

Skunk Spring

IDAHO CO.

VALLEY CO.

Gov't LOT 3

P N I A

Gov't LOT 2

E A T T E

A T I O N A L F O R

South Fork
Guard Station

Gov't Lots noted

7/20/94

-SL

RECEIVED

SEP 15 1995

Elk

BM 4114

IDAHO

COUNTY

35

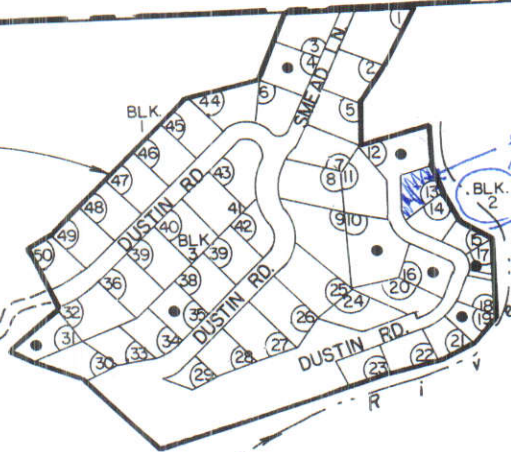
36

2

1

VALLEY CO

TRAILS END SUBDIVISION



P/O & P/W Lot 13 BLK 2
2 IN 7E
~~1 IN 7E~~
Sec 2

77-7339

MICROFILMED

SEP 15 1995

21N

(4-6754)

part Lot 2 (Lot 3 N/A)

-K12044

Range No 7 East of the Boise Meridian, Idaho.

F a D c C b B A

STANDARD

PARALLEL

NORTH

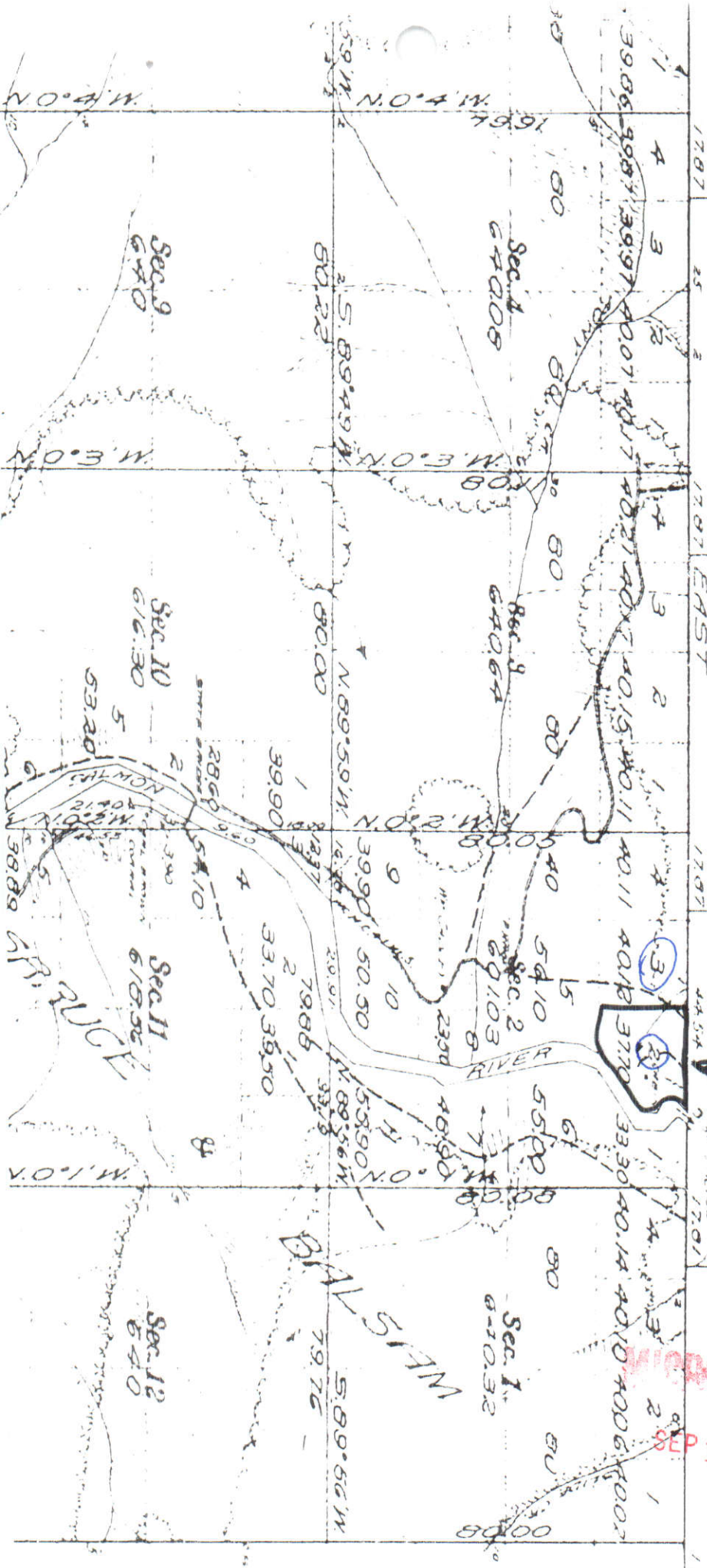
Sec. 33

Sec. 34

Sec. 35

Sec. 36

SEP 15 1995



Publisher's Affidavit of Publication

STATE OF IDAHO

.ss

County of Valley

I, Ramona A. French, being duly sworn and say, I am the receptionist of The Central Idaho 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 aforesaid and is a legal newspaper; that the NOTICE OF APPLICATION FOR WATER RIGHT, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for two consecutive 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 August 4, 1994 and ended August 11, 1994.

Subscribed and sworn before me this 11th day of August, 1994.
STATE OF IDAHO

COUNTY OF VALLEY }

On this 11th day of August, in the year of 1994, before me, a Notary Public, personally appeared Ramona A. French, 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
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:
77-07339

CROSS, DWIGHT H
CROSS, LINDA K
5415 CUSTER RD
NEW PLYMOUTH, 83655
Source: SALMON RIVER, SOUTH FORK
Tributary: SALMON RIVER
Diversions Pt: LOT 2 (NWNENE), Sec 2 T
21N R 07E in VALLEY County.
LOT 2 (NENWNE) Sec 2 T 21N R
07E in VALLEY County.

Use: DOMESTIC (040 CFS)
Total Diversion: (040 CFS)
Date Filed: 7/13/1994
In: VALLEY County T21N R07E S02 Lot
2(NENE) Lot 2(NWNE)

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 AUGUST 22, 1994. The protestant must also send a copy of the protest to the applicant.
R. KEITH HIGGINSON, Director 218/11

RECEIVED
AUG 24 1994
WATER RESOURCES
WESTERN REGION

SEP 15 1995

FOR OFFICE USE ONLY
 Amt. of Fee \$: 50.00
 Receipt No. 2043227
 Receipt By: B. D. [Signature]
 Date Received: 8-20-94
RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AUG 26 1998

PROOF OF BENEFICIAL USE

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 who has been appointed by the department.

1. Permit No. 77-07339 Telephone No. 208-278-5213
2. Name(s) of Permit Holder(s): DWIGHT H & LINDA K. CROSS
3. Mailing Address: 5415 CUSTER Road, New Plymouth, Idaho 83655
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: 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? | Yes _____ | or | No <u>X</u> |
| | Has the measuring device been installed? | Yes _____ | or | No <u>X</u> |
| Flow Measurement Port: | Is a flow measurement port required? | Yes _____ | or | No <u>X</u> |
| | Has the measurement port been installed? | Yes _____ | or | No <u>X</u> |
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: DWIGHT CROSS Telephone Number: 208-278-5213

Address: 5415 CUSTER Road New Plymouth Idaho 83655
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:  Date: 8-24-'98
(include your title, if on behalf of company or organization)

MICROFILMED

2019 09 19

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

AUG 26 1997

REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 77-07339

Name(s) of Permit Holder: DWIGHT H + LINDA K CROSS

Mailing Address: 5415 CUSTER Road New Plymouth Idaho 83655

Date Proof is Due: SEPT 1, 1997 Telephone No. 208-278-5213

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Water pump and underground water lines have been purchased

Costing \$ 683

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

Road to property (Warren to South Fork) has been impassable due to numerous washouts. Road work is nearing completion and we expect to have access by 9-1-97 at which time a 1000 gallon holding tank can be buried

Permit holder(s) request an extension to 9-1-, 1998.

FEE: \$50.00

(Signature)*

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to September 1, 1998.

Signed this 27th day of August, 1997

J. Glen Saylor
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 77-07339

Proposed Priority: July 13, 1994

Maximum Diversion Rate:

0.04 CFS

This is to certify, that **DWIGHT H CROSS**

LINDA K CROSS

5415 CUSTER RD

NEW PLYMOUTH ID 83655

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 (NWNENE), Sec. 2, Township 21N, Range 07E

Lot 2 (NENWNE), Sec. 2, Township 21N, Range 07E

VALLEY County

PLACE OF USE: DOMESTIC

TWN RGE SEC

21N 07E 2 Lot 2 (NENE)

Lot 2 (NWNE)

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **September 1, 1997**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Single point of diversion and place of use located on or near the line between NENE and NWNE, S02, T21N, R07E.
6. Place of use is located within Lot 13, Blk. 2, Trail's End Subdivision.
7. Domestic use is for 1 home.

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

31st day of August, 1995.

RECORDED

SEP 15 1995

Karl J. Dreher
for Karl J. Dreher, Director

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: DWIGHT H CROSS 208-278-5213
Address: 5415 CUSTER RD
NEW PLYMOUTH ID 83655
AND/OR
Name: LINDA K CROSS 208-278-5213
Address: 5415 CUSTER RD
NEW PLYMOUTH ID 83655
2. Source: SALMON RIVER, SOUTH FORK Trib. to: SALMON RIVER
3. Location of Point of Diversion: Lot 2 (NWNENE), Sec. 2, Township 21N, Range 07E
Lot 2 (NENWNE), Sec. 2, Township 21N, Range 07E
2 VALLEY County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
DOMESTIC	01/01	12/31	0.040		
5. Total quantity to be appropriated is:
0.040 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
PUMP IN RIVER, PIPELINE TO STORAGE TANK, GRAVITY FLOW TO HOME
 - 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 groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when?
Drilling Firm
Well was drilled for
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 3 year(s).

SEP 15 1995

* corrected in d'base per govt lot plat - 82 7/20/94

8. Place of Use: DOMESTIC

TWN RGE SEC
21N 07E 2 Lot 2(NENE) Lot ²/₃(NWNE)

9. a. Who owns the property at the point of diversion?
APPLICANT OR GERALD CHATWOOD
b. Who owns the land to be irrigated or place of use?
APPLICANT
c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.
EASEMENT AGREEMENT

10. Remarks:

Domestic use is for one home.
Place of use known as Lot 13 Block 2, Trail's End Subdivision.
Single point of diversion and place of use on or near tract line
between NENE and NWNE, ⁵⁰²See 2, T21N, R07E.

11. Map of proposed point of diversion and place of use attached? ☒

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.

Linda K Cross
Applicant

Received by Cyt Date 7/13/94 Time 1100 Preliminary check by R
Fee \$ 50- Receipted by Cyt # W017743 Date 7/13/94
Publication prepared by ST Date 7-27-94 Published in Star News
Publication approved ST Date 8-24-94

MICROFILMED

SEP 15 1995

* corrected to d'base as noted pg. 1 of Appl.
-R 7/20/94

Remarks corrected per d'base standards

Comments: Date: 7/13/1994 User-ID: CHODGES

Subject:
misc information

Point of diversion will likely be shared with Lot 12, Block 2,
and P/D may be on this lot (legal description will not change).

Owners of Lot 12 will file separate application.

Property also uses Trail's End community system from Pony Creek.

This system being developed for backup and wintertime supply.

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SEP 15 1995

Shank Spring

IDAHO Co.

VALLEY Co.

Govt LUT 3 NIA

Govt LUT 2

9/5/94

21N 1E

A T T O N A L F O R

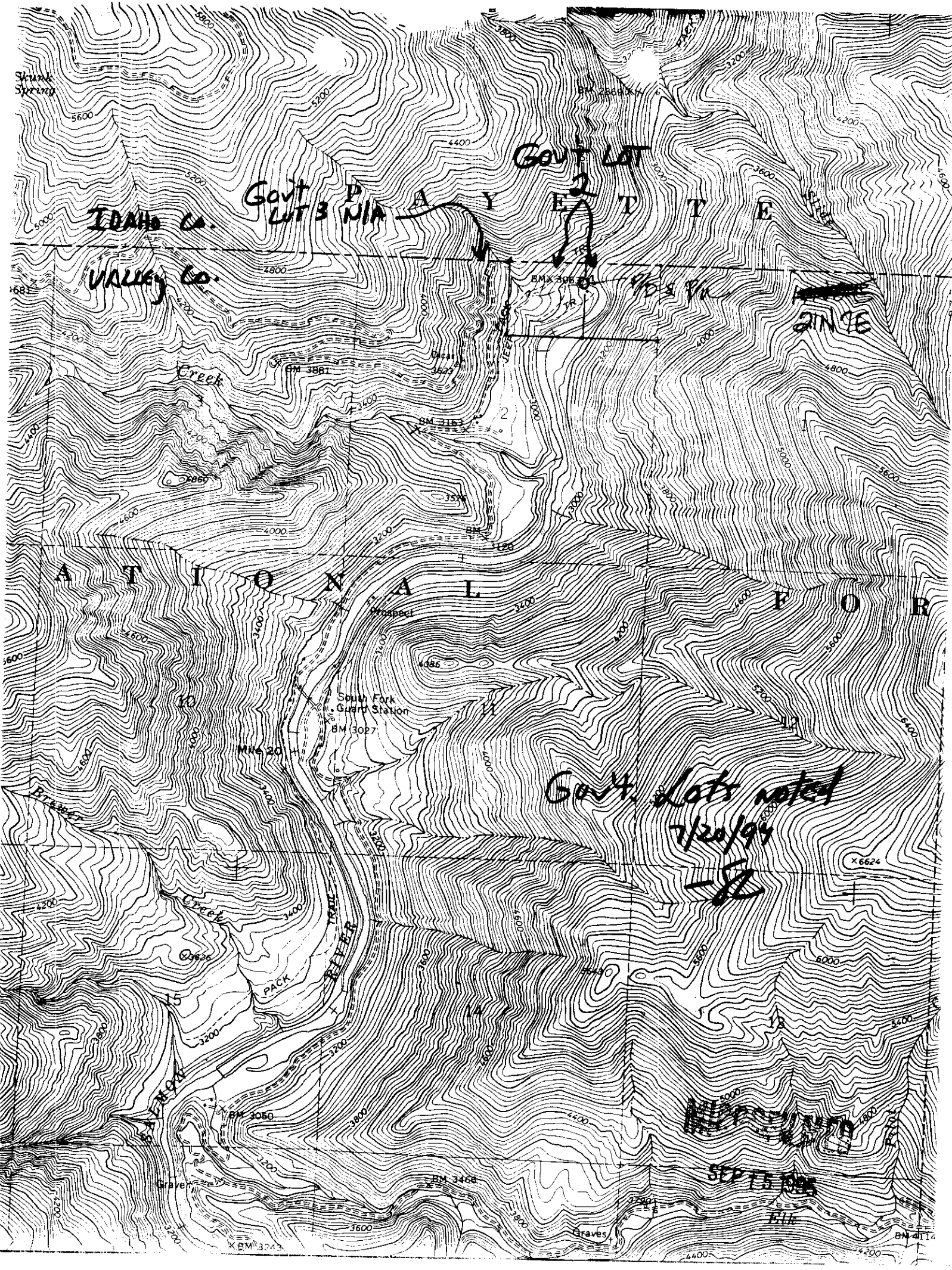
South Fork
Guard Station
BM 3027

Govt. Luts noted

7/20/94

-82

SEPT 15 1994



IDAHO

COUNTY

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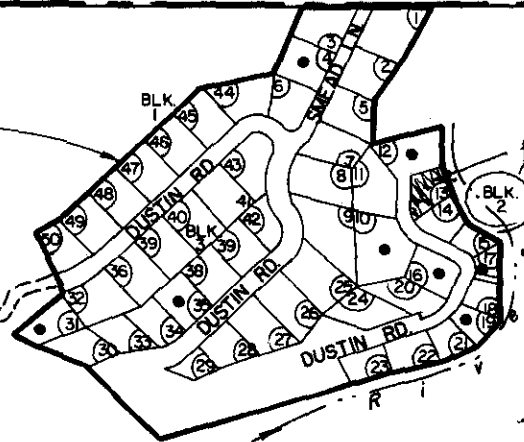
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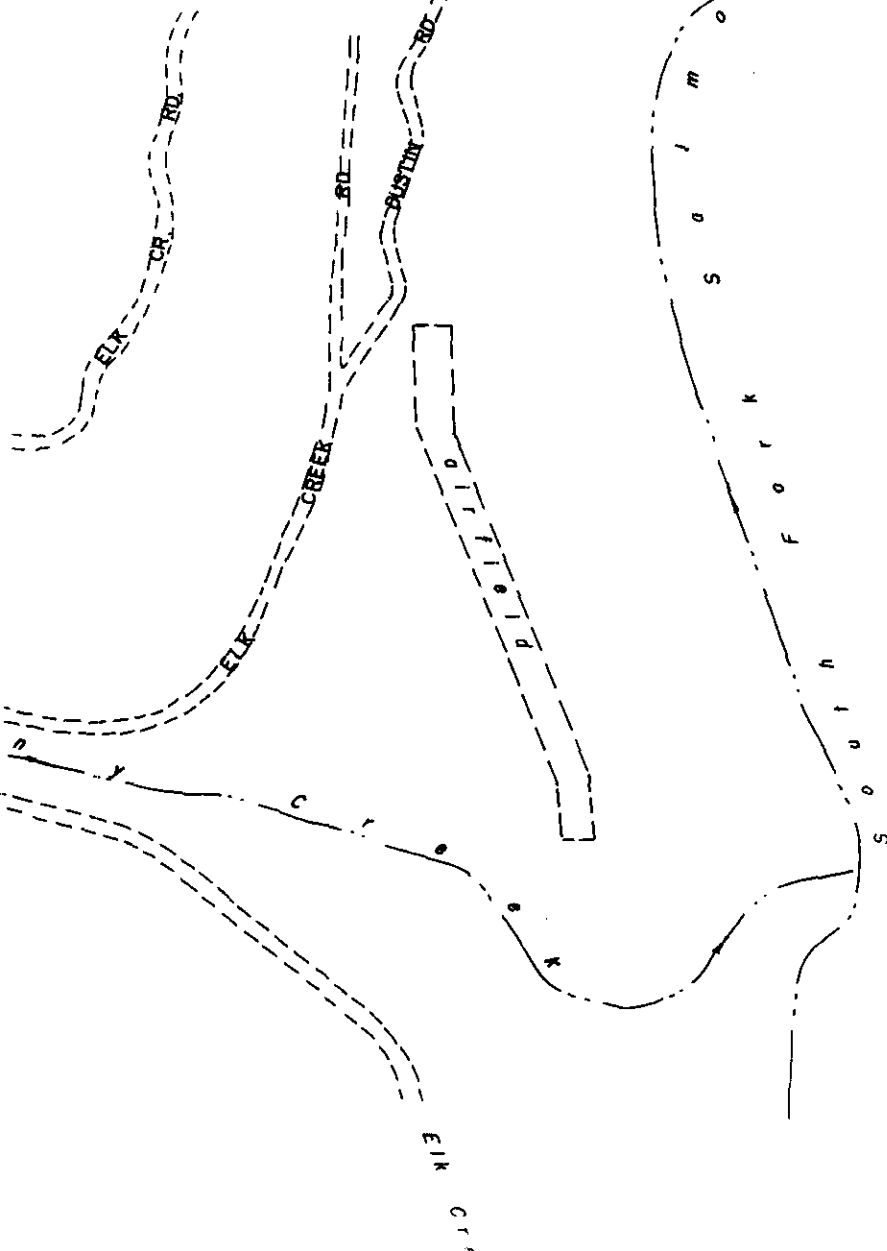
VALLEY CO

TRAILS END SUBDIVISION



P/O & P/W Lot 13 BLK 2
21N 7E
~~WAGNER~~
Sec 2

77-7339



RECORDED

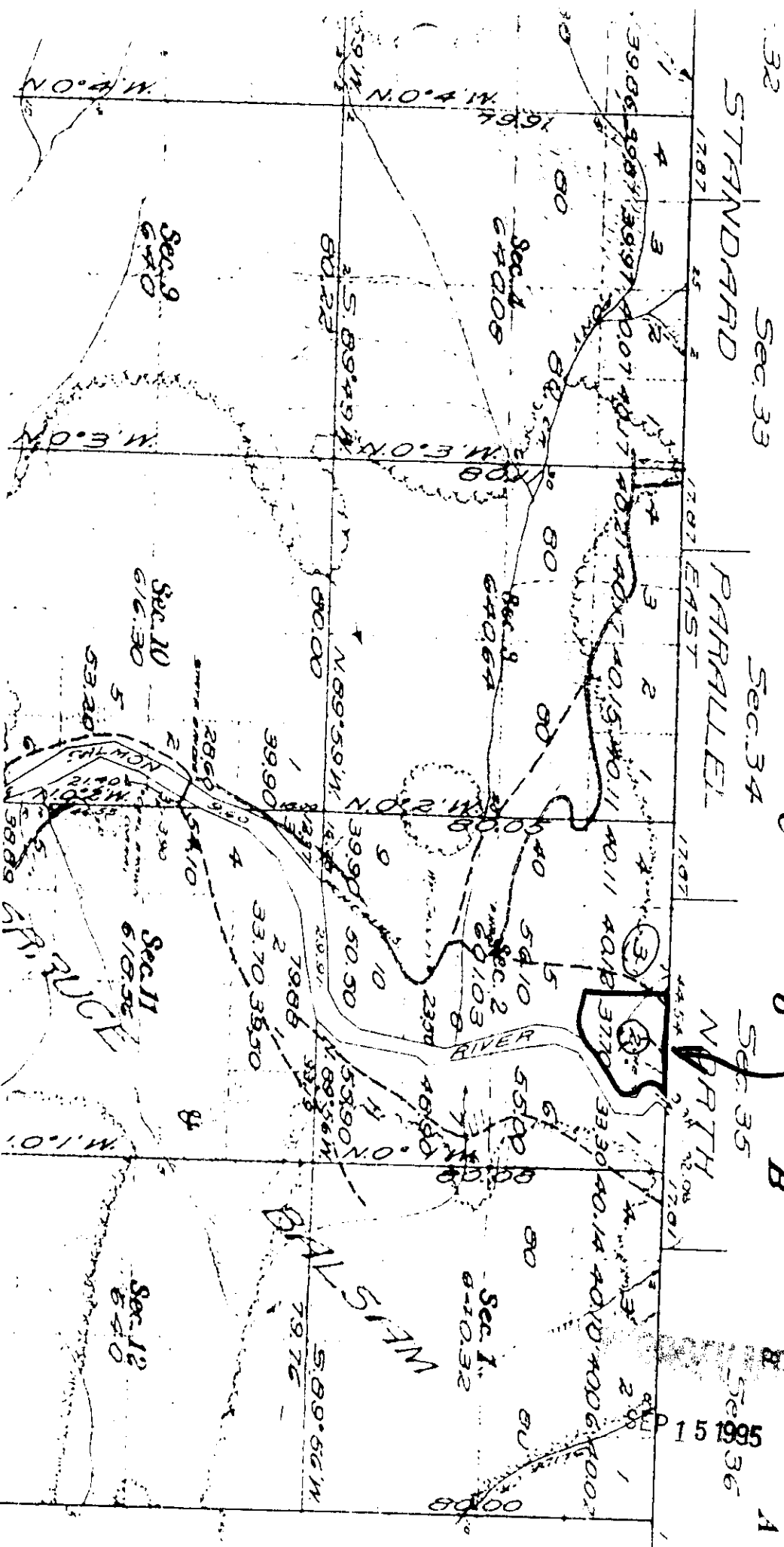
SEP 15 1995

part Lot 2 (Lot 3 n/a)

Range No 7 East of the Boise Meridian, Idaho.

8

NP 74



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AUG 05 1999



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

August 4, 1999

To: Distribution List

Re: Field Examinations of Water Systems

Dear Water Right Owner:

You are one of five water right owners of individual water right permits serving property in Trails End Subdivision. I plan to conduct field exams of completed water delivery systems right after Labor Day of this year. The purpose of the field exams is to verify the completed development in order for this department to issue water right licenses, which represent the end product of your water right process.

Seven water right permits for five owners are involved. I already conducted the exam for Keithley's cabin (#77-07346). I also conducted the field work for the community system several years ago, so I am familiar with the site.

A field exam can be done for a permit in which the proof of beneficial use has been filed by the owner. The proof filing is your statement that the development has been completed. For domestic situations, you do not necessarily have to finish building the cabin. As long as you have completed a water delivery system and have made beneficial use of that water in a domestic setting such as camping etc., your domestic use will be recognized in the licensing process.

For example, a diversion system and a delivery line ending at your domestic site -- whether it be a cabin, an occasional use of a trailer or camping set up, or something similar -- can be licensed within your domestic permit.

Proof has been filed for three permits. Proof is due within the next two years for three other permits. For the latter group, you may choose to file your proof right away if your development is completed as discussed above. The proof filing fee is \$50. Early filing of the proof of beneficial use will allow me to conduct all of the field exams at once, which will save the taxpayers quite a lot of money in the long run. Do not file your proof if your development is not completed as discussed above -- instead, use

August 4, 1999
Page 2

your remaining development time to complete your system before filing proof.

Please review the attached table and diagram and send your response to me as soon as possible. That will help me complete the necessary field work to advance your permit into a license, which will protect your water right and enhance the value of your property. Please call me at 334-2190 if you have any questions or concerns about this arrangement. Thank you very much for your help in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Lester".

Steve Lester
Water Rights Supervisor

Enclosures

Distribution: Myra & Gerald Chatwood, Linda & Dwight Cross, Mary
& Morris Hartung, M. C. & Scott Keithley, Jerleen &
Leland Kelly

Table 1. Trails End Subdivision Permits.

<u>Owner</u>	<u>Right #</u>	<u>Proof filing</u>	<u>Comments</u>
Keithley	77-07346	filed 1996	Lot 22, field exam done 1997
Cross	77-07339	filed 1998	Lot 13, river water, exam can be done
Cross	77-07363	filed 1998	Lot 21, unnamed stream, exam can be done
Kelly	77-07364	filed 1998	Lot 43, unnamed stream, exam can be done
Hartung	77-07357	due 2/2000	Lot 16, unnamed stream, file proof if development done
Chatwood	77-07367	due 3/2001	Lot 12, unnamed stream, file proof if development done
Chatwood	77-07368	due 6/2001	Lot 12, river water, file proof if development done

If you have filed or are filing proof now so exams can be done:

- 1) See attached diagram with your lot(s) shown.
- 2) Send me a brief diagram that describes what your cabin or site looks like.
- 3) Include directions of how to locate your diversion point once I get to your lot. Indicate how water is conveyed from the diversion point to your cabin or other place of use (i.e., 50' of 2" buried pipe).
- 4) If your diversion is a portable pump, list the brand name, horsepower (hp) and serial number of the pump. If the portable pump is stored at the site but I will not be able to see it to read the pump tag, please provide your best recollection of at least the hp of the pump.

If I can identify your point of diversion, type of diversion, conveyance system from the diversion, place of use (cabin, camping spot etc.) and any hp etc. specs for pumps, the field exam will be completed and your license will be issued.

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 17-01339 Reviewed by [Signature] Date 10-20-98

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 X

Proof Made 8-26-98



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**

October 21, 1998

**KARL J. DREHER
DIRECTOR**

Dwight and Linda Cross
5415 Custer Rd
New Plymouth ID 83655

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 77-07339

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

Senior Secretary, Water Allocation Bureau

c: IDWR - Regional Office

MICROFILMED

NOV 09 1998

June 30, 1998

DWIGHT H CROSS
LINDA K CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

PROOF DUE NOTICE

RE: PERMIT NO. 77-07339

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before September 1, 1998. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

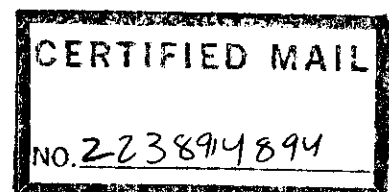
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

MICROFILMED

NOV 09 1998



ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 77-01339 Reviewed by [Signature] Date 8-27-97

BASIC INFORMATION

8-26-97 Date stamp received
yes Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN *Recommend extend to Sept. 1, 1998, on basis of due diligence.*

PRIORITY CALCULATION

Date extension received	_____	=	_____
Proof due date	_____	=	_____
Number of days late	_____	=	_____
Priority date	_____	=	_____
New Priority Date	_____	=	_____

DATA ENTRY

New Address X
Change Proof Due Date 9-1-98
Change Priority Date X



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

August 28, 1997

Dwight and Linda Cross
5415 Custer Rd
New Plymouth ID 83655

RE: Permit No. 77-07339

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the time within which to submit proof of beneficial use to **September 1, 1998**. Please note that the department has granted this extension based on **due diligence**. It is important that you work diligently toward the completion of the development during the construction period allowed since the department **will not** be able to grant additional extensions based on due diligence.

Section 42-248, Idaho Code, which became effective on July 1, 1996, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact this office or any regional office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please contact me at (208)327-7953, if you have any questions regarding this matter.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

C: IDWR - Regional Office

Enclosure

ENCLOSURE

SEP 16 1997

June 30, 1997

DWIGHT H CROSS
LINDA K CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

PROOF DUE NOTICE

RE: PERMIT NO. 77-07339

Dear Permit Holder:

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(See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

77-07339
SEP 16 1997





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 31, 1995

DWIGHT H CROSS
LINDA K CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 77-07339

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

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.

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,

Shelley W. Keen
Water Rights Supervisor

RECORDED

SEP 15 1995

SK:rl

**APPLICATION FOR PERMIT
STATE OFFICE REVIEW**
by Cindy Zimmerman

No.: 77-7339 Name: Cross Date: 8/29/95 Ad OK? ☒
Correct Fee? ☒ Receipt #: W017743 Priority: 7/13/94 ☒ Gvmt Lts: ☒

AREA OF CONCERN? - No/Yes S/C Mor GWMA Trust/Non-trust
PROTESTED: unconditional withdraw - 020(Protest Agr) or W19(See Final/Prelim Order)
SYSTEM COMPLETED:

Yes/proof filed - NA
1 year/no proof - P16
+1 year - ~~26A~~-P17

GROUNDWATER: <☒ FLO-CH>

+ 0.2 cfs - 01M
=/- 0.2 cfs - No MD
=/+ 5 a. - 01M, 065(if GW use SW 1st)

Drilling Permit:

Existing well - NA (pre 7/1/87)
Included w/permit - Permit No. , P99
No WD permit? - 046-46B-P23 (post 7/1/87)
irr. in WD - P05 (new well)

SURFACE WATER <☒ FLO-CH> (Surface water that doesn't sink in WD):

Water District(~~dom~~) - 005 (req) WD # <SEE MAP & LISTING>
+ 0.2 cfs - 028(may report)-01J(meas dev)-P08
=/- 0.2 cfs - 028(may report)-01H(lock dev)-P01 or No MD
=/+ 5 a. irr. - 028(may report)
~~In WD~~ + 0.2 cfs - 01M or No MD (in-stream)
dom. 004 - 0.2 cfs - No MD
=/+ 5 a. irr. - 01M

RIVER BASINS (*Surface water):

Snake R (01) - 11A-P04, NA
(02/03) - 007-P07 (w/remark WB9), NA
Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA
Payette R (65) - 064(consump. use), 047-P04(Payette Lake), NA

USE:

Domestic (surface) - 021(Boise R + L Peak); 27A(Payette R); NA
Fish Propagation - 07A-042(rq)-010/06A/09E(WQ)-P10; 044(N 1000 Spr)
Irr <POU> =/- 5 a - 057 (0.03 cfs/A)
+ 5 a - 03A (0.02 cfs/A)
Mining - 054 (req) & 06A/010/09E-P10
Power - 08A-17K-025-027-01M-01F(P19)-09E(P10);
+25 cfs-P18; 17G(FERC) or 17M(FERC); 18B-P09
Storage(☒ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

LOCATION:

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 - B <SEE CODE CHART>
Trust - 051-052-053-P74 (Consumptive Uses), NA
Non-Trust <1> - 048-049 (Consumptive Uses), NA

OWNERSHIP: Non-land owner -

OTHER CONDITIONS: -

STANDARD REMARKS: -

BENEFICIAL USE DUE: -

COMMENTS: -

① pu = 43 B2, Trail's End Subd.
② w33 ③ w01/1

9-1-1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: fr DATE: 7/20/94 APPLICATION: 77-07339

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) Gov't. Lots:
Period of use: 4 P/D
Nature of proposed use: (Include description of use) 1 P/U
Description of diverting works:
Time required for beneficial use of water:
Place of use or acres irrigated:
Map:
Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
Fee:
Yes No* In form to receipt:

ADDITIONAL INFORMATION

YES NO 0/1
N/A Overlapping place of use: (Describe source & relationship to present application on the back.)
Overlapping point of diversion:
Field check required: Field check by: _____
Field report attached:
Critical groundwater area:
Groundwater management area:
1992 moratorium - 42-111 Exemption Pump planned so N/A
Copy to SCA staff (perennial stream, non-pump diversion):
Send dam safety information:
Send power requirement letter:
Send fish farm requirement letter:
Power residency affidavit:
Power efficiency form:
Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)
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

APPLICATION

77-07339

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

☐ ☒
☐ ☒
☐ ☒
☐ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☐ ☒
☐ ☒
☐ ☒
☐ ☒

U.S. BLM

U.S. Forest Svc.

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 8-22-94

Protest dates, resolution of protest recorded on application:

Recommendations attached: Approve, DNR

Measuring device required:

Measuring port required:

Water delivered by water master? District #

Special conditions of approval or cover letter:

26A (Allow 2 yrs)

See below for additional information

Recommended Date or Priority 7/13/1994

Recommended by: DNR Date 8/21/1995

STATE OFFICE REVIEW

See below for additional information. By Date

ADDITIONAL INFORMATION



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 26, 1995

DALE N BOSWORTH
US DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN UT 84401

Re: Application for Permit No. 77-7339 in the Name of Dwight &/or
Linda Cross

Dear Protestant:

This letter is to acknowledge your withdrawal of protest against
the above-referenced application for water right.

The Department now will continue to process the application,
subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

CC: Applicants

SEP 15 1995

RECEIVED
JUL 19 1995
Department of Water Resources

RECEIVED
JUL 24 1995
WATER RESOURCES
WESTERN REGION

W I T H D R A W A L

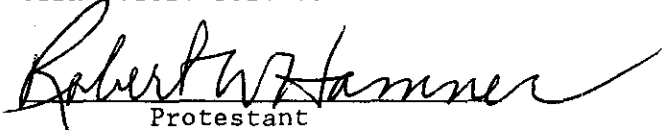
TO WHOM IT MAY CONCERN:

I hereby withdrawn my protest of Application For Water
Right to Appropriate the Public Water of the State of Idaho, No. 77-7339.

Signed at Ogden, Utah

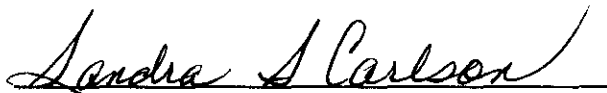
this 14 day of July 1995.

USDA-Forest Service


Protestant

(for) DALE N. BOSWORTH, Regional Forester

ATTEST:



RECEIVED

SEP 15 1995



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 7, 1995

US DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN UT 84401

Re: Application for Permit #77-7339 in the Name of Dwight &/or
Linda Cross

Dear Sir:

Enclosed is a protest withdrawal form. If all the criteria have been met for approval of the above-referenced application, please complete the withdrawal form and return it to this office.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT/st

Encl.

CC: Dave Kennell

RECEIVED

SEP 15 1995

CONVERSATION MEMORANDUM

D

8/2/95

FILE

77-7339

NAME OF PARTY Dave Kennell USFS

EMPLOYEE Dave Tuthill

RE: Protest

USFS will be withdrawing their protest.

I telephoned Mr. Cross to advise him that his portion of the conf has been cancelled.

Dr

RECORDED

SEP 15 1995

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

077-7339

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

1. ☐ Addressee's Address

2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

DWIGHT &/OR LINDA CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

4a. Article Number

2 206 598 914

4b. Service Type

☐ Registered

☐ Insured

☒ Certified

☐ COD

☐ Express Mail

☐ Return Receipt for Merchandise

7. Date of Delivery

5-17-95

5. Signature (Addressee)

Linda Cross

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

MAY 18 1995

WATER RESOURCES
WESTERN REGION

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705



SEP 15 1995

REMITTANCE FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$3.00



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

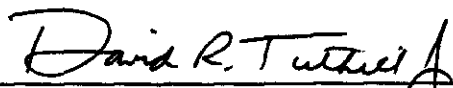
IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 77-07339 IN THE)
NAME OF DWIGHT &/OR LINDA CROSS)
AND NO. 77-07332 IN THE NAME OF)
ARNOLD &/OR SUE JOHNSON.)

NOTICE OF CONFERENCE

On July 13, 1994, Dwight &/or Linda Cross filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. On December 28, 1993, Arnold &/or Sue Johnson filed an application for permit. The applications were protested by the U.S. Dept. of Agriculture, Forest Service.

The Department has set the matter of protests for a conference to be held on Wednesday, June 7, 1995, at 2:00 p.m., at the U.S. Department of Agriculture, Forest Service, 800 W. Lakeside Avenue, McCall, Idaho 83638. 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 and Procedure 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. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 16th day of May, 1995.


DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

NOTICE OF CONFERENCE

RECEIVED
SEP 15 1995

I hereby certify that on the 16th day of May, 1995, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Sue Taylor
Secretary

Certified Mail

DWIGHT &/OR LINDA CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

ARNOLD &/OR SUE JOHNSON
1227 ALDER NO 40
LEWISTON ID 83501

US DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN UT 84401

Non-Certified Mail

FOREST SUPERVISOR
US FOREST SERVICE
PO BOX 1026
MCCALL ID 83638

NOTICE OF CONFERENCE

RECEIVED
SEP 15 1995

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

RECEIVED
SEP 15 1995

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 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 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 be 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.

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.

RECEIVED
SEP 15 1995

FROM

Sue

DATE 1-12-95

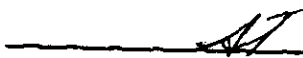
TO

file

SUBJECT

App. # 77-7332 + 77-7339

*I spoke with Randy Zuniga & he will
contact the people to remind them of the
special use permit they need.*


SIGNATURE

MICROFILMED

SEP 15 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

September 22, 1994

RANDY ZUNIGA
US FOREST SERVICE
PAYETTE NATIONAL FOREST
PO BOX 1026
MCCALL ID 83638

Re: Applications for Permit Nos. 77-7339 in the Name of Dwight
&/or Linda Cross, 77-7332 in the Name of Arnold &/or Sue
Johnson and 77-7335 and 77-7336 in the Name of Duane Smith

Dear Randy:

Enclosed are copies of the above-referenced applications for
permit. Please review these and let us know their status so we
can update our files.

Thanks for your help.

Sincerely,

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

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

DRT:st

Encl.

RECEIVED

SEP 15 1994

Publisher's Affidavit of Publication

STATE OF IDAHO

County of Valley

.ss

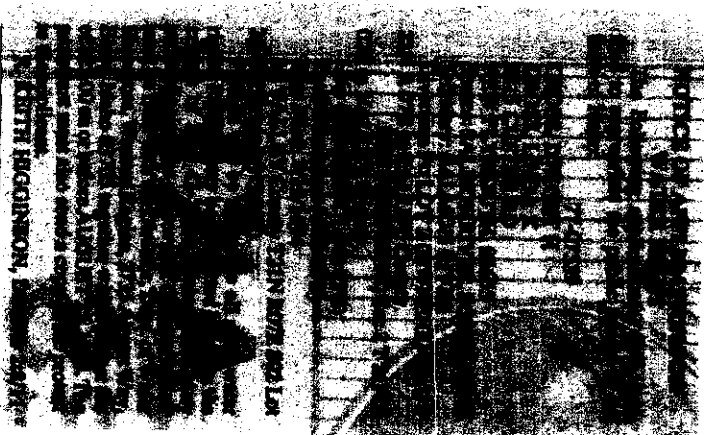
I, Ramona A. French, being duly sworn and say, I am the receptionist of The Central Idaho Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of aforesaid and is a legal newspaper; that the NOTICE OF APPLICATION FOR WATER RIGHT, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for two consecutive 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 August 4, 1994 and ended August 11, 1994.

Subscribed and sworn before me this 11th day of August, 1994.
STATE OF IDAHO

COUNTY OF VALLEY

On this 11th day of August, in the year of 1994, before me, a Notary Public, personally appeared Ramona A. French, 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
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires: 1999



MICROFILMED

SEP 15 1995

RECEIVED
AUG 24 1994
WATER RESOURCES
WESTERN REGION



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

August 22, 1994

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DWIGHT H &/OR LINDA K CROSS
5415 CUSTER RD
NEW PLYMOUTH ID 83655

Re: Application for Permit No. 77-7339

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application. 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) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, 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,

DAVID R. TUTHILL, JR., P.E.
Manager, Western Regional Office

Enclosure: Copy of protest(s)

UNRECORDED

SEP 15 1995



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

August 22, 1994

CECIL D. ANDRUS
GOVERNOR

DALE N BOSWORTH, REGIONAL FORESTER
U S DEPT OF AGRICULTURE
FOREST SERVICE
324 25TH ST
OGDEN UT 84401

R. KEITH HIGGINSON
DIRECTOR

Re: Application for Permit No. 77-7339 in the Name of Dwight
H. &/or Linda K. Cross

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. 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 has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application for permit (Section 42-203, 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,

DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

DRT/st

MICROFILMED
SEP 15 1995

APPLICANT: Dwight H. &/or Linda K. Cross

Date Filed 7-13-94

Protestant(s) Name & Address: US Dept of Agriculture, Forest Service, (Dale N. Bosworth, Regional Forester, 324 25th St., Ogden, UT 84401

Attorney - Name & Address

Issues

Applicant - Attorney - Name & Address

Dates:

Acknowledgement Letters

Hearing Notice

Hearing Date

Other:

SEP 15 1995

United States
Department of
Agriculture

Forest
Service

Intermountain
Region

324 25th Street
Ogden, UT 84401

Reply to: 2540-1

Date: AUG 02 1994

Mr. R. Keith Higginson, Director
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

RECEIVED

AUG 17 1994

WATER RESOURCES
WESTERN REGION

Dear Mr. Higginson:

We are writing to protest Application for Permit 77-07339 filed by Dwight and Linda Cross to appropriate 0.04 cfs from the South Fork of the Salmon River (SFSR). The reasons for the protest are as follows:

1. The legal description as provided in the Application appears to be in error. The township, range, section and government lot are correct; however, the aliquot parts description, the NWNENE, is National Forest land. The correct legal description should be verified.

2. The ownership of the bed of the SFSR, that area below mean annual high water marks, is claimed by the United States. The State of Idaho also claims ownership of the bed of the SFSR; however, the Forest Service is unaware of any Federal court ruling on the question of navigability for title purposes. As we understand the process, the burden is on the State to prove in a Federal court that a stream was used for trade and travel at the time of statehood. The Forest Service recognizes the complexity of the ownership question. Nevertheless, we intend to treat the bed of the SFSR as National Forest land and manage and protect it under the applicable laws, rules, and regulations.

The Applicant would need a Special Use Permit before any activity occurs below the mean annual high water mark. Before a Special Use Permit can be issued, an appropriate National Environmental Policy Act (NEPA) document as well as a Biological Assessment for the threatened Chinook Salmon must be prepared. Without a Special Use Permit, the Applicant cannot occupy National Forest land and put the water to beneficial use.

We request that the State defer any action on this Application until the issues discussed above are resolved.

Sincerely,

/s/ Roland M. Stoleson for
DALE N. BOSWORTH
Regional Forester

RECEIVED

SEP 15 1995

cc:

Payette NF

Lois Witte, OGC, Denver

BAT

I concur C.Steinolfson 08/01/94I concur G.Boyle 08/01/94

RW:GBoyle:sc:08/01/94

RW FILE



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

TO:

Forest Supervisor

Payette N.F., McCall

fax # 634-0281

FROM:

Steve Lester

DOCUMENT DESCRIPTION:

RE: Protest letter (copy attached) @ 77-07339

in name of Dwight & Linda Cross, Trail's End Subd. NEAR South Fl. Guard
Station. Effective 7-1-94, protests require ① \$25 fee ② Protester
to send copy of protest letter to applicant. FEE SHOULD BE RECEIVED

By PROTEST DEADLINE OF 8/22/94. Thought it would expedite to send
this to you via R.O. in Ogden.

TOTAL PAGES SENT:

1 + COVER SHEET

CONTACT:

REMIT FEE TO IDWR WESTERN REGION OFFICE.

I left phone msg. for Randy Zuviga yesterday but I
imagine he's busy with fires as you all probably are!
Also - am sending letter to your R.O. & one to Missoula
to alert F.S. to this regulatory change.

SEP 15 1995



United States
Department of
Agriculture

Forest
Service

Intermountain
Region

324 25th Street
Ogden, UT 84401

RECEIVED

Reply to: 2540-1

AUG 04 1994

Date: AUG 02 1994

For the Director, Forest Service

Mr. R. Keith Higginson, Director
Idaho Department of Water Resources
1301 North Orchard Street
Statehouse Mail
Boise, ID 83720

RECEIVED

AUG 08 1994

WATER RESOURCES
WESTERN REGION

Dear Mr. Higginson:

We are writing to protest Application for Permit 77-07339 filed by Dwight and Linda Cross to appropriate 0.04 cfs from the South Fork of the Salmon River (SFSR). The reasons for the protest are as follows:

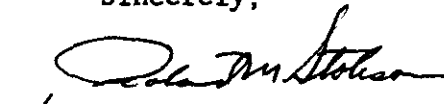
1. The legal description as provided in the Application appears to be in error. The township, range, section and government lot are correct; however, the aliquot parts description, the NWNENE, is National Forest land. The correct legal description should be verified.

2. The ownership of the bed of the SFSR, that area below mean annual high water marks, is claimed by the United States. The State of Idaho also claims ownership of the bed of the SFSR; however, the Forest Service is unaware of any Federal court ruling on the question of navigability for title purposes. As we understand the process, the burden is on the State to prove in a Federal court that a stream was used for trade and travel at the time of statehood. The Forest Service recognizes the complexity of the ownership question. Nevertheless, we intend to treat the bed of the SFSR as National Forest land and manage and protect it under the applicable laws, rules, and regulations.

The Applicant would need a Special Use Permit before any activity occurs below the mean annual high water mark. Before a Special Use Permit can be issued, an appropriate National Environmental Policy Act (NEPA) document as well as a Biological Assessment for the threatened Chinook Salmon must be prepared. Without a Special Use Permit, the Applicant cannot occupy National Forest land and put the water to beneficial use.

We request that the State defer any action on this Application until the issues discussed above are resolved.

Sincerely,


for DALE N. BOSWORTH
Regional Forester

RECEIVED
AUG 15 1995



Caring for the Land and Serving People

FS-6200-28b(4/88)

77-07339

CROSS, DWIGHT H
CROSS, LINDA K
5415 CUSTER RD
NEW PLYMOUTH, ID 83655

Source: SALMON RIVER, SOUTH FORK Tributary: SALMON RIVER

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

Use: DOMESTIC (.040 CFS)
Total Diversion: (.040 CFS)

Date Filed: 7/13/1994

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

77-07339