

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

7200 DE✓
RECEIVED

MAR 18 2008

**DEPARTMENT OF
 WATER RESOURCES**

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
PD 57-10877			PD 61-10076		
PD 61-11891			PD 61-11737		
Permit 61-7738					
PD 61-16034					
PD 61-00252D -					
PD 61-10033B and A			Permit 61-7738		

2. The following **REQUIRED** information must be submitted with this form:

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s)

TED Hoffman & Rita S Hoffman
 600 NE Bx 3 Box 648
 Mtn Home ID 83647

4. New Owner/Claimant(s)

TED Hoffman

Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address

600 NE Broken Circle Dr.

City, State and ZIP Code

Mtn Home ID 83647

New Telephone Number

(208) 587 6374

Email: brokeno@mindspring.com

SUPPORT DATA

IN FILE # 57-10877

3-5-D8

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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

7. Signature(s) of New Owner(s) or Claimant(s).

Twistman owner
(title if applicable)

(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____
 Receipted by cm
 Processed by _____ AJ

Date _____
Date 5-10-08
Date _____

Receipt Amt. 200.00
 Receipt No. CD86329
 WR _____ Date _____

QUITCLAIM DEED

FOR VALUE RECEIVED, Rita S. Hoffman does hereby convey, release, remise and forever quit claim unto Theodore W. Hoffman whose current address is: 600 NE Broken Circle Drive, Mountain Home, Idaho 83607, together with all appurtenances, to include water rights, and subject to all existing reservations, restrictions, dedications, easements, rights of way and agreements of record, the following four (4) described premises:

1. 5.5 acres of the SW1/4SE1/4 of Section 8 T5S R3E BM, more particularly described as follows:

Section 8 – Beginning at the SW corner of the SW1/4SE1/4 thence N a distance of 323 feet to a point;
thence E 742 feet to a point; thence S 323^{RSA 3-5-06} feet to a point on the section line common to Section 8 and 17
T5S R3E BM; thence W 742 feet to the point of beginning, excepting and excluding a strip of land 28 feet
wide running along the entire West side of the SE1/4SW1/4 of Section 8.

2. TRACT I:

Township 2 South, Range 6 East, Boise Meridian, Elmore County, Idaho

Section 23: S1/2NE1/4SE1/4
Section 35: E1/2SE1/4

*that portion W of Canyon Creek.
920H*

SAVING, EXCEPTING AND EXCLUDING the following described portion of said real property, to-wit:

A tract of land located in the S1/2SE1/4, Section 35, Township 2 South, Range 6 East, Boise Meridian, Elmore County, Idaho; more particularly described as follows:

Beginning at the section corner common to Sections 35 and 36, Township 2 South, Range 6 East, Boise Meridian, and Sections 1 and 2, Township 3 South, Range 6 East, Boise Meridian, thence

South 89°26'53" West 368.49 feet along the section line common to Section 35, Township 2 South, Range 6 East, Boise Meridian, and Section 2, Township 3 South, Range 6 East, Boise Meridian, to an iron pin; thence

North 9°06'16" East 83.91 feet to an iron pin; thence

North 12°07'31" East 294.50 feet to an iron pin; thence

South 77°09'33" East 244.01 feet to an iron pin; thence

South 77°09'33" East 56.85 feet, more or less to a point on the section line common to Sections 35 and 36, Township 2 South, Range 6 East, Boise Meridian; thence

South 300.38 feet, more or less, along the section line common to Sections 35 and 36, Township 2 South, Range 6 East, Boise Meridian, to the POINT OF BEGINNING.

3. TRACT II:

Township 3 South, Range 6 East, Boise Meridian, Elmore County, Idaho.

SECTION 2: Lots 1 and 2

SAVING AND EXCEPTING AND EXCLUDING the following described portion of said real property, to-wit:

A tract of land located in the NE1/4NE1/4, Section 2, Township 3 South, Range 6 East, Boise Meridian, Elmore County, Idaho; more particularly described as follows:

Beginning at the section corner common to Sections 35 and 36, Township 2 South, Range 6 East, Boise

Meridian, and Sections 1 and 2, Township 3 South, Range 6 East, Boise Meridian; thence and Boise Meridian, South 89°26'53" West 368.49 feet along the section line common to Section 35, Township 2 South, Range 6 East, Boise Meridian, and Section 2, Boise Meridian, Township 3 South, Range 6 East, Boise Meridian, to an iron pin; thence and from the corner to South 9°06'16" West 457.50 feet to an iron pin; thence and South 22°14'58" East 373.13 feet to an iron pin on the approximate North right-of-way of Canyon Creek Road; thence North 41°50'50" East 104.31 feet along the North right-of-way of Canyon Creek Road to a point; thence North 51°20'30" East 102.45 feet along the North right-of-way of Canyon Creek Road to a point; thence North 56°27'50" East 103.17 feet along the North right-of-way of Canyon Creek Road to a point; thence North 59°51'00" East 76.53 feet along the North right-of-way of Canyon Creek Road to an iron pin; thence North 0°13'44" West 563.50 feet along the section line common to Sections 1 and 2, Township 3 South, Range 6 East, Boise Meridian, to the POINT OF BEGINNING. For the installation and replacement of a buried power line.

ALSO SAVING, EXCEPTING AND EXCLUDING the following described portion of said real property, to-wit:

That portion of the NE1/4NE1/4 (Lot 1), of Section 2, Township 3 South, Range 6 East, Boise Meridian, Elmore County, Idaho, lying South and East of the right-of-way for Canyon Creek Road.

4. TRACT III: division of 800 feet, more or less, to the North boundary line of the North half of the Township 1 South, Range 6 East, Boise Meridian, Elmore County, Idaho. Section Twenty-three, Township 1 South, Range 6 East, Boise Meridian, Section 26: NW1/4SW1/4 and NW1/4SE1/4, and NW1/4SE1/4, and NW1/4SE1/4.

TRACTS I, II and III.

TOGETHER with all grazing rights and privileges appurtenant to the above-described property, consisting of approximately 2467 AUMS for grazing in the Mud Springs Allotment, and TOGETHER with all water rights, ditches and ditch rights for the use and conveyance of water appurtenant to the above-described land and TOGETHER with all dams, ditches, rights of way and all other means or methods for the diversion, impounding, distribution and use of all water appurtenant to said property, and TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

4

TOGETHER with that certain Easement dated June 20, 1980, between Lloyd M. Hansen and Debora M. Hansen, husband and wife, and Chester J. Tindall, for the joint use of the Boardman Place corral located in the Northeast Quarter of the Southwest Quarter of Section 23, Township 2 South, Range 6 East, Boise Meridian, with a right-of-way for ingress and egress from the nearest public roadway to and from said corral, and from the corral to the South Half of the Northeast Quarter of the Southwest Quarter of Section 23, Township 2 South, Range 6 East, Boise Meridian, together with the exclusive use of all water produced by the shallow well located in the Southeast Quarter of the Southwest Quarter of Section 23, Township 2 South, Range 6 East, Boise Meridian, together with the permit held by the Hansens with the Bureau of Land Management to repair, replace, maintain and operate said pipeline where the same crosses over Bureau of Land Management land and together with an easement 10 feet wide, the centerline of which is said pipeline, now installed, to repair, replace, maintain and operate said pipeline where it crosses the real property of Hansens.

TOGETHER with that certain Easement for Buried Power Line from Lloyd M. Hansen and Debora M. Hansen, husband and wife, to Chester J. Tindall, for the installation, maintenance, repair and replacement of a buried power line over, under and across the following described real property located in the County of Elmore, State of Idaho, to-wit:

Commencing at the well located in the North Half of the Southeast Quarter of the Southwest Quarter of Section Twenty-three, Township Two South, Range Six East, Boise Meridian, and running North-westerly a distance of 200 feet, more or less, to the North boundary line of the North Half of the Southeast Quarter of the Southwest Quarter of said Section Twenty-three, Township Two South, Range Six East, Boise Meridian, which easement shall be 15 feet wide, the centerline of which is the buried power line which is already installed and in place.

TOGETHER with that certain Roadway Easement dated May 16, 1980, with Michael D. Warthen and Pam M. Warthen, husband and wife, as parties of the first part therein, to Lloyd M. Hansen, the party of the second part therein, for a right of way for roadway purposes over the presently existing road which is approximately 20 feet wide and runs northerly from the Highway District Canyon Creek Road to the house and barn located on real property being purchased from the parties of the first part from the party of the second part, and running then westerly approximately one-eighth of a mile to provide access for the party of second part, his heirs and assigns.

Section

Township

Range

TOGETHER with leases of state land and all improvements appurtenant to the above-described property, particularly State of Idaho State Land Lease Number G-6710 and Idaho State Land Lease Number G-6711 with Chet Tindall as lessee covering approximately 1,500 acres.

TOGETHER with all of the interest of Chester J. Tindall in that certain Cooperative Agreement between the United States Department of the Interior Bureau of Land Management, Chester J. Tindall and Leo Tom Oliver concerning Oliver Spring located in the Southeast Quarter of the Northeast Quarter of Section 22, Township 1 South, Range 6 East, Boise Meridian, Elmore County, Idaho.

TOGETHER with all of the interest of Chester J. Tindall in that certain Cooperative Agreement between the United States Department of the Interior Bureau of Land Management and Crane Lake Ranches c/o Chester Tindall for the Hansen Pipeline & Extension #2 located in Sections 15, 21, 22, 26, 27, 28, 29, 33 and 34, all in Township 2 South, Range 6 East, Boise Meridian, Elmore County, Idaho.

TOGETHER with Seller's right to use the Hopson Corrals located in the Southeast Quarter of the Northeast Quarter of Section Twenty-eight, Township 1 South, Range 6 East, Boise Meridian, in Elmore County, Idaho.

TO HAVE AND TO HOLD the said premises, unto the said grantees, heirs and assigns forever.

Date: 3-5-08

By: Rita A. Hoffman

[Grantor's Name]

State of Idaho)

County of Ada) S.S.

On this 5 day of March, in the year 2008, before me
Angela Staley, personally appeared Rita S. Hoffman, proved to me on
 the basis of satisfactory evidence to be the person(s) whose name(s) is(are) subscribed to the within
 instrument, and acknowledged that he(she)(they) executed the same.

ANGELA STALEY
 Notary Public
 State of Idaho

Angela Staley
 Notary Public

My Commission Expires on 11-8-2010

1243
The store near is G-710

20.2

NHEL

22.3 NHEL

44.8 NHEL

103.3 NHEL

61.7 NHEL

631
T715

701
T806
NHEL

40 acre parcel

24.0

36.0

Sold

4 acre parcel

34.5 acre parcel

only 6.5 acres
horses

78.5

34.1

53.4 NHEL

8

↑ River Rd

40 acres sold
to Thurmman's

hot
wire
fence

22.9

NHEL

24.7

23.1 NHEL

18.7

NHEL

1167
T1160

Irrigation and Agricultural Covenant

In accordance with Finding #6 and Conclusion #3 E of the Hearing Examiner's Findings Conclusions and Order, of 8/18/99 and recorded by me on 11/3/99, 230336, any buyers of the of each of the 4 parcels I am permitted to create, by the above order, from the 120 acres I currently own on River Road, near Grand View ID, will be required to sign this irrigation and agricultural covenant which will be binding on them and any future owners of the property. The covenant includes:

1. A stipulation that the buyers understand and agree that the other parcel owners and the adjoining landowners are permitted to conduct agricultural practices in accordance with the custom and culture of the area under Idaho's Right to Farm laws, and that such customs include burning ditches and fields, spraying weeds, spreading manure, operating machinery at night, and raising livestock, among other practices.
2. A stipulation of understanding that Mrs. Frances Field has a right of way for irrigation water along the western edge of parcels 2,3, and 4 and that she has the right of access to that ditch and the right to maintain that ditch by burning, spraying, dredging and other customary practices.
3. An irrigation plan wherein the parcel owners would share the use of their common ditch by:
 - a. developing a calendar wherein the days of the irrigation season were dedicated in rotation to each of the 4 irrigators, that irrigator would have first access to the water on those days.
 - b. The days would be apportioned according to the relative water rights of each irrigator.
 - c. The first irrigator would be rotated annually.
 - d. Another plan would be permitted if satisfactory to all the irrigators.
4. A stipulation of understanding that each irrigator is responsible for the waste water from their parcel and that responsibility extends from that point where the waste water leaves their property until the water is returned to the Snake River or otherwise handled in accordance with the law. Each irrigator is responsible for maintaining effective drainage with their drainage ditches, and must clean, burn control moss and conduct other practices on those drainage ditches. When water from other irrigators enters their drainage ditch, that responsibility is then shared with those other irrigators from that point in the drainage ditch. Even though the drainage ditch that begins at the NE corner of parcel #3 lies on Mrs. Field's property for 1/2 mile, maintenance of that ditch is the sole responsibility of the owners of Parcels 1,2,3 and 4 until Mrs. Field's waste water enters that ditch (currently at the end of that 1/2 mile.) Changes in management of the drainage ditches must be acceptable to all affected irrigators and the landowners whose property the drain ditches run through.

I certify that I have read, understand, and agree to the above covenant.

Douglas K. Thurman

Date: 1-14-00

Lisa Thurman

Date: 1-4-00

STATE OF IDAHO, County of ELMORE, ss.

On this 4TH day of JANUARY
In the year of 2000, before me, the undersigned, a Notary
Public in and for said State, personally appeared

DOUGLAS K. THURMAN AND LISA THURMAN

known as DOUGLAS K. THURMAN AND LISA THURMAN to be the person S.... whose name S
are subscribed to the within instrument, and
acknowledged to me that THEY executed the same.

Signature

Name

ELLYA BOYER
Type of print

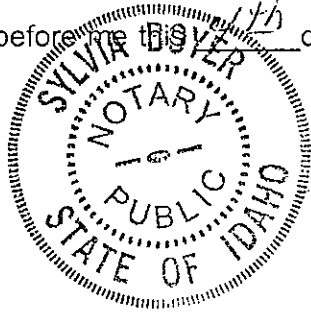
Residing at: MOUNTAIN HOME

My commission expires: 08/21/2002

I realize that the purchaser/lender and/or First American Title Insurance Company in this transaction are relying on the representations contained herein purchasing same, lending money, insuring title thereon and would not purchase same, lend money or issue title insurance unless said representations were made. If seller or borrower is an entity, I have authority to sign on its behalf.

THEODORE W. HOFFMAN and RITA S. HOFFMAN, husband and wife

Theodore W. Hoffman Douglas K. Thurman
Rita S. Hoffman Lisa Thurman

Sworn to and subscribed before me this 15th day of January, 1992000
 Sylvia Dyer
Notary Public

Collateral References. 78 Am. Jur. 2d, Waters, §§ 176-184.

Obstruction, diversion, or other interference with flow of surface water as a taking or

damaging of property. 128 A.L.R. 1195.

Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-110. Right of ditch owners to divert water. — The proprietors of any ditch, canal or conduit, or other works for the carriage of water, whose right relative to the quantity of water they shall be entitled to divert by means of such works shall have been established by any decree of court, shall be entitled to such quantity measured at the point of diversion, subject, however, to all prior rights. [1899, p. 380, § 32; reen. R.C. & C.L., § 3249; C.S., § 5565; I.C.A., § 41-110.]

Cited in: State v. Twin Falls Canal Co., 21 Idaho 410, 121 P. 1039 (1911), writ of error dismissed, 235 U.S. 690, 35 S. Ct. 205, 59 L. Ed. 427 (1914); Kettenbach v. Walker, 32 Idaho 544, 186 P. 912 (1919).

Collateral References. 78 Am. Jur. 2d, Waters, §§ 176-184.

42-111. Domestic purposes defined. — (1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (½) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

(2) For purposes of the sections listed in subsection (1) of this section, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection (1)(b) of this section.

(3) Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code. [1899, p. 380, part of § 12; reen. R.C. & C.L., § 3250; C.S., § 5566; I.C.A., § 41-111; am. 1990, ch. 319, § 1, p. 870; am. 1995, ch. 233, § 1, p. 790.]

Compiler's notes. Section 2 of S.L. 1990, ch. 319 is compiled as § 42-221.

Section 2 of S.L. 1995, ch. 233 declared an emergency. Approved March 20, 1995.

Cross ref. Definition in underground water law, § 42-230.

Domestic purposes not to include land irrigation, § 42-914.

Domestic use is exempt from water right requirements

made or allowed without the consent of the permittee in the federal grazing allotment, if any, in which the water right is used for the watering of livestock. [I.C., § 42-113, as added by 1984, ch. 124, § 1, p. 299; am. 1998, ch. 344, § 1, p. 1095; am. 2000, ch. 255, § 1, p. 721.]

Compiler's notes. Section 2 of S.L. 1984, ch. 124 read: "The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declara-

tion shall not affect the validity of remaining portions of this act."

Section 3 of S.L. 1984, ch. 124 declared an emergency. Approved March 31, 1984.

Section 2 of S.L. 1998, ch. 344 declared an emergency. Approved March 25, 1998.

42-114. Stock watering permit. — Any permit issued for the watering of domestic livestock shall be issued to the person or association of persons making application therefor and the watering of domestic livestock by the person or association of persons to whom the permit was issued shall be deemed a beneficial use of the water.

As used in this section, the "watering of domestic livestock" means the drinking of water by domestic livestock from a natural stream, ground water source or other source. [I.C., § 42-114, as added by 1986, ch. 199, § 1, p. 498.]

Opinions of Attorney General. This section does not prohibit the Idaho Department of Water Resources from issuing a water right permit to a landowner for stock watering purposes even though the landowner leases his land to another person for the grazing of stock; this section merely affirms that stock

watering is a beneficial use of water and that any person may file an application for that use. OAG 88-6.

It is unlikely that a court will find that the legislature intended a repeal of § 42-501 by enactment of § 42-114. OAG 88-6.

CHAPTER 2

APPROPRIATION OF WATER—PERMITS, CERTIFICATES, AND LICENSES—SURVEY

SECTION.

- 42-201. Water rights acquired under chapter — Illegal application of water.
- 42-202. Application to appropriate water — Contents — Filing fees — Disposition of fees — Record of receipts.
- 42-202A. Temporary approval — Application — Criteria — Exceptions.
- 42-202B. Definitions.
- 42-203. [Amended and Redesignated.]
- 42-203A. Notice upon receipt of application — Protest — Hearing and findings — Appeals.
- 42-203B. Authority to subordinate rights — Nature of subordinated water right and authority to establish a subordination condition — Authority to limit term of permit or license.
- 42-203C. Hydropower water right — Criteria for reallocation — Weight — Burden of proof.

SECTION.

- 42-203D. Review of permits — Opportunity for hearing.
- 42-204. Examination — Permit — Commencement of work — Extensions — Appeal.
- 42-205. Issuance of permit — Restrictions — Preference.
- 42-206. Residence a requisite for issuance.
- 42-207. Sale, transfer, assignment or mortgage of permit.
- 42-208. Cancellation or revocation for non-compliance.
- 42-209. Effect of illegal transfer.
- 42-210. Application of act.
- 42-211. Amended application or permit — Appeals.
- 42-212. Diversion of private waters.
- 42-213. Diversion of private waters — Applicants must show right of way.
- 42-214 — 42-216. [Repealed.]
- 42-217. Proof of application to beneficial use.
- 42-217a. Certified water right examiner.

SECTION.

- 42-218. Proof of application — Extension.
 - 42-218a. Lapse of application request — proof of official use.
 - 42-219. Issuance of license.
 - 42-220. Effect of license.
 - 42-221. Fees of deposit.
 - 42-222. Change in position — use, possession of rights — extension —
 - 42-222A. Temporary condition.
 - 42-223. Exceptions of license.
 - 42-224. [Repealed.]
 - 42-225. [Repealed.]
 - 42-225a, 42-225b. [Amended.]
 - 42-226. Ground water.
 - 42-227. Drilling and purpose.
 - 42-228. Drilling and record.
 - 42-229. Methods of survey.
 - 42-230. Definitions.
 - 42-231. Duties of title agent.
 - 42-232. Ground water — Negligence — Reclamation.
 - 42-233. Low temperature source.
 - 42-233a. "Critical groundwater" — Permit — Denial — Appeal.
 - 42-233b. Ground water.
 - 42-234. Ground water — Automatic grant.
 - 42-235. Drilling permit.
- 42-201. Watering of water.** — Any permit issued for the watering of domestic livestock shall be issued to the person or association of persons making application therefor and the watering of domestic livestock by the person or association of persons to whom the permit was issued shall be deemed a beneficial purpose of the water. As used in this section, the "watering of domestic livestock" means the drinking of water by domestic livestock from a natural stream, ground water source or other source. [I.C., § 42-114, as added by 1986, ch. 199, § 1, p. 498.]
- (2) No person shall** — Any person who is not a resident of this state and who is not a citizen of the United States shall not be permitted to acquire a water right in this state. [I.C., § 42-201, as added by 1986, ch. 199, § 1, p. 498.]

4915-1017
9851
FtZ
Re application for conditional use permit
filed by Ted W. Hoffman

FINDINGS, CONCLUSIONS
AND ORDER

On October 15, 1999 the Hearing Examiner conducted a duly noticed hearing on the merits of an application for conditional use permit filed by Ted W. Hoffman seeking to divide 119.15 acres located near Grandview, Idaho on River Road in Section 8, T5S, R3E, Boise, Meridian, Owyhee County, into four parcels to be developed in phases. The requested use is continued agricultural coupled with residential. After hearing evidence, the Hearing Examiner issues the following Findings, Conclusions and Order.

FINDINGS

1. The applicant proposes to divide his 119.15 acres into four parcels, each of which will be used as residential or residential combined with agricultural use. The first phase will be a division of 39.15 acres to be sold to a buyer who will continue agricultural use and will reside on the property. There is already a residence on this parcel. The Examiner finds that the proposed use does not change or alter the use of the area, because the agricultural use will continue and there is already a residence on the parcel. The Examiner finds that the proposed use is consistent with the Comprehensive Plan and the zoning ordinance, and will have no adverse impact on surrounding uses.

2. The first phase of the proposed development also calls for division of a 5.5 acre parcel to continue in basic agricultural use, with a residence and outbuildings including a shop for the employee of the applicant also proposed. The residence and outbuildings would take up approximately 2 acres of the parcel. The Examiner finds that the proposed use is consistent with the Comprehensive Plan and the zoning ordinance because it continues in existence the agricultural use of the parcel, and includes improvement by adding a residence and outbuildings including a shop. The Examiner finds no adverse impact on surrounding uses.

3. The second phase of the proposed development would divide approximately 40 acres which would continue in its current agricultural use, and would provide placement of a residence on the parcel. The Examiner finds that the proposed use is consistent with the Comprehensive Plan and the zoning ordinance because it continues in existence the agricultural use of the parcel, and includes improvement by adding a residence. The Examiner finds no adverse impact on surrounding uses.

Access Road Needed

4. The third phase of the proposal includes a fourth split of a parcel of approximately 34.5 acres which would continue in its current agricultural use, and would provide improvement of a residence site on the parcel. The proposed use is consistent with the Comprehensive Plan and the zoning ordinance because it continues the agricultural use and includes the improvement of the added residential site. There is no adverse impact to surrounding uses.

5. No opposition was stated to the proposed uses, and the Examiner finds that the applicant has met his burden of persuasion in showing that the proposal is desirable and beneficial to the county because it is a division of the nature which maintains agricultural use and adds to the residential tax base.

Who?
Francis
Fields?

6. The applicant and one effected adjoining property owner have executed a notarized agreement regarding imposition of an irrigation plan on the property and its owners. The Examiner finds that because of the importance of irrigation water to the continued agricultural use of the area, and the problems which might arise when the users of irrigation water are increased by two or three persons, it is necessary to impose the irrigation plan as a special condition to be imposed on the owners of the four parcels.

IS THIS
THE PLAN?

7. The first three parcels all have access to River Road, but parcel four which will be created in the third phase of the development will require creation of an access road. The Examiner finds that it will be necessary either for the applicant to deed property sufficient for the establishment of an access road from River Road to parcel four or to execute an easement upon which such road may be placed. A special condition regarding this access road is necessary.

8. Because the proposed use is planned to take place over a period of time, the Examiner finds that it is necessary to require the recording of several documents which specify the details of the proposal which is being approved. In this way, buyers of the property in the future will be put on notice of the special conditions and details as to the use which was approved. Users of surrounding properties will be protected by this special condition requiring recording.

Where
is
Exhibit
A

9. The Examiner finds that it is necessary that the applicant record these Findings, Conclusions and order together with Exhibit A which is the irrigation agreement entered into by the applicant and an adjoining property owner, Exhibit B which is the narrative of the development proposed by the applicant, and Site Plan which has been attached to the application. The Examiner further finds that the public interest in public health and safety requires the usual special conditions regarding Southwest District Health approval of well siting, and septic siting, and regarding driveway access to each homesite which meets the policy as to emergency vehicles as adopted by the Planning and Zoning Commission.

10. With the special conditions imposed by the Conclusions, the proposed use should be granted.

CONCLUSIONS

1. The proposed use is desirable and beneficial.
2. The proposed use is consistent with the Comprehensive Plan and it continues the current agricultural use of the property.
3. Because of special needs identified in the Findings, the following special conditions are imposed:

- done
A. The applicant will record these Findings, Conclusions and Order together with Exhibits A and B, and the site plan submitted with the application with the County recorder;

B. Southwest District Health approval of septic and well sites must be obtained prior to issuance of building permits; *- described*

C. The applicant will prove either that he has deeded property, or executed an easement, upon which an access road from River Road to parcel 4 on the site plan prior to the issuance of a building permit for parcel four;

D. Driveways to the homesites on parcels 1, 2, 3, and 4 from River Road will be built in accordance with policy established by the Planning and Zoning Commission and will provide for emergency vehicle ingress and egress in accordance with policy established by the Planning and Zoning Commission;

E. Proof that a buyer of any of the four parcels has been advised of the Right to Farm statute shall be displayed prior to issuance of building permits.

*7
ID law saying your neighbors may continue to farm if it is legal to do on a farm*

ORDER

Based on the foregoing Findings and Conclusions, it is ordered that the application for conditional use permit filed by Ted W. Hoffman be granted subject to the special conditions imposed by Conclusion 3.

Dated this 18th day of October, 1999.

Steele Grant
Hearing Examiner