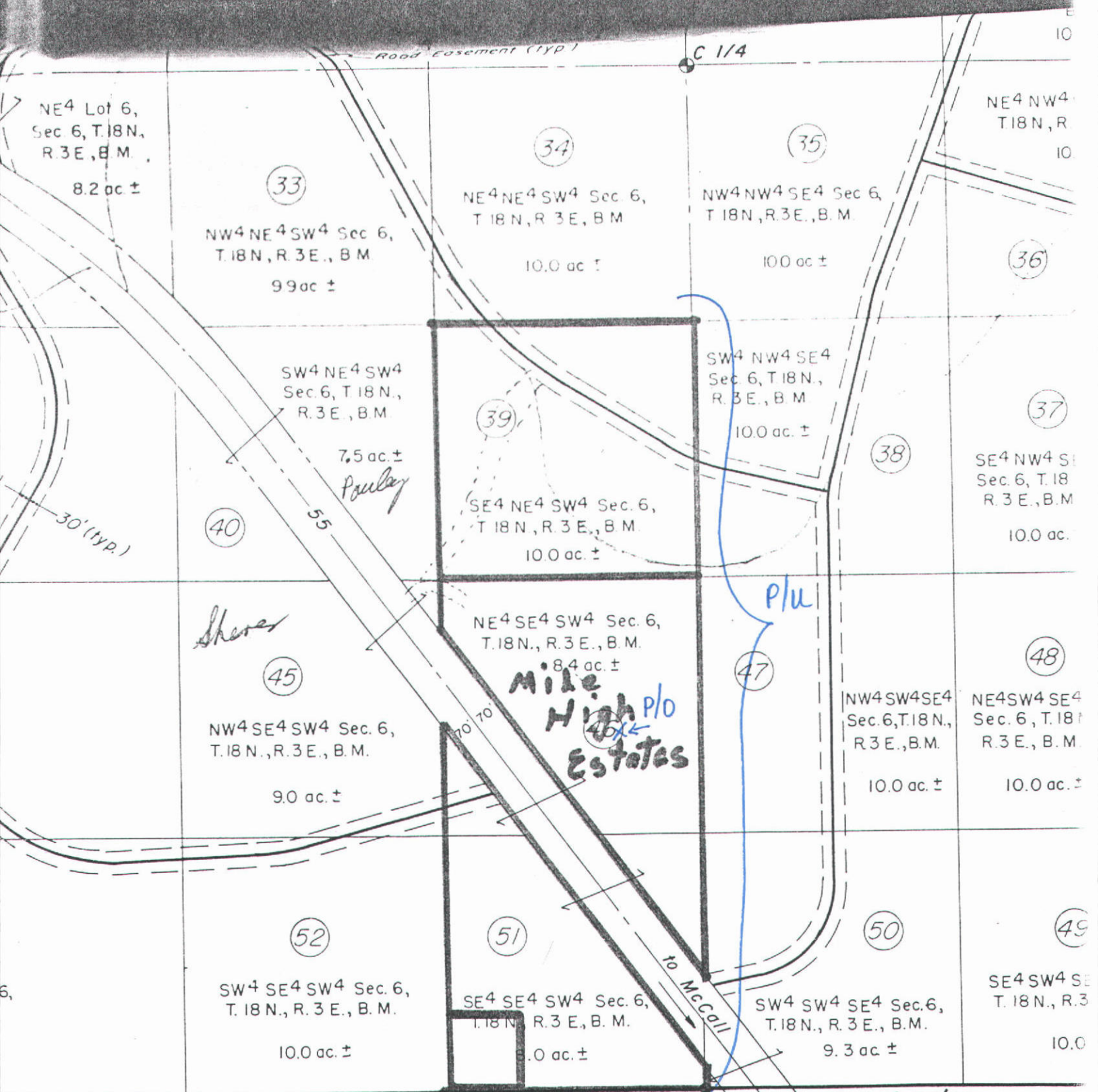




T 18 N
R 3 E
S 06

2798.40'

S 89° 56' W

JUL 0 1996



76 T 19 N
T 18 N

T 18 N
R 3 E
SEC 6
No Gov
Lt

JUL 09 1996

Publisher's Affidavit of Publication

STATE OF IDAHO }
 }.SS
County of Valley }

I, Ramona A. George, being duly sworn and say, I am the receptionist of The Central Idaho Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of aforesaid and is a legal newspaper; that the NOTICE OF APPLICATION FOR WATER RIGHT, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began November 19, 1992 and ended November 25, 1992.

Ramona A. George
Subscribed and sworn before me this the 30th day of November, 1992.
STATE OF IDAHO

COUNTY OF VALLEY }

On this 30th day of November, in the year of 1992, before me, a Notary Public, personally appeared Ramona A. George, 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.

Tom Grote
Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires: 1993

NOTICE OF APPLICATION FOR WATER RIGHTS

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

KLIND, GEORGE,
MURATA, RUSSELL
ROWAN TRUST, MARGARET
PO BOX 783
McCALL, ID 83638
Source: GROUNDWATER
Diversion Pt: SESW Sec 6 T 18N R
03E in VALLEY County.
Use: COMMERCIAL (.040 CFS),
Domestic (.230 CFS), Total Diversion:
(.270 CFS).

Date Filed: 10/19/1992
In: VALLEY County, T18N R03E S06
NESW SESW.

The permit(s) will be subject to all prior water rights. Protests must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 on or before DECEMBER 7, 1992.

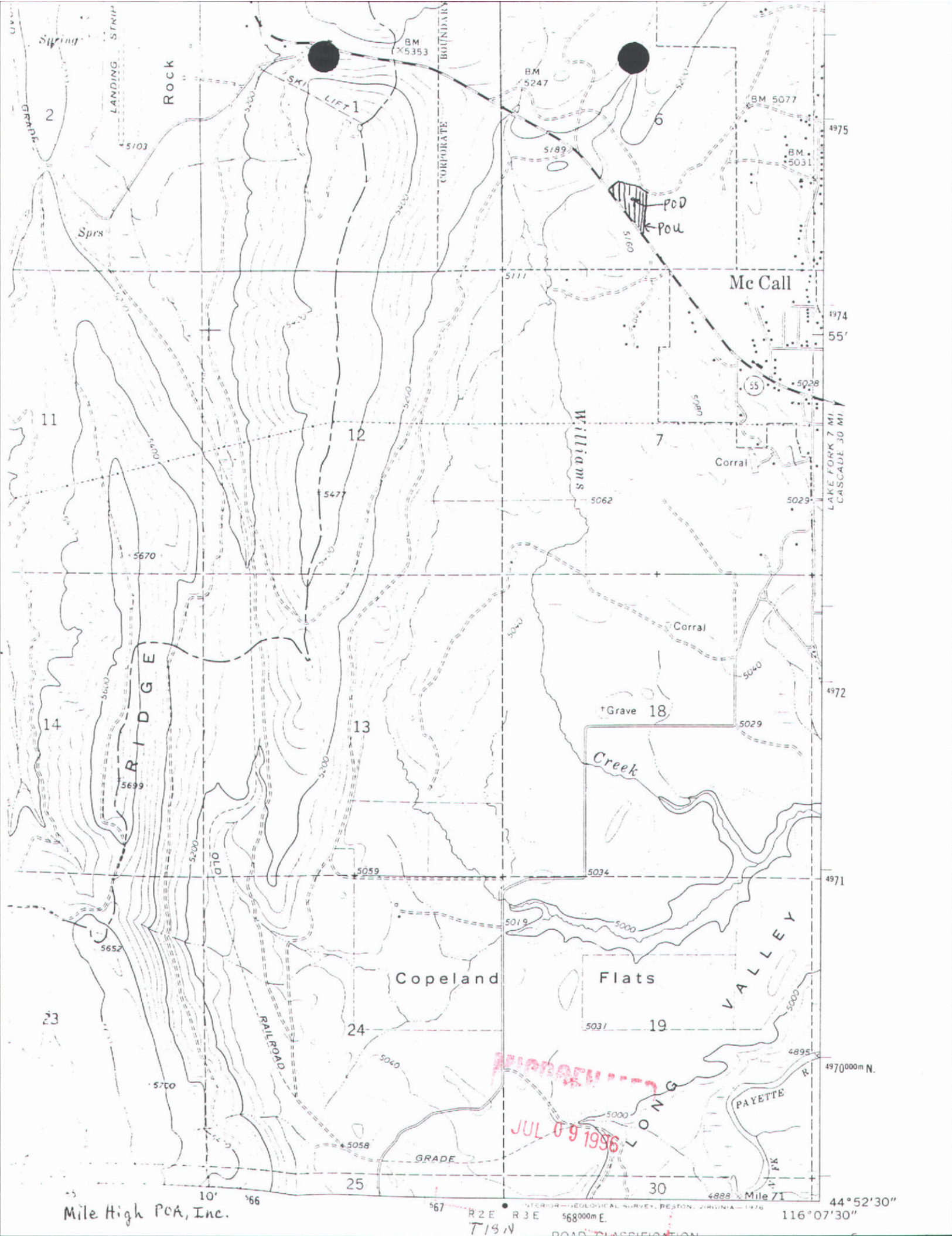
R. KEITH HIGGINSON, Director
2/11/25

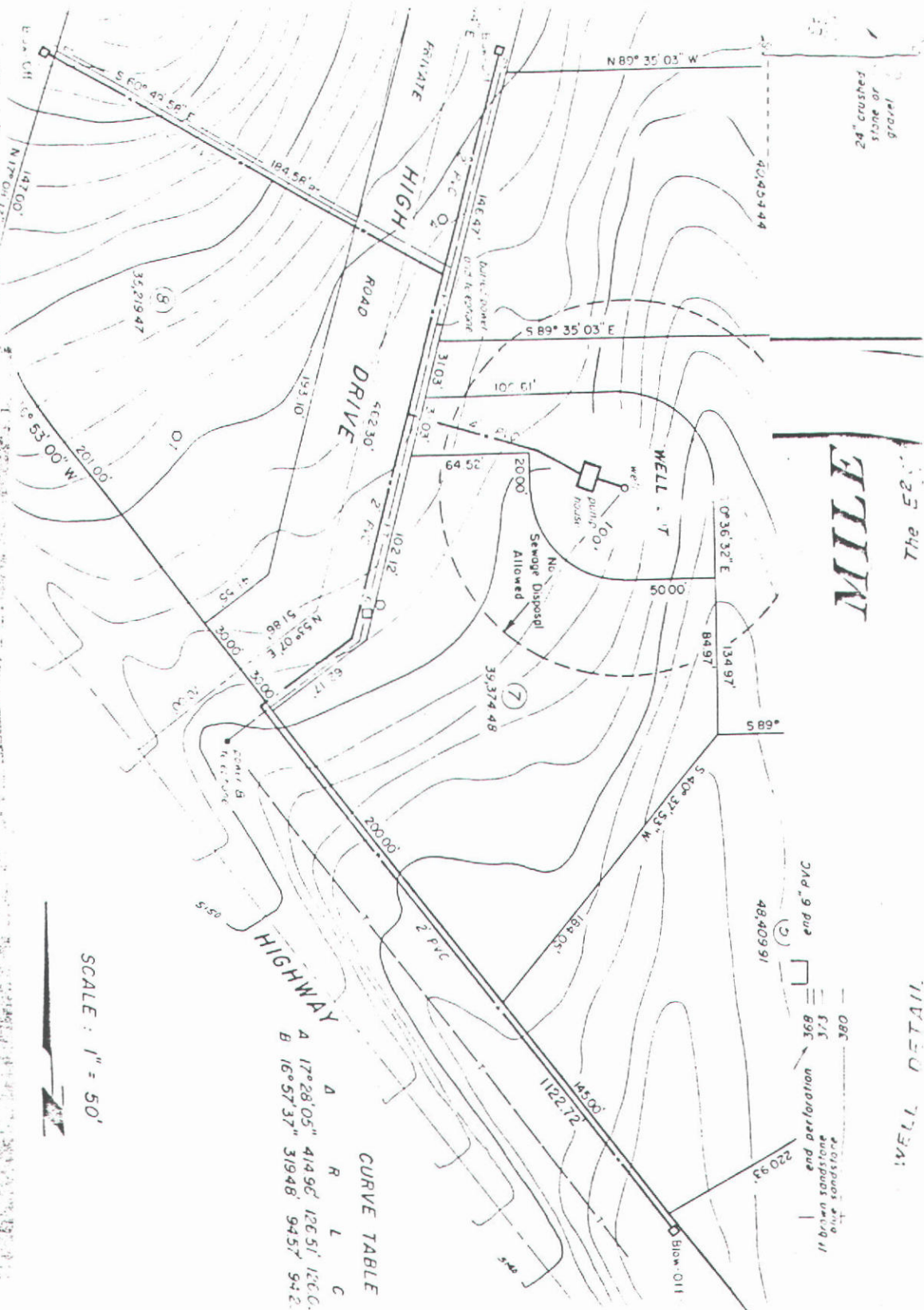
RECEIVED
DEC - 4 1992

Department of Water Resources
Western Regional Office

RECEIVED
DEC 2 1992

JUL 0 3 1996

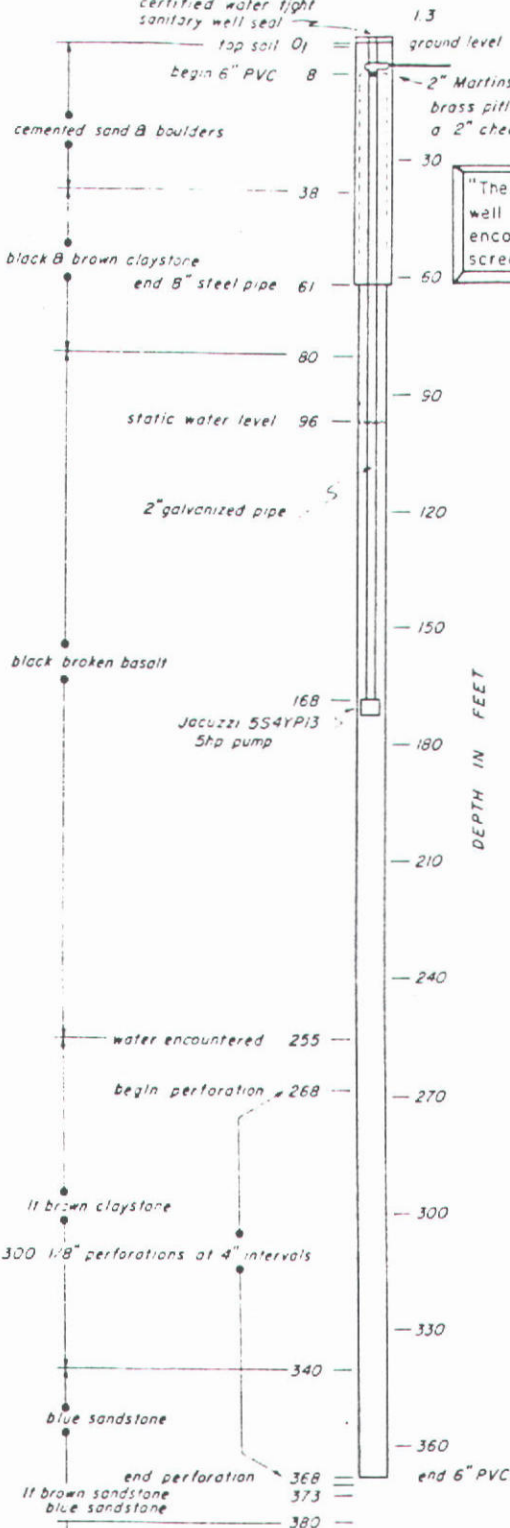




JUL 09 1996

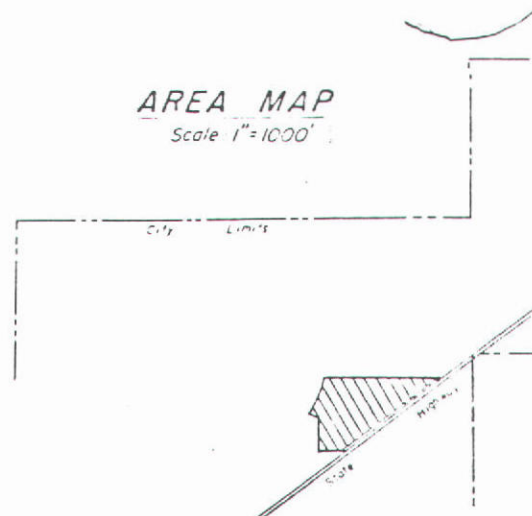
5'13"E
'22"E

Dicken Mfg Co. WT CC-B
NSF approved
certified water tight
sanitary well seal



"The engineer must be contacted by the well driller if sand (greater than 5 ppm) is encountered such that gravel pack and screening are required"

AREA MAP
Scale 1"=1000'



Non-C

MILE H

Well Detail

JUL 09 1996

STATE

NOTE:

The system shall be disinfected prior to use in accordance with American Water Works Standards.

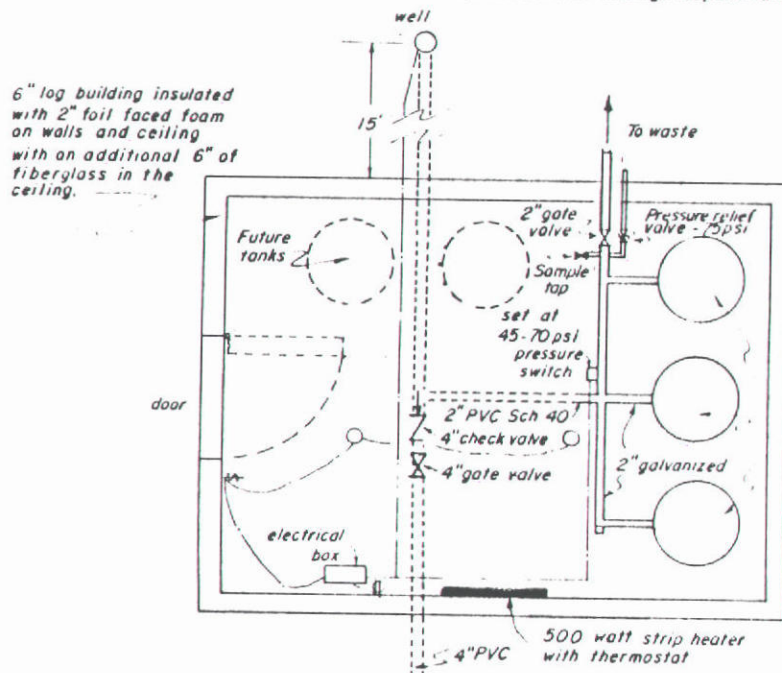
The system shall conform to the current Idaho Regulations For Drinking Water Systems, Title I, Chapter 8, of the Idaho Code.

Construction shall be in accordance with the "Idaho Standards for Public Work Construction."

Well shall conform to "Well Construction Standards" (Department of Water Resources)

No unusual or special conditions, such as rock, were found.

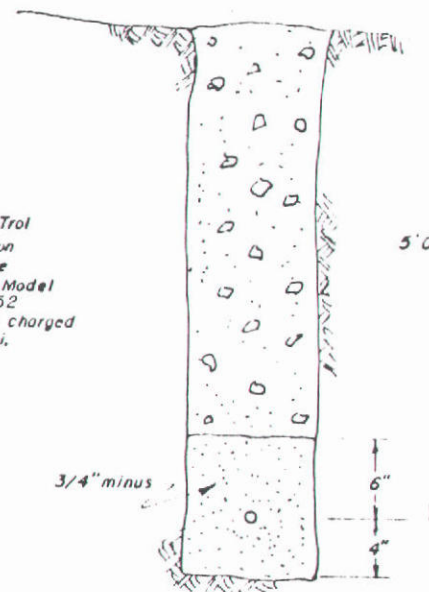
No subsurface sewage disposal allowed within 25' of distribution system.



PUMP HOUSE DETAIL

Scale : 1" = 3'

Well-X-Trol
87 gallon
pressure
tanks, Model
WX-252
factory charged
to 30psi.



TRENCH DETAIL

No Scale

JUL 09 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF PERMIT NO.)
65-13420 IN THE NAME OF) **REINSTATEMENT ORDER**
MILE HIGH PROPERTY OWNERS)
ASSN INC)
_____)

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use (proof of beneficial use) be submitted to the Department on or before July 1, 2001; and,

WHEREAS, the Department notified the permit holder on April 30, 2001 by certified mail that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof of beneficial use or an extension of time request; and,

WHEREAS, the Department's State Office sent the permit holder a lapse notice on July 9, 2001, since the State Office had not received an acceptable proof of beneficial use statement or extension of time; and,

WHEREAS, Section 42-218a, Idaho Code, provides that the Department may reinstate a permit upon a showing of reasonable cause by the permit holder within sixty days of the date of the notice of lapsing; and,

WHEREAS, the permit holder has provided a reasonable showing why the permit should be reinstated by submitting acceptable proof of beneficial use on July 11, 2001;

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 65-13420 is **REINSTATED** with an advance in priority to **February 1, 1993**.

DATED this 30th day of July, 2001.


L. GLEN SAXTON, Chief
Water Allocation Bureau

MICROFILMED

AUG 08 2001

FOR OFFICE USE ONLY
Amt of Fee \$ 100.00
Receipt No 1054808
Receipt By [Signature]
Date Received 7-11-01

RECEIVED

JUL 11 2001

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Department of Water Resources

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner.

1. Permit No 65-13420 Telephone No. 208 634-40002. Name of Permit Holder(s):
MILE HIGH PROPERTY OWNERS ASSN. INC.3. Mailing Address P.O. Box 1535 5280 Mile High Drive
City MCCALL State Id Zip 836384. Source of Water: Groundwater If GROUNDWATER (well), Date Drilled: mo _____ / yr _____
Well Driller Bob Gestin Drilling Permit Number _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households) 6 Stockwater (No. and type of stock)Irrigation (No. of acres) 9 Other 8 lots in subdivision (3 within house)6. Total rate of diversion and/or volume for which proof is submitted: .52 cfs OR _____ acre-feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)

(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete.)

Measuring Device: Is a measuring device required?

Yes _____ or No X

Has the measuring device been installed?

Yes _____ or No X

8. Fee Enclosed: \$ _____ (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name Ralph McKenzie Telephone Number 208: 634-4000Address P.O. Box 1535, McCall Idaho 83638 (5280 Mile High Dr)

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Ralph McKenzie President Ralph McKenzieSignature of permit holder: Mile High property owners assn. Inc. Date June 24, 2001
(include your title, if on behalf of company or organization)

MICROFILMED

AUG 08 2001

State of Idaho
Department of Water Resources
Permit To Appropriate Water
NO. 65-13420

Proposed Priority: January 22, 1993

Maximum Diversion Rate:

0.52 CFS

This is to certify, that **RUSSELL MURATA**

MILE HILE PROPERTY OWNERS ASSN INC

MARGARET ROWAN TRUST

GEORGE KLIND

PO BOX 783

MC CALL ID 83638-0783

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

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
IRRIGATION	04/15 to 10/15	0.25 CFS
COMMERCIAL	01/01 to 12/31	0.04 CFS
DOMESTIC	01/01 to 12/31	0.23 CFS
Totals		0.52 CFS

LOCATION OF POINT(S) OF DIVERSION:

SESW , Sec. 6, Township 18N, Range 03E
VALLEY County

PLACE OF USE: IRRIGATION

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>	<u>ACRES</u>	<u>ACRES</u>	<u>ACRES</u>	<u>TOTAL</u>
18N	03E	6	NESW 9.0	SESW 3.5		12.5

Total number of acres irrigated: 12.5

PLACE OF USE: COMMERCIAL

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
18N	03E	6

PLACE OF USE: DOMESTIC

<u>TWN</u>	<u>RGE</u>	<u>SEC</u>
18N	03E	6

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before July 1, 2001.
2. Subject to all prior water rights.
3. Use of water under this right may be affected by an agreement among the right holders.
4. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.

JUL 0 9 1996

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

NO. 65-13420

CONDITIONS OF APPROVAL AND REMARKS

5. After specific notification by the department, the right holder shall install a suitable measuring device or shall enter into an agreement with the department to determine the amount of water diverted from power records and shall annually report the information to the department.
6. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
7. The issuance of this right does not grant any right-of-way or easement across the land of another.
8. Commercial use is for a bottled water sales company.
9. Domestic use is for 25 homes.
10. Domestic use does not include lawn, garden, landscape, or other types of irrigation.

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

28 th day of June, 1996.

Karl J. Dreher
for Karl J. Dreher, Director

JUL 09 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED APPLICATION FOR PERMIT **AMENDED**

To appropriate the public waters of the State of Idaho

1. Name: MARGARET ROWAN TRUST 208-634-3117
Address: PO BOX 783
MC CALL ID 836380783

AND

Name: GEORGE KLIND 208-634-3117
Address: PO BOX 783
MC CALL ID 836380783

AND

Name: MILE HIGH PROPERTY OWNERS ASSN INC 208-634-7028
Address: C/O DAVID HOLLAND
PO BOX 1767
MC CALL ID 836381767

AND

Name: RUSSELL MURATA 208-634-3117
Address: PO BOX 783
MC CALL ID 836380783

2. Source: GROUNDWATER Trib. to:
3. Location of Point of Diversion: SESW Sec. 6, Township 18N, Range 03E
VALLEY County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	04/15	10/15	0.140		
COMMERCIAL	01/01	12/31	0.040		
DOMESTIC	01/01	12/31	0.370		

5. Total quantity to be appropriated is:
0.550 CFS (and/or) AF

6. Proposed diverting works:

- a. Description of ditches, flumes, pumps, headgates, etc.
WELL, PUMP AND PIPELINE.
- b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
- c. Proposed well diameter is 6 inches; proposed depth of well is 300
feet.
- d. Is groundwater with a temperature greater than 85F being sought? NO

JUL 09 1996

e. If well is already drilled, when? 10/21/1983
Drilling Firm GUSTIN & YANKE DRILLING
Well was drilled for GEORGE KLIND

7. Time required for the completion of the works and application of the water to the proposed beneficial use is 5 year(s).

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
18N	03E	6	NESW 01	SESW 03.5		4.5

Total number of acres irrigated: 4.5

Place of Use: COMMERCIAL

TWN	RGE	SEC
18N	03E	6

SESW

Place of Use: DOMESTIC

TWN	RGE	SEC
18N	03E	6

NESW SESW

9. a. Who owns the property at the point of diversion?
APPLICANTS
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.
STIPULATION AGREEMENT DATED 6/14/96.

10. Remarks:

Irrigation use is for 9 existing homes within Mile High Estates Subdivision.

Commercial use is for a bottled water sales company.

Domestic use is for in-house use for 9 existing home sites; and for 16 proposed home sites with lawns within Mile High Estates Subdivision.

11. Map of proposed point of diversion and place of use attached? ☒

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

See Stipulation of 6/14/96
Applicant

PROCESSED

JUL 09 1996

Ident. No. 65-13420
Page 3

DOP

Received by _____ Date 1/22/96 Time _____ Preliminary check by _____

Fee \$ 45.00 Receipted by _____ #C025768 Date 10/19/1992

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

65-13420-7

JUL 09 1996

Ident. No. 65-13420

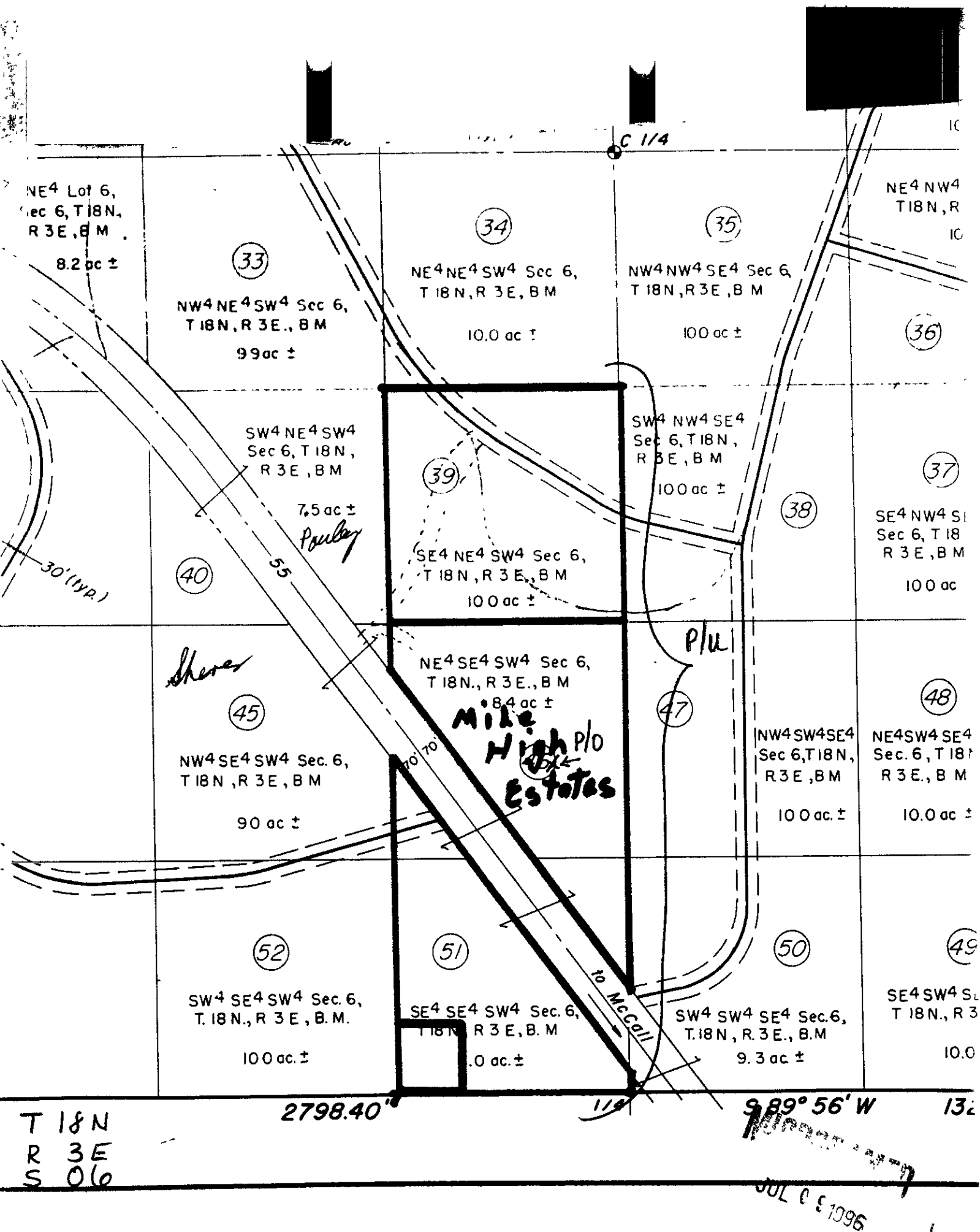
Comments: Date: 6/27/1996 User-ID: CZIMMERM

Subject: AMENDED APPLICATION

This application was amended 6/14/96 per Stipulation between original applicant and protestant. See file for Stipulation conditions.

MINNESOTA

JUL 09 1996



RECEIVED

OCT 19 1992

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

Ident No 65-13420
65-

Department of Water Resources To appropriate the public waters of the State of Idaho
Western Regional Office

1. Name of applicant MARGARET ROWAN, TRUST,
GEORGE KLIND & RUSSELL MURATA Phone 634-3117

Post office address PO BOX 783 MCCALL ID 83638

2. Source of water supply GROUND WATER which is a tributary of

3. Location of point of diversion is 1/4 of SE 1/4 of SW 1/4, Govt. Lot

Sec. 6 Township 18N Range 3E B.M. VALLEY County; additional
points of diversion if any:

4. Water will be used for the following purposes:

Amount .23 for DOMESTIC purposes from 1-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

* Amount .04 for COMMERCIAL 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)

5. Total quantity to be appropriated is (a) .27 cubic feet per second and/or (b) acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. PUMP & PIPELINE

b. Height of storage dam feet; active reservoir capacity acre-feet; total
reservoir capacity acre-feet; period of year when water will be diverted to storage:

to inclusive.

(EXISTING 10-21-83) 6" Proposed well diameter is inches; proposed depth of well is 368 feet.

d Is ground water with a temperature of greater than 90°F being sought? NO

7. Time required for the completion of the works and application of the water to the proposed beneficial use is
5 years (minimum 1 year).

* less than 2500 GPD per applicant
(Exempt from moratorium limitations)

JUL 0 9 1992
11/3/92

10. Describe any other water rights used for the same purposes as described above.
11. a. Who owns the property at the point of diversion? APPLICANT
b. Who owns the land to be irrigated or place of use? APPLICANT + HOMEOWNERS
c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing.

Total number of acres to be irrigated.

[illegible]

ponding place of use below. See instructions for standard symbols

- 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

9 Description of place of use

- 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. 25
- e Other; describe fully _____
- COMMERCIAL USE IS FOR A BOTTLED WATER
- SALES COMPANY.

8 Description of proposed uses (if irrigation only, go to item 9):

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

SEE ATTACHED

APPROVED
JUL 09 1996

Scale 2 inches equal 1 mile

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


(Applicant)

MM 10-19-92 3:26pm
Received by BLM Date 10-19-92 Time 9:10AM Preliminary check by 6
Fee \$ 45⁰⁰ Receipted by BLM # CO257128 Date 10-19-92
Publication prepared by GG Date 11/11/92 Published in Star News
11/18 & 11/25/92
Publication approved ST Date 12-8-92

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before

_____, 19 ____.

c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land

d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit

e. Other:

JUL 09 1996

76 T 19 N

T 8 N

75

74

T 18 N
R 3 E
SEC 6

73 No Gov
Lt

72

JUL 09 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORT

USE TYPEWRITER
BALLPOINT PEN

State law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

1. WELL OWNER Name <u>George Kline</u> Address <u>Box 81, Midvale, Idaho</u> Owner's Permit No. _____	7. WATER LEVEL Static water level <u>76</u> feet below land surface. Flowing? ☐ Yes ☒ No GPM flow _____ Artesian closed in pressure _____ p.s.i. Controlled by ☐ Valve ☐ Cap ☐ Plug Temperature <u>45</u> OF Quality <u>Good</u> Describe artesian or temperature zones below																																																				
2. NATURE OF WORK ☒ New well ☐ Deepened ☐ Replacement ☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)	8. WELL TEST DATA ☐ Pump ☐ Bailor ☒ Air ☐ Other _____ <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Discharge G.P.M.</th> <th>Pumping Level</th> <th>Hours Pumped</th> </tr> </thead> <tbody> <tr> <td><u>350</u></td> <td><u>375</u></td> <td><u>2</u></td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	Discharge G.P.M.	Pumping Level	Hours Pumped	<u>350</u>	<u>375</u>	<u>2</u>																																														
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3. PROPOSED USE ☐ Domestic ☐ Irrigation ☒ Test ☐ Municipal ☐ Industrial ☐ Stock ☐ Waste Disposal or Injection ☐ Other _____ (specify type)	9. LITHOLOGIC LOG <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Bore Diam.</th> <th colspan="2">Depth</th> <th rowspan="2">Material</th> <th rowspan="2">Wa Yes</th> </tr> <tr> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td><u>10</u></td> <td><u>0</u></td> <td><u>1</u></td> <td><u>TOP SOIL</u></td> <td> </td> </tr> <tr> <td><u>10</u></td> <td><u>1</u></td> <td><u>38</u></td> <td><u>consolidated sand & boulders</u></td> <td> </td> </tr> <tr> <td><u>10</u></td> <td><u>38</u></td> <td><u>45</u></td> <td><u>black & blue claystone</u></td> <td> </td> </tr> <tr> <td><u>8</u></td> <td><u>45</u></td> <td><u>55</u></td> <td><u>black & blue claystone</u></td> <td> </td> </tr> <tr> <td><u>8</u></td> <td><u>55</u></td> <td><u>255</u></td> <td><u>black & blue claystone</u></td> <td> </td> </tr> <tr> <td><u>8</u></td> <td><u>255</u></td> <td><u>340</u></td> <td><u>light brown claystone</u></td> <td>X</td> </tr> <tr> <td><u>8</u></td> <td><u>340</u></td> <td><u>370</u></td> <td><u>blue sandstone</u></td> <td>X</td> </tr> <tr> <td><u>8</u></td> <td><u>370</u></td> <td><u>377</u></td> <td><u>light brown claystone</u></td> <td>X</td> </tr> <tr> <td><u>8</u></td> <td><u>377</u></td> <td><u>380</u></td> <td><u>blue sandstone</u></td> <td>X</td> </tr> </tbody> </table>	Bore Diam.	Depth		Material	Wa Yes	From	To	<u>10</u>	<u>0</u>	<u>1</u>	<u>TOP SOIL</u>		<u>10</u>	<u>1</u>	<u>38</u>	<u>consolidated sand & boulders</u>		<u>10</u>	<u>38</u>	<u>45</u>	<u>black & blue claystone</u>		<u>8</u>	<u>45</u>	<u>55</u>	<u>black & blue claystone</u>		<u>8</u>	<u>55</u>	<u>255</u>	<u>black & blue claystone</u>		<u>8</u>	<u>255</u>	<u>340</u>	<u>light brown claystone</u>	X	<u>8</u>	<u>340</u>	<u>370</u>	<u>blue sandstone</u>	X	<u>8</u>	<u>370</u>	<u>377</u>	<u>light brown claystone</u>	X	<u>8</u>	<u>377</u>	<u>380</u>	<u>blue sandstone</u>	X
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<u>8</u>	<u>377</u>	<u>380</u>	<u>blue sandstone</u>	X																																																	
4. METHOD DRILLED ☒ Rotary ☒ Air ☐ Hydraulic ☐ Reverse rotary ☐ Cable ☐ Dug ☐ Other _____	10. WORK Work started <u>10-11-83</u> finished <u>10-21-83</u>																																																				
5. WELL CONSTRUCTION ASTM F480 150# T&S Casing schedule: ☒ Steel ☐ Concrete ☒ Other <u>PVC</u> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Thickness</th> <th>Diameter</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td><u>2.50</u> inches</td> <td><u>8</u> inches</td> <td><u>1</u> foot</td> <td><u>61</u> feet</td> </tr> <tr> <td><u>1.60</u> inches</td> <td><u>6</u> inches</td> <td><u>8</u> feet</td> <td><u>368</u> feet</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> Was casing drive shoe used? ☒ Yes ☐ No Was a packer or seal used? ☐ Yes ☒ No Perforated? ☒ Yes ☐ No How perforated? ☐ Factory ☐ Knife ☒ Torch Size of perforation <u>1/8</u> inches by <u>4</u> inches <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Number</th> <th>From</th> <th>To</th> </tr> </thead> <tbody> <tr> <td><u>300</u> perforations</td> <td><u>268</u> feet</td> <td><u>368</u> feet</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table> Well screen installed? ☐ Yes ☒ No Manufacturer's name _____ Type _____ Model No. _____ Diameter _____ Slot size _____ Set from _____ feet to _____ feet Diameter _____ Slot size _____ Set from _____ feet to _____ feet Gravel packed? ☐ Yes ☒ No ☐ Size of gravel _____ Placed from _____ feet to _____ feet Surface seal depth <u>45</u> Material used in seal: ☒ Cement grout ☒ Bentonite ☐ Puddling clay ☐ _____ Sealing procedure used: ☐ Slurry pit ☒ Temp. surface casing ☐ Overbore to seal depth Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent ☐ Weld ☐ Cemented between strata Describe access port: <u>2" NPT well cap</u>	Thickness	Diameter	From	To	<u>2.50</u> inches	<u>8</u> inches	<u>1</u> foot	<u>61</u> feet	<u>1.60</u> inches	<u>6</u> inches	<u>8</u> feet	<u>368</u> feet									Number	From	To	<u>300</u> perforations	<u>268</u> feet	<u>368</u> feet							11. DRILLERS CERTIFICATION I/We certify that all minimum well construction standards were complied with at the time the rig was removed. Firm Name <u>George Kline Drilling Firm No. 1108</u> Address <u>RT 1, Donnelly, Idaho</u> Date <u>10-21-83</u> Signed by (Firm Official) <u>George Kline</u> and (Operator) <u>Ralph L. L. L.</u>																				
Thickness	Diameter	From	To																																																		
<u>2.50</u> inches	<u>8</u> inches	<u>1</u> foot	<u>61</u> feet																																																		
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<u>300</u> perforations	<u>268</u> feet	<u>368</u> feet																																																			
6. LOCATION OF WELL Sketch map location <u>must</u> agree with written location. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;">N</td> <td colspan="2"></td> </tr> <tr> <td style="text-align: center;">W</td> <td style="text-align: center;">6</td> <td style="text-align: center;">E</td> </tr> <tr> <td style="text-align: center;">S</td> <td colspan="2"></td> </tr> </table> Subdivision Name _____ Lot No. _____ Block No. _____ County <u>Valley</u> <u>SE 1/4 SE 1/4 Sec. 6, T 18N, R 3E, E/W.</u>	N			W	6	E	S			ADDITIONAL SHEETS IF NECESSARY - FORWARD THE WHITE COPY TO THE DEPARTMENT																																											
N																																																					
W	6	E																																																			
S																																																					

JUL 09 1986

WELL LOG
SHOULD BE
SESW 1/4 Y4
(NOT SESE)

Publisher's Affidavit of Publication

STATE OF IDAHO }

.SS

County of Valley

I, Ramona A. George, being duly sworn and say, I am the receptionist of The Central Idaho Star-News, a weekly newspaper published at McCall, in the County of Valley, State of Idaho; that said newspaper is in general circulation in the county of aforesaid and is a legal newspaper; that the NOTICE OF APPLICATION FOR WATER RIGHT, a copy of which is enclosed hereto and is a part hereof, was published in said newspaper once a week for two consecutive weeks in the regular and entire issue of every number there of during the period of time of publication, and was published in the newspaper proper and not in a supplement; and that publication of such notice began November 19, 1992 and ended November 25, 1992.

Ramona A. George
Subscribed and sworn before me this 30th day of November, 1992.
STATE OF IDAHO

COUNTY OF VALLEY }

On this 30th day of November, in the year of 1992, before me, a Notary Public, personally appeared Ramona A. George, 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.

Tom Grote
Tom Grote
Notary Public for Idaho
Residing at McCall, Idaho
Commission Expires: 1993

DEC - 4 1992

Department of Water Resources
State Regional Office

RECEIVED
DEC 2 1992

JUL 6 9 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

July 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MILE HIGH PROPERTY OWNERS ASSN INC
PO BOX 1535
5280 MILE HIGH DR
MC CALL ID 83638

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 65-13420

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit. Enclosed is an order reinstating the permit advancing the priority since proof was submitted after the proof due date.

Please be advised that Section 42-248, Idaho Code, requires you or the owner of this water right to maintain current ownership and address records on file with the department. Forms to file a change of ownership of a water right and/or a change in the address of the water right owner are available from any department office.

The next step in the process of developing a water right is for the department to conduct a field examination to determine and confirm the use being made of the water. If you have questions concerning the field examination, please contact the **Western** Regional Office of the department in Boise at (208) 334-2190.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure
c: IDWR - Region

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AUG 08 2001

ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 65-13420

Reviewed By: dgibson

Date: July 26, 2001

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Proof received timely?		X	Drilling permit required?		X
License examination fee required?	X		Drilling permit No.:		
Appropriate fee submitted?	X		Drilling permit upgrade needed?		
Receipt No.:		C054808	Well driller's report filed?		X
Additional Amount Due:			Measuring device required?		X
Name and address same as permit?		X	Measuring device installed?		X
Are the water uses correct?	X		Measure device waiver requested?		

Priority Calculation

Date proof received		07/11/2001
Date proof due	-	07/01/2001
Lapse notice sent	-	07/09/2001
No. of days late	=	10
Holiday allowance	+	
Priority date	+	01/22/1993
New priority date	=	02/01/1993

Deficiencies of Actions Items

Acknowledge proof. Reinstate permit and advance priority to 2/1/93. Update address.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

July 9, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MILE HIGH PROPERTY OWNERS ASSN INC
C/O RALPH MCKENZIE
PO BOX 1535
MC CALL, ID 83638-1535

LAPSE NOTICE

RE: PERMIT NO. 65-13420

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in the proof due notice dated April 30, 2001. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can only be reinstated if you submit an acceptable proof of beneficial use or an acceptable request for extension of time to the department within sixty (60) days of the mailing of this lapse notice. An acceptable proof of beneficial use submittal must include the examination fee or a completed field examination report. A request for extension of time must be accompanied by a fifty dollar (\$50.00) fee.

Enclosed again for your use are a proof of beneficial use form and a request for extension of time form. Please note that only one extension of time can be granted unless the project has not been completed because of lack of a necessary approval by a government agency or by litigation which may bring title to the water in question.

Sincerely,

L. Glen Saxton, Chief
Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 7/9/01
~~a copy~~ an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

MICROFILMED

AUG 08 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 5, 2001

MILE HIGH PROPERTY OWNERS ASSN., INC
PO BOX 1535
5280 MILE HIGH DRIVE
MCCALL ID 83638

RE: PERMIT NO. 65-13420

Dear Permit Holder:

Enclosed is a copy of the Proof of Beneficial Use statement you submitted in connection with the above referenced water right permit, received on July 2, 2001. I cannot accept your proof since it must be submitted with the appropriate examination fee of \$100.00 in order to be complete. Additionally, the proof of beneficial use deadline for this permit was July 1, 2001, therefore, it is important that I receive your examination fee immediately to avoid loss of days from the priority date of this permit. Please return the copy of the proof statement along with the license examination fee to my attention.

If you have any questions regarding this matter, please contact me at (208)327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR- Region

MICROFILMED

JUL 08 2001

Form No 217
6/00FOR OFFICE USE ONLY
Amt of Fee \$ _____
Receipt No _____
Receipt By _____
Date Received _____STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) has/have completed all development that will occur under this permit and that water has been applied according to the provisions of the permit for the beneficial use(s) described below. This form must be accompanied by a license examination fee, when necessary, or be accompanied by a completed field examination report prepared by a certified water right examiner

1. Permit No 65-13420 Telephone No 208 634-40002. Name of Permit Holder(s):
MILE HIGH PROPERTY OWNERS ASSN. INC.3. Mailing Address: P.O. Box 1535 5280 Mile High Drive
City MCCALL State Id Zip 836384. Source of Water: Groundwater If GROUNDWATER (well), Date Drilled: mo _____ / yr _____
Well Driller Bob Gestin Drilling Permit Number _____

5. Use(s) (as authorized by the water right permit):

Domestic (No. of households): 6 Stockwater (No and type of stock)Irrigation (No of acres) 9 Other 8 lots in Subdivision (2 within law)6. Total rate of diversion and/or volume for which proof is submitted: .52 cfs OR _____ acre-feet7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required?

Yes _____ or No X

Has the measuring device been installed?

Yes _____ or No X

8. Fee Enclosed: \$ _____ (See Fee Schedule on back of the instructions for filing proof of beneficial use)

9. Person to contact to accompany the Department representative during field examination of the water system.

Name: Ralph McKenzie Telephone Number: 208: 634-4000Address: P.O. Box 1535, McCall Idaho 83638 (5280 Mile High Dr)

10. The information given on this form is my true statement of the extent to which the above numbered permit has been developed and water has been diverted. I agree to relinquish any undeveloped portion of the permit to the State of Idaho.

Ralph McKenzie President Rep McKenzieSignature of permit holder: Mile High property owners assn. Inc. Date June 24, 2001
(include your title, if on behalf of company or organization)

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AUG 08 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

April 30, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

GEORGE KLIND
MARGARET ROWAN TRUST
RUSSELL MURATA
PO BOX 783
MC CALL, ID 836380783

MILE HILE PROPERTY OWNERS
ASSN INC
C/O DAVID HOLLAND
PO BOX 1767
MC CALL, ID 836381767

PROOF DUE NOTICE

RE: PERMIT NO. 65-13420

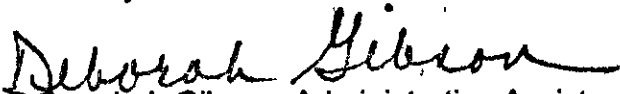
Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before July 01, 2001. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

Sincerely,


Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

CERTIFIED MAIL

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720

Boji Idaho 83720-0098

Return Service Requested



7099 3220 0005 5178 5780


**ADDRESSEE
UNKNOWN**

45-13420

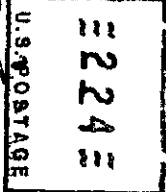
RECEIVED

MAY - 4 2001

Department of Water Resources



PB METER
7032443



MICROFILMED
AUG 08 2001

5-1


83720/0098

-16

CERTIFIED MAIL RECEIPT

Postage Paid No. 113

Postage Paid

Article Sent To:

7th Floor Prop. Owners Assn.
Inc.

Postage

\$

Certified Fee

Return Receipt Fee
(Endorsement Required)

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$

MICROFILMED

AUG 08

2001 dg

5/10/01

Postmark
Here

Name (Please Print Clearly) (To be completed by mailer)

C/O David Holland

Street, Apt. No., or PO Box No.

1607 Davis Ave #149

City, State, ZIP+4

McCall Id. 83638-3206

PS Form 3800, July 1999

See Reverse for Instructions

7099 3220 0005 9478 5131

Certified Mail Provides:

- A mailing receipt
- A unique identifier for your mailpiece
- A signature upon delivery
- A record of delivery kept by the Postal Service for two years

Important Reminders:

- Certified Mail may ONLY be combined with First-Class Mail or Priority Mail.
- Certified Mail is not available for any class of international mail
- NO INSURANCE COVERAGE IS PROVIDED with Certified Mail. For valuables, please consider Insured or Registered Mail.
- For an additional fee, a Return Receipt may be requested to provide proof of delivery. To obtain Return Receipt service, please complete and attach a Return Receipt (PS Form 3811) to the article and add applicable postage to cover the fee. Endorse mailpiece "Return Receipt Requested". To receive a fee waiver for a duplicate return receipt, a USPS postmark on your Certified Mail receipt is required.
- For an additional fee, delivery may be restricted to the addressee or addressee's authorized agent. Advise the clerk or mark the mailpiece with the endorsement "Restricted Delivery".
- If a postmark on the Certified Mail receipt is desired, please present the article at the post office for postmarking. If a postmark on the Certified Mail receipt is not needed, detach and affix label with postage and mail.

IMPORTANT: Save this receipt and present it when making an inquiry.

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete item 1 and/or 2 for additional services
- Complete item 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you
- Attach this form to the front of the mailpiece, or on the back if space does not permit
- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3 Article Addressed to:

MILE HILE PROPERTY OWNERS
ASSN INC
C/O DAVID HOLLAND
1607 DAVIS AVE #149
MCCALL ID 83638-3206

4a Article Number

70993220000551785131

4b. Service Type

- ☐ Registered ☒ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7 Date of Delivery

3-14-01 CB

5 Received By: (Print Name)

L. Gilbert

AUG 08 2001

8 Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

X

L. Gilbert

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE



First Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Print your name, address, and ZIP Code in this box •

DEBORAH GIBSON
DEPARTMENT OF WATER RESOURCES
101 N. ORCHARD ST.
BOISE, ID 83706-2237

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AUG 08 2001

MAY 15 2001

Department of Water Resources

83706+2237



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
e, Idaho 83720-0098

Return Service Requested

RECEIVED

MAY - 7 2001

Department of Water Resources

65-13420 Resent 5/10/01 dg

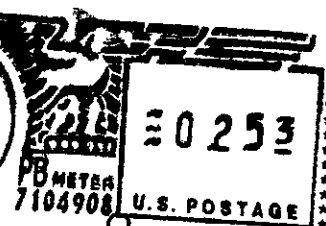
HOLL

MILE HILE PROPERTY OWNERS ASSN INC
C/O DAVID HOLLAND
PO BOX 1767
MCCALL ID 83638-1767

HOLL 767 836382018 1101 06 05/04/01
RETURN TO SENDER
HOLLAND
1607 DAVIS AVE #149
MCCALL ID 83638-3206
RETURN TO SENDER

AUNE 83638
83720-0098

PRINSON
MAY 10 2001



MICROFILMED

AUG 08 2001



April 30, 2001

GEORGE KLIND
MARGARET ROWAN TRUST
RUSSELL MURATA
PO BOX 783
MC CALL, ID 836380783

MILE HILE PROPERTY OWNERS
ASSN INC
C/O DAVID HOLLAND
PO BOX 1767
MC CALL, ID 836381767

PROOF DUE NOTICE

RE: PERMIT NO. 65-13420

Dear Permit Holder:

One of the conditions of approval of the above referenced water permit was that proof of the extent of your beneficial use must be submitted to this office on or before July 01, 2001. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

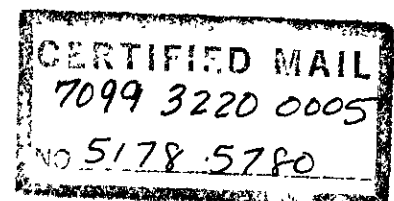
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty (60) days of the mailing of the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

Sincerely,

Deborah J. Gibson, Administrative Assistant
Water Allocation Bureau

Enclosures

MICROFILMED
AUG 08 2001



Law Offices of
William M. Killen, P.A.
200 Park Street
McCall, Idaho

William M Killen

Mailing Address:
P.O. Box AO
McCall, Idaho 83638

Telephone: (208) 634-7118
FAX: (208) 634-5880

RECEIVED
JUL 25 1996
Department of Water Resources

July 23, 1996

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

Re. Application for Permit No. 65-13420 and 65-13435

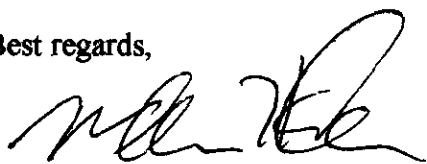
Dear Cindy:

I received in the mail the other day, as I had requested, copy of Permit No. 65-13455. This clarified to me why we had been somewhat confused on this earlier. The copy which I wished to obtain was the one submitted by my clients, No. 65-13420; in addition, the stipulation which, among other things, constituted a withdrawal by Mile High Property Owners Association of their application incorrectly referenced 65-13455 when it should have been 65-13435. I became aware of this when I received 13455 which has to do with a permit in Garden Valley and obviously has nothing to do with the application in Mile High Subdivision here in McCall.

In any event I apologize for the mix up and would request that you conform your records and the stipulation to correctly make reference to 13435 being withdrawn rather than 13455. Finally, I would very much appreciate a copy of the permit that was issued which I understand is under No. 65-13420.

Thank you very much. Please call if you have any questions.

Best regards,



William M Killen

WMK/ch

cc: George Klind
Russell Murata
Tensie Rowan
Brian McManis, Esq.
Fred Shoemaker, Esq.

AUG 08 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 2, 1996

GEORGE KLIND
MILE HILE PROPERTY OWNERS ASSN INC
RUSSELL MURATA
MARGARET ROWAN TRUST
PO BOX 783
MC CALL ID 83638-0783

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 65-13420

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "Conditions of Approval and Remarks" listing on the permit.

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.

Sincerely,

JIM JOHNSON, Manager
Water Right Permits Section

JJ:rl

Enclosures

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09 1996

WR0749NP
No. P65-13420

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/28/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RUSSELL MURATA PO BOX 783 MC CALL ID 83638-0783 (208) 634-3117	01/22/1993	IRRIGATION COMMERCIAL DOMESTIC	04/15 10/15 01/01 12/31 01/01 12/31	0.250 CFS 0.040 CFS 0.230 CFS	
					TOTAL DIVERSION:	0.520 CFS
C	MILE HILE PROPERTY OWNERS ASSN INC C/O DAVID HOLLAND PO BOX 1767 MC CALL ID 83638-1767 (208) 634-7028					
C	MARGARET ROWAN TRUST C GEORGE KLIND PO BOX 783 MC CALL ID 83638-0783 (208) 634-3117					

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T18N R03E S06 SESW VALLEY County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE						
T	R	S		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM
18N	03E	6	:															12.5
																	TOTAL ACRES	12.5

Place of use Legal Description for: COMMERCIAL

18N	03E	6	:															
-----	-----	---	---	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Place of use Legal Description for: DOMESTIC

18N	03E	6	:															
-----	-----	---	---	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Pou County: VALLEY

Other Water Rights with Same Point(s) of Diversion and Source:
65-13420

Other Water Rights Listing Overlapping Place(s) of use:
65-13420 65-13435

Conditions of Approval:

- 26A - Project construction shall commence within one year from the
- date of permit issuance and shall proceed diligently to
- completion unless it can be shown to the satisfaction of the

Conditions of Approval:

- Director of the Department of Water Resources that delays were
- due to circumstances over which permit holder had no control.
- 01M - After specific notification by the department, the right holder
- shall install a suitable measuring device or shall enter into an
- agreement with the department to determine the amount of water
- diverted from power records and shall annually report the
- information to the department.
- 03A - The rate of diversion of water for irrigation under this right
- and all other water rights on the same land shall not exceed 0.02
- cubic feet per second for each acre of land.
- 004 - The issuance of this right does not grant any right-of-way
- or easement across the land of another.

Remarks:

Use of water under this right may be affected by and agreement
among the right holders.
Commercial use is for a bottled water sales company.
Domestic use is for 25 homes.
Domestic use does not include lawn, garden, landscape, or
other types of irrigation.

Dates: App. Received: 10/19/1992 Priority Date: 01/22/1993
Proof Due Date: 07/01/2001 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Comments: Date: 06/27/1996 User-ID: CZIMMERM Subject: AMENDED APPLICATION
This application was amended 6/14/96 per Stipulation between
original applicant and protestant. See file for Stipulation
conditions.

Audit: 06/27/96 CZIMMERM 06/27/96 CZIMMERM 06/28/96 CZIMMERM

(WATER RIGHT NUMBERS THAT BEGIN WITH AN '*' ARE ADJUDICATION CLAIMS)
(QUARTER-QUARTERS WITH A '?' HAVE DIFFERENT ACREAGE AMOUNTS--CHECK THE DATA BASE RECORDS)

WR-NUMBER	SOURCE	NE				NW				SW				SE				SUM
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
P6513420	T18N R03E S 6 GROUNDWATER																	
	:									01				03				4
	:													X				
6509825	BIG PAYETT :															01		1
6513355	UNNAMED ST :							04-10										10
~~6513420~~	~~GROUNDWATE~~ :									01				03				4
~~6513435~~	~~GROUNDWATE~~ : WITHDRAWN									01				03				4
PLSS DATA	LEGAL LOOK : 01 02							03	04	05			06	07				

MEMORANDUM

DATE: June 28, 1996
TO: File No. 65-13420
FROM: Cindy Zimmerman 
SUBJECT: Telephone Conversation

~~~~~  
Per telecon today with William M. Killen, attorney for Rowan/Klind/Murata, commercial use is for a proposed water bottling facility, and domestic use as applied for in this application was intended for both in-house and lawn watering for 25 homes. Application 65-13435 filed by the homeowner's association intended irrigation use for 4.5 acres (for lawns for 9 existing homes) and domestic use for 9 existing homes and 16 proposed homes (a total of 25 homes).

Based on the above conversation and following department standards, when this application is combined with application 65-13435, the irrigation use for lawns for 25 homes would be identified under irrigation not as part of the domestic component. I recommend the application to be permitted as follows:

- a) irrigation use of 0.25 cfs on 12.5 acres (25 homes @ 1/2 acre per home) from 4/15 to 10/15;
- b) commercial use of 0.04 cfs for bottling water from 1/1 to 12/31;
- c) domestic use of 0.23 cfs for in-house use for 25 homes (per dept standards);
- d) total combined rate of diversion is limited to 0.52 cfs.

**RECEIVED**

JUL 09 1996

# APPLICATION FOR PERMIT STATE OFFICE REVIEW

by Cindy Zimmerman

Mile High Prop. Owners Assn

No.: 65-13420 Name: & Rowan Trust & Kind & Murata Date: 6/27/96 Ad OK? ☒  
 Correct Fee? ☒ Receipt #: 025768 Priority: 10/19/92 ☒ Gvmt Lts: ☒  
 11/22/93

AREA OF CONCERN? - No/Yes \_\_\_\_\_ Mor \_\_\_\_\_ GWMA Trust/Non-trust  
 PROTESTED: - 020(Protest Agr) or W19(See Final/Prelim Order)

## SYSTEM COMPLETED:

Yes/proof filed - NA  
 1 year/no proof - P16  
 +1 year - 26A-P17

## GROUNDWATER: &lt;✓ FLO-CH&gt;

+ 0.2 cfs - 01M  
 =/- 0.2 cfs - No MD  
 =/+ 5 a. - 01M, 065(if GW use SW 1st)

## Drilling Permit:

Existing well - NA (pre 7/1/87)  
 Included w/permit - Permit No. \_\_\_\_\_, P99  
 No WD permit? - 046-46B-P23 (post 7/1/87)  
 irr. in WD - P05 (new well)

## SURFACE WATER &lt;✓ FLO-CH&gt; (Surface water that doesn't sink is regulated):

Water District (dem) - 005 (req) WD # \_\_\_\_\_ <SEE MAP & LISTING>  
 + 0.2 cfs - 01J(meas dev)-P08  
 =/- 0.2 cfs - 01H(lock dev)-P01 or No MD  
 In-WD + 0.2 cfs - 01M or No MD (in-stream)  
 - 0.2 cfs - No MD  
 =/+ 5 a. irr. - 01M

## RIVER BASINS (\*Surface water):

Snake R (01) - 11A-P04, NA  
 (02/03-irr) - 007-P07 (w/remark WB9-† Weiser), NA  
 Boise R (63) - 05A (if WD), 11E (not 42-111 use), NA  
 Payette R (65) - 064(regulated uses), 047-P04(Payette Lake), NA

## USE:

Domestic (surface) - 021(Boise R † Star Bridge); 27A(Payette R); NA  
 Fish Propagation - 07A-042(rq)-010/06A/09E(WQ)-P10; 044(N 1000 Spr)  
 Irr <POU> =/- 5 a - 057 (0.03 cfs/A)  
 + 5 a - 03A (0.02 cfs/A)  
 Mining - 054 (req) & 06A/010/09E-P10  
 Power - 08A-17K-025-027-01M-01F(P19)-09E(P10);  
 +25 cfs-P18; 17G(FERC) or 17M(FERE); 18B-P09  
 Storage(✓ 3 compo.) - 18A(multi MD in WD), 18B-P09 (+10' dam), NA

## LOCATION:

Boise Front LoGeo - 058 (-85° GW temp only)  
 In-stream dev. - P52 (stream channel alteration)  
 Irr Dist/Canal Co. - 023 (Twin Falls area)  
 Swan Falls Flag - \_\_\_\_\_ <SEE CODE CHART>  
 Trust - 051-052-053-P74 (Consumptive Uses), NA  
 Non-Trust <1> - 048-049 (Consumptive Uses), NA

## OWNERSHIP: Non-land owner

## OTHER CONDITIONS:

## STANDARD REMARKS:

① In/9 hrs ② Comm/bottled water sales co. ③ 600/9 in/160/laurens.

## BENEFICIAL USE DUE:

## COMMENTS:

7-1-2001

MEMORANDUM

To: Files 65-13420 and 65-13435  
From: L. Glen Saxton *MSJ*  
RE: ANALYSIS OF PERMIT TO BE ISSUED AS 65-13420  
Date: June 26, 1996

Application 65-13430 was filed on October 19, 1992 in the name of Margaret Rowan Trust and/or Russell Murata and/or George Klind proposing the following uses:

|            |       |       |                 |
|------------|-------|-------|-----------------|
| Commercial | 01-01 | 12-31 | 0.04 cfs        |
| Domestic   | 01-01 | 12-31 | <u>0.23 cfs</u> |
|            |       |       | 0.27 cfs        |

This application was protested by Mile High Property Owner's Assoc. Inc.

Application 65-13435 was filed on January 22, 1993 in the name of Mile High Property Owner's Assoc, Inc. proposing the following uses:

|            |       |       |                 |
|------------|-------|-------|-----------------|
| Irrigation | 01-01 | 12-31 | 0.14 cfs        |
| Domestic   | 04-15 | 10-15 | <u>0.14 cfs</u> |
|            |       |       | 0.28 cfs        |

This application was protested by Margaret Rowan Trust and/or Russell Murata and/or George Klind.

The stipulation which resolves the protests essentially combines the uses, rates of diversion and applicants into one amended application. In order to apply the provisions of the stipulation to the pending applications and to follow processing provisions of the statutes and the department, the following must occur:

1. The name on Application No. 65-13420 needs to be amended by adding "and Mile High Property Owner's Association, Inc".
2. Add rate increments and uses to application items 4 as reflected in the stipulation. This change should be considered as an amendment to the application. An amendment fee is not needed since, the applications are being combined and will not be larger than originally applied for when considering both applications. Readvertisement is not appropriate.

*MINOR CHG*

JUL 09 1996

3. The priority date of application 65-13420 should be advanced to the date of the later application, i.e. to January 22, 1993 to comply with provision of Section 42-211, Idaho Code.

4. Item 8. of the application needs to be changed as provided in the stipulation.

5. Some of the information in paragraph I. of the stipulation needs to be included in conditions/remarks on the permit to be issued.



JUL 09 1996

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M. Killen

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638  
June 21, 1996

Telephone: (208) 634-7118  
FAX: (208) 634-5880

RECEIVED  
JUN 25 1996

Department of Water Resources

State of Idaho Department of Water Resources  
1501 N. Orchard Street  
Boise, Idaho 83706

Re: Mile High Well

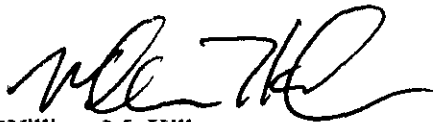
Attention: Glen Saxton

Dear Mr. Saxton.

Enclosed are written Stipulations resolving the pending matter between all parties. As I indicated to you on the phone on today, duplicate documents were circulated for signature. As you will note not all signatures appear on the same page; they are in counterparts. However, all originals are enclosed for your reference

If there are any questions, do not hesitate to contact me. By copy of this letter, I am notifying all parties of this transmittal. It is my assumption that the permit will be issued pursuant to the terms of the Stipulation. Please advise if I am mistaken.

Best regards,



William M. Killen

WMK/jd

enc

cc. Fred Shoemaker  
George Klind  
Tensie Rowan  
Russell Murata  
Dave Holland  
Brian McMahan

RECEIVED

JUL 09 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR )  
PERMIT NOS. 65-13420 IN THE NAME )  
OF MARGARET ROWAN TRUST, GEORGE )  
KLIND &/OR RUSSELL MURATA AND ) STIPULATION  
65-13435 IN THE NAME OF MILE HIGH )  
PROPERTY OWNERS ASSOCIATION, INC. )  
\_\_\_\_\_ )

COME NOW the undersigned and Stipulate as follows with respect to the pending applications for Permit No. 65-13420 and No. 65-13455:

- 1 The protest filed by Mile High Property Owner's Association, Inc. as to the application for Permit No. 65-13420 is hereby withdrawn
- 2 The application submitted by Mile High Property Owner's Association, Inc. No. 65-13455 is hereby withdrawn.
- 3 The application submitted by the Margaret Rowan Trust, George Klind &/or Russell Murata, No. 65-13420, is hereby amended to add as follows:
  - a. Paragraph 1 of the Application is amended to add as a co-applicant, Mile High Property Owners Association, Inc., c/o of David Holland, President, P. O. Box 1767, McCall, Idaho 83638 and whose phone number is (208) 634-7028.
  - b. Paragraph 2 and 3 remain unchanged.
  - c. Paragraph 4 is amended to reflect domestic use from 1/1 to 12/31 of 0.370 CFS; Irrigation use from 4/15 to 10/15 of 0.140 CFS; and Commercial Use from 1/1 to 12/31 of 0.040 CFS.

STIPULATION - 1

RECEIVED

JUL 09 1996

- d. Paragraph 5 is amended to read 0.550 CFS.
- e. Proposed diverting works remains unchanged.
- f. Paragraph 7 remains unchanged.
- g. Paragraph 8 is changed to add the following:

Place of Use. IRRIGATION

TWN RGE SEC

18N 03E 6

NESW 1Acre SESW 3.5 Acres - Total 4.5

Total Number of acres irrigated - 4.5

Place of use Commercial is unchanged

Place of use Domestic is changed to read the same as Irrigation plus up to 10 acres in the NESW.

- h. Paragraph 9.a remains unchanged. Paragraph 9.b is changed to read applicant and co-applicant.
- i. Paragraph 10 is changed to read as follows: Domestic use is for 9 existing home sites and prospectively for 16 additional. Commercial use is for a bottled water sales company. Irrigation use is for an existing 9 homes in Mile High Estates Subdivision. Also, first call in the event of a shortage shall lie with the domestic and irrigation use for the benefits of Lots 1 through 9 comprising the Mile High Subdivision as platted and filed of record in Valley County, Idaho.
- j. Paragraph 11 is unchanged, and the enclosed map is unchanged.

Dated this \_\_\_\_ day of \_\_\_\_\_, 1996.

CO-APPLICANT:

APPLICANT:

MILE HIGH SUBDIVISION, INC.

MARGARET ROWAN TRUST

by \_\_\_\_\_  
Dave Holland, President

by Tensie Rowan, trustee  
Tensie Rowan, Trustee

STIPULATION - 2

JUL 09 1996

Attest: \_\_\_\_\_  
Secretary

GEORGE KLIND AND/OR RUSSELL MURATA

by   
Russell Murata

by \_\_\_\_\_  
George Klind

STIPULATION - 3

RECEIVED

JUL 09 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR )  
PERMIT NOS. 65-13420 IN THE NAME )  
OF MARGARET ROWAN TRUST, GEORGE )  
KLIND &/OR RUSSELL MURATA AND ) STIPULATION  
65-13435 IN THE NAME OF MILE HIGH )  
PROPERTY OWNERS ASSOCIATION, INC. )

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  - b Paragraph 2 and 3 remain unchanged.
  - c Paragraph 4 is amended to reflect domestic use from 1/1 to 12/31 of 0.370 CFS, Irrigation use from 4/15 to 10/15 of 0.140 CFS; and Commercial Use from 1/1 to 12/31 of 0.040 CFS.

STIPULATION - 1

**RECEIVED**  
JUL 09 1996

- d. Paragraph 5 is amended to read 0.550 CFS.
- e. Proposed diverting works remains unchanged.
- f. Paragraph 7 remains unchanged
- g. Paragraph 8 is changed to add the following:

Place of Use: IRRIGATION

TWN RGE SEC

18N 03E \_6

NESW 1Acre SESW 3.5 Acres - Total 4.5

Total Number of acres irrigated - 4.5

Place of use Commercial is unchanged.

Place of use Domestic is changed to read the same as Irrigation plus up to 10 acres in the NESW.

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- i. Paragraph 10 is changed to read as follows: Domestic use is for 9 existing home sites and prospectively for 16 additional Commercial use is for a bottled water sales company. Irrigation use is for an existing 9 homes in Mile High Estates Subdivision. Also, first call in the event of a shortage shall lie with the domestic and irrigation use for the benefits of Lots 1 through 9 comprising the Mile High Subdivision as platted and filed of record in Valley County, Idaho.
- j. Paragraph 11 is unchanged, and the enclosed map is unchanged.

Dated this 14<sup>th</sup> day of June, 1996.

CO-APPLICANT:

APPLICANT:

MILE HIGH SUBDIVISION, INC.

MARGARET ROWAN TRUST

by

Dave Holland  
Dave Holland, President

by

Tensie Rowan  
Tensie Rowan, Trustee

STIPULATION - 2

**MICROFILMED**

**JUL 09 1996**

Attest: \_\_\_\_\_  
Secretary

GEORGE KLIND AND/OR RUSSELL MURATA

by \_\_\_\_\_  
Russell Murata

by \_\_\_\_\_  
George Klind

STIPULATION - 3

**MAILED**

JUL 09 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

**COPY**

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR )  
PERMIT NOS. 65-13420 IN THE NAME )  
OF MARGARET ROWAN TRUST, GEORGE )  
KLIND &/OR RUSSELL MURATA AND ) STIPULATION  
65-13435 IN THE NAME OF MILE HIGH )  
PROPERTY OWNERS ASSOCIATION, INC )  
\_\_\_\_\_ )

COME NOW the undersigned and Stipulate as follows with respect to the pending applications for Permit No.65-13420 and No. 65-13455:

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STIPULATION - 1

**JUL 09 1996**

- d Paragraph 5 is amended to read 0.550 CFS.
- e. Proposed diverting works remains unchanged.
- f Paragraph 7 remains unchanged.
- g Paragraph 8 is changed to add the following:

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TWN RGE SEC

18N 03E 6 NESW 1Acre SESW 3.5 Acres - Total 4.5

Total Number of acres irrigated - 4.5

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- j Paragraph 11 is unchanged, and the enclosed map is unchanged.

Dated this \_\_\_\_ day of \_\_\_\_\_, 1996.

CO-APPLICANT:

APPLICANT.

MILE HIGH SUBDIVISION, INC.

MARGARET ROWAN TRUST

by \_\_\_\_\_  
Dave Holland, President

by \_\_\_\_\_  
Tensie Rowan, Trustee

STIPULATION - 2

**RECEIVED**

**JUL 09 1996**

Attest \_\_\_\_\_  
Secretary

GEORGE KLIND AND/OR RUSSELL MURATA

by \_\_\_\_\_  
Russell Murata

by George Klind  
George Klind

STIPULATION - 3

RECORDED

JUL 09 1996

**MEMORANDUM**

**To:** Files 65-13420 and 65-13435  
**From:** L. Glen Saxton *LS*  
**RE:** **HEARING SCHEDULED FOR JUNE 19, 1996 - 65-13420 and 65-13435**  
**Date:** June 18, 1996

On this date, I determined in a phone conversation with William M. Killen of McCall that the agreement resolving the protests in the above referenced matter has been signed by all except one party who can not be located. Tensie Rowan, Russell Murata and the Mile High Property Owner's Ass'n have signed the agreement but George Kind, who is a contractor is frequently gone for long periods of time has not returned phone calls.

Hence, I advised Killen and Fredric Shoemaker of Boise who represent Rowan, Murata and Kind that the hearing scheduled in McCall for tomorrow, June 19, 1996 is cancelled.

The homeowner's association represents itself.

**MISSING**

JUL 09 1996

**COSHO, HUMPHREY, GREENER & WELSH, P.A.**

COUNSELORS AND ATTORNEYS AT LAW  
CARNEGIE BUILDING  
815 WEST WASHINGTON STREET  
BOISE, IDAHO 83702

**FREDRIC V. SHOEMAKER**

June 7, 1996

OFFICE ADMINISTRATOR  
KRISTINE THOMSEN

TELEPHONE  
(208) 344-7811

FAX  
(208) 338-3280

ALFA\*  
AMERICAN LAW FIRM  
ASSOCIATION

**RECEIVED**

**JUN 10 1996**

**WATER RESOURCES  
WESTERN REGION**

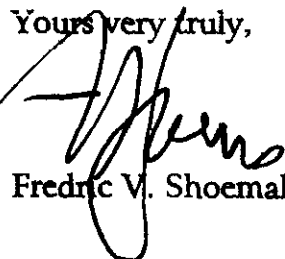
Mr. David Tuthill  
State of Idaho  
Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Re: Application for Permit No. 65-13420 in the name of Margaret Rowan  
Trust, George Klind and Russell Murata / Mile High Estates  
CHGW File No. 7759-01

Dear Mr. Tuthill:

I received Attorney Bill Killen's letter of June 5, 1996 and the proposed Stipulation which I am circulating for execution by involved parties. At least for my part and my perspective, I don't believe it will be necessary to go ahead with the hearing scheduled on the contested application and I would recommend that it might be most efficient to defer it. Unfortunately, the parties that need to sign the document are scattered.

Yours very truly,



Fredric V. Shoemaker

FVS/srb

**NOTED**

**JUL 09 1996**

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M. Killen

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638

June 5, 1996

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JUN 07 1996

WATER RESOURCES  
WESTERN REGION

Telephone: (208) 634-7118  
FAX: (208) 634-5880

Fred Shoemaker, Esq  
Cosho, Humphrey, Greener & Welsh, P A.  
Carnegie Building  
815 West Washington Street  
Boise, Idaho 83702

Re: HUD/Well Project - Mile High Estates Subdivision

Dear Fred:

Enclosed is a re-draft of the earlier Stipulation which I believe deals with all the loose ends that I had discussed with you. By copy of this letter, I am sending a copy to Tensie Rowan, Mr. Russell Murata and Mr. George Klind so they will have an opportunity to review it directly, as well.

Assuming it is satisfactory to all of them, I would request that they arrange to contact you to execute it either by coming by your office or letting you know that you need to forward it to them; since it appears that all signators are down in the Treasure Valley, I thought that this might expedite matters. As soon as I have that back, I will get Mr. Holland's signature on it as well, and then we will be in a position to turn it over to Mr. Tuthill of the Idaho Department of Water Resources, hopefully, putting the matter to bed and allowing the permit to be issued without objection pursuant to the amended application.

I have enclosed copies of the two original applications since I believe they might be help in reviewing this Stipulation

I am copying Mr. Tuthill with this so he is aware of how things are progressing. If, by some chance, there is a delay in collecting the signatures and Mr. Tuthill has no problem, I am going to

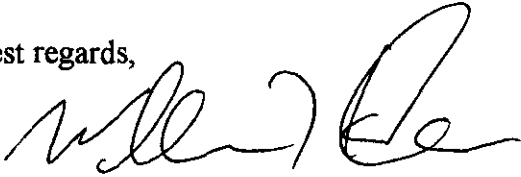
MICHAEL MCD

JUL 09 1996

June 5, 1996

suggest to him that he vacate the hearing set for McCall later this month since, under those circumstances, it would appear to no longer be necessary. Obviously, that is Idaho Department of Water Resources' call.

Best regards,



William M. Killen

WMK/jd

enc. Stipulation

cc: Tensie Rowan/permit applications/stipulation

George Klind/permit applications/stipulation

Dave Tuthill/permit applications/stipulation

Russell Murata/permit applications/stipulation

JUL 09 1996

100  
61m

**MILLEMANN, PITTENGER & McMAHAN**  
**ATTORNEYS AT LAW**  
706 NORTH FIRST  
POST OFFICE BOX 1066  
MCCALL, IDAHO 83638

RECEIVED

JUN 05 1996

WATER RESOURCES  
WESTERN REGION

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. McMAHAN  
AMY N. PEMBERTON \*

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

\* LICENSED IN WASHINGTON

June 4, 1996

Idaho Department of Water Resources  
Attn: David R. Tuthill, Jr., P.E.  
Manager, Western Regional Office  
2735 Airport Way  
Boise, ID 83705-5082

Re: Applications for Permit Nos. 65-13420 and 65-13435

Dear David:

The purpose of this letter is to inform you that I am more or less "out of the loop" regarding the hearing scheduled for June 19, 1996, regarding the above-referenced applications. The Mile High Property Owners Association, Inc., has asked me to perform no further work on this matter (at least for the time being) because the Association is relatively confident that a settlement of the matter is being reached with the opposing applicants (Rowan Trust, George Klind and Russell Murata).

I have advised the Association to keep you posted regarding the progression of the settlement and regarding the need for the hearing presently scheduled for June 19th. If it grows too close for your comfort to June 19th and you have heard nothing from the Association, please feel free to contact me and I will attempt to ascertain the status of the settlement negotiations (and the attendant need for the hearing). In short, I hope the Association is able to negotiate its settlement and the hearing on June 19th can be cancelled without too much disruption to anyone's calendar. Even though I am "out of the loop," do not hesitate to contact me if you need to.

Sincerely,

*Brian L. McMahon*

BRIAN L. McMAHAN

BLM/pd

cc: Dave Holland/Mile High Property Owners Association

**RECORDED**

JUL 09 1996

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

GEORGE KLIND &/OR RUSSELL  
MURATA  
MARGARET ROWAN TRUST  
PO BOX 783  
MCCALL ID 83638

4a. Article Number  
P 241 820 374

4b. Service Type

☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☒ Return Receipt for Merchandise

7. Date of Delivery  
5-23-96

8. Addressee's Address (Only if requested and fee is paid)

5. Signature (Addressee)  
Amy Klind

6. Signature (Agent)

PS Form 3811, December 1991 U.S. EPC: 1991-285-714 DOMESTIC RETURN RECEIPT

Thank you for using Return Receipt Service.

P 241 820 374

US Postal Service  
Receipt for Certified Mail

GEORGE KLIND &/OR RUSSELL  
MURATA  
MARGARET ROWAN TRUST  
PO BOX 783  
MCCALL ID 83638

|                                                             |         |
|-------------------------------------------------------------|---------|
| Postage                                                     | \$      |
| Certified Fee                                               |         |
| Special Delivery Fee                                        |         |
| Restricted Delivery Fee                                     |         |
| Return Receipt Showing to Whom & Date Delivered             |         |
| Return Receipt Showing to Whom, Date, & Addressee's Address |         |
| TOTAL Postage & Fees                                        | \$ 2.52 |
| Postmark or Date                                            |         |

PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services
- Complete items 3, 4a, and 4b
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit
- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

George Klind / Russell  
Murata  
169 New 19 St  
Ontario CA

4a. Article Number  
P 241 820 374

4b. Service Type

☐ Registered ☒ Certified  
☐ Express Mail ☐ Insured  
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery  
5-23-96

8. Addressee's Address (Only if requested and fee is paid)

5. Received By: (Print Name)  
George Klind

6. Signature (Addressee or Agent)  
X

PS Form 3811, December 1994 Domestic Return Receipt

Thank you for using Return Receipt Service.

P 241 820 373

US Postal Service  
Receipt for Certified Mail

MIKE WALLACE  
MILE HIGH PROPERTY OWNERS  
ASSOC INC  
PO BOX 868  
MCCALL ID 83638

|                                                             |         |
|-------------------------------------------------------------|---------|
| Postage                                                     | \$      |
| Certified Fee                                               |         |
| Special Delivery Fee                                        |         |
| Restricted Delivery Fee                                     |         |
| Return Receipt Showing to Whom & Date Delivered             |         |
| Return Receipt Showing to Whom, Date, & Addressee's Address |         |
| TOTAL Postage & Fees                                        | \$ 2.52 |
| Postmark or Date                                            |         |

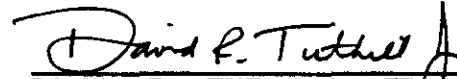
PS Form 3800, April 1995

IN THE MATTER OF APPLICATIONS FOR )  
PERMIT NOS. 65-13420 IN THE NAME )  
OF MARGARET ROWAN TRUST, GEORGE )  
KLIND &/OR RUSSELL MURATA AND )  
65-13435 IN THE NAME OF MILE HIGH )  
PROPERTY OWNERS ASSOCIATION, INC. )

JUL 09 1996

All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 21<sup>st</sup> day of May, 1996.

  
DAVID R. TUTHILL, JR., P. E.  
Manager, Western Regional Office

May I hereby certify that on the 21<sup>st</sup> day of May, 1996, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

  
Sue Taylor  
Secretary, Office Coordinator

**Certified Mail**

GEORGE KLIND &/OR RUSSELL MURATA  
MARGARET ROWAN TRUST  
PO BOX 783  
MCCALL ID 83638

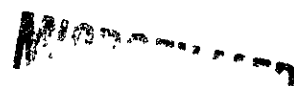
MIKE WALLACE  
MILE HIGH PROPERTY OWNERS ASSOC INC  
PO BOX 868  
MCCALL ID 83638

**Non-Certified Mail**

BRIAN L MCMAHAN ESQ  
MILLEMANN PITTENGER & MCMAHAN  
PO BOX 1066  
MCCALL ID 83638

WILLIAM M KILLEN ESQ  
PO BOX AO  
MCCALL ID 83638

DAVID HOLLAND  
PO BOX 1767  
MCCALL ID 83638



JUL 09 1996

## **CONFERENCE AND HEARING PROCEDURE**

### **APPLICATION FOR PERMIT**

Section 42-203A, Idaho Code, requires the department to consider the following issues in connection with an application for permit:

- 1) Will the proposed appropriation injure other water rights?
- 2) Is the proposed water supply sufficient for the purpose for which it is sought to be appropriated?
- 3) Was the application made in good faith or for delay or speculative purposes?
- 4) Does the applicant have sufficient financial resources with which to complete the proposed project?
- 5) Is the proposed appropriation in the local public interest, which is defined as the affairs of the people in the area directly affected by the proposed use?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

### **BURDEN OF PROOF**

The Applicant has the initial burden of proof on issues 1, 2, 3, 4, & 6 above and must provide evidence for the department to evaluate these criteria.

The initial burden of proof on issue 5 above lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant. the applicant has the ultimate burden of persuasion, however, for this issue.

### **PROCEDURE**

The department generally conducts an informal conference with the parties to determine the issues and to try to settle a protested matter before a hearing is scheduled. If a hearing is held, the department will issue a written decision based on the hearing record.

### **CONFERENCE**

The purpose of a prehearing conference is to provide the opportunity for the parties and the department to familiarize

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JUL 09 1986

themselves with a contested matter and to attempt to resolve the matter. At the conference, the department may also formulate and simplify the issues, identify documents to avoid unnecessary proof, exchange proposed exhibits or prepared testimony, limit witnesses, discuss settlement offers, schedule hearings, establish procedure at hearings and address other matters that may expedite orderly conduct and disposition of the proceeding or its settlement.

#### **HEARING**

The department will tape record the hearing. Copies of a hearing tape are available upon written request and the payment of the cost of reproducing the tape.

The hearing likely will be conducted by a hearing officer appointed by the Director rather than the Director himself. If so, the hearing officer will prepare a recommended order for the Director's consideration. Parties can file a petition for reconsideration, exceptions to a recommended order, briefs in support of the exceptions or may request oral argument. Parties may seek judicial review of any final order issued by the Director.

Parties may by written stipulation waive their right to a recommended order, particularly when a shortened decision process is desirable or necessary. Such a waiver does not eliminate any rights of the parties in connection with the final order of the Director and judicial review of the order.

#### **EXHIBITS**

A party who plans to offer an exhibit as part of the hearing record must provide a copy of the proposed exhibit to the parties and to the hearing officer prior to any scheduled hearing.

#### **AMERICANS WITH DISABILITIES ACT**

Any hearing scheduled will be conducted in a facility which meets the accessibility requirements of the Americans with Disabilities Act. If you require special accommodations in order to attend, participate in or understand the hearing please advise the department within ten (10) days prior to the hearing.

JUL 09 1996



State of Idaho  
**DEPARTMENT OF WATER RESOURCES**

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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

April 19, 1996

BRIAN L MCMAHAN  
MILLEMANN PITTENGER & MCMAHAN  
PO BOX 1066  
MCCALL ID 83638

Re: Applications for Permit Nos. 65-13420 and 65-13435

Dear Brian:

Enclosed are copies of correspondence and the agreement. I hope this is what you wanted. If there are other items you would like copies of please let us know.

Sincerely,

DAVID R. TUTHILL, JR., P.E.  
Manager, Western Regional Office

DRT/st

Encl.

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JUL 09 1996

**MILLEMANN, PITTENGER & McMAHAN**  
**ATTORNEYS AT LAW**

706 NORTH FIRST  
POST OFFICE BOX 1066  
MCCALL, IDAHO 83638

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. McMAHAN

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

April 12, 1996

*Dr*  
David R. Tuthill, Jr., P. E.  
Manager, Western Region Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Re: Applications for Permit Nos. 65-13420 and 65-13435

Dear Dave:

I am in receipt of your letter to William Killen and myself dated April 10, 1996, and I have forwarded a copy of your letter to Mile High Property Owners Association, Inc. I know that the Association is working on a number of options with the developers. I will advise you of their decision just as soon as I am made aware of it.

In the interim, and to the extent that they do not constitute privileged or confidential communications, could you please provide me with copies of the correspondence and proposals referenced in your letter that you have received from Mr. Killen? Thank you. Let me know if there is a charge for the copies.

Sincerely,

*Brian L. McMahon*

BRIAN L. McMAHAN

BLM/km

c: Mile High Property Owners Association members

tuthill

JUL 09 1996

*Sue - Would you plz forward these copies?*  
**RECEIVED**  
*Thom, Dave*  
**APR 15 1996**  
WATER RESOURCES  
WESTERN REGION



**State of Idaho**  
**DEPARTMENT OF WATER RESOURCES**

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

**PHILIP E. BATT**  
GOVERNOR

**KARL J. DREHER**  
DIRECTOR

April 10, 1996

William M. Killen, Esq.  
P.O. Box AO  
McCall, ID 83638

Brian McMahan, Esq.  
Millemann & Pittenger, P.A.  
P.O. Box 1066  
McCall, ID 83638

RE: Applications for Permit Nos. 65-13420 and 65-13435

Gentlemen:

I am responding to the letter from Mr. Killen dated April 4, 1996, in which he proposed that the permit process be moved forward along the terms and conditions of an unsigned agreement that has been submitted to this office for review. The agreement includes a number of provisions, including a proposal that the water right in the name of Margaret Rowan Trust, George Klind and Russell Murata (65-13420 with date of priority October 19, 1992) be subordinated to the water right in the name of Mile High Property Owners Association, Inc. (65-13435 with date of priority January 22, 1993).

At this point we are presented with a situation where each of the applications is protested by the other applicant. In order to move forward with this matter two processes are available. One is for the protests to be withdrawn, subject to certain conditions or agreements. The other process is for this Department to conduct a formal water right hearing to create a record which would serve as the basis for the preparation of a decision by the Department.

I am encouraged that this latest letter from Mr. Killen represents movement toward an agreement of some type. If it appears that such an agreement can be completed, I would be willing to provide additional input in your negotiations. Lacking further movement in the negotiated agreement process, the Department will need to take steps to set up a hearing. At this point, I will reserve June 19, 1996 for this purpose, as we need to bring this process to a close.

Please advise as to which of these options you wish to pursue. If the latter option is the choice, please advise as to your availability in late June.

Sincerely,

David R. Tuthill, Jr., P. E.  
Manager, Western Region Office

JUL 09 1996

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M. Killen

Telephone: (208) 634-7118  
FAX: (208) 634-5880

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638

April 4, 1996

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APR 10 1996

WATER RESOURCES  
WESTERN REGION

*Dmr*  
David R. Tuthill, Jr., P.E.  
Manager, Western Regional Office  
State of Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Re Permit No. 65-13420

Dear Mr. Tuthill:

Since I last wrote to you I have had some feedback from my clients regarding the suggestion I made in my letter to you of March 6, 1996. As you may recall, an alternative that I raised was the possibility of issuing the permit but making it subject to special conditions, namely, those set forth in the agreement proposal provided to the Homeowners Association. Quite honestly, the more we thought about it, the better we liked it since, even if that Agreement is not bilaterally adopted, it would accomplish what the developers do believe is appropriate, namely, to memorialize those conditions in some comprehensive fashion that would run to the water rights.

In addition, that agreement was drafted to be consistent with the presently recorded deed of trust, which was prepared to conform to the HUD requirements necessitated by HUD financing for certain homes in the project. While it is clear that some of the features of that agreement apparently are not completely acceptable to the Association as a whole, I do not believe any of them would dispute that it is a substantial improvement over the uncertainty that attends the present situation.

In any event, we would like to formally propose that the permit process be moved along with the terms and conditions of that Agreement (at least insofar as they impose duties or obligations on the developers) be incorporated as conditions of the permit. Obviously, if one or more of the homeowners feel strongly enough about it, they are still free to come forward and tender their objections but at least it will move the matter forward and perhaps get it resolved one way or another. If you do require a formal amendment to the permit application, please advise and we

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JUL 09 1996

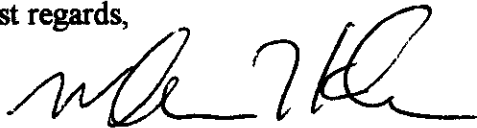
David R. Tuthill, Jr., P.E.

Page 2

April 4, 1996

will be happy to comply. If not, please consider this letter proposal as such.

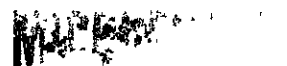
Best regards,



William M. Killen

WMK/jd

cc: Russell Murata  
Frederic Shoemaker  
Central Idaho Title  
George Klind  
Tensie Rowan  
Brian McMahan



JUL 09 1996

File (Protest)

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M Killen

Telephone: (208) 634-7118  
FAX: (208) 634-5880

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638  
March 6, 1996

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MAR 08 1996

WATER RESOURCES  
WESTERN REGION

David R. Tuthill, Jr., P.E. *DR*  
Manager, Western Regional Office  
State of Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Re. Your letter of February 16, 1996/Application for Permit No. 65-13420

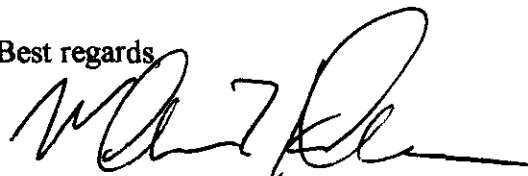
Dear Mr. Tuthill:

We received your letter of February 16 on February 29. Apparently, either it was mailed subsequent to that date or the mail has really slowed down this winter

Since I last wrote to you in July, we have submitted a more specific proposal to the attorney for the Homeowners Association in an effort to get the matter resolved. That was done in late October, 1995. A copy is enclosed for your reference. As yet, we have no response. I will contact Mr. McMahan to determine whether we can expect a response in the near future. If not, it may make more sense to just move forward with the pending application since it appears that we may be reaching an impasse as I expressed in my letter of last July. Perhaps the permit could be issued subject to the terms of that proposal.

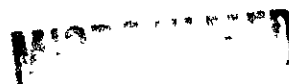
In any event, I will contact you again as soon as I have had a chance to talk to Mr. McMahan.

Best regards



William M Killen  
WMK/jd

cc: Russell Murata/Tuthill let. of Feb 16  
Frederic Shoemaker/Tuthill let. of Feb 16  
Central Idaho Title/Tuthill let. of Feb 16  
George Klind/Tuthill let. of Feb. 16  
Tensie Rowan/Tuthill let of Feb. 16  
enc.



JUL 09 1996

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M. Killen

Telephone: (208) 634-7118  
FAX: (208) 634-5880

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638  
October 27, 1995

**RECEIVED**

**MAR 08 1996**

**WATER RESOURCES  
WESTERN REGION**

Brian McMahan, Esq.  
Millemann, Pittenger & McMahan  
Box 1066  
McCall, Idaho 83638

Re: Klind Well Matter

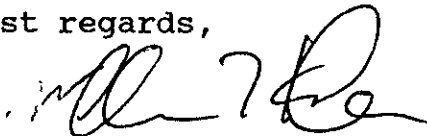
Dear Brian:

I was requested by Mr. Murata, some weeks ago, following communications by and between the Dept. of Water Resources and myself, to try and get this matter off dead center. Towards that end, I have re-drafted the working Agreement directly incorporating the suggestions previously made by Mr. Shoemaker, Mr. Murata's personal attorney and factoring in, as well, some language dealing with the concerns your clients had expressed in an attempt to achieve a workable middle ground.

I am enclosing this for your review and would advise you, that in the interest of moving things along, am simultaneously copying this to the other parties involved, as well as Mr. Shoemaker. Recognize that they will be seeing it for the first time, so at this time I cannot represent it as 100% acceptable.

In any event, I would appreciate very much if you would review it and provide us your thoughts.

Best regards,



William M. Killen

WMK/jd  
enc. copy/Trust Deed attached as Exhibit A to Agreement

cc: George Klind/letter and agreement  
Russell Murata/letter and agreement  
Frederic Shoemaker/letter and agreement  
Tensie Rowan/letter and agreement  
Central Idaho Title/letter and agreement

**JUL 09 1996**

RECEIVED

MAR 08 1996

WATER RESOURCES  
WESTERN REGION

AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 199\_, among GEORGE KLIND, a married man dealing in his sole and separate property, RUSSELL MURATA and MARY ANN MURATA, husband and wife, and TENSIE ROWAN, as Trustee of the MARGARET M. ROWAN TRUST, and/or any de facto or de jure partnership, joint venture or other business enterprise composed of the foregoing (hereinafter collectively the "Developer"), whose collective address is Box 9, Ontario, Oregon 97914, and the owners of Lots 1 through 9, Mile High Estates, a Valley County Subdivision (hereinafter the "Owners"), and CENTRAL IDAHO TITLE, INC., as Trustee.

WITNESSETH:

WHEREAS, Developer is the developer of Mile High Estates Subdivision (hereinafter the "Subdivision") located in the City of McCall, Valley County, Idaho;

WHEREAS, the Owners are the owners of Lots 1 through 9, Mile High Estates Subdivision;

WHEREAS, a dispute has arisen between Developer and certain Owners regarding water service within the Subdivision and the Well Lot as shown on the Plat of Mile High Estates, filed for record on November 21, 1985, as Instrument No. 145134; and,

WHEREAS, rather than litigate their dispute, the Developer and the Owners have reached the following mutually acceptable resolution of their dispute.

AGREEMENT

NOW, THEREFORE, for the foregoing reasons which are material considerations and not mere recitals, and in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of said consideration being hereby acknowledged, Developer and Owners agree as follows:

1. Trust Deed: Developer has made, executed and recorded as Instrument No. 198079, Valley County records, a certain Trust Deed in order to conform to the requirements of the U. S. Department of Housing and Urban Development as related to assuring continuous service and reasonable rates

JUL 09 1996

for a central water system and to provide relief for property owners in the event of suspension of service or imposition of unreasonable rates. A true and accurate copy is appended hereto as Exhibit A.

2. Priority Water Rights: Developer shall identify, as enjoying priority water rights, Lots 1 through 9 of Mile High Estates in any permit issued by the Idaho Department of Water Resources with respect to the existing well and pending water right permit applications for same and the Well Lot within Mile High Estates Subdivision. Any and all uses or use rights subsequently developed or permitted from the existing well shall be identified as having a junior right or rights relative to that enjoyed by Lots 1 through 9, each of which shall enjoy an identical seniority for priority purposes.

3. Water Supply Quality: Developer shall continue to provide water from the existing Well Lot untreated, unfiltered, and unaltered from its natural state subject to governing regulatory requirements. Presently the Idaho Department of Water Resources and the Idaho Department of Health and Welfare have regulatory authority in this area with respect to both state and federal requirements.

4. Water Supply Quantity: The Developer is currently obligated, and will remain obligated, to provide and maintain an "adequate supply" for domestic consumption for each of the properties being serviced by the Well Lot source. The water system, as developed and upon which, in part, subdivision approval was granted was reported by the responsible engineer as being capable of providing five (5) gallons per minute for domestic purposes and like amount for irrigation purposes, for a total of 10 gallons per minute per lot. In addition the system should provide sufficient water during peak flow conditions to maintain a minimum of twenty (20) pounds per square inch pressure in the distribution system. The Developer agrees that these parameters establish a reasonable standard for what is an "adequate supply."

5. Maintenance, Repair and Operation of Existing System: The Developer agrees to continue to maintain and operate the existing system, including the well, pump, and ancillary equipment, as well as the distribution system (excluding the lines, or portions thereof, within individual lots used as service connections from the system lines to the individual residences). PROVIDED HOWEVER, individual lot owners are obligated to reimburse the Developer for their pro-rata share of such costs on a monthly basis. The current fees, though set at \$10.00 per month under the terms

of the Trust Deed, have been billed at \$5.00 per month since the commencement of the system's operation. The Developer agrees to limit the fee to no more than the \$10.00 per month previously established and to follow the provisions of the referenced Trust Deed with respect to any prospective increases, as particularly set forth in paragraph 6 thereof.

6. Homeowner's Association: In the event the Mile High Property Owner's Association, Inc. secures in its membership all nine (9) owners of Mile High Estates lots, and is expressly authorized by all such Owners to bind the individual members and lot owners to this Agreement and to the above-referenced Trust Deed, as modified hereby, and provided further that a document is duly recorded in the records of Valley County, Idaho and notice is given to Developer and Trustee as provided in paragraph 12, which document appoints said Association as agent and attorney in fact for all lot owners in Mile High Estates Subdivision, then without any further act or deed on the part of Developer, Owners, or the Trustee, said Association shall be recognized by the Developer, the Trustee and all persons and entities as the proper and lawful agent and attorney in fact for all Owners of lots in said subdivision for purposes of matters pertaining to this Agreement or the aforementioned Trust Deed.

7. Expansion of Use: So long as it does not impair the rights accruing to the Owners, Developer is free to further develop the water obtained from the Well Lot for other purposes and apply same beyond the original nine (9) lots comprising Mile High Estates. Any expansion shall be in conformance with governing local, state and federal regulations and any incremental costs associated with such expansion or the operation of the existing well system shall be borne by the Developer, or the beneficiaries of the expanded use, and not by the Owners.

8. Transfer of Existing System: Paragraph 1 of the referenced Trust Deed provides for a termination of the transference in trust to the Trustee upon the occurrence of either (a) the water system being taken over by either a governmental authority or a public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) for maintenance and operation, or (b) other adequate services provided either by a governmental authority or a public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) through means other than the operation of the water system and facilities now transferred to the Trustee herein, which contemplates, without limitation, the possible transfer of the water

JUL 09 1996

system to the City of McCall and the assumption by said municipality of the rights and obligations of Developer hereunder and under the Trust Deed. In that regard, Developer is expressly authorized to act on behalf of and is hereby appointed as the attorney in fact for Trustee and Owners under the Trust Agreement and under this Agreement to convey, either voluntarily or involuntarily, in the form of any condemnation or conveyance in lieu of any threatened condemnation, of the Well Lot to the governmental authority or public utility involved, and coincident with such conveyance the Trustee is authorized, without any further act and deed, to reconvey all right, title and interest in the Well Lot to Developer, and Developer shall be entitled to receive any benefit or consideration provided by said municipality, provided that said municipality or other governmental authority meet the requirements of subparagraph (a) or subparagraph (b) of paragraph 1 of the Trust Deed, and provided further that said municipality or other governmental authority agrees to assume all the obligations under the Agreement, including without limitation, the obligations of paragraph 3 with regard to water supply quality and paragraph 4 with regards to water supply quantity. Further, in the event the existing well is to be utilized as the actual source of water to the owners following its transfer, Developer shall make good faith efforts to ensure that the priority rights set forth in paragraph 4 and enjoyed by Lots 1 through 9, are preserved.

9. Default: Any failure by the Developer as to the performance of any material term of this Agreement shall constitute a default. In such event the lot owners may provide written notice specifying the matter or matters in default. Such notice of default shall be prepared in duplicate and delivered to the Trustee named in the referenced Deed of Trust. In turn the Trustee shall provide written notice to the Developer of the matters alleged. Notice shall be either hand delivered or by certified mail at the location and mailing address set forth below. Developer shall have fifteen (15) calendar days to cure the matters in default, subject to regulatory considerations, if any, which may extend the time to cure, or contest same if they are disputed. In either event, written notice shall be provided by the Developer to the Trustee either advising as to the cure or contesting the matter or matters noticed, or both, as the case may be.

Following receipt of the Developer's response, or in the event no response is timely received, the Trustee, upon consideration of the information provided and such further investigation as the Trustee deems warranted, shall provide further written notice to the Developer of the corrective

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action required and a reasonable time frame for accomplishing same. Failure to timely implement the corrective action shall entitle the Trustee to take immediate possession of the water system for the purposes of operating and maintaining the same, and hold, use, operate, manage, and control the same either itself or by or through any of the agencies or parties for whose benefit this trust is created and it may take possession thereof for the purposes of operating the same, and in that event, the Trustee or the entity operating the water system in its behalf or in behalf of any of the beneficiaries of this trust, shall be subrogated to all rights of the Grantor to levy and collect a charge against each customer at rates not in excess of those specified in paragraph number 6 of the Trust Deed. Ultimate foreclosure, by either judicial proceedings or Trustee's power of sale, may proceed at this point as provided by statute. To the extent the terms of the recorded Trust Deed vary from the statutory procedure, the statute controls.

10. Remedies Not Exclusive: Enforcement of this Agreement by any party hereto may be by any remedy available at law or equity. However, to the extent remedies are provided for under this Agreement they shall be exclusive if commenced in the manner set forth, namely by notice to the Trustee, by one or more Owners, it being the intent that disparate or inconsistent avenues of relief not be availed of simultaneously by diverse property owners.

11. Governing Law: This Agreement shall be governed by the laws of the State of Idaho. In the event that any provision or clause of this Agreement conflicts with applicable laws, such conflicts shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable. No provision hereof can be effectively waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement is sought.

12. Developers Address: Notice to the Developer, whenever required under the terms of this Agreement, shall be made as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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13. Binding Effect: The terms of this Agreement will bind and benefit the heirs, legal representatives, successors and assigns of the Owners, Developer and Trustee.

14. Time is of the Essence: Time is of the essence of this Agreement and it is expressly understood and agreed that any delay in enforcing the performance of any of the provisions of this Agreement shall not operate to waive, or be a waiver, of the right of the Owners to enforce any of the provisions of this Agreement.

15. Forebearance: Any forbearance of any kind that may be granted or allowed by the Owners to Developer under this Agreement shall not be in any way deemed or construed or considered as waiving or surrendering the right of the Association to require compliance that is full and to the letter of this Agreement or to thereafter require performance by Developer in strict accordance with the terms of this Agreement.

Executed this \_\_\_\_ day of \_\_\_\_\_, 199\_\_.

DEVELOPERS:

\_\_\_\_\_  
GEORGE KLIND

\_\_\_\_\_  
TENSIE TOWAN as Trustee of the  
MARGARET M. ROWAN TRUST

\_\_\_\_\_  
RUSSELL MURATA

\_\_\_\_\_  
MARY LOU MURATA

OWNERS - LOT 1:

\_\_\_\_\_  
OWNERS - LOT 2:

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OWNERS - LOT 3:

\_\_\_\_\_

OWNERS - LOT 4:

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OWNERS - LOT 5:

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OWNERS - LOT 6:

\_\_\_\_\_

OWNERS - LOT 7:

\_\_\_\_\_

OWNERS - LOT 8:

\_\_\_\_\_

OWNERS - LOT 9:

\_\_\_\_\_



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

February 16, 1996

WILLIAM M KILLEN PA  
200 PARK ST  
MCCALL ID 83638

Re: Application for Permit No. 65-13420 in the Name of Margaret  
Rowan Turst, George Klind and Russell Murata

Dear Mr. Killen:

On August 14, 1995, I wrote a letter extending for six months the  
time for further progress in the above-referenced matter. The  
purpose of this letter is to request updated information on the  
status of this matter.

Please advise this office within the next two weeks of the status  
so we can update our files in this regard.

Sincerely,

DAVID R. TUTHILL, JR., P.E.  
Manager, Western Regional Office

DRT/st

MAILED 127

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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

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

August 14, 1995

WILLIAM M KILLEN PA  
200 PARK ST  
MCCALL ID 8338

Re: Application for Permit No. 65-13420

Dear Mr. Killen:

Thank you for your letter date July 11, 1995, in which you updated me regarding the status of the above referenced application.

It does sound as though some progress is being made in this regard, and I will consider the file to be extended for another six months in our hold drawer. Please apprise me of any significant developments in this regard, and we do need to accomplish some additional significant action within this next six month period.

Sincerely,

A handwritten signature in cursive script, reading "Steve Latta, Acting for".

DAVID R. TUTHILL, JR., P.E.  
Manager, Western Regional Office

DRT/st

JUL 09 1996

Law Offices of  
William M. Killen, P.A.  
200 Park Street  
McCall, Idaho

William M. Killen

Telephone: (208) 834-7118  
FAX: (208) 834-5880

Mailing Address:  
P.O. Box AO  
McCall, Idaho 83638

July 11, 1995

RECEIVED

JUL 12 1995

WATER RESOURCES  
WESTERN REGION

David R. Tuthill, Jr., P. E.  
Manager, Western Regional Office  
State of Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705-5082

Re: Application Permit No. 65-13420

Dear Mr. Tuthill:

A copy of your letter of June 22, 1995 was forwarded to me by Mr. Russell Murata with a request that I respond. At the present time, and for the last year, I have been negotiating with Mr. Brian McMahan, the attorney for the Homeowners Association, in an attempt to resolve the outstanding differences between the developers, namely, Klind, Murata and Rowan Trust, and the Association with respect to a number of items involving the subdivision, including but not limited to the well which is the subject of the permit request.

Believe it or not we have made some progress but, as yet, have still not reached a 100% agreement. For that matter it may be that we will never reach that. However, I believe there is still progress being made and would request that the pending application be maintained in that status for an additional period of time until either those negotiations have been successfully completed or it becomes obvious that we have reached an impasse.

If for some reason you do need additional confirmation or information with respect to your letter of request, please advise.

Best regards,



William M. Killen

WMK/ch

cc: George Klind  
Russell Murata  
Tensie Rowan  
Brian McMahan/Mile High Estates Homeowners Association  
Fred Shoemaker w/enclosure

JUL 09 1996



State of Idaho

**DEPARTMENT OF WATER RESOURCES**

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

FAX (208) 334-2348

PHILIP E. BATT  
GOVERNOR

KARL J. DREHER  
DIRECTOR

June 22, 1995

MARGARET ROWAN TRUST  
GEORGE KLIND, RUSSELL MURATA  
PO BOX 783  
MCCALL ID 83638

Re: Application for Permit No. 65-13420

It has been some time since we have been advised of progress relative to resolving the protests on the above-referenced application for permit. Please advise this office no later than July 15, 1995, regarding the present disposition of this application.

Sincerely,

*Steve Lath, Acting for*

DAVID R. TUTHILL, JR., P.E.  
Manager, Western Regional Office

DRT:st

JUL 09 1996

CLIENT COPY

**MILLEMANN & PITTENGER**  
**ATTORNEYS AT LAW**  
706 NORTH FIRST  
POST OFFICE BOX 1066  
MCCALL, IDAHO 83638

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. MCMAHAN

✓DA  
Klind  
**RECEIVED**  
JUL 19 1993

Department of Water Resources  
Bozeman Regional Office

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

July 16, 1993

HAND DELIVERED

William M. Killen, Esq.  
Killen & Kerrick, P.A.  
P. O. Box AO  
McCall, ID 83638

Re: Mile High Estates Subdivision

Dear Bill:

This letter is in response to your letter dated May 11, 1993. As you stated in your letter, "the developers are more than willing to take whatever steps are necessary to accommodate the homeowners' concerns with regard to preserving the character of the water as is." In that spirit, rather than litigating this matter at this time, the Association has opted to resolve the outstanding Subdivision issues by simply requesting that your clients execute the attached Agreement.

In conjunction with the execution of the Agreement and other referenced documents, the Association will agree: (1) to request a reconveyance of the Trust Deed dated April 5, 1988, listing the Klinds as Grantors and Central Idaho Title, as Trustee; and (2) to withdraw its opposition to the Developer's Application for Permit with the Idaho Department of Water Resources if Mr. Klind modifies said Application to delete the water bottling company.

Because the Association has been required to expend substantial attorney fees in its effort to get the developers to fulfill their obligations, the Association also demands that the developers participate in this effort by paying one-half of the attorney fees the Association has incurred and will yet incur in getting this matter resolved.

Should the developers not be agreeable to the foregoing proposal, they should be advised that the Association will pursue its legal remedies (e.g., quiet title), and should such Court action be necessary, the Association will request an award of attorney fees and costs. Additionally, in furtherance of the IDWR conference held on February 17, 1993, the Association will ask IDWR

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July 16, 1993  
William M. Killen, Esq.  
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to schedule a hearing on Mr. Klind's Application for Permit. Said hearing is provided for in Idaho Code Section 42-203A and IDWR's Rules of Practice and Procedure, especially Rule 9. Such a hearing is in the nature of a full-blown court trial (with the taking of evidence, depositions, subpoenas, briefs, etc.) and Mr. Klind will have the burden of proof on all points in his Application. If the Association is not satisfied with the outcome of the IDWR hearing, it will pursue its rights to judicial review under Idaho Code Section 42-203A(6).

Additionally, should the developers not be willing to sign and abide by the attached Agreement, they should also be advised that the Association members will vociferously oppose any further real estate development by your clients for the reason, among others, that the developers have not been willing to fulfill their obligations to persons who have already purchased lots in Mile High Estates Subdivision. The rationale is simple -- the developers should not be allowed to proceed with any further property development until they have fulfilled all of their obligations regarding past real estate development projects. On the other hand, if the Developers execute the attached Agreement and strictly comply with its terms in fulfillment of their previous promises to members of the Association, the Association will then be willing to support further development by the Developers.

This matter has languished long enough and the members of the Association have been more than accommodating in trying to settle this matter without judicial compulsion. The members of the Association wish to resolve this matter without further delay. Accordingly, please communicate with your clients immediately and respond to this letter, in writing, by July 30, 1993. If your written response is not received in this office by that date, the Association will presume that your clients are not really serious about settling this matter and will proceed with their other remedies.

Sincerely,

*Brian L. McMahon*

BRIAN L. MCMAHAN

BLM/dm

cc: Mike Wallace, Mile High Property Owners' Association  
Mike Anderson, Central Idaho Title  
Dave Tuthill, Idaho Department of Water Resources

killen.001

JUL 09 1996

## **AGREEMENT**

This Agreement is made this \_\_\_\_ day of July, 1993, among GEORGE KLIND and LINDA KLIND, husband and wife, RUSSELL MURATA and MARY ANN MURATA, husband and wife, and TENSIE ROWAN, as Trustee of the MARGARET M. ROWAN TRUST, and/or any de facto or de jure partnership, joint venture or other business enterprise composed of the foregoing (hereinafter collectively the "Developers"), whose collective address is P.O. Box 783, McCall, Idaho, 83638, and Mile High Property Owner's Association, Inc., an Idaho Non-Profit Corporation (hereinafter the "Association"), whose current address is in care of Mike Wallace, President, P.O. Box 868, McCall, Idaho, 83638.

### **WITNESSETH:**

WHEREAS, Developer is the developer of Mile High Estates Subdivision (hereinafter the "Subdivision") located in the City of McCall, Valley County, Idaho;

WHEREAS, the Association is composed of members who have purchased homesites within said Subdivision;

WHEREAS, a dispute has arisen between Developer and the Association regarding water service within the Subdivision and further regarding the Well Lot and Mile High Drive as shown on the Plat of Mile High Estates, filed for record on November 21, 1985, as Instrument Number 145134; and,

WHEREAS, rather than litigate their dispute, the Developer and the Association have reached the following mutually acceptable resolution of their dispute.

### **AGREEMENT**

NOW, THEREFORE, for the foregoing reasons which are material considerations and not mere recitals, and in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of said considerations being hereby acknowledged, Developer and Association agree as follows:

1. Warranty Deed: Developer shall make, execute and deposit with the escrow holder hereunder a Warranty Deed in favor of the Association conveying to the Association the real property described in Exhibit "A" attached hereto and by this reference incorporated herein (hereinafter the "Property"), to the Association. Upon Developer's default under this Agreement, and upon notice to Developer and Developer's failure to cure the default as provided in this Agreement, the escrow holder shall release said Warranty Deed to the Association for recording by the Association at the Association's option. The Warranty Deed that Developer shall execute and deliver to the escrow holder shall be in the form attached hereto as Exhibit "B".

2. Priority Water Rights: Developer shall secure to the Association and/or its individual members, priority water rights to water from the well now located on the Well Lot, said priority rights to run in favor of lots owned by the members of the Association and to enjoy first priority to water from the existing well.

3. Water Supply: Developer shall supply members of the Association with water from the existing well on the Well Lot, said water supply to be adequate in volume and pressure to meet the needs of the Association members, and the water is to be untreated, unfiltered, and unaltered from its natural state. Developer will supply water to Association members as provided in this Agreement solely in return for the members' payment to Developer of the electrical costs associated with pumping and supplying the water to the member's individual houses. Should the above-described pressure, volume and/or natural state of the water be threatened through any cause whatsoever, Developer will, at Developer's sole expense, immediately take whatever measures are necessary to preserve the above-described pressure, volume and natural state of the Association members' water from the existing well on the Well Lot.

4. Well Lot Aesthetics: Developer shall, by September 15, 1994, establish the Well Lot as an area to be enjoyed in common by members of Association and their guests. Developer's obligation generally includes, but is not limited to: finishing the buildings on the Well Lot to conform with the aesthetics of the surrounding structures, removing all debris from the Well Lot, landscaping the Well Lot to conform to surrounding aesthetics, and placing three (3) picnic tables and benches of average quality on the Well Lot.

5. Mile High Drive: Developer shall, on or before September 15, 1994, bring Mile High Drive up to city of McCall residential street specifications and pave it.

6. Maintenance, Repair and Alterations: Developer shall keep the Property in good condition and repair, shall not remove, demolish or substantially alter any improvements, and shall properly restore any improvement that may be damaged or destroyed. Developer shall pay when due all claims for labor performed and materials furnished, and Developer shall not allow or suffer any liens or encumbrances to attach or be filed against any part of the Property. Developer shall not commit or permit any waste or deterioration of the Property, and shall keep and maintain abutting grounds, sidewalk, roads, parking and landscape areas in good and neat order and repair.

7. Insurance: Developer shall maintain hazard insurance on the Property to the full insurable value of the improvements placed thereon, and the Association shall be named as an additional loss payee under said policy(s).

8. Indemnification: If the Association is made a party Defendant to any litigation concerning the Property or any part thereof, or interest therein, then Developer shall jointly and severally indemnify, defend and hold Association and its members harmless from all liability by reason of said litigation, including attorney's fees and expenses

incurred by the Association and/or its members in any such litigation, whether or not any such litigation is prosecuted to judgment, and if it is, then all such costs and expenses on appeal, if any, as well.

9. Taxes and Impositions: Developer shall pay, prior to delinquency, all real property taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever, including without limitation levies or charges resulting from covenants, conditions and restrictions affecting the Property, that are assessed or imposed upon the Property or become due and payable and which create, may create or appear to create a lien upon the Property or any part thereof.

10. Utilities: Developer shall pay, when due, all utilities charges that are incurred for the benefit of the Property or that may become a charge or lien against the Property for utilities or other services furnished to the Property and all other assessments or charges of a similar nature, whether public or private, affecting the Property or any portion thereof, whether or not such taxes, assessments or charges are liens thereon.

11. Defense of Property: Developer shall, at its own expense, appear in or defend any action or proceeding that might affect the Association's security, rights or powers under this Agreement.

12. Eminent Domain: Should the Property, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceedings, or in any other manner, or should Developer receive any notice or other information regarding such proceeding, Developer shall give prompt written notice thereof to the Association.

13. Inspections: The Association, or its members, agents, or representatives, are authorized to enter at any reasonable time upon any part of the Property for the purpose of inspecting the same.

14. Accounting; Changes in Condition: Developer shall keep accurate books and records for the operation of the Property. The Association and its members will have the right to examine, copy and audit Developer's books and records regarding the Property at all reasonable times. Developer shall promptly notify the Association of any material adverse change in the Property.

15. Hazardous Substances: Developer warrants that no pollutants or other toxic or hazardous substances have been or shall be discharged, disbursed, released, stored, generated, used, or allowed to escape on the Property. Further, no underground storage tanks are or will be located on the Property.

16. Bankruptcy: Developer will not file a voluntary petition in bankruptcy or allow itself to be adjudicated a bankrupt or insolvent, nor will it file any petition or answer seeking or acquiescing in any arrangement under any present or future bankruptcy or

insolvency law, nor will Developer allow the appointment of any trustee, receiver or liquidator of all or any part of the Property.

17. Default: In the event of Developer's failure to strictly comply with any of the provisions of this Agreement, notice of such default shall be prepared in duplicate and delivered to the escrow holder and shall be deemed to have been given as of the date one copy of said notice is sent by the escrow holder by registered or certified mail addressed to Developer at the post office address for Developer provided in this Agreement (or at such other address as Developer has from time to time furnished in writing to the Association and the escrow holder) with sufficient postage prepaid. Said notice shall describe the default and shall allow Developer ten (10) calendar days to cure the default and provide the escrow holder and Association notice of said cure. Should Developer fail to cure the default within said ten (10) day period, or should the Association and the escrow holder not be in receipt of the Developer's notice of cure within said ten (10) day period, then the escrow holder shall immediately release the Warranty Deed from escrow to the Association for recording at the Association's option. Upon delivery of the Warranty Deed and the other documents held in escrow to the Association, the duties of the escrow holder hereunder shall terminate.

Release of the Warranty Deed to the Association upon Developer's default shall be as liquidated damages under this Agreement and shall not be construed as a penalty. The Developer and the Association agree that in the event of default by Developer it would be difficult to ascertain the exact money damages suffered by the Association and that the provisions for liquidated damages as set forth above have been agreed upon as bearing a reasonable relationship to actual damages the Association will suffer if Developer defaults. In the opinion of the parties such liquidated damages will not constitute a penalty or inequitable forfeiture upon Developer.

18. Attorney's Fees: If the Association commences an action against Developer to enforce any of the terms hereof, Developer shall reimburse the Association for the attorney's fees and expenses the Association incurs, and the right to such attorney's fees and expenses shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment. If Developer breaches any term of this Agreement, the Association may employ an attorney or attorneys to protect its rights hereunder and in the event of such employment, Developer shall pay attorney's fees and expenses incurred by the Association, whether or not an action is actually commenced against Developer by reason of such breach.

19. Remedies Not Exclusive: The Association shall be entitled to enforce this Agreement in such order and manner as it may in its absolute discretion determine. No remedy herein conferred upon or reserved to the Association is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

JUL 09 1996

20. Governing Law: This Agreement shall be governed by the laws of the state of Idaho. In the event that any provision or clause of this Agreement conflicts with applicable laws, such conflicts shall not affect other provisions of this Agreement that can be given effect without the conflicting provision, and to this end the provisions of this Agreement are declared to be severable. No provision hereof can be effectively waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement is sought.

21. Notices: Except as otherwise specifically provided herein, whenever any party shall desire to give or serve any notice, demand, request or other communication with respect to this Agreement, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by registered or certified mail, postage prepaid, return receipt requested. Any party at any time may change its address for such notices by delivering or mailing to other parties hereto, as aforesaid, a notice of such change.

22. Definition of Terms; Pronouns: The term "Developer" includes both the original parties hereto and any subsequent owner or owners of any of the Property. The term "Association" includes the original Association and its members and also any future owner or holder of lots within the Subdivision. Whenever the context and the facts so require, the singular includes the plural and vice-versa and each gender includes each other gender and the neuter. The headings in this Agreement are for convenience only and do not limit its provisions.

23. Binding Effect: The terms of this Agreement will bind and benefit the heirs, legal representatives, successors and assigns of the Association and Developer.

24. Further Assurances: Developer agrees to take such action, and to execute and record at its sole expense, such further instruments and agreements as the Association may reasonably request in order to perfect and continue its rights hereunder.

25. Escrow Instructions: This Agreement, as supplemented by the escrow instructions required by the escrow holder, if any, shall constitute directions and instructions to such escrow holder with respect to such escrow and shall define and prescribe the obligations of such escrow holder.

26. Time is of The Essence: Time is of the essence of this Agreement and it is expressly understood and agreed that any delay in enforcing the performance of any of the provisions of this Agreement shall not operate to waive, or be a waiver, of the right of the Association to enforce any of the provisions of this Agreement.

27. Forbearance: Any forbearance of any kind that may granted or allowed by the Association to Developer under this Agreement shall not be in any way deemed or construed or considered as waiving or surrendering the right of the Association to require

RECORDED

compliance that is full and to the letter of this Agreement or to thereafter require performance by Developer in strict accordance with the terms of this Agreement.

28. Recording: Neither the original nor a copy of this Agreement shall be recorded, although the Association will record a notice of this Agreement in the form of Exhibit "C" attached hereto and incorporated herein by this reference.

29. Survival of Covenants: All covenants and conditions in this Agreement will survive the release of the Warranty Deed to the Association by the escrow holder.

30. Escrow Holder: Mountain Title & Escrow, Inc., of Cascade, Idaho, is hereby designated as the escrow holder under this Agreement. The original of this Agreement, together with the Warranty Deed, and all other documents and instruments required to be deposited with the escrow holder under the terms of this Agreement, shall be deposited with the escrow holder and be held by the escrow holder, subject to the terms of this Agreement.

31. Closing: The closing of this Agreement and the delivery of all the executed documents contemplated hereby shall take place at the offices of Millemann & Pittenger, 706 North 1st Street, McCall, Idaho, on or before the 31st day of July, 1993, which date shall be the "closing date." On or before the closing date, all documents and instruments contemplated by this Agreement shall be properly executed and deposited with the escrow holder and/or delivered as appropriate. The escrow holder hereunder shall serve as the closing agent and the closing agent's fee and the escrow holder's fees shall be shared equally by the Association and the Developer.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

MILE HIGH PROPERTY OWNER'S  
ASSOCIATION, INC.

ATTEST:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
GEORGE KLIND

\_\_\_\_\_  
LINDA KLIND

\_\_\_\_\_  
RUSSELL MURATA

\_\_\_\_\_  
MARY ANN MURATA

TENSIE ROWAN, as Trustee of  
the MARGARET M. ROWAN TRUST

STATE OF IDAHO, )  
(ss.  
County of Valley. )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_,  
a Notary Public in and for said State, personally appeared GEORGE KLIND and LINDA KLIND, husband  
and wife, known or identified to me to be the persons whose names are subscribed to the within instrument  
and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF )  
(ss.  
County of )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_,  
a Notary Public in and for said State, personally appeared RUSSELL MURATA and MARY ANN MURATA,  
husband and wife, known or identified to me to be the persons whose names are subscribed to the within  
instrument and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

JUL 09 1996

STATE OF

)  
(ss.  
)

County of

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared TENSIE ROWAN, known or identified to me to  
be the Trustee of the Margaret M. Rowan Trust, and acknowledged that he executed the same on behalf  
of said Margaret M. Rowan Trust.

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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF

)  
(ss.  
)

County of

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared \_\_\_\_\_, known or  
identified to me to be the \_\_\_\_\_ of Mile High Property Owner's Association, Inc. and  
acknowledged that he executed the same on behalf of said Mile High Property Owner's Association, Inc.

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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

**That certain real property located in Valley County, Idaho, more particularly described as:**

**Mile High Drive and the Well Lot, as shown on the Plat of Mile High Estates Subdivision, filed for record in Valley County Recorder's Office on November 21, 1985, as Instrument No. 145134, together with the well or wells, plant, treatment facilities, storage and distribution facilities, including the water mains and lateral lines, heretofore constructed or to be constructed, including all easements incident to the ownership and operation of said water system situate on the Well Lot and on Mile High Drive or platted easements of said Subdivision**

**exhibit**

**(Legal Description - Exhibit "A")**

**JUL 09 1996**

**EXHIBIT "B"**

**WARRANTY DEED**

FOR VALUE RECEIVED, GEORGE and LINDA KLIND, husband and wife, RUSSELL MURATA and MARY ANN MURATA, husband and wife, and TENSIE ROWAN, as Trustee of the MARGARET M. ROWAN TRUST, collectively as Grantor, do hereby grant, bargain, sell, and convey unto MILE HIGH PROPERTY OWNER'S ASSOCIATION, INC., an Idaho Non-Profit Corporation, whose current address is c/o Mike Wallace, President, P.O. Box 868, McCall, Idaho, 83638, as Grantee, the following described real property:

All of Grantors' right, title and interest in and to the following described real property located in Valley County, Idaho:

Mile High Drive and the Well Lot, as shown on the Plat of Mile High Estates Subdivision, filed for record in the Valley County Recorder's Office on November 21, 1985, as Instrument No. 145134, together with the well or wells, plant, treatment facilities, storage and distribution facilities, including the water mains and lateral lines, heretofore constructed or to be constructed, including all easements incident to the ownership and operation of said water system situate on the Well Lot and on Mile High Drive or platted easements of said Subdivision.

To Have and to Hold the said premises, with their appurtenances unto the said Grantee, its heirs, successors and assigns forever. The Grantor hereby covenants to and with the Grantee that the Grantor is the owner in fee simple of said premises, that the premises are free from all encumbrances whatsoever except the current year's taxes, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

\_\_\_\_\_  
GEORGE KLIND

\_\_\_\_\_  
LINDA KLIND

AGREEMENT - 1

JUL 09 1996

RUSSELL MURATA

MARY ANN MURATA

TENSIE ROWAN, as Trustee of the  
MARGARET M. ROWAN TRUST

STATE OF IDAHO, )  
(ss.  
County of Valley. )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_, a  
Notary Public in and for said State, personally appeared GEORGE KLIND and LINDA KLIND, husband  
and wife, known or identified to me to be the persons whose names are subscribed to the within  
instrument and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF )  
(ss.  
County of )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_,  
a Notary Public in and for said State, personally appeared RUSSELL MURATA and MARY ANN MURATA,  
husband and wife, known or identified to me to be the persons whose names are subscribed to the within  
instrument and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

JUL 09 1996

STATE OF

)  
(ss.  
)

County of

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared TENSIE ROWAN, known or identified to me to  
be the Trustee of the Margaret M. Rowan Trust, and acknowledged that he executed the same on behalf  
of said Margaret M. Rowan Trust.

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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

entlib

**EXHIBIT "C"**

**NOTICE OF AGREEMENT**

Notice is hereby given that the property described on Exhibit "A" attached hereto and incorporated herein by reference is subject to that certain Agreement executed on the \_\_\_\_\_ day of July, 1993, by and between GEORGE KLIND and LINDA KLIND, husband and wife, RUSSELL MURATA and MARY ANN MURATA, husband and wife, and TENSIE ROWAN, as Trustee of the MARGARET M. ROWAN TRUST (collectively described as "Developer" under said Agreement), and MILE HIGH PROPERTY OWNER'S ASSOCIATION, INC., an Idaho Non-Profit Corporation (described as the "Association" under said Agreement). A copy of said Agreement is held in escrow at the offices of Mountain Title and Escrow, Inc., in Cascade, Idaho.

IN WITNESS WHEREOF, the above-described Association and Developer have executed this Notice this \_\_\_\_\_ of July, 1993.

MILE HIGH PROPERTY OWNER'S  
ASSOCIATION, INC.

ATTEST:

By: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
GEORGE KLIND

\_\_\_\_\_  
LINDA KLIND

\_\_\_\_\_  
RUSSELL MURATA

\_\_\_\_\_  
MARY ANN MURATA

\_\_\_\_\_  
TENSIE ROWAN, as Trustee of  
the MARGARET M. ROWAN TRUST

STATE OF IDAHO, )  
(ss.  
County of Valley. )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared GEORGE KLIND and LINDA KLIND, husband  
and wife, known or identified to me to be the persons whose names are subscribed to the within instrument  
and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF )  
(ss.  
County of )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared RUSSELL MURATA and MARY ANN MURATA,  
husband and wife, known or identified to me to be the persons whose names are subscribed to the within  
instrument and acknowledged 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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF )  
(ss.  
County of )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared TENSIE ROWAN, known or identified to me to  
be the Trustee of the Margaret M. Rowan Trust, and acknowledged that he executed the same on behalf  
of said Margaret M. Rowan Trust.

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 \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

STATE OF IDAHO, )  
(ss.  
County of Valley. )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1993, before me, \_\_\_\_\_  
a Notary Public in and for said State, personally appeared \_\_\_\_\_  
known or identified to me to be the \_\_\_\_\_ of Mile High Property Owner's Association, Inc.,  
and acknowledged that he executed the same on behalf of said Mile High Property Owner's Association,  
Inc.

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: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

notice



JUL 09 1996

## **EXHIBIT "A"**

### **LEGAL DESCRIPTION**

**That certain real property located in Valley County, Idaho, more particularly described as:**

**Mile High Drive and the Well Lot, as shown on the Plat of Mile High Estates Subdivision, filed for record in Valley County Recorder's Office on November 21, 1985, as Instrument No. 145134, together with the well or wells, plant, treatment facilities, storage and distribution facilities, including the water mains and lateral lines, heretofore constructed or to be constructed, including all easements incident to the ownership and operation of said water system situate on the Well Lot and on Mile High Drive or platted easements of said Subdivision**

**exhibits**

**(Legal Description - Exhibit "A")**

**JUL 09 1996**

RECEIVED

APR 21 1993

**MILLEMANN & PITTENGER**  
ATTORNEYS AT LAW  
706 NORTH FIRST  
POST OFFICE BOX 1066  
MCCALL, IDAHO 83638

Department of Water Resources  
Western Regional Office

*Bar*  
*Kline*  
*Protested*  
*app,*  
*Basin 65*

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. MCMAHAN

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

April 2, 1993

Mr. Russell Murata  
169 NW 19th Street  
Ontario, Oregon 97914

Re: Mile High Estates

Dear Mr. Murata:

As you are aware, this firm represents the Mile High Property Owner's Association. The purpose of this letter is to give you, in the interest of fairness, the benefit of our research regarding public drinking water supply systems, and to make one final attempt to resolve the well lot ownership issue short of litigation.

As regards public drinking water supply systems, there are three "magic numbers" that will affect the system in Mile High Estates. First, under Idaho Code Section 39-103(15) a "'public water supply' means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use in incorporated municipalities; or unincorporated communities where ten (10) or more separate premises or households are being served or intended to be served." Accordingly, should one more household be added to the existing system at Mile High Estates, the system will then become a public water supply system under Title 39, Chapter 1 of the Idaho Code. The governmental regulation and other requirements of Title 39, Chapter 1, are set forth therein and in the Idaho Department of Health & Welfare Rules and Regulations for Public Drinking Water Systems, Title 1, Chapter 8. The fact that the Mile High Estates system would become a public water supply with the addition of one more dwelling is further confirmed by Monty Marchus' letter to Dave Tuthill, dated March 4, 1993, a copy of which is attached for your reference.

JUL 09 1996

Russell Murata  
April 2, 1993  
Page - 2

Even more stringent requirements will become applicable to the system should it ever have 15 or more service connections or regularly serve an average of at least 25 individuals daily at least 60 days out of the year. Said another way, should you add as few as 6 more service connections to the system, the system will then be saddled with additional onerous requirements that may include daily monitoring, testing, analysis, recordkeeping, reporting, filtration and water treatment. See Idaho Department of Health and Welfare Regulations cited above.

The third magical number that may impact the Mile High system is the number 25. The Public Drinking Water Rules and Regulations state that water systems must have a minimum of two (2) sources if they serve twenty-five (25) or more homes. This requirement is confirmed in Mr. Marchus' letter to Mr. Tuthill, a copy of which is attached. Accordingly, if and when the system serves 25 or more homes, the Department of Health & Welfare will require a new well to be drilled (or some other secondary source of water to be obtained).

In short, under Idaho law, the expansion of the existing system is severely limited. In fact, should even one more household be added to the system, it will become a public water supply system and become subject to governmental regulation and all of the increased red tape, paperwork, hassle and expense that is involved with governmental regulation. The Association wanted to be sure that you are aware of the foregoing facts and that under Idaho law the expansion of the existing system has very limited utility to you, unless you are willing to become subject to all of the attendant governmental regulation.

It almost certainly will make economic sense to you and to the Association to resolve the well lot ownership issue short of litigation. Even if the Association does not commence litigation regarding ownership of the well lot, the utility of the system to you suffers from severe limitations due to governmental regulations. Besides the monitoring, analysis, reporting, recordkeeping, treatment, filtration, etc. that may be involved, at the time that the system is expanded to include the 25th service connection, you will be required to obtain a secondary source of water (such as drilling a new well). For this reason, the Association asks you to consider alternative ways to resolve the well lot ownership issue that may be more economically sensible to everyone involved.

I strongly recommend that you seek legal counsel regarding the foregoing, as well as the matters addressed in my letter to you.

JUL 09 1996

Russell Murata  
April 2, 1993  
Page - 3

dated February 19, 1993. After you have reviewed this letter and obtained legal counsel, please contact me directly. If I have not received a response in writing from you by April 15, 1993, the Association will assume that you are not interested in resolving this matter short of litigation and will proceed with the litigation accordingly. I look forward to your response.

Sincerely,

*Brian L. McMahon*

BRIAN L. MCMAHAN

BLM/rm  
Enclosure

cc: Mike Wallace, Mile High POA  
Mike Anderson, Central Idaho Title  
George Klind  
Dave Tuthill, IDWR

Murata

JUL 09 1996

**MILLEMANN & PITTENGER**  
**ATTORNEYS AT LAW**  
706 NORTH FIRST  
POST OFFICE BOX 1086  
MCCALL, IDAHO 83638

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. MCMAHAN

✓ Doc  
65-13420 Permit File  
**RECEIVED**  
JUL 22 1993

Department of Water Resources  
Western Regional Office  
TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

February 19, 1993

Mr. Russell Murata  
169 NW 19th Street  
Ontario, OR 97914

Re: Mile High Estates

Dear Mr. Murata:

This letter will follow our telephone conference on the afternoon of February 17, 1993, which was immediately preceded by the conference called by the Idaho Department of Water Resources regarding application for Permit No. 65-13420 submitted by George Klind. The purpose of this letter is to briefly outline the position of Mile High Estates Property Owners Association, Inc. and to provide you with copies of pertinent documents in relation thereto.

Briefly, the position of the Association is that the partnership is not the legal owner of the well lot, the well or the water distribution system. Rather, pursuant to that certain trust deed dated April 5, 1988, Central Idaho Title, Inc., is the legal owner of the property and holds the property in a fiduciary capacity for the benefit of the nine lot owners in Mile High Estates. See Exhibit "A" attached.

The Association's position is further borne out by the history of the development and sale of the subdivision as is evidenced by the testimony of each of the property owners and the other documents referenced below. Since the very beginning, all of the property owners have been told (by George and/or Real Estate Sales Agents) that the well was to be for the exclusive use of the nine lot owners in Mile High Estates Subdivision. Each of the lot owners were told that once all nine lots were sold, the well lot and the water system were to be transferred to a property owners association, and that each property owner owned an undivided 1/9th interest in the well lot and water system. Each of the members of the Property Owners Association can testify to that fact.

JUL 09 1996

Mr. Russell Murata  
February 19, 1993  
Page - 2

That fact is further confirmed by documents regarding the subdivision. As is stated in the Mile High Estates Engineering Report prepared by Bill Harris (See Exhibit "B"), the Mile High Estates Subdivision project consists of only nine single-family residential lots, and ownership of the well and well house is to remain in the developer only until all the lots are sold. "At that time, if public water is not available, an association will be formed consisting of the lot owners and appropriate documents filed with the Idaho Department of Health and Welfare to assure proper maintenance and operation of the system." Likewise, the subdivision pre-application (See Exhibit "C") filed with the City of McCall states that the water supply for Mile High Estates Subdivision will be a community well and that only nine lots will be attached thereto. The Removal of the Sanitary Restriction for the subdivision (See Exhibit "D") refers to the plans for the community system that were approved by the Idaho Department of Health and Welfare and again states that the water to all the lots in the subdivision is to be supplied by the approved community water system, but there is no mention of an additional 16 lots or a water bottling company. (You may be interested to know that Mr. Klind represented the IDWR conference that 10 of the additional 16 building sites contemplated under the water application are on land owned by Merrill Conitz, not by you.)

The protective covenants for Mile High Estates Subdivision also address the water issue. See Exhibit "E". As platted and recorded, Mile High Estates Subdivision consists of nine lots only, and the covenants state that water is to be provided by a community well and that "a trust deed for insuring an enforceable right to continuous service at a reasonable cost shall be recorded to detail such rights." To our knowledge said trust deed has never been recorded (although it does exist, See Exhibit "A") and the Covenants specifically state that "these covenants shall be specifically enforceable by any or all such owners" and that "in the event it becomes necessary to seek enforcement by judicial remedy, the prevailing party shall be entitled to costs, including reasonable attorney fees incurred." If the Association is compelled to seek judicial remedy to enforce its rights, you can be assured that it will also request an award of costs and attorney fees. Please govern yourselves accordingly.

Turning to the trust deed (Exhibit "A"), the Association calls your attention to the fact that it speaks only of "domestic consumption" and "domestic use," not any commercial uses. Further, the trust deed references only Mile High Estates Subdivision which has been platted and recorded as containing only nine residential building lots, not an additional 16 lots. Under said trust deed,

JUL 09 1996

Mr. Russell Murata  
February 19, 1993  
Page - 3

the grantor conveyed to Central Idaho Title, as trustee, "all of its right, title and interest in and to the . . . well lot as stated on the plat of Mile High Estates Subdivision," and "the well or wells, plant, chemical treatment facilities, storage and distribution facilities, including the water mains and lateral lines, heretofore constructed or to be constructed, including all easements incident to the ownership and operation of said water system situate on the 'well lot' or platted easements of the subdivision." By its express terms, the trust deed states that "this grant is for the benefit of the present and future owners of all and each of the properties now or hereafter connected to the said water system" in the subject Mile High Estates Subdivision, and that Central Idaho Title, Inc., as grantee under the trust deed, "acts for itself as Trustee and as representative of and by authority of all persons, firms, corporations, or entities which are or may be beneficiaries under the trust thereby created."

The Valley County Assessor informs the Association that none of the real property taxes on the well lot have been paid, even though they have been assessed.

Just in case you are not aware, no one has a right to the water from the well at this point in time. A water right accrues only upon the granting of a permit from the Idaho Department of Water Resources, and no permit has yet been granted. Idaho Code Section 42-201. Even though Mr. Klind had no water right (to sell to the Association members or to any other third party), and even though legal title to the well lot and water system was vested in Central Idaho Title pursuant to the 1988 trust deed, as you know during the summer of 1991 Mr. Klind attempted to sell the water system and well lot to the City of McCall for \$90,000.00.

Even though they bought in good faith, it was not until November of 1992 that the members of the Association learned that they have no vested legal right to the water in their homes. In fact, it was then that they first learned that neither did Mr. Klind have a water right to promise or to sell to them. Even today, no one has a legal right to the water flowing from the well, and the members of the Association would still not be aware of the situation had it not been for the requirement that the Idaho Department of Water Resources publish legal notice of each application for a water right in the legal notice section of the local newspaper. Thus, in November of 1992, not only did the members of the Association first learn that no one (including themselves) has a legal right to the water, but they also learned that your partner, Mr. Klind, was attempting to renege on earlier representations that the well was for the exclusive use of the nine

JUL 09 1996

Mr. Russell Murata  
February 19, 1993  
Page - 4

lot owners in Mile High Estates Subdivision. Rather than trying to do right by the property owners and secure the water rights from the well for the exclusive use of the nine lot owners in the subdivision, Mr. Klind is attempting to breach his earlier promises and add a water bottling company and 16 additional homesites to the well. This begins to smell like misrepresentation and breach of contract, if not outright fraud, and there is a good possibility that a lawsuit against Mr. Klind and the partnership, if brought by the Association, could be won on those or other causes of action. Additionally, the Association would seek an award of its costs and attorney fees, so please govern yourselves accordingly.

Rather than bringing that lawsuit, and before the Association initiates a lawsuit to judicially compel the recordation of the Trust Deed as required by the Protective Covenants and to quiet title to the well lot in the Association, the members of the Association have opted to communicate with you directly to see if there is a solution to this problem that can be worked out. The Association simply wants what its members were promised all along from the very beginning; i.e. that the well is for the exclusive use of the nine lots in Mile High Estates Subdivision, and that upon the sale of all nine lots, the well lot and water system is to be transferred to the Property Owners Association.

I recommend that you seek legal counsel regarding this matter. After you have reviewed this letter and the accompanying documents, please contact me. The members of the Association want to work with you in resolving this situation, but at the same time they are also very committed to protecting their rights. I look forward to your response.

Sincerely,

*Brian L. McMahon*

BRIAN L. MCMAHAN

BLM/ji

Enclosures

cc: Mike Wallace, Mile High P.O.A.  
Mike Anderson, Central Idaho Title  
George Klind  
Dave Tuthill, Idaho Dept. Water Resources ✓

murata

JUL 09 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

September 3, 1993

William M. Killen, Esq.  
Killen & Kerrick, P.A.  
P.O. Box A.O.  
McCall, ID 83638

RE: Mile High Estates Well

Dear Mr. Killen:

Thank you for your letter dated August 11, 1993, in which you provided an update as to the status of the above-referenced matter.

You raised a question as to whether the priority of the nine existing lots served by the well can be made a condition of the permit so as to ensure the present lot owners and their successors will have first call in the event of a shortage.

The priority date of the water right in this matter is the date of the filing of the application. This priority date would apply to all uses developed under the water right. However, we would be willing to split this water right into two parts and advance the priority of the second part by a day based on a request by the applicant. This technique has a number of benefits toward the solution you are suggesting. First, proof of beneficial use can be made on the existing nine lot portion, and a water right license can be issued so that future processing of this portion of the water right is independent from the new development. Second, the priority of the two portions would be clearly different whether or not the ownership of the water right changes. Third, the nine lot portion could be assigned to some type of special water users association if desired.

In summary, we would be willing to work with you and the protestants in this matter to modify the water right filing if this process would result in a reduction of the concerns expressed by the protestants in this matter.

Sincerely,

David R. Tuthill, Jr., P.E.  
Manager, Western Regional Office

cc: Brian McMahan, Esq.

JUL 09 1996

Notes by D. Tutuill

2/17/1993

65-13420

George Klind represents applicant

Others represent protestants (see sign-in sheet)

George Klind

Well provides 350 gpm

Covenants provide that George Klind supplies water via well

Well site owned by George Klind et al (Valley Co tax receipt)

Property was purchased contingent on water being provided

Well pump test was 5 days at 350 gpm - drawdown was 2' total

Brian Mahon, atty, representing protestants

- Central Id Title, Inc. is owner of well lot & well system
- Trust deed transfers title of well & land to Central Id Title, Inc.
- Well was originally intended to be owned by 9 lot owners.
- Trust deed was to be recorded re: water usage

Concerns:

- #3. { Applicants do not own water bottling co.  
Some of the acres to be developed are not owned by applicant  
16 homesites have not been authorized (presently in 2 lots)  
Access problem under Rule 5, 1, 3 (to well & for crossing hwy)  
Other permits need to be sought (access)
- Speculative {
- #4. Financial ability - reasonable showing needed
- #5. Insufficient detail for assessment of water bottling plant  
Bottling co would conflict w/ local zoning  
Quality would diminish if ~~water~~ ~~is~~ ~~not~~ ~~water~~ ~~treated~~

#5. Cont. Property values would diminish if uses are greatly increased.  
Other costs would be increased if water use expands.

George Klind-

Pays taxes for the property

Deed of trust is ~~if~~ there is a default in operation

Issues -

- Who owns well?
- P/u - only possessory interest lands can be included
- Water right is required for existing homes

Mike Wallace

Municipal testing requirements cost \$3,000/yr min

This requirement is invoked for >15 households

The conference was concluded with a determination that before proceeding with a water right determination, the ownership of the well, pump, pump house, etc. must be determined. The protestants stated they will file a quiet title action to make this determination. I stated that the app will be placed on hold pending the resolution of this aspect.

~~Over~~

JUL 09 1996

Conference Attendance Roster  
2/17/1993 65-13420

| <u>Name</u>         | <u>Representing</u> |
|---------------------|---------------------|
| Susan Bechdel       |                     |
| LES BECHDEL         | ✓                   |
| MIKE WALLACE        | ✓                   |
| Brian L. McMahon    | ✓                   |
| RALPH MCKENZIE      | ✓                   |
| David K. Holland    | ✓                   |
| Michael R. Anderson | TRUSTEE             |
| JAMES BECKER        | MR. H. H. A.        |
| George Klond        | Applicant           |

JUL 09 1996

MILE HIGH ESTATES ENGINEERING REPORT  
McCALL, IDAHO

The project consist of nine (9) single family residential lots to be supplied with water by a well. The sewage disposal will be by individual septic systems. The residences will be a mixture of permanent and part time. Therefore, the system would be classified as a noncommunity water system under Section 1-8002.20 of the Idaho Regulations for Public Drinking Water Systems. From projected growth rates, it is anticipated that the buildings will be constructed and occupied at an average of one per year or less. The project is situate in the E<sup>2</sup> of the SE<sup>4</sup> of the SW<sup>4</sup>, Section 6, T. 18 N., R. 3 E., B. M., City of McCall, Valley County, Idaho. Work is progressing on acquiring a city pump station site at the Payette Lakes Club which will ultimately be able to supply the area with water. Proposed schedules at this time are to have the pump station built and connected to the city system by 1990 and a loop thru the area of this development by 1995. Also, it is anticipated that the area will be served by central sewer at the same time. The lots will then be connected to both in a manner appropriate to their construction and location.

The design population of the project is 9 residences with a county average of 2.7 people per residence for a total of 24 permanent and part time people.

The source of the water is solely by well, therefore, it is proposed to sample the system once per calendar quarter once the system is approved pursuant to Manual Section 1-8004.02. The system shall also be sampled for and shall not contain nitrate in excess of ten (10) mg/l as nitrogen prior to approval of the system. The sample location shall allow collection of a sample which is representative of the quality of water actually supplied to the consumers.

The projected flow rate per household is five (5) gallons per minute for domestic purposes and five (5) gallons per minute for irrigation for a total of ten (10) gallons per minute per household. The system shall be able to provide sufficient water during peak flow conditions, excluding fire flow, and maintain a minimum pressure of twenty (20) pounds per square inch in the distribution system. OK

The system is not designed to provide fire flow which would be 100 gallons per minute, according to the Fire Chief of the City of McCall, which would have to be in addition to the demand required by the domestic and irrigation purposes.

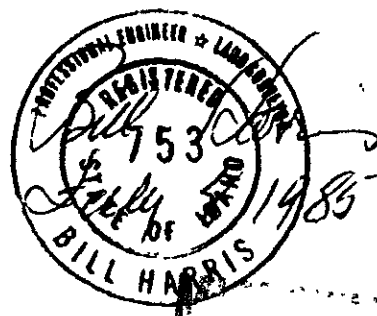
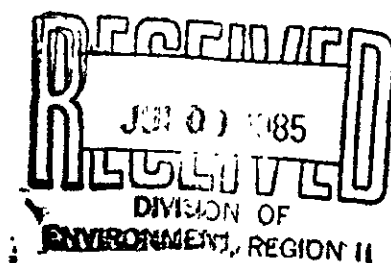
JUL 09 1996

The drawdown test of the well performed by the well driller pumped 350 gallons per minute for 3 hours without any significant drawdown from the 96 foot static water level in the well casing. The total projected flow required is 90 gallons per minute when all of the lots are occupied. However, the initial pump is designed to serve 6 households with a maximum average flow of 60 gallons per minute with a normal pressure of 40 to 60 pounds per square inch and a minimum pressure of 30 pounds per square inch against a total head of 145 feet at the highest lot.

The system initially has three 87 gallon pressure tanks with a total drawdown capacity of 60 gallons. The pump house has room for two more tanks as the system expands.

The well head extends 15 inches above the ground and is mounded all around. It is also sealed to a depth of 45 feet with cement grout and bentonite. All septic system tanks and drain fields will be a minimum of 100 feet away from the well. The well area is also well above any source of flooding.

The developer will take the water line to the individual property line and, at that point, the lot owner assumes financial responsibility for installation, maintenance and upkeep of the line. Actual cost of the well is the responsibility of the developer. Individual water users will pay a monthly usage fee based on actual cost of operation. This is to include power, maintenance, upkeep and repair. Individual users will have access to water records. The ownership of the well and well house will remain in the control of the developer who will be responsible for the maintenance and repair of the system until all lots are sold. At that time, if public water is not available, an association will be formed consisting of the lot owners and appropriate documents filed with the Idaho Department of Health and Welfare to assure proper maintenance and operation of the system.



JUL 09 1996

# CENTRAL DISTRICT HEALTH DEPARTMENT

## ENVIRONMENTAL HEALTH DIVISION

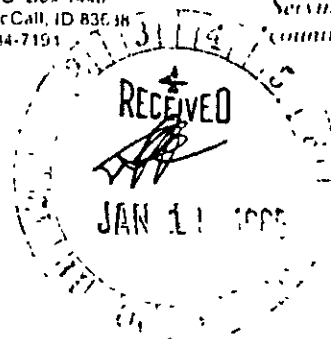
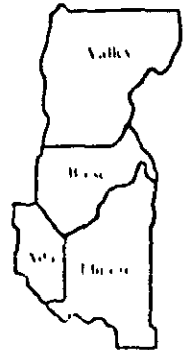
Ada County  
1455 N. Orchard  
Boise, ID 83706  
375-2111

Boise County  
1455 N. Orchard  
Boise, ID 83706  
375-5211

Elmore County  
Court House Annex  
190 S. 4th East  
Mountain Home, ID 83647  
587-9225

Valley County  
P.O. Box 1448  
McCall, ID 83638  
634-7191

Serving the  
counties of



January 14, 1985

Mr. Tom Kerr  
P.O. Box 853  
McCall, Idaho 83638

Re: Mile High Estates

Dear Tom;

We have reviewed the information submitted for the above proposed subdivision. Enclosed is a copy of our subdivision check list showing the items received and those still needed for our final approval of the subdivision and release of sanitary restriction.

Preliminary information submitted indicates that individual subsurface sewage disposal systems can be installed to serve lots in this subdivision. Drainfield placement will be limited to those areas that meet the necessary four foot separation between the bottom of the drainfield and the water table. Portions of lots 2,3,4,5,6 & 7 will therefore have to be restricted as to suitable drainfield areas.

Once the information requested has been submitted we can finish our review of this project.

Sincerely,

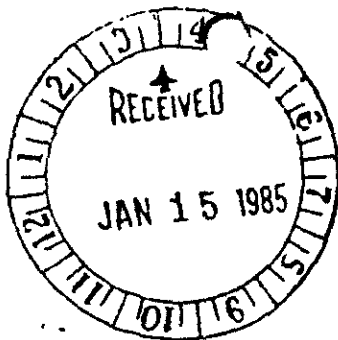
Jeffrey Lappin  
Senior Environmental Health Specialist  
Valley County

~~cc:~~ Ray Alford, City of McCall Planning and Zoning

enclosure

MICROFILMED

JUL 09 1996



File No.: \_\_\_\_\_  
Date of Acceptance: \_\_\_\_\_  
Accepted By: \_\_\_\_\_  
Date of Response: \_\_\_\_\_  
(Maximum of 15 from date of acceptance)

SUBDIVISION  
PRE-APPLICATION

Name of Subdivision: KILF HIGH ESTATES

Subdivider: (X) Owner ( ) Representing Owner

Telephone: 202-634-9434 Address: P.O. BOX 15 McCall, Id. 83638

Engineer: Thomas W. Verr, R.L.S. Telephone: 634-2686

General Location: One half mile West of Village Motel on North side of Hwy. 55

Proposed Land Usage: F-3, One house Per one acre, residential

Required Generalized Information:

- 1) One vicinity map (scale: 1" = 500')
- 2) One copy of a sketch plan that shows at least the following:
  - a) Layout of streets, blocks and lots,
  - b) Existing conditions and characteristics of the land and adjoining property; and
  - c) Area set aside for schools, parks and other public facilities.
- 3) Public Services:
  - a. Water supply Community Well
  - b. Sewer system Individual septic systems
  - c. Fire protection Agreed and provided by City of McCall
  - d. Other Police protection is provided by City of McCall

George Klaid  
Signature of Subdivider

ADMINISTRATIVE

Zoning Classification: \_\_\_\_\_ Conformance With Zoning: \_\_\_\_\_



3. cont.

City of McCall (2 copies)  
McCall, Idaho 634-7142

Local Irrigation District

4. Land Area - Existing Title Status to Tract:

The subdivider shall attach to the application, a statement setting forth:

- a. The names and addresses of the owner of record.
- b. The nature of his (owner of record) interest in the development.
- c. A copy of any existing easement deed restriction and zoning classification applicable to the tract, if any.
- d. A notation of the nature of any other lien or encumbrance, if any.
- e. The total acreage of the tract and of such adjacent lands under the same ownership.

5. Land Area - Existing Physical Conditions of Tract and Vicinity:

The subdivider shall attach to the preliminary application, a statement describing the existing physical characteristics of the tract and vicinity with respect to:

- a. Terrain
- b. Type of soil
- c. Location and direction of flow of all water courses on the tract and abutting properties.
- d. The possibilities of the tract being subject to inundation or storm water overflow and the approximate high water elevation.
- e. Any significant natural features such as rock outcropping, marshes or wooded areas.
- f. The location of existing sewers, water mains, culverts, drain pipes, and electric conduits or lines proposed to service the property to be subdivided.
- g. The location of adjacent streets or existing structures that would affect the proposed improvement program.

6. Building Program:

The subdivider shall indicate the type of subdivision intended:  
(Put an X on the line next to type of subdivision)

- a. \_\_\_\_\_ Those areas providing for recreational residential subdivisions located convenient to lakes, reservoirs or streams, or situated to be influenced by seasonable accessibility to sites to be in accord with Standard A.
- b.   X   Those areas providing for suburban residential subdivisions located as to be accessible throughout the year, of such substantial size as to provide family recreation, gardening, and the keeping of domestic livestock on a non-commercial basis, to be in accord with Standard B.

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6. cont.

- c. \_\_\_\_\_ Those areas providing for the development of apartments, row houses, and similar multi-family residential types, improvements are to be in accord with Standard C.
- d. \_\_\_\_\_ For all types of commercial and industrial subdivisions, the general provisions of the ordinance shall apply and improvement standards shall be in accord with Standard D.
- e. \_\_\_\_\_ For all classes of Mobile Home Subdivisions, Mobile Home Parks and Trailer Courts, the standards to be in Standard E only to the extent herein set forth and to comply with the standards and provisions contained in the Valley County Mobile Home and Trailer Ordinance.

NOTE: See sheet titled "Development Standards for Subdivisions" attached to this application.

7. Proposed Street, Utility or Other Off-Site Improvements:

The subdivider shall attach to this application an explanation of his program to make the required improvements and indicate such other improvements he proposes to make in connection with the proposed subdivision which shall cover the matters of:

- a. Street dedications and standards of improvement
- b. Irrigation and drainage programs
- c. Proposed source of potable water as to public, water associations or individual wells
- d. Proposed methods of disposing of sanitary waste by public systems or individual disposal, and refuse by land fill service
- e. Proposed source of electric power, gas and telephone service
- f. Any additional corrective or improvement programs

8. Restrictive Covenants (in outline form)

- \_\_\_\_\_ 1 copy to Prosecuting Attorney, Cascade, Idaho Phone - 382-4277
- X 1 copy submitted with this application

9. Land Program:

- a. The subdivider shall submit information pertaining to the development program, including proposed stages of development and the program for the installation of off-site improvements.
- b. Please fill in the following blanks:
  - Number of lots NINE
  - Typical width and depth of lots 150' X 250'
  - Typical lot areas 38,522 sq. ft.
  - Lineal feet of street 503'
  - Percentage of area in street 7.8 %
  - Maximum street gradient 1 %

10. Legal Description: (Attach to application)

11. General Description: (Attach to application)

**MICROFILMED**

JUL 09 1996

George Klind  
Russell Murata  
Margaret Rowan, Trust



McCall, Idaho 83638  
(208) 634-8434

**MILE-HIGH ESTATES**  
**Protective Covenants**

Mile-High Estates is a parcel of property within the city limits of McCall, Idaho. It is located west and about three miles from the actual center of town. It is zoned to allow for one dwelling per acre and is offered for sale in one acre parcels. The city of McCall provides fire and police protection as well as inclusion in the library and school districts. Trash pickup is available through Lake Shore Disposal, a private firm. The city does not provide sewer, water, or road maintenance, as previously agreed upon between the developer and the city of McCall.

Following is a list of protective covenants which apply to owners within Mile-High Estates. Compliance with these covenants is required, as well as with existing city codes and regulations.

1. **WATER AND SEWER.** Water is provided by a community well. The developer will take the water line to the individual property line, and at that point the owner assumes financial responsibility for installation, maintenance, and upkeep of the line. Actual cost of the well is the responsibility of the developer. Individual water users will pay a monthly usage fee based on actual cost of operation. This is to include power, maintenance, upkeep, and repair. Individual users will have access to water records.

JUL 09 1996

5. MISC. All access roadways and driveways must meet approval  
of Mile-High Estates. Junk piling of any kind is prohibited.

Agreed upon on this date \_\_\_\_\_.

\_\_\_\_\_  
George Klind, Russell Murata and  
Margaret Rowan, Trust

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

\_\_\_\_\_  
Owner

**NOTARIZED**

JUL 09 1996

SUBDIVISION NAME: N HIGH ESTATES

LEGAL DESCRIPTION: E $\frac{1}{2}$ , SE $\frac{1}{4}$ , SW $\frac{1}{4}$ , Sec 6, T18N, R3E, B.M.

PLAT NUMBER:

For the Valley County Recorder  
REMOVAL OF THE SANITARY RESTRICTION  
(Ref. 30-1326-1329, Idaho Code)

I (we) George Kerr  
have submitted plans for water supply and sewage disposal for \_\_\_\_\_  
Mile High Estates  
a residential subdivision, to the Central District Health Department.

The plans proposed are essentially as described below:

The sanitary restriction (30-1301, through 1329, Idaho Code) has been satisfied as per the following conditions:

(1) Lots 1-9 have been certified by Tom Kerr, RLS 998, as being suitable for individual subsurface sewage disposal systems (septic systems). The permit required for the installation of such a system must be obtained from the Central District Health Department. Any application for such a permit must satisfy the current Idaho Rules and Regulations for Individual and Subsurface Sewage Disposal Systems in effect at the time of application.

(2) Each lot in this subdivision will only be developed with one single-family residence until such time as public (i.e. McCall city municipal or similar-services) water and sewer become available. Each residence is limited as to the number of bedrooms by the septic system area available. No lot is approved for resubdivision until such time as public water and sewer are available. At that time, resubdivision must meet all local, county and/or State of Idaho ordinances, rules and regulations that may apply.

(3) Septic systems shall be sized at a minimum of 225 square feet per bedroom with a maximum depth of three (3) feet to the bottom of the trench. These systems must be installed in those areas that have been approved for such installations. Septic tanks and drainfields must be installed a minimum of 100 feet from the community well. Some lots may require a sewage lift station to access the septic system area.

(4) Potable water to all lots shall be supplied by the approved community water system until or unless a municipal supply becomes available. Plans for the community system were approved by Idaho Dept. of Health and Welfare, Division of Environment on October 3, 1985. Any change in ownership or responsibility for the water system must be approved by Central District Health Department and the Division of Environment. Finally, the water system must be operated in conformance with the current Idaho Regulations for Public Drinking Water Systems.

(Page one)

*JL 10-2-85*

JUL 09 1996

I am the subdivision owner ( ), sponsor ( ), engineer ( ), and for the above purposes am authorized to represent all interests in this subdivision. All buyers shall be advised of these requirements.

George Klind  
Signature

11-5-85  
Date

ACKNOWLEDGEMENT  
\*\*\*\*\*

STATE OF IDAHO )  
COUNTY OF VALLEY ) ss.

On this 5th day of November, 19 85, before me, the undersigned Notary Public in and for said state, personally appeared \_\_\_\_\_

George Klind

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.

Shirley R. Kuss  
Notary Public for the State of Idaho,  
residing at McCall, Idaho.

I, Jeffrey Lappin, a registered Environmental Health Specialist in the State of Idaho, and authorized to represent the Central District Health Department, believe that the above plans are consistent with current public health laws, regulations and/or standards.

Our department is approving plans we have received and, stipulating that the above be met, consider the sanitary restriction SATISFIED for this subdivision.

Jeffrey Lappin  
Signature

10-22-85  
Date

ACKNOWLEDGEMENT  
\*\*\*\*\*

STATE OF IDAHO )  
COUNTY OF Valley ) ss.

On this 22 day of October, 19 85, before me, the undersigned Notary Public in and for said state, personally appeared \_\_\_\_\_

Jeffrey Lappin

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

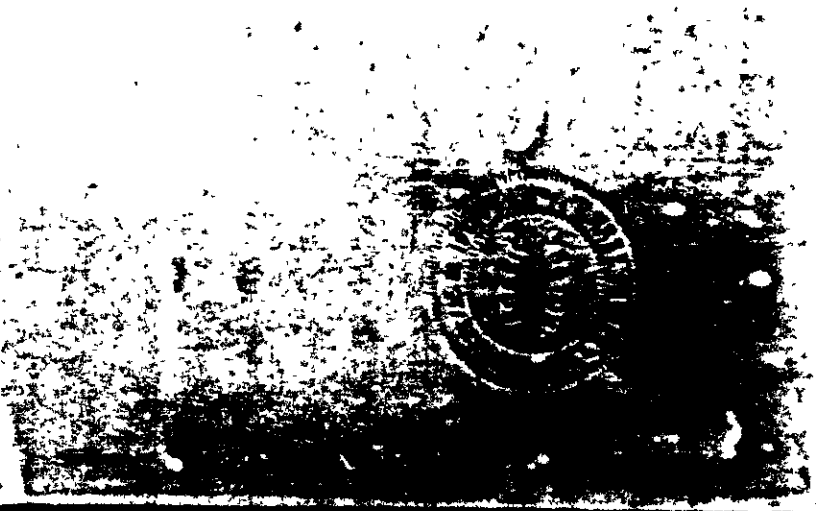
In witness whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above mentioned.

Shirley Bailey  
Notary Public for the State of Idaho,  
residing at McCall, Idaho.

JUL 09 1996

Instrument  
 request of  
 Wm Kerr  
 45  
 P 21  
 Nov 1985  
 1 Mail  
 S. J. J. J.  
 S. J. J. J.  
 S. J. J. J.  
 4.00  
 Box 833  
 Cocacoe

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JUL 09 1996

# 161823  
6-17-83

PROTECTIVE COVENANTS OF  
MILE HIGH ESTATES  
A VALLEY COUNTY, IDAHO, SUBDIVISION

WHEPEAS Mile-High Estates Subdivision is a duly plotted subdivision within the city limits of McCall, Idaho, located west and about three miles from the actual center of town and zoned to allow for one dwelling per acre and is offered for sale in one acre parcels:

WHEPEAS the City of McCall provides fire and police protection as well as inclusion in the library and school districts and trash pickup is available through Lakeshore Disposal, a private firm:

WHEPEAS the city does not provide sewer, water, or road maintenance, as previously agreed upon between the developer and the city of McCall, the following covenants are deemed desirable and necessary to the orderly development and use of the lots in the subdivision:

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That the undersigned Declarants, \_\_\_\_\_

George Klind and Linda Klind, husband and wife

the initial owners and developers of MILE HIGH ESTATES, for the purpose of carrying out the purpose herein recited, hereby declare that all the lands embraced in MILE HIGH ESTATES as shown on the official plat thereof on file in the office of the Valley County Recorder at Cascade, Idaho, namely, Instrument No. 145134, and still owned by ourselves, shall be subject to the protective covenants hereinafter set forth, which are imposed for the purpose of providing for the general and uniform improvement of said lands, for the welfare and benefit of the adjoining lands, and for the mutual benefit of the owners and any and all successors in ownership or purchasers therefrom. Lots previously sold, to-wit: No s. 1, 2, 3, 4 and 5 shall be bound by undertakings to such effect executed and recorded by the owners of such lots. This declaration, is intended to and shall run with the lands referenced and shall bind the owners, successors, and purchasers until terminated. To this end these covenants shall be specifically enforceable by any or all such owners.

PROTECTIVE COVENANTS MILE HIGH ESTATES - Page 1

NOTED

JUL 09 1996

successors, and purchasers who, directly or indirectly, become, and at the time of such enforcement, remain the owners of any lot in or part of the above referenced subdivision, as well as by owners or their successors of land immediately abutting and adjoining MILE HIGH ESTATES.

A "lot" is any parcel designated as such on a recorded map of any part of said subdivision. An "owner" means the one or more persons owning title to a lot of record, unless the lot is then being sold under a recorded contract of sale, in which case the contract buyer is the owner, but in any case the holder of a mortgage or other security interest, easement, lien, encumbrance, or leasehold is not an owner.

The protective covenants referred to in the foregoing are expressly set forth as follows:

1. WATER, SEWER AND ROADS. Water is provided by a community well. The developer will take the water line to the individual property line, and at that point the owner assumes financial responsibility for installation, maintenance, and upkeep of his water line. Actual cost of the well is the responsibility of the developer. Individual water users will pay a monthly usage fee based on the actual costs of operation. This is to include power, maintenance, upkeep, and repair. Individual users will have access to water records. A trust deed for ensuring an enforceable right to continuous service at a reasonable cost shall be recorded to detail such rights. The roadway identified as Mile High Drive is also provided by the developer. Individual lot owners will pay an annual fee based on actual costs of upkeep and maintenance.

Individual septic systems, meeting local specifications, will be installed and provided by the developer. Thereafter, the septic systems become the property of the owner.

2. UTILITIES. All utilities will be underground. The developer will bring the power and phone lines to the property line. The owner assumes financial responsibility at his property line.

3. TREES. Mile-High Estates is not generally over forested. The presence of the trees offers privacy and aesthetic value for the individual. Any tree which is to be removed for roads, building, solar purposes, selective thinning, or hazard reasons will be removed by the developer upon mutual agreement between the developer and the owner.

PROTECTIVE COVENANTS MILE HIGH ESTATES - Page 2

APPROVED

JUL 09 1996

Any dead or trash tree may be removed by the owner for firewood purposes.

4. BUILDINGS. Buildings are to be compatible with surroundings. Acceptable construction includes wood frame, log or masonry. Exterior siding may be of brick or stone, natural wood, aluminum lap siding, or stucco. Roofing may be of shakes, earth tone metal, or tile. Exteriors of developments must be complete in a building season. Modular or mobile homes are not acceptable, except for a period up to six months during construction. Covered parking must be provided for all motorized vehicles or camp trailers. All out buildings will compliment the main dwelling.

5. MISCELLANEOUS. Location of all access roadways and driveways must meet approval of Mile-High Estates Developers or their designees. Junk piling of any kind is prohibited.

6. COVENANTS TO RUN WITH THE LAND. By acquiring an interest in any lot comprising Mile-High Estates, each and every purchaser, his heirs and assigns, expressly consent to these Protective Covenants.

Violation of any of the foregoing shall be deemed nuisances and may be enforced by the owners, purchasers, or their successors as provided above. Such enforcement may be by any method available at law or equity including but not limited to, injunction, abatement, specific performance, or damages. Further, in the event it becomes necessary to seek enforcement by judicial remedy, the prevailing party shall be entitled to costs, including reasonable attorney fees incurred.

Should any part, clause or provision of these Protective Covenants of Mile-High Estates be held to be void, invalid and/or inoperative, then such invalidity shall not affect any other part, clause or provision of this document and the remainder thereof shall be effective as though said void part, clause or provision had not been contained herein.

Further, it is expressly provided that these Protective Covenants of Mile-High Estates are subject to the overriding force of any city, county, state or federal regulations, ordinances or law, and further subject to any zoning provisions now or hereafter enacted.

JUL 09 1996

IN WITNESS WHEREOF, the undersigned, being the  
Declarants herein, have set their signatures this 11th day  
of JUNE, 1988.

George Klind  
George Klind

Linda D. Klind  
Linda D. Klind

STATE OF IDAHO )  
 ) ss.  
County of Valley )

On this 11th day of JUNE, 1988, before me, a  
Notary Public in and for said State, personally appeared  
George Klind and Linda D. Klind,  
known to me to be the persons whose names are subscribed to  
the within instrument and acknowledged to me that they executed same.

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

Michael R. Anderson

Notary Public for Idaho  
Residing at: Michael R. Anderson

STATE OF IDAHO, } ss. **161823**  
County of Valley, }

I hereby certify that this instrument  
was filed for record at the request of

**CENTRAL IDAHO TITLE**

at 57 minutes past 2

o'clock P.M. this 17th

day of June, 1988

in my office and duly recorded in

Dr. 1-2 of 1st Dist.

By Heather M. Madsen  
Ex-Officio Recorder

By J. J. Anderson Deputy

File # 172

TRUST DEED

THIS TRUST INDENTURE, Made this 5TH day of APRIL, 1988, by and between George Klind and Linda D. Klind, husband and wife (hereinafter called "GRANTOR" or "PARTY OF THE FIRST PART"), and Central Idaho Title, Inc., TRUSTEE, a corporation duly chartered, organized, and existing under and by virtue of the laws of the State of Idaho, (hereinafter called "TRUSTEE" or PARTY OF THE SECOND PART").

WITNESSETH:

THAT WHEREAS, Grantors are now the owners of property known as Mile High Estates Subdivision, located in or near the City of McCall, County of Valley, State of Idaho, which property is being improved and developed by the construction of dwellings thereon; and

WHEREAS, Grantor is the owner of certain property, (hereinafter more particularly described) upon which there is located a well or wells and a plant, together with distribution facilities (hereinafter referred to as "water system"), for the purposes of supplying water to all properties connected or to be connected to the said water system; and

WHEREAS, the Department of Housing and Urban Development (HUD) will not accept for insurance, and the Veterans Administration will not guarantee or insure, mortgage loans covering the separate properties and improvements built or to be built thereon, without receiving assurances as to the continuous and satisfactory operation of the said water system; and

WHEREAS, such improvement and development of the properties and the future financing and sale of the properties is contingent upon the insurance of said mortgage loans by HUD or the guaranty or insurance of said mortgage loans by the Veterans Administration; and

WHEREAS, it is the intention and purpose of the Grantor that such water system shall be used and operated to provide an adequate supply of water for each of the properties connected thereto, regardless of the ownership of the individual properties, and properly to maintain an adequate water supply for domestic consumption for the occupants of said properties, and to assure the continuance of the operation and maintenance of such water system for the benefit of the present and future owners of the properties connected thereto, the mortgagees holding mortgages covering such property, and HUD and the Veterans Administration.

NOW, THEREFORE, for and in consideration of the undertakings of the Grantor to provide and assure the maintenance and operation of the water system as aforesaid and the further sum of One Dollar (\$1.00) Lawful money of the United States cash in hand to Grantor by Trustee, the receipt thereof is hereby acknowledge, the Grantor does hereby grant and convey to the party of the second part, as Trustee, the following property, to wit:

JUL 09 1988

(A) All of its right, title, and interest in and to the following described real property: "The well Lot" as stated on the Plat of Mile High Estates Subdivision, filed for record on November 21, 1985 in Plat Book 8 at Page 5 under Instrument No. 145134.

(B) The well or wells, plant, chemical treatment facilities, storage and distribution facilities, including the water mains and lateral lines, heretofore constructed or to be constructed, including all easements incident to the ownership and operation of said water system situate on the "well lot" or platted easements of the subdivision.

Further, the Grantor hereby warrants that there are no existing encumbrances, liens, or other indebtednesses to the title of the water system conveyed hereunder.

This conveyance is upon the trusts and for the purposes following, to wit:

1. This grant is for the benefit of the present and future owners of all and each of the properties now or hereafter connected to the said water system, as well as the holders of the mortgages covering each of the said properties, and Trustee shall hold the title to the property granted by this indenture until either (a) the water system is taken over by either a Governmental authority or a public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) for maintenance and operation, or (b) other adequate water service is provided either by a Governmental authority or public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) through means other than the operation of the water system and facilities now transferred to the Trustee herein. Upon the happening of either of such events at a time when the Grantor is still operating and managing the water system in accordance with the terms and provisions hereof, the Trustee shall immediately reconvey the property to the Grantor, its successors or assigns, and this indenture shall be of no further effect.

2. The Grantor shall supply at all times and under adequate pressure for the use of each of the properties duly connected to the said water system, a sufficient quantity of water to meet the reasonable needs of each of the properties duly connected to said water system. Such water shall be of the quality and purity as shall meet the 1974 Safe Drinking Water Act of the U.S. Environmental Protection Agency (EPA), so as to produce water without excessive hardness, corrosive properties, or other objectionable characteristics making it unsafe or unsuitable for domestic use or harmful to any or all pipes within and/or without the dwellings. Records of any and all tests conducted in connection with said system shall be kept as permanent records by the Grantor and said records shall be open to inspection by the State Board of Health of the State of Idaho and the owners of the properties connected to the said water system. The said Board of Health and/or its agents shall at all times have access to the plant of the Grantor to conduct any and all tests as said Board shall consider necessary to determine compliance with the said Standards. In any event, the Grantor shall have said analyses made at least quarterly and shall pay all costs in connection therewith. In the event said Board shall determine that the quality and purity of the water does not meet the said Standard, the Grantor shall, with reasonable dispatch, at its sole costs make any adjustment, repair, installation, or improvement that shall be necessary or recommended by said Board to bring the purity of the water up to the said Standard.

RECEIVED

JUL 09 1996

3. The Grantor shall maintain said water system at all times in good order and repair so that satisfactory service as aforesaid may be supplied to each of said properties as provided in paragraph 2 above.

4. Until the happening of one of the events set forth under paragraph numbered 1 above: Should Grantor fail to operate and manage the water system, in the manner and under the conditions specified in paragraphs numbered 2 and 3 above should Grantor fail, after notice in writing from the Trustee, to correct such failure with reasonable dispatch, then Trustee shall take immediate possession of the water system for the purpose of operating and maintaining the same, and shall hold, use, operate, manage, and control the same either itself or by or through any of the agencies or parties for whose benefit this trust is created and it shall take possession thereof for the purpose of operating the same, and in that event, the Trustee or the entity operating the water system in its behalf or in the behalf of any of the beneficiaries of this trust, shall be subrogated to all rights of the Grantor to levy and collect a charge against each customer at rates not in excess of those specified in paragraph numbered 6 herein.

5. In the event the Trustee takes possession of the water system pursuant to the provisions of paragraph numbered 4 or paragraph numbered 6, the Grantor shall have no further right, title, or interest in or to the water system or other property granted by this indenture and shall not be entitled to any portion of the proceeds resulting from any sale of such system or property; but the Trustee shall have the right to transfer such system to a Governmental authority upon such terms or conditions as may be approved by the Trustees and the owner or owners of a majority of the properties connected to the water system.

6. The Grantor reserves the right to levy and collect a charge for water furnished and consumed by the occupants of each of the properties connected in the amount of \$10.00 (ten dollars) per month, payable one month in advance. The Grantor shall have the right to install on each of the individual properties a water meter to be maintained by the Grantor, through which all water supplied to the consumer or consumers shall pass and to which the Grantor shall have access at reasonable times for the purpose of take meter readings and keeping said meter in repair.

(a) It is agreed between the parties hereto that for the first year of operation of the water system, the above rates shall be deemed reasonable.

(b) The Grantors shall maintain accurate books relative to the water system. Such books shall be available for inspection by a person or persons designated in writing by the Trustee or designated in writing by not less than one-third of the beneficiaries of this Trust; provided, that the continuing right of inspection hereby created shall be exercised only at the place where such books are customarily maintained in office of Mile High Estates; that such right of inspection shall be exercised during usual business hours, after reasonable notice and in such a manner as not to hamper unduly or interfere with the conduct of the Grantor's business.

(c) Changes in rates may be proposed by the Grantor and by the said beneficiaries. If, within 90 days after notice to the Trustee and to the beneficiaries of a rate change proposed by the Grantor, not more than one-third of the beneficiaries of this Trust shall have signified in writing their opposition to such proposed rate change, the Grantor may forthwith establish such new rates which shall be deemed reasonable pending the

accumulation of experience to show such new rates to be unreasonable. If more than one-

JUL 09 1996

third of the beneficiaries signify in writing their opposition to a rate change proposed by the Grantor, or if more than one-third of the beneficiaries propose in writing a rate change which the Grantor opposes, and the parties cannot reach an agreement by negotiation within 30 days, then the matter shall be referred to a board of arbiters, who shall be designated as follows: The Grantor shall designate an arbiter, the beneficiaries shall designate an arbiter, and the two arbiters thus selected shall choose a third arbiter. The decision of the board of arbiters as to the reasonableness of rates shall be final upon the parties hereto. All costs of arbitration shall be paid by the losing party or parties. The duly elected officers of a citizens' or property owners' association comprised of the beneficiaries, or the members of a committee duly appointed by such officers, shall prima facie represent more than one-third of the beneficiaries.

(d) Should the Grantor charge rates for water service in excess of reasonable rates, as herein above defined, then the Trustee shall notify the Grantor of such overcharge by registered mail. Should the Grantor thereafter fail or refuse to establish and maintain fair and reasonable rates, as herein above defined, within the period of ninety (90) days, the Trustee shall take immediate possession of the water system for the purpose of furnishing water service at fair and reasonable rates and the Trustee shall hold, use, operate, manage, and control the water system, as set forth under paragraph numbered 4 above.

7. Notwithstanding any other provision of this trust deed, any creditor or record of the Grantor shall have a reasonable period of time to correct any default hereunder prior to the taking over of the property by the Trustee.

8. If it should become necessary at any future time for the Trustee or any entity acting in its behalf or any beneficiary under this trust indenture, to take over, operate, and manage the water system under the provisions of this trust, then and in that event, the operator of such system shall be entitled to a Trustee's fee payable from the income of the water system at a rate not in excess of 10.00% (ten percent) of the gross charges collected by such Trustee, provided that such Trustee's fee may be increased with the approval of the owner or owners of seventy-five (75) per cent of the properties connected to the said water system.

IN TESTIMONY WHEREOF the Grantor, has caused these presents to be executed in its behalf by George Klind and Linda D. Klind, and Central Idaho Title, Inc., the Trustee herein named, has caused these presents to be executed by Michael R. Anderson, its President, and its corporate seal to be affixed and attested by its Secretary, the day and year first hereinabove written.

In entering into the agreement contained herein and executing the Trust Indenture, Central Idaho Title, Inc. acts for itself as Trustee and as representative of and by authority of all persons, firms, corporations, or entities which are or may be beneficiaries under the trust thereby created.

JUL 09 1996

GRANTORS:

George Klind  
George Klind

Linda D. Klind  
Linda D. Klind

TRUSTEE:

Central Idaho Title, Inc.,  
an Idaho Corporation

By Michael R. Anderson

STATE OF IDAHO       )  
                          : ss.  
COUNTY OF Valley    )

On this 5th day of April, 1988 before me, the undersigned, personally appeared George Klind and Linda D. Klind, husband and wife, known or identified to me to be the person(s) whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

(SEAL)

Sandra L. Hinkle  
Notary Public State of Idaho  
Residing at: McCall  
Commission Expires: 5/5/92

STATE OF IDAHO       )  
                          : ss.  
COUNTY OF VALLEY    )

On this 5th day of April, in the year 1988, before me the undersigned, personally appeared Michael R. Anderson known or identified to me to be the President of the corporation that executed this instrument or the person who executed the instrument on behalf of said corporation, and acknowledge to me that such corporation executed the same.

(SEAL)

Candice L. Hinkle  
Notary Public State of Idaho  
Residing at: McCall  
Commission Expires: 5/5/92

JUL 09 1996

ed on the reverse side?

Is your RETURN /

**SENDER:**

- Complete items 1 and/or 2 for additional services
- Complete items 3, and 4a & b
- Print your name and address on the reverse of this form so that we can return this card to you
- Attach this form to the front of the mailpiece, or on the back if space does not permit
- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an extra fee).

1. ☐ Addressee's Address2. ☐ Restricted Delivery

Consult postmaster for fee.

3 Article Addressed to:

MILE HIGH PROPERTY OWNER'  
ASSN INC  
C/O MICHAEL WALLACE  
PO BOX 868  
MCCALL ID 83638

4a. Article Number

397 917 191

4b. Service

Registered

Certified

☐ Express Mail☐ Insured☐ COD☐ Return Receipt for Merchandise

7. Date of Delivery

1-29-93

8. Addressed to (Only if requested)

Was affixed to paid resources

and to regional Office

5. Signature (Addressee)

6. Signature (Agent)



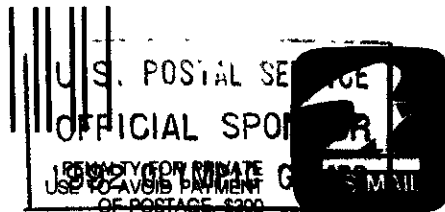
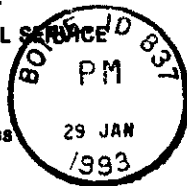
PS Form 3811 December 1991 ☆ U.S.G.P.O. 1992-307-530

**DOMESTIC RETURN RECEIPT**

Thank you for using Return Receipt Service.

BOI CTY  
UNITED STATES POSTAL SERVICE

Official Business



*RECEIVED*  
*JUL 09 1996*  
Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES  
2735 AIRPORT WAY  
BOISE, IDAHO 83705



Is your RETURN A

ad on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services
- Complete items 3, and 4a & b
- Print your name and address on the reverse of this form so that we can return this card to you
- Attach this form to the front of the mailpiece, or on the back if space does not permit
- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered

0-7220

I also wish to receive the following services (for an extra fee)

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

**3 Article Addressed to.**

MILLEMANN & PITTENGER  
ATTORNEYS AT LAW  
PO BOX 1066  
MCCALL ID 83638

**4a. Article Number**

P 397 917 190

**4b. Service Type**

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

**7. Date of Delivery**

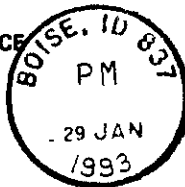
1-29-93

**5. Signature (Addressee)****8 Addressee's Address (Only if requested and fee is paid)****6. Signature (Agent)**

*Rose J. Pittenger*

Thank you for using Return Receipt Service.

BOI 074  
UNITED STATES POSTAL SERVICE



PENALTY FOR PRIVATE  
USE TO AVOID PAYMENT  
OF POSTAGE, \$300



Official Business

RECEIVED

JUL 09 1996

Department of Water Resources  
Western Regional Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES  
2735 AIRPORT WAY  
BOISE, IDAHO 83705



Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- Complete items 1 and/or 2 for additional services
- Complete items 3, and 4a & b
- Print your name and address on the reverse of this form so that we can return this card to you
- Attach this form to the front of the mailpiece, or on the back if space does not permit
- Write "Return Receipt Requested" on the mailpiece below the article number
- The Return Receipt will show to whom the article was delivered and the date delivered

I also wish to receive the following services (for an extra fee):

1 ☐ Addressee's Address

2. ☐ Restricted Delivery

Consult postmaster for fee.

**3 Article Addressed to**

MARGARET ROWAN TRUST  
GEORGE KLIND  
RUSSELL MURATA  
PO BOX 783  
MCCALL ID 83638

**4a. Article Number**

P 397 917 192

**4b. Service Type**

- ☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt for Merchandise

**Date of Delivery**

2-3-93

**5. Signature (Addressee)**

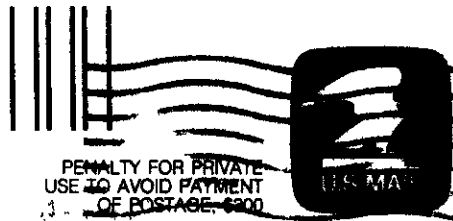
**8. Addressee's Address (Only if requested and fee is paid)**

**6. Signature (Agent)**

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE  
USE TO AVOID PAYMENT  
OF POSTAGE, \$200

**RECEIVED**

FEB 4 1993

JUL 09 1996

Print your name, address and ZIP Code here

Department of Water Resources  
Western Regional Office

DEPARTMENT OF WATER RESOURCES  
2735 AIRPORT WAY  
BOISE, IDAHO 83705

0 297 937 192



**Receipt for  
Certified Mail**

No Insurance Coverage Provided

MARGARET ROWAN TRUST  
GEORGE KLIND  
RUSSELL MURATA  
PO BOX 783  
MCCALL ID 83638

PS Form 3800, June 1991

|                                                                  |    |
|------------------------------------------------------------------|----|
| Postage                                                          | \$ |
| Certified Fee                                                    |    |
| Special Delivery Fee                                             |    |
| Restricted Delivery Fee                                          |    |
| Return Receipt Showing<br>to Whom & Date Delivered               |    |
| Return Receipt Showing to Whom,<br>Date, and Addressee's Address |    |
| TOTAL Postage<br>& Fees                                          | \$ |
| Postmark or Date                                                 |    |

*Stamp: JUL 09 1996*

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE.  
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

- 1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
- 2 If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, detach and retain the receipt, and mail the article
- 3 If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
- 4 If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
- 6 Save this receipt and present it if you make inquiry

105603-92-B-0226

0 387 917 101



**Receipt for  
Certified Mail**

No Insurance Coverage Provided

MILE HIGH PROPERTY OWNER'S  
ASSN INC  
C/O MICHAEL WALLACE  
PO BOX 868  
MCCALL ID 83638

PS Form 3800, June 1991

|                                                                  |    |
|------------------------------------------------------------------|----|
| Postage                                                          | \$ |
| Certified Fee                                                    | \$ |
| Special Delivery Fee                                             | \$ |
| Restricted Delivery Fee                                          | \$ |
| Return Receipt Showing<br>to Whom & Date Delivered               | \$ |
| Return Receipt Showing to Whom,<br>Date, and Addressee's Address | \$ |
| TOTAL Postage<br>& Fees                                          | \$ |
| Postmark or Date                                                 |    |

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE.  
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

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6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

0 397 917 190



**Receipt for  
Certified Mail**

No Insurance Coverage Provided

MILLEMANN & PITTENGER  
ATTORNEYS AT LAW  
PO BOX 1066  
MCCALL ID 83638

PS Form 3800, June 1991

|                                                                  |    |
|------------------------------------------------------------------|----|
| Postage                                                          | \$ |
| Certified Fee                                                    |    |
| Special Delivery Fee                                             |    |
| Restricted Delivery Fee                                          |    |
| Return Receipt Showing<br>to Whom & Date Delivered               |    |
| Return Receipt Showing to Whom,<br>Date, and Addressee's Address |    |
| TOTAL Postage<br>& Fees                                          | \$ |
| Postmark or Date                                                 |    |

JUL 09 1996

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,**

**CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

- 1 If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge)
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6. Save this receipt and present it if you make inquiry

105603-92-B-0226

*IDAHO DEPARTMENT OF WATER RESOURCES*  
*WESTERN REGION*  
2735 Airport Way  
Boise, Idaho 83705-5082

BEFORE THE DEPARTMENT OF WATER RESOURCES  
OF THE  
STATE OF IDAHO

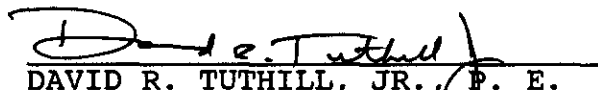
IN THE MATTER OF APPLICATION )  
FOR PERMIT NO. 65-13420 IN THE )  
NAME OF MARGARET ROWAN, TRUST, )  
GEORGE KLIND &/OR RUSSELL MURATA )

NOTICE OF CONFERENCE

On October 19, 1992, Margaret Rowan, Turst, George Klind &/or Russell Murata filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. The application was protested by Michael Wallace, Mile High Property Owner's Assn Inc.

The Department has set the matter of protest for a conference to be held on Wednesday, February 17, 1993, at 2:00 p.m., at GTE, 201 Lenora St., McCall, ID 83638. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 27<sup>th</sup> day of January, 1993.

  
DAVID R. TUTHILL, JR., P. E.  
Manager, Western Regional Office

**RECORDED**

JAN 09 1996

I hereby certify that on the 27<sup>th</sup> day of January, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:

Sue Taylor  
Sue Taylor  
Secretary/Office Coordinator

Certified Mail

MARGARET ROWAN TRUST  
GEORGE KLIND  
RUSSELL MURATA  
PO BOX 783  
MCCALL ID 83638

MILE HIGH PROPERTY OWNER'S ASSN INC  
C/O MICHAEL WALLACE  
PO BOX 868  
MCCALL ID 83638

MILLEMANN & PITTENGER  
ATTORNEYS AT LAW  
PO BOX 1066  
MCCALL ID 83638

JUL 09 1996

## CONFERENCE AND HEARING PROCEDURE

### IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

#### BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

The initial burden of proof on issue 5, local public interest, lies with both the applicant and protestant as to factors which they are most knowledgeable and cognizant of. The applicant has the ultimate burden of persuasion with respect to this issue.

#### PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

#### CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

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JUL 09 1996

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

#### HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and to request oral argument before the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not prejudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

If you require special accommodations for a disability in order to participate in or attend the conference (hearing) (public meeting) please advise the department within ten (10) days prior to the conference, hearing or public meeting.

#### EXHIBITS

If any party at a hearing intends to present an exhibit to augment the hearing record, such party shall in advance of the hearing, prepare sufficient copies of the exhibit for distribution to all parties at the hearing.

JUL 09 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

1/27/93

MILE HIGH PROPERTY OWNERS ASSOCIATION, INC  
C/O MIKE WALLACE  
PO BOX 868  
MCCALL ID 83638

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

65-13420 file

RE: Application for Permit

Dear Mr. Wallace:

Your application for permit for domestic water for 9 homes within Mile High Estates was received 1/2/93. After initial review of the application, I have a few questions. I have been unable to reach you by phone.

Would you please phone or write me with the following information:

Are the nine homes specified on this permit a subset of the 25 homes proposed under protested application No. 65-13420 (Margaret Rowan Trust), or are they in addition to them?

Will there be lawn and/or garden irrigation associated with each homesite?

Are there any common areas in the subdivision which propose to be irrigated?

There will need to be some minor adjustments in the stated rate of flow on the application, based on the information you give me.

There is currently a conference being scheduled relative to your protest of the Rowan Trust application No. 65-13420. Please contact your legal counsel for details, as he will be receiving the notification. Your protest of 65-13420 will not affect the normal processing of the Mile High Property Owners application. You may, however, request that processing be suspended until after the conference.

To complete the application review before our next scheduled advertising deadline, please reply no later than **February 8, 1993**.

Sincerely,

*Cindy Hodges*

Cindy Hodges  
Sr. Water Resource Agent

*[Handwritten signature]*

JUL 09 1996

RECEIVED

JUL 22 1993

Form 202  
6/86

Department of Water Resources  
Western Regional Office

STATE OF IDAHO

Ident No \_\_\_\_\_

DEPARTMENT OF WATER RESOURCES

## APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant Mile High Property Owners Association, Inc. Phone (208) 634-4300  
Post office address c/o Mike Wallace, P. O. Box 868, McCall, ID 83638
2. Source of water supply groundwater which is a tributary of \_\_\_\_\_
3. Location of point of diversion is NE  $\frac{1}{4}$  of SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$ , Govt. Lot \_\_\_\_\_  
Sec. 06 Township 18N. Range 03E. B.M. Valley County; additional  
points of diversion if any: \_\_\_\_\_
4. Water will be used for the following purposes:  
Amount 0.36 for domestic purposes from 01/01 to 12/31 (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)  
Amount \_\_\_\_\_ for \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ (both dates inclusive)  
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) 0.36 and/or (b) \_\_\_\_\_  
cubic feet per second                      acre feet per annum
6. Proposed diverting works:
  - a. Description of ditches, flumes, pumps, headgates, etc. See attached Well detail, Trench detail, Pump House detail and drawing of distribution system.
  - b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total reservoir capacity N/A acre-feet; period of year when water will be diverted to storage:  
N/A to N/A inclusive.
  - c. Proposed well diameter is see attached Well detail inches; proposed depth of well is see Well detail feet.
  - d. Is ground water with a temperature of greater than 90°F being sought? No.
7. Time required for the completion of the works and application of the water to the proposed beneficial use is system already in place and water has been put to beneficial use since 1983. years (minimum 1 year).

JUL 09 1996

8. Description of proposed use. irrigation only, go to item 9):

- Hydropower; show total feet of head and proposed capacity in KW. \_\_\_\_\_
- Stockwatering; list number and kind of livestock. \_\_\_\_\_
- Municipal; show name of municipality. \_\_\_\_\_
- Domestic; show number of households. Maximum 9 homes
- Other; describe fully. \_\_\_\_\_

9. Description of place of use

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

| TWP | RANGE | SEC. | NE¼ |     |     |     | NW¼ |     |     |     | SW¼ |     |     |     | SE¼ |     |     |     | TOTALS |
|-----|-------|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|--------|
|     |       |      | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ | NE¼ | NW¼ | SW¼ | SE¼ |        |
| 18N | 03E   | 06   |     |     |     |     |     |     |     |     |     |     |     | D   |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |
|     |       |      |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |     |        |

Total number of acres to be irrigated \_\_\_\_\_

10. Describe any other water rights used for the same purposes as described above. N/A

- Who owns the property at the point of diversion? Central Idaho Title, Inc., as Trustee under a Trust Deed dated April 5, 1988.
- Who owns the land to be irrigated or place of use? Members of the applicant Association
- If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing. The developer promised Association members, as they bought their respective lots, that the well water was for the exclusive use of the property owners in the 9-lot Mile High Estates Subdivision.

12. Remarks: A competing Application for Permit has been filed as #65-13420. Mile High Property Owners Assoc., Inc., is an Idaho nonprofit corporation managed by its members, but its officers are: Michael Wallace, Pres. David Holland, V-P Nionda McKenzie, Sec/Trea  
P.O. Box 868 P. O. Box 1767 P.O. Box 1535  
McCall, ID 83638 McCall, ID 83638 McCall, ID 83638

JUL 09 1996

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number.

SEE ATTACHED COPY OF USGS MAP

JUL 09 1996

**Scale 2 inches equal 1 mile**

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

Michael B. Walker, President  
(Applicant)

MILE HIGH PROPERTY OWNERS ASSOCIATION, INC  
 10000 E. HIGHWAY 104, SUITE 100  
 DENVER, CO 80231  
 TEL: 760-888-8888  
 FAX: 760-888-8888  
 WWW.MHPA.ORG

Received by MM Date 1-22-93 Time 10:48am Prelim. fee check by CJ4  
Fee \$ 45.00 Receipted by W # W015845 Date 1-22-93  
Publication prepared by \_\_\_\_\_ Date \_\_\_\_\_ Published in \_\_\_\_\_  
Publication approved \_\_\_\_\_ Date \_\_\_\_\_

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

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. \_\_\_\_\_, and said application is hereby \_\_\_\_\_

1. Approval of said application is subject to the following limitations and conditions:

a. SUBJECT TO ALL PRIOR WATER RIGHTS.

b. Proof of construction of works and application of water to beneficial use shall be submitted on or before \_\_\_\_\_, 19 \_\_\_\_.

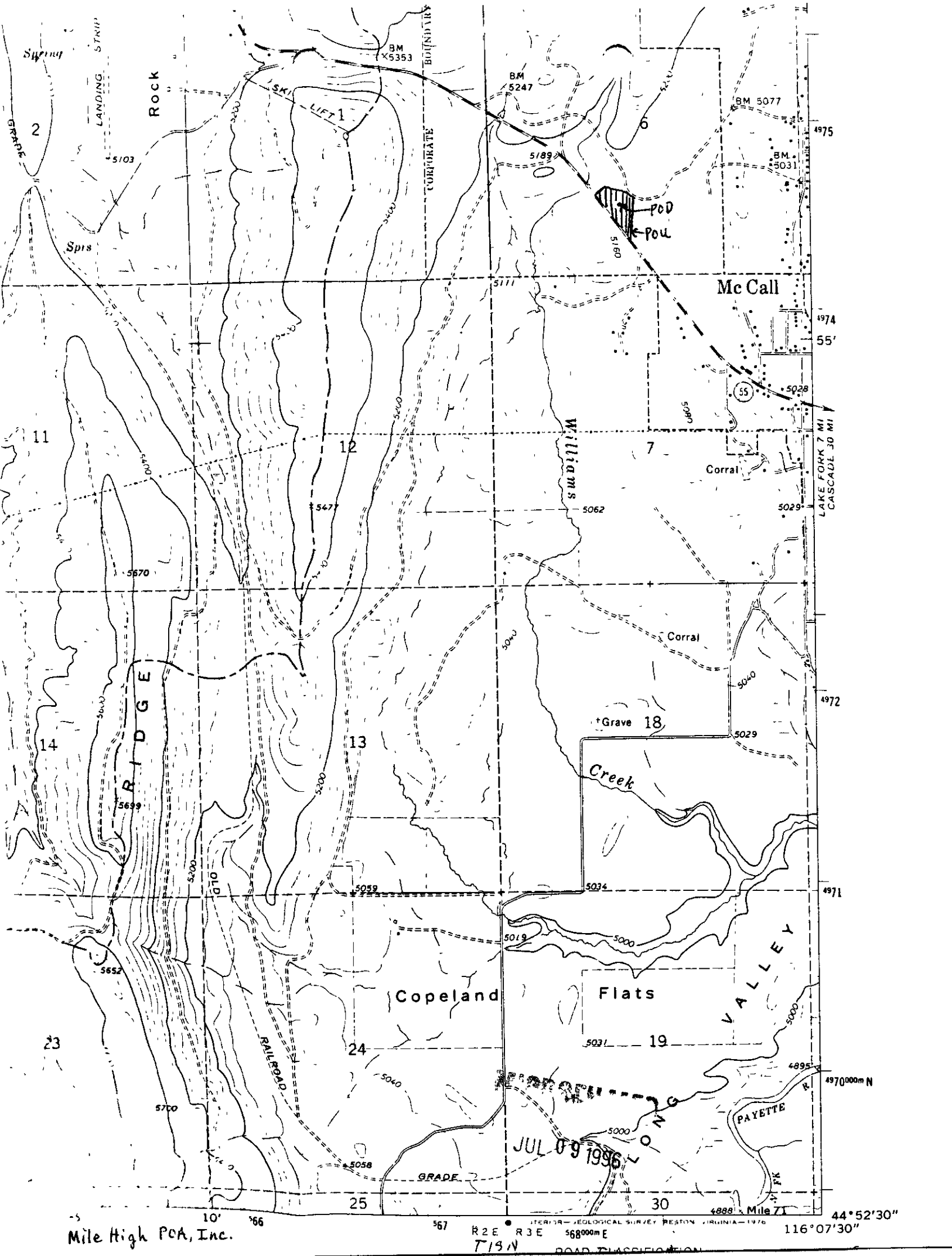
c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.

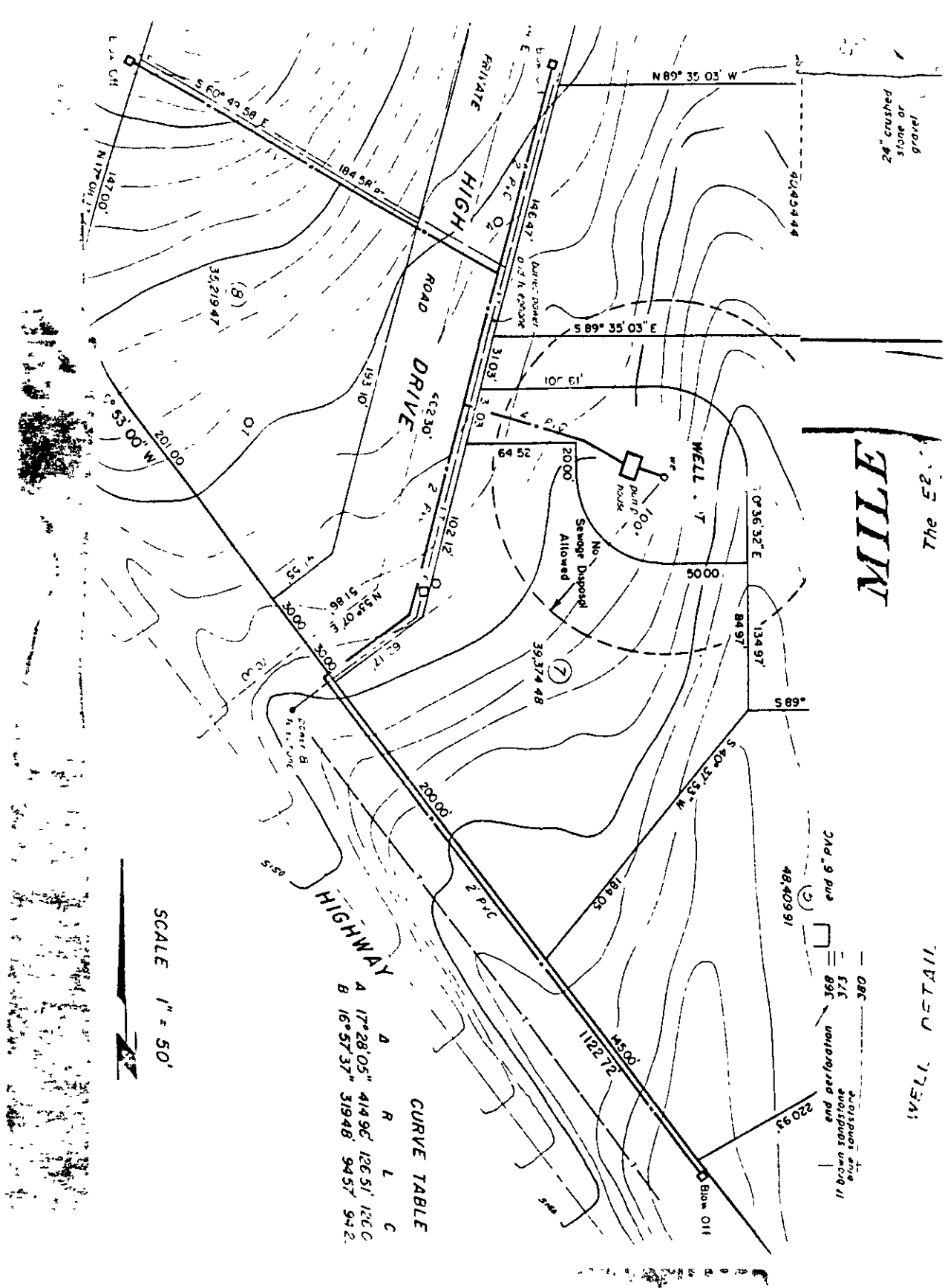
d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit

e. Other:

*[Signature]*

JUL 09 1996





MILE

The E2

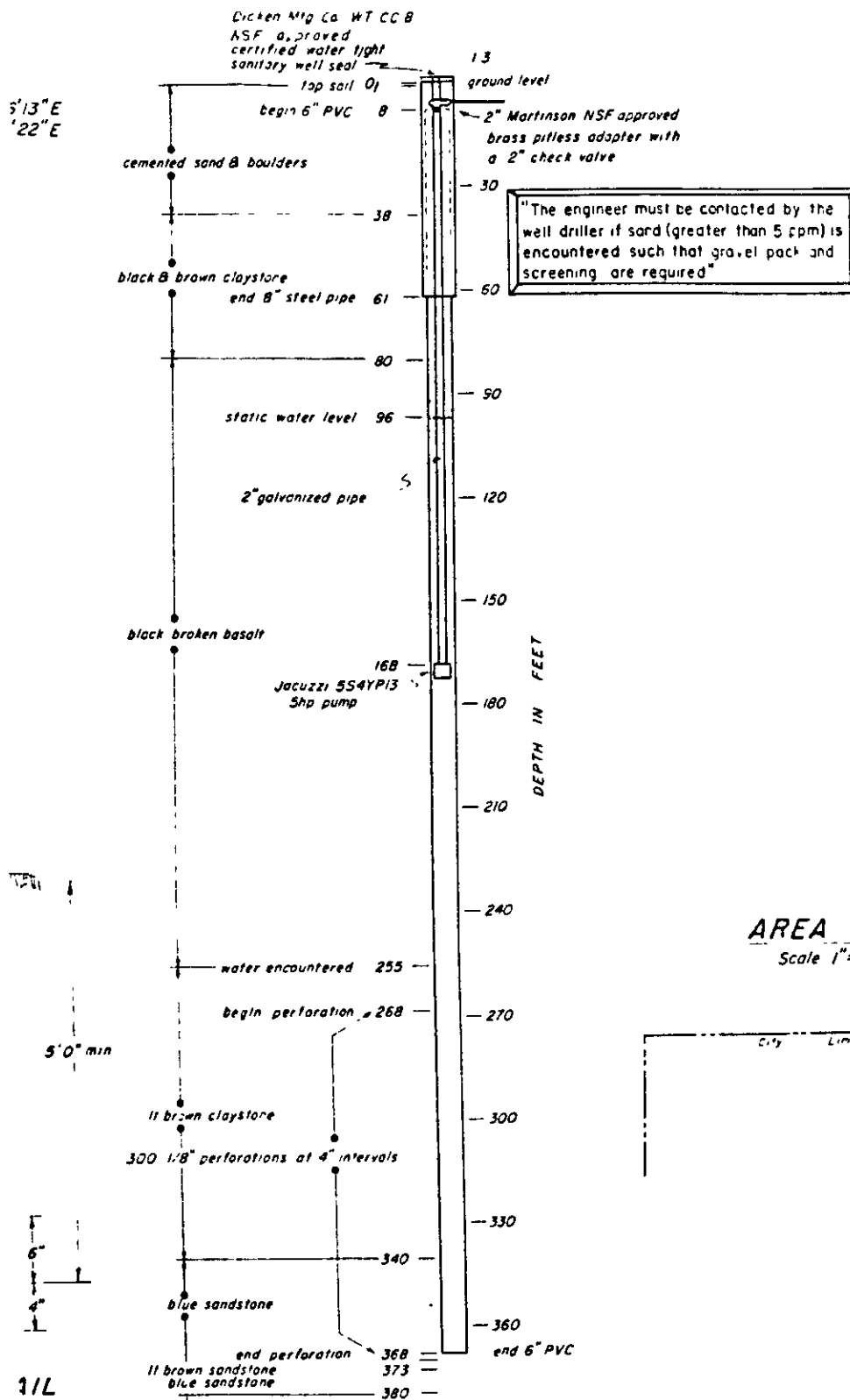
WELL DETAIL

CURVE TABLE

| A         | B       | C       | D      | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z |
|-----------|---------|---------|--------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 17°28'05" | 414.96' | 126.51' | 126.0' |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |
| 16°57'37" | 319.48' | 94.57'  | 94.2'  |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |   |

SCALE 1" = 50'

JUL 09 1996



Well Detail

JUL 09 1996

# NOTE.

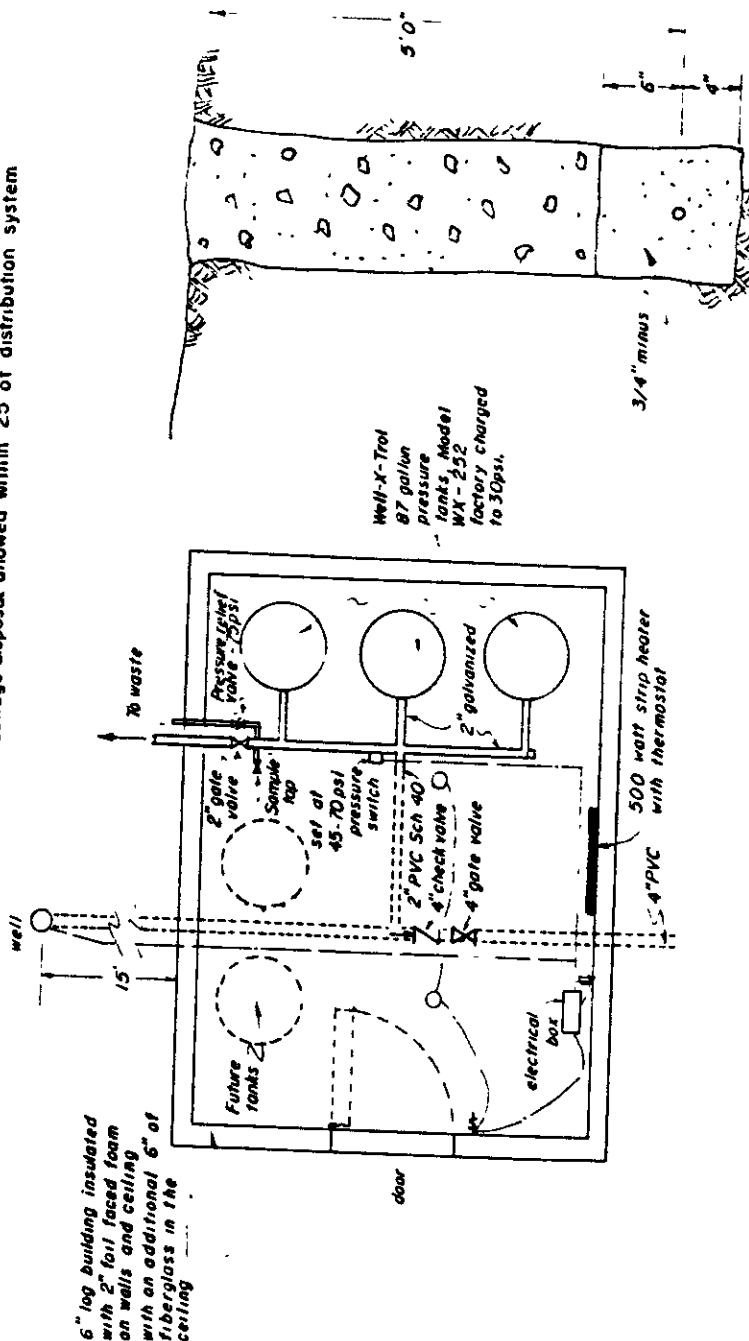
The system shall be disinfected prior to use in accordance with American Water Works Standards.

The system shall conform to the current Idaho Regulations For Drinking Water Systems, Title 1, Chapter 8, of the Idaho Code. Construction shall be in accordance with the "Idaho Standards for Public Work Construction."

Well shall conform to "Well Construction Standards" (Department of Water Resources)

No unusual or special conditions, such as rock, were found

No subsurface sewage disposal allowed within 25' of distribution system



PUMP HOUSE DETAIL

Scale: 1" = 3'

TRENCH DETAIL

No Scale

JUL 09 1996

**MILLEMANN & PITTENGER**  
**ATTORNEYS AT LAW**  
706 NORTH FIRST STREET  
POST OFFICE BOX 1066  
MCALL, IDAHO 83638

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. MCMAHAN

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

December 4, 1992

*D*  
Dave Tuthill, Regional Supervisor  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705

Re: Application No. 65-13420

Dear Mr. Tuthill:

The purpose of this letter is to protest the approval of Application No. 65-13420 and is submitted pursuant to Idaho Code Section 42-203A(4). The name and address of the protestant are: Mile High Property Owner's Association, Inc., c/o Michael Wallace, 1375 Meadows Road, P. O. Box 868, McCall, Idaho, 83638.

The Association and each of its members object to the approval of Application No. 65-13420 because the Applicant under said Application represented to each of the members of the Association when they bought their respective homesites, that the well water was exclusively for the property owners' use and that there would never be more than nine homes using the well. The well which is the subject of Application No. 65-13420 is a community well which has been exclusively used since its drilling to provide domestic use water for the Subdivision known as Mile High Estates. Said Subdivision consists of 10 lots, 9 being lots for homes and the 10th lot is the lot upon which the well is located. The developers of the Subdivision, (also being the Applicants under Application No. 65-13420) assured each of the homesite purchasers that the well water was for their exclusive use and that a maximum of nine homes (being the 9 homes on the 9 remaining lots in the Subdivision) would be connected to the well. The first beneficial usage of the well water was accomplished by the first homeowner in the Subdivision in 1983.

**RECEIVED**

JUL 09 1996

COPY

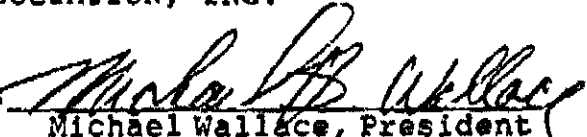
4-92 FRI 15:38 P.03  
Dave Tuthill  
December 4, 1992  
Page - 2 -

For the foregoing reasons, the undersigned Association and its members object to the approval of Application No. 65-13420 as submitted, and request that the Department set a hearing upon this protest as required by Idaho Code Section 42-203A(4).

Sincerely,

MILE HIGH PROPERTY OWNER'S  
ASSOCIATION, INC.

By:

  
Michael Wallace, President

milehigh

INDEXED

JUL 09 1996



IDAHO DEPARTMENT  
OF HEALTH AND WELFARE

DIVISION OF  
ENVIRONMENTAL QUALITY

December 9, 1992

IDWR PER.FRM

1420 North Hilton, Boise, Idaho 83706-1260, (208) 334-0650

Cecil D. Andrus, I

David R. Tuthill, P.E.  
Manager, Western Regional Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise ID 83705

*See -  
P12 file with  
app-  
Dave*

RECEIVED  
DEC 10 1992

Department of Water Resources  
Western Regional Office

RE: IDWR - Public Waters Appropriation Permit  
Permit No. 65-13420, Margaret Rowan Trust,  
George Klind & Russell Murata

Dear Mr Tuthill:

The project must be conducted under the design and supervision of an Idaho registered professional engineer. The process to follow is:

1. The engineer must submit a preliminary site evaluation based on proximity of pollution sources. We will evaluate the proposal, conduct a site inspection, and issue a written site approval if warranted. The applicant should give his consultant the enclosed checklist.
2. Detailed plans and specifications must be submitted to this office for review. The well may not be drilled until all approvals are obtained from both DEQ and IDWR. The last approval will come from DEQ; we will not issue approval until final approvals of both IDWR permits (appropriation permit and well drilling permit) have been submitted for our files.
3. A Public Water System with twenty-six connections or more must have two sources of water. The bottled water operation will be considered one connection.

We will pay particular attention to the following items:

1. Construction must be done under the general supervision of the professional engineer. The contract assuring this must be submitted with the application.
2. Numerous water quality parameters must be tested as soon as the well is completed.

Sincerely,

*Monty G. Marchus*

Monty G. Marchus, P.E.  
Water Quality Engineer

attachment

cc: Margaret Rowan Trust, Applicant  
Rick Mallory, DEQ/CO  
Jeff Lapin, CDHD, McCall

*Monty G. Marchus*

JUL 09 1996



IDAHO DEPARTMENT  
OF HEALTH AND WELFARE

DIVISION OF  
ENVIRONMENTAL QUALITY

1420 North Hilton, Boise, Idaho 83706-1280, (208) 334-0550

Cecil D. Andrus, Governor      Richard P. Donovan, Director

December 9, 1992

IDWRWELL.2

David R. Tuthill, P.E.  
Manager, Western Regional Office  
Idaho Department of Water Resources  
2735 Airport Way  
Boise ID 83705

RE: IDWR - Public Waters Appropriation Permit  
Permit No. 61-7675, Melvin Jones

Dear Mr Tuthill:

If the Central District Health Department requests DEQ to review the design of the water system, then the project must be conducted under the design and supervision of an Idaho registered professional engineer. Otherwise we have no comments.

If DEQ does do the review, then the process to follow is:

1. The engineer must submit a preliminary site evaluation based on proximity of pollution sources. We will evaluate the proposal, conduct a site inspection, and issue a written site approval if warranted. The applicant should give his consultant the enclosed checklist.
2. Detailed plans and specifications must be submitted to this office for review. The well may not be drilled until all approvals are obtained from both DEQ and IDWR. The last approval will come from DEQ; we will not issue approval until final approvals of both IDWR permits (appropriation permit and well drilling permit) have been submitted.

We will pay particular attention to the following items:

1. Construction must be done under the general supervision of the professional engineer. The contract assuring this must be submitted with the application.
2. Nitrite, Nitrate, and Total Coliform must be tested as soon as the well is completed.

Sincerely,

Monty G. Marchus, P.E.  
Water Quality Engineer

cc: Melvin Johnson, Applicant  
Bob Fox, Central District Health Department  
John Carlson, IDWR-CO

JUL 09 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

December 8, 1992

CECIL D. ANDRUS  
GOVERNOR

MILE HIGH PROPERTY OWNER'S ASSN INC  
C/O MICHAEL WALLACE  
PO BOX 868  
MCCALL ID 83638

R. KEITH HIGGINSON  
DIRECTOR

Re: Application for Permit No. 65-13420 in the Name of  
Margaret Rowan, Trust, George Klind and Russell Murata

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application or permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.  
Manager, Western Regional Office

DRT/st

RECEIVED

JUL 09 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

December 8, 1992

MARGARET ROWAN, TRUST  
GEORGE KLIND  
RUSSELL MURATA  
PO BOX 783  
MCCALL ID 83638

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

Re: Application for Permit No. 65-13420

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application. The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

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

Sincerely,

DAVID R. TUTHILL, JR., P.E.  
Manager, Western Regional Office

Enclosure: Copy of protest(s)

JUL 09 1996

RECEIVED

DEC -7 1992

**MILLEMANN & PITTENGER**

**ATTORNEYS AT LAW**

708 NORTH FIRST STREET  
POST OFFICE BOX 1066  
MCCALL, IDAHO 83638

Department of Water Resources  
Western Regional Office

STEVEN J. MILLEMANN  
GREGORY C. PITTENGER  
BRIAN L. MCMAHAN

TELEPHONE (208) 634-7641  
FACSIMILE (208) 634-4516

December 4, 1992

Dave Tuthill, Regional Supervisor  
Idaho Department of Water Resources  
2735 Airport Way  
Boise, Idaho 83705

Re: Application No. 65-13420

Dear Mr. Tuthill:

The purpose of this letter is to protest the approval of Application No. 65-13420 and is submitted pursuant to Idaho Code Section 42-203A(4). The name and address of the protestant are: Mile High Property Owner's Association, Inc., c/o Michael Wallace, 1375 Meadows Road, P. O. Box 868, McCall, Idaho, 83638.

The Association and each of its members object to the approval of Application No. 65-13420 because the Applicant under said Application represented to each of the members of the Association when they bought their respective homesites, that the well water was exclusively for the property owners' use and that there would never be more than nine homes using the well. The well which is the subject of Application No. 65-13420 is a community well which has been exclusively used since its drilling to provide domestic use water for the Subdivision known as Mile High Estates. Said Subdivision consists of 10 lots, 9 being lots for homes and the 10th lot is the lot upon which the well is located. The developers of the Subdivision, (also being the Applicants under Application No. 65-13420) assured each of the homesite purchasers that the well water was for their exclusive use and that a maximum of nine homes (being the 9 homes on the 9 remaining lots in the Subdivision) would be connected to the well. The first beneficial usage of the well water was accomplished by the first homeowner in the Subdivision in 1983.

*Millemann*

JUL 09 1996

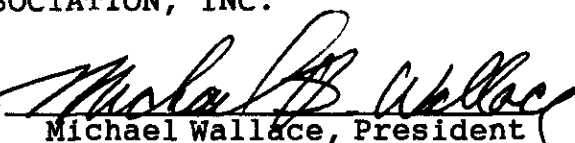
Dave Tuthill  
December 4, 1992  
Page - 2 -

For the foregoing reasons, the undersigned Association and its members object to the approval of Application No. 65-13420 as submitted, and request that the Department set a hearing upon this protest as required by Idaho Code Section 42-203A(4).

Sincerely,

MILE HIGH PROPERTY OWNER'S  
ASSOCIATION, INC.

By:

  
Michael Wallace, President

milehigh

JUL 09 1996



State of Idaho  
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS  
GOVERNOR

R. KEITH HIGGINSON  
DIRECTOR

November 23, 1992

IDAHO DEPT OF HEALTH & WELFARE  
DIV OF ENV QUALITY  
SWIRO  
1420 N HILTON  
BOISE, ID 83706

Re: Application for Permit No. 65-13420 in the name of  
Margaret Rowan Trust, George Klind & Russell Murata

Dear Sir:

Enclosed is a copy(s) of the above-referenced application(s) for permit which may be of interest to your agency. Please review the application(s) and submit any comments you may have.

This office normally completes the processing of an application within a six-week period and is required to take final action shortly thereafter, however, if your agency desires to file a formal protest against the approval of this application(s), your written protest must be received in this office by December 7, 1992.

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

Sincerely,

DAVID R. TUTHILL, JR., P. E.  
Manager, Western Regional Office

DRT:st

Enclosure(s):

RECEIVED

JUL 09 1996

SPECIAL NOTE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROTEST INFORMATION SHEET

Protestant - Name(s)

Mile High Property Owner's Assn Inc  
\_\_\_\_\_  
\_\_\_\_\_

Address c/o Michael Wallace, PO Box 868, McCall, ID 83638  
\_\_\_\_\_  
\_\_\_\_\_

Attorney - Name & Address Milleman & Pittenger  
\_\_\_\_\_  
\_\_\_\_\_

Date Filed 10-19-92 Protest Date 12-7-92

Issues \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant - Attorney - Name & Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dates: \_\_\_\_\_

Acknowledgement letters: \_\_\_\_\_

Hearing Notice: \_\_\_\_\_

Hearing Date: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED  
DEC 10 1992

Protest Information submitted in Computer (following hearing): \_\_\_\_\_  
\_\_\_\_\_

Send copy to H & W

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: ly DATE: 11/5/92 APPLICATION: 65-13420

REQUIRED INFORMATION

- ☒ Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)  
☒ Address:  
☒ Source: (See USGS Quad for names of water sources)  
☒ Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)  
☒ County:  
☒ Quantity: (flow and/or volume)  
☒ Period of use:  
☒ Nature of proposed use: (Include description of use)  
☒ Description of diverting works:  
☒ Time required for beneficial use of water:  
☒ Place of use or acres irrigated:  
☒ Map:  
☒ Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)  
☒ Fee:  
☒ Yes ☐ No\* In form to receipt:
- Gov't. Lots:  
☒ P/D  
☐ P/U

ADDITIONAL INFORMATION

YES NO

- ☐ ☒ Overlapping place of use: (Describe source & relationship to present application on the back.)  
☐ ☒ Overlapping point of diversion:  
☐ ☒ Field check required: Field check by: \_\_\_\_\_  
☐ ☒ Field report attached:  
☐ ☒ Critical groundwater area:  
☐ ☒ Groundwater management area:  
☐ ☒ 1992 moratorium  
☐ ☒ Diversion within interim protected river area  
☐ ☒ Send dam safety information:  
☐ ☒ Send power requirement letter:  
☐ ☒ Send fish farm requirement letter:  
☐ ☒ Power residency affidavit:  
☐ ☒ Power efficiency form:  
☐ ☒ Within trust water boundary: (If yes, attach Trust Water Supplementary Analysis Sheet.)  
☐ ☒ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)  
☐ ☒ \*REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: \_\_\_\_\_

☒ Additional information on reverse side:

PROCESSING

APPLICATION NO. 65-13420

YES NO

☒ ☒  
☒ ☒  
☒ ☒

In form for advertising:

Statewide advertising:

Fee amount, receipt number and date recorded on application:

SEND COPIES TO

YES NO

☒ ☒  
☒ ☒  
☒ ☒  
☒ ☒

I.D. Health and Welfare

I.D. Fish and Game

I.D. Lands

Adjudication Bureau

YES NO

☒ ☒  
☒ ☒  
☒ ☒  
☒ ☒

U.S. BLM

U.S. Forest Svc.

Water Dist. # \_\_\_\_\_

Other \_\_\_\_\_

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☒  
☒ ☒

Affidavit of publication received:

Application published correctly: If not, record action taken.

Publication dates and paper recorded on application:

Protests received. Final date for protest December 7, 1982

Protest dates, resolution of protest recorded on application:

Recommendations attached:

Measuring device required:

Measuring port required:

Water delivered by water master? District # \_\_\_\_\_

Special conditions of approval or cover letter: \_\_\_\_\_

See below for additional information

Recommended Date or Priority \_\_\_\_\_

Recommended by: \_\_\_\_\_ Date \_\_\_\_\_

STATE OFFICE REVIEW

See below for additional information. By \_\_\_\_\_ Date \_\_\_\_\_

ADDITIONAL INFORMATION

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
Western Region  
2735 AIRPORT WAY

---

Boise, Idaho 83705  
(208) 334-2190

NOVEMBER 6, 1992

The Star News  
P.O. Box 985  
McCall, ID 83638

Dear Legal Dept.:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. 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. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 7, 1992.

Yours truly,

GAIL GARRETT  
Secretary

Encl.

RECEIVED

JUL 09 1996

65-13420

KLIND, GEORGE  
MURATA, RUSSELL  
ROWAN TRUST, MARGARET  
PO BOX 783  
MC CALL, ID 83638

Source: GROUNDWATER

Diversion Pt:                SESW        Sec 6 T 18N R 03E in VALLEY County.

Use: COMMERCIAL                ( .040 CFS)  
     DOMESTIC                ( .230 CFS)  
              Total Diversion: ( .270 CFS)

Date Filed: 10/19/1992

In: VALLEY County  
     T18N R03E S06                NESW                SESW

RECORDED

JUL 09 1996