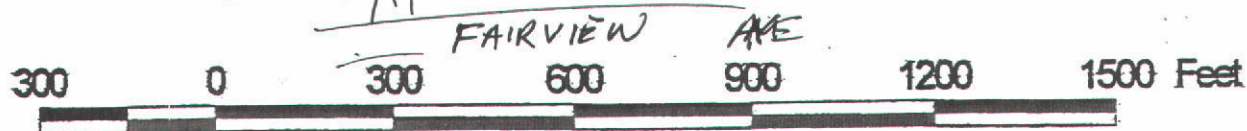
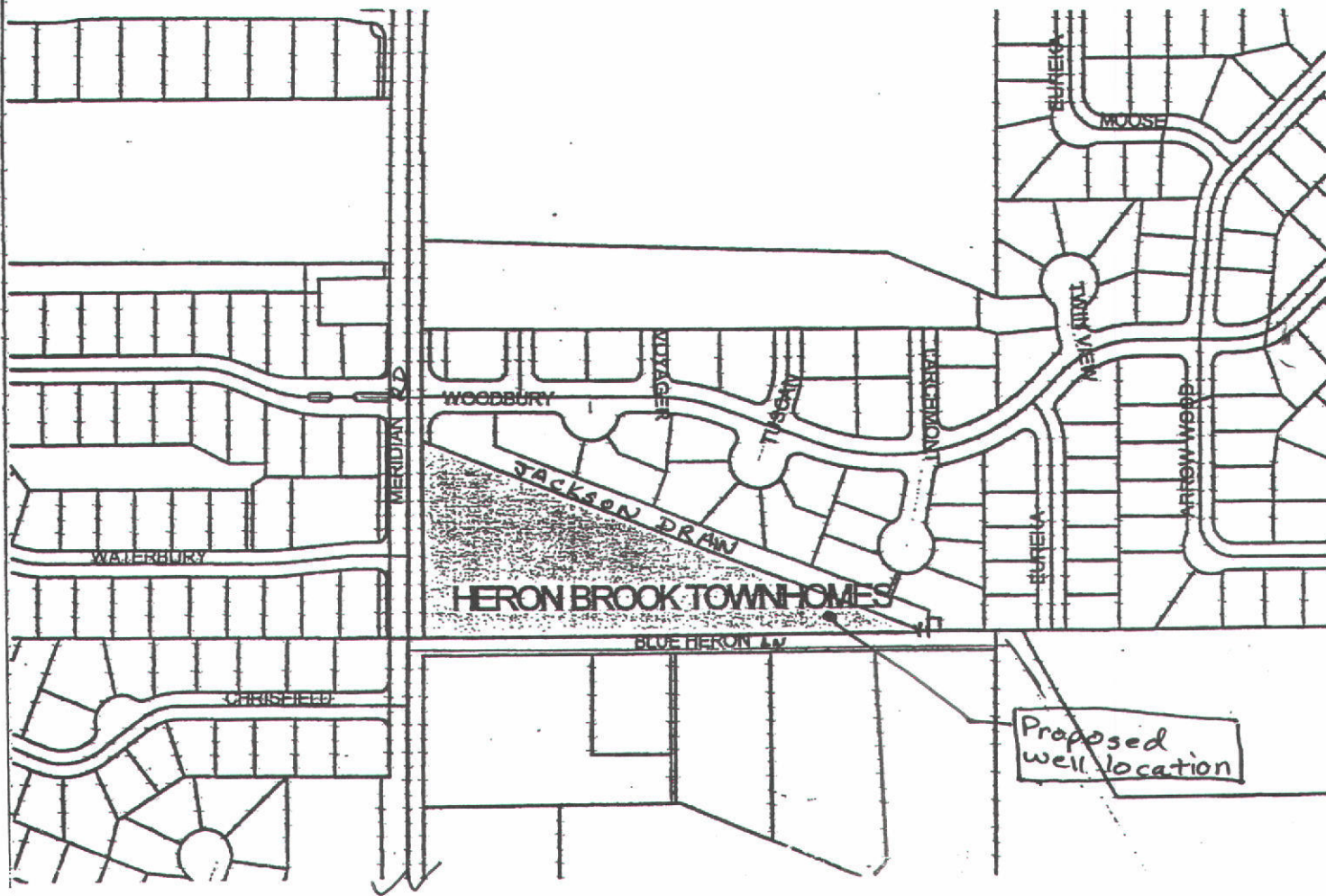
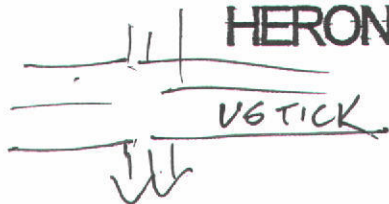


VICINITY MAP
HERON BROOK TOWNHOUSES
MERIDIAN, ID



MICROFILMED

1111 1 0 2002

□ S3n1w01
Stseg
□ S3n1e06

PINNACLE ENGINEERS, INC.
870 N. LINDER RD, STE B, MERIDIAN, IDAHO 83642
PH (208) 887-7760 FX (208) 887-7781

PROJECT # C996218
DATE: 9/1/99

POOR COPY

Jackson Drain in W1/2, S.6,
T.3N, R.1E, B.M., Ada
County, Idaho (August 1994).

Heronbrook Townhomes
Jackson Drain

Meridian Road

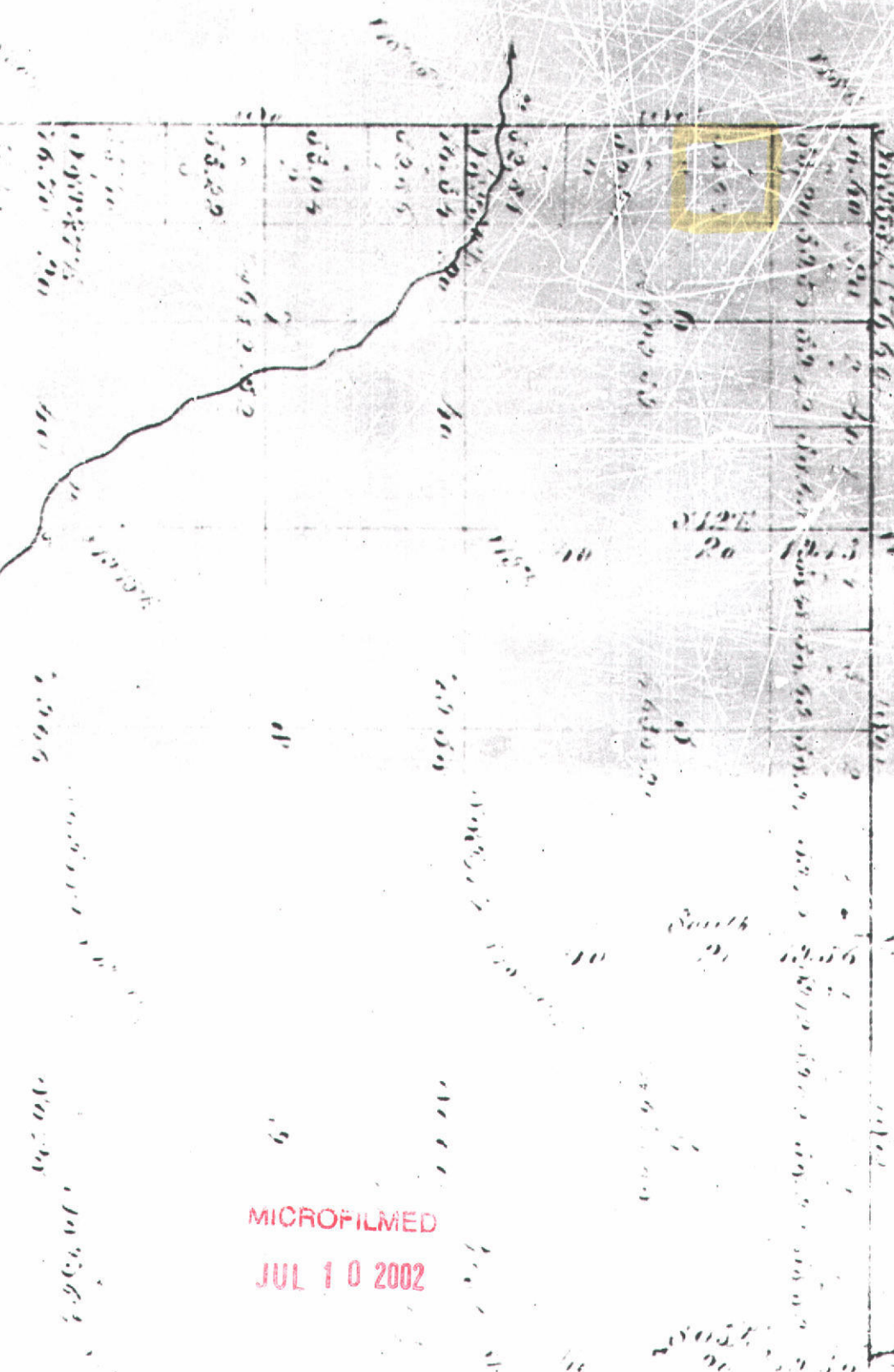
Fairview Ave.

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JUL 10 2002

Exhibit B, page 1

James Smith Esq



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JUL 10 2002

11/99

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APR 27 2003

For Office Use Only
\$25 filing fee PAID
Receipt # 6068769
Date 4.25.03

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, Heron Brook LLC, hereby assign to Heron Brook Home Owner's Assoc
of, 200 Blue Heron Ln, Meridian, Id 83642 Inc.
(Full Address) (Phone) ~~284-7881~~ or 409-2239

All my right, title, and interest in and to Permit No. 63-31364 to 284-7881
appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to for
Permit No. 63-31364 to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre
subdivision, point of diversion location, and amount of the water in cubic feet per second.)

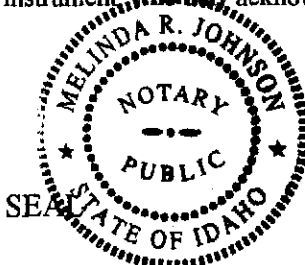
Location of point of diversion is Township 3 No
Rangel East, Sec. 6, in W 1/4, Gov Lot 5, Ada Co.
Amount = .07 cfs for domestic well 6" dia x 80'.
For 35 households = 1/20 acre/unit

Made this 16 day of April, 20 03.

Alan Anders, managing member
Permit Holder(s) Heron Brook, LLC
President,
Heron Brook HOA, Inc

State of Idaho)
County of Ada)ss

On this 16th day of April, 20 03, personally appeared before me the signer(s) of the above
instrument, who duly acknowledged to me that he (she) (they) executed the same.



Melinda R. Johnson
Notary Public residing at
Middleton ID

My commission expires: 4/11/06

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MAY 21 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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DEC - 6 2002

PROOF OF BENEFICIAL USE

Department of Water Resources

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No. 63-31364 Telephone No. 208-284-7881
 2. Name of Permit Holder(s): Heron Brook LLC Homeowners Association
 3. Mailing Address: PO Box 69
City Meridian State Id Zip 83680
 4. Source of Water: ground water If GROUNDWATER (well), Date Drilled: mo. 3 / yr. 02
Well Driller: Dennis Phipps Well Drilling Drilling Permit Number: 870409-774691
 5. Use(s) (as authorized by the water right permit):
Domestic (No. of households): 35 Stockwater (No. and type of stock): —
Irrigation (No. of acres): 1/20/unit Other: —
 6. Total rate of diversion and/or volume for which proof is submitted: 20 cfs OR — acre-feet
 7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)
Measuring Device: Is a measuring device required? Yes — or No X
Has the measuring device been installed? Yes — or No —
 8. Fee Enclosed: \$ 50 (See Fee Schedule on back of the instructions for filing proof of beneficial use)
 9. Person to contact to accompany the Department representative during field examination of the water system.
Name: Glen Anders Telephone Number: 284-7881
Address: 200 Blue Heron Ln, Meridian 83642 FAX: 363-7125
 10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.
- Signature of permit holder: Glen Anders, managing member Date: 12/3/02
(include your title, if on behalf of company or organization)

Note: Well and taps to each (2) lots is "winterized" at this time, although construction is complete, 11/02.

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MAR 11 2003

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-31364

Priority: 12/04/2001

Maximum Diversion Rate: 0.20 CFS

This is to certify, that HERON BROOK LLC
PO BOX 69
MERIDIAN ID 83680

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	3/01 to 11/15	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L5 SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, Twp 3N, Rge 1E, B.M. ADA County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 01E 6							X										
							L5										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **February 1, 2003**.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. 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 if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed 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.
6. The irrigation occurring under this domestic use is minimal (less than 1/10 of an acre associated with each townhome) within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
7. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
8. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

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JUL 9 2002

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-31364

CONDITIONS OF APPROVAL

9. Point of diversion is located within Lot 25, Heronbrook Townhomes Subdivision.
10. Place of use is located within Lots 2-24 and Lots 29-39, Heronbrook Townhomes Subdivision.
11. Water bearing zone to be appropriated is 5 to 80 feet.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 8th day of February, 2002.


for
KARL J DREHER, Director

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2001. 9. 10. 2002

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FEB - 7 2002

10-29-01

FORM 202
12/99

Department of Water Resources

Ident. No.

63-31364

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMITI agree to the following
application changes.

12/04/01 Date.

To appropriate the public waters of the State of Idaho

1. Name of Applicant Heron Brook, LLC - Glen Anders Phone 284-7881
Mailing address Box 69, Meridian, Id 83680
2. Source of water supply groundwater which is a tributary of n/a
3. Location of point of diversion is Township 3 No. Range 1 East Sec. 6, in the W W W,
SW W, NW W, Govt. Lot 5, B.M., Ada County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
- | | |
|---|---|
| Amount <u>207 cfs</u> for <u>irrigation</u> | purposes from <u>Sept to Nov</u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u>107 cfs</u> for <u>irrigation</u> | purposes from <u>Mar</u> to <u>Apr</u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount <u>20</u> for <u>DOMESTIC</u> | purposes from <u>3/1</u> to <u>11/15</u> (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount _____ for _____ | purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount _____ for _____ | purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) | |
| Amount _____ for _____ | purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) | |
5. Total quantity to be appropriated is (a) 207 cfs and/or (b) _____
cubic feet per second acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source well - irrigation
well replaces existing domestic wells abandoned to IDWR spec
- 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 80 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 1 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. _____

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JUL 10 2002

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OCT 29 2001

WATER RESOURCES
WESTERN REGION

3. 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	
3N	1E	6							D										+

Total number of acres to be irrigated +

10. Describe any other water rights used for the same purposes as described above. Nampa Meridiation Irrigation District - Jackson Drain - License Agreement # 101021607

11. a. Who owns the property at the point of diversion? Heron Brook, LLC - Glen Anders, manager

b. Who owns the land to be irrigated or place of use? same as above

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Heron Brook LLC owner and manager

12. Remarks: water rights to be transferred to Heron Brook Clubhouse Homeowners Assoc, Inc upon completion of construction. 2002. This well is to be used as a back up to the NMID Drain water in off-season, and replaces existing domestic wells abandoned. water bearing zone to be appropriated is from 5 to 80 feet.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8 1/2"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.

Lyn Hellen, member
Glen Anders, Manager

Glen Anders, Heron Brook LLC,
Signature of Applicant (and title, if applicable) managing member
10/26/01

Received by Janis Fontaine Date 10-29-01 Time 12:00 Preliminary check by J
Fee \$ 100.00 Received by Janis Fontaine # W023456 Date 10-29-01
Publication prepared by dt Date 11-22-01 Published in off
Publication approved dt Date 1-22-02

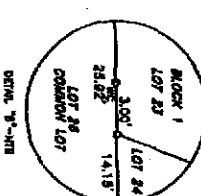
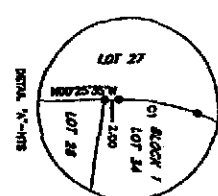
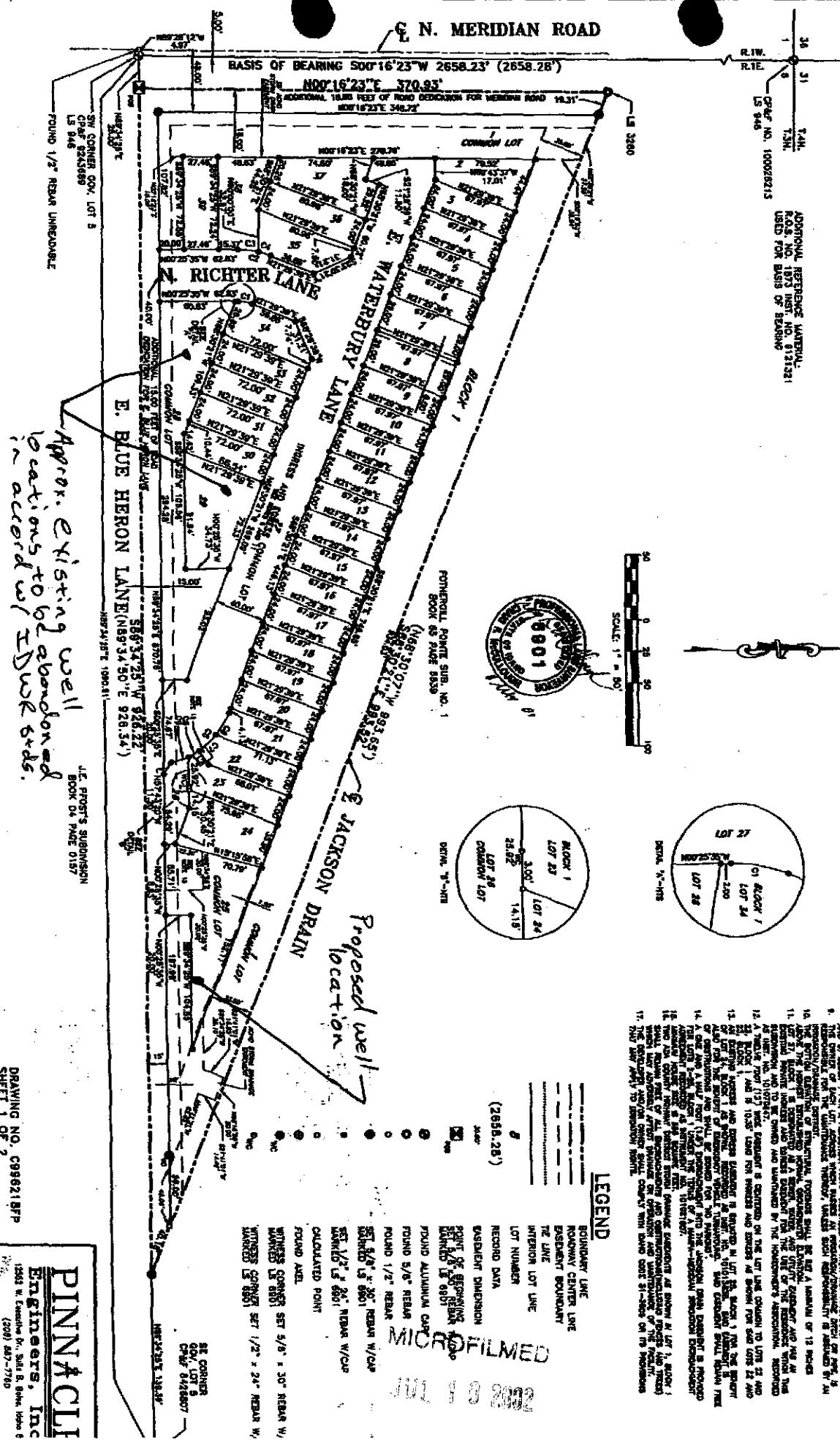
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JUN 10 2002

NUMBER	LENGTH	WEIGHT	DEPTH	CHINE TABLE			
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C2	28.75	70.00	21.95/14	13.86	26.82	51.07/23.02	W
C3	16.85	70.00	13.22/30	5.01	16.81	59.67/23.02	W
C4	16.13	70.00	8.71/24	5.01	10.12	51.07/23.02	W
C5	35.50	44.80	5.67/34.00	34.32	30.49	44.07/8.71	W
C6	20.51	44.80	13.05/31	10.12	20.42	59.67/23.02	W
C7	18.74	44.80	6.28/15	5.44	18.65	44.07/8.71	W
C8	14.53	44.80	6.28/15	5.44	14.46	44.07/8.71	W
C9	14.72	60.00	13.70/31	7.38	14.68	44.07/8.71	W

FINAL PLAT SHOWING
HERONBROOK TOWNHOMES SUBDIVISION

2001



DETAIL "B" - NITE

[illegible]

LEGEND

JUL 9 9 2002

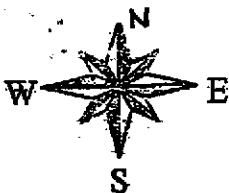
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DRAWING NO. C89621BFI
SHEET 1 OF 2

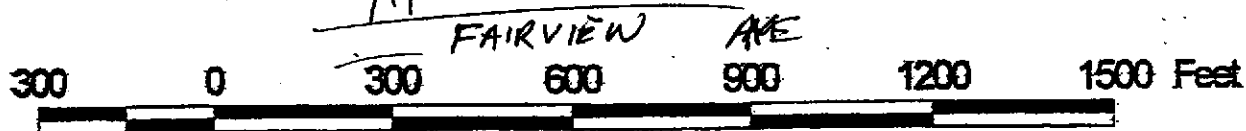
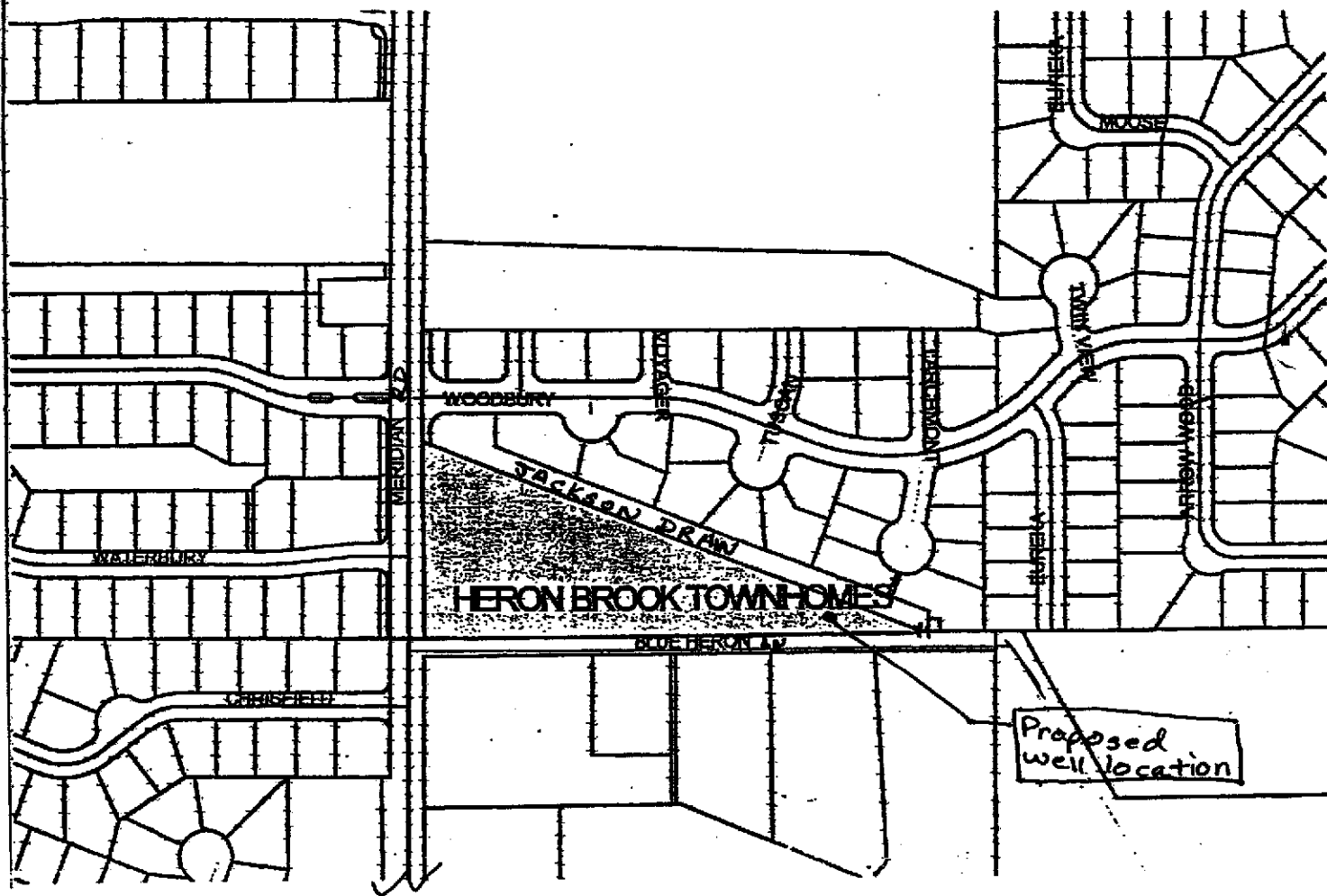
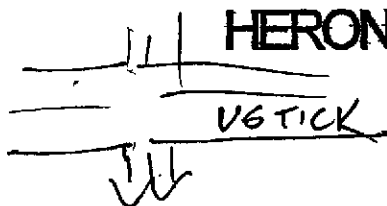
ASR#, Scale: 1 inch = 2.21 inch

PINNACLE

Filellers, Inc.
12053 W. Executive Dr., Suite B, Bohra, Idaho 8
(208) 867-7760



VICINITY MAP
HERON BROOK TOWNHOUSES
MERIDIAN, ID



MICROFILMED

11/11/2002

□ S3n1w01
Stseg
□ S3n1e06

PINNACLE ENGINEERS, INC.
870 N. LINDER RD, STE B, MERIDIAN, IDAHO 83642
PH (208) 887-7760 FX (208) 887-7781

PROJECT # C995218
DATE 9/1/99

POOR COPY

Jackson Drain in W1/2, S.6,
T.3N, R.1E, B.M., Ada
County, Idaho (August 1994).

Heronbrook Townhomes
Jackson Drain

Meridian Road

Fairview Ave.

MICROFILMED

Exhibit B, page 1

JUL 10 2002

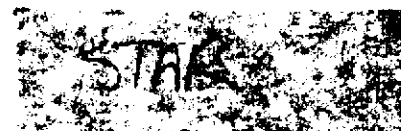


STAR, IDAHO
N4337.5—W11622.5/7.5

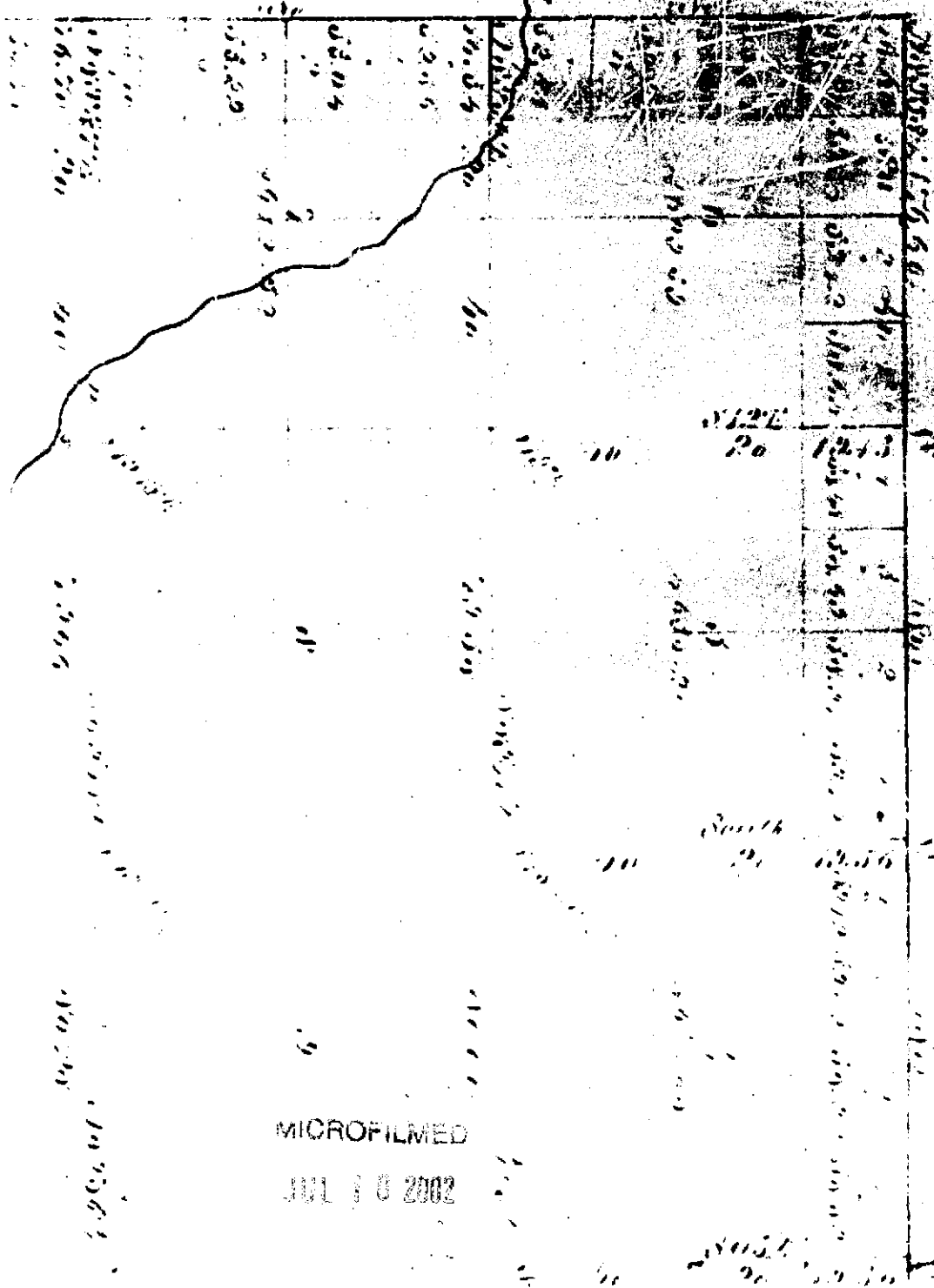
1981

MICROFILMED

JUL 10 2002



San Juan River



MICROFILMED

JUL 10 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 30, 2003

HERON BROOK HOME OWNERS ASSN INC
200 BLUE HERON LN
MERIDIAN ID 83642

RE: Change of Ownership for Water Right Permit 63-31364

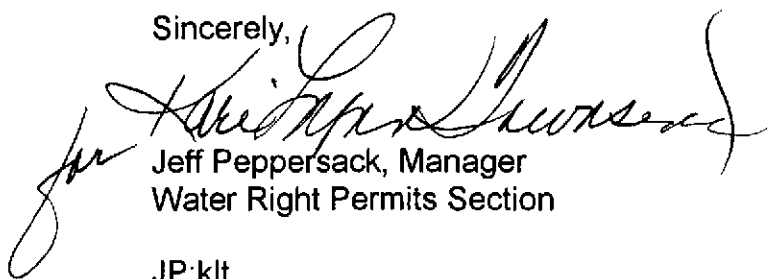
Dear Water Right Holder(s):

The department acknowledges receipt of correspondence changing ownership of the above referenced water right permit to you. The department has modified its records to reflect the change in ownership and has enclosed a computer-generated report for your records. Also enclosed is a receipt for the \$25.00 filing fee.

Please note that as of July 1, 1996, water right owners are required to report any change of water right ownership and any change of mailing address of the owner of a water right to the department. Notice of the change must be provided to the department within 120 days of the change. Change reporting forms are available from any office of the department.

Please feel free to contact this office if you have any questions regarding this matter.

Sincerely,



Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosures

MICROFILMED

MAY 21 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 18, 2002

HERON BROOK LLC
HOMEOWNERS ASSOC
PO BOX 69
MERIDIAN ID 83680

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-31364

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. The next step in the process of developing a water right is for the department to contact you to schedule a field examination to determine and confirm the use being made of the water, and that it meets the permitted beneficial use.

Be advised that Section 42-248, Idaho Code, requires you or the owner of these water rights to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

If you have questions, please contact the **Western** Regional Office of the department in Boise (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encl.

c: IDWR - Regional Office (w/encl.)

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MAR 11 2003

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 63-31364

Reviewed By: dgibson

Date: December 17, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?	X		Drilling permit required?	X	
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		W028456, C066214	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?	X		Measuring device installed?		X
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		12/06/2002
Date proof due	-	02/01/2003
Lapse notice sent	-	
No. of days late	=	0
Holiday allowance	+	
Priority date	+	12/04/2001
New priority date	=	12/04/2001

Deficiencies of Actions Items

Acknowledge proof.

November 30, 2002

HERON BROOK LLC
PO BOX 69
MERIDIAN, ID 83680

PROOF DUE NOTICE

RE: PERMIT NO. 63-31364

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 February 01, 2003. (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.

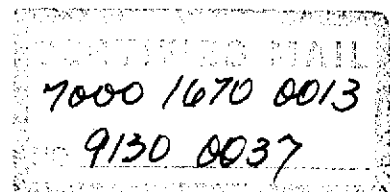
Sincerely,

Deborah J. Gibson, Admin. Asst.
Water Allocation Bureau

Enclosures

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APR 11 2003





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 4, 2002

HERON BROOK LLC
C/O GLEN ANDERS
PO BOX 69
MERIDIAN ID 83680

Re: Petition for Reconsideration of Permit 63-31364

Dear Mr. Anders:

We received the petition for reconsideration you sent to us by fax this morning. As I discussed with you this afternoon, the 14-day petitioning period expired on February 25. The petition has been placed in the file for future reference only and the department will not take any action on it.

In our phone conversation, I explained that you are not faced with a deadline to come up with a proposal for mitigation so that a second application for permit can be filed and acted upon by the department for irrigation of those three common lots. You are simply prevented from using the well to irrigate those lots until you have an approved permit from the department. You indicated you will take your finalized mitigation plan to Lori Graves at our Western Region office to start the process for the additional permit. I have contacted her and explained the situation so she is aware of the details of this matter.

Please give us a call if we can be of further assistance.

Sincerely,

Sharla Curtis
Sr. Water Resource Agent

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JUL 9 0 2002

MEMORANDUM

To: File 63-31364

From: Sharla

Date: March 4, 2002

Re: Petition for Reconsideration

Mr. Anders called me a couple of weeks ago after he received the permit to discuss its conditions and I had explained to him at that time why the permit was issued for only irrigation of the small "lots" associated with the townhomes and why it didn't include irrigation of the common lots. I told him that he has two options available to him for filing a second application for the irrigation of the common lots; a) propose a mitigation plan that is acceptable to the department if he wishes to have the application processed NOW, or b) file the application with the understanding that it will be held for processing until its priority date comes up for processing "in-line".

This morning, a fax arrived from Mr. Anders as a petition for reconsideration. In it he references contacting an engineer to propose a plan of mitigation. Before I had an opportunity to respond in writing to Mr. Anders' petition, he called to make sure we had received the fax and to discuss his request. I explained to him that we cannot act upon his request because it was not received within the 14-day petitioning period. He thought he had 14 working days, not calendar days. He told me he has hired an engineer to help him propose a mitigation plan, but that it would probably be at the end of the month before the engineer would get back to him with a proposal. Therefore, he thought he was under a 14-day time limit to present this proposal and that the proposal would be reviewed by us in connection with the permit we just approved. After I explained his mitigation proposal would have to be filed with a new application for permit, I told him that he isn't under a time crunch for making that filing, but that he can't use the well for irrigating those common lots until the second application is approved. He stated that he will go to Western Region and make the second filing with Lori Graves' assistance (she worked with him on the first application).

No further response to the petition for reconsideration is required.

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JUL 10 2002

RECEIVED**MAR - 4 2002**

Department of Water Resources

Attention: Shelley Keen**Date: 3/4/2002****Company: IDWR****Number of Pages: 3****Fax Number: 327-7866****Voice Number: 327-7900****From: Glen Anders****Company: Heron Brook LLC****Fax Number: 208-363-7125****Voice Number:****Subject: Heronbrook Townhomes Permit #63-31364****Comments:**

I am petitioning for reconsideration of the above permit and/or requesting a hearing. Conditions of the approval do not meet my needs for use in the common lots in the above subdivision because almost all landscape is on common lots. The permit application originally requested .07 cfs for irrigation. I have contacted a licensed engineer to propose a plan of mitigation to use this well as back up to NMID irrigation for the common lots mitigated by the annual stormwater retention on site i.e. groundwater recharge. I am waiting for his review. Glen Anders 284-7881. Thanks.

MICROFILMED**JUN 10 2002**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 83-31364

Priority: 12/04/2001

Maximum Diversion Rate: 0.20 CFS

This is to certify, that **HERON BROOK LLC**
PO BOX 89
MERIDIAN ID 83680

has applied for a permit to appropriate water from:

Source: **GROUND WATER**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	3/01 to 11/15	0.20 CFS

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER L5 SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 6, Twp 3N, Rge 1E, B.M. ADA County

PLACE OF USE: DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N 01E 6							X										
							L5										

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before February 1, 2003.
2. Subject to all prior water rights.
3. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. 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 if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed 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.
6. The irrigation occurring under this domestic use is minimal (less than 1/10 of an acre associated with each townhome) within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.
7. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights cannot be delivered to the right holder.
8. If the surface water right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use, this right to divert groundwater shall not be used without an approved transfer pursuant to Section 42-222, Idaho Code, or approval of the Department if a transfer is not required.

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JUL 13 2002

Page 2

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-31364

CONDITIONS OF APPROVAL

- 9. Point of diversion is located within Lot 25, Heronbrook Townhomes Subdivision.
- 10. Place of use is located within Lots 2-24 and Lots 29-30, Heronbrook Townhomes Subdivision.
- 11. Water bearing zone to be appropriated is 5 to 80 feet.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 8th day of February, 2002


for **KARL J DREHER, Director**

MICROFILMED

JUL 10 2002



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2002

HERON BROOK LLC
PO BOX 69
MERIDIAN ID 83680

RE: Permit No. 63-31364

Permit Approval Notice

Dear Permit Holder:

The Department of Water Resources 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 the Department pursuant to Section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless a party petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

Enclosed is a form entitled 'Instructions for Proof of Beneficial Use.' Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled 'Proof of Beneficial Use.' If your project is already completed, you should complete and submit this form immediately.

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 water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

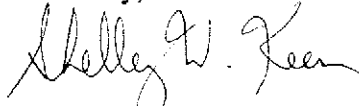
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's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

MICROFILMED

102 1 0 2002

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

Sincerely,

A handwritten signature in cursive script, appearing to read "Shelley W. Keen".

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED

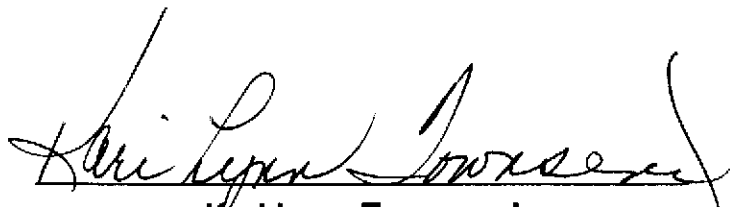
SEP 11 2002

CERTIFICATE OF MAILING

I hereby certify that on February 11, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-31364

**HERON BROOK LLC
PO BOX 69
MERIDIAN ID 83680**



**Kari Lynn Townsend
Secretary**

**MICROFILMED
JUL 10 2002**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its 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.

APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS
Reviewed by Sharla Curtis on 2/9/02

No. 63-31364 Name: Heron Brook Corp. Officers _____ Ad ok _____ Govt Lots _____

AREA OF CONCERN: No/Yes TV Moratorium _____ GWMA _____ TRUST/NON-TRUST _____

GROUNDWATER: (✓Flow Chart)

DRILLING PERMIT

All wells - 046
Basin 34 - 084 (if necessary)
WMD - North/East/West
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 067

WMD

Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LoGeo - 058 (<85 GW)
Mitigation - 121
Trust - 051 (consumptive uses)
Non-Trust - 048 (consumptive uses or non-cons. > 1.0 cfs)

USES:

STORAGE - 18C-01H-01P-18B-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/PS)-111 (instream stock)
MINING - 054-106
HEAT/COOL - R07 (injection well)
FIRE PROT - 077
COMMERCIAL/
INDUSTRIAL - 106-R07
DAIRY - 082-WD8
POWER - 17H or 17K (+uses)-17G (under FERC)
or 17M (not FERC regulated)
025-027-R22-08A

BENEFICIAL USE DUE: 2, 01 2003

MISC CONDITIONS/REMARKS:

Protested - 020-W19
Development Period
≤ 1 yr - 26A
Ownership - 004
Non-consumptive - 027
Water Quality - 106-R07

SURFACE WATER: (✓Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9

PLANNING REVIEW/RESPONSE

WD - R04 (WD# _____)
≤ 0.20 cfs/others - 01H, 01P or No MD
> 0.20 cfs - 01J

SPRINGS/SINK, INACTIVE WD or WD

≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M or No MD

RIVER BASINS: (SW special considerations)

Snake R (01) - W23, N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - W23, 047 (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

MUNICIPAL

Restricted area - 022,075
Irr./GW supp to SW - 102
Future needs - 007,109

FISH PROP

- 029 (70's only)-007-042-106

DOMESTIC

Surface water - WB5 (Big Wood/Boise above Star Bridge)
- 27A (Payette R)
>1 in restricted area - 070-071-075 (no parks/common areas)
Irr separate or none allowed - WB5
GW w/irrigation from SW evident - 065-104
Moratorium approvable - W03 (2500 gpd - meets domestic def
i.e. D/convenience store)

Multiple pd's per ¼¼ - W32

Subd lot desc (pd) - W59 lot 25
Subd lot desc (pu) - W60 lots 2, 24, 29, 39

Use definitions - W02 example - S/50 range

Pre-1987 development - 068-074 (allow 120 days for proof due)

Single p/d intended - 076

IRRIGATION SEASON _____ - _____ (Per updated map)

IRR VOLUME/ACRE _____

OTHER CONDITIONS/REMARKS WB 6-80 yr.

COMMENTS _____

FEB - 7 2002

WYOMING DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Department of Water Resources

INITIAL REVIEW BY: 6 DATE: 12/4/01 APPLICATION: 63-31364

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)
- ☒ Address:
- ☒ Source: (See USGS Quad for names of water sources)
- ☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
- ☒ County:
- ☒ Quantity: (flow and/or volume)
- ☒ Period of use:
- ☒ Nature of proposed use: (Include description of use)
- ☒ Description of diverting works:
- ☒ Time required for beneficial use of water:
- ☒ Place of use or acres irrigated:
- ☒ Map: (show T, R, S, QQ &/or QQQ)
- ☒ Subdivision plat: (for > 1 home in restricted area. $\geq$ 5 homes in non-restricted area)
- ☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
- ☒ Correct fee paid
- Gov't. Lots:
☒ P/D
☒ P/U 45

Y ADVERTISE REMARK(S)

(Reviewer identify which remarks)

ADDITIONAL INFORMATION

YES NO

- ☒ ☐ Overlapping place of use: (Describe source & relationship to present application on next page.)
- ☒ ☐ Overlapping point of diversion.
- ☐ ☒ Critical groundwater area:
- ☐ ☒ Groundwater management area:
- ☐ ☒ 1992 moratorium:
- ☐ ☒ Surface water source, IDFG letter needed.
- ☐ ☒ Protected river or minimum flow reach, notify water planning bureau.
- ☐ ☒ E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining).
- ☐ ☒ E-mail to Dam Safety staff: (for any storage)
- ☒ ☐ Mitigation plan: Check any that apply.
☐ immediate = acceptable plan required and submitted.
☒ future = open areas, acceptance of condition of approval is in file.
- ☐ ☒ Send power requirement letter &/or fish farm requirement letter.
- ☐ ☒ Power residency affidavit:
- ☐ ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
- ☒ ☐ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

Clarifications - legal descriptions
use, corp officers

Date Requested 12/3/01 Date Response Received 12/4/01

PROCESSING

APP. NO.

8-31364

YES NO

☒ ☐ In form for advertising:
☐ ☒ Statewide advertising: (> 10 cfs &/or 1000 af)
☒ ☐ Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

☐ ☒ I.D. Health & Welfare
☐ ☒ I.D. District Health
☐ ☒ I.D. Fish & Game
☐ ☒ I.D. Lands

YES NO

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Service
☐ ☒ Water Dist. #
☐ ☒ Water Planning Bureau
☐ ☒ Other

FINAL REGIONAL PROCESSING REVIEW:

YES NO

☒ ☐ Affidavit of publication received:
☒ ☐ Application published correctly: If not, record action taken.

☒ ☐ Publication dates and paper recorded on application:
☐ ☐ Final date for protest 2-4-02
☐ ☒ Protests received.
☐ ☐ Recommendations attached:
☐ ☐ Measuring device required:
☐ ☐ Water delivered by water master? District #
☐ ☐ Special conditions of approval or cover letter:

See below for additional information

Recommended Date or Priority

Recommended by:

Date:

ADDITIONAL INFORMATION:

Internal domestic use supplied
by city. NMID water primary
irrigation source

The Idaho Statesman

RECEIVED

JAN 11 2002

P.O. Box 40, Boise, Idaho 83707-0040
LEGAL ADVERTISING PROOF OF PUBLICATION

WATER RESOURCES
WESTERN REGION

Account #	DTI#	Identification	Amount:
047628	585548	APPLICATION FOR WATER RIGHT	\$115.00
Attention:	P.O. #	Run Dates	
SUE TAYLOR		JANUARY 3, 10, 2002	
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705			Number of Lines 32 X 2
			Affidavit 1
			Legal # 12290

LEGAL NOTICE

63-31364

HERON BROOK LLC
BOX 69
MERIDIAN ID 83680
Point(s) of Diversion L5 **SWNW** T03N R01E ADA County Source GROUND WATER

Use: DOMESTIC 03/01 To 11/15 0.2 CFS
Total Diversion: 0.2 CFS

Date Filed: 12/04/2001
Place Of Use: DOMESTIC
T03N R01E S6
Remark: SWNW Lot 5
Applicant agrees to mitigate consumptive use in the future as needed.
Domestic use is for 34 ^{homes} yards in Heron Brook Townhomes Subdivision.
Water bearing zone to be appropriated is from 5 to 80 feet.

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 Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 01/22/2002. The protestant must also send a copy of the protest to the applicant.
KARL J DREHER, Director

Pub: Jan. 3 and 10, 2002 12290

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of *The Idaho Statesman*, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in *The Idaho Statesman*, in conformity with Section 60-108, Idaho Code, as amended, for:

TWO

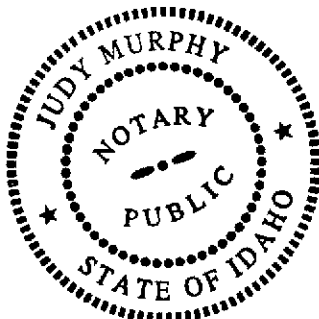
☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning issue of: JANUARY 3, 2002
ending issue of: JANUARY 10, 2002

Janice Hildreth

STATE OF IDAHO)
) ss
COUNTY OF ADA)

On this 10 day of JANUARY in the year of 2002 before me, a Notary Public, personally appeared before me Janice Hildreth 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 she executed the same.



Notary Public for Idaho *Judy Murphy*
Residing at: Boise, Idaho
My Commission expires: 11/6/04

MICROFILMED
JUL 10 2002

January 7, 2002

Legal Notice Department
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

RE: Ads

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 02/04/2002. Your cooperation is appreciated.

Sincerely

Sue Taylor
Senior Secretary

MICROFILMED
JAN 10 2002

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

63-31364

HERON BROOK LLC
BOX 69
MERIDIAN ID 83680

Point(s) of Diversion L5 SWNW S6 T03N R01E ADA County Source GROUND WATER

Use: DOMESTIC 03/01 To 11/15 0.2 CFS

Total Diversion: 0.2 CFS

Date Filed: 12/04/2001

Place Of Use: DOMESTIC

T03N R01E S6 SWNW Lot 5

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

Domestic use is for 34 yards in Heron Brook Townhomes Subdivision.

Water bearing zone to be appropriated is from 5 to 80 feet.

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 Resource, Western Region, 2735 Airport Wy, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 02/4/2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on January 17 and 24, 2002.

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JUL 10 2002

REQUEST TO PROCESS

COMPLETE REQUEST IF YOU WANT YOUR APPLICATION TO BE PROCESSED USING ONE OF THE
THREE ALTERNATIVES BELOW

Name of Applicant

Heron Brook LLC, Glen Anders - manager

Mailing Address

Box 69

Meridian, Id 83680

Application No.
(if known)

 IN LOCAL PUBLIC INTEREST

Yes, I want my application processed and before it is advertised, I will amend my application to demonstrate that the proposed appropriation is in the local public interest including the need to preserve flows in the Snake River during the migration periods of anadromous fish.

 PROPOSE MITIGATION NOW

Yes, I want my application processed and before it is advertised, I will amend my application to include proposed mitigation to offset anticipated depletions in the Snake River during periods of anadromous fish migration.

✓ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

Yes, I want my application processed at this time, and I will accept a condition of approval that will require mitigation should the Director of the Idaho Department of Water Resources determine that mitigation is necessary to offset depletions from this appropriation to flows in the Snake River during periods of anadromous fish migration. I understand that mitigation is not required now but may be needed in the future. I also understand that the Director will not require mitigation until I have an opportunity to review the process by which the need for mitigation is established and the amount of water required is quantified.

Signature

Glen Anders

Date

10/26/01

Please return this form to:

Idaho Dept. of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705-5082

JUL 10 2002