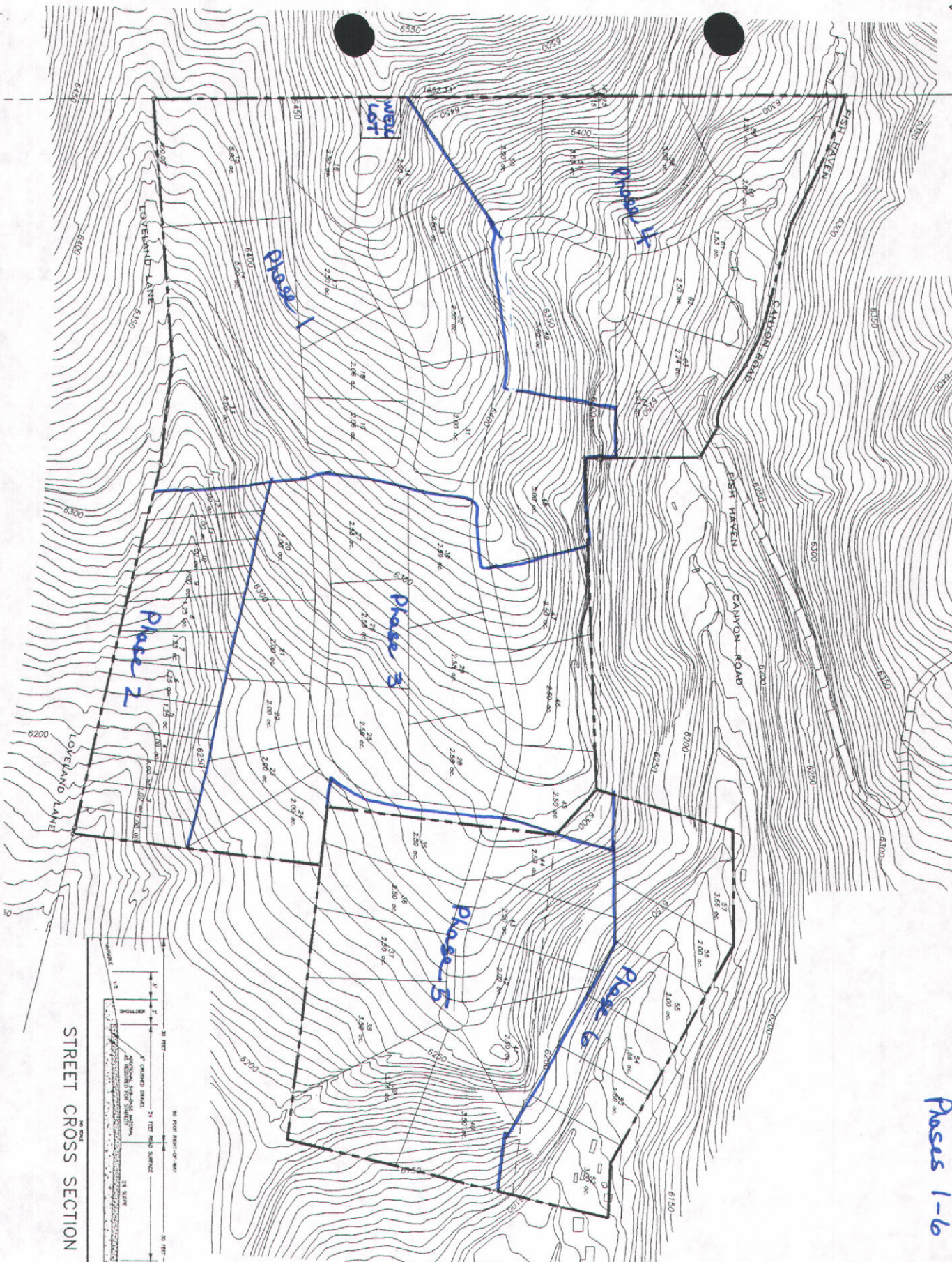
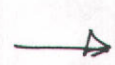


Parcel #2



Aspen Creek
Subdivision,
Phases 1-6

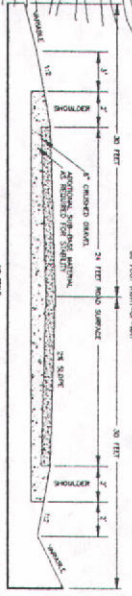


1" = 500'

MICROFILMED
JUL 30 1998

11-7436

STREET CROSS SECTION



Lake Vista Properties
owner

40 acres

Conceptual Plan
for 40 lot
subdivision
Bear Lake Co. Idaho

Aspen Creek
Phase 7

Parcel # 1



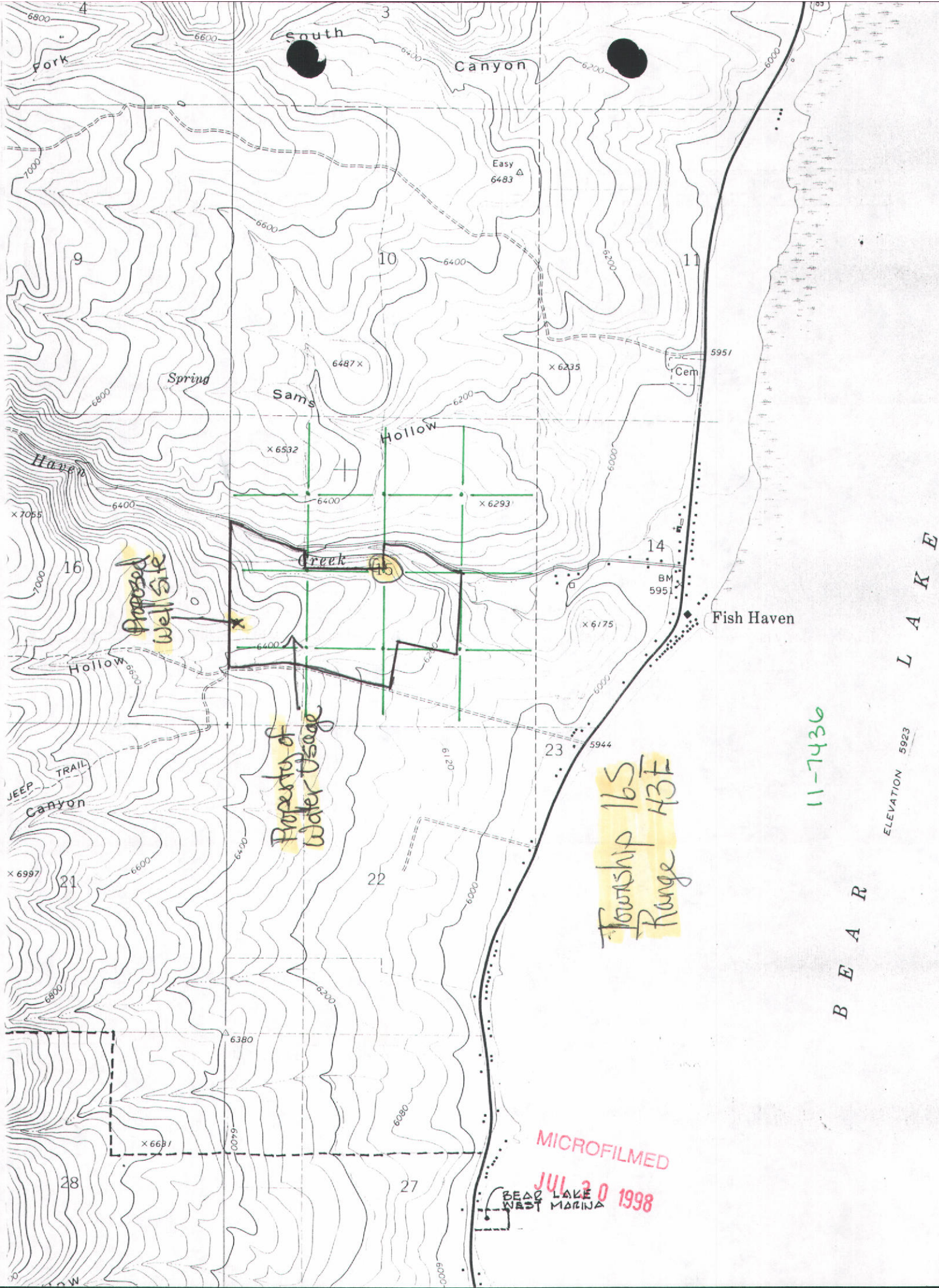
Aspen Creek Subdivision
Phase 7.

MICROFILMED

JUL 30 1998

N

11-7436



South

Canyon

Easy
6483

Spring

Sams

Hollow

Creek

Cem

Fish Haven

L A K E

ELEVATION 5923

B E A R

11-7436

Township 16S
Range 43E

MICROFILMED

JUL 20 1998

BEAR LAKE
WEST MARINA

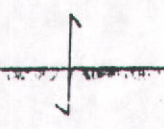
Proposed
Well Site

Property of
Water Usage

Parcel #1

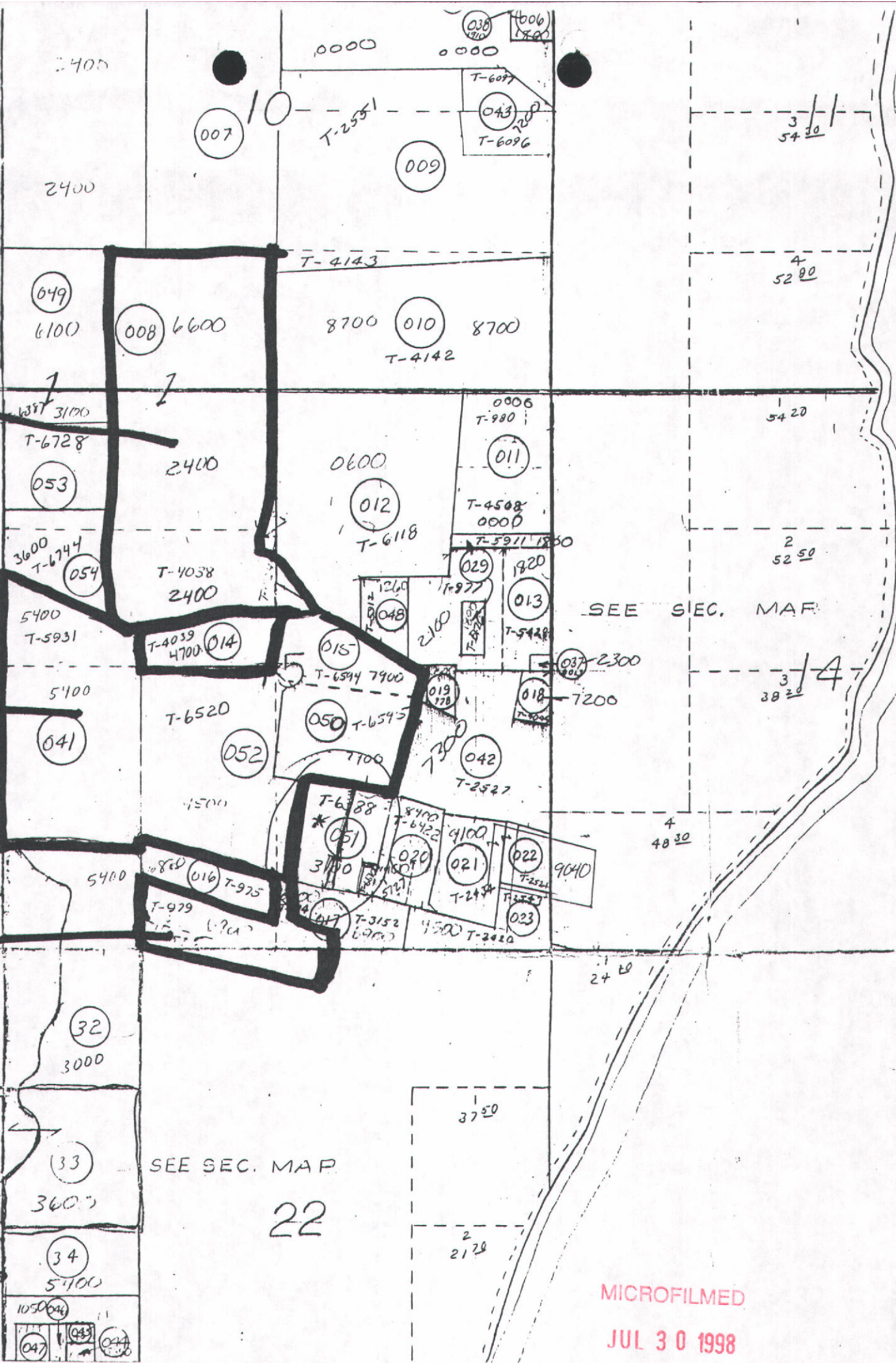
Parcel #2

Parcel #3



PLAT 'C'

6600



MICROFILMED
JUL 30 1998

Lake Vista Properties
owner

40 acres

Conceptual Plan
for 40 lot
subdivision
Bear Lake Co. Idaho

Aspen Creek
Phase 7

Parcel #1



MICROFILMED

JUL 30 1998

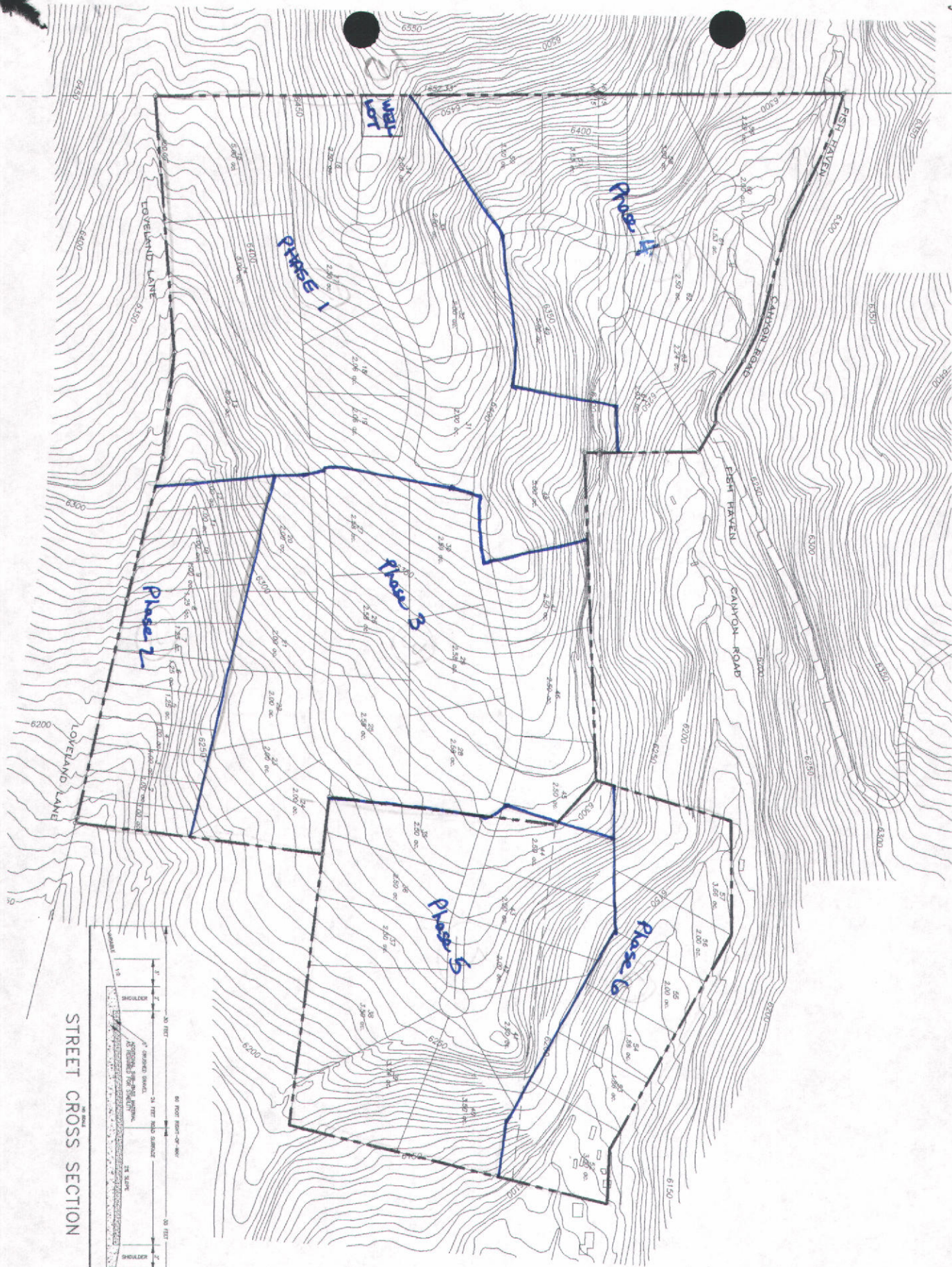
Parcel #2

Aspen Cr. Subd
Phases 1-6

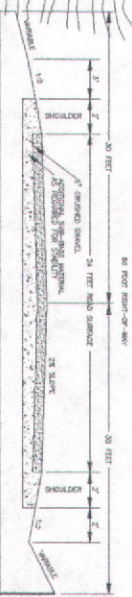
1" = 500'



MICROFILMED
JUL 30 1998



STREET CROSS SECTION



RECEIVED

OCT 31 2003

11/99 Department of Water Resources
Eastern Region

RECEIVED

NOV 4 2003

Department of Water Resources

For Office Use Only

\$25 filing fee

Receipt # E029324

Date 10-31-2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

ASSIGNMENT OF PERMIT

To change the ownership of a permit

I, Norman D. Mechem, hereby assign to Aspen Creek Water Co. Inc.
of, 10 South Bear Lake Blvd. Garden City, Utah 84028
(Full Address) (Phone) (435) 946-3503

All my right, title, and interest in and to Permit No. 11-07436 to
appropriate the public waters of the State of Idaho.

OR (for partial assignments)

The following described portion of my right, title, and interest in and to for
Permit No. 11-07436 to appropriate the public waters of the State of Idaho.
(Describe portion of the application for permit assigned, listing the number of acres in each 40 acre
subdivision, point of diversion location, and amount of the water in cubic feet per second.)

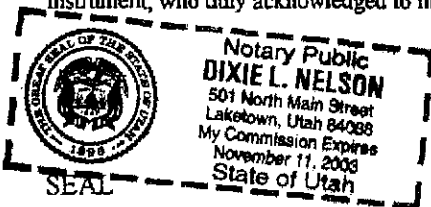
Domestic 01/01 to 12/31 1.50 CFS - Location of Point
of Diversion is NWSW, Sec. 15, T14N 16S, RGE 43E - Bear Lake
County. Place of use = T14N 16S RGE 43E Sec 15
SWNE SWNW NESW NWSW SWSW SESW
NWSE SWSE

Made this 20 day of August, 20 03.

Permit Holder(s)

UTAH
State of Utah)
County of Rich)ss

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



Dixie L. Nelson
Notary Public residing at
Laketown

My commission expires: 11-11-2003

MICROFILMED

NOV 20 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
REQUEST FOR EXTENSION OF TIME
TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

RECEIVED
MAY 30 2003
Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request that the permit holder(s) be granted an additional period of time under the provisions of Section 42-204, Idaho Code in which to complete development of a water right.

Permit No. 11-7436
Name(s) of Permit Holder: Norman D. Meckham Lake Vista Properties L.L.C.
Address: 2126 S. Ben Lake Blvd. City Garden City State UT Zip 84028
Telephone No. (435) 946-3500 Date Proof is Due: June 1, 2003

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Aspen Creek Water Co. has been approved as a public utility (#04103821)
Companies major improvements are well, well house, 120,000 gallon Tank, 7,100'
of 6" water line, 9 fire hydrants, 2 PRV Stations, 21 Isolation valves, 3,000'
of telemetry. We have developed and sold 44 Building lots which covers
phases I, II, & III. Costing \$ 268,000.00

The permit holder(s) has been unable to complete the remainder of the work for the following reasons:

We have been able to develop and sell 44 Building lots and we
need at least 5 yrs. to finish developing the rest of our
phases. We are building lots as fast as the market will
bare. We need 5 more years to finish our lots

Permit holder(s) request an extension to June 1st, 2008

Norm D. Meckham - member - Lake Vista Properties L.L.C.
(Signature) Norman D. Meckham - Member A. Ray Elliott - Manager
*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be
APPROVED and the time within which to submit proof of beneficial use is
extended to June 1, 2008. IT IS FURTHER ORDERED that the permit holder
is not authorized to assign ownership of the permit to another party without
prior approval of the Department of Water Resources.

Signed this 4th day of June, 2003

L. Glen Saxton
L. GLEN SAXTON, Administrator
MICROFILMED Water Management Division

MAY 28 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
INSTRUCTIONS FOR EXTENSION OF TIME REQUEST
TO SUBMIT PROOF OF BENEFICIAL USE

If the water right development authorized by your permit is not complete and you need more time to submit proof of beneficial use of water under your permit, please read the following:

Under the provisions of Section 42-204, Idaho Code, the department can extend the proof due date of your permit only once, and then only if you can demonstrate that you have been pursuing development of the permit with due diligence.

The Request for Extension of Time form requires that you indicate the extent of development that has occurred, the cost, and the reason(s) the work has not been completed. This information must be provided in enough detail to show due diligence. Examples of work performed are: well drilled, pump installed, 10 acres now irrigated, fish propagation ponds constructed, sprinkler system purchased, etc.

If no work has been accomplished, the statutes provide that the Request for Extension of Time must be denied. **Lack of financial resources, the state of the economy or personal illness usually cannot be considered adequate reasons to approve a Request for Extension of Time.**

EXCEPTIONS TO ONLY ONE EXTENSION

The proof due date for a permit that has not been developed for one of the following reasons may be granted one or more extensions of time even though no work has been accomplished:

- When there is a lack of a required consent or final approval from a federal government agency **(evidence of delay must be submitted with the request)**, i.e. right-of-way easement or land classification such as Desert Land Entry or Carey Act.
- When litigation related to title of the water has prevented development of the permit **(evidence must be submitted with the request)**.
- When the water project is of a large scale – storage of more than 10,000 acre-feet or diversion of more than 25,000 acre-feet in one irrigation season for an irrigation project of at least 5,000 acres.
- When the water right permit is held by the United States of America **(reason for request must be submitted)**.

A non-refundable filing fee of \$50.00 must accompany the Request for Extension of Time form.

NOTE that in no case should a Proof of Beneficial Use form and a Request for Extension of Time form both be submitted. If your water development project is completed, then the proof of beneficial use form should be completed and returned. If the project is started but not completed, then the Request for Extension of Time form should be completed and returned in compliance with the guidelines above. If the project has not been initiated and does not fit into one of the exceptions listed above, then neither form should be returned and the permit will lapse and become of no further force nor effect.

State of Idaho
Department of Water Resources

Permit To Appropriate Water

NO. 11-07436

Proposed Priority: November 25, 1996 Maximum Diversion Rate: 1.50 CFS

This is to certify, that **NORMAN D MECHAM**

LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

has applied for a permit to appropriate water from: **GROUNDWATER**

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
DOMESTIC	01/01 to 12/31	1.50 CFS

LOCATION OF POINT(S) OF DIVERSION: NWSW , Sec. 15, Township 16S, Range 43E
BEAR LAKE County

PLACE OF USE: DOMESTIC

TWN RGE SEC

16S 43E 15

SWNE
NWSW
NWSE

SWNW
SWSW
SWSE

NESW
SESW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **June 1, 2003**.
2. Subject to all prior water rights.
3. 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 permit holder had no control.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.

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JUL 30 1998

State of Idaho
Department of Water Resources**Permit To Appropriate Water**

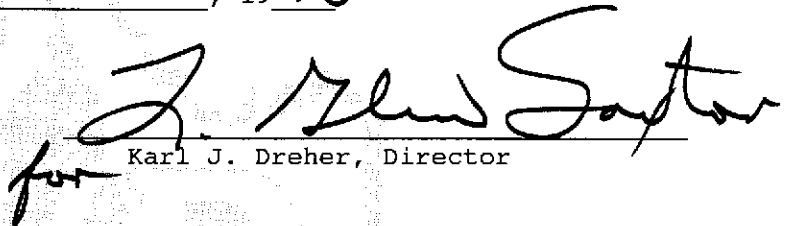
NO. 11-07436

CONDITIONS OF APPROVAL AND REMARKS

6. Places of use are located within Lots 13-19, 31-34, & 48, Phase 1; Lots 1-12, Phase 2; Lots 20-30, & 45-47, Phase 3; Lots 49-51 & 58-64, Phase 4; Lots 35-44, Phase 5; Lots 52-57, Phase 6; and Lots 1-40, Phase 7; Aspen Creek Subdivision.
7. Domestic use is for 105 homes.
8. The right holder shall use the full allotment of appurtenant surface water irrigation rights in conjunction with groundwater diverted under this right for irrigation purposes.
9. This right shall not be used for irrigation purposes if the surface water irrigation right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use. The irrigation occurring from ground water under this domestic right shall not exceed 1/10 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for the irrigation of common areas or for irrigation of lots upon which a home has not been constructed.

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

15 th day of June, 1998

for 
Karl J. Dreher, Director

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JUL 30 1998

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

RECEIVED

NOV 25 1996

Department of Water Resources
Eastern Region

Department of Water Resources

1. Name of Applicant Lake Vista Properties, L.L.C. / Norman D. Mecham Phone 801-946-3333

Mailing address 2126 South Bear Lake Blvd., Garden City, Utah 84028

2. Source of water supply ground water which is a tributary of NA

3. Location of point of diversion is Township 16S Range 43E Sec. 15, in the NW 1/4, of the SW 1/4, _____ 1/4, Govt. Lot _____, B.M., Bear Lake County; additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 1.5 cfs for Domestic purposes from Jan 1 to Dec 31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) (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)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 1.5 cfs and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Describe type and size of devices used to divert water from the source NA

b. Height of storage dam _____ feet; active reservoir capacity _____ acre-feet; total reservoir capacity _____ acre-feet

c. Proposed well diameter is 8 inches; proposed depth of well is 200 + feet

d. Is ground water with a temperature of greater than 85°F being sought? no

e. If well is already drilled, when? NA ; Drilling firm _____

Well was drilled for (well owner) _____; Drilling Permit No. _____

7. Time required for completion of works and application of water to proposed beneficial use is 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. 105

e. Other; describe fully. irrigation required for 105 households. (1/2 acre
per household) MICROFILMED

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JUL 30 1998

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	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	
16S	43E	15			D				D		D	D	D	D		D	D		

Total number of acres to be irrigated _____

10. Describe any other water rights used for the same purposes as described above. NONE

11. a. Who owns the property at the point of diversion? Lake Vista Properties, L.L.C.

b. Who owns the land to be irrigated or place of use? Lake Vista Properties, L.L.C.

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: This filing will be developed by Westlake Drilling Co. and service 105 recreational/residential homes and their associated irrigation demands.

13. MAP OF PROPOSED PROJECT REQUIRED - Attach an 8½"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

BE IT KNOWN that the undersigned hereby makes this application for permit to appropriate the public waters of the State of Idaho as herein set forth.

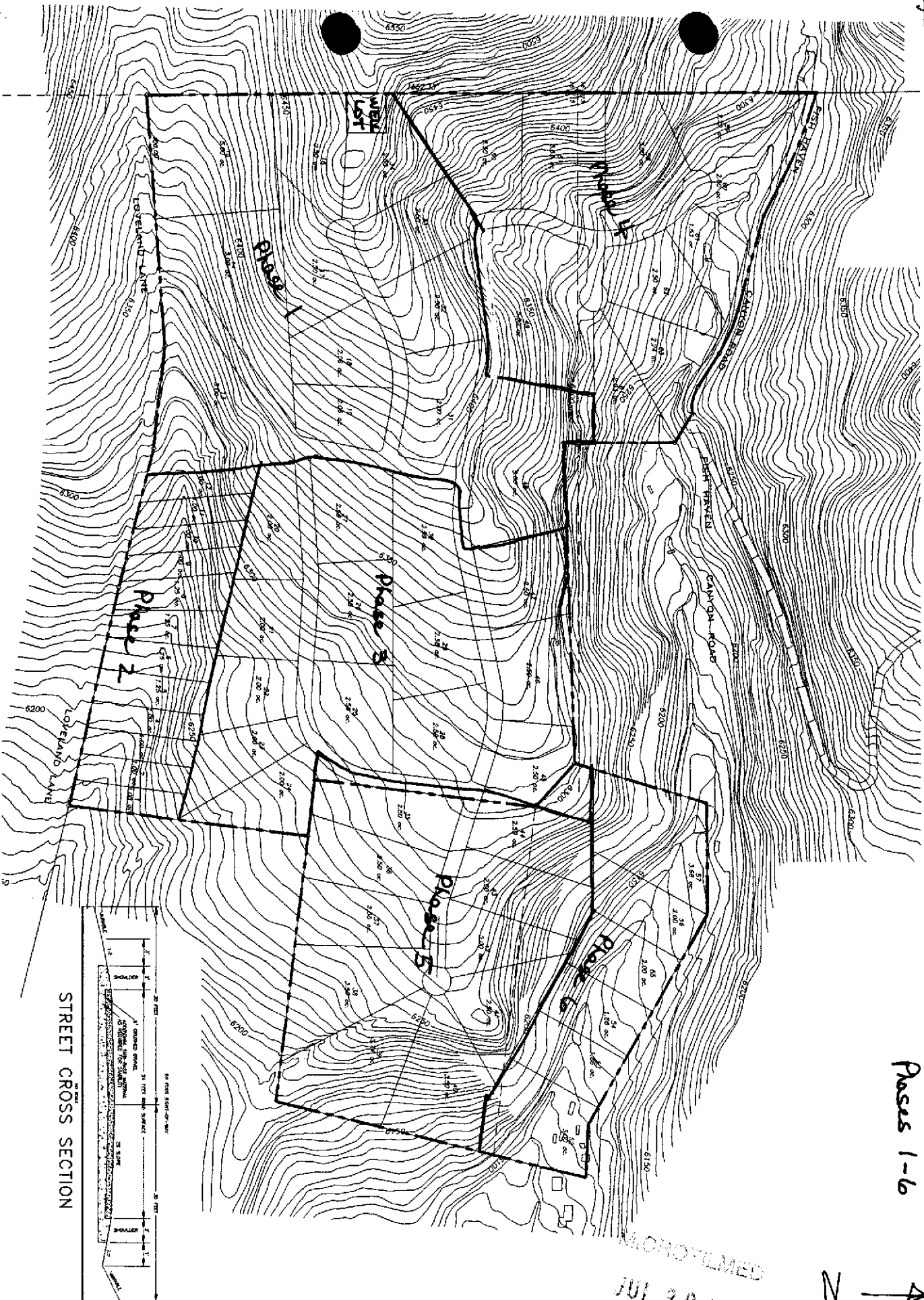
 for Lake Vista Properties, L.L.C.
Signature of Applicant (and title, if applicable) member

Received by Jo Date 11-25-96 Time 11:40 A Preliminary check by _____
Fee \$ 120.- Receipted by AWJ # E022782 Date 11-25-96
Publication prepared by RB Date 12-19-96-1996 Published in Idaho Examiner
Publication approved _____ Date _____

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JUL 30 1998

N $\rightarrow$



MICROFILMED
JUL 30 1998

11-7436

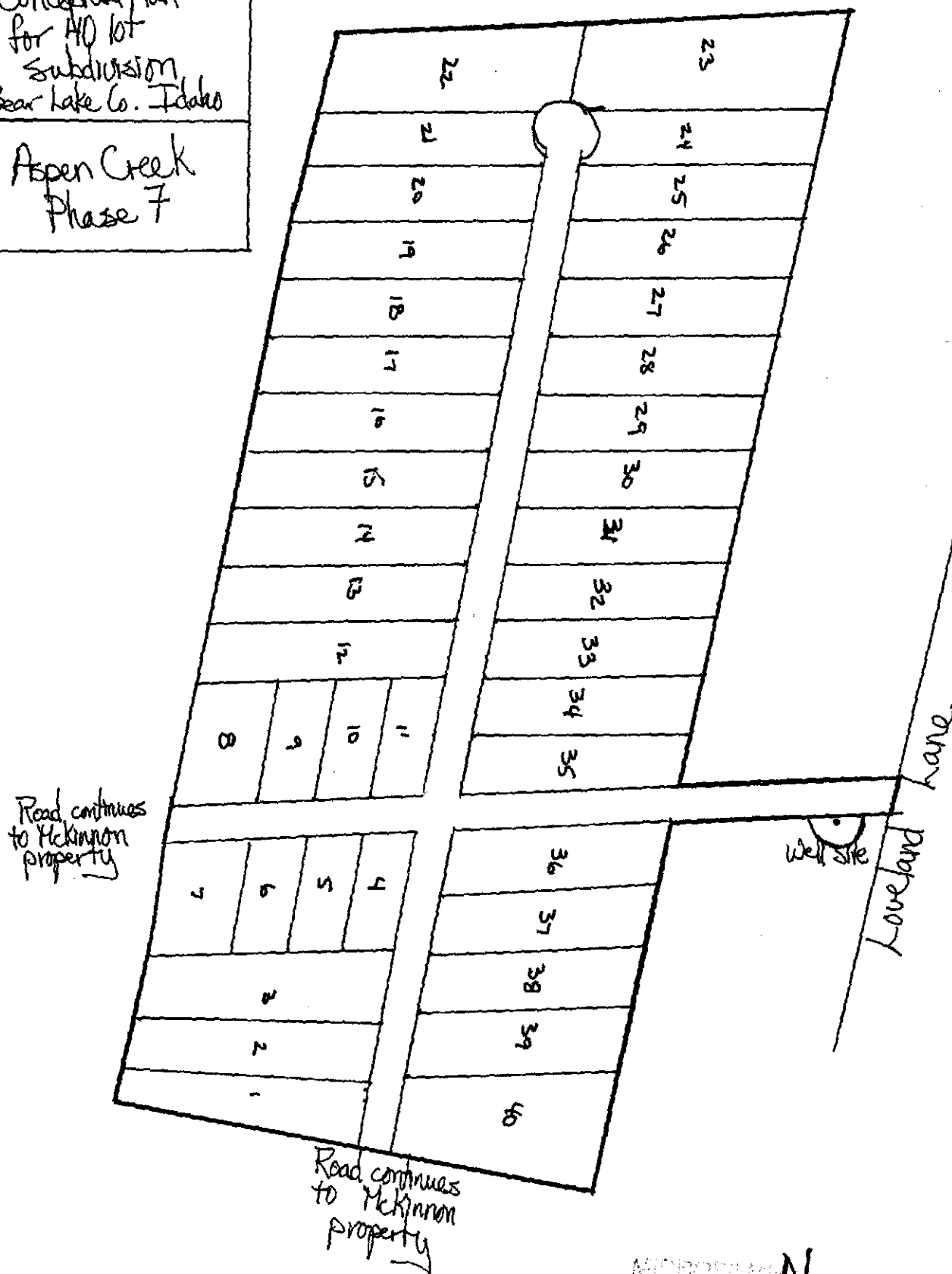
Lake Vista Properties
owner

40 acres

Conceptual Plan
for 40 lot
subdivision
Bear Lake Co. Idaho

Aspen Creek
Phase 7

Parcel #1

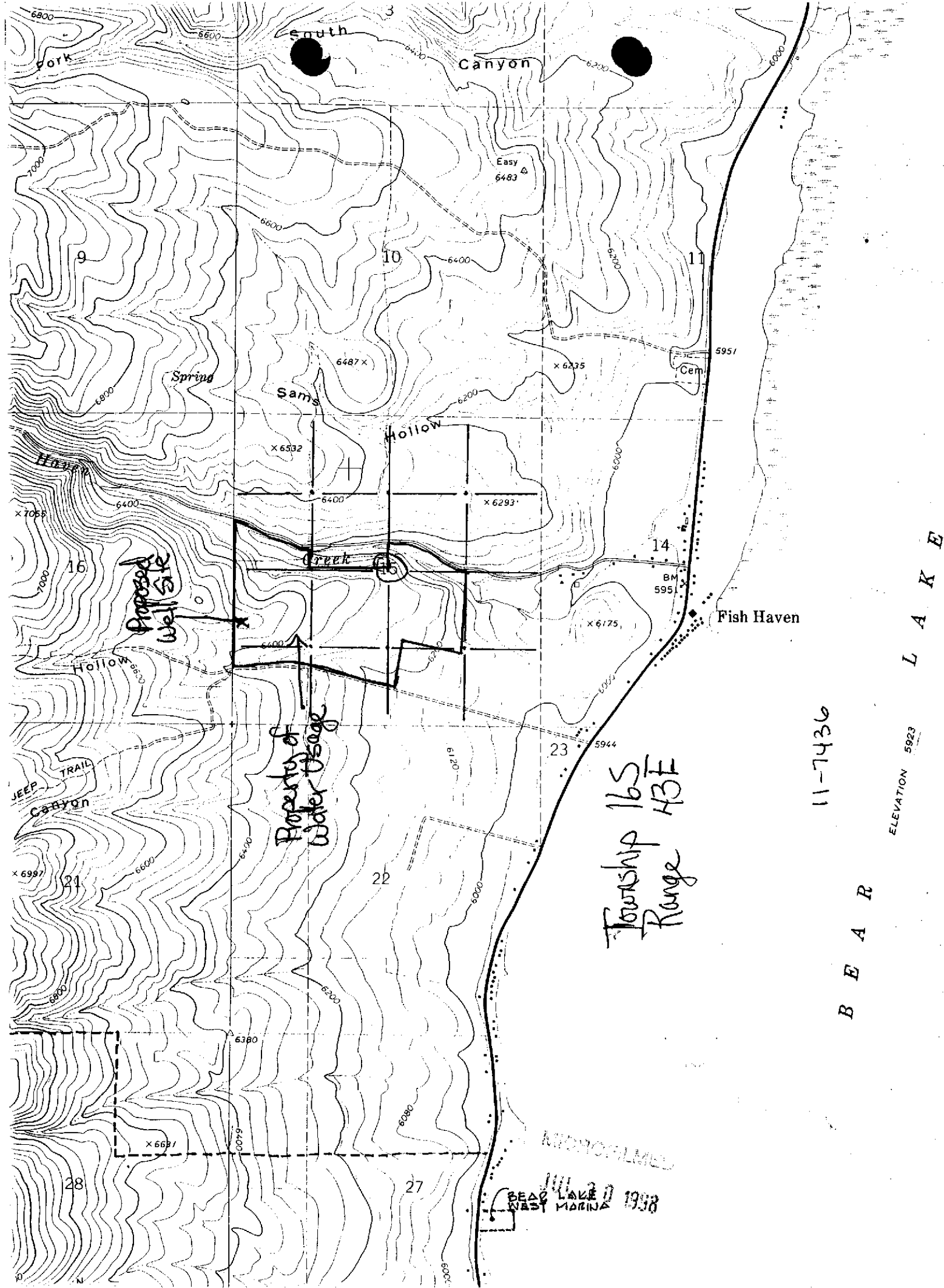


Aspen Creek Subdivision
Phase 7.

MICROFILMED
JUL 30 1998

N

11-7436





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 4, 2003

ASPEN CREEK WATER CO INC
10 SOUTH BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Change of Ownership for Water Right Permit 11-7436

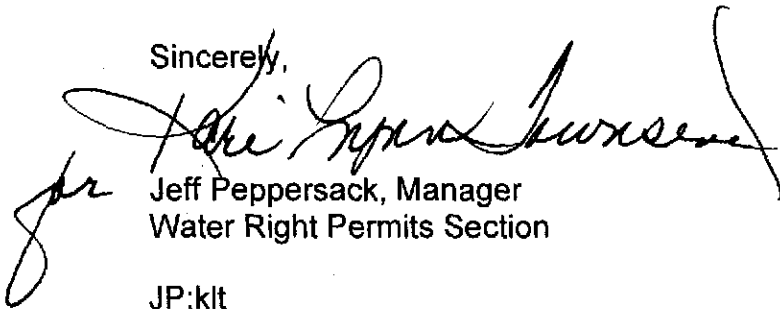
Dear Water Right Holder(s):

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

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

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

Sincerely,



Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

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NOV 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 4, 2003

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: PERMIT NO. 11-7436

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit that extends the time within which to submit proof of beneficial use of water to **June 1, 2008**.

Please note that the department granted this extension based on **due diligence**. It is important that you work diligently toward the completion of this project during the construction period allowed since the department may not be able to grant additional extension based on due diligence.

According to Section 42-248, Idaho Code, which requires you or the owner of this water right to maintain current ownership and address records on file with the department. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

Please feel free to contact the department if you have questions.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

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JUN 20 2003

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No.: 11-7436

Reviewed By: dgibson

Date: June 3, 2003

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Request received timely?	X		Is delay by a government agency?		X
Appropriate fee	X		Is supporting documentation needed to support the file?		
Additional Amount Due:					
Receipt No.:	C069327		Has the permit been involved in litigation?		X
Name and signature same as permit?	X		Is supporting documentation needed to support the file?		
Is address same as permit?	X		Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?		X
Has adequate work been completed to demonstrate due diligence?	X				

Priority Calculation

Extension request received	05/30/2003	New proof due date	06/01/2008
Date proof due	- 06/01/2003		
Lapse notice sent	-		
No. of days late	= 0		
Holiday allowance	+		
Priority date	+ 11/25/1996		
New priority date	= 11/25/1996		

Action Taken

Acknowledge request and extend proof deadline to June 1, 2008. Add language about Department's approval prior to transferring permit to another party.

March 31, 2003

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY, UT 84028

PROOF DUE NOTICE

RE: PERMIT NO. 11-7436

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before June 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

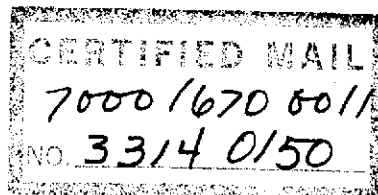
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental agency or by litigation which might bring title to the water in question, more than one extension of time can be granted. An extension of time request form is enclosed for your convenience.

Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the lapse notice, the permit will no longer be of any force nor effect.

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures



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MAR 20 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 16, 1998

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

PERMIT APPROVAL NOTICE

RE: PERMITS 11-07435/11-07436

Dear Permit Holder:

The Department of Water Resources (IDWR) has issued the enclosed permits authorizing you to establish new water rights. Please be sure to thoroughly review the conditions of approval and remarks listed on your permit.

The permits are preliminary orders issued by IDWR pursuant to section 67-5243, Idaho Code. They can and will become final orders without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief 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 right were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this

MICROFILMED

JUL 30 1998

Department. Please contact the Groundwater Protection Section located here at this office or our regional office nearest you.

Sincerely,

A handwritten signature in cursive script, reading "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosures

NOTED FILED

JUL 30 1998

CERTIFICATE OF MAILING

I hereby certify that on the 16th day of June, 1998, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Rights 11-07435/11-07436

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028


Kari Lynn Townsend
Secretary

JUL 30 1998

MEMORANDUM

DATE: May 28, 1998
TO: File Nos. 11-07435 & 11-07436
FROM: Cindy Zimmerman
SUBJECT: Telephone Conversation

Per telecon today with Norman Mecham, some lands under these places of use are irrigated with water from 11-04022. Some lands under these places of use are not irrigated.

The claim 11-04022 identifies irrigation of all 40 acres within each tract in Section 15. Per Mr. Mecham, all lands in Section 10 and some lands in Section 15 are not irrigated. Apparently, the place of use identified under 11-04022 is inaccurate.

I have added conditions 065 (must use appertenant surface water) and 079 (cannot move surface water off) to the permit to ensure those land irrigated by surface water will continue to be irrigated by surface water. Mr. Mecham agreed that the conditions would not present a problem since they intend to continue to use the surface water for irrigation where surface water is available.

MICROFILMED

JUL 30 1998

May 15, 1998

Lake Vista Properties
2126 S. Bear Lake Blvd.
Garden City, Utah 84028

Cindy Zimmerman
Idaho DWR
1301 N. Orchard
Boise, Id. 83706

RECEIVED
MAY 20 1998
Department of Water Resources

RE: Application Numbers 7435 and 7436

Dear Cindy,

Enclosed you will find subdivision plats for three parcels of property. These properties are contiguous, except for being separated by the two roads, Fish Haven Canyon road and Loveland Lane.

Starting from the south, parcel #1, approximately 40 acres, contains an existing well.

This property is south of Loveland Lane, and is planned for 40 lots

Parcel #2, approximately 165 acres, is between Loveland Lane and Fish Haven Canyon road with 65 lots. The well site (application #7436) is toward the west side of this property.

Parcel #3, north of Fish Haven Canyon road, is approximately 127 acres and is planned for 42 lots. The well site (application #7435) is toward the west side of this property.

If you have any questions, please call me at (435) 946-8677 work, or (435) 757-6278 cellular. Thank you for your help in this matter.

Sincerely,

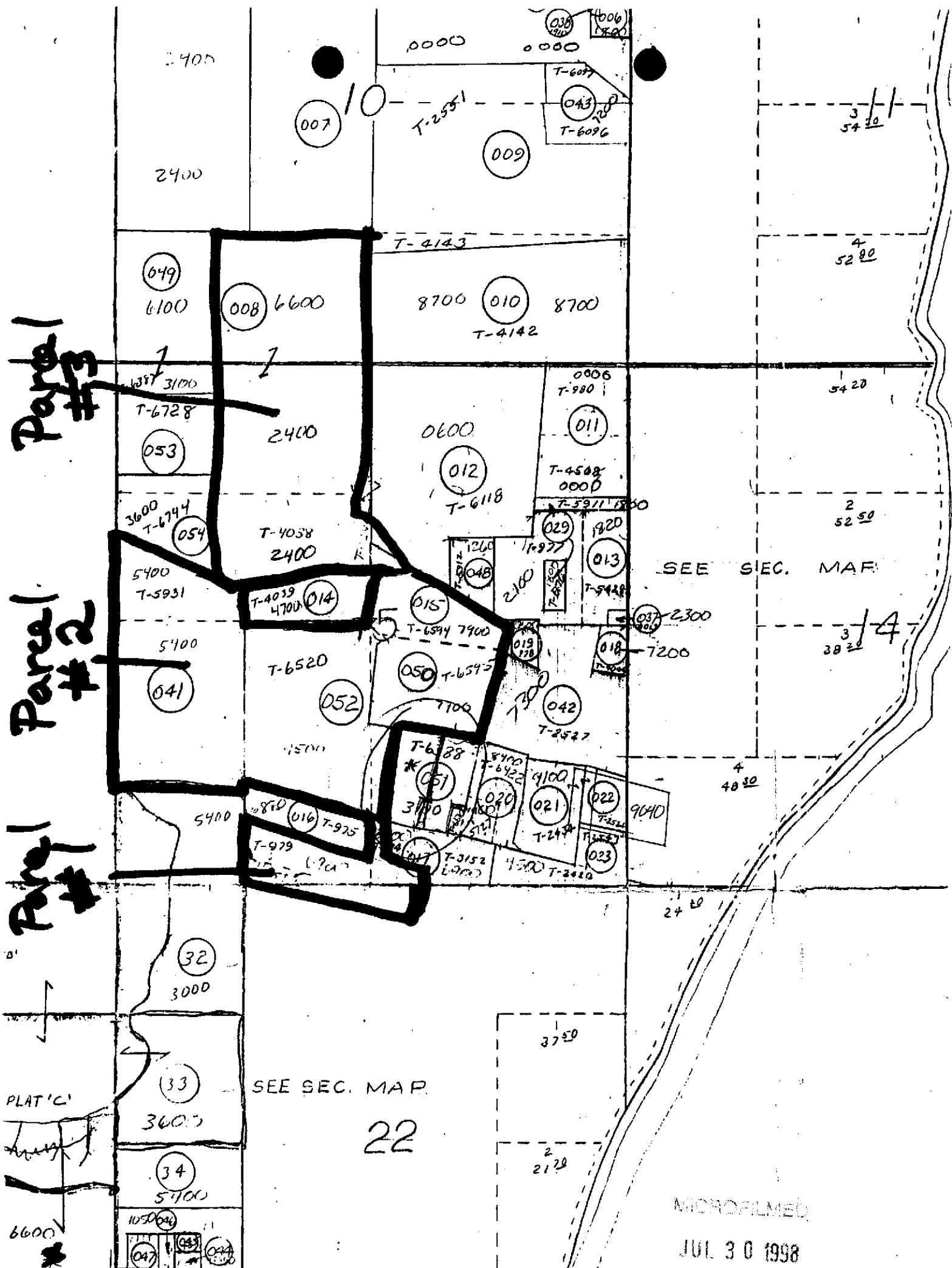


Norman Mecham
Lake Vista Properties, L.L.C.

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MAY 30 1998

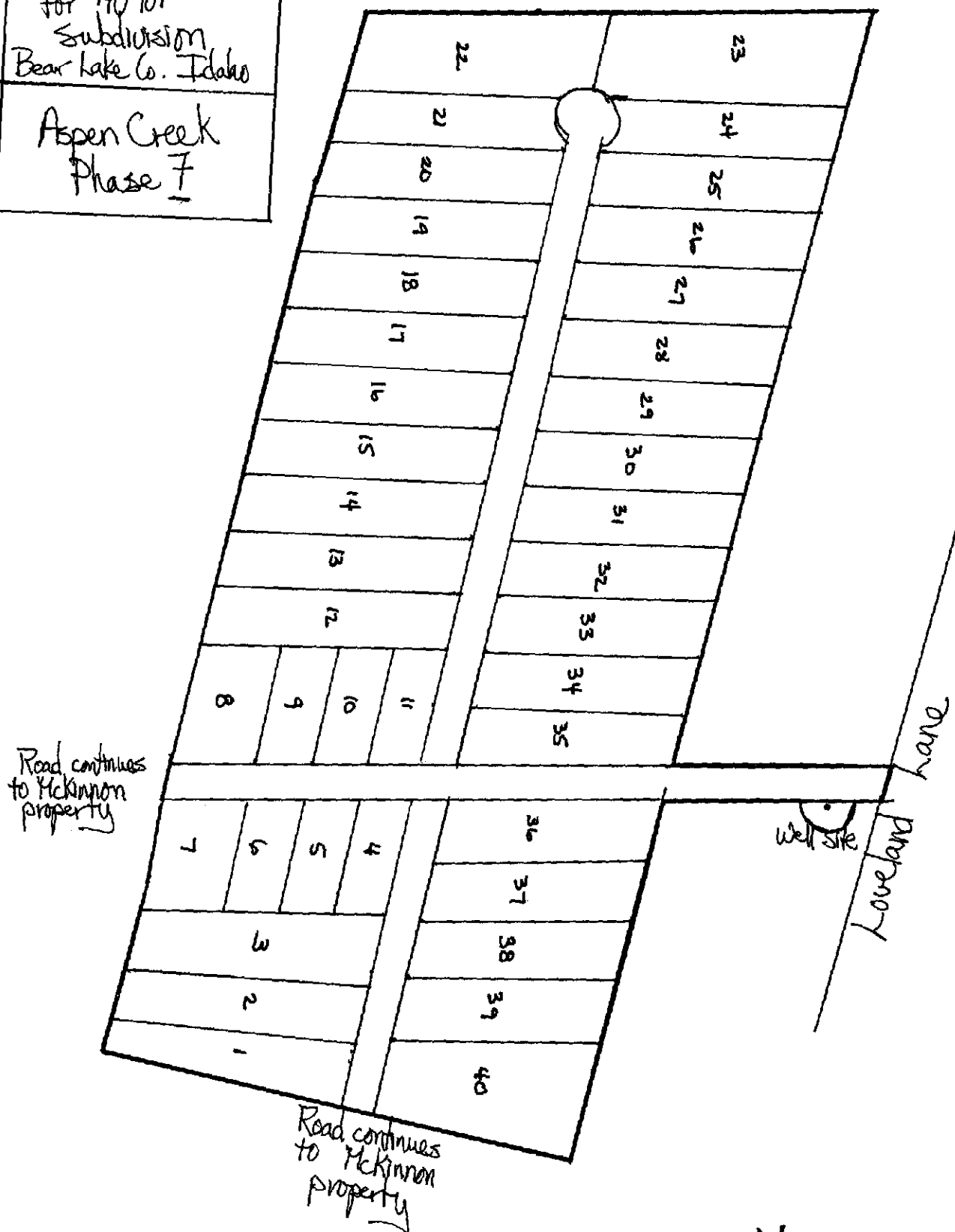
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Parcel #1

Lake Vista Properties owner
40 acres
Conceptual Plan for 40 lot Subdivision Bear Lake Co. Idaho
Aspen Creek Phase I



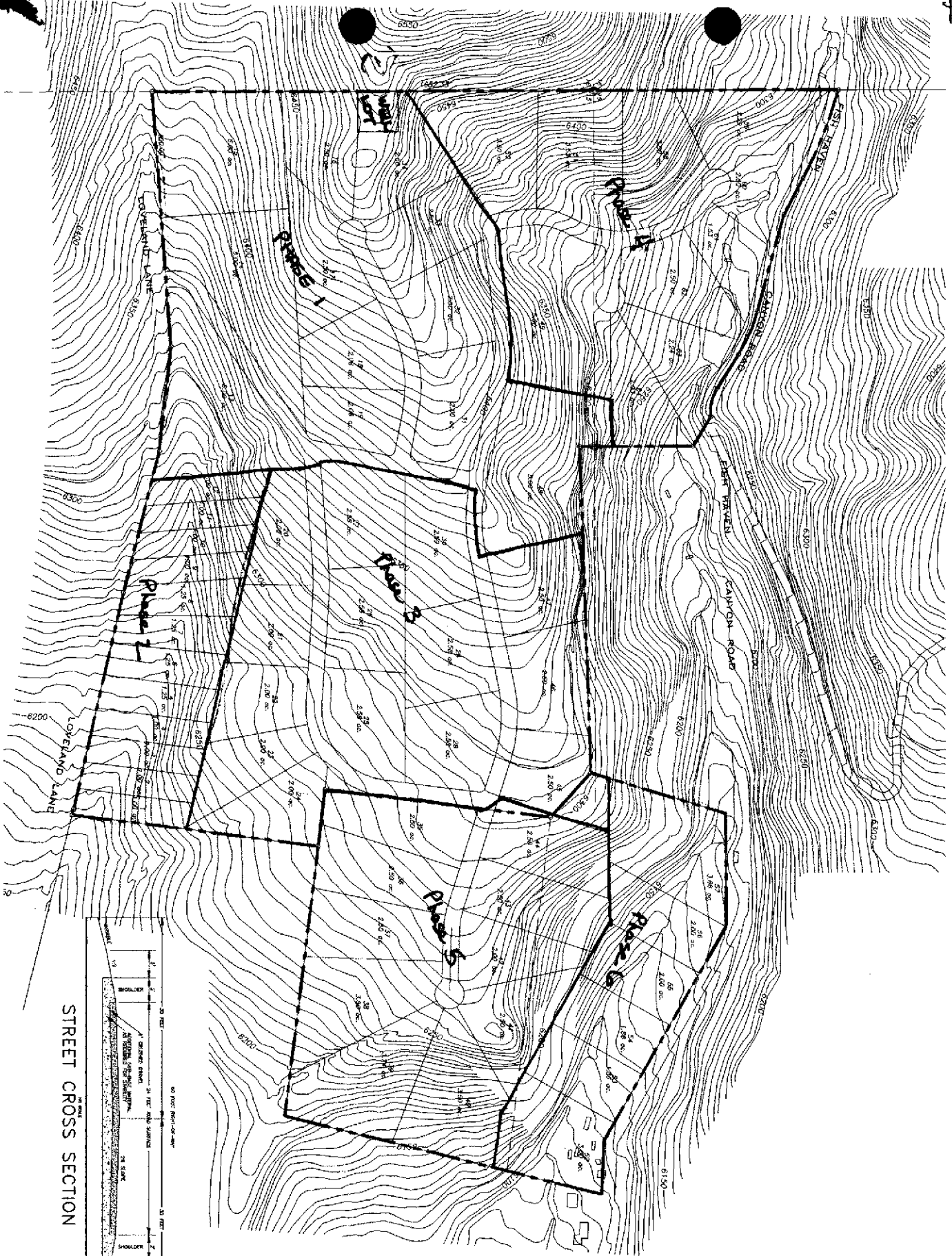
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Parcel #2

Aspen Cr. Subd
Phases 1-6

1" = 500'



N →

JUL 30 1998

Responding to Preliminary Orders Issued by the Idaho Department of Water Resources

The Idaho Department of Water Resources (Department) issues water right permits, licenses, and transfers as preliminary orders pursuant to section 67-5243, Idaho Code. A preliminary order can and will become a final order without further action of the department unless a party petitions for reconsideration or files an exception and/or brief 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 the 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 twenty-one (21) 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 a 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. Otherwise, a preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to a preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the Department. The Department retains the right to review the preliminary order on its own motion.

ORAL ARGUMENT

If the Department grants a petition to review a preliminary order, the Department 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 Department will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Department 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 Department in connection with a preliminary order shall be served on all other parties to the proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Department 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 Department 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.

UNRECORDED



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 327-7900 FAX: (208) 327-7866

June 1, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Water Appropriation Applications 11-07435 and 11-07436

Dear Mr. Mecham:

Before IDWR approves your applications to divert ground water for Aspen Creek subdivision, I want to inform you of some of the details of the approval conditions that are being proposed. I have enclosed draft permits for your reference.

Cindy Zimmerman recently called you to inquire about the surface water available for irrigation in Aspen Creek. Conditions 8 & 9 on 11-07436 and 9 & 10 on 11-07435 require you to continue to use the appurtenant surface water when it is available for irrigation in Aspen Creek. This conforms to efforts by IDWR to encourage the continued use of surface water for irrigation.

Also, on each of your two applications you noted that you wished to irrigate up to "1/2 acre per household." However, when determining that twelve acres should be retired under right 11-07021 to mitigate for the depletion that will result from your Aspen Creek development, the calculations were based on the irrigation of 1/10 acre per lot. The 1/10-acre figure came from your statement to Paul Meyer of IDWR that the outdoor use associated with each home would be "very minimal". The twelve-acre figure appears to have been acceptable to the parties who protested your applications. Therefore, the last condition on each draft permit limits the irrigation you can develop from ground water to 1/10 of an acre per lot.

If you have any questions about these conditions, please contact me at 208-327-7946 as soon as possible. If I have not heard from you within ten days, I will forward the permits for approval as drafted.

Respectfully,

Shelley Walter Keen
Water Rights Supervisor

Enclosure

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JUL 30 1998

DRAFT

IDAHO DEPARTMENT OF WATER RESOURCES

WATER RIGHT NO. P11-07436

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

Priority Date: 11/25/1996
Stage: PERMIT

Source: GROUNDWATER

Beneficial Use	From:	To:	Diversion Rate	Volume
DOMESTIC	01-01	12-31	1.50 CFS	
	Total:		1.50 CFS	

Point(s) of Diversion: NWSW, Sec. 15, Township 16S, Range 43E

Place(s) of Use: DOMESTIC

Twp:	Rng:	Sec:	Tract:	Acres:	Tract:	Acres:	Tract:	Acres:
16S	43E	15	SWNE		SWNW		NESW	
			NWSW		SWSW		SESW	
			NWSE		SWSE			

Conditions of Approval and Remarks:

1. Proof of construction of works and application of water to beneficial use shall be subitted on or before June 1, 2003.
2. Subject to all prior water rights.
3. 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 permit holder had no control.
4. 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.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
6. Places of use are located within Lots 13-19, 31-34, & 48, Phase 1; Lots 1-12, Phase 2; Lots 20-30, & 45-47, Phase 3; Lots 49-51 & 58-64, Phase 4; Lots 35-44, Phase 5; Lots 52-57, Phase 6; and Lots 1-40, Phase 7; Aspen Creek Subdivision.
7. Domestic use is for 105 homes.
8. The right holder shall use the full allotment of appurtenant surface water irrigation rights in conjunction with groundwater diverted under this right for irrigation purposes.
9. This right shall not be used for irrigation purposes if the surface water irrigation right(s) appurtenant to the place of use is sold, transferred, leased or used on any other place of use.
10. The irrigation occurring from ground water under this domestic right shall not exceed 1/10 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for the irrigation of common areas or for irrigation of lots upon which a home has not been constructed.

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KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2094

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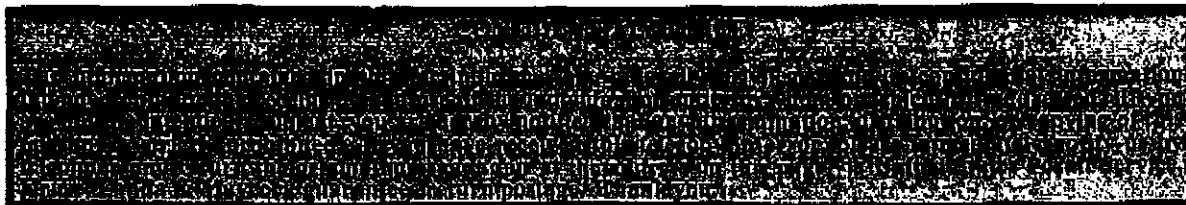
FACSIMILE TRANSMISSION SHEET
Xerox 7032 (CCITT Group 2 and Group 3)
(801) 359-3954

DATE: August 6, 1997 TIME (MDT): _____
MESSAGE TO: Harold Jones / Paul Meyer
FIRM: Idaho Dept. of Water Resources - Eastern Region
FAX NUMBER TRANSMITTED TO: 1-208-525-7177
NO. OF PAGES (INCLUDING THIS COVER SHEET) 7
FROM: Jody L. Williams
KLM CLIENT FILE NO: 7017.00

FOR QUESTIONS AND/OR PROBLEMS WITH RESPECT
TO THIS FACSIMILE TRANSMISSION
PLEASE CONTACT:

Barbara Wallin

AT (801) 531-7090



- | | |
|---|--|
| ☐ FOR YOUR INFORMATION | ☐ FOR NECESSARY ACTION |
| ☐ FOR REVIEW AND COMMENT | ☐ ORIGINAL TO FOLLOW BY STANDARD MAIL |
| ☐ PER OUR CONVERSATION | ☐ ORIGINAL TO FOLLOW BY OVERNIGHT COURIER |
| ☐ PER YOUR REQUEST | ☐ SEE COMMENTS BELOW |

COMMENTS/SPECIAL INSTRUCTIONS:

Here is a draft report on how the protestors to the Bear River filings are calculating depletion. Bob Hill will call you to discuss. Thanks - Jody

NOT RECORDED

JUL 30 1998

**Procedures for Estimating Depletion
of
Municipal, Dairy and Agricultural
Crop Water Use
in the
Lower Bear River Basin in Idaho**

**Prepared for presentation at Public Hearings
July 2, 1997 in Preston and Soda Springs, Idaho**

**Submitted to Jody Williams,
Representing Pacific Corp**

by

**Robert W. Hill, P.E.
Logan, Utah**

July 1, 1997

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Procedures for Estimating Depletion of Municipal, Dairy and Agricultural Crop Water Use in the Lower Bear River Basin in Idaho

I. Introduction

Surface and ground waters tributary to the Bear River are considered to be equivalent in the apportionment of water under the Bear River Compact (as amended, 1980). The hydraulic interconnection between surface and ground water in the Bear River Basin in Idaho was described by Dion (1969) when he said "... water level ... contours show that ground-water movement in Bear Lake Valley is toward the Bear River. For this reason, most of the natural discharge of the ground water is into the river". He further stated that:

(in Cache Valley) ... the contours indicate that the general direction of ground-water movement is both toward Bear River and southward into the Utah part of the valley. The multitude of small springs and seeps along the banks of the river provides additional evidence that the ground water discharges into Bear River.

(In Gentile Valley) ... Ground water movement is toward the Bear River and discharge is through hundreds of small springs and seeps along the banks of the river.

The principal direction of ground-water flow in Soda Creek basin is ... toward the Bear River and Soda Point Reservoir

A study in the Bancroft-Lund Area of Gem Valley (Higginson, 1991) indicated that some decrease in well discharge "has been caused in part by the rate of withdrawal of water from those wells, the construction and design characteristics of those wells, and the aquifer material in which the wells are completed". This report continued "The ground water gradients indicate that a decrease in the level of ground water tributary to the Bear River would affect the flow of the Bear River and springs in the Bear River Basin".

Dion (1969) summarized that "... the aquifers in the Bear River basin are generally in direct hydraulic connection with the streams ... and ground water is discharged from the

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aquifers into the streams". In these areas "... withdrawal of ground water affects the streamflow. Pumping of wells causes stream depletion by either increasing the amount of water moving from nearby streams to the wells or by decreasing the natural ground-water flow that would have discharged into the streams if the wells had not been pumped".

In a recent study of the hydrology of Cache Valley by Kariya, Roark and Hanson (1994) the geology of the valley floor was characterized as being mostly "unconsolidated basin-fill deposits of Quaternary age ... and younger alluvium". The older Salt Lake Formation is evident in the foothills around the valley. Dion (1969) similarly describes the bottomlands of Bear Lake, Gentile and Cache Valleys as consisting of Quaternary alluvium with out-crops of the Salt Lake Formation along the valley margins. Ground water occurs in the alluvium and to a lesser extent in the Salt Lake Formation. It also occurs in the basalt of Gem Valley and Soda Creek basin. Kariya, Roark and Hanson (1994) also described the interconnection between surface-water and ground-water systems. They demonstrated through the use of a ground-water-flow model that "... in Cache Valley, increased withdrawal of ground water could decrease the volume of ground-water discharge to the surface-water system and therefore is of concern to surface-water users".

Depletion of water by agricultural and other uses forms the basis for water rights accounting within the Bear River Basin (Amended Bear River Compact). Hydrologic realities on the Bear River below Bear Lake mandate that a careful accounting be made of any and all appropriated waters. Thus, depletions must be determined for any new applications to appropriate in order to fulfill the accounting requirements.

Depletions for municipal and dairy water use were derived from consideration of current practices and comparison with actual use patterns in Cache Valley and elsewhere. Depletions for agricultural water use were calculated based on the "Bear River Commission Approved Procedure". The methodology for developing water use and depletion estimates for Caribou and Franklin County, Idaho areas in the Bear River Basin is described hereafter.

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II. Estimation of Municipal Diversions and Depletions

Estimates of non-irrigation depletion of culinary water vary from two to ten percent assuming non-consumptive disposal of waste water, although some "losses" may be as high as 30 percent. The culinary (non-irrigation) depletion could be as high as 100 percent in containment, or lagoon, type waste water disposal systems.

The major source of depletion of culinary water use is irrigation of lawns, gardens, trees and ornamentals during the summer months. This is related to evapotranspiration (ET) rates (such as in Hill, 1994) and irrigation method. Assuming sprinkle irrigation and mild to moderate wind conditions (in a small community), the evaporation loss from water droplets in the air would be at least 10 percent of delivered water. This should be added to the ET minus effective rainfall (net irrigation requirement) to estimate depletion. The estimated municipal irrigation depletion is equal to the irrigated area multiplied by the quantity of consumptive use minus effective rainfall.

Calculated values of irrigation diversion and depletion are made for specific sites as described in water right applications. The estimated annual irrigation related depletion represents a loss of water to the flows in the Bear River. An additional depletion would accrue from the culinary water connections assuming five percent loss of the total gallons/day per connection plus any waste water disposal depletion. Additional depletion would also accrue from stock watering (if any) out of the culinary water supply.

III. Estimation of Dairy Water Supply Requirements and Depletions

Depletion associated with a dairy operation includes water in milk sold, evaporation of wash and flush water and evaporation of water in animal wastes. For a herd on pasture, with solid waste handling, or in a confined situation with total waste containment and lagoon treatment the depletion would essentially be 100 percent of the supply water. However, with a slurry manure handling operation and land application, ten percent return flow may occur. In

either case the supply water right should be of a sufficient quantity to satisfy the requirements in peak use months of July and August.

The current concern about water quality has led to regulatory agency policy insisting on no surface runoff of animal wastes and moving toward a policy of zero deep percolation into ground water. The implementation of such policy will bring about 100 percent depletion of dairy supply water.

IV. Estimations of Agricultural Water Depletions

The Amended Bear River Compact specifies (Articles V.C.; VI.B. and VI.C.) that depletions shall be determined by a Bear River Commission "Approved Procedure." These procedures are defined in "Amended Bear River Compact, Commission - Approved Procedures," November 1993. The depletion calculations are based on the procedure developed in the Bear River Commission funded research project "Duty of Water under the Bear River Compact: Field Verification of Empirical Methods for Estimating Depletions," (Hill, et al., 1989). In that report we calculated agricultural depletion as the water year evapotranspiration less the sum of carryover soil moisture and effective precipitation. Estimated depletion, which accounts for the effect of winter and summer precipitation and evapotranspiration, thus represents a net irrigation requirement at 100 percent irrigation efficiency. Estimates of depletion for specific sites was based not on a subbasin weighted average crop mix but rather on the crops being irrigated.

Additional depletion would accrue from evaporation losses if sprinkler irrigation is used and from evaporation from any open water surfaces. If the application were for supplemental water use on a crop such as alfalfa, a prorated depletion increase would be determined. The supplemental depletion factor is derived from the relationship of alfalfa yield to evapotranspiration reported by Hill (1983).

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REFERENCES

- Dion, N. P. 1969. *Hydrologic reconnaissance of the Bear River Basin in southeastern Idaho*. Water Inf. Bull No. 13. USGS in cooperation with Idaho Dept of Reclamation. October.
- Higginson, R. K. 1991. Director's Report for the Bancroft-Lund Area. Civil Case No. 2919. In the District Court of the Sixth Judicial District of the State of Idaho, in and for Caribou County. November.
- Hill, R.W. 1983. Alfalfa yield and water use in commercial fields, *Proceedings ASCE Irrigation and Drainage Division Specialty Conference*. July 20-22. Jackson, WY.
- Hill, R.W., C.E. Brockway, R.D. Burman, L.N. Allen, and C.W. Robison. 1989. *Duty of water under the Bear River compact: field verification of empirical methods for estimating depletion*, Final Report, Utah Agricultural Experiment Station Research Report No. 125, Utah State University, Logan, UT. January.
- Hill, R.W. 1994. *Consumptive use of irrigated crops in Utah*, Utah Agricultural Experiment Station Research Report No. 145, Utah State University, Logan, UT, Oct.
- Kariya, K.A., D.M. Roark, and K.M. Hanson. 1994. *Hydrology of Cache Valley, Cache County, Utah, and adjacent part of Idaho, with emphasis on simulation of ground-water flow*. Tech. Pub. No. 108, Utah Dept. Nat. Res. SLC, Ut.

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JUL 8 0 1998

**Procedures for Estimating Depletion of Municipal, Dairy and
Agricultural Crop Water Use in the
Lower Bear River Basin in Idaho**

SUPPLEMENT

Estimation of Municipal Diversions and Depletions

Actual diversions for domestic use (excluding irrigation) vary from about 100 to 128 gallons/day per person based on experience in several Utah towns and cities. If an average connection served 3.5 persons, the estimated diversion would be about 390 gallons/day per connection (using 111 gallons/day per capita).

The estimated municipal irrigation depletion (ac-ft) is equal to the irrigated area in acres multiplied by the quantity, in inches, of consumptive use minus effective rainfall divided by 12, with this total being further multiplied by the factor 1.15 to account for evaporation losses from using sprinkler irrigation. In equation form:

$$\text{Depletion} = \text{acres} \times (\text{ET} - \text{Effective Rain}) \times 1.15/12$$

where ET is evapotranspiration (consumptive use) for the weighted crop mix (say, 60 percent turf and 40 percent garden) obtained from published reports (such as Hill, 1994); Effective Rain is assumed to be 80 percent of average monthly precipitation and the adjustment factor 1.15 represents the estimated 10 percent evaporation loss for delivered sprinkler supply with an assumed irrigation application efficiency of 65 percent.

The actual area irrigated in a given community in the Bear River Basin from the culinary water supply depends on what other water supply may be available for irrigation and likely varies from spring to summer. In the springtime and early summer, when flow from streams and springs is high, culinary water is probably used for irrigation on a smaller area than later in July as stream flow is diminished and residents wish to maintain lawns and gardens. This trend toward watering more area with culinary supplies would be more pronounced in droughts as experienced in the past several years. However, assuming an average lot size irrigated with each connection gives an estimated area in acres.

Estimation of Dairy Water Supply Requirements and Depletions

Depletion of ground water appropriation applications for dairy stock water is based on estimates of the number of animals now being served or as yet anticipated. Supply requirements and depletion estimates were developed for an assumed "typical" dairy herd with an average of 100 lactating cows plus associated dry cows (22), replacement heifers (74, 6-15 month old) and young heifer calves (37, newborn to six months). Estimates for an assumed 100 lactating cow dairy herd are based on 10 month lactation producing 19,000 pounds of milk (6.8 gallons water/day). Depletion of culinary water assumes export of water in milk,

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complete evaporation of wash water (8 gallons/head/day, assumes no recycling) plus evaporative loss of 90 percent of water in animal waste.

The estimated annual requirements were 84 acre-inches. This is equivalent to 0.030 ac-ft per animal per year, or about 26.7 gallons per day per animal. Assuming only 90 percent depletion of animal waste water (and 100% depletion of water in milk), the estimated annual total depletion is 77 acre-inches for the 233 animals associated with a 100 lactating cow dairy herd. This is equivalent to 0.028 ac-ft per animal per year.

The depletion of culinary water for a dairy operation is at least the 77 acre inches (for a 100 cow milking herd) and in the foreseeable future may become all of the supply, or 84 acre-inches per year.

Estimations of Agricultural Water Depletions

Agricultural depletion was calculated as the water year evapotranspiration less the sum of carryover soil moisture and effective precipitation. Estimated depletion, which accounts for the effect of winter and summer precipitation and evapotranspiration, thus represents a net irrigation requirement at 100 percent irrigation efficiency. In equation form:

$$Dpl = E_i - SM_{eo} - Pef \quad (1)$$

where Dpl is estimated depletion for a given site or subbasin; E_i is calculated cropwater use from one of the calibrated empirical E_i equations; SM_{eo} is moisture which is "carried over" from the previous non-growing season (Oct 1 - April 30) as stored soil water in the root zone available for cropwater use subsequent to May 1; and, Pef is an estimate of that portion of precipitation during May - September which could be used by crops.

Growing season precipitation was considered to be 80 percent effective in contributing to crop water use. The effectiveness factor of 80 percent allows for precipitation depths throughout a subbasin that might differ from National Weather Service rain gage amounts. It also includes a reduction for mismatches in timing between rainfall events and irrigation scheduling.

Average crop water use, growing and non-growing season precipitation and depletion for alfalfa and pasture are shown in the table at the top of the next page for Soda Springs and Cache Valley. Alfalfa E_t is 27.7 and 29.9 inches, respectively in the Soda Springs area and Cache Valley; corresponding depletions are 16.4 and 16.7 inches.

Crop water use, E_i , was a weighted average for the several crops in a given subbasin. E_i for each crop was multiplied by that crop's fraction of total irrigated crop area. These "weighted" E_i values for all crops were then added to determine the weighted average subbasin E_i .

**Average Crop Water Use (Et) and Growing and Non-growing Season
 Precipitation (1976-1987 Water Years) for Soda Springs and Cache Valley
 Subbasins of the Bear River.**

Subbasin	Precipitation				Consumptive Use		Depletion	
	Oct-Apr	May-Sep	Annual Total	Useable*	Alfalfa	Pasture	Alfalfa	Pasture
	Inches	Inches	Inches	Inches	Inches	Inches	Inches	Inches
Soda Springs	8.64	8.28	16.92	11.3	27.7	21.0	16.4	9.7
Cache Valley	12.51	8.21	20.72	13.2	29.9	23.6	16.7	10.4

*Usable precipitation includes winter carry-over soil moisture and effective growing season rainfall. Source: Table 14 and Appendix E of Hill, et al., 1989.

The carry-over soil moisture (SM_c) was estimated by assuming that 67 percent of adjusted precipitation from October through April could be stored in the root zone. If this exceeded 75 percent of the available soil water-holding capacity of the average root zone in the subbasin, the excess was considered as lost to drainage or runoff and not available for crop use. Adjusted precipitation was equal to total precipitation minus 1.25 times any calculated E_t occurring during October-April. This adjustment ($1.25 E_t$) for crop water use during the "non-growing" season was consistent with how effective precipitation was estimated in the growing season. The growing season was assumed to be May 1 through September 30. Thus, some E_t occurs in the non-growing season, particularly in the lower subbasins.

Depletions were calculated with Equation (1) for the 11 subbasins of the Bear River for 12 water years (1976-1987) as given in Table 15 of Hill, et al. (1989). Table 15 was subsequently included in the commission-approved procedure as Appendix B (denoted as CAP-B hereafter). The weighted annual average depletion for Soda Springs and Cache Valley subbasins are shown as 1.01 and 1.00 acre-feet/acre, respectively, in CAP-B.

The seasonal alfalfa ET value of 29.9 inches for Cache Valley closely matches the 2.5 feet (30 inches) alfalfa crop water use of IDWR (H. Jones, personal communication, Nov. 1995). However, IDWR's 2.5 feet ET for Soda Springs is about 8.3 percent higher than the 27.7 inches of Hill, et al. (1989). IDWR assigns a 3.5 ac-ft/acre duty of water to both subbasins; whereas, the Utah Division of Water Rights assigns a duty of 4.0 ac-ft/acre in Cache Valley (W. Atkin, personal communication, Nov. 1995).

Derivation of Supplemental Irrigation Depletion Factor

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 JUN 30 1988

In a study of crop water use and alfalfa yields in farm fields in central Utah (Millard and Iron Counties) Hill (1983) derived the following relationship:

$$\text{Yield} = -0.765 + 0.243 \text{ ET} \quad (\text{a})$$

where yield is alfalfa yield, ton/acre, field dry (12 percent moisture) and ET is seasonal crop water use, inches. This is equivalent to 4.7 inches of ET per ton/acre at a yield level of 5.5 ton/acre.

To determine a prorated depletion for yield increases from supplemental irrigation, a supplemental factor, Splf is defined as:

$$\text{Splf} = (\text{Et full} - \text{Et deficit})/\text{Et full} \quad (\text{b})$$

where Et full is crop water use (evapotranspiration) associated with yields obtained with a full water supply and Et deficit is evapotranspiration associated with yields under deficit or limited irrigation supply.

As an example, if deficit condition yields are four ton/acre and full supply yields are seven ton/acre then Et full would be 32 inches ($32 = (7 + 0.765)/0.243$) and Et deficit would be 19.6 inches ($19.6 = 4 + 0.765)/0.243$) by solving Eq (a) above for Et. Thus, the supplemental factor becomes: $\text{Splf} = (32 - 19.6)/32 = 0.39$.

KRUSE, LANDA & MAYCOCK, L.L.C.

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50 WEST BROADWAY (500 SOUTH)
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1248
FAX
801-797-2791
John Hill

DATE: August 5, 1997

TIME (MDT): _____

MESSAGE TO: Paul Meyers

FIRM: Idaho Dept. of Water Resources - Eastern Region

FAX NUMBER TRANSMITTED TO: 1-208-525-7177

NO. OF PAGES (INCLUDING THIS COVER SHEET) 2

FROM: Jody L. Williams

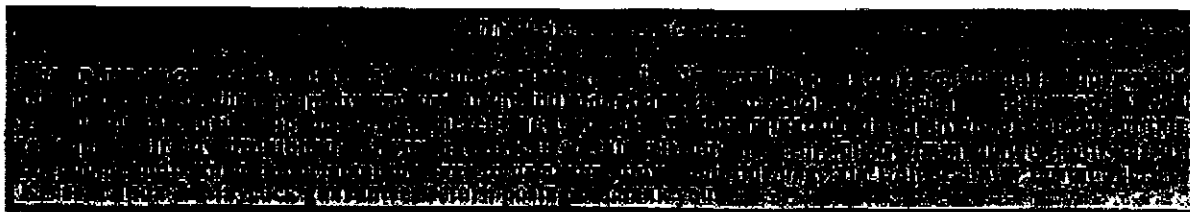
KLM CLIENT FILE NO: 7017.00

**FOR QUESTIONS AND/OR PROBLEMS WITH RESPECT
TO THIS FACSIMILE TRANSMISSION
PLEASE CONTACT:**

Barbara Wallin

AT (801) 531-7090

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| ☐ FOR REVIEW AND COMMENT | ☐ ORIGINAL TO FOLLOW BY STANDARD MAIL |
| ☒ PER OUR CONVERSATION | ☐ ORIGINAL TO FOLLOW BY OVERNIGHT COURIER |
| ☐ PER YOUR REQUEST | ☐ SEE COMMENTS BELOW |

COMMENTS/SPECIAL INSTRUCTIONS:

10/1 3 0 1082

8-3-97 Norman Mecham applications

Calculations for 105 houses of Resort Domestic Use

Assumed an average household of 4 persons and a total of 400 gallons per day for indoor use. Occupancy rates were assumed to be, based on conversations with Norman Mecham, 10% year round plus additional 25% every weekend during October through April, and additional 40% continuous during May through September plus additional 45% weekend occupancy during May through September. Equivalent Annual Household Days is 13,944 days.

$$(13,944 \approx 105[0.1X365 + 0.25X61 + 0.4X153 + 0.45X44]) \approx 105[132.8]$$

Corresponding annual indoor diversion is 17.1 af. Assuming 10% indoor depletion and 23% depletion of wastewater, this is 5.2 af depletion of non-outside use.

For outdoor use, based on Norman Mecham's representation that it was "very minimal," we assumed 0.1 acre of trees, shrubs, turf and garden, for each household. We calculated the depletion based on conditions similar to an outdoor use on another application in the area, i.e., 14.3 inches. TREES SHRUBS ETC ON 3RD

$$(12.5 - 0.1X105X14.3/12).$$

Annual depletion for the 105 houses is 17.7 af (17.7 = 5.2 + 12.5)

For 65 houses, the depletion is proportionately reduced: $65/105 \approx 11.0$ af annually. This is equivalent to 7.3 acres of pasture depletion and the annual diversion reduction of 27.4 af.

NOTE THE DISTINCTION BETWEEN DEPLETION AND DIVERSION

Handwritten calculations:

$$33-12=21$$
$$65/7.3 = 105/7.3$$
$$105/65$$
$$40\%$$
$$14.3$$
$$11.8$$
$$12$$

FIELD VERIFICATION FOR IMPECCAL

EST DEPLETION

JAN 31 '87

125

DEPT. OF AGRICULTURE

JUL 30 1988

12/97

APPLICATION FOR PERMIT STATE OFFICE REVIEW

by *Cindy Lou*

No.: 11-7436 Name: Lake Vista Properties LLC Date: 5/26/98 Ad OK? ☒ ☒ Gvmt Lts: ☒

AREA OF CONCERN:

- No/Yes: _____ Mor / _____ GWMA / Trust / Non-trust

PROTESTED:

- 020 (Protest Agreement) or *W19 (Order)

SYSTEM COMPLETED:

> 1 year

- 26A-P17~~< 1 year~~ no proof

- P16

GROUNDWATER: (✓ FLO-CH)

WMD (✓ MAP)

> 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

WMD Supplemental use

- 065-079 (if GW use SW 1st-statewide)-(cannot move SW off)

> 0.24 cfs/5 acres

- 01M (report when notified)

≤ 0.24 cfs/5 acres

- No MD

DRILLING PERMIT:

All wells (✓ WDAQ3)

- 046-P23

Included w/permit

- Permit No. _____ - _____ - _____ - _____, P99

irr. in WD

- **P05** (new well location)**SURFACE WATER: (✓ FLO-CH) (Surface water that doesn't sink is regulated):**

IN/ABOVE MIN. STR. FLOW (✓ MAP)

- *WB9 _____

WD (✓ MAP & LISTING)

- R04 (WD # _____)

> 0.10 cfs

- 01J-P08 (MD & LD)

≤ 0.10 cfs

- 01H-P01 (LD) or No MD (in-stream stock)

WMD (✓ MAP)

> 0.24 cfs/5 acres

- 067 or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

SPRINGS/SINK, INACTIVE WD & REST OF STATE

> 0.24 cfs/5 acres

- 01M or No MD (in-stream stock or power)

≤ 0.24 cfs/5 acres

- No MD

RIVER BASINS: (*Surface water):

Snake R (01)

- *W22-P04, NA

(02/03-irr)

- 007 (w/ remark *WB9 if above Weiser), NA

Payette R(65)

- *W22 (regulated uses), 047-P04 (Payette Lake), NA

Salmon R (70's)

- 029 (fish screens), NA

USE:

Domestic surface

- *WB5 (Big Wood R or Boise R ↑ Star Bridge); 27A (Payette River); NA

~~> 1 in rest. area~~- ~~071-070~~

Fish Propagation

- 029-007-042(req)-081 (WQ)-P10

Heating/Cooling

- R07 (injection well)

Irr ≤ 5 acres

- R66/R67/R68/R69 (0.03 cfs/acre + 3.0/3.5/4.0/4.5 AF)

> 5 acres

- R62/R63/R64/R65 (0.02 cfs/acre + 3.0/3.5/4.0/4.5 AF)

Mining

- 054(req)-081-P10

Municipal

- 022, 075, 004 (+memo?), NA (not in restricted area)

Power

- 17H/17K(+uses)-08A-025(P18)-01N-028-081(P10)-027 (if no other cons. use);

17G (FERC) or 17M (FERC); 18B-P09; >25 cfs-P18

Stockwater

- R37 (BLM/USFS); NA

Storage (✓ 3 compo.)

- 18A (in & out MD for on-stream storage), 18B-P09 (>10' dam), NA

LOCATION:

42-248 area

- P84 (in 20/30/40/50/60/70/80 (87) basin)

Boise Front LoGeo

- 058 (<85° GW temp only)

In-stream dev.

- P52 (stream channel alteration)

Irr Dist/Canal Co.

- 023 (Twin Falls area)

SWAN FALLS FLAG (See Code Chart)

Trust

- 051-052-053-P74 (Consumptive Uses), NA

Non-Trust (1)

- 048-049 (Consumptive Uses), NA

OWNERSHIP:

- 004 (PD/PU) _____

OTHER CONDITIONS:**STANDARD REMARKS:**- ~~01M~~ ② w/160 ③ w/165 ④ w/165 07/1/070**BENEFICIAL USE DUE:**

- 6/1/2003

COMMENTS:

MEMORANDUM

DATE: April 24, 1998
TO: File Nos. 11-07435 & 11-07436
FROM: Cindy Lou Zimmerman
SUBJECT: Telecon

This morning I spoke with Norman Mecham of Lake Vista Properties. I requested subdivision plats showing the location of the wells and homes for the above applications. Norman said he could get the plats to me early next week.

Norman said he had received my March 3, 1998 letter. He had not responded because he did not have all plats approved by county as yet. I told him preliminary plats would satisfy my request.

I will hold processing on these application until May 11, 1998 to provide Norman time to submit the plats.

5/11/98

Mr. Mecham called. He will send plats today or tomorrow.
Call-up 5/19/98. cz.

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 327-7900 FAX: (208) 327-7866

March 3, 1998

**PHILIP E. BATT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

Lake Vista Properties, LLC
Norman D Mecham
2126 S Bear Lake Blvd.
Garden City UT 94028

RE: Application for Permit No. 11-07436

Dear Mr. Mecham,

The above referenced application has been sent to the State Office for final review and processing; however, before the application process can continue, I will need some additional information.

The application lists a domestic use for 105 homes, but a subdivision plat identifying the location of these homes was not included with the application. I need the subdivision plat to clarify where water will be diverted. Please provide a subdivision plat identifying the location of the point of diversion, the location of any common or non-domestic areas, as well as the size of each lot.

I will hold further processing on your application for 30 days pending your response. Please submit this information as quickly as possible within the 30-day period to prevent any further undue delay in processing your application.

If you have any questions, you may contact me directly at (208) 327-7944.

Sincerely,

Cindy Zimmerman
Water Resource Agent

RECORDED

JUL 30 1998

RECEIVED

and Copy to DEQ

FEB 24 1998

DEPARTMENT OF WATER RESOURCES

Dist. for staffing

Submitted for advertising

11-26-96
11-28-96

Form No. 202

4/87

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATIONS FOR PERMIT ANALYSIS PERMIT

INITIAL REVIEW BY HWT DATE 11-26-96 APPLICATION NO. 11-7436

REQUIRED INFORMATION

- ☒ Name (If applicant is a corporation or partnership, names must be provided for the director, officers, & other partners.)
☒ Address
☒ Source (See USGS Quad for names of water sources)
☒ Point of Diversion (10 acres for spring, lot & block descriptions for subdivisions, local name, flow and/or volume)
☒ County
☒ Quantity (flow and/or volume)
☒ Period of Use
☒ Nature of proposed use (Include description of use.)
☒ Description of diverting works
☒ Time required for beneficial use of water
☒ Place of use or acres irrigated
☒ Map
☒ Signature (If applicant is corp., partnership, or municipality, title of signatory is required)
☒ Fee
☒ Yes ☐ No* In form to receipt

ADDITIONAL INFORMATION

- ☐ Overlapping place of use (Describe source & relationship to present application on the back.)
☐ Overlapping point of diversion
☐ Yes ☒ No Field check required
Field check by _____
☐ Yes ☒ No Field report attached
☐ Yes ☒ No Critical groundwater area
☐ Yes ☒ No Groundwater management area
☐ Yes ☒ No Send dam safety information
☐ Yes ☒ No Send power requirement letter
☐ Yes ☒ No Send fish farm requirement letter
☐ Yes ☒ No Power residency affidavit
☐ Yes ☒ No Power efficiency form
☐ Yes ☒ No Within trustwater boundary (If yes, attach trust water supplementary analysis sheet.)
☐ Yes ☒ No Diversion greater than 5 cfs or 500 acre ft. (If yes, attach large diversion supplementary analysis sheet.)

See reverse side for additional information

*REQUEST THE FOLLOWING ADDITIONAL INFORMATION FROM THE APPLICANT

Applicant advise a subdivision plat will eventually be needed.

Date Requested 11-25-96

PROCESSING

☒ Yes ☒ No In form for advertising
☒ Yes ☒ No Statewide advertising
☒ Yes ☒ No Fee amount, receipt date & No. recorded on application

SEND COPIES TO

DEQ
☒ Idaho Dept. of Health & Welfare ☐ U.S. BLM
☐ Idaho Dept. of Fish & Game ☐ U.S. Forest Service
☐ Idaho Dept. of Lands ☐ Water District
☐ Adjudication Bureau Unit ☐ Other _____

FINAL REGIONAL PROCESSING REVIEW

☒ Yes ☐ No Affidavit of publication received
☒ Yes ☐ No Application published correctly. If not, record action taken _____

☒ Yes ☐ No Publication dates & paper, recorded on application
☒ Yes ☐ No Protests received
Final date for protest *January 6, 1996*
☐ Yes ☐ No Protests, dates, resolution of protest, recorded on application
☐ Yes ☐ No Recommendations attached
☐ Yes ☐ No Measuring device required
☐ Yes ☐ No Access port required
☐ Yes ☐ No Will water be delivered by watermaster? If yes, what Dist. _____
☐ Yes ☐ No Special conditions of approval or cover letter below.

Date of priority recommended _____

By: _____ Date: _____

STATE OFFICE REVIEW

By _____ Date: _____

ADDITIONAL INFORMATION

LOCAL PUBLIC INTEREST

Comments received from

_____City	_____Idaho Fish & Game	_____Irrigation Dist.
_____County	_____Idaho Health & Welfare	_____Canal Company
_____Reservations	_____Div. of Environment	_____Other_____

Project impacts/implications report

COMMENTS

[illegible]



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 18, 1998

LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Withdrawal of protest on Applications for Permit
No.'s 11-07435 and 11-07436

Dear Applicant:

This Department has received a withdrawal of protest from Randall Budge of Racine, Olson, Nye, Cooper & Budge on behalf of Bear Rier Water Users Association. Also, Jody Williams of Kruse, Landa & Maycock, LLC on behalf of PacificCorp, Cheryl C Williss of Fish and Wildlife Service, and Mary Evelyn Kimball of Bear Lake Watch, Inc.

Our office will continue to process your application.

If you have any questions, please feel free to contact this office.

Sincerely,

Harold W. Jones
Harold W. Jones *by sc*
Water Right Supervisor

HWJ/sc

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 18, 1998

KRUSE, LANDA & MAYCOCK L.L.C.
PO BOX 45561
SALT LAKE CITY UT 84101-2034

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by your Department against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones
Harold W. Jones *by SC*
Water Right Supervisor

HWJ/sc

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 18, 1998

RACINE, OLSON, NYE, COOPER & BUDGE
PO BOX 50731
IDAHO FALLS ID 83405

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by your Department against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones
Harold W. Jones *by SC*
Water Right Supervisor

HWJ/sc

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 18, 1998

US DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225-0486

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista
Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by
your Department against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones

Harold W. Jones *by sc*
Water Right Supervisor

HWJ/sc

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 18, 1998

BEAR LAKE WATCH, INC
PO BOX 205
FISH HAVEN ID 83287

RE: Application for Permit No. 11-07435 & 11-07436 for Lake Vista
Properties

Dear Protestant:

This letter acknowledges receipt of the withdrawal of protest by
your Department against the above referenced application.

If you have any questions, please feel free to contact this office.

Very truly yours,

Harold W. Jones
Harold W. Jones *by sc*
Water Right Supervisor

HWJ/sc

RECEIVED

JUL 30 1998



Merlin Olsen
President

Warren Lee
Vice President

Mary Evelyn Kimball
Executive Assistant

Richard Strong
Secretary/Treasurer

EXECUTIVE COMMITTEE

Gary Burgener

Russell Cottle

Nard Jacobson

Dick Motta

Phil Olsen

Jerry Phelps

Lyle Tapper

MAILING ADDRESS

P.O. Box 205
Fish Haven
Idaho 83287

January 14, 1998

Mr. Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

RE: Permit Nos. 11-07435 and 11-07436

Dear Mr. Jones:

Bear Lake Watch withdraws its protests to the above referenced two applications. The transfer application No. 5134 appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under applications Nos. 11-07435 and 11-07436.

Sincerely,

Bear Lake Watch

Mary Evelyn Kimball

Mary Evelyn Kimball
Executive Assistant

MEIK:meik

CC:	Norman Mecham	Carly Burton
	Randall M. Weiner	Brent Rose
	Randall C. Budge	Jim Kimbal
	Thomas Graf	Cheryl C. Williss
	Bear River Water Users Association	

MEMORANDUM

JUL 30 1998



United States Department of the Interior

FISH AND WILDLIFE SERVICE Mountain-Prairie Region

IN REPLY REFER TO:

BA WTR
WR UT
Mail Stop 60189

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

RECEIVED

JAN 26 1998

JAN 21 1998

Department of Water Resources
Eastern Region

Mr. Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

Dear Mr. Jones:

The Fish and Wildlife Service hereby withdraws its protest to Application for Permit Nos. 11-07435 and 11-07436, filed by Norman D. Mecham. The approved transfer Application No. 5134 on Water Right No. 11-07021, filed by Lake Vista Properties, L.L.C., appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under application Nos. 11-07435 and 11-07436.

If you have questions, please contact me at (303) 236-5321 ext. 223.

Sincerely,

Cheryl C. Williss
Chief, Division of Water Resources

cc: Mr. Norman D.. Mecham
2126 South Bear Lake Blvd.
Garden City, UT 84028

Jody L. Williams, Esq.
Kruse, Landa, & Maycock, L.L.C.
Eighth Floor, Bank One Tower
50 West Broadway (300 South)
Salt Lake City, UT 84101-2034

LETTER 44-11

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 12, 1998

LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Withdrawal of protest on Applications for Permit
No.'s 11-07435 & 11-07436

Dear Applicant:

This Department has received a withdrawal of protest from Randall Budge of Racine, Olson, Nye, Cooper & Budge on behalf of Bear River Water Users Association. Also, Jody Williams of Kruse, Landa & Maycock, LLC has withdrawn the protest on behalf of PacifiCorp.

Our office will continue to process your application.

If you have any questions, please call our office.

Sincerely,

Harold Jones rb
HAROLD JONES

Water Rights Supervisor

HWJ/rb

RECORDED

JUL 30 1998

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***
LISA M. CHRISTON****
BRENT R. KING
RICHARD A. HEARN, M.D.*****
ERIC L. OLSEN

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR
***ALSO MEMBER CO BAR
****ALSO MEMBER IL BAR
*****ALSO MEMBER D.C. BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE

CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FAX (208) 232-6109

ASSOCIATED WITH
McGRATH, MAROTZ
& SMITH
414 SHOUP
P. O. BOX 50731
IDAHO FALLS, ID 83405
TEL (208) 524-0731
FAX (208) 529-4166

STEPHEN J. McGRATH
SCOTT W. MAROTZ
BRYAN D. SMITH†
†ALSO ADMITTED IN CA

December 31, 1997

Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402-1718

Re: Permit Nos. 11-07435 and 11-07436

Dear Harold:

The Bear River Water Users Association withdraws its protest to the above-referenced applications of Lake Vista Properties, L.L.C., for the reason that the approved Transfer Application No. 5134 on Water Right 11-07021 has provided mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River Basin under these permits.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Jody Williams
D. Brent Rose
Norm Mecham

RECEIVED
JUL 30 1998

RECEIVED
JAN 05 1998
Department of Water Resources
Eastern Region

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034
E-mail: jwilliams@klmlaw.com

MAILING ADDRESS
Post Office Box 45561
Salt Lake City, Utah 84145-0561

TELEPHONE: (801) 531-7090
TELECOPY: (801) 531-7091
(801) 359-3954

JODY L. WILLIAMS
WILLIAM N. WHITE

WRITER'S VOICE MAIL
(801) 531-7090 ext. 234

December 24, 1997

Harold W. Jones
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, ID 83402-1718

RECEIVED

DEC 29 1997

Department of Water Resources
Eastern Region

RE: Permit Nos. 11-07435 and 11-07436

Dear Mr. Jones:

PacifiCorp has reviewed the approved transfer application No. 5134 on Water Right No. 11-07021 filed by Lake Vista Properties, L.L.C. The approved transfer application appears to provide mitigation and replacement for what would have been new depletions to the Bear Lake/Bear River basins under application Nos. 11-07435 and 11-07436. Therefore, PacifiCorp withdraws its protests to the above referenced two applications.

Thank you very much for your help in resolving this matter.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.



Jody L. Williams

JLW:bjw

Cc: Norman Mecham Carly Burton
Randall C. Budge Brent Rose
Randall M. Weiner Jim Kimbal
Thomas Graf Cheryl C. Williss
Bear River Water Users Association

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION
February 4, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Applications for Permit No.'s 11-07435 & 11-07436

Dear Applicant:

Enclosed is a copy of a petition to intervene filed against the issuance of the above referenced applications. The Department suggests you contact the protestant directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose 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 conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,

Harold W. Jones
HAROLD W. JONES
Water Rights Supervisor
HWJ:rb

RECEIVED

JUL 30 1997



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

CHERYL C WILLISS
UNITED STATES DEPT OF THE INTERIOR
FISH & WILDLIFE SERVICE
PO BOX 25486
DENVER CO 80225-0486

RE: Applications for Permit
11-07435 Norman D. Mecham
11-07436 Norman D. Mecham
11-07437 City of Montpelier

Dear Protestant:

Your petition to intervene against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) he following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose 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?

MICROFILMED

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 4, 1997

JIM KIMBAL
BEAR LAKE WATCH INC
PO BOX 145
ST CHARLES ID 83272

RE: Applications for Permit
11-07435 Norman D. Mecham
11-07436 Norman D. Mecham
11-07437 City of Montpelier

Dear Protestant:

Your petition to intervene against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing rights?
2. Is the proposed water supply insufficient for the purpose 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?

MICROFILMED

JUL 30 1998

Page 2

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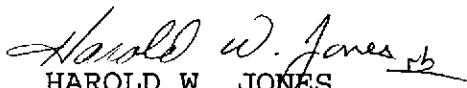
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office

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JUL 30 1958

Page 2

5. Will the proposed use under this permit conflict with the local public interest?

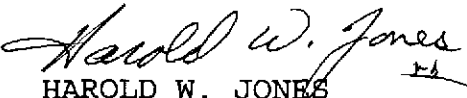
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If this office can be of further assistance, please contact us.

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office

MICROFILMED
JUL 30 1998

JIM KIMBAL
BEAR LAKE WATCH, INC.
P.O. BOX 145
ST. CHARLES, IDAHO 83272
Telephone: (208)945-2375

Receipt # E002883
Receipt # E0 22888

RECEIVED

Potential to Intervene

JAN 13 1997

Department of
Eastern District

Representative for Bear Lake Watch, Inc.

BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO

In The Matter of	)	Protest of
Application for Permit	)	Bear Lake Watch, Inc.
Norman D. Mecham	)	Protestant
Lake Vista Properties, L.L.C.	)	
No. 11-07435 and 11-07436	)	

1. Bear Lake Watch, Inc. is a Utah non-profit corporation which was organized in 1994 to protect and restore the environment and waters of Bear Lake. Bear Lake Watch is seeking to assure that the public interest is served when decisions are made that have an impact on the allocation and utilization of Bear Lake's water.

2. The approximately 280 members of Bear Lake Watch live and/or have businesses in the Bear River basin and have a direct and substantial interest in the proceeding.

3. Bear Lake Watch, Inc. believes that the requested groundwater in the County of Bear Lake, such as that proposed by the Applicant, will affect it and it's members by reducing the contribution of groundwater to the surface flow of the Bear River below Bear Lake.

4. Indeed, many of the members of Bear Lake Watch, Inc. have already been directly and negatively impacted by low water levels in Bear Lake, which have resulted, in part, from the huge demand for water from those currently entitled to water in the Bear River basin. As a result, more water may be removed from Bear Lake to meet those downstream demands, thereby lowering Bear Lake further than it would have been without the proposed withdrawals.

MICROFILMED

JUL 30 1998

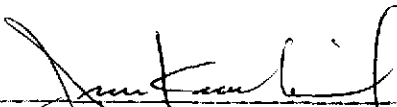
5. Further lowering of Bear Lake will greatly impact the members of Bear Lake Watch. It will result in lower property values, negatively affect habitat of five species of idiginous fish, reduce fishing opportunities, cause additional boating problems, reduce business ventures derived from the tourists who flock to a stable and healthy lake environment but stay away from a marshy and mosquito infasted waterfront.

WHEREFORE, Bear Lake Watch, Inc. respectfully moves to intervene and protests this application and requests that it be denied.

DATED this 9 day of January, 1997.

BEAR LAKE WATCH, INC.

BY


Jim Kinbal, Board Member & Representative
P.O. Box 145
St. Charles, Idaho 83272
Telephone: (208)945-2375

RECEIVED
JUL 30 1998

MAILING CERTIFICATE

On this 9 day of January, 1997, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Norman D. Mecham
Lake Vista Properties, L.L.C.
2126 Bear Lake Blvd.
Garden City, Utah 84028

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main, Suite 1000
Salt Lake City, Utah 84111

Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335

Randall M. Weiner, Esq.
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Jody L. Williams, Esq.
Kruse, Landa & Maycock
50 West Broadway
Eighth Floor
Salt Lake City, Utah 84101

Charyl C. Williss
Chief, Division of Water Resources
U.S. Fish & Wildlife Service
P.O. Box 25486
Mail Stop: 60189
Denver Federal Center
Denver, CO 80225

Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet St. Suite 151
Lakewood, CO 80215

RECORDED

JUL 30 1988



Petition
United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO:

**BA WTR
WR UT
Mail Stop 60189**

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1800

RECEIVED

JAN 10 1997

Idaho Department of Water Resources
Eastern Region
900 North Skyline Drive
Idaho Falls, Idaho 83402

JAN 06 1997

Department of Water Resources
Eastern District Office

Dear Sir or Madam:

The Fish and Wildlife Service protests the following Applications to
Appropriate Water:

11-07435 for 0.72 cfs, filed by Norman D. Mechan
11-07436 for 1.50 cfs, filed by Norman D. Mechan
11-07437 for 2.67 cfs, filed by City of Montpelier

It is the position of the Service that the increased depletion will
adversely affect the water supply for the Bear Lake National Wildlife
Refuge and the Bear River Migratory Bird Refuge.

Enclosed is a Money Order in the amount of \$25 to cover the required
protest fee.

If you have questions or require further information, please contact me
at (303) 236-5321 extension 223.

Sincerely,

Cheryl C. Williss
Chief, Division of Water Resources

Enclosure

Receipt # E022882

Receipt # E022912

*\$50 check
will be sent
Huf
1-14-97*

MICROFILMED

JUL 30 1998



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

January 7, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Applications for Permit No.'s 11-07435 & 11-07436

Dear Applicant:

Enclosed are copies of protests filed against the issuance of the above referenced applications. The Department suggests you contact the protestants directly in an effort to determine the nature of the protest and to attempt to resolve the protest.

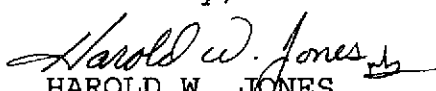
Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At a conference and/or hearing, the following are the principle items the Department can consider in either approving or denying the application for permit (Idaho Code § 42-203):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purpose 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 conflict with the local public interest?
6. Is the proposed use contrary to conservation of water resources within the State of Idaho?

The applicant must be prepared to present evidence and/or testimony addressing each of the six items. Although representation by legal counsel is not mandatory at a proceeding before the Department, you may retain an attorney in your behalf.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor
HWJ:rb

MICROFILMED

JUL 30 1998



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

STEVEN S DUNN ESQ
MERRILL & MERRILL
PO BOX 991
POCATELLO ID 83204

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

Your protests against approval of the above referenced applications have been received and a copy has been sent to the applicant. The Department suggests you contact the applicant directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

Unless this office is advised that either the matter has been resolved or there exists extenuating circumstances, our objective is to schedule a conference and/or hearing in the near future to consider the protest. At such a conference and/or hearing, the following are the principle items the Department can consider in their approving or denying the application (Idaho Code § 42-203) the following are the principle items the Department can consider in either approving or denying the applications for (Idaho Code § 42-203):

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RECEIVED

JUL 30 1998

Page 2

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The protestant must be prepared to present proof of allegations involving one or more of the six items.

In addition, Rule 302 of the Department's Rules of Procedure requires a protestant to send a copy of the protest to the applicant in question.

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

Sincerely,


HAROLD W. JONES
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office

MICROFILM

JUL 30 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

JODY L WILLIAMS ESQ
KRUSE LANDA & MAYCOCK LLC
50 W BROADWAY STE 800
SALT LAKE CITY UT 84101

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

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JUL 30 1998

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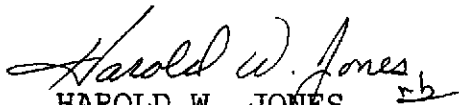
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If this office can be of further assistance, please contact us.

Sincerely,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ:rb

pc: IDWR - State Office

MICROFILMED
JUL 30 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

D BRENT ROSE
CLYDE SNOW & SWENSON PC
ONE UTAH CENTER STE 1000
201 S MAIN ST
SALT LAKE CITY UT 84111-2208

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

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HAROLD W. JONES
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office

RECEIVED

JUL 30 1988



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 7, 1997

RANDALL C BUDGE
RACINE OLSON NYE COOPER &
BUDGE CHARTERED
PO BOX 1391
POCATELLO ID 83204-1391

RE: Application for Permit No. 11-07435, 11-07436, & 11-07437
NORMAN D MECHAM & THE CITY OF MONTPELIER

Dear Protestant:

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JUL 30 1998

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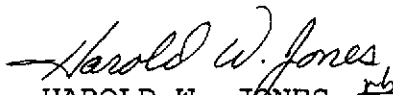
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If this office can be of further assistance, please contact us.

Sincerely,


HAROLD W. JONES *rb*
Water Rights Supervisor

HWJ:rb
pc: IDWR - State Office

RECEIVED
JUL 30 1933

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL*
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER**
JAMES P. PRICE***

*ALSO MEMBER IL & WY BARS
**ALSO MEMBER MO BAR
***ALSO MEMBER CO BAR

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

December 30, 1996

Idaho Department of Water Resources
Eastern Division
900 N. Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED

DEC 31 1996

Department of Water Resources
Eastern Division

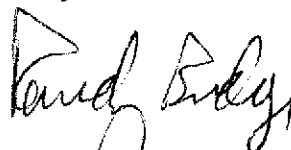
Attention: Ron Carlson
Harold Jones

Re: Application Nos. 11-07435 and 11-07436
Applicant: Norman D. Mecham, Lake Vista Properties, LLC

Dear Ron and Harold:

Enclosed for filing you will find Protest of Bear River Water Users' Association to the above-captioned Application. Also enclosed is our check in the amount of \$25 for filing fee.

Sincerely,



RANDALL C. BUDGE

RCB:rr

cc: Bear River Water Users' Association

61100-001

JUL 30 1996

Receipt # E02284

Jody L. Williams, Esq.
Kruse, Landa & Maycock, L.L.C.
50 West Broadway, Suite 800
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

RECEIVED
DEC 30 1996
Department of Water Resources
Eastern Region

Steven S. Dunn, Esq.
Merrill & Merrill
P.O. Box 991
Pocatello, Idaho 83204
Telephone: (208) 232-2286

Attorneys for PacifiCorp dba Utah Power and Light

**BEFORE THE
DEPARTMENT OF WATER RESOURCES
STATE OF IDAHO**

In the Matter of	)	Protest of PacifiCorp,
Application for Permit	)	an Oregon Corporation, dba
No. 11-07436	)	Utah Power & Light Company,
Norman D. Mecham,	)	Protestant
Lake Vista Properties, L.L.C.	)	
Applicant	)	
	)	

1. PacifiCorp Electric Operations, an Oregon corporation doing business in Idaho as Utah Power & Light Company ("Protestant"), Hydro Engineering 1407 West North Temple, Suite 270, Salt Lake City, Utah 84140, hereby files this protest before the Department of Water Resources in the above-referenced proceeding.

2. Protestant owns water rights in the Bear River and Bear Lake decreed in the matter of *Utah Power & Light Company v. The Last Chance Canal Company, Limited, et al*, in Equity No. 203, July 14, 1920, and *Utah Power & Light Company v. Richmond Irrigation Company, et al*, February 21, 1922, as well as other rights in the Bear River below Applicant's proposed point of diversion.

RECORDED

DEC 30 1996

3. Protestant believes that withdrawals of groundwater in Bear Lake County, Idaho, such as that proposed by the applicant, will diminish the groundwater inflow contribution to the surface flow of Fish Haven Creek, and to other inflow to Bear Lake, to which Protestant and many other Idaho and Utah water users have prior existing water rights and use contracts.

4. Protestant has entered into many contracts with irrigators in Idaho and Utah along the Bear River, some of whom may be Protestants in this matter, for supply of supplemental storage water from Bear Lake when the natural flow of the Bear River is insufficient to satisfy existing water rights. However, during drought periods, high irrigation demands cause the level of Bear Lake to drop significantly, endangering Protestant's ability to continue to deliver supplemental irrigation water pursuant to its contracts.

5. Granting the application of Applicant would adversely affect Protestant's water rights by decreasing the amount of tributary inflow to Bear lake. When Protestant is required to release Bear Lake storage water to satisfy its contracts, less water will be available to replace it in Bear Lake.

6. Protestant's supplemental storage water supply from Bear Lake is fully allocated, and Protestant will not offer a new supplemental storage water contract to Applicant. Even if some water is available from time to time to satisfy Applicant's proposed uses, the supply under such a late priority would be sporadic at best, probably usable for a short time only in the spring, and not adequate to sustain Applicant's needs throughout its requested annual period of use.

7. In addition to diminishing the quantity of Bear Lake water available to satisfy prior existing water rights and contracts, Protestant believes that granting the above-referenced application would conflict with the local public interest in the three following areas by reducing

groundwater inflow into the Bear River: First, reliance by existing users on supplemental irrigation water delivered from Bear Lake will be impaired. Second, when the level of Bear Lake drops in extended droughts, recreation and other non-consumptive uses at the lake are adversely affected. The new Idaho State Parks & Recreation boat launch becomes unusable; the new State park receives little use due to its distance from the water; facilities built with State funds are unusable, and visitor days and the attendant revenue they produce for the State plummet. The local economy at the lake suffers. Third, traditional habitat for indigenous fish in Bear Lake is decreased. Other wildlife species which depend on the lake will have similar problems due to habitat loss. The spread of noxious weeds and tamarisk is accelerated along the lake shore.

8. PacifiCorp encourages Applicant to consider acquisition of an existing water rights in the vicinity of Bear Lake as replacement water.

WHEREFORE, Protestant respectfully protests the above-referenced application and requests that it be denied.

DATED this 27th day of December, 1996.

PACIFICORP, dba
UTAH POWER & LIGHT COMPANY

By Jody L. Williams
Jody L. Williams, Attorney
Kruse, Landa & Maycock, L.L.C.
50 West Broadway, Suite 800
Salt Lake City, Utah 84101
Telephone: (801) 531-7090

NOT RECORDED

JUL 30 1998

MAILING CERTIFICATE

On this 27th day of December, 1996, I mailed a true and correct copy of the foregoing Protest, postage prepaid, to:

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

Randall M. Weiner
Land & Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302

Norman D. Mecham
Lake Vista Properties, L.L.C.
2126 S. Bear Lake Blvd.
Garden City, Utah 84028

Jim Kimbal
P.O. Box 145
St. Charles, Idaho 83272

Carly Burton
PacifiCorp
1407 West North Temple, Room 199
Salt Lake City, Utah 84140

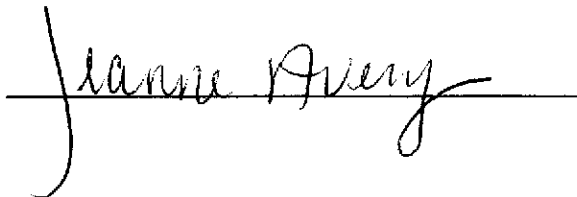
Thomas Graf, Esq.
Office of the Solicitor
Rocky Mountain Region
755 Parfet Street, Suite 151
Lakewood, Colorado 80215

Randall C. Budge, Esq.
Racine, Olson, Nye, Cooper & Budge
Corner First & Center
P.O. Box 1391
Pocatello, Idaho 83204

Cheryl C. Williss, Chief
Division of Water Resources
P.O. Box 25486
Denver Federal Building Mail Stop 60189
Denver, Colorado 80225

Brent Rose, Esq.
Clyde, Snow & Swenson
201 South Main Suite 1000
Salt Lake City, Utah 84111

Bear River Water Users Association
c/o J. Kent Horton
587 Wasatch Blvd.
Smithfield, Utah 84335



MAILED

JUL 30 1996

Receipt # E022018-25
Receipt # E022018-25

Randall C. Budge
RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED
P.O. Box 1391; 201 E. Center
Pocatello, Idaho 83204-1391
Telephone: 208-232-6101
Fax: 208-232-6109

RECEIVED
JUL 2 1998
DEPT. OF WATER RESOURCES

D. Brent Rose
Clyde, Snow & Swenson, P.C.
One Utah Center, Suite 1000
201 South Main Street
Salt Lake City, Utah 84111-2208
Telephone: 801-322-2516

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF THE APPLICATION	)	PROTEST OF BEAR RIVER
TO APPROPRIATE WATER FILED BY	)	WATER USERS' ASSOCIATION
NORMAN D. MEACHAM, Lake Vista	)	
Properties, L.L.C., Applicant,	)	
Application Nos. 11-07435 and 11-07436	)	

Bear River Water Users' Association, by and through its legal counsel, Randall C. Budge of Racine, Olson, Nye, Cooper & Budge, Chartered, and D. Brent Rose of the firm Clyde, Snow & Swenson, P.C., hereby protests the granting of the above-described Application to Appropriate (the "Application"). In support of its protest, the Association hereby states as follows:

1. Bear River Water Users' Association (the "Association") is a non-profit corporation and cooperative association organized in 1994 to represent Bear River Basin water users for the purpose, among other things, of monitoring, protecting and defending their respective decreed and appropriated water rights and other contract rights and common interests in and to the natural flow of water in the Bear River and its tributaries and irrigation storage water in Bear Lake. The

prior vested rights of the Association's members must be protected and preserved inviolate from interference and impairment.

2. The Association's membership, includes the Last Chance Canal Company, West Cache Canal Company and Cub River Irrigation Company and approximately 22 irrigation pumpers in Idaho, and Bear River Canal Company and approximately 81 irrigation pumpers in Utah. Collectively, the Association's members represent approximately 3000 family farms having a combined irrigated acreage of approximately 151,000 acres in Idaho and Utah.

3. Members of the Association hold decreed and other appropriated rights under the respective laws of the States of Idaho and Utah for the diversion and use of the natural flow of water in the Bear River and its tributaries, for irrigation, stockwatering and other purposes. The direct flow rights of the Association's members are all supplemented with water which is held in storage in Bear Lake and released to them for use pursuant to contracts executed by and between each of the individual members and Utah Power and Light Company, a subsidiary of PacifiCorp.

4. The diversion and use of water by the Applicant pursuant to the proposed Application will adversely impair the decreed and appropriated water rights of the Association's members by diminishing the amount of water flowing naturally in the Bear River and its tributaries to which the Association's members have the prior vested right.

5. Further, when the natural flow of the Bear River is insufficient to satisfy the water rights of the Association's members, the members of the Association depend upon the supplemental water supply delivered out of storage in Bear Lake by PacifiCorp in satisfaction of its contractual obligations. The diversion and use of water by the Applicant pursuant to the proposed Application thus adversely impairs the contractual rights of the Association's members. The decrease in the natural flow of the Bear River and its tributaries resulting from new appropriations in the Bear River Basin correspondingly increases the already unsustainable demand on Bear Lake storage water which PacifiCorp is obligated to deliver pursuant to its supplemental irrigation water contracts with the Association's members.

6. In light of the foregoing, authorizing the diversion and use of water as proposed in the Application is inconsistent with the best interest of the public. Any action which serves

RECORDED
JUL 30 1958

to decrease the supply of water in storage in Bear Lake is detrimental, not only on the irrigators who depend on the stored water supply in the lake for their livelihood, but it is likewise detrimental to the local economy of the communities surrounding Bear Lake as well as those having non-consumptive uses and interests in Bear Lake including recreation, wildlife and fish habitat.

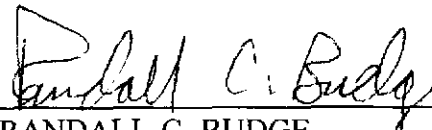
7. Finally, the Association asserts that the source of supply from which Applicant seeks a right as described in the Application is fully appropriated and has been applied to beneficial use by the members of the Association and others; and as such, there is no unappropriated water in the source.

WHEREFORE, in consideration of the foregoing, the Association respectfully protests the granting of the Application. In the event a hearing is scheduled in connection with the Application, the Association requests notice and an opportunity to participate as a party in the proceedings. The Association further requests that the Idaho Department of Water Resources impose a formal moratorium on new applications to appropriate water in Cache Valley and in other areas determined to be hydrologically connected to the Bear River and its tributaries.

In the event the Idaho Department of Water Resources grants the Application, the Association alternatively requests that such approval be issued subject to appropriate conditions, including conditions clearly specifying that the right to divert and use water under the Application is subject to all prior rights to the use of groundwater and surface water hydrologically connected to the Applicant's source of supply, that the Department of Water Resources will conjunctively manage groundwater and surface water withdrawals in accordance with Idaho law which may require curtailment and/or mitigation by junior priority rights, in full or in part, as necessary to protect prior rights in times of shortage.

DATED this 30th day of December, 1996.

RACINE, OLSON, NYE, COOPER &
BUDGE, CHARTERED



RANDALL C. BUDGE

KRUSE, LANDA & MAYCOCK, L.L.C.

EIGHTH FLOOR, BANK ONE TOWER
50 WEST BROADWAY (300 SOUTH)
SALT LAKE CITY, UTAH 84101-2034

JODY L. WILLIAMS

TELEPHONE: (801) 531-7090
TELECOPY: (801) 359-3954
(801) 531-7091

WRITER'S VOICE MAIL
(801) 531-7090 ext. 234

December 27, 1996

Idaho Department of Water Resources
Eastern Division
900 North Skyline Drive
Idaho Falls, Idaho 83402

RECEIVED
DEC 30 1996
Department of Water Resources
Eastern Region

Re: Protest to applications to appropriate water

Dear Idaho Department of Water Resources:

Enclosed for filing please find PacifiCorp's protest to the following applications to appropriate water in the Bear River basin.

11-07435 and 11-07436
11-07437

Norman D. Mecham, Lake Vista Properties, L.L.C.
City of Montpelier

Checks are also enclosed representing the protest filing fees.

If you have any questions or need further information, please contact me at the telephone number listed above.

Very truly yours,

KRUSE, LANDA & MAYCOCK, L.L.C.

Jody Williams / ja
Jody L. Williams

JLW:ja

Enclosures

cc: Carly Burton
Mike Winslow

RECEIVED

JUL 30 1998


 being duly sworn

being duly sworn

Such notice was published in the issue beginning

with the issue of ... December 25

Subscribed and sworn to before me this 6th day

Notary Public, Residing at Montpellier, Idaho

My Commission Expires 12/24/12, 1911

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

MECHAM, NORMAN D.

Source: GROUNDWATER

Use: DOMESTIC (0.0720 CFS);
Total Diversion: (0.0720 CFS).

In: BEAR LAKE County. T16S

11-07436

MECHAM, NORMAN D.

Source: GROUNDWATER.

Use: DOMESTIC (1,500 CFS).

Total Diversion: (1,500 CFS)

IN BEAR LAKE County T16S
R43E S15 SWNE SWNW NESW
NWSW SWSW SESW NWSE
SWSE.

CITY OF MONTEPELIER
534 WASHINGTON

Diversion Pt: NWNW Sec 10 T
13S R 44E in BEAR LAKE County.

Date Filed: 11/22/1996.

In: City of Montpellier

The permit(s) will be subject to all prior water rights. Protests

must be filed with the applicant and the Director, Dept. of Water

Resources, along with a \$25.00 filing fee, Eastern Region, 900 N Skyline, Idaho Falls, Idaho 83402 on or before JANUARY 6, 1997.

KARL J. DREHER
Director
Legal No. 5303 — Publish Dec.
18 and Dec. 25, 1996.

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 24, 1996

ID DEPT OF HEALTH & WELFARE
POCATELLO FIELD OFFICE
224 S ARTHUR
POCATELLO ID 83204

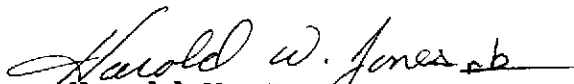
RE: Application No. 11-07435, 11-07436, & 11-07437

Dear Sir:

We are enclosing a copy of the application (s) that may be of interest to your department. Please review the application (s) and submit any comments you may have to our Department as soon as possible. The last date of protest is January 6, 1997, and we are required to take final action shortly thereafter.

If we may be of further assistance, please feel free to contact us.

Respectfully submitted,


Harold W. Jones
Water Right Supervisor

HWJ/rb
enc.

MIC 12/21/96

JUL 30 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 23, 1996

NORMAN D MECHAM
LAKE VISTA PROPERTIES LLC
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Notice of Application for Permit No. 11-07435 & 11-07436

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the News Examiner on January 19 & 26, 1996. The advertisements will be published once a week for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

If an application is protested, you will be sent a copy of the protest. The protest must be resolved before the application is approved or denied. If the protest is not resolved voluntarily, this Department will conduct a conference and/or hearing on the matter.

If an application is not protested, it will be forwarded to our State Office in about five weeks. State Office Personnel will conduct a complete review prior to final processing of the applications and will notify you of the outcome of this review. When a permit is issued, you will be sent a copy. A typical processing time for an unprotested application is about twelve weeks.

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb

MICROFILMED

JUL 30 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Idaho Falls, Idaho 83402-1718 - (208) 525-7161 - Fax (208) 525-7177

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 13, 1996

NORMAN D MECHAM
LAKE VISTA PROPERTIES
2126 S BEAR LAKE BLVD
GARDEN CITY UT 84028

RE: Notice of Application for Permit No. 11-07435 & 11-07436

Dear Applicant:

The Department of Water Resources acknowledges receipt of your water right application. This office is currently in the process of advertising the application in the News Examiner on Dec. 19 & 26, 1996. The advertisement will be published for two consecutive weeks, and a period of ten days following the second publication will be allowed for the submittal of protests.

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

Sincerely,


Harold W. Jones
Water Right Supervisor

HWJ/rb

MICROFILM

JUL 30 1998

LAKE VISTA PROPERTIES, L.L.C.
2126 S. BEAR LAKE BLVD.
GARDEN CITY, UT. 84028

PHONE: (801) 946-3333

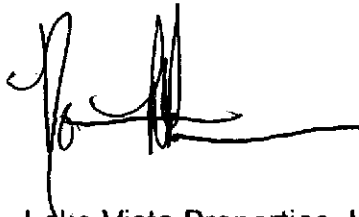
November 21, 1996

Attn: Hal Jones
Idaho Dept of Water Resources
Eastern Region
900 N. Skyline Dr.
Idaho Falls, ID 83402-1718

Enclosed you will find the application, please review it and if you have any questions concerning it, feel free to contact me. I hope that you find everything in order. I would like to advertise as soon as possible, hopefully in December of this year.

Thank You

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman Mecham', with a long horizontal line extending to the right.

Lake Vista Properties, L.L.C.
Norman Mecham\Member

MICROFILMED

JUL 30 1998

OFFICERS OF THE LIMITED LIBALITY COMPANY, LAKE VISTA PROPERTIES, L.L.C.

NORMAN MECHAM\MEMBER
480 E. 600 S.
LOGAN, UTAH 84321

A. RAY ELLIOTT\MEMBER
919 HILLCREST AVENUE
LOGAN, UTAH 84321

GARY MCKEE\MEMBER
148 E. 200 S.
LAKETOWN, UTAH 84038

MEMORANDUM

JUL 30 1958