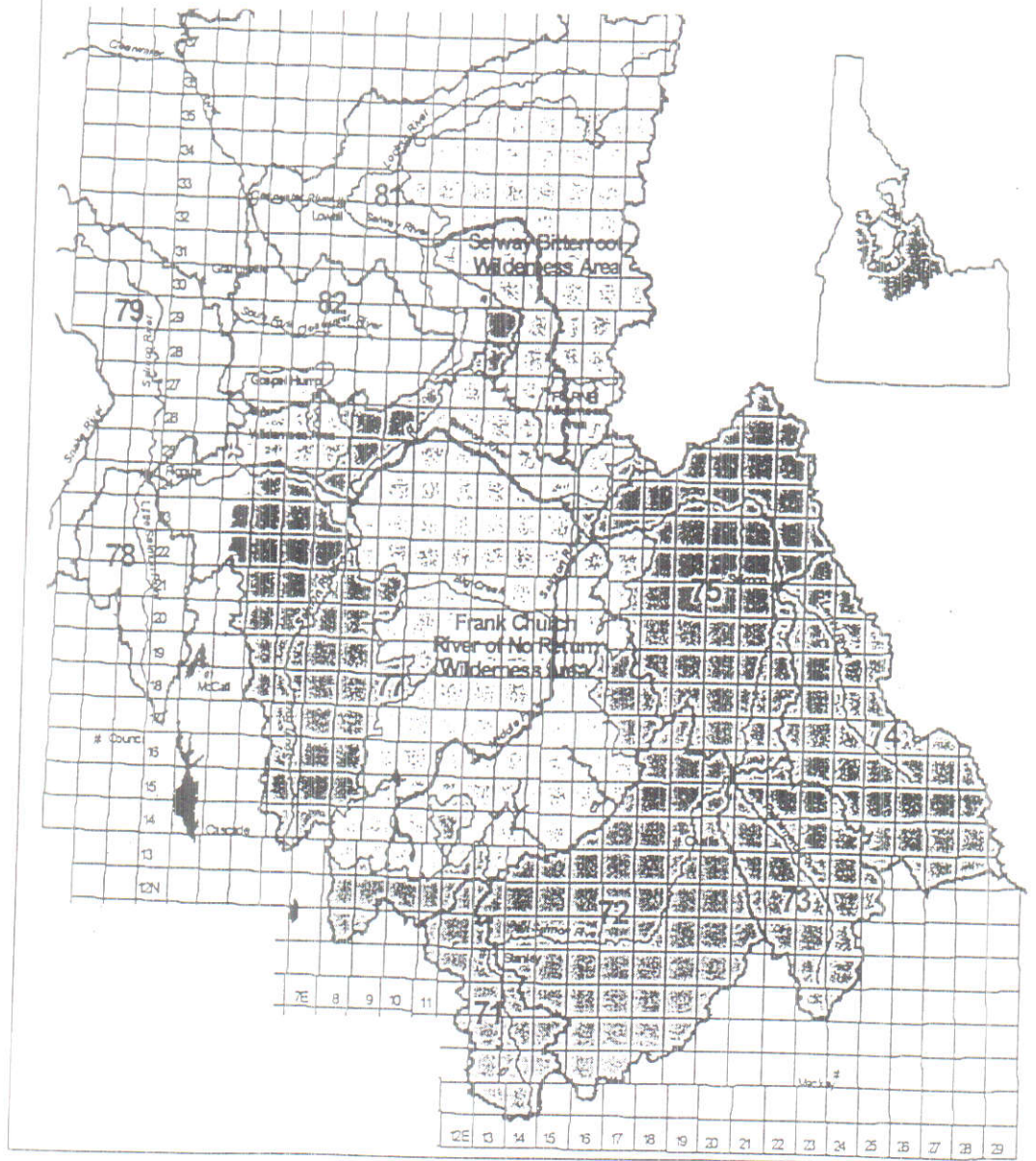


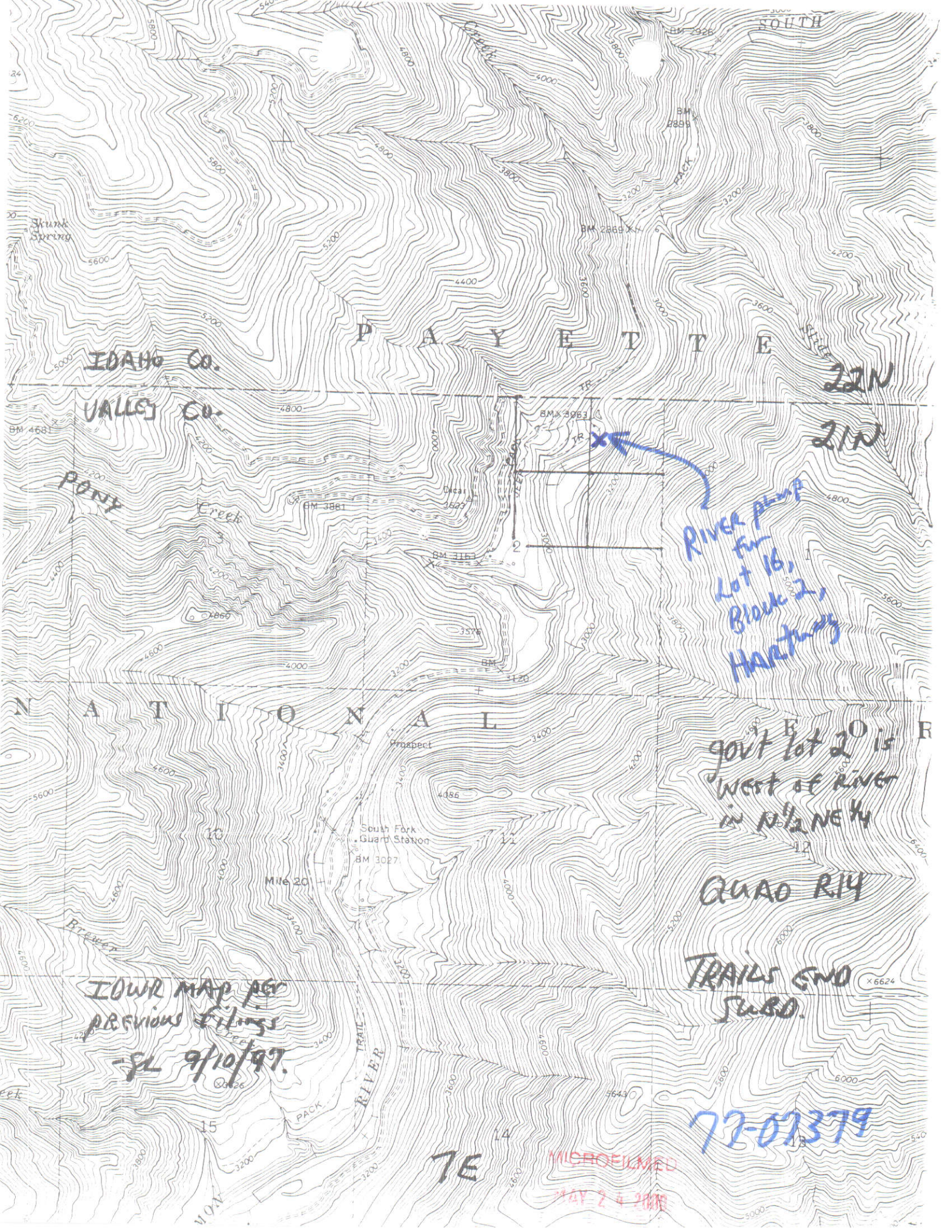
Wilderness Moratorium Areas

October 26, 1999

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



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IDAHO CO.

VALLEY CO.

PONY

Creek

BM 3881

Uncle

3523

BM 3163

Prospect

South Fork
Guard Station

BM 3027

Mile 20

Brewer

IOWR MAP per
previous filings

-SL 9/10/97.

TRAIL
RIVER

PACK

7E

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MAY 24 2008

River plup
for
Lot 16,
Block 2,
Hartney

gov't lot 2 is
west of river
in N 1/2 NE 1/4

QUAO R14

TRAILS END
SUBD.

77-01379

TRAIL END SUBDIVISION

A PART OF THE N² SECTION 4, T.21N., R.7E., B.M.
VALLEY COUNTY, IDAHO.

BILL HARRIS

CONSULTING ENGINEER

ALL IN N¹/₂ NE¹/₄

1" ≈ 185'

-82
8/3/99

near (closing)

Share River pump
in Cross's
77-07339

and occupancy shall conform to the
established by the Restrictive Covenants
Book of Miscellaneous Records
Valley County, Idaho.

- INITIAL POINT
- Angle Points
Other Points
- ② Lot Number
- ② Block Number

L.43 Kelly
77-07364

L.12 Chatwood
77-07367 & 68

L.13 CROSS
77-07339
Revised 9/14/99

HAERTUNG:
RIVER Pld
77-07379

L.16 HAERTUNG
77-07357

L.21 CROSS
77-07363

L.22 Keithly
77-07346

L.35 EDWARDS
77-07378
(Application 7/99)

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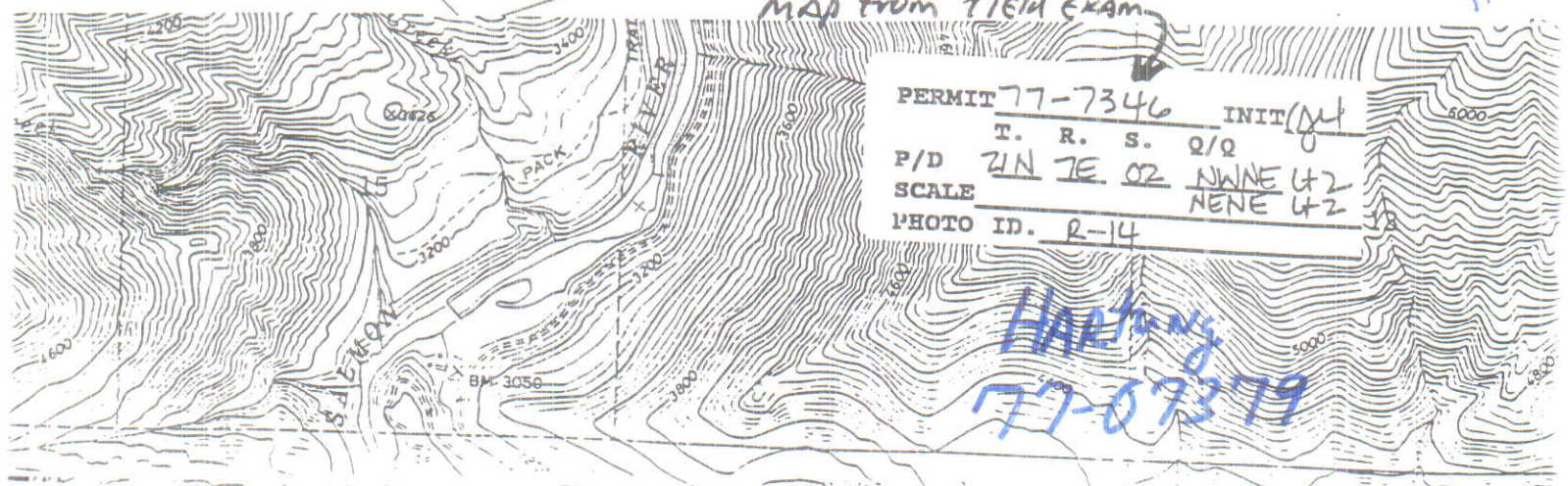
MAY 24 2000

Map from field Exam

PERMIT 77-7346 INIT (M)
T. R. S. Q/Q
P/D 21N 7E 02 NWNE 42
SCALE NENE 42
PHOTO ID. R-14

HAERTUNG
77-07379

unpaved
freeway



C

b

B

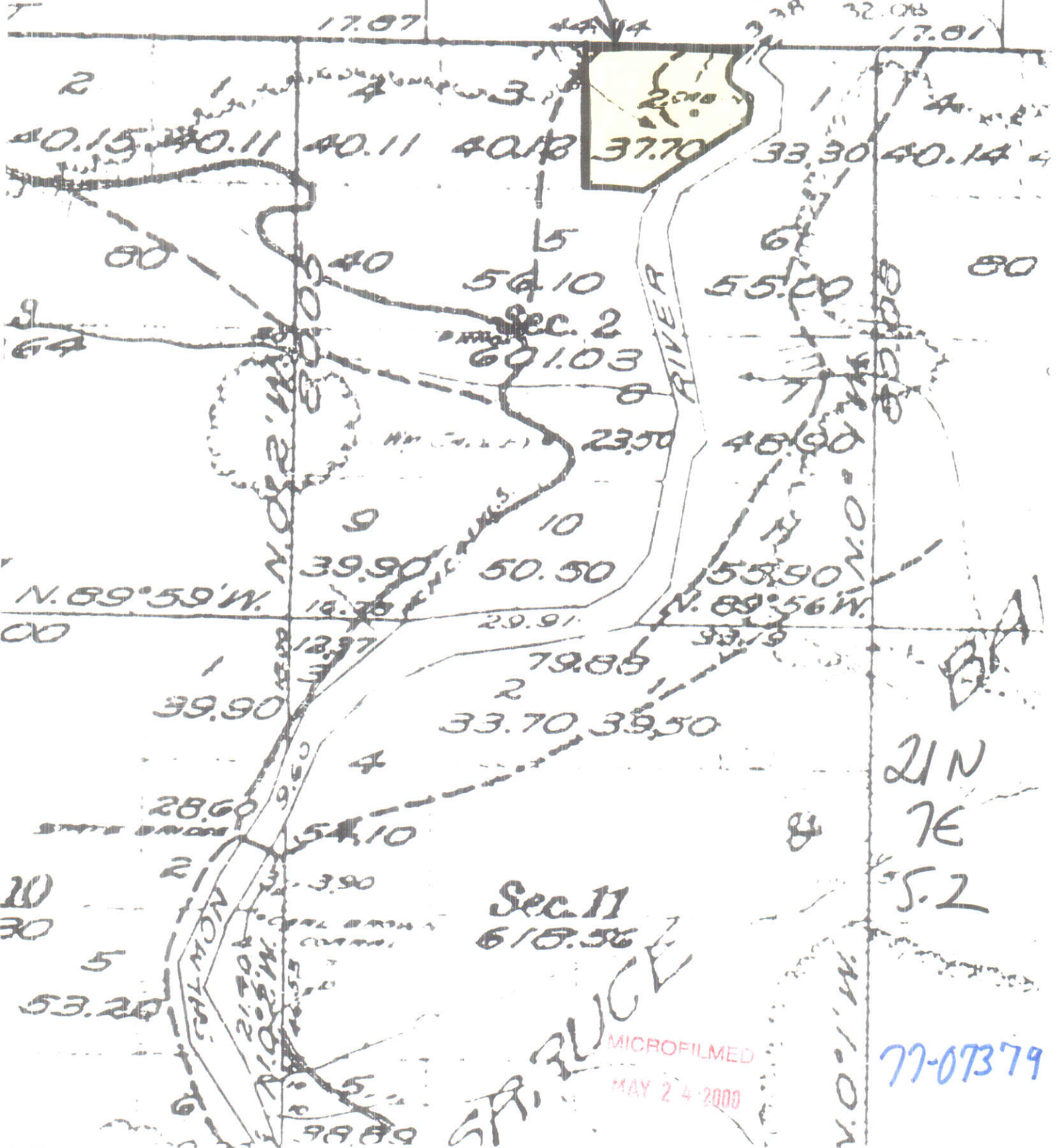
Sec. 34

Sec. 35

PARALLEL

NORTH

gov't
Lot
2



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OCT 20 1999

Publisher's Affidavit of Publication

STATE OF IDAHO }
 County of Valley } .SS

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OCT 20 1999

WATER RESOURCES
WESTERN REGION

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OCT 20 1999

ACCTS PAYABLE

I, S. Lynn Goodwin, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began October 7th, 1999 and ended October 14th, 1999.

S. Lynn Goodwin

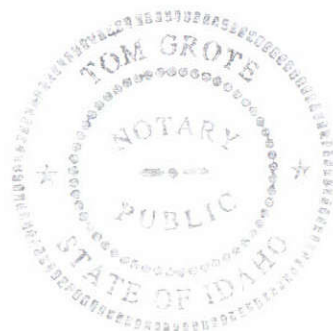
Subscribed and sworn before me this the 15th day of October, 1999.
 STATE OF IDAHO

COUNTY OF VALLEY }

On this 15th day of October, in the year of 1999, before me, a Notary Public, personally appeared S. Lynn Goodwin, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Tom Grote

Tom Grote
 Notary Public for Idaho
 Residing at McCall, Idaho
 Commission Expires: 1999



NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho: 77-07379

Hartung, Mary,
 Hartung, David,
 P.O. Box 585,
 Payette, ID 83661-0147.

Source: Salmon River, South Fork. Tributary: Salmon River.

Diversion Pt: Lot 2 (NENE) Sec 2 T 21 N R 07 E in Valley County.

Use: Domestic (0.040 CFS).

Total Diversion: (0.040 CFS).

Date Filed: 9/9/1999.

In: Valley County.

T21N R07E S02 Lot 2 (NENE).

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 for each application on or before October 25, 1999. The protestant must also send a copy of the protest to the applicant. Karl J. Dreher, Director 2tc/10/14

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SEP 21 1999

WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

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 who has been appointed by the department.

1. Permit No. 77-07379 Telephone No. 208-642-3270 334-4206
2. Name(s) of Permit Holder(s): DAVID OR MARY HARTUNG
3. Mailing Address: P.O. Box 585 Payette ID 83661
4. Source of Water: South Fork Salmon River GROUNDWATER (well), Date Drilled: mo. _____ / yr. _____
a. Well Driller: _____ Drilling Permit Number: _____
b. **OPTIONAL:**
Pump Horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft): _____
5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 1 Stockwater (No. and type of stock): _____
Irrigation (No. of acres): _____ Other: _____
6. Total rate of diversion and/or volume for which proof is submitted: .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? Yes _____ or No /
Has the measuring device been installed? Yes _____ or No /
Flow Measurement Port: Is a flow measurement port required? Yes _____ or No /
Has the measurement port been installed? Yes _____ or No /
8. Fee Enclosed: \$ 50 (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: AS Abue * i/n Mr. Telephone Number: _____
Chadwood (per 77-07387)
Address: _____

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and I relinquish any undeveloped portion of the permit to the State of Idaho.

Signature of permit holder: Mary Hartung Date: 9-20-99
(include your title, if on behalf of company or organization)

* previous discussions
w/ Mary Hartung - re 9/24/99

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MAY 24 2000

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATIONS AND)
PERMITS FOR THE DIVERSION AND USE)
OF SURFACE WATER AND GROUND)
WATER IN AND TRIBUTARY TO THE)
SELWAY-BITTERROOT WILDERNESS)
AREA, GOSPEL-HUMP WILDERNESS AREA,)
AND FRANK CHURCH-RIVER OF NO)
RETURN WILDERNESS AREA)
_____)

MORATORIUM ORDER

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

FINDINGS OF FACT

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

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

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

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

Location of Points of Diversion: None

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

Instream Flow Beginning

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

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

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

Identification Numbers: 77-12774, 82-11120

Name of Claimant: United States of America

Date of Priority: February 24, 1978

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

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MAY 24 2000

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

Location of Points of Diversion: None

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

Instream Flow Beginning

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

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

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

Identification Numbers: A75-13605, A77-12775

Name of Claimant: United States of America

Date of Priority: July 23, 1980

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

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MAY 24 2008

Location of Points of Diversion: None

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

Instream Flow Beginning

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

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

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

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

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

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

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

CONCLUSIONS OF LAW

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

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

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

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MAY 24 2000
MAY 24 2000

After notice, to suspend the issuance or further action on permits or applications as necessary to protect existing vested water rights or to ensure compliance with the provisions of chapter 2, title 42, Idaho Code, or to prevent violation of the minimum flow provisions of the state water plan.

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

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

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

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

ORDER

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

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

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

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

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

Dated this 26th day of October, 1999.

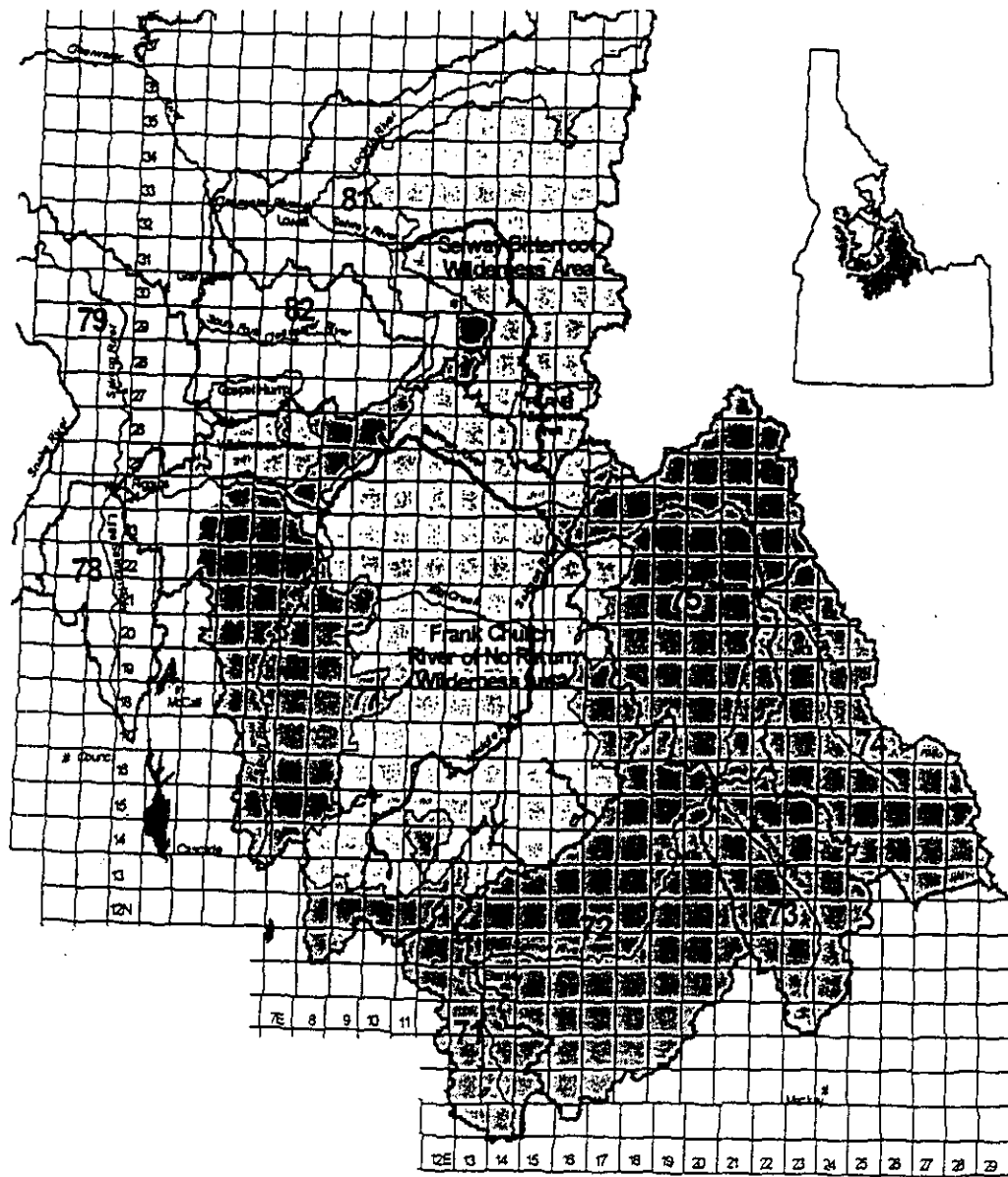


KARL J. DREHER
Director

Wilderness Moratorium Areas

October 26, 1999

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



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MAY 24 2000

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 77-07379

Priority: September 9, 1999

Maximum Diversion Rate:

0.04 CFS

This is to certify, that DAVID HARTUNG

PO BOX 585

PAYETTE ID 83661-0147

has applied for a permit to appropriate water from:

SALMON RIVER, SOUTH FORK

tributary of SALMON RIVER

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

DOMESTIC

01/01 to 12/31

0.04 CFS

LOCATION OF POINT(S) OF DIVERSION: Lot 2 (NENE), Sec. 2, Township 21N, Range 07E
VALLEY County

PLACE OF USE: DOMESTIC

TWN RGE SEC

21N 07E 2 Lot 2 (NENE)

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of application of water to beneficial use shall be submitted on or before April 1, 2000.
2. Subject to all prior water rights.
3. The right holder shall comply with all fish screening requirements of the Idaho Department of Fish and Game.
4. Domestic use is for 1 home and does not include lawn, garden, landscape, or other types of irrigation.

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

3rd day of December, 1999.


for Karl J. Dreher, Director

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MAY 24 2000

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State of Idaho
DEPARTMENT OF WATER RESOURCES

NOV 23 1999

WATER RESOURCES
WESTERN REGION

ASSIGNMENT OF APPLICATION FOR PERMIT

To change the ownership of an application for permit

I, MARY HARTUNG, hereby assign to DAVID M. HARTUNG
 of (128 No 10th St) Box 585 Payette Id 83661
(Applicant) (Full Address)

All my right, title, and interest in and to Application for Permit
 No. 77-07379 to appropriate the public waters of the State of Idaho.

OR (for partial assignments)

N/A The following described portion of my right, title, and interest in and to
 Application for Permit No. _____ to appropriate the public waters of the
 State of Idaho.

Describe portion of the permit assigned listing the number of acres in each 40 acre subdivision,
 point of diversion location, and the amount of water in cubic feet per second.

Made this 24th day of September, 19 99.

Mary Hartung
 Applicant(s)

State of Idaho)
 County of Ada) ss

On this 24th day of September, 199 9, personally appeared before me the
 signer of the above instrument, duly acknowledged to me that he/she/they executed the same.



State of Idaho, Boise, Idaho
 Notary Public

Beth Sparks MICROFILMED
 Signature

MAY 24 2000

DEC 1 1999

DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No.

77-07379

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DEC 1 1999

DEPARTMENT OF WATER RESOURCES

334-4206

642-1753

David

*

1. Name of Applicant David H. Hartung Phone 208-642-3270
 Post Office address PO Box 585 Payette ID 83661-0147
2. Source of water supply South Fork Salmon River which is a tributary of Salmon River
3. Location of point of diversion is — 1/4 of NE 1/4 of NE 1/4, Govt. Lot 02
 Sec. 2 Township 21N Range 7E B.M. VN1167 County; additional points of diversion if any: —

4. Water will be used for the following purposes:

Amount .04 for Domestic purposes from 1/1 to 12/31 (both dates inclusive)
 (cfs or acre-feet per annum)

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

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

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

5. Total quantity to be appropriated is (a) .04 and/or (b) —
 cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. pump & pipeline

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 completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)

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

a. Hydropower; show total feet of head and proposed capacity if KW. —

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

c. Municipal; show name of municipality. —

d. Domestic; show number of households. ONE

e. Other; describe fully. —

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* assigned to David H. by Mary H. 11/22/99.
 D-base updated.

MAY 24 2000

-82

9. Description of place of use:

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

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

TWP	RGE	SEC	N E				N W				S W				S E				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
21N	76	02	D																-
			Lot 2																
			Government Lot #																

Total number of acres to be irrigated

10. Describe any other water rights used for the same purposes as described above. 77-07357 is unanual stream for same crop.

11. (a) Who owns the property at the point of diversion? Applicant Dwight's Linda Cross

b. Who owns the land to be irrigated or place of use? Applicant's mother

c. If the property is owned by a person other than the applicant, describe the arrangement enable the applicant to make this filing: Consent (see remarks) Coop agreement with neighbors & mother.

12. Remarks: Want back up system to unanual stream source.

Place of use is L. 16, BL 2, Trails End Subd.

Point of diversion is ~~community access~~ corner between lots 17 & 18.

BL 2, L 13, BL 2, Trails End Subd.

13. MAP OF PROPOSED PROJECT ATTACHED ☒ Show clearly the proposed point of diversion, place of use, section number, township and range number.

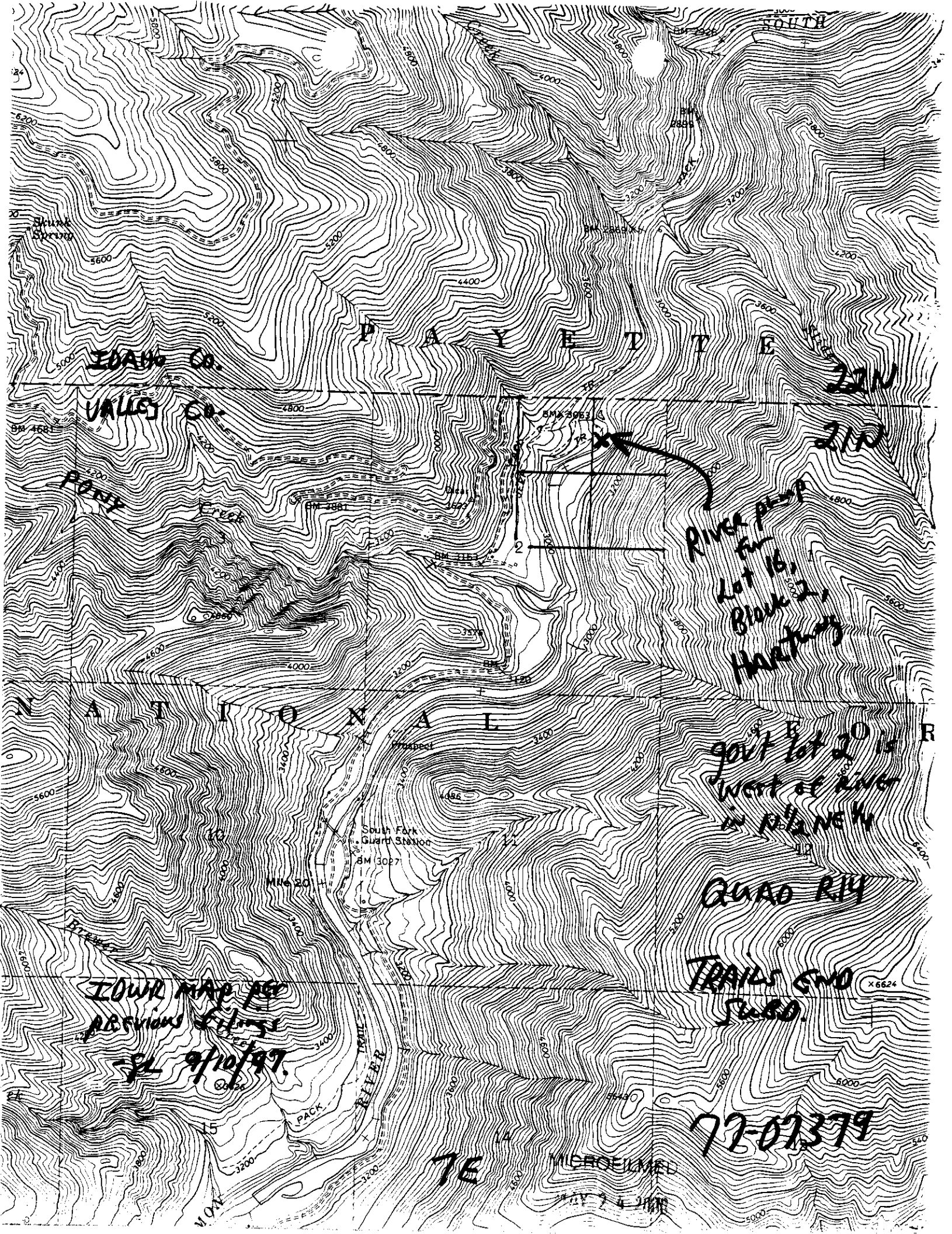
BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Mary Hartung 9-7-99 MICROFILMED
(Applicant)

MAY 24 2000

Received by th Date 9/19/99 Time 10:59 Preliminary check by SL
Fee \$ 50.00 Received by th # W025705 Date 9/19/99
Publication prepared by th Date 10-7-99 Published in Star News
Publication approved: th Date 10-27-99 10-6-13-9

* Existing system: shared river pump with Cross's. 77-07339. As confirmed in 9/8/99 site visit & per Mary Hartung's tel. call 9/16/99. Plu possessory interest adequate since assignee is Mary Hartung's son. 11/24/99 update. -82



IDAHO CO.

VALLEY CO.

PONY

NATIONAL

South Fork
Guard Station

BM 3027

MIR 20

PACK

RIVER

River plus
for
Lot 18,
Block 2,
Hartman

gov't lot 20 is
west of river
in R1/2 NE 1/4

QUAD R14

TRAILS GND
SUBD.

77-07379

TE

MICROFILMED

JUN 24 1988

LOWR MAP FOR
PREVIOUS EDITION
9/10/97

TRAIL END SUBDIVISION

A PART OF THE N² SECTION 4, T.21N., R.7E., B.M.
VALLEY COUNTY, IDAHO.

BILL HARRIS CONSULTING ENGINEER

ALL IN N¹/₂ NE¹/₄

1" ≈ 185'

-8
8/3/99
per (closing)

Share River Pump
Cross
77-07339

and occupancy shall conform to the
established by the Restrictive Covenants
Book of Miscellaneous Records
Valley County, Idaho.

- INITIAL POINT
- Angle Points
Other Points
- ② Lot Number
- ② Block Number

L.43 Kelly
77-07364

L.12 Chatwood
77-07367 & 68

L.13 CROSS
77-07339
REVISED 9/14/99

HARTING:
RIVER Pld
77-07371

L.16 HARTING
77-07357

L.21 CROSS
77-07363

L.22 Keithly
77-07346

L.35 EDWARDS
77-07378
(Application 7/99)

MICROFILMED

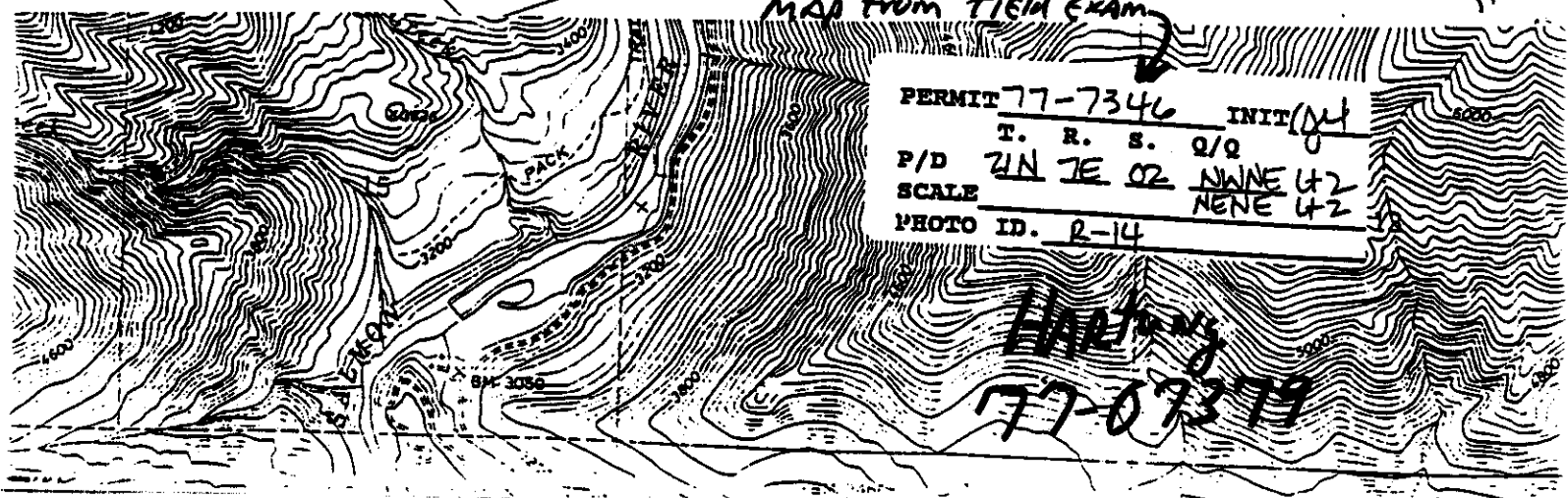
MAY 24 2000

MAP from field exam

PERMIT 77-7346 INIT (M)
T. R. S. Q/Q
P/D 21N 7E 02 NWNE 42
SCALE NENE 42
PHOTO ID. R-14

HARTING
77-07379

unimproved
stream



C

b

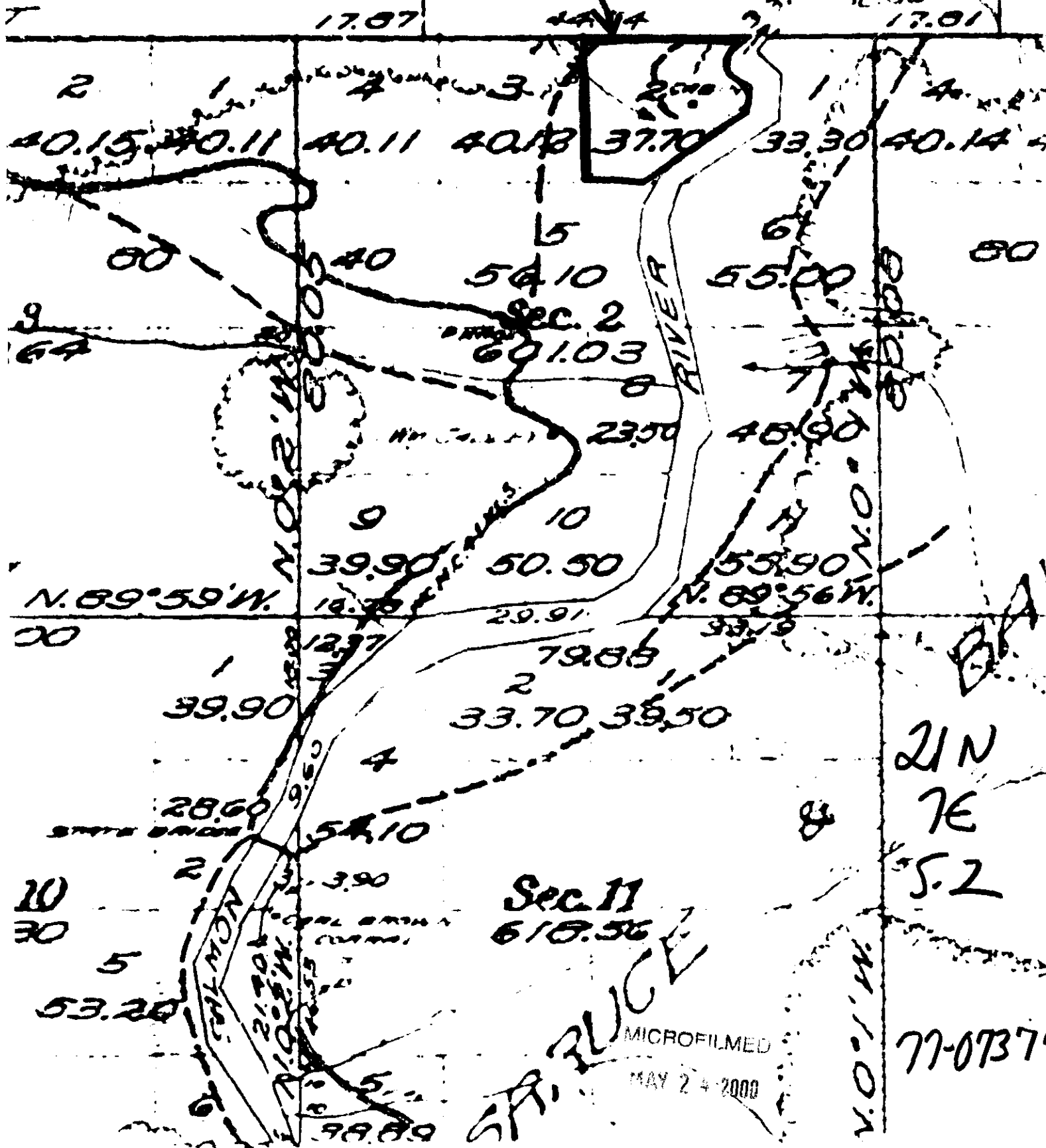
B

Sec. 34

Sec. 35

PARALLEL

2 NORTH



Sec. 11
618.56

MICROFILMED

MAY 24 2000

21N
7E
5.2

77-07379

Ident. No. 77-07379

Comments: Date: 9/17/1999 User-ID: SLESTER

Subject: ADDITIONAL INFORMATION

APPLICANT'S: Existing system for 1 home. Diversion at L.13 for use at L.16, Bl. 2, Trails End Subdivision. Supplements water from Pony Creek (77-07241) and unnamed stream (77-07357).
IDWR'S: Verified this information in 9-8-99 field visit for other rights in subdivision. Shares portable pump with right 77-07339. Internal and external uses found. Licensing can proceed if filing approved and proof of beneficial use submitted.

MICROFILMED

MAY 24 2000

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 17-01319 Reviewed by [Signature] Date 12-22-99

GENERAL CONSIDERATIONS

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

TYPES OF USE

dom.
Correct Uses? yes

SOURCE OF WATER

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

LICENSE EXAMINATION FEE

yes Required?
50- Amount Submitted
yes Correct?

MEASURING DEVICE

NO Required?
☐ Installed?
☐ Waiver requested?

PRIORITY CALCULATION

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

DEFICIENCIES OR ACTION ITEMS

Proof Acceptable

DATA ENTRY

New Address [Crossed Out] Proof Made 9-21-99



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
GOVERNOR

December 22, 1999

KARL J. DREHER
DIRECTOR

David Hartung
PO Box 585
Payette ID 83661

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 77-07379

Dear Permit Holder:

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

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

If you have questions concerning the field examination, please contact the **WESTERN** Regional Office of the department in Boise at (208)334-2190.

Sincerely,

JULIE L. YARBROUGH, Administrative Assistant
Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED
MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

December 6, 1999

DIRK KEMPTHORNE
GOVERNOR

DAVID HARTUNG
PO BOX 585
PAYETTE ID 83661-0147

KARL J. DREHER
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 77-07379

Dear Permit Holder:

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

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

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

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

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

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:klt
Enclosures

MICROFILMED

MAY 24 2000

CERTIFICATE OF MAILING

I hereby certify that on the **6th** day of **December, 1999**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 77-07379

DAVID HARTUNG
PO BOX 585
PAYETTE ID 83661-0147


Kari Lynn Townsend
Secretary

MICROFILMED
MAY 24 2000

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

ORAL ARGUMENT

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

MICROFILMED

MAY 24 2000

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED
MAY 24 2000

APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS

Reviewed by Sharla Curtis on 12/1/99

No. 77-07379 Name: Hartung Corp. Officers N/A Ad ok ✓ Govt Lots ---

AREA OF CONCERN: No/Yes SC Moratorium --- GWMA TRUST/NON-TRUST ---

Wilderness

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046(P23)
Basin 34 - 085
Irr. w/in WD - P05
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067
~~WMD~~
Supp irr (irr = only use) - 065-079
Supp irr (+ other uses) - 100-101
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

~~Boise Front LeGee~~ - 058 (<85 GW)
~~Mitigation~~ - 121
42-248 Area - P84 (20s-70s, 81-86)
Swan Falls Flag
Trust - 051(P74) (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

USES:

STORAGE - 18A-01H(P01), 01P-18B(P09)-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/USFS)
MINING - 054-081(P10)
FISH PROP - 029(70'S only)-007-042-081(P10)
HEAT/COOL - R07(injection well)
FIRE PROT. - 077

BENEFICIAL USE DUE: 12/1/2000 120

MISC CONDITIONS/REMARKS:

~~Protested~~ - 020-W19
Development Period
≤ 1 yr - P16
> 1 yr - 26A(P17)
Ownership - 004
Non-consumptive - 027
Water Quality - 081-R07

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response No objections
In/Above MSF - WB9
PLANNING SECTION REVIEW/RESPONSE ---
In-stream development - P52
WD - R04 (WD# ---)
≤ 0.20 cfs/others - 01H(P01), 01P or No MD
> 0.20 cfs - 01J(P08)

SPRINGS/SINK, INACTIVE WD & REST OF STATE

≤ 0.24 cfs/5 acres - No MD
- > 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

Snake R (0V) - W22(P04), N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - 047(P04) (Payette Lake)
Salmon R (70's) - 029 (fish screens)
~~Weiser R (67)~~ - 086-087

USES:

POWER - 17H-17K (+uses)-08A-025(P18)-01N-081(P10)
MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075(no parks/common areas, etc)
Irr use listed separate - WB5 - in house only
Moratorium approvable - W03 (2400 gpd - meets domestic definition
i.e. D/convenience store)

Multiple pd's per ¼ - W32
Subd lot desc (pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single p/d intended - 076

OTHER CONDITIONS/REMARKS

COMMENTS

77-07379
269 222 042

US Postal Service
Receipt for Certified
No Insurance Coverage Provided
Do not use for International Mail
Sent to

Street & Number	
Post Office, State, & ZIP Code	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

77-07379
MARY HARTUNG
PO BOX 585
PAYETTE

ID B3661-0147

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

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

102595-99-M-0079

PS Form 3800, April 1995 (Reverse)

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.
 Put your address in "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: 77-07379 MARY HARTUNG PO BOX 585 PAYETTE ID 83661 MICROFILMED MAY 24	4. Article Number 7269222042 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☒ Return Receipt for Merchandise Always obtain signature of addressee or agent and DATE DELIVERED.
5. Signature - Addressee X <i>[Signature]</i>	Addressee's Address (ONLY if Requested and fee paid)
6. Signature - Agent X <i>[Signature]</i>	
7. Date of Delivery 10/28/99	

PS Form 3811, Mar. 1988 U.S.G.P.O. 1988-212-865 DOMESTIC RETURN RECEIPT

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

SENDER INSTRUCTIONS

Print your name, address and ZIP Code in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RECEIVED

OCT 29 1999



PENALTY FOR PRIVATE
USE, \$300

Department of Water Resources

RETURN
TO

Print Sender's name, address, and ZIP Code in the space below.

MICROFILMED
MAY 24 2000
STATE OF IDAHO
DEPT. OF WATER RESOURCES
1301 N. ORCHARD
BOISE, IDAHO 83706

3706/2237



Z 259 222 043

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail

Sent to

Street & Number

Post Office, State, & ZIP Code

Postage

Certified Fee

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered

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

TOTAL Postage & Fees

Postmark or Date

PS Form **3800**, April 1995

77-07379
DAVID HARTUNG
PO BOX 585
PAYETTE

ID 63661-0147

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

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached, and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach, and retain the receipt, and mail the article.
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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make an inquiry.

102595-99-M-0079

SENDER: Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address on the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for rates and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge) 2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to: 77-07379 DAVID HARTUNG PO BOX 585 PAYETTE ID 85661-0117	4. Article Number 2269222043 Type of Service: ☐ Registered ☐ Insured ☒ Certified ☐ COD ☐ Express Mail ☒ Return Receipt for Merchandise Always obtain signature of addressee or agent DATE DELIVERED.
5. Signature - Addressee X <i>David Hartung</i>	8. Addressee's Address (ONLY if requested and fee paid)
6. Signature - Agent X <i>David Hartung</i> 7. Date of Delivery 5/28/99	

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

RECEIVED

MAY 29 1999



PENALTY FOR PRIVATE
USE, \$300

SENDER INSTRUCTIONS

Print your name, address and ZIP Code
in the space below.

- Complete items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

Department of Water Resources

RETURN

TO

Print Sender's name, address, and ZIP Code in the space below.

STATE OF IDAHO

DEPT. OF WATER RESOURCES

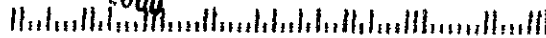
1301 N. ORCHARD

BOISE, IDAHO 83706

MICROFILMED

MAY 24 2000

93706/2237





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

October 26, 1999

CERTIFIED MAIL

RE: Procedures Available upon Issuance of Final Moratorium Order

Dear Applicant or Permit Holder:

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

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

PETITION FOR RECONSIDERATION

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

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

OPPORTUNITY TO REQUEST HEARING

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

NOV 4 2000
MFR

Moratorium Letter

October 26, 1999

Page 2 of 2

Unless the right to a hearing before the director or the water resource board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the department of water resources or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing.

APPEAL OF FINAL ORDER TO DISTRICT COURT

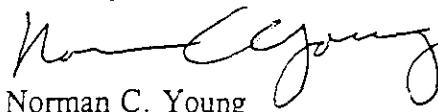
Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter to district court by filing a petition in the district court of the county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

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

The appeal must be filed within twenty-eight (28) days of (a) the service date of the final order, (b) an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

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

Sincerely,



Norman C. Young

Administrator

Water Management Division

MICROFILMED

MAY 24 2000

DEC 1 1999

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Department of Water Resources

INITIAL REVIEW BY: JL DATE: 9/17/99 APPLICATION: 77-07379

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: Original Appl shows 1 or 2 - not clear. Allow 1 yr since existing system is applicant in process of filing proof.
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)
Correct fee paid

Gov't. Lots:
Yes P/D
P/U

ADDITIONAL INFORMATION

N/A ADVERTISE REMARK(S)
(Reviewer identify which remarks)

N/A T FLAG CHANGED TO P FLAG

YES NO

N/A 5th see next pg.
Overlapping place of use: (Describe source & relationship to present application on next page.)
Overlapping point of diversion.
Critical groundwater area:
Groundwater management area:
1992 moratorium: - OK for O/I use
Surface water source, IDFG letter needed.
Bull trout impact area, IDFG letter needed
E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
E-mail to Dam Safety staff: (for any storage)
Mitigation plan: Check any that apply.
N/A O/I use
___ immediate = acceptable plan required and submitted.
___ future = open areas, acceptance of condition of approval is in file.
Send power requirement letter &/or fish farm requirement letter.
Power residency affidavit:
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 Date Response Received

PROCESSING

APP. NO. 77-07379

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: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

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

YES NO

☐ ☒ 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:Final date for protest 10-25-99☐ ☒ Protests received.☐ ☒ Recommendations attached:☐ ☒ Measuring device required:☐ ☒ Water delivered by water master? District # _____☒ ☐ Special conditions of approval or cover letter: _____

Allow 1 cfs., no R.O.W or easement (Re pld), O/I limited with grant
to Salmon River Irrigation and "wilderness mountain" considerations.
USE, when combined with all other rights for same property, is limited to .04 cfs.

☒ ☐ See below for additional informationRecommended Date or Priority 9-9-1999 -82Recommended by: gDate: 11/24/99ADDITIONAL INFORMATION:SAME diversion used for another owner's asb.d = 77-07339 (Cross').SAME O/I use but other sources =77-07241 Pony Cr., community system77-07357 unnamed stream.Summarized in d'base Comments.SEE ATTACHED memo & Recommendations.

MEMORANDUM

TO: File 77-07379
FROM: Steve Lester 
DATE: November 24, 1999

RE : *Recommendations for Approval*

The application was filed to reflect an existing use that I verified on September 8, 1999 while conducting exams for other permits. The observed use was for one cabin and a small yard at the Hartung property. The river water serves as a backup to primary water from two rights: Pony Creek community system (77-07241) and a private system from an unnamed stream (77-07357). The river water is obtained from a portable pump and flexible pipeline shared with Permit #77-07339, which is for another owner's nearby cabin.

Hartung's river water is integrated with the final delivery pipe to the cabin so that all waters are co-mingled for use at the cabin and yard. The practical reality of the situation is such that pumped river water is only used as needed. The other two sources are delivered from gravity systems.

The new "wilderness moratorium" Order was issued during the final stages of application processing. The Order does not authorize new consumptive uses, generally speaking. One alternative is to hold the filing pending changes in the Order. A more satisfactory solution, in my opinion, is to approve the permit for in-house use only. Ample precedents exist for unusual approvals in which limited uses can be accounted for as needed in the future, e.g., municipal permits that do not allow "large parcel" uses. This minor supplemental use for a cabin should be approvable with appropriate conditions of approval. The regional manager concurs with this recommendation.

The Idaho Department of Fish & Game does not have any concerns about the application.

The application was assigned from Mary Hartung¹ to her son, David. A fee was not collected for this assignment. The statutes direct us to charge a fee for *permit assignments* but not for *application for permit assignments*. While I recognize that we have levied fees for application assignments where advertising has occurred, we do not have clear authority to do so. I am not too concerned about that issue but would be reluctant to go back to the applicant once again for more money.²

Note that proof was filed for this application. If approved, the permit can be licensed along with the several other rights recently examined in the subdivision.

¹ Director, Idaho Department of Insurance.

² Recent fees paid: proof and assignment for Permit 77-07357, and filing and proof fees for this application.

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MAY 2 1999

Lester, Steve

From: SCOTT GRUNDER [sgrunder@IDFG.STATE.ID.US]
Sent: Wednesday, November 24, 1999 1:14 PM
To: SLester@idwr.state.id.us
Cc: CECE MANN; TERRY VERNHOLM
Subject: re: Application for Permit No. 77-07379

Steve,

The application does not cause us any great concern. We do not anticipate significant adverse effects to fish or wildlife habitats as a result of permitting this water right. In our estimation, it poses no unforeseen harm to listed fish species. Thank you for the opportunity to comment.

Scott Grunder
Environmental Staff Biologist
IDFG-SW Region Office, Nampa
465-8465
----- Original Text -----

From: "Lester, Steve" <SLester@idwr.state.id.us>, on 11/24/99 1:34 PM:

Scott:

This application in the name of David Hartung is for an existing use. The application replaces a lapsed permit. The site is in Trails End Subdivision on the South Fork of Salmon River, which is the water source. The use is for one cabin.

Advertising occurred on October 6 and 13, 1999. A comment letter was to be sent to you in the traditional manner, but that step was inadvertently overlooked. Instead I am sending you this email with a fax to follow for your review. This has been done to save some time in this one.

This office intends to recommend the application for approval limited to in-house use only. Yard irrigation will not be recommended due to the recent "wilderness area moratorium" established by the IDWR Director. That moratorium allows internal but not external use at a home from any source within the area in question.

The river water is used as a backup to other water rights already serving the cabin and yard. The diversion is a portable pump and 1" flexible pipeline. The other rights are from Pony Creek (community system) and from an unnamed stream (applicant's system). The latter source became a viable one as a result of changes in the last few years caused by the large fires and resulting landslides in that area, at least according to the homeowners at Trails End.

If you have any concerns about this application, please reply via email and I will forward your comments to IDWR State Office for final consideration.

Thanks,

Steve Lester
Water Rights Supervisor
IDWR Western Region

Lester, Steve

From: Lester, Steve
Sent: Wednesday, November 24, 1999 1:05 PM
To: 'sgrunder@idfg.state.id.us'
Subject: Application for Permit No. 77-07379

TO - IDFG

Scott:

This application in the name of David Hartung is for an existing use. The application replaces a lapsed permit. The site is in Trails End Subdivision on the South Fork of Salmon River, which is the water source. The use is for one cabin.

Advertising occurred on October 6 and 13, 1999. A comment letter was to be sent to you in the traditional manner, but that step was inadvertently overlooked. Instead I am sending you this email with a fax to follow for your review. This has been done to save some time in this one.

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If you have any concerns about this application, please reply via email and I will forward your comments to IDWR State Office for final consideration.

Thanks,

Steve Lester
Water Rights Supervisor
IDWR Western Region

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MAY 24 2000

Lester, Steve

From: Lester, Steve
Sent: Tuesday, November 16, 1999 10:27 AM
To: Spackman, Gary
Subject: Hartung Appl. 77-07379

Gary:

This application for S. Fk. Salmon R. water for D/1 use in Trails End Subd. has been delayed regarding the new wilderness area moratorium. Our last conversation ended with not processing any appls. unless clearly shown to be non-consumptive.

Since then, I've had a chance to look at the info dept. is putting on internet about this topic (Q&A About the Moratorium). Q3 of that info specifically states that internal use for 1 home would be allowed by the moratorium order since it would be considered non-consumptive. This is in line with dept.'s traditional stance for such a use, even though some amount of consumptive use would no doubt occur.

In this case, the appl. is for an existing use. The use supplements 2 other authorized sources for same cabin. The river water is a backup system. This backup setup has become a regular occurrence in the subdivision following the large fires and subsequent landslides etc. of recent years.

Although the river water can physically be put on minor yard (all sources for cabin have been integrated into common system), it seems acceptable to issue a permit for internal use only for this situation. After all, we have done similar "it can be accounted for if needed" approvals for other players in other circumstances ... United Water springs to mind.

I think we should proceed on this one as an acceptable use, if properly conditioned, consistent with the new order. If you agree, I will let the applicant know. She remains curious about what's up.

If ok, perhaps our approach at Western should be to process internal D/1 filings or other filings in which the applicant demonstrates non-consumptive use ("acceptable plan of operations" to give it a label).

-- Steve

Lester, Steve

From: Spackman, Gary
Sent: Wednesday, November 17, 1999 8:03 AM
To: Lester, Steve
Subject: RE: Hartung Appl. follow-up message

Steve,

I don't understand the "integrated source" issue but I don't think this is worth the hassle of further discussion. Let's prepare and send to the S.O. explaining our reasoning.

Gary

-----Original Message-----

From: Lester, Steve
Sent: Tuesday, November 16, 1999 1:28 PM
To: Spackman, Gary
Subject: Hartung Appl. follow-up message

Gary:

After sending you the longer message this morning, I saw copy of Norm's recent guidance memo for wr's in new moratorium area. In that memo, he states internal use for a home will be processed based on non-consumptive assumption. So looks ok for Hartung if can add that limiter even though the integrated sources have been used for internal & external at this cabin?

-- Steve

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MAY 24 2000



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

November 16, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MARY HARTUNG
DIRECTOR IDAHO DEPT OF INSURANCE
PO BOX 83720
BOISE ID 83720-0043

RE: WATER RIGHTS IN TRAILS END SUBDIVISION

Dear Mary:

I sent this to your Boise office instead of the Payette address in the interests of saving time for your water right processing for Trails End property.

Enclosed please find the original assignment form and letter that you recently submitted. Your receipt for the \$25 assignment fee is also attached. New forms are included for your use.

To complete the assignment process, in this case basically a name change, please use the following information.

1. Assignment of Permit No. 77-07357 should be completed.
2. Assignment of Application for Permit No. 77-07379 should also be completed.
3. For each form, the "following described portion of my right" section is not applicable. That section refers to splitting the ownership of the right into multiple parts.
4. No additional fees are required to accomplish the change.

The status of pending Application for Permit No. 77-07379 is uncertain due to the "wilderness moratorium" recently invoked by the Director of this agency as we discussed the other day. However, I am fairly confident that the application can be approved if a condition of approval is accepted that limits the river water use to in-house use at your cabin.

Even though the river water can be physically used on the small yard via your water system in which multiple sources are integrated for use at the cabin, it is likely that a new permit can be approved to authorize a more limited use of the river water. A limited approval of this type would respect the new moratorium

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MAY 24 2000

November 16, 1999
Page 2 of 2

while authorizing at least some use of the river water at your property. This type of arrangement, while not common, is not unprecedented in water right actions.

Unless you hear otherwise from me in the next few weeks, it is safe to assume that the application will be approved within those limits. If so, the approved permit can be licensed with the other permits that I recently inspected in September.

Please return the completed assignment forms to me at your earliest convenience. I will be glad to provide any help in this matter or any other water right matters in which you are interested.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Lester", written in a cursive style.

Steve Lester
Water Rights Supervisor

Enclosures

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MAY 24 2000

Lester, Steve

From: Lester, Steve
Sent: Tuesday, November 09, 1999 8:26 AM
To: 'mhartung@doi.state.id.us'
Subject: Water Rights Update

Dear Mary:

Processing of Application for Permit #77-07379 (river water) for your property in Trails End Subdivision will most likely be stayed pending changes in the new "wilderness area moratorium" that we recently discussed. Confirmation of the status of the application will follow in a letter.

Meanwhile, the recent Assignment of Permit that you filed for the application and for Permit #77-07357 (unnamed stream) can be processed. After our recent telephone conversation in which I understood you to say that it is acceptable for both filings to be solely in David's name, I noticed that the assignment document presents a problem that can be easily corrected. Because the form is a notarized document, the correction cannot be informally handled via our conversation.

I will return the assignment form for your consideration asap. Please let me know if you have any questions as you review the form. Thank you for your patience with these details ... sometimes it seems that they never end!

-- Steve Lester
IDWR Western Region

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MAY 24 2000

Publisher's Affidavit of Publication

RECEIVED
OCT 20 1999

STATE OF IDAHO

County of Valley } .ss

RECEIVED

OCT 20 1999

WATER RESOURCES
WESTERN REGION

RECEIVED

OCT 20 1999

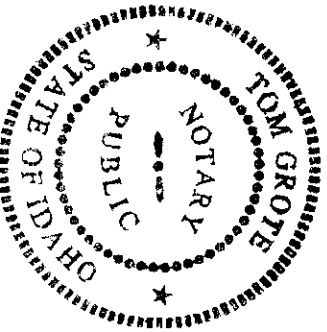
ACCTS PAYABLE

I, S. Lynn Goodwin, being duly sworn and say, I am the receptionist of The Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of afore said and is a legal newspaper; that the PUBLIC NOTICE, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for a period of two weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began October 7th, 1999 and ended October 14th, 1999.

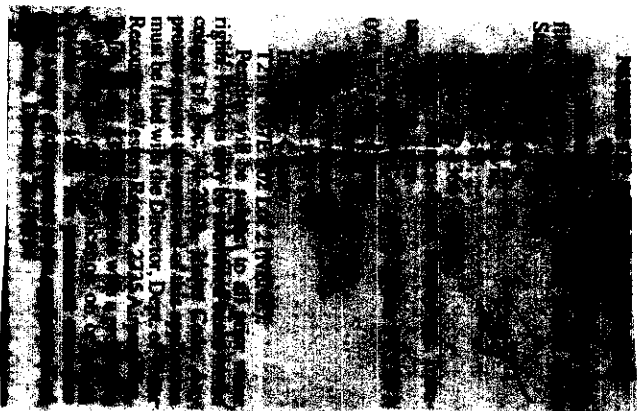
S. Lynn Goodwin
Subscribed and sworn before me this the 15th day of October, 1999.
STATE OF IDAHO

COUNTY OF VALLEY }

On this 15th day of October, in the year of 1999, before me, a Notary Public, personally appeared S. Lynn Goodwin, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



Tom Grote
Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires: 1999



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MAY 24 2000



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR
OCTOBER 1, 1999

Legal Notices Department
The Star News
PO Box 985
McCall, ID 83638

Dear Legal Dept.:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before OCTOBER 25, 1999.

Yours truly,

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

SUE TAYLOR
Secretary/Office Coordinator

Encl.

MICROFILMED

MAY 24 2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

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MAY 24 2000

77-07379

HARTUNG, MARY
HARTUNG, DAVID
PO BOX 585
PAYETTE, ID 836610147

Source: SALMON RIVER, SOUTH FORK Tributary: SALMON RIVER

Diversion Pt: LOT 2 (NENE) Sec 2 T 21N R 07E in VALLEY County.

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

Date Filed: 9/ 9/1999

In: VALLEY County
T21N R07E S02 Lot 2 (NENE)

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MAY 24 2000

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 for each application on or before OCTOBER 25, 1999. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published: 10/ 7/1999 & 10/14/1999

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MAY 24 2000