

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: A63-09128
Date Received: 2/12/1990
Receipt No: 2015869
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED
MAR 22 1990

1. Name: CITY OF MIDDLETON
Address: CITY HALL
MIDDLETON, ID

83644

2. Date of Priority: MAR 29, 1978

3. Source: GROUNDWATER

Trib. to:

4. Point of Diversion:

Department of Water Resources

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	02W	5	NW	NE		2	CANYON
		6	NW	NW		4	CANYON

5. Description of diverting works:
WELL, PUMP & PIPELINE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
MUNICIPAL	01/01	12/31	1.240		

7. Total Quantity Appropriated is:
1.240 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is Municipal Acre Feet Per Annum.

9. Non-irrigation uses: Municipal

10. Place of Use: Within City Limits of Middleton

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
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11. Place of use in counties: Canyon County

12. Do you own the property listed above as place of use? YES

A63-09128

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Date: 02/16/90

MICROFILMED
AUG 24 1992

13. Other Water Rights Used:
63-8704.

14. Remarks:
REINSTATED 6-18-1979.
P/U WITHIN CITY LIMITS OF MIDDLETON.

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: _____

For Organizations:

I do solemnly swear or affirm that I am Mayor _____ of
_____ Title
City of Middleton _____, that I have signed the foregoing
Organization
document in the space below as Mayor _____ of
Title
City of Middleton _____ and that the statements contained in the
Organization
foregoing document are true and correct.

Alice M. Lanning
Signature of Authorized Agent

Mayor, City of Middleton
Title and Organization

03/20/90
Date

State of Idaho)
County of Canyon) SS.

Subscribed and sworn (or affirmed) before me this 20th day
of March 19 90

Val Jean Bonnell
Notary Public

Seal

Residing at Middleton

My Commission Expires 12/26/91
2 Date: 02/16/90

A63-09128

Page

MICROFILMED

AUG 24 1992

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

RIGHT NUMBER: 63-9128

NAME AND ADDRESS: CITY OF MIDDLETON
PO BOX 487
MIDDLETON ID 83644

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 1.240 CFS

PRIORITY DATE: 03/29/1978

POINT OF DIVERSION:

T04N R02W S5 NWNE Lot 2 Within CANYON County

T04N R02W S6 NWNW Lot 4 Within CANYON County

T04N R02W S8 NENW Within CANYON County

T04N R02W S17 SWNW Within CANYON County

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NENW, S8 and SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 3/29/1978 relative to all other actions to distribute water.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
MUNICIPAL	1/01 12/31	1.240 CFS
The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.		

PLACE OF USE:

Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

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

This right does not grant any right-of-way or easement across the land of another.

Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.

Harris, Lori

From: Harris, Lori
Sent: Wednesday, April 29, 2009 3:45 PM
To: 'tbooth@srba.state.id.us'
Cc: Shurte, Jan; 'Diana Delaney'
Subject: Corrected Recommendations

Ted,

On January 7th you sent an e-mail to Jan regarding 63-3398 and had a couple of questions. After she looked at this right she found that there were issues with all of the rights relative to Transfer 71407 that the recommendations were made from. Below are the changes we have made to these recommendations. Any questions, please let me know.

Lori

63-3398

Delete AF quantity 57.0 (not on original License)

Moved to POD from General:

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NWNE, S5; NWNW, S6; NENW, S8 and SWNW, S17; T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 1/8/1964 relative to all other actions to distribute water.

Delete from recommendation:

The total instantaneous diversion of water from all points of diversion under Rights 63-3398, 63-8310, 63-8704, 63-9128 and 63-22363 shall not exceed 11.35 cfs.

63-8310

Delete from recommendation:

The total instantaneous diversion of water from all points of diversion under Rights 63-3398, 63-8310, 63-8704, 63-9128 and 63-22363 shall not exceed 11.35 cfs.

Added to POD and replaces condition below:

Diversion and use of water under this right from the additional well authorized under Transfer 71407 located in the SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 7/21/1976 relative to all other actions to distribute water.

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NWNE, S5; NWNW, S6; NENW, S8 and SWNW, S17; T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of

approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 1/8/1964 relative to all other actions to distribute water.

Replaces condition below in General:

The wells previously used under Right 63-8310 in the NWNE, S7 and the SWSE, S6, T4N, R2W shall be abandoned in a manner which complies with Department well abandonment rules.

The well previously used under Right 63-3398 shall be abandoned in a manner which complies with Department well abandonment rules.

63-8704

Moved to POD from General:

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NENW, S8 and SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 4/18/1977 relative to all other actions to distribute water.

Delete from recommendation:

The total instantaneous diversion of water from all points of diversion under Rights 63-3398, 63-8310, 63-8704, 63-9128 and 63-22363 shall not exceed 11.35 cfs.

The well previously used under Right 63-3398 shall be abandoned in a manner which complies with Department well abandonment rules.

63-9128

Added to POD and replaces condition below:

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NENW, S8 and SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 3/29/1978 relative to all other actions to distribute water.

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NWNE, S5; NWNW, S6; NENW, S8 and SWNW, S17; T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 1/8/1964 relative to all other actions to distribute water

Delete from recommendation:

The total instantaneous diversion of water from all points of diversion under Rights 63-3398, 63-8310, 63-8704, 63-9128 and 63-22363 shall not exceed 11.35 cfs.

The well previously used under Right 63-3398 shall be abandoned in a manner which complies with Department well abandonment rules.

63-22363

Moved from Source to General:

The wells previously used under Right 63-22363 in the NWNE, S7 and the SWSE, S6, T4N, R2W shall be abandoned in a manner which complies with Department well abandonment rules.

Moved to Explanatory:

After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the

Department to determine the amount of water diverted from power records and shall annually report the information to the Department

This right does not grant any right-of-way or easement across the land of another.

Added to POD and replaces condition below:

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 10/16/1919 relative to all other actions to distribute water.

Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 3/3/1936 relative to all other actions to distribute water.

Shurte, Jan

From: Diana Delaney [ddelaney@srba.state.id.us]
Sent: Thursday, February 19, 2009 12:02 PM
To: Shurte, Jan
Subject: RE: Partial Decree Hold

I've pulled all 4 out of the mix. I'll hold onto them until you say "go"

From: Shurte, Jan [mailto:Jan.Shurte@idwr.idaho.gov]
Sent: Thursday, February 19, 2009 11:06 AM
To: Diana Delaney
Subject: Partial Decree Hold

Hi Diana,

I received a question from SM Booth concerning 63-3398 and 63-8310 that led me to a transfer on two other connected rights ready to be partially decreed on April 3rd. It opened them up to some errors I found in putting the transfer conditions on these rights. Would you hold out the two numbers above along with 63-8704 and 63-9128. I will work on fixing these condition errors as soon as I get through a few more.

If you have a problem with this please let me know.

Thanks,
Jan

2/19/2009

Shurte, Jan

From: Ted Booth [tbooth@srba.state.id.us]
Sent: Wednesday, January 07, 2009 9:25 AM
To: Shurte, Jan
Subject: 63-3398

Jan,

Two questions: (1) is the AFY limit correct? – the limit would allow the well to be operated a cumulative total of 25 days out of a year. (2) There is a remark listing additional POD's – Shouldn't these POD's be listed under the POD section rather than (or in addition to) in a remark?

Ted

Eliminate annoying spam!

My mailbox is protected by iHateSpam, the #1-rated spam buster.
<http://www.ihatespam.net>

2/18/2009

WATER RIGHT NO. 63-9128
As Modified by Transfer No. 71407

In accordance with the approval of Transfer No. 71407, Water Right No. 63-9128 is now described as follows.

Right Holder: CITY OF MIDDLETON
PO BOX 487
MIDDLETON ID 83644

Priority Date: March 29, 1978

Source: GROUND WATER

BENEFICIAL USE

MUNICIPAL

From

To

Diversion Rate

1/01 to 12/31

1.24 CFS

1.24 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L2 (NWNE)	Sec. 5 Twp 04N	Rge 02W CANYON County
GROUND WATER	L4 (NWNW)	Sec. 6 Twp 04N	Rge 02W CANYON County
GROUND WATER	NENW	Sec. 8 Twp 04N	Rge 02W CANYON County
GROUND WATER	SWNW	Sec. 17 Twp 04N	Rge 02W CANYON County

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
4. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
5. This right does not grant any right-of-way or easement across the land of another.
6. The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
7. After specific notification by the Department, the right holder shall record the quantity of water diverted or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
8. Diversion and use of water under this right from the additional wells authorized under Transfer 71407 located in the NENW, S8 and SWNW, S17, T4N, R2W shall be subordinate to all ground water rights existing within the immediate area prior to the date of approval of this transfer upon determination of injury due to local well interference. This right retains its priority date of 3/29/1978 relative to all other actions to distribute water.

POD
(F4)

SCANNED
DEC 11 7 2004

WATER RIGHT NO. 63-9128
As Modified by Transfer No. 71407

CONDITIONS OF APPROVAL

9. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion.

Deleted 10. The total instantaneous diversion of water from all points of diversion under Rights 63-3398, 63-8310, 63-8704, 63-9128 and 63-22363 shall not exceed 11.35 cfs.

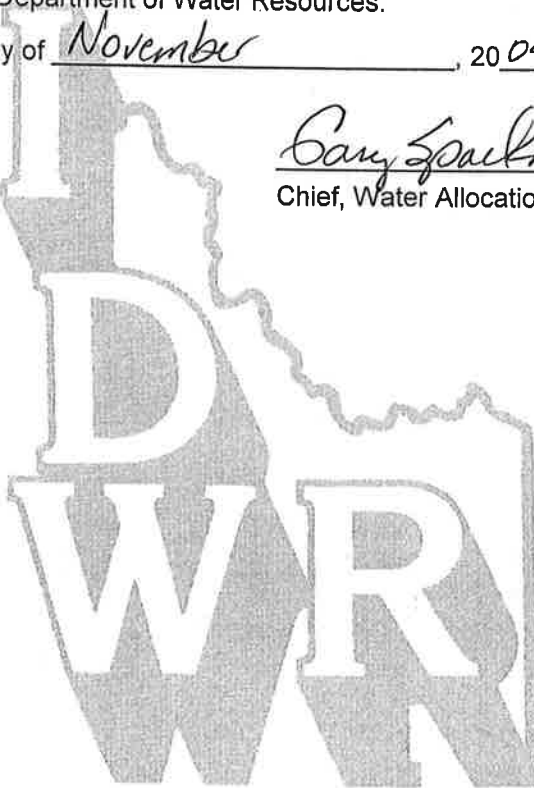
11. Place of use is within the service area of the City of Middleton municipal water supply system as provided for under Idaho Law.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 2nd day of November, 2004



Chief, Water Allocation Bureau



SCANNED
DEC 17 2004

11/21/2006

RECEIVED

DEC 08 2006

DEPARTMENT OF
WATER RESOURCES

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: December 7, 2006

Water right number: 63-9128

CITY OF MIDDLETON

PO BOX 487

MIDDLETON ID 83644

Telephone Number: (208) 585-3133

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

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

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

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

DATE: 12-7-06

SIGNATURE:

Frank M. Keever

Please print your name: Frank McKeever

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC 09 2006

LEGAL NOTICE OF
PUBLIC HEARING BEFORE THE CANYON COUNTY
BOARD OF COMMISSIONERS

ALB3-000018
ALB3-03545
ALB3-08704
ALB3-09125
ALB3-22363
ALB3-08310

LEGAL NOTICE IS HEREBY GIVEN, that the Canyon County Board of Commissioners will hold a public hearing at 6:00 p.m. on Monday, December 19, 1994 in the First Floor Commissioners Meeting Room, Canyon County Courthouse, 1115 Albany, Caldwell, County of Canyon, Idaho.

The purpose of this public hearing is to take public testimony concerning: [1] a draft separate ordinance providing for application of Comprehensive Plan and implementing ordinances for said Area of City Impact for the City of Middleton, Idaho that lies within the unincorporated area of Canyon County, Idaho pursuant to Idaho Code 67-6526; and [2] a draft separate ordinance defining and establishing the boundaries on a map to be adopted by the Canyon County Board of Commissioners as the Area of City Impact for the City of Middleton, Idaho pursuant to Idaho Code 67-6526. Said proposed map boundary being generally described on the north is Willis Road. The boundary being described on the south is the Boise River. Said boundary on the west is Emmett Road and on the east is Duff Lane. (Please refer to the attached published map, EXHIBIT "A".)

The Planning and Zoning Commission has made recommendations on the above mentioned separate ordinances to the Board of County Commissioners to adopt both: [1] the proposed boundaries on a map; and [2] the application of Comprehensive Plan and implementing ordinances following Planning and Zoning Commission public hearings held October 25 and November 22, 1994, respectively.

Following this County Commissioners public hearing, the Board of Canyon County Commissioners may adopt or reject any or all portions of either proposal. If the Board intends to make a material change in either proposal, further notice and hearing shall be provided before the Board of Canyon County Commissioners adopts either Ordinance.

Documents may be reviewed at the office of the Canyon County Board of Commissioners on the 1st Floor in the Canyon County Courthouse at 1115 Albany, Caldwell, Idaho, from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m., Monday thru Friday, except holidays. All interested persons are invited to attend this public hearing and present oral or written testimony concerning this matter. For more information call (208) 454-7478. Assistance is available for those with disabilities upon twenty-four (24) hour prior notice.

[Publish the City of Middleton IMPACT AREA MAP - EXHIBIT A in this area]

CANYON COUNTY BOARD OF COMMISSIONERS
Commissioner George Vance, Chairman *GV*
Commissioner Jan Vinson *JV*
Commissioner Abel "Abe" Vasquez *AV*

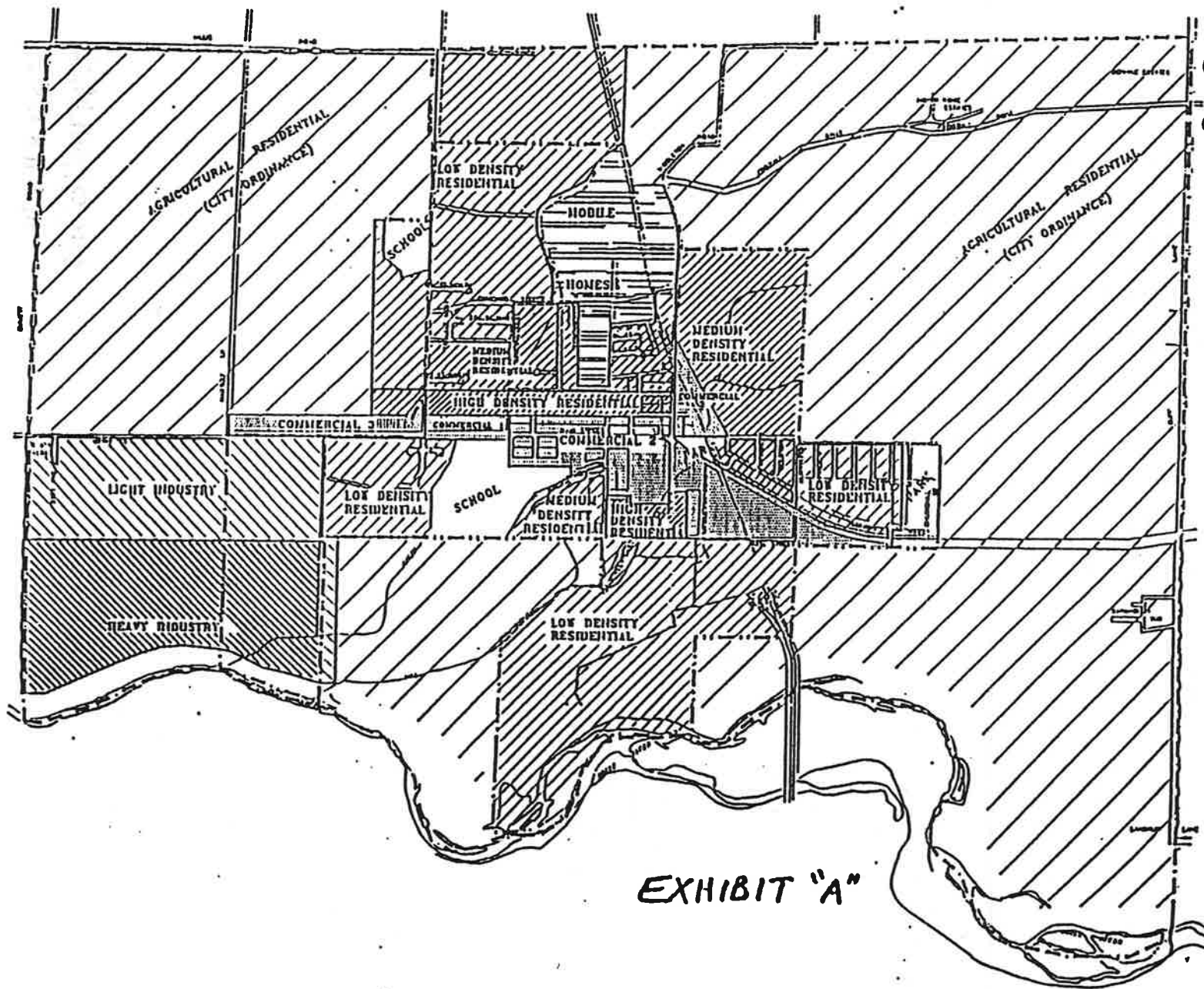
ATTEST: NED J. KERR, CLERK
Monica Reeves, Deputy Clerk *11/28/94*

Publish: IDAHO PRESS TRIBUNE
Date: December 1 and 2, 1994

Copy: Board's Hearing File for Middleton City Impact Area
Newspaper - Idaho Press Tribune
Notice Board
Agencies and Political Subdivisions
Public Service Announcements
P&Z Area of Impact File for Middleton

MICROFILMED
DEC 18 1996
BOC LEGALS-JLD:ars

MAP OF
CITY OF MIDDLETON
CAMPBELL COUNTY, OHIO
IMPACT ZONE
COMPREHENSIVE PLAN



- AGRICULTURAL RESIDENTIAL (CITY ORDINANCE)
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
- HIGH DENSITY RESIDENTIAL
- COMMERCIAL
- LIGHT INDUSTRY
- HEAVY INDUSTRY
- SCHOOL

EXHIBIT "A"