of Mining, Vol. 9.41a page 390 6-7, reports of mineral examiners who have investigated the mining claims are interdepartmental memoranda and are not subject to disclosure under the Freedom of Information Act. Maley, page 861, Mineral examiners must conduct examinations in an unbiased manner.

On December 19, 1995, DeTar submitted a Supplemental Affidavit concerning his mineral examination of Moon's placer claims on Jordan Creek. In Sections 2, 3, 4 and 5 of this affidavit DeTar again talks about how easy it is to access the placer claims from Hecla's upgraded road. (encl. 14, pages 29, 37)(encl. 15). Very few locations on the nine claims listed for patent can be accessed by vehicle from the upgraded road. To construct access to these claims would be a very costly endeavor. Again DeTar is trying to defend Hecla's position in the lawsuit with the Moons. DeTar is not offering an unbiased opinion on this subject. The road speaks for itself, travel to Jordan Creek and make your own conclusions about the access off of this road.

In Section 6, DeTar states "the road averages 30 feet including driving surface and berms". He is wrong on this issue as the driving surface will average 30 feet. Moons surveyed and made the only maps offered to-date on asbuilt road width.

Again, DeTar is biased towards Hecla in this affidavit. One reason shown for this bias conduct is that Hecla's attorneys helped him write the affidavits. Notice he never talks about any work he or Lewis have done to prove or disprove a discovery. His contact with Hecla's attorneys to prepare this affidavit shows he is still an unethical mineral examiner.

On June 6, 1997 John Goodell, (one of Moon's attorneys), wrote a letter to Warren S. Derbidge, attorney for the BLM. This letter was proposing a Stipulation for Voluntary Dismissal Without Prejudice of

Government Defendants and a proposed original Order thereon as recently discussed. Goodell states "If the same meets with your approval, please sign and file with the court and serve counsel with copies." E. D. and Marilyn Moon never received a copy of the Stipulation, but it must have been filed as the Government was released from the lawsuit. (encl. 16 a)

In the third paragraph of Goodell's letter it specifically states "As discussed, we also understand that since Mr. DeTar and Mr. Lewis are now working on the mineral examination report, but when it may be finished is uncertain at this time, that they have no final opinion about the matter until the report itself is issued. Absent completion of the report, given their work on it and statutory objective, we understand that neither they nor other government employees will serve in any "expert witness" capacity on behalf of Hecla, nor on behalf of plaintiffs, and that the remaining parties are obliged to obtain their own expert witnesses at their own expense."

On July 17, 1997, Mr. Warren Derbidge wrote a letter to John Goodell and Scott Hardt stating the U. S. Government had been dismissed as a defendant in the Moon-Hecla legal action. (encl 16 b) He further states regarding witnesses that "As the regulation and the Exon case make clear, questioning them as fact witnesses should pass muster but the government will resist providing them for opinion testimony or as taxpayer provided experts."

It is interesting to note that at the BLM hearing held in Salt Lake City by Administrative Law Judge Kuzmac commencing on April 13, 1998 the government employees Robert Lewis, one of the mineral examiners on Moon's patent and Alison Beck Haas with the U. S. Fish and Wildlife both testified as expert witnesses. These two expert witnesses appearing and testifying at the hearing flies in the face of the Stipulation agreed to by the U. S. Government and the Moons and W. Derbidge's letter of July 17, 1997. If the Government believes it does not have to abide by the Stipulation, then perhaps they should still be a party to the lawsuit. More will be discussed on this later.

On July 21, 1997, DeTar submitted his second supplemental affidavit.(encl. 21) In Section 3 of this affidavit he again tries to defend Hecla's position that the upgraded road does not materially interfere with Moon's mining.

In Section 4, DeTar states "Bob Lewis and I have, on several occasions over the past two years, requested additional information from Moon Mining Company describing in detail their plans for mining the Moon claims." This is a dishonest statement. The only contact Moon's have ever had with DeTar or Lewis in person or by letter was the previously mentioned chance unscheduled meeting by E. D. Moon with DeTar and Lewis on the claims on September or October of 1995. The

next contact was a letter from DeTar to the Moons requesting additional information on a proposed operating plan dated February 25, 1997. (encl. 17) E. D. Moon complied with DeTar's request by furnishing him the requested information by letter dated March 17, 1997. (encl. 18) (encl. 20, pages 19,20) The only other contact with DeTar was when I and Marilyn Moon stopped at his office to inquire about sample security. Sample security will be discussed later. The contacts with DeTar, excluding the meeting at his office, can be confirmed by DeTar's Deposition (encl. 14, pages 28-29) and Lewis's testimony (encl. 20, pages 7, 19, 20, 49, 50, 51). His deposition contradicts his affidavit where he shows he contacted us on several occasions. Is this not perjury?

According to the Handbook for Mineral Examiners H 3890-1 under Section 5 of Chapter III it states (encl.10):

"5. The Field Examination.

The mining claimant shall be notified of the pending examination at least 30 days before the proposed date of the mineral examination. The notification shall be sent by certified letter, return receipt requested. Prior to notification, contact the mining claimant by telephone to establish a date that is mutually agreeable. The mining claimant must be invited to accompany the mineral examiner to point out discovery(s) points and other pertinent features of the mining claim or millsite. The mining claimant may designate an agent to appear in his/her place. Failure to properly notify the mining claimant of the pending mineral examination may subject the government to having its case dismissed by an Administrative Law Judge if a contest action is initiated. Ask the mining claimant to make available any data pertaining to production, mining costs, marketing arrangements, geology, and character of the mineral deposit." Does the failure of DeTar to comply with the above paragraph, by not sending the described certified letters and making the necessary telephone calls, require Administrative Law Judge Kuzmac to throw out Hecla's contest?

DeTar complains about Moons not furnishing sufficient information concerning the proposed mining operation. It has been Moon's experience that no matter how much data you furnish it is never enough. The Government will always request more as it means more job security for them.

In Section 5, DeTar again reiterates his environmental concerns. He is unsure of these concerns as he states "It is quite possible that Moon Mining Company will be unable to secure these necessary permits," The possibility also exists that we might secure the permits. He is also neglecting the fact that Moon Mining claims may be uneconomic due to

Hecla's upgraded road. He neglects to consider environmental costs were fixed for patenting at the date the First Half Final Certificate was issued. (encl. 10, Ch. III page 9 Sec. 10) (encl. 20, page 68-73, 92)

In Section 6, all of the agencies named by DeTar have stated that permits can not arbitrarily be denied until an operating plan is submitted. (encl. 20, page 30, 31,) (encl. 22, pages 23, 51) (encl. 23)

In Section 7, DeTar relies on a letter written by Scott Nichols, dated March 13, 1996, to conclude that it would be unlikely that a placer miner would be permitted to alter the Jordan Creek stream channel. Hecla received a permit to alter Jordan Creek stream channel after Moons received their First Half Final Certificate. In addition there are very few true statements in Nichols' letter. Moons are submitting a report, sent to the Idaho Department of Lands, as an enclosure to illuminate the errors in Nichols' letter. (encl. 24)

Section 8 and 9, shows how government harassment can delay and ruin any chance of permitting or patenting mining claims that have legal discoveries. Moons have been nine years to date trying to patent their claims. DeTar talks about many more years before the process is complete. This says a lot about what the U. S. Government has done to the free enterprise system.

One has to wonder why DeTar is so bias in favor of Hecla and so against Moons? This bias is shown when, in each affidavit, he tries to play down the interference Hecla's upgraded road has had on any future mining operation by the Moons, when he allows Hecla's attorneys to influence his decisions in writing the three affidavits and by never contacting the Moons prior to his mineral examination as required by the "Mineral Examiners Handbook". Why was he acting in Hecla's behalf at the time he submitted his Second Supplemental Affidavit when it was specifically stated he was not to testify as a government witness for Hecla by the previous mentioned Stipulation? Is his bias against the Moons so strong that he is willing to disregard the law or is there some other reason where he has much to gain by denying Moon's patents.

On April 13, 1998, Administrative Law Judge Nicholas T. Kuzmac commenced a contest hearing where Hecla had alleged Moon's claims listed for patenting had no discoveries. This contest was initiated less than two weeks before Moon's case against Hecla was slated for trial in Idaho's District Court.

On April 14, 1998 Hecla, much to the surprise of Moons, called Robert Lewis to the stand as a Hecla witness. R. Lewis is the unlicensed mineral examiner assisting DeTar on the patent report for the Jordan

Wallace's testimony, who is a certified review mineral examiner for the FS and a certified mineral examiner for the BLM, states he examined claims for the North Umberland mine in Nevada where 9,000 drill holes were analyzed to determine if the mine was profitable. No mineral evaluator was present during the drilling of these holes.(encl. 25. pages 82,187)

After Lewis' testimony I talked with R. Wallace concerning sample security and he stated he had worked on the patent process for Hecla's Grouse Creek mine. He stated Hecla had complete control of the drill samples from the time of drilling until they were delivered to a warehouse where R. Wallace and other mineral evaluators were preparing the samples for a patent evaluation. I believe DeTar was one of the other mineral evaluators working on these samples. It appears that the mineral examiners are not on the property or do not observe the samples being taken for patenting in many cases. Marilyn and I stopped at DeTar's office in Boise and inquired about the why our drill samples had to be thrown out if we had handled them yet Hecla and many other companies were allowed to do the patent sampling with no mineral examiner even present. His only defense for this practice he stated was they were large companies.(encl.26 pages 189-192) What legal basis is Haskins using when he says that when Moon's samples that are handled by them have to be disregarded. Moon's would like an affidavit from Mr. Haskins showing if he made the hearsay statement attributed to him by Lewis and the basis for the statement. If he did not make this statement then we want an explanation from Lewis.

In Lewis' testimony in (encl. 20 pages 254-255) he states that the Mickey Marie 1 placer claim is not denied a patent. There exists on this claim a perched terrace containing ore bearing placer gravel. This terrace is far above the Jordan Creek stream channel and can be worked without any affect on Jordan Creek. Lewis states the claim could be mined and restored for \$2,000 an acre (encl.20 pages 46-49). Bulk tests taken in the 1992 program show this claim has valuable gold.

Three bulk samples were run in 1992 on a twenty-foot vertical face of this terrace that had been exposed from the surface to bedrock. These three sample tests are shown in Wallace's report.(encl. 9 pages 3, 5, 9) Lewis did not use this test data as he did not know or try to find out where and how the samples were taken. Pete Peters was the Forest Service mineral examiner in charge of the testing program and he would have been aware of the bulk samples locations. Jeff Gabardi is a licensed mineral examiner for the Forest Service and he took the samples and I observed the samples being taken. Lewis for some suspicious reason must have believed it not important to inquire from anyone of the four mentioned above individuals. In Wallace's report on page 5 (encl. 9) it shows Sample 1 was a one cubic yard sample which ran \$7.75/ cu yd. This sample was

taken over the full twenty-foot vertical distance of the terrace from the surface to bedrock. Sample 2 had a volume of 1/2 cubic yard and tested the top ten vertical feet of the terrace. This sample ran \$3.55/ cu yd. The third bulk test was Sample 3 and it consisted on 1/2 cubic yard that ran \$21.31/ cu yd. This sample covered the vertical interval from ten feet to bedrock. Wallace shows this area contains \$65,830 in gold.(encl. 9 page 9) These gold values are sufficiently high that the Mickey Marie 1 and probably the adjoining area on the Moonbeam could be mined at a good profit with no environmental damage. Since Lewis made no effort to locate where these three samples had been taken he stated the test would have to be resampled. He stated he was making arrangements to retest this claim. Moons were never apprised of this decision and DeTar stated that no further testing was required. (encl. 20 page 63) (encl. 14 pages 15-16) Lewis' handling of the testing data on the Mickey Marie 1 was a complete fiasco either due to incompetence or a bias against Moons. His bumbling of this data has cost the Moons their patent on the Mickey Marie 1 and probably the Moonbeam.(See 1989 bulk sample on the Moonbeam) (encl. 2 page 2).

Lewis, throughout his testimony, stated that the claims were not patentable solely for environmental reasons.(encl. 20 pages 24, 60, 70-72, 85, 90) He stated it would cost \$300,000 per acre to restore and reclaim any area mined.(encl. 20 page 24-29, 33, 40-45,72) This \$300,000 per acre figure was from a letter written by Scott Nichols on March 13, 1996. Nichols' letter is completely full of untruthful statements and the \$300,000 used by Lewis in his calculations is completely erroneous. We have submitted a report on the Nichols' letter to confirm the above statement.(encl. 24) Again, Lewis has been completely incompetent in gathering information for this patent process. Lewis, in a draft report not presented to the Moons until Judge Kuzmac started the protest hearings yet given to Hecla at least ten days prior to the hearing, showed the Jordan Creek placer claims contained \$7.5 million in gold.(encl. 12) DeTar stated the placer area considered by the BLM did not include any acreage under the upgraded road. Therefore, Lewis' calculations of 16.2 acres of placer ground in his draft report did not include any placer gravel under the upgraded road.(encl. 20 pages 76-78) Ray Wallace in his report showed 24.69 acres of placer ground on the claims listed for patenting and it included 2.36 acres contained on the Hope and Square Deal claims. If this 2.36 acres is subtracted from Wallace's 24.69 acres, he then he shows a net of 22.33 acres. This compares to Lewis' 16.2 acres. The difference between Lewis and Wallace's calculations is 6.13 acres. This acreage has to be under Hecla's upgraded road. If the gold in this 6.13 acres is pro-rated to Lewis' \$7.5 million shown in his draft report, then there

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should be \$10.8 million in gold on Moon's placer claims listed for patent. Not only did the upgraded Hecla road cover up \$3.3 million in gold it made the remaining placer area impossible to mine at a profit. This road installed by Hecla and with the Forest Service's permission has materially interfered with any plans Moons had to mine the claims and is a WILLFUL TRESPASS. Perhaps this is why there has been such a concerted effort by Hecla and the U. S. Government to deny the Moons their rightful patents.

You can tell Hecla is very concerned about the upgraded road interfering with Moon's mining operation. This is shown by DeTar spending more time and space in his three affidavits defending Hecla's road that he spends trying to complete a mineral evaluation. This becomes understandable when it is noted that Hecla wrote or assisted DeTar in writing his three affidavits.

The unethical and dishonest conduct of Lewis trying to help Hecla and being bias against Moons should completely ruin what little credibility he has in preparing a mineral evaluation for the Moons. Any work he has done on Moon's mineral evaluation should be thrown out for his unethical and dishonest conduct. The only problem with throwing out his data is that Moons do not want to wait another nine years to arrive at this same stage in patenting.

Both Lewis and DeTar could possibly be forgiven for their incompetence, but their illegal and unethical conduct should never be forgiven, and they should no longer be allowed to work for the U. S. Government.

Respectfully submitted,

E.W. Moon
Marilyn Moon
E. D. and Marilyn Moon
677 Greenbrier Drive
Heyburn, Idaho 83336

encls:



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 1, 2002

EUGENE D &/OR MARILYN MOON
677 GREEN BRIER DR
HAYBURN ID 83336

RE: Application for Transfer of Water Right 69178
Water Right 72-4053

Dear Applicant:

Your application for Transfer has been forwarded to the State Office for final review and processing. There is a statement on the application that this water right has not been used since 1993. Under Idaho law, a water right may be lost and forfeited by a failure to apply the water to beneficial use for a period of five (5) or more years, Section 42-222(2), Idaho Code. The statutes also describe some exceptions or defenses to forfeiture under Section 42-223.

Please provide some history, evidence of use, explanation of non-use and any supporting documentation for this water right since 1993. This may include power records for pumps used to divert water, receipts or other evidence of expenditures or revenue from the use of water under the right, or affidavits of persons having actual knowledge of the uses or non-use of water under the right. Whatever documentation you provide will be evaluated and considered in the final recommendation for the transfer application.

If you require additional information regarding this matter, please call me directly at (208) 327-7943, e-mail me at pskaggs@idwr.state.id.us or contact me by mail, and I will be happy to assist you.

Sincerely,

Pamela S. Skaggs
Sr. Water Rights Agent

Enclosures

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IDWR TRANSFER ANALYSIS SHEET

APPLICANT

Eugene W. Moon

TRANSFER NO. 69178

1. Right number(s)

72-4053

2. Type of right

☒ Decree ☐ License ☐ Statutory Claim
☐ SRBA Beneficial Use Claim

3. Purpose of transfer

☐ Change P/D ☒ Add P/D ☒ Change P/U
☐ Change N/U ☐ Change Source ☐ Split Right
☐ Other: _____

4. Check Existing Right:

☒ Source ☒ Priority ☒ Amount ☒ Purpose
☒ Period ☐ SRBA Claim
☒ Description of original point(s) of diversion
☒ Description of original place of use
☒ Overlapping rights on original place of use

Comments: Recommend approval. Transfer agrees with original SRBA Findings regarding P/D & P/U. According to owner, Heck Mining Co. destroyed these original mining site by building a wide road thru it. This, & problems with USFS, has prevented mining from occurring since 1993. Right should not be forfeited due to problems beyond owner's control.

5. Check Proposed Right for amount of land &/or water transferred:

Also see attached memo for more analysis information

- a. ☒ All of right
- b. ☐ Part of right (NOTE! Part B should be filled in only if part of right is owned by the applicant)
- c. ☒ Description of point(s) of diversion
- d. ☒ Description of place of use
- e. ☒ Map showing P/D & P/U after transfer
- f. ☒ Correct notarized signature and \$100 fee
- g. ☒ Proof of ownership of right &/or land from which water is transferred see final stipulation in SRBA sub-case
- h. ☒ Expansion in use of right - Comments: _____

None requested

- i. ✓ Existing rights from same source, on land water is being transferred to; right number(s): _____

None

5. N/A SRBA claim(s) - Comments (NOTE! Approved transfer amends SRBA claim; differences between existing water right and SRBA claim? any ownership or other outstanding issues? Explain) _____

- k. ✓ Comment letters _____ Yes _____ No
If yes _____ Water District #
_____ Lienholder, others, see #2
_____ below for name and address

INITIAL ALLOCATION REVIEW BY J. P. Stanton DATE 5-30-01
 SRBA SUPERVISOR REVIEW BY _____ DATE _____
 PUBLICATION REVIEW BY _____ DATE _____

1. Legal Notice electronically sent to DWR03::VAULT Yes
2. COMMENT LETTERS Copy of Pg 1 to AJ / Yes

Watermaster recommendation requested on _____, Received on _____

Other comments letters - send to the following name(s) & address(es):

3. Transfer published correctly? Yes No
4. Affidavit of publication received? Yes No
5. Protests received? Yes No; Acknowledgement sent? Yes
6. Copies made for Region file (see attached supplemental page)? Yes

RECOMMENDED ACTION

1. ✓ Approve
2. Deny due to _____

3. Conditions (special conditions in Water Districts) _____

Also see attached memo for recommendation dated:

4. By AM Date 7/6/51

RECEIVED

SEP 14 2001

Department of Water Resources

MEMO

FROM: Allen Merritt 

DATE: September 6, 2001

TO: Transfer File No. 69178

In the name of: Eugene Durell Moon

Water Right(s): 72-04053

SUBJECT: **Review and Recommendation**

This transfer proposes modification of the POD and POU of a right for diversion of water from Jordan Creek for Mining purposes. The modification would allow use on claims up and down Jordan Creek. The POD & POU proposed to be added were originally part of the SRBA recommendation but the USFS objected. They ultimately settled with an SF5 agreement. (See enclosed)

I am concerned about the forfeiture of the water right since on the face of the application it is stated that the water has not been used since 1993 due to litigation.

The transfer was processed without protest.

Recommendation

I recommend that this transfer be approved subject to the following conditions:

- Review by legal staff of the forfeiture issue.
- Subject to other state or federal requirements.
- Screen diversion intake to prevent takings of fish.
- Require treatment of any return flow to stream to meet water quality standards.
- Subject to SRBA SF5 agreement.

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AUG 11 2003

T#69178

WATER RIGHT NO.

FILE PROGRESS

Eugene A Moon

72-4053

[illegible]



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 9, 2001

EUGENE DURELL MOON
677 GREENBRIER DR
HEYBURN ID 83336

RE: Application for Transfer No. 69178

Dear Applicant(s):

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

This office has scheduled advertising the application in the Challis Messenger for 7/19 & 7/26/01. The advertisement will be published for two weeks, and a period of ten calendar days following the second publication will be allowed for the submittal of protests. (August 6, 2001)

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.

The department's review process may have to include field investigation and verification of the claims which is required as part of the Snake River Basin Adjudication.

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.

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

Sincerely,

Mary A. Baldwin
Administrative Assistant

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AUG 11 2003

5/20/18

200 SEP 18 AM 10:32
DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED

UNITED STATES OF AMERICA

EUGENE DURELL MOON

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

JAMES ANNEST
1742 Overland Avenue
P.O. Box 686
Burley, Idaho 83318
(208) 678-7783

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 W. Fort St. MSC033
Boise, ID 83724
(208) 331-5943

Per ADM, send copy of app
w/comments requested

Counsel for the United States of America

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

) Subcases: 72-04053

Case Number: 39576

) STIPULATION TO RESOLVE SUBCASE

)
)

DESCRIPTIVE SUMMARY

This is a stipulation between the United States of America, acting on behalf of the United States Department of Agriculture, Forest Service (hereinafter "Forest Service"), Eugene Durell Moon (hereinafter "Claimant") to resolve the Forest Service objection to water right claim number 72-04053.

SRBA PARTIAL DECREE 72-04053

Issued on 01-05-2001.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS: EUGENE DURELL MOON
677 GREEN BRIER DR
HEYBURN, ID 83336
SOURCE: JORDAN CREEK
QUANTITY: 2.00 CFS
PRIORITY DATE: 01/01/1961
POINT OF DIVERSION: T13N R15E S29

TRIBUTARY: YANKEE FORK

SESW Within Custer County
NWSE
SWSE

PURPOSE AND
PERIOD OF USE: PURPOSE OF USE QUANTITY
Mining 04-15 TO 11-15 2.00 CFS
PLACE OF USE: Mining T13N R15E S29 Within Custer County
T13N R15E S29 SESW NWSE
SWSE

UNSURVEYED SECTION SITUATED IN APPROXIMATE SECTION 29.
PATENTED PRIVATE LAND RECORDED THE SQUARE DEAL PLACER AND NEW
DEAL PLACER, PART OF MINERAL SURVEY 3644.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

Return to SRBA Home Page

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AUG 11 2003

7000 5/20/84
UNITED STATES OF AMERICA

LOIS J. SCHIFFER
Assistant Attorney General
Environment and Natural Resources Division

DAVID L. NEGRI
United States Department of Justice
Environment and Natural Resources Division
General Litigation Section
550 W. Fort St. MSC033
Boise, ID 83724
(208) 331-5943

Counsel for the United States of America

200 SEP 18 AM 10:32
DISTRICT COURT-SRBA
TWIN FALLS CO IDAHO
FILED *[Signature]*

EUGENE DURELL MOON

JAMES ANNEST
1742 Overland Avenue
P.O. Box 686
Burley, Idaho 83318
(208) 678-7783

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	Subcases: 72-04053
	)	
Case Number: 39576	)	STIPULATION TO RESOLVE SUBCASE
	)	
	)	

DESCRIPTIVE SUMMARY

This is a stipulation between the United States of America, acting on behalf of the United States Department of Agriculture, Forest Service (hereinafter "Forest Service"), Eugene Durell Moon (hereinafter "Claimant") to resolve the Forest Service objection to water right claim number 72-04053.

STIPULATION

WHEREAS, it is Forest Service policy to manage National Forest System Lands in accordance with existing law and policy; and

WHEREAS, the Claimant has patented mining claims that are part of Mineral Survey 3644 -known as the Square Deal Placer and the New Deal Placer; and

WHEREAS, the Claimant also has adjacent unpatented mining claims, part of Mineral Survey 3644, namely the Olga Marie Nos. 1-6 Placers, Marilyn Placer and Hope Placer, part of Mineral Survey 3672 A&B, namely Mickey Marie Nos. 1 and 2 Placers and Moonbeam Placer along Jordan Creek on the Salmon and Challis National Forest; and

WHEREAS, the Claimant has filed application for patent on the unpatented mining claims listed above and First Half Final Certificate in that process was recognized in 1992; and

WHEREAS, the Claimant filed claim no. 72-04053 in the Snake River Basin Adjudication for mining use from Jordan Creek within the Salmon and Challis National Forests involving both the patented private land and unpatented National Forest System land; and

WHEREAS, the Forest Service filed an objection to water right number 72-04053; and

WHEREAS, the Claimant and the Forest Service wish to resolve the objection to the above referenced water right without litigation expense and delay.

THEREFORE, the parties stipulate and agree as follows:

1. That the use of water under claim no. 72-04053 for mining purposes must be in accordance with applicable state law and federal policy.
2. That the Claimant hold owns patented private land that is part of Mineral Survey

3644 known as Square Deal Placer and the New Deal Placer.

3. That the claimant has unpatented mining claims Olga Marie Nos. 1-6 Placers, Marilyn Placer, Hope Placer, Mickey Marie Nos. 1 and 2 Placers, and Moonbeam Placer adjacent to the patented private land. Patent applications to all of the above claims except the Marilyn and Hope claims has been filed and are in litigation. Claimant claims equitable title to said claims.
4. That the United States is the owner of the land where the Olga Marie Nos 1-6 Placers, Marilyn Placer, Hope Placer and Mickey Marie Nos. 1 and 2 Placers, and Moonbeam Placers claims are located.
5. That the legal descriptions of the points of diversion and places of use for the unpatented mining claims Olga Marie Nos. 1-6 Placers, Marilyn Placer, Hope Placer, Mickey Marie Nos. 1 and 2 Placers, and Moonbeam Placer on National Forest System land be deleted from claim no 72-04053 as reported by the Director of the Idaho Department of water Resources and the claim decreed as shown on the Standard Form 5 filed herewith.
6. That at such time as mining activity might occur in the future under an operating plan approved by the Forest Service on any portion of the unpatented mining claims on National Forest System land listed above, the Forest Service will not protest the transfer of this water right to the unpatented claims for the duration of the approved mining activities.
7. That at such time in the future patent is secured to any of the unpatented mining claims referenced herein, the Forest Service will not protest the transfer of this

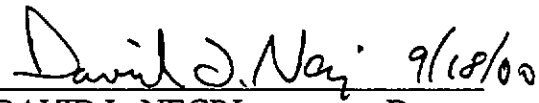
water right to the newly patented private land.

8. This stipulation was reached through negotiations for the purpose of resolving legal disputes, including pending litigation. All parties agree that no offers and/or compromises made in the course of the negotiations shall be construed as admissions against interest or be used in any legal proceeding.
9. All parties agree to bear their own costs and attorney fees in connection with this matter.
10. This stipulation was entered into and executed voluntarily by all parties in good faith, and without any fraud, misunderstanding, overreaching, misrepresentation, duress, or undue influence.

CLAIMANT:
Eugene Durell Moon

OBJECTOR:
United States of America

 9/14/00
JAMES ANNEST Date
Attorney

 9/18/00
DAVID L. NEGRI Date
United States Department of Justice

CERTIFICATE OF MAILING

I certify that on September 18, 2000, I served this *Stipulation to Resolve Subcase*
– 72-04053 upon the following:

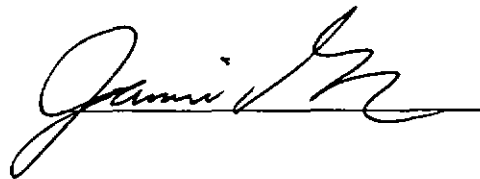
BY FIRST CLASS MAIL:

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources Division
550 W. Fort St. MSC033
Boise, ID 83724

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

James Annest
P.O. Box 686
Burley, ID 83318



Stanton, Jim

From: Stanton, Jim
Sent: Thursday, May 24, 2001 1:14 PM
To: Shaff, Don
Cc: Stanton, Jim
Subject: Decree 72-4053, Eugene Moon

While this decree was issued last January, it is not reflected in our records. The decree removed several points of diversion and places of use from Steve's recommendation due to federal objections. Mr. Moon wants to file a transfer to add the deleted pod's & pou's back into the right, but this won't work until the decree data is put into our database. Please get this done as soon as possible so the transfer can proceed. Moon is supposed to come in today to file (he just called me this morning, and I talked to Steve & Allen on how to proceed). Let me know if there is a problem on your end. Thanks.

Stanton, Jim

From: Shaff, Don
Sent: Thursday, May 24, 2001 1:14 PM
To: Stanton, Jim
Subject: Out of Office AutoReply: Decree 72-4053, Eugene Moon

I am out of the office Tuesday and Wednesday (5/22-23) and will return Thursday 5/24. I'll get back to you on your message upon my return.

AFFIDAVIT OF PUBLICATION

State of Idaho, County of Custer, ss:

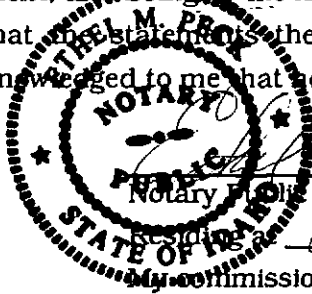
I, Ruth E. Burchill, representing the Challis Messenger, a weekly newspaper, published at Challis, Idaho, do solemnly swear that the notice hereto attached and made a part hereof, was published in the regular and entire issue of the Challis Messenger for 2 consecutive weeks, commencing with the issue dated July 19 2001 and ending with the issue dated July 26 2001.

Ruth E Burchill

STATE OF IDAHO

COUNTY OF CUSTER

On this 26th day of July in the year of 2001 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: 3-19-04

NOTICE OF PROPOSED
CHANGE OF WATER RIGHT
EUGENE DURELL MOON, 677
GREENBRIER DR., HEYBURN, ID
83336 has filed Application No.
69178 for changes to the following
water rights within CUSTER
County:

Right No. 72-4053

Priority: 1/1/1961

Source: JORDAN CREEK

Use: MINING 2.00 CFS

Total Amount: 2.00 CFS

Point(s) of Diversion: SESW,
NWSE, SWSE S29 T13N R15E

Place of Use: S29 T13N R15E

The purpose of the transfer is to
change the above right by adding
points of diversions and places of
use to include unpatented mining
claims near the current patented
mining claims as follows:

Proposed Changes to Right No.
72-4053

Point(s) of Diversion: NENW,
SESW, NWSE, SWSE S5 T12N
R15E:

SESW, NWSE, SWSE S29 T13N
R15E:

NENW, SWNW, SENW, NESW,
NWSW, SESW S32 T13N R15E

Place of Use: Same as Points of
Diversion

Protests may be submitted
based on the criteria of Sec 42-
222, Idaho Code. Any protest
against the proposed change must
be filed with the Department of
Water Resources, Southern Re-
gion, 1341 Fillmore St, Suite 200,
Twin Falls, ID 83301 together with
a protest fee of \$25 for each appli-
cation on or before August 6,
2001. The protestant must also
send a copy of the protest to the
applicant.

KARL J DREHER, Director
Pub: July 19 & 26, 2001.

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AUG 1 1 2001
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
	7-26-01	Notice of Proposed Change of Water Right Right No. 72-4053 7/19+26/01 47 lines	70.27
RECEIVED JUL 27 2001 Department of Water Resources Southern Region			OK MB 7/30/01

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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AUG 11 2003

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

EUGENE DURELL MOON, 677 GREENBRIER DR; HEYBURN ID 83336 has filed Application No. 69178 for changes to the following water rights within CUSTER County:

Right No. 72-4053

Priority: 1/1/1961

Source: JORDAN CREEK

Use: MINING 2.00 CFS

Total Amount: 2.00 CFS

Point(s) of Diversion: SESW, NWSE, SWSE S29 T13N R15E

Place of Use: S29 T13N R15E

The purpose of the transfer is to change the above right by adding points of diversions and places of use to include unpatented mining claims near the current patented mining claims as follows:

Proposed Changes to Right No. 72-4053

Point(s) of Diversion: NENW, SENW, NWSE, SWSE S5 T12N R15E;

SESW, NWSE, SWSE S29 T13N R15E;

NENW, SWNW, SENW, NESW, NWSW, SESW S32 T13N R15E

Place of Use: Same as Points of Diversion

Protests may be submitted based on the criteria of Sec 42-222, Idaho Code. Any protest against the proposed change 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 for each application on or before August 6, 2001. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Challis Messenger on 7/19 & 7/26/01.

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AUG 11 2003



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 9, 2001

Legal Notice Department
Custer Publishing Co
PO Box 405
Challis ID 83226

RE: Proposed Change No. 69178-Moon

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before August 6, 2001. Your cooperation is appreciated.

Sincerely

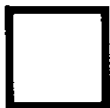
Mary A. Baldwin
Administrative Assistant

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AUG 11 2001

IDAHO DEPT. OF WATER RESOURCES

APPLICATION FOR TRANSFER - EUGENE MOON



Section Lines



Quarter-Quarter Lines

General Location: A 2 1/2 mile stretch of Jordan Creek Between
Pinyon Lake & Red Rock Creek

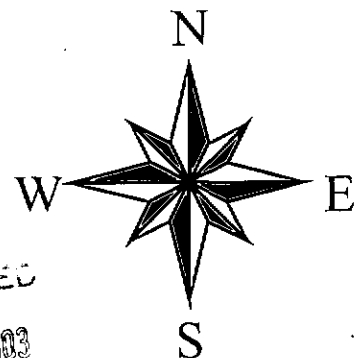


P/U & P/D (Possible Mining Sites)

Note: Land is unsurveyed - no gcdb available

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AUG 11 2003



Prepared By J E Stanton 5-31-01

1986/87 NAPP Data

T69178