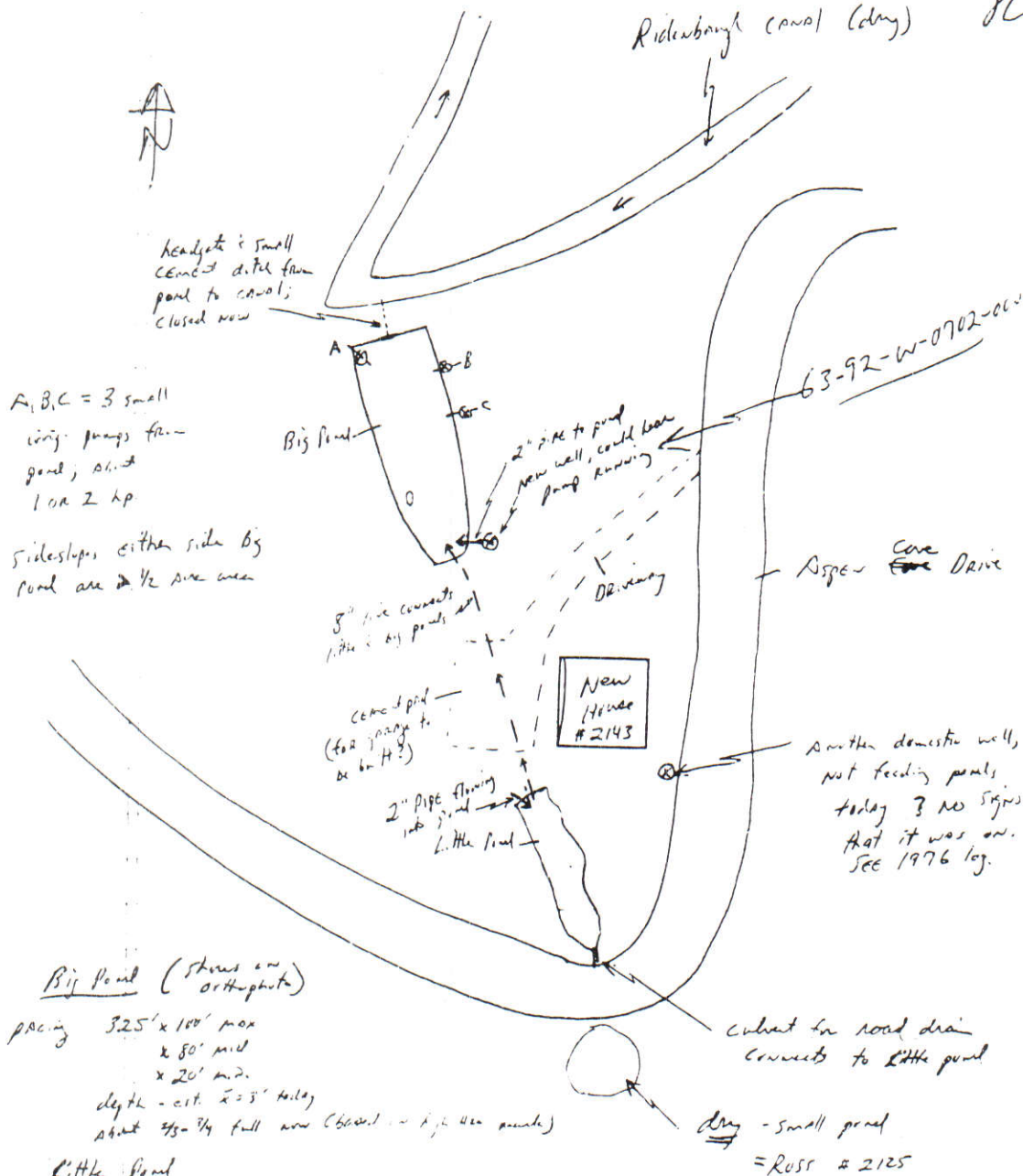


Five ants
 commenced
 for storage in
 their mea-
 surements.

11/3/92

SL

Diagram



Big Pond (shows on
 orthophoto)

acing 325' x 100' max
 x 80' mid
 x 20' mid.
 depth - est. $\bar{x}$ = 3' today
 about 2/3 - 3/4 full now (closed - high water ponds)

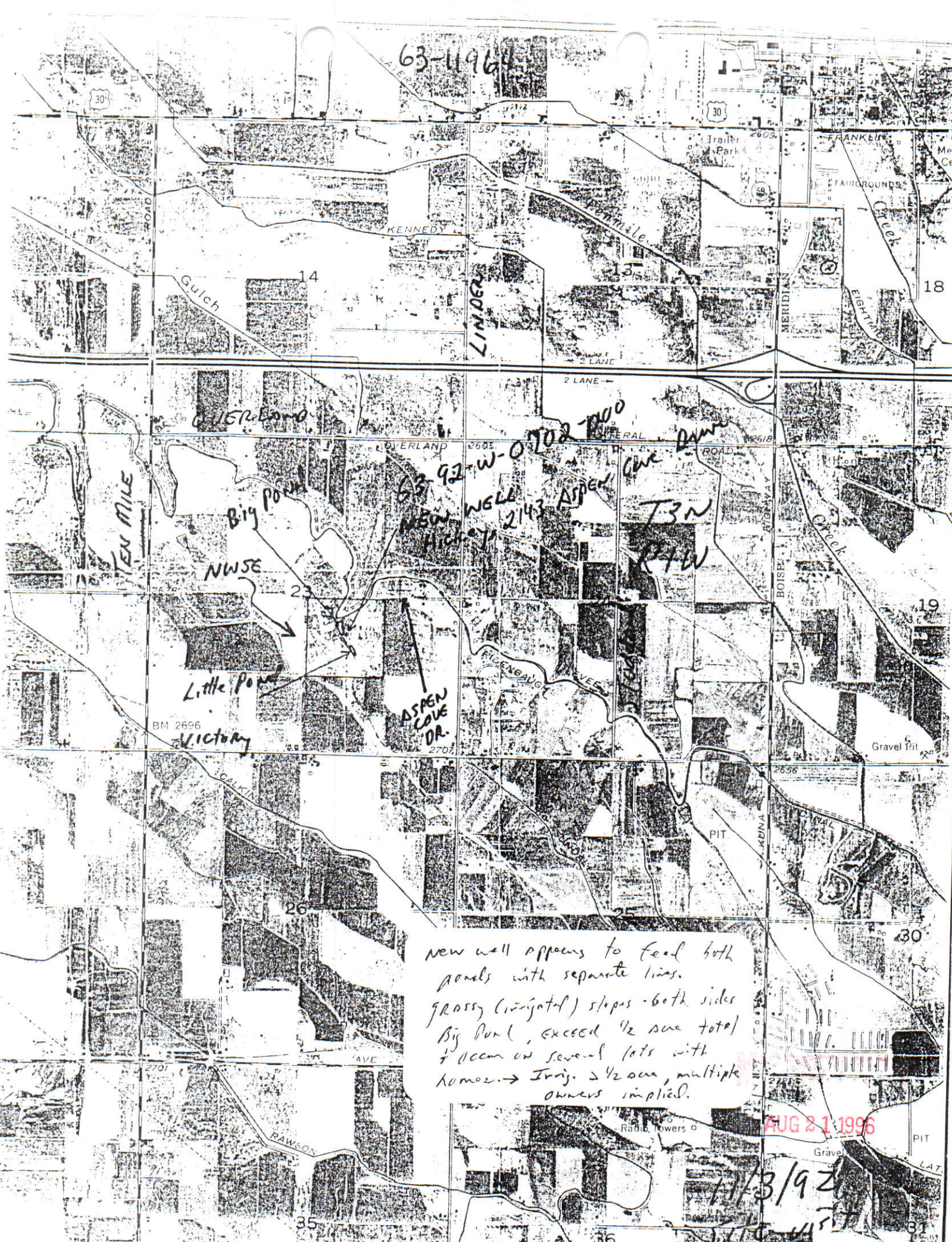
Little Pond

acing 140' x 40' max
 10' mid
 30' near
 depth - est. $\bar{x}$ = 2' today

11/3/92

AUG 21 1996

63-4964



OVERLAND

TEN MILE

BIG POND

NWSE

LITTLE POND

BM 2696

VICTORY

ASPEN COVE DR.

63-92-W-0702-POD
NEW WELL
2143 ASPEN COVE DR.

T3N
R1W

PIT

new well appears to feed both ponds with separate lines.
grassy (irrigated) slopes - both sides Big Pond, exceed 1/2 acre total & occur in several lots with homes. → Irrig. > 1/2 acre, multiple owners implied.

AUG 21 1996

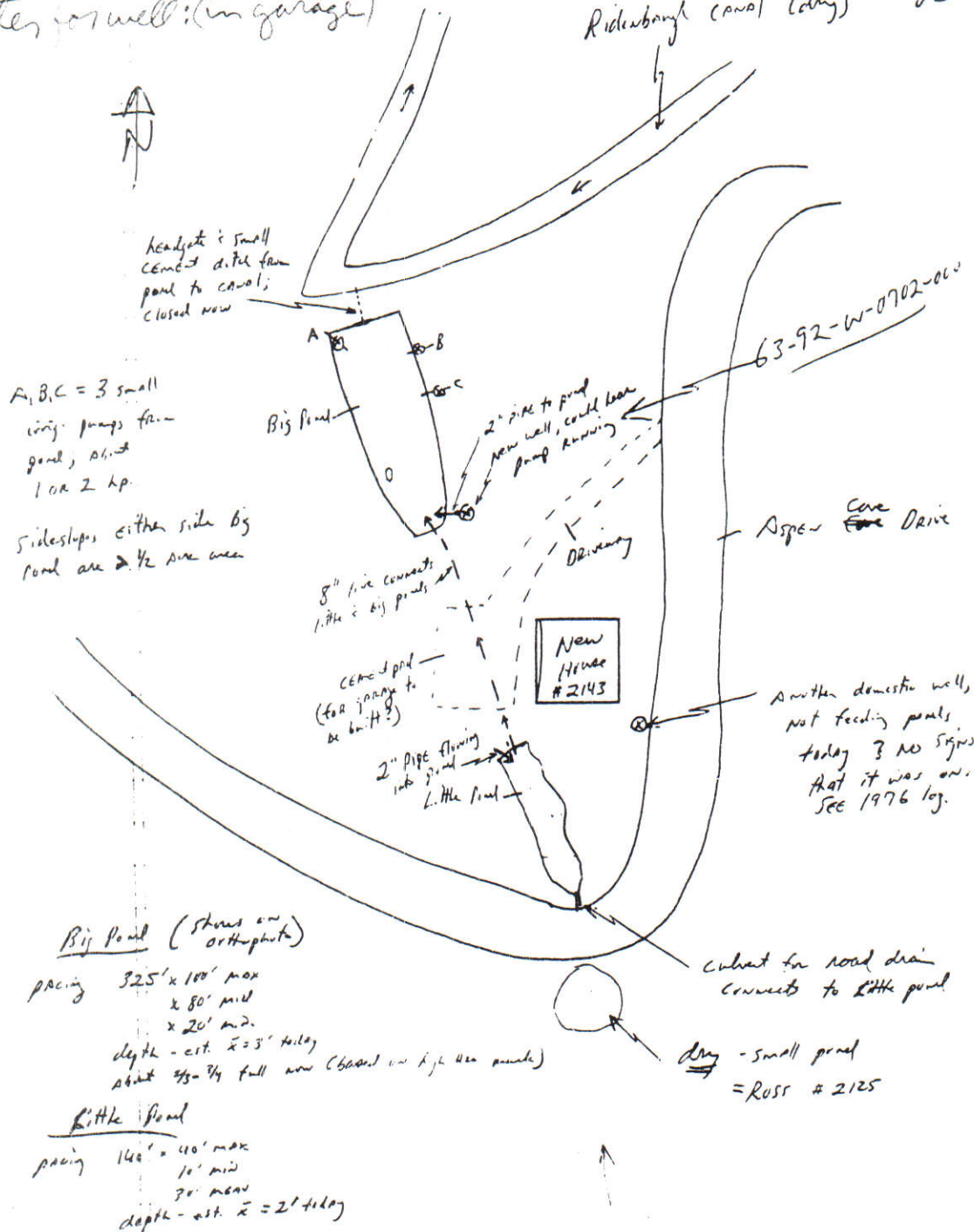
11/3/92

5/1/94

11/3/92

SL

Diagram
meter for well: (in garage)



Big Pond (shows on orthophoto)

spacing 325' x 100' max
x 80' mid
x 20' mid.

depth - est. $\bar{x}$ = 3' today
about 7/8 - 1 full now (based on high water marks)

Little Pond

spacing 140' x 40' max
10' mid
30' max

depth - est. $\bar{x}$ = 2' today

MICROFILMED

OCT 30 1997

63-12273

ATTACHMENT 2



Fall pictures ... pond almost dry



BEFORE

Upper End of Pond ... before excavation.



Only irrigation water ... notice scum forming on pond and weeds growing along bank.



Fishing



Geese enjoy the area.
We've grown from just a few visitors
to over 400 at one count !!





Neighborhood pond cleanup day!





AND AFTER !!

with sandy beaches and
canoe for relaxing and
fishing and
lots of flowers for everyone's enjoyment

full pond with hundreds of fish
(bass and crappie and catfish)



Island with goose box (we've had
several families raised around the
pond!!)



summer picnics enjoyed
by entire neighborhood!



State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-12273

Priority: September 15, 1995

Maximum Diversion Rate:

0.13 CFS

Maximum Diversion Volume:

4.2 AF

This is to certify, that ASPEN COVE LAKE ASSN INC

2288 ASPEN COVE DR

MERIDIAN ID 83642

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 15, 1995; and has submitted Proof of Beneficial Use on April 23, 1996. An examination indicates that the works have a diversion capacity of 0.130 cfs of water from a GROUNDWATER source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
AESTHETIC STORAGE	09/01 to 05/31		1.7 AF
DIVERSION TO STORAGE	01/01 to 12/31	0.13 CFS	
	Totals	0.13 CFS	4.2 AF

LOCATION OF POINT(S) OF DIVERSION:

NWSE , Sec. 23, Township 03N, Range 01W
CANYON County

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. This right authorizes an annual volume of water to fill the storage facility and the amount required to replace losses through evaporation and seepage.

MICROFILMED

OCT 30 1997

State of Idaho
Department of Water Resources**WATER RIGHT LICENSE**

WATER RIGHT NO. 63-12273

CONDITIONS OF APPROVAL AND REMARKS

6. The Director maintains jurisdiction of this right until February 14, 2001 in order to determine if there is an adverse effect upon prior water rights in the area. Upon a determination by the department of injury caused by the non-irrigation season pumping authorized by this right, the Director may cancel the right with prejudice.
7. The right holder is not authorized to release water pumped and impounded under terms of this right down the irrigation canal.
8. Rights 63-11964, 63-12164, and 63-12273 when combined shall not exceed a total diversion rate of 0.13 cfs.
9. Rights 63-11964, 63-12164 and 63-12273 are limited to a combined storage volume of 1.7 af; this right combined with Right 63-11964 authorize the annual volume measured in the filling of the storage facility and the replacement of losses through evaporation and seepage.
10. Rights 63-11964 and 63-12164 are also diverted through the point(s) of diversion described above.
11. Aesthetic storage is for 2 ponds.

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 24th
day of OCTOBER, 1997.

Acting for


KARL J. DREHER Director

MICROFILM

OCT 30 1997

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-12273	)	ORDER OF
	)	REINSTATEMENT
IN THE NAME OF ASPEN COVE LAKE ASSN.,	)	
INC.	)	
_____	)	

WHEREAS, the Department issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before June 1, 1996; and,

WHEREAS, the permit holder submitted proof of beneficial use on April 23, 1996; and,

WHEREAS, the department informed the permit holder that the proof could not be accepted until an additional \$165.00 was submitted to upgrade the drilling permit; and,

WHEREAS, on May 21, 1996, the permit holder submitted the additional fee, however, the receipt of monies paid was not forwarded to the appropriate section for acknowledgement; and,

WHEREAS, on August 5, 1996, the Department lapsed the permit in error; and,

WHEREAS, Section 42-218a of the Idaho Code provides that a permit may be reinstated upon a showing of reasonable cause; and,

WHEREAS, the permit holder provided a reasonable showing why the permit should be reinstated by submitting the additional fee in a timely manner; and,

2429
AUG 21 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12273

Proposed Priority: September 15, 1995 Maximum Diversion Rate: 0.13 CFS

This is to certify, that **ASPEN COVE LAKE ASSN INC**
2143 ASPEN COVE DR
MERIDIAN ID 83642

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

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
-----------------------	----------------------	--------------------------

AESTHETIC	09/01 to 05/31	0.13 CFS
-----------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 23, Township 03N, Range 01W
CANYON County

PLACE OF USE: AESTHETIC

TWN RGE SEC

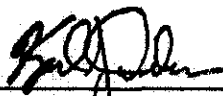
03N 01W 23 NWSE

CONDITIONS OF APPROVAL AND REMARKS

1. See Final Order for conditions and limitations for use of water under this approval.

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

14th day of February, 1996.

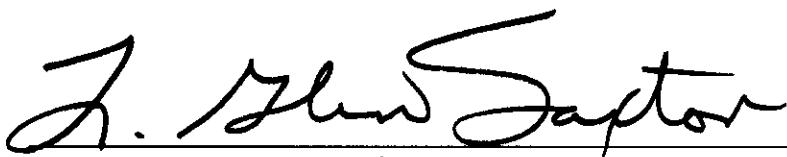


Karl W. Dreher, Director

AUG 21 1996

IT IS, THEREFORE, HEREBY ORDERED that Permit No. 63-12273
be REINSTATED with no advance in priority.

Dated this 16th day of August, 1996.

A handwritten signature in cursive script, reading "L. Glen Saxton", written over a horizontal line.

L. GLEN SAXTON, Chief
Water Allocation Bureau

AUG 21 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

APR 23 1996

PROOF OF BENEFICIAL USE

The Idaho Department of Water Resources considers this form a statement that the permit holder(s) ^{Department of Water Resources} 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 who has been appointed by the department.

1. Permit No. 63-12273 Telephone No. 888-2793

2. Name(s) of Permit Holder(s): ASPEN COVE LAKE ASSOC.

3. Mailing Address: 2288 ASPEN COVE DR., MERIDIAN, ID 83642

4. Source of Water: WELL If GROUNDWATER (well), Date Drilled: mo. SEP / yr. 92

a. Well Driller: ADAMSON PUMP & DRILLING CO. Drilling Permit Number: - - -

b. **OPTIONAL:**
Pump Horsepower: 3 HP Pressure (psi): Dynamic pumping level (ft):

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

Domestic (No. of households): Stockwater (No. and type of stock):

Irrigation (No. of acres): Other: AESTHETIC SEPI-MAY31 (ANNUALLY)

6. Total rate of diversion and/or volume for which proof is submitted: .13 cfs OR acre feet

7. Measuring Device Requirement: (refer to the approval conditions on your permit and respond accordingly)
(This question is not optional. Please check either yes or no. Proofs returned not checked accordingly, will be considered incomplete)

Measuring Device: Is a measuring device required? <u>ELEC METER</u>	Yes <u>X</u> or No <u> </u>
Has the measuring device been installed?	Yes <u>X</u> or No <u> </u>
Flow Measurement Port: Is a flow measurement port required?	Yes <u> </u> or No <u>X</u>
Has the measurement port been installed?	Yes <u> </u> or No <u>X</u>

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: TIM RUSSELL Telephone Number: 888-2793(HM) 421-5126(NK)

Address: 2288 ASPEN COVE DR., MERIDIAN, ID 83642

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

Signature of permit holder: Tim Russell, PRES., ACLA Date: 4-9-96
(Include your title, if on behalf of company or organization)

APR 21 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF PERMIT NO. 63-12273	)	ORDER EXTENDING
	)	PROOF OF
IN THE NAME OF ASPEN COVE LAKE ASSN.	)	BENEFICIAL USE
INC.	)	

WHEREAS, the Department has issued the above-captioned permit with the condition that proof of construction of works and application of water to beneficial use be submitted on or before May 1, 1996; and,

WHEREAS, notice was not given to the permit holder sixty days prior to the date that proof of beneficial use of water was due as required by Section 42-204, Idaho Code;

IT IS THEREFORE HEREBY ORDERED that the time within which to submit the proof of beneficial use of water under Permit No. 63-12273 be extended to June 1, 1996.

Dated this 28th day of March, 1996.



L. GLEN SAXTON, Chief
Water Allocation Bureau


AUG 21 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12273

Proposed Priority: September 15, 1995 Maximum Diversion Rate: 0.13 CFS

This is to certify, that ASPEN COVE LAKE ASSN INC
2143 ASPEN COVE DR
MERIDIAN ID 83642

has applied for a permit to appropriate water from: GROUNDWATER

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

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>
AESTHETIC	09/01 to 05/31	0.13 CFS

LOCATION OF POINT(S) OF DIVERSION: NWSE , Sec. 23, Township 03N, Range 01W
CANYON County

PLACE OF USE: AESTHETIC

TWN RGE SEC

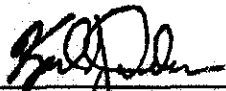
03N 01W 23 NWSE

CONDITIONS OF APPROVAL AND REMARKS

1. See Final Order for conditions and limitations for use of water under this approval.

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

14th day of February, 19 96.



Karl J. Dreher, Director

AUG 21 1996

BEFOI THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-12164 AND 63-12273)
IN THE NAME OF ASPEN COVE LAKE)
ASSOCIATION, INC.)
_____)

FINAL ORDER

On December 21, 1995, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. None of the parties to the matter filed a Petition for Reconsideration in connection with the Recommended Order. Based upon his understanding of the law and the facts in this matter, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On December 16, 1994, Aspen Cove Lake Association, Inc. (applicant) filed Application for Permit No. 63-12164 with the department proposing the following:

Ident No:	63-12164		
Source:	Groundwater		
Pt. of div:	NW1/4SE1/4, Sec. 23, T3N, R1W, B.M.		
Use, season	<u>Uses</u>	<u>Season</u>	<u>Amount</u>
& use:	Irrigation	03-15 to 11-15	0.09 cfs
	Irrig. storage	01-01 to 12-31	1.7 AF
	Irrig. from storage	03-15 to 11-15	1.7 AF
	Div. to storage	01-01 to 12-31	0.09 cfs
	Total Div. Rate		0.09 cfs
Remarks:	3.0 acres to be irrigated. The acreage consists of 0.5 acre for each of six (6) lots. ¹		

¹On December 16, 1994, the applicant also filed Application for Permit No. 63-12165 for the irrigation of seven (7) additional acres in the subdivision. The application has been held without action due to the moratorium which prevented approval of new consumptive uses, but is now being processed in accordance with the order lifting the moratorium. Application for Permit No. 63-12164 was filed in response to reported unauthorized diversion and the use of water by the applicant. While one application could have been filed for the irrigation of ten (10) acres, two (2) applications were filed in order to separate irrigation use associated with domestic residences from other irrigable acres within the subdivision.

AUG 21 1996

2. On September 15, 1995, the applicant also filed Application for Permit No. 63-12273 with the department proposing the following:

Ident No: 63-12273
Source: Groundwater
Rate of div: 0.13 cfs
Pt. of div: NW1/4SE1/4, Section 23, T3N, R1W, B.M.
Use: Aesthetics
Season of use: September 1 to May 31

3. The department published notice of Application Nos. 63-12164 and 63-12273 which were subsequently protested by Harold Ross.

4. On December 15, 1995, the department conducted a hearing in the matter. The applicant was present and was represented by association member Keith Ebling. The protestant was present and represented himself.

5. Issues identified by the protestant include the following:

- a. The application will injure prior water rights.
- b. The pond poses a safety hazard to children.

6. Exhibits offered and accepted as a part of the record include the following:

- a. Applicant's Exhibit No. 1 - Responses to each of the six potential issues described in Section 42-203A, Idaho Code.
- b. Applicant's Exhibit No. 2. - Pictures of the impoundment area.

7. On February 10, 1993, the department issued Permit No. 63-11964 to the applicant authorizing the diversion of 0.04 cfs of ground water year-round for aesthetic purposes to be impounded year-round in two ponds. The volume was limited to a maximum of not more than 2,500 gallons per day (2.3 AF/yr). The limitations on use were as a direct result of a moratorium order issued by the department which prevented most new consumptive uses. The permit holder filed proof of construction of works and application of water to beneficial use with the department on January 19, 1994.

8. The applicant owns and manages a man-made pond built on an irrigation lateral which pond is surrounded by at least six private lots on which homes have been built. Irrigation district shares fill the pond during the time period the district delivers irrigation water. The applicant seeks approval to divert ground water to the pond when irrigation district water is not available and to use ground water for the irrigation of up to 1/2 acre per lot for six lots when irrigation district water is not available to use for irrigation.

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9. The applicant uses a well constructed in 1992 for Glen Hickey to provide water to the pond to keep the fish and aquatic water plants alive when canal company water is not available. The well is 160 feet deep and has a six-inch diameter casing.

10. There is deeded public access to the pond which is used for fishing, recreation, wildlife and aesthetic purposes. The pond is also used as a take out point for canal floaters and is used by people who are not residents of the immediate area.

11. The residents of the area are generally aware of children and others who frequent the pond area and observe pond related activities.

12. The protestant is concerned that an increase in the authorized diversion rate (larger than 0.04 cfs authorized by Permit No. 63-11964) from the applicant's well will injure his use of groundwater. The protestant's well was drilled in 1976 to a depth of 200 feet. The original static water level in the protestant's well was 110 feet below land surface. This level has risen through the years and was measured by the department in March 1995 to be 101 feet below land surface. The well is located about 500 feet distant from the applicant's well.

13. The protestant has had a problem with his well losing suction, but the problem was not shown to be attributable to the pumping of water by the applicant or by lowering of the water level in the protestant's well.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. Aesthetic use is a beneficial use of water and is in the public interest.

3. The application will not reduce the quantity of water under existing water rights.

4. The water supply available is sufficient for the purposes intended.

5. The application is made in good faith and not for delay or speculative purposes.

6. The applicant has sufficient financial resources with which to complete the project.

7. The application does not conflict with the local public interest.

8. The application is not contrary to the conservation of water resources within Idaho.

9. The department should approve the applications with certain conditions and limitations.

ORDER

IT IS THEREFORE, hereby ORDERED that Permit Nos. 63-12164 and 63-12273 are approved subject to the following conditions:

Permit No. 63-12164:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before May 1, 1996.

2. Use of water under the right is subject to all prior water rights.

3. Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the department upon request.

4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right and shall only divert ground water under this right when water from the appurtenant surface water rights can not be delivered to the right holder.

5. This permit is of no force nor effect if the right holder sells, conveys or transfers surface water rights which are appurtenant to the place of use of this permit without prior approval of the department.

6. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.

AUG 21 1996

7. The maximum combined rate of diversion under this right and Permit No. 63-11964 shall not exceed 0.13 cfs.

8. The amount of water stored under this right is 1.7 acre feet.

9. The place of use is located within Lots 1 and 2, Block 2 and Lots 1 through 4, Block 5, Aspen Cove Subdivision.

10. The irrigation use occurring under this right shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed.

11. Prior to diversion of water under this right, the right holder shall submit the additional drilling permit fee of \$165 to the department in compliance with Well Construction Standard Rule 37.03.09045.04.e (Rule 45.04.e).

Permit No. 63-12273:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before May 1, 1996.

2. Use of water under the right is subject to all prior water rights.

3. Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the department upon request.

4. The Director maintains jurisdiction of this permit for five (5) years in order to determine if there is an adverse effect upon prior water rights in the area. Upon a determination by the department of injury caused by the non-irrigation season pumping authorized by this permit, the Director may cancel the permit with prejudice.

5. The amount of water stored under this right is 1.7 acre feet.

6. The combined rate of diversion under this right and other rights diverting from the same well shall not exceed 0.13 cfs.

7. The right holder is not authorized to release water pumped and impounded under terms of this right down the irrigation canal.

Signed this 14th day of February, 1996.


KARL S. DREHER, Director

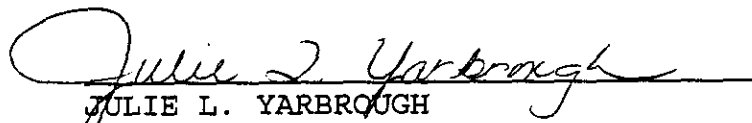
AUG 21 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 20th day of February, 1996,
I mailed a true and correct copy, postage prepaid, of the foregoing
FINAL ORDER to the following:

Aspen Cove Lake Assoc. Inc.
2143 Aspen Cove Dr.
Meridian, ID 83642

Harold G. & Elberta Ross
2302 Aspen Cove Dr.
Meridian, ID 83642


JULIE L. YARBROUGH
Senior Secretary

AUG 21 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 63-12164 AND 63-12273)
IN THE NAME OF ASPEN COVE LAKE)
ASSOCIATION, INC.)

RECOMMENDED ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of protested applications for permit, the department having held a conference and a hearing in the matter, the hearing officer recommends the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On December 16, 1994, Aspen Cove Lake Association, Inc. (applicant) filed Application for Permit No. 63-12164 with the department proposing the following:

Ident No:	63-12164															
Source:	Groundwater															
Pt. of div:	NW1/4SE1/4 Section 23, T3N, R1W, B.M.															
Use, season & use	<table><thead><tr><th>Uses</th><th>Season</th><th>Amount</th></tr></thead><tbody><tr><td>Irrig</td><td>03-15 to 11-15</td><td>0.09 cfs</td></tr><tr><td>Irrig storage</td><td>01-01 to 12-31</td><td>1.7 AF</td></tr><tr><td>Irrig from storage</td><td>03-15 to 11-15</td><td>1.7 AF</td></tr><tr><td>Div to storage</td><td>01-01 to 12-31</td><td>0.09 cfs</td></tr></tbody></table>	Uses	Season	Amount	Irrig	03-15 to 11-15	0.09 cfs	Irrig storage	01-01 to 12-31	1.7 AF	Irrig from storage	03-15 to 11-15	1.7 AF	Div to storage	01-01 to 12-31	0.09 cfs
Uses	Season	Amount														
Irrig	03-15 to 11-15	0.09 cfs														
Irrig storage	01-01 to 12-31	1.7 AF														
Irrig from storage	03-15 to 11-15	1.7 AF														
Div to storage	01-01 to 12-31	0.09 cfs														
Remarks:	3.0 acres to be irrigated. The acreage consists of 0.5 acre for each of six (6) lots. ¹															

The application was filed in response to reported unauthorized diversion and use of water by the applicant. While one application could have been filed for the irrigation of ten (10) acres, two (2) applications were filed in order to separate irrigation use associated with domestic residences from other irrigable acres within the subdivision.

2. On September 15, 1995, the applicant also filed Application for Permit No. 63-12273 with the department proposing the following:

¹ On December 16, 1994, the applicant also filed Application for permit No. 63-12165 for the irrigation of seven (7) additional acres in the subdivision. The application has been held without action due to the moratorium which prevented approval of new consumptive uses, but is now being processed in accordance with the order lifting the moratorium.

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Ident No: 63-12273
Source: Groundwater
Rate of div: 0.13 cfs
Pt. of div: NW1/4SE1/4 Section 23, T3N, R1W, B.M.
Use: Aesthetics
Season of use: September 1 to May 31

3. The department published notice of Application nos. 63-12164 and 63-12273 which were subsequently protested by Harold Ross.

4. On December 15, 1995, the department conducted a hearing in the matter. The applicant was present and was represented by association member Keith Ebling. The protestant was present and represented himself.

5. Issues identified by the protestant include the following:

a. The application will injure prior water rights.

b. The pond poses a safety hazard to children.

6. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit No. 1 - Responses to each of the six potential issues described in Section 42-203A, Idaho Code.

b. Applicant's Exhibit No. 2. - Pictures of the impoundment area.

7. On February 10, 1993, the department issued Permit No. 63-11964 to the applicant authorizing the diversion of 0.04 cfs of ground water year-round for aesthetic purposes to be impounded year-round in two ponds. The volume was limited to a maximum of not more than 2,500 gallons per day (2.3 AF/yr). The limitations on use were as a direct result of a moratorium order issued by the department which prevented most new consumptive uses. The permit holder filed proof of construction of works and application of water to beneficial use with the department on January 19, 1994.

8. The applicant owns and manages a man-made pond built on an irrigation lateral which pond is surrounded by at least six private lots on which homes have been built. Irrigation district shares fill the pond during the time period the district delivers irrigation water. The applicant seeks approval to divert ground water to the pond when irrigation district water is not available and to use ground water for the irrigation of up to 1/2 acre per lot for six lots when irrigation district water is not available to use for irrigation.

9. The applicant uses a well constructed in 1992 for Glen Hickey to provide water to the pond to keep the fish and aquatic water plants alive when canal company water is not available. The

AUG 21 1996

well is 160 feet deep and has a six inch diameter casing.

10. There is deeded public access to the pond which is used for fishing, recreation, wildlife and aesthetic purposes. The pond is also used as a take out point for canal floaters and is used by people who are not residents of the immediate area.

11. The residents of the area are generally aware of children and others who frequent the pond area and observe pond related activities.

12. The protestant is concerned that an increase in the authorized diversion rate (larger than 0.04 cfs authorized by Permit No. 63-11964) from the applicant's well will injure his use of ground water. The protestant's well was drilled in 1976 to a depth of 200 feet. The original static water level in the protestant's well was 110 feet below land surface. This level has risen through the years and was measured by the department in March 1995, to be 101 feet below land surface. The well is located about 500 feet distant from the applicant's well.

13. The protestant has had a problem with his well losing suction, but the problem was not shown to be attributable to the pumping of water by the applicant or by lowering of the water level in the protestant's well.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. Aesthetic use is a beneficial use of water and is in the public interest.

3. The application will not reduce the quantity of water under existing water rights.

4. The water supply available is sufficient for the purposes

AUG 21 1996

intended.

5. The application is made in good faith and not for delay or speculative purposes.

6. The applicant has sufficient financial resources with which to complete the project.

7. The application does not conflict with the local public interest.

8. The application is not contrary to the conservation of water resources within Idaho.

9. The department should approve the applications with certain conditions and limitations.

ORDER

IT IS THEREFORE, hereby ORDERED that Permit Nos. 63-12164 and 63-12273 are approved subject to the following conditions:

Permit No. 63-12164:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before the date shown in the Final Order.

2. Use of water under the right is subject to all prior water rights.

3. Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the department upon request.

4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right.

5. This permit is of no force nor effect if the right holder sells, conveys or transfers surface water rights which are appurtenant to the place of use of this permit without prior approval of the department.

6. The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.

7. The maximum combined rate of diversion under this right and Permit No. 63-11964 shall not exceed 0.13 cfs.

8. The amount of water stored under this right is 1.7 acre

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feet.

9. The place of use is located within Lots 1 and 2, Block 2 and Lots 1 through 4, Block 5, Aspen Cove Subdivision.

10. The irrigation use occurring under this right shall not exceed 1/2 acre within each platted subdivision lot upon which a home has been constructed.

11. Prior to diversion of water under this right, the right holder shall submit the additional drilling permit fee of \$165 to the department in compliance with Well Construction Standard Rule 37.03.09045.04.e (Rule 45.04.e).

Permit No. 63-12273:

1. Proof of construction of works and application of water to beneficial use shall be submitted to the department on or before the date shown in the Final Order.

2. Use of water under the right is subject to all prior water rights.

3. Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the department upon request.

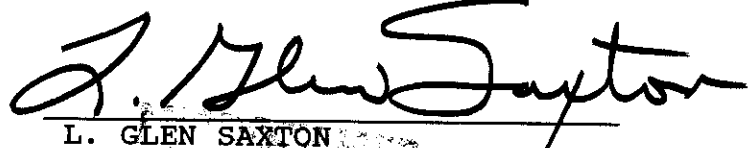
4. The Director maintains jurisdiction of this permit for five (5) years in order to determine if there is an adverse effect upon prior water rights in the area. Upon a determination by the department of injury caused by the non-irrigation season pumping authorized by this permit, the Director may cancel the permit with prejudice.

5. The amount of water stored under this right is 1.7 acre feet.

6. The combined rate of diversion under this right and other rights diverting from the same well shall not exceed 0.13 cfs.

7. The right holder is not authorized to release water pumped and impounded under terms of this right down the irrigation canal.

Signed this 21st day of December, 1995.


L. GLEN SAXTON
Hearing Officer

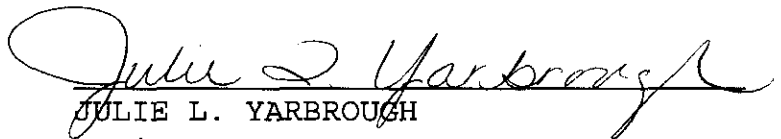
AUG 21 1996

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 21st day of December, 1995,
I mailed a true and correct copy, postage prepaid, of the foregoing
RECOMMENDED ORDER to the following:

Aspen Cove Lake Assoc. Inc.
2143 Aspen Cove Dr.
Meridian, ID 83642

Harold G. & Elberta Ross
2302 Aspen Cove Dr.
Meridian, ID 83642


JULIE L. YARBROUGH
Senior Secretary

AUG 21 1996

Ident. No. 63-12273

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: ASPEN COVE LAKE ASSOCIATION INC 208-888-6145
Address: 2143 ASPEN COVE DRIVE
MERIDIAN ID 83642
2. Source: GROUNDWATER Trib. to:
3. Location of Point of Diversion: NWSE Sec. 23, Township 03N, Range 01W
CANYON County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
AESTHETIC	01/01 09	12/31 05	0.130		

0.130 CFS (and/or) AF
5. Total quantity to be appropriated is:
0.130 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
WELL, PUMP, 2 PONDS
 - b. Height of storage dam feet; active reservoir capacity 1.70
acre-feet; total reservoir capacity 1.70 acre-feet; period of
year when water will be diverted to storage: 1/01 to 12/31 inclusive.
 - c. Proposed well diameter is 6 inches; proposed depth of well is 160
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when? 08/27/1992
Drilling Firm ADAMSON PUMP AND DRILLING
Well was drilled for GLEN HICKEY
7. Time required for the completion of the works and application of
the water to the proposed beneficial use is 1 year(s).
8. Place of Use: AESTHETIC

TWN RGE SEC
03N 01W 23 NWSE

AUG 21 1996

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:

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.

2 OCT 95
Joe F. Jenson, VICE-PRES, ACLA
Applicant

Prepared by L. Graves

Received by DNR Date 10/2/95 Time 11:30 Preliminary check by DNR
Fee \$ 50⁰⁰ Receipted by DNR # W019935 Date 10/2/95
Publication prepared by AT Date 10-10-95 Published in Press-Trib
Publication approved AT Date 11-9-95

AUG 21 1996

Comments: Date: 9/ 15/ 1995 User-ID: LGRAVES

Subject:
OTHER RIGHTS

This application was filed for year around flow to the ponds for aesthetic use. Aesthetic storage and diversion to storage are represented by permit 63-11964. Applications 63-12164 and 12165 represent irrigation storage and use from the same system.

Previous field investigations measured the flow from the well at 60 gpm (.13 cfs), the large pond volume of 1.5 af, and the small pond volume at .2 af.

(See the above referenced files for additional information and photos.)

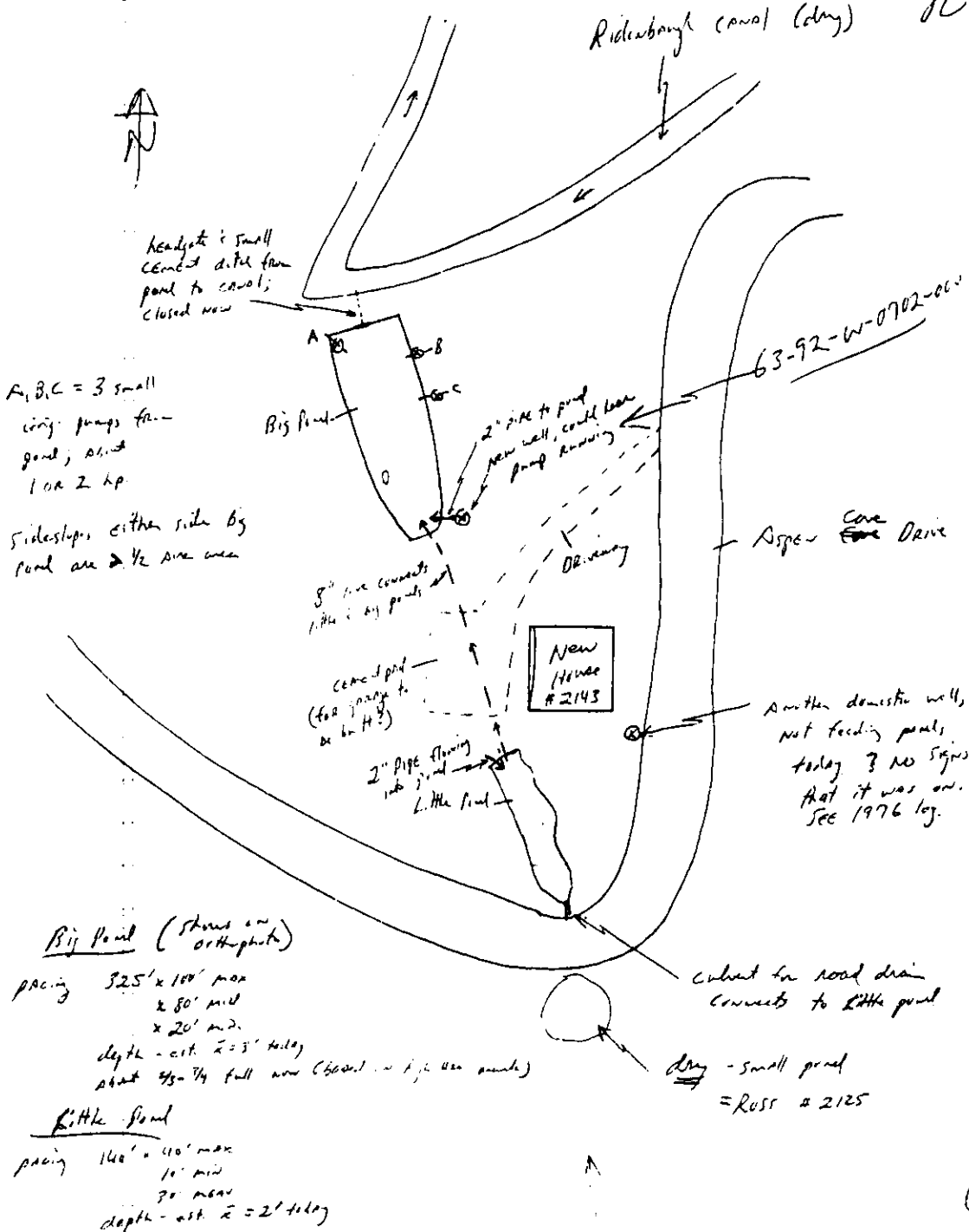
AUG 21 1996

5000 amts
 idiomene
 for storage
 of water in case
 of drought.

11/3/92

FL

Diagram



AUG 21 1996

new well appears to feed both ponds with separate lines.
grassy (irrigated) slopes - both sides
Big Pond, exceed $\frac{1}{2}$ acre total
& occur on several lots with
homoe. $\rightarrow$ Irrig. $\geq \frac{1}{2}$ acre, multiple
owners implied.

~~7500 2 1 1996~~

17/3/92



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

October 27, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

ASPEN COVE LAKE ASSN INC
2288 ASPEN COVE DR
MERIDIAN ID 83642

RE: WATER RIGHT NO. 63-12273

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license 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 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 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 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 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. Otherwise, this preliminary order will become a final order of the Department.

If any party appeals or takes exceptions to this 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 the 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 the 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.

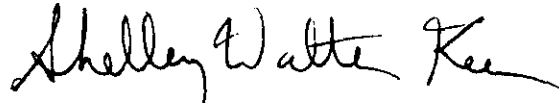
APPEAL OF FINAL ORDER TO DISTRICT COURT

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.

Sincerely,

A handwritten signature in cursive script that reads "Shelley W. Keen".

Shelley W. Keen
Water Rights Supervisor

SK:klt

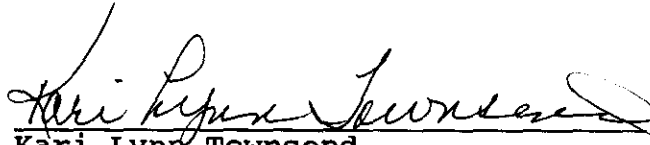
Enclosure

CERTIFICATE OF MAILING

I hereby certify that on the 27th day of October, 1997, I mailed a true and correct copy, postage prepaid, of the foregoing PRELIMINARY ORDER (Approved License) to the person(s) listed below:

Water Right No. 63-12273

ASPEN COVE LAKE ASSN INC
2288 ASPEN COVE DR
MERIDIAN ID 83642


Kari Lynn Townsend
Secretary

NOV 5 8 1997

MEMORANDUM

DATE: October 15, 1997

TO: Water Right Files 63-12164 and 6312273

FROM: Shelley W. Keen *(SWK)*

RE: Measuring Device Requirements

Last week I spoke with Dave Tuthill about the measuring device and lockable controlling works requirements for the two permits listed above. Dave believes that a dedicated power meter for the well pump should satisfy the measuring device and lockable controlling works requirement. I then spoke with Tim Russell who assured me that there is a dedicated power meter for the well. Tim said that there are two power meters in Glen Hickey's basement. One is for Mr. Hickey's home; the other is for the well pump. It is possible that IDWR's field examiners viewed the wrong meter.

OCT 30 1997

MEMORANDUM

TO: Files 63-11964/12164/12273

FROM: Sharla Curtis

DATE: October 16, 1997

RE: Recommendation Adjustment(s)

The final license recommendations for these rights are based on the following:

63-12164:

H. RECOMMENDATIONS

Irrigation	3/15 - 11/15	0.09 cfs	12.0 afa
Irrigation Storage	1/1 - 12/31		1.7 afa
Irrig. From Storage	3/15 - 11/15		1.7 afa
TOTALS		0.09 cfs	13.7 afa

The storage volume is additive to the irrigation volume.

63-12273:

H. RECOMMENDATIONS

Aesthetic Storage	9/1 - 5/31		1.7 afa
Diversion to Storage	1/1 - 12/31	0.13 cfs	
TOTALS		0.13 cfs	1.7 afa

In reading the findings of fact and conclusions of law in the order approving 63-12273, it was clear that the use of water under the right was to allow year round diversion to the storage pond and aesthetic storage limited to pond capacity of 1.7 af. No amendment will be solicited for this clarification.

All three rights will contain a condition limiting the combined diversion rate to 0.13 cfs, the capacity of the well. The total annual volume being shown on 63-12273 is 7.0 af. The information submitted in the 8/5 letter was used to calculate the total annual volume used not only for storage but also reflects the diversion from the well to maintain the level of the pond (November 1996 through April 1997 = 2,274,844 gallons = 7.0 af). A remark explaining these figures will be placed on the license.

Examiner: Lori Graves

Exam Date: October 15, 1996

OCT 20 1997



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

September 4, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JOHN T RUSSELL
ASPEN COVE LAKE ASSN
2288 ASPEN COVE DR
MERIDIAN ID 83642

RE: Water Right Nos. 63-12164 and 63-12273

Dear John:

I received your letter describing your method for determining the total amount of water diverted under permits 63-12164 and 63-12273. I have reviewed your letter along with the information in your water right files, and I have the following concerns.

While the files indicate that you discussed with Dave Tuthill the possibility of using power consumption records to calculate your diversion volume, the final order approving your applications did not provide for doing so. Instead, both applications were approved with the following condition:

Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the department upon request.

In order to obtain relief from the requirement that you install and maintain a totalizing flow measuring device and lockable controlling works, you must petition the department in writing. Otherwise, you should install the totalizing flow measuring device as required in the final order approving your permits.

Also, while you state in your letter that no other power consumption is recorded by the meter that records the power consumption of your well pump, the department's field examiner reported otherwise. If you intend to petition the department to substitute the use of power records for the totalizing flow measuring device requirement, then you will need to attach documentation supporting your conclusion that the meter records power used only for the well pump.

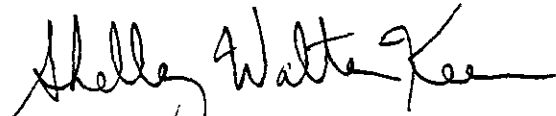
OCT 30 1997

John Russell
September 4, 1997
Page 2

Within thirty days, please notify me that you have installed the totalizing measuring device or petition the department for relief from the requirement. For your information, I have enclosed some information about totalizing flow measuring devices.

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

Respectfully,

A handwritten signature in black ink, appearing to read "Shelley Walter Keen". The signature is fluid and cursive, with the first name "Shelley" being the most prominent.

Shelley Walter Keen
Water Rights Supervisor

Enclosures

OCT 30 1997

Aspen Cove Lake Association
2288 Aspen Cove Drive
Meridian, Idaho 83642

RECEIVED

AUG 08 1997

Department of Water Resources

August 5, 1997

State of Idaho
Department of Water Resources
1301 N. Orchard St., P.O. Box 83720
Boise, Idaho 83720-0098

Re: Record of Water Usage, Permit Nos. 63-11964, 63-12164 and 63-12273

Dear Mr. Keen:

Enclosed please find record of gallons pumped from the Aspen Cove Lake Association well over a period of eighteen months. During previous meetings with Dave Tuthill and other personnel at Water Resources it was agreed that the following formula would suffice for record of consumption:

Formula: 3 hp pump (17 amp) x 220V = 3740 watts
= 3.74 KW

take monthly use (KWH) divide by 3.74 = monthly hours

take monthly hours X 3600 (60 gl/min x 60 min/hr) = gl pumped per hour

July 97	none	
June 97	698 KWH divided by 3.74 x 3600 =	671,871 gl
May 97	none	
April 97	none	
March 97	698 KWH	= 671,871 gl
February 97	288 KWH	= 277,219 gl
January 97	237 KWH	= 228,128 gl
December 96	283 KWH	= 331,424 gl
November 96	98 KWH	= 94,331 gl

007 00 0037

October 96	none	
September 96	none	
August 96	none	
July 96	none	
June 96	none	
May 96	91 KWH	= 87,593 gl
April 96	480 KWH	= 462,032 gl
March 96	435 KWH	= 418,716 gl
February 96	267 KWH	= 257,005 gl
January 96	345 KWH	= 332,085 gl

The power meter for the well is located in one of the association member's garage and is accessible for inspection by anyone from the Water Resources Department. No other power is drawn from this meter.

Please address any questions to the undersigned. My home telephone number is 888-2793, work is 422-5126.

Sincerely,


John T. Russell

President, Aspen Cove Lake Association

001 00 001111

001 00 001111

MEMORANDUM

DATE: July 18, 1997

TO: Water Right Files 63-11964, 63-12164, and 6312273

FROM: Shelley W. Keen *SKW*

RE: Call from Tim Russell

Today Tim Russell called in response to the letter I wrote to Aspen Cove Lake Assn. on July 14, 1997. He said that he believed that the subdivision had reached an agreement with Dave Tuthill to use power records to record diversions and that the subdivision has been keeping records of power use ever since. He also believes that the pump is the only thing on the meter. Mr. Russell is going to supply me with copies of the power consumption records when he returns from vacation in two weeks.

100-11964-1

OCT 30 1997



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

July 14, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Aspen Cove Lake Assn. Inc.
2288 Aspen Cove Dr.
Meridian, ID 83642

RE: Permit Nos. 63-11964, 63-12164, and 63-12273

Dear Water Right Holders:

In October of 1996, a representative from the department conducted an examination of the diversion and delivery system(s) associated with the three permits listed above. The information collected in this examination will serve as the basis for issuance of water right licenses.

When issued, Permits 63-12164 and 63-12273 contained conditions of approval requiring the installation and maintenance of totalizing flow measuring devices and lockable controlling works along with maintenance of records of the amounts of water diverted. At the time of the examination, our examiner noted that there were no devices installed and that the use of power meter records is not a suitable substitution for the measuring devices.

The department cannot proceed with issuing licenses for your rights unless all of the permit conditions have been met.

Within 30 days, please install the required measuring devices and notify me that you have done so, or submit a written request asking the department to remove the requirement. If you ask for the measuring device requirement to be removed, you must explain why you think the requirement is unnecessary. If you wish to discuss this matter, please give me a call.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

007 8 11 1997

WR5809NP
No. L63-12273

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/09/97
PAGE: 5

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ASPEN COVE LAKE ASSN INC 2288 ASPEN COVE DR MERIDIAN ID 83642 (208) 888-2793	09/15/1995	AESTHETIC	09/01 05/31	0.130 CFS	70.40 AFA
TOTAL DIVERSION:					0.130 CFS	70.40 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: LICENSE

Point(s) of Diversion Capacity: 0.130 CFS

Point(s) of Diversion: T03N R01W S23 NWSE CANYON County

Place of use Legal Description for: AESTHETIC

NE				NW				SW				SE			
NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE
T	R	S	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac	: Lt Ac	Lt Ac	Lt Ac	Lt Ac

03N 01W 23 : : : : A :															

Pou County: CANYON

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

~~63-11964~~ ~~63-12164~~ ~~63-12165~~ ~~63-12273~~ ~~L63-11964~~ ~~L63-12164~~

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

~~63-12164~~ ~~63-12165~~ ~~L63-12164~~

Remarks: The Director maintains jurisdiction of this right for five (5) years in order to determine if there is an adverse effect upon prior water rights in the area. Upon a determination by the department of injury caused by the non-irrigation season pumping authorized by this right, the Director may cancel the right with prejudice.

The right holder is not authorized to release water pumped and impounded under terms of this right down the irrigation canal. Rights 63-11964, 63-12164, and 63-12273 when combined shall not exceed a total diversion rate of 0.13 cfs.

Rights 63-11964 and 63-12164 are also diverted through the point(s) of diversion described above.

Dates: App. Received: 09/15/1995 Priority Date: 09/15/1995
Proof Due Date: 05/01/1996 Proof Made Date: 04/23/1996
Exam Made Date: 10/16/1996 Exam Sent to S.O.: 01/07/1997
Licensed Date:

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

WR5809NP
No. L63-12273

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 06/09/97
PAGE: 6

Comments: Date: 09/15/1995 User-ID: LGRAVES Subject: OTHER RIGHTS
This application was filed for year around flow to the ponds for
aesthetic use. Aesthetic storage and diversion to storage are
represented by permit 63-11964. Applications 63-12164 and 12165
represent irrigation storage and use from the same system.
Previous field investigations measured the flow from the well at
60 gpm (.13 cfs), the large pond volume of 1.5 af, and the small
pond volume at .2 af.
(See the above referenced files for additional information and
photos.)

Date: 08/05/1996 User-ID: JYARBROU Subject: Lapse Notice Sent
Lapse Notice Sent

Audit: 06/06/97 SCURTIS 06/06/97 SCURTIS

LICENSE REVIEW CHECKLIST

PERMIT NO. 63-12273

DATE 6/6/97

REVIEWER: SHARLA

NAME	Change <u>—</u>	OK <u>✓</u>	Address Change <u>NO</u>
SOURCE	<u>—</u>	<u>✓</u>	Is change clarification of originally intended source? <u>—</u>
POINT OF DIV	<u>—</u>	<u>✓</u>	If not, prepare Notice of Intent to Void <u>—</u>
PLACE OF USE	<u>—</u>	<u>✓</u>	Amendment required <u>NO</u>

Does map agree with written description? — yes — no - map in 63-11964

OVERLAPS ✓ P/D — P/U

RATE OF DIV

Permitted Rate .13 cfs

Fee limit — cfs #

Measured .13 cfs

Theoretical .10 cfs 295' lift and 40 psi

Recommended Total Div Rate .13 cfs

ANNUAL VOLUME/
NATURE OF USES ✓

Use ✓

<u>Death Star</u>	Volume Calculation
<u>DW</u>	<u>70.4</u> af
<u>—</u>	<u>1.7</u> af
<u>—</u>	<u>—</u> af
<u>—</u>	<u>—</u> af
SUBTOTAL	<u>70.4</u> af
	<u>7.0</u>

DO NOT
REQUEST
AMEND

Flow rate — cfs X — days X 1.9835 = — af

Total volume recommended — af

(SUBTOTAL or Flow Rate, whichever is less)

REMARKS

W36(63-11964) - 63-12164
35 " , .13 cfs

CONDITIONS — Watermaster Control WD# —

— GW Measurement/Measuring Device

— Overlap

— Use-specific conditions

Advancement of Priority Date Required — yes ✓ no

SRBA Claim Filed NA

Adjustment Memo —

1st Amend Letter NA

2nd Amend Letter NA

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

JAN 08 1997

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 63-12273

1. Owner: Aspen Cove Lake Area Inc Phone No. 888-2793

Current Address: 2288 Aspen Cove Dr Meridian 83642

2. Accompanied by: Glen Hickey EXAM DATE: 10/15/96

Address: same Phone No. _____

Relationship to Permit Holder: Representative

3. Source: Ground Water tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 63-02388, -11964, -12164, -12165

2. Other water rights with the same point of diversion: 63-11964, -12164, -12165

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			NW	SE	23	3N	1W	Ada	USGS Quad, Sub-Plot

2. Place(s) of Use:

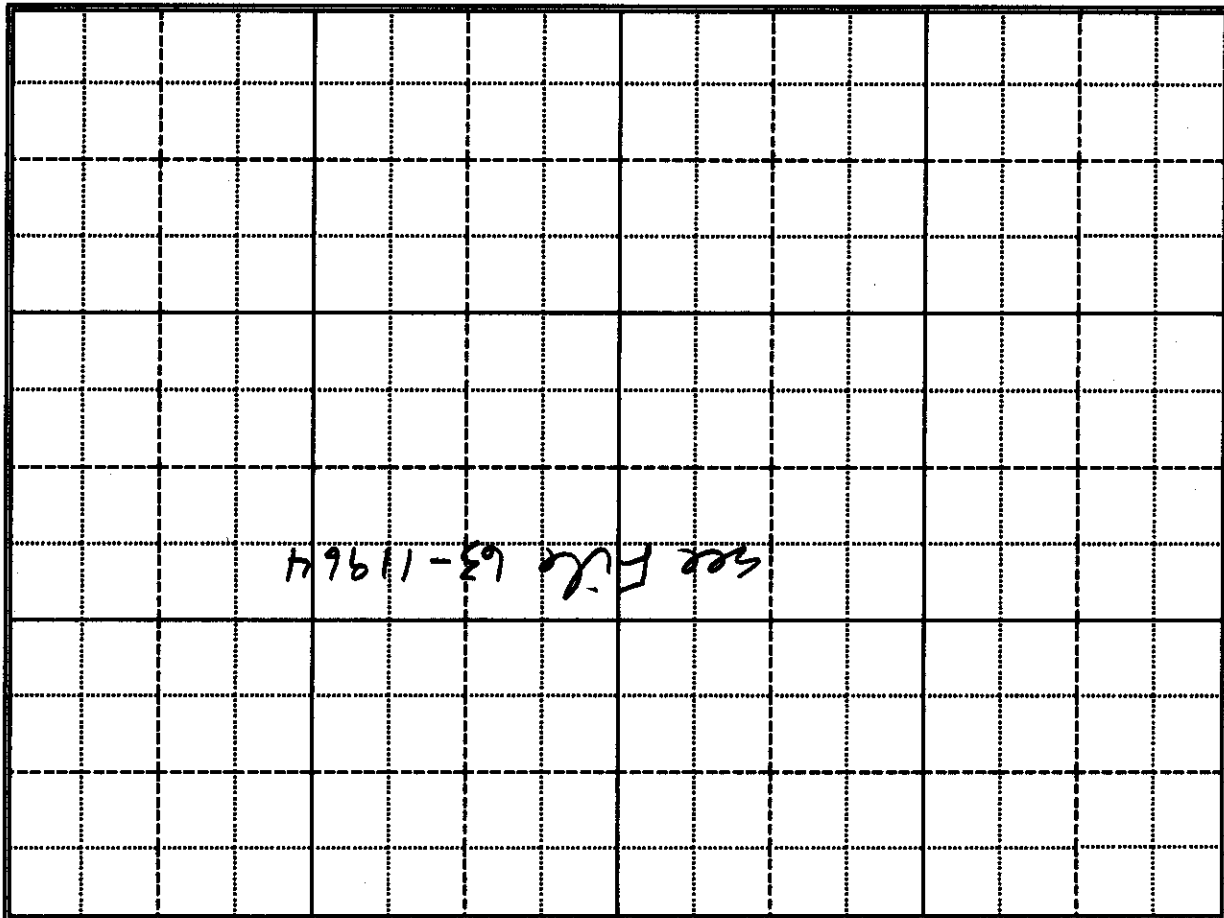
Indicate Method of Determination

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
3N	1W	23														J			

MICROFILMED

OCT 30 1997

3. Delivery System Diagram: Indicate all major components and distances between components. Indicate weir size/ditch size/pipe l.d. as applicable.



Scale: 1" = _____

_____ Copy of USGS Quadrangle Attached Showing location(s) of _____
 _____ point(s) of diversion and place(s) of use (required).
 _____ Aerial Photo Attached _____
 _____ (required for irrigation of 10+ acres)
 _____ Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
		3		Indemnitable	

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

Measurement Equipment	Type	Make	Model No.	Serial No.	Size	Calib. Date
5 gal bucket						

2. Measurements:

See Attachment 2, pg 2

MICROFILMED

OCT 30 1997

E. NARRATIVE/REMARKS/COMMENTS

See Attachment 1

See file 63-11964 for original
documentation, well info
& photos

The unusual use period accounts
for varying canal water availability.
Line flow is covered on 63-12164
for irrigation use from 6/1 to 8/31.
(63-12164 can only be used to supplement
surface water)
(NY Canal generally shuts off the 1st
part of Sept per telecon with John
Connoway wr NY Irrig Dist., 11/16/94)

Have conditions of permit approval been met? ☐ yes ☒ no see attachments
1, 3, + 4

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OCT 30 1997

OCT 30 1997
MICROFILMED
SEAL

F. FLOW CALCULATIONS

Measured Method:

Additional Computation Sheets Attached

see attachment 2

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$V_{IR} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$

$V_{DR} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$

$V = \text{Smaller of } V_{IR} \text{ and } V_{DR} =$

2. Volume Calculations for Other Uses:

potential: $.13 \times 273 \text{ days} \times 1.9835 = 70.39 \text{ af}$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use

irrigation

From

9/1

Period of Use

To

5/31

Rate of Diversion

Q (cfs)

.13

Annual Volume

V (afs)

70.4

2. Recommended Amendments

Change P.D. as reflected above

Add P.D. as reflected above

None

Change P.U. as reflected above

Add P.U. as reflected above

Other

I. AUTHENTICATION

Field Examiner's Name

Date

11/22/96

Reviewer

ATTACHMENT 1
ASPEN COVE LAKE ASSOC.
RE: 63-11964, 63-12164, 63-12273

A 6" well equipped with a 3 hp submersible pump supplies water to 2 ponds and six subdivision lots (external use only). The well is used as a supplemental source to surface water and was developed before filing the appropriate water rights. In response to a complaint, a field investigation was conducted in 1992. Based on the field findings (attachment 2), the Association filed the appropriate water rights listed above along with application for permit 63-12165, which is currently on hold due to moratorium constraints.

The flow from the well was measured at 60 gpm. 1.5 af capacity was calculated for the large pond volume and .2 af capacity was calculated for the small pond volume. 10 acres can be irrigated, 3 approvable on permit 63-12164 and 7 on hold in application 63-12165. The primary source of water is the New York canal. No other water rights are used. Internal domestic uses are on separate systems.

P/U also known as Lts 1 and 2, Blk 2, and Lts 1-4, Blk 5, Aspen Cove Subdivision. Irrigation on right 63-12164 is limited to 1/2 acre per lot, 3 acres total.

The rights, when combined are limited to .13 cfs pumping capacity and 1.7 af storage capacity.

Permits 63-12164 and 63-12273 required a lockable flow measuring device prior to diversion. Glen Hickey, Aspen Cove Lake Assoc. representative, stated that the Association decided to use power meter records to satisfy this condition since the well has its own meter. Glen submitted power records for this well from 1994-1996. After evaluating the records submitted, it was apparent that the power meter readings were in excess of what the well would have produced for irrigation and storage during this period. A field investigation was made on 11/20/1996 and found that the meter also recorded power supplied to the three pond pumps, a house furnace fan, garage lights, garage outlets, and an air conditioner. These uses were listed on the meter's panel/circuit breaker box. All circuit breakers were on. These other uses help explain the excess power computed for the well from the records submitted. Based on these findings, the use of power meter records does not appear to satisfy the flow measuring device requirement for Aspen Cove Association's ground water use (see attachments 3 & 4).

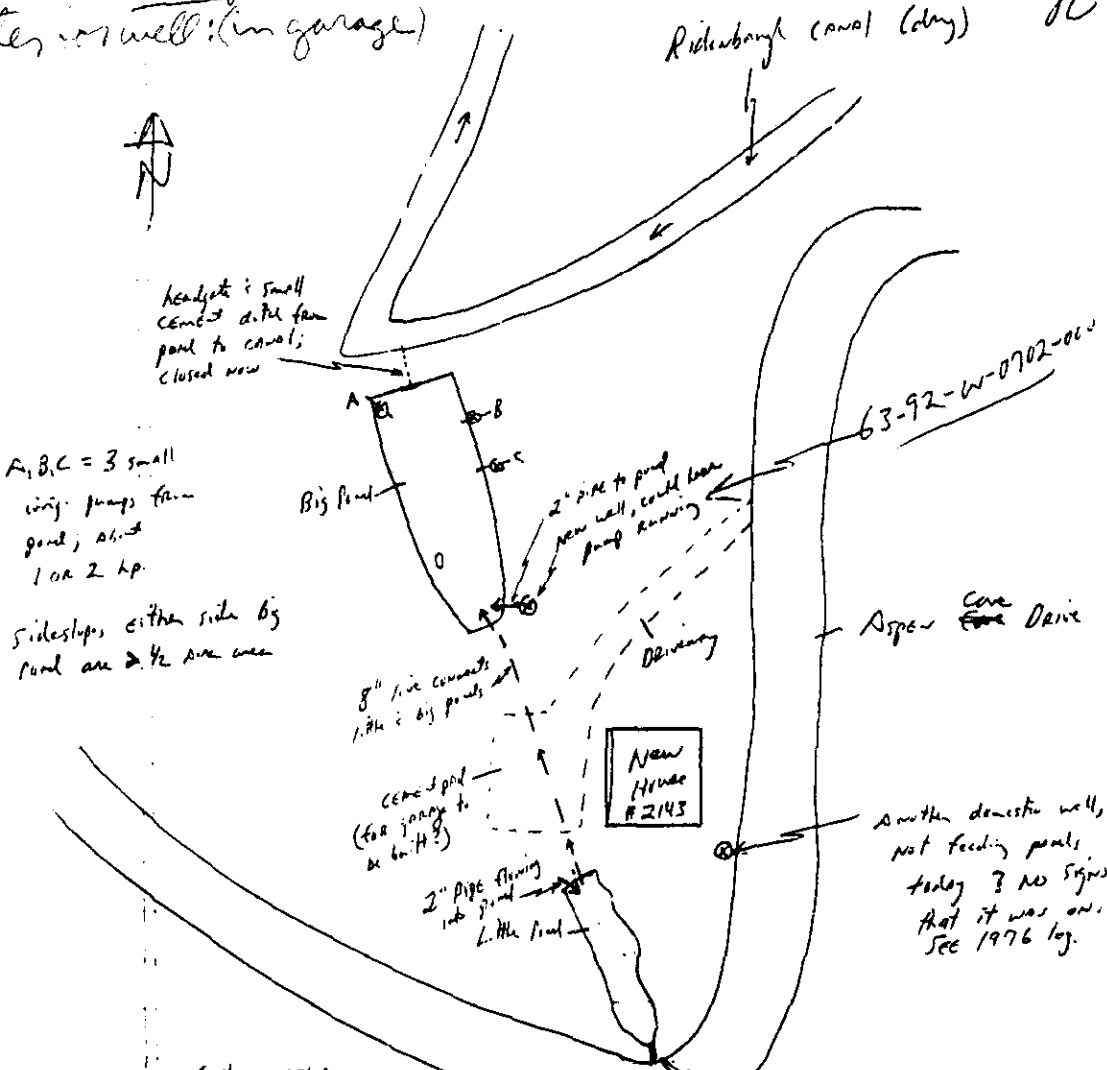
MAILED
OCT 20 1997

63-12273

11/3/92

SL

Diagram
Meter well (in garage)



Big Pond (shown on orthophoto)
 pacing 325' x 100' max
 x 80' mid
 x 20' min.
 depth - est. $\bar{x}$ = 3' today
 about 3/4 full now (based on high water marks)

Little Pond
 pacing 140' x 40' max
 10' mid
 30' min
 depth - est. $\bar{x}$ = 2' today

Another domestic well,
 not feeding ponds
 today? No signs
 that it was on.
 See 1976 log.

Culvert for road drain
 connects to Little pond
 dry - small pond
 = ROSS # 2125

①

63-12273
 Attachment 2

No one home & Hickory's place,
where well & Little Pond found.

Flow

- a) Big Pond - 2" pipe for new well - could be going wrong.
meas 2 times
Result:

$$\frac{55}{55} = 60 \text{ gpm} = .13 \text{ cfs}$$

± 5.5 gpm @ this rate of fill - per 5.0. Period even smaller.

- b) Little Pond - ≈ 2" pipe - guess fail from new well (could not
lose any activity at other domestic well on this property).
meas 2 times

Result:

$$\left(\frac{55}{125}\right)\left(\frac{60}{100}\right) = 25 \text{ gpm} = .06 \text{ cfs}$$

± 1.5 gpm @ this rate of fill

Pond Volumes

- c) Big Pond ± irregular
L = 325 W = 100 D = 3 (Pacing)

$$\text{Today's Volume} = \frac{(325)(100)(3)(.5)}{43,560} = 1.1 \text{ a.f.}$$

$$\frac{\text{Surface Area}}{\text{Depth}} = 1.1/3 = .37 \text{ acre}$$

per
11/25/42
office not
5' and
4' depth

est. ≈ 3/4 full now per high flow meters, then:

$$\frac{\text{max volume}}{\text{depth}} = x = 1.1/.75 = 1.5 \text{ a.f.}$$

$$\frac{\text{max surface area}}{\text{depth}} = x = .37/.75 = .49 \text{ acre}$$

-R

- d) Little Pond ± rectangular
L = 140 W = 30 D = 2 (Pacing)

$$\text{volume} = \frac{(140)(30)(2)}{43,560} = .19 \text{ a.f.}$$

$$\frac{\text{surf. area}}{\text{depth}} = .19/2 = .1 \text{ acre}$$

more or less full today so no projected maximums. (2)

OCT 30 1977

e) Flows vs. 42-111 provisions

$$\text{flow } a+b = 60 + 25 = 85 \text{ gpm} = .19 \text{ cfs}$$

$\leftarrow \pm 6.5 \text{ gpm} \quad \leftarrow \pm .014 \text{ cfs}$

If 42-111 A 13,000 g/day, no flow component

$$\frac{13,000 \text{ g}}{85 \text{ g/hr}} \times \frac{1 \text{ hr}}{60 \text{ min}} = 2.5 \text{ hrs.}$$

can run well @ .19 cfs for 2 1/2 hr./day

If 42-111 B

.09 cfs = 2,500 g/day limit
reduce flow to about 80% to .09 cfs or
18 gpm

$$\frac{2500 \text{ g}}{18 \text{ g/hr}} \times \frac{1 \text{ hr}}{60 \text{ min}} = 2.3 \text{ hrs.}$$

can run well @ .09 cfs for 2 1/3 hrs./day

A or B

TOTAL irrig from pond(s) if well feeds pond(s)
is limited to 1/2 acre.

Observed even much greater than 1/2 acre around big
pond where 3 irrig pumps from pond are found.
Richards Canal has been dry for quite some
time this year.

(3)

OCT 30 1957

f) Constant Flow per Complaint (24 hrs/day)

$$(85 \text{ gpm})(60 \text{ min/hr})(24 \text{ hr/day}) = \underline{122,400 \text{ gallons/day}}$$

$$\frac{122,400}{325,550} = \underline{.4 \text{ a.f./day}}$$

$$\left(\begin{array}{l} 85 \text{ gpm} = .19 \text{ cfs} \\ .19 \text{ cfs} \times 1.9535 \rightarrow .4 \text{ a.f./day} \end{array} \right)$$

g) Water Right : Storage fraction

Amount Stored $V_1 + V_2 = 1.1 + .19 = 1.29 = \underline{1.3 \text{ a.f.}}$

(could be up to 1.7 a.f. for max projection from pg. 2, item c)

IF 42-111A $.19 \text{ cfs} \times 1.9535 \rightarrow .4 \text{ a.f./24 hr.}$, need storage water right

IF 42-111B $.04 \text{ cfs/min}$, need storage water right

If use to irrig. $\rightarrow$ we need know ground (s) via well, need irrig. w.r. for well. Will also require \$165 add'l fee for d.g. 65-92-w-0702.

(4)

DEC 30 1997

Aspen Cove Lake Association Pump Power

<u>Month/Year</u>	<u>KWH/Cum</u>	<u>KWH/Month</u>	<u>Total</u>	<u>Check#/Date Paid</u>
Aug 94	19290	998 x .048	\$47.91	1550/ 8-21-94
Sep 94	20135	845 x .048	\$40.56	1553/ 9-20-94
Oct 94	21563	1428 x .048	\$68.55	1556/10-09-94
Nov 94	22149	586 x .048	\$28.13	1558/11-23-94
Dec 94	22548	399 x .048	\$19.15	1560/12-19-94
Jan 95	22968	420 x .048	\$20.16	1563/ 1-21-95
Feb 95	23681	713 x .048	\$34.23	1565/ 2-26-95
Mar 95	23993	312 x .048	\$14.98	1566/ 3-27-95
Apr 95	24686	693 x .048	\$33.26	1567/ 5-01-95
May 95				
Jun 95				
Jul 95				
Aug 95				
Sep 95				
Oct 95				
Nov 95	24995	309 x .048	\$14.83	1572/11-18-95
Dec 95	25178	183 x .048	\$8.78	1574/12-10-95
JAN 96	25523	345 x .048	\$16.56	1575/01-14-96
FEB 96	25790	267 x .048	\$12.82	1578/02-14-96
MAR 96	26225	435 x .048	\$20.88	1579/03-22-96
April 96	26705	480 x .048	\$23.09	1580/ 4-21-96
May 96	26796	91 x .048	4.37	1585/ 6-21-96
June 96				
July				
Aug.				
Sept.				

- ATTACHMENT 4

3 HP 70 GPM

126' settings

Aspen Cove

For 1994, KWH total = 4256 KWH

1) Div. Rate: 3 HP motor, 50' TDIT

$$Q = \frac{(8.8)(3)(70\%)}{50'} = 0.37 \text{ cfs}$$

(166 GPM)

2) AFA

$$\begin{aligned} \text{KW of motor} &= (0.746)(\text{HP}) \\ &= (0.746)(3) \\ &= 2.24 \text{ KW (shaft output)} \end{aligned}$$

Assume Power Line (wire) to Motor output (shaft)
eff. = 85%

$$\begin{aligned} \text{KW demand @ meter} &= \frac{2.24 \text{ KW}}{0.85} \\ &\approx 2.6 \text{ KW} \end{aligned}$$

$$\text{Ann. HRS} = \frac{4256 \text{ KWH}}{2.6 \text{ KW}} = 1637 \text{ HRS}$$

if this pump is using all the power

$$\begin{aligned} \text{AFA} &= 0.37 \text{ cfs} \cdot \frac{1.983 \text{ AF}}{24 \text{ HRS}} / \text{cfs} \cdot \frac{1637 \text{ HRS}}{\text{Ann.}} \\ &= \underline{\underline{50 \text{ AFA!}}} \end{aligned}$$

63-12273

Don Smith
11-19-96
ATTACHMENT 4



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR
August 16, 1996

ASPEN COVE LAKE ASSN INC
2288 ASPEN COVE DR
MERIDIAN ID 83642

PROOF ACKNOWLEDGEMENT LETTER

RE: PERMIT NO. 63-12273

Dear Permit Holder:

The department acknowledges receipt of the proof of beneficial use form submitted for the above referenced permit.

Enclosed is an order reinstating your permit since the department lapsed the permit in error. Please note that the priority date has not been advanced.

Please be advised that Section 42-248, Idaho Code, which became affective on July 1, 1996, 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. Failure to maintain current records with the department could result in the assessment of a monetary penalty.

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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

c: IDWR - Region

AUG 21 1996

**ANALYSIS SHEET
FOR
PROOF OF BENEFICIAL USE**

Permit No. 63-12273 Reviewed by [Signature] Date 5-2-96

GENERAL CONSIDERATIONS

yes Name same as permit?
no Address same as permit?
yes Proof timely received?
If not, complete calculation below.

TYPES OF USE

aesthetic

Correct Uses? yes

SOURCE OF WATER

 Surface water source

✓ Ground water source

yes Drilling permit required?

no Copy in the file?

35.00 Amount paid for permit

no Well log in the file?

Drilling Permit No. 63-92-W 0702-000

no Correct?

Waiving for 105.00 fee

LICENSE EXAMINATION FEE

yes Required?
50- Amount Submitted
yes Correct?

MEASURING DEVICE

yes Required?
yes Installed?
 Waiver requested?

PRIORITY CALCULATION

Date proof received	<u> </u>
Date proof due	<u> </u>
No. of days late	<u> </u>
Priority Date	<u> </u>
New Priority Date	<u> </u>

DEFICIENCIES OR ACTION ITEMS

*Fee received 5/1/96 (1030280) / must state w/no advance in priority.
Proof acceptable*

DATA ENTRY

New Address 2288 Aspen Cove Dr. Proof Made 4-23-96
Meriden, Id 83642

WARNING

CANCELLED OR LAPSED

This permit has been officially CANCELLED or LAPSED.

Ninety days following the date of official action this file will be DESTROYED.

August 5, 1996

Aspen Cove Lake Assn Inc
2288 Aspen Cove Dr.
Meridian, ID 83642

LAPSE NOTICE

RE: Permit No. 63-12273

Dear Permit Holder:

On April 30, 1996, the Department of Water Resources (Department) sent you a letter informing you of the need to submit an additional \$165.00 to upgrade Drilling Permit No. 63-92-W-0702-000 before the department could accept the extension of time filed for the above referenced permit. The Department requested that you submit the fee by June 30, 1996. To this date the Department has not received the additional information.

You are hereby notified that under the provisions of Section 42-218a of the Idaho Code, the above referenced permit has **lapsed**. No further construction or additional development is authorized under this permit unless it is reinstated.

The permit can be reinstated when you submit the additional \$1565.00 as requested. The fee must be received by this department within **sixty (60) days** of the date of mailing of this lapse notice or the permit will be void and of no force or effect.

If you have any questions concerning this matter, please contact the Department at (208)327-7900.

Sincerely

L. GLEN SAXTON, Chief
Water Allocation Bureau

CERTIFICATION OF MAILING

I hereby certify that on 8-5-96
a copy/an original of this document was
deposited in the United States mail,
postage prepaid addressed to the
individual(s) named above.

AUG 21 1996

[Signature]

ASPEN COVE LAKE ASSN INC
2143 ASPEN COVE DR
MERIDIAN ID 83642

March 31, 1996

PROOF DUE NOTICE

RE: Permit No. 63-12273

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 June 1, 1996. (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 from is enclosed for your convenience.

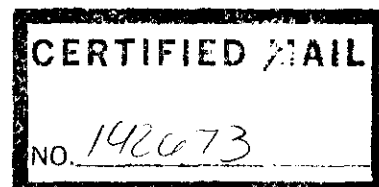
Either an acceptable proof of beneficial use submittal or an acceptable request for an extension of time must be received by this department on or before the above described proof due date. If neither is received, the department will send you a lapse notice. Within sixty days of the mailing of the lapse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

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

AUG 21 1996





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

March 28, 1996

Aspen Cove Lake Assn. Inc.
c/o Glen Hicky
2143 Aspen Cove Dr.
Meridian, ID 83642

RE: Water Right No. 63-12273

Dear Permit Holder:

Enclosed is an Order which extends the proof due date of the above referenced water right permit. Proof was originally due May 1, 1996, however you were not given notice 60 days prior to that date.

Additionally, I have enclosed a proof form and instructions for Permit No. 63-12164, per your request of Rob Whitney March 25, 1996.

Please contact me at (208)327-7953 if you have any question concerning this matter.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

C: IDWR - Western Region

AUG 21 1996

State of Idaho
Department of Water Resources



ROSTER OF ATTENDANCE

IN THE MATTER OF APPLICATION FOR PERMIT NOS. 63-
12164 AND 63-12273 IN THE NAME OF ASPEN COVE LAKE ASSN, INC.

Date and time: December 15, 1995

Location: IDWR Conference Room
1301 N. Orchard St
Boise, ID 83703

Hearing Officer: L. Glen Saxton

* * Please Print * *

NAME	ADDRESS	REPRESENTING
Keith Ebeling	2150 Aspen Cove Meridian	AspenCoveLake ASS
TIM RUSSELL	2288 ASPEN COVE DR. MERIDIAN	ACLA
Vick Russell	2288 Aspen Cove Dr. Meridian	ACHA
Don Hickey	2143 Aspen Cove Meridian	Ida. 83642
Elbert Ross	2302 Aspen Cove Mer.	Id. 83642
Harold Ross	" " " "	" "
Cheri Kunkin	2141 Aspen Cove. Meridian	Id 83642
Susan B. Carlson	2300 Aspen Cove Dr. Meridian, Id.	83642
Phyllis Weiss	2101 Aspen Cove Dr. Meridian	ID 83642

AUG 21 1996

APPLICATION HEARING
December 15, 1995

Applicant's Exhibit
No. 1

Admitted by LG Sutton
12/15/95

1. WILL THE PROPOSED APPROPRIATION INJURE OTHER
WATER RIGHTS?

We do not feel that other water rights will be injured due to the condition of the aquifer, as stated by the Water Resources Board. As a precautionary measure, we had several other wells tested after our pond well had been pumping for over two years. The other wells showed no ill effect. In fact, one well (the well belonging to the Protestant) showed an increase of approximately nine (9) feet from the time the well was originally drilled. In addition to this, we are willing to make annual checks to assure there is no substantial drawdown on the wells. We, as property owners, do not want to destroy the value of our real estate by depleting the water in our own wells.

2. IS THE PROPOSED WATER SUPPLY SUFFICIENT FOR THE
PURPOSE FOR WHICH IT IS SOUGHT TO BE
APPROPRIATED?

Yes. The proposed supply will allow us to maintain the two ponds at a predetermined level in the winter period for the wildlife and aquatic plants we have planted. This will help conserve water by keeping the pond sealed year-round. It will also allow us to irrigate at times when irrigation water is not available during the summer months.

3. WAS THE APPLICATION MADE IN GOOD FAITH OR FOR
DELAY OR SPECULATIVE PURPOSES?

Yes. The application was made in good faith. We did have some difficulty determining the proper type of application. This was resolved with the assistance of the Water Resources personnel who explained the options available and the circumstances that prevailed at that particular time.

21 1996

4. DOES THE APPLICANT HAVE SUFFICIENT FINANCIAL RESOURCES WITH WHICH TO COMPLETE THE PROPOSED PROJECT?

Yes. The project is complete as of the date of this hearing. We are just applying for additional water from the same well.

5. IS THE PROPOSED APPROPRIATION IN THE LOCAL PUBLIC INTEREST, WHICH IS DEFINED AS THE AFFAIRS OF THE PEOPLE IN THE AREA DIRECTLY AFFECTED BY THE PROPOSED USE?

Yes. The pond area is very well thought of and appreciated by the surrounding community. We have received many positive comments about what a great improvement and asset it is to the community. The ponds serve as good habitat for a variety of wildlife (ducks, geese, heron, fish, and many others). It is a recreational area for many of the children to fish, boat/canoe, play in the sand, and just throw rocks in the water. It is also used for picnics and leisurely, quiet, relaxing walks around the pond.

6. IS THE PROPOSED USE CONTRARY TO CONSERVATION OF WATER RESOURCES WITHIN THE STATE OF IDAHO?

No. The majority of the water is not for consumptive use, and the time of year that it is used does not have a high amount of evaporation. It is our belief that due to the sandy gravel-like bar that runs along the bench in the area, a great deal of the seepage water from the pond returns to the aquifer from where it was pumped. Although we do not have proof of this, a number of water people we talked to concur with this concept.

AUG 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

February 20, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: In the Matter of Application for Permit No. 63-12164 and 63-12273 in the name of Aspen Cove Lake Association, Inc.

Dear Interested Party:

The accompanying order is a "final order" issued by the department pursuant to section 67-5246 or 67-5247, Idaho Code.

Section 67-5246 provides as follows:

(1) If the presiding officer is the agency head, the presiding officer shall issue a final order.

(2) If the presiding officer issued a recommended order, the agency head shall issue a final order following review of that recommended order.

(3) If the presiding officer issued a preliminary order, that order becomes a final order unless it is reviewed as required in section 67-5245, Idaho Code. If the preliminary order is reviewed, the agency head shall issue a final order.

(4) Unless otherwise provided by statute or rule, any party may file a petition for reconsideration of any order issued by the agency head within fourteen (14) days of the issuance of that order. The agency head shall issue a written order disposing of the petition. The petition is deemed denied if the agency head does not dispose of it within twenty-one (21) days after the filing of the petition.

(5) 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:

Pg 1

AUG 21 1996

- (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.

(6) A party may not be required to comply with a final order unless the party has been served with or has actual knowledge of the order. If the order is mailed to the last known address of a party, the service is deemed to be sufficient.

(7) A non-party shall not be required to comply with a final order unless the agency has made the order available for public inspection or the nonparty has actual knowledge of the order.

(8) The provisions of this section do not preclude an agency from taking immediate action to protect the public interest in accordance with the provisions of section 67-5247, Idaho Code.

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a final order 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 67-5246(4) Idaho Code.

APPEAL OF FINAL ORDER TO DISTRICT COURT

Pursuant to sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by a final order or orders previously issued in a matter before the department may appeal the final order and all previously issued orders in the matter 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 a) of the service date of the final order, b) of an order denying petition for reconsideration, or c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See section 67-5273, Idaho Code. The filing of an appeal to district court does not in itself stay the effectiveness or enforcement of the order under appeal.

Sincerely,

A handwritten signature in cursive script, reading "L. Glen Saxton".

L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

10-12-83
AUG 21 1983



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

December 21, 1995

RE: In the matter of Application for Permit Nos. 63-12164 & 63-12273 in the name of Aspen Cove Lake Association, Inc.

Dear Interested Party:

The accompanying order is a "**recommended order**" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. The hearing officer 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 this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

ORAL ARGUMENT

AUG 21 1996

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, 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 recommended order shall be served on all other parties to these proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency 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.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

APR 21 1996

WR0749NP
No. P63-12273

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 12/19/95
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	ASPEN COVE LAKE ASSN INC 2143 ASPEN COVE DR MERIDIAN ID 83642 (208) 888-6145	09/15/1995	AESTHETIC	09-01 05-31	0.130 CFS	
TOTAL DIVERSION:					0.130 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T03N R01W S23 NWSE CANYON County

Place of use Legal Description for: AESTHETIC

NE				NW				SW				SE								
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
03N	01W	23	:																	:
												A								

Pou County: CANYON

Other Water Rights Listing Overlapping Place(s) of use:
63-12164 63-12165 P63-12164

Remarks: Prior to diversion of water under this right, the right holder shall install and maintain a totalizing flow measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works. The right holder shall maintain records of the amount of water diverted and shall provide the records to the Department upon request.
The Director maintains jurisdiction of this permit for five (5) years in order to determine if there is an adverse effect upon prior water rights in the area. Upon a determination by the department of injury caused by the non-irrigation season pumping authorized by this permit, the Director may cancel the permit with prejudice.
~~See Final Order for conditions and limitations for use of water under this approval.~~

Dates:	App. Received:	09/15/1995	Priority Date:	09/15/1995
	Proof Due Date:	03/01/1997	Proof Made Date:	
	Exam Made Date:		Exam Sent to S.O.:	
	Licensed Date:			

Misc: Water District Number: Field Exam Fee:

WR0749NP
No. P63-12273

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 12/19/95
PAGE: 2

Comments: Date: 09/15/1995 User-ID: LGRAVES Subject: OTHER RIGHTS
This application was filed for year around flow to the ponds for
aesthetic use. Aesthetic storage and diversion to storage are
represented by permit 63-11964. Applications 63-12164 and 12165
represent irrigation storage and use from the same system.
Previous field investigations measured the flow from the well at
60 gpm (.13 cfs), the large pond volume of 1.5 af, and the small
pond volume at .2 af.
(See the above referenced files for additional information and
photos.)

Audit: 12/19/95 CZIMMERH

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS) NOTICE OF HEARING
FOR PERMIT NOS. 63-12273 AND)
63-12164 IN THE NAME OF ASPEN COVE)
LAKE ASSOCIATION INC.)

On December 16, 1994, and October 2, 1995, Aspen Cove Lake Association Inc. filed with the Department of Water Resources (Department) applications for permit nos. 63-12264 and 63-12273. The applications were protested by Mr. & Mrs. Harold Ross. The conference held by the Department relative to application no. 63-12264 did not resolve the matter of protest.

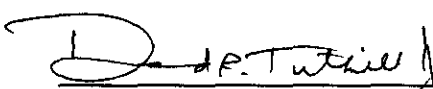
The Department has scheduled the matter for a hearing to be held on December 15, 1995, at 9:00 a.m. in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The hearing will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, Idaho Code, the adopted Rules of Procedure of the Department and Water Appropriation Rules 40 and 45. The presiding officer at the hearing will be Glen Saxton.

If you plan to offer exhibits for the record, note that IDAPA Rule of Procedure 37.01.01606 requires that you provide a copy of exhibits to each party and to the presiding officer.

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

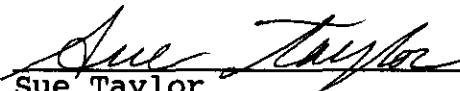
All parties to the matter will have the opportunity to respond and present information and argument on all issues involved.

Dated this 11th day of December, 1995.


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

AUG 21 1995

I hereby certify that on the 11th day of December, 1995, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary, Office Coordinator

ASPEN COVE LAKE ASSOC INC
2143 ASPEN COVE DR
MERIDIAN ID 83642

HAROLD G &/OR ELBERTA ROSS
2302 ASPEN COVE DR
MERIDIAN ID 83642

AUG 21 1996

CONFERENCE AND HEARING PROCEDURE

APPLICATION FOR PERMIT

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

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

BURDEN OF PROOF

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

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

PROCEDURE

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

CONFERENCE

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

APR 21 1996

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

HEARING

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

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

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

EXHIBITS

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

AMERICANS WITH DISABILITIES ACT

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



AUG 21 1996

7/94

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

OCT 26 1995

WATER RESOURCES
WESTERN REGION

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all necessary information.

1. Matter being protested Application for Permit No. 63-12273
2. Name of protestant Harold G. and Elberta Ross
3. Protestant's representative for service (If different than protestant)
N/A
4. Service mailing address 2302 Aspen Cove Dr., Meridian, ID 83642
5. Service telephone no. (208) 888-1891
6. Basis of protest (including statement of facts and law upon which the protest is based) _____

(See attached page)

(additional pages may be attached to describe the nature of the protest)

7. What would resolve your protest? (See attached page)

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 18 day of Oct., 1995

Harold G. Ross Elberta Ross
PROTESTANT

PROTESTANT'S REPRESENTATIVE

NOTE:

- a) Not more than two (2) representatives for service of documents may be designated on a protest. If this protest is signed by more than one person without identifying the representative(s) for service of documents, the hearing officer may select the person(s) upon whom documents will be served.
- b) A protestant is required to timely file a protest with the department together with a \$25.00 protest fee in order for the protest to be considered by the department. In addition, the department's Rule of Procedure, IDAPA 37.01.01203, requires a protestant to send a copy of a protest to the applicant.

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
2. Show the name of the protestant.
3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
6. Specifically describe the nature of the protest.
7. Describe the relief being sought by the protestant.

FOR DEPARTMENT USE ONLY

Received by VR Date 10-26-95 Time 2:15 pm
\$25.00 fee Receipted by VR # W020036 Date 10-26-95

NOV 21 1996

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

Additional page in response to items 6 & 7

6. BASIS OF PROTEST: We protest application No. 63-12273 because it is an excessive amount of ground water wasted for aesthetic use and through evaporation and seepage. We are concerned about our well. The applicants are requesting 58 gal. per minute for as long as it takes to keep both ponds (2 acres) brim full with no limits. A household is limited to 13,000 gal. per day. 58 gal. per minute is 34,800 gal. in 10 hrs., compared with a limit of 2,500 gal. per day allowed on permit No. 63-11964. There are 26 houses in Aspen Cove Subdivision and 30 to 40 more houses within a mile and all have domestic wells. This area is growing fast and there will be many more houses and wells.

7. WHAT WOULD RESOLVE YOUR PROTEST?: Permit No. 11964 should be enforced. The limit is 2,500 gal. per day (18 gal. per min. for 2.5 hrs.) when there is no surface water available for irrigation, Oct. 10 to Apr. 10. There should be no pumping from Apr. 10 to Oct. 10.

Install a meter and a padlock. This is necessary because they have violated their permit and have illegally pumped water at the rate of 60 gal. per min. (by the Department's records) most of the time since it was installed Aug. 27, 1992, even while surface water was available and stored in the pond.

If the applicants will not abide by permit No. 11964, it should be revoked and no future permits approved. In view of the above facts, we ask you to reject application No. 63-12273.

Date Oct. 18 1995

Harold G. Ross
Harold G. Ross

Elberta Ross
Elberta Ross

AUG 21 1995

RECEIVED
OCT 26 1995
WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

Additional page in response to items 6 & 7

6. BASIS OF PROTEST: Protest application for permit No. 63-12165. Our reasons for protesting are the same as detailed on application No. 63-12273 and also No. 63-12164. We oppose any water being diverted to an irrigation permit because each property owner in the Aspen Lake Association has a water right for irrigation and does not need any supplemental water supply. What they really want is a perpetual water right so they can keep the two ponds (2 acres) full all the time regardless if it might be harmful to their neighbors. We feel that is excessive ground water use.
7. WHAT WOULD RESOLVE YOUR PROTEST? Same as on application for permit No. 63-12273 and No. 63-12164.

Date 10.25 1995

Harold G. Ross
Harold G. Ross

Elberta Ross
Elberta Ross

AUG 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 14, 1995

Aspen Cove Lake Association, Inc.
2143 Aspen Cove Dr.
Meridian, ID 83642

Mr. and Mrs. Harold Ross
2302 Aspen Cove Dr.
Meridian, ID 83642

RE: Protested Applications

Please find enclosed a protest filed by Mr. and Mrs. Ross to Application for Permit No. 63-12273.

Based on a visit to this office by Mr. and Mrs. Ross, it appears that we will not be able to draft a set of conditions of approval that are acceptable to the Ross's of these protested water rights. It appears that the next step toward the resolution of this matter is to set a hearing. Thus, we will complete the advertising of application for Permit No. 63-12165 for the irrigation of 7 acres (not yet protested), and we will plan to schedule a hearing for on or about December 15, 1995.

Please advise me if this date is not acceptable, or if you desire to proceed in another direction toward resolution of this matter.

Sincerely,

A handwritten signature in cursive script that reads "David R. Tuthill, Jr.".

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

Enclosure for Aspen Cove: Copy of Protest

AUG 21 1996

7/94

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

OCT 26 1995

WATER RESOURCES
WESTERN REGION

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains all necessary information.

1. Matter being protested Application for Permit No. 63-12273

2. Name of protestant Harold G. and Elberta Ross

3. Protestant's representative for service (If different than protestant)
N/A

4. Service mailing address 2302 Aspen Cove Dr., Meridian, ID 83642

5. Service telephone no. (208) 888-1891

6. Basis of protest (including statement of facts and law upon which the protest is based) _____
(See attached page)

(additional pages may be attached to describe the nature of the protest)

7. What would resolve your protest? (See attached page)

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 18 day of Oct., 1995.

Harold G. Ross Elberta Ross
PROTESTANT

PROTESTANT'S REPRESENTATIVE

AUG 21 1995

NOTE:

- a) Not more than two (2) representatives for service of documents may be designated on a protest. If this protest is signed by more than one person without identifying the representative(s) for service of documents, the hearing officer may select the person(s) upon whom documents will be served.
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-

INSTRUCTIONS

1. The matter being protested must be clearly identified. A typical matter is identified by the application number such as "Application for Permit No. _____ in the name of _____" or "Application for Transfer No. _____ in the name of _____."
 2. Show the name of the protestant.
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 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by VR Date 10-26-95 Time 2:15 pm
\$25.00 fee Receipted by VR # W020036 Date 10-26-95

AUG 21 1996

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

Additional page in response to items 6 & 7

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- Install a meter and a padlock. This is necessary because they have violated their permit and have illegally pumped water at the rate of 60 gal. per min. (by the Department's records) most of the time since it was installed Aug. 27, 1992, even while surface water was available and stored in the pond.
- If the applicants will not abide by permit No. 11964, it should be revoked and no future permits approved. In view of the above facts, we ask you to reject application No. 63-12273.

Date Oct. 18 1995

Harold G. Ross
Harold G. Ross

Elberta Ross
Elberta Ross

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OCT 26 1995
WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

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7. WHAT WOULD RESOLVE YOUR PROTEST? Same as on application for permit No. 63-12273 and No. 63-12164.

Date 10.25 1995

Harold G. Ross
Harold G. Ross

E. Elberta Ross
Elberta Ross

AUG 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 13, 1995

Aspen Cove Lake Association, Inc.
2143 Aspen Cove Dr.
Meridian, ID 83642

Mr. and Mrs. Harold Ross
2302 Aspen Cove Dr.
Meridian, ID 83642

RE: Protested Applications

Please find enclosed a protest filed by Mr. and Mrs. Ross to Application for Permit No. 63-12273.

Based on a visit to this office by Mr. and Mrs. Ross, it appears that we will not be able to draft a set of conditions of approval that are acceptable to the Ross's regarding this application and the earlier protested water right. It appears that the next step toward the resolution of this matter is to set a hearing. Thus, we will complete the advertising of application for Permit No. 63-12165 for the irrigation of 7 acres (not yet protested), and we will plan to schedule a hearing for on or about December 15, 1996.

Please advise me if this date is not acceptable, or if you desire to proceed in another direction toward resolution of this matter.

Sincerely,

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

Enclosure for Aspen Cove: Copy of Protest

RECEIVED
AUG 21 1996

7/94

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF PROTEST

RECEIVED

OCT 26 1995

WATER RESOURCES
WESTERN REGION

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(See attached page)

(additional pages may be attached to describe the nature of the protest)
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Signed this 18 day of Oct., 1995

Harold G. Ross Elberta Ross
PROTESTANT

PROTESTANT'S REPRESENTATIVE

OCT 31 1995

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 2. Show the name of the protestant.
 3. If the protestant is represented by an attorney or other authorized representative, show the representative's name. The department then will serve documents on the representative and upon the protestant if specifically requested.
 4. Show the address where the department is to serve the documents. This should be the address of the authorized representative unless the protestant does not designate a representative.
 5. Show the telephone number of the authorized representative unless the protestant does not designate a service representative.
 6. Specifically describe the nature of the protest.
 7. Describe the relief being sought by the protestant.
-

FOR DEPARTMENT USE ONLY

Received by VR Date 10-26-95 Time 2:15 pm
\$25.00 fee Receipted by VR # W020036 Date 10-26-95

RECEIVED
OCT 27 1995
10:00 AM
10-26-95

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

Additional page in response to items 6 & 7

6. BASIS OF PROTEST: We protest application No. 63-12273 because it is an excessive amount of ground water wasted for aesthetic use and through evaporation and seepage. We are concerned about our well. The applicants are requesting 58 gal. per minute for as long as it takes to keep both ponds (2 acres) brim full with no limits. A household is limited to 13,000 gal. per day. 58 gal. per minute is 34,800 gal. in 10 hrs., compared with a limit of 2,500 gal. per day allowed on permit No. 63-11964. There are 26 houses in Aspen Cove Subdivision and 30 to 40 more houses within a mile and all have domestic wells. This area is growing fast and there will be many more houses and wells.
7. WHAT WOULD RESOLVE YOUR PROTEST?: Permit No. 11964 should be enforced. The limit is 2,500 gal. per day (18 gal. per min. for 2.5 hrs.) when there is no surface water available for irrigation, Oct. 10 to Apr. 10. There should be no pumping from Apr. 10 to Oct. 10.
- Install a meter and a padlock. This is necessary because they have violated their permit and have illegally pumped water at the rate of 60 gal. per min. (by the Department's records) most of the time since it was installed Aug. 27, 1992, even while surface water was available and stored in the pond.
- If the applicants will not abide by permit No. 11964, it should be revoked and no future permits approved. In view of the above facts, we ask you to reject application No. 63-12273.

Date Oct. 18 1995

Harold G. Ross
Harold G. Ross

Elberta Ross
Elberta Ross

10035

RECEIVED
OCT 26 1995
WATER RESOURCES
WESTERN REGION

NOTICE OF PROTEST

HAROLD G. AND ELBERTA ROSS

Additional page in response to items 6 & 7

6. BASIS OF PROTEST: Protest application for permit No. 63-12165. Our reasons for protesting are the same as detailed on application No. 63-12273 and also No. 63-12164. We oppose any water being diverted to an irrigation permit because each property owner in the Aspen Lake Association has a water right for irrigation and does not need any supplemental water supply. What they really want is a perpetual water right so they can keep the two ponds (2 acres) full all the time regardless if it might be harmful to their neighbors. We feel that is excessive ground water use.
7. WHAT WOULD RESOLVE YOUR PROTEST? Same as on application for permit No. 63-12273 and No. 63-12164.

Date Oct. 25 1995

Harold G. Ross
Harold G. Ross

Elberta Ross
Elberta Ross

AUG 21 1996

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: W020036

Date: 10/26/1995
Time: 14:14:08

Received
From: ROSS, HAROLD

	Type of Payment	Program A cct	Amount
NOTICE OF PROTEST	62103	229 21 1155	25.00
CHECK	5661		
Total			\$ 25.00

Region: WESTERN

Signature: V. Robinson

AUG 21 1996

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

INITIAL REVIEW BY: lyt DATE: 10.10.95 APPLICATION: 63-12273

REQUIRED INFORMATION

Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.) *in 63-11964*
Address:
Source: (See USGS Quad for names of water sources)
Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)
County:
Quantity: (flow and/or volume)
Period of use: Gov't. Lots: 3 P/D
Nature of proposed use: (Include description of use) 3 P/U
Description of diverting works: 3
Time required for beneficial use of water:
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)
Fee:
Yes ☐ No* In form to receipt:

ADDITIONAL INFORMATION

YES NO

☒ ☐ Overlapping place of use: (Describe source & relationship to present application on the back.)
☒ ☐ Overlapping point of diversion:
☐ ☐ Field check required: Field check by: _____
☐ ☐ Field report attached:
☐ ☐ Critical groundwater area:
☐ ☐ Groundwater management area:
☒ ☐ 1992 moratorium: *Non consumptive exemption*
☐ ☐ Copy to SCA staff: (perennial stream, non-pump diversion)
☐ ☐ Copy to Dam Safety staff: (for any storage) *N/A - already addressed*
☐ ☐ Basin 63 mitigation plan: (where ground water replaces surface water for irrigation, request additional information &/or mitigation plan to address reduced aquifer recharge)
☐ ☐ Send power requirement letter:
☐ ☐ Send fish farm requirement letter:
☐ ☐ Power residency affidavit:
☐ ☐ Power efficiency form:
☐ ☐ Diversion greater than 5 cfs or 500 af or irrigation greater than 200 acres: (If yes, attach Large Diversion supplementary analysis sheet.)
☒ ☐ *REQUEST ADDITIONAL INFORMATION FROM THE APPLICANT

DATE REQUESTED: _____

Additional information on reverse side:

PROCESSING

APPLICATION NO. 63-12273

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

YES NO

☐ ☒ I.D. Health and Welfare
☐ ☒ I.D. District Health
☐ ☒ I.D. Fish and Game
☐ ☒ I.D. Lands
☐ ☒ Adjudication Bureau

YES NO

☐ ☒ U.S. BLM
☐ ☒ U.S. Forest Svc.
☐ ☒ Water Dist. # _____
☐ ☒ Other _____

FINAL REGIONAL PROCESSING REVIEW

YES NO

☒ ☐ Affidavit of publication received:
☒ ☐ Application published correctly: If not, record action taken.

Publication dates and paper recorded on application:
Protests received. Final date for protest 11-6-95
Protest dates, resolution of protest recorded on application:
Recommendations attached:
Measuring device required:
Measuring port required:
Water delivered by water master? District # _____
Special conditions of approval or cover letter: _____

See below for additional information

Recommended Date or Priority _____

Recommended by: _____ Date _____

STATE OFFICE REVIEW

See below for additional information. By _____ Date _____

ADDITIONAL INFORMATION

overlaps 63-12164, 11964, 12165 - also Aspen Cove. See overlap
relationship info in file & ~~see~~ comments.
use also overlaps Irrigation District

NOTICE OF APPLICATION FOR WATER RIGHT

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

63-11796

BROWN, HUGH D
7226 E CHERRY LN
NAMPA, ID 83687
Source: GROUNDWATER
Diversion Pt: SESE Sec 15 T 03N R 02W in CANYON County.
Use: IRRIGATION (0.200 CFS)
Total Diversion (0.200 CFS)
Date Filed: 4/ 8/1992
In: CANYON County
T03N R02W S15 SESE
10.0 ACRES TOTAL
Water bearing zone to be appropriated is 20 to 48 feet.

63-12113

STUTHEIT, RONALD
STUTHEIT, SHARON
5800 GARYLANE
BOISE, ID 83703-2411
Source: BOISE RIVER Tributary: SNAKE RIVER
Diversion Pt: NWSW Sec 8 T 05N R 05W in CANYON County.
Use: IRRIGATION (0.200 CFS)
Total Diversion (0.200 CFS)
Date Filed: 4/25/1994
In: CANYON County
T05N R05W S08 NWSW
10.0 ACRES TOTAL

63-12273

ASPEN COVE LAKE ASSN INC
2143 ASPEN COVE DR
MERIDIAN, ID 83642
Source: GROUNDWATER
Diversion Pt: NWSE Sec 23 T 03N R 01W in CANYON County.
Use: AESTHETIC (0.130 CFS)
Total Diversion: (0.130 CFS)
Date Filed: 9/15/1995
In: CANYON County
T03N R01W S23 NWSE

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 NOVEMBER 6, 1995. The protestant must also send a copy of the protest to the applicant.

KARL J. DREHER, Director
October 18, 25, 1995

2648

AUG 21 1996

63-12273

ASPEN COVE LAKE ASSN INC
2143 ASPEN COVE DR
MERIDIAN, ID 83642

Source: GROUNDWATER

Diversion Pt: NWSE Sec 23 T 03N R 01W in CANYON County.

Use: AESTHETIC	(	0.130 CFS)
Total Diversion:	(	0.130 CFS)

Date Filed: 9/15/1995

In: CANYON County	
T03N R01W S23	NWSE

AUG 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 3, 1995

Mr. and Mrs. Harold Ross
2302 Aspen Cove
Meridian, ID 83642

RE: Aspen Cove Water Right Applications

Dear Mr. & Mrs. Ross:

Yesterday representatives of the Aspen Cove Lake Association Inc. met in this office to discuss a number of issues. The purpose of this letter is to update you on these issues.

First, regarding protested application for permit no. 63-12164 for the irrigation of three acres and the one-time filling of the 1.7 acre-foot pond (not including make-up water needed to provide for evaporation and seepage), please find enclosed a revision of the "Withdrawal of Protest and Agreement of Conditions" that has been signed by an officer of the corporation. Note that this revision contains different language in item no. 3, as compared with the version that you signed. Therefore, please look this over and consider these changes. If they are acceptable, you may sign and return the document to enable us to finalize processing on the application. If the changes are not acceptable, perhaps you can recommend other wording that might be acceptable to both you and the applicant.

Second, regarding application for permit no. 63-12165, we have not yet advertised the application but I am forwarding a copy of the application to you because the application will likely be advertised later this year or early next year. Note that this application proposes to allow for the irrigation of the additional 7 acres served by systems that pump from the ponds. It is possible that whatever agreement is developed for water right 63-12164 will also work for this application.

Third, I am enclosing a copy of a new application that was filed yesterday by Aspen Cove representatives. Note that this application proposes non-summer month diversion into the pond of water from the well to serve as make-up water for evaporation and seepage at a rate of 58 gallons per minute. This application will likely be advertised later this month, and in an effort to be totally forthright with this process, I advised the Aspen Cove personnel that I would be sending you a copy of the application.

I am not advising you to protest either the second or third applications listed above, but I do need to tell you that as a neighboring water user you have the option to protest the approval

AUG 21 1996

Mr. & Mrs. Harold Ross

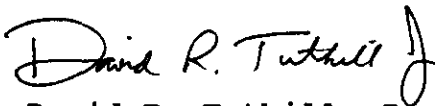
-2-

October 3, 1995

of the permits if you so desire.

Please feel free to contact me if you have questions about any of these filings. As we have discussed, the Department's next step will be to schedule a hearing for application no. 63-12164 if satisfactory conditions are not found to be agreeable to you as the protestants and to the applicants.

Sincerely,



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

Enclosures: 1. Withdrawal of Protest and Agreement of Conditions
2. Copy of Application for Permit No. 63-12165
3. Copy of Application for Permit No. 63-12273

cc w/o Enclosures: Aspen Cove Lake Association, Inc.
Files for 3 water rights annotated herein

RECEIVED

AUG 21 1996

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)	WITHDRAWAL OF PROTEST
PERMIT NO. 63-12164 IN THE NAME OF)	AND
ASPEN COVE LAKE ASSOCIATION INC.)	AGREEMENT OF CONDITIONS
_____)	

The undersigned applicant agrees to abide by the following conditions which will be made a part of the permit issued based on the above-referenced application for permit number 63-12164. Accordingly, the undersigned protestant agrees to withdraw the protest to the approval of the application.

1. This water right is subject to all prior water rights.

2. The permit holder is responsible to ensure that pumpage under this water right does not directly cause any well having a prior right to exceed an historic pumping level, unless the permit holder provides reasonable compensation or mitigation to the prior water right holder for the reduced water levels as determined by the Director.

3. A totalizing flow measurement device of a type approved by the department or a dedicated power meter shall be permanently installed and maintained as a part of the diverting works. This device shall be maintained by the water right holder and shall be made available to inspection by department personnel for the purpose of monitoring the ground water usage. The water right holder shall maintain records of the amount of water diverted under this water right, and shall provide these records to the department upon request. If the protestant desires to review these records, he may request that they be provided by contacting the department.

4. The right holder shall use the full allotment of appurtenant surface water rights in conjunction with ground water diverted under this right. This right to divert ground water shall not be used if the surface water right appurtenant to the place of use is sold, transferred leased or used on any other place of use without the approval of the department.

DATED this 2nd day of OCTOBER, 1995

Applicant: _____

DATED this _____ day of _____, 1995

Protestant: _____

AUG 21 1996

Ident. No. 63-12165

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: ASPEN COVE LAKE ASSN INC

208-888-6145

Address: 2143 ASPEN COVE DR
MERIDIAN ID 83642

*d'base corrected per
office names list - RL*

2. Source: GROUNDWATER

Trib. to:

3. Location of Point of Diversion:

NWSE Sec. 23, Township 03N, Range 01W
ADA County

4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
IRRIGATION	03/15	11/15	0.130		
IRRIGATION STORAGE	01/01	12/31			1.70
IRRIGATION FROM STORAGE	01/01	12/31			1.70
DIVERSION TO STORAGE	03/15	11/15	0.130		

5. Total quantity to be appropriated is:

0.130 CFS (and/or)

AF

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc.

WELL, 2 PONDS, PUMPS, SPRINKLERS

b. Height of storage dam < 5 feet; active reservoir capacity 1.70 acre-feet; total reservoir capacity 1.70 acre-feet; period of year when water will be diverted to storage: 1/01 to 12/31 inclusive.

c. Proposed well diameter is 6 inches; proposed depth of well is 160 feet.

d. Is groundwater with a temperature greater than 85F being sought? NO

e. If well is already drilled, when? 08/27/1992

Drilling Firm ADAMSON PUMP, 63-92-W-0702-000

Well was drilled for GLEN HICKEY

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

8. Place of Use: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
03N	01W	23	NWSE 7.133			7

Total number of acres irrigated:

7

11 1996

* *D'base correction - seasons were simplified in data entry initially.*

From 8/15 - 11/15

to 1/1 - 12/31

- RL 12/12/94

Place of Use: IRRIGATION FROM STORAGE, same as IRRIGATION use

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:

Application being held pending withdrawal of drought moratorium.
This right, when combined with 63-11964 and 63-12164, shall not
exceed 0.13 cfs pumping capacity and 1.7 af storage capacity.

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

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

*See
Original*

Applicant

Received by LG Date 12/16/94 Time 10:00 Preliminary check by R

Fee \$ 50 100.00 Receipted by LG #W018446 Date 12/19/1994

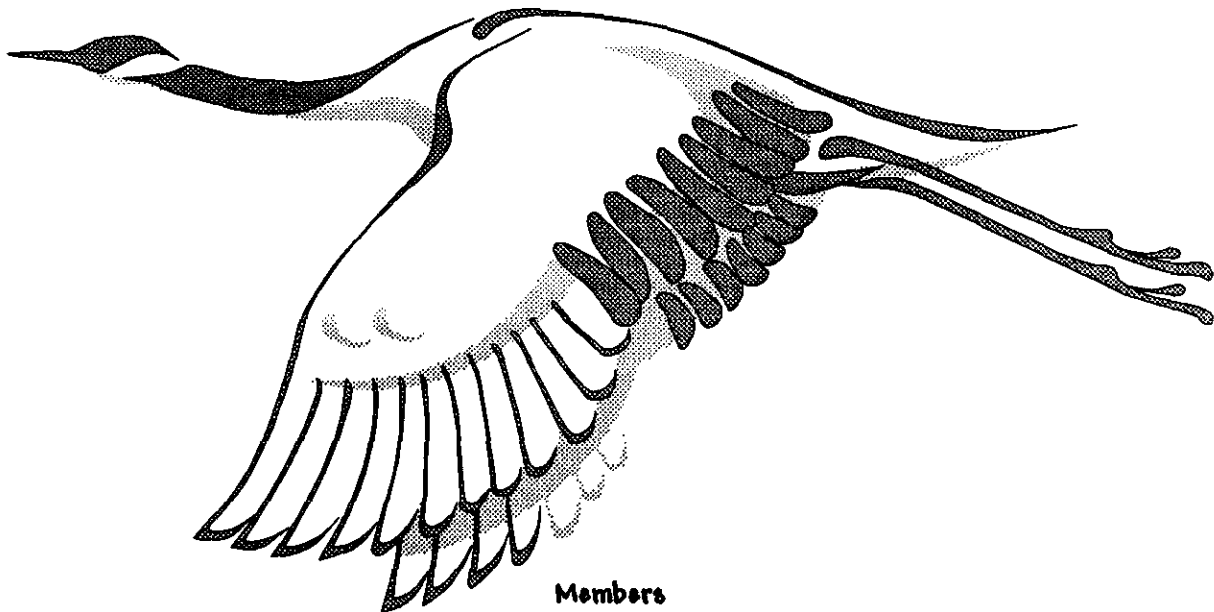
Publication prepared by _____ Date _____ Published in _____

Publication approved _____ Date _____

Same receipt for two \$50 fees 63-12164 + 63-12165

See Comments

ASPEN COVE LAKE ASSOCIATION



Members

Glen & Peg Hickey (President)
2143 Aspen Cove, Meridian
888-6145

Tim & Vicki Russell (Treasurer)
2288 Aspen Cove, Meridian
888-2793

Bill & Phyllis Weiss (Secretary)
2101 Aspen Cove, Meridian
888-3423

Cis Kenney
2140 Aspen Cove, Meridian
888-7012

Bob & Susan Carlson
2300 Aspen Cove, Meridian
888-9714

Keith & Dianne Ebeling
2150 Aspen Cove, Meridian
887-2047

BEFORE

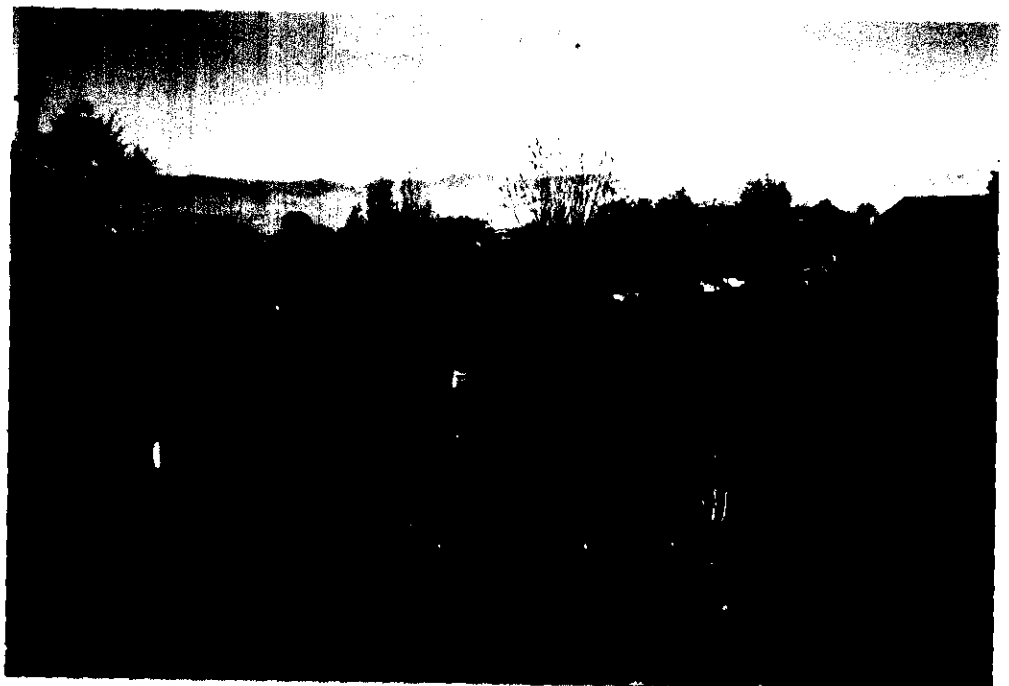
Upper End of Pond ... before excavation.



Only irrigation water ... notice scum forming
on pond and weeds growing along bank.



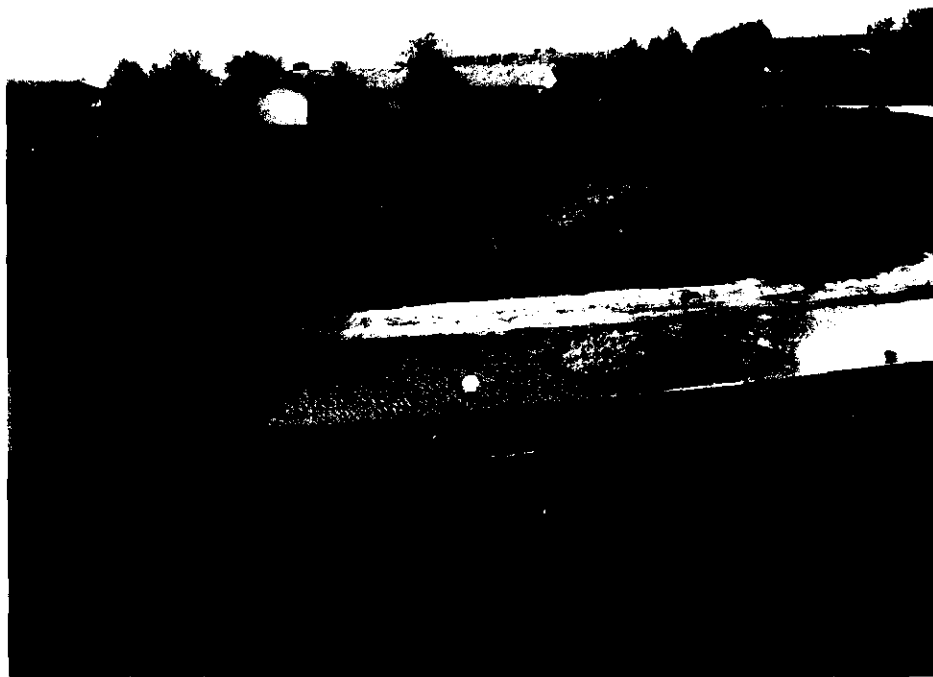
Fall pictures ... pond almost dry





Neighborhood pond cleanup day!





Fishing



Geese enjoy the area.
We've grown from just a few visitors
to over 400 at one count !!



AND AFTER !!



with sandy beaches and
canoe for relaxing and
fishing and
lots of flowers for everyone's enjoyment

full pond with hundreds of fish
(bass and crappie and catfish)



Island with goose box (we've had
several families raised around the
pond!!)



summer picnics enjoyed
by entire neighborhood!

