

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

IN THE MATTER OF PERMIT)
NO. 65-12974C IN THE NAME OF)
MARTIN GOFFIN OR SUE GOFFIN)
_____)

**PRELIMINARY ORDER
VOIDING PERMIT**

This matter having come before the Department of Water Resources (Department) as a result of an examination by Department staff to determine the extent of beneficial use of water, the Department finds, concludes, and orders as follows:

FINDINGS OF FACT

1. On February 29, 1989, Fay Livingston and Earl Livingston applied to the Department for a permit to appropriate 0.27 cubic feet per second of groundwater within the NW¼SW¼ of Section 33, Township 10 North, Range 04 East, B.M., for irrigation, heating, and domestic purposes in Boise County.
2. On December 07, 1989, the Department approved the application as permit no. 65-12974 with the deadline to submit a proof of beneficial use statement set as January 01, 1993.
3. On November 14, 1995, the Department received the proof of beneficial use statement for the permit.
4. On November 14, 1995, the Department received an assignment of permit form and a portion of permit no. 65-12974 was assigned to Martin or Sue Goffin.
5. On June 06, 1998, a field examination of permit nos. 65-12974A, 12974B and 12974C was conducted. The examiner found that a well and diversion system had been developed under 65-12974A and 12974B for lots 2 and 3 of the Livingston Estates Subdivision. No system was developed for a third lot. There is no evidence that a beneficial use was developed under permit no. 65-12974C.
6. On February 14, 2018, the Department sent a notice of intent to void to the address on file. The notice was returned as undeliverable on February 20, 2018.

CONCLUSIONS OF LAW

1. Idaho Code § 42-219 states, in pertinent part:

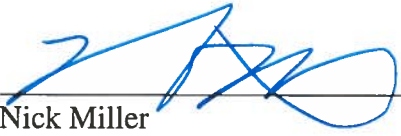
In the event that the department shall find that the applicant has not fully complied with the law and the conditions of the permit, it may issue a license for that portion of the use which is in accordance with the permit, or may refuse issuance of a license and void the permit.
2. The provisions of Idaho Code § 42-219 authorize the Department to void permits for which the permit holder has not fully complied with the law and the conditions of the permit.

3. Investigation by the Department revealed that beneficial use as authorized by the permit was not developed.
4. The Department should void the permit pursuant to Idaho Code § 42-219.

ORDER

IT IS HEREBY ORDERED that issuance of a license is **REFUSED** and Permit No. 65-12974C is **VOIDED**.

Dated this 4th day of April, 2018.



Nick Miller

Manager, IDWR Western Region



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

April 4, 2018

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY ID 83622

Re: Preliminary Order in the matter of Water Right Permit No. 65-12974C

Dear Interested Parties:

The accompanying order is a **"preliminary order"** issued by the Department. It can and will become a final order without further action of the department unless a party petitions for reconsideration within fourteen (14) days after issuance as described in the enclosed information sheet.

If you have any questions regarding this matter, please call me at 208-334-2190.

Sincerely,

A handwritten signature in cursive script that reads "Rachel Neely for".

Nick Miller
Western Regional Manager

Enclosures

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2018, true and correct copies of the foregoing **PRELIMINARY ORDER** were served by placing a copy of the same with the United States Postal Service certified mail, with return receipt requested, postage prepaid, and properly addressed to the following:

RE: 65-12974C

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY ID 83622



Rachel Neely
Administrative Assistant

EXPLANATORY INFORMATION TO ACCOMPANY A PRELIMINARY ORDER

(To be used in connection with actions when a hearing was **not** held)

(Required by Rule of Procedure 730.02)

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action of the Department of Water Resources ("department") unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:**

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. **Note: the petition must be received by the department within this fourteen (14) day period.** The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after: (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the Department or the Water Resource Board is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The Director may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

Section 67-5246(5), Idaho Code, provides as follows:

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its service date if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) The petition for reconsideration is disposed of; or
- (b) The petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

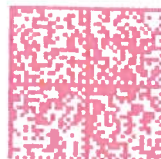
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
2735 Airport Way
Boise, Idaho 83705-5082

Return Service Requested

Letter dated 2/14/18
Re: Notice of Intent to Void Application for Permit No. G-5-12974C

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY IN 83622

**PRESORTED
FIRST CLASS**



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RETURN TO SENDER
NO SUCH NUMBER
MARKET TO FORWARD

NYT- 1364
0002/18/15



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region • 2735 Airport Way • Boise, Idaho 83705-5082

Phone: (208) 334-2190 • Fax: (208) 334-2348 • Website: www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Director

02/14/2018

SUE GOFFIN
MARTIN GOFFIN
HC 76 BOX 4043
GARDEN VALLEY ID 83622

Re: Notice of Intent to Void Application for Permit No. 65-12974C

To Whom it May Concern,

On November 14, 1995 the Department of Water Resources (IDWR) received an assignment of permit that changed the ownership of the above permit. A field examination was conducted in an effort to issue a license, Department staff determined that a beneficial use of water was not developed under this permit.

It is the intent of IDWR to refuse issuance of a license and void this permit. If you can provide evidence that water was diverted and applied to a beneficial use during the development period then a beneficial use may be recognized. Please contact me within the next fourteen (14) days if you wish to pursue a license.

IDWR forms and other information are available on IDWR's webpage at www.idwr.idaho.gov. Or contact me at 208-334-2190 if you need more information. Thank you for your attention to these matters.

Sincerely,

Phill Hummer
Water Resource Agent
Idaho Department of Water Resources
Phone: (208) 334-2190
Email: phill.hummer@idwr.idaho.gov

IN-OFFICE BENEFICIAL USE FIELD REPORT

Permit No: 65-12974C

Examiner: Phill Hummer

Date: 11/21/2017

In-office qualification (IDAPA 035.01.r):

- ☒ Irrigation $\leq$ 5 acres
☐ Stockwater storage $\leq$ 14.6 af
☒ Total diversion rate $\leq$ 0.24 cfs and not irrigation or storage

Current Owner Name: Sue and Martin Goffin

Address: HC 76 Box 4043 Garden Valley ID 83622

Beneficial Use Fee Paid: \$100.00

Receipt: C033902

Source: Groundwater

 Source change? ☒ N ☐ Y Change clarifies originally intended source.
 If not – void permit.

Point of Diversion			NE				NW				SW				SE			
Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
10N	04E	32													X			

Method of Determination: Field examination notes

POD change? ☐ N ☒ Y

Place of Use			NE				NW				SW				SE				Totals
Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
None																			

Method of Determination: Field examination, notes, and backfile review

POU change? ☒ N ☐ Y

Purpose of Use: none

Purpose change? ☒ N ☐ Y

Method of Determination:

Standard Season of Use:

Update required on license? ☐ N ☐ Y**Overlap Review**POD overlap? ☐ N ☒ Y WR's: 65-7770EAnalysis Attached ☐

Comments:

POU overlap? ☐ N ☒ Y WR's: 65-7770E, 65-7770F, and 65-7562

Comments: The partial decrees for these water rights were signed in 1998 with POU for lots that may have been the intended POU for this permit.

Diversion Rate

Permitted Rate: .03/.03/.03 cfs

BU Standard Limit: .03/NA/.02 cfs

BU Fee Limit: 1.0 total cfs

Theoretical (optional): NA cfs

Recommended Total Div Rate: None cfs**Annual Volume**

For Irrigation: $\text{cfs} \times 1.9835 \times \text{days} = \text{af}$
 $\text{acres} \times \text{af/ac (FHR)} = \text{af}$
 Smaller of two volumes = af

For other uses: No beneficial use found

IN-OFFICE BENEFICIAL USE FIELD REPORT

Beneficial Use	Season of Use	Diversion Rate (cfs)	Annual Volume (af)
none			

none

af

☒ Other: Void

Have conditions of permit been met? ☐ Y ☒ N

Based on this information there was no beneficial use of water developed under this permit and the Department should void it pursuant to Idaho Code 42-219.

11/2016

IN-OFFICE BENEFICIAL USE FIELD REPORT

Exam Date Entered ☒
POU/POD shapes ☐
Combined Rights Entry ☐
Wild & Scenic Entry ☐
Draft License and Map ☐
FE Database (N: drive) ☐

Aerial Photograph ☐
POU/POD Map ☐
LandSat ☐
Photographs ☒
Site Visit Date:06/09/1998

Well Log ☐
Diagrams ☐
Theoretical ☐
Other: ☐

Authentication

Field Examiner's Name: _____ Date: _____

Reviewer: _____ Date: _____

IDAHO DEPARTMENT OF WATER RESOURCES

COPY

WELL INSPECTION FORM

1. DRILLING PERMIT NO: _____ OTHER APPLICABLE NO: 65-12974A

2. OWNER: Richard/Suzanne Andrews Phone: _____
Address: _____

3. WELL LOCATION: Twp 10N, Rge. 4E, Sec. 33, NW 1/4 SW 1/4
County Boise (Provide sketch map and photo on reverse.)

4. DRILLER: _____ Lic. No. _____
When Drilled? _____

5. WELL CONSTRUCTION:

Casing Diameter _____ inches Water tight cap? ☐ Yes ☐ No Access Port: ☐ Yes ☐ No

Casing $\geq$ 12 inches above ground? ☐ Yes ☐ No - Describe _____

Depth of Casing _____ ft. Method Drilled _____

Condition of Well Casing: ☐ Good ☐ Fair ☐ Poor Describe _____

Control Valve? ☐ Yes ☐ No Pressure Gauge: ☐ Yes ☐ No

Condition of Piping and Valving _____

Auger to a depth of _____ ft. Evidence of Annular Seal ☐ Yes ☐ No

Are there obvious construction problems that may be a source for contamination or waste of water?
☐ Yes ☐ No (Describe in Remarks and Attach Photo - On Reverse)

6. HYDROLOGIC INFORMATION:

Depth to Static Water _____ ft. Water Temperature _____ °F

Flowing Artesian ☐ Yes ☐ No Pressure: _____ (psi)

Water Sample Taken? ☐ Yes ☐ No If yes, describe purpose _____

Water Quality Measurements/Observations (Describe) _____

7. WELL USE:

☐ Domestic	☐ Irrigation	☐ Stock
☐ Test	☐ Municipal	☐ Industrial
☐ Abandoned	☐ Waste Disposal/Injection	☐ Not Used
☐ Other: _____		

Is there evidence of Chemigation? ☐ Yes ☒ No

Is there a possible source of contamination nearby? ☐ Yes ☒ No

If yes, what Type?

How far away from the well is this source?

This well ~~was~~ does NOT serve LOT 1 OR LOT 1 of Castle Mountain Creek Subdivision No. 1.

H.H. Hansen - SR. WATER

Signature of Dept. Representative & Title

9 JUNE 98

Inspection Date

PHOTOS, DRAWINGS, OTHER ATTACHMENTS: See license file



Nancy + Ed Herring

6/9/1998

Their property is covered
by 65-07770F? YES

Heating + domestic

Herrings live in Livingston's
original house

Property goes to creek
Well + 2 homes on
other side of
creek.

1 well in common area serves two homes

↓
Lots 2+3 in Livingston Estate
Well is located on Lot A

2nd well on lot
x street from
Herring - no
development
(house or
foundation
or garage)

Now 7 ANTLER PT

Well 6" casing

Jacuzzi pump

Installed Sept 18, 1995

Model No. 2823018110

2HP

Motor: 1 1/4 standstill done well

2' above ground

GPS SITE ID A0001462

Valley Pump

Emmett

765-2972

Dennis White

No pools or spas @ either home (Andrews or Gebert)

Well #2 GPS SITE # A0001461

6" casing

No development

No foundation or electricity seen.

Septic is in.

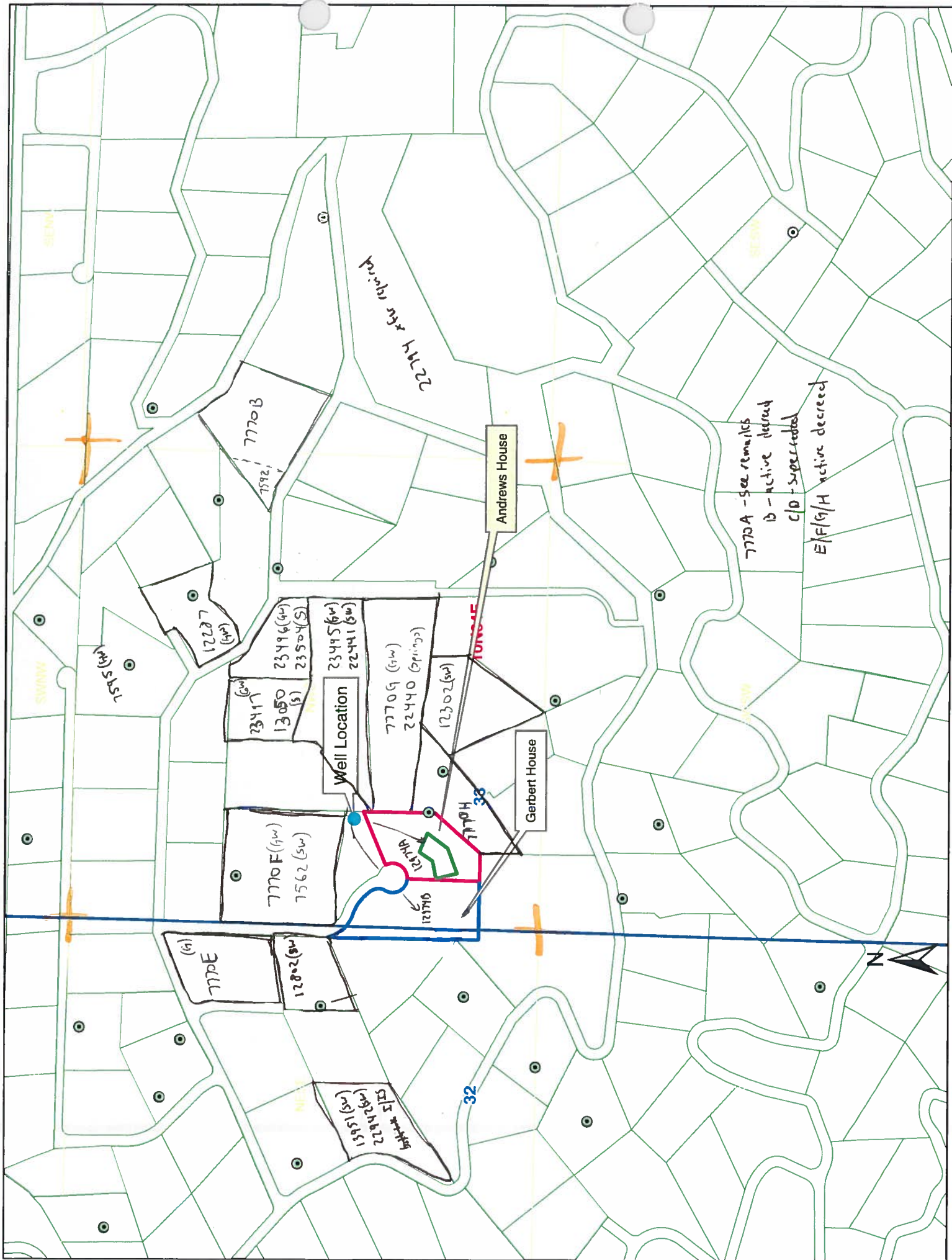
From: DWR06::"kneely@idwr.state.id.us" "Ken Neely" 11-1-1998 11:44:17.48
To: mminicuc@idwr.state.id.us ('Maria')
CC:
Subj: Castle Mt. Creek wells.

Maria,

It looks to me that well 1461 is in the NE 1/4 of the SE 1/4 of Section 32.=

=
Well 1462 is in the NW 1/4 of the SW 1/4 of section 33.

Ken





Picture of the well located in lot 1 Castle Mountain Creek Sub #1



Picture showing no development or other evidence of beneficial use in Lot 1, Castle Mountain Creek Subdivision #1.