

STATE BOARD OF LAND COMMISSIONERS

April 18, 2023
Consent Agenda

Subject

Request to declare and dispose of surplus property owned by the Idaho Fish and Game Department

Question Presented

Shall the Land Board authorize the Idaho Department of Lands (Department) to declare and dispose of the Idaho Fish and Game Department property known as the former Clark Fork Fish Hatchery?

Background

The Idaho Department of Fish and Game (IDFG) requested approval via a letter dated November 4, 2022, for the State Board of Land Commissioners (Land Board) to declare its undivided interest in the Clark Fork Fish Hatchery (Hatchery) as surplus property, pursuant to the Surplus Property Act, Idaho Code §§ 58-331–335 (Attachment 1).

The Hatchery consists of approximately 20 acres of land with improvements, located in Bonner County, near the town of Clark Fork (Attachment 2-Map). The parcel is irregular in shape, with legal access to East Spring Creek Road, which runs adjacent to the western property boundary. The improvements on the property include three residential buildings, three freestanding garage/shop structures, and three buildings associated with the use as a fish hatchery, as well as the concrete fish rearing raceways. Many of the buildings contain hazardous materials in the form of lead-based paint and asbestos containing materials, according to a report commissioned by IDFG in May 2016. Only one of the three residential structures is habitable.

The land was acquired by IDFG in 1936 and served as a fish hatchery from the 1930s until operations ceased in 2000, due to the Infectious Pancreatic Necrosis Virus, and the fact that the hatchery fish could not be protected from the disease. Since 2000, the facility has served as a workstation for regional IDFG staff and as a residence for contractors working on IDFG projects. Operations moved in 2021 to other facilities in the region and the Hatchery is no longer needed for the purposes of IDFG.

IDFG holds three non-consumptive water rights on the property, historically used for fish propagation. The Department will ascertain the continued viability of the water rights and determine whether such water rights can be used for other state needs or purposes. The beneficial use identified for these water rights is fish propagation. IDFG stopped rearing fish on this station due to critical viral disease concerns in 2000. Due to the potential risk of

amplifying and spreading disease, IDFG believes this property should be deed-restricted to preclude any future use for fish propagation.

The Hatchery was appraised by H. Scott Calhoun of H.S. Calhoun, LLC in January 2023, and has an "as-is" market value of \$400,000.

Discussion

Pursuant to Idaho Code § 58-331, custody and control of the property will be transferred to, and title will be vested in, the Land Board for disposition. Per Idaho Code § 58-332, the Department, on behalf of the Land Board, will notify other state agencies to determine if they are interested in purchasing the property. If no other state agencies express interest in the property, the Department will offer the property to tax-supported agencies, including federal, city, and county agencies, to determine if there is any interest in purchasing it. If no tax-supported entity expresses interest, the Department will offer the property at public auction in Bonner or Ada County. If the property does not sell at auction, the Department will advertise the property and accept adequate and valuable consideration in a negotiated sale.

Recommendation

Direct the Department to offer the Hatchery property for disposition in accordance with the Surplus Property Act, Idaho Code §§ 58-331–335, and authorize the Department to offer the Hatchery at public auction in Bonner or Ada County.

Board Action

Attachments

1. IDFG Surplus Request, dated November 4, 2022
2. Map



IDAHO DEPARTMENT OF FISH AND GAME

600 S Walnut / P.O. Box 25
Boise, Idaho 83707

Brad Little / Governor
Ed Schriever / Director

November 4, 2022

State Board of Land Commissioners
954 West Jefferson Street
P.O. Box 83720
Boise, ID 83720-0050

RE: Request for Surplus Land Sale

Dear Ladies and Gentlemen:

The Idaho Department of Fish and Game and its Commission (IDFG) declared as surplus to its needs, the following property:

1. Clark Fork Hatchery – 20 acre, Bonner County

T56N, R2E, BM. Sec. 27, portion of E $\frac{1}{2}$ SE $\frac{1}{4}$ described as follows: Commencing at a point which lies S 89° 39' W 1,067.8 feet and 72 feet N of the SE corner of Sec. 27, thence N 6° 30' E 600 feet, thence N 63° 52' E 600 feet, thence N 22° 35' E 1,192 feet, thence N 89° W 574 feet, thence S 24°29' W 300 feet, thence S 49° 27' W 126.6 feet, thence S 21° 54' W 572.2 feet, thence S 14° 58' W 225 feet, thence S 20° 31' W 191.2 feet, thence S 6° 30' W 695.5 feet, thence N 89° 39' E 150.9 feet to the place of beginning. Subject to a right-of-way 12 feet in width for an existing pipeline running in a N-S direction and owned by the city of Clark Fork.

The property was originally acquired and used as a fish hatchery. Hatchery operations ceased in 2000 because fish present in the facilities source water carried Infectious Pancreatic Necrosis Virus, and the hatchery fish could not be protected from the disease. Since 2000, the facility has served as a work station for Regional IDFG staff and as a residence for contractors working on IDFG projects. Operations moved in 2021 to other facilities in the region and the property is no longer needed.

The property was acquired using IDFG funds obtained through the sale of hunting, fishing, and trapping licenses. IDFG is aware of the following special features of the property:

1. Known hazards: A Site Evaluation conducted in 2016 identified hazardous construction materials (lead paint and asbestos) to be present in some of the structures on the property (complete report available as needed)
2. Existing utilities: The property has electric and phone on site. There is currently a plan for Avista Power Company to replace the existing 3-phase power with a single phase power system.
3. Leasehold interests and existing leases: None


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4. Mineral and Water Rights: IDFG holds three water rights (96-2166, 96-4564, and 96-8454; see Attachment A). The beneficial use identified for these water rights is fish propagation. The Department stopped rearing fish on this station due to critical viral disease concerns; the Department also would not want another owner to rear fish on this station because of the potential to amplify and spread disease
5. Improvement: The site totals 20 acres and includes 3 residences 2 hatchery buildings, and multiple accessory buildings in addition to the concrete fish rearing raceways (Attachment B).
6. Easements and encumbrances: There are three easements that pertain to the property. Two of them are documented in Attachment C. The third is documented in the warranty deed (Attachment D), which has language “reserving the right to use the present road as now constructed from the highway on the Western boundary of said tract in an Easterly direction to the buildings located East of the tract hereby conveyed and being in the East Half of the Southeast Quarter (E1/2 SE1/4) of said Section 27, the said road to be used as a private crossing only, and not as a public highway, subject, however, to the right of the grantee herein to change the location of said road and the bridge across Spring Creek and provide the grantors with another suitable roadway for reaching said tract of land without expense to the grantors.” The neighbor to the hatchery has access to his property through this easement.

We hereby request that the above described lands be approved for sale. If you have any questions, please feel free to contact Lands Program Coordinator Casey Pozzanghera at 208-287-2713. I thank you in advance for your time.

Sincerely,

Michael S Pearson,
CGFM, CPA Chief, Bureau
of Administration



Digitally signed by Michael S
Pearson, CGFM, CPA Chief,
Bureau of Administration
Date: 2022.11.04 07:56:02 -06'00'

Michael S. Pearson, CGFM, CPA

MP/CBP

Attachments:

- A. Water Rights
- B. Site Improvements
- C. Easements
- D. Warranty Deed

Attachment A – Water Right Reports

WATER RIGHT REPORT

Close
8/11/2021
IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report
WATER RIGHT NO. **96-2166**

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 04/17/1946
Basis: License
Status: Active

Source Tributary

SPRING CREEK LIGHTNING CREEK

Beneficial Use From To Diversion Rate Volume

FISH PROPAGATION / / 3 CFS
Total Diversion 3 CFS

Location of Point(s) of Diversion:

SPRING CREEK NESE Sec. 27 Township 56N Range 02E BONNER County

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>
56N	02E	27		SESE										

Conditions of Approval:

1. TRIBS. FOR THIS RT. ARE LIGHTNING CK. & CLARK FORK R.

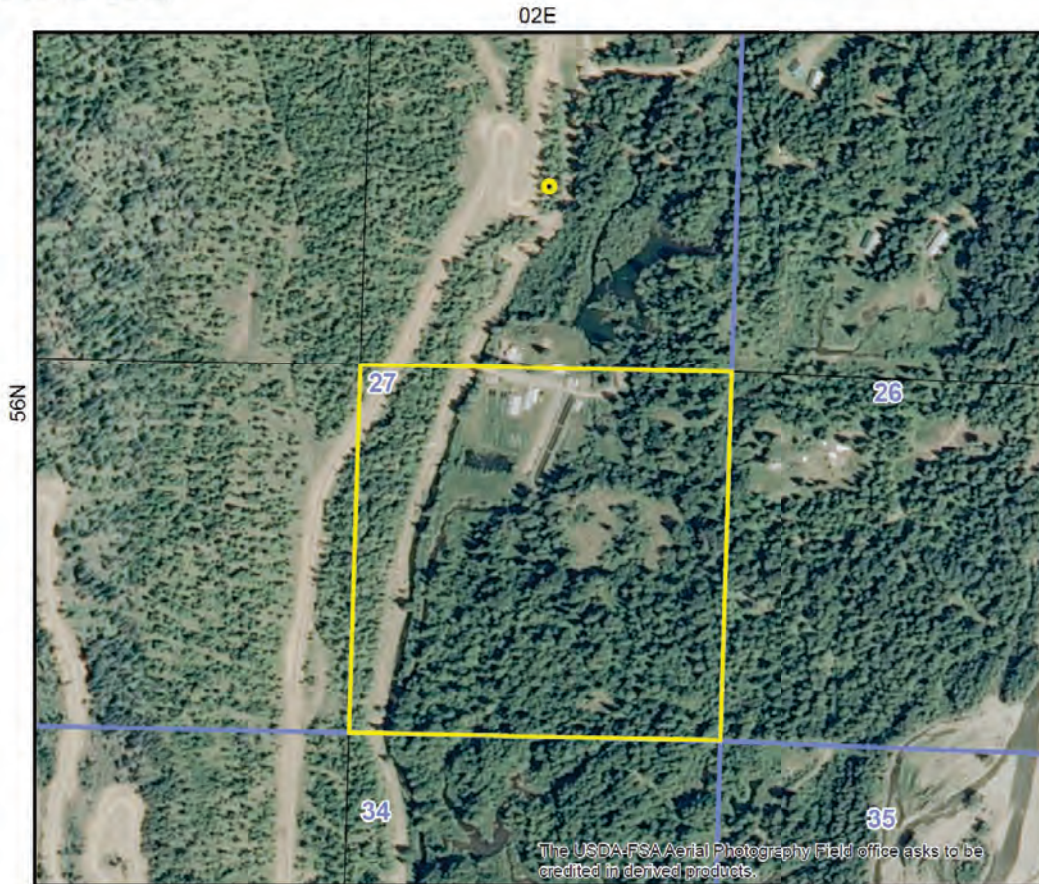
Dates:
Licensed Date: 02/23/1948

State of Idaho
Department of Water Resources

Water Right 96-2166

FISH PROPAGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters

0 0.05 0.1 0.2 Miles



Map produced on August 11, 2021

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WATER RIGHT REPORT

Close
8/11/2021
IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report
WATER RIGHT NO. **96-4564**

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 01/01/1934
Basis: Statutory Claim
Status: Active

Source Tributary

SPRING CREEK LIGHTNING CREEK

Beneficial Use From To Diversion Rate Volume

FISH PROPAGATION 1/01 12/31 15 CFS

Total Diversion 15 CFS

Location of Point(s) of Diversion:

SPRING CREEK NESE Sec. 27 Township 56N Range 02E BONNER County

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Tract</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>		<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>
56N	02E	27		NES			SESE							
				E										

Conditions of Approval:

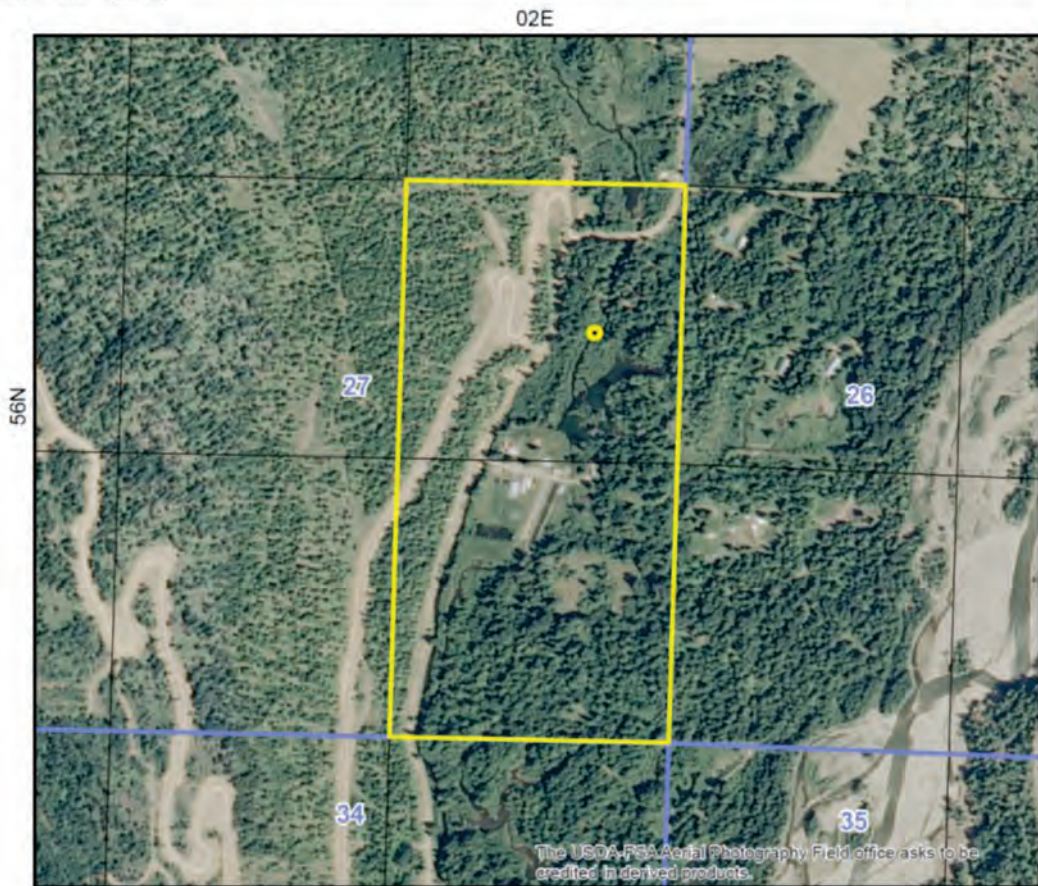
1. Fish propagation use at Clark Fork Hatchery.

State of Idaho
Department of Water Resources

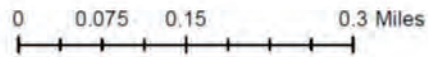
Water Right 96-4564

FISH PROPAGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters



Map produced on August 11, 2021

WATER RIGHT REPORT

Close

8/11/2021

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report

WATER RIGHT NO. **96-8454**

Owner Type Name and Address

Current Owner STATE OF IDAHO
DEPT OF FISH & GAME
C/O OFFICE OF THE ATTORNEY GENERAL
MICHAEL ORR
PO BOX 83720
BOISE, ID 83720-0010
(208) 334-2400

Priority Date: 04/09/1986

Basis: License

Status: Active

Source Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From To</u>	<u>Diversion Rate</u>	<u>Volume</u>
FISH PROPAGATION	1/01 12/31	0.19 CFS	137.5 AFA
Total Diversion		0.19 CFS	137.5 AFA

Location of Point(s) of Diversion:

GROUND WATER SESE Sec. 27 Township 56N Range 02E BONNER County

Licensed Diversion Capacity: 0.19

Place(s) of use:

Place of Use Legal Description: FISH PROPAGATION BONNER County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lo</u>	<u>Tract</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>	<u>Lo</u>	<u>Trac</u>	<u>Acre</u>
<u>p</u>	<u>e</u>	<u>n</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>	<u>t</u>	<u>s</u>	<u>t</u>
56N	02E	27		NES			SESE							
				E										

Conditions of Approval:

1. 033 Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 32F.
2. 027 Use of water under this right shall be non-consumptive.

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3. 09C Return flow if discharged to a subsurface system must be authorized by a separate injection well permit, and return flow if discharged to a surface water system shall meet Idaho Water Quality Standards.
4. R03 Measuring devices of a type approved by this Department shall be maintained at the point of diversion and point of effluent discharge.
5. The facility volume is 865.6 cubic feet.

Dates:

Licensed Date: 06/15/1994

Decreed Date:

Permit Proof Due Date: 7/1/1987

Permit Proof Made Date: 11/5/1986

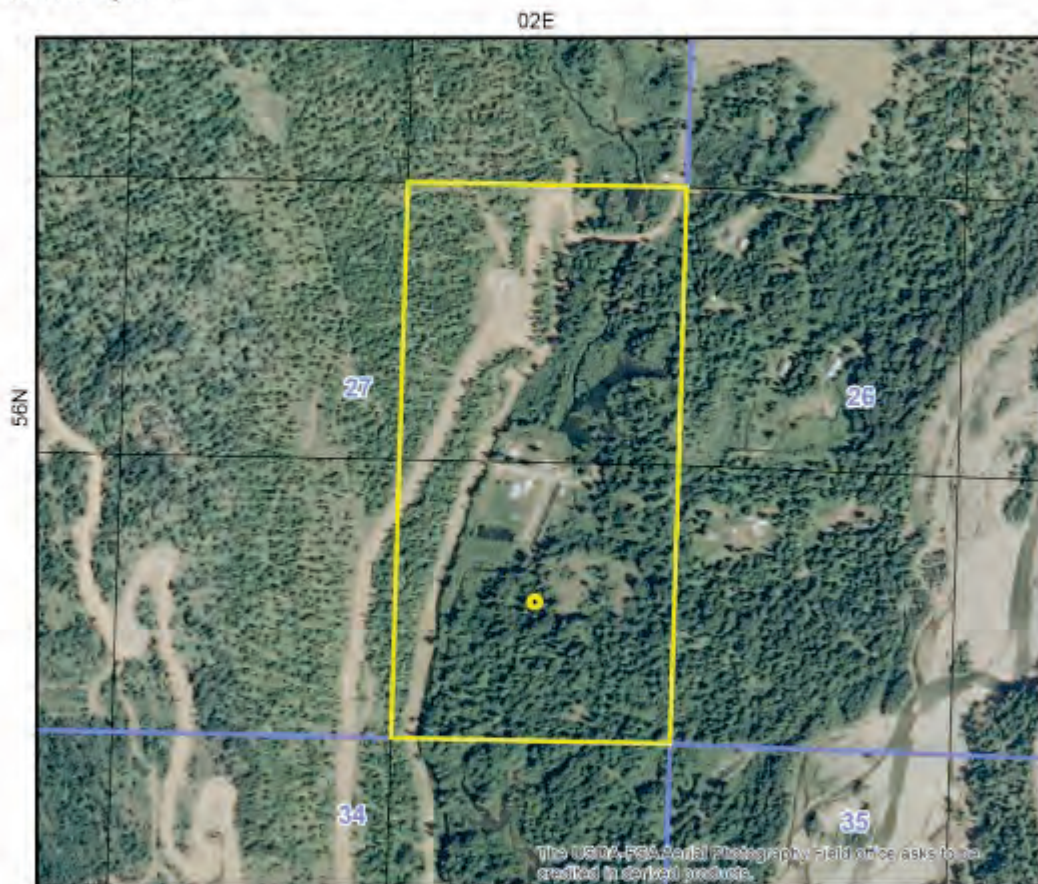
Permit Approved Date: 6/16/1986

State of Idaho
Department of Water Resources

Water Right 96-8454

FISH PROPAGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- ▭ Place Of Use Boundary
- ▭ Townships
- ▭ PLS Sections
- ▭ Quarter Quarters

0 0.075 0.15 0.3 Miles



Map produced on August 11, 2021

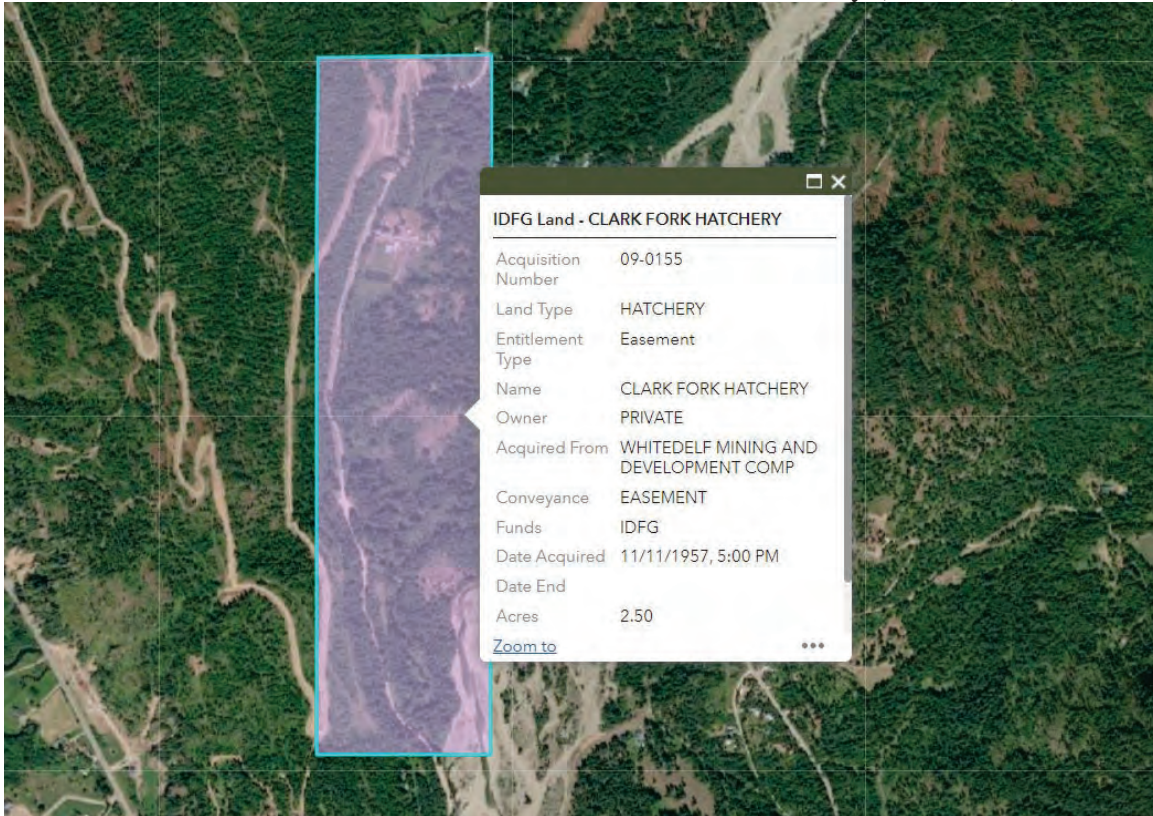
Keeping Idaho's Wildlife Heritage

Attachment B – Site Improvements



Attachment C – Easements

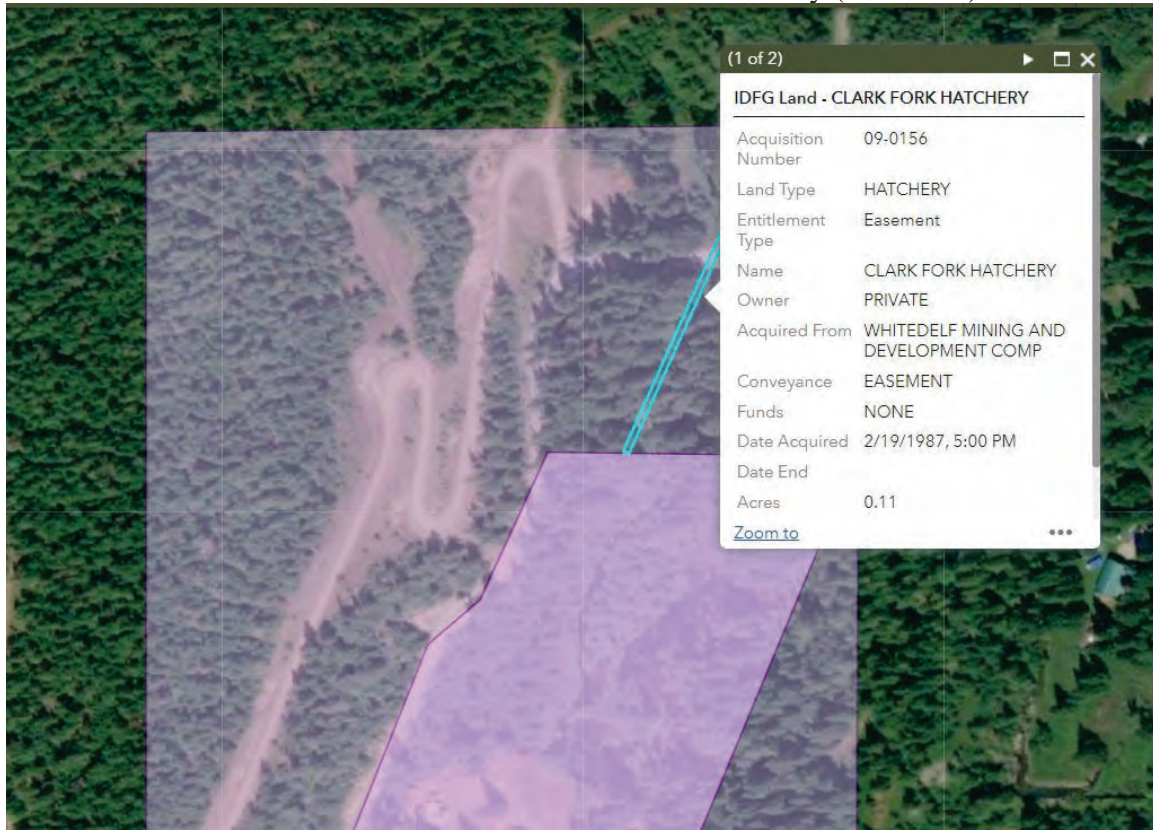
IDFG ACNO: 09-0155 Clark Fork Fish Hatchery (Easement)



09-0155: T56N, R2E, A right-of-way along Spring Creek for maintenance of check dams within the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 27 and E $\frac{1}{2}$ NE $\frac{1}{4}$ of Sec. 34. (Easement: Total 2.5 acres)

Acquired from: WHITEDELPH MINING AND DEVELOPMENT COMP - 11/12/1957; cost = \$1.00

IDFG ACNO: 09-0156 Clark Fork Fish Hatchery (Easement)



A strip of land 10 feet wide, west of and immediately adjacent to the pipeline easement held by the City of Clark Fork, beginning eight feet west of the following described center line: Beginning at a point on the south line of Section 27, T56N, R2E, BM. 970.0 feet west of the southeast corner of Section 27, then N 14°39' E 1,970.0 feet; then N 24°39' E approximately 184 feet to the north line of the property owned by the Idaho Department of Fish and Game to the true point of beginning and then continuing N 24°39' E approximately 465 feet to the south line of the acre tract owned by the City of Clark Fork.

A reference to a pipeline easement for the Village of Clark Fork is referenced in the warranty deed.

Attachment D – Warranty Deed

Recorded Sept 17, 1942.

THIS INDENTURE, Made this 1st day of May,
in the year of our Lord one thousand nine hundred and thirty-six,
between FERN SLAVENS, GORDON DAUGHARTY, Jr., MURK DAUGHARTY, and
ETHEL LOUISE DAUGHARTY FLEMING, being all of the heirs of JOSEPHINE
DAUGHARTY, deceased, parties of the first part, and State of Idaho,
Department of Fish and Game
the party of the second part.

WITNESSETH: That the said parties of the first part,
for and in consideration of the sum of SEVEN HUNDRED AND NO/100
DOLLARS (\$700.00), lawful money of the United States of America,
to them in hand paid by the said party of the second part, the
receipt whereof is hereby acknowledged, have granted, bargained
and sold, and by these presents do grant, bargain, sell, convey
and confirm unto the said party of the second part, and to its
successors and assigns forever, all the following described real
estate situated in the County of Bonner, State of Idaho, to-wit:

A portion of the East Half of the Southeast Quarter
(E $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 27, Township 56 North Range 2 East
B. M., described as follows:

Beginning at a point South 89° 39' West 1067.8 feet and
72 feet North of the Southeast Corner of Section 27,
Township 56 North, Range 2 East B. M.; running thence
North 6° 30' East 600 feet; thence North 63° 52' East
600 feet; thence North 22° 35' East 1192 feet; thence
North 89° West 574 feet; thence South 24° 29' West 300
feet; thence South 49° 27' West 126.6 feet; thence
South 21° 54' West 572.2 feet; thence South 14° 58' West
225 feet; thence South 20° 31' West 191.2 feet; thence
South 6° 30' West 695.5 feet; thence North 89° 39' East
150.9 feet to the place of beginning containing twenty
(20) acres more or less.

Excepting therefrom all public roads constructed, used
or now existing on said premises.

Subject to an easement heretofore granted to the Village
of Clarks Fork for the purpose of constructing, maintain-
ing and operating a pipe line over and across said pre-
mises for the carrying of water in connection with the
operation and maintenance of a water system by said
Village.

Reserving the right to use the present road as now con-
structed from the highway on the Western boundary of
said tract in an Easterly direction to the buildings
located East of the tract hereby conveyed and being in
the East Half of the Southeast Quarter (E $\frac{1}{2}$ SE $\frac{1}{4}$) of said

Section 27, the said road to be used as a private crossing only, and not as a public highway, subject, however, to the right of the grantee herein to change the location of said road and the bridge across Spring Creek and provide the grantors with another suitable roadway for reaching said tract of land without expense to the grantors.

TOGETHER, with all and singular the tenements, hereditaments and appurtenances hereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest, in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, all and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to its successors and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, its successors and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered
in the Presence of:

_____	<u>Gordon Daugharty Jr.</u> (SEAL)
<u>W.E. Johnston</u>	<u>Fern Slavens</u> (SEAL)
<u>W.E. Johnston</u>	<u>Mark Daugharty</u> (SEAL)
<u>Oliver F. Wolf</u>	<u>Ethel Louise Daugharty</u> (SEAL)

STATE OF IDAHO)
County of Blaine,)

On this 2 day of May, in the year 1936,
before me, W.E. Johnston, a Notary Public in and for
said County and State, personally appeared FERN SLAVENS, known to
me to be the person whose name is subscribed to the within instru-
ment, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and aff-
ixed my official seal the day and year in this certificate first
above written.

W.E. Johnston
Notary Public for Idaho
Residing at Clark Fork Idaho

MY COMMISSION EXPIRES DECEMBER 5TH, 1936.

STATE OF Montana)
County of Sanders) :ss

On this 1st day of May, in the year 1936,
before me, C.B. Jursan, a Notary Public in and for
said County and State, personally appeared GORDON DAUGHARTY, Jr.,
known to me to be the person whose name is subscribed to the with-
in instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and
affixed my official seal the day and year in this certificate first
above written.

C.B. Jursan
Notary Public for
Residing at:
My Commission expires:

NOTARY PUBLIC, FOR THE STATE OF MONTANA, RESIDING AT PLAIN,
SANDERS COUNTY. MY COMMISSION EXPIRES APRIL 10, 1938.

STATE OF Idaho)
County of Bonner) : ss

On this 2 day of May, in the year 1936,
before me, W.E. Johnston a Notary Public in and for
said County and State, personally appeared MURK DAUGHARTY, known
to me to be the person whose name is subscribed to the within
instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and aff-
ixed my official seal the day and year in this certificate first
above written.

W.E. Johnston

Notary Public for
Residing at: Clark Fork Idaho
My Commission expires:
MY COMMISSION EXPIRES DECEMBER 31st, 1936

STATE OF Washington)
County of Pend Oreille) : ss

On this 2nd day of May, in the year 1936,
before me, Oscar F. Wolf a Notary Public in and for
said County and State, personally appeared ETHEL LOUISE DAUGHARTY
FLEMING, known to me to be the person whose name is subscribed to
the within instrument, and acknowledged to me that she executed
the same.

IN WITNESS WHEREOF, I have hereunto set my hand and aff-
ixed my official seal the day and year in this certificate first
above written.

Oscar F. Wolf

Notary Public for Washington
Residing at: Metline Falls
My Commission expires: Sept. 19, 1937





IDFG Surplus Disposition

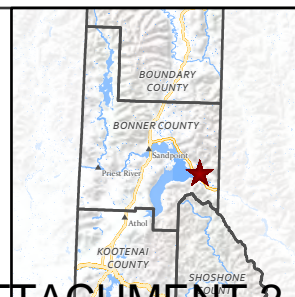
Clark Fork Hatchery

Sec. 27 - T57N - R02E
Bonner County, Idaho

3/1/2023



-  State Surplus Property
-  Private



ATTACHMENT 2

Disclaimer: This map has been compiled using the best information available to the Idaho Department of Lands at the time and may be updated and/or revised without notice. In situations where known accuracy and completeness is required, the user has the responsibility to verify the accuracy of the map and the underlying data sources.