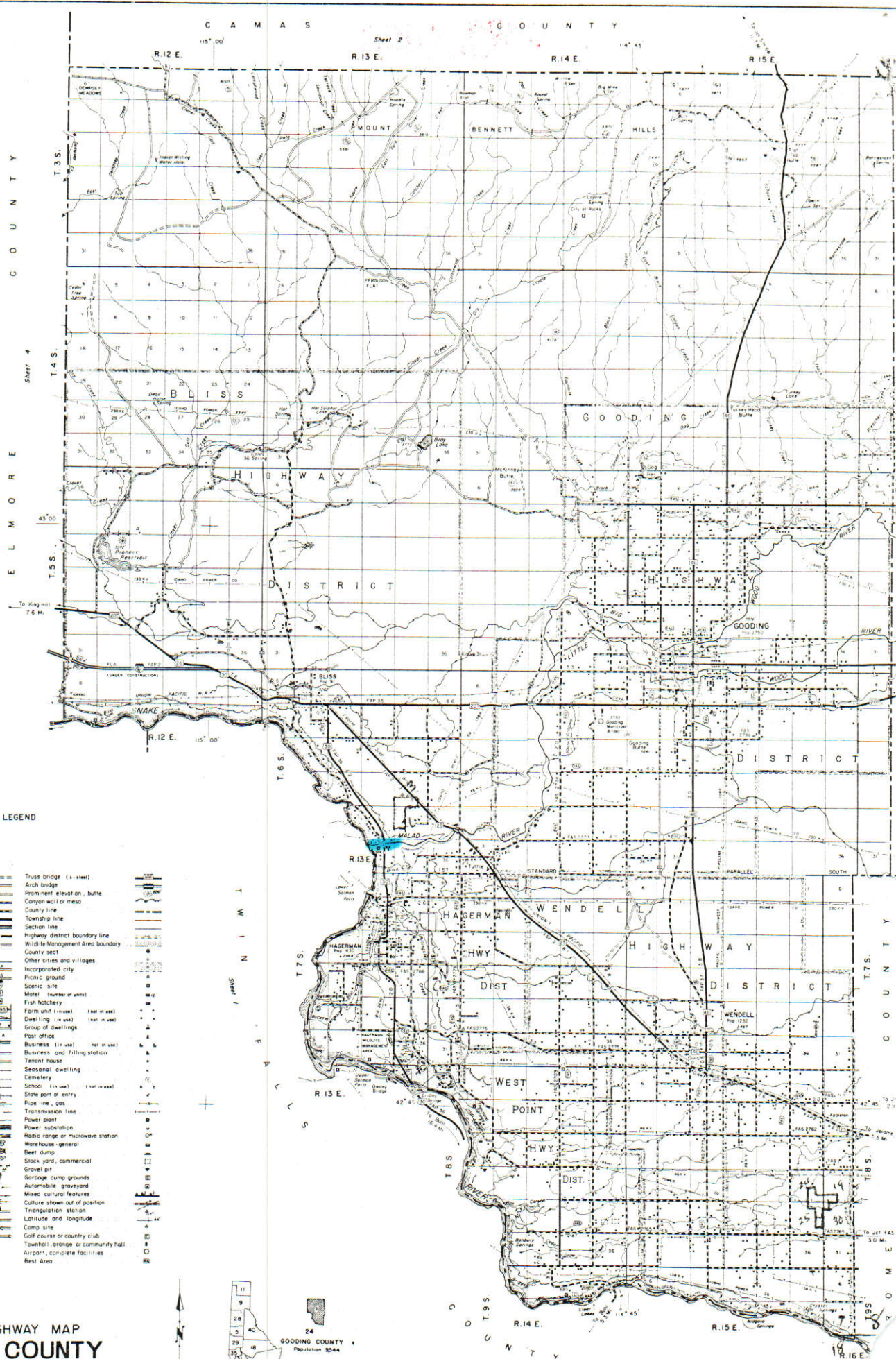
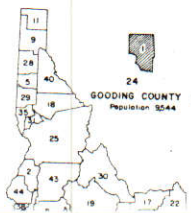


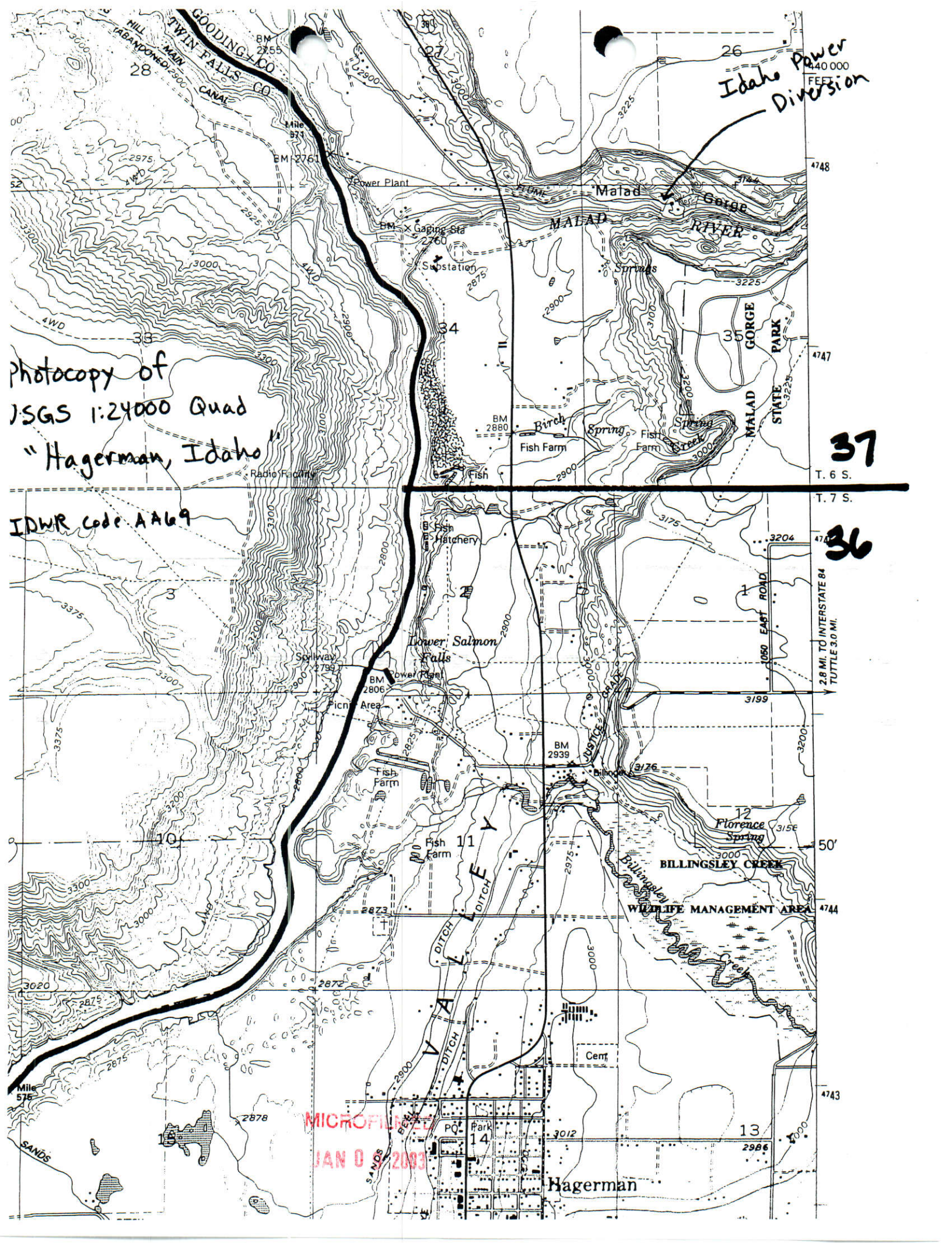
REVISIONS	DATE	BY
1. INITIAL PRELIMINARY DRAFTING	8-1-69	W. J. H.
2. FINAL PRELIMINARY DRAFTING	8-1-69	W. J. H.



GENERAL HIGHWAY MAP GOODING COUNTY IDAHO

IDAHO DEPARTMENT OF HIGHWAYS
STATE-WIDE HIGHWAY PLANNING SURVEY





Idaho Power
40 000
FEET
Diversion

Photocopy of
USGS 1:24000 Quad
"Hagerman, Idaho"

IDWR Code AA69

37

T. 6 S.

T. 7 S.

36

2.8 MI. TO INTERSTATE 84
TUTTLE 3.0 MI.

MICROFILMED
JAN 0 9 2003

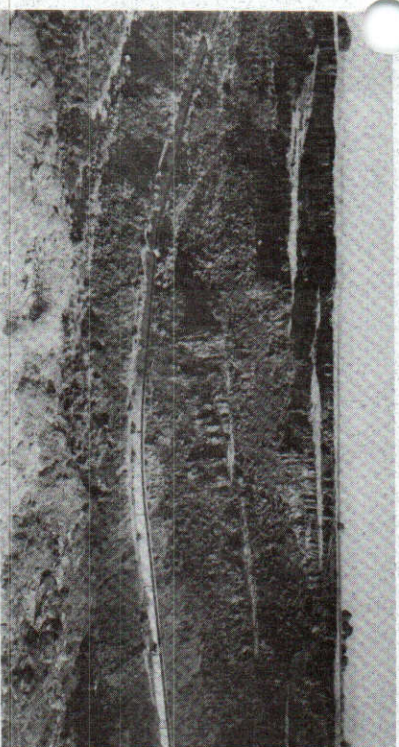
Hagerman



BLOCK FAULTING & RARE PLANT

This stop highlights two features: the step-like block faulting of the canyon, and a rare species of native plant.

Prior to the canyon filling deposits of basalt by Gooding Butte, this area was inundated by an ancient lake bed that left soft sedimentary rock under the canyon walls. As the Malad Gorge was being cut, the waters were also undercutting the soft sediment layers under the basalt rock walls of the canyon. As these softer sediments erode, large sections of the heavier basalt canyon wall slowly "slump" towards the canyon floor over time.



Just beyond where you now stand is the beginning of a block slump. Some of the crevasses formed by this geological process over 100 feet deep.

The moss-like plant growing along the canyon rim at this site is called Cow-Pie Buckwheat. It is a listed rare plant in the state of Idaho. This plant is found in only four sites in our state, and flourishes in the poor soils found here along the canyon edge.

The plant has adapted quite well to living in such a barren place. It is called a succulent because the small leaves are able to retain moisture year-round. The leaves contain a gel-like flesh much like cacti do. The outer part of the leaves are covered with fine silvery hairs which protect the plant from the ultraviolet radiation of the sun. The Cow-Pie Buckwheat produces small yellowish-white flowers in mid to late June.

It is still unknown if Cow-Pie Buckwheat is wind-pollinated or if a species of insect accomplishes the task of pollination.



WOODY'S COVE & HAGERMAN VALLEY

Woody's Cove was created by the same forces which created the Malad Gorge. In the past waters from alpine glacial melt flowed violently over this area and began to wash out this cove. There was once a waterfall here similar to the Devil's Washbowl.

The waters were diverted over time and left the cove as it appears today.

The whitish coloring on the walls is caused by calcium and phosphate deposits leaching out from water and whitening the porous volcanic rock.

The canyon walls of Woody's Cove provide nesting cavities for many bird species. The wooded canyon floor provides habitat for coyote, mule deer and red fox. Natural springs flowing from the base of the canyon provide enough water to maintain the trout hatchery at the mouth of the cove.

To the West lies the Snake River and the Hagerman Valley. The course of the river itself has changed direction over time as a result of the many volcanic episodes. The Snake River in this area was once much farther to the North.

We hope you enjoyed your visit!



Malad Gorge State Park
1074 East 2350 South
Hagerman, ID 83332
208.837.4505



MALAD GORGE STATE PARK



SELF-GUIDED TOUR

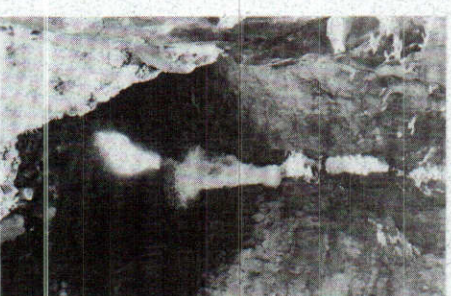
Welcome to Malad Gorge State Park! With this self-guided tour you can conveniently enjoy the park at your own pace while discovering the natural wonders within. Please take time to explore and appreciate the beauty that took many years to create. Points of interest are designated with numbered roadside markers. You may begin your tour at any point along the way. We hope that our self-guided tour will greatly enhance your understanding and enjoyment of Malad Gorge State Park.



DEVIL'S WASHBOWL

The washbowl and the Malad canyon that you see before you were created by a combination of volcanic activity and erosion. Over a period of time, periodic lava flows changed the landscape repeatedly. Gooding Butte, 9.5 miles to the Northeast, near the town of Gooding, Idaho contributed the basalt lava that make up the walls of the Malad Canyon.

Following the volcanic episodes, alpine glacial snow melt from the north began flowing toward the Snake River. As the water reached this area, it began to widen weak joints in the basalt, eroding them to greater widths and depths. This widening began at the edge of the Snake River canyon as a raging waterfall. Over time, the waters retreated 2.5 miles to the present waterfall at Devil's Washbowl. The 60 foot waterfall at the Devil's Wash-



bowl is an active example of a retreating cataract. To the west and southeast of the Malad Canyon, similar examples of this canyon forming erosion can be seen by walking the Northrim/ Alcove loop trail and at Woody's Cove Overlook.

Today the Malad River originates near Gooding, Idaho where the Big and Little Wood rivers combine. The Malad River is 12.5 miles long and the Gorge is 2.5 miles in length. From the footbridge, as you look toward the interstate bridge, you can see that the waters of the Malad River are still active in creating a much narrower and shallower gorge above the Devil's Washbowl.



MALAD GORGE OVERLOOK

Here you can look back at the Malad river waterfall and the Devil's Washbowl to get another perspective of the forces that created the gorge. The Malad River traverses the 250 foot deep canyon two miles from this point before it empties into the Snake River. During the Spring snowmelt the canyon roars with large amounts of water from the swollen river. Wildlife finds abundant food and shelter within the Malad Canyon. Rock pigeons and numerous migratory birds, such as swallows, nest safely inside the canyon walls. Redtail hawks and golden eagles return annually to nest on the rocky outcrops and soar on warm air thermals rising up out of the canyon. Yellow-bellied marmots scurry about with ease in the canyon, eating grasses and tender vegetation. These large rodents live in rockpiles and burrows, nesting and raising their young during the spring and early summer, and then hibernating the remainder of the year.

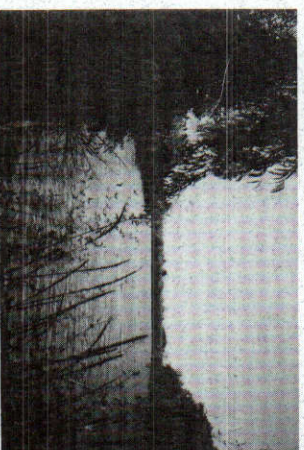


USES OF WATER OVERLOOK

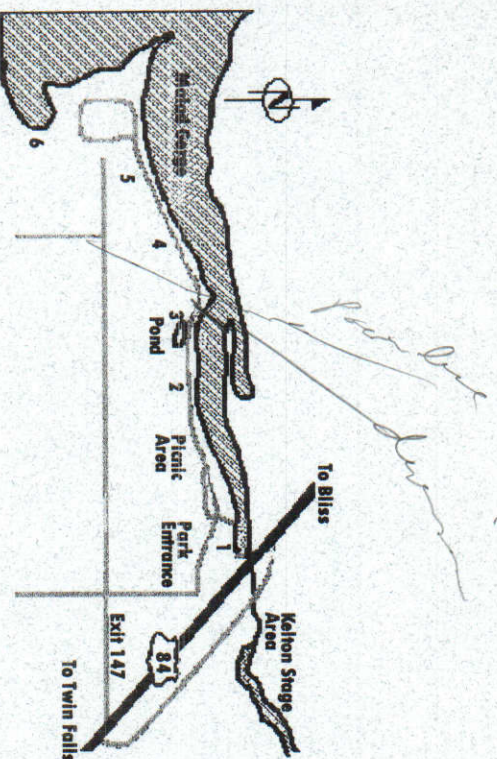
Two interesting features which focus on water usage can be viewed here. Follow the gravel trail leading to our wildlife pond. Once a settling pond for irrigation water, this man-made pond is

now used by many species of wildlife.

Migratory waterfowl take advantage of the protected water during their long journey to wintering areas. During the fall, if you are very quiet, you will often see hundreds of ducks on the water in the mornings and evenings. Docks allow for easier access for many purposes from picnicking to paddling canoes.



MALAD GORGE STATE PARK



JAN 09 2003

Across the road from the parking area is an overlook that will enable you to view the Malad Canyon. The structure that you see to the left diverts water from the upper Malad River to the first of two Idaho Power generators on the river. Electricity has been generated with the Malad River since 1911. The concrete canal system on the canyon floor was completed in 1948. Except during spring high flow periods, most of the waters of the upper Malad River are diverted into the power canal.

Even with this diversion, the network of springs in the Malad Gorge produce 600,000 gallons of water each minute and keep the river flowing throughout the year. These spring waters help maintain a wild trout fishery as well as supporting a diverse population of wildlife. You can see evidence of these springs as the Malad River recharges itself beyond the Idaho Power diversion structure.

Across the canyon is another example of the canyon cutting powers of water. The pool of spring water just past the diversion structure is at the mouth of a canyon sometimes called Farmers' Cove. Hikers traveling the Northrim/Alcove loop trail will see this canyon and also the spring fed pond at its head, once a plunge pool much larger than the Devil's Washbowl.



NATIVE PLANT RESTORATION

This is one of several sites in Malad Gorge State Park currently undergoing native plant community restoration. Due to overgrazing in the past, the native grasses were destroyed. An aggressive non-native species such as cheatgrass and mustard took over the rangeland.

After preparations in the latter part of 1996, this 5 acre site was seeded in April 1997 with four grass species once native throughout this area: Bluebunch Wheatgrass, Thickspike Wheatgrass, Great Basin Wildrye, and Indian Ricegrass. As you can see, the native grasses have re-established themselves and will continue to seed and maintain a healthy grassland community. This grass planting is the first of four phases of habitat rehabilitation here in the park. The second phase will be to establish forbs and flowering plants; the third phase will be to establish shrubs such as sagebrush and antelope bitterbrush; and the final phase will be to establish berry producers and native trees in the wetland areas.

T65 R13E 3

Photocopy from
an Idaho PowerCo.
map in water right file
37-2472

27 26
34 35

75°18'52"

2900

1412.97'

Malad River

2850

NW 1/4 NW 1/4

2950

DAM

2950

3000

Point of Diversion
Lower Development

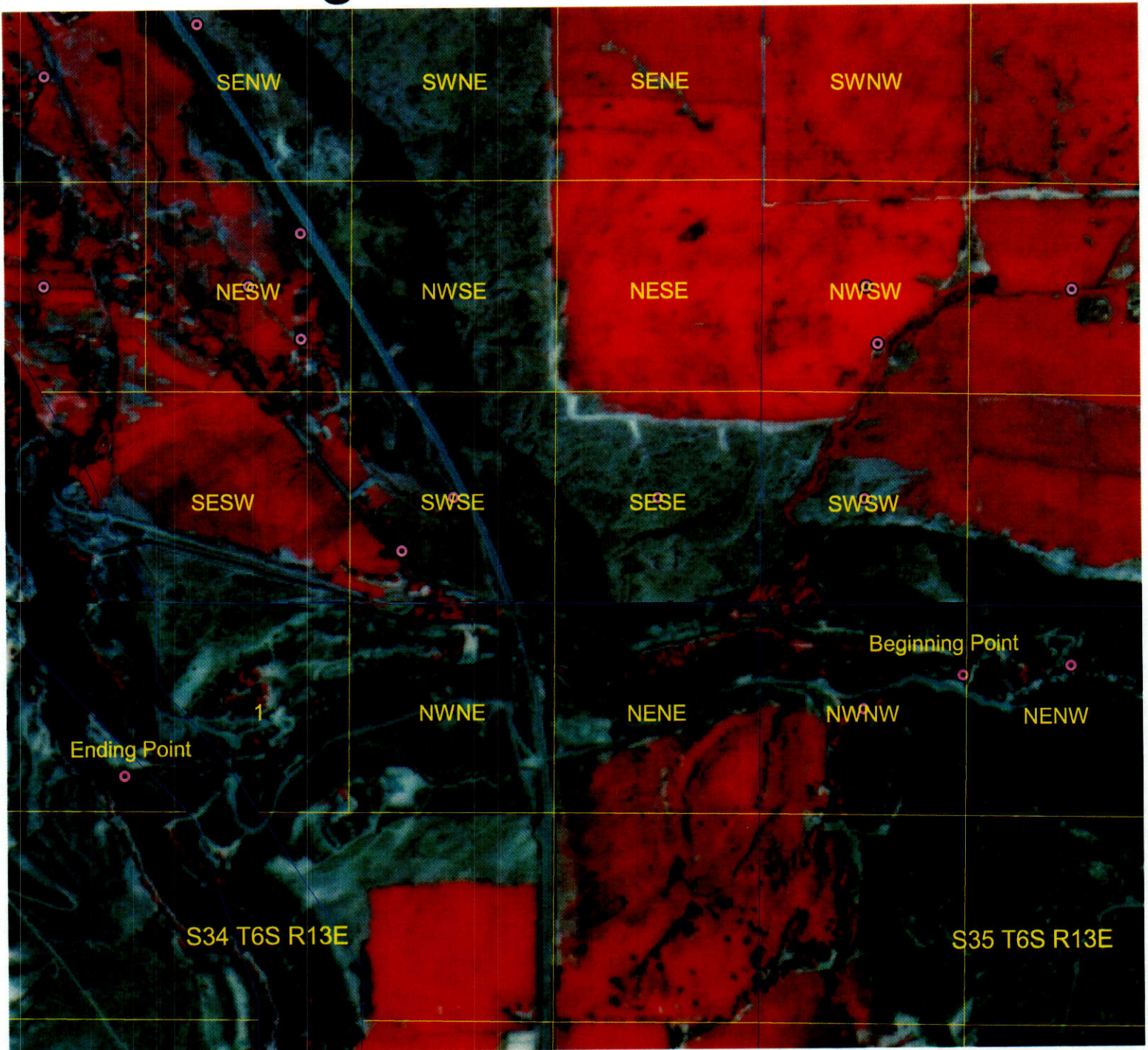
NE 1/4 NW 1/4

3000

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JAN 09 2003

s. Keen 10/4/02

Water Right License No. 37-7920



- Gcdb_section.shp
- Enterprise.dbo.sdeplsqg.shapeid
- Right POD



Prepared by S. Keen
10/4/2002

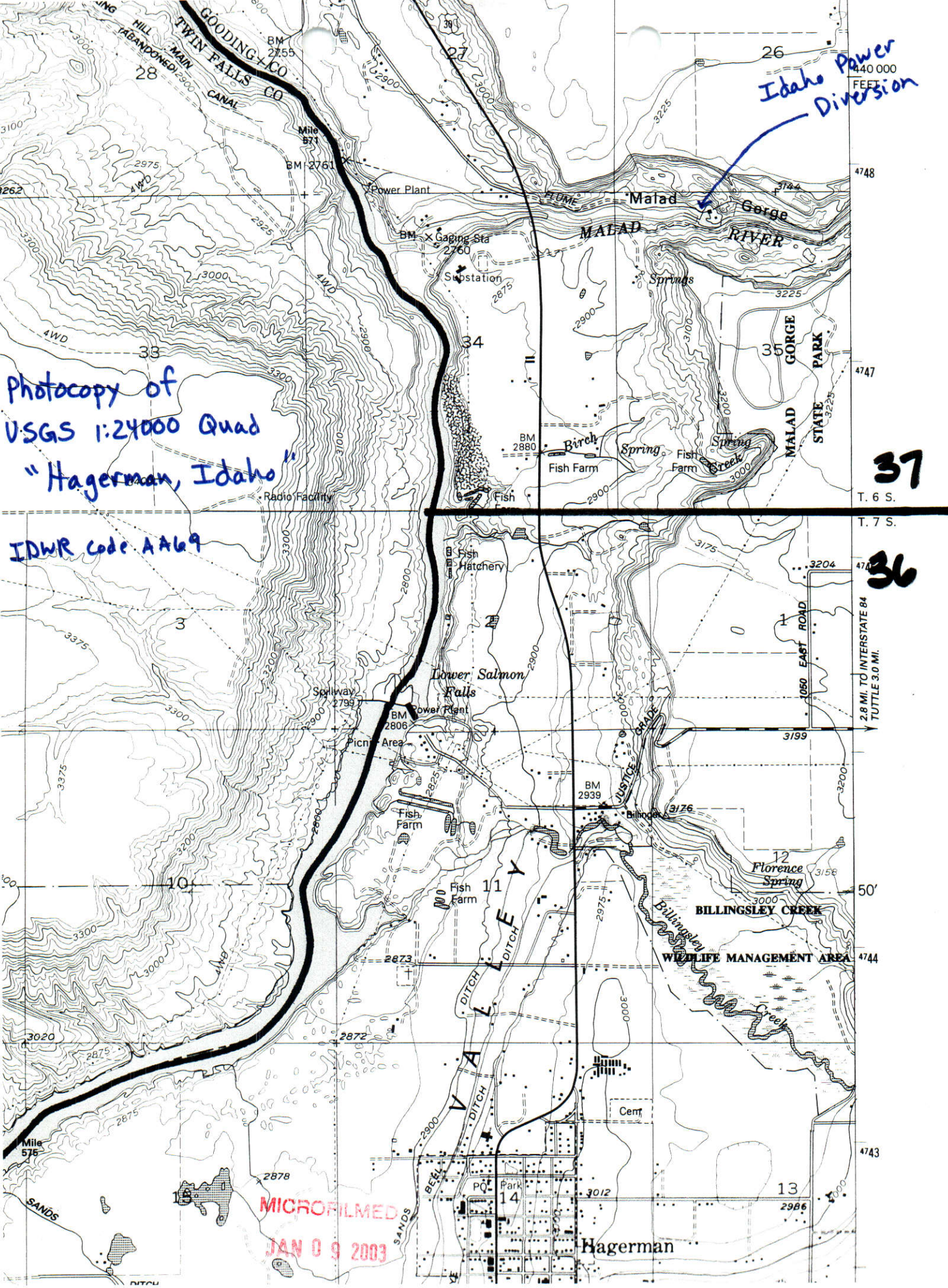
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JAN 09 2003

1000 0 1000 2000 Feet

Photocopy of
USGS 1:24000 Quad
"Hagerman, Idaho"

IDWR Code AA69

Idaho Power
Diversion

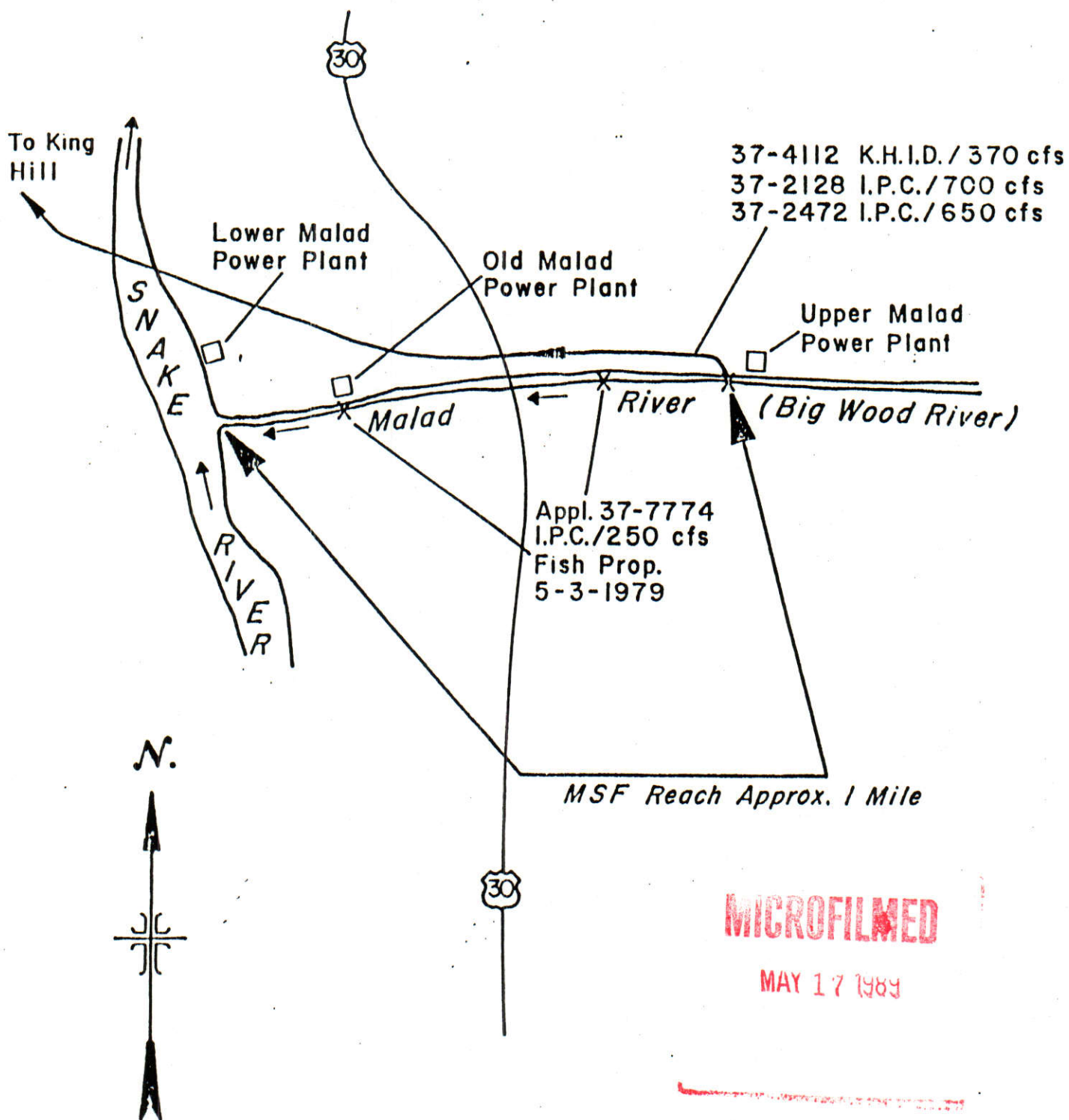


37

36

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JAN 09 2003

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



MICROFILMED

JUN 29 1988

T. 6S., R. 13E., B.M., IDAHO

27

26



Power Plant flow consists of 700 cfs 37-2128 + 650 cfs 37-2412

Point of Return
Place of Use & Return
Lower Malad Power Plant

U.S. Highway 30

Snake River

Lot 1

Lot 8

Old Malad Power Plant

NW 1/4 NE 1/4

NE 1/4 NE 1/4

NW 1/4 NW 1/4

NE 1/4 NW 1/4

DAM

Point of Diversion
Lower Malad Intake

27 26
34 35
1394.38'

75° 29' 06"

T-731
37-2128

MAP TO ACCOMPANY APPLICATION
FOR TRANSFER OF WATER RIGHT
LICENSE NO. 4366
MALAD POWER PLANT

IDAHO POWER CO.
BOISE, IDAHO

SCALE 1"=800' DATE 6-30-48

DR.

TR. K.L.

B-7525

Lot 7

Lot 2

34



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS

57°30' 1667 57°30' 1668 57°30' 1669 57°30' 1670 57°30' 1671 57°30' 1672 57°30' 1673 57°30' 1674 57°30' 1675 57°30' 1676

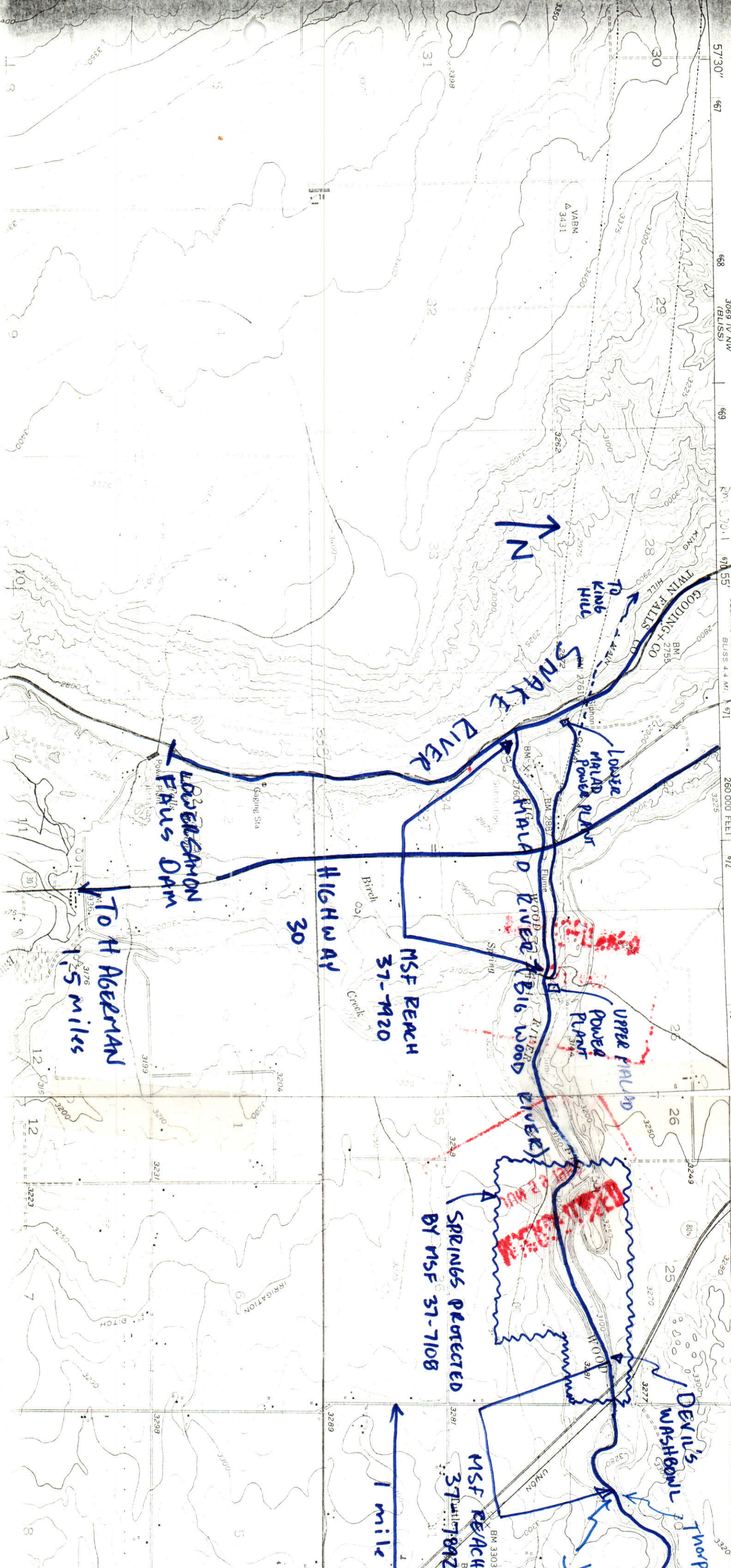
3069 IV NW
(BLISS)

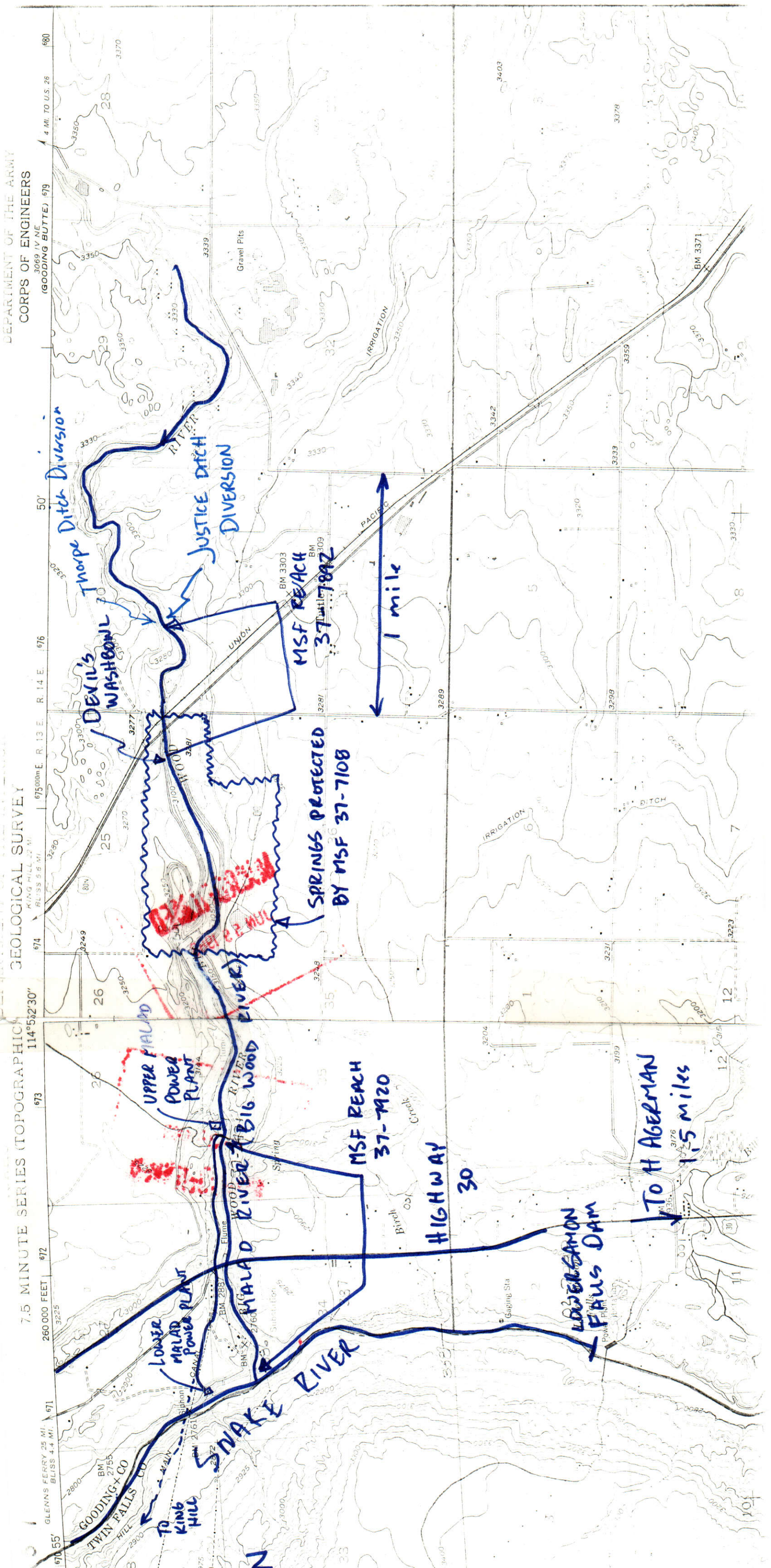
7.5 MINUTE SERIES (TOPOGRAPHIC)

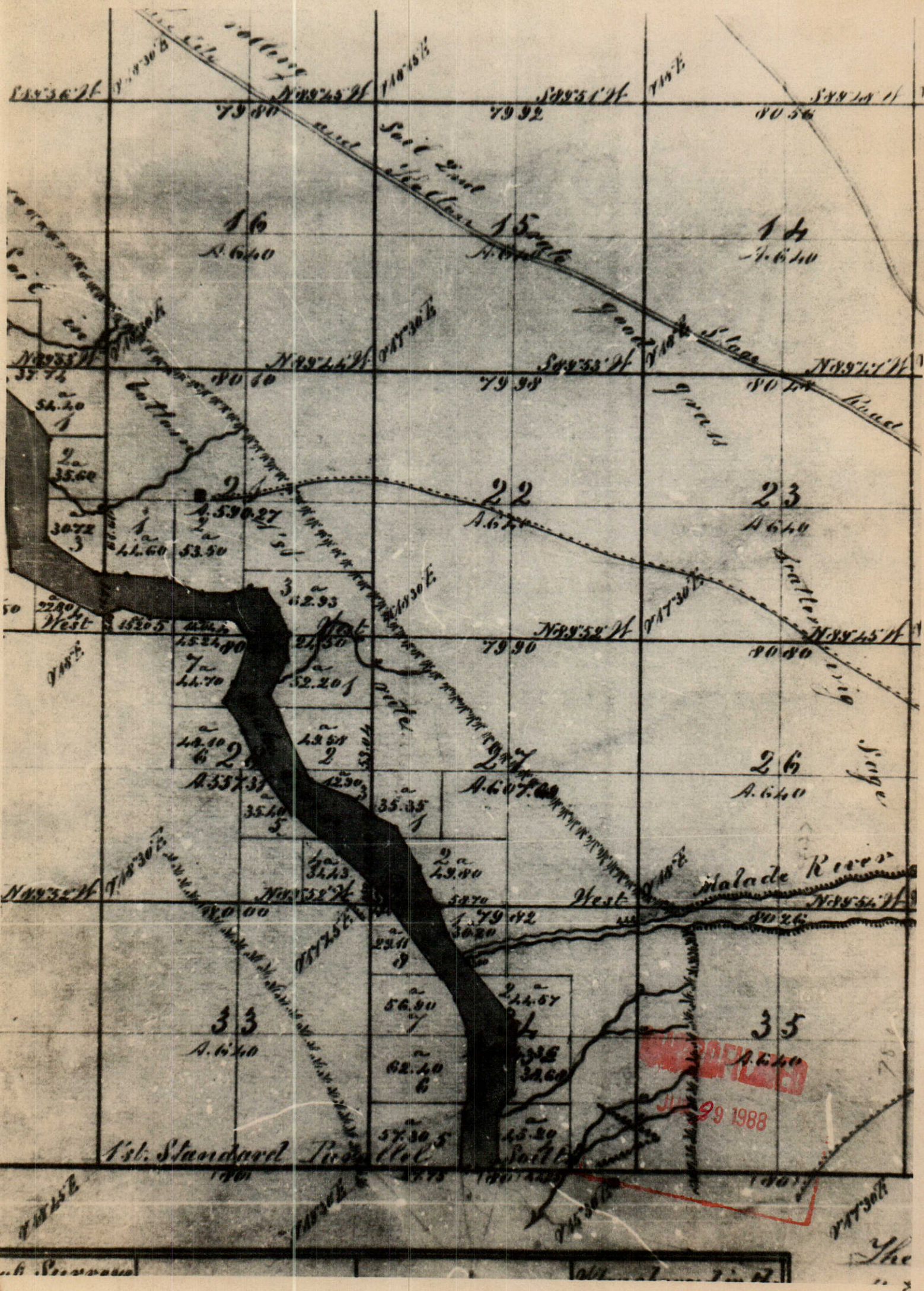
114°52'23.0"

675000m E R 13 E R 14 E

1967







FILED
JUL 29 1988

**NOTICE OF PUBLIC MEETING
APPLICATION FOR INSTREAM
WATER RIGHTS
NO. 37-7892 - 37-7920**

Notice is hereby given that the Idaho Water Resource Board will conduct a public meeting on Wednesday, September 21, 1983, at 7:30 p.m., in the Gooding High School, 1050 7th Avenue West, Gooding, Idaho.

The meeting will be held to present information and receive public comment on Applications for permit to appropriate water for instream flows in the Malad River in the reaches between the Justice/Thorpe diversion dam and Devil's Washbowl, and between the Idaho Power Co. diversion and the confluence with Snake River.

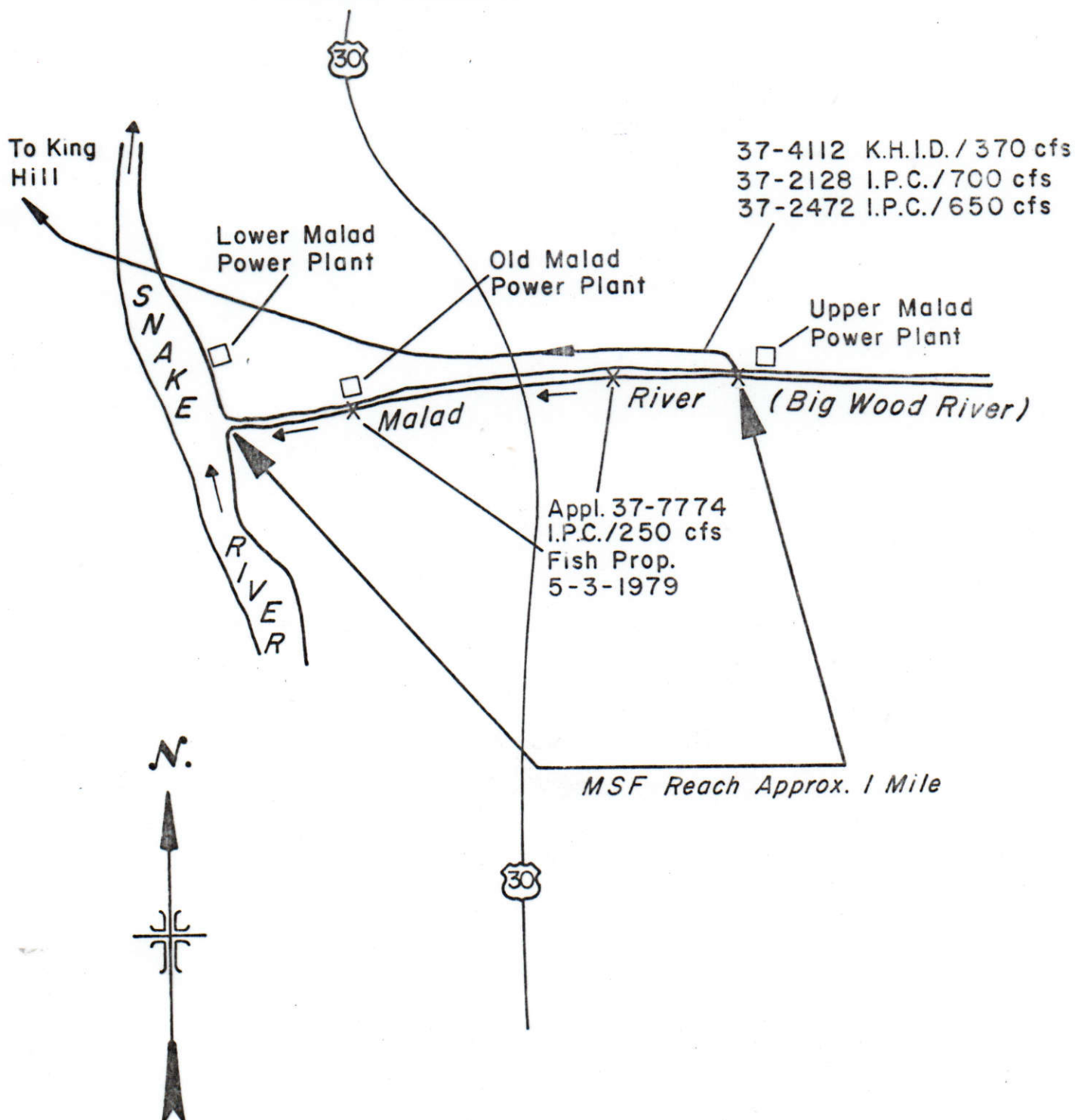
PUB: 9-15

RECEIVED

JUN 2 8 1983

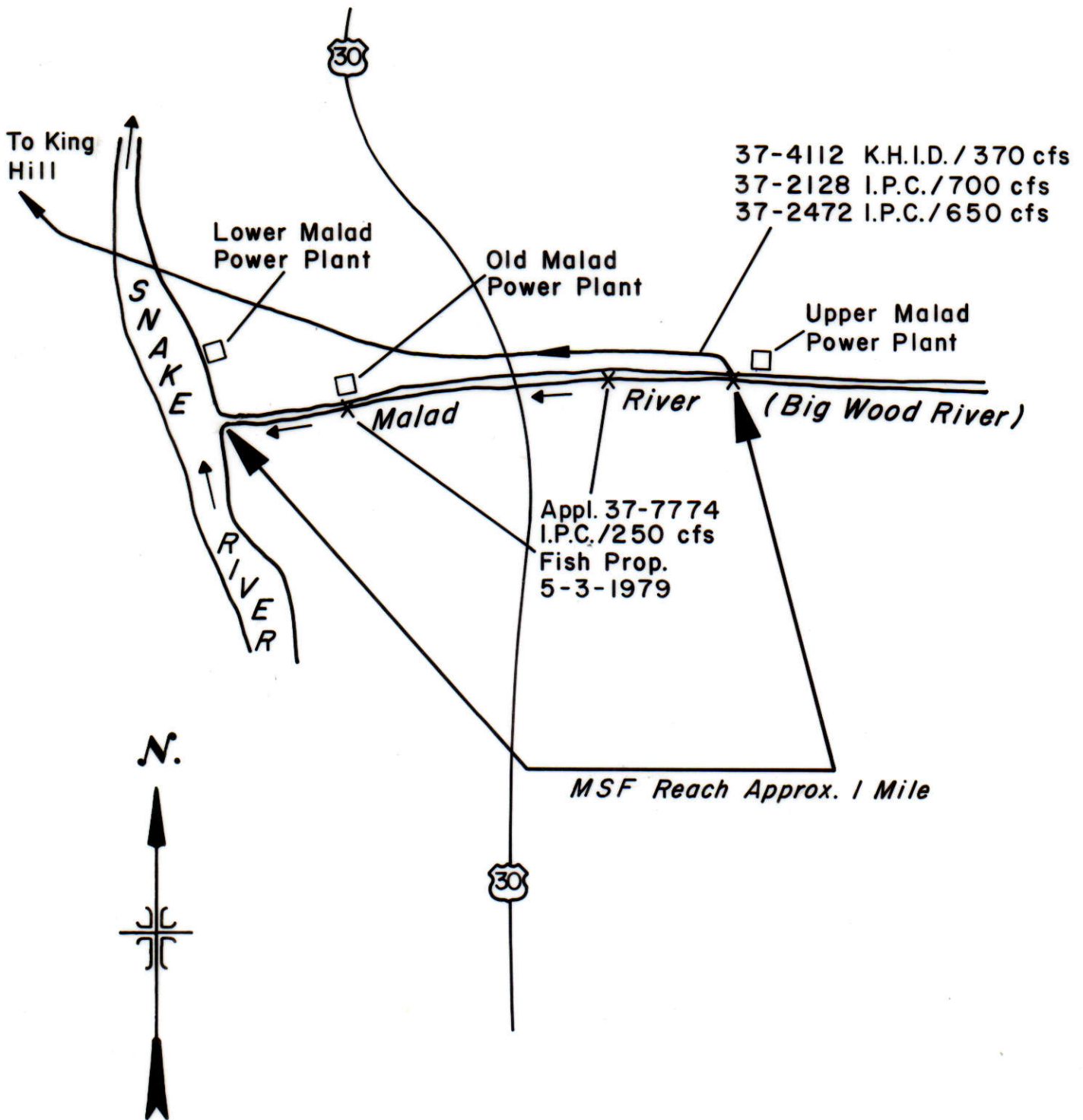
8328

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs



I

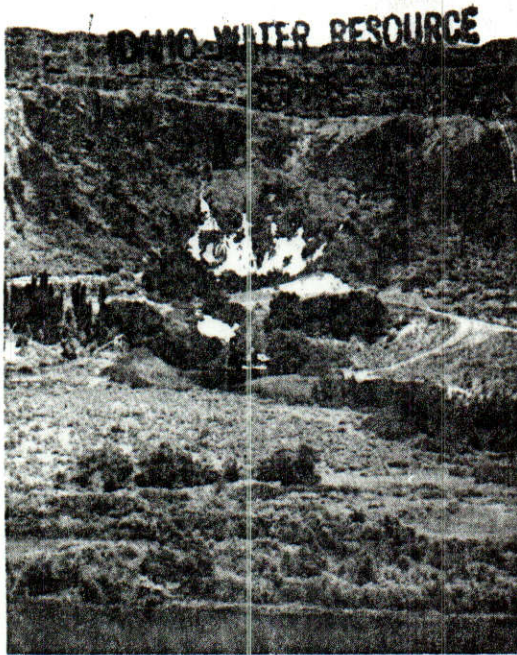
RECEIVED

Exhibit

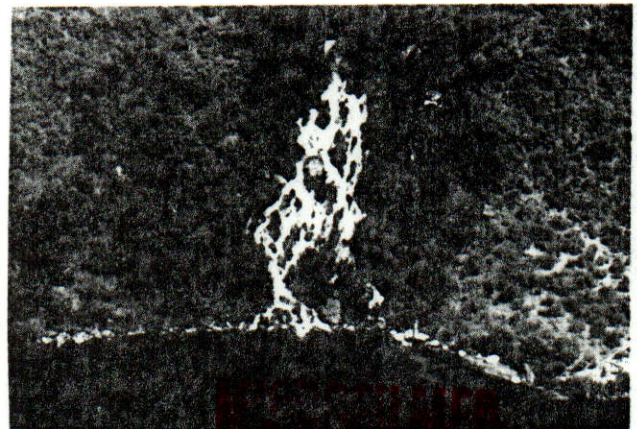
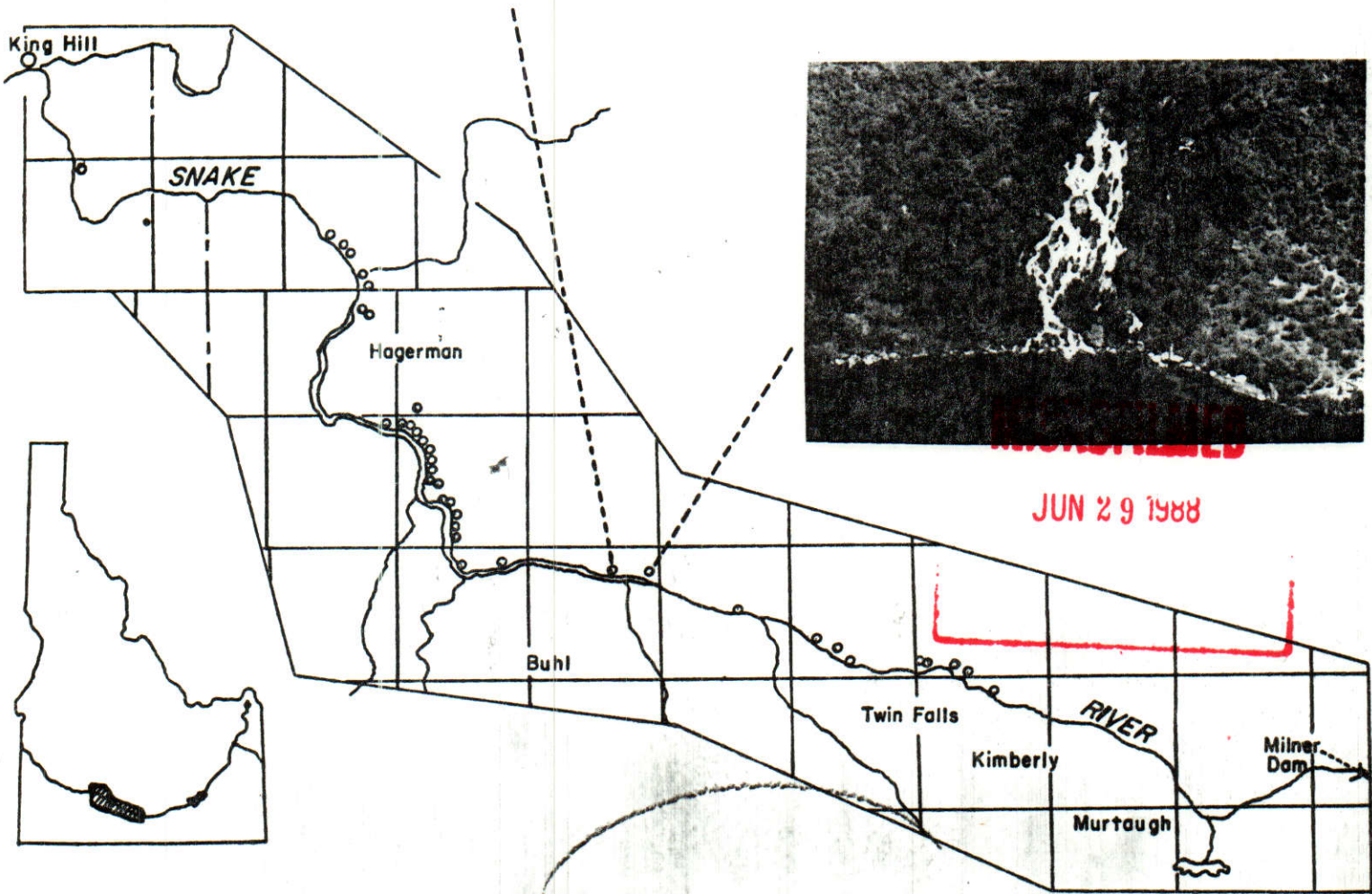
F+G # A

Libveng
676

SEP 20 1968



RECORD OF NORTH-SIDE
SPRINGS AND OTHER IN-
FLOW TO THE SNAKE
RIVER BETWEEN MILNER
AND KING HILL, IDAHO
1948-1967



JUN 29 1968

WATER INFORMATION BULLETIN NO. 6
IDAHO DEPARTMENT OF RECLAMATION
AUGUST 1968

Wetted Perimeter (ft)

50
40
30
20
10

10 20 30 40 50 60 70 80

Discharge (cfs)

Wetted Perimeter - Discharge relationship for Malad River below Idaho
Power Company diversion.

MICROFILMED

JUN 29 1988

Exhibit

F+G

C

EXHIBIT NO. 3

Exhibit 3-A. The Malad River looking upstream from a point approximately 250 yards above its confluence with the Snake River. Photo taken in May, 1979 by Stuart Murrell of the Idaho Department of Fish and Game.



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JUN 29 1988

EXHIBIT NO. 3

Exhibit 3-B. The Malad River looking upstream from a point approximately 200 yards above its confluence with the Snake River. Photo taken on November 4, 1983 by John Stevens of the Idaho Department of Fish and Game.



UNRECORDED
INDEXED

JUN 29 1988

EXHIBIT NO. 4

Exhibit 4-B. Wild rainbow trout approximately 11 inches (279 mm) in total length obtained in electrofishing operation in the Malad River approximately 200 yards above its mouth on November 4, 1983. Photo taken by John Stevens of the Idaho Department of Fish and Game.



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JUN 29 1988

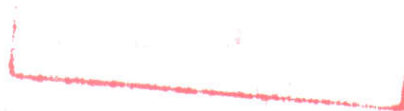


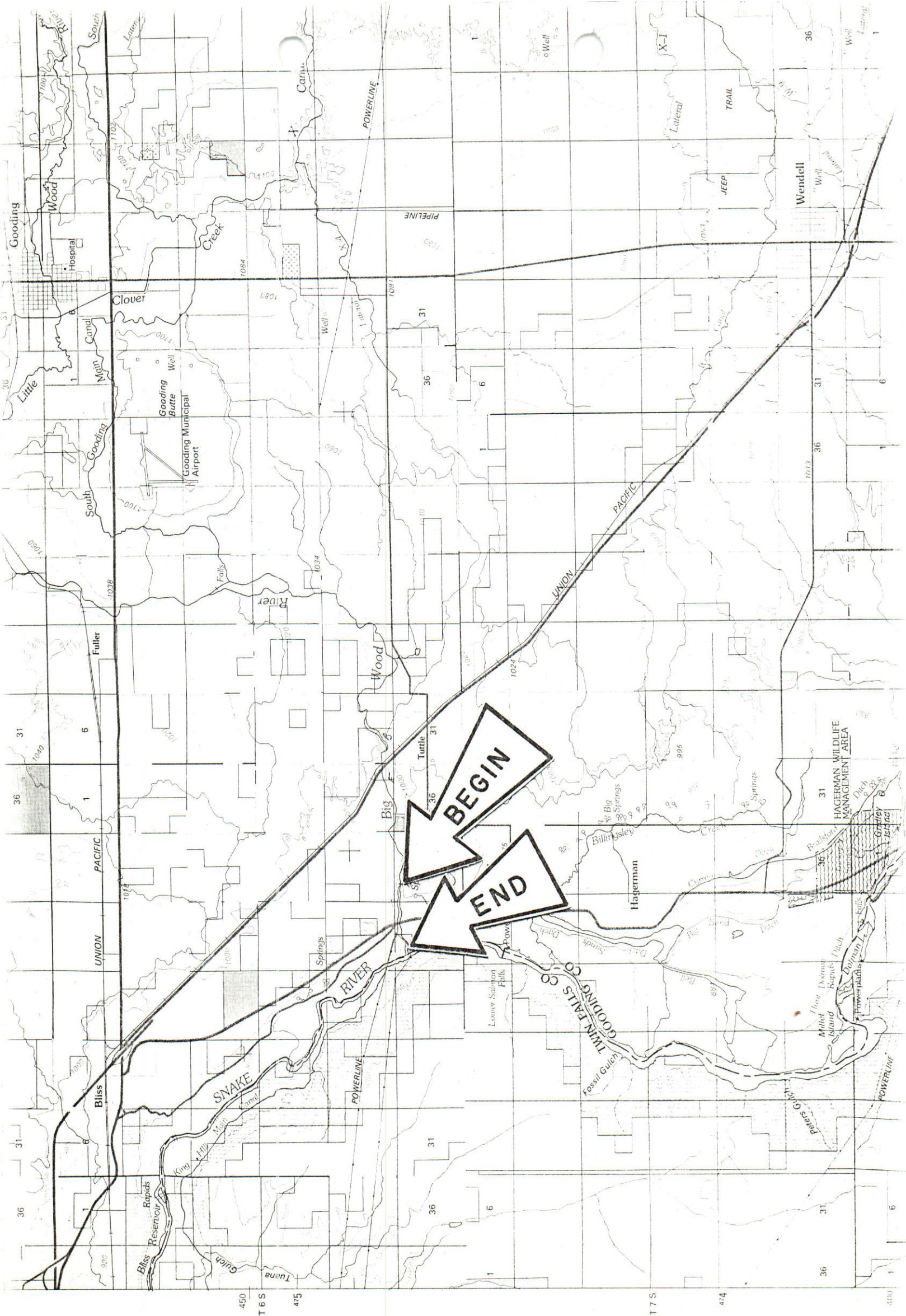
EXHIBIT NO. 5

Exhibit 5. Ripe female rainbow trout approximately 11.5 inches (292 mm) in total length obtained in electrofishing operation in the Malad River approximately 200 yards above its mouth on November 4, 1983. Photo by John Stevens of the Idaho Department of Fish and Game.



MICROFILMED

JUN 29 1988

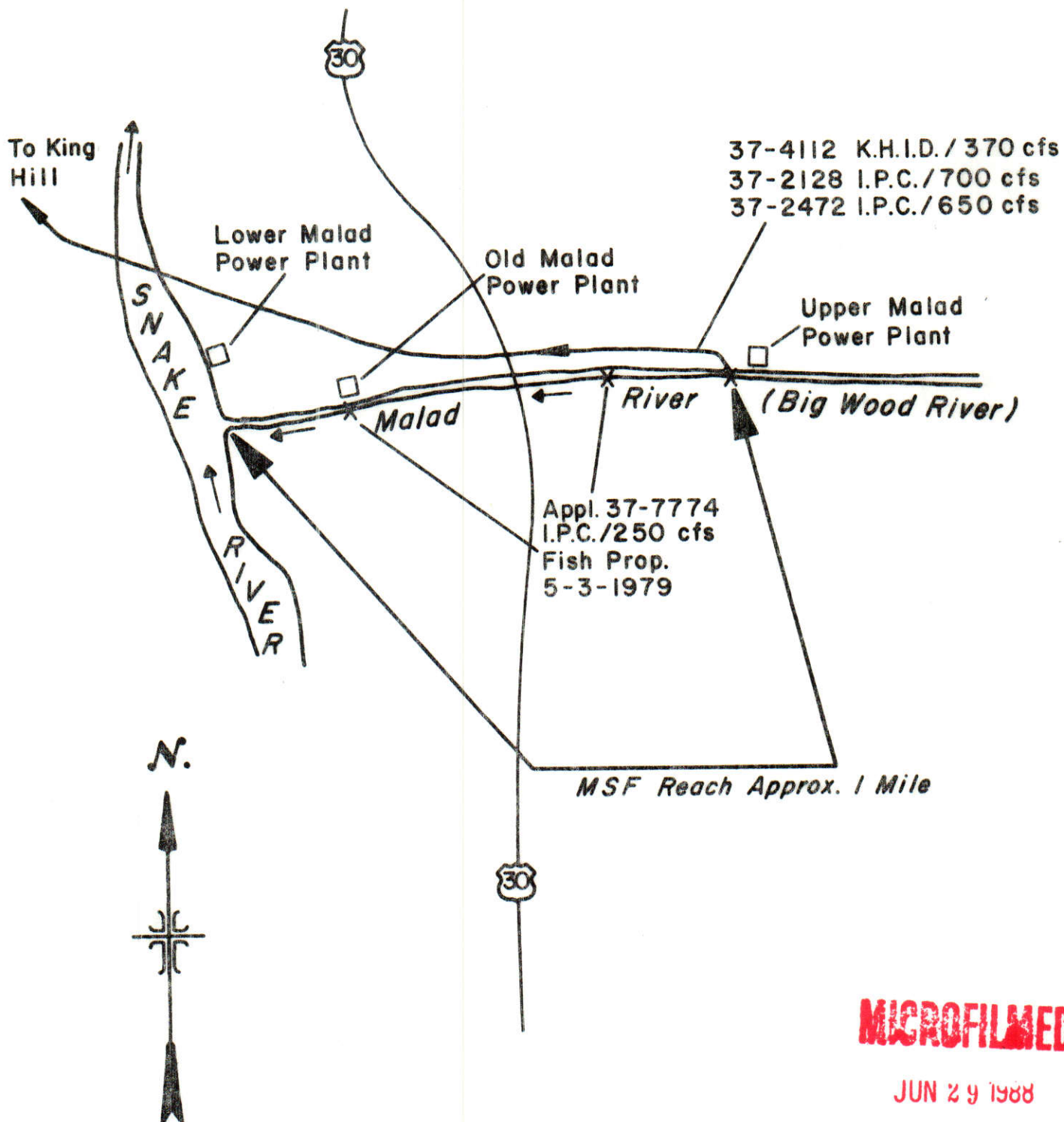


IDAHO DEPARTMENT OF WATER RESOURCES
Exhibit 1

MICROFILMED

JUN 29 1988

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



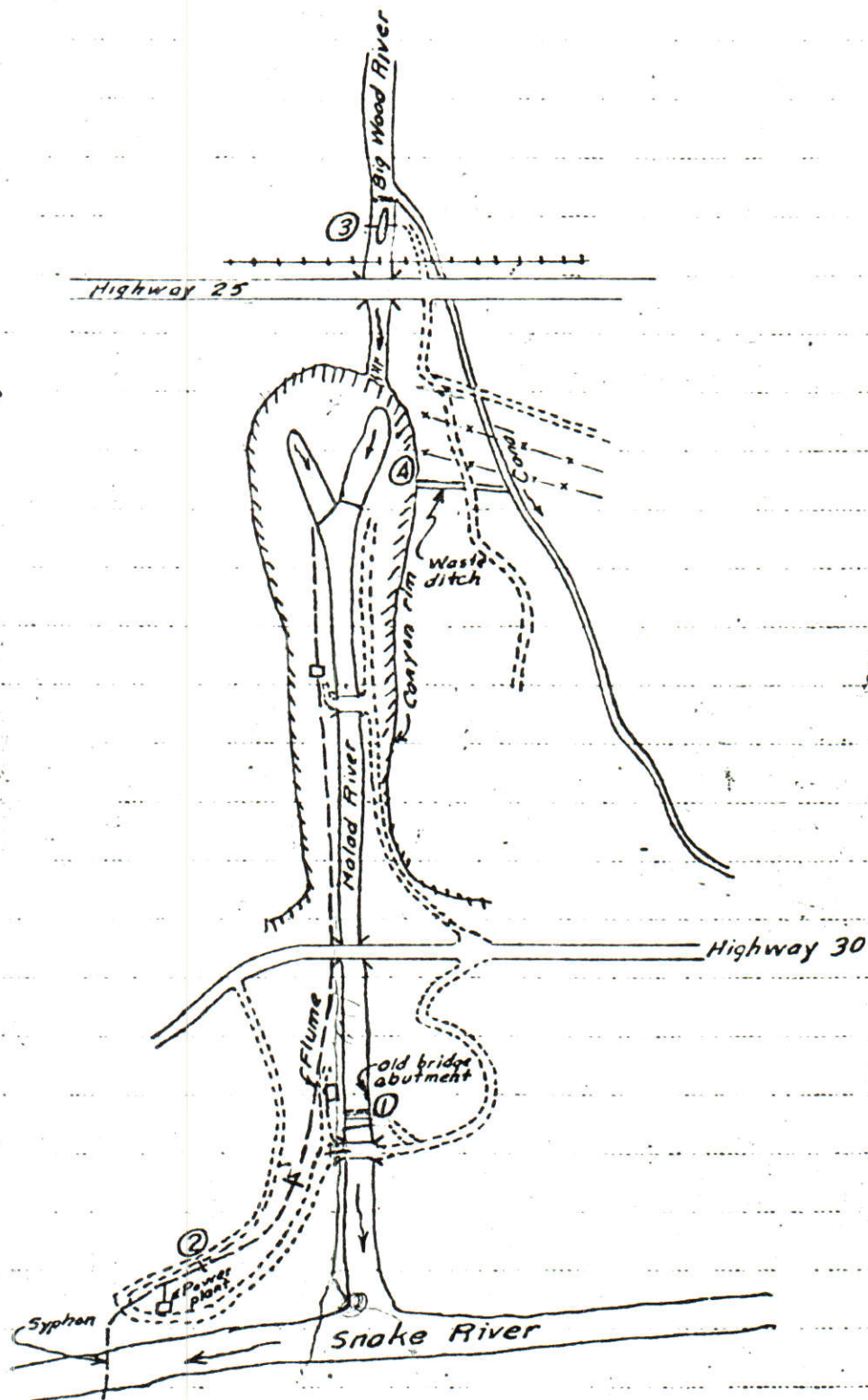
MICROFILMED

JUN 29 1988

IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs

IDAHO DEPARTMENT OF WATER RESOURCES

Exhibit 2



MICROFILMED

JUN 29 1988

State of Idaho
Department of Water Resources

Amended

Water Right License

Amended

WATER RIGHT NO. 37-07920

Priority: June 19, 1981

Maximum Diversion Rate: 39.00 CFS

It is hereby certified that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83720-0098

has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated June 19, 1981, and has submitted Proof of Beneficial
Use on March 6, 1992. A minimum instream flow in

SOURCE

MALAD RIVER

Tributary: SNAKE RIVER

has been established as follows:

BENEFICIAL USE

MINIMUM INSTREAM FLOW

PERIOD OF USE

1/01 to 12/31

DIVERSION RATE

39.00 CFS

LOCATION OF MINIMUM INSTREAM FLOW REACH:

MALAD RIVER NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 6S, Rge 13E, B.M. GOODING County and/or
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 6S, Rge 13E, B.M. GOODING County (Beginning of Reach)

MALAD RIVER L1 NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 34, Twp 6S, Rge 13E, B.M. GOODING County (Ending of Reach)

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. Use of water under this right shall be non-consumptive.
3. This minimum instream flow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to the Malad River, held in trust by the State of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum instream flow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the State of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan, and Chapter 2, Title 42, Idaho Code.
4. Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than 6/19/1981.
5. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on the Malad River, such measuring devices shall be permanently installed and maintained as specified by the Department.

MICROFILMED

JAN 9 8 2003

State of Idaho
Department of Water Resources

Amended

Water Right License

Amended

WATER RIGHT NO. 37-07920

CONDITIONS OF APPROVAL continued

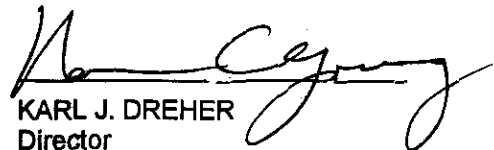
6. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
7. This minimum instream flow begins at the downstream side of the Idaho Power Company diversion structure located on or near the line separating the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., from the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., and ends downstream approximately one (1) mile at the confluence of the Malad River with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 34, Township 6 South, Range 13 East, B. M.
8. The purpose of this minimum instream flow is to maintain trout rearing and spawning habitat.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this 20th day of DECEMBER, 2002.

Acting for

KARL J. DREHER
Director



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JAN 09 2003

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF A CORRECTION)
TO WATER RIGHT LICENSE NO. 37-7920)
_____)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of an internal review of water right records on file with the Department, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On February 18, 1988, the Department issued a proposed memorandum decision and order granting Permit 37-7920 (permit) to the Idaho Water Resource Board (right holder) for a minimum instream flow of 39 cfs on the Malad River, a tributary of the Snake River. In the proposed memorandum decision and order, the Department described the minimum instream flow reach of the Malad River as being "from the confluence with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 34, Twp. 6S, Rge. 13 E, B.M., upstream approximately one (1) mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T6S, R13E, B.M."
2. On April 29, 1988, the Department issued an order adopting the proposed memorandum decision and order.
3. On September 27, 1990, the right holder claimed the permit in the Snake River Basin Adjudication (SRBA).
4. On March 6, 1992, the Department received the right holder's proof of beneficial use statement for the permit.
5. On September 15, 1995, the Department issued Water Right License 37-7920 (license) for the minimum instream flow authorized by the permit. The license defined the beginning of the minimum instream flow reach as the NWNE, Sec. 35, Township 06S, Range 13E, and the end of the minimum instream flow reach as the NENW, Sec. 34, Township 06S, Range 13E.
6. Approval condition no. 7 of the license further described the minimum instream flow reach:

This minimum stream flow begins at the Idaho Power Company diversion in the NWNE, S35, T6S, R13E and ends at the confluence of the Malad River with the Snake River in the NENW, S34, T6S, R13E.

MICROFILMED

7. In 2002, while reviewing the right holder's claim filed in the SRBA, Department staff found that the Idaho Power Company diversion referenced in condition no. 7 of the license is not in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, S35, T6S, R13E, B.M. Instead, all of the following sources indicate that the Idaho Power Company diversion referenced in condition no. 7 of the license crosses from the NE $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., to the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M.
 - A. United State Geological Survey 1:24,000 Quadrangle *Hagerman, Idaho* Published in 1949 and revised in 1992.
 - B. Water License No. 19864 (37-2472) issued to Idaho Power Company on September 29, 1950, and supporting documents.
 - C. The Department's computer-based geographic information system.
8. The first sentence of approval condition no. 6 of the license, which says, "The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right," can be interpreted as meaning that the license is not a final determination of the water right established in accordance with the permit.
9. On November 27, 2002, the Department sent Joe Jordan, chairman of the Idaho Water Resource Board, a letter notifying him that the description of the beginning point of the minimum instream flow reach and the vague first sentence of approval condition no. 6 could both be corrected by issuing an order to correct the license.
10. On December 19, 2002, the Department received notification from the Idaho Water Resource Board that it has passed a motion in favor of correcting the license by modifying the legal description of the beginning point of the minimum instream flow reach and by modifying approval condition no. 6.

CONCLUSIONS OF LAW

1. The license does not accurately portray the minimum instream flow established by the right holder in accordance with Permit 37-7920.
2. Beginning the minimum instream flow reach in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and/or the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., not in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, S35, T6S, R13E, B.M., is not a change that requires an amendment of the permit because the permit included the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., within the minimum instream flow reach.
3. The description of the minimum instream flow reach in condition of approval no. 7 on the license is vague because it is impossible to discern from the description whether the reach includes or excludes the Idaho Power Company diversion.
4. Under Section 42-219, *Idaho Code*, the Department has a statutory obligation to issue a water right license that precisely, accurately and conclusively portrays the water right established in accordance with the permit.

5. The Department should re-issue the license with a corrected minimum instream flow reach description, including the description in condition of approval no. 7, and a modified approval condition no. 6.

ORDER

IT IS HEREBY ORDERED that Water Right License 37-7920 is **CORRECTED** to show that the minimum instream flow begins in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and/or the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M.

IT IS FURTHER HEREBY ORDERED that approval condition no. 7 on Water Right License 37-7920 is **CORRECTED** to say:

This minimum instream flow begins at the downstream side of the Idaho Power Company diversion structure located on or near the line separating the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., from the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., and ends downstream approximately one (1) mile at the confluence of the Malad River with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 34, Township 6 South, Range 13 East, B. M.

IT IS FURTHER HEREBY ORDERED that approval condition no. 6 on Water Right License 37-7920 is **MODIFIED** to say:

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

IT IS FURTHER HEREBY ORDERED that the Department shall issue an Amended Water Right License issued in conjunction with this order.

Dated this 20th day of DECEMBER, 2002.


NORMAN C. YOUNG
Administrator, Water Management Division

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07920

Priority: June 19, 1981

Minimum Instream Flow:

39.00 CFS

This is to certify, that STATE OF IDAHO

IDAHO WATER RESOURCE BOARD

STATEHOUSE

BOISE ID 83720

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated June 19, 1981; and has submitted Proof of Beneficial Use on March 6, 1992. A minimum stream flow in

MALAD RIVER

tributary to SNAKE RIVER

has been established as follows:

BENEFICIAL USE

MINIMUM INSTREAM FLOW

PERIOD OF USE

01/01 to 12/31

RATE

39.00 CFS

LOCATION OF MINIMUM STREAM FLOW REACH:

Beginning of Stream Flow Reach

End of Stream Flow Reach

NWNE , Sec. 35, Township 06S, Range 13E

NENW , Sec. 34, Township 06S, Range 13E

GOODING County

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. Use of water under this right shall be non-consumptive.
3. This minimum streamflow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to the Malad River, held in trust by the State of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum streamflow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the State of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan, and Chapter 2, Title 42, Idaho Code.

OCT 03 1995

State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 37-07920

CONDITIONS OF APPROVAL AND REMARKS

4. Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than 6/19/1981.
5. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on the Malad River, such measuring devices shall be permanently installed and maintained as specified by the Department.
6. The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
7. This minimum stream flow begins at the Idaho Power Company diversion in the NWNE, S35, T6S, R13E and ends at the confluence of the Malad River with the Snake River in the NENW, S34, T6S, R13E.
8. The purpose of this minimum stream flow is to maintain trout rearing and spawning habitat.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 15TH day of SEPTEMBER, 1985.

Acting for


KARL J. DREHER, Director

SEP 23 1985

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MAR 6 1992

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources will consider this form as 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 or a completed field examination report prepared by a certified water right examiner who has been appointed by the department.

1. Permit No. 37-7920 Telephone No. 327-7900
2. Name(s) of Permit Holder(s): Idaho Water Resource Board
3. Post Office Address: Statehouse, Boise, ID 83720
4. Source of Water: Malad (Big Wood) River
 - a. If ground water, well driller's name: _____ Date drilled: _____
 - b. Pump horsepower: _____ Pressure (psi): _____ Dynamic pumping level (ft.): _____
5. Extent of Use:

Domestic _____ (No. of households)	Irrigation _____ (No. of acres)
Stockwater _____ (No. and type of stock)	Other <u>Minimum Streamflow</u>
6. Total rate and/or volume for which proof is submitted 39 cfs _____ acre/feet
7. Refer to the approval conditions on your permit and respond accordingly: Required flow data attached
Measuring device: Required? Yes No Installed? Yes No
OR
Flow Measurement Port: Required? Yes No Installed? Yes No
8. Fee Enclosed: \$ _____ (See License Examination Fee Schedule)
9. Person to contact to accompany the Department representative during the field examination:
Frank Sherman 327-7900
Name Telephone No.
IDWR, Statehouse, Boise, ID 83720
Address
10. The above information 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.

3/6/92
Date

F. Don Gyzek Chair IDWR
Signature (and title if on behalf of a company or organization)

RECEIVED
MAY 18 1992

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

IN THE MATTER OF APPLICATION	)	
NO. 37-7920 TO ESTABLISH A	)	ORDER ADOPTING PROPOSED
MINIMUM STREAM FLOW ON MALAD	)	MEMORANDUM DECISION AND
RIVER IN THE NAME OF THE IDAHO	)	ORDER
WATER RESOURCE BOARD	)	

The Director of the Department of Water Resources, issued a Proposed Memorandum Decision and Order approving Application No. 37-7920 on February 16, 1988, and served copies on the parties pursuant to Idaho Code § 67-5211.

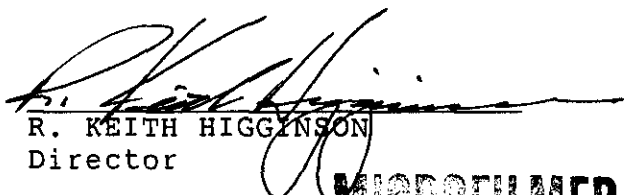
More than fifteen days have passed since the service of the Proposed Memorandum Decision and Order.

No exceptions to the Proposed Memorandum Decision and Order having been filed with the Department of Water Resources;

IT IS HEREBY ORDERED that the Proposed Memorandum Decision and Order be adopted as the Final Decision and Order of the Director, and that the terms and conditions imposed therein be incorporated into approved Application No. 37-7920.

IT IS FURTHER ORDERED that proof of completion of works and beneficial use shall be submitted on or before April 1, 1994.

Dated this 29 day of April, 1988.


R. KEITH HIGGINSON
Director

MICROFILMED

JUN 28 1988

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 37-7920 IN THE NAME OF)
THE IDAHO WATER RESOURCE BOARD)
_____)

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by his appointee, Norman C. Young, who conducted the hearing or who has read the record in the this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

RECORDED

JUN 28 1988

III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

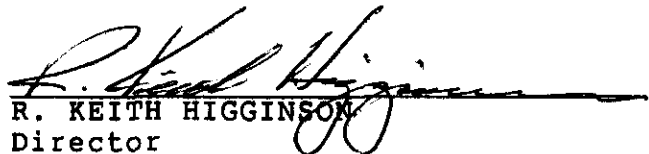
All exceptions, briefs, requests oral arguments and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 18th day of February, 19 88.


R. KEITH HIGGINSON
Director

MICROFILMED

JUN 28 1988

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

In the Matter of Application for)
Permit No. 37-7920 in the Name of)
the Idaho Water Resource Board to)
Establish a Minimum Stream Flow)
in the Malad River)
_____)

PROPOSED
MEMORANDUM DECISION
AND ORDER

On June 19, 1981, the Idaho Water Resource Board (Board) filed with the Department of Water Resources (Department) an application for permit to establish a minimum stream flow in the Malad River (Big Wood River) tributary to the Snake River in Gooding County, Idaho. The application was filed in accordance with provisions of Chapter 15, Title 42, Idaho Code.

A public meeting was held by the Board on September 21, 1983, for the purpose of determining local public interest with respect to the application. In a resolution dated October 7, 1983, the Board requested the Director of the Department to proceed with administrative action on the application.

Notice describing the proposed application and setting the time and place for the required hearing was published in the Gooding County Leader, Gooding, Idaho on October 20 and 27, 1983. A public hearing was held at Gooding, Idaho on November 9, 1983. Norman C. Young of the department served as the hearing officer.

Parties appearing in a formal capacity included the Board, the Idaho Department of Fish and Game, and Mr. Edward C. Shokal. Parties appearing for the purpose of presenting views and comments as public witnesses included Mrs. Ruth C. Shokal and Mrs. Fern Pothier.

Based upon sworn testimony, documentation and statements included in

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JUN 28 1988

the record, and upon his understanding of the law; the hearing officer as a representative of the Director, makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. On June 19, 1981, the Idaho Water Resource Board filed Application for Permit No. 37-7920 with the Department pursuant to the provisions of Chapter 15, Title 42, Idaho Code, to appropriate a minimum stream flow in the Malad River (Big Wood River) which is tributary to the Snake River.

2. Application for Permit No. 37-7920 proposes to appropriate a minimum flow in a reach of the Malad River from the confluence with the Snake River in Lot 1 (NE1/4NW1/4) Sec. 34, Twp. 6S, Rge. 13 E, B.M., upstream approximately one (1) mile to the Idaho Power Company diversion in the NW1/4NE1/4 Section 35, T6S, R13E, B.M. The proposed rate of flow is thirty nine (39) cubic feet per second (cfs).

3. The purpose of the minimum stream flow appropriation is to maintain trout rearing and spawning habitat throughout the reach described above.

4. Only one recorded water right (Application for Permit No. 37-7774) appears in the records of the department with a point of diversion in the designated reach. The point of diversion is downstream from the diversion of the Idaho Power Company which is located within the NW1/4NE1/4, Sec. 35, Twp. 6S, Rge. 13E, B.M. On July 28, 1987, the applicant withdrew Application for Permit No. 37-7774 from further consideration before the Department.

5. All rights acquired under Application for Permit No. 37-7920 are for instream nonconsumptive uses.

6. The minimum stream flow proposed by Application for Permit No. 37-7920 is necessary to maintain trout spawning and rearing habitat.

7. The benefits to be derived from the minimum stream flow appropri-

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JUN 28 1988

ation will be enjoyed by members of the public as opposed to being limited to private use or enjoyment.

8. The flow requested in the application is the minimum flow required to preserve the existing unique characteristics of the stream for the public benefits and is not the ideal or most desirable flow which could be utilized for that purpose.

9. The minimum stream flow proposed for the Malad River is usually capable of being maintained.

10. Springs deriving water from the Snake River Plain Aquifer contribute to flows of the Malad River within the proposed minimum flow reach.

CONCLUSIONS OF LAW

1. The proposed minimum stream flow appropriation will not interfere with any vested water right, permit, or application having a priority date earlier than June 19, 1981.

2. The proposed minimum stream flow appropriation is necessary to maintain trout spawning and rearing habitat.

3. The minimum stream flow proposed is the minimum flow required for the purpose cited in Conclusion of Law No. 3 and not the ideal or most desirable flow.

4. The minimum stream flow proposed is usually capable of being maintained.

5. The Idaho legislature has implicitly declared, by recognizing the Swan Falls Agreement in Section 42-203B, Idaho Code, and by ratifying Policy 5G of the Idaho State Water Plan, that development of the Snake River Plain Aquifer should not be curtailed by downstream surface water rights except to the extent the downstream surface water rights are protected by the Swan Falls Agreement.

6. The proposed minimum streamflow is in the public, as opposed to

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JUN 28 1988

private interest. The establishment of a vested water right to the flows requested in the application, however, may not be in the public interest, if development in the Snake River Plain Aquifer would have to be curtailed or stopped in order to maintain the minimum stream flow in the Malad River.

7. The Director of the Department of Water Resources has considerable flexibility and authority to grant appropriations subject to future appropriations for uses of greater importance; in effect prioritizing among uses according to the public interest. Shokal v. Dunn, 109 Idaho 330, 337, 707 P.2d 441 (1985).

8. A perpetual commitment of a significant amount of water from the Malad River without a workable method of changing the terms of that use could at some future date adversely affect the public interest.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that Application for Permit No. 37-7720 is APPROVED subject to the following conditions:

1. Upon the future finding and order of the Director that gaging stations are required to maintain the approved minimum flow on the Malad River, such devices shall be permanently installed and maintained as specified by the department.

2. Proof of instream beneficial use of the minimum stream flow appropriated shall be submitted to the department within five (5) years after the permit approval is finally effective. Proof shall be limited to submittal of flow data showing that the permitted flows are capable of being maintained and shall include at least three (3) years of flow data for the water course.

3. The minimum stream flow approved under this application is subject to the control of the watermaster of Water District 37, Big Wood River.

4. The use of water under this permit shall be non-consumptive.

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JUN 28 1988

5. Use of water under this permit shall recognize and allow the continued beneficial diversion and use of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than June 19, 1981, the priority of this permit.

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

7. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license. Any person seeking review and amendment of the permit or license shall file a petition with the Director, which shall include the amendment sought, the reasons for the amendment, and a statement of the change in circumstances since the permit or license was issued or last reviewed that merit a review of the permit or license. A copy of the petition shall be served upon the holder of the permit or license. The holder of the permit or license may file an answer to the petition, which must be filed within twenty-one days after service of the petition upon the permit or license holder. If after a preliminary hearing, the Director finds that a significant

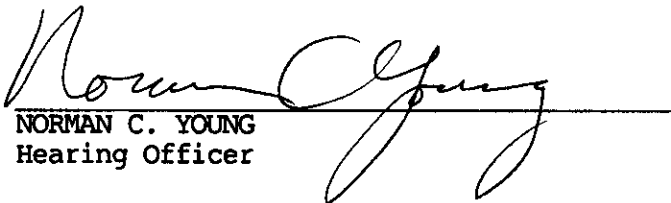
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JUN 28 1988

change in circumstances has occurred and that sufficient reasons exist for exercising retained jurisdiction under this condition, the Director shall issue an order setting forth the change in circumstances and reasons meriting review of the permit or license, and shall give notice thereof to the holder of the permit or license, the public generally, and specific persons or parties known by the Director to be interested. The Director shall thereafter conduct a hearing for the purpose of determining whether the permit or subsequent license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or party seeking the amendment to establish that the permit or license should be amended to satisfy the public interest.

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

Dated this 16TH day of FEBRUARY, 1988.


NORMAN C. YOUNG
Hearing Officer

REPROFILMED

JUN 28 1988

CERTIFICATE OF MAILING

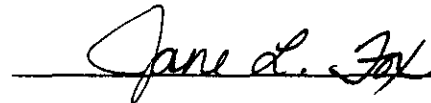
I hereby certify that on the 18th day of February, 1988, I mailed true and correct copies of the Order Issuing Proposed Memorandum Decision and Proposed Memorandum Decision and Order by U.S. Mail, postage prepaid to the following parties:

Gene Gray, Chairman
Idaho Water Resource Board
Route 1, Box 46-A
Payette, ID 83661

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

Department of Fish and Game
State of Idaho
Statehouse Mail
Boise, ID 83720

Edward C. Shokal
Route 1, Box 410
Hagerman, ID 83332



JANE L. FOX
Receptionist

MANIFESTED

JUN 28 1988

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

JUL 6 1981

To appropriate the public waters of the State of Idaho

Department of Water Resources
Southern District Office

1. Name of applicant Idaho Water Resource Board Phone 384-2215
Post office address Statehouse, Boise, Idaho 83720
2. Source of water supply Malad River (Big Wood River) which is a tributary of Snake River
3. Location of reach is from NE ¼ of NW ¼ of Section 34 Township 6 S
Range 13 E B.M. Gooding County, upstream approximately 1 mile to the Idaho Power
Company diversion in NW¼NE¼ Sec 35 T6S R13E B.M.
4. Water will be used for the following purposes:
Amount 39 cfs for instream purposes from Jan. 1 to Dec. 31 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 39 cubic feet per second and/or b. _____ acre-feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. _____

b. Height of storage dam _____ feet, active reservoir capacity _____ acre-feet; total reservoir
capacity _____ acre-feet, materials used in storage dam: _____
Period of year when water will be diverted to storage _____ to _____ inclusive.
(Month/Day) (Month/Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. Time required for the completion of the works and application of the water to the proposed beneficial
use is 5 years (minimum 1 year — maximum 5 years).
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NE ¼ of NW ¼ of Section 34 Township 6 S
Range 13 E B.M.
(2) Amount of power to be generated: _____ horsepower under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____
(5) If water is to be used for other purposes describe: To maintain trout rearing and spawning
habitat from the confluence with Snake River upstream to Idaho Power diversion.

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

[illegible]

Total number of acres to be irrigated

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

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

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

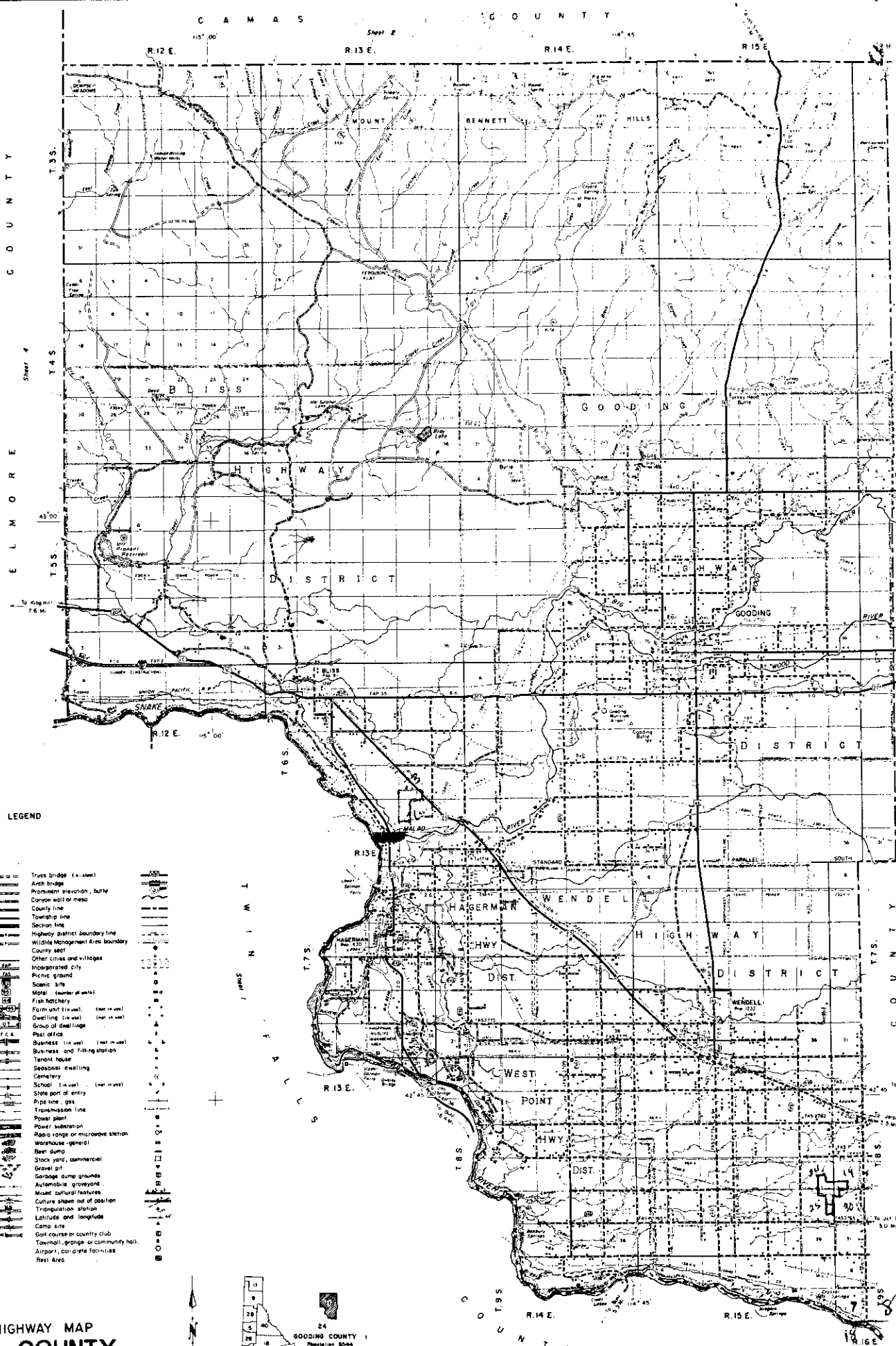
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing

10. Remarks _____

10-10-68

JUN 28 1993

NO.	NAME	DATE
1	GENERAL HIGHWAY MAP	9/19/68
2	GENERAL HIGHWAY MAP	9/19/68
3	GENERAL HIGHWAY MAP	9/19/68
4	GENERAL HIGHWAY MAP	9/19/68
5	GENERAL HIGHWAY MAP	9/19/68
6	GENERAL HIGHWAY MAP	9/19/68
7	GENERAL HIGHWAY MAP	9/19/68
8	GENERAL HIGHWAY MAP	9/19/68
9	GENERAL HIGHWAY MAP	9/19/68
10	GENERAL HIGHWAY MAP	9/19/68

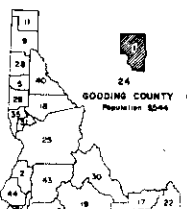


LEGEND

- | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|------------------------------|-----------------|----------------------------|-------------------------|----------------------------|---------------|-----------------|--------------------------------|-----------------------------------|----------------------------------|----------------------------|----------------------------|------------------------------|-----------------------------|-------------------------|------------------------|------------------------|---------------------------|----------------------------------|--------------------------|--------------------------|---------------------------|------------------------------|------------------|-------------------|---------------|-------------------------|----------------------|----------------|-------------------|----------------------|------------------------|------------------------------------|---------------------|-------------------|------------------------|----------------|----------------------|----------------------|-------------------------|----------------------------------|------------------------------|---|-----------|-----------------------------|-------------------------------------|------------------------------|-----------|
| Primitive road | Unimproved road | Gravel road | Gravel road and drained | Bituminous road - low type | Paved road | Divided highway | 4 lane undivided | Private road | Private road (low entrance etc.) | Local roads (non-surveyed) | Federal Aid Primary system | Federal Aid Secondary system | Interstate numbered highway | U.S. numbered highway | State numbered highway | End of marked route | End of Federal Aid System | Distance measured between points | Highway grade separation | Highway grade separation | Cattle guard | Railroad | Railroad station | Grade crossing | Roadway below | Railroad bridge | Intermittent stream | Narrow stream | Wide stream | Wide stream with dam | Low, reservoir or pond | Little, reservoir or pond with dam | Dry lake | Mud or swamp land | Springs | Drainage ditch | Irrigation canal | Flood | Dam with road | Minor structure (100 ft or less) | General bridge (over 200 ft) | General bridge (over 200 ft) to section 1 | | | | | |
| True bridge (100 ft or less) | Arch bridge | Prominent elevation, butte | Canion wall or mesa | County line | Township line | Section line | Highway district boundary line | Wildlife Management Area boundary | County seat | Other cities and villages | Incorporated city | Paving ground | Scenic site | Motel (number of units) | Fish hatchery | Park (number of units) | Dwelling (100 ft or less) | Dwelling (100 ft or less) | Group of dwellings | Post office | Business (100 ft or less) | Business and filling station | Tenement house | Seasonal dwelling | Cemetery | School (100 ft or less) | State point of entry | Pipe line, gas | Transmission line | Power plant | Power substation | Radio range or microwave station | Warehouse (general) | Beer dump | Stock yard, commercial | Gravel pit | Garbage dump grounds | Automobile graveyard | Mixed cultural features | Culture shown out of position | Triangulation station | Latitude and longitude | Camp site | Golf course or country club | Townhall, garage, or community hall | Airport, complete facilities | Rest Area |

GENERAL HIGHWAY MAP
GOODING COUNTY
IDAHO

PREPARED BY THE
IDAHO DEPARTMENT OF HIGHWAYS
STATE-WIDE HIGHWAY PLANNING SURVEY



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

[illegible]

Scale: 2 inches equal 1 mile.

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

REFILED

JUN 28 1988

M. Reed Hansen
(Applicant)

(Applicant)

Chairman

Idaho Water Resource Board

Received by macys JSA Date 7-6-81 Time 3:00 pm
6-19-81 Time 1:28 P.
Preliminary check by _____ Fee \$ _____
Receipted by _____ Date _____
Publication prepared by _____ Date _____
Published in _____
Publication dates _____
Publication approved _____ Date _____
Protests filed by: _____

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

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7920 , and said application is hereby APPROVED .

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

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before April 1 , 19 94 .
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. Other: _____

Witness my hand this 29 day of APRIL , 19 88.

R. David Higgins
Director

RECORDED
JUN 28 1988

NAME OF STREAM: Malad River (Big Wood River)

LEGAL DESCRIPTION OF THE POINT OF THE STREAM WHERE STREAM FLOW IS REQUESTED:

At confluence with Snake River, Gooding County, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E.

THE PROPOSED STREAM FLOW IN CUBIC FEET PER SECOND: 39 cfs

THE PURPOSE FOR WHICH THE MINIMUM STREAM FLOW IS PROPOSED:

To maintain trout spawning and rearing habitat from the point of requested flow upstream to Idaho Power diversion.

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

All year.

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

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

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

Malad River is a high quality rainbow trout fishery. The section of stream from Snake River to the Idaho Power Diversion provides habitat for resident trout and rearing and spawning habitat for fish from Snake River.

The requested instream water right for Malad River will be held in trust for the people of Idaho by the Idaho Water Resource Board.

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

During 1976, personnel of the Idaho Department of Fish and Game collected field data from Malad River and using this data with instream flow methodologies determined that the above requested flows are necessary for maintaining the existing wild trout populations. Methodologies, techniques and instream flow recommendations are presented in the following publication:

Cochnauer, Tim. 1977. Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report, Project F-66-R-2, Job II.
Idaho Department of Fish and Game. 85 pp.

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

Based on field data, the most desirable flow for trout rearing would be 70 cfs (see above report).

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

No flow records maintained for this stretch of stream.

MISRECEIVED

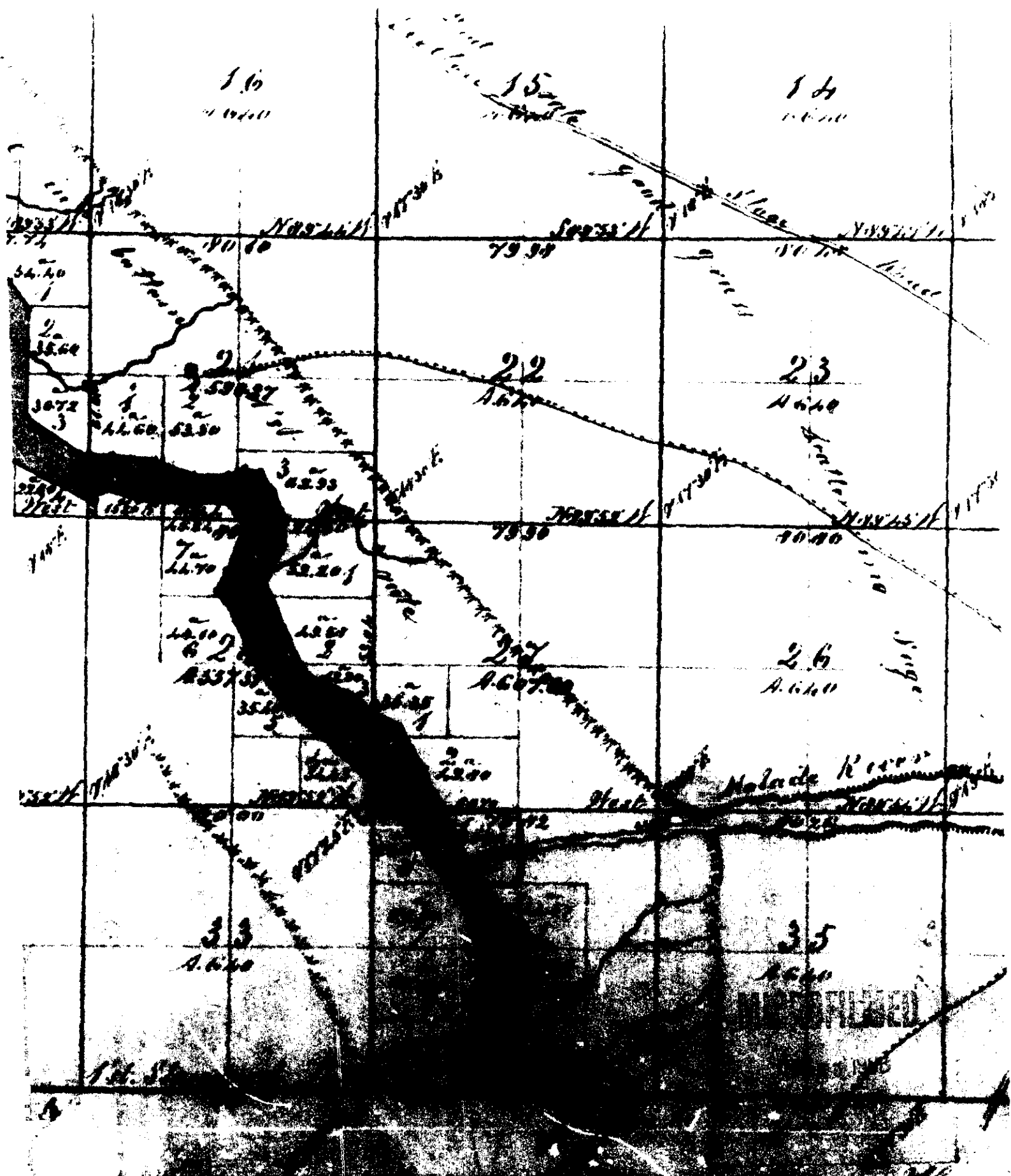
JUN 28 1988

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

No gaging station exists on this section of Malad River. A gaging device situated immediately upstream of Snake River would be sufficient to monitor the requested flow.

MICROFILMED

JUN 28 1988



CPM	DATE	DESCRIPTION
11	August 1st 1871	August 31st 1871
23	September 1st 1871	September 30th 1871

The above
is East
conform
file in
office
H. ...

AFFIDAVIT of PUBLICATION

State of Idaho,)
) SS.
County of Gooding)

FRANK T. CROW, JR., being first duly sworn, deposes and says that he is the printer (publisher) of the Gooding County Leader, a newspaper published every week in Gooding, County of Gooding, State of Idaho, that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for 2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 19 day of OCT. 1983, and the date of the last publication was on the 26 day of OCT., 1983.

Frank T. Crow
Subscribed and sworn to before me this 26 day of OCT, 1983.
(SEAL)

Gordy Jones
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Lines in Notice..	<u>88</u>
Number of Insertions.	<u>2</u>
Lines tabular at 42'	
<u>88</u> Lines straight at 32'	<u>28.16</u>
<u>88</u> Subsequent lines at 21'	<u>18.48</u>
Total Cost	<u>46.64</u>

RECORDED

JUN 28 1988

NOTICE OF HEARING - APPLICATIONS FOR IN-STREAM WATER RIGHTS NO. 37-7920 - 37-7892

Notice is hereby given that the Idaho Water Resources Board submitted two applications for permit to the Department of Water Resources proposing the appropriation of water to preserve the minimum streamflows from the following sources tributary to the Snake River and further described as follows:

No. 37-7920
Date Filed: June 19, 1981
Source: Malad River tributary to Snake River
Point of Minimum Streamflow: NENW Sec 34 T 6 S R13E NWNE Sec 35 T 06S R13E, Gooding County. From the confluence with Snake River upstream to the Idaho Power diversion
Rate of Flow: 39.00 Cubic Feet Per Second
Season of Use: January 1 to December 31
Use: To preserve fish populations and aesthetics

No. 37-7892
Date Filed: March 27, 1981
Source: Malad River tributary to Snake River
Point of Minimum Streamflow: SESW Sec 30 T 06S R14E SESE Sec 25 T06S R13E Gooding County. From the Thorpe and Justice diversion downstream to Devil's Washbowl Falls
Rate of Flow: 75.00 Cubic Feet Per Second
Season of Use: January 1 to December 31
Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 1:30 p.m., on Wednesday, November 9, 1983 in the Council Room of the Gooding City Hall, 308 5th Ave. West, Gooding, Idaho, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Sec. 42-1503, IDAHO CODE. If issued, this permit will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of examining witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho, five days (5) prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

A. KEN DUNN-Director

PUB: 10-19, 26



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 26, 2002

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83820-0098

RE: Water Right License 37-7920

Dear Water Right Holder(s):

The Department of Water Resources (IDWR) has issued the enclosed amended Water Right License for Water Right 37-7920. The amended license is a **preliminary order** issued by the Department pursuant to §67-5243, *Idaho Code*. It supersedes the Water Right License issued on September 15, 1995. **The 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 in the enclosed information sheet.**

If you have questions, please contact me at (208) 327-7946.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure

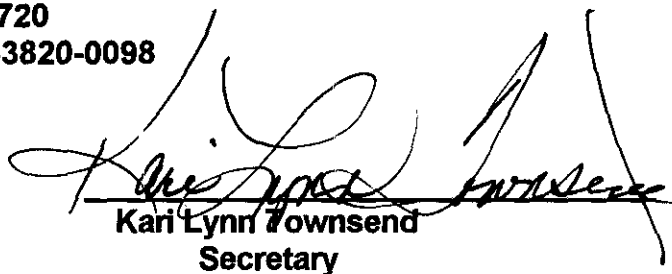
MICROFILMED
JAN 09 2003

CERTIFICATE OF SERVICE

I hereby certify that on the **26th** day of **December, 2002**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Amended Approved License)** to the person(s) listed below:

Water Right No. 37-7920

**STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83820-0098**


**Kari Lynn Townsend
Secretary**

**MICROFILMED
JAN 09 2003**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

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JAN 09 2003

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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



IDAHO WATER RESOURCE BOARD

December 19, 2002

Dirk Kempthorne
Governor

Joseph L. Jordan
Chairman
Fruitvale
At Large

Jerry R. Rigby
Vice Chairman
Rexburg
At Large

Dick Wyatt
Secretary
Lewiston
District 1

Leonard Beck
Burley
District 3

Terry T. Uhling
Boise
District 2

Bob Graham
Bonners Ferry
At Large

L. Claude Storer
Idaho Falls
District 4

Gary M. Chamberlain
Challis
At Large

Mr. Shelley Keen
Idaho Department of Water Resources
1301 N. Orchard
Boise, Idaho 83706

Re: Water Right License No. 37-07920

Dear Shelley:

At the last meeting on December 13, the Board was given an opportunity to review changes before an amended license and preliminary order were issued regarding the above referenced license for the Board's minimum streamflow on the Malad River. The re-issuance is necessary to correct a legal description and delete a condition of approval. The Board supports this action.

Here is an excerpt from the Board meeting minutes:

b) Malad River Minimum Streamflow Filings

The Idaho Water Resource Board holds licensed water right No. 37-07920, which establishes a minimum instream flow for a portion of the Malad River. While reviewing the right for inclusion in the Director's Report for Basin 37 in the Snake River Basin Adjudication (SRBA), it was noted that a discrepancy exists with the legal description of the point of beginning. In addition, one of the conditions, Condition No. 6, is unacceptable to the SRBA special master because it is contrary to court action. An amended license and preliminary order will correct the error. The Board reviewed these changes. In response, the Board supported the action proposed by the Department with a motion.

Motion: Jerry Rigby moved the Board to support the amended license and preliminary order, which corrects the legal description for the water right License No. 37-7920 and deletes Condition No. 6 from the conditions of approval. Dick Wyatt seconded the motion.

Voice Vote: 7 Ayes, 0 Nays, 1 Absent. *Motion passed.*

Mr. Shelley Keen
December 19, 2002
Page 2

If you have any further questions, please let me know.

Sincerely,

A handwritten signature in cursive script, reading "Rita L. Fleck". The signature is written in dark ink and is positioned above the printed name.

Rita L. Fleck
Administrative Assistant for
The Idaho Water Resource Board

MICROFILMED

2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 27, 2002

Joseph Jordan, Chairman
Idaho Water Resource Board
2555 Glendale Road
Fruitvale, Idaho 83620

Re: License 37-07920 (Malad River Minimum instream flow)

Dear Chairman Jordan:

Enclosed are copies of a draft preliminary order and a draft amended license that Department staff proposes issuing to correct the above referenced license. The need to amend the license was identified during review of the claim filed on this right in preparation of the Director's Report for Basin 37. A discrepancy was noted between the legal description of the point of beginning of the minimum instream flow reach listed on the license and the actual location shown on maps and other documents, and was confirmed by field observation. The license lists the location as the NW1/4NE1/4 of Section 35, while the correct location as shown on the enclosed map is near the line separating the NW1/4NW1/4 and the NE1/4NW1/4 of that same section.

The right as filed and as permitted clearly provides for a minimum flow from the Idaho Power Company Diversion dam to the mouth of the Malad River, a distance of about one mile (as noted on the application). Another application (37-08333) has been filed for a minimum instream flow from the diversion dam upstream to a second diversion facility owned by Idaho Power Company. Thus, it appears that the license incorrectly describes the legal description of the location of the lower Idaho Power Company Diversion dam and should be corrected.

Another proposed change is to drop the first sentence from Condition No. 6 in the original license (copy enclosed) retaining jurisdiction to amend the right. The language used in this condition was not acceptable to the SRBA special master when another claim for a minimum instream flow was reviewed in an earlier proceeding. The SRBA court requires that the action it takes in decreeing a right must become final and not subject to being opened for further review at a later date. By removing the first sentence, the license and subsequent decree are final, but the condition provides for a new matter to be initiated if a change is desired in the future. This is similar to being able to file a transfer to change a license or decree, but the procedure needs to be specifically included in a license for a minimum instream flow. The intended purpose of the condition is retained,

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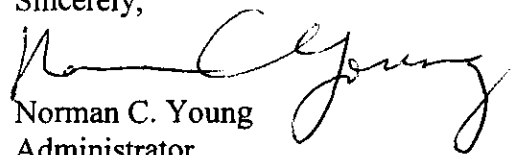
JAN 8 9 2003

Joseph Jordan, Chairman
November 27, 2002
Page 2

even without the first sentence. Whether or not this amendment is made to the license, language retaining jurisdiction would not be included in the partial decree issued by the court.

These changes can be made without having the Board file an application to amend or change the license. I propose to issue the order and amended license after you and other members of the Board have had an opportunity to review the changes. If you agree with the changes, action is not required at the upcoming meeting.

Sincerely,



Norman C. Young
Administrator
Water Management Division

Encl. Draft preliminary order
Draft amended license
Original license
Map

c. Board folder

MICROFILMED
JAN 09 2003

DRAFT

BEFORE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF A CORRECTION)
TO WATER RIGHT LICENSE NO. 37-7920)
_____)

**PRELIMINARY ORDER
CORRECTING LICENSE**

This matter having come before the Department of Water Resources (Department) as a result of an internal review of water right records on file with the Department, the Department makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. On February 18, 1988, the Department issued a proposed memorandum decision and order granting Permit 37-7920 (permit) to the Idaho Water Resource Board (right holder) for a minimum instream flow of 39 cfs on the Malad River, a tributary of the Snake River. In the proposed memorandum decision and order, the Department described the minimum instream flow reach of the Malad River as being "from the confluence with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Sec. 34, Twp. 6S, Rge. 13 E, B.M., upstream approximately one (1) mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T6S, R13E, B.M."
2. On April 29, 1988, the Department issued an order adopting the proposed memorandum decision and order.
3. On September 27, 1990, the right holder claimed the permit in the Snake River Basin Adjudication (SRBA).
4. On March 6, 1992, the Department received the right holder's proof of beneficial use statement for the permit.
5. On September 15, 1995, the Department issued Water Right License 37-7920 (license) for the minimum instream flow authorized by the permit. The license defined the beginning of the minimum instream flow reach as the NWNE, Sec. 35, Township 06S, Range 13E, and the end of the minimum instream flow reach as the NENW, Sec. 34, Township 06S, Range 13E.
6. Approval condition no. 7 of the license further described the minimum instream flow reach.

This minimum stream flow begins at the Idaho Power Company diversion in the NWNE, S35, T6S, R13E and ends at the confluence of the Malad River with the Snake River in the NENW, S34, T6S, R13E.

MICROFILMED
JAN 30 2003

7. In 2002, while reviewing the right holder's claim filed in the SRBA, Department staff found that the Idaho Power Company diversion referenced in condition no. 7 of the license is not in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, S35, T6S, R13E, B.M. Instead, all of the following sources indicate that the Idaho Power Company diversion referenced in condition no. 7 of the license crosses from the NE $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., to the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M.
 - A. United State Geological Survey 1:24,000 Quadrangle *Hagerman, Idaho* Published in 1949 and revised in 1992.
 - B. Water License No. 19864 (37-2472) issued to Idaho Power Company on September 29, 1950, and supporting documents.
 - C. The Department's computer-based geographic information system.
8. The first sentence of approval condition no. 6 of the license says, "The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right."

CONCLUSIONS OF LAW

1. The license does not accurately portray the minimum instream flow established by the right holder in accordance with Permit 37-7920.
2. Beginning the minimum instream flow reach in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and/or the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., not in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, S35, T6S, R13E, B.M., is not a change that requires an amendment of the permit because the permit included the NW $\frac{1}{4}$ NW $\frac{1}{4}$, S35, T6S, R13E, B.M., within the minimum instream flow reach.
3. The description of the minimum instream flow reach in condition of approval no. 7 on the license is vague because it is impossible to discern from the description whether the reach includes or excludes the Idaho Power Company diversion.
4. The first sentence of approval condition no. 6 of the license can be interpreted as meaning that the license is not a final determination of the water right established in accordance with the permit.
5. Under Section 42-219, *Idaho Code*, the Department has a statutory obligation to issue a water right license that precisely, accurately and conclusively portrays the water right established in accordance with the permit.
6. The Department should re-issue the license with a corrected minimum instream flow reach description, including the description in condition of approval no. 7.

MICHAEL

JAN 23 2003

DRAFT

ORDER

IT IS HEREBY ORDERED that Water Right License 37-7920 is **CORRECTED** to show that the minimum instream flow begins in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ and/or the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M.

IT IS FURTHER HEREBY ORDERED that approval condition no. 7 on Water Right License 37-7920 is **CORRECTED** to say:

This minimum instream flow begins at the downstream side of the Idaho Power Company diversion structure located on or near the line separating the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., from the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., and ends downstream approximately one (1) mile at the confluence of the Malad River with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 34, Township 6 South, Range 13 East, B. M.

IT IS FURTHER HEREBY ORDERED that approval condition no. 6 on Water Right License 37-7920 is **MODIFIED** to say:

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

IT IS FURTHER HEREBY ORDERED that the Department shall issue an Amended Water Right License issued in conjunction with this order.

Dated this ____ day of _____, 2002.

NORMAN C. YOUNG
Administrator, Water Management Division

MICROFILMED
JAN 9 9 2003

State of Idaho
Department of Water Resources
Water Right License

DRAFT

Amended

Amended

WATER RIGHT NO. 37-07920

Priority: June 19, 1981

Maximum Diversion Rate: 39.00 CFS

It is hereby certified that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
PO BOX 83720
BOISE ID 83720-0098 has complied with the terms and conditions of the
permit, issued pursuant to Application for Permit dated June 19, 1981, and has submitted Proof of Beneficial
Use on March 6, 1992. A minimum instream flow in

SOURCE

MALAD RIVER

Tributary: SNAKE RIVER

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
MINIMUM INSTREAM FLOW	1/01 to 12/31	39.00 CFS

LOCATION OF MINIMUM INSTREAM FLOW REACH:

MALAD RIVER NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 6S, Rge 13E, B.M. GOODING County and/or
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 35, Twp 6S, Rge 13E, B.M. GOODING County (Beginning of Reach)

MALAD RIVER L1 NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 34, Twp 6S, Rge 13E, B.M. GOODING County (Ending of Reach)

CONDITIONS OF APPROVAL

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. Use of water under this right shall be non-consumptive.
3. This minimum instream flow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to the Malad River, held in trust by the State of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum instream flow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the State of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan, and Chapter 2, Title 42, Idaho Code.
4. Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than 6/19/1981.
5. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on the Malad River, such measuring devices shall be permanently installed and maintained as specified by the Department.

MICROFILMED
JAN 30 2003

State of Idaho
Department of Water Resources
Water Right License

DRAFT

Amended

Amended

WATER RIGHT NO. 37-07920

CONDITIONS OF APPROVAL continued

6. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
7. This minimum instream flow begins at the downstream side of the Idaho Power Company diversion structure located on or near the line separating the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., from the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East, B. M., and ends downstream approximately one (1) mile at the confluence of the Malad River with the Snake River in Lot 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$) Section 34, Township 6 South, Range 13 East, B. M.
8. The purpose of this minimum instream flow is to maintain trout rearing and spawning habitat.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. The water right confirmed by this license is subject to all prior water rights and shall be used in accordance with Idaho law and applicable rules of the Department of Water Resources.

Signed and sealed this _____ day of _____, 2002.

KARL J. DREHER
Director

MICROFILMED
JAN 30 2003

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07920

Priority: June 19, 1981

Minimum Instream Flow:

39.00 CFS

This is to certify, that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated June 19, 1981; and
has submitted Proof of Beneficial Use on March 6, 1992. A minimum stream flow in

MALAD RIVER

tributary to SNAKE RIVER

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE</u>
MINIMUM INSTREAM FLOW	01/01 to 12/31	39.00 CFS

LOCATION OF MINIMUM STREAM FLOW REACH:

Beginning of Stream Flow Reach
End of Stream Flow Reach

NWNE , Sec. 35, Township 06S, Range 13E
NENW , Sec. 34, Township 06S, Range 13E
GOODING County

CONDITIONS OF APPROVAL AND REMARKS

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. Use of water under this right shall be non-consumptive.
3. This minimum streamflow shall be junior and subordinate to all consumptive use rights diverted from groundwater within the Snake River Aquifer tributary to the Malad River, held in trust by the State of Idaho, which may be approved or diverted later in time than the priority of this right. Approval of this minimum streamflow right shall not give rise to any right or claim against any future rights to the consumptive use of groundwater held in trust by the State of Idaho initiated later in time than the priority of this right to the extent that such uses are within the limits established pursuant to the Swan Falls Agreement, the Idaho State Water Plan, and Chapter 2, Title 42, Idaho Code.

MICROFILMED
JAN 9 9 2003

OCT 03 1995

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 37-07920

CONDITIONS OF APPROVAL AND REMARKS

4. Use of water under this right shall recognize and allow the continued beneficial diversion of water for irrigation or other purposes under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file or issued by the Director under the provisions of Chapter 2, Title 42, Idaho Code, with the priority of water right date earlier than 6/19/1981.
5. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flow on the Malad River, such measuring devices shall be permanently installed and maintained as specified by the Department.
6. The Director retains jurisdiction, as described below, to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of the public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
7. This minimum stream flow begins at the Idaho Power Company diversion in the NWNE, S35, T6S, R13E and ends at the confluence of the Malad River with the Snake River in the NENW, S34, T6S, R13E.
8. The purpose of this minimum stream flow is to maintain trout rearing and spawning habitat.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 15TH day of SEPTEMBER, 1975.

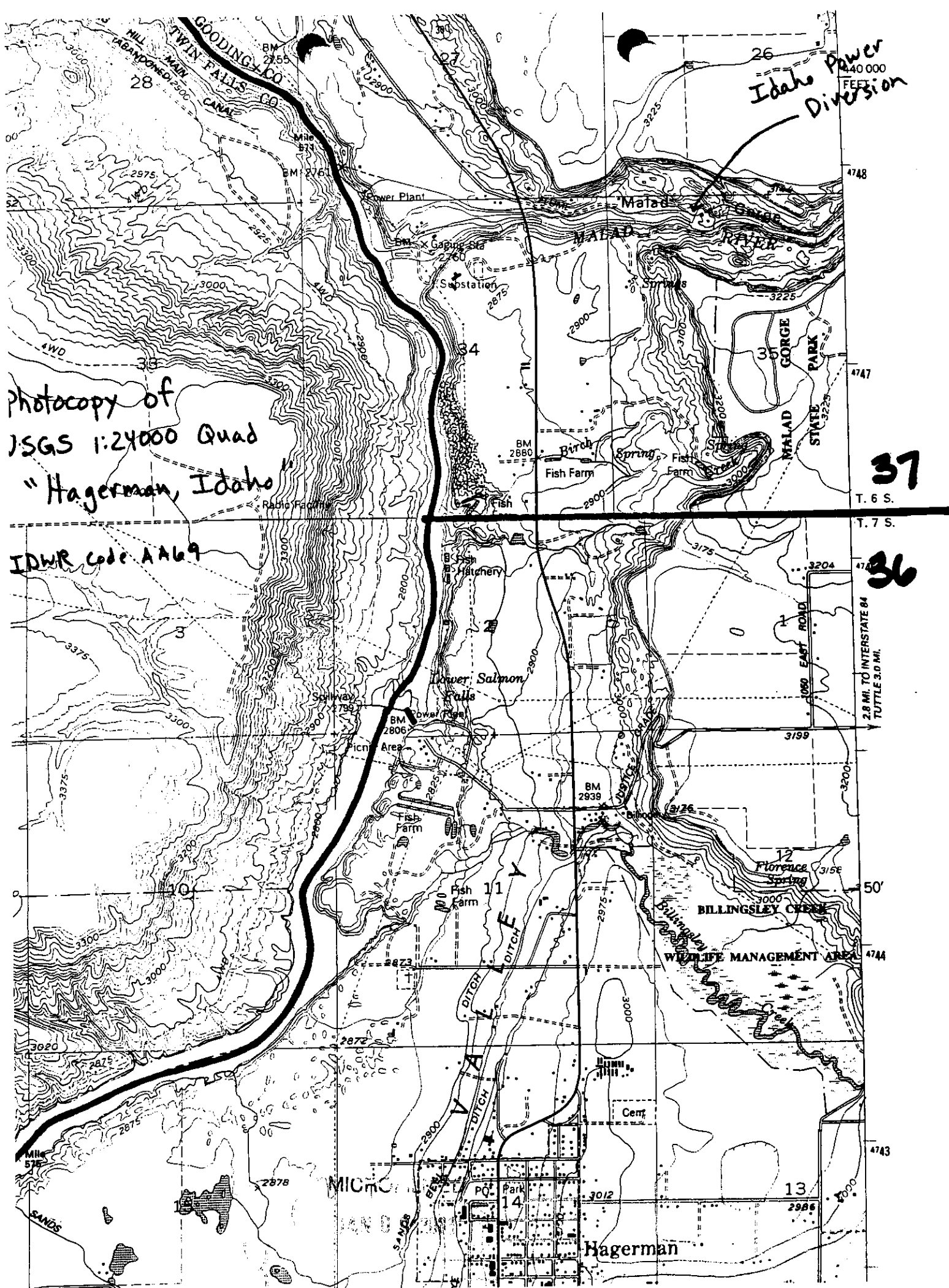
Acting for


KARL J. DREHER, Director

MICROFILMED

JAN 8 8 2009

OCT 03 1995



Idaho Power
240 000
FEET
Diversion

Photocopy of
USGS 1:24000 Quad
"Hagerman, Idaho"

IDWR Code AA69

37

T. 6 S.

T. 7 S.

36

2.8 MI. TO INTERSTATE 84
TUTTLE 3.0 MI.

50'

4743

MICRO

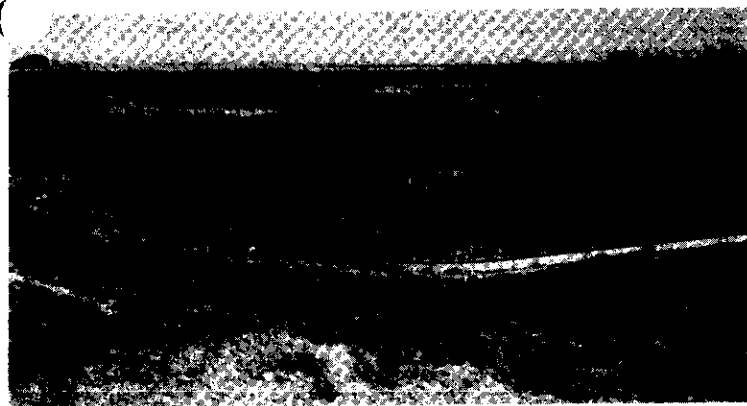
Hagerman



BLOCK FAULTING & RARE PLANT

This stop highlights two features; the step-like block faulting of the canyon, and a rare species of native plant.

Prior to the canyon filling deposits of basalt by Gooding Butte, this area was inundated by an ancient lake bed that left soft sedimentary rock under the canyon walls. As the Malad Gorge was being cut, the waters were also undercutting the soft sediment layers under the basalt rock walls of the canyon. As these softer sediments erode, large sections of the heavier basalt canyon wall slowly "slump" towards the canyon floor over time.



Just beyond where you now stand is the beginning of a block slump. Some of the crevasses formed by this geological process are over 100 feet deep.

The moss-like plant growing along the canyon rim at this site is called Cow-Pie Buckwheat. It is a listed rare plant in the state of Idaho. This plant is found in only four sites in our state, and flourishes in the poor soils found here along the canyon edge.

The plant has adapted quite well to living in such a barren place. It is called a succulent because the small leaves are able to retain moisture year-round. The leaves contain a gel-like flesh much like cacti do. The outer part of the leaves are covered with fine silvery hairs which protect the plant from the ultraviolet radiation of the sun. The Cow-Pie Buckwheat produces small yellowish-white flowers in mid to late June.

It is still unknown if Cow-Pie Buckwheat is wind-pollinated or if a species of insect accomplishes the task of pollination.



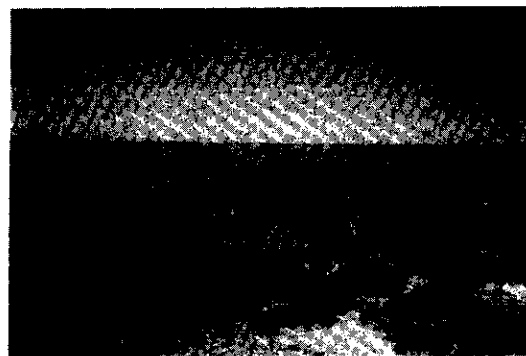
WOODY'S COVE & HAGERMAN VALLEY

Woody's Cove was created by the same forces which created the Malad Gorge. In the past waters from alpine glacial melt flowed violently over this area and began to wash out this cove. There was once a waterfall here similar to the Devil's Washbowl. The waters were diverted over time and left the cove as it appears today.

The whitish coloring on the walls is caused by calcium and phosphate deposits leaching out from water and whitening the porous volcanic rock.

The canyon walls of Woody's Cove provide nesting cavities for many bird species. The wooded canyon floor provides habitat for coyote, mule deer and red fox. Natural springs flowing from the base of the canyon provide enough water to maintain the trout hatchery at the mouth of the cove.

To the West lies the Snake River and the Hagerman Valley. The course of the river itself has changed direction over time as a result of the many volcanic episodes. The Snake River in this area was once much farther to the North.



We hope you enjoyed your visit!



Malad Gorge State Park
1074 East 2350 South
Hagerman, ID 83332
208.837.4505

Printed on 100% recycled paper. Brochure by Evelyn Simon 208.837.6523

MALAD GORGE STATE PARK



SELF-GUIDED TOUR

Welcome to Malad Gorge State Park!

With this self-guided tour you can conveniently enjoy the park at your own pace while discovering the natural wonders within. Please take time to explore and appreciate the beauty that took many years to create. Points of interest are designated with numbered roadside markers. You may begin your tour at any point along the way. We hope that our self-guided tour will greatly enhance your understanding and enjoyment of Malad Gorge State Park.



DEVIL'S WASHBOWL

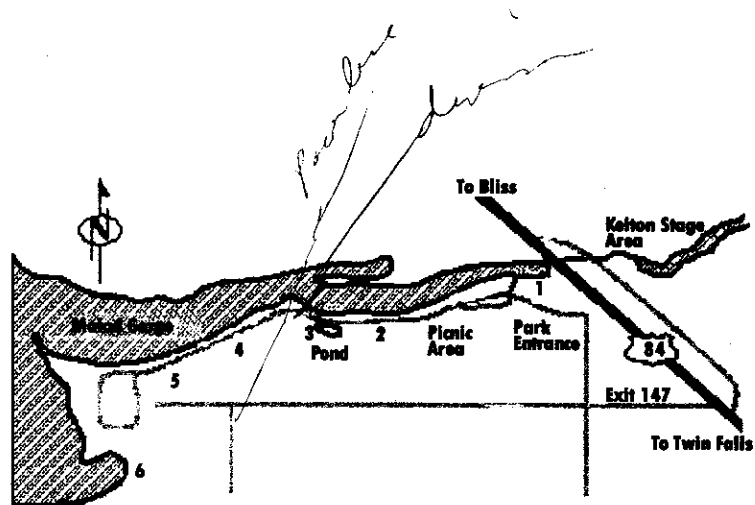
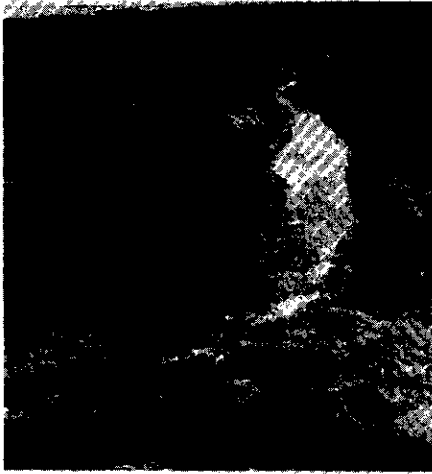
The washbowl and the Malad canyon that you see before you were created by a combination of volcanic activity and erosion. Over a period of time, periodic lava flows changed the landscape repeatedly. Gooding Butte, 9.5 miles to the Northeast, near the town of Gooding, Idaho contributed the basalt lava that make up the walls of the Malad Canyon.

Following the volcanic episodes, alpine glacial snow melt from the north began flowing toward the Snake River. As the water reached this area, it began to widen weak joints in the basalt, eroding them to greater widths and depths. This widening began at the edge of the Snake River canyon as a raging waterfall. Over time, the waters retreated 2.5 miles to the present waterfall at Devil's Washbowl. The 60 foot waterfall at the Devil's Wash-



bowl is an active example of a retreating cataract. To the west and southeast of the Malad Canyon, similar examples of this canyon forming erosion can be seen by walking the Northrim/ Alcove loop trail and at Woody's Cove Overlook.

Today the Malad River originates near Gooding, Idaho where the Big and Little Wood rivers combine. The Malad River is 12.5 miles long and the Gorge is 2.5 miles in length. From the footbridge, as you look toward the interstate bridge, you can see that the waters of the Malad River are still active in creating a much narrower and shallower gorge above the Devil's Washbowl.



MALAD GORGE STATE PARK



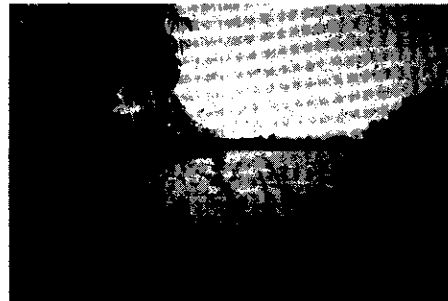
MALAD GORGE OVERLOOK

Here you can look back at the Malad river waterfall and the Devil's Washbowl to get another perspective of the forces that created the gorge. The Malad River traverses the 250 foot deep canyon two miles from this point before it empties into the Snake River. During the Spring snowmelt the canyon roars with large amounts of water from the swollen river. Wildlife finds abundant food and shelter within the Malad Canyon. Rock pigeons and numerous migratory birds, such as swallows, nest safely inside the canyon walls. Redtail hawks and golden eagles return annually to nest on the rocky outcrops and soar on warm air thermals rising up out of the canyon. Yellow-bellied marmots scurry about with ease in the canyon, eating grasses and tender vegetation. These large rodents live in rockpiles and burrows, nesting and raising their young during the spring and early summer, and then hibernating the remainder of the year.



USES OF WATER OVERLOOK

Two interesting features which focus on water usage can be viewed here. Follow the gravel trail leading to our wildlife pond. Once a settling pond for irrigation water, this man-made pond is now used by many species of wildlife. Migratory waterfowl take advantage of the protected water during their long journey to wintering areas. During the fall, if you are very quiet, you will often see hundreds of ducks on the water in the mornings and evenings. Docks allow for easier access for many purposes from picnicking to paddling canoes.



Across the road from the parking area is an overlook that will enable you to view the Malad Canyon. The structure that you see to the left diverts water from the upper Malad River to the first of two Idaho Power generators on the river. Electricity has been generated with the Malad River since 1911. The concrete canal system on the canyon floor was completed in 1948. Except during spring high flow periods, most of the waters of the upper Malad River are diverted into the power canal.

Even with this diversion, the network of springs in the Malad Gorge produce 600,000 gallons of water each minute and keep the river flowing throughout the year. These spring waters help maintain a wild trout fishery as well as supporting a diverse population of wildlife. You can see evidence of these springs as the Malad River recharges itself beyond the Idaho Power diversion structure.

Across the canyon is another example of the canyon cutting powers of water. The pool of spring water just past the diversion structure is at the mouth of a canyon sometimes called Farmers' Cove. Hikers traveling the Northrim/Alcove loop trail will see this canyon and also the spring fed pond at its head, once a plunge pool much larger than the Devil's Washbowl.



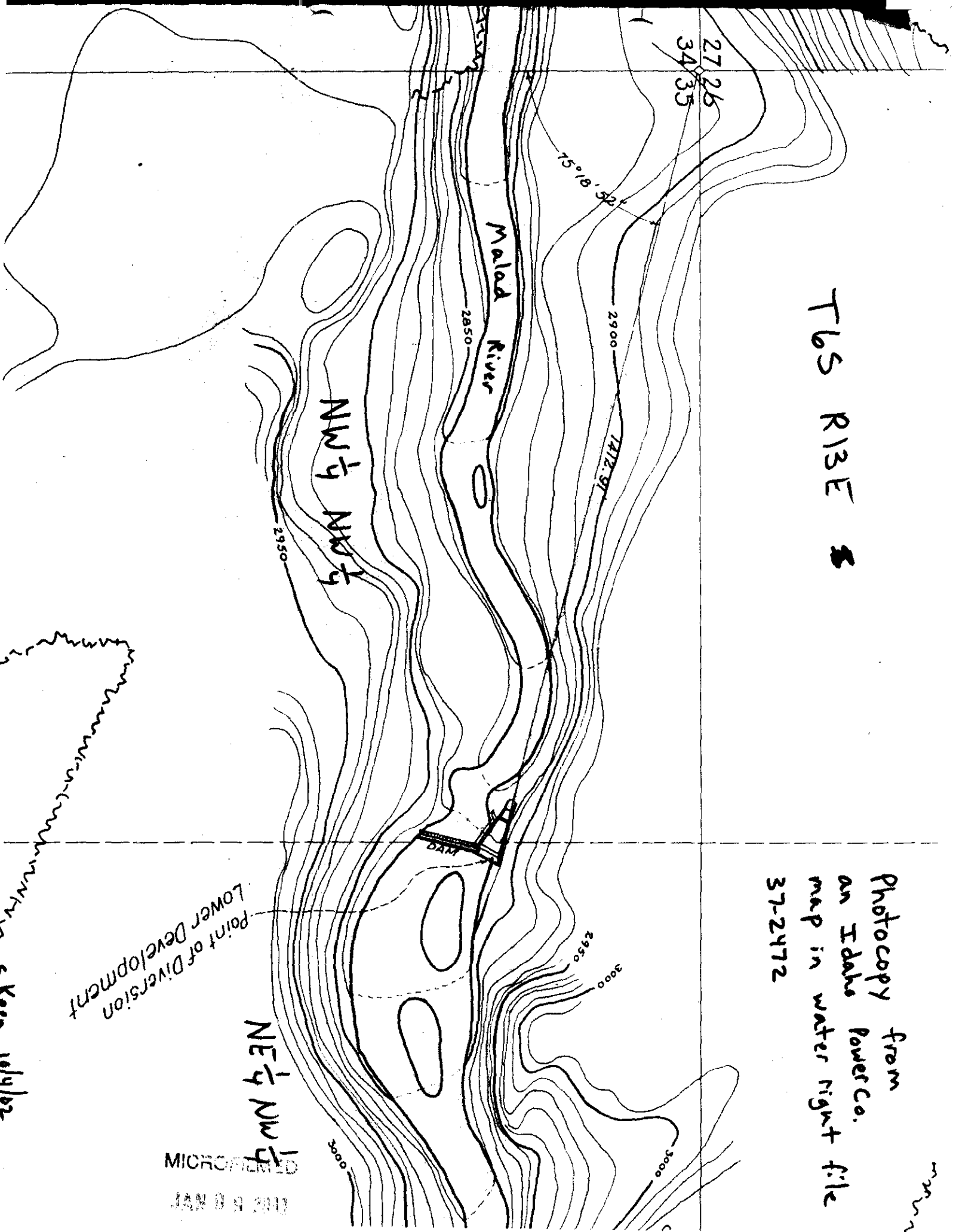
NATIVE PLANT RESTORATION

This is one of several sites in Malad Gorge State Park currently undergoing native plant community restoration. Due to overgrazing in the past, the native grasses were destroyed. Now aggressive non-native species such as cheatgrass and mustard took over the rangeland.

After preparations in the latter part of 1996, this 5 acre site was seeded in April 1997 with four grass species once native throughout this area: Bluebunch Wheatgrass, Thickspike Wheatgrass, Great Basin Wildrye, and Indian Ricegrass. As you can see, the native grasses have re-established themselves and will continue to seed and maintain a healthy grassland community. This grass planting is the first of four phases of habitat rehabilitation here in the park. The second phase will be to establish forbs and flowering plants; the third phase will be to establish shrubs such as sagebrush and antelope bitterbrush; and the final phase will be to establish berry producers and native trees in the wetland areas.

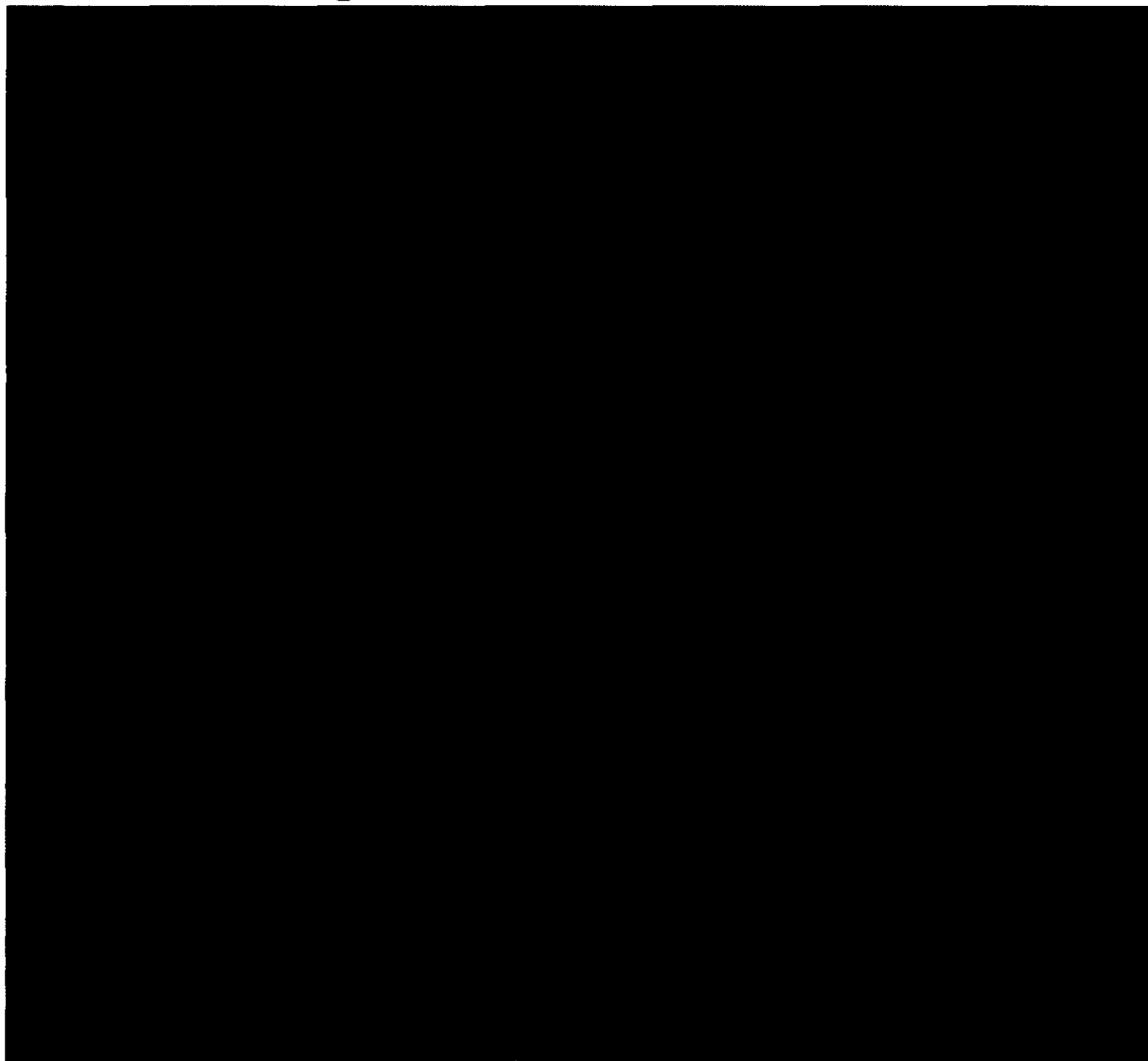
T6S R13E

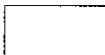
Photocopy from
an Idaho Power Co.
map in water right file
37-2472



MICROFILMED
JAN 8 1981

Water Right License No. 37-7920



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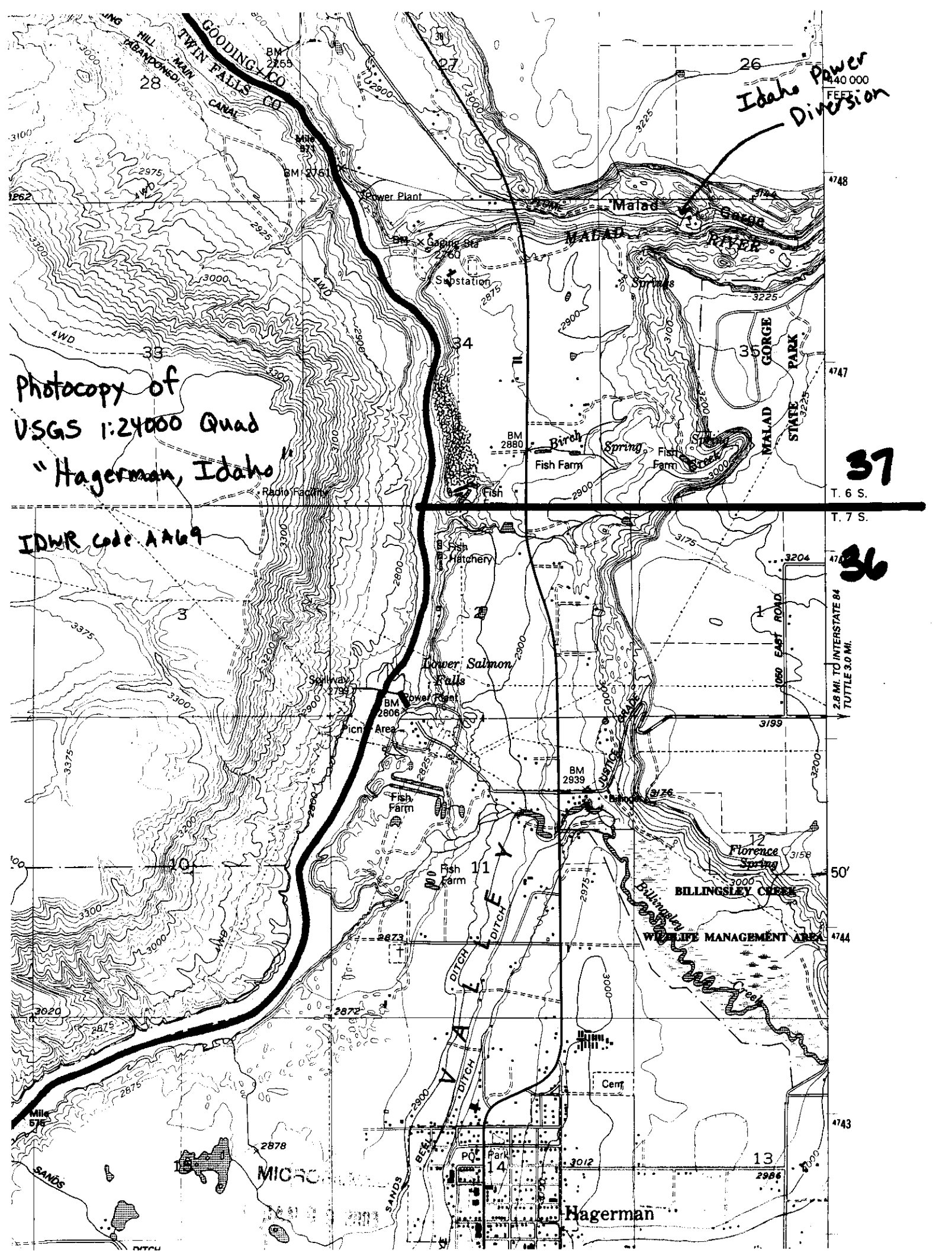


Prepared by S. Keen
10/4/2002

MICROFILMED
JAN 03 2003

1000 0 1000 2000 Feet







State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

September 18, 1995

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

RE: WATER RIGHT NO. 37-07920

Dear Water Right Holder(s):

Enclosed is a copy of the Water Right License issued on the above referenced permit. If you have any questions, please contact me within 10 days of receipt of this license.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosure

OCT 03 1995

RIGHT NO. 37-07920

Proof of beneficial use rec'd 3/6/92

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

Data submitted fully complies with permit condition
(i.e. # of years of flow data sufficient) 3 yrs.

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

Comments/adjustments _____

Printed license hand-edited ✓

April 24, 1992

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 37-07920

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.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

Karen L. Gustafson
Secretary/Records Manager

c: IDWR - Region

MICROFILMED
MAY 18 1992

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 37-07920

Reviewed by Klg

Date 4/22/92

GENERAL CONSIDERATIONS

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

TYPES OF USE

minimum streamflow

Correct Uses? yes

SOURCE OF WATER

✓ Surface water source

 Ground water source

NA Drilling permit required?

 Copy in the file? Drilling Permit No.

 Amount paid for permit Correct?

 Well log in the file?

LICENSE EXAMINATION FEE

NA Required?
 Amount Submitted
 Correct?

MEASURING DEVICE

NA Required?
 Installed?
✓ Waiver requested?

PRIORITY CALCULATION

Date proof received	<u>NA</u>	
Date proof due	<u> </u>	-
No. of days late	<u> </u>	=
Priority Date	<u> </u>	+
New Priority Date	<u>✓</u>	

DEFICIENCIES OR ACTION ITEMS

proof acceptable

DATA ENTRY

New Address

Proof Made 3/6/92
4/24/92 Klg



IDAHO FISH & GAME

600 South Walnut / Box 25
Boise, Idaho 83707

February 25, 1992

Mr. Bill Graham
Idaho Department of Water Resources
STATEHOUSE MAIL
Boise, Idaho 83720

Re: Proof of use for permit no. 37-7920 (Malad River minimum stream flow)

Dear Bill:

Enclosed are flow data for proof of use for the above referenced minimum stream flow permit. The data are from USGS gauge no. 13153500 located on the Malad River near Bliss, ID. Data are for water years beginning September 1986 and ending September 1990. The data clearly demonstrate the requested flow of 39 cfs is capable of being maintained year-round, even during drought years. If further data are needed, please advise me as soon as possible.

Thank you in advance for your help in this matter.

Sincerely,

Cindy Robertson
Fishery Biologist

CR:kdd

Cecil D. Andrus / Governor
Jerry M. Conley / Director



Working for wildlife since 1938

MICROFILMED
MAY 18 1992

BIG WOOD RIVER BASIN

13153500 MALAD RIVER NEAR BLISS, ID

LOCATION.—Lat 42°51'48", long 114°54'04", in SE $\frac{1}{4}$, NE $\frac{1}{4}$, NW $\frac{1}{4}$, sec.34, T.6 S., R.13 E., Gooding County, Hydrologic Unit 17040212, on right bank 700 ft upstream from mouth, and 8 mi southeast of Bliss.

DRAINAGE AREA.—3,000 mi², approximately.

PERIOD OF RECORD.—April to September 1899; December 1984 to current year.

GAGE.—Water-stage recorder. Elevation of gage is 2,750 ft above National Geodetic Vertical Datum of 1929, from topographic map. April to September 1899, nonrecording gage at same site and different datum.

REMARKS.—Records fair. Station equipment includes telemetry. Diversions from Big Wood, Little Wood, and Malad Rivers for irrigation above station. Major diversion for power generation bypasses station at most times (see sta 13152940). Numerous springs enter the Malad River canyon within 2 mi upstream. For records of combined discharges, see following page.

AVERAGE DISCHARGE.—5 years (1986-90), 281 ft³/s, 203,600 acre-ft/yr.

EXTREMES FOR PERIOD OF RECORD.—River only, maximum daily discharge, 4,150 ft³/s Feb. 18, 1986; minimum daily, 66.0 ft³/s Jan. 9, 10, 14, 1986. Combined flow, maximum daily discharge, 5,090 ft³/s Feb. 18, 1986; minimum daily, 1,110 ft³/s Apr. 27, 1987, June 16, 1989.

EXTREMES FOR CURRENT YEAR.—River only, maximum daily discharge, 1,680 ft³/s Oct. 10; minimum daily, 72 ft³/s Nov. 29. Combined flow, maximum daily discharge, 1,790 ft³/s Oct. 6; minimum daily, 1,150 ft³/s Dec. 20, Apr. 20.

Rating table (gage height, in feet, and discharge, in cubic feet per second)

1.4	70	3.0	479
1.6	96	3.5	719
2.0	165	4.0	1020
2.5	297	4.5	1390
		5.0	1840

DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1989 TO SEPTEMBER 1990
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	313	126	73	74	79	251	98	385	406	103	114	176
2	338	137	78	77	80	176	95	366	408	103	109	190
3	399	142	76	79	80	156	101	346	373	99	108	172
4	427	119	73	78	80	289	87	301	350	105	115	168
5	461	106	75	77	78	166	95	265	311	100	112	203
6	497	89	76	76	79	152	137	250	299	98	105	187
7	451	81	80	75	79	115	133	224	333	94	111	154
8	404	75	81	79	80	98	175	271	350	90	122	139
9	1200	76	85	197	83	102	203	331	339	92	123	146
10	1680	120	78	201	84	94	252	355	296	94	124	161
11	1540	153	76	113	88	106	217	323	303	94	128	188
12	1420	124	76	88	106	104	252	268	327	94	134	176
13	1300	109	75	96	97	103	241	236	333	93	151	196
14	1290	96	76	88	107	103	197	316	332	92	168	210
15	1290	81	77	94	78	104	150	291	388	94	167	156
16	1290	94	75	106	83	102	243	300	381	91	176	234
17	1290	82	75	88	103	102	154	275	323	89	200	219
18	1340	87	77	89	88	103	93	190	316	89	192	279
19	1320	74	82	83	88	104	87	167	274	87	190	298
20	829	77	127	84	86	103	106	134	175	92	208	265
21	141	76	78	82	88	106	84	196	143	101	232	265
22	109	74	79	79	91	101	104	209	137	102	213	262
23	104	75	79	80	94	100	187	230	148	109	165	284
24	107	75	80	81	115	95	197	231	118	106	179	278
25	118	76	78	80	258	96	210	259	109	102	194	285
26	157	80	78	80	321	96	229	288	103	100	239	277
27	154	80	78	77	300	97	244	281	103	103	245	326
28	139	79	77	85	286	96	462	265	115	100	260	325
29	137	72	78	80	---	97	392	301	110	118	248	309
30	137	75	79	80	---	95	402	329	106	116	215	328
31	125	---	77	81	---	98	---	315	---	117	150	---
TOTAL	20507	2810	2452	2827	3279	3710	5627	8498	7809	3067	5197	6856
MEAN	662	93.7	79.1	91.2	117	120	188	274	260	98.9	168	229
MAX	1680	153	127	201	321	289	462	385	408	118	260	328
MIN	104	72	73	74	78	94	84	134	108	87	105	139
AC-FT	40680	5570	4860	5610	6500	7360	11160	16860	16860	10310	13600	13600

CAL YR 1989 TOTAL 81751 MEAN 224 MAX 1680 MIN 69 AC-FT 162200
WTR YR 1990 TOTAL 72639 MEAN 199 MAX 1680 MIN 72 AC-FT 144100

MAILED
MAY 18 1992

BIG WOOD RIVER BASIN

13153500 MALAD RIVER NEAR BLISS, ID

LOCATION.—Lat 42°51'48", long 114°54'04", in SE¼, NE¼, NW¼, sec.34, T.6 S., R.13 E., Gooding County, Hydrologic Unit 17040212, on right bank 700 ft upstream from mouth, and 8 mi southeast of Bliss.

DRAINAGE AREA.—3,000 mi², approximately.

PERIOD OF RECORD.—April to September 1899; December 1984 to current year.

GAGE.—Water-stage recorder. Elevation of gage is 2,750 ft above National Geodetic Vertical Datum of 1929, from topographic map. April to September 1899, nonrecording gage at same site and different datum.

REMARKS.—Records fair. Diversions from Big Wood, Little Wood, and Malad Rivers for irrigation above station. Major diversion for power generation bypasses station at most times (see sta 13152940). Numerous springs enter the Malad River canyon within 2 mi upstream. For records of combined discharges, see following page.

EXTREMES FOR PERIOD OF RECORD.—River only, maximum daily discharge, 4,150 ft³/s Feb. 18, 1986; minimum daily, 66.0 ft³/s Jan. 9, 10, 14, 1986. Combined flow, maximum daily discharge, 5,090 ft³/s Feb. 18, 1986; minimum daily, 1,110 ft³/s Apr. 27, 1987, June 16, 1989.

EXTREMES FOR CURRENT YEAR.—River only, maximum daily discharge, 1,360 ft³/s Mar. 9; minimum daily, 69 ft³/s July 1. Combined flow, maximum daily discharge, 2,690 ft³/s Mar. 9; minimum daily, 1,110 ft³/s June 16.

Rating table (gage height, in feet, and discharge, in cubic feet per second)

1.3	58	3.0	479
1.6	96	3.5	719
2.0	165	4.0	1020
2.5	297	4.5	1390

DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1988 TO SEPTEMBER 1989
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	210	75	77	78	74	155	190	146	269	69	99	139
2	235	73	75	78	74	442	179	167	241	71	96	151
3	229	74	76	78	73	703	161	137	204	70	84	160
4	223	79	77	78	74	202	143	119	190	73	89	140
5	204	79	75	79	75	91	132	116	311	72	86	162
6	224	78	75	79	75	90	138	124	321	76	85	183
7	177	77	77	78	75	183	141	126	314	74	89	189
8	232	77	78	78	75	654	133	118	285	73	84	219
9	291	77	77	81	75	1360	125	116	242	76	90	201
10	215	77	78	86	76	1130	180	142	185	76	96	157
11	117	76	79	81	78	855	242	212	100	76	99	216
12	102	76	78	78	77	595	224	210	800	81	111	264
13	94	76	78	77	77	366	224	267	1210	80	127	293
14	102	79	79	76	76	231	250	342	1220	81	124	269
15	127	84	80	76	76	175	372	378	1230	78	98	244
16	135	76	92	76	77	160	267	441	867	81	81	279
17	129	80	78	85	77	161	296	428	89	84	90	310
18	129	83	77	75	80	176	276	414	108	82	127	333
19	107	79	75	75	87	146	223	405	109	82	136	364
20	86	80	75	75	84	140	194	400	107	79	139	478
21	79	79	78	75	84	145	242	360	107	79	143	506
22	80	83	78	75	106	134	445	315	102	79	133	362
23	80	107	80	74	156	138	513	239	91	76	158	353
24	77	238	81	72	e345	155	525	189	79	77	182	334
25	76	106	79	72	414	167	518	176	82	81	222	300
26	176	107	79	72	475	e446	430	199	82	83	242	303
27	101	83	78	72	293	e380	350	235	77	82	273	303
28	75	84	78	72	243	e270	309	256	106	81	265	316
29	78	82	78	72	---	e280	201	263	72	83	245	299
30	77	88	78	72	---	e210	174	264	70	88	205	296
31	76	---	78	73	---	e176	---	274	---	96	142	---
TOTAL	4343	2612	2421	2368	3651	10516	7797	7578	9270	2439	4240	8123
MEAN	140	87.1	78.1	76.4	130	339	260	244	309	78.7	137	271
MAX	291	238	92	86	475	1360	525	441	1230	96	273	506
MIN	75	73	75	72	73	90	125	116	70	69	81	139
AC-FT	8610	5180	4800	4700	7240	20860	15470	15030	18390	4840	8410	16110

CAL YR 1988 TOTAL 46329 MEAN 127 MAX 1200 MIN 73 AC-FT 91890
WTR YR 1989 TOTAL 65358 MEAN 179 MAX 1360 MIN 69 AC-FT 129600

e Estimated

MICROFILMED
MAY 18 1992

BIG WOOD RIVER BASIN

13153500 MALAD RIVER NEAR BLISS, ID

LOCATION.—Lat 42°51'48", long 114°54'04", in SE¹/₄, NE¹/₄, NW¹/₄, sec.34, T.6 S., R.13 E., Gooding County, Hydrologic Unit 17040212, on right bank 700 ft upstream from mouth, and 8 mi southeast of Bliss.

DRAINAGE AREA.—3,000 mi², approximately.

PERIOD OF RECORD.—April to September 1899; December 1984 to current year.

GAGE.—Water-stage recorder. Elevation of gage is 2,750 ft above National Geodetic Vertical Datum of 1929, from topographic map. April to September 1899, nonrecording gage at same site and different datum.

REMARKS.—Records fair. Diversions from Big Wood, Little Wood, and Malad Rivers for irrigation above station. Major diversion for power generation bypasses station at most times (see sta 13152940). Numerous springs enter the Malad River canyon within 2 mi upstream. For records of combined discharges, see following page.

EXTREMES FOR PERIOD OF RECORD.—River only, maximum daily discharge, 4,150 ft³/s Feb. 18, 1986; minimum daily, 66.0 ft³/s Jan. 9, 10, 14, 1986. Combined flow, maximum daily discharge, 5,090 ft³/s Feb. 18, 1986; minimum daily, 1,110 ft³/s Apr. 27, 1987.

EXTREMES FOR CURRENT YEAR.—River only, maximum daily discharge, 1,200 ft³/s Mar. 30; minimum daily, 70.0 ft³/s Dec. 28. Combined flow, maximum daily discharge, 1,710 ft³/s Oct. 4; minimum daily, 1,150 ft³/s Mar. 31.

Rating table (gage height, in feet, and discharge, in cubic feet per second)

1.3	62	2.5	294
1.6	95	3.0	445
1.9	143	3.5	643
2.2	211	4.4	1230

DISCHARGE, CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1987 TO SEPTEMBER 1988
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	297	85	87	78	102	85	92	79	184	87	101	146
2	354	84	91	79	89	80	90	100	153	93	101	135
3	410	83	91	77	84	86	91	92	161	86	103	136
4	386	98	88	e78	82	84	88	195	153	90	103	163
5	386	80	83	e79	83	85	87	173	112	90	112	183
6	242	82	90	e80	83	82	107	138	104	88	122	196
7	127	123	83	e81	83	82	85	159	97	89	124	196
8	154	108	84	e82	83	82	83	162	91	92	106	251
9	175	115	79	e83	84	84	157	251	131	98	101	236
10	153	115	88	e85	86	84	152	218	106	93	100	193
11	171	112	86	86	117	87	186	189	90	97	96	198
12	164	109	75	90	142	87	254	123	86	92	97	222
13	119	110	73	104	147	82	166	94	87	95	98	281
14	116	108	76	92	141	82	117	85	85	94	100	320
15	110	92	74	75	115	84	140	90	82	94	102	325
16	111	71	75	78	100	106	196	104	84	99	103	263
17	107	77	75	92	98	82	327	81	88	94	107	257
18	107	73	71	84	95	87	303	91	86	95	101	236
19	104	75	76	82	96	84	344	85	83	94	103	191
20	102	84	85	81	94	82	313	83	83	94	97	260
21	100	73	92	82	93	81	265	88	83	95	99	344
22	99	83	93	80	96	e80	252	91	84	96	103	358
23	97	74	85	80	94	e82	244	95	86	100	103	320
24	94	82	74	79	93	e83	199	89	87	97	110	324
25	92	83	72	81	106	e84	213	82	91	97	125	276
26	90	86	71	82	102	e85	179	80	85	99	109	280
27	89	92	71	82	92	e83	171	81	85	100	110	237
28	89	84	70	82	91	e803	136	80	87	99	108	203
29	88	86	72	82	89	e1190	96	84	88	95	112	201
30	87	76	76	96	---	e1200	154	130	85	95	160	202
31	86	---	76	119	---	632	---	188	---	94	138	---
TOTAL	4906	2703	2482	2611	2860	6100	5287	3680	3007	2921	3354	7133
MEAN	158	90.1	80.1	84.2	98.6	197	176	119	100	94.2	108	238
MAX	410	123	93	119	147	1200	344	251	184	100	160	358
MIN	86	71	70	75	82	80	83	79	82	86	96	135
AC-FT	9730	5360	4920	5180	5670	12100	10490	7300	5960	5790	6650	14150

CAL YR 1987 TOTAL 52009 MEAN 142 MAX 1210 MIN 69 AC-FT 103200
WTR YR 1988 TOTAL 47044 MEAN 129 MAX 1200 MIN 69 AC-FT 93310

e Estimated

MICROFILMED
MAY 18 1992

BIG WOOD RIVER BASIN

13153500 MALAD RIVER NEAR BLISS, ID

LOCATION.—Lat 42°51'48", long 115°54'04", in SE 1/4, NE 1/4, NW 1/4, sec.34, T.6 S., R.13 E., Gooding County, Hydrologic Unit 17040212, on right bank 700 ft upstream from mouth, and 8 mi southeast of Bliss.

DRAINAGE AREA.—3,000 mi², approximately.

PERIOD OF RECORD.—April to September 1899; December 1984 to current year.

GAGE.—Water-stage recorder. Elevation of gage is 2,750 ft above National Geodetic Vertical Datum of 1929, from topographic map. April to September 1899, nonrecording gage at same site and different datum.

REMARKS.—Records fair except for estimated daily discharges, which are poor. Diversions from Big Wood, Little Wood, and Malad Rivers for irrigation above station. Major diversion for power generation bypasses station at most times. Numerous springs enter the Malad River canyon within 2 mi upstream.

EXTREMES FOR PERIOD OF RECORD.—Maximum daily discharge, 4,150 ft³/s Feb. 18, 1986; minimum daily, 66.0 ft³/s Jan. 9, 10, 14, 1986.

EXTREMES FOR CURRENT YEAR.—Maximum daily discharge, 1,210 ft³/s Apr. 30; minimum daily, 69.0 ft³/s June 21.

Rating table (gage height, in feet, and discharge, in cubic feet per second)

1.3	62	2.5	295
1.6	95	3.0	445
1.9	143	3.5	643
2.2	211	4.4	1230

DISCHARGE, IN CUBIC FEET PER SECOND, WATER YEAR OCTOBER 1986 TO SEPTEMBER 1987
MEAN VALUES

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	533	467	408	91	89	89	78	1010	159	86	93	178
2	524	466	425	104	88	88	79	299	142	80	82	174
3	493	459	448	101	88	88	84	251	134	76	88	125
4	500	458	440	100	88	88	112	e230	152	74	89	120
5	505	461	435	108	89	88	123	e286	110	75	88	160
6	502	458	407	105	90	89	117	e298	102	74	84	180
7	491	456	345	97	91	89	109	e212	117	87	84	204
8	521	476	302	99	89	102	93	e154	352	72	108	211
9	464	584	312	96	90	104	230	e125	335	72	100	162
10	436	623	346	90	88	110	267	e106	355	73	95	185
11	469	619	340	85	89	108	203	e99	389	81	107	176
12	386	562	357	84	90	101	309	e76	365	85	109	226
13	286	514	321	e84	89	92	307	75	150	94	116	254
14	258	510	322	e84	90	88	216	78	86	86	96	271
15	247	485	219	e84	90	92	189	78	101	101	103	261
16	234	443	274	e84	110	99	175	80	86	95	108	242
17	302	444	223	e84	95	96	142	106	176	87	89	260
18	328	447	142	e83	92	98	121	153	103	164	103	293
19	315	458	119	e83	93	91	129	182	72	242	121	324
20	312	457	147	e83	89	89	160	219	73	260	108	340
21	286	461	e140	e79	89	90	145	222	69	277	106	340
22	282	465	e146	e80	90	89	128	195	70	293	111	329
23	271	474	e151	80	90	86	126	184	77	300	110	307
24	268	473	e150	82	90	85	118	180	77	288	124	268
25	285	469	e148	83	89	93	121	182	78	201	142	217
26	340	460	e145	84	87	78	106	242	75	115	162	242
27	321	440	e138	86	88	84	718	294	75	109	189	225
28	317	429	e139	90	89	85	1120	284	77	127	184	258
29	331	432	e144	90	---	81	1170	217	78	104	167	265
30	382	420	e120	90	---	80	1210	196	85	122	175	265
31	503	---	96	89	---	81	---	170	---	103	192	---
TOTAL	11692	14370	7849	2762	2529	2821	8205	6483	4320	4103	3633	7062
MEAN	377	479	253	89.1	90.3	91.0	273	209	144	132	117	235
MAX	533	623	448	108	110	110	1210	1010	389	300	192	340
MIN	234	420	96	79	87	78	78	75	69	72	82	120
AC-FT	23190	28500	15570	5480	5020	5600	16270	12860	8570	8140	7210	14010

CAL YR 1986 TOTAL 272003 MEAN 745 MAX 4150 MIN 66 AC-FT 539500
WTR YR 1987 TOTAL 75829 MEAN 208 MAX 1210 MIN 69 AC-FT 150400

e Estimated

MAY 18 1987



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 31, 1992

William Platts
1603 Sunrise Rim Rd.
Boise, ID 83705

RE: Permit to Appropriate Minimum Streamflow No. 37-7920

Dear Mr. Platts:

I have reviewed the proof of beneficial use and supporting data submitted by the Idaho Water Resource Board for permit to appropriate water no. 37-7920, which authorizes a minimum streamflow in the Malad River from its confluence with the Snake River upstream approximately one mile. The gauge from which the attached flow data was taken is located within the reach.

The proof filed is acceptable. The Department will review the file for licensing.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

GARY SPACKMAN, Manager
Water Right Permits Section

GS:js

Enclosure

cc: Cindy Robertson
Bill Graham

MICROFILMED

MAY 18 1992

A CONCURRENT RESOLUTION
APPROVING AN APPLICATION TO APPROPRIATE WATER
FOR MINIMUM STREAMFLOW
37-7920

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

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

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

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 37-7920 on April 29, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in the Malad River of 39 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of the Malad River and the Snake River, located in Lot 1 (NE1/4NW1/4), Section 34, T6S, R13E, and extends upstream approximately one mile to the Idaho Power Company diversion in the NW1/4NE1/4, Section 35, T6S, R13E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Forty Ninth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated February 16, 1988, adopted by the Director of the Department of Water Resources.

INDEXED

MAY 17 1989

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 106

BY RESOURCES AND ENVIRONMENT COMMITTEE

A CONCURRENT RESOLUTION

APPROVING AN APPLICATION TO APPROPRIATE WATER FOR MINIMUM STREAMFLOW.

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

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

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

WHEREAS, the Director of the Department of Water Resources approved Application for Permit No. 37-7920 on April 29, 1988, by adopting a Proposed Memorandum Decision and Order authorizing the appropriation of a minimum streamflow in the Malad River of 39 cfs during the period beginning January 1 through December 31. The minimum streamflow begins at the confluence of the Malad River and the Snake River, located in Lot 1 (NE1/4NW1/4), Section 34, T6S, R13E, and extends upstream approximately one mile to the Idaho Power Company diversion in the NW1/4NE1/4, Section 35, T6S, R13E, B.M., Gooding County;

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Centennial Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Proposed Memorandum Decision and Order, dated February 16, 1988, adopted by the Director of the Department of Water Resources.

FILED

MAY 17 1989

**MALAD RIVER
MINIMUM STREAMFLOW
Fact Sheet**

Water Right No.: 37-7920

Source: Malad River tributary to Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Fish & Game

Date Application Filed: June 19, 1981

Rate of Flow: 39 cubic feet per second

Location of Reach: NENW Sec. 34, T06S, R13E, NWNE Sec. 35, T06S, R13E, Gooding County. From the confluence with Snake River upstream to the Idaho Power diversion.

Purpose: To preserve fish populations and aesthetics.

Hearing: Wednesday November 9, 1983, Gooding, Idaho.
Attended by 16 people

Permit: Order Adopting Proposed Decision dated April 29, 1988

Special Conditions: Three years of flow data showing that the flows are capable of being maintained must be submitted at the time of proof of beneficial use.

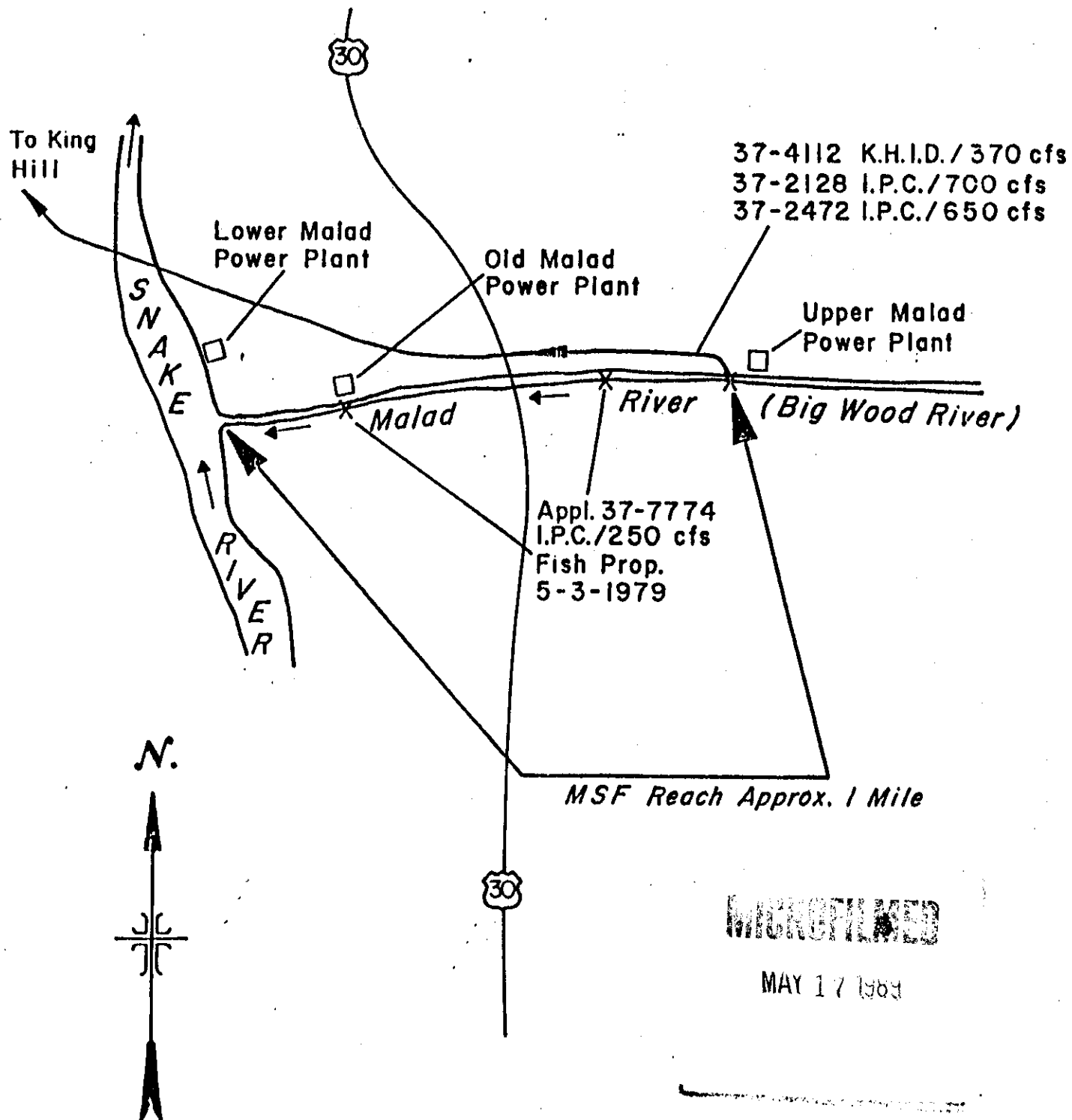
Subordinate to groundwater withdrawals from the Snake River Plain Aquifer.

Old retained jurisdiction language where party seeking change must file a petition with the director. The petition may be filed at any time.

RECEIVED

MAY 17 1989

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



MICROFILMED

MAY 17 1989



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 9, 1989

Representative Tom Boyd, Speaker
House of Representatives
Statehouse
Boise, ID 83720

RE: Water Right Applications for Permit for Minimum Streamflow

RE: Water Right Applications for Permit for Minimum Streamflow
Nos.: 36-8374 and 36-8330, Crystal Springs; 22-7370, Bitch
Creek; 37-7920, Malad River; 36-8337, Box Canyon Creek;
21-7283 and 21-7355, Warm River; 47-8073, Shoshone Creek;
97-7275, Lion Creek; and 97-7274, Indian Creek; 36-7820,
Blind Canyon Springs.

Dear Representative Boyd:

Enclosed please find copies of the above referenced
Applications for Permit. Enclosed with the applications are the
decisions and orders which conclude the administrative processing
of the applications.

As you are aware, Section 42-1503, Idaho Code, requires that
the applications be reviewed by the legislature. As defined by
statute, each application "(i) shall not become finally effective
until affirmatively acted upon by concurrent resolution of the
Idaho Legislature; or (ii) except that if the legislature fails
to act prior to the end of the regular session to which the
application was submitted, the application shall be considered
approved."

This letter constitutes submittal of the applications to the
legislature for approval. Please advise me if you desire further
information or presentation on the nature of the applications.
Department personnel are also willing to assist with preparation
of draft concurrent resolutions if requested.

Sincerely,


R. KEITH HIGGINSON
Director

FILED
MAY 17 1989

GS:ds
Enclosures

CC: Legislative Council



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

January 9, 1989

Senator Michael Crapo, President
Senate pro Tem
Statehouse
Boise, ID 83720

RE: Water Right Applications for Permit for Minimum Streamflow
Nos.: 36-8374 and 36-8330, Crystal Springs; 22-7370, Bitch
Creek; 37-7920, Malad River; 36-8337, Box Canyon Creek;
21-7283 and 21-7355, Warm River; 47-8073, Shoshone Creek;
97-7275, Lion Creek; and 97-7274, Indian Creek; 36-7820,
Blind Canyon Springs.

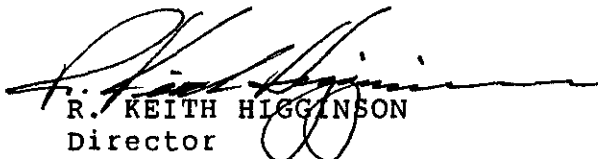
Dear Senator Crapo:

Enclosed please find copies of the above referenced
Applications for Permit. Enclosed with the applications are the
decisions and orders which conclude the administrative processing
of the applications.

As you are aware, Section 42-1503, Idaho Code, requires that
the applications be reviewed by the legislature. As defined by
statute, each application "(i) shall not become finally effective
until affirmatively acted upon by concurrent resolution of the
Idaho Legislature; or (ii) except that if the legislature fails
to act prior to the end of the regular session to which the
application was submitted, the application shall be considered
approved."

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information or presentation on the nature of the applications.
Department personnel are also willing to assist with preparation
of draft concurrent resolutions if requested.

Sincerely,


R. KEITH HIGGINSON
Director

GS:ds
Enclosures

CC: Legislative Council

MICROFILMED

MAY 17 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

May 5, 1988

Gene Gray
Idaho Water Resource Board
Rt. 1. Box 46-A
Payette, ID 83661

Re: Application for Permit No. 37-7920

Dear Mr. Gray:

Please find enclosed a copy of the Final Memorandum Decision and Order for Application No. 37-7920 in the name of Malad River to establish a minimum stream flow in the name of the Idaho Water Resource Board and the Order Adopting Proposed Memorandum Decision and Order.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosure

MICROFILMED

JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

May 5, 1988

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

Re: Application for Permit No. 37-7920

Dear Mr. Rydalch:

Please find enclosed a copy of the Final Memorandum Decision and Order for Application No. 37-7920 in the name of Malad River to establish a minimum stream flow in the name of the Idaho Water Resource Board and the Order Adopting Proposed Memorandum Decision and Order.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosure

RECORDED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 5, 1988

Department of Fish and Game
State of Idaho
Statehouse Mail
Boise, ID 83720

Re: Application for Permit No. 37-7920

Dear Interested Party:

Please find enclosed a copy of the Final Memorandum Decision and Order for Application No. 37-7920 in the name of Malad River to establish a minimum stream flow in the name of the Idaho Water Resource Board and the Order Adopting Proposed Memorandum Decision and Order.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosure

RECEIVED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

May 5, 1988

Edward C. Shokal
Rt. 1, Box 410
Hagerman, ID 83332

Re: Application for Permit No. 37-7920

Dear Mr. Shokal:

Please find enclosed a copy of the Final Memorandum Decision and Order for Application No. 37-7920 in the name of Malad River to establish a minimum stream flow in the name of the Idaho Water Resource Board and the Order Adopting Proposed Memorandum Decision and Order.

Any party who disagrees with the decision of the Director may request a rehearing before the Director within 20 days or may appeal to the district court within 30 days from the date this decision is mailed.

Sincerely,

A handwritten signature in cursive script, reading 'Gary Spackman'.

GARY SPACKMAN, Supervisor
Water Allocation Section

GS:jf

Enclosure

MICROFILMED

JUN 29 1988

MEMORANDUM

TO: Idaho Water Resource Board

FROM: Gary Spackman

THRU: Wayne Haas, Norm Young

DATE: November 5, 1987

RE: Summary of Minimum Flow Applications Held Because of
Earlier Water Right Filings

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

BRIGGS SPRINGS, WATER RIGHT NO. 36-7819

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

BLIND CANYON SPRINGS, WATER RIGHT NO. 36-7820

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

LOWER WHITE SPRINGS, WATER RIGHT NO. 36-7821

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

JUN 29 1988

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

BANBURY SPRINGS, WATER RIGHT NO. 36-7822

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

MALAD RIVER, WATER RIGHT NO. 37-7920 ✓

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

RECEIVED

JUN 29 1988

MEMORANDUM

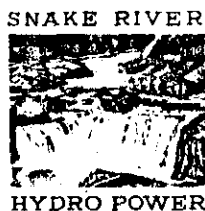
Date: July 29, 1987
To: Bob Fleenor
From: L. Glen Saxton *LS*
RE: STATUS OF 37-7774 - (IDAHO POWER COMPANY)

Among the several pending applications for minimum stream flow is app. 37-7920 (Malad River) in the name of the Board. Before action is appropriate on the Board's application, however, a disposition needs to be made of IPCO's prior app. no. 37-7774 for fish propagation. The dept has requested that IPCO submit certain information relative to 37-7774 by July 26, 1987.

Please advise me of the status of IPCO's application and the information submittal so I can determine if action is appropriate on the Board's application.

RECEIVED

JUN 29 1988



IDAHO POWER COMPANY

BOX 70 • BOISE, IDAHO 83707

July 28, 1987

RECEIVED

JUL 30 1987

Bobby D Fleenor
Chief Regional Office Bureau
Department of Water Resources
Statehouse
Boise, ID 83720

Department of Water Resources

Re: Application No 37-7774 (Malad River)

Dear Mr Fleenor:

This is in response to your letter of May 21, 1987 requesting that Idaho Power Company ("Company") submit the results of its study on the availability of water for the above referenced Application to the Idaho Department of Water Resources ("Department"). The Application proposes diverting 250 cfs from a point on the Malad River below the Upper Malad Power Plant for a fish rearing facility.

The Company has reviewed and analyzed the information compiled during its study of this matter and has concluded that the water available at the site is insufficient for the operation of a fish facility. The Company has evaluated water measurements over the course of several years and has found the flows substantially below the levels required for a fish facility during extended periods of the year. This water deficiency is compounded by a minimum stream flow requirement of 70 cfs requested by the Idaho Fish and Game Department and established by the Federal Energy Regulatory Commission for the portion of the Malad River in question.

Based on the foregoing discussion, the Company hereby informs the Department of its intention to abandon Application No 37-7774. This decision is limited to Application No 37-7774 and is not intended to affect any other water right application the Company may have pending before the Department.

Sincerely,

Patrick A. Harrington

Patrick A Harrington

PAH/pm

MAILED

JUN 29 1988

MEMORANDUM

Date: April 2, 1987
To: Bob Fleenor
From: L. Glen Saxton *lgs*
Re: MINIMUM STREAM FLOW APPS - STATUS

Since the controversy between the department and Fish and Game has been resolved, I have been reviewing the pending minimum stream flow applications to determine which, if any, we can take further action on.

There are two (2) minimum stream flow applications on the Malad River for which the Director's hearing has been held. The applications are 37-7892 in the upper reach of the Malad and 37-7920 in the lower reach of the Malad. Action on 37-7920 should not proceed until the protest against application 37-7774 is resolved. Application 37-7774 is a fish propagation application in the name of Idaho Power Company.

Further action on minimum stream flow application 36-7822 (Banbury Springs) should not occur until the protest against application 36-7814 is resolved. Application ~~36-7814~~ is the application for fish propagation purposes originally filed by Ken Ellis and ultimately assigned to Idaho Power Company. The file shows some recent activity (1986) relative to this matter.

Anything that can be done to resolve the protested matters will be appreciated, so further consideration may be given to the pending minimum stream flow applications.

MICROFILMED

JUN 29 1988

Norm [signature]

[signature]

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Idaho Power Company

Project No. 2726-003

ORDER APPROVING MINIMUM FLOW

(Issued May 28, 1987)

On April 30, 1987 the Idaho Power Company, (licensee) filed a report of a minimum flow study and recommendations for minimum flows as required by article 24 of the license for the **Upper Malad and Lower Malad Project**, FERC No. 2726. The licensee recommends a minimum flow of **70 cubic feet per second** as measured at the Geological Survey gage on the Malad River. The Idaho Department of Fish and Game and the U.S. Fish and Wildlife Service concur with the proposed minimum flow.

The proposed minimum flow would protect and enhance fish and wildlife resources in the Malad River below the lower Malad diversion dam.

The Director orders:

- (A) Article 24 of the license for the Upper Malad and Lower Malad Project, FERC No. 2726 is superceded by the following:

Article 24. The licensee shall maintain a continuous minimum flow of 70 cubic feet per second (cfs) from the lower Malad diversion dam as measured at the Geological Survey gage number 13153500. Should flows at the above gage drop below 70 cfs, all inflow to the reservoir shall be passed at the dam. Minimum flows may be temporarily modified if required by operating emergencies beyond the control of the licensee or for short periods upon mutual agreement between the licensee and the Idaho Department of Fish and Game.

- (B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

J. Mark [signature] for
Dean L. Shumway
Director, Division of
Environmental Analysis

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JUN 29 1988

Department of Water Resources

DC-A-10



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

MEMORANDUM

TO: File 37-7920

FROM: Norman C. Young *NCT*

DATE: December 23, 1986

RE: Telecon/Dave Meyers, IPCo

Dave explained that the attached FERC order is merely extending the time for IPCo. to do a study of instream flow requirements and releases past their lower diversions. The study is a requirement of the relicensing of the projects. Flows have been too large in recent years to allow the study to occur.

I advised him of the Water Board filing and asked that we be advised of the study as it proceeds and of its results.

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JUN 29 1988

Norm —

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NOV 3 1986

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Department of Water Resources

Idaho Power Company

Project No. 2726-002

ORDER GRANTING EXTENSION OF TIME

(Issued October 30, 1986)

On October 14, 1986, the licensee for the Upper Malad and Lower Malad Project requested an extension of time until April 30, 1987, to file a minimum flow release report as required by article 24 of the license. The reasons advanced by the licensee in support of the requested extension of time are reasonable.

The Director orders:

(A) The deadline for complying with article 24 is extended to April 30, 1987.

(B) This order is issued under authority delegated to the Director and is final unless appealed to the Commission under Rule 1902 within 30 days from the date of this order.

for

Richard T. Hunt
Director, Office of
Hydropower Licensing

DC-A-3

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JUN 29 1988

file - WR. Lic.
37-2471
37-2472
37-2128

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE: \$300



POSTAGE AND FEES PAID
FEDERAL ENERGY
REGULATORY COMMISSION
FERC-351

P-2726

Idaho Water Resource Board
State of Idaho
430 State House
Boise, Idaho 83701



34-2711
37-2128 Lic

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

23 FERC 162,217

Idaho Power Company)

Project No. 2726-001

ORDER APPROVING REVISED EXHIBITS J, K, L, AND M

(Issued May 16, 1983)

Idaho Power Company, Licensee for the Upper and Lower Malad Project, FERC Project No. 2726, filed on March 24, 1980, revised Exhibits J, K, L, and M pursuant to Articles 25 and 28 of its license. 1/

Article 25 requires the Licensee to file a revised Exhibit L to show the Lower Malad Diversion Dam as built. Article 28 requires the Licensee to file revised Exhibits J, K, and M to include the 46-kV Upper Malad Powerhouse to Hagerman Substation Transmission Line within the project boundary. The Exhibit L drawings show that the Lower Malad Diversion Dam was constructed in substantial conformance with the Exhibit L drawings approved as part of the license, and that there were no changes in the diversion dam design that would affect the safety or adequacy of the project. The Exhibits J, K, and M have been revised to include the transmission line within the project boundary. Project lands have increased by 0.67 acre. No Federal lands are involved.

The revised Exhibits J, K, L, and M conform to the Commission's regulations and will be approved. Approval of the exhibits is an administrative action and would not be a major Federal action significantly affecting the quality of the human environment.

It is ordered that:

(A) The revised Exhibit M entitled "General Description and Specifications of Equipment, Revision #1", consisting of two typewritten pages, filed March 24, 1980, is approved and

1/ Authority to act on this matter is delegated to the Director, Office of Electric Power Regulation, under §375.308 of the Commission's regulations, 18 C.F.R. §375.308 (1981), FERC Statutes and Regulations §30,238. This order may be appealed to the Commission by any party within 30 days of its issuance pursuant to Rule 1902, 18 C.F.R. 385.1902, FERC Statutes and Regulations §29,052, 47 Fed. Reg. 19014 (1982). Filing an appeal and final Commission action on that appeal are prerequisites for filing an application for rehearing as provided in Section 313(a) of the Act. Filing an appeal does not operate as a stay of the effective date of this order or of any other date specified in this order, except as specifically directed by the Commission.

DC-A-10

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MAY 20 1983

-2-

Department of Water Resources

made a part of the license for Project No. 2726, superseding the Exhibit M that was approved in the Order Issuing License, issued August 9, 1979.

(B) The following exhibit drawings are approved and made a part of the license for Project No. 2726 superseding the drawings indicated:

EXHIBIT	FERC NO. 2726-	SHOWING	SUPERSEDING FERC NO. 2726-
J-1	17	General Map	11
J-2	18	Vicinity Map of Interconnected Transmission System	10
K-1	19	Project Boundary	16
L-1	20	Topography	3
L-2	21	Powerhouse Area, Plan, Elevations and Section	4
L-3	22	Dam, Flume & Flume Intake Plans & Sections	7
L-4	23	Dam, Flume & Flume Intake Plans & Sections	14

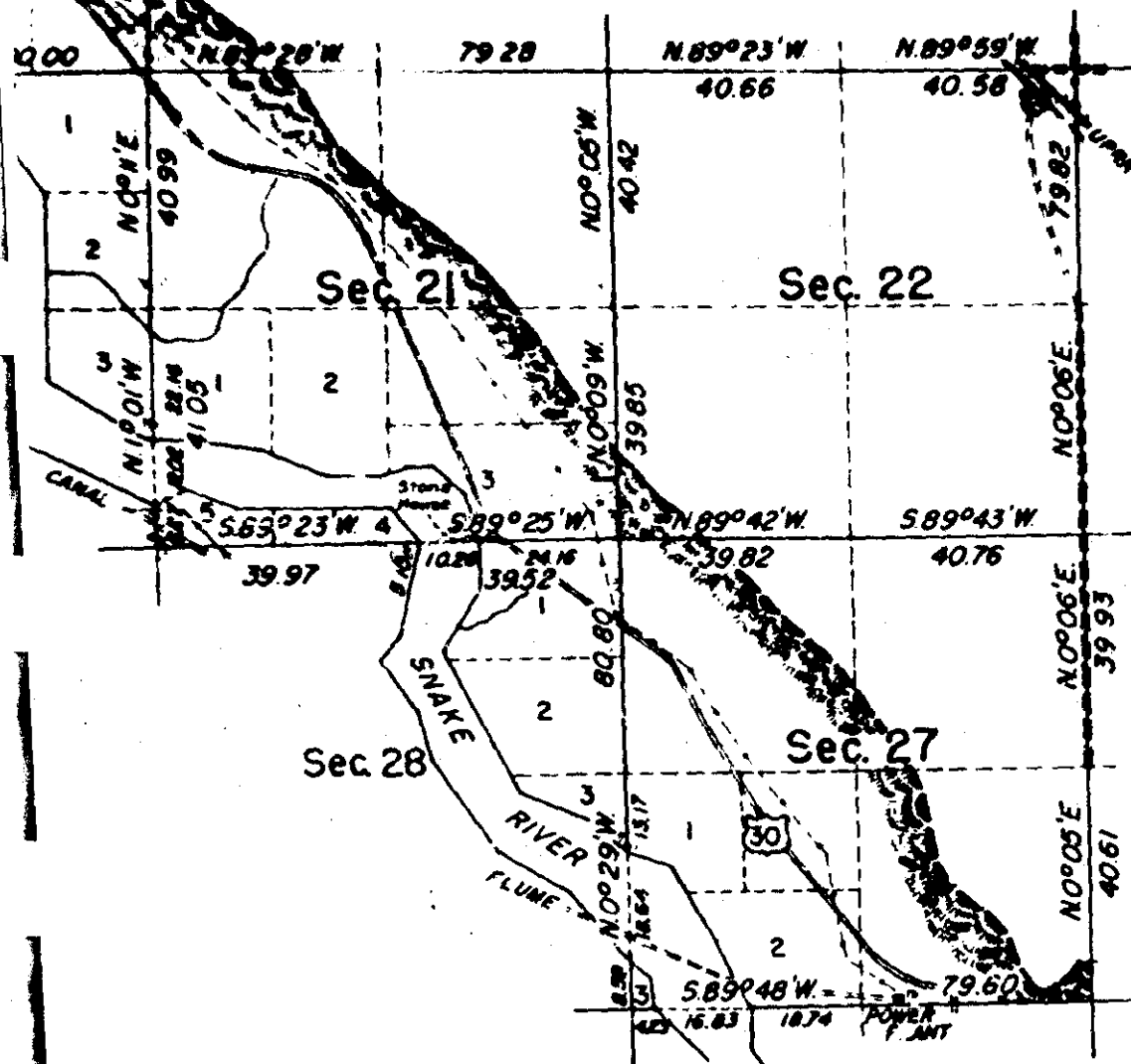
(C) Within 90 days from the date of issuance of this order, Licensee shall file originals of the approved exhibit drawings reproduced on silver or gelatin 35 mm microfilm mounted on Type D (3 1/4" x 7 3/8") aperture cards. In addition, Licensee shall file two Diazo-type duplicate aperture cards for each drawing. The FERC drawing numbers shall be shown in the margin below the title block of the microfilmed drawings, and also in the upper right corner of each aperture card.

Lawrence R. Anderson
Director, Office of Electric
Power Regulation

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JUN 29 1983

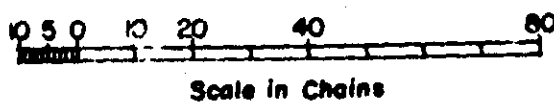
Sec. 15



Area Resurveyed, 2,417.79 Acres.

MICROFILMED

JUN 29 1988



DOVE SPRINGS AND THE NARROWS WATER DISTRICT

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

November 18, 1983

TO: Idaho Power Lawsuit Defendants 01-7021, 02-7128, 02-7138
Water Right Number(s): 36-7872, 36-7815-22, 37-7727+28+34+39,
37-7849 37-7892, 37-7920, 61-7373 22-7369

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

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

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

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

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

JUN 29 1988

Swan Falls Lawsuit
November 18, 1983
Page 2

We are suggesting that we informally organize a group of the named defendants and other interested individuals to help fund our lawsuit defense. There are other groups and individuals throughout the Snake River Valley doing the same thing. I have arranged for meetings to be held at the following time and places:

November 28, Monday, Idaho Falls, West Bank, 7:30 PM
November 29, Tuesday, Twin Falls, Holiday Inn, 7:30 PM
November 30, Wednesday, Boise, Airport Holiday Inn, 7:30 PM

Kent Foster has agreed to be there to discuss the legal issues and help answer questions.

If you have received more than one letter, feel that Idaho Power has listed your water right--right number shown at the top of this letter--incorrectly, or that you should not be a defendant in this case, please call (208) 324-5110 so that we may correct our records.

In summary, what has happened leaves it up to us to protect our existing rights and future opportunities. We will look forward to seeing you at the meeting.

Yours very truly,

DOVE SPRINGS

Elaine Martin

Elaine Martin

Thomas K. Schafer, Manager
Canyonview Irrigation Co.

Terry G. Martin, President
The Narrows Water District

G. Keith Munsee

William J. Lanting

Enclosure

MICROFILMED

JUN 29 1988

WILLIAM S. HOLDEN
R. VERN KIDWELL, P.A.
FRED J. HAHN
KENT W. FOSTER
ROBERT C. FARRAR
WILLIAM D. FARRAR, P.A.
STEPHEN E. MARTIN
CHARLES A. HOMER
GARY L. HEIKLE
CURT R. THOMSEN
RANGALL K. BARTON
MICHAEL D. CRAPO
JAMES O. HOLMAN
GAYLE A. SORINSON
DONALD J. HARRIS
BRUCE T. SMITH

LAW OFFICES
HOLDEN, KIDWELL, HAHN & CRAPO
IDAHO FIRST NATIONAL BANK BUILDING
P.O. BOX 129
IDAHO FALLS, IDAHO 83402
TELEPHONE 523-0620
AREA CODE 208

ARTHUR W. HOLDEN (877-1967)
ROBERT B. HOLDEN (877-1970)
TERRY L. CRAPO (939-9621)

November 5, 1983

Mrs. Elaine Martin
Dove Springs Irrigation
Route 4, Box 4634
Jerome, ID 83338

RE: Swan Falls Issue

Dear Elaine:

We are writing this letter at your request for a brief statement of the problem and our views in the Swan Falls matter. Although the letter may seem lengthy, it really covers only the bare bones of the matter. The issues, background and history are so complex that it would take a very lengthy letter indeed to fully address all facets of the problem, how it developed, and what we think can and should be done with regard to it. We trust the following will be both understandable and sufficiently brief to be helpful.

In 1977 a group of rate payers filed a complaint with Idaho Public Utilities Commission alleging that Idaho Power Company had failed to protect its water rights at its Swan Falls Power Plant and that Idaho Power's rate payers had been over charged. Idaho Power Company responded by filing suit in the Ada County District Court seeking a declaratory judgment, among other things, that its Swan Falls rights were not subject to up stream depletion. On motions for summary judgment, the District Court found that because of a clause in Idaho Power Company's Hell's Canyon Federal Power License, all of Idaho Power Company's water rights were subordinated to future up stream depletion by use of water from Snake River and its tributaries for out of stream consumptive uses. On November 19, 1982, the Supreme Court of Idaho reversed the decision of the District Court and decided that because there was no "subordination clause" in either the State of Idaho water rights documents relating to the Swan Falls plant or the Federal Power License for that plant, the Swan Falls rights were not subordinated.

The case was remanded by the Supreme Court to the District Court for a decision on certain other issues concerning the Swan Falls rights, such as abandonment, forfeiture, adverse possession, estoppel, waiver and laches. However, no further action has yet been taken on the remand.

Upon the filing of the Supreme Court decision, the Idaho Department of Water Resources stopped processing all applications for permits for ground or surface water up stream from Swan Falls in the entire Snake River Water Shed. The Department's concern is that if the Swan Falls rights are not subordinated, all rights to the use of surface or ground waters which are tributary to the Snake River flows at Swan Falls, subsequent in priority to the Swan Falls priorities, (the earliest of which may be January 17, 1900) are in jeopardy and may have to be cut to supply required flows at Swan Falls. Since flows at Swan Falls typically fall below 8400 cubic feet per second, the amount of Idaho Power rights during much of each summer, it appears there is no supply of water available for any future appropriations, except for non-consumptive uses.

Legislation was introduced in the 1983 legislature which would have subordinated all water rights for power production to out of stream consumptive uses such as irrigation. Idaho Power Company was able (by a margin of one vote in the Senate) to defeat this legislation. On the other hand, Idaho Power Company was successful in getting its own bill, S.B. 1180, passed.

On March 30, 1983, Idaho Power Company filed suit against some 7500 holders of water rights above its Swan Falls, Bliss, Lower Salmon Falls, and Upper Salmon Falls power plants. Although the water user defendants have not been served in this suit, the suit seeks damages from them and an injunction against further use of their water rights. S.B. 1180 was then introduced which, among other things, permits the governor to enter into a contract with Idaho Power Company under the terms of which Idaho Power Company is to agree to dismiss its law suit against a number of the named defendants in exchange for a

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JUN 29 1988

Mr. Elaine Martin
November 5, 1983

provision which deprives the Idaho Public Utilities Commission of jurisdiction to grant Idaho Power Company rate payers any relief in their pending action or any similar action.

The proposed contract would amount to an agreement by Idaho Power that certain water rights holders who have a decree or license a pending permit or application for permit, or have either beneficially used water or have a substantial investment in a well and irrigation equipment prior to November 19, 1982, become the holders of water rights to which Idaho Power's Swan Falls rights are subordinated. The number of those who might fit into this category is said to be about 5,000. We have discovered that no decreed rights or statutory claims, or even very many licenses, with priorities subsequent to 1900 were listed in the "7500" law suit. This statutory-contractual scheme does not appear to help the 2,000 to 2500 named defendants in the law suit who will not be dismissed, any of the numerous water rights holders who were not named, or those who have used water for many years, but have no permit or recorded evidence of their rights.

The major problem with this statutory-contractual approach is that it leaves the state in an untenable position; there can be no further development which is dependent upon a so called consumptive use of either surface or underground water in any of the Snake River water shed or plain up stream from Swan Falls. That area comprises most of the State of Idaho which is or can be developed for irrigated agriculture. From the date of the execution of the contract, any further water use in this area of the State for irrigation or other agricultural uses, municipal or industrial uses would depend upon whether Idaho Power Company was willing to part with a portion of its water rights, and if so, whether the proposed water use would be economically feasible in light of the price.

Whether there should or should not be any further development of surface or ground water in the major portion of this state where it is still possible, is a policy issue of such significance that it ought not to be decided in this manner. Certain of our clients have already instructed us to take the necessary action on their behalf to challenge the constitutionality of S.B. 1180. Their position is basically that past water development has resulted in increased power production at Swan Falls because of increased low flows so that there is no detriment to Idaho Power Company; that continued future development in a manner similar to what has occurred in the past is part of the Idaho State Water Plan; that such development is unlikely to significantly deplete Snake River flows at Swan Falls in the foreseeable future; and that in any event, the value of the benefits to the State of Idaho which will result from such future development far exceeds the monetary value of any detriments which Idaho Power Company might experience as a result.

Regardless of what the legislature may do with respect to S.B. 1180 or any proposed subordination bill in the coming session, we think it is essential that the pending litigation, that is, the remand of the Supreme Court decision and the Idaho Power law suit against some 7500 water users, should proceed to its conclusion. There appears to be a substantial argument that all of Idaho Power's water rights are subordinated to future appropriations from the Snake River and its tributaries for irrigation and other so called consumptive out of stream uses, on grounds other than those upon which the November 19, 1982 decision is based. This argument in favor of subordination certainly seems consistent with a long course of conduct on the part of water rights appropriators, the State of Idaho, and even Idaho Power Company itself, which not only acquiesced in the continued development since 1900, but has encouraged much of the ground water pumped development.

Those who legally can and should pursue this litigation to its proper conclusion include not only the named defendants in the two pending law suits, but all water rights holders similarly situated who are holders of a decree, license, permit, application for permit or statutory claim for, or who, although there is no document of record, nevertheless claim right to the use of surface or underground water within the Snake River water shed or plain up stream from Swan Falls, whose priority date may be later than January 17, 1900.

We would be pleased to discuss this matter in greater depth with you at your convenience.

Yours very truly,


Kent W. Foster

RECEIVED
JUN 29 1988

NOTICE OF HEARING - APPLICATIONS FOR INSTREAM WATER RIGHTS

NO. 37-7920 - 37-7892

Notice is hereby given that the Idaho Water Resources Board submitted two applications for permit to the Department of Water Resources proposing the appropriation of water to perserve the minimum streamflows from the following sources tributary to the Snake River and further described as follows:

No. 37-7920

Date Filed: June 19, 1981

Source: Malad River tributary to Snake River

Point of Minimum Streamflow: NENW Sec 34 T 06S R13E NWNE Sec 35 T 06S R13E, Gooding

County. From the confluence with Snake River upstream to the Idaho Power diversion

Rate of Flow: 39.00 Cubic Feet Per Second

Season of Use: January 1 to December 31

Use: To preserve fish populations and aesthetics

No. 37-7892

Date Filed: March 27, 1981

Source: Malad River tributary to Snake River

Point of Minimum Streamflow: SESW Sec 30 T 06S R14E SESE Sec 25 T06S R 13E

Gooding County. From the Thorpe and Justice diversion downstream to Devil's Washbowl Falls

Rate of Flow: 75.00 Cubic Feet Per Second

Season of Use: January 1 to December 31

Use: To preserve fish populations and aesthetics

The Director of the Department of Water Resources will hold a public hearing on the applications at 1:30 p.m., on Wednesday, November 9, 1983 in the Council Room of the Gooding City Hall, 308 5th Ave. West, Gooding, Idaho, for the purpose of hearing evidence in regard to the application. The hearing will be held pursuant to the provision of Sec. 42-1503, IDAHO CODE. If issued, this permit will be subject to all prior water rights. Any party who wishes to formally appear in this proceeding for the purpose of examing witnesses should file a notice of appearance with the Director, Department of Water Resources, Statehouse, Boise, Idaho, five days (5) prior to the hearing. Other parties will be given an opportunity to informally present their views and comments without the necessity of filing a notice of appearance.

A. KEN DUNN - Director

Published in Gooding County
Leader

on October 20 and October 27, 1983

RECORDED

JUN 29 1988

IDAHO WATER RESOURCE BOARD

STATEHOUSE, BOISE, ID 83720

Source: MALAD RIVER tributary to SNAKE RIVER

Date Filed: 06/19/1981

Amount: 39.00 CFS

Diversion Point: NENW Sec 34 T 06S R 13E N4NE Sec 35 T 06S R 13E,
GOODING Co.

Use: MINIMUM INSTREAM FLOW (39.00 CFS) from 01/01 to 12/31

Place of Use: NENW Sec 34 T 06S R 13E

Diversion Means: NONE

RECORDED

JUN 29 1988

October 13, 1983

Booming County Journal
Box 53
Booming, Idaho 83830

Re: Notice of Public Meeting - Application for Instream Water Right No. 37-7049

Gentlemen:

Enclosed you will find a legal notice which we wish to have published once a week for two consecutive weekly issues of your newspaper. We have inserted the publication dates allowing ample time for you to submit us a galley proof for review before publication.

After sending us a galley proof, proceed with the publication on the dates we have inserted, assuming the notice is correct. If we have any corrections, we will notify you before the first publication. If you cannot publish the notice on the proposed dates, please contact us immediately.

In order to receive payment, an affidavit of publication must be submitted to the Department along with the publication bill.

Sincerely,

Mary A. Newby
Sec/Office Coord.

Encl:

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JUN 29 1988

Bill submitted: _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 11, 1983

Robert L. Meinen, Deputy Director
Idaho Dept. of Parks and Recreation
Statehouse Mail
Boise, ID 83720

RE: Minimum Stream Flows

Dear Bob:

The purpose of this letter is to apprise you of the current status of minimum stream flow applications for permit pending action this fall.

As you are aware, one of the items on the agenda of the Idaho Water Resource board meeting on October 7, 1983, was minimum stream flows. The Board reviewed the status of the six minimum stream flow applications currently pending action. Discussion and information presented for five of the applications resulted in the adoption of a resolution calling for the Director of the Idaho Dept. of Water Resources to proceed with administrative actions on each of the applications. A copy of this resolution, which describes the water right numbers and the respective streams, is enclosed for your information. Note that Application No. 37-7892 on the Malad River, for which your agency was the requesting agency, is included in this group.

Discussion and information presented for Application No. 37-7919, Big Wood River, included the reading into the record of your letter dated October 6, 1983. Also, Mr. Ted Divine briefly presented his proposal to develop a hydropower site with a point of diversion about 1½ miles upstream from the lower end of the proposed minimum stream flow reach. Based on this information as well as the public input at the informal public meeting in Hailey on September 22, the Board resolved to hold this application pending further investigation (copy of resolution enclosed). I anticipate that Mr. Gray will be contacting you to explore the possibility of further studies on this stream.

In your letter dated October 6, 1983, you indicated that your agency was not advised of the minimum stream flow filing on the Big Wood River. Our standard processing checklist for a stream flow

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JUN 29 1988

Robert L. Meinen
October 11, 1983
Page 2

application calls for our regional office to send your agency a copy of any minimum stream flow application as soon as it is received. I checked on this one in particular and found that in fact it had not been so distributed. In the future we will insure that this distribution is accomplished.

The next administrative action for each of the five applications on which we have been requested to proceed is a hearing by the Director or his representative. These hearings have been tentatively scheduled as follows:

<u>App. No.</u>	<u>Source</u>	<u>Date</u>	<u>Time</u>	<u>Location</u>
37-7892	Malad River	Nov. 9	1:30 pm	Gooding
37-7920	"	"	"	"
37-7849	Silver Creek	Nov. 10	9:00 am	Hailey
37-7979	Lightning Cr.	Nov. 17	9:00 am	Sandpoint
37-7980	Grouse Creek	"	"	"

I will notify you when the details of these hearings have been confirmed.

Sincerely,

Dave

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosure

cc: Gene Gray

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JUN 29 1988

April 8, 1981

Mr. Peter A. Bowler
Star Route
Bliss, ID 83314

Dear Mr. Bowler:

I have received and reviewed your letter of March 26, 1981 requesting a minimum stream flow on the Malad River. An instream flow request on this river was requested at the last Board meeting by the Idaho Parks and Recreation Department; and, the Board on March 27, 1981 did submit an application to the Director of the Department of Water Resources for a minimum stream flow on the Malad River. The Board understands there are several prior protested water right applications on the Malad River on which the Director must complete action, prior to consideration of our minimum flow application. Your letter will be filed with the Board's application and will be considered as supportive of the Board's application.

Thank you for your interest in this matter and the use of water in Idaho.

Sincerely,

M. REED HANSEN
Chairman

MRH:alw

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JUN 29 1988

APR 2 1981

March 26, 1981

Department of Water Resources

Idaho Water Resource Board
Statehouse
Boise, Idaho 83720

Attention: Mr. George Yost

RE: Request to the Idaho Water Resource Board to submit this application to the Director, Department of Water Resources for water rights allowing minimum streamflow on the Malad River at its confluence with the Snake River

Dear Mr. Yost:

In accordance with the regulations of July 1, 1978, Title 42, Chapter 15 of the Idaho Code, I am requesting that the Idaho Water Resource Board submit this application for minimum streamflow water rights to the Director, Department of Water Resources. I have attached all of the information required for this action. Reference material and data cited includes:

Cochnauer, T. 1977. Stream Resource Maintenance Flow Determinations on Idaho Streams. Job Performance Report, Project F-66-R-2, Job 11. Idaho Department of Fish and Game. 85 pp.

As is described in the minimum streamflow appropriation instructions, I am acting as an individual in the public interest in submitting this written request to the Idaho Water Resource Board to consider the appropriation of minimum streamflow at this site. It is my understanding that minimum streamflow is a beneficial use of water in the State of Idaho and that such an appropriation does not require a physical structure of physical diversion from the stream as do other appropriations of water in the State. Idaho Code Section 42-1501 recognizes the importance of minimum instream flows as a beneficial use of water "for the protection of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, transportation and navigation values, and water quality."

Name of River: Malad River (Big Wood River)

Site where instream flow is requested: At its confluence with the Snake River, Gooding County, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 34, T. 6 S., R. 13 E.

The Proposed Instream Flow in Cubic Feet Per Second: 39 cfs

The Purpose for which Minimum Streamflow is Proposed:

Instream flow at this site is required to maintain rainbow trout spawning and rearing habitat from the confluence of the Malad and Snake Rivers upstream to the base of the Idaho Power Company's diversion structure (the first impoundment). This reach has a resident population of rainbow trout and is also used by trout from the Snake River. The minimum streamflow is requested to be appropriated for this beneficial use all year. Minimum streamflow at this site is for nonconsumptive use and will be subject to all vested water rights, ~~nonconsumptive~~ applications of earlier priority.

JUN 29 1981

Evidence that this appropriation would be in the public interest as opposed to private interest:

The Malad River is a high quality rainbow trout fishery and is widely appreciated and heavily used by fishermen. This portion of the Malad River has been recognized as a site of highest biological value by the U.S. Fish and Wildlife Service in their Unique Wildlife Ecosystems Program and is a part of the potential Malad Canyon National Natural Landmark. The reach from the mouth to the Idaho Power Company diversion structure provides excellent habitat for resident trout and rearing and spawning habitat for fish from the Snake River. As in all instream flow appropriations, the requested minimum streamflow would be held in trust for the people of Idaho by the Idaho Water Resources Board.

This appropriation is necessary for the purposes described above as shown by the Idaho Department of Fish and Game report referenced (Cochenauer, 1977). Calculations of instream flow required for maintenance of wild trout populations were accomplished using the methodologies and techniques described on the basis of field work and data collected during 1976 (Cochenauer, 1977). According to this report, the optimal instream flow for trout rearing would have been 70 cfs, however, minimum streamflow requirements were estimated to be 39 cfs. There have been no flow records maintained for this reach of Malad River.

There can be no doubt that the minimum streamflow identified at this site is in the public interest, as the need for the request is clearly documented by the referenced publication. It is my hope that this request will receive support and will lead to the instream flow protection needed to maintain this beautiful River.

Thank you for your consideration. I look forward to your action on this matter.

Respectfully,



Peter A. Bowler
Star Route
Bliss, Idaho
83314

MICROFILMED

JUN 29 1988

Water District No. _____

RECEIVED
JUN 29 1988

MICROFILMED

JUN 29 1988

T.6S., R.13E., B.M., IDAHO

Power plant flow consists of 700 cfs 37-2128 + 650 cfs 37-2412

Point of Diversion
Lower Malad Intake

DAM

75° 29' 06"

T-731

37-2128



Place of Use & Point of Return
U.S. Highway 30

Lower Malad Power Plant

Old Malad Power Plant

NW 1/4 NE 1/4

NE 1/4 NE 1/4

NE 1/4 NW 1/4

Lot 1

Lot 2

Lot 8

Lot 7

Lot 2

Snake River

Malad River

Lower Malad Flume

27 26 35

1394.38'

Point of Diversion

Lower Malad Intake

DAM

NE 1/4 NW 1/4

T-731

37-2128

MALAD POWER PLANT

MAP TO ACCOMPANY APPLICATION
FOR TRANSFER OF WATER RIGHT
LICENSE NO. 4366

IDAHO POWER CO.
BOISE, IDAHO

SCALE 1"=800' DATE 6-30-48

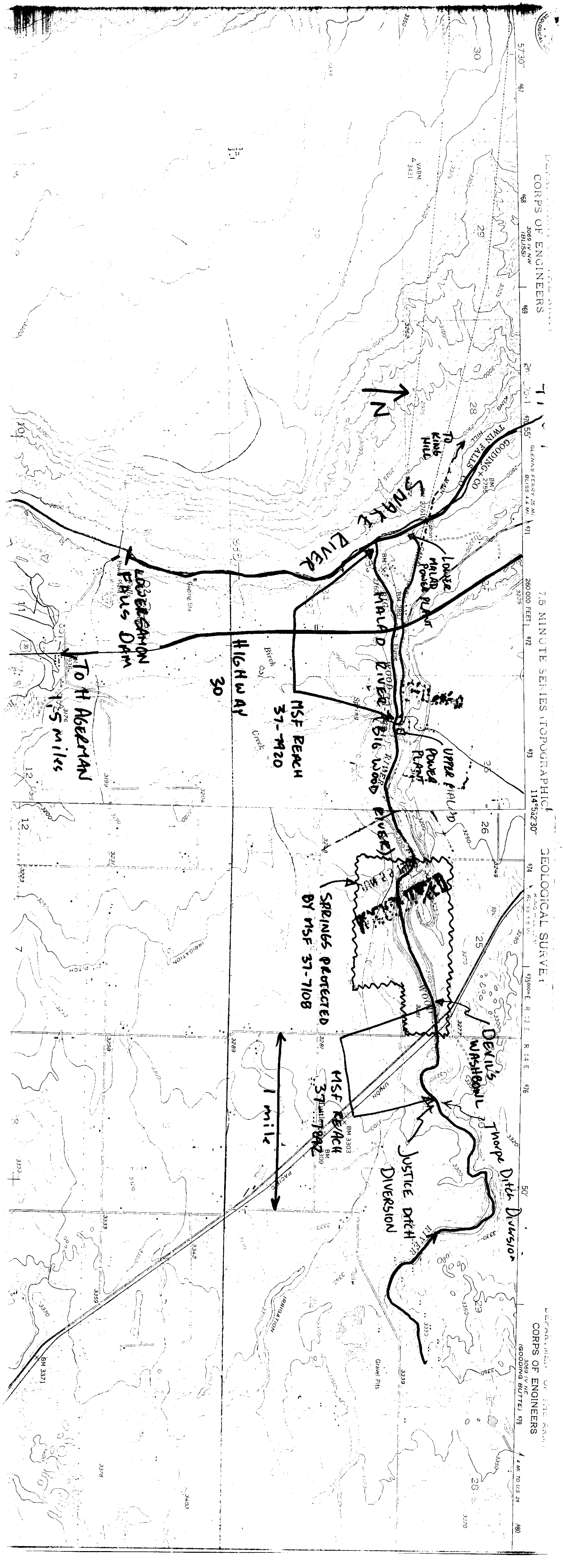
DR.

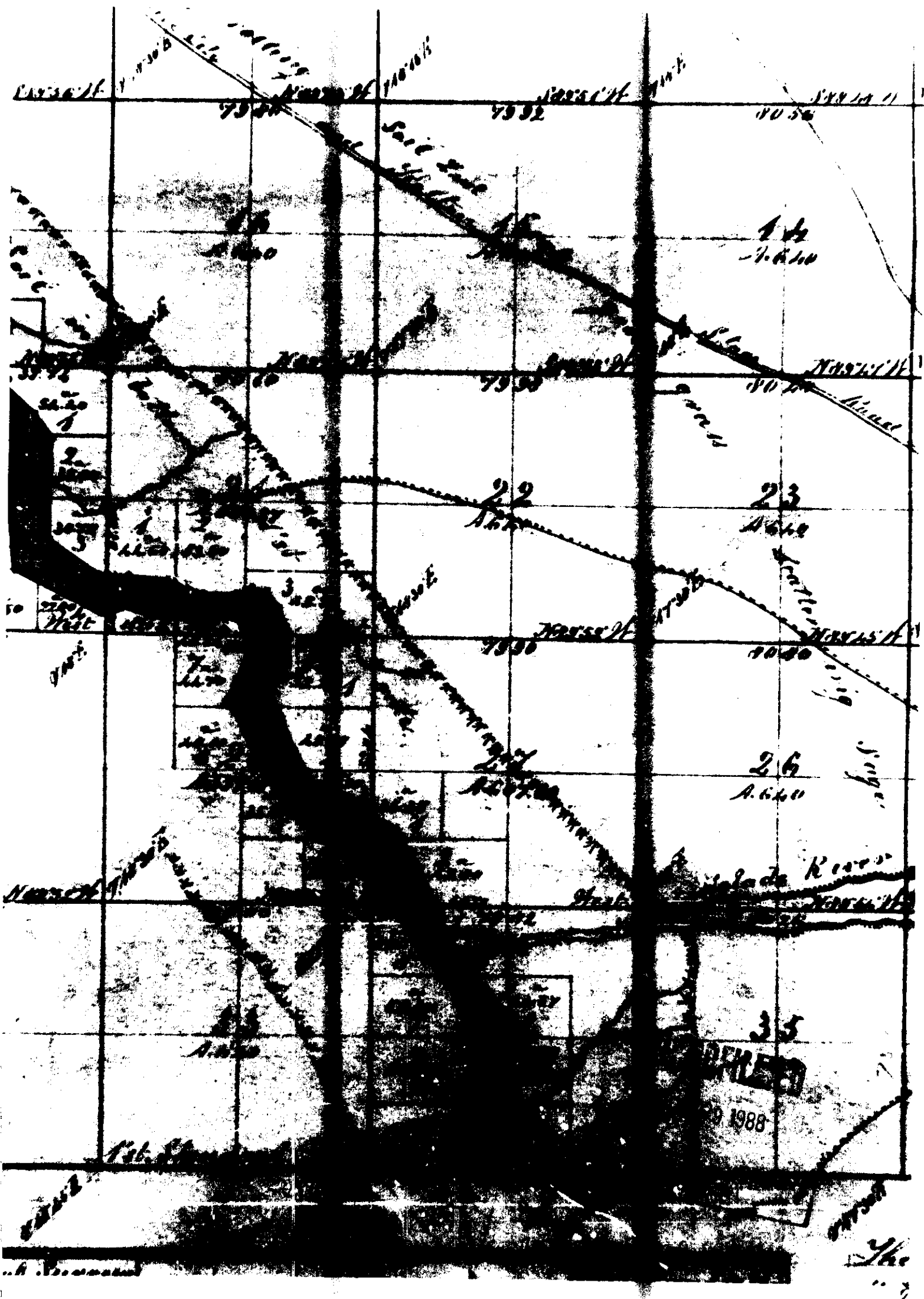
TR. K. L.

B-7525

3069 IV NE
GORDON, BUTTE, 670

3069 IV NE
GORDON, BUTTE, 670





MINIMUM STREAMFLOW REQUEST/APPLICATION

PROCESSING CHECKLIST

	<u>ASSIGNED TO</u>	<u>INITIALS/DATE</u>
1. Request received and checklist attached.	Receptionist	<u>Rg 6-29-81</u>
2. Request indexed.	Records Chief	<u>RG 6-29-81</u>
3. Preliminary review. Application prepared for signature.	Section Supv.	<u>JJ 6-18-81</u>
4. Streamflow information requested from hydrology.	Section Supv.	<u>DRA 7-14-81</u>
5. Region advised of request.	Section Supv.	<u>JJ 6-18-81</u>
6. Acknowledgment letter sent.	Section Supv.	<u>Personal act at Board Mtg</u>
7. Copy of request routed to: Reg. Off. Bur. Chief; Oper. Bur. Chief; Admin.; Director.	Records Chief	<u>JJ 6-18-81</u>
8. Copy of request routed to Administrator, Resources Analysis Division for placement on Board Agenda.	Records Chief	<u>JJ 6-18-81</u>
9. Water Rights researched & abstracted.	Records Chief	<u>Rg 9-14-83</u>
10. Visual aid request prepared.	Section Supv.	<u> </u>
11. Visual aid reviewed.	Section Supv.	<u> </u>
12. Request and related data presented to Board.	Administrator, Res. Admin. Div.	<u>8/</u>
13. <u>Filed</u> or Rejected by Board.	Sec. Supv. et.al.	<u>JJ 6-19-81</u>
14. Board action indexed.	Records Chief	<u>Rg 6-19-81</u>
15. Original application sent to region.	Records Chief	<u>Rg 6-19-81</u>
16. Copy of application sent to F&G, H&W, Parks & Recreation (mandatory)	Region	<u> </u>
☒ Notice sent to each water right holder or applicant on MSF reach.	Sec. Supv.	<u>DRA 9/14/83</u>
18. Application advertised w/o hearing date.	Region	<u>MH</u>
19. Personal contact made with riparian land owners.	Requestor	<u>Per letter DRA 9/14/83</u>
20. Need for informal public meeting determined. If <u>yes</u> , proceed with step 21. If no, skip to step 24.	Both Administrators & IWRB	<u>NCY 8-15-83</u>
21. Informal public meeting advertised in legal notices.	Region	<u>9/15/83</u>
22. Notification of informal meeting sent to:		
a. IWRB members	Section Supv.	<u>DRA 9/1/83</u>
b. Local Legislators	Section Supv.	<u>DRA 9/14/83</u>
c. Watermaster	Section Supv.	<u>DRA 9-1-83</u>
d. Department Personnel	Section Supv.	<u>DRA 8-15-83</u>

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JUN 29 1988

e. Local TV & Radio Stations	Section Supv.	<u>KW 9/13/83</u>
f. Water Right Holders	Requestor Sec Supv	<u>DRT 9/14/83</u>
g. Riparian Owners	Requestor Sec Supv	<u>DRT 9/14/83</u>
23. Information provided to IWRB for decision to proceed, modify, or abandon.	Section Supv.	<u>DRT 10/1/83</u>
24. Notice of formal hearing advertised in legal notices.	Region	<u>MLH 10/10/83</u>
25. Notification of formal hearing sent to:		
a. IWRB members	Section Supv.	<u>DRT 10/27</u>
b. Local Legislators	Section Supv.	<u>DRT "</u>
c. Watermaster	Section Supv.	<u>DRT "</u>
d. Department Personnel	Section Supv.	<u>DRT "</u>
e. Local TV & Radio Stations	Section Supv.	<u>DRT (Kay Weaver)</u>
f. Water right holders	Section Supv.	<u>DRT "</u>
g. Attendees of informal public meetings.	Section Supv.	<u>DRT "</u>
h. Riparian Owners	Requestor	<u>DRT "</u>
26. Hearing held (mandatory).	Hearing Officer & Regional Rep.	<u> </u>
27. Standard approval procedure for memorandum decision.	Hearing Officer	<u> </u>
28. If application is approved, Legislative approval procedure attached.	Records Chief	<u> </u>

RECORDED

JUN 29 1988

AFFIDAVIT of PUBLICATION

State of Idaho, }
County of Lincoln } SS.

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

each week for 1 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 15 day of September 1983, and the date of the last publication was on the _____ day of _____, 19____.

Melba Thorne
Subscribed and sworn to before me this 15 day of September, 1983.
(SEAL)

Maureen Hagen
NOTARY PUBLIC

LINCOLN COUNTY JOURNAL Shoshone, Idaho COST OF PUBLICATION

Number of Lines in Notice
Number of Insertions
Lines tabular at 315c
24 Lines straight at 39 9.36
24 Subsequent lines at 26 6.24
TOTAL COST 15.60

COPY OF NOTICE

(Paste Here)

Notice of Meeting
TITLE OF NOTICE

No 37-7892-37-7920
PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

BILL TO

Dept of Water Resources

MICROFILMED

JUN 29 1988

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1971)

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

RECEIVED
No. **2346**

SEP 10 1983

Department of Water Resources
Southern District Office

NOTICE OF
PUBLIC MEETING
The following information was given by the Idaho
Water Resource Board with regard to a
public meeting to be held at
Gooding, Idaho.
The meeting will be held to present
information and receive public
comment on the proposed
appropriation for the
the Malheur River between
the Justice/Thorpe diversion
dam and Devil's Wash and
between the lower Power Co. diversion
and the conflict with the
PUB: 9-15

03M-1-10-14

NOTICE OF PUBLIC MEETING
APPLICATION FOR INSTREAM WATER RIGHTS
NO. 37-7892 - 37-7920

Notice is hereby given that the Idaho Water Resource Board will conduct a public meeting on Wednesday, September 21, 1983, at 7:30 p.m., in the Gooding High School, 1050 7th Avenue West, Gooding, Idaho.

The meeting will be held to present information and receive public comment on Applications for permit to appropriate water for instream flows in the Malad River in the reaches between the Justice/Thorpe diversion dam and Devil's Washbowl, and between the Idaho Power Co. diversion and the confluence with Snake River.

Published in Gooding County Leader - September 14 and September 21, 1983

Published in Lincoln County Journal - September 15

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 14, 1981

MEMO

TO: Dave Tuthill *DT*
FROM: Alan Robertson *R*
SUBJECT: FLOW OF BIG WOOD RIVER AT LOCATION OF REQUESTED IN-STREAM WATER RIGHT (Idaho Power Diversion to Mouth) 37-7920

NOV 10 1981
Department of Water Resources
Southern District Office

Requested flow in the reach is 39 cfs at all times. Flow in the reach is governed by upstream diversions for irrigation and diversion by Idaho Power Co. through a flume which bypasses flow around the reach to the Lower Malad power plant where it is discharged to Snake River. Groundwater discharge occurs through a group of springs collectively known as Malad Springs, which head in SE 1/4 Sec. 24, T6S, R13E and continue to accumulate and supplement the Big Wood to its mouth. Total flow of the springs normally is about 1200 cfs but that portion which accrues to the river upstream from the head of the power flume (most of it) is diverted.

Flow in the requested reach is dependent on that which comes from the Big Wood above the springs, irrigation waste and the springs below the flume. Big Wood flows are frequently very low resulting in their total diversion through the power flume. Only miscellaneous data are available for the requested reach and exact locations of those measurements are not known. Of 24 measurements made since 1950 during various seasons, two were less than the 39 cfs flow which has been requested. Six others were less than 100 cfs, indicating that portions of the reach may have had less than the requested flow in part of the reach.

AR:mb

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JUN 29 1988

3/79

IDENT. NO. 37-7920

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

[illegible]

State of Idaho
Department of Water Resources

APPLICATION FOR PERMIT ANALYSIS SHEET

Idaho Water Resource Board

INITIAL REVIEW BY: T. G. Blau

APPLICATION NUMBER: 37-1920

CHECK:

- ☒ Source.
- ☒ Point of diversion.
- ☒ County.
- ☒ Quantity of water and period of use.
- ☒ Description of diverting works WA
- ☒ Time required for beneficial use of water.
- ☒ Place of use or acres irrigated. Should place of use include entire length of stream
- ☒ Map.
- ☒ Signature.
- ☐ Fee.
- ☒ Yes ☐ No Field check required.
- ☐ Yes ☒ No Critical groundwater area.
- ☐ Yes ☒ No Request dam safety information. Sent by: _____ Date: _____
- ☒ Yes ☐ No* In form to receipt.

Field check by: _____
Date: _____
Comments: _____

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT: _____

SEND COPIES TO:

- ☐ Idaho State Health Department.
- ☐ Idaho Fish and Game Department.
- ☐ Idaho Department of Lands.
- ☐ U.S. Bureau of Land Management.
- ☐ U.S. Forest Service.
- ☐ Other _____

Copies sent by: _____ Date: _____

PROCESSING:

- ☐ Yes ☒ No Platted by: _____ Map No. AM-69
- ☐ Yes ☒ No Other rights on same place of use. _____
- ☒ Yes ☐ No* In form for advertising.
- ☐ Yes ☐ No Final date for protests: _____
- ☐ Yes ☐ No Protests received. If yes, record information on 4th page of application.

FINAL REGIONAL PROCESSING REVIEW:

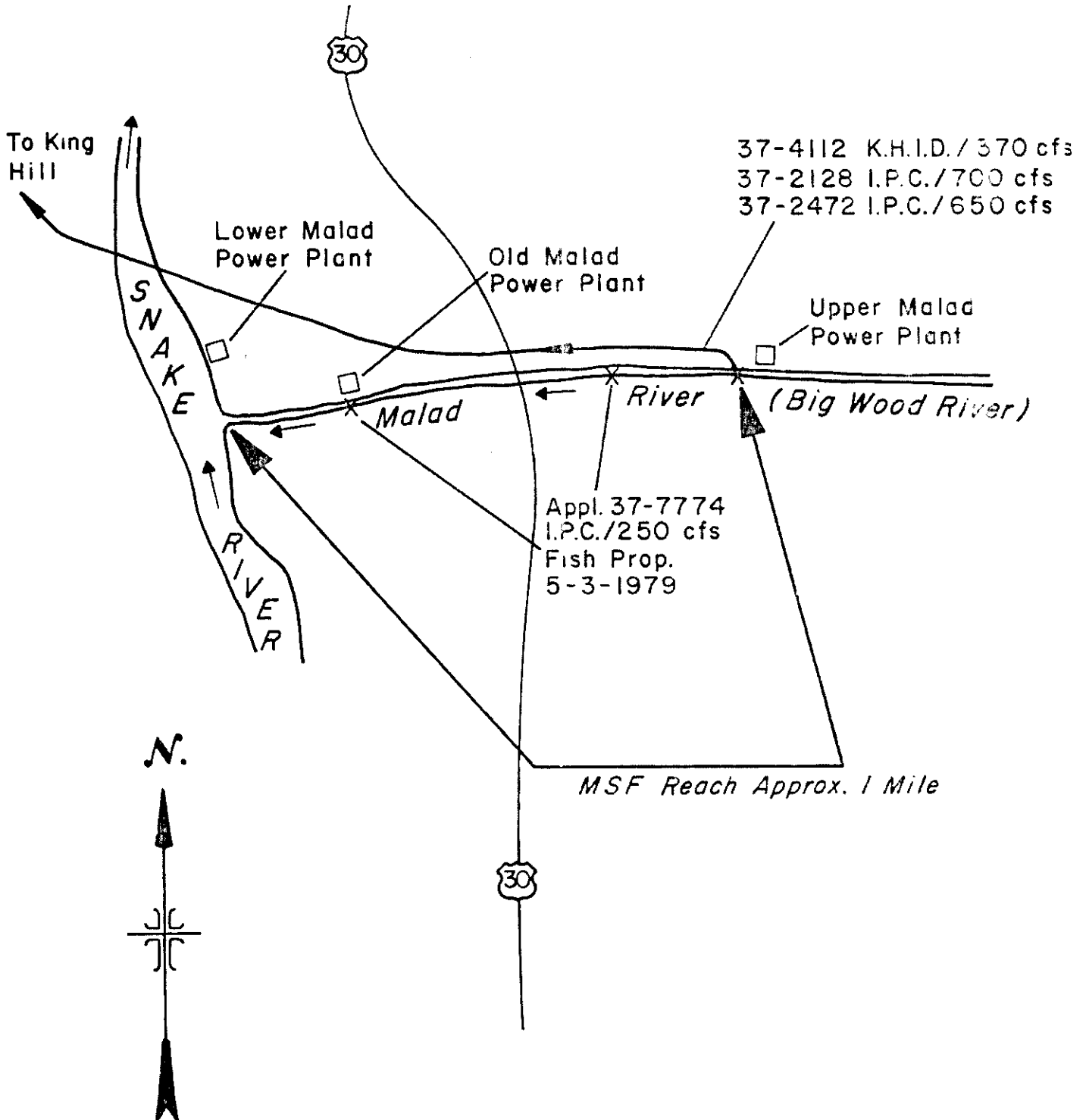
- ☐ Affidavit of publication received. Date: _____
- ☐ Application published correctly. If not, record action taken: _____
- ☐ Fee amount, receipt date & number, recorded on application.
- ☐ Publication dates and paper, recorded on application.
- ☐ Protests, dates, withdrawal, etc., recorded on application.
- ☐ Recommendation & initial, recorded on application.
- ☐ Yes ☐ No Measuring device required.
- ☐ Yes ☐ No Access port required.
- ☐ Yes ☐ No Will water be delivered by watermaster? If yes, what district? _____
- _____ Date of priority recommended.
- Special conditions of approval or cover letter. _____

By: _____ Date: _____

STATE OFFICE REVIEW:

- ☐ See attached sheet for more information.
- By: _____ Date: _____

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs

ATTENDANCE ROSTER

Public Meeting - Wednesday, Sept. 21, 1983, at 7:30 p.m. at Gooding High School
1050 S. 7th Ave. W. for water right numbers 37-7892 and 37-7920.

NAME

ADDRESS

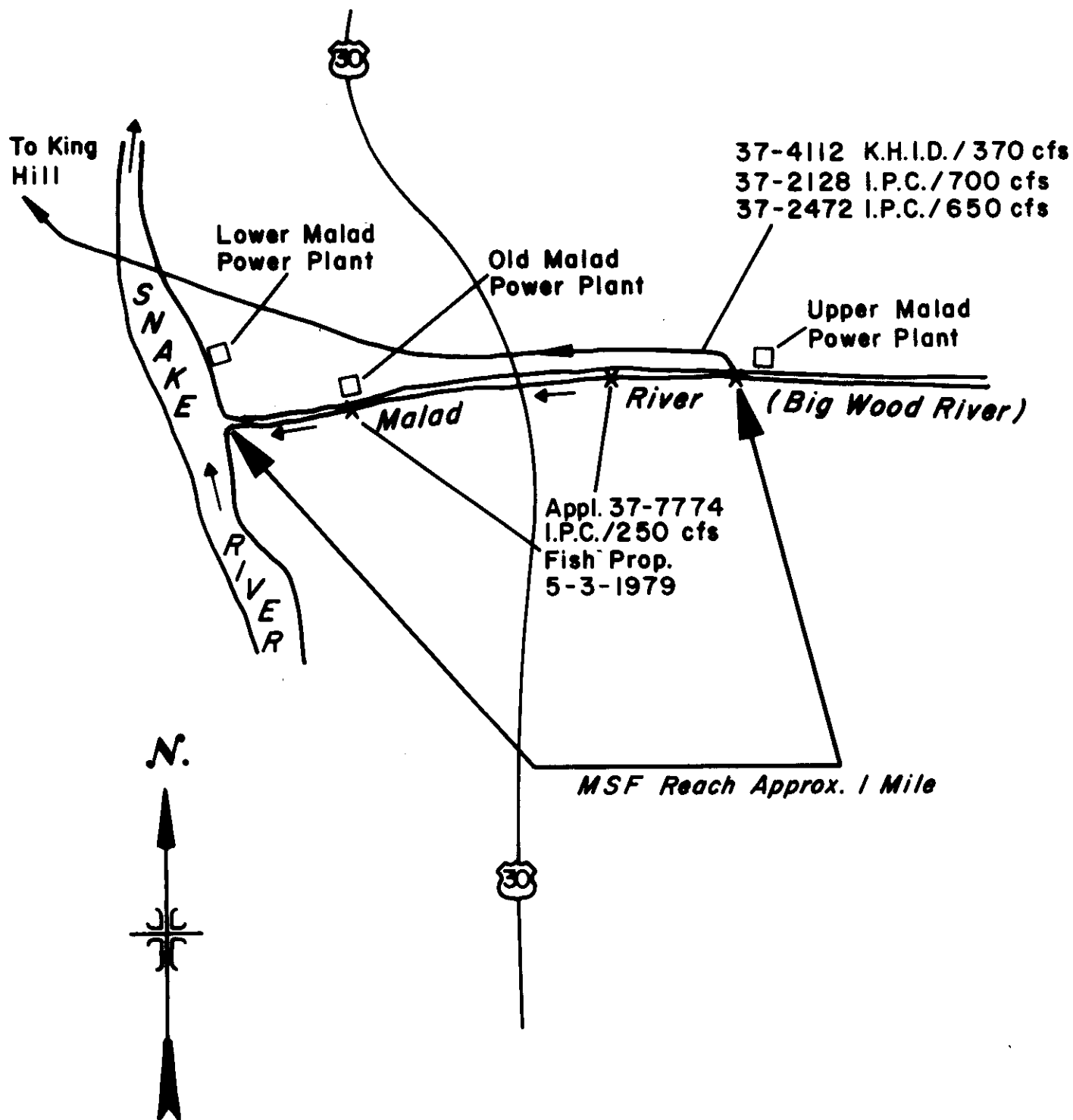
REPRESENTING

Larry Stevens	Boise	Id. State Parks
Don Higginson	Hagerman	" " "
David Hanson	Boise	Id. Fish & Game
Bob Bell	Jerome	Idaho Fish & Game
Jim Bunker	King Hill	✓ KING HILL DR. DIST
Bob Brooks	Wendell	✓ North Side Canal Co
Ted Diehl	Jerome	✓ North Side Canal Co.
Mary Newby	Shoshone	dept. water resources
Bridget Newby	Shoshone	✓ Water Dist 37 + 37m
Ann M. Ann ^{Attn} or	Gooding	Idaho Power Co
Jim & Kittland	Gooding	Idaho Power Co.
Pa. Barner	Gooding	✓ ^{PRISE} Foothill Ditch Co
Ed Spokal	Hagerman	Self + neighbors
W. E. Flann	Idaho	" "
Richard H. Dalton	Star Route Bliss Id.	Indiv. ^{Idaho} Foothill Ditch
Paul Selby	" "	" "
Cheryl Spenscraft ^{Attn} or	P.O. 893 Boise	Consulting Assoc.
Helen Chenneth	" "	Consulting Assoc.
Jim Nechan	Bliss	self
Glen Shawmaker	Kimberly	✓ Id. State Parks Board
Tom Anderson	Hagerman	✓ Justice Idaho Co.
Leo Hobday	Bliss	✓ North Side Canal Co
Aldrich Bortle	Bliss	✓ (Self) SNAKE RIVER WATER

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JUN 29 1988

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs

Minimum flows ought to be set

The Idaho Water Resource Board, at the urging of the Fish and Game Department, is considering setting minimum stream flows on sections of the Malad and Big Wood rivers and Silver Creek.

That action is crucial to protecting some key recreational resources in our area. The Water Board should proceed rapidly to set the minimum flows.

Last week's hearings on the subject underscored the urgency for immediate action. Dave Tuthill, supervisor of water allocations for the Department of Water Resources, said the real threat to maintaining the flows in the streams comes from hydroelectric development. Under state law, water diverted for irrigation — a consumptive use — does not threaten minimum flow because of downstream rights. Irrigators must leave enough water in the rivers to satisfy the needs of downstream water users.

But the situation changes for hydroelectric diversions — non-consumptive uses. A hydro project can divert water as long as it eventually returns it to the river to satisfy later consumptive uses. Meanwhile, the stretch of river from which the water is diverted can fall below minimum flow levels.

Add to this situation the current boom of small hydro projects in the state and the nature of the threat becomes clear.

This is not to say that development of hydro projects should not be allowed to proceed. Such projects provide a sound contribution to our economy with relatively little environmental damage.

But development must be balanced against protection of the recreational value of our streams.

For instance, the stretch of the Big Wood under consideration provides 11,160 "angler days" of fishing each season, which translates to \$396,550 pumped into our economy. That figure understates the river's contribution to our quality of life.

The Water Resource Board should recognize the value of those streams to the residents of the area and act to protect our resource when it addresses the issue next month.

TIMES-NEWS
Twin Falls, Idaho
SEP 27 1983

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JUN 29 1988

35

BEFORE THE IDAHO WATER RESOURCE BOARD

IN THE MATTER OF MINIMUM STREAM FLOW
APPLICATIONS NOS. 37-7849, 37-7892,
37-7920, 96-7979 AND 96-7980

A RESOLUTION

WHEREAS, pursuant to Chapter 15, Title 42, Idaho Code, the Idaho Water Resource Board (Board) has the authority to appropriate the unappropriated waters of streams in Idaho for the purpose of establishing minimum stream flows; and,

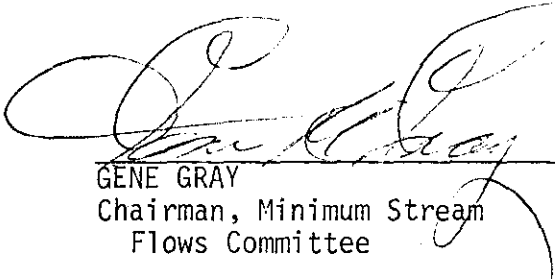
WHEREAS, the Board has submitted to the Director of the Idaho Department of Water Resources (Director) five applications to appropriate water for minimum stream flows identified as follows: No. 37-7849, Silver Creek; No. 37-7892, Malad River; No. 37-7920, Malad River; No. 96-7979, Lightning Creek; and No. 96-7980, Grouse Creek; and,

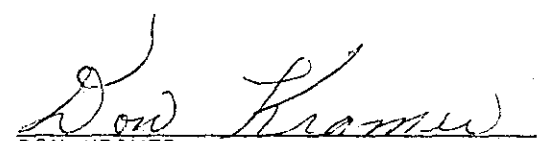
WHEREAS, in accordance with the adopted guidelines on minimum stream flow applications, the Board has conducted informal public meetings to determine public interest with respect to said applications; and,

WHEREAS, the Board has reviewed the public comments and has determined that each of the said applications is reasonable and in the public interest;

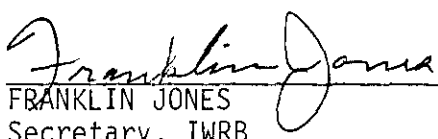
NOW, THEREFORE, BE IT Resolved that the Board request the Director to proceed with administrative actions on each of the five said applications.

Dated this 7th day of October, 1983.


GENE GRAY
Chairman, Minimum Stream
Flows Committee


DON KRAMER
Chairman, IWRB

Attest:


FRANKLIN JONES
Secretary, IWRB

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JUN 29 1988

Hagerman Valley Citizens Alert Inc.

Box 32

Hagerman, Idaho 83332

RECEIVED

SEP 20 1983

Department of Water Resources

September 20, 1983

Idaho Water Resource Board
Statehouse
Boise, ID 83720

Re: 37-7392 and 37-7920

Gentlemen:

This letter is to express our support for both of the above-referenced minimum streamflow applications on the Malad River in Gooding County.

Application #37-7392 for 75 cfs is essential if we are to preserve the scenic wonders of Malad Gorge State Park: the waterfall at the washbowl is an integral part of this public area and we urge you to protect it for future generations' enjoyment.

Application #37-7920 for 39 cfs on the lower Malad River is also essential for preservation of trout spawning and rearing habitat. Moreover, the aesthetic marvel of water flowing beneath the Highway 30 bridge must not be lost.

We urge you to approve these applications in the public interest and to strongly support legislative approval.

Sincerely,



John A. McDaniel
President
Hagerman Valley Citizens' Alert, Inc.
P.O. Box 32
Hagerman, ID 83332

RECEIVED

JUN 29 1988

On September 14, 1983 copies of the attached materials were sent to the property owners and waterusers identified on the attached mailing labels.

Sharla Curtis
SHARLA CURTIS

RECEIVED

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MINIMUM STREAM FLOW
Fact Sheet

Water Right No.: 37-7892

Source: Malad River (Big Wood River) tributary to the Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Parks and Recreation

Date Application Filed: March 27, 1981

Rate of Flow: 75 cubic feet per second year around

Location of Reach: From the diversion dam of Justice and Thorpe ditches within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, Township 6 South, Range 14 East downstream to the Devil's Washbowl within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, Township 6 South, Range 14 East.

Purposes: Aesthetics with respect to the 60 foot waterfall at Devil's Washbowl within Malad Gorge State Park, and habitat for fish, waterfowl and animals within the reach.

Public Meeting: Wednesday, September 21, 1983, at 7:30 p.m. at Gooding High School, 1050 S. 7th Ave. W.

Water Right No.: 37-7920

Source: Malad River (Big Wood River) tributary to the Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Fish and Game

Date Application Filed: June 19, 1981

Rate of Flow: 39 cubic feet per second

Location of Reach: From the confluence with the Snake River within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, Township 6 South, Range 13 East upstream approximately 1 mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, Township 6 South, Range 13 East.

Purpose: To maintain trout rearing and spawning habitat.

Public Meeting: Wednesday, September 21, 1983, at 7:30 p.m. at Gooding High School, 1050 S. 7th Ave. W.

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JUN 29 1988

MINIMUM STREAM FLOW
Fact Sheet

Water Right No.: 37-7892

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Requesting Agency: Idaho Department of Parks and Recreation

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Water Right No.: 37-7920

Source: Malad River (Big Wood River) tributary to the Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Fish and Game

Date Application Filed: June 19, 1981

Rate of Flow: 39 cubic feet per second

Location of Reach: From the confluence with the Snake River within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, Township 6 South, Range 13 East upstream approximately 1 mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, Township 6 South, Range 13 East.

Purpose: To maintain trout rearing and spawning habitat.

Public Meeting: Wednesday, September 21, 1983, at 7:30 p.m. at Gooding High School, 1050 S. 7th Ave. W.

RECEIVED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Senator John Peavey
Box 88
Carey, ID 83320

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Senator Peavey:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

RECORDED

JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Senator Claire Wetherell
360 E. 15th N.
Mtn. Home, ID 83647

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Senator Wetherell:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

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On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

A handwritten signature in dark ink, reading "David R. Tuthill, Jr.", written in a cursive style.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MAILED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Senator Wes Trounson
Rt. 2, Box 108
Wendell, ID 83355

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Senator Trounson:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Rep. Steve Antone
1141 Link St.
Rupert, ID 83350

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Antone:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

RECEIVED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Rep. Mack W. Neibaur
Rt. 1, Box 1478
Paul, ID 83347

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Neibaur:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

RECEIVED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Rep. Mark A. Larson
525 Samarra Dr.
Mtn. Home, ID 83647

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Larson:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED
JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

September 14, 1983

Rep. Dan Kelly
9930 N. 10th E.
Mtn. Home, ID 83647

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Kelly:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Rep. John H. Brooks
Rt. 2, Box 233
Gooding, ID 83330

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Brooks:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Rep. Gordon R. Hollifield
Rt. 6
Jerome, ID 83338

RE: Public Meetings Regarding Water Rights for Minimum Stream Flows

Dear Representative Hollifield:

The Idaho Water Resource Board is planning to hold public meetings to solicit public input and reaction to four minimum streamflow applications for water rights proposed in or near your legislative district.

Two applications on the Malad River will be reviewed at a meeting at the Gooding High School at 7:30 p.m. on Wednesday, September 21. One application on the Big Wood River near Hailey and one application on Silver Creek near Carey will be discussed at a meeting at the Wood River High School in Hailey on Thursday, September 22, also at 7:30 p.m. Please find enclosed two fact sheets regarding the applications and a brochure which describes the minimum streamflow procedure.

On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED
JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Re: Minimum Stream Flow Application on the Malad River

Dear Property Owner:

The Idaho Water Resource Board will be holding a public meeting to solicit public input regarding a proposed minimum streamflow water right on a reach of the Malad River. According to the records at the county courthouse, you are one of the owners of property adjacent to the reach where the minimum streamflow is proposed.

Information describing the application and the time and place of the meeting is shown on the enclosed fact sheet. Also enclosed is a brochure which describes the minimum streamflow procedure.

At the meeting you will have an opportunity to learn more about the application and to express your views. On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

September 14, 1983

Re: Minimum Stream Flow Application on the Malad River

Dear Wateruser:

The Idaho Water Resource Board will be holding a public meeting to solicit public input regarding a proposed minimum streamflow water right on a reach of the Malad River. According to the records of this Department, you have a water right for which the point of diversion is located in or near the proposed minimum streamflow reach.

Information describing the application and the time and place of the meeting is shown on the enclosed fact sheet. Also enclosed is a brochure which describes the minimum streamflow procedure.

At the meeting you will have an opportunity to learn more about the application and to express your views. On behalf of the Idaho Water Resource Board, you are cordially invited to attend.

Sincerely,

A handwritten signature in dark ink, reading "David R. Tuthill, Jr.", with a stylized flourish at the end.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988

X
Idaho Power Co.
Box 70
Boise, ID 83702

37-7920^W

Wtr R

✓
King Hill Irrigation Dist.
Box 428
King Hill, ID 83633

W

✓
James S. & Diana K. Andrade
27340 Fern Ridge Rd.
Sweet Home, OR 97386

R

Land Owner

X
R. H. Dalton
Star Rt.
Bliss, ID 83314

P

MICROFILMED

JUN 29 1988

Malad River

37-7920

Fred Zeller
416 Debois
Twin Falls, Idaho 83301

2962-

Sec 25 T 6 R 13
W $\frac{1}{2}$ NW $\frac{1}{4}$ S & W OF HWY & RR, E $\frac{1}{2}$ SW $\frac{1}{4}$ W OF
HWY & RR, SE $\frac{1}{4}$ NW $\frac{1}{4}$ W OF HWY & RR

Property Descriptions
determined by
Bob Bell of IDFG

DBR
9/13/83

Fae Slatter
Route # 1
Gooding, Idaho 83330

3157-

Sec 30 T 6 R 14
Lots 1 & 2, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$,
Tax 1 in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Tax 2 in E $\frac{1}{2}$ SE $\frac{1}{4}$

RECEIVED

SEP 6 1983

Department of Water Resources

James S. Andrade &
Diana K. Andrade
27340 Fern Ridge Road
Sweet Home, Oregon 97386

3158-

Sec 30 T 6 R 14
E $\frac{1}{2}$ SE $\frac{1}{4}$ LESS TAX 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
SO OF RIVER

R. H. Dalton
Star Route
Bliss, Idaho 83314

2960-

Sec 25 T 6 R 13
S $\frac{1}{2}$ NW $\frac{1}{4}$ E OF HWY & RR, E $\frac{1}{2}$ SW $\frac{1}{4}$ E OF HWY
& RR, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SO OF HWY LESS 200'

Sent by SC 9/14/83

RECEIVED

JUN 29 1988

REAL PROPERTY VALUATION SUMMARY

REMARKS:

RURAL LAND				URBAN LAND	
Category	Recommended Market Value For Assessment Purposes	Acres	Per Acre Value	Category	Recommended Market Value For Assessment Purposes
1 LA.				20 Residential	
2 LG.				21 Business	
3 N.L.A.				22 Industrial	
4 D.C.					
5 Rural or Subd.					
6 Other					
7 Vacant					
8 Waste					
Indus. (Type)				Indus. (Type)	
TOTAL				TOTAL	

RECEIVED

NOV 15 1964

10



FOR IMMEDIATE RELEASE

September 9, 1983

State of Idaho, Statehouse, Boise, Idaho 83720

Phone: (208) 334-4440

NEWS RELEASE

BOISE---A public meeting on two proposed minimum stream flow applications on the Malad River in Gooding County has been slated for Wednesday, September 21, according to Gene M. Gray, vice chairman, Idaho Water Resource Board. Gray will call the meeting to order at 7:30 p.m. at Gooding High School, 1050 S. Seventh Avenue West, Gooding.

The first application, #37-7892, filed March 27, 1981, seeks a 75 cubic feet per second (cfs) instream flow year-around in the reach beginning at the diversion dam of the Justice and Thorpe ditches. The proposed flow would extend 3/4 mile to the Devil's Washbowl at Malad Gorge State Park.

According to Gray, the proposed flow would protect the 60-foot waterfall at the washbowl and the fish and wildlife habitat in that reach of the stream.

A second minimum stream flow application, #37-7920, filed June 19, 1981, seeks a 39 cfs flow all year on the Malad River from its confluence with the Snake River upstream to the Idaho Power diversion. The proposed flow would maintain trout spawning and rearing habitat in that reach.

Both applications were filed by the Idaho Water Resource Board; the first discussed above was at the request of the Idaho Department of Parks and Recreation, the second at the request of the Department of Fish and Game. **MICROFILMED** from both agencies will be at the meeting to discuss the application and answer questions.

more

JUN 29 1988

Malad River

page 2

The vice chairman encourages anyone wishing to comment on either or both applications to attend the meeting, since the Idaho Water Resource Board may amend, withdraw or proceed with the applications, based on public comment.

As required by law the Idaho Department of Water Resources will conduct formal hearings on the two applications later, possibly in November, Gray said.

Instream flows (or minimum stream flows) are water rights in which the stream is not diverted. They are subject to the approval of the director of the Idaho Department of Water Resources and are junior to all water rights with earlier priority dates. If the director approves the applications, they must then be submitted to the Idaho Legislature, which can approve or reject them.

-30-

Kay Weaver
Information Specialist

MICROFILMED

JUN 29 1988

ATTENDANCE ROSTER

37-7920

MSF-Malad River ~~37-7892~~ ~~37-7920~~

Hearing

November 9, 1983

NAME

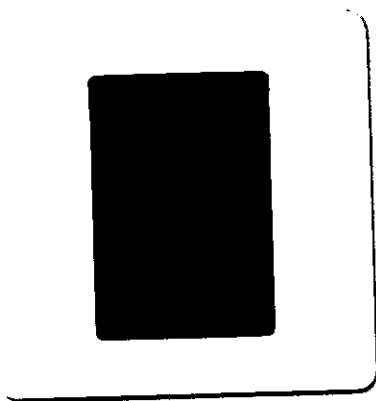
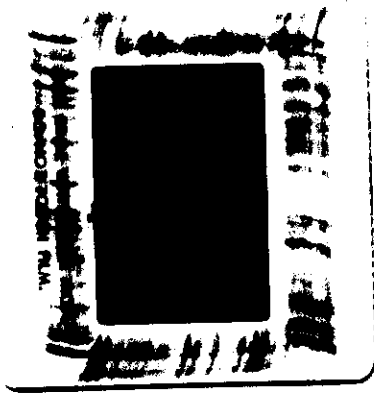
ADDRESS

REPRESENTING

F	Ted Chu	Bx 814 Ketchum	Id Fish + Game
F	TIM COCHNAUER	2320 GOUTWAY COEUR D'ALENE	IDFG
F	Bob Bell	816 16 th Ave East	Jerome Idaho F&G
F	Ruth C. Shekal	Rt. 1, Box 410	Hagerman - Private Cit.
F	Edward C. Shekal	Rt #1 Box 410	Hagerman Idaho Private City
F	Don Higginson	Rt 1 Hagerman	State Parks / " "
F	Richard Dalton	Star Route Bliss Id.	Thorp Ditch
F	Mollie Dalton		
F	Fern Polkies	Hagerman	Hagerman Historical
F	Ann M. Cdm	P.O. Box 18, Hocking	Idaho Power Co.
F	Steve Goddard		IDaho F&G
F	Larry Blau	157 Bonny Dr	TFID
F	Dave Fathill		IDWR
	Norman C Young		Hearing Officer
	Franklin Jones		ID. Water Res. Bd.
	Gene Gray		"

MICROFILMED

JUN 29 1988



Interested Party Mailing List

Don Higginson
Rt. 1
Hagerman, ID 83332

Richard & Mollie Dalton
Star Route
Bliss, ID 83314

Fern Pothier
Hagerman, ID 83332

Connie M. Orme
P.O. Box 88
Gooding, ID 83330

cc: Gene M. Gray, Idaho Water Resource Board
Loren Holmes, Supervisor, Southern Regional Office

MICROFILMED

JUN 29 1988

*The following letter
was sent to above
people on 12/30/83.
N. Peale*



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

December 30, 1983

RE: Minimum Streamflow Application No. 37-7920, Malad River

Dear Interested Party:

The Idaho Department of Water Resources has compiled all required data with respect to the above-referenced application which pertains to the reach of the Malad River from the mouth upstream about one mile to the Idaho Power Company diversion.

On December 9, 1983, we notified the full parties in this matter that a decision regarding the application must be delayed pending a decision on the prior protested application in this reach. The application, No. 37-7774, is in the name of Idaho Power Company and requests the use of 250 cubic feet per second for fish propagation purposes, to be diverted at one or two locations within the reach. One of the minimum streamflow full parties, the Idaho Water Resource Board, requested that all interested parties be apprised of this information, so this letter is provided per that request.

Questions or comments concerning the Idaho Power Company application should be directed to our Southern Regional Office located at 1041 Blue Lakes Blvd. N., Twin Falls, telephone no. 734-3578.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

cc: Gene M. Gray, Idaho Water Resource Board
Loren Holmes, Supervisor, Southern Regional Office

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JUN 29 1988

Triangle Bar Insurance Agency

P. O. Box 325
PAYETTE, IDAHO 83861
Telephone 208-842-3388



December 14, 1983

RECEIVED
DEC 15 1983

DET
Mr. David R. Tuthill, Jr., P. E.
Supervisor, Water Allocation Section
State of Idaho
DEPARTMENT OF WATER RESOURCES
Statehouse
Boise, Idaho 83720

Department of Water Resources

RE: Minimum Streamflow Application No. 37-7920, Malad River

Dear Dave:

Thank you very much for yours of December 9, 1983. I would suggest, on behalf of the Idaho Water Resource Board, that letters be written to those people who have commented on this particular Minimum Streamflow process. We should fully keep them informed of this situtaion. Those people need to know that Idaho Power's prior Application No. 37-7774 is keeping this particular application on the back burner. Those folks may speed up the process for the Board.

Thank you very much for your excellent work. The Idaho Water Resource Board appreciates your keeping them informed.

Very truly yours,

Full

FULL PARTY (Gene M. Gray)
Vice-Chairman
IWRB

cc: Donald Kramer
Franklin Jones

RECEIVED

JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

MEMORANDUM

TO: 37-7920

FROM: Dave Tuthill *DRT*

DATE: December 9, 1983

RE: Pending Action

In compliance with Department policy regarding minimum streamflow applications, final action on this application will not take place until a decision is reached on the protested prior application on the reach in the name of Idaho Power Company, No. 37-7774. Until such decision is reached this application will be held. Note that full parties have been notified.

RECEIVED

JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

December 9, 1983

Idaho Water Resource Board
Attn: Mr. Gene M. Gray
Route 1, Box 46-A
Payette, ID 83661

RE: Minimum Streamflow Application No. 37-7920, Malad River

Dear Full Party:

Enclosed for your information are copies of letters received in connection with the above-referenced water right application.

Please be advised that this minimum streamflow application will be held without a decision pending the resolution of the prior application for fish propagation on this reach in the name of Idaho Power Company, No. 37-7774.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

Enclosures

MANUFACTURED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

December 9, 1983

Idaho Department of Fish & Game
Attn: Steve Goddard
600 S. Walnut
Boise, ID 83706

RE: Minimum Streamflow Application No. 37-7920, Malad River

Dear Full Party:

Enclosed for your information are copies of letters received in connection with the above-referenced water right application.

Please be advised that this minimum streamflow application will be held without a decision pending the resolution of the prior application for fish propagation on this reach in the name of Idaho Power Company, No. 37-7774.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

December 9, 1983

Mr. Edward C. Shokal
Rt. 1, Box 410
Hagerman, ID 83332

RE: Minimum Streamflow Application No. 37-7920, Malad River

Dear Full Party:

Enclosed for your information are copies of letters received in connection with the above-referenced water right application.

Please be advised that this minimum streamflow application will be held without a decision pending the resolution of the prior application for fish propagation on this reach in the name of Idaho Power Company, No. 37-7774.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

Enclosures

MICROFILMED

JUN 29 1988



DET T-11

RECEIVED
NOV 25 1983

Department of Water Resources

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL
STEPHEN V. GODDARD
WILLIAM B. DILLON, III
DEPUTY ATTORNEYS GENERAL
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.
P.O. Box 25
BOISE, IDAHO 83707
(208) 334-3715

November 22, 1983

Mr. Norman Young
Hearing Officer
Idaho Dept. of Water Resources
STATEHOUSE
Boise, Idaho 83720

Re: Malad River Instream Flow Hearing No. 37-7920

Dear Norm:

This letter is to correct the record for the Malad River Instream Flow Hearing held on November 9, 1983 in Gooding, Idaho. During the hearing Mr. Cochnauer testified that he measured the flow in the Malad River on July 17, 1975. Upon examining his notes, Mr. Cochnauer ascertained that the flows were actually measured on August 5, 1975.

If you have any questions concerning this matter, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Steve".

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game

SVG:tlv

MICROFILMED

JUN 29 1988

NOV 18 1983

Department of Water Resources

Route 1, Box 397
Hagerman, ID 83332
November 15, 1983

Norman Young, Hearing Officer
Department of Water Resources
Statehouse
Boise, Idaho 83720

RE: Minimum Stream Flow Applications on the Malad River

Dear Mr. Young:

I attended the November 9th hearing in Gooding and expressed my support of the Idaho Department of Parks and Recreation's request for a minimum stream flow in the Malad River. I appreciate the opportunity to underscore that support and extend it to the similar request by the Idaho Department of Fish and Game.

At the first hearing, the canal company representatives expounded at length the intricacies of delivering water from as far away as American Falls with the implication that, without them, there would be no Malad River. The Malad Gorge itself offers monumental evidence of the river's existence long before their manipulations. The available water has obviously been over-allocated already. They have de-watered the river and want every drop, and then some, as their due for re-watering it.

Agriculture already has the lion's share of Idaho's water. There are myriad beneficial uses for this precious resource which have been ignored too long. The aesthetic, educational, ecological and recreational uses should be ignored no longer. If any, however minimal, amount of water can be salvaged for the Malad, it is high time to do just that!

Sincerely,

Gretchen Uppiano
Gretchen Uppiano

MAILED

JUN 29 1988

NOV 15 1983

Department of Water Resources

November 14, 1983

Department of Water Resources
State House
Boise, Idaho 83720

Dear Sirs,

I would like to see the minimum stream flow maintained in the Malad River as requested by the Idaho Fish and Game Dept. and the State Parks Commission. We fish the Malad River during the fishing season as do numerous other fishermen. We also enjoy the Malad Gorge State Park and know that it is a scenic and welcome stop for tourists passing through this area. We sincerely believe that our natural resources should be maintained for the use of the public.

Sincerely,

W. C. Stinemates
W. C. Stinemates

MR. & MRS. W. C. STINEMATES

503 W. Third St.

Hagerman, Idaho 83332

MAINTAINED

JUN 29 1988

HEARING ON 37-7920

- ① Gene Gray presented his statement
- ② Franklin Jones
- ③ Dave Teatill
- ④ Exhibit #1 - Admitted
- Exhibit #2 - Admitted
- ~~Exhibit #3~~ - Admitted

X-Exam - Goddard -

F&G - exhibit A - Admitted

F&G

Tim Cochraner, Fishery Research
Biologist - 9 yrs

F&G - exhibit B - Admitted

Ask parties to stipulate that Mr.
Cochraner is an expert witness on instream
flows - So stipulated and agreed to.

160 to 80 streams reviewed for instream flow
Lower rated - critical life history

rearing of juvenile + adult rainbow trout

MICROFILMED

F&G - exhibit C - Admitted

JUN 29 1988

inflection point @ 39 cfs

Not the ideal or optimum flow - because
it is not a bank full discharge - 70 cfs
would be ideal

Optimum flow would optimize
entire river system - natural conditions
as possible - evolved under very high flow
perhaps 1000 cfs -

Flow is important to maintain Rainbow Trout habitat for food production —

Why necessary for aesthetics — pristine environment —

Does flow have any impact in Source below confluence $\equiv$ yes

Bib Bell —

Fishery manager for this Region #4

~~FFG~~ exhibit D — Adm. Had

Density of Fish rates very high in Region #4
High public use 15,000 people days
Primarily wild trout —

believes the 39 cfs requested is needed to protect rainbow trout

25% of stream reach est. as needed to be sure 39 cfs available from spring flow

Ted Chua — Dist. Cons. officer.

Resident fishers — rainbow trout
primarily wild — mostly medium —
some large fish perhaps out of
Snake River — (2 to 3 lb range) — numerous
smaller, but colorful fish

Quail, Songbirds, reptiles, Kingfishers
mergamans, eagles in close vicinity —

aesthetically pleasing water quality —
pleasing aesthetics partly because of water
fish, & wildlife

Unique to district because of
water quality,

Similar to Box Canyon

Highly accessible to public

Reducing by 25% length & small effects

on use but could have large effect on ecosystem
if this meant drying up the reach directly below the diversion

RECORDED

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Some spring flow begins to reappear
directly below diversion - only small amount
of leakage passed IACO diversion when closed.
300 yds - 15 cfs

Normal water ~~for~~ 98% of June to
perhaps April 1 before any flow passed the
diversion. Occasionally some spill in the
fall in October.

Mr. Shokal - Rt 1 Box 480 Hagerman
Read letter into record -
Supports the flow requested

Mrs Shokal -
Corroborates scenic & aesthetic values
Values wildlife - river offer
Emphasizes accessibility - drive directly
to it.
Supports 39 cfs
Submitted three ~~and~~ letters for
the record -

Fern Potthier - Hagerman Idaho
aesthetics -
Used by visitors & tourists -
Supports 39 cfs
Fishing & aesthetics

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Closing arguments - Goddard
- Unrebutted evidence submitted on all
points -
Gray - keep the reach ~~reach~~ intact
Shokal - Strong public interest in area

MSE Hearing

Application No. 37-7920

Notes:
B. T. T. Hill

Requested by Id Dept of Fish & Game.

Applicant: IWRB

Nov 9, 1983 7:15 PM Start

Full Parties

IWRB

IDFG

MR Ed Shokal and Ruth

IWRB

Statements by Gene Gray and by Franklin Jones

IDWR

Statement by Dave Tutthill

IDFG

-Tim Cochraner

Supr of Statewide Fisheries Studies

1974-1975 determined $\approx$ 100 min flow determinations

Since that time an additional 60-80

7-17-75

86 cfs

immediately below IPAC

diversion

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Ideal Flow - 70 cfs

At times Snake R. fish species migrate upstream to escape poorer quality in the Snake R.

- Bob Bell, Jerome Worked for IDFG 29 yrs
Regional Fishing Mgr (for 18 years)
- Collects Fishing Info

High density of rainbow trout / high usage

estimate:

39 cfs generated by spgs $\approx$ 500 meters downstream from power dam diversion.

- Ted Chu, Hatchman

District Conservation Officer $\approx$ 9 years

Water has high aesthetic quality

Unique due to high quality of the water, good due to accessibility

Highly valuable to attain a MSE of 39 cfs.

Majority of water use & access is in lower end of the canyon

Normally there is spill at power Co diversion point

Very little leakage past diversion point

300-500 yards downstream from diversion point

Springs recharge to 300 cfs

-> No fishing for upper 300 meters

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Mr. Ed Shokal - Submitted a statement to the file

Private Citizens

Mrs. Ruth Shokal

personally in favor plus letters by

Rosmary Schwatni

Betty Hoskorec

Bob & Jeanne Stron

residents of Hagerman

Mrs. Fern Pothanne

lives close to the Malad River - in favor.

Will allow public interest letters for 15 days.

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NOV 7 1983

Department of Water Resources

BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 37-7892 TO ESTABLISH A)
MINIMUM STREAM FLOW IN THE MALAD)
RIVER IN THE NAME OF THE IDAHO)
WATER RESOURCE BOARD)

NOTICE OF APPEARANCE

TO: Director, Department of Water Resources

PLEASE TAKE NOTICE that Consulting Associates, by and through Vernon Ravenscroft, President, shall appear and participate as a party to the above matter at the hearing regarding the same to be held on November 9, 1983, in Gooding, Idaho. Consulting Associates requests that it have the right to introduce evidence, examine and cross-examine witnesses, and otherwise participate in the hearing as the Director deems appropriate.

DATED This 4th day of November, 1983.

Vernon F. Ravenscroft
Vernon F. Ravenscroft
President
Consulting Associates, Inc.

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NOTICE OF APPEARANCE

Dear Sir -

I am writing about application
#37-7892 and #37-7290 that has
filed for water from the Justice
and Sharpe ditches and Malad River.

I am opposed to any thing that
will hurt the Minimum Stream
flow.

Look what has happened to the
beauty of Hogerman Valley - what
a shame for the State of Idaho.

Yours Truly
Betty Hoshorn

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11-9-83
Hagerman, Id.

Idaho Water Resources Board:

Dear Sirs:

In regard the hearing to
establish a minimum stream flow
on the Malad River; my wife
and I have recently moved to
Hagerman, Id. from Okla City,
Okla. in March of this year.
We moved here to enjoy the
natural beauty of the streams
and springs and the relatively
unspoiled nature of the country.
Practically every year for the past
twenty we have vacationed in the
Magic Valley area and
joyed fishing on the Malad.
I would hope that the

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Water Resources Board would
recognize the recreational value
of the Malad River to the
tourist industry and the citizens
of this state and establish
at least the minimum stream flow
being requested for the continuing
enjoyment of future generations
and also the present.

Thank you for considering
our view point.

Bob + Jeanne Strom

R. M. STROM
RT. 1 BOX 398
HAGERMAN, IDA.
83332



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JUN 29 1988

To Whom it May Concern,

My husband and I are very much upset as to the prospect of some private citizen trying to tap a natural resource.

As a business person in Bagerman Valley, I have on numerous occasions guided tourist to the Malad Gorge.

I'm speaking of people from Canada, England, Italy, and Japan.

As you know, tourism is very important to our state economy.

Isn't it bad enough that the fish hatchery industry has polluted our Snake River and taped Thousand Springs area.

Now they want even more of what God has given us as a gift.

Fremmaice Schwamy

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JUN 29 1988

Statement by Mr. & Mrs. Tuthill

November 8, 1983

David R. Tuthill, Jr., P. E.
Supervisor, Water Allocation Section
Idaho Dept. of Water Resources
Statehouse
Boise, Idaho 83720

Dear Mr. Tuthill:

Reference: Minimum Stream Flow Applications on the
Malad River.

We are responding to your letter of October 27, 1983, regards the above reference. Our response will apply to the Idaho Dept. of Parks and Recreation application for 75 cfs of water year round, and Idaho Dept. of Fish and Game application for 39 cfs of water.

We support these requests with an emphatic yes! Grant them their water for the following reasons.

(1) Both applications are non-consumptive. The water will not be lost, so it will be available for downstream use.

(2) The Parks Dept. has invested over \$100,000. in developing this area and this investment of the taxpayers should be maximized to preserve the credibility of the judgment of those who have the responsibility for spending taxpayers money.

(3) The Fish and Game Dept. presented data at the preliminary hearing held by Mr. Gene Gray, Vice Chairman of the Idaho Resources Board, that showed the above referenced fishery through May to November contributed an estimated revenue of \$144,000. to Gooding County economy, in addition to all the associated recreation associated with the fishery. Certainly the economic and recreational benefits are an excellent return for this fishery that is requesting only 39 cfs of water.

(4) These two requests will not degrade the quality of water.

(5) The population of Idaho is rapidly expanding and the recreational opportunities are not keeping pace. More and more "open land" is being fenced in for private use. Recently the U.S. Census Bureau published a population map showing the estimated population growth (or reduction) for each state of the United States. Idaho was projected to have a +60.2% increase in population (by transfer of residences) from the year 1980 to 2000.

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(1) Sept. 8, 1983 Wall Street Journal

JUN 29 1988

(6) With an increase of population with more young and old people competing for constructive recreational opportunities, the State of Idaho has a responsibility to meet this need so that its people can lead a balanced life. Especially so, when some of these needs can be produced without additional burdens on the State financial budgets. These two water applications are excellent examples of how this can be done.

(7) During the last five fiscal years (July to July) Idaho Dept. of Water Resources has received a total of 10,385 applications for water use. Only a meager 27 applications were for minimum stream flow. Of these 27 applications, 10 have been approved by the legislature, one has been signed by the Director and is ready for legislative action, and 16 are pending. These data clearly show that the agricultural and producer water users are getting practically all the water.

Therefore, it is easy to conclude that the above requests for a minimum stream flow on the Malad river will not be shorting industries. In fact, the data shows that Idaho is not capitalizing on all its possible opportunity to use its water for future recreational purposes.

We conclude that the above minimum stream flow requests are reasonable and we request that they be granted.

Respectfully,


Edward C. Shokal

Copies to:
D. Higgenson, Parks Dept.
W. Webb, Dept. of Fish & Game


Ruth C. Shokal
Route 1, Box 410
Hagerman, Idaho 83332

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Exhibit

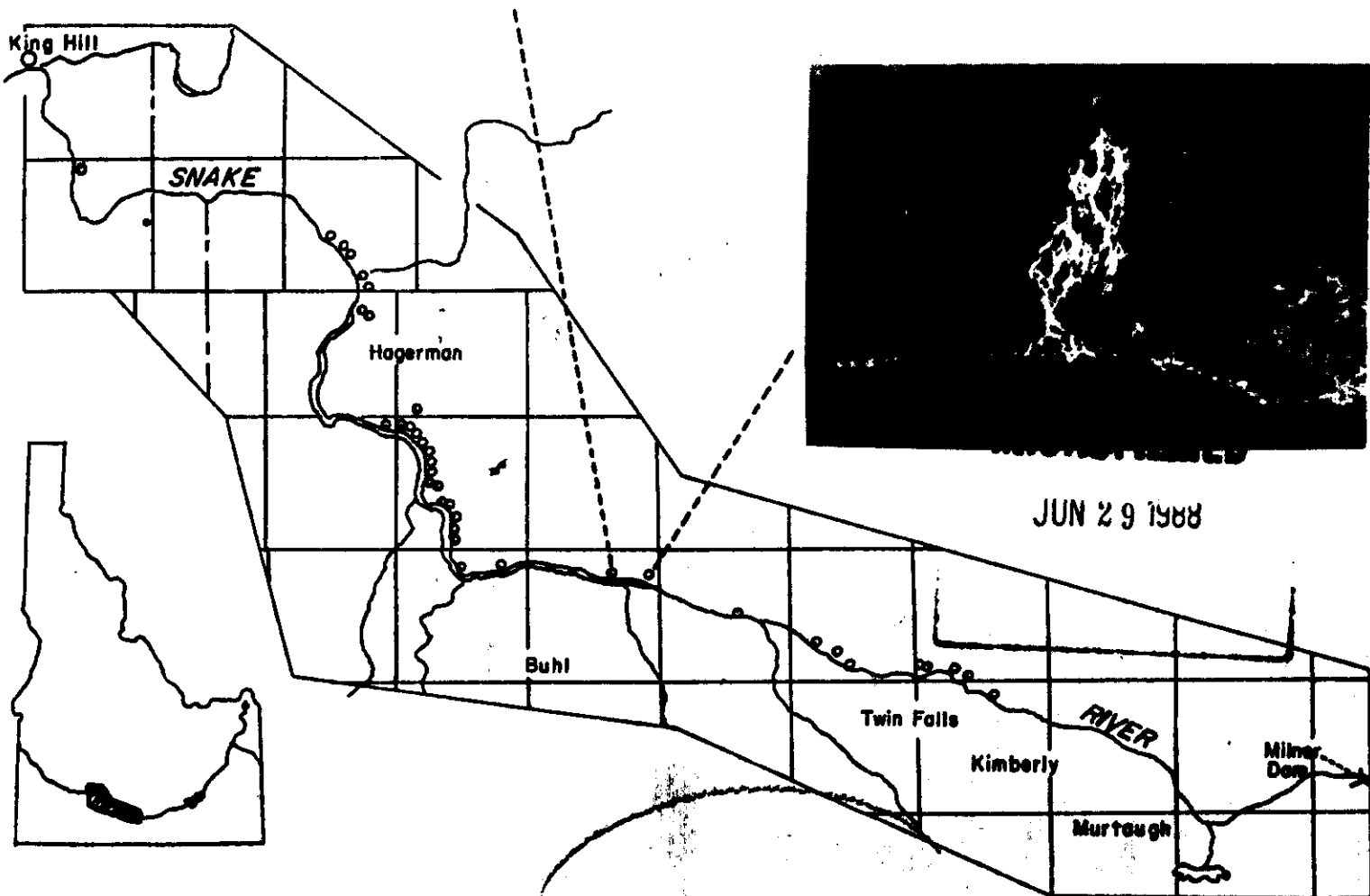
F&G #A

Libby
676

SEP 20 1968



RECORD OF NORTH-SIDE
SPRINGS AND OTHER IN-
FLOW TO THE SNAKE
RIVER BETWEEN MILNER
AND KING HILL, IDAHO
1948-1967



WATER INFORMATION BULLETIN NO. 6
IDAHO DEPARTMENT OF RECLAMATION
AUGUST 1968

M13-1534. Malad Springs near Hagerman, Idaho

Location.--Springs head in SE $\frac{1}{4}$ sec.25, T.6 S., R.13 E., and continue to accumulate and supplement Big Wood River to the mouth where it enters the right bank of Snake River at river mile 571.2, in NW $\frac{1}{4}$ sec.34, T.6 S., R.13 E., 3 miles north of Hagerman.

Records available.--1899, 1910-11, 1913, 1917, 1919, 1924, 1950-59, 1963-64, 1966-67: One or more sets of measurements each year for use in computing spring discharge (see tabulation in WSP 1463 for measurements prior to 1950).

Altitude.--Springs are between altitudes 2,900 and 3,100 ft (from topographic map).

Physical features.--Water issues directly from basalt in and near the floor of a deep canyon. Discharge from numerous openings above Big Wood River is visible, but much of the discharge occurs along the floor of the river channel and is apparent only as gain in flow in the reach, which extends about 2.5 miles above the mouth.

Remarks.--Almost the entire flow is diverted about 1 mile above mouth of Big Wood River for irrigation and power development. King Hill Irrigation Co. has an assigned right of 300 cfs; the power company, the remainder of the flow. Results shown herein are adjusted for diversion and surface inflow to approximate the total spring flow. In this report, usage conforms with the latest decision of the Board of Geographic Names, dated January through April 1960. According to this decision, the name Big Wood River applies to the entire reach of channel to Snake River, and Malad Springs discharge into Big Wood River (Nace and others, 1959, p. 14).

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Discharge measured at the site during the years 1950-67,
adjusted for surface inflow and diversion

JUN 29 1988

Date	Discharge (cfs)	Date	Discharge (cfs)	Date	Discharge (cfs)
4- 1-50	1,260	4- 2-54	1,210	4- 6-59	1,270
10-26-50	1,270	4- 7-55	1,210	3-29-63	1,220
3-29-51	1,240	7-25-56	1,360	6- 2-64	1,250
4-21-52	1,300	4- 1-57	1,350	5- 6-66	1,230
4-14-53	1,230	3-31-58	1,270	3- 8-67	1,220
11-21-53	1,260				

Tim Cochnauer
Principal Fishery Research Biologist
Idaho Department of Fish and Game
Coeur d'Alene, Idaho

Education:

1967: Bachelor of Science, University of Oklahoma, Norman, Oklahoma.
1973: Master of Science, University of Oklahoma, Norman, Oklahoma.
Present: Doctorate student in Fishery Management, University of Idaho, Moscow, Idaho.

Instream Flow Work Experience:

Idaho Department of Fish and Game: Project Leader, Instream Flow Investigations, 1974-79. Identified flow needs for fish and wildlife resources on approximately 100 streams or stream reaches in Idaho. Portions of these studies were funded by the U.S. Fish and Wildlife Service, Idaho Department of Water Resources and U.S. Bureau of Reclamation.

Idaho Department of Fish and Game: Project Leader, U.S. Bureau of Land Management Instream Flow Investigations. Ongoing study. A four-year study to determine instream flow needs on 60 streams located on BLM lands throughout Idaho.

Intragovernmental Personnel Assignment to U.S. Fish and Wildlife Cooperative Instream Flow Group, 1977. Assisted in development of new methodologies for determining instream needs for fish and wildlife resources.

Conference, Workshop and Seiminar Participation:

American Fisheries Society Instream Flow Needs Conference, 1976, Boise, Idaho.

Pacific Fishery Biologists Instream Flow Session, 1976, Ocean Shores, Washington.

U.S. Fish and Wildlife Service Instream Flow State-of-the-Air Workshop, 1975, Logan, Utah.

Idaho Water Resource Research Institute Instream Flow Seminar, 1978, Moscow, Idaho.

U.S. Fish and Wildlife Service Instream Flow Conference for Idaho, 1977, Boise, Idaho.

U.S. Fish and Wildlife Service Instream Flow Computer Program Workshop, 1977, Salt Lake City, Utah.

American Fisheries Society, Nevada Chapter, Instream Flow Seminar, 1977, Las Vegas, Nevada.

Idaho Department of Fish and Game. Instream Flow Training Workshop for Regional Managers and Biologists, 1981, Lewiston, Idaho.

U.S. Fish and Wildlife Service Instream Flow Strategies and Application Workshop, 1982, Portland, Oregon.

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Instream Flow Publications:

- Bovee, Ken D. and Tim Cochnauer. 1977. Development and evaluation of weighted criteria, probability of use curves for instream flow assessments; fisheries. Instream Flow Information Paper No. 3. Cooperative Instream Flow Service Group, Fort Collins, Colo. 49 p.
- Cochnauer, Tim. 1976. Idaho Department of Fish and Game instream flow program status. In: Instream Flow Needs and Competing Uses for Water. Proceedings of a Joint Water Resources Seminar of the University of Idaho and Washington State University. Pp. 49-79.
- _____. 1976. Stream resource maintenance flow studies, 1976. Job Performance Report, F-69-R-1, Job II. Idaho Department of Fish and Game. 44 p.
- _____. 1976. Instream flow techniques for large rivers. Instream Flow Needs, Vol. II, American Fisheries Society, 1976.
- _____. 1977. Snake River stream resource maintenance flow studies, 1975-76. A Report with Recommendations to the US Bureau of Reclamation, Boise Office. Idaho Department of Fish and Game. 14 p.
- _____. 1977. Stream resource maintenance flow studies, 1977. Job Performance Report, F-69-R-2, Job II. Idaho Department of Fish and Game. 85 p.
- _____. 1977. Stream resource maintenance flow determinations for Box Canyon Springs. Idaho Department of Fish and Game. 10 p.
- _____. 1977. Snake River (American Falls Dam to Lake Walcott) stream flow study, 29 October - 10 November 1977. Idaho Department of Fish and Game. 31 p.
- _____. 1980. Snake River fisheries investigations, survey of fish populations and status of white sturgeon populations in the Snake River. Job Performance Report, Project F-73-R-2. Idaho Department of Fish and Game. 21 p.
- _____. 1980. Stream flow investigations. Job Completion Report. Idaho Department of Fish and Game. 16 p.
- _____ and Edwin Buettner. 1978. Stream flow investigations--stream resource maintenance flow determinations on Idaho streams. Job Performance Report, Project F-69-R-3, Job No. II. Idaho Department of Fish and Game. 88 p.
- Cochnauer, Tim and Bill Horton. 1981. A reference workbook for determining instream flow needs in Idaho. Idaho Department of Fish and Game. In Press.
- Cochnauer, Tim and Neil R. Hoyt. 1979. Stream flow investigations--stream resource maintenance flow determinations on Idaho streams. Job Performance Report, Project F-73-R-1. Idaho Department of Fish and Game. 50 p.

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Cochnauer, Tim and L. Brent Mabbott. 1981. Instream flow study, Bureau of Land Management. Annual Report, April 1981. Idaho Department of Fish and Game.

Cochnauer, Tim and Robert G. White. 1975. Stream resource maintenance flow studies, 1975. A Cooperative Study; Idaho Department of Water Resources, Idaho Department of Fish and Game and Idaho Cooperative Fishery Research Unit. 136 p.

Horton, William D. and Tim Cochnauer. 1979. Instream flow methodology evaluation, biological criteria determination, and water quality needs for selected Idaho streams. Stream Evaluation Project--Phase II, BOS, Western Water Allocation Projects, Contract No. 14-16-0001-77090. 177 p.

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Miscellaneous:

Since September 1974, I have been employed as a Fishery Research Biologist for the Idaho Department of Fish and Game. During the period 1974-79, I was assigned as the project leader on the Department's stream flow investigations project. My main duties were to formulate a program for developing instream flow needs for fish and wildlife resources on major streams throughout Idaho, and implement that program in subsequent years. During the five years of the project approximately 100 stream resource maintenance flow recommendations were developed and 50 applications for instream flow water rights were prepared in accordance with legislation that designated fish and wildlife resources as a beneficial use of water. I have attended Department of Water Resources' hearings on applications for stream flow water rights, and have appeared as an expert witness in support of the applications when reviewed by legislative committees.

During this period I was responsible for administering seven contracts to develop instream flow needs for streams on priority lists of several federal and state agencies. I have worked with the Idaho Department of Water Resources, Idaho Department of Parks and Recreation, U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, U.S. Bureau of Land Management, and U.S. Forest Service in coordinating stream flow studies and providing technical assistance to their personnel.

A major component in the assessment of instream flow needs is the evaluation of habitat loss with decreases in discharge for fish species of concern. Since 1974 I have been involved in the development of habitat requirements for most game fish species found in Idaho. In 1977, I was assigned to the U.S. Fish and Wildlife Service's Cooperative Instream Flow Service Group in Fort Collins, Colorado. One of major responsibilities at Fort Collins was to develop habitat curves for sixty cold and warm water game fish species. In 1977 and 1978, I was involved in field investigations to collect habitat requirement information for game fish species on 21 Idaho streams. Working as the project leader on the Department's stream flow investigations for five years and remaining as a technical consultant after that period has allowed me to become very familiar with the habitat requirements for game fish in Idaho and how that habitat is impacted by development.

During 1979-81, I was assigned as the project biologist on Department's Snake River investigations project. The objectives of this project have been to assess fish populations and collect white sturgeon life history data from the Snake River.

Since 1981, I have been assigned as a principal fishery research biologist coordinating research projects on northern Idaho lakes and supervising research projects on rivers and streams throughout the state. I have also continued to coordinate instream flow studies throughout the state.

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Wetted Perimeter (ft)

50
40
30
20
10

10 20 30 40 50 60 70 80

Discharge (cfs)

Wetted Perimeter - Discharge relationship for Malad River below Idaho
Power Company diversion.



IP

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JUN 29 1988

Exhibit

F+G

C

STATEMENT OF ROBERT J. BELL, REGIONAL FISHERY MANAGER
IDAHO DEPARTMENT OF FISH AND GAME
INSTREAM WATER RIGHT APPLICATIONS
FOR THE LOWER MALAD RIVER

To: Idaho Water Resource Board

Date: November 9, 1983
Gooding, Idaho

The Malad River Springs emerge and flow into the Malad River approximately 2.5 miles above its confluence with the Snake River. Water from these springs forms the bulk of the flow much of the year through the area involved in this instream flow application and mixes with water originating from the Big and Little Wood Rivers at other times of the year.

Total flows from the Malad Springs have averaged approximately 1200 cfs (1960-67) which make them one of the two largest Snake Plain Aquifer springs. Water quality of these springs is excellent with a constant temperature of about 58° F (14.4° C). Numerous of the inflowing Malad Springs are visible from openings above the Big Wood River but much of this spring discharge occurs along the floor of the river channel and is apparent only as a gain in flow in the river reach. A high percentage of this water is diverted approximately one mile above the river mouth for power development--until recently for both power and irrigation. Exhibits 3-A, 3-B are photos of portions of the stream sections involved.

The section of the Malad River involved in this instream flow application supports a very high quality game fishery. Good rearing and spawning habitat is provided for both resident trout and trout migrating in from the Snake River. Rainbow trout populations are excellent and brown trout are occasionally caught within the area. Good populations of smallmouth bass are also present in the area and contribute to the fishery.

The wild trout populations within the stream section are very good and the area receives relatively high fishing pressure from all types of anglers--bait, lure and fly. The wild trout populations are supplemented by annual stockings of approximately 6,000 rainbow trout (roughly 2,000 pounds) from the Hagerman State Fish Hatchery. These stockings are adjusted for runoff conditions but are normally made periodically from about mid-May through July.

Exhibit No. 1 summarizes the results of the recent electrofishing of an area approximately 100 feet long and ten feet wide within the area involved in the flow request. Exhibit 4-B and 5 are photos of trout obtained. The electrofishing was done by Department of Fish and Game fisheries personnel on November 4, 1983. High stream flows made electrofishing difficult and many fish which were shocked escaped before they could be netted for measurement. A total of 17 rainbow trout ranging in size from six inches (152 mm) to 11.5 inches (292 mm) was actually obtained in the operation and another estimated 20 to 25 trout of approximately the same size range were stunned but escaped. This is a high density of trout for such a small sample area. All but one of the 17 rainbow trout obtained were wild fish and were in excellent body condition. The fish obtained only a very small sample of trout within the area and in no way reflect the total population.

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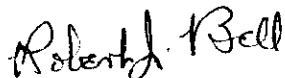
JUN 29 1988

Statement of Robert J. Bell
Instream Water Right Applications for Lower Malad River
Page 2

Rough angler use estimates compiled by Department of Fish and Game personnel are summarized in Exhibit No. 2. We estimated the area involved within the flow requests receives approximately 3,415 angler days annually. The estimated annual economic value from this fishery would be approximately \$128,440.

In my opinion the requested instream flow of 39 cfs is necessary to maintain adequate resting, rearing and spawning areas within the stream section involved.

Sincerely,



Robert J. Bell
Regional Fishery Manager

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JUN 29 1968

EXHIBIT 1.

Summary of electrofishing done by Idaho Department of Fish and Game personnel on the Malad River within the requested instream flow section on November 4, 1983.

							Idaho Dept. of Fish & Game Personnel Doing Electrofishing
Location of Electrofishing	Length of Stream Section Electrofished	Total No. Rainbow Obtained*	Total Wild Rb	Total Hrb	Total Length Ranges Rainbow	Mean Length Rainbow	
Approx. 200 yds. 100 ft. above river (approx 10 ft. wide)		17	16	1	6-11.5 in. (152-292 mm)	8.7 in. (221 mm)	John Stevens & Paul Smith

(mouth

* An estimated 25 trout were stunned but escaped from the electrical field. Two 11.5 inch females obtained were ripe.

28

* An estimated 25 trout were stunned but escaped from the electrical field. Two 11.5 inch females obtained were ripe.

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Exhibit 2. Angler use estimates during the general fishing season on the lower Malad River between its mouth and the lower Idaho Power Company diversion.

Month	Estimated current average angler use per day	Total estimated angler days
January	5	155
February	10	155
March	10	280
April	10	300
May	15 50 (from opening of general season)	385 200
June	15	450
July	15	465
August	10	310
September	10	300
October	5	155
November	5	150
December	5	155
Total		3,615

The net value per day of fishing in Idaho streams (updated with the consumer price index) comparable to the lower Malad River amounted to approximately \$35.53 in June of 1983. Applying this figure, the estimated annual economic value of the fishery on the section of Malad River involved would be approximately \$128,440.

These associated fishing costs are primarily for expenses involved with the transportation to and staying in the fishing area (gas, meals, motel, etc.). Durable costs for permanent items such as fishing or camping gear are not included.

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EXHIBIT NO. 3

Exhibit 3-A. The Malad River looking upstream from a point approximately 250 yards above its confluence with the Snake River. Photo taken in May, 1979 by Stuart Murrell of the Idaho Department of Fish and Game.



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EXHIBIT NO. 3

Exhibit 3-B. The Malad River looking upstream from a point approximately 200 yards above its confluence with the Snake River. Photo taken on November 4, 1983 by John Stevens of the Idaho Department of Fish and Game.



JUN 29 1988

EXHIBIT NO. 4

Exhibit 4-B. Wild rainbow trout approximately 11 inches (279 mm) in total length obtained in electrofishing operation in the Malad River approximately 200 yards above its mouth on November 4, 1983. Photo taken by John Stevens of the Idaho Department of Fish and Game.



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JUN 29 1988

EXHIBIT NO. 5

Exhibit 5. Ripe female rainbow trout approximately 11.5 inches (292 mm) in total length obtained in electrofishing operation in the Malad River approximately 200 yards above its mouth on November 4, 1983. Photo by John Stevens of the Idaho Department of Fish and Game.



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JUN 29 1988

Attachment 1

WATER INFORMATION BULLETIN NO. 6

RECORDS OF NORTH-SIDE SPRINGS AND OTHER INFLOW TO SNAKE RIVER
BETWEEN MILNER AND KING HILL, IDAHO, 1948-67

By

C. A. Thomas

United States Geological Survey

Prepared by the United States Geological Survey

in Cooperation with

The Idaho Department of Reclamation

Published by

Idaho Department of Reclamation

R. Keith Higginson

State Reclamation Engineer

August 1968

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JUN 29 1988

M13-1534. Malad Springs near Hagerman, Idaho

Location.--Springs head in SE $\frac{1}{4}$ sec.25, T.6 S., R.13 E., and continue to accumulate and supplement Big Wood River to the mouth where it enters the right bank of Snake River at river mile 571.2, in NW $\frac{1}{4}$ sec.34, T.6 S., R.13 E., 3 miles north of Hagerman.

Records available.--1899, 1910-11, 1913, 1917, 1919, 1924, 1950-59, 1963-64, 1966-67: One or more sets of measurements each year for use in computing spring discharge (see tabulation in WSP 1463 for measurements prior to 1950).

Altitude.--Springs are between altitudes 2,900 and 3,100 ft (from topographic map).

Physical features.--Water issues directly from basalt in and near the floor of a deep canyon. Discharge from numerous openings above Big Wood River is visible, but much of the discharge occurs along the floor of the river channel and is apparent only as gain in flow in the reach, which extends about 2.5 miles above the mouth.

Remarks.--Almost the entire flow is diverted about 1 mile above mouth of Big Wood River for irrigation and power development. King Hill Irrigation Co. has an assigned right of 300 cfs; the power company, the remainder of the flow. Results shown herein are adjusted for diversion and surface inflow to approximate the total spring flow. In this report, usage conforms with the latest decision of the Board of Geographic Names, dated January through April 1960. According to this decision, the name Big Wood River applies to the entire reach of channel to Snake River, and Malad Springs discharge into Big Wood River (Nace and others, 1959, p. 14).

Discharge measured at the site during the years 1950-67,
adjusted for surface inflow and diversion

Date	Discharge (cfs)	Date	Discharge (cfs)	Date	Discharge (cfs)
4- 1-50	1,260	4- 2-54	1,210	4- 6-59	1,270
10-26-50	1,270	4- 7-55	1,210	3-29-63	1,220
3-29-51	1,240	7-25-56	1,360	6- 2-64	1,250
4-21-52	1,300	4- 1-57	1,350	5- 6-66	1,230
4-14-53	1,230	3-31-58	1,270	3- 8-67	1,220
11-21-53	1,260				

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JUN 29 1988

IDWR STAFF - MSF NOTES
37-7920

- On June 19, 1981, the Idaho Department of Fish & Game presented to the Idaho Water Resource Board a request for a minimum stream flow water right on the Malad River tributary to the Snake River, Gooding County.
- This request was considered by the Board and the same day the Board filed a corresponding application for permit with the IDWR, numbered 37-7920.
- Copies of the application were sent to the state departments of Fish and Game, Recreation, and Health and Welfare, and a news release of the filing was circulated.
- No further action was taken on the application until September, 1983. The IWRB held an informal public meeting to determine public interest with respect to the application on September 21, 1983. This meeting was advertised by notices published in the Gooding County Leader and the Lincoln County Journal on September 15 and 22; and by letters sent to water-users who divert in or near the affected reach, to the owners of land adjacent to the reach, and to legislators of nearby districts.
- Based on the public input received by Board members at the meeting and afterward, the Board resolved at a meeting on October 7, 1983 to request the Director to proceed with administrative action on the application.
- A public notice of the application and this hearing was advertised on October 20 and 27 in the Gooding County Leader. The hearing information was also sent to each party notified about the public meeting in the file, plus each party that attended the public meeting.
- Letters in support of the proposed minimum flow were received from:
 1. Mr. Peter Bowler
 2. *Baggins Valley Citizens Alert Inc.*
 - 3.
 - 4.
- Letters in Opposition were received from:
 - 1.
 - 2.
 - 3.

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JUN 29 1988

IDWR STAFF - MSF NOTES
37-7920
Page 2

- Letters of general comment were received from:
 1. Idaho Power Company
 - 2.
 - 3.
- Present Staff Exhibit 1 which depicts the location of the reach of stream in question.
- Present Staff Exhibit 2 which shows other water rights near the proposed MSF.
- Discuss the lack of flow data in the reach in question and our understanding of the intentions of Idaho Power Company and IDFG with respect to future measurements.

INDEXED

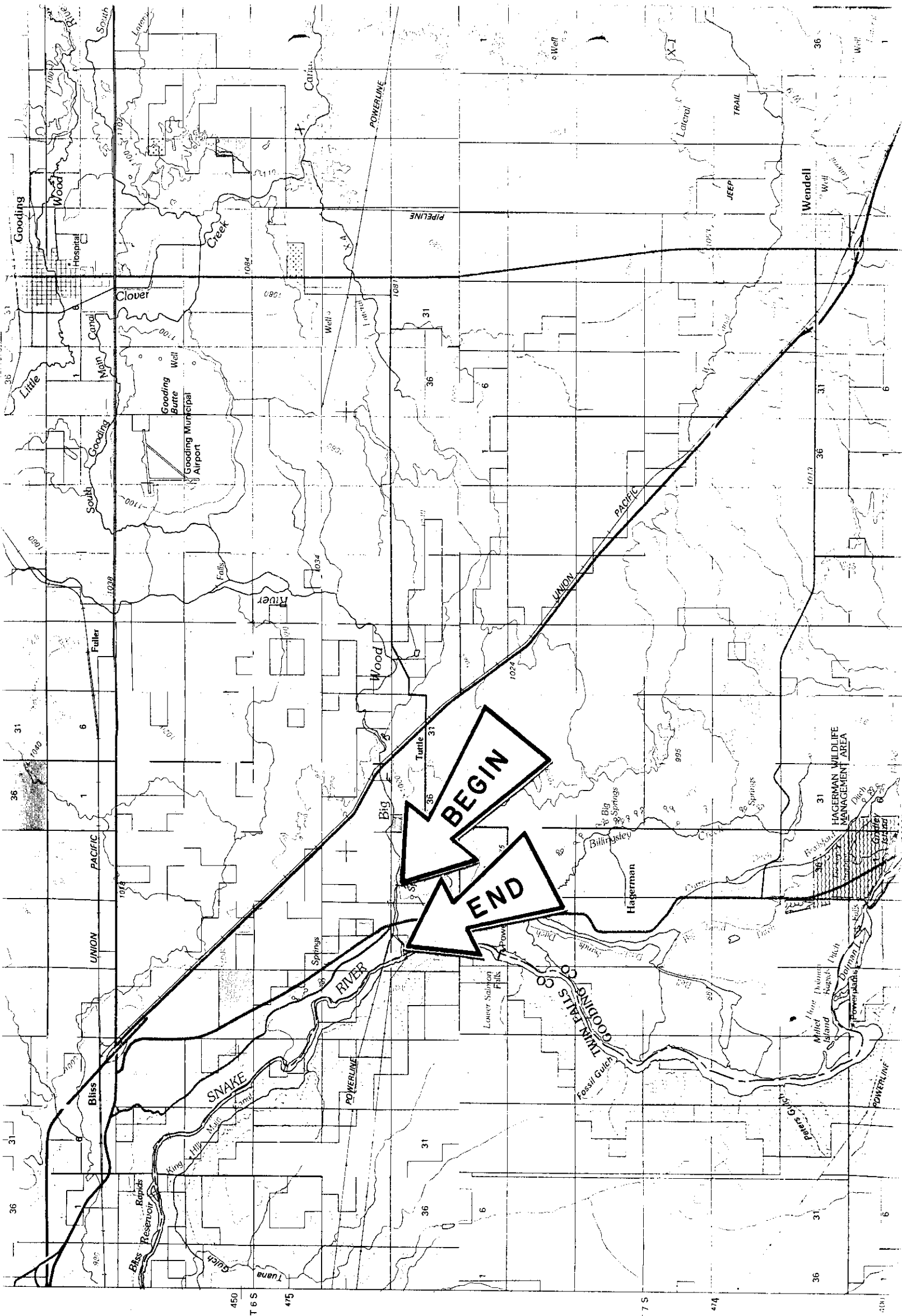
JUN 29 1988

MSF NOTES

- Be Sworn
- Name - David R. Tuthill, Jr.
- Address - 4639 Cochees, Boise, ID
- Employed by the Idaho Department of Water Resources
- The position I now hold is Supervisor, Water Allocation Section. I have been in this position for 5 years and have been employed by the Department for a total of 7½ years. I am registered as a Professional Engineer in Idaho.
- My statement will include:
 - 1) A chronology of Department activities to date with respect to the application.
a) A review of the application
 - 2) Information on existing water rights and hydrology that the Director may use in his action on the application.

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JUN 29 1988

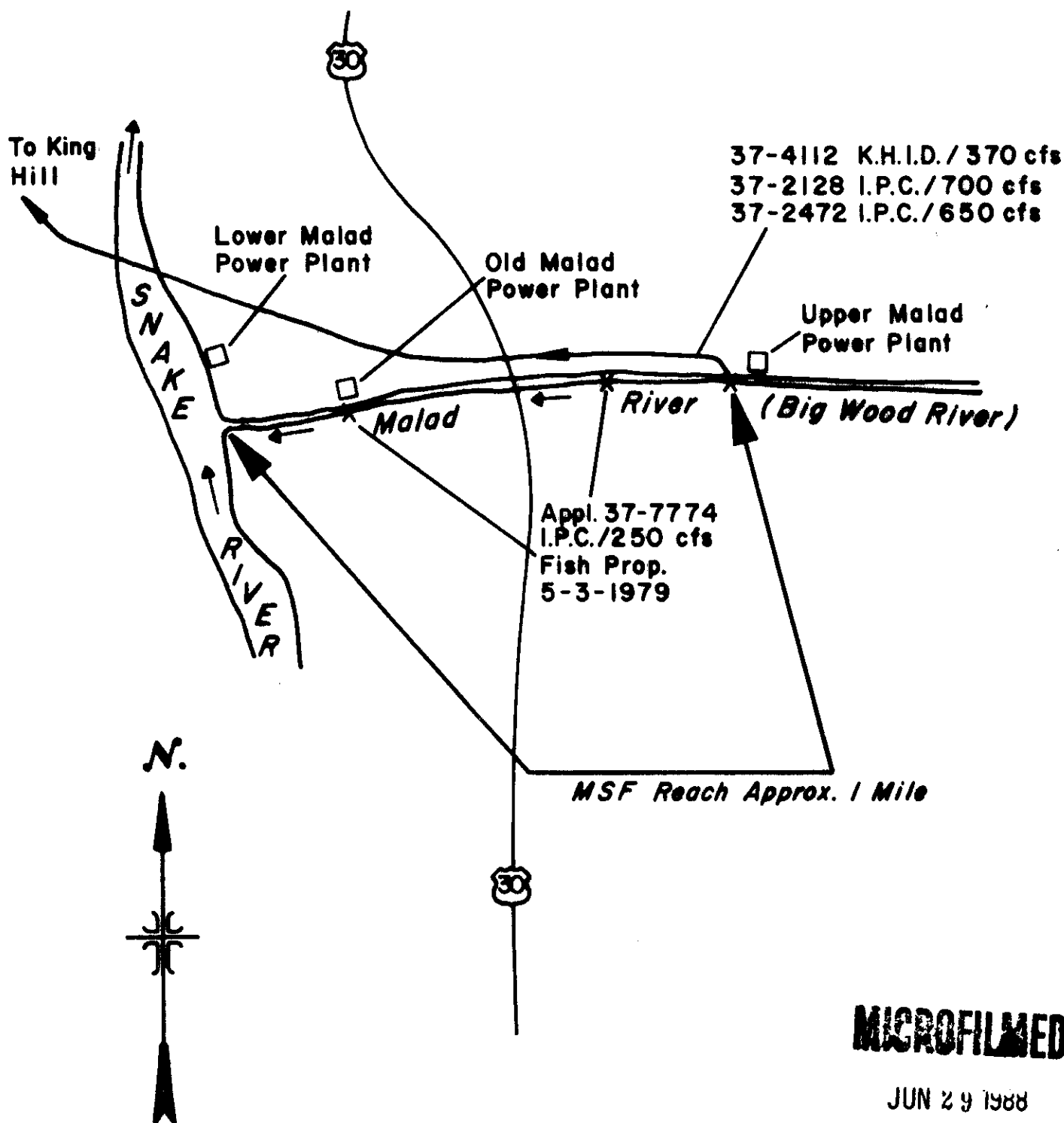


IDAHO DEPARTMENT OF WATER RESOURCES
Exhibit 1

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JUN 29 1988

MSF FILING ON THE MALAD RIVER
W.R. NO. 37-7920



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JUN 29 1988

IDAHO WATER RESOURCE BOARD FILING: 39.0 cfs

IDAHO DEPARTMENT OF WATER RESOURCES

Exhibit 2



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

C. STEPHEN ALLRED
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

July 14, 1981

MEMO

TO: Dave Tuthill *DET*
FROM: Alan Robertson *R*
SUBJECT: FLOW OF BIG WOOD RIVER AT LOCATION OF REQUESTED *37-7920*
IN-STREAM WATER RIGHT (Idaho Power Diversion to Mouth)

Requested flow in the reach is 39 cfs at all times. Flow in the reach is governed by upstream diversions for irrigation and diversion by Idaho Power Co. through a flume which bypasses flow around the reach to the Lower Malad power plant where it is discharged to Snake River. Groundwater discharge occurs through a group of springs collectively known as Malad Springs, which head in SE 1/4 Sec. 24, T6S, R13E and continue to accumulate and supplement the Big Wood to its mouth. Total flow of the springs normally is about 1200 cfs but that portion which accrues to the river upstream from the head of the power flume (most of it) is diverted.

Flow in the requested reach is dependent on that which comes from the Big Wood above the springs, irrigation waste and the springs below the flume. ~~Big Wood~~ flows are frequently very low resulting in their total diversion through the power flume. Only miscellaneous data are available for the requested reach and exact locations of those measurements are not known. ~~of 24~~ measurements made since 1950 during various seasons, two were less than the 39 cfs flow which has been requested. Six others were less than 100 cfs, indicating that portions of the reach may have had less than the requested flow in part of the reach.

AR:mb

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JUN 29 1988

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

File No. { Washington
District

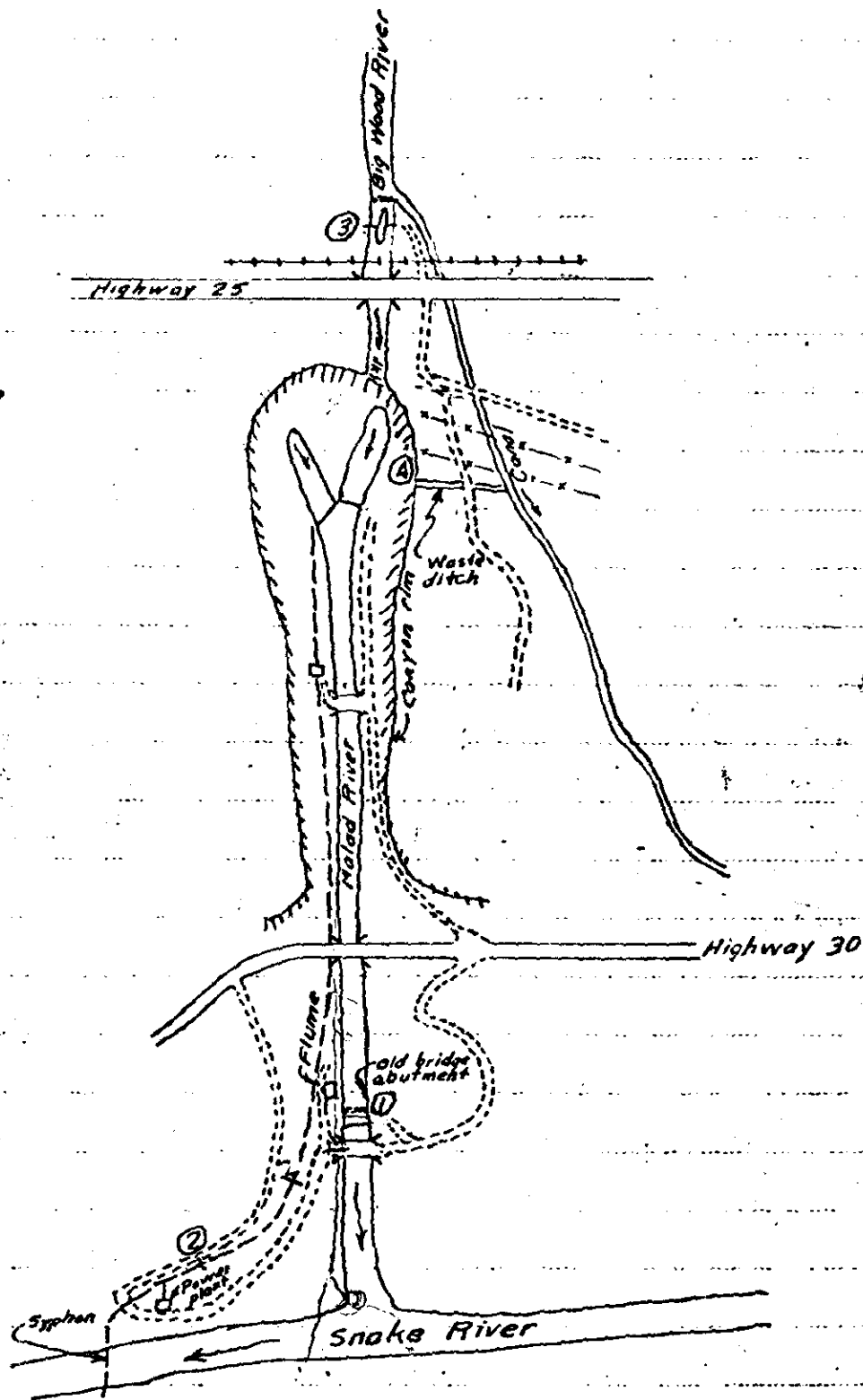
Malad Springs near Hagerman Idaho

LDWIR EXHIBIT 3

				Malad River ①	Power Flume ②	Total outflow ①+②	Big Wood River ③	Waste Ditch ④	Total Inflow ③+④	Malad Spring (①+③) -(④+⑤)	
April 1, 1950	WIT-RPJ			258	1220	1478	223	—	223	1255	cfs.
October 27 1950	RPJ-RFW			214	1120	1334	61.7	2.78	64.5	1270	cfs.
MARCH 29 1951	JRS-JEC			661	1180	1841	586.3	14.5	601	1240	cfs.
April 21 1952	JRS BMC			897.3	1329.4	2226.7	936.3	22.4	958.7	1270	
April 14 1953	JRS JF			548	1166	1714	456	30	486	1228	
Nov 21 1953	JRS BMC			133	1238	1371	80	35	115	1256	
Apr 2 1954	JRS TNL			200	1196	1396	159	30	189	1207	
Apr 7 1955	JRS TNL			119	1290	1409	182	16	198	1211	
July 25 1956	JRS J.O.			60	1330	1390	31.6	1	32	1358 1360	
April 1957	JRS ECH			296	1466	1762	394	17.6	412	1350	
Mar 31 1958	JRS TNL			94	1337	1431	124	40	164	1267	
Apr 6 1959	JRS TNL			69	1270	1339	68.0	0.5	68.5	1270	
Nov 29 1963	JRS SC			114	1144	1258	36.3	1.0	37.3	1220	
June 2 1964	JRS SC			149	1300	1449	201	3.0	204	1245	cfs
May 6 1966	ELY AEN			50.2	1,180	1231	0.1	0.1	0.2	1231	cfs
Mar. 8 1967	ELY RWL			101	1,200	1,301	75.9	0.05	75.95	1,225	cfs
May 13 1968	SCL B.O.			70.7	1,300	1,371	114	3.02	122	1,249	cfs
Aug 5 1969	ELY RAS			138	1,210	1,348	71.3	17.4	88.7	1,259	cfs
Aug 20 1971	ELY B.O.			214	1,255	1,469	132	6.3	138.3	1,330	cfs
Sept. 6 1974	ELY DK			151	1,330	1,481	136.5	19.1	136	1,340	cfs
Sept 13 1975	BBB NDJ			192	1330	1522	146	22.7	168.7	1353	cfs
Nov 4 1977	AWR WHL			31.6	1306	1338	11.7	8.9	20.6	1317	cfs
Nov 26 1979	SCL D.J.			74.0	1,198	1,272	105	0	105	1167	
Mar 24 1980	ELY WHL									1227	cfs
Mar 24 1980	ELY WHL			214	1,290	1311.4	84.6	0	84.6	1227	cfs
Nov. 7 1980	ELY TSB			416	1224	1640	264	15.7	279.7	1,360	cfs
Mar 13 1981	ELY AWR			65	1130	1195	74	0	74	1,121	cfs

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

RE: Minimum Stream Flow Applications on the Malad River

Dear Interested Party:

On September 21, 1983, you attended a public meeting held by the Idaho Water Resource Board regarding two applications for minimum stream flows on the Malad River.

Please be advised that based on the public input received, the Board requested the Director of the Idaho Department of Water Resources to proceed with administrative actions on both applications. Therefore, a hearing has been scheduled for November 9, 1983 as described on the enclosed fact sheet.

At the hearing, you will have an opportunity to provide testimony. If you wish to become a full party with the opportunity to cross-examine witnesses, please advise this office on or before November 4, 1983. On behalf of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

David R. Tuthill, Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988

Tom Anderson

Rt 1 Box 361 - Hagerman, Id 83332

837-6275 Home

Work 837-4859

RECEIVED
NOV 3 1983
Department of Water Resources
Southern District Office

ATT: DAVE Tuthill
I would like to see the fact sheet

Oct 29 83 RECEIVED

OCT 31 1983

Department of Water Resources

David R. Tutthill Jr. P.E.
Supervisor, Water Allocation Section
Dept of Water Resources

State Office 450 W State St Boise Idaho 83720

Dear Mr. Tutthill:

We would like ^{to} cross ~~not~~ examine witnesses
at the Minimum Stream Flow Applications on the
Malad River to be held Nov 9, 83.

We would like to cross-examine witnesses for
the Idaho Parks + Recreation Dept. and the Fish +
Game Dept. applications

We also plan to provide testimony at the
hearing.

Yours Truly
Edward C. and Ruth C.
Shokal

PO # 1 Box 410 Hagerman

Idaho 83332

Phone 837-4577

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JUN 29 1988



October 28, 1983

Contact: Dave Tuthill (334-4104)

State of Idaho, Statehouse, Boise, Idaho 83720

Phone: (208) 334-4440

NEWS RELEASE

FOR IMMEDIATE RELEASE

BOISE---A public hearing on two minimum stream flow applications on the Malad River is scheduled for Wednesday, November 9, at 1:30 p.m., in the Council Room at City Hall, 308 Fifth Avenue, Gooding. Norman C. Young, administrator, Resource Administration Division, Idaho Department of Water Resources (IDWR), will conduct the hearing.

The first application, #37-7892, filed March 27, 1981, at the request of the Idaho Department of Parks and Recreation, seeks a 75 cubic feet per second (cfs) instream flow year-around in the reach beginning at the diversion dam of the Justice and Thorpe ditches. The flow would extend 3/4 mile to the Devil's Washbowl at Malad Gorge State Park, and would protect the 60 foot waterfall and the fish and wildlife habitat in that reach of the stream.

The second application, #37-7290⁷⁹²⁰, was filed June 19, 1981 at the request of the Idaho Department of Fish and Game. It seeks a 39 cfs flow year-around on the Malad River from its confluence with the Snake River upstream to the Idaho Power diversion. This proposed flow would maintain trout spawning and rearing habitat in that reach.

The public hearing will give interested parties the opportunity to express their support or opposition to the proposed stream flow applications. Following the hearing, the director of the Department of Water Resources will either approve or deny the applications. If

--more--

JUN 29 1988

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approved, it will then be submitted to the Idaho Legislature.

"Minimum stream flows, water rights in which the stream is not diverted, are junior to all water rights with earlier priority dates," Young said. "These rights help protect the fish and wildlife habitat, water quality, recreation, aesthetics, transportation or navigation."

The public is encouraged to attend.

Linda White
Hotline Specialist

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JUN 29 1988



RECEIVED

OCT 31 1983

Department of Water Resources

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

JIM JONES
ATTORNEY GENERAL
STEPHEN V. GODDARD
WILLIAM B. DILLON, III
DEPUTY ATTORNEYS GENERAL
IDAHO DEPARTMENT OF FISH AND GAME

600 S. WALNUT ST.
P.O. Box 25
BOISE, IDAHO 83707
(208) 334-3715

October 28, 1983

Mr. David Tuthill, ^{DAV} Supervisor
Water Allocation Section
Idaho Dept. of Water Resources
STATEHOUSE
Boise, Idaho 83720

Dear Dave:

The Idaho Department of Fish and Game hereby requests full party status in the following instream flow hearings scheduled to be heard on November 9, 10, and 16, 1983:

Malad River	Application No. 37-7920
Silver Creek	Application No. 37-7849
Grouse Creek	Application No. 96-7980
Lightning Creek	Application No. 96-7979

Thank you for your consideration in the matter.

Sincerely,

A handwritten signature in cursive script, reading "Steve Goddard".

Stephen V. Goddard
Deputy Attorney General
Idaho Dept. of Fish and Game

SVG:tlv

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 28, 1983

RE: Hearings on Minimum Stream Flows

Dear Board Member:

In accordance with the resolution of the Idaho Water Resource Board which requested the Director, IDWR, to proceed with administrative actions on five minimum stream flow applications, hearings have been scheduled.

As described on the attached fact sheets, the hearing locations are as follows:

<u>Water Right No.</u>	<u>Source</u>	<u>Date, Time</u>	<u>Location</u>
37-7892	Malad River	Wed., Nov. 9, 1:30 pm	Gooding
✓37-7920	Malad River	Wed., Nov. 9, 1:30 pm	Gooding
37-7849	Silver Creek	Thur., Nov. 10, 9:00 am	Hailey
96-7979	Lightning Cr.	Wed., Nov. 16, 9:00 am	Sandpoint
✶96-7980	Grouse Creek	Wed., Nov. 16, 9:00 am	Sandpoint

Note that the hearing in Sandpoint will be held the day after the next Board meeting in Coeur d'Alene.

On behalf of the Director, you are cordially invited to attend the hearings. If you plan to attend, please coordinate your travel and lodging arrangements through Anita Warntjes.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988

Malad River

37-7892
37-7920

T.E. Anderson
Route 1
Hagerman, ID 83332 P

James S. & Diane K. Andrade
27340 Fern Ridge RD.
Sweet Home, OR 97386 P

R.K. Bendorf
Rt. 1, Box 360
Hagerman, ID 83332 W

Aldrich Bowler
Bliss, ID 83314 I

Richard Dalton
Star Route
Bliss, ID 83314 I

Enterprise Ditch Company
P. Brown
Gooding, ID 83330 I

S.A. Farms
2719 Airport Ways
Boise, ID 83705 P

W.E. Flint
Hagerman, ID 83332 I

Idaho Power Company
Att: Connie M. Orme or
Jim L. Kirkland
Gooding, ID 83330 I

Idaho State Parks Board
Att: Glenn Shoemaker
Kinberly, ID 83341 I

Justice Ditch Company
c/o R. Bendorf
Rt. 1
Hagerman, ID 83332 I

Justice Ditch Company
c/o Tom Anderson
Hagerman, ID 83332 I

King Hill Irrigation Dist.
Box 428
King Hill, ID 83633 W

King Hill Irrigation Dist.
c/o Larry Stevens
King Hill, ID 83633 I

Vern Ravenscroft or
Helen Chenoweth
Consulting Assoc., P.O. 893
Boise, ID I

Ed Shokal
Hagerman, ID 83332 I

Fae Slatter
Route #1
Gooding, ID 83330 P

Floyd Marsh
Hagerman, ID 83332 P

Jim Mechan
Bliss, ID 83314 I

Reid Newby, Box T
Water Districts 37 & 37M
Shoshone, ID 83353 I

North Side Canal Co.
Att: Bob Burks
Wendell, ID 83355 I

North Side Canal Co.
Att: Ted Diehl
Jerome, ID 83338 I

North Side Canal Co.
Att: Leo Mobdey
Bliss, ID 83314 I

Lyons Woody
Hagerman, ID 83332

Fred Zeller
416 Debois
Twin Falls, ID 83301 P

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JUN 29 1988

Key:

I - Interested Party
P - Property Owner
W - Water user

The following three
letters were sent to the
appropriate people on the
above mailing list on
10/28/83 N. Sale



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

RE: Minimum Stream Flow Applications on the Malad River

Dear Interested Party:

On September 21, 1983, you attended a public meeting held by the Idaho Water Resource Board regarding two applications for minimum stream flows on the Malad River.

Please be advised that based on the public input received, the Board requested the Director of the Idaho Department of Water Resources to proceed with administrative actions on both applications. Therefore, a hearing has been scheduled for November 9, 1983 as described on the enclosed fact sheet.

At the hearing, you will have an opportunity to provide testimony. If you wish to become a full party with the opportunity to cross-examine witnesses, please advise this office on or before November 4, 1983. On behalf of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

RECEIVED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

RE: Minimum Stream Flow Applications on the Malad River

Dear Property Owner:

The Idaho Department of Water Resources will be holding a hearing on two minimum streamflow applications on reaches of the Malad River. According to the records at the county courthouse, you are one of the owners of property adjacent to one of the reaches where the minimum streamflow is proposed.

Information describing the applications and the time and place of the hearing is shown on the enclosed fact sheet. Also enclosed is a brochure which describes the minimum streamflow procedure.

At the hearing you will have an opportunity to provide testimony. If you wish to become a full party with the opportunity to cross-examine witnesses, please advise this office on or before November 4, 1983. On behalf of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

RE: Minimum Stream Flow Applications on the Malad River

Dear Wateruser:

The Idaho Department of Water Resources will be holding a hearing on two minimum streamflow applications on reaches of the Malad River. According to the records of this Department, you have a water right for which the point of diversion is located in or near the proposed minimum streamflow reaches.

Information describing the applications and the time and place of the hearing is shown on the enclosed fact sheet. Also enclosed is a brochure which describes the minimum streamflow procedure.

At the hearing you will have an opportunity to provide testimony. If you wish to become a full party with the opportunity to cross-examine witnesses, please advise this office on or before November 4, 1983. On behalf of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988

MINIMUM STREAM FLOW
Fact Sheet

Water Right No.: 37-7892

Source: Malad River (Big Wood River) tributary to the Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Parks and Recreation

Date Application Filed: March 27, 1981

Rate of Flow: 75 cubic feet per second year around

Location of Reach: From the diversion dam of Justice and Thorpe ditches within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 30, Township 6 South, Range 14 East downstream to the Devil's Washbowl within the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30, Township 6 South, Range 14 East.

Purposes: Aesthetics with respect to the 60 foot waterfall at Devil's Washbowl within Malad Gorge State Park, and habitat for fish, waterfowl and animals within the reach.

Hearing: Wednesday, November 9, 1983, at 1:30 p.m. at the Council Room of City Hall, 308 5th Ave. W., Gooding

Water Right No.: 37-7920

Source: Malad River (Big Wood River) tributary to the Snake River

Applicant: Idaho Water Resource Board

Requesting Agency: Idaho Department of Fish and Game

Date Application Filed: June 19, 1981

Rate of Flow: 39 cubic feet per second

Location of Reach: From the confluence with the Snake River within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 34, Township 6 South, Range 13 East upstream approximately 1 mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 35, Township 6 South, Range 13 East.

Purpose: To maintain trout rearing and spawning habitat

Hearing: Wednesday, November 9, 1983, at 1:30 p.m. at the Council Room of City Hall, 308 5th Ave. W., Gooding

NOT REFILED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. Steve Antone
1141 Link St.
Rupert, ID 83350

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Antone:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. Mark A. Larson
525 Samarra Dr.
Mtn. Home, ID 83647

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Larson:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Senator John Peavey
Box 88
Carey, ID 83320

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Senator Peavey:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

MICROFILMED

JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. John H. Brooks
Rt. 2, Box 233
Gooding, ID 83330

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Brooks:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Senator Claire Wetherell
360 E. 15th N.
Mtn. Home, ID 83647

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Senator Wetherell:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

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On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

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DEPARTMENT OF WATER RESOURCES
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JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Senator Wes Trownson
Rt. 2, Box 108
Wendell, ID 83355

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Senator Trownson:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

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On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

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State of Idaho
DEPARTMENT OF WATER RESOURCES
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JOHN V. EVANS
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Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. Gordon R. Hollifield
Rt. 6
Jerome, ID 83338

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Hollifield:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. Dan Kelly
9930 N. 10th E.
Mtn. Home, ID 83647

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Kelly:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 27, 1983

Rep. Mack W. Neibaur
Rt. 1, Box 1478
Paul, ID 83347

RE: Public Hearings Regarding Water Rights for Minimum Stream Flows

Dear Representative Neibaur:

The Idaho Department of Water Resources has scheduled public hearings on three minimum streamflow applications for water rights proposed in or near your legislative district. You may recall that in September the Idaho Water Resource Board held public meetings on four minimum streamflow applications. Based on public input the Board requested this Department to proceed with processing each of the applications except for the one on the Big Wood River, which they have requested to be held pending further investigation.

The hearing for the two applications on the Malad River will be held at the Council Room of City Hall, 308 5th Ave. West, Gooding, at 1:30 p.m. on Wednesday, November 9. The hearing for the application on Silver Creek near Hailey will be held at the Old County Courthouse, 206 1st Ave. South, Hailey, at 9:00 a.m. on Thursday, November 10. Please find enclosed two fact sheets describing the applications and a brochure about the minimum streamflow procedure.

On behalf of the Director of the Idaho Department of Water Resources, you are cordially invited to attend.

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

October 28, 1983

RE: Hearings on Minimum Stream Flows

Dear Board Member:

In accordance with the resolution of the Idaho Water Resource Board which requested the Director, IDWR, to proceed with administrative actions on five minimum stream flow applications, hearings have been scheduled.

As described on the attached fact sheets, the hearing locations are as follows:

<u>Water Right No.</u>	<u>Source</u>	<u>Date, Time</u>	<u>Location</u>
37-7892	Malad River	Wed., Nov. 9, 1:30 pm	Gooding
37-7920	Malad River	Wed., Nov. 9, 1:30 pm	Gooding
37-7849	Silver Creek	Thur., Nov. 10, 9:00 am	Hailey
96-7979	Lightning Cr.	Wed., Nov. 16, 9:00 am	Sandpoint
96-7980	Grouse Creek	Wed., Nov. 16, 9:00 am	Sandpoint

Note that the hearing in Sandpoint will be held the day after the next Board meeting in Coeur d'Alene.

On behalf of the Director, you are cordially invited to attend the hearings. If you plan to attend, please coordinate your travel and lodging arrangements through Anita Warntjes.

Sincerely,

David R. Tuthill Jr.

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosures

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JUN 29 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 28, 1983

Idaho Dept. of Fish and Game
Attn: Dave Hanson
600 S. Walnut
Boise, ID 83706

Dear Dave:

The purpose of this letter is to follow up earlier telephonic communications by notifying you of upcoming hearings on minimum stream flow applications nos. 37-7920, 37-7849, 96-7979 and 96-7980 for which your agency acted as requestor.

Times and locations are noted on the enclosed fact sheet.

All known interested parties have been notified of the hearings. If any problems arise, please notify me at 334-4104

Sincerely,

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:ns

cc: Steve Goddard IDFG

Enclosures

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JUN 29 1988



State of Idaho
DEPARTMENT OF WATER RESOURCES
STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS
Governor

A. KENNETH DUNN
Director

Mailing address:
Statehouse
Boise, Idaho 83720
(208) 334-4440

October 26, 1983

Mr. Paul L. Jauregui
Idaho Power Company
P.O. Box 70
Boise, ID 83707

RE: Idaho Water Resource Board Application for Minimum Flow
No. 37-7920

Dear Mr. Jauregui:

Your letter dated October 5, 1983, regarding the above referenced minimum stream flow application on the Malad River has been forwarded to me for response. I was present at the October 6, 1983 meeting of the Idaho Water Resource Board (Board) when the letter was entered into the record, and have discussed the issues raised in the letter with Mr. Gene M. Gray, the Water Resource Board member who is Chairman of the Minimum Stream Flow Committee.

First, on behalf of the Water Resource Board I would like to thank you for the input on this issue. The presence of two Idaho Power Company employees, Jim Kirtland and Connie Orme at the informal public meeting, and the letter that you submitted are items of input that are appreciated by the Board in their attempt to review public interest with respect to the proposed minimum flow.

To respond to the issues raised in your letter, the first item to be addressed is the location of the minimum stream flow reach. Item 3 of the application defines the reach as "NE1/4 of NE1/4 Section 34, Township 6S., Range 13E., B.M., Gooding County, upstream approximately one mile to the Idaho Power Company diversion in NW1/4NE1/4 Section 35, Township 6S., Range 13E., B.M.". Item 8(5) of the application indicates that the purpose of the proposed water right is to maintain trout rearing and spawning habitat from "the confluence with Snake River upstream to Idaho Power diversion". Also, the map submitted with the application highlights the reach of Malad River from the confluence with the Snake River upstream to the Idaho Power Company diversion.

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Paul L. Jauregui
October 26, 1983
Page 2

As you have indicated, some information appears to contradict the above reach description. The contradictory items that you identified have been clarified as follows:

- In a study titled "Stream Flow Investigations" by Tim Cochnauer, Table 12 on page 48 refers to the Malad River at the "mouth". However, this table must be reviewed in the context of the report. A stated objective of the report is to determine stream resource maintenance flows for designated study sections on several sources including the Malad River. Table 2 on page 13 identifies the reach from the Idaho Power diversion to the mouth as does the description of the reach on page 22. The report indicates that the transect used to develop a representative flow for the reach was located only about 50 meters downstream from the diversion dam. The designation of the Malad River "at mouth", therefore, on page 48 appears to be an attempt to differentiate the reach in this report from an upstream reach on the Malad River identified in another report. Clearly the intent of the report is to identify a minimum stream flow reach rather than a single location.
- The attachment to the Idaho Water Resource Board application which was provided by the Idaho Department of Fish and Game as part of their request for a minimum stream flow does identify a "point" where the minimum stream flow is requested. However, this "point" is modified within the attachment under "purpose", as follows: "To maintain trout spawning and rearing habitat from the point of requested flow upstream to Idaho Power diversion".
- The same attachment suggests that a gaging site established on the Malad River immediately upstream from the confluence with the Snake River would be sufficient to monitor the requested flow. While it is true that a gaging site will measure the flow at only one location, this does not necessarily imply that the minimum flow is requested at only that location.

The Board is satisfied that the intent of the application is clearly to establish a minimum stream flow of 39 cubic feet per second (cfs) throughout the minimum flow reach.

The second item addressed in your letter concerns the impact of a minimum stream flow water right on the prior water rights of Idaho Power Company on the Malad River. Section 42-1503, Idaho Code, provides that approval by the Director of the Department of Water Resources (Department) of any minimum stream flow must be based on a finding that such an appropriation "will not interfere with any vested water right, permit, or water right application with priority of right earlier than the date of receipt in the office of the Director".

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Paul L. Jauregui
October 26, 1983
Page 3

complete application for appropriation of minimum stream flow..." The Board and the Department have consistently provided that a minimum stream flow water right cannot adversely impact prior rights, as Paul described in the enclosed brochure entitled "Minimum Streamflow". Therefore, if the flow in the Malad River is 1350 cfs at the point of diversion for the Lower Malad Power Plant, then the existence of a minimum stream flow water right cannot prevent the diversion of the entire flow of the river at that point.

The next issue raised in your letter suggests a possible amendment of the upstream point of the minimum stream flow reach to some point where 39 cfs is available even in the lowest of water years. It is true that in order to approve a minimum stream flow application the Director must find that the flow is "capable of being maintained". However, the interpretation of this requirement that has evolved through previous rulings is that the flow must usually but not always be capable of being maintained. The variable nature of flows in most water courses is such that the flow available 100% of the time is a small fraction of the flow normally available. Few of the existing minimum flows that have been established are available continuously. Therefore, even though all or portions of the minimum flow in question are not satisfied at all times, the proposed rate of flow and reach may still be acceptable.

I hope that this information will be helpful in addressing the concerns of Idaho Power Company. At the meeting on October 6, 1983, the Board resolved to request the Director to proceed with administrative actions, so a hearing on the application has been scheduled by the Department for Wednesday, November 9, 1983, at 1:30 p.m. at the City Hall Council Room, 308 5th Ave. West, Gooding. Please consider this letter to be your formal notification of the meeting. If Idaho Power Company wishes to be a full party in the hearing with the opportunity to cross-examine witnesses, please notify this office by November 7, 1983. If you have any further concerns or wish to discuss this matter, please feel free to contact this office.

Sincerely,

David R. Tuthill

DAVID R. TUTHILL, JR., P.E.
Supervisor, Water Allocation Section

DRT:sc

Enclosure

cc: Gene M. Gray
Wayne Haas

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JUN 29 1988

SNAKE RIVER



HYDRO POWER

IDAHO POWER COMPANY

BOX 70 • BOISE, IDAHO 83707

October 5, 1983

PAUL L. JAUREGUI

Vice President

Secretary and General Counsel

(208) 383-2678

Mr Don Kramer
Idaho Water Resource Board
c/o Mr Ken Dunn, Director
State of Idaho
Department of Water Resources
Statehouse
Boise, Idaho 83720

Re: Idaho Water Resource Board
Application for Minimum Flow
No 37-7920

Gentlemen:

The purpose of this letter is to respond to the Idaho Water Resource Board's ("Board") request for public input regarding the Board's application for minimum flow on a reach of the Malad River identified by the Idaho Department of Water Resources as Application No 37-7920 ("Application No 37-7920"). Idaho Power Company ("Company") is unsure of the intent of the Board and the Application, but believes the Application should, if necessary, be amended to conform with Company water rights for its Lower Malad Power Plant.

Application No 37-7920 requests a minimum flow "from the confluence with the Snake River within the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, Township 6 South, Range 13 East, upstream approximately 1 mile to the Idaho Power Company diversion in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, Township 6 South, Range 13 East."

Section 42-1503, Idaho Code, provides that a minimum flow "(a) will not interfere with any vested water right, permit, or water right application with priority of right date earlier than the date of receipt in the office of the director of a complete application for appropriation of minimum stream flow filed under the provisions of this act;".

The Company has the following water rights for its Lower Malad Power Plant:

1. 700 cfs with a priority date of November 25, 1908;
2. 650 cfs with a priority date of May 14, 1946.

In addition, the Company has two applications for permits pending before the Idaho Department of Water Resources to appropriate waters on the Malad River: Application No 37-7774 for 250 cfs with a priority date of May 25, 1975, and Application No 37-7781 with a priority date of May 25, 1975. Both applications have a priority of right earlier than Application No 37-7920. Application No

100 cfs (Spgs trib to Malad R.)

JUN 29 1983

37-7774 for 250 cfs has a point of diversion within the reach of the Malad River covered by the minimum flow in Application No 37-7920. ✓

Despite the legal description included in Application No 37-7920, the Company is unsure what reach of the Malad River the Board intended to cover in the minimum flow. A study titled "Stream Flow Investigations" by Tim Cochnauer, the Idaho Department of Fish and Game ("Study") apparently forms the basis for Application No 37-7920. Table 2 on Page 13 of the Study references a reach of the Malad River from the Idaho Power diversion to the mouth. Table 12 on Page 48 of the Study refers to the Malad River at the mouth. Figure 14 on Page 64 is a flow curve for the Malad River downstream from the Company diversion. The Application on its face recites a legal description that reaches from the mouth upstream to the Company's diversion. But the attachment, which I assume was submitted by the Board, limits the legal description to the mouth of the river as well as requesting a gauging device at the mouth to monitor the requested minimum flow.

No, this description is not controlling. No, By the Requestor, IDFG

If the intent is to have a minimum flow of 39 cfs only at the mouth of the Malad River, you may disregard the following comments concerning the Company's water rights for and operation of the Lower Malad Power Plant. *No* However, if the intent is to have a minimum flow which includes that reach of the Malad River from the mouth upstream to the Company's diversion, the Company would request that the Board consider the following comments.

2/11/ The Company, in order to operate its Lower Malad Power Plant as it has in the past and as it was designed and constructed for efficient operation, may require all or substantially all of the water in the river in order to satisfy the water requirements at the Lower Malad Plant. This means there may be little or no water in the riverbed immediately below the Lower Malad diversion for junior appropriators until the springs enter the river a short distance downstream from the Company's Lower Malad diversion. The effect of establishing a minimum flow of 39 cfs that reaches to the Company's Lower Malad diversion is to require the Company to alter part of its established water rights and operations for the Lower Malad Power Plant. *No*

(prior rights honored) at some times

Since the Board's minimum flow Application cannot interfere with any of the Company's existing water rights, it is necessary to amend the Application to conform with existing rights. The minimum flow should begin at that point in the river below the Company's Lower Malad diversion where, in the lowest of water years, the spring inflow totals 39 cfs. The Company is not sure exactly how far downstream below our Lower Malad diversion one must go until spring inflow totals 39 cfs, but it is at that point that the upper reaches of the Board's minimum flow Application should begin. If the intention is to include within the minimum flow a reach of the Malad River upstream from the mouth, then it should be to a point upstream clearly designated so as not to affect the existing water rights of the Company and operation of the Lower Malad Project.

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Where could this be?

The Company's Application No 37-7774 must also be recognized under the statute and may impact a minimum flow in certain years.

Very truly yours,

Paul L Jauregui
Paul L Jauregui

PLJ/RWS:slp

RECORDED

JUN 29 1988