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MAR 20 2008

DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT
FIFTH JUDICIAL DISTRICT
STATE OF IDAHO

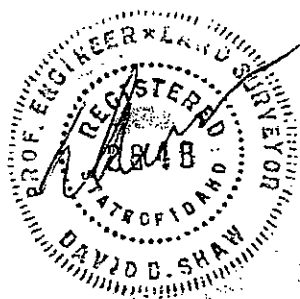
IN RE SRBA
CONSOLIDATED SUBCASE NO. 63-123D, 63-123F, 63-123G

EXPERT REPORT

OF

David B. Shaw

March 2008



Lexington Hills Home Owners Association Irrigation Water

Opinions

1. Lexington Hills Home Owners Association's irrigation system for the Lexington Hills Subdivision beneficially uses, without waste, all the water delivered to it by Farmers Union Ditch Company, Limited.
2. When Floating Feather Hills, Inc., predecessor in interest to Lexington Hills, Inc., applied for and received water right permit 63-11413 they agreed to leave all of the surface water furnished through the Farmers Union Ditch Company, Ltd. on the Lexington Hills Subdivision even though they understood not all the subdivision land would continue to be irrigated.
3. Based upon the most recent crop irrigation water requirement data by Dr. Allen, et.al., the irrigation water requirement for grass in the Lexington Hills Subdivision is 0.0226 cfs/acre.
4. When Lexington Hills, Inc. deeded water to Lexington Hills Home Owners Association those deeds specified the water was to be used only within the first 6 phases of Lexington Hills Subdivision.
5. Lexington Hills Home Owners Association does not have a water right recommended in the Idaho Department of Water Resources Director's Report for the lands in phases East 1 and East 2 of the Lexington Hills Subdivision.

Lexington Hills Water Supply

Current Irrigation Water Supply

The current irrigation water supply, hereinafter water supply, for the Lexington Hills Subdivision is composed of surface and ground water. The surface water quantities are taken from the records of the Farmers Union Ditch Company, Limited. Attachment 1 describes the allocation of the Jacobs Water¹. The remaining surface water supply description was obtained from other records of Farmers Union. The surface water supply for the Lexington Hills Subdivision is shown in the following table in the amounts shown on the records of Farmers Union.

¹ Jacobs Water refers to a portion of the Boise River water right decreed to the Jacobs Canal Company in the Stewart Decree. The water right is numbered 63-123 in the records of the IDWR for a total of 20 cfs with a June 1, 1864 priority date.

Current Owner²	Water Amount
Lexington Hills, Inc.	96.4 inches Jacobs Water
Lexington Hills, Inc.	2.55 inches developed water
Lexington Hills, Inc.	0.338 share of Farmers Union Ditch Co.
Lexington Hills, Inc.	8.5 ac-ft Arrowrock Reservoir
Lexington Hills HOA	107.6 inches Jacobs Water
Lexington Hills HOA	2.85 inches developed water
East Hills Development	26.23 inches Jacobs Water

The deeds between Lexington Hills, Inc., the developer, (Inc.) and Lexington Hills Home Owners Association (HOA) show a total of 119.4 inches of Jacobs Water and 3.16 inches of developed water have been transferred to the HOA. This difference does not change the total amount of water available, but rather reduces the water currently held by Inc. to 84.6 inches of Jacobs Water and 2.24 inches of developed water.

The SRBA Court has already found East Hills Development does not own the 26.23 inches of water claimed by it in the SRBA and was recommended by the Idaho Department of Water Resources (IDWR) at one inch per acre. The court has not yet ruled on the current ownership of those 26.23 inches of water. The HOA did claim the 26.23 inches of water for the 26 acres of the East Hills portion of the subdivision.

Water for the subdivision is delivered by Farmers Union through headgate no. 39, formerly headgate no. 38. In addition to water for the Lexington Hills Subdivision, Farmers Union delivers 33.77 inches of Jacobs Water for the Echo Creek Subdivision through the same headgate. The total amount of water delivered through headgate no. 39 is 273.118 inches including Jacobs Water, developed water and 0.338 share of Farmers Union water at 11 inches per share. (The Farmers Union total is 273.048 inches for headgate no. 39, we are trying to locate the 0.07 inch (0.63 gpm) difference.)

The records of Farmers Union indicate the water for headgate no. 39, i.e., the entire right, has been delivered, when available. Since the Jacobs Water right is the second water right on the Boise River and is not subject to the sliding scale reduction, water for headgate no. 39 is available anytime Farmers Union can make canal deliveries.

Surface water from Farmers Union is conveyed to and discharged into the pond system within Lexington Hills Subdivision. The irrigation system for the subdivision, owned by the HOA, diverts water for the pressurized irrigation system from the ponds and also diverts water from the lower ponds to the upper ponds to keep the water amenities flowing within the subdivision. Echo Creek also pumps its Farmers Union irrigation water from the Lexington Hills pond. The large pond where most of the pumps are

² This ownership is based upon the records of Farmers Union Ditch Company, Limited. As will be described below, deed records show a different ownership split of the Jacobs Water.

located and where the Farmers Union water is delivered has an overflow that can discharge under Floating Feather Road to the south if the pond system has more water than can be used for irrigation and the water amenities. The manager of the system indicates no irrigation water from Farmers Union has ever discharged through the overflow.

The lack of discharge through the overflow from the Lexington Hills ponds is a good indication that all the water delivered by Farmers Union is being utilized within the subdivision as contemplated by the subdivision master plan for irrigation deliveries and is not being wasted.

Ground water Shoulder Season Irrigation Water

Floating Feather Hills, Inc., predecessor in interest to Inc., see Attachment 2, applied for and obtained water right permit no. 63-11413 for the use of ground water. The history of 63-11413 is relevant to the analysis of the surface water irrigation water rights for Lexington Hills Subdivision.

Attachment 3 is the Final Order and the Proposed Memorandum Decision and Order Approving Application for Permit No. 63-11413. The Memorandum Decision makes clear the concern for declining ground water levels that could result from the new ground water use proposed by this application and the continued surface water deliveries for the subdivision. Significantly, Finding of Fact 22 restates the applicant's concession to "... not sell or transfer to another location any of the surface water rights that are presently associated with the property." (emphasis added) The applicants further agreed to install a pressurized irrigation system to utilize the surface water rights on at least a portion of the subdivision. The implication is clear from the language of this Finding of Fact, the applicant's intended and specifically agreed to leave all the surface water on the subdivision even though their proposed irrigation system to use the surface water might not irrigate the entire subdivision. Such was a condition of resolving the ninety protests and obtaining approval from the IDWR. Arguably, the burden was on the Applicant to design and construct a water delivery system which would fully utilize the available surface water supply.

This agreement is important to the HOA today because paragraph 5 in the Proposed Order which was finalized, conditions the use of this ground water right for irrigation within the subdivision upon leaving the entire amount of surface water from the Farmers Union with the lands described in the application. Although this permit has been assigned to the City of Eagle, the requirement that the entire amount of water from Farmers Union remain on the Lexington Hills and Trail Creek Ranch (Echo Creek) lands remains with the permit, see Attachment 4. This condition would cause the HOA to lose access to ground water for irrigation early in the season before the Farmers Union water is available and late in the season after the Farmers Union water is turned off for the year. It is not uncommon in the Boise Valley for subdivisions to have a "shoulder season" water supply to keep landscaping and turf irrigated and water amenities flowing for a longer season than water is provided by most canals and ditches. Such shoulder season water use was contemplated by the developer and is an integral part of the subdivision aesthetics.

Attachment 5 includes a letter dated February 25, 1993 from Josephine Beeman and L. W. Grant, III to Ms. Merrily Munther and Ms. Munther's proposed reply. Although the annotation on Ms. Munther's letter indicates paragraph 9 was revised, paragraph 6 is further evidence of Inc.'s intent to keep all of the surface irrigation water on the subdivision property recognizing that some of the areas would no longer be irrigated.

Attachment 6 is the water level hydrograph of an observation well approximately 2 miles west of Lexington Hills Subdivision. It is unlikely the IDWR would consider allowing any of the surface water to be removed from Lexington Hills Subdivision when ground water levels in the area west of the subdivision continue to respond as the well in Attachment 6. If IDWR does not modify the conditions on permit 63-11413 and some of the surface irrigation water delivered by Farmers Union is moved away the HOA will lose access to the ground water it has historically delivered to the subdivision for early and late season irrigation.

The HOA has and can continue to beneficially use the water Farmers Union has historically delivered.

Irrigation Water Requirement

The irrigation water requirement for grass in the Boise area can best be estimated by using the analysis and data from the report *Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho*, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID, 2006 (Revised 2007), Richard G. Allen and Clarence W. Robinson. The report can be found at: http://www.kimberly.uidaho.edu/ETIdaho/ETIdaho_Report_April_2007.pdf

Attachment 7 describes the statistics produced for irrigated lawns based upon the Boise Airport weather station data and includes those statistical data describing the precipitation deficit for irrigated lawns in the Boise area. Precipitation deficit is synonymous with the net irrigation water requirement during the growing season for irrigated plants.

The 20% Exceedance statistic is provided to quantify the amount of irrigation water that will be sufficient to meet the needs of the growing plants in 80 out of 100 years. That is, it quantifies the amount of water that will keep the plant water stress free in all but 20 years out of 100. The 20% Exceedance is chosen as an alternative to the estimated peak irrigation water demand that has been used in the past for determining water supply needs and irrigation system design. (Jensen, M.E., 1983, Design and Operation of Farm Irrigation Systems, American Society of Agricultural Engineers, 2959 Niles Road, St. Joseph, Michigan, p. 224.) (Pair, Claude H., Walter W. Hinz, Crawford Reid, Kenneth R. Frost, 1975, Sprinkler Irrigation, Sprinkler Irrigation Association, 13975 Connecticut Ave., Silver Spring, Maryland, p. 132.)

Irrigated lawn grass, particularly when placed as turf over relatively high clay content soils, tends to be shallow rooted and needs frequent irrigation. The irrigation plan proposed by Inc. recommended alternate day irrigation and that recommendation is appropriate for the irrigated lawn grass in Lexington Hills Subdivision. The shorter the interval between irrigations the higher the irrigation water demand to meet the irrigation

water requirement because of the limited reservoir capacity in the root zone of the growing crops. From Attachment 7 the 3-Day Moving Average Precipitation Deficit from the 20% Exceedance chart is determined to be the peak irrigation water requirement for Lexington Hills Subdivision. (ibid.) That peak amount 9.58 mm/day is the amount of water irrigation will have to replace to keep the grass water stress free in 80 out of 100 years.

The 70% irrigation efficiency recommended by Inc. is appropriate for a subdivision of this type where most irrigation systems are controlled by a clock. The continual diversion rate per acre to provide 9.58 mm/day of irrigation water at 70% efficiency is 0.0226 cfs/acre or 1.13 miner's inches per acre. When this rate is applied to the irrigated acreage of 182.9 acres³ gives the irrigation water requirement for the HOA's irrigation system for Lexington Hills Subdivision of 4.134 cfs or 206.68 miner's inches⁴.

Transfer of Water from Inc. to the HOA

Attachment 8 includes the deeds from Inc. to the HOA for the first 6 phases of the Lexington Hills Subdivision. Each of these deeds spells out a specific amount of water to be used within the specific phase of the subdivision. None of the deeds make any reference to the use of the water being conveyed within any other phase of the subdivision.

Attachment 9 includes the deeds from Inc. to the HOA for the remainder of the phases of the subdivision. These deeds are silent with regard to irrigation water in general and specifically to the water already deeded to the HOA. Nothing in these deeds suggests water from the earlier phases was intended to be used for irrigation of the newer phases.

On their face, the deeds from Inc. to the HOA make it appear the only phases of the Lexington Hills Subdivision that have surface irrigation water through the HOA are phases 1 through 6. The HOA does not own surface irrigation water for Lexington Hills Subdivision phases 7 through 12, East 1, East 2, or Lexington on the Rim.

³ In August 2001 a study was completed by Roylance and Associates. P.A. to determine the number of irrigated acres in the subdivision. Two methods were used to estimate the irrigated acreage of the individual lots, the first method found 135.84 acres and the second found 133.94 acres. The study recommended using only the smaller acreage whereas using the average of the two methods should give a better result. The average of the two methods is 134.89 acres. The study also found 43.01 acres of common area to be irrigated for a total of 177.90 acres. The study did not include the ponds, which the IDWR considers to require the same amount of water per acre as an irrigated acre, and are estimated to be about 5 acres. The total equivalent irrigated acreage is 182.9 acres.

⁴ This method of estimating the irrigation water requirement cannot estimate the actual water requirement of the water amenities. This was one of the first, if not the first, subdivision in the area to offer water amenities of this kind and they have from the beginning of the development and continue to add significant value to the subdivision properties. If the water amenities were lost it would diminish the property values in the subdivision.

IDWR Director's Report Recommendations

Attachment 10 includes the place of use recommendations filed with the SRBA Court for Inc. (63-123F), the HOA (63-123G), and East Hills Development (63-123D). The place of use recommendation for Inc. and the HOA overlap one another on phases 1 through 12 and the Lexington on the Rim phases of Lexington Hills Subdivision. Neither of these recommendations includes the phases East 1 and East 2 of Lexington Hills Subdivision. Only the recommended place of use for East Hills Development, (63-123D) includes the East 1 and East 2 phases of the Lexington Hills Subdivision.

As recommended, the HOA does not have a water right for surface water to continue to provide irrigation water to phases East 1 and East 2 of the Lexington Hills Subdivision.

FARMERS UNION DITCH CO. LTD.
2153 N. POLLARD LN.
STAR, ID. 83669

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WATER RESOURCES
WESTERN REGION

June 15, 2004

Mr. Mel Shulte
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705

Dear Mr. Shulte:

Here is what we have found in our records in regards to the Jacobs Water and when these HOAs' or individuals appear initially.

1980	Green Acres/Richard Hormaechea	34.0 inches
1992	Echo Creek HOA	33.77 inches
1992	Lexington Hills Inc.	96.4 inches
1994	Lexington Hills HOA	107.6 inches
1999	Ilene Stinar	10.0 inches
2000	East Hills Development	26.23 inches

For your information the Lexington Hills HOA came from a portion of Lexington Hills Inc.. Also the East Hills Development came from a portion of Echo Creek HOA.

A total of 264 inches of water was traced back as far as 1972 to Myron Holgate & Son, addressed to 1832 East Floating Feather Road, Eagle, Idaho. This is the total without Hormaechea and Stinar. The Stinar water was transferred from the previous owner David Willmot which dated back to 1981.

If you have any questions you can reach me at 286-7028.

Yours truly,


Ron Schreiner
Asst. Sec.

93049



Department of State.

**CERTIFICATE OF AMENDMENT
OF**

FLOATING FEATHER HILLS, INC.

I PETE T. CENARRUSA, Secretary of State of the State of Idaho hereby, certify that
duplicate originals of Articles of Amendment to the Articles of Incorporation of _____

LEXINGTON HILLS, INC.

duly signed and verified pursuant to the provisions of the Idaho Business Corporation Act, have
been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of
Amendment to the Articles of Incorporation and attach hereto a duplicate original of the Articles
of Amendment.

Dated August 28, 19 91.



Pete T. Cenarrusa

SECRETARY OF STATE

J. L. H. H.
Corporation Clerk

ARTICLES OF AMENDMENT
OF SECRETARY OF STATE

FLOATING FEATHER HILLS, INC.

The undersigned, as President and Secretary of the Board of Directors of FLOATING FEATHER HILLS, Inc., pursuant to Idaho Code Section 30-1-58, do hereby set forth the following Articles of Amendment to the Articles of Incorporation dated August 13, 1990, as follows:

- (a) That the Amendments so adopted are:

ARTICLE I: The name of the Corporation is LEXINGTON HILLS, INC.

- (b) That the adoption of the Amendments by the Shareholders was made on August 1, 1991.

- (c) That 15,000 shares were entitled to vote on this amendment, and 15,000 votes were cast in favor of the amendment and zero against.

FLOATING FEATHER HILLS, INC.

By: Bryce L. Peterson
Bryce L. Peterson, President

ATTEST:

Duane H. Speckle
Duane H. Speckle, Secretary

IN THE MATTER OF APPLICATION FOR)
)
PERMIT NO. 63-11413)
)
_____)
)
Floating Feather Hills Inc. and)
Treasure Valley Village,)
)
Applicants;)
)
Richard and Diane Anderson, et al)
)
Protestants.)
)

SOURCE: Ground Water

COUNTY: Ada

Floating Feather Hills, Inc. and Treasure Valley Village (applicants) filed with the Department of Water Resources (Department) Application for Permit No. 63-11413 to appropriate unappropriated water. The application was subsequently protested which resulted in the Department conducting a hearing in the matter and issuing a proposed decision.

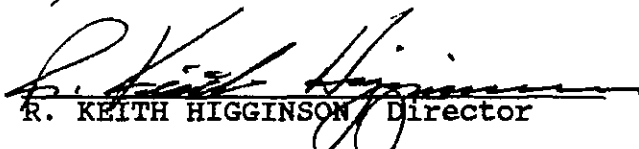
Exceptions to the decision have been filed by two parties. Both exceptions oppose the distinction in the decision between domestic wells drilled and used prior to March 29, 1978 and other wells, most of which are used for irrigation. While the stated objections are understandable, the decision of the Director should not be changed since the March 29, 1978 date associated with domestic well use is based on a holding of the Idaho Supreme Court in a case entitled: Parker v. Wallentine. The matter is not a

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discretionary ruling of the Director; the decision should not be changed.

The Director, therefore, adopts the Proposed Memorandum Decision and Order as the Final Order with the condition that proof of construction of works and application of water to beneficial use is extended to September 1, 1995.

Dated this 11th day of September, 1991.


R. KEITH HIGGINSON Director

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CERTIFICATE OF MAILING

I HEREBY certify that on this the 12th day of September, 1991, a true and correct copy of the foregoing FINAL ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER APPROVING APPLICATION FOR PERMIT NO. 63-11413 were mailed, postage prepaid to:

Floating Feather Hills, Inc.
2417 Bank Dr. Suite 101
Boise, ID 83705

Richard & Diane Anderson
835 Los Luceros
Eagle, ID 83616

Marcia Beckwith
2260 Dicky
Eagle, ID 83616

Robert E. Beckwith
2260 Dicky
Eagle, ID 83616

John Beggrow
315 Rene
Eagle, ID 83616

Nina L. Blan
385 Dicky
Eagle, ID 83616

Leann M. Boyce
2263 Sadie
Eagle, ID 83616

William L. Blan
385 Dicky
Eagle, ID 83616

D.C. Boyer
2425 E. Floating Feather
Eagle, ID 83616

Mike & Sylvia Boyle
9845 Lariat
Boise, ID 83703

Larry & Virginia Brunette
624 Los Luceros
Eagle, ID 83616

Neal Bryson
399 Rene
Eagle, ID 83616

Steve & Anne Caron
11026 Culdesac Way
Boise, ID 83703

C.A. & Roberta Carpenter
453 Rene
Eagle, ID 83616

Clifford D. Chambers
10237 Prairie Rd.
Boise, ID 83703

Shirley Chambers
2324 Sadie
Eagle, ID 83616

Eleanor I. Chase
70 W. Floating Feather Rd
Eagle, ID 83616

Jan & Walt Costello
300 Dicky
Eagle, ID 83616

Evelyn M. Creelman
9897 Lariat St.
Boise, ID 83703

Curt Crosby
9902 Prairie
Boise, ID 83703

Merville Cushing
398 Rene
Eagle, ID 83616

Roger & Elaine Darnell
464 Rene
Eagle, ID 83616

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Otto L. & Beryl A. Johnson
10030 Prairie Rd.
Boise, ID 83703

Alice & Wendell Jones
11154 Culdesac
Boise, ID 83703

Larry Koomler
2301 Sadie
Eagle, ID 83616

Ray Kreps
2171 E. Dicky
Eagle, ID 83616

Ed Lambert
10294 Prairie Rd.
Boise, ID 83703

Steve & Jeannie Lenon
371 Rene
Eagle, ID 83616

George Loucks
2310 Madision Ave
Boise, ID 83702

Gary S. Lyons
2985 Holl Dr.
Eagle, ID 83616

Hugh & Suzanne Massie
10,000 Prairie Rd.
Boise, ID 83703

Jeff Mattoon
2266 Sadie
Eagle, ID 83616

Karl & Kay Mauritz
1471 E. Floating Feather
Eagle, ID 83616

Howard Maxwell
10895 Hwy 55
Boise, ID 83703

Richard E. Meiers
8220 Northview
Boise, ID 83704

Richard L. Mincer
10955 Runway Drive
Boise, ID 83705

C.K. Moore
10455 Prairie Rd.
Boise, ID 83703

Beth Olson
2252 E. Dicky
Eagle, ID 83616

William & Helen Pardew
P.O. Box 699
Eagle, ID 83616

F.L. Persons
11133 Horseshoe Bend Rd.
Boise, ID 83703

Alice Flecker
2248 Sadie
Eagle, ID 83616

Gerald & Catherine Renfro
10735 Horseshoe Bend Rd.
Boise, ID 83703

Monte & Suzanne Riley
10357 Prarie Rd.
Boise, ID 83703

Rhonda Roberts
279 Rene
Eagle, ID 83616

Donald & Priscilla Rogers
425 Rene
Eagle, ID 83616

Robert A. Rowen
222 Rooster Dr.
Eagle, ID 83616

Don & Janet Rydman
8999 Prairie Rd.
Boise, ID 83703

Dan Schill
9950 Prairie
Boise, ID 83703

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Robert C. Day
11034 Culdesac
Boise, ID 83703

Robert DeShazo, Jr.
Eagle Water Corp.
P.O. Box 455
Eagle, ID 83616

John F. & Kathy Dutcher
602 Los Luceros
Eagle, ID 83616

Rod W. Eisele
654 Edgewood
Eagle, ID 83616

Frank & Janet Elliot
329 Dicky
Eagle, ID 83616

Evans Water Association
c/o Terry Loftus
216 Rene Place
Eagle, ID 83616

Tommy L. Eyton
11011 Runway Drive
Boise, ID 83703

Farrell F. Ferguson
10753 Horseshoe Bend Rd.
Boise, ID 83703

Debbie Fielding
2221 Dicky
Eagle, ID 83616

Carole Fivecoat
10981 Hwy 55
Boise, ID 83703

Cliff Fivecoat
10981 Hwy 55
Boise, ID 83703

Cindy & Jose Franca
9837 Prairie Rd.
Boise, ID 83703

A. Daniel Freiberg
441 Rene
Eagle, ID 83616

Dewain Glubay
500 Rene
Eagle, ID 83616

William M. Gornik
10943 Hwy 55
Boise, ID 83703

Blair & Carolyn Hagerman
10236 Prairie Rd.
Boise, ID 83703

Steve & Carolyn Haughton
2218 Dicky
Eagle, ID 83616

Mike Hawkins
9975 Prairie Rd.
Boise, ID 83703

David Haworth
325 Dicky
Eagle, ID 83616

Gary M. Hazen
3577 W. Floating Feather Rd.
Eagle, ID 83616

Merle Hazen
2044 N. Meridian Rd.
Eagle, ID 83616

Dana Hofstetter
1098 Los Luceros
Eagle, ID 83616

Barton L. Jackson
914 Los Luceros Dr.
Eagle, ID 83616

Carrie E. Jackson
914 Los Luceros Dr.
Eagle, ID 83616

George & Carol Jensen
3065 E. Floating Feather Rd.
Eagle, ID 83616

Jack R. Jensen
10101 Cayuse Ln.
Boise, ID 83703

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

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-11413 IN THE NAME)
OF FLOATING FEATHER HILLS INC. &)
TREASURE VALLEY VILLAGE)

ORDER ISSUING
PROPOSED MEMORANDUM
DECISION

R. Keith Higginson, Director of the Department of Water Resources, having reviewed the attached proposed decision prepared by this appointee, L. Glen Saxton, who conducted the hearing or who has read the record in this case, hereby approves the same as a proposed decision pursuant to Idaho Code, Sec. 67-5211.

Each party to these proceedings who appeared at the hearing is given the opportunity, pursuant to Idaho Code, Sec. 42-1701A and 67-5211, to file exceptions to the proposed decision and to present briefs and oral arguments. If no timely and proper exceptions are received, an order by the Director will be entered adopting the proposed decision as his final decision.

I.
EXCEPTIONS

A. To be considered by the Director, exceptions must:

1. be received by the Director on or before the 15th day following the day of service of this Order and the proposed decision,

2. specifically identify the portions of the proposed decision to which exceptions are made and specifically state the grounds for those exceptions, and

3. be sent to each of the parties who appeared or their attorneys.

II.
BRIEFS

A. Any briefs in support of exceptions to the proposed decision shall be filed with the Director at the same time that party's exceptions are filed with the Director.

B. All response briefs to the exceptions must be filed with the Director within 15 days after the exceptions were served upon the responding party.

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III.

A. No oral arguments before the Director on the proposed decision will be held unless specifically requested by a party filing exceptions to the proposed decision and unless that request is filed with the Director concurrently with the filing of that party's exception.

B. If oral arguments have been properly requested by a party filing exceptions, any other party, upon reasonable notice to the Director, shall have the right to present oral argument in response to the exceptions filed.

C. Oral arguments before the Director on exceptions to the proposed decision shall be heard at the discretion of the Director, pursuant to Idaho Code, Sec. 42-1701A. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour the oral arguments will take place and of the period of time allocated for the arguments of this case. Unless the Director orders otherwise, all oral arguments shall be heard in Boise, Idaho.

IV.

CERTIFICATE OF SERVICE

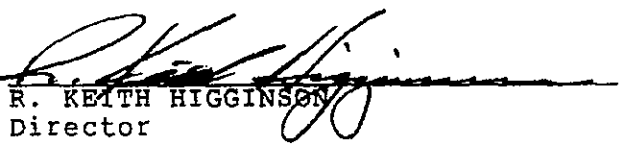
All exceptions, briefs, requests for oral argument and other matters filed with the Director in connection with the proposed decision shall be served on all other parties to these proceedings in accordance with Rule 7.2.

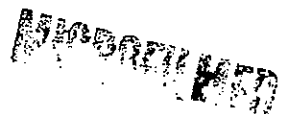
V.

FINAL DECISION

Following the submission of all exceptions, briefs and oral arguments, if they are heard, the Director shall issue a final decision adopting, modifying or rejecting and replacing the proposed decision. Copies of the decision and order shall be served on all parties.

Dated this 9th day of August, 19 91.


R. KEITH HIGGINSON
Director


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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR) PERMIT NO. 63-11413) _____)) Floating Feather Hills Inc. and) Treasure Valley Village,))) Applicants;) Richard & Diane Anderson, et al))) Protestants.) _____))	SOURCE: Ground Water COUNTY: Ada
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PROPOSED MEMORANDUM DECISION AND ORDER
APPROVING APPLICATION FOR PERMIT NO. 63-11413

BY HEARING OFFICER L. GLEN SAXTON

Floating Feather Hills, Inc. and Treasure Valley Village (applicants) having filed with the Department of Water Resources (Department) Application for Permit No. 63-11413 to appropriate unappropriated water; protests having been filed; a hearing having been held; and post-hearing briefs having been received, the department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On October 22, 1990, Floating Feather Hills, Inc. applied to the Department for a permit to appropriate 5.0 cubic feet per second (cfs) of ground water from a well within the SW1/4 SW1/4 SW1/4, Sec. 3, Twp. 4N, Rge. 1E, B.M. to be used for domestic and fire protection purposes for up to 600 residences from January 1 through December 31 each year and for irrigation purposes from March 15 through November 15 of each year. Notice of the application was published in the Idaho Statesman on November 15 and 22, 1990.

2. On December 10, 1990, Floating Feather Hills, Inc. amended the application by adding three additional points

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of diversion, located within the NW1/4 SW1/4, Sec. 3, SW1/4 SW1/4 and NE1/4 SE1/4, Sec. 4, Twp. 4N, Rge 1E, B.M. Notice of the amendment was published in the Idaho Statesman on December 20 and 27, 1990.

3. Protests against approval of the application were received from about 90 individuals and organizations. A list of protestants is attached hereto as Attachment A and is incorporated herein by reference.

4. On January 24, 1991, the Department conducted a meeting regarding the application during which the objectives were: (1) for the applicant to acquaint the protestants with the proposed project and proposed aquifer studies, (2) for the Department to present information regarding the geology and ground water aquifers in the vicinity of the proposed diversion, and (3) for the protestants to identify their concerns. At the meeting the applicant described a proposal for drilling a production/test well at the original point of diversion, and conducting a pumping test and aquifer analysis.

5. On February 13, 1991, the Department held a meeting to solicit technical recommendations for the conduct of the pumping test and aquifer analysis. Technical representatives of the applicant, representative protestants, and members of the local hydrogeologic community attended the meeting.

6. On March 14, 1991, the applicant assigned the application to add the name of Treasure Valley Village, and amended the application by: (1) increasing the rate of flow for domestic water use from 1.0 cfs to 1.25 cfs, with 5.0 cfs remaining as the total diversion rate for the three water uses; (2) adding to the original place of use, two additional tracts within Sec. 3, NESE and SESE; and (3) increasing the total number of homes served to 900. The amendment delayed the date of priority of the application to March 14, 1991. Notice of the amendment was published in the Idaho Statesman on March 21 and 28, 1991.

7. On March 15, 1991, the Department held a meeting

at the site of the production well that had been drilled by the applicants. At this meeting Mr. Charles F. Feast, a geohydrologist employed by the consulting firm CH2M-Hill and retained by the applicants, described the proposed pumping test and data collection network. Protestants and members of the local hydrogeologic community discussed the proposal and provided input for the operation of the pumping test.

8. The pumping test commenced on March 26, 1991, and pumping of the well continued for thirty (30) days. The recovery portion of the test began on April 25 and continued until May 6, 1991. At the start of the test and again on April 23, 1991, the Department held on-site meetings to solicit input regarding the test from protestants and other interested parties. Data collected during the test are compiled in a report dated June 1991 prepared by Mr. Feast.

9. Department geologist Steven J. Baker prepared a report entitled "Ground-Water Conditions in the Dry Creek Area, Eagle, Idaho" based on a compilation of available hydrologic and geologic data from the area, including the pump test results. The Department distributed the report prior to the hearing to all interested parties who had requested a copy.

10. The Department held a hearing regarding the application on Wednesday, June 12, 1991. Phillip M. Barber, attorney, represented the applicants. Protestants present at the hearing are identified on Attachment A.

11. The hearing consisted of two parts. In Part I, the applicants provided information concerning the proposal by testimony and/or exhibits from David H. Roylance, project engineer for Floating Feather Hills, Inc.; William R. Gehrke, general partner in Treasure Valley Village; Sherl L. Chapman, ground water geologist; Charles F. Feast, hydrogeologist; Carlyle Briggs, project engineer for Treasure Valley Village; William Pardew, local landowner and data collector; and Bryce Peterson, partner in Floating Feather Hills, Inc. Also in Part I, protestants in attendance presented their testimony. Part II was an evening session which consisted of testimony

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primarily by protestants unable to attend the Part I session.

12. The report from Mr. Feast entitled "Results of the 30-Day Pumping Test and Aquifer Analysis" was finalized and made available the day of the hearing. The hearing officer left the record open to allow the protestants fifteen (15) days to respond to the information in the report, with a subsequent rebuttal period of ten (10) days for the applicant.

13. The protestants raised objections to the proposed diversions by alleging that:

- (a) the diversions would reduce the quantity of water under existing water rights;
- (b) the water supply is insufficient for the proposed uses;
- (c) the application was filed for speculative purposes;
- (d) the applicants do not have sufficient financial resources with which to develop the project;
- (e) the diversion would conflict with the local public interest; and,
- (f) the proposed project would be contrary to the conservation of water within the State of Idaho.

Geology and Aquifer Characteristics

14. The geologic formations that underlie the four points of diversion identified in the application appear to be thick sequences of bedded alluvial sands, silts and clays. Well logs in the area demonstrate that these sequences extend at least 400 feet deep. Water-bearing strata appears to thicken to the south and west.

15. The aquifer is characterized as a stratified water table aquifer consisting of highly permeable sand layers and lenses separated by discontinuous and leaky sandy clays. In response to pumping, the aquifer was found to behave as a single, thick water table aquifer.

16. The potentiometric surface map of water levels in the area indicates that the direction of ground water movement in the area is from northeast to southwest with a

slope of between 40 and 100 feet per mile. This gradient, in conjunction with transmissivity computed to be in the order of 100,000 gallons per day per foot, indicates that groundwater is likely flowing from the northeast to the southwest of the aquifer as lateral outflow.

17. Recharge to the aquifer appears to consist of a combination of deep percolation of precipitation and from infiltration of surface water along tributaries of the Boise River, lateral inflow, and infiltration of unconsumed irrigation water from the Boise River system, conveyed to the area through the Farmers Union Canal Company canal. For long-term stability of the aquifer, it is important that these sources of recharge not be diminished.

18. Analysis of the aquifer indicates that the present annual discharge rate for wells in the area does not appear to exceed the long-term annual recharge rate. However, during the period from 1970 to 1989, declines in the water table have been identified in the vicinity of the proposed diversions. These declines have varied from negligible amounts in the northeast portion of the proposed place of use, to about ten (10) feet in the southwest portion. The existence of these declines is an indicator that the aquifer in the vicinity of the proposed project must be carefully monitored.

19. The static water level in the aquifer is generally about 60 to 70 feet below ground level.

20. The current observation well network in the vicinity of the proposed diversions is inadequate to monitor the effects of continued development of the ground water resources in the area.

Quantity of Water and Impact on Other Water Rights

21. At the hearing, the applicants reduced the total requested rate of flow to 3.25 cfs based upon the understanding that diversion for fire protection would not result in a simultaneous reduction in rate of flow for domestic and irrigation purposes.

22. Presently the property that is proposed to be

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developed under the application is irrigated from the Farmers Union Canal Company canal that flows adjacent to the property. The applicants agreed to not sell or transfer to another location any of the surface water rights that are presently associated with the property. In addition, they offered to develop a pressurized irrigation system to utilize these surface water rights in specified areas, to include common areas and lots where systems are found to be economically feasible, generally for those lots one-half acre and greater in size.

23. A reasonable pumping lift has not been established by the department in the vicinity of the proposed development.

24. Most of the wells in the area are 125 to 200 feet deep and provide single family domestic water. Some of the wells were drilled and used before March 29, 1978. Several old, shallow wells near the proposed diversions may experience problems because the pumps cannot be lowered. These wells may have to be deepened or replaced.

25. The applicants drilled the test/production well to a depth of 415 feet and placed screens from 215 to 265 feet and from 375 to 385 feet. Because the aquifer behaves as a single, thick water table aquifer, withdrawals from the well were not isolated to the deeper aquifers and impacted shallower aquifers.

26. Aquifer analyses based on information compiled in the pumping test and the best available projection techniques resulted in long-term anticipated drawdowns of less than 10 feet for wells located outside a radius of 0.25 miles.

27. The rate of flow requested for irrigation purposes is 2.0 cfs for the irrigation of 200 acres. Computations submitted by the protestants showed that irrigation of 500 lawns would require less than this rate of flow. However, there may be periods early and late in the irrigation season when the irrigation of lawns is desirable and when there is no water flowing in the Farmers Union Canal

Company canal. During these periods, there may be a requirement to irrigate all of the lawns and all common landscaped areas from ground water. During these periods, the requested rate of flow for irrigation purposes is not excessive.

Additional Considerations

28. The proposed development consists of two projects, the Floating Feather Hills Project to be developed by Floating Feather Hills, Inc., and the Trail Creek Ranch Project to be developed by Treasure Valley Village.

29. The applicants testified that both projects are intended to be constructed, and the application was not filed for delay or speculative purposes.

30. The applicants testified that sufficient funding is available to construct each of the projects.

31. The applicants established that development of the proposed projects has the potential to provide short term employment opportunities via the development of subdivisions, and to provide long-term benefits as residential areas.

32. There was no testimony to indicate that development of the proposed project would be contrary to the conservation of water resources within the State of Idaho.

33. The practice of metering water supplies and assessing charges based on the amount of water used, serves to encourage conservation of water supplies.

CONCLUSIONS OF LAW

Applicable Legal Principles

1. Idaho Code, Sec. 42-203A(5) states in part as follows:

The director of the department of water resources shall find and determine from the evidence presented to what use or uses the water sought to be appropriated can be and are intended to be applied. In all applications whether protested or not protested, where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply itself is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the department that such application is not made in good faith, is made for daily or

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speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor, or may partially approve and grant a permit for a smaller quantity of water than applied for, or may grant a permit upon conditions.

2. Idaho Code, Sec. 42-226 states in part as follows:

It is hereby declared that the traditional policy of the state of Idaho, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation, is affirmed with respect to the ground water resources of this state as said term is hereinafter defined and, while the doctrine of "first in time is first in right" is recognized, a reasonable exercise of this right shall not block full economic development of underground water resources, but early appropriators of underground water shall be protected in the maintenance of reasonable ground water pumping levels as may be established by the director of the department of water resources as herein provided.

3. Domestic wells drilled prior to [March 29,] 1978, are exempt from the provisions of Idaho Code, Sec. 42-226. Parker v. Wallentine, 103 Idaho 506, 510 (1982).

4. Consideration of the local public interest criterion of Idaho Code, Sec. 42-203A(5) is defined by the Department Water Appropriation Rules and Regulations, Rule 5,1,5. to include:

... the effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both long and short term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains; the effect the project will have on recreation, fish and wildlife resources in the local public area affected by the proposed use; and compliance with applicable air, water and hazardous substance standards, and compliance with planning and zoning ordinances of local or state government jurisdictions.

Application of Legal Principles

5. Technical information provided indicates that there is sufficient water in the ground water aquifer to satisfy additional appropriations in the vicinity of the proposed diversions.

6. Pumpage from the proposed diversions may increase the depth to water in neighboring wells. The precise extent to which this pumpage will reduce the amount of water available to satisfy existing water rights is unknown. However, the best available predictions demonstrate that the predicted impacts on water levels in neighboring wells are not excessive.

7. The permit holder is responsible to compensate or to mitigate adverse impacts to owners of domestic wells drilled and used prior to March 29, 1978, if the permit holder's use directly causes such a domestic well to become unusable or require modification of the well or pumping system in order to obtain the domestic water.

8. The application is found to have been made in good faith and not for delay or speculative purposes.

9. The applicants have demonstrated financial ability by conducting a thorough and costly pumping test and aquifer analysis, and by uncontested testimony at the hearing.

10. Consistent with statutory guidelines relative to determination of local public interest, the proposed project is found to be in the local public interest.

11. The proposed diversions are not contrary to the conservation of water resources within the State of Idaho.

12. All protestants in this matter have had sufficient opportunity to be heard.

ANALYSIS

The principle concern expressed by protestants in this matter is the future impact on water levels within the ground water aquifer, resulting in the potential to dewater existing wells.

The nature of ground water aquifers is that they are

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behavior is not fully predictable. The protestants have correctly emphasized that absolute determinations cannot be made regarding this aquifer. However, data acquisition and analysis can be used to identify aquifer characteristics which can be used in modeling and predicting aquifer behaviors.

The ground water aquifer in the vicinity of the points of diversion proposed in the application has become the subject of some of the most detailed aquifer studies in the State of Idaho. A combination of Department data collection and analysis over a three year period; studies and analysis conducted by Boise State University; data collection by the United States Geologic Survey; and the pump test and aquifer analysis financed by the applicants and monitored by the Department and all interested parties, serve to provide as clear a picture of the potential impacts as can be feasibly developed. The resulting modeling information demonstrates that excessive drawdowns are not anticipated as a result of the proposed diversions.

The department must consider, however, the potential effect of a new proposal on senior water rights relative to the future ability of the senior rights to obtain water at or above the reasonable ground water pumping level. In the present case, the lowering of the water level in domestic wells drilled prior to March 29, 1978 may require action of the permit holder to either compensate or mitigate such prior right holders for modifications required as a direct cause of withdrawal of water under the permit.

Due to the uncertainties inherent with ground water supplies, monitoring of the aquifer must be continued. Proper monitoring of the aquifer can be achieved by adding an additional well to the existing network of Department/United States Geologic Survey monitoring wells. In addition, it is necessary to continuing collection of data for assessment of the impact on other wells from pumpage of the proposed wells.

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ORDER

It is ORDERED that Application for Permit No. 63-11413 is HEREBY APPROVED subject to the following conditions:

1. This water right is subject to all prior water rights.

2. The water right holders shall provide a well acceptable to the Department for use as a monitoring well and are responsible on an on-going basis to provide a well suitable for monitoring as determined by the Department.

3. The rates of flows authorized for diversion under this water right permit are limited as follows:

<u>Use</u>	<u>Amount</u>	<u>Period of Use</u>	
		<u>From</u>	<u>To</u>
Domestic	1.25 cfs	January 1	December 31
Irrigation	2.00 cfs	March 15	November 15
Fire Protection	2.00 cfs	January 1	December 31

Total: 3.25 cfs

4. In order to conserve limited supplies in the ground water aquifer, water diverted under this right for irrigation may be diverted only during the irrigation season of March 15 through November 15. The water right holders are required to prepare feasibility studies to determine the extent to which surface water can be utilized for irrigation on both the Floating Feather Hills Project and the Trail Creek Ranch Project and to submit the studies to the Department for review and approval. As a minimum, Farmers Union Canal Company water shall be utilized for the irrigation of parcels equal to or greater than one-half acre in size during periods when water is being delivered in the canal.

5. This water right may be used for irrigation purposes only if the entire amount of water from the Farmers Union Canal Company remains with the lands described in the application. Sale or transfer of surface water from any portion of the property will void the department's approval to

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use the right for irrigation purposes.

6. The permit holder is responsible to insure that pumpage under this water right does not directly cause the water level to significantly decline in any domestic well drilled and in use prior to March 29, 1978, or to cause the water level in any other well having a prior right to exceed a reasonable pumping level, unless the permit holder provides reasonable compensation or mitigation to the prior water right holder for the reduced water levels as determined by the director.

7. The permit holder shall permanently install and maintain totalizing flow measurement devices of a type approved by the department as a part of each diverting works. These devices shall be maintained by the water right holders and shall be made available to inspection by Department personnel for the purpose of long-range study and monitoring of the ground water aquifer. The water right holder shall provide flow measurements to the department on a frequency determined by the department.

8. Each lot which receives water under this water right shall be metered, and the cost to the user allocated based on the amount of water used.

9. Proof of construction of works and application of water to beneficial use shall be submitted on or before the date indicated on the final order.

10. Protestants who did not attend the hearing are considered to be bound by this decision to the same extent as those that did attend the hearing in this matter.

Dated this 7th day of August, 1991.

David R. Tuttle
for L. GLEN SAXTON
Hearing Officer

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ATTACHMENT A

Application For Permit
No. 63-11413, In the Names of
FLOATING FEATHER HILLS, INC.,
and TREASURE VALLEY VILLAGE

PROTESTANTS

Richard & Diane Anderson
Marcia Beckwith
Robert E. Beckwith
John Beggrow
Nina L. Blan
Leann M. Boyce
William L. Blan
D.C. Boyer
Mike & Sylvia Boyle
Larry & Virginia Brunette
Neal Bryson
Steve & Anne Caron
C.A. & Roberta Carpenter
Clifford D. Chambers
Shirley Chambers
Eleanor I. Chase*
Jan & Walt Costello
Evelyn M. Creelman
Cuft Crosby
Merville Cushing
Roger & Elaine Darnell
*Robert C. Day (Billie)
*Robert DeShazo, Jr.
Eagle Water Corp.
John F. & Kathy Dutcher
Rod W. Eisele
Frank & Janet Elliot
*Evans Water Association
Tommy L. Eyton
Farrell F. Ferguson
Debbie Fielding
Carole Fivecoat
Cliff Fivecoat
Cindy & Jose Franca
A. Daniel Freiberg
Dewain Glubay
William M. Gornik
Blair & Carolyn Hagerman
Steve & Carolyn Haughton
Mike Hawkins
David Haworth
Gary M. Hazen

Merle Hazen
Dana Hofstetter
Barton L. Jackson
Carrie E. Jackson
*George & Carol Jensen
Jack R. Jensen
*Otto L. & Beryl A. Johnson
*Alice & Wendell Jones
*Larry Koomler
Ray Kreps
Ed Lambert
Steve & Jeannie Lenon
George Loucks
Gary S. Lyons
*Hugh & Suzanne Massie
Jeff Mattoon
Karl & Kay Mauritz
*Howard Maxwell
Richard E. Meiers
Richard L. Mincer
C.K. Moore
Beth Olson
*William & Helen Pardew
*F.L. Persons
Alice Plecker
*Gerald & Catherine Renfro
Monte & Suzanne Riley
Rhonda Roberts
Donald & Priscilla Rogers
Robert A. Rowen
Don & Janet Rydman
*Dan Schill
*Louis C. Siron, III
Steve & Ruby Smith
Beverly Snediker
Knight & Rhonda Stanley
E.F. Stark
*Robert & Sondra Strain
*Dennis Sutherland
S.H. Sutherland
Sharyn K. Sutherland
Donald R. Thomas
Harry & Leona Vogt
Thurman & Annemarie Wardlow
*Mrs. C.B. Weber
Philip D. Whitener
*Neil D. Wilton
Jene & Steve Yundt

* Denotes attendance at hearing

CERTIFICATE OF MAILING

I HEREBY certify that on this the 9th day of August, 1991, a true and correct copy of the foregoing ORDER ISSUING PROPOSED DECISION and PROPOSED MEMORANDUM DECISION AND ORDER APPROVING APPLICATION FOR PERMIT NO. 63-11413 were mailed, postage prepaid to:

FLOATING FEATHER HILLS, INC.
2417 Bank Dr. Suite 101
Boise, ID 83705

Richard & Diane Anderson
835 Los Luceros
Eagle, ID 83616

Marcia Beckwith
2260 Dicky
Eagle, ID 83616

Robert E. Beckwith
2260 Dicky
Eagle, ID 83616

John Beggrow
315 Rene
Eagle, ID 83616

Nina L. Blan
385 Dicky
Eagle, ID 83616

Leann M. Boyce
2263 Sadie
Eagle, ID 83616

William L. Blan
385 Dicky
Eagle, ID 83616

D.C. Boyer
2425 E. Floating Feather
Eagle, ID 83616

Mike & Sylvia Boyle
9845 Lariat
Boise, ID 83703

Larry & Virginia Brunette
624 Los Luceros
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Neal Bryson
399 Rene
Eagle, ID 83616

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C.A. & Roberta Carpenter
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Eleanor I. Chase
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Boise, ID 83703

Curt Crosby
9902 Prairie
Boise, ID 83703

Merville Cushing
398 Rene
Eagle, ID 83616

Roger & Elaine Darnell
464 Rene
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c/o Terry Loftus
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Dan Schill
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Thurman & Annemarie Wardlow
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Mrs. C.B. Weber
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Jene & Steve Yundt
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HOMCO
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Phillip Barber
Hawley, Troxell, Ennis & Hawley
P O Box 1617
Boise ID 83701


RITA I. FLECK
Secretary/Records Manager

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Hawley
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RITA I. FLECK
Secretary/Records Manager

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IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report

03/06/2008

WATER RIGHT NO. 63-11413

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CITY OF EAGLE PO BOX 1520 EAGLE, ID 83616 (208)939-6813
Attorney	CITY OF EAGLE PO BOX 1520 EAGLE, ID 83616 (208)939-6813
Original Owner	FLOATING FEATHER HILLS INC 2417 BANKS DR STE 101 BOISE, ID 83705 (208)343-6500
Original Owner	TREASURE VALLEY VILLAGE LIMITED PARTNERSHIP 4720 EMERALD BOISE, ID 83706 (208)336-3393

Priority Date: 04/02/1991

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
MUNICIPAL	1/01	12/31	3.15 CFS	540 AFA

Total Diversion		3.15 CFS	
-----------------	--	----------	--

Location of Point(s) of Diversion:

GROUND WATER	NWSW	Sec. 03	Township 04N	Range 01E	ADA County
GROUND WATER	SWSW	Sec. 03	Township 04N	Range 01E	ADA County
GROUND WATER	SWSW	Sec. 04	Township 04N	Range 01E	ADA County
GROUND WATER	NESE	Sec. 04	Township 04N	Range 01E	ADA County

Place(s) of use: No POU's found for this right

Conditions of Approval:

1.	004	The issuance of this right does not grant any right-of-way or easement across the land of another.
2.	01M	After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
3.	046	Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4.		The right holder is responsible on an on-going basis to provide a well suitable for monitoring as determined by the Department. The right holder is responsible to insure that pumpage under this water right does not directly cause the water level to significantly decline in any domestic well drilled and in use prior to March 29, 1978, or to cause the water level in any other well having a prior right to exceed a reasonable pumping level, unless the right holder provides reasonable compensation or mitigation to the prior water right holder for the reduced water levels as determined by the Director. Farmers Union Canal Company water shall be utilized for the irrigation of the lots in Lexington Hills and Trail Creek Ranch parcels equal to or greater than one-half acre in size during periods when water is being delivered in the canal. This water right may be used for irrigation purposes only if the entire amount of water from the Farmers Union Canal Co. remains with the lands in Lexington Hills and Trail Creek Ranch. Sale or transfer of surface water from any portion of these properties will be cause for the Department to further limit the use of this right. The right holder shall permanently maintain totalizing flow measurement devices of a type approved by the Department at each well. The water right holder shall provide flow measurements to the Department on a frequency determined by the Department. Each lot which receives water under this right shall be metered. Rights 63-11413, 63-12017, and 63-12448 when combined shall not exceed a total diversion rate of 3.25 cfs. Rights 63-12017 and 63-12448 also diverted through the point (s) of diversion described above. Points of diversion were formerly known as Hormaechea Wells 1 and 2 and Lexington Wells 1 and 2. They are currently known as City of Eagle Wells 1-4. Place of use is located within the city limits of Eagle and the surrounding service area.

Dates:

Proof Due Date: 09/01/2000

Proof Made Date: 08/29/2000

Approved Date: 09/11/1991

Moratorium Expiration Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Application Received Date: 03/14/1991

Protest Deadline Date:

Number of Protests: 0

Field Exam Date::

Date Sent to State Off:

Date Received at State Off:

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

DAVIS WRIGHT TREMAINE

LAW OFFICES

702 WEST IDAHO STREET • SUITE 700 • BOISE, IDAHO 83702
(208) 338-8200

February 25, 1993

HAND DELIVERED

Ms. Merrily Munther
Penland & Munther, Chartered
350 North 9th Street, Suite 500
P.O. Box 199
Boise, Idaho 83701

Re: Proposed Amendment to Permit No. 63-11413

Dear Merrily:

We have reviewed the Application for Amendment of a Permit (the "Amendment") for Water Permit No. 63-11413 (the "Permit"). Based upon our review of the Amendment, we will not be able to approve its submission to the Idaho Department of Water Resources ("IDWR") as written. Furthermore, it is our belief that the amendment of the Permit is a significant undertaking and as such the City of Eagle (the "City") should become much more actively involved in the process.

We will be unable to approve the Amendment for the following reasons:

1. The Amendment fails to eliminate the two points of diversion which are not located within the Lexington Hills Subdivision property. The City approved, by letter, from us to you, dated September 25, 1992, the elimination of these two points of diversion. We believe that the elimination of those two points of diversion should be included in the Amendment.
2. The place of use for aesthetics and recreation needs to include additional parcels where lakes exist or are proposed. Without inclusion of those lakes, the place of use is incomplete under question number three of the Amendment. The land identified as the place of use for aesthetics and recreation needs to include the additional forty acre parcels where lakes currently exist or are shown on the preliminary land use plan for Floating Feather, dated December 4, 1990. Those additional places of use appear to be the SE ¼ NW ¼, SW ¼ SE ¼, and NW ¼ SE ¼, Section 3, Township 4 North, Range 1 East.

851674\WATERSYS\00011.LTR\2.25.93
Boise

FAX: (208) 338-8299

ANCHORAGE, ALASKA • BELLEVUE, WASHINGTON • LOS ANGELES, CALIFORNIA • PORTLAND, OREGON
RICHLAND, WASHINGTON • SEATTLE, WASHINGTON • WASHINGTON, D.C.

3. The water volume calculation for aesthetic and recreational use may be understated. The essence of the Amendment is, that certain groundwater which has been designated for irrigation use shall be redesignated to be used for aesthetic/recreational uses. There are currently existing two lakes in Echo Creek and somewhere between five and seven lakes in Lexington Hills with many more planned. The volume calculated should be based upon the total number of lakes, both in existence and planned. Based upon one month's actual usage of three million gallons (9 acre-feet) the existing aesthetic and recreational use would be 36 acre-feet without including all the existing and proposed lakes in Lexington Hills and Echo Creek. The City would like to obtain verification of the 25 acre-foot figure because we feel that the figure may be understated.
4. We would recommend that the volume calculation for aesthetics and recreation be based a method which has been adopted by IDWR. The 2.5 acre feet of consumptive volume was calculated from a premises that the 1.25 cfs listed in the Amendment for aesthetics and recreation is based upon usage of only two hours each day. IDWR would normally calculate the volume from a 24 hour use. The volume of use for aesthetics and recreation determines the acreage to be removed from irrigation. Although we agree with the concept of reduced use for "makeup water," the system actually operates on a demand float valve, and as we explained above, the use from mid-January to mid-February already exceeds this model.

We would suggest the aesthetic and recreational use have components reflecting diversion to storage and storage for aesthetic and recreational purposes. The evaporation from the system would be calculated as the consumptive use component of the storage. The number and size of all lakes proposed and existing would be included in the storage calculations.

5. Feasibility Study. From our conversations with IDWR, the Feasibility Study will be required prior to any hearings concerning the amendment of the Permit. You should, with the City's concurrence and approval, engage a group to prepare the Feasibility Study to explain with supporting data why it is not feasible to supply surface water to land in the development which received surface water in the past.

Ms. Merrily Munther
February 25, 1993
Page 3

6. Surface water is required to be used on all irrigated land under the Permit. The Echo Creek development has not as of yet used or planned to use any surface water from the Farmers Union Ditch Company, Ltd. ("Farmers Union") canal and as such jeopardizes the ground water irrigation right for all Lexington Hills and Echo Creek lands listed in the permit. The Permit requires that surface water from the Farmers Union canal be used for all the irrigated land contained in the subdivisions of Lexington Hills and Echo Creek.
7. Action needs to be taken to protect the Farmers Union water right from forfeiture (five years of nonuse) during the ten years of development and from defeat by a competing claim (Capital View Irrigation) in the Snake River Basin Adjudication. We do not have any information concerning the Farmers Union water right on Lexington Hills and Echo Creek Subdivisions. Since the terms of the Permit require that irrigation be first satisfied from the surface water, or a loss of irrigation water under the Permit will result, the City is most concerned that the Farmers Union water right be put to full beneficial use and be protected from forfeiture from non-use during the ten years of development. An application to prevent forfeiture can be filed with IDWR. The surface water right has been claimed by Farmers Union in the Snake River Basin Adjudication, but should be monitored by the City to ensure its protection from a competing claim by Capital View Irrigation which would remove the water from use at Lexington Hills and Echo Creek.
8. The City does not desire to monitor compliance or to administer those specified lots in the Echo Creek and Lexington Hills which will not receive groundwater irrigation due to the reallocation of use under the proposed Amendment. The City does not want to act as a policeman to ensure that those areas which have given up the ground irrigation water comply with the terms of the Permit. Another way to reallocate water uses under the Amendment will need to be found.
9. The volume of all existing and proposed lakes (and creek ways) exceeds the 4 acre feet of storage allowed during the irrigation season for the 2 cfs irrigation right under the Permit. Storage incidental to an irrigation right is figured by the amount of water which the irrigation rate of flow will generate in 24 hours.

Ms. Merrily Munther
February 25, 1993
Page 4

From investigation in the IDWR files, the three lakes disclosed to IDWR through May of 1992, totaled 2.9 acre-feet of storage. We are concerned that additional existing and proposed lakes not included in the 2.9 acre-feet will exceed the 4.0 acre-feet of storage allowed under the irrigation right. The storage for aesthetics and recreation occurs on the irrigation system and cannot use volume from the domestic flow which is delivered through a separate pipeline system containing no storage. Storage exceeding the 4.0 acre-feet will require a new application for aesthetic and recreational usage during the irrigation season, because there is no water available in the Permit to cover additional uses during the irrigation season. In all likelihood, this would be a most difficult task.

Since the amendment of the Permit is a far more complex process than was earlier thought, it is our recommendation that either the City take the lead in obtaining the amendment at the expense of the developers or that the developers continue with their current course of action, but that review of the entire process be made by the City, at the expense of the developers. You should be aware that legal representation of the Permit amendment through a contested hearing may be as high as \$30,000 to \$50,000.

We are also concerned that all the lakes in Lexington Hills and Echo Creek have not been properly lined. It is our understanding, that the failure to properly line the lakes in these two subdivisions may cause the Idaho Department of Health and Welfare, Division of Environmental Quality ("DEQ") to revoke their temporary approval of the water system or to fail to give final approval of the system. If DEQ would take such action, the City would be forced to evaluate its option of returning the water system to the developers of Lexington Hills and Echo Creek. We will want to obtain assurances from the developers, in a form approved by the City Engineer, that the lakes have in fact been lined as required by DEQ.

Lastly, we will be required to notify Steve Lester at IDWR concerning the delay in submitting the Amendment. While we do not know what action he will take, you should be aware that IDWR may require us to shut off all groundwater serving the lakes in both Lexington Hills and Echo Creek until these matters are resolved.

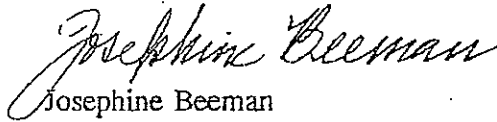
The City is interested in cooperating fully with your clients and we are optimistic that the issues which we have raised can be resolved to the satisfaction of both IDWR and your clients.

Ms. Merrily Munther
February 25, 1993
Page 5

Please let us know how you would like for us to proceed.

Sincerely yours,

DAVIS WRIGHT TREMAINE


Josephine Beeman


L. W. Grant, III

LWG:ko

c: Mayor Steve Guerber via facsimile
Ms. Barbara Montgomery via facsimile

PENLAND MUNTHNER BOARDMAN

CHARTERED ATTORNEYS AT LAW

360 NORTH 9TH, SUITE 600
P.O. BOX 190
BOISE, ID 83701
TELEPHONE (208) 344-4566
FACSIMILE (208) 344-9836

RICHARD C. BOARDMAN*
JAMES C. DALE
FORREST R. GOODRUM**
LARRY L. GOINS
MERRILY MUNTHNER
PAUL S. PENLAND***

March 19, 1993

*ALSO ADMITTED IN WASHINGTON
** ALSO ADMITTED IN NEW JERSEY
*** ALSO ADMITTED IN OREGON

Ms. Mona Mack
Davis Wright Tremaine
702 W. Idaho Street
Suite 700
Boise, Idaho 83702

Attention: L. W. Grant III

Re: Proposed New Application for Groundwater Permit

Dear Ms. Mack:

This letter will respond to the letters we received from Josephine Beeman and you on February 25, 1993, and March 2, 1993. As you know, since those letters were written, several meetings have been held among various individuals and entities interested in resolving concerns expressed by the Idaho Department of Water Resources concerning uses within the Lexington Hills and Trail Creek (also known as Echo Creek) projects. With more detailed information available relating to such uses and the projected future needs of the projects, it now appears to be advantageous to prepare a new application for a groundwater permit; it is with that revised approach in mind that we have prepared the following response to the concerns expressed in your letters, referencing them by numbering as in your letters.

1. The developers urge you to reconsider the insistence that the additional points of diversion be dropped at this time. It is uncertain whether an additional well might someday be required. If it is and the points of diversion have been dropped, an amendment or new application for permit would be required. The developers had previously requested the City's concurrence in dropping those additional points of diversion in the event it appeared to be in the interests of the projects and the City to do so; that approval was sought without a specific time frame in mind to implement that change. It does not appear to be desirable to do this at the present time, and to our knowledge the elimination of these two points of diversion is not being requested by the Idaho Department of Water Resources. Hence, we do not propose to eliminate those points of diversion from the existing permit.

2. As previously stated, the developers are proposing to file a new application for diversion of groundwater from the same wells to storage and storage for aesthetic and recreational purposes. The place of use describes all of the parcels where ponds exist or are proposed. As you now are aware, the westerly pond in Trail Creek is utilizing groundwater only; the easterly pond is a stormwater basin and utilizes neither groundwater nor surface irrigation water. Some of the areas referenced in your letter of February 25, 1993, will not have any water amenities.

3/19/93 - Reviewed by Dennis; called Merrill & revised para 9

Ms. Mona Mack
March 19, 1993
Page 2

3. and 4. The water volume calculation for aesthetic and recreational use has been refined to reflect a conservative estimate of the needs for water for aesthetic and recreational use. Based on a discussion which Sherl Chapman had with Dave Tuthill on March 5, 1993, the volume calculated to be required for these purposes will require a reduction from 200 to 195 of the number of acres entitled to irrigation from the domestic water system during the nonirrigating season.

Apparently at the time your letters were written, you had not been apprised that the actual usage measured from mid-January to mid-February was not typical of actual usage inasmuch as it includes volume which was released into the ponds as a result of a defective valve which allowed water to be measured passing the metering point which would not otherwise ordinarily be used. We believe if the actual usage were measured over the same length of time in the following one-month period, the measure of actual usage would be less than half of the figure which was measured earlier.

As per your suggestion, the aesthetic and recreational use have been broken into two components: diversion to storage and storage for aesthetic, recreational and wildlife purposes. Evaporation has been calculated as the consumptive use component of the storage. The number and size of all lakes proposed and existing have been included in the storage calculations.

5. The engineers for the respective developments are preparing feasibility reports which we anticipate will be ready for transmittal by you to the Department of Water Resources, along with the new application, prior to the City Council meeting scheduled for March 23. Lexington Hills' report will state that all of the surface water available to Lexington Hills will be used in the pressurized irrigation system serving all of the lots and all or most of the common areas. This will continue to be the case even when the project is fully developed; we have made a note of the need to apply for nonforfeiture of surface water which cannot be utilized pending completion of the projects. Trail Creek's report will state that all of the surface water appurtenant to the property in the subdivision will be utilized within the boundaries of the project, to supply a pressurized irrigation system to serve all of the lots except the first 50 which are located in phase one of that project. Although the initial lots were not connected to a pressurized irrigation system for economic reasons, it now appears that all of the water available would only be sufficient to irrigate the remainder of the lots in the project anyway.

6. We do not agree with your interpretation of this condition of the permit, namely, that all of the surface water is required to be utilized on all of the lands within the project, and we believe the Idaho Department of Water Resources did not intend this, notwithstanding conversations you may have had which led you to think otherwise. We believe the correct interpretation of this condition is that all of the irrigation water available to these projects be utilized within the boundaries of the projects, thus maximizing water from non-groundwater sources, thereby minimizing the potential impact on other wells in the area, and encouraging recharge of the aquifer. We base our interpretation on the fact that (1) development of this land with streets and houses which would obscure areas which had previously been irrigated with surface water was well known to the IDWR when the permit was issued, and that (2) the

Ms. Mona Mack
March 19, 1993
Page 3

condition of approval spoke in terms of utilizing the surface water at least on lots of one-half acre or larger and, thus, acknowledged that surface water might not all be applied evenly "across the board" within the subdivisions. We believe that our interpretation of this condition will serve the purposes for which the condition was imposed. It is not feasible now to construct a pressurized irrigation system for the lots in the first phase, and any owner could prohibit the developer from crossing his property to install it. Moreover, if the surface water will not be adequate to supply water for a pressurized irrigation system for all lots, then inclusion of the lands in the first phase into the system would be detrimental to the proper functioning of the system, thereby serving no useful purpose.

7. Action will be taken in a timely manner to prevent forfeiture of surface water rights which are not fully utilized until development is completed. For your information, Lexington Hills does and will continue to utilize surface water for irrigation of the as-yet-unsubdivided lands within the project boundaries pursuant to an agreement with the seller of that land who has insisted that all of the unreleased property continue to be irrigated notwithstanding the development of adjacent lands.

8. Lands which will not be entitled to irrigation water during the nonirrigating season will not include lots or other lands to which the pressurized irrigation system will be extended. Therefore, there will be no need for monitoring for use of groundwater on lands not entitled to use it, since the lands which will not receive groundwater for irrigation will not be included in the pressurized irrigation system.

9. The volume of existing and proposed ponds and creeks is provided for in the new application.

With regard to the lining of the ponds, you are apparently unaware of the history of this requirement by DEQ. It is only because of the proximity to one of the wells in the Lexington Hills project that the ponds within 500 feet of the well were required to be sealed. None of the other ponds will be near a well. Not only will sealing of other ponds not be required, but lining of those other ponds would be discouraged by IDWR because that lining would interfere with the recharging of the aquifer which results from retention of water in the ponds. Like recharge which occurs from seepage from the Farmers Union Canal, that recharge from the ponds is beneficial to wells in the area. Thus, any additional lining requirement which your letter impliedly seeks would actually jeopardize the permit and the developers would oppose such action. We do not know what form of assurance you had in mind when you wrote your recent letters, but we would be inclined to rely on the provisions which already appear in the transfer agreement and suggest that they adequately address your concerns.

In response to your letter of March 2, 1993, regarding the flow of water for aesthetic and recreational use during the nonirrigating season, we believe the new application will address this issue.

The developers believe that your estimate of the cost of obtaining approval of a new application for permit is much higher than that cost will be, although they share your optimism

Ms. Mona Mack
March 19, 1993
Page 4

that the issues raised can be resolved to the satisfaction of IDWR and the parties to the transfer agreement. You have made it quite clear that the cost of obtaining that approval will be charged to the developers in any event and, accordingly, the developers propose that they take the lead in preparing and pursuing approval for the new application, using Sherl Chapman to work directly with the IDWR and Phil Barber for the meeting with protestants, the pre-hearing conference and public hearing. Phil represents one of the developers and previously appeared on their behalf on the hearing for the original permit. The City's involvement would be limited to allowing the application to be filed in its name and to your review to ensure that the City's interest in obtaining approval for the new application is not jeopardized. In fact, we believe that the interests of the City and the developers are so similar that the time and expense for independent review of this application by your firm should be minimal. Given the time and expense it would take for Jo Beeman to become familiar enough to represent the parties, as evidenced by your estimate of the cost to obtain approval, the developers are not willing to pay the fees incurred by the City if it insists that your firm take the lead. Of course, the developers do not feel that it is appropriate for them to bear any of the expense incurred by the City in reviewing the feasibility of integrating this system with a larger system to serve the population of Eagle outside of Lexington Hills and Trail Creek.

When you have reviewed our comments and the enclosed application, we would appreciate your advising us whether you will be able to recommend that the City of Eagle execute this application for a new permit and allow the developers to process that application. The developers are at least as interested as the City of Eagle in obtaining approval of the new permit and at the least cost. We would like to move forward to arrange a meeting with the original protestants as soon as possible and have drafted a letter we suggest be sent to them. We feel at this point the letter might best be signed by Sherl Chapman on behalf of the City, as permit holder, and the developers, but would invite your comments on this as well. Accordingly, when you have reviewed this material, please let us know if you have any questions and whether you feel we should meet before the Council meeting on March 23rd.

Very truly yours,

Merrily Munther

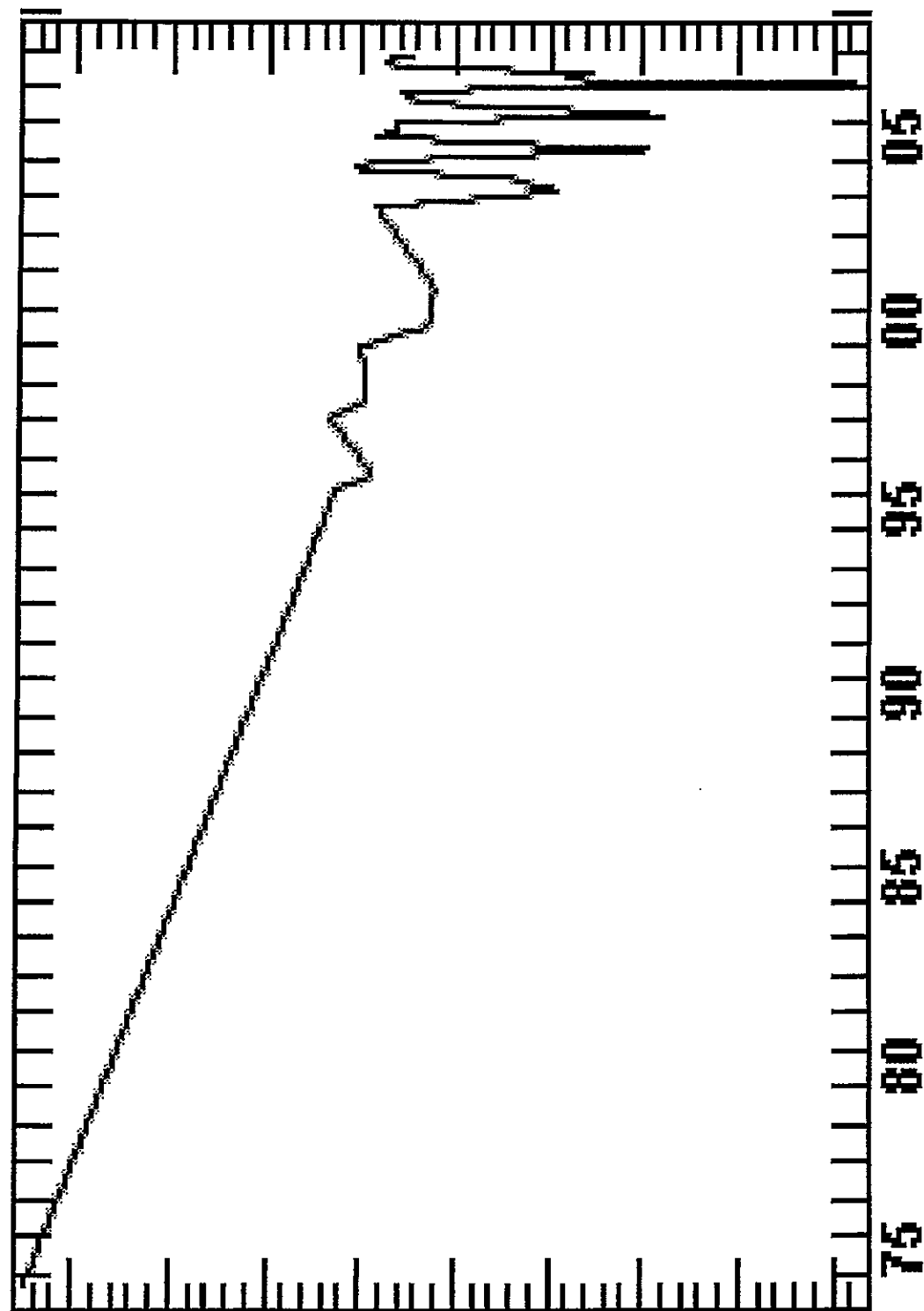
MM:klw

cc: Duane Stueckle
Dave Roylance
Sherl Chapman
Richard Burley

WELL 04N01E-05CBB01

WATER LEVEL ABOVE MSL (FT)

2580
2575
2570
2565
2560
2555
2550
2545
2540



DEPTH TO WATER (FT)

10
15
20
25
30
35
40
45
50

ET_{Idaho} --- Evapotranspiration and Consumptive Irrigation

Water Requirements for Idaho

Please send suggestions for improving this site to robison@kimberly.uidaho.edu Copyright 2007, University of Idaho.

Boise WSFO Airport (NWS NOAA--101022) for Grass - Turf (lawns) - Irrigated

Four types of statistics were produced for this station and land cover: a) actual evapotranspiration; b) potential evapotranspiration; c) basal evapotranspiration; and d) precipitation deficit (i.e., net irrigation water requirement). Click the link in the definition below based on your needs for the data summary statistics.

The actual daily ET_c (ET_{act}) represents the total estimated flux of ET given any reduction in potential ET caused by soil water shortage or soil surface dryness. ET_{act} was computed as $ET_{act} = K_s * ET_{bas} + K_e ET_r$ where K_s is a stress factor (0 – 1 where 1 means no stress), K_e is the evaporation coefficient and ET_r is the alfalfa reference ET. ET_{bas} is defined below. ET_{act} was often less than potential ET (ET_{pot}) for rainfed crops and occasionally for irrigated crops prior to the growing season when a low-level, basal crop coefficient assigned to the nongrowing season cover could not be sustained by precipitation, and, therefore, the actual ET, in the form of mostly evaporation, could not be sustained at the ET_{pot} level. On occasion, ET_{act} fell below ET_{pot} early in the growing season prior to initiation of irrigation for the same reasons. ET_{act} includes evaporation from the soil surface from both precipitation and any simulated irrigation. ET_{act} is generally the most appropriate ET parameter to use for formulating estimates of consumptive use of irrigation water for hydrologic studies.

The potential daily ET_c (ET_{pot}) represents the total estimated flux of ET that would occur if there were no moisture stress imposed by soil water shortage in the 'root zone.' ET_{pot} includes evaporation from the soil surface from both precipitation and any simulated irrigation. ET_{pot} was computed as $ET_{pot} = ET_{bas} + K_e ET_r$.

The basal ET (ET_{bas}) represents the ET that would occur under no water stress and with no surface wetting by precipitation or irrigation. In other words, ET_{bas} represents potential ET for a dry soil surface. ET_{bas} should not be used to estimate irrigation water requirements, and is included to provide an indication of the partitioning of ET_{pot} between 'transpiration,' as represented by ET_{bas} and evaporation of water from the soil surface layer.

The precipitation deficit (P_{def}) is the difference between the potential ET (ET_{pot}) and the

amount of precipitation in the root zone. P_{def} was calculated as $ET_{\text{pot}} - P_{\text{rz}}$ where P_{rz} is the precipitation infiltrating into and residing in the root zone. P_{def} is synonymous with the *net irrigation water requirement* when occurring during the growing season for an irrigated crop. P_{def} represents the amount of additional water that the crop would evaporate or transpire beyond P_{rz} if that water were made available at the right time during the growing season. Because the ET_{pot} estimate only includes soil evaporation for known precipitation and irrigation events, any additions of P_{def} outside of the simulated growing season would tend to increase ET_{pot} and thus P_{def} to some extent, causing a type of positive feedback process. The precipitation deficit is generally the most appropriate "ET" parameter to use for irrigation system design.

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This work and report were prepared by the University of Idaho Research and Extension Center at Kimberly, Idaho under contract with the Idaho Department of Water Resources. Work was supported by funding from IDWR and the Idaho Agricultural Experiment Station and Idaho Engineering Experiment Station. The authors gratefully acknowledge the long-term evapotranspiration data collection and long-standing advice provided by Dr. James L. Wright, USDA-ARS Kimberly (ret.), the more than two decades of high quality agricultural weather data collection by the U.S. Bureau of Reclamation AgriMet system, and the very long-standing, routine data collection by the hundreds of cooperative weather station volunteers across the state who, for more than one-hundred years, have faithfully observed daily air temperature and precipitation.

The citation for the evapotranspiration data used from this site should be: *Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007). Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.*

Questions regarding the data should be addressed to Clarence W. Robison or Richard G. Allen, University of Idaho, Kimberly Research and Extension Center, 3793 North 3600 East, Kimberly, ID 83341. Telephone (208)-423-6610

ET_{Idaho} --- Evapotranspiration and Consumptive Irrigation

Water Requirements for Idaho

Please send suggestions for improving this site to robison@kimberly.uidaho.edu Copyright 2007, University of Idaho.

Boise WSFO Airport (NWS NOAA--101022)

Statistics based on 30 years between 1974 to 2004

For a different land cover or crop click on the above link.

You can highlight this table and copy via the clipboard to a Microsoft Excel or OpenOffice spreadsheet to plot or otherwise work with this data.

Grass - Turf (lawns) - Irrigated														
Precipitation Deficit (Click here for a graph)														
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Growing Season ^a	Annual
Mean	mm/day												mm	
Monthly ^b	0.01	0.12	0.53	2.84	4.43	5.91	6.55	5.66	4.05	2.32	-0.20	-0.13	984	982
15-Day Moving Average ^c	0.00	0.07	0.46	2.91	4.51	6.02	6.64	5.57	3.97	2.34	-0.28	-0.12		
7-Day Moving Average ^d	0.01	0.11	0.49	2.85	4.46	5.99	6.61	5.62	3.98	2.32	-0.28	-0.14		
3-Day Moving Average ^e	0.01	0.13	0.53	2.84	4.43	5.95	6.56	5.66	4.02	2.32	-0.23	-0.13		
Standard Deviation	mm/day												mm	
Monthly	0.18	0.16	0.88	0.97	1.69	0.88	0.76	0.89	0.95	1.32	0.53	0.38	93	95
15-Day Moving Average	0.18	0.23	0.84	1.16	1.59	1.16	0.71	0.90	1.24	1.26	0.73	0.35		
7-Day Moving Average	0.30	0.43	1.14	1.66	2.12	1.68	0.97	1.20	1.62	1.63	1.05	0.52		
3-Day Moving Average	0.48	0.65	1.60	2.37	2.85	2.42	1.62	1.71	2.19	2.05	1.47	0.74		
20% Exceedance	mm/day												mm	
Monthly	0.07	0.24	0.87	3.52	5.17	6.82	6.94	6.19	4.93	3.02	0.06	0.03	1054	1044
15-Day Moving Average	0.21	0.47	1.74	4.88	6.68	7.44	7.62	6.71	5.38	3.88	0.90	0.26		
7-Day Moving Average	0.38	0.88	2.59	5.73	7.50	8.54	8.24	7.30	6.00	4.64	1.46	0.36		
3-Day Moving Average	0.56	1.10	3.36	7.16	9.42	9.58	9.18	8.28	7.00	5.57	2.06	0.58		
80% Exceedance	mm/day												mm	
Monthly	0.09	-0.02	0.12	1.87	3.85	5.07	6.15	5.07	3.13	1.39	-0.64	-0.48	904	889

15-Day Moving Average	0.30	-0.26	-0.71	0.88	2.15	3.82	5.30	3.69	1.71	0.02	-1.55	-0.76		
7-Day Moving Average	0.62	-0.81	-2.06	-0.77	0.25	1.59	4.08	2.95	0.36	1.72	-2.73	-1.34		
3-Day Moving Average	1.44	-1.71	-3.49	-3.59	-4.66	-1.31	1.26	0.73	3.78	3.80	-5.04	-2.98		
Ave Highest ET	mm/day												--	
15-Day Moving Average ^f	0.16	0.32	1.17	3.97	5.70	6.96	7.23	6.31	4.82	3.31	0.49	0.15		
7-Day Moving Average ^g	0.31	0.68	1.83	5.01	6.78	7.82	7.80	6.89	5.58	4.06	0.88	0.26		
3-Day Moving Average ^h	0.44	0.98	2.56	6.27	8.16	8.97	8.90	7.95	6.69	4.86	1.32	0.41		
Ave Lowest ET	mm/day												--	
15-Day Moving Average ^f	0.18	-0.13	-0.16	1.87	3.14	4.92	5.94	4.87	3.10	1.38	-0.83	-0.36		
7-Day Moving Average ^g	0.49	-0.48	-1.02	0.56	1.40	3.31	5.02	4.12	1.94	0.29	-1.65	-0.75		
3-Day Moving Average ^h	1.12	-1.16	-2.51	-1.82	-1.62	0.78	3.01	2.39	0.13	1.42	-3.35	-1.64		
Special normal distribution parameters for monthly, seasonal, and annual intervals													--	
Skew	0.42	0.09	0.42	0.20	-0.26	-0.47	0.11	-0.24	0.90	0.17	-0.81	-0.45	0.32	0.27
Kurtosis	1.02	2.58	1.38	2.77	1.14	2.40	0.69	0.81	3.29	0.75	4.68	0.90	2.83	2.89

^a Growing Season: This is usually the time from green up or planting in the spring to a killing frost or harvest in the fall. It is not applicable for entries without a growing season and will be blank.

^b Mean of the average daily value for month

^c Mean of the fourteen 15-day period averages contained in the month

^d Mean of the twenty three 7-day period averages contained in the month

^e Mean of the twenty seven 3-day period averages contained in the month

^f Mean of the highest/lowest 15-day period average in month

^g Mean of the highest/lowest 7-day period average in month

^h Mean of the highest/lowest 3-day period average in month

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This work and report were prepared by the University of Idaho Research and Extension Center at Kimberly, Idaho under

contract with the Idaho Department of Water Resources. Work was supported by funding from IDWR and the Idaho Agricultural Experiment Station and Idaho Engineering Experiment Station. The authors gratefully acknowledge the long-term evapotranspiration data collection and long-standing advice provided by Dr. James L. Wright, USDA-ARS Kimberly (ret.), the more than two decades of high quality agricultural weather data collection by the U.S. Bureau of Reclamation AgriMet system, and the very long-standing, routine data collection by the hundreds of cooperative weather station volunteers across the state who, for more than one-hundred years, have faithfully observed daily air temperature and precipitation.

The citation for the evapotranspiration data used from this site should be: *Allen, Richard G. and Clarence W. Robison, 2006 (Revised 2007). Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho, Research Technical Completion Report, Kimberly Research and Extension Center, University of Idaho, Moscow, ID.*

Questions regarding the data should be addressed to Clarence W. Robison or Richard G. Allen, University of Idaho, Kimberly Research and Extension Center, 3793 North 3600 East, Kimberly, ID 83341. Telephone (208)-423-6610

9² 30797
Re-record
ADA COUNTY ID. FOR *Georgia Mackley*
J. DAVID N. ARRO
RECORDER BY *Jackson*
900
'92 MAY 13 PM 2 44
DEED

9² 30315
ADA COUNTY ID. FOR *Georgia Mackley*
J. DAVID N. ARRO
RECORDER BY *Jackson*
1500
'92 MAY 12 AM 11 43

LEXINGTON HILLS, INC., an Idaho corporation, with its principal office at 2417 Bank Drive, Suite 101, Boise, Idaho 83705, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its offices at 2417 Bank Drive, Suite 101, Boise, Idaho 83705, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 1, Block 1; Lots 1, 3 and 17, Block 2; Lot 1, Block 3; Lots 3 and 15, Block 5; Lots 1 and 16, Block 7; and Lot 1, Block 8 of Lexington Hills Subdivision No. 1, according to the official plat thereof on file in the office of the County Recorder of Ada County, Idaho, in Book 59 of Plats at pages 5802 through 5804;

TOGETHER WITH a nonexclusive perpetual easement on and over the surface of Lot 2, Block 3, of Lexington Hills Subdivision No. 1, for use and enjoyment of its members as park and open space, subject to the requirements for well lots set forth in IDAPA 16.01.8601;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 1 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 30.60 miners inches of Jacob's water and 0.81 miners inch of Developed water, for purposes of irrigating Lexington Hills Subdivision No. 1, delivered by the Farmers Union Canal Company during the irrigating season;

SUBJECT TO an easement reserved unto the Grantor, its successors and assigns for installation and maintenance of an underground water line over and across a 20-foot wide tract of

land being a portion of Lots 1 and 2, Block 3 of Lexington Hills Subdivision (a recorded subdivision on file in Book 59 of Plats, at pages 5802, 5803 and 5804, Records of Ada County, Idaho) situated in the Southwest 1/4 of the Southwest 1/4 of Section 3, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, said tract being 10 feet each side of the following described centerline: Commencing at a found aluminum cap monumenting the south 1/4 Corner of said Section 3, thence North 89 degrees 44' 43" West, a distance of 2680.44 feet to a found brass cap monumenting the Southwest Corner of said Section 3, thence North 33 degrees 40' 43" East a distance of 526.93 feet to a set steel pin, said pin being the radius point of said Lot 2, said point also being the POINT OF BEGINNING. Thence North 76 degrees 36' 30" East a distance of 103.96 feet to a point on the westerly right-of-way of Stonybrook Court, said point being the terminus of this description;

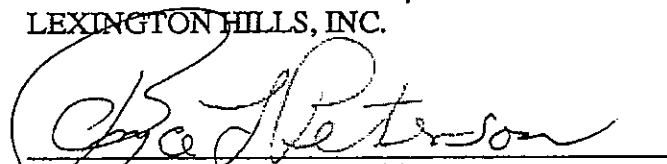
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, records of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments, for the year 1992.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers the 7th day of May, 1992.

LEXINGTON HILLS, INC.

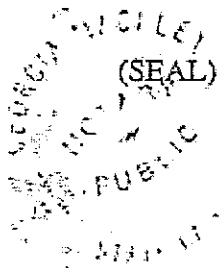

By: Bryce L. Peterson, President

STATE OF IDAHO)

County of Ada)

On this 7th day of May, 1992, before me, the undersigned, a Notary Public in and for said State, personally appeared Bryce L. Peterson, known or identified to me to be the President of Lexington Hills, Inc., who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Thomas Mackley
NOTARY PUBLIC FOR IDAHO
Residing at: Boise, ID
My Commission Expires: 6/20/94

9240025
RE-RE-RECORD
ADA COUNTY, ID. FOR MACKLEY
J. DAVID NAVARRO
RECORDER BY Q. Hade
92 JUN 18 PM 2 08 900

9326526

Lexington Hills,
ADA COUNTY, ID. FOR Inc.
J. DAVID NAVARRO
RECORDER BY K. Lausen
9.02

'93 APR 13 AM 11 51

DEED

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in

Ada County, State of Idaho:

LOT 26 AND 31, BLOCK 5 OF LEXINGTON HILLS SUBDIVISION NO. 2, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF ADA COUNTY, IDAHO, IN BOOK 62 OF PLATS AT PAGES 6152 THROUGH 6154.

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 2 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 7.30 miners inches of Jacob's water and 0.19 miners inch of Developed water, for purposes of irrigating Lexington Hills Subdivision No. 2 by the Farmers Union Canal Company during the irrigating season;

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714 and Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 2, recorded February 26, 1993 as Instrument No. 9314234, records of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1993.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers the 12th day of April, 1993.

LEXINGTON HILLS, INC.


BY: Duane Stueckle, President

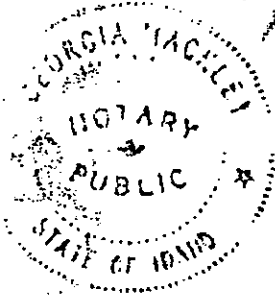
STATE OF IDAHO)

:ss.

County of Ada)

On this 12th day of April, 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane Stueckle, known or identified to me to be the President of Lexington Hills, Inc. who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Id
My Commission Expires: 6/20/94

9328268
Suave Stueckle
ADA COUNTY, ID. FOR
J. DAVID NAVARRO
RECORDER BY Jackson
900

DEED

'93 APR 20 AM 11 40

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of

One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in

Ada County, State of Idaho:

LOT 52, BLOCK 5 OF LEXINGTON HILLS SUBDIVISION NO. 3, ACCORDING TO THE OFFICIAL PLAT THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF ADA COUNTY, IDAHO, IN BOOK 62 OF PLATS AT PAGES 6170 THROUGH 6171.

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 3 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 4.50 miners inches of Jacob's water and .12 miners inch of Developed water, for purposes of irrigating Lexington Hills Subdivision No. 3 by the Farmers Union Canal Company during the irrigating season:

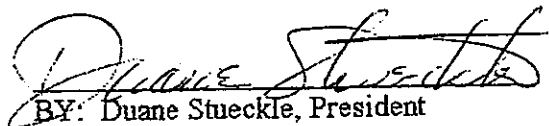
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 2, recorded February 26, 1993 as Instrument No. 9314234, and Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 3 recorded April 13, 1993 as Instrument No. 9326525, records of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1993.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers the 13th day of April, 1993

LEXINGTON HILLS, INC.


BY: Duane Stueckle, President

STATE OF IDAHO)

:ss.

County of Ada)

On this 13th day of April, 1993, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane Stueckle, known or identified to me to be the President of Lexington Hills, Inc. who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission Expires: 6/20/94

DEED

LEXINGTON HILLS, INC., an Idaho corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its offices at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and valuable consideration, the following described tracts of land in Ada County, State of

Lot 1, Block 15 of Lexington Hills Subdivision No. 4, according to the official plat thereof on file in the office of the County Recorder of Ada County, Idaho, in Book 62 of Plats at pages 6269 through 6271;

TOGETHER WITH a nonexclusive perpetual easement hereby granted on and over the surface of Lot 2, Block 15, of Lexington Hills Subdivision No. 4, for use and enjoyment of its members as park and open space, subject to the requirements for well lots set forth in IDAPA 16.01.8601;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 4 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 32.0 miners inches of Jacob's water and 0.85 miners inch of Developed water, for purposes of irrigating Lexington Hills Subdivision No. 4, delivered by the Farmers Union Canal Company during the irrigating season;

RESERVING unto the Grantor, its successors and assigns, a perpetual easement for installation, maintenance, repair and replacement of an underground water line over and across a 20-foot wide tract of land being a portion of Lot 1, Block 15 of Lexington Hills Subdivision No. 4, more described on Exhibit "A" attached hereto and incorporated herein by this reference;

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, and the Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 4, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments, for the year 1994.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers the 22nd day of February, 1994.

LEXINGTON HILLS, INC.

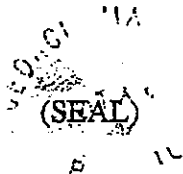

Duane H. Stueckle, President

STATE OF IDAHO

County of Ada

On this 22nd day of February, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of Lexington Hills, Inc., who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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




NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Id
My Commission Expires: 6/20/94

94017553

Lexington Hills Inc
ADA CO. RECORDER
J. DAVID NAVARRO
BOISE ID

'94 FEB 25 PM 1 33

FEE 9.00 DEPT K. Lamm
RECORDED AT THE REQUEST OF

July 29, 1993
Project No. 1360

Legal Description
Lexington Hills Subdivision Phase 4
20 Foot Wide Utility Easement

Commencing at a found aluminum cap monumenting the Southeast Corner of the Southwest 1/4 of Section 3, Township 4 North, Range 1 East, Boise Meridian, Ada County, Idaho, thence along the southerly line of said Southwest 1/4, said line also being the centerline of Floating Feather Road North 89°-44'-43" West a distance of 2680.44 feet to a found brass cap monumenting the Southwest Corner of said Section 3, thence leaving said southerly line and along the westerly line of said Southwest 1/4, said line also being the westerly boundary and the southerly extension thereof, of Lexington Hills Subdivision No. 1 (a recorded subdivision on file in Book 59 of Plats at Pages 5802, 5803, and 5804, Records of Ada County, Idaho) North 00°-00'-04" East a distance of 1291.25 feet to a found iron pipe, said pipe being the point of beginning of Lexington Hills Subdivision No. 4 (a recorded subdivision on file in Book 62 of Plats at Pages 6269, 6270, and 6271, Records of Ada County, Idaho). Thence continuing along the westerly line of said Southwest 1/4, said line also being the westerly boundary of said Lexington Hills Subdivision No. 4 North 00°-00'-04" East a distance of 978.52 feet to a found steel pin. Thence leaving said westerly line and along the lot line common to Lots 9 and 10, Block 15 of said Lexington Hills No. 4 North 80°-38'-00" East to a found steel pin westerly right-of-way of E. Highgate Court. Thence leaving said right-of-way North 90°-00'-00" East a distance of 40.00 feet to a found steel pin on the easterly right-of-way of E. Highgate Court, said pin being the POINT OF BEGINNING.

Thence North 64°-17'-31" East a distance of 65.62 feet to a point,
Thence along a curve to the right a distance of 20.58 feet, said curve having a radius of 50.00 feet, a central angle of 23°-34'-41" a chord bearing North 13°-55'-08" West a chord distance of 20.43 feet to a point,
Thence South 64°-17'-31" West a distance of 60.17 feet to a point on the easterly right-of-way of E. Highgate Court,
Thence along said easterly right-of-way South 00°-00'-00" East a distance of 22.20 feet to the point of beginning.

The above tract of land described contains 0.29 acres, more or less.

94017555
Lexington Hills, Inc
COUNTY RECORDER
J. DAVID NAVARRO
BOISE ID

DEED

LEXINGTON HILLS, INC., an Idaho corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its offices at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lots 28 and 30, Block 7, Lot 1, Block 17, and Lot 1, Block 18 of Lexington Hills Subdivision No. 5, according to the official plat thereof on file in the office of the County Recorder of Ada County, Idaho, as Instrument No. 14010822;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary adjacent to the public right-of-way, of Lots 28, 30 and 33 through 48, Block 7, Lot 1, Block 17, Lots 1 through 31, Block 18, Lots 1 through 12, Block 19, Lots 1 through 10, Block 20, Lots 1 through 8, Block 21, and Lots 1 through 3, Block 22, of Lexington Hills Subdivision No. 5, as shown on the recorded plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 17.0 miners inches of Jacob's water and 0.44 miners inch of Developed water, for purposes of irrigating the above-referenced lots in Lexington Hills Subdivision No. 5, delivered by the Farmers Union Canal Company during the irrigating season;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water and easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successors and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision, according to the plats thereof on file in the Office of the Record of Ada County, Idaho;

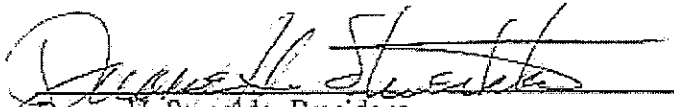
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, and the Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Portions of Lexington Hills Subdivision No. 5 ("Lexington Hills 5"), filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments, for the year 1994.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officers the 22nd day of February, 1994.

LEXINGTON HILLS, INC.

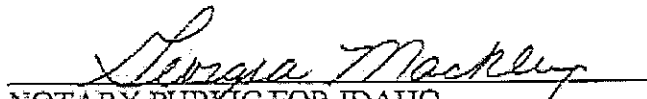

Duane H. Stueckle, President

STATE OF IDAHO)
 : ss.
County of Ada)

On this 22nd day of February, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of Lexington Hills, Inc., who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

NOTARY PUBLIC
(SEAL)


NOTARY PUBLIC FOR IDAHO
Residing at: Boise, Id
My Commission Expires: 6/20/94

DEED

LEXINGTON HILLS, INC., an Idaho corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its offices at 1815 E. Stonybrook Court, Eagle, Idaho 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 11, Block 20, and Lot 4, Block 22 of Lexington Hills Subdivision No. 6, according to the official plat thereof on file in the office of the County Recorder of Ada County, Idaho, in Book 65 of Plats at pages 6615 through 6619;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 6 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

TOGETHER WITH 28.0 miners inches of Jacob's water and 0.75 miners inch of Developed water, for purposes of irrigating Lexington Hills Subdivision No. 6, delivered by the Farmers Union Canal Company during the irrigating season;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water and easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successors and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision, according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

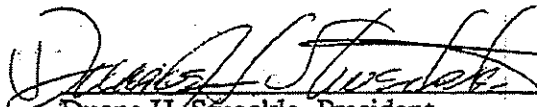
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, and the Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 6, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments, for the year 1994.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attended by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 17th day of May, 1994.

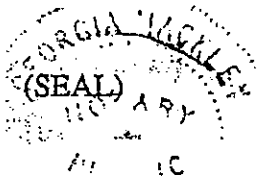
LEXINGTON HILLS, INC.

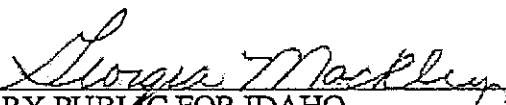

Duane H. Stueckle, President

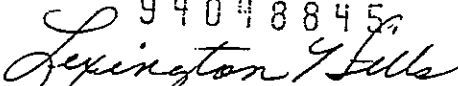
STATE OF IDAHO)
 : ss.
County of Ada)

On this 17th day of May, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of Lexington Hills, Inc., who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

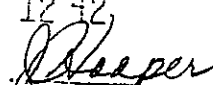



NOTARY PUBLIC FOR IDAHO
Residing at: Boise, ID
My Commission Expires: 6/20/94

94048845

ADA CO. RECORDER
J. DAVID NAVARRO
BOISE

DEED - 2

<W>lex/deed/transowners/4.wp/21894

'94 MAY 25 PM 12:42
FEE 6.00
RECORDED AT 6 REQUEST OF 

Lexington Hills
ADA COUNTY RECORDER
DAVID NAVARRO
IDAHO
1998 JUN 24 PM 2:25

RECORDED - REQUEST OF
FEE *200* DEPUTY *Ohf*
98060796

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 1, Block ²⁴~~23~~ and Lot 1, Block 25 of Lexington Hills Subdivision No. 7, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 75 of plats at pages 7716 through 7718;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 7 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

Re-record to correct legal description from Lot 1/Block 23 to Lot 1/Block 24

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 7, filed of record in the Office of the Recorder of Ada County, Idaho; and

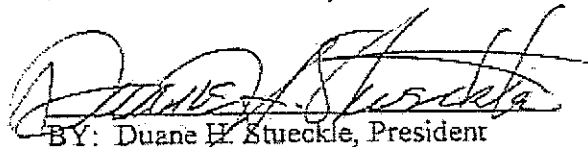
SUBJECT TO a twenty (20') foot sanitary sewer easement in favor of the Eagle Sewer District across Lot 1, Block 23, Lexington Hills Subdivision No. 7, being ten (10') feet each side of the centerline as shown on the official plat of said subdivision.

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1998.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 16th day of June, 1998.

LEXINGTON HILLS, INC.



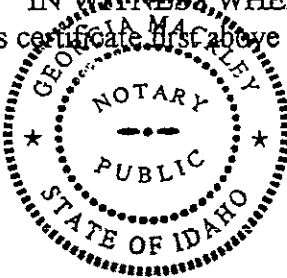
BY: Duane H. Stueckle, President

STATE OF IDAHO)

County of Ada)
:ss.

On this 16th day of June, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley
NOTARY PUBLIC FOR IDAHO
Residing at Meridian, ID
My Commission Expires: 6/22/2000

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

1998 AU 18 AM 10:55

RECORDED - REQUEST OF
Lexington Hills
FEE 90¢ DEPUTY Hepler
98078844

Lexington Hills
ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

RECORDED - REQUEST OF

FEE 900 DEPUTY DLK

1998 JN 24 PM 2: 25

98060797

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 1, Block 27 of Lexington Hills Subdivision No. 8, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 75 of plats at pages 7719 through 7721;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 8 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 8, filed of record in the Office of the Recorder of Ada County, Idaho; and

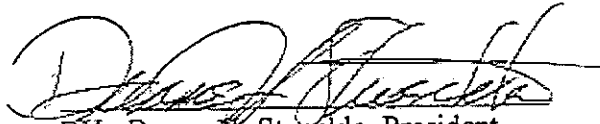
SUBJECT TO a twenty (20') foot sanitary sewer easement in favor of the Eagle Sewer District across Lot 1, Block 23, Lexington Hills Subdivision No. 8, being ten (10') feet each side of the centerline as shown on the official plat of said subdivision.

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1998.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 16th day of June, 1998

LEXINGTON HILLS, INC.

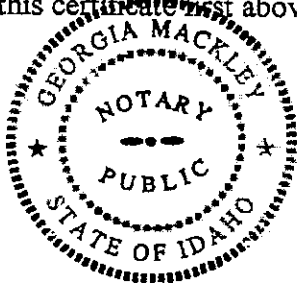

BY Duane H. Stueckle, President

STATE OF IDAHO)

County of Ada) :ss.

On this 16th day of June, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley
NOTARY PUBLIC FOR IDAHO
Residing at Meridian, ID
My Commission Expires: 6/22/2000

Lexington Hills
ADA COUNTY RECORDER
J. DAVID NAVARRO
DEEDS, IDAHO

1998 JH 24 PM 2: 25

RECORDED - REQUEST OF
FEE *900* DEPUTY *[Signature]*

98060798

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 49, 50, 69 and 83, Block 7, and Lot 1, Block 29 of Lexington Hills Subdivision No. 9, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 75 of plats at pages 7805 through 7807;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 9 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

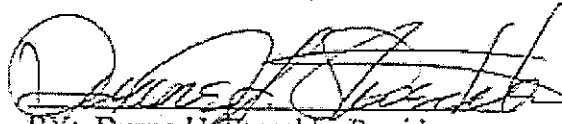
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 9, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1998.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 16th day of June, 1998.

LEXINGTON HILLS, INC.



BY: Duane H. Stueckle, President

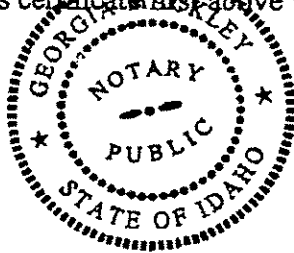
STATE OF IDAHO)

:ss.

County of Ada)

On this 14th day of June, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley
NOTARY PUBLIC FOR IDAHO
Residing at Meridian, ID
My Commission Expires: 6/22/2000

Lexington Hills
ADA COUNTY RECORDER
DAVID
DAVID NAVARRO
BOISE, IDAHO

RECORDED - REQUEST OF

FEE *6.00* DEPUTY *Dkt*

1998 JUN 24 PM 2:25

98060799

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 1815 E. Stonybrook Court, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 87, 93, 104 and 113, Block 7, and Lot 1, Block 30 of Lexington Hills Subdivision No.10, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 75 of plats at pages 7810 through 7811;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 10 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

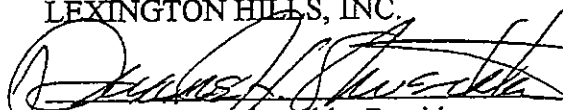
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded February 20, 1992, as Instrument No. 9209714, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 10, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 1998.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 16th day of June, 1998.

LEXINGTON HILLS, INC.


BY: Duane H. Stueckle, President

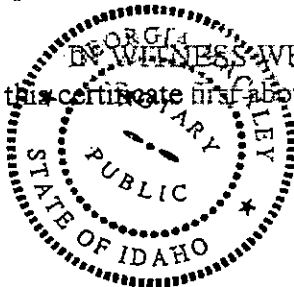
STATE OF IDAHO)

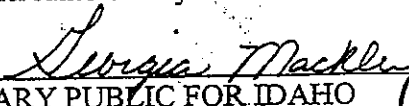
ss.

County of Ada

On this 16 day of June, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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




NOTARY PUBLIC FOR IDAHO

Residing at Meridian, ID

My Commission Expires: 6/22/2000

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

DEED

2001 DE 31 AM 9:48

RECORDED - REQUEST OF
Lexington Hills
FEE *600* DEPUTY *Shaper*
101139069

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 1, Block 31, and Lot 48, Block 12, and Lot 1, Block 32 of Lexington Hills Subdivision No.11, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 77 of plats at pages 8048 through 8050;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 11 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

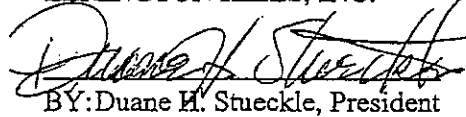
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded December 29, 1998, as Instrument No. 99003753, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 11, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 2001.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 14th day of November, 2001

LEXINGTON HILLS, INC.


BY: Duane H. Stueckle, President

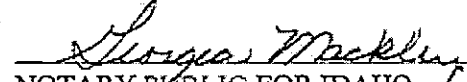
STATE OF IDAHO)

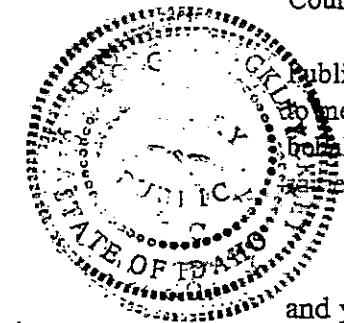
:ss.

County of Ada

On this 14th day of November, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the

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


NOTARY PUBLIC FOR IDAHO
Residing at Eagle, ID
My Commission Expires: 6/22/2006



* NOTE
SEAL

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO

DEED
2001 DE 31 AM 9:48

RECORDED-REQUEST OF

Lexington Hills
FEE *Law* DEPUTY *Shaper*

101139070

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 63 and 70, Block 12, Lot 11, Block 28 and Lot 1, Block 33 of Lexington Hills Subdivision No.12, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 77 of plats at pages 8120 through 8122;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington Hills Subdivision No. 12 adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

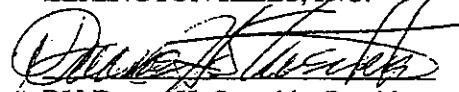
SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded December 29, 1998, as Instrument No. 99003754, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills Subdivision No. 12, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 2001.

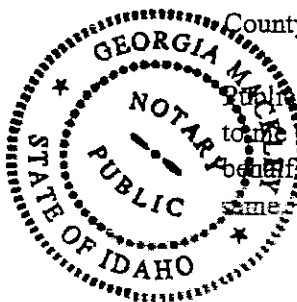
The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 14th day of November, 2001

LEXINGTON HILLS, INC.


BY: Duane H. Stueckle, President

STATE OF IDAHO)



County of Ada

On this 14th day of November, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Duane H. Stueckle, known or identified to me to be the President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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


NOTARY PUBLIC FOR IDAHO
Residing at Eagle, ID
My Commission Expires: 6/22/2006

DEED

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

**Lot 1, Block 1, Lot 1 and 8, Block 2, Lot 1, Block 5,
Lot 1, Block 6 and Lot 1 and 16, Block 7 of
Lexington Hills East Subdivision No. 1, according to the
official plat on file in the office of the County Recorder
of Ada County, Idaho, in Book 77 of plats at pages 8022
through 8025;**

**TOGETHER WITH a nonexclusive easement ten (10)
feet wide, inside the boundary of each Lot and Common
Area of Lexington Hills East Subdivision No. 1 adjacent to
the right-of-way, as shown on the plat thereof, for
construction, maintenance and repair of a pressurized
pipe irrigation system to be owned and operated by the
Association;**

**RESERVING UNTO GRANTOR, its successors and
assigns, a nonexclusive perpetual right-of-way for
transportation of water an easement ten feet in width,
lying five feet on either side of the irrigation pipeline for
irrigation system, including pumps, pipelines and
accessories in favor of other users of the irrigation
system, their successor and assigns, for delivery of
irrigation water through irrigation pipelines within the
Common Area of Lexington Hills Subdivision according
to the plats thereof on file in the Office of the Recorder
of Ada County, Idaho;**

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded December 29, 1998, as Instrument No. 99003751, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills East Subdivision No. 1, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 2001.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 1st day of June, 2001.

LEXINGTON HILLS, INC.

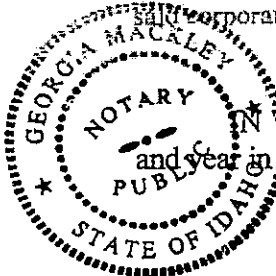
BY: Bert A. Bradley, Vice President

STATE OF IDAHO)

:ss.

County of Ada

On this 1st day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Bert A. Bradley, known or identified to me to be the Vice President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.



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

NOTARY PUBLIC FOR IDAHO

Residing at Eagle, ID

My Commission Expires: 6/22/2006

ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, ID 83725
DEED
2001 JL -2 AM 9:40

RECORDED - REQUEST OF
Lexington Hills
FEE 200 DEPUTY *Deeper*
01065486

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 8, 25, 34, Block 3 of Lexington Hills East
Subdivision No. 2, according to the official plat on file in
the office of the County Recorder of Ada County,
Idaho, in Book 78 of plats at pages 8316 through 8319;

TOGETHER WITH a nonexclusive easement ten (10)
feet wide, inside the boundary of each Lot and Common
Area of Lexington Hills East Subdivision No. 2 adjacent to
the right-of-way, as shown on the plat thereof, for
construction, maintenance and repair of a pressurized
pipe irrigation system to be owned and operated by the
Association;

RESERVING UNTO GRANTOR, its successors and
assigns, a nonexclusive perpetual right-of-way for
transportation of water an easement ten feet in width,
lying five feet on either side of the irrigation pipeline for
irrigation system, including pumps, pipelines and
accessories in favor of other users of the irrigation
system, their successor and assigns, for delivery of
irrigation water through irrigation pipelines within the
Common Area of Lexington Hills Subdivision according
to the plats thereof on file in the Office of the Recorder
of Ada County, Idaho;

*East 1 + 2
filed under
same #*

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded August 23, 1999, as Instrument No. 99085279, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington Hills East Subdivision No. 2, filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 2001.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 1st day of June, 2001.

LEXINGTON HILLS, INC.

BY: Bert A. Bradley, Vice President

STATE OF IDAHO)

ss.

County of Ada

On this 1st day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Bert A. Bradley, known or identified to me to be the Vice President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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

NOTARY PUBLIC FOR IDAHO

Residing at Eagle, ID

My Commission Expires: 6/22/2006



ADA COUNTY RECORDER
J. DAVID NAVARRO
BOISE, IDAHO
DEED
2001 JL -2 AM 9:40

RECORDED - REQUEST OF
Lexington Hills
FEE \$600 DEPUTY *J. Navarro*
101065485

LEXINGTON HILLS, INC., an Idaho Corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantor", hereby conveys or grants and warrants to LEXINGTON HILLS HOMEOWNERS' ASSOCIATION, INC., an Idaho non-profit corporation, with its principal office at 340 W. State Street, Eagle, ID 83616, the "Grantee", sometimes also referred to herein as the "Association", for the sum of One Dollar (\$1.00) and other valuable consideration, the following described tracts of land in Ada County, State of Idaho:

Lot 11 and 18, Block 1 of Lexington on the Rim Subdivision, according to the official plat on file in the office of the County Recorder of Ada County, Idaho, in Book 77 of plats at pages 8026 through 8027;

TOGETHER WITH a nonexclusive easement ten (10) feet wide, inside the boundary of each Lot and Common Area of Lexington on the Rim Subdivision adjacent to the right-of-way, as shown on the plat thereof, for construction, maintenance and repair of a pressurized pipe irrigation system to be owned and operated by the Association;

RESERVING UNTO GRANTOR, its successors and assigns, a nonexclusive perpetual right-of-way for transportation of water an easement ten feet in width, lying five feet on either side of the irrigation pipeline for irrigation system, including pumps, pipelines and accessories in favor of other users of the irrigation system, their successor and assigns, for delivery of irrigation water through irrigation pipelines within the Common Area of Lexington Hills Subdivision according to the plats thereof on file in the Office of the Recorder of Ada County, Idaho;

SUBJECT TO the Declaration of Covenants, Conditions and Restrictions for Lexington Hills, recorded December 29, 1998, as Instrument No. 99003752, Notice of Addition of Territory and Supplemental Declaration of Covenants, Conditions and Restrictions for Lexington on the Rim Subdivision filed of record in the Office of the Recorder of Ada County, Idaho; and

SUBJECT TO other easements, covenants and encumbrances of record, and to real property taxes and assessments, including irrigation assessments for the year 2001.

The officers who sign this deed hereby certify that this deed and the transfer represented thereby was duly authorized under a resolution duly adopted by the board of directors of the Grantor at a lawful meeting duly held and attached by a quorum.

IN WITNESS WHEREOF, the Grantor has caused its corporate name and seal to be hereunto affixed by its duly authorized officer the 1st day of June, 2001.

LEXINGTON HILLS, INC.

Bert A. Bradley, Jr.

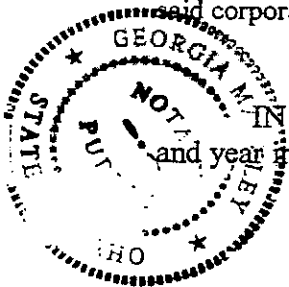
STATE OF IDAHO)

:ss.

County of Ada

On this 1st day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Bert A. Bradley, known or identified to me to be the Vice President of LEXINGTON HILLS, INC. executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



Georgia Mackley

NOTARY PUBLIC FOR IDAHO

Residing at Eagle, ID

My Commission Expires: 6/22/2006



04N01E

East Hills Development

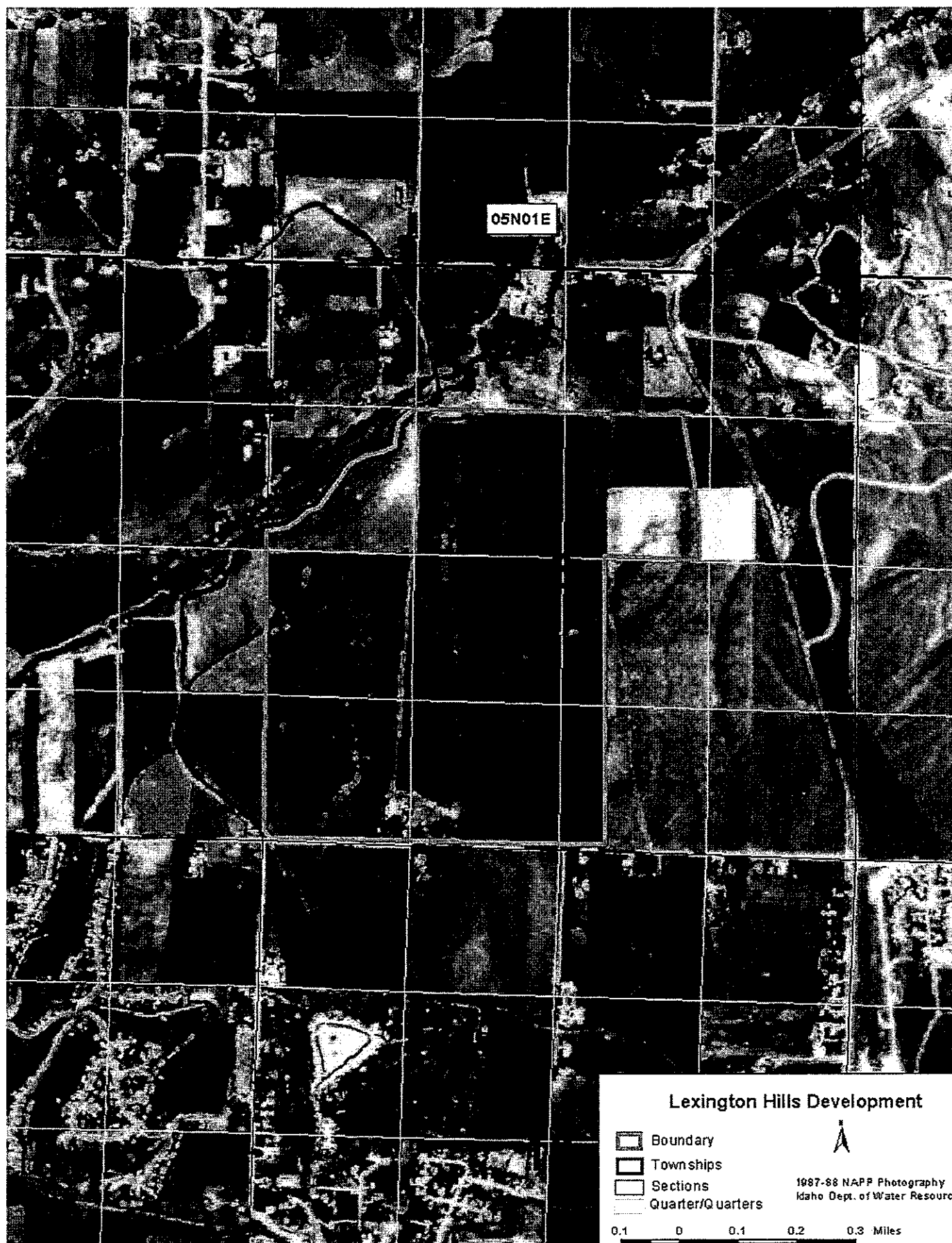
-  Boundary
-  Townships
-  Sections
-  Quarter/Quarters



1987-88 NAPP Photography
Idaho Dept. of Water Resources

0.07 0 0.07 0.14 0.21 Miles





Lexington Hills Development

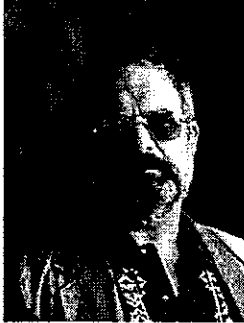
-  Boundary
-  Townships
-  Sections
-  Quarter/Quarters



1987-88 NAPP Photography
Idaho Dept. of Water Resources

0.1 0 0.1 0.2 0.3 Miles



David B. Shaw *Engineer/Principal***BACKGROUND**

Dave is an engineer and principal with ERO and manages the Boise, Idaho office. His experience in water resources and management dates from 1974. He specializes in the identification, analysis, and resolution of water issues with experience in both surface and ground water matters. Prior to joining ERO, Dave spent 23 years with the State of Idaho Department of Water Resources. His experience includes water supply and use studies, water right evaluations and investigations, project management, alternative dispute resolution, expert witness testimony, and technical input on legislative and administrative matters.

EDUCATION

M.S. 1972, Agricultural Engineering, University of Idaho

B.S. 1966, Agricultural Engineering, University of Idaho

CERTIFICATIONS AND AFFILIATIONS

National Council of Examiners for Engineering and Surveying, NCEES #16269

American Society of Agricultural Engineers

U.S. Committee on Irrigation and Drainage

Idaho Society of Professional Land Surveyors

Idaho Certified Water Right Examiner

Oregon Certified Water Right Examiner, #74051WRE

LICENSURE

Professional Engineer and Land Surveyor, Idaho, #2648

Professional Engineer, Oregon, #74051PE

Professional Engineer, Arizona, #40134

SUMMARY OF EXPERIENCE

Water Rights Investigations. Dave spent 11 years as project manager for the Snake River Basin Adjudication (SRBA) of water rights. His understanding of water rights and his management ability were essential for the successful development of the criteria and process for the identification and evaluation of 170,000 claims to water rights. Dave has been sought by a variety of clients for water rights investigations including adjudication and administrative processing, evaluation and transfer, and the development of new rights and protection of senior rights.

Litigation Support and Alternative Dispute Resolution. Dave is designated by the SRBA Court as an expert in water right adjudications. He provided expert testimony before the court on all aspects of water right adjudications as well as hydrology and water right administration issues. Dave is presently providing technical expertise and coordination to the State of Idaho and water users for the resolution of federal law based water right claims filed by the United States and certain Indian tribes in the SRBA.

Water Supply Evaluations, Development, and Permitting. Dave routinely assists clients with the permitting and development of water uses. A water supply evaluation is required for virtually every new water right filing and for many filings for changes. Delivery system designs are sometimes included with the development and supply evaluations.

Water Quality Evaluation, Monitoring, and Management. Dave has experience designing and implementing water quality monitoring programs for various water users. This includes knowledge of state standards and Total Maximum Daily Load requirements, and how water users can help protect their water uses with water quality data.

Representative Projects *David B. Shaw*

Water Quality Evaluation, Monitoring, and Management

Pioneer Irrigation District, ID

Provided project design, implementation, and management for their water quality sampling program.

Wilder Irrigation District, ID

Provided project design, implementation, and management for their water quality sampling program.

Water Users in Owyhee County, ID

Provided project design, implementation, and management for their water quality sampling program.

Water Rights Investigations

Snake River Basin Adjudication, ID

Developing criteria and procedures to investigate the existence and extent of tens of thousands of water rights.

Little Land and Livestock, Inc., ID

Evaluating water rights for potential land purchase.

Modoc Point Irrigation District, OR

Determined the extent of water use for irrigation in support of water right claims in the Klamath River Adjudication.

Idaho Department of Parks and Recreation, ID

Evaluated the water rights obtained with property either purchased by or donated to the department. Found available water for use at the department's new headquarters building.

Litigation Support and Alternative Dispute Resolution

Office of the Idaho Attorney General, ID

Designated by the SRBA court as an expert in water right adjudications. Provided mediation support for resolution of federal reserved water rights.

Shoshone-Bannock Reserved Water Right Negotiations, ID

Co-chair of the state, Indian, federal, and private technical advisory committee.

Riddle Ranch, ID

Technical expert/negotiator for resolution of federal reserved water rights of the Duck Valley Indian Reservation.

Methow Valley Ditch Users Association, WA

Analysis of ground water/surface water interaction and supply.

Federal Instream Flow Coalition, ID

Mediation support for resolution of federal reserved water rights.

Idaho Office of the Attorney General, ID

Hydrology expert for litigation of federal reserved water rights.

C&G, Inc., ID

Evaluated and provided expert testimony on water drainage and right-of-way issues.

Water Supply Evaluations, Development, and Permitting

Big Lost River Basin, ID

Provided expertise regarding the surface and ground water hydrology and the administration requirements for a ground water recharge project.

District Water Supply, Boise River, ID

Evaluated impact of proposed water right transfer on irrigation. Identified and quantified changes to ground and surface water supply if transfer were approved.

City of Coeur d'Alene, ID

Prepared application for consolidation of all city water rights to allow for full use of the water rights and development of a new well.

Federal Instream Flow Coalition, ID

Evaluating the hydrologic impact of the historical water development in southern Idaho on river flows for Endangered Species Act listed salmonids.