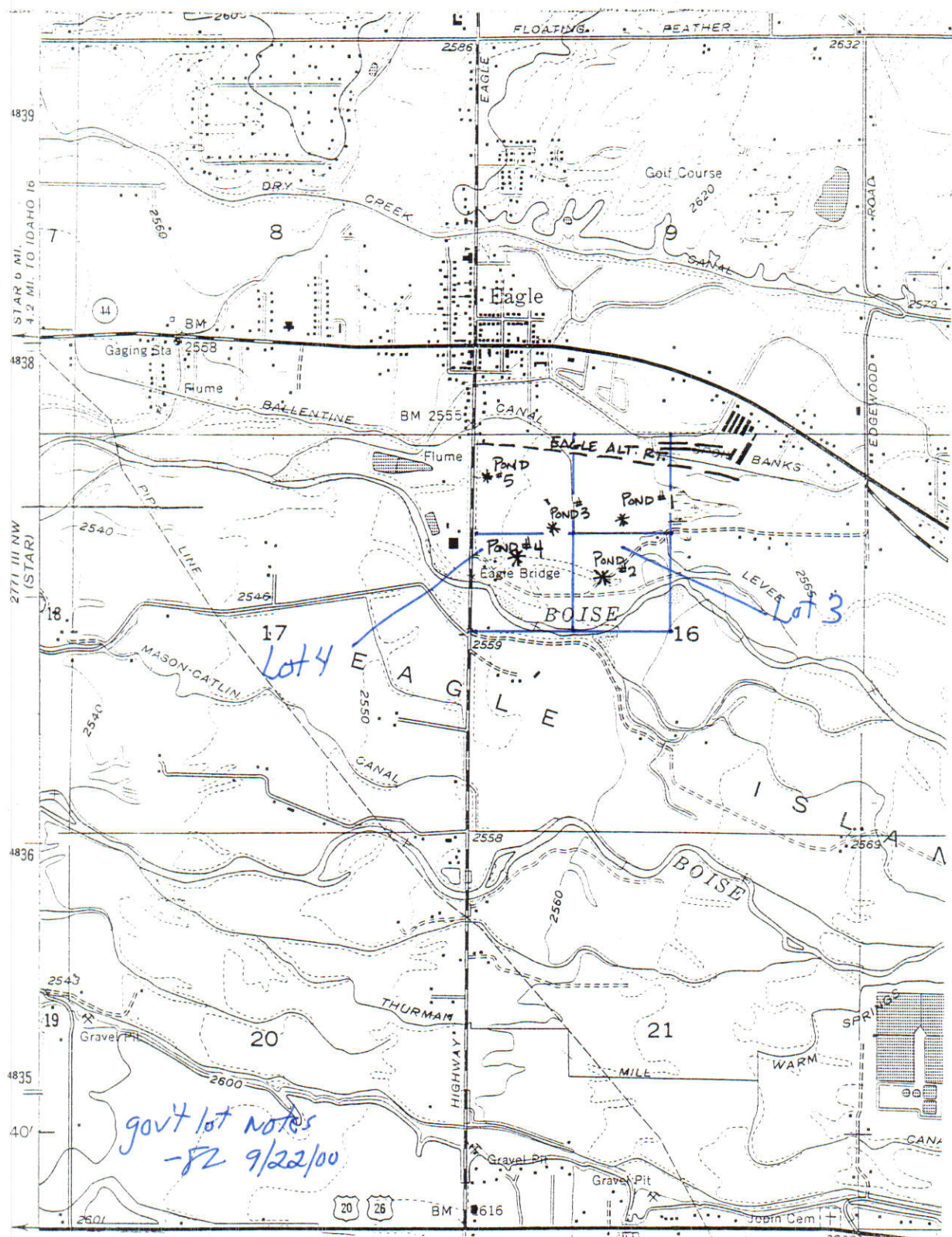


ATTACHMENT APPLICATION FOR PERMIT EAGLE RIVER L.L.C

September 15, 2000

(Copied from the Eagle Quadrangle 7.5 Minute Photo Revised 1979)

Scale 1"=2000'

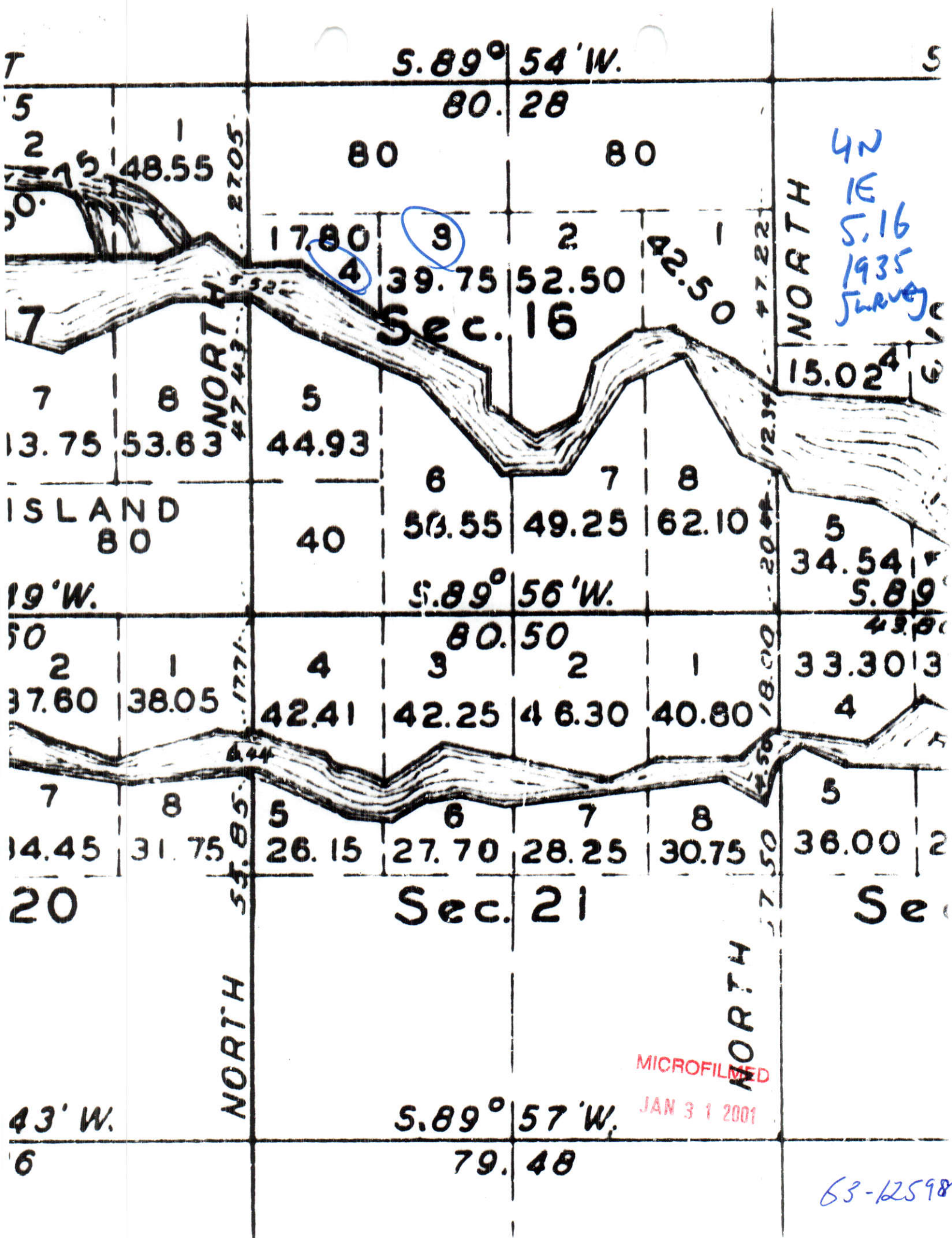


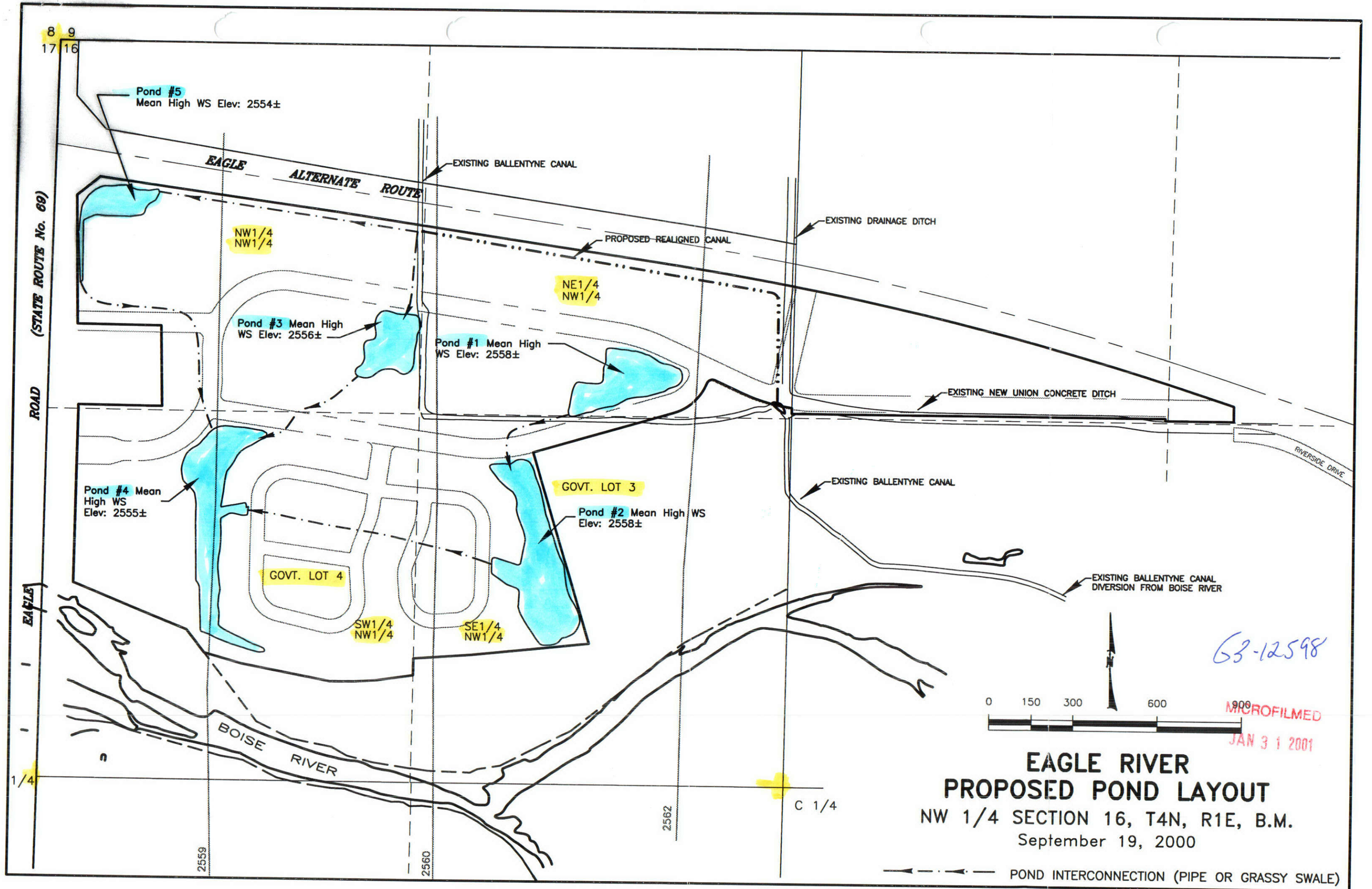
R1E

MICROFILMED

JAN 31 2001

63-12598





**EAGLE RIVER
PROPOSED POND LAYOUT**
NW 1/4 SECTION 16, T4N, R1E, B.M.
September 19, 2000

63-12598

MICROFILMED
JAN 31 2001

Eagle River LLC Application for
Permit NW 1/4 g16, T4N, R1E BM

63-12598

APPROX NW COR.
Sec. 16

MICROFILMED
JAN 31 2001

Eagle Rd

STATE ST. NEW BYPASS RD.

BAUGENTIN
CANAL

NEW
UNION
DITEL

BALLOUTYRE CO.
P.D.



APPROX
CS SEC. 16

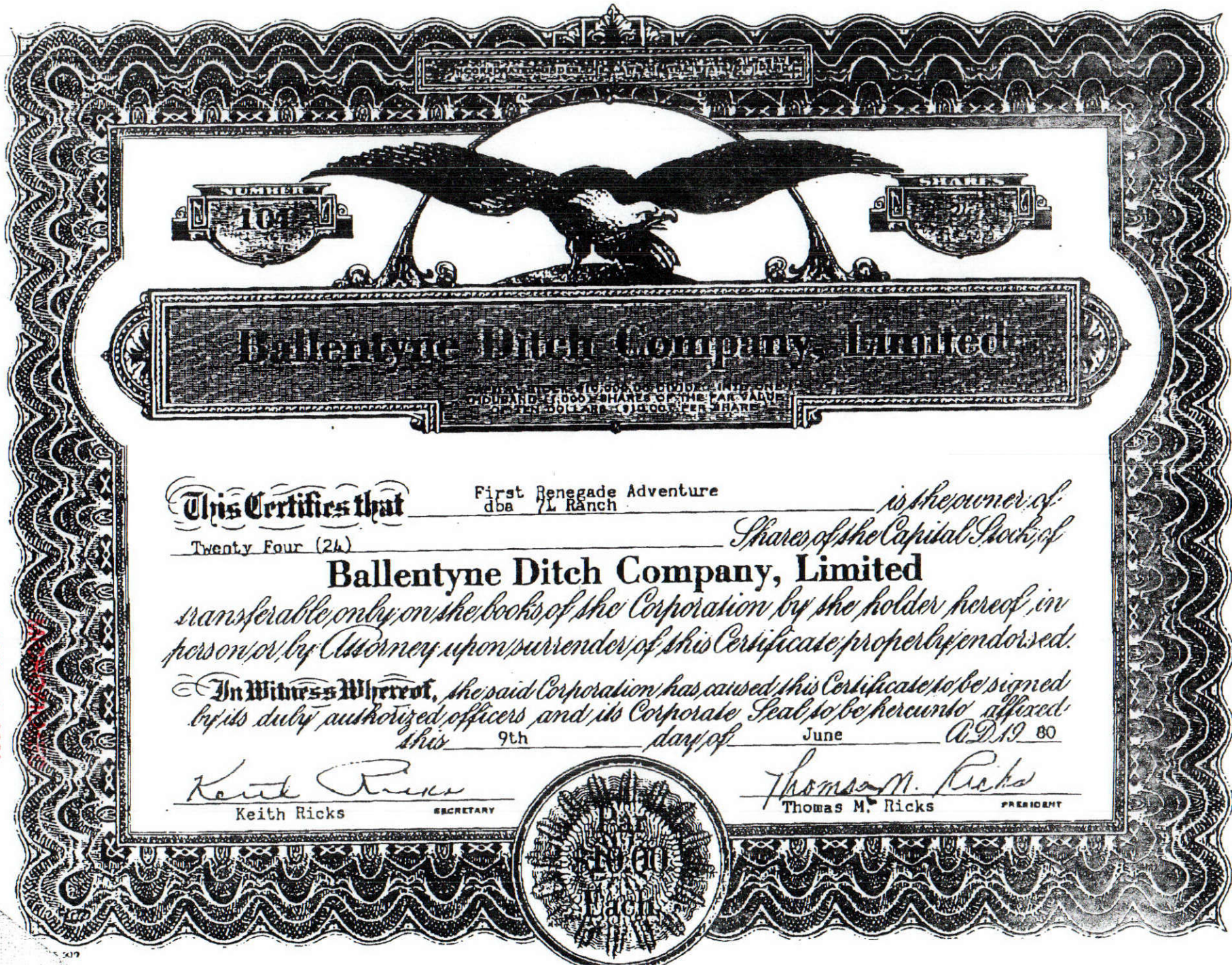
1997 PHOTO SCALE: 1" = 500'

83-12598

JAN 31 2001

00 (THU) 16:55

GIVENS PURSUE



INCORPORATED IN THE STATE OF MONTANA

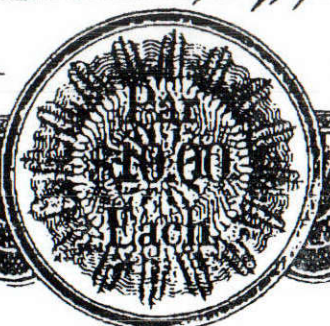
NUMBER 104

SHARES 24

Ballentyne Ditch Company, Limited

PAID UP CAPITAL \$10,000.00 DIVIDED INTO ONE HUNDRED,000 SHARES OF THE PAR VALUE OF TEN DOLLARS (\$10.00) PER SHARE

This Certifies that First Renegade Adventure dba 7L Ranch *is the owner of*
Twenty Four (24) *Shares of the Capital Stock of*
Ballentyne Ditch Company, Limited
transferable only on the books of the Corporation by the holder hereof, in person or by attorney upon surrender of this Certificate properly endorsed.
In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed.
this 9th *day of* June *A.D. 19* 80
Keith Ricks *SECRETARY* Thomas M. Ricks *PRESIDENT*



NUMBER



SHARES
50 1/2

THE NEW UNION DITCH COMPANY, LIMITED

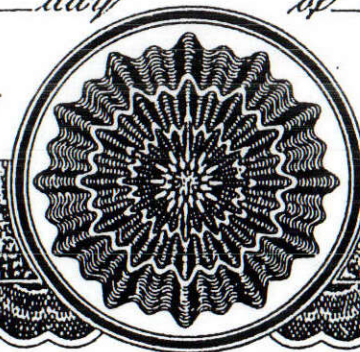
This certifies that Crandlemier, Grossman, Jensen & Porter (7L Ranch) is the registered holder of Shares

THE NEW UNION DITCH COMPANY, LIMITED

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 17 day of November A.D. 19 80

Robert M. Walker
NO PAR VALUE SECRETARY



Walter M. Curdy
PRESIDENT



63-12598

JAN 31 2001

MICROFILMED

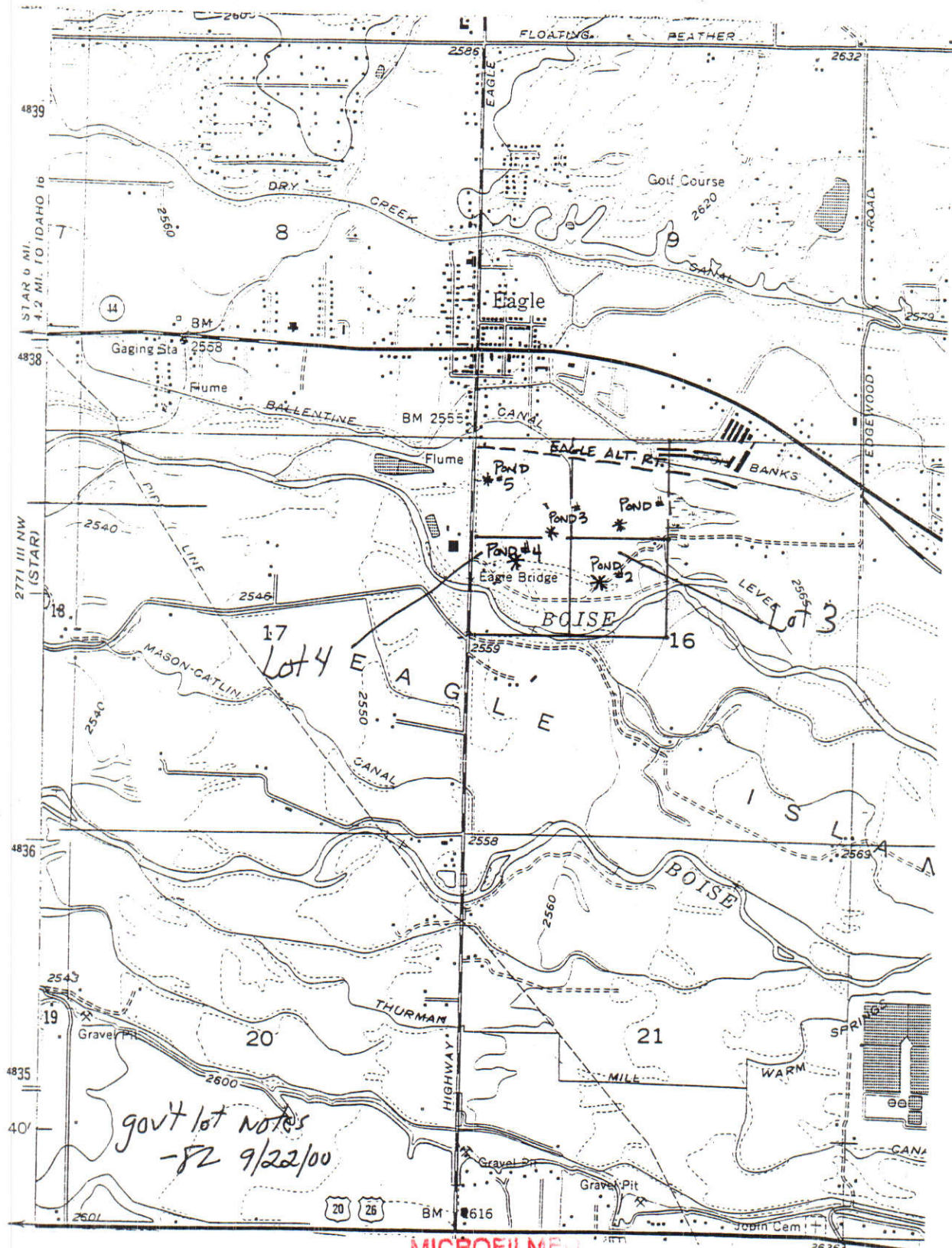
ATTACHMENT TO APPLICATION FOR PERMIT EAGLE RIVER L.L.C

September 15, 2000

(Copied from the Eagle Quadrangle 7.5 Minute Photo Revised 1979)

Scale 1"=2000'

T4N



MICROFILMED

JR1E 1 2001

63-12598

RECEIVED

DEC - 5 2002

For Office Use Only
\$50 Fee Received by Phase
Date 11-22-02
Receipt No. 2045947

STATE OF IDAHO
Department of Water Resources
DEPARTMENT OF WATER RESOURCES

RECEIVED

REQUEST FOR EXTENSION OF TIME

NOV 21 2002

TO PROVIDE ADDITIONAL TIME IN WHICH TO SUBMIT PROOF OF
BENEFICIAL USE FOR A WATER RIGHT PERMIT

Department of Water Resources

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

Permit No. 63-12598

Name(s) of Permit Holder: Eagle River LLC

Address: 3101 North Central Avenue, Suite 1390 City Phoenix State AZ Zip 85012

Telephone No. 602-285-1300 Date Proof is Due: January 1, 2003

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

Five of six contemplated ponds have been constructed with estimated storage

capacity of 77 acre-feet. Sixth pond will be constructed within next year to year

and a half. Sixth pond will have an estimated capacity of between 27 and 30

acre-feet.

Costing \$ \$500,000.00

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

See attached.

Permit holder(s) request an extension to June 30, 2004

(Signature)* Chuck Carlise
Chuck Carlise, Vice Chairman, Eagle River LLC

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

APPROVED and the time within which to submit proof of beneficial use
is extended to January 1, 2005.

Signed this 9th day of December, 2002

L. Glen Saxton
L. GLEN SAXTON, CHIEF
WATER ALLOCATION BUREAU

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

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

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

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

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

EXCEPTIONS TO ONLY ONE EXTENSION

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

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

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

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

Attachment to
Request for Extension of Time to
Submit Proof of Beneficial Use
Water Right Permit 63-12598

The Permit Holder has been unable to complete the remainder of the work for the following reasons:

The permitted pond construction has proceeded in coordination with the phased-construction of a large-scale commercial/residential development. Five of the six ponds have been excavated and are storing ground water for aesthetic purposes as authorized by the Permit. Excavation of the sixth and final pond is proceeding in conjunction with construction of a hotel/convention center in the southwest corner of the development. This construction has only recently commenced. Absent unforeseen delays Eagle River LLC expects construction and pond excavation to be completed within 18 months.

*per telephone
call w/m.
Clemet
12/6/02.
9:55am -
dg*

Also, Eagle River LLC's proposed mitigation for evaporative losses from the six ponds involves a change in nature of use of 0.14 cfs of water rights represented by seven of Eagle River LLC's shares in the Ballentyne Ditch Company, Ltd, and 0.03 cfs of water rights represented by 1.5 of Eagle River LLC's shares in the New Union Ditch Company. Transfer Applications to accomplish these changes in nature of use and provide the proposed mitigation were filed with the Department in August 2002 and currently are under Department review.

For the above reasons, Eagle River LLC requests an extension of time to file its Proof of Beneficial use until June 30, 2004 to ensure that it has completed construction of the sixth pond and has obtained a final order approving the Transfers and the proposed mitigation.

State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-12598

Priority: 09/21/2000

Maximum Diversion Volume: 107.0 AF

This is to certify, that **EAGLE RIVER LLC**
3101 N CENTRAL AVE STE 1390
PHOENIX AZ 85012

has applied for a permit to appropriate water from:

GROUND WATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	01/01 to 12/31	107.0 AF

LOCATION OF POINT(S) OF DIVERSION:

GROUND WATER	L3 SE1/4NW1/4	Sec. 16, Twp 04N, Rge 01E, B.M. ADA County
GROUND WATER	NE1/4NW1/4	Sec. 16, Twp 04N, Rge 01E, B.M. ADA County
GROUND WATER	NW1/4NW1/4	Sec. 16, Twp 04N, Rge 01E, B.M. ADA County
GROUND WATER	L4 SW1/4NW1/4	Sec. 16, Twp 04N, Rge 01E, B.M. ADA County

PLACE OF USE: AESTHETIC STORAGE

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	01E	16					X	X	X	X									
									L4	L3									

CONDITIONS OF APPROVAL

1. Proof of application of water to beneficial use shall be submitted on or before **January 01, 2003**.
2. Subject to all prior water rights.
3. Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
4. Excavation of the proposed ponds shall not penetrate any confining layers of clay thicker than two (2) feet.
5. This permit does not authorize the construction of any well(s) or the withdrawal of water from any existing well(s). This permit authorizes the excavations of 5 ponds which will subsequently fill from shallow ground water.

MICROFILMED

JAN 31 2001

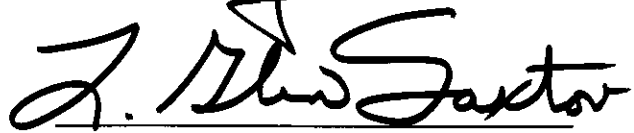
State of Idaho
Department of Water Resources
Permit to Appropriate Water

NO. 63-12598

CONDITIONS OF APPROVAL

6. As mitigation for this approval, the right holder shall retain ownership of 50.91 shares of water in the New Union Ditch Co. Ltd. and 24 shares of water in the Ballentyne Ditch Co. Ltd. Use of water represented by the shares on lands other than lands owned by the water right holder in the NW1/4 of Section 16, T4N, R1E, is prohibited, or sale of any portion of the shares is cause for the Director of the Department of Water Resources to cancel this right.
7. Two points of diversion are located within NWNW, S16, T4N, R1E.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code. Witness the signature of the Director, affixed at Boise, this 9th day of January, 2001.



for KARL J DREHER, Director

MICROFILMED

JAN 31 2001

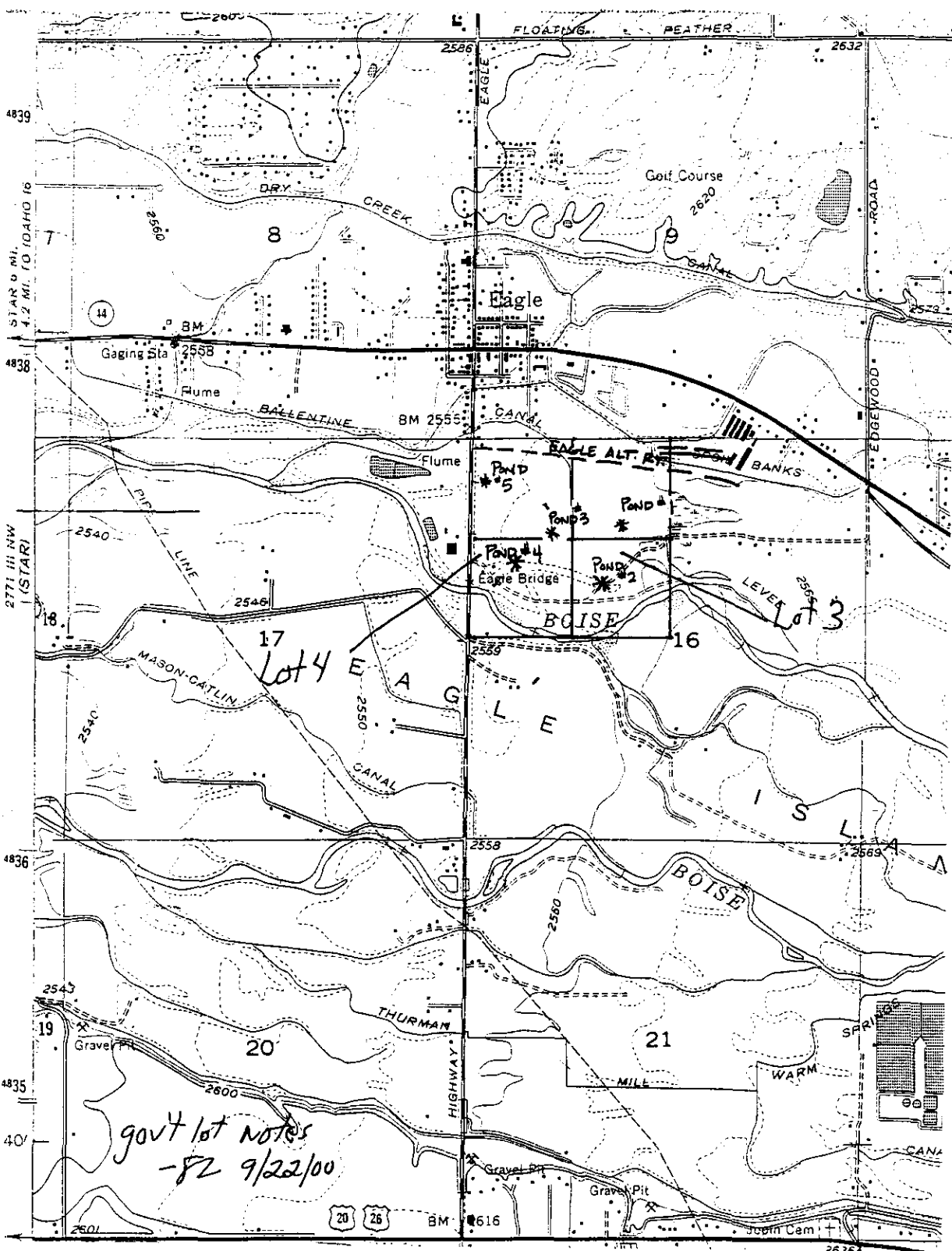
ATTACHMENT APPLICATION FOR PERMIT EAGLE RIVER L.L.C

September 15, 2000

(Copied from the Eagle Quadrangle 7.5 Minute Photo Revised 1979)

Scale 1"=2000'

T4N



R1E

MICROFILMED

13W 3 1 2001

63-12598

RECEIVED

DEC 18 2000

FORM 202
12/99

Department of Water Resources

Ident. No. 63-12598

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Eagle River, LLC Phone (602) 285-1300
Mailing address 3101 N. Central Ave., Suite 1390, Phoenix, AZ 85012
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 4N Range 1E Sec. 16, in the NW, NE, SW, SE 1/4 *
of the NW 1/4 _____, B.M., City of Eagle, Ada County;
additional points of diversion if any: NA
4. Water will be used for the following purposes:
 Amount 107 for aesthetic purposes from Jan. 1 to Dec. 31 (both dates inclusive) *
 (cfs or acre-feet per annum) Storage
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
 Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
 (cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) 107 acre feet per annum
 cubic feet per second acre feet per annum
6. Proposed diverting works: (See narrative)
 - a. Describe type and size of devices used to divert water from the source _____
 (See attached narrative)
 - b. Height of storage dam at grade (ponds excavated below grade) 107 feet; active reservoir capacity _____ acre-feet; total
 reservoir capacity 107 acre-feet
 - c. Proposed well diameter is NA inches; proposed depth of well is NA feet
 - d. Is ground water with a temperature of greater than 85°F being sought? No
 - e. If well is already drilled, when? NA; Drilling firm NA;
 Well was drilled for (well owner) NA; Drilling Permit No. NA
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
 - a. Hydropower; show total feet of head and proposed capacity in kW. _____
 - b. Stockwatering; list number and kind of livestock. _____
 - c. Municipal; show name of municipality. _____
 - d. Domestic; show number of households. _____
 - e. Other; describe fully. (See attached narrative)

* Clarifications of file information provided by Applicant (not amendments):

P/O NE NW
 NW NW
 SW NW Lot 4
 SE NW Lot 3
USE Storage Right
 - 82 9/22/00

MICROFILMED

JAN 3 2001

RECEIVED

SEP 21 2000

WATER RESOURCES
WESTERN REGION

3. Description of place of use: (See attached USGS map and narrative)

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1E	16					A	A	A	A									
									1.4	1.3									

Total number of acres to be irrigated NA

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

11. a. Who owns the property at the point of diversion? Eagle River, LLC

b. Who owns the land to be irrigated or place of use? Eagle River, LLC

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: NA

12. Remarks: See attachments (USGS quad map, irrigation company stock certificates, property sketch with pond locations, color aerial photo and narrative).

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

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

Charles Carlson

Signature of Applicant (and title, if applicable)

Vice Chairman

Received by LM Date 9-21-00 Time 12:00 Preliminary check by SL
 Fee \$ 120.00 Receipted by LM # 4026991 Date 9-21-00
 Publication prepared by SL Date 10-5-00 Published in SL Date 10-25-00
 Publication approved SL Date 10-25-00

Required fee = \$290

✓ 120 9/21/00

✓ 170 9/25/00 W026999 (SL for KJ)

MICROFILMED

1-27-03

State of Idaho
Department of Water Resources
Application for Permit
Narrative
Eagle River LLC

This Application seeks a permit and license for a non-consumptive, aesthetic, storage water right authorizing the appropriation of 107 acre-feet of shallow alluvial ground water that will be exposed by the excavation of five ponds on property owned by the Applicant Eagle River LLC at the southeast corner of Eagle Alternate Route and Eagle Road, within the City of Eagle (the "Property"). The Property is being developed for mixed uses, including business, retail and residential (the "Project"). The ponds will be incident to excavation on the Property to provide necessary fill material for site grading, while maintaining the Property's floodway capacity. The ponds will serve as stormwater detention structures for managing stormwater generated on the Property to comply with requirements of the Ada County Highway District ("ACHD") and a City of Eagle. The ponds also will be integrated into the distribution system for irrigation water currently delivered to the Property by the Ballentyne and New Union ditch companies. The ponds will be constructed, landscaped and maintained to maximize aesthetic benefits to the Project.

The five ponds may be up to 30 feet deep, and will be interconnected by pipes or grassy swales. The Application seeks the right to store up to 107 acre-feet of ground water that will fill the ponds. Actual depth of the individual ponds will depend on the amount of fill material that will need to be excavated, and therefore, the amount of storage appropriated may be adjusted downward to reflect the actual volumes of material excavated when the proof of beneficial use is submitted. The proposed pond depths will aid in maintaining low water temperatures, and minimizing algae growth during the warmer months.

The ponds will be excavated below grade, and no large berms will be required to retain water. Pond side slopes will be cut at a 2:1 side slope below the mean high water line. For safety and aesthetic reasons, upper edges of the pond will have a more gradual slope, and will be landscaped with riparian grasses, shrubs, small trees and intermittent boulders.

Ground water will not be diverted from the ponds. However, excavation of the ponds will eliminate 6.9 acres of historically irrigated agricultural land and expose to evaporation ground water that enters the ponds. At the generally accepted evaporation rate of 3.5 acre-feet/acre/year ("AFA"), the evaporation of ground water will result in a loss from the five ponds totaling 23.8 AFA. This evaporative loss is mitigated by the elimination of the consumptive use associated with historical agricultural irrigation of the same 6.9 acres. See attached 1997 aerial

photo of the Property indicating extent of historical irrigation). Agricultural irrigation in the Boise Valley also has a generally accepted consumptive use of 3.5 AFA per irrigated acre, which equals the estimated evaporation from the ponds. The Applicant will take steps to insure the continued "dry up" of 6.9 acres within the place of use of the Applicant's water rights, and that the water rights associated with the 6.9 acres can be passed through to the Boise River.

Surface water currently delivered to the Property for irrigation by the Ballentyne and New Union ditch companies (*see* copies of ditch company shares representing the right to 74.91 inches of irrigation water) will be directed through the ponds to a single pumping station where it will be pressurized and distributed to the Project. Irrigation water will not be diverted at a greater rate or volume than delivered into the ponds, which will ensure that the only losses from the ground water source will be the mitigated evaporative losses.

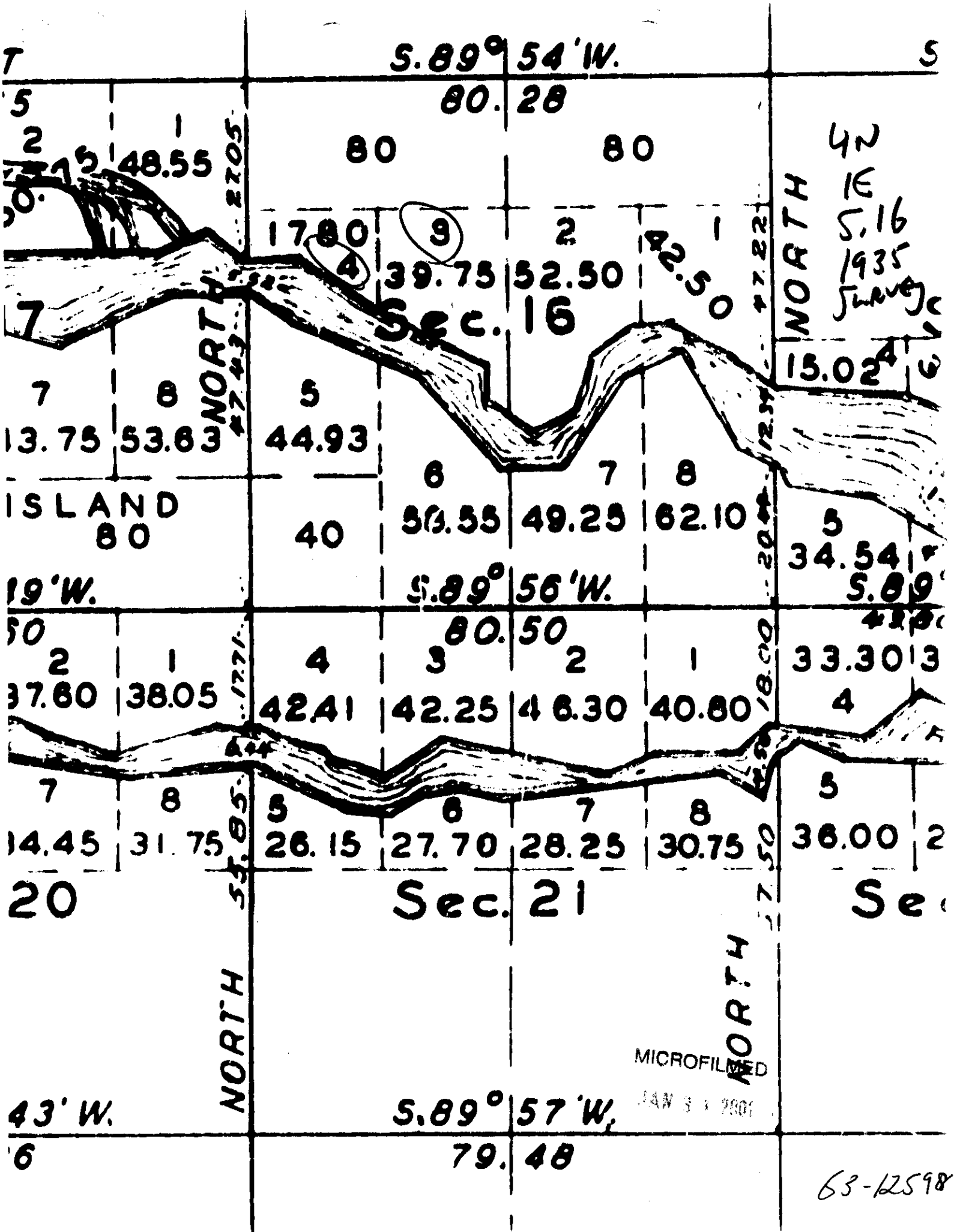
MICROFILMED

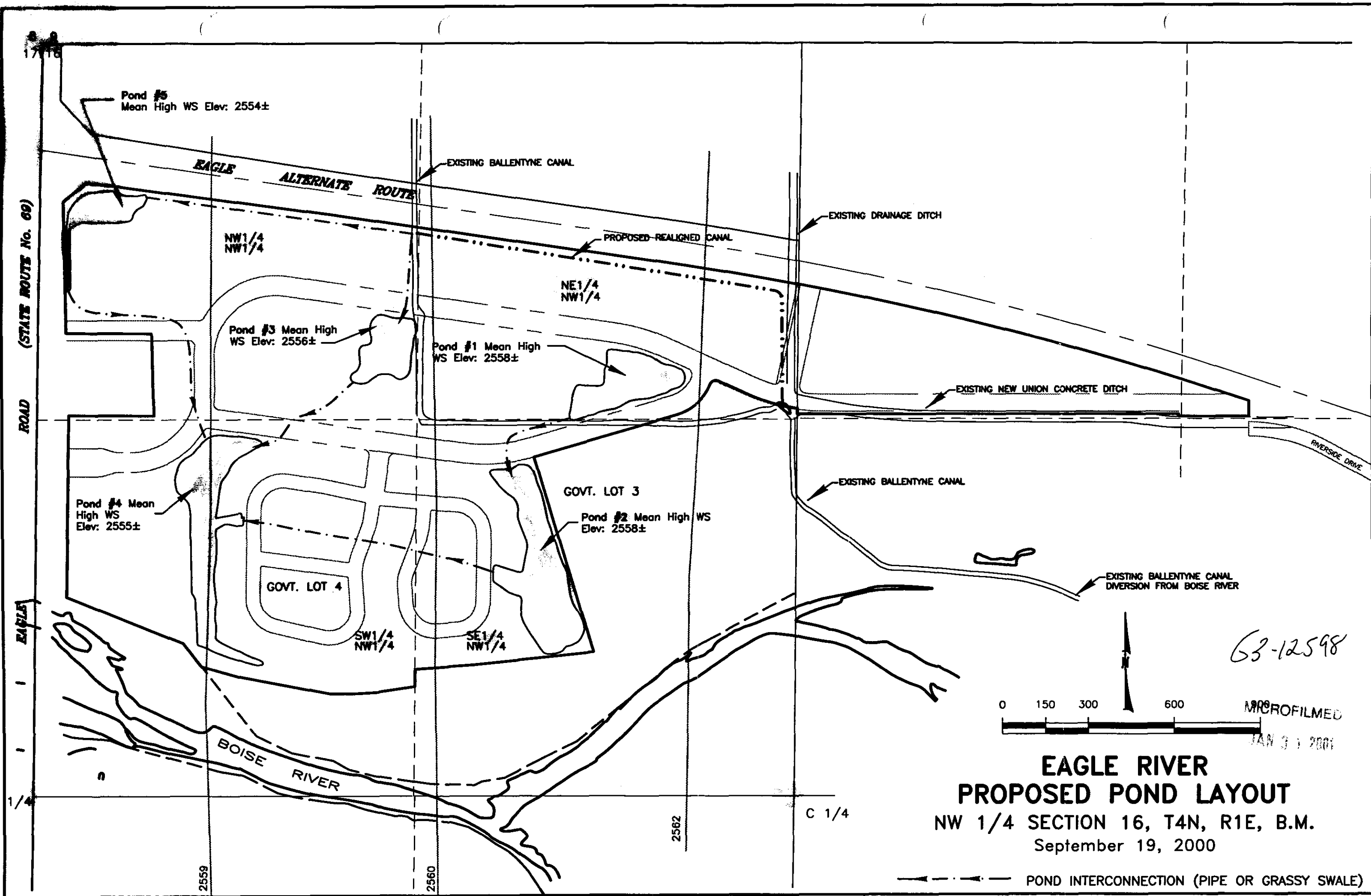
JAN 31 2001

Application for Permit Narrative - 2

S:\CLIENTS\3906\101\application narrative.wpd

63-12598





Eagle River LLC Application for
Permit NW 1/4 §16, T4N, R1E BM

63-12598

1997 PHOTO SCALE: 1" = 500'

86521-89 TEL: 208 388 1300 P. 002
00 (THU) 16:55 GIVENS PURSLE



This Certifies that

First Renegade Adventure
dba 71 Ranch

is the owner of

Twenty Four (24)

Shares of the Capital Stock of

Ballentyne Ditch Company, Limited

transferable, only, on the books of the Corporation by the holder hereof, in person or by Attorney, upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 9th day of June A.D. 19 80

Keith Ricks
Keith Ricks
SECRETARY

Thomas M. Ricks
Thomas M. Ricks
PRESIDENT





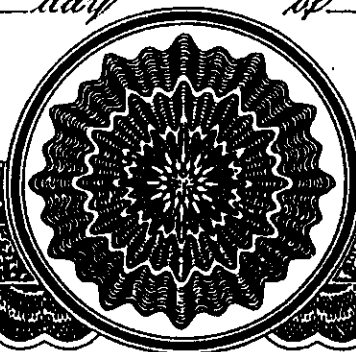
This Certifies that Crandlemier, Grossman, Jensen + Porter (7L Ranch) *is the*
registered holder of _____ *Shares*

THE NEW UNION DITCH COMPANY, LIMITED

transferable only on the books of the Corporation by the holder hereof in
person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed
by its duly authorized officers and its Corporate Seal to be hereunto affixed
this 17 *day* *of* November *A.D. 19* 80

Charles M. Walker
NO PAR VALUE SECRETARY



Walter M. Curdy
PRESIDENT



63-12598



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

December 10, 2002

CHUCK CARLISE
VICE CHAIRMAN
EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX AZ 85012

MICHAEL C CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701

RE: PERMIT NO. 63-12598

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time submitted in connection with the above referenced permit which extends the time within which to submit proof of beneficial use of water to **January 1, 2005**.

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

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. Please contact any office of the department for the proper form to file a change of ownership of a water right and/or a change in the address of the owner.

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

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Enclosure

c: IDWR - Regional Office

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No.: 63-12598

Reviewed By: dgibson

Date: December 9, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Request received timely?	X		Is delay by a government agency?		X
Appropriate fee	X		Is supporting documentation needed to support the file?		
Additional Amount Due:					
Receipt No.:	W026991, C065947		Has the permit been involved in litigation?		X
Name and signature same as permit?	X		Is supporting documentation needed to support the file?		
Is address same as permit?	X		Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?		X
Has adequate work been completed to demonstrate due diligence?	X				

Priority Calculation

Extension request received	11/22/2002	New proof due date	01/01/2005
Date proof due	- 01/01/2003		
Lapse notice sent	-		
No. of days late	= 0		
Holiday allowance	+		
Priority date	+ 09/21/2000		
New priority date	= 09/21/2000		

Action Taken

Acknowledge request and extend proof deadline to 1/1/2005.

DEC - 5 2002

Department of Water Resources

LAW OFFICES

277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jessica M. Borup
William C. Cole
Michael C. Creamer
Jeffrey A. De Voe
Emily MacMaster Durkee
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Fearnside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel

Deborah E. Nelson
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson

W. Hugh O'Riordan
Michael C. Orr *
Kenneth L. Pursley
Bradley V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL
John A. Miller, LL.M. **
TAX CONSULTANT

*Licensed in Oregon only
**Licensed in Kentucky only

December 4, 2002

Ms. Debbie Gibson
Idaho Department of Water Resources
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Eagle River LLC—Request for Extension of Time
Our File No. 3906-101

Dear Debbie:

Lori Graves informs me that you are now aware of the amendment of the Eagle River water right permit to include the sixth pond, and that I should resubmit the enclosed Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit for the Department's consideration. I have enclosed the original and one copy of the Request. Please conform the copy and return it to our office in the enclosed self-addressed, stamped envelope. As you will recall, we submitted the required \$50.00 filing fee when we first filed the request. I have enclosed a copy of the receipt for your information. *done 12/5/02*

Thank you for your assistance with this matter. If you have any questions or require anything else in connection with this request, please contact me immediately.

Sincerely,

Dictated by Mr. Creamer and sent without
signature to avoid delay.

Michael C. Creamer

Enclosures

cc: Gary Spackman
Chuck Carlise

MCC:kdt S:\CLIENTS\3906\101\MCC Ltr to IDWR re Resubmission of Request.DOC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 26, 2002

CHUCK CARLISE
VICE CHAIRMAN
EAGLE RIVER LLC
3101 NORTH CENTRAL AVE STE 1390
PHOENIX AZ 85012

MICHAEL C CREAMER
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701

Re: Permit No. 63-12598 in the name of Eagle River LLC

Dear Mr. Carlise and Mr. Creamer:

Returned is the original Request for Extension of Time filed with the Department on November 21, 2002 for the above-referenced matter. During review of your request and the file, I determined that the department issued a permit for development of five (5) ponds. However, your request refers to the construction of a sixth pond. The department cannot grant an extension for the construction of a sixth pond, unless you file an application for amendment of the permit. Additionally, if the sixth pond does not enlarge the amount of water stored or change the place of use, the application for amendment will not need to be advertised and will not advance the priority of the permit. Otherwise, if you have completed the five ponds, you may wish to file a Proof of Beneficial Use and forego the construction of the sixth pond.

Please contact the Western regional office at (208) 334-2190 if you need assistance or have additional questions about the application for amendment, which I am enclosing for your convenience. If you have any questions about the proof of beneficial use process, please contact me at (208) 327-7953.

Sincerely,

Deborah J. Gibson
Administrative Assistant
Water Allocation Bureau

Encls.

C: IDWR Western Region
Steve Lester

FILING FEE \$50.00

For Office Use Only

\$50 Fee Received by PhoneDate 11-22-02Receipt No. 1065947

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

RECEIVED
NOV 21 2002
Department of Water Resources

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

Permit No. 63-12598Name(s) of Permit Holder: Eagle River LLCAddress: 3101 North Central Avenue, Suite 1390 City Phoenix State AZ Zip 85012Telephone No. 602-285-1300 Date Proof is Due: January 1, 2003

Describe what work has been completed toward the development of this water right:

(This must be filled out! If no work has been completed, show "none".)

Five of six contemplated ponds have been constructed with estimated storagecapacity of 77 acre-feet. Sixth pond will be constructed within next year to yearand a half. Sixth pond will have an estimated capacity of between 27 and 30acre-feet.Costing \$ \$500,000.00

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

See attached.Permit holder(s) request an extension to June 30, 20 04Chuck Carlise
(Signature)* Chuck Carlise, Vice Chairman, Eagle River LLC

*If other than permit holder, Power of Attorney must be supplied.

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be

Signed this _____ day of _____, 20____

Attachment to
Request for Extension of Time to
Submit Proof of Beneficial Use
Water Right Permit 63-12598

The Permit Holder has been unable to complete the remainder of the work for the following reasons:

The permitted pond construction has proceeded in coordination with the phased-construction of a large-scale commercial/residential development. Five of the six ponds have been excavated and are storing ground water for aesthetic purposes as authorized by the Permit. Excavation of the sixth and final pond is proceeding in conjunction with construction of a hotel/convention center in the southwest corner of the development. This construction has only recently commenced. Absent unforeseen delays Eagle River LLC expects construction and pond excavation to be completed within ____ months.

Also, Eagle River LLC's proposed mitigation for evaporative losses from the six ponds involves a change in nature of use of 0.14 cfs of water rights represented by seven of Eagle River LLC's shares in the Ballentyne Ditch Company, Ltd, and 0.03 cfs of water rights represented by 1.5 of Eagle River LLC's shares in the New Union Ditch Company. Transfer Applications to accomplish these changes in nature of use and provide the proposed mitigation were filed with the Department in August 2002 and currently are under Department review.

For the above reasons, Eagle River LLC requests an extension of time to file its Proof of Beneficial use until June 30, 2004 to ensure that it has completed construction of the sixth pond and has obtained a final order approving the Transfers and the proposed mitigation.

Idaho Department of Water Resources Receipt

Receipt ID C065947

Payment Amount Date Received Region Status
Payment Type Check Number

Payer
Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$50.00	EXTENSIONS	0229	21	56103	1155


Signature Line (Dept. Representative)



RECEIVED

NOV 21 2002

Department of Water Resources

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Jessica M. Borup
William C. Cole
Michael C. Creamer
Jeffrey A. De Voe
Emily MacMaster Durkee
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Fearnside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel

Deborah E. Nelson
Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery
Angela K. Nelson

W. Hugh O'Riordan
Michael C. Orr *
Kenneth L. Pursley
Bradley V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL
John A. Miller, LL.M. **
TAX CONSULTANT

*Licensed in Oregon only
**Licensed in Kentucky only

November 21, 2002

Ms. Debbie Gibson
Idaho Department of Water Resources
Water Allocation Bureau
1301 N. Orchard St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Eagle River LLC—Request for Extension of Time
Our File No. 3906-101

Dear Ms. Gibson:

Enclosed for filing with regard to Permit No. 63-12598 please find the original and one copy a Request for Extension of Time to Provide Additional Time in Which to Submit Proof of Beneficial Use for a Water Right Permit. Please conform the copy and return it to our office in the enclosed self-addressed, stamped envelope. I have also enclosed a check in the amount of \$50.00 to cover the filing fee associated with the Request.

Thank you for your assistance with this matter. If you have any questions or require any additional information please call.

Sincerely,

Michael C. Creamer

Enclosures

cc: Gary Spackman

MCC:kdt S:\CLIENTS\3906\101\MCC Ltr to IDWR re Request for Extension.DOC

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No.: 63-12598

Reviewed By: dgibson

Date: November 25, 2002

	<u>Yes</u>	<u>No</u>		<u>Yes</u>	<u>No</u>
Request received timely?	X		Is delay by a government agency?		X
Appropriate fee	X		Is supporting documentation needed to support the file?		
Additional Amount Due:					
Receipt No.:	W026991, C065947		Has the permit been involved in litigation?		X
Name and signature same as permit?	X		Is supporting documentation needed to support the file?		
Is address same as permit?	X		Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?		X
Has adequate work been completed to demonstrate due diligence?	X				

Priority Calculation

Extension request received	11/22/2002	New proof due date
Date proof due	- 01/01/2003	
Lapse notice sent	-	
No. of days late	= 0	
Holiday allowance	+	
Priority date	+ 09/21/2000	
New priority date	= 09/21/2000	

Action Taken

Return Request without approval. Permit holder is wanting to construct a pond that was not permitted. Permit holder has constructed 5 ponds, and now is wanting to make a 6th pond. His permit allows only 5 ponds.

October 31, 2002

EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX, AZ 85012

PROOF DUE NOTICE

RE: PERMIT NO. 63-12598

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 January 01, 2003. (See last page of your approval permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a completed field examination report prepared by a certified water right examiner may be used to submit the required proof.

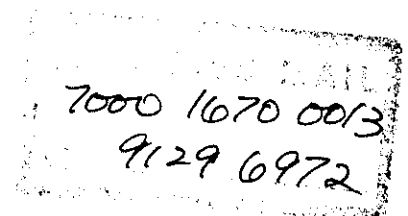
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental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

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

Sincerely,

Deborah J. Gibson, Admin. Assistant
Water Allocation Bureau

Enclosures



ROUTING SLIP

Distribution		Provided for your:	
Date: 7/24/02		Information	
To: File		Comments	
From: SL		Approval	
		Signature	
Special Notes: 63-12598			
Cond. # 6 RE mitigation - at time			
of B.U. Exam, check into 1-2			
transfers filed to mitigate cons. use			
for ponds in this permit.			

RECEIVED

JUL 08 2002

WATER RESOURCES
WESTERN REGION

LAW OFFICES
277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300
WEBSITE: www.givenspursley.com

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Jeffrey A. DeVoe
Emily MacMaster Durkee
Thomas E. Dvorak
Roy Lewis Eiguren
Timothy P. Fearnside
Jeffrey C. Fereday
Steven J. Hippler
Karl T. Klein
Debora K. Kristensen
Anne C. Kunkel

Franklin G. Lee
David R. Lombardi
D. David Lorello, Jr.
Kevin T. Maloney
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
Kendall L. Miller
L. Edward Miller
Patrick J. Miller

Judson B. Montgomery
Angela K. Nelson
Deborah E. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Brad V. Sneed
Conley E. Ward
Robert B. White

Raymond D. Givens
James A. McClure
Stephanie C. Westermeier
OF COUNSEL

July 8, 2002

Mr. Steve Lester
Water Rights Supervisor
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

RECEIVED

JUL 25 2002

Department of Water Resources

Re: Eagle River LLC
Our File No. 3906-101

Dear Steve:

This letter follows up on our telephone conversation last week concerning the water right permit issued by the Department to Eagle River LLC for appropriation of ground water at Eagle River's development near Eagle, Idaho.

As I mentioned, for unknown reasons, I had not seen the Permit until last week, although it was issued in early 2001. In reviewing the Permit, I noted that it contained a condition requiring that Eagle River permanently retain all of its shares of stock in Ballentyne and New Union ditch companies as mitigation for the effects of its ground water appropriation, and that Eagle River could not transfer any of the shares to other lands. Eagle River's application for permit, stated that Eagle River held shares in both of these ditch companies with which to mitigate the evaporative losses from the ponds on an acre-for-acre basis.

As you are aware, subsequent to Permit issuance, Eagle River has submitted one transfer application, and anticipates submitting a second, by which water rights appurtenant to the Eagle River acres converted to ponds will be transferred for mitigation purposes. This will affect the nature of use of water rights represented by seven to ten shares of Ballentyne and New Union stock. A commitment for use of all of Eagle River's water rights for mitigation of the ponds is neither intended nor appropriate.

Permit 63-12598 -se

Mr. Steve Lester
July 8, 2002
Page 2

With respect to the balance of Eagle River's Ballentyne and New Union stock, Eagle River has not yet determined their final disposition. That will depend in part on the final configuration of the Eagle River development (location of irrigated areas, impervious surfaces, etc.)

I realize that the Department did not have the benefit of a specific mitigation proposal in the way of the instant transfer applications when it approved the ground water Permit. However, now that it does, it should be apparent that at the time of licensing, the "retain all shares" condition should be removed, and replaced with one requiring Eagle River to retain only those shares required to provide actual mitigation as confirmed by the transfers. If you anticipate that this would not be the case, please advise me as soon as possible.

Sincerely,



Michael C. Creamer

cc: Chuck Carlise
Bill Clark
Barry Semple

MCC:kdt

S:\CLIENTS\3906\101\Corr\2002-07-08 MCC Ltr to Steve Lester.DOC



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

January 9, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX AZ 85012

RE: Permit No. 63-12598

Permit Approval Notice

Dear Permit Holder:

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

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

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

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

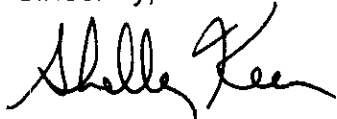
Also, please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's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

MICROFILMED

JAN 11 2001

If you have any questions, please contact me at 208-327-7946.

Sincerely,

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

Shelley W. Keen

Water Rights Supervisor

SWK:klt

Enclosure(s)

MICROFILMED

JAN 31 2001

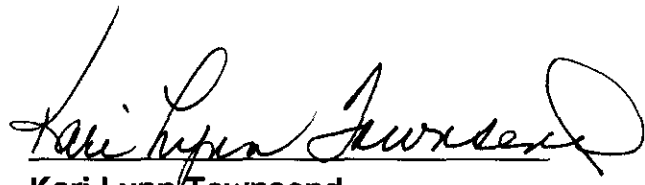
MICROFILMED

CERTIFICATE OF MAILING

I hereby certify that on January 9, 2001 I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER(Approved Permit) to the person(s) listed below:

RE: WATER RIGHT NO. 63-12598

**EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX AZ 85012**



**Kari Lynn Townsend
Secretary**

NOT RECORDED

JAN 31 2001

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

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

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

REQUEST FOR HEARING

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

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

MICROFILMED

JAN 9 1 2001

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

MICROFILMED

No. W 726 Return to: SECRETARY OF STATE TWO WEST JEFFERSON POST BOX 63723 HOUSTON, TX 77263-0723		Due no later than Dec 31, 2000 Annual Report Form (Indicate Address Change on the back if applicable) EAGLE RIVER LTD A. ENNIS DALE 3101 N CENTRAL AVE STE 1390 PHOENIX AZ 85012		2 Registered Agent and Office NO POST BOX CT CORPORATION 310 N 8TH ST BOULDER, CO 80501	
NO FILING FEE IF RECEIVED BY DUE DATE		PHOENIX AZ 85012		3. <u>How Registered Agent Signature</u>	
4. Limited Liability Companies: Enter Names and Addresses of Members.					
<u>Office held</u>	<u>Name</u>	<u>Street and Address</u>	<u>City</u>	<u>State</u>	<u>Zip</u>
	Southwest Associates	120 S. Riverside Plaza Suite 1420	Chicago IL		60606
	JAMES E. GODESMAN	3101 N. Central Ave. Suite 1390	Phoenix AZ		85012
	Irrevocable Trust	3101 N. Central Ave. Suite 1390	Phoenix AZ		85012
	El Camino Associates	3101 N. Central Ave. Suite 1390	Phoenix AZ		85012
	W. Matthew Crow	3101 N. Central Ave. Suite 1390	Phoenix AZ		85012
5. Organized Under the Laws of ARIZONA W 726					
Signature <u>A. Ennis Dale</u>			Date <u>12/1/00</u>		
Name (Print) <u>A. Ennis Dale</u>			Title <u>Authorized Agent</u>		
Issued 12/02/2000			Do Not Tape or Staple		
			Agent 5161		

MICROFILMED

JAN 9 2001

**APPLICATION FOR PERMIT
STATE OFFICE ANALYSIS**

Reviewed by Sharla Curtis on 12/19/00

No. 63-12598 Name: Eagle River Corp. Officers ☒ Ad ok ☒ Govt Lots ☐

AREA OF CONCERN: No/Yes TVGW Moratorium Study area ~~GWMA~~ ~~TRUST/NON-TRUST~~

GROUNDWATER: (√Flow Chart)

DRILLING PERMIT

All wells - ~~046(P23)~~
Basin 34 - ~~084 (if necessary)~~
Irr. w/in WD - ~~P05~~
WMD - ~~North/East/West~~
≤ 0.24 cfs/5 acres - ~~No MD~~
> 0.24 cfs/5 acres - ~~067~~
~~WMD~~
Supp irr (irr = only use) - 065-104
Supp irr (+ other uses) - 100-105
≤ 0.24 cfs/5 acres - No MD
> 0.24 cfs/5 acres - 01M

LOCATION:

Boise Front LoGeo - 058 (<85 GW)
Mitigation - 121
42-248 Area - ~~P84~~
Swan Falls Flag - ~~-~~
Trust - 051(P74) (consumptive uses)
Non-Trust - 048-049 (consumptive uses or non-cons. > 1.0 cfs)

USES:

STORAGE - 18A-01H(P01), 01P-18B(P09)-NA
IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
> 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
STOCKWATER - R37 (BLM/USFS)
MINING - 054-106(P10)
FISH PROP - 029(70'S only)-007-042-106 (P10)
HEAT/COOL - R07(injection well)
FIRE PROT. - 077

BENEFICIAL USE DUE: 1/01/2003

MISC CONDITIONS/REMARKS:

~~Protested~~ - 020-W19
Development Period
≤ 1 yr - P16
> 1 yr - ~~262(P17)~~
Ownership - 004
Non-consumptive - 027
Water Quality - 106-R07

SURFACE WATER: (√Flow Chart)

F&G contacted - Yes/No Response
In/Above MSF - WB9
PLANNING REVIEW/RESPONSE
In-stream development - ~~P52~~
WD - ~~R04 (WD#)~~
≤ 0.20 cfs/others - ~~01H(P01), 01P or No MD~~
> 0.20 cfs - ~~01J(P08)~~

SPRINGS/SINK, INACTIVE WD & REST OF STATE

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

RIVER BASINS: (SW special considerations)

Snake R (01) - W22(P04), N/A
(02,03) - 007 (w/ remark WB9 if above Weiser)
Payette R (65) - 047(P04) (Payette Lake)
Salmon R (70's) - 029 (fish screens)
Weiser R (67) - 086-087

USES:

POWER - 17H-17K (+uses)-08A-025(P18)-01N-106 (P10)
MUNICIPAL
Restricted area - 022,075
Irr., GW supp to SW - 102
DOMESTIC
Surface water - WB5 (Big Wood or Boise above Star Bridge)
27A (Payette R)
> 1 in restricted area - 070-071-075(no parks/common areas, etc)
Irr use listed separate - WB5
Moratorium approvable - W03 (2500 gpd - meets domestic definition
i.e. D/convenience store)

Multiple pd's per ¼ - W32 2-NWNW
Subd lot desc/(pd) - W59
Subd lot desc (pu) - W60
Use definitions - W02 example - S/50 range
Pre-1987 development - 068-074 (allow 120 days for proof due)
Single p/d intended - 076

IRRIGATION SEASON - (Per updated map)

IRR VOLUME/ACRE

OTHER CONDITIONS/REMARKS No well drilling is authorized - excavations
COMMENTS Astor/5 ponds will expose shallow gw

DEC 18 2000

IL. DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Department of Water Resources

INITIAL REVIEW BY: R

DATE: 9/26/00

APPLICATION: 63-12598

REQUIRED INFORMATION

Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.) OK
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) don't require more specs on ponds
Period of use: for WR processing - project vetted by eng. firm already.
Nature of proposed use: (Include description of use) "Gov't. Lots: P/D
Description of diverting works: P/D + use notes:
Time required for beneficial use of water: on 1/1... just clarify Appl. info provided in package. DOES NOT NEED Applicant's OK.
Place of use or acres irrigated:
Map: (show T, R, S, QQ &/or QQQ)
Subdivision plat: (for > 1 home in restricted area. $\geq$ 5 homes in non-restricted area)
Signature: (If applicant is corp., partnership, or municipality, title of signatory is required)
Correct fee paid

ADDITIONAL INFORMATION

yes ADVERTISE REMARK(S)
(Reviewer identify which remarks)

N/A T FLAG CHANGED TO P FLAG

YES NO

/ — Overlapping place of use: (Describe source & relationship to present application on next page.)
/ — Overlapping point of diversion. } note: pending Appl. 63-11900 is shallow g.w. ponds e Island Woods, N/A to 63-12598.
— / Critical groundwater area: subd.,
— / Groundwater management area:
— / 1992 moratorium: exempt if mitigation plan approved
— / Surface water source, IDFG letter needed.
— / Protected river or minimum flow reach, notify water planning bureau.
— / E-mail to SCA staff: (perennial stream, non-pump diversion &/or any mining). } email sent 9/26
— / E-mail to Dam Safety staff: (for any storage)
/ / Mitigation plan: Check any that apply.
/ — immediate = acceptable plan required and submitted. — See Appl. NARRATIVE info
— / N/A future = open areas, acceptance of condition of approval is in file. e ditl share
— / Send power requirement letter &/or fish farm requirement letter.
— / Power residency affidavit:
— / 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

LLC names/titles

Date Requested 9/26/00

Date Response Received See 9/29/00 conv. memo

10/3/00 fax update →

5 fax

63-12598

Application pg 1 notes don't
need applicant's okay
just clarifies file info.

Written note reply not required.

JCA comments in 9/28 email.

Add'l. info also in d'asse
comments - see computer printout
attached to STAFF analysis
sheet.

- JZ 11/27/00

PROCESSING

APP. NO. 3-12598

YES NO

☒ ☒ In form for advertising:
☒ ☒ Statewide advertising: (> 10 cfs &/or 1000 af)
☒ ☒ Fee amount, receipt number and date recorded on application:

SEND COPIES TO: NOTE IF E-MAIL COMMENT LETTER USED.

YES NO

☒ ☒ I.D. Health & Welfare
☒ ☒ I.D. District Health
☒ ☒ I.D. Fish & Game
☒ ☒ I.D. Lands

YES NO

☒ ☒ U.S. BLM
☒ ☒ U.S. Forest Service
☒ ☒ Water Dist # 63
☒ ☒ Water Planning Bureau
☒ ☒ Other _____

← sent 9/27/00

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:
☒ ☒ Final date for protest 10-23-00
☒ ☒ Protests received.
☒ ☒ Recommendations attached:
☒ ☒ Measuring device required:
☒ ☒ Water delivered by water master? District # But letter sent re WM's
☒ ☒ Special conditions of approval or cover letter: See memo dated 12/14/00

Arenius
concerns
ponds

See below for additional information

Recommended Date or Priority 9-25-00 = fee payment completed.
 Recommended by: [Signature] Date: 12/13/00

See memo dated 12/14/00 → See Creamer's 9/21 letter & waiver for well construction.

ADDITIONAL INFORMATION:

Overlap - none for this project re: same source on WFO. Site has Bore R.
 water via 2 ditch companies. See appl. narrative & supporting info for
 full details. See d'Arce Comments for summary. Mitigation plans look as
 good as others approved. Return flow of ditch share (mitigation) will
 need SCA approval. No well drilling should be authorized. Engineering
 consultant could provide more details if needed.

CONTACT = Atty. Mike Creamer 388-1200.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: EAGLE RIVER LLC 602-285-1300
Address: 3101 N CENTRAL AVE STE 1390
PHOENIX AZ 85012

2. Source: GROUNDWATER Trib. to:
3. Location of Point of Diversion: NENW Sec. 16, Township 04N, Range 01E
NWNW Sec. 16, Township 04N, Range 01E
Lot 4(SWNW), Sec. 16, Township 04N, Range 01E
Lot 3(SENW), Sec. 16, Township 04N, Range 01E
ADA County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
AESTHETIC STORAGE	01/01	12/31			107.00

5. Total quantity to be appropriated is:
CFS (and/or) 107.00 AF

6. Proposed diverting works:

- Description of ditches, flumes, pumps, headgates, etc.
EXCAVATED SITES FOR 5 INTERCONNECTED PONDS (NO WELLS PROPOSED)
- 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.
- Proposed well diameter is inches; proposed depth of well is
feet.
- Is groundwater with a temperature greater than 85F being sought? NO
- If well is already drilled, when?
Drilling Firm
Well was drilled for

7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 2 year(s).

8. Place of Use: AESTHETIC STORAGE

TWN RGE SEC
04N 01E 16 NENW NWNW Lot 4(SWNW)
Lot 3(SENW)

— file copy —

9. a. Who owns the property at the point of diversion?
APPLICANT
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.

10. Remarks:

Mitigation is proposed for consumptive use from shallow ground
water source. Use will include five interconnected ponds.

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.

Applicant

Received by _____ Date _____ Time _____ Preliminary check by _____

Fee \$ 120.00 Receipted by _____ #W026991 Date 9/21/2000

Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

Ident. No. 63-12598

Comments: Date: 9/26/2000 User-ID: SLESTER

Subject: **ADDITIONAL INFORMATION**

APPLICANT'S: See narrative attachment, large plat map and recent aerial photo of site. Ponds will be built on land previously irrigated with shares from Ballentyne and New Union ditch companies. Shares for irrigated land to be replaced with ponds will continue to be diverted and will flow through the ponds to be returned to the river in SWNW Section 16. Excavated areas will fill with shallow ground water for a water amenity for site to be developed for commercial and residential development. Ponds will cover about 7 acres. Applicant seeks waiver to well construction issues for ground water deeper than 18 feet (see 9-21-00 cover letter).

IDWR'S: Priority advanced to date of final fee payment 9-25-00. Contact for applicant is attorney Mike Creamer 388-1200. Storage of irrigation water provided by ditch shares is not proposed. Second receipt number is W026999. Two P/D in NWNW. "Request to Process" form is replaced by applicant's narrative, which acts as the second choice ("mitigate now") on that form.

RECEIVED

DEC 18 2000

Department of Water Resources

MEMORANDUM

To: File No. 63-12598 Eagle River, LLC

From: Gary Spackman *Gary*

Date: December 14, 2000

Re: Recommended Conditions of Approval

Application for Water Right No 63-12598 was filed seeking 107 a.f. of storage. Surface area of the pond will be 6.9 acres. The same 6.9 acres have been irrigated with Boise River water delivered through the Ballentyne and New Union Ditch Company's delivery system. The application proposes that water that would have been diverted to irrigate the 6.9 acres will flow through the ponds and back into the Boise River.

Surface water diverted into the ponds as mitigated should evaporate from the ponds, and no water should be required to be returned to the Boise River. A greater risk, however, is that the water that originally irrigated 6.9 acres will be used elsewhere, either on Eagle River LLC property or in the larger canal companies' service areas. In most prior mitigation plans, the number of acres irrigated is reduced. Application number 63-12598 does not state how many acres were irrigated by Eagle River LLC before the transfer. It also does not state how many miners inches are associated with the 6.9 acres. The application does state that Eagle River LLC owns 74.91 miners inches of irrigation water.

Because Eagle River LLC will develop and pave a portion of the current place of use, the number of acres will probably be reduced. As a result, I do not see a need to quantify the number of acres irrigated by Eagle River LLC.

I recommend the following conditions of approval:

1. Water Right holder shall retain 50.91 shares of water in the New Union Ditch Company Limited, representing 50.91 miners inches of water, and 24 shares of the Ballentyne Ditch Company Limited, representing 24 miners inches of water. Delivery of water represented by the shares to lands other than lands owned by the water right holder in the NW ¼ of Section 16, Township 4N, Range 1E, is prohibited. Sale of any portion of the shares, or delivery of the water to lands not described above is cause for the director of the Department of Water Resources to cancel this permit or revoke any license that is issued.
2. (121)
3. Excavation of the proposed pond shall not penetrate any confining layers of clay thicker than two feet.

MICROFILMED

188 3 1 1901

01-09

State of Idaho
Department of Water Resources

RECOMMENDATION OF WATERMASTER

Application No: 63-12598Applicant's Name: Eagle River, LLC

Watermaster's Recommendation:

- a) ☒ I do not oppose approval of this application.
- b) ☐ I do not oppose approval of this application if it is conditioned as

follows: _____

- c) ☐ I oppose approval of this application for the following reasons:

- d) Additional Comment: _____

Dated this 31 day of October, 2000.Water District No: 63Lee Shinn
Watermaster's Signature

Use reverse side of page if you need more space.

MICROFILMED

JAN 31 2001

**LEGAL NOTICE
NOTICE OF OF APPLICATION FOR WATER RIGHT**

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

63-12597

WILSON, ROB ERT
1785 DANMORE
BOISE, ID 83712

Source: GROUNDWATER

Diversion Pt: NESE Sec 33 T 05N R 01E in ADA County.

Use: IRRIGATION
DOMESTIC

Total Diversion: { 0.090 CFS)
0.040 CFS)
0.130 CFS)

Date Filed:

9/11/2000

In: ADA County
T05N R01E S22

NESE
3.0 ACRES TOTAL

Applicant agrees to mitigate consumptive use in the future as needed for pre 1987 development of water from the 75 to 240 foot water bearing zone.

63-12598

EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX, AZ 85012

Source: GROUNDWATER

Diversion Pt.

NENW Sec 16 T 04N R 01E in ADA County.
NWNW Sec 16 T 04N R 01E in ADA County
LOT 4 (SWNW) Sec 16 T 04N R 01E in ADA County
LOT 3 (SENW) Sec 16 T 04N R 01E in ADA County

Use: AESTHETIC STORAGE

Total Diversion: { 107.00 AF)
107.00 AF)

Date Filed: 9/25/2000

In: ADA County
T04N R01E S16

NENW NWNW Lot 4 (SWNW) Lot 3 (SENW)

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 for each application on or before OCTOBER 23, 2000. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Pub. Oct. 5, 12, 2000

8551

Mitigation is proposed...

MICROFILMED

1999 10 1 2001

The Idaho Statesman

RECEIVED

OCT 16 2000

WATER RESOURCES
WESTERN REGION

P.O. Box 40, Boise, Idaho 83707-0040

LEGAL ADVERTISING PROOF OF PUBLICATION

Account #	DTI#	Identification	Amount:
047628	340615	APPLICATION FOR WATER RIGHT	\$174.72
Ordered by:	P.O. #	Rate	Run Dates
		TT	OCTOBER 5, 12, 2000
IDAHO DEPARTMENT OF WATER RESOURCES WEST 2735 AIRPORT WAY BOISE, IDAHO 83705			Number of Lines 54 X 2
			Affidavit 1
			Legal # 8551

JANICE HILDRETH, being duly sworn, deposes and says: That she is the Principal Clerk of *The Idaho Statesman*, a daily newspaper printed and published at Boise, Ada County, State of Idaho, and having a general circulation therein, and which said newspaper has been continuously and uninterruptedly published in said County during a period of twelve consecutive months prior to the first publication of the notice, a copy of which is attached hereto: that said notice was published in *The Idaho Statesman*, in conformity with Section 60-108, Idaho Code, as amended for: TWO

☒ consecutive weekly ☐ single
☐ consecutive daily ☐ odd skip
insertion(s)

beginning with the issue of: OCTOBER 5, 2000
and ending with the issue of: OCTOBER 12, 2000

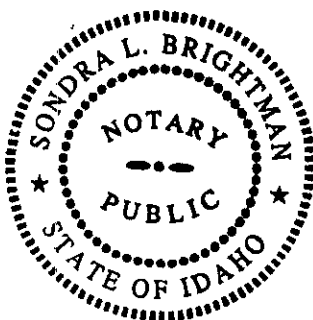
Janice Hildreth

STATE OF IDAHO)
) ss
COUNTY OF ADA)

On this 12 day of OCTOBER in the year of 2000
before me, a Notary Public, personally appeared before me Janice Hildreth
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 state-
ments therein are true, and acknowledged to me that she executed the same.

Sondra L. Brightman

Notary Public for Idaho
Residing at: Boise, Idaho
My Commission expires: 6/20/06



MICROFILMED

JAN 11 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

October 18, 2000

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MICHAEL C CREAMER
ATTORNEY AT LAW
PO BOX 2720
BOISE ID 83701

Re: Eagle River LLC: Relationship of Excavated Ponds to Well Construction Requirements

Dear Mike:

This letter responds to your letter dated September 21, 2000. Your letter stated that Eagle River LLC will excavate five ponds on the project site. You also stated the excavations will be greater than 18 feet deep, and will expose shallow ground water. You then asked for confirmation from this office that the excavations are not "wells" within the meaning of Idaho Code § 42-230 (b) and that they are not subject to the well drilling and construction standards of the Idaho Code or the department's regulations. You alternatively requested a waiver from the well drilling requirements if the ponds are found to be subject to those requirements.

I struggle with the argument that ground water will only be incidentally exposed when your letter was accompanied by an application for a water right seeking appropriation of ground water for aesthetic use for the ponds. While there may be other purposes for the excavation, Eagle River LLC is seeking ground water by filing the application and, if approved, by ultimately beneficially using the ponds.

By blindly applying the statutory definition, the excavations would be viewed as wells. In contrast, Rule 21.02.b of IDWR's Well Driller Licensing Rules states that gravel pits are not wells requiring construction by a licensed well driller. If the proposed excavations will be much larger in horizontal dimensions than vertical depth, and will be similar in appearance to those of a common pond (sloping banks, relatively flat bottom), no reasonable person would judge the constructed physical feature to be a well. This is further confirmed by the fact that many of the construction methods defined in the well construction rules could not be employed in the construction of a pond.

IDWR may be concerned about water quality issues and protecting the ground water, including shallow artesian zones located near the ground surface. Nonetheless, these concerns should be addressed in the water right process. IDWR does not view the proposed ponds as wells.

Sincerely,

Gary Spackman

MICROFILMED
JAN 3 1997

GS:st

GIVENS PURSLEY LLP

COPY

LAW OFFICES

277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Feernside
Jeffrey C. Feraday
Richard W. Jankowski
Amanda L. Keating
Karl T. Klein
Debra K. Kristensen

Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery

Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Puraley
Virginia L. Stukel
Conley Ward
Stephanie C. Westemeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

September 21, 2000

RECEIVED

SEP 21 2000

WATER RESOURCES
WESTERN REGION

HAND DELIVERY

Steve Lester 
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: Transmittal of Water Right Permit Application and Request for Waiver of
Well Drilling Requirements
Our File: 3906-101

Dear Steve:

Enclosed please find an Application For Permit to Appropriate the Public Waters of the State of Idaho ("Application"), which is being filed on behalf of Eagle River LLC, an Idaho limited liability company ("Eagle River"). Also enclosed is a check in the amount of \$120 to cover the Department's Application fees.

Eagle River is developing approximately 80 acres of agricultural land located within the City of Eagle for mixed commercial and residential use. As part of this development, Eagle River will be excavating five ponds on the project site. The primary purpose of the excavations will be to obtain fill material necessary for site grading and to serve as stormwater management structures. The excavations will be greater than eighteen feet deep, and will incidentally expose shallow groundwater.

Eagle River is requesting confirmation from your office that these excavations are not "wells" within the meaning of Idaho Code section 42-230(b), and that they are not subject to the well drilling and construction standards of the Idaho Code or the Department's regulations. In the alternative, Eagle River formally requests a waiver of the well drilling requirements pursuant to IDAPA 37.03.09.025.01.b. The grounds for this request are set out below.

MICROFILMED

JAN 31 2001

Steve Lester
September 21, 2000
Page 2

The excavated ponds are not "wells" within the meaning or intent of the statute. Idaho Code Section 42-230(b) defines a "well" as "an artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below the land surface by which ground water of any temperature is sought or obtained." The groundwater intercepted by the planned excavations technically is neither "sought" nor "obtained" by Eagle River, rather it is an incident to other project objectives. Nonetheless, Eagle River does intend to optimize the aesthetic opportunities to its project that the presence of the exposed groundwater will provide. And based on prior discussions with your office, the instant Application is being filed for aesthetic purposes.

However, if the Department would deem these excavations to be "wells," it still would be inappropriate to impose requirements of obtaining a well drilling permit, using a licensed well driller, or the well construction standards, particularly those requiring surface curbing or casing, etc., and Eagle River should be entitled to a waiver of the Department's well drilling requirements and standards. Such requirements obviously were not intended to apply to gravel pits, or other similar excavations. My understanding is that the Department has agreed on this point in similar situations in the past. Also, due to the relatively shallow depth of the ponds, the project's proximity to the Boise River, the ponds' intended uses, and their location over primarily alluvial gravels, Eagle River has no reason to believe that the excavations will result in waste or contamination of ground water, or that the excavations will intercept more than one water bearing zone. Consequently, the primary reasons for imposing certain "drilling standards" to wells are not issues for concern here.

I would appreciate the Department providing me with a written confirmation that the proposed excavations are not "wells" and/or with written approval of the above waiver request at the earliest opportunity. If I or Eagle River LLC's consultant, Barry Semple, can provide you with any additional information in connection with your review of this request, please contact us immediately. I can be reached at 388-1247 and Mr. Semple can be reached at 323-2288.

Thank you for your prompt consideration of this request.

Sincerely,



Michael C. Creamer

MCC:caw

Enclosures

cc: Bill Clark

Barry Semple

SAC\CLIENTS\3906\101\waiver request.wpd

MICROFILMED

SEP 21 2000

COPY

Ident. No. 63-12598

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of Applicant Eagle River, LLC Phone (602) 285-1300
Mailing address 3101 N. Central Ave., Suite 1390, Phoenix, AZ 85012
2. Source of water supply Groundwater which is a tributary of _____
3. Location of point of diversion is Township 4N Range 1E Sec. 16 in the NW, NE, SW, SE 1/4 *
of the NW 1/4 _____, B.M., City of Eagle, Ada County;
additional points of diversion if any: NA
4. Water will be used for the following purposes:
Amount 107 for aesthetic purposes from Jan. 1 to Dec. 31 (both dates inclusive) *
(cfs or acre-feet per annum) Storage
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) _____ and/or (b) 107 acre feet per annum
cubic feet per second acre feet per annum
6. Proposed diverting works: (See narrative)
a. Describe type and size of devices used to divert water from the source _____
(See attached narrative)
b. Height of storage dam at grade (ponds excavated below grade) 107 feet; active reservoir capacity _____ acre-feet; total
reservoir capacity 107 acre-feet
c. Proposed well diameter is NA inches; proposed depth of well is NA feet
d. Is ground water with a temperature of greater than 85°F being sought? No
e. If well is already drilled, when? NA; Drilling firm NA;
Well was drilled for (well owner) NA; Drilling Permit No. NA
7. Time required for completion of works and application of water to proposed beneficial use is 2 years (minimum 1 year)
8. Description of proposed uses (if irrigation only, go to item 9):
a. Hydropower; show total feet of head and proposed capacity in kW. _____
b. Stockwatering; list number and kind of livestock. _____
c. Municipal; show name of municipality. _____
d. Domestic; show number of households. _____
e. Other; describe fully. (See attached narrative)

* Clarifications of file information provided by Applicant (not amendments):

P/O NE NW
NW NW

SW NW Lot 4

SE NW Lot 3

USE Storage Right

- 82 4/22/00

MICROFILMED

JAN 31 2001

RECEIVED

SEP 21 2000

WATER RESOURCES
WESTERN REGION

3. Description of place of use: (See attached USGS map and narrative)

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

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	1E	16					A	A	A	A									
									2.4	2.3									

Total number of acres to be irrigated NA

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

11. a. Who owns the property at the point of diversion? Eagle River, LLC

b. Who owns the land to be irrigated or place of use? Eagle River, LLC

c. If the property is owned by a person other than the applicant, describe the arrangement enabling the applicant to make this filing: NA

12. Remarks: See attachments (USGS quad map, irrigation company stock certificates, property sketch with pond locations, color aerial photo and narrative).

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

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

Charles Carlier

Signature of Applicant (and title, if applicable)
Vice Chairman

Received by LM Date 9-21-00 Time 12:00 Preliminary check by JK
Fee \$ 120.00 Received by LM # W026991 Date 9-21-00
Publication prepared by _____ Date _____ Published in _____
Publication approved _____ Date _____

Required fee = \$290

✓ 120 9/21

✓ 170 9/25

W026999 (JK to KS)
MICROFILMED

JAN 31 2001

State of Idaho
Department of Water Resources
**Application for Permit
Narrative
Eagle River LLC**

This Application seeks a permit and license for a non-consumptive, aesthetic, storage water right authorizing the appropriation of 107 acre-feet of shallow alluvial ground water that will be exposed by the excavation of five ponds on property owned by the Applicant Eagle River LLC at the southeast corner of Eagle Alternate Route and Eagle Road, within the City of Eagle (the "Property"). The Property is being developed for mixed uses, including business, retail and residential (the "Project"). The ponds will be incident to excavation on the Property to provide necessary fill material for site grading, while maintaining the Property's floodway capacity. The ponds will serve as stormwater detention structures for managing stormwater generated on the Property to comply with requirements of the Ada County Highway District ("ACHD") and a City of Eagle. The ponds also will be integrated into the distribution system for irrigation water currently delivered to the Property by the Ballentyne and New Union ditch companies. The ponds will be constructed, landscaped and maintained to maximize aesthetic benefits to the Project.

The five ponds may be up to 30 feet deep, and will be interconnected by pipes or grassy swales. The Application seeks the right to store up to 107 acre-feet of ground water that will fill the ponds. Actual depth of the individual ponds will depend on the amount of fill material that will need to be excavated, and therefore, the amount of storage appropriated may be adjusted downward to reflect the actual volumes of material excavated when the proof of beneficial use is submitted. The proposed pond depths will aid in maintaining low water temperatures, and minimizing algae growth during the warmer months.

The ponds will be excavated below grade, and no large berms will be required to retain water. Pond side slopes will be cut at a 2:1 side slope below the mean high water line. For safety and aesthetic reasons, upper edges of the pond will have a more gradual slope, and will be landscaped with riparian grasses, shrubs, small trees and intermittent boulders.

Ground water will not be diverted from the ponds. However, excavation of the ponds will eliminate 6.9 acres of historically irrigated agricultural land and expose to evaporation ground water that enters the ponds. At the generally accepted evaporation rate of 3.5 acre-feet/acre/year ("AFA"), the evaporation of ground water will result in a loss from the five ponds totaling 23.8 AFA. This evaporative loss is mitigated by the elimination of the consumptive use associated with historical agricultural irrigation of the same 6.9 acres. See attached 1997 aerial

photo of the Property indicating extent of historical irrigation). Agricultural irrigation in the Boise Valley also has a generally accepted consumptive use of 3.5 AFA per irrigated acre, which equals the estimated evaporation from the ponds. The Applicant will take steps to insure the continued "dry up" of 6.9 acres within the place of use of the Applicant's water rights, and that the water rights associated with the 6.9 acres can be passed through to the Boise River.

Surface water currently delivered to the Property for irrigation by the Ballentyne and New Union ditch companies (*see* copies of ditch company shares representing the right to 74.91 inches of irrigation water) will be directed through the ponds to a single pumping station where it will be pressurized and distributed to the Project. Irrigation water will not be diverted at a greater rate or volume than delivered into the ponds, which will ensure that the only losses from the ground water source will be the mitigated evaporative losses.

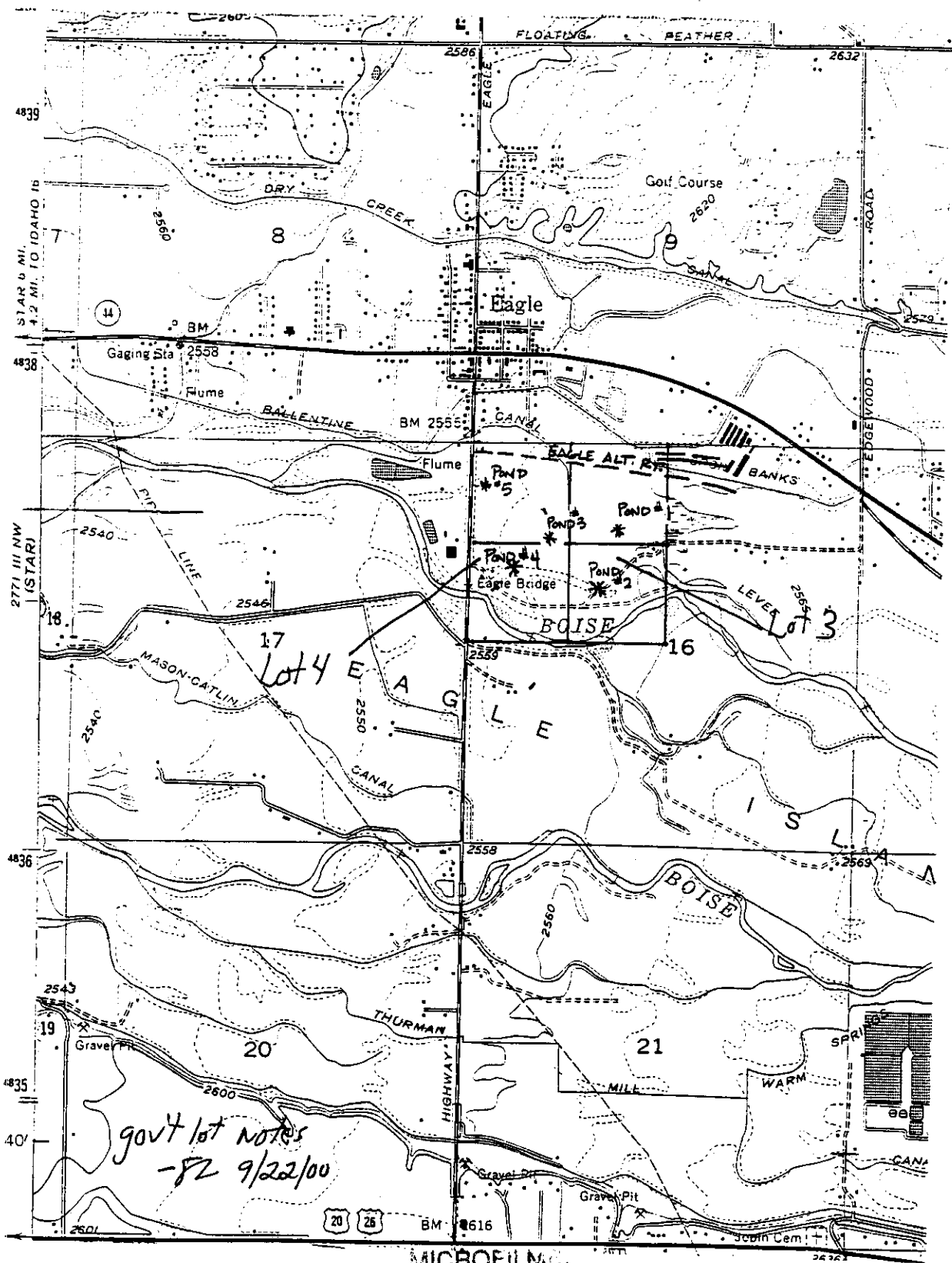
ATTACHMENT TO APPLICATION FOR PERMIT EAGLE RIVER L.L.C

September 15, 2000

(Copied from the Eagle Quadrangle 7.5 Minute Photo Revised 1979)

Scale 1"=2000'

T4N



MICROFILMED

R1E 2800

63-12598

FAX COVER SHEET

DATE: Tuesday, October 3, 2000

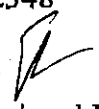
PAGES (INCLUDING COVER): 2

ORIGINAL TO FOLLOW: No

RE: Balance Due on Filing Fee for Water
Right Permit Application

OUR FILE NO: 3906-101

FAX NO: 334-2348

TO: Steve Lester 
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

MESSAGE:

Steve:

Please see the attached correspondence. Thank you.

From:

MICHAEL C. CREAMER
GIVENS PURSLEY LLP

Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1247

Fax: 208-388-1300
Email: mcc@givenspursley.com

*OK & Mrg. Member
& signature for
applicant.*

*-SK
10/3/00*

— Mike Creamer

cc: Bill Clark (Fax #342-2627)

MICROFILMED

10/3/00

If this fax does not transmit fully or is difficult to read, please contact Carrine Wilson at (208) 388-1250

*******CONFIDENTIALITY NOTICE*******

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

GIVENS PURSLEY LLP**LAW OFFICES**

277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Farnside
Jaffrey C. Faraday
Richard W. Jankowski
Amanda L. Keating
Karl T. Klein
Debra K. Kristensen

Franklin G. Lee
David R. Lombard
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery

Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westermeyer
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

October 3, 2000

VIA FACSIMILE

Steve Lester
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: Balance Due on Filing Fee for Water Right Permit Application
Our File: 3906-101

Dear Steve:

By way of clarification concerning the entity status of Eagle River LLC, please be advised that Southwest Associates Investments, LLC, a Delaware limited liability company and successor by merger to Southwest Associates, an Illinois general partnership, is the managing member of Eagle River LLC. Huli Management, Inc., a Delaware corporation, is the managing member of Southwest Associates Investments, LLC. Mr. Charles Carlise, who executed the Eagle River LLC water right application, is an authorized signatory of Huli Management, Inc., as its Chairman of the Board.

Please feel free to contact me if you have any questions.

Sincerely,


MICROFILMED
Michael C. Creamer

MCC:caw

cc: Bill Clark

S:\CLIENTS\3906\101\Corr\clark 03 mcc, wpd

*creamers said are many many partners
in Eagle River LLC. Probably have
for SW Assoc. LLC, also. Could be
deluged with info it ask for all
partners id. doesn't appear
warranted in this case.*

CONVERSATION MEMORANDUM

DATE 9/29/00

FILE 63-12598

NAME OF PARTY Mike Creamer 388-1200

EMPLOYEE FL

RE: NAMES/TITLES FOR APPLICANT

WG discussed WA Rule 35.03.b.i & names/titles.

Rule addresses corporations, partnerships & joint ventures.

CREAMER's take is that LLC is none of the above, legally speaking.

Did provide local contact: Bill Clark

Clark Planning + Development

479 MA.D ST.

Boise 83702 (342-2625)

✓ Local contact

✓ mg. member = Hali Mays Inc

(Chuck Carlisle Vice-Chairman & Appl. address.)

This should be sufficient to satisfy rule that does not include an LLC. Creamer said can provide more info if needed.

MICROFILMED

JAN 31 2001

See 10/3/00 FAX from CREAMER for updates -sc

GIVENS PURSLEY LLP**LAW OFFICES**

277 North 8th Street, Suite 200
 PO Box 2720, Boise, Idaho 83701
 TELEPHONE: 208 388-1200
 FACSIMILE: 208 388-1300

Gary G. Allen
 Christopher J. Beeson
 Michael C. Creamer
 Thomas E. Dvorak
 Roy Lewis Eiguren
 Jacqueline M. Farnwade
 Jeffrey C. Faraday
 Richard W. Jankowski
 Amanda L. Kesting
 Karl T. Klein
 Debora K. Kristensen

Franklin B. Lee
 David R. Lombardi
 Kimberly D. Maloney
 John M. Marshall
 Kenneth R. McClern
 Kelly Graeme McConnell
 Cynthia A. Melillo
 Christopher H. Meyer
 L. Edward Miller
 Patrick J. Miller
 Judson B. Montgomery

Angela K. Nelson
 W. Hugh O'Riordan
 Kenneth L. Pursley
 Virginia L. Stokol
 Conley Ward
 Stephanie C. Westermeyer
 Robert B. White

Raymond D. Givens
 James A. McClure
 OF COUNSEL

September 29, 2000

VIA FACSIMILE

Steve Lester
 Assistant Regional Manager
 Idaho Department of Water Resources
 Western Regional Office
 2735 Airport Way
 Boise, ID 83705

Re: Balance Due on Filing Fee for Water Right Permit Application
 Our File: 3906-101

Dear Steve:

Thank you for your letter of September 26, 2000 confirming receipt of the Application for Permit No. 63-12598 for Eagle River LLC.

In response to your question concerning the principals of Eagle River LLC, as an Idaho limited liability company, Eagle River LLC has a large number of members. However, the managing member, Huli Management, Inc., a Delaware corporation, has the authority under the LLC's operating agreement to manage the company's affairs and execute documents on its behalf. Mr. Chuck Carlise is the vice-chair of Huli Management, Inc. and its authorized signator as managing member for Eagle River LLC.

I hope this answers your question. If you need any further information, please advise me at once.

Sincerely,



Michael C. Creamer

MCC:caw

Enclosure

cc: Bill Clark

S:\CLIENTS\3906\101\Corr\lester 02 mcc.wpd

MICROFILMED for M.C. - NOC add'l
 H. Hs for mg. partner
 Huli Mgmt Inc. 9/29/00 - JZ

FAX COVER SHEET

DATE: Friday, September 29, 2000

PAGES (INCLUDING COVER): 2

ORIGINAL TO FOLLOW: No

RE: Balance Due on Filing Fee for Water
Right Permit Application

OUR FILE NO: 3906-101

FAX NO: 334-2348

TO: Steve Lester
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

MESSAGE:

Steve:

Please see the attached. Thank you.

— Mike Creamer

cc: Bill Clark (Fax #342-2627)

From:
MICHAEL C. CREAMER
GIVENS PURSLEY LLP
Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: 208-388-1247
Fax: 208-388-1300
Email: mcc@givenspursley.com

MICROFILMED

If this fax does not transmit fully or is difficult to read, please contact Carrine Wilson at (208) 388-1250

*******CONFIDENTIALITY NOTICE*******

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

Taylor, Sue

From: Gibson, Gene
Sent: Thursday, September 28, 2000 3:19 PM
To: Taylor, Sue
Subject: FW: Application 63-12598

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

From: Lester, Steve
Sent: Tuesday, September 26, 2000 1:10 PM
To: Gibson, Gene; Westra, John
Subject: Application 63-12598

Gents:

Eagle River LLC filed an application for shallow ground water to create 5 storage ponds for 107 af capacity. This is just south of Eagle and north of the river. Ponds will be excavated sites in a general area being developed for commercial etc. buildings.

The ponds will be an amenity. To mitigate the ponds on land to be retired from irrigation, owner will continue to receive full shares of ditch water. The shares for the 7 acres to be retired and replaced with ponds will be diverted through the site and returned unused to the river on the east side of Eagle Road.

So stream channel and perhaps dam safety issues will apply. You can route comments to Sue for adding to the file, which is at her desk for advertising.

Thanks.

-- Steve

The return water back into the Boise River will need a Stream Channel Alteration Permit for the outfall structure. A 404 Permit from the COE may also be needed. Please send them an application for the Stream Channel Alteration. Thank You

MICROFILMED

JAN 31 2001

SCA comments



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 27, 2000

LEE SISCO
WATER DISTRICT 63
6616 OVERLAND RD
BOISE ID 83709

Re: Application for Water Right No. 63-12598 in the Name of Eagle River LLC

Dear Watermaster:

Enclosed is a copy of the above-referenced application for permit. Also enclosed is a form for your recommendation concerning this application.

Please review the application. We must have your comments within two weeks.

If you have any questions or need information, feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Gary Spackman".

Gary Spackman

GS:lm

Encl: Copy of Application
Recommendation of Watermaster Form

MICROFILMED

JAN 31 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 26, 2000

MICHAEL C CREAMER
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701

Re: Application for Permit No. 63-12598 for Eagle River LLC

Dear Mike:

This letter acknowledges receipt of the additional \$170 for the above referenced application. Both receipts for the proposed water right are enclosed. Application processing will continue. The legal notice should appear in the first two weeks of October with a protest deadline of October 23, 2000. While the legal notice is running, please submit the names and titles of the officers for Eagle River LLC as we discussed the other day.

Your request that the ponds should not be defined as ground water regulated by well construction and/or well drilling rules is being forwarded to department administration for consideration. This office will provide a written reply to you as soon as possible.

Please submit the above requested information within thirty (30) days of the date of this letter. If the information is not timely submitted, the application will be removed from the records of this agency. Thank you for your attention to these matters. Please let me know if I can offer any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Lester'.

Steve Lester
Water Rights Supervisor

Enclosure

MICROFILMED

SEP 27 2000

GIVENS PURSLEY LLP

LAW OFFICES

277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguren
Jacqueline M. Fearnside
Jeffrey C. Fereday
Richard W. Jankowski
Amanda L. Keating
Karl T. Klein
Debora K. Kristensen

Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery

Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westerbeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

RECEIVED

SEP 25 2000

WATER RESOURCES
WESTERN REGION

September 22, 2000

HAND DELIVERY

Steve Lester 
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: Balance Due on Filing Fee for Water Right Permit Application
Our File: 3906-101

Dear Steve:

Pursuant to our conversation earlier today, enclosed please find a check in the amount of \$170 to cover the balance due on the filing fee for the Application For Permit to Appropriate the Public Waters of the State of Idaho, we submitted to you yesterday on behalf of Eagle River LLC.

Thank you for your assistance, as I was not aware of the July 1, 2000 Application fee increase.

Sincerely,


Michael C. Creamer

MCC:caw

Enclosure

cc: Bill Clark
Barry Semple

S:\CLIENTS\3906\101\Corr\lester 01 mcc.wpd

MICROFILMED

JAN 31 2001

GIVENS PURSLEY LLP

LAW OFFICES

277 North 6th Street, Suite 200
PO Box 2720, Boise, Idaho 83701
TELEPHONE: 208 388-1200
FACSIMILE: 208 388-1300

Gary G. Allen
Christopher J. Beeson
Michael C. Creamer
Thomas E. Dvorak
Roy Lewis Eiguen
Jacqueline M. Fearnside
Jeffrey C. Fereday
Richard W. Jankowski
Amanda L. Keating
Karl T. Klein
Debora K. Kristensen

Franklin G. Lee
David R. Lombardi
Kimberly D. Maloney
John M. Marshall
Kenneth R. McClure
Kelly Greene McConnell
Cynthia A. Melillo
Christopher H. Meyer
L. Edward Miller
Patrick J. Miller
Judson B. Montgomery

Angela K. Nelson
W. Hugh O'Riordan
Kenneth L. Pursley
Virginia L. Stukel
Conley Ward
Stephanie C. Westermeier
Robert B. White

Raymond D. Givens
James A. McClure
OF COUNSEL

September 21, 2000

RECEIVED

SEP 21 2000

WATER RESOURCES
WESTERN REGION

HAND DELIVERY

Steve Lester 
Assistant Regional Manager
Idaho Department of Water Resources
Western Regional Office
2735 Airport Way
Boise, ID 83705

Re: Transmittal of Water Right Permit Application and Request for Waiver of
Well Drilling Requirements
Our File: 3906-101

Dear Steve:

Enclosed please find an Application For Permit to Appropriate the Public Waters of the State of Idaho ("Application"), which is being filed on behalf of Eagle River LLC, an Idaho limited liability company ("Eagle River"). Also enclosed is a check in the amount of \$120 to cover the Department's Application fees.

Eagle River is developing approximately 80 acres of agricultural land located within the City of Eagle for mixed commercial and residential use. As part of this development, Eagle River will be excavating five ponds on the project site. The primary purpose of the excavations will be to obtain fill material necessary for site grading and to serve as stormwater management structures. The excavations will be greater than eighteen feet deep, and will incidentally expose shallow groundwater.

Eagle River is requesting confirmation from your office that these excavations are not "wells" within the meaning of Idaho Code section 42-230(b), and that they are not subject to the well drilling and construction standards of the Idaho Code or the Department's regulations. In the alternative, Eagle River formally requests a waiver of the well drilling requirements pursuant to IDAPA 37.03.09.025.01.b. The grounds for this request are set out below.

RECEIVED
JAN 3 2001

Steve Lester
September 21, 2000
Page 2

The excavated ponds are not "wells" within the meaning or intent of the statute. Idaho Code Section 42-230(b) defines a "well" as "an artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below the land surface by which ground water of any temperature is sought or obtained." The groundwater intercepted by the planned excavations technically is neither "sought" nor "obtained" by Eagle River, rather it is an incident to other project objectives. Nonetheless, Eagle River does intend to optimize the aesthetic opportunities to its project that the presence of the exposed groundwater will provide. And based on prior discussions with your office, the instant Application is being filed for aesthetic purposes.

However, if the Department would deem these excavations to be "wells," it still would be inappropriate to impose requirements of obtaining a well drilling permit, using a licensed well driller, or the well construction standards, particularly those requiring surface curbing or casing, etc., and Eagle River should be entitled to a waiver of the Department's well drilling requirements and standards. Such requirements obviously were not intended to apply to gravel pits, or other similar excavations. My understanding is that the Department has agreed on this point in similar situations in the past. Also, due to the relatively shallow depth of the ponds, the project's proximity to the Boise River, the ponds' intended uses, and their location over primarily alluvial gravels, Eagle River has no reason to believe that the excavations will result in waste or contamination of ground water, or that the excavations will intercept more than one water bearing zone. Consequently, the primary reasons for imposing certain "drilling standards" to wells are not issues for concern here.

I would appreciate the Department providing me with a written confirmation that the proposed excavations are not "wells" and/or with written approval of the above waiver request at the earliest opportunity. If I or Eagle River LLC's consultant, Barry Semple, can provide you with any additional information in connection with your review of this request, please contact us immediately. I can be reached at 388-1247 and Mr. Semple can be reached at 323-2288.

Thank you for your prompt consideration of this request.

Sincerely,



Michael C. Creamer

MCC:caw

Enclosures

cc: Bill Clark

Barry Semple

S:\CLIENTS\3906\101\waiver request.wpd

MICROFILMED
JAN 21 2001



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR
SEPTEMBER 27, 2000

Legal Notices Department
THE IDAHO STATESMAN
PO BOX 40
BOISE, ID 83707

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 OCTOBER 23, 2000.

Yours truly,

SUE TAYLOR
Secretary/Office Coordinator

Encl.

MICROFILMED

SEP 28 2000

NOTICE OF APPLICATION FOR WATER RIGHT

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

MICROFILMED

JAN 31 2001

63-12598

EAGLE RIVER LLC
3101 N CENTRAL AVE STE 1390
PHOENIX, AZ 85012

Source: GROUNDWATER

Diversion Pt:	NENW	Sec 16 T 04N R 01E in ADA County.
	NWNW	Sec 16 T 04N R 01E in ADA County.
LOT 4 (SWNW)		Sec 16 T 04N R 01E in ADA County.
LOT 3 (SEnw)		Sec 16 T 04N R 01E in ADA County.

Use: AESTHETIC STORAGE	(	107.00 AF)
Total Diversion:	(	107.00 AF)

Date Filed: 9/25/2000

In: ADA County
T04N R01E S16 NENW NWNW Lot 4 (SWNW) Lot 3 (SEnw)

Mitigation is proposed for consumptive use from shallow ground water source. Use will include five interconnected ponds.

MICROFILMED

JAN 31 1991

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203A, Idaho Code. Any protest against the approval of this application must be filed with the Director, Dept. of Water Resources, Western Region, 2735 Airport Way, Boise, Idaho 83705 together with a protest fee of \$25.00 for each application on or before OCTOBER 23, 2000. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

Published: 10/ 5/2000 & 10/12/2000

MICROFILMED

JUN 3 1 2001