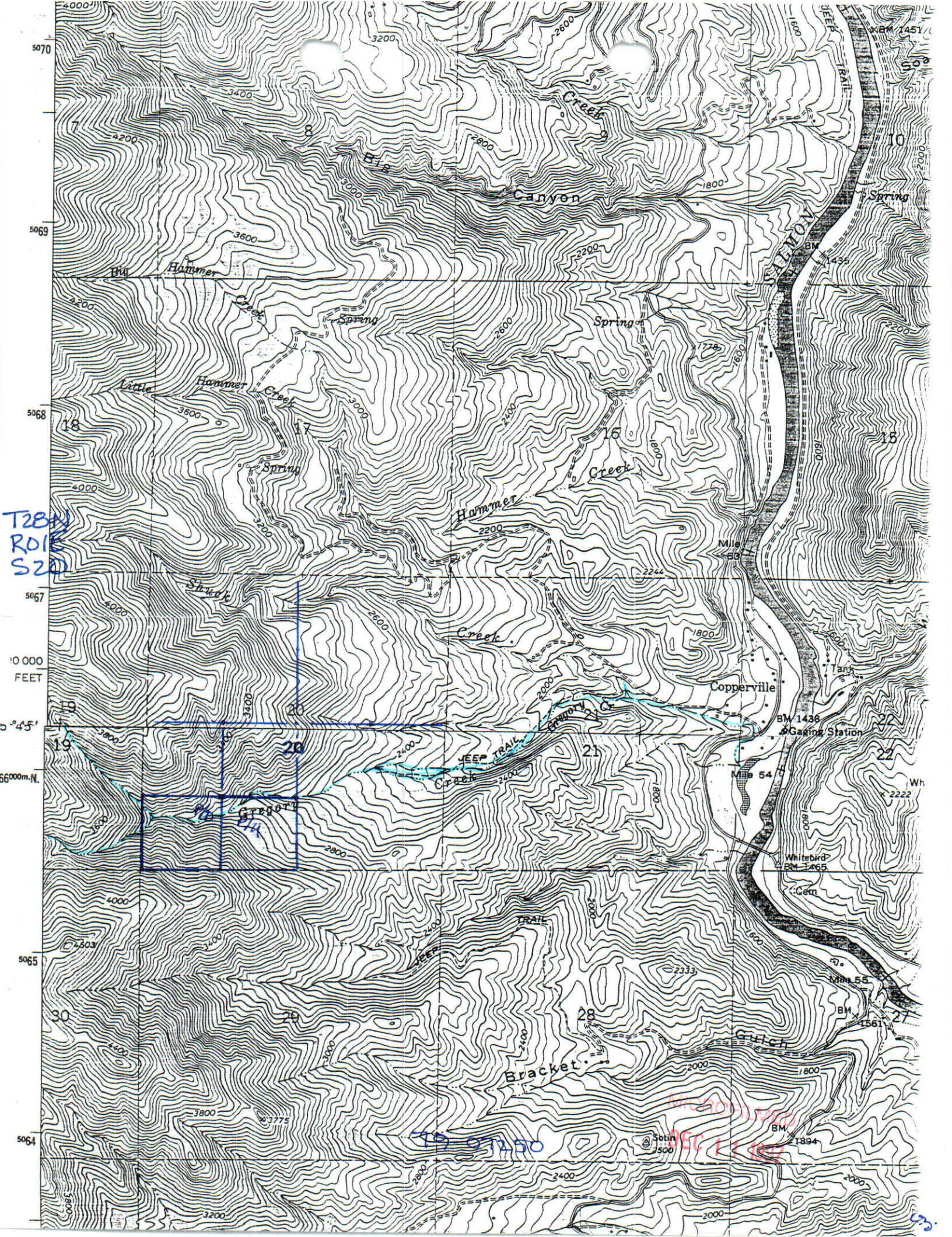




T28N
R01E
S20

0 000
FEET

0 45'

0 000m N

0 000

0 000

RECEIVED
JAN 10 1965
U.S. GEOLOGICAL SURVEY
COPPERVILLE, ARIZONA

RECORD

NO LOT 39
36.74 AC.

LOT 40
20.01.AC.

S 1/16 COR.
SEC. 19. 20

S 89°57'.08"E

N 00°27'01"E
1339.62'

N 00°27'01"E 1339.62'

N 00°21'31"E
1334.13'

1/4 COR. FOUND
2 1/2" BRASS CAP (MK'D. 1850)

N 89°49'.58" W
2627.52'

19 30 N 89°49'.58" W 2627.52' 30 29

ARMED FOR:
NCH INC.

IN RIVER RANCH

REFORMED BY:

RENSON ENGINEERING

RIGHT COURT

MT 5980

549-9693

811A.DAT CADD61\GCD\94811PL3.GCD

BLM

SEC. COR. FOUND
2 1/2" BRASS CAP (MK. D. 1850)

LOT 38
134.30 AC.

APPROX. LOCATION OF
A 25' PRIVATE ACCESS
& PUBLIC UTILITY
EASEMENT FOR THE
BENEFIT OF LOTS
37 & 38. TO BE
LOCATED IN THE

LOT 37
26.32 AC.

LOT 36
25.49 AC.

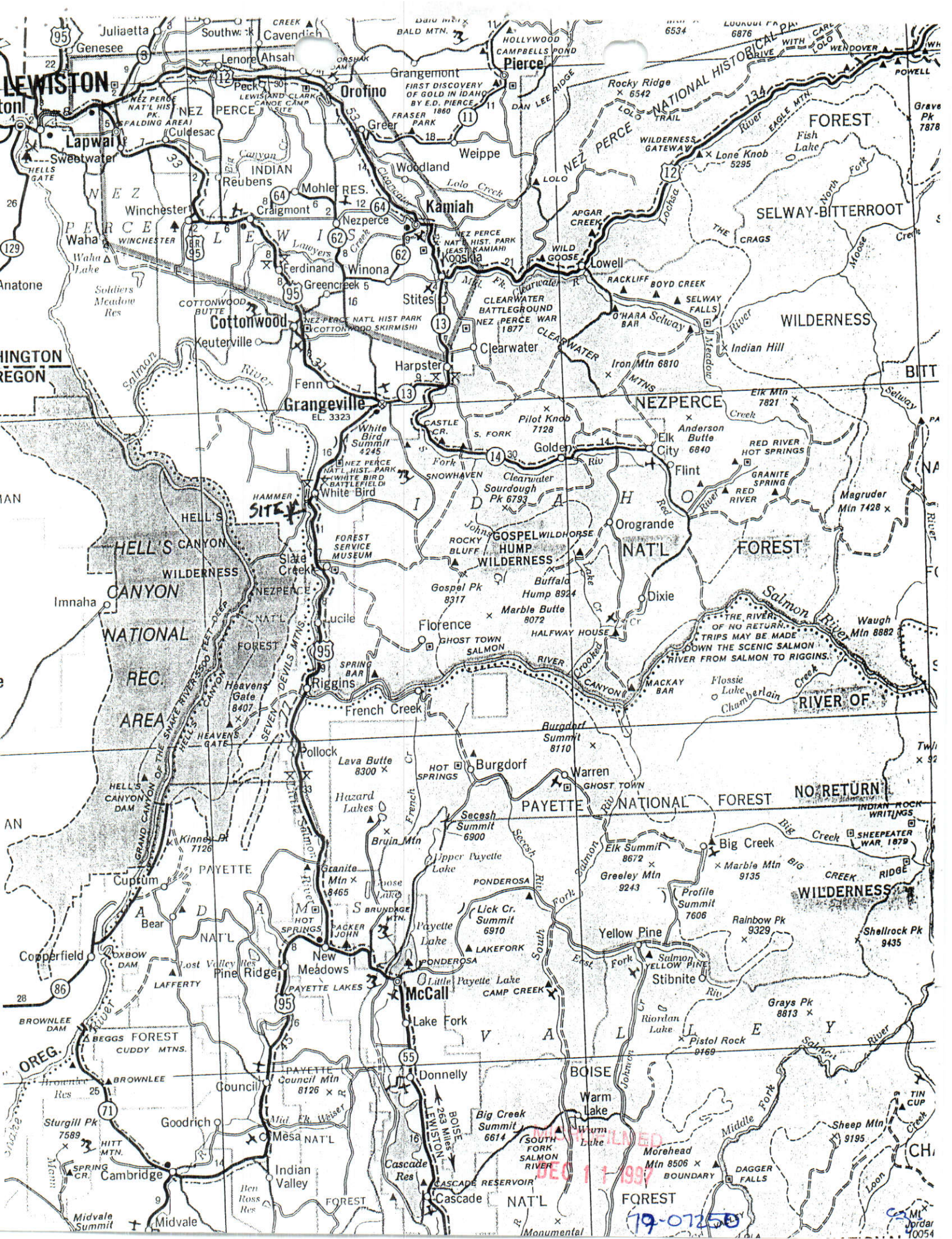
MICROFILMED
DEC 11 1997

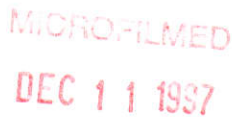
FRANK ZUMWALT

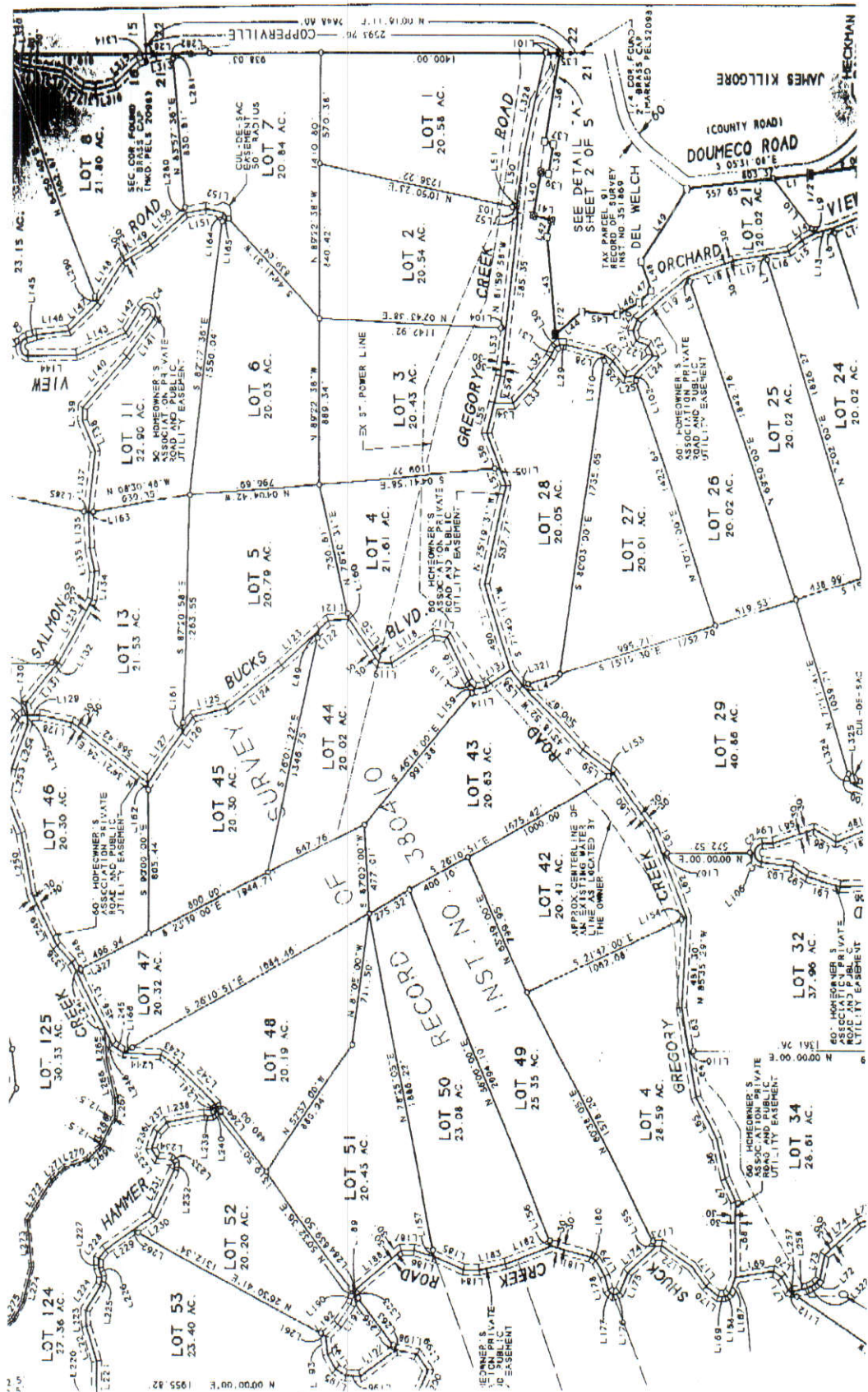
TWU RIVER RANCH
SUBDIVISION

GREGORY

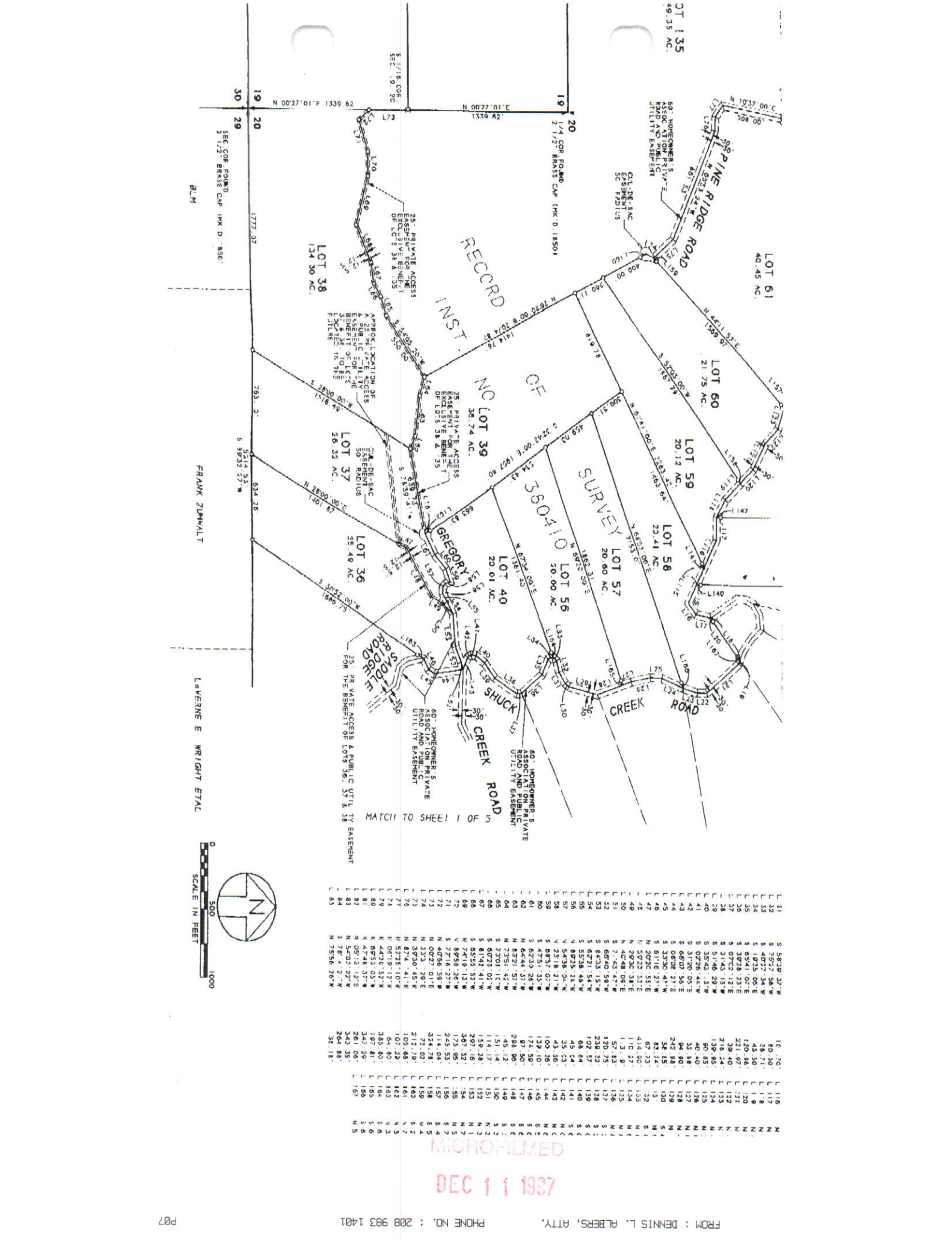
79-07250

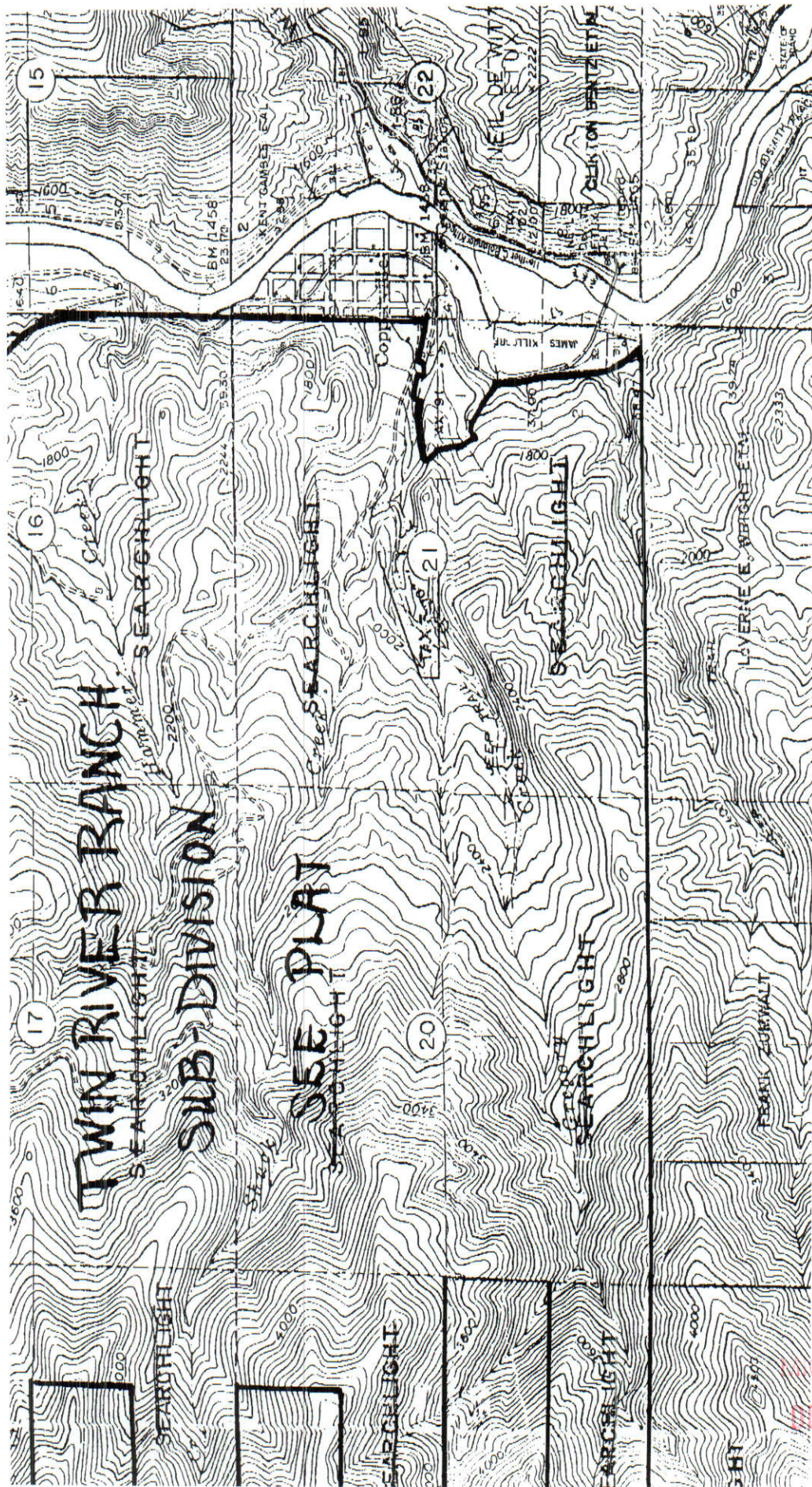






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DEC 11 1967





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DEC 11 1997

RECEIVED

FEB 28 1997

WATER RESOURCES
WESTERN REGION

**NOTICE OF APPLICATION FOR
WATER RIGHT**

The following application(s) have been filed to appropriate the public waters of the State of Idaho:

79-07250

KLAUS, JAMES A.
HC 1 BOX 64
WHITE BIRD, ID 83554
Source: GREGORY CREEK
Tributary: SALMON RIVER
Diversion Pt: SWSW Sec. 20 T 287N R 01E
in IDAHO County

Use: AESTHETIC (0.040 CFS)

Total Diversion: (0.040 CFS)

Date Filed: 12/13/1996

In: IDAHO COUNTY

T28N R01E S20 (SESW)

79-07251

FELDMANN, STEVEN

PO BOX 3500

PORTLAND, OR 97208

Source: SPRING

Tributary: LITTLE HAMMER CREEK

Source: LITTLE HAMMER CREEK

Tributary: HAMMER CREEK

Diversion Pt: SWSENE Sec 18 T 28N R 01E

in IDAHO County.

SESENE Sec. 18 T 28N R 01E in IDAHO

County.

Use: DOMESTIC (0.040 CFS)

Total Diversion: (0.040 CFS)

Date Filed: 12/12/1996

In: IDAHO COUNTY

T28N R01E S18 (SENE)

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 on or before FEBRUARY 24, 1997. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

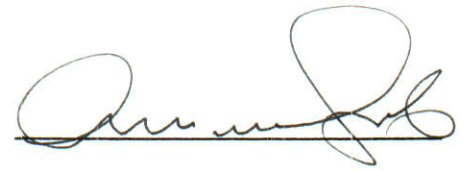
Published: 2/6/1997 & 2/13/1997

F5-12

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Idaho - ss.

Andrew J. Mc Nab, being first duly sworn, says she is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho county, State of Idaho, and is of general circulation in said county and state, that the said notice, of which the one hereto attached is a true copy, was published in said paper for 2 weeks, being published 2 times, the first publication being on the 5 day of February, 1997, and the last publication on the 12 day of February, 1997; and that the said notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said notice or advertisement.



STATE OF IDAHO }

COUNTY OF }

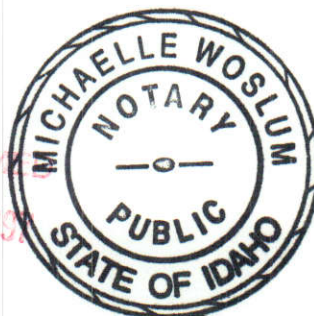
On this 12 day of February in the year of 1997,
Before me, a Notary Public, personally appeared
Andrew J. Mc Nab, known or identified to me
to be the person whose name subscribed to the within instrument, and
being by me first duly sworn, declared that the statements therein are
true, and acknowledged to me that he executed the same.



Notary Public for Idaho

Residing at Grangeville, ID

My commission expires: 01-16-2002



MICROFILMED
DEC 11 1997

RECEIVED
MAR 11 2002
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
PROOF OF BENEFICIAL USE

RECEIVED
MAR 13 2002

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. 79-7250 Telephone No. 208-839-2291

2. Name of Permit Holder(s): JAMES A & ELLA M. KLAUS

* 3. Mailing Address: HCI BOX 125

City WHITE BIRD State ID. Zip 83554

4. Source of Water: GREGORY CK. If GROUNDWATER (well), Date Drilled: mo. N/A / yr. _____

Well Driller: N/A 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: AESTHETIC

6. Total rate of diversion and/or volume for which proof is submitted: 0.04 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?

Has the measuring device been installed?

Yes ☒ or No _____

Yes ☒ or No _____

8. Fee Enclosed: \$ 50.00 (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: MICHAEL W. KLAUS (SON) Telephone Number: 509-966-7963

Address: 3 SO. 55TH. AV. YAKIMA, WA. 98908

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: M. Klaus Date: 8 MAR. 02
(include your title, if on behalf of company of organization)

MICROFILMED

AUG 26 2002

* NOTE change of address
Done dg

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 79-07250

Proposed Priority: December 13, 1996 Maximum Diversion Rate: 0.04 CFS

This is to certify, that **JAMES A KLAUS**
HC 1 BOX 64

WHITEBIRD ID 83554

has applied for a permit to appropriate water from:

GREGORY CREEK tributary of **SALMON 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>
-----------------------	----------------------	--------------------------

AESTHETIC	03/01 to 07/15	0.04 CFS
-----------	----------------	----------

<u>LOCATION OF POINT(S) OF DIVERSION:</u>	SWSW , Sec. 20, Township 28N, Range 01E IDAHO County
---	---

PLACE OF USE: AESTHETIC

TWN RGE SEC

28N 01E 20		SESW
------------	--	------

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before October 1, 2002.
2. Subject to all prior water rights.
3. Use of water under this right may be affected by an agreement between the protestant and the right holder.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
5. The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
6. Use of water under this right shall be non-consumptive.
7. The entire system from the point of diversion to the discharge shall be totally sealed. The sealed system shall include a pipe delivering water to a sealed, cascading waterfall and pond, and an outlet pipe, which must discharge directly back into Gregory Creek.
8. A stand pipe and spigot may be installed in the closed line for emergency fire protection.
9. The system must be constructed so that the inflow to and outflow from the system can be measured to insure that no water is being lost.
10. The inflow shall be measured by filling a known volume from the fire protection spigot located upstream from the waterfall and timing the fill. A valve capable of completely closing the supply line to the waterfall shall be installed just downstream from the fire protection spigot but upstream from the waterfall.

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DEC 11 1997

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

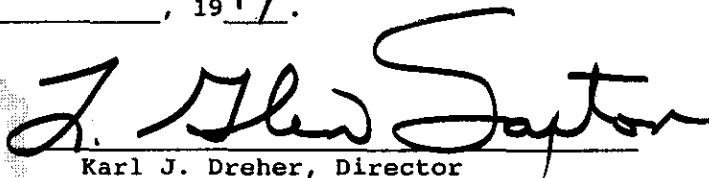
NO. 79-07250

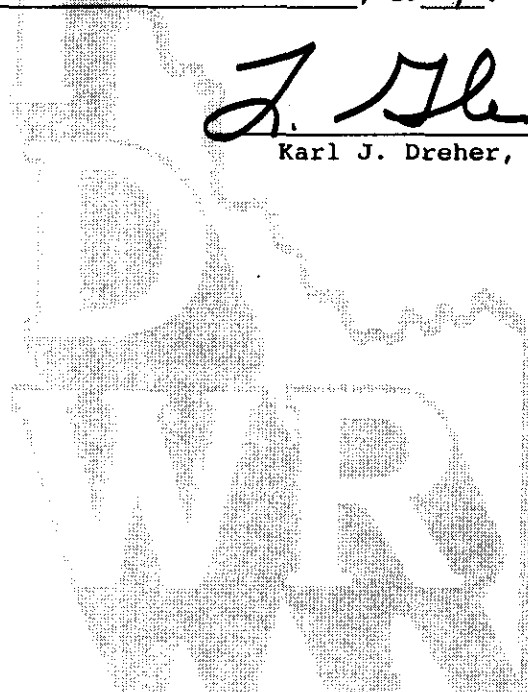
CONDITIONS OF APPROVAL AND REMARKS

11. The outflow can be measured by timing the duration necessary to fill a known volume. Construction must include sufficient space and spigots and/or valves to measure the flow.
12. The place of use is located within Lot 38, Twin River Ranch Subdivision, Phase One.
13. Aesthetic use is for a waterfall.

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

2nd day of October, 1997.


Karl J. Dreher, Director



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DEC 11 1997

RECEIVED

DEC 16 1996

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

RECEIVED

DEC 13 1996

To appropriate the public waters of the State of Idaho

Department of Water Resources

1. Name of applicant JAMES A. KLAUS Phone 208-839-2291

Post office address HC1 BOX 64 WHITE BIRD, ID. 83554

2. Source of water supply GREGORY CREEK which is a tributary of SALMON R.

3. Location of point of diversion is SW 1/4 of SW 1/4 Govt. Lot 20

Sec. 20 Township 28N Range 1E B.M. IDAHO County; additional

points of diversion if any: NONE

4. Water will be used for the following purposes:

PER 10 OCT F+6 LTR. ATTN. Amount 0.04 cfs for AESTHETIC purposes from 1 MAR to 15 JUL (both dates inclusive)

Amount 0.04 cfs for IRRIGATION purposes from 3-1 to 11-30 (both dates inclusive)

Amount 0.04 cfs for purposes from to (both dates inclusive)

Amount 0.04 cfs for purposes from to (both dates inclusive)

5. Total quantity to be appropriated is (a) 0.04 cubic feet per second and/or (b) 0.04 acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 600 FT OF 1" DIA. PVC PIPE OR FLEXIBLE 1" LINE TO BE INSERTED IN GREGORY CK. WEST OF HOMESITE TO PROVIDE GRAVITY FLOW FOR STONE CASCADES WYARD, THEN TO FLOW BACK INTO GREGORY CK.

b. Height of storage dam feet; active reservoir capacity acre-feet; total reservoir capacity acre-feet; period of year when water will be diverted to storage: to inclusive.

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

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

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

Well was drilled for (well owner)

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

5 years (minimum 1 year).
* 18 gpm = 0.04 cfs 12/13/96 cz.

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. AESTHETIC USES FOR WATER FALL/CASCADE

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
28N	1E	20												1/2 AC					1/2 AC.
														J					

Total number of acres to be irrigated 1/2 AC.

10. Describe any other water rights used for the same purposes as described above. NONE

11. a. Who owns the property at the point of diversion? J. A. & ELLA M. KLAUS

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. _____

12. Remarks: LOT 38 TWW RIVER RANCH SUBDIV.

MICROFILM

DEC 11 1997

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

SEE ATCHS.

NOTE:

IN
COMMENTS

This application was accomplished with the assistance of Cendy Zimmerman in mid 1996. It was delayed by an initial disapproval by the Idaho Dept. of Fish and Game in their letter of 26 Jun 1996. After additional consultation and field work with Greg Serroheen (Id. F&G) a subsequent agreement was reached with them. Ref. the Idaho Dept. F+G letter dated 10 Oct 1996 (attch.)

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.


(Applicant)

DEC 11 1997

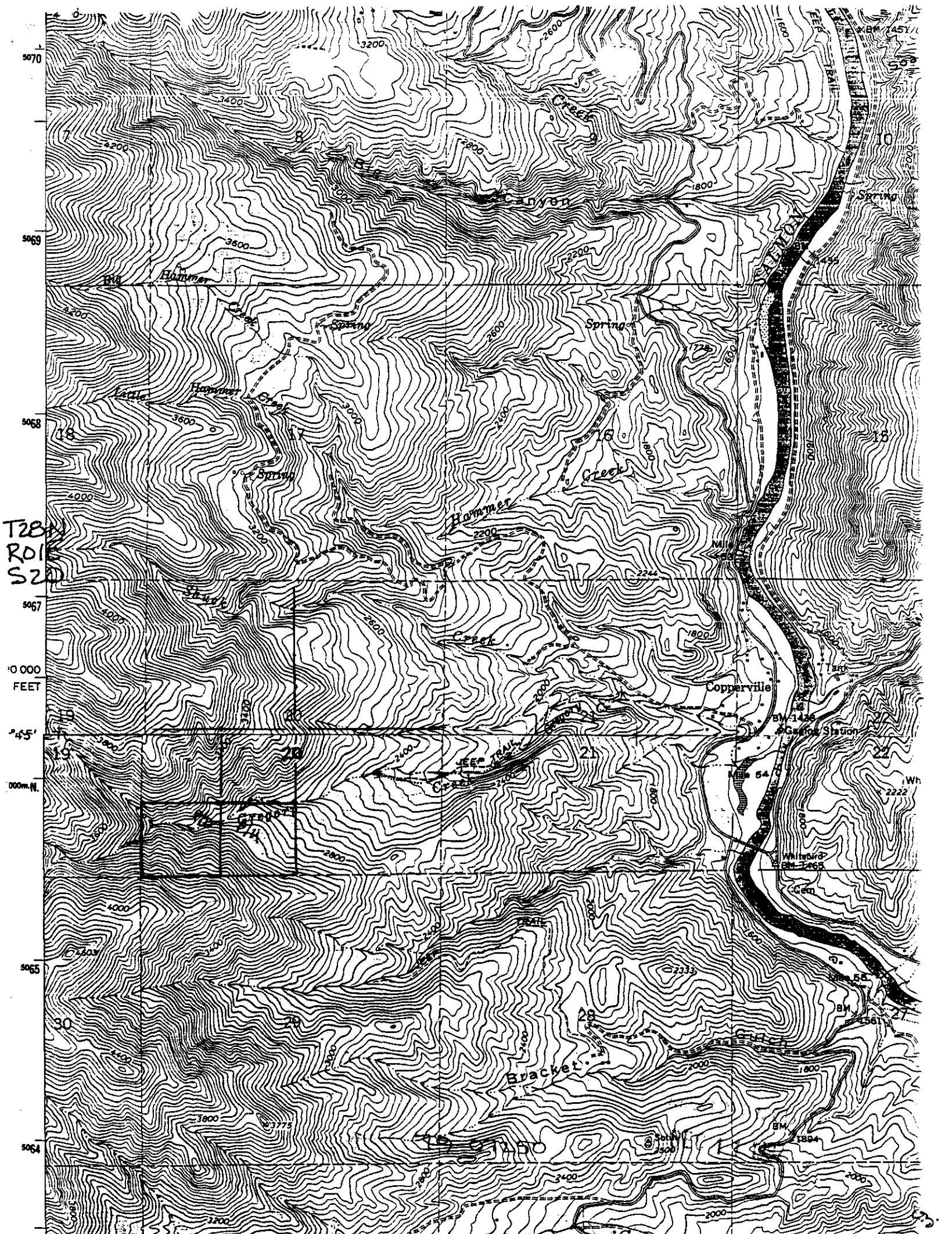
Received by CJ Date 12/13/96 Time 1pm Preliminary check by g
Fee \$ 5000 Received by CJ # C037177 Date 12/13/96
Publication prepared by St Date 1-29-97 Published in Id City Free Press
Publication approved St Date 2-28-97 2-6-13-97

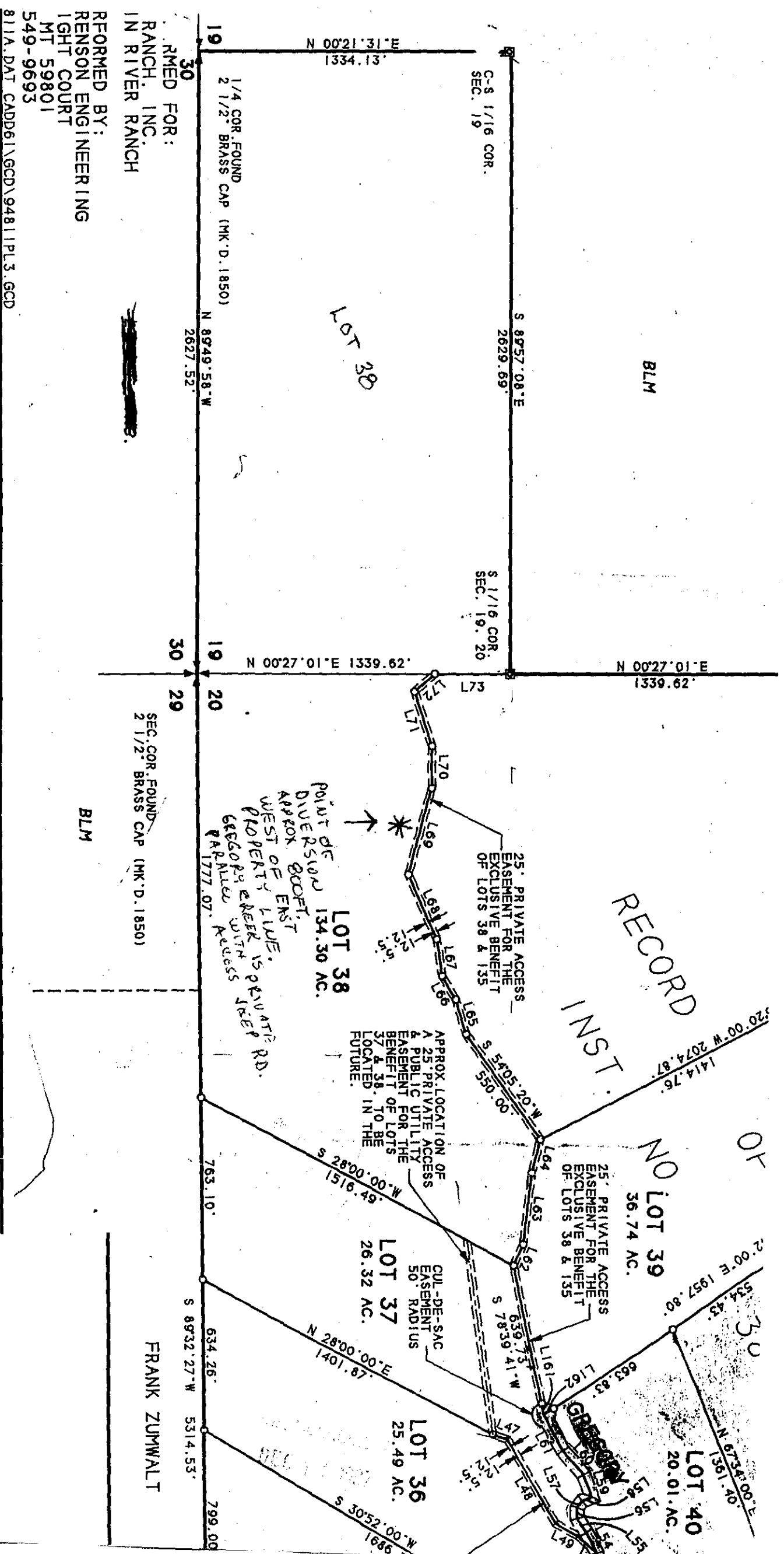
ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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:

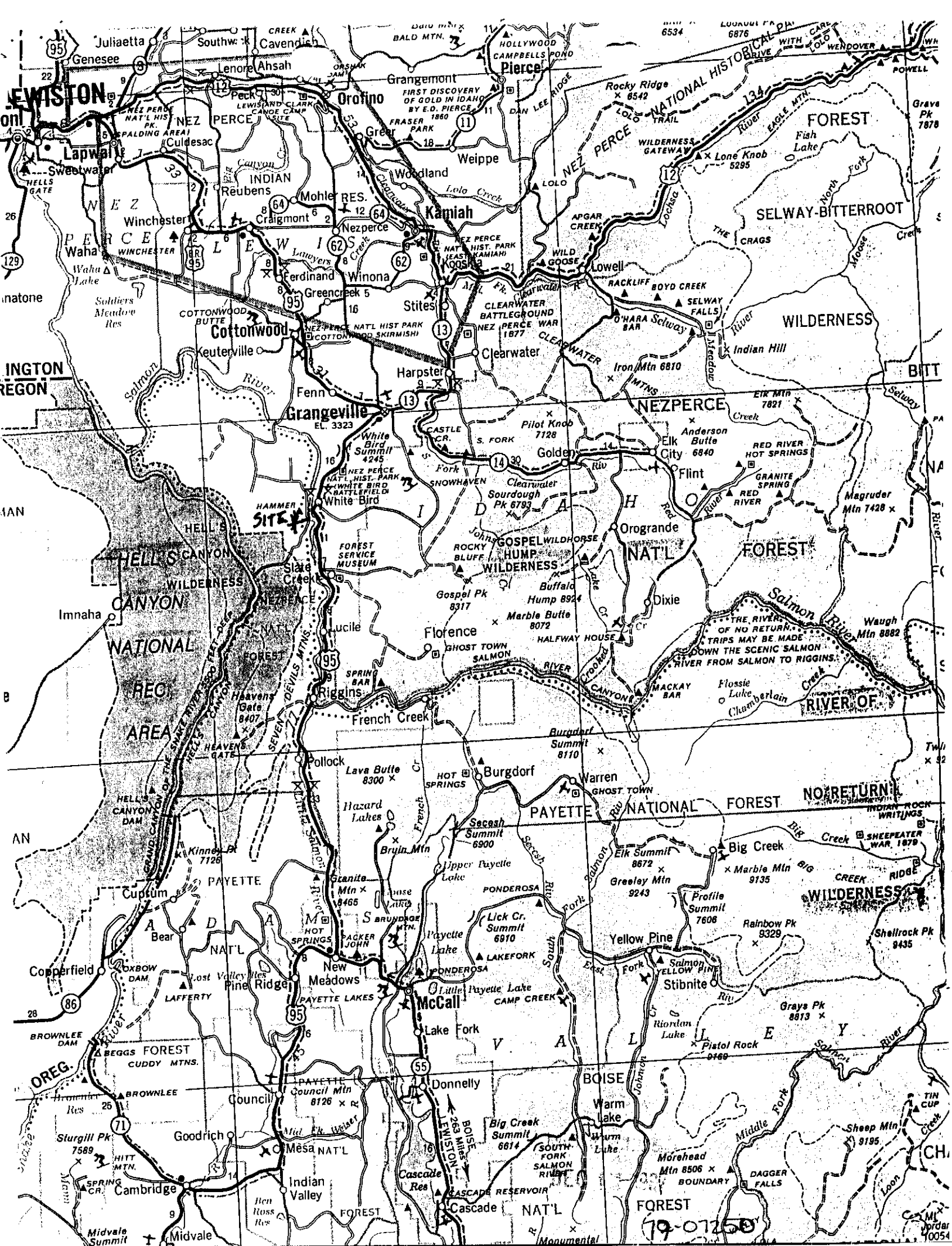
- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:





TW RIVER RANCH
SUBDIVISION

19-07250





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

April 5, 2002

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

JAMES A KLAUS
ELLA M KLAUS
HC 1 BOX 125
WHITE BIRD ID 83554

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 79-07250

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 contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights 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, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

MICROFILMED

AUG 25 2002

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 79-7250

Reviewed By: dgibson

Date: April 5, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		W028864	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?		X	Measuring device installed?		X
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received	03/11/2002
Date proof due	- 10/01/2002
Lapse notice sent	-
No. of days late	= 0
Holiday allowance	+
Priority date	+ 12/13/1996
New priority date	= 12/13/1996

Deficiencies of Actions Items

Acknowledge proof.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

December 2, 1997

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

**JAMES A KLAUS
HC 1 BOX 64
WHITEBIRD ID 83554**

RE: Permit 79-07250

Dear Mr. Klaus:

Thank you for your letter advising us that you have begun constructing the diverting works for the project authorized by water appropriation permit 79-07250. A copy of your letter is being returned to you as requested.

As stated under condition no. 1 on your permit, your project must be completed October 1, 2002. Approximately 60 days prior to October 1, 2002, the Department will send you a "Proof Due Notice" requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

If you have any questions in this matter, you may call me at 208-327-7946.

Sincerely,

A handwritten signature in cursive script, reading "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SWK:klr

Enclosure

RECEIVED
DEC 11 1997

RECEIVED

DEC 01 1997

Department of Water Resources

26 NOV 97

Re: Permit No. 79-07250

This letter is to advise
IDWR of the commencement
of work on the above ref.
permit,

As of 15 Nov 1997 I
have installed 300 ft of
1" poly pipe in a ditch
at a depth of approxi-
mately 30". This ditch
is still far removed from
Gregory Creek and has
the beginning point at the
edge of our homestead.

Winter weather will stop
work for now.

Please acknowledge
receipt of this letter by
return mail. Thank You

P.S. Please send me a
copy of this letter also. J. Klout



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 2, 1997

JAMES A KLAUS
HC 1 BOX 64
WHITEBIRD ID 83554

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 79-07250

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

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

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

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

Also, please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address to the department. If you have acquired a water right or have changed your mailing address PRIOR TO July 1, 1996, you have until July 30, 1998, to notify the department. If you acquire a water right or change your mailing address AFTER July 1, 1996, you must notify 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 to obtain the proper reporting form.

DEC 11 1997

Please note that a separate stream channel alteration permit must be obtained from the IDWR prior to any activity in the stream channel other than construction or maintenance of the diversion structure for your water right(s). Applications for stream channel alteration permits must be filed at least sixty days prior to the commencement of work in the stream.

Sincerely,

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

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

ENCLOSURE

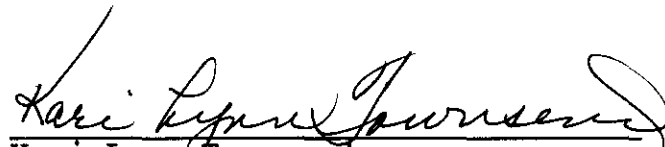
DEC 14 1991

CERTIFICATE OF MAILING

I hereby certify that on the 2nd day of October, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 79-07250

JAMES A KLAUS
HC 1 BOX 64
WHITEBIRD ID 83554


Kari Lynn Townsend
Secretary

DEC 11 1997

09/97

APPLICATION FOR PERMIT STATE OFFICE REVIEW

by *Cindy Lou*

No.: 79-7250 Name: Klaus Date: 9/26/97 Ad OK? ✓ Gvmt Lts:

AREA OF CONCERN:*non-consp.*No/Yes: S/C Mor / GWMA / Trust / Non-trust**PROTESTED:**

- 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

1 year/no proof

- P16

>1 year

- 26A P17**GROUNDWATER: (✓ FLO-CH)**

WMD (✓ MAP)

>0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

WMD >0.24 cfs

- 01M (report when notified)

>5 a.

- 01M; 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)

≤ 0.24 cfs/5 acres

- No MD

DRILLING PERMIT:

Existing well

- NA (pre 7/1/87; ✓ WDQ3)

Included w/permit

- Permit No. - - - - P99

No drilling permit?

- 046-46B-P23 (post 7/1/87)

irr. in WD

- P05 (new well location)

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

IN/ABOVE MIN. STR. FLOW (✓ MAP)

- 31A (modify remark *WB9) *pending appl. 79-7225*

WD (✓ MAP & LISTING)

- R04 (WD #) - 01J-P08 (MD)

Pumped >0.20 cfs

- 01H-P01 (LD & MD) or No MD (in-stream stock)

WMD (✓ MAP)

> 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

RIVER BASINS: (*Surface water):

Snake R (01)

- *W22 P04, NA

(02/03-irr)

- 007-P07 (w/ remark *WB9 if above Weiser), NA

Payette R(65)

- *W22 (regulated uses), 047-P04 (Payette Lake), NA

Salmon R (70's)

- 029 (fish screens)

USE:

Domestic surface

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA

>1 in rest. area

- 071-070-P53

Fish Propagation

- 029-007-042(req)-081-R07 (WQ)-P10; 044 (N of 1000 Springs)

Irr ≤ 5 acres

- R49/R50/R51/R52 (0.03 cfs/acre +AF)

> 5 acres

- R29/R30/R31/R32 (0.02 cfs/acre +AF)

Mining

- 054(req) -081-R07-P10

Muni (in restricted areas)

- 022, 075, 004 (+memo?)

Power

- 17H/17K(+uses)-08A-025-01N(P19)-028-081-R07(P10); 027 (if no other cons. use);

17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18

Stock (BLM/USFS)

- R37

Storage (✓3 compo.)

- 080; 18A (in- & out-flow MD within district), 18B-P09 (>10' dam),

LOCATION:

42-248 area

- P84 (in 20/30/40/50/60/70/80 (87) basin)

Boise Front LoGeo

- 058 (<85° GW temp only)

In-stream dev.

- P52 (stream channel alteration)

Irr Dist/Canal Co.

- 023 (Twin Falls area)

SWAN FALLS FLAG (See Code Chart)

Trust

- 051-052-053-P74 (Consumptive Uses), NA

Non-Trust (1)

- 048-049 (Consumptive Uses), NA

OWNERSHIP:

- 004 (PD/PU)

OTHER CONDITIONS:- 027 077**STANDARD REMARKS:**- ①-② See and. Strip for w/D of protest.**BENEFICIAL USE DUE:**- 10/1/ 2002**COMMENTS:**

-

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

SEP 22 1997

DEPARTMENT OF WATER RESOURCES

INITIAL REVIEW BY: lg DATE: 1/14/97 APPLICATION: 79-07250

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ☒ Address:
- ☒ Source: (See USGS Quad for names of water sources)
- ☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County:
- ☒ Quantity: (flow and/or volume)
- ☒ Period of use:
- ☒ Nature of proposed use: (Include description of use)
- ☒ Description of diverting works:
- ☒ Time required for beneficial use of water:
- ☒ Place of use or acres irrigated:
- ☒ Map: (show T, R, S, QQ &/or QQQ)
- ☒ Subdivision plat: (for > 1 home in restricted area. $\geq$ 5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Fee:
- ☒ Yes ☐ No* In form to receipt:

Gov't. Lots:

☒ P/D
☒ P/U

ADDITIONAL INFORMATION

YES NO

- ☐ ☒ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☐ ☒ Overlapping point of diversion.
- ☐ ☐ Field check required: Field check by: _____
- ☐ ☐ Field report attached:
- ☐ ☒ Critical groundwater area:
- ☐ ☒ Groundwater management area:
- ☐ ☒ 1992 moratorium: *exempt due to insignificant consumption of H₂O*
- ☐ ☒ Copy to SCA staff: (perennial stream, non-pump diversion &/or any mining).
- ☐ ☒ Copy to Dam Safety staff: (for any storage)
- ☐ ☒ Mitigation plan: where ground water replaces surface water for irrigation, request additional information &/or mitigation plan to address reduced aquifer recharge
- ☐ ☒ Send power requirement letter:
- ☐ ☒ Send fish farm requirement letter:
- ☐ ☒ Power residency affidavit:
- ☐ ☒ Power efficiency form:
- ☐ ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☐ ☒ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED _____

ADDITIONAL INFORMATION ON REVERSE SIDE:

PROCESSING

APP. NO. 79-07250

YES NO

☒ ☐ In form for advertising:
☐ ☒ Statewide advertising: (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number and date recorded on application:

SEND COPIES TO:

YES NO

YES NO

☐ ☒ I.D. Health & Welfare
☐ ☒ I.D. District Health
* ☐ ☒ I.D. Fish & Game
☐ ☒ I.D. Lands
☐ ☒ Adjudication Bureau

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Service
☐ ☒ Water Dist. # _____
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ ☐ Affidavit of publication received:
☒ ☐ Application published correctly: If not, record action taken.

☒ ☐ Publication dates and paper recorded on application:
☒ ☐ Protests received. Final date for protest 2-24-97
☒ ☐ Protest dates, resolution of protest recorded on application:
☐ ☒ Recommendations attached: see agreement withdrawing protests
☐ ☒ Measuring device required:
☐ ☒ Measuring port required:
☐ ☒ Water delivered by water master? District # _____
☐ ☐ Special conditions of approval or cover letter: See letter from applicant seeking 5 years for development.

See below for additional information

Recommended Date or Priority 12/13/96

Recommended by: Barry S Date: 9/17/97

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION:

no overlaps

F + G comment letter attached



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 31, 1997

DENNIS L ALBERS
PO BOX 314
GRANGEVILLE ID 83530

Re: Application for Permit No. 79-07250 in the Name of James A. Klaus

Dear Mr. Albers:

This letter is to acknowledge your withdrawal of protest against the above-referenced application for water right, with certain conditions as agreed to in the stipulation for withdrawal of protest. The Department now will continue to process the application, subject to those conditions.

If you have any questions please call this office.

Sincerely,



Gary Spackman

GS:st

CC: James A. Klaus
James Kilgore

RECEIVED
NOV 11 1997

RECEIVED

JUL 22 1997

WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION)
)
FOR PERMIT NO. 79-07250 IN THE) STIPULATION FOR
) WITHDRAWAL OF
) PROTEST
NAME OF JAMES A. KLAUS.)

On April 16, 1997, a pre-hearing conference was conducted at the White Bird City Hall in White Bird, Idaho. The applicant, James A. Klaus, was present and represented himself. The protestant, James Kilgore, was present and was represented by his attorney, Dennis Albers.

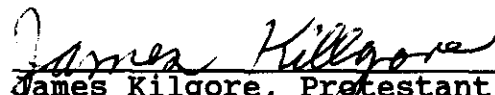
At the conference, the protestant agreed to withdraw his protest if the following conditions are placed on the permit. The applicant also agreed to the following conditions:

1. Diversion of water pursuant to this water right shall be non-consumptive.
2. The entire system from the point of diversion to the discharge shall be totally sealed. The sealed system shall include a pipe delivering water to a sealed, cascading waterfall and pond, and an outlet pipe, which must discharge directly back into Gregory Creek.
3. A stand pipe and spigot may be installed in the closed line for emergency fire protection.
4. The system must be constructed so that the inflow to and outflow from the system can be measured to insure that no water is being lost.
5. The inflow shall be measured by filling a known volume from the fire protection spigot located upstream from the waterfall and timing the fill. A valve capable of completely closing the supply line to the waterfall shall be installed just downstream from the fire protection spigot but upstream from the water fall.
6. The outflow can be measured by timing the duration necessary to fill a known volume. Construction must include sufficient space and spigots and/or valves to measure the flow.

7. The place of use is located within lot 38, Twin River Ranch Subdivision, Phase One.

Dated this 18th day of JULY, 1997.


James A. Klaus, Applicant


James Kilgore, Protestant

I hereby certify that on the 7th day of May, 1997, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor

JAMES A KLAUS
HC 1 BOX 64
WHITE BIRD ID 83554

JAMES KILGORE
HC 1 BOX 118
WHITE BIRD ID 83554

DENNIS L ALBERS ESQ
PO BOX 314
GRANGEVILLE ID 83530

RECEIVED

APR 25 1997

WATER RESOURCES
WESTERN REGION

20 Apr 97

Ref. Application # 79-07250

As indicated in my original application for this water right I've requested that I be allowed 5 years for the completion of this project.

There are circumstances concerning this project which I feel must be innumrated and considered:

1. This project is to proceed on newly purchased property which is raw ranch land.
2. A logging operation by Boise-Losade has recently been completed on our property.
3. The logging operation has resulted in an extensive amount of waste slash materials including many whole trees which

must be cleared out of the way and disposed of before the water line can be laid in place.

4. A new road to our three potential home sites must be finished before we can decide ~~on~~ which home site will be used for our home construction.

5. Another requirement is the successful completion of well drilling which will also help to establish the exact location of our new home.

6. The well drilling rig cannot access our drilling site until rutted muddy roads dry sufficiently to allow this.

7. Until I can definitely decide the precise location of our new home I cannot

determine the location of
our water cascade involved
in this application.

8. Finally, once a homesite
is established we will be in-
volved in many time con-
suming efforts toward con-
struction, including septic
systems, well water lines,
completion of site roads etc.

Considering all of the above
factors I again request that
we be allowed 5 years to
complete this project. In the
event that this is completed
sooner than that I will
advise your office immediately.

Thank you for your con-
sideration of this request.

Sincerely
James A. Klouc

DEC 11 1967



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

May 7, 1997

DENNIS L ALBERS
PO BOX 314
GRANGEVILLE ID 83530

Re: Protested Application for Permit No. 79-07250 in the Name of
James A. Klaus

Dear Mr. Albers:

Enclosed is a Stipulation for Withdrawal of Protest for
application for permit no. 79-07250 in the name of James A. Klaus.
If acceptable, please ask James Kilgore to sign and forward the
document to Mr. Klaus for signature.

Sincerely,

Gary Spackman

GS:st

Encl.

CC: James A. Klaus
James Kilgore

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
	)	
FOR PERMIT NO. 79-07250 IN THE	)	STIPULATION FOR
	)	WITHDRAWAL OF
NAME OF JAMES A. KLAUS.	)	PROTEST

On April 16, 1997, a pre-hearing conference was conducted at the White Bird City Hall in White Bird, Idaho. The applicant, James A. Klaus, was present and represented himself. The protestant, James Kilgore, was present and was represented by his attorney, Dennis Albers.

At the conference, the protestant agreed to withdraw his protest if the following conditions are placed on the permit. The applicant also agreed to the following conditions:

1. Diversion of water pursuant to this water right shall be non-consumptive.
2. The entire system from the point of diversion to the discharge shall be totally sealed. The sealed system shall include a pipe delivering water to a sealed, cascading waterfall and pond, and an outlet pipe, which must discharge directly back into Gregory Creek.
3. A stand pipe and spigot may be installed in the closed line for emergency fire protection.
4. The system must be constructed so that the inflow to and outflow from the system can be measured to insure that no water is being lost.
5. The inflow shall be measured by filling a known volume from the fire protection spigot located upstream from the waterfall and timing the fill. A valve capable of completely closing the supply line to the waterfall shall be installed just downstream from the fire protection spigot but upstream from the water fall.
6. The outflow can be measured by timing the duration necessary to fill a known volume. Construction must include sufficient space and spigots and/or valves to measure the flow.

APR 17 1997
JCL 11 1507

7. The place of use is located within lot 38, Twin River Ranch Subdivision, Phase One.

Dated this _____ day of _____, 1997.

James A. Klaus, Applicant

James Kilgore, Protestant

I hereby certify that on the 7th day of May, 1997, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor

JAMES A KLAUS
HC 1 BOX 64
WHITE BIRD ID 83554

JAMES KILGORE
HC 1 BOX 118
WHITE BIRD ID 83554

DENNIS L ALBERS ESQ
PO BOX 314
GRANGEVILLE ID 83530

IDAHO DEPARTMENT OF WATER RESOURCES
2735 Airport Way, Boise, ID 83705

Conducted by: Gary Spackman

James A. Klaus HCL BOX 69 WHITE BIRD ID.
Ella M. Klaus HCL BOX 64 " " "
Josephine H. Haggare
James Haggare
Dennis Albus P.O. Box 314 Grangerville Id.

JUL 1 1957

Dennis L. Albers

ATTORNEY AT LAW

P.O. BOX 314

GRANDEVILLE, IDAHO 83530

KAMIAH OFFICE
PHONE (208) 835-2161

GRANDEVILLE OFFICE
401 W. NORTH
PHONE (208) 983-2310
FAX (208) 983-1401

FAX COVER LETTER

DATE: 4-15-97

TIME: 10:05 AM

RECEIVED

APR 15 1997

WATER RESOURCES
WESTERN REGION

TO: GARY SPACKMAN
Dept. of WATER
RESOURCES

FAX NO.: 334-2348

Total number of pages sent 8.
(Including this cover letter.)

If you need a resend of any pages, please call: (208)983-2310.
If you do not call we will assume you received the page(s)
satisfactorily.

re: Permit No. 79-07250
application of JAMES A. KLAUS
Hearing on Wed. April 16th
10:30 A.M. at WHITE BIRD, ID.

our client - JAMES KILLGORE
(copies were likewise mailed to JAMES
Klaus on April 14th.)

WARRANTY DEED

QUANTITY
INDEXED
TRACTED
FILMED
RECORDED

382054

THIS INDENTURE, made on this 1st day of Sept., 1995, by and between RED CREEK RANCH, INC., a Colorado Corporation, of 665 Simonds Road, Williamstown, MA 01267, hereinafter referred to as the Grantor, and JAMES A. KLAUS and ELLA M. KLAUS, husband and wife, of HC01 Box 64, White Bird, ID 83554, hereinafter referred to as the Grantees.

WITNESSETH:

That the said Grantor, for and in consideration of the sum of Ten Dollars (\$10), lawful money of the United States of America, and other good and valuable considerations to it in hand paid by the said Grantees, the receipt whereof is hereby acknowledged, having granted, bargained, sold, and by these presents does grant, bargain, sell, convey, and confirm unto the said Grantees, their heirs and assigns, all the following described real property situate in the County of Idaho, State of Idaho, to wit:

Lot 38 of Twin River Ranch, a Subdivision of Idaho County, State of Idaho, according to the recorded plat thereof. TOGETHER WITH a non-exclusive right to use all of the roads platted on and shown on the recorded plat of the Twin River Ranch Subdivision, being Idaho County Instrument #380650. TOGETHER WITH an easement and right of way providing access from Gregory Creek Road across Lots 36 and 37 in the Twin River Ranch Subdivision to provide additional access to Lot 38, all as is shown more particularly and described in Exhibit A which is a plat of that surveyed access route. Said easement shall be non-exclusive and shall provide access for Lots 36 and 37 in addition to Lot 38, both now and in the future.

TOGETHER WITH, all and singular, the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, the remainder and remainders, rents, issues, and profits thereof, and all estate, right, title, and interest in and to the said property as well in law as in equity of the said Grantor.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances unto the said Grantees, their heirs and assigns forever.

And the said Grantor, for itself, its heirs, executors, and administrators, does covenant, grant, bargain, and agree to and

WARRANTY DEED - 1

with the said Grantees, their heirs and assigns, that at the time of the sealing and delivery of these presents it was well seized of the premises above conveyed as of good, sure, perfect, absolute, and indefeasible estate of inheritance, in fee simple, and have good right, full power, and lawful authority to grant, bargain, sell, and convey the same in the manner and form aforesaid, and that the same are free and clear from all and former grants, bargains, liens, taxes, assessments, and encumbrances of whatever kind or nature whatsoever, EXCEPT:

1) General taxes for the year 1993 which are a lien, not yet due and payable.

2) Excepting and reserving therefrom all mineral rights of every kind and description on all the described property and any potential proceeds that might be receivable from the U.S. Government in the future for scenic easements taken from the properties as set forth in Correction Warranty Deed, including the terms and conditions thereof, by and between Warren H. Brown and Jayne J. Brown, husband and wife, Grantors, and L T & L, Inc., an Idaho corporation, Grantees, recorded February 19, 1987, under Instrument No. 333500, records of Idaho County, Idaho. Further Agreement related to minerals recorded February 13, 1990 under Instrument No. 352028, records of Idaho County, Idaho.

3) Timber Deed, including the terms and conditions thereof, by and between Dan Tucker and Sharon L. Tucker, husband and wife, Grantors, and Boise Cascade Corporation, a Delaware corporation, recorded May 29, 1993 under Instrument No. 363556, records of Idaho County, Idaho.

4) Subject to easement for road and utilities as shown by the recorded plat.

5) Subject to Sanitary Restrictions as shown by the recorded plat thereof.

6) Declaration of Protective Covenants, Conditions, Restrictions and Easements for Twin River Ranch, including the terms and conditions thereof, recorded on June 16, 1995 as Instrument No. 380651, records of Idaho County, Idaho.

Said Protective Covenants were amended by Limited Amendment of Protective Covenants, recorded on June 16, 1995 as Instrument No. 380653, records of Idaho County, Idaho.

7) Bylaws of Twin River Ranch Property Owners' Association, Inc., an Idaho Nonprofit corporation, including the terms and conditions thereof, recorded June 16, 1995 as Instrument NO. 380652, records of Idaho County, Idaho.

And that the above bargained premises, in the quiet and peaceable possession of the said Grantees, their heirs and assigns, against all and every person or persons lawfully claiming or to claim whole or any part thereof, the said Grantor will and shall WARRANT AND FOREVER DEFEND.

WARRANTY DEED - 2

That this deed is given by Grantor to Grantees not on account of any default in any security agreements or arrangements which pertain to the real property hereinabove written and described, but is given for full consideration paid by Grantees to Grantor.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand and seal the day and year first above written.

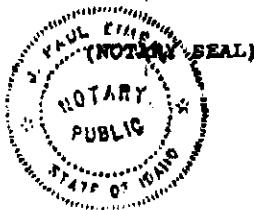
RED CREEK RANCH, INC.

By [Signature]
DEAN A. SATRAPE, Authorized Agent

STATE OF IDAHO)
County of Idaho)

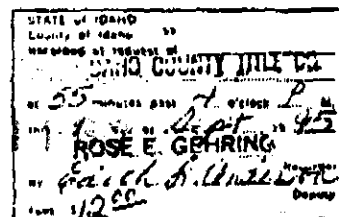
On this 4th day of Sept, 1995, before me, a Notary Public in and for said County and State, personally appeared DEAN A. SATRAPE, authorized agent for Red Creek Ranch, Inc., known to me to be the person whose name is subscribed to the within instrument and he acknowledged to me that he freely executed the same for and on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

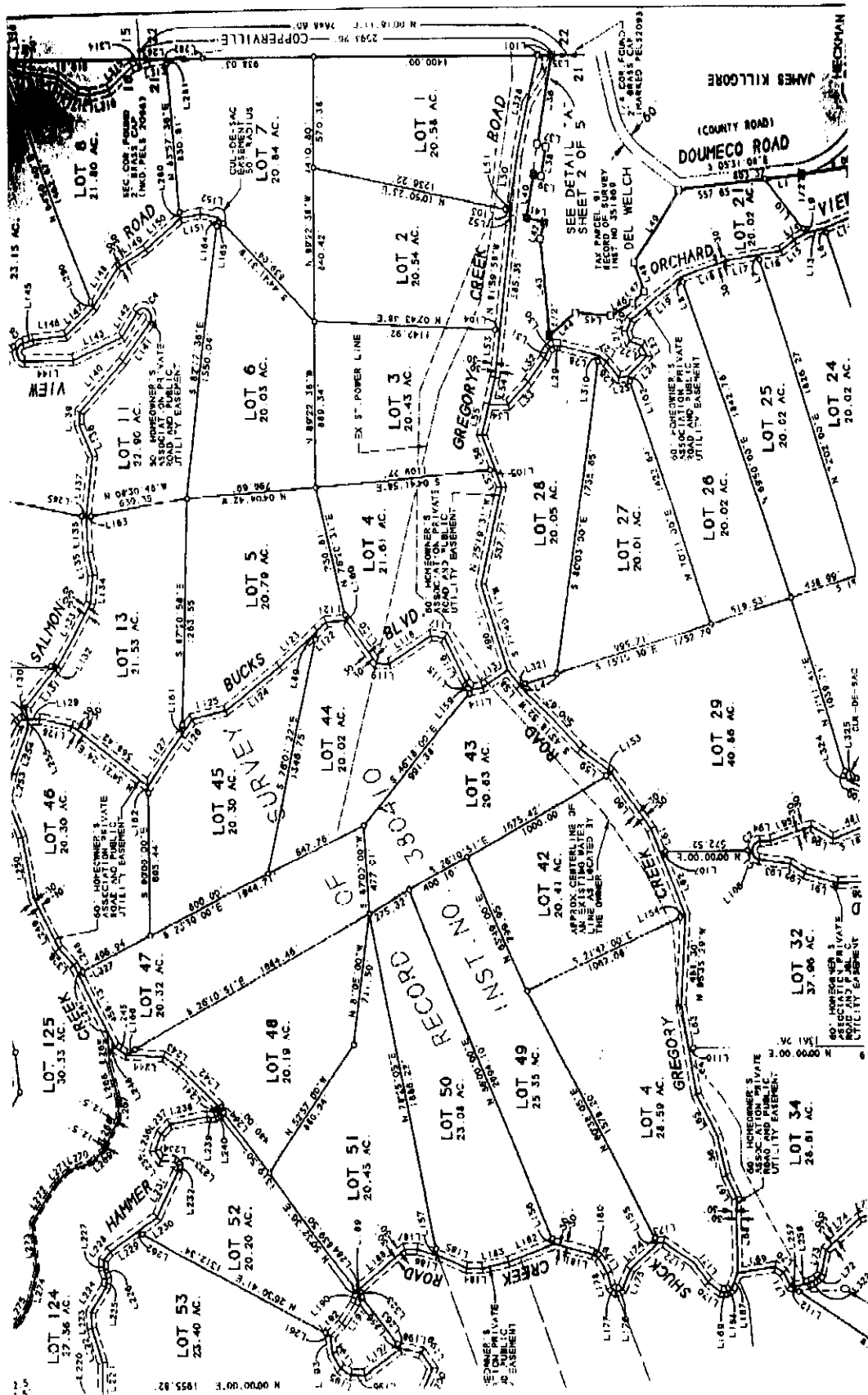


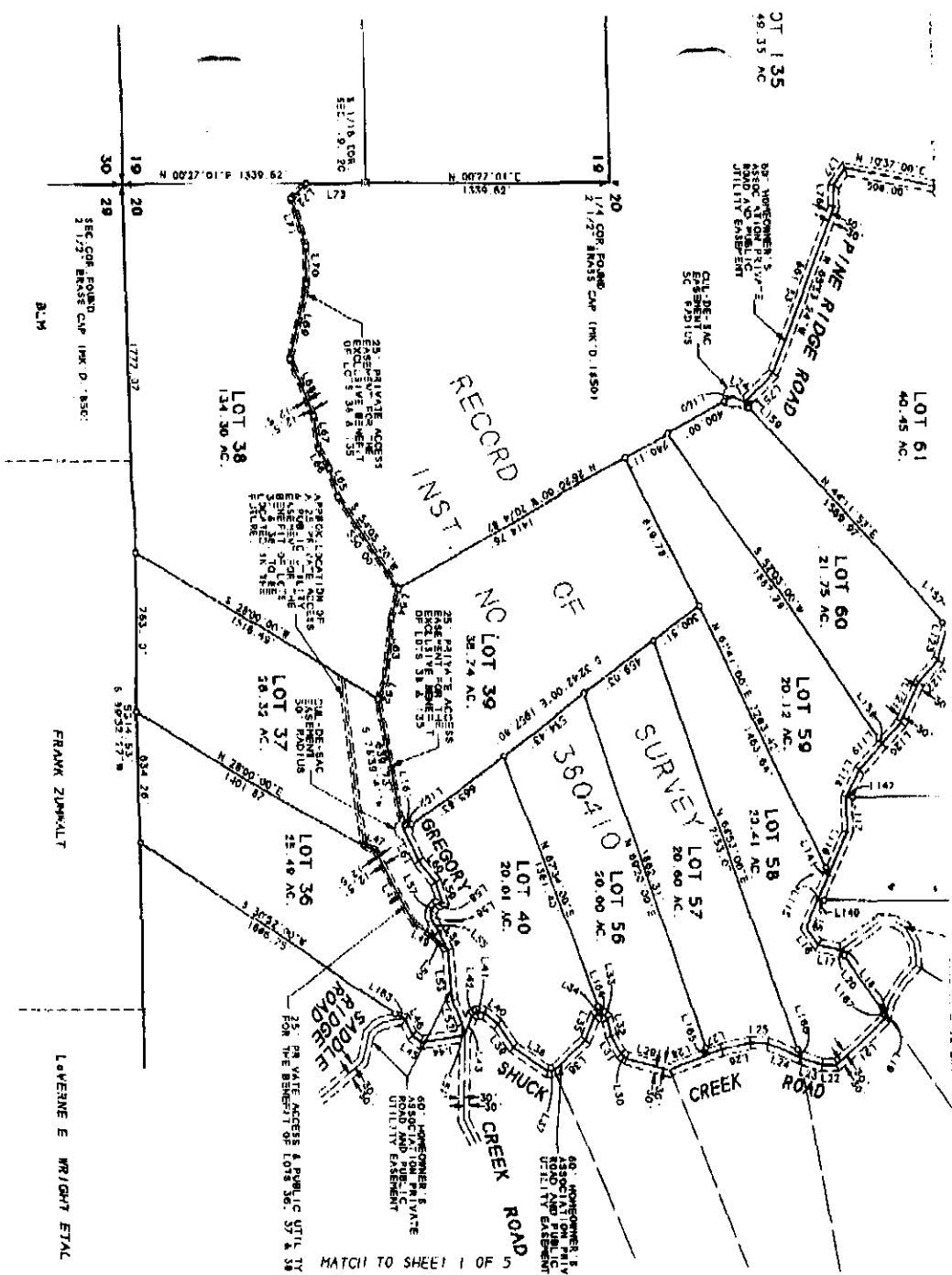
[Signature]
Notary Public for the State of Idaho,
Residing at Grangeville, therein.
My commission expires 6-24-99.

WARRANTY DEED - 3



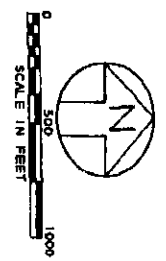






MATCH TO SHEET 1 OF 5

1	31	5 5630.37°W	16.70'	N	5
2	32	5 7527.56°W	80.50'	N	6
3	33	5 4072.54°W	28.71'	N	7
4	34	5 18725.05°E	23.51'	N	8
5	35	5 38728.23°E	420.84'	N	9
6	36	5 38728.23°E	221.97'	N	10
7	37	5 0743.13°E	39.40'	N	11
8	38	5 3143.13°W	216.44'	N	12
9	39	5 5146.29°W	130.43'	N	13
10	40	5 3543.73°W	90.43'	N	14
11	41	5 0728.04°W	32.74'	N	15
12	42	5 4670.56°E	54.84'	N	16
13	43	5 0670.27°E	54.84'	N	17
14	44	5 3330.47°W	242.88'	N	18
15	45	5 0116.27°W	82.14'	N	19
16	46	5 2072.53°E	62.13'	N	20
17	47	5 1732.28°E	414.90'	N	21
18	48	5 743.42°W	1.15'	N	22
19	49	5 6040.59°W	57.43'	N	23
20	50	5 6733.15°W	320.75'	N	24
21	51	5 6271.54°W	238.32'	N	25
22	52	5 3528.48°W	102.57'	N	26
23	53	5 4928.21°W	49.54'	N	27
24	54	5 5438.51°W	43.54'	N	28
25	55	5 4837.07°W	41.50'	N	29
26	56	5 4251.35°W	109.26'	N	30
27	57	5 6239.26°W	139.10'	N	31
28	58	5 6444.37°W	174.59'	N	32
29	59	5 6321.57°W	87.50'	N	33
30	60	5 7351.42°W	204.90'	N	34
31	61	5 7351.42°W	1.45'	N	35
32	62	5 7351.42°W	1.45'	N	36
33	63	5 8142.41°W	114.12'	N	37
34	64	5 8555.53°W	159.28'	N	38
35	65	5 8555.53°W	207.10'	N	39
36	66	5 7419.13°W	307.32'	N	40
37	67	5 8928.26°W	175.95'	N	41
38	68	5 7216.27°W	243.55'	N	42
39	69	5 4056.59°W	114.04'	N	43
40	70	5 0027.01°E	314.04'	N	44
41	71	5 3171.01°E	721.02'	N	45
42	72	5 3171.01°E	213.79'	N	46
43	73	5 3171.01°E	105.48'	N	47
44	74	5 5728.10°W	102.43'	N	48
45	75	5 4472.52°W	64.90'	N	49
46	76	5 0955.05°W	345.80'	N	50
47	77	5 4273.37°W	197.81'	N	51
48	78	5 4273.37°W	261.08'	N	52
49	79	5 5402.22°W	343.55'	N	53
50	80	5 784.2°W	264.88'	N	54
51	81	5 7556.25°W	32.18'	N	55





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

IN THE MATTER OF APPLICATION	)	
	)	NOTICE OF CONFERENCE
FOR PERMIT NO. 79-07250 IN THE	)	
	)	
NAME OF JAMES A. KLAUS.	)	
	)	

On December 13, 1996, James A. Klaus filed with the Department of Water Resources (Department) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by James Kilgore.

The Department has set the matter of protest for a conference to be held on Wednesday, April 16, 1997, at 10:30 a.m., at the White Bird City Hall, White Bird, Idaho. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The Department will provide the opportunity for parties to the matter to respond and present information and argument on the issues involved.

The conference 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 conference, please advise the department within (10) days prior to the conference.

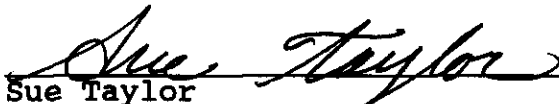
Dated this 27th day of March, 1997.



Gary Spackman

RECEIVED
DEC 11 1997

I hereby certify that on the 27th day of March,
1997, I mailed a true and correct copy, postage prepaid, of
this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary/Office Coordinator

JAMES A KLAUS
HC 1 BOX 64
WHITE BIRD ID 83554

JAMES KILGORE
HC 1 BOX 118
WHITE BIRD ID 83554

DEC 9 1997

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. the applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file a petition for reconsideration, exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

Any hearing scheduled 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 within ten (10) days prior to the hearing.

10/1/2011

10/1/2011



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 4, 1997

JAMES KILGORE
HCO1 BOX 118
WHITE BIRD ID 83554

Re: Application for Permit No. 79-07250 in the Name of James A. Klaus

Dear Protestant:

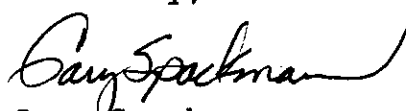
This office acknowledges receipt of your protest(s) to the issuance of a permit pursuant to the above referenced application(s). The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest(s) have been resolved, the matter will be scheduled for conference. The following are the criteria the Department must consider in either approving or denying an application or permit (Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

If this office can be of further assistance, please contact us.

Sincerely,


Gary Spackman

GS/st



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 4, 1997

JAMES A KLAUS
HC 1 BOX 64
WHITEBIRD ID 83554

Re: Application for Permit No. 79-07250

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application(s). The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) have been resolved, the matter will be scheduled for a conference. The following are the criteria the Department must consider (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Please contact this office if you have questions regarding this procedure.

Sincerely,

Gary Spackman

Enclosure: Copy of protest(s)

GS/st

RECEIVED

FEB 28 1997

WATER RESOURCES
WESTERN REGION

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO
County of Idaho - ss.

The following application was made to appropriate the public waters of the State of Idaho:

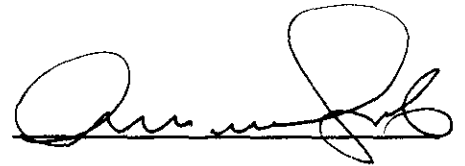
KLAUS, JAMES A.
HC 1 BOX 64
WHITE BRD, ID 83554
Source: GREGORY CREEK
Tributary: SALMON RIVER
Division Pt: SWSW Sec. 26 T 28N R 01E
in IDAHO County
Use: AESTHETIC (0.040 CFS)
Total Diversion: (0.040 CFS)
Date Filed: 12/13/1996
In: IDAHO COUNTY
T28N R01E S20 (SESW)
79-07251

FELDMANN, STEVEN
PO BOX 3500
PORTLAND, OR 97206
Source: SPRING
Tributary: LITTLE HAMMER CREEK
Source: LITTLE HAMMER CREEK
Tributary: HAMMER CREEK
Division Pt: SWSNE Sec 18 T 28N R 01E
in IDAHO County
SENE Sec. 18 T 28N R 01E in IDAHO
County
Use: AESTHETIC (0.040 CFS)
Total Diversion: (0.040 CFS)
Date Filed: 12/12/1996

Persons will be subject to all prior water rights. Persons may be submitted based on the criteria of Sec. 42-200A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83703 together with a protest fee of \$25.00 on or before FEBRUARY 24, 1997. The protest must also send a copy of the protest to the applicant.

KARE JENSEN, Director
February 26/1997 R 2/13/1997

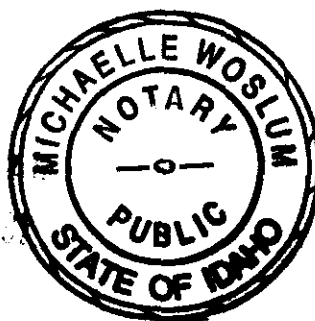
Andrew J. Mc Nab, being first duly sworn, says she is the Publisher of the IDAHO COUNTY FREE PRESS, a weekly newspaper published and issued weekly at Grangeville, Idaho county, State of Idaho, and is of general circulation in said county and state, that the said notice, of which the one hereto attached is a true copy, was published in said paper for 2 weeks, being published 2 times, the first publication being on the 5 day of February, 19 97, and the last publication on the 12 day of February, 19 97; and that the said notice was published in the newspaper proper and not a supplement; that said newspaper has been continuously and uninterruptedly published in said county during a period of seventy-eight consecutive weeks prior to the publication of said notice or advertisement.



STATE OF IDAHO }

COUNTY OF }

On this 12 day of February in the year of 1997,
Before me, a Notary Public, personally appeared Andrew J. Mc Nab, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.



Michaelle Woslum

Notary Public for Idaho
Residing at Grangeville, ID
My commission expires: 01-16-2002

3/86

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST**

RECEIVED

FEB 20 1997

**WATER RESOURCES
WESTERN REGION**

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. **Matter being protested** Application for Permit 79-07250, name JAMES A. KLAUS
2. **Name of protestant** JAMES KILLGORE
3. **Protestant's representative for service (If different than protestant)**
DENNIS L. ALBERS, Attorney at Law, P.O. Box 314, Grangeville, ID 83530
4. **Service mailing address** HCO1 Box 118, White Bird, ID 83554
5. **Service telephone no.** (208) 839-2442
6. **Basis of protest (including statement of facts and law upon which the protest is based)**
See Exhibit A, which is attached hereto.

(additional pages may be attached to describe the nature of the protest)

7. **What would resolve your protest?** Deny application for Permit, or allow the same only in times where there is an excess of water over the Protestants first established water rights, or when the Protestants are not using the water in the non-irrigation season.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 19th day of February, 19 97.

James Killgore
PROTESTANT

Dennis L. Albers
PROTESTANT'S REPRESENTATIVE

MICROFILMED
DEC 11 1997

NOTE:

A protestant is required to timely file a protest with the department together with a \$25.00 protest fee for each application being protested in order for the protestant to be considered a full party by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant. Only one (1) protestant may be shown per protest form. If this protest form is signed by more than one person, the hearing officer will consider the first signer as the official protestant and the representative for service of documents.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by DBuffington Date 2/20/97 Time 9:39am.
\$25.00 fee Received by DB # W021975 Date 2/20/97

MIOPCFILMED
DEC 11 1997

RECEIVED

FEB 20 1997

WATER RESOURCES
WESTERN REGION

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

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MICROFILMED
DEC 11 1997

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Any hearing scheduled 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 within ten (10) days prior to the hearing.

MICROFILMED

DEC 11 1997

RECEIVED

FEB 20 1997

WATER RESOURCES
WESTERN REGION

JAMES KILLGORE
EXHIBIT A

1. Giatigny Water Right December 18, 1893
2. Judgment entered April 9, 1928, Quiet Title (Father's Water Right) 100 Miners Inch
3. Case No. 3748 Filed February 23, 1928, Shuck Creek
4. Letter dated April 21, 1950, Start of dispute with Stearns.
5. Letter dated June 26, 1950, from Attorney Marcus J. Ware
6. Letter dated September 25, 1950, from Attorney Marcus J. Ware.
7. Letter dated November 15, 1950, from Attorney Marcus J. Ware.
8. Letter dated November 17, 1950, from Attorney Marcus J. Ware.
9. Letter dated December 21, 1950, from Attorney Marcus J. Ware, which mentions release.
10. Letter dated March 14, 1951, from Attorney Marcus J. Ware, re: negotiating.
11. Letter dated May 16, 1951, from Attorney Marcus J. Ware, to look over Decree.
12. Decree, dated May 1951, which was to be reviewed.
13. Letter dated May 23, 1951, from Attorney Marcus J. Ware, which talks about the Release.
14. Letter dated July 3, 1951, from Attorney Marcus J. Ware, re: Offer to accept or reject the Decree as a proposal.
15. Release, dated September 1951.
16. Letter dated September 17, 1951, from Attorney Marcus J. Ware, re: signing the Release.
17. Letter dated October 29, 1951, from Attorney Marcus J. Ware, Settlement by Decree.
18. Decree, dated October 29, 1951.

DEC 11 1997

19. Order of Dismissal #5322, dated October 29, 1951.
20. Attorney bill, for Cox, Ware, & Stellmon, Attorneys at Law.
21. Letter dated October 31, 1951, from Attorney Marcus J. Ware, states old Giatigny Water Right Certified at Court House.
22. Idaho Department of Water Resource Receipt #C001306, dated June 10, 1988.
23. Idaho Department of Water Resource Receipt #C001307, dated June 10, 1988.
24. Idaho Department of Water Resources Adjudication Claim Profile Report, AJ0749NP, No. A79-04113, dated January 12, 1996.
25. Idaho Department of Water Resources Adjudication Claim Profile Report, AJ0749NP, No. A79-04062, dated January 12, 1996.
26. Idaho Department of Water Resources Adjudication Claim Profile Report, WR0749NP, No. 79-04062, dated January 12, 1996.
27. Idaho Department of Water Resources Adjudication Claim Profile Report, WR0749NP, No. 79-04113, dated January 12, 1996.

MICROFILMED
DEC 11 1987

Notice is hereby given that the undersigned, a citizen of the United States of the County and State of Idaho, over the age of twenty one years, now this day in accordance with the acts of Congress in relation to Water Rights upon the public domain, public lands of the United States and the legislative enactments of the State of Idaho, have this day located, claimed and appropriated and do claim, locate and appropriate for irrigation and agricultural purposes the water flowing at this the intended point of diversion - to the extent of fifty inches - in the stream or creek the same being known as "Dawrence Creek" situated in White Bird Precinct in the County of Idaho, State of Idaho.

The quantity of water hereby claimed, diverted and appropriated from this level under a four inch pressure, is fifty (50) inches the said point of diversion being the left hand North side of said stream as it flows between the farms or ranches of Marie Glatigny and Victor Christen and a point about half way between the center North sides of the said Marie Glatigny's farm or ranch; the same being the point where this notice is posted.

Said waters are to be taken from said level at the point of diversion and conveyed in a ditch, eighteen inches wide at the bottom and not less than one foot deep.

Said ditch, will run North or in a Northerly direction from said point of diversion and said waters are to be conducted upon the farm or ranch of Marie Glatigny and there used for the purpose of irrigating said farm or ranch and of raising fruit and vegetables thereon and for the growing of general farm products.

Victor Christen
M. Thuerk

Witness my hand this 14th day of December A.D. 1893
Marie Glatigny Covert

State of Idaho to ss.

County of Idaho, Marie Glatigny being first duly sworn says that he is the same person who described the foregoing notice of location of a water right that he has posted and that the foregoing is a true copy, on the ground, to wit, as the point of diversion and that he has made the said location in good faith and for the uses and purposes therein mentioned and that the said notice was posted on the ground on the December 14th 1893.

Marie Glatigny

Subscribed before me
this 14th day of Dec. 1893

J. L. Schie Notary Public

MICHAEL

DEC 11 1893

6000
Filed
Dec 11 1893
J. L. Schie

Recd for record the 14th day of December A.D. 1893 at 3:14

M. J. Knoll Acting Recorder

IN THE DISTRICT COURT OF THE TENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO IN AND FOR THE COUNTY OF IDAHO.

WILLIAM P. KILLGORE and BERTHA
KILLGORE,

Plaintiffs,

-vs-

WALTER J. GARDNER,

Defendant,

J U D G M E N T

In the above entitled cause the defendant having been duly and regularly served with summons and having appeared herein and filed his demurrer, which was overruled, and the defendant having been given until March 31, 1928, to answer, and no answer or other appearance thereafter having been made and the time for answer having expired and the default of the defendant having been entered, and the court having heard evidence, and it appearing that the allegations of plaintiffs complaint are true and correct, and the parties having stipulated that judgment might be entered in accordance with the provisions of such stipulation,

NOW, THEREFORE, IT IS ORDERED, ADJUDGED and DECREED that the plaintiffs are the owners of and in the possession of a first and prior right to divert and use the waters of the creek known as Shuck Creek flowing into the Salmon River adjacent thereto, which use upon the lands hereinafter described, and of the right to divert the said water through ditches dug from the said creek and conveying the same to the said lands, the point of diversion being about 50 feet from the southwest corner of lot 2 of section 21, in Township 28 N. R. 1, E. 3. M. in a westerly direction and at a point now marked upon the ground and where are built headgates in the ditches of the plaintiffs so diverting the said waters, and the said waters

~~separate~~ ditches . . . in a northerly and southerly direction from the said point of diversion, and that they are entitled to the use of said waters and to divert the same as aforesaid, to the full capacity of the said ditches, to-wit, to the extent of 100 miners inches, measured under a four-inch pressure and being two cubic feet per second, so long as the waters of said creek furnishes that amount, and thereafter to the extent and amount of all the water flowing in the said creek, and to use the same for irrigation upon the said lands and for domestic purposes and watering stock thereon and adjacent thereto, it being adjudged and decreed that the said amount of water is required and necessary for the irrigation of the said lands and for the said purposes, the said lands heretofore mentioned being situated in Idaho County, Idaho, and described as follows, to-wit:

"All the portion of lots 1 and 2 of section 34 lying east of the public road laid out across the same, and the unplatted portion of lot 4 in section 33, the same being the portion lying south of the east and west center line of said section, and in Township 28 N. R. 1, E. B. M.

"Also Blocks 2 and 9, and lots 12, 13, 14, 15, 16, 17 and 18 of Block 3, and lots 13, 14 and 15 of Block 8, and all streets adjacent thereto in the townsite of Copperville, according to the recorded plat thereof.

It is further ordered, adjudged and decreed that the said rights of plaintiffs to the use of said waters is of the date and priority of the year 1898, and is superior, prior and paramount to any right which the said defendant has to divert or use the said waters for any purpose, and that the said defendant and all persons claiming under him, be, and they are hereby enjoined, restrained and dobarred from in any way interfering with the use of the said waters by plaintiffs as aforesaid, and from in any way opening, breaking or interfering with the ditches of plaintiffs conveying the said waters to the

MICROFILMED
DEC 11 1997

3
COMPILED
INDEXED

said lands, and for the said uses, and from in any way asserting any right to the use of said waters adverse to plaintiffs; provided, however, that the defendant shall have the right to the use of any of said waters for irrigation and domestic purposes in excess of the amount so awarded and adjudged to the plaintiffs herein and at such time and in such manner as shall not interfere with the uses and rights of the plaintiffs as aforesaid, and to make such use (subject to the rights of plaintiffs) through the ditches heretofore opened by the defendant to convey water from the said creek to the lands of defendant, which lands of defendant are described as Blocks 4, 5, 6, 7 and 15 in the townsite of Copperville, according to the recorded plat thereof of record in the office of the recorder of Idaho County, Idaho.

This judgment shall have the same force and effect as if rendered and entered in open court.

Done at Chambers in the said District, this 9th day of

April, 1928.

Wm. E. Johnson
J u d g e

Entered
FILED

AT - O'Clock

APR 12 - 1928

HENRY TELCHER

Recorder of the District Court

Idaho County, Idaho

Vol. 7 p. 85

of judgments

DEC 11 1927

WILBUR L. CAMPBELL
ATTORNEY AT LAW
GRANGEVILLE, IDAHO

May 23, 1949

Mr. James J. Kilgore
Whitebird, Idaho

Dear Mr. Kilgore:

After you were in the office, I went to the Courthouse and looked up the action of your father and mother against Walter J. Gardner. A judgment was entered on April 9, 1928 quieting your father's title in to the water right which is recited to be "100 miner's inches, or 2 cubic feet per second, to be used for domestic purposes, watering stock and irrigation of land, all that portion of Lots 1 and 2, Section 21, lying East of the public road and unplatted portion of Lot 4, Section 22, lying South of the East and West center line of said Section in Township 28 N. R. 1 E. B. M. Also Blocks 2 and 9 and Lots 12, 13, 14, 15, 16, 17 and 18 of Block 3 and Lots 13, 14 and 15 of Block 8 and all streets adjacent thereto in the townsite of Copperville.

The former appropriation was made by Marie E. V. Glatigny and M. Glatigny. The water right gives you use of 100 inches at all times when the stream flows that amount. If the stream flows less than 100 inches, you are entitled to the entire flow of the stream, which is Shuck Creek.

This information is taken from Case Number 3748 in the District Court, the action having been filed February 23, 1928.

My charge for the record search is \$5.00.

Sincerely yours


WILBUR L. CAMPBELL

WLC:mf

DEC 11 1949

12/18/1893

Notice of Water Right

Notice is hereby given that the undersigned, a citizen of the United States of the County and State of Idaho, over the space of twenty five years, have in Idaho in accordance with the acts of Congress in relation to Water Rights upon the public domain, public lands of the United States and the legislative enactments of the State of Idaho, have this day located, claimed and appropriated a claim, locate and appropriate for irrigation and agricultural purposes in the water flowing at this the intended point of diversion - to the extent of fifty inches - in this stream or creek the same being known as "Dawson's Creek" situated in White Bird Precinct in the County of Idaho, State of Idaho.

The quantity of water hereby claimed, diverted and appropriated from this creek under a four inch forebay, is fifty (50) inches at the said point of diversion being the left and North side of said lower or stream as it flows between the farms or ranches of Marie Blatigny and Victor Lebratien at a point about half way between the East and West sides of the said Marie Blatigny's farm or ranch; the same being the point where this notice is posted.

Said waters are to be taken from said creek at the point of diversion and conveyed in a ditch, eighteen inches wide at the bottom and not less than one foot deep.

Said ditch, will run North or in a Northerly direction from said point of diversion and said waters are to be conducted upon the farm or ranch of Marie Blatigny and there used for the purpose of irrigating said farm or ranch and of raising fruit and vegetables thereon and for the growing of general farm products.

Witness my hand this 14th day of December A.D. 1893
Victor Lebratien
Marie Blatigny Locator

State of Idaho ss.
County of Ada,) Marie Blatigny being first duly sworn says that he is the same person who subscribed the foregoing notice of location of a water right that he has posted a notice of which the foregoing is a true copy, on the grounds to run at the point of diversion and that he has made the said location in good faith and for the uses and purposes therein mentioned and that the said notice was posted on the ground on the December 14th 1893.
Marie Blatigny

Before me subscribed before me this 16th day of Dec. 1893



o'clock P.M.

J. S. McShie Notary Public

Filed for record the 18th day of December A.D. 1893 at 3:10
M. J. McKee, Acting Recorder

Notice is hereby given that the undersigned, a citizen of the United States of the County of Idaho, over the age of twenty-one years, have on this day in accordance with the Acts of Congress in relation to Water Rights upon the public domain, public lands of the United States and the legislation enactments of the State of Idaho, have this day located, claimed and appropriated and claim, locate and appropriate for irrigation and agricultural purposes in the water flowing as the intended point of diversion - to the extent of fifty inches - in the stream or creek the same being known as "Dormezey Creek" situated in White Bird Precinct in the County of Idaho, State of Idaho.

The quantity of water hereby claimed, diverted and appropriated from this level under a four inch pressure, is fifty (50) inches at the said point of diversion being the left hand North side of said lower of stream as it flows between the farms or ranches of Marie Glatigny and Victor Lebratien as a point about half way between the east and West sides of the said Marie Glatigny's farm or ranch; the same being the point where this notice is posted.

Said water are to be taken from said level at the point of diversion and conveyed in a ditch, eighteen inches wide at the bottom and not less than one foot deep.

Said ditch, will run North or in a Northerly direction from said point of diversion and said water are to be conducted upon the farm of or ranch of Marie Glatigny and there used for the purpose of irrigating said farm or ranch and of raising fruit and vegetables thereon and for the growing of general farm products.

Witness my hand this 14th day of December 1893
 Marie Glatigny Lebratien
 Victor Lebratien
 W. H. H. &

State of Idaho ss.
 County of Id.) Marie Glatigny being first duly sworn says that he is the same person who described the foregoing notice of a water right, that he has posted a notice of which this foregoing is a true copy, on the ground at the point of diversion and that he has made the said location in good faith and for the uses and purposes therein mentioned and that the said notice was posted on the ground on the December 14th 1893.
 Marie Glatigny

Sworn to and subscribed before me this 14th day of Dec. 1893
 J. H. H. H. Notary Public

MICROFILMED
 DEC 11 1937

Sealed
 10 o'clock P.M.

Filed for record the 14th day of December A.D. 1893 at 3:10
 W. H. H. H. Acting Recorder

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

TELEPHONE 203

April 21, 1950

Mr. James J. Killgore
Whitebird, Idaho

Re: Killgore vs. Stearns, et al.

Dear Mr. Killgore:

I have your letter of April 19, advising me that Mr. Newman and Mr. Bedford are quite concerned and that you would like to have me come and look over the situation before the twenty days are up.

As I recall, Mr. Newman does not use any of the water and has no claim. Therefore, it will be unnecessary for him to go to Grangeville or get an attorney to represent him in any way, unless he wishes to do so. With respect to Mr. Bedford--if he claims a water right adverse to you, I think he should get an attorney to protect his interest. However, you can assure both Mr. Newman and Mr. Bedford that we will not take any default against them or have any judgment entered against them until after I have had an opportunity to come to Whitebird, go over the ground and talk the matter over with you and with them. I would like to do this right away, but it will be impossible for me to come to Whitebird as matters now stand until after the McAdams case is tried. This trial is set for May 2. When the case is concluded, I will get in touch with you and arrange a time when I can meet Mr. Newman and Mr. Bedford and you at Whitebird. Perhaps this can be done around May 20. This will depend, however, upon the state of the McAdams case at that time.

You can show this letter to Mr. Bedford and Mr. Newman, and this should satisfy them until I have had a chance to come to Whitebird and see them and you.

Very truly yours,

Marcus J. Ware
Marcus J. Ware

MJW:hmg

MICROFILMED
DEC 11 1997

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

June 26, 1950.

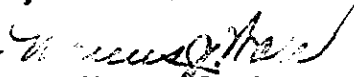
Mr. James J. Killgore,
Whitebird, Idaho.

Dear Mr. Killgore:

Mr. Cramer and the writer plan on coming
to your place on Saturday, July first, to look over
the water situation. We will not be able to take
your Father's testimony at that time, but no doubt
we can agree on a date for that purpose at that time.

Yours very truly,

COX, WARE & STELLMON

By 
Marcus J. Ware

MJW:H

RECEIVED

DEC 11 1950

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

September 25, 1950

Mr. James Killgore
White Bird, Idaho

Re: Killgore v. Stearns et al.

Dear Mr. Killgore:

The other day Mr. Boren, the court reporter, furnished us with a copy of the testimony of Mr. Bedford and your father taken at Grangeville, July 17th. We have gone over this, calling attention to one or two slight errors which have been corrected and the original deposition will be filed at Grangeville so as to be available for the trial.

The court will meet at Grangeville on Wednesday, October 18, 1950, and the calendar will be called and cases will be set for trial. The Judge intends to have a jury term at Grangeville during November. Your water right case of course is a court case and not a jury case, so we are not now certain just what date the court will set for the actual trial of this case.

Someone from our office will be at Grangeville on October 18, and as soon as we know the date of the actual setting, we will advise you.

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d

RECEIVED
OCT 1 1950

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

November 15, 1950

Mr. James Killgore
White Bird, Idaho

Re: Killgore v. Stearns, et al.

Dear Mr. Killgore:

Mr. Cramer called me today and said that Mr. Stearns had talked with him last night over the phone and said that he was going to fight the case. Therefore, I will expect to see you at Grangeville next Monday morning, and will assume that you have the witnesses you wish on hand.

I am still trying to get in touch with John Doumecq, but I don't think that he will be a necessary witness. I don't think it will be necessary to have Mr. Herron present as there is no real dispute as to the point from where you are taking the water.

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d

RECEIVED
DEC 11 1950

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

November 17, 1950

Mr. James Killgore
White Bird, Idaho

Re: Killgore v. Stearns, et al.

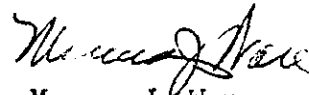
Dear Jim:

At 6:30 last night, Mr. Gramer called me and after making certain that I would not reduce our suggested settlement figure of \$475.00 which you had submitted to Mr. Stearns, Mr. Stearns agreed to a stipulated decree along the lines we discussed, namely, recognizing your right to 50 inches of water as a first and prior right and to the payment to you of \$475.00 upon the delivery of a proper release.

We have accordingly requested the Judge to vacate the setting of the case for Monday and Mr. Gramer and our office will work out a form of stipulation and decree which should settle the controversy favorably to you. We called your wife today and told her to tell you that the case will not be tried Monday and that it was not necessary for you or the witnesses to go to Grangeville then. We also requested her to have you notify Mr. Bedford so that he would not have to come out to Grangeville that day. We had called Mr. Campbell previously and he had asked us to have you notify Mr. Bedford. The phone connection was very poor so that the information had to be relayed through the operator at White Bird.

With kind personal regards, I remain

Very truly yours,


Marcus J. Ware

MJW:d

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

December 21, 1940

Mr. James J. Killgore
White Bird, Idaho

Dear Mr. Killgore:

We have your wife's letter of December 19. The form of release to be signed by you when the \$475.00 is paid by Mr. Stearns, has been drawn up and sent to him for his consideration. We are working on a decree establishing the water right. We hope to have this done and agreed upon before the end of this year, and if possible, signed by the District Judge.

We wish for you and your family and your parents
a most Merry Christmas and a very Happy New Year.

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d

MICROFILMED
DEC 11 1997

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

March 14, 1951

Mr. James J. Killgore
White Bird, Idaho

Re: Killgore v. Stearns, et al.

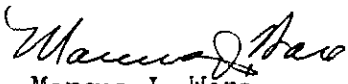
Dear Mr. Killgore:

A short time ago Mr. Stearns, after a conference with his attorney, said he was not going to settle on the basis agreed upon. We advised Mr. Cramer that if Mr. Stearns did not wish to settle, we would have to stand on our original claim for 100 inches of water and would also have to start suit to recover the damages. Mr. Cramer left Mr. Stearns with the idea that he should think the matter over and decide finally what he wanted to do.

Mr. Cramer has just been advised by Mr. Stearns that he had decided to try and buy out your water right and that he had offered you \$1,000 for it and that you were considering it. Of course, you should understand that this is only \$525.00 more than the damage settlement figure originally agreed upon. We gravely advise you against the selling of your water right to Mr. Stearns unless you can get enough money to justify you in installing adequate facilities to pump water at all times from the river.

Very truly yours,

COX, WARE & STELLMON

By 
Marcus J. Ware

MJW:d

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

TELEPHONE 203

May 16, 1951

Mr. James Killgore
White Bird, Idaho

Re: Killgore v. Stearns

Dear Jim:

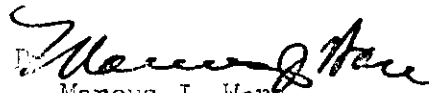
I am enclosing a draft of a decree embodying the settlement agreed upon.

We have delivered copies to Mr. Cramer so that he can send one copy to Mr. Stearns.

We wish you would look it over and see whether or not it suits, assuming that the settlement can be carried out.

Very truly yours,

COX, WARE & STELLMON


Marcus J. Ware

MJW:d
encl

IN THE DISTRICT COURT OF THE TENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

JAMES J. KILLGORE and JOSEPHINE
KILLGORE, His wife,

Plaintiffs,

-vs-

C. D. STEARNS and LOLA E. STEARNS,
husband and wife, GROVER C. NEWMAN
and ZOLA M. NEWMAN, husband and wife,
and FRED BEDFORD, a widower,

Defendants.

D E C R E E

This cause coming on for hearing pursuant to stipulation of the attorneys of record for the parties appearing herein, and it appearing to the court that two of the defendants, Grover C. Newman and Zola M. Newman, husband and wife, were duly and regularly served with summons herein in Idaho County, on April 6, 1950, in the manner required by law and that said defendants, and each of them, have failed to appear and plead herein within the time required by law and are not now in the service of the Armed Forces of the United States or in any service related thereto, and the default of said defendants, and each of them, having been duly and regularly entered, and the defendants, C. D. Stearns and Lola E. Stearns, husband and wife, having appeared by John W. Cramer, their attorney of record herein and Fred Bedford, a widower, having appeared by Wilbur L. Campbell, his attorney of record herein, and the plaintiffs appearing by Cox, Ware & Stellmon, their attorneys of record herein, and the parties appearing in the above entitled cause having agreed to a settlement of their respective rights and having stipulated for the entry of a decree pursuant to said agreement, and oral and documentary evidence having been heard, submitted and considered by the court and findings of fact and conclusions of law having been waived, and the court being fully advised in the premises:

NOW THEREFORE, premises considered,

IT IS HEREBY CONSIDERED, ORDERED, ADJUDGED and DECREED that the plaintiffs, James J. Killgore and Josephine Killgore, his wife, are the owners of, and in the possession of a first and prior right with priority dating from the year 1893, to divert and use the waters of the creek known as Shuck Creek, formerly Gregory Creek, flowing into the Salmon River adjacent thereto, which use upon the lands hereinafter described, and of the right to divert the said water to ditches dug from the said creek and conveying the same to the said lands is hereby adjudicated to vest in plaintiffs and that they are entitled to the use of said waters and to divert the same as aforesaid to the extent of 50 miner's inches measured under a four inch pressure and being one cubic foot per second of time of the waters flowing in said creek, so long as the waters of said creek furnish that amount, and thereafter to the extent and amount of all the water flowing in the said creek when less than that amount, and to use the same for irrigation upon the said lands, it being adjudged and decreed that the said amount of water is required and necessary for the irrigation of the said lands and for the said purposes, the said lands heretofore mentioned being situated in Idaho County, Idaho, and described as follows, to-wit:

That portion of Lots One (1) and Two (2) of Section 21, Township 28 North, Range 1, E.B.M., lying east of the county road running through said lots and all of the unplatted portion of Lot Four (4), in Section 22, Township 28 North, Range 1, E.B.M.,

Also, all of Block 1; Lots 1 to 8 inclusive in Block 2; Lots 13 to 15 inclusive in Block 2; Lots 18 to 20 inclusive in Block 2; Lots 13 to 15 inclusive in Block 8; Lots 1 to 8 inclusive in Block 9; Lots 11 to 14 inclusive in Block 9; Lot 1 in Block 10; Lot 2 in Block 10; Lots 7 to 10 inclusive in Block 10; Lots 13 to 15 inclusive in Block 10; Block 11; Block 12; Block 22; Lots 4 and 5 in Block 23; Block 24 and all streets adjacent to said lots and blocks, all in the Townsite of Copperville in Idaho County, Idaho, according to the recorded plat thereof.

DEC 11 1937

IT IS FURTHER ORDERED, that the plaintiffs' right to divert water for irrigation as aforesaid is at two points of diversion on Shuck Creek, formerly known as Gregory Creek; that each of said points of diversion is located where said creek flows through Lot Three (3) of Section 22, Township 28 North, Range 1, E.B.M., in what is shown on the plat of the Townsite of Copperville as "G" Street; that the first point of diversion is approximately one hundred twenty feet (120) in a northeasterly direction from the quarter section corner common to said Sections 21 and 22 (through which corner said creek flows); and that the second point of diversion of plaintiffs is likewise located in said Lot Three (3) on said "G" Street and is at a point approximately Two Hundred thirty-one feet (231) easterly of said quarter section corner.

IT IS CONSIDERED, ORDERED, ADJUDGED and DECREED that the defendants, C. D. Stearns and Lola E. Stearns, his wife, are the owners of and in the possession of a right to divert and use the waters of the creek known as said Shuck Creek formerly Gregory Creek, with a priority dating from the year 1898, which use upon the lands hereinafter described, and of the right to divert the said water to ditches dug from the said creek and conveying the same to the said lands, is hereby adjudicated to vest in said defendants and that they are entitled to the use of said waters and to divert the same as aforesaid, to the extent of 100 miner's inches measured under a four inch pressure and being two cubic foot per second of time of the waters flowing in said creek, whenever there is any excess of water in said creek over and above the first and prior water right of the plaintiffs hereinbefore decreed and the use of the same for irrigation upon the said lands is hereby confirmed in said defendants, it being adjudged and decreed that the said amount of water diverted by the said defendants is required and necessary for the irrigation of the said lands and for the said purposes, the said lands heretofore mentioned being situated in Idaho County, Idaho, described as follows, to-wit:

Section Twenty (20) and Twenty-one (21), Township 28 North, Range 1, E.B.M., excepting therefrom those portions

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED and DECREED that the said water rights of the plaintiffs, James J. Killgore and Josephine Killgore, his wife, to the use of said waters is superior, prior and paramount to any right which the said defendants, C. D. Stearns and Lola E. Stearns, or either of them have to divert or use said water for any purpose, and that the said defendants, and each of them, and all persons claiming under them, or either of them, be and they are hereby enjoined, restrained and debarred from in any way interfering with the use of the said waters by the plaintiffs as foresaid and from in anyway asserting any right to the use of said waters adverse to plaintiffs; provided however, that the said defendants shall have the right to the use of any of said waters for irrigation in excess of the amount so awarded and adjudged to the plaintiffs herein, to the extent of the water right adjudicated in said defendants, and at such times and in such manner as shall not interfere with the uses and rights of the plaintiffs as aforesaid.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED and DECREED that the irrigating season of the plaintiffs herein and the defendants C. D. Stearns and Lola E. Stearns, his wife, extends from the first day of April to the 30th day of November in each year and that it has been the practice and custom of the plaintiffs and said defendants and their predecessors in interest to continue to irrigate said lands during the winter until the ground freezes, and thereafter to commence irrigation in the spring at as early a date as weather and climatic conditions will permit and that during some years irrigation is commenced prior to April.

IT IS FURTHER ORDERED that the plaintiffs' complaint be and the same hereby is dismissed as to the defendant, Fred Bedford, a widower.

IT IS FURTHER ORDERED that each party pay his own costs herein incurred.

Done this ____ day of May, 1951.

Harry J. Hanley, District Judge

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

May 23, 1951

Mr. Jim Killgore
White Bird, Idaho

Re: Killgore v. Stearns

Dear Jim:

When we sent a copy of the proposed decree to you, we also delivered two copies to Mr. Cramer so that he could send one on to Mr. Stearns. The decree protects the rights of both parties in accordance with the settlement agreed upon. Now Mr. Stearns is to pay \$475.00 cash and you are to execute a release. Your father should also join in this release because he reserved some interest in the property conveyed to you. The release form has been sent to Mr. Stearns by Mr. Cramer. To save time we would suggest that you request Mr. Stearns to let you have the release so that you and your father can sign it before a Notary Public at White Bird and mail it to us. Mr. Stearns should, at the same time, send the money agreed upon to Mr. Cramer. Then Mr. Cramer and the writer can submit the original decree to the District Judge here for his signature and filing. At the same time Mr. Cramer will pay us \$475.00 and we will deliver the release signed by your father and you to Mr. Cramer for Mr. Stearns.

This settles all matters between Mr. Stearns and you.

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d

COX, WARE & STELLMON
LAWYERS
LEWISTON NATIONAL BANK BLDG.
LEWISTON, IDAHO

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

TELEPHONE 203

July 3, 1941

Mr. James Killgore
Whitebird, Idaho

Re: Killgore v. Stearns Damage Action

Dear Jim:

When I wrote you the other day about Mr. Stearns proposal of settlement, I was busily engaged in the trial of a case and did not have opportunity to discuss the matter in any detail in my letter.

We are of the opinion that if the suits are maintained, you will be able to establish your water right at say 50 miner's inches, and that likewise you would very probably recover a judgment for damages in the damage suit recently instituted. The quantity and the amount of the damages which the jury would award you, of course, is a debatable matter and a matter on which we could not hazard a guess. However, in view of Mr. Stearns manner of action in questioning your water right, and in preventing your use of the water in 1948 and 1949 and in 1950 for that matter until suit was instituted, we ^{are} rather inclined to think that substantial damages would be awarded. The amount, of course, would depend upon the real loss that you could show in evidence.

We are willing to do whatever you wish. Either settle on the basis which Mr. Stearns is now willing to settle on, or litigate the matter as you wish or attempt further negotiations with Mr. Stearns. However, we rather imagine negotiations with Mr. Stearns will be rather fruitless as far as raising the settlement figure is concerned.

We do not wish to influence your thinking or your decisions one way or another. We do not wish to be responsible for continuing or accentuating or extending disagreement between neighbors. On the other the hand, we would wish, of course, to secure as favorable a settlement and as fair a recognition of your water right as is possible.

We will await your decision and instructions in these matters and endeavor to conclude the matters accordingly.

Very truly yours,

Marcus J. Ware
Marcus J. Ware

MJW:hnh

RELEASE

KNOW ALL BY THESE PRESENTS, that we, JAMES J. KILLGORE and JOSEPHINE KILLGORE, husband and wife, and WILLIAM P. KILLGORE and LUCYMA KILLGORE, husband and wife, for and in consideration of the sum of \$475.00, in hand paid by C. D. Stearns, the receipt whereof is hereby acknowledged, for ourselves, our heirs, executors and administrators, hereby release and forever discharge the said C. D. Stearns from all actions, causes of action, suits, controversies, claims, damages and demands of every kind and nature, for and by reason of the use of the lands of said C. D. Stearns located in Sections 17, 18, 19, 20, 21 and 30 in Township 28 North, Range 1, S.B.M., Idaho County, Idaho, or by the use of water from Shuck Creek, formerly known as Gregory Creek, prior to the date hereof, and especially from all claims, damages and demands accrued or to accrue to the date hereof by the use of said lands and diversion of said water to the fruit trees, crops, land, fences and ditches of the said Killgores on or to their lands located in Lots 1 and 2 of Section 21 and Lots and unplatted portion of Lot 4 in Section 22, Township 28 North, Range 1, S.B.M., Idaho County, Idaho, and all lots, blocks and streets in the Townsite of Copperville in Idaho County, Idaho. It being the intention hereby to release the said C. D. Stearns from all claims for damages of any kind and description by reason of the diversion of the water of said Shuck Creek, the construction of roads, the building of fences and the use and occupation of the land owned by the said C. D. Stearns for the years 1947, 1948, 1949 and 1950, and any damages accruing or claimed to have accrued after the date hereof by reason of the use and occupation of said land and diversion of said water prior to the date hereof.

IN WITNESS WHEREOF, we have hereunto set our hands and seals.

DEC 11 1950

this ____ day of September, 1951.

_____(SEAL)
James J. Killgore

_____(SEAL)
Josephine Killgore

_____(SEAL)
William P. Killgore

_____(SEAL)
Bertha Killgore

STATE OF IDAHO)
 : ss
County of _____)

On this ____ day of September, 1951, before me, the undersigned,
a Notary Public in and for the State of Idaho, personally appeared JAMES J.
KILLGORE and JOSEPHINE KILLGORE, his wife, and WILLIAM P. KILLGORE and
BERTHA KILLGORE, his wife, known to me to be the persons whose names are
subscribed to the within and foregoing instrument and acknowledged to me
that they executed the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my
official seal the day and year in this certificate last above written.

Notary Public in and for the State
of Idaho, residing at _____

REC 11 1951

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
IDAHO FIRST NATIONAL BANK BUILDING
LEWISTON, IDAHO

TELEPHONE 203

September 17, 1951

Mr. James Killgore
White Bird, Idaho

Dear Jim:

We enclose a Release which you should sign,
together with your wife and your father and mother, before a
Notary Public and return to us. The extra copy is for your
information.

We will, of course, not deliver the release
until we get the settlement money and have the decree affecting
the water right entered in court.

With best regards, we remain

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d
encl

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
IDAHO FIRST NATIONAL BANK BLDG.
LEWISTON, IDAHO

TELEPHONE 203

October 29, 1951

Mr. James Killgore
White Bird, Idaho

Re: Killgore v. Stearns

Dear Jim:

The Stearn cases were settled today. The Judge has signed a water right decree and also an order dismissing the damage suit.

We enclose a copy of the decree and a copy of the dismissal order.

Very truly yours,

COX, WARE & STELLMON

By *Marcus J. Ware*
Marcus J. Ware

MJW:d
encl

SEC 11 10

IN THE DISTRICT COURT OF THE TENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

JAMES J. KILGORE and JOSEPHINE
KILGORE, His wife,

Plaintiffs.

-vs-

G. B. STEARNS and LOLE E. STEARNS,
husband and wife, GROVER C. NEWMAN
and LOLE E. NEWMAN, husband and wife,
and FRED BEDFORD, a widower,

Defendants.

DECREE

This cause coming on for hearing pursuant to stipulation of the attorneys of record for the parties appearing herein, and it appearing to the court that two of the defendants, Grover C. Newman and Lole E. Newman, husband and wife, were duly and regularly served with summons herein in Idaho County, on April 6, 1950, in the manner required by law and that said defendants, and each of them, have failed to appear and plead herein within the time required by law and are not now in the service of the Armed Forces of the United States or in any service related thereto, and the default of said defendants, and each of them, having been duly and regularly entered, and the defendants, G. B. Stearns and Lole E. Stearns, husband and wife, having appeared by John M. Cramer, their attorney of record herein and Fred Bedford, a widower, having appeared by Wilbur L. Campbell, his attorney of record herein, and the plaintiffs appearing by Cox, Warr & Stellman, their attorneys of record herein, and the parties appearing in the above entitled cause having agreed to a settlement of their respective rights and having stipulated for the entry of a decree pursuant to said agreement, and oral and documentary evidence having been heard, submitted and considered by the court and findings of fact and conclusions of law having been waived, and the court being fully advised in the premises:

RECORDED

DEC 11 1950

NOW THEREFORE, premises considered,

IT IS HEREBY CONSIDERED, ORDERED, ADJUDGED and DECREED that the plaintiffs, James J. Killgore and Josephine Killgore, his wife, are the owners of, and in the possession of a first and prior right with priority dating from the year 1893, to divert and use the waters of the creek known as Duck Creek, formerly Gregory Creek, flowing into the Salmon River adjacent thereto, which use upon the lands hereinafter described, and of the right to divert the said water to ditches dug from the said creek and conveying the same to the said lands is hereby adjudicated to vest in plaintiffs and that they are entitled to the use of said waters and to divert the same as aforesaid to the extent of 50 minor's inches measured under a four inch pressure and being one cubic foot per second of time of the waters flowing in said creek, so long as the waters of said creek furnish that amount, and thereafter to the extent and amount of all the water flowing in the said creek when less than that amount, and to use the same for irrigation upon the said lands, it being adjudged and decreed that the said amount of water is required and necessary for the irrigation of the said lands and for the said purposes, the said lands heretofore mentioned being situated in Idaho County, Idaho, and described as follows, to-wit:

That portion of Lots One (1) and Two (2) of Section 21, Township 26 North, Range 1, E.2.R., lying east of the county road running through said lots and all of the unplatted portion of Lot Four (4), in Section 22, Township 26 North, Range 1, E.2.R.,

Also, all of Block 1; Lots 1 to 8 inclusive in Block 2; Lots 13 to 15 inclusive in Block 2; Lots 18 to 20 inclusive in Block 2; Lots 13 to 15 inclusive in Block 8; Lots 1 to 8 inclusive in Block 9; Lots 11 to 14 inclusive in Block 9; Lot 1 in Block 10; Lot 2 in Block 10; Lots 7 to 10 inclusive in Block 10; Lots 13 to 15 inclusive in Block 10; Block 11; Block 12; Block 22; Lots 4 and 5 in Block 23; Block 24, and all streets adjacent to said lots and blocks, all in the Townsite of Copperville in Idaho County, Idaho, according to the recorded plat thereof.

IT IS FURTHER ORDERED that the plaintiffs' right to divert water for irrigation as aforesaid is at two points of diversion on Chuck Creek, formerly known as Gregory Creek; that each of said points of diversion is located where said creek flows through Lot Three (3) of Section 22, Township 28 North, Range 1, E. 1/4, in what is shown on the plat of the Townsite of Copperville as "G" Street; that the first point of diversion is approximately one hundred twenty feet (120) in a northeasterly direction from the quarter section corner common to said Sections 21 and 22 (through which corner said creek flows); and that the second point of diversion of plaintiffs is likewise located in said Lot Three (3) on said "G" Street and is at a point approximately two hundred thirty-one feet (231) easterly of said quarter section corner.

IT IS CONSIDERED, ORDERED, ADJUDGED and DECREED that the defendants, C. B. Stearns and John E. Stearns, his wife, are the owners of and in the possession of a right to divert and use the waters of the creek known as said Chuck Creek formerly Gregory Creek, with a priority dating from the year 1898, which run upon the lands hereinafter described, and of the right to divert the said water to entrance and arch the said creek and conveying the same to the said lands, is hereby adjudicated to vest in said defendants and that they are entitled to the use of said waters and to divert the same as aforesaid, to the extent of 100 miner's inches measured under a four inch pressure and being two cubic feet per second of time of the waters flowing in said creek, whenever there is any excess of water in said creek over and above the first and prior water right of the plaintiffs heretofore decreed and the use of the same for irrigation upon the said lands is hereby confirmed in said defendants, it being adjudged and decreed that the said amount of water diverted by the said defendants is required and necessary for the irrigation of the said lands and for the said purposes, the said lands heretofore mentioned being situated in Idaho County, Idaho, described as follows, to-wit:

Section Twenty (20) and Twenty-one (21), Township 28 North, Range 1, E. 1/4, excepting therefrom those portions thereof belonging to the defendant Fred Bedford and the plaintiffs herein.

MADE
FILED

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED and DECREED that the water rights of the plaintiffs, James J. Millgore and Josephine Millgore, his wife, to the use of said waters in superior, prior and paramount to any right which the said defendants, C. H. Stearns and Lola E. Stearns, or either of them have to divert or use said water for any purpose, and that the said defendants, and each of them, and all persons claiming under them, or either of them, be and they are hereby enjoined, restrained and barred from in any way interfering with the use of the said waters by the plaintiffs as aforesaid and from in any way asserting any right to the use of said waters adverse to plaintiffs; provided however, that the said defendants shall have the right to the use of any of said waters for irrigation in excess of the amount so reserved and adjudged to the plaintiffs herein, to the extent of the water right adjudicated in said defendants, and at such times and in such manner as shall not interfere with the use and rights of the plaintiffs as aforesaid.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the irrigating season of the plaintiffs herein and the defendants C. H. Stearns and Lola E. Stearns, his wife, extends from the first day of April to the 30th day of November in each year and that it has been the practice and custom of the plaintiffs and said defendants and their predecessors in interest to continue to irrigate said lands during the winter until the ground freezes, and thereafter to commence irrigation in the spring at as early a date as weather and climatic conditions will permit and that during some years irrigation is commenced prior to April.

IT IS FURTHER ORDERED that the plaintiffs' complaint be and the same hereby is dismissed as to the defendant, Fred Bedford, a widower.

IT IS FURTHER ORDERED that each party pay his own costs herein incurred.

Done this 29th day of October, 1951.

APPROVED:

MARCUS J. WARE

JOHN W. CRAMER

Harry J. Hanley, District Judge

RECORDED
DEC 11 1951

IN THE DISTRICT COURT OF THE TENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

JAMES J. KILLGORE and JOSEPHINE
KILLGORE his wife. WILLIAM P.
KILLGORE and BERTHA KILLGORE,
his wife,

Plaintiffs,

-vs-

C. D. STEARNS,

Defendant.

NO. 532

ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to stipulation filed herein,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiffs'
complaint in the above-entitled action be, and the same is hereby,
dismissed with prejudice to another action.

Done this 29th day of October, 1951.

Harry J. Hanley, District Judge

Mr. J. J. Killgore
White Bird, Idaho

October 31, 1951

IN ACCOUNT WITH

COX, WARE & STELLMON

ATTORNEYS-AT-LAW

Re: James J. Killgore v. C. D. Stearns (two suits)

DR.

Disbursements

4-4-50	Filing fee	\$	15.00
4-10-50	Service of summons - Sheriff		10.20
4-10-50	Filing Lis Pendens		1.00
	Calls to White Bird & Grangeville 3-31-50 to 3-28-51.		5.99
10-13-50	Charles Boren - reporting & transcript		35.00
9-6-51	Service of summons - Damage suit		1.40
5-18-50	M. J. Ware to White Bird (Cramer Car) meals		4.00
7-1-50	M. J. Ware to White Bird		22.00
7-17-50	M. J. Ware to Grangeville, Plat \$1.00		
	Court Reporter Expenses \$16.00		17.00
	Postage		.57
	To services rendered re: water right suit		300.00
	To services rendered re: damage suit		50.00
	Total	\$	462.16
4-7-50	On account - James Killgore	\$	50.00
10-30-51	C. D. Stearns		475.00
	Total		525.00
	Balance due Mr. Killgore	\$	62.84

RECEIVED PAYMENT THIS

DAY OF

COX, WARE & STELLMON

BY _____

CLERK

EUGENE A. COX
MARCUS J. WARE
ELBERT A. STELLMON

COX, WARE & STELLMON
LAWYERS
IDAHO FIRST NATIONAL BANK BUILDING
LEWISTON, IDAHO

TELEPHONE 203

October 31, 1951

Mr. James J. Killgore
Whitebird, Idaho

Dear Jim:

As we wrote you the other day, the Killgore suits have finally been disposed of. We are returning herewith the two abstracts which you left with us, namely: Abstract No. 6115 compiled by Grangeville Savings and Trust Co., last certified to January, 1920, and abstract No. 16973 - 16991 compiled by Inland Abstract Company and last certified to May, 1944.

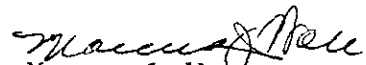
We are also enclosing a statement for our receipts and disbursements. As shown by this statement, the balance to you is \$62.84 for which our check is herewith enclosed.

Of course you know the old Glatigny water right certificate is with the deposition papers in the court files at Grangeville. In our opinion, it probably would be wise to leave the water right certificate there as it would be in a safe place where it would always be available. On the other hand, if you wish to have it returned to you, we will get a court order returning the water right certificate to you. We would be inclined to leave it with the court records as they are kept in a fire proof vault.

With kindest personal regards, we remain

Very truly yours,

COX, WARE & STELLMON

By 
Marcus J. Ware

MJW:hnh

enclosure

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: C001306

Date: 06/10/88
Time: 16:45:29

Received
From: KILLGORE, JAMES J.

Type of Payment	Program A cct	Amount
ADJUDICATION FEES	0410162 9337 6490	\$180.00
Total		\$180.00

CHECK 372

WR/NO: A79-04113 A79-04063 A79-04062

Idaho Department of Water Resources

Region: State

Signature: 

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resource

Receipt No: C001307

Date: 06/10/88
Time: 16:46:46

Received

From: KILLGORE'S SALMON RIVER F

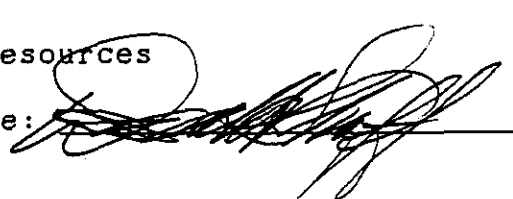
Type of Payment	Program Acct	Amount
ADJUDICATION FEES	0410162 9337 6490	\$230.00
	Total	\$230.00

CHECK 1863

WR/NO: A79-02094 A79-04001

Idaho Department of Water Resources

Region: State

Signature: 

AJ0749NP
No. A79-04113

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 01/12/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JAMES KILLGORE	12/14/1893	IRRIGATION	03-15 11-15	0.90 CFS	
C	JOSEPHINE KILLGORE BOX 118 WHITE BIRD ID 83554 (208) 839-2442					
TOTAL DIVERSION:					0.90 CFS	

Water Source: GREGORY CREEK

Tributary to: SALMON RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion: T28N R01E S21 S22 NENESE NWNWSW

IDAHO County
IDAHO County

Place of use Legal Description for: IRRIGATION

		NE				NW				SW				SE											
T	R S	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: SUM	
28N	01E 21	:		:		:		:		:		:		:		:		:		:		:		:	25.0
28N	01E 22	:		:		:		:		:		:	05	:		:		:		:		:		:	5.0
TOTAL ACRES																							30.0		

POU County: IDAHO

Other Rights: RIGHT FROM SCOTT CREEK CLAIMED 79-4062

Other Water Rights Listing Overlapping Place(s) of Use:
A79-04062 A79-04063

Remarks: THIS RIGHT ORIGINALLY CLAIMED WITH SHUCK CREEK AS SOURCE.
GRAVELLY SOIL REQUIRES ADDITIONAL WATER.

Dates: Exam Made Date: Verified Date: 01/13/1986

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

AJ0749NP
No. A79-04062

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 01/12/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JAMES J KILLGORE	03/01/1904	IRRIGATION	03-15 11-15	0.25 CFS	
C	JOSEPHINE KILLGORE BOX 118 WHITEBIRD ID 83554 (208) 839-2442					
TOTAL DIVERSION:					0.25 CFS	

Water Source: SCOTT CREEK

Tributary to: SALMON RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion:

T28N R01E S21

SESESE

IDAHO County

Place of use Legal Description for: IRRIGATION

		NE				NW				SW				SE				
T	R S	: Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: Lt	Ac	: Lt	Ac	SUM
28N	01E 21	:				:				:				:				
TOTAL ACRES																	10.0	

POU County: IDAHO

Other Rights: RIGHT CLAIMED FROM GREGORY CREEK FOR IRRIGATION

Other Water Rights Listing Overlapping Place(s) of Use:
A79-04063 A79-04113

Dates: Exam Made Date:

Verified Date: 01/13/1986

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

WR0749NP
No. 79-04063

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/12/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JAMES J. KILLGORE WHITEBIRD ID 83554	01/01/1932	IRRIGATION	05-01 10-31	0.500 CFS	
TOTAL DIVERSION:					0.500 CFS	

Water Source: SALMON RIVER

Tributary to: SNAKE RIVER

Stage: STATUTORY CLAIM

Point(s) of Diversion: T28N R01E S22 NWSW

IDAHO County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE													
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM	
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac			
28N	01E	21	:					:					:					:	13				09	:	22.0
28N	01E	22	:					:					:		02	01		:						:	3.0
TOTAL ACRES																							25.0		

Pou County: IDAHO

Other Water Rights with Same Point(s) of Diversion and Source:
79-04108 79-07228 79-07232

Other Water Rights Listing Overlapping Place(s) of use:
79-04062 79-04108 79-04113

Dates:	App. Received:	Priority Date:	01/01/1932
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: Field Exam Fee:

Audit: 01/13/86 05/01/88 CONVERT

WR0749NP
No. 79-04062

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/12/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JAMES J. KILLGORE WHITEBIRD ID 83554	01/01/1904	IRRIGATION	05-01 10-31	0.250 CFS	
TOTAL DIVERSION:					0.250 CFS	

Water Source: SCOTT CREEK

Tributary to: SALMON RIVER

Stage: STATUTORY CLAIM

Point(s) of Diversion: T28N R01E S21

SESE

IDAHO County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM
28N	01E	21	:																	:	
																			10	:	10.0
																			TOTAL ACRES		10.0

Pou County: IDAHO

Other Water Rights Listing Overlapping Place(s) of use:
79-04063 79-04113

Dates:	App. Received:	Priority Date:	01/01/1904
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: Field Exam Fee:

Audit: 01/13/86 05/01/88 CONVERT

WR0749HP
No. 79-04113

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/12/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	JAMES KILLGORE WHITE BIRD ID 83554	12/14/1893	IRRIGATION	03-15 11-15	1.000 CFS	
TOTAL DIVERSION:					1.000 CFS	

Water Source: SHUCK CREEK

Tributary to: SALMON RIVER

Stage: STATUTORY CLAIM

Point(s) of Diversion: T28N R01E S21 SENE

IDAHO County

Place of use Legal Description for: IRRIGATION

		NE				NW				SW				SE				
T	R S	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
28N	01E 21	:														15		25.0
28N	01E 22	:										05					10	5.0
TOTAL ACRES																	30.0	

Pou County: IDAHO

Other Water Rights Listing Overlapping Place(s) of use:
79-04062 79-04063 79-04108

Remarks: 2 P/D IN SENE, S21, T28N, R1E.

Dates:	App. Received:	Priority Date:	12/14/1893
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: Field Exam Fee:

Audit: 01/13/86 05/01/88 CONVERT



IDAHO FISH & GAME

CLEARWATER REGION
1540 Warner Avenue
Lewiston, Idaho 83501-5699

October 10, 1996

Philip E. Batt / Governor
Jerry M. Conley / Director

Jim Klaus
HC 1 Box 64
White Bird, ID 83554

Dear Jim,

Gregg Servheen has discussed your water right proposal on Gregory Creek with Steve Lester of Idaho Department of Water Resources in Boise. Gregg told him you and he had decided that a diversion through a 1 inch diameter pipe with a gravity-feed from the point of diversion in Gregory Creek to the Klaus homesite (about 1000 feet is our guess) to be used for ornamental and non-consumptive purposes during the period March 1 to July 15 and then returned to the creek.

They discussed that your permit application should include reference to the fact that use was nonconsumptive, no more than 18 gpm (gallons per minute), and that the water would be used in a recirculating fountain system. If these are the specifications, then there should be no problem granting the right despite the moratorium in the Salmon River watershed on water rights.

I hope this works for you. Let me or Gregg know if you have any questions. You can fill out the permit application anytime and send it to Steve in Boise. Your permit will go right on through because of the work and agreement we worked out. Thanks for your patience.

Sincerely,

Herbert A. Pollard II
Regional Supervisor

cc:IDWR, Boise
NRPB
Team 4
Norrie

MICROFILMED
DEC 11 1997

79-07250

KLAUS, JAMES A
HC 1 BOX 64
WHITEBIRD, ID 83554

Source: GREGORY CREEK

Tributary: SALMON RIVER

Diversion Pt: SWSW Sec 20 T 28N R 01E in IDAHO County.

Use: AESTHETIC (0.040 CFS)
Total Diversion: (0.040 CFS)

Date Filed: 12/13/1996

In: IDAHO County
T28N R01E S20 SESW

RECEIVED
DEC 11 1997