

JAMES W. GIVENS

LAWYER

1026 F STREET — P.O. BOX 875
LEWISTON, IDAHO 83501

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RECEIVED

JUL 16 2004

Department of Water Resources

July 13, 2004

State of Idaho
Department of Water Resources
1301 N. Orchard Street
Boise, ID 83706-2237

Attn: Carter Fritschle

Dear Mr. Fritschle:

Reference is made to our phone conversation of this date.

Enclosed is an Amended Notice of Claim of a Water Right, amending Notice of Claim to a Water Right, Civil Case No. 39356, Ident. Number A85-11103, Receipt Number N2588, Madeline Walter, claimant, deceased, Thisd is filed for Dallas Ross Howard, the principal surviving heir of Madeline Walter and the owner of the property upon which the points of diversion referred to in the Amended Notice of Claim to a Water Right are located.

By way of explanation, at the time the SRBA was created by statute the owner of the property in question was the subject matter of probate proceedings involving Mr. Howard's grandmother, Marie Howard, his Aunt Madeline Walter, and contested cases involving the same. Personal Representatives and Co-conservators were appointed for Madeline Walter, being Marie Geiger and Aline Cargill Tutcher, who were not as familiar with the existing water rights claimed and used by Mr. Howard's grandmother and his aunt, as Mr. Howard is.

During the period of time following the creation of the SRBA and for many years thereafter, Mr. Howard was a resident of New Zealand and unaware of the filing of the Notice of Claim to a Water Right by the Co-conservators hereinabove referred to. When he was made aware of the deficiencies in the original claim filed he retained me to assist him in the preparation of and filing of this amended claim.

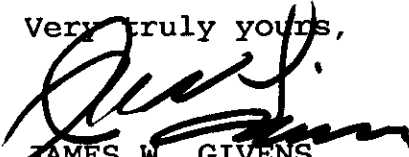
Only today did I receive the last engineer's information I needed as illustrated by Exhibit A and B attached to the amended notice of claim enabling me to file this claim with your department.

Carter Fritschle
July 13, 2004
Page 2

If you have any questions about the claim, I would be happy to have you contact me and would be pleased to make Mr. Howard available to you at any time convenient to you.

Your help and assistance in this matter is greatly appreciated.

Very truly yours,



JAMES W. GIVENS

JWG:p
enc
cc: Dallas R. Howard w/enc
Robert Haynes

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39356
39576Ident. Number A-85-11103

Date Received _____

Receipt Number N/2588

**AMENDED
NOTICE OF CLAIM
TO A**

WATER RIGHT

ACQUIRED UNDER STATE LAW

RECEIVED

JUL 16 2004

Department of Water Resources

Please type or print clearly

- Name of Claimant (s) DALLAS ROSS HOWARD (FORMERLY MADELINE WALTERS) Phone (208) 305-3854
Mailing Address 6475 GOLDFINCH LANE, LEWISTON, ID Zip 83501
 - Date of Priority (Only one (1) per claim) 1-1-30 for LINDSAY CREEK CLAIM
1-1-30 for UNNAMED CREEK EAST OF GUN CLUB RD. (SEE EXH. B ATTACHED)
 - Source of water supply (a) #1, 2, 3, 4 ARE WELLS; #5 IS A POINT OF DIVERSION FROM LINDSAY CREEK
(SEE EXH. A)
which is tributary to (b) LINDSAY CREEK & UNNAMED CREEK EAST OF GUN CLUB RD. (SEE EXH. B)
BOTH ARE TRIBUTARIES OF CLEAR WATER RIVER
 - a. Location of existing point of diversion is: Township _____ Range _____ Section _____,
SEE ATTACHED SHEET-1
_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of NEZ PERCE
- Additional points of diversion if any: _____
- b. If instream flow, beginning point of claimed instream flow is:
- Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
- ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,
Govt. Lot _____ B.M., County of _____
- Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. SEE ATTACHED SHEET-1

6. Water is claimed for the following purposes: SEE ATTACHED SHEET 2
(both dates are inclusive) (cfs) (acre feet)
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
- For _____ purposes from _____ to _____ amount _____ or _____
7. Total quantity claimed (a) 0.30 (cfs) and/or (b) _____ (acre feet)
8. Total consumptive use claimed is 74 acre feet per annum.
9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) DOMESTIC - 17 HOUSEHOLDS; STOCKWATER - 3-150 HEAD HORSES & CATTLE
10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>EXHIBIT A</u>																			
<u>35N</u>	<u>5W</u>	<u>4</u>	X					X											<u>2</u>
<u>35N</u>	<u>5W</u>	<u>4</u>	X					X											<u>2</u>
<u>35N</u>	<u>5W</u>	<u>4</u>						X										X	<u>2</u>
<u>35N</u>	<u>5W</u>	<u>4</u>						X										X	<u>2</u>
<u>35N</u>	<u>5W</u>	<u>4</u>						X		X									<u>40</u>
<u>EXHIBIT B (SEE ATTACHED SHEET 2)</u>																			

Total number of acres irrigated 48

11. In which county (ies) are lands listed above as place of use located? NEZ PERCE
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.
13. Describe any other water rights used at the same place and for the same purposes as described above.
1, 2, 3, 4 EXHIBIT A - DOMESTIC; 1, 2, 3, 4 EXHIBIT B - DOMESTIC or None ()
14. Remarks:

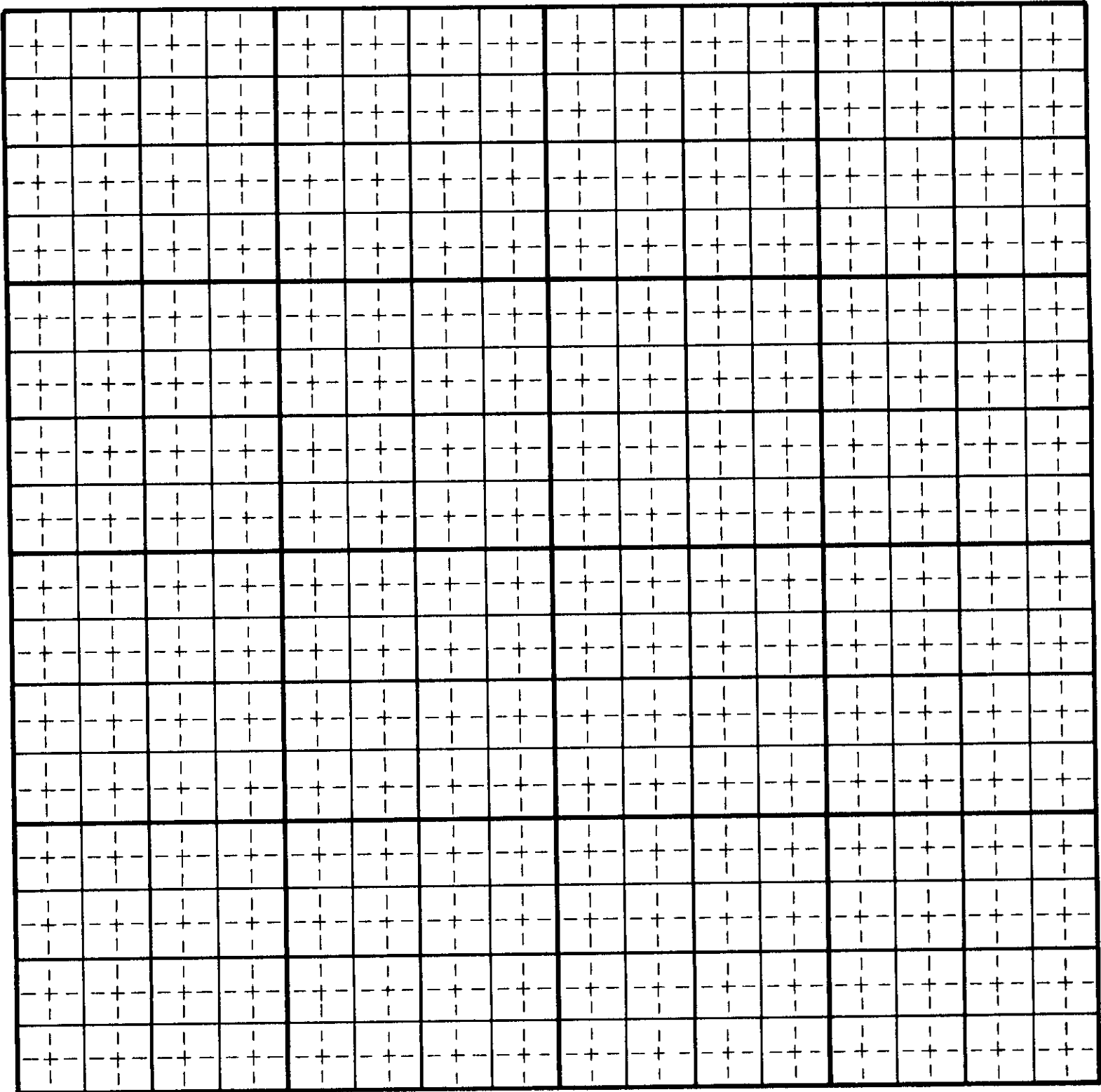
Last Name HOWARD Ident No. A85-11103

Copies: White - State, Yellow - Claimant

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

Scale: 2 inches equals 1 mile

SEE EXHIBITS A & B ATTACHED



Last Name HOWARD

Ident No. A 85-11103

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use ☒ Posted Notice _____ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ☒ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 4

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) *[Signature]*

Date July 13/04

DALLAS ROSS HOWARD

Date _____

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____

Title

of _____

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or _____)

County of NEZ PERCE)

SS.

Subscribed and sworn (or affirmed) before me this 13

day of July

19 04

Notary Public *[Signature]*

JAMES W. GIVENS

Residing at LEWISTON, ID

My Commission Expires 7-14-10

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, JAMES W. GIVENS will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature *[Signature]*

JAMES W. GIVENS

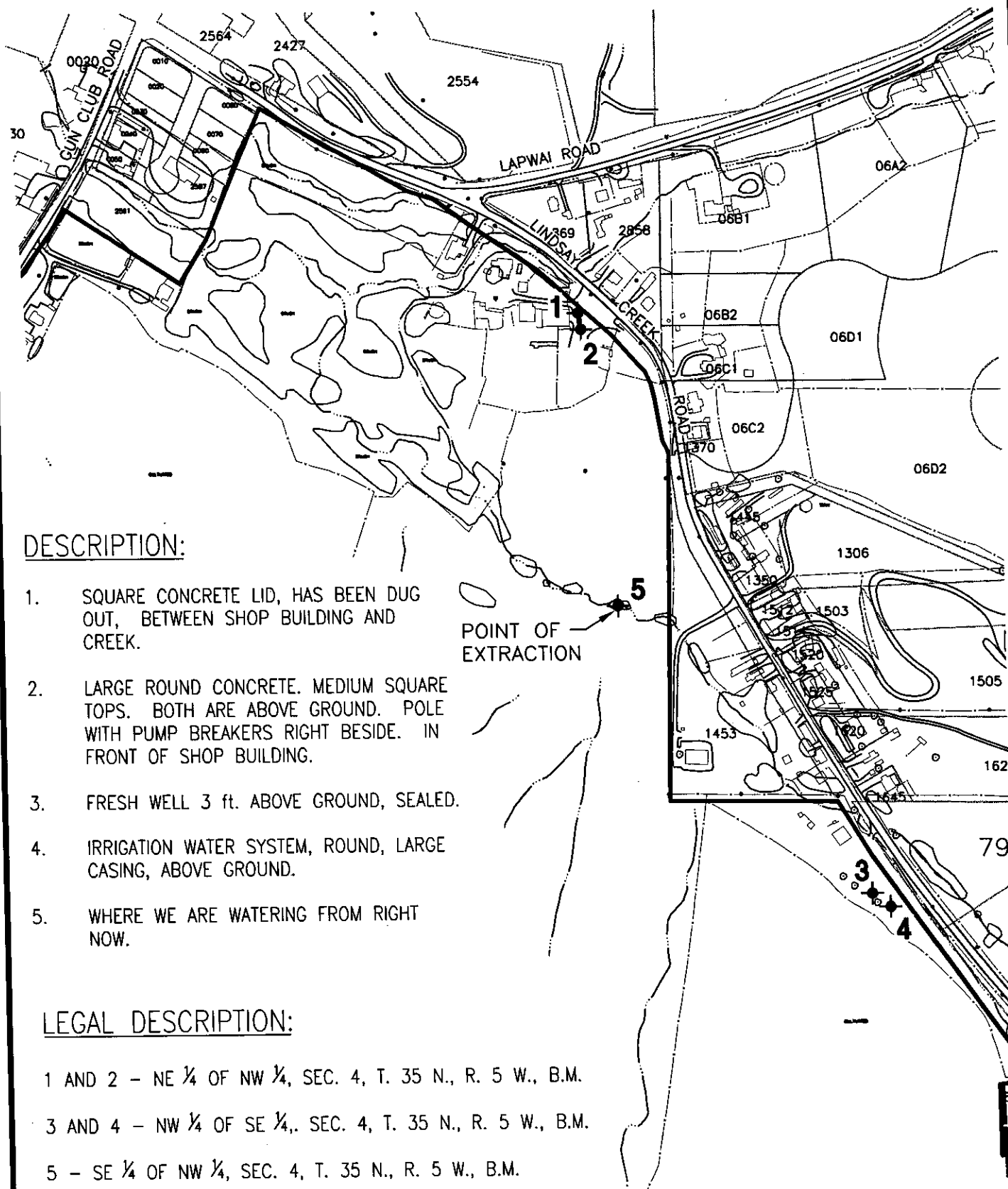
Address PO BOX 875, LEWISTON, ID 83501

Date 7-13-04

Last Name HOWARD

Ident. Number A85-11103

Copies White-State, Yellow-Claimant



DESCRIPTION:

1. SQUARE CONCRETE LID, HAS BEEN DUG OUT, BETWEEN SHOP BUILDING AND CREEK.
2. LARGE ROUND CONCRETE. MEDIUM SQUARE TOPS. BOTH ARE ABOVE GROUND. POLE WITH PUMP BREAKERS RIGHT BESIDE. IN FRONT OF SHOP BUILDING.
3. FRESH WELL 3 ft. ABOVE GROUND, SEALED.
4. IRRIGATION WATER SYSTEM, ROUND, LARGE CASING, ABOVE GROUND.
5. WHERE WE ARE WATERING FROM RIGHT NOW.

LEGAL DESCRIPTION:

- 1 AND 2 - NE $\frac{1}{4}$ OF NW $\frac{1}{4}$, SEC. 4, T. 35 N., R. 5 W., B.M.
- 3 AND 4 - NW $\frac{1}{4}$ OF SE $\frac{1}{4}$, SEC. 4, T. 35 N., R. 5 W., B.M.
- 5 - SE $\frac{1}{4}$ OF NW $\frac{1}{4}$, SEC. 4, T. 35 N., R. 5 W., B.M.



KELTIC ENGINEERING, INC.

141 9th Street • Suite 2 • Lewiston, Idaho 83501 • (208) 743-2135 • (208) 743-2136 fax

♣ Development ♣ Planning ♣ Design ♣ Construction Management

WATER EXTRACTION LOCATIONS

HOWARD PROPERTIES
LEWISTON, ID. 83501

DESIGN BY EFH
DRAWN BY RGW

SHEET

PROJECT NO.
04-039

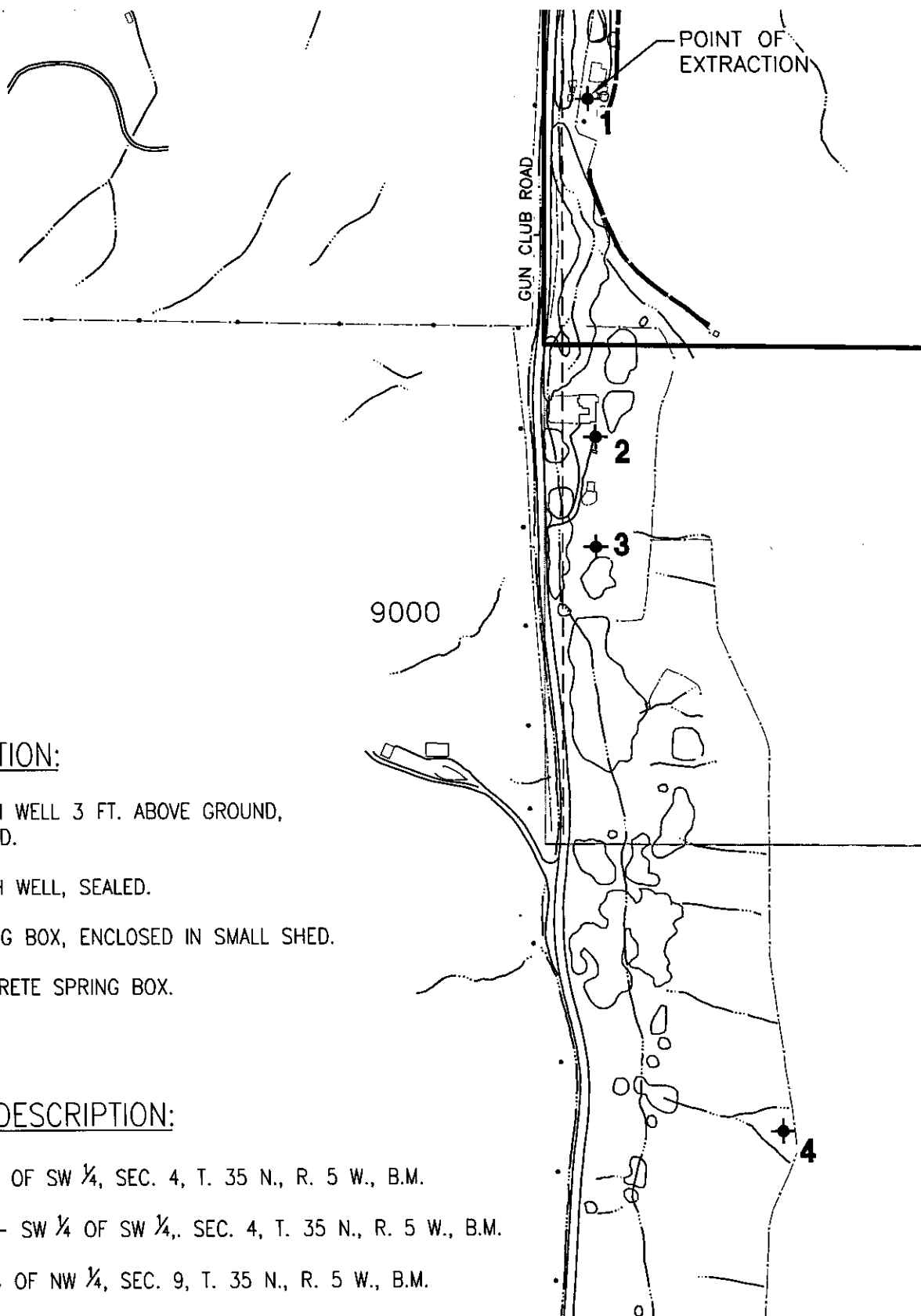
DATE
07-08-04

1

OF 1

SCALE: 1" = 400'

EXHIBIT A



DESCRIPTION:

1. FRESH WELL 3 FT. ABOVE GROUND, SEALED.
2. FRESH WELL, SEALED.
3. SPRING BOX, ENCLOSED IN SMALL SHED.
4. CONCRETE SPRING BOX.

LEGAL DESCRIPTION:

- 1 - NW ¼ OF SW ¼, SEC. 4, T. 35 N., R. 5 W., B.M.
- 2 AND 3 - SW ¼ OF SW ¼, SEC. 4, T. 35 N., R. 5 W., B.M.
- 4 - NW ¼ OF NW ¼, SEC. 9, T. 35 N., R. 5 W., B.M.



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♦ Development ♦ Planning ♦ Design ♦ Construction Management

WATER EXTRACTION LOCATIONS

**HOWARD PROPERTIES
LEWISTON, ID. 83501**

DESIGN BY
EFH

DRAWN BY
RGW

SHEET

PROJECT NO.
04-039

DATE
07-12-04

1

OF 1

SCALE: 1" = 400'

EXHIBIT B

4. a. Location of existing points of diversion for Nos. 1 and 2 on attached Exhibit A are: The NE $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 4, T. 35 N, R. 5 W, B.M.; the existing points of diversion for Nos. 3 and 4 on Exhibit A are: The NW $\frac{1}{4}$ of SE $\frac{1}{4}$, Sec. 4, T. 35 N, R. 5 W, B.M. The existing point of diversion for No. 5 on Exhibit A is: The SE $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 4, T. 35 N., R. 5 W, B.M.

Additional points of diversion as set forth in Exhibit B hereto attached are: The existing point of diversion for No. 1 is located in the NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 4, T. 35 N, R. 5 W., B.M.; the existing points of diversion for Nos. 2 and 3 on Exhibit B are: The SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 4, T. 35, N., R. 5 W., B.M.; the existing point of diversion for No. 4 on Exhibit B is: The NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 9, T. 35 N., R. 5 W., B.M.

5. On Exhibit A points of diversion 1, 2, 3 and 4 are wells averaging 12 feet in depth and have been used for irrigation purposes on acreages varying between 2 to approximately 25 acres.

Points of diversion 1, 2, 3 and 4 also have been used as domestic water suppliers and for watering lawns. Point of diversion 5 on Exhibit A has been used and is being used to irrigate by sprinkle system approximately 25 acres.

Points of diversion on Exhibit B have been used both for domestic purposes and irrigation and the watering of livestock as well as watering and sprinkling lawns.

6. For the points of diversion and claim of water right illustrated by Exhibit A, the purposes are domestic, irrigation and livestock from January 1, 1930, to the present and the amount for points of diversion 1, 2, 3 and 4 are 0.02 cfs. The amount of point of diversion 5, which is irrigation, is 0.28 cfs.

The points of diversion illustrated by Exhibit B which are essentially domestic and some irrigation and livestock from January 1, 1930, to the present are 0.02 cfs.

10. Exhibit B legal description:

No. 1 - NW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 4, T. 35 N, R. 5 W., B.M.

Nos. 2 and 3 - SW $\frac{1}{4}$ of SW $\frac{1}{4}$, Sec. 4, T. 35 N, R. 5 W., B.M.

No. 4 - NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Sec. 9, T. 35 N, R. 5 W., B.M.

Domestic: Total households involved 13.

County of location: Nez Perce

Applicant owns all property listed above.