

Davison, Copple, Copple & Cox, LLP
Attorneys at Law

Direct Contact:

Terry C. Copple
Direct: (208) 342-3766

E-Mail: tccopple@davisoncopple.com
<http://www.davisoncopple.com>

199 North Capitol Boulevard, #600
Post Office Box 1583
Boise, Idaho 83701

Telephone: (208) 342-3658
Facsimile: (208) 386-9428

August 11, 2008

VIA HAND DELIVERY

Director David R. Tuthill
Department of Water Resources
State of Idaho
Idaho Water Center
322 East Front Street
Boise, Idaho 83702

Re: Deer Creek, LLC Submittal in Support of Joint Application For Permits No. S79-20016 as Part of the Public Record At The August 14, 2008, Hearing Before the Idaho Department of Water Resources

Dear Director Tuthill: 

This office represents Deer Creek, LLC who is the applicant in the Stream Channel Alteration Joint Application For Permits No. S79-20016 which is currently the subject of a public hearing scheduled to commence before you at 9:30 o'clock a.m. on August 14, 2008. This letter and the attached exhibits are being submitted to you in support of the Joint Applications. We intend on presenting an abbreviated summary of the evidence set forth in this letter at the hearing and therefore request that this letter and all of the exhibits be deemed part of the formal hearing record in support of the application in lieu of a full presentation at the hearing.

If the Department requires any additional information or facts to assist it with regard to the review of the applications, please do not hesitate to call upon us and we will provide you with that information.

In support of the pending application, we submit the following facts which clearly show that Deer Creek, LLC is entitled to the placement of the dock at its residence on the Lower Salmon River.

In addition, under separate cover are letters from local residents and Salmon River users expressing support for this dock application.

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 2

1. THE DOCK PERMIT HAS ALREADY BEEN GRANTED BY THE IDAHO DEPARTMENT OF WATER RESOURCES.

Deer Creek, LLC has already applied for and received from the Idaho Department of Water Resources permission to install the dock involved in this matter. As a result, the dock was constructed and installed by Deer Creek, LLC at its property on the Lower Salmon River in 2007 as explained below.

On April 2, 2007, Dennis Moyer of Deer Creek, LLC wrote to Ervin Ballou, Coordinator of the Stream Protection Program for the Idaho Department of Water Resources, in order to obtain a dock permit for the placement of the dock at our client's cabin on the Lower Salmon River. A copy of Mr. Moyer's letter to Mr. Ballou dated April 2, 2007, is attached hereto as Exhibit "A." Our client was initially prepared to file Form 404 Joint Application For Permits for the dock which, as you are aware, is the Joint Application for the Idaho Department of Water Resources, Idaho Department of Land, and U.S. Army Corps of Engineers. Pursuant to this application process, the Idaho Department of Water Resources is responsible for analyzing the dock application and issuing approvals. In discussions with Mr. Ballou of the Idaho Department of Water Resources, Mr. Moyer was specifically advised that he should not file a 404 Form due to the dock's modest size. Mr. Moyer was advised by the Idaho Department of Water Resources that he should contact the Idaho Department of State Lands.

As a result, Mr. Moyer spoke with Scott Corkill and Mr. Tom Hawkins of the Idaho Department of Lands at which time he was again told that it was not required to submit a 404 Form and that the dock proposed by Deer Creek, LLC was acceptable to the Department of Lands. Attached hereto as Exhibit "B" is a copy of an e-mail dated April 9, 2007, from Dennis Moyer to Erv Ballou confirming that the Idaho Department of Lands as well as the Bureau of Land Management had no objections to the dock.

Attached hereto as Exhibit "C" is an e-mail from Dennis Moyer to Mr. Ballou dated April 10, 2007, confirming that no encroachment permit would be necessary for the dock. On April 16, 2007, Mr. Ballou asked Mr. Moyer for plans, drawings, and a narrative with regard to the dock as shown in Exhibit "D" attached hereto. Thereafter Mr. Moyer provided the information to Mr. Ballou as is confirmed in the e-mail from Mr. Ballou dated April 24, 2007, and attached hereto as Exhibit "E."

Attached hereto as Exhibit "F" is a letter dated April 23, 2007, from Dennis Moyer to Ervin Ballou providing Mr. Ballou with all of the information requested by the Department necessary to

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 3

evaluate the dock. As you can see from the submissions to Mr. Ballou, the dock is not a permanent dock and is anchored to a rock outcropping on the real property of Deer Creek, LLC above the high water line of the river. Accordingly, nothing permanent relating to the dock is installed in the river bed or its beach area, nor is the beach or river channel altered in any way to accommodate the dock.

Although not required, Mr. Moyer also had the dock plans reviewed by Mr. Curt Paviat, Field Manager of the Cottonwood Office of the U.S. Bureau of Land Management (BLM) in Cottonwood on March 21, 2007. Mr. Moyer was advised that the Bureau of Land Management had no objections to it being placed on the Salmon River after reviewing the dock plans and submissions.

As a result of none of these government agencies having any concerns with regard to this dock, Mr. Ervin Ballou of the Idaho Department of Water Resources wrote to Mr. Moyer on July 25, 2007, approving of the installation of the dock. See Exhibit "G" attached hereto and incorporated herein by reference.

In this memo from Mr. Ballou, Deer Creek, LLC was specifically advised that **"I determined your proposed floating dock does not need a stream channel alteration permit [Form 404] from the Idaho Department of Water Resources."** You will also note that this approval was copied to Aaron Golart and Kathy Gale of the Idaho Department of Water Resources and thus the approval granted to Deer Creek, LLC was known to others in responsible positions in the Department.

In reliance upon the approvals from these three separate agencies, Deer Creek, LLC then expended \$15,356.00 to have the dock designed in strict conformance with the State of Idaho's dock requirements. It was then constructed and delivered to Deer Creek, LLC's property on the Lower Salmon River. Attached hereto as Exhibit "H" is a copy of the paid invoice and design drawing for the dock.

After the dock was assembled, it was placed at a corner of the public beach in front of our client's cabin on the Lower Salmon River as shown in the photograph taken in 2007 and attached hereto as Exhibit "I." You will specifically note from this photograph that the placement of this dock at the far end of the beach in front of our client's property in no way interferes with river traffic or the use of the beach by the few recreationalists and river-goers who sporadically use the beach.

Exhibit "J" attached hereto is a photograph of the same dock from a much lower elevation which shows that it is located on the slack side of the river well out of the way of where rafters and

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 4

other boaters like to travel down the river. (Rafters like to travel along the other side of the river where the river current is much stronger as shown in Exhibit "V.")

The dock was actually in service during the entire summer season of 2007. The dock remained in place without incident and without complaints from any neighboring property owners or river users.

In October 2007, Aaron Golart of the Idaho Department of Water Resources telephoned Mr. Moyer inquiring about the prior approval for the dock. Mr. Moyer responded on October 26, 2007, with a letter to Mr. Golart reviewing with him the history of the approval of the dock as shown in Exhibit "K" attached hereto. Thereafter, no further inquiries were made.

It therefore came as a surprise to our client to be contacted by the Idaho Department of Water Resources in March 2008 regarding the previously approved dock. Mr. Moyer of Deer Creek, LLC was advised by Aaron Golart that the Department wanted Deer Creek, LLC to submit a formal Form 404 application "in order to complete its file with regard to the dock." Interestingly, the request for the filing of Form 404 came from Mr. Aaron Golart, Stream Channel Specialists for the Western Region of the Idaho Department of Water Resources, who was fully aware of the prior approval of the dock by Mr. Ballou in 2007 because he was copied with the approval e-mail from Ervin Ballou in 2007. See Exhibit "G."

Deer Creek, LLC cooperated with the Idaho Department of Water Resources and therefore on March 19, 2008, submitted a Form 404 application for the dock as shown in Exhibit "L" attached hereto and incorporated herein by reference. At the time that Mr. Moyer submitted the Form 404 application, he specifically noted that the dock had already been approved and successfully installed in accordance with the terms of the original approved design. Our client did not intend by filing the Form 404 requested by the Department into any way forfeiting its right to keep the dock at its property pursuant to the original 2007 approval.

After filing the Form 404, both the U.S. Corps of Engineers as well as the county officials at Lewis County Idaho approved of the dock as shown in Exhibits "M" and "N" attached hereto.

It thereafter came as a great shock to Deer Creek, LLC to then be notified by the Idaho Department of Water Resources that the dock would not be approved until Deer Creek, LLC had satisfied certain third party protesters who had written objections to the dock. See Exhibit "O" attached hereto and incorporated herein by reference. Thereafter, this letter was retracted by the Idaho Department of Water Resources as shown in Exhibit "P" attached hereto.

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 5

Now thoroughly confused, Deer Creek, LLC wrote to the Idaho Department of Water Resources on May 12, 2008, reviewing the history of the approval of the dock and expressed its frustration at how the dock matter was being handled. See Exhibit "Q" attached hereto. A small removable dock application which was acceptable to all governmental agencies having jurisdiction over the dock and which had been constructed and installed in strict compliance with the initial 2007 approval had turned into a matter that was generating numerous e-mails from outfitters and guides who knew nothing about the dock and who were raising issues that were unfounded and based on wrong information.

Given this history, Deer Creek, LLC continues to assert that the original 2007 approval and the reliance of Deer Creek, LLC in expending substantial funds in having the dock constructed and installed on the beach absolutely prevents the State of Idaho from revoking the 2007 dock permit.

We particularly note in this regard that the Idaho Supreme Court has ruled that a government agency cannot revoke a permission granted to an applicant if the applicant has expended funds to build the project in reliance upon the permit. See, for example, *Boise City v. Blaser*, 98 Idaho 789, 572 P.2d 892 (1977).

Additionally, the Idaho Constitution states that private property may only be taken by the government for a public use "but not until a just compensation" has been paid for the property. See Idaho Constitution Article I, Section 14. Since the 2007 permission to build the dock is a "property right," Deer Creek, LLC would have the right to institute an inverse condemnation action to receive just compensation if the permit was revoked after Deer Creek, LLC's rights became vested because of the installation of the dock. See discussion of property owners' rights in inverse condemnation actions in *Covington v. Jefferson County*, 137 Idaho 777, 53 P.3d 828 (2002).

We therefore urge you to find that the 2007 approval of the dock stands as a valid approval of the dock and cannot be revoked.

2. DEER CREEK, LLC IS A RIPARIAN OWNER AND THEREFORE HAS A RIGHT TO A DOCK ON THE SALMON RIVER.

As previously noted, Deer Creek, LLC's real property abuts the Salmon River as shown in the deeds to the property attached hereto as Exhibit "R."

The physical location of the Deer Creek, LLC property on the Salmon River is well illustrated

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 6

in the Google aerial photograph attached as part of these materials and denoted as Exhibit "L." The Deer Creek, LLC real property does have a public beach in front of it and it is for that reason that Deer Creek, LLC sought permission from the appropriate government agencies to place the removable dock at the end of the beach as shown in Exhibit "I."

As a result of Deer Creek, LLC owning river front property on the Salmon River, it has important riparian rights vested in it by Idaho law. The Idaho Supreme Court in *West v. Smith*, 95 Idaho 550, 511 P.2d 1326 (1973) acknowledged the rights of a riparian owner, subject to reasonable state regulation, by citing with approval the Oregon Supreme Court decision of *Hoff v. Peninsula Drainage District*, 143 P.2d 471 (1943) where the rights of riparian owners are, in general, the following:

1. The right of access to the water;
2. The right to build a pier or dock out to the line of navigability;
3. The right to accretions; and
4. The right to reasonable use of the water as it flows past the land.

The Idaho Supreme Court has further acknowledged that the rights of a riparian owner, such as Deer Creek, LLC, are superior to strangers who have no established right in the water. *Hutchinson v. Watson Slough Ditch Company*, 16 Idaho 484, 101 P. 1059 (1909).

Non-commercial docks are viewed under Idaho law as advancing the public interest by enabling the recreational use of our State's water resources. Indeed, in Idaho Code Section 58-1305(a), docks on lakes are to be processed with minimal procedural requirements and are not be denied except in the "most unusual circumstances." Thus, there is a general presumption that non-commercial docks in Idaho should be permitted except in extraordinary situations.

Since Deer Creek, LLC has a residence on real property abutting the Salmon River, it is a riparian owner and therefore has a right, subject to reasonable state regulation, to access the Salmon River with a dock.

3. THE DOCK COMPLIES WITH ALL STATE AND LOCAL CONSTRUCTION REQUIREMENTS.

Deer Creek, LLC was advised by the Idaho Department of Water Resources to ensure that the dock was constructed in accordance with the requirements of Idaho law. In this regard, Deer Creek, LLC hired a well-known McCall dock contractor who has constructed many docks now placed on

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 7

the lakes and rivers of Idaho, all of which have been approved on numerous occasions by the State of Idaho.

As a result, the design of the dock was approved by the Idaho Department of Water Resources as well as by the local county.

Accordingly, the dock involved in this matter is neither too big nor is it unsightly because it meets all of the structural and visual requirements of docks in the State of Idaho.

It should be emphasized that neither the State of Idaho nor any of the outfitters and guides who have protested this dock application have contended that the dock is not structurally sound or otherwise does not comply with the construction requirements for a dock of the type involved in this matter.

4. THE DOCK DOES NOT CLOSE THE BEACH TO PUBLIC USE.

As the photograph of the dock at the beach clearly illustrates, the dock has been placed at the far end of a long beach. The entire beach itself measures approximately 790 feet. Therefore, the location of the dock has not and cannot interfere with any usage of the beach by members of the public.

It is obvious from some of the e-mail protests filed by the outfitters and guides that they have never seen the dock on the beach and therefore have no first-hand knowledge of the careful way in which the dock has been placed at the end of the beach to avoid unnecessary use of beach area.

It should also be noted that this beach is one of many beaches that are on the Salmon River available for use by the public. See Exhibit "S" attached hereto.

Current and former owners of real property in this area of the Salmon River have confirmed that this beach is rarely ever used by members of the public anyway. One local resident has stated that over the last decade he has only seen three or four groups ever camp on the beach.

The BLM website itself states that the Lower Salmon River campsites and other areas are rarely crowded.

Accordingly, there is no merit whatsoever to the argument that this small dock will somehow prevent the public from using the beach on the few occasions when it might be used by the public.

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 8

5. THE DOCK IS NOT VISUALLY INTRUSIVE.

The Salmon River is bordered by numerous parcels of privately owned real property that contain cabins, ranches, power lines, public roads, outbuildings, feed lots, and home. See river photographs attached as Exhibit "T."

The river is also used by numerous jet boaters, rafters, kayakers, and other parties. It is impossible to believe this small dock could be visually intrusive on a river containing numerous jet boaters, rafters and outfitters and guide boats. Indeed, the dock itself is smaller than many of the outfitters' and guides' own boats on the river.

As can be seen by Exhibit "I," the removable dock is not in the least visually intrusive in the river environment given the fact that the river itself and surrounding properties all have mixed uses from homes to large-scale cattle operations.

6. THE DOCK IS NOT PLACED IN A DESIGNATED WILDERNESS AREA OR WILD OR SCENIC RIVER AREA.

Some of the e-mail protests filed by outfitters and guides allege that the Lower Salmon River is part of a designated wilderness or wild and scenic river area. At no time has the Lower Salmon River ever been designated as a wilderness area or portion of any wild and scenic river area.

There is currently no bill in Congress to have this area designated as a wilderness or wild and scenic river area. It is apparent that the outfitters and guides argument in this regard is wrong.

7. THE DOCK IS NOT PERMANENT.

Some of the protestors have contended that the dock should not be allowed because it is a permanent dock at the property of Deer Creek, LLC. Again, the outfitters and guides who have protested the dock application have obviously never looked at the file on this matter, nor have they seen the dock in place because it is immediately apparent that the dock is easily broken down and is removable from the river.

In accordance with the original 2007 approval, the dock was placed into the river during the summer when the river flow was appropriate and removed at the end of the fall season, which normally is in October or November. A photograph of our client's dock stored at our client's property is attached hereto as Exhibit "U." Thus, the dock is only in the river for approximately four

months out of each year and is fully removable.

8. THE DOCK DOES NOT IMPACT FISH.

Certain of the protestors have also suggested that this small, removable dock may somehow impair the spawning habitat of salmon or sturgeon in the river.

There is no merit to this argument because the Fish and Game Department received a copy of the dock application, considered it, and has consciously determined not to protest the application because there is no effect whatsoever on the fish in this river from this small dock.

Indeed, the well-known spawning habits of salmon and sturgeon are such that they prefer shallow fast running water over rocks. As one authority on salmon protection wrote: "Gravel must be large enough to provide spaces among rocks in which eggs will be protected and well oxygenated. Gravel size needed ranges from "marble" to "fist" size. Gravel smaller than this is not desirable. Sediment in gravel reduces water flow and oxygen levels in gravel and causes many eggs not to hatch. This delays and some times prevents emergence of juveniles from the gravel. Excessive sedimentation also does not support insect populations needed for hungry juveniles. Healthy gravel beds can support a robust population of insects." Source: Stream Naturalists Training Manual published by the Salmon Protection and Watershed Network.

The dock placed at the Deer Creek, LLC property is in the slow moving or "slack" portion of the river with a sandy bottom. See Exhibit "J" for a photograph showing the nature of the river and river bottom in the area of the dock. Also see Exhibit "V" showing how the kayakers and rafters float along the river on the far side where the water is swift.

Once again, the unfounded allegations of the opposition simply do not hold water.

9. DOCK CANNOT HURT WATER QUALITY OR ALTER THE FLOW OF THE RIVER.

The placement of the dock in the river's backwater at the corner of the beach has had no impact on the water quality of the river. As the photographs of the dock in place show, no water flow has been altered or changed in any way by the dock.

10. RIVER CHANNEL HAS NOT BEEN ALTERED.

There has been no alteration of the channel river because the dock is removable and is

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 10

anchored on rocks located on the private property of Deer Creek, LLC. Thus, no impact to the river channel has occurred in the past nor will it occur in the future.

11. OUTFITTERS AND GUIDES' BUSINESS WILL NOT BE DESTROYED BY THE DOCK.

The outfitters and guides' business on the Lower Salmon River will not be destroyed by this dock.

It becomes apparent upon reading the e-mail protests filed by the organized outfitters and guides that these businessmen want to convert the Lower Salmon River into an all-natural state in order to enhance their tourist business. Their argument is that the river and the surrounding private properties should be kept in a pristine, wilderness state with no improvements or development in order to enhance their commercial enterprises. The outfitters and guides contend that members of the public who boat down the river do not want to see homes, outbuildings, cattle, docks, outhouses, fences, and other evidence of human use or activity along the river.

As previously noted, the Lower Salmon River has never been and will probably never be designated as a wilderness or wild and scenic river area by Congress. The river and the surrounding properties have many different uses on them. The river has been able to accommodate these uses very well over an extended period of time. These uses involve private residences such as the one located on the property of Deer Creek, LLC, all the way to large-scale cattle operations. All of these uses are lawful and legitimate uses of the surrounding river properties. There is nothing wrong or inconsistent with private recreationalists having portable, removable docks on the river for non-commercial uses while still allowing commercial outfitter and guide operations to float the river.

The small dock at a private residence cannot impair the experience of the boaters, especially since the river is filled in the summer with other outfitters and guide boats. The appearance of these tourist operations certainly impair the "visual experience" more than a single riparian owner's dock.

There are few residences on private property along the Lower Salmon River. As a result, the specter being raised by the outfitters and guides that there will be numerous private docks along the Lower Salmon River for private residences is misplaced.

To the extent that the outfitters and guides allege that the Lower Salmon River should be kept as their private preserve to be hermetically sealed for the benefit of their businesses, then such an argument should be rejected by the Department.

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 11

12. DEER CREEK, LLC IS NOT SEEKING ANY SPECIAL BENEFIT.

Some of the parties who have objected to the dock application allege that a special favor is being granted to Deer Creek, LLC by the approval of the dock application. This argument is totally unfounded as well.

Idaho law specifically allows for a party to make application for a dock located on a river or lake in the State of Idaho. Anyone can seek permission to place a dock on a lake or river. Indeed, as previously noted, Idaho law actually favors the use of non-commercial docks as a method for expanding the enjoyment of natural resources for recreational purposes.

Therefore, the argument that Deer Creek, LLC is obtaining a dock in some improper or inappropriate way is absolutely false.

13. THE DOCK WILL NOT OPEN UP THE RIVER TO DEVELOPMENT.

Another argument alleged by the outfitters and guides is that this small dock will open up the entire Lower Salmon River to "development." As the photographs of the dock eloquently demonstrate, the small dock is a removable, non-commercial dock installed to facilitate the loading and unloading of passengers and supplies.

The dock is for the sole and exclusive use of the owner of Deer Creek, LLC at the owner's personal cabin located on the river. The presence of the dock in 2007 did not "open the river up to development" as alleged by some of the protestors and thus this is just another frivolous argument asserted by protestors who have no first-hand knowledge of the modest nature of the dock involved in this application.

14. BLM.

The Bureau of Land Management has no right to approve or reject the pending dock application.

Nevertheless, when the original application was sought in 2007, Dennis Moyer of Deer Creek, LLC contacted the BLM and it had no objection whatsoever to the placement of the dock in the river.

It was only much later in April, 2008, after a retired BLM employee, LuVerne D. Grussing,

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 12

objected to the dock on April 8, 2008, that the BLM three days later on April 11, 2008, expressed its opinion that this small dock would affect the "water quality and visual/aesthetic quality of the river." The author of the BLM opposition letter was obviously unaware that her department officials had already received the application in 2007 and had approved it.

As previously noted, this small dock has not and cannot impact the water quality of the river in any way. Indeed, the hundreds of outfitters and guides' boats that travel down the river every month during the summer season have a much greater effect on the water quality and visual aesthetics of the river than this small dock. Visually, one outfitter boat (may in bright colors) on a beach on the river will have the same visual, if not greater, impact to a viewer.

The BLM's opposition to this small dock is largely based upon the BLM's desire to have the river classified as a wild and scenic river area. Given the fact that Congress has never designated the area as a wild and scenic river area, it is particularly inappropriate for the BLM to oppose a small recreational dock based upon a wished-for land classification that Congress has never seen fit to adopt.

15. THE DOCK HAS A LEGITIMATE PURPOSE.

Recreational docks are as a matter of state policy supported in the State of Idaho. This dock does have a serious and useful purpose. The loading and unloading of passengers and supplies at the residence located on the property is difficult when accomplished from a boat beached on a sandy beach. This small, removable dock allows the users to load and unload passengers and supplies in safety and with convenience. Accordingly, there is no merit to the argument that somehow this dock has been placed on the beach for "show" or is unnecessary.

CONCLUSION

As can be seen from the foregoing analysis, there is truly no legitimate basis for contending that the dock application should not be granted. Furthermore, the 2007 dock permission should be reaffirmed by you as Director of the Idaho Department of Water Resources.

The dock has already been in place for one entire season in 2007 with no protests from neighbors and no adverse consequences to the river. The dock of Deer Creek, LLC, a riparian owner, enhances the recreational use of the river which is the public policy of the State of Idaho. All governmental jurisdictions having jurisdiction over the river have approved of the dock because of its modest size and removability.

Director David R. Tuthill
Department of Water Resources
State of Idaho
August 11, 2008
Page 13

The only real opposition to the approval of the dock has come from commercial outfitters and guides who want to sanitize the river and surrounding area of any evidence of human use in order to enhance the "wilderness" experience the outfitters and guides sell to tourists. While this is without doubt an understandable motive on the part of the outfitters and guides, it is not an appropriate basis for objecting to a riparian owner's non-commercial personal dock to be placed on a river which, as a matter of law, is open to all legitimate public and private uses in a mixed-use recreational environment.

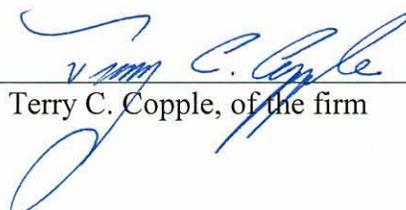
Accordingly, we urge you to rule that the 2007 dock approval is valid. In the event that you find it necessary to process the new 404 application filed by Deer Creek, LLC that was only filed at the request of the Idaho Department of Water Resources, then we ask that you grant the application as written without further delay.

We appreciate your consideration of this matter and the time that you have taken to determine this matter.

Very truly yours,

DAVISON, COPPLE, COPPLE & COX, LLP

By: _____


Terry C. Copple, of the firm

TCC/tap
Enclosures

ALSCOTT

501 Baybrook Court
Boise, Idaho 83706-3963
P.O. Box 70001 • Boise, Idaho 83707-0101

TELEPHONE: (208) 424-3840

FAX: (208) 424-3850

April 2, 2007

Mr. Ervin Ballou
Coordinator Stream Protection Program
Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

COPY

RE: Proposed Boat Dock

Dear Mr. Ballou:

Thank you for meeting with me recently to discuss the placement of a boat dock adjacent to our property on the Lower Salmon River.

As I explained, Deer Creek LLC owns property on the Lower Main Salmon River in the vicinity of Deer Creek, in Lewis County, Idaho, near the Nez Perce County line. More specifically it is located in the N ½ of Section 27; Township 31 N; Range 3 W. The private cabin on the property is maintained for non commercial, personal use. We would like to install a portable, floating boat dock at this location.

The location of the dock is to be on the north, slack water side of the river; at a large sand bar; and anchored by cables to a large rock outcropping above the high water line on the private property. The floating dock comes as a kit in 4x4 sections or similar components and would be removed during high water runoff seasons and stored. No piling, dredging, or fill would be involved and there would be no impact on the shore line.

The Salmon River is approximately 150 feet wide at this point. The dock would not project beyond approximately 15 to 20 feet into the river. The flow of the river's current is located along the opposite side of the channel and against the south shore line.

Thank you again for your assistance in this matter. I will provide copies of this letter to the Idaho Department of Lands and other agencies as directed.

Sincerely,
Deer Creek, LLC


Dennis Moyer
Vice President, Real Estate

Exhibit A

Dennis
Moyer/ALSCOTT/JKAF
04/09/2007 08:36 AM

To "Erv Ballou" <erv.ballou@idwr.idaho.gov>
cc
bcc Joe Scott/ALSCOTT/JKAF@JKAF
Subject Proposed Boat Dock on Salmon River

Erv: Sorry I missed you last week when I dropped off a letter (dated April 2, 2007) and a package showing maps, an aerial photo, example of the floating dock, photos of the site, and a drawing. Hopefully this will provide the detail information you need for our proposed dock on the Salmon River, upstream from Deer Creek in Lewis County.

When we met previously, you indicated that you did not foresee any problems for this project owing to the nature of the portable dock; its location in the slack water, away from the main flow channel of the river; etc. The dock will be anchored above the high water line to a rock outcropping on private land. There will be no impact on the river current; the river bed; or floaters and other boat use of the river. As we discussed a formal permit would not be necessary.

I have met with Mr. Scott Corkill of the State Lands Department in McCall, who indicated his approval, and also referred me to Mr. Thom Hawkins of the Department of Lands office in Craigmont. I have given a copy of the letter to you and the backup information to Mr. Hawkins, as well. The Department of Lands has said that an encroachment permit is not required for this proposed dock.

In addition, I have discussed this proposal with Mr. Kurt Pavlat, Field Manager, Bureau of Land Management, in Cottonwood. He also stated that he saw no problem with the proposal and that it had no impact on BLM managed property.

If you have any questions, please call me at 208-424-3865. I look forward to hearing from you. Thank you.

Dennis

Exhibit B

Dennis
Moyer/ALSCOTT/JKAF
04/10/2007 10:45 AM

To "Erv Ballou" <erv.ballou@idwr.idaho.gov>
cc
bcc Joe Scott/ALSCOTT/JKAF@JKAF
Subject Salmon River Dock

Erv: Yesterday, I telephoned Thom Hawkins at the Department of Lands to follow up on the letter (dated April 2, 2007) and package I gave him regarding our plans for a floating dock on the Salmon River in Lewis County.

At first he had thought that an Encroachment Permit might be required, however, as we spoke he said he has since learned that is not necessary owing to recent changes in that department's guidelines. We also discussed the fact that none of the other agencies I have visited with have expressed any reservation over the planned dock.

All things considered, Mr. Hawkins concluded that since you at Water Resources have no concerns, then Department of Lands has no problem in also giving approval.

I have now contacted all the various agencies as we discussed. They have all told me that there no objections. I think some sort of acknowledgement from Water Resources that I can pass on to the others would complete the loop.

Thank you.

Dennis

Exhibit C



"Ballou, Erv"
<Erv.Ballou@idwr.idaho.gov
>

04/16/2007 10:31 AM

To "Dennis Moyer" <dmoyer@alscott.com>

cc

Subject RE: Salmon River Dock

Dennis, if you could provide me with some plans, drawings and a narrative on what and how you are going to construct and place the dock, I could then review them and comment. Hand drawn sketches are fine, just include the dimensions and show that no work or anchors will be below the high water mark and we can determine that a permit is not required, or if you choose to place an anchor on the river bed as we discussed we will need an application with plans and drawings. Call me if you have any questions.
Erv Ballou

Exhibit D



"Ballou, Erv"
<Erv.Ballou@idwr.idaho.gov>

04/24/2007 03:30 PM

To "Dennis Moyer" <dmoyer@alscott.com>

cc

bcc

Subject RE: Proposed Floating Dock

FYI we recieved both. Will review and get back to you later. Erv

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

From: Dennis Moyer [mailto:dmoyer@alscott.com]

Sent: Tuesday, April 24, 2007 11:19 AM

To: Ballou, Erv

Subject: Fw: Proposed Floating Dock

Exhibit E

ALSCOTT

501 Baybrook Court
Boise, Idaho 83706-3963
P.O. Box 70001 • Boise, Idaho 83707-0101

TELEPHONE: (208) 424-3840
FAX: (208) 424-3850

April 23, 2007

Mr. Ervin Ballou
Coordinator Stream Protection Program
Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

Via E-Mail: <Ervin.Ballou@idwr.idaho.gov>

RE: Proposed Dock
Salmon River, Lewis County, Idaho

Dear Mr. Ballou:

As requested I have attached a drawing and some pictures to describe of the type of floating dock being proposed on the Salmon River. Hopefully when you combine these with the information I submitted earlier, there will sufficient detail for your approval.

The dock is to be made up components that are each approximately 6 ft. 6 in. wide and 9 ft. 9 in. long. Six (6) of these dock sections (see attached drawing with dimensions) will be interlocked together to form a "T" configuration. This will result in two legs of the "T" which are approximately 29 ft. 3 in. long and 6 ft. 6 in. wide.

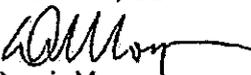
The dock will be anchored to a rock outcropping on private property, above the high water line. A series of concrete anchors with eye bolts will be attached with chains or cable to secure the dock on the water side. These anchors will be portable and of a size that can be removed along with the dock each season during the high water periods.

The nearby slope of the sand bar will allow a convenient place to access the shore with a tractor or other equipment to haul the dock and anchors out of the river and away to storage above the high water line.

As noted previously the river's main channel and flow of the current is along the opposite side and against the south shore line. The dock will be located on the north side in slack water which has created the sand bar.

Please let me know if you have any questions. My phone number is 424-3865 and email dmoyer@alscott.com.

Sincerely,
Deer Creek, LLC


Dennis Moyer

Attachments.

Exhibit F

← North

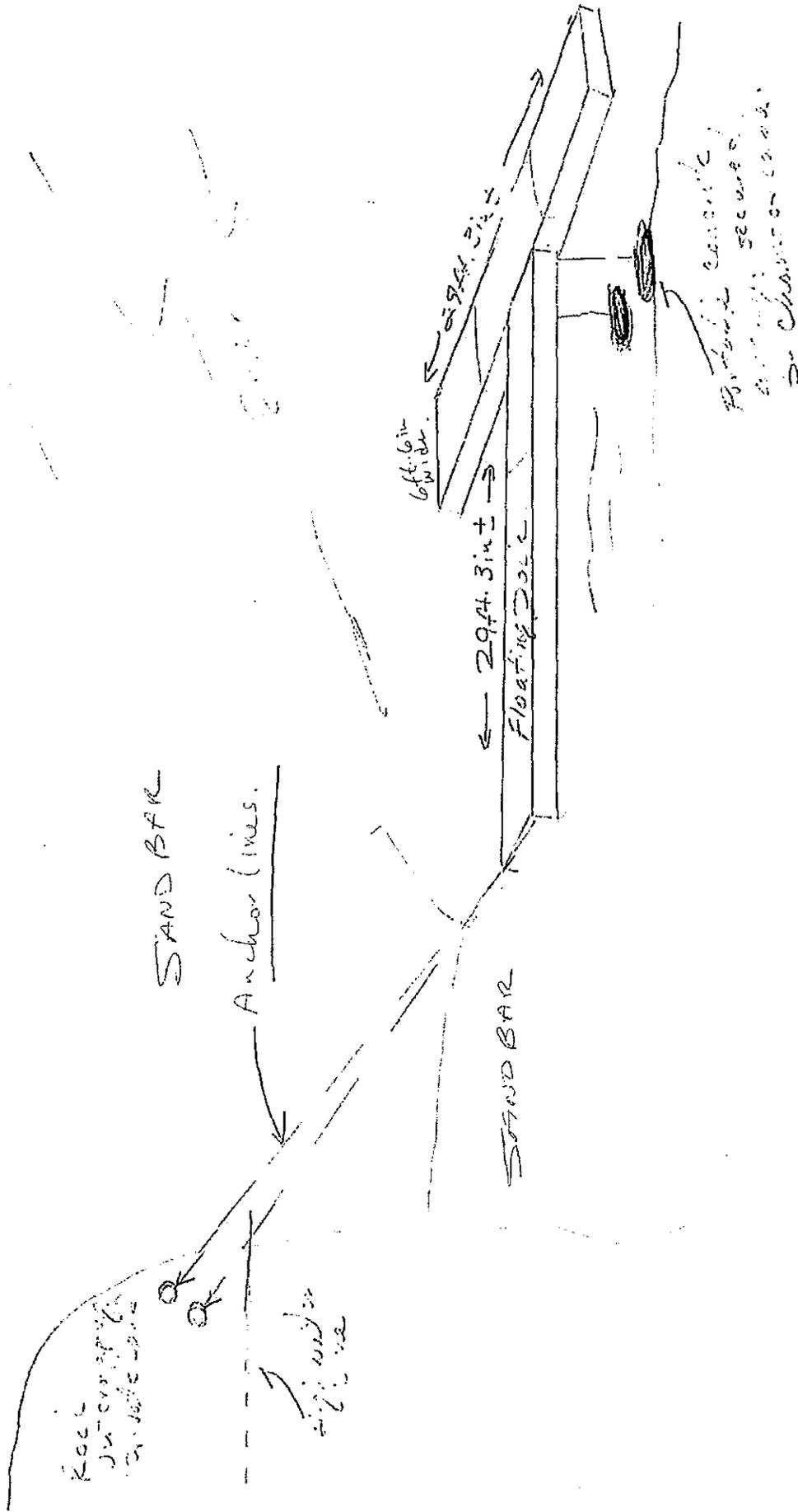
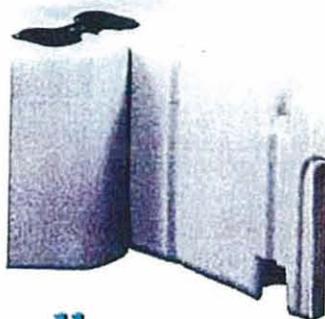


Exhibit F



Easy to install. Easy to maintain.

- Heavy-duty Polyethylene construction
- Modular dock sections make it easy to create most any layout
- Easy to install with just a few hand tools
- Wide variety of accessories make it easy to customize your setup

Improve the appearance and utility of your waterfront while saving maintenance time and expense. The rugged EZ dock system provides safe, convenient and attractive water access that you'll enjoy year after year.

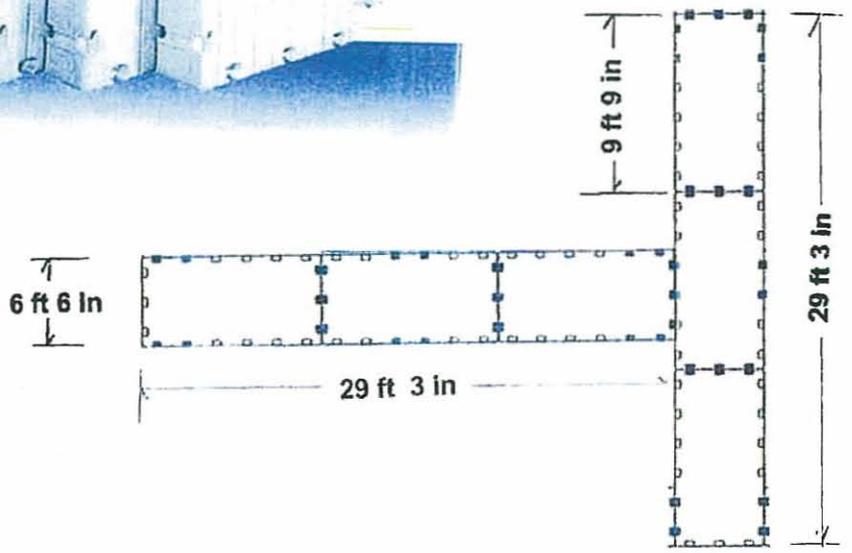
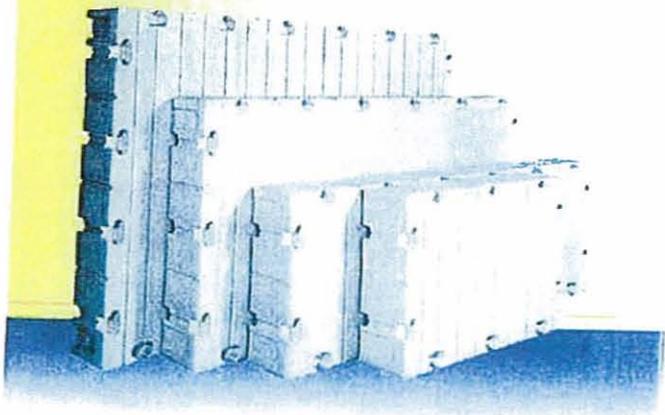
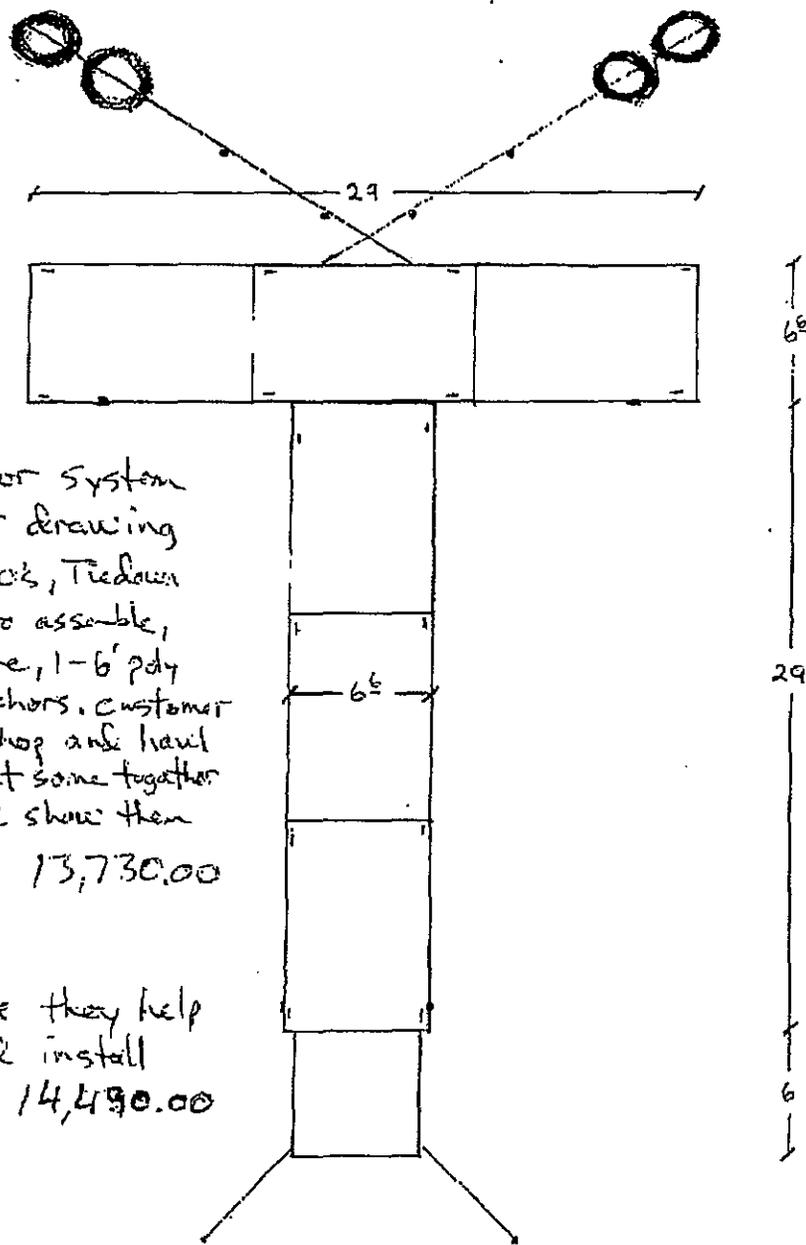


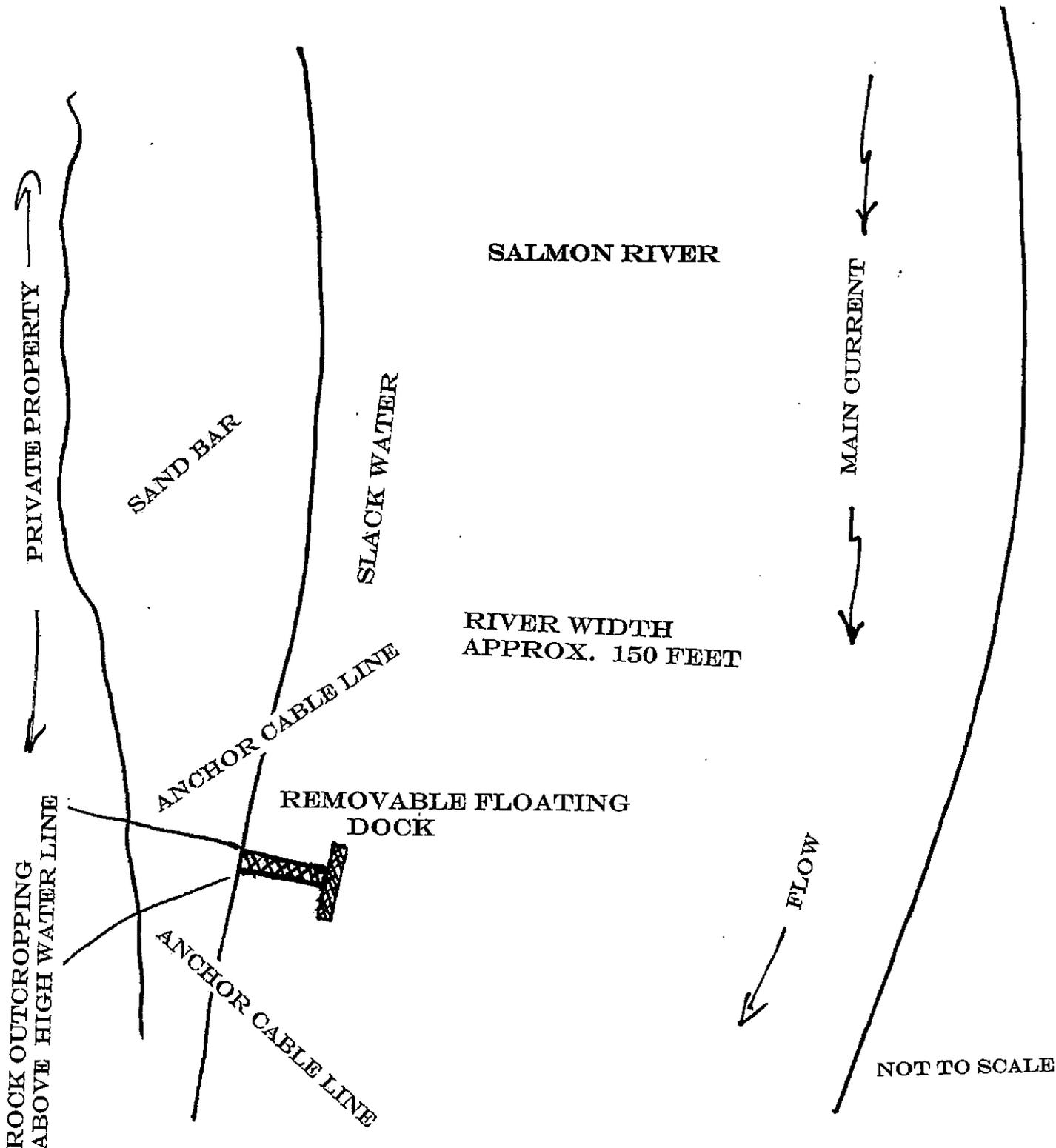
Exhibit F

○ Dennis Meyer



○ Docks & anchor system
 supplied as per drawing
 to include 6-80's, Tiedown
 cleats, hardware to assemble,
 anchoring hardware, 1-6' ply
 ramp, chains & anchors. customer
 to pick-up at shop and haul
 to site (I help put some together
 at the shop and show them
 how to install.) 13,730.00

I deliver to site they help
 me assemble and install
 14,490.00



SALMON RIVER

MAIN CURRENT

RIVER WIDTH
APPROX. 150 FEET

REMOVABLE FLOATING
DOCK

FLOW

NOT TO SCALE

NORTH

LOCATION:
N 1/2 SEC. 27; T 31 N; R 3 W
LEWIS COUNTY, IDAHO

Exhibit F

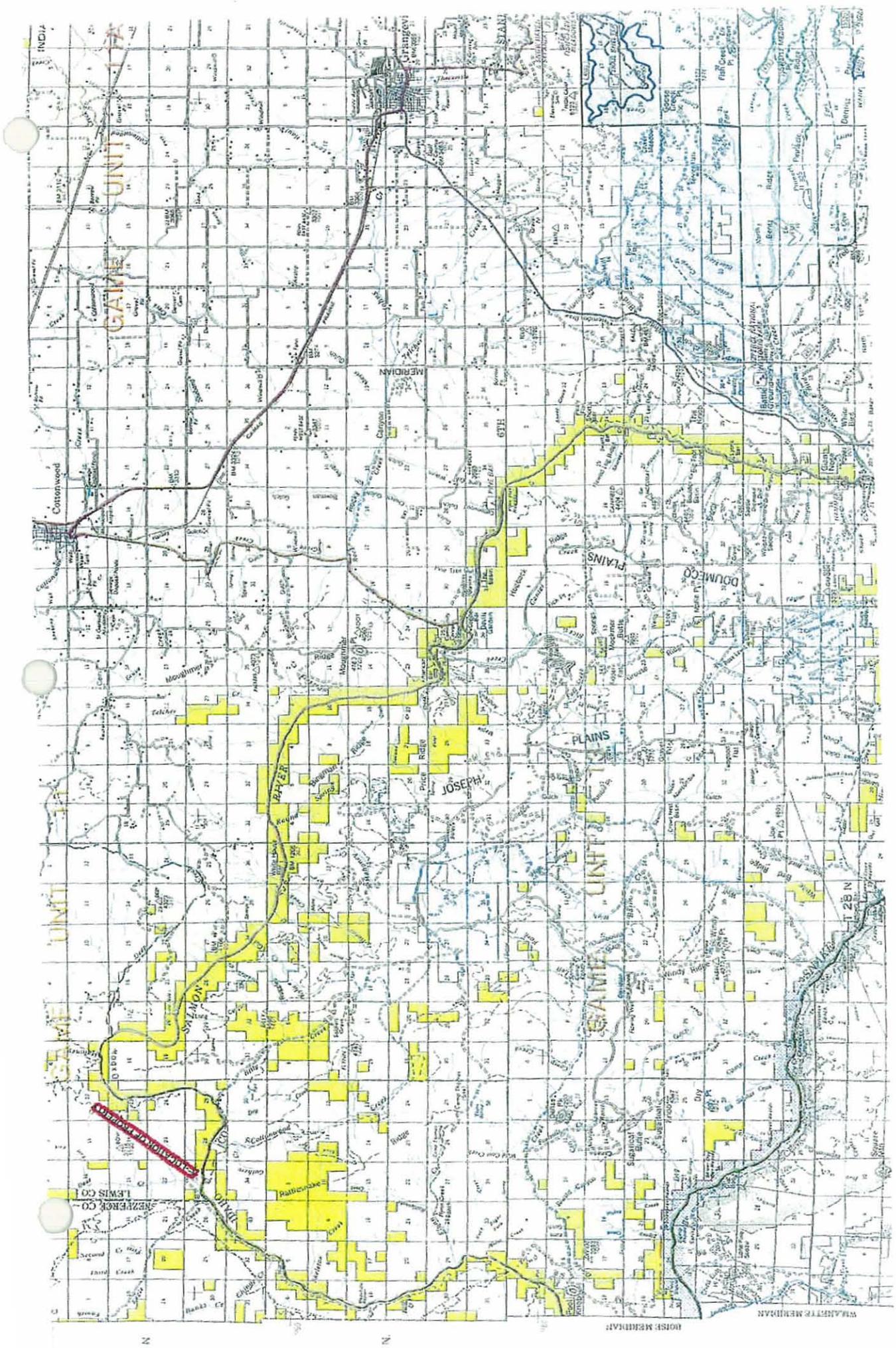


Exhibit F

salmon river idaho



← LOCATION OF FLOATING DOCK

Image © 2007 DigitalGlobe

© 2007 Google™

3:31 PM

Internet Explorer

Dennis Moyer - Inbox...

Google Earth

start

Exhibit F



"Ballou, Erv"
<Erv.Ballou@idwr.idaho.gov>

07/25/2007 12:39 PM

To "Dennis Moyer" <dmoyer@alscott.com>

cc "Golart, Aaron" <Aaron.Golart@idwr.idaho.gov>, "Gale,
Kathy" <Kathy.Gale@idwr.idaho.gov>

bcc

Subject RE: Proposed Floating Dock

Dear Mr. Moyer:

As discussed in my phone message, I replied to your email with the design information attached on April 23, 2007. After review of the information you sent, which was inling with our phone discussion, I determined your proposed floating dock does not need a steam channel alteration permit from the Idaho Department of Water Resources. That includes the weighted ancors, provided they

they are removed from the riverbed when the dock is taken from the river.

If you have any additional quesitons please do not hesitate to contact this office or Aaron Golart in our Western Regional Office at (208) 334-2190

Erv Ballou
Coordinator
Stream Protection Program

Exhibit G

EZ DOCKING SYSTEMS
13969 Wrangler Drive, McCall, ID. 83638
TEL. 208-634-6817 OR FAX.208-634-1807

Invoice No.

147

INVOICE

Customer

Name Alscott Real Estate LLC
Address P.O. Box 70001
City Boise State ID _____ ZIP 83707-0101
Phone 208-424-3864, Fax 424-3850

Misc

Date 7/27/2007
Order No. _____
Rep Kathleen Malloy
FOB _____

Qty	Description	Unit Price	TOTAL
1	Docks, Anchor System, & hardware supplied as per drawing #1	\$ 13,730.00	\$ 13,730.00
1	Extra's that were added on as per drawing #2	\$ 1,626.00	\$ 1,626.00

SubTotal	\$ 15,356.00
Shipping	
TOTAL	\$ 15,356.00

Payment

Other

Comments Due upon receipt
Name Lyndie Congleton
CC # _____
Expires _____

Tax Rate(s)

Office Use Only

Thank You!

Any questions regarding invoice call Allen 634-6817

Exhibit H

1

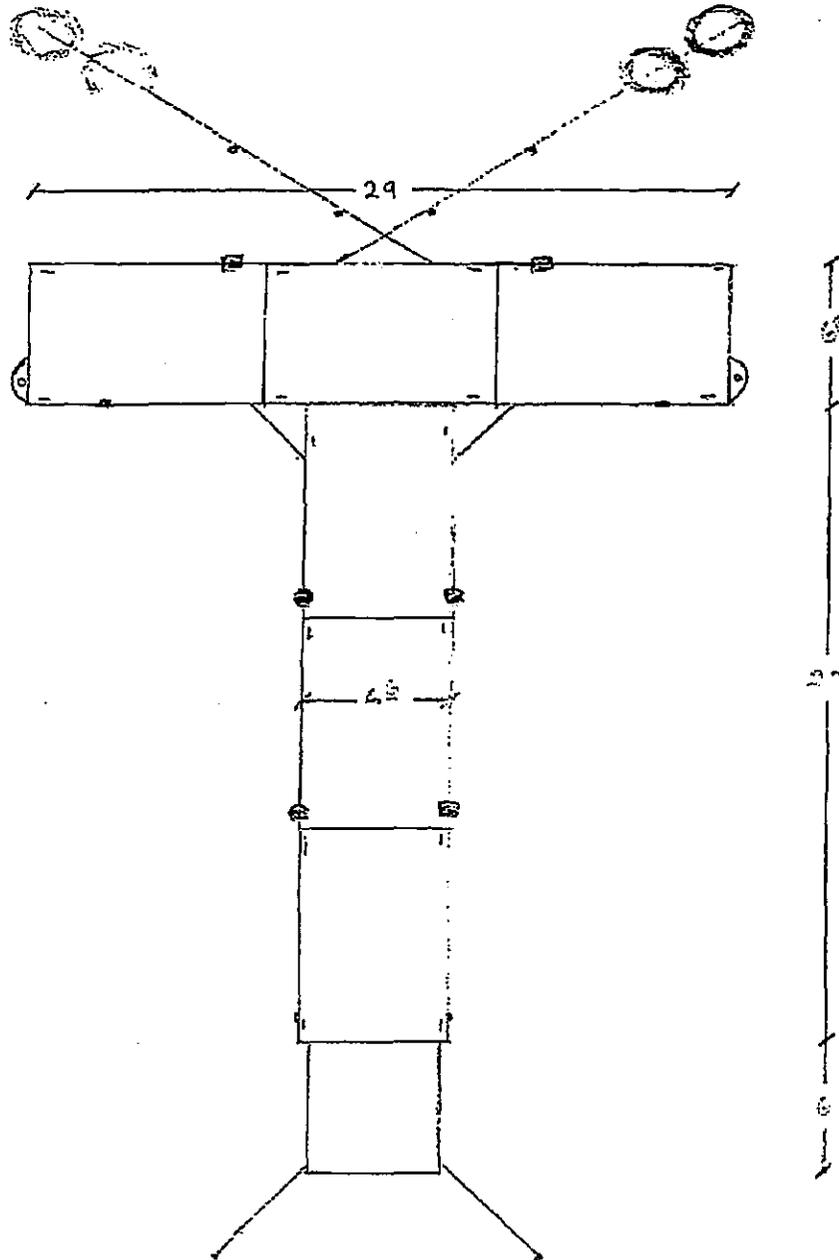
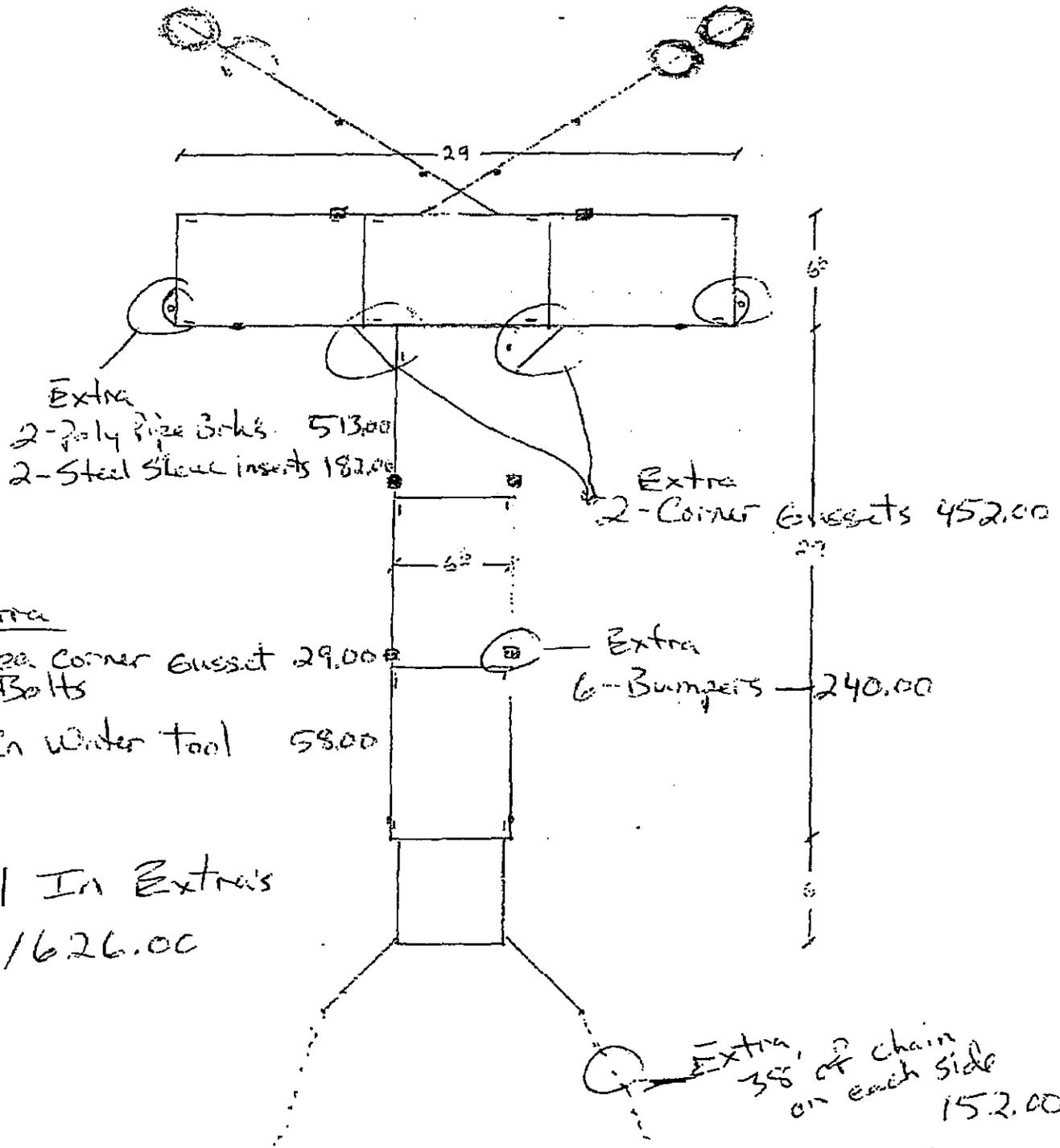


Exhibit H

#2 Extras



Total In Extras
1626.00

Exhibit H



Exhibit I

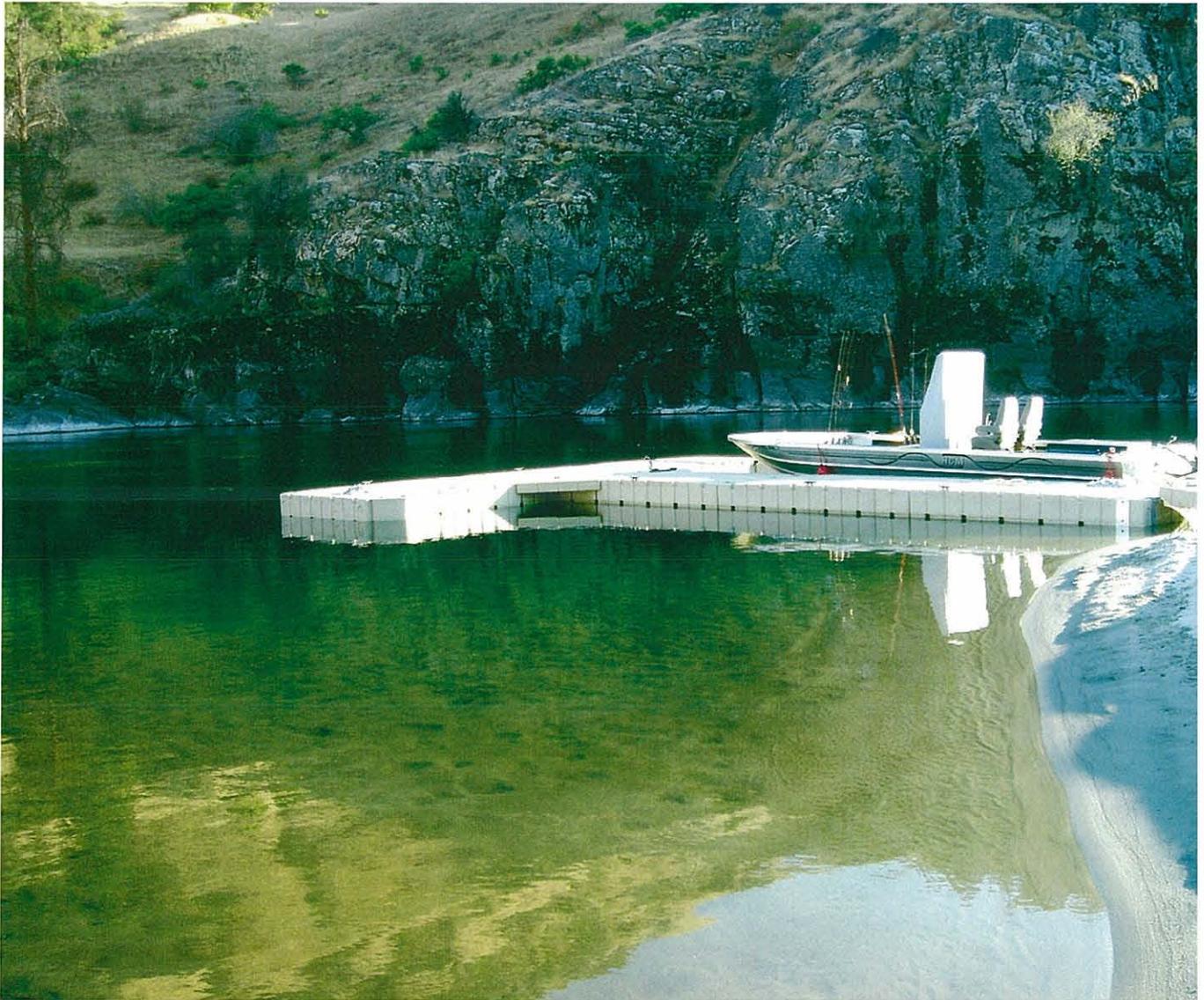


Exhibit J

October 26, 2007

Mr. Aaron Golart
Stream Channel Specialist
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

RE: Floating Dock
Lower Salmon River near Deer Creek
Lewis County, Idaho

Dear Mr. Golart:

I thought that it might be helpful to follow up on our telephone conversation of last week. You had inquired about our dock located on the Lower Salmon River in Lewis County.

As we explained, we worked with Mr. Erv Ballou at the Idaho Department of Water Resources in reviewing the details of the project. In addition, as suggested by Mr. Ballou, we contacted the U.S. Bureau of Land Management and the Idaho Department of Lands to see if they had any concerns. Both agencies stated that they were okay with the project as proposed.

The contact at the Cottonwood, Idaho BLM office is Mr. Kurt Pavlat at telephone: 208-962-3256 or 208-962-3779. I spoke to Mr. Pavlat on this matter on March 21, 2007.

I contacted Mr. Thom Hawkins at the Craigmont, Idaho office of the Idaho Department of Lands at telephone: 208-924-5571. I spoke to Mr. Hawkins on April 9, 2007.

Mr. Ballou notified me of IDWR's approval on April 23, 2007.

Again, thank you for your help.

Sincerely,
Deer Creek LLC

Dennis Moyer
Vice President Real Estate

Exhibit K

ALSCOTT

501 Baybrook Court
Boise, Idaho 83706-3963
P.O. Box 70001 • Boise, Idaho 83707-0101

TELEPHONE: (208) 424-3840

FAX: (208) 424-3850

March 19, 2008

Mr. Aaron Golart
Stream Channel Specialist
Western Region
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Re: Floating Dock

Dear Mr. Golart:

As you have requested, we are providing the attached Joint Application For Permits form for your files and include copies of the descriptive information that we submitted previously for the approval of the portable floating dock located at Deer Creek on the Lower Salmon River. It is important to again note that this information originally was submitted in 2007 as specified and distributed to agencies as state officials directed. The project was approved by each of those agencies.

As explained in the April 2007 letter to Idaho Water Resources, Deer Creek LLC owns property on the Lower Salmon River in the vicinity of Deer Creek, in Lewis County, Idaho near the Nez Perce County line (N1/2 of Section 27; T 31 N; R 3 W.). The private cabin on the property is maintained for personal non-commercial use.

The floating dock is portable and is removed from the river each winter to avoid high water and debris during spring runoff. The dock is anchored by chains above the high water mark and secured on the river side by portable, precast concrete anchors.

There are no permanent anchor bolts or pylons installed either below the high water mark or into the river bed. In addition, the dock site is located along the north bank of the river channel and in slack water along a sand bar that is well away and out from the main current and flow of the river. The river flow, river bank, and river bed are not altered.

We were told on several occasions that an Encroachment Permit was not required but it would be necessary to get a review and approval by the appropriate agencies directly involved in this part of the Salmon River. Those agencies were Idaho Department of

Exhibit L

Water Resources in Boise and Idaho Department of Lands Craigmont Office. We also contacted the Bureau of Land Management in Cottonwood about the project.

An information package was assembled that included a description of the project, aerial photos, location maps, sketches of the dock, pictures of the site; manufacturer's brochure; drawings and photos of the river location; etc. After their careful review, each of these various agencies gave their approval to proceed with the project.

Based on this unanimous approval, the floating dock system was purchased, transported to the property and assembled, then installed at the site as proposed. The dock was used late that summer and through the fall season. In late fall, the dock was removed and stored. The entire system worked very successfully as planned and designed.

If you have any questions, please call me at 208-424-3865 or email at dmoyer@alscott.com.

Thank you.

Sincerely,
Deer Creek, LLC

Dennis Moyer
Vice President, Real Estate

Exhibit L

JOINT APPLICATION FOR PERMITS

U.S. ARMY CORPS OF ENGINEERS
IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO DEPARTMENT OF LANDS

**DO NOT START WORK UNTIL YOU
RECEIVE PERMITS FROM BOTH THE
CORPS AND THE STATE**

This application may be used to apply for both a Department of the Army permit from the U.S. Army Corps of Engineers (Corps) and for State of Idaho permits. Department of the Army permits are required by Section 10 of the Rivers and Harbors Act of 1899 for any structures or work in or affecting navigable waters of the United States and by Section 404 of the Clean Water Act for discharges of dredged or fill material into waters of the United States, including their adjacent wetlands. State permits are required under the State of Idaho, Stream Channel Protection Act (Title 42, Chapter 38, Idaho Code) and the Idaho Lake Protection Act, Section 58-142 et. seq., Idaho Code. **Route Uses: Information provided on this form will be used in evaluating the application. Disclosure of requested information is voluntary. If information is not provided, however, the permit application cannot be processed nor can permits be issued.** Applicants should send this completed application, along with one set of good reproducible drawings showing the location and character of the proposed project, to both the Corps of Engineers and the State of Idaho. NOTE: DRAWINGS NO LARGER THAN 8-1/2 X 11 INCHES IN SIZE. The Applicant Information pamphlet provides instructions and a checklist for completing the drawings.

1. Corps of Engineers # _____ Date Received _____	2a. Department of Water Resources # _____ Date Received _____ Fee Rec'd By: _____ Receipt # _____	2b. Department of Lands # _____ Date Received _____ Fee Rec'd By: _____ Receipt # _____
--	---	---

PLEASE TYPE OR PRINT

3. a. Applicant <u>Deer Creek, LLC</u>	4. a. Authorized Agent <u>Dennis Moyer</u>
b. Mailing Address <u>501 Baybrook Court</u> <u>Boise, Idaho 83706</u>	b. Mailing Address <u>501 Baybrook Court</u> <u>Boise, Idaho 83706</u>
c. Work Phone (208) <u>424-3865</u> Home () _____	c. Work Phone () _____ Home () _____
d. Fax Number <u>(208) 424-3850</u>	d. Fax Number _____
e. Email Address <u>dmoyer@alscott.com</u>	e. Email Address _____

5. Location where proposed activity exists or will occur.	5. e. Tax Assessor's Description _____
a. Waterway <u>Salmon River</u>	Distance/Direction from nearest city/town <u>16mi + SW Cottonwood</u>
Tributary of <u>Snake River</u>	<u>N 1/2 27 31N 3W</u>
b. Distance/Direction from nearest city or town County/State	f. 1/4 1/4 Section Township Range
<u>Approx 34mi So. of Lewiston</u>	g. UTM Coordinate Grid _____
c. Zip Code <u>Local jurisdiction (city or county)</u>	Zone Northing Easting
d. Directions to the site <u>22 mi + So. of Lewiston on Waha Rd; So. 12+ mi Eagle Crk Rd to Salmon River</u>	

6. a. Describe Project (Work below the ordinary high water mark or in wetlands). River channel is app. 150 ft. wide - project is on North side in slack water on sand bar and away from main current. Dock is floating and portable. Dimension: two 29ft x 6ft 6in. sections attached in a "T" shape. Anchored by chain or cable above high water mater mark. River end of dock held in place by portable, precast concrete anchors. Docks are stored above high water line on private land during winter and spring seasons.

b. Construction methods and equipment Construct on land, transport to site and install.

c. Length of project along the stream or extension into lake or reservoir: 29 feet

d. Size and flow capacity of proposed bridge or culvert and area of drainage served (sq. miles): (Idaho Department of Water Resources requirement.)

N/A

COMPLETE THE FOLLOWING FOR DISCHARGES OF DREDGED OR FILL MATERIAL

7. a. Volume dredged or fill material to be placed waterward of the ordinary high water mark (BOTH TEMPORARY AND PERMANENT)? N/A (cubic yards)

b. Will fill be placed in wetlands? N/A If yes, area: _____ (acres) Type of fill material: N/A (i.e. sand, rock, clay, concrete, etc.)

c. Will dredging be required waterward of the ordinary high water mark or in wetlands? N/A If yes, volume _____ (cubic yards)

d. Type of dredged material N/A

e. Disposal site for dredged material: N/A Method of dredging: N/A

f. Method to control turbidity and sedimentation: N/A

g. Is project located in a mapped floodway? N/A If yes, complete the Engineering "No-Rise" certification form.

Exhibit L

8.a. Purpose and intended use: Commercial _____ Public _____ Private XX Other _____ Describe _____

b. Reason for project River access to private property and cabin. Safely secure river/fishing boats.

9. Proposed Starting Date _____ Estimated Duration _____

10. List portions of the project that are complete with month and year of completion N/A
Label this work on your drawings.

11. Names, addresses, and telephone numbers of all adjoining property owners, lessees, etc.
River frontage is approx. 982 feet.

Check here if the alteration is located on endowment lands administered by the Idaho Department of Lands

12. LEGAL OWNER IF OTHER THAN APPLICANT

a. Name N/A d. Phone Work () _____
b. Mailing Address _____ Home () _____
c. City, State, Zip Code _____

13. List applications, approvals, or certifications from other Federal, state, or local agencies for work described in this application.

Issuing Agency	Type of Approval	Identification No.	Date of Application	Date of Approval
IDWR	Letter approval as specified by Agency.			7/25/07
ID. Dept of Lands	Approved by review			4/02/07
Bureau of Land Mgmt.	Approved by review			3/21/07

14. Has any agency denied approval for the proposed activity? Yes _____ No XX (If "Yes" explain)

15. Other comments/information:

Existing project was submitted to IDWR and approved in 2007. Dept. of Lands in Craigmont and Bureau of Land Management Cottonwood reviewed the request and each approved. Dock was installed and removed for the season as planned and stated in the approved request. No encroachment permit required per IDWR and IDL.

16. Application is hereby made for a permit or permits to authorize the activities described herein. I certify that I am familiar with the information contained in this application, and that to the best of my knowledge and belief, such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities. I hereby grant to the agencies to which this application is made, the right to come upon the above-described location to inspect the proposed and completed work.

Signature of Applicant (ORIGINAL SIGNATURE REQUIRED) _____ Printed Name Dennis Moyer Date _____

17. If you wish to designate an authorized agent, complete item 4, item 16 and the following information.

I hereby designate _____ to act as my agent in matters related to this permit application. I understand that if a Federal permit is issued, I must sign the permit.

Original Signature of Authorized Agent _____ Date _____ Original Signature of Applicant _____ Date _____

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly falsifies, conceals, or covers up by any trick, scheme, or device a material fact or makes any false, fictitious, or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years or both.

DO NOT SEND CORPS PROCESSING FEE WITH APPLICATION

SEND IDAHO DEPARTMENT OF WATER RESOURCES OR IDAHO DEPARTMENT OF LANDS FILING FEE WITH APPLICATION

Exhibit L

ALSCOTT

501 Baybrook Court
Boise, Idaho 83706-3963
P.O. Box 70001 • Boise, Idaho 83707-0101

TELEPHONE: (208) 424-3840

FAX: (208) 424-3850

April 23, 2007

Mr. Ervin Ballou
Coordinator Stream Protection Program
Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

Via E-Mail: <Erv.Ballou@idwr.idaho.gov>

RE: Proposed Dock
Salmon River, Lewis County, Idaho

Dear Mr. Ballou:

As requested I have attached a drawing and some pictures to describe of the type of floating dock being proposed on the Salmon River. Hopefully when you combine these with the information I submitted earlier, there will sufficient detail for your approval.

The dock is to be made up components that are each approximately 6 ft. 6 in. wide and 9 ft. 9 in. long. Six (6) of these dock sections (see attached drawing with dimensions) will be interlocked together to form a "T" configuration. This will result in two legs of the "T" which are approximately 29 ft. 3 in. long and 6 ft. 6 in. wide.

The dock will be anchored to a rock outcropping on private property, above the high water line. A series of concrete anchors with eye bolts will be attached with chains or cable to secure the dock on the water side. These anchors will portable and of a size that can be removed along with the dock each season during the high water periods.

The nearby slope of the sand bar will allow a convenient place to access the shore with a tractor or other equipment to haul the dock and anchors out of the river and away to storage above the high water line.

As noted previously the river's main channel and flow of the current is along the opposite side and against the south shore line. The dock will be located on the north side in slack water which has created the sand bar.

Please let me know if you have any questions. My phone number is 424-3865 and email dmoyer@alscott.com.

Sincerely,
Deer Creek, LLC


Dennis Moyer

Attachments.

Exhibit L



← North

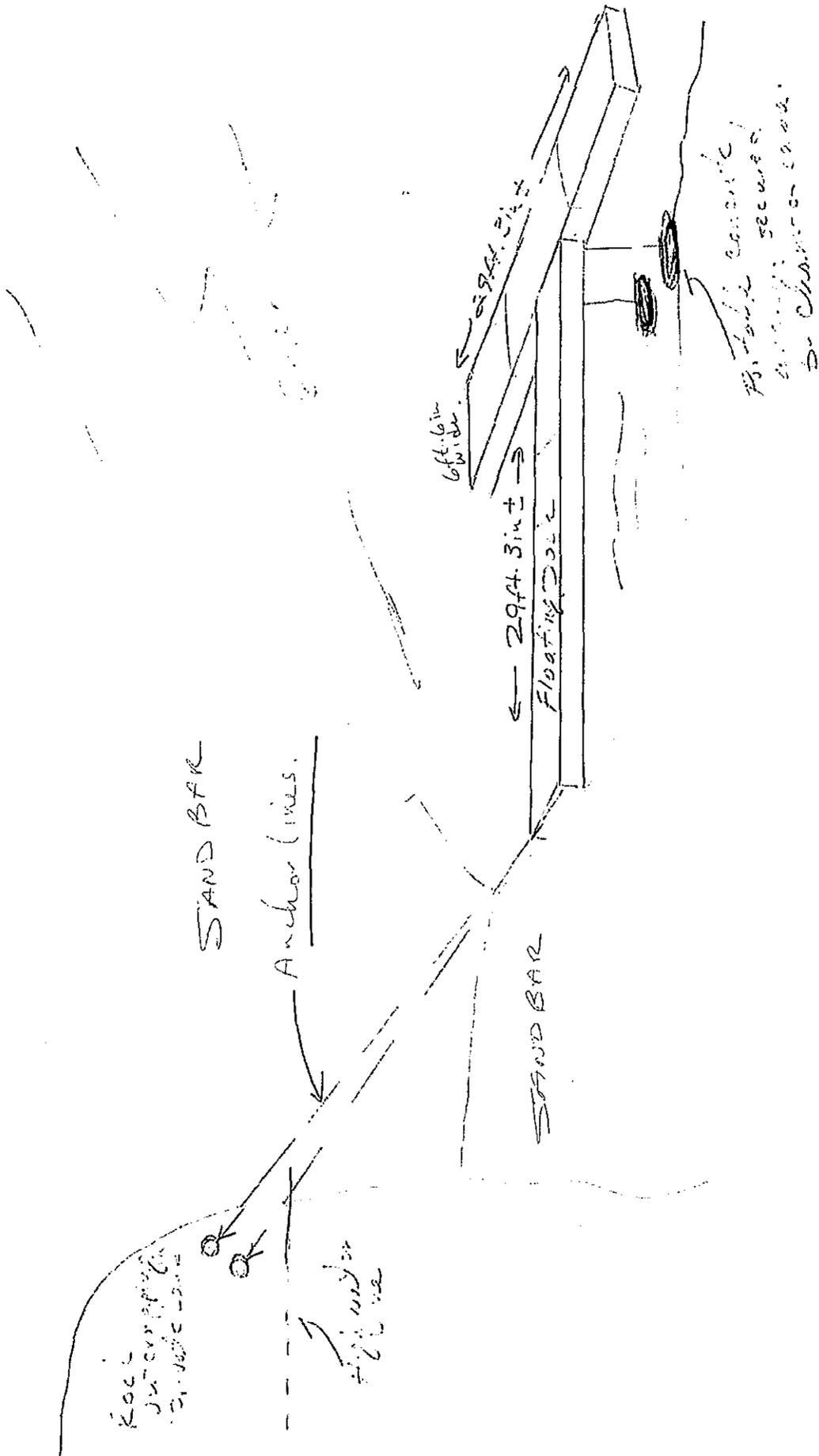
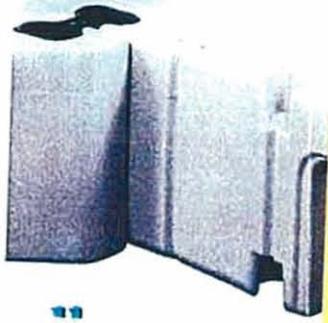


Exhibit L



Easy to install. Easy to maintain.

- Heavy-duty Polyethylene construction
- Modular dock sections make it easy to create most any layout
- Easy to install with just a few hand tools
- Wide variety of accessories make it easy to customize your setup

Improve the appearance and utility of your waterfront while saving maintenance time and expense. The rugged EZ dock system provides safe, convenient and attractive water access that you'll enjoy year after year.

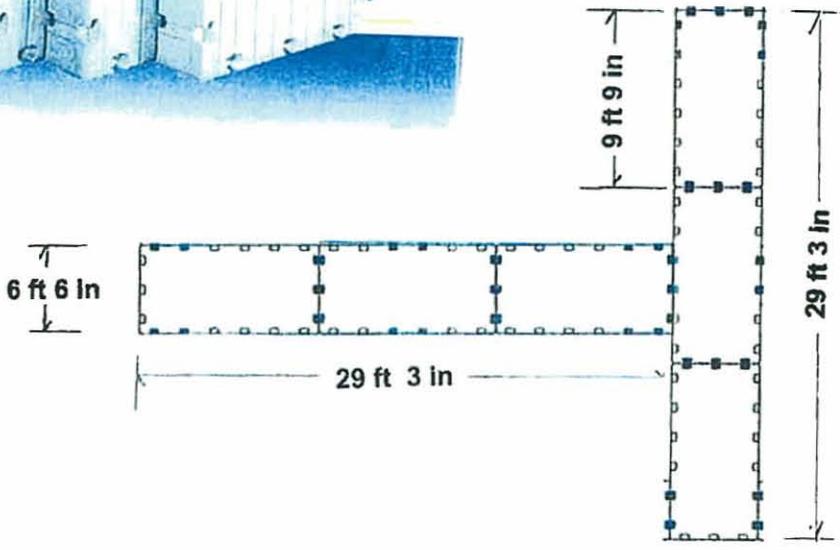
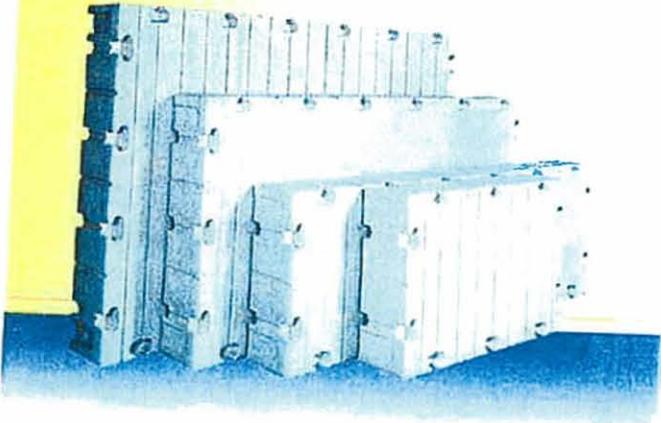
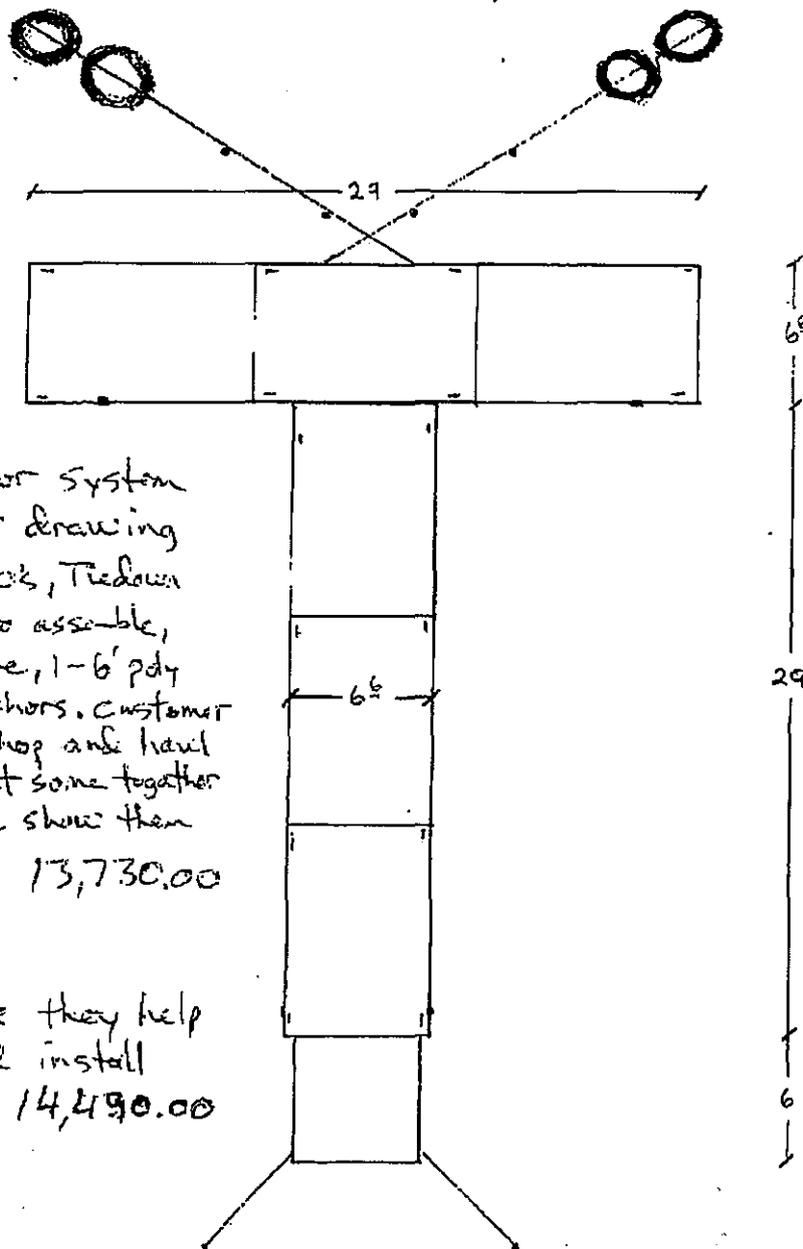


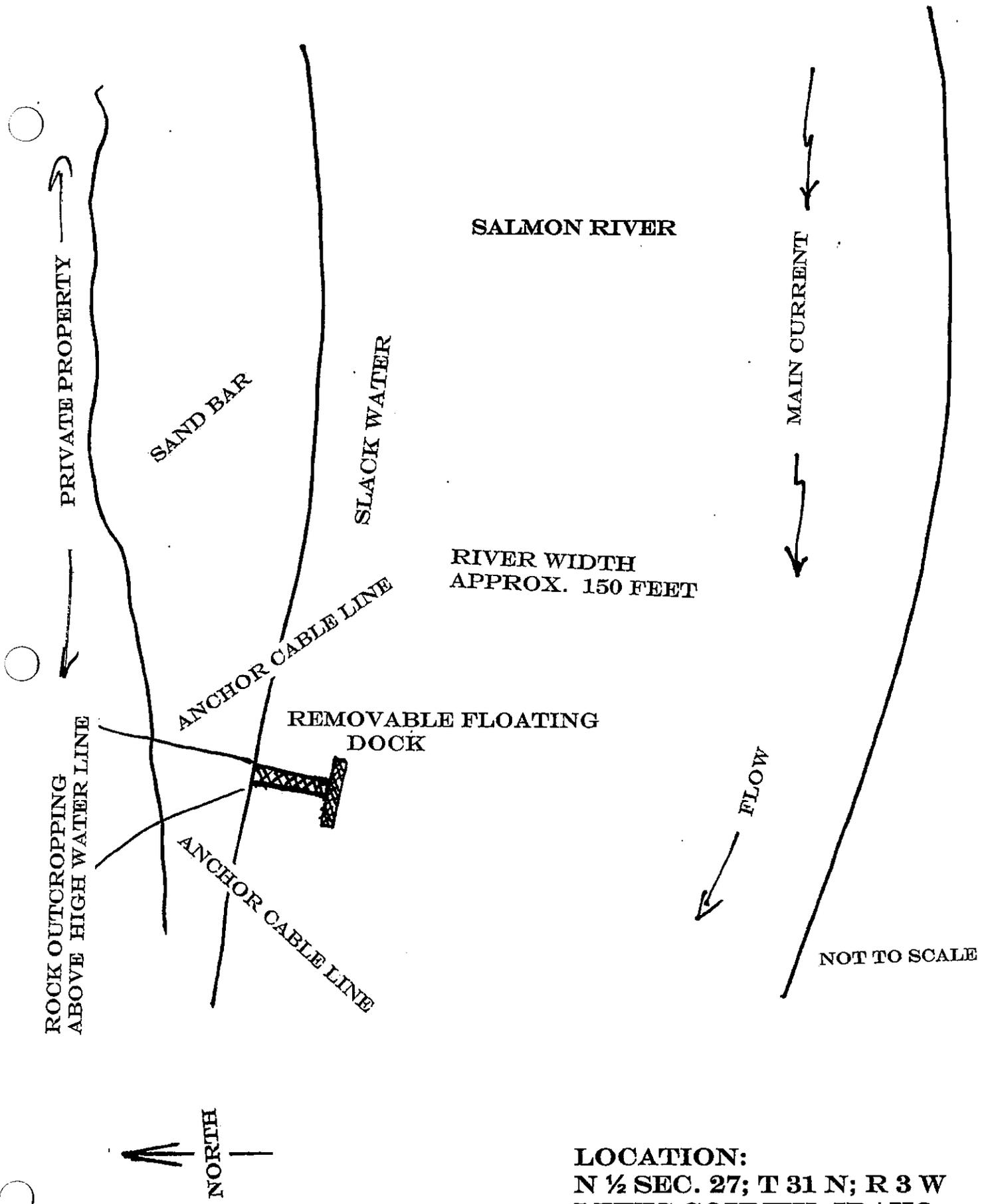
Exhibit L

Dennis Mayer



Decks & anchor system
 Supplied as per drawing
 to include 6-80's, Tiedown
 cleats, hardware to assemble,
 anchoring hardware, 1-6' ply
 ramp, chains & anchors. Customer
 to pick-up at shop and haul
 to site (I help put some together
 at the shop and show them
 how to install.) 13,730.00

I deliver to site they help
 me assemble and install
 14,490.00



LOCATION:
 N ½ SEC. 27; T 31 N; R 3 W
 LEWIS COUNTY, IDAHO

Exhibit L



Image © 2007 DigitalGlobe

Exhibit L

Gale, Kathy

From: Carol Furey-Werhan [Carol@LewisCountyID.Org]
Sent: Thursday, April 03, 2008 10:52 AM
To: Gale, Kathy
Subject: Joint Application Permit 3S79-20016 Deer Creek LLC--Salmon River

April 3, 2008

Regarding the Joint Application for Permit #S79-20016
Deer Creek LLC—Salmon River

Lewis County Planning and Zoning Department, Nezperce, ID approves the above referenced proposal sent with the letter from Duane Mitchell, Corps of Engineers, Walla Walla, WA

Sincerely,

Carol Furey-Werhan
Lewis County Planning & Zoning Coordinator

4/7/2008

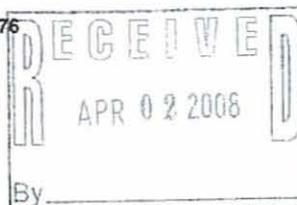
Exhibit M



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
WALLA WALLA DISTRICT, CORPS OF ENGINEERS
201 NORTH THIRD AVENUE
WALLA WALLA, WASHINGTON 99362-1876

March 31, 2008



Regulatory Division

SUBJECT: NWW-2008-00229-W04 (Idaho State No.: S79-20016)

Mr. Dennis Moyer
Deer Creek, LLC
501 Baybrook Court
Boise, Idaho 83706

Dear Mr. Moyer:

We reviewed your proposed placement of a floating dock in the Salmon River which is described in your March 19, 2008 Joint Application for Permit. Based on the information you provided, your work will not involve a discharge of dredged or fill material below the ordinary high water mark of Salmon River or in wetlands. Therefore, a Department of the Army permit will not be required for your project.

Your project, as proposed, may affect the Snake River Sockeye salmon (*Oncorhynchus nerka*), Snake River steelhead (*Oncorhynchus mykiss*), and the Snake River Spring/Summer Chinook (*Oncorhynchus tshawytscha*) which are protected under the Endangered Species Act of 1973, as amended. Under the Endangered Species Act, it is illegal to kill, harm, harass, possess or remove protected species from the wild. We strongly suggest you contact the NOAA Fisheries Service, telephone 208-983-4060, before you begin any work at this site to ensure that you comply with provisions of the Endangered Species Act.

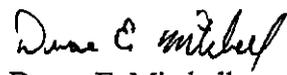
This determination applies only to Department of the Army permits administered by the Corps of Engineers. Your project may also require permits from other Federal, state, and local agencies. Your project may require a permit from the Idaho Department of Water Resources. In addition, your project may require a permit from your local city or county zoning office if they adopted a local floodplain management ordinance under the National Flood Insurance Program. You should contact these agencies to obtain any necessary permits prior to starting construction.

We are interested in your thoughts and opinions concerning the quality of service you received from the Walla Walla District, Corps of Engineers Regulatory Division. If you have Internet access and are interested in letting us know how we are doing, you can complete an electronic version of our Customer Service Survey form on our web site at: <http://per2.nwp.usace.army.mil/survey.html> which will be automatically submitted to us. Alternatively, you may call and request a paper copy of the survey which you may complete and return to us by mail or fax.

Exhibit A

Please contact me at 509-527-7156 if you have any questions. A copy of this letter is being sent to Mr. Dale Brege, NOAA Fisheries Service, 104 Airport Road, Grangeville, Idaho 83530 and Mr. Aaron Golart, Idaho Department of Water Resources, Western Regional Office, 2735 Airport Way, Boise, Idaho 83705-5082.

Sincerely,



Duane E. Mitchell
Regulatory Project Manager

Exhibit n



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

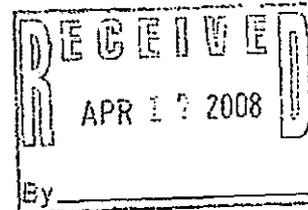
C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

April 16, 2008

Dennis Moyer
Deer Creek, LLC
501 Baybrook Court
Boise ID 83706

RE: Joint Applications for Permit #S79-20016
Removable boat dock in the Salmon River



Dear Mr. Moyer,

The Idaho Department of Water Resources (IDWR) has received letters from the Bureau of Land Management, Idaho Rivers United and many concerned citizens requesting IDWR to deny your application for a removable boat dock in the Salmon River. If IDWR receives any further letters from state or federal agencies they will be forwarded to you for your review. The letters have been forwarded to you to address the attached concerns. You and the Bureau of Land Management, Department of Lands and Idaho Rivers United must come to an agreement before we will be able to consider this application.

If an agreement can not be reached IDWR will render a decision to approve or deny the application based on the information in the file. When an agreement has been reached, a signed letter from the Bureau of Land Management, the Department of Lands, and Idaho Rivers United stating that they will no longer contest the proposed removable boat dock will be required.

Your application has been placed on hold for 60 days, in order for you to address the attached concerns. If after 60 days IDWR has not received any correspondence the application will be considered closed.

If you have any questions please do not hesitate to call me at (208) 334-2190.

Sincerely

Aaron Golart
Stream Protection Specialist
Stream Channel Protection Program

cc: Corps of Engineers, Dept of Lands, BLM, F&G and Idaho Rivers United

Exhibit 0



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098
Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

AMENDED LETTER

May 1, 2008

Mr. Dennis Moyer
Deer Creek, LLC
501 Baybrook Court
Boise ID 83706

RE: Joint Application for Stream Channel Alteration Permit no. S79-20016
Removable boat dock in the Salmon River

Dear Mr. Moyer:

This letter retracts and replaces the letter I sent to you on April 16, 2008, about joint application for stream channel alteration no. S79-20016 in the name of Deer Creek, LLC, proposing placement of a removable boat dock in the Lower Salmon River.

The April 16, 2008 letter erroneously stated that Idaho Rivers United, the U.S. Bureau of Land Management (BLM) and the Idaho Department of Lands (IDL) must agree and sign a letter stating that they no longer contest the proposed removable dock before the Idaho Department of Water Resources (IDWR) will be able to consider this application.

The Idaho Department of Water Resources is vested with the authority to determine whether an application for stream channel alteration should be approved or denied. Neither the BLM nor Idaho Rivers United has authority to share or preempt IDWR's authority to consider applications for a stream channel alteration permit. Specifically, an agreement with BLM and Idaho Rivers United is not required. BLM and Idaho Rivers United submitted comments to IDWR regarding application no. S79-20016. IDWR will consider these comments together with information submitted by the applicant, input from other state agencies, and other comments from individuals or organizations.

IDL has independent authority to administer the state's ownership of the bed and banks of the Salmon River. As a result, an agreement with IDL also is not required before IDWR considers the application.

IDWR received numerous comments from concerned citizens and groups requesting that IDWR deny application no. S79-20016. I've enclosed copies of these letters and emails. If IDWR receives any further letters or emails, IDWR staff will forward them to you for your review. I've forwarded these letters and emails so you have an opportunity to consider the concerns that have been expressed.

Exhibit P

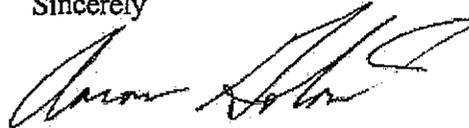
Dennis Moyer
Application for Stream Channel Alteration no. S79-20016
May 1, 2008
Page 2

IDWR will begin considering application no. S79-20016 -- along with any additional information you submit, comments from other state agencies, and public comments -- 30 days from the date of this letter.

The proposed boat dock will occupy an area overlying the bed of the Salmon River. As a result, IDL will independently consider your joint application and will determine whether a separate decision from IDL is needed.

If you have any questions please do not hesitate to call me at (208) 334-2190.

Sincerely



Aaron Golart
Stream Channel Protection Specialist
Stream Channel Protection Program

Enclosures (58 (67pages))

cc w/ encl via email:

Stephanie Connolly, Bureau of Land Management
Duane Mitchell, US Army Corps of Engineers
Daniel Stewart, Idaho Department of Environmental Quality
Eric Wilson, Idaho Department of Lands
Thomas Hawkins, Idaho Department of Lands
Ray Hennekee, Idaho Department of Fish and Game
Bonnie Butler, Governor's Office
John Chatburn, Governor's Office

cc w/o encl via email: Kevin Lewis, Idaho Rivers United

Exhibit P

Terry

From: Dennis Moyer [dmoyer@alscott.com]
Sent: May 02, 2008 11:31 AM
To: Terry
Subject: Fw: Amended Letter
Attachments: Deer Creek LLC amendment.pdf

----- Forwarded by Dennis Moyer/ALSCOTT/JKAF on 05/02/2008 11:30 AM -----

"Golart, Aaron" <Aaron.Golart@idwr.idaho.gov>

To <dmoyer@alscott.com>

cc "Galloway, Chuck" <Chuck.Galloway@idwr.idaho.gov>

05/02/2008 10:57 AM

Subject Amended Letter

Mr. Moyer,

Attached is a copy of the amended letter regarding Deer Creek, LLC and the proposed dock in the Lower Salmon River. I will follow up this email with one including all the parties on the carbon copy list. I want to get you this letter in advance as a courtesy in case you receive inquiries from the parties involved. Please let me know when you have received the letter and I will follow up with the email to everyone. Please let me know if you have any questions.

<<Deer Creek LLC amendment.pdf>>

Regards,

Aaron Golart
Stream Channel Protection Specialist
Idaho Department of Water Resources
Resource Protection Bureau
Western Region
(208) 334-2190
aaron.golart@idwr.idaho.gov

Exhibit P

ALSCOTT

501 Baybrook Court
Boise, Idaho 83706-3963
P.O. Box 70001 • Boise, Idaho 83707-0101

TELEPHONE: (208) 424-3840

FAX: (208) 424-3850

May 12, 2008

Mr. Aaron Golart
Stream Channel Protection Specialist
Stream Channel Protection Program
Department of Water Resources, Western Region
PO Box 83720
Boise, Idaho 83720-0098

RE: Approved Application Removable Boat Dock in Salmon River

Dear Mr. Golart:

I have received your letter dated May 1, 2008 which retracts and amends your previous letter sent dated April 16, 2008. During our subsequent telephone conversation, it was suggested that we respond and set forth the reasons why we believe we are entitled to our dock.

First, I would like to restate the basic point that this project for a floating, removable dock was properly reviewed and approved by all relevant governmental agencies. The instructions and guidelines dictated by the Idaho Department of Water Resources and Idaho State Department of Lands were followed exactly. All agencies contacted, as required by the IDWR were given the opportunity to carefully review the detailed information describing the aspects of the project. This included the Bureau of Land Management at the Cottonwood Office. **Each of those authorized agencies gave their official approval to the project in 2007.**

We then expended time, effort, and money as we relied on those approvals in good faith. The materials were purchased, transported, assembled, and installed. At the end of the season, the dock was removed and stored in anticipation of the winter season and spring high water run off. All this was carried out as planned in the letter and project description reviewed and approved by these governmental agencies.

In your most recent letter, you emphasized that IDWR has the direct authority as to whether the project would be permitted on the river. You also state that State Lands has authority over the riverbed and banks. This is completely consistent with what I was told in 2007 and is also why we relied on IDWR review and approval at that time.

Exhibit Q

Mr. Aaron Golart
Idaho Department of Water Resources
May 12, 2008
Page 2

In 2007, I was initially prepared to submit the 404 Form as an application for the dock approval. However, in separate conversations with Mr. Chris Welker and Erv Ballou, officials authorized to represent IDWR, as well as, Mr. Scott Corkill and Thom Hawkins of the Idaho Department of State Lands I was told repeatedly not to submit the 404 Form because that is no longer required by the State for rivers. There was a clear and consistent consensus from all these state officials that a 404 Form application was not needed. A letter, along with drawings and dimensions of the dock, maps, photographs, etc. would be all that was required to obtain approval of the dock.

Following those specific instructions, I received approval for the project from Mr. Thom Hawkins, Area Supervisor, Craig Mountain Area of the Idaho Department of Lands on April 9, 2007 and from Mr. Erv Ballou, Coordinator Stream Protection Program, Resource Protection Bureau of the Idaho Department of Water Resources on April 23, 2007. Mr. Kurt Paviat, Field Manager of the Cottonwood office of the US Bureau of Land Management in Cottonwood stated on March 21, 2007, that their office had no objection after reviewing the dock materials.

Then earlier this year, I was informed that State Lands had requested that the 404 Form be submitted "so that they could complete their files" and that submitting the form was a just a formality, however, it now appears obvious that other motives actually were in play. In fact, as soon as I complied and submitted the 404 Form, it was circulated to specific groups that would have a differing opinion and they were then encouraged to send letters of objection under an organized form letter and email campaign.

Interestingly, the "404 Form Application" was circulated only to those who might oppose the dock project but not circulated to those who might support or not object to the project.

The Corps of Engineers has provided a letter that states that they see no adverse intrusion or impact on the stream flow, riverbed or banks. Lewis County has stated that they too do not object to the dock.

The only objections were from those who were part of the negative letter writing campaign. Their comments offered emotional responses and subjective opinions, but were not factual and not entirely relevant to the situation.

There was misinformation circulated about the dock that it was a permanent structure, however actually it is a floating, removable dock, as directed by the design standards of the IDWR.

Exhibit Q

Mr. Aaron Golart
Idaho Department of Water Resources
May 12, 2008
Page 3

There was misinformation that the dock is located in such a way that it somehow interferes with the main current channel of the river. In reality, it is located in back water just off a sand bar and does not alter or interfere with the stream flow.

The dock is located away from the main stream channel and well out of the current. There is no interference with floaters, rafts or jet boat traffic up and down the river. The dock was in the river last year with no problems for anyone.

Next, nearly all the negative respondents were misinformed about the classification of this stretch of the Salmon River where this dock is located. It is not designated as a Wild, Scenic or Recreation River nor is it in wilderness as other areas of the Salmon or Snake River are.

The floating dock has no more impact on the river (especially in its slack water location) or the sand bar than any raft or jet boat moored along the shoreline as routinely occurs in this area.

Acting on good faith and in reliance upon instructions from IDWR, the owner proceeded with the installation of the dock in 2007. It was maintained as promised and removed at the end of the season as intended and authorized. The dock has a grandfathered approval to be placed there. It will be reinstalled in 2008 and in the future under the same guidelines and approval granted to us in 2007.

Also I do want to note that another dock has been on the river which was approved previously by these agencies without any problems or issues whatsoever.

Deer Creek LLC contacted the State Agencies and complied with their instructions and advice properly in gaining the approval to install the dock. The recent decision to reopen the application process seems to have originated from pressure from certain individuals within the agency and within the negative special interest group who don't happen to agree with the 2007 decision by the authorized State officials who reviewed that request.

It is not appropriate nor is it acceptable to force the re-opening of this matter at their personal whim.

In summary, we have relied upon the applicable state agencies' instructions in obtaining the prior approval of our dock. We received specific approval for its construction and

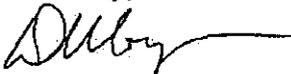
Exhibit Q

Mr. Aaron Golart
Idaho Department of Water Resources
May 12, 2008
Page 4

thereafter expended substantial sums to have the very specific and compliant-type of dock prepared to put in the river. The dock was put into the river last year and was used without any problems, issues, or complaints. Now, after having expended all of these funds in reliance upon the instructions from the IDWR and having obtained all of the appropriate approvals, it simply is not appropriate or legal that an effort be made to try and take away our permit. Because of the manner in which this is being handled, we asked our attorneys to analyze this issue and as you can see from the enclosed letter, it is illegal under Idaho law to try and revoke the permission permit.

Based upon these facts, we strongly urge you to reaffirm the permit previously granted to us. We will assume unless we are otherwise advised that the information we have provided to you in this letter is sufficient for your purposes. If you would care to have a meeting to discuss these facts or call me, please feel free to do so.

Sincerely,



Dennis Moyer
Vice President, Alscott Inc.
For Deer Creek LLC

Enclosure

Exhibit B

Davison, Copple, Copple & Cox, LLP
Attorneys at Law

Direct Contact:

Terry C. Copple
Direct: (208) 342-3766

E-Mail: tcopple@davisoncopple.com
<http://www.davisoncopple.com>

199 North Capitol Boulevard, #600
Post Office Box 1583
Boise, Idaho 83701

Telephone: (208) 342-3658
Facsimile: (208) 386-9428

May 1, 2008

SENT VIA E-MAIL

Dennis Moyer
Sandra Mitchel
Deer Creek, LLC
c/o Alscott, Inc.
501 Baybrook Court
Boise, Idaho 83706

Re: Deer Creek Dock

Dear Dennis and Sandra:

We have analyzed the various documents you have provided to us with regard to the history of the approval of the boat dock located at the Deer Creek, LLC property on the Salmon River.

After having carefully analyzed the history of the transaction as well as the relevant documents, it is clear that you have been granted lawful permission to have the dock located at the beach at the Deer Creek, LLC property by the appropriate government agencies.

You were instructed by the Idaho Department of Water Resources to contact the various state agencies and obtain their approval to the placement of the dock at your property in the Salmon River. As a result of this process, you ultimately obtained approval for the installation of the dock.

Importantly, in reliance upon the approval which was granted to you by the state as well as clearances from the federal agencies, you expended substantial sums to complete the dock and thereafter installed it at your property. During the last year that the dock has been at your property, there have been no issues, complaints, or other incidents with regard to the dock, thereby showing that in fact there is no safety or other issue whatsoever with regard to its placement.

Additionally, we understand that there has been another dock approved on the river and it has been in place for ten (10) years without any adverse consequences to the river or other boaters.

Exhibit Q

Dennis Moyer
Sandra Mitchel
Deer Creek, LLC
c/o Alscott, Inc.
May 1, 2008
Page 2

The Idaho Supreme Court has been called upon in the past to address whether or not permits granted by a government agency can be revoked after an applicant has expended funds to build the project in reliance upon the permit. In the important Idaho Supreme Court decision of Boise City v. Blaser, 98 Idaho 789, 572 P.2d 892 (1977), the Idaho Supreme Court ruled that a government agency cannot revoke its prior permission if the project has been completed in reliance upon that permission. The decision in the Blaser Case has been repeatedly reaffirmed by the Idaho Supreme Court.

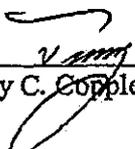
While you may have extended a courtesy to the Idaho Department of Water Resources to file an application in order for the Department to complete its paperwork, the filing of such an application cannot in any way constitute a revocation of the prior permission which was granted to you. Accordingly, if any effort is made by the State of Idaho or any federal agency to revoke the permission granted to you, then please immediately contact this office in order that we can immediately protest the action of the government agency and thereafter take appropriate steps to have your rights protected in District Court through litigation.

If you have any further questions with regard to this matter, please do not hesitate to contact this office.

Very truly yours,

DAVISON, COPPLE, COPPLE & COX, LLP

By: _____


Terry C. Copple, of the firm

TCC/tap

Exhibit Q

132160

Instrument # 132160

NEZPERCE, LEWIS, IDAHO

2005-05-23

11:55:07 No. of Pages: 2

Recorded for : DAVISON, COPPLE, COPPLE & COX

CATHY LARSON

Fee: 6.00

Ex-Officio Recorder Deputy *Anne V. Cree*
My P.O. Box 1583, Boise, ID 83701

WARRANTY DEED

JOSEPH B. SCOTT, a married man dealing with his sole and separate property (hereinafter referred to as "Grantor") for good and valuable consideration grants and conveys to DEER CREEK, LLC, an Idaho limited liability company (hereinafter referred to as "Grantee") whose address is 501 Baybrook Court, Boise, Idaho, 83706, the property described below, all of which is located in Lewis County, State of Idaho:

That part of the Government Lot 1, Section 27, Township 31 North, Range 3 West of the Boise, Meridian, described as follows:

Commencing at the Center North 1/16 corner of said Section 27; thence N.89°48'17"W., 100.00 feet to the Point of Beginning; thence continuing N.89°48'17"W., 435.60 feet; thence S.0°06'24"W., 500 feet more or less to the mean high water line of the Salmon River; thence Easterly along said high water line 435.60 feet more or less to a point 500.00 feet S.0°06'24"W., of the Point of Beginning; thence N.0°06'24"E., 500.00 feet to the Point of Beginning;

TOGETHER WITH such easements as Grantor may now have or may hereafter acquire providing ingress and egress between the above-described property and the public road known as the "Eagle Creek Road."

SUBJECT TO, easements of record or use, covenants, conditions, encumbrances and defects.

TOGETHER WITH ALL AND SINGULAR the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, claim or demand whatsoever of the Grantor either in law or equity of, in and to the above described and bargained premises.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the Grantee, his heirs and assign, forever.

AND the Grantor shall and will warrant and forever defend the above bargained premises in the quiet and peaceable possession of the Grantee, his heirs and assigns, against all and every person or persons lawfully claiming title, or to claim the whole or any part thereof.

DATED this 11 day of May, 2005.

Joseph B. Scott
JOSEPH B. SCOTT

Exhibit R

1206
1330910

WARRANTY DEED

David A Spencer, a single man, as GRANTOR herein, for a good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey unto **Deer Creek LLC**, of PO BOX 70001, Boise, ID 83707-0101, GRANTEE, and to grantee's successors and assigns forever, all of the following described real estate located in the County of LEWIS, State of Idaho, TO WIT:

Township 31 North, Range 3, West B.M.

**Section 27: W $\frac{1}{2}$ E $\frac{1}{2}$ W $\frac{1}{2}$ of Lot 3, Except the East 50 feet thereof;
W $\frac{1}{2}$ W $\frac{1}{2}$ of Lot 3;**

Section 27: That part of Lot 1, described as follows:

**Beginning at the Northwest Corner of Lot 3, which is the Northeast Corner of the parcel being described;
Thence 100 feet westerly parallel to the North boundary of said Lot 1, thence southerly parallel to the East boundary of Lot 1 to an intersection with the South boundary of said Lot 1;
thence easterly along the South boundary of Lot 1 to the Southeast Corner of said Lot 1;
thence northerly on the East boundary of Lot 1 to the Point of Beginning.**

TOGETHER with all improvements, water rights, ditches, easements, hereditaments and appurtenances thereto.

SUBJECT TO: The lien for current taxes.

GRANTOR, does hereby covenant, warrant, and shall defend the quiet and peaceable possession of said premises by the GRANTEE and grantee's successors and assigns forever against the lawful claims of all persons.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, GRANTOR has executed this instrument January 18, 2006.

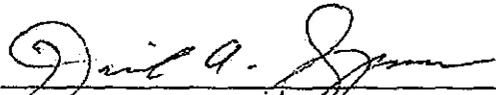

David A Spencer, a single man

Exhibit R



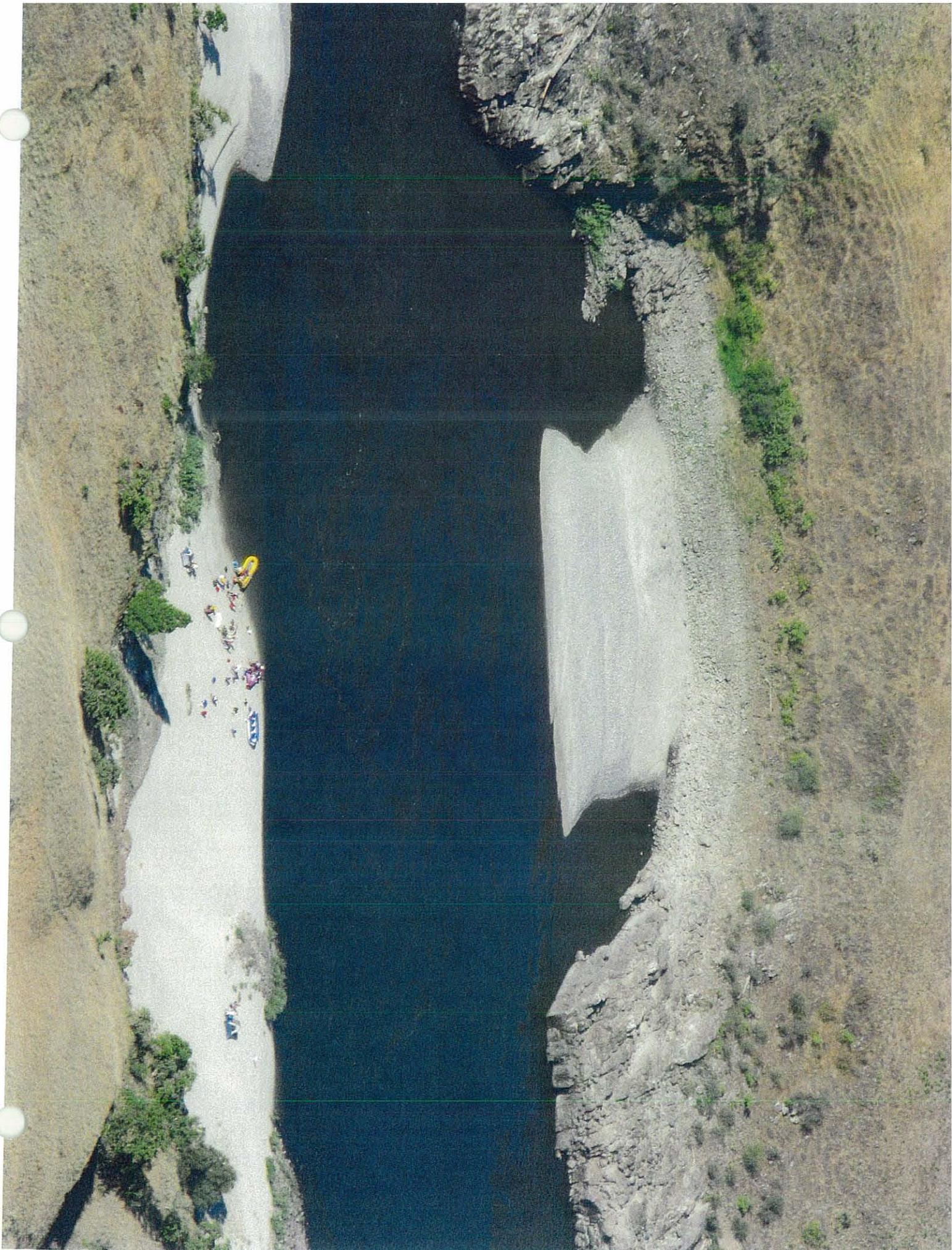
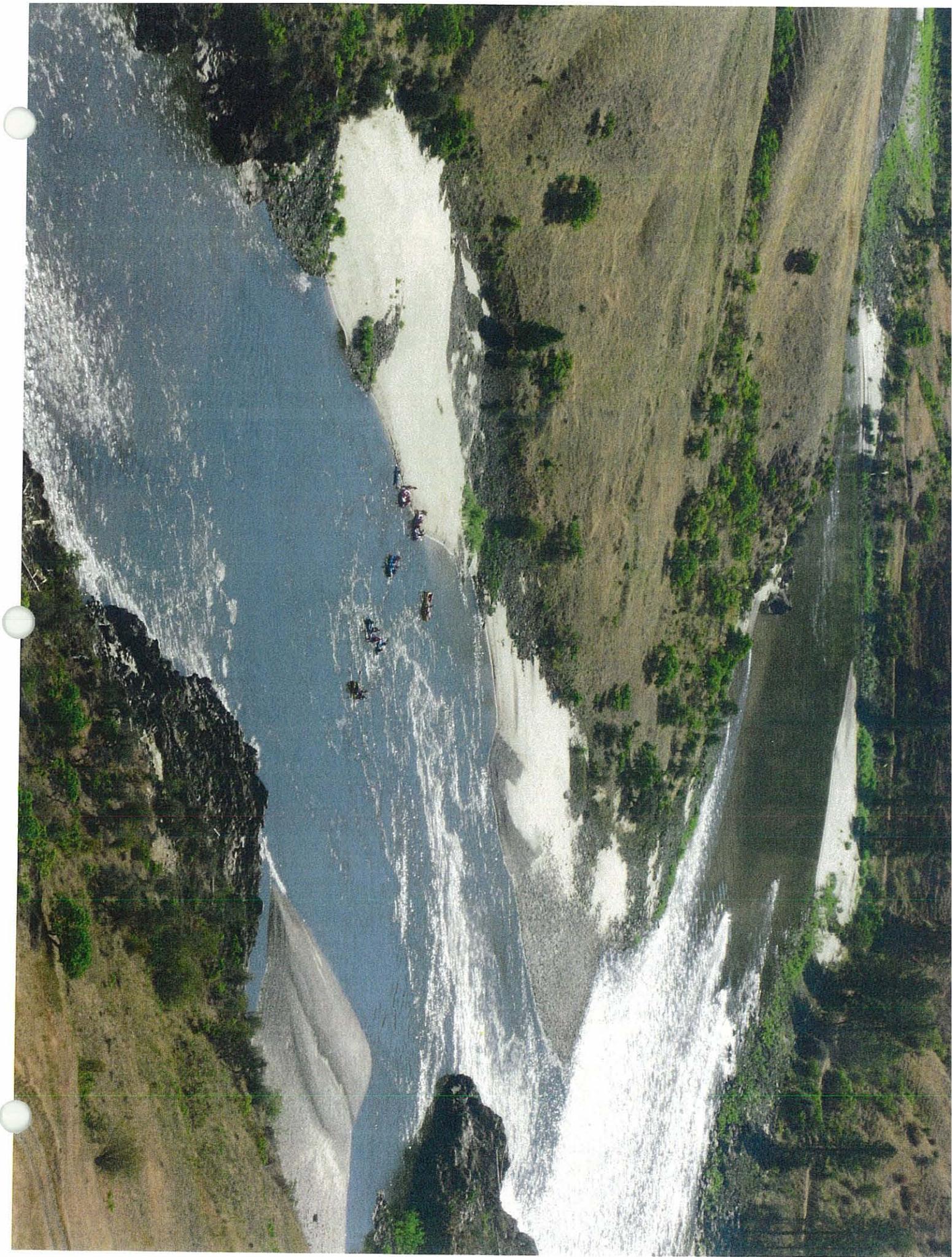


Exhibit 9





Exhibit 5



EVN 12/15



EXHIBIT T



Exhibit 1

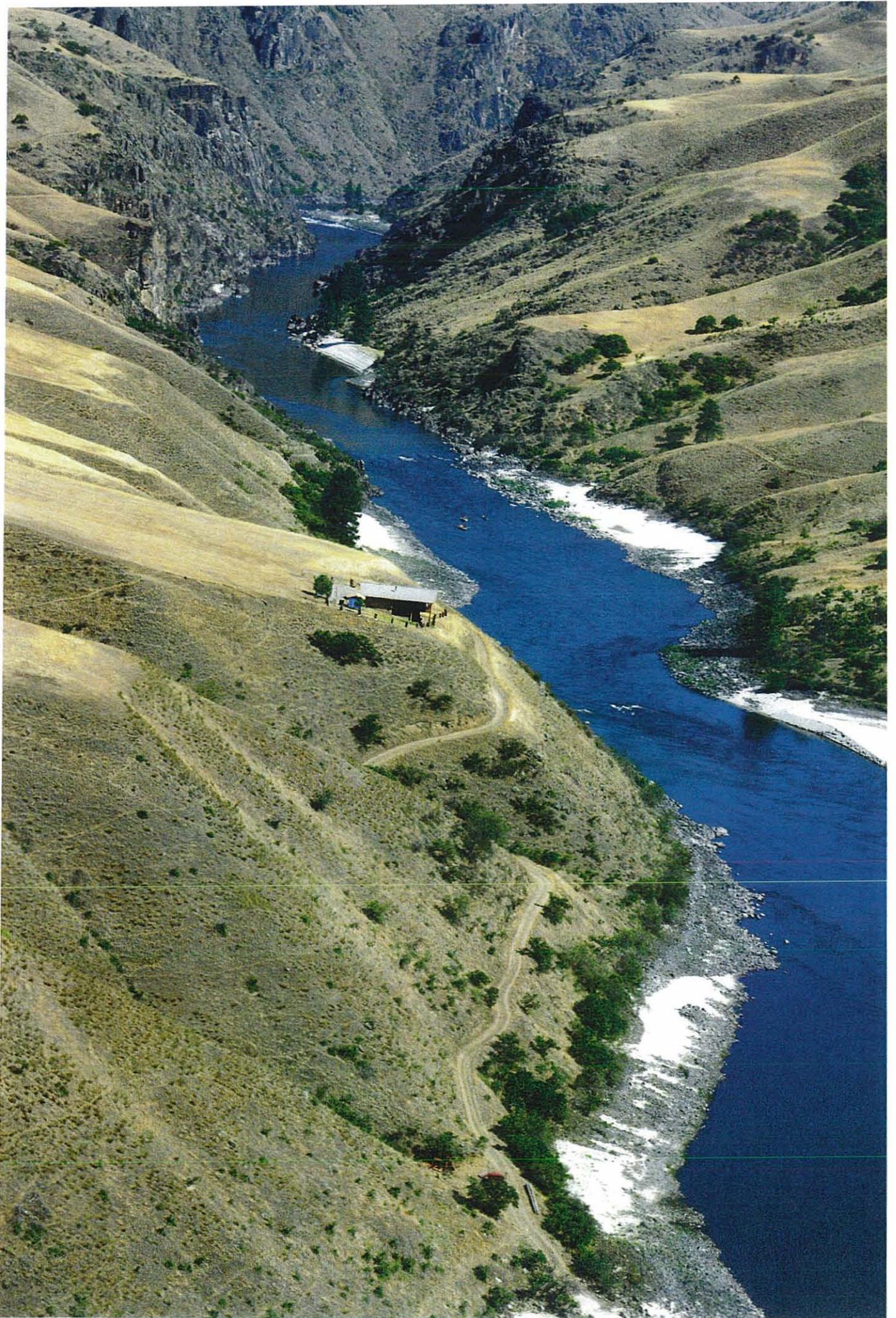


Exhibit T



Exhibit T

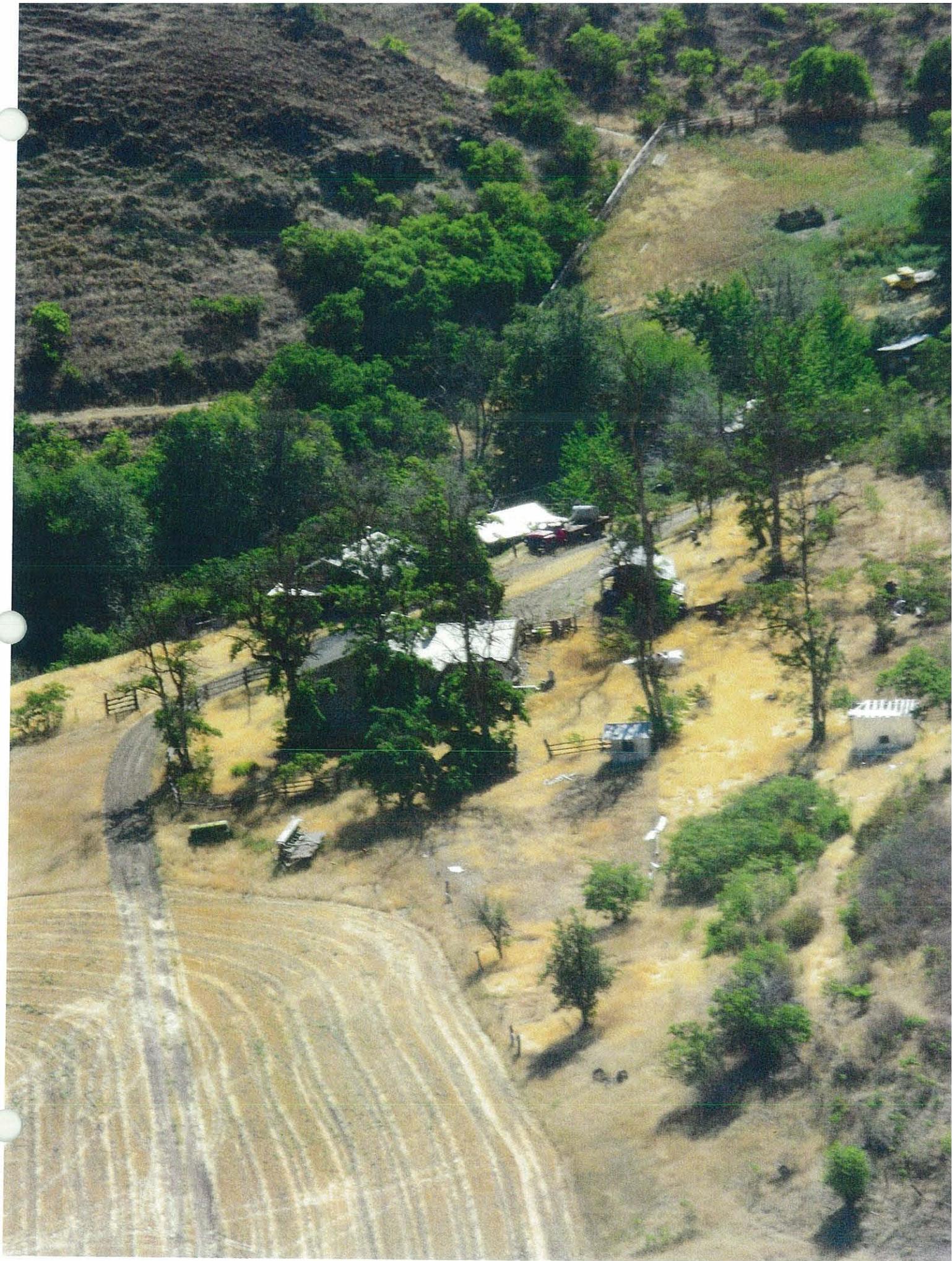


Exhibit T



Exhibit T



Exhibit T





Exhibit
V