FORM 202
2/96

Ident. No. 65-13771

RECEIVED
JUL 27 1998
DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED
JAN 14 1998
WATER RES.
WESTERN REGION

1. Name of Applicant Gem Mobile Home PARK LLC Phone 342-2235
   Mailing address 3605 Federal WAY BOISE IDAHO 83705
2. Source of water supply GROUNDWATER which is a tributary of N/A
3. Location of point of diversion is Township 08N Range 05W Sec. 22, in the NE 1/4, NE 1/4, 15 ACRES 1/4, Govt. Lot _____, B.M., PAYETTE County;
   additional points of diversion if any: _____
4. Water will be used for the following purposes:
   Amount 0.30 CFS (cfs or acre-feet per annum) for IRRAGATION purposes from 3-15 to 11-15 (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
   Amount _____ (cfs or acre-feet per annum) for _____ purposes from _____ to _____ (both dates inclusive)
5. Total quantity to be appropriated is (a) 0.30 cubic feet per second and/or (b) _____ acre feet per annum
6. Proposed diverting works:
   a. Describe type and size of devices used to divert water from the source _____
   b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet
   c. Proposed well diameter is 6 inches; proposed depth of well is 100 feet
   d. Is ground water with a temperature of greater than 85°F being sought? NO
   e. If well is already drilled, when? _____; Drilling firm _____;
   Well was drilled for (well owner) _____; Drilling Permit No. _____
7. Time required for completion of works and application of water to proposed beneficial use is 3 years (*minimum 1 year*)
8. Description of proposed uses (*if irrigation only, go to item 9*):
   a. Hydropower; show total feet of head and proposed capacity in KW. _____
   b. Stockwatering; list number and kind of livestock. _____
   c. Municipal; show name of municipality. _____
   d. Domestic; show number of households. _____
   e. Other; describe fully. _____

9. Description of place of use:

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

b. If water is used for other purposes, place a symbol of the use (*example: D for Domestic*) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
08N	05W	22	15																15
			E																

Total number of acres to be irrigated 15

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

11. a. Who owns the property at the point of diversion? Gem mobile HOME PARK L.L.C

b. Who owns the land to be irrigated or place of use? Gem mobile HOME PARK L.L.C

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Property MANAger

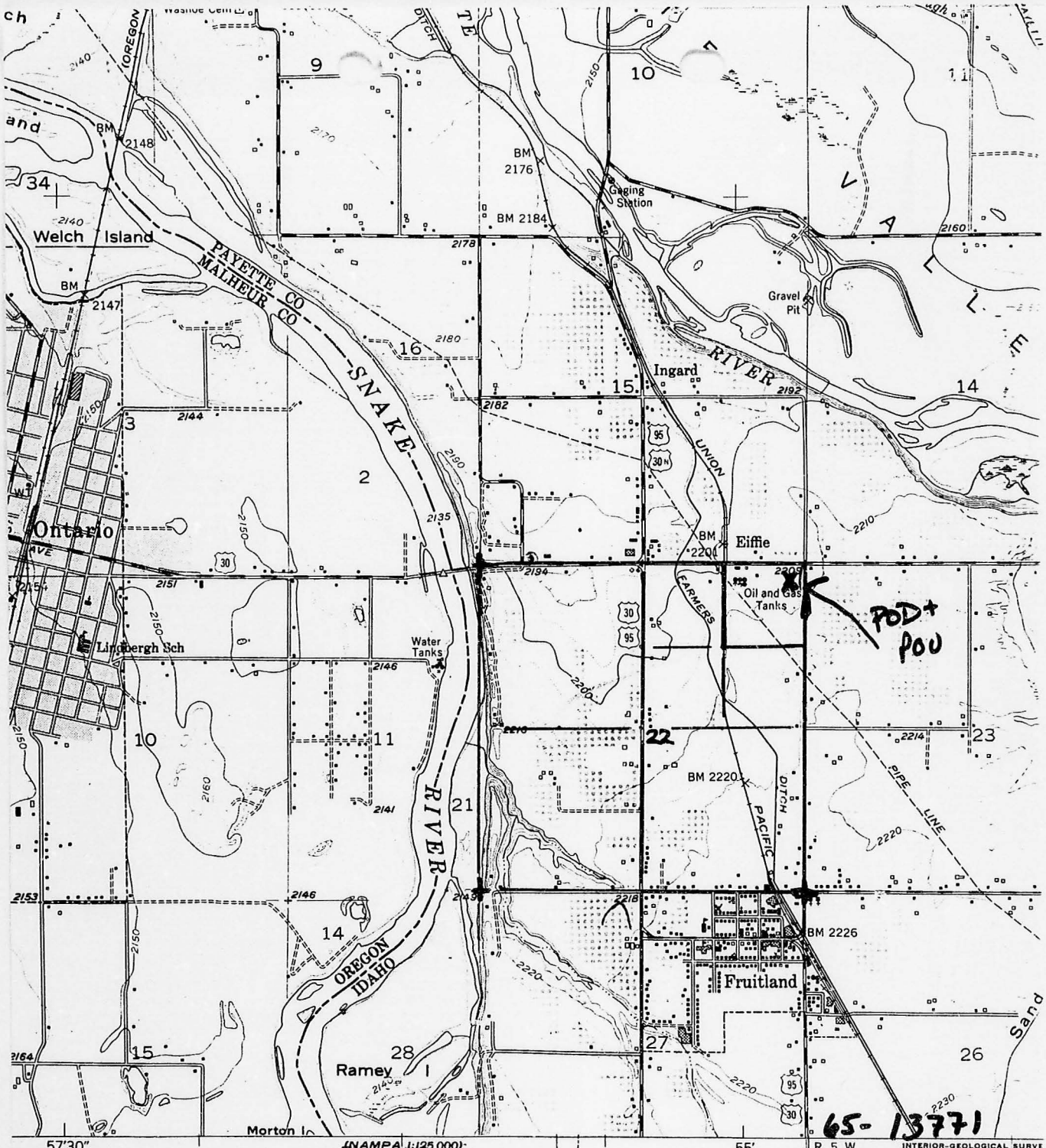
12. Remarks: I AM WILLING TO GO FOR MITIGATION IF AND WHEN I HAVE TO Mike Hoyt

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

Michael S Hoyt ARPA MANAGERS
Signature of Applicant (and title, if applicable)

Received by KL Date 1/14/98 Time 12:52 Preliminary check by TTT
Fee $ 100.00 Receipted by KL # W0233169 Date 1/14/98
Publication prepared by ST Date 1/28/98 Published in Ind. Enterprise on 2-4 & 11-98
Publication approved ST Date 2/27/98



65-13771

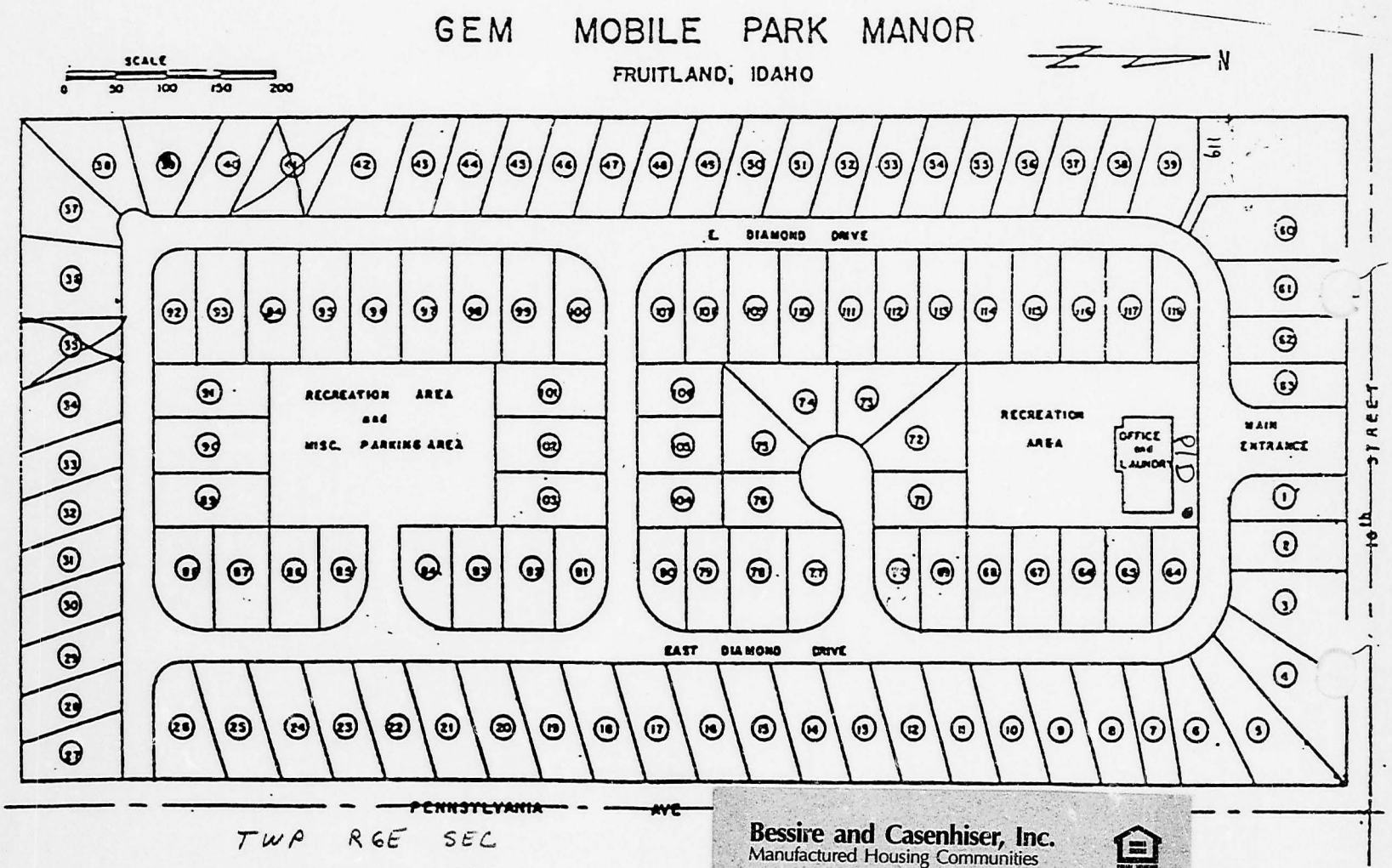
T08N R05W S22 NENE

NO GW WLS 01/22/1998 TT

V53 (1951) Payette

GEM MOBILE PARK MANOR

FRUITLAND, IDAHO



TWP RGE SEC
08N 05W 22

Bessire and Casenhiser, Inc.
Manufactured Housing Communities

Mike and Ann Hampton
area managers

main office:
3605 Federal Way
Boise, Idaho 83705

(208) 342-2235
fax (208) 344-7459

65-13271

Ident. No. 65-13771

Comments: Date: 1/23/1998 User-ID: MMINICUC

Subject: PREV. PERMIT

PERMIT NO. 65-13489 WAS ISSUED FOR THIS SAME MOBLIE HOME PARK. THE APPLICATION WAS FILED FOR DOMESTIC AND IRRIGATION WATER AND WAS PROTESTED. A FINAL ORDER WAS ISSUED APPROVING 65-13489 FOR IRRIGATION USE ONLY. 65-13489 WAS ALLOWED TO LAPSE. THE NEW OWNERS HAVE FILED 65-13771 (THIS APPLICATION) TO RENEW THE DEVELOPMENT EFFORT.

Comments: Date: 1/23/1998 User-ID: MMINICUC

Subject: OFFICERS/OWNERSHIP

OFFICERS OF GEM MOBILE HOME PARK LLC ARE DICK BESSIRE, PRESIDENT AND KEITH CASENHISER, VICE PRESIDENT. APPLICATION SIGNED BY MIKE HAMPTON, AREA MANGER. MR. HAMPTON WILL SUBMIT DOCUMENTATION OF HIS SIGNATURE AUTHORITY.

* 01/28/1998 Minicucci

Irrigation use is for external use for 118 lots at Gem Mobile Home Park. Internal use is provided by the City of Fruitland.

* Data base updated 01/23/1998. TT

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 65-13771

Proposed Priority: January 14, 1998 Maximum Diversion Rate: 0.30 CFS

This is to certify, that **GEM MOBILE HOME PARK LLC**
3605 FEDERAL WAY
BOISE ID 83705
has applied for a permit to appropriate water from: **GROUNDWATER**

and a permit is **APPROVED** for development of water as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION
IRRIGATION	03/15 to 11/15	0.30 CFS

LOCATION OF POINT(S) OF DIVERSION: NENE , Sec. 22, Township 08N, Range 05W
PAYETTE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES	ACRES	ACRES	TOTAL
08N	05W	22	NENE	15.0			15.0

Total number of acres irrigated: 15.0

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **August 1, 2001.**
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
7. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary for this purpose will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 65-13771

CONDITIONS OF APPROVAL AND REMARKS

8. The issuance of this right does not grant any right-of-way or easement across the land of another.
9. The well authorized by this right must be drilled and cased at least sixty feet (60') below land surface, and the annular space must be sealed according to department standards for the first sixty feet (60') of depth. An engineer must be present during the seal placement and certify that the seal was properly placed according to department standards.
10. Place of use is located within Gem Mobile Park Manor.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this

3rd day of August, 1998.

L. Glen Saxton

Karl J. Dreher, Director

for

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of $25.00 on or before FEBRUARY 23, 1998. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published: 2/ 4/1998 & 2/11/1998

65-13771

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE, ID 83705

Source: GROUNDWATER

Diversion Pt: NENE Sec 22 T 08N R 05W in PAYETTE County.

Use: IRRIGATION (0.300 CFS)
Total Diversion: (0.300 CFS)

Date Filed: 1/14/1998

In: PAYETTE County
T08N R05W S22 NENE

15.0 ACRES TOTAL

Applicant agrees to mitigate consumptive use in the future as needed.

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JANUARY 28, 1998

Legal Notices Department
Independent Enterprise
P.O. Box 520
Payette, ID 83661

Dear Legal Dept.:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before FEBRUARY 23, 1998.

Yours truly,

SUE TAYLOR
Secretary/Office Coordinator

Encl.

65-13771

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-13489 IN THE NAME OF ALONZO, SANDRA LEE, JEFFREY AND VALERIE STREET	FINAL ORDER

On August 9, 1995, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with Application for Permit No. 65-13489. Neither the applicant nor the protestant filed a Petition for Reconsideration in connection with the Recommended Order.

Based on his understanding of the Law, the Director makes the following Findings of Fact, Conclusions of Law, Analysis and Final Order:

FINDINGS OF FACT

1. On November 16, 1993, Alonzo, Sandra Lee, Jeffrey and Valerie Street (applicants) filed Application for Permit No. 65-13489 (application) with the department proposing the diversion of ground water in the amount of 0.45 cubic feet per second (cfs) to be used for domestic purposes for 117 mobile homes, and 0.30 cfs to be used for the irrigation of 15 acres.

2. The department published notice of the application which was protested by the City of Fruitland (City).

3. On May 24, 1994, the department conducted a hearing in the matter. The applicants were represented by Alonzo and Jeffrey Street and the protestant was represented by attorney Bert L. Osborn, Esq., City Engineer Michael E. Holladay, City Administrator Rick Watkins, and Public Works Supervisor Jerry Campbell.

4. Issues identified by the protestants include the following:

a. The application will reduce the quantity of water under existing water rights.

b. The water supply is insufficient for the purposes intended.

c. The application conflicts with the local public interest.

5. The applicants propose to develop one of two systems. One system would consist of a deeper well which would provide for domestic and irrigation water uses within the mobile home park. This system is proposed to be connected to the existing city domestic system, and is proposed to be activated each time an excess use surcharge is about to be imposed under the City water billing system. As an alternative, the applicants propose to drill one or more shallow wells which would provide for irrigation uses on 12 to 15 irrigated acres within the park.

6. The aquifers proposed to be developed are likely part of or are interconnected with the aquifers that presently provide water for the same uses via the City water system.

7. The City has a responsibility to provide contaminant-free water to the domestic users within its water delivery system. Testing requirements for this water supply are strict and extensive. It would be problematic for individual well systems to connect to the City domestic system due to the potential for system contamination via backflow induced by occasional negative pressure gradients. Accordingly the City has an ordinance which prohibits such connections.

8. The applicants have attempted to obtain surface water supplies from Farmers Cooperative Irrigation Company, Ltd., for irrigation within the mobile home park, but have been unsuccessful in obtaining this water.

9. Presently there is one flow meter for the entire mobile home park. The applicants would be willing to install individual flow meters, at a cost of about $160 to $220 each. Some concerns were expressed that reading and billing each individual mobile home service might be costly to the City due to manpower requirements and access limitations within private roads and facilities. The applicants were allowed to consider taking this issue to the City

Council, but no success in this regard was reported to the department.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in part as follows:

> In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. Water Appropriation Rule 40.04.b.i. (old rule no. 4,4,2,1.) provides as follows:

> The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criteria (a) through (d) of Section 42-203A(5), Idaho Code.

3. Water Appropriation Rule 40.04.b.ii. (old rule no. 4,4,2,2.) provides as follows:

> The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criteria (e) of Section 42-203A, Idaho Code, as to any factor affecting local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable. The protestant shall bear the initial burden of coming forward with evidence for those factors relevant to criterion (e) of Section 42-203A(5), Idaho Code, of which the protestant can reasonably be expected to be more cognizant than the applicant.

4. The application will not reduce the quantity of water

under existing water rights.

5. The water supply is sufficient for the purposes intended.

6. The application does not conflict with the local public interest.

7. The applicant has met the required burden of proof on each of the decision criteria in Section 42-203A, Idaho Code.

ANALYSIS

The primary issue in this matter is whether or not the proposed system will adversely impact the existing domestic system which is maintained by the City.

The applicants failed to demonstrate that their proposed domestic system can be connected to the City domestic system and fully provide for contamination protection of the domestic water system. In addition, the applicants failed to demonstrate how the domestic system can be connected in violation of the city ordinance preventing such connections.

The geohydrology presented by the City engineer, and as described in the files of the department, indicates that the applicants' well(s) will divert from an aquifer which is connected to the City wells. However, the applicants are not proposing to provide for any additional uses as a result of construction of their project. Instead, they desire to merely change the point of diversion where the water is drawn from the aquifer for purposes of supplying water to the existing mobile home park. Therefore, any water diverted by the applicants instead of being diverted by the City will reduce dependency on the City system and will cause no additional net aquifer depletion. Accordingly, the applicants should not be prevented from utilizing aquifers presently utilized by the City.

The present trend in southwestern Idaho is to use lower quality water supplies for irrigation purposes while saving higher quality water for domestic uses. The City water system is required to provide tested, pure, potable water for its domestic users. It is common for lawn watering within the City to be provided by alternate supplies, either from surface water or ground water systems. The installation of one or more irrigation wells by the applicants could result in the use of lower quality water for

irrigation purposes while allowing the City to utilize its supplies for domestic uses.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 65-13489 is hereby Approved in Part, subject to the following conditions of approval:

1. This water right is subject to all prior water rights.

2. The proposed domestic use of water under this water right is denied. The use of this water right is limited to the irrigation of 15 acres.

3. In order to provide for the safety and security of the domestic water supply for the City of Fruitland, water diverted under this water right cannot utilize the existing domestic piping system but rather must be delivered via a separate system which is not connected to the existing domestic piping system.

4. The water right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

5. Proof of construction of works and application of water to beneficial use shall be submitted on or October 1, 1997.

Signed this 18th day of September, 1995.

KARL J. DREHER, Director

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 30, 1998

ID DEPT OF HEALTH & WELFARE
DIV OF ENV QUALITY
BOISE REGIONAL OFFICE
PO BOX 83720
BOISE ID 83706

Re: Applications for Permit Nos. 65-13770 in the Name of Royal Fork Restraurant, Corp. & 65-13771 in the Name of Gem Mobile Home Park LLC

Dear Sir:

Enclosed are copies of the above-referenced applications for permit which may be of interest to your agency. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shrotly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by February 23, 1998.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:st

Encl.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 30, 1998

JON HAUPT
US BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705

Re: Applications for Permit Nos. 65-13770 in the Name of Royal Fork Restraurant, Corp. & 65-13771 in the Name of Gem Mobile Home Park LLC

Dear Sir:

Enclosed are copies of the above-referenced applications for permit which may be of interest to your agency. Please review the applications and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shrotly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest along with the $25.00 protest fee must be received in this office by February 23, 1998.

If you have any questions regarding the application, please contact this office.

Sincerely,

Gary Spackman

Gary Spackman

GS:st

Encl.

Bessire & Casenhiser, Inc.

RECEIVED
JAN 26 1998
WATER RESOURCES
WESTERN REGION

January 26, 1998

Idaho Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

RE: Gem Mobilehome Manor, LLC

Gentlemen,

Please be advised that Mr. Mike Hampton is the authorized representative for Gem Mobilehome Manor, LLC in Idaho. He is authorized to contract, mediate and sign on behalf of our company.

Sincerely,

Keith I. Casenhiser, CPM
General Manager
Gem Mobilehome Manor, LLC

725 Brea Canyon Road • Suite 6 • Walnut, California 91789 • 909/594-0501 • Fax 909/594-5272

Equal Housing Opportunity

Affidavit of Publication

STATE OF IDAHO, } ss.
COUNTY OF PAYETTE }

Notice of Application for Water Rights
TITLE OF PUBLICATION

SPONSOR OF PLAINTIFF

Dept. of Water Resources
PLAINTIFF OR LEGAL AGENT

I, Viola M Hawkins, being duly sworn, deposes and says:

That She is the principal clerk of

THE INDEPENDENT-ENTERPRISE, a weekly newspaper published at Payette, in the County of Payette and State of Idaho; that said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Payette; that the advertisement, a copy of which is attached hereto, was published in said newspaper once a week for two ~~consecutive~~ weeks in the regular and entire issue of said paper during the period and time of publication, and was published in the newspaper proper and not a supplement; that said paper has been established and regularly published for more than seventy-eight consecutive weeks prior to the date of first publication of said advertisement.

Such notice was published in the issue beginning with Feb. 4, 1998, and ending with the issue of Feb. 11, 1998.

STATE OF IDAHO }
COUNTY OF }

On this 12th day of Feb. in the year of 1998, before me, a Notary Public, personally appeared Viola Hawkins, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Marilyn J. Rhinehart
Notary Public for Idaho

Residing at Fruitland

My commission expires: 12-1-98

STATEMENT

Independent-Enterprise

PAYETTE, IDAHO

Number of Lines 41

Number of Insertions ..... (2) two

41 Lines @ $1.11 ... $ 45.51

41 Lines @ .92 ... $ 37.72

TOTAL COST WILL BE ..... $ 83.23

Copy of Notice
(First Copy)

NOTICE OF APPLICATION FOR WATER RIGHT

The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

65-13770
ROYAL FORK RESTAURANT CORP 6874 FAIRVIEW AVE BOISE, ID 83704
Source: GROUNDWATER
Diversion Pt: LOT 4 (SWSW) Sec 31 T 07N R 03W in PAYETTE County.
Use: DOMESTIC 0.040 CFS
Total Diversion: 0.040 CFS
Date Filed: 1/13/1998
In: PAYETTE County
T07N R03W S31 Lot 4(SWSW)

65-13771
GEM MOBILE HOME PARK LLC 3605 FEDERAL WAY BOISE, ID 83705
Source: GROUNDWATER
Diversion Pt: NENE Sec 22 T 08N R 05W in PAYETTE County.
Use: IRRIGATION 0.300 CFS
Total Diversion: 0.300 CFS
Date Filed: 1/14/1998
In: PAYETTE County
T08N R05W S22 NENE
15.0 ACRES TOTAL
Applicant agrees to mitigate consumptive use in the future as needed.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of $25.00 on or before February 23, 1998. The protestant must also send a copy of the protest to the applicant.

No. 549 Feb. 4, 11

RECEIVED
FEB 13 1998
WATER RESOURCES
WESTERN REGION

No. 549

BERT L. OSBORN, CHTD.
A Professional Corporation
Attorneys and Counselors at Law
P.O. Box 158
26 South 9th Street
Payette, Idaho 83661

BERT L. OSBORN

ANNE-MARIE KELSO
Associate

TELEPHONE
(208) 642-4458
FACSIMILE
(208) 642-4981

February 20, 1998

$25.00 fee received
2/24/98
receipt # W023464

Director, Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

Re: Gem Mobile Home Park/Application

Dear Sir:

Enclosed please find the Protest of Application for Water Right and a check in the amount of $25.00 for the protest filing fee.

Yours truly,

BERT L. OSBORN, CHTD.

Bert L. Osborn

forms/ltr

RECEIVED
FEB 24 1998
WATER RESOURCES
WESTERN REGION

PROTEST OF APPLICATION FOR WATER RIGHT

TO: Director, Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

FROM: CITY OF FRUITLAND, IDAHO
P.O. Box 324
Fruitland, Idaho 83619

DATE OF PROTEST: February 19, 1998

RESPOND TO: BERT L. OSBORN
P.O. Box 158
Payette, ID 83619

APPLICATION NUMBER: (Not provided)

GEM MOBILE HOME PARK, LLC
3605 Federal way
Boise, Idaho 83705

SOURCE: GROUNDWATER
DIVERSION POINT: NENE Section 22, Twp. 08 N., R. 05 W.
Payette County, Idaho

Use: IRRIGATION (0.300 CFS)
TOTAL DIVERSION: (0.300 CFS)

DATE FILED: January 14, 1998
IN: Payette County, Twp. 08 N., R. 05 W. Section 22 NENE 15.0 Acres.

SPECIFIC OBJECTIONS:

1. This permit should not be considered until all plans and specifications for any water delivery systems are reviewed and approved by the State of Idaho, Department of Environmental Quality.

2. The advertised intended use for the water subject to this permit is for irrigation use of the Applicant's Mobile Home Park. The protestent has not had access to the particulars of

the application, and therefore is not aware if the application includes domestic use or not.

3. The City has condemned all private domestic sources of water for domestic consumption and requires that all city residents receive water from the City water distribution system. (See Section 7-3B-1:B.)

4. This diversion will constitute an unnecessary drain on the water aquifer from which the City draws it's domestic water supply.

5. There is no assurance that the underlying aquifer will not be contaminated.

6. In the event applicant is considering domestic consumption, before any permit should even be considered, the Department should require proof that the applicant is able to comply with and will comply with EPA and DEQ testing standards.

CITY OF FRUITLAND

by _____
Bert L. Osborn

RECEIVED
FEB 24 1998
WATER RESOURCES
WESTERN REGION

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

March 4, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE ID 83705

Re: Application for Permit No. 65-13771

Dear Applicant:

Enclosed is a protest filed against the issuance of a permit pursuant to the above-referenced application. The Department suggests that you contact the protestants and attempt to resolve the protests.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for a conference. The following are the criteria the Department must consider (per Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Please contact this office if you have questions regarding this procedure.

Sincerely,

Gary Spackman

GS:st

Enclosure: Copy of protest(s)

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 4, 1998

CITY OF FRUITLAND
C/O BERT L. OSBORN
PO BOX 158
FRUITLAND ID 83619

Re: Application for Permit No. 65-13771 in the Name of Gem Mobile Home Park LLC

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. The following are the criteria the Department must consider in either approving or denying an application or permit (Section 42-203A, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

If this office can be of further assistance, please contact us.

Sincerely,

Gary Spackman

Gary Spackman

GS:st

BERT L. OSBORN, CHTD.
A Professional Corporation
Attorneys and Counselors at Law
P.O. Box 158
26 South 9th Street
Payette, Idaho 83661

BERT L. OSBORN

ANNE-MARIE KELSO
Associate

TELEPHONE
(208) 642-4458
FACSIMILE
(208) 642-4981

RECEIVED
APR 0 1 1998
WATER RESOURCES
WESTERN REGION

March 31, 1998

State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for Permit No. 65-13771

Dear Mr. Spackman:

This is to advise you that I have been in contact with Gem Mobile Home Park and have reached an agreement to continue this matter for 30 days while an alternative source of water is being sought.

Yours very truly,

BERT L. OSBORN, CHTD.

Bert L. Osborn

BLO/lh
Fruitland/ltr.gs

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 65-13771 IN THE NAME OF GEM MOBILE HOME PARK LLC.	**NOTICE OF CONFERENCE**

On January 14, 1998, Gem Mobile Home Park LLC filed with the Department of Water Resources (department) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by the City of Fruitland.

The department has scheduled a conference for the protest to be held on Tuesday, May 12, 1998, at 10:00 a.m. at the City of Fruitland, 200 S. Whitley, Fruitland, Idaho 83619. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the conference, please advise the department within (10) days prior to the conference.

Dated this 10th day of April, 1998.

Gary Spackman

Gary Spackman

I hereby certify that on the 10th day of April, 1998, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

GEM MOBILE HOME PARK LLC
3605 FEDERAL WY
BOISE ID 83705

CITY OF FRUITLAND
PO BOX 324
FRUITLAND ID 83619

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

1) Will the proposed appropriation injure other water rights?

2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?

3) Was the application made in good faith or for delay or speculative purposes?

4) Does the applicant have sufficient financial resources with which to complete the proposed project?

5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?

6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. the applicant has the ultimate burden of persuasion, however, for this issue.

PROCEDURE

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

CONFERENCE

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

HEARING

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file a petition for reconsideration, exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

EXHIBITS

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

AMERICANS WITH DISABILITIES ACT

The hearing will be conducted in a facility which satisfies the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

Gem Mobile Home Park 5/12/98
Conference Gary Spackman

Previous application — 65-13489
Permit was issued — originally approved -
There was a hearing — and a decision issued -
Potential for contamination -
Resjudicata same issues & parties —
what was the permit not perfected -
Did the permit lapse -
Mobile home park - 12% of residents of Fruitland
Piping for park is totally separate risk of cross connection is very remote -
No more water out of aquifer —

Protestants

Concern - quantity & quality of the water -
5 wells provide 5/9 of city's water supplies -
city (25-60) feet (60-200 feet -
Nitrate problem -

two aquifers.

Well #4 - 1968 - 250 feet - couldn't control sand closed off the bottom part.
scaling from 5' - 125' -

GEM MOBILE HOME PARK LLC
65-13771
CONFERENCE

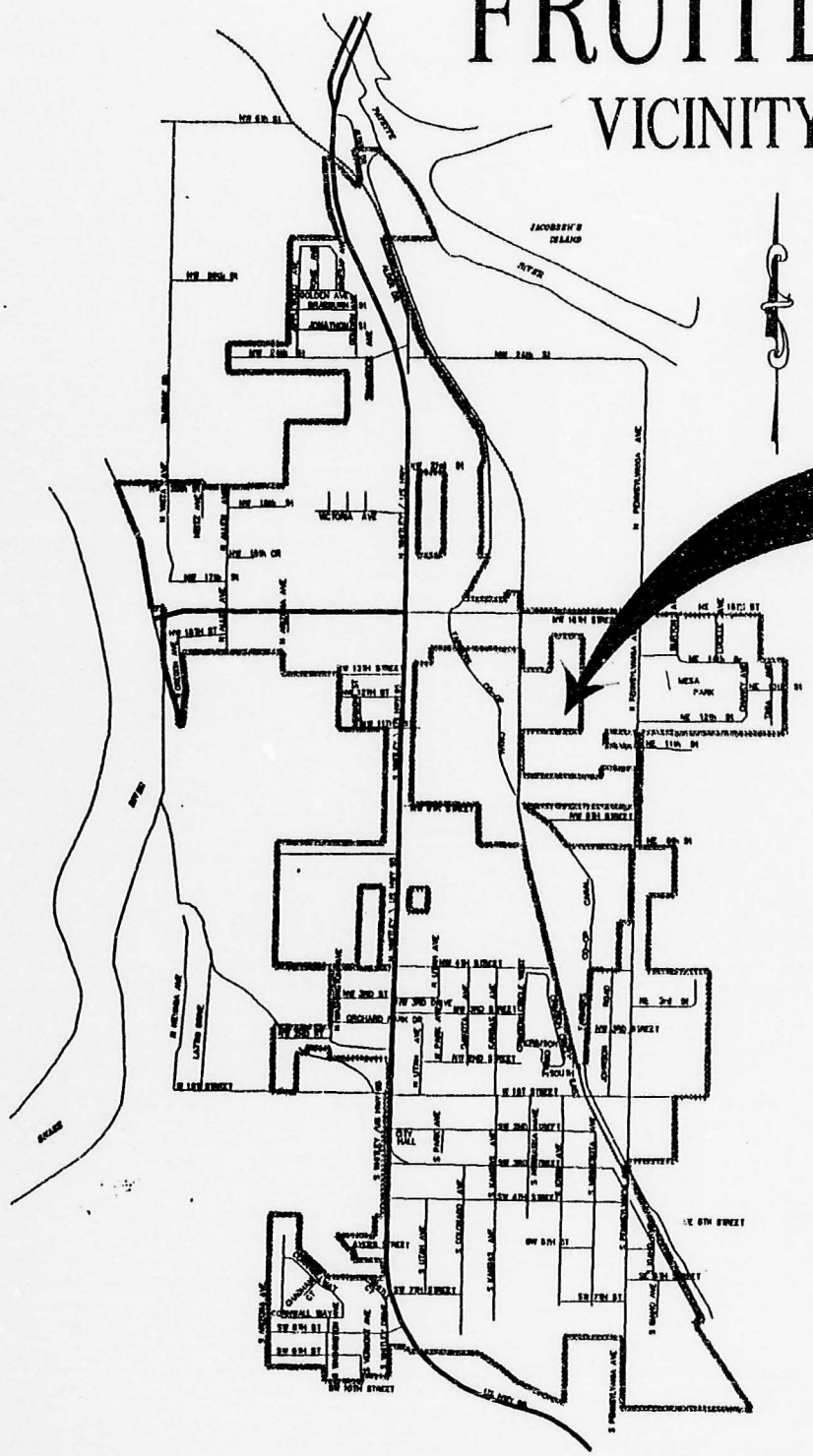
	NAME	ADDRESS	PHONE
	GARY SPACKMAN	IDWR 1301 N. ORCHARD BOISE, ID. 83706	334-2190
✓	MIKE & ANN HAMPTON	3605 FEDERAL WAY BOISE 83705	342-2235
✓	LYNNette DAVIS attorney @ law	601 W. Hays, Ste 11 Boise, ID 83704	336-5955
City administrator	Rick Watkins	P.O.B. 324 Fruitland	452-4421
Public works sup.	Jerry Campbell	" "	" "
City engineer	Mike Holladay	HOLLADAY ENGR. P.O. BOX 235 PAYETTE Id	642-3304
Work for Co. attorney	Anne-Marie Kelso.	PO Box 1001 Payette ID	642-6096

Bert Osborn

CITY OF

FRUITLAND

VICINITY MAP

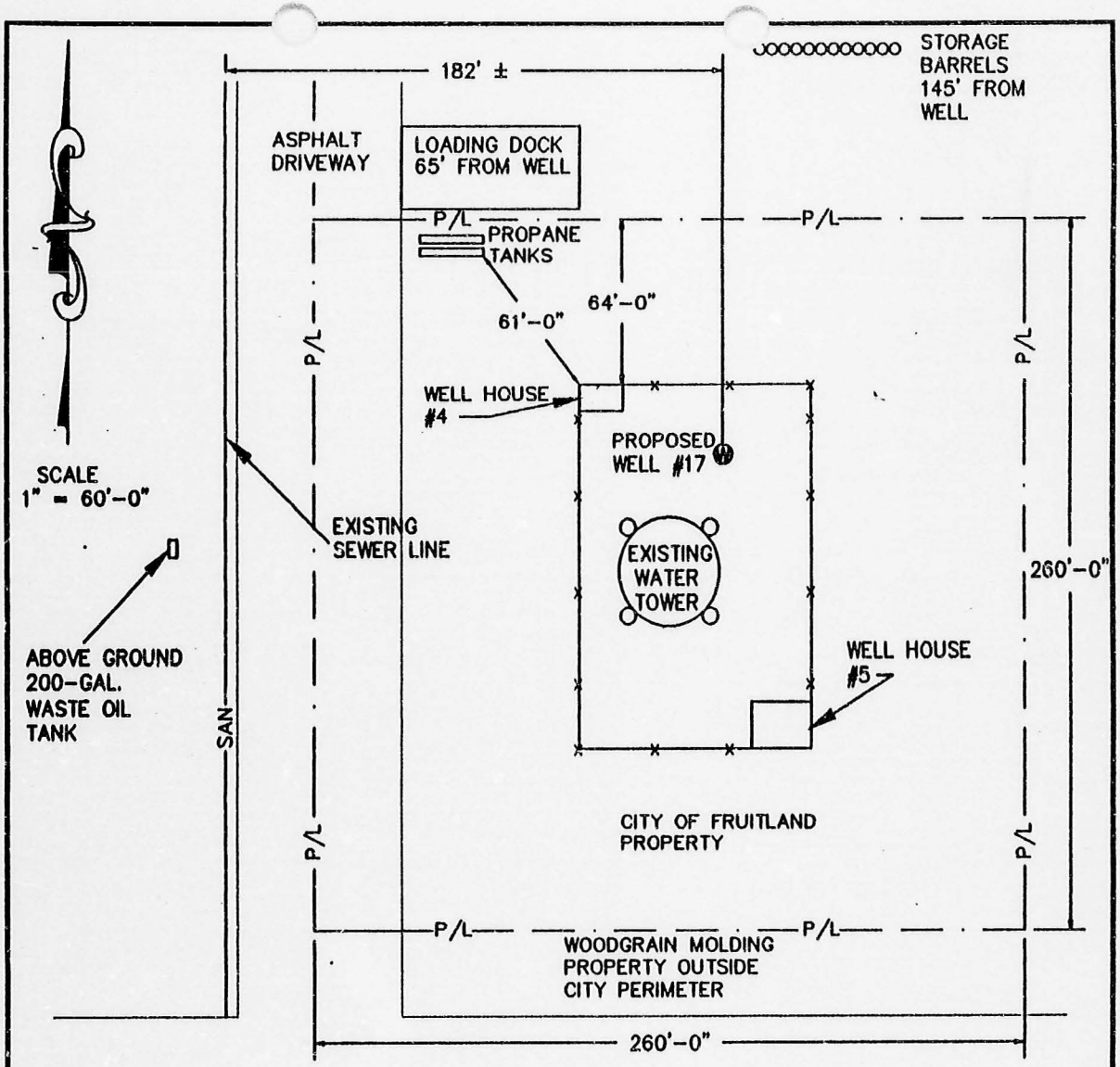


HOLLADAY ENGINEERING CO
ENGINEERS • CONSULTANTS
32 N. MAIN P.O. BOX 235 PAYETTE, ID 83661
(208) 642-3304 • FAX# (208) 642-2159
EMAIL: Heco@primenet.com

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WELL #17
CITY OF FRUITLAND

JOB NO. 100597B
DATE 1/15/97
DRAWING J:\FR\100597\100597B
PLOTTED
DESIGNED BY FGD
DRAWN BY
CHECKED BY MEH



LEGEND:

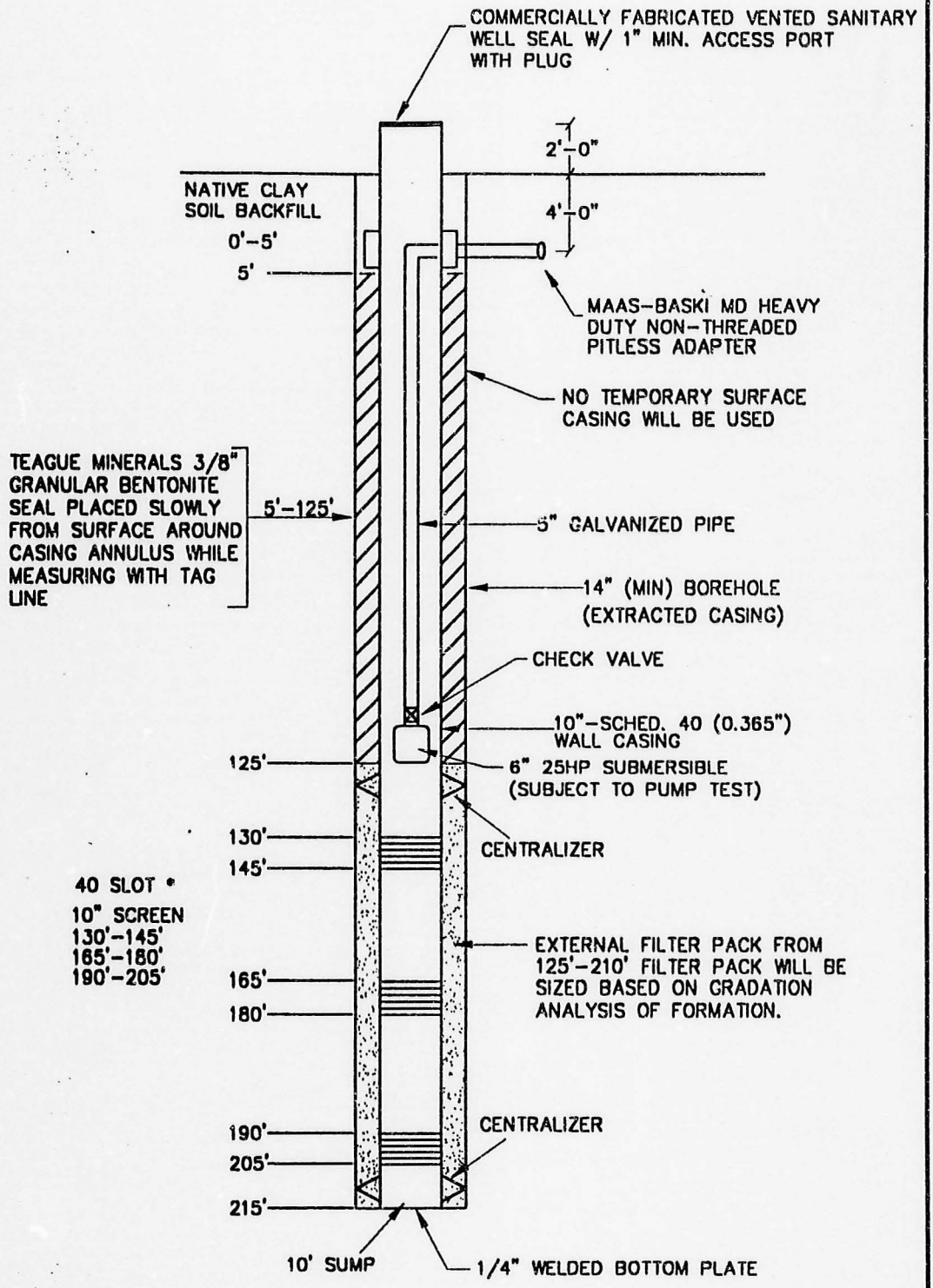
PROPOSED WELL	⊕
SEWER LINE	——SAN——
PROPERTY LINE	—— — · ——
EDGE PAVEMENT	——
FENCE	—×——×——×—

HOLLADAY ENGINEERING CO
ENGINEERS • CONSULTANTS
32 N. MAIN P.O. BOX 235 FAYETTE, ID 83861
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WELL # 17
SITE MAP
CITY OF FRUITLAND

JOB NO. 100597
DATE 1/15/97
REVISED
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CHECKED BY MEH
PAGE



* 40 SLOT SCREEN OR LESS DEPENDING ON SIEVE ANALYSIS OF FORMATION SANDS.

NOT TO SCALE

HOLLADAY ENGINEERING CO
ENGINEERS · CONSULTANTS

WELL #17
CITY OF FRUITLAND

100597A
1/5/98
3/9/98
3/9/98
CMD
WBS

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT OF WATER RIGHT NO. 65-13771 IN THE NAME OF GEM MOBILE HOME PARK LLC.	**NOTICE OF HEARING**

On January 14, 1998, Gem Mobile Home Park LLC. filed with the Idaho Department of Water Resources (IDWR) application for permit no. 65-13771. The application was protested by the City of Fruitland. The pre-hearing conference held by IDWR on Tuesday, May 12, 1998, did not resolve the matter of protest.

The Department has scheduled the matter for hearing on Monday, June 29, 1998, at 9:00 a.m. at the City of Fruitland, 200 S. Whitley, Fruitland, Idaho 83619. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42 and Chapter 52, Title 67, Idaho Code and the adopted Rules of the Department. A copy of the rules may be obtained from the IDWR upon request. The presiding officer at the hearing will be Gary Spackman.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01.606 requires that you provide a copy of exhibits to each party and to the presiding officer.

The hearing will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing, please advise the department within ten (10) days prior to the hearing.

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 14th day of May, 1998.

Gary Spackman

GARY SPACKMAN

I hereby certifiy that on the 15TH day of May, 1998, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor
Senior Secretary

CERTIFIED MAIL

CITY OF FRUITLAND
C/O BERT L OSBORN
PO BOX 158
PAYETTE ID 83661

GEM MOBILE HOME PARK LLC
C/O LYNNETTE DAVIS
601 W HAYS STE 11
BOISE ID 83704

NON-CERTIFIED MAIL

MIKE & ANN HAMPTON
3605 FEDERAL WY
BOISE ID 83705

RICK WATKINS
PO BOX 324
FRUITLAND ID 83619

MIKE HOLLADAY
PO BOX 235
PAYETTE ID 83661

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

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Notes for Water Right Hearing
65-13489
Hearing Officer: Norm Young

Notes: Dave Tuthill
5/24/1994
Payette

City of Fruitland - Represented by
Bert Osborn - Atty
Mike Holladay - Engr
Rick Watkins - City Mgr
Jerry Campbell - City Water Dept - Public Works Supv.

Applicant Represented by: Al Street
Jeff Street

Issues: See Protestants letter

System:
No. 1 Well - Shallow for irrigation
- deep for domestic water

Al & Jeff Street
Questions:
1. Impact other water rights?
Plan to withdraw the same amount of water - Same pool of water
Proposed driller: Dallas, will install system for @ 50-60k

Proposal: Take "free water" (560,000 gal)
for amounts in excess of the kick in Supplemental system

DEC 21 1995

Streets (Cont.)

Seeking water in 50-60 ft range
117 Spaces in Mobile Home Court - built in 1973
Irrigation & domestic projects are separated
Irrigation wells could have a separate piping system
40-60 feet deep
Cost for irrigation project would be somewhat less than $60K.

Financing is at Western Bank in Ontario
Streets own the property & lease the lots on a month to month basis (owned by a partnership) (percentage owners)
Value of park exceeds $120K.
300 of 2400 live in the park (12%).

X Exam

How about ordinance process? Perhaps state law could supercede the city ordinance.

Mike Holladay Box 235

City wells surround the park in near proximity
Most wells draw water from 20'-60' level
3 wells go down to 150' well level
Wells have nitrate problems during the spring
Cost of water meters $60/meter, install $100-150 Total $160-$210 each
There may be water rts available after this summer

DEC 21 1995

X exam - Would water deeper than 150' be of acceptable quality for ~~a~~ irrigation use? yes
Impact on city wells? Not if below a clay layer

Jerry Campbell

- City might be able to read water meters if they are installed. (~~but~~ but City Council would have to vote on this)

Rick Watkins

- Reading new meters would be difficult because there are 6 mobile home parks - manpower problem
- No new cross connections. Any ~~new~~ existing cross connections by non-city wells are due to be banned within 2 years
- $10/mo water
  $22/mo sewer

? Peak water use in summer? yes
? City welcome a reduction in peak use? yes
Assist or relieve impact on water supply if irrigation were allowed during summer? yes

Some domestic tracts served with irrigation water for outside use? yes

Would you objed to a well which ~~is~~ could provide irrigation water if it does not ~~DEPACT~~ impact city domestic wells? No, such a proposal would be welcomed.

Jeff Street

- Would install meters & grant easements if meter-reading is desired.

Decision is continued to allow further compromises, delayed by 90 days

Alternate proposals:

1. Metering
2. Farmers Coop Water

Response due from Applicants by Aug 24.

DEC 21 1995

MAY 24, 1994 PAYETTE, IDAHO
APPLICATION 65-13489 (STREET)

NORM YOUNG DAVE TUTHILL

Applicant:

Protestants:
Bert Osborn (Attorney) Jerry Campbell
Mike Holladay, (Eng) Rick Watkins

Prior to hearing:
Possibility for settlement?
Definition of issues?
- Monitoring - water meters -
- No need for permit - local public interest
- City requires use of city water - LPE
Stipulations -

Official notice - file 65-13489
U.S.G.S. 7½' minute Topo.
Payette -

Jeff Street - Two separate systems
① Domestic system - one well attach to city line entering the subdivision
② ~~Irrigation~~ system - shallow well
① Adequacy of water - will come from

same pool.

Have contacted Dallas Drilling — preliminary review, plenty of water

Alt 2 treat

Dallas Drilling — 50 to 60 ft "pool" of water that Smithland gets water from. Water now entering the pool, in 4" line — when the amount of fire water is used (~~500~~ 50,000 gal) then stop & use this well.

Come from same exact source so no difference on the source.

$50,000 to 60,000 to install the system including well, pump, house, controls & valves. $4,000

Need city syst for backup of the syst for fire or other problem.

System #2 — drill several shallow wells @ $15,000 to $20,000 per well & put in separate system. Alternate would be ~~drill~~ connect to city.

DEC 21 1995

117 mobile home ~~park~~ community built in 1973 — totally developed.

single system for both domestic & irrigation.

- Total acreage is 19.86 acres -
- Lots 50 x 110 - 46 x 80
  60 x 110
- IRRIGATION - of lawns & landscaping / acre around clubhouse
- Supply of water adequate - yes some complaints of low water pressure but may have been associated with breaks.
- Used to be an irrigated farm - probably had shares in Farmers Co-op Ditch Co.
- Deep water? don't know -
- Irrigation system totally separate 40 to 60 feet -

Injury to other rights
City wells only

Good Faith
Estimates on wells
Financing

RECEIVED
DEC 21 1995

Financing
- out of ditch $30,000
- Western Bank @ Ontario loan has been arranged - 180,000

Streets own lots - rent -
Family owned and Mr Rotskoff - Streat's
a partner - 2% owner
Equity in park exceeds ~~$60,000~~ +60,000

Separate projects in that the
Domestic system will supply the
irrigation if they go that long.

Local Public Interest -
300 of 2400 people in
Fruitland live in park 12%.
Cost of water + sewer lowered
for these people would be in
local public interest

Conversion - just water no
difference. - No flood irrigation
- No change in application method
unless a need for allowable dry irrigation

X-EXAM -
Primary responsibility - Jeff
Water meter? - Yes expensive $60/meter
plus labor to install plus cost of reading
and billing -
Would they let City of Fruitland read & bill?
Yes. - Would consume water -
ok - cheaper water, this away incentive to

DEC 21 1995

Jeff - couldn't make any difference.
- Excess use runs up overall cost + increase rent for all -

Must pay the water bill, rent simply covers.

Gardens are sprinkled or sept. and are flood irrigated.

Aware of ordinance prohibiting domestic hookup from separate wells? Yes

Then how is it legal to be your first payment - state law superceded city law. If they get a state permit, they will drill + hookup.

Bought in 1992 - 52 ~~Rooms~~ occupied. Increased to full occupancy

Purchased double on city water; supply is adequate for all 117 domestic + irrigation. No gripe with adequacy only cost. Pay more than others ~~to cost~~ if Compared with Carpenter like Coke, not different than other domestic $22/mo. x 117 -

Willing to go below the 60' bottom for domestic - perhaps 250'. Wouldn't do that for just irrigation.

DEC 21 1995

- Mike Holladay - P.O. Box 235 Payette
- Well 9 + 10 are located near
Well 1 + 5 are located 500 ft from [illegible]

Well #11 is (need to bite to tape)

Draw water from the 20 to 60 ft level
- some also take a 110 to 150' level.
- 6, 9, + 10 - both aquifers
1, 5, 4, 6, 9, 10, 11, 12, 14, 15, 16 draw from the 20 to 60 ft level.

Fluctuation in aquifer? - yes
May to October gain - fall in other months

Quality problem - Nitrate problem - yes in spring of year when aquifer are lowest.
One well exceeds std.
well 11 almost exceeds @ times

Would proposed wells affect city wells
Yes, add to elevated nitrate in well 11.

Cost of water meters?
$60 per meter, install for 100 to 150
total $160 to $210 per unit

Are water rights from farmers ditch available?
Yes, if a problem in the Emmett area is resolved, sometime after this ~~summer~~. Best Bet

DEC 21 1995

Jeff street (X-EXAM)

Well #11 — 80 ft deep - draws from upper aquifer - shut down later winter + spring - If take water only in summer, would it avoid this problem? perhaps.

Tuthill — If well is cased to below 150 ft, what impact on city? None if a clay layer separates. Should be.

Suitable quality for irrigation? yes but not adequate for domestic w/o treatment methane, hydrogen sulfide -

Jerry Campbell - Public Works Supervisor

Does city have capability of reading the meters? Yes but would have to be reviewed with city council. Usually meters are in the right-of-way not on private property.

Conservation rules - yes ordinance - Adequate supply for mobile park - yes except for temporary problems in wells. Short term

Gen Mobile Park - DEC 21 1995

Rick Watkins - City Administrator -

Ben Mobile Park residents pays the same as other domestic users.

$10 for first 5000 gals 50¢ per 1000 gals thereafter —

Cole pays and rate $600 to $1000 per month -

Concern for liability if city tried to read meters. Could be resolved by Owner giving legal access. May need more manpower + may set a precedent for other developments

No X-connections allowed & city system. Existing X-connects must be eliminated by 1/1/96

No need for permit.

Why monitoring? expects aquifer to be monitored.

Why meet EPA 1000 std.? for health of residents -

RECEIVED
DEC 21 1995

Perhaps decrease the psi to eliminate water, sewer + fire (etc)

Inadequate psi protection - 1500 gpm needed.

Waterer payments to seek the just for his protection

With Connection ordinances.
odd/even day
no open discharge from hose

X-Connection ordinances.

Bid order - new plymouth - Council-Notice
00 important to meet DEQ requirements

7.5^{0} 10^{0} 0.00/pd
22^{5} 0.00/pd

446^{0} to 1500/to in pd of

22^{50} min per lot -
Does part of fee cover part of the fee? -
2^{50} goes for bond request
7^{50} operations.
Should been receive benefit to allow
checking of meters - Yes return to meters
Fruitland respond by fires outside of city -
only if mutual aid request from County.

Ordinance ever enforced - no -

Tuthill -
Peak use in summertime - yes
Dual system in city yes -
Would city appreciate - alternate supply for irrigation - yes
Do I have different rates - yes

DEC 21 1995

Closing argument

Jeff Stuart – would withdraw motion + get comm to vote if city will read.

Response – Osborn – make request to the city.

Both parties waived briefing

Hold decision – 90 days – expect response from applicants in 90 days or less.

DEC 21 1995

BERT L. OSBORN, CHTD.
A Professional Corporation
Attorneys and Counselors at Law
P.O. Box 156
26 South 9th Street
Payette, Idaho 83661

BERT L. OSBORN

ANNE-MARIE KELSO
Associate

TELEPHONE
(208) 642-4458
FACSIMILE
(208) 642-4981

June 29, 1998

RECEIVED
JUL 0 1 1998
WATER RESOURCES
WESTERN REGION

Director, Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705

Re: Gem Mobile Home Park/protest

Dear Sir:

This is to inform you that the City of Fruitland is withdrawing it's protest of Gem Mobile Home Park's Application for Permit of Water Right. The withdrawal is based upon an agreement wherein Gem Mobile Home Park will construct it's proposed well in compliance with the following specifications:

(1) A minimum depth of Sixty (60) feet;
(2) A seal for the top sixty (60) feet of the well; and
(3) An engineer's certification of the placement of said seal.

Yours very truly,

BERT L. OSBORN, CHTD.

Bert L. Osborn

BLO/lh
letters/ltr.dwr

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 6, 1998

BERT L OSBORN, CHTD
ATTORNEYS & COUNCELORS AT LAW
PO BOX 158
PAYETTE ID 83661

Re: Application for Permit No. 65-13771 in the Name of Gem Mobile Home Park

Dear Mr. Osborn:

This letter is to acknowledge the withdrawal of protest of the above-referenced application for water right.

The department will now continue to process the application, subject to certain conditions of approval.

If you have any questions please call this office.

Sincerely,

Gary Spackman

GS:st

CC: Applicant

LAW OFFICES
DAVID E. WISHNEY
601 WEST HAYS STREET, SUITE 11
P.O. BOX 837
BOISE, IDAHO 83701

RECEIVED
JUN 25 1998
WATER RESOURCES
WESTERN REGION

DAVID E. WISHNEY
LYNNETTE M. DAVIS

(208) 336-5955
FAX (208) 334-2442

June 24, 1998

Via Facsimile (208)642-4981
and U.S. Mail

Mr. Bert Osborn
Attorney at Law
26 South 9th Street
P.O. Box 158
Payette, ID 83661

Re: Gem Mobile Home Park, L.L.C.
Application For Permit of Water
Right No. 65-13771

Dear Mr. Osborn:

This letter confirms are agreement with respect to the above referenced matter. In exchange of the City of Fruitland's formal withdrawal of its protest of Gem Mobile Home Park's Application for Permit of Water Right, Gem Mobile Home Park, agrees to construct its proposed well in compliance with the following specifications:

(1) A minimum depth of sixty (60) feet;
(2) A seal for the top sixty (60) feet of the well; and
(3) An engineer's certification of the placement of said seal.

As there is no longer any need to proceed with the hearing scheduled on Monday, June 29, 1998, kindly forward a letter withdrawing the protest to the Idaho Department of Water Resources, at your earliest convenience. Also, please forward a copy of said letter to my office.

If you have any questions regarding this matter, please do not hesitate to call.

Very Truly Yours,

Lynnette M. Davis

Lynnette M. Davis
Attorney at Law

cc: Gary Spackman, IDWR
client

LAW OFFICES
DAVID E. WISHNEY
601 WEST HAYS STREET, SUITE 11
P.O. BOX 837
BOISE, IDAHO 83701

DAVID E. WISHNEY
LYNNETTE M. DAVIS

(208) 336-5955
FAX (208) 334-2442

June 24, 1998

Via Facsimile (208)642-4981
and U.S. Mail

Mr. Bert Osborn
Attorney at Law
26 South 9th Street
P.O. Box 158
Payette, ID 83661

Re: Gem Mobile Home Park, L.L.C.
Application For Permit of Water
Right No. 65-13771

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Lynnette M. Davis
Attorney at Law

cc: Gary Spackman, IDWR
client

P 414 384 087

US Postal Service
Receipt for Certified Mail
GEM MOBILE HOME PARK LLC
C/O LYNNETTE DAVIS
601 W HAYS STE 11
BOISE ID 83704

Postage	$ 1.10
Certified Fee	1.10
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	.32
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$2.52
Postmark or Date	

PS Form 3800, April 1995

65-13771

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4b.
- Print your name a ress on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the fol g services (for an e e):
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
GEM MOBILE HOME PARK LLC
C/O LYNNETTE DAVIS
601 W HAYS STE 11
BOISE ID 8370

4a. Article Number
P 414 384 087

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
5/26/98

5. Received By: (Print Name)
K Royster

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)
X K Royster

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

PS Form 3811, December 1994 102595-97-B-0179 Domestic Return Receipt

P 414 384 086

US Postal Service
Receipt for Certified Mail
No Insurance Coverage Provided
CITY OF FRUITLAND
C/O BERT L OSBORN
PO BOX 158
PAYETTE ID 83661

Postage	$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	$ 2.52
Postmark or Date	

PS Form 3800, April 1995

65-13771

SENDER:
- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, a h.
- Print your name and ad on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "*Return Receipt Requested*" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the followin ervices (for an extra f
1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:
CITY OF FRUITLAND
C/O BERT L OSBORN
PO BOX 158
PAYETTE ID 83661

4a. Article Number
P 414 384 086

4b. Service Type
☐ Registered ☑ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery
5-18-98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)
X

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

PS Form 3811, December 1994 102595-97-B-0179 Domestic Return Receipt

RECEIVED
JUL 2 7 1998
Department of Water Resources

MEMORANDUM

To: File no. 65-13771; Gem Mobile Home Park
From: Gary Spackman Gary
Date: July 22, 1998

Re: Recommended Conditions of Approval

I recommend the following conditions of approval for application for permit no. 65-13771:

1. The well authorized by this permit must be drilled and cased at least 60 feet below land surface, and the annular space must be sealed according to department standards for the first 60 feet of depth. An engineer must be present during the seal placement and certify that the seal was properly placed according to department standards.

2. 120

3. 46

MEMORANDUM

DATE: July 30, 1998

TO: File No. 65-13771

FROM: Cindy Zimmerman CZ

SUBJECT: Clarification of use

A place of use overlap analysis on this 40-acre tract shows 32 acres of irrigation are claimed under A65-00066, A65-00067, & A65-02927F by Farmer's Co-operative Irr. Co. Ltd. I called Mike Hampton, manager, to clarify use and availability of the above claims.

Mike said there was a ditch on one property boundary. Mike was told by Farmer's that no water from that ditch is available for irrigation of the mobile home park. Mike did not believe Farmer's assessed the property for irrigation water. Mike would prefer to irrigate with Farmer's irrigation water if it were available.

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. **A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the order. 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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 issuance 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
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 4, 1998

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE ID 83705

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 65-13771

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permit authorizing you to establish a new water right. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permit is a **preliminary order** issued by IDWR pursuant to section 67-5243, Idaho Code. **It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.**

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

The Department will send you a "Proof Due Notice" approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

Also, please note that water right owners are required to report any change of water right ownership and/or change of mailing address to the department within 120 days of the change. Failure to report these changes could result in a $100 late filing fee. Contact any office of the department or visit the department's homepage on the Internet to obtain the proper reporting form.

If you have any questions, please call me at 208-327-7946.

Sincerely,

Shelley Watt-Keen

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the **4th** day of **August, 1998**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved Permit)** to the person(s) listed below:

Water Right No. 65-13771

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE ID 83705

Kari Lynn Townsend
Secretary

May 31, 2001

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE, ID 83705

PROOF DUE NOTICE

RE: PERMIT NO. 65-13771

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before August 01, 2001. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof

If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

CERTIFIED MAIL
7099 3220 0005
NO. 5178 6060

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
[illegible] North Orchard Street
Boise, Idaho 83706-2237

CERTIFIED MAIL

7099 3220 0005 5178 6060

MAY 31 01
ID

PB METER 7032443 U.S. POSTAGE 3.74

RETURNED TO SENDER
ADDRESSEE UNKNOWN

RECEIVED
JUN - 4 2001
Department of Water Resources

E [illegible] 501

unknown —

65-13771

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE ID 83705

PROOF DUE N

[illegible]

August 8, 2001

GEM MOBILE HOME PARK LLC
3605 FEDERAL WAY
BOISE, ID 83705

LAPSE NOTICE

RE: PERMIT NO. 65-13771

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in the proof due notice dated May 31, 2001. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifty dollar ($50.00) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING
I hereby certify that on 8/8/01
~~a copy/an~~ original of this document was deposited in the United States mail, postage prepaid addressed to the individual(s) named above.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
B Idaho 83720-0098

Return Service Requested

RETURN TO SENDER
UNDELIVERABLE AS ADDRESSED-
NO FORWARDING
ORDER ON FILE

BOISE
AUG - 8'01
ID
U.S POSTAGE
0.25
PB MLTD
6715263

PRESORTED FIRST CLASS

RECEIVED
AUG 14 2001
Department of Water Resources

GEM M[redacted] HOME PARK LLC
3605 FEDERAL
BOISE, ID 83705

[redacted] 83720-0098

I certify that file No. 65-13771

has been reviewed and is ready to be

MICROFILMED and DESTROYED.

Kari Lyon J.
Reviewer

1.29.02
Date