

*Patrick D. Furey*  
*Attorney at Law*

RECEIVED

MAY 31 2007

DEPARTMENT OF  
WATER RESOURCES

May 31, 2007

Mr. Tim Luke  
State of Idaho Dept. of Water Resources  
Water Distribution Section  
322 E. Front Street  
Boise, Idaho 83720-0098

VIA HAND DELIVERY

Re: February 20, 2007 Preliminary Order In the Matter of Requiring Measuring Devices and Controlling Works on Diversions from the Salmon River and Tributaries in Water District No. 170 and  
your correspondence dated February 20, 2007;

Plans and topo map for measuring devices and control works (with fish screens) in Administrative Basin 71 for diversions on Goat Creek and Meadow Creek in the Stanley Basin

Dear Mr. Luke:

In reference to the above, enclosed please find documentation of the plans for measuring devices and controlling works for diversions pertaining to the water rights of Jack B. Furey and the heirs of the late Louis F. Racine, Jr. (whose last name may be incorrectly spelled "Recine" in some of the Department's records) from Goat Creek and Meadow Creek in the Stanley Basin. Additionally, I am enclosing correspondence from Mr. Lynn Stratton, Screen Program Coordinator for the Anadromous Fish Screen Program of Idaho Fish and Game, Salmon office, to Ms. Sara Baldwin, Area Ranger of the Sawtooth National Recreation Area dated August 3, 2006. Among other things, this correspondence details the level of progress Idaho Fish and Game had made toward satisfaction of the SNRA's requirements for approval and issuance of the requisite Special Use Permit as of that date. ("All the environmental regulatory process has been concluded.") I am advised that these works are being processed at the SNRA with a view toward "CX" or categorical exclusion which would expedite the permitting process in that realm, although to the best of my knowledge the permits have not yet been issued at this writing.

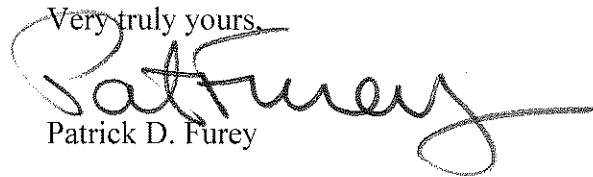
*301 E. Brookhollow Dr.*  
*Boise, Idaho 83706*  
*Telephone/Facsimile (208) 368-0855*  
*pfurey@cableone.net*

As we discussed, the documents I am enclosing today specifically refer only to the Goat Creek diversions (multiples of which are proposed to be combined into a single diversion from Goat Creek with the various owners' appropriations, including those of Furey-Racine, then taken out a short distance down-gradient). However, I am also submitting them for approval as plans for the Meadow Creek diversions as well, because I am advised by Mr. Stratton that the measuring devices and controlling works for the Meadow Creek diversions will be the same in their material particulars, only smaller.

I understand the Goat Creek works are slated for construction this summer and possibly the Meadow Creek works as well, although the latter may be complicated somewhat by the number of other diversions from Meadow Creek downstream from ours.

Please let me know if you need anything further from us in order for construction of the works to get underway. Thank you.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Patrick D. Furey", with a long, sweeping horizontal line extending to the right.

Patrick D. Furey

encl: Stratton-Baldwin letter August 3, 2006  
Topo map of location  
Sheets (2) depicting construction detail and location

cc: Jack B. Furey  
Randy Budge, Trustee, Louis F. and Jean Racine Trust  
Janell Racine  
Lynn Stratton, IDFG  
Terry Clark, SNRA



**IDAHO FISH AND GAME**  
**ANADROMOUS FISH SCREEN PROGRAM**  
97 Hwy 93N / P.O. Box 1336  
Salmon, Idaho 83467

**James E. Risch /Governor**  
**Steve Huffaker/ Director**

August 3, 2006

Sara E. Baldwin  
Area Ranger  
HC 64 Box 9900  
Stanley, ID 83278

RE: Screen Project SVCGC-05/6

Dear Ranger Baldwin,

The Department of Fish and Game, in coordination with the irrigators of these diversions, intends to consolidate the SVCGC-05 and SVCGC-06 diversions, install a fish screen, head gate, and a short pipeline in order to improve fish passage in Goat Creek. All but a few feet of the pipeline would be placed upon private property. The headgate, diversion weir improvements, and the fish screen would be upon lands administered by the Sawtooth National Recreation Area (SNRA). The project would be completed in accordance with the *Criteria for Routine Certification of Water Diversion Fish Screens on Public and Private Lands within the Sawtooth National Recreation Area*. The fish screen design is for a concrete structure housing a paddlewheel driven rotary drum screen placed in the ditch with a fish bypass pipe extending from the ditch to Goat Creek. The project will be jointly funded by Bonneville Power Administration (BPA) and the Columbia River Fisheries Development Program (CRFDP).

This project is subject to several Federal environmental regulations. All the environmental regulatory process has been concluded. This proposal work includes installation of a headgate control structure. The in-stream work associated with the headgate installation is exempt from 404 regulation under CFR33 323.4 (a)(3). The head gate and the fish screen structures installation requires consultation under the Endangered Species Act section 7 (a) (2). The CRFDP submitted a Biological Evaluation to National Marine Fisheries Service covering head gate and fish screen installation, operation, and maintenance. That Biological Evaluation (BE) document was reviewed by NMFS and the US Fish & Wildlife Service (USFWS) under Section 7 (a) (2). Both agencies issued opinions in accordance

with 50 CFR 402.14 (b) (1) determining there was not likely to be any adverse effect to the endangered species. There is no ending date on the ESA programmatic authorization. A cultural resource study was conducted by Claudia Walsworth M.A. in 2001 documented in Sawtooth Forest Report SW-01-2110. The survey site name was designated Goat Creek-04 in the report. Subsequently two additional diversions were located downstream and the number of the upper most diversion was renamed for Department purposes as SVCGC-06. The site was fully covered and the locations in the report are accurate notwithstanding the name change. The Idaho State Historical Preservation Office (ISHPO) has issued a letter concurring with the finding of the Section 106 evaluation and noting compliance with 36 CFR 800.4 (c), 800.5, and 800.9.

National Environmental Policy Act (NEPA) compliance can be completed in a number of manners. The CRFDP has a Category Exclusion for all fish screen projects, BPA has an Environmental Impact Statement (EIS) and corresponding Record of Decision for their Habitat Improvement Program (HIP) including a project such as this proposal, or the SNRA could perform the required NEPA. All work associated with this proposal can be covered by BPA via a Supplemental Analysis (SA) under the BPA HIP EIS.

Specifically the Department proposes the following:

**Screen:** The proposed screen will be a reinforced concrete structure tinted a color required by the SNRA driven by paddlewheels. A buried 10" PVC pipe will provide fish passage back to the stream from the fish screen. The structures will be back-filled and graded to minimize exposure. All steel materials will be painted matte chocolate brown. The exposed portion of the bypass pipe will also be painted matte brown.

**Control Structure:** The control structure would be fabricated from steel with a lockable, controllable gate meeting the requirements of Idaho Department of Water Resources. It would be backfilled and rock would be imported to armor the stream bank at the line of penetration.

**Clearing:** The concrete structure can be installed with minimal disturbance to the site. The headgate and new ditch section will require the removal of some trees. Many of the trees that need removed are beetle killed lodgepole pine trees. Some additional trees would also need to be removed in order to access the site from the subdivision road.

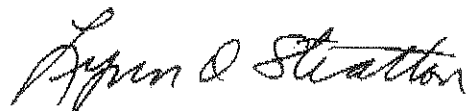
**Access:** The Department will access the sites for construction by using the Iron Creek Road to the Goat Creek Subdivision Road. Immediately upon crossing the Goat Creek culvert, a new road would be installed upon private property to the fish screen site. Approximately 50 feet of new road would be required outside the private property.

**Re-vegetation:** All disturbed soils will be re-seeded with SNRA approved seeds. Additional planting will be performed if required by the SNRA.

**Timing:** Following concurrence with SNRA to this proposal, the Department plans to install the screen structure in the fall of 2006 weather permitting. Projects of this size typically require four to six weeks to complete.

Copies of the ESA Biological Evaluation consultation documents were submitted to your office during the course of submitting work plans on previous projects. My staff would be happy to meet upon the project site to review the proposal. The Department looks forward to the completion of this resource project. If we can provide additional information or documentation please call me at 208-756-6022.

Sincerely,



Lynn Stratton  
Screen Program Coordinator

Cc: James Jones, IDFG  
Patrick Murphy, IDFG

Enclosure

NICK — WD

RECEIVED

JUN 04 2007

DEPARTMENT OF  
WATER RESOURCES

*Patrick D. Furey*  
*Attorney at Law*

June 1, 2007

Terry Clark  
Jackie Richter  
Sawtooth National Forest/SNRA  
2647 Kimberly Road East  
Twin Falls, ID 83301

Re: Form 299 Application for Special Use Permit for installation of HMS pursuant to mandate of February 20, 2007 Order of Idaho Department of Water Resources

Dear Mr. Clark and Ms. Richter:

Please be advised that I am counsel for Jack B. Furey, an owner in sole of certain water rights and also a co-owner as tenants in common of other water rights appurtenant to private lands located in the SNRA. I also own certain water rights appurtenant to private lands located in the SNRA. Please find enclosed for Jack B. Furey and for myself our Form 299 application for the SUP requisite to the installation of certain controlling works, metering devices and fish screens pursuant to the referenced Order of IDWR and correspondence from you office and that of Sara Baldwin, Area Ranger of the SNRA.

Please expedite whatever permitting process is applicable here, as I am advised by Mr. Stratton of the Idaho Fish and Game's Anadromous Fish Screen Program that his agency would like to let the necessary contracts and complete the installation(s) this summer. In fact, he had hoped to see that accomplished last summer. If you have any questions or require anything further in order to green light this installation project, please don't hesitate to call me.

Thank you.

Very truly yours,

  
Patrick D. Furey

encl: Form 299 and attachments labeled "Furey-Racine 1 through 11," inclusive  
cc: Lynn Stratton  
Randy Budge  
Janell Racine  
Jack B. Furey  
Tim Luke

*301 E. Brookhollow Dr.*  
*Boise, Idaho 83706*  
*Telephone/Facsimile (208) 368-0855*  
*pfurey@cablone.net*

APPLICATION FOR TRANSPORTATION AND  
UTILITY SYSTEMS AND FACILITIES  
ON FEDERAL LANDS

FORM APPROVED  
OMB NO. 0596-0082

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

FOR AGENCY USE ONLY

Application Number

Date Filed

3. Telephone (area code)

Applicant

Authorized Agent

1. Name and address of applicant (include zip code)  
Jack B. Furey and Pat Furey  
P.O. Box 280  
Challis, ID 83226  
owners in side re water rights for  
irrigation of residences and Jack B.  
Furey as owner as tenant in common  
with Racine Trusts re water rights on ag  
lands

Name, title, and address of authorized agent if  
different from item 1 (include zip code)  
Pat Furey  
301 E. Brookhollow Dr.  
Boise, ID 83706  
for himself and as attorney  
for Jack B. Furey

RECEIVED

JUN 04 2007

DEPARTMENT OF  
WATER RESOURCES

4. As applicant are you? (check one)

- a. ☒ Individual  
b. ☐ Corporation  
c. ☐ Partnership/Association  
d. ☐ State Government/State Agency  
e. ☐ Local Government  
f. ☐ Federal Agency

5. Specify what application is for: (check one)

- a. ☒ New authorization  
b. ☐ Renewing existing authorization No.  
c. ☐ Amend existing authorization No.  
d. ☐ Assign existing authorization No.  
e. ☐ Existing use for which no authorization has been received  
f. ☐ Other

\* If checked, complete supplemental page

\* If checked, provide details under item 7

6. If an individual, or partnership are you a citizen(s) of the United States? ☒ Yes ☐ No

7. Project description (describe in detail): (a) Type of system or facility, (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (Length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (Attach additional sheets, if additional space is needed.) Applicants by this reference incorporate the documents attached hereto as sheets labeled "Furey-Racine 1 through 11, inclusive."

8. Attach a map covering area and show location of project proposal

9. State or Local government approval: ☐ Attached ☒ Applied for ☐ Not Required

10. Nonreturnable application fee: ☐ Attached ☒ Not required

11. Does project cross international boundary or affect international waterways? ☐ Yes ☒ No (if "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested. Applicants do not personally have the technical capability to construct the system for which authorization is requested. The project, however, is to be constructed by competent contractor(s) pursuant to contracts to which the State of Idaho Department of Fish and Game, will be a party. Funding for the project will be jointly provided by the Bonneville Power Administration (BPA) and the Columbia River Fisheries Development Program (CRFDP). See attachments Furey-Racine 4 through 6. Applicants have the technical capability to operate and maintain the system to whatever extent the same is not done by Idaho Fish and Game and/or the newly appointed Watermaster from the Idaho Dept. of Water Resources.

13a. Describe other reasonable alternative routes and modes considered.

Applicants are unaware of any other reasonable routes and modes. Please see documents incorporated in response number 7 above and attached hereto.

b. Why were these alternatives not selected?

N/A; please see response no. 7 above and attachments hereto.

Please see response no. 7 above and attachments hereto. Existing diversion and portion of installation site are on federal land.

14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name) Please see attachments labeled Furey-Racine 4-6, inclusive. Applicants understand Mr. Lynn Stratton of Idaho Fish & Game Screen Shop has been in communication with this agency for some time and there is presumably an open file as a result.
15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits. The project has been mandated by the Idaho Dept. of Water Resources to install controlling works and metering devices. The cost is not known to applicants, but as stated in response no. 12 and two attachments hereto, the project will be funded by BPA and CRFDP and provide continuation of water use in accordance with state law and will enhance fish welfare.
16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles. Installation of state-mandated RMS will have no effect on the population of the area; no effect on social or economies of the Stanley community. However, the installation assures continued use of water to support the area's rural lifestyle.
17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability. Effects, if any, will be determined by SNRA and/or SNE, USFS.
18. Describe the probable effects that the proposed project will have on (a) populations of fish, plantlife, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.

None.

19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does not include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.

None.

20. Name all the Department(s)/Agency(ies) where this application is being filed.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant

*Salvador W. Furey* individually and as attorney for Jack R. Furey

Date

6-1-07

Title 18, U.S.C. Section 1001, makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.



GENERAL INFORMATION  
ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest Lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved right-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

Department of Agriculture  
Regional Forester, Forest Service (USFS)  
Federal Office Building,  
P.O. Box 21628  
Juneau, Alaska 99802-1628  
Telephone: (907) 586-7847 (or a local Forest Service Office)

Department of the Interior  
Bureau of Indian Affairs (BIA)  
Juneau Area Office  
Federal Building Annex  
9109 Mendenhall Mall Road, Suite 5  
Juneau, Alaska 99802  
Telephone: (907) 586-7177

Department of the Interior  
Bureau of Land Management  
222 West 7th Avenue  
P.O. Box 13  
Anchorage, Alaska 99513-7599  
Telephone: (907) 271-5477 (or a local BLM Office)

U.S. Fish & Wildlife Service (FWS) Office of the Regional Director 1011 East Tudor Road Anchorage, Alaska 99503 Telephone: (907) 786-3440	National Park Service (NPA) Alaska Regional Office, 2225 Gambell St., Rm. 107 Anchorage, Alaska 99502-2892 Telephone: (907) 786-3440
---	--

Note - Filings with any Interior agency may be filed with any office noted above or with the Office of the Secretary of the Interior, Regional Environmental Office, P.O. Box 120, 1675 C Street, Anchorage, Alaska 9513.

Department of Transportation  
Federal Aviation Administration  
Alaska Region AAL-4, 222 West 7th Ave., Box 14  
Anchorage, Alaska 99513-7587  
Telephone: (907) 271-5285

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual department/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS

(Items not listed are self-explanatory)

7. Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are required.
8. Generally, the map must show the section(s), township(s), and range(s) within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.
- 9, 10, and 12. The responsible agency will provide additional instructions.
13. Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.
14. The responsible agency will provide instructions.
15. Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.
- 16 through 19. Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

EFFECT OF NOT PROVIDING INFORMATION: Disclosure of the information is voluntary. If all the information is not provided, the application may be rejected.

DATA COLLECTION STATEMENT

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certification for the use of Federal lands. The Federal agencies use this information to evaluate the applicant's proposal. The public is obligated to submit this form if they wish to obtain permission to use Federal lands.

NOTE: The responsible agency(ies) will provide instructions

## SUPPLEMENTAL

I - PRIVATE CORPORATIONS	CHECK APPROPRIATE BLOCK	
	ATTACHED	FILED*
Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
A certification from the State showing the corporation is in good standing and is entitled to operate within the State	<input type="checkbox"/>	<input type="checkbox"/>
Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications.	<input type="checkbox"/>	<input type="checkbox"/>
If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
II - PUBLIC CORPORATIONS		
Copy of law forming corporation	<input type="checkbox"/>	<input type="checkbox"/>
Proof of organization	<input type="checkbox"/>	<input type="checkbox"/>
Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
If application is for an oil or gas pipeline, provide information required by item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
If application is for an oil or gas pipeline, provide information required by item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>
If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.	<input type="checkbox"/>	<input type="checkbox"/>

## NOTICE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082.

This information is needed by the Forest Service to evaluate the requests to use National Forest System lands and manage those lands to protect natural resources, administer the use, and ensure public health and safety. This information is required to obtain or retain a benefit. The authority for that requirement is provided by the Organic Act of 1897 and the Federal Land Policy and Management Act of 1976, which authorize the Secretary of Agriculture to promulgate rules and regulations for authorizing and managing National Forest System lands. These statutes, along with the Term Permit Act, National Forest Ski Area Permit Act, Granger-Thye Act, Mineral Leasing Act, Alaska Term Permit Act, Act of September 3, 1954, Wilderness Act, National Forest Roads and Trails Act, Act of November 16, 1973, Archeological Resources Protection Act, and Alaska National Interest Lands Conservation Act, authorize the Secretary of Agriculture to issue authorizations or the use and occupancy of National Forest System lands. The Secretary of Agriculture's regulations at 36 CFR Part 251, Subpart B, establish procedures for issuing those authorizations.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

Public reporting burden for this collection of information is estimated to average 8 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Patrick D. Furey*  
*Attorney at Law*

May 31, 2007

Mr. Tim Luke  
State of Idaho Dept. of Water Resources  
Water Distribution Section  
322 E. Front Street  
Boise, Idaho 83720-0098

VIA HAND DELIVERY

Re: February 20, 2007 Preliminary Order In the Matter of Requiring Measuring Devices and Controlling Works on Diversions from the Salmon River and Tributaries in Water District No. 170 and your correspondence dated February 20, 2007;

Plans and topo map for measuring devices and control works (with fish screens) in Administrative Basin 71 for diversions on Goat Creek and Meadow Creek in the Stanley Basin

Dear Mr. Luke:

In reference to the above, enclosed please find documentation of the plans for measuring devices and controlling works for diversions pertaining to the water rights of Jack B. Furey and the heirs of the late Louis F. Racine, Jr. (whose last name may be incorrectly spelled "Recine" in some of the Department's records) from Goat Creek and Meadow Creek in the Stanley Basin. Additionally, I am enclosing correspondence from Mr. Lynn Stratton, Screen Program Coordinator for the Anadromous Fish Screen Program of Idaho Fish and Game, Salmon office, to Ms. Sara Baldwin, Area Ranger of the Sawtooth National Recreation Area dated August 3, 2006. Among other things, this correspondence details the level of progress Idaho Fish and Game had made toward satisfaction of the SNRA's requirements for approval and issuance of the requisite Special Use Permit as of that date. ("All the environmental regulatory process has been concluded.") I am advised that these works are being processed at the SNRA with a view toward "CX" or categorical exclusion which would expedite the permitting process in that realm, although to the best of my knowledge the permits have not yet been issued at this writing.

*301 E. Brookhollow Dr.*  
*Boise, Idaho 83706*  
*Telephone/Facsimile (208) 368-0855*  
*pfurey@cableone.net*

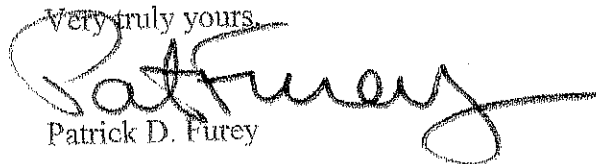
FUREY-RACINE - 1

As we discussed, the documents I am enclosing today specifically refer only to the Goat Creek diversions (multiples of which are proposed to be combined into a single diversion from Goat Creek with the various owners' appropriations, including those of Furey-Racine, then taken out a short distance down-gradient). However, I am also submitting them for approval as plans for the Meadow Creek diversions as well, because I am advised by Mr. Stratton that the measuring devices and controlling works for the Meadow Creek diversions will be the same in their material particulars, only smaller.

I understand the Goat Creek works are slated for construction this summer and possibly the Meadow Creek works as well, although the latter may be complicated somewhat by the number of other diversions from Meadow Creek downstream from ours.

Please let me know if you need anything further from us in order for construction of the works to get underway. Thank you.

Very truly yours,



Patrick D. Furey

encl: Stratton-Baldwin letter August 3, 2006  
Topo map of location  
Sheets (2) depicting construction detail and location

cc: Jack B. Furey ✓  
Randy Budge, Trustee, Louis F. and Jean Racine Trust ✓  
Janell Racine ✓  
Lynn Stratton, IDFG ✓  
Terry Clark, SNRA ✓

## ATTACHMENT A





IDAHO FISH AND GAME  
ANADROMOUS FISH SCREEN PROGRAM  
97 Hwy 93N / P.O. Box 1336  
Salmon, Idaho 83467

James E. Risch /Governor  
Steve Huffaker/ Director

August 3, 2006

Sara E. Baldwin  
Area Ranger  
HC 64 Box 9900  
Stanley, ID 83278

RE: Screen Project SVCGC-05/6

Dear Ranger Baldwin,

The Department of Fish and Game, in coordination with the irrigators of these diversions, intends to consolidate the SVCGC-05 and SVCGC-06 diversions, install a fish screen, head gate, and a short pipeline in order to improve fish passage in Goat Creek. All but a few feet of the pipeline would be placed upon private property. The headgate, diversion weir improvements, and the fish screen would be upon lands administered by the Sawtooth National Recreation Area (SNRA). The project would be completed in accordance with the *Criteria for Routine Certification of Water Diversion Fish Screens on Public and Private Lands within the Sawtooth National Recreation Area*. The fish screen design is for a concrete structure housing a paddlewheel driven rotary drum screen placed in the ditch with a fish bypass pipe extending from the ditch to Goat Creek. The project will be jointly funded by Bonneville Power Administration (BPA) and the Columbia River Fisheries Development Program (CRFDP).

This project is subject to several Federal environmental regulations. All the environmental regulatory process has been concluded. This proposal work includes installation of a headgate control structure. The in-stream work associated with the headgate installation is exempt from 404 regulation under CFR33 323.4 (a)(3). The head gate and the fish screen structures installation requires consultation under the Endangered Species Act section 7 (a) (2). The CRFDP submitted a Biological Evaluation to National Marine Fisheries Service covering head gate and fish screen installation, operation, and maintenance. That Biological Evaluation (BE) document was reviewed by NMFS and the US Fish & Wildlife Service (USFWS) under Section 7 (a) (2). Both agencies issued opinions in accordance

with 50 CFR 402.14 (b) (1) determining there was not likely to be any adverse effect to the endangered species. There is no ending date on the ESA programmatic authorization. A cultural resource study was conducted by Claudia Walsworth M.A. in 2001 documented in Sawtooth Forest Report SW-01-2110. The survey site name was designated Goat Creek-04 in the report. Subsequently two additional diversions were located downstream and the number of the upper most diversion was renamed for Department purposes as SVCGC-06. The site was fully covered and the locations in the report are accurate notwithstanding the name change. The Idaho State Historical Preservation Office (ISHPO) has issued a letter concurring with the finding of the Section 106 evaluation and noting compliance with 36 CFR 800.4 (c), 800.5, and 800.9.

National Environmental Policy Act (NEPA) compliance can be completed in a number of manners. The CRFDP has a Category Exclusion for all fish screen projects, BPA has an Environmental Impact Statement (EIS) and corresponding Record of Decision for their Habitat Improvement Program (HIP) including a project such as this proposal, or the SNRA could perform the required NEPA. All work associated with this proposal can be covered by BPA via a Supplemental Analysis (SA) under the BPA HIP EIS.

Specifically the Department proposes the following:

**Screen:** The proposed screen will be a reinforced concrete structure tinted a color required by the SNRA driven by paddlewheels. A buried 10" PVC pipe will provide fish passage back to the stream from the fish screen. The structures will be back-filled and graded to minimize exposure. All steel materials will be painted matte chocolate brown. The exposed portion of the bypass pipe will also be painted matte brown.

**Control Structure:** The control structure would be fabricated from steel with a lockable, controllable gate meeting the requirements of Idaho Department of Water Resources. It would be backfilled and rock would be imported to armor the stream bank at the line of penetration.

**Clearing:** The concrete structure can be installed with minimal disturbance to the site. The headgate and new ditch section will require the removal of some trees. Many of the trees that need removed are beetle killed lodgepole pine trees. Some additional trees would also need to be removed in order to access the site from the subdivision road.

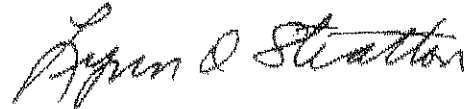
**Access:** The Department will access the sites for construction by using the Iron Creek Road to the Goat Creek Subdivision Road. Immediately upon crossing the Goat Creek culvert, a new road would be installed upon private property to the fish screen site. Approximately 50 feet of new road would be required outside the private property.

**Re-vegetation:** All disturbed soils will be re-seeded with SNRA approved seeds. Additional planting will be performed if required by the SNRA.

**Timing:** Following concurrence with SNRA to this proposal, the Department plans to install the screen structure in the fall of 2006 weather permitting. Projects of this size typically require four to six weeks to complete.

Copies of the ESA Biological Evaluation consultation documents were submitted to your office during the course of submitting work plans on previous projects. My staff would be happy to meet upon the project site to review the proposal. The Department looks forward to the completion of this resource project. If we can provide additional information or documentation please call me at 208-756-6022.

Sincerely,



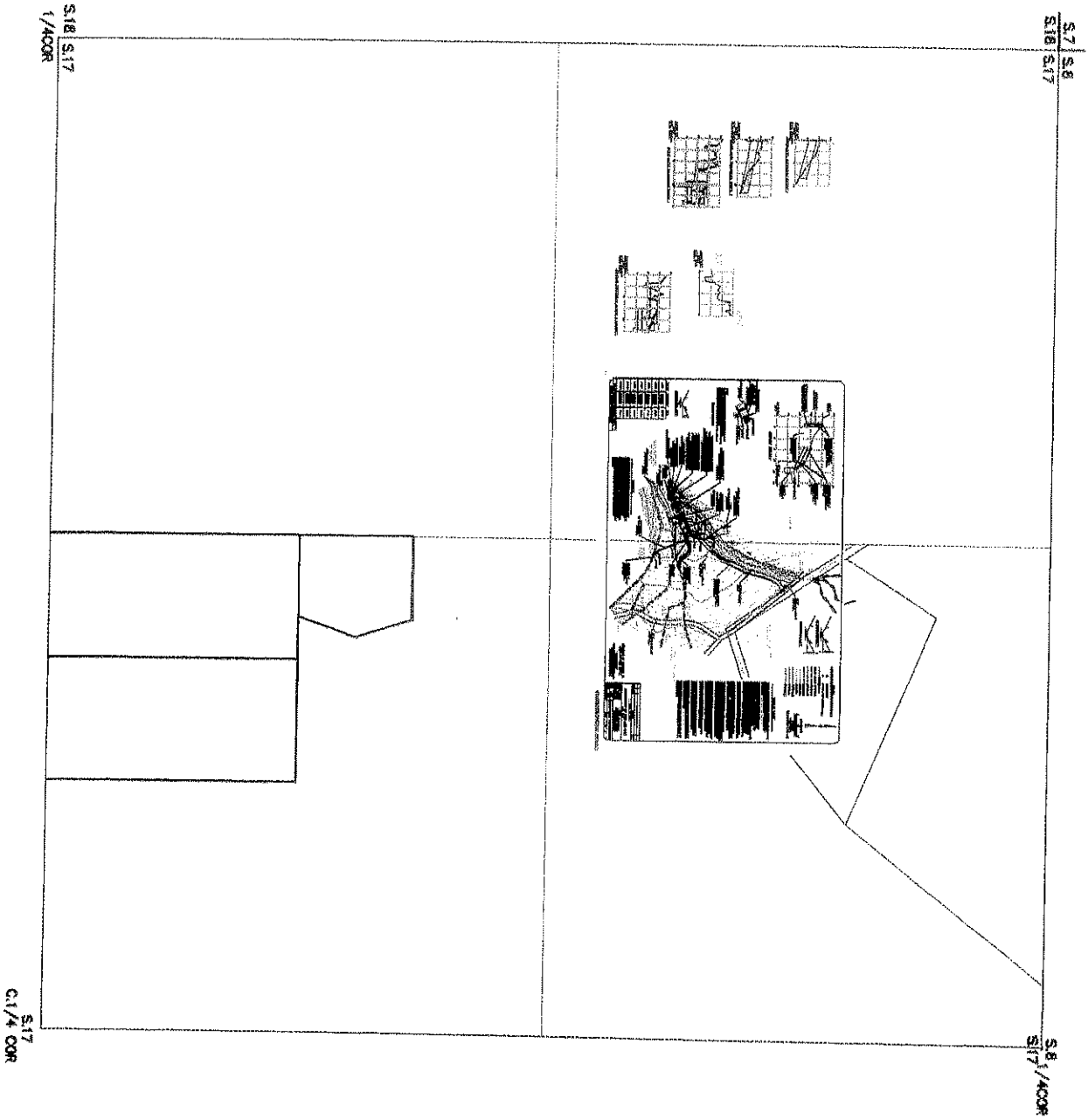
Lynn Stratton  
Screen Program Coordinator

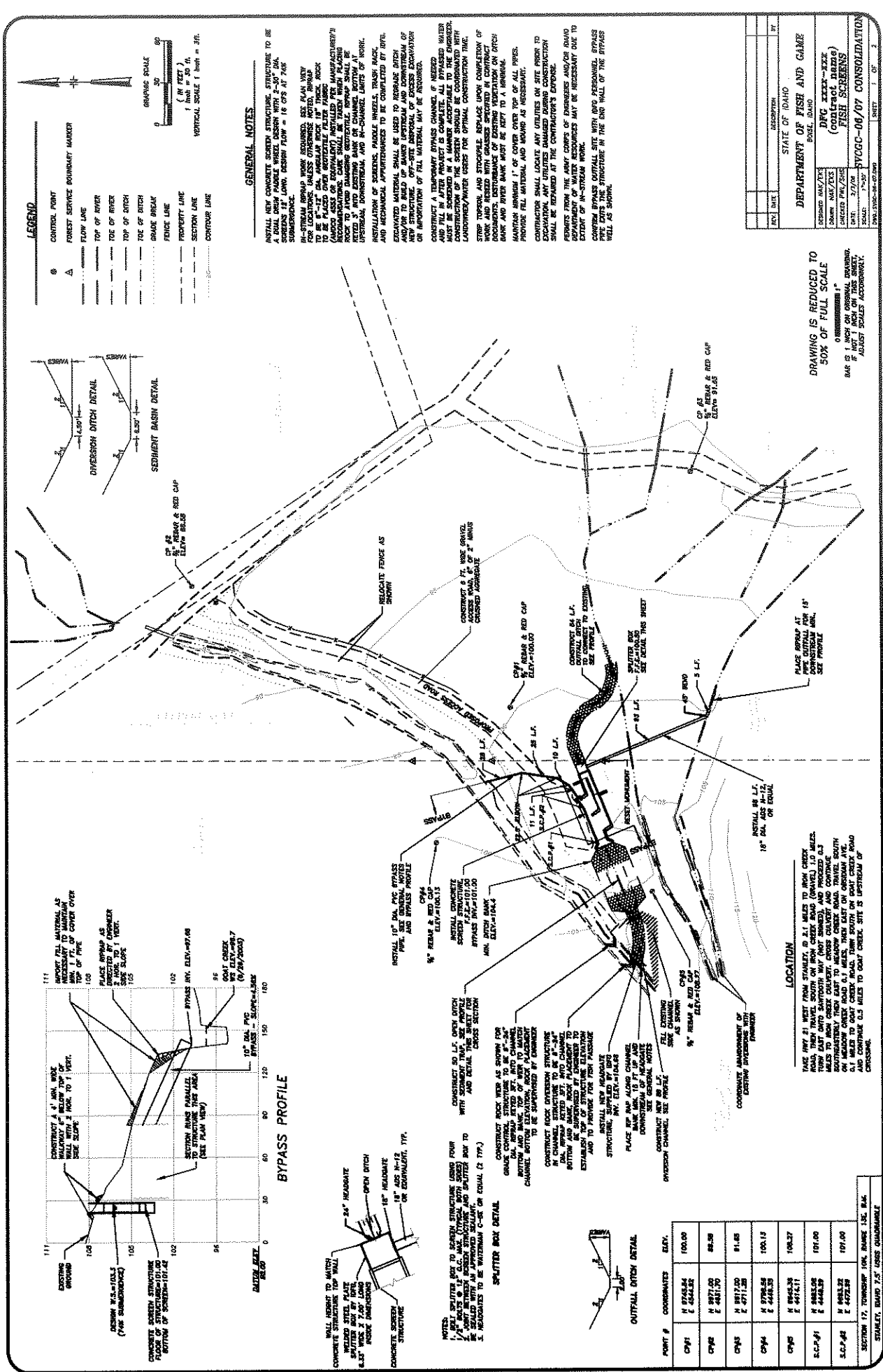
Cc: James Jones, IDFG  
Patrick Murphy, IDFG

Enclosure







[illegible][illegible]

