

**STARTING
LEFT
SIDE OF
FILE**

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-32180

Priority: March 3, 2005

Maximum Diversion Rate: 0.15 CFS
Maximum Diversion Volume: 2.4 AF

This is to certify, that DEER CREEK WATER FUND
C/O C OLSSON
15 CANYON TRAIL
BOISE ID 83716

has applied for a permit to appropriate water from:

Source: GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	0.15 CFS	2.4 AF

LOCATION OF POINT(S) OF DIVERSION:GROUND WATER SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 33, Twp 04N, Rge 04E, B.M. BOISE County**PLACE OF USE:** DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N 04E 33																	X

CONDITIONS OF APPROVAL

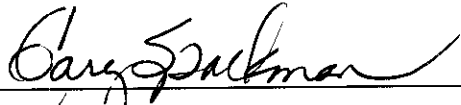
1. Proof of application of water to beneficial use shall be submitted on or before **January 1, 2011**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which the permit holder had no control.
4. The water bearing zone to be appropriated is from 115 to 270 feet below ground surface.
5. Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code and applicable Well Construction Rules of the Department.
6. Domestic use is for 8 homes.
7. Rights 63-9217, 63-9900 and 63-32180 authorize the use of water for domestic purposes in a combined total of 8 homes.
8. The domestic use authorized under this right shall not exceed 13,000 gallons per day per home.
9. The irrigation occurring under this domestic use shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed. This right does not provide for irrigation of common areas or for irrigation of lots upon which homes have not been constructed.

State of Idaho
Department of Water Resources
Permit to Appropriate Water
NO. 63-32180

CONDITIONS OF APPROVAL CONTINUED

10. The Director retains jurisdiction to require the right holder to provide purchased or leased natural flow or stored water to offset depletion of Lower Snake River flows if needed for salmon migration purposes. The amount of water required to be released into the Snake River or a tributary, if needed for this purpose, will be determined by the Director based upon the reduction in flow caused by the use of water pursuant to this permit.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 26th day of December, 2005.


for KARL J DREHER, Director

2005

AMENDED

Ident. No.

63-32180

RECEIVED

AUG 27 1965

WATER RESOURCES
WESTERN REGION

Department of Water Resources

DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Deer Creek Water Fund Phone (208) 345-4147
Mailing address c/o C. Olsson, 15 Canyon Trail, Boise, Idaho 83716
2. Source of water supply Groundwater which is a tributary of N/A
3. Location of point of diversion is Township 4N Range 4E Sec. 33, in the Boise County;
SW SE $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot _____, B.M., _____
- additional points of diversion if any: _____
4. Water will be used for the following purposes:
- | | |
|---|--|
| Amount <u>.15</u> for <u>domestic</u> purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive)
(cfs or acre-feet per annum) | |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) | |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) | |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum) | |
| 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) .15 cubic feet per second and/or (b) 2. 4* (see remarks) acre feet per annum
6. Proposed diverting works:
- a. Describe type and size of devices used to divert water from the source _____
- 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 270 feet
- d. Is ground water with a temperature of greater than 85°F being sought? No
- e. If well is already drilled, when? No; 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. 8 households
- e. Other; describe fully. _____

3. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	4E	33											D	D					

Total number of acres to be irrigated 0

10. Describe any other water rights used for the same purposes as described above. 63-09900 & 63-09217

11. a. Who owns the property at the point of diversion? Al and Sandy Hedin

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Al and Sandy Hedin are members of the entity which is Applicant

12. Remarks: 2. 4 AFA of additional volume is included in this application because it was erroneously withheld from water numbers 63-09900 and 63-09217

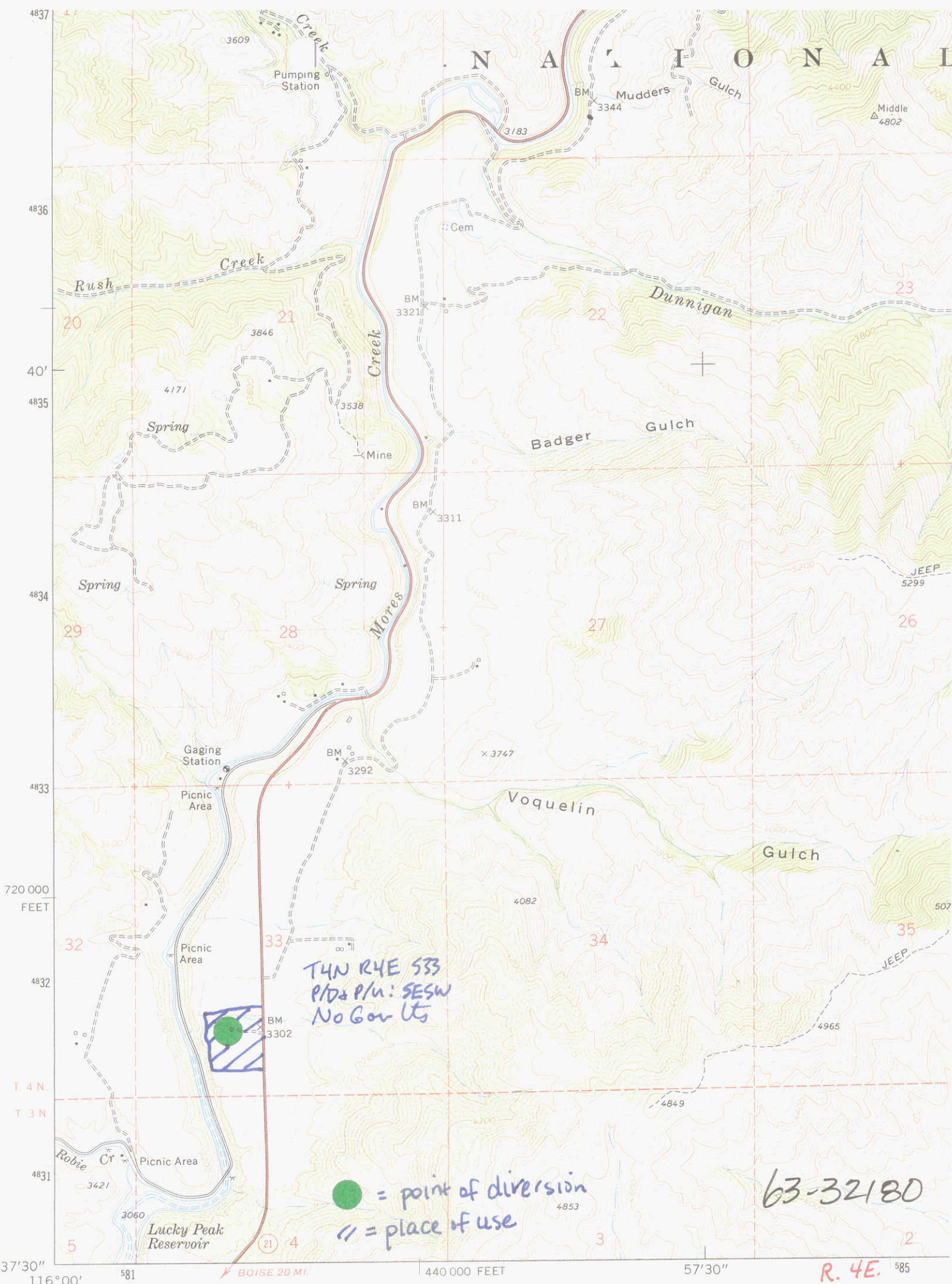
Water bearing zone to be from 115 to 350 feet. 270 AS 9-15-05 AS 9-15-05

13. **MAP OF PROPOSED PROJECT REQUIRED** - Attach an 8 1/2"x11" map clearly identifying the proposed point of diversion, place of use, section #, township & range. (A photocopy of a USGS 7.5 minute topographic quadrangle map is preferred.)

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

Carl Olson for Deer Creek Water Fund
Signature of Applicant (and title, if applicable)

Received by DB Date 8/22/05 Time 10:35am Preliminary check by g
Fee \$ 100 Received by DB # W032650 Date 3/3/05
Publication prepared by AK Date 10-19-26-05 Published in IDAHO WORLD
Publication approved AK Date 11-10-05



The members of the Deer Creek Water Fund are the following homeowners:

Dennis & Jamie White
4 Canyon Trail
Boise, Idaho 83716

Debra Jenkins
12 Canyon Trail
Boise, Idaho 83716

Richard & Rosemary Ardinger
17 Canyon Trail
Boise, Idaho 83716

Carl & Patricia Olsson
15 Canyon Trail
Boise, Idaho 83716

Al & Sandy Hedin
11 Canyon Trail
Boise, Idaho 83716

Jerry & Susan Wortley
9 Canyon Trail
Boise, Idaho 83716

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MAY 31 2005

WATER RESOURCES
WESTERN REGION

REQUEST TO PROCESS

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

Name of Applicant Deer Creek Water Fund

Mailing Address c/o Carl Olsson

15 Canyon Trail

Boise, Idaho 83716

Application No. _____
(if known)

☐ IN LOCAL PUBLIC INTEREST

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

☐ PROPOSE MITIGATION NOW

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

☒ WILL AGREE TO MITIGATION IN THE FUTURE IF NECESSARY

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

Signature

Carl Olsson

Date

May 27, 2005

Please return this form to:

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

Amended
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

Ident. No. _____

1. Name of Applicant Deer Creek Water Fund Phone (208) 345-4147

Mailing address c/o C. Olsson, 15 Canyon Trail, Boise, Idaho 83716

2. Source of water supply Groundwater which is a tributary of N/A

3. Location of point of diversion is Township 4N Range 4E Sec. 33, in the _____ 1/4,
SW _____ 1/4, SW _____ 1/4, Govt. Lot _____, B.M., Boise County;

additional points of diversion if any: _____

4. Water will be used for the following purposes:

Amount 0.06 for domestic purposes from 1/1 to 12/31 (both dates inclusive)
(cfs or acre-feet per annum)

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

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

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

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) 0.06 and/or (b) 4.8
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 _____

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 350 feet

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

e. If well is already drilled, when? No; 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. 8 households

e. Other; describe fully. _____

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WATER RESOURCES
WESTERN REGION

3. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	4E	33											D						

Total number of acres to be irrigated 0

10. Describe any other water rights used for the same purposes as described above. 63-09900 & 63-09217

11. a. Who owns the property at the point of diversion? Al and Sandy Hedin

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Al and Sandy Hedin are members of the entity which is Applicant

12. Remarks: This application for is six (6) existing homes and for two (2) stubs for future homes. Water bearing zones to be appropriated from between approximately 100 to 350 feet.

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.

Carl Olsen
Signature of Applicant (and title, if applicable)

Received by DB Date 5/31/05 Time 4:00 pm Preliminary check by Ly
 Fee \$ 100 Received by DB # W032650 Date 3-3-05
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

Deer Creek Water Fund
c/o C. Olsson
15 Canyon Trail
Boise, Idaho 83716

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MAY 31 2005

WATER RESOURCES
WESTERN REGION

May 27, 2005

Lori Graves
Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

Re: Application for Permit in the Name of Deer Creek Water Fund

To Whom it May Concern:

Enclosed please find an original and one copy of Deer Creek Water Fund's Amended Application for Permit, which has been modified to reflect the domestic use of water for six (6) households and two (2) stub for future homes, for a total of eight (8) households. Also enclosed please find an original and one copy of the Request to Process form required in Basin 63. Please file the original Application and Request to Process, receive stamp the copies, and return them to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Carl Olsson

encl.

ORIGINAL

FORM 202
12/89

Ident. No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT
To appropriate the public waters of the State of Idaho

1. Name of Applicant Deer Creek Water Fund Phone (208) 345-4147
Mailing address c/o C. Olsson, 15 Canyon Trail, Boise, Idaho 83716
2. Source of water supply Groundwater which is a tributary of N/A
3. Location of point of diversion is Township 4N Range 4E Sec. 33, in the _____ $\frac{1}{4}$,
SW $\frac{1}{4}$, SW $\frac{1}{4}$, Govt. Lot _____, B.M., Boise County;
additional points of diversion if any: _____
4. Water will be used for the following purposes:
- | |
|---|
| Amount <u>0.06</u> for domestic purposes from <u>1/1</u> to <u>12/31</u> (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
| Amount _____ for _____ purposes from _____ to _____ (both dates inclusive) |
| (cfs or acre-feet per annum) |
| 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) 0.06 and/or (b) 4.8
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 _____
- 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 270 feet
- d. Is ground water with a temperature of greater than 85°F being sought? No
- e. If well is already drilled, when? No; 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. 6 households
- e. Other; describe fully. _____

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MAR 03 2005

WATER RESOURCES
WESTERN REGION

3. Description of place of use:

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
- b. If water is used for other purposes, place a symbol of the use (example: *D* for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	4E	33											D						

Total number of acres to be irrigated 0

10. Describe any other water rights used for the same purposes as described above. 63-09900 & 63-09217

11. a. Who owns the property at the point of diversion? Al and Sandy Hedin

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

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: Al and Sandy Hedin are members of the entity which is Applicant

12. Remarks: _____

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.

Care Olson c/o Deer Creek Water
 Signature of Applicant (and title, if applicable) President

Received by DB Date 3-3-05 Time 10:10 am Preliminary check by _____
 Fee \$ 100.00 Receipted by DB # 0034650 Date 3-3-05
 Publication prepared by _____ Date _____ Published in _____
 Publication approved _____ Date _____

Deer Creek Water Fund
c/o C. Olsson
15 Canyon Trail
Boise, Idaho 83716

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MAR 03 2005

WATER RESOURCES
WESTERN REGION

February 28, 2005

Idaho Department of Water Resources
Western Region Office
2735 Airport Way
Boise, ID 83705-5082

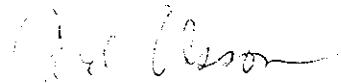
Re: Application for Permit in the Name of Deer Creek Water Fund

To Whom it May Concern:

Enclosed please find an original and one copy of Deer Creek Water Fund's Application for Permit, together with the required attachments. Also enclosed please find a check in the amount of \$100, representing the requisite application fee. Please file the original Application, receive stamp the copy, and return it to me in the enclosed self-addressed, stamped envelope.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,



Carl Olsson

encl.

**NOW
STARTING
RIGHT
SIDE OF
FILE**



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

December 27, 2005

DEER CREEK WATER FUND
C/O C OLSSON
15 CANYON TRAIL
BOISE ID 83716

RE: Permit No. 63-32180

Permit Approval Notice

Dear Permit Holder:

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

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

As a permit owner you must commence the excavation or construction of the diverting works within one year of the date the permit was issued, and you must proceed diligently until the project is completed. The date shown under condition no. 1 is the date when the project must be completed.

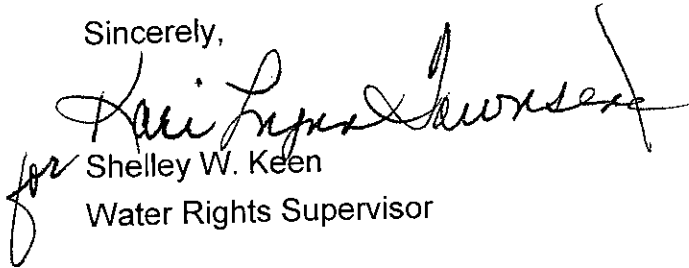
The Department will send you a 'Proof Due Notice' approximately 60 days prior to the above referenced date requesting you to file either a Proof of Beneficial Use form or a Request for Extension of Time form.

The right to drill a well is not a part of this permit to appropriate water. Beginning in July of 1987, a statute was enacted which requires a drilling permit for new well construction and deepening of existing wells. If the well(s) proposed for use under this water right permit were drilled or deepened after July 1, 1987, a separate drilling permit must be obtained from this Department. Please contact the Ground Water Protection Section located here at this office or our regional office nearest you.

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

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

Sincerely,

for Shelley W. Keen
Water Rights Supervisor

SWK:klt

Enclosure(s)

cc: MOFFATT THOMAS BARRETT ROCK & FIELDS

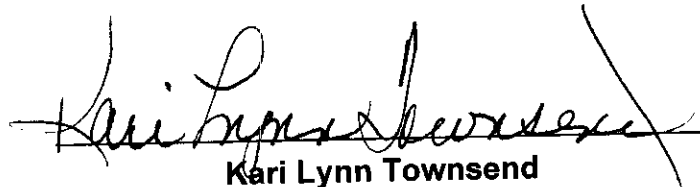
CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2005 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-32180

**DEER CREEK WATER FUND
C/O C OLSSON
15 CANYON TRAIL
BOISE ID 83716**

**MOFFATT THOMAS BARRETT ROCK & FIELDS
ANGELA SCHAER KAUFMANN
PO BOX 829
BOISE ID 83701-0829**


**Kari Lynn Townsend
Secretary**

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

(Required by Rule of Procedure 730.02)

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Moffatt Thomas
MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGreaham
Kimberly D. Evans Ross
Jon A. Stenquist

Eric M. Barzee
Valerie N. Charles
Tyler J. Henderson
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Joel A. Flake, Jr.
Russell G. Metcalf

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

RECEIVED

DEC 19 2005

WATER RESOURCES
WESTERN REGION

December 16, 2005

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

RECEIVED

DEC 21 2005

DEPARTMENT OF
WATER RESOURCES

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

Re: Application for Permit for Deer Creek Water Fund
MTBR&F File No. 22-420

Dear Shelley:

I received your voicemail approximately one week ago, stating that the Department would prefer that the Deer Creek Water Fund formally incorporate into some sort of entity in order to obtain a water right.

I am enclosing a copy of the covenants, conditions, and restrictions applicable to those living in the subdivision serviced by the Deer Creek Water Fund. As you will note, the CCR's require some formal organization, a task which my client has undertaken. In addition, Carl Olsson is willing to serve as the Registered Agent for the Fund; it appears that the Secretary of State's office has a provision for the registration of an agent for unincorporated nonprofit associations such as the Fund. Mr. Olsson's letter to that effect is being sent under separate cover.

My brief research of the IDWR's data base indicates that *at least* one other entity is operating, has received a water right, and is a nonprofit association with a registered agent. I assume that the Department will be consistent and find that arrangement acceptable. Given that a variety of entities are allowed to exist under Idaho law without formal incorporation, I trust that my clients' proposal will be acceptable.

Moreover, I must note yet again that just over two years ago, my client received two partial decrees from the Snake River Basin Adjudication (SRBA) District Court decreed in the name of the Deer Creek Water Fund, care of Carl Olsson. These water rights were both recommended by the Department of Water Resources *and* decreed by the SRBA Court, apparently with no problem. It is patently unfair for the Department to change its requirements at this time, particularly as to an existing water user.

Shelley Keen
December 16, 2005
Page 2

Furthermore, I am aware of no change in the Idaho statutes or the Department's duly promulgated rules setting forth any additional requirements for ownership. If there are indeed such changes in authority, I would appreciate you noting those for me. If there has been no change in authority, I would argue that the Department should be estopped from placing additional requirements upon the Fund.

If that arrangement is unacceptable, I would appreciate a letter with the appropriate citations to legal authority that allow the Department to impose new requirements on an entity, which has already received two partial decrees from the SRBA within the past two to three years. I would also appreciate the citation to changes in the pertinent legal authority that would allow the Department to now impose these restrictions.

I hope that my client's proposal is acceptable. Thank you very much for your time and assistance.

Very truly yours,

A handwritten signature in black ink, reading "Angela Schaer Kaufmann". The signature is fluid and cursive, with the first name "Angela" being the most prominent.

Angela Schaer Kaufmann
ask@moffatt.com

ASK/mdr
Enclosure

cc: Pat Olsson

AMENDMENT TO RESTRICTIONS AND COVENANTS

This Amendment to Restrictions and Covenants affects the same real property as is affected by the original Restrictions and Covenants recorded May 15, 1980 as document number 95615 in the Office of the Recorder, Boise County, Idaho and an Amendment to said Restrictions and Covenants recorded April 9, 1986 as document Number 120035 in the Office of the Recorder, Boise County, Idaho. This Amendment to Restrictions and Covenants supplements and does not entirely replace either the original Restrictions and Covenants or the earlier Amendment thereto. Only those paragraphs specifically noted below are amended and replaced by this amendment. This amendment does not seek to change any provision of the earlier 1986 Amendment to Restrictions and Covenants noted above. Paragraphs in the original Restrictions and Covenants and in the earlier Amendment thereto not amended by this document are hereby readopted and shall be given full force and effect. If any amendment set out below is deemed ineffective by a court of competent jurisdiction, the corresponding paragraph in the original Restrictions and Covenants will be given full force and effect. Legal descriptions attached hereto are for individual lots or parcels, the totality of which is the property subject to the original Restrictions and Covenants and the Amendment to Restrictions and Covenants noted above.

Paragraph 1 of the original Restrictions and Covenants is hereby amended as follows:

1. All property subject to the original Restrictions and Covenants noted above is subject to the covenants, conditions, privileges and restrictions hereinafter set forth as an essential element of a plan for the improvement and use of said property. These covenants, conditions, privileges and restrictions shall run with the land and be for the benefit of the whole of such property and each lot or parcel thereof and also shall be for the benefit of and be binding upon each owner or interest holder of record of any lot or parcel of such property and also be for the benefit of and be binding upon their assigns and successors in interest. These covenants, conditions, privileges and restrictions may be enforced by any person or entity having an interest of record in any property subject thereto.

Paragraph 2 of the original Restrictions and Covenants is hereby amended as follows:

2. USE

All parcels shall be residential lots and shall be owned and improved exclusively for residential use. No lot or any part thereof shall be used for other than residential purposes. No building or improvements shall be erected, placed, altered, or permitted to remain on any lot except improvements incident to single family

AMENDMENT TO RESTRICTIONS AND COVENANTS - 1

Instrument # 181575
IDAHO CITY, BOISE COUNTY, IDAHO
2001-06-18 03:41:15 No. of Pages: 18
Recorded for : CARL OLSSON
RORA A. CANODY Fee: 54.00
Ex-Officio Recorder Deputy *Shirley George*
Index to: MISCELLANEOUS

residences. Such improvements may include a private garage, necessary outbuilding and fencing. All single story residences shall have a total floor area of not less than 1,100 square feet and all one-and-one-half and two story residences shall have a total floor area of not less than 1,400 square feet. These requirements are exclusive of porches, decks, basements and garage areas.

Paragraph 3 of the original Restrictions and Covenants is hereby amended as follows:

3. TEMPORARY STRUCTURES AND GARAGES

No structure of a temporary character such as a tent, trailer, garage, basement or shack shall be used as a residence except that an owner may occupy temporary living facilities during construction of his dwelling house, garage and outbuilding, but not to exceed six month occupancy of such temporary facilities. Garages shall neither be smaller than is reasonably necessary for two cars nor larger than is reasonably necessary for three car. No repair work on vehicles is permitted other than incidental repairs to vehicles owned by those residing in the same residence.

Paragraph 4 of the original Restrictions and Covenants is hereby amended as follows:

4. TIME PERMITTED TO COMPLETE EXTERIOR FINISH

The exterior work and finish of a structure must be completed within six months after the date construction has been started so that the structure presents a completed appearance when viewed from any exterior point.

Paragraph 5 of the original Restrictions and Covenants is hereby amended as follows:

5. FENCES

If fences are built they are to be not less than 3" wood pole and/or split rail type and if fine mesh fencing is required for the protection of children or pets or other animals, it shall be installed on the inside of the pole or split rail fence. No fence shall be higher than six (6) feet above ground level. Any variance from this type of fence must be approved by a 2/3 majority of the owners occupying homes in the development.

Paragraph 7 of the original Restrictions and Covenants is hereby amended as follows:

7. DRIVEWAYS AND VEHICLES

If a private driveway is constructed on any lot, adequate drainage must be provided and maintained and consideration and effort made to prevent and reduce soil erosion.

Recreational vehicles, travel trailers, campers, and other like vehicles may not be stored in driveways and must be garaged. Boats need not be garaged.

Paragraph 8 of the original Restrictions and Covenants is hereby amended as follows:

8. LIVESTOCK AND ANIMALS

Only domestic animals are permitted. Livestock shall be limited to two (2) horses or llamas per lot or parcel. No other livestock, including but not limited to, cows, pigs, goats, or sheep, shall be allowed. Poultry, including but not limited to, chickens, roosters, ducks, geese, emus or ostriches shall not be permitted. No more than two dogs and four cats are allowed per lot or parcel. Wild or vicious animals are not permitted to be kept.

Paragraph 13 of the original Restrictions and Covenants is hereby amended as follows:

13. COVENANTS AND ENFORCEMENT

Any person or entity noted in paragraph 1 above who is entitled to enforce these covenants, conditions, privileges and restrictions, shall, in addition to any other enforcement rights, have the right to enjoin any violation of these covenants, and to recover damages of \$50 per day until such violation is corrected and rectified, and to recover from the person or entity violating covenant, condition, privilege or restriction all costs of such action, including reasonable attorneys' fees.

The failure to enforce any covenant or condition at any time shall not constitute a waiver thereafter to enforce any such covenant or restriction.

Each of the covenants and conditions herein shall be deemed independent and severable and the invalidity or partial invalidity of any covenant or condition shall not affect the validity or enforceability of any other covenant or condition.

Paragraph 15 of the original Restrictions and Covenants is hereby amended as follows:

15. DURATION OF COVENANTS

These protective and restrictive covenants shall run with the land and shall be binding upon all persons owning a lot or parcel or having an interest in any land subject to these covenants, conditions, privileges and restrictions for a period of 20 years from the date this amendment is recorded after which time said covenants shall be automatically renewed for successive periods of 10 years each. Any subsequent amendments to these restrictions and covenants will not affect the duration of the covenants as herein set forth unless such duration is specifically altered in the subsequent amendment.

Paragraph 16 of the original Restrictions and Covenants is hereby amended as follows:

16. TYPE OF CONSTRUCTION

All home, garage, and exterior finish construction shall be either of logs or cedar siding construction. Limited use may be made of decorative unfinished wood facings to cover concrete foundations. All exterior sidings shall be of natural wood finish. External sealants, preservatives or other coatings of any type must preserve the natural appearance of the wood. Roofs must be of either cedar shake (natural or simulated), asphalt tile, or metal construction. Roofs colors must be subdued earth tones with a flat finish. Single story residences shall be a minimum of 1100 square feet; multi-story residences shall be a minimum 1400 square feet. No mobile homes, trailers, doublewides, manufactured or modular types of construction shall be permitted. All residences must have, at a minimum, a two car enclosed garage. Propane tanks must be camouflaged with shrubbery or trees within a reasonable time following instillation.

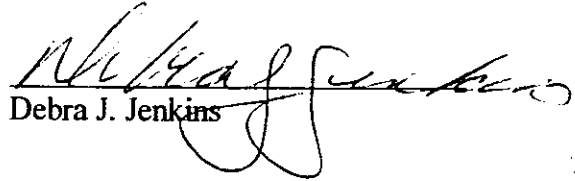
A new paragraph 18 is hereby added to the original Restrictions and Covenants.

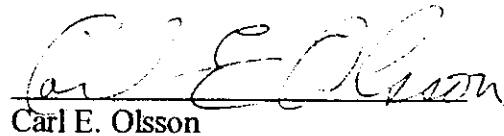
18. BUILDING PLAN APPROVAL

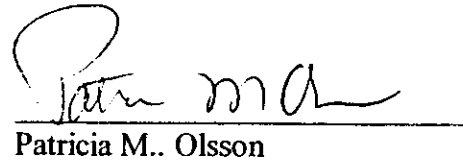
Any person or entity wishing to construct a new building is strongly encouraged to call a meeting of owners to discuss plans for such construction. The type of construction, date of construction and location of the new construction on its lot should be presented to the owners of other lots in attendance at the meeting. The meeting should be held on one of the lots, or in a building located on one of the

lots, affected by these restrictions and covenants. So long as the proposed new construction meets the conditions and limitations imposed both by these restrictions and covenants, and any other limitations imposed by law, ordinance or regulation, the other lot owners shall not have the power to obstruct or delay the proposed new construction.

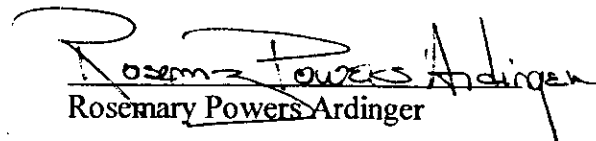
Dated June 15, 2001

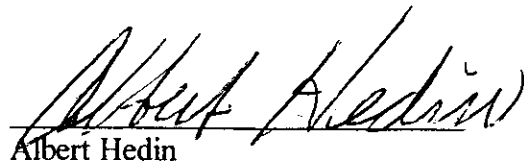

Debra J. Jenkins

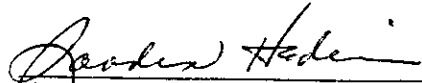

Carl E. Olsson

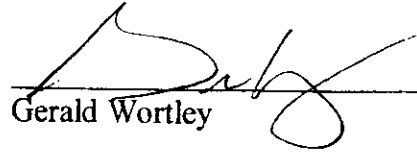

Patricia M.. Olsson

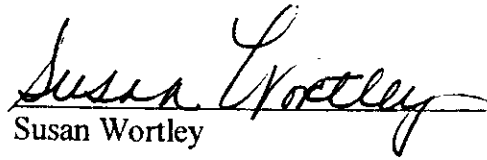

Richard K. Ardinger

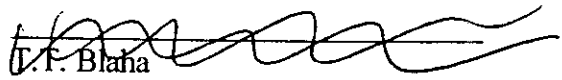

Rosemary Powers Ardinger


Albert Hedin

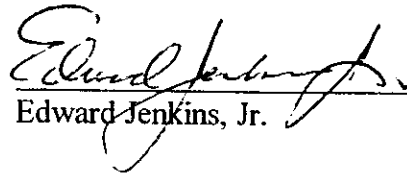

Sandra Hedin


Gerald Wortley


Susan Wortley


T. F. Blaha


C. Blaha

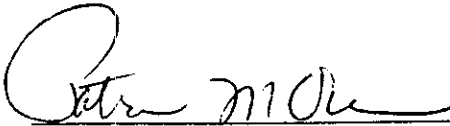

Edward Jenkins, Jr.

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Debra J. Jenkins, known or identified to me to be the person whose name is subscribed to on the above instrument, and executed the same in my presence.

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





NOTARY PUBLIC FOR IDAHO

Residing at Boise County, Idaho

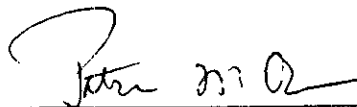
My Commission expires: 11/22/02

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard K. Ardinger and Rosemary Powers Ardinger, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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





NOTARY PUBLIC FOR IDAHO

Residing at Boise County, Idaho

My Commission expires: 11/22/02

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Gerald Wortley and Susan Wortley, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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

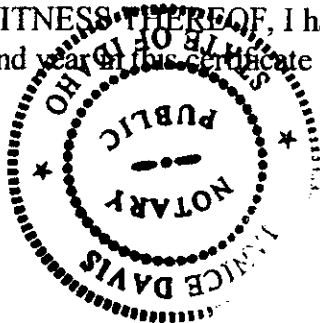


Patricia M. Olsson
NOTARY PUBLIC FOR IDAHO
Residing at Boise County, Idaho
My Commission expires: 11/22/02

STATE OF IDAHO }
 } ss.
COUNTY OF Ada }

On this 18th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Carl E. Olsson and Patricia M. Olsson, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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

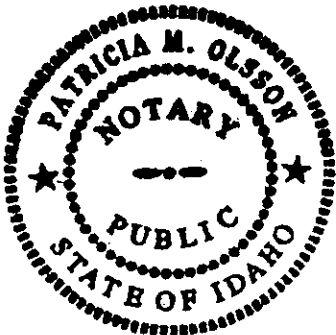


Jamie Davis
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission expires: 8/23/06

STATE OF IDAHO }
 } ss.
COUNTY OF Boise }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Edward Jenkins, Jr., divorced and not since remarried, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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



Patricia M. Olsson
NOTARY PUBLIC FOR IDAHO
Residing at Boise, ID, Idaho
My Commission expires: 11/22/02

A parcel of land situated in the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 33, T. 4 N. R. 4E of the Boise Meridian, Boise County Idaho, more particularly described as follows: Commencing at the S.W. corner of said section 33; thence along the S. line of said Section 33, N. 89 39' 25" E. , 2075.00 ft. to a point; said point being on the Westerly right of way State Hwy 21; thence along said Westerly Right of Way N. 1 16' 35" W, 400.14' to a Point; thence leaving said right of way S. 89 39' 25" W. , 431.04 ft. to the Real Point of Beginning; thence continuing S. 89 39' 25" W. , 326.70 ft. to a Point; said point being on the Westerly boundary of said S.E. quarter of the S. W. quarter of Section 33; thence along said Westerly boundary N. 01' 02" W. 172.90 ' to a point; thence leaving said Westerly boundary N. 89 39' 25" E. 326.70 ft. to a point; thence S. 0 01' 02" E. 172.90 ft. to the Real Point of Beginning.



particular'v described as follows:

Commencing at the Quarter corner common to Section 33, T. 4 N., R. 4 E., B.M., and Section 4, T. 3 N., R. 4 E., B.M.; thence South 89°39'25" West along said section line 541.94 feet to a point on the West right-of-way line of Highway 21; thence North 01°16'35" West 400.14 feet to a point; thence leaving said right-of-way South 89°39'25" West 431.04 feet to the REAL POINT OF BEGINNING; thence continuing South 89°39'25" West 326.70 feet to a point; thence South 0°01'02" East, 200.00 feet to a point; thence North 89°39'25" East 326.70 feet to a point; thence North 00°01'02" West 150.0 feet to a point; thence South 89°39'25" West 20.0 feet to a point; thence North 0°01'02" West 20.0 feet to a point; thence North 89°39'25" East 20.0 feet to a point; thence North 0°01'02" West 30.0 feet to the REAL POINT OF BEGINNING, containing 1.49 acres, more or less.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33, T.4N., R.4E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33; thence S. 89°51'08" W. along the south line of Section 33, 542.16 feet to a point on the west right-of-way of State Highway No. 21, said point also being the POINT OF BEGINNING; thence continuing S. 89°51'08" W. 240.34 feet to a point; thence N. 00°11'01" E. 379.99 feet to a point; thence N. 89°52'30" E. 206.95 feet to a point; thence S. 01°04'53" E. 70.00 feet to a point; thence N. 89°52'30" E. 25.00 feet to a point on the west right-of-way of State Highway No. 21; thence along said right-of-way S. 01°04'53" E. 309.94 feet to the POINT OF BEGINNING.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly
described as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 782.50
feet to the POINT OF BEGINNING: thence continuing
S. 89°51'08" W. 200.00 feet to a point; thence
N. 00°11'01" E. 380.07 feet to a point; thence
N. 89°52'30" E. 200.00 feet to a point; thence
S. 00°11'01" W. 379.99 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 1,308.47 feet to a point of beginning; thence N. $0^{\circ}01'02''$ W. 200.09 feet to a point; thence N. $89^{\circ}39'25''$ E. 326.70 feet to a point; thence S. $0^{\circ}01'02''$ E. 200.09 feet to a point on the south line of said Section 33; thence along said south line of said Section 33 S. $89^{\circ}39'25''$ W. a distance of 326.70 feet to the point of beginning.

33, T.4N., R.4E. B.M., Boise County, Ida, more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way S. $89^{\circ}39'25''$ W. 230.60 feet to the POINT OF BEGINNING;

thence continuing S. $89^{\circ}39'25''$ W. 200.00 feet to a point;

thence N. $00^{\circ}01'02''$ W. 326.67 feet to a point;

thence N. $89^{\circ}39'25''$ E. 200.00 feet to a point;

thence S. $00^{\circ}01'02''$ E. 326.67 feet to the Point of Beginning, containing 1.5 acres, more or less.

Together with an easement for ingress/egress and utilities more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 380.14 feet to the POINT OF BEGINNING;

thence S. $89^{\circ}39'25''$ W. 431.48 feet to a point;

thence N. $00^{\circ}01'02''$ W. 40.00 feet to a point, said point being the Southwest corner of the above described parcel;

thence N. $89^{\circ}39'25''$ E. 430.60 feet to a point on the west right-of-way of State Highway No. 21;

thence S. $01^{\circ}16'35''$ E. 40.00 feet along said right-of-way to the Point of Beginning.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33, T.4N., R.4E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33; thence S. 89°39'25" W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence

N. 01°16'35" W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to the POINT OF BEGINNING; thence continuing

S. 89°39'25" W. 205.60 feet to a point; thence

N. 00°01'02" W. 326.67 feet to a point; thence

N. 89°39'25" E. 223.42 feet to a point on the west right-of-way of State Highway No. 21; thence along said right-of-way

S. 01°16'35" E. 256.71 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to a point; thence

S. 01°16'35" E. 70.00 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 2,075.00 feet to a point, said point being on the westerly right-of-way of State Highway 21; thence along said westerly right-of-way N. $1^{\circ}16'35''$ W. 310.14 feet to a point of beginning; thence S. $89^{\circ}52'30''$ W. 25.00 feet to a point; thence N. $1^{\circ}04'53''$ W. 70.00 feet to a point; thence S. $89^{\circ}39'25''$ W. 406.48 feet to a point; thence N. $1^{\circ}16'35''$ W. 40.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 405.60 feet to a point; thence N. $1^{\circ}16'35''$ W. 70.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 25.00 feet to a point; thence S. $1^{\circ}16'35''$ E. 180.00 feet to the point of beginning.

E

AMENDMENT TO RESTRICTIONS AND COVENANTS

THIS Amendment to Restrictions and Covenants affects the same real property as is affected by the original Restrictions and Covenants, a copy of which is attached hereto as Exhibit "A". These amended restrictions and covenants modify the said original restrictions and covenants in the following manner, to-wit:

1. Paragraph 14 of the original restrictions and covenants, entitled "Modification of Covenants," is hereby amended to read as follows:

14. MODIFICATION OF COVENANTS. The covenants, agreements, conditions and restrictions herein for the benefit of the subject properties in their entirety and each subject property therein, may be modified, altered or changed with the written consent of eighty percent (80%) of the owners of record of all improved subject properties, but such change or modification is not effective until the written consent of the owners of such subject properties is executed, acknowledged and recorded in the office of the county records of Boise County, Idaho.

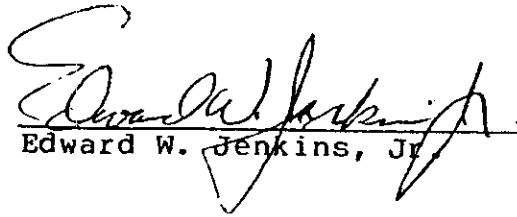
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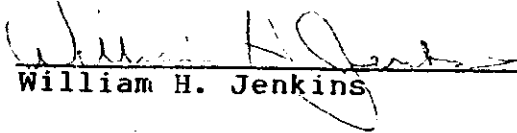
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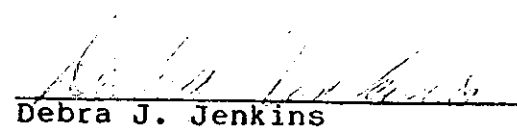
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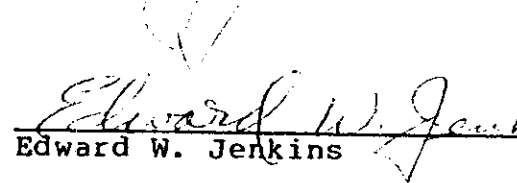
2. Paragraph 17 of the original restrictions and covenants relating to road and domestic water system is hereby amended by the addition of the following paragraphs:

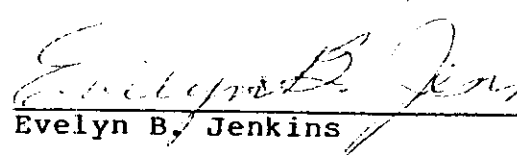
The Deer Creek Water and Road Fund shall be a nonprofit organization. Funds collected by the Deer Creek Water and Road Fund shall be disbursed only in payment for expenses incurred in the operation and maintenance of the common access easements and the domestic water system benefiting those properties the owners of which are subject to the operation and maintenance fee provided for in paragraph 17 of the restrictions and covenants, a copy of which is attached hereto as Exhibit "A".

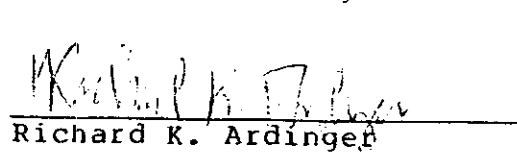

Edward W. Jenkins, Jr.

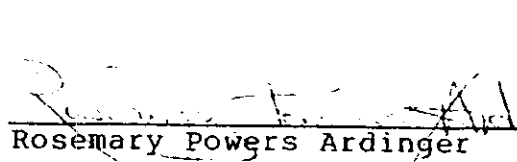

William H. Jenkins

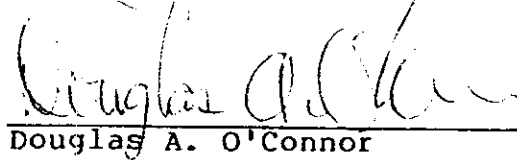

Debra J. Jenkins

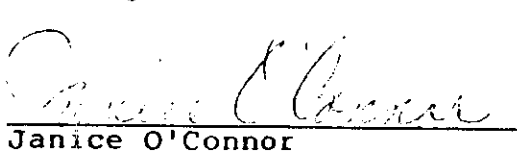

Edward W. Jenkins

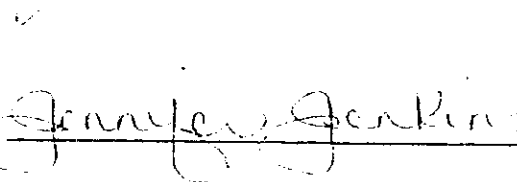

Evelyn B. Jenkins

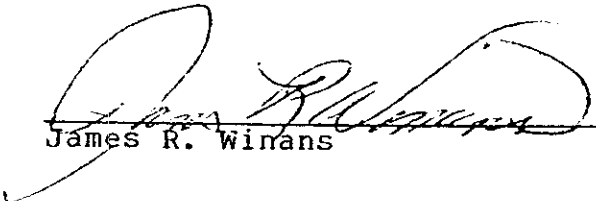

Richard K. Ardinger

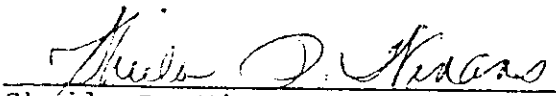

Rosemary Powers Ardinger


Douglas A. O'Connor


Janice O'Connor


Jennifer Jenkins

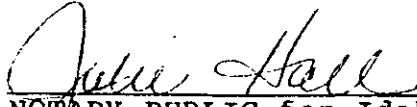

James R. Winans


Sheila P. Winans

STATE OF IDAHO)
) ss.
County of Ada)

On this 22nd day of March, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL E. OLSSON and PATRICIA M. OLSSON, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

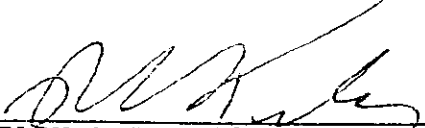

NOTARY PUBLIC for Idaho
Residing at Meridian, Idaho
My commission expires: 6-26-98

STATE OF TEXAS)
) ss.
County of Dallas)

On this 4th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES R. WINANS and SHEILA P. WINANS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

RONALD CRAVENS KELSAY
Notary Public, State of Texas
Commission Expires Dec. 19, 1987


NOTARY PUBLIC for Texas
Residing at Dallas, Texas
My commission expires: _____

STATE OF IDAHO)
) ss.
County of Boise)

On this 14th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared EDWARD W. JENKINS, JR. and JENNIFER JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

[Signature]
NOTARY PUBLIC for Idaho
Residing at Boise, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Boise)

On this 14th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM H. JENKINS and DEBRA J. JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

[Signature]
NOTARY PUBLIC for Idaho
Residing at Boise, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 11th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared EDWARD W. JENKINS and EVELYN B. JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Paula Walden
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 11th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD K. ARDINGER and ROSEMARY POWERS ARDINGER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Paula Walden
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 6th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared DOUGLAS A. O'CONNOR and JANICE O'CONNOR, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Carlo T. Adair
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

RESTRICTIONS AND COVENANTS

1. All parcels and property interests within the property described as attached and marked Exhibit A, shall be owned, conveyed, leased, encumbered, held and used subject to the covenants, conditions, privileges and restrictions hereinafter set forth as an essential element of a plan for the improvement and use of the property therein. Such covenants, conditions, privileges and restrictions shall run with the land and all persons, corporation, partnership, organizations and other entitles shall inure to the benefit of the whole of such property and each lot and parcel thereof; shall inure to the benefit of and be binding upon each owner of any part of such property or interest therein and upon their assigns and successors in interest. These covenants may be enforced by Grantor and their successors and assigns, or by any owner of record with interest therein or by an association of owners, or by any persons having an enforceable interest.
2. **USE**
All parcels shall be residential lots and shall be owned and improved exclusively for residential use. No lot or any part thereof shall be used for other than residential purposes. No building or improvements shall be erected, placed, altered, or permitted to remain on any lot except improvements incident to single family residences. Such improvements may include a private garage, necessary out-building and fencing. All single story residences shall have a total floor area of not less than 1,000 square feet and all one-and-one-half and two story residences shall have a total floor area of not less than 1,400 square feet. These requirements are exclusive of porches, decks, basements and garage areas.
3. **TEMPORARY STRUCTURES AND GARAGES**
No structure of a temporary character such as a tent, trailer, garage, basement or shack shall be used as a residence except that an owner may occupy temporary living facilities during construction of his dwelling house, garage and outbuilding, but not to exceed a ~~one (1) year~~ occupancy of such temporary facilities. All garages shall be not less than two car or more than three car and no repair work on vehicles shall be permitted other than incidental repairs to vehicles owned by those residing in the same residence.
4. **EXTERIOR FINISH**
The exterior work and finish of a structure must be completed within ~~365~~ days after the date construction has been started so that the structure presents a completed appearance when viewed from any exterior point.
5. **FENCES**
If fences are built they are to be not less than 3" wood pole and/or split rail type and if fine mesh fencing is required for the protection of child or animal or other persons it shall be installed on the inside of the pole or split rail fence. No fence shall be higher than six (6) feet above ground level.

6. EASEMENTS AND SETBACKS

No building or other structure, except fence, shall be located closer than 45 feet to a front lot line, nor closer than 25 feet to any side lot line, nor closer than 20 feet to a rear lot line.

Grantor, its successors and assigns, reserves a ten (10) foot wide easement along the front and side lines of each lot for utility lines and appurtenances including drainage and culverts where necessary with right of ingress and egress and the right to prevent installation of obstructions and removal of obstructions from all easements.

7. DRIVEWAYS

If a private driveway is constructed on any lot adequate drainage must be provided and maintained and consideration and effort made to prevent and reduce soil erosion such as proper grading, use of culverts, seeding, terracing, etc.

LIVESTOCK AND ANIMALS

Livestock shall be limited to two (2) horses or cattle. No other livestock such as pigs, goats, etc., shall be allowed. Nor shall poultry such as chickens, ducks or geese be permitted. In no case no more than three other domestic animals shall be kept as pets.

9. TRASH, GARBAGE, REFUSE

No trash, garbage, ashes, refuse, ruins or other remains of any kind (including disabled vehicles) shall be thrown, dumped, placed, disposed of or permitted to remain on any lot, whether vacant or otherwise. The owner of any lot shall, regardless of fault, be responsible for the prompt removal therefrom of all trash, garbage, ashes, refuse, ruins and other remains. Household trash, garbage or other waste shall not be kept pending its prompt removal except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No substance exuding noxious odors shall be thrown, dumped, placed, disposed of or permitted to remain or accumulate on any lot whether above or below the surface thereof. No noxious, illegal or offensive use of property shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the adjoining property holders.

10. SEWAGE

No sewage disposal system of any kind shall be permitted on any lot unless it is designed, located, and constructed in accordance with the requirements and standards of the Idaho State Health Department and Central District Health Department so all toilet facilities shall be connected by underground pipe with a private septic tank, or in field, seepage bed or other approved disposal unit. Drainage from said septic tank or disposal unit shall be controlled so that no flagrant evidence of possible pollution of the water courses adjacent thereto will occur.

11. DRAINAGE

There shall be no interference with the natural drainage pattern over any property unless adequate provision is made for proper drainage that does not adversely affect adjoining properties.

12. UTILITY LINES

All utility lines must be underground and comply with Idaho State and County of Boise codes.

13. COVENANTS AND ENFORCEMENT

Grantor and owners of record or any persons hereinafter having any right, title or interest in any lot including any future homeowners association or such owners, shall have the right to enforce these covenants and shall have the right to enjoin any violation of these covenants, and to recover damages of \$50 per day until such violation is corrected and rectified, and to recover from the person or entity violating such covenant or covenants all costs of such action, including reasonable attorneys' fees.

The failure to enforce any covenant or condition at any time shall not constitute a waiver thereafter to enforce any such covenant or restriction.

Each of the covenants and conditions herein shall be deemed independent and severable and the invalidity or partial invalidity of any covenant or condition shall not affect the validity or enforceability of any other covenant or condition.

All covenants and conditions herein shall be liberally construed together to promote the plan for improvement and betterment of the property as described by the attached legal description.

14. MODIFICATION OF COVENANTS

The covenants, agreements, conditions and restrictions herein for the benefit of the subdivision and each lot therein, may be modified, altered or changed as to any lot with the written consent of 80 percent of the owners of record for all lots but such change or modification is not effective until the written consent of such owners is executed, acknowledged and recorded in the office of the County Records of Boise County, Idaho.

15. DURATION OF COVENANTS

These protective and restrictive covenants shall run with the land and shall be binding upon all persons owning a lot or having an interest in any land for a period of 20 years from the date these covenants are recorded after which time said covenants shall be automatically renewed for successive periods of 10 years each unless an instrument signed by the then owners of a majority of the lots within the subdivision has been recorded in Boise County, Idaho, agreeing to change or modify said covenants in whole or in part.

16. TYPE OF CONSTRUCTION

No trailer, mobile homes, double wides or other modular types of construction shall be permitted as only log and ancillary frame (which has ICCO approval) shall be constructed. Single story residences shall be 1,000 square feet or more and one-and-one-half and two story shall be 1,400 square feet or more.

17. ROAD AND DOMESTIC WATER SYSTEM

The "Road and Domestic Water System" contained within and adjoining the boundaries of the legal description as shown on Exhibit A (attached) shall be operated and maintained from funds paid by the owners of record of each parcel of land lying within and adjoining the boundaries of the legal description as shown on Exhibit A.

The owner of record of each parcel which is vacant within and adjoining the boundaries of the legal description as shown on Exhibit A shall pay an operation and maintenance fee for the maintenance and operation of the domestic water system and road of ~~70~~ 50 on the first day of each month. The owner of record of each parcel on which construction of a residence has been commenced or in which a residence has been completed within and adjoining the boundaries of the legal description as shown on Exhibit A shall pay an operation and maintenance fee for the maintenance and operation of the domestic water system and road of ~~70~~ 25.00 on the first day of each month. Funds are to be mailed to Deer Creek Water and Road Fund, P. O. Box 2512, Boise, Idaho 83701. The Secretary-Treasurer of the Maintenance and Operation Fund shall notify each owner of record at least thirty days in advance of any change in the above address and shall also notify each owner thirty days in advance of any proposed changes with the exception of unforeseen and urgent items that may require the waiving of the normal thirty days notification.

The domestic water system is hereby and shall in the future be limited to domestic use only and includes watering of an area up to 5,000 sq. ft. on each parcel within and adjoining the boundaries of the legal description as shown on Exhibit A (attached).

During the months of June, July and August, owners or residents residing on parcels of land to the South of the road shall be limited to watering on even numbered days and owners or residents residing on parcels of land to the North of the road shall be limited to watering on odd numbered days.

A parcel of land situated in the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 33, T. 4 N. R. 4E of the Boise Meridian, Boise County Idaho, more particularly described as follows: Commencing at the S.W. corner of said section 33; thence along the S. line of said Section 33, N. 89 39' 25" E. , 2075.00 ft. to a point; said point being on the Westerly right of way State Hwy 21; thence along said Westerly Right of Way N. 1 16' 35" W, 400.14' to a Point; thence leaving said right of way S. 89 39' 25" W., 431.04 ft. to the Real Point of Beginning; thence continuing S. 89 39' 25" W. . 326.70 ft. to a Point; said point being on the Westerly boundary of said S.E. quarter of the S. W. quarter of Section 33; thence along said Westerly boundary N. 01' 02" W. 172.90 ' to a point; thence leaving said Westerly boundary N. 89 39' 25" E. 326.70 ft. to a point; thence S. 0 01' 02" E. 172.90 ft. to the Real Point of Beginning.



A parcel of land located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 33,
T. 4 N., R. 4 E., B.M., Boise County, Idaho, more
particularly described as follows:

Commencing at the Quarter corner common to Section,
33, T. 4 N., R. 4 E., B.M., and Section 4, T. 3 N.,
R. 4 E., B.M.; thence

South 89°39'25" West along said section line 541.94
feet to a point on the West right-of-way line of
Highway 21; thence

North 01°16'35" West 400.14 feet to a point; thence
leaving said right-of-way

South 89°39'25" West 431.04 feet to the REAL POINT
OF BEGINNING; thence continuing

South 89°39'25" West 326.70 feet to a point; thence

South 0°01'02" East, 200.00 feet to a point; thence

North 89°39'25" East 326.70 feet to a point; thence

North 00°01'02" West 150.0 feet to a point; thence

South 89°39'25" West 20.0 feet to a point; thence

North 0°01'02" West 20.0 feet to a point; thence

North 89°39'25" East 20.0 feet to a point; thence

North 0°01'02" West 30.0 feet to the REAL POINT OF
BEGINNING, containing 1.49 acres, more or less.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly described
as follows:

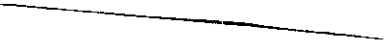
Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 542.16
feet to a point on the west right-of-way of State Highway No. 21,
said point also being the POINT OF BEGINNING; thence continuing
S. 89°51'08" W. 240.34 feet to a point; thence
N. 00°11'01" E. 379.99 feet to a point; thence
N. 89°52'30" E. 206.95 feet to a point; thence
S. 01°04'53" E. 70.00 feet to a point; thence
N. 89°52'30" E. 25.00 feet to a point on the west right-of-
way of State Highway No. 21; thence along said right-of-way
S. 01°04'53" E. 309.94 feet to the POINT OF BEGINNING.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly
described as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 782.50
feet to the POINT OF BEGINNING: thence continuing
S. 89°51'08" W. 200.00 feet to a point; thence
N. 00°11'01" E. 380.07 feet to a point; thence
N. 89°52'30" E. 200.00 feet to a point; thence
S. 00°11'01" W. 379.99 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 1,308.47 feet to a point of beginning; thence N. $0^{\circ}01'02''$ W. 200.09 feet to a point; thence N. $89^{\circ}39'25''$ E. 326.70 feet to a point; thence S. $0^{\circ}01'02''$ E. 200.09 feet to a point on the south line of said Section 33; thence along said south line of said Section 33 S. $89^{\circ}39'25''$ W. a distance of 326.70 feet to the point of beginning.



A parcel of land situated in the SE 1/4, SW 1/4 of Section 33, T.4N., R.4E B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way S. $89^{\circ}39'25''$ W. 230.60 feet to the POINT OF BEGINNING;

thence continuing S. $89^{\circ}39'25''$ W. 200.00 feet to a point;

thence N. $00^{\circ}01'02''$ W. 326.67 feet to a point;

thence N. $89^{\circ}39'25''$ E. 200.00 feet to a point;

thence S. $00^{\circ}01'02''$ E. 326.67 feet to the Point of Beginning, containing 1.5 acres, more or less.

Together with an easement for ingress/egress and utilities more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 380.14 feet to the POINT OF BEGINNING;

thence S. $89^{\circ}39'25''$ W. 431.48 feet to a point;

thence N. $00^{\circ}01'02''$ W. 40.00 feet to a point, said point being the Southwest corner of the above described parcel;

thence N. $89^{\circ}39'25''$ E. 430.60 feet to a point on the west right-of-way of State Highway No. 21;

thence S. $01^{\circ}16'35''$ E. 40.00 feet along said right-of-way to the Point of Beginning.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33, T.4N., R.4E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33; thence S. 89°39'25" W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence

N. 01°16'35" W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to the POINT OF BEGINNING; thence continuing

S. 89°39'25" W. 205.60 feet to a point; thence

N. 00°01'02" W. 326.67 feet to a point; thence

N. 89°39'25" E. 223.42 feet to a point on the west right-of-way of State Highway No. 21; thence along said right-of-way

S. 01°16'35" E. 256.71 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to a point; thence

S. 01°16'35" E. 70.00 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 2,075.00 feet to a point, said point being on the westerly right-of-way of State Highway 21; thence along said westerly right-of-way N. $1^{\circ}16'35''$ W. 310.14 feet to a point of beginning; thence S. $89^{\circ}52'30''$ W. 25.00 feet to a point; thence N. $1^{\circ}04'53''$ W. 70.00 feet to a point; thence S. $89^{\circ}39'25''$ W. 406.48 feet to a point; thence N. $1^{\circ}16'35''$ W. 40.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 405.60 feet to a point; thence N. $1^{\circ}16'35''$ W. 70.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 25.00 feet to a point; thence S. $1^{\circ}16'35''$ E. 180.00 feet to the point of beginning.

E

DEER CREEK WATER FUND

c/o Carl and Pat Olsson
15 Canyon Trail Road
Boise, Idaho 83716
(208) 343-2716

RECEIVED

DEC 20 2005

**DEPARTMENT OF
WATER RESOURCES**

December 19, 2005

Idaho Department of Water Resources
Idaho Water Center
322 E. Front Street, 6th Floor
P.O. Box 83720
Boise, ID 83720-0098

**Re: Deer Creek Home Owners' Association
Application for Permit**

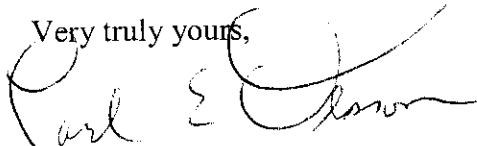
Dear Sir or Madam:

Our Homeowner's Association has been functioning since 1976, when it was created. Currently, Mr. Al Houdin serves as treasurer of the association. I serve as agent for service of process regarding waters rights issues and any other issues that arise. My wife Patricia serves as secretary of the association.

I am happy to register with the Secretary of State as an agent for service of process if that alleviates any concerns. However, I think you can see from the attached CCR's which have been duly amended and recorded over the years, that we are functioning as a Homeowners' Association.

Please do not hesitate to call if you have any questions.

Very truly yours,



Carl E. Olsson

CEO/rtv
Attachments

AMENDMENT TO RESTRICTIONS AND COVENANTS

This Amendment to Restrictions and Covenants affects the same real property as is affected by the original Restrictions and Covenants recorded May 15, 1980 as document number 95615 in the Office of the Recorder, Boise County, Idaho and an Amendment to said Restrictions and Covenants recorded April 9, 1986 as document Number 120035 in the Office of the Recorder, Boise County, Idaho. This Amendment to Restrictions and Covenants supplements and does not entirely replace either the original Restrictions and Covenants or the earlier Amendment thereto. Only those paragraphs specifically noted below are amended and replaced by this amendment. This amendment does not seek to change any provision of the earlier 1986 Amendment to Restrictions and Covenants noted above. Paragraphs in the original Restrictions and Covenants and in the earlier Amendment thereto not amended by this document are hereby readopted and shall be given full force and effect. If any amendment set out below is deemed ineffective by a court of competent jurisdiction, the corresponding paragraph in the original Restrictions and Covenants will be given full force and effect. Legal descriptions attached hereto are for individual lots or parcels, the totality of which is the property subject to the original Restrictions and Covenants and the Amendment to Restrictions and Covenants noted above.

Paragraph 1 of the original Restrictions and Covenants is hereby amended as follows:

1. All property subject to the original Restrictions and Covenants noted above is subject to the covenants, conditions, privileges and restrictions hereinafter set forth as an essential element of a plan for the improvement and use of said property. These covenants, conditions, privileges and restrictions shall run with the land and be for the benefit of the whole of such property and each lot or parcel thereof and also shall be for the benefit of and be binding upon each owner or interest holder of record of any lot or parcel of such property and also be for the benefit of and be binding upon their assigns and successors in interest. These covenants, conditions, privileges and restrictions may be enforced by any person or entity having an interest of record in any property subject thereto.

Paragraph 2 of the original Restrictions and Covenants is hereby amended as follows:

2. USE

All parcels shall be residential lots and shall be owned and improved exclusively for residential use. No lot or any part thereof shall be used for other than residential purposes. No building or improvements shall be erected, placed, altered, or permitted to remain on any lot except improvements incident to single family

AMENDMENT TO RESTRICTIONS AND COVENANTS - 1

Instrument # 181575
IDAHO CITY, BOISE COUNTY, IDAHO
2001-06-18 03:41:15 No. of Pages: 18
Recorded for : CARL OLSSON
RORA A. CANODY Fee: 54.00
Ex-Officio Recorder Deputy 
Index to: MISCELLANEOUS

residences. Such improvements may include a private garage, necessary outbuilding and fencing. All single story residences shall have a total floor area of not less than 1,100 square feet and all one-and-one-half and two story residences shall have a total floor area of not less than 1,400 square feet. These requirements are exclusive of porches, decks, basements and garage areas.

Paragraph 3 of the original Restrictions and Covenants is hereby amended as follows:

3. TEMPORARY STRUCTURES AND GARAGES

No structure of a temporary character such as a tent, trailer, garage, basement or shack shall be used as a residence except that an owner may occupy temporary living facilities during construction of his dwelling house, garage and outbuilding, but not to exceed six month occupancy of such temporary facilities. Garages shall neither be smaller than is reasonably necessary for two cars nor larger than is reasonably necessary for three car. No repair work on vehicles is permitted other than incidental repairs to vehicles owned by those residing in the same residence.

Paragraph 4 of the original Restrictions and Covenants is hereby amended as follows:

4. TIME PERMITTED TO COMPLETE EXTERIOR FINISH

The exterior work and finish of a structure must be completed within six months after the date construction has been started so that the structure presents a completed appearance when viewed from any exterior point.

Paragraph 5 of the original Restrictions and Covenants is hereby amended as follows:

5. FENCES

If fences are built they are to be not less than 3" wood pole and/or split rail type and if fine mesh fencing is required for the protection of children or pets or other animals, it shall be installed on the inside of the pole or split rail fence. No fence shall be higher than six (6) feet above ground level. Any variance from this type of fence must be approved by a 2/3 majority of the owners occupying homes in the development.

Paragraph 7 of the original Restrictions and Covenants is hereby amended as follows:

7. DRIVEWAYS AND VEHICLES

If a private driveway is constructed on any lot, adequate drainage must be provided and maintained and consideration and effort made to prevent and reduce soil erosion.

Recreational vehicles, travel trailers, campers, and other like vehicles may not be stored in driveways and must be garaged. Boats need not be garaged.

Paragraph 8 of the original Restrictions and Covenants is hereby amended as follows:

8. LIVESTOCK AND ANIMALS

Only domestic animals are permitted. Livestock shall be limited to two (2) horses or llamas per lot or parcel. No other livestock, including but not limited to, cows, pigs, goats, or sheep, shall be allowed. Poultry, including but not limited to, chickens, roosters, ducks, geese, emus or ostriches shall not be permitted. No more than two dogs and four cats are allowed per lot or parcel. Wild or vicious animals are not permitted to be kept.

Paragraph 13 of the original Restrictions and Covenants is hereby amended as follows:

13. COVENANTS AND ENFORCEMENT

Any person or entity noted in paragraph 1 above who is entitled to enforce these covenants, conditions, privileges and restrictions, shall, in addition to any other enforcement rights, have the right to enjoin any violation of these covenants, and to recover damages of \$50 per day until such violation is corrected and rectified, and to recover from the person or entity violating covenant, condition, privilege or restriction all costs of such action, including reasonable attorneys' fees.

The failure to enforce any covenant or condition at any time shall not constitute a waiver thereafter to enforce any such covenant or restriction.

Each of the covenants and conditions herein shall be deemed independent and severable and the invalidity or partial invalidity of any covenant or condition shall not affect the validity or enforceability of any other covenant or condition.

Paragraph 15 of the original Restrictions and Covenants is hereby amended as follows:

15. DURATION OF COVENANTS

These protective and restrictive covenants shall run with the land and shall be binding upon all persons owning a lot or parcel or having an interest in any land subject to these covenants, conditions, privileges and restrictions for a period of 20 years from the date this amendment is recorded after which time said covenants shall be automatically renewed for successive periods of 10 years each. Any subsequent amendments to these restrictions and covenants will not affect the duration of the covenants as herein set forth unless such duration is specifically altered in the subsequent amendment.

Paragraph 16 of the original Restrictions and Covenants is hereby amended as follows:

16. TYPE OF CONSTRUCTION

All home, garage, and exterior finish construction shall be either of logs or cedar siding construction. Limited use may be made of decorative unfinished wood facings to cover concrete foundations. All exterior sidings shall be of natural wood finish. External sealants, preservatives or other coatings of any type must preserve the natural appearance of the wood. Roofs must be of either cedar shake (natural or simulated), asphalt tile, or metal construction. Roofs colors must be subdued earth tones with a flat finish. Single story residences shall be a minimum of 1100 square feet; multi-story residences shall be a minimum 1400 square feet. No mobile homes, trailers, doublewides, manufactured or modular types of construction shall be permitted. All residences must have, at a minimum, a two car enclosed garage. Propane tanks must be camouflaged with shrubbery or trees within a reasonable time following installation.

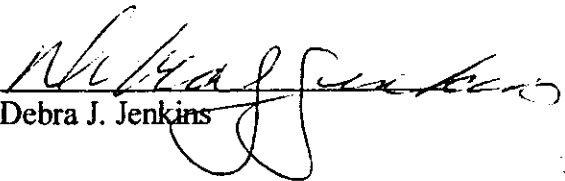
A new paragraph 18 is hereby added to the original Restrictions and Covenants.

18. BUILDING PLAN APPROVAL

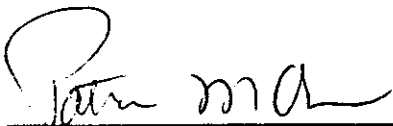
Any person or entity wishing to construct a new building is strongly encouraged to call a meeting of owners to discuss plans for such construction. The type of construction, date of construction and location of the new construction on its lot should be presented to the owners of other lots in attendance at the meeting. The meeting should be held on one of the lots, or in a building located on one of the

lots, affected by these restrictions and covenants. So long as the proposed new construction meets the conditions and limitations imposed both by these restrictions and covenants, and any other limitations imposed by law, ordinance or regulation, the other lot owners shall not have the power to obstruct or delay the proposed new construction.

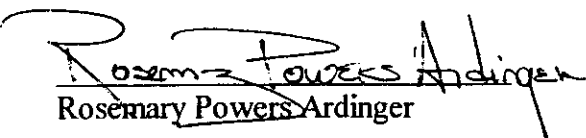
Dated June 15, 2001

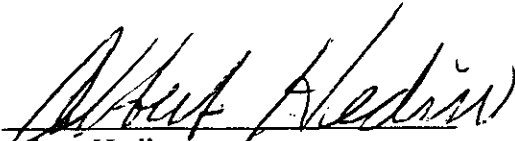

Debra J. Jenkins

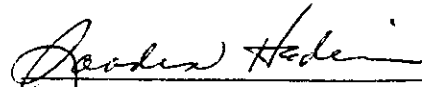

Carl E. Olsson

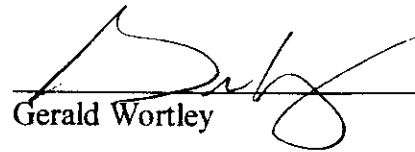

Patricia M.. Olsson

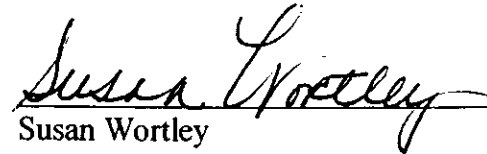

Richard K. Ardinger


Rosemary Powers Ardinger

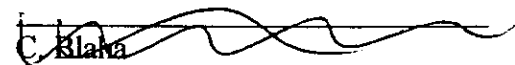

Albert Hedin

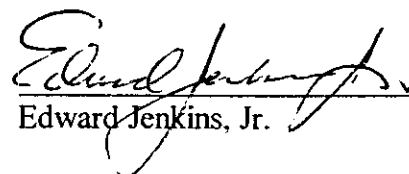

Sandra Hedin


Gerald Wortley


Susan Wortley


T.F. Blaha


C. Blaha

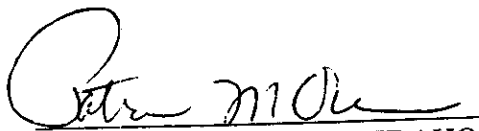

Edward Jenkins, Jr.

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Debra J. Jenkins, known or identified to me to be the person whose name is subscribed to on the above instrument, and executed the same in my presence.

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



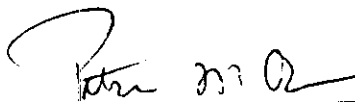

NOTARY PUBLIC FOR IDAHO
Residing at Boise County, Idaho
My Commission expires: 11/22/02

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Richard K. Ardinger and Rosemary Powers Ardinger, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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

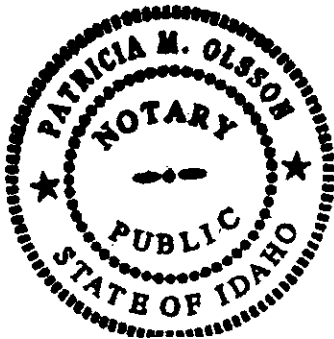


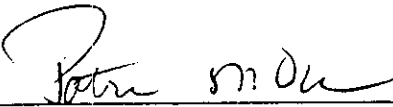

NOTARY PUBLIC FOR IDAHO
Residing at Boise County, Idaho
My Commission expires: 11/22/02

STATE OF IDAHO }
 } ss.
COUNTY OF BOISE }

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Gerald Wortley and Susan Wortley, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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



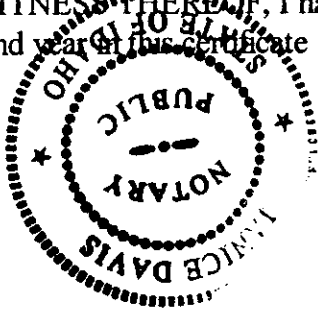


NOTARY PUBLIC FOR IDAHO
Residing at Boise County, Idaho
My Commission expires: 11/22/03

STATE OF IDAHO }
COUNTY OF Ada } ss.

On this 18th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Carl E. Olsson and Patricia M. Olsson, husband and wife, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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

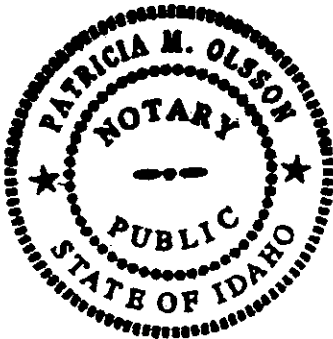


Jamie Davis
NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My Commission expires: 8/23/06

STATE OF IDAHO }
COUNTY OF Boise } ss.

On this 17th day of June, 2001, before me, the undersigned, a Notary Public in and for said State, personally appeared Edward Jenkins, Jr., divorced and not since remarried, known or identified to me to be the person whose names are subscribed to on the above instrument, and who executed the same in my presence.

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



Patricia M. Olsson
NOTARY PUBLIC FOR IDAHO
Residing at Boise City, Idaho
My Commission expires: 11/22/02

A parcel of land situated in the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 33, T. 4 N. R. 4E of the Boise Meridian, Boise County Idaho, more particularly described as follows: Commencing at the S.W. corner of said section 33; thence along the S. line of said Section 33, N. 89 39' 25" E. , 2075.00 ft. to a point; said point being on the Westerly right of way State Hwy 21; thence along said Westerly Right of Way N. 1 16' 35" W, 400.14' to a Point; thence leaving said right of way S. 89 39' 25" W., 431.04 ft. to the Real Point of Beginning; thence continuing S. 89 39' 25" W. , 326.70 ft. to a Point; said point being on the Westerly boundary of said S.E. quarter of the S. W. quarter of Section 33; thence along said Westerly boundary N. 01' 02" W. 172.90 ' to a point; thence leaving said Westerly boundary N. 89 39' 25" E. 326.70 ft. to a point; thence S. 0 01' 02" E. 172.90 ft. to the Real Point of Beginning.



particularly described as follows:

Commencing the Quarter corner common to Section 33, T. 4 N., R. 4 E., B.M., and Section 4, T. 3 N., R. 4 E., B.M.; thence South $89^{\circ}39'25''$ West along said section line 541.94 feet to a point on the West right-of-way line of Highway 21; thence North $01^{\circ}16'35''$ West 400.14 feet to a point; thence leaving said right-of-way South $89^{\circ}39'25''$ West 431.04 feet to the REAL POINT OF BEGINNING; thence continuing South $89^{\circ}39'25''$ West 326.70 feet to a point; thence South $0^{\circ}01'02''$ East, 200.00 feet to a point; thence North $89^{\circ}39'25''$ East 326.70 feet to a point; thence North $00^{\circ}01'02''$ West 150.0 feet to a point; thence South $89^{\circ}39'25''$ West 20.0 feet to a point; thence North $0^{\circ}01'02''$ West 20.0 feet to a point; thence North $89^{\circ}39'25''$ East 20.0 feet to a point; thence North $0^{\circ}01'02''$ West 30.0 feet to the REAL POINT OF BEGINNING, containing 1.49 acres, more or less.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly described
as follows:

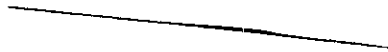
Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 542.16
feet to a point on the west right-of-way of State Highway No. 21,
said point also being the POINT OF BEGINNING; thence continuing
S. 89°51'08" W. 240.34 feet to a point; thence
N. 00°11'01" E. 379.99 feet to a point; thence
N. 89°52'30" E. 206.95 feet to a point; thence
S. 01°04'53" E. 70.00 feet to a point; thence
N. 89°52'30" E. 25.00 feet to a point on the west right-of-
way of State Highway No. 21; thence along said right-of-way
S. 01°04'53" E. 309.94 feet to the POINT OF BEGINNING.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly
described as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 782.50
feet to the POINT OF BEGINNING: thence continuing
S. 89°51'08" W. 200.00 feet to a point; thence
N. 00°11'01" E. 380.07 feet to a point; thence
N. 89°52'30" E. 200.00 feet to a point; thence
S. 00°11'01" W. 379.99 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 1,308.47 feet to a point of beginning; thence N. $0^{\circ}01'02''$ W. 200.09 feet to a point; thence N. $89^{\circ}39'25''$ E. 326.70 feet to a point; thence S. $0^{\circ}01'02''$ E. 200.09 feet to a point on the south line of said Section 33; thence along said south line of said Section 33 S. $89^{\circ}39'25''$ W. a distance of 326.70 feet to the point of beginning.



33, T.4N., R.4E., B.M., Boise County, Idaho more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way S. $89^{\circ}39'25''$ W. 230.60 feet to the POINT OF BEGINNING;

thence continuing S. $89^{\circ}39'25''$ W. 200.00 feet to a point;

thence N. $00^{\circ}01'02''$ W. 326.67 feet to a point;

thence N. $89^{\circ}39'25''$ E. 200.00 feet to a point;

thence S. $00^{\circ}01'02''$ E. 326.67 feet to the Point of Beginning, containing 1.5 acres, more or less.

Together with an easement for ingress/egress and utilities more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 380.14 feet to the POINT OF BEGINNING;

thence S. $89^{\circ}39'25''$ W. 431.48 feet to a point;

thence N. $00^{\circ}01'02''$ W. 40.00 feet to a point, said point being the Southwest corner of the above described parcel;

thence N. $89^{\circ}39'25''$ E. 430.60 feet to a point on the west right-of-way of State Highway No. 21;

thence S. $01^{\circ}16'35''$ E. 40.00 feet along said right-of-way to the Point of Beginning.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33, T.4N., R.4E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the South Quarter Corner of said Section 33; thence S. 89°39'25" W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence

N. 01°16'35" W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to the POINT OF BEGINNING; thence continuing

S. 89°39'25" W. 205.60 feet to a point; thence

N. 00°01'02" W. 326.67 feet to a point; thence

N. 89°39'25" E. 223.42 feet to a point on the west right-of-way of State Highway No. 21; thence along said right-of-way

S. 01°16'35" E. 256.71 feet to a point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to a point; thence

S. 01°16'35" E. 70.00 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 2,075.00 feet to a point, said point being on the westerly right-of-way of State Highway 21; thence along said westerly right-of-way N. $1^{\circ}16'35''$ W. 310.14 feet to a point of beginning; thence S. $89^{\circ}52'30''$ W. 25.00 feet to a point; thence N. $1^{\circ}04'53''$ W. 70.00 feet to a point; thence S. $89^{\circ}39'25''$ W. 406.48 feet to a point; thence N. $1^{\circ}16'35''$ W. 40.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 405.60 feet to a point; thence N. $1^{\circ}16'35''$ W. 70.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 25.00 feet to a point; thence S. $1^{\circ}16'35''$ E. 180.00 feet to the point of beginning.

E

AMENDMENT TO RESTRICTIONS AND COVENANTS

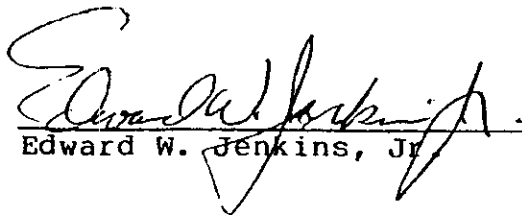
THIS Amendment to Restrictions and Covenants affects the same real property as is affected by the original Restrictions and Covenants, a copy of which is attached hereto as Exhibit "A". These amended restrictions and covenants modify the said original restrictions and covenants in the following manner, to-wit:

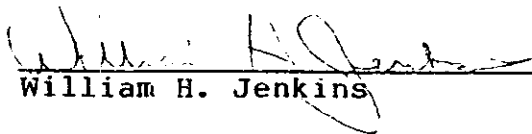
1. Paragraph 14 of the original restrictions and covenants, entitled "Modification of Covenants," is hereby amended to read as follows:

14. MODIFICATION OF COVENANTS. The covenants, agreements, conditions and restrictions herein for the benefit of the subject properties in their entirety and each subject property therein, may be modified, altered or changed with the written consent of eighty percent (80%) of the owners of record of all improved subject properties, but such change or modification is not effective until the written consent of the owners of such subject properties is executed, acknowledged and recorded in the office of the county records of Boise County, Idaho.

2. Paragraph 17 of the original restrictions and covenants relating to road and domestic water system is hereby amended by the addition of the following paragraphs:

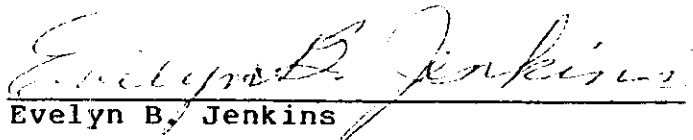
The Deer Creek Water and Road Fund shall be a nonprofit organization. Funds collected by the Deer Creek Water and Road Fund shall be disbursed only in payment for expenses incurred in the operation and maintenance of the common access easements and the domestic water system benefiting those properties the owners of which are subject to the operation and maintenance fee provided for in paragraph 17 of the restrictions and covenants, a copy of which is attached hereto as Exhibit "A".

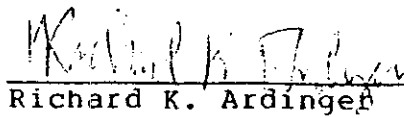

Edward W. Jenkins, Jr.


William H. Jenkins

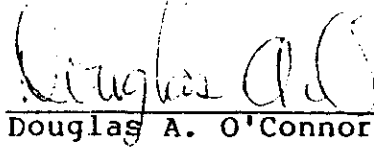

Debra J. Jenkins


Edward W. Jenkins

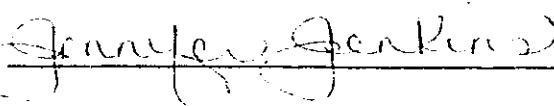

Evelyn B. Jenkins


Richard K. Ardinger

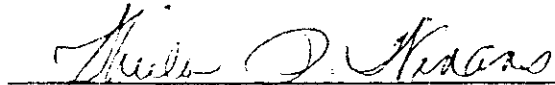

Rosemary Powers Ardinger


Douglas A. O'Connor


Janice O'Connor


Jennifer Jenkins

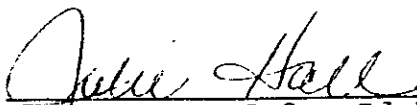

James R. Winans


Sheila P. Winans

STATE OF IDAHO)
) ss.
County of Ada)

On this 22nd day of March, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared CARL E. OLSSON and PATRICIA M. OLSSON, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

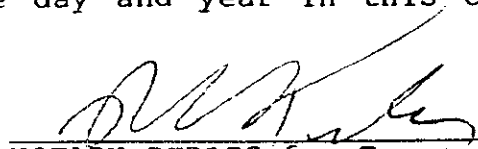
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.


NOTARY PUBLIC for Idaho
Residing at Meridian, Idaho
My commission expires: 6-26-88

STATE OF TEXAS)
) ss.
County of Dallas)

On this 4th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared JAMES R. WINANS and SHEILA P. WINANS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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


NOTARY PUBLIC for Texas
Residing at Dallas, Texas
My commission expires: _____

RONALD CRAVENS KELSAY
Notary Public, State of Texas
Commission Expires Dec. 19, 1987

STATE OF IDAHO)
) ss.
County of Blaine)

On this 14th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared EDWARD W. JENKINS, JR. and JENNIFER JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

[Signature]
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 14th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared WILLIAM H. JENKINS and DEBRA J. JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

[Signature]
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 11th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared EDWARD W. JENKINS and EVELYN B. JENKINS, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Carla M. Valdez
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of Blaine)

On this 11th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared RICHARD K. ARDINGER and ROSEMARY POWERS ARDINGER, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Carla M. Valdez
NOTARY PUBLIC for Idaho
Residing at Blaine, Idaho
My commission expires: 11-30-87

STATE OF IDAHO)
) ss.
County of)

On this 6th day of April, 1986, before me, the undersigned, a Notary Public in and for said State, personally appeared DOUGLAS A. O'CONNOR and JANICE O'CONNOR, husband and wife, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

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

Carla Valdez
NOTARY PUBLIC for Idaho
Residing at Basco, Idaho
My commission expires: 11-30-87

1. All parcels and property interests within the property described as attached and marked Exhibit A, shall be owned, conveyed, leased, encumbered, held and used subject to the covenants, conditions, privileges and restrictions hereinafter set forth as an essential element of a plan for the improvement and use of the property therein. Such covenants, conditions, privileges and restrictions shall run with the land and all persons, corporation, partnership, organizations and other entitles shall inure to the benefit of the whole of such property and each lot and parcel thereof; shall inure to the benefit of and be binding upon each owner of any part of such property or interest therein and upon their assigns and successors in interest. These covenants may be enforced by Grantor and their successors and assigns, or by any owner of record with interest therein or by an association of owners, or by any persons having an enforceable interest.

2. **USE**
All parcels shall be residential lots and shall be owned and improved exclusively for residential use. No lot or any part thereof shall be used for other than residential purposes. No building or improvements shall be erected, placed, altered, or permitted to remain on any lot except improvements incident to single family residences. Such improvements may include a private garage, necessary outbuilding and fencing. All single story residences shall have a total floor area of not less than 1,000 square feet and all one-and-one-half and two story residences shall have a total floor area of not less than 1,400 square feet. These requirements are exclusive of porches, decks, basements and garage areas.

3. **TEMPORARY STRUCTURES AND GARAGES**
No structure of a temporary character such as a tent, trailer, garage, basement or shack shall be used as a residence except that an owner may occupy temporary living facilities during construction of his dwelling house, garage and outbuilding, but not to exceed a ~~one~~ (1) year occupancy of such temporary facilities. All garages shall be not less than two car or more than three car and no repair work on vehicles shall be permitted other than incidental repairs to vehicles owned by those residing in the same residence.

4. **EXTERIOR FINISH**
The exterior work and finish of a structure must be completed within ~~365~~ days after the date construction has been started so that the structure presents a completed appearance when viewed from any exterior point.

5. **FENCES**
If fences are built they are to be not less than 3" wood pole and/or split rail type and if fine mesh fencing is required for the protection of child and pool or other pool it shall be installed on the inside of the pole or split rail fence. No fence shall be higher than six (6) feet above ground level.

6. EASEMENTS AND SETBACKS

No building or other structure, except fence, shall be located closer than 45 feet to a front lot line, nor closer than 25 feet to any side lot line, nor closer than 20 feet to a rear lot line.

Grantor, its successors and assigns, reserves a ten (10) foot wide easement along the front and side lines of each lot for utility lines and appurtenances including drainage and culverts where necessary with right of ingress and egress and the right to prevent installation of obstructions and removal of obstructions from all easements.

7. DRIVEWAYS

If a private driveway is constructed on any lot adequate drainage must be provided and maintained and consideration and effort made to prevent and reduce soil erosion such as proper grading, use of culverts, seeding, terracing, etc.

8. LIVESTOCK AND ANIMALS

Livestock shall be limited to two (2) horses or cattle. No other livestock such as pigs, goats, etc., shall be allowed. Nor shall poultry such as chickens, ducks or geese be permitted. In no case no more than three other domestic animals shall be kept as pets.

9. TRASH, GARBAGE, REFUSE

No trash, garbage, ashes, refuse, ruins or other remains of any kind (including disabled vehicles) shall be thrown, dumped, placed, disposed of or permitted to remain on any lot, whether vacant or otherwise. The owner of any lot shall, regardless of fault, be responsible for the prompt removal therefrom of all trash, garbage, ashes, refuse, ruins and other remains. Household trash, garbage or other waste shall not be kept pending its prompt removal except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. No substance exuding noxious odors shall be thrown, dumped, placed, disposed of or permitted to remain or accumulate on any lot whether above or below the surface thereof. No noxious, illegal or offensive use of property shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the adjoining property holders.

10. SEWAGE

No sewage disposal system of any kind shall be permitted on any lot unless it is designed, located, and constructed in accordance with the requirements and standards of the Idaho State Health Department and Central District Health Department so all toilet facilities shall be connected by underground pipe with a private septic tank, leach field, seepage bed or other approved disposal unit. Drainage from said septic tank or disposal unit shall be controlled so that no flagrant evidence of possible pollution of the water courses adjacent thereto will occur.

11. DRAINAGE

There shall be no interference with the natural drainage pattern over any property unless adequate provision is made for proper drainage that does not adversely affect adjoining properties.

12. UTILITY LINES

All utility lines must be underground and comply with Idaho State and County of Boise codes.

13. COVENANTS AND ENFORCEMENT

Grantor and owners of record or any persons hereinafter having any right, title or interest in any lot including any future homeowners association or such owners, shall have the right to enforce these covenants and shall have the right to enjoin any violation of these covenants, and to recover damages of \$50 per day until such violation is corrected and rectified, and to recover from the person or entity violating such covenant or covenants all costs of such action, including reasonable attorneys' fees.

The failure to enforce any covenant or condition at any time shall not constitute a waiver thereafter to enforce any such covenant or restriction.

Each of the covenants and conditions herein shall be deemed independent and severable and the invalidity or partial invalidity of any covenant or condition shall not affect the validity or enforceability of any other covenant or condition.

All covenants and conditions herein shall be liberally construed together to promote the plan for improvement and betterment of the property as described by the attached legal description.

14. MODIFICATION OF COVENANTS

The covenants, agreements, conditions and restrictions herein for the benefit of the subdivision and each lot therein, may be modified, altered or changed as to any lot with the written consent of 80 percent of the owners of record for all lots but such change or modification is not effective until the written consent of such owners is executed, acknowledged and recorded in the office of the County Records of Boise County, Idaho.

15. DURATION OF COVENANTS

These protective and restrictive covenants shall run with the land and shall be binding upon all persons owning a lot or having an interest in any land for a period of 20 years from the date these covenants are recorded after which time said covenants shall be automatically renewed for successive periods of 10 years each unless an instrument signed by the then owners of a majority of the lots within the subdivision has been recorded in Boise County, Idaho, agreeing to change or modify said covenants in whole or in part.

16. TYPE OF CONSTRUCTION

No trailer, mobile homes, double wides or other modular types of construction shall be permitted as only log and ancillary frame (which has ICEC approval) shall be constructed. Single story residences shall be 1,000 square feet or more and one-and-one-half and two story shall be 1,400 square feet or more.

17. ROAD AND DOMESTIC WATER SYSTEM

The "Road and Domestic Water System" contained within and adjoining the boundaries of the legal description as shown on Exhibit A (attached) shall be operated and maintained from funds paid by the owners of record of each parcel of land lying within and adjoining the boundaries of the legal description as shown on Exhibit A.

The owner of record of each parcel which is vacant within and adjoining the boundaries of the legal description as shown on Exhibit A shall pay an operation and maintenance fee for the maintenance and operation of the domestic water system and road of \$10.50 on the first day of each month. The owner of record of each parcel on which construction of a residence has been commenced or in which a residence has been completed within and adjoining the boundaries of the legal description as shown on Exhibit A shall pay an operation and maintenance fee for the maintenance and operation of the domestic water system and road of \$21.00 on the first day of each month. Funds are to be mailed to Deer Creek Water and Road Fund, P. O. Box 2512, Boise, Idaho 83701. The Secretary-Treasurer of the Maintenance and Operation Fund shall notify each owner of record at least thirty days in advance of any change in the above address and shall also notify each owner thirty days in advance of any proposed changes with the exception of unforeseen and urgent items that may require the waiving of the normal thirty days notification.

The domestic water system is hereby and shall in the future be limited to domestic use only and includes watering of an area up to 5,000 sq. ft. on each parcel within and adjoining the boundaries of the legal description as shown on Exhibit A (attached).

During the months of June, July and August, owners or residents residing on parcels of land to the South of the road shall be limited to watering on even numbered days and owners or residents residing on parcels of land to the North of the road shall be limited to watering on odd numbered days.

A parcel of land situated in the S.E. $\frac{1}{4}$ of the S.W. $\frac{1}{4}$ of Section 33, T. 4 N. R. 4E of the Boise Meridian, Boise County Idaho, more particularly described as follows: Commencing at the S.W. corner of said section 33; thence along the S. line of said Section 33, N. 89 39' 25" E. , 2075.00 ft. to a point; said point being on the Westerly right of way State Highway 21; thence along said Westerly Right of Way N. 1 16' 35" W. 400.14' to a Point; thence leaving said right of way S. 89 39' 25" W. , 431.04 ft. to the Real Point of Beginning; thence continuing S. 89 39' 25" W. , 326.70 ft. to a Point; said point being on the Westerly boundary of said S.E. quarter of the S. W. quarter of Section 33; thence along said Westerly boundary N. 01' 02" W. 172.90 ' to a point; thence leaving said Westerly boundary N. 89 39' 25" E. 326.70 ft. to a point; thence S. 0 01' 02" E. 172.90 ft. to the Real Point of Beginning.



... parcel of land located in the SE4SW4 Section 33,
T. 4 N., R. 4 E., B.M., Boise County, Idaho, more
particular described as follows:

Commencing at the Quarter corner common to Section,
33, T. 4 N., R. 4 E., B.M., and Section 4, T. 3 N.,
R. 4 E., B.M.; thence
South 89°39'25" West along said section line 541.94
feet to a point on the West right-of-way line of
Highway 21; thence
North 01°16'35" West 400.14 feet to a point; thence
leaving said right-of-way
South 89°39'25" West 431.04 feet to the REAL POINT
OF BEGINNING; thence continuing
South 89°39'25" West 326.70 feet to a point; thence
South 0°01'02" East, 200.00 feet to a point; thence
North 89°39'25" East 326.70 feet to a point; thence
North 00°01'02" West 150.0 feet to a point; thence
South 89°39'25" West 20.0 feet to a point; thence
North 0°01'02" West 20.0 feet to a point; thence
North 89°39'25" East 20.0 feet to a point; thence
North 0°01'02" West 30.0 feet to the REAL POINT OF
BEGINNING, containing 1.49 acres, more or less.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly described
as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 542.16
feet to a point on the west right-of-way of State Highway No. 21,
said point also being the POINT OF BEGINNING; thence continuing
S. 89°51'08" W. 240.34 feet to a point; thence
N. 00°11'01" E. 379.99 feet to a point; thence
N. 89°52'30" E. 206.95 feet to a point; thence
S. 01°04'53" E. 70.00 feet to a point; thence
N. 89°52'30" E. 25.00 feet to a point on the west right-of-
way of State Highway No. 21; thence along said right-of-way
S. 01°04'53" E. 309.94 feet to the POINT OF BEGINNING.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly
described as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°51'08" W. along the south line of Section 33, 782.50
feet to the POINT OF BEGINNING; thence continuing
S. 89°51'08" W. 200.00 feet to a point; thence
N. 00°11'01" E. 380.07 feet to a point; thence
N. 89°52'30" E. 200.00 feet to a point; thence
S. 00°11'01" W. 379.99 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 1,308.47 feet to a point of beginning; thence N. $0^{\circ}01'02''$ W. 200.09 feet to a point; thence N. $89^{\circ}39'25''$ E. 326.70 feet to a point; thence S. $0^{\circ}01'02''$ E. 200.09 feet to a point on the south line of said Section 33; thence along said south line of said Section 33 S. $89^{\circ}39'25''$ W. a distance of 326.70 feet to the point of beginning.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33, T.4N., R.4E B.M., Boise County, Idaho more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 420.14 feet to a point; thence leaving said right-of-way S. $89^{\circ}39'25''$ W. 230.60 feet to the POINT OF BEGINNING;

thence continuing S. $89^{\circ}39'25''$ W. 200.00 feet to a point;

thence N. $00^{\circ}01'02''$ W. 326.67 feet to a point;

thence N. $89^{\circ}39'25''$ E. 200.00 feet to a point;

thence S. $00^{\circ}01'02''$ E. 326.67 feet to the Point of Beginning, containing 1.5 acres, more or less.

Together with an easement for ingress/egress and utilities more particularly described as follows:

Commencing at the South quarter corner of said Section 33; thence S. $89^{\circ}39'25''$ W. along the south line of Section 33, 541.94 feet to a point on the west right-of-way of State Highway No. 21; thence N. $01^{\circ}16'35''$ W. along said right-of-way 380.14 feet to the POINT OF BEGINNING;

thence S. $89^{\circ}39'25''$ W. 431.48 feet to a point;

thence N. $00^{\circ}01'02''$ W. 40.00 feet to a point, said point being the Southwest corner of the above described parcel;

thence N. $89^{\circ}39'25''$ E. 430.60 feet to a point on the west right-of-way of State Highway No. 21;

thence S. $01^{\circ}16'35''$ E. 40.00 feet along said right-of-way to the Point of Beginning.

A parcel of land situated in the SE 1/4 SW 1/4 of Section 33,
T.4N., R.4E., B.M., Boise County, Idaho, more particularly
described as follows:

Commencing at the South Quarter Corner of said Section 33; thence
S. 89°39'25" W. along the south line of Section 33,
541.94 feet to a point on the west right-of-way of State Highway
No. 21; thence

N. 01°16'35" W. along said right-of-way 420.14 feet to a
point; thence leaving said right-of-way

S. 89°39'25" W. 25.00 feet to the POINT OF BEGINNING; thence
continuing

S. 89°39'25" W. 205.60 feet to a point; thence

N. 00°01'02" W. 326.67 feet to a point; thence

N. 89°39'25" E. 223.42 feet to a point on the west right-of-
way of State Highway No. 21; thence along said right-of-way

S. 01°16'35" E. 256.71 feet to a point; thence leaving said
right-of-way

S. 89°39'25" W. 25.00 feet to a point; thence

S. 01°16'35" E. 70.00 feet to the POINT OF BEGINNING.

A parcel of land situated in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 33, T. 4 N., R. 4 E., B.M., Boise County, Idaho, more particularly described as follows:

Commencing at the southwest corner of said Section 33, thence along the south line of said Section 33 N. $89^{\circ}39'25''$ E. 2,075.00 feet to a point, said point being on the westerly right-of-way of State Highway 21; thence along said westerly right-of-way N. $1^{\circ}16'35''$ W. 310.14 feet to a point of beginning; thence S. $89^{\circ}52'30''$ W. 25.00 feet to a point; thence N. $1^{\circ}04'53''$ W. 70.00 feet to a point; thence S. $89^{\circ}39'25''$ W. 406.48 feet to a point; thence N. $1^{\circ}16'35''$ W. 40.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 405.60 feet to a point; thence N. $1^{\circ}16'35''$ W. 70.00 feet to a point; thence N. $89^{\circ}39'25''$ E. 25.00 feet to a point; thence S. $1^{\circ}16'35''$ E. 180.00 feet to the point of beginning.

E

The Idaho World

P.O. Box 99
Garden Valley, ID 83622
(208) 462-3487

RECEIVED

NOV 01 2005

WATER RESOURCES
WESTERN REGION

State of Idaho)
County of Boise)

Deanna Stevenson, being duly sworn, deposes and says: that she is the Editor of THE IDAHO WORLD, a weekly newspaper published at Idaho City, in the County of Boise and the State of Idaho; the said paper has been and is in general circulation in the county aforesaid, and in the vicinity of Idaho City; that the advertisement, a copy of which is hereto attached, was published in said newspaper once a week for two (2) consecutive weeks in the entire and regular issue of every number of said paper during the period and time of publication and was published in the newspaper and not a supplement; that said paper has been established and regularly and continuously published for more than seventy eight weeks past previous to the first publication of this notice. Such notice was published with the issue beginning with Oct 19, 2005 and ending with the issue of Oct 26, 2005.

Deanna Stevenson

State of Idaho)
County of Boise)

On this 27 day of Oct in the year 2005, before me, a notary public, personally appeared Deanna Stevenson known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that she executed the same.

Tami Weber

Notary Public for Idaho
Residing at Garden Valley, Idaho

MY COMMISSION EXPIRES
February 10, 2011
BONDED THRU NOTARY PUBLIC UNDERWRITERS

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

63-32180

DEERCREEKWATERFUND
C/O COLSSON
15 CANYON TRAIL
BOISE ID 83716

Point(s) of Diversion	SESW	S33	T04N	R04E
BOISE County	Source GROUND WATER			
Use: DOMESTIC	01/01 To 12/31	0.15 CFS		
	Total Diversion:	0.15 CFS		
Date Filed:	03/03/2005			
Place Of Use:	DOMESTIC			
T04N R04E S33	SESW			

Remark: Applicant agrees to mitigate consumptive use in the future as needed. Domestic use is for 8 homes and yards.

Water bearing zone to be appropriated is from 115 to 270 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/07/2005. The protestant must also send a copy of the protest to the applicant. KARL J DREHER, Director

Published in the Idaho World October 19 and 26, 2005.

TAMI WEBER
Notary Public
State of Idaho

Kreger (Taylor), Sue

To: charles.Ariss@deq.state.id.us
Subject: comment letters

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

October 13, 2005

ID DEPT ENV QUALITY
CHARLES ARISS
1445 N ORCHARD
BOISE ID 83706-2239

Re: Applications for Permit

Dear Mr. Ariss:

Attached is a copy(s) of one or more applications that may be of interest to you and/or to a local District Health office should you choose to delegate review of the application(s) to that organization. Please contact the applicant if your agency and/or District Health have concerns about the application(s). It is not necessary to provide agency comments to the Idaho Department of Water Resources (IDWR), although your comments are welcome if you think IDWR would benefit from them.

If your agency and/or a local District Health office desires to file a formal protest against approval of any of these applications, a written protest along with the \$25.00 protest fee for each application protested must be received in this office by November 7, 2005. A copy of the protest must also be sent to the applicant.

If you have any questions regarding these applications, please contact this office at 334-2190.

Sincerely,



63-32180.pdf



63-32182.pdf



65-22977.pdf

PAGE 1
Apr-21-2003

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 63-09900

NAME AND ADDRESS: DEER CREEK WATER FUND
C/O OLSSON
HC 33 BOX 1112
BOISE, ID 83706

SOURCE: GROUND WATER

QUANTITY: 0.06 CFS
2.40 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.
USE OF THIS RIGHT WITH RIGHT NO. 63-9217 IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF .06 CFS.

PRIORITY DATE: 04/30/1982

POINT OF DIVERSION: T04N R04E S33 SESW Within Boise County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Domestic	01-01 TO 12-31	0.06 CFS
			2.40 AFY

PLACE OF USE: Domestic Within Boise County
T04N R04E S33 SESW

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

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

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


Roger Burdick
Presiding Judge of the
Snake River Basin Adjudication

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

James C. Dale
Michael E. Thomas
Patricia M. Olsson
James C. deGlee
Bradley J. Williams
Lee Radford
Michael O. Roe
David S. Jensen
James L. Martin
C. Clayton Gill
David P. Gardner
John O. Fitzgerald, II
Julian E. Gabiola
Angela Schaer Kaufmann
Michael W. McGreaham
Kimberly D. Evans Ross

Jon A. Stenquist
Eric M. Barzee
Valerie N. Charles
Jason G. Murray
Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Russell G. Metcalf

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

R E I V E D

AUG 22 2005

WATER RESOURCES
WESTERN REGION

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

August 19, 2005

Lori Graves
Senior Water Resource Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, Idaho 83705-5082

Re: Application for Permit for Deer Creek Water Fund
MTBR&F File No. 22-420

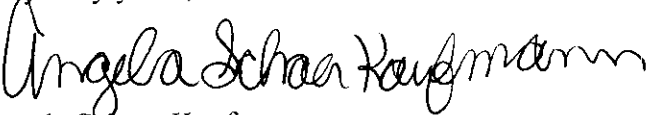
Dear Lori:

I am forwarding the Amended Application for Permit for the Deer Creek Water Fund which we have previously discussed. I believe that the amended application accurately reflects our discussions regarding the same. However, if you find that it does not, please let me know and I will make the appropriate changes.

It is also my understanding that because we are simply amending our application and not filing a new one, no additional payment is required. If that understanding is incorrect, please let me know and I will forward the appropriate payment to you.

Once again, thank you very much for your considerable help and assistance in this matter. I truly appreciate it.

Very truly yours,


Angela Schaer Kaufmann

ASK/vlm
Enclosure
cc: Pat Olsson

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

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Mark C. Peterson
Andrew J. Waldera
Tyler J. Anderson
Russell G. Metcalf

Robert E. Bakes, *of counsel*
Morgan W. Richards, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2005

RECEIVED

AUG 11 2005

WATER RESOURCES
WESTERN REGION

August 10, 2005

Boise
Idaho Falls
Pocatello
Twin Falls

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
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Lori Graves
Senior Water Resource Agent
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

Re: Application for Permit for Deer Creek Water Fund
MTBR&F File No. 22-420.0000

Dear Lori:

The purpose of this letter is to follow up on your correspondence date June 14, 2005, regarding the above-referenced application for permit. In your correspondence, you outlined several approaches the Deer Creek Water Fund could take with regard to the application. After consulting with my client, we have agreed that the third approach would probably work best for my client.

However, my client is concerned about the limitation that two units could not have external uses. If I understand correctly, that limitation stems from existing water rights 63-9217 and 67-9900. In your June 14, 2005, correspondence, you indicated that "[t]hose combined rights cover eight units as follows: internal potable water and external yard water for six units but only internal water at two other units." June 14, 2005 correspondence from Lori Graves to Deer Creek Water Fund. In subsequent communication, you indicated that you referenced the field exams to find that limitation of internal water only on two units.

Based upon my legal and factual research, I do not believe that limitation can be placed upon my client's existing water rights, nor upon the permit it seeks. First, I reviewed the field reports for Water Right 63-9217, which notes that only four houses were built at the time. However, it clearly recommends domestic use for six homes ("allow six units per permit"), and also notes that the system was set up for eight houses. I did not find any recommendation that the license

be issued for four houses plus yards, plus two houses only. Similarly, I reviewed the field report for Water Right 63-9900, which was based upon the field report for 63-9217. That report also noted that the line was "stubbed for 8 houses." The report further provides:

License 63-9217 same P/D – field examiner found 8 houses stubbed in but the permit limited the license to 6 houses.

Permitholder filed this permit (63-9900) to allow for the 2 units which were not included on license 63-9217.

State of Idaho Department of Water Resources Field Report, Permit 63-9900. Again, I find no language even recommending that the water right be licensed for internal use only.

After the two water rights were licensed, the Fund (or its predecessor at that time) had two licenses which would allow domestic use at a combined total rate of .06 c.f.s. The license for 63-9900 provides that it is domestic use for two units, while the license for 63-9217 provides that it is domestic use for six units, for a total of eight. There is no limitation regarding external versus internal use. This is significant because under Idaho Code Section 42-220,

Such license shall be binding upon the state as to the right of such licensee to use the amount of water mentioned therein, and shall be prima facie evidence as to such right; . . .

IDAHO CODE § 42-220. Similarly, these rights were partially decreed in the SRBA, and the decrees do not contain the internal versus external limitation. Finally, a domestic use is allowed to have up to 1/2 acre of irrigation.

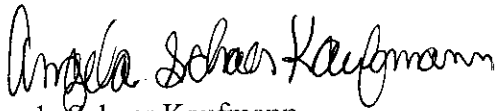
The preceding discussion provides a factual and legal basis for our argument that my client has existing rights for domestic use (including up to 1/2 acre of irrigation) for up to eight homes. However, most important to my client is the practical reason: as you may know, the place of use is located in an area very susceptible to wildfire. While my client does not seek a fire protection/fire suppression purpose of use, being able to maintain a yard around a house provides very important protection from the fire that will almost inevitably occur. Therefore, ensuring that all eight homes can have yards is not an academic exercise, but one with very real consequences.

Therefore, if we can agree that my clients will not be limited to internal and external use for six homes, and internal only for the remaining two, my clients will happily amend their application to reflect option number three set forth in your June 14, 2005, correspondence.

Lori Graves
August 10, 2005
Page 3

Thank you in advance for your time and consideration, and I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink that reads "Angela Schaer Kaufmann". The signature is written in a cursive, flowing style.

Angela Schaer Kaufmann
ask@moffatt.com

ASK/mdr

cc: Patricia M. Olsson

DEER CREEK WATER FUND

c/o Carl and Pat Olsson
15 Canyon Trail Road
Boise, Idaho 83716
(208) 343-2716

July 18, 2005

via Facsimile
334-2348

Lori Graves
Sr. Water Resource Agent
State of Idaho
Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705-5082

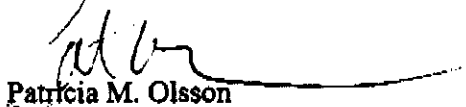
Re: Re: Application for Permit - Deer Creek Water Fund

Dear Ms. Graves:

Thank you so much for your letter of June 14, 2005. As I explained, I have been out of town almost continuously since June 15, 2005, and have just returned. Therefore, you have graciously agreed to grant me a motion to respond to your letter. I hope you will not mind if I ask for two additional days, and calendar our response is due on Monday, August 22, 2005. However, I hope to get it to you sooner.

Thank you very much for your assistance and your understanding.

Very truly yours,



Patricia M. Olsson

PMO/jst

Graves, Lori

To: Angela Schaer Kaufmann
Subject: RE: Deer Creek Water Fund water rights

Angela, the field exams for the subject rights were referenced to find out the extent of domestic use found and recommended for licensing.

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

From: Angela Schaer Kaufmann [mailto:ASK@moffatt.com]
Sent: Wednesday, July 27, 2005 4:42 PM
To: lori.graves@idwr.idaho.gov
Cc: Melonie Robinson; Pat Olsson; Tiffany Hudak
Subject: Deer Creek Water Fund water rights

Dear Lori,

I just wanted to let you know that I'm assisting Pat Olsson and the Deer Creek Water Fund with their water rights issues. I was glad to see that you're the contact person for the Department.

Pat forwarded your June 14, 2005, correspondence to me, which I have reviewed. In addition, Pat and I have discussed the options you presented in that correspondence. Before I can properly advise her (and the Fund), I do have one initial question (with more to follow, I'm sure). My question is your statement that water rights 63-9217 and 63-9900, when combined "cover eight units as follows: internal potable water and external yard water for six units but only internal water at two other units." I've reviewed the licenses and partial decrees for those rights, and cannot see where that limitation or condition is stated. Perhaps I am missing something obvious, but I'd appreciate it if you'd enlighten me.

Once again, Lori, I'm glad to hear you're involved, and I look forward to working with you.

Angela Schaer Kaufmann

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State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 14, 2005

Deer Creek Water Fund
C/o Carl and Pat Olsson
15 Canyon Trail
Boise ID 83716

Re: Application For Permit

Dear Pat and Carl Olsson:

The Deer Creek Water Fund amended application for permit to appropriate ground water from a proposed well was received 5/31/2005. Processing of this application must be delayed until further information is received as explained in this letter.

The current one well system serving Deer Creek Water Fund is licensed for a total rate of .06 cfs (27 gallons per minute) and total annual volume of 7.2 af on rights 63-9217 and 63-9900. Those combined rights cover eight units as follows: internal potable water and external yard water for six units but only internal water at two other units. Eight units under current standards for your situation can have up to .15 cfs rate and 9.6 af volume. Your earlier rights provide 40% of the maximum rate and 75% of the maximum volume. Additional water is needed, which should cover more volume and could include a higher rate of flow as noted below:

- Maximum allowable for 8 units .15 cfs rate 9.6 af volume
- Current authorized for 8 units .06 cfs 7.2 af
- Water shortage for 8 units .09 cfs 2.4 af

External use for yards for any application for permit in this situation must be limited to 1/2 acre of irrigated land per unit. The maximum amount of water for a new right is the amount shown above as "water shortage."

Surface water in the Boise River system in your area has been fully appropriated since the late 1970s. This includes ground water considered hydraulically connected to the river system. This means water is not available for new rights under those conditions unless the new right is mitigated to address impacts to the river system. Mitigation in that case should address the consumptive use in the new right, which boils down to about one acre of yard irrigation for the two homes not enjoying that benefit yet. For example, you

could purchase one acre of an irrigation right, file an ownership change on that one acre portion, and then abandon it to offset a new right. The mitigation right must originate from an area upstream of Star to satisfy the fully appropriated portion of the Boise River system.

An alternative to mitigation for a new right is to show that your new well will only involve water below a confining layer deeper than Mores Creek. That would avoid any hydraulic connection with the creek and Boise River system.

Another option avoiding mitigation is to seek a new right for a higher rate but not for more volume. This means two units could not have yards, gardens or other external consumptive uses. The new right would be considered non-consumptive and not subject to the above issues. The new right, when combined with the two older rights, would be limited to a 7.2 af volume.

A different approach than a new right is to change an existing ground water right. An Application for Transfer of Water Right could be filed to move a ground water right to your site to provide the necessary water right coverage. This might not be feasible if you want additional rate and volume, driving up the purchase price of a water right that could be proposed for relocation to your site. Please contact me if you want more information to transfer an existing right instead of seeking a new right.

Based on the above summary, please consider the following options:

1. Amend your application to seek ground water hydraulically connected to Mores Creek for the maximum rate and volume for eight homes. Propose a mitigation plan to address new consumptive use attributed to the proposed right. The new consumptive use would be the equivalent of one acre of irrigation. Mitigation must derive from the area upstream from Star.
2. Amend your application to seek ground water not hydraulically connected to Mores Creek. Show how this connection would be prevented. New consumptive use under the proposed right would be limited to ½ acre per home for two units not already authorized for yards under your other water rights. The new right could provide additional rate of flow to the eight units. Mitigation would not be needed.
3. Amend your application to limit it to more flow for eight units (no additional volume). This means two units could not have yards or other consumptive (external) uses. It would not matter if the proposed source evidenced a hydraulic connection to Mores Creek under this option. Mitigation would not be needed.
4. Withdraw your application. Replace it with an Application for Transfer to change (retire) an existing right and relocate it to your site. The existing right must originate from an area upstream of Star to satisfy the fully appropriated portion of the Boise River system.

Please submit a response regarding the above options to allow final evaluation of your application to be completed. You may seek additional time to provide the information by making a written request to delay or interrupt processing. Your written response including the requested information, or a request for more time to seek the information, must be received within thirty (30) days of the date of this letter. The application will be voided without a timely reply.

Thank you for your attention to this matter and please call me if you have any questions.

Sincerely,

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

Lori Graves

Sr. Water Resource Agent

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

October 12, 2005

Legal Notice Department

IDAHO WORLD

PO BOX 99

GARDEN VALLEY ID 83622

RE: Application for Permit No. 63-32180

Dear LEGAL NOTICE DEPARTMENT:

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

An affidavit of publication must be submitted to the Department along with the publication bill. Please send the affidavit and bill to this office before 11/07/2005. Your cooperation is appreciated.

Sincerely

Sue Kreger
Administrative Assistant

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

63-32180

DEER CREEK WATER FUND
C/O C OLSSON
15 CANYON TRAIL
BOISE ID 83716

Point(s) of Diversion SESW S33 T04N R04E BOISE County Source GROUND WATER

Use: DOMESTIC 01/01 To 12/31 0.15 CFS

Total Diversion: 0.15 CFS

Date Filed: 03/03/2005

Place Of Use: DOMESTIC

T04N R04E S33 SESW

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

Domestic use is for 8 homes and yards.

Water bearing zone to be appropriated is from 115 to 270 feet.

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code.

Any protest against the approval of this application must be filed with the Director, Dept. of Water Resource, Western Region, 2735 Airport Way, Boise ID 83705 together with a protest fee of \$25.00 for each application on or before 11/07/2005. The protestant must also send a copy of the protest to the applicant.

KARL J DREHER, Director

Published in the Idaho World October 19 and 20, 2005.