

T4N R1E S4
P/D: NESE
NO Gov Lts

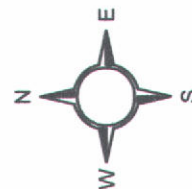
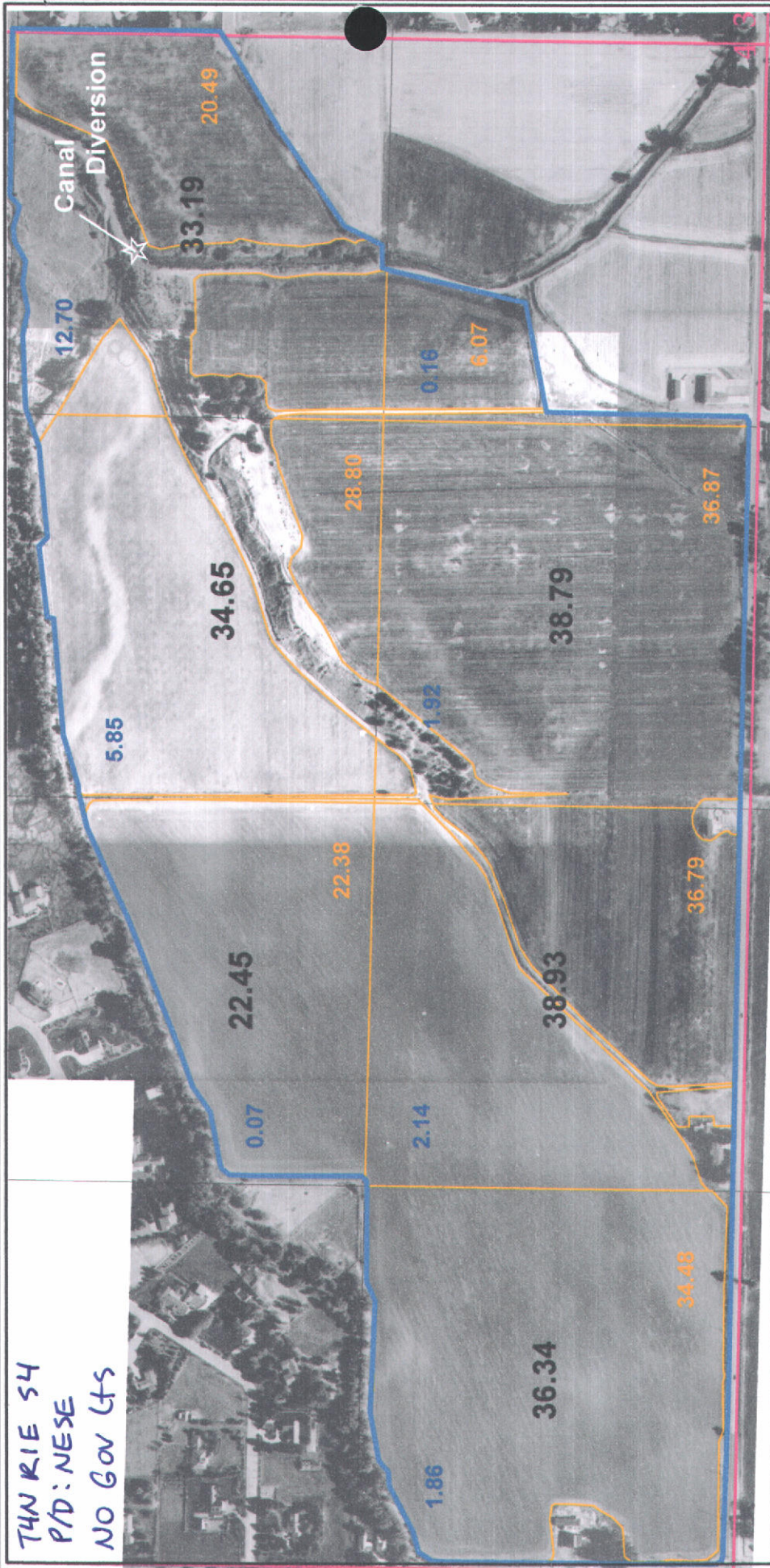


Figure 2.
Brookwood Subdivision
Irrigated Acreage

Property Boundary

Irrigated Acreage

Overall Acreage = 185.92

63-32169

FIGURE 1. **BROOKWOOD SUBDIVISION, EAGLE ID** **T04N, R01E**

BROCKWAY ENGINEERING, PLLC
 MLA 2/14/2002

T4N R1E S4
 P/D : NESE
 No Gov Lto



BM#1

63-32169

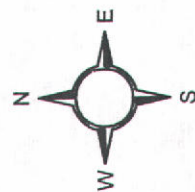
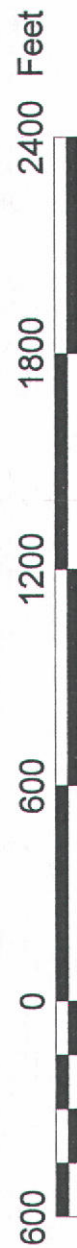
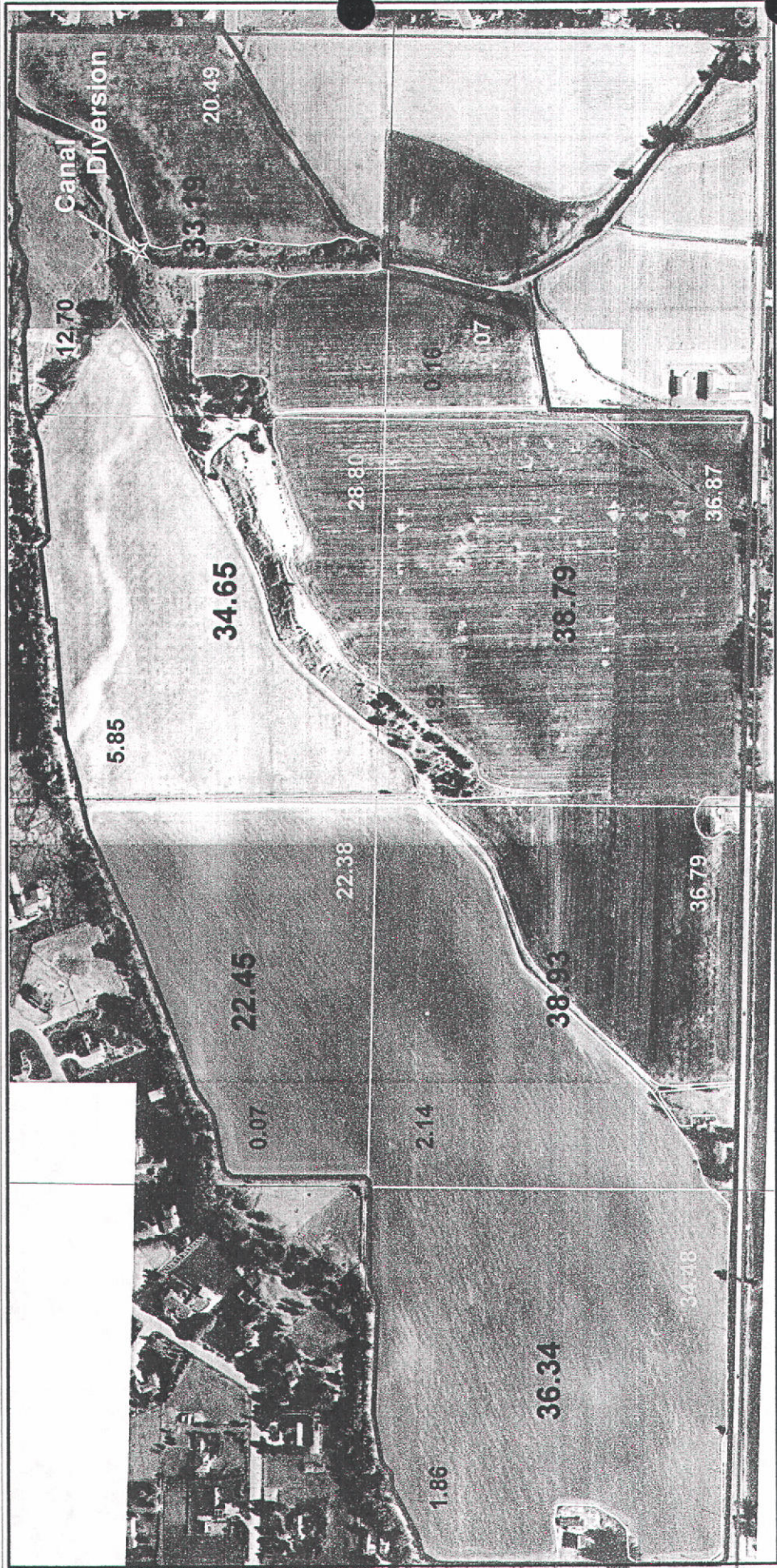
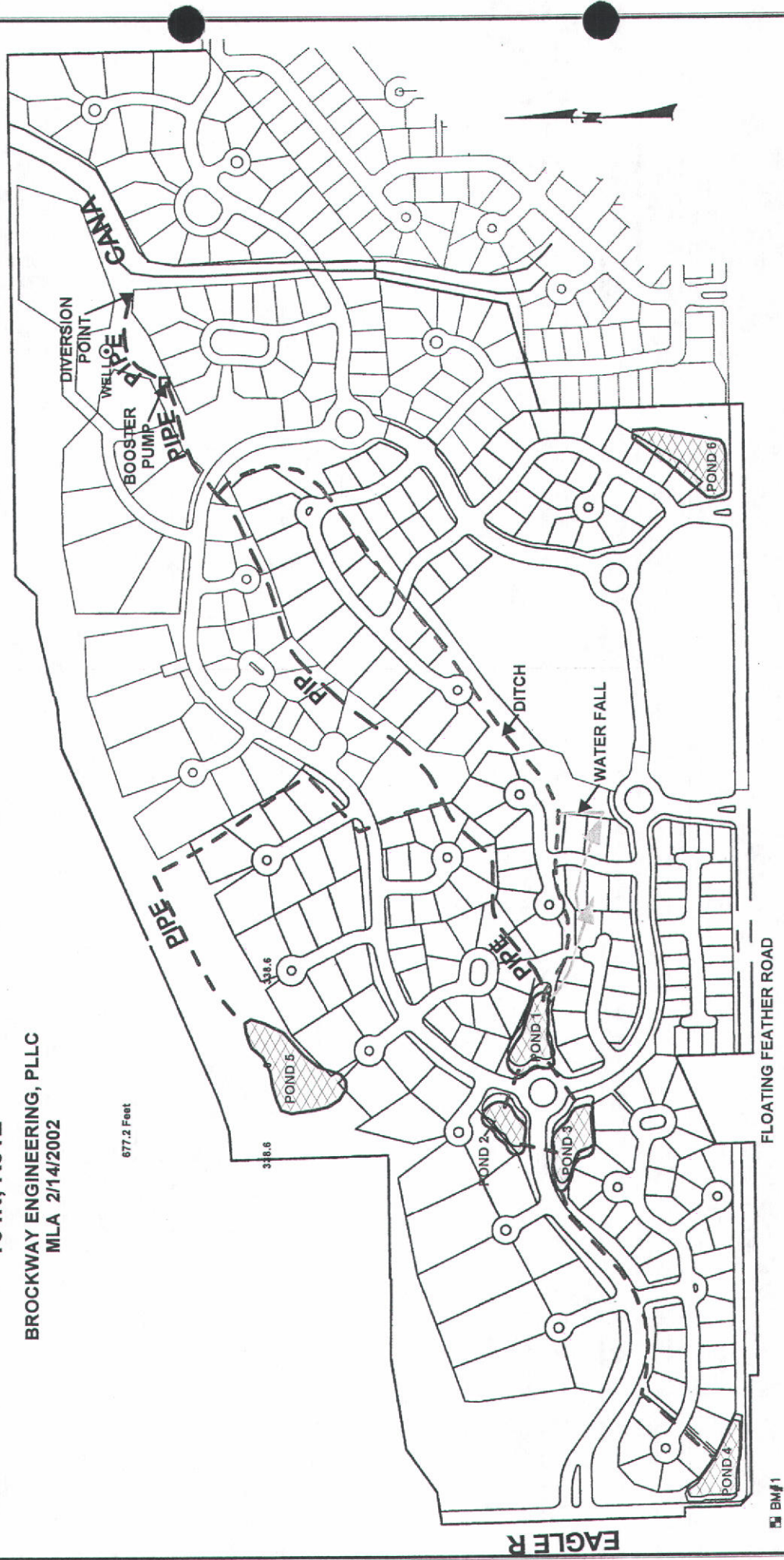


Figure 2.
Brookwood Subdivision
Irrigated Acreage

Property Boundary
 Irrigated Acreage
 Overall Acreage = 185.92

FIGURE 1.
BROOKWOOD SUBDIVISION, EAGLE ID
T04N, R01E

BROCKWAY ENGINEERING, PLLC
MLA 2/14/2002





This is an aerial photograph of a rural landscape, likely in the United States, showing a mix of agricultural fields, some wooded areas, and a small town or village. A yellow grid is overlaid on the image, with a central section labeled 'T4N R1E'. The grid is composed of both straight and wavy lines. The text '1987 Aerial Photo' is printed in yellow in the upper-middle part of the image. The numbers 16, 17, and 18 are placed near the wavy grid lines on the right, center, and left respectively. The photograph is mounted on a white background with two black circular punch holes at the top.

1987 Aerial Photo

T4N R1E

18

17

16



2000 Aerial Photo

An aerial photograph of a rural landscape, likely in the United States, showing a mix of agricultural fields, roads, and some developed areas. A yellow grid is overlaid on the image, with a central vertical line and a horizontal line intersecting. The text "1987 Aerial Photo" is printed in yellow in the upper right quadrant. The text "T4N R1E" is printed in white in the center. The numbers "18", "17", and "16" are printed in yellow on the left, center, and right sides of the horizontal line, respectively. The image is oriented horizontally and has two black circular marks at the top edge.

1987 Aerial Photo

T4N R1E

18

17

16

Idaho Department of Water Resources Receipt

Receipt ID W033532

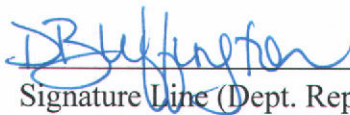
Payment Amount \$25.00 Date Received 10/21/2005 3:52:38 PM Region Western Status
Payment Type Check Check Number 30

Payer BUREAU OF REC. / HAWS, KASANDRA

Comment NOTICE OF PROTEST: 63-32169

Fee Detail

Amount Description Fund FD PCA SO
\$25.00 PROTESTS 0229 21 62103 1155



Signature Line (Dept. Representative)

The Idaho Statesman

RECEIVED

OCT 14 2005

WATER RESOURCES
WESTERN REGION

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account # 047628	DTI# 1364418	Identification APPLICATION FOR PERMIT	Amount: \$127.50
Attention: SUE KREGER	P.O. #	Run Dates OCTOBER 6, 13, 2005	
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705		Number of Lines 2 X 35	
		Affidavit 1	Legal # 23654

LEGAL NOTICE

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

63-32169
ARIES DEVELOPMENT
LLC
PO BOX 6887
BOISE ID 83707

Point(s) of Diversion NESE S4 T04N R01E ADA County Source GROUND WATER
Use: AESTHETIC STORAGE 01/01 To 12/31 60.7 AFA
Total Diversion: 60.7 AFA
Date Filed 08/24/2005
Place Of Use: AESTHETIC STORAGE
T04N R01E S4 NESW SWSW SESW NESE NWSE
SWSE SESE

Remark: Water bearing zone to be appropriated is from 80 to 100 feet.
Aesthetic storage is for six ponds located in Brookwood Subdivision. Evaporative and seepage losses resulting from the ponds are covered on water rights 63-31726 and 63-31689.

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 10/24/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub. Oct. 6, 13, 2005

23654

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: OCTOBER 6, 2005
ending issue of: OCTOBER 13, 2005

Janice Hildreth

STATE OF IDAHO)

.SS

COUNTY OF ADA)

On this 13 day of OCTOBER in the year of 2005 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.

Cecily Bringman

Notary Public for Idaho

Residing at: Boise, Idaho

My Commission expires: 8-27-09



State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32169

Priority: August 24, 2005

Maximum Diversion Volume: 60.7 AF

This is to certify, that ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

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>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	60.7 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER NE¼SE¼ Sec. 4, Twp 04N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals	
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE		
04N	01E	4																		

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **August 1, 2011**.
2. Subject to all prior water rights.
3. Aesthetic storage under this right is solely for the purpose of authorizing the storage of water in the six ponds identified in the place of use. This right does not authorize additional diversion of water to cover evaporative losses and seepage for pond maintenance. Rights 63-31726 and 63-31689 provide water to replace seepage and evaporative losses from the ponds.
4. The ponds constructed in connection with this right shall be lined with bentonite or other impervious material to minimize seepage losses.
5. Should refilling and/or maintaining the water level in the ponds require more water than is authorized for diversion under Rights 63-31726 and 63-31689, the right holder shall rent water from the water supply bank or provide water from another water right or source in a manner recognized and approved by the Department.
6. 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 the permit holder had no control.
7. Water stored under this right shall not be used for irrigation purposes.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32169

CONDITIONS OF APPROVAL CONTINUED

8. The terms and conditions of the Settlement Agreement dated October 31, 2004, adopted by the Department pursuant to Final Order of the Director on February 17, 2005, in the matter of Transfer No. 70604 (Claim No. 63-5087 and Water Right No. 63-31689), shall be the terms and conditions of approval for Application No. 63-32169.
9. The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

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 August, 2006.


KARL J DREHER, Director

Chuck Brockway
736-8543

Tammy Zoken. 331-1800

AMENDED

Ident. No. 63-32169

RECEIVED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Aries Development L.L.C Phone 208-336-2200
Post Office address P.O. Box 6887 Boise, ID 83707
2. Source of water supply Ground water which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of NE 1/4 of SE 1/4, Govt. Lot _____
Sec. 4 Township 4N Range 1E B.M. Ada County; additional
points of diversion, if any: Includes diversion from and new well for makeup water
4. Water will be used for the following purposes:
Amount 60.7 for Aesthetic Storage purposes from 1-1 to 12-31 (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 being appropriated is (a) _____ and/or (b) 60.7
cubic feet per second acre-feet per annum
6. Proposed diverting works:
a. Description of ditches, flumes, pumps, headgates, etc. Well and pipe/ditch distribution to
ponds within Brookwood Subdivision Water bearing strata is from 80 to 100 ft.
See attached narrative
b. Height of storage dam 0 feet; active reservoir capacity 60 acre-feet; total
reservoir capacity 60.7 acre-feet; period of year when water will be diverted to storage:
1-1 to 12-31 inclusive.
c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
d. Is groundwater with a temperature of greater than 85 degrees being sought? No
e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 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. Irrigation and recreation and aesthetic storage. Pond #1 is
used as a pump pond for irrigation and for rec. and aesthetics in wintertime
See attached narrative

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	RANGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	1E	4									A		A	A	A	A	A	A	

Total number of acres to be irrigated

10. Describe any other water rights used for the same purposes as described above. Canal shares from

Farmers Union Canal and ground water as proposed in application for permit 63-31689

11. a. Who owns the property at the point of diversion? Applicant

b. Who owns the land to be irrigated or place of use? Applicant

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

12. Remarks: See attached narrative

13. MAP OF PROPOSED PROJECT ATTACHED show clearly the proposed point of diversion, place of use, section number, township and range number.

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.

Natalie K. Krumholz
 (Applicant)
Natalie K. Krumholz
 Managing Member

Received by *MK* Date *8/24/05* Time *12:39* Preliminary check by *g*
 Fee \$ *250.00* Received by *MK* # *C078946* Date *8-24-05*
 Publication prepared by *SK* Date *10-6-13-05* Published in *THE IDAHO STATESMAN*
 Publication approved *SK* Date *10-24-05*

Narrative in Support of Application for Permit for Storage
Brookwood Subdivision Aries Development L.L.C.
by Brockway Engineering P.L.L.C.

August 22, 2005

Brookwood is a 382 unit subdivision located in Section 4, T 4N R 1E Boise Meridian north of Eagle, Idaho. This subdivision, located on bottom land and bench areas of Dry Creek, is being developed on irrigated farmland served by the Farmers Union Canal. The Farmer's Union Canal is the east boundary of the subdivision and the historical irrigation diversion from the canal will continue to serve the irrigation requirements for a pressure irrigation system serving all lots and common areas. Domestic water is provided by the municipal system of the City of Eagle.

The subdivision will include water amenities including six (6) multi-purpose ponds providing irrigation storage and aesthetic benefits, Figure 1. The ponds will be maintained by diversions from the canal system during the irrigation season and by ground water provided from an exchange well during the non-irrigation season.

The purpose of this Application is to obtain a permit for storage in the pond system. There are six (6) ponds in the system as shown on the attached Figure 1. Pond #1 is utilized for irrigation storage and the irrigation system pumping plant diverts from Pond #1. The other ponds are utilized for both summer time and winter time recreation and aesthetic purposes. Application for permit 63-31689 is for a well to provide water for non-irrigation season maintenance of the pond and ditch system. Water from the canal system, using shares owned by Brookwood in the Farmer's Union Canal is the irrigation source for the subdivision. .

Figure 1 shows the plat of the subdivision, canal diversion, distribution system and the six (6) ponds. Ponds 1,2,3, 4, and 5 are lined with bentonite and compacted earth and Pond 6 is lined with a membrane liner. Pond 5 was lined in 2004. During the non-irrigation season, the pond levels will be maintained with ground water pumped as necessary up to 40 af as applied for under application 63-31689.

Brookwood owns 11 shares in the Farmer's Union Canal. Each share represents 11 miner's inches of discharge so the canal discharge available to the project is 121 miner's inches or 2.42 cfs. Historically, 186.0 acres have been irrigated on the Brookwood property from the canal, see Figure 2.

The project plan includes 382 single family lots with approximately 50 acres of common area. Irrigation of landscaping and turf on each lot and the common area will be from a pressure distribution system with two booster pumps from the pipe/pond system. The upper booster is located near the canal diversion, and the lower booster diverts from Pond 1 near the west end of the subdivision. Based on the average lot size of 0.22 acres, a residence footprint and paved area of 4200 square feet, the irrigated area on each lot is estimated to be 0.12 acres. For the 382 residences the irrigated area is therefore 45.8 acres. The total irrigated area is therefore 50 + 45.8 or 95.8 acres.

Ponds 1,2, and 3 are utilized as irrigation storage and are tied together hydraulically. The pumping plant for the irrigation system is located at the southwest corner of Pond 1. Ponds 4,5, and 6 are off-line ponds and are primarily for recreation and aesthetics. Pond 4 does provide storage for waste water which would normally flow off the property. The combined area of ponds 4,5, and 6 is approximately 3.69 acres. The six ponds are designed with an average surface area of 5.17 acres including ditches and a volume of 60.7 acre feet.

A model of the pipe, ditch and pond system was prepared to simulate the operation of the system during the irrigation season and evaluate the various components of the water balance.

Evapotranspiration for the project was determined using procedures outlined in Allen and Brockway, 1983, using the Boise WSO AP station meteorological and Et data. Free water surface evaporation was determined using procedures outlined in 'Monthly Shallow Pond Evaporation in Idaho by Molnau, Kpordze, and Craine, 1992. ASAE paper PNW 92-111.

The lined ponds and ditches were estimated to have operating loss rates of 0.005 ft/day (1/16 in).

The total seepage through all ponds is estimated to be 0.011 cfs. Evaporation from the pond system during the irrigation season is 16.2 acre feet.

The total consumptive use of the project including turf and landscape irrigation, pond evaporation, and residential in-house consumptive use (not provided by the irrigation system) is 258 af/year whereas the pre-project consumptive use from crop irrigation on 185.96 acres is 489 acre feet per year.

Ground water extraction from the exchange well required to maintain pond seepage and evaporation during the wintertime is estimated to be up to 40 acre feet.. The proposed exchange well would be located near the canal diversion so that discharge can be integrated into the entire distribution system.

The maximum discharge required from the exchange well is estimated at 80 gpm. Operation of the pumped well will not significantly affect aquifer water levels in the area.

The water balance and pond model indicates that pumping from an exchange well on the project of not-more-than 40 acre feet during the non-irrigation season at a rate of 0.178 cfs (80 gpm) will maintain pond levels. The exchange well will provide non-irrigation season pond maintenance water with no increase in depletion of the resource and with a positive impact on the underlying aquifer. Current and future consumptive use from the pond system will be mitigated. Evaporation from the ponds will be mitigated by transfer of 0.04 cfs and 14 acre feet of ground water under water right 63-5087. The 14 af/a is the calculated evaporation from open water surfaces associated with the non-irrigation ponds during the irrigation season and all ponds during the non-irrigation season.

During the non-irrigation season operation of the exchange well, a maximum of 80 gpm will be pumped from the well. The pond water levels will be maintained in all ponds and

the seepage from all ponds will return to the aquifer so the impact on the regional aquifer system will not be significant.

Aries Development L.L.C. members are: Mike Hormachea, Amy Wray, Richard Hormachea, and the Hormachea Grandchildren's Trust.

T4N R1E S4
P/D: NESE
NO Gov Cts

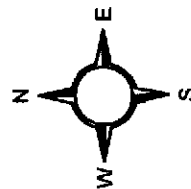
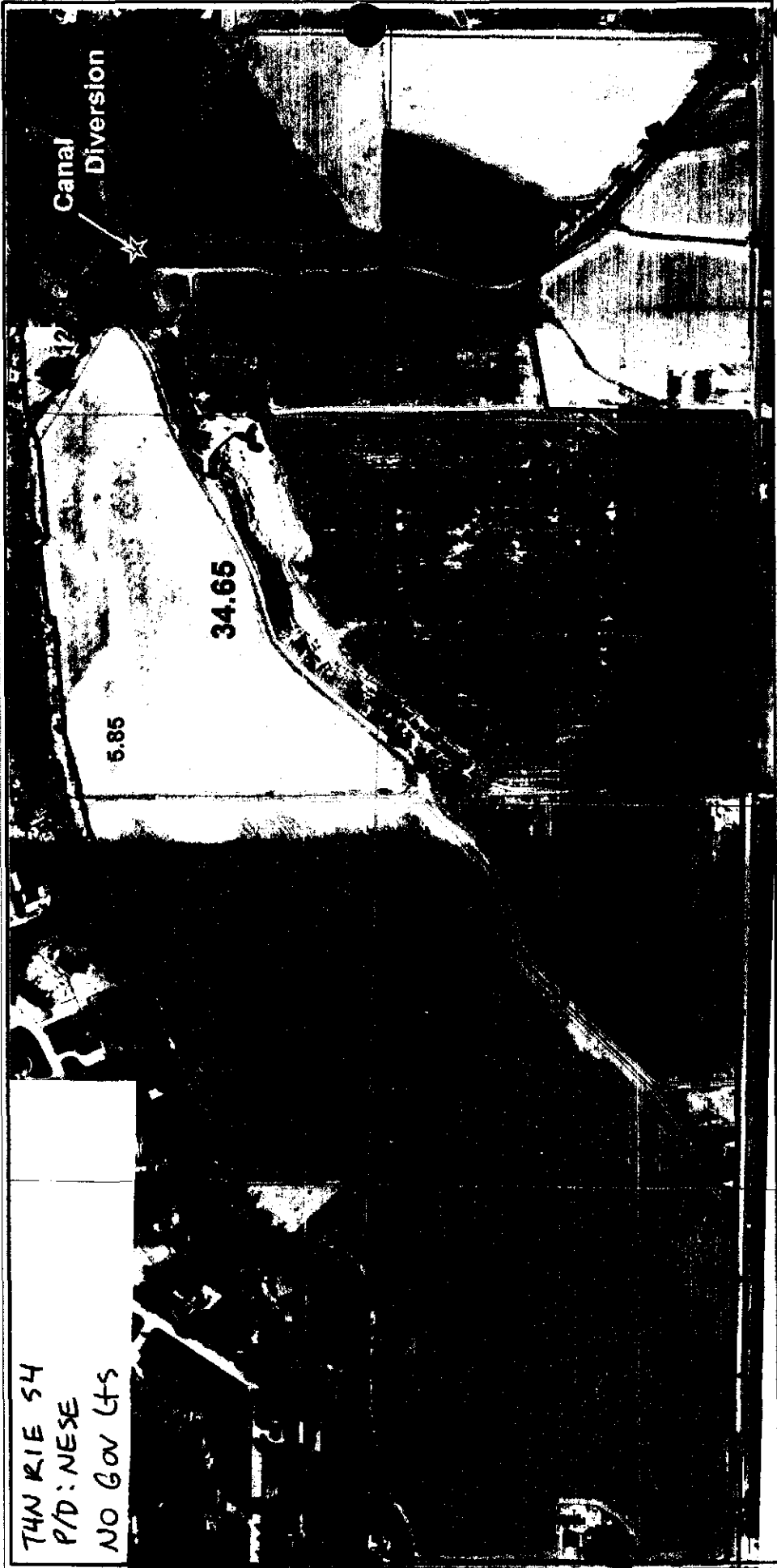


Figure 2.
Brookwood Subdivision
Irrigated Acreage

Property Boundary



Irrigated Acreage



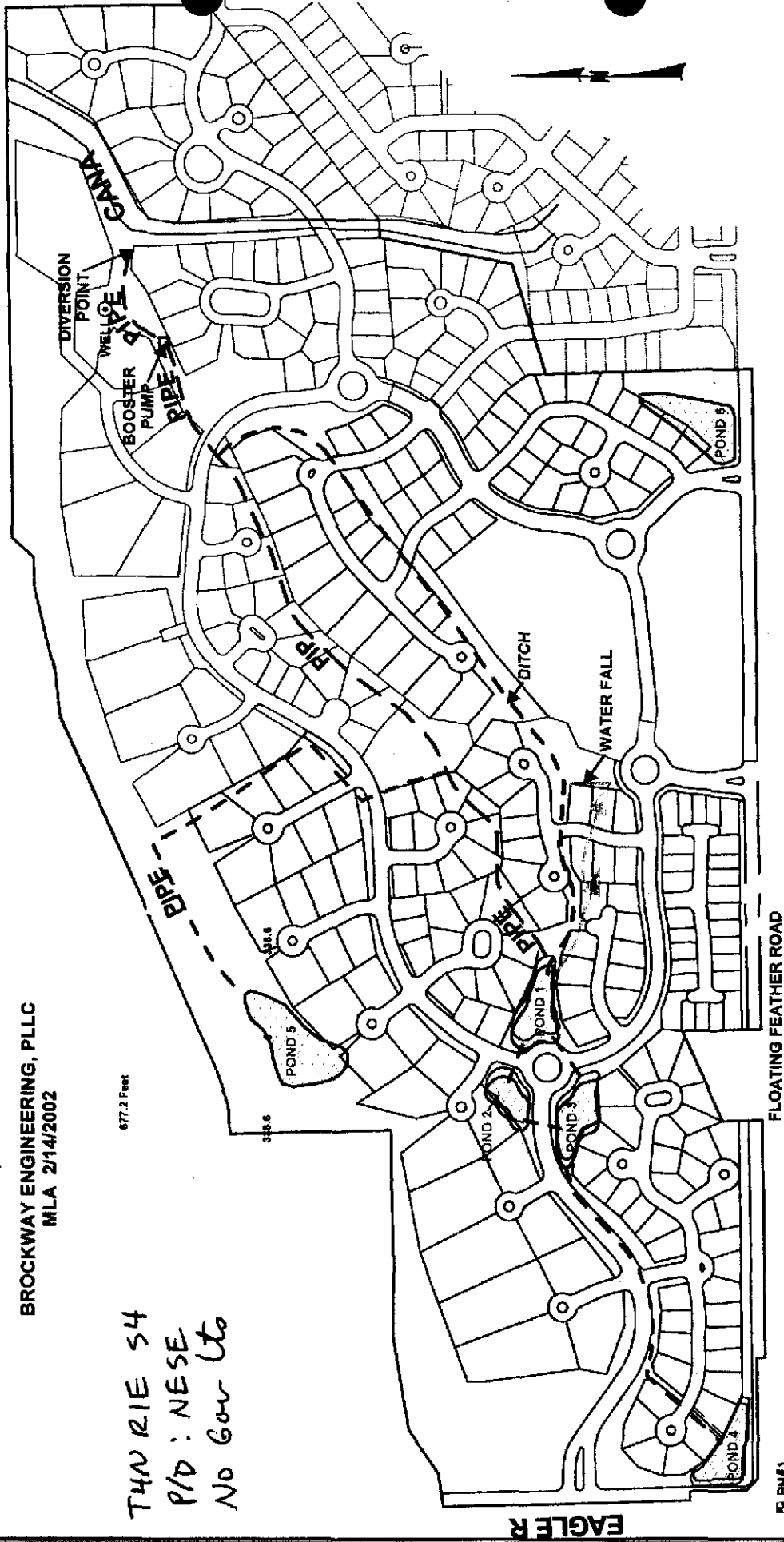
Overall Acreage = 185.92

63-32169

FIGURE 1.
BROOKWOOD SUBDIVISION, EAGLE ID
T04N, R01E

BROCKWAY ENGINEERING, PLLC
 MLA 2/14/2002

T4N R1E S4
 P/D : NESE
 No Gov lto



63-32169

AUG 25 2005

WATER RESOURCES
WESTERN REGION

ORIGINAL
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-32169

RECEIVED

AUG 24 2005

DEPARTMENT OF
WATER RESOURCES

1. Name of applicant Aries Development L.L.C Phone 208-336-2200
Post Office address P.O. Box 6887 Boise, ID 83707
2. Source of water supply Ground water and canal which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of NW 1/4 of NW 1/4, Govt. Lot _____
Sec. 4 Township 4N Range 1E B.M. Ada County; additional
points of diversion, if any: Includes diversion from canal and new well for winter time makeup
4. Water will be used for the following purposes:
Amount 60.7 for Aesthetics purposes from 1-1 to 12-31 (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 being appropriated is (a) _____ and/or (b) 60.7
cubic feet per second acre-feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Well and pipe/ditch distribution to ponds within Brookwood Subdivision See attached narrative
 - b. Height of storage dam 0 feet; active reservoir capacity 60 acre-feet; total reservoir capacity 60.7 acre-feet; period of year when water will be diverted to storage:
1-1 to 12-31 inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - d. Is groundwater with a temperature of greater than 85 degrees being sought? No
 - e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 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. Irrigation and recreation and aesthetic storage. Pond #1 is used as a pump pond for irrigation and for rec. and aesthetics in wintertime See attached narrative

RECEIVED

AUG 24 2005

DEPARTMENT OF
WATER RESOURCES

August 23, 2005

RECEIVED

AUG 25 2005

WATER RESOURCES
WESTERN REGION

Mr. Jeff Peppersack
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Aries Development L.L.C. -- Application for Storage Right -- Brookwood

Dear Jeff:

In response to your letter of August 18, 2005, I am enclosing an application for storage for the Brookwood Subdivision for the six ponds in the system for a total of 60.7 acre feet. As you are aware, three of the ponds are part of the irrigation system and may not require a water right for storage during the irrigation season.

As you indicated in your latter of May 19, 2005, there is some question as to whether the irrigation ponds require a permit for summer time storage since they are associated with the canal shares.

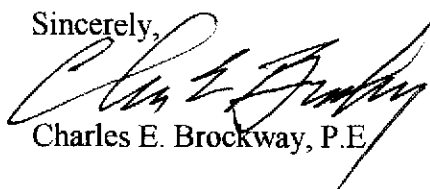
In any case, I have not differentiated between summer and winter time use of the ponds and the application therefore covers year-round use of all ponds for 60.7 acre feet.

I believe this application, coupled with the pending application 63-31689, provides for storage and maintenance of the pond system year round.

I am enclosing a check for \$250.00 to cover the fee for the storage right application.

Please feel free to contact me should you have any questions, or require any further information.

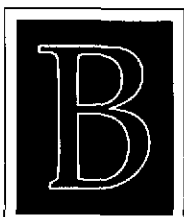
Sincerely,



Charles E. Brockway, P.E.

Enclosure: Application for Water Right Storage
Brockway Engineering, PLLC Check #: 5803

cc: M. Hormachea
E. Robertson



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

August 8, 2006

JAMES E. RISCH
Governor

KARL J. DREHER
Director

ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

RE: Permit No. 63-32169

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.

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 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.

If you have any questions, please contact me at 208-287-4947.

Sincerely,



Shelley W Keen

Foe Water Rights Supervisor

SWK:ka

Enclosure(s)

cc: CHARLES E BROCKWAY

CERTIFICATE OF SERVICE

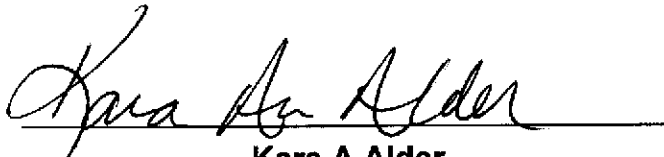
I hereby certify that on August 8, 2006 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO.

63-32169

**CHARLES E BROCKWAY
C/O BROCKWAY ENGINEERING
2016 N WASHINGTON ST #4
TWIN FALLS ID 83301**

**ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707**

A handwritten signature in black ink, reading "Kara A Alder", is written over a horizontal line.

**Kara A Alder
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER, P.L.L.C.
ATTORNEYS AT LAW**

**161 FIFTH AVE. SOUTH, STE 100
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
PHONE (208) 734-0700
FAX (208) 736-0041**

FACSIMILE TRANSMISSION

DATE: December 8, 2005

FAX TO: IDWR 208-334-2348

FROM: Robin L. Moore for Evan Robertson

RE: Aries Development - Application for Permit No. 63-32169

NUMBER OF PAGES INCLUDING THIS ONE: 3

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 734-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 734-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE:

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER,
P.L.L.C.
ATTORNEYS AT LAW**

J. EVAN ROBERTSON
JEFFREY J. HEPWORTH
GARY D. SLETTE
RICHARD J. "TUC" WORST
TIMOTHY J. STOVER



161 Fifth Avenue South - Suite 100
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

J. EVAN ROBERTSON

December 7, 2005

Mr. Jeff Pepperzak, Manager
Water Right Permit Section
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

John Westra
Western Regional Manager
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Application for Permit No. 63-32169

Gentlemen:

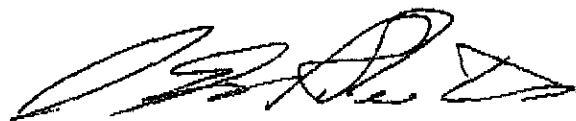
On January 7, 2003, Aries Development, L.L.C. filed with the Department of Water Resources Application for Permit No. 63-31689, seeking a right to appropriate groundwater for water amenities associated with the Brookwood Subdivision located in the city of Eagle. Those amenities included six multi-purpose ponds providing irrigation storage and aesthetic benefits to the subdivision. The application was duly protested by several entities including the City of Eagle, but all of those protests were eventually withdrawn pursuant to the terms of a Settlement Agreement entered into by the parties dated October 31, 2004. Pursuant to the Settlement Agreement, Aries Development, L.L.C. filed an amended application for Permit No. 63-31689 limiting the proposed groundwater right and well to the following parameters:

- (a) Maximum total diversion rate - 80 gpm (.18 cfs)
- (b) Maximum annual volume of water diverted - 40 acre feet
- (c) Maximum well depth - 100 feet
- (d) Maximum well size - 6 inch diameter

Idaho Department of Water Resources
12/7/2005
Page 2

In the subsequent processing of Amended Permit No. 63-31689, Mr. Jeff Pepperzak determined that the Amended Application did not adequately include a storage right for the multi-purpose ponds, which have a total storage capacity of 60.7 acre feet. This determination was communicated to Charles Brockway of Brockway Engineering, PLLC, a consultant to Aries Development, LLC, and that resulted in the submission of Application for Permit No. 63-32169, seeking aesthetic storage in the amount of 60.7 acre feet. The City of Eagle, fearing that Application No. 63-32169 sought to increase the diversion rates and volumes specified in the above-referenced Settlement Agreement and in Amended Application for Permit No. 63-31689, protested that application. Additional groundwater diversion was not the intent of Aries Development, LLC in filing Application for Permit No. 63-32169, and after discussions with representatives of the City of Eagle it was agreed that the City's protest could be withdrawn if the Department, should it approve Application No. 63-32169, indicates that the application is approved exclusively for water storage, to be filled from the Farmers Union Canal shares and groundwater diversions as set forth in Amended Application for Permit No. 63-31689. The undersigned both consent to the Department's agreeing to condition Permit No. 63-32169 in that manner, and upon written confirmation from the Department that our desires can be accomplished, Miss Zokan has agreed to recommend to the City of Eagle that it withdraw its protest.

Sincerely,



J. EVAN ROBERTSON
Attorney for Aries Development, L.L.C.

JER:rlm
simjorletteridwr_pepperzak



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 13, 2005

TAMMY A ZOKAN
MOORE SMITH BUXTON & TURCKE CHTD
225 N 9TH ST SUITE 420
BOISE ID 83702

RE: Aries Development Application 63-32169

Dear Ms. Zokan:

The Department of Water Resources has received your letter of October 7, 2005 seeking additional information regarding the application referenced above. I have enclosed a letter dated May 19, 2005 from the Department to Charles E. Brockway describing the concern over the pond development that resulted in the filing of Application 63-32169.

Please feel free to review the application file for 63-32169 at our Western Region office or any associated files at our State Office at the Water Center.

Sincerely,

for Jeff Peppersack
Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Parties to 63-31689 Settlement Agreement
Jim Johnson – Brookwood HOA

Enclosure to all



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

May 19, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHARLES E BROCKWAY
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

Re: Application for Permit No. 63-31689

Dear Mr. Brockway:

The Department of Water Resources acknowledges receipt of the amended Application for Permit No. 63-31689 to replace the application filed on January 7, 2003 by Aries Development LLC. The amended application was submitted pursuant to the Settlement Agreement dated October 31, 2004 for the contested case resulting from protests to the original application. The contested case was dismissed by the Director on February 17, 2005.

Review of the amended application has raised a question that will need to be addressed before the Department can continue processing the application. It is my understanding that the application for permit seeks to provide ground water in the amount of 0.18 cfs and 40 afa to maintain pond levels. More specifically, the application together with Application for Transfer No. 70604, seeks to provide for year-round seepage losses and non-irrigation season evaporation losses for three irrigation ponds and year-round seepage and evaporation losses for three aesthetic ponds. It is also my understanding that the total capacity of the six ponds is 60.7 af. My concern is described below.

The application, as amended, does not appear to cover the storage volume of the ponds in the amount of 60.7 af. Water Appropriation Rule 35.03b requires that the application shall list the quantity of water to be stored and shall not exceed the capacity of the impoundment structure unless the application includes a plan of operation for filling, if the reservoir is to be filled more than once per year. Maintenance of pond levels can be included as an acceptable plan of operation to allow for a volume greater than the capacity of the impoundment structure(s). The application provides for refill to cover evaporation and seepage in the amount of 40 afa, but does not include the capacity of the ponds in the amount of 60.7 af. There may be some question regarding the need for a permit for the irrigation ponds associated with canal shares for irrigation use during the irrigation season; however, it is clear that all six ponds require a permit for the storage volume that will be impounded for the year-round use.

The Department will hold processing of the applications to provide the applicants additional time to address the concern. If you have any questions regarding this matter, please feel free to contact me at 208-287-4948.

Sincerely,

A handwritten signature in black ink, appearing to read 'JP', with a stylized flourish at the end.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: J. Evan Robertson - Robertson Hepworth Slette Worst & Stover PLLC
John Westra - IDWR Western Region

J EVAN ROBERTSON
ROBERTSON HEPWORTH SLETTE
WORST & STOVER PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906

MICHAEL J SIELER
HOMEOWNERS OF DOWNING
DOWNS SUB
1125 STEEPLE VIEW DR
EAGLE ID 83616

JIM JOHNSON
BROOKWOOD HOA
105 E OLD BARN RD
EAGLE ID 83616

MOLLY O LEARY
RICHARDSON & O LEARY
PO BOX 1849
EAGLE ID 83616-1849

IDAHO DEPT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705-5082

CHARLES L HONSINGER
RINGERT CLARK CHTD
PO BOX 2773
BOISE ID 83701

RECEIVED
MOORE SMITH BUXTON & TURCKE, CHARTERED
OCT 2 2005

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420
BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

Department of Water Resources

SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE‡
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

TODD M. LAKEY
Of Counsel

JOHN J. MCFADDEN*
Of Counsel

* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
* Also admitted in New Mexico

October 7, 2005

Jeff Peppersack, Manager
Water Rights Permits Section
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

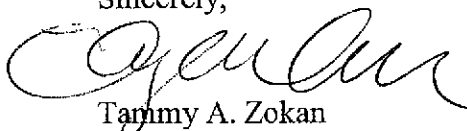
RE: Aries Development, LLC Application No. 63-32169

Dear Mr. Peppersack:

Aries Development previously filed application no. 63-31689 to appropriate groundwater for its ponds. The companion application, application for transfer no. 70604, requested a permit to transfer a groundwater right to mitigate evaporative losses. These applications were protested and the Department issued an order on February 17, 2005, dismissing the contested case based on the parties' settlement agreement. Without consulting the interested parties, the Department sent a letter changing its position and Aries Development filed another application which contradicts the earlier agreement and dismissal. Someone should have contacted the interested parties and explained the proposed changes. Since that did not happen, the Department should provide a written explanation of the changes and the reasons therefore. Please provide a written explanation in advance of the protest deadline.

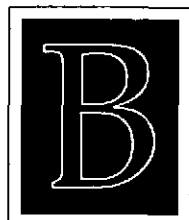
Please contact us if you have any questions. Thank you.

Sincerely,



Tammy A. Zokan

cc City of Eagle
City Engineer
Parties to 63-31689 Settlement Agreement



BROCKWAY
ENGINEERING
P.L.L.C.

Hydraulics

Hydrology

Water Resources

CHARLES E.
BROCKWAY,
PH.D., P.E.

CHARLES G.
BROCKWAY,
PH.D., P.E.

2016 NORTH
WASHINGTON
STREET • SUITE 4

TWIN FALLS,
IDAHO 83301

208•736•8543

FAX: 736•8506

RECEIVED

AUG 24 2005

DEPARTMENT OF
WATER RESOURCES

*original
to
6/24/05
JP*

August 23, 2005

Mr. Jeff Peppersack
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Aries Development L.L.C. – Application for Storage Right – Brookwood

Dear Jeff:

In response to your letter of August 18, 2005, I am enclosing an application for storage for the Brookwood Subdivision for the six ponds in the system for a total of 60.7 acre feet. As you are aware, three of the ponds are part of the irrigation system and may not require a water right for storage during the irrigation season.

As you indicated in your latter of May 19, 2005, there is some question as to whether the irrigation ponds require a permit for summer time storage since they are associated with the canal shares.

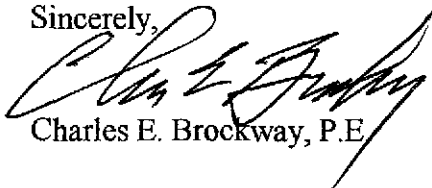
In any case, I have not differentiated between summer and winter time use of the ponds and the application therefore covers year-round use of all ponds for 60.7 acre feet.

I believe this application, coupled with the pending application 63-31689, provides for storage and maintenance of the pond system year round.

I am enclosing a check for \$250.00 to cover the fee for the storage right application.

Please feel free to contact me should you have any questions, or require any further information.

Sincerely,



Charles E. Brockway, P.E.

Enclosure: Application for Water Right Storage
Brockway Engineering, PLLC Check #: 5803

cc: M. Hormachea
E. Robertson

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

Ident. No. 63-32169

RECEIVED

AUG 24 2005

DEPARTMENT OF
WATER RESOURCES

1. Name of applicant Aries Development L.L.C Phone 208-336-2200
Post Office address P.O. Box 6887 Boise, ID 83707
2. Source of water supply Ground water and canal which is a tributary of _____
3. Location of point of diversion is _____ 1/4 of NW 1/4 of NW 1/4, Govt. Lot _____
Sec. 4 Township 4N Range 1E B.M. Ada County; additional
points of diversion, if any: Includes diversion from canal and new well for winter time makeup
4. Water will be used for the following purposes:
Amount 60.7 for Aesthetics purposes from 1-1 to 12-31 (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 being appropriated is (a) _____ and/or (b) 60.7
cubic feet per second acre-feet per annum
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc. Well and pipe/ditch distribution to ponds within Brookwood Subdivision See attached narrative
 - b. Height of storage dam 0 feet; active reservoir capacity 60 acre-feet; total reservoir capacity 60.7 acre-feet; period of year when water will be diverted to storage:
1-1 to 12-31 inclusive.
 - c. Proposed well diameter is _____ inches; proposed depth of well is _____ feet
 - d. Is groundwater with a temperature of greater than 85 degrees being sought? No
 - e. If well is already drilled, when? _____; Drilling firm _____;
Well was drilled for (well owner) _____
7. Time required for completion of works and application of water to proposed beneficial use is 5 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. Irrigation and recreation and aesthetic storage. Pond #1 is used as a pump pond for irrigation and for rec. and aesthetics in wintertime See attached narrative

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	RANGE	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
4N	1E	4									A		A	A	A	A	A	A	

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. Canal shares from
Farmers Union Canal and ground water as proposed in application for permit 63-1689

11. a. Who owns the property at the point of diversion? Applicant
- b. Who owns the land to be irrigated or place of use? Applicant
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: _____

12. Remarks: See attached narrative

13. MAP OF PROPOSED PROJECT ATTACHED _____ show clearly the proposed point of diversion, place of use, section number, township and range number.

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 K. Krumholz
 (Applicant)

Received by LM Date _____ Time _____ Preliminary check by _____
 Fee \$ 250.00 Receipted by LM # C078946 Date 8-24-05
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

Narrative in Support of Application for Permit for Storage

Brookwood Subdivision Aries Development L.L.C.
by Brockway Engineering P.L.L.C.

August 22, 2005

Brookwood is a 382 unit subdivision located in Section 4, T 4N R 1E Boise Meridian north of Eagle, Idaho. This subdivision, located on bottom land and bench areas of Dry Creek, is being developed on irrigated farmland served by the Farmers Union Canal. The Farmer's Union Canal is the east boundary of the subdivision and the historical irrigation diversion from the canal will continue to serve the irrigation requirements for a pressure irrigation system serving all lots and common areas. Domestic water is provided by the municipal system of the City of Eagle.

The subdivision will include water amenities including six (6) multi-purpose ponds providing irrigation storage and aesthetic benefits, Figure 1. The ponds will be maintained by diversions from the canal system during the irrigation season and by ground water provided from an exchange well during the non-irrigation season.

The purpose of this Application is to obtain a permit for storage in the pond system. There are six (6) ponds in the system as shown on the attached Figure 1. Pond #1 is utilized for irrigation storage and the irrigation system pumping plant diverts from Pond #1. The other ponds are utilized for both summer time and winter time recreation and aesthetic purposes. Application for permit 63-31689 is for a well to provide water for non-irrigation season maintenance of the pond and ditch system. Water from the canal system, using shares owned by Brookwood in the Farmer's Union Canal is the irrigation source for the subdivision. .

Figure 1 shows the plat of the subdivision, canal diversion, distribution system and the six (6) ponds. Ponds 1,2,3, 4, and 5 are lined with bentonite and compacted earth and Pond 6 is lined with a membrane liner. Pond 5 was lined in 2004. During the non-irrigation season, the pond levels will be maintained with ground water pumped as necessary up to 40 af as applied for under application 63-31689.

Brookwood owns 11 shares in the Farmer's Union Canal. Each share represents 11 miner's inches of discharge so the canal discharge available to the project is 121 miner's inches or 2.42 cfs. Historically, 186.0 acres have been irrigated on the Brookwood property from the canal, see Figure 2.

The project plan includes 382 single family lots with approximately 50 acres of common area. Irrigation of landscaping and turf on each lot and the common area will be from a pressure distribution system with two booster pumps from the pipe/pond system. The upper booster is located near the canal diversion, and the lower booster diverts from Pond 1 near the west end of the subdivision. Based on the average lot size of 0.22 acres, a residence footprint and paved area of 4200 square feet, the irrigated area on each lot is estimated to be 0.12 acres. For the 382 residences the irrigated area is therefore 45.8 acres. The total irrigated area is therefore 50 + 45.8 or 95.8 acres.

Ponds 1,2, and 3 are utilized as irrigation storage and are tied together hydraulically. The pumping plant for the irrigation system is located at the southwest corner of Pond 1. Ponds 4,5, and 6 are off-line ponds and are primarily for recreation and aesthetics. Pond 4 does provide storage for waste water which would normally flow off the property. The combined area of ponds 4,5, and 6 is approximately 3.69 acres. The six ponds are designed with an average surface area of 5.17 acres including ditches and a volume of 60.7 acre feet.

A model of the pipe, ditch and pond system was prepared to simulate the operation of the system during the irrigation season and evaluate the various components of the water balance.

Evapotranspiration for the project was determined using procedures outlined in Allen and Brockway, 1983, using the Boise WSO AP station meteorological and Et data. Free water surface evaporation was determined using procedures outlined in 'Monthly Shallow Pond Evaporation in Idaho by Molnau, Kpordze, and Craine, 1992. ASAE paper PNW 92-111.

The lined ponds and ditches were estimated to have operating loss rates of 0.005 ft/day (1/16 in).

The total seepage through all ponds is estimated to be 0.011 cfs. Evaporation from the pond system during the irrigation season is 16.2 acre feet.

The total consumptive use of the project including turf and landscape irrigation, pond evaporation, and residential in-house consumptive use (not provided by the irrigation system) is 258 af/year whereas the pre-project consumptive use from crop irrigation on 185.96 acres is 489 acre feet per year.

Ground water extraction from the exchange well required to maintain pond seepage and evaporation during the wintertime is estimated to be up to 40 acre feet.. The proposed exchange well would be located near the canal diversion so that discharge can be integrated into the entire distribution system.

The maximum discharge required from the exchange well is estimated at 80 gpm. Operation of the pumped well will not significantly affect aquifer water levels in the area.

The water balance and pond model indicates that pumping from an exchange well on the project of not-more-than 40 acre feet during the non-irrigation season at a rate of 0.178 cfs (80 gpm) will maintain pond levels. The exchange well will provide non-irrigation season pond maintenance water with no increase in depletion of the resource and with a positive impact on the underlying aquifer. Current and future consumptive use from the pond system will be mitigated. Evaporation from the ponds will be mitigated by transfer of 0.04 cfs and 14 acre feet of ground water under water right 63-5087. The 14 af/a is the calculated evaporation from open water surfaces associated with the non-irrigation ponds during the irrigation season and all ponds during the non-irrigation season.

During the non-irrigation season operation of the exchange well, a maximum of 80 gpm will be pumped from the well. The pond water levels will be maintained in all ponds and

the seepage from all ponds will return to the aquifer so the impact on the regional aquifer system will not be significant.

Aries Development L.L.C. members are: Mike Hormachea, Amy Wray, Richard Hormachea, and the Hormachea Grandchildren's Trust.

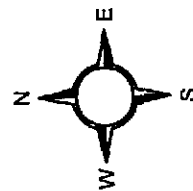
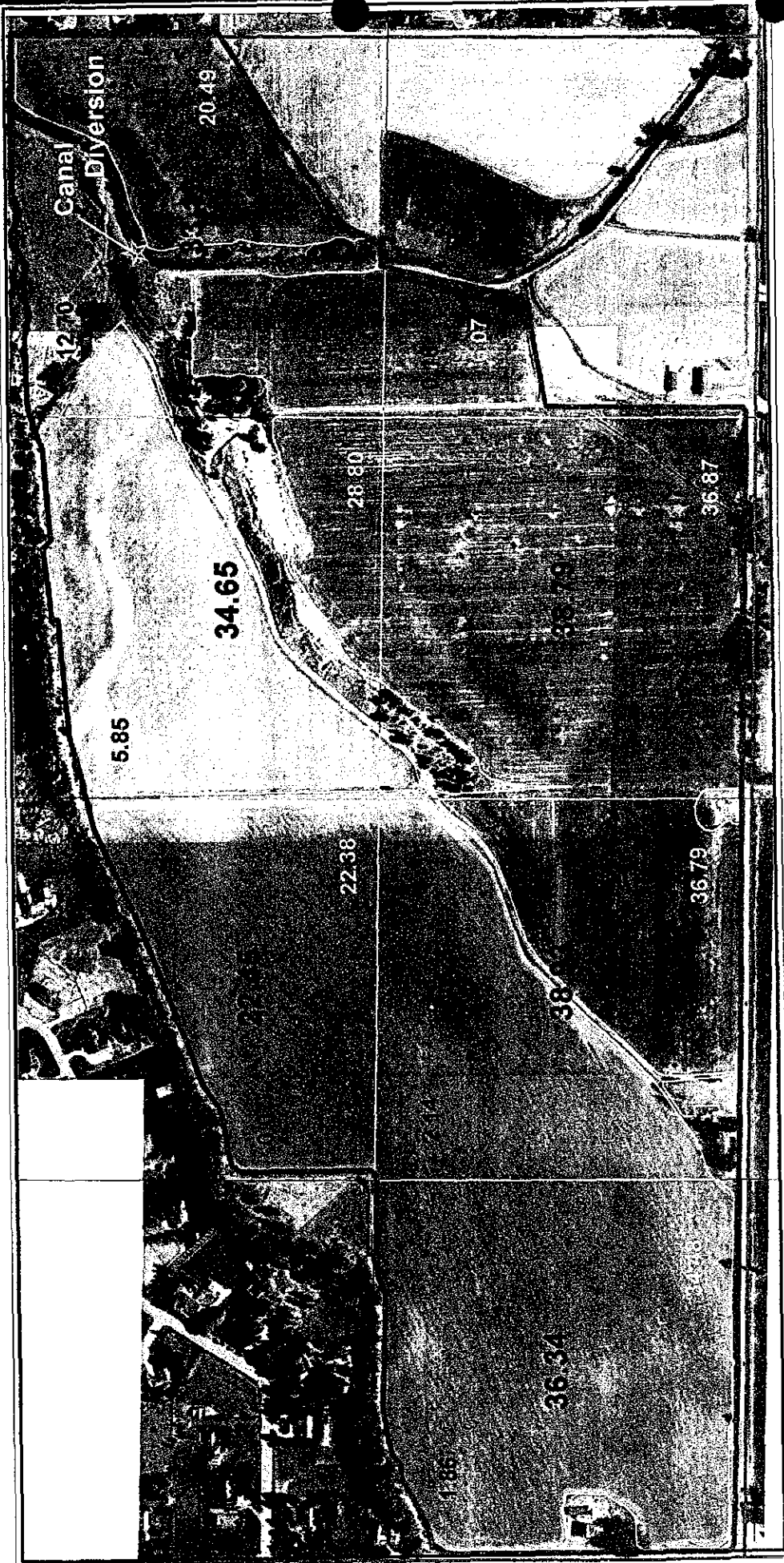


Figure 2.
Brookwood Subdivision
Irrigated Acreage

Property Boundary

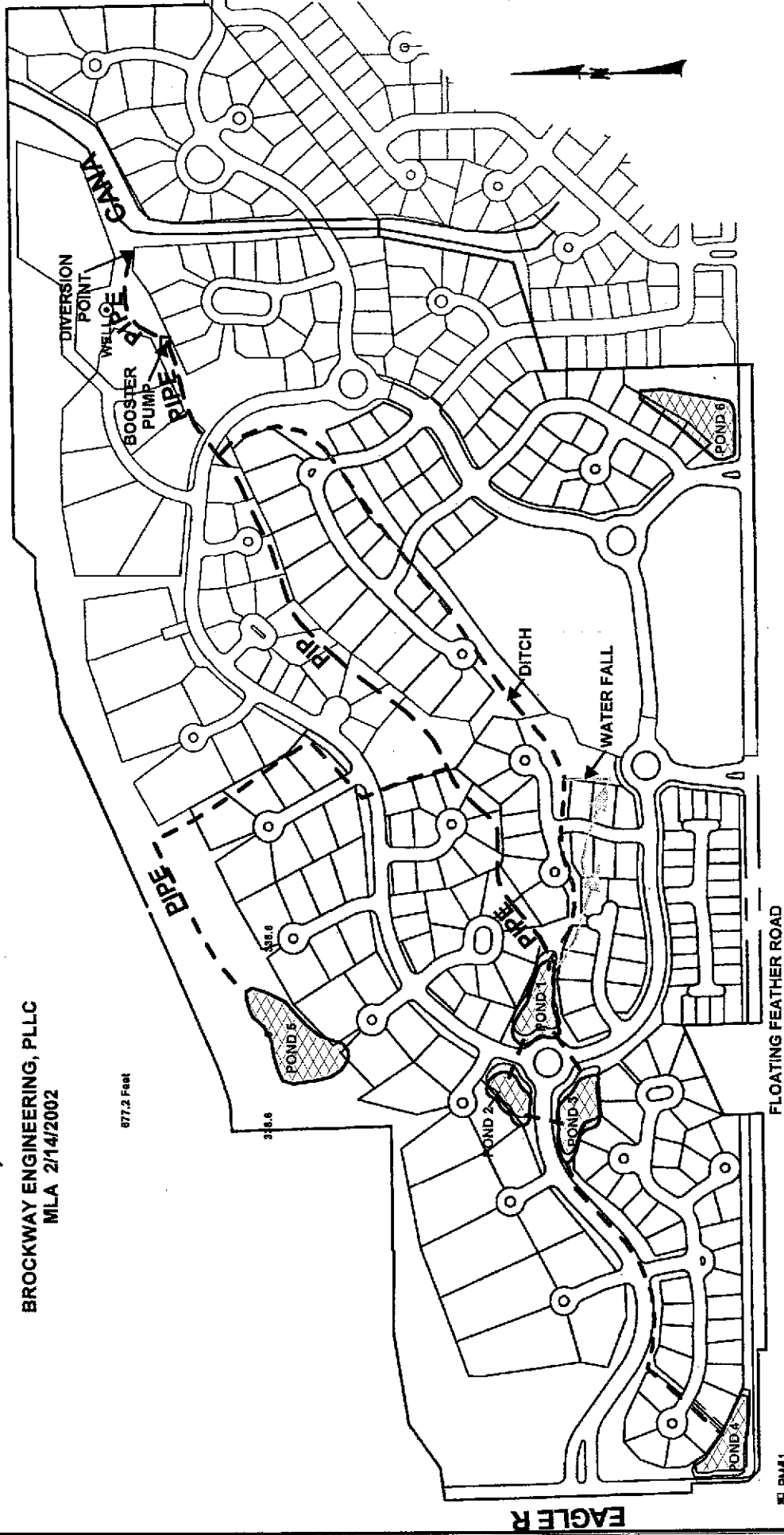
Irrigated Acreage

Overall Acreage = 185.92



FIGURE 1. **BROOKWOOD SUBDIVISION, EAGLE ID** **T04N, R01E**

BROCKWAY ENGINEERING, PLLC
 MLA 2/14/2002



BM#1

Payment Amount: \$250.00 Date Received: 8/24/2005 12:39:31 PM Region: State Status: 
Payment Type: Check Check Number: 5803

Comment APP FOR PERMIT - ARIES DEVELOPMENT LLC

Amount	Description	Fund	FD	PCA	SO
\$250.00	PERMITS	0229	21	56103	1155

Signature Line (Dept. Representative)

RECEIVED

Form 42-1761
01/03

MAY 11 2005

WATER RESOURCES
WESTERN REGION

Water Supply Bank No. _____

Water Right No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK

RECEIVED
FEB 23 2006
DEPARTMENT OF WATER RESOURCES

Name of Seller/Lessor BW Inc. Phone 375-6666

Post office address 250 S. Beechwood, Suite 120, Boise, Idaho 83709

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. 63-194 Decreed to Thomas Aiken
(Name)
in case of _____ vs _____
dated 06/01/1877 in _____ county of _____
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water
Resources.
- c. Permit No. _____ issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)

- a. Amount of water under right: 1.71 cubic feet per second &/or
_____ acre-feet per annum
- b. Point of diversion: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16 Township 4 N Range
1 E, B.M. in ADA County.
Additional points _____

WATER BANK
APPL.

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	17			9.2	7.92				3.67	10.68			1.19	15.25	11.89	9.22	16.3	85.32

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 85.32

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

Purchase of the point of diversion and point of use.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

See attached 1987 and 2000 aerial photos showing irrigation use.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

March 15 to November 15

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

A portion of the place of use has been converted or is being converted to impervious surface.

The remaining portion of the place of use will either be ponds or irrigated

yard, garden, or open space.

- e. If the water right is a permit, describe the work accomplished toward developing the right.

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

1.71 _____ For lease for a period from indefinite to indefinite
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Date 5/11/05

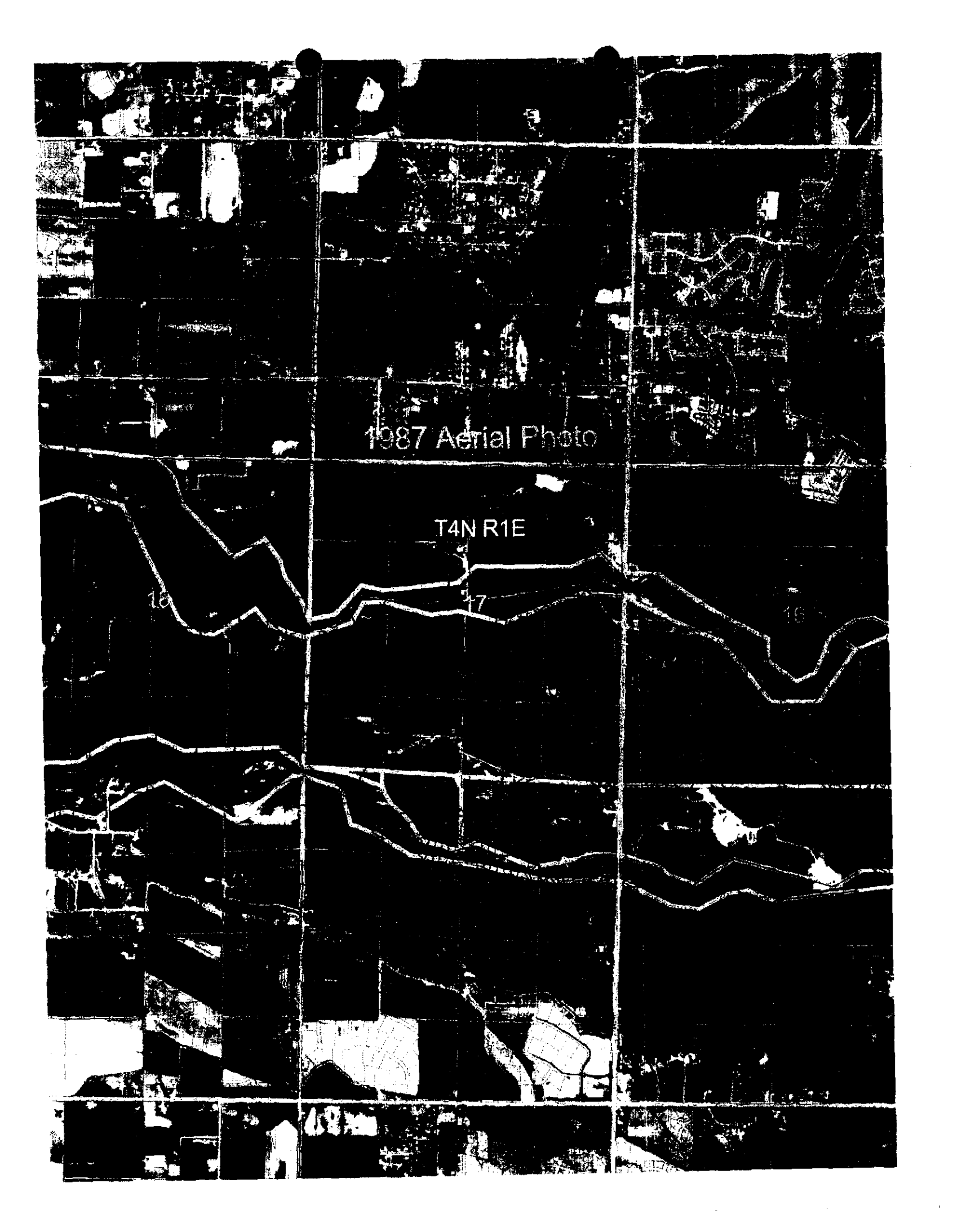
Signature X P. S. Baker

FOR DEPARTMENT USE ONLY

Received by _____ Date _____ Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____

An aerial photograph of a rural landscape, likely a farm or ranch, with a grid overlay. The image is in black and white, showing fields, roads, and some buildings. The grid is composed of thin white lines. The text "1987 Aerial Photo" is printed in the center of the image. Below it, the text "T4N R1E" is printed. The numbers "16" and "17" are visible on the left and right sides of the grid, respectively. The text "1987 Aerial Photo" is located in the upper right quadrant of the image. The text "T4N R1E" is located in the center of the image. The numbers "16" and "17" are located on the left and right sides of the grid, respectively.

1987 Aerial Photo

T4N R1E

16

17

16

ORIGINAL

Water Supply Bank No. _____

Water Right No. _____

**STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES**

**APPLICATION TO SELL OR LEASE A WATER RIGHT
TO THE WATER SUPPLY BANK**

Name of Seller/Lessor BW Inc. Phone 375-6666

Post office address 250 S. Beechwood, Suite 120, Boise, Idaho 83709

1. DESCRIPTION OF WATER RIGHT:

Right evidenced by:

- a. Decree No. 63-194 Decreed to Thomas Aiken
(Name)
in case of _____ vs _____
dated 06/01/1877 in _____ county of _____
(Name of court)
- b. License No. _____ issued by the Idaho Department of Water
Resources.
- c. Permit No. _____ issued by the Idaho Department of Water
Resources.

2. DESCRIPTION OF PORTION OF RIGHT FOR SALE OR LEASE: (If the entire right is for sale or lease,
show "all" on line a. below and skip the remainder of part 2.)

- a. Amount of water under right: 1.44 cubic feet per second &/or
_____ acre-feet per annum
- b. Point of diversion: SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Section 16 Township 4 N Range
1 E, B.M. in ADA County.
Additional points _____

c. Place of use:

TWP	RGE	SEC	N E				N W				S W				S E				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	17			4.5	5.8				3.0	7.5			1.2	9.8	14.2	9.6	16.6	72.2

If the right is for irrigation, show the number of acres for the part of the right to be put into the bank.

Total number of acres 72.2

3. ADDITIONAL INFORMATION ABOUT RIGHT, OR PORTION THEREOF, FOR SALE OR LEASE

- a. Explain how the seller/lessor acquired the right, or portion thereof, and attach a copy of the deed to the land to which it is appurtenant or other evidence of ownership of the right. If the right is not recorded in the name of the seller/lessor, attach a copy of a change of ownership form as required by Section 42-248 or 42-1409(6), Idaho Code, together with required documentation.

Purchase of the point of diversion and point of use.

- b. Describe the frequency of water use under the right, or portion thereof, during the past five (5) years of use. Attach watermaster records, pumping power bills, or other evidence to demonstrate that the right has not been lost through abandonment or forfeiture. (This information is not required if a partial decree has been issued on the right within the last 5 years).

See attached 1987 and 2000 aerial photos showing irrigation use.

- c. If the right is from a surface water source, describe the period of the year that water is typically available to satisfy the right.

March 15 to November 15

- d. Describe any other water rights with the same purpose and place of use as the right, or portion thereof, offered for lease. Will the present place of use continue to receive water from any source? If so, describe.

A portion of the place of use is being converted to impervious surface.

The remaining portion of the place of use will either be ponds or irrigated yard, garden, or open space.

- e. If the water right is a permit, describe the work accomplished toward developing the right.

- f. If the right to the use of the water or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district, a written consent of the sale or lease must be attached.

4. REMARKS:

5. SALE/LEASE AGREEMENT

1. The water right, or portion thereof, described above is offered to the Idaho Water Resource Board:

_____ For sale;

1.44 For lease for a period from indefinite to indefinite
(Day, month, year) (Day, month, year)

(The lease period may be shown as "indefinite", if the total duration of lease is unknown); or

_____ As a gift to the state of Idaho.

2. Show the minimum payment acceptable to the Seller/Lessor. Include the method of determining the minimum payment. The minimum payment may be shown as the "current rental rate".

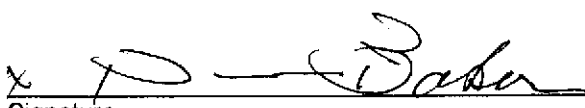
Current rental rate.

I hereby assert that the information contained in this application is true to the best of my knowledge, and that I have the authorities necessary to offer this right for sale or lease to the Idaho Water Resource Board.

The owner/lessor acknowledges the following:

1. Payment to the owner/lessor is contingent upon the sale or rental of the right from the bank.
2. While a right is in the bank, the owner of the right may not use the right even if the right is not rented.
3. A right accepted into the bank stays in the bank until the Board releases it or until the lease term expires.
4. While a water right is in the bank, forfeiture provisions are stayed.
5. Acceptance of a right into the bank does not, in itself, confirm the validity of the right or any elements of the water right.

Date _____

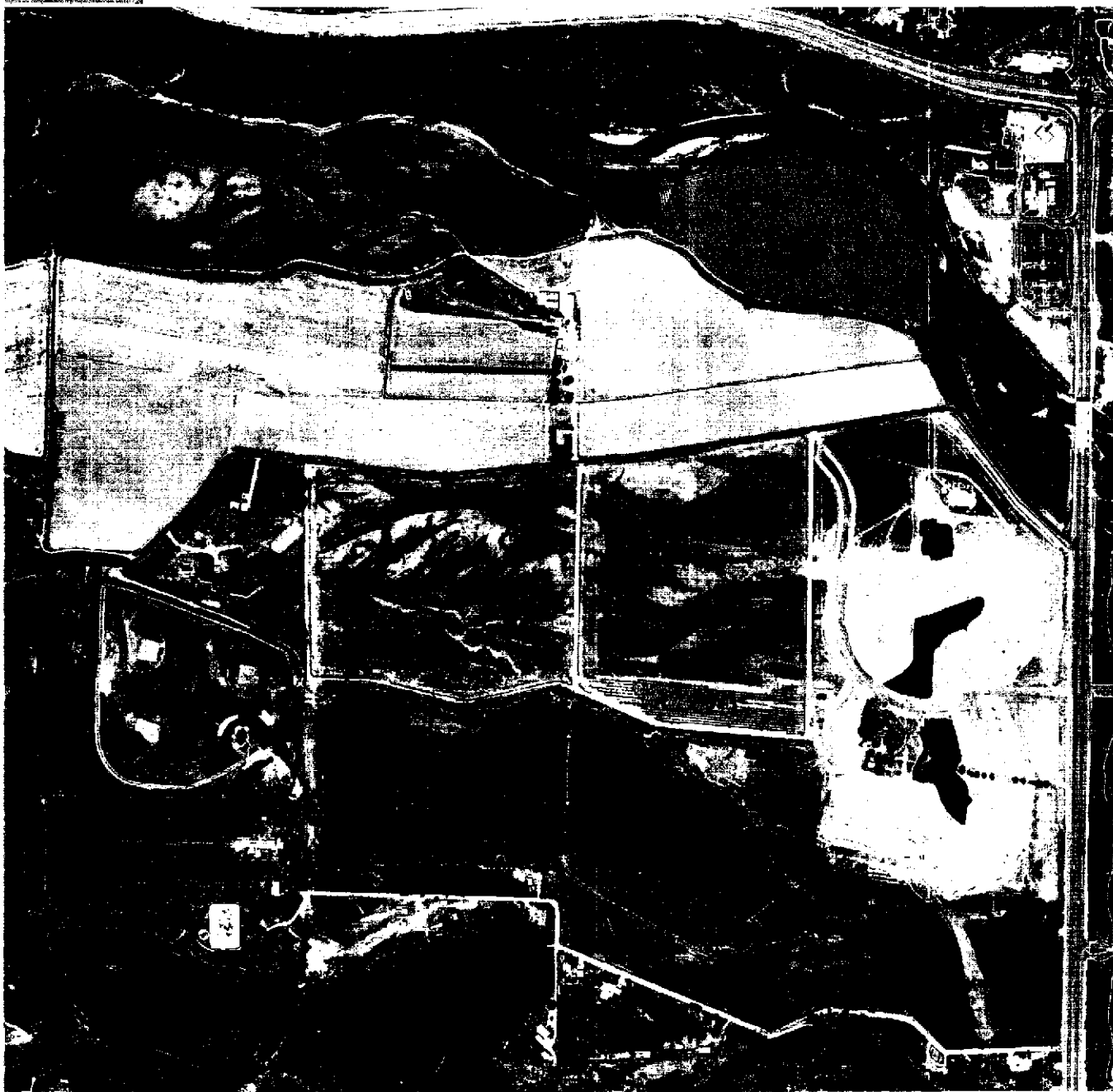

Signature _____

FOR DEPARTMENT USE ONLY

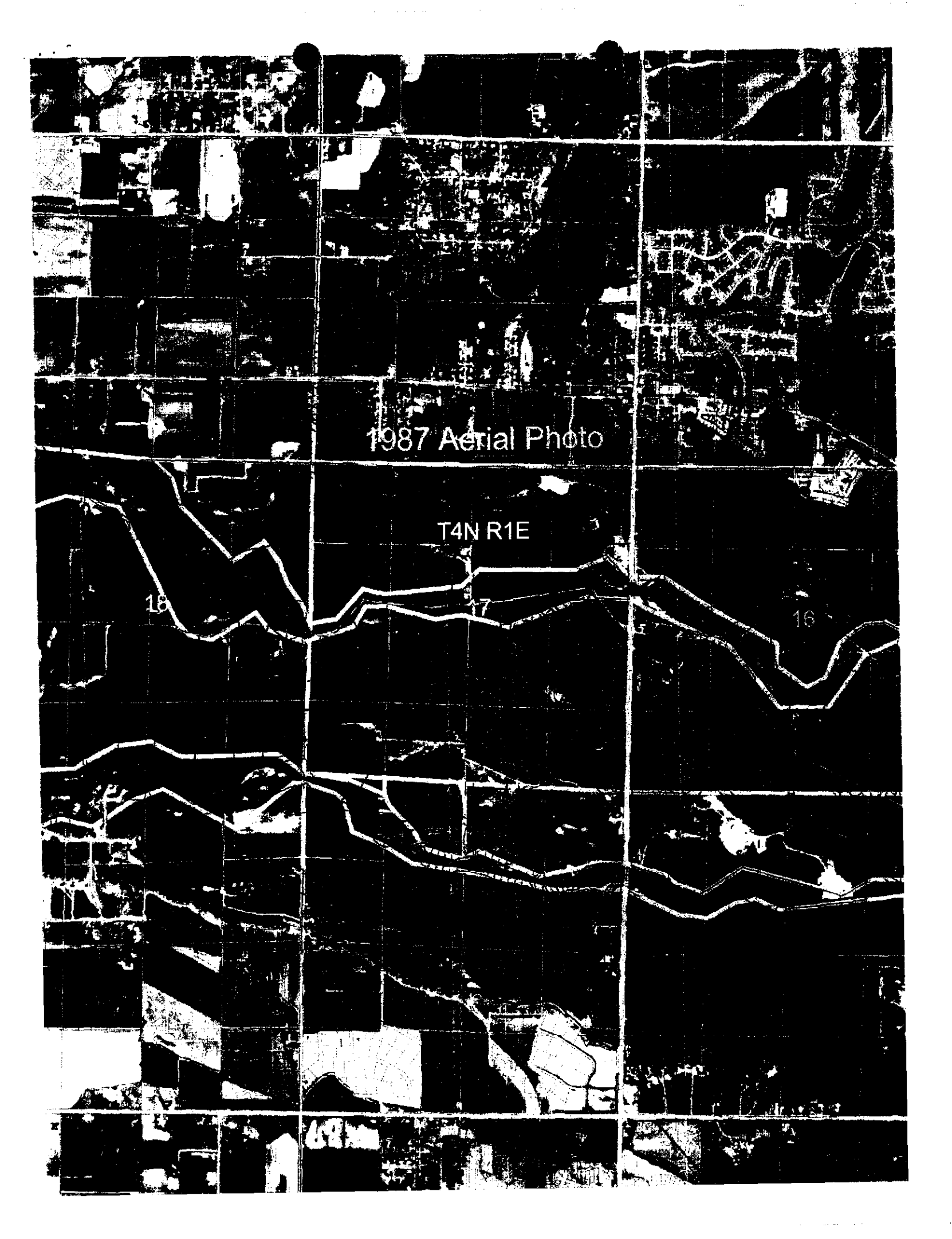
Received by DB Date 12/2/04 Preliminary check by _____

Watermaster recommendation requested on _____ Received _____

Recommended for _____ approval _____ denial by _____



2000 Aerial Photo

An aerial photograph of a rural landscape, likely a farm or ranch, with a grid overlay. The image is in black and white, showing fields, roads, and some structures. The grid is composed of thin white lines. The text "1987 Aerial Photo" is centered in the upper half of the image. Below it, the text "T4N R1E" is centered. To the left of the center, the number "18" is visible, and to the right, the number "16" is visible. The landscape features a mix of open fields, some with what appears to be crops or pasture, and some areas that might be wooded or have other vegetation. There are also some small structures or buildings scattered throughout, particularly in the upper left and lower right areas. The grid lines are spaced evenly, creating a series of rectangular sections across the entire image.

1987 Aerial Photo

T4N R1E

18

16

IDAHO DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Comments

Initial review by g Date 9/14/05 Application # 63-32169

REQUIRED INFORMATION

RECEIVED

- ☒ Name (for corporation or partnership, names & addresses for director, officers, &/or other partners must be included)
- ☒ Address
- ☒ Source (see USGS quad for source names) *clarified to GW only*
- ☒ P/D (10 acres for spring, lot & block descriptions for subdivisions, local name)
- ☒ County
- ☒ Quantity (flow & /or volume)
- ☒ Period of use
- ☒ Nature of use (list details in appl. Item 8 if non-irrigation)
- ☒ Description of diverting works
- ☒ Time required for beneficial use of water
- ☒ P/U
- ☒ Map (show T, R, S, QQ &/OR QQQ)
- ☒ Subdivision plat (if > 1 home restricted area ≥ 5 homes non-restricted area)
- ☒ Signature (if corporation, partnership, municipality, need title of signatory)
- ☒ Correct fee paid

Government Lots

N P/D
N P/U

ADDITIONAL INFORMATION

ADVERTISE REMARKS

☒ YES ☐ NO

YES NO

- ☒ P/D overlap (explain)
- ☒ P/U overlap (explain)
- ☒ Critical groundwater area (send letter)
- ☒ Ground water management area (send letter)
- ☒ Drilling concern area (send letter)
- ☒ 1992 moratorium (send letter)
- ☒ Surface water source, IDFG comment letter
- ☒ Protected river or minimum flow reach, notify water planning bureau
- ☒ E-mail to Dam Safety staff (if any storage)
- ☒ Mitigation plan: "request to process form" in file: *see comments*
- ☐ Immediate = closed areas, acceptable plan required & submitted
- ☐ Future = open areas, plan not required
- ☒ 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 APPLICANT

Chuck Brockway clarified the P/D, source, use and water hearing zone.

Date Requested 9/14/05 Date Response Received 9/15/05

PROCESSING

APPLICATION #

63-32169

YES NO

☒☐

In form for advertising

☒☐

Statewide advertising (> 10 cfs &/or 1000 af)

☒☐

Fee amount, receipt number, & date recorded on application

COMMENT LETTERS

YES NO

☐☒

IDEQ

☐☒

IDFG

☐☒

IDL

☐☒IDWR Water Planning
Bureau

YES NO

☐☒

US BLM

☐☒

US Forest Service

☐☒

Water Dist #

☒☐

Other - list here or attach information

*see attached list***FINAL REGIONAL PROCESSING REVIEW**

YES NO

☒☐

Affidavit of publication received

☒☐

Application published correctly? If not, record action taken

☐☐☒☐

Publication dates & paper recorded on application

☐☐Final date for protest 10-24-05☐☒

Protests received

☐☐

Recommendations attached

☐☐

Measuring device required

☐☐

Water delivered by water master? District #

☒☐

Special conditions of approval or cover letter

See attached Memorandum, 2/2/06

Recommended Date of Priority

8/24/05Recommendation ☒ Approve ☐ Deny

by

J. W. Winters

Date

2/2/06**ADDITIONAL INFORMATION**☒ See attached proof report, note Legal Notice Remarks &/or Comments☒ Shapefile completed (optional: attach with proof report)☐ DP fee upgrade requested & documented☐ Paid☐ Not Paid = SO follow up w/ permit decision

MEMORANDUM

To: Allocation Processing
From: J. Westra
Date: 2/2/06

RE: Application for Permit #63-32169 Aries Development Condition of Approval

As you know, this application was filed to compliment the original application #63-31689 and Transfer #70604. #63-32169 provides the combined pond storage volume that was overlooked in #63-31689. See file Peppersack letter of 5/19/06.

The public notice received 2 protests. BOR settled with out conditions. The City of Eagle however withdrew their protest contingent on the following language as a condition of approval:

No. 63-32169 is solely for the purpose of representing the storage capacity of the six ponds identified in the place of use. This right does not authorize additional diversion of water to cover evaporative losses and seepage for pond maintenance Right Nos. 63-31726 and 63-31689 covers all seepage and evaporative losses resulting from the ponds and provides the flow component for diversion to storage.

The terms and conditions of the Settlement Agreement dated October 31, 2004 adopted by the Department pursuant to Final Order of the Director on February 17, 2005 in the matter of Transfer No 70604 (Claim No. 63-5087 and Water Right No 63-31689, shall be the terms and conditions of approval for application No 63-32169

This has been a very long drawn out process to get closure on these applications & transfer. I am normally reluctant to recommend non standard conditions of approval; however, to aid in closure I agreed to oblige the protestant's requested language. Tweaks/edits to ad clarity-etc. to the conditions are certainly welcomed.

Appreciate your consideration

Memorandum

PROTEST INFORMATION SHEET

APPLICANT: ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

PH: 208-336-2200

APPLICATION NO: 63-32169

DATE FILED: 8-24-05 PROTEST DATE: 10-24-05

PROTESTANT(S) NAME & ADDRESS:

CITY OF EAGLE 331-1800
C/O TAMMY ZOKAN
225 N 9TH ST STE 420
BOISE ID 83702

US BUREAU OF RECLAMATION 378-5306
E GAIL MCGARRY PN 3100
1150 N CURTIS RD STE 100
BOISE ID 83706

withdrawn 118-30-05

Protestant's Attorney Name & Address: Issues:

TAMMY ZOKAN
(ABOVE)

Applicant - Attorney - Name & Address:

EVAN ROBERTSON 734-0700
PO BOX 1906 CELL: 539-5544
TWIN FALLS, ID 83303

Other: CHUCK BROCKWAY, 2016 N WASHINGTON ST STE 4, TWIN FALLS ID
83301, 736-8543



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 1 2006

ARIES DEVELOPMENT LLC
C/O EVAN ROBERTSON
PO BOX 1906
TWIN FALLS ID 83303

CITY OF EAGLE
C/O TAMMY ZOKAN
225 N 9TH ST STE 420
BOISE ID 83702

Re: Application for Permit No. 63-32169 in the Name of Aries Development LLC

Dear Parties:

This letter acknowledges the withdrawal of protest of the above-referenced application for permit.

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

If you have any questions please call this office.

Sincerely,

JOHN WESTRA
Western Regional Manager

JW:sk

Cc: Chuck Brockway
Aries Development

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

STEPHANIE J. BONNEY
SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE‡
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

JOHN J. MCFADDEN*
of Counsel

* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
* Also admitted in New Mexico

January 26, 2006

Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

RECEIVED

JAN 27 2006

WATER RESOURCES
WESTERN REGION

RE: In the Matter of City of Eagle, Protestant to Amended Application No. 63-32169

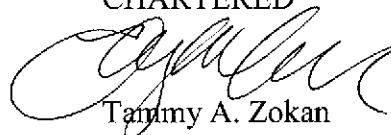
To Whom it may concern:

Please find enclosed an original and one copy of the City of Eagle's Withdrawal of Protest for filing in the above-entitled case. Once filed, please mail the conformed copy of this document to us in the enclosed self-addressed, stamped envelope. Thank you.

✓ DB

Sincerely,

MOORE SMITH BUXTON & TURCKE,
CHARTERED


Tammy A. Zokan

Enclosures

JAN 27 2006

WATER RESOURCES
WESTERN REGION

BRUCE M. SMITH, ISB #3425
TAMMY A. ZOKAN, ISB #5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
Attorneys at Law
225 North 9th Street, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

In the Matter of Aries Development LLC's)
Amended Application to Appropriate Water)
No. 63-32169)
_____)

WITHDRAWAL OF PROTEST

This serves as notice of the City of Eagle's withdrawal of its protest to the above application
in accordance with the parties' agreed upon conditions of approval on file herein.

RESPECTFULLY SUBMITTED this 26th day of January, 2006.

MOORE SMITH BUXTON & TURCKE,
CHARTERED



Tammy A. Zokan
Attorneys for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of January, 2006, I caused to be served a true and correct copy of the forgoing WITHDRAWAL OF PROTEST by the method indicated below, addressed to the following:

J. Evan Robertson
Robertson, Hepworth, Slette,
Worst & Stover, PLLC
P.O. Box 1906
Twin Falls, Idaho 83303-1906

☒ via U.S. MAIL
☐ via HAND DELIVERY
☐ via OVERNIGHT MAIL
☐ via FACSIMILE

Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082
Attn: John Westra, Manager

☒ via U.S. MAIL
☐ via HAND DELIVERY
☐ via OVERNIGHT MAIL
☐ via FACSIMILE


TAMMY A. ZOKAN



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 17, 2006

City of Eagle
Tammy A. Zokan
Moore Smith Buxton & Turcke
225 North 8th Street Suite 420
Boise ID 83702

RE: Ares Development LLC Application for Permit 63-32169

Dear Ms. Zokan:

In reference to your letter of 1/5/06 regarding the proposed draft conditions of approval. Your additional condition (sentence) is acceptable to the Department in concert with the condition in my letter of 12/15/05. Mr. Robertson's 1/10/06 letter also states the applicant has no objections to the additional condition.

Please contact me at the Western Regional Office if I can be of further assistance, phone 334-2190.

Regards,

A handwritten signature in cursive script, appearing to read 'John Westra'.

John Westra, Manager
Western Region

cc: J. Evan Robertson, Esq.

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER,
P.L.L.C.
ATTORNEYS AT LAW**

J. EVAN ROBERTSON
JEFFREY J. HEPWORTH
GARY D. SLETTE
RICHARD J. "TUG" WORST
TIMOTHY J. STOVER



161 Fifth Avenue South - Suite 100
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

J. EVAN ROBERTSON

RECEIVED

JAN 12 2006

WATER RESOURCES
WESTERN REGION

January 10, 2006

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

**RE: Aries Development, LLC
Application for Permit No. 63-32169**

Dear Mr. Westra:

As you know, I represent Aries Development, L.L.C. in its Application for Permit No. 63-32169. In that capacity, I received a copy of a letter to you from Ms. Tammy A. Zokan, attorney for the City of Eagle, concerning that application, in which she proposed yet additional language conditioning the approval of the permit on the Settlement Agreement dated October 31, 2004, adopted by the Department in connection with Transfer No. 70604 (Claim No. 63-5087) and Water Right Application 63-31689. While I believe the language proposed by Ms. Zokan states the obvious and is, in my opinion, unnecessary, we have no objection to its inclusion.

Sincerely,



J. EVAN ROBERTSON

JER:rlm
rlm\jer\letter\idwr_westra

JAN 06 2006

WATER RESOURCES
WESTERN REGION**MOORE SMITH BUXTON & TURCKE, CHARTERED**

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420
BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

STEPHANIE J. BONNEY
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BRUCE M. SMITH
PAUL A. TURCKE‡
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*JOHN J. MCFADDEN*†
Of Counsel* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
* Also admitted in New Mexico

January 5, 2006

John Westra, Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

RE: Aries Development, LLC Application for Permit No. 63-32169

Dear Mr. Westra:

Thank you for your letter and proposed condition of approval, dated December 15, 2005. By letter dated December 22, 2005, Mr. Robertson informed me the proposed condition is acceptable to his client. The City is also in general agreement with the proposed condition and would like to add a short addition expressly conditioning that Permit No. 63-32169 will be limited by all the terms of the parties' Settlement Agreement and Department's Order entered on February 17, 2005, in the matter of the previously filed applications, application no. 63-31689 to appropriate groundwater and the companion application for transfer no. 70604. I propose the condition remain as proposed in your December 15, 2005, letter with the addition of the following sentence:

The terms and conditions of the Settlement Agreement dated October 31, 2004, adopted by the Department pursuant to Final Order of the Director on February 17, 2005, in the matter of Transfer No. 70604 (Claim No. 63-5087) and Water Right No. 63-31689, shall be terms and conditions of approval for application no. 63-32169.

The City is flexible on the wording so long as the City is assured that the terms and conditions of the Settlement Agreement will in fact be included in any permit issued by the

Aries Application No. 63-32169

January 5, 2006

Page 2

Department for Application No. 63-32169. I appreciate your assistance in getting this matter resolved. Please contact me if you have any questions. Thank you.

Sincerely,



Tammy A. Zokan

cc J. Evan Robertson, Esq.
City of Eagle
City Engineer – Chris Duncan



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

December 15, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Tammy Zokan, Atty.
225 N 9th ST STE 420
Boise ID 83702

Aries Development
Evan Robertson, Atty.
PO Box 1906
Twin Falls ID 83303-1906

RE: Contested Application for Permit # 63-32169- Aries Development

Dear Ms. Zokan & Mr. Robertson:

This letter is to acknowledge receipt of Mr. Robertson's December 7, 2005 letter and to address the concerns regarding the above contested application.

As discussed in Mr. Peppersack's letter of 5/19/05, application #63-32169 is not seeking to increase the diversion rate or authorize additional storage volume to amended application #63-31689. The application merely acknowledges the 60.7 ac-ft storage capacity of the ponds omitted in the previous application. Consumptive volumes for pond seepage and evaporation are already mitigated by Transfer #70604 and application #63-31689. A one time initial pond fill (if not already accomplished) will be arranged by the applicant thru water bank rental or other means.

The following is a proposed (draft) condition of approval for application 63-32169:

Approval of this right is solely for the purpose of representing the storage capacity of the six ponds identified in the place of use. This right does not authorize additional diversion of water to cover evaporative losses and seepage for pond maintenance. Right Nos. 63-31726 and 63-31689 covers all seepage and evaporative losses resulting from the ponds and provides the flow component for diversion to storage.

Hopefully, this will help clarify concerns, and assist parties in settlement negotiations. Please contact me at the Western Regional Office if I can be of further assistance, phone 334-2190.

Regards,

John Westra, Manager
Western Regional Office.

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER,
P.L.L.C.
ATTORNEYS AT LAW**

J. EVAN ROBERTSON
JEFFREY J. HEPWORTH
GARY D. SLETTE
RICHARD J. "TUG" WORST
TIMOTHY J. STOVER



161 Fifth Avenue South - Suite 100
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

J. EVAN ROBERTSON

RECEIVED
DEC 13 2005
WATER RESOURCES
WESTERN REGION

December 7, 2005

Mr. Jeff Pepperzak, Manager
Water Right Permit Section
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

John Westra
Western Regional Manager
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Application for Permit No. 63-32169

Gentlemen:

On January 7, 2003, Aries Development, L.L.C. filed with the Department of Water Resources Application for Permit No. 63-31689, seeking a right to appropriate groundwater for water amenities associated with the Brookwood Subdivision located in the city of Eagle. Those amenities included six multi-purpose ponds providing irrigation storage and aesthetic benefits to the subdivision. The application was duly protested by several entities including the City of Eagle, but all of those protests were eventually withdrawn pursuant to the terms of a Settlement Agreement entered into by the parties dated October 31, 2004. Pursuant to the Settlement Agreement, Aries Development, L.L.C. filed an amended application for Permit No. 63-31689 limiting the proposed groundwater right and well to the following parameters:

- (a) Maximum total diversion rate – 80 gpm (.18 cfs)
- (b) Maximum annual volume of water diverted – 40 acre feet
- (c) Maximum well depth – 100 feet
- (d) Maximum well size – 6 inch diameter

12/7/2005

Page 2

In the subsequent processing of Amended Permit No. 63-31689, Mr. Jeff Pepperzak determined that the Amended Application did not adequately include a storage right for the multi-purpose ponds, which have a total storage capacity of 60.7 acre feet. This determination was communicated to Charles Brockway of Brockway Engineering, PLLC, a consultant to Aries Development, LLC, and that resulted in the submission of Application for Permit No. 63-32169, seeking aesthetic storage in the amount of 60.7 acre feet. The City of Eagle, fearing that Application No. 63-32169 sought to increase the diversion rates and volumes specified in the above-referenced Settlement Agreement and in Amended Application for Permit No. 63-31689, protested that application. Additional groundwater diversion was not the intent of Aries Development, LLC in filing Application for Permit No. 63-32169, and after discussions with representatives of the City of Eagle it was agreed that the City's protest could be withdrawn if the Department, should it approve Application No. 63-32169, indicates that the application is approved exclusively for water storage, to be filled from the Farmers Union Canal shares and groundwater diversions as set forth in Amended Application for Permit No. 63-31689. The undersigned both consent to the Department's agreeing to condition Permit No. 63-32169 in that manner, and upon written confirmation from the Department that our desires can be accomplished, Miss Zokan has agreed to recommend to the City of Eagle that it withdraw its protest.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Evan Robertson", with a stylized, flowing script.

J. EVAN ROBERTSON

Attorney for Aries Development, L.L.C.

JER:rlm

rim\jer\letter\idwr_pepperzak

Westra, John

From: Peppersack, Jeff
Sent: Friday, December 09, 2005 9:08 AM
To: Westra, John
Subject: RE: Aries Development Application 63-32169-- Protested

John,
I read the letter and agree that the intent of the new application is just to ensure that the capacity of the ponds are covered under a valid water right. No additional rate or annual volume would be diverted under the new permit. I understand that the ponds may already be full, but any initial fill would not be authorized from ground water. I assume they would make arrangements for initial fill from a one-time rental or perhaps in conjunction with their irrigation use from the canal company. I think the conditions stated in the letter are acceptable.

Since the application is pending at your region, I assume your staff will initiate a response. I'd be happy to comment on a draft if you want. Give me a call if you want to discuss.

Jeff

-----Original Message-----

From: Westra, John
Sent: Friday, December 09, 2005 8:41 AM
To: Peppersack, Jeff
Subject: Aries Development Application 63-32169-- Protested

Jeff:
This is the letter I discussed with you earlier.
Tammy Zoken, City of Eagle attorney (protestant) discussed this with me, and concurs with the letter.

Good Friday
John
<< File: 20051209093459884.pdf >>

Westra, John

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Tammy Zoken, City of Eagle attorney (protestant) discussed this with me, and concurs with the letter.

Good Friday
John

<< File: 20051209093459884.pdf >>

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER, P.L.L.C.
ATTORNEYS AT LAW**

**161 FIFTH AVE. SOUTH, STE 100
P.O. BOX 1906
TWIN FALLS, ID 83303-1906
PHONE (208) 734-0700
FAX (208) 736-0041**

FACSIMILE TRANSMISSION

DATE: December 8, 2005
FAX TO: IDWR 208-334-2348
FROM: Robin L. Moore for Evan Robertson
RE: Aries Development -- Application for Permit No. 63-32169

NUMBER OF PAGES INCLUDING THIS ONE: 3

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL US BACK AS SOON AS POSSIBLE AT (208) 734-0700.

INFORMATION CONTAINED IN THIS FACSIMILE COMMUNICATION IS ATTORNEY/CLIENT PRIVILEGED AND/OR CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COVER PAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION OR THE INFORMATION CONTAINED HEREIN IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CALL AT (208) 734-0700, AND RETURN THIS FACSIMILE TO US BY MAIL AT THE ABOVE ADDRESS. WE APPRECIATE YOUR COOPERATION.

ADDITIONAL MESSAGE:

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER,
P.L.L.C.
ATTORNEYS AT LAW**

J. EVAN ROBERTSON
JEFFREY J. HEPWORTH
GARY D. SLETTE
RICHARD L. "TUG" WORST
TIMOTHY J. STOVER



161 Fifth Avenue South - Suite 100
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

J. EVAN ROBERTSON

December 7, 2005

Mr. Jeff Pepperzak, Manager
Water Right Permit Section
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

John Westra
Western Regional Manager
Idaho Dept. of Water Resources
P.O. Box 83720
Boise, ID 83720-0098

RE: Application for Permit No. 63-32169

Gentlemen:

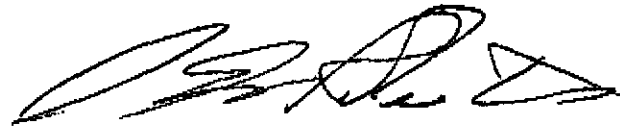
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- (a) Maximum total diversion rate - 80 gpm (.18 cfs)
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- (d) Maximum well size - 6 inch diameter

Idaho Department of Water Resources
12/7/2005
Page 2

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Sincerely,



J. EVAN ROBERTSON
Attorney for Aries Development, L.L.C.

JEER:rlm
rlm\jer\letter\idwr_pepperzak

CONVERSATION MEMORANDUM

Aries Development Application for Permit #63-32169

Party: Tammy Zoken, Atty. City of Eagle.

From: J. Westra

Date: 12/7/05

RE: Pre-hearing Conference Cancellation

Tammy Zoken called the regional office to discuss the cancellation of the pre-hearing conference for the above application. A letter was drafted between Mr. Robertson (Aries Attorney) and Ms. Zoken to the Department regarding the protest and settlement. The letter failed to be sent by either attorney; Ms. Zoken apologized for the oversight. She felt that it would not be productive use of time for a conference, and requested it be cancelled. I stated that was fine, and asked who would need to be notified. She said, Mr. Robertson and she would take care of notifying parties. I stated, I would look forward to receiving the letter.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 2, 2005

E US BUREAU OF RECLAMATION
E GAIL MCGARRY PN 3100
1150 N CURTIS RD STE 100
BOISE ID 83706

Re: Application for Permit No. 63-32169 in the Name of Aries Development LLC

Dear Ms. McGarry:

This letter is to acknowledge your withdrawal of protest of the above-referenced application.

There is still another protest pending against the application. Therefore, the conference scheduled for December 8, 2005 will be held.

If you have any questions please call this office.

Sincerely,

for John Westra
Western Regional Manager

JW:sk

CC: Aries Development, LLC
Evan Robertson, Atty
City of Eagle (Tammy Zokan)



United States Department of the Interior



BUREAU OF RECLAMATION
Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, Idaho 83706-1234

IN REPLY REFER TO:
PN-3100
WTR-4.10

NOV 29 2005

RECEIVED

NOV 30 2005

**WATER RESOURCES
WESTERN REGION**

Mr. John Westra
Western Regional Manager
Idaho Department of Water Resources
2735 Airport Way
Boise ID 83705-5082

Subject: Application for Permit No. 63-32169 – Aries Development L.L.C.

Dear Mr. Westra:

The purpose of this letter is to inform you that the Bureau of Reclamation hereby withdraws its Protest of Application for Permit No. 63-32169.

Please call me at 208-378-5306 if you have any questions.

Sincerely,

E. Gail McGarry
Program Manager
Water Rights & Acquisition

cc: Aries Development L.L.C.
P.O. Box 6887
Boise, ID 83707

Certificate of Service

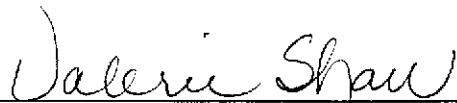
The undersigned does hereby certify that on this 29th day of November, 2005, he or she caused a true and correct copy of the Notice of Withdrawal of Application for Permit No. 63-32169 transmitted by the following means:

U. S. Mail to:

Mr. John Westra
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

U.S. mail to:

Aries Development L.L.C.
P.O. Box 6887
Boise, ID 83707



Valerie Shaw



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

October 31, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

Re: Application for Permit No. 63-32169

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (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?

Enclosed is a Notice of Prehearing Conference scheduled for Thursday, December 8, 2005 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

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

Sincerely,

JOHN WESTRA
Western Regional Manager

JW:sk

Enclosure: Copy of protest(s)
Conference Notice

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-32169 IN THE)
NAME OF ARIES DEVELOPMENT)
LLC.)
_____)

NOTICE OF PREHEARING
CONFERENCE

On August 24, 2005, Aries Development filed with the Department of Water Resources (IDWR) an application for permit to appropriate the public waters of the State of Idaho. The application was protested by the City of Eagle and the Bureau of Reclamation.

IDWR has scheduled a prehearing conference for the protest to be held on **Thursday, December 8, 2005 at 10:00 a.m. at the Idaho Department of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705.** 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 Procedure of the Department of Water Resources, and Rules 40 and 45 of the adopted Rules of Water Appropriation of the Department of Water Resources.

The conference will be conducted in a facility that 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 IDWR at least ten (10) days prior to the conference.

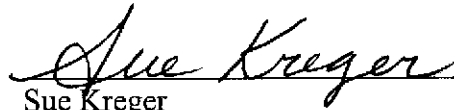
Dated this 31st day of October 2005.



JOHN WESTRA
Western Regional Manager

CERTIFICATE OF MAILING

I hereby certify that on the 1st day of ~~October~~ ^{November} 2005, I mailed a true and correct copy, postage prepaid, of the Notice of Prehearing Conference to those listed:



Sue Kreger

Administrative Assistant

ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

CITY OF EAGLE
TAMMY ZOKAN
225 N 9TH ST STE 420
BOISE ID 83702

US BUREAU OF RECLAMATION
E GAIL MCGARRY PN 3100
1150 N CURTIS RD STE 100
BOISE ID 83706

CHUCK E BROCKWAY
2016 N WASHINGTON ST STE 4
TWIN FALLS ID 83301

JEFF PEPPERSACK
ID DEPT WATER RESOURCES
PO BOX 83720
BOISE ID 83720

EVAN ROBERTSON ESQ
PO BOX 1906
TWIN FALLS ID 83303

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 preliminary order for the Director's consideration. Parties can file exceptions to a preliminary 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 preliminary 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

Any hearing scheduled will be conducted in a facility that 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.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

October 31, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

Re: Application for Permit No. 63-32169

Dear Applicant:

Enclosed is a copy of a protest filed against the issuance of a permit pursuant to the above-referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (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?

Enclosed is a Notice of Prehearing Conference scheduled for Thursday, December 8, 2005 at the Western Region of the Idaho Department of Water Resources, 2735 Airport Way, Boise, Idaho 83705. At the conference, the department will review possibilities for resolution of the protest. If the matter cannot be resolved at that time, a formal hearing will be arranged for a future date.

The department suggests you contact the protestant(s) directly in an effort to determine what is in dispute in the application and to attempt to resolve the protest. Direct, sincere conversation between the parties prior to initiation of formal proceedings can often resolve a protest.

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

Sincerely,

JOHN WESTRA
Western Regional Manager

JW:sk

Enclosure: Copy of protest(s)
Conference Notice



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

October 31, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CITY OF EAGLE
C/O TAMMY ZOKAN
225 N 9TH ST STE 420
BOISE ID 83702

US BUREAU OF RECLAMATION
E GAIL MCGARRY PN 3100
1150 N CURTIS RD STE 100
BOISE ID 83706

Re: Application for Permit No. 63-32169 in the Name of Aries Development LLC

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application.

The following are the criteria the department must consider in either approving or denying an application for permit (Section 42-203A, Idaho Code):

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

Sincerely,

A handwritten signature in black ink, appearing to read "John Westra". The signature is fluid and cursive, with the first name "John" and last name "Westra" clearly distinguishable.

John Westra
Western Regional Manager

JW:sk

Encl: Copy of Application
Notice of Prehearing Conference

**ROBERTSON, HEPWORTH, SLETTE,
WORST & STOVER,
P.L.L.C.
ATTORNEYS AT LAW**

J. EVAN ROBERTSON
JEFFREY J. HEPWORTH
GARY D. SLETTE
RICHARD J. "TUG" WORST
TIMOTHY J. STOVER



161 Fifth Avenue South - Suite 100
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

J. EVAN ROBERTSON

October 28, 2005

VIA FACSIMILE 208-334-2348

Attn: Sue
Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

RE: Aries Development - Amended Application Water Right 63-32169

Dear Sue:

This letter is to advise you that I am the attorney for Aries Development, L.L.C. with regard to the pending Amended Application referenced above. All future correspondence regarding this application should be forwarded to me. Please don't hesitate to call with any questions you may have. Thank you.

Sincerely,


J. EVAN ROBERTSON

JER:rlm
rlw\jer\letter\IDWR_boise

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

STEPHANIE J. BONNEY
SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE‡
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

RECEIVED

OCT 21 2005

WATER RESOURCES
WESTERN REGION

TODD M. LAKEY
Of Counsel

JOHN J. MCFADDEN*
Of Counsel

* Also admitted in Oregon
† Also admitted in Washington
‡ Also admitted in South Dakota
* Also admitted in New Mexico

October 20, 2005

Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705

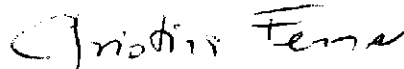
RE: In the Matter of City of Eagle, Protestant to Amended Application No. 63-32169

To whom it may concern:

Please find enclosed an original and one copy of the City of Eagle's Notice of Protest for filing in the above-entitled case, including a \$25 check. Once filed, please mail the conformed copy of this document to us in the enclosed self-addressed, stamped envelope. Thank you.

Sincerely,

MOORE SMITH BUXTON & TURCKE,
CHARTERED



Christina Fenner
Legal Assistant to Tammy A. Zokan

/cf
Enclosures

BRUCE M. SMITH, ISB #3425
TAMMY A. ZOKAN, ISB #5450
MOORE SMITH BUXTON & TURCKE, CHARTERED
Attorneys at Law
225 North 9th Street, Suite 420
Boise, Idaho 83702
Telephone: (208) 331-1800
Facsimile: (208) 331-1202

RECEIVED
OCT 21 2005
WATER RESOURCES
WESTERN REGION

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

In the Matter of Aries Development LLC's)
Amended Application to Appropriate Water)
For Aesthetic Purposes, Petitioner, No. 63-32169) **NOTICE OF PROTEST**
)

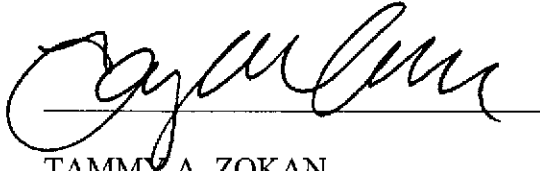
)

The City of Eagle ("Protestant"), by and through counsel of record, MOORE SMITH BUXTON & TURCKE, CHARTERED, files this protest to Aries Development LLC's ("Aries") Amended Application to appropriate groundwater for aesthetic storage. It appears certain rights and interests of Protestant may be impacted. The grounds for this Protest include, but are not limited to, the following:

- (1) Aries' proposal to appropriate additional groundwater for aesthetic purposes is inconsistent with the Settlement Agreement and the Department of Water Resource's Final Order, entered in the matter of Aries' Application No. 63-31689 and Transfer No. 70604, on February 17, 2005;
- (2) Aries' amended application to appropriate additional groundwater may injure Protestant's existing water rights and the rights of others;
- (3) Aries' amended application to appropriate additional groundwater may injure Protestant's ability to plan for anticipated future needs;
- (4) The amended application may conflict with the local public interest; and

(5) The amended application may be inconsistent with the conservation of water resources in the state of Idaho.

RESPECTFULLY SUBMITTED this 20th day of October, 2005.

A handwritten signature in black ink, appearing to read 'Tammy A. Zokan', written over a horizontal line.

TAMMY A. ZOKAN
MOORE SMITH BUXTON & TURCKE,
CHARTERED

Attorneys for the City of Eagle

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of October, 2005, I caused to be served a true and correct copy of the forgoing NOTICE OF PROTEST by the method indicated below, addressed to the following:

Aries Development LLC
P.O. Box 6887
Boise, Idaho 83707

☒ via U.S. MAIL
☐ via HAND DELIVERY
☐ via OVERNIGHT MAIL
☐ via FACSIMILE

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

☒ via U.S. MAIL
☐ via HAND DELIVERY
☐ via OVERNIGHT MAIL
☐ via FACSIMILE


TAMMY A. ZOKAN

W033529 DB #25- 10-21-05

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 21 2005

WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

This form may be used to file a protest with the department under section 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all the necessary information.

1. Matter being protested Application for Permit No. 63-32169 in the name of Aries Development L.L.C. P.O Box 6887 Boise, ID 83707

2. Name of Protestant United States Department of Interior Bureau of Reclamation

3. Protestant's representative for service (if different than Protestant)

E. Gail McGarry, Manager Water Rights and Acquisition, Pacific Northwest Regional Office, Bureau of Reclamation.

4. Service mailing address

E.Gail McGarry, PN-3100, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706.

5. Service telephone number E. Gail McGarry (208) 378-5306

6. Basis of protest (including statement of facts and law upon which the protest is based)

Injury to Reclamation project water rights.

7. What would resolve your protest?

Agreement to use only non-federal project water supply for mitigation and to maintain the ponds. Farmers Union Ditch Company must submit a request to Reclamation to use federal project water for purposes other than irrigation.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 21st day of Oct, 2005

United States

PROTESTANT

E. Gail McGarry

PROTESTANT'S REPRESENTATIVE

Certificate of Service

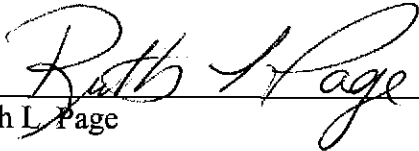
The undersigned does hereby certify that on this 21st day of October, 2005, he or she caused a true and correct copy of the Protest Application for Permit No. 63-32169 transmitted by the following means:

Original hand delivered to:

Idaho Department of Water Resources
Attn: Director
2735 Airport Way
Boise, Idaho 83705-5082

U.S. mail to:

Aries Development L.L.C.
P. O. Box 6887
Boise, ID 83707



Ruth L. Page

W033532 #25 - DB 10/21/05



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 13, 2005

RECEIVED

OCT 17 2005

WATER RESOURCES
WESTERN REGION

TAMMY A ZOKAN
MOORE SMITH BUXTON & TURCKE CHTD
225 N 9TH ST SUITE 420
BOISE ID 83702

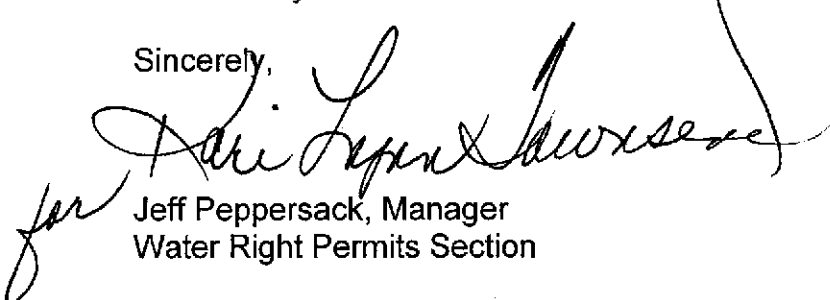
RE: Aries Development Application 63-32169

Dear Ms. Zokan:

The Department of Water Resources has received your letter of October 7, 2005 seeking additional information regarding the application referenced above. I have enclosed a letter dated May 19, 2005 from the Department to Charles E. Brockway describing the concern over the pond development that resulted in the filing of Application 63-32169.

Please feel free to review the application file for 63-32169 at our Western Region office or any associated files at our State Office at the Water Center.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: Parties to 63-31689 Settlement Agreement
Jim Johnson – Brookwood HOA

Enclosure to all

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AND COUNSELORS AT LAW

225 NORTH 9TH STREET, SUITE 420
BOISE, ID 83702
TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

SUSAN E. BUXTON*
MICHAEL C. MOORE†
BRUCE M. SMITH
PAUL A. TURCKE°
CHRISTOPHER E. YORGASON
TAMMY A. ZOKAN*

TODD M. LAKEY
Of Counsel

JOHN J. MCFADDEN*†
Of Counsel

* Also admitted in Oregon
† Also admitted in Washington
° Also admitted in South Dakota
* Also admitted in New Mexico

October 7, 2005

Jeff Peppersack, Manager
Water Rights Permits Section
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

RECEIVED

OCT 17 2005

WATER RESOURCES
WESTERN REGION

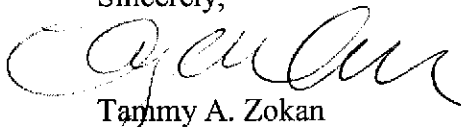
RE: Aries Development, LLC Application No. 63-32169

Dear Mr. Peppersack:

Aries Development previously filed application no. 63-31689 to appropriate groundwater for its ponds. The companion application, application for transfer no. 70604, requested a permit to transfer a groundwater right to mitigate evaporative losses. These applications were protested and the Department issued an order on February 17, 2005, dismissing the contested case based on the parties' settlement agreement. Without consulting the interested parties, the Department sent a letter changing its position and Aries Development filed another application which contradicts the earlier agreement and dismissal. Someone should have contacted the interested parties and explained the proposed changes. Since that did not happen, the Department should provide a written explanation of the changes and the reasons therefore. Please provide a written explanation in advance of the protest deadline.

Please contact us if you have any questions. Thank you.

Sincerely,



Tammy A. Zokan

cc City of Eagle
City Engineer
Parties to 63-31689 Settlement Agreement



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

May 19, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHARLES E BROCKWAY
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

RECEIVED

OCT 17 2005

WATER RESOURCES
WESTERN REGION

Re: Application for Permit No. 63-31689

Dear Mr. Brockway:

The Department of Water Resources acknowledges receipt of the amended Application for Permit No. 63-31689 to replace the application filed on January 7, 2003 by Aries Development LLC. The amended application was submitted pursuant to the Settlement Agreement dated October 31, 2004 for the contested case resulting from protests to the original application. The contested case was dismissed by the Director on February 17, 2005.

Review of the amended application has raised a question that will need to be addressed before the Department can continue processing the application. It is my understanding that the application for permit seeks to provide ground water in the amount of 0.18 cfs and 40 afa to maintain pond levels. More specifically, the application together with Application for Transfer No. 70604, seeks to provide for year-round seepage losses and non-irrigation season evaporation losses for three irrigation ponds and year-round seepage and evaporation losses for three aesthetic ponds. It is also my understanding that the total capacity of the six ponds is 60.7 af. My concern is described below.

The application, as amended, does not appear to cover the storage volume of the ponds in the amount of 60.7 af. Water Appropriation Rule 35.03b requires that the application shall list the quantity of water to be stored and shall not exceed the capacity of the impoundment structure unless the application includes a plan of operation for filling, if the reservoir is to be filled more than once per year. Maintenance of pond levels can be included as an acceptable plan of operation to allow for a volume greater than the capacity of the impoundment structure(s). The application provides for refill to cover evaporation and seepage in the amount of 40 afa, but does not include the capacity of the ponds in the amount of 60.7 af. There may be some question regarding the need for a permit for the irrigation ponds associated with canal shares for irrigation use during the irrigation season; however, it is clear that all six ponds require a permit for the storage volume that will be impounded for the year-round use.

Peppersack Letter

The Department will hold processing of the applications to provide the applicants additional time to address the concern. If you have any questions regarding this matter, please feel free to contact me at 208-287-4948.

Sincerely,

A handwritten signature in black ink, appearing to read 'JP' followed by a stylized flourish.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: J. Evan Robertson - Robertson Hepworth Slette Worst & Stover PLLC
John Westra - IDWR Western Region

Idaho Department of Water Resources Receipt

Receipt ID W033529

Payment Amount \$25.00 Date Received 10/21/2005 12:24:46 PM Region Western Status ☐

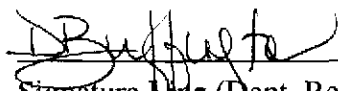
Payment Type Check Check Number 10545

Payer MOORE SMITH BUXTON & TURCKE

Comment NOTICE OF PROTEST: 63-32169

Fee Detail

Amount Description Fund FD PCA SO
\$25.00 PROTESTS 0229 21 62103 1155



Signature Line (Dept. Representative)

Idaho Department of Water Resources Receipt

Receipt ID W033532

Payment Amount \$25.00 Date Received 10/21/2005 3:52:38 PM Region Western Status

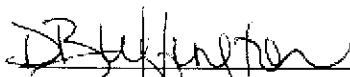
Payment Type Check Check Number 30

Payer BUREAU OF REC. / HAWS, KASANDRA

Comment NOTICE OF PROTEST: 63-32169

Fee Detail

Amount Description Fund FD PCA SO
\$25.00 PROTESTS 0229 21 62103 1155



Signature Line (Dept. Representative)

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

Account #	DTI#	Identification	Amount:
047628	1364418	APPLICATION FOR PERMIT	\$127.50
Attention:	P.O. #	Run Dates	
SUE KREGER		OCTOBER 6, 13, 2005	
IDAHO DEPT. WATER RESOURCES WEST 2735 AIRPORT WY. BOISE, ID 83705			Number of Lines 2 X 35
			Affidavit 1
			Legal # 23654

LEGAL NOTICE

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

63-32169
ARIES DEVELOPMENT
LLC
PO BOX 6887
BOISE ID 83707

Point(s) of Diversion NESE S4 TO4N R01E ADA County Source GROUND WATER
Use: AESTHETIC STORAGE 01/01 To 12/31 60.7 AFA
Total Diversion: 60.7 AFA

Date Filed: 08/24/2005
Place Of Use: AESTHETIC STORAGE
T04N R01E S4 NESW SWSW SESW NESE NWSE
SWSE SESE

Remark: Water bearing zone to be appropriated is from 80 to 100 feet.

Aesthetic storage is for six ponds located in Brookwood Subdivision. Evaporative and seepage losses resulting from the ponds are covered on water rights 63-31726 and 63-31689.

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 10/24/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Pub. Oct. 6, 13, 2005

23654

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

X	consecutive weekly		single
	consecutive daily		odd skip
insertion(s)			

beginning issue of:	<u>OCTOBER</u>	<u>6, 2005</u>
ending issue of:	<u>OCTOBER</u>	<u>13, 2005</u>

Janice Hildreth

STATE OF IDAHO)
)
) ss.
COUNTY OF ADA)

On this 13 day of OCTOBER in the year of 2005
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
Residing at: Boise, Idaho
My Commission expires:

8.27-0

COMMENT LETTERS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this June day of ~~May~~, 2005, the above and foregoing document was served on the following by placing a copy of the same in the United States mail, postage prepaid and properly addressed to the following:

J EVAN ROBERTSON
ROBERTSON HEPWORTH SLETTE
WORST & STOVER PLLC
PO BOX 1906
TWIN FALLS ID 83303-1906

MICHAEL J CHASE
3482 HWY 30 W
NEW PLYMOUTH ID 83655

MICHAEL J SIELER
HOMEOWNERS OF DOWNING
DOWNS SUB
1125 STEEPLE VIEW DR
EAGLE ID 83616

~~MARK L BUTLER
LAND CONSULTANTS INC
1640 W WASHAM RD
EAGLE ID 83616~~

TAMMY ZOKAN
MOORE SMITH BUXTON & TURCKE
CHARTERED
225 N 9TH ST STE 420
BOISE ID 83702

~~ALFRED & WANDA THORNTON
9601 PRAIRIE RD
BOISE ID 83714~~

MOLLY O LEARY
RICHARDSON & O LEARY
PO BOX 1849
EAGLE ID 83616-1849

~~IDAHO DEPT OF WATER RESOURCES -
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705-5082~~

Jim Johnson
Brookwood

Homeowners Assn.

105 E. Old Barn Rd.
Eagle, ID 83616

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Graves, Lori

From: Peppersack, Jeff
Sent: Wednesday, September 07, 2005 3:40 PM
To: Graves, Lori
Subject: Aries Development

Lori,
This should work, but you can remove Butler and Thornton since they were removed from the contested case. Also add Jim Johnson as another interested party.

Jeff



2005090715291320
8.pdf



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

September 29, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

**MICHAEL J CHASE
3482 HWY 30 W
NEW PLYMOUTH ID 83655**

**J EVAN ROBERTSON ESQ
PO BOX 1906
TWIN FALLS ID 83303-1906**

**MICHAEL J SIELER
DOWNING DOWNS SUB
1125 STEEPLE VIEW DR
EAGLE ID 83616**

**JIM JOHNSON
BROOKWOOD HOME- OWNERS
ASSOC
105 E OLD BARN RD
EAGLE ID 83616**

**TAMMY ZOKAN
MOORE SMITH BUXTON &
TURCKE
225 N 9TH ST STE 420
BOISE ID 83702**

**MOLLY O'LEARY
RICHARDSON & O'LEARY
PO BOX 1849
EAGLE ID 83616**

Re: Water Right Application for Permit No. 63-32169 in the Name of Aries
Development

Dear Interested Parties:

Attached is a copy of an application(s) that may be of interest to you. Please review the application(s) 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 shortly thereafter. However, if you desire 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 October 24, 2005.

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

Sincerely,

Sue Kreger
Administrative Assistant

Encl. Copy of Application



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov

May 19, 2005

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

CHARLES E BROCKWAY
BROCKWAY ENGINEERING PLLC
2016 N WASHINGTON ST SUITE 4
TWIN FALLS ID 83301

Re: Application for Permit No. 63-31689

Dear Mr. Brockway:

The Department of Water Resources acknowledges receipt of the amended Application for Permit No. 63-31689 to replace the application filed on January 7, 2003 by Aries Development LLC. The amended application was submitted pursuant to the Settlement Agreement dated October 31, 2004 for the contested case resulting from protests to the original application. The contested case was dismissed by the Director on February 17, 2005.

Review of the amended application has raised a question that will need to be addressed before the Department can continue processing the application. It is my understanding that the application for permit seeks to provide ground water in the amount of 0.18 cfs and 40 afa to maintain pond levels. More specifically, the application together with Application for Transfer No. 70604, seeks to provide for year-round seepage losses and non-irrigation season evaporation losses for three irrigation ponds and year-round seepage and evaporation losses for three aesthetic ponds. It is also my understanding that the total capacity of the six ponds is 60.7 af. My concern is described below.

The application, as amended, does not appear to cover the storage volume of the ponds in the amount of 60.7 af. Water Appropriation Rule 35.03b requires that the application shall list the quantity of water to be stored and shall not exceed the capacity of the impoundment structure unless the application includes a plan of operation for filling, if the reservoir is to be filled more than once per year. Maintenance of pond levels can be included as an acceptable plan of operation to allow for a volume greater than the capacity of the impoundment structure(s). The application provides for refill to cover evaporation and seepage in the amount of 40 afa, but does not include the capacity of the ponds in the amount of 60.7 af. There may be some question regarding the need for a permit for the irrigation ponds associated with canal shares for irrigation use during the irrigation season; however, it is clear that all six ponds require a permit for the storage volume that will be impounded for the year-round use.

The Department will hold processing of the applications to provide the applicants additional time to address the concern. If you have any questions regarding this matter, please feel free to contact me at 208-287-4948.

Sincerely,

A handwritten signature in black ink, appearing to read 'JP' followed by a stylized flourish.

Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

cc: J. Evan Robertson - Robertson Hepworth Slette Worst & Stover PLLC
John Westra - IDWR Western Region

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-31726

WATER RIGHT NUMBER: 63-31726

<u>Owner Type</u>	<u>Name and Address</u>
Representative	BROCKWAY ENGINEERING 2016 N WASHINGTON ST STE 4 TWIN FALLS, ID 83301 (208)736-8543
Current Owner	MARY B HORMAECHEA PO BOX 6887 BOISE, ID 83707 (208)336-2200
Original Owner	QUARTER CIRCLE DJ RANCH CO PO BOX 279 EAGLE, ID 83616 (208)286-7131
Current Owner	RICHARD M HORMAECHEA PO BOX 6887 BOISE, ID 83707 (208)336-2200

Priority Date: 10/08/1962

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
AESTHETIC STORAGE	01/01 to 12/31		14.00 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.040 CFS	
	<u>Total Diversion:</u>	0.040 CFS	14.00 AF

Location of Point(s) of Diversion

GROUND WATER	NE1/4SE1/4	Sec. 4,	Twp 04N,	Rge 01E, B.M.
ADA County				

Place of Use

AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	4									X		X	X	X	X	X	X	

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-31726

1. Right 63-31726 authorizes the diversion of an annual total of 14.0 af to be used for the replacement of losses caused by evaporation from the 5.2 acre total surface area of six (6) ponds established under Right 63-31689.
2. 020 The diversion and use of water described in Transfer 70604 may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.
3. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
4. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. T09 Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
6. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.

Remarks:Comments:

1. psdaggs 5/13/2005 POU
Comment: Updated Shape

2. psdaggs 5/13/2005 POU
Comment: Updated Shape

Dates and Other Information:

Claim Received Date: 7/31/1989
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: And
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-31689

WATER RIGHT NUMBER: 63-31689

DRAFT

Owner Type Name and Address
 Current Owner ARIES DEVELOPMENT LLC
 PO BOX 6887
 BOISE, ID 83707
 (208)336-2200

Priority Date: 01/07/2003

Basis:

Status: Active DRAFT

Source Tributary

GROUND WATER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
AESTHETIC	01/01 to 12/31	0.180 CFS	40.00 AF
AESTHETIC STORAGE	01/01 to 12/31		40.00 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.180 CFS	
	<u>Total Diversion:</u>	0.180 CFS	40.00 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4SE1/4 Sec. 4, Twp 04N, Rge 01E, B.M.
 ADA County

Place of Use

AESTHETIC

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 01E 4									X		X	X	X	X	X	X	

AESTHETIC STORAGE

Twp Rge Sec	NE				NW				SW				SE				
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
04N 01E 4									X		X	X	X	X	X	X	

Conditions of Approval:

1. The ponds constructed to store water diverted under this right shall be lined with bentonite or other impervious material to minimize seepage losses.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 63-31689

2. Diversion and use of water under this right and Right 63-31726 shall not exceed 40 AF annually.
3. 26A 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 the permit holder had no control.
4. Aesthetic storage under this right is to replace seepage losses in six ponds located within Brookwood Subdivision.
5. Water diverted and stored under this right is not authorized for irrigation purposes.
6. Water bearing zone to be appropriated is from 80 to 100 feet.
7. Mitigation for consumptive use of water under this right shall be provided by Right 63-31726 as approved by Transfer 70604.
8. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
9. 020 The diversion and use of water described in this right may be subject to additional conditions and limitations agreed to by the protestant(s) and the right holder under separate agreement to which the Department is not a party and which may be enforceable by a court of law.

Remarks:Comments:

1. kwalker 5/13/2005 POU
Comment: Updated Shape

Dates and Other Information:

Permit Proof Due Date: 5/1/2010
Permit Proof Made Date:
Permit Approved Date:
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Field Exam Date:
Date Sent to State Office:
Date Received at State Office:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: True

Combined Use Limits:Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 AIRPORT WAY
BOISE ID 83705

September 28, 2005

Legal Notice Department
IDAHO STATESMAN
PO BOX 40
BOISE ID 83707

RE: Application for Permit No. 63-32169

Dear LEGAL NOTICE DEPARTMENT:

Enclosed you will find a legal notice 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 notice 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 10/24/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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

63-32169

ARIES DEVELOPMENT LLC
PO BOX 6887
BOISE ID 83707

Point(s) of Diversion NESE S4 T04N R01E ADA County Source GROUND WATER

Use: AESTHETIC STORAGE 01/01 To 12/31 60.7 AFA

Total Diversion: 60.7 AFA

Date Filed: 08/24/2005

Place Of Use: AESTHETIC STORAGE

T04N R01E S4 NESW SWSW SESW NESE NWSE SWSE SESE

Remark: Water bearing zone to be appropriated is from 80 to 100 feet.

Aesthetic storage is for six ponds located in Brookwood Subdivision. Evaporative and seepage losses resulting from the ponds are covered on water rights 63-31726 and 63-31689.

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 10/24/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho Statesman on October 6 and 13, 2005.