

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 37-577CM
Date Received: 10/27/1988
Receipt No: X999999
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

THOMAS-STEWART FAMILY TRUST Phone: (208) 725-2241
THOMAS PETER THOMAS
JACQUELINE SUE STEWART
25 PRESTON RD
WOODSIDE CA 94062

2. Date of Priority: 03/24/1883

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	18E	5	NW NE 2	BLAINE	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.04	3.5

7. Total Quantity Appropriated is:
0.04 C.F.S. and/or 3.5 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	18E	5	NW	NE 2	IRRIGATION	1
Section Acres						1
Total Acres						1

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

10/8/96 TF; CLAIM WAS SPLIT FROM A37-00577BW.

This claim represents water right 37-30000D.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.

This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

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

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.

Diversion of groundwater is limited to those times water is available for diversion from the original source, Big Wood River, and is actually diverted into the Hiawatha Canal for mitigation purposes.

15. Basis of Claim: Decreed

RECEIVED MAY 23 2001

RECEIVED

MAY 23 2001

Department of Water Resource
Southern Region

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.

Incomplete forms will be returned.

Water Right No(s): 37-30000D; 37-08793

Adjudication Claim No(s): _____

The following REQUIRED information must be submitted with this form:

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

Name and Address of Former Owner/Claimant GRIFFIN FAMILY TRUST c/o JAMES P SPECK ESQUIRE
PO BOX 987
KETCHUM ID 83340

New Owner/Claimant(s) THOMAS-STEWART FAMILY TRUST DATED OCTOBER 16, 1996

New Mailing Address THOMAS PETER THOMAS AND JACQUELINE SUE STEWART
25 PRESTON ROAD

City, State and ZIP Code WOODSIDE CA 94062

New Telephone Number (208) 725-2241 (Idaho) 650-851-3369 (Calif)

Date you acquired the property 2/13/ 2001

If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres you irrigate _____ Number and type of stock N/A

Diversion rate in CFS _____ Number of homes 2 Other Uses Fish Pond - Fire Break, Other

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

Signature of New Owner Thomas Peter Thomas Jacqueline Sue Stewart
or Claimant(s) THOMAS PETER THOMAS.....AND JACQUELINE SUE STEWART, TRUSTEES OF THE
THOMAS-STEWART FAMILY TRUST DATED OCTOBER 16, 1996

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims.

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

Instrument # 448112
HAILEY, BLAINE, IDAHO
2001-02-15 03:40:00 No. of Pages: 3
Recorded for: SAWTOOTH TITLE
MARSHA RIEMANN Fee: 9.00
Ex-Officio Recorder Deputy
Index to: WTYQCICORP DEED

(space above line for Recorder's use)

QUITCLAIM DEED

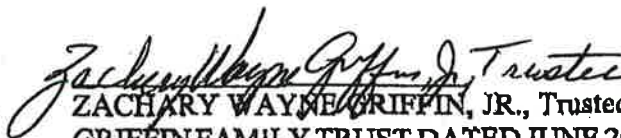
FOR VALUE RECEIVED, ZACHARY WAYNE GRIFFIN, JR. and CYNTHIA NIVEN GRIFFIN, Trustees of the GRIFFIN FAMILY TRUST DATED JUNE 20, 1990 ("Grantors"), do hereby convy, release, remise and forever quitclaim to THOMAS PETER THOMAS and JACQUELINE SUE STEWART, Trustees of the THOMAS-STEWART FAMILY TRUST DATED October 16, 1996, whose address is 25 Preston Road, Woodside, CA 94062 ("Grantees"), all of Grantors' right, title and interest in and to the following described water rights:

Idaho Water Rights Nos. 37-30000D and 37-08793,

which are appurtenant to that certain real property situated in Blaine County, Idaho the legal description of which is attached hereto as Exhibit A and incorporate herein by this reference.

DATED this 13th day of February, 2001.

GRANTORS:


ZACHARY WAYNE GRIFFIN, JR., Trustee of the
GRIFFIN FAMILY TRUST DATED JUNE 20, 1990

 trustee
CYNTHIA NIVEN GRIFFIN, Trustee of the
GRIFFIN FAMILY TRUST DATED JUNE 20, 1990

STATE OF IDAHO)
) ss.
County of Blaine)

On this 13th day of February, 2001, before me, the undersigned, a notary public in and for said state, personally appeared ZACHARY WAYNE GRIFFIN, JR. and CYNTHIA NIVEN GRIFFIN, Trustees of the GRIFFIN FAMILY TRUST DATED JUNE 20, 1990, known to me to be the persons whose names are subscribed to the within instrument as Trustees of the GRIFFIN FAMILY TRUST DATED JUNE 20, 1990, and acknowledged to me that they executed the same as such trustees.

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



Marla G. Munk
Notary Public for Idaho
Residing at: Bellevue
Comm. Expires: 12/31/2006

EXHIBIT "A"

PARCEL I:

Lot 4 of a REPLAT OF LOT 4, OF A REPLAT OF LOTS 3, 4 AND 5, BLOCK 1, GIMLET TERRACE SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 341986, records of Blaine County, Idaho.

PARCEL II:

TOWNSHIP 3 NORTH, RANGE 18 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO.

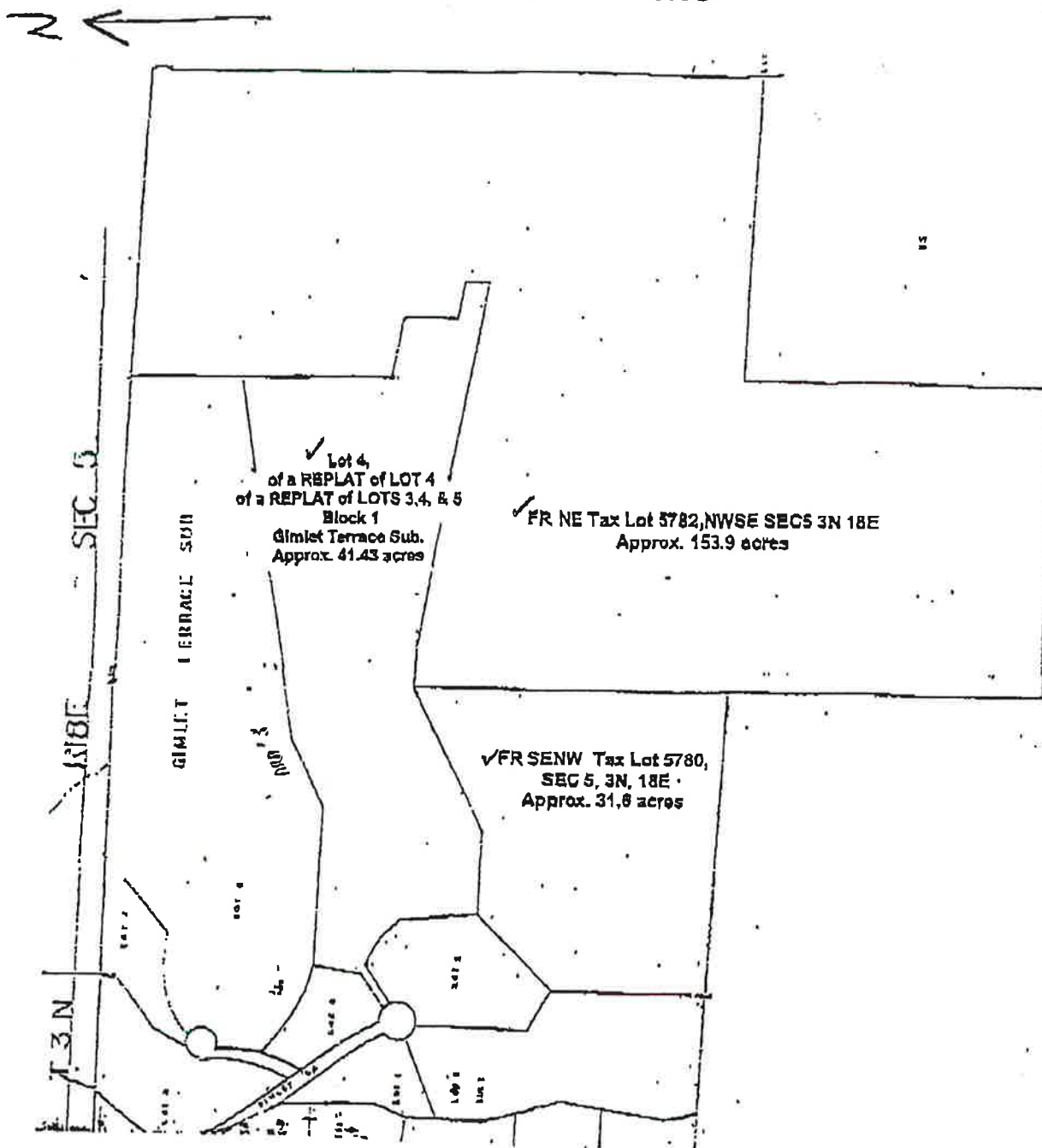
**SECTION 5: COMMENCING at the brass cap marking the Northeast corner of said Section 5; thence
South 0° 42' 46" East, 360 feet, more or less, to the drainage divide for the streams in Lots 4 and 6, Gimlet Terrace Subdivision and the East Boundary of said Section 5 to the TRUE POINT OF BEGINNING; thence
continuing South 0° 42' 46" East, 2253.72 feet along said East Boundary, Section 5 to a brass cap marking the East One-Quarter Corner of Section 5; thence
North 88° 08' 58" W., 1302.34 feet along the East-West One Quarter Section Line to the East Center One Sixteenth Corner of Said Section 5; thence
South 0° 39' 09" East, 1335.47 feet along the East Boundary of the NW1/4SE1/4, said Section 5 to the Southeast One Sixteenth Corner of said Section 5; thence
North 88° 36' 42" West, 1303.36 feet along the South Boundary of the NW1/4SE1/4, said Section 5 to the South Center One Sixteenth Corner of said Section 5; thence
North 0° 35' 32" West, 1346.20 feet along the West Boundary of the NW1/4SE1/4, said Section 5 to the Center One Quarter Corner, Section 5; thence
North 88° 08' 58" West, 1323.71 feet along the East-West One Quarter Section Line to the Southeast Corner of Lot 2, Gimlet Terrace Subdivision; thence
the following eleven courses and distances along the South and East Boundaries of said Gimlet Terrace Subdivision:**

**North 0° 27' 18" West, 679.24 feet; thence
North 46° 11' 02" East, 441.02 feet; thence
South 88° 48' 58" East, 348.00 feet; thence
North 63° 58' 58" East, 721.57 feet; thence
South 87° 53' 03" East, 150.00 feet; thence
South 80° 01' 58" East, 1570.00 feet; thence
North 0° 39' 08" West, 100.00 feet; thence
North 80° 01' 58" West, 150.00 feet; thence
North 0° 39' 08" West, 240.00 feet; thence
North 80° 01' 58" West, 250.09 feet; thence
North 0° 39' 08" West, 662.62 feet to the Northeast Corner of Lot 4, said Gimlet Terrace Subdivision; thence**

North 88° 18' 37" East, 1298.93 feet more or less along the drainage divided for the streams in Lot 4 and Lot 6, Gimlet Terrace Subdivision, to the TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM ALL MINERAL AND MINERAL RIGHTS.

The Griffin Estate



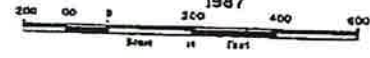
930

FLAT SHOWING GIMLET TERRACE SUBDIVISION

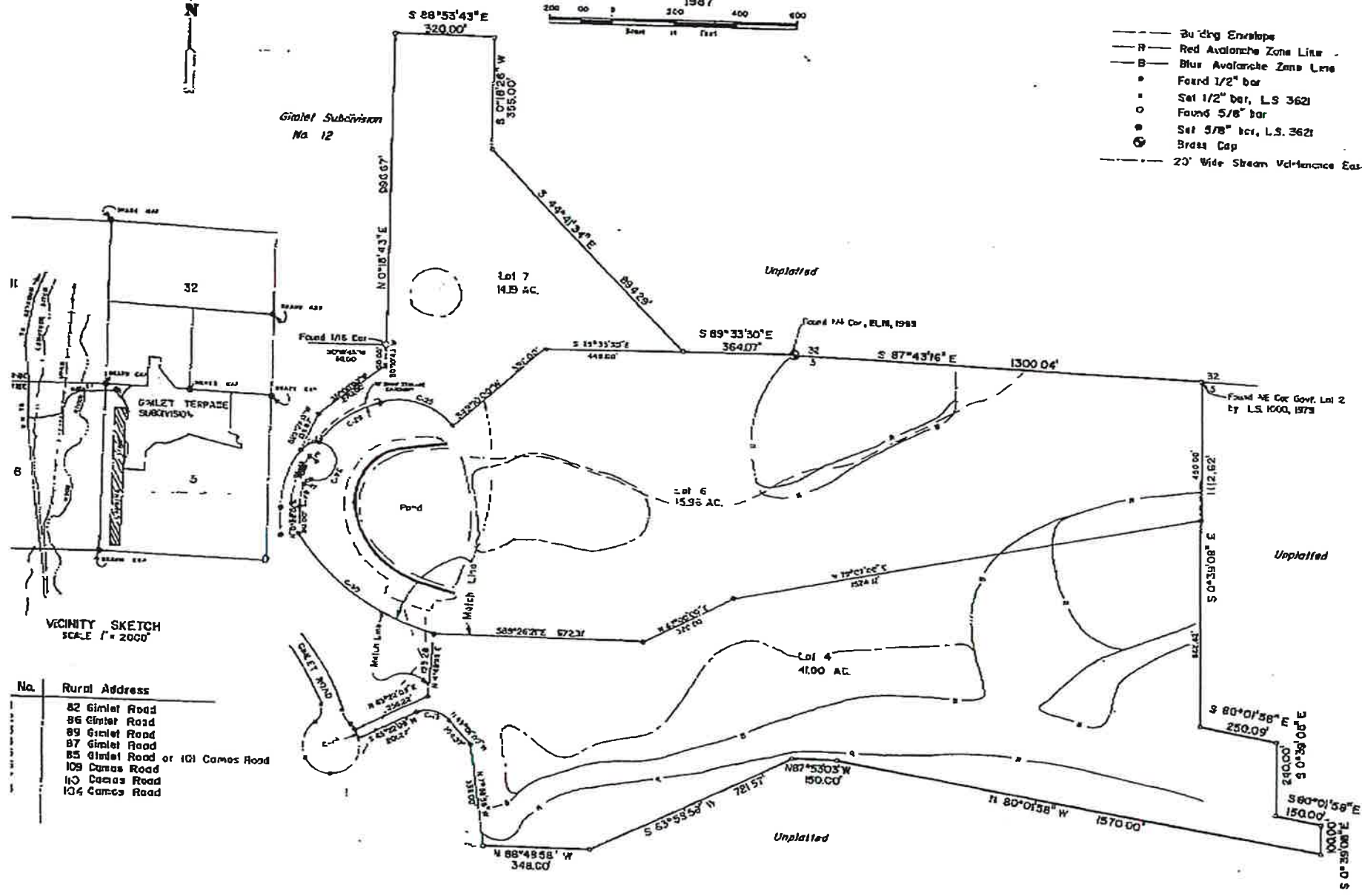
Located in SE 1/4, SW 1/4, Section 32, T.4 N., R.18 E., B.M.
and
N 1/2, Section 5, T.3 N., R.18 E., B.M.
Blaine County, Idaho
1987

LEGEND

- Bldg Envelope
- R- Red Avalanche Zone Line
- B- Blue Avalanche Zone Line
- Found 1/2" bar
- Found 1/2" bar, L.S. 3621
- Found 5/8" bar
- Found 5/8" bar, L.S. 3621
- Brass Cap
- 20' Wide Stream Vicinity Easement



Gimlet Subdivision
No. 12



VICINITY SKETCH
SCALE 1" = 2000'

No.	Rural Address
82	Gimlet Road
86	Gimlet Road
89	Gimlet Road
97	Gimlet Road
85	Gimlet Road or 101 Camas Road
109	Camas Road
110	Camas Road
114	Camas Road

GIMLET TERRACE SUBDIVISION

Located in SE 1/4, SW 1/4, Section 32, T.4 N., R.18 E., B.M., and N 1/2, Section 5, T.3 N., R.18 E., B.M., and Blaine County, Idaho

PLAT SHOWING

1987

NOTES

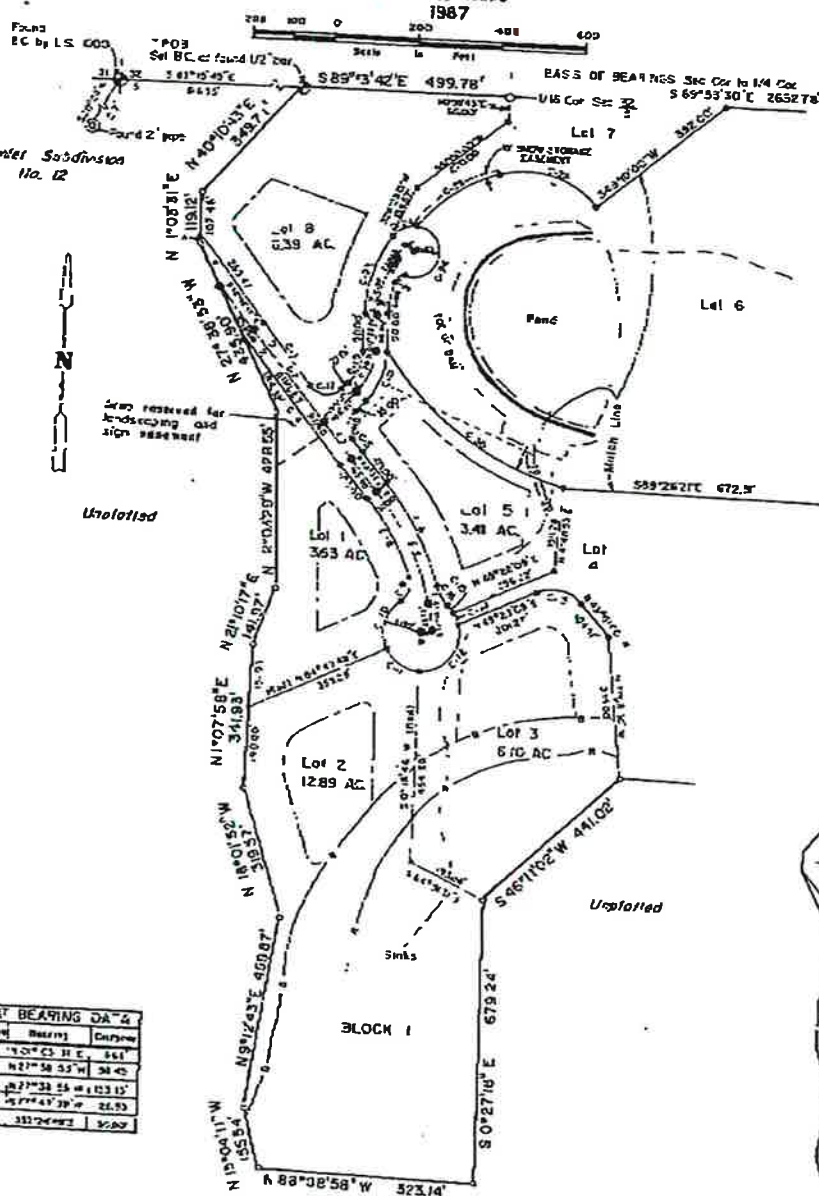
CURVE DATA

Curve	Δ	LS	TS	PC	PT	EC	Sec
C-1	0°46'28"	736899	2164	18327	18327	18327	18327
C-2	0°08'10"	555593	2670	27140	27140	27140	27140
C-3	0°28'26"	336699	2600	11220	11220	11220	11220
C-4	0°36'36"	337693	18273	38544	38543	11334	4500"
C-5	0°09'53"	336693	983	5026	5026	5026	5026
C-6	2°10'26"	55223	3725	28280	26789	428°08'05"	W
C-7	2°21'04"	59223	14959	29305	29007	325°22'51"	E
C-8	2°24'07"	55223	15626	21004	20982	129°51'15"	W
C-9	7°24'42"	5000	368	6347	5879	117°2'45"	E
C-10	7°24'42"	9000	7386	12370	11419	514°12'12"	A
C-11	6°43'50"	9000	5564	10140	262	55°26'42"	E
C-12	10°48'57"	9000	8786	16343	14311	137°37'13"	E
C-13	11°38'51"	9000	6493	11249	10531	128°09'26"	W
C-14	19°01'07"	9000	1521	3914	3006	124°37'50"	W
C-15	13°5'33"	9000	1051	2093	2239	54°33'51"	W
C-16	11°50'20"	10000	2325	2237	1486	130°27'57"	W
C-17	9°21'05"	9000	5484	8355	7429	71°07'21"	W
C-18	8°23'25"	5000	4813	7432	6711	112°15'15"	E
C-19	44°23'59"	10439	4276	8116	7912	522°41'50"	W
C-20	"	12439	5505	10453	10190	"	"
C-21	"	15418	6733	12730	12439	"	"
C-22	15°30'00"	27400	3028	17247	1356	148°28'36"	E
C-23	14°18'00"	30800	19007	19244	18223	128°28'36"	E
C-24	55°21'08"	6000	324	530	5864	364°45'04"	W
C-25	64°02'00"	22300	14207	25739	22554	173°20'00"	W
C-26	18°23'27"	8000	5883	4933	4538	37°53'31"	W
C-27	85°08'08"	2000	828	2932	2708	380°05'25"	W
C-28	17°18'37"	21500	3745	7422	7404	59°02'00"	W
C-29	38°33'42"	37500	10149	25283	24616	554°33'16"	W
C-30	39°28'10"	180000	28309	54417	53329	124°33'02"	W

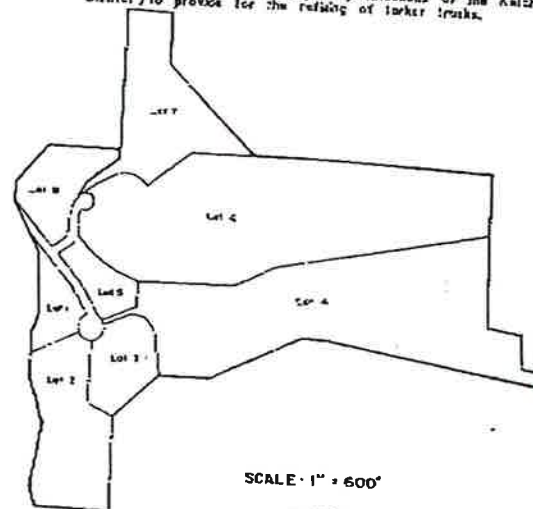
LEGEND

- Building Envelopes
- Red Avalanche Zone Line
- Blue Avalanche Zone Line
- Found 1/2" bar
- Set 1/2" bar, L.S. 3621
- Found 5/8" bar
- Set 5/8" bar, L.S. 3621
- Brass Cap
- 20' Wide Stream Maintenance Easement
- 30' Wide Private Fire Protection Easement
- 10' Wide Dam Tree Grass Maintenance Easement

Designation	Bearing	Distance
A	N 10° 03' 11" E	561'
B	N 27° 58' 53" W	344'
C	N 27° 38' 25" W	1123.12'
D	N 77° 47' 39" W	26.93'
E	S 32° 24' 02" E	30.80'



- Gimlet Road and Comes Road shall be private.
- The purchaser and/or owner of this lot or parcel understands and agrees that private road construction, maintenance and snow removal shall be the obligation of the owner, his successors in interest, or the homeowners association, and that Blaine County shall not accept, maintain or improve these roads for any reason, and that each owner shall notify in writing any successor in interest of these facts.
- All construction must be out of avalanche areas; cannot interfere with natural drainage and stream; and must be within the established building envelopes. A minimum 200-foot separation between residences shall be maintained.
- The Covenants, Conditions and Restrictions state the responsibility of the lot owners for maintenance of the bridge and roads serving the Gimlet area and the fire protection system installed by the developer.
- There are avalanche hazard areas as outlined on the plat map.
- At the time of plat approval (1987), the subdivision is not located in a fire district. The developer will petition to join Ketchum Rural Fire District.
- The developer guarantees that there is adequate water available for domestic purposes. Test wells have been drilled.
- Owners are responsible for noxious weed control per state regulations.
- Location and design of individual wells and septic systems shall be approved by the South Central Health District.
- There shall be 10' wide utility easements centered on all common lot lines and on the exterior boundary of all lots.
- The developer guarantees that there is adequate water available for domestic purposes. Test wells have been drilled.
- Homes built on lots 4, 6, and 7 shall have a maximum height of 30'.
- All subdivision improvements, including the pond and fire protection system must be completed before building permits will be issued.
- Any improvements not completed at the time of final plat recording shall be funded for 150% of the estimated construction costs.
- Roads shall meet the specifications 9.01 of the Blaine County Subdivision Ordinance 77-6 and current county road specifications.
- The developer shall provide a fire protection system from the pond to a substation located like hydrant per specifications of the Ketchum Rural Fire District to provide for the refilling of tanker trucks.



SCALE 1" = 600'



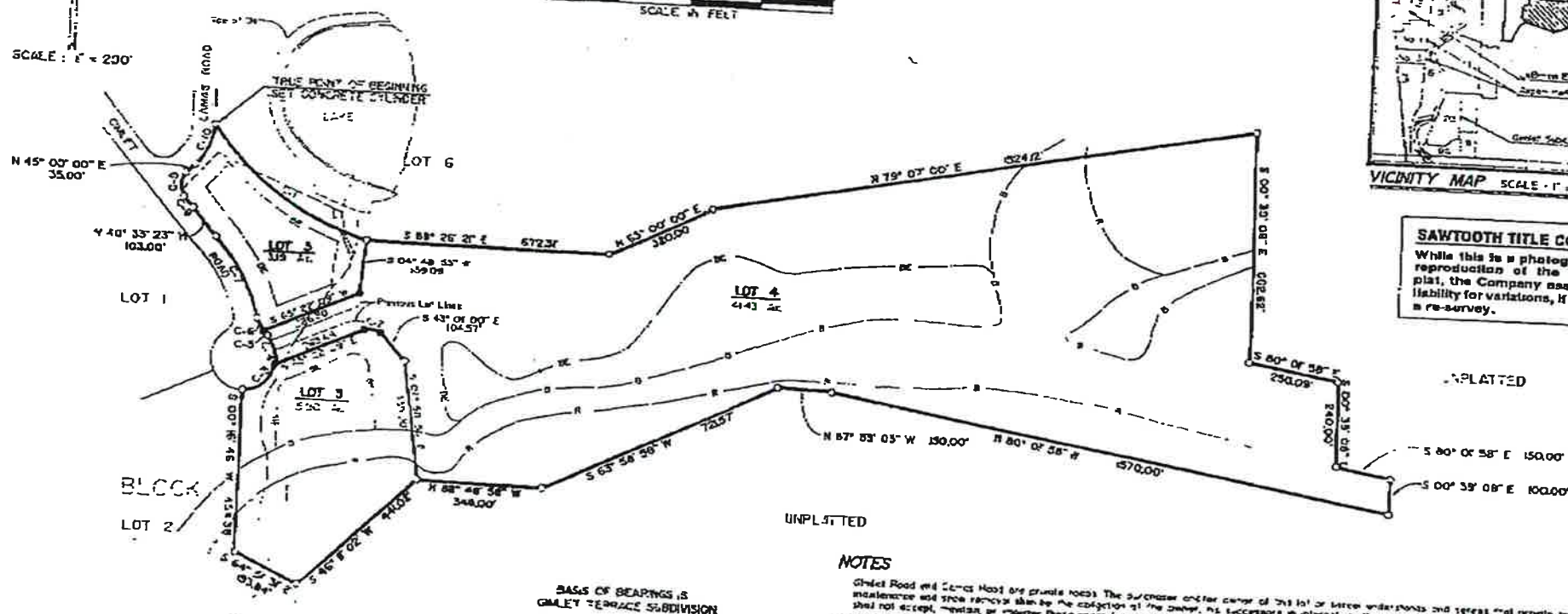
Gimlet Terrace Subdivision
Gastro Engineering, Inc.
Ketchum, Idaho
Sheet 1 of 3

A REPLAT OF LOTS 3, 4 & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION

A PLAT SHOWING
WHEREIN THE LOT LINES OF LOTS 3, 4 & 5 ARE ALTERED
LOCATED WITHIN
N 1/2, SECTION 5, T.3 N., R.18 E., B.M., BLAINE COUNTY, IDAHO
MARCH 1990

200 100 0 200 400 600
SCALE IN FEET

SCALE: 1" = 200'



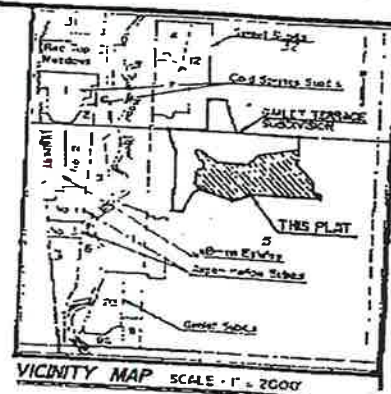
BASE OF BEARINGS IS
GIMLET TERRACE SUBDIVISION

LEGEND

- 0 Point 1-2 Road
- Set 1-2 Road, L.S. 262
- Butting Easement
- Blue Arterial Zone Line
- Red Arterial Zone Line
- 2.20 Side Street Right-of-Way
- 2.30 1/2 Private Fire Right-of-Way
- 2.40 1/2 Private Fire Right-of-Way

CURVE DATA

Curve	Δ	PI	PC	PT	CL Bearing
C-1	180° 00' 00"	180.00	180.00	180.00	S 54° 38' 10" E
C-2	30.87	28.03	18.53	46.49	N 74° 49' 20" W
C-3	102.14	32.60	17.25	49.85	N 49° 41' 00" E
C-4	102.14	32.60	48.53	189.02	63.45
C-5	102.14	32.60	7.20	37.7	5.15
C-6	102.14	32.60	39.80	39.80	N 27° 06' 50" W
C-7	24° 00' 00"	13.65	13.65	13.65	N 27° 06' 50" W
C-8	102.14	32.60	13.65	13.65	N 27° 06' 50" W
C-9	102.14	32.60	13.65	13.65	N 27° 06' 50" W
C-10	102.14	32.60	13.65	13.65	N 27° 06' 50" W



SAWTOOTH TITLE COMPANY

While this is a photographic reproduction of the recorded plat, the Company assumes no liability for variations, if any, with a re-survey.

UNPLATTED

NOTES

- Gimlet Road and Center Road are private roads. The purchaser and owner of this lot or lots are responsible for the maintenance and repair thereof. The owner, his successors or assigns, or the homeowners' association, and Blaine County shall not accept, maintain, or improve these roads for any reason, and each owner shall make any improvement at his own expense.
- All construction must be at least 10 feet from the center of the road, and each owner shall make any improvement at his own expense.
- The Covenants, Conditions and Restrictions, Book 1, 288514, 289579 and 314172, records of Blaine County, Idaho, state the responsibility of the owner for the maintenance of the bridge and road serving the Gimlet area and the fire protection system installed by the developer. There are no covenants, conditions or restrictions on the plat map.
- The developer guarantees that there is adequate water service for domestic purposes. Test wells have been drilled.
- Owners are responsible for necessary road control per State regulations.
- Location and design of individual wells and septic systems shall be approved by the South Central Health District.
- There shall be 10 foot wide utility easements centered on all common lot lines and on the exterior boundary of all lots.
- A plat of the original 'Gimlet Terrace' subdivision is filed under instrument # 269310, records of Blaine County, Idaho.

Richard D. Fogarty, L.S. 3621

REPLAT OF LOTS 3, 4 & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION

GLENN ENGINEERS, INC.
REIDHOLM, IDAHO
SHEET 1 OF 2
Job No. 2599

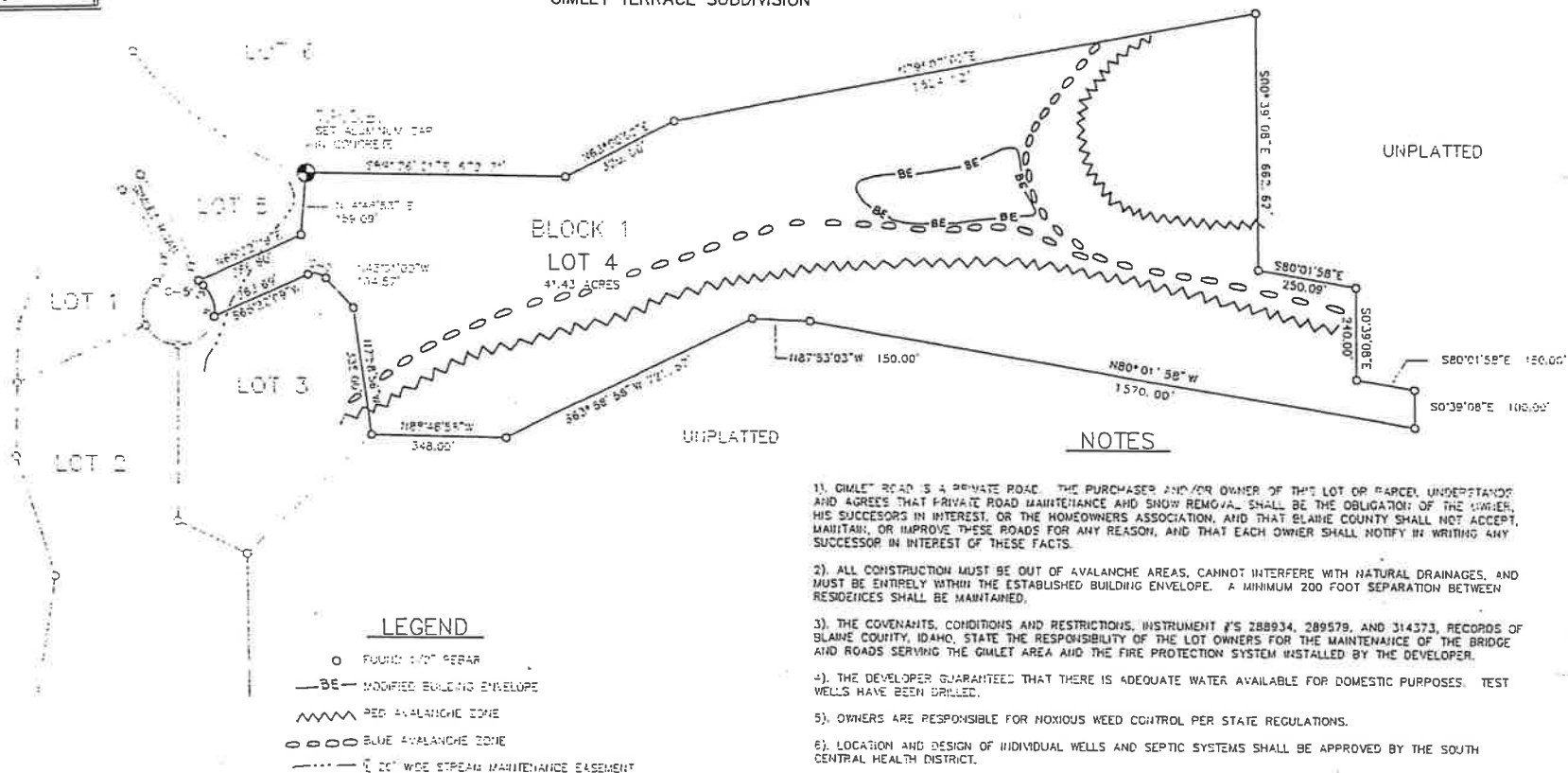
3-11986 (0-1)

A PLAT SHOWING A REPLAT OF LOT 4, of A REPLAT OF LOTS 3,4 & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION

WHEREIN THE BUILDING ENVELOPE OF SAID LOT 4 IS MODIFIED
LOCATED WITHIN N 1/2, SECTION 5, T3N, R18E, B.M., BLAINE COUNTY, IDAHO
JUNE 1992

This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey.
Courtesy Of:
Sawtooth Title Co.
Box 188
Ketchum, Idaho 83340
726-4595

BASIS OF BEARINGS IS
GIMLET TERRACE SUBDIVISION



LEGEND

- FOUND LOT CORNER
- BE— MODIFIED BUILDING ENVELOPE
- ~~~~~ RED AVALANCHE ZONE
- BLUE AVALANCHE ZONE
- 10' WIDE STREAM MAINTENANCE EASEMENT

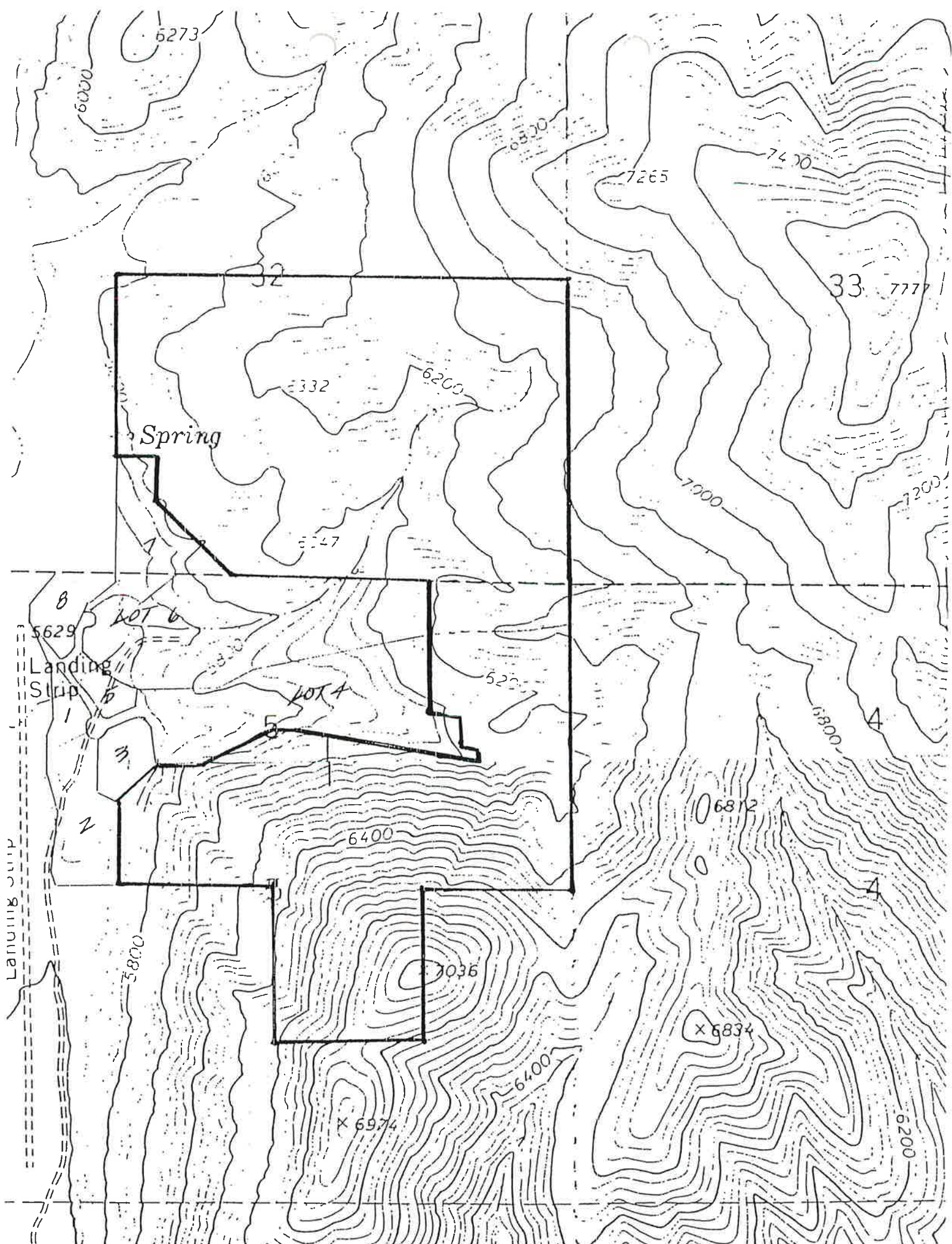
CURVE DATA

CURVE	PIVOTS	DELTA	LENGTH	CHORD	CH BRG
C-3	38.87	71-38-51	48.55	45.48	N78°49'26"W
C-4	93.00	58-46-15	89.03	55.44	N18°13'21"W
C-5	100.00	9-02-03	15.77	15.75	N42°00'35"W

NOTES

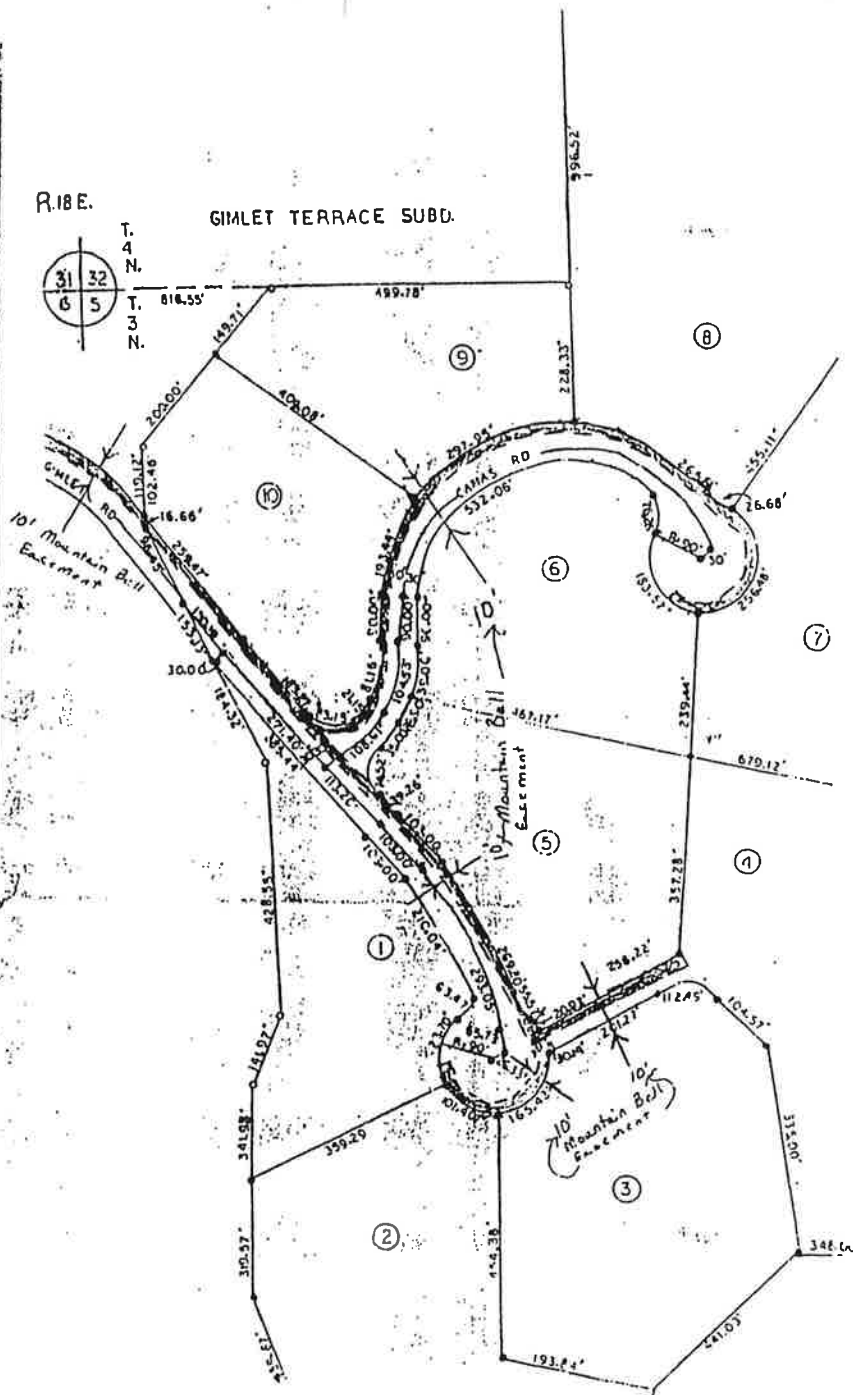
- 1). GIMLET ROAD IS A PRIVATE ROAD. THE PURCHASER AND/OR OWNER OF THIS LOT OR PARCEL UNDERSTANDS AND AGREES THAT PRIVATE ROAD MAINTENANCE AND SNOW REMOVAL SHALL BE THE OBLIGATION OF THE OWNER, HIS SUCCESSORS IN INTEREST, OR THE HOMEOWNERS ASSOCIATION, AND THAT BLAINE COUNTY SHALL NOT ACCEPT, MAINTAIN, OR IMPROVE THESE ROADS FOR ANY REASON, AND THAT EACH OWNER SHALL NOTIFY IN WRITING ANY SUCCESSOR IN INTEREST OF THESE FACTS.
- 2). ALL CONSTRUCTION MUST BE OUT OF AVALANCHE AREAS, CANNOT INTERFERE WITH NATURAL DRAINAGES, AND MUST BE ENTIRELY WITHIN THE ESTABLISHED BUILDING ENVELOPE. A MINIMUM 200 FOOT SEPARATION BETWEEN RESIDENCES SHALL BE MAINTAINED.
- 3). THE COVENANTS, CONDITIONS AND RESTRICTIONS, INSTRUMENT #'S 288934, 289579, AND 314373, RECORDS OF BLAINE COUNTY, IDAHO, STATE THE RESPONSIBILITY OF THE LOT OWNERS FOR THE MAINTENANCE OF THE BRIDGE AND ROADS SERVING THE GIMLET AREA AND THE FIRE PROTECTION SYSTEM INSTALLED BY THE DEVELOPER.
- 4). THE DEVELOPER GUARANTEED THAT THERE IS ADEQUATE WATER AVAILABLE FOR DOMESTIC PURPOSES. TEST WELLS HAVE BEEN DRILLED.
- 5). OWNERS ARE RESPONSIBLE FOR NOXIOUS WEED CONTROL PER STATE REGULATIONS.
- 6). LOCATION AND DESIGN OF INDIVIDUAL WELLS AND SEPTIC SYSTEMS SHALL BE APPROVED BY THE SOUTH CENTRAL HEALTH DISTRICT.
- 7). THERE SHALL BE 10 FOOT WIDE UTILITY EASEMENTS CENTERED ON ALL COMMON LOT LINES AND ON THE EXTERIOR BOUNDARY OF ALL LOTS.
- 8). THE PLAT OF GIMLET TERRACE SUBDIVISION IS RECORDED AS INST. #289580, AND THE REPLAT OF LOTS 3,4, & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION IS RECORDED AS INST. #317767, BLAINE COUNTY, IDAHO.
- 9). THE AVALANCHE AREAS SHOWN ON THIS PLAT ARE CONSIDERED BY THE OWNER, BLAINE COUNTY, GALENA ENGINEERING, INC., AND ALPINE ENTERPRISES, INC. TO BE REASONABLE FOR REGULATORY PURPOSES. HOWEVER, NEITHER THE OWNER, BLAINE COUNTY, GALENA ENGINEERING, INC., NOR ALPINE ENTERPRISES, INC. REPRESENTS, WARRANTS, OR IMPLIES THAT AREAS OUTSIDE OF THE DESIGNATED AVALANCHE AREAS ARE SAFE AND FREE FROM AVALANCHE DANGER.
- 10). THE PURPOSE OF THIS PLAT IS TO CORRECT APPARENT DRAFTING ERRORS WHEREIN THE BUILDING ENVELOPE AS DRAWN DID NOT APPEAR TO FIT EXISTING TOPOGRAPHY AND AVALANCHE ZONING LINES.
- 11). HOMES BUILT ON LOT 4 SHALL HAVE A MAXIMUM HEIGHT OF 30 FEET.

SCALE 1" = 200'

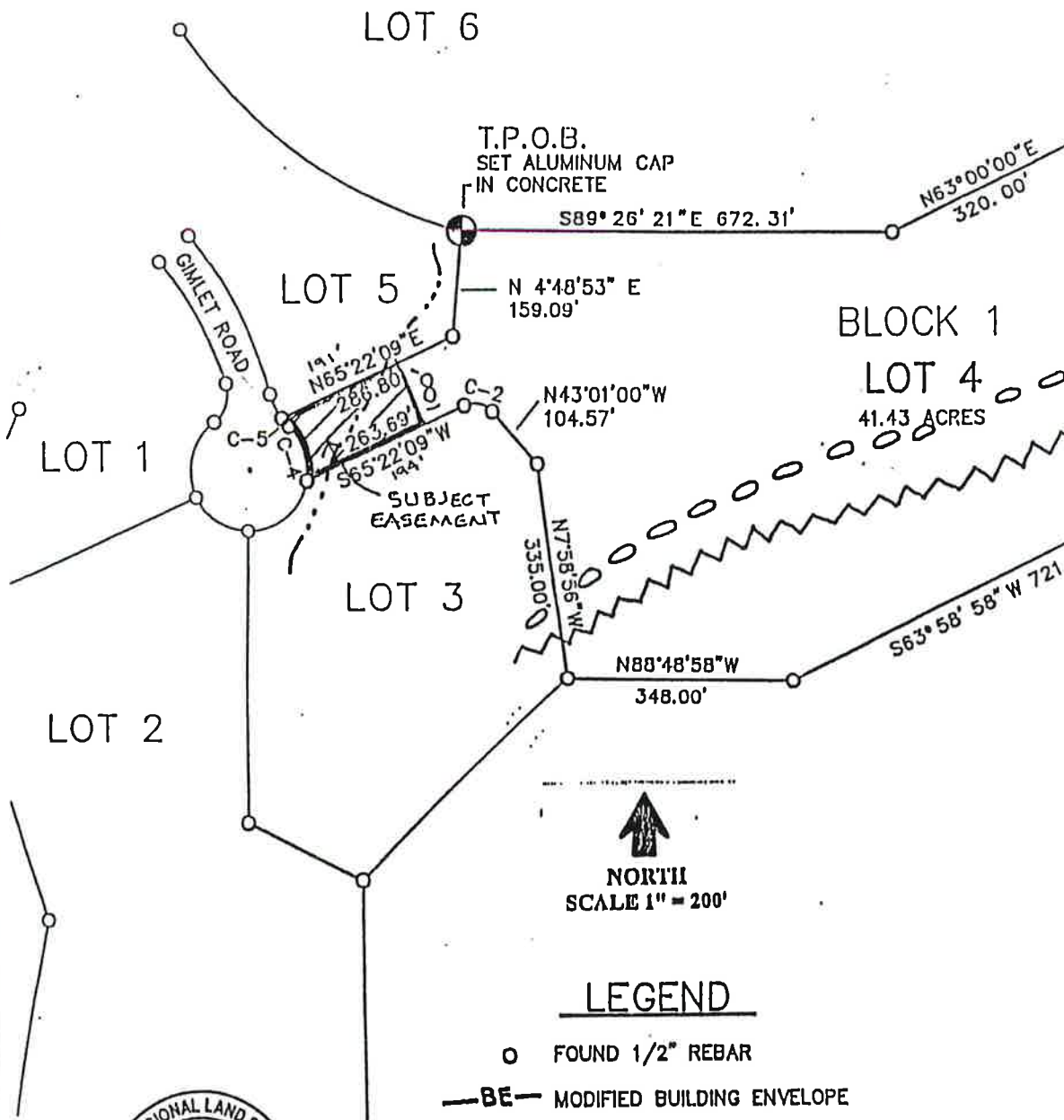


T.
4
N.
T.
3
N.

4
(N)



A MAP SHOWING AN ACCESS EASEMENT DESCRIPTION
OVER LOT 4 OF "A REPLAT OF LOT 4, OF A REPLAT OF
LOTS 3, 4 & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION"
FOR THE BENEFIT OF LOT 3 OF "A REPLAT OF LOTS 3, 4 & 5,
BLOCK 1, GIMLET TERRACE SUBDIVISION"



LEGEND

- FOUND 1/2" REBAR
- BE— MODIFIED BUILDING ENVELOPE
- ~~~~~ RED AVALANCHE ZONE
- oooo BLUE AVALANCHE ZONE
- 20' WIDE STREAM MAINTENANCE EASEMENT

CURVE DATA

CURVE	RADIUS	DELTA	LENGTH	CHORD	CH BRG
C-2	38.87	71-36-51	48.58	45.48	N78°49'26"W
C-4	90.00	56-40-15	89.03	85.44	N19°13'31"W
C-5	100.00	9-02-03	15.77	15.75	N43°00'35"W

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
 JUN 10 1997
 Department of Water Resources
 Northern Region

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
 Incomplete forms will be returned.

1. Water Right Number(s) 37-30000D
 Adjudication Claim Number(s) A37-00577CM
2. The following REQUIRED information must be submitted with this form.
 - A. A copy of the most recent DEED, TITLE, POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
 AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
 OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Services Agency (formerly ASCS) AERIAL PHOTO with irrigated acre outlined and point(s) of diversion clearly marked.
3. Name and Address of Former Stephen T. and Gail Goodell Kearns
 Owner/Claimants
PO Box 1262, Hailey, ID 83333
4. New Owner/Claimant(s) Z. Wayne Griffin, Trustee of the Griffin Family Trust
 Name connector (check one): [] AND, [] OR, [] AND/OR
 New Mailing Address P. O. Box 5807
 City, State and ZIP Code Ketchum, ID 83340
 New Telephone Number (208) 726 - 0085
5. Date you acquired the property May 15, 1997
6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water rights(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres actually irrigated _____ Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____
 If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.
7. Signature of New Z. Wayne Griffin, Trustee Date 5-19-97
 Owner/Claimant(s) Z. WAYNE GRIFFIN, TRUSTEE
 _____ Date _____
 (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
8. For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340**

COPY

(space above line for Recorder's use)

QUITCLAIM DEED

FOR VALUE RECEIVED, STEPHEN T. KEARNS and GAIL GOODELL KEARNS, husband and wife, whose address is P. O. Box 1262, Hailey, ID 83333 (hereinafter referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto Z. WAYNE GRIFFIN, TRUSTEE OF THE GRIFFIN FAMILY TRUST DATED JUNE 20, 1990, whose address is c/o Z. Wayne Griffin, P. O. Box 4083, Ketchum, ID 83340 (hereinafter referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises, situated in Blaine County, Idaho, to wit:

0.04 cfs of the Big Wood River with a March 24, 1883 priority date pursuant to Idaho Water Right No. 37-00577 and Claim No. A37-00577BW in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576.

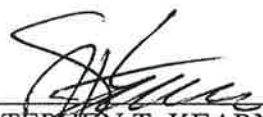
TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever.

DATED this 1 day of June, 1996.

GRANTOR:

DATE: 6/1/96


STEPHEN T. KEARNS

Gail Goodell Kearns
GAIL GOODELL KEARNS

On this 1st day of June, 1996, before me the undersigned notary public in and for said state, personally appeared STEPHEN T. KEARNS and GAIL GOODELL KEARNS, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

Ruby A. Becker
Notary Public for Idaho
Residing at : Blaine, ID
Commission Expires: 2/5/54

D. O. N.

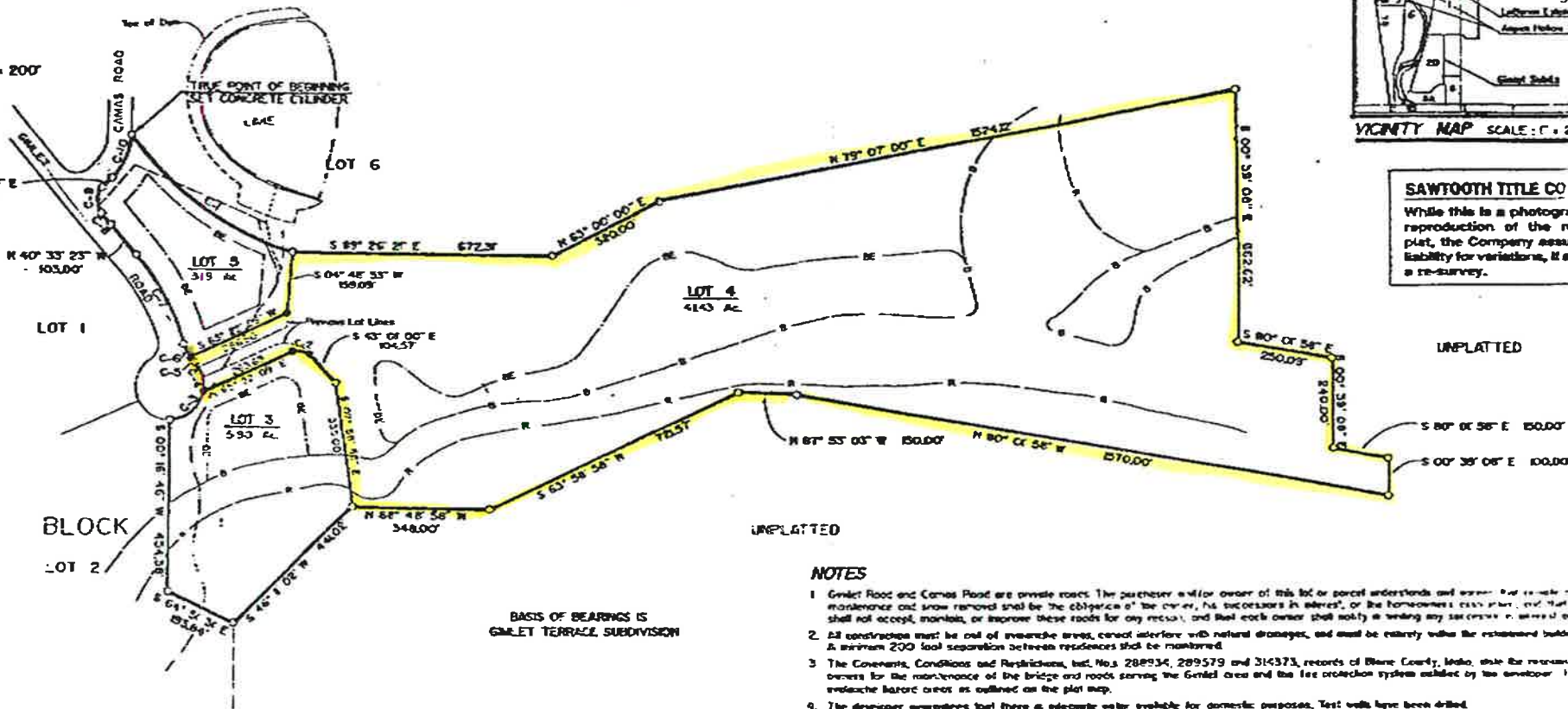
MAR-10-92 TUE 10:49

A REPLAT OF LOTS 3, 4 & 5, BLOCK 1, GIMLET TERRACE SUBDIVISION

WHEREIN THE LOT LINES OF LOTS 3, 4 & 5 ARE ALTERED
LOCATED WITHIN
N 1/2, SECTION 5, T.3 N., R.18 E., B.M., BLAINE COUNTY, IDAHO
MARCH 1990



SCALE: 1" = 200'



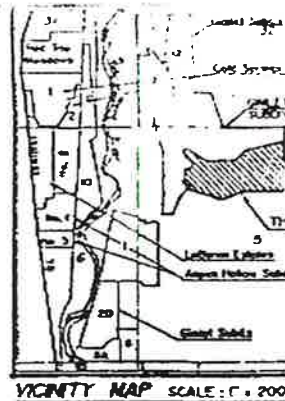
BASIS OF BEARINGS IS
GIMLET TERRACE SUBDIVISION

LEGEND

- Found 1/2" Rebar
- Set 1/2" Rebar, L.S. 3621
- Building Envelope
- Blue Line/Zone Line
- Red Line/Zone Line
- 20' Wide Stream Maintenance Easement
- 30' Wide Private Fire Protection Pipeline Easement
- 10' Wide Ditch Drain Maintenance Easement

CURVE DATA

Curve	Δ	C	T	Chord	Cx Bearing	
C-1	151.5811	1700.05	283.06	24417.53369	S 54°38'10" E	
C-2	173.3652	36.87	178.00	48293.6549	N 78°49'26" W	
C-3	87.0734	40.00	77.09	127.48	113.20	N 49°41'52" E
C-4	56°40'15"	95.00	48.53	119.02	125.43	N 19°32'59" W
C-5	57°02'06"	1300.00	7.90	15.77	15.75	N 47°02'00" W
C-6	171.1117	1100.00	120.17	129.60	132.54	N 27°06'50" W
C-7	162.23	1137.05	1219.67	121.69	N 28°08'05" W	
C-8	136.06	15.63	13.21	13.20	N 47°28'29" W	
C-9	50.00	4.63	74.57	117.81	N 02°18'14" E	
C-10	64.18	67.77	127.00	124.69	N 22°41'00" E	



SAWTOOTH TITLE CO.

While this is a photographic reproduction of the record plat, the Company assumes liability for variations, if any, to a re-survey.

UNPLATTED

NOTES

- Gimlet Road and Cornus Road are private roads. The purchaser or owner of this lot or parcel understands and agrees that the maintenance and snow removal shall be the obligation of the owner, his successors in interest, or the homeowners' association, and that this shall not accept, maintain, or improve these roads for any reason, and that each owner shall notify in writing any association or agency of the
- All construction must be out of easement areas, cannot interfere with natural drainage, and must be entirely within the established building envelope. A minimum 200 foot separation between residences shall be maintained.
- The Covenants, Conditions and Restrictions, but Nos. 288934, 289579 and 314373, records of Blaine County, Idaho, shall be the governing authority for the maintenance of the bridge and roads serving the Gimlet area and the fire protection system established by the developer. Herein indicated hazard areas as outlined on the plat map.
- The developer guarantees that there is adequate water available for domestic purposes. Test wells have been drilled.
- Owners are responsible for noxious weed control per State regulations.
- Location and design of individual wells and septic systems shall be approved by the South Central Health District.
- There shall be 10 foot wide utility easements centered on all common lot lines and on the exterior boundary of all lots.
- A plat of the original Gimlet Terrace Subdivision is filed under Instrument # 289580, records of Blaine County, Idaho.

Richard D. Fosbury, L.S. 3621

A REPLAT OF LOTS 3, 4
GIMLET TERRACE SUBDIVISION

GOLDER ENGINEERS
PETERSON, RHO

SHEET 1 OF 2
Job No. 2509

RECEIVED
JUN 10 1997
Department of Water Resources
Southern Region

Claimants Names:

**Z. Wayne Griffin, Trustee of the Griffin
Family Trust**

Attorney Name & Address:

**James P. Speck
Hogue, Speck & Aanestad, P.A.
120 East Avenue
P. O. Box 987
Ketchum, Idaho 93340
(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

Case No. 39576

)
)
)
)
)
)

NOTICE OF APPEARANCE

DESCRIPTIVE SUMMARY

This is a notice of appearance by counsel on behalf of the new claimant and purchaser of the water rights identified below.

NOTICE OF APPEARANCE

The law firm of Hogue, Speck & Aanestad hereby enters its appearance in the action on behalf of Claimant Z. Wayne Griffin, Trustee of the Griffin Family Trust, for the following water right which is not the subject of a subcase: 37-30000D claimed herein as A37-00577CM.

DATED this 23rd day of May, 1997.

HOGUE, SPECK & AANESTAD, P.A.

By


James P. Speck

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of ~~May~~ ^{June}, 1997, I served a true and correct copy of the foregoing NOTICE OF APPEARANCE on the following persons in the manner designated below:

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

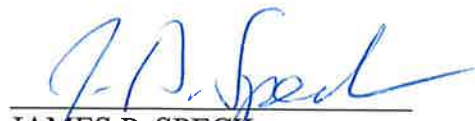
- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

The United States Department of Justice
Environmental and Natural Resources
Division
550 West Fort Street
Box 33
Boise, ID 83724

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid

Idaho Department of Water Resources
Document Depository
P.O. Box 83720
Boise, ID 83720-0098

- ☒ United States Mail, Postage Prepaid
- ☐ Hand Delivery
- ☐ Facsimile, with copy by United States Mail, Postage Prepaid


JAMES P. SPECK

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

June 4, 1997

Mr. Doug Jones
Department of Water Resources
222 Shoshone Street East
Twin Falls, Idaho 83301

RECEIVED
JUN 10 1997
Department of Water Resources
Southern Region

Re: Z. Wayne Griffin, Trustee of the Griffin Family Trust
SRBA Claim A37-00577CM -- Water Right No. 37-30000D

Dear Doug:

Enclosed you will find a completed and signed Notice of Change of Water Right Ownership for the SRBA claim and water right described above together with a Notice of Appearance by my firm on behalf of my client in the SRBA. Please call me immediately if you have any questions or concerns about these documents. I have also enclosed copies of these documents together with a stamped and addressed envelope for you to use in returning them to me after they have been marked with the IDWR file or receipt stamp.

Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD



James P. Speck

JPS:jrs
encl.

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: **A37-00577CM**
Date Received: 10/27/1988
Receipt No: X777777
Received By: _____

**COPY FOR
YOUR FILES**

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

**COPY FOR
YOUR FILES**

1. Name: STEPHEN T KEARNS 208-788-2001
Address: PO BOX 1262
HAILEY ID 83333

AND

Name: GAIL GOODELL KEARNS 208-788-2001
Address: PO BOX 1262
HAILEY ID 83333

2. Date of Priority: MAR 24, 1883

3. Source: BIG WOOD RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
03N	18E	19	SE	NE			BLAINE

5. Description of diverting works:

HIAWATHA HEADGATE TO HIAWATHA CANAL, SW4-1/2 MI. TO POU

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.040		

7. Total Quantity Appropriated is:

0.040 C.F.S. (and/or) 3.50 A.F.A.

8. Total consumptive use is 2.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
02N	18E	10	SW	NW		IRR	1.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	1.0
					Total Acres	1.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:
10/8/96 TF; CLAIM WAS SPLIT FROM A37-00577BW.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 3/24/1883

Decree Plaintiff

vs

Decree Defendant



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

October 22, 1996

STEPHEN T AND GAIL GOODELL KEARNS
PO BOX 1262
HAILEY ID 83333

RE: SRBA Claim(s) A37-00577BW

Dear Mr. and Mrs. Kearns:

Pursuant to the notification that you purchased a portion of the property to which the above referenced adjudication claim is appurtenant, the Department has split the original claim into parts CL and CM. Your portion has been renumbered to A37-00577CM, and the part that was retained by the Smith's to A37-00577CL. Please find enclosed a copy of the computer generated claim noting the changed.

Please review the record and if you have corrections, notify this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Trish Fawcett'.

Trish Fawcett
Technical Records Specialist

enc.

cc: James Speck, Esq.



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

RECEIVED

DATE OF CLOSING: 5/20/92

JUN 07 1996

LEGAL DESCRIPTION OF PROPERTY: Township _____ Range _____
 Section _____, 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____
 Lot _____, Block _____, Subdivision/Townsite _____
 If you have additional legal descriptions, please attach separate sheet.

Department of Water Resources
Southern Region

See attached Warranty Deed

☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)

☒ Water Right Number(s)

Assigned by IDWR: A 37-00577BW

☐ Name and Address of Former Owner/Claimant(s)(Seller):

Burr Smith and Stephanie Smith

Post Office Box 783

☐ New Owner/Claimant (Purchaser):

Hailey, ID 83333

Stephen T. Kearns and Gail Goodell Kearns

☐ New Mailing Address:

Post Office Box 1262

Hailey, ID 83333

☐ New Telephone Number:

(208) 788 - 2001

☐ Does the change in ownership result in a splitting of the water right owned/claimed? ☒ yes ☐ no
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

0.04 cfs for irrigation of one acre

☐ Attach proof of ownership, describe proof attached:

Warranty Deed

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

☐ Signature of New Owner/Claimant(s)

Stephen T. Kearns

Date 6/1/94

Date

☐ Signature of Former Owner/Claimant(s):

Gail Goodell Kearns

Date

Date 6-1-96

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10/8/96

Further Action Needed: none

Further Action Taken

Date:

By:

Final Review and Data-Entry

Date:

By:

Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

Order No. 18007

WARRANTY DEED

FOR VALUE RECEIVED

Dwight Burr Smith, Jr., an unmarried man

GRANTOR(s), do(es) hereby GRANT, BARGAIN, SELL and CONVEY unto

Stephen T. Kearns and Gail Goodell Kearns, husband and wife

GRANTEE(s) whose address is: P. O. Box 1262, Halley, ID 83333

the following described real property in Blaine County, Idaho, to wit:

Lot 1B of MARTIN YOUNG SUBDIVISION AMENDED, according to the official plat thereof, recorded as Instrument No. 341009, records of Blaine County, Idaho.

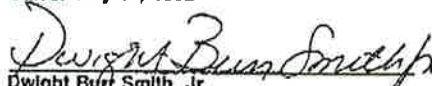
Conveying without warranty, the following water rights: Two (2) inches of W. T. Riley water rights dated March 24, 1883, #37-0577, Big Wood drainage.

Any building on the lot shall be limited to a Single-family dwelling and the lot may not be subdivided.

Subject To: Taxes, easements, restrictions and encumbrances of record.

TO HAVE AND TO HOLD said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all encumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: May 19, 1992


 Dwight Burr Smith, Jr.

State of Idaho

County of Blaine

On this May 19, 1992, before me, a notary public in and for said State, personally appeared Dwight Burr Smith, Jr. personally known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.


 Notary Public
 Residing at Halley
 Commission Expires: 1-8-96

J:\ascrow\form\wa

RECEIVED

JUN 07 1996

Department of Water Resources
Southern Region

341010
 BLAINE CO. REQUEST
 OF: Southwest Title Co. Inc.
 92 MAY 20 - PM 3 10
 MARY GREEN, CLERK
 FEES \$ 3.00



Post-it® Fax Note

7671

Date 5-28-96 # of pages 1

To <u>Jim Speck</u>	From <u>Jan</u>
Co./Dept.	Co.
Phone #	Phone #
Fax # <u>226-0752</u>	Fax #

HOGUE, SPECK & AANESTAD

A PROFESSIONAL ASSOCIATION
ATTORNEYS

TERRY G. HOGUE
JAMES P. SPECK
DOUGLAS J. AANESTAD
TRACY DUNLAP
MICHELE C. MESKE

120 EAST AVENUE
POST OFFICE BOX 987
KETCHUM, IDAHO 83340
(208) 726-4421
FAX (208) 726-0752

HAILEY OFFICE:
16 WEST CROY STREET
SUITE K
POST OFFICE BOX 460
HAILEY, IDAHO 83333
(208) 788-3567
FAX (208) 788-4230

June 6, 1996

RECEIVED

JUN 07 1996

Department of Water Resources
Southern Region

Mr. Allen Merritt
Idaho Department of Water Resources
222 Shoshone East
Twin Falls, ID 83301

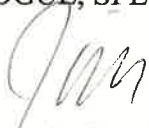
Re: SRBA Notice of Change of Water Right Ownership -- A37-00577BW

Dear Allen:

Enclosed you will find a Notice of Change of Water Right Ownership for SRBA Claim No. A37-00577BW. Although the transfer of ownership took place in 1992, this form was never filed. I represent Mr. Z. Wayne Griffin who hopes to purchase and transfer to his property the portion of this water right acquired in 1992 by Mr. and Mrs. Kearns. This notice will clarify the change of ownership for the SRBA records. Will you please send back to Mr. and Mrs. Kearns and me a copy of the amended SRBA claim for the portion owned by Mr. and Mrs. Kearns. Please call me if you have any questions. Thank you.

Sincerely yours,

HOGUE, SPECK & AANESTAD


James P. Speck

JPS:jrs
encl.

01/25/2007

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

RIGHT NUMBER: 37-577CM

NAME AND ADDRESS: THOMAS-STEWART FAMILY TRUST
THOMAS PETER THOMAS
JACQUELINE SUE STEWART
25 PRESTON RD
WOODSIDE CA 94062

B-8

SOURCE: BIG WOOD RIVER
GROUND WATER

TRIBUTARY: MALAD RIVER
TRIBUTARY:

QUANTITY: 0.040 CFS

This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.

To mitigate for injury to other water users caused by the diversion and use of water under this right, the watermaster shall deliver 0.04 cfs of this right into the Hiawatha Canal where it shall remain undiverted.

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION:

T03N R18E S5 NWNE Lot 2 Within BLAINE County

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.030 CFS
		3.50 AFY
MITIGATION	04/15 10/31	0.040 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S05 Lot 2 NWNE 1.00

MITIGATION same as IRRIGATION

1 ACRES TOTAL

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

Diversion of groundwater is limited to those times water is available for diversion from the original source, Big Wood River, and is actually diverted into the Hiawatha Canal for mitigation purposes.

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 - Decreed

The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.

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

The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.

Use of water under this water right will be regulated by the watermaster of State Water District No. 37.

Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

Christensen, Kelly

From: Christensen, Kelly
Sent: Thursday, January 25, 2007 10:53 AM
To: Keen, Shelley
Subject: 37-30000D

I was looking to update the aj claim with possible mitigation language and point of diversion etc.

The approved transfer that I am looking at shows 0.04 cfs and identifies that the groundwater can only be used when it is diverted into the Hiawatha canal. (paraphrased condition 8)

On the database it shows the diversion rate at 0.03 cfs which suggests that the mitigation rate going to the Hiawatha should be 0.01 cfs.

I was wanting to add a point of diversion and WR condition code 192. First thought was to identify 0.04 cfs going to the Hiawatha

Thoughts?? Direction??

P.S. this is associated with aj claim 37-577CM

Kelly K Christensen
Sr Water Resource Agt
Twin Falls
(208)-736-3033

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4884
WATER RIGHT NO. 37-30000D

This is to certify that: **GRIFFIN FAMILY TRUST**
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

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	04/15 to 10/15	0.04 CFS	3.5 AF

SOURCE

* GROUNDWATER

Priority: 03/24/1883

LOCATION OF POINT(S) OF DIVERSION: Lot 2(NWNE), Sec. 5, Township 03N, Range 18E
BLAINE 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	18E	5	Lot 2(NWNE)	1		1
Total number of acres irrigated:						1

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
3. A measuring device and lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.

MICROFILMED

APR 1 1987

TRANSFER NO. 4884
WATER RIGHT NO. 37-30000D

CONDITIONS OF APPROVAL AND REMARKS

5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. 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.
7. 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.
- * 8. Diversion of groundwater is limited to those times water is available for diversion from the original source, Big Wood River, and is actually diverted into the Hiawatha Canal for mitigation purposes.

Dated this 14th day of

April, 1997.

J. Glen Saxton
Chief, Water Alloc. Bureau

RECORDED

APR 17 1997

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-30000D

WATER RIGHT NUMBER: 37-30000D

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	W T RILEY
Current Owner	, ID THOMAS-STEWART FAMILY TRUST THOMAS PETER THOMAS JACQUELINE SUE STEWART 25 PRESTON RD WOODSIDE , CA 94062 (208)725-2241

Priority Date: 03/24/1883

Basis: Decreed

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	4/15	10/15	0.030 CFS	3.50 AF
<u>Total Diversion:</u>			0.030 CFS	3.50 AF

Location of Point(s) of Diversion

GROUND WATER	L2 (NW1/4NE1/4)	Sec. 5,	Twp 03N,	Rge 18E, B.M.
BLAINE County				

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
03N	18E	5	1.0				1.0
			L 2				

Total Acres: 1

Conditions of Approval:

1. 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.
2. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
3. R25 This right when combined with all other rights shall provide no more than 3.5 afa per acre for irrigation of the lands above.
4. Diversion of groundwater is limited to those times water is available for diversion from the original source, Big Wood River, and is actually diverted into the Hiawatha Canal for mitigation purposes.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-30000D

5. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.
7. R43 The right holder shall maintain a measuring device and lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
8. T09 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.

Remarks:Comments:

1. PSKAGGS 10/11/1996 TRANSFER NO. 4882

Comment: Transfer No. 4882 was filed to change the place of use under a portion of Right No. 37-30000, splitting the right into parts A & B. RIGHT RENUMBERED This right is the balance of the original W. T. Riley right at the time of renumbering on 10-10-96. (37-00577).

2. PSKAGGS 12/18/1996 TRANSFER NO. 4884

Comment: Transfer No. 4884 was filed to change the point of diversion & place of use under a portion of Right No. 37-30000A, splitting the right into parts C & D. The transfer proposes to divert water from a well.

Dates and Other Information:

Licensed Date:
 Decreed Date: 12/13/1909
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal:
 Owner Name Connector:
 Water District Number: 37
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Decree Defendant: Alturas Water Co, et al
 Decree Plaintiff: S C Frost, et al
 Civil Case Number:
 Judicial District: Fourth District
 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:

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: A37-13054
Date Received: 8/31/1989
Receipt No: 8009010
Received By: SC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LISA VIERLING
Address: P.O. BOX 869
SUN VALLEY, ID 83353 208-788-4888
OR
Name: MARK HANKINSON
Address: P.O. BOX 5176
KETCHUM, ID 83340 208-726-2219

2. Date of Priority: JAN 01, 1900

3. Source: WARFIELD HOT SPRINGS

Trib. to: WARM SPRINGS CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
04N	17E	31	SW NW NW		BLAINE

5. Description of diverting works:
CONCRETE COLLECTOR BOX WITH 8" PIPELINE TO P/U.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		
HEATING	01/01	12/31	0.040		
RECREATION	01/01	12/31	0.040		

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

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

D/1 HOUSE & 1 GUEST HOUSE G/SAME R/SAME

A37-13054

Page 1

Date: 08/31/89

32x1

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04N	16E	36	NE	NE		DOMEST	
			NE	NE		HEAT	
			NE	NE		REC	
			SE	NE		DOMEST	
			SE	NE		HEAT	
			SE	NE		REC	

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS WATER RIGHT HAS HISTORICALLY BEEN USED FOR THESE USES AT THIS P/U. SEE ALSO THE ATTACHMENTS PERMIT 37-08388 AND THE CORPORATE WARRANTY DEED DESCRIBING THE GRANTED USE AND MAINTANCE OF THE PIPELINE. (AKA PACE, INC.)

15. Basis of Claim: BENEFICIAL USE

A37-13054

Page 2

Date: 08/31/89

32x1

16. Signature(s)

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

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): *[Signature]*

Date: 8-31-89

State of Idaho

County of Twin Falls

} SS.

Date: 8-31-89

Subscribed and sworn (or affirmed) before me this 31st day

of August 19 89

Seal

[Signature]
Notary Public

Residing at Twin Falls

My Commission Expires Dec 7, 1994

Lapsed Per info
Search
12/07 KRC

RECEIVED

RECEIVED

Form 202
6/85

ADG 125 1948

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources
Southern Region Office

Ident. No. 37-08388
JUL 28 1988

APPLICATION FOR PERMIT

Department of Water Resources
Southern Region Office

To appropriate the public waters of the State of Idaho

APPROVED

Phone (208) 726-5657

1. Name of applicant Bruce Gilbert
- Post office address c/o Brian L. Ballard, Post Office Box 297, Ketchum, ID 83340
2. Source of water supply Warfield Hot Springs which is a tributary of Warm Springs Creek
3. Location of point of diversion is SW 1/4 of NW 1/4 of NW 1/4, Govt. Lot H.E.S. 389
Sec. 31 Township 4N Range 17E S.M. Blaine County; additional
points of diversion if any: _____
4. Water will be used for the following purposes:
Amount 1 cfs for heating purposes from Jan. 1 to Dec. 31 (both dates inclusive)
Amount .92 cfs for recreational purposes from Jan. 1 to Dec. 31 (both dates inclusive)
Amount .08 cfs for domestic purposes from Jan. 1 to Dec. 31 (both dates inclusive)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 2 cfs and/or (b) _____ See remarks.
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Application proposes to utilize output of existing springs and wells by pumping (1-2 5hp pumps) and/or drilling other wells with artesian pressure and/or pumps utilized to deliver water via buried pipelines (1 1/2"-3").
b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet; period of year when water will be diverted to storage: _____ to _____ inclusive.
c. Proposed well diameter is less than 10 inches; proposed depth of well is less than 40 feet.
d. Is ground water with a temperature of greater than 90°F being sought? See remarks.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 years (minimum 1 year).

37-08388

- [illegible]

10. Describe any other water rights used for the same purposes as described above. No other water rights are known to exist.

- Remarks continued on attached page.

REMARKS CONTINUED

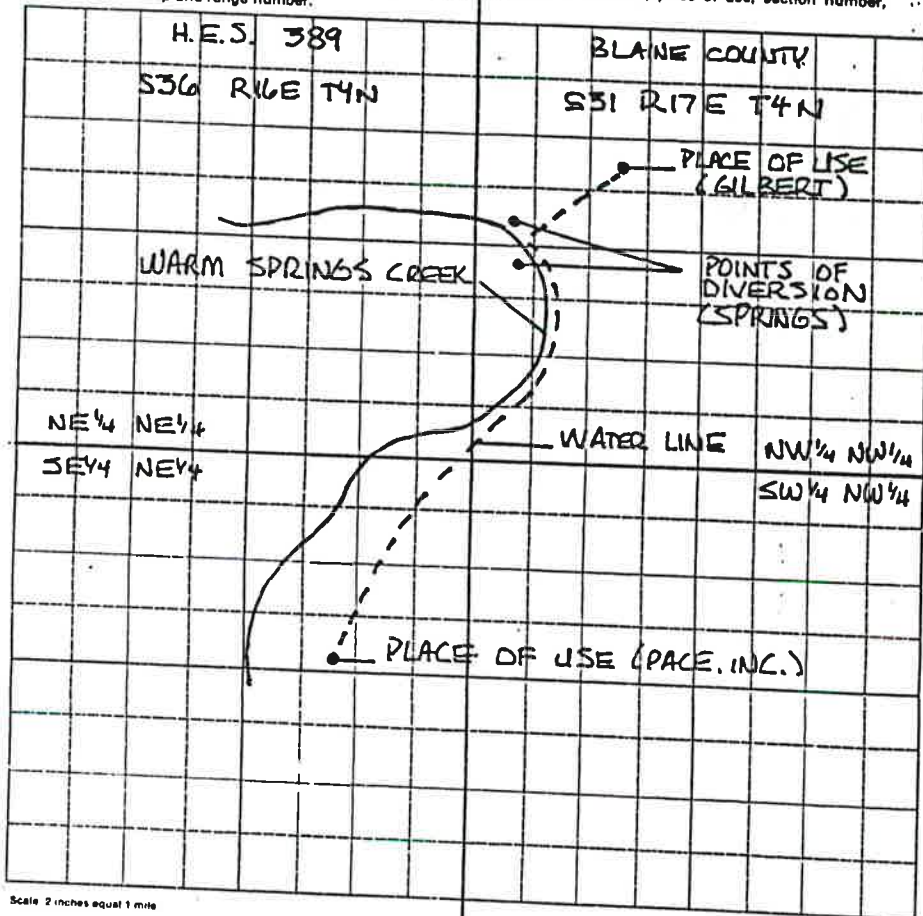
The temperature of Warfield Hot Springs is estimated in the Eastlake and Sifford 1981 Analysis to be 123°F (51°C). This is less than the geothermal resource definition of 212°F as set forth in I.C. §42-4002. Further, water at this geothermal resource temperature level is not being sought; the water at its present temperature will be utilized.

.08 cfs for domestic use is based upon Department guidelines for domestic use for three homes. The main house plus the two guesthouses is estimated to correspond to this .08 cfs use.

The 1 cfs for heating and the .92 cfs for recreational is so designated to utilize the estimated remaining available water for heating of all the units, for swimming pool and spa use, and the requirements of Pace, Inc., as per Exhibit "A" attached.

As previously referenced, the water will be collected, utilized and returned to Warm Springs Creek in historical amounts.

13. 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.

Bruce Gilbert
(Applicant)

Processed Priority: 8/25/88

Received by M. Baldwin Date 8/25/88 Time 10:00 am Preliminary check by AD

Fee \$ 65.00 Received by M. Baldwin # 5002693 Date 10/3/88

Publication prepared by M. Baldwin Date 10/20/88 Published in Wood River Journal

Publication approved M. Baldwin Date 11/22/88

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. 37-8388 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 March 1, 19 92.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.

e. Other:

A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works prior to diversion of water under this permit.

Permit holder shall commence the excavation or construction of diverting works within one year of the date this permit is issued and shall proceed diligently until the project is complete.

Diversion of water under this permit is limited to Warfield Hot Springs. This permit does not authorize the diversion and/or use of groundwater.

Use of water under this permit is subject to control by the watermaster of State Water District No. 37, Big Wood River.

Water used under this permit if discharged into a natural channel or subsurface system shall meet Idaho Water Quality Standards.

Witness my hand this 3rd day of February, 1989.

J. Glen Saxton

POOR ORIGINAL

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Statehouse
Boise, Idaho 83720
(208) 334-7900
February 7, 1989

BRUCE GILBERT
C/O BRIAN L. BALLARD
P. O. BOX 497
KETCHUM, ID 83340

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 37-09388

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. We direct your attention to the conditions of approval on the final page.

Be sure to note the special condition requiring you to install a measuring device and lockable controlling works that will enable the watermaster to control the rate of diversion.

Please note the requirement that as a permit holder you must commence the excavation or construction of diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The enclosed blue card must be completed and returned to this office as soon as you commence construction, no later than one year from the date the permit was approved.

We have enclosed a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit into a license.

Sincerely,

GARY SPACYMAN, Supervisor
Water Rights Permits Section

GS: SC
Enclosures

Please be advised that construction of a well is not authorized by this permit.

32x1

POOR ORIGINAL

#12308

CORPORATE WARRANTY DEED

For Value Received, Pace, Inc., an Idaho corporation, hereinafter referred to as "Grantor", does hereby grant, bargain, sell and convey unto Geoffrey S. Dushell and Linda S. Dushell, husband and wife, whose address is P.O. Box 2798, Sun Valley, ID 83351, all of its right, title and interest in and to the following described real property located in Blaine County, Idaho, to-wit:

A portion of N.E. Survey 189 (Halley 03144 and 105799), being a portion of Section 36, Township 4 North, Range 16 East, Boise Meridian, and Section 31 in Township 4 North, Range 17 East, Boise Meridian, Blaine County, State of Idaho, more particularly bounded and described as follows:

Beginning at Corner No. 1 of said N.E. Survey, as Corner No. 1, the true point of beginning of this tract, thence South 83°10' East 587.4 feet to Corner No. 2; thence South 10°12' West 440.22 feet to Corner No. 3; thence South 57°12' West 528 feet to Corner No. 4; thence South 57°12' West 170.94 feet to Corner No. 5; thence South 0°02' East 238.00 feet to Corner No. 6; thence North 84° West 403.7 feet, more or less, to a point on the westerly boundary line of said N.E. Survey, being line 12-13 of said original survey, which point is Corner No. 7 of this description, and which point is South 7°18' West 1133.1 feet from Corner No. 11 of said original survey; thence North 7°18' East 1133.1 feet to Corner No. 8 of this description, which point is coincident with Corner No. 11 of said original N.E. Survey; thence South 83°10' East 401.82 feet to said Corner No. 1 point of beginning; EXCEPTING, however, that certain tract excepted in the original Patent, more particularly described as follows: Beginning at Corner No. 14 of said original Patent, from which Corner No. 1 above mentioned bears N. 0°04' East 228.16 feet; thence South 48°56' East 57.42 feet to Corner No. 15; thence South 44°13' West 70.82 feet to Corner No. 16; thence South 44°13' West 91.08 feet to Corner No. 17; thence North 12°22' East 166.98 feet to Corner No. 18; thence South 58°56' East 11 feet to place of beginning of said excepted tract.

ALSO EXCEPTING the following tract: A parcel of land within Homestead Entry No. 189 in Section 36, Township 4 North, Range 16 East, Boise Meridian, Blaine County, State of Idaho, and more particularly described by

245698

POOR ORIGINAL

metes and bounds as follows: Commencing at a stone marking Corner No. 5 of said H.E.S. No. 389; thence South 0°02' East 178.5 feet along the East boundary of said H.E.S. No. 389 to a 1/2" rebar, said rebar marking the true point of beginning; thence South 0°02' East 59.5 feet along the East boundary of H.E.S. No. 389, to a 1/2" rebar; thence North 86°00' West 231.9 feet Creek; thence North 35°16' East 67.5 feet along the Easterly bank of Warm Springs Creek to a 1/2" rebar; thence South 88°11' East 192.7 feet to a 1/2" rebar, said rebar marking the true point of beginning.

RESERVING TO THE GRANTOR the right to use the flow of hot water in the gravity feed water line that now exists. It is understood that Pace, Inc., and its successors shall not increase or expand on that existing flow. This right is to be appurtenant to, and run with, the following described property:

A portion of W. H. Warfield H.E.S. No. 389 in Section 36, Township 4 North, Range 16 E.D.M., Blaine County, Idaho, described as follows:

Beginning at a point on the East line of said H.E.S. No. 389, said point being 348 feet South of Corner No. 5 of said H.E.S. No. 389, thence South along the East line of said H.E.S. No. 389 a distance of 118 feet; thence West a distance of 161 feet, more or less, to the center of Warm Springs Creek; thence in a Northerly direction along the centerline of Warm Springs Creek a distance of 160 feet, more or less, to a point which is North 86°00' West from the point of beginning; thence South 86°00' East a distance of 206 feet, more or less, to the point of beginning.

GRANTING, however, the right to share the use, repair and maintenance of the water line referred to above, this right to be appurtenant only to that portion of Warm Springs Creek, commonly known as the Crony Cove 1/2) acres.

SUBJECT TO:

Reservations contained in Patent from the United States of America to William H. Warfield dated October

POOR ORIGINAL

25, 1919, recorded December 17, 1919, in Book 99 of
patents, page 259, records of Blaine County, Idaho,
reciting: "Subject to any vested and accrued water
rights for mining, agricultural, manufacturing or
other purposes and rights to ditches and reservoirs
used in connection with such water rights, as may be
recognized and acknowledged by the local customs, laws
and decisions of courts; and there is reserved from
the lands hereby granted a right of way thereon for
ditches or canals constructed by the authority of the
United States."

TO HAVE AND TO HOLD the same unto the Grantees, their
heirs and assigns forever. And the said Grantor does hereby
covenant to and with the Grantees that it is the owner in fee
simple of said premises, that they are free from encumbrances
except as above described and that it will warrant and defend
the same from all lawful claims whatsoever.

Dated this 1st day of November, 1983.

PACE, INC.

By: D. L. Pace
President

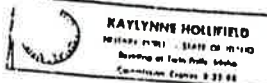
STATE OF IDAHO

County of Twin Falls

} ss.

On this 1st day of November, 1983, before me, the
undersigned, a notary public in and for said county and state,
personally appeared D. L. Pace, known to me to be the President
of Pace, Inc., the corporation whose name is subscribed to the
within instrument or the person who executed the instrument on
behalf of said corporation and acknowledged to me that such
corporation executed the same.

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



Kaylynn Hollifield
Notary Public for Idaho
Residing at Twin Falls, Idaho

01/25/2007

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

RIGHT NUMBER: 37-577CM

NAME AND ADDRESS: THOMAS-STEWART FAMILY TRUST
THOMAS PETER THOMAS
JACQUELINE SUE STEWART
25 PRESTON RD
WOODSIDE CA 94062

SOURCE: BIG WOOD RIVER
GROUND WATER

TRIBUTARY: MALAD RIVER
TRIBUTARY:

QUANTITY: 0.040 CFS

This right when combined with all other rights shall provide no more than 3.5
afa per acre for irrigation of the lands above.

To mitigate for injury to other water users caused by the diversion and use
of water under this right, the watermaster shall deliver 0.04 cfs of this right
into the Hiawatha Canal where it shall remain undiverted.

PRIORITY DATE: 03/24/1883

POINT OF DIVERSION:

T03N R18E S5 NWNE Lot 2 Within BLAINE County

T03N R18E S20 SWNW Within BLAINE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.030 CFS
		3.50 AFY
MITIGATION	04/15 10/31	0.040 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T03N R18E S05 Lot 2 NWNE 1.00

MITIGATION same as IRRIGATION

1 ACRES TOTAL

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

Diversion of groundwater is limited to those times water is available for
diversion from the original source, Big Wood River, and is actually
diverted into the Hiawatha Canal for mitigation purposes.

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 - Decreed

The right holder shall maintain a measuring device and lockable controlling
works of a type approved by the Department in a manner that will provide
the watermaster suitable control of the diversion.

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

The right holder shall accomplish the change authorized by this transfer
within one (1) year of the date of this approval.

Use of water under this water right will be regulated by the watermaster of
State Water District No. 37.

Right holder shall comply with the drilling permit requirements of Section
42-235, Idaho Code.



Idaho Department of Water Resources

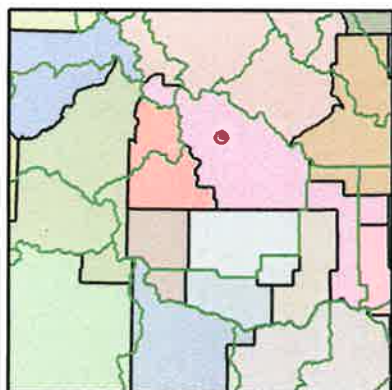
SRBA Recommendation:

37-577CM

(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Blaine County
IDWR Basin 37



0 0.1 0.2 Miles

A horizontal scale bar with three segments, corresponding to the 0, 0.1, and 0.2 mile markings.

Prepared by A. Warntjes
On Tuesday, December 19, 2006
2004 Aerial Photography

Always consider the possibility that river losses or conveyance losses for a ditch system may exist even if the claim matches the water master list.

Yellow highlighted rights indicates rate and name match.

Blue and/or green highlighted rights indicate Possible match but with problems

Bright blue = research after 6-23-2005 matches.

Red = likely guess of a match or some kind of significant problem.

The list is not necessarily comprehensive. Most water carried on the watermaster list as Big Wood River losses or Conveyance losses are not shown on this comparison. Further research by right needs to be done.

Note: some entries contain a comments box (small red triangle in upper left corner of a cell

22	D	2 S F ECCLES RLS-06	37-0577	1.40	577 BP	7 ECCLES FLYING HAT RANCH LLC		
38-P1	E	2 S F ECCLES	37-0577	5.60	577 BP	ECCLES FLYING HAT RANCH LLC		11
RLR-02	E	2 E HADLEY STUART-RLR-02	37-0577	2.70	30020	2.9 STUART JR, E HADLEY	577	2.9
33	E	2 RANDY W JOHNSON	37-0577BK	0.10	577 CB	0.1 MILLER, RICHARD D		
22	D	2 CHARLES E CORD	37-0577PT	0.39	11596	split into 21139 & 21140	30034	0.39
22	X	2 THOMAS-SETWART FMLY TR-GW	37-30000D	0.04	577 CM	0.04 THOMAS-STEWART FAMILY TRUST	30000	0.03
45	E	2 BELLEVUE FARMS	37-0577	5.06				
45	E	2 CURT BARKER	37-0577	0.22			21346 7 21347	
45	E	2 THOMAS O GARA	37-0577	0.55	577 BZ	0.69 THOMAS M O GARA FAMILY TRUST	xrFromAdjClaimList 69756	
50	E	2 WILLIAM D BROWN	37-0577	0.69	11830	BROWN, FRANCIS J ; BROWN, 1.38 ROBERT C ; BROWN, WALTER C ; BROWN, WILLIAM D		

conveyance losses per T-68526			
STUART JR, E HADLEY			
CORD JR, CHARLES E THOMAS-STEWART FAMILY TRUST			
appears to be split			

 37-11526A/WRADJUDII
 37-21065/WRADJUI
 37-21066/WRADJUI
 37-21067/WRADJUI
 37-21068/WRADJUI
 37-21069/WRADJUI

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT

TRANSFER NO. 4884
WATER RIGHT NO. 37-30000D

RECEIVED

APR 24 1997

Department of Water Resources
Southern Region

This is to certify that: **GRIFFIN FAMILY TRUST**
C/O JAMES P SPECK ESQ
HOGUE SPECK & AANESTAD
PO BOX 987
KETCHUM ID 83340

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	04/15 to 10/15	0.04 CFS	3.5 AF

SOURCE

* GROUNDWATER

Priority: 03/24/1883

LOCATION OF POINT(S) OF DIVERSION: Lot 2(NWNE), Sec. 5, Township 03N, Range 18E
BLAINE 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	18E	5	Lot 2(NWNE)	1		1
Total number of acres irrigated:						1

CONDITIONS OF APPROVAL AND REMARKS

1. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
2. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
3. A measuring device and lockable controlling works of a type approved by this Department shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion.
4. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.

27-30,000 D
4884

TRANSFER NO. 4884
WATER RIGHT NO. 37-30000D

CONDITIONS OF APPROVAL AND REMARKS

5. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
6. 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.
7. 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.
- * 8. Diversion of groundwater is limited to those times water is available for diversion from the original source, Big Wood River, and is actually diverted into the Hiawatha Canal for mitigation purposes.

Dated this 14th day of

April, 1997.

J. Glen Saxton
Chief, Water Alloc. Bureau

MEMORANDUM

TO: FILE NO. 37-30000A
FROM: PAM SKAGGS/²STATE OFFICE
SUBJECT: TRANSFER NO. 4884
DATE: December 18, 1996
(Modified 04-14-97)

=====

Transfer No. 4884 was filed to change the point of diversion, place of use and source under a portion of Right No. 37-30000A, splitting the right into parts C and D. The transfer proposes to divert water from a well at the new place of use.

The previous use of the purchased portion of the right was confirmed through SRBA investigation and confirmation of use under A37-00577BW. The applicant purchased 0.04 cfs and 1 acre of irrigation right from this property. Continued diversion to the Hiawatha canal from the Big Wood River will continue as mitigation for well.

Season of use and diversion volume were adjusted to current standards. Recommended conditions include drilling permit conditions, watermaster control, measuring device & lockable controlling works, irrigation overlap, availability from original source/mitigation and standard transfer condition.

FROM: Allen Merritt

DATE: September 5, 1996

TO: Transfer File No. 4884

In the Name of: Z. Wayne Griffen, Trustee of the Griffen
Family Trust Dated June 20, 1990

SUBJECT: Review and Recommendation

This transfer proposes the change of place of use and change of source from Big Wood River to groundwater (also change of P/D) of a portion of the W.T. Riley right. The transfer is driven by a sale (Kearns to Griffen Trust) of 0.04 cfs which is split off of a 0.14 cfs portion of the original W.T. Riley right. The 0.14 cfs portion has been confirmed to irrigate 3 acres from the Hiawatha Canal. The confirmation of this use was conducted in the SRBA Test area. Record R37-00577BW has been created as the preliminary recommendation of this use. This SRBA record is in the name of Smith. The transfer provides a trail of ownership from Burr & Stephanie Smith to Stephen and Gail Kearns via a Notice of Change of Ownership. Included with the transfer is a Quit Claim deed from Kearns to Z. Wayne Griffen, Trustee of the Griffen Family Trust Dated June 20, 1990 and the Sales Agreement for this transaction. (Reference Jim Stanton's 6/28/96 memo)

RECOMMENDATION

I recommend that the transfer be approved subject to the following conditions:

- Subject to SRBA review.
- The well associated with the right must be drilled pursuant to a drilling permit approval (\$200).
- The right is under the control of watermaster of water district 37.
- The well must have a means of control provided.
- The use of this right is limited to 0.03 cfs for irrigation of 1 acre of land.
- Approval of this transfer splits R37-00577BW and the remaining untransferred portion is limited to 0.10 cfs for irrigation of 2 acres.

37-0577BW, T# 4884

JUN 17 1996

STATE OF IDAHO
 DEPARTMENT OF WATER RESOURCES

Department of Water Resources
 Southern Region

**APPLICATION FOR TRANSFER OF WATER RIGHT
 PART 1**

Name of applicant : Z. Wayne Griffin, Trustee of the Griffin Family Trust Dated June 20, 1990 Phone: 1-208-726-1875

Post Office address: c/o James P. Speck, Hogue, Speck & Aanestad, P. O. Box 987, Ketchum, ID 83340

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other

2. Describe the reason for the proposed changes : Applicant has entered into an agreement to purchase the water right contingent upon the approval of the transfer of the point of diversion and place of use to its property. Since there is no possible way to divert the water from the Big Wood River to Applicant's property, the new point of diversion will be a well.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount	Nature of Use	Period of Use	Volume
37-00577 ~~DW~~	March 24, 1883	0.04 cfs	irrigation	April 1 to November 1	

2. Total amount of water being transferred: 0.04 cubic feet/second and/or _____ acre-feet per annum.

3. Source of water: ground water tributary to Big Wood River

4. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	2	SW	NW	NE	5	3N	18E	Blaine	

5. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	18E	5		1															

Lt 2

Total acres: 1

a. Description of diversion system Well, pump, residential sprinkler irrigation system.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: It is within the city limits of the City of Hailey and will no longer be irrigated other than by city water.

d. Remarks: Place of use is Lot 4 of A Replat of Lots 3, 4 and 5, Block 1, Gimlet Terrace Subdivision, Blaine County, Idaho. A copy of the plat is attached. The existing and proposed places of use are within the Big Wood River Ground Water Management Area where ground water is presumed tributary to the Big Wood River. A copy of the Quitclaim Deed from the current owners is also attached.

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_____.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2*(Attach one copy for each right)***A. DESCRIPTION OF RIGHT AS RECORDED**

1. Right evidenced by:

- a. Decree No. 37-00577CJ Decreed to W. T. Riley
in case of S. C. Frost Et Al vs. Alturas Water Co. Et Al
dated 12-13-1909 in Fourth District county of Lincoln
- b. License No. _____ issued by 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. Check appropriate box below.

☐ Tax notice ☐ Warranty Deed ☒ Other Quitclaim Deed
from current owner to Applicant ☐

3. Source of water Big Wood River4. Date of priority March 24, 1883

5. Water is used for the following purposes:

amount 9.3178 cfs for Irrigation purposes from _____ to _____6. Total amount of water under right 9.3178 cubic feet/second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	20	2N	18E	Blaine	Headgate & Hiawatha Canal

8. Lands irrigated or place(s) of use: P/U is incomplete. Irrigated acres unknown - all under diversions from Hiawatha Canal.

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total acres: _____

9. Describe any other water rights used for the same purpose as described above None

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
 No _____. If yes, describe _____

B. DESCRIPTION OF RIGHT BEING TRANSFERRED

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

1. amount 0.04 cfs for Irrigation purposes from April 1 to November 1.

2. Point(s) of Diversion: Same as 2.A.7. p 6-28-96

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
			SE	NE	19	3N	18E	Blaine	Hiawatha Canal Headgate

3. Lands irrigated or Place(s) of Use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
2N	18E	10							1										1

Total acres: 1

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

(See Part A of this Part 2, above)

1. amount 9.2778 cfs for irrigation purposes from April 1 to November 1.

2. Point(s) of Diversion: Same as 2.A.7. p 6-28-96

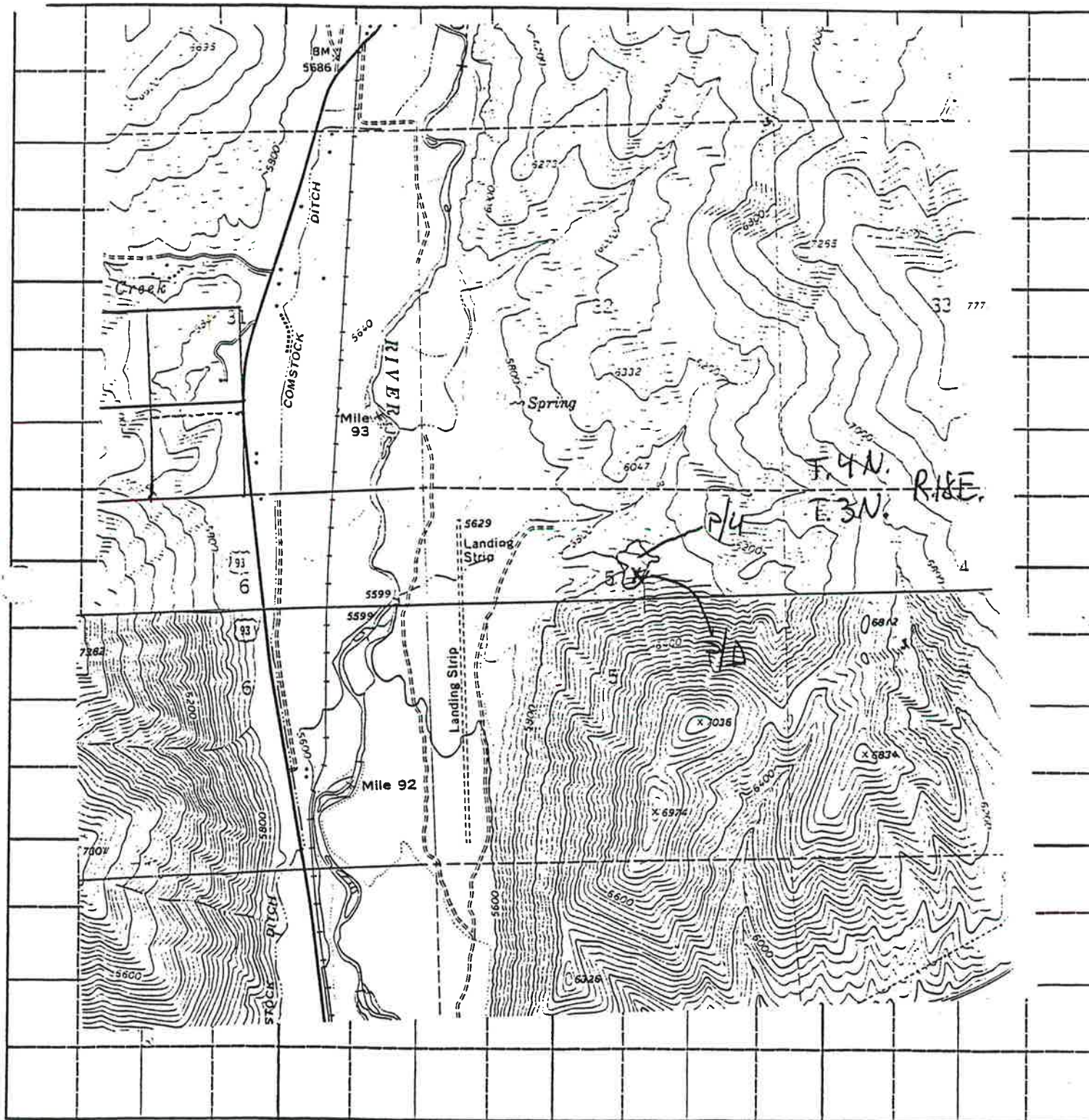
Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
			SE	NE	19	3N	18E	Blaine	Hiawatha Canal Headgate

3. Lands irrigated or Place(s) of Use: See A,8 of Part 2, above.

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total acres: _____

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



F:\WPDATA\JIM\WATERXFR\GRIFFINW.002

PART 3**B. CHANGES IN NATURE OF USE**

1.

New Nature of Use	Amount (cfs/AF)	Hours/Days/Year	Period Of Use
			to
			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.

THE GRIFFIN FAMILY TRUST DATED JUNE 20, 1990

DATE: _____

By: *Wayne Griffin, Jr.*
 Z. Wayne Griffin, Trustee

Subscribed and sworn to before me this 16th day of June, 1996.

J. P. French
 Notary Public for Idaho
 Residing at Stark County, ID
 My commission expires 1/29/97

FOR DEPARTMENT USE ONLY

Received by HL \$100 ck attached Date 6-17-96
 Prelim. check by J. F. Clinton Fee \$100.
 Receipted GLS # 5019253
 Published in Wood River Journal
 Pub. dates 8/14 + 8/21/96 Recommend: approve deny
 Watermaster recommendation requested rec'd
 Field exam conducted (required for statutory claims)

Protest filed by:

Hearing held by:

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

**James P. Speck, Esq.
HOGUE, SPECK & AANESTAD
P. O. Box 987
Ketchum, Idaho 83340**

(space above line for Recorder's use)

QUITCLAIM DEED

FOR VALUE RECEIVED, STEPHEN T. KEARNS and GAIL GOODELL KEARNS, husband and wife, whose address is P. O. Box 1262, Hailey, ID 83333 (hereinafter referred to as the "Grantor"), does hereby convey, release, remise and forever quitclaim unto Z. WAYNE GRIFFIN, TRUSTEE OF THE GRIFFIN FAMILY TRUST DATED JUNE 20, 1990, whose address is c/o Z. Wayne Griffin, P. O. Box 4083, Ketchum, ID 83340 (hereinafter referred to as the "Grantee"), any and all interest Grantor may have in the following described water right, appurtenant to premises, situated in Blaine County, Idaho, to wit:

0.04 cfs of the Big Wood River with a March 24, 1883 priority date pursuant to Idaho Water Right No. 37-00577 and Claim No. A37-00577BW in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anyway appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular the said premises, together with the appurtenances, unto the Grantee, and to Grantee's heirs and assigns forever.

DATED this 1 day of June, 1996.

GRANTOR:

DATE: 6/1/96


STEPHEN T. KEARNS

DATE: 6-1-96

Gail Goodell Kearns
GAIL GOODELL KEARNS

STATE OF IDAHO)
) ss.
County of Blaine)

On this 1st day of June, 1996, before me the undersigned notary public in and for said state, personally appeared STEPHEN T. KEARNS and GAIL GOODELL KEARNS, known or identified to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

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

Ruby A. Becker
Notary Public for Idaho
Residing at : Blaine, Idaho
Commission Expires: 2/5/97



**AGREEMENT FOR PURCHASE AND SALE
OF
WATER RIGHTS**

(Kearns/Griffin Family Trust)

THIS AGREEMENT is made and entered into as of the date of the last signature hereto by and between STEPHEN T. KEARNS and GAIL GOODELL KEARNS, husband and wife, whose address is P. O. Box 1262, Hailey, ID 83333 (hereinafter referred to as "Seller"), and Z. WAYNE GRIFFIN, TRUSTEE OF THE GRIFFIN FAMILY TRUST DATED JUNE 20, 1990, whose address is c/o Z. Wayne Griffin, P. O. Box 4083, Ketchum, ID 83340 (hereinafter referred to as "Buyer").

RECITALS

A. Seller is the owner of the following-described water right appurtenant to real property situated in the County of Blaine, State of Idaho (the "Water Right"):

0.04 cfs of the Big Wood River with a March 24, 1883 priority date pursuant to Idaho Water Right No. 37-00577 and Claim No. A37-00577BW in In Re the General Adjudication of Rights to the Use of Water From the Snake River Basin Water System, Twin Falls District Court Case No. 39576.

B. The Water Right has been used for the irrigation of one (1) acre. No other water rights have been used for this purpose.

C. Buyer is the owner of certain real property situated in Blaine County, Idaho, and particularly described in Exhibit A, attached hereto and made a part hereof by this reference (hereinafter referred to as the "Property").

D. Buyer desires to purchase the Water Right from Seller, and Seller is willing to sell the Water Right to Buyer, and Seller agrees to no longer irrigate the one (1) acre within Lot 1B of Martin Young Subdivision, City of Hailey, Blaine County, Idaho (the "Existing Place of Use") with the Water Right, subject to and contingent upon approval by the Idaho Department of Water Resources (hereinafter referred to as the "Department") of an application to transfer the Water Right to a new point of diversion and place of use on the Property, and to all other terms and conditions hereinafter set forth.

AGREEMENT

1. INCORPORATION OF RECITALS. The Recitals set forth above are an integral part of this Agreement and are fully incorporated herein by this reference.

2. SALE. The Seller, for and in consideration of the payments to be made and the covenants and conditions to be kept and performed by the Buyer, as hereinafter set forth, does hereby contract and agree to sell and convey to the Buyer, and the Buyer does hereby agree to buy from the Seller, the Water Right.

3. PURCHASE PRICE AND TERMS OF PAYMENT. The total purchase price of the Water Right shall be Three Thousand Dollars (\$3,000.00). The entire purchase price shall be paid on the Closing Date described in paragraph 5, below.

4. TITLE; QUITCLAIM DEED; ESCROW; CONTINGENT UPON DEPARTMENT APPROVAL. Seller shall transfer all of his right, title and interest in and to the Water Right to Buyer by quitclaim deed (the "Quitclaim Deed"). Upon execution of this Agreement, Seller shall execute the Quitclaim Deed in recordable form and deliver it to the law firm of Hogue, Speck & Aanestad, P.A., to be held in escrow and not recorded unless and until the Department approves the Application. Buyer may submit a copy of the executed Quitclaim Deed to the Department as a part of the Application. Buyer shall deposit the full purchase price into the trust account of the law firm of Hogue, Speck & Aanestad, P.A. to be held until closing. This Agreement for purchase and sale of the Water Right is contingent upon and subject to approval by the Department of the Application. Upon such approval, Seller agrees to no longer irrigate one (1) acre within the Existing Place of Use with the Water Right. If the Application is not approved, this Agreement shall become null and void and the Quitclaim Deed returned to Seller.

5. ADJUDICATION CLAIMS. Seller, at no expense to it, agrees to cooperate with and assist Buyer in filing and perfecting a claim for the Water Right in Twin Falls County District Court Civil No. 39576, In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System (hereinafter referred to as the "Adjudication"), such cooperation and assistance to include, but not be limited to, providing any documents and other information in Seller's possession or knowledge with regard to any element of the Water Right.

6. CLOSING. The closing of this transaction and the delivery of the executed Quitclaim Deed to Buyer and the entire purchase price to Seller shall take place at the law offices of Hogue, Speck & Aanestad, 120 East Avenue, Ketchum, Idaho, within ten (10) days of Buyer's receipt of approval from the Department of the Application (the "Closing Date").

7. POSSESSION; PRORATIONS. The Buyer shall be given possession and use of the Water Right on the Closing Date. Taxes and assessments, if any, on the Water Right shall be prorated as of the Closing Date. The Seller shall pay all such taxes and assessments which have accrued prior to the Closing Date and the Buyer shall pay for all subsequent taxes and assessments upon the Water Right.

8. NO COMMISSIONS. The parties agree that no real estate broker's or other commission shall be paid to anyone as a result of the transfer and sale of the Water Right from Seller to Buyer pursuant to this Agreement.

9. REPRESENTATION BY COUNSEL. The parties acknowledge and agree the law firm of Hogue, Speck & Aanestad has represented only the Buyer in this transaction and the Seller has had the full and complete opportunity to be represented by other legal counsel of its own choosing in this transaction.

10. GENERAL PROVISIONS.

a. Severance and Validity. In the event any provision of this Agreement or any part thereof shall be determined by any court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions hereunder, or part thereof, shall remain in fully force and effect, and shall in no way be affected, impaired, or invalidated thereby, it being agreed that such remaining provision shall be construed in a manner most closely approximately the intention of the parties with respect to the invalid, void, or unenforceable provision or part thereof.

b. Attorney Fees. In the event of any suit or proceeding by either party herein against the other party, in any way arising out of this Agreement, or attempting to enforce any right herein granted, the losing party, in such suit or proceeding shall pay to the prevailing party such sum or sums as the court shall adjudge reasonable, in such suit or proceeding, for attorney's fees, including such fees on appeal, for such prevailing party.

c. Governing Law. The validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Idaho applicable to contracts made and performed in that state.

d. Captions to Paragraphs. The captions to the paragraphs of this Agreement are for convenience only and shall not be deemed to enlarge, diminish, explain or in any manner affect the meaning of such paragraphs.

e. Binding Contract. This Agreement shall be binding upon and inure to the benefit of the heirs, personal representative, administrators, successors, and assigns of the parties hereto.

f. Non-Merger. This Agreement shall not be merged in the execution and delivery by the Seller to the Buyer of the Quitclaim Deed contemplated herein. Instead, this Agreement shall remain in effect, even after closing, until all obligations created hereunder have been fully performed.

g. Notices. Except for any notice required under applicable law to be given in another manner, any notice provided for in this Agreement shall be given by either personal service or by mailing such notice by certified mail, return receipt requested, addressed as set forth in the introductory paragraph to this Agreement or at such other address as either party may designate by notice to the other party as provided herein.

IN WITNESS WHEREOF, the parties have caused their names to be subscribed on the dates

set forth below.

"SELLER"

DATE: 6/1/96


STEPHEN T. KEARNS

DATE: 6-1-96


GAIL GOODELL KEARNS

"BUYER"

THE GRIFFIN FAMILY TRUST DATED JUNE 20,
1990

DATE: 6-4-96

By: 
Z. Wayne Griffin, Trustee

TO: File

DATE: June 28, 1996

FROM: Jim Stanton

SUBJECT: App. for Transfer of Riley Water, Z. Wayne Griffin

This water right is in the test basin (claimed as A37-00577BW), so Steve Clelland visited the claimed p/u in 1990. He verified that the land claimed was actually irrigated, but did not verify the actual diversion rate. Since this is a residential property just east of Hailey, there is a good chance that the land was sprinkled. The land is also pretty flat, so gravity irrigation would be difficult. Due to Steve's work, I do not plan to visit the original p/u. Watermaster records show that the claimant owns 7" of Riley water, and that assessments are still being paid.

There is no question that the new p/u will be sprinkled, so the right should be limited to 0.03 cfs for one acre. There does not appear to be any reason to deny this transfer if proper conditions are applied. The original owners of the right should be clearly notified that they must dry up one acre of their land as part of this transfer. I notice that the seller (Kearns) agrees to do this in the sale agreement.

The watermaster still shows this right as being owned by Burr Smith, as do we. I will request deeds from Smith to Kearns to clarify that Kearns actually owns this water. Lee Peterson also said that the applicant should obtain permission from the Hiawatha Canal Co. to make this transfer.

The application seeks a use period of 4-1 to 11-1. The approved transfer should show 4-15 to 10-15, which is now the standard season in the Wood River valley.

The reality is that the proposed well will never be regulated by the watermaster. But since 1883 water is almost never cut off anyway, regulation is usually not needed. And river water will be left in the stream to mitigate for the water taken from the new well.

T# 4884