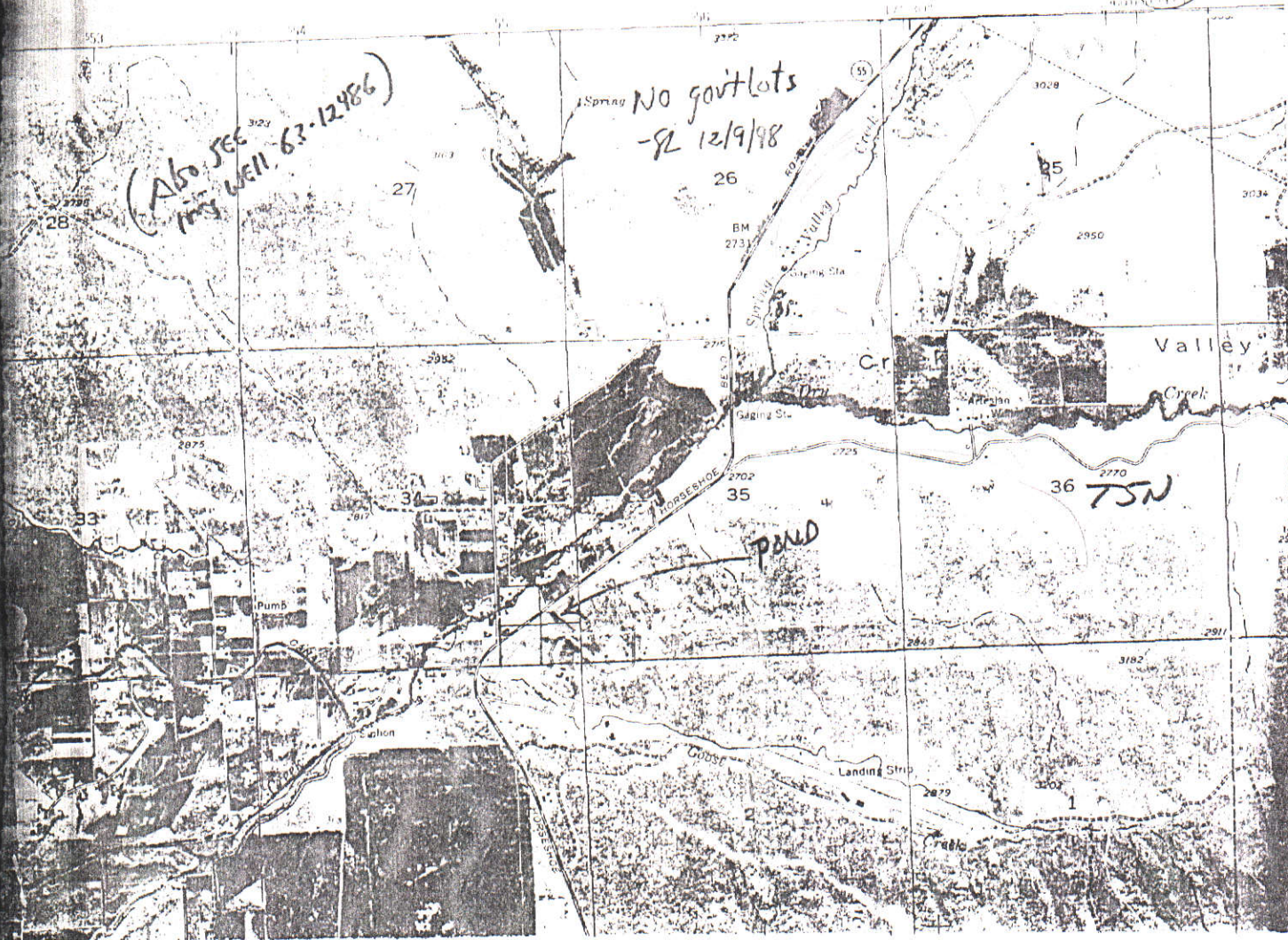


63-12485

7.5-Min  
10-1



# MARYGLEN SUBDIVISION #1

SE 1/4 SEC. 34, SW 1/4 SEC. 35-T. 5N, R. 1E B.M. Ad Co.  
NE 1/4 SEC. 3, NW 1/4 SEC. 2-T. 4N, R. 1E B.M. Ad Co.

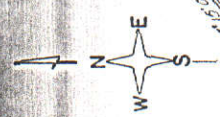
1972 Table of Curve Data

| Sta.   | Chord | Chord Ang. | Chord  | Chord Ang. |
|--------|-------|------------|--------|------------|
| 1 0+00 | 14.55 | 20         | 34.14  | 54.55      |
| 2 0+25 | 14.55 | 40         | 68.27  | 109.10     |
| 3 0+50 | 14.55 | 60         | 102.41 | 163.65     |

L. 6 BL 2

63-

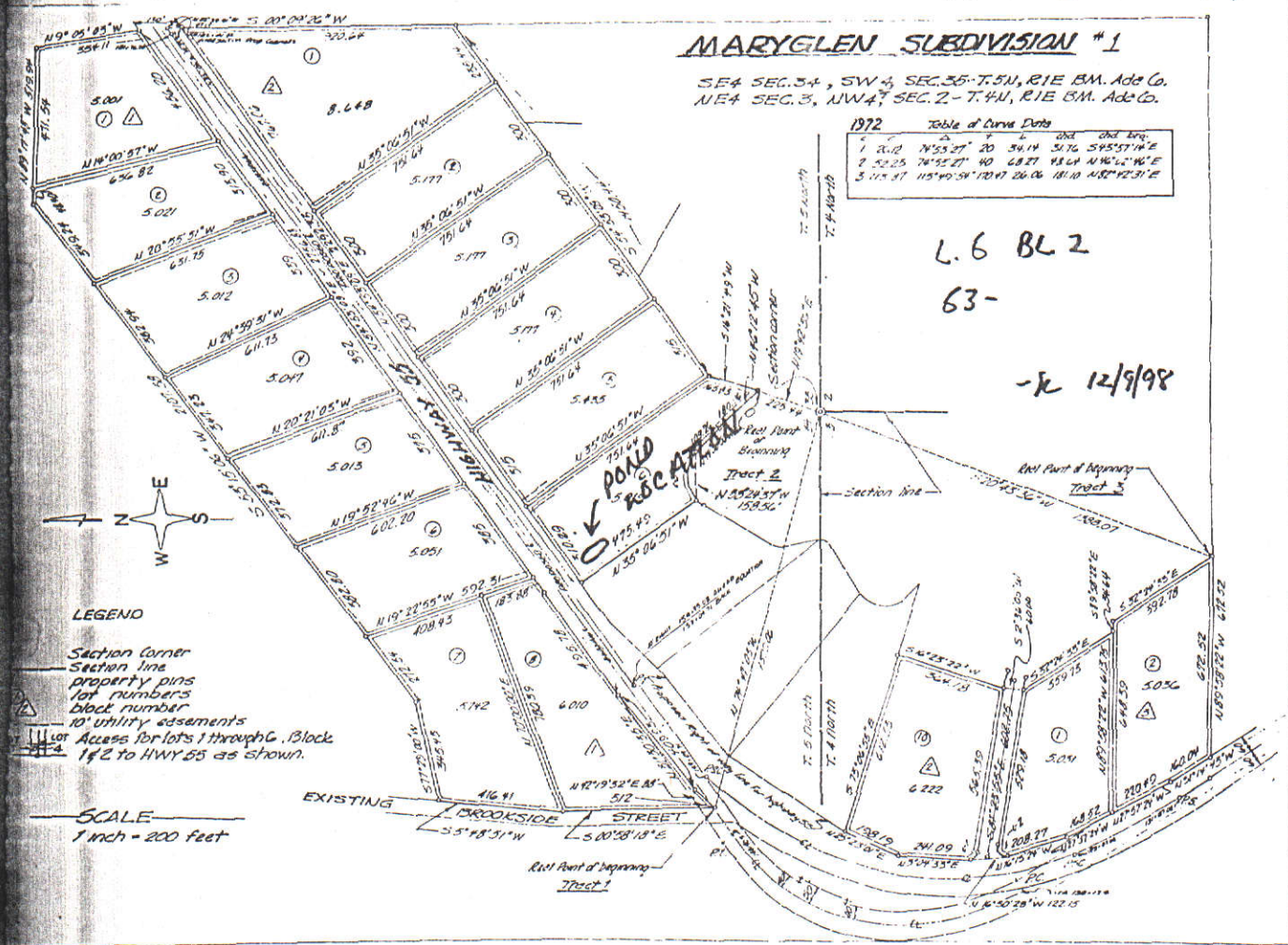
-K 12/9/98



## LEGEND

- Section Corner
- Section line
- Property pins
- Lot numbers
- Block number
- 10' utility easements
- Access for lots 1 through G, Block 142 to HWY 55 as shown.

SCALE  
1 inch = 200 feet



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

IN THE MATTER OF LAPSED PERMIT )  
NO. 63-12485 IN THE NAME OF )  
MICHAEL H. KLING AND/OR )  
RUTH E. KLING )  
\_\_\_\_\_ )

**REINSTATEMENT ORDER**

This matter having come before the Idaho Department of Water Resources ("Department"), the Department makes the following Findings of Fact, Conclusions of Law and Order:

**FINDINGS OF FACT**

1. On February 11, 1999, the Department issued Permit No. 63-12485 to Michael H. Kling and/or Ruth E. Kling ("permit holders") authorizing the diversion of 0.1 acre feet ("AF") of surface water to be diverted for stockwater storage and wildlife storage, within NESESE, Section 34, Township 05N, Range 01E, Ada County, B.M. A condition of permit approval required the permit holder to submit proof of beneficial use of water ("proof") to the Department on or before February 1, 2000.
2. On November 30, 1999, by certified mail, the Department notified the permit holder that proof of beneficial use was due and instructed the permit holder of the steps to be taken to submit the proof or an extension of time request.
3. On February 2, 2000, the Department sent the permit holder a lapse notice, since the Department had not received an acceptable proof or extension of time request.
4. On December 21, 2001, the permit holder submitted a completed proof form and the required license examination fee to the Department. The permit holder submitted evidence to show that water has been applied to the authorized beneficial use during the development period and has shown sufficient cause why the beneficial use was not timely submitted.

**MICROFILMED**

1999 0 2000

## CONCLUSIONS OF LAW

1. Section 42-218a.2, Idaho Code, provides as follows:

That upon receipt of proof of beneficial use after sixty (60) days after such notice of lapsing, the director shall require sufficient evidence to be submitted by the permit holder to clearly establish the extent of beneficial use made during the time authorized by the permit and any extensions of time previously approved. Upon finding that beneficial use had occurred during the authorized period and upon a showing of reasonable cause for filing a late proof of beneficial use, the director may reinstate the permit with the priority date advanced to the day that proof of beneficial use was received;

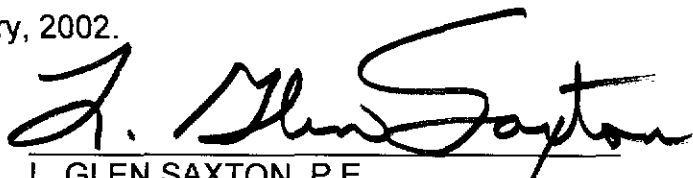
2. The permit holder has provided sufficient information and reasonable cause for the Department to reinstate the permit by submitting three affidavits from individuals familiar with the pond prior to their ownership of the property, and from 1999 to the present. Secondly, a letter from Scott Grunder with Idaho Fish & Game, stating his observations of the pond during his site visit "approximately two years ago." Finally, the permit holder's letter received January 10, 2002, stating the basis for delay for filing proof was based on Mrs. Kling's medical complications and convalescence.

3. The Department should reinstate the permit with the priority advanced to the date that proof and the license examination fee were received.

## ORDER

IT IS HEREBY ORDERED, that Permit No. 63-12485 in the name of Michael H. Kling and/or Ruth E. Kling is **REINSTATED** with the priority advanced to **December 21, 2001**.

Dated this 14<sup>th</sup> day of January, 2002.

  
L. GLEN SAXTON, P.E.  
Chief, Water Allocation Bureau

MICROFILMED

FEB 04 2002

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES

RECEIVED

DEC 21 2001

PROOF OF BENEFICIAL USE

Department of Water Resources

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

1. Permit No. 63-12485 Telephone No. 208-939-6913

2. Name of Permit Holder(s): Michael H. & Ruth E. Kling

3. Mailing Address: 13070 Horseshoe Bend Rd.

City Boise State ID Zip 83703

4. Source of Water: Spring (trib of sink) If **GROUNDWATER** (well), Date Drilled: mo. \_\_\_\_ / yr. \_\_\_\_

a. Well Driller: \_\_\_\_\_ Drilling Permit Number: \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_

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

Domestic (No. of households): \_\_\_\_\_ Stockwater (No. and type of stock): 8 horses (0.1 AF)

Irrigation (No. of acres): \_\_\_\_\_ Other: Wildlife Storage (0.1 AF)

6. Total rate of diversion and/or volume for which proof is submitted: 0.2 cfs OR 0.2 acre feet

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

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

Measuring Device: Is a measuring device required? Yes \_\_\_\_ or No X  
Has the measuring device been installed? Yes \_\_\_\_ or No \_\_\_\_

8. Fee Enclosed: \$ 50.00 (See Fee Schedule on back of the instructions for filing proof of beneficial use)

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

Name: Michael and/or Ruth Kling Telephone Number: 208-939-6913

Address: 13070 Horseshoe Bend Rd. (Hwy 55), Boise ID 83703

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

Signature of permit holder: [Signature] Date: 12-21-2001  
(include your title, if on behalf of company or organization)

4000 3 4 2000

# NOTICE

This file has been REPRODUCED  
from MICROFICHE ~~because:~~

For a possible reinstatement.

---

---

N. O. Block  
Person Recreating File

Dec. 31, 2001  
Date

State of Idaho  
Department of Water Resources

# Permit To Appropriate Water

NO. 63-12485

Proposed Priority: September 14, 1998 Maximum Storage Volume: 0.1 AF

This is to certify, that MICHAEL H KLING

RUTH E KLING

13070 HORSESHOE BEND RD

BOISE ID 83703

has applied for a permit to appropriate water from:

SPRING

tributary of SINKS

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

| <u>BENEFICIAL USE</u> | <u>PERIOD OF USE</u> | <u>RATE OF DIVERSION</u> | <u>ANNUAL VOLUME</u> |
|-----------------------|----------------------|--------------------------|----------------------|
| STOCKWATER STORAGE    | 01/01 to 12/31       |                          | 0.1 AF               |
| WILDLIFE STORAGE      | 01/01 to 12/31       |                          | 0.1 AF               |
|                       | Totals               |                          | 0.1 AF               |

LOCATION OF POINT(S) OF DIVERSION:

NESESE, Sec. 34, Township 05N, Range 01E  
ADA County

PLACE OF USE: STOCKWATER STORAGE

TWN RGE SEC

05N 01E 34

SESE

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before February 1, 2000.
2. Subject to all prior water rights.
3. Place of use is located within Lot 6, Blk. 2, Maryglen Subdivision No. 1.
4. Stockwater use is for 6 head mixed stock.

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

11<sup>th</sup> day of February, 1999.

*Karl J. Dreher*  
for Karl J. Dreher, Director

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
**APPLICATION FOR PERMIT**

To appropriate the public waters of the State of Idaho

RECEIVED

FEB 05 1999

Department of Water Resources

1. Name of Applicant MICHAEL H. & RUTH E. KING Phone 208-939-6913  
Post Office address 13070 HORSESHOE BEND RD, BOISE, ID 83703
2. Source of water supply SPRING which is a tributary of SINKS
3. Location of point of diversion is N/E 1/4 of SE 1/4 of SE 1/4, Govt. Lot —  
Sec. 34 Township 5N Range 1E B.M. ADA County; additional points of diversion if any: —
4. Water will be used for the following purposes:  
 \* Amount .11 AF for STOCK FOR STOCKWATER purposes from 1-1 to 12-31 (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount .11 AF for STOCKWATER FROM STOK purposes from 1-1 to 12-31 (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount .11 AF for STOK FOR WILDLIFE purposes from 1-1 to 12-31 (both dates inclusive)  
 (cfs or acre-feet per annum)  
 Amount .11 AF for WILDLIFE FROM STOK purposes from 1-1 to 12-31 (both dates inclusive)  
 (cfs or acre-feet per annum)
5. Total quantity to be appropriated is (a) — and/or (b) .11 AF  
cubic feet per second acre feet per annum
6. Proposed diverting works:  
 a. Description of ditches, flumes, pumps, headgates, etc. 25' X 50' X 4' DEEP POND WITH SPRING SUBBING UP INTO POND  
 \* b. Height of storage dam N/A feet; active reservoir capacity .11 acre-feet; total reservoir capacity .11 acre-feet; period of year when water will be diverted to storage: 1/1 to 12/31 inclusive.  
 c. Proposed well diameter is — inches; proposed depth of well is — feet.  
 d. Is ground water with a temperature of greater than 85°F being sought? —  
 e. If well is already drilled, when? —; Drilling firm —  
 Well was drilled for (well owner) —
7. Time required for completion of works and application of water to proposed beneficial use is 1 years (minimum 1 year)
8. Description of proposed uses (irrigation only, go to item 9):  
 a. Hydropower; show total feet of head and proposed capacity if KW. —  
 b. Stockwatering; list number and kind of livestock. 6 HO STOCK, VARIOUS WILDLIFE  
 c. Municipal; show name of municipality. —  
 d. Domestic; show number of households. —  
 e. Other; describe fully. —

\* per dept. standards & app' info.

-82 12/19/98

9. Description of place of use.

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

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

| TWP | RGE | SEC | NE |    |    |    | NW |    |    |    | SW |    |    |    | SE |    |    |    | TOTALS |
|-----|-----|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|
|     |     |     | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |        |
| 5N  | 1E  | 34  |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | 6.5    |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |
|     |     |     |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |        |

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

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

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

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

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

12. Remarks: POND W/SPRING SUBDIVISION IS LOCATED IN THE CENTER OF THE SE 1/4, S. 34, T. 5N, R. 1E. THEREFORE, A 1/4 IN 1/4 COULD BE ANY OF THE 4. SEE MAP ATTACHED. - CALCULATED THE POND CLOSEST TO THE NESESE.

13. MAP OF PROPOSED PROJECT ATTACHED ☒ Show clearly the proposed point of diversion, place of use, section number, township and range number.

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.

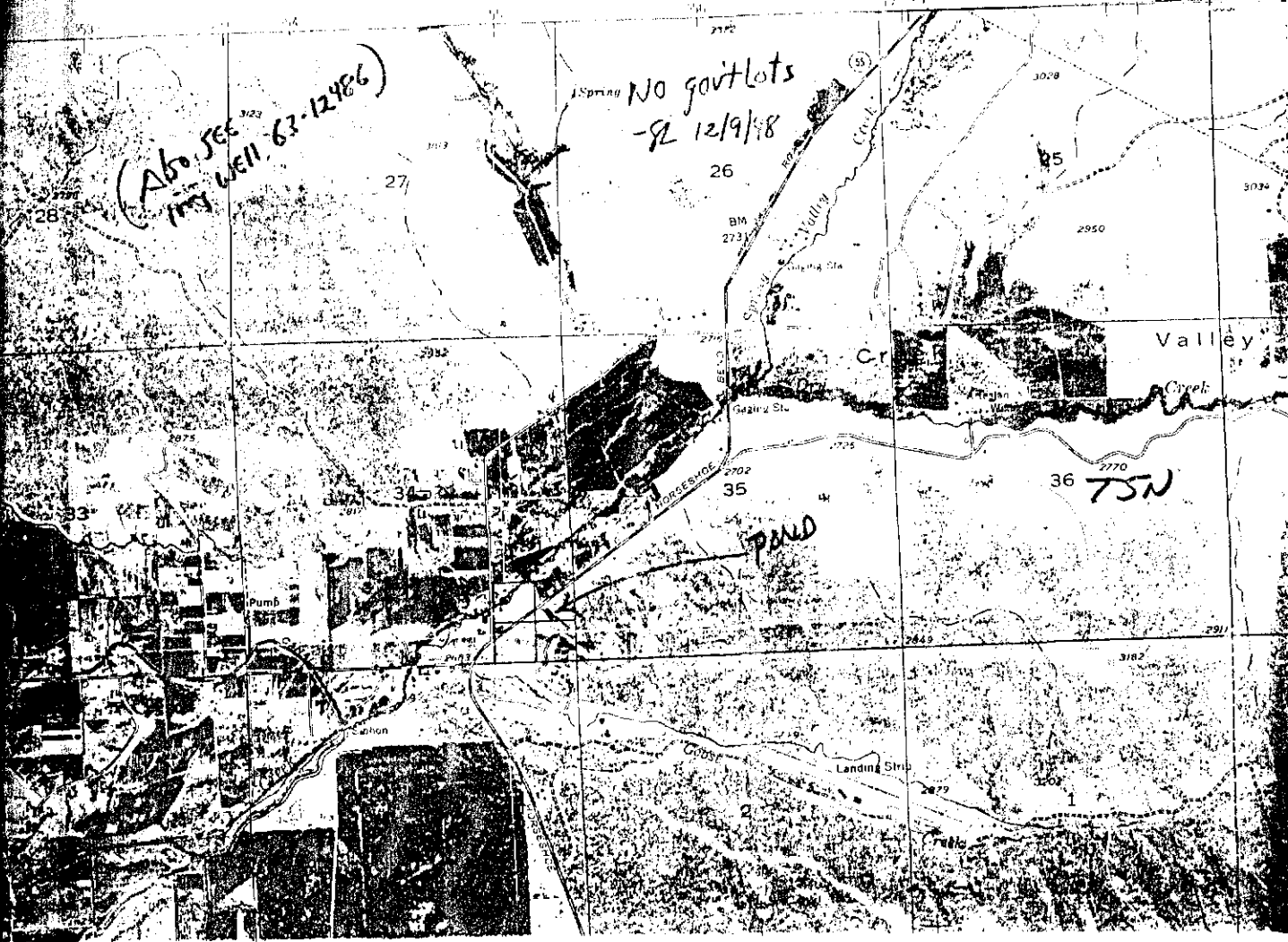
W. H. H. H.

(Applicant)

Received by [Signature] Date 9-14-98 Time 3:53 PM Preliminary check by 82  
 Fee \$ 50.00 Received by [Signature] # W024393 Date 9-14-98  
 Publication prepared by AT Date 12-9-98 Published in Stateman  
 Publication approved AT Date 1-1-99 12-17 + 24-98

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24

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# MARYGLEN SUBDIVISION #1

SE4 SEC.34, SW4 SEC.35-T.5N, R.1E BM. Ado Co.  
NE4 SEC.3, NW4 SEC.2-T.4N, R.1E BM. Ado Co.

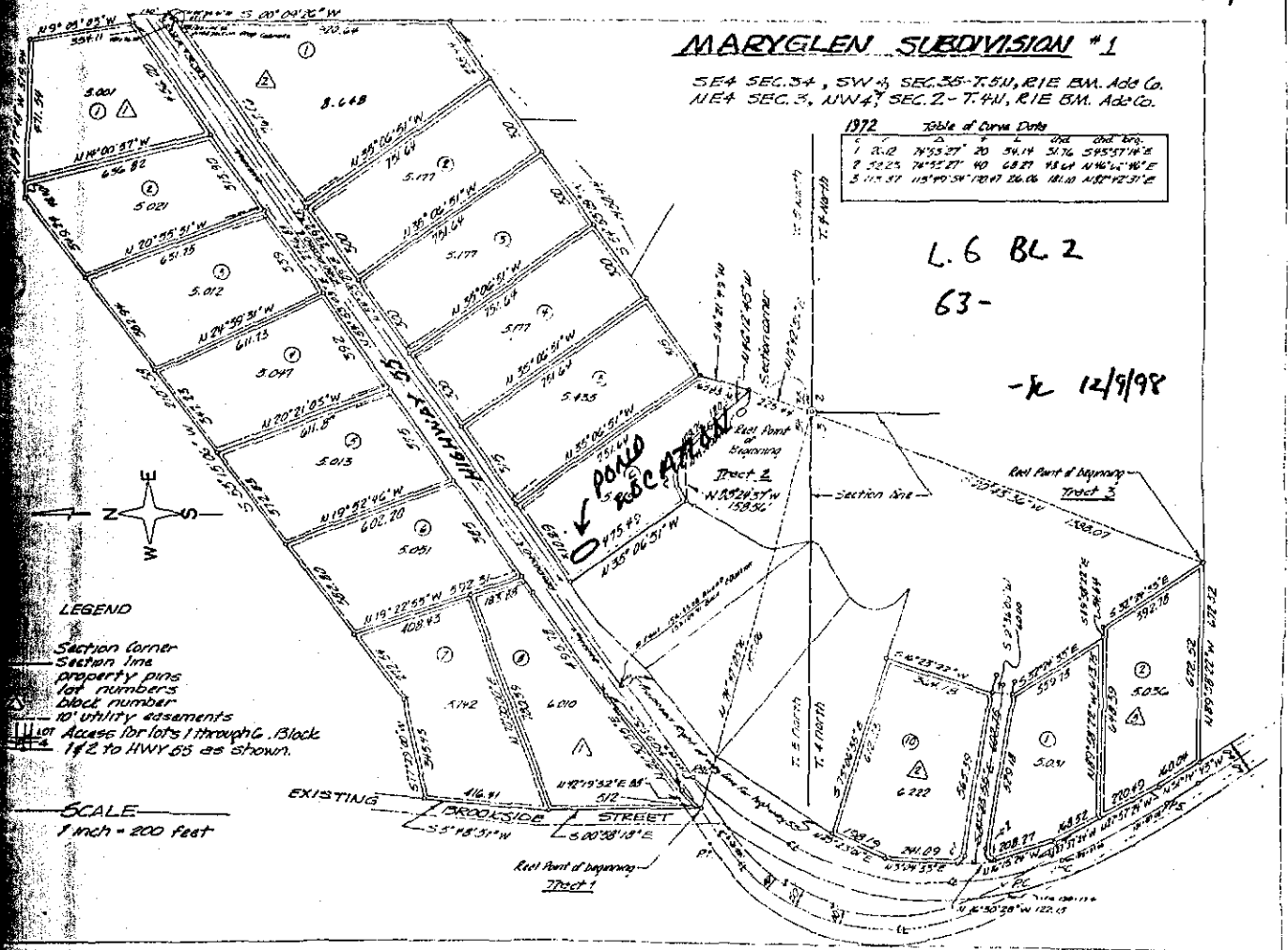
1972 Table of Curve Data

| Sta.    | Chord      | Angle | Chord | Angle  |
|---------|------------|-------|-------|--------|
| 1 0+00  | 78'53.27"  | 20    | 50.14 | 51.76  |
| 2 5+25  | 78'53.27"  | 40    | 68.27 | 18.64  |
| 3 10+50 | 115'49.54" | 120   | 26.06 | 181.00 |

L.6 BL 2

63-

-K 12/9/98





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](http://www.idwr.state.id.us)

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

January 15, 2002

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

**PROOF ACKNOWLEDGEMENT LETTER**

**RE: PERMIT NO. 63-12485**

Dear Permit Holder:

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

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

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

Sincerely,

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau

Enclosure

c: IDWR - Region (w/encl.)  
John Marshall (w/encl.)

**MICROFILMED**

JAN 16 2002

## ANALYSIS SHEET FOR PROOF OF BENEFICIAL USE

Permit No.: 63-12485

Reviewed By: dgibson

Date: January 16, 2002

|                                   | <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |
|-----------------------------------|------------|-----------|----------------------------------|------------|-----------|
| Proof received timely?            |            | X         | Drilling permit required?        |            | X         |
| License examination fee required? | X          |           | Drilling permit No.:             |            |           |
| Appropriate fee submitted?        | X          |           | Drilling permit upgrade needed?  |            |           |
| Receipt No.:                      |            | C058695   | Well driller's report filed?     |            | X         |
| Additional Amount Due:            |            |           | Measuring device required?       |            | X         |
| Name and address same as permit?  | X          |           | Measuring device installed?      |            |           |
| Are the water uses correct?       | X          |           | Measure device waiver requested? |            |           |

### Priority Calculation

|                     |   |            |
|---------------------|---|------------|
| Date proof received |   | 12/21/2001 |
| Date proof due      | - | 02/01/2000 |
| Lapse notice sent   | - | 02/02/2000 |
| No. of days late    | = | 688        |
| Holiday allowance   | + |            |
| Priority date       | + | 09/14/1998 |
| New priority date   | = | 12/21/2001 |

### Deficiencies of Actions Items

Ruth & Michael Kling  
13070 Highway 55  
Boise, ID 83703-9647  
Phone: (208) 939-6913

RECEIVED

JAN 10 2002

January 10, 2002

Debra Gibson  
Idaho Department of Water Resources  
1301 N. Orchard St.  
Boise, ID 83706

Subject: Explanation for late filing of Proof For Beneficial Use

Reference: Lapsed Permit # 63-12485

Dear Ms. Gibson,

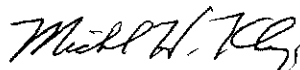
I am writing this letter to fulfill the requirement for Final Evidence in the form of a written explanation of why Proof Of Beneficial Use was filed late. We had filed for Beneficial Use for Stockwater Storage and Wildlife Storage as related to the subject permit to appropriate water (please see permit for full description). We received a Permit which gave us the right to use this water between Feb. 1, 2000 and Feb. 1 2001. Due to the following circumstances, we failed to complete a Proof Of Beneficial Use in time and consequently our permit lapsed.

Following major abdominal surgery in 1996, my wife developed complications which led to a ventral hernia, diagnosed in December of 1998. At the time of the diagnosis, the situation was severe and required immediate surgery. Following a lengthy convalescence, in September of 1999 during a follow-up examination, she was diagnosed with another ventral hernia - but with extreme complications. Due to the nature of the complications and the necessity to have the same area repaired, she had surgery in Salt Lake City Utah. There were many further complications from the second surgery and the convalescence period was much longer. Then in early May of 2000, Ruth was involved in a car accident that was not her fault. Ruth sustained injuries during the accident and after a MRI scan, a Pineal Cyst was detected in her brain. To this day, Ruth continues to suffer from the injuries and she has not driven a car since May of 2000. The Pineal Cyst remains in her brain and requires continued monitoring. If this cyst shows any growth or changes, it will require surgery leading to a loss of sight or mobility.

From 1999 until present, we have been inundated with medical and financial issues. While Ruth has been dealing with all of her health and injury issues, I have been taking care of our 91 year old Aunt, with Alzheimer's Disease, who has lived with us for the past seven years. While trying to maintain my employment as a manager of seven stores with 60 employees.

If we did receive a communication from IDWR that our Permit was about to lapse, we inadvertently were unaware. We try diligently to be responsible, but we have found that we have made mistakes due to the circumstances described above. Clearly, this has been a serious mistake on our part and we are truly sorry. We are able to provide any documentation to support the above statements if required. We are asking for your forbearance and understanding.

Sincerely,



MICROFILMED

Michael Kling

JAN 10 2002



**IDAHO FISH & GAME**

600 South Walnut  
P.O. Box 25  
Boise, Idaho 83707-0025

Dirk Kempthorne / Governor  
Rod Sando / Director

December 24, 2001

Gary Spackman  
Idaho Department of Water Resources  
Western Division Office  
2735 Airport Way  
Boise, Idaho 83705

**RECEIVED**

**DEC 27 2001**

Department of Water Resources

RE: Michael and Ruth Kling Pond

Dear Mr. Spackman:

Michael and Ruth Kling, residing at 13070 State Highway 55 in Boise, Idaho have asked me to provide you with a letter documenting my site visit to their residence approximately two years ago. Mrs. Kling asked me to look at their pond to see if it might qualify for Habitat Improvement Program (HIP) funds or if the Department of Fish and Game might be interested in a conservation easement. What I can recall from the visit was the pond was small, it was approximately one-half or more filled with water, and the pond banks contained trees and other woody riparian vegetation. I do not recall seeing any particular wildlife species but I expect wildlife such as great blue heron, muskrat, shorebirds, waterfowl, and songbirds would use the pond and adjacent vegetation. These species commonly use private ponds in the Treasure Valley.

I remember Mrs. Kling expressing an avid interest in providing for wildlife and asked me what she could do to improve the pond habitat. Unfortunately, the Department could not assist in their efforts because of the small size of the pond. However, I provided her with some recommendations to assist her. If you need any additional information from me, please call.

Sincerely,

Scott A. Grunder  
Fishery Program Coordinator

cc: IDWR-Western Region (Steve Lester)  
IDWR-State Office (Deborah Gibson)  
Michael and Ruth Kling, 13070 SH 55, Boise, Idaho 83703

**MICROFILMED**

DEC 27 2001

*Keeping Idaho's Wildlife Heritage*

December 24, 2001  
Boise, Idaho 83703

State Department of Water Resources  
1301 N. Orchard Street  
Boise, Idaho 83706

To whom it may concern:

My neighbor, Mike Kling, who lives near me on Horseshoe Bend Road, has asked me to give you an account of my experience with a small pond that lies in the north-western part of his acreage in the Mary Glenn Subdivision.

The pond in question has always had water in it as long as I can remember. As a young teenager my brothers and I often hunted pheasants and quail along Dry Creek, which flew into the foothills in the area of this pond. While pursuing them we sometimes checked out the pond. In our pre-teen years we slipped over there while gathering beer

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SEP 8 1981

and pop bottles along the highway. I do not recall the pond ever going totally dry, though there were some years it didn't have much water. There were always cattails, tall weeds, and other greenery in and around the pond. I think it was used for watering stock when Glenn Stillwell owned it many years ago. I know that frogs, birds, insects and other animals made use of it as a watering hole and as a refuge. I especially remember the blackbirds over there in the summer.

Mr. Kling had the pond dredged not long after moving to the property some ten years ago. I thought at the time he was going to see if he could bring in more water. Later he informed me that the excavation was intended to make it easier for his horses to water and to help eliminate erosion problems along the banks.

Since the pond has always been somewhat of a curiosity to me, I have on more than one occasion (while helping do chores for Mr. Kling) walked down to the pond to see how it had changed. The last time I did this was in September of this year. I noticed a few small fish feeding off the surface and a larger volume of water than I had seen there

MICROFILMED

FEB 24 2002

in a very long time.

In our subdivision water is a precious, conserved commodity and is always in short supply, especially in the summer. I can easily understand the Klings' concern over the noticeable loss of water in their pond since the excavation occurred on the adjoining property. This I verified yesterday and was quite surprised at how little water there was.

This statement I give testimony to as factual, to the best of my knowledge, and for your information in behalf of Mike and Ruth Kling.

-Ray A Lewis  
13152 Horseshoe B & Rd  
Boise, Idaho 83703  
Phone 939-8575

MICROFILMED

1574 8 & 7002

Subscribed and sworn

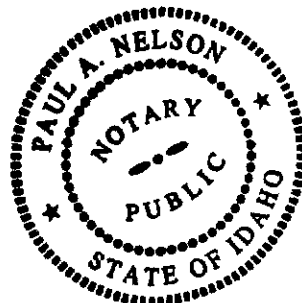
to before me this 24 day of December, 20 01

Paul A. Nelson

Notary Public in and for the County of Ada

State of Idaho

Exp 9/3/04



Date: 22 Dec 2001

The Idaho Department of Water Resources  
Boise, ID

Dear Water Resources Department,

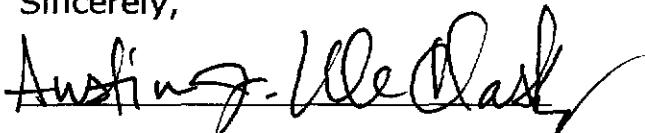
My name is Austin McClaskey and I have been friends with the Kling Family for the last several years. I have spent long periods of time on their property, both as a house sitter and while visiting.

I've spent a lot of time at their wildlife / stock pond. I've helped work on the pond putting in water lilies, Koi fish, turtles, and bullfrog tadpoles. I've moved rocks and planted various vegetation for erosion prevention. All this was within the period of early spring 1999 and October of 2000.

I've seen Mallard ducks, Blue Heron, Redwing Blackbirds, and toads at the pond. The Klings had the sides of the pond re-graded because they were caving in. The piles of dirt from this are still seen surround the pond. The water depth in my opinion has been around 5 feet at a minimum, even in August.

I hope this information is useful.

Sincerely,

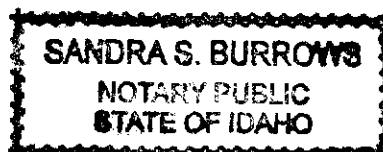
  
Austin McClaskey

12-24-01

Date Signed

Notary Public

Subscribed and sworn to before me this 24th day of Dec. 2001  
Sandra Burrows  
Notary Public in and for the County of Ada  
State of Idaho  
66-04 [Signature]



MICROFILMED

APR 04 2002

December 22, 2001

To: The Idaho Department of Water Resources  
From: Ellen Crofts  
Subject: Pond at 13070 Highway 55

I am writing this letter to provide a written statement of my recollections, observations regarding the pond, or seep at the Kling's residence at subject address. I have been employed by Doreen Mohrke as her Nursing Assistant for approximately five years. Doreen Mohrke is Ruth Kling's elderly Aunt and she resides with the Klings at their house on Highway 55. My work is done in the home, two days per week.

While working for Mrs. Mohrke, I have become familiar with the house and property. I have walked to the pond located in the front pasture many times through the years and found it full of water year-round. Fish, turtles, Redwing Blackbirds and nests, as well as plants such as water lilies, cattails, willow tree, etc., were seen at the pond. I also observed their horses drinking from the pond.

During 1999 and 2000, the Klings placed rocks into the pond around the edges to help stabilize the walls.

Signed

Ellen Crofts  
Ellen Crofts  
3084 Triumph Ln.  
Boise, ID 83705  
(208) 344-8717

12-22-01  
Date Signed

Notary Public

MICROFILMED

DEC 24 2001

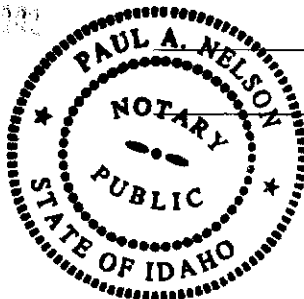
Subscribed and sworn

to before me this 22 day of December, 20 01

Paul A. Nelson  
Notary Public in and for the County of Idaho Ada

State of ID

Exp 9/3/04





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](http://www.idwr.state.id.us)

January 9, 2002

DIRK KEMPTHORNE  
Governor

KARL J. DREHER  
Director

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

RE: LAPSED PERMIT NO. 63-12485

Dear Permit Holder:

The department is in receipt of the proof of beneficial use statement, the \$50.00 license examination fee, three affidavits and a letter from Scott Grunder of Fish & Game in support of the presence of this pond during the development period which you submitted to the department on December 21, 2001, in connection with the above referenced lapsed permit.

However, the final evidence I need from you is a written explanation why the proof of beneficial use was filed late.

The department will maintain the proof of beneficial use for **30 days** to provide you the opportunity to submit the required information. Please be aware that this permit is **lapsed** and is of no force nor effect unless it is reinstated.

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

Sincerely,

Deborah J. Gibson  
Administrative Assistant  
Water Allocation Bureau

c: IDWR - Region

MICROFILMED

JAN 11 2002

# NOTICE

This file has been REPRODUCED  
from MICROFICHE ~~because:~~

For a possible reinstatement.

---

---

Darla A. Block  
Person Recreating File

Dec. 31, 2001  
Date

I certify that file No. 63-12485

has been reviewed and is ready to be

MICROFILMED and DESTROYED.

The attached proof report is the water right as it appeared in the database prior to final status entry and deletion from the database.

Kari Lynne J.  
Reviewer

5.16.00  
Date

WR5808NP  
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROOF READING REPORT

05/16/00 15:00:02  
Page 1

Water Right Number - 63-12485

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

\*\*\* C - CURRENT OWNER \*\*\*

KLING

MICHAEL H

1 - 13070 HORSESHOE BEND RD

2 -

3 -

City- BOISE

State- ID Zip- 83703

Phone - 208-939-6913

KLING

RUTH E

1 - 13070 HORSESHOE BEND RD

2 -

3 -

City- BOISE

State- ID Zip- 83703

Phone - 208-939-6913

+ - - Priority Date - - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +  
09/14/1998 14 WESTERN P - PERMIT

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +  
SPRING SINKS

| Tw  | Rng | Sec | Tract    | Lot | Rflg | County    | Point of Diversion | Diversion Name | Diversion Rate | Diversion No. |
|-----|-----|-----|----------|-----|------|-----------|--------------------|----------------|----------------|---------------|
| 05N | 01E | 34  | NE SE SE |     |      | ( 1 ) ADA |                    |                |                |               |

| Code                    | Description | Period From | Water Use<br>Period To | Diversion Rate | Diversion Volume |
|-------------------------|-------------|-------------|------------------------|----------------|------------------|
| 05 - STOCKWATER STORAGE |             | 01/01       | 12/31                  |                | 0.10             |
| 17 - WILDLIFE STORAGE   |             | 01/01       | 12/31                  |                | 0.10             |

+ - - Total Div. Rate - + + - - Total Div. Volume - + + - - Total Div. Capacity - + + - - Total Consumptive Use - + + - - KW Usage - +  
0.10 0.0

| Tw  | Rng | Sec | Tract | Lot | Acres | Place of Use<br>Code  | Description | County    |
|-----|-----|-----|-------|-----|-------|-----------------------|-------------|-----------|
| 05N | 01E | 34  | SE SE |     |       | 05 STOCKWATER STORAGE |             | ( 1 ) ADA |

+ - - Diversion Means - SPRING SUBS INTO EXCAVATED POND (POND LESS THAN 1/2 ACRE AREA)

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - Remarks - - - - - +

GEN Place of use is located within Lot 6, Blk. 2, Maryglen  
Subdivision No. 1.  
Stockwater use is for 6 head mixed stock.

WRS000NP  
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES  
WATER RIGHT PROOF READING REPORT

05/16/00 15:00:02  
Page 2

Water right number - 63-12485

Prefix Translation: WATER RIGHT

+ - - - - Old Water Right Numbers - - - - - +  
+ - - - - Old Water Right Numbers - - - - - +  
No Old Water Right Numbers found.  
+ - - - - Conditions of Approval - - - - - +  
No Conditions of Approval found.  
+ - - - - Decree Plaintiff - - - - + - - - - Decree Defendant - - - - + - - - - Decree Date - - +  
00/00/0000

+ - - - - Comments - - - - - +  
Date: 12/09/1998 User Id: SLESTER Subject: ADDITIONAL INFORMATION  
APPLICANTS: Spring subs into pond that is about 25 x 50 x 4 ft. for total capacity of .11 af. Use at pond is for 6 mixed stock &  
misc. wildlife. Property aka L.6, Bl. 2 Maryglen Subd. #1. IDWR's: Source is ultimately tributary to Boise River via Dry  
Creek but within "domestic" limits so can process without request to process form or without Basin 63 or Water District 63 factors.  
Also see appl. 63-12486 for irrigation well for same owners. That application is held per Basin 63 limitations.  
Date: 02/02/2000 User Id: VAULT Subject: Lapse Notice Sent  
Lapse Notice Sent

+ - - Audit Fields - 12/09/98 SLESTER 02/10/99 CZIMMERH 02/02/00 COMMENTS

+ - - - - Water Rights Dates and Flags Area - - - - - +  
Proof Due Date - 02/01/2000 Field Exam Made - 00/00/0000 Field Exam Fee -  
Approved/Denied - 02/11/1999 Protested Date - 00/00/0000 Swan Falls -  
Proof Made Date - 00/00/0000 Hearing Date - 00/00/0000 Temporary Right - P  
Exam to S.O. Date - 00/00/0000 Verified Date - 00/00/0000 DLE/Carey Act -  
Order Show Cause - 00/00/0000 Receipt Number - W024393 Water District -  
Licensed Date - 00/00/0000 Appl Received - 09/14/1998 Transfer/Amended -  
Presumption Flag - Name Connector - AND/OR POU Ownership Flag- Y  
SRBA Decreed Flag -

February 2, 2000

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

LAPSE NOTICE

RE: PERMIT NO. 63-12485

Dear Permit Holder:

You are hereby notified that under the provisions of Section 42-218A, Idaho Code, the above referenced permit has lapsed and is of no further force nor effect. The department provided the proper forms to you in our proof due notice dated November 30, 1999. No further construction or additional development is authorized under this permit unless it is reinstated.

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

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

L. GLEN SAXTON  
Chief, Water Allocation Bureau

Enclosures

CERTIFICATION OF MAILING

I hereby certify that on 2/2/00  
this document was  
deposited in the United States mail,  
postage and fees prepaid to the  
individual(s) named above.

*dle*

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
1 North Orchard Street  
Boise, Idaho 83706-2237

CERTIFIED

Z 269 224 662

MAIL



(2)

JA

UNCLAIMED

NAME

1st Notice

2nd Notice

Return

12-20

12-30

November 30, 1999

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

PROOF DUE NOTICE

RE: PERMIT NO. 63-12485

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 February 1, 2000. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

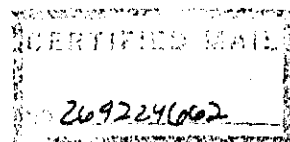
If you have not fully completed your project, and you or a previous owner of this permit have not received a prior extension of time, you may request an extension of time if the delay is for reasonable cause as provided in Section 42-204, Idaho Code. If you have been prevented from proceeding by a governmental 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,

JULIE L. YARBROUGH  
Senior Secretary

Enclosures





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

February 11, 1999

DIRK KEMPTHORNE  
GOVERNOR

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

KARL J. DREHER  
DIRECTOR

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-12485

Dear Permit Holder:

The Department of Water Resources (IDWR) 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 IDWR pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by IDWR unless a party petitions for reconsideration or files an exception and/or brief as described in the enclosed information sheet.

Enclosed is a form entitled "Instructions for Proof of Beneficial Use". Please read the instructions carefully since you must take further action to develop this permit into a licensed water right. Also enclosed is a form entitled "Proof of Beneficial Use". If your project is already completed, you should complete and submit this form immediately.

Also, please note that water right owners are required to report any change of water right ownership and/or change of 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 reporting form.

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

Sincerely,

Shelley W. Keen  
Water Rights Supervisor

SK:klt  
Enclosures

CERTIFICATE OF MAILING

I hereby certify that on the 11th day of February, 1999, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved Permit) to the person(s) listed below:

Water Right No. 63-12485

MICHAEL H KLING  
RUTH E KLING  
13070 HORSESHOE BEND RD  
BOISE ID 83703

  
Kari Lynn Townsend  
Secretary

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

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

### PETITION FOR RECONSIDERATION

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

### EXCEPTIONS AND BRIEFS

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

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

### ORAL ARGUMENT

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

### CERTIFICATE OF SERVICE

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

### FINAL ORDER

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

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

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

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

### APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

Zimmerman, Cindy

---

From: sgrunder@idfg.state.id.us  
Sent: Wednesday, February 10, 1999 9:57 AM  
To: czimmerm@idwr.state.id.us  
Subject: App. for Permit No. 63-12485



BEYOND.RTF

The above referenced application for permit to appropriate water from an unnamed spring in the vicinity of Horseshoe Bend will not cause significant adverse effects on fish or fish habitat. Thank you for the opportunity to comment.

Scott Grunder  
Environmental Staff Biologist  
IDFG-SW Region, Nampa  
465-8465



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

February 8, 1999

DIRK KEMPTHORNE  
GOVERNOR

KARL J. DREHER  
DIRECTOR

Scott Grunder  
Idaho Dept. of Fish & Game  
Southwest Region  
3101 S Powerline Rd  
Nampa ID 83686

RE: Application for Permit No. 63-12485

Dear Scott,

The Department of Water Resources (IDWR) is preparing to issue a water appropriation permit for the above application. Before proceeding, IDWR would appreciate receiving your comments, if any, on the proposed diversion and use of surface water. I have enclosed copies of the application for your review. Please respond with your comments by February 23, 1999. If I have not heard from you by then, I will assume you have no comment and will proceed with issuing the permit.

If you have any questions, you may contact me directly at (208) 327-7944 or by electronic mail at [czimmerm@idwr.state.id.us](mailto:czimmerm@idwr.state.id.us).

Respectfully,

A handwritten signature in cursive script that reads 'Cindy Zimmerman'.

Cindy Zimmerman  
Water Resource Agent

Enclosure

# The Idaho Statesman

P.O. BOX 40, BOISE, IDAHO 83707-0040

## LEGAL ADVERTISING INVOICE

Amount Due

\$225.00

Account Number/Trans. #

Identification

047628

APPLICATION FOR WATER RIGHT

Ordered By

P.O. Number

Rate

Run Dates

SUE

NT

DECEMBER 17, 24, 1998

TAYLOR

STATE OF IDAHO

DEPT. OF WATER RESOURCES WESTERN REG.

2735 AIRPORT WAY

BOISE, IDAHO 83705 - 5082

Estimated inches

Real inches

# Affidavits

Legal Number

1

2900

RECEIVED

DEC 30 1998

WATER RESOURCES  
WESTERN REGION

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

DECEMBER 17

1998

and ending with the issue of

DECEMBER 24

1998

STATE OF IDAHO )

ss.

COUNTY OF ADA )

On this 24TH day of DECEMBER in the year of 1998, before me, a Notary Public, personally appeared 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 statements therein are true, and acknowledged to me that she executed the same.

Notary Public for Idaho

Residing at:

Boise, Idaho

My commission expires:

5/03



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

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

**63-12444**  
WYMAN LLC, R/L  
PO BOX 16158  
BOISE, ID 83715-6158  
Source: GROUNDWATER  
Diversions Pt: SWSE Sec 33 T 02N R 02E in ADA County.  
Use: DOMESTIC { 0.040 CFS }  
Total Diversions: { 0.040 CFS }  
Date Filed: 9/2/1998  
In: ADA County  
T02N R02E S33 SWSE

**63-12481**  
US DEPT OF INTERIOR  
BUREAU OF LAND MANAGEMENT  
CASCADE RESOURCE AREA  
3940 DEVELOPMENT AVE  
BOISE, ID 83705  
Source: SPRING  
Diversions Pt: NWSWNW Sec 10 T 03N R 03E in ADA County.  
Use: STOCKWATER { 0.020 CFS }  
WILDLIFE { 0.020 CFS }  
Total Diversions: { 0.020 CFS }  
Date Filed: 7/8/1998  
In: ADA County  
T03N R03E S10 NWSW

**63-12482**  
Source: SPRING  
Diversions Pt: NESENW Sec 10 T 03N R 03E in ADA County.  
Use: STOCKWATER { 0.020 CFS }  
WILDLIFE { 0.020 CFS }  
Total Diversions: { 0.020 CFS }  
Date Filed: 7/8/1998  
In: ADA County  
T03N R03E S10 SENW

**63-12484**  
Source: SPRING  
Diversions Pt: LOT 2  
Use: STOCKWATER { 0.020 CFS }  
WILDLIFE { 0.020 CFS }  
Total Diversions: { 0.020 CFS }  
Date Filed: 7/8/1998  
In: ADA County  
T03N R03E S10 Lot 2 (NWNE)

**63-12485**  
KLING, MICHAEL H  
KLING, RUTH E  
13070 HORSESHOE BEND RD  
BOISE, ID 83703  
Source: SPRING  
Diversions Pt: NESESE Sec 34 T 05N R 01E in ADA County.  
Use: STOCKWATER STORAGE { 0.10 AF }  
WILDLIFE STORAGE { 0.10 AF }  
Total Diversions: { 0.10 AF }  
Date Filed: 9/14/1998  
In: ADA County  
T05N R01E S34 SESE

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 on or before JANUARY 4, 1999. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director

PAU: Pub. Dec. 17, 24, 1998

63-12485

KLING, MICHAEL H  
KLING, RUTH E  
13070 HORSESHOE BEND RD  
BOISE, ID 83703

Source: SPRING

Tributary: SINKS

Diversion Pt: NESESE Sec 34 T 05N R 01E in ADA County.

|                         |   |          |
|-------------------------|---|----------|
| Use: STOCKWATER STORAGE | ( | 0.10 AF) |
| WILDLIFE STORAGE        | ( | 0.10 AF) |
| Total Diversion:        | ( | 0.10 AF) |

Date Filed: 9/14/1998

In: ADA County  
T05N R01E S34 SESE