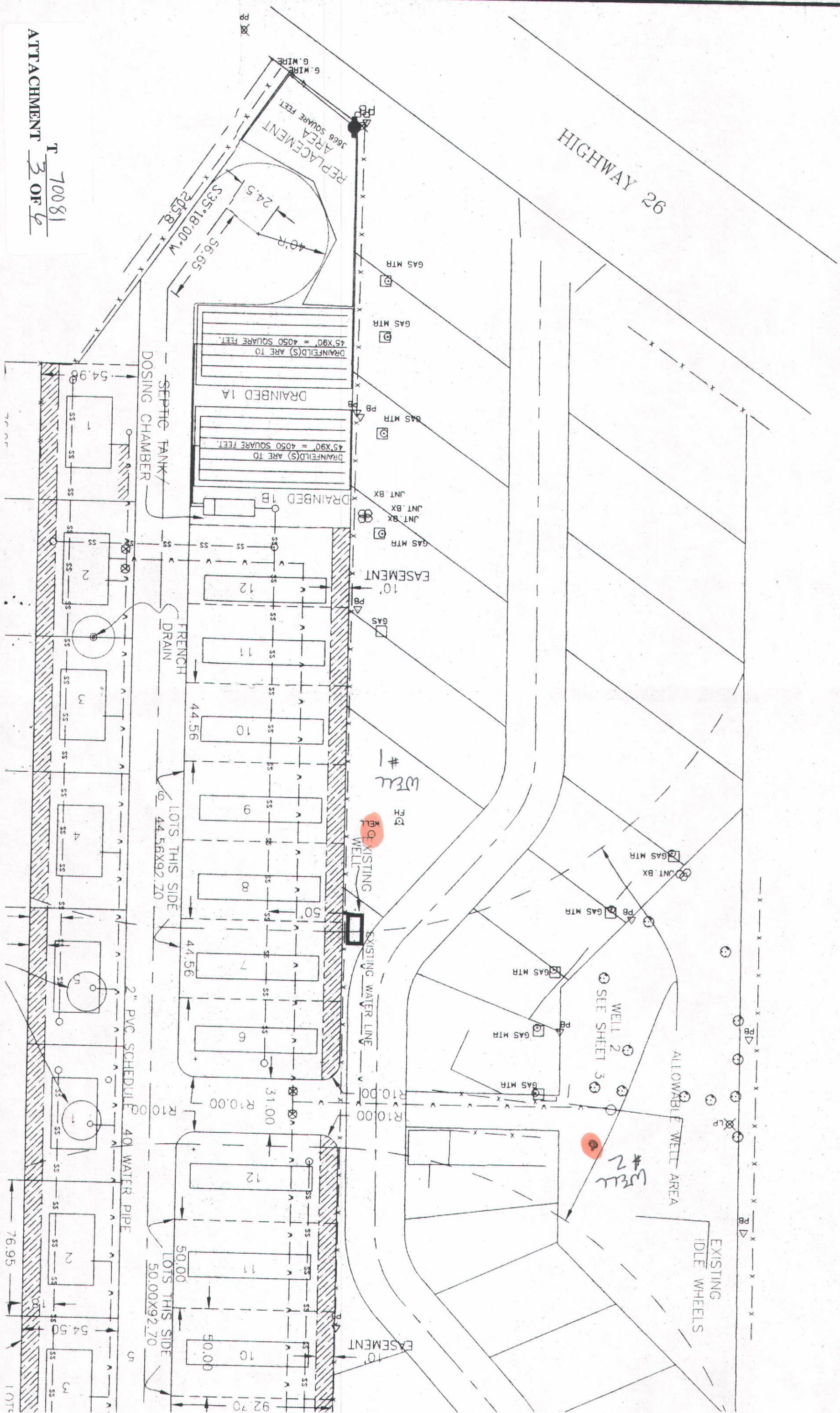
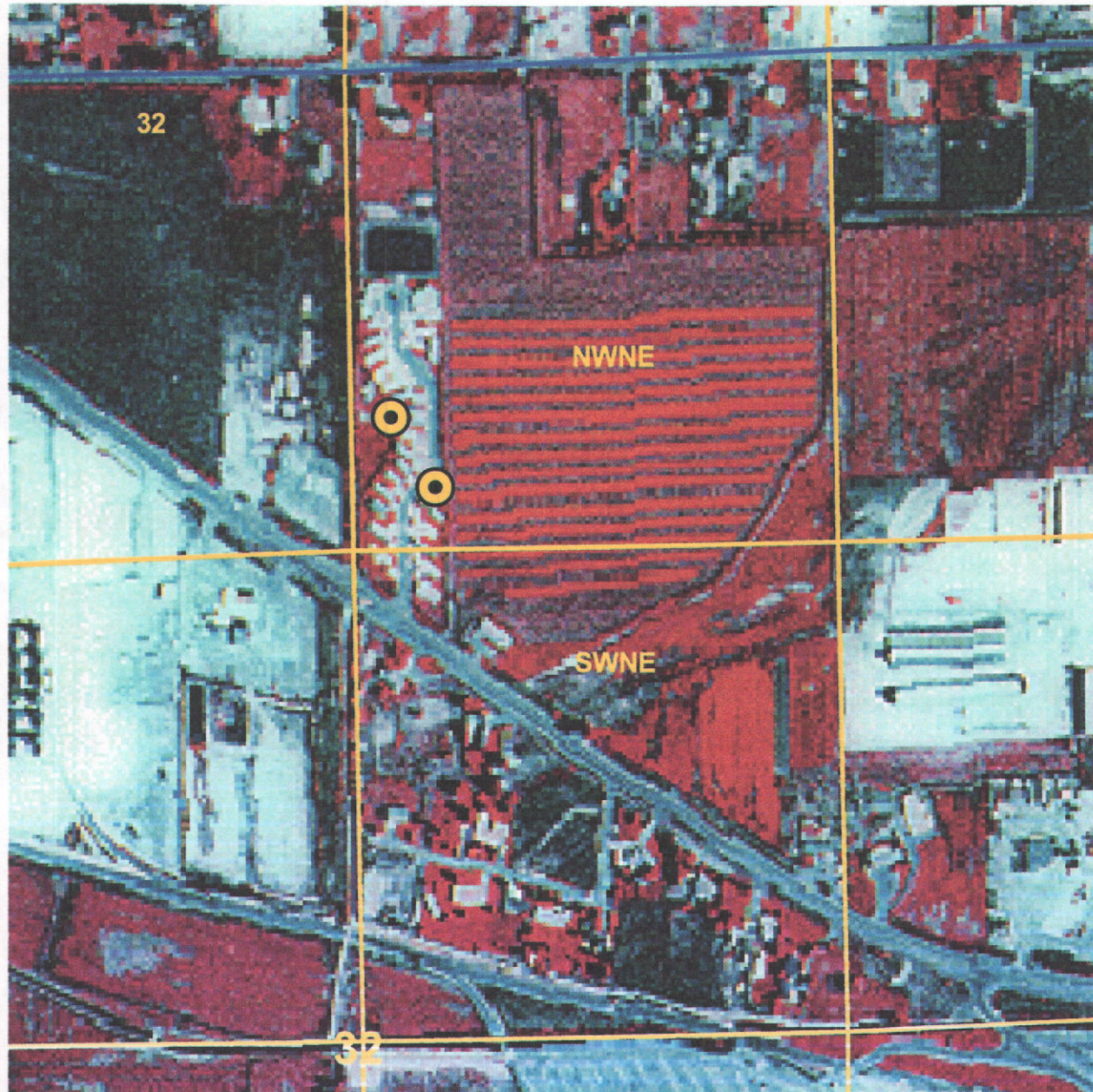


T 70081  
3 OF 4

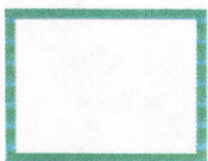


# 35-7639, 35-09067

02S, 35E, SEC. 32



POINT OF DIVERSION



PLACE OF USE

MICROFILMED

FEB 25 2003

ATTACHMENT T 70081  
4 OF 6

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**TRANSFER OF WATER RIGHT**  
TRANSFER NO. 70081

This is to certify that: SUSAN WISHNEY  
PO BOX 837  
BOISE ID 83701-0837  
(208)336-5955

Or

DAVID WISHNEY  
PO BOX 837  
BOISE ID 83701-0837  
(208)336-5955

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

**Summary of Water Rights Before the Proposed Change**

| <u>Right</u> | <u>Origin/Basis</u> | <u>Priority</u> | <u>Rate</u> | <u>Volume</u> | <u>Acres</u> | <u>Total</u> | <u>Source</u> |
|--------------|---------------------|-----------------|-------------|---------------|--------------|--------------|---------------|
| 35-7639      | WR/Decreed          | 09/03/1976      | 0.25 cfs    | 28.8 af       |              |              | GROUND WATER  |

**Purpose of Transfer (Changes Proposed)**

| <u>Current Number</u> | <u>Split</u> | <u>POD</u> | <u>POU</u> | <u>Add POD</u> | <u>Period of Use</u> | <u>Nature of Use</u> |
|-----------------------|--------------|------------|------------|----------------|----------------------|----------------------|
| 35-7639               | NO           | YES        | YES        | YES            | NO                   | NO                   |

**Summary of Water Rights After the Approved Change**

| <u>Existing Right</u> | <u>New No. (changed portion)</u> | <u>Transfer Rate</u> | <u>Transfer Volume</u> | <u>Acre Limit</u> | <u>Total Acres</u> | <u>New No. (remaining portion)</u> | <u>Remaining Rate</u> | <u>Remaining Volume</u> | <u>Remaining Acre Limit</u> | <u>Remaining Total Acres</u> |
|-----------------------|----------------------------------|----------------------|------------------------|-------------------|--------------------|------------------------------------|-----------------------|-------------------------|-----------------------------|------------------------------|
| 35-7639               | 35-7639                          | 0.25 cfs             | 28.8 af                | N/A               | N/A                |                                    | N/A                   | N/A                     | N/A                         | N/A                          |
| <b>TOTALS</b>         |                                  | <b>0.25 cfs</b>      | <b>28.8 af</b>         | <b>N/A</b>        | <b>N/A</b>         |                                    | <b>N/A</b>            | <b>N/A</b>              | <b>N/A</b>                  | <b>N/A</b>                   |

Detailed Water Right Description(s) attached

Dated this 11<sup>th</sup> day of December, 2002

  
Chief, Water Allocation Bureau

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FEB 25 2003

**WATER RIGHT NO. 35-7639**  
**As Modified by Transfer No. 70081**

In accordance with the approval of Transfer No. 70081, Water Right No. 35-7639 is now described as follows.

**Right Holder:** SUSAN WISHNEY And  
 PETER WISHNEY  
 DAVID WISHNEY  
 PO BOX 837  
 BOISE ID 83701-0837

**Priority Date:** September 03, 1976

**Source:** GROUND WATER

| <u>BENEFICIAL USE</u> | <u>From</u> | <u>To</u> | <u>Diversion Rate</u> | <u>Volume</u> |
|-----------------------|-------------|-----------|-----------------------|---------------|
| DOMESTIC              | 01/01       | to 12/31  | 0.25 CFS              | 28.8 AF       |
|                       |             |           | 0.25 CFS              | 28.8 AF       |

**LOCATION OF POINT(S) OF DIVERSION:**

GROUND WATER                      NWNE      Sec. 32 Twp 02S    Rge 35E    BINGHAM County

GROUND WATER                      NWNE      Sec. 32 Twp 02S    Rge 35E    BINGHAM County

**PLACE OF USE:** DOMESTIC

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | Totals |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 02S | 35E | 32  |    | X  |    | X  |    |    |    |    |    |    |    |    |    |    |    |    |        |

**CONDITIONS OF APPROVAL**

1. The total instantaneous diversion of water from all points of diversion under Rights 35-7639 shall not exceed 0.25 cfs, nor total combined annual volume of 28.8 af.
2. Prior to the diversion and use of water under Transfer approval 70081, the right holder shall install and maintain acceptable measuring device(s), including data logger(s), at the authorized point(s) of diversion, in accordance with Department specifications.
3. Right 35-9067 is also diverted through the point(s) of diversion described above.
4. The quantity of water decreed for this water right for domestic use is not a determination of historical beneficial use.
5. All water rights within Basin 35 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.
6. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
7. Domestic use is for 25 homes within Idle Wheel Mobile Estates, Parcel Number RP0344500.

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FEB 25 2003

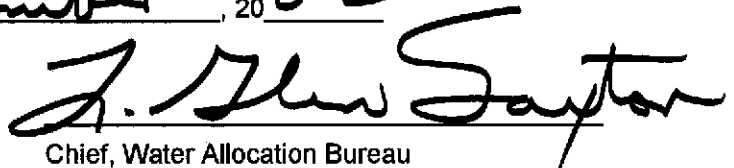
**WATER RIGHT NO. 35-7639**  
**As Modified by Transfer No. 70081**

**CONDITIONS OF APPROVAL**

8. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
9. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
10. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 11<sup>th</sup> day of December, 2002

  
Chief, Water Allocation Bureau

MICROFILMED

FEB 25 2003

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

# 250 fees

Transfer No. 70081

## APPLICATION FOR TRANSFER OF WATER RIGHT

## PART 1

Name of Applicant David Wishney, <sup>or</sup> Susan Wishney Phone 208-336-5955Post Office address PO BOX 837 Boise, Id 83707

## A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☒ Change place of use  
☐ Change nature of use ☐ Change period of use ☐ Other \_\_\_\_\_

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SEP 13 2002

2. Describe the reason for the proposed changes Original POU/POD recorded in error  
should be NWNE as POD AND NWNE & SWNE as POU  
Second well added via 35-9067 (Permit)

## B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number 35-7639 Priority 9/3/1976 Amount (cfs/ac-ft) 0.25 cfs Nature of Use domestic Period of Use 01/01 to 12/31  
 \_\_\_\_\_ to \_\_\_\_\_  
 \_\_\_\_\_ to \_\_\_\_\_  
 \_\_\_\_\_ to \_\_\_\_\_
2. Total amount of water being transferred 0.25 cfs cubic feet per second and/or 28.8 acre-feet per annum.
3. Source of water GW tributary to \_\_\_\_\_
4. Point(s) of Diversion:

| Lot | 1/4 | 1/4 | 1/4 | Sec | Twp | Rge | County  | Local name for diversion |
|-----|-----|-----|-----|-----|-----|-----|---------|--------------------------|
|     |     | NW  | NE  | 32  | 2s  | 35E | Bingham |                          |
|     |     | NW  | NE  | 32  | 2s  | 35E | Bingham |                          |
|     |     |     |     |     |     |     |         |                          |
|     |     |     |     |     |     |     |         |                          |

## 5. Lands irrigated or place of use:

| Twp | Rge | Sec | NE 1/4 |    |    |    | NW 1/4 |    |    |    | SW 1/4 |    |    |    | SE 1/4 |    |    |    | Totals |
|-----|-----|-----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|----|----|----|--------|
|     |     |     | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE | NE     | NW | SW | SE |        |
| 2s  | 35E | 32  |        | D  | D  |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |
|     |     |     |        |    |    |    |        |    |    |    |        |    |    |    |        |    |    |    |        |

MICROFILMED

Total Acres \_\_\_\_\_

SEP 23 2003

PART 1

## 6. General Information:

- General Information:
- a. Description of diversion system two wells to trailer Park  
Idle wheels Mobile Home Park
- b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts?  
X Yes \_\_\_\_\_ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

- c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

NONE - Recording error

- d. Remarks:

**ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES**

This is to certify that I have examined Application for Transfer of Water Rights No. \_\_\_\_\_

And the said application is hereby \_\_\_\_\_, subject to the following conditions:

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**For the Director**

MICRO: 12/11/74

FEB 25 2003

250  
page 3 of 5

Part 2

T70081

Page 1

07/09/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 35-7639

WATER RIGHT NUMBER: 35-7639

| <u>Owner Type</u> | <u>Name and Address</u>                                                 |
|-------------------|-------------------------------------------------------------------------|
| Current Owner     | SUSAN WISHNEY<br>PO BOX 837<br>BOISE, ID 83701<br>(208)336-5955         |
| Current Owner     | DAVID WISHNEY<br>PO BOX 837<br>BOISE, ID 83701<br>(208)336-5955         |
| Original Owner    | IDLE WHEEL MOBILE EST<br>PO BOX 808<br>BLACKFOOT, ID 83221              |
| Current Owner     | PETER E WISHNEY TRUST<br>PO BOX 837<br>BOISE, ID 83701<br>(208)336-5955 |
| Trustee           | PETER E WISHNEY<br><br>BOISE, ID 83701                                  |

Priority Date: 09/03/1976

Basis: Decreed

Status: Active

Source

Tributary

GROUND WATER

| <u>Beneficial Use</u> | <u>From</u> <u>To</u>   | <u>Diversion Rate</u> | <u>Annual Volume</u> |
|-----------------------|-------------------------|-----------------------|----------------------|
| DOMESTIC              | 1/01 to 12/31           | 0.250 CFS             | 28.80 AF             |
|                       | <u>Total Diversion:</u> | 0.250 CFS             | 28.80 AF             |

Location of Point(s) of Diversion

GROUND WATER NE1/4NW1/4 Sec. 32, Twp 02S, Rge 35E, B.M.  
BINGHAM County

Place of Use

DOMESTIC

| Twp | Rge | Sec | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    |        |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | Totals |
| 02S | 35E | 32  |    |    |    |    | X  |    |    |    |    |    |    |    |    |    |    |    |        |

Conditions of Approval:

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FEB 25 2003

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 35-7639

1. C12 THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN BASIN 35: WATER RIGHT NO. SOURCE NONE NONE THE FOLLOWING WATER RIGHTS FROM THE FOLLOWING SOURCES OF WATER IN BASIN 35 SHALL BE ADMINISTERED SEPARATELY FROM ALL OTHER WATER RIGHTS IN THE SNAKE RIVER BASIN: WATER RIGHT NO. SOURCE NONE NONE ALL WATER RIGHTS WITHIN BASIN 35 ARE FROM CONNECTED SOURCES OF WATER IN THE SNAKE RIVER BASIN AND SHALL BE ADMINISTERED CONJUNCTIVELY.
2. M02 LOCKABLE CONTROLLING WORKS OF A TYPE ACCEPTABLE TO IDWR SHALL BE PERMANENTLY INSTALLED AND MAINTAINED AS PART OF THE DIVERTING WORKS.
3. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Remarks:

1. Explanatory PROPERTY AKA IDLE WHEEL MOBILE ESTATES PARCEL NO. RP0344500

Comments:

Dates and Other Information:

Licensed Date:  
 Decreed Date: 1/19/1999  
 Water Supply Bank Enrollment Accepted:  
 Water Supply Bank Enrollment Removed:  
 Enlargement Use Priority Date:  
 Enlargement Statute Priority Date:  
 Formal Action Date:  
 State or Federal: S  
 Owner Name Connector: AND  
 Water District Number:  
 Generic Max Rate Per Acre:  
 Generic Max Volume Per Acre:  
 Decree Defendant:  
 Decree Plaintiff:  
 Civil Case Number:  
 Judicial District:  
 Swan Falls Trust or Nontrust:  
 Swan Falls Dismissed:  
 DLE Act Number:  
 Carey Act Number:  
 Mitigation Plan: False

MICHAEL DALL

SEP 25 2003

PART 3

CHANGES IN NATURE OF USE

| 1. | <u>New Nature of Use</u> | <u>Amount(cfs/af-ft)</u> | <u>Hours/days/year</u> | <u>Period of Use</u> |
|----|--------------------------|--------------------------|------------------------|----------------------|
|    |                          |                          |                        | to                   |
|    |                          |                          |                        | to                   |

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

 Stephanie L. Porter  
(Signature of Applicant)

Subscribed and sworn to before me this 19<sup>th</sup> day of July, 2002.

Stephanie L. Porter  
(Notary Public)

FOR DEPARTMENT USE ONLY

Transfer contains 5 pages and 4 attachments

Received by WM Date 8/1/02 Protest filed by \_\_\_\_\_

Prelim. Check by \_\_\_\_\_ Fee \$250.00

Receipted by HWT #EO28019 Date 8-1-02

Published in Morning News Copies of protest forwarded by \_\_\_\_\_

Pub. Dates Aug 15 & 22, 2002 Hearing held by \_\_\_\_\_ Date \_\_\_\_\_

Watermaster recommendations requested on \_\_\_\_\_ Recommended for ☐ approval ☐ denial

\_\_\_\_\_ received \_\_\_\_\_ by \_\_\_\_\_

Copy of transfer sent to lien holder \_\_\_\_\_

MICROFILMED  
FEB 25 2003

Title File No.: 36853

# WARRANTY DEED

FOR VALUE RECEIVED

455287

Ronald A. Melton and Leora Ann Melton, husband and wife

GRANTOR(s), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto: Peter Wishney, Trustee of the Peter E. Wishney Trust, as to an undivided 1/2 interest and David Wishney and Susan Wishney, husband and wife as to an undivided 1/2 interest

GRANTEES(s), whose current address is: P.O. Box 837, Boise, ID 83701  
the following described real property in Blackfoot County, State of Idaho,  
more particularly described as follows, to wit:

See Exhibit "A" Attached hereto and therefore made a part hereof.

BRINCHAM COUNTY RECORDER  
BLACKFOOT, IDAHO  
FEE 12.00 DEP DE  
97 JUL -3 PM 3:06  
RECORDED AT THE REQUEST OF  
FIRST AMERICAN TITLE

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

Dated: July 3, 1997

Ronald A. Melton  
Ronald A. Melton

Leora Ann Melton  
Leora Ann Melton

MICROFILMED

FEB 25 2003

STATE OF Idaho, County of Ada, ss.

On this 2nd day of July in the year of 1997, before me, the undersigned, a Notary Public in and for said State, personally appeared



T 10081  
ATTACHMENT 1 OF 6

EXHIBIT "A"

Part of the NE 1/4 of Section 32, Township 2 South, Range 35 E.B.M., Bingham County, Idaho, described as:

Beginning at a point on the East-West half Section line that is S. 00o29'27" E. along said line 367.00 feet from the N 1/4 corner of said Section 32; thence N. 89o46'38" E. 237.00 feet; thence S. 00o29'37" E. 1161.66 feet; thence N. 54o42'00" W. along the Northerly right-of-way line of U. S. Highway 26, 292.18 feet; thence N. 00o29'27" W. along the East-West half Section line 991.88 feet to the point of beginning.

455287

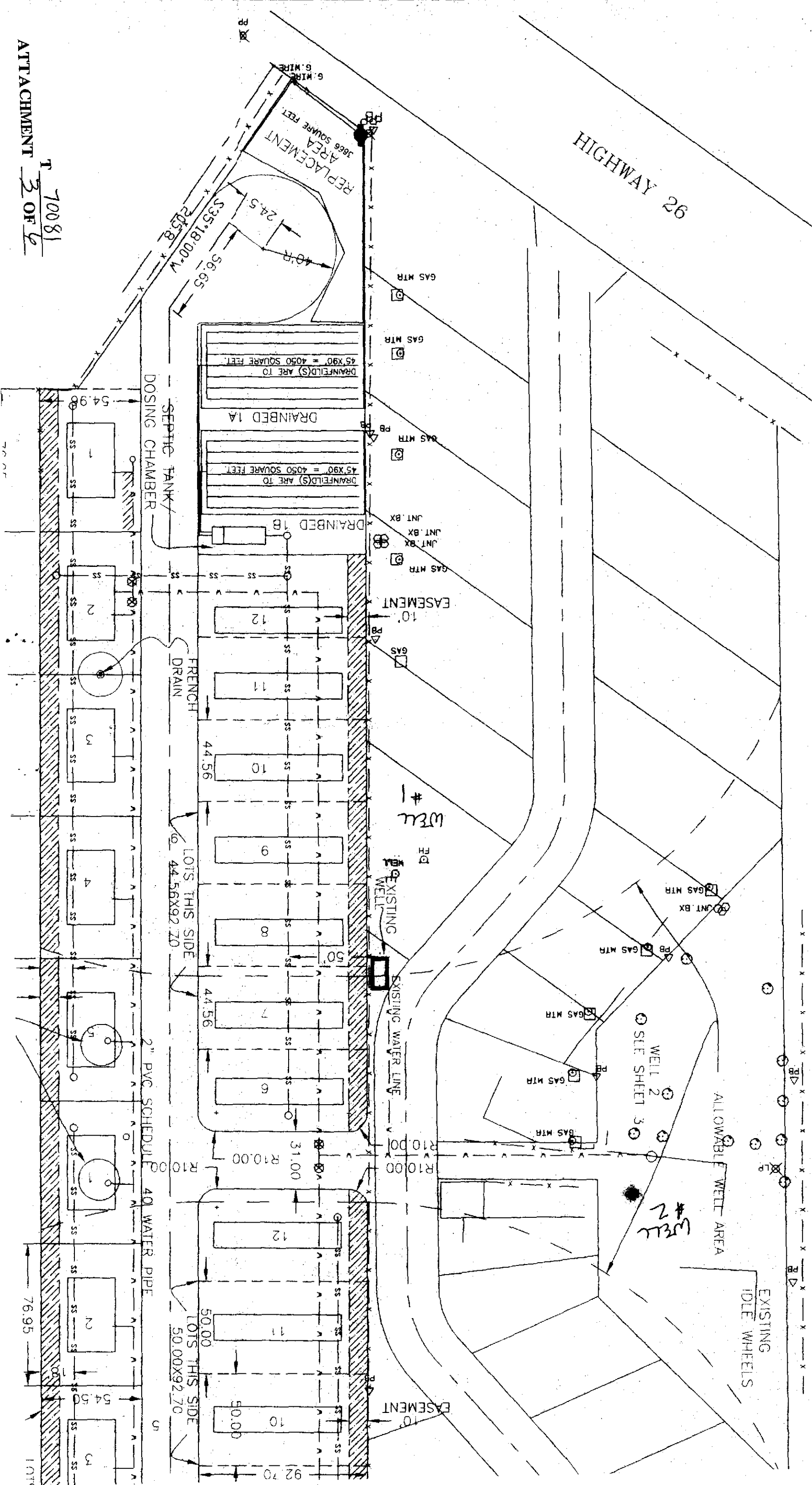
MICROFILM

FEB 25 2003

T 70081  
ATTACHMENT 2 OF 6

HIGHWAY 26

ATTACHMENT 3 OF 4  
T 70081



**35-7639, 35-09067**

**02S, 35E, SEC. 32**



⊙ **POINT OF DIVERSION**



**PLACE OF USE**

MICROFILMED

FEB 25 2003

ATTACHMENT T 70081  
4 OF 6

RECEIVED

CONSENT TO TRANSFER OF WATER RIGHT

AUG 01 2002

Department of Water Resources  
Eastern District Office

The undersigned Ron Melton and Leora Melton are the holders of a promissory note secured by a deed of trust upon a portion of the real property commonly known as the Idle Wheels Mobile Home Park. We have reviewed the Application For Transfer Of Water Rights, signed by David Wishney on July 19, 2002, and acknowledge our consent to the proposed transfer.

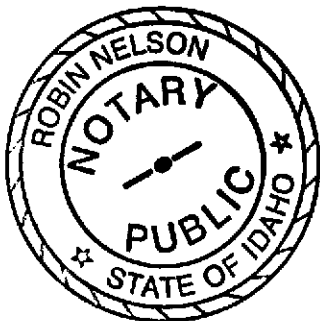
  
Ron Melton

  
Leora Melton

STATE OF IDAHO            )  
                                      ) ss  
County of Bingham        )

On this 24<sup>th</sup> day of July, 2002, before me, a Notary Public in and for said State, personally appeared Ron Melton and Leora Melton, husband and wife, known or identified to me to be the persons who executed the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first written above.



  
Notary Public for Idaho  
Residing at Blackfoot, Idaho  
Commission Expires: 9-20-06

MICROFILMED  
FEB 25 2003

T 70081  
ATTACHMENT 5 OF 6

## CONSENT TO TRANSFER OF WATER RIGHT

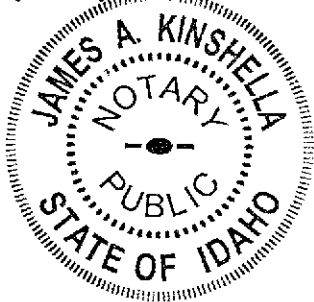
Farmers & Merchants State Bank is the holder of a promissory note secured by a deed of trust upon a portion of the real property commonly known as the Idle Wheels Mobile Home Park. On behalf of Farmers & Merchants State Bank I have reviewed the Application For Transfer Of Water Rights, signed by David Wishney on July 19, 2002, and acknowledge the bank's consent to the proposed transfer.

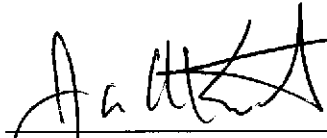
  
Farmers & Merchants State Bank  
By: Wally Lee  
Its: Vice-President

STATE OF IDAHO           )  
                                      ) ss  
County of Ada            )

On this 19<sup>th</sup> day of July, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared Wally Lee, known or identified to me to be the Vice-President of Farmers & Merchants State Bank, the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first written above.



  
Notary Public for Idaho  
Residing at: Boise, Idaho  
Commission Expires: 2/5/2006

MICROFILMED  
FEB 25 2003

T 70081  
ATTACHMENT 6 OF 6

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA )  
                  ) PARTIAL DECREE PURSUANT TO  
                  ) I.R.C.P. 54(b) FOR  
Case No. 39576 )  
\_\_\_\_\_) Water Right 35-07639

NAME AND ADDRESS: DAVID WISHNEY  
PETER E WISHNEY TRUST  
SUSAN WISHNEY  
PO BOX 837  
BOISE, ID 83701

RECEIVED

JAN 20 1999

Department of Water Resources  
Adjudication Bureau

SOURCE: GROUNDWATER

QUANTITY: 0.25 CFS  
28.80 AFY

PRIORITY DATE: 09/03/1976

POINT OF DIVERSION: T02S R35E S32 NENW Within Bingham County

| PURPOSE AND<br>PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE              | QUANTITY              |
|-------------------------------|----------------|----------------------------|-----------------------|
|                               | Domestic       | 25 HOUSEHOL 01-01 TO 12-31 | 0.25 CFS<br>28.80 AFY |

PLACE OF USE: Domestic T02S R35E S32 NENW Within Bingham County

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A  
DETERMINATION OF HISTORICAL BENEFICIAL USE.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

*B. Wood*

Barry Wood  
Administrative District Judge  
Interim Presiding Judge of the  
Snake River Basin Adjudication

MICROFILMED

FEB 25 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

December 11, 2002

PETER WISHNEY  
SUSAN WISHNEY  
DAVID WISHNEY  
PO BOX 837  
BOISE ID 83701-0837

RE: Transfer No.: 70081 - Water Right 35-7639 - Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) 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 the APPLICANT 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.

ANY PERSON aggrieved by any decision, determination, order or action 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 Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

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 208-327-7940.

Sincerely,

*Camille S. Skaggs*

for Jeff Peppersack, Manager  
Water Rights Permits Section

JP:klt  
Enclosure(s)

MICROFILMED

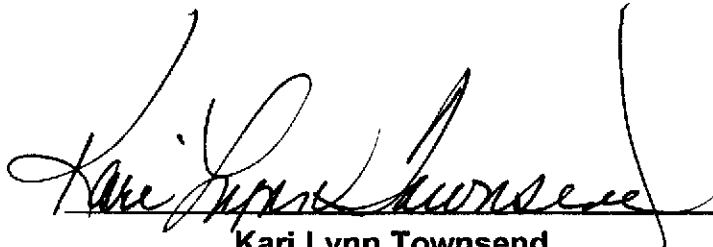
FEB 25 2003

## **CERTIFICATE OF SERVICE**

I hereby certify that on December 11, 2002 I mailed a true and correct copy, postage prepaid, of the foregoing TRANSFER APPROVAL to the person(s) listed below:

**RE: TRANSFER NO. 70081 - WATER RIGHT 35-7639**

**PETER WISHNEY  
SUSAN WISHNEY  
DAVID WISHNEY  
PO BOX 837  
BOISE ID 83701-0837**

A handwritten signature in black ink, appearing to read "Kari Lynn Townsend", is written over a horizontal line.

**Kari Lynn Townsend  
Secretary**

**MICROFILMED  
FEB 25 2003**

**EXPLANATORY INFORMATION  
TO ACCOMPANY A  
PRELIMINARY ORDER**

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

**PETITION FOR RECONSIDERATION**

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

**EXCEPTIONS AND BRIEFS**

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

**REQUEST FOR HEARING**

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

**ORAL ARGUMENT**

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

**CERTIFICATE OF SERVICE**

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

### FINAL ORDER

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

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

Unless a different date is stated in a final order, the order is effective fourteen (14) days after its issuance if a party has not filed a petition for reconsideration. If a party has filed a petition for reconsideration with the agency head, the final order becomes effective when:

- (a) the petition for reconsideration is disposed of; or
- (b) the petition is deemed denied because the agency head did not dispose of the petition within twenty-one (21) days.

### APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

- i. A hearing was held,
- ii. The final agency action was taken,
- iii. The party seeking review of the order resides, or
- iv. The real property or personal property that was the subject of the agency action is located.

The appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

# TRANSFER REVIEW SHEET

Trans # 70081

Date Reviewed 12-10-2002

Right No(s).\* 35-7639

Split? Y N Y N Y N Y N Y N Y N

AREA OF CONCERN: No Yes ESPA  
Bingham GWDist / American Falls GWDMA

## PURPOSE OF TRANSFER FOR EACH RIGHT:

Change p/d Change use period Change p/u  
Add p/d Change nature of use

RightID's of From & To records correct? Y N (resolve with State Office personnel)  
 Check for Partial Decree issuance, etc. since time of application's entry

PROOF OF OWNERSHIP COMPLETE FOR OLD & NEW P/U        Lien Holder Release ✓

### GROUNDWATER:

#### DRILLING PERMIT

All wells 046  
 DP upgrade req'd Y N (contact GW personnel)

WMD 046 - North/East/West

≤ 0.24 cfs/5 acres - No MD

> 0.24 cfs/5 acres 067

#### WMD

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

SUPPLEMENTAL (irr = only use) - 065-104  
 SUPPLEMENTAL (irr + other uses) - 100-105

### SURFACE WATER:

WD - R05 (WD#       ) WM comments rec'd         
 ≤ 0.20 cfs/others - R02, 01P or No MD  
 > 0.20 cfs - R43

WD, SPRINGS/SINK, INACTIVE WD & REST OF STATE

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

STANDARD SEASON        to        (use X61 if extended season)  
 STANDARD VOLUME        af/ac  
 CONSUMPTIVE USE VOLUME        af/ac

### USES:

STORAGE - 18C-R02-01P-18B-NA  
 IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)  
 > 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)  
 STOCKWATER - R37 (all BLM/USFS)  
 MINING - 054-106  
 FISH PROP - 029(70'S only)-007-122-106  
 HEAT/COOL - R07 (injection well)  
 FIRE PROT. - 077  
 DAIRY - 082 (zoning if a concern)-106-WD8

### USES:

POWER - 17H-17K (+uses)-025-106  
 MUNICIPAL  
 Restricted area - 022-075 RAFN - 007-109-X64  
 Irr., GW supp to SW - 102  
 DOMESTIC  
 Surface water - WB5 (Big Wood or Boise above Star Bridge)  
 - 27A (Payette River)  
 >1 in restricted area - 070-071-075(no parks/common areas, etc)  
 Irr use listed separate - WB5

### MISC CONDITIONS/REMARKS:

T07 - 1 yr to develop  
T08 - comply or rescind  
T17 - measure all p/d's (used with WB4) New Cond.  
T18 - Special T17 & R43 combined - Data Logger  
 multiple pds in WD

Protested - 020-X19  
 Water Quality - 106-R07

X27 - Number of acres/season in ppu  
 X35 - Combined totals of multiple rts

X49 - measure p/d's (source chg'd to orig trib)  
 X51 - 2+ yrs to develop  
 X53 - Use ltd to orig. source availability  
 X54 - forfeited ac/rate (used rarely)  
 X55 - (transfer shrinks total water to less ac)  
 004 - no right-of-way  
 X58 - pending claim (statutory or AJ b/u claim)  
 X61 - extended irr season  
X62 - replaces N11 and N13  
X63 - replaces C12  
WB4 - + p/ds, cfs & afa (used with T17)  
 WD8 - land application of waste water  
 01Q - used instead of 01M when there's another meas. Cond (i.e. T17 & 01m)

### Apply one to chg'd & unchg'd

rts that are subject to SRBA:  
T09 - on-going SRBA (no Dir Rpt or Recomm yet)  
T19 - replaces C18 (if at Recommendation or Partial Decree stage)  
T20 - use only on unchg'd rts not subject to SRBA

OTHER CONDITIONS/REMARKS DOM/25 Homes in Idle wheels Mobile Home Park  
X30

### COMMENTS

Database files updated ✓ Approval form printed ✓ Shape files created ✓  
 Special Mailing Instructions (cc's, etc)         
 Final database update after approval ✓ \*Comment to WR No(s). NA

12-11-2002 28

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
TRANSFER ANALYSIS SHEET

T 70081

INITIAL REVIEW BY: HWT

RECEIVED

SEP 13 2002

1. Right number 35-7639 Applicant Wishney Department of Water Resources

2. Type of right: ☒ Decree ☐ License ☐ Claim ☐ SRBA Recommendation

3. Purpose of transfer: ☐ Change point of diversion ☒ Add diversion point(s)  
☒ Change place of use ☐ Other \_\_\_\_\_

4. Check:

a. ☐ Source ☒ Priority ☐ Amount ☒ Purpose ☐ Period of use

b. ☐ Description of original point of diversion.

c. ☒ Description of original place of use.

5. Amount of land &/or water transferred:

a. ☒ All of right.

b. ☐ Part of right (NOTE! Part B should be filled in only if part of the right is owned by the applicant).

c. Map for remainder of right? ☐ Yes ☐ No

d. ☒ Check description of point(s) of diversion.

e. ☒ Check description of place of use

f. ☒ Check map (shows p.d. and p.u. after transfer).

g. ☒ Check for correct signature, notarization, and fee.

h. ☒ Check proof of ownership of right &/or land from which water is transferred.

i. ☒ Check for expansion in use of right. Comments NA

j. ☒ Check for existing water rights from same source, on land water is being transferred to.

Right number(s) 3 Same PD as 35-9067

k. ☒ Is use within a Watermaster District? ☐ Yes ☒ No

If yes, what district? \_\_\_\_\_

FINAL PROCESSING REVIEW BY: \_\_\_\_\_

1. Watermaster recommendation requested on \_\_\_\_\_ Received on \_\_\_\_\_

2. Reviewed by Adjudication Staff? ☐ Yes ☐ No

3. Is transfer published correctly? ☒ Yes ☐ No

4. Protest received? ☐ Yes ☒ No

RECOMMENDED ACTION

1. ☒ Approve

2. ☐ Deny

3. Conditions\* \_\_\_\_\_

4. By RAC Date 9/6/02

\*All uses within Watermaster District require special conditions

RECEIVED  
AUG 26 2002  
Department of Water Resources  
Eastern Region

**PUBLIC NOTICE**

DEPT. OF WATER RESOURCES  
900 N. Skyline Drive, Suite A  
Idaho Falls, Idaho 83402-1718  
Phone (208) 525-7161  
Fax: (208) 525-7177

**NOTICE OF PROPOSED  
CHANGE OF WATER RIGHT  
TRANSFER NO. 70081**

SUSAN WISHNEY or DAVID  
WISHNEY, P.O. Box 837, Boise,  
Idaho, 83701, has filed Application  
No. 70081 for changes to the  
following water rights within  
BINGHAM County.

Right No. 35-7639

Priority: 9/3/1976

Source: GROUND WATER

Use: DOMESTIC (0 acres)

0.25 CFS 28.8 AFA

Total Amount: 0.25 CFS 28.8 AFA

Point(s) of Diversion: NENW, S32,  
T02S, R35E

Place of Use: S32, T02S, R35E

The purpose of the transfer is to  
change a portion of the above rights  
as follows:

The applicant finds that the original  
legal description of his place of use is  
in error. The corrected place of use is  
the W 1/2 NE 1/4, T02S, R35E, Sec.  
32 and there is a second well in the  
NWNE, Sec. 32, T02S, R35E.

Protests may be submitted based on  
the criteria of Sec. 42-222, Idaho  
Code.

Any protest against the proposed  
change must be filed with the  
Department of Water Resources,  
Eastern Region, 900 N. Skyline  
Drive, Suite A, Idaho Falls, Idaho,  
83402, together with a protest fee of  
\$25.00 for each application on or  
before September 03, 2002. The  
protestant must also send a copy of  
the protest to the applicant.

KARL J. DREHER  
Director

(#175)

Pub.: 8/15/22

**AFFIDAVIT OF PUBLICATION**  
County of Bingham )

SS

State of Idaho )

I, Jacqueline Graham do solemnly  
swear that I am the Legal  
Coordinator of The Morning News,  
which is a daily newspaper of  
general circulation, published each  
day except Sunday at Blackfoot,  
Bingham County, Idaho, said  
newspaper having been so published  
at Blackfoot, aforesaid for more than  
one year past; that said newspaper  
heretofore complied with all the  
provisions of Chapter 154 of the  
Sessions Laws of Idaho of 1911,  
approved March 11, 1911, and duly  
designated, pursuant to law, a  
particular day of the week as the day  
on which legal notices required by  
law or by the order of any Court of  
competent jurisdiction within the  
State of Idaho shall be published to-  
wit: of each week; that the notice  
attached hereto and which is a part  
of this affidavit and part of the proof  
of publication was published in said  
issue of said

newspaper 2 consecutive Weeks  
the first publication having been  
made on the 15th day of Aug.  
2002, and the last publication having  
been made on the 22nd day of  
Aug. 2002; that said notice was  
published in the regular and entire  
issue of every number of the paper  
as aforesaid during the period and  
time of publication, and that notice  
was published, in the newspaper and  
not in a supplement.

On this 22nd day of Aug., in  
the year of 2002, before me a Notary  
Public of the State, personally  
appeared Jacqueline Graham,  
known or identified to me to be the  
person whose name is subscribed to  
the within instrument, and being by  
me the first duly sworn, declared that  
the statements therein are true, and  
acknowledged to me that he  
executed the same.

Notary Public for the State of Idaho  
Residing at Blackfoot, Idaho  
My Commission Expires:  
June 19, 2004  
Affidavit Processing Fee.....\$5.00

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FEB 25 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION  
August 06, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

SUSAN WISHNEY  
DAVID WISHNEY  
PO BOX 837  
BOISE ID 83701

RE: Application for Transfer No 70081  
Water Right No(s) 35-7639

Dear Applicant(s):

The Department of Water Resources acknowledges receipt of your water right transfer application. Please refer to the above referenced transfer number in all future correspondence regarding this application.

A legal notice of the application has been prepared and is scheduled for publication in the Morning News on August 15 and 22, 2002. Submittal of protests to this application will be allowed for a period ending ten days (September 4, 2002) after the second publication.

If the application is protested you will be sent a copy of the protest(s). All protests must be resolved before the application can be considered for approval. If the protest(s) cannot be resolved voluntarily, the Department will conduct a conference and/or hearing on the matter.

If the application is not protested, it will be forwarded to our State Office in Boise for final processing. The State Office will notify you of any action taken on the application and will send you a copy of the permit if approved.

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

Sincerely,

Harold W Jones  
Water Right Supervisor

HWJ:sc

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FEB 25 2003



State of Idaho

## DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

August 06, 2002

Legal Notice Department  
MORNING NEWS  
PO BOX 70  
BLACKFOOT ID 83221

RE: Transfer No. 70081  
Water Right No(s). 35-7639

**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 September 2, 2002. Your cooperation is appreciated.

Sincerely

Sharla Cox  
Administrative Assistant

*Mailed  
8/7/02  
SC*

MICROFILMED

FEB 25 2003

NOTICE OF PROPOSED CHANGE OF WATER RIGHT

TRANSFER NO. 70081

SUSAN WISHNEY or DAVID WISHNEY, PO BOX 837, BOISE ID 83701, has filed Application No. 70081 for changes to the following water rights within BINGHAM County:

Right No. 35-7639

Priority 9/3/1976

Source GROUND WATER

Use DOMESTIC (0 acres) 0.25 CFS 28.8 AFA

Total Amount 0.25 CFS 28.8 AFA

Point(s) of Diversion NENW S32 T02S R35E

Place of Use S32 T02S R35E

The purpose of the transfer is to change a portion of the above rights as follows:

The applicant finds that the original legal description of his place of use is in error. The corrected place of use is the W 1/2 NE 1/4 T02S R35E SEC 32 and there is a second well in the NWNE SEC 32 T02S R35E.

Protests may be submitted based on the criteria of Sec 42-222, Idaho Code.

Any protest against the proposed change must be filed with the Department of Water Resources, Eastern Region, 900 N Skyline Dr Ste A, Idaho Falls ID 83402 together with a protest fee of \$25.00 for each application on or before September 03, 2002. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published on August 15 and 22, 2002

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FEB 25 2003