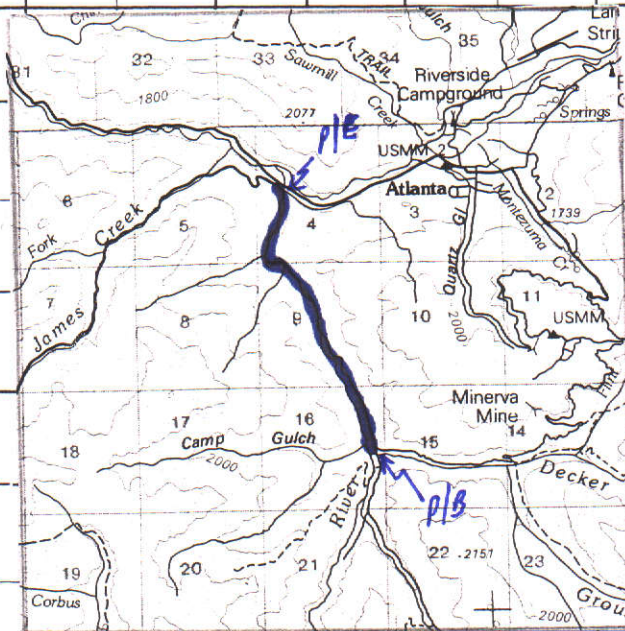


13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.



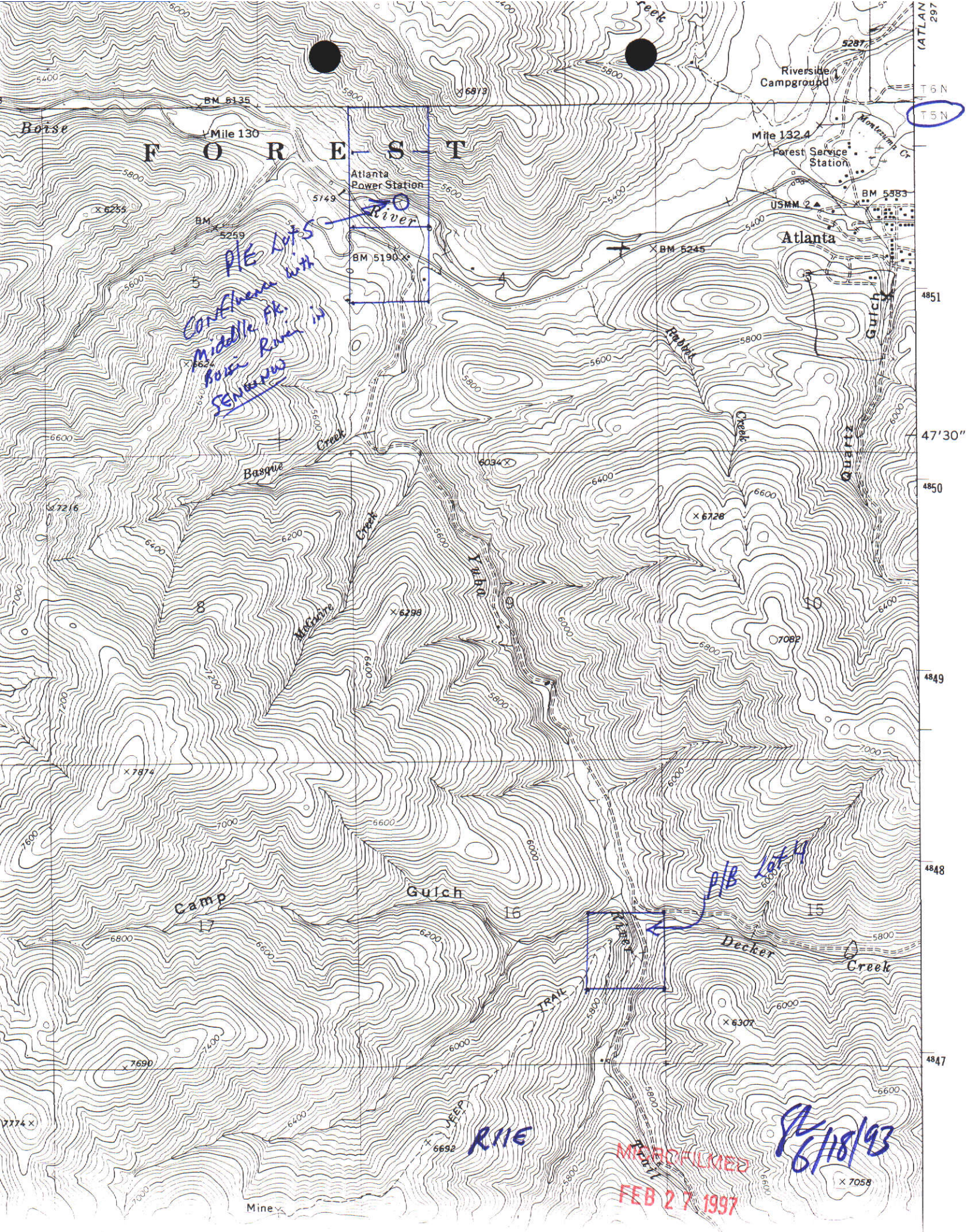
Scale: 2 inches equal 1 mile.

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

Clarence A. Paor
(Applicant)

(IWRB member)

MICROFILMED
FEB 27 1997



RANGE NO. 11 EAST OF THE

Sec. 32

Sec. 33

Sec. 34

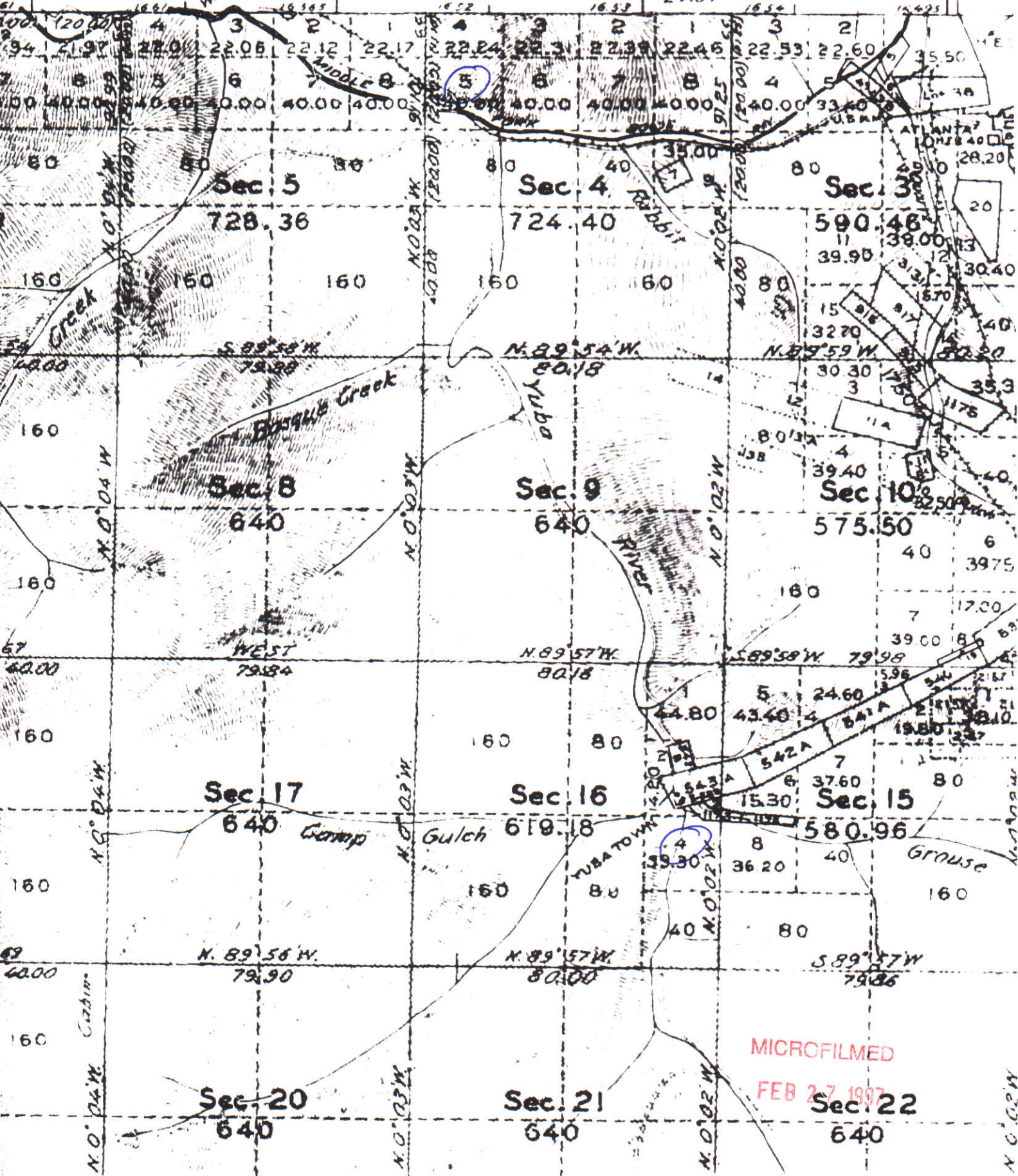
FIRST 6.58

STANDARD

PARALLEL

TSN
RIE

EAST



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-12032

Priority: May 24, 1993

Minimum Stream Flow:

200.00 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 May 24, 1993; and
has submitted Proof of Beneficial Use on September 26, 1997. A minimum stream flow for:

YUBA RIVER

tributary to BOISE RIVER, MIDDLE FORK

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>MINIMUM STREAM FLOW</u>
MINIMUM STREAM FLOW	07/01 to 04/30	44.00 CFS
MINIMUM STREAM FLOW	05/01 to 06/30	200.00 CFS

LOCATION OF MINIMUM STREAM FLOW REACH:

Beginning of Stream Flow Reach Lot 4(NENESE), Sec. 16, Township 05N, Range 11E
End of Stream Flow Reach Lot 5(SENWNW), Sec. 4, Township 05N, Range 11E
ELMORE County

CONDITIONS OF APPROVAL AND REMARKS

1. This right is subject to all prior water rights.
2. Use of water under this right shall be non-consumptive.
3. Upon further finding and order of the director that gauging stations are required to maintain the approved minimum flows under this right, such measuring devices shall be permanently installed and maintained as specified by the director.
4. 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 of the right would be in the public interest.

State of Idaho
Department of Water Resources

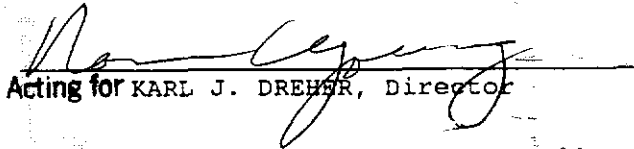
WATER RIGHT LICENSE

WATER RIGHT NO. 63-12032

CONDITIONS OF APPROVAL AND REMARKS

5. This minimum stream flow begins at a point in Lot 4 (NENESE), Section 16, Township 5N, Range 11E and ends 2.8 miles downstream at the confluence of Yuba River with the Middle Fork Boise River in Lot 5 (SENWNW), Section 4, Township 5N, Range 11E.
6. The purpose of this minimum stream flow is to preserve the fish 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 23rd day of OCTOBER, 1997.


Acting for KARL J. DREHER, Director

SEP 26 1997

PROOF OF BENEFICIAL USE

Signature of permit holder: JL Moran Date: 9/25/97
(Include your title, if on behalf of company or organization)

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 63-12032

Proposed Priority: May 24, 1993

Maximum Diversion Rate:

200.00 CFS

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

has applied for a permit to appropriate water from:
YUBA RIVER tributary of **BOISE RIVER, MIDDLE FORK**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
MINIMUM INSTREAM FLOW	07/01 to 04/30	44.00 CFS
MINIMUM INSTREAM FLOW	05/01 to 06/30	200.00 CFS
	Totals	200.00 CFS

LOCATION OF POINT(S) OF DIVERSION:

Beginning of Stream Flow Reach Lot 4(NENESE), Sec. 16, Township 05N, Range 11E
End of Stream Flow Reach Lot 5(SENWNW), Sec. 4, Township 05N, Range 11E
ELMORE County

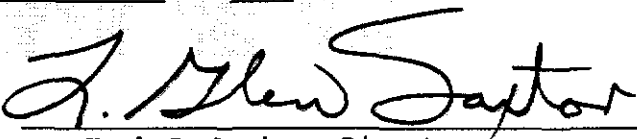
PLACE OF USE: See Remarks

CONDITIONS OF APPROVAL AND REMARKS

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

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

26th day of November, 1996.


for Karl J. Dreher, Director

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

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NOS. 63-12030 THROUGH 63-12034)
IN THE NAME OF THE IDAHO WATER)
RESOURCE BOARD TO ESTABLISH MINIMUM)
STREAM FLOWS IN THE UPPER BOISE)
RIVER DRAINAGE)
_____)

FINAL ORDER

On May 24, 1993, the Idaho Water Resource Board (Board) filed five (5) applications for permit with the Department of Water Resources (department) seeking to establish minimum stream flows on certain water sources in the Upper Boise River Drainage. The applications were filed pursuant to Chapter 15, Title 42, Idaho Code.

The department sent copies of the applications to the Idaho Departments of Fish and Game, Health and Welfare, and Parks and Recreation and to the Boise River watermaster for review and comment. Notice describing the proposed appropriations and setting the time and place for hearing was published in The Idaho Statesman newspaper on October 10, 1996 and on October 14, 1996.

On October 30, 1996, the department conducted a public hearing in Boise, Idaho for the purpose of eliciting testimony regarding the applications.

Parties appearing in a formal capacity at the hearing included the Idaho Water Resource Board, Idaho Department of Fish and Game and Idaho Rivers United. There were no public witnesses who wished to testify in the matter.

On November 5, 1996, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. None of the parties filed a petition for reconsideration, a brief or exceptions in connection with the Recommended Order. Based upon his understanding of the law and the facts in this matter, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT:

1. Application for Permit No. 63-12030 seeks a minimum stream flow of 0.11 cubic feet per second (cfs) on an Unnamed Stream also known as East Fork Montezuma Creek tributary to Montezuma Creek in a 1.9 mile reach beginning in the

SE1/4SE1/4NE1/4 Section 1, T5N, R11E, B.M. on the East Fork Montezuma Creek and ending at its confluence with Montezuma Creek in the SW1/4NE1/4SW1/4 Section 2, T5N, R11E, B.M. The purpose for the proposed minimum flow appropriation is to preserve the water quality of the municipal water supply for the city of Atlanta. The period of use for the proposed appropriation is year-round. (Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. Application for Permit No. 63-12031 seeks a minimum stream flow on Crooked River tributary to North Fork Boise River in a 10.1 mile reach beginning at a point in the SWNWSW Section 11, T7N, R7E, B.M. and ending at its confluence with the North Fork Boise River in the NWSESW Section 17, T6N, R8E, B.M. The rate of flow sought is 34 cfs from July 1 to April 30 and 150 cfs from May 1 to June 30. The purpose is to preserve fish habitat of Crooked River.

3. Application for Permit No. 63-12032 seeks a minimum stream flow on the Yuba River tributary to Middle Fork Boise River in a 2.8 mile reach beginning at a point in the NENESE (lot 4) Section 16, T5N, R11E, B.M. and ending at its confluence with the Middle Fork Boise River in the SENWNW (lot 5) Section 4, T5N, R11E, B.M. The rate of flow sought is 44 cfs from July 1 to April 30 and 200 cfs from May 1 to June 30. The purpose is to preserve the fish habitat of the Yuba River.

4. Application for Permit No. 63-12033 seeks a minimum stream flow on the Middle Fork Boise River tributary to Boise River in a 16.3 mile reach beginning at a point in the NWNWNW (lot 1) Section 31, T6N, R11E, B.M. and ending at the confluence with the Boise River in the NWNWNW (lot 1) Section 7, T5N, R9E, B.M. The rate of flow sought is 230 cfs from July 1 to April 30 and 1000 cfs from May 1 to June 30. The purpose is to preserve fish habitat and recreational quality of the Middle Fork Boise River.

5. Application for Permit No. 63-12034 seeks a minimum stream flow on the North Fork Elk Creek tributary to Elk Creek, on the East Fork Elk Creek tributary to Elk Creek and on Elk Creek tributary to Mores Creek in a 15.4 mile reach beginning at a point on North Fork Elk Creek in the SESENE Section 3, T7N, R6E, B.M. and at a point on the East Fork Elk Creek in the NWSWNE Section 14, T7N, R6E, B.M. and ending at the municipal water supply diversion for Idaho City in the NWSENE Section 26, T6N, R5E, B.M. The rate of flow sought is 5 cfs year-round. The purpose is to preserve the water quality of the municipal water supply for Idaho City.

6. The applications were filed consistent with the recommendations in the Comprehensive State Water Plan, Upper Boise River Basin (IWRB, 1992). In 1993, the Idaho Legislature approved the Comprehensive State Water Plan.

7. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit 1 - Location map, water right information for Elk Creek and water measurement notes in connection with application No. 63-12034.

b. Applicant's Exhibit 2 - Location map and water right information for Unnamed Stream tributary to Montezuma Creek in connection with application No. 63-12030.

c. Applicant's Exhibit 3 - Location map, water right information for Crooked River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12031.

d. Applicant's Exhibit 4 - Location map, water right information for Yuba River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12032.

e. Applicant's Exhibit 5 - Location map, water right information for Middle Fork Boise River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12033.

f. Applicant's Exhibit 6 - Comprehensive State Water Plan, Upper Boise River Basin, 1992.

g. Idaho Department of Fish and Game (IDFG) Exhibit 1 - Fisheries Management Plan 1991 - 1995.

h. IDFG Exhibit 2 - Densities of trout observed by IDFG personnel using snorkeling techniques on the Middle Fork Boise River - from Allen, D.B., S.P. Yundt and B.J. Flatter, 1996.

i. IDFG Exhibit 3 - Middle Fork Boise River creel survey.

j. IDFG Exhibit 4 - Bar graphs showing fish species distribution on Crooked River.

k. IDFG Exhibit 5 - Bar graphs showing Crooked River measurements taken by IDFG.

l. IDFG Exhibit 6 - Bar graphs showing fish species distribution on Yuba River.

m. IDFG Exhibit 7 - Bar graphs showing Yuba River measurements taken by IDFG.

8. Flows in the sources for the five (5) applications have been measured or estimated as follows:

a. 63-12030 - Unnamed Stream tributary to Montezuma Creek

- In September 1979, department of water resource staff measured 0.11 cfs of flow in the Unnamed Stream while conducting a water right field examination for Permit No. 63-08647 in the name of the Atlanta Water Association.

The water rights of record pre-date the minimum stream flow application.

b. 63-12031 - Crooked River

Below Edna Creek - IDFG has measured the flows from a low of 24 cfs in August 1994 to a high of 250 cfs in June 1995.

Above confluence with North Fork Boise River - IDFG has measured the flows from a low of 30 cfs in July 1994 to a high of 67 cfs in July 1993.

IDFG measured the average flow in July 1993, 1994 and 1995 to be 80 cfs and the flow in August 1995 to be 46 cfs.

The one (1) surface water right of record is for domestic purposes and predates the minimum stream flow application.

c. 63-12032 - Yuba River - IDFG has measured the flows from a low of 29 cfs in September 1993 to a high of 315 cfs in July 1995. Flows measured in August 1995 average 45 cfs.

The four (4) water rights of record pre-date the minimum stream flow application.

d. 63-12033 - Middle Fork Boise River - A summary hydrograph of flows for the Middle Fk Boise River (Applicant's Exhibit 5) which was estimated from flows measured near Twin Springs shows the amount of water discharged.

The water rights of record pre-date the minimum stream flow application.

e. 63-12034 - North Fork Elk Creek, East Fork Elk Creek and Elk Creek - Department of water resource staff have measured a flow of 7.5 cfs in October 1996 about 1/4 mile upstream from the diversion of Idaho City near the lower end of the minimum stream flow reach. The flow of Elk Creek has also been measured in April 1988 to be 13.6 cfs and during the drought year of 1977 to be less than 5.0 cfs.

The water rights of record, including the larger ones for mining, pre-date the minimum stream flow application. Many of the mining rights have not been claimed in the Snake River Basin Adjudication and likely are no longer valid.

9. All rights acquired under application Nos. 63-12031, 63-12032 and 63-12033 are for instream non-consumptive use and will be subject to all vested water rights, permits or applications for permit having dates of priority earlier than May 24, 1993. Rights acquired under application Nos. 63-12030 and 63-12034 to preserve the water quality of the municipal water supplies for Idaho City and Atlanta also are subject to all prior water rights having dates of priority earlier than May 24, 1993 but are associated with the municipal uses of Idaho City and Atlanta which are partially consumptive.

10. There was no opposition to the approval of the five (5) minimum stream flow applications.

CONCLUSIONS OF LAW:

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

2. The proposed minimum stream flows will not interfere with any vested water right, permit, or application for permit having a priority date earlier than May 24, 1993.

3. The flows requested in the applications are the minimum flows required to preserve the existing unique characteristics of the streams for the public benefit, and are not the ideal or most desirable flows which could be utilized for those purposes.

4. The proposed minimum stream flows are in the public, as opposed to private, interest.

5. The minimum stream flows proposed by the applications are necessary to maintain existing trout rearing and spawning habitat, fish populations, aquatic life, recreational values, and to preserve water supplies for Idaho City and Atlanta.

6. The proposed minimum stream flows are the minimum flows required for the purposes cited in Conclusion of Law No. 5. above and are not the ideal or most desirable flows.

7. The requested flow for the Middle Fork Boise River during the period July 1 to April 30 each year is not reasonably sustainable unless it is reduced to approximately 200 cfs.

8. The proposed minimum stream flows as approved in this recommended order are generally capable of being maintained.

9. The department should approve the applications with certain conditions and limitations.

ORDER:

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit Nos. 63-12030 through 63-12034 in the name of the Idaho Water Resource Board are **APPROVED** subject to the following conditions and limitations as follows:

1. The use of water under the permits is subject to all prior water rights.

2. The use of water under Permit Nos. 63-12031, 63-12032 and 63-12033 shall be non-consumptive.

3. The approved minimum flow for the Middle Fork Boise River during the period July 1 to April 30 each year shall not exceed 200 cfs.

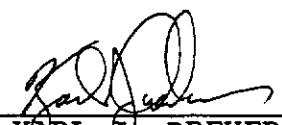
4. Upon the future finding and order of the Director that gaging stations are required to maintain the approved minimum stream flows, such stations shall be permanently installed and maintained as specified by the department.

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

6. The applications 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 provisions of Section 42-1503, Idaho Code.

7. Proof of instream beneficial use of the minimum flows appropriated shall be submitted in a manner approved by the Department on or before December 1, 2001.

Dated this 26th day of November, 1996.



KARL J. DREHER
Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of November, 1996,
I mailed a true and correct copy, postage prepaid, of the foregoing
FINAL ORDER to the following:

John Beal
IDWR
1301 N. Orchard
Boise, ID 83706

Idaho Dept. of Fish & Game
Attn: Cindy Robertson
P.O. Box 25
Boise, ID 83707

Clarence Parr
IWRB
1009 S. River Dr.
Heyburn, ID 83336

Idaho Rivers United
Attn: Marti Bridges
P.O. Box 633
Boise, ID 83701

Joe Jordan
IWRB
2555 Fruitvale Rd.
Fruitvale, ID 83620


JULIE L. YARBROUGH
Senior Secretary

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NOS. 63-12030 THROUGH 63-12034)
IN THE NAME OF THE IDAHO WATER)
RESOURCE BOARD TO ESTABLISH MINIMUM)
STREAM FLOWS IN THE UPPER BOISE)
RIVER DRAINAGE)

RECOMMENDED ORDER

On May 24, 1993, the Idaho Water Resource Board (Board) filed five (5) applications for permit with the Department of Water Resources (department) seeking to establish minimum stream flows on certain water sources in the Upper Boise River Drainage. The applications were filed pursuant to Chapter 15, Title 42, Idaho Code.

The department sent copies of the applications to the Idaho Departments of Fish and Game, Health and Welfare, and Parks and Recreation and to the Boise River watermaster for review and comment. Notice describing the proposed appropriations and setting the time and place for hearing was published in The Idaho Statesman newspaper on October 10, 1996 and on October 14, 1996.

On October 30, 1996, the department conducted a public hearing in Boise, Idaho for the purpose of eliciting testimony regarding the applications.

Parties appearing in a formal capacity at the hearing included the Idaho Water Resource Board, Idaho Department of Fish and Game and Idaho Rivers United. There were no public witnesses who wished to testify in the matter.

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

FINDINGS OF FACT:

1. Application for Permit No. 63-12030 seeks a minimum stream flow of 0.11 cubic feet per second (cfs) on an Unnamed Stream also known as East Fork Montezuma Creek tributary to Montezuma Creek in a 1.9 mile reach beginning in the SE1/4SE1/4NE1/4 Section 1, T5N, R11E, B.M. on the East Fork Montezuma Creek and ending at its confluence with Montezuma Creek in the SW1/4NE1/4SW1/4 Section 2, T5N, R11E, B.M. The purpose for the proposed minimum flow appropriation is to preserve the water

RECORDED
FEB 27 1997

quality of the municipal water supply for the city of Atlanta. The period of use for the proposed appropriation is year-round. (Note: The "1/4" designations will be omitted from subsequent legal descriptions in this order).

2. Application for Permit No. 63-12031 seeks a minimum stream flow on Crooked River tributary to North Fork Boise River in a 10.1 mile reach beginning at a point in the SWNWSW Section 11, T7N, R7E, B.M. and ending at its confluence with the North Fork Boise River in the NWSESW Section 17, T6N, R8E, B.M. The rate of flow sought is 34 cfs from July 1 to April 30 and 150 cfs from May 1 to June 30. The purpose is to preserve fish habitat of Crooked River.

3. Application for Permit No. 63-12032 seeks a minimum stream flow on the Yuba River tributary to Middle Fork Boise River in a 2.8 mile reach beginning at a point in the NENESE (lot 4) Section 16, T5N, R11E, B.M. and ending at its confluence with the Middle Fork Boise River in the SENWNW (lot 5) Section 4, T5N, R11E, B.M. The rate of flow sought is 44 cfs from July 1 to April 30 and 200 cfs from May 1 to June 30. The purpose is to preserve the fish habitat of the Yuba River.

4. Application for Permit No. 63-12033 seeks a minimum stream flow on the Middle Fork Boise River tributary to Boise River in a 16.3 mile reach beginning at a point in the NWNWNW (lot 1) Section 31, T6N, R11E, B.M. and ending at the confluence with the Boise River in the NWNWNW (lot 1) Section 7, T5N, R9E, B.M. The rate of flow sought is 230 cfs from July 1 to April 30 and 1000 cfs from May 1 to June 30. The purpose is to preserve fish habitat and recreational quality of the Middle Fork Boise River.

5. Application for Permit No. 63-12034 seeks a minimum stream flow on the North Fork Elk Creek tributary to Elk Creek, on the East Fork Elk Creek tributary to Elk Creek and on Elk Creek tributary to Mores Creek in a 15.4 mile reach beginning at a point on North Fork Elk Creek in the SESENE Section 3, T7N, R6E, B.M. and at a point on the East Fork Elk Creek in the NWSWNE Section 14, T7N, R6E, B.M. and ending at the municipal water supply diversion for Idaho City in the NWSENE Section 26, T6N, R5E, B.M. The rate of flow sought is 5 cfs year-round. The purpose is to preserve the water quality of the municipal water supply for Idaho City.

6. The applications were filed consistent with the recommendations in the Comprehensive State Water Plan, Upper Boise River Basin (IWRB, 1992). In 1993, the Idaho Legislature approved the Comprehensive State Water Plan.

7. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit 1 - Location map, water right information for Elk Creek and water measurement notes in connection with application No. 63-12034.

- b. Applicant's Exhibit 2 - Location map and water right information for Unnamed Stream tributary to Montezuma Creek in connection with application No. 63-12030.
- c. Applicant's Exhibit 3 - Location map, water right information for Crooked River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12031.
- d. Applicant's Exhibit 4 - Location map, water right information for Yuba River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12032.
- e. Applicant's Exhibit 5 - Location map, water right information for Middle Fork Boise River and Snake River Basin Adjudication (SRBA) claims in connection with application No. 63-12033.
- f. Applicant's Exhibit 6 - Comprehensive State Water Plan, Upper Boise River Basin, 1992.
- g. Idaho Department of Fish and Game (IDFG) Exhibit 1 - Fisheries Management Plan 1991 - 1995.
- h. IDFG Exhibit 2 - Densities of trout observed by IDFG personnel using snorkeling techniques on the Middle Fork Boise River - from Allen, D.B., S.P. Yundt and B.J. Flatter, 1996.
- i. IDFG Exhibit 3 - Middle Fork Boise River creel survey.
- j. IDFG Exhibit 4 - Bar graphs showing fish species distribution on Crooked River.
- k. IDFG Exhibit 5 - Bar graphs showing Crooked River measurements taken by IDFG.
- l. IDFG Exhibit 6 - Bar graphs showing fish species distribution on Yuba River.
- m. IDFG Exhibit 7 - Bar graphs showing Yuba River measurements taken by IDFG.
- 8. Flows in the sources for the five (5) applications have been measured or estimated as follows:
 - a. 63-12030 - Unnamed Stream tributary to Montezuma Creek - In September 1979, department of water resource staff measured 0.11 cfs of flow in the Unnamed Stream while conducting a water right field examination for Permit No. 63-08647 in the name of the Atlanta Water Association.

The water rights of record pre-date the minimum stream flow application.

b. 63-12031 - Crooked River

Below Edna Creek - IDFG has measured the flows from a low of 24 cfs in August 1994 to a high of 250 cfs in June 1995.

Above confluence with North Fork Boise River - IDFG has measured the flows from a low of 30 cfs in July 1994 to a high of 67 cfs in July 1993.

IDFG measured the average flow in July 1993, 1994 and 1995 to be 80 cfs and the flow in August 1995 to be 46 cfs.

The one (1) surface water right of record is for domestic purposes and predates the minimum stream flow application.

c. 63-12032 - Yuba River - IDFG has measured the flows from a low of 29 cfs in September 1993 to a high of 315 cfs in July 1995. Flows measured in August 1995 average 45 cfs.

The four (4) water rights of record pre-date the minimum stream flow application.

d. 63-12033 - Middle Fork Boise River - A summary hydrograph of flows for the Middle Fk Boise River (Applicant's Exhibit 5) which was estimated from flows measured near Twin Springs shows the amount of water discharged.

The water rights of record pre-date the minimum stream flow application.

e. 63-12034 - North Fork Elk Creek, East Fork Elk Creek and Elk Creek - Department of water resource staff have measured a flow of 7.5 cfs in October 1996 about 1/4 mile upstream from the diversion of Idaho City near the lower end of the minimum stream flow reach. The flow of Elk Creek has also been measured in April 1988 to be 13.6 cfs and during the drought year of 1977 to be less than 5.0 cfs.

The water rights of record, including the larger ones for mining, pre-date the minimum stream flow application. Many of the mining rights have not been claimed in the Snake River Basin Adjudication and likely are no longer valid.

9. All rights acquired under application Nos. 63-12031, 63-12032 and 63-12033 are for instream non-consumptive use and will be subject to all vested water rights, permits or applications for permit having dates of priority earlier than May 24, 1993. Rights acquired under application Nos. 63-12030 and 63-12034 to preserve the water quality of the municipal water supplies for Idaho City and Atlanta also are subject to all prior water rights having dates of priority earlier than May 24, 1993 but are associated with the municipal uses of Idaho City and Atlanta which are partially

consumptive.

10. There was no opposition to the approval of the five (5) minimum stream flow applications.

CONCLUSIONS OF LAW:

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

2. The proposed minimum stream flows will not interfere with any vested water right, permit, or application for permit having a priority date earlier than May 24, 1993.

3. The flows requested in the applications are the minimum flows required to preserve the existing unique characteristics of the streams for the public benefit, and are not the ideal or most desirable flows which could be utilized for those purposes.

4. The proposed minimum stream flows are in the public, as opposed to private, interest.

5. The minimum stream flows proposed by the applications are necessary to maintain existing trout rearing and spawning habitat, fish populations, aquatic life, recreational values, and to preserve water supplies for Idaho City and Atlanta.

6. The proposed minimum stream flows are the minimum flows required for the purposes cited in Conclusion of Law No. 4. above and are not the ideal or most desirable flows.

7. The requested flow for the Middle Fork Boise River during the period July 1 to April 30 each year is not reasonably sustainable unless it is reduced to approximately 200 cfs.

8. The proposed minimum stream flows as approved in this recommended order are generally capable of being maintained.

8. The department should approve the applications with certain conditions and limitations.

ORDER:

IT IS, THEREFORE, HEREBY ORDERED That Application for Permit Nos. 63-12030 through 63-12034 in the name of the Idaho Water Resource Board are APPROVED subject to the following conditions and limitations as follows:

1. The use of water under the permits is subject to all prior water rights.

2. The use of water under Permit Nos. 63-12031, 63-12032 and 63-12033 shall be non-consumptive.

3. The approved minimum flow for the Middle Fork Boise River during the period July 1 to April 30 each year shall not exceed 200 cfs.

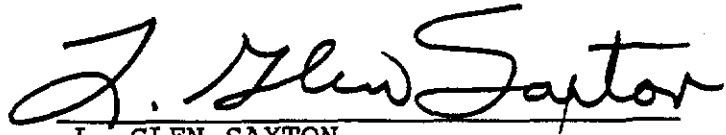
4. Upon the future finding and order of the Director that gaging stations are required to maintain the approved minimum stream flows, such stations shall be permanently installed and maintained as specified by the department.

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

6. The applications 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 provisions of Section 42-1503, Idaho Code.

7. Proof of instream beneficial use of the minimum flows appropriated shall be submitted in a manner approved by the Department on or before the date in the final order.

Dated this 5th day of November, 1996.


L. GLEN SAXTON
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 5th day of November, 1996,
I mailed a true and correct copy, postage prepaid, of the foregoing
RECOMMENDED ORDER to the following:

John Beal
IDWR
1301 N. Orchard
Boise, ID 83706

Idaho Dept. of Fish & Game
Attn: Cindy Robertson
P.O. Box 25
Boise, ID 83707

Clarence Parr
IWRB
1009 S. River Dr.
Heyburn, ID 83336

Idaho Rivers United
Attn: Marti Bridges
P.O. Box 633
Boise, ID 83701

Joe Jordan
IWRB
2555 Fruitvale Rd.
Fruitvale, ID 83620


JULIE L. YARBROUGH
Senior Secretary

The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707

LEGAL ADVERTISING INVOICE

TRANSIENT
208-327-7900

Amount Due

\$203.00

Account Number		Identification	
Order #253892		NOTICE OF HEARING FOR MINIMUM STREAM FLOW	
Ordered By	P.O. Number	Rate	Run Dates
Julie L. Yarbrough		TT	October 10, 17, 1996
Julie L. Yarbrough STATE OF IDAHO Department of Water Resources 1301 North Orchard Street Boise, Idaho 83720-9000		Estimated Inches	Real Inches
		= Affidavits	Legal Number
		1	6079

LINDA PORTER

, being duly

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

☒ consecutive weekly ☐ consecutive daily ☐ single ☐ odd skip

insertion(s) beginning with the issue of OCTOBER 10, 1996

and ending with the issue of OCTOBER 17, 1996

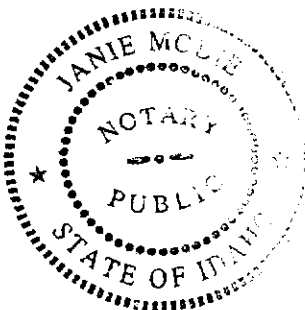
Linda Porter

STATE OF IDAHO)

ss.

COUNTY OF ADA)

On this 17TH day of OCTOBER in the year of 1996, before me, a Notary Public, personally appeared LINDA PORTER, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.



MICROFILMED

FEB 17 87

Janie Madie
Notary Public for Idaho
Residing at BOISE, IDAHO
My commission expires: 5/97

LEGAL NOTICE

NOTICE OF HEARING FOR MINIMUM STREAM FLOW APPLICATIONS

Notice is hereby given that on May 24, 1993, the Idaho Water Resource Board (Board) filed five (5) applications for permit with the Department of Water Resources (IDWR) to preserve minimum streamflows from water sources in the Upper Boise River drainage as follows:

Application No. 63-12830

Source: Unnamed Stream tributary to Montezuma Creek
Reach: 1.9 miles beginning at a point in SESENE Sec. 1, T5N, R11E, B.M. on the East Fork Montezuma Creek and ending at the confluence with Montezuma Creek in SWNESW Sec. 2, T5N, R11E, B.M.
Rate of flow: 0.11 cubic feet per second (cfs)
Season of use: Year-round
Purpose: To preserve the water quality of the municipal water supply for the city of Atlanta.

Application No. 63-12831

Source: Crooked River tributary to North Fork Boise River
Reach: 10.1 miles beginning at a point in the SWNWSW Section 11, T7N, R7E, B.M. downstream to the confluence with the North Fork Boise River in the NWSESW Section 17, T6N, R8E, B.M.
Rate of flow: 34 cfs from July 1 to April 30
150 cfs from May 1 to June 30
Purpose: To preserve fish habitat of Crooked River

Application No. 63-12832

Source: Yuba River tributary to Middle Fork Boise River
Reach: 2.8 miles beginning at a point in the NENESE (lot 4) Section 16, T5N, R11E, B.M. downstream to the confluence with the Middle Fork Boise River in the SENWNW (lot 5) Section 4, T5N, R11E, B.M.
Rate of flow: 44 cfs from July 1 to April 30
200 cfs from May 1 to June 30
Purpose: To preserve fish habitat of the Yuba River

Application No. 63-12833

Source: Middle Fork Boise River tributary to Boise River
Reach: 16.3 miles beginning at a point in the NWNWNW (lot 1) Section 31, T6N, R11E, B.M. downstream to the confluence with the Boise River in the NWNWNW (lot 1) Section 7, T5N, R9E, B.M.
Rate of flow: 230 cfs from July 1 to April 30
1000 cfs from May 1 to June 30
Purpose: To preserve fish habitat and recreational quality of the Middle Fork Boise River

Application No. 63-12834

Source: North Fork Elk Creek tributary to Elk Creek
East Fork Elk Creek tributary to Elk Creek
Elk Creek tributary to Mores Creek
Reach: 15.4 miles beginning at a point on North Fork Elk Creek in the SESENE Section 3, T7N, R6E, B.M. and at a point on the East Fork Elk Creek in the NWSWNE Section 14, T7N, R6E, B.M. downstream to the municipal water supply diversion for Idaho City in the NWSENE Section 26, T6N, R5E, B.M.
Rate of flow: 5 cfs year-round
Purpose: To preserve the municipal water supply for Idaho City

The five (5) applications are consistent with the recommendations for the establishment of minimum stream flows in the Upper Boise River Comprehensive State Water Plan adopted by the Board on December 3, 1992 and approved by the Idaho Legislature in 1993. IDWR will hold a public hearing on the applications beginning at 7:00 a.m. on October 30, 1996 at the IDWR Conference Room, 1301 N. Orchard St., Boise, Idaho for the purpose of hearing testimony and receiving evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code, and the presiding officer will be L. Glen Saxton.

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

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise IDWR at least (10) days prior to the hearing. The hearing will be conducted by L. Glen Saxton, IDWR, Statehouse Mail, Boise, ID 83720, telephone (208) 327-7900.

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

Karl J. Dreher, Director, IDWR

Pub. October 10 & 17, 1996

6079

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FEB 27 1997

RECEIVED

MAY 4 1993

Department of Water Resources

Ident. No.

63-12032

Form 202
10/92

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

1. Name of applicant Idaho Water Resource Board Phone 327-7910
Post office address Statehouse, Boise, ID 83720
2. Source of water supply Yuba River which is a tributary of M. Fk Boise River
- * ok 3. Location of point of diversion is ~~NE~~ NE 1/4 of ~~NE~~ NE 1/4 of ~~SE~~ SE 1/4, Govt. Lot 4
Sec. 16 Township 05N Range 11E B.M. Elmore County; additional
downstream to confluence with the Middle Fork Boise River in ~~NE~~ SE
points of diversion if any: SW 1/4 NW 1/4 Sec. 4, T05N, R11E, B.M., Elmore County.
Lot 5 → NW
4. Water will be used for the following purposes:
Amount 44 cfs for instream flow purposes from July 1 to April 30 (both dates inclusive)
(cfs or acre-feet per annum)
Amount 200cfs for instream flow purposes from May 1 to June 30 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 200 cfs and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Description of ditches, flumes, pumps, headgates, etc. Not applicable - minimum streamflow.
- b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total
reservoir capacity _____ acre-feet; period of year when water will be diverted to storage:
_____ to _____ inclusive.
- c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
- d. Is ground water with a temperature of greater than 85°F being sought? _____
- e. If well is already drilled, when? _____; Drilling firm _____
Well was drilled for (well owner) _____
7. Time required for the completion of the works and application of the water to be proposed beneficial use is
5 years (minimum 1 year). * per report - 82 6/23/93.

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FEB 27 1997

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

- a. Hydropower; show total feet of head and proposed capacity in kW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. _____
- e. Other; describe fully. A minimum streamflow to preserve the water quality and fish habitat of the Yuba River. _____

9. Description of place of use: (See item 13)

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

[illegible]

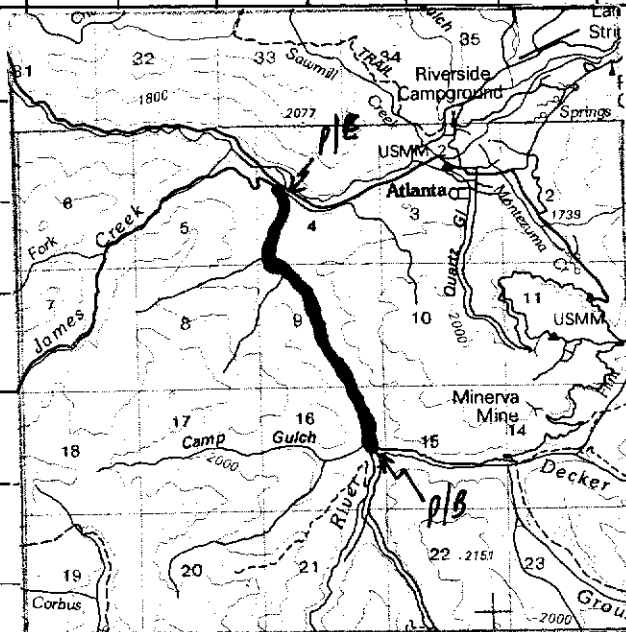
Total number of acres to be irrigated

10. Describe any other water rights used for the same purposes as described above. _____ None
11. a. Who owns the property at the point of diversion? _____
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. _____

applicant to make this filing.

12. Remarks: ~~The affected reach is approximately 2.8 miles long.~~

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



Scale: 2 inches equal 1 mile.

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

Charles P. Parr
(Applicant)

(IWRB member)

Received by RL for GLS Date 5-24-93 Time 8:00^a Preliminary check by WJ/SR
Fee \$ N/A Received by _____ # _____ Date _____
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

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

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

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

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

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FEB 27 1997

ATTACHMENT TO APPLICATION FOR PERMIT
TO APPROPRIATE A MINIMUM STREAM FLOW

14. Provide evidence that the appropriation will not interfere with any vested water right, permit, or water right application of earlier date of priority.

This application will be junior to all previously granted rights and will not interfere with them.

15. Provide evidence to show that the appropriation would be in the public interest as opposed to private interest.

Yuba River and its tributaries provide the year-round water for fish habitat and recreational quality.

16. Provide evidence or justification that the appropriation is necessary for the purposes shown in Item 4.

The appropriation of 44 cfs July 1 through April 30, is needed to meet the minimum instream flow required for maintenance of fish spawning and rearing habitat. The appropriation of 200 cfs from May 1 through June 30, is the minimum flow required for maintenance of spring spawning and the riparian forest.

17. Provide evidence that the minimum flow or lake level is minimum and not the ideal or most desirable flow or lake level.

The minimum flow for fish spawning and rearing as determined by the U.S. Forest Service upstream the reach is 44.80 cfs. The higher flow of 200 cfs is necessary for maintenance of spawning habitat and riparian forest.

18. Provide evidence that the flow or lake level requested is capable of being maintained as evidenced by records of stream flows and water levels.

Existing records indicate that the requested flow of 44 cfs is equaled or exceeded during the period of July 1 through April 30, and the requested flow of 2000 cfs is equaled or exceed during the period of May 1 through June 30.

19. Describe the location of existing gaging stations that can be used in the administration of this appropriation.

None

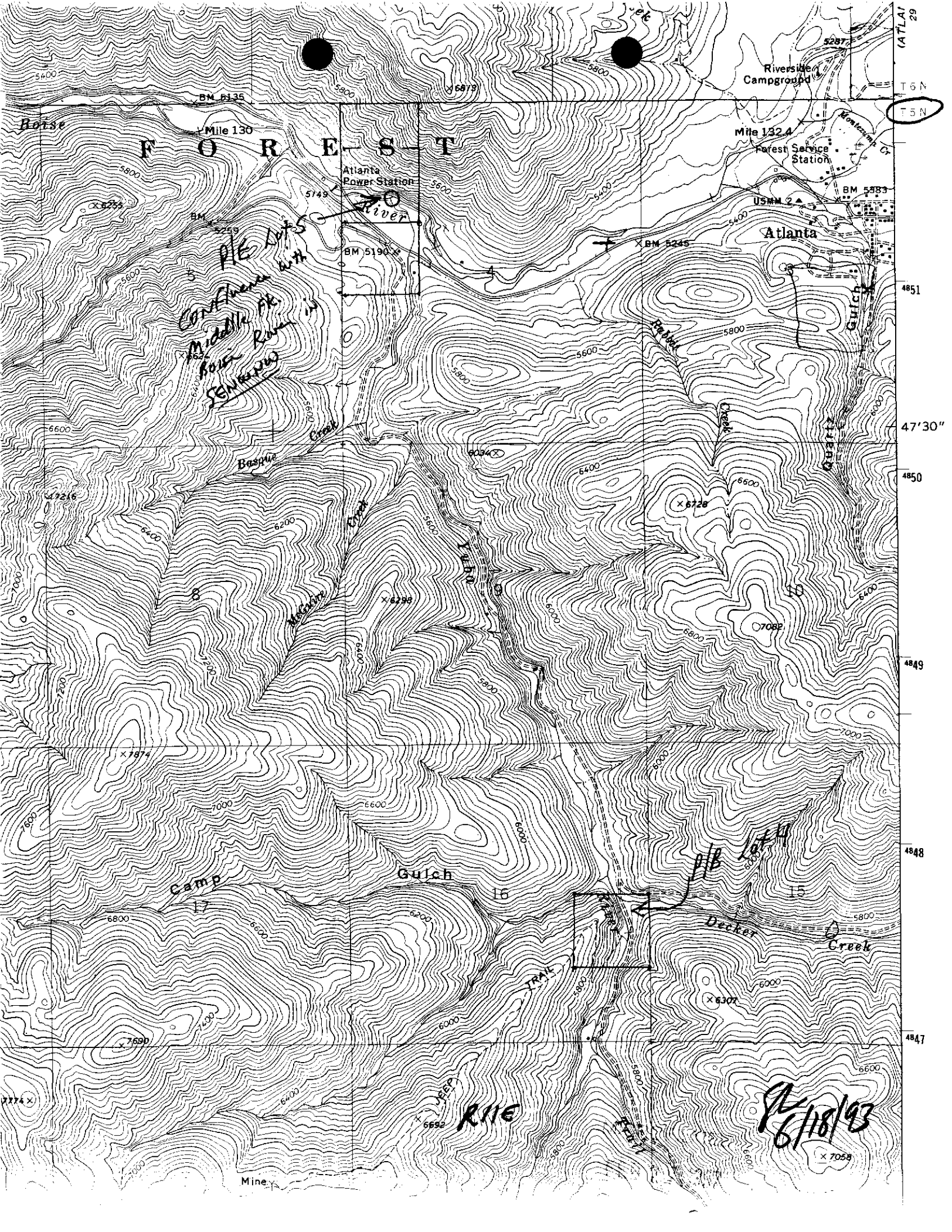
20. Do you intend to install additional gaging stations? Describe the location.

No

21. List any additional remarks related to this minimum stream flow application.

This application complies with Actions and Recommendations, Item 2.B. of the Comprehensive State Water Plan, Upper Boise River Basin (IWRB, 1992).

MICROFILMED
FEB 2 1987



Boise

F O R E S T

Mile 130

Atlanta Power Station

Atlanta

Riverside Campground

Mile 132.4

Forest Service Station

USNM 2

Atlanta

Gulch

Decker

Creek

Camp

Gulch

TRAIL

Mine

RUE

6/18/93

T5N

T5N

4851

47'30"

4850

4849

4848

4847

4846

11. RANGE N. 11 EAST OF THE

Sec. 32

Sec. 33

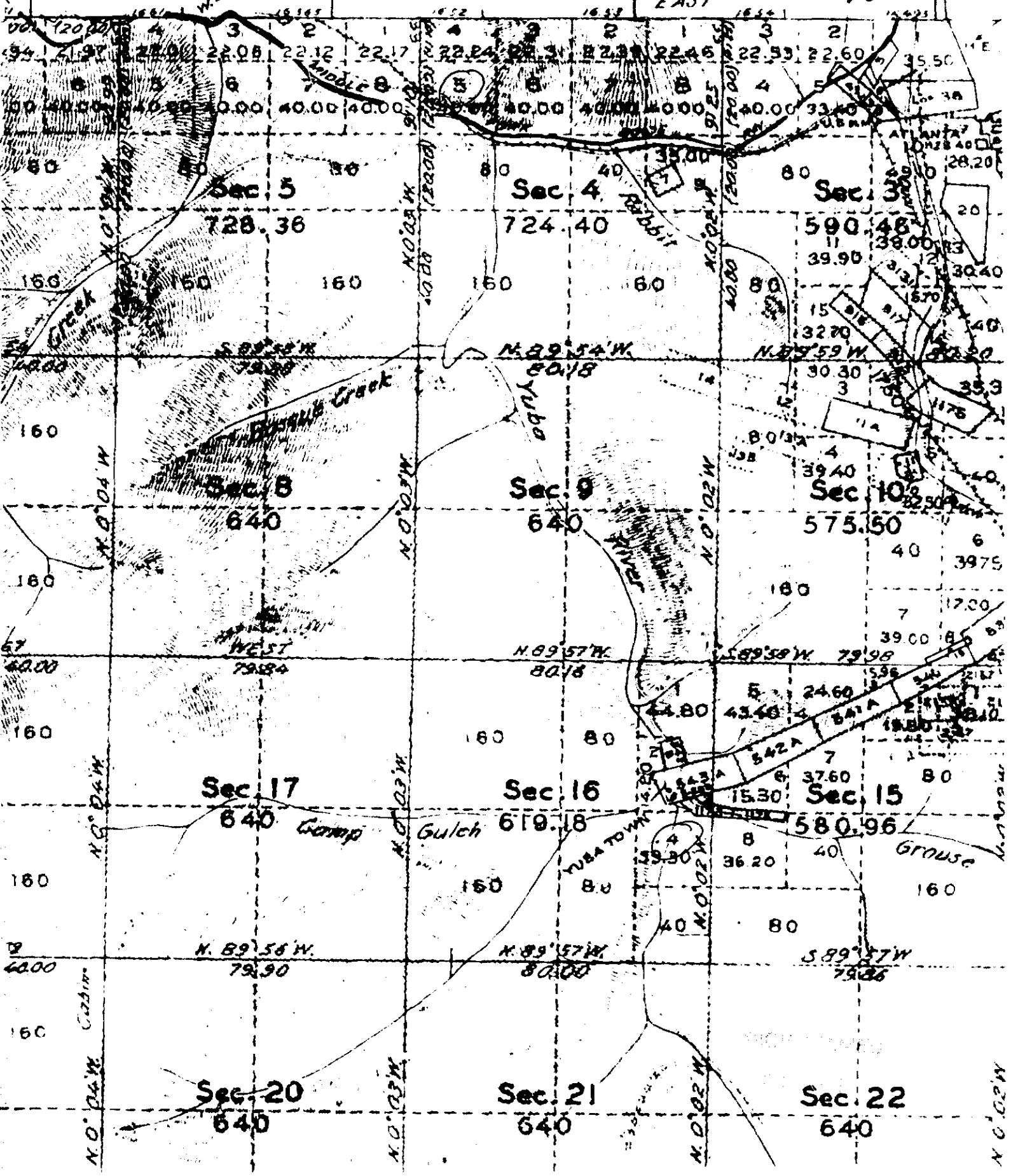
Sec. 34

FIRST 6.58

STANDARD

PARALLEL

TSN
RIE



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: STATE OF IDAHO 208-327-7910
Address: IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

2. Source: YUBA RIVER Trib. to: BOISE RIVER, MIDDLE FORK
County

* 3. Location of Point of Diversion:
EB Lot 4(NENESE), Sec. 16, Township 05N, Range 11E
E Lot 5(SENWNW), Sec. 4, Township 05N, Range 11E
ELMORE County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
MINIMUM INSTREAM FLOW	07/01	04/30	44.000		
MINIMUM INSTREAM FLOW	05/01	06/30	200.000		

5. Total quantity to be appropriated is:
200.000 CFS (and/or) AF

6. Proposed diverting works:

- Description of ditches, flumes, pumps, headgates, etc.
N/A - MINIMUM STREAMFLOW
- Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
- Proposed well diameter is inches; proposed depth of well is
feet.
- Is groundwater with a temperature greater than 85F being sought? NO

7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 5 year(s).

8. Place of Use: See Remarks

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

b. Who owns the land to be irrigated or place of use?
N/A PER PROPOSED USE

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

* Program error as id 63-12030, correct code was entered - 6/23/93

10. Remarks:

The affected reach is approximately 2.8 miles long, beginning at or near the mouth of Decker Creek and ending at the mouth of Yuba River.

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

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

See original

Applicant

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ _____ Receipted by _____ # _____ Date _____

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

October 24, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720

RE: WATER RIGHT NO. 63-12032

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as 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 twenty-one (21) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from 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. Otherwise, this preliminary order will become a final order of the Department.

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

MICROFILMED
OCT 24 1997

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

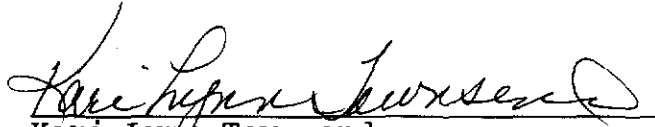
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 24th day of October, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 63-12032

STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE
BOISE ID 83720


Kari Lynn Townsend
Secretary

RECEIVED
OCT 27 1997
IDAHO WATER RESOURCE BOARD

LICENSING REVIEW
MINIMUM STREAM FLOW

RIGHT NO. 63-12032

Proof of beneficial use rec'd

9/26/97

Was flow data submittal a requirement
with proof submittal? Yes _____ No ✓

If yes, has data been reviewed and a determination
made that minimum flow is capable of being
maintained? Yes _____ No N/A

Data submitted fully complies with permit condition
(i.e. # of years of flow data sufficient) N/A

Data Entry for License:

Name Standardized

Total cfs & div. capacity listed as highest flow

P/D(s) beginning and ending descriptions listed

Use flows defined for entire year

P/U left blank (description in remarks)

Remarks/non-standard conditions

Non-consumptive

Watermaster control

Jurisdiction retains to amend

Description of reach(es)

All other applicable permit conditions
carried forward

✓
✓
✓
✓
✓
027 ✓
N/A
✓
092 ✓

Comments/adjustments

Reach & purpose

Printed license hand-edited _____

MEMORANDUM

To: Files 63-12030, 63-12031, 63-12032, 63-12033 and 63-12034
From: L. Glen Saxton *LS*
RE: STATUS OF MINIMUM STREAM FLOW APPLICATIONS SUBMITTED TO
THE 54TH IDAHO LEGISLATURE - 1ST REGULAR SESSION - 1997
Date: April 7, 1997

The department submitted the above approved applications to the Idaho legislature in January 1997 for its consideration as required in Section 42-1503, Idaho Code. The legislature printed a concurrent resolution for each approved application but did not take any action on the draft resolutions during the session.

Hence, the applications are approved as provided in Section 42-1503, Idaho Code, since the legislature failed to act prior to the end of the regular session.

MOBOLIAES

OCT 10 1997

DRAFT

letters:\minflo.2

01-08-97

lgs

**A CONCURRENT RESOLUTION
APPROVING 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 affirmatively 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, on November 26, 1996, the Director of the Department of Water Resources approved the following application by issuing a Final Order authorizing the appropriation of water for minimum stream flow:

Ident. No: 63-12032

Source: Yuba River tributary to Middle Fork Boise River.

Reach descr: A 2.8 mile reach beginning at a point in the NE1/4NE1/4SE1/4 (lot 4) Section 16, T5N, R11E, B.M. and ending at its confluence with the Middle Fork Boise River in the SE1/4NW1/4NW1/4 (lot 5) Section 4, T5N, R11E, B.M.

Amount: 44 cfs from July 1 to April 30 and 200 cfs from May 1 to June 30.

Use: To preserve fish habitat.

NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Session of the Fifty-fourth Idaho Legislature, the Senate and the House of Representatives concurring therein, that the same is hereby approved subject to the conditions and limitations contained in the Final Order issued by the Director of the Department of Water Resources on November 26, 1996.

10/15/97
10/27/97



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 8, 1997

The Honorable Michael K. Simpson
Speaker of the House
Statehouse Mail
Boise, ID 83720

**RE: APPLICATION FOR PERMIT NOS. 63-12030 THROUGH 63-12034 TO
ESTABLISH MINIMUM STREAM FLOWS IN THE UPPER BOISE RIVER
DRAINAGE**

Dear Mr. Simpson:

Enclosed for your consideration are copies of the above referenced applications for permit along with the final order which concludes 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."

The five (5) applications were submitted to the department of water resources consistent with the recommendations for the establishment of minimum stream flows in the Upper Boise River Comprehensive State Water Plan adopted by the Idaho Water Resource Board in December 1992 and approved by the Idaho Legislature in 1993.

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

Sincerely,

KARL J. DREHER
Director

Enclosures

c: Mike Nugent



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 8, 1997

The Honorable Jerry Twiggs
Senator Pro Tem
Statehouse Mail
Boise, ID 83720

RE: APPLICATION FOR PERMIT NOS. 63-12030 THROUGH 63-12034 TO
ESTABLISH MINIMUM STREAM FLOWS IN THE UPPER BOISE RIVER
DRAINAGE

Dear Senator Twiggs:

Enclosed for your consideration are copies of the above referenced applications for permit along with the final order which concludes 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."

The five (5) applications were submitted to the department of water resources consistent with the recommendations for the establishment of minimum stream flows in the Upper Boise River Comprehensive State Water Plan adopted by the Idaho Water Resource Board in December 1992 and approved by the Idaho Legislature in 1993.

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

Sincerely,

KARL J. DREHER
Director

Enclosures

c: Mike Nugent



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

November 29, 1996

RE: In the Matter of Applications for Permit Nos. 63-12030 through 63-12034 in the name of the Idaho Water Resource Board to establish minimum stream flows in the Upper Boise River Drainage

Dear Interested Party:

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

Section 67-5246 provides as follows:

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

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

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

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

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

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

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

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

PETITION FOR RECONSIDERATION

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

The appeal must be filed within twenty-eight (28) days a) of

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

Sincerely,

A handwritten signature in cursive script, reading "L. Glen Saxton".

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

C: IDWR - Region



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

November 5, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: In the matter of Applications for Permit Nos. 63-12030 through 63-12034 in the name of the Idaho Water Resource Board to Establish Minimum Stream Flows in the Upper Boise River Drainage

Dear Interested Party:

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

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

respond.

ORAL ARGUMENT

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

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

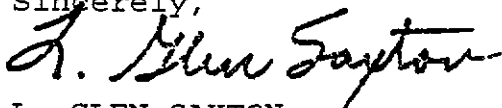
FINAL ORDER

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

C: IDWR - Region

APR 17 1981
FBI - BOISE

**You Can See The
Hearing Information
In WaterRight
File #63-12030.**



News Release

IDAHO DEPARTMENT OF WATER RESOURCES

1301 N. Orchard St., Boise ID 83706 — Phone: (208) 327-7900 FAX: (208) 327-7866

Release 96-65

PUBLIC HEARING SET FOR OCT. 30
ON FIVE MINIMUM STREAM FLOW REQUESTS FOR BOISE BASIN STREAMS

For Immediate Release
Boise, Idaho - October 24, 1996

For Media Information:
Dick Larsen - 327-7933

State water managers have set a public hearing for October 30th on applications for water rights that would provide minimum stream flows on five Upper Boise Basin drainage streams, the Idaho Department of Water Resources said today.

The minimum stream flow requests were filed by the Idaho Water Resource Board to preserve minimum stream flows on the Crooked River, Yuba River, Middle Fork Boise River, North Fork Elk Creek and an unnamed stream tributary to Montezuma Creek.

The Elk Creek and Montezuma Creek tributary requests are designed to preserve both the supply and water quality of the municipal water supply for the town of Atlanta. The other three requests are intended to preserve fish habitat and recreational quality on the streams, according to the state water officials.

If issued, the minimum stream flow water permits will be subject to all prior water rights. They must also be approved by the legislature. The public hearing is set for 9:00 a.m. at the Idaho Department of Water Resources, 1301 N. Orchard Street, Boise, Idaho

The five applications are consistent with the recommendations for the establishment of minimum stream flows in the Upper Boise River Comprehensive State Water Plan adopted by the Idaho Water Resource Board in December 1992 and approved by the Idaho Legislature in 1993.

-more-more-

Minimum Stream Flow Applications - Page 2

Application No. 63-12030

Source: Unnamed Stream tributary to Montezuma Creek
Reach: 1.9 miles beginning at a point in SESENE Sec. 1, T5N, R11E, B.M. on the East Fork Montezuma Creek and ending at the confluence with Montezuma Creek in SWNESW Sec. 2, T5N, R11E, B.M.
Rate of flow: 0.11 cubic feet per second (cfs)
Season of use: Year-round
Purpose: To preserve the water quality of the municipal water supply for the city of Atlanta.

Application No. 63-12031

Source: Crooked River tributary to North Fork Boise River
Reach: 10.1 miles beginning at a point in the SWNWSW Section 11, T7N, R7E, B.M. downstream to the confluence with the North Fork Boise River in the NWSESW Section 17, T6N, R8E, B.M.
Rate of flow: 34 cfs from July 1 to April 30, 150 cfs from May 1 to June 30
Purpose: To preserve fish habitat of Crooked River

Application No. 63-12032

Source: Yuba River tributary to Middle Fork Boise River
Reach: 2.8 miles beginning at a point in the NENESE (lot 4) Section 16, T5N, R11E, B.M. downstream to the confluence with the Middle Fork Boise River in the SENWNW (lot 5) Section 4, T5N, R11E, B.M.
Rate of flow: 44 cfs from July 1 to April 30, 200 cfs from May 1 to June 30
Purpose: To preserve fish habitat of the Yuba River

Application No. 63-12033

Source: Middle Fork Boise River tributary to Boise River
Reach: 16.3 miles beginning at a point in the NWNWNW (lot 1) Section 31, T6N, R11E, B.M. downstream to the confluence with the Boise River in the NWNWNW (lot 1) Section 7, T5N, R9E, B.M.
Rate of flow: 230 cfs from July 1 to April 30, 1,000 cfs from May 1 to June 30
Purpose: To preserve fish habitat and recreational quality of the Middle Fork Boise River

Application No. 63-12034

Source: North Fork Elk Creek tributary to Elk Creek East Fork Elk Creek tributary to Elk Creek Elk Creek tributary to Mores Creek
Reach: 15.4 miles beginning at a point on North Fork Elk Creek in the SESENE Section 3, T7N, R6E, B.M. and at a point on the East Fork Elk Creek in the NWSWNE Section 14, T7N, R6E, B.M. downstream to the municipal water supply diversion for Idaho City in the NWSENW Section 26, T6N, R5E, B.M.
Rate of flow: 5 cfs year-round
Purpose: To preserve the municipal water supply for Idaho City



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

COPY

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 8, 1996

Mailing List

**RE: APPLICATIONS FOR MINIMUM STREAM FLOW 63-12030
THROUGH 63-12034**

Dear :

Enclosed is a copy of a legal notice which announces a planned public hearing in connection with the above referenced applications for minimum stream flow. Hopefully the notice is self explanatory and will provide sufficient information for you, but if not, please feel free to contact me at (208)327-7900.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

C: Mailing List Attached

63-12030-1000
10/11/96

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 8th day of October, 1996, I mailed a true and correct copy, postage prepaid, of the foregoing **LEGAL NOTICE** to the following:

JOHN BEAL
IDWR
1301 N ORCHARD
BOISE ID 83706

ATLANTA WATER ASSOC
C/O MARYANN APPEGATE
PO BOX 84
ATLANTA ID 83601

CLARENCE PARR
IWRB
1009 S RIVER DR
HEYBURN ID 83336

ID RIVERS UNITED
C/O MARTI BRIDGES
PO BOX 633
BOISE ID 83701

JOE JORDAN
IWRB
2555 FRUITVALE RD
FRUITVALE ID 83620

SEN JUDI DANIELSON
PO BOX 724
COUNCIL ID 83612

SENATOR LAIRD NOH
3442 ADDISON AVE E
KIMBERLY ID 83341

REP GAYLE ANN WILDE
PO BOX 984
MCCALL ID 83638

REP GOLDEN LINFORD
2120 W 4200 S
REXBURG ID 83440

REP TWILA HORNBECK
808 LAKE
GRANGEVILLE ID 83530

BOISE CO COMMISSIONERS
415 MAIN
IDAHO CITY ID 83631

REP KENNETH ROBISON
1119 N 12TH ST
BOISE ID 83702

MAYOR PATRICIA CAMPBELL
ID CITY HALL
MAIN ST
IDAHO CITY ID 83631

SEN CLAIR WETHERELL
360 E 15TH N
MOUNTAIN HOME ID 83647

MAYOR DONALD C ETTER
MTN HOME CITY HALL
160 S 3RD E
MOUNTAIN HOME ID 83647

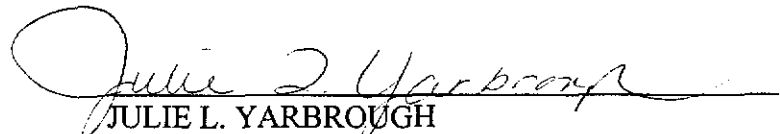
REP FRANCES FIELD
HC 85 BOX 221
GRAND VIEW ID 83624

REP ROBBIE KING
PO BOX 280
GLENN'S FERRY ID 83623

SEN CLINTON STENNETT
PO BOX 475
KETCHUM ID 83340

REP WENDY JAQUET
PO BOX 783
KETCHUM ID 83340

REP TOM RIDINGER
607 W B
PO BOX 110
SHOSHONE ID 83352



JULIE L. YARBROUGH
Senior Secretary

NOTICE OF HEARING FOR MINIMUM STREAM FLOW

APPLICATIONS

Notice is hereby given that on May 24, 1993, the Idaho Water Resource Board (Board) filed five (5) applications for permit with the Department of Water Resources (IDWR) to preserve minimum streamflows from water sources in the Upper Boise River drainage as follows:

Application No. 63-12030

Source: Unnamed Stream tributary to Montezuma Creek
Reach: 1.9 miles beginning at a point in SESENE Sec. 1, T5N, R11E, B.M. on the East Fork Montezuma Creek and ending at the confluence with Montezuma Creek in SWNESW Sec. 2, T5N, R11E, B.M.
Rate of flow: 0.11 cubic feet per second (cfs)
Season of use: Year-round
Purpose: To preserve the water quality of the municipal water supply for the city of Atlanta.

Application No. 63-12031

Source: Crooked River tributary to North Fork Boise River
Reach: 10.1 miles beginning at a point in the SWNWSW Section 11, T7N, R7E, B.M. downstream to the confluence with the North Fork Boise River in the NWSESW Section 17, T6N, R8E, B.M.
Rate of flow: 34 cfs from July 1 to April 30
150 cfs from May 1 to June 30
Purpose: To preserve fish habitat of Crooked River

Application No. 63-12032

Source: Yuba River tributary to Middle Fork Boise River
Reach: 2.8 miles beginning at a point in the NENESE (lot 4) Section 16, T5N, R11E, B.M. downstream to the confluence with the Middle Fork Boise River in the SENWNW (lot 5) Section 4, T5N, R11E, B.M.
Rate of flow: 44 cfs from July 1 to April 30
200 cfs from May 1 to June 30
Purpose: To preserve fish habitat of the Yuba River

Application No. 63-12033

Source: Middle Fork Boise River tributary to Boise River
Reach: 16.3 miles beginning at a point in the NWNWNW (lot 1) Section 31, T6N, R11E, B.M. downstream to the confluence with the Boise River in the NWNWNW (lot 1) Section 7, T5N, R9E, B.M.
Rate of flow: 230 cfs from July 1 to April 30
1000 cfs from May 1 to June 30
Purpose: To preserve fish habitat and recreational quality of

MICROFILMED

1994-11-15

the Middle Fork Boise River

Application No. 63-12034

Source: North Fork Elk Creek tributary to Elk Creek
East Fork Elk Creek tributary to Elk Creek
Elk Creek tributary to Mores Creek

Reach: 15.4 miles beginning at a point on North Fork Elk
Creek in the SESENE Section 3, T7N, R6E, B.M. and
at a point on the East Fork Elk Creek in the NWSWNE
Section 14, T7N, R6E, B.M. downstream to the
municipal water supply diversion for Idaho City in
the NWSENE Section 26, T6N, R5E, B.M.

Rate of flow: 5 cfs year-round

Purpose: To preserve the municipal water supply for Idaho
City

The five (5) applications are consistent with the recommendations for the establishment of minimum stream flows in the Upper Boise River Comprehensive State Water Plan adopted by the Board on December 3, 1992 and approved by the Idaho Legislature in 1993.

IDWR will hold a public hearing on the applications beginning at 9:00 a.m. on October 30, 1996 at the IDWR Conference Room, 1301 N. Orchard St, Boise, Idaho for the purpose of hearing testimony and receiving evidence in regard to the applications. The hearing will be held pursuant to provisions of Section 42-1503, Idaho Code, and the presiding officer will be L. Glen Saxton.

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

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise IDWR at least (10) days prior to the hearing. The hearing will be conducted by L. Glen Saxton, IDWR, Statehouse Mail, Boise, ID 83720, telephone (208)327-7900

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

Karl J. Dreher
Director, IDWR

RECEIVED

FEB 27 1997

P. 01

TRANSACTION REPORT

OCT-03-96 THU 09:19 AM

DATE	START	RECEIVER
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NOTE

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OCT-03 09:16 AM 6-93776309

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 3, 1996

VIA FACSIMILE

Idaho Statesman
Legal Advertisements
ATTN: Linda Porter
P.O. Box 40
Boise, ID 83707

RE: Legal Notice

Dear Linda:

Attached is a notice of hearing to be published in the Idaho Statesman once a week for two (2) consecutive weeks on October 10th and 17th.

Please send the affidavit of publication and invoice directly to my attention.

Please contact me at (208)327-7953 if you have any questions regarding the advertisement.

Sincerely,

A handwritten signature in cursive script that reads "Julie L. Yarbrough".

JULIE L. YARBROUGH
Senior Secretary

Attachment



EXECUTIVE DIRECTOR
Wendy L. Wilson
Boise

BOARD OF DIRECTORS
Gail Ater
Gooding

Diane Bilyeu
Pocatello

Bill Davidson
Pocatello

Maria Eschen, Ph.D.
Boise

Amy Haak
Boise

M. Keene Hueftle, Ed.D.
Pocatello

Bruce Johnstone
Boise

Jerry Myers
Salmon

Dr. Stephen Pauley
Ketchum

Dr. Charles Pezeshki
Troy

Gerald Sehlike
Idaho Falls

Tom Stuart

Wlodek Szczepanowski

Curtis Webb
Twin Falls

October 3, 1996

John Beal and/or Hearing Officer
Idaho Dept. of Water Resources
1301 N. Orchard
Boise, ID 83706

RECEIVED
OCT 04 1996
Department of Water Resources

Dear John and/or Hearing Officer:

Idaho Rivers United requests formal intervenor status to maintain its right to appeal decisions regarding the disposition of minimum streamflow water right applications in the Upper Boise River Basin. Specifically, we want to intervene as a party to the scheduled hearing on October 30, 1996 for water right numbers 63-12030 through 63-12034. These applications cover portions of the E. Fork of Montezuma Creek, Crooked River, Yuba River, Middle Fork Boise River, and N. Fork of Elk Creek.

Please notify me in writing as to our intervenor status. Thank you.

Sincerely,

Marti L. Bridges

Marti L. Bridges
Water Policy Director



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 7, 1996

Idaho Rivers United
c/o Marti L. Bridges
P.O. Box 633
Boise, ID 83701

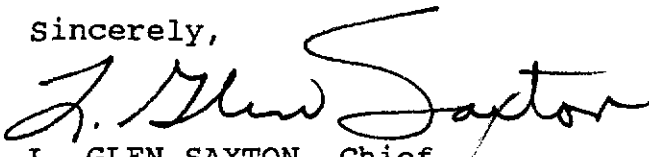
**RE: APPLICATION FOR PERMIT NOS. 63-12030 THROUGH 63-12034 TO
ESTABLISH MINIMUM STREAMFLOWS IN THE UPPER BOISE RIVER
DRAINAGE**

Dear Ms. Bridges:

I have reviewed your letter dated October 3, 1996 in which you request full party status in the hearing scheduled on October 30, 1996 in connection with the above referenced applications. Please consider this letter as notification that the department will allow you to participate as a full party in the scheduled hearing.

If you have questions, please feel free to contact me or the department.

Sincerely,


L. GLEN SAXTON, Chief
Water Allocation Bureau

c: IDWR - W. Region
John Beal
Clarence Parr



Steve Lester ✓

IDAHO FISH & GAME

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

Phil Batt / Governor
Jerry M. Conley / Director

July 5, 1996

RECEIVED

JUL 11 1996

WATER RESOURCES
WESTERN REGION

Mr. Bill Graham
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83709

RE: Protest of instream flow applications 63-12031, 63-12032, and 63-12033

Dear Bill:

Idaho Department of Fish and Game (IDFG) personnel have collected additional data regarding the availability of the requested flows for the above-referenced instream flow applications. Based on the data, IDFG withdraws its protest of the applications. Data collected by IDFG on Crooked River from 1993 to 1995 indicate that flows have ranged from a low of approximately 20 cfs to a high of nearly 250 cfs during the months of June to September. Requested flows are in the range of 34 cfs to 150 cfs. Fish studies also show that populations of brook trout and rainbow trout are generally healthy and likely provide adequate, fishable populations. Data collected in the Yuba River are more limited, but in general support the same conclusions as Crooked River. IDFG did not collect any flow or fish data in the Middle Fork Boise River. We would suggest that an appropriate study of the instream flow needs be done as a condition of approving the application for the Middle Fork Boise River.

If you or your staff have questions regarding this matter, please contact me at 334-2597.

Sincerely,

Cindy

Cindy Robertson
Fishery Staff Biologist

cc: Scott Grunder, Southwest Region
Marti Bridges, Idaho River United
✓ Dave Tuthill, IDWR Southern Region



IDAHO FISH & GAME

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

July 5, 1996

Phil Batt / Governor
Jerry M. Conley / Director

RECEIVED

JUL 08 1996

Department of Water Resources

Mr. Bill Graham
Idaho Department of Water Resources
1301 North Orchard Street
Boise, ID 83709

RE: Protest of instream flow applications 63-12031, 63-12032, and 63-12033

Dear Bill:

Idaho Department of Fish and Game (IDFG) personnel have collected additional data regarding the availability of the requested flows for the above-referenced instream flow applications. Based on the data, IDFG withdraws its protest of the applications. Data collected by IDFG on Crooked River from 1993 to 1995 indicate that flows have ranged from a low of approximately 20 cfs to a high of nearly 250 cfs during the months of June to September. Requested flows are in the range of 34 cfs to 150 cfs. Fish studies also show that populations of brook trout and rainbow trout are generally healthy and likely provide adequate, fishable populations. Data collected in the Yuba River are more limited, but in general support the same conclusions as Crooked River. IDFG did not collect any flow or fish data in the Middle Fork Boise River. We would suggest that an appropriate study of the instream flow needs be done as a condition of approving the application for the Middle Fork Boise River.

If you or your staff have questions regarding this matter, please contact me at 334-2597.

Sincerely,

Cindy

Cindy Robertson
Fishery Staff Biologist

cc: Scott Grunder, Southwest Region
Marti Bridges, Idaho River United
Dave Tuthill, IDWR Southern Region

MEMORANDUM

TO: JIM JOHNSON

FROM: STEVE LESTER *SL*

DATE: APRIL 3, 1996

RE: PROCESSING APPLICATIONS 63-12030 THROUGH 63-12034

I am forwarding these five IWRB applications for minimum streamflows in the Boise River Basin upstream from Lucky Peak Reservoir. The files have been held at Western -- they became caught up in the moratorium and then the processing delay syndrome. However, it appears that neither the moratorium nor the delay scenario would apply to these non-consumptive proposals.

Here is a brief file summary:

IDWR 6-30-93 comment letters to ID Health & Welfare, ID Fish & Game, ID Parks & Rec., and Watermaster #63.

No responses yet from IDHW or Watermaster.

Protest letter 7-27-93 from IDFG for 63-12031 through 63-12033. This was prior to protest fee requirement.

Supporting letter 7-20-93 from IDPR for all five applications.

ID Rivers United letter 9-19-93 stating too late to protest but has concerns, requests to remain informed/involved about status.

It does not appear that any legal notices have been published yet. ID Rivers or other parties can protest up to the protest deadline that is not yet defined.

From the file checklist (see 63-12030), all of the Region tasks are done and the processing can resume at S.O. level. Please let me know if I can provide additional help.



IDAHO FISH & GAME

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

RECEIVED
JUL 28 1993

Department of Water Resources
Western Regional Office

July 27, 1993

Mr. David Tuthill, Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

RE: Applications for instream flows in the Comprehensive State Water Plan, Upper Boise River Basin, No.s 63-12031 through 63-12033

Dear David:

Idaho Department of Fish and Game (IDFG) personnel have reviewed the above-referenced applications for instream flows and have the following comments. While we agree with the concept of providing minimum flows for the selected stream reaches, we are concerned that the requested flow regimes may not be adequate to fully protect fish and wildlife resources. For example, IDFG personnel measured flows in the Crooked River on July 21 of this year. Flows in the river immediately below Edna Creek were approximately 56 cfs, and 67 cfs at the mouth. These amounts are nearly twice the requested flow of 34 cfs for the time period to July 1 to April 30. We question whether 34 cfs is adequate to maintain a viable fishery in Crooked River.

Another example is the Middle Fork of the Boise River. The requested flow is 230 cfs from July 1 to April 30 and 1000 cfs from May 1 to June 30. U.S. Geological Survey records (attached) indicate the monthly mean flows for the period 1911 to 1992, as measured near Twin Springs, far exceed 230 cfs for all months during the year, and the monthly mean flows for the months of May and June are in excess of 3700 and 3300 cfs, respectively. Again, we question if the proposed flow regime is adequate to protect fish and wildlife resources in the Middle Fork of the Boise River.

In the interest of preserving our standing in this matter, consider this letter to be our protest of the above-referenced minimum flow applications. We would like the opportunity to sit down with your staff, members of the Water Resource Board, and representatives from the U.S. Forest Service to discuss our concerns regarding

Cecil D. Andrus / Governor
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these flow recommendations before they are approved. We reiterate that IDFG is not opposed to the principle of the minimum flow requests, merely we would like clarification of how the proposed flow regimes were derived and whether the flows will adequately protect fish and wildlife resources in the affected river reaches. We suggest that studies be conducted to determine if the proposed flows are indeed adequate to protect fish and wildlife values before these applications are approved. Please contact Cindy Robertson at 334-2597 if you have questions regarding this matter. Thank you for the opportunity to comment.

Sincerely,


Cal Green, Chief
Natural Resources Policy Bureau

Attachments

c: Scott Grunder, Reg. 3
David Rydalch, Idaho Water Resource Board
Dave Greigor, Idaho Dept. of Water Resources
Steve Goddard, Legal

CG:CR:jj

LOCATION.--Lat 43°39'33", long 115°43'34", in NW¹/₄ NE¹/₄ sec.27, T.4 N., R.6 E., Boise County. Hydrologic Unit 17050112, Boise National Forest, on right bank, 0.7 mi upstream from Birch Creek, 1.8 mi upstream from maximum flow line of Arrowrock Reservoir, 3.2 mi downstream from Twin Springs, 13 mi upstream from Arrowrock Dam, and at mile 88.5.

PERIOD OF RECORD.--March 1911 to current year.

GAGE.--Water-stage recorder. Datum of gage is 3,255.70 ft above National Geodetic Vertical Datum of 1929. March 1911 to Apr. 3, 1915, nonrecording gage, and Apr. 4, 1915 to Sept. 30, 1965, water-stage recorder at site 0.3 mi downstream at datum 5.26 ft lower.

REMARKS.--Records good except for estimated daily discharges, which are fair. Station equipment includes satellite telemetry.

Peak discharges greater than a base discharge of 3,700 ft³/s are available. No peaks greater than base discharge this year.

DAY	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
1	270	321	299	297	290	780	934	1980	1070	573	251	214
2	265	299	389	267	294	821	994	1800	1060	491	244	219
3	263	247	379	296	287	808	1090	1730	1050	456	237	216
4	263	311	331	340	266	836	1200	1750	978	435	232	222
5	266	364	368	336	274	874	1200	1870	896	426	231	232
6	268	582	397	335	292	847	1100	2040	839	396	230	248
7	266	449	440	327	312	828	991	2220	783	384	236	246
8	263	376	410	314	325	780	943	2308	737	375	239	235
9	263	615	386	277	320	752	944	2300	700	367	239	228
10	262	581	365	285	312	732	1420	1980	672	372	236	224
11	261	452	301	326	330	734	1400	1760	649	378	228	221
12	260	408	370	285	327	761	1330	1610	634	376	225	224
13	258	540	358	262	344	820	1330	1500	703	364	221	230
14	258	542	286	310	350	882	1320	1470	689	351	219	230
15	260	421	261	301	340	934	1280	1530	650	335	225	229
16	261	359	268	297	344	971	1270	1600	691	326	236	224
17	261	396	296	312	333	930	1530	1590	685	318	233	221
18	259	421	368	287	327	862	1670	1630	613	311	223	220
19	261	376	377	231	338	794	1530	1720	578	312	217	219
20	264	376	299	235	534	748	1440	1720	545	307	213	221
21	266	389	239	244	826	726	1420	1630	515	335	213	224
22	267	338	300	278	784	711	1440	1490	483	321	218	223
23	274	241	350	323	776	702	1350	1440	462	311	227	221
24	275	364	326	321	659	700	1270	1450	460	301	232	236
25	286	403	297	305	588	694	1220	1500	473	293	231	322
26	348	539	295	293	554	710	1240	1540	535	285	232	294
27	360	513	329	289	587	843	1350	1520	490	277	228	261
28	308	441	328	305	661	843	1490	1360	453	270	223	250
29	282	424	345	306	739	823	1670	1260	510	263	219	244
30	279	321	348	297	---	836	2040	1200	555	259	217	238
31	255	---	346	293	---	880	---	1130	---	255	216	---
TOTAL	8452	12409	10451	9174	12713	24962	39406	53620	20158	10823	7071	7036
MEAN	273	414	337	296	438	805	1314	1665	672	349	228	235
MAX	160	615	440	340	826	971	2040	2300	1070	573	251	322
MIN	255	241	239	231	266	694	934	1130	453	255	213	214
AC-FT	16760	24610	20730	18200	25220	49510	78160	102400	39980	21470	14030	13960
CFSW	.33	.50	.									

MEAN	391	440	472	444	506	817	2113	3707	3322	1194	460	367
MAX	699	1099	1748	994	1474	2627	5658	6737	6804	2975	892	584
(WY)	1960	1928	1965	1956	1986	1986	1943	1958	1974	1943	1965	1965
MIN	246	263	265	265	283	326	717	782	672	321	224	223
(WY)	1989	1937	1936	1919	1920	1977	1977	1977	1992	1924	1934	1934

WATER YEARS 1911 - 1992

ANNUAL TOTAL	263569		214275				
ANNUAL MEAN	722		585			1185	
HIGHEST ANNUAL MEAN						1985	1974
LOWEST ANNUAL MEAN						442	1977
HIGHEST DAILY MEAN	3220	Jun 12	^a 2300	May 8		15400	Dec 23 1964
LOWEST DAILY MEAN	220	Jan 22	^b 213	Aug 20		123	Nov 28 1976
ANNUAL SEVEN-DAY MINIMUM	259	Jan 21	218	Aug 29		183	Dec 8 1932
INSTANTANEOUS PEAK FLOW			2420	May 9		18800	Dec 23 1964
INSTANTANEOUS PEAK STAGE				6.17	May 9	^c 12.20	Dec 23 1964
INSTANTANEOUS LOW FLOW				210	Aug 20	^d 105	Nov 28 1976
INSTANTANEOUS LOW LOW				3.00	Aug 20	^e 1.48	Dec 6 1960
ANNUAL RUNOFF (AC-FT)	522800		425000			858300	
ANNUAL RUNOFF (CFSH)	.87		.71			1.43	
ANNUAL RUNOFF (INCHES)	11.81		9.60			19.39	
10 PERCENT EXCEEDS	1890		1420			3280	
50 PERCENT EXCEEDS	389		350			506	
90 PERCENT EXCEEDS	265		231			300	

a Also occurred May 9.

b Also occurred Aug. 21.

c From floodmark, site and datum then in use.

d Gate height = 64.6"



**IDAHO DEPARTMENT
OF
PARKS & RECREATION**

CECIL D. ANDRUS
Governor

YVONNE S. FERRELL
Director

FRANKLIN E. BOTELER, Ph.D.
Deputy Director

**IDAHO PARK AND
RECREATION BOARD**

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**STATEHOUSE MAIL
BOISE, IDAHO 83720-8000
(208) 327-7444
FAX (208) 327-7406**

**Street Address
7800 Fairview Ave.**

Equal Opportunity Employer

July 20, 1993

David Tuthill, Jr., P.E. *Dut*
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Applications for Permit No. 63-12030, 63-12031, 63-12032, 36-63-12033 and 63-12034 in the name of the Idaho Water Resource Board

Dear Mr. Tuthill:

I have reviewed the instream flow applications for the East Fork of Montezuma Creek, the different forks of Elk Creek, Yuba River, Crooked River, and the Middle Fork of the Boise River.

We support these instream flows water rights sought in conjunction with comprehensive basin planning on the North Fork, Middle Fork and Main Boise River.

We would like to thank the Water Board for following through with the recommendations of staff and advisory group members in filing for these water rights.

Sincerely,

Mary Jean Lucachick
Resource Specialist

idwr.msf

cc: Dave Rydalch, Chairman, IWRB
Dave Greegor, IDWR

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Department of Water Resources
Western Regional Office



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 30, 1993

IDAHO DEPT OF FISH AND GAME
600 SOUTH WALNUT
BOISE ID 83706

Re: Applications for Permit Nos. 63-12030, 63-12031, 63-12032,
63-12033 and 63-12034 in the Name of Idaho Water Resource
Board

Dear Sir:

Enclosed is a copy(s) of the above-referenced application(s) for permit which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office within 30 days.

If you have any questions regarding the applications, please contact this office.

Sincerely,

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

DRT:st

Enclosure(s):

REC-2112
JUL 2 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 30, 1993

ID DEPARTMENT OF PARKS & RECREATION
7800 FAIRVIEW
BOISE ID 83720

Re: Applications for Permit Nos. 63-12030, 63-12031, 63-12032,
63-12033 and 63-12034 in the Name of Idaho Water Resource
Board

Dear Sir:

Enclosed is a copy(s) of the above-referenced
application(s) for permit which may be of interest to your
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application(s), your written protest must be received in this
office within 30 days.

If you have any questions regarding the applications,
please contact this office.

Sincerely,

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

DRT:st

Enclosure(s):



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 30, 1993

IDAHO DEPT OF HEALTH & WELFARE
DIV OF ENV QUALITY
SWIRO
1420 N HILTON
BOISE, ID 83706

Re: Applications for Permit Nos. 63-12030, 63-12031, 63-12032,
63-12033 and 63-12034 in the Name of Idaho Water Resource
Board

Dear Sir:

Enclosed is a copy(s) of the above-referenced
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application within a six-week period and is required to take
final action shortly thereafter, however, if your agency
desires to file a formal protest against the approval of this
application(s), your written protest must be received in this
office within 30 days.

If you have any questions regarding the applications,
please contact this office.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. R. Tuthill, Jr.'.

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

DRT:st

Enclosure(s):



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 30, 1993

LEE SISCO WATERMASTER
214 BROADWAY
BOISE ID 83702

Re: Applications for Water Right Nos. 63-12030, 63-12031,
63-12032, 63-12033 and 63-12034 in name of Idaho Water
Resource Board

Dear Mr. Sisco:

Enclosed are copies of the above-referenced applications for
water right.

Please review the applications and return any comments you
might have within thirty days. If you have questions or need
information, feel free to contact this office.

Sincerely,

A handwritten signature in cursive script, reading 'David R. Tuthill, Jr.'.

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

DRT:st

Enclosure: Copy of Application