

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant CAPITOL WATER CORP. Phone 375-0931
Post Office address 2626 EL DONADO BOISE 83704

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes Drill a new well and describe
all existing wells used under these rights and
describe the p/u within the boundaries served
by this water organization.

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

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
63-03002	9/01/1954	.88	Municipal	1/1 to 12/31
63-03071	12/27/1955	.80	"	" to "
63-03166	8/25/1959	3.34	"	" to "
63-03152	3/25/1959	4.92	"	" to "
63-07108	5/21/1968	4.40	"	" to "
63-11528	5/01/1991	3.40	" + Fire Prot	" to "

2. Total amount of water being transferred 14.24 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water GROUND WATER tributary to _____

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion	
✓	SE	SW	NE	6	3N	2E	ADA	existing	#1
✓	NE	SE	NW	6	3N	2E	"	"	#2
✓	NE	SW	NW	6	3N	2E	"	"	#3
✓	NE	NE	SE	6	3N	2E	"	"	#5
2 ✓	SW	NW	NE	1	3N	1E	"	"	#4
✓	SW	NE	SE	36	4N	1E	"	"	#6
✓	SE	SE	SE	36	4N	1E	"	proposed	#7

Map locations

5. Lands irrigated or place of use:

[illegible]

Total acres

Page 1 of 11STATE OF IDAHO
DEPARTMENT OF WATER RESOURCESTransfer No. 5180

66602

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

Name of applicant Capitol Water Corp. Phone 375-0931
Post Office address 2626 El Dorado Boise 83704

A. PURPOSE OF TRANSFER

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

2. Describe the reason for the proposed changes drill a new well and describe all existing wells used under these rights and describe the plan within the boundaries served by this water organization

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

1. Right Number 63-03002 Priority 9/01/1954 Amount .88 Nature of Use MUNICIPAL Period of Use 1/1 to 12/31
63-03071 12/27/1955 .80 Municipal 1/1 to 12/31
63-03166 8/25/1959 3.34 Municipal 1/1 to 12/31
63-03152 3/25/1959 .92 MUNICIPAL DOMESTIC 1/1 to 12/31
63-07108 5/21/1968 4.9 MUNICIPAL DOMESTIC 1/1 to 12/31
63-11528 5/01/1991 3.4 MUNICIPAL FIRE PROT 1/1 to 12/31
 2. Total amount of water being transferred 14.24 cubic feet per second and/or _____ acre-feet per annum.
 3. Source of water groundwater tributary to _____

4. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion
	SE	SE	SE	36	4N	1E	Ada	new well to be drilled #7
2	SW	NW	NE	1	3N	1E	"	existing #4
	NE	SE	NW	6	3N	2E	"	existing #2
	SE	SW	NE	6	3N	2E	"	existing #1
	SW	NE	SE	36	4N	1E	"	existing #6
	NE	NE	SE	6	3N	2E	"	existing #5

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3N	1E	1	X	X	X	X	X	X	X	X									
	2E	6	X	X	X	X	X	X	X	X	X				X				
4N	1E	36										X	X		X	X	X	X	

Total acres _____

PART 1

6. General Information:

a. Description of diversion system wells, pumps & pipelineAPR. 6 existing wells, 1 proposed.b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? _____ Yes N/A No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer: NONE N/A

d. Remarks:

No change in delivery of water to domestic homes w/in the service boundaries described by the place of use

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

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

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19 _____

page 3 of 11

WR0749NP
No. 63-03002

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/19/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	NORTHVIEW WATER CORP. 6109 BAY ST. BOISE ID 83704	09/01/1954	IRRIGATION DOMESTIC FIRE PROTECTION	00/00 00/00 00/00 00/00 00/00 00/00	0.320 CFS 0.566 CFS	
TOTAL DIVERSION:					0.886 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion: T03N R02E S06

NESE

ADA County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE																
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SESW		NENE		NWSE		SWSE		SESE						
T	R	S		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM				
-----																								-----				
03N 02E 6 :																				16								16.0
																						TOTAL ACRES		16.0				

Place of use location for DOMESTIC is the same location as described for: IRRIGATION

Place of use location for FIRE PROTECTION is the same location as described for: IRRIGATION

Pou County: ADA

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
63-07018

Other Water Rights Listing Overlapping Place(s) of use:
63-07018

Dates:	App. Received:	Priority Date:	09/01/1954
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:	08/28/1979	

Misc: Water District Number: Field Exam Fee:

Audit: 04/23/85 05/01/88 CONVERT

PART 2

TRANS NO.

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 63-03071

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
MUNICIPAL	to	0.80 CFS

SOURCE

GROUNDWATER

Priority: 12/27/1955

LOCATION OF POINT(S) OF DIVERSION:

SWNE , Sec. 6, Township 03N, Range 02E
ADA County

PLACE OF USE: MUNICIPAL

TWN RGE SEC

03N 02E 6	NWNE	SWNE	NENW
	SENE		

CONDITIONS/REMARKS:

PART 2

TRANS NO.

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 63-03152

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
DOMESTIC	to	0.92 CFS

SOURCE

GROUNDWATER

Priority: 03/25/1959

LOCATION OF POINT(S) OF DIVERSION:SWNE , Sec. 6, Township 03N, Range 02E
ADA CountyPLACE OF USE: DOMESTICTWN RGE SEC

03N 02E 6	NWNE	SWNE	NENW
	NWNW	SWNW	SEnw

CONDITIONS/REMARKS:

1. LIC. INCORRECTLY DESCRIBES USE AS IRR.

PART 2

TRANS NO. 5780

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 63-03166

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>
MUNICIPAL	to	3.34 CFS

SOURCE

GROUNDWATER

Priority: 08/25/1959

LOCATION OF POINT(S) OF DIVERSION:SWNW , Sec. 6, Township 03N, Range 02E
ADA CountyPLACE OF USE: MUNICIPALTWN RGE SEC

03N 02E 6	NENW	NWNW	SWNW
	SEnw		

CONDITIONS/REMARKS:

1. P/D LOT 9, BLOCK 4, GRANDEE SUBD. NO. 1.

PART 2

TRANS NO. 5180

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 63-07108

STAGE: LICENSE

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/31	4.90 CFS	960.0 AF

SOURCE

GROUNDWATER

Priority: 05/21/1968

LOCATION OF POINT(S) OF DIVERSION:NWNE , Sec. 1, Township 03N, Range 01E
ADA CountyPLACE OF USE: DOMESTICTWN RGE SEC

03N 01E 1	NENE	NWNE	SWNE
	SENE	NENW	NWNW
	SWNW	SENW	
04N 01E 36	SWSW	SESW	SWSE
	SESE		

CONDITIONS/REMARKS:

1. Domestic use is for 800 homes.

WR0749NP
No. 63-11528

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/24/97
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	CAPITAL WATER CORP 2676 ELDORADO ST BOISE ID 83704 (208) 375-0931	05/01/1991	MUNICIPAL FIRE PROTECTION	01/01 12/31 01/01 12/31	3.400 CFS 3.400 CFS	
TOTAL DIVERSION:					3.400 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion Capacity: 3.400 CFS

Point(s) of Diversion: T04N R01E S36

SWNESE

ADA County

Pou County:

Other Rights: 63-3071, 63-3152, 63-3166, 63-3002, 63-7108

Conditions of Approval:

- 004 - The issuance of this right does not grant any right-of-way
- or easement across the land of another.

Remarks: Place of use is located within the city limits of Boise.

Dates: App. Received: 05/01/1991 Priority Date: 05/01/1991
Proof Due Date: 07/01/1992 Proof Made Date: 06/22/1992
Exam Made Date: 02/22/1994 Exam Sent to S.O.: 04/22/1994
Licensed Date: 08/10/1994

Misc: Water District Number: Field Exam Fee: R (Received)

Comments: Date: 06/23/1992 User-ID: VAULT Subject: Proof of Beneficial Use Rcvd
Proof of Beneficial Use Rcvd

Audit: 05/08/91 GARRETT 05/14/91 GARRETT 06/25/91 GARRETT 07/03/91 SKAGGS
07/03/91 SKAGGS 06/23/92 COMMENTS 07/13/92 GUSTAFSSO 03/24/94 TAYLOR
04/22/94 TAYLOR 07/29/94 BCHAPMAN

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

- a. Decree No. _____ Decreed to _____
in case of _____ vs. _____
dated _____ in _____ county of _____
- b. License No. _____ Issued by the Idaho Department of Water Resources.
- c. Claim No. _____ on file with the Idaho Department of Water Resources.
- d. Transfer No. _____ which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☐ Other _____

3. Source of water _____ tributary to _____

4. Date or priority _____

5. Water is used for the following purpose:

amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)
amount _____ for _____ purposes from _____ to _____
(cfs/ac-ft)

6. Total amount of water under right _____ cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT (omit if there is no change)

1. amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)
 amount _____ for _____ purposes from _____ to _____
 (cfs/ac-ft)

2. Point(s) of Diversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Local name for diversion

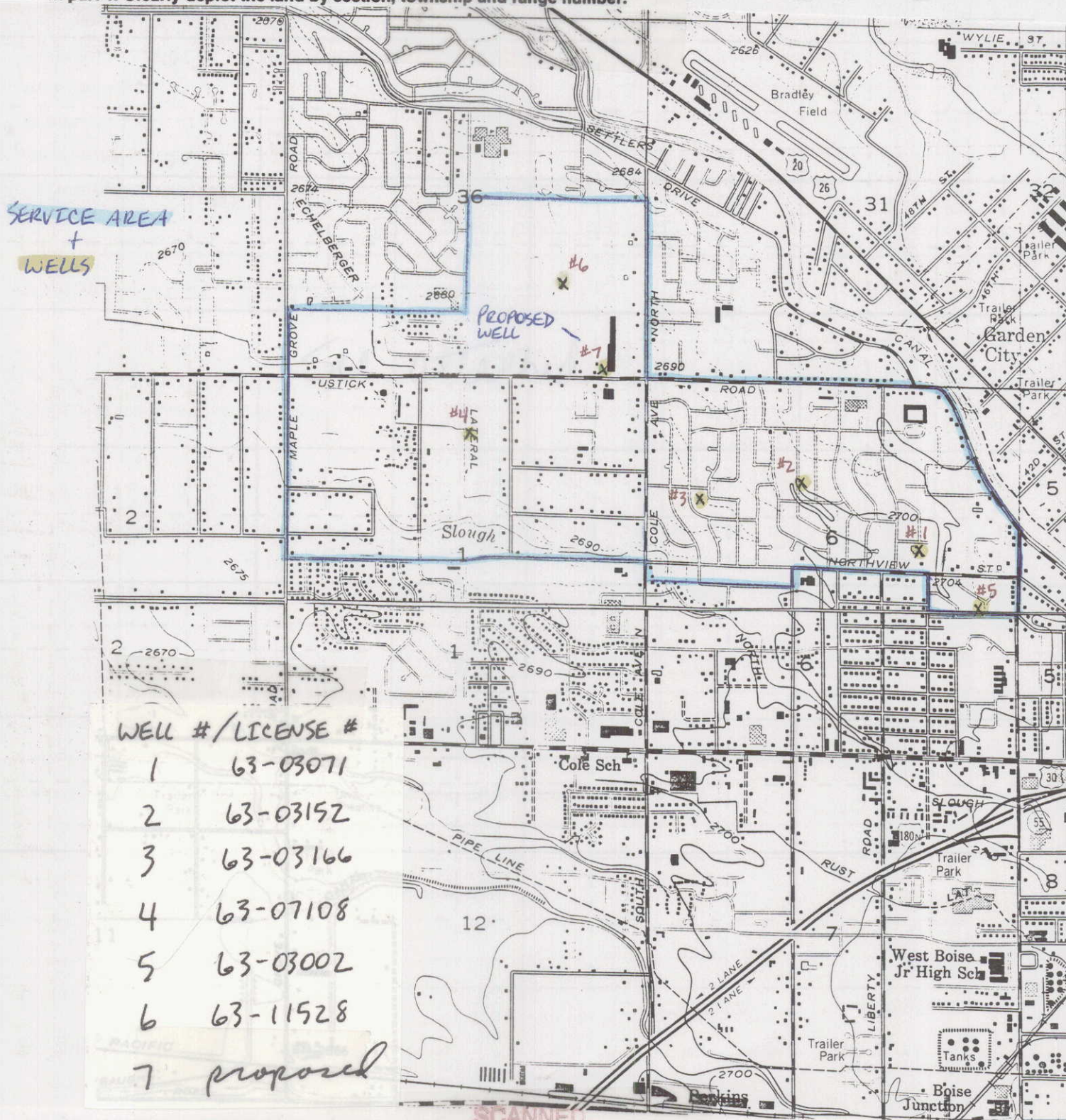
3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	

Total acres _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

- A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



PART 3**B. CHANGES IN NATURE OF USE**

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

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

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

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

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

Subscribed and sworn to before me this 4th day of November, 19 97.

(Signature of Applicant)

Sharla R. Curtis
(Notary Public)

My commission expires 10-6-2006

FOR DEPARTMENT USE ONLY

Transfer contains 11 pages and 2 attachments

Received by SC Date 11/4/97 Protest filed by _____

Prelim. check by SC Fee \$100.00 CO40565

Receipted by KS Date 11/4/97

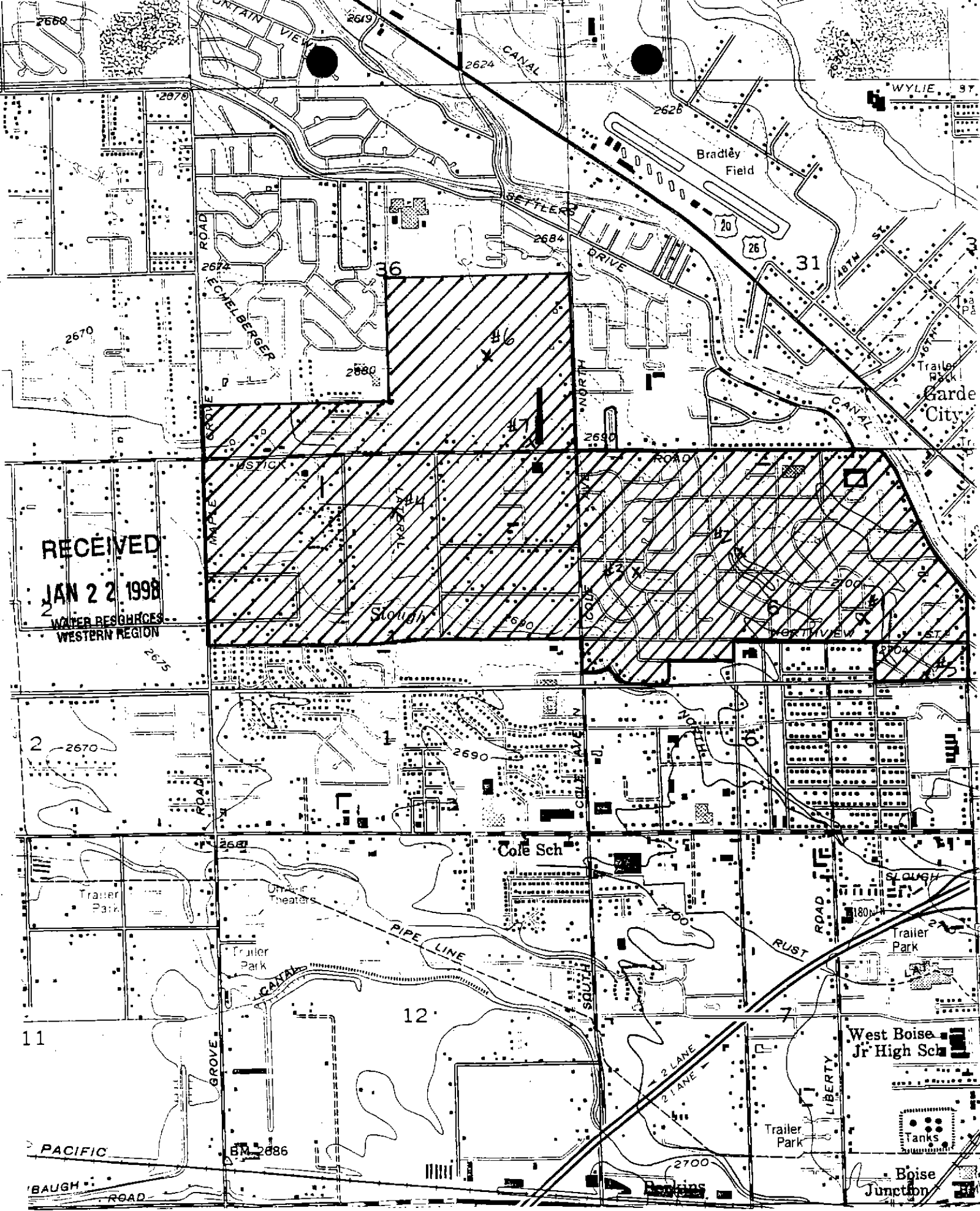
Published in Ed. Stateman Copies of protest forwarded by _____

Pub. dates 12-18+25-97 Hearing held by _____ Date _____

Watermaster recommendation requested on _____ Recommended for ☐ approval ☐ denial

_____ rec'd. _____ by _____

Copy of transfer sent to lien holder _____



Stripped area denotes CAPITOL WATER'S franchised area.
ATTACHMENT A

BY THE COUNCIL:

BAKER, BRENNAN, COLES,
FORNEY, WEBB AND WETHERELL

AN ORDINANCE GRANTING TO CAPITOL WATER CORPORATION, AN IDAHO CORPORATION, ITS SUCCESSORS AND ASSIGNEES, A FRANCHISE AND AUTHORITY TO OPERATE AND MAINTAIN A WATER UTILITY SYSTEM IN THE CITY AND THE RIGHT TO CONSTRUCT, EXTEND, MAINTAIN, REPAIR AND OPERATE A WATER UTILITY SYSTEM IN, UNDER, OVER, ALONG, ACROSS AND UPON THE STREETS, ALLEYS, BRIDGES AND PUBLIC PLACES IN THE CITY FOR THE COLLECTION, TRANSMISSION, DISTRIBUTION AND SALE OF POTABLE WATER; PROVIDING FOR CONSIDERATION FOR SAID RIGHT TO PROVIDE SERVICE; PRESCRIBING CERTAIN OTHER DUTIES, RIGHTS AND OBLIGATIONS OF THE FRANCHISEE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF BOISE CITY, IDAHO:

Section 1. Grant of Nonexclusive Authority.

(a) There is hereby granted by Boise City, hereinafter referred to as "CITY", to Capitol Water Corporation, an Idaho corporation, its successors and assigns, hereinafter called "GRANTEE", the franchise, right and authority to construct, extend, improve, maintain and operate a water utility system for the collection, transmission, distribution and sale of potable water for all purposes for which water may be used by the CITY and the inhabitants thereof. The GRANTEE may construct, extend, improve, maintain, operate, remove and replace all necessary plants, works, mains, services, conduits, pipes, tanks and apparatus and equipment necessary or convenient for such water utility system in, upon, over, across, along and under each and all of the streets, roads, alleys, bridges, public ways and places at and within the CITY as such may at any time exist, subject to the conditions and

RECEIVED

JAN 22 1998

WATER RESOURCES
WESTERN REGION

regulations hereinafter set forth.

(b) The right to so use and occupy said streets, roads, alleys, bridges and other public ways and places within the CITY for the purposes herein set forth shall not be exclusive. The CITY reserves the right to grant noncompeting use of said streets, roads, alleys, bridges and public ways and places to any other person or firm at any time during the period of the Franchise.

Section 2. Compliance with Applicable Laws and Ordinances.
The GRANTEE shall, at all times during the life of this Franchise, be subject to the lawful exercise of the police power by the CITY and to such reasonable regulations as the CITY shall hereafter provide.

Section 3. Conditions of Street Occupancy.

(a) All structures, mains, pipes, equipment and apparatus for the collection, transmission and distribution of water constructed, maintained and operated under this Franchise by the GRANTEE shall be so located so as not to interfere with the proper use of streets, roads, alleys, bridges and other public ways and places as well as not to interfere with existing public utility installations or sanitary sewers, street lights and street light conduit and drainage facilities.

(b) The said collection, transmission and distribution system of GRANTEE shall be so constructed, maintained, operated and located so as not to injure or damage any drains, storm sewers, catch basins or other drainage facilities, sanitary sewers, street lights and street light conduits or other like improvements or the

subsurface or surface of streets, roads, alleys, sidewalks, bridges and other public ways and places, but should any of the aforesaid be damaged, whether by act or omission to act on the part of the GRANTEE, its officers, employees or agents, or proximately damaged by any property or instrumentality under the care, custody or control of the GRANTEE, its officers, employees or agents, the GRANTEE shall forthwith, at its own expense, repair the damage and restore the aforesaid to as good a condition as existed prior to the time of the said injury or damage. All of the aforesaid work done for the construction, maintenance, operation and location, and the repair and restoration of any damage or injury, shall be done in accordance with the provisions of any and all general ordinances or regulations governing the excavation in and repair of said streets, roads, alleys, bridges, sidewalks and other public ways and places.

(c) The GRANTEE shall file with the CITY in February of each year a current map and a plat disclosing the location and character of structures and facilities of its collection, transmission and distribution system constructed and maintained in, upon, across and under the streets, alleys and public places or ways within the CITY.

Section 4. Insurance for Liability and Property Damage and Faithful Performance.

(a) The GRANTEE shall indemnify and save and hold harmless the CITY from any and all losses, claims, actions or judgments for damages or injury to persons or property and losses and expenses

caused or incurred by the GRANTEE, its officers, employees and agents.

(b) GRANTEE shall maintain, and by its acceptance of this Franchise specifically agrees that it will maintain throughout the term of this Franchise, liability insurance in which the CITY shall be named as a named insured in an amount equal to the minimum coverage required by the Idaho Tort Claims Act. The limits of insurance shall not be deemed a limitation of the GRANTEE'S covenant to indemnify and save and hold harmless the CITY, and if the CITY becomes liable for an amount in excess of the insurance limits herein provided, the GRANTEE covenants and agrees to indemnify and save and hold harmless the CITY from any and all such losses, claims, actions, judgments or expenses for damages or injury to persons or property.

(c) The insurance policy obtained by the GRANTEE in compliance with this section must be approved by the City Council and such insurance policy, along with written evidence of payments of required premiums, shall be filed and maintained with the City Clerk during the term of this Franchise; or in lieu of an insurance policy, the GRANTEE may submit, and keep on file with the City Clerk during the term of this Franchise, a current certificate of insurance showing compliance with this section, but said certificate of insurance must disclose that Boise City is a named insured, the policy period, and that the premium has been paid for the policy period.

Section 5. Operation and Maintenance of System.

(a) The GRANTEE shall render efficient and continuous service and make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by reasonable notice and be made during periods of minimum use of the system. GRANTEE shall not interrupt service for any reason, other than to make necessary repairs, maintenance or improvements without notice to the CITY.

(b) The quality of water distributed by GRANTEE shall be of such standard as to conform to the water quality and monitoring standards fixed by all Federal, state and local authorities having jurisdiction in the premises.

(c) GRANTEE will maintain the required water fire flow, apparatus and equipment for a Class III fire rating as determined by the Insurance Services Offices, and if upon proper rating inspection, the GRANTEE'S system is found to be deficient, GRANTEE will make the necessary improvements to satisfy the requirements of said Class III fire rating classification.

(d) The GRANTEE, where possible, will cooperate with the Ada/Boise Civil Preparedness Office in implementation of the Local Emergency Operations Plans.

(e) The GRANTEE shall construct, maintain and operate its plants, works, mains, services, conduits, pipes, tanks and other apparatus and equipment necessary or convenient for such water utility system in such manner that such apparatus, equipment and fixtures will not interfere with any installations of the CITY.

(f) All necessary plants, works, mains, services, conduits,

pipes, tanks and apparatus and equipment necessary or convenient for such water utility system, in, upon, over, across, along and under each and all of the streets, roads, avenues, bridges, and other public ways and places, wherever situated or located, and whether now existing or not, shall be kept and maintained in a safe, suitable, substantial condition and in good order and repair.

(g) The GRANTEE shall maintain an office in the CITY, which shall be open during all usual business hours and have a listed telephone so that complaints and requests for repairs or adjustments may be received at any time.

(h) The GRANTEE shall retain its membership in the Utility Coordinating Council (UCC) and the Ada County One Call Utility marking organization ("Digline) to facilitate contractor and private party excavations and shall mark its utility facilities in the field at the design stage of any project of the CITY.

(i) GRANTEE shall be responsible for all water line relocation costs in the event that a water line location conflicts with sewer rehabilitation activities or in the event the location of the water line is such that it cannot be reasonably avoided when constructing a sewer line extension.

Section 6. Rights of City in Franchise.

(a) The right is hereby reserved by the CITY to adopt, in addition to the provisions contained herein and existing applicable ordinances, such additional regulations as it shall find necessary; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted

and not in conflict with the laws, rules and regulations of other governmental regulatory agencies having jurisdiction over GRANTEE'S water utility operations.

(b) GRANTEE shall comply with all applicable rules and regulation which, from time to time, may be promulgated by the Idaho Public Utilities Commission, or any other governmental authority properly promulgating such rules and regulations.

(c) The CITY shall have the right to inspect and copy the maps, plats, plans and other records of the locations and character of the structures and facilities of the collection, transmission and distribution system maintained and operated by the GRANTEE at any time during normal business hours.

(d) The CITY shall have the right to regulate the location and installation of all plants, works, mains, services, conduits, pipes, tanks, and apparatus and equipment of the said water system as the CITY shall find necessary to insure compliance with the terms of this Franchise.

(e) Nothing herein contained in this Ordinance shall be construed as preventing, diminishing or restricting GRANTEE from using for public utility purposes any easement shown on any plat or plats of any portion of the CITY heretofore or hereafter platted or recorded or any easement which has been or may hereafter be created, granted or dedicated for public utility purposes by any person, firm or corporation, provided that the subsurface and surface thereof shall be restored to as good condition as existed prior to the said use for public utility purposes.

Section 7. Consideration for Franchise. As consideration for this Franchise, the GRANTEE shall pay to the CITY during each year of this Franchise an amount equal to three percent (3%) of the gross operating revenues received from the sale of water and water service within the corporate limits of the CITY. For the purposes of this Franchise, a "Franchise year" is hereby defined to mean a period of twelve (12) calendar months commencing January 1, 1991. Payments shall be made quarterly on the first day of May, August, November and February of each year for the previous calendar quarter. Such payments will be based upon actual revenues as recorded on Grantee Records. This payment shall be in addition to any other fee, tax or payment owed to the CITY; and shall be in addition to any other permit fee or charges which the GRANTEE is obligated to pay, pursuant to the provisions of ordinances and statutes now in existence or hereinafter enacted.

The CITY shall have the right at reasonable times to examine and copy the books and records of the GRANTEE for the purpose of verifying the statements of the gross operating revenues hereinbefore mentioned.

Section 8. Duration and Acceptance of Franchise. This Franchise and the rights, privileges and authority hereby granted will take effect and be in force from and after final passage hereof, as provided by law, and shall continue in force and effect for a term of twenty-five (25) years, which twenty-five year period of time shall, in the event of the passage and approval of this Ordinance, be deemed to have commenced January 1, 1991,

provided that within thirty (30) days after the date of the passage of this Ordinance the GRANTEE shall file with the City Clerk its unconditional acceptance of this Franchise and promise to comply with and abide by its provisions, terms and conditions.

Section 9. Acquisition of Water System. Nothing contained in this Franchise Agreement shall be deemed to negate the CITY'S right or option to negotiate with GRANTEE during the term of the Franchise for purchase by the CITY of the company's property in whole or in part. Nor is anything contained herein intended to effect the right of the respective parties hereto as conferred by law in the event of the lawful condemnation of the Company's property in whole or in part. Further, it is specifically understood and agreed that in the event the CITY acquires the Company's properties by condemnation no value shall be attributable to any unexpired term of this Franchise.

Section 10. Transfer of Franchise. This Franchise shall not be assigned, transferred, or sold without the consent of the CITY; provided, however, that consent of the CITY shall not be required in connection with the execution of mortgages or trust indentures or pledges of its rights under this Franchise as may be necessary for the procuring of capital.

Section 11. Forfeiture of Franchise. This Franchise may be terminated and canceled at any time for failure of the GRANTEE to comply with the terms and conditions hereof. The CITY shall give written notice of the matters and facts which GRANTEE is claimed to be in default or noncompliance. Should GRANTEE fail to correct and

remedy such default or noncompliance within a reasonable time from the date of receipt of said notice, the CITY may forthwith give GRANTEE notice of its intent to terminate and cancel this Franchise and Grant. Such notice of intent to terminate and cancel shall be served upon GRANTEE by certified mail or personal service and shall provide for a public hearing before the Boise City Council at which the GRANTEE shall be given an opportunity to be heard. After ninety (90) days from the date of said hearing, the CITY may, by ordinance duly adopted by the Boise City Council, terminate and cancel this Franchise and Grant.

Section 12. Separability. The provisions of this Ordinance are hereby declared separable and if any section, clause or phrase hereof is hereafter declared invalid or unconstitutional, the same shall not affect the validity of the remained portions of this Ordinance.

Section 13. This Ordinance shall be in full force and effect on the thirty-first (31st) day after its passage, approval and publication.

PASSED by the Council of the City of Boise, Idaho, this 12th day of March, 1991.

APPROVED by the Mayor of the City of Boise, Idaho, this 12th day of March, 1991.

APPROVED:


MAYOR

ATTEST:

Annette P. Mooney
CITY CLERK

DATED this 22nd day of March, 1991.

CAPITOL WATER CORPORATION

BY

Robert Price
PRESIDENT