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JAN 31 2012

DEPARTMENT OF
WATER RESOURCES

Claimant Name:

Wyndermere Association

Attorney Name & Address:

James P. Speck, ISB#2067
Speck & Aanestad
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, Idaho 83340
(208) 726-4421
FAX: (208) 726-0752

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

In Re SRBA) Subcase No. 37-7069B
)
Case No. 39576) AFFIDAVIT OF JAMES P. SPECK
)
)
_____)

STATE OF IDAHO)
)ss:
County of Blaine)

JAMES P. SPECK, having been duly sworn upon oath, deposes and states as follows:

1. I am an attorney licensed to practice law in the State of Idaho and employed by the law firm of Speck & Aanestad, A Professional Corporation, legal counsel for Wyndermere Association, an Idaho unincorporated association, whose address is c/o Penelope Glassmeyer, 26 Butler's Island Rd., Darien, CT 06820 (the "Association").

2. In July, 1970, Permit 37-7069 was issued to Carl Pothier ("Pothier") to divert 0.16 cfs of ground water for domestic use in eight (8) homes just south of the City of Ketchum in Blaine County, Idaho. A copy of this Permit is attached hereto as **Exhibit 1**.

3. In June, 1972, Permit 37-7142 was issued to Pothier to divert 0.20 cfs of ground water from the same well as Permit 37-7069 to irrigate 10 acres where the eight homes were to be built. A copy of this Permit is attached hereto as **Exhibit 2**.

4. In 1976, Wyndermere Subdivision (the “Subdivision”) was created in Blaine County, Idaho by the filing of a plat as Instrument No. 165298 in the records of Blaine County, Idaho, a copy of which is attached hereto as **Exhibit 3**. The Subdivision consisted on seven (7) lots located on lands served by Permits 37-7069 and 37-7142.

5. Pursuant to the terms and conditions of the Wyndermere Subdivision Declaration of Restrictions, recorded June 3, 1976 as Instrument No. 166354, records of Blaine County, Idaho, a copy of which is attached hereto as **Exhibit 4** (the “Declaration”), each owner of a lot in the Subdivision is a member of Wyndermere Association, an Idaho unincorporated association (the “Association”). The sole purpose of the Association was to operate the water and road system for the Subdivision.

6. In August, 1976, Pothier assigned all of his right in Permit 37-7069 to Brooks Tessier (“Tessier”) by an Assignment of Permit, a copy of which is attached hereto as **Exhibit 5**. Tessier had previously signed the Declaration as general partner of North Wind, Ltd., the developer of the Subdivision.

7. On August 24, 1977 Tessier assigned back to Pothier a portion of Permit 37-7069 by an Assignment of Permit, a copy of which is attached hereto as **Exhibit 6**, and Pothier assigned to Tessier a portion of Permit 37-7142 by an Assignment of Permit, a copy of which is attached hereto as **Exhibit 7**.

8. In February, 1980, the Idaho Department of Water Resources (“IDWR”) agent Gary Funderburg (“Funderburg”) conducted a field exam for Permit 37-7069B, the portion of that permit then owned by Tessier. A copy of the Field Report for that exam is attached hereto as **Exhibit 8**.

In January, 1981, at the request of Tessier, Funderburg did a second field examination for Permit 37-7142B, the portion of that permit acquired by Tessier. A copy of the Field Report from that re-examination is attached hereto as **Exhibit 9**. Funderburg recommended that the nature of use be changed from 7 acres of irrigation to domestic use in the same 7 homes served by Permit 37-7069B. A licensing amendment of Permit 37-7142B was then approved by IDWR in April, 1981 changing the use to 0.14 cfs for domestic purposes in 7 homes in the Subdivision. A copy of the Application for Amendment of Permit approved on April 16, 1981 is attached hereto as **Exhibit 10**. On the same day, IDWR issued the License for 37-7142B, a copy of which is attached hereto as **Exhibit 11**.

9. On August 31, 1983, IDWR issued the License for 37-7069B, a copy of which is attached hereto as **Exhibit 12**.

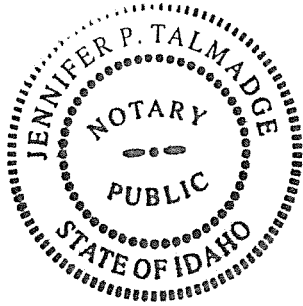
10. Until the Association representatives recently met with the undersigned, and the undersigned then learned that the Subdivision, which is located in the City of Sun Valley, is not served by the City of Sun Valley municipal water system, the Association was not aware that the small water system that continues to serve the Subdivision with water for domestic purposes must have a water right, that Water Rights 37-7069B and 37-7142B are those water rights, and they have not been claimed in the SRBA. Apparently Tessier never formally conveyed these water rights to the Association or even told its representatives that these water rights exist.

11. The water system on which Water Rights Nos. 37-7069B and 37-7142B has served, and continues to serve, the Subdivision since it was constructed in the late 1970's.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


JAMES P. SPECK

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said state, this
27 day of January, 2012.



Jennifer P. Talmadge
NOTARY PUBLIC for Idaho
Residing at: Ketchum, ID
Comm. Exp: 2-9-15

CERTIFICATE OF MAILING

I certify that on January 30, 2012, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court Snake
River Basin Adjudication 253
Third Avenue North PO Box
2707 Twin Falls, ID 83303-2707

VIA FEDEX

2. Copies to:

IDWR Document Depository
PO Box 83720 Boise, ID
83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033 Boise, ID
83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

8-24-1976 Brooks Insin
Box 1096
Ketchum, ID
NORTHWIND, LTD.

Identification No. 37-7069
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 Carl R. Pothier
post office address Box 611, Ketchum, Idaho 83340
2. Source of water supply groundwater which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19 Township 4N
Range 18E B.M. Blaine 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 0.16 for domestic purpose from Jan. 1 to Dec. 31 (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. 0.16 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 1 - 7½ hp pump, 1 - 1,000 gal.
storage pressure tank connected to 4" distribution line

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 10 inches; proposed depth of well is 70 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 \$ 8,000.00.
8. Description of proposed uses:
a. If water is not for irrigation:
(1) Give the place of use of water: NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19 Township 4N
Range 18E 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 eight.
(5) If water is to be used for other purposes describe: _____

Exhibit 1

37-7069

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

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	

Total number of acres to be irrigated _____

c. Describe any other water rights used for the same purposes _____

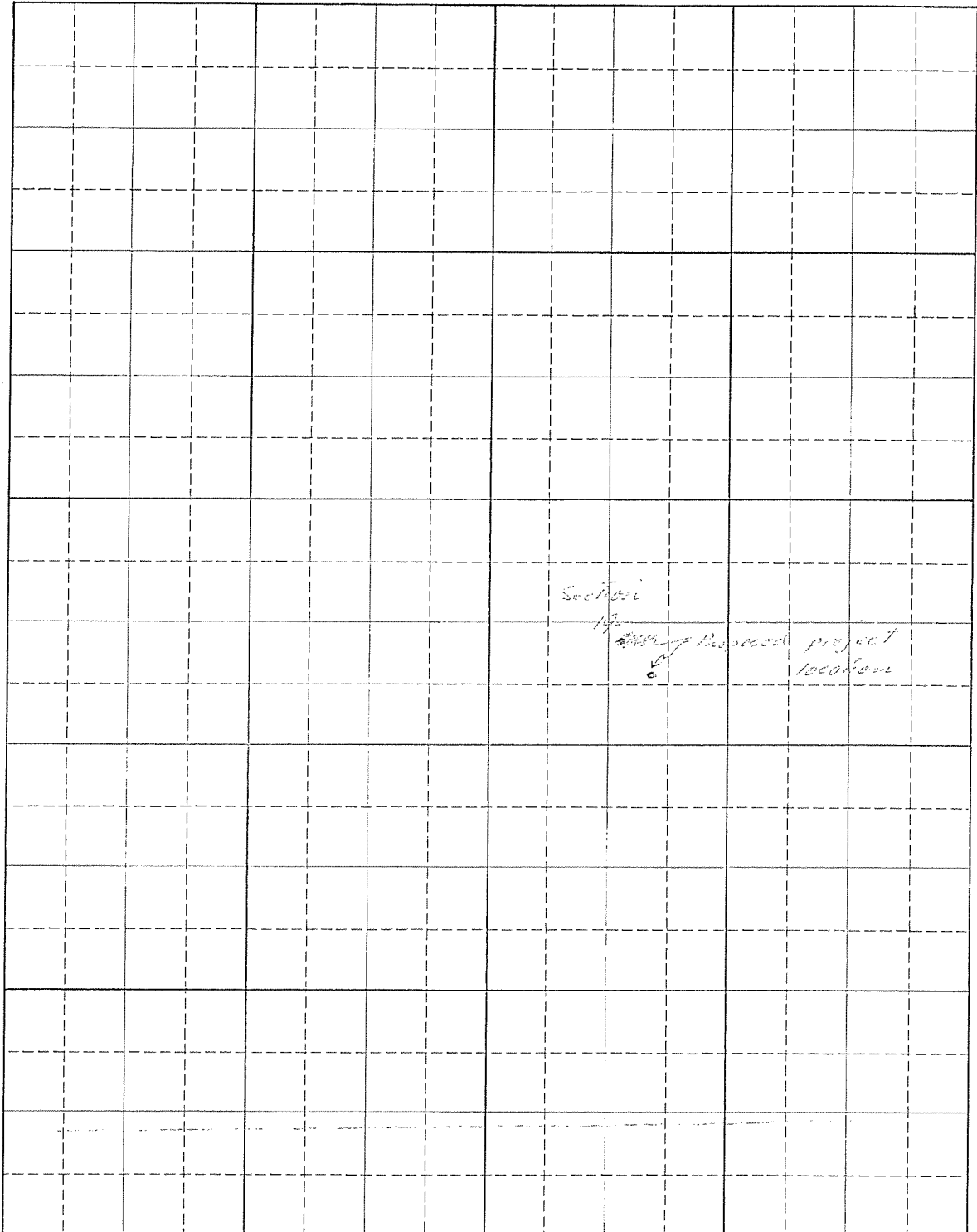
9. a. Who owns the property at the point of diversion _____

b. Who owns the land to be irrigated or place of use O.S. Farnlun, Ketchum, Idaho

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing negotiations for purchase are in process at present
and will be completed by ^{June} May 1, 1970.

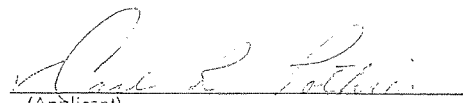
10. Remarks _____

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.


(Applicant) Carl R. Pothier

37-7069

Received by Date 5-25-70 Time 8:00 am

Preliminary check by W.H. Fee \$ 10.00

Received by Date 5-25-70

Publication prepared by Date 5-27-70

Published in Wood River Journal

Publication dates 6-4-11-70

Publication approved Date 6-16-70

Priority reduced to Reason

Protests filed by:

Copies of protests forwarded by

Hearing held by Date

Recommended for approval denial by Dewey

ACTION OF STATE RECLAMATION ENGINEER

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7069, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before July 1, 19 75.

c. Other:

2. Denial of said application is for the following reasons:

Witness my hand this 2nd day of July, 19 70.

P. Keith Higgins
State Reclamation Engineer

Identification No. 37-7142

Application No. _____

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
APPLICATION FOR PERMIT **APPROVED**

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

1. Name of applicant Carl R. Pothier
post office address Box 611, Ketchum, Idaho 83340
2. Source of water supply groundwater which is a tributary of _____
3. a. Location of point of diversion is NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19 Township 4N
Range 18E B.M. Blaine 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 0.20 for irrigation purpose from 4/1 to 11/1 (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. 0.20 cubic feet per second and/or
b. _____ acre feet per annum.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. 1-7 1/2 hp pump, 1 - 1,000 gal.
storage pressure tank connected to 4" distribution line

- 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 10 inches; proposed depth of well is 70 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 \$ _____.
- B. 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: _____

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

[illegible]

Total number of acres to be irrigated 10

c. Describe any other water rights used for the same purposes as described above. _____

37-7069 from same well for domestic use

9. a. Who owns the property at the point of diversion applicant

b. Who owns the land to be irrigated or place of use _____ "

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 image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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

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.

Carl L. Pothier
(Applicant)

37 7142

Received by D Date 4-26-1972 Time 1:04
Preliminary check by D Fee \$ 1000 REC # 8336
Receipted by cy Date 4-20-72
Publication prepared by CR Date 4-21-72
Published in WOOD RIVER JOURNAL
Publication dates 4-27 & 5-4-72
Publication approved CR Date 5-11-72
Priority ~~reduced to~~ 4-20-72 Reason _____

Protests filed by: _____

Copies of protests forwarded by _____
Hearing held by _____ Date _____
Recommended for approval denial by D BDFN

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER ADMINISTRATION

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-7142, and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

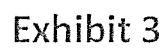
- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before June 1, 1977.
- c. Other: _____

2. Denial of said application is for the following reasons: _____

Witness my hand this 6th day of June, 1972.

D. Keith Higgins
Director

IDAHO



160354
6-2-76

WYNDERMERE SUBDIVISION
DECLARATION OF RESTRICTIONS *No II*

NORTH WIND, LTD., an Idaho limited partnership, herein referred to as "Declarant", declares and certifies that:

1. Declarant is the owner of certain property located in Blaine County, Idaho, herein referred to as "Property", more particularly described in Exhibit A. attached hereto and made a part hereof.

2. It is the intention of the Declarant to subdivide the property into seven (7) lots, and impose thereon mutually beneficial restrictions, for the benefit of all lots for maintenance of a water supply system, and a road system.

I.

ASSOCIATION

There is hereby created an unincorporated association to be called "WYNDERMERE ASSOCIATION". Each lot owner shall belong to the Association by virtue of owning a subdivision lot. By sale of a lot, the selling owner's membership in the Association shall be ipso facto, transferred to the purchaser of such lot. The sole purpose of the Association is to operate the water and road system in accordance with this Declaration. The Association shall be managed by three (3) record owners of lots in the subdivision.

- 1 -

Exhibit 4

1. Voting Rights. At any meeting of the owners, each owner, including the Declarant, shall be entitled to cast the number of votes equivalent to the number of lots owned by such owner, of the total subdivision. Any owner may attend and vote at such meeting in person or by an agent duly appointed by writing, signed by the owner and filed with the Association.

2. Meetings. The presence in person or by a proxy of the owners having a majority of the total votes shall constitute a quorum. Any action may be taken at any time by the owners upon the affirmative vote of the majority of the total (quorum votes) present at such meeting in person or by proxy.

2.1 Annual Owners Meeting. The first annual owners meeting shall be held at the Pioneer Saloon, Ketchum, Idaho, on the 1st day of June, 1977, and at the same day and time each year thereafter, or other reasonable place and time as designated in written notice to the owners by the Association. Any notice required herein shall be in writing, mailed certified with return receipt requested to the lot owner, not less than fifteen (15) nor more than (30) days prior to the date fixed in said notice, for said meeting.

2.2 Special Owners Meeting. Special meetings of the owners may be called at any time for the purpose of considering matters, which by the terms of this Declaration, require the approval of all or some of the owners, or for any other reasonable purpose. Said meeting shall be called by written notice as hereinabove set forth and signed by three (3) or more lot owners. Said notice shall specify the date, time and place of the meeting, and the matters to be considered thereat.

3. Election. At each annual meeting, the owners shall elect directors for the forthcoming year consisting of three (3) owners. The initial directors shall be appointed by the Declarant or its successor. Directors shall serve for a term of one (1) year and until their respective successors are elected, or until resignation or removal; provided, that if any director ceases to be an owner, his membership in the Association shall thereupon terminate.

4. Authority of Directors. The directors for the benefit of the subdivision and the owners thereof, shall enforce the provisions of this Declaration, and shall have the power and duties to contract and pay for out of the maintenance fund, hereinafter provided, all costs associated with the maintenance and upkeep of the water system and road system.

5. Water Supply System.

5.1 Easement. There shall be an easement across the property of the owners of the subdivision for the purpose of operating and maintaining water lines of the water supply system of the subdivision. This easement shall at all times be within fifteen (15) feet of the owner's lot line.

5.2 Sharing Operation, Maintenance, Necessary Improvement Expenses. All operation, maintenance and improvement expenses to the pump, well, pipelines, and all other appurtenant equipment shall be shared on an equal basis. Each lot owner's share shall be computed by dividing the total number of lots in the subdivision which is seven (7), by the number of lots owned by the owner. In the event any lot owner shall use an unreasonably disproportionate amount of water other than that normally used for domestic use in the subdivision, that lot owner shall pay his pro rata share of the total

maintenance and improvement expenses attributed to such use. In the event the lot owner refutes his increased pro rata, share of maintenance and improvement expenses, as determined by the directors, water metering devices may be installed on each pipeline so as to accurately measure the use of the water by each lot owner, and respective pro rata shares may be computed by the directors based thereon.

6. Road System. The Declarant intends to construct a road between Lots 5 and 6 and Lots 1 and 2, of the subdivision. These individual lot owners will be solely responsible for the maintenance of the road serving such lots. The costs associated with the road system shall include but not be limited to periodic maintenance and snow removal when required. Lots 1, 2, 5 and 6 shall share pro rata in such costs.

7. Maintenance Fund: Assessments.

7.1 Annual Estimates. The directors shall estimate the charges required to be paid by the Association for the water and road systems during the calendar year. The total annual assessments against all subdivision lot owners shall be based upon advanced estimates of cash requirements by the directors to provide for the payment of all estimated expenses growing out of or connected with maintenance and operation of the water and road systems. Said estimated cash requirements shall be assessed to the record owners pro rata, as set forth hereinabove. Said assessment shall be levied in December of each year for the following year, as determined by the directors. Each owner shall be obligated, and by accepting a deed to a subdivision lot, agrees to pay assessments levied to the Association in four (4) equal quarterly installments, commencing the first day of January in the calendar year following the assessment.

7.2 Special Assessments: Deficiencies. If the above estimated sums prove deficient for any reason, the directors shall estimate the additional charges necessary to cover said deficiency and assess said additional charges to the owners. Said additional charges shall be prorated over the number of months remaining in the calendar year in which the assessment arose and shall be levied against and paid by the owners in equal quarterly installments for the remainder of said calendar year.

8. Liens. In the event of a default in payment of any assessment herein, and in addition to any other remedies herein or by law provided, the Association may enforce such obligations as follows:

8.1 The association shall have the authority to create a lien, with power of sale, on each subdivision lot to secure payment of the amount of any assessment, assessed to the owner thereof, provided that no action shall be brought to foreclose such lien or proceed under power of sale, less than thirty (30) days after a Notice of Assessment is mailed to the record owner of such subdivision lot at his address appearing on the records of the Association. Reasonable attorney's fees and expenses in connection with collection of the debt secured by such lien or foreclosure thereof shall be paid by the owner against whom such action is brought and secured by the lien. Such lien and rights to foreclosure and sale shall be in addition to and not in substitution for any other rights and remedies which the owners and the board may have hereunder and by law.

9. Effect Of Non-Payment Of Assessments. Any assessments not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight per cent (8%) per annum. Should interest not be so paid, it shall thereafter bear like interest as

the assesement, but such unpaid interest so computed shall not exceed an amount equal to simple interest on the unpaid assessment at the maximum rate permitted by law. Any assessment not paid within thirty (30) days after the due date shall result in the immediate suspension of the delinquent owner's voting rights, until such deliquent assesment is paid.

10. Amendment. The provisions of this document may be amended by an instrument in writing signed and acknowledged by the owners owning five-sevenths (5/7) of the entire subdivision, which amendment shall be effective upon recordation in the Office of the Recorder of Blaine County, Idaho.

11. Attorney's Fees. In the event the Association or any owner or owners shall bring legal action against any owner to enforce the terms, covenants, conditions and restrictions of this Declaration of Restrictions, and they shall be the prevailing party in said law suit, the court may award reasonable attorney's fees and court costs.

IN WITNESS WHEREOF, the undersigned have
executed this instrument the 3rd day of June, 1976.

NORTH WIND, LTD.
a limited partnership

By Brooks Tessier
BROOKS TESSIER
a general partner

PARTNERSHIP ACKNOWLEDGEMENT

STATE OF IDAHO)
) ss.
County of Blaine)

On this 3rd day of June, 1976, before me,
a Notary Public in and for said State, personally appeared
BROOKS TESSIER, known to me to be one of the general partners
in the limited partnership of NORTH WIND, LTD., and the
partner or one of the partners who subscribed said partnership
name to the foregoing instrument and acknowledged to me
that he executed the same in said partnership name.

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

James Hopkin
NOTARY PUBLIC for Idaho
Residing at *Ketchikan*
Commission expires *9-24-77*

EXHIBIT A.

WYNDERMERE SUBDIVISION as shown on the
official plat thereof recorded on
April 6, 1976 as Instrument #165298
records of Blaine County, Idaho.

State of Idaho
Department of Water Resources
ASSIGNMENT OF PERMIT

RECEIVED

AUG 24 1976

Department of Water Resources

I, CARL POTHIER, hereby assign to BROOKS TESSIER
of P.O. Box 1096 KETCHUM, IDA. DBA NORTHWIND LTD
Address

CHECK ONE



All my right, title, and interest in and to Permit No. 37-7069
to appropriate the public waters of the State of Idaho.



The following described portion of my right, title, and interest in and to Permit
No. _____ to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

Made this 23 day of August, 19 76.

Carl Pothier
Permit Holder

Marie Lee Pothier
Spouse of Permit Holder

State of Idaho)
County of Blaine) ss.

On this 23 day of August, 19 76, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.

Notary Seal

L. A. Williams
Notary Public residing at
Ketchum

My commission expires:
November 1976

Exhibit 5

RECEIVED

AND FOR MITT

Department of Water Resources
Southern District Office

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

I, Brooks Tessier, hereby assign to Carl R. Pothier
of Box 611, Ketchum, Idaho 83340
Address

CHECK ONE

☐ All my right, title, and interest in and to Permit No. _____
to appropriate the public waters of the State of Idaho.

☒ The following described portion of my right, title, and interest in and to Permit
No. 37-7069 to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

P. D. NWSE, Sec. 19, Twp. 4N, Rge. 18E .04cfs,

Domestic use in NWSE, Sec. 19, Twp. 4N, Rge. 18E

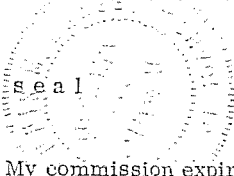
Made this 24 day of Aug., 19 77.

Brooks Tessier
Permit Holder

Cara Tessier
Spouse of Permit Holder

State of Idaho)
County of Blaine) ss.

On this 24 day of Aug., 19 77, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.



My commission expires:
12-24-80

Dennis M. Haggan
Notary Public residing at
Ketchum Idaho

Exhibit 6

State of Idaho
Department of Water Resources

ASSIGNMENT OF PERMIT

RECEIVED
PARTIAL ASSIGN
OK
Dist. Sec
Fielder

I, Carl R. Pothier, hereby assign to Brooks Tessier
of Box 1096, Ketchum, Idaho 83340
Address

CHECK ONE

☐ All my right, title, and interest in and to Permit No. _____
to appropriate the public waters of the State of Idaho.

☒ The following described portion of my right, title, and interest in and to Permit
No. 37-7142 to appropriate the public waters of the State of Idaho.

(Describe that portion of the permit being assigned by listing the acreage within
each 40 acre subdivision, the point of diversion and the amount of water in cubic
feet per second for direct diversion, or acre feet for storage)

P. D. NWSE, Sec. 19, Twp. 4N, Rge. 18E, B. M. (7 acres)

at (.14 cfs) Place of use NWSE, Sec. 19, Twp. 4N, Rge. 18E

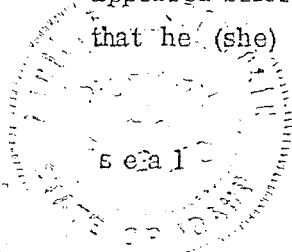
Made this 24th day of August, 19 77.

Carl Pothier
Permit Holder

Mary Lee Pothier
Spouse of Permit Holder

State of Idaho)
County of Blaine) ss.

On this 24th day of August, 19 77, personally
appeared before me the signer(s) of the above instrument, who duly acknowledged to me
that he (she) (they) executed the same.



Lucius A. Robertson
Notary Public residing at
Blaine, Idaho

My commission expires:
Life

Exhibit 7

RECEIVED

DEPARTMENT OF WATER RESOURCES FIELD REPORT

NOV 8 1980

1. Name of permit holder Tessier Brooks
Postoffice address Box 1096, Ketchum, ID 83340 Department of Water Resources
Phone 726-3747

Person to contact _____ Phone _____

2. Source of water supply: Groundwater ☒ Surface water ☐ _____
(name spring, stream, etc.)
Tributary to _____

3. Water will be used for the following purposes:

Amount .12 c.f.s. for Domestic (8)
_____ AF/Annum (nature of use)

Period of Use: from Jan. 1 to Dec. 31
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
_____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Amount _____ c.f.s. for _____
_____ AF/Annum (nature of use)

Period of Use: from _____ to _____
(mo.-day) inclusive (mo.-day)

Other uses: _____

Permit No. 37-7069 B
Examination for b/u

4. Total amount to be appropriated:

Max Rate of Diversion .12 cubic feet per second and annual volume _____ AF/Annum.

5. Location of Point(s) of Diversion:

Township 4N N/S, Range 18E E/W, B.M., Section 19, Subdivision NW 1/4 SE 1/4, Blaine
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____
County

Township _____ N/S, Range _____ E/W, B.M., Section _____, Subdivision _____ 1/4 _____ 1/4, _____
County

Other Points of Diversions: _____

Description of diverting works: 1 1/2 hp. submersible pump, 10" casing, 70' deep well, pumped to
pressure tank for one family dwelling

Measuring device required: yes ☐ no ☒

6. Lands to be irrigated or 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	
4N	18E	19													X				

Exhibit 2

TOTAL ACREAGE

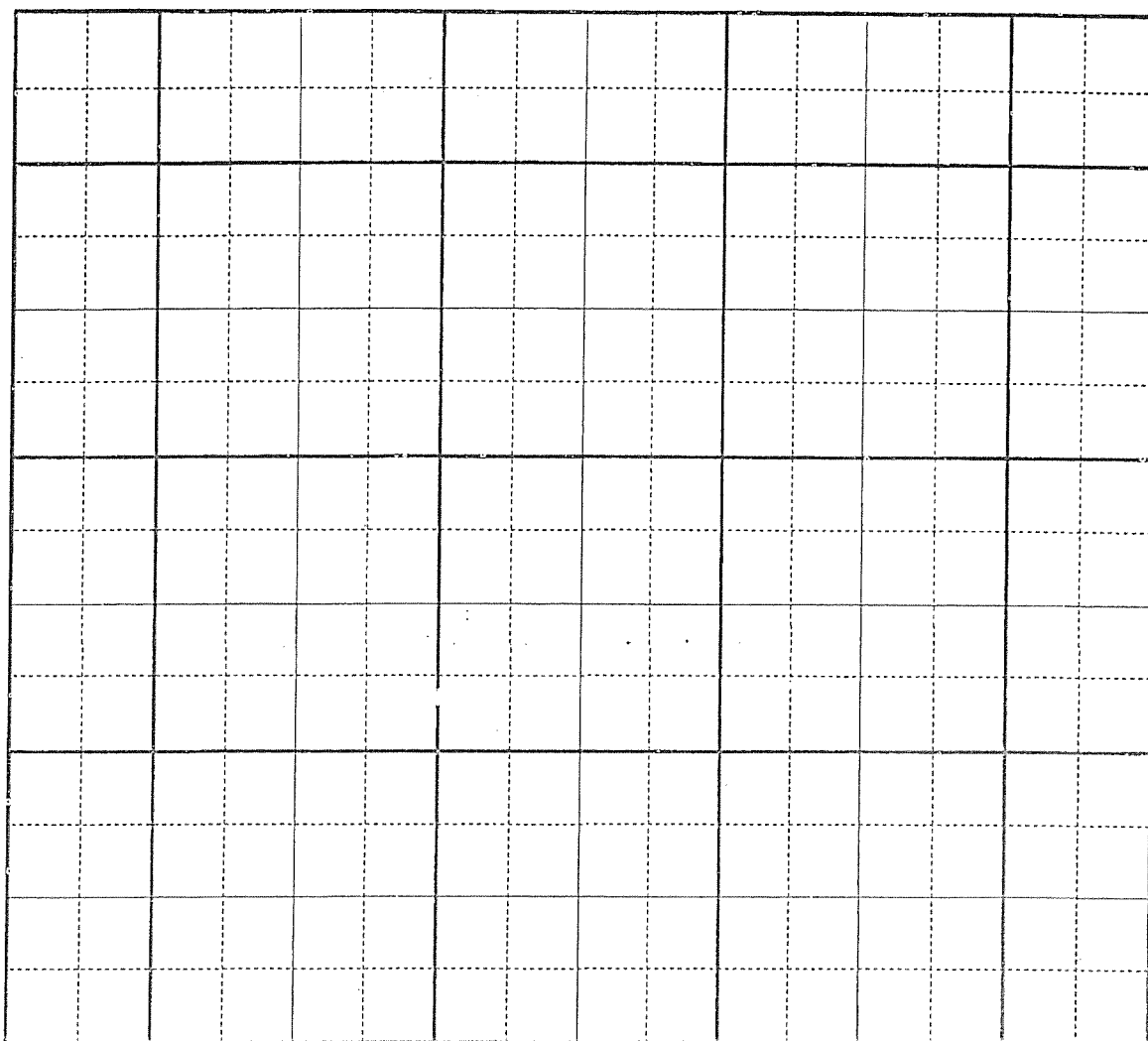


Diagram of System

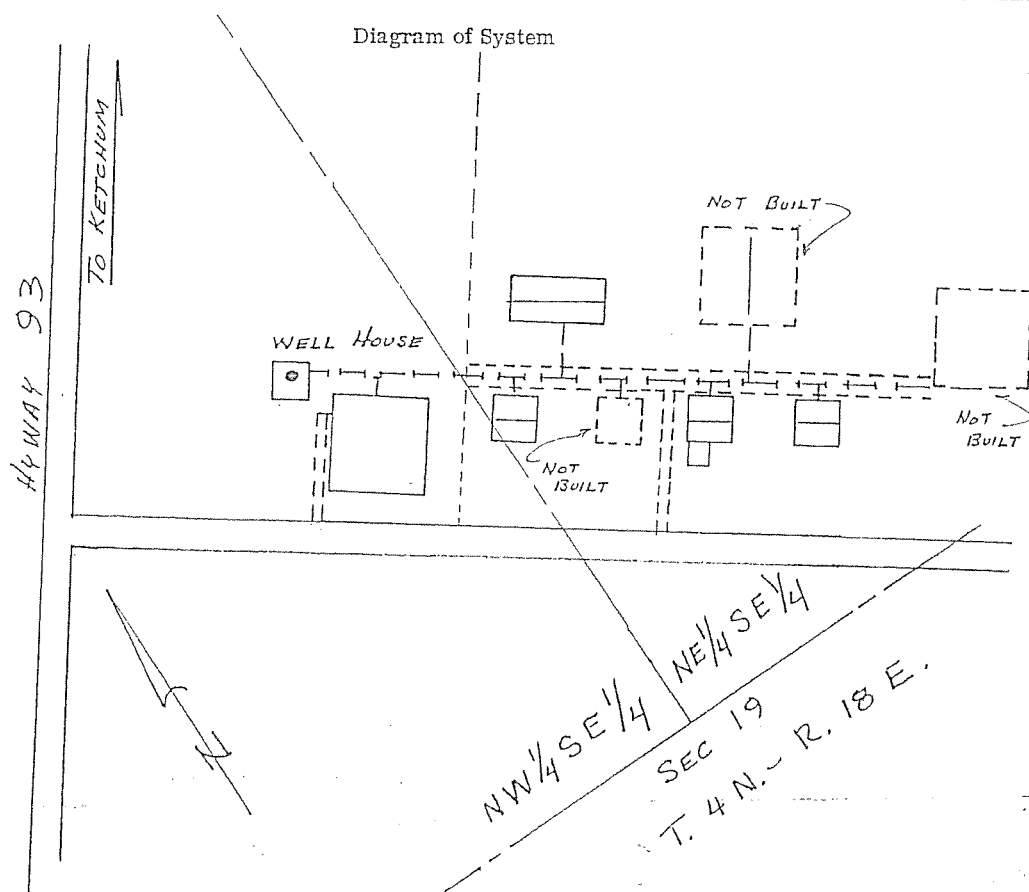


Diagram of System

Highway 93

To Ketchikan

WELL HOUSE

NOT BUILT

NOT BUILT

NOT BUILT

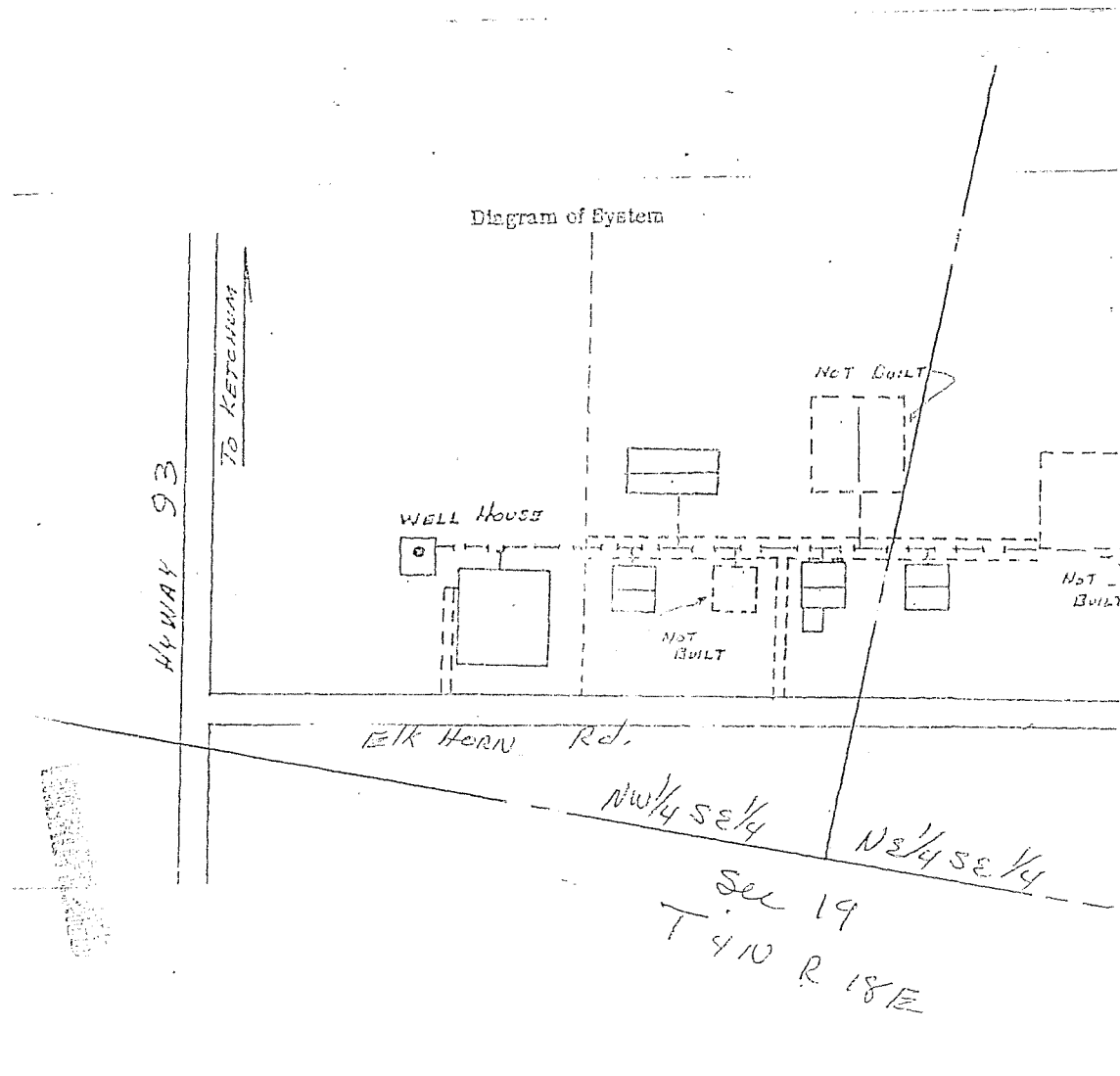
ELK HORN Rd.

NW 1/4 SE 1/4

NE 1/4 SE 1/4

Sec 19

T 410 R 18E



Approved by Edmund Lim 92 Date 1/9/81

State of Idaho
DEPARTMENT OF WATER RESOURCES
FIELD REPORT

37-7142 B

Permit No.

CONTACT WITH PERMIT HOLDER

	DATE	INITIALS	REMARKS
☐ Appointment letter mailed:			
☐ Telephone call made: (List Telephone No. used)			
☐ Appointment scheduled for: (Date, time, location)			

RE-EXAM

EXAMINATION

1:00 P.M.

Date JAN-22, 1981 Accompanied by BROOKS TESSIER Total Q measured 0.612 CFS.
If source is surface water, estimate total flow of source _____
Methods of measurement BADGER METER Meets Permit requirements? ✓

Measurement calculations:
MEAS - 275 gal/min = 0.612 CFS. ALLOW 14 AS per Assignment of Permit
7 Homes @ 1.2 ACF/ANN = Volume 8.4 ACF/ANN.

WELL/DIVERSION* NO.	HP	MOTOR MAKE	MOTOR SERIAL NO.	PUMP MAKE	PUMP SERIAL NO.	MEASURING DEVICE TYPE	CONDITION OF MEAS. DEV.	REMARKS
sub.	5	FAIRBANKS						
sub.	7.5	"	"					

System Description (2) pumps in one well one on top of the other.
6 PRESSURE TANKS 120 gal/ea.

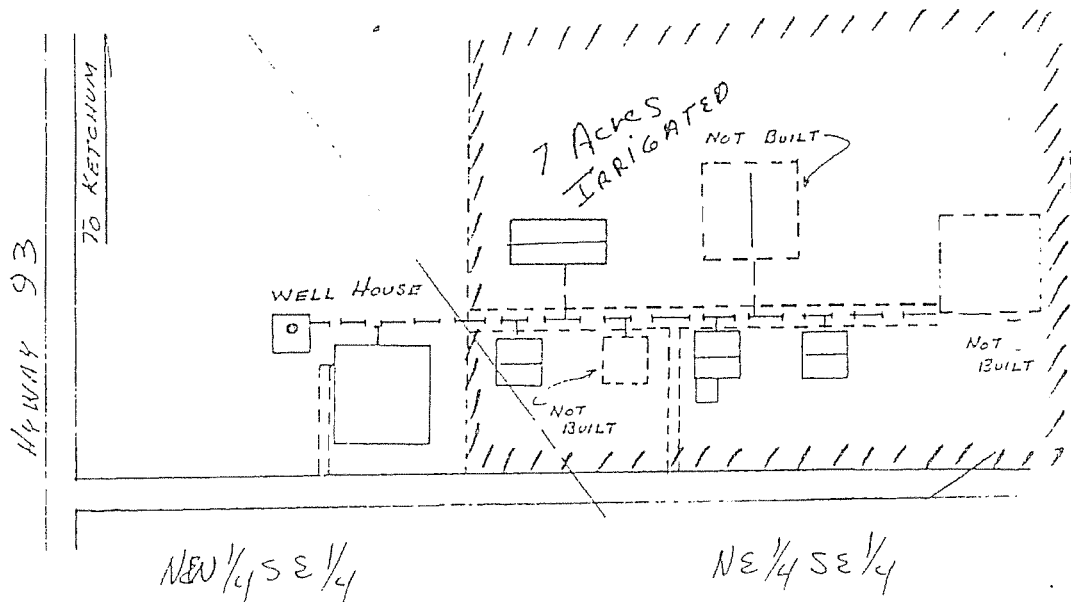
*Code with map on reverse side. Disregard code if only one.

RECOMMENDED AMOUNTS

USE		Irrigation requirement = <u>✓</u>		AFA/Acre	
Q (cfs)	V (afa)	FROM	TO		
<u>DOMESTIC (7 HOMES)</u>	<u>0.14 CFS</u>	<u>8.4</u>	<u>JAN 1</u>	<u>Dec 31</u>	
Total	<u>0.14 CFS</u>	<u>8.4</u>	<u>JAN 1</u>	<u>Dec 31</u>	

Remarks THIS PERMIT WAS ORIGINALLY ALLOWED FOR IRRIGATION.
MR. TESSIER ASK FOR AMENDMENT OF NATURE OF USE. @ THE
TIME FIELD EXAM WAS COMPLETED THERE WERE 4 HOMES
HOOKED UP AND 3 HOOK UPS READY FOR 3 MORE HOMES.
I FEEL THE NATURE OF USE BE ALLOWED FROM IRR TO
DOMESTIC

G.L.F. 2/3/1981



SCHEMATIC DIAGRAM OF SYSTEM
(Include distance from pump to measuring device, if applicable.)

Point(s) of diversion: NW 1/4 SE 1/4 ; Sec 19 T. 4 N. R. 18 E.

Place(s) 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	
4N	18E	19													X	X			

Recommended Amendments:

☐ Change P.D. as reflected above

☐ Add P.D. as reflected above

☐ None

☐ Change P.U. as reflected above

☒ Add P.U. as reflected above

☐ Other

NATURE OF USE

Examiner's Signature Gary Sundberg

Date 2-3-1981

Checked by

Date

Approved by [Signature]

Date 3/10/81

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAR 17 1981

APPLICATION FOR AMENDMENT OF A PERMIT
Department of Water Resources

To change the point of diversion and/or the place of use.

Comes now Brooks Tessier
of (address) Box 1096, Ketchum, Idaho 83340, and represents to the
Director of the Idaho Department of Water Resources:

That he is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho
No. 37-7142 B, and requests that the permit and permit map be changed as follows:

1. Point of diversion: NW ¼ SE ¼, Section 19, Township 4N, Range 18E, B.M.,
County of Blaine. Other points of diversion: _____

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount .14 for Domestic purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre feet per annum)

3. Place of use or land to be irrigated:

TWP	RGE	SEC	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
4N	18E	19													X	X			

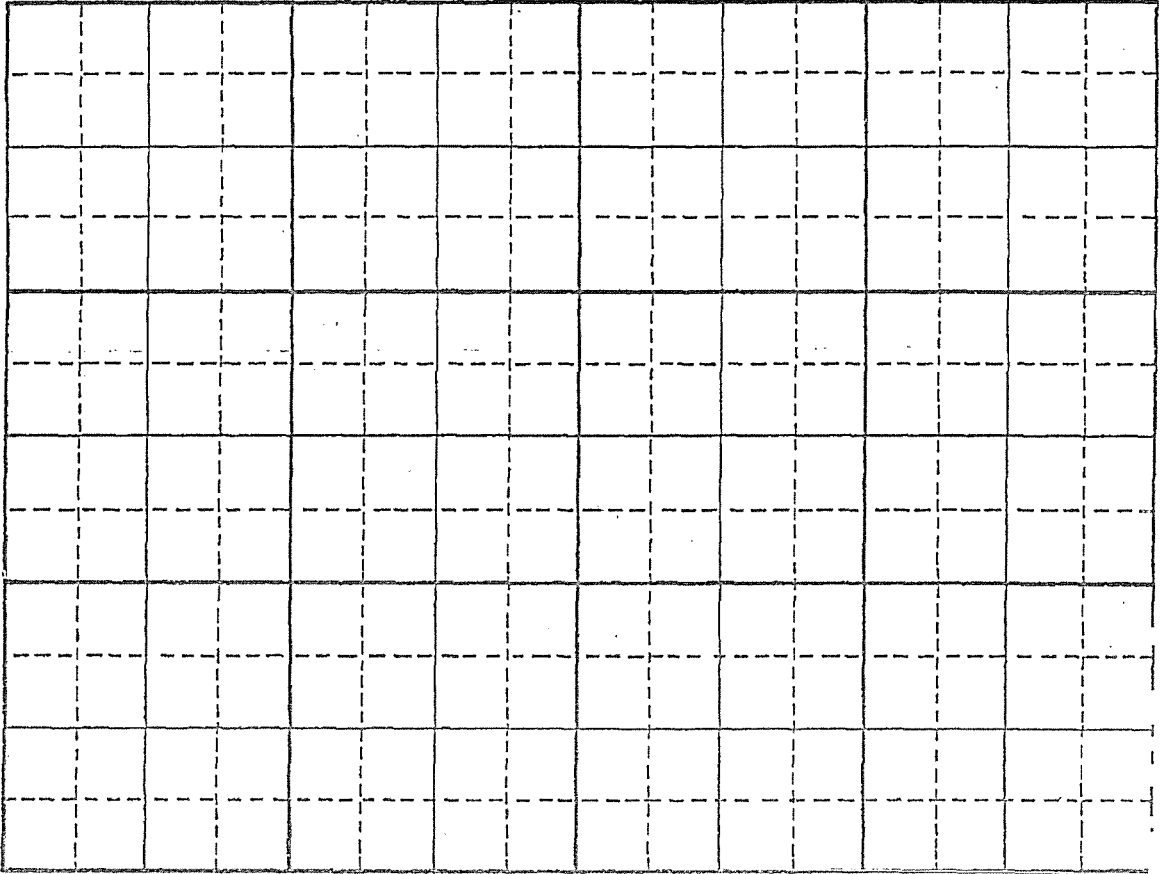
Total number of acres to be irrigated = _____

4. a. Who owns the property at the point of diversion? Wyndermere Homeowners Assoc
b. Who owns the land to be irrigated or the place of use? _____
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the
applicant to make this filing: The applicant subdivided the

above described property into 7 one acre
homesites (Commonly known as Wyndermere
Subdivision).

MICROFILMED

Complete the following map by showing land and point of diversion as proposed by this amendment.
Show 40-acre subdivisions, townships, ranges and ditches.



Scale: 2 inches equal 1 mile.

That no one will be injured by such change, and that such change will be made at permit holder's own risk.
X Signed at Ketchum, Idaho, this 16th day of March, 19 81.
X Brooks Towner
(Signature)

FOR DEPARTMENT USE ONLY

Preliminary check by _____ Fee = \$20.00

Received by dg Date 3-26-81 #18485

Publication prepared by _____ Date _____

Published in _____

Publication dates _____

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

I, A. KENNETH DUNN, Director of the Department of Water Resources hereby

APPROVE the above referenced Amendment for Permit No. 37-7142 B.

Witness my hand this 16th day of April, 19 81.

A. Kenneth Dunn
Director

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

License of Water Right No. 37-7142 B Priority April 20, 1972 Amount .14 cfs

THIS IS TO CERTIFY, that BROOKS TESSIER
of Ketchum, Idaho, has complied with the terms and conditions of Permit
No. 37-7142 B issued pursuant to Application for Permit dated April 20, 1972,
and has submitted proof to the Department of Water Resources on May 24, 1977,
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 .6 cfs of water from a groundwater 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>Domestic</u> <u>(7 units)</u>	from <u>January 1</u> to <u>December 31</u> at <u>14</u> cfs and <u>8.4</u> acre feet		
	from _____ to _____ at _____ cfs and _____		
	from _____ to _____ at _____ cfs and _____		

(both dates inclusive)

Subject, however, to the condition that no more than .14 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
8.4 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, Twp. 4N,
Roe. 18E B.M. in the County of Blaine

Description and location of place of use:

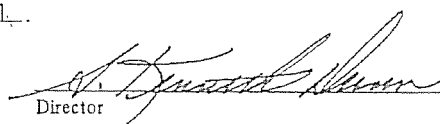
Twp.	Range	Sec.	Section												Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
4N	18E	19													

Total number of acres irrigated _____

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 16th day of
April, 19 81.


Director

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

(Late Proof)
License of Water Right No. 37-7069 B Priority July 18, 1970 Amount .12 cfs

THIS IS TO CERTIFY, that Brooks Tessier
of Ketchum, Id, has complied with the terms and conditions of Permit
No. 37-7069 B issued pursuant to Application for Permit dated May 25, 1970,
and has submitted proof to the Department of Water Resources on August 24, 1976,
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 .61 cfs of water from a groundwater 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
Domestic (7 Units)	from <u>January 1</u> to <u>December 31</u>	<u>.12</u> cfs and	<u>* Acre Feet</u>
	from _____ to _____ at _____ cfs and		
	from _____ to _____ at _____ cfs and		
	(both dates inclusive)		

Subject, however, to the condition that no more than .12 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
8.4 acre feet per year, said waters to be diverted within the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 19,
Twp. 4N, Rge. 18E in the County of Blaine

Description and location of place of use:

Twp.	Range	Sec.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				Totals
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
4N	18E	19													X	X			

Total number of acres irrigated _____

* This right when combined with License 37-7142 B shall provide no more than
8.4 afa.

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, and is subject to all prior water rights, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 31 day of
August, 1983.

Director