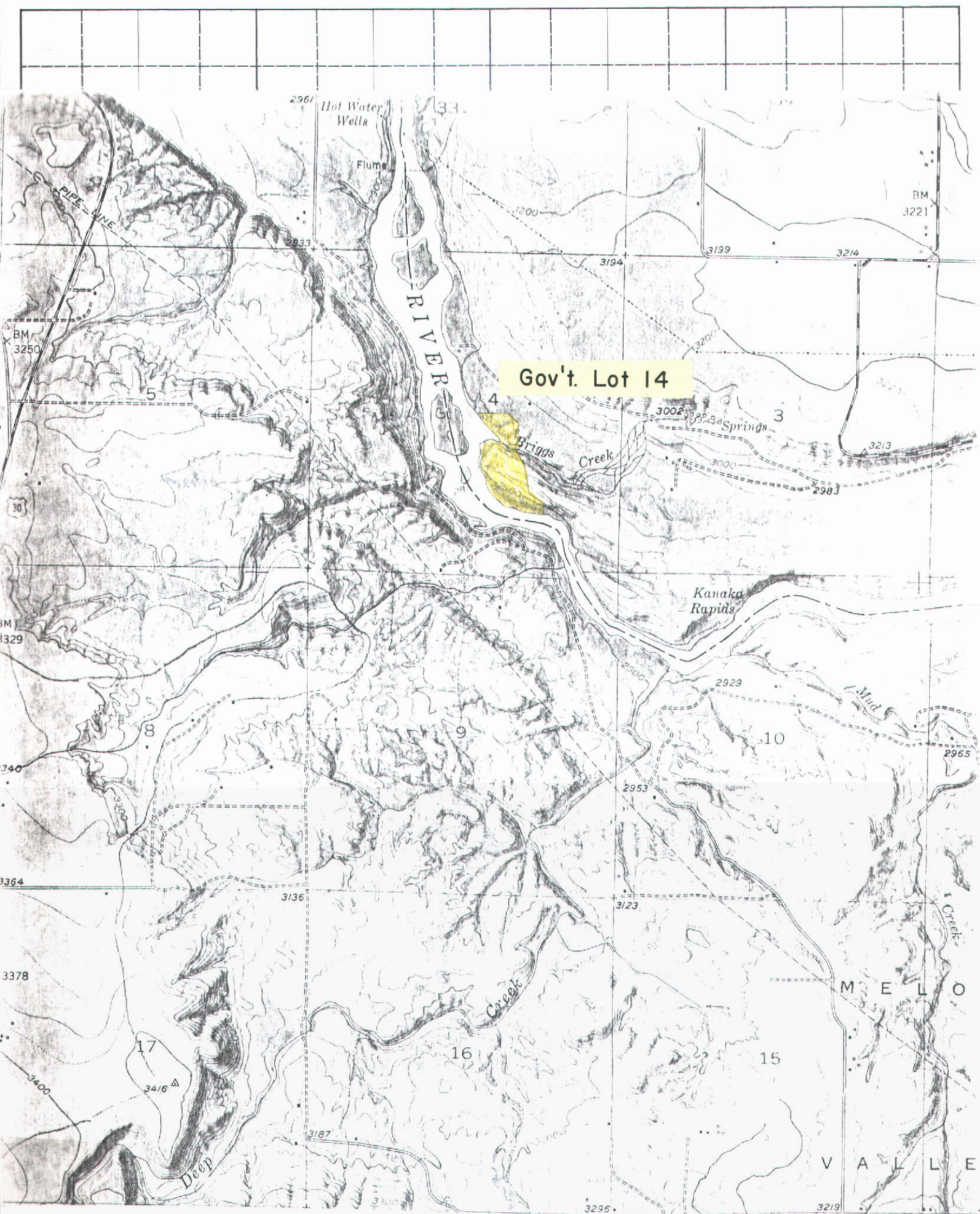


11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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

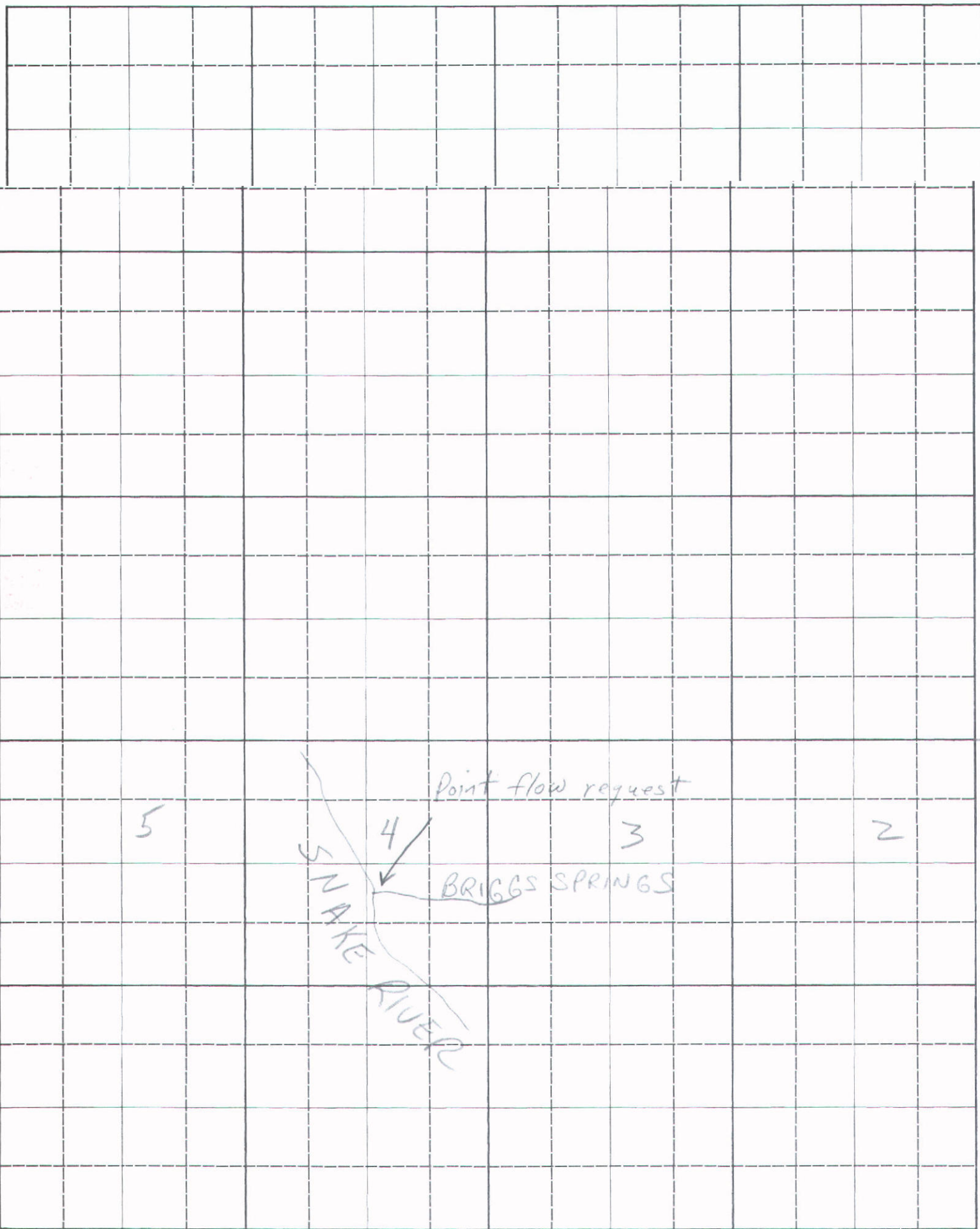
IDAHO WATER RESOURCE BOARD

by M. Reed Hansen
Vice-Chairman (Applicant)

RECEIVED



11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

R. 14 E.

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

George R. [Signature]
(Applicant)



**AMENDED NOTICE OF APPLICATION
FOR MINIMUM STREAM FLOW**

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted six (6) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following sources tributary to the Snake River and are further described as follows:

AMENDED APPLICATION NO. 36-7819

Source: Briggs Springs
Point of minimum streamflow: Lot 4 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Sec. 4, Twp. 9S, Rge. 14 E, B.M., Gooding County
Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations

AMENDED APPLICATION NO. 36-7822

Source: Banbury Springs
Point of minimum streamflow: Lot 4 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 33, Twp. 8S, Rge. 14E, B.M., Gooding County
Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations, aesthetics and recreational values

AMENDED APPLICATION NO. 36-7820

Source: Blind Canyon Springs
Point of minimum streamflow: Lot 2 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 28, Twp. 8S, Rge. 14E, B.M., Gooding County
Rate of flow: 8 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations and aesthetic values

AMENDED APPLICATION NO. 36-7821

Source: Lower White Springs
Point of minimum streamflow: Lot 3, Sec. 2, Twp. 7S, Rge. 13E, B.M., Gooding County
Rate of flow: 11 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve rearing and spawning habitat for trout

AMENDED APPLICATION NO. 37-7734

Source: Bancroft Springs
Point of minimum streamflow: Lot 5, Sec. 4, Twp. 6S, Rge. 11E, B.M., Elmore County
Rate of flow: 17 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations and aesthetics

AMENDED APPLICATION NO. 36-7818

Source: Vinyard Creek
Point of minimum streamflow: Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 4, Twp. 10S, Rge. 18E, B.M., Jerome County
Rate of flow: 17 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain fish populations and spawning habitat and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m., on Wednesday, April 25, 1979 on Applications 36-7821, 36-7822, and 37-7734 and at 10:00 a.m., on Thursday, April 26, 1979 on Applications 36-7819, 36-7820 and 36-7818 at the Buhl City Hall, 201 Broadway North, Buhl, Idaho for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

If issued, these permits will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED

Director

PUBLISH: Friday, March 23 and 30, 1979.

Affidavit of Publication

STATE OF IDAHO,
COUNTY OF TWIN FALLS } ss.

I, Nola L Laughlin being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Fridays, commencing with the issue dated March 23, 19 79, and ending with the issue dated March 30, 19 79.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Subscribed and sworn to before me on this April, 19 79 day of April

Nola L Laughlin
Carolene Jennings

Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho

RECEIVED N^o 8126

APR 5 1979

AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho, }
County of Gooding } SS.

APR 12 1979

Department of Water Resources

Robert Crumpton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 29 day of March

1979, and the date of the last publication was on the 5

day of April, 1979.

Robert Crumpton

Subscribed and sworn to before me this 5

day of April, 1979.
(SEAL)

Garnett Hies

NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 32

Number of Insertions 2

Lines tabular at 315c

Lines straight at 32 21c 6.72

Subsequent lines at 32 15c 4.80

TOTAL COST 11.52

COPY OF NOTICE

AMENDED NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted six (6) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following sources tributary to the Snake River and are further described as follows:

AMENDED APPLICATION

NO. 36-7819

Source: Briggs Springs
Point of minimum streamflow: Lot 4 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Sec. 4, Twp. 9S, Rge. 14E, B.M. Gooding County
Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

de maysa 4/11/79

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

29830

N^o 2045

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Kim R. Compton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 8 day of February 1979, and the date of the last publication was on the 15 day of February 1979.

Subscribed and sworn to before me this 15 day of February, 1979.
(SEAL)

Garnett H. Davis
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 32
Number of Insertions 2
Lines tabular at 315c
Lines straight at 32 21c 6.72
Subsequent lines at 32 15c 4.80
TOTAL COST 11.52

COPY OF NOTICE

(Paste Here)

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978 submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs
Point of minimum streamflow: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 9S, Rge. 14E, B.M., Gooding County
Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

7 pt. per line, straight	21c
7 pt. per line, tabular	315c
7 pt. per line, successive insertions	15c

RECEIVED
29096

FEB 21 1979

No. 1996
Department of Water Resources
Southern District Office

MICROFILMED

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs
Point of minimum streamflow: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 9S, Rge. 14E, B.M., Gooding County

Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations

Application No. 36-7822

Source: Banbury Springs
Point of minimum streamflow: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Twp. 8S, Rge. 14E, B.M., Gooding County

Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations, aesthetics and recreational values

Application No. 36-7820

Source: Blind Canyon Springs
Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, Twp. 8S, Rge. 14E, B.M., Gooding County

Rate of flow: 8 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations and aesthetic values

Application No. 36-7821

Source: Lower White Springs
Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, Twp. 7S, Rge. 13E, B.M., Gooding County

Rate of flow: 11 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve rearing and spawning habitat for trout

Application No. 37-7734

Source: Bancroft Springs
Point of minimum streamflow: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, Twp. 6S, Rge. 11E, B.M., Elmore County

Season of use: January 1 to December 31
Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979, at the Gooding City Hall, 308 5th Avenue West, Gooding, Idaho, for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

If issued, these permits will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho, five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED

Director

PUBLISH: Thursday, Feb. 8 and 15, 1979.

Affidavit of Publication

STATE OF IDAHO,

COUNTY OF TWIN FALLS }

SS.

No 8006

I, Nola L. Laughlin being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two

consecutive Thursdays, commencing with the issue dated February 8, 1979, and ending with the issue dated February 15, 1979.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof Thursday is announced as the day on which said legal notices will be published.

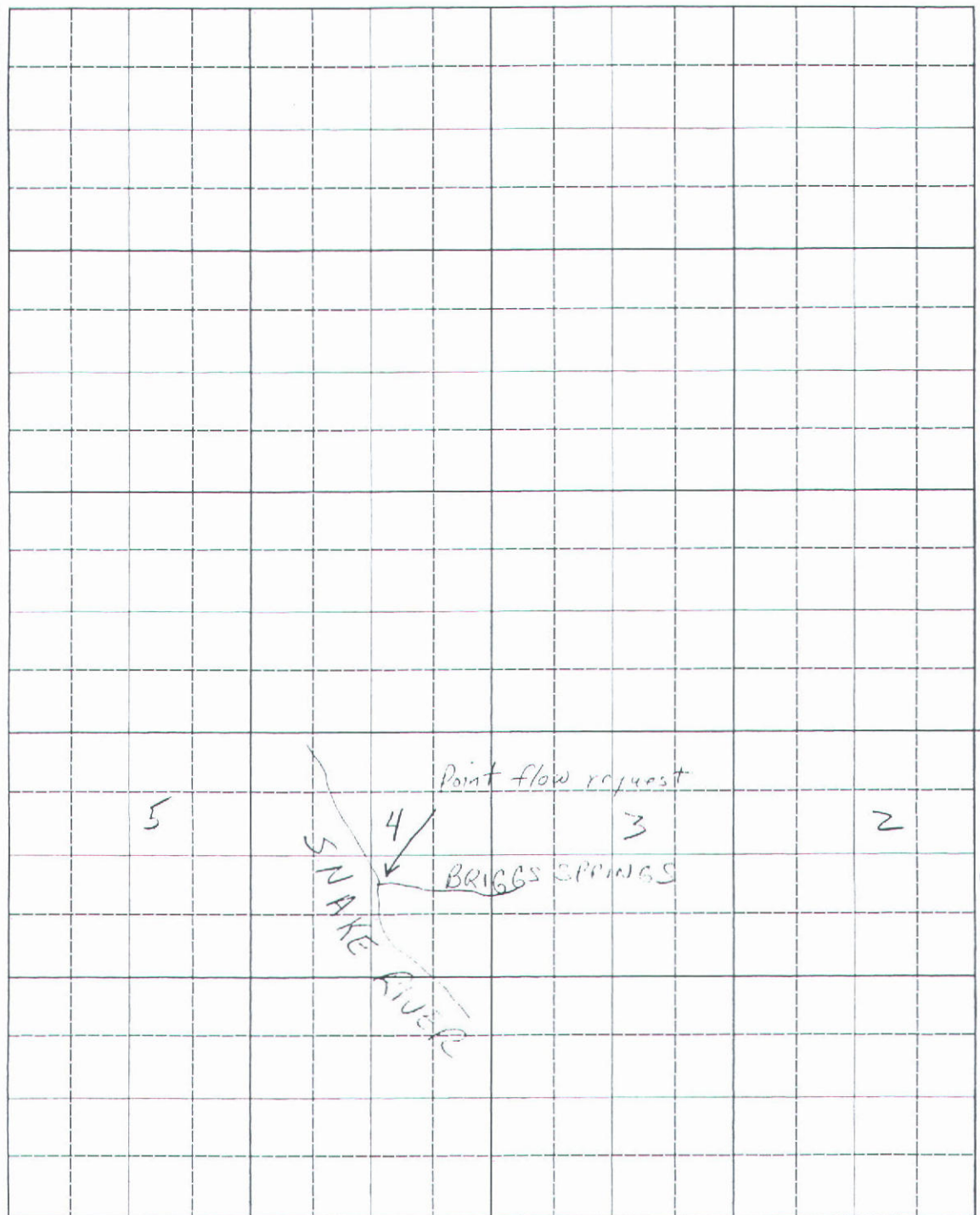
Subscribed and sworn to before me on this 15th day of

February, 1979.

Kay L. Mahoney

Notary Public in and for the County of Twin Falls, State of Idaho, residing at Twin Falls, Idaho

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

R. 14 E.

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

Leroy [Signature]
(Applicant)
NOV 07 1995

1. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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

IDAHO WATER RESOURCE BOARD

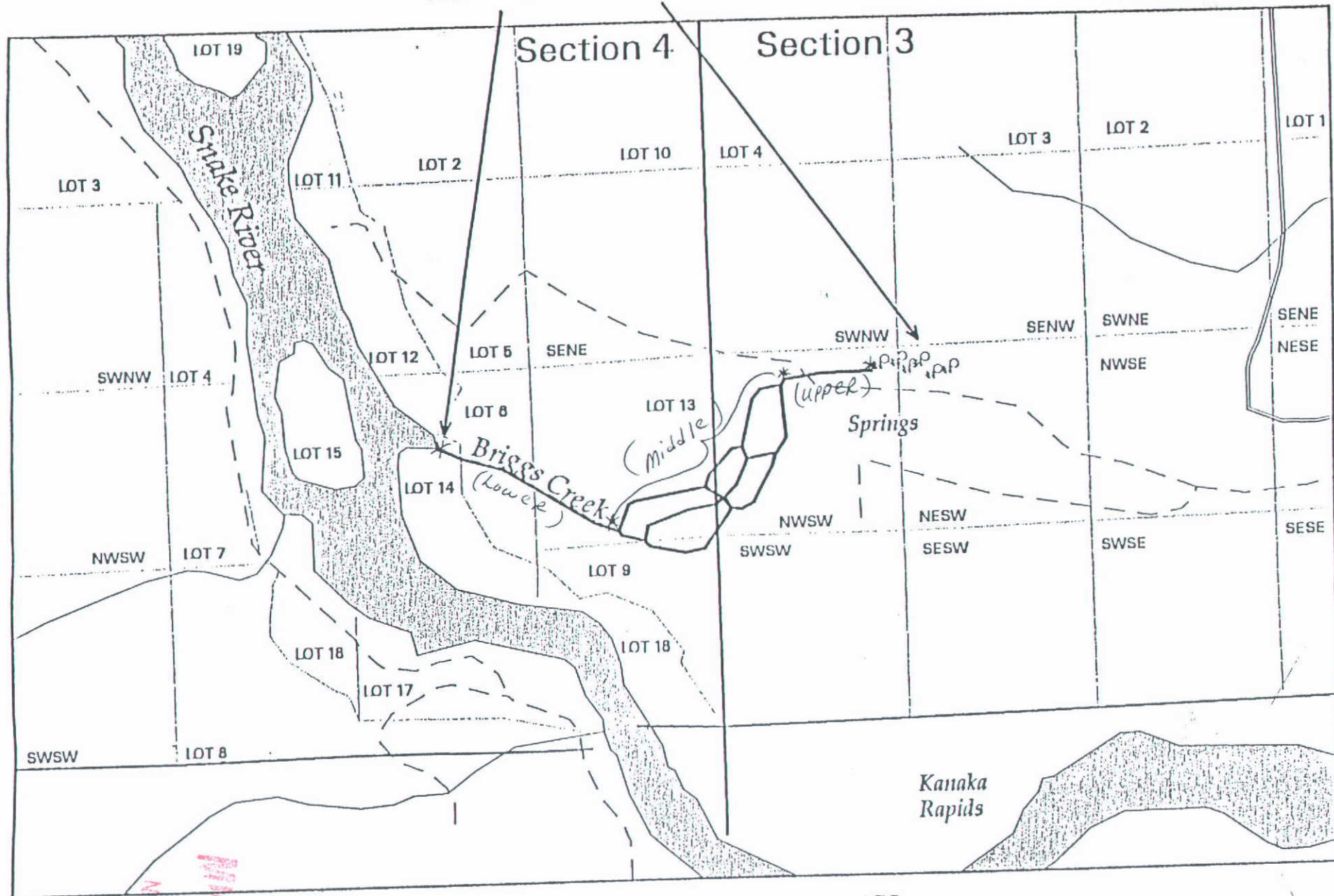
by W. R. Hansen
Vice-Chairman (Applicant)

NOV 07 1995

Minimum Streamflow Reach

Section 4

Section 3



Township 9S, Range 14E - BRIGGS SPRINGS

Staff
Exhibit 2

NOV 07 1925

1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

DOVE SPRINGS AND THE NARROWS WATER DISTRICT

Telephone (208) 324-5110
Route 4, Box 4634
Jerome, ID 83338

November 18, 1983

TO: Idaho Power Lawsuit Defendants 61-7021, 62-7128, 62-7138
Water Right Number(s): 36-7872, 36-7815-22, 37-7727+28+34+39,
37-7849 37-7892, 37-7920, 61-7373 22-7369

We are writing this letter to request that you join with us in a matter of great importance to our area as well as the State of Idaho. You have by now heard of the "Swan Falls decision" and you are probably aware that the Idaho Department of Water Resources has declared a moratorium on further processing of water rights, either surface or underground, in the entire Snake River Drainage, including your area.

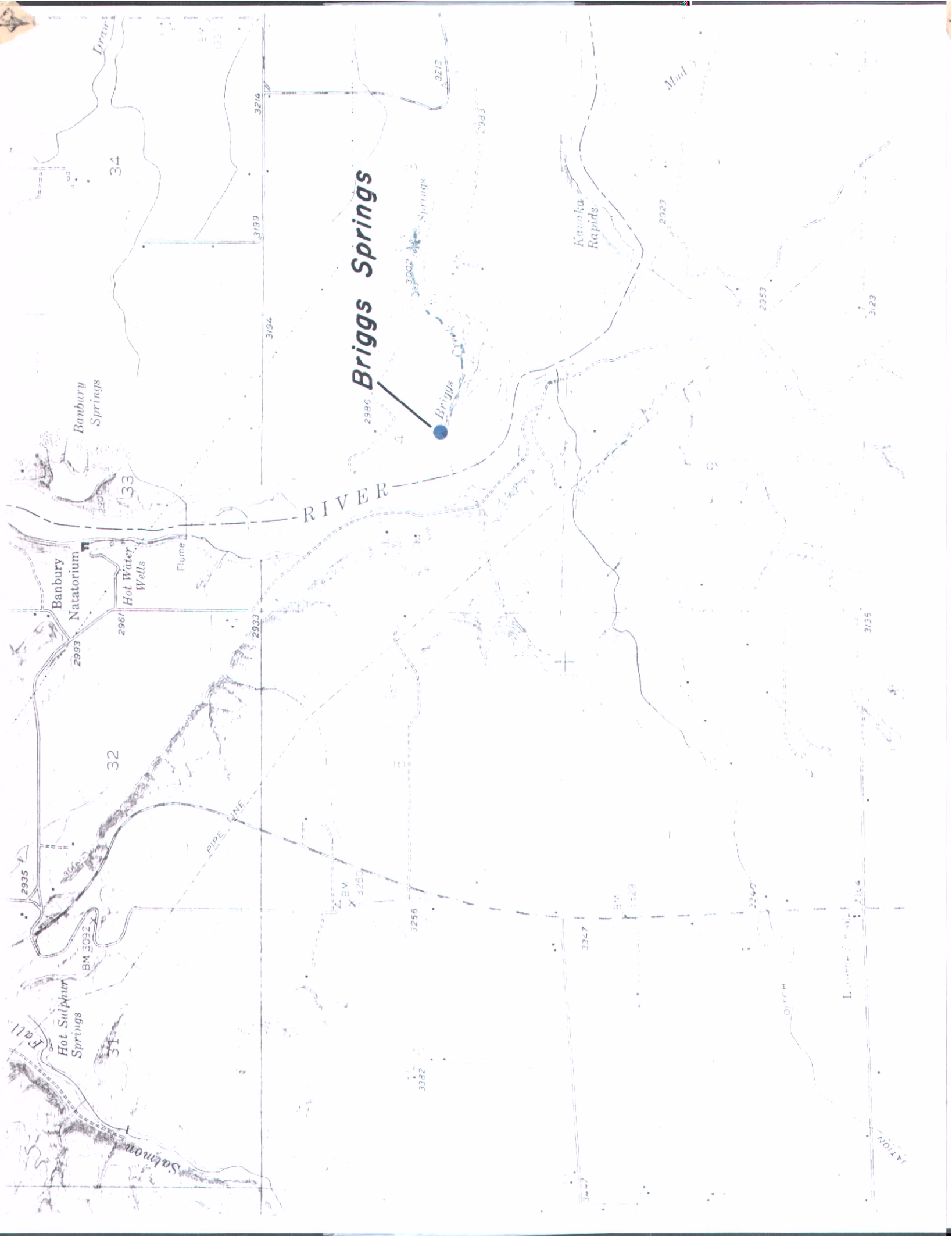
You may not be aware that last March, Idaho Power Company filed a lawsuit against 7500 water right holders. Idaho Power is seeking damages and an injunction against further use of all our water rights with priority dates later than January 17, 1900. Only one water user defendant has been served so far. It appears that Idaho Power desires to keep publicity at a minimum until it can implement legislation which will prevent any future water development in the Snake River Drainage Basin, upstream from Swan Falls.

We feel the Governor responded correctly to the action challenging the constitutionality of Senate Bill 1180 by refusing to sign the contract until the litigation is concluded. This makes it imperative that we move as soon as possible to protect ourselves and our water rights in the litigation brought against all of us by Idaho Power.

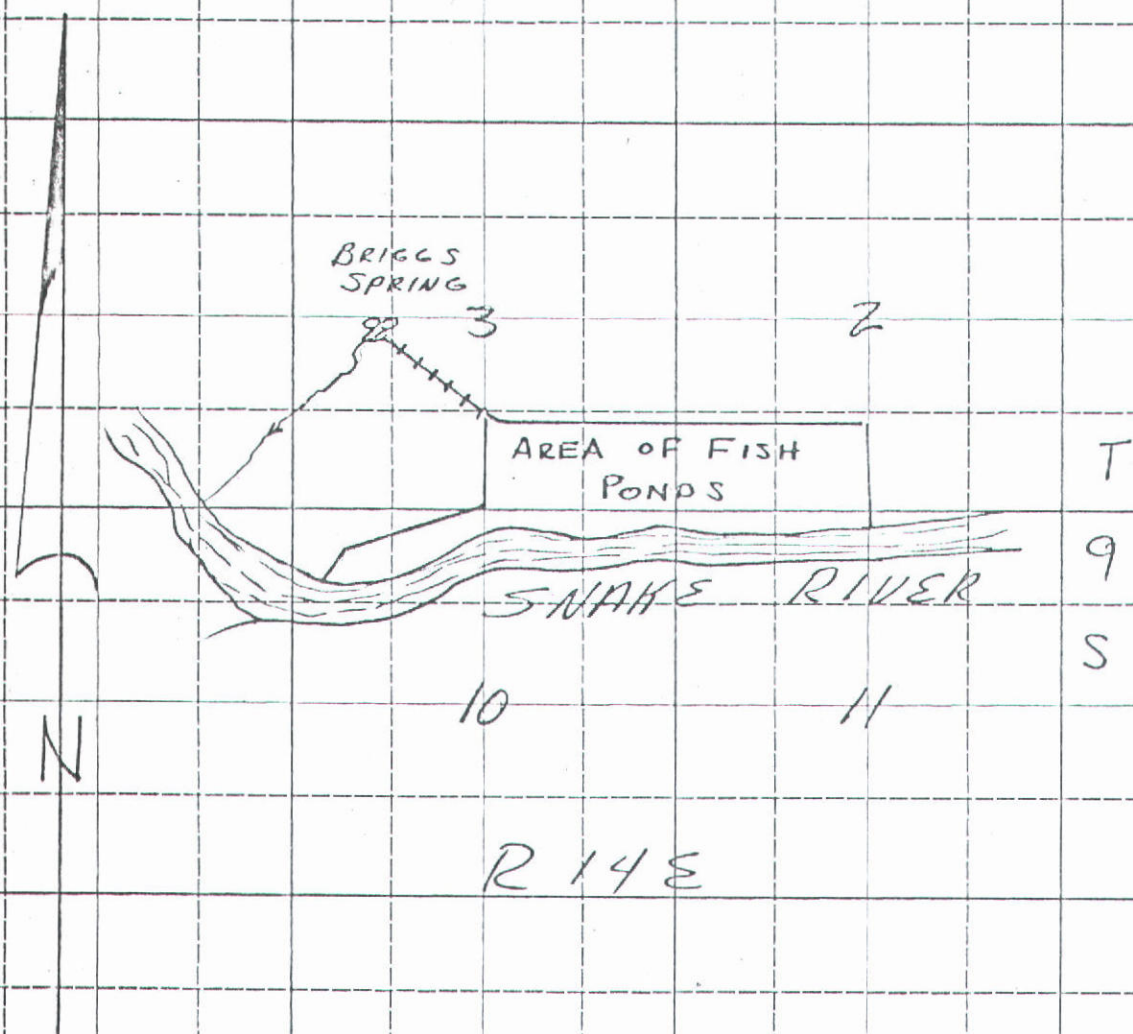
You and we have both been named as defendants in the lawsuit. We have asked Kent W. Foster of Holden, Kidwell, Hahn & Crapo and R. W. Rigby of Rigby, Thatcher, Anderson & Barton to defend our interests in the litigation. We are enclosing a copy of an opinion letter we obtained from Mr. Foster which explains the issues and the background.

We are convinced that a unified effort to defend this litigation is essential. We have a great deal more impact together than individually, and if we all participate, we stand a better chance of being able to bear the economic burden of defending a lawsuit brought by an organization with the resources of the Idaho Power Company.

MICROFILMED



11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

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

Larry Wright
(Applicant)

MICROFILMED

4



Copy to:
Board members
Soldiers: Walter J. [unclear]
[unclear]

RECEIVED

OCT 23 1976

Department of Water Resources

Dear Mr. Yost:

Vineyard Creek
Briggs Springs
Blind Canyon Springs
Lower White Springs
Banbury Springs
Silver Creek 37-7728
Silver Creek 37-7727
Bancroft Springs
Wolf Lodge Creek
St. Charles Creek

Yours very truly

Joe F. Allen, Co-chairman
Water/Power Initiative

RECEIVED

329 South Millipoi
Boise, Idaho 83705
November 4, 1978

Mr. George Yost, Chairman
Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

RECEIVED

NOV 7 1978

Department of Water Resources

Dear Mr. Yost,

I am delighted to see that the newly legislated opportunity to apply for minimum stream flows in Idaho has been taken up by the Fish and Game Department. Such a request is very much in the public interest for the citizens of this state. If the water for these minimum flow requests is indeed available, I urge affirmative action be taken by the members of the Idaho Water Resource Board. I refer to the following applications for permits: 36-7818 - Vinyard Creek, 36-7819 - Briggs Springs, 36-7820 - Blind Canyon Springs, 36-7821 - Lower White Springs, 36-7822 - Banbury Springs, 37-7727 and 37-7728 - Silver Creek, 61-7373 - Bancroft Springs, 95-7874 - Wolf Lodge Creek, 11-7152 - St. Charles Creek.

I do not think we can any longer operate efficiently with a zero-based budgeting concept for the waters of Idaho. To establish minimum flows for those streams where it is still possible is like putting money in a water savings account. The sooner we move ahead with such a program the more everyone will benefit, and I include the agricultural water user as a very direct beneficiary of such a program.

Since the concept of establishing minimum stream flows for Idaho's waters is very long overdue in my estimation, I hope that you can move forward with all possible speed in the granting of these applications.

Sincerely,

Doli Obee
Doli Obee

MICROFILMED

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 36-07819

Priority: September 13, 1978 Minimum Stream Flow: 30.00 CFS

This is to certify, that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
PO BOX 83720

BOISE ID 83720-0098 has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated September 13, 1978; and
has submitted Proof of Beneficial Use on March 28, 2000. A minimum stream flow for:

BRIGGS CREEK tributary to SNAKE RIVER

has been established as follows:

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>MINIMUM STREAM FLOW</u> |
|-----------------------|----------------------|----------------------------|
| MINIMUM INSTREAM FLOW | 01/01 to 12/31 | 30.00 CFS |

MINIMUM STREAM FLOW REACH:

| | |
|--------------------------------|--|
| Beginning of Stream Flow Reach | Lot 13 (SWNESE), Sec. 4, Township 09S, Range 14E |
| End of Stream Flow Reach | Lot 14 (NWSE), Sec. 4, Township 09S, Range 14E
GOODING County |

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this right shall be non-consumptive.
2. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum stream flow such measuring station(s) shall be permanently installed and maintained as specified by the department.
3. The Director retains jurisdiction, as described below, to review and to amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

MICROFILMED
SEP 11 2000

State of Idaho
Department of Water Resources**Water Right License**

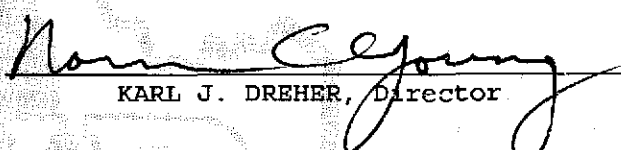
WATER RIGHT NO. 36-07819

CONDITIONS OF APPROVAL AND REMARKS

4. This minimum stream flow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to Thousand Springs, held in trust by the state of Idaho, which may be approved or diverted later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan and Chapter 2, Title 42, Idaho Code.
5. This minimum stream flow of 30 cfs is located only within the lower reach of Briggs Creek described as follows:
Beginning at a point in Lot 13 (SWNESE) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ending where Briggs Creek joins the Snake River Lot 14 Section 4, T9S, R14E, B.M. being a distance of about one-quarter (1/4) mile.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license 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. Signed and sealed this 16th day of

AUGUST, 2000.


KARL J. DREHER, Director

Amt. of Fee: _____
Receipt No. _____
Receipt By: _____
Date Received: _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

RECEIVED

MAR 28 2000

Department of Water Resources

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 36-07819 Telephone No. (208) 327-7900
2. Name of Permit Holder(s): IDAHO WATER RESOURCE BOARD
3. Mailing Address: 1301 N. Orchard Street
City Boise State ID Zip 83706-2237
4. Source of Water: Briggs Creek If **GROUNDWATER** (well), Date Drilled: mo. _____ / yr. _____
 - a. Well Driller: _____ Drilling Permit Number: _____ - _____ - _____ - _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): _____ Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: Minimum Instream Flow
6. Total rate of diversion and/or volume for which proof is submitted: 30 cfs OR _____ acre feet
7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes _____ or No X
Has the measuring device been installed? Yes _____ or No X
8. Fee Enclosed: \$ N/A (See Fee Schedule on back of the instructions for filing proof of beneficial use)
9. Person to contact to accompany the Department representative during field examination of the water system.
Name: David Blew Telephone Number: (208) 327-5443
Address: 1301 N. Orchard Street, Boise, ID 83706-2237
10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Clarence Parr Date: March 29, 2000
(include your title, if on behalf of company or organization)

MICROFILMED

SEP 11 2000

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 36-07819

Proposed Priority: September 13, 1978 Maximum Diversion Rate: 30.00 CFS

This is to certify, that **STATE OF IDAHO**
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720
has applied for a permit to appropriate water from:
BRIGGS CREEK tributary of **SNAKE RIVER**

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> |
|-----------------------|----------------------|--------------------------|
| MINIMUM INSTREAM FLOW | 01/01 to 12/31 | 30.00 CFS |

LOCATION OF POINT(S) OF DIVERSION:

Beginning of Stream Flow Reach Lot 13(SWNESE), Sec. 4, Township 09S, Range 14E
End of Stream Flow Reach Lot 14(NWSE), Sec. 4, Township 09S, Range 14E
GOODING County

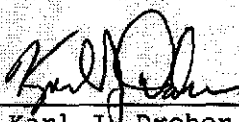
PLACE OF USE: See Remarks

CONDITIONS OF APPROVAL AND REMARKS

1. See Final Order for conditions and limitations for use of water under this approval.

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

11th day of October, 1995.



Karl J. Dreher, Director

MICROFILMED

NOV 07 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF AMENDED APPLICATION)
FOR PERMIT NO. 36-07819 IN THE NAME)
OF THE IDAHO WATER RESOURCE BOARD TO)
ESTABLISH A MINIMUM STREAM FLOW ON)
BRIGGS SPRINGS)

FINAL ORDER

On September 13, 1978, the Idaho Water Resource Board (Board) filed with the Department of Water Resources (department) Application for Permit No. 36-07819 (application) to appropriate water for a minimum stream flow on Briggs Springs tributary to the Snake River. The application was filed pursuant to Chapter 15, Title 42, Idaho Code.

On November 24, 1978, the department sent copies of the application to the Idaho Departments of Fish and Game, Health and Welfare, and Parks and Recreation for comments. Notice describing the proposed appropriation and setting the time and place for hearing was published in the Times News, Twin Falls, Idaho on March 23 and March 30, 1979, and in the Mountain Home News, in the Gooding County Leader and in the North Side News, Jerome, Idaho on March 29 and April 5, 1979.

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho for the purpose of eliciting testimony regarding the application. During the two days of hearings, testimony was also received concerning five additional applications for minimum stream flows also filed by the Board.

Approximately fifty people attended the two (2) days of hearings. Parties appearing in a formal capacity included the Idaho Water Resource Board; Idaho Department of Fish and Game; Idaho Power Company; Herb Deuel on behalf of Banbury Hot Springs; Sterling Larsen on behalf of Banbury Pipe Company; Robert C. Weaver, attorney for Valley Trout Farms, Inc.; Earl Hardy and Ken Ellis; Gary Wright; and the U.S. Trout Farmers Association. In addition, formal testimony was presented by the staff of the department and by Mr. Cecil Thomas, a hydrologist for the United States Geological Survey. Numerous other individuals and representatives of various organizations, including the Prairie Falcon Audubon Society, the Magic Valley Fly Fishermans Association, Thousand Springs Trout Farms, and the Idaho Wildlife Federation informally appeared to present their views and comments as public witnesses concerning the pending applications.

After the close of the hearing, the record remained open for fifteen (15) days to allow for the submission of additional written

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materials and an equal period was allowed for the submission of rebuttal materials. Six (6) individuals or organizations submitted additional written materials for the record which were in turn furnished to the parties. Rebuttal to these additional materials was not received from any of the parties.

The department withheld action on the application pending the final disposition of prior permits 36-07806, 36-07537 and 36-07538 which had been filed to appropriate water from the springs. The disposition of these permits is described in the Findings of Fact below.

On August 9, 1995, the department scheduled an additional public hearing in connection with the pending application, since significant time had passed from the original hearing in 1979 and the Director wanted to know of public interest changes which may have occurred since 1979. Notice of the hearing was published in the Idaho Statesman on July 27 and August 3, 1995 and in the Gooding County Leader on July 26 and August 2, 1995. Approximately fourteen (14) people attended the 1995 hearing including the Idaho Water Resource Board, Idaho Department of Fish and Game, Idaho Rivers United, and Myron and Elena Sheldon who appeared as formal parties. Robert S. Luntey appeared as a public witness on behalf of Magic Valley Fly Fishers. After the close of the hearing, the record was left open for fifteen (15) days to provide for the submission of additional written materials and an equal period of time was allowed for the submission of rebuttal materials.

On September 11, 1995, the department issued a Recommended Order in connection with the application. None of the parties to the matter filed a request for reconsideration or exceptions to the order. Based upon the sworn testimony, documentation and public statements included in the record and upon his understanding of the facts and the law, the Director issues the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT:

1. Pursuant to Chapter 15, Title 42, Idaho Code, on September 13, 1978, the Idaho Water Resource Board filed Application for Permit No. 36-07819 with the department to appropriate a minimum stream flow from Briggs Springs tributary to the Snake River. On March 20, 1979, the Board amended the application to add the appropriate government lot number to the legal descriptions provided on the original application.

2. The application proposes to appropriate a minimum stream flow of fifty-six (56) cubic feet per second (cfs) in a reach beginning at Briggs Springs generally located in the NE1/4SW1/4 Section 3, T9S, R14E, B.M. and ending at the confluence of Briggs Creek with the Snake River within Government Lot 14, Section 4, T9S, R14E, B.M. being a distance of approximately 3/4 mile in length. The purpose for the proposed minimum stream flow appropriation is to maintain rainbow trout spawning and rearing

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habitat. The period of use for the proposed appropriation is from January 1 to December 31, inclusive.

3. The application was filed by the Board upon request of the Idaho Department of Fish and Game and pursuant to the provisions of Chapter 15, Title 42, Idaho Code.

4. On December 9, 1994, the department issued License No. 36-07537 as follows:

| | |
|-----------------|---|
| Licensed owner: | Pristine Springs, et al. |
| Priority: | June 4, 1975 |
| Source: | Briggs Springs and Briggs Creek |
| Rate of div: | 3.71 cfs |
| Use: | Fish propagation
Irrigation - 30 acres |
| Season of use: | Irrigation - April 1 thru October 31
Fish propagation - year-round |

5. On January 11, 1993, the department issued License No. 36-07538 as follows:

| | |
|-----------------|--------------------------|
| Licensed owner: | Pristine Springs, et al. |
| Priority: | June 9, 1975 |
| Source: | Briggs Creek |
| Rate of div: | 30 cfs |
| Use: | Fish propagation |
| Season of use: | Year-round |

Discharge from the fish rearing ponds is returned to Briggs Creek in Lot 13 (NE1/4SE1/4) Section 4, T9S, R14E, B.M.

6. On September 25, 1992, the department rejected Application for Permit No. 36-07806 in the name of Catherine or Gary Wright for failure to diligently pursue their proposed project. The application was filed on July 26, 1978 for the diversion of 40 cfs from Briggs Springs and was the last pending application which predates Application for Permit No. 36-07819 filed by the Board.

7. In April 1989, the United States Geological Survey established a measuring gauge in the upper Briggs Springs area. Measured flow from the springs between 1989 and 1994 averaged 105 cfs. Approximately 70 cfs of water is diverted out of Briggs Springs below the gauge and is not returned to the creek. Most of the 35 cfs remaining is diverted for various uses but approximately 30 cfs is returned to the creek and has been measured in the creek approximately 50 yards upstream from the confluence of Briggs Creek with the Snake River.

8. Briggs Creek originates at Briggs Springs generally located in the NE1/4SW1/4 Section 3, T9S, R14E, B.M. and ends at the confluence of Briggs Creek with the Snake River with Lot 14 (NW1/4SE1/4), Section 4, T9S, R14E, B.M., being a total distance of

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approximately 3/4 mile. The creek has been described as consisting of an upper reach, a middle reach and a lower reach. The upper reach begins where the springs originate from the ground in the NE1/4SW1/4 Section 3 and extends to the point where the spring flow diffuses into several smaller flows in the NW1/4SW1/4 Section 3. The middle reach consists of diffused flow through a number of channels technically termed "braided channels". The lower reach begins at the point in Lot 13 (SW1/4NE1/4SE1/4) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ends where Briggs Creek joins the Snake River being a distance of about one-quarter (1/4) mile.

9. Existing water diversions from Briggs Creek reduce the flow to less than the 56 cfs applied for by the applicant. Minimum flows are not sustainable in the upper and middle reaches.

10. All rights acquired under the application are for instream nonconsumptive use and will be subject to all vested water rights, permits or applications for permit having dates of priority earlier than September 13, 1978.

11. The lower reach of Briggs Creek is accessible to the public for fishing and aesthetic enjoyment.

12. A sustainable flow of about 30 cfs has been measured in the lower reach.

CONCLUSIONS OF LAW:

1. Chapter 15, Title 42, Idaho Code provides that stream flow preservation for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation and water quality, when made pursuant to this statute, is in the public interest and is declared to be a beneficial use of such water.

2. A flow of 30 cfs of water through the lower reach of Briggs Creek is sustainable and would preserve the existing characteristics of the lower reach for the public benefit, and is not the ideal or most desirable flow which could be utilized for this purpose.

3. A minimum stream flow as described below, will not interfere with any vested water right, permit, or application for permit having a priority date earlier than September 13, 1978.

4. A minimum stream flow as described below is in the public, as opposed to private, interest.

5. A minimum stream flow is necessary for the preservation of quality fish spawning and rearing habitat, aquatic life, recreation, aesthetic beauty and the water quality of the creek.

6. The minimum stream flow described below is capable of being maintained.

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7. The department should approve the application with certain conditions and limitations.

ORDER:

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit No. 36-07819 in the name of the Idaho Water Resource Board is **APPROVED** subject to the following conditions and limitations:

1. The use of water under this permit is subject to all prior water rights.

2. The use of water under this permit shall be nonconsumptive.

3. The minimum stream flow approved under this permit is 30 cfs and shall be located only within the lower reach of Briggs Creek described as follows:

Beginning at a point in Lot 13 (SW1/4NE1/4SE1/4) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ending where Briggs Creek joins the Snake River in Lot 14 Section 4, T9S, R14E, B.M. being a distance of about one-quarter (1/4) mile.

4. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum stream flow, such measuring station(s) shall be permanently installed and maintained as specified by the department.

5. The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

6. This minimum stream flow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to Thousand Springs, held in trust by the state of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum stream flow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the state of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State

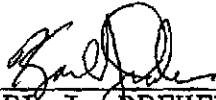
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7. The application hereby approved by the Director shall be submitted to the Idaho Legislature by the fifth day of the next regular legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.

8. The right holder shall measure the discharge of Briggs Creek near the upstream end of the lower reach and shall submit the measurements as a part of the proof of beneficial use of water. The measurements shall be taken at least quarterly over a three year period.

9. Proof of instream beneficial use of the minimum flow appropriated shall be submitted in a manner approved by the department on or before June 1, 2000.

Dated this 11th day of October, 1995.



KARL J. DREHER
Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 12th day of October, 1995,
I mailed a true and correct copy, postage prepaid, of the foregoing
FINAL ORDER to the following:

Jerry R. Rigby
Id. Water Resource Board
424 South Fourth East
Rexburg ID 83440

Idaho Dept of Fish & Game
c/o Rinda Just
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

Idaho Power Company
c/o Robert Stahman
P.O. Box 70
Boise, ID 83707

Banbury Hot Springs
c/o Herb Deuel
Buhl, ID 83316

Banbury Pipe Co, Inc.
c/o Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

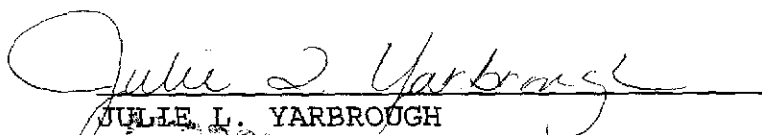
Valley Trout Farms, Inc.
c/o Ken Ellis
Rt. 3 Box 50
Buhl, ID 83316

Gary Wright
Rt. 4, Box 228
Buhl, ID 83316

Idaho Conservation League
c/o Marti Bridges
P.O. Box 844
Boise, ID 83701-0844

Myron & Elena Sheldon
P.O. Box 92
Buhl, ID 83316

Evan Robertson
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303


JULIE L. YARBROUGH
Senior Secretary

NOV 07 1995

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO**

IN THE MATTER OF AMENDED APPLICATION)
FOR PERMIT NO. 36-07819 IN THE NAME)
OF THE IDAHO WATER RESOURCE BOARD TO))
ESTABLISH A MINIMUM STREAM FLOW ON)
BRIGGS SPRINGS)

RECOMMENDED ORDER

On September 13, 1978, the Idaho Water Resource Board (Board) filed with the Department of Water Resources (department) Application for Permit No. 36-07819 (application) to appropriate water for a minimum stream flow on Briggs Springs tributary to the Snake River. The application was filed pursuant to Chapter 15, Title 42, Idaho Code.

On November 24, 1978, the department sent copies of the application to the Idaho Departments of Fish and Game, Health and Welfare, and Parks and Recreation for comments. Notice describing the proposed appropriation and setting the time and place for hearing was published in the Times News, Twin Falls, Idaho on March 23 and March 30, 1979, and in the Mountain Home News, in the Gooding County Leader and in the North Side News, Jerome, Idaho on March 29 and April 5, 1979.

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho for the purpose of eliciting testimony regarding the application. During the two days of hearings, testimony was also received concerning five additional applications for minimum stream flows also filed by the Board.

Approximately fifty people attended the two (2) days of hearings. Parties appearing in a formal capacity included the Idaho Water Resource Board; Idaho Department of Fish and Game; Idaho Power Company; Herb Deuel on behalf of Banbury Hot Springs; Sterling Larsen on behalf of Banbury Pipe Company; Robert C. Weaver, attorney for Valley Trout Farms, Inc.; Earl Hardy and Ken Ellis; Gary Wright; and the U.S. Trout Farmers Association. In addition, formal testimony was presented by the staff of the department and by Mr. Cecil Thomas, a hydrologist for the United States Geological Survey. Numerous other individuals and representatives of various organizations, including the Prairie Falcon Audubon Society, the Magic Valley Fly Fishermans Association, Thousand Springs Trout Farms, and the Idaho Wildlife Federation informally appeared to present their views and comments as public witnesses concerning the pending applications.

After the close of the hearing, the record remained open for fifteen (15) days to allow for the submission of additional written

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materials and an equal period was allowed for the submission of rebuttal materials. Six (6) individuals or organizations submitted additional written materials for the record which were in turn furnished to the parties. Rebuttal to these additional materials was not received from any of the parties.

The department withheld action on the application pending the final disposition of prior permits 36-07806, 36-07537 and 36-07538 which had been filed to appropriate water from the springs. The disposition of these permits is described in the Findings of Fact below.

On August 9, 1995, the department scheduled an additional public hearing in connection with the pending application, since significant time had passed from the original hearing in 1979 and the Director wanted to know of public interest changes which may have occurred since 1979. Notice of the hearing was published in the Idaho Statesman on July 27 and August 3, 1995 and in the Gooding County Leader on July 26 and August 2, 1995. Approximately fourteen (14) people attended the 1995 hearing including the Idaho Water Resource Board, Idaho Department of Fish and Game, Idaho Rivers United, and Myron and Elena Sheldon who appeared as formal parties. Robert S. Luntney appeared as a public witness on behalf of Magic Valley Fly Fishers. After the close of the hearing, the record was left open for fifteen (15) days to provide for the submission of additional written materials and an equal period of time was allowed for the submission of rebuttal materials.

Based upon the sworn testimony, documentation and public statements included in the record and upon his understanding of the facts and the law, the hearing officer recommends the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT:

1. Pursuant to Chapter 15, Title 42, Idaho Code, on September 13, 1978, the Idaho Water Resource Board filed Application for Permit No. 36-07819 with the department to appropriate a minimum stream flow from Briggs Springs tributary to the Snake River. On March 20, 1979, the Board amended the application to add the appropriate government lot number to the legal descriptions provided on the original application.

2. The application proposes to appropriate a minimum instream flow of fifty-six (56) cubic feet per second (cfs) in a reach beginning at Briggs Springs generally located in the NE1/4SW1/4 Section 3, T9S, R14E, B.M. and ending at the confluence of Briggs Creek with the Snake River within Government Lot 14, Section 4, T9S, R14E, B.M. being a distance of approximately 3/4 mile in length. The purpose for the proposed minimum stream flow appropriation is to maintain rainbow trout spawning and rearing. The period of use for the proposed appropriation is from January 1 to December 31, inclusive.

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3. The application was filed by the Board upon request of the Idaho Department of Fish and Game and pursuant to the provisions of Chapter 15, Title 42, Idaho Code.

4. On December 9, 1994, the department issued License No. 36-07537 as follows:

| | |
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| Licensed owner: | Pristine Springs, et al. |
| Priority: | June 4, 1975 |
| Source: | Briggs Springs and Briggs Creek |
| Rate of div: | 3.71 cfs |
| Use: | Fish propagation
Irrigation - 30 acres |
| Season of use: | Irrigation - April 1 thru October 31
Fish propagation - year-round |

5. On January 11, 1993, the department issued License No. 36-07538 as follows:

| | |
|-----------------|--------------------------|
| Licensed owner: | Pristine Springs, et al. |
| Priority: | June 9, 1975 |
| Source: | Briggs Creek |
| Rate of div: | 30 cfs |
| Use: | Fish propagation |
| Season of use: | Year-round |

Discharge from the fish rearing ponds is returned to Briggs Creek in Lot 13 (NE1/4SE1/4) Section 4, T9S, R14E, B.M.

6. On September 25, 1992, the department rejected Application for Permit No. 36-07806 in the name of Catherine or Gary Wright for failure to diligently pursue their proposed project. The application was filed on July 26, 1978 for the diversion of 40 cfs from Briggs Springs and was the last pending application which predates Application for Permit No. 36-07819 filed by the Board.

7. In April 1989, the United States Geological Survey established a measuring gauge in the upper Briggs Springs area. Measured flow from the springs between 1989 and 1994 averaged 105 cfs. Approximately 70 cfs of water is diverted out of Briggs Springs below the gauge and is not returned to the creek. Most of the 35 cfs remaining is diverted for various uses but approximately 30 cfs is returned to the creek and has been measured in the creek approximately 50 yards upstream from the confluence of Briggs Creek with the Snake River.

8. Briggs Creek originates at Briggs Springs generally located in the NE1/4SW1/4 Section 3, T9S, R14E, B.M. and ends at the confluence of Briggs Creek with the Snake River within Lot 14 (NW1/4SE1/4), Section 4, T9S, R14E, B.M., being a total distance of approximately 3/4 mile. The creek has been described as consisting of an upper reach, a middle reach and a lower reach. The upper reach begins where the springs originate from the ground in the

NE1/4SW1/4 Section 3 and extends to the point where the spring flow diffuses into several smaller flows in the NW1/4SW1/4 Section 3. The middle reach consists of diffused flow through a number of channels technically termed "braided channels". The lower reach begins at the point in Lot 13 (SW1/4NE1/4SE1/4) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ends where Briggs Creek joins the Snake River being a distance of about one-quarter (1/4) mile.

9. Existing water diversions from Briggs Creek reduce the flow to less than the 56 cfs applied for by the applicant. Minimum flows are not sustainable in the upper and middle reaches.

10. All rights acquired under the application are for instream nonconsumptive use and will be subject to all vested water rights, permits or applications for permit having dates of priority earlier than September 13, 1978.

11. The lower reach of Briggs Creek is accessible to the public for fishing and aesthetic enjoyment.

12. A sustainable flow of about 30 cfs has been measured in the lower reach.

CONCLUSIONS OF LAW:

1. Chapter 15, Title 42, Idaho Code provides that stream flow preservation for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation and water quality, when made pursuant to this statute, is in the public interest and is declared to be a beneficial use of such water.

2. A flow of 30 cfs of water through the lower reach of Briggs Creek is sustainable and would preserve the existing characteristics of the lower reach for the public benefit, and is not the ideal or most desirable flow which could be utilized for this purpose.

3. A minimum stream flow as described below, will not interfere with any vested water right, permit, or application for permit having a priority date earlier than September 13, 1978.

4. A minimum stream flow as described below is in the public, as opposed to private, interest.

5. A minimum stream flow is necessary for the preservation of quality fish spawning and rearing habitat, aquatic life, recreation, aesthetic beauty and the water quality of the creek.

6. The minimum stream flow described below is capable of being maintained.

7. The department should approve the application with certain conditions and limitations.

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ORDER:

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit No. 36-07819 in the name of the Idaho Water Resource Board is **APPROVED** subject to the following conditions and limitations:

1. The use of water under this permit is subject to all prior water rights.

2. The use of water under this permit shall be nonconsumptive.

3. The minimum stream flow approved under this permit is 30 cfs and shall be located only within the lower reach of Briggs Creek described as follows:

Beginning at a point in Lot 13 (SW1/4NE1/4SE1/4) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ending where Briggs Creek joins the Snake River in lot 14 Section 4, T9S, R14E, B.M. being a distance of about one-quarter (1/4) mile.

4. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum stream flow, such measuring station(s) shall be permanently installed and maintained as specified by the department.

5. The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

6. This minimum streamflow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to Thousand Springs, held in trust by the state of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum streamflow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the state of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan and Chapter 2, Title 42, Idaho Code.

7. The application hereby approved by the Director shall be

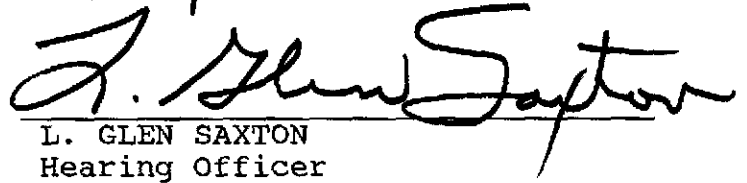
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submitted to the Idaho Legislature by the fifth day of the next regular legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.

8. The right holder shall measure the discharge of Briggs Creek near the upstream end of the lower reach and shall submit the measurements as a part of the proof of beneficial use of water. The measurements shall be taken at least quarterly over a three year period.

9. Proof of instream beneficial use of the minimum flow appropriated shall be submitted in a manner approved by the department on or before June 1, 2000.

Dated this 11th day of September, 1995.


L. GLEN SAXTON
Hearing Officer

RECORDED

ORDER NOV 06 1995

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 11th day of September, 1995,
I mailed a true and correct copy, postage prepaid, of the foregoing
RECOMMENDED ORDER to the following:

Idaho Water Resource Board
c/o Jerry Rigby
1301 N. Orchard
Boise, ID 83706

Idaho Dept of Fish & Game
c/o Rinda Just
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720-0010

Idaho Power Company
c/o Robert Stahman
P.O. Box 70
Boise, ID 83707

Banbury Hot Springs
c/o Herb Deuel
Buhl, ID 83316

Banbury Pipe Co, Inc.
c/o Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

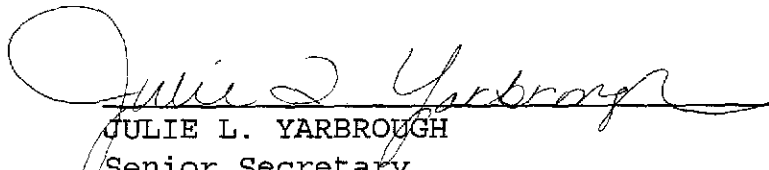
Valley Trout Farms, Inc.
c/o Ken Ellis
Rt. 3 Box 50
Buhl, ID 83316

Gary Wright
Rt. 4, Box 228
Buhl, ID 83316

Idaho Rivers United
c/o Marti Bridges
413 W. Idaho
Boise, ID 83702

Myron & Elena Sheldon
P.O. Box 92
Buhl, ID 83316

Evan Robertson
ROSHOLT ROBERTSON & TUCKER
P.O. Box 1906
Twin Falls, ID 83303


JULIE L. YARBROUGH
Senior Secretary

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SERVICE LIST

(Includes full parties at 1979 and 1995 hearings)

Application for Permit No. 36-07819 (Briggs Springs)
Application for Permit No. 36-07822 (Banbury Springs)

Idaho Water Resource Board
c/o Jerry Rigby
1301 N. Orchard St.
Boise, ID 83706

Evan Robertson
Rosholt, Robertson & Tucker
P.O. Box 1906
Twin Falls, ID 83303

Idaho Department of Fish and Game
c/o Rinda Just
Statehouse, Rm 210
P.O. Box 83720
Boise, ID 83720-0010

Idaho Power Company
c/o Robert Stahman
P.O. Box 70
Boise, ID 83707

Banbury Hot Springs
c/o Herb Deuel
Buhl, ID 83316

Banbury Pipe Company, Inc.
c/o Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

Valley Trout Farms, Inc.
c/o Ken Ellis
Route 3, Box 50
Buhl, ID 83316

Gary Wright
Route 4, Box 228
Buhl, ID 83316

Idaho Rivers United
c/o Marti Bridges
413 W. Idaho
Boise, ID 83720
02

Myron and Elena Sheldon
P.O. Box 92
Buhl, ID 83316

NOV 07 1995

AMENDED NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978, submitted six (6) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following sources tributary to the Snake River and are further described as follows:

AMENDED APPLICATION NO. 36-7819

Source: Briggs Springs

Point of minimum streamflow: Lot 4 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Sec. 4, Twp. 9S, Rge. 14E, B.M., Gooding County

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

AMENDED APPLICATION NO. 36-7822

Source: Banbury Springs

Point of minimum streamflow: Lot 4 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 33, Twp. 8S, Rge. 14E, B.M., Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

AMENDED APPLICATION NO. 36-7820

Source: Blind Canyon Springs

Point of minimum streamflow: Lot 2 (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Sec. 28, Twp. 8S, Rge. 14E B.M., Gooding County

Rate of flow: 8 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetic values

AMENDED APPLICATION NO. 36-7821

Source: Lower White Springs

Point of minimum streamflow: Lot 3, Sec. 2, Twp. 7S, Rge. 13E, B.M., Gooding County

Rate of flow: 11 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve rearing and spawning habitat for trout

MICROFILMED

AMENDED APPLICATION NO. 37-7734

Source: Bancroft Springs

Point of minimum streamflow: Lot 5, Sec. 4, Twp. 6S, Rge. 11E, B.M.

Elmore County

Rate of Flow: 17 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetics

AMENDED APPLICATION NO. 36-7818

Source: Vinyard Creek

Point of minimum streamflow: Lot 1 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), Sec. 4, Twp. 10S, Rge.

18E, B.M., Jerome County

Rate of flow: 17 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain fish populations and spawning habitat and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m., on Wednesday, April 25, 1979 on Applications 36-7821, 36-7822, and 37-7734 and at 10:00 a.m., on Thursday, April 26, 1979 on Applications 36-7819, 36-7820 and 36-7818 at the Buhl City Hall, 201 Broadway North, Buhl, Idaho for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

If issued, these permits will be subject to all prior water rights.

Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED
Director

To be published in: Times News - March 23 and March 30
Mountain Home News - March 29 and April 5
Gooding County Leader - March 29 and April 5
North Side News - March 29 and April 5

MICROFILMED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

AMENDED

AMENDED

To appropriate the public waters of the State of Idaho

1. Name of applicant IDAHO WATER RESOURCE BOARD Phone 384-2215

Post office address Statehouse Mail, Boise, Idaho 83720

2. Source of water supply Briggs Springs which is a tributary of Snake River

3. Location of point of diversion is Government Lot 14 (NWSE) 1/4 of 1/4 of Section 4 Township 9S

Range 14E B.M. Gooding County, additional points of diversion if any:

4. Water will be used for the following purposes:

Amount 56 for instream flow purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 56 cubic feet per second and/or b. acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. None

b. Height of storage dam feet, active reservoir capacity acre-feet; total reservoir capacity acre-feet, materials used in storage dam:

Period of year when water will be diverted to storage to inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: Government Lot 14 (NWSE)
(1) Give the place of use of water: 1/4 of 1/4 of Section 4 Township 9S

Range 14E B.M.

(2) Amount of power to be generated: horsepower under feet of head.

(3) List number of each kind of livestock to be watered

(4) Name of municipality to be served, or number of families to be supplied with domestic water

(5) If water is to be used for other purposes describe: to maintain trout populations

RECEIVED

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

[illegible]

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion _____

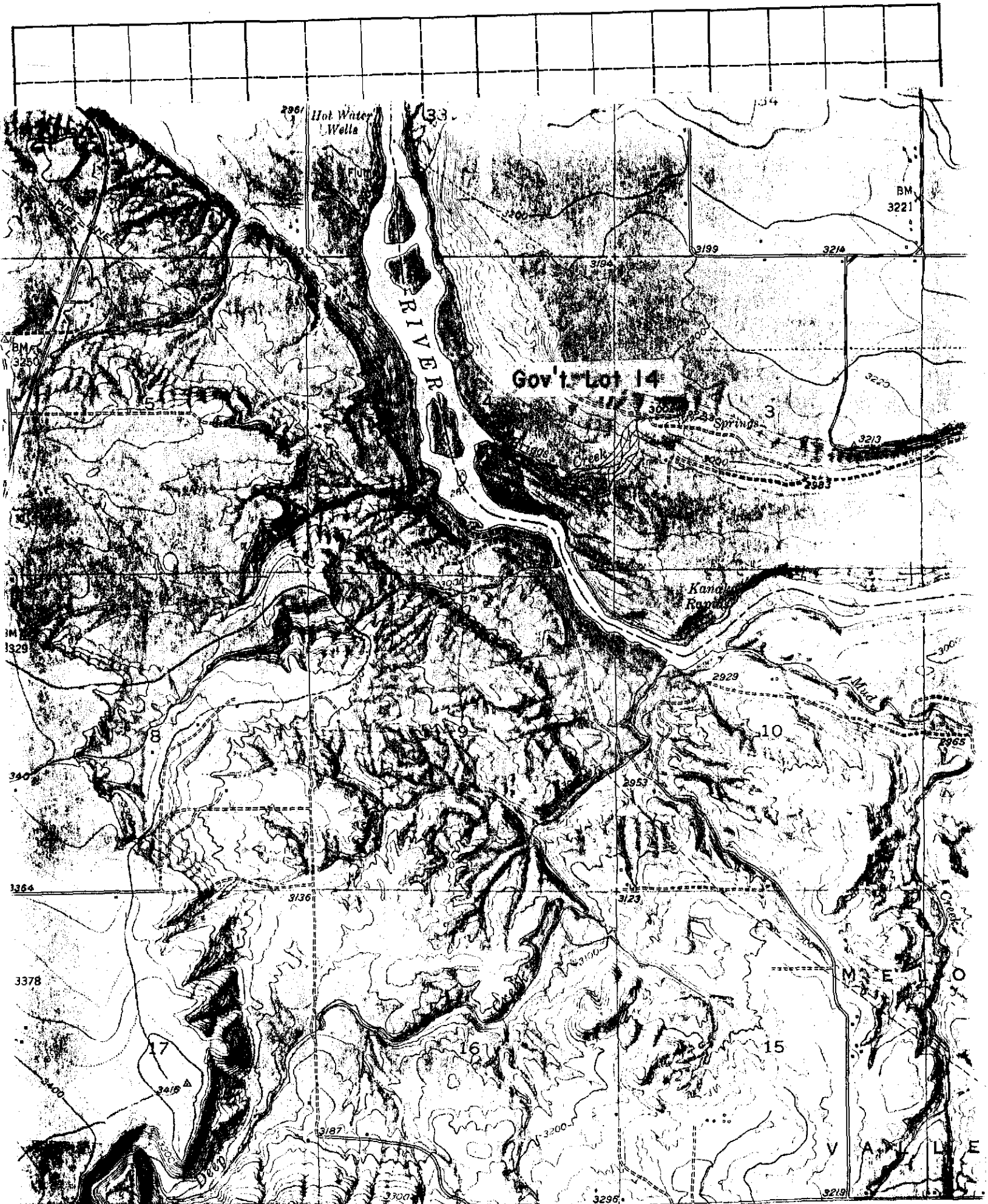
b. Who owns the land to be irrigated or place of use _____

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

10. Remarks See attached sheet

三、

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



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

IDAHO WATER RESOURCE BOARD

by M. Reed Hansen

Vice-Chairman

(Applicant)

9-13-78

Received by JSJ Date 3-10-79 Time 1:00 P.

Preliminary check by JSJ Fee \$ N/A

Receipted by _____ Date _____

Publication prepared by _____ Date _____

Published in _____

Publication dates _____

Publication approved _____ Date _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19 ____.

Director

MICROFILMED

NAME OF STREAM: Briggs springs

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:
At confluence with Snake River, Goshute County, NW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 4,
T9S, R14E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 56 cfs.

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain rainbow trout spawning and rearing from the point of requested flow upstream to its origin.

THE PERIOD OF TIME OR SEASON OF YEAR DURING WHICH APPROPRIATION IS PROPOSED:
All year.

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT, OR WATER APPLICATION OF EARLIER DATE OF PRIORITY:

The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST:

Briggs Springs is one of the Thousand Springs originating from the Snake River aquifer. It is an important rainbow trout spawning and rearing stream for both resident trout and those fish which normally rear in the Snake River. It is a high quality fishery yielding up to ten trout per angler hour. Trout residing in the spring and utilizing the spring for spawning and juvenile rearing provide year round recreational opportunities. The requested instream water right for Briggs Spring will be held in trust for the people of Idaho by the Idaho Water Resource Board.

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE:

During 1976, personnel of the Idaho Department of Fish and Game collected field data from Briggs Spring and using this data with instream flow methodologies determined that the above requested flow is necessary for maintaining the existing wild trout population and spawning and rearing habitat in the spring. Methodologies, techniques and instream flow recommendations are presented in the following publication: Cochnauer, Tim. 1977. Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report, Project F-66-R-2, Job II. 85 pp. Idaho Department of Fish and Game.

EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW:

The most desirable flow in Briggs Springs would be the average flow of 110 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS:

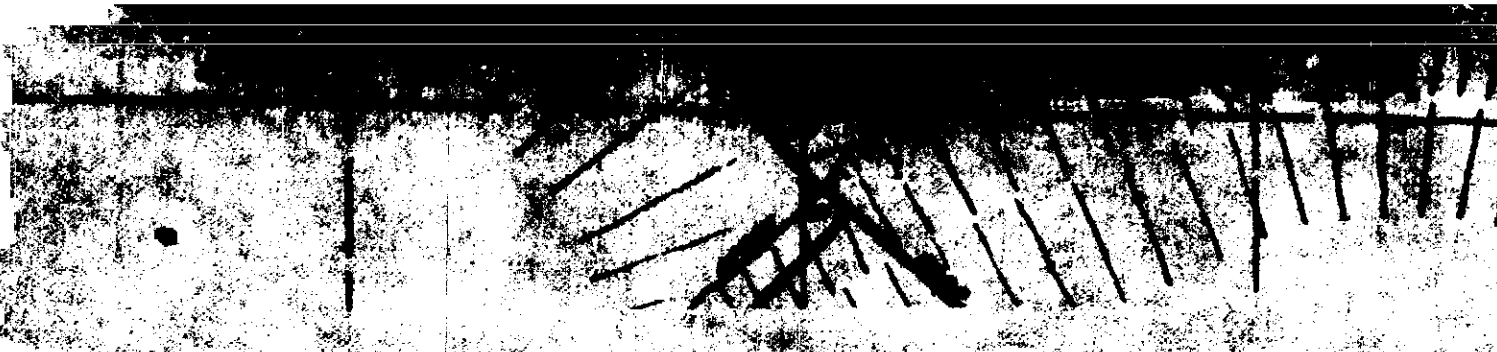
USGS records indicate that the average flow is 110 cfs (a flow of 108 cfs was measured in 1968, 1969, 1970 and 1973). Approximately 60 cfs flow is presently being diverted away from the stream, leaving 50-55 cfs in the stream during most of the year.

LOCATION OF EXISTING GAGING STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION:

No gage station exists on Briggs Springs. A gaging device situated either immediately upstream of the Snake River or below the present diversion would be sufficient to monitor the requested flows.

MICROFILM

BRIGGS SPRINGS
T 9 S R 14 E COVT. LOT 6
SEC 4



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 36-7819
RECEIVED

SEP 13 1978

To appropriate the public waters of the State of Idaho
Department of Water Resources
Southern District Office

1. Name of applicant Idaho Water Resouce Board Phone 384-2215

Post office address Statehouse, Boise, Idaho 83720

2. Source of water supply Briggs Springs which is a tributary of Snake River

3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4 Township 9S

Range 14 E B.M. Gooding County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 56 cfs for In stream flow purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 56 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. None

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4 Township 9 S

Range 14 E B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____.

(5) If water is to be used for other purposes describe: To maintain trout populations.

8/28

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

[illegible]

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion _____

b. Who owns the land to be irrigated or place of use _____

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

10. Remarks See Attached Sheet

SECRET

NAME OF STREAM: Briggs springs

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:
At confluence with Snake River, Gooding County, NW $\frac{1}{4}$, SE $\frac{1}{4}$, Section 4,
T9S, R14E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 56 cfs

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain rainbow trout spawning and rearing from the point of requested flow upstream to its origin.

THE PERIOD OF TIME OR SEASON OF YEAR DURING WHICH APPROPRIATION IS PROPOSED:
All year.

EVIDENCE THAT THE APPROPRIATION WILL NOT INTERFERE WITH ANY VESTED WATER RIGHT, PERMIT, OR WATER APPLICATION OF EARLIER DATE OF PRIORITY:

The above requested flow is for instream nonconsumptive use and will be subject to all vested water rights, permits or water applications of earlier dates of priority.

EVIDENCE THAT THE APPROPRIATION WOULD BE IN THE PUBLIC INTEREST AS OPPOSED TO PRIVATE INTEREST:

Briggs Springs is one of the Thousand Springs originating from the Snake River aquifer. It is an important rainbow trout spawning and rearing stream for both resident trout and those fish which normally rear in the Snake River. It is a high quality fishery yielding up to ten trout per angler hour. Trout residing in the spring and utilizing the spring for spawning and juvenile rearing provide year round recreational opportunities. The requested instream water right for Briggs Spring will be held in trust for the people of Idaho by the Idaho Water Resource Board.

EVIDENCE OR JUSTIFICATION THAT THE APPROPRIATION IS NECESSARY FOR THE PURPOSES SHOWN ABOVE:

During 1976, personnel of the Idaho Department of Fish and Game collected field data from Briggs Spring and using this data with instream flow methodologies determined that the above requested flow is necessary for maintaining the existing wild trout population and spawning and rearing habitat in the spring. Methodologies, techniques and instream flow recommendations are presented in the following publication: Cochnauer, Tim. 1977. Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report, Project F-66-R-2, Job II. 85 pp. Idaho Department of Fish and Game.

EVIDENCE THAT THE REQUESTED FLOW IS MINIMUM AND NOT THE IDEAL OR MOST DESIRABLE FLOW:

The most desirable flow in Briggs Springs would be the average flow of 110 cfs.

EVIDENCE THAT THE REQUESTED FLOW IS CAPABLE OF BEING MAINTAINED AS EVIDENCED BY RECORDS OF STREAM FLOWS:

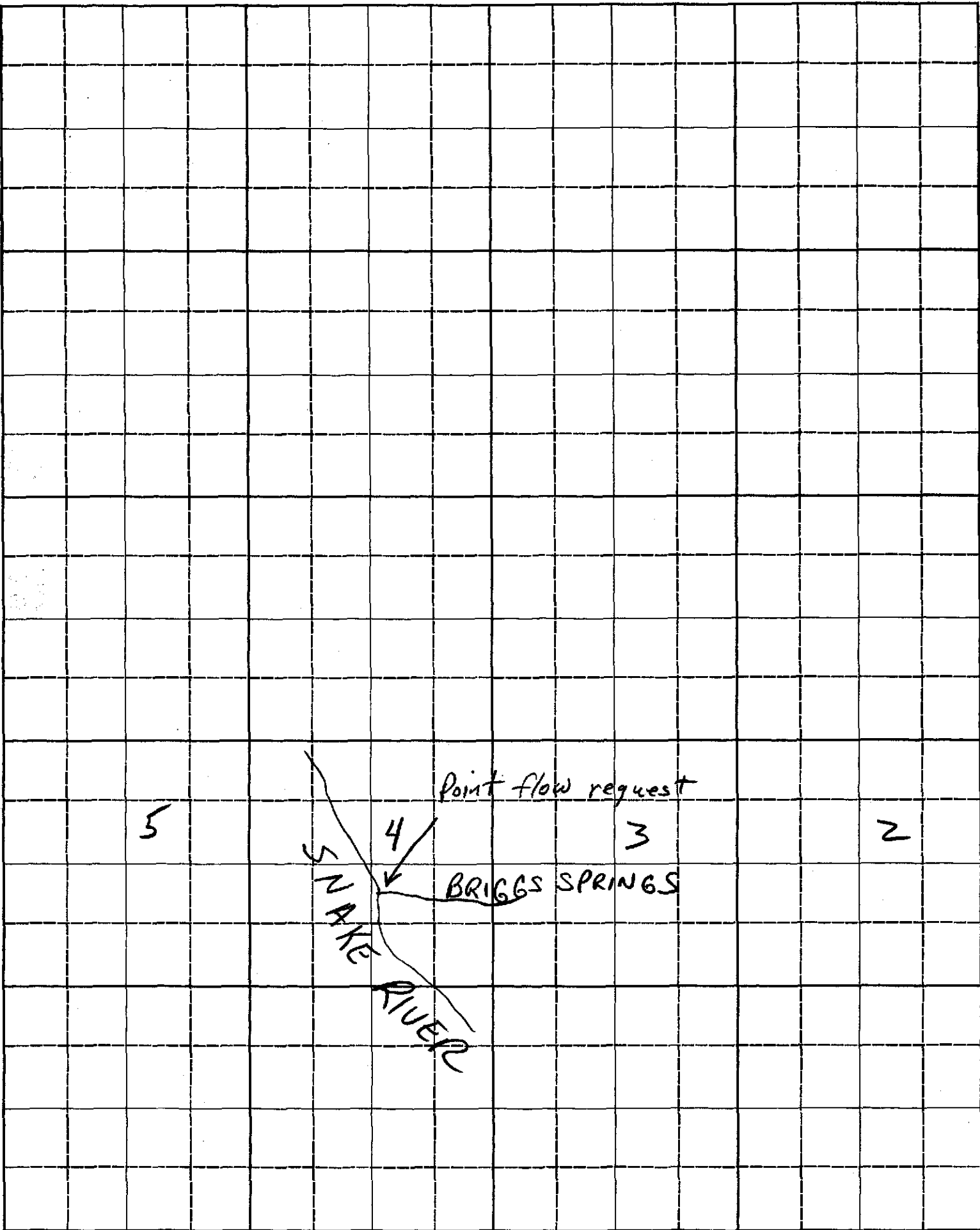
USGS records indicate that the average flow is 110 cfs (a flow of 108 cfs was measured in 1968, 1969, 1970 and 1973). Approximately 60 cfs flow is presently being diverted away from the stream, leaving 50-55 cfs in the stream during most of the year.

LOCATION OF EXISTING GAGING STATION THAT CAN BE USED IN THE ADMINISTRATION OF THIS APPROPRIATION:

No gage station exists on Briggs Springs. A gaging device situated either immediately upstream of the Snake River or below the present diversion would be sufficient to monitor the requested flows.

MICROFILM

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

R. 14 E.

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

George R. [Signature]
(Applicant)

MICROFILMED

Received by marya Date 9/13/28 Time 8:15am
Preliminary check by _____ Fee \$ N.A.
Receipted by _____ Date _____
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19 ____.

Director

MICROFILMED

RECEIVED

AUG 07 1995

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

Amount Due

\$150.50

Department of Water Resources
Southern RegionAccount Number
10063200

Identification

NOTICE OF HEARING FOR MINIMUM STREAM
FLOW APPLICATIONS

Ordered By

Mary Baldwin

P.O. Number

Rate

TT

Run Dates

July 27 & Aug. 3, 1995

Mary Baldwin

IDAHO DEPARTMENT OF WATER RESOURCES

Southern Region

222 Shoshone St. East

Twin Falls, Idaho 83301-6105

Estimated Inches.

Real Inches

Affidavits

Legal Number

1

2508

LEGAL NOTICE

NOTICE OF HEARING FOR MINIMUM STREAM FLOW APPLICATIONS

Notice is hereby given that on September 13, 1978, the Idaho Water Resource Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from springs tributary to the Snake River as follows:

Application No. 36-07819

Source: Briggs Springs

Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-07822

Source: Banbury Springs

Point of minimum flow: Lot 4 (SE1/4NW1/4 Section 33, T8S, R14E, B.M. Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs. Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.

The Department of Water Resources will hold a second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City Hall, Council Chambers in Buhl for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mail, Boise, Idaho 83720 five (5) days prior to the hearing. Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights.

Karl J. Dreher, Director

Pub. July 27 and August 3, 1995

2508

LINDA PORTER

being duly sworn, deposes and says: That she is the Principal Clerk of The Idaho Statesman, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto; that said notice was published in The Idaho Statesman in conformity with Section 60-108, Idaho Code as amended, for TWO

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of JULY 27, 1995

and ending with the issue of AUGUST 3, 1995

Linda Porter

STATE OF IDAHO)

ss.

COUNTY OF ADA)

On this 3rd day of AUGUST in the year of 1995, before me, a Notary Public, personally appeared LINDA PORTER

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 she executed the same.

Notary Public for Idaho

Residing at Boise, Idaho

My commission expires: 11-22-99

OK MB 8/7/95

AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho }
County of Gooding } ss.

AUG 04 1995

Department of Water Resources
Southern Region

Patty Nance being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 26 day of July, 1995, and the date of the last publication was on the 2 day of August, 1995.

Subscribed and sworn to before me this 2nd day of August, 1995.
(SEAL)

Norma De Voe
NOTARY PUBLIC

9742/6067
GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 2x

Affidavit fee 2.00
Lines tabular at _____ 6¢/Pica
896.5 Lines straight at 44.83 5¢/Pica
Subsequent lines at 35.86 4¢/Pica
TOTAL COST 82.69

COPY OF NOTICE

(Paste Here)

36-07819
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Idaho Dept. Water Resources
BILL TO

NOTICE OF HEARING FOR MINIMUM STREAM FLOW APPLICATIONS

Notice is hereby given that on September 13, 1978, the Idaho Water Resource Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from springs tributary to the Snake River as follows:
Application No. 36-07819
Source: Briggs Springs
Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.
Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations
Application No. 36-07822
Source: Banbury Springs
Point of minimum flow: Lot 4 (SE1/4NW1/4) Section 33, T8S, R14E, B.M. Gooding County
Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations, aesthetics and recreational values
On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs. Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.
The Department of Water Resources will hold a second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City Hall, Council Chambers in Buhl for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mall, Boise, Idaho 83720 five (5) days prior to the hearing. Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in, or understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights.

Karl J. Dreher, Director
Published in Gooding County Leader

AFFIDAVIT of PUBLICATION

RECEIVED

State of Idaho } ss.
County of Gooding

AUG 04 1995

Department of Water Resources
Southern Region

Patty Nance being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the

26 day of July, 1995, and the date of the last publication was on the 2 day of

August, 1995.

Subscribed and sworn to before me this 2nd day of

August, 1995

(SEAL)

Norman De Voe
NOTARY PUBLIC

9742/6067
GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____
Number of Lines in Notice _____
Number of Insertions 2x

Affidavit fee 2.00
Lines tabular at _____ 6¢/Pica
896.5 Lines straight at 44.83 5¢/Pica
Subsequent lines at 35.86 4¢/Pica
TOTAL COST 82.69

COPY OF NOTICE

(Paste Here)

36-07819
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Idaho Dept. Water Resources
BILL TO

NOTICE OF HEARING FOR MINIMUM STREAM FLOW APPLICATIONS

Notice is hereby given that on September 13, 1978, the Idaho Water Resource Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from

springs tributary to the Snake River as follows:

Application No. 36-07819

Source: Briggs Springs

Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-07822

Source: Banbury Springs

Point of minimum flow: Lot 4 (SE1/4NW1/4 Section 33, T8S, R14E, B.M. Gooding County)

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs.

Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.

The Department of Water Resources will hold a second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City Hall, Council Chambers in Buhl for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mall, Boise, Idaho 83720 five (5) days prior to the hearing.

Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights.

Karl J. Dreher, Director
Published in Gooding County Leader

Nº 8126

APR 5 1964

Subscribed and sworn to before me on this 27th day of

WATER RESOURCES BOARD
 Notice is hereby given that the Water Resources Board has on September 13, 1967, submitted on (a) applications for permits to the Department of Water Resources requesting the appropriation of water to increase the minimum streamflow for the following sources tributary to the Colorado River for further development of water:
AMENDED APPLICATION NO. 20 for the
 Lower White Springs
 Source of minimum streamflow: 1 c.f.s. 14
 Effective: Dec. 4, 1967, 8:00 A.M. 42
 Located in Gooding County
 of flow: 11 cubic feet per second
 effective January 1 to December 31
 to preserve fish and recreational values
AMENDED APPLICATION NO. 21 for the
 Lower Canyon Springs
 Source of minimum streamflow: 1 c.f.s. 14
 Effective: Dec. 31, 1967, 8:00 A.M. 42
 Located in Gooding County
 of flow: 17 cubic feet per second
 effective January 1 to December 31
 to preserve fish and recreational values
AMENDED APPLICATION NO. 22 for the
 Lower Canyon Springs
 Source of minimum streamflow: 1 c.f.s. 14
 Effective: Dec. 28, 1967, 8:00 A.M. 42
 Located in Gooding County
 of flow: 17 cubic feet per second
 effective January 1 to December 31
 to preserve fish and recreational values
AMENDED APPLICATION NO. 23 for the
 Lower White Springs
 Source of minimum streamflow: 1 c.f.s. 14
 Effective: Dec. 18, 1967, 8:00 A.M. 42
 Located in Gooding County
 of flow: 11 cubic feet per second
 effective January 1 to December 31
 to preserve, feeding and spawning habitat for trout
AMENDED APPLICATION NO. 24 for the
 Lower Canyon Springs
 Source of minimum streamflow: 1 c.f.s. 14
 Effective: Dec. 18, 1967, 8:00 A.M. 42
 of flow: 17 cubic feet per second

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Gooding } SS.

Robert Crompton, being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 29 day of March

1929, and the date of the last publication was on the 5

day of April, 1929.

Robert Crompton

Subscribed and sworn to before me this 5

day of April, 1929.
(SEAL)

Garner Hies

NOTARY PUBLIC

GOODING COUNTY LEADER

COPY OF NOTICE

AMENDED NOTICE OF
APPLICATION FOR
PERMIT TO INCREASE FLOW

Notice is hereby given that the Gooding Water Resource Board has on September 13, 1928, submitted six (6) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflow from the following sources tributary to the Snake River and are further described as follows:

AMENDED APPLICATION
NO. 24-7819

Source: Briggs Springs.
Point of minimum streamflow: Lot 4 (NW 1/4 Sec. 4, Twp. 2S, Rge. 14E, B.M. Gooding County
Rate of flow: 25 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations

ok
mayer
4/11/29

| ADVERTISING | | PRINTING | | OFFICE SUPPLIES | |
|--------------------------------------|-----------------|------------|-------------|--|--------------|
| PHONE 934-4449 | | BOX 56 | | | |
| GOODING, IDAHO 83330 | | | | | |
| GOODING COUNTY LEADER | | | | | |
| ONE MEDIUM • ONE COVERAGE • ONE COST | | | | | |
| ACCOUNT NO. | | DATE | | CASH ☐
CHARGE ☒
ON ACCT. ☐
PAID OUT ☐
CLASS ☐
SUPPLIES ☐
MISC. ☐ | |
| | | 4/5/79 | | | |
| M Dept of Water Resources | | | | | |
| | | | | | |
| | | | | | |
| QUAN. | DESCRIPTION | | | AMOUNT | |
| | 36-2819 | | | 11 52 | |
| | Bridges Springs | | | | |
| RECEIVED | | | | | |
| JE | SPECIAL RATE | START DATE | EXPIRE DATE | | |
| | | | APR 11 1979 | | |
| Department of Water Resources | | | | | |
| NEW ACCT. | RENEWAL | PZ | STATE | BILL | CYCLE |
| | | | | | |
| SOUTHERN DISTRICT CHRG | | | | | LEGAL NO. |
| | | | | | 4055 |
| PSA | NO. PAP | RATE | SORT KEY | SACK | PRINTING NO. |
| | | | | | |
| 29830 | | | | | |

PLEASE RETAIN THIS TICKET FOR YOUR RECORDS
MOORE DEALER - GOODING COUNTY LEADER

AFFIDAVIT of PUBLICATION

COPY OF NOTICE

(Pasted Here)

State of Idaho,

County of Gooding.

SS.

Kim R. Compton being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once

each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication

of said advertisement was on the 8 day of February

19 79, and the date of the last publication was on the 15

day of February 19 79

Subscribed and sworn to before me this 15

day of February, 19 79.

(SEAL)

Gordon Harris
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice 32

Number of Insertions 2

Lines tabular at 315c

Lines straight at 32 21c 6.72

Subsequent lines at 32 15c 4.80

TOTAL COST 11.52

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

| | |
|---------------------------------------|------|
| 7 pt. per line, straight | 21c |
| 7 pt. per line, tabular | 315c |
| 7 pt. per line, successive insertions | 15c |

RECEIVED

FEB 21 1979

No 1996

Department of Water Resources
Southern District Office

MICROFILMED

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978 submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs
Point of minimum streamflow: NW 1/4 SE 1/4, Sec. 4, Twp. 9S, Rge. 14E, B.M., Gooding County
Rate of flow: 50 cubic feet per second
Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-7822

Source: Banbury Springs
Point of minimum streamflow: NE 1/4 NW 1/4, Sec. 33, Twp. 8S, Rge. 14E, B.M., Gooding County
Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

Application No. 36-7820

Source: Blind Canyon Springs
Point of minimum streamflow: NE 1/4 SW 1/4, Sec. 28, Twp. 8S, Rge. 14E, B.M., Gooding County
Rate of flow: 8 cubic feet per second
Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetic values

Application No. 36-7821

Source: Lower White Springs
Point of minimum streamflow: NE 1/4 SW 1/4, Sec. 2, Twp. 7S, Rge. 13E, B.M., Gooding County
Rate of flow: 11 cubic feet per second
Season of use: January 1 to December 31

Use: To preserve rearing and spawning habitat for trout

Application No. 37-7734

Source: Bancroft Springs
Point of minimum streamflow: SE 1/4 NW 1/4, Sec. 4, Twp. 6S, Rge. 11E, B.M., Elmore County
Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979 at the Gooding City Hall, 308 5th Avenue West, Gooding, Idaho for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

If issued, these permits will be subject to all prior water rights.

Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED
Director

Published in the Mountain Home News Feb. 8 and 15, 1979.

Affidavit of Publication

County of Elmore }
STATE OF IDAHO } ss.

I, Chas. D. Watson do solemnly swear that I am the foreman, or publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation, published once a week at MOUNTAIN HOME, IDAHO, that the notice attached hereto and which is a part of the proof of publication thereof, was published in said newspaper for

... 2 ... consecutive weeks, the first publication having been made on the ... 8 ... day of ... February ..., 1979, and the last publication having been made on the ... 15 ... day of ... February ..., 1979...; every Thursday issue of the paper

during the period and time of publication and that the notice was published in the newspaper proper and not in a supplement thereof.

And I further swear that the said MOUNTAIN HOME NEWS has been continuously and uninterruptedly published in said Elmore County during a period of 78 consecutive weeks prior to the first publication of the attached notice.

Subscribed and sworn to me this ... 15th ... day of ... February ... 1979.

Mark D. Gabe
Notary Public

RECEIVED
FEB 21 1979
Department of Water Resources
Southern District Office

MICROFILMED

Affidavit of Publication

No 8006

STATE OF IDAHO,
COUNTY OF TWIN FALLS } ss.

I, Nola L. Laughlin being first duly sworn upon oath, depose and say that I am Print Clerk of the TIMES-NEWS, published daily, at Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per clipping attached, was published in the regular and entire issue of said newspaper, and not in any supplement thereof, for two consecutive Thursdays, commencing with the issue dated February 8, 1979, and ending with the issue dated February 15, 1979.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except Monday, both of which newspapers prior to consolidation had been published under said names in said city and county continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each issue thereof, Thursday is announced as the day on which said legal notices will be published.

Subscribed and sworn to before me on this 15th day of February, 1979.

Kay R. Maher
Notary Public in and for the County of Twin Falls,
State of Idaho, residing at Twin Falls, Idaho



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

August 17, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
PO BOX 83720
BOISE ID 83720-0098

RE: WATER RIGHT NO. 36-07819

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

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

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

MICROFILMED

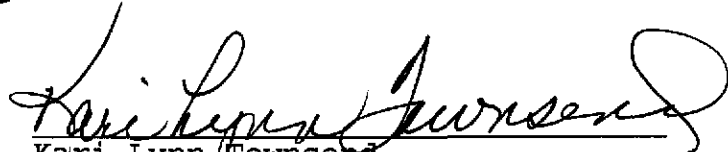
SEP 11 2000

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of August, 2000, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 36-07819

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
PO BOX 83720
BOISE ID 83720-0098


Kari Lynn Townsend
Secretary

MICROFILMED
SEP 11 2000

**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).

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SEP 11 2000

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Memorandum

To: File 36-07819
CC: Bill Graham *BG*
From: David Blew *DB*
Date: 08/14/00
Re: Briggs Creek Instream Flow

Flow data from Briggs Creek was usually measured on the 1st and 15th of each month over a three year period. Data were input to an Excel Spreadsheet to analyze flow properties. Some data were collected on dates other than the 1st or the 15th of the month and those data were placed in the data set to the nearest 1st or 15th of the month. Averages for the three years were calculated by date to establish average flows for each period. Exceedence values were calculated for the 50th, 60th and 75th percentile for the three-year average and for the entire data set. Exceedence values are as follows:

| Percent
Exceedence | Values based upon the
three year averages | Values base upon the
entire three year period |
|-----------------------|--|--|
|-----------------------|--|--|

August 14, 2000

Instream flow rights should be based upon the system's ability to produce desired flows on a sustained basis. The recommended minimum flow for Briggs Springs was 30 cfs. Because this flow shall be junior to groundwater users in the area, nonirrigation season flows may provide a better measure of the spring's ability to produce sustained flows. Based upon collected data, the recommended flow of 30 cfs is met or exceeded 46% of the time during the nonirrigation season. Additionally, the difference between the 30 cfs exceedence value (45%) and the 75% exceedence is only 2.1 cfs, indicating the stream's ability to produce and maintain flows at or near 30 cfs during most of the nonirrigation season. Therefore, the original recommended minimum flow of 30 cfs should be licensed.

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SEP 11 2000

Flow data from Briggs Creek, reported in CFS

| Date | 1998 | 1997 | 1996 | Ave | Max | Min |
|--------|-------|------|------|------|------|------|
| 1-Jan | 32.7 | 26.9 | 29.7 | 29.8 | 32.7 | 26.9 |
| 15-Jan | 31.5 | 26.3 | | 28.9 | 31.5 | 26.3 |
| 1-Feb | 30.7 | 24.8 | 27.3 | 27.6 | 30.7 | 24.8 |
| 15-Feb | 30.2 | 28.3 | 28.2 | 28.9 | 30.2 | 28.2 |
| 1-Mar | 29.3 | 28.5 | 27.4 | 28.4 | 29.3 | 27.4 |
| 15-Mar | 29.7 | 29.5 | 28.2 | 29.1 | 29.7 | 28.2 |
| 1-Apr | 27.9 | 28 | | 28.0 | 28 | 27.9 |
| 15-Apr | 26.4 | 27.4 | 21 | 24.9 | 27.4 | 21 |
| 1-May | 25.8 | 27 | 19.6 | 24.1 | 27 | 19.6 |
| 15-May | 25.8 | 26 | 20.1 | 24.0 | 26 | 20.1 |
| 1-Jun | 25.7 | 25.6 | 21.3 | 24.2 | 25.7 | 21.3 |
| 15-Jun | 26.9 | 25.8 | 20.3 | 24.3 | 26.9 | 20.3 |
| 1-Jul | 23.1 | 21.6 | 20.9 | 21.9 | 23.1 | 20.9 |
| 15-Jul | 23.4 | 22.2 | 20 | 21.9 | 23.4 | 20 |
| 1-Aug | 23.2 | 23.5 | 20 | 22.2 | 23.5 | 20 |
| 15-Aug | 23.4 | 26.3 | 21.3 | 23.7 | 26.3 | 21.3 |
| 1-Sep | 25.1 | 27.2 | 25.9 | 26.1 | 27.2 | 25.1 |
| 15-Sep | 26.3 | 32.4 | 28 | 28.9 | 32.4 | 26.3 |
| 1-Oct | 29.25 | 34 | 28.3 | 30.5 | 34 | 28.3 |
| 15-Oct | 30.3 | 31 | 28 | 29.8 | 31 | 28 |
| 1-Nov | 31.2 | 30.4 | 32.5 | 31.4 | 32.5 | 30.4 |
| 15-Nov | 32.6 | 30.3 | 32.5 | 31.8 | 32.6 | 30.3 |
| 1-Dec | 32.6 | 32.1 | 33.4 | 32.7 | 33.4 | 32.1 |
| 15-Dec | 33.6 | 32.3 | 25.7 | 30.5 | 33.6 | 25.7 |

Exceedence values based on:

| | |
|-------------------|------------|
| <u>Exceedence</u> | <u>CFS</u> |
| 50% | 28.2 |



RECEIVED

JUL 27 2000

Department of Water Resources

IDAHO FISH & GAME

600 South Walnut
P.O. Box 25
Boise, Idaho 83707-0025

Dirk Kempthorne/Governor
Rod Sando/Director

July 26, 2000

Mr. Jeff Peppersack
Water Permits Section Supervisor
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

RE: Briggs Springs Creek Instream Flow water right (36-07819)

Dear Mr. ^{Jeff}Peppersack:

I recently have been in contact with both Sharla Curtis and David Blew regarding the above water right. Apparently, there is concern about the availability of water to fill the water right and whether the available flow is sufficient to meet the needs of the fishery in the stream.

The original 1978 request for 56 cfs to maintain trout spawning and rearing habitat in the creek was based upon measurements of velocity and depth made along four cross sections that were located approximately 100 yards above the confluence with the Snake River. A WSP (water surface profile) model was used to determine the relationship between discharge and wetted perimeter (a measure of available habitat) for the stream. Fifty-six cfs was not considered the optimum flow, rather a flow that could adequately maintain the existing habitat in the creek. At the time the original request was submitted, USGS measurements indicated an average of 110 cfs flowed from the head of the springs and this was considered the ideal flow. Existing diversions at the time of the application removed approximately 60 cfs from the channel before it reached the river, leaving about 50 cfs of water in the stream.

During the time between the filing of the original application (1978) and the approval of the permit (1995), additional diversions of water from Briggs Spring Creek have further reduced the flow in the creek through the instream flow reach to approximately 26 cfs. I have re-examined the original relationship between discharge and wetted perimeter and determined that a flow of 26 cfs will still provide at least 75% of the habitat available at 56 cfs. In my professional opinion, a flow of 26 cfs will still sustain the existing trout population in the stream, albeit at a lower level than would be possible at 56 cfs.

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SEP 11 2000

I encourage the Department of Water Resources to accept this letter, the testimony previously submitted at both the 1979 and 1995 hearings, and the water measurement reports submitted in 1998 as sufficient proof of beneficial use.

If you have any remaining questions or concerns, please feel free to contact me at 334-2597.

Sincerely,



Cindy Robertson
Fishery Staff Biologist

Cc: David Blew, IDWR

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SEP 11 2000

IDAHO DEPARTMENT OF FISH & GAME

Joseph C. Greenley, Director

FEDERAL AID IN FISH AND WILDLIFE RESTORATION

Job Performance Report

Project F-66-R-2



STREAM FLOW INVESTIGATIONS

- Job I. Evaluation of Applicability of Water Surface Profile Predictive Modeling in Reference to Stream Resource Maintenance Flow (SRMF) Determinations
- Job II. Stream Resource Maintenance Flow Determinations on Idaho Streams

Period Covered: 1 March 1976 to 28 February 1977

by

Tim Cochnauer
Senior Fishery Research Biologist
MICROFILMED

April, 1977
SEP 11 2000

RECOMMENDATIONS

1. Continue to attempt to develop a more applicable computer program for determining stream resource maintenance flows.

OBJECTIVES

1. To evaluate the Bureau of Reclamation's water surface profile program's applicability in determining stream resource maintenance flows for wadable and non-wadable streams.
2. Attempt to modify the Bureau of Reclamation's water surface profile program to better meet the needs for determining stream resource maintenance flows.

TECHNIQUES USED

Field studies were initiated on 9 streams to collect data for input into the WSP program and to measure flow parameters (velocities,

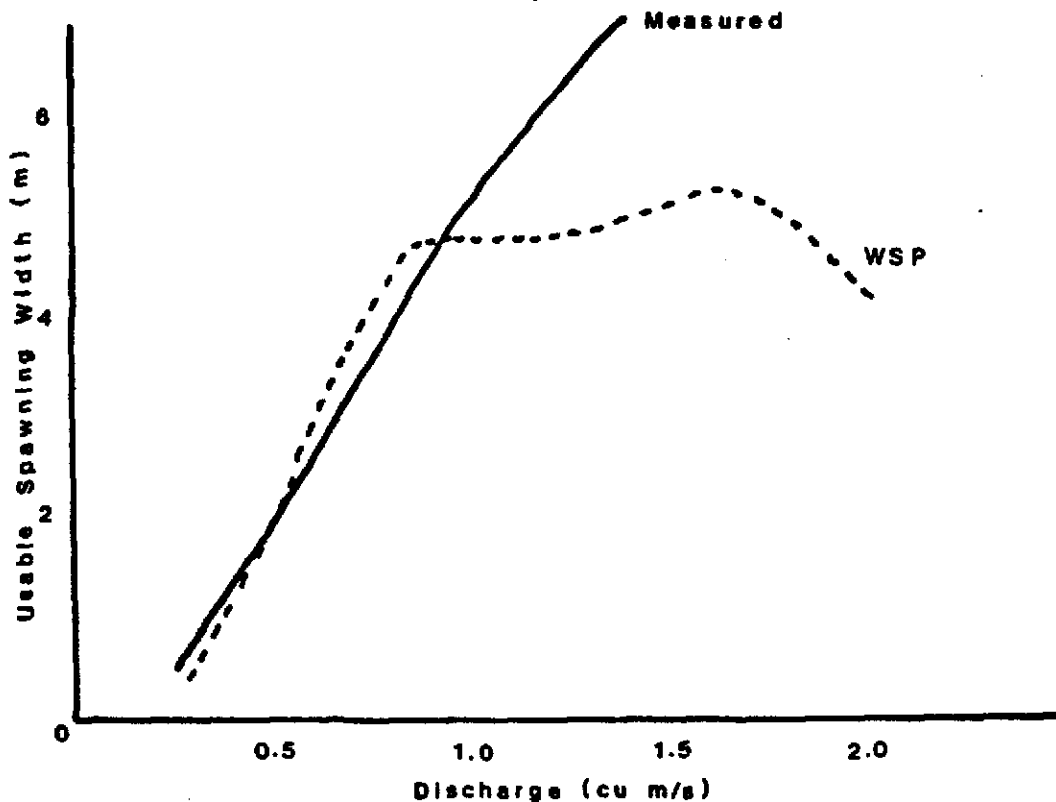


Figure 1. Usable spawning width curves averaging cross sections A and B on Willow Creek.

MICROFILMED

depths, and stream widths) over a range of flows. Regional fishery biologists began measuring flow parameters in 1976 and are continuing those efforts into 1977. Sufficient field data has been collected on three streams at this time.

Usable spawning width curves, utilizing criteria presented in Job II, and wetted perimeter curves were constructed from measured field data and from WSP predicted values. The measured data and predicted data curves were compared to determine if predicted data curves were within acceptable limits.

FINDINGS

Of the four cross sections measured on Willow Creek, two were located on spawning substrate. Using the average usable spawning width for the two cross sections, curves for predicted (WSP) and measured data are compared (Fig. 1). At 0.85 cu m/s the WSP curve does not continue to increase with an increase in discharge as does the measured field data curve. The wide variation between the curves at high flows is related to the WSP predicted segment velocities being greater than the acceptable maximum velocity criteria (see Table 1, Job II). When measured field velocities are plotted against the WSP predicted velocities, the grouping of points shows that the predicted velocities for cross section A were greater than the actual field measured velocities (Fig. 2). Using only data from cross section B, the two curves are similar (Fig. 3) with the WSP data approximately 20% higher than the field-measured data curve for the given range of flows.

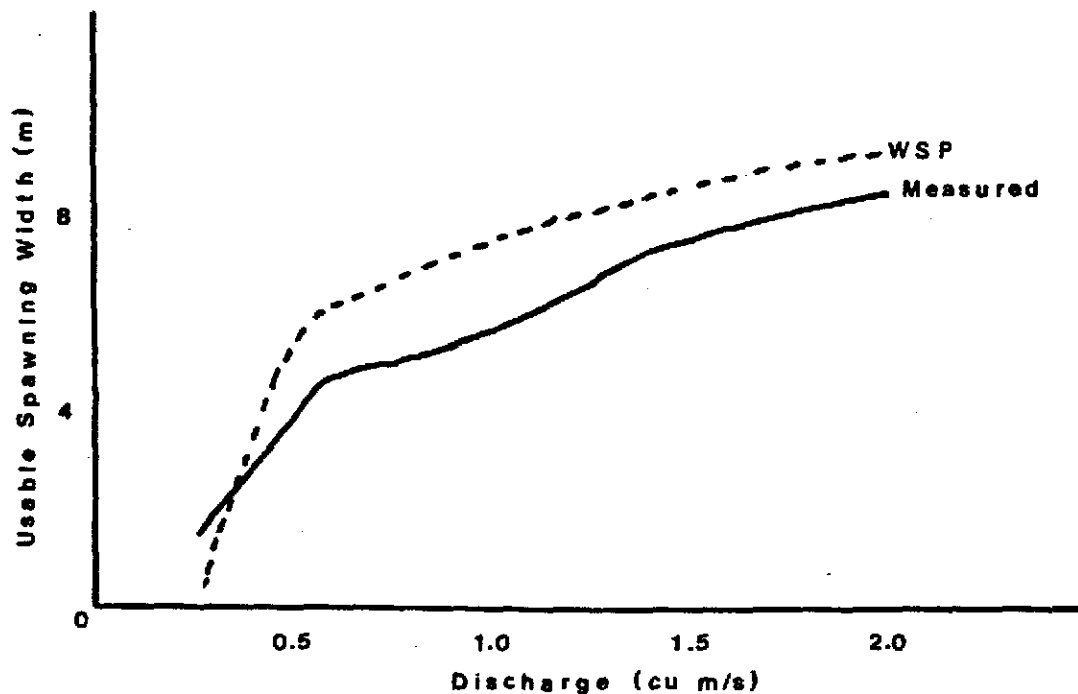


Figure 3. Usable spawning width curves for cross section B on Willow Creek.

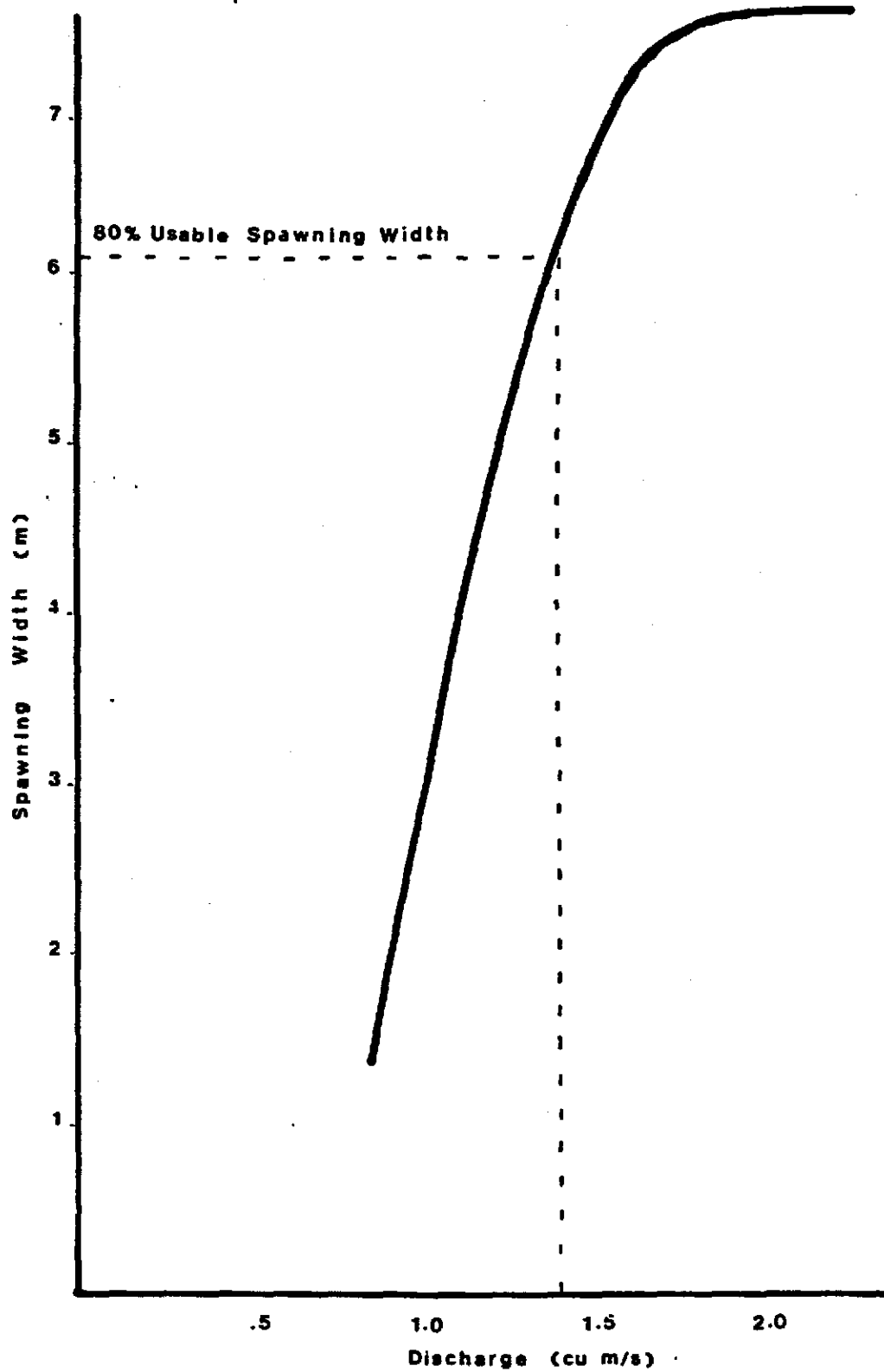


Figure 21. Rainbow trout spawning curve for Briggs Springs.

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71

SEP 11 2000

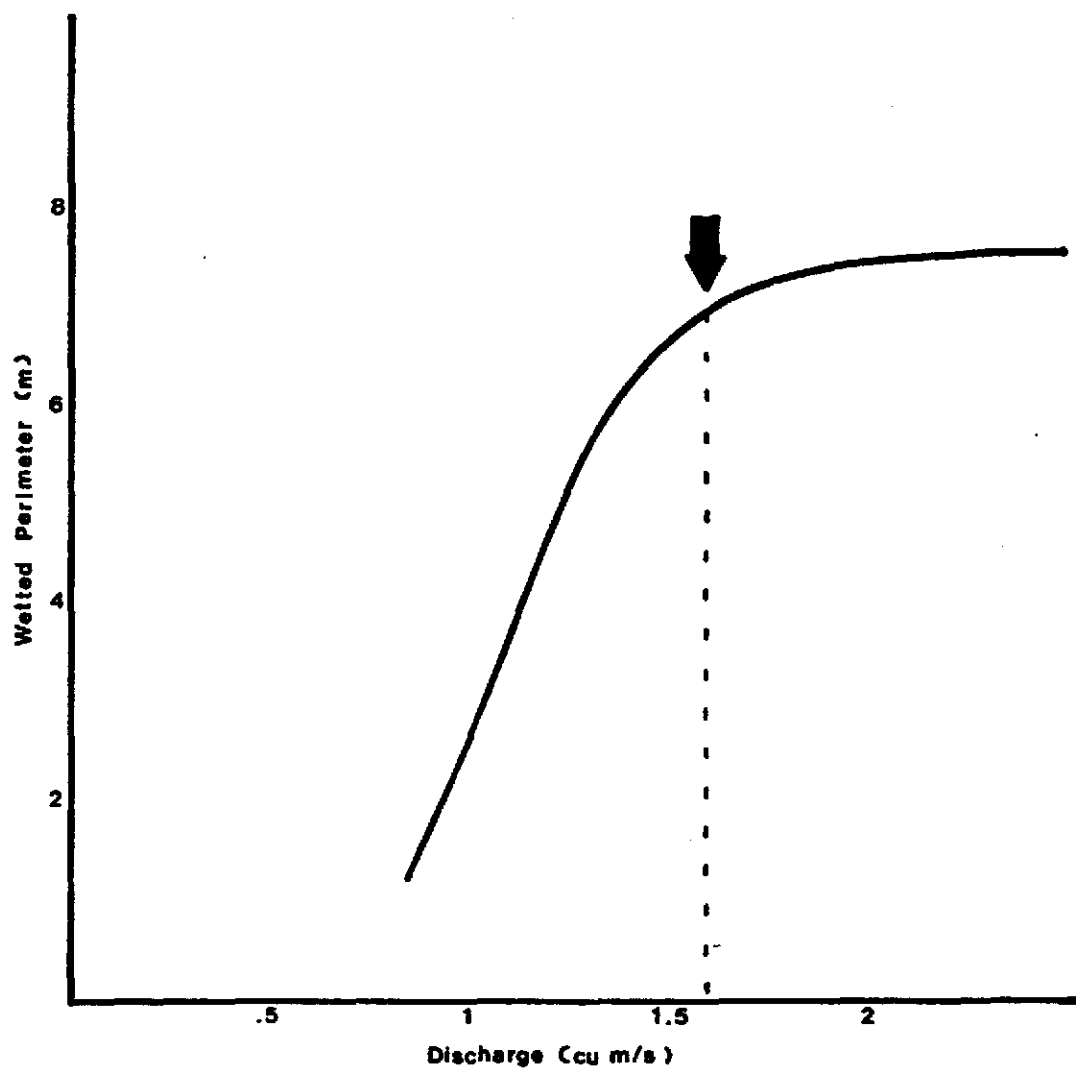


Figure 22. Rearing flow curve for Briggs Springs.

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SEP 11 2000

INTER-DEPARTMENT MEMO

TO: Sharla Curtis, IDWR

SUBJECT: Briggs Springs

FROM: Andy Robertson, IDFG

DATE: 5 July 2000

Sharla: I have enclosed the relevant data from our file on
Briggs Spring. It's not very much, but hopefully you'll
find it useful. Don't hesitate to contact me if you have
any additional questions.

RECEIVED

JUL - 6 2000

Department of Water Resources

MICROFILMED

☒ For your information

☐ Response required

SEP 11 2000

Andy Robertson
signature

Stream Name Briggs Springs

Site Location: 100 yds upstream of confluence w/ Snake River

Transect No.: 1

Date: July 26, 1995

| <u>Distance (ft)</u> | <u>Depth (ft)</u> | <u>Velocity (fps)</u> | <u>Cell Width (ft)</u> | <u>Discharge (cfs)</u> |
|-----------------------|-------------------|-----------------------|------------------------|------------------------|
| 4.20 | 1.00 | 0.71 | | 0.00 |
| 5.00 | 1.15 | 0.83 | 1.15 | 1.09 |
| 6.50 | 1.10 | 1.02 | 1.25 | 1.40 |
| 7.50 | 1.15 | 0.73 | 1.00 | 0.83 |
| 8.50 | 0.25 | 0.56 | 1.25 | 0.17 |
| 10.00 | 0.90 | 1.40 | 1.25 | 1.58 |
| 11.00 | 1.35 | 1.18 | 1.25 | 1.98 |
| 12.50 | 1.50 | 1.02 | 1.50 | 2.29 |
| 14.00 | 1.65 | 1.19 | 1.50 | 2.95 |
| 15.50 | 1.45 | 1.38 | 1.50 | 2.99 |
| 17.00 | 1.40 | 1.34 | 1.50 | 2.82 |
| 18.50 | 1.30 | 1.23 | 1.50 | 2.41 |
| 20.00 | 1.10 | 1.42 | 1.50 | 2.34 |
| 21.50 | 0.90 | 0.83 | 1.50 | 1.11 |
| 23.00 | 1.10 | 0.76 | 1.50 | 1.25 |
| 24.50 | 1.20 | 0.98 | 1.50 | 1.77 |
| 26.00 | 1.60 | 1.60 | 1.50 | 3.84 |
| 27.50 | 1.50 | 1.42 | 1.50 | 3.19 |
| 29.00 | 1.40 | 1.73 | 1.50 | 3.64 |
| 30.50 | 1.40 | 1.72 | 1.50 | 3.61 |
| 32.00 | 1.40 | 1.28 | 1.50 | 2.68 |
| 33.50 | 1.15 | 1.24 | 1.50 | 2.14 |
| 35.00 | 1.00 | 0.98 | 1.50 | 1.46 |
| 36.50 | 0.95 | 1.04 | 1.50 | 1.48 |
| 38.00 | 0.85 | 0.89 | 1.50 | 1.14 |
| 39.50 | 0.60 | 0.88 | 1.85 | 0.98 |
| 41.70 | 0.10 | 0.01 | | 0.00 |
| Total Discharge (cfs) | | | | 51.13 |

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SEP 11 2000

J. LOON

Stream resource maintenance flows, based on fish spawning and rearing requirements, are as follows:

| | <u>Jan.</u> | <u>Feb.</u> | <u>Mar.</u> | <u>Apr.</u> | <u>May</u> | <u>June</u> |
|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Min. cfs | 49 | 49 | 49 | 49 | 49 | 49 |
| Min. cu m/s | 1.39 | 1.39 | 1.39 | 1.39 | 1.39 | 1.39 |

| | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> |
|-------------|-------------|-------------|--------------|-------------|-------------|-------------|
| Min. cfs | 49 | 49 | 49 | 58 | 58 | 58 |
| Min. cu m/s | 1.39 | 1.39 | 1.39 | 1.64 | 1.64 | 1.64 |

Box Canyon Springs

Box Canyon Springs flows for approximately 2 km (1.2 mi) from its source to Snake River (Fig. 6). The stream provides high quality rearing and spawning habitat for rainbow trout. Station BCS is located on representative food production habitat, 1 km (0.6 mi) upstream from the mouth.

Stream resource maintenance flows, based on rearing flows for fish food production, are as follows:

| | <u>Jan.</u> | <u>Feb.</u> | <u>Mar.</u> | <u>Apr.</u> | <u>May</u> | <u>June</u> |
|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Min. cfs | 138 | 138 | 138 | 138 | 138 | 138 |
| Min. cu m/s | 3.9 | 3.9 | 3.9 | 3.9 | 3.9 | 3.9 |

| | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> |
|-------------|-------------|-------------|--------------|-------------|-------------|-------------|
| Min. cfs | 138 | 138 | 138 | 138 | 138 | 138 |
| Min. cu m/s | 3.9 | 3.9 | 3.9 | 3.9 | 3.9 | 3.9 |

Briggs Springs

Briggs Springs flows for approximately 1.4 km (0.9 mi) from its origin to Snake River (Fig. 6). The stream is characterized by gravel/bedrock substrate with an abundance of aquatic vegetation. The stream provides high quality rearing and spawning habitat for rainbow trout. Station BS is located on representative spawning and food production habitat, 50 m (164 ft) upstream of the mouth.

Stream resource maintenance flows, based on rainbow trout rearing flows for fish food production, are as follows:

| | <u>Jan.</u> | <u>Feb.</u> | <u>Mar.</u> | <u>Apr.</u> | <u>May</u> | <u>June</u> |
|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Min. cfs | 56 | 56 | 56 | 56 | 56 | 56 |
| Min. cu m/s | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 |

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SEP 11 2000

| | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> |
|-------------|-------------|-------------|--------------|-------------|-------------|-------------|
| Min. cfs | 56 | 56 | 56 | 56 | 56 | 56 |
| Min. cu m/s | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 | 1.6 |

Lower White Springs

Lower White Springs is located 1.5 km (0.9 mi) upstream of Malad River mouth on Snake River and flows for approximately 50 m (164 ft) into Snake River (Fig. 6). The spring provides excellent rainbow trout spawning and juvenile rearing habitat. Station LWS is located on representative spawning and food production habitat, 10 m (33 ft) upstream of the spring's mouth.

Stream resource maintenance flows, based on rainbow trout spawning and rearing requirements, are as follows:

| | <u>Jan.</u> | <u>Feb.</u> | <u>Mar.</u> | <u>Apr.</u> | <u>May</u> | <u>June</u> |
|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Min. cfs | 11 | 11 | 11 | 21 | 21 | 21 |
| Min. cu m/s | .3 | .3 | .3 | .6 | .6 | .6 |

| | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> |
|-------------|-------------|-------------|--------------|-------------|-------------|-------------|
| Min. cfs | 14 | 14 | 11 | 11 | 11 | 11 |
| Min. cu m/s | .4 | .4 | .3 | .3 | .3 | .3 |

Sand Springs

Sand Springs flows approximately 2.8 km (1.7 mi) from its source to the Snake River (Fig. 6), where it ends abruptly in a 60 m (197 ft) waterfall. Station SS is located on representative food production habitat, 1.5 km (0.9 mi) downstream of the spring source. The stream is characterized by sand/silt substrate with relatively abundant aquatic vegetation and some areas of gravel. Rainbow trout is the only game fish species found in the stream.

Stream resource maintenance flows, based on rearing flows for fish food production, are as follows:

| | <u>Jan.</u> | <u>Feb.</u> | <u>Mar.</u> | <u>Apr.</u> | <u>May</u> | <u>June</u> |
|-------------|-------------|-------------|-------------|-------------|------------|-------------|
| Min. cfs | 53 | 53 | 53 | 53 | 53 | 53 |
| Min. cu m/s | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |

| | <u>July</u> | <u>Aug.</u> | <u>Sept.</u> | <u>Oct.</u> | <u>Nov.</u> | <u>Dec.</u> |
|-------------|-------------|-------------|--------------|-------------|-------------|-------------|
| Min. cfs | 53 | 53 | 53 | 53 | 53 | 53 |
| Min. cu m/s | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |

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SEP 11 2000

LICENSING REVIEW
MINIMUM STREAM FLOW

RIGHT NO. 36-07819

Proof of beneficial use rec'd 3/28/00

Was flow data submittal a requirement
with proof submittal? Yes ☒ No ☐

*quarterly over a 3 yr
period*

If yes, has data been reviewed and a determination
made that minimum flow is capable of being
maintained? Yes ☒ No ☐

26 cfs recommended
Data submitted fully complies with permit condition
(i.e. # of years of flow data sufficient) ☒

Data Entry for License:

| | |
|---|-------------------------------------|
| Name Standardized | ☒ |
| Total cfs & div. capacity listed as highest flow | ☒ |
| P/D(s) beginning and ending descriptions listed | ☒ |
| Use flows defined for entire year | ☒ |
| P/U left blank (description in remarks) | ☒ |
| Remarks/non-standard conditions | |
| Non-consumptive | ☒ |
| Watermaster control | ☒ |
| Jurisdiction retains to amend | ☒ |
| Description of reach(es) | ☒ |
| All other applicable permit conditions
carried forward | ☒ |

Comments/adjustments _____

Printed license hand-edited ☒

MICROFILMED
SEP 11 2003

*In 8/14/00 memo, 30 cfs
justified.
S.W. Keen
WR Supervisor*



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

April 24, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
C/O BILL GRAHAM
1301 N ORCHARD ST
BOISE ID 83706-2237

HAND DELIVERED

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 36-07819 (Briggs Creek Minimum Instream Flow)

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions concerning the field examination, please contact the **Southern** Regional Office of the department in Twin Falls at (208) 736-3033.

Sincerely,

Deborah Drew-Ellis
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office

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SEP 11 2000

ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE

Permit No. 36-07819 Reviewed by JJS Date 4-6-00

GENERAL CONSIDERATIONS

TYPES OF USE

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
If not, complete calculation below.

MSF
yes Correct Uses?

SOURCE OF WATER

☒ Surface water source
☐ Ground water source
☐ Drilling permit required?
☐ Copy in the file? Drilling Permit No. _____
☐ Amount paid for permit _____ Correct?
☐ Well log in the file?

LICENSE EXAMINATION FEE

NO Required?
Amount Submitted
Correct?

MEASURING DEVICE

yes Required?
? Installed?
Waiver requested?

PRIORITY CALCULATION

Date proof received _____
Date proof due _____
No. of days late _____
Priority Date _____
New Priority Date _____

DEFICIENCIES OR ACTION ITEMS

- need flow meas data (Cord #8).
- Eval flow data when submitted. If OK, prepare acknowledgement letter & hand carry to Bill G. (Don't mail to Board).
- advise Shelley that proof has been filed so they can prepare a lic.

DATA ENTRY

New Address _____ Proof Made 3-28-2000

Memorandum

To: Debbie Ellis
From: David Blew
Date: 04/21/00
Re: Briggs Creek Flow Data

Attached to this memo is the data for the Briggs Creek Proof of Beneficial Use. The data is from the fish hatchery owned by George Sheldon. The data was submitted by Idaho Department of Fish and Game and their letter is also attached. If you have any further questions, you may contact me at 327-5443.

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SEP 11 2000

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

JAN 19 1999

Department of Water Resources

THIS IS YOUR 1998 WATER MEASUREMENT ANNUAL REPORT

For the Water Measurement Program -
OPEN CHANNEL MEASUREMENT OR NON-TOTALIZING DEVICE

ATTENTION: Year end data must be submitted to Idaho Department of Water Resources
1301 N. Orchard, Boise Idaho 83706, on or before:
January 15, 1999.

NOTE: A separate reporting form must be submitted for each diversion. Refer to page 5 for detailed instructions.

2607, 2040 70 (with hydro)

This report form may be used for the following diversion:

41628

Diversion Name or Facility: IRLE RANCH HATCHERY DIV/BRIGGS CK
Water Source: BRIGGS CREEK
Water Right(s) Owner or Contact: SHELDON, GEORGE et al
(owner name(s) may be omitted if there are multiple owners on same diversion) SHELDON, GEORGE MYRON 9

SECTION I Water Right Holder/Operator Information

(If there are multiple water right holders on a common ditch or conveyance system, please designate the contact person below)

Name and Address of Water Right Holder

Current Owner

Name SHELDON, George, III
Last, First, MI Myron B

Address P.O. BOX 443

City Buhl.

Original Owner (if sold within last year)

Name _____
Last, First, MI

Address _____

City _____

Operator or Contact Person

Name SHELDON, Myron B
Last, First, MI

Address 1425 East 3675 South

City Buhl.

Please check for address correction.



Phone 208 543 4070

Fax _____

State & Zip 83316 RD.

Phone _____

Fax _____

State & Zip _____

Phone 208 543-6903

F MICROFILMED _____

State & Zip 83316

SECTION II Water Measurement Log (*measurements must be recorded at least once per week and in units of cubic feet per second.*)

| DAY | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE |
|-----|---------|----------|-------|-------|--------|-------|
| 1 | 32.7 | 30.7 | 29.3 | | ✓ | ✓ |
| 2 | | | | ✓ | 25.8 | 25.7 |
| 3 | | | | 22.9 | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | ✓ | ✓ | ✓ | ✓ | | ✓ |
| 15 | 31.5 | 30.2 | 29.7 | 26.4 | | 26.88 |
| 16 | | | | | | |
| 17 | | | | | (25.8) | |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | | | | |
| 21 | | | | | | |
| 22 | | | | | | |
| 23 | | | | | | |
| 24 | | | | | | |
| 25 | | | | | | |
| 26 | | | | | | |
| 27 | | | | | | |
| 28 | | ✓ | | | | |
| 29 | | — | | | | |
| 30 | | — | | | | ✓ |
| 31 | ✓ | — | | | | — |

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SEP 11 2000

SECTION II (CONT.)

| DAY | JULY | AUGUST | SEPT | OCTOBER | NOVEMBER | DECEMBER |
|-----|------|--------|------|---------|----------|----------|
| 1 | ✓ | 23.2 | 25.1 | 29.25 | 31.2 | |
| 2 | 23.1 | | | | | |
| 3 | | | | | | |
| 4 | | | | | | 32.6 |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | | ✓ | ✓ | | | |
| 15 | ✓ | 23.4 | 26.3 | ✓ | ✓ | |
| 16 | 23.4 | | | 30.3 | 32.6 | ✓ |
| 17 | | | | | | 33.6 |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | | | | |
| 21 | | | | | | |
| 22 | | | | | | |
| 23 | | | | | | |
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| 26 | | | | | | |
| 27 | | | | | | |
| 28 | | | | | | |
| 29 | | | | | | |
| 30 | | | | | | |
| 31 | ✓ | ✓ | | | ✓ | ✓ |

✓ MICROFILMED
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SECTION III Measuring Device Information

A. Type & Description of Measuring Device(s): 6 weirs across

inflow 3' width.

B. Period of Use: For seasonal or partial year diversion/use, show turn-on (start) and turn-off (end) dates:

Beginning diversion date 1/1
month day

Ending diversion date 12/31
month day

C. Attach copies of all measuring device rating tables to this report (omit if previously supplied to the Department).

SECTION IV Modifications made in 1998

Please describe in the space below any major modifications made to the diversion works or measuring device which would affect the accuracy of the flow measurements during 1998. Attach drawings, sketches, notes or design information if needed.

None

SECTION V Certification

I hereby certify that the information reported is correct to the best of my knowledge and that I recognize that willful submittal of false or inaccurate data is a violation of law subject to the penalty provisions of Sections 42-311, 42-350 and 42-351, Idaho Code.

[Signature] Director
Signature Title

1/15/99
Date

Note: Each reporting form shall be accompanied by a report processing fee in the amount of twenty-five dollars (\$25) per diversion made payable to the Idaho Department of Water Resources. (Section 42-701(6), Idaho Code).

For Department Use Only

Received by _____ Date 1-19-99 Time _____

Fee amount submitted 25 Correct? yes ☒ no ☐

Received by _____ Receipt No. C044372

(BR)

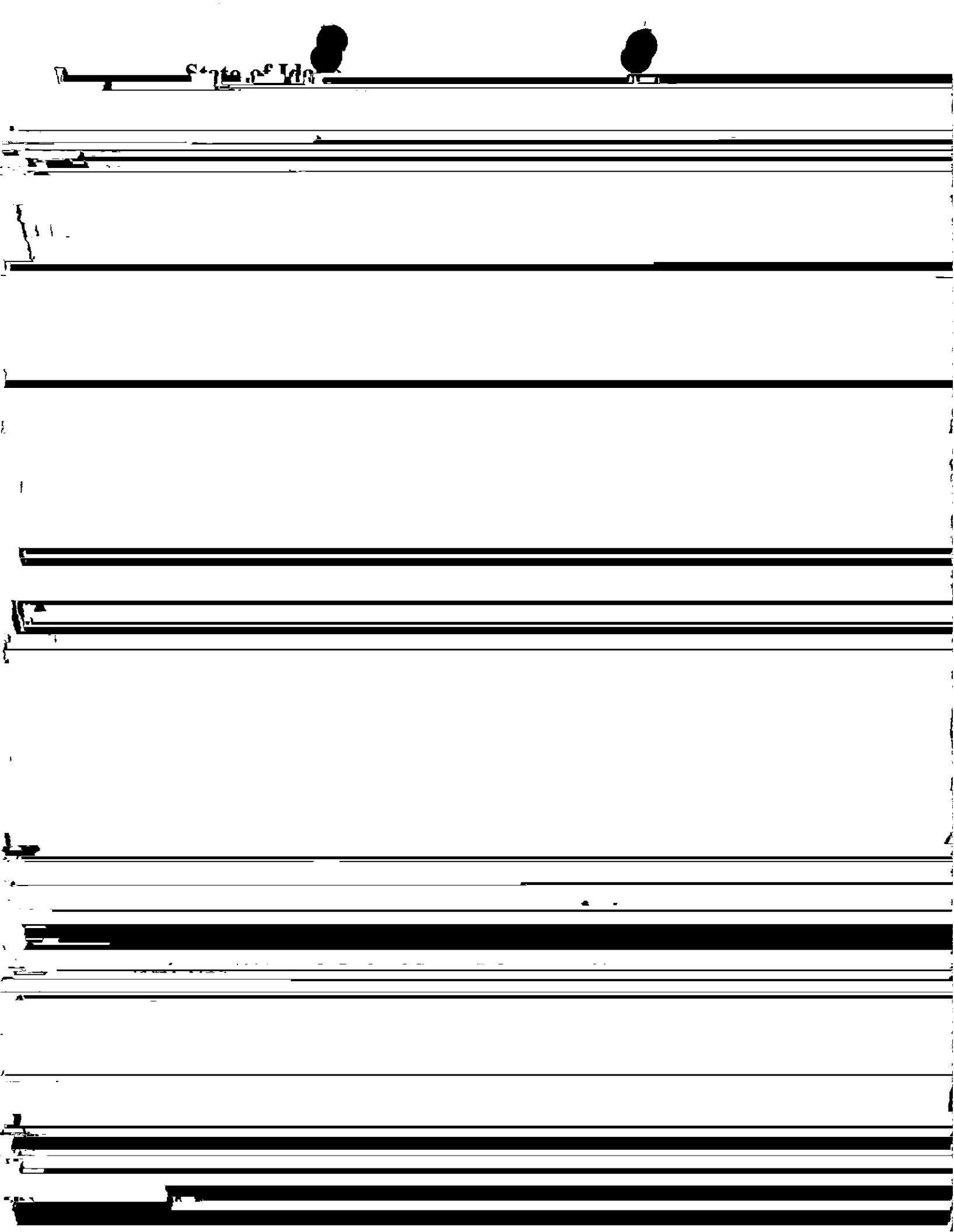
Data entry by [Signature] Date 4-28-99

Total Annual Flow (CFS) _____ Max. Div. Rate (CFS) 33,600 on 17 DEC 98

Total Annual Volume (Acre-Feet) 20,418.9

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SEP 11 2000

gk 16 APR 99



**IDAHO FISH & GAME**

600 South Walnut / Box 25
Boise, Idaho 83707-0025

Philip E. Batt / Governor
Stephen P. Mealey / Director

July 23, 1998

RECEIVED
JUL 27 1998

Department of Water Resources

Mr. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

RE: Permit for instream flow 36-07819 (Briggs Springs)

Dear Glen:

The above instream flow water right permit on Briggs Springs was issued in October 1995 with a condition that the right holder would make quarterly flow measurements for three years as part of the proof of beneficial use of water. Idaho Department of Fish and Game (IDFG) assumed responsibility for making such measurements on behalf of the Idaho Water Resource Board. Over the past six or seven months, IDFG personnel in Boise and Jerome have tried to contact the adjacent land owners (the Sheldons) by telephone or by visiting the property to receive permission to access the stream through their land. To date, our attempts to make contact have been unsuccessful. The Sheldons have not answered our phone messages nor have they been at home at times when we have visited. We are unsure why they have chosen not to contact us and we do not wish to trespass illegally to collect the required flow data.

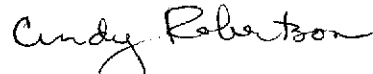
We are aware that regular flow measurements for the Sheldons' fish ponds are made and submitted by them as part of the water measurement district in Basin 36. We further understand that the discharge from this facility flows back into Briggs Creek at or near the upper boundary of the instream flow reach. Since we have been unsuccessful to date in gaining access to the creek through the Sheldons' property and since regular flow measurements for the hatchery facility are already being reported to IDWR, IDFG proposes to use the hatchery flow data in lieu of making additional flow measurements on our own. Copies of flow measurement reports (1996 and 1997) for the Sheldons' hatchery are attached for your inspection.

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SEP 11 1998

Please inform us if this proposal will meet the requirement for providing flow data as proof of use or if we need to continue our attempts to get permission from the Sheldons to access the stream to collect flow data. Thank you in advance for your consideration of this request.

Sincerely,



Cindy Robertson
Fishery Staff Biologist

cc: Dave Parrish, Magic Valley region

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SEP 11 2000

| | | |
|------------------------|------------------|--------------|
| Post-It® Fax Note 7671 | Date 7/22/98 | # of pages 1 |
| To Cindy Robertson | From Bill Graham | |
| Co./Dept. IDFG | Co. IDWR | |
| Phone # 64 | Phone # 327-7966 | |
| Fax # 334-2114 | Fax # | |

DEPT. OF IDAHO F WATER RESOURCES

RECEIVED

JAN 28 1998

Department of Water Resources

MENT REPORT FORM FOR

OPEN CHANNEL MEASUREMENT

1997 Reporting Form

Year end data must be submitted to Idaho Department of Water Resources, 1301 N. Orchard, Boise Idaho 83706, on or before January 15, 1998.

NOTE: Please submit a separate reporting form and fee for each diversion from a public water source. Refer to page 5 for detailed instructions.

This report form may be used for the following diversion:

Diversion Name or Facility: IRLE RANCH HATCHERY DIV/BRIGGS CK.
Water Source: BRIGGS CREEK
Water Right(s) Owner or Contact: SHELDON, GEORGE ET. AL.
(owner name(s) may be omitted if there are multiple owners on same diversion) SHELDON, GEORGE

SECTION 1. Water Right Holder/Operator Information

Name and Address of Water Right Holder

(If there are multiple water right holders on a common ditch or conveyance system, please designate the contact person below)

Current Owner

Name SHELDON, Geo. ET AL. Phone 208-543-4992
Last First MI

Address 3675 Clear Lake RD. Fax _____

City Buhl. State & Zip ID 83316

Original Owner (if sold within last year)

Name _____ Phone _____
Last First MI

Address _____ Fax _____

City _____ State & Zip _____

Operator or Contact Person

Name SHELDON, Myron B. Phone 208-543-4992
Last First MI

Address 3675 Clear Lake RD. Fax _____

City Buhl. State & Zip ID 83316

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SEP 11 2000

SECTION 2: Water Measurement Log (measurements must be recorded at least once per week and in units of cubic feet per second.) 6

| DAY | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE |
|-----|----------|----------|----------|-------|------|------|
| 1 | 26.9 cfs | 25.3 cfs | 28.5 | 28.0 | 27.0 | 25.6 |
| 2 | | 24.8 cfs | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | | 28.3 cfs | | | | |
| 15 | 26.3 cfs | 24.8 cfs | 29.5 cfs | 27.4 | 26.0 | 25.8 |
| 16 | | | | | | |
| 17 | | | | | | |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | | | | |
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| 29 | | ----- | | | | |
| 30 | | ----- | | | | |
| 31 | | ----- | | | | |

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SEP 11 2000

SECTION 2 (CONT.)

| DAY | JULY | AUGUST | SEPT. | OCTOBER | NOVEMBER | DECEMBER |
|-----|----------------------|--------|-------------|---------|----------|----------|
| 1 | ~~21.6~~ 23.5 | 23.5 | 27.2 | 34.0 | 30.4 | 32.1 |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
| 6 | | | | | | |
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| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | | | | | | |
| 15 | 22.2 | 26.3 | 32.4 | 31.0 | 30.3 | 32.3 |
| 16 | | | | | | |
| 17 | | | | | | |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | | | | |
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| 22 | | | | | | |
| 23 | | | | | | |
| 24 | | | | | | |
| 25 | | | | | | |
| 26 | | | | | | |
| 27 | | | | | | |
| 28 | | | | | | |
| 29 | | | MICROFILMED | | | |
| 30 | | | SEP 11 2000 | | | |
| 31 | | | ----- | | ----- | 32.7 |

form SW-1

1/96

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

RECEIVED

MAR 27 1997

Department of Water Resources

**WATER MEASUREMENT REPORT FORM
FOR
OPEN CHANNEL MEASUREMENT**

1996 Reporting Form

Year end data must be submitted to Idaho Department of Water Resources,
1301 N. Orchard, Boise Idaho 83706, on or before January 15, 1997.

NOTE: Please submit a separate reporting form and fee for each diversion
from a public water source. Refer to page 5 for detailed instructions.

This report form may be used for the following diversion:

| | |
|--|-------------------------------|
| Diversion Name or Facility: | ISLE HATCHERY DIV. BRIGGS CR. |
| Water Source: | BRIGGS CREEK |
| Water Right(s) Owner or Contact: | SHELDON, GEORGE ET. AL. |
| <small>(owner name(s) may be omitted if there
are multiple owners on same diversion)</small> | SHELDON, GEORGE |

SECTION 1. Water Right Holder/Operator Information**Name and Address of Water Right Holder**

(If there are multiple water right holders on a common ditch or
conveyance system, please designate the contact person below)

Current Owner

Name _____ Phone _____
Last, First, MI

Address _____ Fax _____

City _____ State & Zip _____

Original Owner (if sold within last year)

Name _____ Phone _____
Last, First, MI

Address _____ Fax _____

City _____ State & Zip _____

Operator or Contact Person

Name Sheldon George M Phone 543-4992
Last, First, MI 543-4070

Address PO Box 443 Fax _____

City Boise Idaho State & Zip 83316

SEP 11 2000

SECTION 2: Water Measurement Log (measurements must be recorded at least once per week and in units of cubic feet per second.)

| DAY | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE |
|-----|---------|----------|-------|-------|------|-------|
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | 27.3 | | | | |
| 5 | 29.7 | | | | | |
| 6 | | | | | | |
| 7 | | | | | | |
| 8 | | | 27.4 | | | |
| 9 | | | | | | |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | | | | | | |
| 15 | | | | 21.0 | 20.1 | 20.3 |
| 16 | | | | | | |
| 17 | | | | | | |
| 18 | | | | | | |
| 19 | | | | | | |
| 20 | | | 28.7 | | | |
| 21 | | | | | | |
| 22 | | | | | | |
| 23 | | | | | | |
| 24 | | | | | | |
| 25 | | | | | | |
| 26 | | | | | | |
| 27 | | | | | | |
| 28 | | | | | | |
| 29 | | | | | | |
| 30 | | | | 19.6 | 21.3 | 20.9 |
| 31 | | | | ----- | | ----- |

MICROFILMED
SEP-11-2008

SECTION 2 (CONT.)

| DAY | JULY | AUGUST | SEPT. | OCTOBER | NOVEMBER | DECEMBER |
|-----|------|--------|-------|---------|-------------------------|----------|
| 1 | | | | | | |
| 2 | | | | | | |
| 3 | | | | | | |
| 4 | | | | | | |
| 5 | | | | | | |
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MICROFILMED
SEP 11 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 11, 1996

Representative Michael K. Simpson
Speaker of the House
Statehouse Mail
Boise ID 83720

sh 1/12/96

RE: Application for Permit to Appropriate Water for a Minimum Streamflow No. 36-07819, Briggs Creek

Dear Representative Simpson:

Enclosed for your consideration is a copy of the above referenced application for permit along with the decisions and orders which conclude the administrative processing of the application. As you are aware, Section 42-1503, Idaho Code requires that the application be reviewed by the legislature. As defined by statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho Legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved."

This letter with its enclosures constitutes submittal of the application to the legislature for approval. Please advise me if you would like further information or presentation on the nature of the application.

Sincerely,

Karl J. Dreher
Director

Enclosures

cc: Legislative Council

MICROFILMED

JAN 23 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 11, 1996

[Handwritten signature: P. E. Batt]
Senator Jerry Twiggs
Senate Pro Tem
Statehouse Mail
Boise ID 83720

RE: Application for Permit to Appropriate Water for a Minimum Streamflow No. 36-07819, Briggs Creek

Dear Senator Twiggs:

Enclosed for your consideration is a copy of the above referenced application for permit along with the decisions and orders which conclude the administrative processing of the application. As you are aware, Section 42-1503, Idaho Code requires that the application be reviewed by the legislature. As defined by statute, each application "(i) shall not become finally effective until affirmatively acted upon by concurrent resolution of the Idaho Legislature; or (ii) except that if the legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved."

This letter with its enclosures constitutes submittal of the application to the legislature for approval. Please advise me if you would like further information or presentation on the nature of the application.

Sincerely,

Karl J. Dreher
Director

Enclosures

cc: Legislative Council

MICROFILMED
JAN 23 1997

**A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER
FOR MINIMUM STREAMFLOW**

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, the Idaho Water Resource Board may apply for a permit to appropriate unappropriated waters of any stream to establish a minimum streamflow;and

WHEREAS, under the provisions of Section 42-1503, Idaho Code, an approved application shall not become finally effective until acted upon by the Legislature, except that if the Legislature fails to act prior to the end of the regular session to which the application was submitted, the application shall be considered approved;and

WHEREAS the Director of the Department of Water Resources approved Application for Permit No. 36-07819 on October 11, 1995, by issuing a Final Order authorizing the appropriation of a minimum streamflow in Briggs Creek of 30 cfs from January 1 through December 31. The minimum streamflow begins at a point in Lot 13 (SW1/4NE1/4SE1/4), Section 4, Township 9 South, Range 14 East, Boise Meridian, where the "braided channels" become one channel and extends approximately one quarter mile to where Briggs Creek joins the Snake River in Lot 14, Section 4, Township 9 South, Range 14 East, Boise Meridian, all in Gooding County.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-third Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Final Order issued by the Director of the Department of Water Resources on October 11, 1995.

MICROFILMED
JAN 23 1997

NOTICE OF HEARING
FOR MINIMUM
STREAM FLOW
APPLICATIONS

Notice is hereby given that
on September 13, 1978,
the Idaho Water Resource
Board filed two (2)
applications for permit
with the Department of
Water Resources to
preserve minimum
streamflows from springs
tributary to the Snake
River as follows:

Application No. 36-07819

Source: Briggs Springs

Point of minimum flow:

Lot 14 (NW1/4SE1/4)

Section 4, T9S, R14E,

B.M. Gooding County.

Rate of flow: 56 cubic feet
per second

Season of use:

January 1 to December 31

Use: To maintain trout
populations

Application No. 36-07822

Source: Banbury Springs

Point of minimum flow:

Lot 14 (NW1/4SE1/4)

Affidavit of Publication

STATE OF IDAHO

COUNTY OF TWIN FALLS } SS.

No 27349

I, Linda Coppo McNeill being first duly sworn upon oath, depose
and say that I am Print Clerk of the TIMES-NEWS, published daily, at
Twin Falls, Idaho, and do solemnly swear that a copy of the notice of advertisement, as per
clipping attached, was published in the regular and entire issue of said newspaper, and not in any
supplement thereof, for Two consecutive Weeks,
commencing with the issue dated July 27, 19 75,
and ending with the issue dated August 3, 19 75.

And I do further certify that said newspaper is a consolidation, effective February 16, 1942, of the Idaho
Evening Times, published theretofore daily except Sunday, and the Twin Falls News, published theretofore daily except
Monday, both of which newspapers prior to consolidation had been published under said names in said city and county
continuously and uninterruptedly during a period of more than twelve consecutive months, and said TIMES-NEWS, since
such consolidation, has been published as a daily newspaper except Saturday, until July 31, 1978, at which time said
newspaper began daily publication under said name in said city and county continuously and uninterruptedly.

And I further certify that pursuant to Section 60-108 Idaho Code, Thursday of each week has been designated
as the day on which legal notice by law or by order of any court of competent jurisdiction within the state of Idaho, to be
published weekly, will be published; and that at the head of the editorial column of said combined newspapers, and in each
issue thereof, Thursday is announced as the day on which said legal notices will be published.

STATE OF IDAHO
COUNTY OF TWIN FALLS

On this 15 day of Aug. in the year of 1995, before me,

Linda Coppo McNeill

JAN 23 1997

TRIBUNE PUBLISHING COMPANY, INC.

The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/03/95INVOICE NO. 539882Account No. 446620Description 539882NOTICEOFHEARINGF**LEGAL ADVERTISING
INVOICE**Times 2Lines 46

Tab. Lines _____

SOLD TO: DEPT OF WATER RESOURCES
222 SHOSHONE ST E
TWIN FALLS ID 83301

\$ 115.00**RECEIVED**

AUG 10 1995

Department of Water Resources
Southern Region

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.

Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

539882

**NOTICE OF HEARING FOR
MINIMUM STREAM FLOW APPLICATIONS**

Notice is hereby given that on September 13, 1978, the Idaho Water Resources Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from springs tributary to the Snake River as follows:

Application No. 36-07819
Source: Briggs Springs
Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.
Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations
Application No. 36-07822
Source: Banbury Springs
Point of minimum flow: Lot 4 (SE1/4NW1/4) Section 33, T8S, R14E, B.M. Gooding County.
Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations, aesthetics and recreational values

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs. Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.

The Department of Water Resources will hold a second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City Hall, Council Chambers in Buhl for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mail, Boise, Idaho 83720 five (5) days prior to the hearing. Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights,
Karl J. Dreher, Director

Published in Lewiston Morning Tribune on 7/27 & 8/3/95.

E OF IDAHO, ss.
y of Nez Perce

Lewis _____, being duly sworn, deposes and says, I am legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho, that the said Lewiston Morning Tribune is an established newspaper which has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for the period; that the 539882NOTICEOFH attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, on _____, time(s). Publication being on 07/27, or once a ~~week~~ week consecutive ~~week~~ week, the first publication thereof being on 27/95, and the last publication thereof being on 03/95, and said 539882NOTICEOFH was so published in the _____ and entire issue of said newspaper and was not in a supplement and was so published in every issue and number of the said newspaper during the period and times of publication as set forth above.

Karen J. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 7

August 1995

Ray Reed

TRIBUNE PUBLISHING COMPANY, INC.
The Lewiston Morning Tribune
505 C St., P.O.Box 957
Lewiston, Idaho 83501
(208) 743-9411

Date 08/03/95 INVOICE NO. 539882
Account No. 446620
Description 539882NOTICEOFHEARINGF
Times 2 Lines 46

LEGAL ADVERTISING INVOICE

SOLD TO: DEPT OF WATER RESOURCES
222 SHOSHONE ST E
TWIN FALLS ID 83301

Tab. Lines _____

\$ 115.00

RECEIVED

AUG 10 1995

Department of Water Resources
Southern Region

NOTICE: This is an invoice of Purchase made by you. Statement will be rendered the first of the month.
Please Retain This Invoice as Your Statement Will Refer to Invoice by No. Only.

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO, ss.
County of Nez Perce

Karen Lewis, being duly sworn, deposes and says, I am the Legal Clerk of the Tribune Publishing Company, a corporation organized and existing under and by virtue of the laws of the State of Idaho, publishers of the LEWISTON MORNING TRIBUNE, a newspaper of general circulation published at Lewiston, Nez Perce County, Idaho; That the said Lewiston Morning Tribune is an established newspaper and has been published regularly and issued regularly at least once a day for more than 21 consecutive years next immediately preceding the first publication of this notice, and has been so published uninterrupted for said period; that the 539882NOTICEOFH attached hereto and which is made a part of this affidavit was published in the said Lewiston Morning Tribune, 2 time(s). Publication being on 07/27, or once a week for 2 consecutive weeks, the first publication thereof being on the 07/27/95, and the last publication thereof being on the 08/03/95, and said 539882NOTICEOFH was so published in the regular and entire issue of said newspaper and was not in a supplement thereof and was so published in every issue and number of the said paper, during the period and times of publication as set forth above.

Karen J. Lewis

SUBSCRIBED AND SWORN BEFORE ME THIS THE 7

day of August 1995

MICROFILMED Notary Public in and for the State of Idaho,
residing at Lewiston, therein
Commission Expires 7/97

JAN 23 1997

Proof of Publication
The Post-Register

RECEIVED

AUG 11 1995

Department of Water Resources
Southern Region

State of Idaho, }
County of Bonneville } ss

I, **S. BOB BRIGHT or TINA WEGNER**, first being duly sworn, depose and say: That I am the **Production Supervisor or Asst. Prod. Supervisor** of The Post Company, a corporation of Idaho Falls, Bonneville County, Idaho, publishers of The Post-Register, a newspaper of general circulation, published daily, except Saturday, at Idaho Falls, Idaho; said Post-Register being a consolidation of the Idaho Falls Times, established in the year 1890, The Idaho Register, established in the year 1880 and the Idaho Falls Post, established in 1903, such consolidation being made on the 1st day of November, 1931, and each of said newspapers have been published continuously and uninterruptedly, prior to consolidation, for more than seventy-eight (78) weeks and said Post-Register having been published continuously and uninterruptedly from the date of such consolidation, up to and including the last publication of notice hereinafter referred to.

That the notice, of which a copy is hereto attached and made a part of this affidavit, was published in said Post-Register for **Two** consecutive weeks, first publication having been made on the **27th** day of **July**, 19**95**, last publication having been made on the **3rd** day of **August**, 19**95**, and that the said notice was published in the regular and entire issue of said paper on the respective dates of publication, and that such notice was published in the newspaper and not in a supplement.

Subscribed and sworn to before me, this **9th** day of **August**, 19**95**.

S. Bob Bright
Tina Wegner
Notary Public

My commission expires **July 1st**, 19**97**.

B10

*error noted
mb
8/22/95*

**NOTICE OF
HEARING FOR MINIMUM
STREAM FLOW APPLICATIONS**

Notice is hereby given that on September 13, 1978, the Idaho Water Resource Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from springs tributary to the Snake River as follows:

Application No. 36-07819

Source: Briggs Springs

Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.

Rate of flow: 56 cubic feet per second
Season of use: January 1 to December 31
Use: To maintain trout populations
Application No. 36-07822
Source: Banbury Springs

Point of minimum flow: **Lot 4** (SE1/4NW1/4) Section 33, T8S, **R13E**, B.M. Gooding County

Rate of flow: 97 cubic feet per second
Season of use: January 1 to December 31
Use: To preserve fish populations, aesthetics and recreational values

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs. Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.

The Department of Water Resources will hold a second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City

Hall, Council Chambers in Buhl for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mail, Boise, Idaho 83720 five (5) days prior to the hearing. Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or

understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights.

Karl J. Dreher, Director

Published: July 27, August 3, 1995

MICROFILMED

JAN 13 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 12, 1995

RE: In the Matter of Amended Application for Permit No. 36-07891
in the name of the Idaho Water Resource Board to establish a
minimum stream flow on Briggs Springs

Dear Interested Party:

The accompanying order is a "final order" issued by the
department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the
presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the
agency head shall issue a final order following review of that
recommended order.

(3) If the presiding officer issued a preliminary order, that
order becomes a final order unless it is reviewed as required in
section 67-5245, Idaho Code. If the preliminary order is reviewed,
the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party
may file a petition for reconsideration of any order issued by the
agency head within fourteen (14) days of the issuance of that
order. The agency head shall issue a written order disposing of
the petition. The petition is deemed denied if the agency head
does not dispose of it within twenty-one (21) days after the filing
of the petition.

(5) 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

MAILED

NOV 07 1995

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.

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

(7) A nonparty shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or

MICHAEL

NOV 07 1995

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

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

NOTED

NOV 07 1995

WR0749NP
No. P36-07819

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 09/27/95
PAGE: 1

| OWNER
CODE | NAME & ADDRESS | PRIORITY
DATE | WATER USE | USE PERIOD
FROM TO | DIVERSION
RATE | DIVERSION
VOLUME |
|------------------|--|------------------|-----------------------|-----------------------|-------------------|---------------------|
| C | STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720 | 09/13/1978 | MINIMUM INSTREAM FLOW | 01-01 12-31 | 30.000 CFS | |
| TOTAL DIVERSION: | | | | | 30.000 CFS | |

Water Source: BRIGGS CREEK

Tributary to: SNAKE RIVER

Stage: PERMIT

Point(s) of Beginning Stream Reach: T09S R14E S04 Lot 13(SWNESE)

Point(s) of Ending Stream Reach: T09S R14E S04 Lot 14(NWSE)

GOODING County

GOODING County

Pou County:

Conditions of Approval:

027 - Use of water under this right shall be non-consumptive.

Remarks: The minimum stream flow approved under this permit is 30 cfs and shall be located only within the lower reach of Briggs Creek described as follows:

Beginning at a point in Lot 13 (SW1/4NE1/4SE1/4) Section 4, T9S, R14E, B.M. where the "braided channels" become one channel and ending where Briggs Creek joins the Snake River Lot 14 Section 4, T9S, R14E, B.M. being a distance of about one-quarter (1/4) mile.

Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum stream flow such measuring station(s) shall be permanently installed and maintained as specified by the department. The Director retains jurisdiction, as described below, to review and to amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.

This minimum stream flow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to Thousand Springs, held in trust by the state of Idaho, which may be approved or diverted later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan and Chapter 2, Title 42, Idaho Code.

The application hereby approved by the Director shall be

NOV 07 1995

WR0749NP
No. P36-07819

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 09/27/95
PAGE: 2

Remarks: submitted to the Idaho Legislature by the fifth day of the next regular legislative session and the Director's approval shall not become finally effective until approved by the legislature pursuant to the procedure provided by Section 42-1503, Idaho Code.
The right holder shall measure the discharge of Briggs Creek near the upstream end of the lower reach and shall submit the measurements as a part of the proof of beneficial use of water. The measurements shall be taken at least quarterly over a three year period.
See Final Order for conditions and limitations for use of water under this approval.

Dates: App. Received: 09/13/1978 Priority Date: 09/13/1978
Proof Due Date: 06/01/2000 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 09/26/95 CZIMMERM 09/27/95 CZIMMERM

NOV 07 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

101 North Orchard Street
Boise, Idaho 83706-2237

WA

PRESORTED
FIRST CLASS



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83706-2237

FORWARDING ORDER
EXPIRED

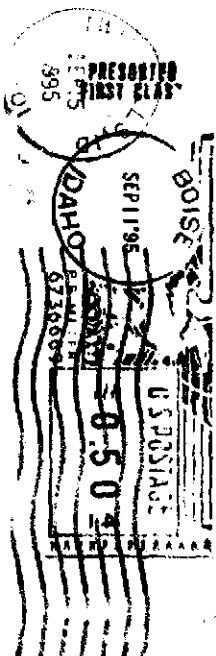


RETURNED
TO
SENDER

Banbury Pipe Co, Inc.
c/o Sterling Larson
1435 E. Heyburn
Twin Falls, ID 83301

RECEIVED
SEP 18 1995
Department of Water Resources

not at this
address



MIDWESTERN

NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 11, 1995

RE: In the matter of Application for Permit No. 36-07819 in the name of the Idaho Water Resource Board to establish a minimum stream flow on Briggs Springs

Dear Interested Party:

The accompanying order is a "**recommended order**" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order must be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

NOV 07 1995

ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a

[REDACTED]

reasonable time, 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 recommended order shall be served on all other parties to these proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,

L. Allen Saxton
L. ALLEN SAXTON

STATEMENT OF THE IDAHO DEPARTMENT OF FISH AND GAME IN REGARDS TO
THE INSTREAM FLOW REQUEST FOR BRIGGS SPRINGS, APPLICATION NO. 36-07819.
HEARING HELD IN BUHL, IDAHO, AUGUST 9, 1995.

The instream flow in Briggs Springs was requested in 1978 to maintain rainbow trout spawning and rearing for both resident and fluvial fish populations. In 1976, Idaho Department of Fish and Game (IDFG) personnel electrofished the lower end of the stream and collected 7 rainbow trout ranging in length from 2 to 12 inches. Young of the year rainbow were present indicating that natural reproduction was occurring. No new fishery data has been collected on the lower end of Briggs Creek since that time. It is believed that rainbow trout still utilize the spring creek for spawning and rearing. Rainbow trout have been collected by USGS near the head of the springs as recently as 1994. In addition, Shoshone sculpin and mottled sculpin were also collected.

The requested flow of 56 cfs was based on analysis of field data collected by IDFG personnel in 1975. A study site was selected approximately 100 yards upstream of the confluence with the Snake River. Water depths and velocities were measured on a minimum of 20 stations on each of four transects. The measurements were made in accordance with U. S. Geological Survey (USGS) procedures. The flow recommendation was presented in the following publication: Stream Resource Maintenance Flow Determinations on Idaho Streams, Job Performance Report, Project F-66-R-2, Job II. Tim Cochnauer, Idaho Department of Fish and Game, 1977. At the time the recommendation was made, it was believed that approximately 50-55 cfs was available after existing diversions were accounted for to meet the instream flow request based on USGS records. No additional flow studies have been conducted by IDFG since that time. USGS has subsequently established a gaging station on Briggs Spring near the head in April 1989 and have recorded daily flows at the station since that time. The average annual flow for the springs for the water years 1989-1994 is 105 cfs.

Additional diversions of water out of Briggs Springs have been developed since the 1975 study that reduce the flows below the requested rate of 56 cfs. Seventy cfs is diverted out of the spring channel near the head of the springs for fish propagation and power production and return flows do not return to Briggs Creek. The remainder of the spring flow (approximately 35 cfs on average) is diverted for irrigation, domestic, and fish propagation, with most of the flow from the fish propagation facility returning to the creek. The creek and the associated riparian areas provide good habitat for waterfowl, wildlife and fish. The U.S. Fish and Wildlife Service also reports the springs and the creek are also within the recovery zone for five endangered or threatened species of mollusks in the Snake river.

IDFG believes that even though flows in the creek are less than the minimum recommended in 1977, the available flows still provides good habitat for fish and wildlife and should be protected to the extent possible without injuring senior water rights.

RECEIVED
NOV 07 1995

IDFG appreciates the opportunity to address the above concerns. If you or your staff have any further questions, please call me at 334-2597.

Sincerely,

Cindy Robertson

Cindy Robertson
Staff Fishery Biologist

cc: Rinda Just, Attorney General's Office
Dave Parrish, Magic Valley Region
Marti Bridges, Idaho Rivers United
Myron and Elena Sheldon, Buhl, ID

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NOV 07 1995



IDAHO FISH & GAME

600 South Walnut / Box 25
Boise, Idaho 83707-0025

Phil Batt / Governor
Jerry M. Conley / Director

August 15, 1995

Mr. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

RE: Instream flow applications no.s 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

Dear Mr. Saxton:

I have attached copies of the statements read into the record by Dave Parrish at the hearing for the above-referenced instream flow applications held in Buhl on August 9, 1995. I have also sent copies of the same to the other parties to the proceeding. Please advise me if any you need any additional information from us. My phone number is 334-2597.

Sincerely,

Cindy Robertson

Cindy Robertson
Staff Fishery Biologist

Attachments

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NOV 07 1995

MIDDLE SNAKE REGIONAL

Gooding * Lincoln
County

STATEMENT OF THE IDAHO DEPARTMENT OF FISH AND GAME, IN REGARDS TO
THE INSTREAM FLOW REQUEST FOR BANBURY SPRINGS, APPLICATION NO. 36-
07822. HEARING HELD IN BUHL, IDAHO, AUGUST 9, 1995.

Banbury Springs is a complex of springs with high quality aesthetic, recreational and social values. The flow of the springs is captured in a twelve acre lake known locally as Morgan Lake. The lake is used by the local public, including heavy use by the Boy Scouts, for fishing, hunting, boating and sight seeing. The land surrounding the springs and the lake is owned by Idaho Power Company and is leased to the Boy Scouts. The area has also been used for environmental teacher workshops and school conservation classes. The current inflow of the springs is necessary to maintain existing public values.

Populations of rainbow trout have been documented in both the inlet springs and the lake. Electrofishing by Idaho Department of Fish and Game (IDFG) personnel in 1979 indicated that natural reproduction was occurring in these inlets. The lake is currently stocked with rainbow trout by the Boy Scouts under a private pond permit. It is considered likely that rainbow trout in the Snake River enter the lake through the outlet culvert at high flows.

Banbury Springs is within the recovery zone for five listed species of Snake River molluscs. Additionally, two candidate species, the Shoshone Sculpin and the California Floater, are believed to exist in the Banbury Springs complex. There is also a significant population of river birch in the springs area, an important riparian species.

Since 1991, the public, industry and government agencies have been working cooperatively to develop and implement a Nutrient Management Plan to address water quality concerns in the middle Snake River. Maintaining clean incoming water from spring sources such as Banbury Springs is important to improving water quality in the reach of the river.

The requested instream flow of 97 cfs at the confluence with the Snake River was recommended in 1978. The recommendation was not based on instream flow methodologies, rather it was the flow believed necessary to protect the natural state of the area. At the time of the hearing in 1979, 97 cfs was the lowest flow recorded by the U.S. Geological Survey (USGS) during the period 1950-1967. These records were published in "Records of North-side Springs and Other Inflow to the Snake River Between Milner and King Hill, Idaho, 1948-1967." Additional miscellaneous data collected by the USGS at the outlet of the lake indicate flows have ranged from 106 to 116 cfs since 1991. These records would indicate that the requested instream flow can be met during a portion of the year. It is not known if these flows are available year-round.

Idaho Department of Fish and Game believes the instream flow request is in the public interest, would not interfere with any vested water rights, is capable of being maintained for at least a portion of the year, is necessary for the stated purposes of protecting aesthetics, recreation, and fish and wildlife species and their habitat, and is the minimum not the ideal flow.

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**IDAHO FISH & GAME**

600 South Walnut / Box 25
Boise, Idaho 83707-0025

Phil Batt / Governor
Jerry M. Conley / Director

August 22, 1995

Mr. Glen Saxton
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83706

RECEIVED

AUG 22 1995

Department of Water Resources

RE: Instream flow application no. 36-07819 (Briggs Springs)

Dear Mr. Saxton:

Idaho Department of Fish and Game (IDFG) offers the following additional comments in regards to the above-referenced application for instream flow. There was some confusion at the hearing regarding the description of the instream flow reach. It is the understanding of IDFG that the application for 56 cfs for an instream flow on Briggs Springs specified that the description of the point where the stream flow was requested was at the confluence with the Snake River, not from the mouth of the stream to the head of the springs. Measurements to determine if water is available to fill the proposed instream flow would be made near the mouth of the stream, not near the head of the springs. IDFG hopes this clarifies the apparent confusion on the part of the Sheldon family and their attorney.

Based on the testimony of Bill Graham, Idaho Department of Water Resources, it appears that at least 32 cfs of water is available to fill the instream flow application at the present time. IDFG notes indicate Mr Graham testified that 32.19 cfs would be available to meet the instream flow request as the result of nonconsumptive uses of water currently diverted from Briggs Springs. However, the possibility exists that additional water could be made available to meet the requested instream flow at the mouth. IDFG would like to know if water diverted under licenses 36-02040 and 36-02607 for fish propagation returned to Briggs Creek **prior** to the development of the hydropower facility operated by Richard Kaster and licensed under water right 36-07973. The two rights for fish propagation are senior to the instream application, but the license for the hydropower use is junior in priority. If water diverted under the senior rights originally returned to Briggs Creek, then it seems the amount of water available to fill the instream flow right could be substantially increased over what is currently available. It would seem that water to fill right 36-07973 should only be available after all senior rights have been met, including the instream flow right. IDFG recognizes that if water diverted under 36-02040 and 36-02607 did not historically return to Briggs Creek, this issue may be moot.

NOV 07 1995

ROSHOLT, ROBERTSON & TUCKER
ATTORNEYS AT LAW

142 THIRD AVENUE NORTH
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
(208) 734-0700
FAX (208) 736-0041

MEMORANDUM

TO: Glen Saxton, IDWR Hearing Officer

FROM: J. Evan Robertson

DATE: August 22, 1995

RE: Augmentation of the Record for the Public Hearing of August 9, 1995,
Regarding Briggs Springs Minimum Stream Flow

RECEIVED

AUG 24 1995

Department of Water Resources

This memorandum is to augment the record and public testimony given by J. Evan Robertson, attorney for the Sheldon family, at the public hearing of August 9, 1995, regarding the Idaho Water Resource Board's Application for a Minimum Stream Flow in Briggs Springs. The members of the Sheldon family who own water rights on Briggs Springs include: George and Phyllis Sheldon, husband and wife; Myron and Elena Sheldon, husband and wife; Louise Sheldon, an individual; the Estate of Howard Sheldon, Mark Sheldon as personal representative; and Williard and Hedwig Sheldon, husband and wife, hereinafter collectively referred to as the "Sheldons". The Sheldons object to a minimum flow of 56 cfs because: (a) of inadequacies in the application; (b) there is a lack of scientific information to support the application; (c) there is insufficient water to fulfil the request; and (d) seventeen years has elapsed since the filing of the original application.

A. The Application Lacks a Sufficient Legal Description of the Point on Briggs Springs Where the Minimum Stream Flow is Proposed.

The Idaho Water Resource Board ("Board") submitted its original Application of September 13, 1978 ("Original Application") to the Department of Water Resources for 56 c.f.s. on Briggs Springs for minimum stream flow purposes. The Original Application contained a hand drawn map under Item No. 11, "Map of Proposed Project", which is required to "show clearly the proposed point of diversion, place of use, section number, township and range number". (The Original Application is attached hereto as Exhibit "A"). Item No. 11 clearly shows that the Original Application requested a point of flow at the confluence with the Snake River, and not a reach, stretch, or segment of Briggs Springs.

However, the "Amended Application" is similar to the Original Application in every

Amended Application because the Original Application shows a point for a proposed minimum flow, whereas the Amended Application shows no such point.

Also contrary to the Original Application are the Staff Exhibits incorporated into the record of the public hearing of August 9, 1995. (The Staff Exhibits are attached hereto as Exhibit "C"). Staff Exhibit 1 requests a point of minimum flow, but does not specify the location of such point. On the other hand, Staff Exhibit 2 shows a minimum stream flow which encompasses all of Briggs Springs from the origin of the creek to its confluence with the Snake River.

The Amended Application and Staff Exhibits do not correspond to the Original Application of 1978. The Original Application does not request a minimum flow on the entire creek. These apparent modifications to the Original Application create an ambiguity that the Board proposes a different stream flow than that requested in 1978, and raises doubt as to the Board's intended request. The modification also raises issues of fairness. If the request has been modified, all parties should again be put on notice. The notification in 1978 for the Original Application will not satisfy the requirements of due process and fairness if the Board subsequently and materially changes the substance of the application. Finally, an issue exists whether the Board's application meets the requirements of Idaho Code §42-1503. That provision requires the Board's application to include the legal description of the point on the stream where the minimum stream flow is proposed. I.C. §42-1503(a) (1990). The Board's request in 1978 did specify a point of proposed minimum flow, but an ambiguity now exists regarding the point of proposed flow. Therefore, the Board's request also fails to satisfy the requirements of Idaho Code §42-1503 to provide the legal description of where the minimum stream flow is proposed.

B. A Minimum Stream Flow of 56 cfs Does Not Correspond to the Recent Measurements or the Current or Historical Flows of Briggs Springs. 1995

Oral testimony at the public hearing of August 9, 1995, by Mr. Parrish from the Idaho Department of Fish and Game ("IF&G"), stated that in 1975 his office had attempted measurements on Briggs Springs 100 yards upstream from its confluence. IF&G admitted the potential for inaccuracies in the measurements because of conditions of the creek at the confluence with the Snake. IF&G estimated that according to the measurements taken almost twenty years ago that a flow of 25-35 cfs existed at the confluence. It is important to note that no other studies have been performed on the lower reach of Briggs Springs since 1975. IF&G presented no evidence that the measurements taken near the confluence of were consistent or representative of the amount of water in the upper reaches of the creek. IF&G presented no evidence that the measurements taken in 1975 are consistent or representative of the flows in Briggs Springs in 1995. IF&G has completed no measurements on the full length of the creek. 1995

The lack of evidence regarding the actual amount of water in Briggs Springs raises several issues. First, the measurements completed in 1975 showed a flow of 25-35 cfs. Therefore, the minimum flow request for 56 cfs was contrary to the evidence even in 1978. Second, there been no recent measurements on each segment of the creek upon which the Board proposes a minimum flow. It is unsettling to the holders of senior water right that

NOV 07 1995

no comprehensive measurement study has ever been completed on Briggs Springs, especially since the Board has had almost twenty years to complete such measurements. The measurements relied upon by IF&G are incomplete and outdated and must be supplemented. The statement issued by the IF&G ("Statement"), stated that in 1989 a gaging station was established near the head of Briggs Springs. (The Statement of IF&G is attached hereto as Exhibit "D"). Those measurements showed an average daily flow at the head from 1989 through 1994 of 105 cfs. However, downstream from the head of the creek several appropriators divert and consume water which diminishes the flow. IF&G cannot verify how much of the 105 cfs actually travels to the confluence. There is no evidence that 56 cfs remains in the creek at the confluence or any other point on the creek. The Board has produced insufficient information to request a minimum flow of 56 cfs on Briggs Springs. The Board's request for a minimum flow must correspond the actual conditions at Briggs Springs, and the evidence submitted by the Board is not legally sufficient.

C. Briggs Springs Does not have 56 cfs of Unappropriated Water to Fulfil the Board's Application.

1. The Middle Reach of Briggs Springs Cannot Support a Minimum Flow.

If the Board is requesting a minimum flow for the entire creek, it has not submitted evidence from either 1975 or 1995 regarding flows and water levels throughout the length of the creek. If completed, measurements would show that Briggs Springs comes out of the ground to form one definite stream channel with a bed and banks but then diffuses into several smaller flows which reform back into the lower reach of Briggs Springs with a definite channel and banks. The middle reach is not a flowing creek, but a swampy area where the water spreads out and is widely dispersed. The flow on the middle reach of Briggs Springs is incapable of measurement and it cannot support any minimum stream flow.

2. Existing Appropriators Consume a Majority of Briggs Springs' Flow, Leaving Less Than 56 cfs in Briggs Springs.

The Staff Exhibits and the Statement of IF&G both show that the average stream flow of Briggs Springs at the head is 105 cfs. However, Staff Exhibit 3 shows that there are 113.18 cfs of senior rights prior to the Board's proposed minimum stream flow. According to the Staff Exhibits, there is an average of 105 cfs flowing in Briggs Springs at its head, but there are over 113 cfs of senior appropriators throughout Briggs Springs. Not all the 113 cfs provide return flows back into Briggs Springs. Some diversions do supply return flows back into the creek, and one example is the Sheldon's water right for 30 cfs for fish propagation. However, it is important to note that the Sheldons cannot always fulfil this 30 cfs for fish propagation because of low water levels, and this negatively effects return flows. Of the 113 cfs, 70 cfs is diverted from the creek and returns directly to the Snake River without reentering Briggs Springs. That leaves only 43 cfs of flow remaining for the other appropriators and the Board's minimum flow request. Therefore, it does not appear that there is sufficient unappropriated water for the requested 56 cfs for minimum flow.

NOV 07 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. 36-7819
RECEIVED

SEP 30 1978

To appropriate the public waters of the State of Idaho
Department of Water Resources
Southern District Office

1. Name of applicant Idaho Water Resouce Board Phone 384-2215
Post office address Statehouse, Boise, Idaho 83720

2. Source of water supply Briggs Springs which is a tributary of Snake River

3. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4 Township 9S
Range 14 E B.M. Gooding County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 56 cfs for In stream flow purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 56 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. None

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year - maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation:

(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4 Township 9 S

Range 14 E B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____ or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: To maintain trout populations.

NOV 27 1978

EXHIBIT A

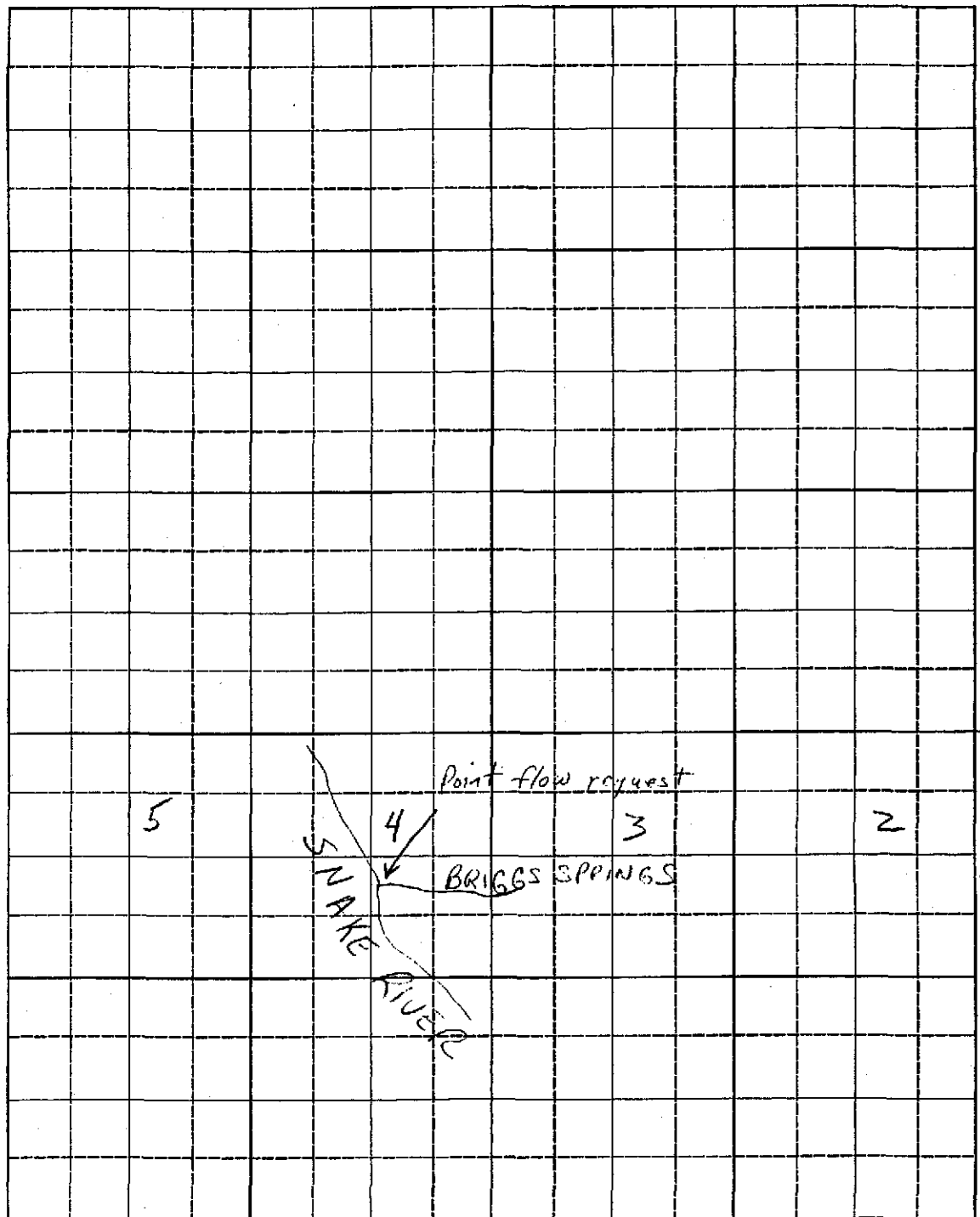
[illegible]

c. Describe any other water rights used for the same purposes as described above. None

10. Remarks See Attached Sheet

NOV 07 1955

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



Scale: 2 inches equal 1 mile.

R. 14 E.

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

George J. [Signature]
NOV 07 1995
(Applicant)

Received by marya Date 7/3/78 Time 8:50am

Preliminary check by _____ Fee \$ N.A.

Receipted by _____ Date _____

Publication prepared by _____ Date _____

Published in _____

Publication dates _____

Publication approved _____ Date _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.

During 1976, personnel of the Idaho Department of Fish and Game collected field data from Briggs Spring and using this data with instream flow

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

AMENDED

AMENDED

To appropriate the public waters of the State of Idaho

1. Name of applicant IDAHO WATER RESOURCE BOARD Phone 384-2215

Post office address Statehouse Mail, Boise, Idaho 83720

2. Source of water supply Briggs Springs which is a tributary of Snake River

3. Location of point of diversion is Government Lot 14 (NWSE) 1/4 of 1/4 of Section 4 Township 9S

Range 14E B.M. Gooding County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 56 for instream flow purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 56 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. None

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial

use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: Government Lot 14 (NWSE)
(1) Give the place of use of water: _____ 1/4 of _____ 1/4 of Section 4 Township 9S

Range 14E B.M.

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: to maintain trout populations

NOV 07 1995

EXHIBIT B

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

[illegible]

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion _____

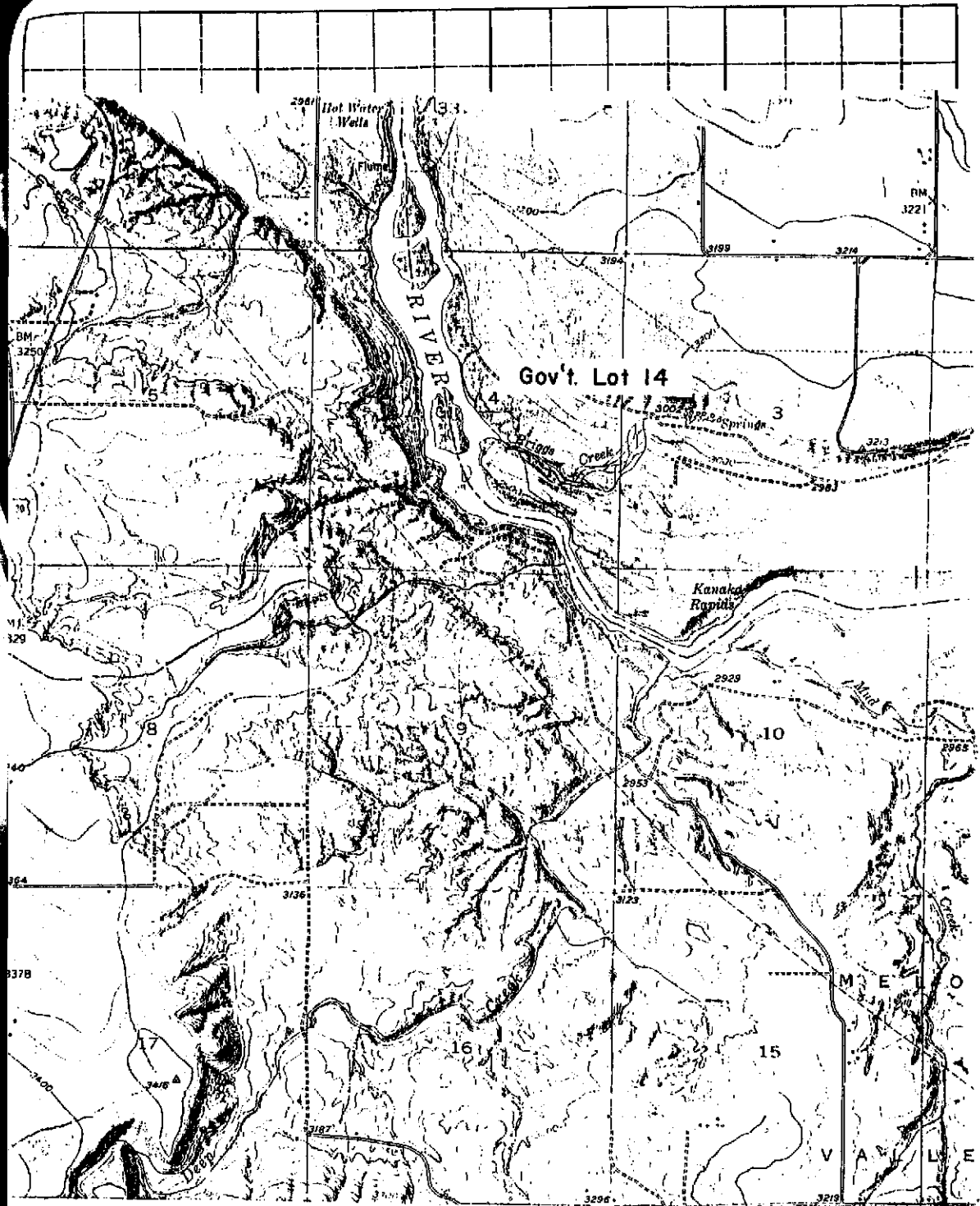
b. Who owns the land to be irrigated or place of use _____

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

10. Remarks See attached sheet

NOV 07 1995

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of

Received by 1st Date 9-13-78 Time 1:00 P.
Preliminary check by 1st Fee \$ N/A
Receipted by _____ Date _____
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19 ____.

Director

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NOV 07 1995

BRIGGS SPRINGS
MINIMUM STREAMFLOW APPLICATION DATA

WATER RIGHT NUMBER: 36-07819

SOURCE: BRIGGS SPRINGS

APPLICANT: IDAHO WATER RESOURCE BOARD

REQUESTING AGENCY:
IDAHO DEPARTMENT OF FISH AND GAME

DATE FILED: SEPTEMBER 13, 1978

POINT OF MINIMUM FLOW:
LOT 14 (NW1/4 SE1/4) SECTION 4, T9S, R14E, B.M.
GOODING COUNTY

RATE OF FLOW: 56 CFS

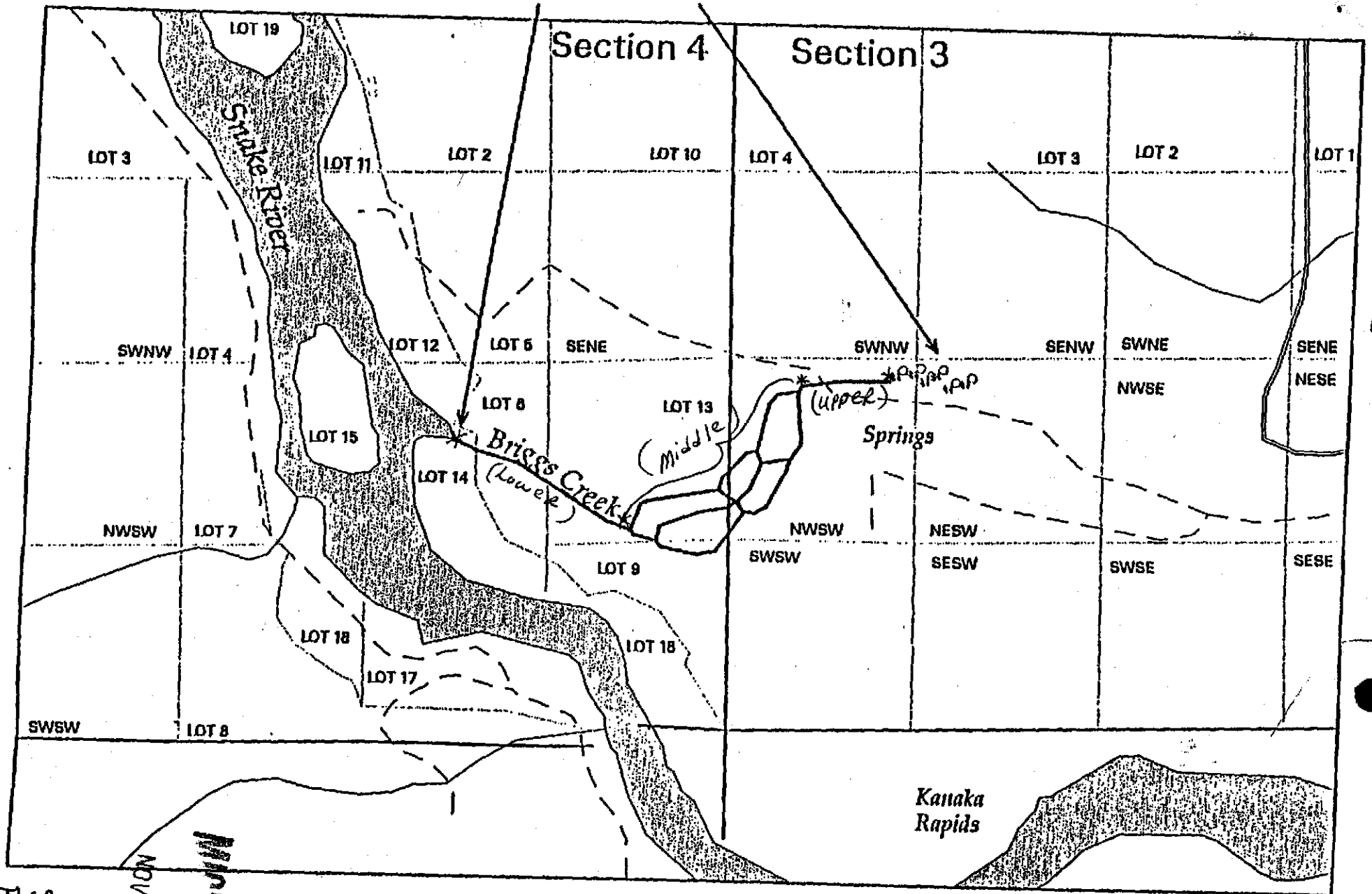
PERIOD OF USE: JANUARY 1 - DECEMBER 31

PURPOSE:
TO MAINTAIN RAINBOW TROUT SPAWNING AND
REARING FROM THE POINT OF REQUESTED FLOW
UPSTREAM TO ITS ORIGIN

MINOR REVISIONS
Staff Exhibit
NOV 07 1995

EXHIBIT C

Minimum Streamflow Reach

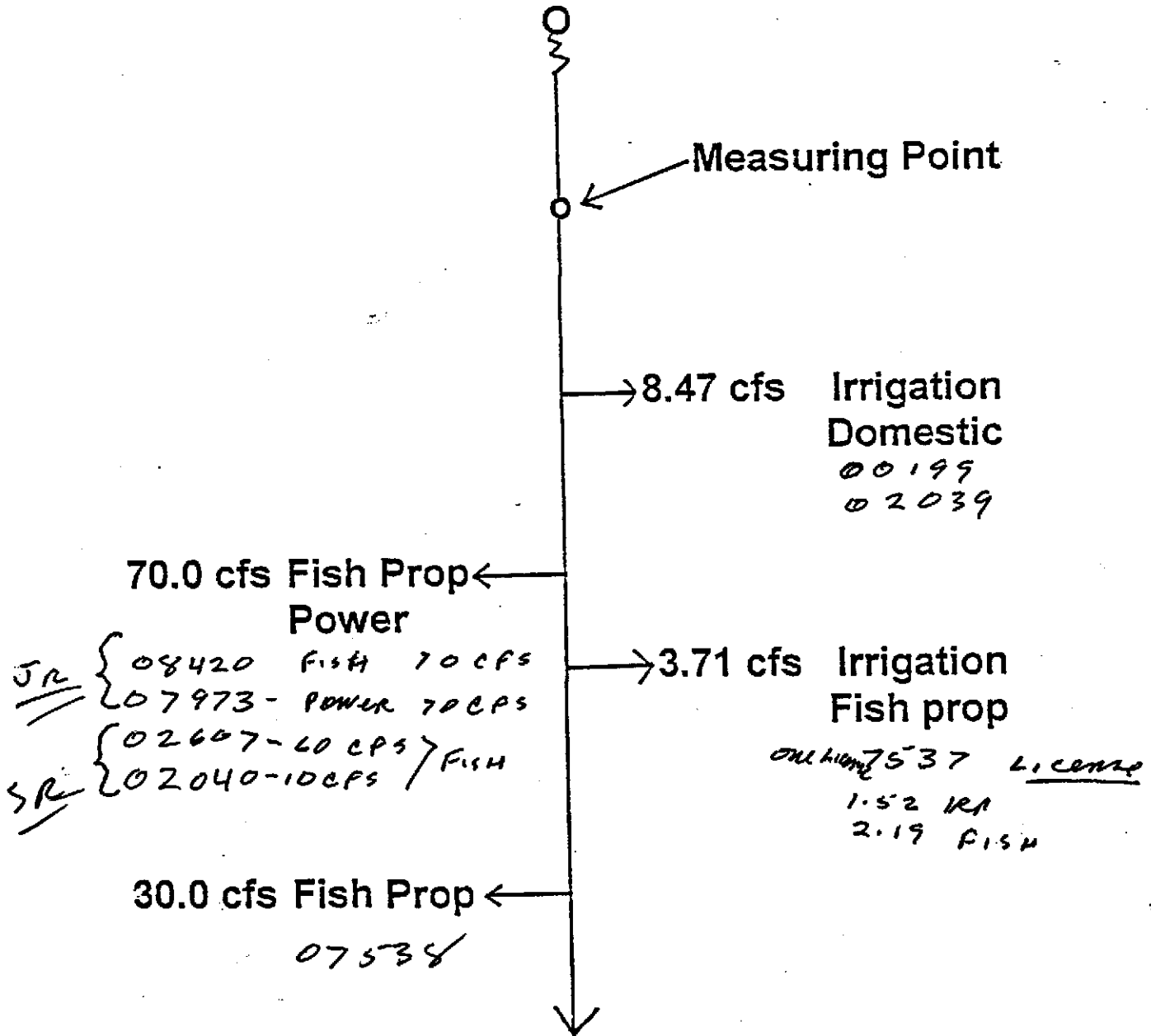


Township 9S, Range 14E - BRIGGS SPRINGS

Staff
Exhibit 2

NOV 07 1995

BRIGGS SPRINGS



072040 pmh 70 07973 > JUNIOR
 cfs 70 04420

NOV 07 1995
Staff Exhib 3

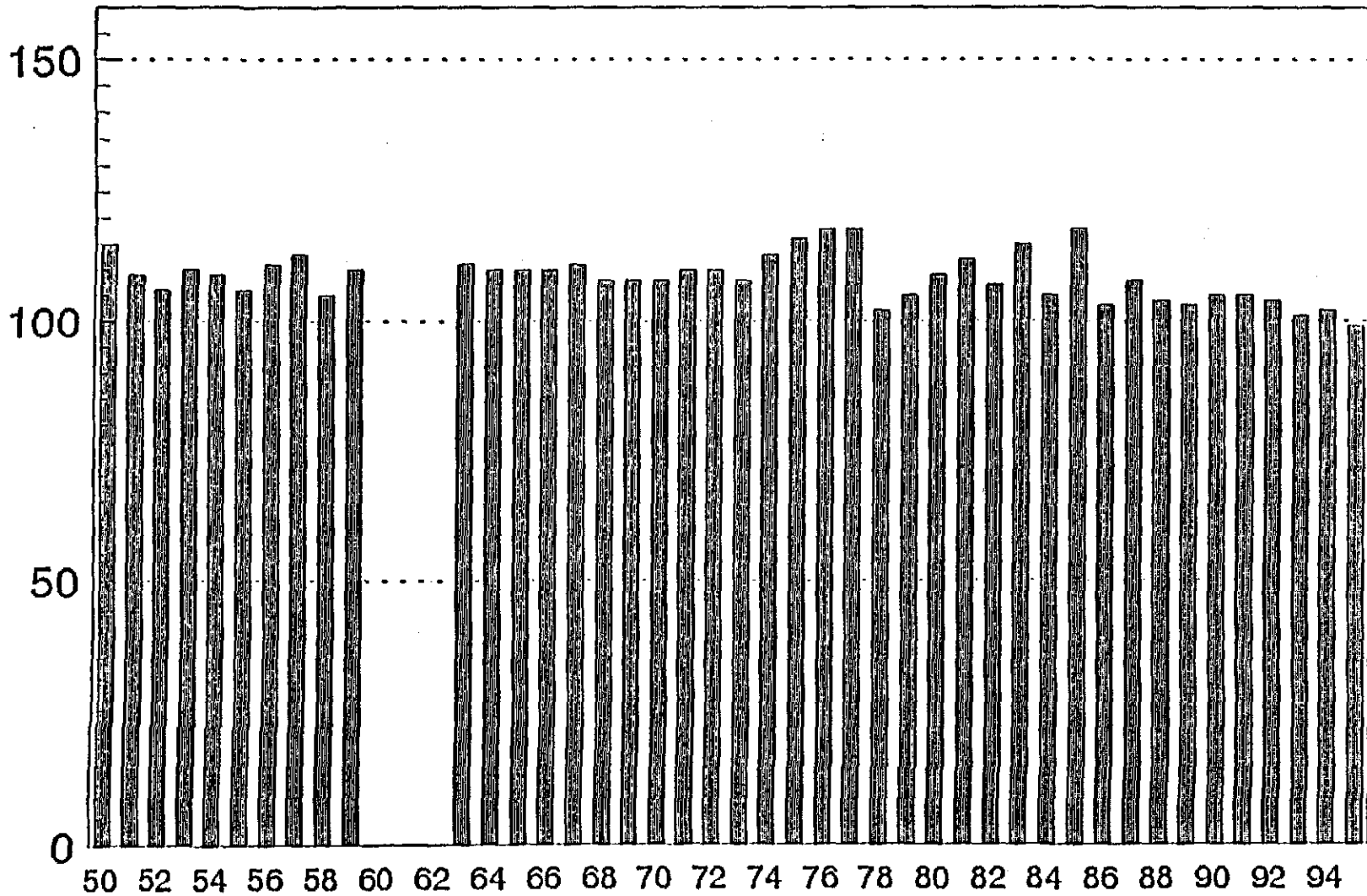
RECORDED

BRIGGS SPRING AT HEAD

ANNUAL MEASUREMENTS MADE IN MARCH

1968-95

CFS

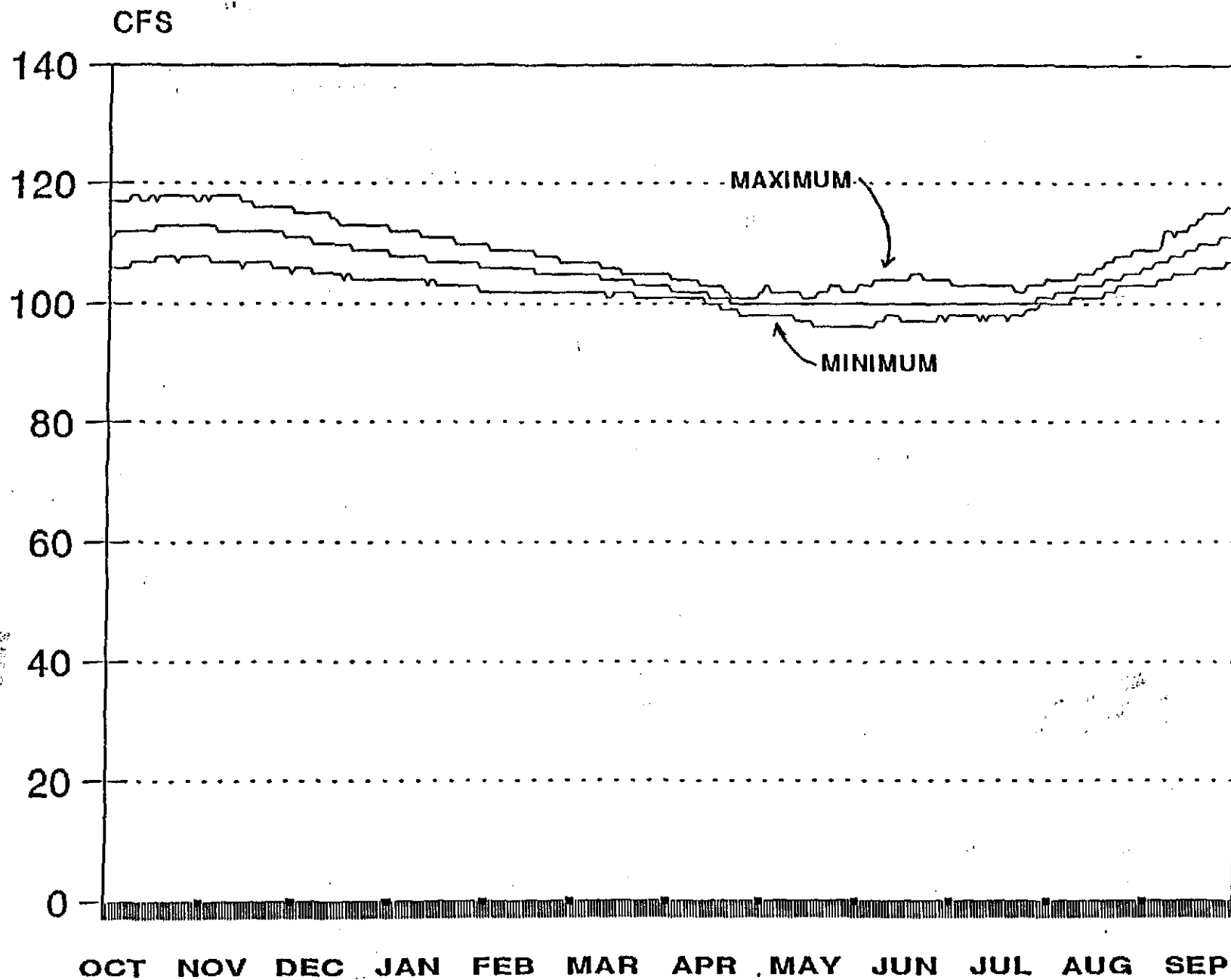


NOV 07 1995

Staff
EX-16

BRIGGS SPRING AT HEAD

SUMMARY HYDROGRAPH APRIL 89-MAY 95



Staff
NOV 02 1995
5

STATEMENT OF THE IDAHO DEPARTMENT OF FISH AND GAME IN REGARDS TO
THE INSTREAM FLOW REQUEST FOR BRIGGS SPRINGS, APPLICATION NO. 36-07819.
HEARING HELD IN BUHL, IDAHO, AUGUST 9, 1995.

The instream flow in Briggs Springs was requested in 1978 to maintain rainbow trout spawning and rearing for both resident and fluvial fish populations. In 1976, Idaho Department of Fish and Game (IDFG) personnel electrofished the lower end of the stream and collected 7 rainbow trout ranging in length from 2 to 12 inches. Young of the year rainbow were present indicating that natural reproduction was occurring. No new fishery data has been collected on the lower end of Briggs Creek since that time. It is believed that rainbow trout still utilize the spring creek for spawning and rearing. Rainbow trout have been collected by USGS near the head of the springs as recently as 1994. In addition, Shoshone sculpin and mottled sculpin were also collected.

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Additional diversions of water out of Briggs Springs have been developed since the 1975 study that reduce the flows below the requested rate of 56 cfs. Seventy cfs is diverted out of the spring channel near the head of the springs for fish propagation and power production and return flows do not return to Briggs Creek. The remainder of the spring flow (approximately 35 cfs on average) is diverted for irrigation, domestic, and fish propagation, with most of the flow from the fish propagation facility returning to the creek. The creek and the associated riparian areas provide good habitat for waterfowl, wildlife and fish. The U.S. Fish and Wildlife Service also reports the springs and the creek are also within the recovery zone for five endangered or threatened species of mollusks in the Snake river.

IDFG believes that even though flows in the creek are less than the minimum recommended in 1977, the available flows still provides good habitat for fish and wildlife and should be protected to the extent possible without injuring senior water rights.

RECORDED

NOV 07 1995

EXHIBIT D

MEMORANDUM

TO: File 36-07819
FROM: Sharla
DATE: August 10, 1995
RE: Hearing Exhibits

The exhibits from the previous hearing conducted in 1979 are located in an expando file with Right 36-07818.

MICROFILMED

NOV 07 1995



PO BOX 833
BOISE, ID 83701
(208) 343-7481
FAX (208) 343-9376
EMAIL: iru@igc.spc.org

August 7, 1995

Mr. Glen Saxton
Idaho Dept. of Water Resources
1301 N. Orchard
Boise, Id 83706

via fax 208-327-7866

Dear Mr. Saxton:

I wish to participate in the Minimum Streamflow hearings regarding Briggs and Banbury Springs as a full party. The hearings are scheduled on Wednesday August 9 in Buhl. I apologize for the late request. These hearings conflict with pre-conference hearings for another water right matter which Idaho Rivers United is also a party too, hence my late request.

Idaho Rivers United and its 1300 members have a substantial interest in the protection and preservation of these springs. I will be representing our members interests and concerns without my legal counsel, who will be at the IDWR pre-conference hearing regarding the Bureau of Reclamation's transfer request for 427,000 acre feet of water for instream flows and anadromous fisheries.

I appreciate your consideration of my late, but timely request, prior to the hearing.

Sincerely,

Marti L. Bridges

Marti L. Bridges
Water Policy Director

EXECUTIVE DIRECTOR

Wendy L. Wilson
Boise

BOARD OF DIRECTORS

Gail Aker
Gooding

Bill Davidson
Pocatello

Marie Erchen, Ph.D.
Boise

Amy Haak
Boise

Dr. M. Keene Huellin
Pocatello

Bruce Johnson
Boise

Jerry Myers
Salmon

Dr. Stephen Paulay
Ketchum

Dr. Charles Pezeski
Troy

Gerald Sahlas
Idaho Falls

Tom Stuart

Wojciech Szczepanowski

Curia Webb
Twin Falls

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NOV 07 1995

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

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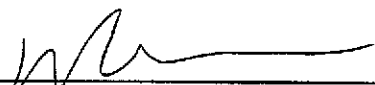
AUG 01 1995

IN THE MATTER OF APPLICATION)
FOR MINIMUM INSTREAM FLOW ON)
BRIGGS CREEK BY IWRB)

Department of Water Resources

NOTICE OF
APPEARANCE AND INTENTION
TO PARTICIPATE IN HEARING

Now comes Myron and Elena Sheldon whose address is PO Box 92, Buhl, ID 83316 and do hereby give notice that they wish to participate in the scheduled hearing on August 9th at Buhl Idaho. We wish to participate as full parties in this matter and will be represented by the law firm Rosholt, Robertson & Tucker of Twin Falls Idaho.


Myron Sheldon

July 31, 1995


Elena Sheldon

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JUL 31 1995

Department of Water Resources
Southern Region

| | | | |
|-------------------|------|--------------------|--------------|
| Post-it® Fax Note | 7671 | Date | # of pages 1 |
| To Glen Sexton | | From Allen Merritt | |
| Co./Dept. | | Co. | |
| Phone # | | Phone # | |
| Fax # | | Fax # | |

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JUL 19 1995
Department of Water Resources

ALAN G. LANCE
ATTORNEY GENERAL

CLIVE J. STRONG
Deputy Attorney General
Chief, Natural Resources Division

RINDA JUST
Deputy Attorney General
Natural Resources Division
Statehouse, Room 210
PO Box 83720
Boise, ID 83720-0010
Telephone: (208) 334-4120

Attorneys for the Idaho Department of Fish and Game

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

In the Matter of the Application)
For A Minimum Streamflow On)
Briggs Springs)

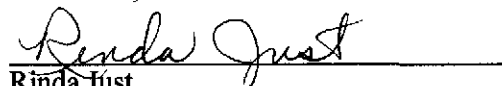
Application No. 36-07819)
_____)

NOTICE OF APPEARANCE

Rinda Just, Deputy Attorney General, hereby enters an appearance as attorney of record for the Idaho Department of Fish and Game for the hearing to be held in this matter on August 9, 1995, in Buhl, Idaho.

DATED this 19th day of July, 1995.

ALAN G. LANCE
Attorney General


Rinda Just
Deputy Attorney General
Natural Resources Division

briggs.doc

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JUL 25 1995

Department of Water Resources

NOTICE OF HEARING FOR MINIMUM STREAM FLOW APPLICATIONS

Notice is hereby given that on September 13, 1978, the Idaho Water Resource Board filed two (2) applications for permit with the Department of Water Resources to preserve minimum streamflows from springs tributary to the Snake River as follows:

Application No. 36-07819

Source: Briggs Springs

Point of minimum flow: Lot 14 (NW1/4SE1/4) Section 4, T9S, R14E, B.M. Gooding County.

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-07822

Source: Banbury Springs

Point of minimum flow: Lot 4 (SE1/4NW1/4 Section 33, T8S, R14E, B.M. Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

On April 25 and 26, 1979, the department conducted a public hearing in Buhl, Idaho concerning the applications but withheld final action on the applications pending the disposition of four (4) prior permits on the springs. Since the disposition of the prior permits is now known, the department can further consider the minimum stream flow applications.

The Department of Water Resources will hold a **second public hearing at 10:00 a.m. on August 9, 1995 at the Buhl City Hall, Council Chambers in Buhl** for the purpose of hearing additional evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code. The presiding officer at the hearing will be L. Glen Saxton.

Any party who wishes to formally appear in the proceeding for the purpose of presenting evidence or cross examining of witnesses should file a notice of appearance with the Director of the Department of Water Resources, Statehouse Mail, Boise, Idaho 83720 five (5) days prior to the hearing. Other parties may informally present their views and comments without filing a notice of appearance. Informal written views and comments may also be submitted to the Department prior to the hearing.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department at least (10) days prior to the hearing.

If issued, these permits will be subject to all prior water rights.
Karl J. Dreher, Director

Published in Gooding County Leader on 7/26 & 8/2/95 and in the Idaho Statesman, Post Register, Lewiston Morning Tribune and Times News on 7/27 & 8/3/95.

NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Idaho Dept. of Health & Welfare
South Central Regional Office
601 Poleline Rd, Suite 2
Twin Falls, ID 83301

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

To Whom It May Concern:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but if not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Idaho Dept. of Parks & Recreation
5657 Warm Springs Ave.
Boise, ID 83712-8752

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

To Whom It May Concern:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but if not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Idaho Dept. of Fish & Game
Southeast Region
1345 Barton Rd.
Pocatello, ID 83204-1819

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

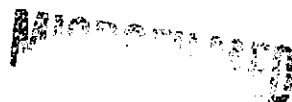
To Whom It May Concern:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but of not, please feel free to contact the department.

Sincerely,


L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure



NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

U.S. Fish & Wildlife Service
4696 Overland Rd.
Boise, ID 83705

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

To Whom It May Concern:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but of not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

RECORDED

NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Idaho Power Company
Attn: Robert Stahman
1221 W Idaho
Boise, ID 83702

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

Dear Mr. Stahman:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but of not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Idaho Rivers United
Attn: Marti Bridges
413 W Idaho
Boise, ID 83702

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

Dear Ms. Bridges:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but if not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

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NOV 07 1995

State of Idaho

DEPARTMENT OF WATER RESOURCES

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 19, 1995

Clarence Parr
Rt. 2 Box 2128
Heyburn, ID 83336

RE: Applications for Minimum Stream Flow 36-07819 (Briggs Springs) and 36-07822 (Banbury Springs)

Dear Mr. Parr:

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but if not, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosure

NOV 27 1995

MEMORANDUM

To: Files 36-07819 and 36-07822
From: L. Glen Saxton *LS*
RE: BOARD MEETING ON JUNE 2, 1995
Date: June 5, 1995

At the regularly scheduled Idaho Water Resource Board (Board) meeting held in Twin Falls on June 2, 1995, the Board decided that they would like to hold hearings in addition to the hearings held in 1979 concerning the applications since so much time had passed.

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NOV 07 1995

INTER-DEPARTMENT MEMO — 1

DATE 4/15/82

FROM Dave Tuthill

TO 36-7198, 36-7822, 36-7819 ✓

SUBJECT

The U.S. Fish and Wildlife Service has shown an interest in the above-referenced applications. Please notify them at the following address if any significant activities occur (e.g., hearing scheduled, protests resolved, etc.)

U.S. Department of Interior
Fish and Wildlife Service
4620 Overland Rd. - Rm 238
Boise, Idaho 83705
ATTN: Mr. L.A. Mehrhoff

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NOV 07 1995

SIGNATURE

MEMORANDUM

To: Loren Holmes
From: L. Glen Saxton *WJ*
RE: MINIMUM STREAM FLOW APPLICATION 36-07819 - BRIGGS
SPRINGS

Date: October 13, 1992

The department recently rejected application no. 36-07806 in the name of Catherine or Gary Wright. This application is the last one which pre-dates the minimum stream flow filing of the Idaho Water Resource Board for the use of Briggs Springs. I don't think the time period in which a hearing can be requested by the Wrights has expired yet, however.

The data base shows that there are two (2) earlier permits for which proof has been submitted. The permits are 36-7537 in the name of Richard Kaster and permit 36-7538 in the name of Hedwig Sheldon. If exams for these permits have been conducted, please forward the exams to the attention of Jim Johnson for preparation of a license. If exams have not been conducted, please assign these exams as priority ones to be completed and forwarded to the State Office.

Once the results of the exams are known, the department will be in a better position to review the pending minimum stream flow application of the Board for appropriate action.

c: Gary Spackman
Jim Johnson

RECORDED

NOV 07 1995

MEMORANDUM

TO: Idaho Water Resource Board
FROM: Gary Spackman
THRU: Wayne Haas, Norm Young
DATE: November 5, 1987
RE: Summary of Minimum Flow Applications Held Because of
Earlier Water Right Filings

Five applications for minimum streamflow have been held pending finalization of either development on previous permits or resolution of protested applications earlier in time than the minimum flow filings. The minimum flow filings with their respective numbers are: Briggs Springs No. 36-7819; Blind Canyon Springs, No. 36-7820; Lower White Springs, No. 36-7821; Banbury Springs, No. 36-7822, and; Malad River, No. 37-7920.

BRIGGS SPRINGS, WATER RIGHT NO. 36-7819

This application is being held pending the outcome of existing permits Nos. 36-7537 and 36-7538 issued to Wes Trownson for irrigation, fish propagation, domestic and recreation purposes. Attached is a letter sent to Dave Rydalch in the spring of 1986 explaining the status of the permits. The status has not changed since the letter, and no action can be taken on the minimum flow until 1989.

BLIND CANYON SPRINGS, WATER RIGHT NO. 36-7820

This application was held pending fish propagation development under Permit No. 36-7066 in the name of George Lemmon. Mr. Lemmon filed proof in the spring of 1987, and Department personnel has examined the place of use. The examination is being prepared in the southern regional office in Twin Falls.

LOWER WHITE SPRINGS, WATER RIGHT NO. 36-7821

The attached copy of a letter from Glen Saxton to Dave Rydalch states that Permit No. 36-7176, issued to Earl Hardy, is prior in time to the minimum flow application on Lower White Springs, and that proof is not due for Permit No. 36-7176 until March, 1989. The application for minimum streamflow is being

NOV 07 1995

held until the extent of beneficial use is determined under Permit No. 36-7176.

BANBURY SPRINGS, WATER RIGHT NO. 36-7822

The application for minimum streamflow on Banbury Springs is being held because of a prior application No. 36-7814 in the name of Idaho Power for fish propagation. Several conferences have been conducted, and Idaho Power has recently requested to delay action on the application. The protestants will probably be advised of Idaho Powers request.

MALAD RIVER, WATER RIGHT NO. 37-7920

Prior in time Application No. 37-7774 in the name of Idaho Power prevented the processing of this minimum flow application. In August, 1987, however, Idaho Power withdrew its application, and Application No. 37-7920 can now be processed by the Department.

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NOV 07 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

April 3, 1986

Dave Rydalch
Idaho Water Resource Board
Route 2, Box 108
St. Anthony, ID 83445

Re: Minimum Stream Flow Application No. 36-7821 (Lower White Spring)
Minimum Stream Flow Application No. 36-7819 (Briggs Spring)

Dear Mr. Rydalch:

The purpose of this letter is to advise you of the status of two (2) minimum stream flow applications filed in the past by the Idaho Water Resource Board (Board). More specifically, on September 13, 1978, the Board filed Application No. 36-7819 to appropriate 56 cfs from Briggs Springs tributary to the Snake River in Section 4, T9S, R14E. The Department did conduct the required hearing, but could not take final action on the application due to prior permits (Nos. 36-7537 and 36-7538) on the same source. The proof due dates for the two permits have been extended to January 1, 1989 and February 1, 1989, respectively. For this reason, further action on Board Application No. 36-7819 is still not appropriate.

Similarly, on September 13, 1978, the Board filed Application No. 36-7821 to appropriate 11 cfs from Lower White Springs tributary to the Snake River in Section 2, T7S, R13E. The Department conducted the hearing, but further action could not be taken due to a prior permit (No. 36-7176) on the same source. The proof due date for this permit has been extended to March 1, 1989, hence, further action on Application No. 36-7821 is not appropriate at this time.

The Department will place the two minimum stream flow applications on call-up so they can be further considered at a future time.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

1s

cc: Fish and Game

MICROFILMED

NOV 07 1995

1. 10/20/83
2. 10/20/83
DOVE SPRINGS AND THE NARROWS WATER DISTRICT

Telephone (208) 324-5110
Route 4, Box 4634
Jerome, ID 83338

3. Cheryl
November 18, 1983

TO: Idaho Power Lawsuit Defendants 01-7021, 02-7128, 02-7138
Water Right Number(s): ~~36-7872~~, ~~37-7818-22~~, 37-7727+28+34+39,
37-7849 37-7892, 37-7920, 61-7373 22-7369

We are writing this letter to request that you join with us in a matter of great importance to our area as well as the State of Idaho. You have by now heard of the "Swan Falls decision" and you are probably aware that the Idaho Department of Water Resources has declared a moratorium on further processing of water rights, either surface or underground, in the entire Snake River Drainage, including your area.

You may not be aware that last March, Idaho Power Company filed a lawsuit against 7500 water right holders. Idaho Power is seeking damages and an injunction against further use of all our water rights with priority dates later than January 17, 1900. Only one water user defendant has been served so far. It appears that Idaho Power desires to keep publicity at a minimum until it can implement legislation which will prevent any future water development in the Snake River Drainage Basin, upstream from Swan Falls.

We feel the Governor responded correctly to the action challenging the constitutionality of Senate Bill 1180 by refusing to sign the contract until the litigation is concluded. This makes it imperative that we move as soon as possible to protect ourselves and our water rights in the litigation brought against all of us by Idaho Power.

RECEIVED
NOV 20 1983
You and we have both been named as defendants in the lawsuit. We have asked Kent W. Foster of Holden, Kidwell, Hahn & Crapo and R. W. Rigby of Rigby, Thatcher, Anderson & Barton to defend our interests in the litigation. We are enclosing a copy of an opinion letter we obtained from Mr. Foster which explains the issues and the background.

We are convinced that a unified effort to defend this litigation is essential. We have a great deal more impact together than individually, and if we all participate, we stand a better chance of being able to bear the economic burden of defending a lawsuit brought by an organization with the resources of the Idaho Power Company.

Swan Falls Lawsuit
November 18, 1983
Page 2

We are suggesting that we informally organize a group of the named defendants and other interested individuals to help fund our lawsuit defense. There are other groups and individuals throughout the Snake River Valley doing the same thing. I have arranged for meetings to be held at the following time and places:

November 28, Monday, Idaho Falls, West Bank, 7:30 PM
November 29, Tuesday, Twin Falls, Holiday Inn, 7:30 PM
November 30, Wednesday, Boise, Airport Holiday Inn, 7:30 PM

Kent Foster has agreed to be there to discuss the legal issues and help answer questions.

If you have received more than one letter, feel that Idaho Power has listed your water right--right number shown at the top of this letter--incorrectly, or that you should not be a defendant in this case, please call (208) 324-5110 so that we may correct our records.

In summary, what has happened leaves it up to us to protect our existing rights and future opportunities. We will look forward to seeing you at the meeting.

Yours very truly,

DOVE SPRINGS

Elaine Martin

Elaine Martin

Thomas K. Schafer, Manager
Canyonview Irrigation Co.

Terry G. Martin, President
The Narrows Water District

G. Keith Munsee

William J. Lanting

Enclosure

WILLIAM S. HOLDEN
R. VERN KIDWELL, P. A.
FRED J. HAHN
KENT W. FOSTER
ROBERT S. FARNHAM
WILLIAM D. FALES, P. A.
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. MEHLER
CURT R. THOMSEN
RANDALL K. BAPTON
MICHAEL D. CRAPO
JAMES D. HOLMAN
GAYLE A. SORENSON
DONALD L. HARRIS
BRUCE T. SMITH

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P. O. BOX 129
IDAHO FALLS, IDAHO 83402

TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (1877-1957)
ROBERT S. HOLDEN (1911-1971)
TERRY L. CRAPO (1939-1982)

November 5, 1983

Mrs. Elaine Martin
Dove Springs Irrigation
Route 4, Box 4634
Jerome, ID 83338

RE: Swan Falls Issue

Dear Elaine:

We are writing this letter at your request for a brief statement of the problem and our views in the Swan Falls matter. Although the letter may seem lengthy, it really covers only the bare bones of the matter. The issues, background and history are so complex that it would take a very lengthy letter indeed to fully address all facets of the problem, how it developed, and what we think can and should be done with regard to it. We trust the following will be both understandable and sufficiently brief to be helpful.

In 1977 a group of rate payers filed a complaint with Idaho Public Utilities Commission alleging that Idaho Power Company had failed to protect its water rights at its Swan Falls Power Plant and that Idaho Power's rate payers had been over charged. Idaho Power Company responded by filing suit in the Ada County District Court seeking a declaratory judgment, among other things, that its Swan Falls rights were not subject to up stream depletion. On motions for summary judgment, the District Court found that because of a clause in Idaho Power Company's Hell's Canyon Federal Power License, all of Idaho Power Company's water rights were subordinated to future up stream depletion by use of water from Snake River and its

Mr. Elaine Martin
November 5, 1983

provision which deprives the Idaho Public Utilities Commission of jurisdiction to grant Idaho Power Company rate payers any relief in their pending action or any similar action.

The proposed contract would amount to an agreement by Idaho Power that certain water rights holders who have a decree or license a pending permit or application for permit, or have either beneficially used water or have a substantial investment in a well and irrigation equipment prior to November 19, 1982, become the holders of water rights to which Idaho Power's Swan Falls rights are subordinated. The number of those who might fit into this category is said to be about 5,000. We have discovered that no decreed rights of statutory claims, or even

March 10, 1981

Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

RE: Application for Permit No. 36-7819 (Briggs Springs)

Gentlemen:

Per my letter dated August 27, 1979, action on the above referenced Minimum Stream Flow application has been held pending the outcome of two prior filings.

The purpose of this letter is to inform you that the proof due dates for the two prior filings have been extended, per the procedure provided by Section 42-204, Idaho Code, until May 1, 1985 for Permit No. 36-7537, and until June 1, 1985 for Permit No. 36-7538. Therefore, further action on the Minimum Stream Flow Application will be delayed until June 1, 1985.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:DRT:jg

UNRECORDED

August 27, 1979

Idaho Water Resource Board
Statehouse Mail
Boise, ID 83720

Gentlemen:

Re: Application for Water Permit No. 36-7819

This office will hold the above referenced application which proposes the appropriation of 56 cubic feet per second for minimum stream flow purposes from Briggs Spring, Gooding County, until it can be determined if the prior filings on the spring will be developed.

Proof of beneficial use on two of the prior filings is due on or before June 1, 1980. The Department can take more appropriate action on Appli-

Sincerely,



**IDAHO DROUGHT
COMMITTEE**

STATEHOUSE, BOISE, IDAHO 83720

DIAL DROUGHT (376-8448)

JOHN V. EVANS — Governor, State of Idaho

To

From

SUBJECT

36-7819

MESSAGE

Date

8/17/79

Hold this until we get an
indication as to whether
prior permit will be fully developed
CSA

REPLY

Date

STATE OF IDAHO

MEMORANDUM DECISION
AND ORDER

Application No. 36-7819 proposes to appropriate a minimum instream flow of 56 cubic feet per second over the entire length of Briggs Springs from its confluence with the Snake River, located within Government Lot 14 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Section 4, Township 9 South, Range 14 East, B.M., Gooding County, upstream to the source of the springs, a distance of approximately 0.8 miles. The purpose for the proposed minimum instream flow is to maintain rainbow trout spawning and rearing in the stream. The proposed period of use is from January 1 to December 31.

A public hearing to elicit testimony regarding the application was held in Buhl, Idaho, on April 26, 1979. Norman C. Young of the Idaho Department of Water Resources served as the Hearing Officer.

Parties appearing in a formal capacity at the hearing included the Idaho Water Resource Board; Idaho Department of Fish and Game; Idaho Power Company; Robert C. Weaver as attorney for Valley Trout Farms, Inc. and Earl Hardy; Gary Wright; and the U.S. Trout Farmers Association.

In addition, formal testimony was presented by the staff of the Idaho Department of Water Resources, and by Mr. Cecil Thomas, a hydrologist for the United States Geological Survey. Other individuals and representatives of organizations, including the Prairie Falcon Audubon Society, the Idaho Wildlife Federation, Mike Glenn, an economist from the College of Southern Idaho, and Vernon Ravenscroft of Tuttle, Idaho, appeared to present their views and comments as public witnesses.

After the close of the hearing, the record remained open for fifteen (15) days to allow for the submission of additional written materials and an equal period was allowed for the submission of rebuttal materials.

Based upon the sworn testimony, documentation and public statements included in the record and upon his understanding of the facts and the law, the Director of the Department of Water Resources makes the following Findings of Fact, Conclusion of Law and Order:

FINDINGS OF FACT

1) On September 13, 1978, the Idaho Water Resource Board filed application for permit No. 36-7819 to appropriate a minimum stream flow on Briggs Springs, tributary to the Snake River, Gooding County, Idaho.

2) On March 20, 1979, the application was amended to add the appropriate government lot number to the legal description provided on the original application.

3) The application proposes a minimum stream flow of 56 cubic feet per second on Briggs Springs, measured at its point of confluence with the Snake River, located in Government Lot 14 (NW $\frac{1}{4}$ SE $\frac{1}{4}$), Section 4, Township 9 South, Range 14 East, B.M., Gooding County, Idaho, to protect the entire length of Briggs Springs from its confluence with the Snake River, upstream to its origin which consists of many small springs. The period of use proposed is from January 1 to December 31.

4) The application was filed by the Idaho Water Resource Board upon request of the Idaho Department of Fish and Game pursuant

to the provisions of Chapter 15, Title 42, Idaho Code. The statute provides that stream flow preservation for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation and water quality, when made pursuant to this statute, is in the public interest and is declared to be a beneficial use of such water.

5) Any rights to be acquired under the application are for instream nonconsumptive use and are subject to all vested water rights, permits or water applications having dates of priority earlier than September 13, 1978.

6) Based upon testimony by the staff of the Department of Water Resources and by Mr. Cecil Thomas of the United States Geological Survey, a finding is made that the average measurable discharge of Briggs Springs as obtained from recent annual measurements is equal to a total flow of 111 cubic feet per second.

7) Based upon the records of the Department of Water Resources and the testimony of its staff, the following license, permit and application rights, all with priority earlier than September 13, 1978, are found to exist on Briggs Springs:

| | <u>Amount</u> | <u>Priority</u> |
|--|---------------|-----------------|
| License No. 36-2039 | 0.47 cfs | 07-18-1927 |
| License No. 36-2040 | 10.00 cfs | 07-18-1927 |
| License No. 36-2607 | 60.00 cfs | 11-27-1964 |
| Permit No. 36-7537 | 10.00 cfs | 04-08-1975 |
| (Undeveloped right--proof of beneficial use due May 1, 1980) | | |
| Permit No. 36-7538 | 30.00 cfs | 04-16-1975 |
| (Undeveloped right--proof of beneficial use due June 1, 1980) | | |
| Application No. 36-7806 | 40.00 cfs | 07-26-1978 |
| (Department decision pending action under permit Nos. 36-7537 and 36-7538) | | |

8) The 70.47 cubic feet per second of licensed rights and the 40.0 cubic feet per second of undeveloped rights on Briggs Springs approximate the average flow of the stream which is 111 cubic feet per second.

9) Based upon the evidence relating to the average flow of Briggs Springs and the total amount of prior diversion rights on the

stream, a finding is made that insufficient unappropriated water is available in Briggs Springs to provide for the maintenance of a meaningful minimum stream flow appropriation.

10) Section 42-1503, Idaho Code, provides that approval of an application for appropriation of a minimum stream flow must be based upon a finding that the appropriation is capable of being maintained.

CONCLUSION OF LAW

The minimum stream flow proposed for Briggs Springs by Application for Permit No. 36-7819 is not capable of being maintained.

ORDER

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit No. 36-7819 is DENIED.

DATED This _____ day of _____, 1979.

C. STEPHEN ALLRED
Director

MICROFILMED

Confidential

36-7819

FACT SHEET

Source: _____

Tributary to: _____

Requestor: _____

Quantity: _____

Length of Reach: _____

Purpose: _____

Date Received: _____

Date Hearing Held: _____

Date Approved by Director: _____

Other Rights: _____

REMARKS: _____

RECEIVED
JAN 12 1960

FACT SHEET # 2

HEARING

Filings Examined at Hearing _____

Date Hearing Held _____

Location of Hearing _____

Hearing Officer _____

No. of Persons at Hearing _____

Roster of Attendance

Name

Organization

See Attached

Related Correspondence

Name

Organization

MICROFILMED

MINIMUM STREAMFLOW REQUEST/APPLICATION

PROCESSING CHECKLIST

| | <u>ASSIGNED TO</u> | <u>INITIALS/DATE</u> |
|--|---------------------------------|----------------------|
| 1. Request recieved and checklist attached. | Receptionist | _____ |
| 2. Request indexed. | Records Chief | _____ |
| 3. Preliminary review. Application prepared for signature. | Section Supv. | _____ |
| 4. Streamflow information requested from hydrology. | Section Supv. | _____ |
| 5. Region advised of request. | Section Supv. | _____ |
| 6. Acknowledgment letter sent. | Section Supv. | _____ |
| 7. Copy of request routed to:
Reg. Off. Bur. Ch.; Oper. Bur. Ch.; Admin.; Asst. Dir.; Dir. | Records Chief | _____ |
| 8. Copy of request routed to Administrator, Resources Analysis Division for placement on Board Agenda. | Records Chief | _____ |
| 9. Water Rights researched and abstracted. | Records Chief | _____ |
| 10. Visual aid request prepared. | Section Supv. | _____ |
| 11. Visual aid reviewed. | Section Supv. | _____ |
| 12. Request and related data presented to Board. | Admin., Res.
Admin. Div. | _____ |
| 13. Filed or Rejected by Board. | Sec. Sup.
et.al. | _____ |
| 14. Board action indexed. | Records Chief | _____ |
| 15. Original app. sent to region. | Records Chief | _____ |
| 16. Copy of app. sent to F&G, H&W, Parks & Rec. (mandatory) | Region | _____ |
| 17. App. advertised after a suitable hearing date determined by S.O. | Region | _____ |
| 18. Hearing held (mandatory). | Hearing Off. &
Regional Rep. | _____ |
| 19. Decision prepared for Director's signature. | Attorneys | _____ |
| 20. Approval/Denial of app. indexed. | Records Chief | _____ |
| 21. Copy of Approval/Denial sent to parties formally appearing at Hearing. | Records Chief | _____ |
| 22. Copy of signed app. submitted to the legislature for approval. | Section Supv. | _____ |
| 23. Copy of legislative action placed in file. If no overt approval is made, memo placed in file. | Section Supv. | _____ |

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WATER RIGHT ANALYSIS FORM

- DATA ENTRY -

Identification No.

OTd No.

New No.

1 36-7819

Record

1. Original Owner: Idaho Water Resource Board

Present Owner: _____

2. Address: Statehouse

3. City: Boise

State: ID

Zip: 83720

4. A. Source of Water: Briggs Springs

B. Tributary of: Snake River

5. A. Stage (A,P,L,D,S,J): A

B. Status (D,L,R,C,A,I,F - leave blank if valid):

C. Priority Date: 9-13-1978

D. County: 47

E. Total Diversion Rate: 56.

F. Total Diversion Volume:

G. Transfer/Amendment (P,T of A or blank):

H. Water District:

I. DLE/Carey Act (D,C or blank):

J. Right Basis (for adjudication claims A,B,C only):

6. A. Point of Diversion

| Tract | Sec. | Twp. | Rge. | Gov't Lot | Rediv. |
|--------------|----------|-----------|------------|-----------|--------|
| <u>NW 1E</u> | <u>4</u> | <u>9S</u> | <u>14E</u> | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

7. Period of Use, Use, Diversion Rate/Volume:

from 1-1 to 12-31 for N purposes. Amount 56.
(cfs or AC-Ft/yr)

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

from _____ to _____ for _____ purposes. Amount _____

8. Use Code:

98

B. Decree Date:

10. Remarks: A.

12. Other Rights for Same Use:

B. Date Permit Approved or Denied:

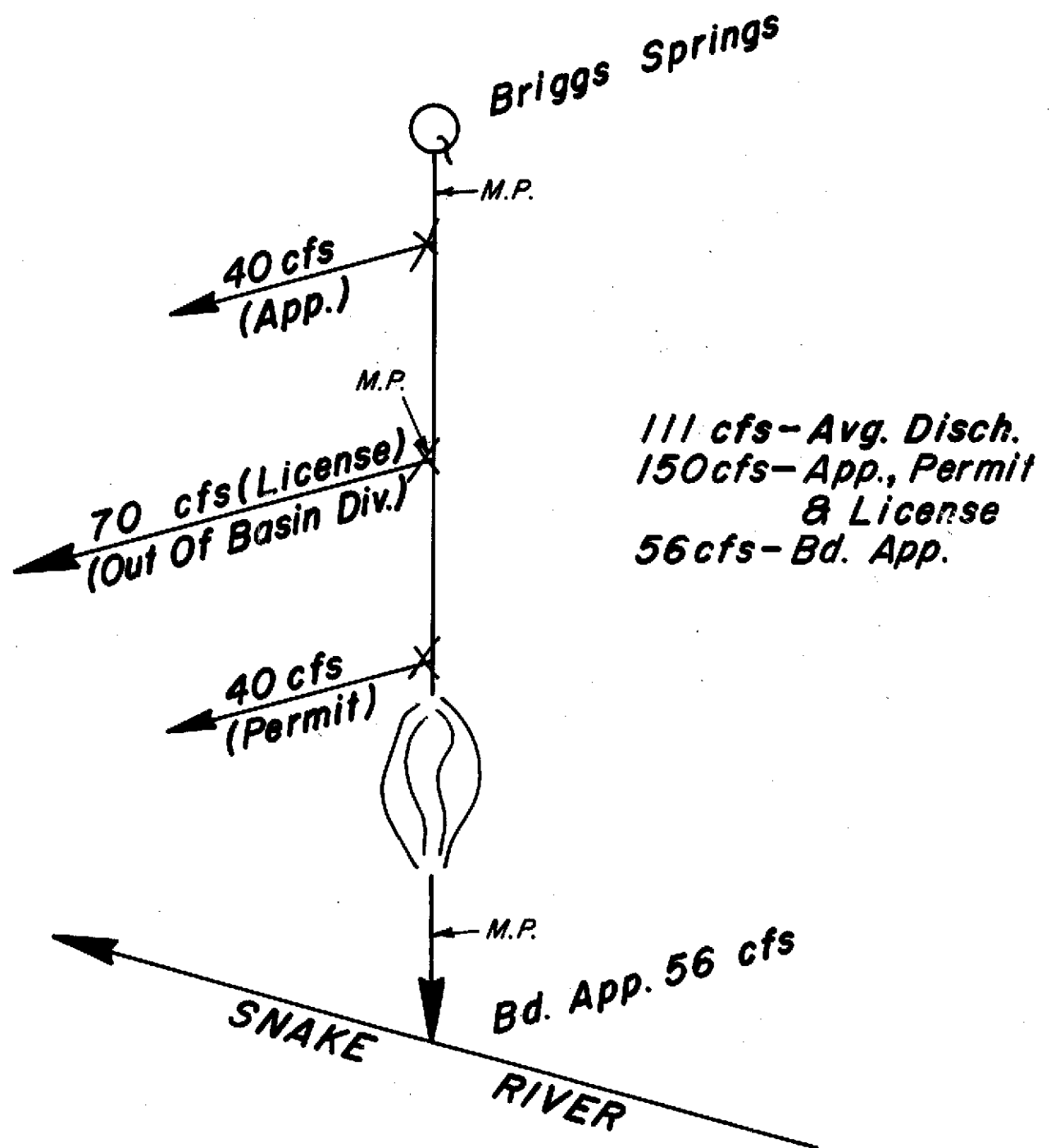
D. Hearing Date:

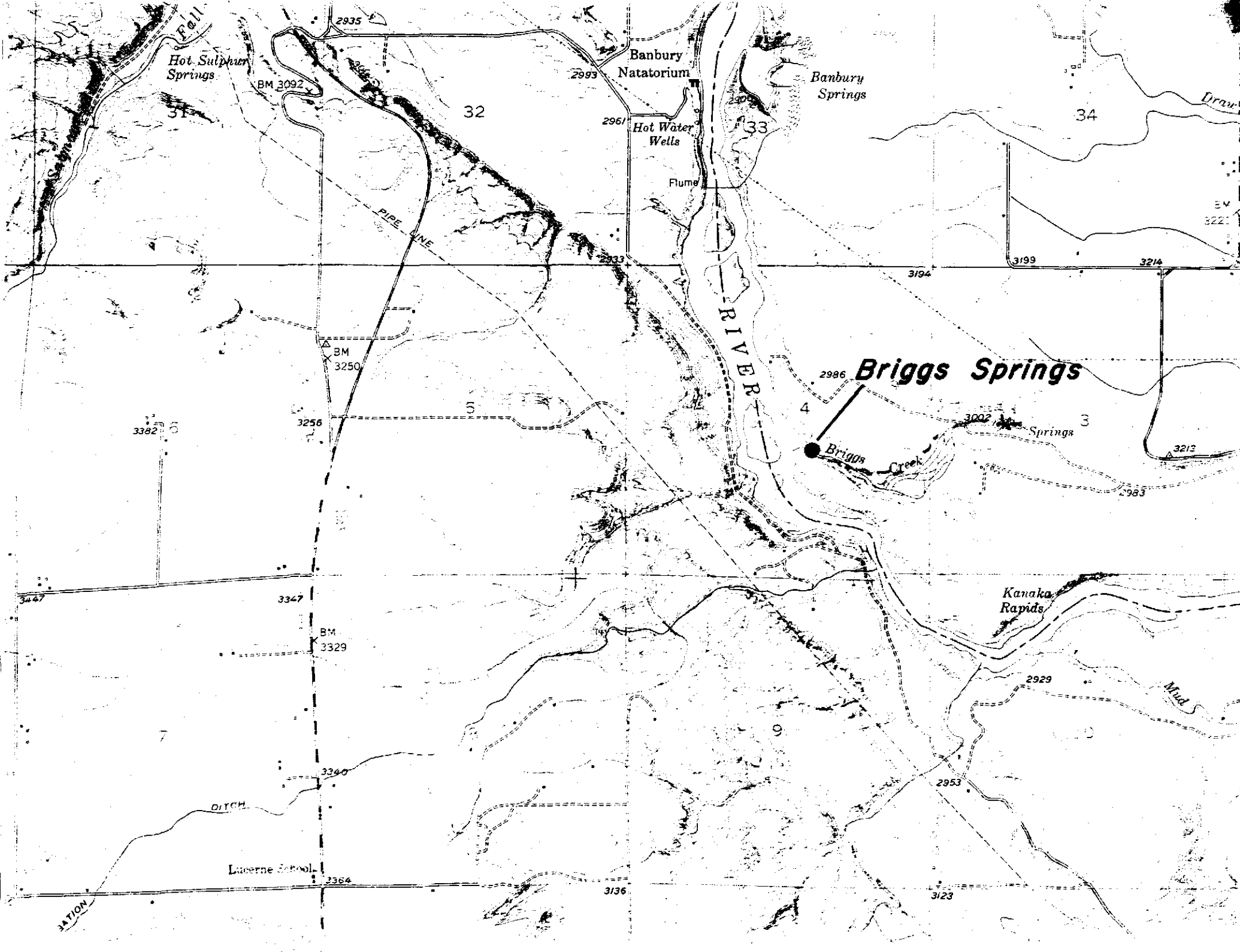
F. Proof Made (P or blank):

G. Field Exam Made (P,R,F or blank):

H. Conditions of Approval:

14. Diversion Means (brief narrative):





19 79 Revised

Water District No. _____

[illegible]

36-7819

Nov. 6

19 80 Revised

Water District No. _____

| LICENSE | PERMIT | NAME | AMT. | Date of Filing
or Priority | Point of Diversion | | | | PLACE OF USE, REMARKS, ETC. |
|-------------------|--------|---|------|-------------------------------|--------------------|--------|----------|------------|--|
| | | | | | Subdiv. | Sec. | Twp. | Rge. | |
| 36-2039 | | Briggs Springs
Sheldon, W. B. | 0.47 | 07-18-1927 | NESW | 3 | 9S | 14E | Irr. & Dom:
T.9S, R.14E, Sec. 4: Lots 11,12,2,5 |
| 36-2040 | | Briggs Springs
Sheldon, W. B. | 10.0 | 07-18-1927 | NWSW | 3 | 9S | 14E | Fish Prop.
T.9S, R.14E, Sec. 4: Lot 11 |
| 36-2607 | | Briggs Springs
Sheldon, Geo. M., Howard L., Willard &
Myriel Sheldon Trounson & spouses | 60.0 | 11-27-1964 | NWSW | 3 | 9S | 14E | Fish Prop.
T.9S, R.14E, Sec. 4: E2NW |
| 36-7537 | | Briggs Springs
Aqua Life, Inc. | 10.0 | 04-08-1975 | NESW
NWSW | 3
3 | 9S
9S | 14E
14E | Irr., Dom., Recreation:
T.9S, R.14E, Sec. 3: SW, NWSE
Sec. 4: L.5(SWNE), SENE, NESE,
L.14(NWSE), L.9(SWSE)
L.18(SESE)
Sec. 9: L.2(NENE)
Sec.10: L.1(NENW), L.7(NWNW) |
| 36-7538 | | Briggs Springs
Aqua Life, Inc. | 30.0 | 04-16-1975 | NESW
NWSW | 3
3 | 9S
9S | 14E
14E | Fish prop., Power:
T.9S, R.14E, Sec. 4: L.13(NESE)
3: NWSW |
| App.
36-7806 | | Briggs Springs
Protested
Wright, Catherine &/or Gary | 40.0 | 07-26-1978 | NWSW | 3 | 9S | 14E | T.9S, R.14E, Sec. 2: S2SW
3: S2SE
10: L.1(NENE), L.5(NWNE)
L.1(NENW), L.6(NENW), L.7(NWNW)
11: L.2(NENW), L.11(NWNW)
Note: Lot 1 located within N2 Sec. 10.
Fish prop. |
| Decree
36-0199 | | Briggs Springs
Irle, George W. | 08.0 | 04-19-1929 | NWSW
NESW | 3
3 | 9S
9S | 14E
14E | T.9S, R.14E, Sec. 3: W2SE
4: Lots 6,9,13,14,18,2,5
Irr., Dom. |

State of Idaho

License and Certificate of Water Right

Water License No. 16719

Amount 0.47 Sec. Ft.

Water District No.

Priority July 18, 1927

THIS IS TO CERTIFY that W. B. Sheldon
of Buhl, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 18, 1927; that Permit No. 16719
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.47 second feet, was issued thereunder on May 1, 1930, showing that said works
were completed on the 30th day of April, 1930; and that on the 20th
day of July, 1931,

W. B. Sheldon

of Buhl, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Briggs Springs
, a tributary of Snake River, for the purpose of Irrigation & Domestic
, under Use Permit No. 16719 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7
of Licenses, at page 3680, on the 26th day of January, 1932;

The right hereby confirmed dates from July 18, 1927;

The Point of Diversion is located 2640' S. & 397' E. from the NW. Cor. of Sec. 3, Tp. 9 S., R. 14
E.B.M., and is on East & West Subdivision line of Sec. 3 Tp. 9 S., R. 14 E.B.M.
in the 1/4 1/4 Sec. , Tp. , R. , B. M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,

MICH. ILL. ED

is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.47 cubic feet per second.

Description and location of use:

| Twp. | Range | Sec. | Forty-acre Tract | No. Acres
Described in Permit | No. Acres
Actually Irrigated |
|------|-------|------|------------------|----------------------------------|---------------------------------|
| 9 S. | 14 E. | 4 | Lot 11 | 7.7 | 3.5 |
| " | " | " | Lot 12 | 15.7 | 15.7 |
| " | " | " | Lot 2 | 2.5 | 2.5 |
| " | " | " | Lot 5 | 7.8 | 7.8 |

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 26th day of January, 1932

R. W. FARIS

Commissioner of Reclamation

(SEAL)

36 2029

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36-2040

State of Idaho

License and Certificate of Water Right

Water License No. 16720

Amount 10 Sec. Ft.

Water District No.

Priority July 18, 1927

THIS IS TO CERTIFY that W. B. Sheldon
of Buhl, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated July 18, 1927; that Permit No. 16720
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
10 second feet, was issued thereunder on September 15, 1930, showing that said works
were completed on the 4th day of June, 1930; and that on the 20th
day of July, 1931,

W. B. Sheldon

of Buhl, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Briggs Springs
, a tributary of Snake River, for the purpose of Fish Farming
, under Use Permit No. 16720 of the Commissioner of Reclamation
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7
of Licenses, at page 3681, on the 26th day of January, 1932;

The right hereby confirmed dates from July 18, 1927;

The Point of Diversion is located 2640' S. & 397' E. distant from the NW Cor. of Sec. 3
Tp. 9 S., R. 14 E.B.M., and is on the East & West Subdivision line of Sec. 3, Tp. 9 S. R. 14 E.
in the 1/4 Sec. 1, Tp. 9 S., R. 14 E., B. M.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,

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is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 10 cubic feet per second.

Description and location of use:

| Twp. | Range | Sec. | Forty-acre Tract | No. Acres
Described in Permit | No. Acres
Actually Irrigated |
|------|-------|------|---|----------------------------------|---------------------------------|
| 9 S. | 14 E. | 4 | For Fish Hatchery and farm on Lot 11, Section 4 | | |

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 26th day of January, 1932.

R. W. FARIS
Commissioner of Reclamation

(SEAL)

36 2040

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State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 32174/36-2607 Priority Nov. 27, 1964 Amount 60.0 cfs

THIS IS TO CERTIFY, that Geo. Myron Sheldon, Howard L. Sheldon, Willard B. Sheldon, Myriel Sheldon-Trounson, and spouses
of Wendell, Idaho, have ~~xxx~~ complied with the terms and conditions of Permit
No. 32174/36-2607 issued pursuant to Application for Permit dated November 27, 1964
and has submitted proof to the Department of Water Resources on December 1, 1975
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 71.0 cfs of water from Briggs Springs
tributary to the Snake River, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

| Beneficial Use | Period of Use | Rate of Diversion | Annual Volume |
|--|---------------|-------------------|---------------|
| <u>Fish</u> from <u>Jan. 1</u> to <u>Dec. 31</u> at <u>60.0</u> cfs and <u>n/a</u> | | | |
| <u>Propagation</u> from _____ to _____ at _____ cfs and _____ | | | |
| _____ from _____ to _____ at _____ cfs and _____ | | | |

(both dates inclusive)

Subject, however, to the condition that no more than 60.0 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
n/a acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 3,
Twp. 9 S, Rge. 14 E, B. M. in the County of Gooding

Description and location of place of use:

| Twp. | Range | Sec. | NE $\frac{1}{4}$ | | | | NW $\frac{1}{4}$ | | | | SW $\frac{1}{4}$ | | | | SE $\frac{1}{4}$ | | | | Totals |
|------|-------|------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|------------------|--------|
| | | | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | NE $\frac{1}{4}$ | NW $\frac{1}{4}$ | SW $\frac{1}{4}$ | SE $\frac{1}{4}$ | |
| 9 S | 14 E | 4 | | | | | X | | | X | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | |

Total number of acres irrigated _____

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 4 day of
March, 19 76

Director

Identification No. _____

Application No. 36-7537

APPROVED

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT**

RECEIVED

APR 11 1975

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

Department of Water Resources
Southern District Office

1. Name of applicant Wes &/or Myriel Trownson Phone: 536-2043
post office address Route #2, Wendell, ID 83355

2. Source of water supply Briggs Springs which is a tributary of Snake River

3. a. Location of point of diversion is NE 1/4 of SW 1/4 of Section 3 Township 9S
Gooding Range 14E B.M. County; additional points of diversion if any:
NW 1/4, Sec. 3, Twp. 9S, Rge. 14E, B.M.

b. If water is not consumed, it will be discharged into _____ at a point in _____ 1/4
of _____ 1/4 of Section _____ Township _____ Range _____ B.M. _____

4. Water will be used for the following purposes:

Amount 5.68 for irrigation purpose from Mar. 15 to Nov. 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 0.18 for domestic purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 4.14 for recreation purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 10.00 cubic feet per second and/or
b. _____ acre feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Concrete diversion & pipelines to the
place of use.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____

Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)

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

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.

b. Estimated construction cost is \$ _____.

8. Description of proposed uses: Lot 1, 6, & 7 10
Lot 2 9

a. If water is not for irrigation: Lot 9, 14, & 18 4

(1) Give the place of use of water: NW 1/4 of SW 1/4 of Section 3 Township 9S
Range 14E B.M.

(2) Amount of power to be generated: _____ hp under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water Nine

(5) If water is to be used for other purposes describe: Recreation including fishing ponds,
wildlife habitat, & landscaping.

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APPROVED

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

[illegible]

Total number of acres to be irrigated _____ 284

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

9. a. Who owns the property at the point of diversion Idaho Power
- b. Who owns the land to be irrigated or place of use Applicant & family
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____
- Applicant owns one-fourth undivided interest.

10. Remarks

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[illegible]

Proposed Priority 4-08-1975

Received by WDE Date 4-8-75 Time 4:45 PM

Preliminary check by WDE Fee \$ 115.00

Received by CC Date 4-08-75 Neat # 1927

Publication prepared by CC Date 4-16-75

Published in Gooding County Leader

Publication dates 4-24 & 5-1-75

Publication approved CC Date 5-20-75

Priority reduced to _____ Reason _____

Protests filed by _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for approval denial by JYS

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 36-7537, and said application is hereby APPROVED.

Approval of said application is subject to the following limitations and conditions:

Identification No. _____

Application No. 36-7538

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

APPLICATION FOR PERMIT

**To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)**

1. Name of applicant WES &/or MYRIEL TROUNSON Phone: 536-2043
post office address Route #2, Wendell, Idaho

2. Source of water supply Briggs Springs which is a tributary of _____

3. a. Location of point of diversion is NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 3 Township 9S
Range 14E B.M. Gooding County; additional points of diversion if any: _____
NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, Township 9S, Range 14E, B.M.

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of Gov't. Lot 13 $\frac{1}{4}$ of Section 4 Township 9S Range 14E B.M. _____

4. Water will be used for the following purposes:

Amount 30 for Fish Prop. purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 30 for Power purpose from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated:

a. 30 cubic feet per second and/or
b. _____ acre feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Ditches & pipe to hatchery facilities,
and power plant.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)

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

7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.

b. Estimated construction cost is \$ 50,000.00

8. Description of proposed uses:

a. If water is not for irrigation:

Gov't. Lot 13, Sec. 4, Twp. 9S, Rge. 14E.

(1) Give the place of use of water: NW $\frac{1}{4}$ of SW $\frac{1}{4}$ $\frac{1}{4}$ of Section 3 Township 9S
Range 14E B.M. _____

(2) Amount of power to be generated: 50 Kw under 40 feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.

(5) If water is to be used for other purposes describe: FISH PRODUCTION WILL
BE APPROX 10,000 LBS. PER CUBIC FOOT PER
SEASON.

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

| TWP. | RANGE | 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 | |
| T9S | R.14E | 4 | | | | | | | | | | | | | | | | | |
| | | 3 | | | | | | | | | | X | | | | | | | |
| PLACE OF USE FOR FISH PRODUCTION | | | | | | | | | | | | | | | | | | | |
| 1 POWER PRODUCTION. | | | | | | | | | | | | | | | | | | | |

Total number of acres to be irrigated _____

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

NONE.

9. a. Who owns the property at the point of diversion _____ Applicant

b. Who owns the land to be irrigated or place of use _____ Applicant

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

10. Remarks Applicant owns one-quarter undivided interest in the property.

MICROFILMED

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

[illegible]

Scale: 2 inches equal 1 mile

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

Myriel Trounson
(Applicant)

WGC

4-16-1975

Received by mls Date 4-16-75 Time 3:00

Preliminary check by _____ Fee \$ 265.00

Receipted by cc Date 4-16-75

4-14785

Publication prepared by cc Date 4-17-75

Published in Gooding County Leader

Publication dates 4-24 & 5-1-75

Publication approved cc Date 5-20-75

Priority reduced to _____ Reason _____

Protests filed by: _____

Copies of protests forwarded by _____

Hearing held by _____ Date _____

Recommended for (approval) denial by jjt

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 36-7538, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 1980.

c. Other: A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

2. Denial of said application is for the following reasons: _____

Witness my hand this 25 day of June 19 75.

[Signature]
Director

MICROFILM

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident. No. _____

App. No. 47-7-185
36-7806

To appropriate the public waters of the State of Idaho

1. Name of applicant Catherine &/or Gary Wright Phone 543-4616

Post office address Route #4, Buhl, ID 83316

2. Source of water supply Briggs Spring which is a tributary of Snake River

3. Location of point of diversion is NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 3 Township 9S

Range 14E., B.M. Gooding County, additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 40.0cfs for Fish prop. purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated:

a. 40.0 cubic feet per second and/or b. _____ acre-feet per annum.

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. Headgate, wier, & pipe.

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet, materials used in storage dam: _____

Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)

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

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year — maximum 5 years).

8. Description of proposed uses:

a. If water is not for irrigation: See 8b.

(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. Sec. _____

Range _____ B.M. _____

(2) Amount of power to be generated: _____ horsepower under _____ feet of head.

(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be supplied with domestic water _____

(5) If water is to be used for other purposes describe: Fish propagation.

MICROFILMED

1
n
eb

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

[illegible]

Total number of acres to be irrigated

c. Describe any other water rights used for the same purposes as described above. None

9. a. Who owns the property at the point of diversion Idaho Power

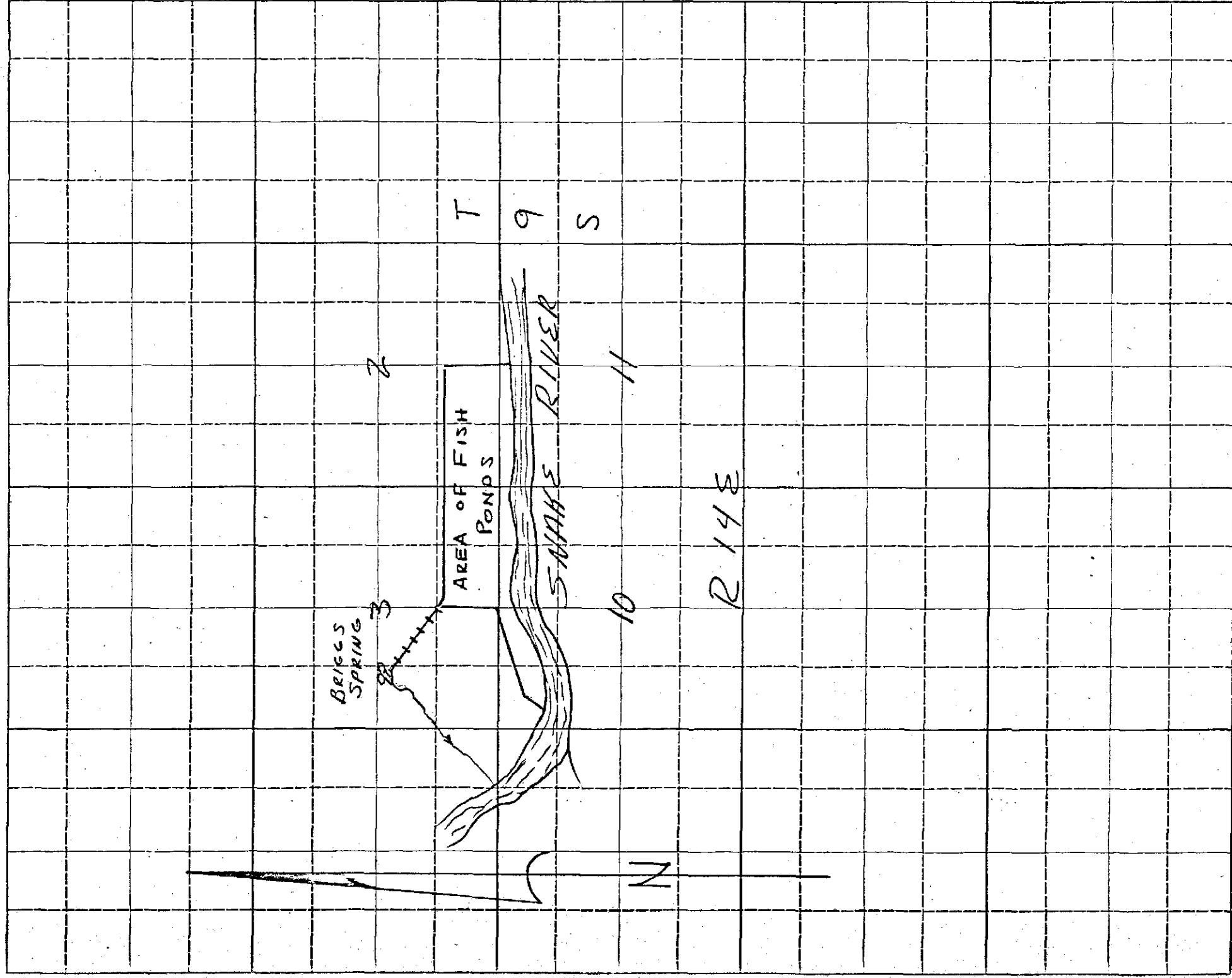
b. Who owns the land to be irrigated or place of use Applicant

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing Agreement of right of way at point of diversion.

10. Remarks

MICROFILMED

11. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



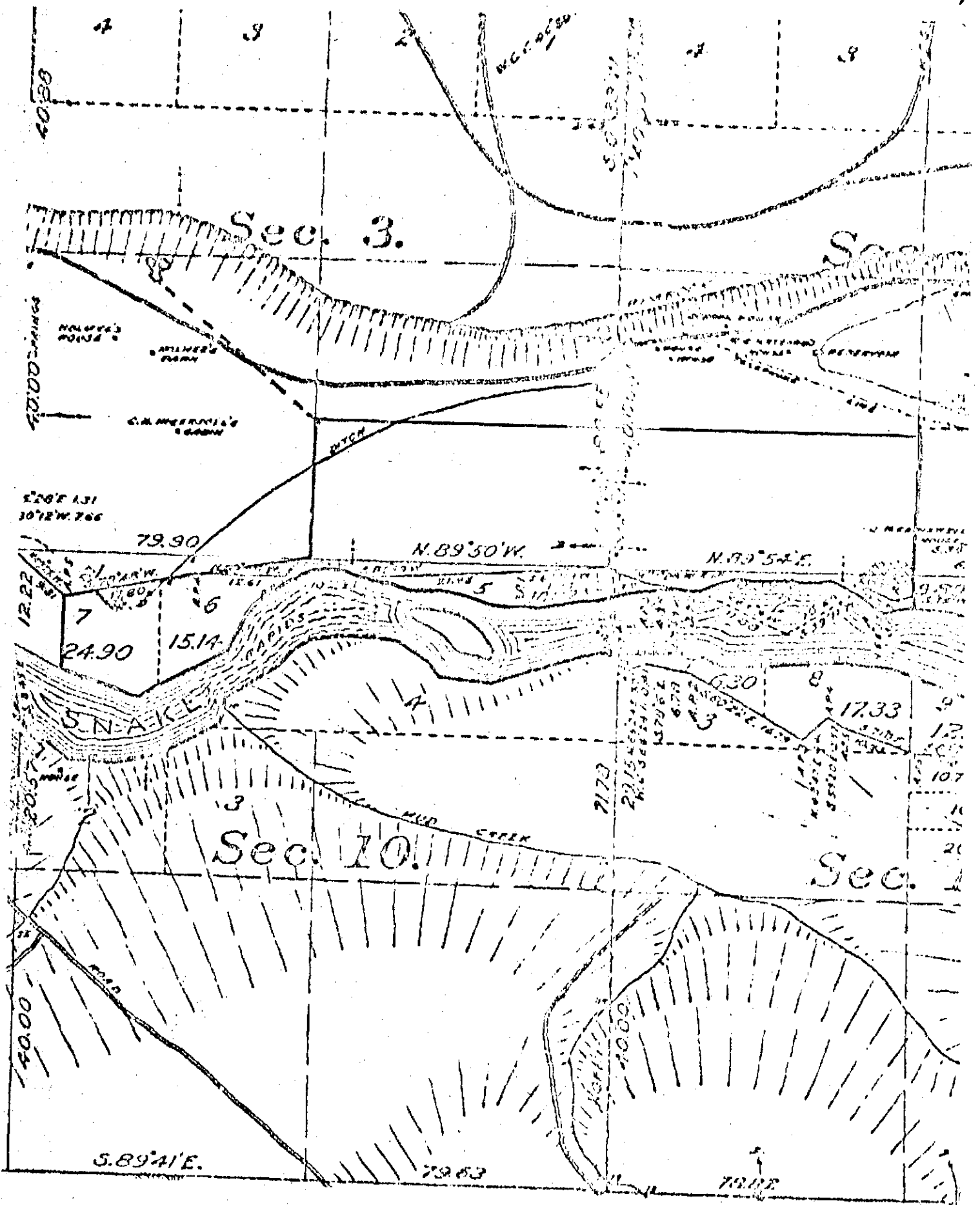
Scale: 2 inches equal 1 mile.

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

MICROFILMED

Gray Wright
(Applicant)

95-145-10



REPRODUCED

Received by gs Date 7-26-78 Time 10:50 am
Preliminary check by ADM Fee \$ 325⁰⁰
Receipted by gs Date 7-26-78 #10509
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by _____

Final Protest Date

Aug 28

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this _____ day of _____, 19 ____.

Director

RECEIVED

APR 17 1979

Department of Water Resources

DAVID H. LEROY
Attorney General
State of Idaho
Statehouse, Room 210
Boise, Idaho 83720
Telephone: (208) 384-2400

W. HUGH O'RIORDAN
Deputy Attorney General
Chief, Natural Resources Division

FREDERICK J. FRAHM
Deputy Attorney General
Department of Fish and Game
P. O. Box 25, 600 South Walnut
Boise, Idaho 83707
TELEPHONE: (208) 384-3715

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

In the Matter of Amended)
Applications for Minimum Stream)
Flow: #36-7818, Vinyard Creek;)
#36-7819, Briggs Springs; 36-7820,)
Blind Canyon Springs; #36-7821,)
Lower White Springs; #36-7822,)
Banbury Springs; and #37-7734,)
Bancroft Springs.)

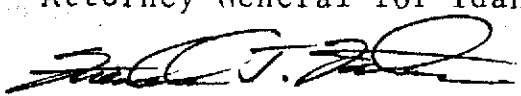
NOTICE OF APPEARANCE

TO: DIRECTOR, DEPARTMENT OF WATER RESOURCES.

YOU ARE HEREBY NOTIFIED THAT FREDERICK J. FRAHM,
Deputy Attorney General for the State of Idaho, hereby enters
appearance as attorney of record for, and on behalf of the
State of Idaho, Department of Fish and Game, for the purpose
of presenting evidence or cross examining witnesses in a
hearing on the above captioned matters.

DATED This 17th day of April, 1979.

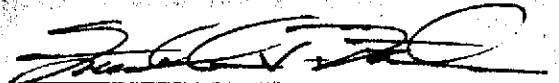
DAVID H. LEROY
Attorney General for Idaho


FREDERICK J. FRAHM
Deputy Attorney General
Idaho Department of Fish and Game

CERTIFICATE OF MAILING

I HEREBY CERTIFY That on the 17th day of April, 1979,
I mailed a true and correct copy of the above and foregoing Notice
of Appearance to:

Stephen Allred
Director, Department of Water Resources
373 W. Franklin Street
Boise, Idaho 83720


FREDERICK J. FRAHM

36-4817

IDAHO DEPARTMENT of PARKS & RECREATION

Statehouse Mail

2177 Warm Springs Ave.

Boise

Idaho

83720

(208) 384 2154

Dale R. Christiansen, Director
R. P. Peterson, Deputy Director



John V. Evans, Governor

March 5, 1979

| | |
|--------------|--|
| DIRECTOR | |
| DEPUTY DIR. | |
| ASST. DIR. | |
| ADMIN. ASST. | |
| FIN. ASST. | |
| INSP. ASST. | |
| PLN. ASST. | |
| REC. MGR. | |
| TRAIN. ASST. | |
| OFF. ASST. | |
| CLERK | |
| RECEPTIONIST | |

RECEIVED

MAR 7 1979

Department of Water Resources

Mr. Stephen Allred, Director
Department of Water Resources
Statehouse Mail
Boise, ID 83720

RE: Hearing - Fish and Game Department
1,000 Springs Area Application

Dear Mr. Allred:

We have been notified by the Idaho Fish and Game Department of an upcoming hearing on Fish and Game's application for spring flows in the 1,000 Springs area.

Of the five springs (Banbury, Blind, Bancroft, Briggs and Lower White) to be discussed at the hearing, the Idaho Parks and Recreation Department has studied three springs (Banbury, Blind and Bancroft) for possible application for water rights. In 1978 the Department submitted several bills to the legislature for authorization to submit application for water rights on selected springs. Among those bills was a bill for appropriation of water for Banbury Springs. Although no action was taken on those springs, the Department feels that minimum flows for fish, wildlife, recreation and environmental purposes should be established for the entire 1,000 Springs complex.

The Department believes that preservation of minimum flow for each spring in the 1,000 Springs complex would be in the best long-term interests of Idaho. The Springs are a unique feature of Idaho's natural heritage and as such should receive maximum resource protection possible. The Springs, at present, are both of aesthetic and economic importance. The 1,000 Springs area, communities from Bliss to Kimberly including Twin Falls, benefit economically from tourists who visit the area because of its unique natural geologic/hydrologic features. For the Idaho resident in that area, the Springs offer a number of recreation opportunities from fishing, picnicking to photography, as well as environmental for the area's elementary and secondary schools.

Because of these features, the Parks and Recreation Department encourages favorable action on the Department of Fish and Game's request for minimum flows for these Springs.

Sincerely,

Dale R. Christiansen
Director

rvk

EQUAL OPPORTUNITY EMPLOYER

cc: Joseph Greenley, Director

RECEIVED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

March 21, 1979

Francis McAuthur - City Clerk
Buhl City Hall
201 Broadway North
Buhl, Idaho 83316

Dear Ms. McAuthur:

This is to confirm the use of the basement room of the City Hall for hearings to be held by this Department on Wednesday, April 25, 1979 at 10:00 a.m., and Thursday, April 26, 1979 at 10:00 a.m.

Thank you for your cooperation in this matter.

Sincerely,

Mary A. Hill
Secretary

MICROFILMED



STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

SOUTHERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

March 21, 1979

Mountain Home News
P. O. Drawer 0
Mountain Home, Idaho 83647

Re: Amended Notice of Application for Minimum Stream Flow
36-7819, 36-7822, 36-7820, 36-7821, 37-7734, 36-7818

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

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

Sincerely,

Mary A. Hill
Secretary

for

Loren O. Holmes
Southern Region Supervisor

Letters and copies to: Gording County Leader
Mountain Home News
North Side News

March 7, 1979

Robert C. Weaver
130 Broadway North
Buhl, ID 83316

Dear Mr. Weaver:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1979 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when the
matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

cc: Earl Hardy
Ken Ellis

MICROFILMED

March 7, 1979

Robert W. Stahman, Attorney
Idaho Power Company
P. O. Box 70
Boise, ID 83707

Dear Mr. Stahman:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1978 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when the
matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:rf

MICROFILMED

March 7, 1979

Catherine B. Wright
Route 4, Box 228
Buhl, ID 83316

Dear Ms. Wright:

Re: Applications for Permit Nos. 36-7819, 36-7822, 36-7820, 36-7821,
and 37-7734 -- Idaho Water Resource Board

This letter is to confirm that the hearing on the five (5) instream
flow applications which has been scheduled for March 8, 1979 at 10:00
a.m. in the Gooding City Hall, Gooding, Idaho has been cancelled at
the request of the Idaho Water Resource Board.

This office will notify you of the time and place for hearing when
the matter is rescheduled.

I hope this delay has not caused you any inconvenience.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS;rf

RECEIVED

NOTICE OF APPLICATION FOR MINIMUM STREAM FLOW

Notice is hereby given that the Idaho Water Resource Board has on September 13, 1978 submitted five (5) applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following springs tributary to the Snake River and are further described as follows:

Application No. 36-7819

Source: Briggs Springs

Point of minimum streamflow: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 4, Twp. 9S, Rge.

14E, B.M., Gooding County

Rate of flow: 56 cubic feet per second

Season of use: January 1 to December 31

Use: To maintain trout populations

Application No. 36-7822

Source: Banbury Springs

Point of minimum streamflow: NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 33, Twp. 8S, Rge.

14E, B.M., Gooding County

Rate of flow: 97 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations, aesthetics and recreational values

Application No. 36-7820

Source: Blind Canyon Springs

Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 28, Twp. 8S, Rge. 14E

B.M., Gooding County

Rate of flow: 8 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetic values

MICROFILMED

Application No. 36-7821

Source: Lower White Springs

Point of minimum streamflow: NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 2, Twp. 7S, Rge.

13E, B.M., Gooding County

Rate of flow: 11 cubic feet per second

Season of use: January 1 to December 31

Use: To preserve rearing and spawning habitat for trout

Application No. 37-7734

Source: Bancroft Springs

Point of minimum streamflow: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 4, Twp. 6S, Rge.

11E, B.M., Elmore County

Season of use: January 1 to December 31

Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 10:00 a.m. on Thursday, March 8, 1979 at the Gooding City Hall, 308 5th Avenue West, Gooding, Idaho for the purpose of hearing evidence in regard to the applications. The hearing will be held pursuant to the provisions of Sec. 42-1503, Idaho Code.

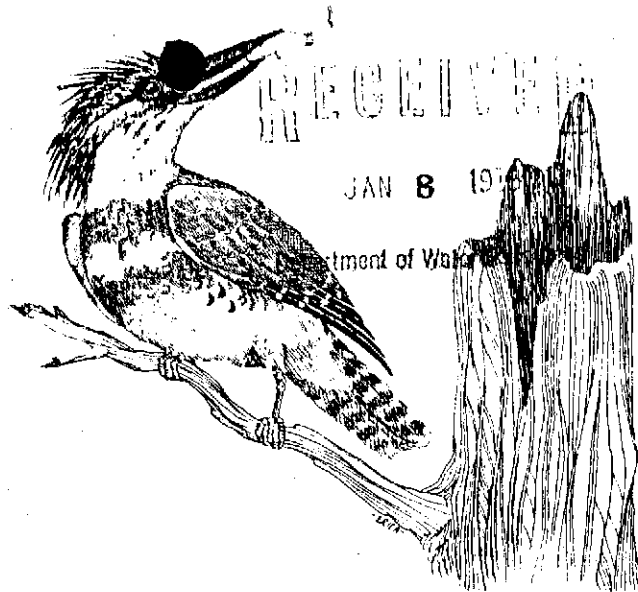
If issued, these permits will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of presenting evidence or cross examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho five (5) days prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

C. STEPHEN ALLRED

Director

MICROFILMED

Portneuf Valley Audubon Society



January 5, 1979

Norman Young
Dept. Of Water Resources
State House
Boise, Idaho 83720

The Portneuf Valley Audubon Society wishes to lend its support for the approval of the 11 instream flow water rights applications as submitted by Idaho Fish and Game. In particular, this chapter notes the ecological

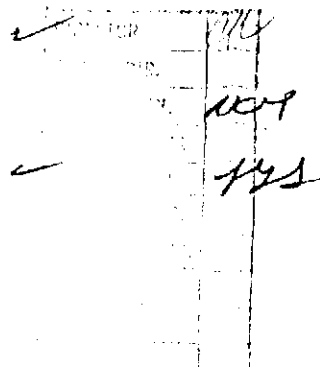
minimum flows of 99 CFS near Picabo and 74 CFS near U.S. Highway 93 between Richfield and Carey be approved.

Respectfully,

PETE

Pete Cole
President of the Portneuf Valley
Audubon Society

MICROFILMED



ED CHANEY • Rural Route 1 • Eagle, Idaho 83616 • (208) 939-0714

October 24, 1978

RECEIVED

OCT 25 1978

Department of Water Resources

George Yost
Chairman, Idaho Water
Resources Department
Statehouse
Boise, Idaho 83720

George Yost:

It is my understanding that the Idaho Water Resources Board has made application for minimum instream flows on ten Idaho streams subject to availability of unappropriated water.

This application is in accordance with the instream flow protection provisions of the State Water Plan and implementing legislation passed by the 1978 legislature, both of which, in my view, reflect the majority view of Idaho citizens.

The ten applications for permit (listed below) appear to include streams of modest potential controversy. Therefore, they should serve as a comparatively painless test of the department's and legislature's commitment to preserving the public instream flow values of Idaho streams not already fully committed to out-of-stream diversions.

I urge your support of these applications and pledge my support of your efforts to that end.

Sincerely,

Ed Chaney

Ed Chaney

P.S. I would appreciate it if your staff could alert me to the time and place of the board meeting at which these applications will be aired.

36-7818 - Vinyard Creek
✓ 36-7819 - Briggs Springs
36-7820 - Blind Canyon Springs
36-7821 - Lower White Springs
36-7822 - Banbury Springs

37-7728 - Silver Creek
37-7727 - Silver Creek
61-7373 - Bancroft Springs
95-7874 - Wolf Lodge Creek
11-7152 - St. Charles Creek

MICROFILMED

FILES

Copy to:-
Board members
Soldiers: water & fire
American
(and others)

RECEIVED

OCT 25 1978

Department of Water Resources

Dear Mr. Yost:

Vinyard Creek
Briggs Springs
Blind Canyon Springs
Lower White Springs
Banbury Springs
Silver Creek 37-7728
Silver Creek 37-7727
Bancroft Springs
Wolf Lodge Creek
St. Charles Creek

Yours very truly

Joe F. Allen, Co-chairman
Water/Power Initiative

RECEIVED



STATE OF IDAHO

DEPARTMENT OF HEALTH
AND WELFARE

DIVISION OF ENVIRONMENT
Statehouse
Boise, Idaho 83720

801 Reserve Street

December 8, 1978

Mr. L. Glen Saxton
Chief, Operations Bureau
Department of Water Resources
373 W. Franklin Street
Boise, Idaho
Statehouse Mail

RECEIVED
DEC 11 1978
Department of Water Resources

RE: Applications for Water Rights No.'s 36-7821
36-7822
37-7727
37-7728
37-7734
37-7739
95-7874
11-7152
36-7818
36-7819 ✓
36-7820

Dear Mr. Saxton:

This office has no comments or objections about these applications.

Sincerely,

Jon Wroten
Senior Environmental Quality Specialist

JW/ap

cc: David Sanders

MICROFILMED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 37-7822, 37-7727, 37-7728,
37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Parks and Recreation
2177 Warm Springs Avenue
Boise, Idaho 83720

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:lr

Enc: 11



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS

Governor

C. STEPHEN ALLRED

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 36-7822, 37-7727, 37-7728, 37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Health and Welfare
State Office Building
700 W. State
Boise, Idaho 83720

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON

Chief, Operations Bureau

LGS:lr

Enc: 11

RECEIVED



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 373 W. Franklin Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 384-2215

November 24, 1978

Re: Applications for Water Right No.'s 36-7821, 36-7822, 37-7727, 37-7728,
37-7734, 37-7739, 95-7874, 11-7152, 36-7818, 36-7819, 36-7820

Department of Fish and Game
600 S. Walnut Street
Boise, Idaho 83706

Gentlemen:

Pursuant to the provisions of Section 42-1503, Idaho Code, enclosed are copies of the above referenced applications for water right. The applications have been submitted by the Idaho Water Resource Board to the Department and propose to appropriate minimum stream flows as described on the applications.

The applications will be advertised in the form of a legal notice one a week for two consecutive weeks. The notice will specify a time and place for a public hearing to be held concerning the proposed appropriation. To date, the hearing schedule has not yet been set.

Please submit any comments you may have within twenty (20) days or contact this office if you have questions.

Sincerely,

L. GLEN SAXTON
Chief, Operations Bureau

LGS:lr

Enc: 11

MICROFILMED

IDAHO DEPARTMENT of PARKS & RECREATION

Statehouse Mail

2177 Warm Springs Ave.

Boise

Idaho

83720

(208) 384-2154

Dale R. Christiansen, Director
R. P. Peterson, Deputy Director



John V. Evans, Governor

STATEMENT OF DALE CHRISTIANSEN, DIRECTOR
IDAHO STATE PARKS & RECREATION DEPT.
SUPPORTING APPLICATION FOR MINIMUM FLOWS FOR
ELEVEN APPLICATIONS SUBMITTED BY FISH & GAME DEPT.

TO: Idaho Water Resource Board

DATE: November 16, 1978
Boise, Idaho

Mr. Chairman, our department, through our Statewide Outdoor Recreation Plan has identified a need to establish minimum flows as a very high priority for the preservation of certain recreation activities throughout Idaho. Among those activities that rely heavily on Idaho's flowing waters include stream fishing, white water boating, kayaking, and also visual enjoyment. Although, by many standards Idaho has an abundance of flowing waters at certain times, Idaho is also experiencing a rapid decline in the availability of flowing waters for recreation needs. We believe that the establishment of minimum flows for not only fish and wildlife purposes but also for other recreation purposes, is a need that has long been overlooked in the State of Idaho. As a general statement, we support the establishment of maintenance as well as minimum flows for many of Idaho's flowing waters for fish & wildlife purposes as well as for other recreational use of our free flowing waters.

In specifics, we are very supportive of having the Water Resources Board leave intact the application for minimum flows by the Idaho Department of Fish & Game to establish minimum flows for selected springs in the Hagerman Valley (Blind Canyon, Malad River, and Vineyard Creek) which I understand are a part of the applications being studied at this time.

Several of these sections relate to a direct interest our department has via our state park program. Several years ago we started work on the Malad Gorge State Park outside of Bliss, Idaho on the Malad River. We are nearing completion of our Development Phase and expect to have the park opened for use within the next year to year and a half. One of the key and major features of the Malad Gorge State Park is the gorge and the river that runs through it. Much of the water flow in this particular stretch arises from the springs located on state park property at the foot of the gorge. These springs help to improve the quality of the water that runs through the Malad Gorge and also makes it a significant trout fishery. The water is of high quality and is one of the key attractions of the state park. For these reasons, we feel that any depletion of the quality or quantity of the spring waters in the Malad River would have a detrimental effect on our state park program.

The Department has also been supportive of the efforts made by other public agencies, notably the Bureau of Land Management, in efforts to establish Vineyard Creek and Devils Corral Area as a recreation area. This area was being looked at as a potential state park but the concept has been set aside as the BLM is working to establish the area as a BLM recreation site. We have been cooperatively working with the BLM over the past year on this project. We feel that Vineyard Creek possesses some unique features that should be preserved for posterity. The establishment of minimum flows would ensure this preservation.

The Department further supports the establishment of minimum flows for Silver Creek as this is one of the finest trout streams in Idaho and a treasure with international recognition. Any request to reduce the quality or quantity of this area should be studied very closely. Although not mentioned in the application under review, we also encourage the Department of Water Resources to investigate setting minimum flows for Devils Corral, Crystal, and Niagra Springs which are located in the Hagerman Valley near Blind, Bancroft, and Vineyard Springs.

We appreciate the Water Resource Board giving us the opportunity to make a statement concerning the pending application for minimum flows. If our department can provide the Board or the Department of Water Resources with any further information, we would be happy to do so.

Thank you.

Dale R. Christiansen
Director

cc: Herm McDevitt
Merle Allison
Joe Greenley

MICROFILMED

BOISE VALLEY FLY FISHERMEN

OFFICE OF
Joe Wyllie

P. O. BOX 311

BOISE, IDAHO 83702

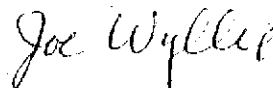
November 16, 1978

Water Resource Board
373 W. Franklin Street
Boise, Idaho 83720

Dear Sirs:

The members of the Boise Valley Fly Fishermen are in complete favor of the action taken by the Idaho Fish and Game Department to gain water rights for minimum flows on 11 streams or portions of streams in Idaho. We sincerely hope that you will take action and approve the request.

Sincerely,



Joe Wyllie
President, BVFF

JW:jl

RECORDED

329 South Phillipoi
Boise, Idaho 83705
November 4, 1978

Mr. George Yost, Chairman
Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

RECEIVED

NOV 7 1978

Department of Water Resources

Dear Mr. Yost,

I am delighted to see that the newly legislated opportunity to apply for minimum stream flows in Idaho has been taken up by the Fish and Game Department. Such a request is very much in the public interest for the citizens of this state. If the water for these minimum flow requests is indeed available, I urge affirmative action be taken by the members of the Idaho Water Resource Board. I refer to the following applications for permits: 36-7818 - Vinyard Creek, 36-7819 - Briggs Springs, 36-7820 - Blind Canyon Springs, 36-7821 - Lower White Springs, 36-7822 - Banbury Springs, 37-7727 and 37-7728 - Silver Creek, 61-7373 - Bancroft Springs, 95-7874 - Wolf Lodge Creek, 11-7152 - St. Charles Creek.

I do not think we can any longer operate efficiently with a zero-based budgeting concept for the waters of Idaho. To establish minimum flows for those streams where it is still possible is like putting money in a water savings account. The sooner we move ahead with such a program the more everyone will benefit, and I include the agricultural water user as a very direct beneficiary of such a program.

Since the concept of establishing minimum stream flows for Idaho's waters is very long overdue in my estimation, I hope that you can move forward with all possible speed in the granting of these applications.

Sincerely,

Doli Obee
Doli Obee

MICROFILMED



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

September 13, 1978

MEMO:

FROM: Loren O. Holmes, Southern Region Supervisor
TO: Steve Allred, Director
SUBJECT: Application for Permit - Idaho Water Resource Board

Attached herewith are 10 applications for instream flows from
the Idaho Water Resource Board which were received in this office
on September 13, 1978 at 8:15 a.m.

Southern Region

Application for Permit #36-7818 - Vinyard Creek
Application for Permit #36-7819 - Briggs Springs
Application for Permit #36-7820 - Blind Canyon Springs
Application for Permit #36-7821 - Lower White Springs
Application for Permit #36-7822 - Banbury Springs
Application for Permit #37-7728 - Silver Creek
Application for Permit #37-7727 - Silver Creek

Western Region

Application for Permit ~~#61-7373~~ - Bancroft Springs
#37-7734

Northern Region

Application for Permit #95-7874 - Wolf Lodge Creek

Eastern Region

Application for Permit #11-7152 - St. Charles Creek

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