

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

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

CIVIL CASE NUMBER: 39576

Ident. Number 63-7273C
Date Received: 8/11/2006
Receipt No: W034563
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

HAWKINS COMPANIES LLC Phone: (208)376-8522
8645 W FRANKLIN RD
BOISE ID USA 83709

2. Date of Priority: 10/17/1969

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	01W	2	NE SE	ADA	

5. Description of diverting works:

Well and pump.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/15	0.05	20.3

7. Total Quantity Appropriated is:
0.05 C.F.S. and/or 20.3 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	01W	2	SE	SE	IRRIGATION	5.5
					Section Acres	5.5
					Total Acres	5.5

11. Place of use in counties: ADA

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used: Nampa-Meridian Irrigation

14. Remarks:

Property is also known as Cherry Crossing Commercial Subdivision.

This right is a split from former right 63-7273.

15. Basis of Claim: License

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: 63-7273A
(portion of)

Date Received:
Receipt No: 6034563
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

Hawkins Companies LLC

Phone: (208) 376-8522

8645 West Franklin Rd
Boise, ID 83709

RECEIVED

AUG 11 2006

WATER RESOURCES
WESTERN REGION

2. Date of Priority: October 17, 1969

3. Source: Ground Water

Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
3N	1W	2		NE	SE	Ada	

5. Description of diverting works:

Well and pump.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
Irrigation	3/1	11/15	0.05	20.3

7. Total Quantity Appropriated is:

0.05 cfs

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

TWP	RNG	SEC	NE ¼				NW ¼				SW ¼				SE ¼				totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
3N	1W	2																5.5	5.5

Total number of acres irrigated 5.5

11. Place of use in counties: Ada

12. Do you own the property listed above as place of use? Hawkins Companies LLC is filing this claim on behalf of Boise Surplus, Stubblefield Development Co., ~~Boise County Highway District~~, W & H LLC, Cherry Crossing LLC, and Jay Story.

13. Other Water Rights Used:

Shares in Nampa Meridian Irrigation District

14. Remarks:

The property is also known as Cherry Crossing Commercial Subdivision. This claim is to a 5.5-acre portion of water right 63-7232A.

15. Basis of Claim: License

16. Signature(s)

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

Number of attachments: 0

For Organizations:

I do solemnly swear or affirm that I am Authorized Signatory of
Title
Hawkins Companies LLC, that I have signed the foregoing
Organization

document in the space below as Authorized Signatory of
Title
Hawkins Companies LLC and that the statements contained in the
Organization
foregoing document are true and correct.

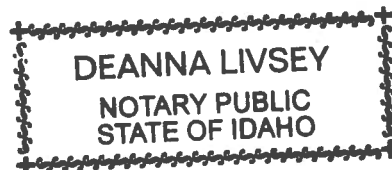
[Signature]
Signature of Authorized Agent

Authorized Signatory, Hawkins Companies LLC
Title and Organization

August 8, 2006

Date

State of Idaho)
County of Ada) SS.



Subscribed and sworn (or affirmed) before me this 8th
of August 2006

[Signature]

Notary Public

Residing at Boise, ID

My commission Expires 1/5/2012



09/29/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: October 31, 2006

Water right number: 63-7273C

HAWKINS COMPANIES LLC
8645 W FRANKLIN RD
BOISE ID 83709
Telephone Number: (208)376-8522

RECEIVED

NOV 08 2006

WATER RESOURCES
WESTERN REGION

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

NA

2. Describe the changes you wish to make in the proposed recommendation:

Incorrect property owners information on original application. See attached for corrections

3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 11-02-06

SIGNATURE:

Please print your name:

Jessica Aguilar - Hawkins Companies

IDWR Regional Office, 2735 Airport Wy, Boise, ID 83705, 2083342190

Clarification:

Hawkins Companies will transfer rights to subdivision property owners for a secondary source of irrigation for common areas within the subdivision after claim has been approved.

Database: parcelsa.dbf

Number of records: 5 out of 154094

Cherry Crossing
Subdivision

Parcel	Acreage	Primowner	Secowner	Addconcat	Statconcat	Propchar	Propconcat	Propstat	Zonecode
R1386910012	2.088	SHANNON CHERRY CROSSING LLC	MIKE CHERRY CROSSING LLC	1045 ANCONA WAY	EAGLE, ID 83616-0000	C	1757 W EMERALD FALLS DR	MERIDIAN, ID 83646- 0000	C-N
R1386910014	0.911	LINDER LOUANN LLC	LINDER MIKE LLC	1045 S ANCONA AVE STE 140	EAGLE, ID 83616-0000	C	1710 W CHERRY LN	MERIDIAN, ID 83646- 0000	C-N
R1386910020	0.776	STORMER LLC		4565 W QUAIL RIDGE	BOISE, ID 83703-0000	C	1640 W CHERRY LN	MERIDIAN, ID 83642- 0000	C-N
R1386900153	1.810	BOISE SURPLUS 2002 LLC		8645 W FRANKLIN RD	BOISE, ID 83709-0000	L	1627 N LINDER RD	MERIDIAN, ID 83646- 0000	C-N
R1386900151	0.954	W & H LLC		504 N PHILLIPS ST	BOISE, ID 83706-0000	C	1752 W CHERRY LN	MERIDIAN, ID 83642- 0000	C-N

08/24/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-7273C

NAME AND ADDRESS: HAWKINS COMPANIES LLC
8645 W FRANKLIN RD
BOISE ID 83709

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.030 CFS
9.900 AFY

PRIORITY DATE: 10/17/1969

POINT OF DIVERSION:

T03N R01W S2 NESE Within ADA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/15

0.030 CFS
9.90 AFY

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION Within ADA County

T03N R01W S02 SESE 2.70

2.7 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

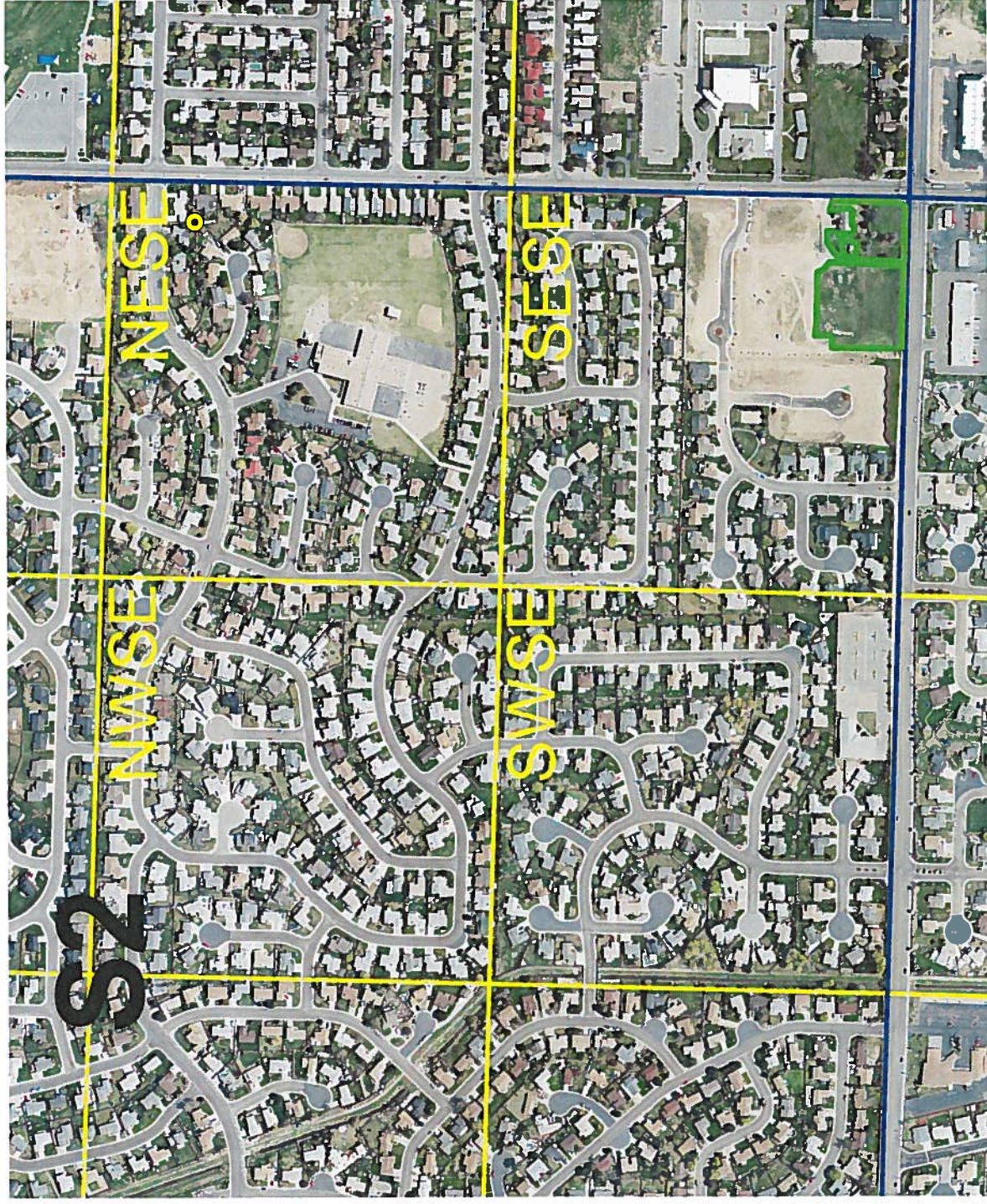
EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Property is also known as Cherry Crossing Commercial Subdivision.

Use of this right is combined with water from Nampa Meridian Irrigation District.

This right is a split from former right 63-7273.

Idaho Department of Water Resources



Claim No: 63-7273C

Prepared By: Kimberly Brown

Date: August 24, 2006



Place of Use



Section Lines

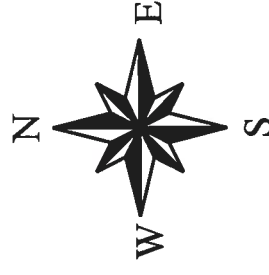


1/4 1/4



Point of Diversion

Acres Irrigated = 2.7



2003 NAPP

rec'd. new claim 8/14/06

Page 1

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-7273C

WATER RIGHT NUMBER: 63-7273C ✓

Current Owner:

Owner Type

Current Owner

Name and Address

HAWKINS COMPANIES LLC
8645 W FRANKLIN RD
BOISE, ID 83709
(208)376-8522

W+H LLC
504 N. Philippi
Boise

Boise Surplus 2002 LLC
8645 W. Franklin Rd.

AF FACTOR = 3.682926
829

Priority Date: 10/17/1969 ✓

Basis: License ✓

Status: Active

CFS FACTOR - 0.009430894

Source

GROUND WATER ✓

Tributary

Property Address:

1627 N. Linder Rd., Meridian

Beneficial Use

IRRIGATION ✓

From To

03/01 to 11/15

Diversion Rate

0.03 - 0.050 CFS

+ 1752 Annual Volume

9.9 - 20.30 AF ← (20.25)

04/01 - 10/15

Total Diversion:

- 0.050 CFS

0.03

9.9 - 20.30 AF

Location of Point(s) of Diversion

GROUND WATER

ADA County ✓

NE1/4SE1/4 ✓

Sec. 2, Twp 03N, Rge 01W, B.M. ✓

Licensed -

Place of Use

IRRIGATION ✓

Twp Rge Sec

NE

NW

SW

SE

NE

NW

SW

SE

NE

NW

SW

SE

NE

NW

SW

SE

NE

NW

SW

SE

Totals

03N 01W 2

NE

NW

SW

SE

NE

NW

SW

SE

NE

NW

SW

SE

NE

NW

SW

SE

5.5

5.5

2.7

40 lic.

- 20 (#63-7273B)

20

Conditions of Approval:

1. P21 This right is a split from former right 63-7273.
2. J01 Property is also known as Cherry Crossing Commercial Subdivision.

SPF
states from
("A" portion) NO!
from B-portion

Remarks:

Comments:

ADD W51 - Use combined with Nampa-Meridian
Irr. Dist. water.

ADD J01 - Place of use also known as ~~Barons~~ ~~Cherry Crossing~~ ~~Subdivision~~
Cherry Crossing Subdivision.

ADD S39 - Season of use is 3/1 to 11/15.

Parcel No: R1386900153, R1386900151 \$ \$

(in-office review)

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION FIELD REPORT**

Prior to Field Exam

- ☒ Copy of Claim, claim has been signed, sealed, and dated by notary?
- ☒ Check fees paid \$142.00 pd. for 63-63-7273
- ☐ Well logs (if needed) N/A
- ☒ Copy of topo or NAPP
- ☒ Check of Govt. Lots, if needed, Govt. Plat/Tax lot information
- ☒ Check POD & POU overlap, see below – include overlapping right for exam
- ☐ Evidence of Priority – if none, talk with claimant N/A

CLAIMANT INFORMATION – verify contact information is completeClaim No(s) A63-7273COwner: Hawkins Companies LLC Phone No. 376-8522Current Address: 8645 W. Franklin Rd, Boise 83709

- ☐ No change NAME IS THE SAME
- ☐ NEW OWNER
- ☐ No change Address
- ☐ NEW ADDRESS
- ☐ How long owned property? _____

Accompanied by: in-office verification**PRIORITY DATE**

- ☒ No change – Complete evidence submitted or not necessary
- ☐ Incomplete – Claimant should be asked when water was first used and submit proof of date.
- ☒ Priority date is acceptable/within mandatory filing dates?

Priority date, per claimant, is: _____

(If priority date, based on your exam, seems questionable, explain below.)

Source: _____ Tributary to _____

- ☒ No Change – SAME SOURCE
- ☐ Source found is different than claimed: _____

POINT OF DIVERSION

- ☒ No change
- ☐ POD found is different than claimed: _____
- ☐ If different, when did POD change? _____

The project map submitted by SPF Water Engineering with the 2006 Notice of Claim does not depict the location of the →

point of diversion. The #63-7273 Field Report map places the well in the NE_{corner}NESE near the corner of Linder and Cherry Lane (see file).

DIVERSION AND DELIVERY SYSTEM

Points of Diversion:

ID #	Govt Lot #	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks GPS ID

Description of diverting works

See #63-7273 Field Report.

OVERLAP REVIEW

Other water rights with the same point of diversion: # 63-7273, 63-7273A

Does overlap add acres or uses to existing system, increase rate of flow or volume, or other? Explain:

WATER USES

- ☐ No change
☐ Different Uses

Change season of use from ^{claimed} 03/01 - 11/15 to ^{licensed} 04/01 - 10/15 as was licensed

2.7 AC

x .009430894 cfs/AC

0.025

= 0.03 cfs

Use Irrigation From 04/01 To 10/15 Amount 0.03 CFS 9.9 AFA ADD:
Use _____ From _____ To _____ Amount _____ CFS _____ AFA 839-
Use _____ From _____ To _____ Amount _____ CFS _____ AFA Condition

2.7 acres x 3.682926829 afg/acre = 9.9 afg/annum (v) 0.03 cfs x 1.9835 x 210 days = 12.49 afg/A

TOTAL VOLUME - Groundwater only

- ☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA
☒ Changes found, the new total is, Amount 0.03 CFS 9.9 AFA
☐ More than 1" per Acre? Yes _____ (claimant must complete excess flow sheet)

NON-IRRIGATION USES:

- ☒ No change None
☐ Changes Exam found: Domestic # of homes _____ Stock # _____
Types _____ Additional comments: _____

PLACE OF USE:

- ☐ No Change
☒ Changes shown below:

The claimant claimed 5.5 acres of irrigation based on the use in 1987 (see project map attached to the Notice of Claim.) However, since this claim was filed in 2006, IDWR uses the use of the water going back five (5) years prior to the filing

[illegible]

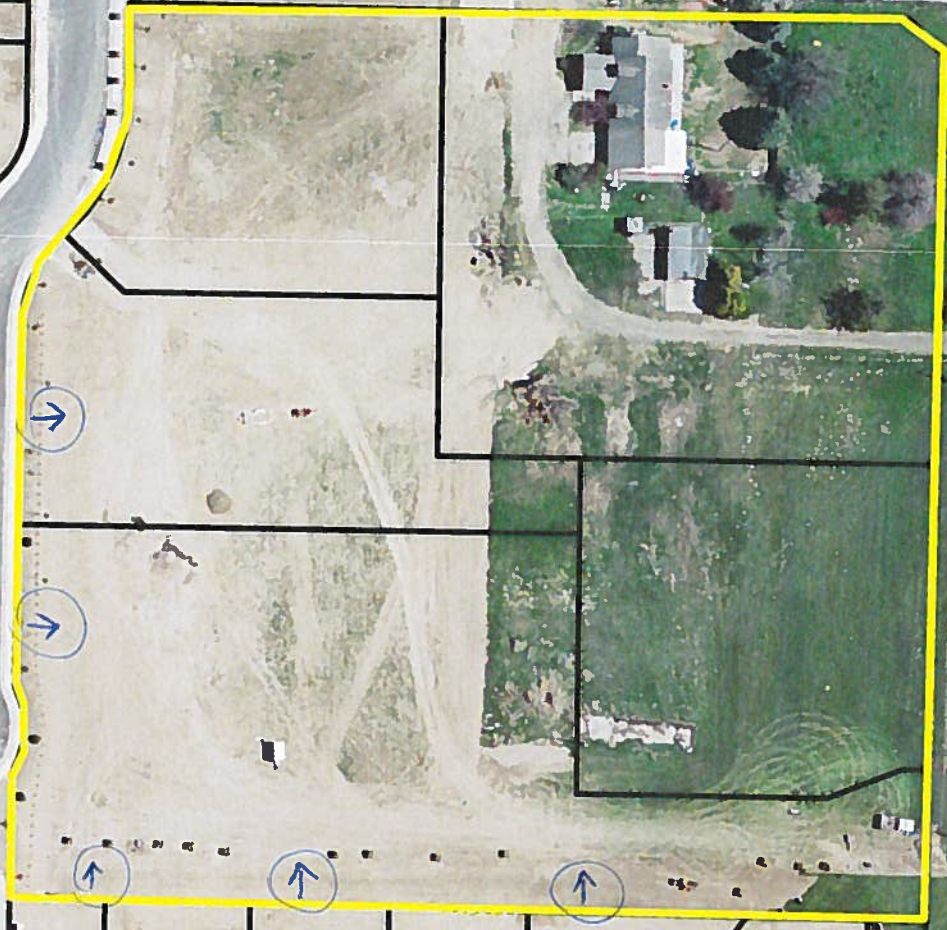
AFTER EXAM THE FILE SHOULD CONTAIN:

- ☒ Completed claim checklist
- ☐ Photographs of POD's and POU
- ☐ GPS readings
- ☒ Completed map and or GIS layout showing POD's and POU

DATE EXAM CONDUCTED: 8.24.06 (in-office review)
FIELD EXAMINER: Kimberly Brown

#63-7273C
2003 NADP

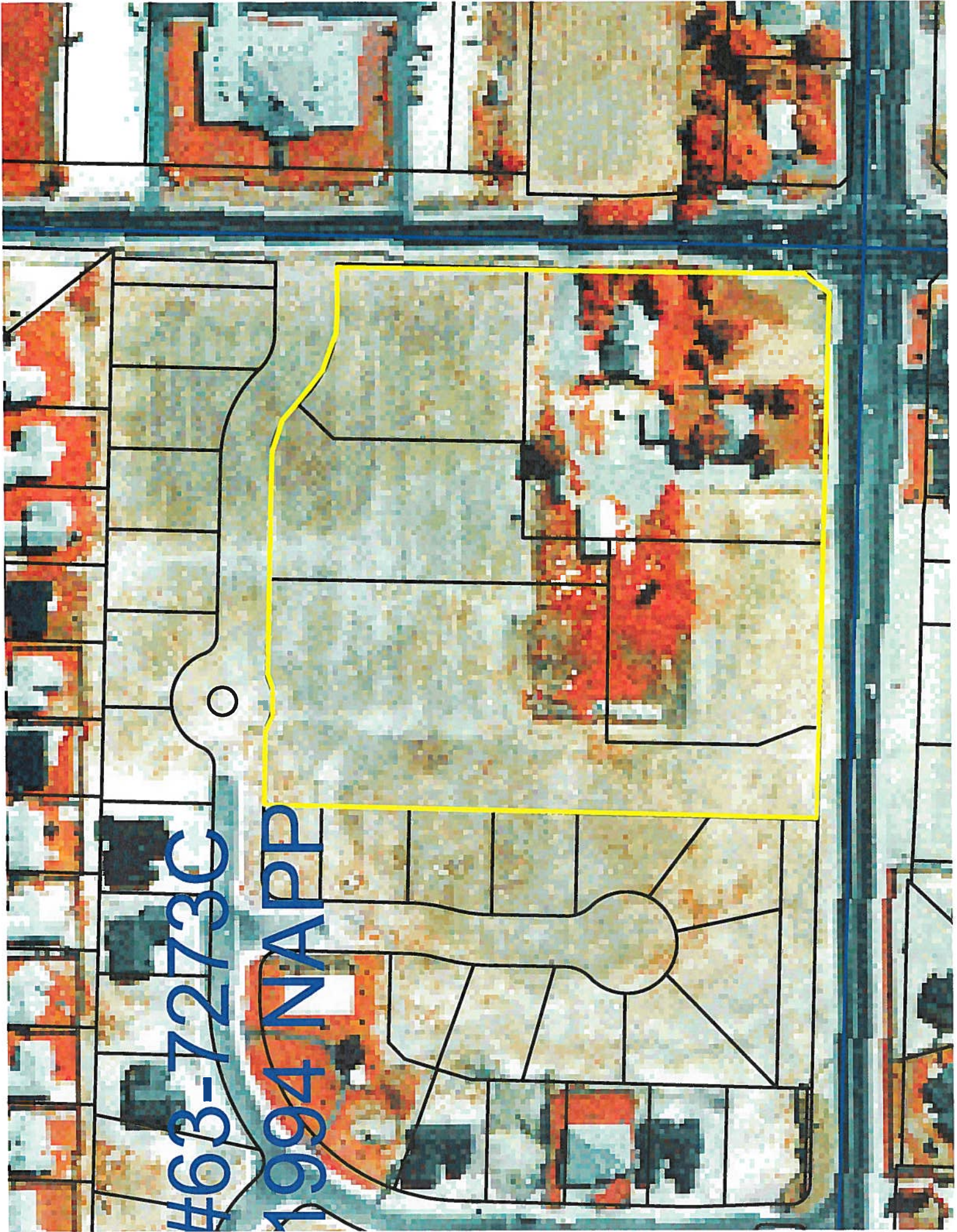
need to
shift tax lot
boundary to the
east and south
a tab ↓



#63-7273C
2000 NAPP



#63-7273C
1994 NAPP



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-7273A V1

WATER RIGHT NUMBER: 63-7273A V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	GLEN NYBORG 1660 W CHERRY LN MERIDIAN, ID 83642 (208)888-9692
Current Owner	TERRY G NYBORG 1655 LINDER MERIDIAN, ID 83642 (208)888-3055

Priority Date: 10/17/1969

Basis: License

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>Annual Volume</u>
IRRIGATION	04/01 to 10/15	0.030 CFS	11.00 AF
	<u>Total Diversion:</u>	0.030 CFS	11.00 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4SE1/4SE1/4	Sec. 2, Twp 03N, Rge 01W, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01W	2																3.0	3.0

Total Acres: 3

Conditions of Approval:

1. Place of use is also known as Glennfield Manor Subdivision.
2. J01 Property is also known as One Subdivision.
3. W51 Use of this right is combined with water from Nampa Meridian Irrigation District.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-7273A V1

5. S39 The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
6. Place of use is also known as Valeri Place Subdivision.

Remarks:

Comments:

1. kbrown 10/20/2005 Transfer No. 4902

Comment: Transfer No. 4902 changed the point of diversion under a portion of Right No. 63-7273, splitting the into parts A & B.

2. kbrown 10/20/2005 Place of Use

Comment: It is difficult to determine the location of these 3 acres. Nothing in the file depicts its shape, just a general location. Therefore, the shape I created is based on guess work.

3. kbrown 10/20/2005 Removal of Domestic Use

Comment: Per Adjudication Supervisor, Jan Shurte, domestic use was not recommended because it was not developed. In addition, domestic use (which was not licensed) cannot be considered an Accomplished Transfer from irrigation use because city water is being used.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-7273B V1

WATER RIGHT NUMBER: 63-7273B V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	JAMES HUARTE 1287 N SANTA ROSA MERIDIAN, ID 83642 (208)884-1145

Priority Date: 10/17/1969

Basis: License

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>Annual Volume</u>
IRRIGATION	04/01 to 10/15	0.190 CFS	74.20 AF
	<u>Total Diversion:</u>	0.190 CFS	74.20 AF

Location of Point(s) of Diversion

GROUND WATER	SE1/4SE1/4SE1/4	Sec. 2, Twp 03N, Rge 01W, B.M.
ADA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
03N	01W	2																	20.0	20.0

Total Acres: 20

Conditions of Approval:

1. 079 This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
2. J01 Property is also known as Glennfield Manor Subdivision.
3. Place of use is also known as Valeri Place Subdivision.
4. Place of use is also known as Cherry Crossing Subdivision.
5. T07 The right holder shall accomplish the change authorized by Transfer 4902 within one (1) year of the date of the approval.
6. 065 The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
7. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-7273B V1

8. 028 After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
9. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
10. P21 This right is a split from former right 63-7273.
11. R32 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for irrigation of the lands above.
12. S39 The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.
13. R01 A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
14. W51 Use of this right is combined with water from Nampa Meridian Irrigation District.
15. T04 Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.

Remarks:

Comments:

1. kbrown 10/20/2005 Transfer No. 4902

Comment: Transfer No. 4902 changed the point of diversion under a portion of Right No. 63-7273, splitting the right into parts A & B.

Water Supply Bank:

T
3
N

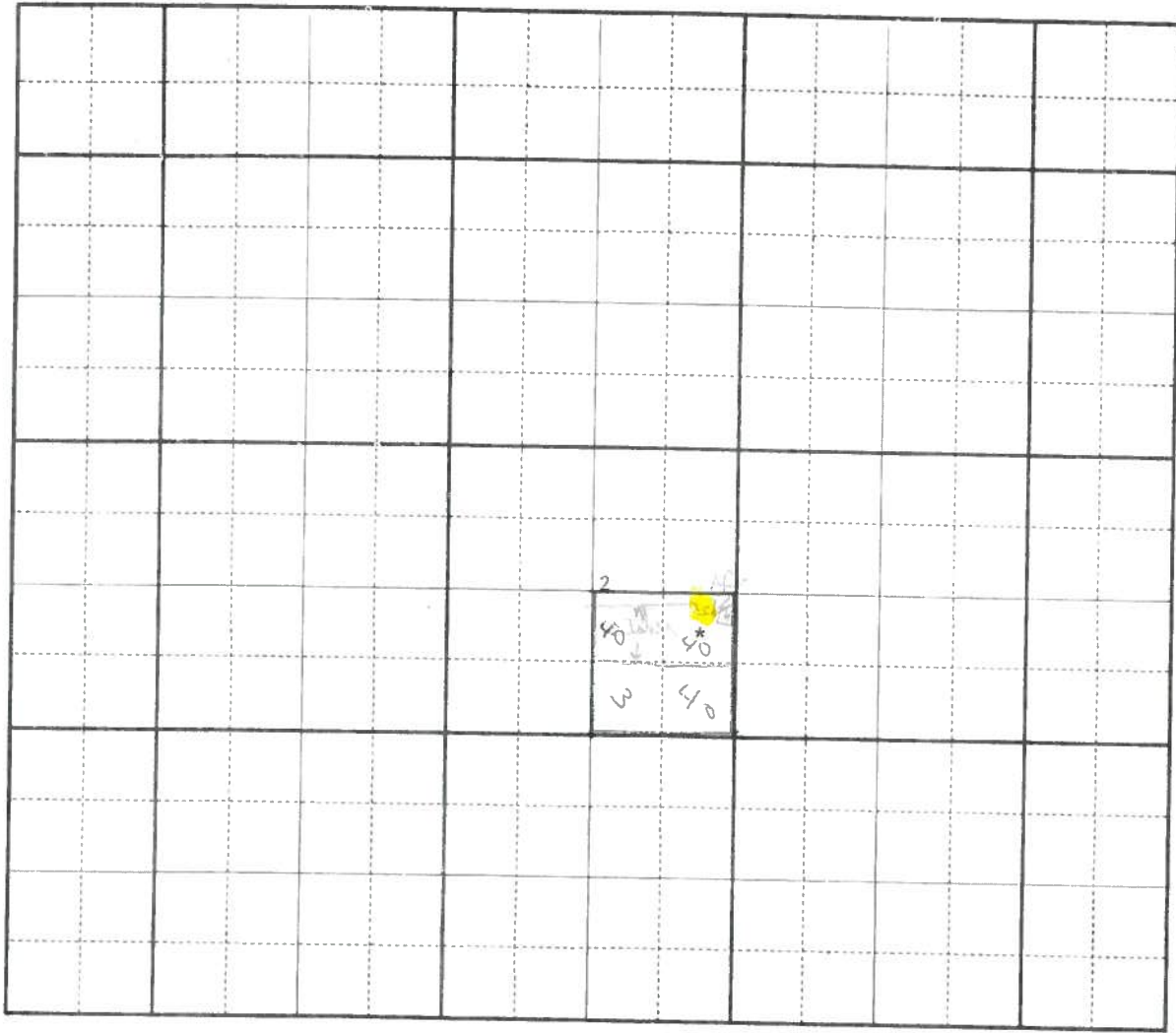
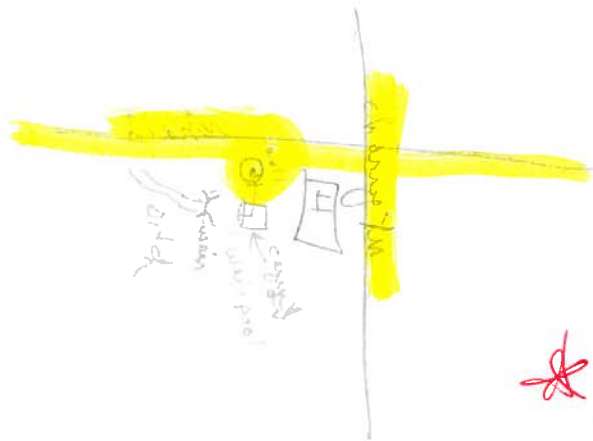


Diagram of System



← POD location



* from 63-7273

BLU Field Exam

shows well located at
corner of Hinder and Cherry
Lane

-KB

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2006 Property Details for Parcel R1386900153

2006

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Details

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[Characteristics](#)

Parcel: R1386900153

Year: 2006

Zone Code: C-N

Total Acres: 1.81

Tax Code Area: 03

Property Description:

PAR #0153 OF LOTS 13-15 BLK 01

CHERRY CROSSING SUB

#0130-B #0140-B #0152-B

**No Image
Available**

[View Interactive Map of this Parcel](#)

Address: 1627 N LINDER RD MERIDIAN , ID 83646

Subdivision: CHERRY CROSSING SUB

Land Group Type: SUB

Township/Range/Section: 3N1W02

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Land Characteristics

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Residential Acres: 0.0
Commercial Acres: 1.81
Other Acres Acres: 0.0
Street: Asphalt/Concrete
Utility: Underground
Water Source: Public
Sewer: Public
SideWalks: Y
Curb-Gutters: Y
Topography: Level
View:
Water Influence: None
Water Frontage Feet: 244
Corner: Y

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Receipt Details for ID W034563

Status	Adjustment Type	Version
		1

General Information:

Date Received	Date Deposited	Region	Total Amount	Payment Type
8/11/2006 3:06:12 PM	8/11/2006 3:19:04 PM	WESTERN	\$112.00	Check
Payer		HAWKINS PROPERTIES		

Account Information:

Check #	Account #	Credit Card Name	Authorization #
022154			
Card Expiration Date	Credit Card Transaction #		

Comment Adjudication Claim Fee - 63-7273A

Fee Detail:

Amount	Description	PCA	Fund	Fund Detail	Subsidiary	Object
\$112.00	ADJUDICATION FILING FEE	42503	0337			1155

Refund(s):

Amount	Payee	Date	Document Number
--------	-------	------	-----------------

Water Right Information:

Basin Number	Sequence Number	Split Suffix	Amount	Type
--------------	-----------------	--------------	--------	------

Print Report

CONVERSATION MEMORANDUM

**RE: Snake River Basin Adjudication Water Right Nos. A63-7273split
New Water Right Claim**

May 3, 2006

Jessica Aguilar, of Hawkins Companies, met with me and my supervisor, Jan Shurte, at the IDWR Western Region office. Based on research compiled by Terry Scanlan of SPF Water Engineering, LLC; Ms. Aguilar was interested in filing a claim for the unclaimed portion of 63-7273. We gave her the necessary forms and spoke to her briefly about the need to file a transfer to add a new well.

Kimberly Brown
Senior Water Resource Agent
Western Region

Brown, Kimberly

From: Shurte, Jan
Sent: Monday, April 17, 2006 11:49 AM
To: Brown, Kimberly
Cc: Skaggs, Pam
Subject: FW: FYI Possible Customer

Hi Kimberly - I hate to tell you this, however, these are yours. Pam, could you please check the barcode to see who has the files before letting them know who to contact. We have all the B63 Part 2 & 3 barcoded to whoever has done the recommendations or who is doing them. Thanks a lot, Jan

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

From: Skaggs, Pam
Sent: Thursday, April 13, 2006 5:03 PM
To: Shurte, Jan
Subject: FYI Possible Customer

Hi Jan,

I just spent some time with Jessica. Her company, Boise Surplus 2002 LLC, had some research done by SPF a couple of years ago & included a completed ownership change form & transfer. The right listed on the documents may have worked based on WR or Claim records, but the Recommendations for 63-7273A & B are located around their property in the remaining SESE corner of Sec 2, 3N, 1W per Arc View & under separate ownership. SPF noted in the research that their was confusion regarding ownership & possible forfeiture. She may be coming out to see you & discuss rather they own a portion of the recommended rights or possibly need their own claim on a portion of this right if that is possible at this late date. Without a valid right, the transfer is moot.

Thought the claims needed to be sorted out before the transfer process, or I would have pursued this more diligently. Call me if I can help, or if you think I should try to redirect her before she visits your office.

Pam

P H O N E M E S S A G E	TO	Jan Kimberly	DATE	4-14	TIME	8:40	AM							
	FROM	Jessica Aguilar	AREA CODE				PM							
	OF	Hawkins Companies	NO.	947-4778										
			EXT.											
	M	met w/Pam @ S.O. about 90												
	E	+ Transfer - issues with WR's												
	S	pam said for her to meet w/												
	S	you, to resolve issues.												
	A	63-7273A + B												
	G	SIGNED <i>lg</i>												
E	PHONED	☐	CALL BACK	☒	RETURNED CALL	☐	WANTS TO SEE YOU	☐	WILL CALL AGAIN	☐	WAS IN	☐	URGENT	☐



April 10, 2004

Jessica Aguilar
Hawkins Companies
8645 W. Franklin Road
Boise, ID 83709

*development started in
2000*

Subject: Water Rights Investigation – Cherry Crossing Commercial Subdivision

Dear Jessica:

As outlined in our contract letter dated February 5, 2004, SPF Water Engineering LLC (formerly Scanlan Engineering) has conducted a water rights investigation of lands associated with the Cherry Crossing Commercial Subdivision. Results of this investigation are summarized below by work task.

Property Description

The subdivision is located in the SE ¼ of the SE ¼ of Section 2, T3N, R1W, Ada County, Idaho. The land was apparently owned by Glen Nyborg prior to 1990. The deeds that you provided (Attachment 1) show a series of splits and subdivisions after 1990. Prior to 2004, the property consisted of Lots 13, 14, and 15 of Cherry Crossing Subdivision. A January 13, 2004 survey map for Cherry Crossing Commercial Subdivision shows the three lots split into three separate parcels, including Cherry Crossing Subdivision covering approximately 3.775 acres with two lots, and Parcels B and C. A map of Cherry Crossing Subdivision is provided as Figure 1, and a map of Cherry Crossing Commercial Subdivision is provided as Figure 2.

From our conversation, the property of interest consists of approximately 6.88 acres, consisting of Lots 13, 14, and 15 of Cherry Crossing Subdivision. For purposes of water rights, we will consider them all to be managed as a single entity.

Review of the chain of title documents in Attachment A found no evidence that the water rights were reserved or somehow separated from the lands.

Water Right Search

A search of the Idaho Department of Water Resources water right data base found the following water rights appurtenant to the SE ¼, SE ¼, Section 2, T3N, R1W.

Water Right 63-2388. Water right 63-2388 is the Boise River water right delivered by the Boise Project Board of Control to the Nampa & Meridian Irrigation District. The water right is owned and controlled by the Bureau of Reclamation. We contacted Nampa & Meridian Irrigation District and determined that the lands are assessed for 6.81 irrigated

acres under assessment numbers 1253-1-13, 1253-1-14, and 1253-1-15. The water rights associated with these assessment numbers include 5.46 miners inches (49.14 gpm) of Ridenbaugh Canal water rights. The water is delivered at tap 1025 of the Cairns Lateral. The water rights are assessed to Boise Surplus 2002, LLC. Copies of the Irrigation District assessment reports are provided as Attachment B.

Water Right 63-7273. Water right 63-7273 is a groundwater right licensed for irrigation of 123 acres (including 40 acres within the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2) with a diversion rate of 1.16 cfs, for an average diversion rate of 0.009 cfs (4.2 gpm/acre). The water right was split in 1997 by transfer No. 63-4902 into water right 63-7273A (0.97 cfs for irrigation of 103 acres) and water right 63-7273B (0.19 cfs for irrigation of 20 acres). The purpose of the transfer was to add a point of diversion for the water right at Valerie Place Subdivision. The 20 acres listed under 63-7273B are located in the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 2, but they appear to be located west and north of the Cherry Crossing Subdivision. Therefore, the Cherry Crossing lands are probably associated with the 63-7273A portion of the water right. Ownership of 63-7273A is currently listed as Glen Nyborg (original property owner) and ownership of 63-7273B is currently listed as James Huarte (developer of Valerie Place Subdivision). We note that Valerie Place Subdivision covers substantially less than 20 acres, and that the place of use for water right 63-7273B is not clearly indicated in IDWR files. Copies of water right reports are provided as Attachment C.

B-portion

The file for 63-7273 is confusing, because references in the water right file indicate that the original owner (Nyborg) only claimed 23 acres of the water right as part of the Snake River Basin Adjudication (SRBA). The fate of the remaining 100 acres of water right is not clear. As a result, it is possible that a portion of the right was abandoned or forfeited through non-use. Furthermore, the only claim listed on the Department of Water Resources lists 20 acres of irrigation with Huarte as the current owner. Therefore, an additional claim for the water right may need to be filed.

Water Right 63-18354. Water right 63-18354 is a decreed domestic water right for a former home on the property. The current owner is listed as Terry Nyborg. The water right authorizes diversion of 0.04 cfs (18 gpm) for domestic purposes. This water right probably has little value for a commercial subdivision that (1) utilizes municipal water for domestic purposes and (2) has sufficient surface water and groundwater rights for irrigation. A water right report is provided as Attachment D.

Recommendation

A water right change of ownership form for water right 63-18354 and for the appurtenant portion of water right 63-7273 should be submitted to the Idaho Department of Water Resources. The change of ownership form can also list water right 63-18354. Note that the form will need to include evidence of property ownership. If parcels B and C are owned by different entities than Boise Surplus 2002, then separate change of ownership forms will need to be submitted. Please let me know the ownership status, and I can revise the change of ownership forms accordingly if needed. A completed change of ownership form is provided as Attachment E. The filing fee for this form is \$25.

A water right transfer should be submitted to add a new point of diversion at the property. The water right transfer will split water right 63-7273A (unless it is split by the change of ownership). Thus, the new water right (or rights) will seek diversion of 0.064 cfs (i.e., 0.009 cfs/ac x 6.8 acres) for irrigation of 6.8 acres. A draft application is provided as Attachment F. The filing fee for the application for transfer is \$100. Note that on page 2 of the transfer, I have indicated that the "place of use consists of four separate lots or parcels that are managed or owned by applicant". The Department of Water Resources will want to receive written documentation from the other landowners within Cherry Crossing Commercial Subdivision consenting to the transfer, along with documentation of ownership for each parcel. I have attached the most recent deed that you provided (April 9, 2002 from Albertson's to Boise Surplus 2002), but I understand that portions of the Commercial Subdivision property may have been sold since that time.

As previously noted, the SRBA claim database for water right 63-7273 is confusing, and an additional claim may need to be submitted to preserve the Cherry Crossing portion of the water right. However, I recommend that the transfer application be submitted first, and a claim (or amended claim) can follow if needed.

Please contact me with any questions.

Sincerely,



Terry M. Scanlan, P.E., P.G.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-18354

WATER RIGHT NUMBER: 63-18354

Owner TypeName and Address

Current Owner

GLENN NYBORG
1660 W CHERRY LN
MERIDIAN, ID 83642
(208)888-9692

Current Owner

TERRY G NYBORG
5160 W VIEW DR
MERIDIAN, ID 83642
(208) 861-9671

Priority Date: 10/17/1969

Basis: Decreed

Status: Active

SourceTributary

GROUND WATER

Beneficial UseFrom ToDiversion RateAnnual Volume

DOMESTIC

1/01 to 12/31

0.040 CFS

Total Diversion:

0.040 CFS

Location of Point(s) of Diversion

GROUND WATER

SE1/4SE1/4SE1/4

Sec. 2, Twp 03N, Rge 01W, B.M.

ADA County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	01W	2																X	

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
4. ~~PARCEL NO. S1202449304~~ N/A

*Jessica Aguilar -
the well wasn't
salvageable when
development
started in 2000*

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 63-18354

Remarks:Comments:

1. AJU10-DS 6/22/2000 AJU10 CONDITION UPDATE
Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

Dates and Other Information:

Licensed Date:
Decreed Date: 2/14/2000
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: OR
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
----------------	---------------------------	-----------------	---------------------------	-----------------	---------------

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
----------------	------------------------	-----------------	-----------------

Water Supply Bank:

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 4902
WATER RIGHT NO. 63-07273B

This is to certify that: **JAMES HUARTE**
1287 N SANTA ROSA
MERIDIAN ID 83642

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
IRRIGATION	04/01 to 10/15	0.19 CFS	74.2 AF

SOURCE

GROUNDWATER

Priority: 10/17/1969

LOCATION OF POINT(S) OF DIVERSION:

SESE , Sec. 2, Township 03N, Range 01W
ADA County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
03N	01W	2	SESE	20		20

Total number of acres irrigated: 20

CONDITIONS OF APPROVAL AND REMARKS

1. A measuring device of a type approved by this Department shall be maintained as a part of the diverting works.
2. After specific notification by the department, the right holder shall annually report the amount of water diverted to the department.
3. This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 4.5 afa per acre for the lands above.
4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with groundwater diverted under this right and shall only divert groundwater under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
5. This right shall not be used if the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.

RECORDED
JUN 25 1969

TRANSFER NO. 4902
WATER RIGHT NO. 63-07273B

CONDITIONS OF APPROVAL AND REMARKS

6. Approval of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by person(s) other than the right owner.
7. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
8. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.
9. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

Place of use is also known as Valeri Place Subdivision.

Dated this 20th day of May, 1997.

J. Glen Saylor
Chief, Water Alloc. Bureau

MICRO
JUN 2 1997

Total acres 20

PART 1

B. General Information:

- a. Description of diversion system Well approximately 80' Deep, 8" Casing
w/ 10 H.P. single phase 230V Pump

N/A b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Places the well & pump on property owned
by recipients

Well was licensed in NE SE in wrong location.

- d. Remarks:

land has been developed to residential-irrigation for
lots supplied under this right. Internal water from
City of Meridian. As far as applicant knows, the
balance of the water rights is not being used.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____.

MICROFILMED

JUN 25 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

See attached

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice☐ Warranty Deed☐ Other _____

3. Source of water _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purpose:

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals.
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

MICROFILMED
JUN 25 1997
Total acres 2.5

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

ND

If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED "Part B"

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 189 cfs for IRR purposes from 4/1 to 10/15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

*

INITIAL 2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	2	3N	1W	Ada	

3. Lands Irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	1W	2																20	20

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change) "Part A"

Total acres _____

1. amount 971 for IRR purposes from 4/1 to 10/15
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft) _____

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
		NE	SE	2	3N	1W	Ada	

3. Lands Irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	1W	2													40	40	3	20	103

MICROFILMED
JUN 25 1997Total acres 103

* SEE ATTACHMENT D of Applicant's approval of split into

COPY OF
ORIGINAL
LICENSE
FILED IN
1976

5 of 7

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 03-7273 Priority Oct. 17, 1969 Amount 1.16 cfs

THIS IS TO CERTIFY, that GLEN NYBORG

of Meridian, Idaho, has complied with the terms and conditions of Permit No. 03-7273 issued pursuant to Application for Permit dated October 17, 1969, and has submitted proof to the Department of Water Resources on October 29, 1974, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity for the diversion of 1.16 cfs of water from a ground water source tributary to _____, and that the permit holder has applied to a beneficial use and established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Oct. 15</u>	at <u>1.16</u> cfs and	<u>453</u> acre feet or
	from _____ to _____	at _____ cfs and	<u>4.5</u> af per acre
	from _____ to _____	at _____ cfs and	
(both dates inclusive)			

Subject, however, to the condition that no more than 1.16 cfs of water be diverted at any one time, and that the amount of water so diverted and to which such right is entitled and confirmed is for the purpose aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed 453 acre feet per year, said waters to be diverted within the NE 1/4 Sec. 2

Twp. 3 N, Rge. 1 W, B. M. In the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Total
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3 N	1 W	2													40	40	3	40	123

Total number of acres irrigated 123

A measuring device of a type approved by the Department shall be permanently maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 27 day of November, 19 78.

Director

.009 cfs/ac

MICROFILMED

AUG 21 1992

MICROFILMED

JUN 25 1997

The area outlined in
green is what was
licensed originally
for irrigation from
the well. (123 acres)
The area in red is
what has been claimed
by Nyborg ^{NYC 80711410} (123 acres).
This map is dated 1981
so new changes not shown.

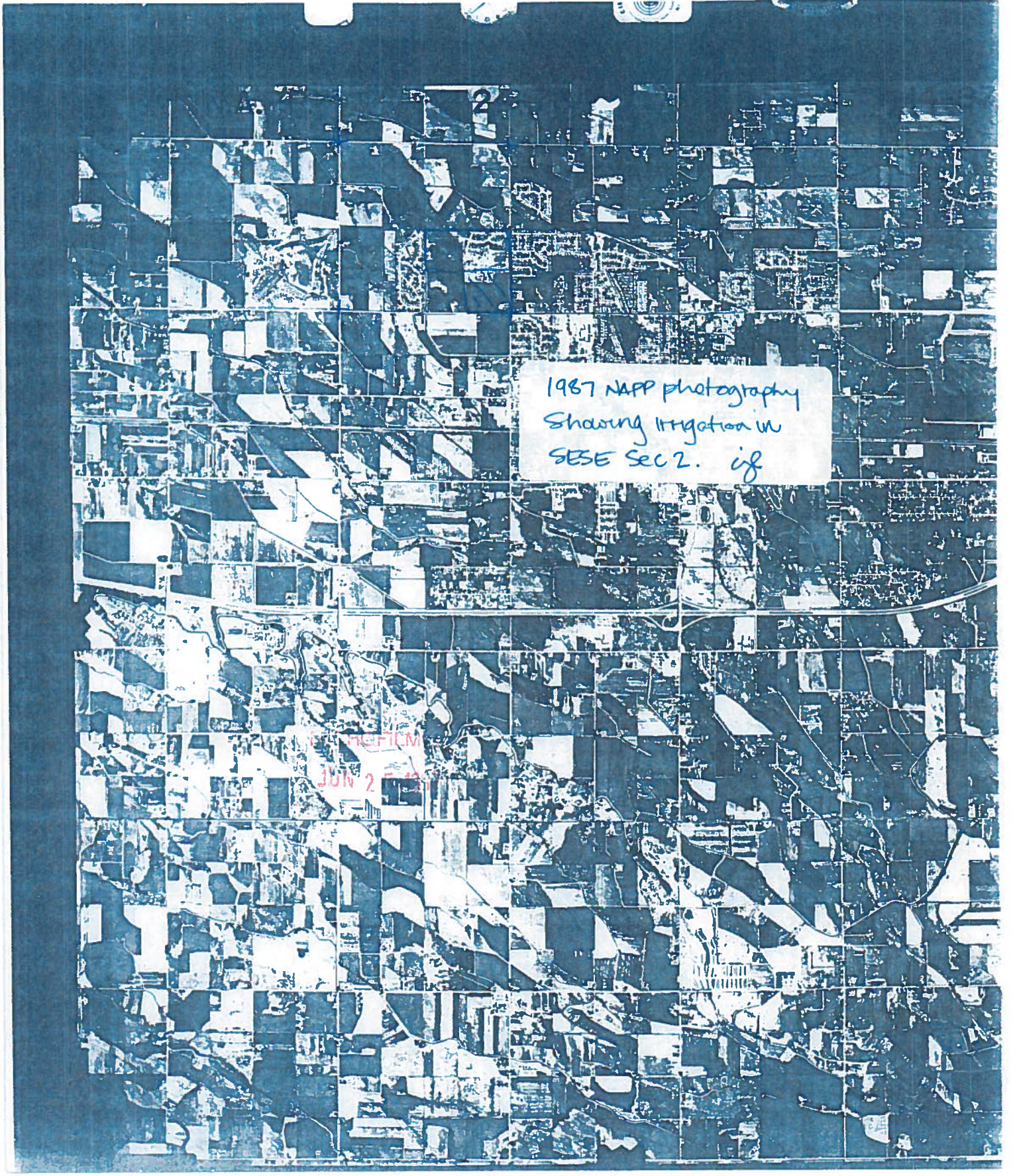
@ corner of Linden & Cherry
This presumes
S.E. Sec 2?
MAY 11 1962

JUN 25 1997

from

63-7212

BM Exam

An aerial photograph of a large agricultural area, likely a farm or ranch, showing a complex grid of fields and roads. The image is in black and white, with a grid of white lines overlaid on the photograph. The grid is composed of small squares, some of which are filled with a darker pattern, possibly representing different crops or land use. The photograph is mounted on a dark blue background. A white label with handwritten text is placed in the center of the photograph. A red stamp is visible in the lower-left quadrant of the photograph.

1967 NAPP photography
Showing Irrigation in
SESE Sec 2. if

RECEIVED
JUN 27 1967

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
	_____	_____	_____	to _____
	_____	_____	_____	to _____

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.



X James A. Short
(Signature of Applicant)

Subscribed and sworn to before me this 28th day of August, 1996.

Georgia Mackley
(Notary Public)

My commission expires 6/28/2000

FOR DEPARTMENT USE ONLY

Transfer contains 7 pages and 4 attachments

Received by gl Date 8/30/96 Protest filed by _____

Prelim. check by gl Fee 100 _____

Recapited by gl NO21428 Date 8/30/96 _____

Published in Idaho Statesman Copies of protest forwarded by _____

Pub. dates 9-19-96 26-1996 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____

MICROFILMED
JUN 25 1997

DEED IN LIEU OF FORECLOSURE

For value received, KASTLE FALLS SUBDIVISION LIMITED PARTNERSHIP, also known as Kastle Falls Limited Partnership, an Idaho limited partnership, the "Grantor," hereby grants and conveys unto JAMES HUARTE, the "Grantee," whose complete mailing address for purposes of this Deed is c/o John F. Kurtz, Jr., Hawley Troxell Ennis & Hawley, P.O. Box 1617, Boise, Idaho 83701, the following described real property of the Grantor located in Ada County, Idaho, to wit:

Described on EXHIBIT A attached hereto and made a part hereof.

Together with all improvements and fixtures thereon and all easements, rights of ways, rights and privileges belonging to, or with, leading to, connected with or usually had or enjoyed in connection with the said premises or any part thereof, and all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the rents, issues and profits thereof

hereinafter referred to as the "Subject Property."

TO HAVE AND TO HOLD, unto the said Grantee, his heirs, devisees, personal representatives, successors and assigns, forever.

This Deed is given pursuant to that certain Stipulation and Consent to the Entry of Judgment and Deed in Lieu of Foreclosure By and Between Defendant/Counterclaimant/Cross-Claimant James Huarte and Defendant/Cross-Defendant Kastle Falls Subdivision Limited Partnership in lieu of completion of

0000000000

RECORDED AT THE REQUEST OF
Hawley Troxell
JUL 31 11 03
FEE 18.00
RECORDED AT THE REQUEST OF

Attachment A
part 2 of 2 (6 pgs)

pending foreclosure of Grantee's first mortgage or deed of trust liens (hereinafter called "mortgage liens") and first security interests in and to the Subject Property which are referred to in that certain Judgment and Decree of Foreclosure and Order of Sale dated May 9, 1995 and recorded on May 19, 1995 as Instrument No. 95034017 in the Office of the Recorder of Ada County, Idaho (hereinafter called Grantee's "judgment lien" or "judgment"); provided, however, that Grantee's judgment lien and said mortgage liens and security interests and the obligations secured thereby shall be deemed not to have merged into this Deed, but shall survive the execution, delivery and recording of this Deed, and Grantee expressly reserves and retains his assignment of rents, issues and profits of the Subject Property and the priority of his said liens and security interests in and to the Subject Property for the purpose of protecting Grantee against any third-party liens, interests or claims (including claims of preference in bankruptcy), known or unknown, disclosed or undisclosed, liquidated or unliquidated, of whatever kind or nature, in or to the Subject Property or any part thereof.

Grantor does hereby waive, surrender, relinquish, transfer and convey unto Grantee, and his successors and assigns, Grantor's equity of redemption, statutory right of redemption or right to cure any default or defaults existing with respect to said judgment lien or mortgage liens and security interests or the obligations secured thereby in relation to the Subject Property.

Possession of the Subject Property is hereby surrendered and delivered to Grantee coincident with the delivery of this Deed.

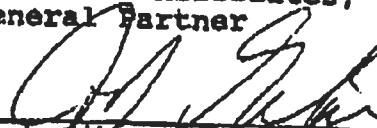
This Deed constitutes an absolute and unconditional grant and conveyance of all of Grantor's right, title, claim and interest in and to the Subject Property, and not a security device of any kind or nature.

It is expressly covenanted and agreed by and between the parties hereto that by accepting delivery of this Deed, Grantee does not release Grantor from liability for the deficiency judgment against Grantor on account of the obligation evidenced or secured by said judgment lien, mortgage liens or security interests provided for in the Stipulation, except as otherwise expressly provided for in said Stipulation. It is further understood that Grantee does not assume any liability arising out of or in connection with the ownership or use of the Subject Property by the Grantor or its predecessors in interest.

IN WITNESS WHEREOF the Grantor has duly executed this instrument effective as of July²⁴, 1995.

KASTLE FALLS SUBDIVISION
LIMITED PARTNERSHIP
(also known as Kastle Falls
Limited Partnership),
an Idaho limited partnership

By J. Gibson & Associates, Inc.
General Partner

By: 
Jack Gibson
Its President

STATE OF IDAHO

County of Ada

} ss.

On this 24 day of July, 1995, before me,
Stephen C. Broun, a Notary Public in and for said
State, personally appeared JACK GIBSON, known or identified to me
to be the President of J. Gibson & Associates, Inc., an Idaho
corporation, the General Partner of KASTLE FALLS SUBDIVISION
LIMITED PARTNERSHIP, also known as Kastle Falls Limited
Partnership, an Idaho limited partnership, and the person who
subscribed said partnership name to the foregoing instrument as
President of said corporate general partner, and acknowledged to
me that he thereby executed the same in the name of said limited
partnership.

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

Stephen C. Broun
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 1-19-2001

RECORDED
JUN 25 1995

PHASE II

PARCELA

A PARCEL OF LAND LYING IN A PORTION OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 NORTH, RANGE 1 WEST, BOISE MERIDIAN, ADA COUNTY, IDAHO, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTION 1, 12 AND 11, AND THE SAID SECTION 2;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 850.09 FEET ALONG THE SOUTHERLY BOUNDARY OF THE SAID SOUTHEAST QUARTER OF SECTION 2, WHICH IS ALSO THE CENTERLINE OF WEST CHERRY LANE, TO A POINT;

THENCE NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 25.00 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF THE SAID WEST CHERRY LANE, ALSO SAID POINT BEING THE REAL POINT OF BEGINNING;

THENCE CONTINUING NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 362.29 FEET TO A POINT;

THENCE NORTH 18 DEGREES 07'36" EAST FOR A DISTANCE OF 88.17 FEET TO A POINT;

THENCE NORTH 45 08'20" EAST FOR A DISTANCE OF 23.01 FEET TO A POINT;

THENCE SOUTH 89 DEGREES 33'46" EAST FOR A DISTANCE OF 87.92 FEET TO A POINT;

THENCE NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 49.00 FEET TO A POINT;

THENCE SOUTH 89 DEGREES 33'46" EAST FOR A DISTANCE OF 175.00 FEET TO A POINT;

THENCE NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 129.00 FEET TO A POINT;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 32.35 FEET TO A POINT;

THENCE NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 110.00 FEET TO A POINT ON THE SOUTHERLY BOUNDARY OF GLENNFIELD MANOR NO. 6, A SUBDIVISION, AS FILED FOR RECORD IN THE OFFICE OF THE ADA COUNTY RECORDER, BOISE, IDAHO, IN BOOK 58 OF PLATS AT PAGES 5827 AND 5828;

THENCE SOUTH 89 DEGREES 33'46" EAST FOR A DISTANCE OF 557.80 FEET ALONG THE SAID SOUTHERLY BOUNDARY OF GLENNFIELD MANOR NO. 6 AND THE SOUTHERLY BOUNDARY OF GLENNFIELD MANOR NO. 7, A SUBDIVISION, AS FILED FOR RECORD IN THE OFFICE OF THE ADA COUNTY RECORDER, BOISE, IDAHO, IN BOOK 59 OF PLATS AT PAGES 5743 AND 5744 TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF NORTH LINDER ROAD;

THENCE SOUTH 0 DEGREE 16'08" WEST FOR A DISTANCE OF 446.20 FEET ALONG THE SAID WESTERLY RIGHT OF WAY LINE OF NORTH LINDER ROAD TO A POINT;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 223.89 FEET TO A POINT;

THENCE SOUTH 0 DEGREE 26'14" WEST FOR A DISTANCE OF 281.09 FEET TO A POINT ON THE SAID NORTHERLY RIGHT OF WAY LINE OF WEST CHERRY LANE;

THENCE ALONG THE SAID NORTHERLY RIGHT OF WAY LINE OF WEST CHERRY LANE THE FOLLOWING COURSES AND DISTANCES:

NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 14.30 FEET TO A POINT;

THENCE SOUTH 89 DEGREES 17'28" WEST FOR A DISTANCE OF 249.97 FEET TO A POINT;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 336.45 FEET TO THE POINT OF BEGINNING.

PARCELB

A PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 NORTH, RANGE 1 WEST, BOISE-MERIDIAN, ADA COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SECTION CORNER COMMON TO SECTIONS 1, 2, 11 AND 12 OF TOWNSHIP 3 NORTH, RANGE 1 WEST, BOISE-MERIDIAN, MARKED BY A BRASS CAP MONUMENT;

THENCE NORTH 0 DEGREE 16'08" EAST ALONG THE SECTION LINE COMMON TO SAID SECTIONS 1 AND 2, SAID LINE ALSO BEING THE CENTERLINE OF NORTH LINDER ROAD, FOR A DISTANCE OF 311.09 FEET;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 150.00 FEET TO THE REAL POINT OF BEGINNING;

THENCE SOUTH 0 DEGREE 16'08" WEST ALONG THE WESTERLY PROPERTY LINE OF THAT PARCEL DESCRIBED IN WARRANTY DEED INSTRUMENT NO. 7501301 OF ADA COUNTY RECORDED FOR A DISTANCE OF 67.88 FEET;

THENCE NORTH 89 DEGREES 33'46" WEST FOR A DISTANCE OF 98.89 FEET;

THENCE NORTH 0 DEGREE 26'14" EAST FOR A DISTANCE OF 67.88 FEET;

THENCE SOUTH 89 DEGREES 33'46" EAST FOR A DISTANCE OF 98.89 FEET TO THE REAL POINT OF BEGINNING, CONTAINING 6.706 SQUARE FEET, MORE OR LESS.

OWNED BY SMITHS
Plan to sell of lots on N. end?
Not incl. on transfer.

PHASE I

LOT 1 IN BLOCK 1

LOTS 1, 2, 4, 5, 6, 8, 10, 11, 12, 15, 17, 18, 19, 20, 21, 24, AND 25 IN BLOCK 2, LOTS 1, 2 AND 7 IN BLOCK 3, AND LOT 1 IN BLOCK 4 OF VALERI PLACE SUBDIVISION NO. 1, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK 63 OF PLATS AT PAGE 6307 AND 6308 AND AMENDED BY AFFIDAVIT RECORDED AUGUST 8, 1984 UNDER INSTRUMENT NO. 94073282 WHICH WAS A RE-RECORDING OF NO. 94072517 RECORDS OF ADA COUNTY, IDAHO.

Not all lots sold to individuals except for common lots (41 Blk 1, 41 Blk 2, 41 Blk 3) (retained from Smith's sale?)
These plus well lot to be deeded to HOA upon completion. Then file change in ownership.

RECORDED
 AUG 15 1987

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 63-7273 Priority Oct. 17, 1969 Amount 1.16 cfs

THIS IS TO CERTIFY, that GLEN NYBORG
of Meridian, Idaho, has complied with the terms and conditions of Permit
No. 63-7273 issued pursuant to Application for Permit dated October 17, 1969,
and has submitted proof to the Department of Water Resources on October 29, 1974,
that he has applied water to a beneficial use; an examination by the Department indicates that the works have a
capacity for the diversion of 1.16 cfs of water from a ground water source,
tributary to _____, and that the permit holder has applied to a beneficial use and
established a right to use water as follows:

Beneficial Use	Period of Use	Rate of Diversion	Annual Volume
<u>Irrigation</u>	from <u>April 1</u> to <u>Oct. 15</u> at <u>1.16</u> cfs and	<u>453 acre feet or</u>	
	from _____ at _____ cfs and	<u>4.5 af per acre</u>	
	from _____ at _____ cfs and		
	(both dates inclusive)		

Subject, however, to the condition that no more than 1.16 cfs of water be diverted at any one time, and
that the amount of water so diverted and to which such right is entitled and confirmed for the purpose
aforementioned and is limited to the amount which can actually be beneficially used and shall not exceed
453 acre feet per year, said waters to be diverted within the NE 1/4 of Sec. 2,
Twp. 3 N, Rge. 1 W, B.M. in the County of Ada

Description and location of place of use:

Twp.	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3 N	1 W	2																	123

Total number of acres irrigated 123

A measuring device of a type approved by the Department shall be permanently
maintained as part of the diverting works.

NOTE: Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho
Code, or the applicable Idaho Law. This right may be forfeited by five years of non-use.

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use
herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 27 day of
November, 19 76.

Director

5 20 23

Identification No. 63-7273

Application No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
APPLICATION FOR PERMIT

APPROVED

To Appropriate the Public Waters of the State of Idaho
(TYPE OR PRINT IN INK)

1. Name of applicant GLEN NyBORG
post office address ROUTE #1, MERIDIAN, IDAHO 83642
2. Source of water supply WELL which is a tributary of _____
3. a. Location of point of diversion is NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 2 Township 3N
Range 1W B.M. ADA County; additional points of diversion if any: _____

b. If water is not consumed, it will be discharged into _____ at a point in _____ $\frac{1}{4}$
of _____ $\frac{1}{4}$ of Section _____ Township _____ Range _____ B.M. _____
4. Water will be used for the following purposes:
Amount 2.4 for IRRIGATION purpose from APRIL 1 to OCT 15 (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purpose from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated:
a. 2.4 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. PUMP, PIPES & DITCHES

b. Height of storage dam _____ feet, active reservoir capacity _____ acre feet; total reservoir
capacity _____ acre feet, materials used in storage dam: _____
Period of year during which storage will occur _____ to _____ inclusive.
(Mo. Day) (Mo. Day)
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet.
7. a. Time required for the completion of the works and application of the water to the proposed beneficial use
is 5 years.
b. Estimated construction cost is \$ 3265⁰⁰.
8. Description of proposed uses:
a. If water is **not** for irrigation:
(1) Give the place of use of water: _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of Section _____ Township _____
Range _____ B.M. _____
(2) Amount of power to be generated: _____ hp under _____ feet of head.
(3) List number of each kind of livestock to be watered _____

(4) Name of municipality to be served _____, or number of families to be
supplied with domestic water _____.
(5) If water is to be used for other purposes describe: _____

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63-7273

b. If water is for irrigation, indicate acreage in each subdivision in the tabulation below:

TWP.	RANGE	SEC.	NE1/4				NW1/4				SW1/4				SE1/4				TOTALS
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
3N	1W	2													40	40	3	40	123

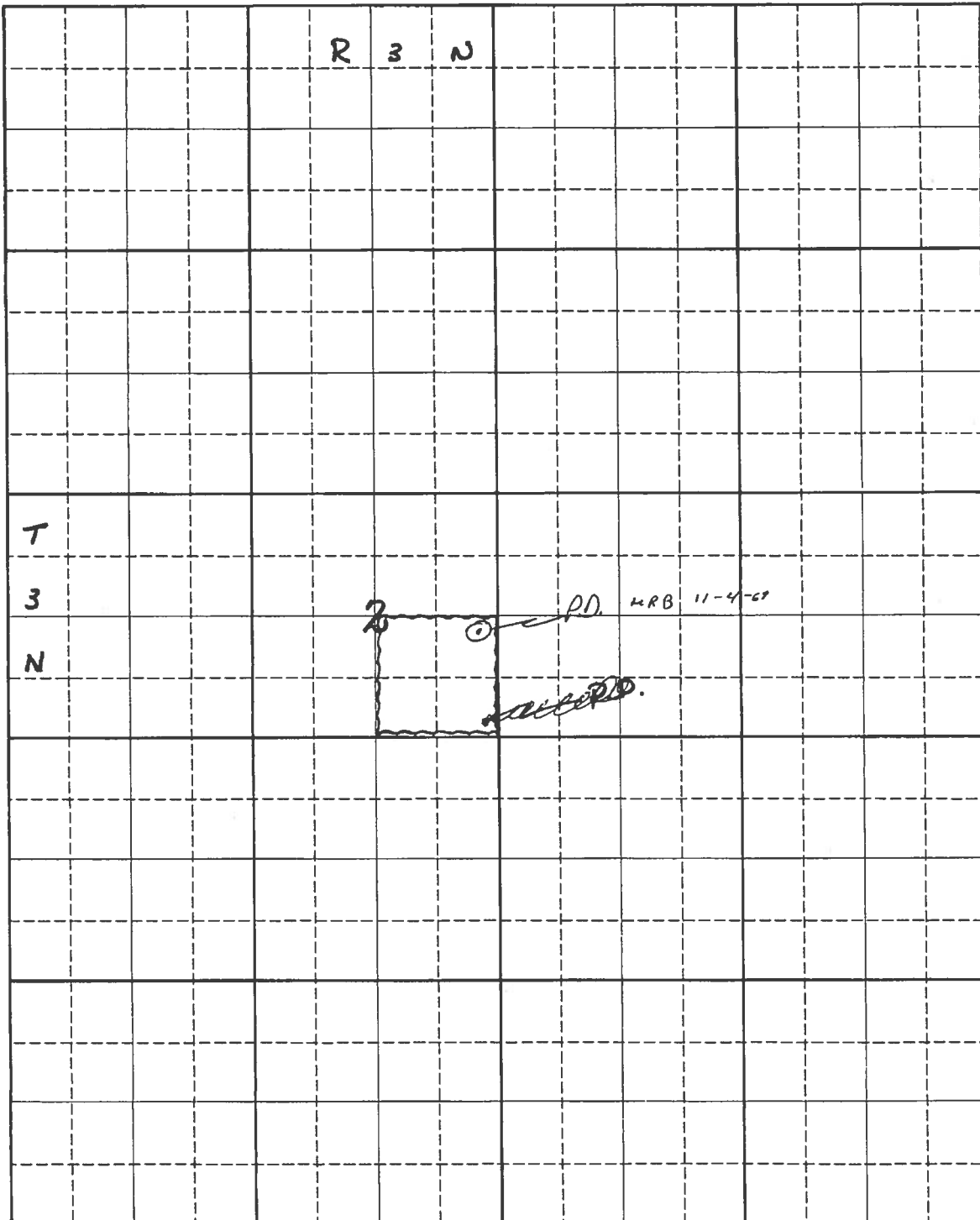
Total number of acres to be irrigated 123

c. Describe any other water rights used for the same purposes NAMPA MERIDIAN, & SETTLERS
CAVAL COMPANY.

9. a. Who owns the property at the point of diversion APPLICANT.
 b. Who owns the land to be irrigated or place of use APPLICANT.
 c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing _____

10. Remarks THIS WELL WAS DRILLED AS A DRAINAGE WELL
TO RID THE LAND OF SURFACE WATER. THIS WELL IS
PRESENTLY IN OPERATION AND THE WATER IS TO BE USED ON
THE SAME LANDS AS DRAINED BY THE WELL

11. Map of proposed project:



Scale: 2 inches equal 1 mile

BE IT KNOWN that the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Ann. Nylong
(Applicant)

63-7273