

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Fee 50-
Receipt 2032383
Received by SC
Date 11-8-04

APPLICATION FOR AMENDMENT OF A PERMIT

Name of Applicant Bear Lake West Property Owners Association, Inc. Phone (801) 274-3888

Mailing address c/o Steve Howard, Manager, P.O. Box 194, Fish Haven, Idaho 83287

I am the owner and the holder of Permit to Appropriate the Public Waters of the State of Idaho No. 11-7399, and request that the permit and permit map be amended and/or changed as follows:

Purpose of Amendment: ☒ Change point of diversion ☒ Add point of diversion (See attached explanation)
☒ Change place of use ☒ Change nature of use ☐ Change period of use ☒ Other

1. Point of diversion: SW 1/4 SW 1/4 NE 1/4, Section 21, Township 16S, Range 43E, B.M.,
County of Bear Lake. Other points of diversion SW1/4 SW1/4 SW1/4, Sec. 15, T16S, R43E,
B.M., Bear Lake County

2. Period and nature of use: (irrigation, domestic, stockwatering, industrial, etc.)

Amount 0.33cfs/120afa for Municipal purposes from 1/01 to 12/31 (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per year) (water use) (Begin Month) (End month)

3. Place of use or land to be irrigated:

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16S	43E	15											X						
		21	X	X	X	X	X			X					X				
		22						X	X										

Total number of acres to be irrigated _____

4. a. Who owns the property at the point of diversion? Applicant - Bear Lake West Property Owners Association Inc.
- b. Who owns the land to be irrigated or place of use? Members of the Property Owners Association
- c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing:

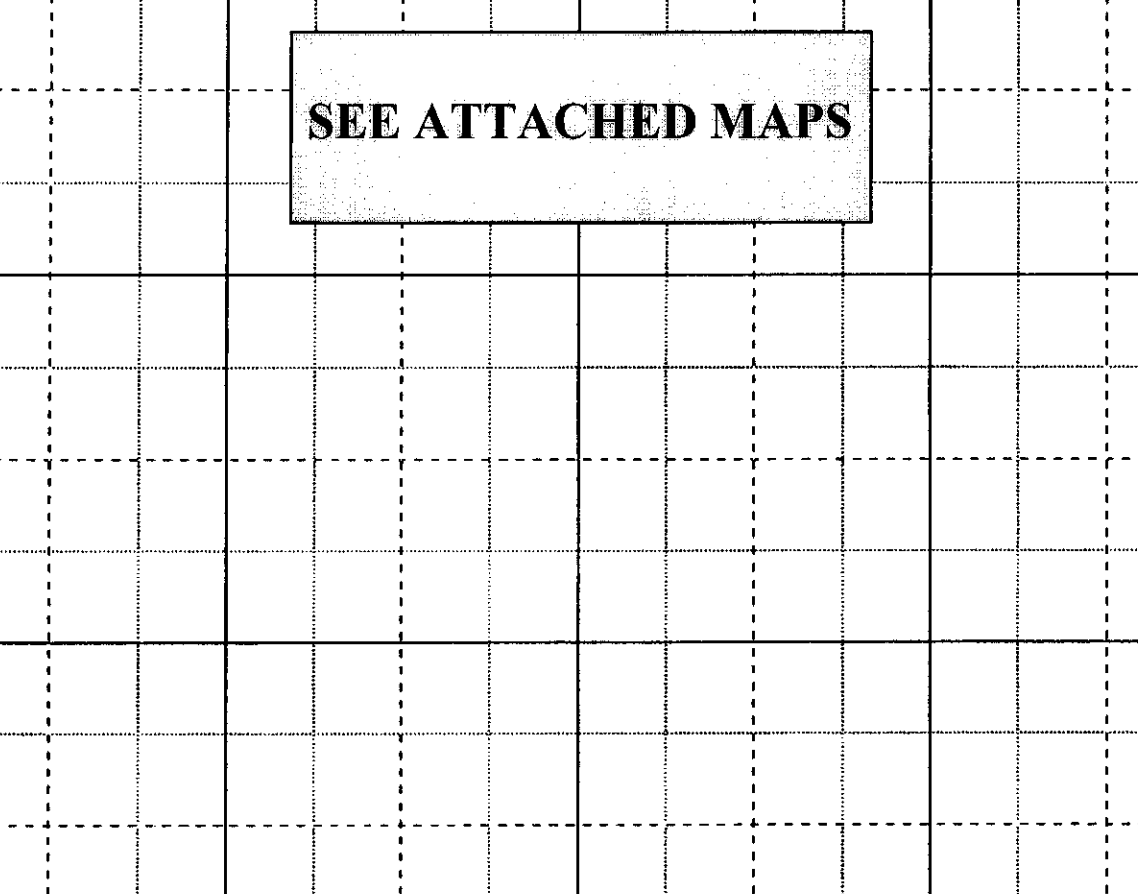
The owners of lots within the Bear Lake West Subdivision Plats B & C are members of the
Bear Lake West Property Owners Association Inc.

RECEIVED

OCT 27 2006

Department of Water Resources
Eastern Region

Complete the following map by showing land and point of diversion as proposed by this amendment. Show $\frac{1}{4}$ $\frac{1}{4}$, section, township, range and ditches. (The smallest subdivision represents 40 acres.)

A large grid of 10 columns and 10 rows, created with solid and dashed lines. In the upper-middle section of the grid, there is a rectangular box with a solid border. Inside this box, the text "SEE ATTACHED MAPS" is written in a bold, black, sans-serif font, centered horizontally and vertically within the box. The text is in all capital letters. The grid lines are thin and light gray, while the box border is a slightly thicker solid black line. The text is black and stands out clearly against the white background of the box.

SEE ATTACHED MAPS

Scale: 2 inches equal 1 mile

I hereby request approval of this change subject to the fact that no one will be injured by the change, and that the change will be made at my own risk.

Signed this 17 day of October, 20 06.

Scott Smith (Attorney-in-fact)
Permit Holder Signature (and title, if for a company or organization)

ACTION OF THE DEPARTMENT OF WATER RESOURCES

Preliminary check by _____ Publication prepared by Se Date _____
Published in News Examiner Publication dates 12/6 & 18/13/06

I, _____, of the Department of Water Resources hereby

APPROVE THE ABOVE APPLICATION FOR AMENDMENT OF PERMIT NO. 11-7399 WITH THE FOLLOWING CONDITIONS (SEE ATTACHED)

Witness my hand this 3rd day of December, 20 07

Bay Spackman
SIGNATURE

State of Idaho
Department of Water Resources
APPLICATION FOR AMENDMENT OF A PERMIT

WATER RIGHT NO. 11-07424

CONDITIONS OF APPROVAL

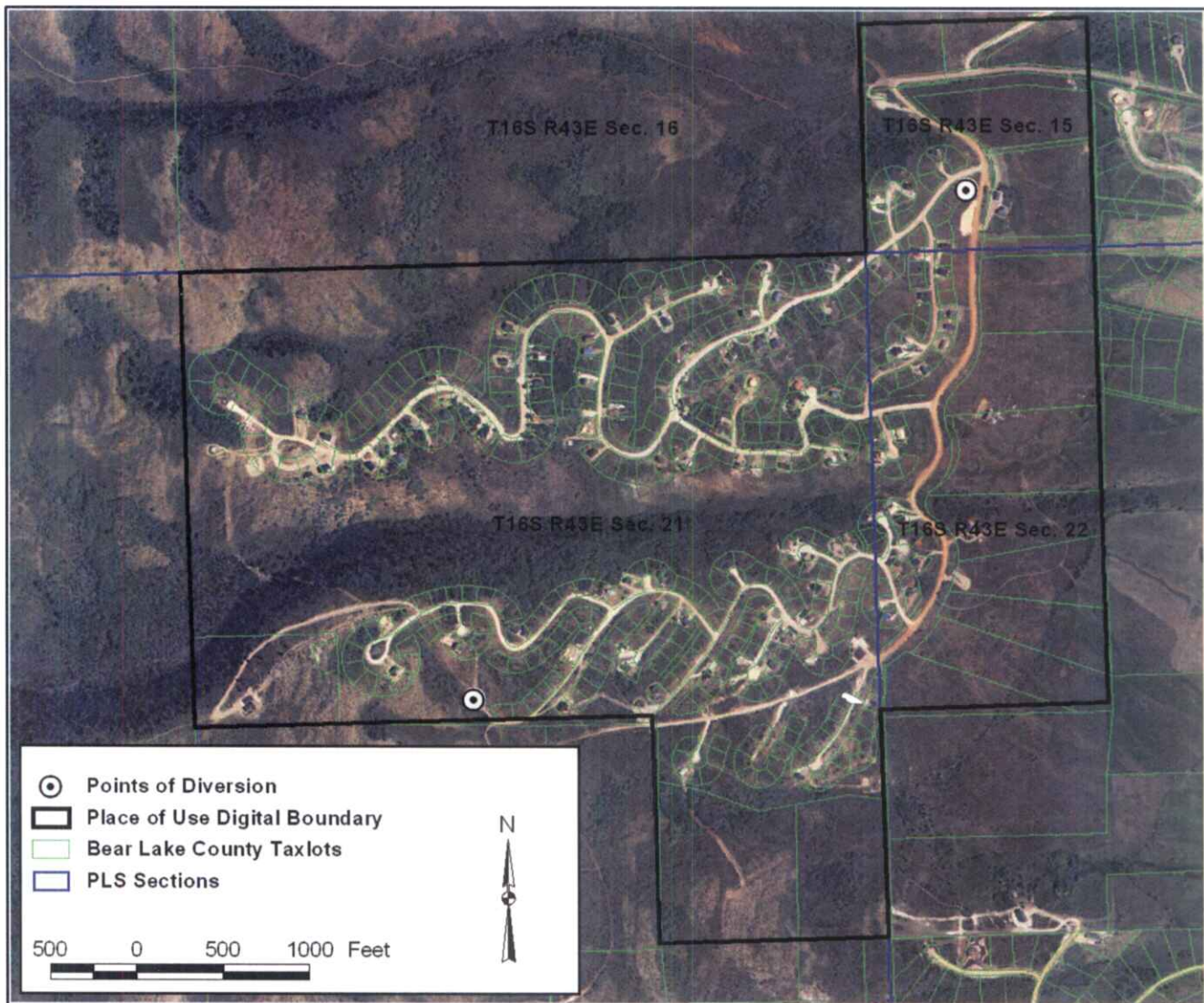
1. After specific notification by the Department, the right holder shall install a suitable measuring device or shall enter into an agreement with the Department to determine the amount of water diverted from power records and shall annually report the information to the Department.
2. The right holder shall not provide water diverted under this right for the irrigation of land having appurtenant surface water rights as a primary source of irrigation water except when the surface water rights are not available for use. This condition applies to all land with appurtenant surface water rights, including land converted from irrigated agricultural use to other land uses but still requiring water to irrigate lawns and landscaping.
3. The issuance of this right does not grant any right-of-way or easement across the land of another.
4. Irrigation of large projects such as parks, golf courses, or sports activities fields is not authorized under this right.
5. A map depicting the place of use boundary for this water right at the time of this approval is attached to this document for illustration purposes.
6. Place of use is within the area served by the public water supply system of Bear Lake West Property Owners Association. The place of use is generally located within Sections 15, 21, and 22, Township 16S, Range 43E.
7. Right 11-7399 is also diverted through the point(s) of diversion described above.

State of Idaho
Department of Water Resources
Water Right License

WATER RIGHT NO. 11-07424

Digital Boundary for Bear Lake West Property Owners Association Inc

November 27, 2007



EXPLANATION
FOR AMENDMENT OF PERMIT
NOS. 11-7399 AND 11-7424

Background

Permit Nos. 11-7399 and 11-7424 are owned by the Bear Lake West Property Owners Association, Inc. ("BLWPOA"). The place of use for these Permits consists of Plats B & C of the Bear Lake West Subdivision. Plat maps are enclosed. Plats B & C are managed by the BLWPOA. Permit No. 11-7399 was originally permitted for use within Plat B. Permit No. 11-7424 was originally permitted for use within Plat C. The term "Subdivision" as used in this explanation refers to the areas identified on Plats B and C collectively.

Originally, each permit allowed a diversion of 0.33 cfs for domestic use by 50 homes – for a total diversion of 0.66 cfs for domestic use by 100 homes. Each permit allows sufficient water to each home for in-home domestic use and outside irrigation of ½ acre. (See I.C. § 42-111 and "Conditions of Approval" for each permit).

These permits currently do not contain an expressed AFA limitation.

There are 402 lots within the Subdivision. Within these lots, there are currently 112 completed homes and another 12 homes in the process of being completed.

Points of Diversion

The BLWPOA currently manages the water system within the Subdivision as a single water system. As a result, BLWPOA seeks to amend Permit Nos. 11-7399 and 11-7424 to unify their points of diversion to allow water from either well to be used throughout the Subdivision.

The POD for these two permits consists of two wells – one being located in Plat B (for Permit No. 11-7399) and one was located in Plat C (Permit No. 11-7424). The locations of these two wells are correctly identified in the attached letter from Rocky Mountain Engineering & Surveying ("RMES"). The Plat B well is located at SW1/4 SW1/4 SW1/4, Sec 15, T16S, R43E. The Plat C well is located at SW1/4 SW1/4 NE1/4, Sec 21, T16S, R43E. The letter from RMES accurately states that the original Plat B well was abandoned; however, a new Plat B well was constructed in the same area. Please note that the locations of these two original wells were somehow noted incorrectly on the original permits.

The Applications for Amendment seek to amend the permits to properly account for the actual locations of the existing wells and to account for the unified water system currently used throughout the Subdivision.

Places of Use

The POU as set forth in the original permits inadvertently failed to include the entire Subdivision even though the actual plat maps and legal descriptions were submitted in conjunction with the original applications for permit. The Applications for Amendment seek to correct this to ensure that the entire subdivision is properly covered by the permits and to properly account for the unified water system currently used throughout the Subdivision.

Conditions of Approval re: Limit on the Number of Homes

The permits as originally issued limit use to a total of 100 homes, which allowed sufficient water to each home for in-home domestic use and outside irrigation of ½ acre. The BLWPOA wishes to significantly restrict the amount of outside irrigation per home and use that water to service additional homes under the permits.

IDWR has recommended that the domestic in-home use for each home within the Subdivision (excluding consideration of any outside irrigation) is approximately 1.2 AFA and that a ½-acre of irrigation requires approximately 1.2 AFA. Based upon these numbers, each home within the Subdivision is allowed 2.4 AFA. In other words, IDWR has suggested that the combined permits allow the total diversion of **240 AFA for domestic use by 100 homes** within the Subdivision.

Effective October 10, 2006, the Board of BLWPOA adopted by special vote the following resolution governing all lots within the Subdivision:

In response to the special vote it was unanimously passed by those voting to limit the exterior irrigation to a maximum of 2,000 square feet for all future lot construction and that existing homes that currently exceed the 2,000 square feet are prohibited from future expansion of their irrigated footage. Existing homes utilizing under the 2,000 square foot limitation are encouraged to limit further expansion of their irrigated land but are not prohibited from increasing the square footage up to that limit.

A copy of the Resolution is enclosed. As mentioned above, there are 402 lots within the Subdivision. Of these lots, there are only eight lots which currently exceed the 2,000 square feet limitation. The following table shows the amount of irrigation for each of these eight lots as well as a calculation for all remaining lots within the Subdivision based upon IDWR's suggested AFA usage for inside and outside irrigation in this area.

LOT #	CURRENT SQUARE FEET IRRIGATION	AFA EQUIVALENT (Based on 1.2 AFA per ½ acre of irrigation)	TOTAL LOT USAGE (Inside use of 1.2 AFA plus outside irrigation)
Lot C428	4600 sq. ft.	0.253 AFA	1.453 AFA
Lot C429	7000 sq. ft.	0.385 AFA	1.585 AFA
Lot C538	2400 sq. ft.	0.132 AFA	1.332 AFA
Lot C535	2160 sq. ft.	0.119 AFA	1.319 AFA
Lot B228	2220 sq. ft.	0.121 AFA	1.321 AFA
Lot B188	2300 sq. ft.	0.126 AFA	1.326 AFA
Lot B331	5800 sq. ft.	0.319 AFA	1.519 AFA
Lot B323	8000 sq. ft.	0.440 AFA	1.640 AFA
ALL OTHER LOTS	2000 sq. ft. each	0.11019 AFA each	1.31019 AFA each

Based upon the calculations shown in this table resulting from the newly adopted Resolution, the total domestic water usage (in-house plus irrigation) for the 100 homes currently permitted will be **132.03248 AFA**. This number was calculated by adding together the “Total Lot Usage” for each of the eight lots noted in the table and then adding to that the product obtained by multiplying the remaining ninety-two homes by their “Total Lot Usage.”

Therefore, by limiting the amount of outside irrigation to 2,000 square feet per home, the amount of **107.967 AFA** (i.e. 240 AFA minus 132.03248 AFA) is made available under the permits for use by additional homes within the subdivision.

Given that each additional home within the Subdivision (as restricted by the Resolution) will require only 1.31019 AFA (based upon a limitation of 2,000 sq feet for outside irrigation), the amount of 107.967 AFA is sufficient to service **an additional 82 homes** (i.e. 107.967 divided by 1.31019).

The Applications for Amendment therefore requested that the Conditions of Approval for these permits be amended to allow the use of the water for a combined total of 182 homes with a limitation of outside irrigation as delineated in the Resolution adopted by the BLWPOA.

The BLWPOA is not opposed to the addition of a volumetric limitation within these permits in the combined amount of 240 AFA for the Subdivision.

This requested amendment will not cause an increase or expansion of the water available under the existing rights.

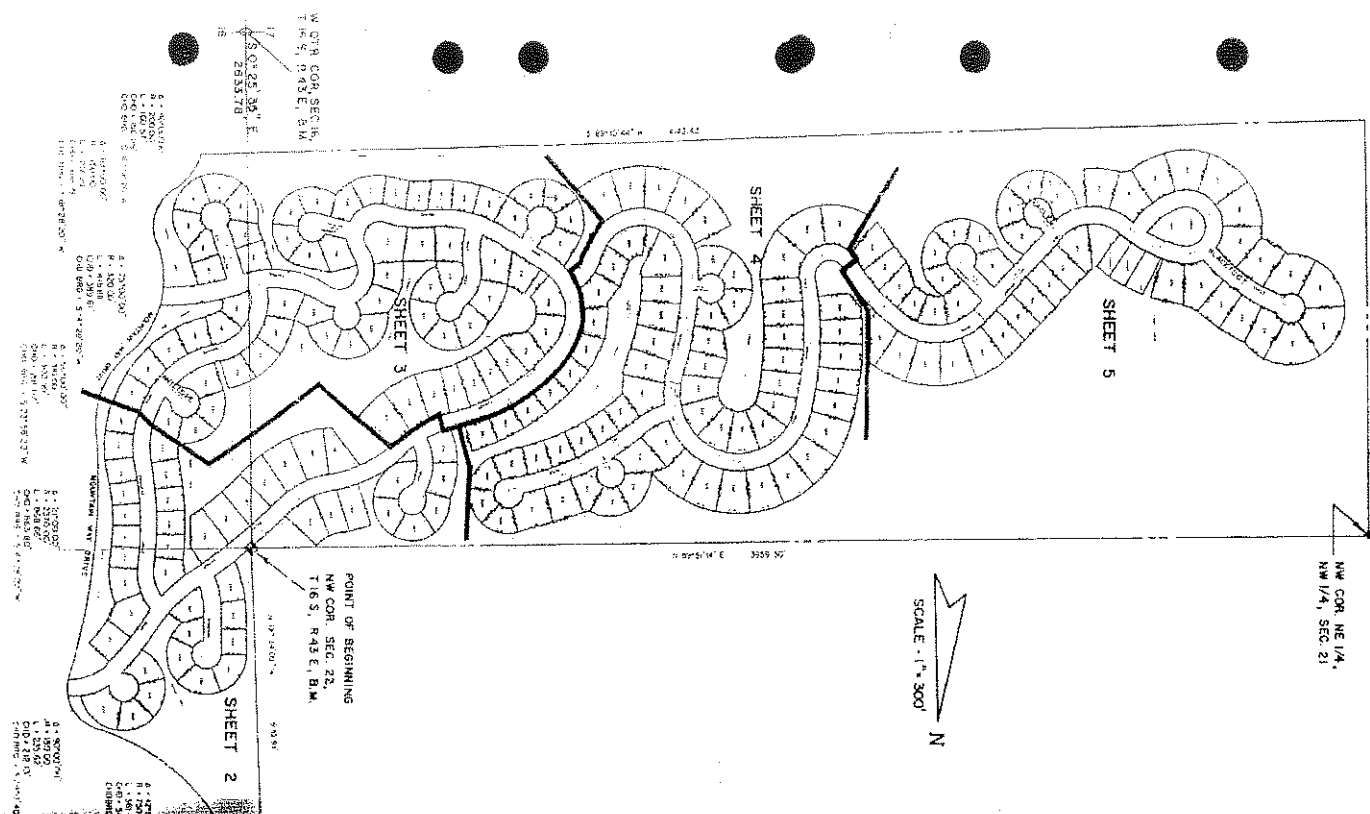
Nature of Use

Because there are significantly less than 182 homes currently completed within the Subdivision, the Application for Amendment seeks to amend the nature of use from “domestic” to “municipal” to allow for the continued build-out of these homes over time. (See I.C. § 42-222 and I.C. § 42-202B(5)(b)).

ATTACHMENTS

Attached hereto are the following documents:

1. Map of Plat B of the Bear Lake West Subdivision
2. Map of Plat C of the Bear Lake West Subdivision
3. Letter from Rocky Mountain Engineering & Surveying
4. BLWPOA Resolution limiting outside irrigation



OWNER'S DECLARATION

I, the undersigned, do hereby certify that I am a registered owner of the tract of land described above and shown on this plat, have caused the same to be surveyed and subdivided into lots, streets, easements and common areas, as indicated on this plat, and hereby warrant and save County harmless from any assessments and encumbrances and do hereby give, grant and dedicate the streets and common areas as indicated on this plat, to the Bear Lake County Property Owners' Association and grant and dedicate to Bear Lake County a perpetual easement on the streets and common areas as indicated on this plat. Other easements indicated on this plat are not dedicated to the public, but the right to use said easements are hereby reserved for public utility and for drainage and for any other uses hereon designated. No structures, other than for such utility purposes designated, shall be constructed within the limits of said easements. In witness whereof we have hereunto set our signatures this 26th day of February, 1973.

Bear Lake West, Inc.
J. W. Williams, President
J. W. Williams, Secretary

CORPORATE ACKNOWLEDGEMENT

State of Idaho }
County of Bear Lake } ss
On the 26th day of February, 1973, personally appeared before me, the undersigned Notary Public, J. W. Williams and Ron Williams, who are duly sworn by me, did say that they are the President and Secretary, of Bear Lake West, Inc., and the above owner's declaration signed in behalf of said corporation by authority of the articles of incorporation and the aforesaid officers did acknowledge to me that said corporation executed the same.

My commission expires February 1974.
J. W. Williams, Notary Public

COUNTY COMMISSION APPROVAL AND ACCEPTANCE

Approved and accepted by the Bear Lake County Commission this 26th day of February, 1973.

Attest: J. W. Williams, Chairman
County Engineer

COUNTY ENGINEER'S APPROVAL

Surveyed and approved by the Bear Lake County Engineer this 26th day of February, 1973.

County Engineer

SANITARY RESTRICTIONS

Sanitary restrictions in force under Title 50, Chapter 13, Idaho Code.

ASSOCIATION OF OWNERS AND MAINTAINED BY BEAR LAKE WEST HOMEOWNERS

ENGINEER'S CERTIFICATE

I, EARL S. XEMP, do hereby certify that I am a Registered Professional Engineer Land Surveyor and that I hold Certificate No. 3419 as prescribed by the laws of the State of Idaho. I further certify that, by authority of the owner, I have made a survey of the tract of ground shown on this plat and described below and have subdivided said tract into lots, streets, easements and common areas and the same has been correctly surveyed and staked on the ground as shown on this plat and that this plat is true and correct.

BOUNDARY DESCRIPTION

Beginning at the Northwest Corner of Section 22, Township 16 South, Range 43 East, Boise Meridian, and running thence North 1°34'09" East, 155.66 feet; thence along the arc of a 750.00 foot radius curve to the left 561.64 feet [chord bears South 51°34'29" East, 548.61 feet]; thence along the arc of a 150.00 foot radius curve to the right 235.62 feet [chord bears South 28°01'40" East, 212.13 feet]; thence along the arc of a 2370.00 foot radius curve to the left 885.56 feet [chord bears South 6°28'20" West, 863.80 feet]; thence along the arc of a 310.00 foot radius curve to the right 302.89 feet [chord bears South 27°58'20" West, 281.07 feet]; thence along the arc of a 320.00 foot radius curve to the left 418.88 feet [chord bears South 14°28'20" West, 389.61 feet]; thence along the arc of a 150.00 foot radius curve to the right 217.29 feet [chord bears South 18°28'20" West, 193.78 feet]; thence along the arc of a 200.00 foot radius curve to the left 160.57 feet [chord bears South 36°58'20" West, 156.29 feet]; thence South 89°10'40" West, 419.43 feet to the National Forest boundary; thence North 0°10'09" East along said boundary 1420.71 feet to the Northwest Corner of the Northeast 1/4 of the Northwest 1/4, Section 21, said Township and Range; thence North 89°51'14" East along the North line of said Section 21, 399.30 feet to the point of beginning, containing 151.20 Acres.



COUNTY RECORDER'S CERTIFICATE

State of Idaho }
County of Bear Lake } ss
This is to certify that this plat was filed for recording at the Bear Lake County Recorder's Office at the request of J. W. Williams on the 26th day of February, 1973, and is duly recorded in Book 18720-3 Page 26.

County Recorder

COUNTY TREASURER

Pursuant to Title 50-1506 of the Idaho Code, I, Earl S. Xemp, do hereby certify that all County Property taxes due on this property, other delinquent and/or current, have been paid in full as of February 26, 1973.

County Treasurer

BEAR LAKE WEST PROPERTIES NO. 1

PLAT 'B'

PART OF SECTION 20, T16S, R43E, B1W, BEAR LAKE COUNTY, IDAHO

State of Idaho
County of Bear Lake, SS

On this _____ day of _____, 19____
before me, the undersigned Notary Public, Kathryn L. Thompson who, being first duly sworn by me, did read the above Owner's Dedication was signed in behalf of by authority of the Articles of Incorporation and did acknowledge to me that said corporation executive

My commission expires _____

Residing at _____

Notary

COUNTY COMMISSION APPROVAL AND ACCEPTANCE

Approved and accepted by the Bear Lake County Commission
day of _____, 19____.

Attest _____

Clerk

Chair

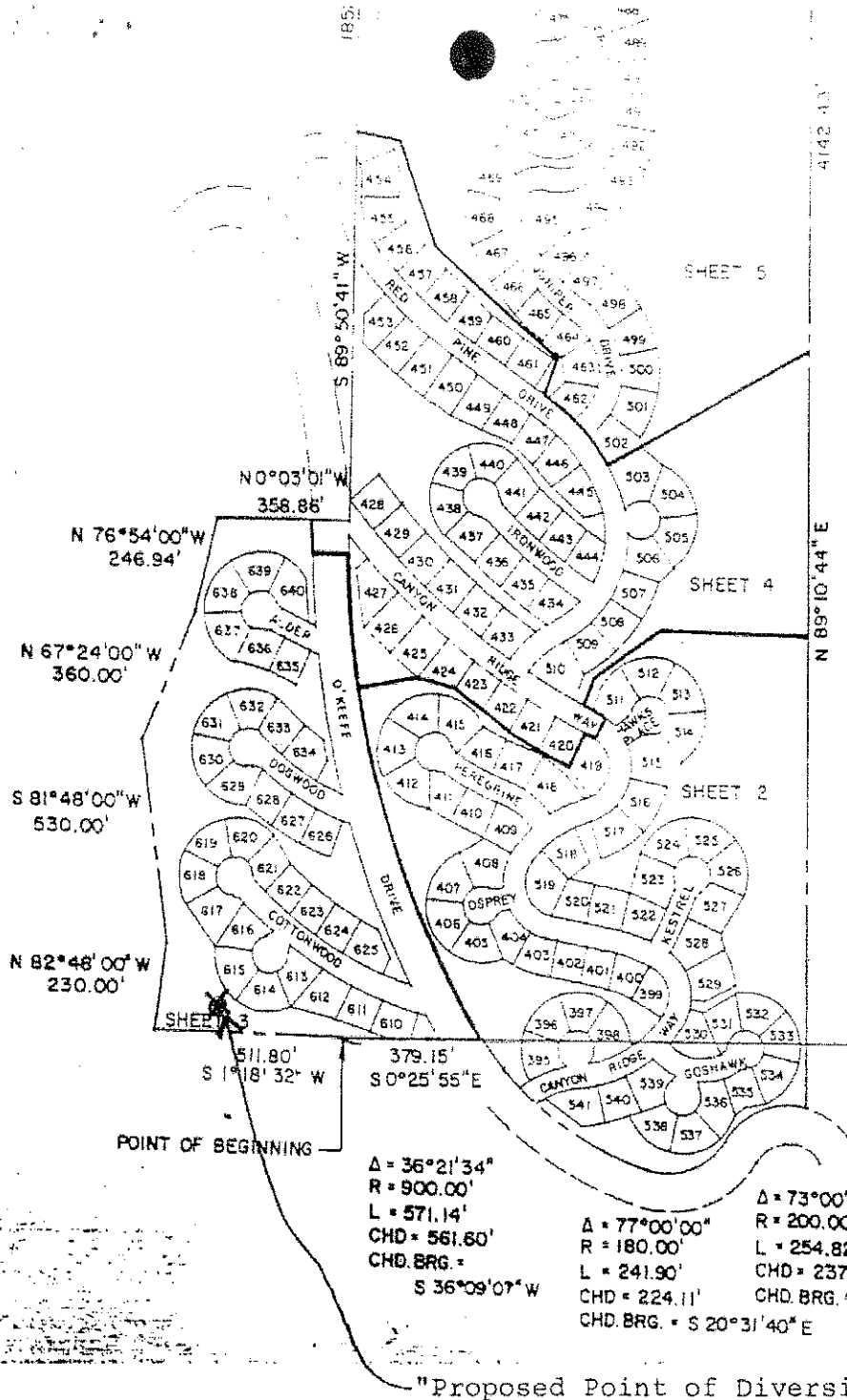
COUNTY ENGINEER'S APPROVAL

Reviewed and approved by the Bear Lake County Engineer
day of _____, 19____.

County Engineer

SANITARY RESTRICTIONS

Sanitary restrictions in force under Title 50, Chapter _____



$\Delta = 36^{\circ}21'34''$
 $R = 900.00'$
 $L = 571.14'$
 $CHD = 561.60'$
 $CHD.BRG =$
 $S 36^{\circ}09'07''W$

$\Delta = 77^{\circ}00'00''$
 $R = 180.00'$
 $L = 241.90'$
 $CHD = 224.11'$
 $CHD.BRG = S 20^{\circ}31'40''E$

$\Delta = 73^{\circ}00'00''$
 $R = 200.00'$
 $L = 254.82'$
 $CHD = 237.93'$
 $CHD.BRG = S 22^{\circ}31'40''E$

"Proposed Point of Diversion"



FORSGBEN-PERKINS ENGINEERING, P.A.

BEAR LAKE WEST PROPERTIES NO. 1

PLAT 'C'

PART OF

SECTIONS 21 & 22, T16S, R43E, B.M.

BEAR LAKE COUNTY, IDAHO

1 OF 5
NOV 28 1994

RMES

Rocky Mountain Engineering & Surveying
155 South 2nd Avenue ♦ Pocatello, ID 83201

Voice: (208) 234-0110 ♦ Fax: (208) 234-0111 ♦ www.rmes.biz

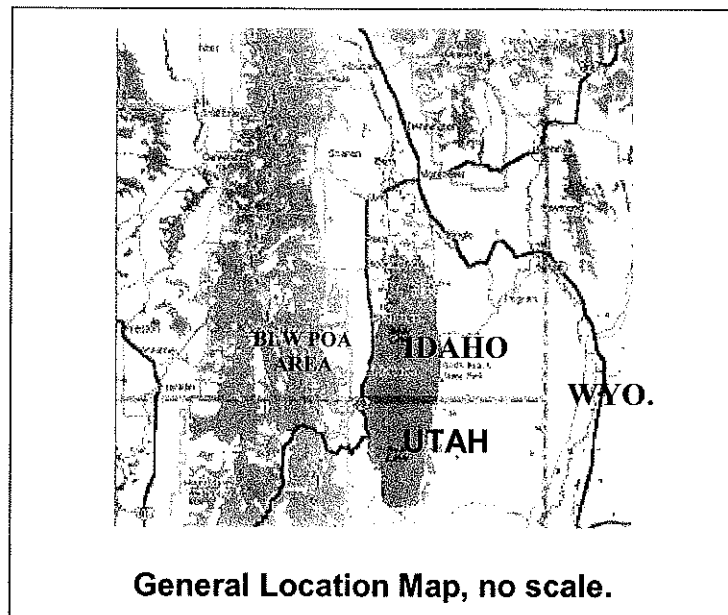
May 5, 2005
RMES 03063

Re: Bear Lake West POA Plat B and Plat C well information

Dennis Dunn
Senior Water Resource Specialist
Idaho Department of Water Resources
900 North Skyline Drive
Idaho Falls, ID 83402

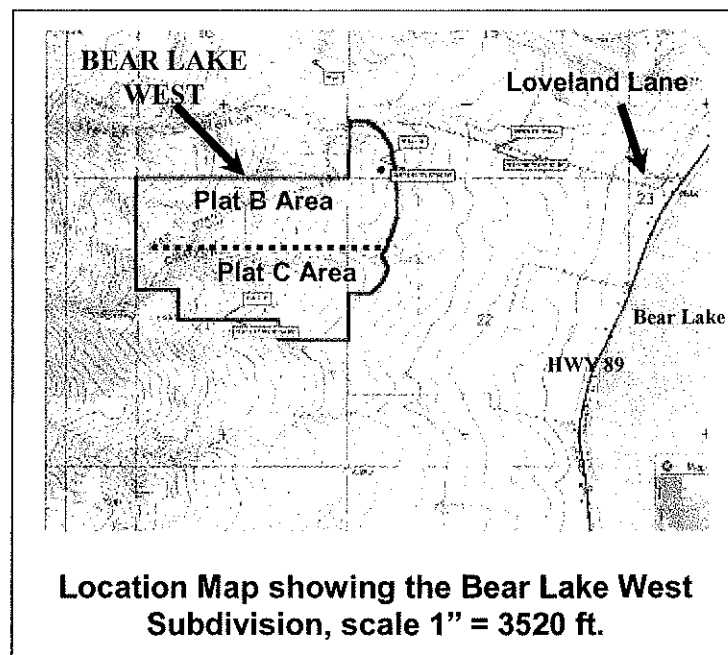
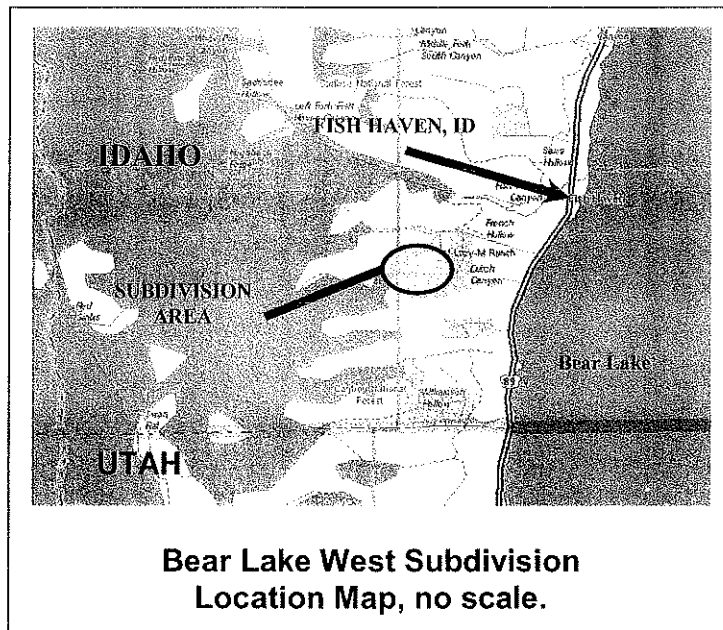
Dear Mr. Dunn,

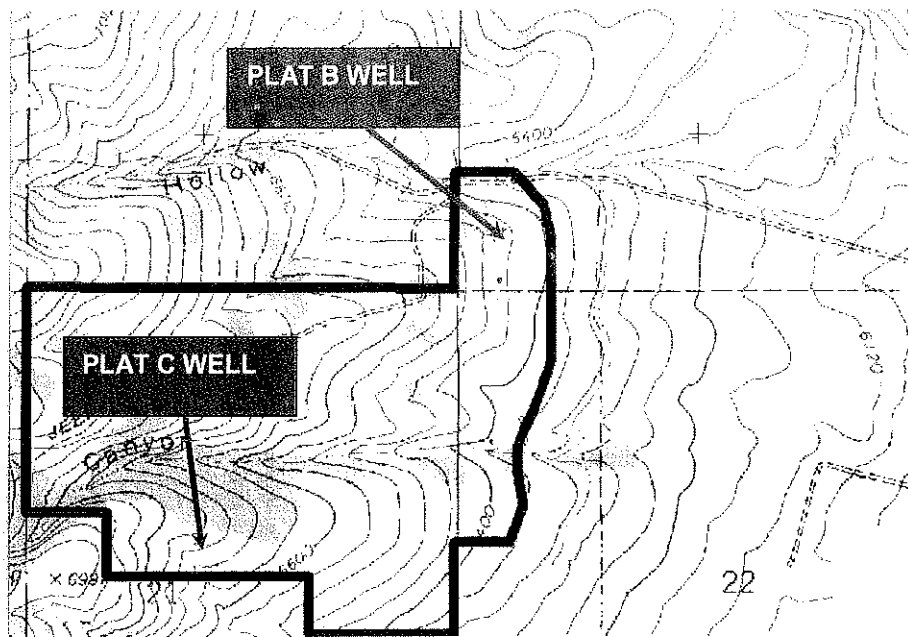
As requested by Steve Howard, Manager, Bear Lake West Property Owners Association, this letter will provide IDWR information regarding two water wells located at the Bear Lake West Property Owners Association (BLW POA) Subdivision.



"Focused on Solutions"

Civil ♦ Environmental ♦ Transportation ♦ Planning ♦ Land Development ♦ Municipal ♦ Surveying





Locations of Plat B and Plat C wells, Bear Lake West Subdivision

There are two wells in the Bear Lake West Subdivision area, Well B in Plat B area and Well C in the Plat C area.

Well B, a 6-in. diameter well is located at latitude 42d 1.828m N, longitude 111d 25.350m W, near the intersection of Dutch Canyon Road and Mountain Way in the SW¼ SW¼, Sec. 15, T. 16 S., R. 43 E., B.M. in the northeast part of Plat B. Well B was drilled in the 1980's. Plat B well was drilled to a depth of 470 feet and using a 5-HP motor originally produced about 100 gpm with a 275 psi pressure head. The Plat B well pumps through a 2-inch drop pipe into a 6-inch distribution system pipe line to the subdivision's water reservoir system. However, the Plat B well has "failed." The Bear Lake West Property Owners Association proposes to drill a replacement Plat B well and that the original Plat B well be plugged and abandoned.

In 1997, a well was drilled in the Plat C area. The Plat C well, an 8 in. diameter well, is located at latitude 42d 1.355m N, longitude 111d 25.999m W, in the SW¼ NE¼, Sec. 21, T. 16 S., R. 43 E., B.M. in the southwest part of Plat C area near the west end of Red Pine Drive. The well head for Well C is at elevation is 6643 ft. msl, has a total depth of about 495 ft. (6148 ft. msl) below ground level (bgl), the static water level is 256 ft. (6387 ft msl) bgl and the well pump is set at around 284 ft. (6359 ft. msl) below ground level. Using a 5-HP motor Well C pumps 200 gpm with a 280-psi pressure head. The Plat B well pumps through a 2-inch drop pipe into a 6-inch distribution system pipe line to the subdivision's water reservoir system.

If you have any questions or comments, please call 208-234-0110.

Sincerely yours,



Fred Hagius
Environmental Engineer

Cc:

→ John J. Oberst, Chairman BLW Property Owners Association ←
Steve Howard, Manager, BLW Property Owners Association

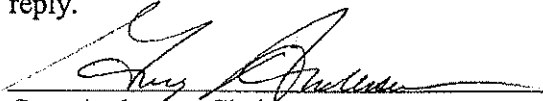
**BEAR LAKE WEST
PROPERTY OWNERS ASSOCIATION**

P. O. Box 2086
Sandy, Utah 84091-2086

(801) 255-6100

To Whom It May Concern,

Be it resolved that a special vote was conducted by email and telephone calls on both September 25, 2006, and October 6, 2006. In response to the special vote it was unanimously passed by those voting to limit exterior irrigation to a maximum of 2,000 square feet for all future lot construction and that existing homes that currently exceed the 2,000 square feet are prohibited from further expansion of their irrigated square footage. Existing homes utilizing under the 2,000 square foot limitation are encouraged to limit further expansion of their irrigated land but are not prohibited from increasing the square footage up to the limit. Appropriate revisions to the building permits and by-laws and other documentation will be initiated. The vote was six (6) in favor; two (2) failed to reply.


Greg Anderson, Chairman

10/10/06
Date