

6500

115' 3rd. Levy 3/20/01
466-57941

"House New Living Water"

6.38

SAECO TITLE INSURANCE
NABER AND CALDWELL

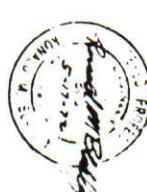
NE COR
SW 1/4 NW 1/4
SEC. 8, T2N, R1W, B.M.

M & M MOUNTAIN
VIEW ACRES
CANYON COUNTY, IDAHO

No good Lots
-FL 8/29/05

STATE OF IDAHO
COUNTY OF CANYON S.S.

I, Donald M. Bishop, a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M & M MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plot was made by me or under my direction and that this plot correctly shows the land as made in WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972



STATE OF IDAHO
COUNTY OF CANYON S.S.

On this 17th day of May, A.D. 1972, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Donald M. Bishop, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972

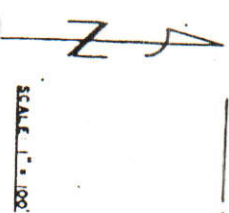


My Commission expires 12-31-72

I hereby certify that this instrument was filed for record in the request of Record M Bishop at 07 minutes past 11:00 A.D. 1972

Instrument No. 684538
Recorder: *Walter Ray*
Deputy: *Barbara Ray*

SE COR
SW 1/4 NW 1/4
SEC. 8, T2N, R1W, B.M.

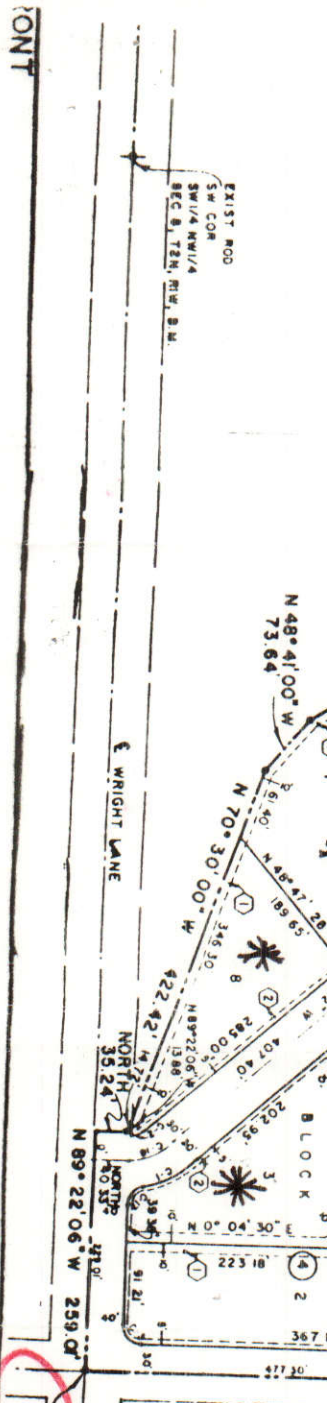


EASEMENT NOTES

- 1 Irrigation, drainage, & utility easement
- 2 Power & telephone easement
- 3 Ingress & egress easement for well lot
- 4 Easement for sanitary protection of well - no septic tanks or drain fields allowed within circle. (Well location is center of protection easement)

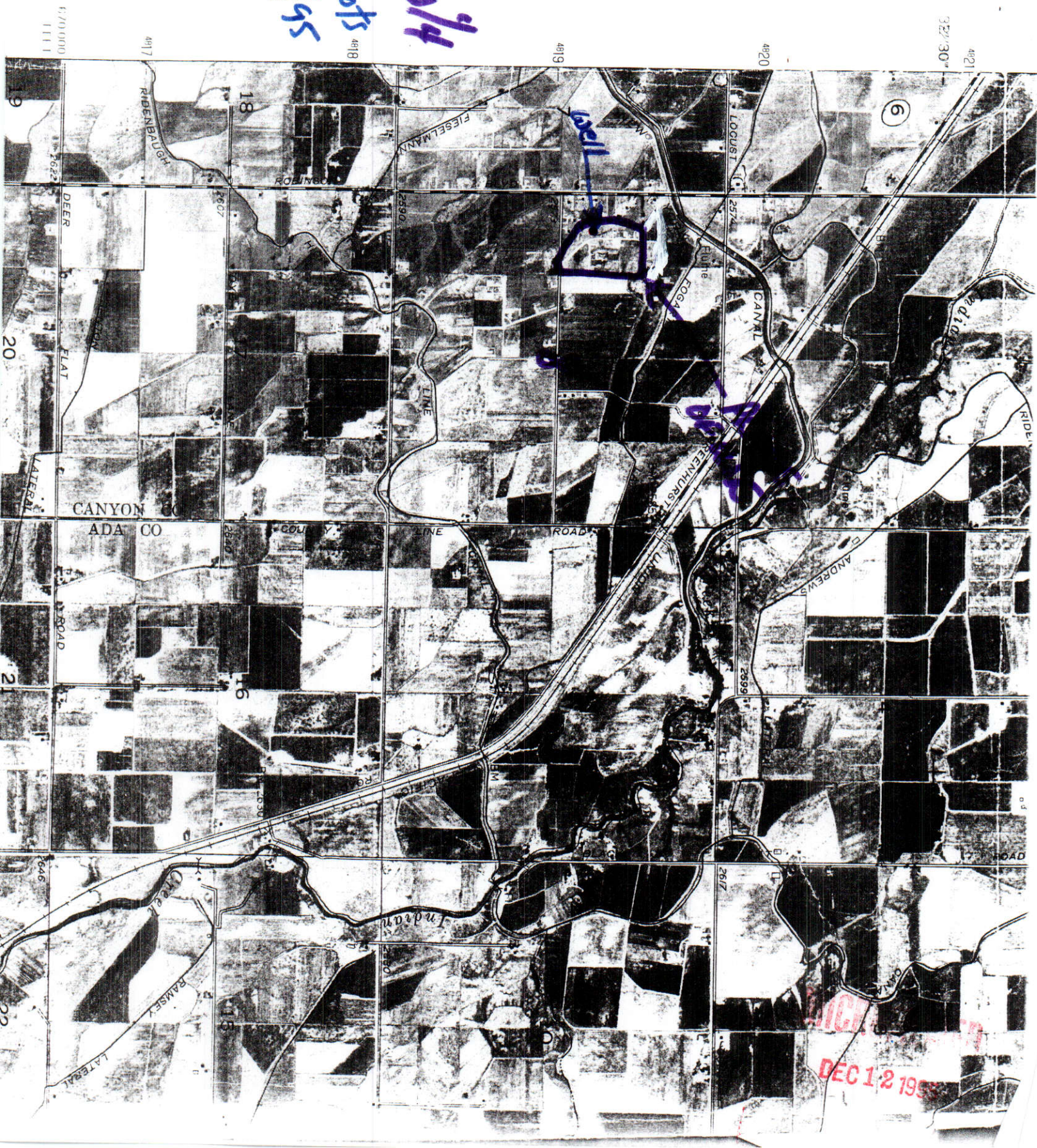
Well for THIS APP.

CURVE TABLE				
ANGLE	TAN	LENGTH	CHORD	BEARING
32° 01' 27"	28.67	55.84	55.11	N 25° 11' 49" W
4° 12' 32"	15.00	28.70	28.08	N 20° 36' 16" W
90° 35' 28"	20.21	31.62	28.43	S 45° 20' 11" W
13° 18' 02"	44.19	45.83	5.44	N 24° 26' 29" E
89° 56' 58"	18.98	31.40	28.27	S 44° 56' 01" E
90° 03' 02"	20.02	31.43	28.30	S 45° 03' 58" W
19° 59' 00"	19.99	31.41	28.28	N 44° 53' 00" E
90° 31' 37"	20.19	31.62	28.43	N 45° 05' 00" E
89° 28' 03"	18.81	31.23	28.14	N 44° 32' 28" E
24° 03' 09"	48.48	95.52	94.82	S 44° 40' 32" E
17° 11' 53"	34.36	68.21	67.92	S 44° 31' 58" E
17° 14' 44"	23.33	50.49	50.41	S 35° 31' 58" E
21° 47' 23"	49.51	87.83	87.24	S 18° 02' 00" E
8° 14' 53"	18.53	37.03	37.00	S 4° 02' 54" E
80° 11' 01"	16.84	27.99	25.76	N 4° 16' 34" W
41° 12' 32"	26.27	50.27	48.20	N 20° 36' 16" W

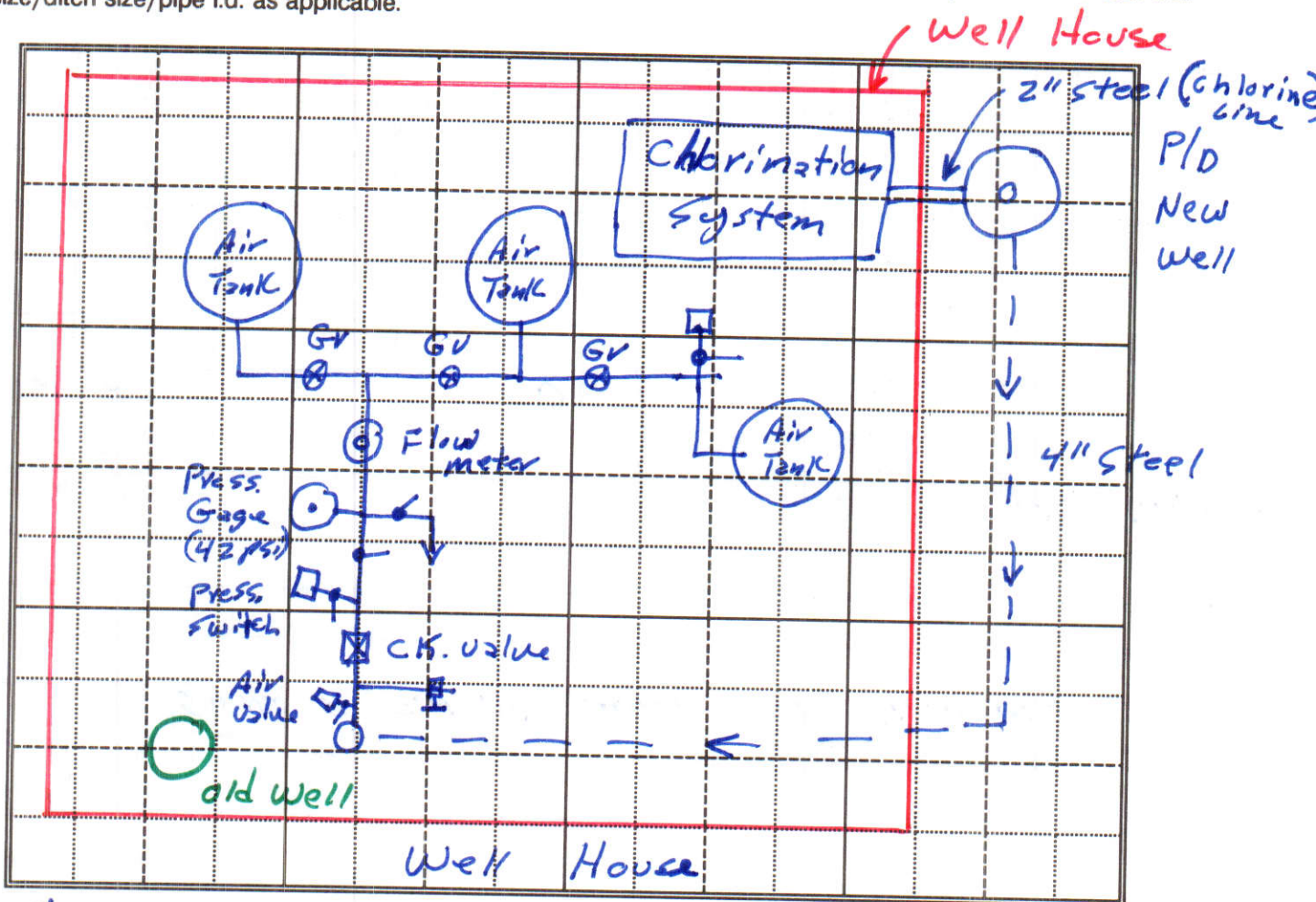


DEC 12 1995

T. 2N
R. 1W
S. 8
SW 1/4 NW 1/4
N 1/2 8/29/95
-RZ



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



Scale: 1" = None

☒ 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	Model Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
New Well	Franklin	5	282 F082 200	Grundfos	Type 80550-5 10-90

*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
Flow Meter	Tot.	Badger	M00644784		4"	

2. Measurements: None - op. Press. : 40-60 psi.
42 psi on Press. gage.

42' Irrigation well in Lot 1, BIK 3

6500
115' 3rd
446-5941
Houses Now Using Water

SAFE CO TITLE INSURANCE
RAMPA AND CALDWELL

8" Private well
Serves lots 2+7, BIK 2

NE COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B1M

No gult Lots
- R 8/29/98

6" Private Well - Serves
lots 4+5
S.S. BIK 2

Green - Surface
water;
N 36° 40' 00" W
293.40'

Ditches &
Pipe System
63-02388

EASEMENT NOTES

- Irrigation, drainage, & utility easement for well lot
- Power & telephone easement
- Ingress & egress easement for well lot
- Easement for sanitary protection of well - no septic tanks or drain fields allowed within circle. (Well location is center of protection easement)

P/D, well for
New
THIS APP.
Permit

DISC	ANGLE	TAN	LENGTH	CHORD	BEARING	CHORD
30	32° 01' 27"	28.67	55.84	55.11	N 25° 11' 49" W	28.67
30	41° 12' 32"	15.00	28.70	28.08	N 20° 36' 16" W	15.00
30	90° 35' 28"	20.21	31.42	28.43	S 45° 20' 11" W	20.21
30	131° 18' 02"	44.19	45.83	36.44	N 42° 26' 29" E	44.19
30	89° 56' 38"	19.98	31.40	28.27	S 44° 58' 01" E	19.98
30	90° 03' 02"	20.02	31.43	28.30	S 45° 03' 59" W	20.02
30	10° 01' 00"	19.99	31.41	28.28	N 45° 05' 00" W	19.99
30	90° 31' 57"	20.01	31.42	28.29	N 45° 20' 28" E	20.01
30	89° 28' 03"	19.81	31.23	28.15	S 44° 40' 32" E	19.81
30	24° 05' 01"	19.80	31.22	28.14	S 29° 09' 38" E	19.80
30	17° 16' 44"	34.34	68.21	67.95	S 8° 31' 26" E	34.34
30	21° 47' 25"	25.33	50.48	50.41	S 35° 35' 10" E	25.33
30	80° 11' 01"	18.95	37.03	37.00	S 19° 04' 06" E	18.95
30	41° 12' 32"	26.27	49.20	49.20	N 20° 36' 16" W	26.27

EXIST ROD
SW COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B1M

63-12266

M & M MOUNTAIN
VIEW ACRES

SANTON COUNTY, IDAHO

STATE OF IDAHO
COUNTY OF CANYON

I, Donald M. Blaisley, a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M & M MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plat was made by me or under my direction and that this plat correctly shows the survey as made IN WITNESS WHEREOF, I have hereunto set my hand and seal this 22nd day of May, A.D. 1972.



Blue - Buried
Pipe Mainlines
from New well

STATE OF IDAHO & Lot Service
COUNTY OF CANYON

On this 22th day of May, A.D. 1972, before me, Notary Public in and for said County and State, personally appeared Donald M. Blaisley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in WITNESS WHEREOF, I have hereunto set my hand and seal this 22th day of May, A.D. 1972.

Notary Public
Reading on Calvary Idaho

My Commission Expires 5-12-76

8" Private well
for lots 5, BIK 3

Lot 2, BIK 4 has
private well
and not in
M & M
water
system
on this
Permit

I hereby certify that this instrument was filed for record at the request of Donald M. Blaisley, at 07 minutes past 11 A.M. on this 22th day of May, A.D. 1972.

Fee \$5.00

Instrument No 606330

Recorder Walter Ray

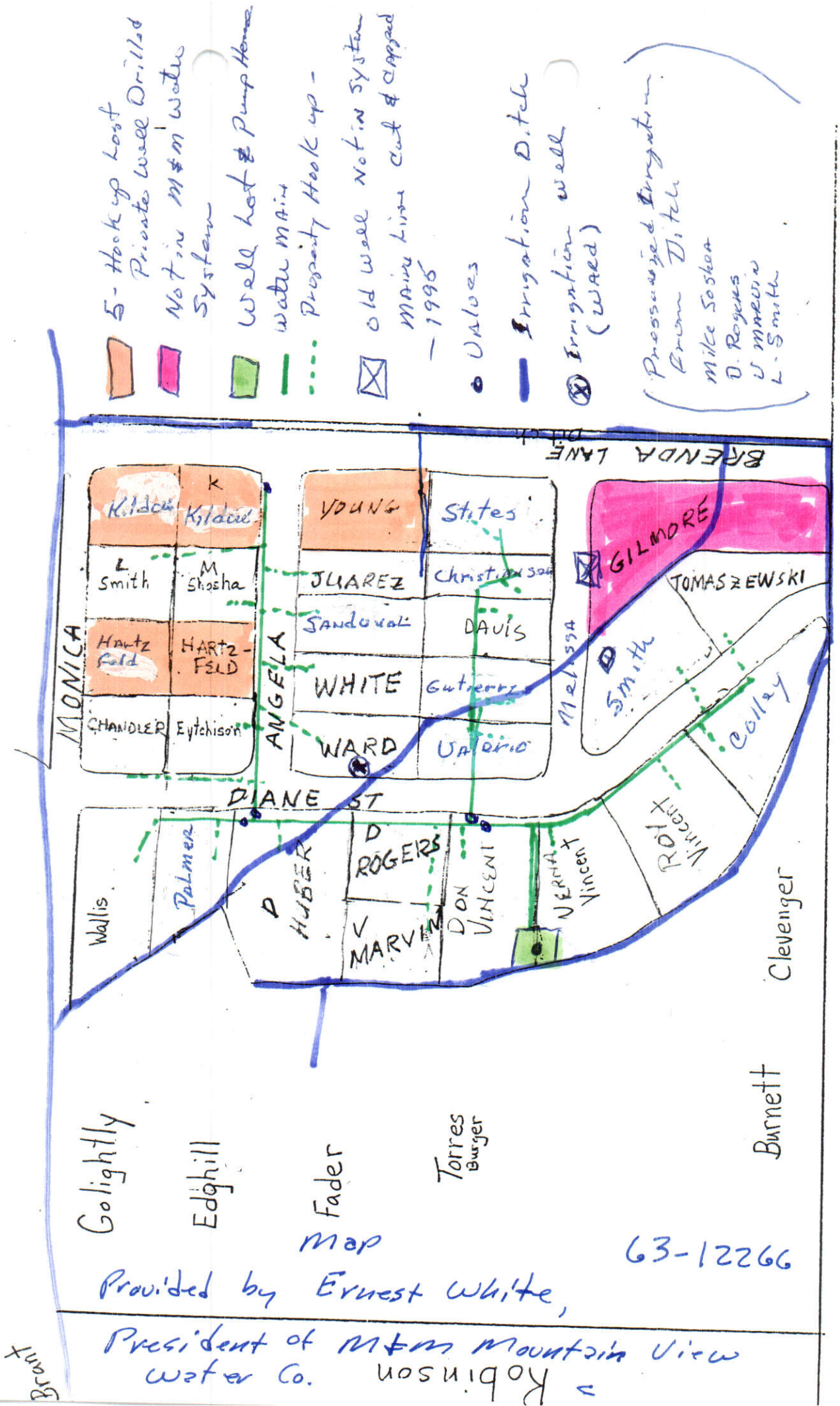
Deputy Arlene Page

SW 1/4 NW 1/4
SEC 8, T2N, R1W, B1M

(no delivery of water summer)

9-92

M & M water
lay out



8. POSSIBLE CONTAMINATION SOURCES:

Is there evidence of Chemigation? ☐ Yes ☒ No

If yes, is there a check-valve present? ☐ Yes ☐ No

Is there a possible source of contamination nearby? ☐ Yes ☒ No

If yes, what Type? _____

How far away from the well is this source? _____

9. REMARKS:

This is a replacement well that provides interval domestic water to the Mt + an Mountain View Subdivision.

Don Lomida Water Rights Examiner
Signature of Dept. Representative & Title

9-28-99
Inspection Date

PHOTOS, DRAWINGS, OTHER ATTACHMENTS:



Lot 3



P/D

New

well

and

well

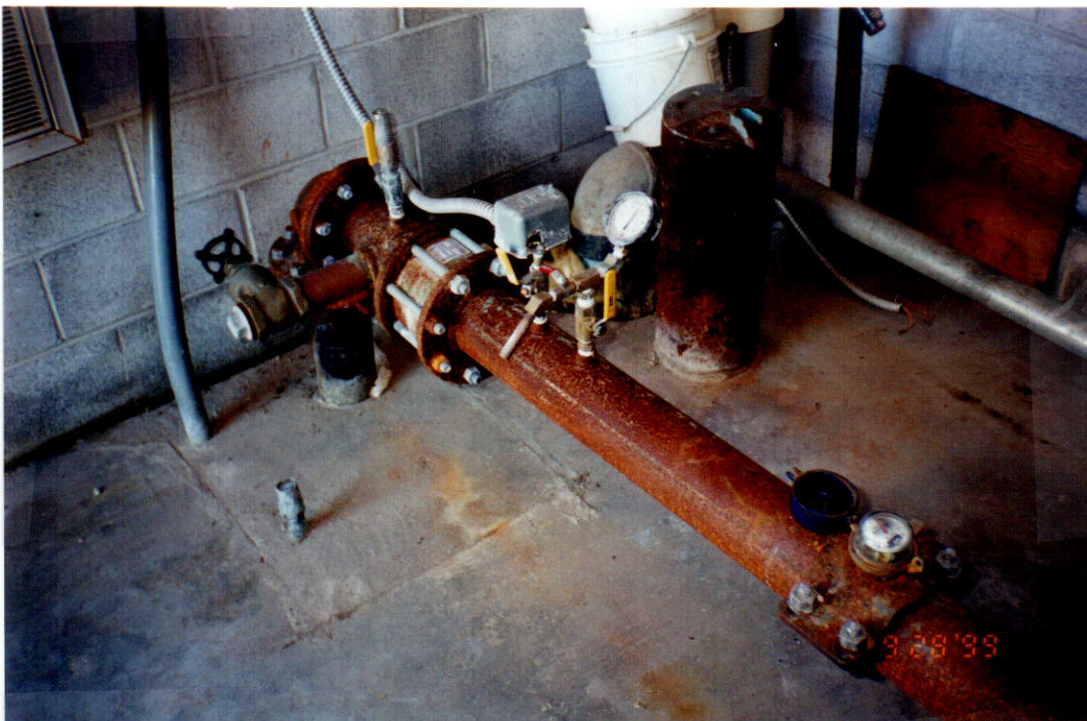
House.

Note 2"

Chlorination

Line to

well.



P/D

old well,

flow

meter,

and 4"

pipe from

new

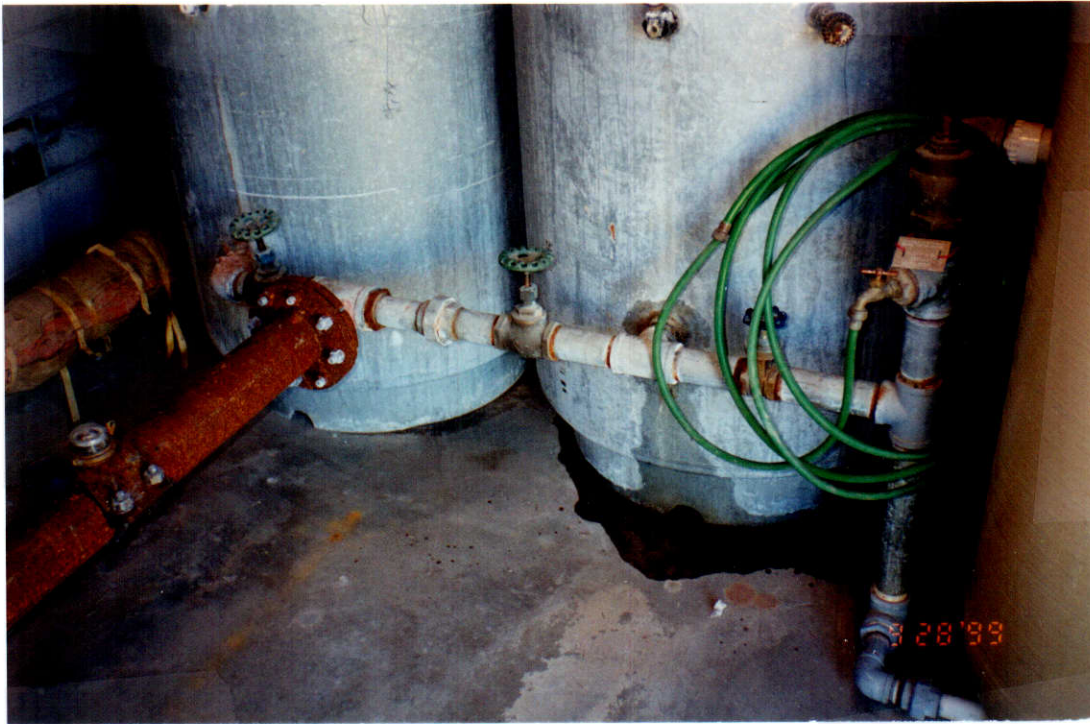
well.

63-12266

2 of 3

P/u

Air
Tanks
in
Well
House



P/u

Typical
Homes
in
Subdivision



63-12266

3 of 3

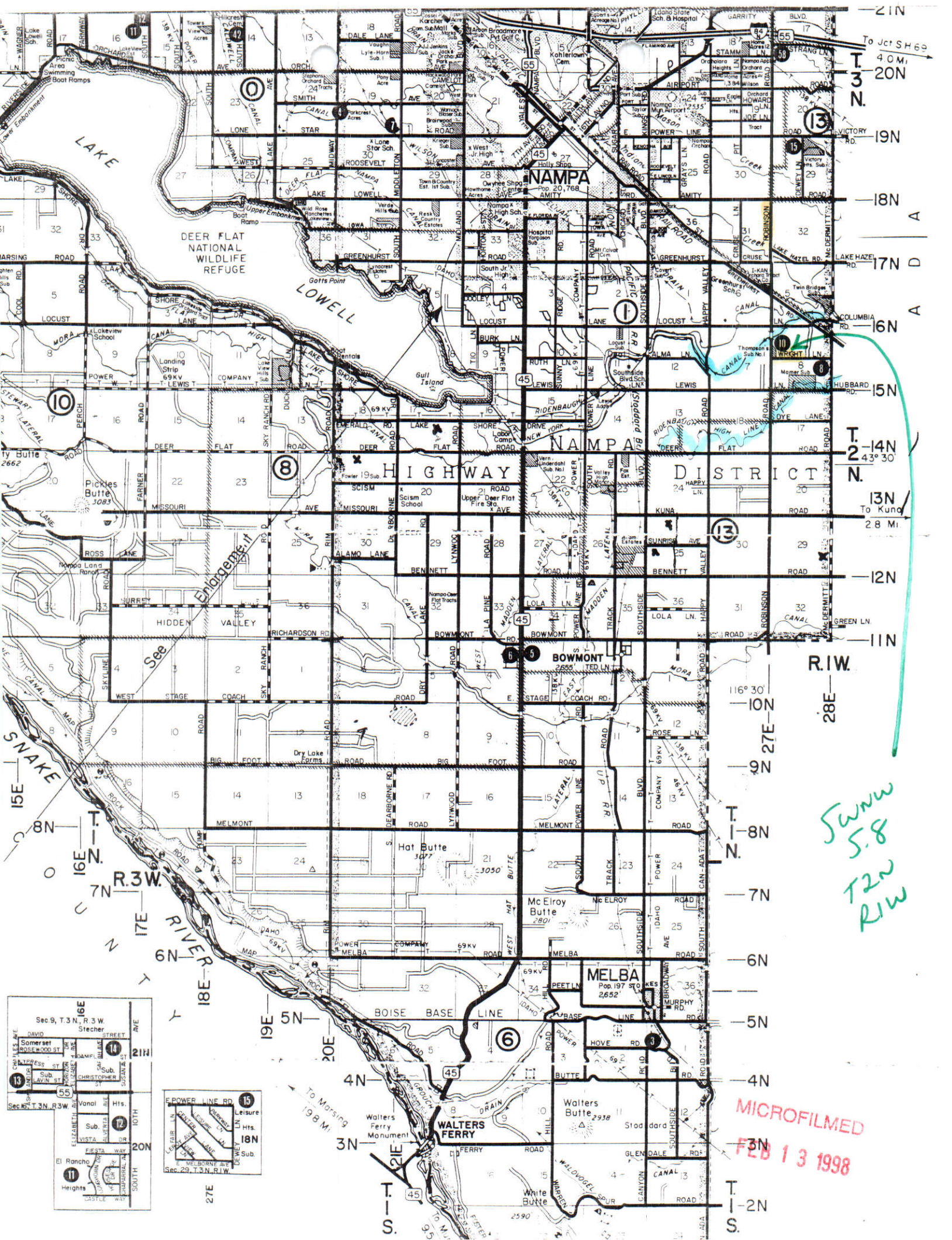


Private
irrigation
well
in
lot 1,
B1K3.



Nampa +
Meridian
I. D.
Diversion
Box
+
ditches
at corner
of Wright
lane +
Brenda lane

63-12266



6500
115' 3rd level plan
466-5741
Jesse New King Water
6.38
SHEPHERD TITLE INSURANCE
RABALA AND CALDWELL

M & M MOUNTAIN
VIEW ACRES
CANTON COUNTY, IDAHO

NO GUT LOTS
-FL 8/29/96
RECORDED
AUG 3 1998

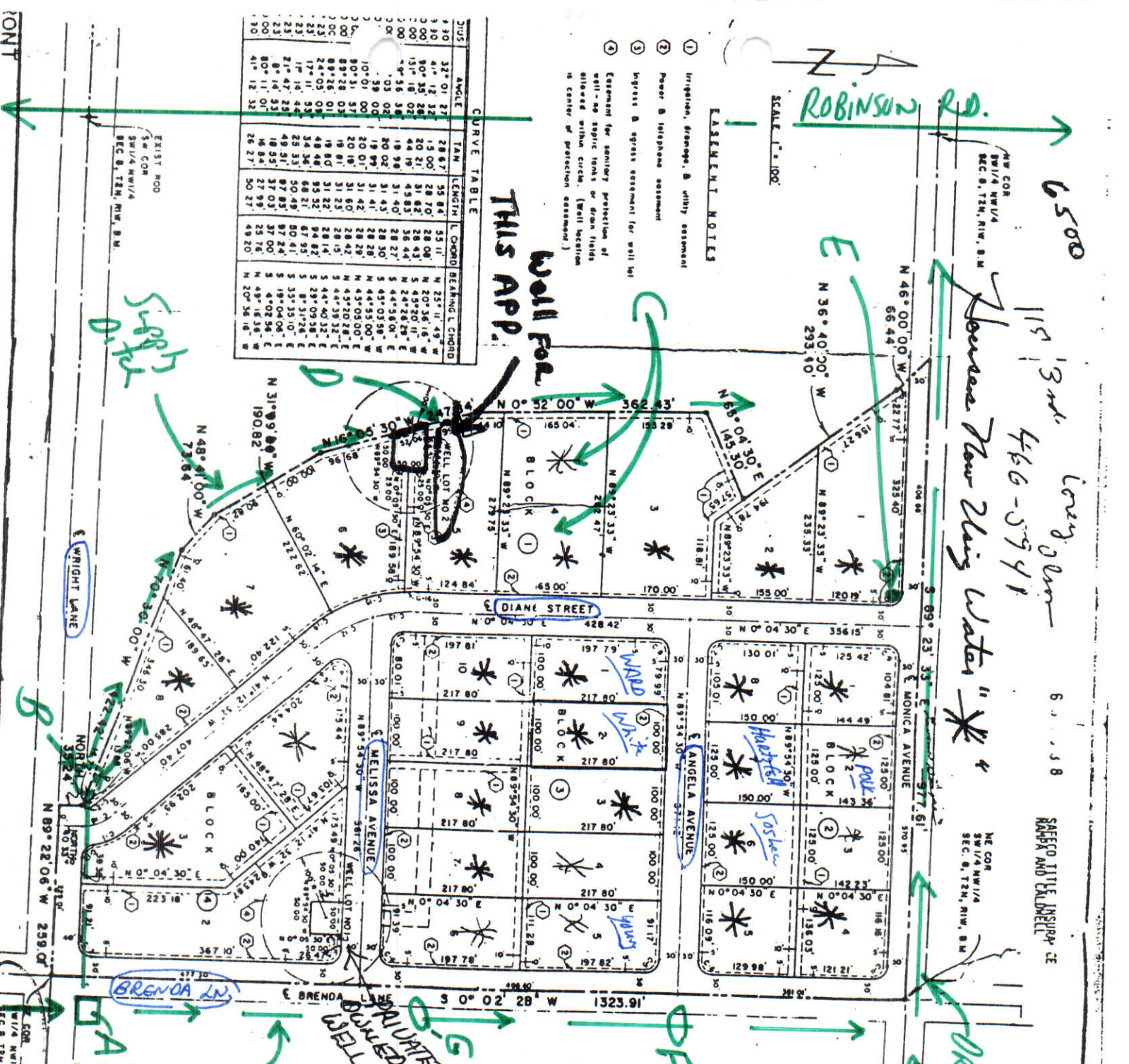
ROBINSON RD.
SCALE 1" = 100'

EASEMENT NOTES

1. Irrigation, drainage, & utility easement
2. Power & telephone easement
3. Easement for ingress & egress easement for well lot
4. Easement for sanitary protection of well - no septic tanks or drain fields allowed within circle. (Well location in center of protection easement.)

THIS APP. well for

DIS.	ANGLE	TAN	LENGTH	CHORD	BEARING	CHORD
1.30	32° 01' 27"	28.67	55.84	55.11	N 25° 11' 49" W	28.08
2.30	41° 12' 32"	15.00	28.70	28.08	N 20° 36' 16" W	28.08
3.00	90° 13' 26"	20.21	45.85	28.44	S 45° 20' 11" W	28.08
4.00	131° 16' 02"	44.19	45.85	36.44	N 24° 26' 29" E	28.08
5.00	137° 56' 38"	18.98	31.40	28.27	S 45° 56' 01" E	28.08
6.00	103° 02'	30.02	31.43	28.30	S 45° 03' 58" W	28.08
7.00	59° 00'	19.94	31.41	28.28	N 44° 55' 00" E	28.08
8.00	10° 01' 00"	20.01	31.42	28.29	N 44° 05' 00" E	28.08
9.00	89° 31' 37"	18.87	31.40	28.28	N 44° 20' 28" E	28.08
10.00	89° 26' 03"	18.87	31.23	28.12	N 44° 35' 32" E	28.08
11.00	24° 03' 01"	48.48	28.32	28.14	S 44° 40' 32" E	28.08
12.00	17° 11' 33"	34.36	28.32	28.14	S 29° 09' 38" E	28.08
13.00	17° 16' 44"	28.33	50.41	81.95	S 8° 51' 26" E	28.08
14.00	21° 47' 22"	49.93	50.41	80.41	S 35° 35' 10" E	28.08
15.00	8° 16' 33"	16.85	37.03	37.24	S 19° 04' 06" E	28.08
16.00	80° 11' 01"	16.85	27.93	28.08	S 4° 02' 54" E	28.08
17.00	41° 12' 32"	26.27	50.27	28.16	N 20° 36' 16" W	28.08



STATE OF IDAHO
COUNTY OF CANYON S.S.

STATE OF IDAHO
COUNTY OF CANYON S.S.

On this 17th day of May, A.D. 1972, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Ronald M. Bailey, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed said instrument for the purposes and consideration therein expressed. I have therefore signed my name and seal this 17th day of May, A.D. 1972.

Notary Public
Ronald M. Bailey

Reading of Caldwell Title
By Commission expires 8-25-75

I hereby certify that this instrument was filed for record at the request of Ronald M. Bailey at 01 minutes past 11:00 A.D. 1972. At this day of May, A.D. 1972.

Fee \$5.00
Instrument No. 606810
Recorder Walter Ray
Deputy Deanna Ray

6500

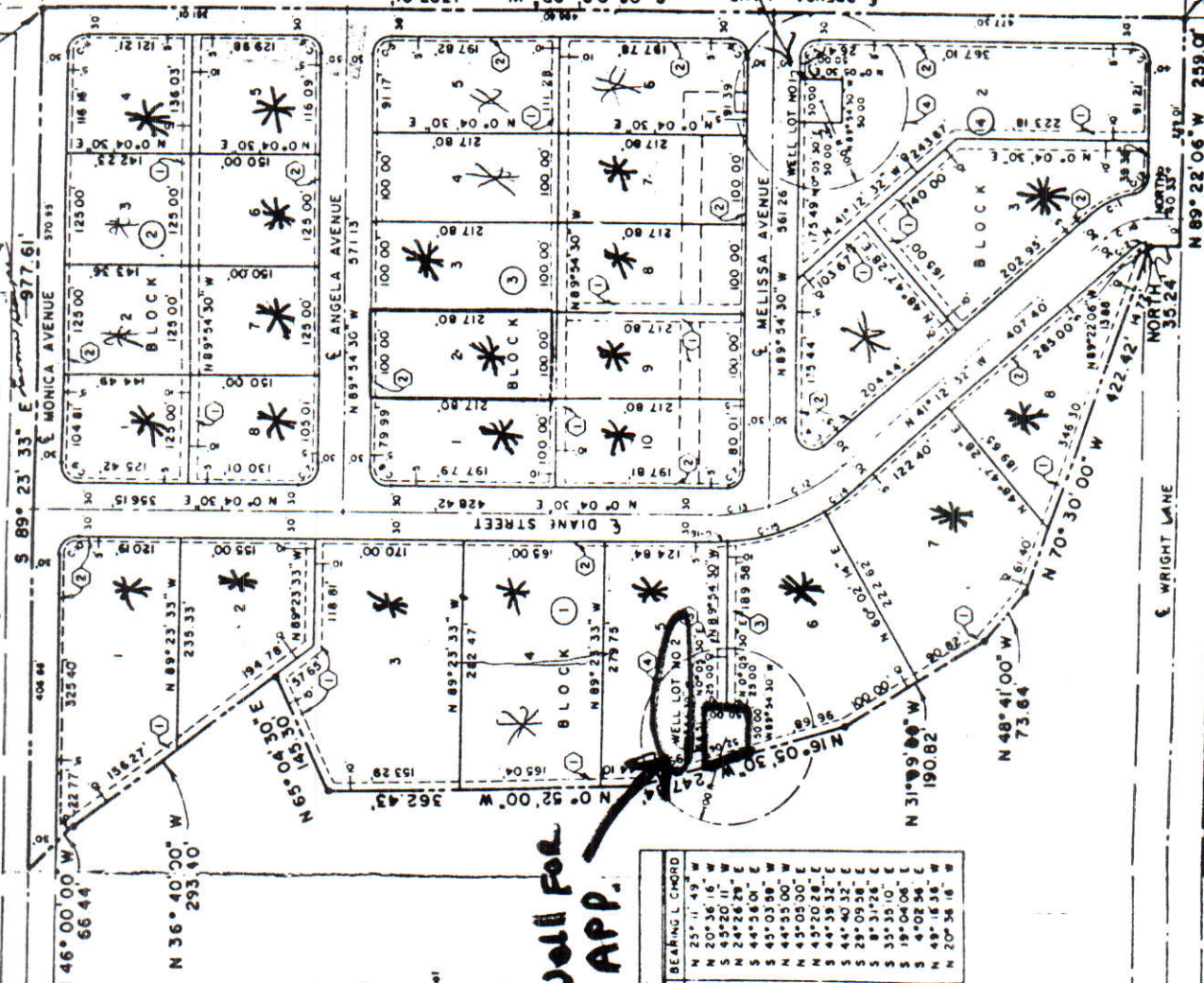
115' 3rd
466-5941

NE COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

Houses Now Using Water

SARGENT TITLE INSURANCE
HARPA AND CALDWELL

NE COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.



SCALE 1" = 100'

EASEMENT MOILS

- right-of-way, drainage, & utility easement
- water & telephone easement
- egress & access easement for well lot
- Easement for sanitary protection of well-neptic tanks or drain fields placed within circle (Well location & center of protection easement)

CURVE TABLE				CHORD BEARING & CHORD			
ANGLE	TAN	LENGTH	CHORD	BEARING	CHORD	BEARING	CHORD
10° 27'	28.67	35.84	55.11	N 25° 11' 49" W	100.00	N 25° 11' 49" W	100.00
11° 32'	30.00	38.70	58.06	N 20° 36' 16" W	100.00	N 20° 36' 16" W	100.00
12° 38'	31.42	41.62	60.43	N 15° 50' 11" W	100.00	N 15° 50' 11" W	100.00
13° 45'	32.84	44.58	62.81	N 11° 04' 06" W	100.00	N 11° 04' 06" W	100.00
14° 52'	34.26	47.54	65.19	N 6° 18' 01" W	100.00	N 6° 18' 01" W	100.00
15° 59'	35.68	50.50	67.57	N 1° 31' 56" W	100.00	N 1° 31' 56" W	100.00
17° 06'	37.10	53.46	69.95	N 26° 45' 51" E	100.00	N 26° 45' 51" E	100.00
18° 13'	38.52	56.42	72.33	N 21° 59' 46" E	100.00	N 21° 59' 46" E	100.00
19° 20'	39.94	59.38	74.71	N 17° 13' 41" E	100.00	N 17° 13' 41" E	100.00
20° 27'	41.36	62.34	77.09	N 12° 27' 36" E	100.00	N 12° 27' 36" E	100.00
21° 34'	42.78	65.30	79.47	N 7° 41' 31" E	100.00	N 7° 41' 31" E	100.00
22° 41'	44.20	68.26	81.85	N 2° 55' 26" E	100.00	N 2° 55' 26" E	100.00
23° 48'	45.62	71.22	84.23	N 28° 09' 21" E	100.00	N 28° 09' 21" E	100.00
24° 55'	47.04	74.18	86.61	N 23° 23' 16" E	100.00	N 23° 23' 16" E	100.00
26° 02'	48.46	77.14	88.99	N 18° 37' 11" E	100.00	N 18° 37' 11" E	100.00
27° 09'	49.88	80.10	91.37	N 13° 51' 06" E	100.00	N 13° 51' 06" E	100.00
28° 16'	51.30	83.06	93.75	N 8° 05' 01" E	100.00	N 8° 05' 01" E	100.00
29° 23'	52.72	86.02	96.13	N 3° 18' 56" E	100.00	N 3° 18' 56" E	100.00
30° 30'	54.14	88.98	98.51	N 28° 32' 51" E	100.00	N 28° 32' 51" E	100.00
31° 37'	55.56	91.94	100.89	N 23° 46' 46" E	100.00	N 23° 46' 46" E	100.00
32° 44'	56.98	94.90	103.27	N 18° 60' 41" E	100.00	N 18° 60' 41" E	100.00
33° 51'	58.40	97.86	105.65	N 13° 14' 36" E	100.00	N 13° 14' 36" E	100.00
34° 58'	59.82	100.82	108.03	N 8° 28' 31" E	100.00	N 8° 28' 31" E	100.00
36° 05'	61.24	103.78	110.41	N 3° 42' 26" E	100.00	N 3° 42' 26" E	100.00
37° 12'	62.66	106.74	112.79	N 28° 56' 21" E	100.00	N 28° 56' 21" E	100.00
38° 19'	64.08	109.70	115.17	N 24° 10' 16" E	100.00	N 24° 10' 16" E	100.00
39° 26'	65.50	112.66	117.55	N 19° 24' 11" E	100.00	N 19° 24' 11" E	100.00
40° 33'	66.92	115.62	119.93	N 14° 38' 06" E	100.00	N 14° 38' 06" E	100.00
41° 40'	68.34	118.58	122.31	N 9° 52' 01" E	100.00	N 9° 52' 01" E	100.00
42° 47'	69.76	121.54	124.69	N 5° 05' 56" E	100.00	N 5° 05' 56" E	100.00
43° 54'	71.18	124.50	127.07	N 0° 19' 51" E	100.00	N 0° 19' 51" E	100.00
45° 01'	72.60	127.46	129.45	N 25° 33' 46" E	100.00	N 25° 33' 46" E	100.00
46° 08'	74.02	130.42	131.83	N 20° 47' 41" E	100.00	N 20° 47' 41" E	100.00
47° 15'	75.44	133.38	134.21	N 15° 61' 36" E	100.00	N 15° 61' 36" E	100.00
48° 22'	76.86	136.34	136.59	N 10° 75' 31" E	100.00	N 10° 75' 31" E	100.00
49° 29'	78.28	139.30	138.97	N 5° 09' 26" E	100.00	N 5° 09' 26" E	100.00
50° 36'	79.70	142.26	141.35	N 0° 23' 21" E	100.00	N 0° 23' 21" E	100.00
51° 43'	81.12	145.22	143.73	N 25° 37' 16" E	100.00	N 25° 37' 16" E	100.00
52° 50'	82.54	148.18	146.11	N 20° 51' 11" E	100.00	N 20° 51' 11" E	100.00
53° 57'	83.96	151.14	148.49	N 16° 05' 06" E	100.00	N 16° 05' 06" E	100.00
55° 04'	85.38	154.10	150.87	N 11° 19' 01" E	100.00	N 11° 19' 01" E	100.00
56° 11'	86.80	157.06	153.25	N 6° 32' 56" E	100.00	N 6° 32' 56" E	100.00
57° 18'	88.22	160.02	155.63	N 1° 46' 51" E	100.00	N 1° 46' 51" E	100.00
58° 25'	89.64	162.98	158.01	N 26° 60' 46" E	100.00	N 26° 60' 46" E	100.00
59° 32'	91.06	165.94	160.39	N 21° 14' 41" E	100.00	N 21° 14' 41" E	100.00
60° 39'	92.48	168.90	162.77	N 16° 28' 36" E	100.00	N 16° 28' 36" E	100.00
61° 46'	93.90	171.86	165.15	N 11° 42' 31" E	100.00	N 11° 42' 31" E	100.00
62° 53'	95.32	174.82	167.53	N 6° 56' 26" E	100.00	N 6° 56' 26" E	100.00
64° 00'	96.74	177.78	169.91	N 2° 10' 21" E	100.00	N 2° 10' 21" E	100.00
65° 07'	98.16	180.74	172.29	N 27° 24' 16" E	100.00	N 27° 24' 16" E	100.00
66° 14'	99.58	183.70	174.67	N 22° 38' 11" E	100.00	N 22° 38' 11" E	100.00
67° 21'	101.00	186.66	177.05	N 17° 52' 06" E	100.00	N 17° 52' 06" E	100.00
68° 28'	102.42	189.62	179.43	N 13° 06' 01" E	100.00	N 13° 06' 01" E	100.00
69° 35'	103.84	192.58	181.81	N 8° 19' 56" E	100.00	N 8° 19' 56" E	100.00
70° 42'	105.26	195.54	184.19	N 3° 33' 51" E	100.00	N 3° 33' 51" E	100.00
71° 49'	106.68	198.50	186.57	N 28° 47' 46" E	100.00	N 28° 47' 46" E	100.00
72° 56'	108.10	201.46	188.95	N 23° 61' 41" E	100.00	N 23° 61' 41" E	100.00
74° 03'	109.52	204.42	191.33	N 18° 15' 36" E	100.00	N 18° 15' 36" E	100.00
75° 10'	110.94	207.38	193.71	N 13° 29' 31" E	100.00	N 13° 29' 31" E	100.00
76° 17'	112.36	210.34	196.09	N 8° 43' 26" E	100.00	N 8° 43' 26" E	100.00
77° 24'	113.78	213.30	198.47	N 3° 57' 21" E	100.00	N 3° 57' 21" E	100.00
78° 31'	115.20	216.26	200.85	N 29° 11' 16" E	100.00	N 29° 11' 16" E	100.00
79° 38'	116.62	219.22	203.23	N 24° 25' 11" E	100.00	N 24° 25' 11" E	100.00
80° 45'	118.04	222.18	205.61	N 19° 39' 06" E	100.00	N 19° 39' 06" E	100.00
81° 52'	119.46	225.14	207.99	N 14° 53' 01" E	100.00	N 14° 53' 01" E	100.00
82° 59'	120.88	228.10	210.37	N 10° 06' 56" E	100.00	N 10° 06' 56" E	100.00
84° 06'	122.30	231.06	212.75	N 5° 20' 51" E	100.00	N 5° 20' 51" E	100.00
85° 13'	123.72	234.02	215.13	N 0° 34' 46" E	100.00	N 0° 34' 46" E	100.00
86° 20'	125.14	236.98	217.51	N 25° 48' 41" E	100.00	N 25° 48' 41" E	100.00
87° 27'	126.56	239.94	219.89	N 20° 62' 36" E	100.00	N 20° 62' 36" E	100.00
88° 34'	127.98	242.90	222.27	N 15° 16' 31" E	100.00	N 15° 16' 31" E	100.00
89° 41'	129.40	245.86	224.65	N 10° 30' 26" E	100.00	N 10° 30' 26" E	100.00
90° 48'	130.82	248.82	227.03	N 5° 44' 21" E	100.00	N 5° 44' 21" E	100.00
91° 55'	132.24	251.78	229.41	N 0° 58' 16" E	100.00	N 0° 58' 16" E	100.00
93° 02'	133.66	254.74	231.79	N 26° 12' 11" E	100.00	N 26° 12' 11" E	100.00
94° 09'	135.08	257.70	234.17	N 21° 26' 06" E	100.00	N 21° 26' 06" E	100.00
95° 16'	136.50	260.66	236.55	N 16° 39' 51" E	100.00	N 16° 39' 51" E	100.00
96° 23'	137.92	263.62	238.93	N 11° 53' 46" E	100.00	N 11° 53' 46" E	100.00
97° 30'	139.34	266.58	241.31	N 6° 07' 41" E	100.00	N 6° 07' 41" E	100.00
98° 37'	140.76	269.54	243.69	N 1° 21' 36" E	100.00	N 1° 21' 36" E	100.00
99° 44'	142.18	272.50	246.07	N 26° 35' 31" E	100.00	N 26° 35' 31" E	100.00
100° 51'	143.60	275.46	248.45	N 21° 49' 26" E	100.00	N 21° 49' 26" E	100.00

Well for
THIS APP.

EXIST ROD
SW COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

M & M MOUNTAIN
VIEW ACRES
CANYON COUNTY, IDAHO

No govt Lots
-82 8/29/98

STATE OF IDAHO
COUNTY OF CANYON
S.S.

I, David M. Shalley, a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M & M MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plat was made by me or under my direction and that this plat correctly shows the survey, as made, IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972.



STATE OF IDAHO
COUNTY OF CANYON
S.S.

On this 17th day of May, A.D. 1972, before me, David M. Shalley, a Notary Public in and for said County and State, personally appeared Ronald M. Shalley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972.

Notary Public
Reading at Caldwell, Idaho
My Commission expires 8-25-75



I hereby certify that this instrument was filed for record at the request of Ronald M. Shalley at 2:17 minutes past 11:00 A.M. on this 17th day of May, A.D. 1972.

Fee \$5.00
Instrument No. 286838
Recorder: Wallace Ray
Deputy: Geneva Ray

ME COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

FEB 13 1938

State of Idaho
Department of Water Administration

WELL DRILLER'S REPORT

State law requires that this report be filed with the State Reclamation Engineer within 30 days after completion or abandonment of the well.

1. WELL OWNER

Name Ed Mager

Address _____

Owner's Permit No. _____

2. NATURE OF WORK

☒ New Well ☐ Deepened ☐ Replacement

☐ Abandoned (describe method of abandoning) _____

3. PROPOSED USE

☐ Domestic ☐ Irrigation ☐ Test

☐ Municipal ☐ Industrial ☐ Stock

4. METHOD DRILLED

☒ Cable ☐ Rotary ☐ Dug ☐ Other

5. WELL CONSTRUCTION

Diameter of hole 8" inches Total depth 107 feet

Casing schedule ☒ Steel ☐ Concrete

Thickness 250 inches Diameter 8" inches From 0 feet To 21 feet

_____ inches _____ inches _____ feet _____ feet

_____ inches _____ inches _____ feet _____ feet

_____ inches _____ inches _____ feet _____ feet

_____ inches _____ inches _____ feet _____ feet

Was a packer or seal used? ☒ Yes ☐ No

Perforated? ☐ Yes ☒ No

How perforated? ☐ Factory ☐ Knife ☐ Torch

Size of perforation _____ inches by _____ inches

Number _____ From _____ To _____

_____ perforations _____ feet _____ feet

_____ perforations _____ feet _____ feet

_____ perforations _____ feet _____ feet

Well screen installed? ☐ Yes ☒ No

Manufacturer's name _____

Type _____ Model No. _____

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Diameter _____ Slot size _____ Set from _____ feet to _____ feet

Gravel packed? ☐ Yes ☒ No Size of gravel _____

Placed from _____ feet to _____ feet

Surface seal? ☒ Yes ☐ No To what depth 49 feet

Material used in seal ☐ Cement grout ☒ Pudding clay

Bentonite

6. LOCATION OF WELL

Sketch map location must agree with written location.

N

W

E

S

County _____

_____ S. _____ T. _____ N/S. R. _____ E/W

7. WATER LEVEL

Static water level 12 feet below land surface

Flowing? ☐ Yes ☒ No G.P.M. flow _____

Temperature _____ ° F. Quality _____

Artesian closed-in pressure _____ p.s.i.

Controlled by ☐ Valve ☐ Cap ☒ Plug

8. WELL TEST DATA

☒ Pump ☐ Bailor ☐ Other

Discharge G.P.M.

Draw Down

Hours Pumped

NONE

1 hr

9. LITHOLOGIC LOG

Hole Diam.	Depth		Material	Water	
	From	To		Yes	No
<u>6"</u>	<u>0</u>	<u>4</u>	<u>top soil</u>		
	<u>4</u>	<u>8</u>	<u>hard pan</u>		
	<u>8</u>	<u>14</u>	<u>sand course</u>	☒	
	<u>14</u>	<u>17</u>	<u>tan clay</u>		
	<u>17</u>	<u>28</u>	<u>gray loam</u>	☒	
	<u>28</u>	<u>33</u>	<u>brown loam S.C</u>	☒	
	<u>33</u>	<u>47</u>	<u>gray loam</u>	☒	
	<u>47</u>	<u>89</u>	<u>gray loam sep cutt.</u>	☒	
	<u>89</u>	<u>98</u>	<u>brown loam</u>	☒	
	<u>98</u>	<u>105</u>	<u>tan sticky clay</u>		☒
	<u>105</u>	<u>107</u>	<u>course sand & gravel</u>	☒	

DEC 12 1977

10.

Work started Nov-21-1977 finished Nov-29-

11. DRILLER'S CERTIFICATION

This well was drilled under my supervision and this report is true to the best of my knowledge.

Becil Broomfield

Driller's or Firm's Name _____ Number _____

Nampa Ida 147 Meffan

Address _____

Feb 12, 1977

Signed By _____ Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

OCT 23 1997

PROOF OF BENEFICIAL USE

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

1. Permit No. 63-12266 Telephone No. (208) 465-6445

2. Name(s) of Permit Holder(s): M+M Mountainview Water Co

3. Mailing Address: 4319 Diane St., Nampa, ID 83686

4. Source of Water: Groundwater from an 8-inch well

If GROUNDWATER, Well Driller's Name: Dufee Well Drilling Date Drilled: 1-20-97

OPTIONAL:

Pump horsepower: 5 Pressure (psi): 62 Dynamic pumping level (ft.): 26 ft

Static WL = 21 ft

5. Extent of Use (as authorized by the permit):

Domestic 29 (No. of households) Stockwater _____ (No. and type of stock)

Irrigation 0 (No. of acres) Other _____

6. Total rate and/or volume for which proof is submitted .25 cfs OR _____ acre/feet

7. Refer to the approval conditions on your permit and respond accordingly:

Measuring device: Required? _____ Yes X No Installed? X Yes _____ No

OR

Flow Measurement Port: Required? _____ Yes X No Installed? X Yes _____ No

8. Fee Enclosed: \$ 100 (See License Fee Schedule on back of Instruction Sheet)

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

Ed Squires (208) 362-7332
Name Telephone No.

8248 W. Victory Rd, Boise, ID 83709
Address

10. The above information 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.

10-22-97
Date

E Squires United Water of Idaho
Signature (and title, if on behalf of a company or organization)

FILED
FEB 13 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

NOV 04 1996

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

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

Permit No. 63-12266

Name(s) of Permit Holder: M & M Mountain View Subdivision Inc.

Mailing Address: 4319 Diane Street, Nampa, Idaho 83686

Date Proof is Due: November 1, 1996 Telephone No. 362-7332

Describe what work has been completed toward the development of this water right:
(This must be filled out! If no work has been completed, show "none".)

Well has been drilled, completed, and pump installed. Well supplies
approximately 30 households.

Costing \$ 15,000

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

Original well was drilled too shallow and is contaminated with nitrate and bacteria.
This has held up build-out of subdivision and resulted in a new well being drilled to
obtain DEQ PDWS approval.

Permit holder(s) request an extension to November 1, 19 97

FEE: \$50.00

Michael Joshee
(Signature)*

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

ACTION OF THE DEPARTMENT OF WATER RESOURCES

IT IS HEREBY ORDERED that the above request for extension of time be APPROVED and the time within which to submit proof of beneficial use is extended to **November 1, 1997.**

IT IS FURTHER ORDERED that the permit be INSTATED and the priority date is advanced to August 26, 1995.

DEC 23 1996

Signed this 8 day of November, 19 96

J. Shu Saylor
Chief, Water Allocation Bureau

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12266

Proposed Priority: August 23, 1995

Maximum Diversion Rate:

0.25 CFS

This is to certify, that M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA ID 83686

has applied for a permit to appropriate water from: GROUNDWATER

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

DOMESTIC

01/01 to 12/31

0.25 CFS

LOCATION OF POINT(S) OF DIVERSION:

SWNW , Sec. 8, Township 02N, Range 01W
CANYON County

PLACE OF USE: DOMESTIC

TWN RGE SEC

02N 01W 8

SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1996.
2. Subject to all prior water rights.
3. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Point of diversion is located within Well Lot 2, Blk. 1; M & M Mountain View Acres Subdivision.
6. Place of use is located within Lots 1-8, Blk. 1, Lots 1-8, Blk. 2; Lots 1-10, Blk. 3; and Lots 1 & 3, Blk. 4, M & M Mountain View Acres Subdivision.
7. Domestic use is for 29 homes.
8. Domestic use does not include lawn, garden, landscape, or other types of irrigation.
9. The domestic use authorized under this right shall not exceed 13,000 gallons per day per dwelling in accordance with Section 42-111, Idaho Code.

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

14 day of November, 1995.

RECORDED

DEC 12 1995

Karl J. Dreher
for Karl J. Dreher, Director

RECEIVED
OCT 20 1995

RECEIVED
NOV 7 1995

Department of Water Resources

Ident. No. 63-12266

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name: M & M MOUNTAINVIEW SUBDIVISION INC 208-466-6354
Address: 4319 DIANE ST
NAMPA ID 83686
2. Source: GROUNDWATER Trib. to:
3. Location of Point of Diversion: SWNW Sec. 8, Township 02N, Range 01W
CANYON County
4. Water will be used for the following purposes:

Purpose	From	To	CFS	(or)	AF
DOMESTIC	01/01	12/31	0.250		
5. Total quantity to be appropriated is:
0.250 CFS (and/or) AF
6. Proposed diverting works:
 - a. Description of ditches, flumes, pumps, headgates, etc.
WELL, 8" CASING, 107' DEEP, 5 HP SUBM. PUMP W/PIPE TO HOUSES.
 - b. Height of storage dam feet; active reservoir capacity
acre-feet; total reservoir capacity acre-feet; period of
year when water will be diverted to storage: to inclusive.
 - c. Proposed well diameter is 8 inches; proposed depth of well is 107
feet.
 - d. Is groundwater with a temperature greater than 85F being sought? NO
 - e. If well is already drilled, when? 11/29/1972
Drilling Firm CECIL BROOMFIELD
Well was drilled for ED NAGER - PREVIOUS OWNER
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: DOMESTIC

TWN RGE SEC
02N 01W 8

SWNW

DEC 12 1995

9. a. Who owns the property at the point of diversion?
APPLICANT
b. Who owns the land to be irrigated or place of use?
INDIVIDUAL HOMEOWNERS
c. If the property is owned by a person other than the applicant,
describe the arrangement enabling the applicant to make this filing.
INDIVIDUAL HOMEOWNERS

10. Remarks:

Domestic use is for 29 homes.

Property also known as Lots 1-8, Block 1; Lots 1-8, Block 2; Lots 1-10, Block 3; and

11. Map of proposed point of diversion and place of use attached? ☒ Lots 1 and 3, Block 4 of

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

Michael Joske (President)
Applicant

Received by JL Date 8-23-95 Time 3:00 Preliminary check by JL

Fee \$ 100 Receipted by JL # W019795 Date 8-23-95

Publication prepared by AT Date 9-29-95 Published in Press-Trib.

Publication approved AT Date 9-25-95

* d'base update 8/29/95 per applicant's plat map.

DEC 12 1995

6500

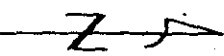
115' 3rd
466-5741
House This Water

6.13.8

NAPECO AND CALDWELL

M. & M. MOUNTAIN
VIEW ACRES
CANYON COUNTY, IDAHO

No gubt Lots
-FL 8/29/98



SCALE 1"=100'

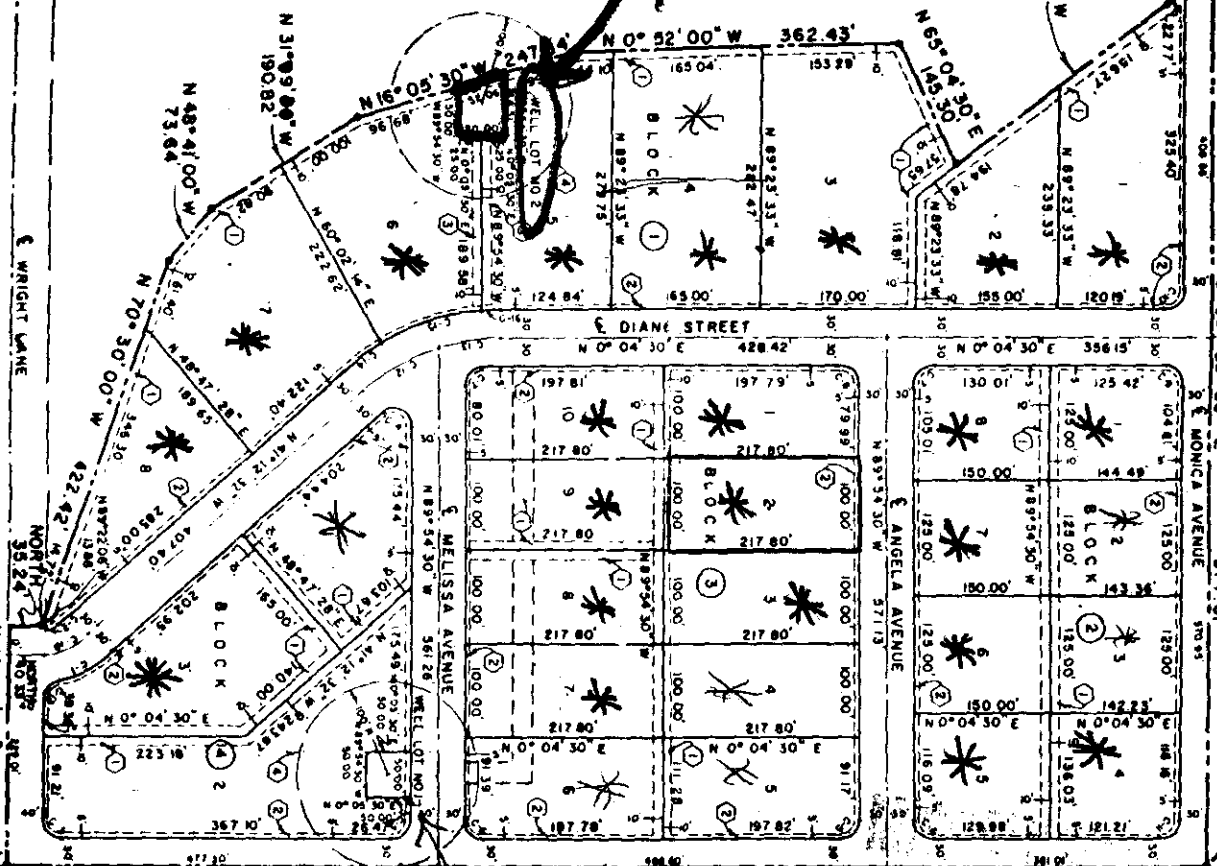
EASEMENT NOTES

- 1. Irrigation, drainage, & utility easement
- 2. Power & telephone easement
- 3. Easement for water protection of well as depicted on or from field survey within circle. (Well location in center of protection easement.)
- 4. Easement for water protection of well as depicted on or from field survey within circle. (Well location in center of protection easement.)

well for
THIS APP.

CURVE TABLE

CHORD	ANGLE	TAN	LENGTH	CHORD	BEARING	CHORD
10	32° 01' 27"	28.67	59.88	5.11	N 25° 11' 49" W	10.00
20	16° 00' 54"	14.34	29.94	2.56	N 25° 11' 49" W	10.00
30	10° 40' 32"	9.56	19.96	1.71	N 25° 11' 49" W	10.00
40	7° 50' 10"	7.17	14.97	1.28	N 25° 11' 49" W	10.00
50	6° 12' 32"	5.21	10.98	.95	N 25° 11' 49" W	10.00
60	4° 48' 00"	3.76	8.00	.71	N 25° 11' 49" W	10.00
70	3° 38' 00"	2.81	6.00	.54	N 25° 11' 49" W	10.00
80	2° 40' 00"	2.05	4.62	.41	N 25° 11' 49" W	10.00
90	1° 52' 00"	1.46	3.46	.30	N 25° 11' 49" W	10.00
100	1° 08' 00"	1.04	2.56	.22	N 25° 11' 49" W	10.00
110	0° 48' 00"	.77	1.96	.16	N 25° 11' 49" W	10.00
120	0° 32' 00"	.58	1.49	.12	N 25° 11' 49" W	10.00
130	0° 20' 00"	.42	1.10	.09	N 25° 11' 49" W	10.00
140	0° 11' 00"	.30	.80	.07	N 25° 11' 49" W	10.00
150	0° 05' 00"	.21	.58	.05	N 25° 11' 49" W	10.00
160	0° 03' 00"	.15	.42	.04	N 25° 11' 49" W	10.00
170	0° 02' 00"	.11	.30	.03	N 25° 11' 49" W	10.00
180	0° 01' 00"	.08	.22	.02	N 25° 11' 49" W	10.00



DEC 12 1995

STATE OF IDAHO
COUNTY OF CANYON S.S.
I, [Name], a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M. & M. MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plat was made by me or under my direction and that this plat correctly shows the survey as made IN WITNESS WHEREOF, I have hereunto set my hand and seal this 12th day of May, A.D. 1992.

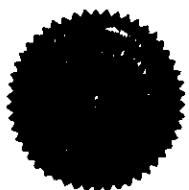


STATE OF IDAHO
COUNTY OF CANYON S.S.

On this 12th day of May, A.D. 1992, before me, [Name], a Notary Public in and for said County and State, personally appeared [Name], known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same IN WITNESS WHEREOF, I have hereunto set my hand and seal this 12th day of May, A.D. 1992.

Notary Public [Name]

UNLAWFUL
WELL



I hereby certify that this instrument was filed for record on the request of [Name] in [County] at [City] on [Date] and that it is a correct and true copy of the original as filed in my office.

Instrument No. 666666
Recorded [Name]
Notary [Name]

CONT

DEC 12 1955

SD-0420-2
MODIFY RECORD

Idaho Department of Water Resources
Modify Comment

Date: 08/23/95
Time: 15:16:26

Water Right Number: 63-12266

Comment Date: 8/23/1995 User ID: JSHURTE

Subject: Corporation Officers

Michael Soshea, President

Richard W. Smith, Treasurer

Darrell Ward, V-President

Ernest White, V-President

Helene Tomaszewski, Secretary

Address: 4319 Diane St., Nampa, ID 83686

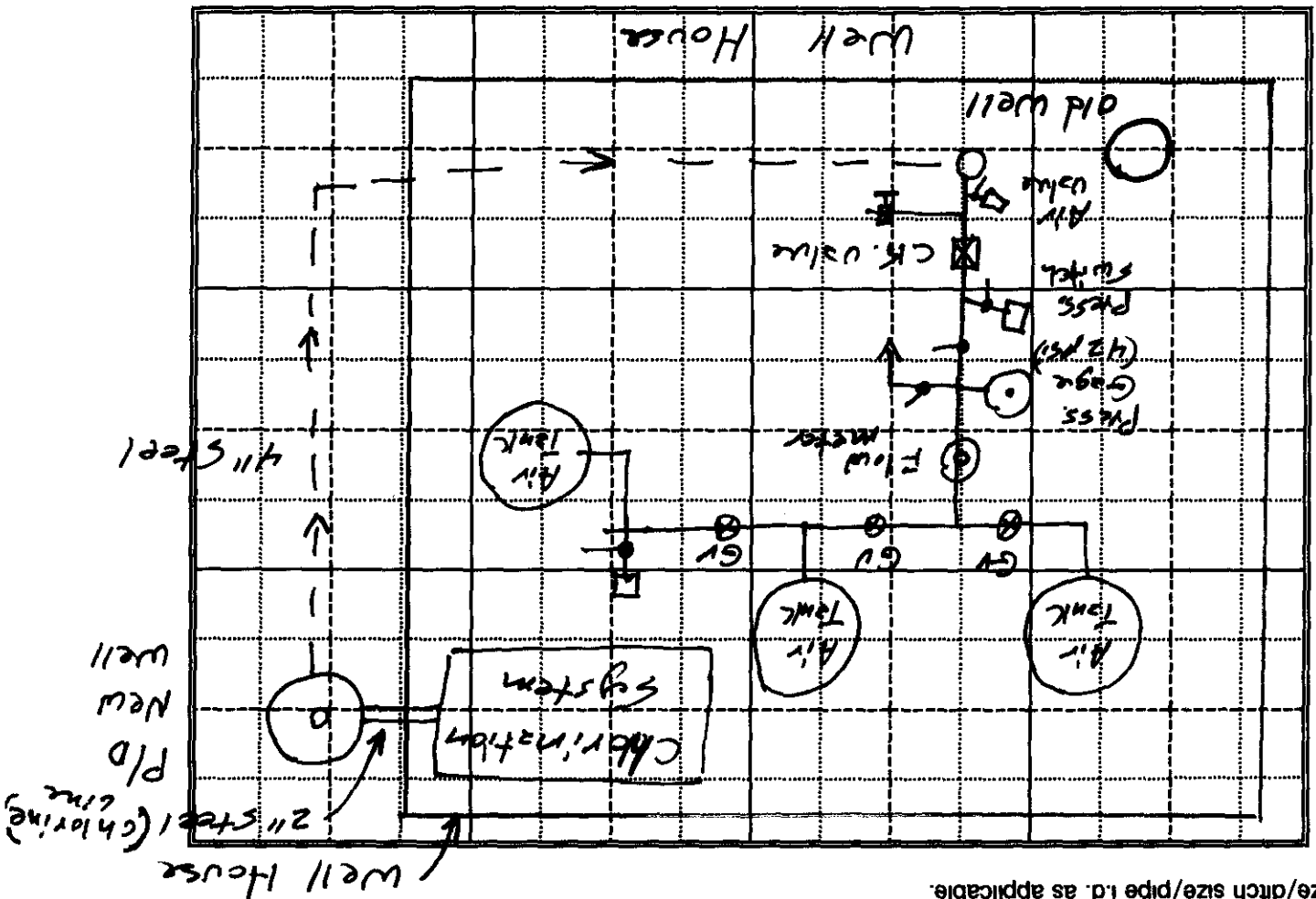
(Enter=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

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DEC 12 1995

[illegible]

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



Scale: 1" = 100'

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
New Well 1	Franklin	5	282 F082	Grundfos	Type 80550-5
			200		10-90

*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
Flow Meter	Tot. Bdg.		M00644784		4"	

2. Measurements:

Notes - Op. Press: 40-60 psi.

42 psi on Press gauge

E. NARRATIVE/REMARKS/COMMENTS

See enclosed sheets

Have conditions of permit approval been met? ☒ yes ☐ no

Cond. 7 Shows 29
Homes but there are
28 lots on system.
28 Homes

F. FLOW CALCULATIONS

Measured Method: None - Theoretical Cal.:

$$Q = \frac{(8.8)(5.4)(700)}{23' + (40 \text{ psi}) \left(\frac{34'}{14.7 \text{ psi}} \right)} = 0.27 \text{ cfs} > 0.25 \text{ cfs}$$

28 cfs, Allow up to 0.30 cfs
28 Homes Allow 0.25 cfs

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: *Internal Domestic.*

$$AFI = (28 \text{ cfs}) \left(0.6 \frac{AFI}{\text{Home}} \right) = 16.8 \text{ AFI} \quad (\text{Home})$$

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use From To	Rate of Diversion Q (cfs)	Annual Volume V (afa)
Domestic	01/01 12/31	0.25	16.8
Totals:		0.25	16.8

2. Recommended Amendments

Change P.D. as reflected above ☐
Change P.U. as reflected above ☐
Add P.D. as reflected above ☐
Add P.U. as reflected above ☐
None ☒
Other ☐

I. AUTHENTICATION

Field Examiner's Name *Adam J. Arnold*

Reviewer _____ Date _____

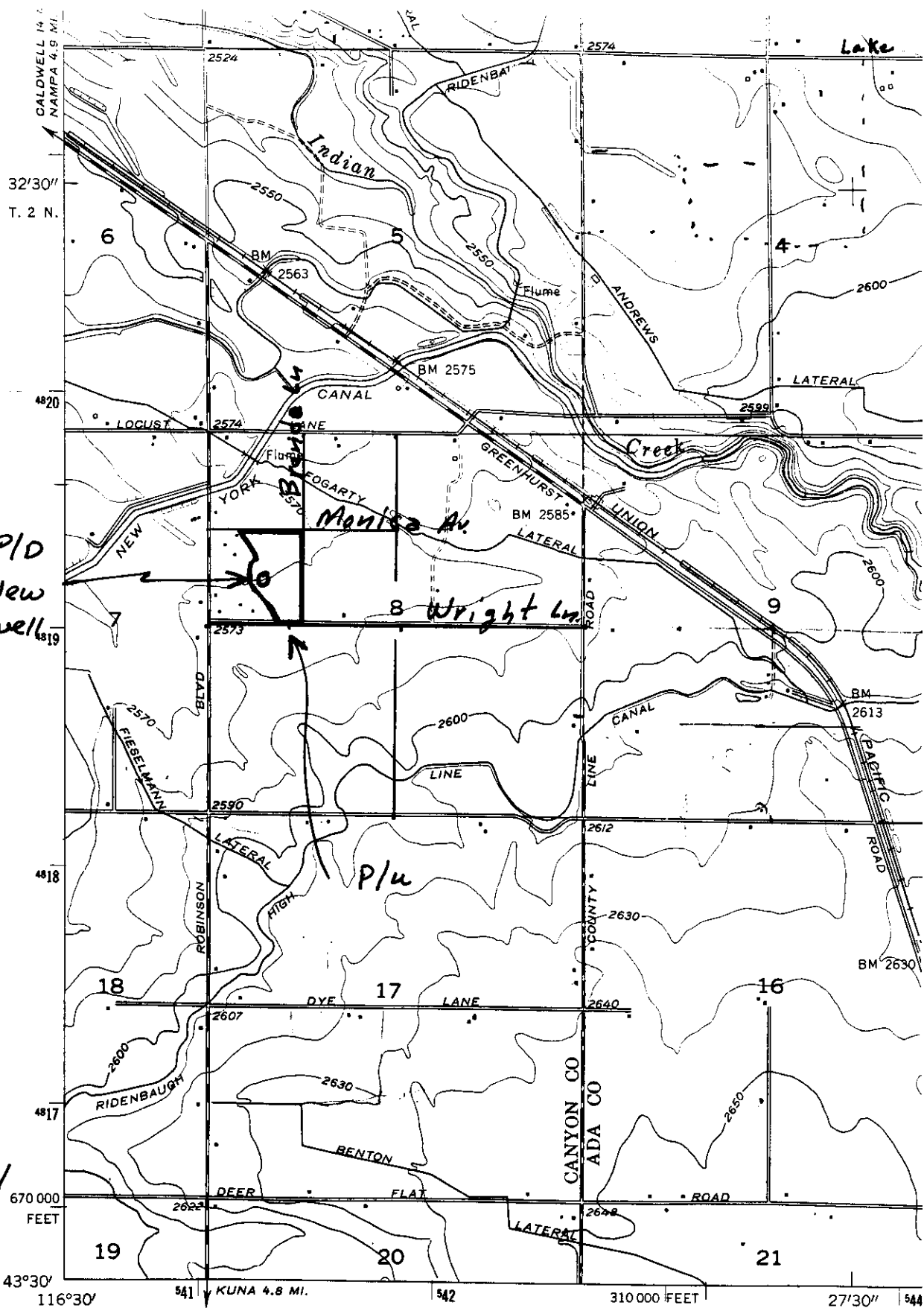
Date *12-9-95*

28 Homes!
28 lots on
system. Lot 2
Bik 2 does
not have a
house, but can
be served by
system.

SEAL

T2N
R1W
Sec. 8
SWNW

Ne Gov. Lots
(MELBA)
2670 1 NE



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Culture and drainage by multiplex methods
from aerial photographs taken 1951

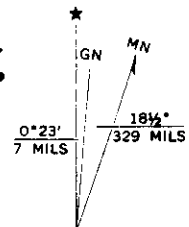
Topography by plane-table surveys 1953

Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system,
west zone

1000-meter Universal Transverse Mercator grid ticks,
zone 11, shown in blue

Red tint indicates areas in which only landmark buildings are shown

63-12266



UTM GRID AND 1971 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET

FOR SALE

E. NARRATIVE/REMARKS/COMMENTS

63-12266

This permit is for domestic water use in the M & M Mountain View Acres Subdivision. The P/D is a well in Lot 2, Blk 1. The P/U is in Lots 1-8, Blk 1; Lots 1-8, Blk 2; Lots 1-10, Blk 3; and Lots 1 & 3, Blk 4. This is a total of 28 lots, but the Permit is for 29 homes. Lot 2, Blk 4 has a private well, and is not in the M & M water system. There would be 28 homes for this Permit.

The subdivision was originally developed with a shallow well drilled in 1972. At the time, a well drilling permit was obtained, but no water right was established. The subdivision filed for this water right after their SRBA Claim was not approved because of the illegal water use. As part of this application process, a new well was drilled since the old original shallow well was contaminated with nitrate and bacteria. The new well under Drilling Permit 63-96-C-0826-200, is a replacement well, and the old well has been abandoned. The old well is located in the well house, and the new well was drilled outside of the well house.

The subdivision is served with irrigation water from the Nampa & Meridian Irrigation District from a system of open ditches and pipes. The surface water system can serve all the lots; some use flood irrigation, and others have pumps and pressure sprinklers.

The water system for this permit from the new well serves internal domestic use only, and no irrigation is taking place from this system. United Water Idaho provides management and billing service, and the Homeowners Association provides operation and maintenance of the system.

There is a long history of controversial issues associated with development and operation of the water systems for this subdivision, and most of this has been documented. At the time of this exam, most of these issues were found to be as follows:

1. Three private wells have been drilled by disgruntled owners: a well in Lot 2, Blk 2 serves Lots 2 & 7; a well in Lot 5, Blk 2 serves Lots 4 & 5; and a well in Lot 5, Blk 3 serves that lot. The owners of these 5 lots have taken themselves off the M & M water system, and are not paying their bills. The service pipes to Lots 2 & 7, Blk 2, and Lot 5, Blk 3 were cut and capped by United Water; and the pipes to Lots 4 & 5, Blk 2 were cut and capped by the owners. The present owners are also using these private wells to irrigate their yards - and using some of the surface water. Two wells were drilled and service discontinued in 1997: 63-97-W-0441-000, Lot 5, Blk 3, and 63-97-W-0287-200, for Lots 2 & 7, Blk 2. The well for Lots 4 & 5, Blk 2, 63-99-C-163-000, was drilled in 1999.

These lots should remain on this water right, however, since new owners may decide to resume water service from the M & M system.

2. An old 42' irrigation well in Lot 1, Blk 3 is used for irrigation of that lot, along with the surface water.
3. No Nampa & Meridian surface water is presently being used on Lots 1,2,7, & 8, Blk 2. All other lots are using the surface water.
4. Lot 2, Blk 2 does not have a house on it, and is owned by the people on Lot 7, Blk 2.

Ernest White is President of the M & M Mountain View Water Co. He provided a map of the subdivision with the present lot owners shown along with the present water systems. The map is enclosed with this report.

63-12266

42' Irrigation Well in Lot 1, BIK 3

6500
115' 3rd
466-5941
House New Living Water

SANFORD LITTLE, INSURANCE
NASHUA AND CALDWELL

6.38

M & M MOUNTAIN
VIEW ACRES

8" Private well
Series lots 2+7, BIK 2

NE COR
SW 1/4 NW 1/4
SEC. 8, TEN. NW, BM

No govt Lots
-R 8/29/98

Green-Surface
water, N 36° 40' 00" W
293.40

Ditches &
Pipe System

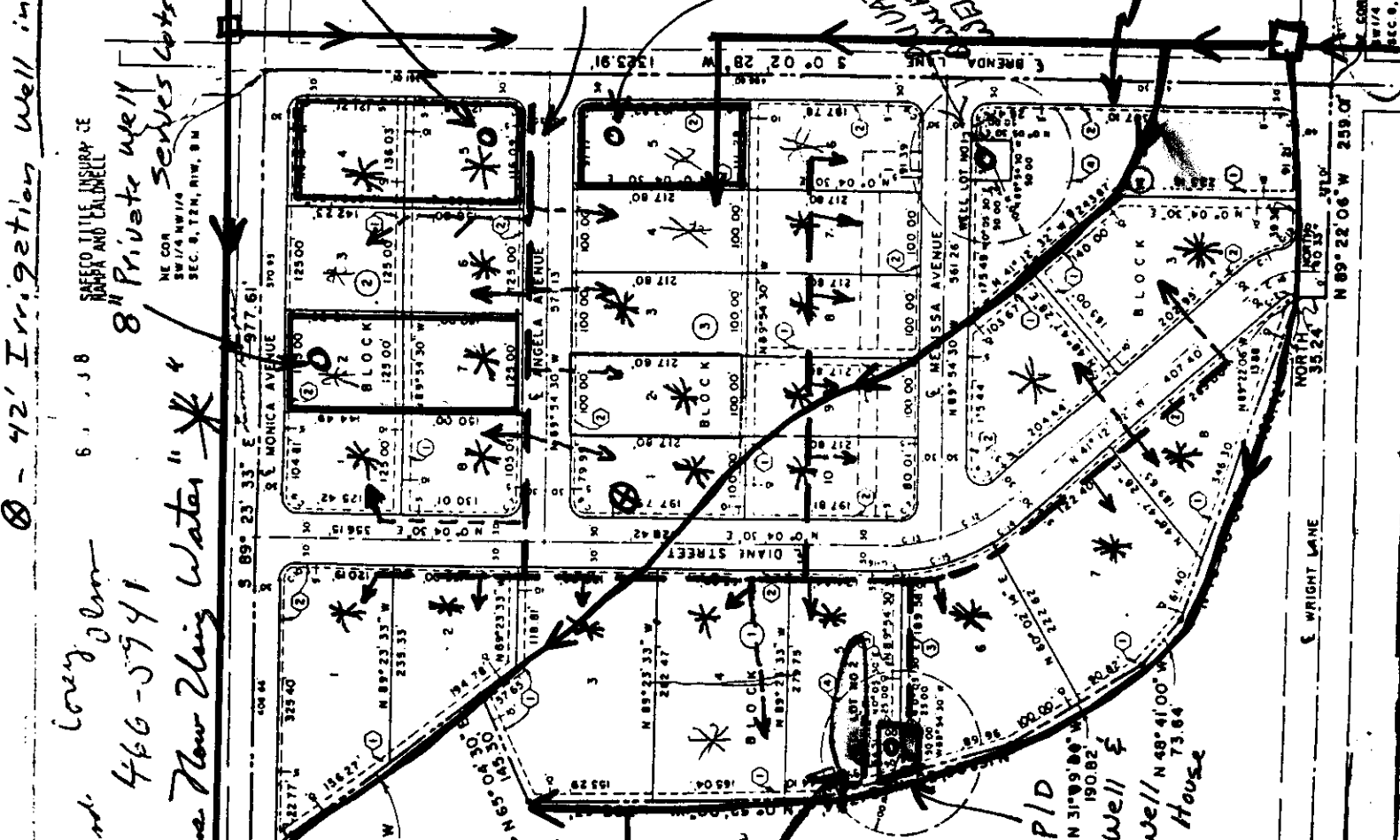
63-02388

New
P/D, Well for
THIS Permit

DIS	ANGLE	TAN	LENGTH	CHORD	BEARING	CHORD
930	32° 01' 27"	28.67	55.84	55.11	N 25° 11' 45"	W
930	41° 12' 32"	15.00	28.70	28.08	N 20° 36' 16"	W
930	90° 35' 06"	20.21	31.62	31.62	S 45° 20' 41"	W
930	131° 18' 02"	44.19	45.83	36.44	S 24° 26' 29"	E
930	89° 56' 38"	18.98	31.40	28.27	S 44° 58' 06"	E
930	90° 03' 02"	20.02	31.43	28.27	S 47° 03' 39"	E
930	134° 39' 00"	19.99	31.41	28.28	N 44° 25' 00"	W
930	100° 01' 00"	20.01	31.42	28.28	N 47° 05' 00"	W
930	90° 31' 37"	19.81	31.23	28.15	S 47° 20' 32"	E
930	89° 28' 03"	19.80	31.32	28.14	S 44° 39' 32"	E
930	24° 05' 09"	48.48	85.32	84.82	S 29° 09' 38"	E
930	17° 11' 53"	34.34	68.31	67.95	S 81° 31' 28"	E
930	21° 47' 25"	49.31	50.49	50.41	S 35° 35' 10"	E
930	80° 11' 01"	18.85	37.03	37.00	S 4° 02' 54"	E
930	41° 12' 32"	26.27	50.27	49.20	N 49° 15' 34"	W

EXISTING
SW COR
SW 1/4 NW 1/4
SEC. 8, TEN. NW, BM

63-12266



1. Irrigation, drainage, & utility easement for well lot
2. Power & telephone easement
3. Egress & egress easement for well lot
4. Easement for sanitary protection of well-no septic tanks or drain fields allowed within circle, (well location in center of protection easement)

Blue-Buried
Pipe Mainlines
from New well

STATE OF IDAHO
COUNTY OF CANYON

STATE OF IDAHO
COUNTY OF CANYON

On this 17th day of May, A.D. 1972, before me, the undersigned, a Notary Public in and for said County and State, personally appeared [Name], known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in the presence of the undersigned, and that he intended by the execution and delivery thereof to give the same full force and effect as a deed.

Notary Public
[Signature]
Residing at Caldwell, Idaho
My Commission expires [Date]

8" Private
well
for lots 5, BIK 3

I hereby certify that this instrument was filed for record at the request of [Name] at [Time] on the [Date] day of [Month], A.D. 1972.

Lot 2, BIK 4 has
private well
and not in
M+M
water
system
on this
Permit

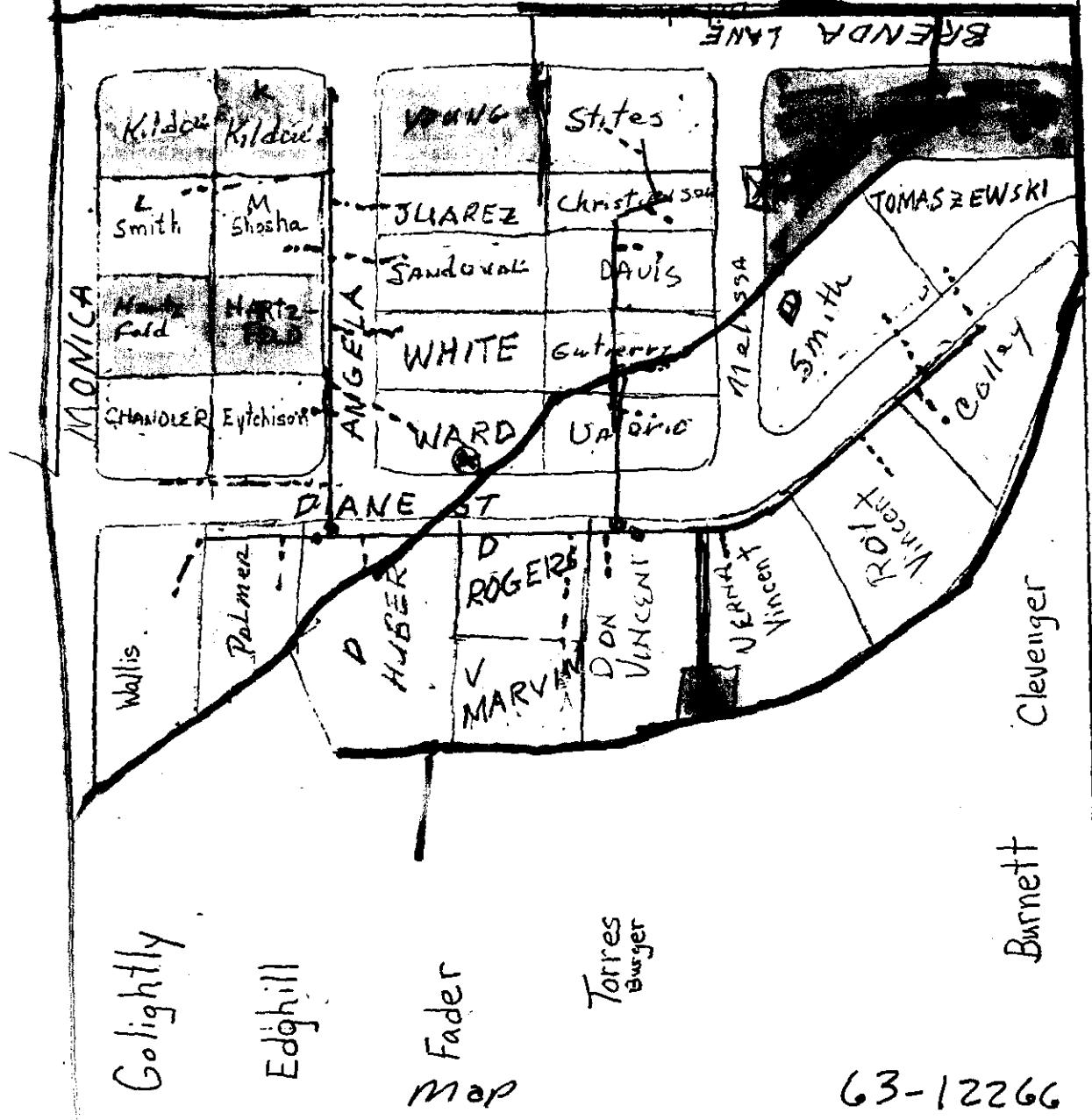
(no delivery of water under p.s.)

9-92

M & M water
lay out

- 5 - Hook up lost Private well Drilled
- Not in M & M Water System
- Well lost & Pump House water main
- Property Hook up -
- Old well Not in System
- Main line cut & capped - 1996
- Valves
- Irrigation Ditch
- Irrigation well (WAED)

Pressurized Irrigation
Brown Ditch
Mike Soska
D. Rogers
J. Marlin
L. Smith



Provided by Ernest White,

63-12266

Robinson &
President of M & M Mountain View
Water Co.

Grant

Wright

IDAHO DEPARTMENT OF WATER RESOURCES

Replacement
Well

WELL INSPECTION FORM

Tag # E0006825 on well
Tag # E0006692 (on Air Tank Piping)

1. DRILLING PERMIT NO: 63-96-C-0826-208 OTHER APPLICABLE NO: 63-12266
2. OWNER: M + M Mountain View Subdivision, Inc. Phone: (208) 465-6445
Address: 4319 Diane St., Nampa, ID 83686
3. WELL LOCATION: Twp 2N, Rge. 1W, Sec. 8, SW 1/4 NW 1/4
County Canyon (Provide sketch map and photo on reverse.)
4. DRILLER: Dufor Well Drilling Lic. No. 399
When Drilled? 11/5/96 to 1/20/97
5. WELL CONSTRUCTION:
Casing Diameter 8 1/2 inches Water tight cap? ☒ Yes ☐ No Access Port: ☒ Yes ☐ No
Casing $\geq$ 12 inches above ground? ☒ Yes ☐ No - Describe _____
Depth of Casing 239 ft. Method Drilled Cable Tool
Condition of Well Casing: ☒ Good ☐ Fair ☐ Poor Describe _____
Control Valve? ☒ Yes ☐ No Pressure Gauge: ☒ Yes ☐ No
Condition of Piping and Valving Good
Auger to a depth of _____ ft. Evidence of Annular Seal ☒ Yes ☐ No
Are there obvious construction problems that may be a source for contamination or waste of water?
☐ Yes ☒ No (Describe in Remarks and Attach Photo - On Reverse)
6. HYDROLOGIC INFORMATION:
Depth to Static Water 23 ft. Water Temperature 58.5 °F
Flowing Artesian ☐ Yes ☒ No Pressure: _____ (psi)
Water Sample Taken? ☐ Yes ☒ No If yes, describe purpose _____
Water Quality Measurements/Observations (Describe) _____
7. WELL USE: Internal Domestic
☒ Domestic ☐ Irrigation ☐ Stock
☐ Test ☐ Municipal ☐ Industrial
☐ Abandoned ☐ Waste Disposal/Injection ☐ Not Used
☐ Other: _____

8. POSSIBLE CONTAMINATION SOURCES:

Is there evidence of Chemigation? ☐ Yes ☒ No

If yes, is there a check-valve present? ☐ Yes ☐ No

Is there a possible source of contamination nearby? ☐ Yes ☒ No

If yes, what Type? _____

How far away from the well is this source? _____

9. REMARKS: This is a replacement well that
provides internal domestic water to the
mt + m Mountain View Subdivision.

Don Tomlin, Water Rights Examiner
Signature of Dept. Representative & Title

9-28-99
Inspection Date

PHOTOS, DRAWINGS, OTHER ATTACHMENTS:



Lot 3



P/D

New

well

and

well

house.

Note 2'

chlorination

line to

well.



P/D

old well,

flow

meter,

and 4"

pipe from

new

well.

63-12266

2 of 3

P/10

Air
Tanks
in
Well
House



P/14

Typical
Homes
in
Subdivision



63-12266

3 of 3



Private
irrigation
well
in
lot 1,
B1K 3.



Nampa +
Meridian
I. D.
Diversion
Box
+
ditches
at corner
of Wright
Lane +
Brenda Lane

63-12266

Permit No. 9563-12266 Reviewed by [Signature] Date 1-2-98

yes Name same as permit?
yes Address same as permit?
yes Proof timely received?
 If not, complete calculation below.

Correct Uses? yes

no	Required?
	Installed?
	Waiver requested?

Date proof received	_____		_____
Date proof due	_____	-	_____
No. of days late	_____	=	_____
Priority Date	_____	+	_____
New Priority Date	_____		_____

Proof acceptable

New Address _____ Proof Made 10-23-97



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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 2, 1998

M and M Mountainview Water Co
4319 Diane St
Nampa ID 83686

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-12266

Dear Permit Holder:

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

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

If you have questions concerning the field examination, please contact the department's Western Regional Office in Boise at (208)334-2190.

Sincerely,

JULIE L. YARBROUGH

Senior Secretary, Water Allocation Bureau

c: IDWR - Regional Office

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FEB 13 1998

SEND ANY NEW CORRESPONDENCE
REGARDING THIS WATER RIGHT FILING NO. 63-12266
OR IWRB LOAN FILE NO. 302

TO: MR. MICHAEL SOSHEA, PRESIDENT
M & M MOUNTAIN VIEW ACRES
SUBDIVISION WATER CO.
6521 ANGELA AVENUE
NAMPA, IDAHO 83686

AS REQUESTED IN LETTER DATED SEPTEMBER 13, 1997 FROM MR. SOSHEA



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

PHILIP E. BATT
GOVERNOR

December 18, 1997

KARL J. DREHER
DIRECTOR

The Honorable Dirk Kempthorne
United States Senate
304 North 8th Street, Room 338
Boise, ID 83702

Request from M&M Mtn View Wtr Company for Grant In Place of Loan for Well Replacement

Dear Senator Kempthorne:

I am writing in response to your request for a report addressing the letter you received from the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company") dated November 20, 1997. The M&M Water Company seeks to have its loan with the Idaho Water Resource Board (the "Water Board") converted to a grant because of alleged financial damage claimed to have been caused by actions of the Idaho Department of Water Resources (the "Department"). The loan was obtained by the M&M Water Company to provide for the construction of a new community well to replace an existing community well. I previously sent you a 7 page letter report dated August 19, 1997, which describes the history of the replacement well, the involvement of the Department, and the issuance of drilling permits for the construction of individual domestic wells in the subdivision served by the M&M Water Company. I have enclosed a copy of the previous letter report to you for your convenience.

The issues underlying the most recent letter you received from the M&M Water Company remain unchanged since my last response to you regarding this matter. Because the Department issued drilling permits for the construction of two individual wells in the subdivision served by the M&M Water Company (see the bottom of page 5 and the top of page 6 of August 19 letter report), the water company now asserts that the Department's actions have caused the company financial damage which should be compensated by replacing the water company's outstanding loan in whole or in part with a grant. As described in my August 19 letter report and in the following paragraphs, there are no facts to support the allegation of financial loss to the M&M Water Company being caused by actions of the Department or to support the company's request that its loan be replaced in any part with a grant.

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1. *The issuance of drilling permits by the Department for the construction of two individual wells in the subdivision served by the M&M Water Company has no relationship to the revenue base for the water company. If there has been a reduction in the revenue base of the M&M Water Company, the reduction has occurred because the water company has not taken the appropriate steps to protect its revenue base.*

Under Idaho Code §42-227, individual domestic wells are exempt from the requirement to obtain a water right permit when the uses meet the limitations set forth in Idaho Code §42-111. However, a permit to drill a domestic well is required even though a water right permit is not. The issuance of drilling permits is governed solely by Idaho Code §42-235 which allows the Department to regulate construction of wells only "to protect the public health, safety and welfare and the environment, and to prevent the waste of water or mixture of water from different aquifers." The Department can not currently deny a drilling permit for an individual domestic well because the revenue stream of a water company or municipal provider may be affected.

The M&M Water Company was notified in a letter from the Department to its attorney dated September 12, 1996, that residents of the subdivision served by the water company could receive drilling permits to construct individual domestic wells. The letter preceded the date of the Water Board's approval of the loan for the M&M Water Company as well as the date the replacement well was eventually constructed. Apparently, in spite of this written notification, neither the M&M Water Company nor the subdivision took action to ensure that residents of the subdivision remained obligated to pay the costs for the replacement well regardless of whether or not individual domestic wells were subsequently constructed. Responsibility for any failure of the M&M Water Company or the subdivision to take appropriate action to ensure that residents of the subdivision remain obligated to share the costs for repaying the Water Board loan cannot be shifted to the Department.

The M&M Water Company also claims that the Department is somehow obligated for the unpaid water service charges for two of the subdivision's residents who have legally constructed individual domestic wells. This claim is without merit. The M&M Water Company initiated a court action which resulted in a court order requiring the residents of the subdivision to pay all unpaid charges for service. However, the M&M Water Company has apparently been unwilling to take whatever further legal action may be necessary to have the court order enforced. The Department is not responsible for the failure of the M&M Water Company to have a court order enforced.

2. *The Department has never assured the M&M Water Company in writing or otherwise that drilling permits would not be issued to construct individual wells in the subdivision served by the water company.*

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In the November 20 letter to you from the M&M Water Company, reference is made to a letter dated August 16, 1996 from the Department which allegedly provided written assurances that permits would not be issued to drill individual domestic wells in the subdivision. We have confirmed that the M&M Water Company meant to refer to a memorandum to the Office of Governor Batt concerning this matter dated September 16, 1996, a copy of which is enclosed for your reference, not a letter dated August 16, 1996.

The memorandum dated September 16, 1996 does not contain any reference to prohibiting the construction of individual domestic wells. In the next to the last paragraph on page 2 of the September 16 memorandum there is a statement of the Department's policy requiring use of surface water supplies for irrigation of domestic and municipal landscaping in the Treasure Valley when surface water supplies are available. Perhaps the M&M Water Company has extrapolated this policy to imply that the Department would not issue permits for individual wells in the subdivision served by the company's community well. However, this policy can only be enacted through the granting of water right permits, which are not required by Idaho law for individual domestic wells. As described under item 1 on the previous page, Idaho law does not provide for the Department refusing to issue drilling permits, which again are much different than water right permits, as a means of accomplishing compliance with this policy. Furthermore, the end of the first paragraph on page 3 of the September 16 memorandum states that the Department will work with property owners who cannot use surface water supplies for outside landscape irrigation in the subdivision served by the M&M Water Company to identify other alternatives for legally obtaining a water supply for outside irrigation. Since one of the alternatives for legally obtaining a water supply is to construct an individual domestic well, this memorandum can hardly be construed as providing assurance to the M&M Water Company that the Department would not issue permits to construct individual domestic wells in the subdivision.

The M&M Water Company also alleges I stated "that under the circumstances it would be 'highly un-likely [sic] that permits would be issued'." The only circumstance from which the M&M Water Company could infer such a statement was during a meeting I attended with members of the board of directors for the M&M Water Company in Nampa, Idaho on June 5, 1997. This meeting is described on page 5 of my August 19 letter report to you. At that meeting, I said that the Department could not require a water right permit if property owners in the subdivision sought to construct individual wells. However, the Department would do everything it could to encourage application for water right permits for any individual wells proposed. If such applications were filed, the Department would advertise them, and if any application was protested, the Department would not issue water right permits without first holding hearings and would not issue a water right permit if the protests were convincing. However, I did not say that the Department could or would withhold the issuance of drilling permits. As described on page 5 of my August 19 letter report, the deputy attorney general who attended the June 5 meeting with me in Nampa corroborates my description of what was said at this meeting.

FEB 13 1998

3. *The Department's actions did not take away the only leverage of M&M Water Company to collect on unpaid debts of residents in the subdivision. The M&M Water Company obtained a court order requiring that these debts be paid, and this is the appropriate means for the water company to obtain payment.*

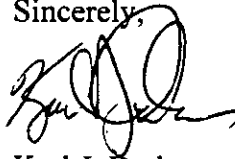
The Department has done nothing to undermine the authority of the court order. However, as discussed under item 1 on page 2 of this letter, the M&M Water Company has apparently not pursued enforcement of the court order to collect unpaid debts.

4. *The Department did not reverse itself by issuing drilling permits. The Department's position has been consistent that individual domestic wells are exempt from the process requiring water right permits and drilling permits can not be used to prevent the construction of individual domestic wells in subdivisions served by community-based or municipal water providers.*

The allegations made by the M&M Water Company are not consistent with the facts documenting the Department's actions. I have attempted to facilitate a negotiated agreement between the M&M Water Company and the two property owners in the subdivision who decided to construct individual domestic wells. Unfortunately, I believe that the disputes over water service and unpaid bills are magnified by broader disagreements between the parties, and the individuals involved on both sides of this dispute seem to be more interested in retribution than settlement.

I will recommend that the Water Board deny the request that the loan obtained by the M&M Water Company be converted in whole or in part to a grant.

Sincerely,



Karl J. Dreher
Director

Enclosures: Previous letter report dated August 19, 1997
Memorandum to Office of Governor Batt dated September 16, 1996

copy w/o enclosure to: Board Members - Idaho Water Resource Board
Ernest White - Vice President, M&M Mountain View Water Company
Jason Kreizenback - Office of Governor Batt

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FEB 13 1998



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

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PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: Jason Kreizenbeck
Office of Governor Philip E. Batt

Date: September 16, 1996

From: Karl J. Dreher

cc: Joy Palmer - DEQ
Mtn. View Subdivision
Ted Young
File 63-12266

Subject: Status of Water Right Held by M&M Mountainview Subdivision
and Loan Application for Replacement Well

I have reviewed the files maintained by the Department of Water Resources pertaining to the water right held by the M&M Mountainview Subdivision, Inc. (the "Subdivision") to provide domestic water for 29 home sites. The existing well for the Subdivision was drilled in November of 1972. Although a well drilling permit was obtained from the department, an application to appropriate water (water right permit) was not made. Consequently, the diversion of ground water for the Subdivision was illegal under Idaho Code §42-229 which required mandatory application for a water right permit for all uses after 1963, except for single domestic uses exempted under Idaho Code §42-229.

The department became aware of the Subdivision's illegal use of water in 1990 when the Subdivision filed a water right claim in the Snake River Basin Adjudication on the basis of beneficial use. The Subdivision withdrew its claim after understanding that a legal beneficial use claim could not be made for an illegal water use. The Subdivision subsequently filed an application for a water right permit for multiple domestic uses on August 23, 1995. The Division of Environmental Quality ("DEQ") was notified of the application in writing on August 31, 1995. DEQ provided a written summary of the process that the Subdivision would be required to follow under DEQ's rules on September 11, 1995, but did not indicate that there were any concerns regarding whether the quality of the water was suitable for human consumption. The application was advertised, and no protests were received. The department issued a water right permit (no. 63-12266) to the Subdivision on November 14, 1995, with a priority date of August 23, 1995.

It is important to note that the Subdivision's water right at this point in time is evidenced by the water right permit; not a water right license or decree. The water right permit is temporary and will expire on November 1, 1996, unless the Subdivision requests and receives a time extension for submitting proof of construction and application of water to beneficial use. If the Subdivision submits sufficient

FEB 13 1998

proof of construction and application of water to beneficial use on or before November 1, 1996, the department will conduct a field examination to determine the extent of beneficial use of water and will issue a water right license which will not expire unless the water right is forfeited or abandoned. I assume the Subdivision understands the need to provide the required proof or to request a time extension for submitting the required proof before the water right permit expires.

While recently discussing the history of the Subdivision's well with Mr. Ted Young, one of the property owners in the Subdivision, he questioned why the department would issue a water right permit for a well that was known to produce water that may not be of suitable quality for non-irrigation domestic uses. From reviewing the department's files, I can find no documentation that the department was informed that the existing well may not produce water of suitable quality for the intended purposes prior to issuing the water right permit. There were no protests, comments, or other notification from property owners in the Subdivision, or any other individual or entity, and during the department's correspondence with DEQ water quality concerns were not identified. Even if the department had been informed of the water quality concerns before issuing the water right permit, the permit would likely have been issued anyway given the need for a local water supply. The alternative available to the department would have been to have the well shut off as an illegal diversion of water in which case no water would have been available to the Subdivision for any purpose.

The water right permit for the Subdivision is for domestic use and excludes "lawn, garden, landscape, or other types of irrigation". The reason this condition is included is because of the availability of surface water supplies to the Subdivision from the Nampa & Meridian Irrigation District. When application is made to the department to appropriate ground water in the Treasure Valley for domestic or municipal purposes and surface water supplies are available to the domestic or municipal water user, the department requires that surface water supplies be maintained and used for lawn, garden, landscape or other types of outside irrigation as a matter of policy. The reason for this requirement is to maintain ground water withdrawals at the minimum necessary to preserve ground water levels. Allowing ground water withdrawals which are not necessary but only convenient for outside irrigation use would not only increase the volume of water withdrawn from the aquifer, and potentially result in additional declines in ground water levels, it would eliminate surface water recharge of the aquifer system which occurs as a result of using surface water supplies for irrigation which could potentially cause further declines in ground water levels.

In the specific case of the M & M Subdivision, the department has been informed that some of the property owners in the Subdivision held shares for water from the Nampa & Meridian Irrigation District but sold the shares after the existing well was constructed in 1972. Other than curtailing the Subdivision's use of the existing well, the only mechanisms available to the department to protect senior water rights from injury that may result from the Subdivision's ground water withdrawals were to require mitigation for senior water rights directly and/or require the Subdivision to use surface water supplies for outside irrigation by restricting the water right permit to in-house domestic uses only.

FEB 13 1998

At the present time, the department is requiring only the latter of the two provisions. To the extent that water from the Nampa & Meridian Irrigation District can reasonably be expected to still be available to the Subdivision for outside irrigation, this requirement is considered to be reasonable. However, given the lack of communication that has occurred between the officers of the Subdivision and the property owners, the department will allow the Subdivision until May 1, 1998, to come into compliance with the condition of the Subdivision's water right which prohibits outside irrigation. This should allow ample time for the property owners to acquire the necessary water for outside irrigation and re-establish the necessary water distribution system. In the event one or more of the property owners in the Subdivision simply can not comply with the condition restricting the use of the Subdivision's water right to in-house domestic uses only, the department will work with those property owners or the Subdivision to identify other alternatives for legally obtaining a water supply for outside irrigation.

Regarding the Subdivision's application for a loan from the Idaho Water Resource Board to construct a replacement well to alleviate water quality concerns, the Subdivision's loan is scheduled for approval at the upcoming board meeting in Idaho Falls this Friday, September 20. The Subdivision's application meets the Water Resource Board's criteria and there is every reason to believe that the loan will be approved. There are no requirements for changing or amending the Subdivision's water right following the construction of the new well provided the new well is constructed within the same quarter-quarter section as the existing well.

MICROFILMED

FEB 13 1998



63-12266

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 19, 1997

The Honorable Dirk Kempthorne
United States Senate
304 North 8th Street, Room 338
Boise, ID 83702

Inquiry from M&M Mtn View Wtr Corp Concerning Well Replacement and Individual Wells

Dear Senator Kempthorne:

This letter is provided in response to your request to Mr. Norman Young of the Idaho Department of Water Resources (the "Department") for a report addressing the issues described in a letter to you from Mr. Michael Soshea and other homeowners in the M&M Mountain View Acres Subdivision (the "M&M Subdivision"). I am responding to your request instead of Mr. Young because I have been involved in attempts to facilitate an agreement between the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company") and some of the homeowners in the M&M Subdivision who have been unable or unwilling to abide by restrictions on water use imposed by the M&M Water Company.

The first part of the letter from Mr. Soshea et al describes issues involving the Idaho Division of Environmental Quality ("DEQ") which are not within the jurisdiction of the Department. Therefore, the following is limited to issues involving the Department or the Idaho Water Resource Board.

Background

Mr. Soshea owns property in the M&M Subdivision and also serves as president of the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company"). The M&M Water Company was incorporated as a nonprofit corporation to provide domestic water from a well to the 29 half-acre (more or less) lots comprising the M&M Subdivision.

The original well for the subdivision was drilled in November of 1972. Although a well drilling permit was obtained from the Department, an application to appropriate water (water right permit) was not made. Consequently, the diversion of ground water by the M&M Water Company was illegal under Idaho Code §42-229 which required mandatory application for a

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water right permit for all uses, except for single domestic uses exempted under Idaho Code §42-229, after 1963. The Department became aware of the subdivision's illegal use of water in 1990 when the M&M Water Company filed a water right claim in the Snake River Basin Adjudication on the basis of beneficial use. The M&M Water Company withdrew its claim following the Department's determination that a legal beneficial use claim could not be made for an illegal water use.

The M&M Water Company subsequently filed an application for a water right permit on August 23, 1995. DEQ was notified of the application in writing on August 31, 1995, and provided the Department a written summary of the process that the M&M Subdivision would be required to follow under DEQ's rules. The summary provided by DEQ on September 11, 1995, did not indicate that there was any concern regarding the quality of the water and whether it was suitable for domestic uses. The application was advertised, and no protests were received. The Department issued a water right permit (no. 63-12266) to the M&M Water Company on November 14, 1995, with a priority date of August 23, 1995.

The water right permit for the M&M Water Company is for domestic uses and excludes "lawn, garden, landscape, or other types of irrigation." This condition was included because the M&M Water Company did not want a water right that would allow outside irrigation. The M&M Water Company alleges that its distribution facilities are not adequately sized to provide water in sufficient quantities for outside irrigation to all of the 29 lots in the subdivision. Consequently, the M&M Water Company specifically prohibits use of water from its well for outside irrigation given that surface water supplies for outside irrigation are available to the subdivision from the Nampa & Meridian Irrigation District. Unfortunately, some of the property owners in the subdivision held shares for water from the Nampa & Meridian Irrigation District but sold the shares after the original M&M Water Company well was constructed.

Given the lack of communication and trust that had developed between the board members of the water company and the property owners, the Department provided notice that the individual property owners in the subdivision would be given until May 1, 1998, to come into compliance with the condition of the water company's water right which prohibits outside irrigation. This would allow ample time for the property owners in the subdivision to acquire the necessary water for outside irrigation and re-establish any water distribution facilities that are needed. In the event one or more of the property owners in the subdivision could not comply with the condition restricting the use of the water company's water right to in-house uses and watering of household stock, the Department indicated it would work with those property owners or the water company to identify other alternatives for legally obtaining a water supply for outside irrigation.

By letter dated August 20, 1996, the M&M Water Company submitted an application for a loan from the Idaho Water Resource Board (the "Water Board") to construct a replacement well to alleviate water quality concerns. There was no prior application for a loan from the M&M

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Water Company, as described in the second full paragraph on page 2 of the letter from Mr. Soshea et al, and the funds loaned by the Water Board are not dependent on federal funds. The water company's loan was approved by the Water Board on September 20, 1996. On July 17, 1997, the Department received written notification that construction of the replacement well had been completed and was ready for final inspection. Please note that neither the Department nor the Water Board suggested or required that the M&M Water Company replace its well.

Recent Events

As described in the preceding background information, the M&M Water Company made the determination to prohibit use of water from its well and distribution facilities for outside irrigation. Some of the property owners within the M&M Subdivision have violated this restriction for several years. For example, the joint owners of two lots in the subdivision, Ernest & MaryAnn Hartzfeld, have stated that they moved to the subdivision in September 1990 and sought exclusion from the Nampa & Meridian Irrigation District in November 1994. Consequently, Mr. & Mrs. Hartzfeld have been using water from the M&M Water Company facilities for outside irrigation, inconsistent with the restrictions imposed by the water company, during half if not more of the last 7 years.

It is not clear why the M&M Water Company waited so long to seek legal action to enforce its restrictions on outside irrigation. For example, the Department's records indicate an attorney representing the M&M Water Company first wrote to Mr. & Mrs. Hartzfeld in 1995 about ceasing use of water from the M&M Water Company's facilities for outside irrigation. Another year went by without compliance and the attorney for the water company again wrote to Mr. & Mrs. Hartzfeld to seek compliance with the water company's restrictions in July 1996. Finally, the M&M Water Company filed a court action against Mr. & Mrs. Hartzfeld and other property owners to seek compliance with its restrictions.

On March 31, 1997, Magistrate James Schiller in the third judicial district awarded judgment for the M&M Water Company against the defendants. The court specifically held that: (1) Mr. & Mrs. Hartzfeld and the other defendants had to pay fines assessed by the M&M Water Company for violating the restrictions imposed by the water company; (2) Mr. & Mrs. Hartzfeld and the other defendants were restrained and enjoined from using any water supplied by the M&M Water Company in a manner inconsistent with restrictions imposed by the water company; (3) the M&M Water Company could immediately discontinue water delivery to Mr. & Mrs. Hartzfeld and the other defendants if they failed to pay the fines or violated provision (2); and (4) the court awarded costs and attorney fees to the M&M Water Company.

Despite the court's judgment and order against them, Mr. & Mrs. Hartzfeld continued to use water from the M&M Water Company for outside irrigation and refused to pay most if not all of the costs and fees ordered by the court. During the last week of May, the M&M Water

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Company disconnected water service to Mr. & Mrs. Hartzfeld, as well as to their daughter Mrs. Polk who was another defendant in the court action.

By letter to me dated May 12, 1997, Mr. & Mrs. Hartzfeld and the other defendants in the court action asserted that it was the Department that was responsible for them not being allowed to use water from the M&M Water Company's facilities. They also claimed that it was the Department's actions that resulted in the subsequent fines, fees, and costs that had been levied against them as well as potential losses in property values. The basis for these allegations was the Department issuing the water right permit to the M&M Water Company with the condition requested by the water company limiting use of the water right to in-house uses and watering of household stock. Their theory seemed to be that if the Department would not have included this condition on the water right permit, then: (1) the Department would have authorized use of the water for outside irrigation; (2) this authorization would have superseded the restrictions placed on outside water use by the M&M Water Company; (3) the M&M Water Company would not have had any basis for pursuing legal enforcement of its restrictions; and (4) the court would not have ruled in favor of the M&M Water Company and awarded costs and attorney fees against the defendants. The May 12 letter also claimed that other property owners in the M&M Subdivision were using water from the M&M Water Company for outside irrigation, including board members for the water company, but that the water company was only enforcing the restrictions on Mr. & Mrs. Hartzfeld and the other defendants in the court action.

Because of the latter allegation, I directed that a field examination of water use in the M&M Subdivision be conducted. The field examination did not identify obvious indications that water from the M&M Water Company was being used for outside irrigation. There were numerous indications of pressurized irrigation systems, but such systems could have been legitimately supplied by surface water received from the Nampa & Meridian Irrigation District. Because it could not be conclusively determined from the field examination whether use of the water from the M&M Water Company for outside irrigation was being uniformly prohibited, and because of the allegation that the Department had improperly imposed the condition on the water right permit restricting outside irrigation, I decided to meet with representatives of the M&M Water Company as well as the individuals asserting injury and improper actions to determine the merit of the allegations. I could have formally required the M&M Water Company to meet with me by requiring them to show why the Department should not remove the restriction from the water right permit which prohibited use of the water for outside irrigation. Instead, I arranged for an informal meeting to address the allegations believing that I could also potentially facilitate or mediate a settlement between the M&M Water Company and those with the court judgment against them. Of course a mediated settlement is only possible when both sides of a conflict are willing to resolve the conflict.

Initially, board members of the M&M Water Company refused to participate in such a meeting. After the Department contacted the attorney for the M&M Water Company, that attorney advised board members of the M&M Water Company to participate in the meeting. The

UNRECORDED
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meeting was subsequently scheduled for June 5, 1997, at 7:00 pm in Nampa. Along with representatives of the M&M Water Company and the property owners making the allegations against the company and the Department, I also asked that a deputy attorney general attend the meeting with me in part to provide clarification of any statements I made that might be misunderstood by others at the meeting. I also invited representatives from the Nampa & Meridian Irrigation District to discuss the availability of surface water supplies for outside irrigation.

Initially the meeting proceeded smoothly, and it appeared that it might be possible to achieve some settlement of the conflict between the M&M Water Company and the involved homeowners in the M&M Subdivision. However, once the discussions with the representatives from the Nampa & Meridian Irrigation District were complete, the discussions suddenly shifted from water issues to allegations about trespass and use of a backhoe some years ago. Two of the defendants who had lost the lawsuit with the water company abruptly left the meeting, and it became very clear that the conflicts and disputes between different interests in the M&M Subdivision involved more than water use. Eventually, all of the defendants in the lawsuit who were present at the meeting left without making any gesture to pay the judgment against them to the M&M Water Company.

As the meeting broke up, I was asked if the Department would issue permits to individuals wanting to construct their own wells. While I do not remember my exact words, I did say that in this situation the Department would encourage an individual wanting to construct a private domestic well to apply for a water right permit. The application would be advertised, and this would allow others objecting to the water right to file protests. The deputy attorney general attending the meeting with me does not believe that I said anything different from this. However, under §42-227, Idaho Code, the Department can not require an individual to apply for a water right permit for domestic uses when such uses meet the limitations set forth in §42-111. In any event, a separate drilling permit (not a water right permit) is required to construct a well for domestic purposes. There are no provisions for advertising an application for drilling permit and providing an opportunity for protest.

The fact that a water right permit is not the same as a drilling permit was explained during a telephone discussion I had with Mr. Ernest White, vice president of the M&M Water Company and one of the individuals signing the July 3 letter, several weeks after the June 7 meeting. Additionally, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision were exempt from applying for water right permits for domestic purposes and could receive drilling permits to construct individual domestic wells. It is not clear why the M&M Water Company and homeowners now claim they were told something different.

As of now, only one property owner in the M&M Subdivision has constructed an individual well for domestic purposes since the June 7 meeting in Nampa. The Department has

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issued a drilling permit to a second property owner. However, that property owner has yet to construct a well after the Department required the initial well construction on the property be abandoned because the well was not located the required distance away from a septic drain field.

According to the July 3 letter from Mr. Soshea et al, the M&M Water Company is concerned that other property owners in the M&M Subdivision will want to construct their own wells and not pay their share of the approximately \$38,000 loan from the Water Board for the new well constructed by the water company. It makes little economic sense to drill a domestic well to avoid the indebtedness of the water company. Since there are 29 lots in the M&M Subdivision, the indebtedness to the Water Board is less than \$1,500 per lot. Conversely, it costs \$15,000 (more or less) to construct an adequate domestic well in the M&M Subdivision. Why would anyone pay \$15,000 to avoid \$1,500 of debt? If individual property owners are willing to expend \$15,000 to have their own individual wells, there must be other divisive issues between the M&M Water Company and the individual property owners.

Mr. Soshea et al claim that the Department has rewarded the parties which the court ruled against and that if the M&M Subdivision was a municipality, individuals would not be allowed to have individual domestic wells. Both of these assertions are incorrect. First, the right to appropriate unappropriated water in Idaho, within the constraints imposed by the legislature, is a constitutional right. By allowing individuals to exercise their legal rights, the Department is not rewarding them even though those same individuals may have violated other laws. Secondly, it is not the Department's responsibility to seek enforcement of the court order entered against these individuals. That responsibility rests squarely with the M&M Water Company. Thirdly, under current state laws the right to pursue the construction of an individual domestic well is not restricted to only those areas outside municipalities. To the extent a person can comply with local ordinances and state laws, that person can pursue the construction of an individual domestic well within municipal boundaries, state-wide.

The July 3 letter you received was signed by the president and various other representatives of the M&M Water Company. The last paragraph on page 3 of the letter begins with the following statement: "It is the consensus [sic] among the association that we all may as well stop paying the loan on the new well and if and when we are terminated we shall each drill our own well...." Without further clarification, this statement may mean that the M&M Water Company intends to default on its loan from the Water Board for construction of the new well. The final disbursement of \$4,436 from the loan has not been made to the M&M Water Company. The Department intends to withhold the final loan disbursement and seek written clarification from the M&M Water Company regarding its intentions. If the M&M Water Company reaffirms its intent to repay the loan, the final disbursement will be made. Otherwise, the Department will advise the Water Board to find the M&M Water Company in default and begin collection in accordance with applicable laws.

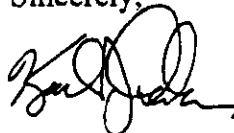
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Summary

- (1) Neither the Department nor the Idaho Water Resource Board suggested or required that the M&M Water Company replace its well.
- (2) The M&M Water Company has escalated the involvement of the State of Idaho in a local issue by trying to use the state-issued water right permit to enforce the company's own restrictions against using the water for outside irrigation.
- (3) Although the M&M Water Company has a court judgment awarding them costs and fees from those in the M&M Subdivision who refused to comply with restrictions legally imposed by the company, the M&M Water Company has apparently not fully exercised its rights to collect the judgment, presumably to avoid additional attorney costs.
- (4) Representatives of the M&M Water Company were not told at the meeting in Nampa on June 7 that the Department would not issue drilling permits for individual wells. In fact, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision could receive drilling permits for individual domestic wells.
- (5) The concern that allowing individual property owners to drill domestic wells will undermine the ability of the M&M Water Company to repay its approximately \$38,000 loan with the Idaho Water Resource Board is unfounded. Each of the 29 lots in the M&M Subdivision is responsible for less than \$1,500 of this debt. An individual lot owner is not going to pay \$15,000 to construct a domestic well to avoid a \$1,500 debt unless there are other issues involved besides economics.
- (6) The Department will not make any further disbursements to the M&M Water Company out of the proceeds of the loan from the Idaho Water Resource Board unless the M&M Water Company reaffirms its intention to repay the loan.

Sincerely,



Karl J. Dreher
Director

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THORNE

United States Senate

WASHINGTON, DC 20510-1204

November 25, 1997

RECEIVED

NOV 28 1997

Department of Water Resources

Karl Dreher
Director
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

Dear Karl:

My constituents' inquiries and concerns are very important to me and this matter is referred to you for your appropriate consideration and action.

To assist me in fully responding to my constituent, please send a report to me at the following address: 304 North 8th Street, Room 338, Boise, ID 83702. The outside envelope only should be marked ATTENTION: Julie Tensen.

Thank you for giving this matter your earliest attention and response.

Sincerely,



DIRK KEMPTHORNE
United States Senate

DK\jt
Enclosure

PLEASE REPLY TO:

- ☒ 304 NORTH 8TH ST., #338
BOISE 83702
- ☐ 704 BLAINE STREET, #1
CALDWELL 83805
- ☐ 118 NORTH 2ND STREET
COEUR D'ALENE 83814
- ☐ 2539 CHANNING WAY, #240
IDAHO FALLS 83404
- ☐ 818 D STREET, RM. E
LEWISTON 83501
- ☐ 220 EAST 5TH STREET, #105
MOSCOW 83843
- ☐ 250 SOUTH 4TH, #207
POCATELLO 83201
- ☐ 401 2ND STREET NORTH, #108
TWIN FALLS 83301

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NOVEMBER 20, 1997

97 NOV 25 AM 11: 02

THE HONORABLE DIRK KEMPTHORNE
304 NORTH 8TH STREET, ROM 338
BOISE, IDAHO 83702

DEAR SENATOR KEMPTHORNE:

ENCLOSED IS M & M MOUNTAIN VIEW SUBDIVISION WATER CORP. REQUEST TO THE IDAHO WATER BOARD FOR A CONVERSION OF OUR IDWR LOAN TO A GRANT. IT CONTAINS THE REASONS WHY WE BELIEVE THAT THIS ASSOCIATION SHOULD HAVE OUR REQUEST GRANTED. (SEE ENCLOSED)

WE ARE A VERY SMALL NON-PROFIT WATER SYSTEM OF 26 SERVICES WITH NO WAY FOR EXPANSION.

M & M WATER ASSOCIATION PROPERTY OWNERS ARE 34% (9 PROPERTIES) ARE RETIRED ON FIXED INCOME, THE REST ARE YOUNGER WITH YOUNG FAMILIES, MOST ARE HAVING TO WORK TWO JOBS JUST TO TAKE CARE OF THEIR FAMILIES AND MAINTAIN THE HOMES ETC.

THE IDAHO DEPARTMENT WATER RESOURCES APPROVED A LOAN FOR THE REPLACEMENT WELL THAT WAS MANDATED BY THE D.E.Q. THE REPLACEMENT WELL WAS DRILLED AND PUT IN TO SERVICE FEB. 1, 1997. STARTING IN JULY 1997, WELL PERMITS WERE ISSUED AND 2 PRIVATE WELLS WERE DRILLED. THESE TWO WELLS WERE ALLOWED AFTER THIS ASSOCIATION HAD DRILLED THE DEQ MANDATED COMMUNITY WELL BECAUSE OF THE MCL FOR NITRATE , THREE COLIFORM SAMPLES IN 3 YEARS AND VIRUSES (NO TEST FOR VIRUSES WERE EVER TAKEN JUST CLAIMED PRESENT BY THE D.E.Q) THE COST OF THIS MANDATED WELL WAS OVER \$38226.23.. (SEE ENCLOSED) THESE WELL PERMITS HAS REDUCE THE REVENUE BASE THAT IS NEEDED TO RE-PAY THE IDWR LOAN AND ELIMINATES

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M & M WATERS ABILITY TO COLLECT ON PAST DUE ACCOUNT. THE DAMAGE DONE BY
THESE TWO PERMITS TO THIS ASSOCIATION IS OVER \$9000.00, (LOAN AND UN-PAID BILLS)

ANY ASSISTANCE THAT YOU OR YOUR OFFICE CAN GIVE M & M MOUNTAIN VIEW
WATER ASSOCIATION WOULD BE GREATLY APPRECIATED

SINCERELY,

M & M MOUNTAIN VIEW SUBDIVISION WATER CORP.

BOARD OF DIRECTORS

MICHAEL SOSHEA-- PRESIDENT

Michael Soshea

ERNEST H. WHITE --VICE-PRESIDENT

Ernest H White

KARLA SOSHEA--TREASURE

Karla Soshea

DARRELL WARD-- VICE-PRESIDENT

Darrell S Ward

HELENE TOMASZEWSKI--SECRETARY

Helene Tomaszewski

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NOVEMBER 12, 1997

PAGE 1

STATE OF IDAHO
WATER RESOURCES BOARD
P. O. BOX 83720

ATTN. BRIAN PATTON

DEAR WATER RESOURCES BOARD MEMBERS:

WE ARE WRITING TO THE IDAHO WATER BOARD ASKING THAT OUR IDWR LOAN FOR A MANDATED REPLACEMENT WELL BE CONVERTED TO A GRANT, IF NOT IN WHOLE, THEN IN PART.

WE WILL ATTEMPT TO PROVIDED YOU WITH THE FACTS, DOCUMENTATION AND THE REASONS FOR THE CONVERSION REQUEST .

THE BACKGROUND OF FACTS ARE PROVIDED TO SHOW THE EVENTS LEADING UP TO THE REASON FOR M & M MOUNTAIN VIEW SUBDIVISION ASKING THAT THIS LOAN BE CONVERTED TO A GRANT. BY ALLOWING THE 2 PRIVATE WELLS 2 DETRIMENTAL THINGS OCCURRED (1) THE WELLS HAVE HAD THE EFFECT OF REMOVING 3 PROPERTIES FROM OUR REVENUE BASE NEEDED TO REPAY THE IDWR LOAN AND (2) IT ELIMINATES THE ONLY REAL LEVERAGE THAT M & M WATER HAD TO COLLECT UN-PAID BILLS OWED BY THE HARTZFELD AND YOUNG.

THE COMBINED AMOUNT OWED BY THESE TWO PROPERTY OWNERS IS \$4124.10, THIS BREAKS DOWN TO \$3402.10 OWED BY HARTZFELD (2 PROPERTIES) AND \$722.00 OWED BY YOUNG.

THE THREE PROPERTIES PORTION OF THE LOAN (PRINCIPAL AND INTEREST), OVER

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THE 10 YEAR LIFE OF LOAN, WILL HAVE TO BE PICKUP BY THE REMAINING PROPERTY OWNERS. THIS AMOUNT WOULD BE AT LEAST \$4956.60 THIS MEANS THAT THIS ASSOCIATION HAS BEEN HARMED BY THE ISSUING OF THESE TWO WELL DRILLING PERMITS BY AT LEAST \$9080.70.. M & M MOUNTAIN VIEW SUBDIVISION WATER CORP., A NON-PROFIT CORPORATION, HAD TO GO INTO DEBT \$38226.23 TO DRILL THE REPLACEMENT WELL. WE HAD 29 PROPERTIES ON WATER SYSTEM AT THE TIME THE LOAN WAS APPROVED. WE HAD ASSURANCES BY IDWR LETTER 8-16-96 AND A LETTER FROM D.E.Q. THAT RE-ENFORCED THE IDWR LETTER (DEQ LETTER DATED 10-10-96) AND A VERBAL ASSURANCE FROM MR. DREHER (6-5-97) THAT IT WAS UNDER THE CIRCUMSTANCES IT WOULD BE "HIGHLY UN-LIKELY THAT PERMITS WOULD BE ISSUED" . THE PERMITS WERE ISSUED--THE WELLS WERE DRILLED-- 3 PROPERTIES REMOVED FROM THE REVENUE BASE LEAVING THE REMAINING 26 PROPERTY OWNERS TO REPAY THE IDWR LOAN. THIS ALSO TOOK AWAY M & M MOUNTAIN VIEW SUBDIVISION WATER ONLY LEVERAGE TO COLLECT UNPAID DEBTS BY THESE TWO PROPERTY.. THE HARM DONE TO THIS SUBDIVISION BY THE IDWR IS VERY REAL, IT WAS DONE AFTER THE IDWR LOAN WAS APPROVED. THIS AMOUNT COULD ONLY RISE IF OTHER PRIVATE WELLS ARE PERMITTED WITHIN OUR SUBDIVISION WATER SERVICE AREA..

M & M WATER, ALSO UNDERSTANDS THAT IDWR DECISION TO REVERSE IT SELF AND ISSUE WELL PERMITS, MAY HAVE BEEN "TO APPEASE HARTZFELD" AND STOP THE BARRAGE OF LETTERS AND PHONE CALLS TO IDWR, IN EFFECT," GET HER OFF THEIR BACK"...

THIS ALSO REWARDED THESE TWO PROPERTY OWNERS FOR NOT PAYING THEIR LONG PAST DUE DEBTS OWED TO M & M WATER, REWARDS HARTZFELD FOR VIOLATING A CANYON COUNTY COURT ORDER.. AS WELL AS INCREASES THE LOAN DEBT LOAD ON THE REMAINING 26 PROPERTY OWNERS..

THIS BOARD KNOWS VERY WELL THE HEADACHES THIS PROPERTY OWNER CAN CREATE WITH HER LIES, MIS- INFORMATION AND DOGGEDNESS.

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PAGE 3

THIS ENTIRE M & M WATER BOARD HAS JUST BEEN RE-ELECTED FOR THE THIRD CONSECUTIVE TERM BY THE ASSOCIATION. DOES THIS SOUND LIKE THERE WAS A LACK OF COMMUNICATION AND TRUST BY THE PROPERTY OWNERS OF THIS WATER BOARD?? THAT HARTZFELD HAS SO OFTEN STATED IN HER LETTERS.

IT WOULD BE VERY EASY TO LOSE FOCUS OF THE PURPOSE OF THIS LETTER AND GET LOST IN THE ANGER AND FRUSTRATION WITH THIS PERSONS LETTERS, PHONE CALLS THAT CONTAIN SO MANY LIES, MIS-INFORMATION AND PERSONAL ATTACKS OF THIS WATER BOARD AND PAST WATER BOARDS, LETTERS TO IPUC, IDWR, EPA, SOUTHWEST HEALTH DEPT., THE GOVERNOR OFFICE AND OUR STATE SENATORS. THE HARTZFELD LETTERS HAS CREATED THE BIASED AND UN-FAIR TREATMENT OF THIS ASSOCIATION BY MANY OF THE AGENCIES THAT WE HAVE HAD TO DEAL WITH OVER THE PASTED 2 YEARS. THIS COULD HAVE BEEN AVOIDED IF THE STATE AGENCIES HAD INVESTIGATED THE TRUTHFULNESS OF THE LETTERS BY CONTACTING THIS WATER BOARD AND/OR OTHER PROPERTY OWNERS IN THIS SUBDIVISION TO CHECK THE RELIABILITY AND TRUTHFULNESS OF THE STATEMENTS MADE IN THESE LETTERS.

THE FACT THAT MANY OF THESE HARTZFELD LETTERS WERE UNKNOWN TO THIS ASSOCIATION UNTIL AUGUST OF 1997. THIS ASSOCIATION NOW HAS COPIES OF 14 LETTERS FROM HARTZFELD TO THE ABOVE NAMED AGENCIES.

IN CLOSING M & M MOUNTAIN VIEW SUBDIVISION WATER CORP. ASK THAT OUR IDWR LOAN BE CONVERTED TO A GRANT, IF NOT A WHOLE LOAN GRANT, THEN AT LEAST FOR THE AMOUNT OF DAMAGES ((\$9080.70) THAT WAS CAUSED BY THE DRILLING OF THESE WELLS. ENCLOSED ARE DOCUMENTS AND VARIOUS LETTER THAT MAY BE HELPFUL IN YOUR DECISION TO APPROVE M & M MOUNTAIN VIEW SUBDIVISION WATER REQUEST FOR CONVERSION OF OUR IDWR LOAN TO A GRANT ..

IF THE IDWR WATER BOARD WOULD NEED MORE INFORMATION OR WOULD LIKE TO

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TALK TO THE M & M WATER BOARD, PLEASE FEEL FREE TO CALL MICHAEL SOSHEA AT
465-5754 OR ERNEST WHITE AT 465-6445 TO SET UP A TIME, DATE AND PLACE FOR A
MEETING...

THANK YOU.

M & M MOUNTAIN VIEW SUBDIVISION WATER CORP..
BOARD OF DIRECTOR

MICHAEL SOSHEA--PRESIDENT
Michael Soshea

ERNEST WHITE--VICE-PRES.
Ernest White

DARRELL WARD--VICE-PRES.
Darrell F. Ward

KARLA SOSHEA--TREASURE
Karla Soshea

HELENE TOMASZEWSKI-- SECRETARY
Helene Tomaszewski

CC-JASON KREIZENBACK
DIRK KEMPTHORNE

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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 22, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Mr. Michael Soshea
President
M & M Mountain View Acres Subdivision Water Company
6521 Angela Avenue
Nampa, ID 83686

COPY

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Re: Response to Department's Letter Dated September 9, 1997

Dear Mr. Soshea:

I have read the letter dated September 13, 1997, signed by yourself and other officers of the M & M Mountain View Acres Subdivision Water Company (the "M&M Water Company"). I am interpreting that letter to mean that the M&M Water Company intends to fully comply with the loan agreement and promissory note executed with the Idaho Water Resource Board. If this is not the intent of the M&M Water Company, please notify me immediately.

I am assuming that your request for the Department of Water Resources to provide the M&M Water Company copies of correspondence or notes *"anytime your agency [the Department of Water Resources] receives or originates ANY correspondence, telephone calls, or person to person contacts"* is limited to correspondence pertaining solely to the M&M Water Company. The Department will attempt to comply with your request. However, the M&M Water Company should exercise its right to periodically examine the records and files maintained by the Department of Water Resources or other state agencies if there are particular issues of interest.

Concerning the annual meeting of the M&M Water Company scheduled this Friday, September 27, I am unable to attend because I am not scheduled to return to Boise from Idaho Falls until later that night. However, if any of the officers of the M&M Water Company or homeowners in the M & M Mountain View Acres Subdivision would like to meet with me, I would be happy to schedule such a meeting.

Sincerely,

Karl J. Dreher
Director

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FEB 13 1998

blind copies to:

Idaho Water Resource Board Members
Water Resource Board Loan File No. 302
Water Right File No. 63-12266
United Water
Jason Kreizenbeck - Office of Governor Batt

RECEIVED

SEP 17 1997

Department of Water Resources

M&M Water Corporation
6619 Angela
Nampa ID 83686

September 13, 1997

Mr. Karl Dreher
ID Dept of Water Resources
POB 83720
Boise ID 83720-0098

Dear Mr. Dreher:

We are in receipt of your ultimatum in your letter of September 9, 1997. How unfortunate that you chose to take our comment literally. If you choose to "initiate actions to recover the funds previously disbursed" I would certainly hope that this wouldn't occur until at least one payment has been missed. I can't help but to wonder if your letter was written to once again give us the appearance of having no idea what we're talking about. Our point all along has been that it is extremely difficult to make an informed decision without all the appropriate information from the various agencies.

It was never our intention to default on the loan, but merely a frustrated remark. It doesn't cease to amaze us that we, the majority of homeowners, have spent literally hundreds of hours trying to work within all the rules, regulations and agency guidelines and have received nothing but ultimatums and limited information from any of them.

I happen to work for a government agency and know that when we are contacted for information we not only give them all the information we have available, but also try to answer questions that they may not even think to ask. I personally take exception to your reply to Governor Batt in regard to our meeting and the question of whether or not you would allow the Hartzfeld's to drill a well. Your response was that under the circumstances your would not and that if she did indeed try the water right would have to be advertised and we could then protest that. I found this rather strange since I had been told when I was purchasing my home that I did not need a water right permit for a personal residence. Since this was at a time when the Snake River Adjudication was a very hot topic I thought that perhaps there had been some changes since that time.

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These past several years have certainly been a major disappointment to me when I see how inefficient and unhelpful oriented these state agencies are.

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Obviously your impression that no one would pay \$15,000 to drill the own private well as opposed to \$1,500 to pay for the community well was incorrect as your agency to our knowledge has issued two "drilling permits" (taking away three sources of revenue from this subdivision). Many others have expressed an interest in drilling their own wells also. What you failed to address in that response was the undo burden that is placed on the remaining homeowners. For every home that withdraws from this system it leaves another \$25. per month in revenue that must be paid for by the remaining people. Also, your approximation of \$1,500 per household obviously has not factored in interest.

We would like this letter to serve as notice that we expect that anytime your agency receives or originates ANY correspondence, telephone calls, or person to person contacts we will IMMEDIATELY receive a copy of same.

We have had to make decisions in the past on what information we had received, such as your memo to Jason Kreizenbeck, dated September 15, 1996 in which you stated:

"The water right permit for the Subdivision is for domestic use and excludes "lawn, garden, landscape, or other types of irrigation". The reason this condition is included is because of the availability of surface water supplies to the Subdivision from the Nampa & Meridian Irrigation District. When application is made to the department to appropriate ground water in the Treasure Valley for domestic or municipal purposes and surface water supplies are available to the domestic or municipal water user, the department requires that surface water supplies be maintained and used for lawn, garden, landscape or other types of outside irrigation as a matter of policy. The reason for this requirement is to maintain ground water withdrawals at the minimum necessary to preserve ground water levels. Allowing ground water withdrawals which are not necessary but only convenient for outside irrigation use would not only increase the volume of water withdrawn from the aquifer, and potentially result in additional declines in ground water levels, it would eliminate surface water recharge of the aquifer system which occurs as a result of using surface water supplies for irrigation which could potentially cause further declines in ground water levels."

The above paragraph would indicate that since there currently was water supplied to the residences in question (Hartzfeld and Young) that IDWR wouldn't issue permits (DRILLING) in order to "maintain ground water withdrawals at the minimum necessary to preserve ground water levels". It certainly would have been nice if at the start of this we would have been informed that you would allow anyone to drill a well. One of the options we had talked about was getting in small groups and drilling several wells, but based on the limited information we were given decided that this be allowed.

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We would also like to take exception to another comment you made in your response to Governor Batt in your memo dated August 15, 1997, where you stated: "Given the lack of communication and trust that had developed between the board members of the water company and the property owners...". We would like to know why the 2 property owners (Hartzfeld and Young) out of a total of 29 property owners are always given such preferential treatment. This board was elected by the majority of the homeowners to serve the best interests of the majority in nonpaid positions. We are sick and tired of your agency and the other agencies trying to make it look as though we are trying to carry out some personal vendetta against the Hartzfeld's and Young's. These people have threatened us with shovels, billy clubs, accused us of stealing money from the corporation, etc., etc., when we have been trying to do what is right and fair for the entire subdivision. We certainly would appreciate it if in the future you try to choose your words more carefully and stop trying to make us look like the bad guys here.

You are cordially invited to attend our annual meeting which has been scheduled for September 27, 1997 at 5PM at 6521 Angela, Nampa, Idaho. If you need directions may call Helene at 467-3376. We thought that you might like to address the property owners and explain to them why they will have to pay additional costs for this new well.

Sincerely,

Helene Tomaszewski

Helene Tomaszewski
Secretary

Mike Soshea

Mike Soshea, President

Ernest H. White

Ernest White, Vice-Pres

Darryl S. Ward

Darryl Ward, Vice-President

Karla Soshea

Karla Soshea, Treasurer

cc: Governor Batt
Idaho Water Resource Board

UNITED WATER FILMED

FEB 13 1998



re: 63-12266

OFFICE OF THE GOVERNOR

P.O. BOX 83720
BOISE 83720-0034PHILIP E. BATT
GOVERNOR

(208) 334-2100

FAX TRANSMITTALFAX1 (208) 334-2175
FAX2 (208) 334-3454

DATE: September 2, 1997
TO: Karl Dreher, IDWR
FAX #: 327-7866
FROM: Jason Kreizenbeck
NUMBER OF PAGES: 3 (including this cover sheet)

COMMENTS: Karl -

I received the attached information request last week from M&M Water Corporation. Could you help me by rounding up your files on this case. I am having difficulty finding anything other than our recent correspondence. Please give me a call when you get a chance.

— Jason K.

Confidential: The contents of this fax transmission are confidential. If this transmission has been directed to the wrong office, please destroy the contents of this fax immediately and notify the sender at (208) 334-2100.

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FEB 13 1998



OFFICE OF THE GOVERNOR

P.O. BOX 83720
BOISE 83720-0034

PHILIP E. BATT
GOVERNOR

(208) 334-2100

August 28, 1997

Ernest H. White, Vice President
M&M Mountain View Subdivision Water Corp.
6521 Angela Ave.
Nampa, ID 83686

Dear Mr. White:

This letter is your official notification, pursuant to Idaho Code § 9-339, that your public records request has been received, and will be reviewed and responded to by 5:00 p.m. on Thursday, September 11, 1997.

Sincerely,

A handwritten signature in cursive script, reading "Julie Sneddon".

Julie Sneddon
Assistant Communications Director

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FEB 13 1998



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

August 29, 1997

Mr. Ernest M. White
M & M Mountain View Sub
6521 Angela Ave.
Nampa, ID 83686

RE: Public Records Act Request

Dear Mr. Young:

The Department of Water Resources (Department) received your letter dated August 26, 1997 requesting certain information and asked that I coordinate the Agency's response. Requests to obtain information from state agencies are governed by Idaho's Public Records Act I.C. § 9-337 et seq.

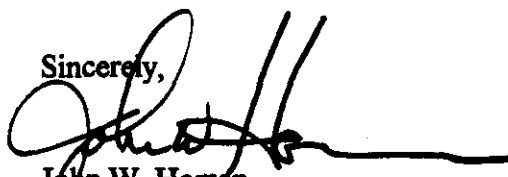
The Department will make available for your inspection during normal business hours at the State Office in Boise all files and documents identified in your request. During the inspection you have the right to make a photocopy of any public record. Unless a specific document or file is identified specifically, the Department is not in position nor is required under the Public Records Act to sift through files and perform a search to extract special types of information for the Requestor. As a matter of convenience for those who live away from the Department's offices, the Department will photocopy the entire file and mail a copy of the contents to a person so requesting at a rate of \$.05 per page.

Although your request does not identify specific documents or files, it appears that your association might be interested in the Idaho Water Resources Board loan file and water right permit file No. 63- 12266 for M & M Mountain View Sub. You may also want to examine the well drilling permit and report files for the other wells in the area. If your association prefers, the Department will gladly photocopy the entire contents of each file requested and mail the copies to you in Nampa. Please contact Glen Saxton at (208) 327-7900 to request the files I identified above or if you wish to make an appointment to visit the State Office to inspect and copy the any of the Department's public records.

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Please do not hesitate to call me at 327-7920 if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read 'John W. Homan', with a long horizontal flourish extending to the right.

John W. Homan
Deputy Attorney General
Natural Resources Division

c. IDWR - W. Region
Karl Dreher

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FEB 13 1998

AUGUST 26, 1997

RECEIVED

AUG 27 1997

Department of Water Resources

STATE OF IDAHO
DEPT. OF WATER RESOURCES
1301 NORTH ORCHARD ST.
P. O. BOX 83720
BOISE, IDAHO 83720

DEAR SIR

M & M MOUNTAIN VIEW SUBDIVISION WATER CORP. RESPECTFULLY
REQUEST COPIES OF ANY AND ALL CORRESPONDENCE, [REDACTED]
[REDACTED], STAFF REPORTS, FIELD REPORTS, COPIES OF ANY COMPLAINT
LETTERS, [REDACTED], PHONE OR IN PERSON
PERTAINING TO M & M MOUNTAIN VIEW SUBDIVISION WATER CORP. FROM
JAN. 1, 1993 TO THE PRESENT.

M & M MOUNTAIN VIEW SUBDIVISION WATER CORP. ASK FOR THIS
INFORMATION UNDER THE OPEN RECORDS LAW OF IDAHO

THANK YOU

M & M MOUNTAIN VIEW SUBDIVISION WATER CORP,
BOARD OF DIRECTORS
ERNEST H. WHITE VICE-PRESIDENT
6521 ANGELA AVE.
NAMPA, IDAHO 83686

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FEB 13 1998

August 31, 1997

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA ID 83686

PROOF DUE NOTICE

RE: PERMIT NO. 63-12266

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 November 1, 1997. (See last page of your approved permit or your last approved extension request.) Enclosed is a form which when accompanied by the license examination fee or a complete field examination report prepared by a certified water right examiner may be used to submit the required proof.

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

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

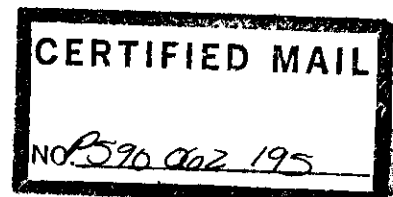
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

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FEB 13 1998





63-122606

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 19, 1997

The Honorable Dirk Kempthorne
United States Senate
304 North 8th Street, Room 338
Boise, ID 83702

Inquiry from M&M Mtn View Wtr Corp Concerning Well Replacement and Individual Wells

Dear Senator Kempthorne:

This letter is provided in response to your request to Mr. Norman Young of the Idaho Department of Water Resources (the "Department") for a report addressing the issues described in a letter to you from Mr. Michael Soshea and other homeowners in the M&M Mountain View Acres Subdivision (the "M&M Subdivision"). I am responding to your request instead of Mr. Young because I have been involved in attempts to facilitate an agreement between the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company") and some of the homeowners in the M&M Subdivision who have been unable or unwilling to abide by restrictions on water use imposed by the M&M Water Company.

The first part of the letter from Mr. Soshea et al describes issues involving the Idaho Division of Environmental Quality ("DEQ") which are not within the jurisdiction of the Department. Therefore, the following is limited to issues involving the Department or the Idaho Water Resource Board.

Background

Mr. Soshea owns property in the M&M Subdivision and also serves as president of the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company"). The M&M Water Company was incorporated as a nonprofit corporation to provide domestic water from a well to the 29 half-acre (more or less) lots comprising the M&M Subdivision.

The original well for the subdivision was drilled in November of 1972. Although a well drilling permit was obtained from the Department, an application to appropriate water (water right permit) was not made. Consequently, the diversion of ground water by the M&M Water Company was illegal under Idaho Code §42-229 which required mandatory application for a

UNRECORDED
FEB 13 1998

water right permit for all uses, except for single domestic uses exempted under Idaho Code §42-229, after 1963. The Department became aware of the subdivision's illegal use of water in 1990 when the M&M Water Company filed a water right claim in the Snake River Basin Adjudication on the basis of beneficial use. The M&M Water Company withdrew its claim following the Department's determination that a legal beneficial use claim could not be made for an illegal water use.

The M&M Water Company subsequently filed an application for a water right permit on August 23, 1995. DEQ was notified of the application in writing on August 31, 1995, and provided the Department a written summary of the process that the M&M Subdivision would be required to follow under DEQ's rules. The summary provided by DEQ on September 11, 1995, did not indicate that there was any concern regarding the quality of the water and whether it was suitable for domestic uses. The application was advertised, and no protests were received. The Department issued a water right permit (no. 63-12266) to the M&M Water Company on November 14, 1995, with a priority date of August 23, 1995.

The water right permit for the M&M Water Company is for domestic uses and excludes "lawn, garden, landscape, or other types of irrigation." This condition was included because the M&M Water Company did not want a water right that would allow outside irrigation. The M&M Water Company alleges that its distribution facilities are not adequately sized to provide water in sufficient quantities for outside irrigation to all of the 29 lots in the subdivision. Consequently, the M&M Water Company specifically prohibits use of water from its well for outside irrigation given that surface water supplies for outside irrigation are available to the subdivision from the Nampa & Meridian Irrigation District. Unfortunately, some of the property owners in the subdivision held shares for water from the Nampa & Meridian Irrigation District but sold the shares after the original M&M Water Company well was constructed.

Given the lack of communication and trust that had developed between the board members of the water company and the property owners, the Department provided notice that the individual property owners in the subdivision would be given until May 1, 1998, to come into compliance with the condition of the water company's water right which prohibits outside irrigation. This would allow ample time for the property owners in the subdivision to acquire the necessary water for outside irrigation and re-establish any water distribution facilities that are needed. In the event one or more of the property owners in the subdivision could not comply with the condition restricting the use of the water company's water right to in-house uses and watering of household stock, the Department indicated it would work with those property owners or the water company to identify other alternatives for legally obtaining a water supply for outside irrigation.

By letter dated August 20, 1996, the M&M Water Company submitted an application for a loan from the Idaho Water Resource Board (the "Water Board") to construct a replacement well to alleviate water quality concerns. There was no prior application for a loan from the M&M

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Water Company, as described in the second full paragraph on page 2 of the letter from Mr. Soshea et al, and the funds loaned by the Water Board are not dependent on federal funds. The water company's loan was approved by the Water Board on September 20, 1996. On July 17, 1997, the Department received written notification that construction of the replacement well had been completed and was ready for final inspection. Please note that neither the Department nor the Water Board suggested or required that the M&M Water Company replace its well.

Recent Events

As described in the preceding background information, the M&M Water Company made the determination to prohibit use of water from its well and distribution facilities for outside irrigation. Some of the property owners within the M&M Subdivision have violated this restriction for several years. For example, the joint owners of two lots in the subdivision, Ernest & MaryAnn Hartzfeld, have stated that they moved to the subdivision in September 1990 and sought exclusion from the Nampa & Meridian Irrigation District in November 1994. Consequently, Mr. & Mrs. Hartzfeld have been using water from the M&M Water Company facilities for outside irrigation, inconsistent with the restrictions imposed by the water company, during half if not more of the last 7 years.

It is not clear why the M&M Water Company waited so long to seek legal action to enforce its restrictions on outside irrigation. For example, the Department's records indicate an attorney representing the M&M Water Company first wrote to Mr. & Mrs. Hartzfeld in 1995 about ceasing use of water from the M&M Water Company's facilities for outside irrigation. Another year went by without compliance and the attorney for the water company again wrote to Mr. & Mrs. Hartzfeld to seek compliance with the water company's restrictions in July 1996. Finally, the M&M Water Company filed a court action against Mr. & Mrs. Hartzfeld and other property owners to seek compliance with its restrictions.

On March 31, 1997, Magistrate James Schiller in the third judicial district awarded judgment for the M&M Water Company against the defendants. The court specifically held that: (1) Mr. & Mrs. Hartzfeld and the other defendants had to pay fines assessed by the M&M Water Company for violating the restrictions imposed by the water company; (2) Mr. & Mrs. Hartzfeld and the other defendants were restrained and enjoined from using any water supplied by the M&M Water Company in a manner inconsistent with restrictions imposed by the water company; (3) the M&M Water Company could immediately discontinue water delivery to Mr. & Mrs. Hartzfeld and the other defendants if they failed to pay the fines or violated provision (2); and (4) the court awarded costs and attorney fees to the M&M Water Company.

Despite the court's judgment and order against them, Mr. & Mrs. Hartzfeld continued to use water from the M&M Water Company for outside irrigation and refused to pay most if not all of the costs and fees ordered by the court. During the last week of May, the M&M Water

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Senator Dirk Kempthorne
August 19, 1997
Page 4 of 7

Company disconnected water service to Mr. & Mrs. Hartzfeld, as well as to their daughter Mrs. Polk who was another defendant in the court action.

By letter to me dated May 12, 1997, Mr. & Mrs. Hartzfeld and the other defendants in the court action asserted that it was the Department that was responsible for them not being allowed to use water from the M&M Water Company's facilities. They also claimed that it was the Department's actions that resulted in the subsequent fines, fees, and costs that had been levied against them as well as potential losses in property values. The basis for these allegations was the Department issuing the water right permit to the M&M Water Company with the condition requested by the water company limiting use of the water right to in-house uses and watering of household stock. Their theory seemed to be that if the Department would not have included this condition on the water right permit, then: (1) the Department would have authorized use of the water for outside irrigation; (2) this authorization would have superseded the restrictions placed on outside water use by the M&M Water Company; (3) the M&M Water Company would not have had any basis for pursuing legal enforcement of its restrictions; and (4) the court would not have ruled in favor of the M&M Water Company and awarded costs and attorney fees against the defendants. The May 12 letter also claimed that other property owners in the M&M Subdivision were using water from the M&M Water Company for outside irrigation, including board members for the water company, but that the water company was only enforcing the restrictions on Mr. & Mrs. Hartzfeld and the other defendants in the court action.

Because of the latter allegation, I directed that a field examination of water use in the M&M Subdivision be conducted. The field examination did not identify obvious indications that water from the M&M Water Company was being used for outside irrigation. There were numerous indications of pressurized irrigation systems, but such systems could have been legitimately supplied by surface water received from the Nampa & Meridian Irrigation District. Because it could not be conclusively determined from the field examination whether use of the water from the M&M Water Company for outside irrigation was being uniformly prohibited, and because of the allegation that the Department had improperly imposed the condition on the water right permit restricting outside irrigation, I decided to meet with representatives of the M&M Water Company as well as the individuals asserting injury and improper actions to determine the merit of the allegations. I could have formally required the M&M Water Company to meet with me by requiring them to show why the Department should not remove the restriction from the water right permit which prohibited use of the water for outside irrigation. Instead, I arranged for an informal meeting to address the allegations believing that I could also potentially facilitate or mediate a settlement between the M&M Water Company and those with the court judgment against them. Of course a mediated settlement is only possible when both sides of a conflict are willing to resolve the conflict.

Initially, board members of the M&M Water Company refused to participate in such a meeting. After the Department contacted the attorney for the M&M Water Company, that attorney advised board members of the M&M Water Company to participate in the meeting. The

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meeting was subsequently scheduled for June 5, 1997, at 7:00 pm in Nampa. Along with representatives of the M&M Water Company and the property owners making the allegations against the company and the Department, I also asked that a deputy attorney general attend the meeting with me in part to provide clarification of any statements I made that might be misunderstood by others at the meeting. I also invited representatives from the Nampa & Meridian Irrigation District to discuss the availability of surface water supplies for outside irrigation.

Initially the meeting proceeded smoothly, and it appeared that it might be possible to achieve some settlement of the conflict between the M&M Water Company and the involved homeowners in the M&M Subdivision. However, once the discussions with the representatives from the Nampa & Meridian Irrigation District were complete, the discussions suddenly shifted from water issues to allegations about trespass and use of a backhoe some years ago. Two of the defendants who had lost the lawsuit with the water company abruptly left the meeting, and it became very clear that the conflicts and disputes between different interests in the M&M Subdivision involved more than water use. Eventually, all of the defendants in the lawsuit who were present at the meeting left without making any gesture to pay the judgment against them to the M&M Water Company.

As the meeting broke up, I was asked if the Department would issue permits to individuals wanting to construct their own wells. While I do not remember my exact words, I did say that in this situation the Department would encourage an individual wanting to construct a private domestic well to apply for a water right permit. The application would be advertised, and this would allow others objecting to the water right to file protests. The deputy attorney general attending the meeting with me does not believe that I said anything different from this. However, under §42-227, Idaho Code, the Department can not require an individual to apply for a water right permit for domestic uses when such uses meet the limitations set forth in §42-111. In any event, a separate drilling permit (not a water right permit) is required to construct a well for domestic purposes. There are no provisions for advertising an application for drilling permit and providing an opportunity for protest.

The fact that a water right permit is not the same as a drilling permit was explained during a telephone discussion I had with Mr. Ernest White, vice president of the M&M Water Company and one of the individuals signing the July 3 letter, several weeks after the June 7 meeting. Additionally, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision were exempt from applying for water right permits for domestic purposes and could receive drilling permits to construct individual domestic wells. It is not clear why the M&M Water Company and homeowners now claim they were told something different.

As of now, only one property owner in the M&M Subdivision has constructed an individual well for domestic purposes since the June 7 meeting in Nampa. The Department has

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issued a drilling permit to a second property owner. However, that property owner has yet to construct a well after the Department required the initial well construction on the property be abandoned because the well was not located the required distance away from a septic drain field.

According to the July 3 letter from Mr. Soshea et al, the M&M Water Company is concerned that other property owners in the M&M Subdivision will want to construct their own wells and not pay their share of the approximately \$38,000 loan from the Water Board for the new well constructed by the water company. It makes little economic sense to drill a domestic well to avoid the indebtedness of the water company. Since there are 29 lots in the M&M Subdivision, the indebtedness to the Water Board is less than \$1,500 per lot. Conversely, it costs \$15,000 (more or less) to construct an adequate domestic well in the M&M Subdivision. Why would anyone pay \$15,000 to avoid \$1,500 of debt? If individual property owners are willing to expend \$15,000 to have their own individual wells, there must be other divisive issues between the M&M Water Company and the individual property owners.

Mr. Soshea et al claim that the Department has rewarded the parties which the court ruled against and that if the M&M Subdivision was a municipality, individuals would not be allowed to have individual domestic wells. Both of these assertions are incorrect. First, the right to appropriate unappropriated water in Idaho, within the constraints imposed by the legislature, is a constitutional right. By allowing individuals to exercise their legal rights, the Department is not rewarding them even though those same individuals may have violated other laws. Secondly, it is not the Department's responsibility to seek enforcement of the court order entered against these individuals. That responsibility rests squarely with the M&M Water Company. Thirdly, under current state laws the right to pursue the construction of an individual domestic well is not restricted to only those areas outside municipalities. To the extent a person can comply with local ordinances and state laws, that person can pursue the construction of an individual domestic well within municipal boundaries, state-wide.

The July 3 letter you received was signed by the president and various other representatives of the M&M Water Company. The last paragraph on page 3 of the letter begins with the following statement: "It is the concensus [sic] among the association that we all may as well stop paying the loan on the new well and if and when we are terminated we shall each drill our own well...." Without further clarification, this statement may mean that the M&M Water Company intends to default on its loan from the Water Board for construction of the new well. The final disbursement of \$4,436 from the loan has not been made to the M&M Water Company. The Department intends to withhold the final loan disbursement and seek written clarification from the M&M Water Company regarding its intentions. If the M&M Water Company reaffirms its intent to repay the loan, the final disbursement will be made. Otherwise, the Department will advise the Water Board to find the M&M Water Company in default and begin collection in accordance with applicable laws.

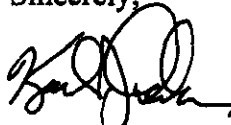
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Summary

- (1) Neither the Department nor the Idaho Water Resource Board suggested or required that the M&M Water Company replace its well.
- (2) The M&M Water Company has escalated the involvement of the State of Idaho in a local issue by trying to use the state-issued water right permit to enforce the company's own restrictions against using the water for outside irrigation.
- (3) Although the M&M Water Company has a court judgment awarding them costs and fees from those in the M&M Subdivision who refused to comply with restrictions legally imposed by the company, the M&M Water Company has apparently not fully exercised its rights to collect the judgment, presumably to avoid additional attorney costs.
- (4) Representatives of the M&M Water Company were not told at the meeting in Nampa on June 7 that the Department would not issue drilling permits for individual wells. In fact, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision could receive drilling permits for individual domestic wells.
- (5) The concern that allowing individual property owners to drill domestic wells will undermine the ability of the M&M Water Company to repay its approximately \$38,000 loan with the Idaho Water Resource Board is unfounded. Each of the 29 lots in the M&M Subdivision is responsible for less than \$1,500 of this debt. An individual lot owner is not going to pay \$15,000 to construct a domestic well to avoid a \$1,500 debt unless there are other issues involved besides economics.
- (6) The Department will not make any further disbursements to the M&M Water Company out of the proceeds of the loan from the Idaho Water Resource Board unless the M&M Water Company reaffirms its intention to repay the loan.

Sincerely,



Karl J. Dreher
Director

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FEB 13 1998

DIRK KEMPTHORNE
IDAHO

United States Senate

WASHINGTON, DC 20510-1204

July 15, 1997

RECEIVED

JUL 16 1997

Department of Water Resources

Norman C. Young
Administrator
Idaho Department of Water Resources
1301 North Orchard
Boise, Idaho 83706-2237

Dear Norman:

My constituents' inquiries and concerns are very important to me and this matter is referred to you for your appropriate consideration and action.

To assist me in fully responding to my constituent, please send a report to me at the following address: 304 North 8th Street, Room 338, Boise, ID 83702.

Thank you for giving this matter your earliest attention and response.

Sincerely,



DIRK KEMPTHORNE
United States Senate

DK\jlt
Enclosure

PLEASE REPLY TO:

304 NORTH 8TH ST., #338
BOISE 83702

- ☐ 704 BLAINE STREET, #1
CALDWELL 83605
- ☐ 118 NORTH 2ND STREET
COEUR D'ALENE 83814
- ☐ 2539 CHANNING WAY, #240
IDAHO FALLS 83404
- ☐ 618 D STREET, RM. E
LEWISTON 83601
- ☐ 220 EAST 5TH STREET, #106
MOSCOW 83843
- ☐ 250 SOUTH 4TH, #207
POCATELLO 83201
- ☐ 401 2ND STREET NORTH, #106
TWIN FALLS 83301

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FEB 13 1998

M & M Mtn View Wtr Corp
6521 Angela Ave
Nampa ID 83686

97 JUL 11 AM 11:00

July 3, 1997

Honorable Dirk Kempthorne
U.S. Senator
304 N 8th
Boise ID 83702

Dear Senator Kempthorne:

We, the association member of M & M Mountain View Water Corporation are requesting your help in solving a problem. Approximately 3 years ago we were aware that we would some day need to upgrade or redrill our existing well. We were having ongoing discussion on how to raise that capital for this project. This was tricky as there were two families, Hartzfeld and Polk) who had never paid their hook-up fees and rarely pay their monthly water bills.

These two families proceeded to go on a calling campaign to every state agency in existence. They finally caught the ear of the DEQ. All the water tests we had performed had fallen within the potable water guidelines of the State. In March of 1995 there was ONE test for nitrates that was above the guidelines. This was the ONLY test that was EVER above the guidelines.

By August of 1995 Polk sent the Board and the subdivision members a letter stating anyone could purchase water and bill the Board. This was what she had been told by Stephen Rae of DEQ. She also stated that he said "they would not take a bath in it". Neither Stephen Rae nor anyone else from DEQ made any attempt to contact ANYONE from the Board or any of the 26 other members of the association. The Board asked Stephen Rae to put his statement about the contamination in writing which neither he nor DEQ would do.

On August 17, 1995 DEQ sent a letter to the board stating they reviewed our well report. The well report they were in possession of was not for the well that the subdivision receives its water from but for one an adjoining property owner has. Again DEQ listened to Hartzfeld and Polk and never attempted to deal with the Board (the elected governing body of the water users association)!

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We were now in the process of contacting various lending institutions, agencies, etc to see what options we had for funding a new well

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We now try to abide by all these various agencies rules and regulations and our corporate by-laws. As soon as spring arrives we observe Mrs. Hartzfeld, Mrs. Polk irrigating from the domestic well. The previous summer this was also observed and we contacted IDWR regarding our water right since our by-laws state no irrigating. We are told by IDWR that this is correct according to the water right and that if someone is observed irrigating from the domestic well the association can be fined up to \$100 per day. We proceed to seek the services of an attorney since these people are incapable of listening to reason. We finally get our day in court and the Judge rules in our favor and issued a court order to cease and desist using domestic water for irrigation purposes (please note that these people have not paid one penny of either hook-up fees or monthly charges. A fact that was openly admitted to by Mrs. Polk in a meeting with Karl Dreher, Director of IDWR and Phil Rassier, the Deputy Attorney General.) Judge Miller also issued a judgement ordering Hartzfeld, Polk and Young to pay court and attorney fees relating to this. As of this date there has been no attempt to pay these fees.

Mrs. Polk and Mrs. Hartzfeld proceeded to continue to irrigate from this domestic well even though the Judge issued the cease and desist order. On May 27th of 1997, in accordance with our by-laws we terminated water service to the Hartzfeld and Polk residences. This

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was done in the hope of making these people realize that we were serious about abiding by the various agencies rules and regulations and our by-laws.

Mrs. Hartzfeld again proceeded to go on another agency calling campaign to get her water turned back on. When this did not work in her favor she then wrote a letter of complaint to IDWR. Mr. Dreher contacted us and requested a meeting. We did not want to have a meeting as we knew that it was fruitless to try to reason with these people. We finally agreed in the hope that Mr. Dreher would realize what we had been dealing with these last few years. Mrs. Hartzfeld requested that an exception be granted to her as she could not water her lawn any other way. John Anderson and another representative from Nampa-Meridian Irrigation District were present at this meeting and informed her that she could indeed get irrigation water but she would have to pay her irrigation taxes for the years that she had withdrawn from the district. This was not acceptable to Mrs. Hartzfeld and Mrs. Polk as they have a strong history of wanting everyone else to foot their bills.

After this meeting Helene Tomaszewski spoke with Mr. Dreher and asked if he would issue a permit for a private well to Mrs. Hartzfeld/Polk (mother/daughter) as Mrs. Hartzfeld had stated that she would drill her own well. Mr. Dreher assured her that under the circumstance he would not issue them a permit.

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The problem we need help with is that all these various agencies (IDWR, DEQ, SW District Health) forced us into drilling this new well at a substantial cost to a lower income subdivision. Now the person who could live by none of the state or water association by-laws and who could not pay one cent of her water bills now has the money to drill her own well and leave the rest of the subdivision to pick up her share of the well we had to drill. Also, according to IDWR anyone who wants can now drill a well for domestic purposes and leave the remaining people on the well to pick up their share. Since Mrs. Hartzfeld began drilling her well there are now seven other people who felt that if she can drill her own well and irrigate from it they might as well too. This is now 25% of our revenue base to repay the loan.

The members of this association feel that the State has put it to us royally for attempting to abide by the various rules and regulations. We also feel that essentially IDWR has rewarded Mrs. Hartzfeld and Mrs. Polk for violating a court order. If we lived in a city municipality and decided to drill our own well we would not be allowed to. Just because we are a small non-profit water corporation we have to serve the best interest of ALL the homeowners we are suffering.

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It is the consensus among the association that we all may as well stop paying the loan on the new well and if and when we are terminated we shall each drill our own well, or perhaps tell IDWR and DEQ that they can run the well. If everyone drilled a well that would mean an additional 29 wells on approximately 22 acres. It was our understanding that the State was trying to control well drilling due to the apparent lessening of the ground water in the area.

We are considering retaining the services of an attorney to withdraw from using the well and returning it to IDWR and DEQ and letting them figure out how to pay for it since they don't have any concern about the majority of the homeowners in this subdivision. There are many people in this subdivision that if they are forced to pay this additional amount from people withdrawing from the current well will be forced over their financial edge.

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Please feel free to contact Ernie White at 465-6445 or Helene Tomaszewski at 467-3376 if you have any questions or would like documentation of any of the above.

Again, we implore you to give us some immediate help before it's too late.

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Michael Soshea, President

Ernest White
Ernest White, Vice-President

Daryl S. Ward
Daryl Ward, Vice-President

Carla Soshea
Carla Soshea, Treasurer

Helene Tomaszewski
Helene Tomaszewski, Secretary

Victor Felt
Homeowner

Ralph Eytchison
Homeowner

Howard Felt
Homeowner

Patricia & Joel Chandler
Homeowner

Ernest & Sue Barber
Homeowner

W.K. & Loris Wallis
Homeowner

Homeowner

Ingred A. Jones
Homeowner

Homeowner

Pete Tomaszewski
Homeowner

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Homeowner

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Mary E. White
Homeowner

Homeowner

97-20

CONSTITUENT AFFAIRS TRACKING MEMO
OFFICE OF THE GOVERNOR
Philip E. Batt

RECEIVED

JUL 23 1997

Department of Water Resources

Number: 21180
Name: Soshea, Michael
Org: M & M Mtn. View Wtr Corp.
Address: President
Address: 6521 Angela Avenue
Zip: 83686 City: Nampa

Date: 07/15/97
Class: SHE
Type: Letter
Phone: (208)
Phone: (208)
State:

SSN:
Case:
County: Canyon

Assigned To		Current Referral	
Jason Kreizenbeck	Date: 07/15/97	Karl Dreher	Date: 07/22/97
Org.: Office Of Governor		Org.: Water Resources	
Phone: (208) 334-2100	Due: 08/15/97	Phone: (208) 327-7910	Due: 08/09/97

Subject

request help w/water well problem, M & M Mtn View Water Corp, explains, well report examined & found unfit by DEQ

Notes

07/22/97 11:34 AM Tracking memo: Governor Report, Your Letterhead, Via Your Director.
07/22/97 Referred to Water Resources, Karl Dreher
07/22/97 11:34 AM Tracking memo: Governor Report, Your Letterhead, Via Your Director.
07/22/97 Referred to DEQ, Wally Cory

ACTION:

Please look into the attached matter and send a report directly to the Governor on your department's letterhead, bearing in mind that the Governor may send it on to the constituent with his own letter and return this form and all documentation, via your director's office, to the Governor's office.

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M & M Mtn View Wtr Corp
6521 Angela Ave
Nampa ID 83686

RECEIVED
JUL 15 1997
SHE
OFFICE OF THE GOVERNOR

July 3, 1997

Honorable Phil Batt
Governor of Idaho
Statehouse
Boise ID 83720

Dear Governor Batt:

We, the association member of M & M Mountain View Water Corporation are requesting your help in solving a problem. Approximately 3 years ago we were aware that we would some day need to upgrade or redrill our existing well. We were having ongoing discussion on how to raise that capital for this project. This was tricky as there were two families, Hartzfeld and Polk who had never paid their hook-up fees and rarely pay their monthly water bills.

These two families proceeded to go on a calling campaign to every state agency in existence. They finally caught the ear of the DEQ. All the water tests we had performed had fallen within the potable water guidelines of the State. In March of 1995 there was ONE test for nitrates that was above the guidelines. This was the ONLY test that was EVER above the guidelines.

By August of 1995 Polk sent the Board and the subdivision members a letter stating anyone could purchase water and bill the Board. This was what she had been told by Stephen Rae of DEQ. She also stated that he said "they would not take a bath in it". Neither Stephen Rae nor anyone else from DEQ made any attempt to contact ANYONE from the Board or any of the 26 other members of the association. The Board asked Stephen Rae to put his statement about the contamination in writing which neither he nor DEQ would do.

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Ernest White, Vice-President

Darryl L. Ward
Daryl Ward, Vice-President

Carla Soshea
Carla Soshea, Treasurer

Helene Tomaszewski
Helene Tomaszewski, Secretary

Vickie Holt
Homeowner

Ralph Dytschman James Dytschman
Homeowner Homeowner

Patricia & Joel Chandler
Homeowner

Ernest & Sue Barber
Homeowner

W. K. & Jerri Wallis
Homeowner

Homeowner

Ingrid J. Jorg
Homeowner

Homeowner

Pete Tomaszewski
Homeowner

Homeowner MICROFILMED

Mary E. White
Homeowner

Homeowner

FEB 13 1998



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

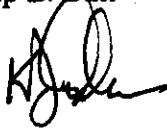
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: Governor Philip E. Batt Date: August 15, 1997

From: Karl J. Dreher 

Subject: Letter from Michael Soshea et al - M&M Mountain View Acres Subdivision
Water Company - Constituent Affairs Tracking Memorandum No. 21180

This memorandum is provided in response to your request for a report addressing the issues described in a letter to you from Mr. Michael Soshea and other homeowners in the M&M Mountain View Acres Subdivision (the "M&M Subdivision"). The letter was dated July 3, 1997, and was received in your office on July 15, 1997. The first part of the letter describes issues involving the Division of Environmental Quality ("DEQ"). I understand that you have received a separate report from DEQ; therefore, the following is limited to issues involving the Department of Water Resources (the "Department") and the Water Resource Board.

Background

Mr. Soshea owns property in the M&M Subdivision and also serves as president of the M&M Mountain View Acres Subdivision Water Company (the "M&M Water Company"). The M&M Water Company was incorporated as a nonprofit corporation to provide domestic water from a well to the 29 half-acre (more or less) lots comprising the M&M Subdivision.

The original well for the subdivision was drilled in November of 1972. Although a well drilling permit was obtained from the Department, an application to appropriate water (water right permit) was not made. Consequently, the diversion of ground water by the M&M Water Company was illegal under Idaho Code §42-229 which required mandatory application for a water right permit for all uses, except for single domestic uses exempted under Idaho Code §42-229, after 1963. The Department became aware of the subdivision's illegal use of water in 1990 when the M&M Water Company filed a water right claim in the Snake River Basin Adjudication on the basis of beneficial use. The M&M Water Company withdrew its claim following the Department's determination that a legal beneficial use claim could not be made for an illegal water use.

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The M&M Water Company subsequently filed an application for a water right permit on August 23, 1995. DEQ was notified of the application in writing on August 31, 1995, and provided the Department a written summary of the process that the M&M Subdivision would be required to follow under DEQ's rules. The summary provided by DEQ on September 11, 1995, did not indicate that there was any concern regarding the quality of the water and whether it was suitable for domestic uses. The application was advertised, and no protests were received. The Department issued a water right permit (no. 63-12266) to the M&M Water Company on November 14, 1995, with a priority date of August 23, 1995.

The water right permit for the M&M Water Company is for domestic uses and excludes "lawn, garden, landscape, or other types of irrigation." This condition was included because the M&M Water Company did not want a water right that would allow outside irrigation. The M&M Water Company alleges that its distribution facilities are not adequately sized to provide water in sufficient quantities for outside irrigation to all of the 29 lots in the subdivision. Consequently, the M&M Water Company specifically prohibits use of water from its well for outside irrigation given that surface water supplies for outside irrigation are available to the subdivision from the Nampa & Meridian Irrigation District. Unfortunately, some of the property owners in the subdivision held shares for water from the Nampa & Meridian Irrigation District but sold the shares after the original M&M Water Company well was constructed.

Given the lack of communication and trust that had developed between the board members of the water company and the property owners, the Department provided notice that the individual property owners in the subdivision would be given until May 1, 1998, to come into compliance with the condition of the water company's water right which prohibits outside irrigation. This would allow ample time for the property owners in the subdivision to acquire the necessary water for outside irrigation and re-establish any water distribution facilities that are needed. In the event one or more of the property owners in the subdivision could not comply with the condition restricting the use of the water company's water right to in-house uses and watering of household stock, the Department indicated it would work with those property owners or the water company to identify other alternatives for legally obtaining a water supply for outside irrigation.

By letter dated August 20, 1996, the M&M Water Company submitted an application for a loan from the Idaho Water Resource Board (the "Water Board") to construct a replacement well to alleviate water quality concerns. There was no prior application for a loan from the M&M Water Company, as described in the second full paragraph on page 2 of the letter from Mr. Soshea et al, and the funds loaned by the Water Board are not dependent on federal funds. The water company's loan was approved by the Water Board on September 20, 1996. On July 17, 1997, the Department received written notification that construction of the replacement well had been completed and was ready for final inspection. Please note that neither the Department nor the Water Board suggested or required that the M&M Water Company replace its well.

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Recent Events

As described in the preceding background information, the M&M Water Company made the determination to prohibit use of water from its well and distribution facilities for outside irrigation. Some of the property owners within the M&M Subdivision have violated this restriction for several years. For example, the joint owners of two lots in the subdivision, Ernest & MaryAnn Hartzfeld, have stated that they moved to the subdivision in September 1990 and sought exclusion from the Nampa & Meridian Irrigation District in November 1994. Consequently, Mr. & Mrs. Hartzfeld have been using water from the M&M Water Company facilities for outside irrigation, inconsistent with the restrictions imposed by the water company, during half if not more of the last 7 years.

It is not clear why the M&M Water Company waited so long to seek legal action to enforce its restrictions on outside irrigation. For example, the Department's records indicate an attorney representing the M&M Water Company first wrote to Mr. & Mrs. Hartzfeld in 1995 about ceasing use of water from the M&M Water Company's facilities for outside irrigation. Another year went by without compliance and the attorney for the water company again wrote to Mr. & Mrs. Hartzfeld to seek compliance with the water company's restrictions in July 1996. Finally, the M&M Water Company filed a court action against Mr. & Mrs. Hartzfeld and other property owners to seek compliance with its restrictions.

On March 31, 1997, Magistrate James Schiller in the third judicial district awarded judgment for the M&M Water Company against the defendants. The court specifically held that: (1) Mr. & Mrs. Hartzfeld and the other defendants had to pay fines assessed by the M&M Water Company for violating the restrictions imposed by the water company; (2) Mr. & Mrs. Hartzfeld and the other defendants were restrained and enjoined from using any water supplied by the M&M Water Company in a manner inconsistent with restrictions imposed by the water company; (3) the M&M Water Company could immediately discontinue water delivery to Mr. & Mrs. Hartzfeld and the other defendants if they failed to pay the fines or violated provision (2); and (4) the court awarded costs and attorney fees to the M&M Water Company.

Despite the court's judgment and order against them, Mr. & Mrs. Hartzfeld continued to use water from the M&M Water Company for outside irrigation and refused to pay most if not all of the costs and fees ordered by the court. During the last week of May, the M&M Water Company disconnected water service to Mr. & Mrs. Hartzfeld, as well as to their daughter Mrs. Polk who was another defendant in the court action.

By letter to me dated May 12, 1997, Mr. & Mrs. Hartzfeld and the other defendants in the court action asserted that it was the Department that was responsible for them not being allowed to use water from the M&M Water Company's facilities. They also claimed that it was the Department's actions that resulted in the subsequent fines, fees, and costs that had been levied against them as well as potential losses in property values. The basis for these allegations was the Department issuing the water right permit to the M&M Water Company with the condition requested by the water

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company limiting use of the water right to in-house uses and watering of household stock. Their theory seemed to be that if the Department would not have included this condition on the water right permit, then: (1) the Department would have authorized use of the water for outside irrigation; (2) this authorization would have superseded the restrictions placed on outside water use by the M&M Water Company; (3) the M&M Water Company would not have had any basis for pursuing legal enforcement of its restrictions; and (4) the court would not have ruled in favor of the M&M Water Company and awarded costs and attorney fees against the defendants. The May 12 letter also claimed that other property owners in the M&M Subdivision were using water from the M&M Water Company for outside irrigation, including board members for the water company, but that the water company was only enforcing the restrictions on Mr. & Mrs. Hartzfeld and the other defendants in the court action.

Because of the latter allegation, I directed that a field examination of water use in the M&M Subdivision be conducted. The field examination did not identify obvious indications that water from the M&M Water Company was being used for outside irrigation. There were numerous indications of pressurized irrigation systems, but such systems could have been legitimately supplied by surface water received from the Nampa & Meridian Irrigation District. Because it could not be conclusively determined from the field examination whether use of the water from the M&M Water Company for outside irrigation was being uniformly prohibited, and because of the allegation that the Department had improperly imposed the condition on the water right permit restricting outside irrigation, I decided to meet with representatives of the M&M Water Company as well as the individuals asserting injury and improper actions to determine the merit of the allegations. I could have formally required the M&M Water Company to meet with me by requiring them to show why the Department should not remove the restriction from the water right permit which prohibited use of the water for outside irrigation. Instead, I arranged for an informal meeting to address the allegations believing that I could also potentially facilitate or mediate a settlement between the M&M Water Company and those with the court judgment against them. Of course a mediated settlement is only possible when both sides of a conflict are willing to resolve the conflict.

Initially, board members of the M&M Water Company refused to participate in such a meeting. After the Department contacted the attorney for the M&M Water Company, that attorney advised board members of the M&M Water Company to participate in the meeting. The meeting was subsequently scheduled for June 5, 1997, at 7:00 pm in Nampa. Along with representatives of the M&M Water Company and the property owners making the allegations against the company and the Department, I also asked that a deputy attorney general attend the meeting with me in part to provide clarification of any statements I made that might be misunderstood by others at the meeting. I also invited representatives from the Nampa & Meridian Irrigation District to discuss the availability of surface water supplies for outside irrigation.

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FEB 13 1998

Initially the meeting proceeded smoothly, and it appeared that it might be possible to achieve some settlement of the conflict between the M&M Water Company and the involved homeowners in the M&M Subdivision. However, once the discussions with the representatives from the Nampa & Meridian Irrigation District were complete, the discussions suddenly shifted from water issues to allegations about trespass and use of a backhoe some years ago. Two of the defendants who had lost the lawsuit with the water company abruptly left the meeting, and it became very clear that the conflicts and disputes between different interests in the M&M Subdivision involved more than water use. Eventually, all of the defendants in the lawsuit who were present at the meeting left without making any gesture to pay the judgment against them to the M&M Water Company.

As the meeting broke up, I was asked if the Department would issue permits to individuals wanting to construct their own wells. While I do not remember my exact words, I said that in this situation the Department would encourage an individual wanting to construct a private domestic well to apply for a water right permit. The application would be advertised, and this would allow others objecting to the water right to file protests. The deputy attorney general attending the meeting with me does not believe that I said anything different from this. However, under §42-227, Idaho Code, the Department can not require an individual to apply for a water right permit for domestic uses when such uses meet the limitations set forth in §42-111. In any event, a separate drilling permit (not a water right permit) is required to construct a well for domestic purposes. There are no provisions for advertising an application for drilling permit and providing an opportunity for protest.

The fact that a water right permit is not the same as a drilling permit was explained during a telephone discussion I had with Mr. Ernest White, vice president of the M&M Water Company and one of the individuals signing the July 3 letter, several weeks after the June 7 meeting. Additionally, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision were exempt from applying for water right permits for domestic purposes and could receive drilling permits to construct individual domestic wells. It is not clear why the M&M Water Company and homeowners now claim they were told something different.

As of now, only one property owner in the M&M Subdivision has constructed an individual well for domestic purposes since the June 7 meeting in Nampa. The Department has issued a drilling permit to a second property owner. However, that property owner has yet to construct a well after the Department required the initial well construction on the property be abandoned because the well was not located the required distance away from a septic drain field.

According to the July 3 letter from Mr. Soshea et al, the M&M Water Company is concerned that other property owners in the M&M Subdivision will want to construct their own wells and not pay their share of the approximately \$38,000 loan from the Water Board for the new well constructed by the water company. It makes little economic sense to drill a domestic well to avoid the indebtedness of the water company. Since there are 29 lots in the M&M Subdivision, the indebtedness to the Water Board is less than \$1,500 per lot. Conversely, it costs \$15,000 (more or

perlot - Converter

FEB 13 1998

less) to construct an adequate domestic well in the M&M Subdivision. Why would anyone pay \$15,000 to avoid \$1,500 of debt? If individual property owners are willing to expend \$15,000 to have their own individual wells, there must be other divisive issues between the M&M Water Company and the individual property owners.

Mr. Soshea et al claim that the Department has rewarded the parties which the court ruled against and that if the M&M Subdivision was a municipality, individuals would not be allowed to have individual domestic wells. Both of these assertions are incorrect. First, the right to appropriate unappropriated water in Idaho, within the constraints imposed by the legislature, is a constitutional right. By allowing individuals to exercise their legal rights, the Department is not rewarding them even though those same individuals may have violated other laws. Secondly, it is not the Department's responsibility to seek enforcement of the court order entered against these individuals. That responsibility rests squarely with the M&M Water Company. Thirdly, under current state laws the right to pursue the construction of an individual domestic well is not restricted to only those areas outside municipalities. To the extent a person can comply with local ordinances, that person can pursue the construction of an individual domestic well within municipal boundaries, state-wide.

The July 3 letter you received was signed by the president and various other representatives of the M&M Water Company. The last paragraph on page 3 of the letter begins with the following statement: "It is the concensus [sic] among the association that we all may as well stop paying the loan on the new well and if and when we are terminated we shall each drill our own well...." Without further clarification, this statement may mean that the M&M Water Company intends to default on its loan from the Water Board for construction of the new well. The final disbursement of \$4,436 from the loan has not been made to the M&M Water Company. The Department intends to withhold the final loan disbursement and seek written clarification from the M&M Water Company regarding its intentions. If the M&M Water Company reaffirms its intent to repay the loan, the final disbursement will be made. Otherwise, the Department will advise the Water Board to find the M&M Water Company in default and begin collection in accordance with applicable laws.

Summary

- (1) Neither the Department nor the Idaho Water Resource Board suggested or required that the M&M Water Company replace its well.
- (2) The M&M Water Company has escalated the involvement of the State of Idaho in a local issue by trying to use the state-issued water right permit to enforce the company's own restrictions against using the water for outside irrigation.
- (3) Although the M&M Water Company has a court judgment awarding them costs and fees from those in the M&M Subdivision who refused to comply with

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restrictions legally imposed by the company, the M&M Water Company has apparently not fully exercised its rights to collect the judgment, presumably to avoid additional attorney costs.

- (4) Representatives of the M&M Water Company were not told at the meeting in Nampa on June 7 that the Department would not issue drilling permits for individual wells. In fact, the attorney representing the M&M Water Company was informed by letter dated September 12, 1996, that individual property owners in the M&M Subdivision could receive drilling permits for individual domestic wells.
- (5) The concern that allowing individual property owners to drill domestic wells will undermine the ability of the M&M Water Company to repay its approximately \$38,000 loan with the Idaho Water Resource Board is unfounded. Each of the 29 lots in the M&M Subdivision is responsible for less than \$1,500 of this debt. An individual lot owner is not going to pay \$15,000 to construct a domestic well to avoid a \$1,500 debt unless there are other issues involved besides economics.
- (6) The Department will not make any further disbursements to the M&M Water Company out of the proceeds of the loan from the Idaho Water Resource Board unless the M&M Water Company reaffirms its intention to repay the loan.

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FEB 13 1998

100

MAIL

3. Article Addressed to: MRS MARY ANN HARTZFELD 6524 EAST ANGELA AVENUE NAMPA ID 83686		5. Received By: (Print Name) 6. Signature: (Addressee or Agent)	
4a. Article Number P 326 991 530		8. Addressee's Address (Only if requested and fee is paid)	
4b. Service Type ☐ Registered ☐ Express Mail ☐ Return Receipt for Merchandise ☐ COD		7. Date of Delivery	
1. ☐ Addressee's Address 2. ☐ Restricted Delivery Consult postmaster for fee.		9. Permitted Return Receipt Requested on the mailpiece below the article number. The Return Receipt will show to whom the article was delivered and the date delivered.	

Ernest White, Vice President
M & M Mountain View Subdivision
6521 Angela Avenue
Nampa, Idaho 83686
Phone: 465-6445
FAX: 467-7286

John Anderson
Nampa Meridian Irrigation Co.
5525 East Greenhurst
Nampa, Idaho 83686
Phone: 345-2431
FAX: 888-9859

MaryAnn and Ernest Hartzfeld
6524 E. Angela Avenue
Nampa, Idaho 83686
Phone: 466-3192

Ted and Kathy Young
6619 E. Angela Avenue
Nampa, Idaho 83686
Phone: 465-6356

Mary Polk
c/o MaryAnn and Ernest Hartzfeld
6524 E. Angela Avenue
Nampa, Idaho 83686
Phone: 344-0441 (work)

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FEB 13 1988

June 5, 1997

NAME	AFFILIATION	ADDRESS / PHONE
Karl J. Dreher	Director, Dept of Water Res.	1301 North Orchard Boise, ID 83706 327-7910
Ernest H. White	M & M. Water V-P	6521 Angela Ave Nampa
Mary White	M & M Water	6521 Angela Ave Nampa
Doug & Roger	Homeowners	4419 Diane St
Jeanne Rogers		4419 Diane St
Sue Barber	M & M Water	2601 Diane St
Vickie Fretz	M & M Water	6603 Angela Ave
Ruth Ward		
Darrell Ward	M & M Water	4412 Diane
Michael Soshea	M & M Water	6610 Angela Ave
Karla Soshea	M & M Water	6610 Angela Ave
LeRoy Barber	" "	4601 Diane St.
Bill Wallis	" "	4309 Diane St.
Manfred	" "	6525 Monica Ave
Mary Ann Hartfield	Home owner	6524 E. Angela
Theodor Young	Home Owner	6619 Angela Ave
Kathie Young	Home owner	6619 Angela Ave
Phillip J. Rassier	ATHY GEN. OFFICE	1301 N. ORCHARD BOISE, ID 83705 4524 DIANE ST
* Helene Tomaszewski	Secretary & Homeowner	NAHMA ID 83686

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FEB 19 1998

5

Bard member
M & M



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

June 12, 1997

KARL J. DREHER
DIRECTOR

Mrs. MaryAnn Hartzfeld
6524 East Angela Avenue
Nampa, ID 83686

VIA CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Re: Your Letter Dated May 12, 1997, & Resulting Meeting on June 5, 1997

Dear Mrs. Hartzfeld:

When you departed the meeting which I held a week ago at the Nampa Civic Center with representatives of the M & M Mountain View Subdivision Water Company and owners of individual lots in the subdivision, you left behind 4 photographs of what you described to be a lateral ditch, a copy of the subdivision's restrictive covenants recorded in February of 1974, and an original physician's statement regarding the health of your husband, Ernest Hartzfeld. These items are enclosed with this letter as you may need them for future reference.

As a result of the meeting, I do not agree with the statement in your letter dated May 12, 1997, alleging that the issuance of the water right permit by the Department of Water Resources to the M & M Mountain View Subdivision "is really the mistake." Similarly, although the losses you have incurred "are very real," I do not agree with your conclusion that those losses were "incurred from [*or because of*] the existing permit."

The board members of the M & M Mountain View Acres Subdivision Water Company attending last Thursday's meeting presented information that the Water Company by its own actions has consistently prohibited use of water from the Water Company's well for outside irrigation for more than 15 years. Pursuant to the action brought by the M & M Mountain View Acres Subdivision Water Company, Magistrate Schiller recognized this prohibition and in his judgment ordered that you and the other defendants were "restrained and enjoined from using any water supplied or delivered by the Plaintiff ... in a manner inconsistent with the conditions and restrictions placed upon such water usage either by the State of Idaho Department of Water Resources, *or* by Plaintiff M & M Mountain View Acres Subdivision Water Company [emphasis added]." Consequently, even if the Department of Water Resources would not have included the

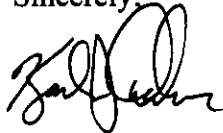
REC'D
FEB 13 1998

Mrs. MaryAnn Hartzfeld
June 12, 1997
Page 2 of 2

condition on the water right permit prohibiting use of the water from the M & M Mountain View Acres Subdivision Water Company well for lawn, garden, landscape, or other types of irrigation, the Water Company's own restrictions would have limited water use from its well to in-house domestic uses. Therefore, the losses you have incurred are not the result of the permit issued by the Department of Water Resources.

Having made this determination, I do not take lightly the fact that your water service has been terminated. However, a valid court judgment has been entered against you, and any further action on your behalf must be pursued in an appropriate court of law. Neither the Office of Governor Batt nor the Department of Water Resources has any authority to in any way modify a court's judgment. Only a court of law can take such action. My recommendation to you at this time is the same as when you first called about your water being shut off -- you should retain the services of a competent attorney and strongly consider following his or her advise. If you are not able to pay for the services of an attorney, you may be able to obtain assistance through Legal Aid Services located at 310 North 5th Street in Boise (phone number 345-0106).

Sincerely,



Karl J. Dreher
Director

Enclosures (3)

copies w/o enclosures to: Mary Polk
Ted and Kathy Young
M & M Mountain View Subdivision c/o Ernest White
Jason Kreizenbeck - Office of Governor Batt

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FEB 13 1998

HAMILTON & MICHAELSON
ATTORNEYS AT LAW
1303 - 12TH AVENUE ROAD
P.O. BOX 65
NAMPA, IDAHO 83653-0065

RECEIVED

JUN 05 1997

Department of Water Resources

CARL D. HAMILTON
TERRY MICHAELSON

TIFFANY HALES
MARK HILTY

TELEPHONE
(208)467-4479

FACSIMILE
(208)467-3058

May 29, 1997

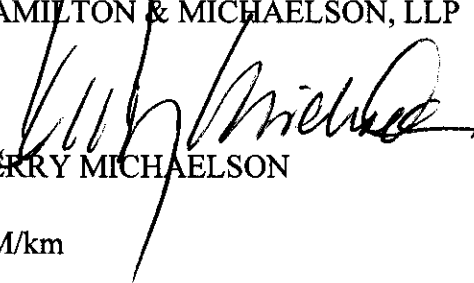
Mr. Phil Rassier
Deputy Attorney General
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83720-0098

Dear Mr. Rassier:

This letter is to advise you that I have spoken with Ernest White, vice president of the M&M Mountain View Acres Subdivision Water Company regarding the Hartzfeld matter. The board would be willing to participate in a meeting arranged by the Director of the Idaho Department of Water Resources to see whether some resolution of the matter can be reached. Please advise as to the time, date and location of such a meeting.

Very truly yours,

HAMILTON & MICHAELSON, LLP



TERRY MICHAELSON

TM/km

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FEB 13 1998



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

June 3, 1997

✓ Ernest White, Vice President
M & M Mountain View Subdivision
6521 Angela Avenue
Nampa, Idaho 83686
FAX: 467-7286

✓ John Anderson
Nampa Meridian Irrigation Co.
5525 East Greenhurst
Nampa, Idaho 83686
FAX: 888-9859

★ MaryAnn and Ernest Hartzfeld
6524 E. Angela Avenue
Nampa, Idaho 83686

★ Ted and Kathy Young
6619 E. Angela Avenue
Nampa, Idaho 83686

★ Mary Polk
c/o MaryAnn and Ernest Hartzfeld
6524 E. Angela Avenue
Nampa, Idaho 83686

Ladies and Gentlemen:

The Director of the Idaho Department of Water Resources has scheduled a meeting with the M & M Mountain View Subdivision Water Company, Inc. and property owners to discuss the concerns described in a letter dated May 12, 1997 (copy enclosed), and to discuss other legal alternatives property owners have for obtaining a water supply.

The meeting is scheduled for Thursday, June 5, 1997 from 7 p.m. to 9:00 p.m. at the Nampa Civic Center, Union Pacific Room, Nampa, Idaho.

If you have any questions concerning this matter, please feel free to this office.

Sincerely,

RITA I. FLECK
Administrative Secretary

Enclosure

c: Philip Rassier

Terry Michaelson, Hamilton & Michaelson

★ Sent Fed Ex - Overnight Delivery
✓ Via fax

MICROFILMED
FEB 13 1998


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*                                                                 P. 01 *
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*          TRANSACTION REPORT                                     *
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MICROFILMED
FEB 13 1998

Mt. 12, 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83720-9000

Attn: Mr. Karl Dreyher, Director

Fax: Jason Kreizenbeck

Dear Mr. Dreyher:

Our telephone conversation of May 6, involving you, Deputy Attorney General, Phil Ressler, Governor's Assistant, Jason Kreizenbeck, and a Public Affairs person, has now been discussed with Ted and Kathy Young, Ernest Hartzfeld and Mary Polk. (Mr. Polk lost his life with gallbladder cancer April 6, 1996 while using this contaminated water).

The damages to our properties, credit ratings, finances and personal traumas cannot be corrected. We were advised by our attorney that the Summary Judgement is a "done deal". No going back and no errors can be adjusted.

The issuance of a [?](single-dwelling) permit is really the mistake. The conditional use attachment clarified the intent. An existing 20 acre subdivision of 24 years with homes and landscaping did not have your attention!

We have water users all around us, using water from the hose, (this is not ditch water). Next door is Michael Soshea putting in new landscaping, across the street Ernest White has set out shrubs. An underground sprinkler system is in operation at 4419 Diane. Our neighbor on the west, Ralph Etychison has to use a hose. This goes on and on at whatever time for whatever reason. Those with Nampa Irrigation privileges care less of our plight.

Our property investments are estimated at \$240,000.00 between the three of us. Not one drop of water was to our aid. This past weekend I for one had to salvage what I could. Not because I wanted to go against the permit. Our blood, sweat and finances of the past six years was becoming a weed infestation and I am past coping. God knows we have sought about all avenues. This injustice must come to a halt.

The losses incurred from the existing permit are very real. Fines, and attorney fees, both sides, were initiated due to your permit releasing a nightmare of anguish to us senior residents and others. The permit removed our ability to care for our homestead. These losses cannot be slighted.

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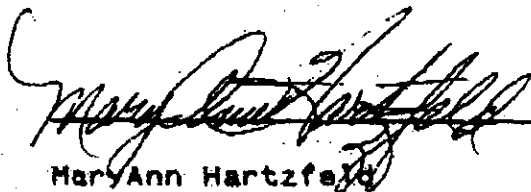
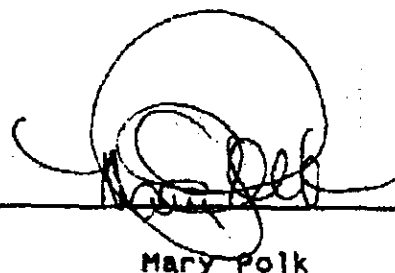
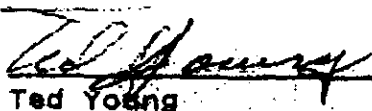
FEB 13 1998

An entanglement of abuses from all preexisting parties is secondary to what we have a "right to" now. You surely have all the information pertaining to an adequate permit. Given this bizarre situation here, safe water for domestic and irrigation is not an option but a necessity of life!

The State must monitor water distribution in such a manner: 100% signatures of all parties would be needed before making any future changes. The STATE OF IDAHO remains vulnerable without it.

A resolve of this by May 16 is now critical.

Respectfully,


MaryAnn Hartzfeld
Ernest Hartzfeld
Mary Polk
Ted Young
Kathy YoungRECEIVED
FEB 13 1998

05.31.97 08:19 AM *

ERNEST H WHITE

P01

MAY, 31, 1997

3 PAGES INCLUDING COVER

IDAHO DEPT OF WATER RESOURCES
3101 NORTH ORCHARD STREET
BOISE, IDAHO 83720

TO
DEBBI ELLIS

RITA FLECK

FROM
M & M MOUNTAIN VIEW WATER CORP
ERNEST H. WHITE VICE-PRES.
6521 ANGELA AVE.
NAMPA, IDAHO 83686

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FEB 13 1998

MAY 31,1997

2 OF 3

IDAHO DEPT. OF WATER RESOURCES
1301 NORTH ORCHARD STREET
BOISE, IDAHO 83720
ATTENTION
DEBBI ELLIS/ RITA FLECK

DEAR LADIES

THE M & M WATER BOARD MEET MAY 30,1997 AND FOUND THE JUNE 3,1997
DATE IS IN CONFLICT WITH BOARD MEMBERS DATES FOR GRADUATION
CEREMONIES FOR A SON ARE BEING HELD AND MUST BE ATTENDED.

THE FIRST TWO DATES THAT ARE OPEN ARE JUNE, 2 AND JUNE, 5...
THERE IS HOWEVER 3 THING THAT WE CAN AGREE UPON IN THE MEAN TIME.

(1) ONLY THE PARTIES INVOLVED ARE TO ATTEND THIS MEETING

(A) IDWR/ ATTORNEY GENERAL

(B) M & M WATER CORP. BOARD OF DIRECTORS

(C) HARTZFELD AND POLK

M & M ASK FOR THIS AS MANY OF OUR MEMBERS ARE FEED UP WITH THE
HARTZFELD/ POLK MATTER AND WANTED TO ATTEND. MANY MEMBER ARE
HOSTILE TO HARTZFELD/ POLK. WITHOUT THIS CONDITION, THIS MEETING
WOULD BE DOOMED BEFORE IT EVER GOT STARTED.

(2) THERE CAN BE NO COMPROMISE ON THE NO IRRIGATION FROM THE
WELL ISSUE, AS PREVIOUSLY STATED, THE WATER SYSTEM CAN NOT PROVIDE

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FEB 13 1998

3 OF 3

IRRIGATION FOR ALL MEMBERS. M & M WATER WILL NOT AGREE TO ANY SPECIAL RIGHTS FOR HARTZFELD/ POLK TO IRRIGATE.

(3) ALL MONIES OWED TO M & M WATER BY HARTZFELD AND POLK MUST BE PAID IN FULL BEFORE WATER SERVICE WOULD BE RESTORED. THERE CAN NOT BE ANY PAYMENT PLAN FOR MONEY OWED, AS MANY PLANS HAVE BEEN TRIED IN THE PAST AND WERE NEVER KEPT. HARTZFELD OWNS THE PROPERTY THAT POLK LIVES ON, THERE FOR THE COMBINE SUM OF MONIES MUST BE PAID IN FULL BEFORE SERVICE WOULD BE RESTORED TO EITHER HARTZFELD OR POLK.

IF THESE PER-CONDITIONS ARE AGREEABLE, PLEASE SET A DATE FOR THE MEETING ASAP.

THANK YOU

M & M MOUNTAIN VIEW WATER CORP.

ERNEST WHITE VICE- PRES.

Ernest H. White

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FEB 13 1998

5-27-97

TERRY Michaelson [HAMILTON & Michaelson]

11:40

PH 467-4479

Nampa

P12

RE: M&M Subdivision

1. Left message w/ Terry @ 11:40. Secretary said he would return my call
2. M & M Board met on May 16 and agreed not to be a party to the meeting w/ Hartzfeld, Young, and Park.

5-29-97

9:30

1. Spoke to Terry Michaelson. He said he would talk to Ernest White and recommend he attend the meeting with IDWR ~~to~~ without an attorney present.
2. Terry says the Subdivision does not want to run up further legal fees and he has for much unpaid time in the matter already.
3. Terry or Ernest will get back to us.

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FEB 13 1998

17. 97 09:22-PM *

ERNEST H WHITE

P01

MAY 16,1997

4 PAGES INCLUDING COVER

TO

DEBBI ELLIS
IDAHO DEPT. WATER RESOURCES
1301 NORTH ORCHARD STREET
BOISE, IDAHO 83720.

FROM

ERNEST H. WHITE V.P.
6521 ANGELA AVE.
NAMPA, IDAHO 83686

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FEB 13 1998

②

MAY 16,1997

IDAHO DEPARTMENT OF WATER RESOURCES
1301 NORTH ORCHARD STREET
STATEHOUSE MAIL
BOISE, IDAHO 83720

ATTENTION DEBBI ELLIS

DEAR DEBBI

ON MAY 16, 1997 M & M WATER BOARD MEET AND AGREED NOT TO
BE A PARTY IN THE MEETING WITH HARTZFELD, YOUNG, AND POLK OVER
THE IRRIGATION PROBLEM FROM THE WELL SYSTEM. THE TIME FOR
TALKS HAVE LONG SINCE PAST

NUMEROUS PREVIOUS EFFORTS TO REASON WITH HARTZFELD
HAVE BEEN UNSUCCESSFUL. M&M WATER HAS WRITTEN SEVERAL
LETTER AND OUR ATTORNEY HAS SENT SEVERAL LETTER BY CERTIFIED
MAIL TRYING TO REASON WITH HARTZFELD. AS A LAST RESORT M & M
WATER HAS BEEN FORCED TO TAKE HER TO COURT AND THIS COST OUR
MEMBERS A SIZABLE SUM OF MONEY IN COURT COST AND ATTORNEY
FEES

NOW, HARTZFELD WANTS TO TALK, COME TO A AGREEMENT THAT
WOULD LET HER CONTINUE TO IRRIGATE FOR YET ONE MORE YEAR FROM
THE WATER SYSTEM. EVEN NOW, SPRINKLERS AND HOSES ARE RUNNING
IN VIOLATION OF THE COURT ORDER. THEY HAVE BEEN IRRIGATING
EVERYDAY THIS WEEK ALL DAY LONG.

ANY MEETING WOULD BE USELESS AS IT HAS BEEN M & M WATER

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FEB 13 1998



EXPERIENCE, AGREEMENT WITH HARTZFELD AND POLK ARE NEVER KEPT BY THEM.

IT WOULD BE UNFAIR TO MAKE SPECIAL DEAL WITH HARTZFELD, YOUNG AND POLK GIVING THEM THE RIGHT TO IRRIGATE FROM THE WATER SYSTEM WHILE NOT ALLOWING OTHERS TO IRRIGATE FROM THE WATER SYSTEM. OUR WATER SYSTEM IS NOT SET UP TO PROVIDE IRRIGATION WITHOUT A COMPLETE REVISION OF OUR SYSTEM, LARGER PUMP AND PIPING SYSTEM ETC. THIS SYSTEM WAS DESIGNED FOR 13 HOMES, WE NOW HAVE 30 SERVICE HOOK UPS THAT IS STRAINING THE SYSTEM NOW. M&M WATER HAS JUST DRILLED A NEW WELL THAT HAS PUT THIS ASSOCIATION IN DEBT OVER \$38000.00

IN FAIRNESS TO OUR MEMBERS, WE WILL NOT MAKE ANY AGREEMENT WITH HARTZFELD, YOUNG AND POLK THAT DOESNT COMPLY WITH OUR WATER PERMIT, M & M WATER CORP. BY-LAWS. THE COURT ORDER GIVES M & M WATER THE RIGHT TO ENFORCE THE NO IRRIGATION FROM THE WATER SYSTEM.

AS FOR MARYANN HARTZFELD GIVING UP HER IRRIGATION DISTRICT WATER RIGHT, M & M WATER RECORDS SHOWS THAT AS FAR BACK AS 1990 AND 1991 HARTZFELD KNEW THAT IRRIGATION FROM THE WATER SYSTEM WAS NOT ALLOW, BUT HARTZFELD WENT AHEAD IN 1994 AND WITHDREW FROM THE IRRIGATION DISTRICT. IN TALKING WITH THE NAMPA DISTRICT IRRIGATION OFFICE, WATER RIGHTS CAN BE RESTORED WITHOUT TOO MANY PROBLEMS

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FEB 13 1998

05. 17. 97 09:22 PM *

ERNEST H WHITE

P04

(4)

M & M WATER WILL ENFORCE THE NO IRRIGATION FROM THE
WATER SYSTEM AS STATED IN THE IDWR WATER PERMIT, OUR BY-
LAWS AND THE COURT ORDER.

THANK YOU

ERNEST H. WHITE V.P.
M&M WATER BOARD.

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FEB 13 1998

MEMORANDUM

To: File 63-12266
From: L. Glen Saxton *LS*
RE: TELEPHONE CONVERSATION
Date: May 13, 1997

On this date, I called Nampa & Meridian Irrigation District (district) to determine whether the district actually delivers some water to some of the owners in the M & M Mountain View Subdivision, Inc. The district then referred me to Fred Peterson, the ditch rider for that area at 467-6006 (beeper no. 887-2798) for an answer.

Peterson called me back and advised me of the following;

1. He does deliver district water for use by some of the residents in the M & M Subdivision.
2. He believes that district water may be available for others within the district to acquire but said that if non-use had existed for some time, the non-users likely would have to reestablish their rights-of-way and easements for water delivery.
3. He stated that he did not know if there was a physical delivery system to all the lots in the subdivision.

8661 81 838
MICROFILMED

RECEIVED

MAY 16 1997

MEMORANDUM

Department of Water Resources

TO: KARL DREHER

FROM: STEVE LESTER 

DATE: MAY 14, 1997

RE: FIELD VISIT TO M & M MOUNTAINVIEW SUBDIVISION

This morning at 11:00 I made a brief field inspection at the subdivision located several miles southeast of Nampa and slightly east of Robinson Road. Mr. White (vice president) saw me as I drove up and spent a few minutes talking about the overall situation. He identified some of the lot owners as noted on the attached plat map copied from permit file no. 63-12266.

I walked through the subdivision to see what could be observed from the streets without trespassing on any of the lots. This memo summarizes what was observed. Reference points listed here ("A") relate to points added to the already busy plat map.

It appears that two supply ditches distribute canal water to the site from a control box (A). Water enters the control box from the south via a culvert under Wright Lane. The supply ditch running north along Brenda Lane was not flowing but the ditch running west from the box was carrying water.

Most of the lots appear to be irrigated from some source. Some lots have marginal irrigation signs at least from the vantage point of the streets. None of the lots with homes have totally bare (non-vegetated) yards, although a few front yards appear to be just weeds. It appears that the ditch network runs throughout the entire subdivision, although it could not be ascertained that every lot receives or is capable of receiving ditch water.

Irrigation was occurring at three sites during the visit. One was at Block 1, Lot 8 via live flow in a ditch serving that yard (B). The other two included two homes found on Lot 4 of that block (C), where rainbird yard sprinklers have been installed on risers (not portable sets). I could not determine if pressurized ditch water or ground water served the yards at Lot 4.

The pump house for the community well was observed from Diane Street (D). I did not inspect the pump house or well site.

A number of homes have risers in the yards for hose connections. Again, it cannot be determined from such a brief inspection if pressurized surface water or ground water serves these risers. The only obvious ditch pump observed was that from the drain ditch at the northeast corner of Block 1, Lot 1 (E). The pump was not on.

It was noted that the supply ditch paralleling Brenda Lane was wetted although not delivering water (F and G). It was also noted that the Hartzfeld home at 6524 Angela Avenue (Block 2, Lot 7) hosted an obviously irrigated yard -- but no irrigation was observed there today.

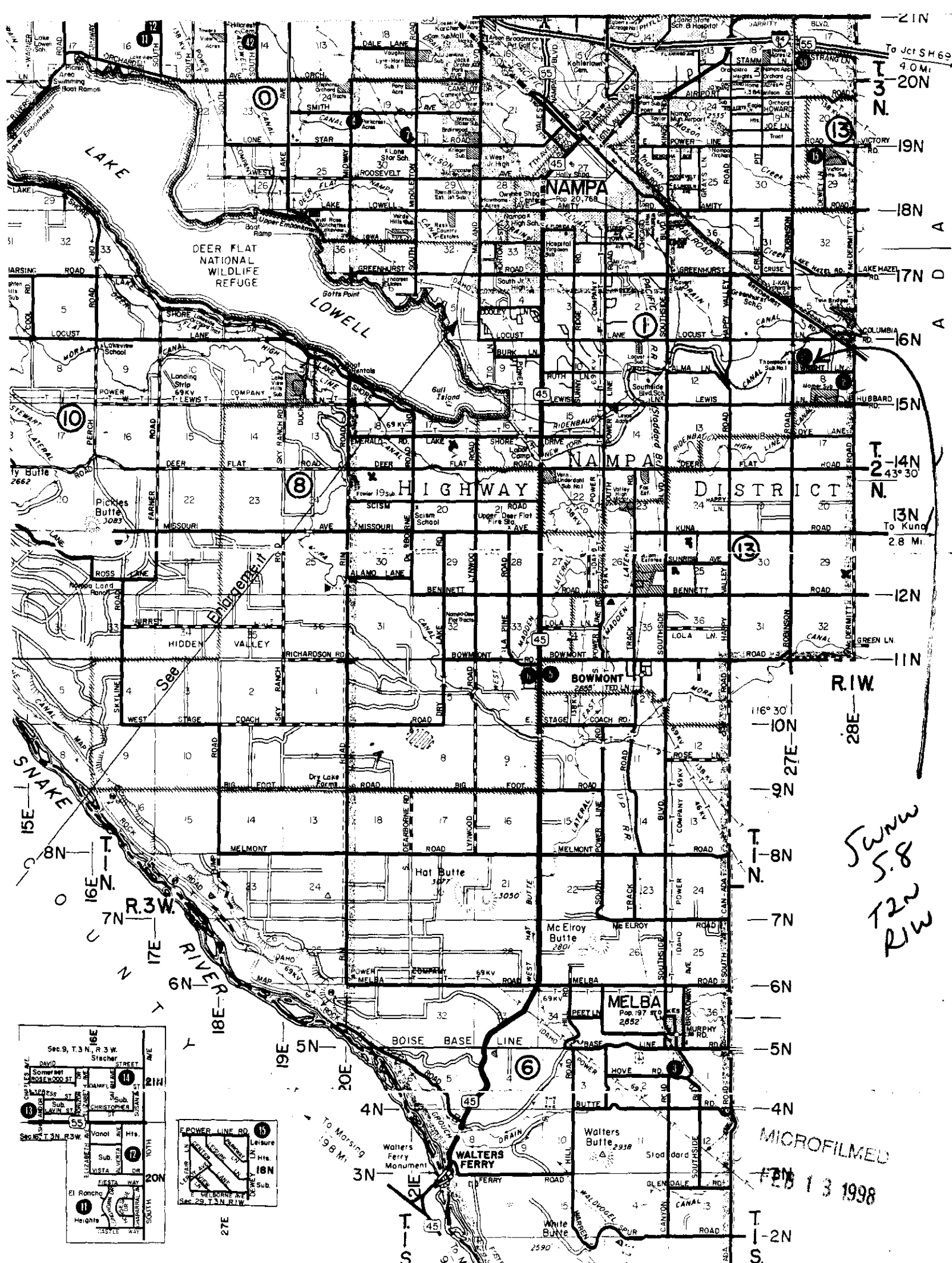
MICROFILMED
FEB 13 1998

M & M Mountainview Subd.
May 14, 1997
Page 2

Not much can be concluded from such a visit. It does appear that an extensive ditch network is found in the development. Most yards show obvious irrigation signs. Very few signs were found for non-portable sprinkler systems. Although only one ditch pump was seen, other pumps might be in place (back yards?) to pressurize available ditch water.

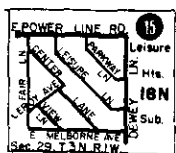
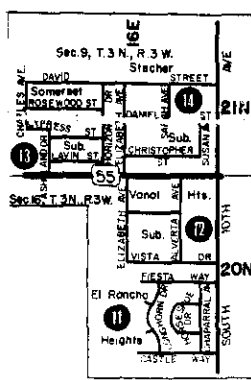
Without a full inspection that includes participation of the water users, it cannot be determined which lots, if any, might be using ground water from the community well in permit no. 63-12266 to irrigate yards.

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Sunw
5.8
12w
R1w

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FEB 13 1998



6500
115' 3rd
466-5941
"House Flow Using Water" *

SAFE TITLE INSURANCE
RAMPA AND CALDWELL

M & M MOUNTAIN
VIEW ACRES
CANYON COUNTY, IDAHO
FILMED 3 1998

No govt lots
- 82 29 16

NW COR
SW 1/4 NW 1/4
SEC. 8, T2N, R1W, S. 8M

NE COR
SW 1/4 NW 1/4
SEC. 8, T2N, R1W, S. 8M

Drain ditch

ROBINSON

SCALE 1" = 100'

EASEMENT NOTES

1. Irrigation, drainage, & utility easement
2. Power & telephone easement
3. Ingress & egress easement for well lot
4. Easement for sanitary protection of well - no septic tanks or drain fields allowed within circle. (Well location is center of protection easement.)

Well for
THIS APP.

CURVE TABLE

DIUS	ANGLE	TAN	LENGTH	CHORD	BEARING	L CHORD
30	32° 01' 27"	28.67	55.84	55.11	N 25° 11' 49" W	
30	41° 12' 32"	15.00	28.70	28.06	N 20° 34' 18" W	
00	90° 35' 28"	20.21	31.62	28.43	S 45° 20' 11" W	
00	131° 18' 05"	44.19	43.83	36.44	N 24° 26' 29" E	
00	9° 36' 38"	18.98	31.40	28.27	S 44° 56' 04" E	
00	03° 00' 00"	20.02	31.43	28.30	S 43° 05' 58" E	
00	03° 00' 00"	19.99	31.41	28.28	N 44° 55' 00" W	
00	10° 01' 00"	20.01	31.42	28.29	N 43° 05' 00" E	
00	90° 31' 37"	20.19	31.60	28.42	N 43° 20' 28" E	
00	89° 28' 03"	19.81	31.25	28.15	S 44° 39' 32" E	
00	89° 28' 01"	19.80	31.22	28.14	S 44° 40' 32" E	
23	24° 03' 05"	48.48	85.32	94.82	S 29° 09' 35" E	
23	17° 11' 53"	34.36	68.21	67.85	S 8° 31' 26" E	
23	17° 14' 44"	29.33	50.49	50.41	S 35° 35' 10" E	
23	21° 47' 25"	49.31	97.83	97.24	S 19° 04' 06" E	
23	8° 14' 33"	16.53	37.03	37.00	S 4° 02' 54" E	
00	80° 11' 07"	16.94	27.99	25.78	N 49° 16' 38" W	
30	41° 12' 32"	26.27	50.27	49.20	N 20° 34' 18" W	

Supply ditch

STATE OF IDAHO S.S.
COUNTY OF CANYON

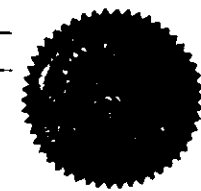
I, Ronald M. Blakley, a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M & M MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plat was made by me or under my direction and that this plat correctly shows the survey as made. IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972.



STATE OF IDAHO S.S.
COUNTY OF CANYON

On this 17th day of May, A.D. 1972, before me, John Hamilton, a Notary Public in and for said County and State, personally appeared Ronald M. Blakley, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed same. IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May, A.D. 1972.

Notary Public John Hamilton
Residing at Carlson Idaho
My Commission expires 12-25-75



I hereby certify that this instrument was filed for record at the request of Ronald M. Blakley at 07 minutes past 11 P.M. on this 22 day of June, A.D. 1972.

Fee \$5.00
Instrument No. 684810
Recorder Walter Ray
Deputy Lavone Sayre

O.G. PRIVATELY OWNED WELL

Flow ditch

BRENDA LN

WRIGHT LANE

FONT



Pete T. Cenarrusa
Secretary of State

Idaho Secretary of State's Office
700 W Jefferson
PO Box 83720
Boise, Idaho 83720-0080

FAX - 208 334-2847

Corporations ————— 208 334-2301
Uniform Commercial Code ————— 208 334-3191
Elections ————— 208 334-2852
Fiscal Division ————— 208 334-5355
Computer Systems/Public Access ————— 208 334-5354

Web Address: <http://www.idsos.state.id.us>

To: PHIL RASSIR

93277866

From: Natalie Lamb
Idaho Sec. of State's Office
Corporations Division

Subject: CORPORATIONS FAXING

Number of pages in document: 14
Transmission starts with page: 1
If you need pages to be sent again, please call:

Date: 5/14/97 11:28:03

MICROFILMED

FEB 13 1998



Department of State.

**CERTIFICATE OF INCORPORATION
OF**

M & M MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY, INC.

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, hereby certify that duplicate originals of Articles of Incorporation for the incorporation of _____

M & M MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY, INC.

duly signed pursuant to the provisions of the Idaho Nonprofit Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I issue this Certificate of Incorporation and attach hereto a duplicate original of the Articles of Incorporation.

Dated October 13, 19 82.



Pete T. Cenarrusa

SECRETARY OF STATE

Corporation Clerk

M & M MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY, INC.
(Non-Profit Corporation)

KNOW ALL MEN BY THESE PRESENTS: That, the undersigned persons,

all of whom are citizens of the United States of America, having attained the age of majority, have this day voluntarily associated themselves together for the purpose of forming a non-profit corporation without capital stock, under and pursuant to the Idaho Nonprofit Corporation Act, and that we do hereby make, acknowledge and declare the following to be our Articles of Incorporation.

ARTICLE 1

The name of this corporation shall be M & M Mountain View Acres Subdivision Water Company, Inc.

ARTICLE 2

This corporation is a non-profit corporation, and shall have no capital stock; and no dividends of pecuniary profits shall be declared to the members thereof.

ARTICLE 3

The objects and purposes for which this corporation is formed as follows:

(1) To acquire and own real estate and personal property, including water rights, water lines, mains, easements, pumps, pumping fixtures and equipment, water licenses and permits, franchises, and any other property item or effect that may become instrumental for the purposes of which the corporation is organized as pertains to the community water system of M & M Mountain View Subdivision Canyon County, Idaho according to the Plat thereof filed in Book 11 of Plats at Page 13, Records of Canyon County, Idaho.

(2) To supervise, manage, distribute, control and supply water, both domestic and irrigation, to the members of the corporation, and to acquire, maintain, control, expend, improve and repair water sources and systems and conduct all business necessary or instrumental to the same. To include the control and maintenance of all well-lots in the subdivision.

MICROFILMED

FEB 13 1998

(3) To make assessments and charges to members for water and water system appurtenances furnished in connection therewith, and which assessments and charges shall be disbursed by the corporation only in payment for expenses of such water system and water system appurtenances.

(4) To perform any lawful act necessary to the acquisition, ownership, maintenances, and expansion of water system or systems, and the distribution of water, and any other lawful act necessary or advisable in the furtherance of the corporation.

ARTICLE IV

The location and post office address of the registered office and principal place of business of said corporation shall be

22 pm Sec. in Madison office
4th STREET, ALBANY
Rm 3 - Box 3684
Nampa - ID 83651

ARTICLE V

The duration of this corporation shall be perpetual.

ARTICLE VI

Each owner of an improved property in any residential subdivision which shall be served by the water system or systems of the corporation shall be eligible for membership in the corporation. Such membership shall at all times be identified with the owner of the improved property or improved properties and no membership shall be subject or conditioned upon approval of the Board of Directors or other members. There shall be one vote for each improved parcel of property served by the system and owned by the members, whether owned in community, jointly or separately. Voting rights and membership and continuation thereof shall be dependent upon the ownership of an improved property served by a water system of the corporation, and there can be no expulsion of a member or cancellation of voting rights of such member so long as he is so qualified.

Voting may be by proxy in writing, dated and signed by a member; provided, however, no such proxy shall be valid beyond eleven (11) months after its execution, nor binding upon a transferee of an improved property from the person executing such proxy.

ARTICLE VII

Assessments and charges of the corporation shall be made as to each improved property owned by a member and in the event of the failure of a member to pay assessments and charges, the corporation may suspend water service to such improved property during the time any assessment or charge is unpaid following due date thereof. Upon payment of any delinquent assessment or charge, together with a reasonable charge for terminating and restoring service, water must be promptly restored.

Unpaid assessments of charges, including reasonable charges for terminating and restoring service if service has been terminated, must be paid by a transferee of a membership or a member acquiring another improved property, and unless so paid, service may be suspended or if suspended, such suspension shall continue as above provided.

ARTICLE VIII

Nothing in these Articles shall be construed as restricting the ownership of improved properties and no provision shall be made in the By-Laws of the corporation which shall so restrict ownership.

ARTICLE IX

The corporation may not lease any real or personal property.

ARTICLE X

The foregoing Articles of this corporation and this Article, being Articles number I through X inclusive, cannot be changed prior to one year from the date of incorporation without the approval of the Federal Housing

Administration and thereafter the same may be changed only by an affirmative vote with two-thirds (2/3) of all eligible votes.

ARTICLE XI

By-Laws not inconsistent with the Articles of Incorporation may be adopted, altered, amended or repealed at any regular meeting of the members, or at any special meeting of the members of the corporation called for that purpose, by the affirmative vote of two-thirds (2/3) of the members present at such meeting; provided, however, a quorum, which shall be a majority of the eligible votes, shall be present through members and proxy.

ARTICLE XII

The business of this Association shall be managed by a Board of Directors of not less than three nor more than nine directors, the number, qualification, terms of office, manner of election, powers and duties of such directors shall be such as may be prescribed by these Articles and such By-Laws as may from time to time be in force.

ARTICLE XIII

The following named persons shall serve as a Board of Directors until their successors are duly elected and qualified:

IN WITNESS WHEREOF, We, the undersigned, for the purpose of forming this corporation under the statutes of the State of Idaho, have executed these Articles of Incorporation this 14 day of August, 1982.

Spencer L. Beaman
Sandra D. Beaman
John L. Sellinger

Monica Kellinaspre
Katy L. Wallis
W. McLean

David H. Galt
Shirley D. Pearson
Robert R. Pearson
Leann E. Robinson
Beverly R. Robinson
Corey M. Olson
Daisy E. Olson
John W. Pearson
John W. Pearson
Edith E. Lancaster
Sharon C. McBain
Mary C. Jester
John W. Pearson
Margaret Carder

Idaho Futures, Inc., Secretary

Lois R. Shuck
 Idaho Futures, Inc., President



Bernie Gratton & Co.

REAL ESTATE :: COUNSELING & MARKETING



REALTOR®

October 12, 1982

*Incorporations
etc all directors*

State of Idaho
Secretary of State
Boise, Idaho

Re: M&M Mountain View Acres Subdivision Water Company, Inc.

Please find enclosed a list of incorporators and initial directors, inclusive, as per your request of letter dated October 6, 1982.

John & Denise DeVinaspre	Rt #3 Box 3684B, Nampa, Idaho	83651
Vic & Katy Wallis	Rt #3 Box 3755, Nampa, Idaho	83651
Dave & Shirley Kealiher	4412 Diane St., Nampa, Idaho	83651
Robert & Gladys Purcum	Rt #3 Box 3684D, Nampa, Idaho	83651
Leon & Beverly Robinson	Rt #3 Box 3685E, Nampa, Idaho	83651
Cory & Daisy Olsen	Rt #3 Box 3683, Nampa, Idaho	83651
John Trowbridge	1123 Amity, Nampa, Idaho	83651
Edith Lancaster	Rt #3 Box 3685, Nampa, Idaho	83651
Sharon McClain	Rt #3 Box 3685, Nampa, Idaho	83651
Mary Jane Corder	Rt #3 Box 3695, Nampa, Idaho	83651
Spencer & Sandra Brown	Rt #3 Box 3684J, Nampa, Idaho	83651

Idaho Futures, Inc.

Lee Stucker, President

2695 W. Cherry Lane, Meridian, Idaho 83642

Bernard F. Gratton, Sec.

P.O. Box 238, Boise, Idaho 83701

Sincerely,

Weston L. Gayford
Weston L. Gayford

PHONE (208) 365-4485
1302 S. WASHINGTON
P. O. BOX 611
EMMETT, IDAHO 83617

PHONE (208) 888-4801
15 E. FAIRVIEW AVE.
P. O. BOX 238
MERIDIAN, IDAHO 83642

PHONE (208) 345-5677
1530 W. IDAHO
P. O. BOX 238
BOISE, IDAHO 83701

MICROFILMED
FEB 13 1998

STATE OF IDAHO)
) *Ada*) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Spencer R. Smith & Susan A. Smith, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they is over the age of twenty-one years and is a citizen of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at *Boise Idaho*

STATE OF IDAHO)
) *Ada*) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared John A. De Vries & Debra A. De Vries, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are is over the age of twenty-one years and is a citizen of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at *Boise ID*

STATE OF IDAHO)
) *Ada*) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Ruth L. Kades & V.K. Kades, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me not they executed the same, and I further certify that said person acknowledged to me that they are is over the age of twenty-one years and is a citizen of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at *Boise ID*

MICROFILMED
 FEB 13 1988

STATE OF IDAHO)
 County of Ada) ss
Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared David J. Keckliff & Shirley D. Keckliff, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at Boise ID

STATE OF IDAHO)
 County of Ada) ss
Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert A. Pundum & Gladys Pundum, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at Boise ID

STATE OF IDAHO)
 County of Ada) ss
Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Leon E. Robinson & Beverly R. Robinson, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

Not. P. G. V.
 Notary Public for Idaho
 Residing at Boise ID

MICROFILMED

FEB 13 1988

STATE OF IDAHO)
) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Carey M. Olsen & Daisy E. Olsen, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

[Signature]
 Notary Public for Idaho
 Residing at Boise - ID

STATE OF IDAHO)
) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Edith E. Lancaster, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

[Signature]
 Notary Public for Idaho
 Residing at Boise - ID

STATE OF IDAHO)
) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Sharon C. McLean, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

[Signature]
 Notary Public for Idaho
 Residing at Boise - ID

MICROFILMED

FEB 13 1988

STATE OF IDAHO)
) ss
 County of Canyon)

On this 14 day of August, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared Mary Jane Carter, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

[Signature]
 Notary Public for Idaho
 Residing at Boise

STATE OF IDAHO)
) ss
 County of Canyon)

On this 14 day of Aug, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared John W. [Signature], known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me they executed the same, and I further certify that said person acknowledged to me that they are over the age of twenty-one years and are citizens of the United States of America.

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

[Signature]
 Notary Public for Idaho
 Residing at Boise

MICROFILMED

FEB 13 1988

STATE OF IDAHO)
) ss
County of Canyon)

On this 16 of September, 1982, before me, a
Notary Public in and for said State, personally appeared,
Lee R. Stuckey & Donald F. Graham,
known to me to be the President and Secretary of the Corporation that
executed the instrument or the person who executed the instrument on
behalf of said Corporation, and acknowledged to me that such corporation
executed the same.

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

[Signature]
Notary Public for Idaho
Residing at Boise

STATE OF IDAHO)
) ss
County of Canyon)

On this _____ of _____, 1982, before me, a
Notary Public in and for said State, personally appeared, _____

known to me to be the President and Secretary of the Corporation that
executed the instrument or the person who executed the instrument on
behalf of said Corporation, and acknowledged to me that such corporation
executed the same.

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

Notary Public for Idaho
Residing at _____

MICROFILMED

FEB 13 1988

State of Idaho

Department of State

CORPORATION REINSTATEMENT CERTIFICATE

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, do hereby certify that M & M MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY, INC., a corporation organized under the laws of the State of Idaho, forfeited its corporate powers or its right to do business in the State of Idaho on December 2, 1991.

I FURTHER CERTIFY That the corporation has on August 14, 1992, been reinstated on the records of this office, and that its corporate powers or its right to do business in the State of Idaho are hereby restored.

Dated: August 14, 1992



Pete T. Cenarrusa
SECRETARY OF STATE

By *Angie Hoke*

MICROFILMED

FEB 13 1997

RECEIVED BY SECRETARY OF STATE



Department of State

CORPORATION REINSTATEMENT CERTIFICATE

I, PETE T. CENARRUSA, Secretary of State of the State of Idaho, do hereby certify that

M & M MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY, INC.,

a corporation organized under the laws of the State of Idaho, forfeited its corporate powers or its right to do business in the State of Idaho on December 2, 1985.

I FURTHER CERTIFY That the corporation has on July 27, 1989, been reinstated on the records of this office, and that its corporate powers or its right to do business in the State of Idaho are hereby restored.

Dated: July 27, 1989



Pete T. Cenarrusa

SECRETARY OF STATE

By: *[Signature]*

4-8-90

BY-LAWS OF M & M SUBDIVISION WATER COMPANY, INC.

ARTICLE I
OFFICES

The principal and registered office of the Corporation in the State of Idaho shall be located at Nampa, Canyon County, Idaho, with the present mailing address of

ARTICLE II
MEMBERS

Section 1. Eligibility. Each owner of an improved property in any residential subdivision which shall be served by the water system or systems of the Corporation shall be eligible for membership in the Corporation. Such membership shall at all times be identified with the owner of the improved property or improved properties and no membership shall be subject or conditioned upon approval of the Board of Directors or other members. Membership and continuation thereof shall be dependent upon the ownership of an improved property served by a water system of the Corporation.

Section 2. Rights and Interest. There shall be one voting right for each improved property served by the system and owned by the members, whether owned in community, jointly or separately.

Section 3. Voting by Proxy. Voting may be by proxy in writing, dated and signed by a member; provided, no such proxy shall be valid beyond eleven (11) months after its execution, nor binding upon a transferee of an improved property from the person executing such proxy.

Section 4. Expulsion or Cancellation. There shall be no expulsion of a member or cancellation of voting rights so long as the member has qualifications which are set forth in Section 1 hereinabove. Membership shall automatically terminate whenever the member's eligibility shall cease.

#5 eliminated (not important.)

Section 5. Removed or Destroyed Home. Whenever a home is destroyed and/or removed from a property and regular water assessments are not paid, the property shall be regarded as unimproved. If the property is subsequently improved, current policies regarding hook-up fees shall apply.

new
2
spe.
Section 6. Water Delivery Water delivery and continuation thereof to an improved property served by a water system of the Corporation shall be dependent upon the owner's adherence to the By-Laws and policies of the Corporation.

RECORDED
FEB 13 1998

ARTICLE III
MEETING OF MEMBERS

Section 1. Annual Meetings. The annual meeting of members shall be held on the second Tuesday of September each year at the evening hour of seven o'clock. The purpose of the annual meeting shall be for the election of Directors and for the transaction of such other business as may come before the meeting. If the election of Directors shall not be held at the annual meeting, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the members as soon thereafter as conveniently may be.

Section 2. Special Meetings. Special meetings of the members may be called by the President, the Board of Directors, or not less than one-third of the members having voting rights.

Section 3. Place of Meetings. The Board of Directors may designate any place within the County of Canyon, State of Idaho, as the place of meeting for the annual meeting or for any special meeting called by the Board of Directors. If all of the members shall meet at any time and place, either within or without the County of Canyon, State of Idaho, and consent to the holding of a meeting, such meeting shall be valid without call or notice and at such a meeting any corporate action may be taken.

Section 4. Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of members shall be delivered ten (10) days in advance of such meeting, either personally or by first class mail, to each member entitled to vote at such meeting, by or at the direction of the President, the Board of Directors, or not less than one-third of members having voting rights. The purpose or purposes for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the Corporation, with postage thereon prepaid.

Section 5. Informal Action by Members. Any action required by law to be taken at a meeting of members, or any action which may be taken at a meeting of members, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof. ?

*Correct
no mistake*
Section 7. Additions and Transactions by Members. The Corporation is not required to expand or extend its facilities beyond that which exists at any given time. Any proposed extension of the existing water systems or new construction or addition or purchase of property, which does not pertain to ongoing maintenances and operations of the Corporation, shall be resolved by a meeting of members, and the act of approval shall require a majority vote of all members of the Corporation.

Section 8. Quorum. At a Meeting of Members where fifty percent (50%) of all voting members are present, those present shall constitute a quorum for the transaction of business; but if less than 50% of the members are present at such a meeting, a majority of members present may adjourn the meeting from time to time without further notice. If a quorum is present the act of the majority of members present shall be the act of the members, unless the act of a greater number is required by law or by these By-Laws.

Section 9. Proxies. At any Meeting of Members, a member which is entitled to vote may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven (11) months from the date of its execution.

By-Laws?
Section 10. Voting by Mail. Where Directors are to be elected by members, such election may be conducted by mail in such manner as the Board of Directors shall determine.

ARTICLE IV BOARD OF DIRECTORS

Section 1. General Powers and Responsibilities. The Board of Directors shall manage the operations, maintenances and affairs of the Corporation, and shall cause all usage, benefits and costs to be shared equitably among members of the Corporation.

Section 2. Audit. The Board of Directors shall require an annual audit of all financial records of the Corporation, and the (audit shall be presented) to the annual Meeting of Members. *copies?*

Section 3. Number, Tenure, and Qualifications. The number of Directors shall be five unless, at a regular annual meeting of the members, a resolution is adopted providing that the number of Directors for the next ensuing year shall be either three, seven, or nine persons. A majority of those present at a legally constituted meeting of the members may adopt such a resolution. Each Director shall be a member of the Corporation and shall hold office until the next annual meeting of Directors and until his successor shall have been elected and qualified.

Section 4. Regular Meetings. A regular annual meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of members; and the Board of Directors shall determine the time and place of regular meetings thereafter, except that such meetings shall occur not less than once every three (3) months.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two Directors. The person or persons authorized to call special meetings of the Board may fix the time and place within the County of Canyon, State of Idaho, as the place of holding any special meeting of the Board called by them.

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Section 6. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the Directors are present at such meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 7. Manner of Acting. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by law or by these By-Laws.

*cc. removed
illegible*
Section 8. Removal. A Director may be removed by action taken at a Meeting of Members whenever in the judgment of the Members the best interests of the Corporation would be served thereby.

Section 9. Vacancies. Any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of Directors, shall be filled by the Board of Directors. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 10. Compensation. No Director or member shall receive compensation from the Corporation by virtue of the status of being Director or member, but nothing contained herein shall be construed to preclude any Director or member, in any other capacity, from receiving compensation therefrom.

ARTICLE V OFFICERS

Section 1. Officers. The officers of the Corporation shall be President, one or more Vice-Presidents (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as many as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officer, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed, from time to time, by the Board of Directors. Any two or more offices may be held by the same person, except that a person may not be both President and Secretary.

*if removed
illegible*
Section 2. Election and Term of Office. The officers of the Corporation shall be elected annually by the Board of Directors at the regular annual meeting of the Board of Directors. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. New officers may be created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and qualified.

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illegal

Section 3. Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board of Directors, whenever in its judgment the best interest of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the officer so removed.

run by Board entirely!

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

alternates elected should be available

Section 5. President. The President shall be the principal executive officer of the Corporation and shall in general supervise and control all of the business and affairs of the Corporation. He shall preside at all meetings of the members and of the Corporation. He shall preside at all meetings of the members of the Board of Directors. He may sign, with the Secretary or any other proper officer of the Corporation authorized by the Board of Directors.

Section 6. Vice-President. In the absence of the President or in event of his inability or refusal to act, the Vice-President (or in the event there be more than one Vice-President, the Vice-Presidents in order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President shall perform such other duties as from time to time may be assigned to him by the President or the Board of Directors.

not on file?

Section 7. Treasurer. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the Corporation; receive and give receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such sums in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of Article VII of these By-Laws; and in general perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Secretary. The Secretary shall keep the minutes of the meetings of the members and of the Board of Directors in one or more books provided for that purpose; see that all notices are fully given in accordance with the provisions of these By-Laws or as required by law; be custodian of the corporate records; if a corporation seal be adopted by the Board of Directors, be custodian of the seal of the Corporation and see that such seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal, is duly authorized in accordance with the provisions of these By-Laws; keep a register of the post office addresses of each member which shall be furnished to the Secretary by such member; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board of Directors.

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FEB 13 1966

Section 9. Assistant Treasurers and Assistant Secretaries. If required by the Board of Directors, Assistant Treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The Assistant Treasurer and Assistant Secretaries, in general, shall perform such duties as shall be assigned to them by the Treasurer or the Secretary or by the President or the Board of Directors.

ARTICLE VI COMMITTEES

Section 1. Committees of Directors. The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall consist of two or more Directors, which committee, to the extent provided in said resolution, shall have and exercise the authority of the Board of Directors, in the management of the Corporation.

every member in committee
Section 2. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the Corporation may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be members of the Corporation, and the President of the Corporation shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such members whenever in their judgment the best interest of the Corporation shall be served by such removal.

Section 3. Term of Office. Each member of the committee shall continue as such until the next annual meeting of members of the Corporation and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 4. Chairman. One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

Section 5. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

Section 6. Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting of which a quorum is present shall be the act of the committee.

Section 7. Rules. Each committee may adopt rules for its own government not inconsistent with these By-Laws adopted by the Board of Directors.

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ARTICLE VII
CONTRACTS, CHECKS, DEPOSITS AND FUNDS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 2. Checks, Drafts, Etc. All checks, drafts, or orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation, shall be signed by such officer or officers, agent or agents, of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and counter-signed by the President or a Vice-President of the Corporation.

Section 3. Deposits. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may select.

Section 4. Gifts. The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purpose or for any special purpose of the Corporation.

ARTICLE VIII
RECORDS

*24 minutes
deleted*
The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, Board of Directors, and committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the members entitled to vote. Books and records of the Corporation shall be open for inspection at the annual meeting of members or by appointment at the office of the Corporation. If a member's written request to inspect is approved by the Board of Directors, the Board may set the day and hour for the member or member's agent or attorney to inspect the Corporation's books and records. All inspections shall occur in the presence of one or more Directors.

ARTICLE IX
FISCAL YEAR

The fiscal year of the Corporation shall begin on the first day of October and end on the last day of September in each year.

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FEB 13 1968

ARTICLE X
ASSESSMENTS AND CHARGES

Section 1. Assessments and Charges. The Board of Directors shall establish, levy and assess and collect the assessments and charges referred to in Article VII of the Articles of Incorporation.

Section 2. Purpose of Assessments and Charges. The assessments and charges levied by the Corporation shall be for the objects and purposes set forth in Article III of the Articles of Incorporation, and shall include, but not be limited thereby, obtaining funds for the payment of taxes and insurance on property of the Corporation, and repair, replacement and additions thereto, and cost of labor, equipment, materials, management and supervision.

Section 3. Collection of Assessments and Charges. The Board of Directors shall prescribe the method and manner of collection of assessments and charges, including charges for delinquency, charges for hookup and termination and restoration of service, charges for irrigation and excessive usage, and collect for deposits of security, and shall otherwise collect funds as may be required. The Board of Directors may, with just cause, discontinue and refuse to restore water service.

We, the undersigned, being members of the M & M SUBDIVISION WATER COMPANY INC., do hereby assent to the foregoing ammended By-Laws, and do adopt the same as the By-Laws of said Corporation on this day,

DATED this day 8th of April, 1994 B.W.

Ballots tallied on the 8th day of April 1994 showed for the affirmative by a 2/3 majority of the members present at the Annual meeting on Sept. 1993.

Attested to by

Bill Walsh

Board of directors:

Richard Smith

Michael Soska

Steve Komarszewski

RECORDED
FEB 13 1994

*Review of
building
committees*

RESTRICTIVE COVENANTS

Dated:

Recorded: February 27, 1974 at 12:56PM.
Instrument No. 723946

We, the undersigned, Hoff Better Living Center, Inc., an Idaho Corporation fee owner of the following described real property located in Canyon County, Idaho to wit:

M & M Mountain View Acres being a portion of the SW¹/₄, NW¹/₄ of Section 8, Township 2 North, Range 1, West of the Boise Meridian,

hereby make the following declarations as to limitations, restrictions and uses to which lots on the above-described property may be put, hereby specifying that said declarations shall constitute covenants to run with all of the land, as provided by law, and shall be binding on all parties and all persons claiming under the, and for the benefit of and limitations upon all future owners on said described property, this declaration of restrictions being designed for the purpose of keeping said property desirable, uniform and suitable in design and use as herein specified:

1. Location of houses on lots shall be approved by a building committee elected each year on or before March 1, by a majority vote of property owners in said subdivision, each lot having one vote. As a guide to said location it is hereby set forth that in general, no building shall be placed on any lot or tract so that any portion thereof shall be closer than 25 feet to the front line of said lot, and no building shall be placed within 10 feet of the sidelines of said lot, except no building shall be placed on any corner lot within 20 feet of the sideline of said lot that does abut the street.

2. No barn, stable, garden toolhouse, or other outbuildings shall be placed on any lot so that any portion thereof shall be within 10 feet of the rear line of each lot. In any event, no outbuilding shall be permitted on any lot exceeding 2 stories in height and, for beauty and appearance, the same shall be in harmony of external design with residence.

3. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the building committee as named above, as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation.

4. No dwelling shall be erected or placed on any lot having an area of less than 1,200 square feet ground floor level enclosed floor space, exclusive of garages and porches; and all such dwellings shall be a single-family unit only.

5. No structure of temporary character, no trailer, mobile home, relocatable home, basement building, tent, shack, shed, garage, barn, or outbuilding shall be used as a residence or living quarters.

MOORE

FEB 14 1974

6. Existing trailer homes as moved from the premises, for any reason, will cease to qualify as dwellings in this sub-division and will be replaced with permanent dwellings and in every respect this covenant will be binding upon the occupants of the property involved excepting the property which was deeded and on record prior to the recording of this coveants.

7. No building shall be moved onto any lot or taract, but this covenant shall not preclude the assembling or erecting of a prefabricated building on any lot which building meets with the approval of the building committee as previously set forth herein.

8. No business or trade of any type or kind may be carried on upon the said lots unless the same is conducted entirely in the residence located thereupon, and then the same shall only be allowed if the said residence building be used primarily and the majority of the floor space area thereof, as a residence.

9. No nuisance, offensive, noisy or illegal trade, calling, auction, or transaction shall be done, suffered or permitted upon the said lots.

10. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, and except one sign of not more than five square feet advertising the property for sale or rent, and except signs used by the builder during construction.

11. No oil or gas drilling, oil or gas development, oil refining and no quarrying or mining shall be permitted upon or in any lot, nor shall oil well, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

12. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, but the same shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of said rubbish or trash shall be kept in a clean and sanitary state.

13. No outhouse or privy shall be kept, used, or maintained.

14. There shall be no occupancy of living in any partially completed residence unit.

15. All buildings of any type or kind must be maintained in good repair and condition.

16. Easements for installation and maintenence of utilities, irrigation and drainage facilities are subject to approval by the building committee named above.

17. In addition to family pets, which shall be allowed but not for breeding or commercial purposes, the maintenance and keeping of

MOORE

FEB 12 1955

livestock shall be limited to the following animals, but not more than a total of four animals per lot at any one time are permitted: horses, cattle, calves, sheep and goats, except chinchillas and similar breeding animals are permitted if property kept inside suitable buildings.

18. All livestock shall be kept fenced and enclosed upon the property of the owner thereof, and in no case shall the keeping of the same become unsanitary or offensive in any manner.

19. No drain field, septic tank, seepage pit or cesspool shall be constructed maintained or used within 100 feet, or as prescribed by law, of any well now located or hereafter constructed upon any of the above-described real property. No usage of the premises shall be allowed that would be or would cause a source of contamination of water wells located upon the within described premises.

20. Access to property will be provided by seller on a graded and gravelled road. Future maintenance will be by others, as arranged for by property owners, or by joint arrangement of the other subdivided property owners.

21. Each buyer will acquire one share in the ownership of the community well with each lot purchased in the subdivision. Arrangements for maintenance and operating costs of the pump and water system will be undertaken for the common interests of the property owners by whomever they may select to represent them.

22. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 25 years unless an instrument signed by a majority of 2/3 of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part. Otherwise, at any time these covenants may be changed by one hundred percent (100%) agreement of all parties involved.

23. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

24. Invalidity of any of these covenants by judgment, or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

THESE covenants shall bind the heirs, executors, administrator and assigns of the undersigned.

Hoff Better Living Center, Inc.
Harvey O. Hoff
President

ACKNOWLEDGED: State of Idaho, County of Canyon, on February 27, 1966, by Harvey O. Hoff, President of Hoff Better Living Center, Inc., before Darlene Frye, Notary Public in and for the State of Idaho, residing at Caldwell, Canyon County, Idaho. (SEAL)

FEB 28 1966

6500

115' 3rd. lony. 466-5941

6 J 38

SAFECO TITLE INSURANCE
RAMPA AND CALDWELL

M & M MOUNTAIN VIEW ACRES

CANYON COUNTY, IDAHO

NW COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

NE COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

Houses Flow Using Water "X"

No govt Lots
- FL 8/29/98

SCALE 1" = 100'

EASEMENT NOTES

- irrigation, drainage, & utility easement
- Power & telephone easement
- egress & ingress easement for well lot
- Easement for sanitary protection of well - no septic tanks or drain fields allowed within circle. (Well location & center of protection easement.)

**Well for
THIS APP.**

CHORD	TAN	LENGTH	L CHORD	BEARING	L CHORD
27	28.67	55.84	55.11	N 25° 11' 49" W	
32	15.00	28.70	28.00	S 20° 36' 16" W	
26	20.21	31.62	28.43	S 43° 20' 11" W	
02	44.19	45.83	36.44	N 24° 26' 29" E	
36	19.98	31.40	28.27	S 44° 36' 01" E	
02	20.02	31.43	28.30	S 45° 03' 59" W	
00	19.99	31.41	28.28	N 44° 35' 00" W	
01	20.01	31.42	28.29	N 45° 05' 00" E	
37	20.19	31.60	28.42	N 45° 20' 28" E	
03	19.81	31.23	28.15	S 44° 38' 32" E	
01	19.80	31.22	28.14	S 44° 40' 32" E	
09	48.48	95.32	94.82	S 29° 09' 58" E	
11	34.36	68.21	67.93	S 8° 31' 26" E	
44	25.33	50.49	50.41	S 35° 35' 10" E	
25	49.31	97.83	97.24	S 19° 04' 06" E	
14	33	37.03	37.00	S 4° 02' 56" E	
11	01	46.84	27.99	N 48° 16' 36" W	
12	32	26.27	50.27	N 20° 56' 18" W	

EXIST ROD
SW COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

DEC 12 1998

STATE OF IDAHO COUNTY OF CANYON S.S.

I, Ronald M. Blakely, a Registered Professional Engineer in and for said County and State, do hereby certify that the survey of M & M MOUNTAIN VIEW ACRES in Canyon County, Idaho, as described on the back of this plat was made by me or under my direction and that this plat correctly shows the survey as made. IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May A.D. 1972.

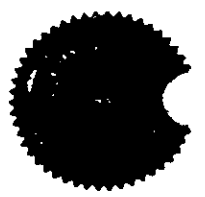


STATE OF IDAHO COUNTY OF CANYON S.S.

On this 17th day of May A.D. 1972, before me, James H. Harrison, a Notary Public in and for said County and State, personally appeared Ronald M. Blakely, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same. IN WITNESS WHEREOF, I have hereunto set my hand and seal this 17th day of May A.D. 1972.

Notary Public James H. Harrison
Residing at Caldwell, Idaho
My Commission expires 8-25-75

**PRIVATELY
OWNED
WELL**



I hereby certify that this instrument was filed for record at the request of Ronald M. Blakely at 07 minutes past 11:00 o'clock A M this 22nd day of June A.D. 1972.

Fee 45.00
Instrument No 604838
Recorder Walter Ray
Deputy Laverne Page

NW COR
SW 1/4 NW 1/4
SEC 8, T2N, R1W, B.M.

327-786-1300
40 Karl - Director

not all fee owners?
for 100% same

HOFF COMPANIES, INC., AN IDAHO
CORPORATION, VICTOR K. WALLIS
KATHREN L. WALLIS, husband and wife,
SPENCER L. BROWN AND SANDRA D. BROWN,
husband and wife, and PEARL H.
TROWBRIDGE, a widow

AMENDED RESTRICTIVE
COVENANTS FOR M & M
MOUNTAIN VIEW ACRES
Dated: June 9, 1982
Recorded: June 11, 1982 *united*
Document No. 949418 *2007*

-TO-

THE PUBLIC

We, the undersigned, HOFF COMPANIES, INC., an Idaho corporation,
VICTOR K. WALLIS and KATHREN L. WALLIS, husband and wife, SPENCER L.
BROWN and SANDRA D. BROWN, husband and wife, and PEARL H. TROWBRIDGE,
a widow, being all the fee owners of the following described real
property located in Canyon County, Idaho, to-wit:

added → Block 1 excepting therefrom Lot 1; Lots 1 through 8
inclusive in Block 2; Block 3 excepting therefrom Lots 4, 5,
6 and 7; and Block 4 excepting therefrom Well Lot No. 1) and
Lots 1, 2 and 3 of M & M MOUNTAIN VIEW ACRES, CANYON COUNTY,
IDAHO, according to the PLAT THEREOF filed June 26, 1972 in
Book 11 of Plats at page 13, in the office of the County
Recorder, Canyon County, Idaho.

hereby make the following declarations as to (limitations), (restrictions)
and uses to which lots on the above described property may be put, and
amending the provisions contained in the original Restrictive
Covenants for M & M Mountain View Acres acknowledged and recorded on
February 27, 1974, and hereby specifying that that said declarations
shall constitute covenants to run with all of the land, as provided by
law, and shall be binding on all parties and all persons claiming
under them, and for the benefit of and limitations upon all future
owners on said described property, this declaration of restrictions,
being designed for the purpose of keeping said property desirable,
uniform and suitable in design and use as herein specified:

✓1. No building shall be placed on any lot or tract so that
any portion hereof shall be closer than 25 feet to the frontline of
said lot, and no building shall be placed within 10 feet of the
sidelines of said lot, except no building shall be placed on any lot
within 20 feet of the sideline of said lot that does abut the street. *(corner)*

✓2. No barn, stable, garden toolhouse, or other outbuildings
shall be placed on any lot so that any portion thereof shall be within
10 feet of the rear line of each lot. In any event, no outbuilding
shall be permitted on any lot exceeding 2 stories in height and, for
beauty and appearance, the same shall be in harmony of external design
with residence.

(continued)

*violated many times
many places*

MICROFILMED
FEB 13 1988

#3 eliminated!
#6 "

-2-

7/10/1203

(#4) altered!
3. No dwelling shall be erected or placed on any lot having an area of less than 1000 square feet ground floor level enclosed floor space, exclusive of garages and porches; and all such dwellings shall be a single-family unit only.

#5 altered!
4. No structure of temporary character including but not limited to, tent, shack, shed, garage, barn or outbuilding shall be used as a residence or living quarters excluding therefrom mobile ^{added} homes of 1000 square feet or larger as defined in paragraph 3 above.

5. FOUNDATION SKIRTING: All mobile homes shall be provided with foundation skirting unless continuous concrete building perimeter foundation walls are provided. Skirting shall be completed within 30 days of placement of the mobile home upon the lot.

#8 6. No business or trade of any type or kind may be carried on upon the said lots unless the same is conducted entirely in the residence located thereupon, and then the same shall only be allowed if the said residence building be used primarily and the majority of the floor space area thereof, as a residence.

#9 7. No nuisance, offensive, noisy or illegal trade, calling, auction, or transaction shall be done, suffered or permitted upon the said lots.

#10 8. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, and except one sign of not more than five square feet advertising the property for sale or rent, and except signs used by the builder during construction.

#11 9. No oil or gas drilling, oil or gas development, oil refining and no quarrying or mining shall be permitted upon or in any lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any lot.

#12 10. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, but the same shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of said rubbish or trash shall be kept in a clean and sanitary state.

#13 11. No outhouse or privy shall be kept, used, or maintained.

#14 12. There shall be no occupancy or living in any partially completed residence unit.

#15 13. All buildings of any type or kind must be maintained in good repair and condition.

(continued)

FEB 13 1953

#17 14. In addition to family pets, which shall be allowed but not for breeding or commercial purposes, the maintenance and keeping of livestock shall be limited to the following animals, but not more than a total of four animals per lot at any one time are permitted: horse, cattle, calves, sheep and goats, except chinchillas and similar breeding animals are permitted if property kept inside suitable buildings.

#18. 15. All livestock shall be kept fenced and enclosed upon the property of the owner thereof, and in no case shall the keeping of the same become insanitary or offensive in any manner.

#19. 16. No drain field, septic tank, seepage pit or cesspool shall be constructed, maintained or used within 100 feet, or as prescribed by law, of any well now located or hereafter constructed upon any of the above-described real property. No usage of the premises shall be allowed that would be or would cause a source of contamination of water wells located upon the within described premises.

#20 17. Access to property will be provided by seller on a graded and gravelled road. Future maintenance will be by others, as arranged for by property owners, or by joint arrangement of the other subdivision property owners. *Decided to county 2/25/85?!*

#21 18. Each buyer will acquire one share of the ownership of the community well with each lot purchased in the subdivision. Arrangements for maintenance and operating costs of the pump and water systems will be undertaken for the common interests of the property owners by whomever they may select to represent them. *m m water Co 1982*

#22 19. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded after which time said covenants shall be automatically extended for successive periods of twenty-five years unless an instrument signed by a majority of 2/3 of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. Otherwise, at any time these covenants may be changed by one hundred percent (100%) agreement of all parties involved.

#23 20. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

#24 21. Invalidation of any of these covenants by judgment, or court order shall in nowise affect any of the other provisions which shall remain in full force and effect.

(continued)

MICROFILMED
FEB 13 1988

These covenants shall bind the heirs, executors,
administrators and assigns of the undersigned.

DATED this 9th day of May, 1982

HOFF COMPANIES, INC.

By Harvey B. Hoff, President

ATTEST:

Janet D. Kelly, Asst Secretary

Victor K. Wallis

Kathren L. Wallis

Spencer L. Brown

Sandra D. Brown

John Trowbridge, Attorney in Fact
Pearl H. Trowbridge

STATE OF IDAHO)
 : ss.
County of Ada)

On this 9th day of June, 1982 personally appeared before me
HARVEY B. HOFF and _____, who being by me duly sworn
did say, each for himself, that they are the President and Secretary
respectively of Hoff Companies, Inc., a corporation, and that the
within and foregoing instrument was signed in behalf of said
corporation by authority of a resolution of its Board of Directors,
and that each duly acknowledged to me that said corporation executed
the same and that the seal affixed is the seal of said corporation

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

Jerri L. Sanchez
Notary Public for Idaho
Residing at Nampa, Idaho

(continued)

MICROFILMED
FEB 13 1983

STATE OF IDAHO)
 : ss.
County of Canyon)

On this 20th day of May, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared VICTOR K. WALLIS and KATHREN WALLIS, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.

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

Ronald J. Alvey
Notary Public for Idaho
Residing at Nampa, Idaho

STATE OF IDAHO)
 : ss.
County of Canyon)

On this 20th day of May, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared SPENCER L. BROWN and SANDRA D. BROWN, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me they executed the same

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

Ronald J. Alvey
Notary Public for Idaho
Residing at Nampa, Idaho

(continued)

RECORDED
FEB 13 1983

STATE OF IDAHO)
 : ss.
County of Canyon)

Be it remembered, that on this 8th day of June, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN TROWBRIDGE, who is to me personally known to be the attorney in fact of PEARL H. TROWBRIDGE, grantor in the foregoing instrument, and who executed the same in his name as such grantor, and who is to me personally known to be the same person who executed the foregoing instrument as the attorney in fact of said PEARL H. TROWBRIDGE, and he duly acknowledged the execution of the same for himself and for said PEARL H. TROWBRIDGE.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Gary H. Lew
Notary Public for Idaho
Residing at Nampa, Idaho

no signatures

who are all fee owners now.

MICROFILMED
FEB 13 1988

Small 4444/8
may be used!
not all fee owners!

AMENDED RESTRICTIVE COVENANTS FOR M & M
MOUNTAIN VIEW ACRES

We, the undersigned, HOFF COMPANIES, INC., an Idaho corporation, VICTOR K. WALLIS and KATHREN L. WALLIS, husband and wife, SPENCER L. BROWN and SANDRA D. BROWN, husband and wife, and PEARL H. TROWBRIDGE, a widow, being all the fee owners of the following described real property located in Canyon County, Idaho, to wit:

Block 1 excepting therefrom Lot 1; Lots 1 through 8, inclusive in Block 2; Block 3 excepting therefrom Lots 4, 5, 6 and 7; and Block 4 excepting therefrom Well Lot No. 1, and Lots 1, 2 and 3 of M & M MOUNTAIN VIEW ACRES, CANYON COUNTY, IDAHO, according to the PLAT THEREOF filed June 26, 1972 in Book 11 of Plats at page 13, in the office of the County Recorder, Canyon County, Idaho.

hereby make the following declarations as to limitations, restrictions and uses to which lots on the above described property may be put, and amending the provisions contained in the original Restrictive Covenants for M & M Mountain View Acres acknowledged and recorded on February 27, 1974, and hereby specifying that that said declarations shall constitute covenants to run with all of the land as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners on said described property, this declaration of restrictions being designed for the purpose of keeping said property desirable, uniform and suitable in design and use as herein specified:

1. No building shall be placed on any lot or tract so that any portion thereof shall be closer than 25 feet to the frontline of said lot, and no building shall be placed within 10 feet of the sidelines of said lot, except no building shall be placed on any lot within 20 feet of the sideline of said lot that does abut the street.

2. No barn, stable, garden toolhouse, or other out-buildings shall be placed on any lot so that any portion thereof shall be within 10 feet of the rear line of each lot. In any event, no outbuilding shall be permitted on any lot exceeding 2 stories in height and, for beauty and appearance, the same shall be in harmony of external design with residence.

3. No dwelling shall be erected or placed on any lot having an area of less than ~~800~~ ¹⁰⁰⁰ square feet ground floor level enclosed floor space, exclusive of garages and porches, and all such dwellings shall be a single-family unit only. *FEB 13 1978*

4. No structure of temporary character including but not limited to, tent, shack, shed, garage, barn or outbuilding shall be used as a residence or living quarters excluding therefrom mobile homes of ~~800~~ ¹⁰⁰⁰ square feet or larger as defined in paragraph 3 above. *as 2. b. 1000 sq. ft. per unit. J.W.H. & S.D.B.*

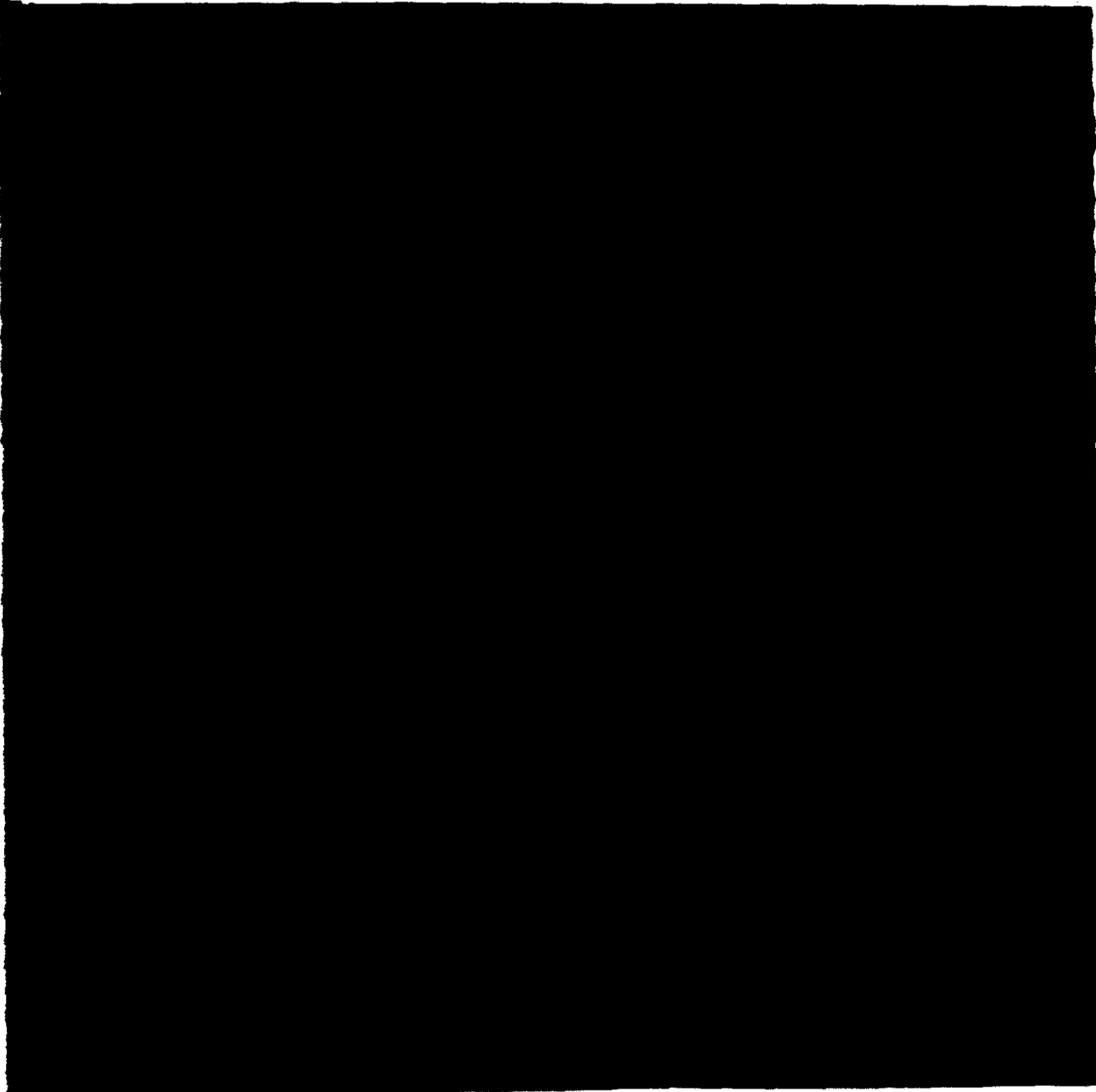
5. FOUNDATION SKIRTING: All mobile homes shall be provided with foundation skirting unless continuous concrete building perimeter foundation walls are provided. Skirting shall be completed within 30 days of placement of the mobile home upon the

6. No business or trade of any type or kind may be carried on upon the said lots unless the same is conducted entirely in the residence located thereupon, and the same shall only be allowed if the said residence building be used primarily and the majority of the floor space area thereof, as a residence.

7. No nuisance, offensive, noisy or illegal trade, calling, auction, or transaction shall be done, suffered or permitted upon the said lots.

RESTRICTIVE COVENANTS - 1

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8. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, and except one sign of not more than five square feet advertising the property for sale or rent, and except signs used by the builder during construction.

9. No oil or gas drilling, oil or gas development, oil refining and no quarrying or mining shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot.

10. No lot shall be used or maintained as a dumping ground for rubbish, trash, garage or other waste, but the same shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of said rubbish or trash shall be kept in a clean and sanitary state.

11. No outhouse or privy shall be kept, used, or maintained.

12. There shall be no occupancy or living in any partially completed residence unit.

13. All buildings of any type or kind must be maintained in good repair and condition.

14. In addition to family pets, which shall be allowed but not for breeding or commercial purposes, the maintenance and keeping of livestock shall be limited to the following animals, but not more than a total of four animals per lot at any one time are permitted: horse, cattle, calves, sheep and goats, except chinchillas and similar breeding animals are permitted if properly kept inside suitable buildings.

15. All livestock shall be kept fenced and enclosed upon the property of the owner thereof, and in no case shall the keeping of the same become unsanitary or offensive in any manner.

16. No drain field, septic tank, seepage pit or cesspool shall be constructed, maintained or used within 100 feet, or as prescribed by law, of any well now located or hereafter constructed upon any of the above-described real property. No usage of the premises shall be allowed that would be or would cause a source of contamination of water wells located upon the within described premises.

17. Access to property will be provided by seller on a graded and gravelled road. Future maintenance will be by others, as arranged for by property owners, or by joint arrangement of the other subdivision property owners.

18. Each buyer will acquire one share in the ownership of the community well with each lot purchased in the subdivision. Arrangements for maintenance and operating costs of the pump and water system will be undertaken for the common interests of the property owners by whomever they may select to represent them.

19. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a

... five years unless an instrument signed by a majority of 2/3 of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part. Otherwise, at any time these covenants may be changed by one hundred percent (100%) agreement of all parties involved.

20. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

RESTRICTIVE COVENANTS - 2

MICROFILMED

21. Invalidation of any of these covenants by judgment, or court order shall in nowise affect any of the other provisions which shall remain in full force and effect.

These covenants shall bind the heirs, executors, administrators and assigns of the undersigned.

DATED this 9th day of May, 1982.

HOFF COMPANIES, INC.

By Harvey B. Hoff
President

ATTEST:

Jared D. Kelly
Asst Secretary

Victor K. Wallis
VICTOR K. WALLIS

Kathleen L. Wallis
KATHREN L. WALLIS

Spencer L. Brown
SPENCER L. BROWN

Sandra D. Brown
SANDRA D. BROWN

Pearl H. Trowbridge atty in fac
for Pearl H. Trowbridge
PEARL H. TROWBRIDGE

STATE OF IDAHO)
County of Ada) ss.

On this 9th day of May, 1982 personally appeared before me HARVEY B. HOFF and Jared D. Kelly, who being by me duly sworn did say, each for himself, that they are the President and Secretary respectively of Hoff Companies, Inc., a corporation, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its Board of Directors, and that each duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

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

FEB 13 1982

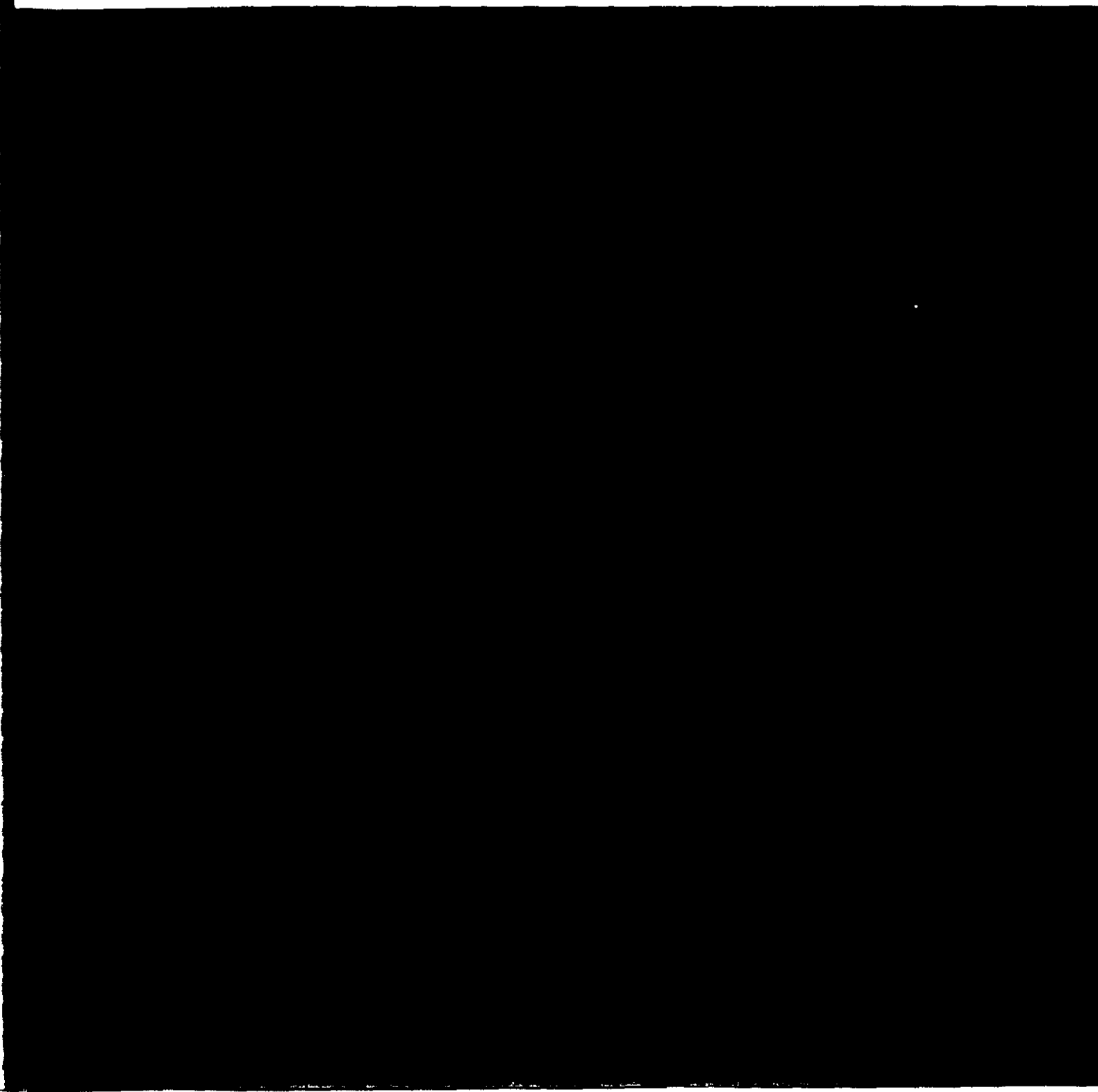
Lari L. Sanchez

STATE OF IDAHO)
 : ss.
County of Canyon)

On this 20th day of May, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared VICTOR K. WALLIS and KATHREN WALLIS, husband and wife, known to me to be the persons whose names are subscribed to the

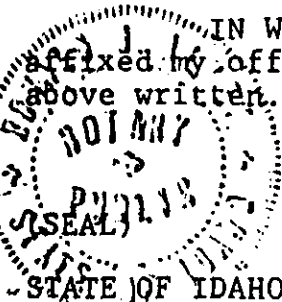
RESTRICTIVE COVENANTS - 3

MICROFILMED



foregoing instrument and acknowledged to me that they executed the same.

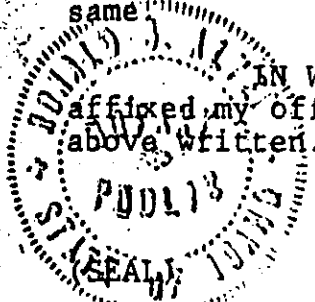
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Ronald D. Dwyer
Notary Public for Idaho
Residing at Tampa, Idaho

STATE OF IDAHO)
County of Canyon) ss.

On this 20th day of May, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared SPENCER L. BROWN and SANDRA D. BROWN, husband and wife, known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.



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

Ronald D. Dwyer
Notary Public for Idaho
Residing at Tampa, Idaho

STATE OF IDAHO)
County of Canyon) ss.

On this _____ day of May, 1982 before me, the undersigned, a Notary Public in and for said State, personally appeared PEARL H. TROWBRIDGE, a widow, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same.

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

(SEAL)

Notary Public for Idaho
Residing at _____, Idaho

STATE OF IDAHO)
County of Canyon)

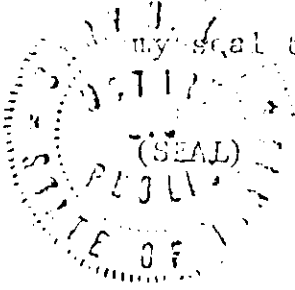
MICROFILMED

ss FEB 13 1988

Be it remembered, that on this 8th day of June, 1982, before me, the undersigned, a Notary Public in and for said State, personally appeared JOHN TROWBRIDGE, who is to me personally known to be the attorney in fact of PEARL H. TROWBRIDGE, grantor in the foregoing instrument, and who executed the same in his name as such.

executed and accepting instrument of the delivery in fact of said
PEARL H. TROMBIDGE, AND HE DULY ACKNOWLEDGED THE EXECUTION OF THE SAME
for himself and for said PEARL H. TROMBIDGE.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
my seal the day and year first above written.



[Signature]
Notary Public for Idaho
Residing at Nampa, Idaho

RESTRICTIVE COVENANTS - 4

MICROFILMED

M, 12, 1997

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street
Boise, Idaho 83720-9000

Attn: Mr. Karl Dreyher, Director

Fax: Jason Kraizenbeck

Dear Mr. Dreyher:

Our telephone conversation of May 6, involving you, Deputy Attorney General, Phil Rassier, Governor's Assistant, Jason Kriezenbeck, and a Public Affairs person, has now been discussed with Ted and Kathy Young, Ernest Hartzfeld and Mary Polk. (Mr. Polk lost his life with gallbladder cancer April 6, 1996 while using this contaminated water).

The damages to our properties, credit ratings, finances and personal traumas cannot be corrected. We were advised by our attorney that the Summary Judgement is a "done deal". No going back and no errors can be adjusted.

The issuance of a [?](single-dwelling) permit is really the mistake. The conditional use attachment clarified the intent. An existing 20 acre subdivision of 24 years with homes and landscaping did not have your attention!

We have water users all around us, using water from the hose, (this is not ditch water). Next door is Michael Soshes putting in new landscaping, across the street Ernest White has set out shrubs. An underground sprinkler system is in operation at 4418 Diana. Our neighbor on the west, Ralph Etychison has to use a hose. This goes on and on at whatever time for whatever reason. Those with Nampa Irrigation privileges care less of our plight.

Our property investments are estimated at \$240,000.00 between the three of us. Not one drop of water was to our aid. This past weekend I for one had to salvage what I could. Not because I wanted to go against the permit. Our blood, sweat and finances of the past six years was becoming a weed infestation and I am past coping. God knows we have seeked about all avenues. This injustice must come to a halt.

The losses incurred from the existing permit are very real. Fines, and attorney fees, both sides, were initiated due to your permit releasing a nightmare of anguish to us senior residents and others. The permit removed our ability to care for our homestead. These losses cannot be slighted.

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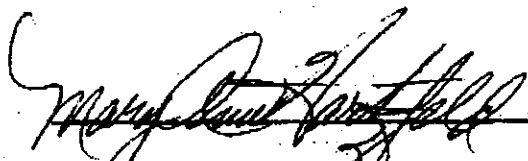
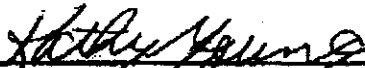
FEB 13 1998

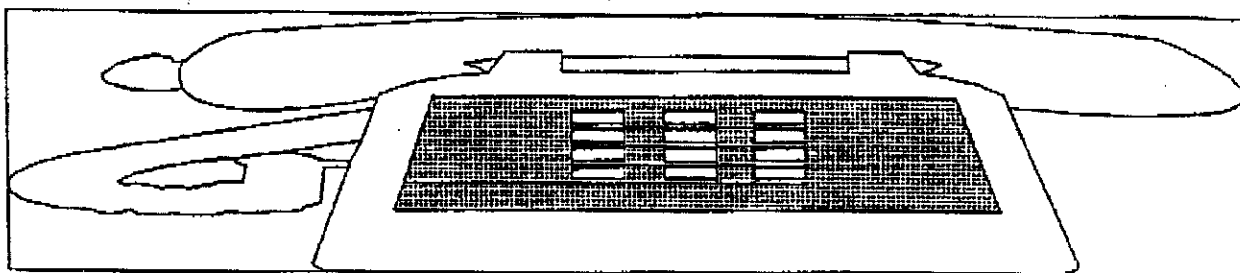
An entanglement of abuses from all preexisting parties is secondary to what we have a "right to" now. You surely have all the information pertaining to an adequate permit. Given this bizarre situation here, safe water for domestic and irrigation is not an option but a necessity of life!

The State must monitor water distribution in such a manner 100% signatures of all parties would be needed before making any future changes. The STATE OF IDAHO remains vulnerable without it.

A resolve of this by May 16 is now critical.

Respectfully,


MaryAnn Hartzfeld
Ernest Hartzfeld
Mary Polk
Ted Young
Kathy Young



CALDWELL FACSIMILE TRANSMITTAL

FROM: Canyon CountyTO: Debbie Ellis

DATE: _____

NUMBER OF PAGES 7
INCLUDING THIS PAGEINSTRUCTIONS: _____

CONFIDENTIAL

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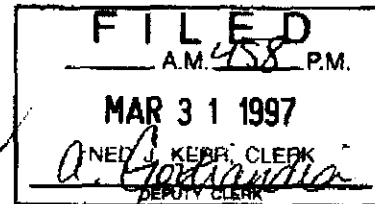
IF YOU DO NOT RECEIVE ALL OF THE PAGES INDICATED ABOVE
PLEASE CALL US AS SOON AS POSSIBLE AND ASK FOR:

AT
TELEPHONE NO. _____

2354-6640

MICROFILMED
FEB 13 1998

TERRY MICHAELSON
HAMILTON & MICHAELSON, LLP
 Attorneys at Law
 1303 12th Avenue Road
 P. O. Box 65
 Nampa, Idaho 83653-0065
 Telephone (208) 467-4479
 Facsimile (208) 467-3058



Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
 THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

MAGISTRATE DIVISION

M & M MOUNTAIN VIEW ACRES)
 SUBDIVISION WATER COMPANY,)
 INC., an Idaho Corporation,)

Plaintiff,)

vs.)

MARY POLK, ERNEST HARTZFELD)
 and MARYANN HARTZFELD, and)
 THEODORE R. YOUNG and)
 KATHLEEN D. YOUNG,)

Defendants.)

Case No. CV 96-04142C

Case No. CV-96-04143C

Case No. CV-96-04144C

J U D G M E N T

PURSUANT to the findings of fact, conclusions of law, and Order Granting Summary

Judgment entered in this action;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED and this DOES ORDER, ADJUDGE AND DECREE as follows:

1. The Plaintiff, M&M Mountain View Acres Subdivision Water Company, Inc., is hereby awarded judgment against Defendant Mary Polk in the amount of \$25.00 for fines assessed by Plaintiff;

2. The Plaintiff, M&M Mountain View Acres Subdivision Water Company, Inc., is hereby awarded judgment against Defendants Ernest Hartzfeld and MaryAnn Hartzfeld, husband and wife, in the amount of \$75.00 for fines assessed by;

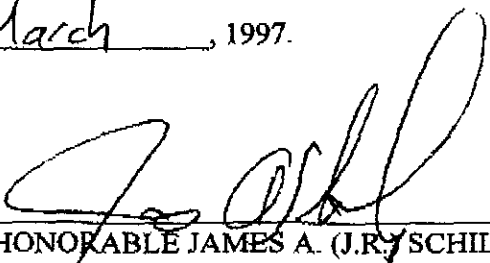
3. The Plaintiff, M&M Mountain View Acres Subdivision Water Company, Inc., is hereby awarded judgment against Defendants Theodore R. Young and Kathleen D. Young, husband and wife, in the amount of \$25.00 for fines assessed by Plaintiff;

4. All Defendants are hereby restrained and enjoined from using any water supplied or delivered by the Plaintiff, or its successor in interest, in a manner inconsistent with the conditions and restrictions placed upon such water usage either by the State of Idaho Department of Water Resources, or by Plaintiff M&M Mountain View Acres Subdivision Water Company, Inc., or by any successor in interest thereof.

5. Failure by any Defendant to either pay the damages awarded herein within thirty (30) days from the date hereof, or any violation of the injunctive provisions hereof, shall entitle the Plaintiff to immediately and without further notice discontinue water delivery to the Defendant or Defendants in violation of this Judgment.

6. The Plaintiff is hereby awarded costs and attorney's fees in an amount to be determined by the court upon timely application in the manner provided by the Idaho Rules of Civil Procedure. *hasn't been determined yet.*

DATED this 31st of March, 1997.


HONORABLE JAMES A. (J.R.) SCHILLER
Magistrate

**TERRY MICHAELSON
HAMILTON & MICHAELSON, LLP**

Attorneys at Law
1303 12th Avenue Road
P. O. Box 65
Nampa, Idaho 83653-0065
Telephone (208) 467-4479
Facsimile (208) 467-3058

Attorneys for Plaintiff

FILED
A.M. 4:26 P.M.
MAR 31 1997
NED J. KERR, CLERK
B. FLAMING
DEPUTY

**IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CANYON**

MAGISTRATE DIVISION

M & M MOUNTAIN VIEW ACRES
SUBDIVISION WATER COMPANY,
INC., an Idaho Corporation,

Plaintiff,

vs.

MARY POLK, ERNEST HARTZFELD
and MARYANN HARTZFELD, and
THEODORE R. YOUNG and
KATHLEEN D. YOUNG,

Defendants.

Case No. CV 96-04142C
Case No. CV-96-04143C
Case No. CV-96-04144C

**ORDER GRANTING
SUMMARY JUDGMENT**

THIS MATTER CAME REGULARLY before the Court on the 27th day of March, 1997,
upon the Plaintiff's Motion for Summary Judgment. The Plaintiff appeared through its attorney

MICROFILMED

FEB 13 1998

of record, Terry Michaelson of the Nampa law firm of Hamilton & Michaelson. The Defendants appeared personally and with their counsel of record, Gordon S. Nielson, of Boise, Idaho.

The Court reviewed all of the records and pleadings on file herein, including the Memorandum, Affidavit, and exhibits filed in support of and in opposition to the Motion. Oral argument was presented, after which the court made findings of fact and conclusions of law which were entered upon the record in open court.

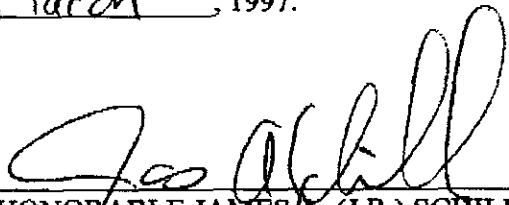
Based upon the Court's findings and conclusions, and there appearing good cause;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED and this DOES ORDER, ADJUDGE AND DECREE as follows:

1. The Plaintiff's Motion for Summary Judgment upon the Complaint filed and served herein is granted, and judgment shall be entered consistent with the relief sought in the Complaints.
2. The Plaintiff's Motion for Summary Judgment upon the Counterclaims filed and served herein is also granted, and the Counterclaims are hereby dismissed.
3. The Plaintiff is determined to be the prevailing party, and is hereby awarded costs in this action in an amount to be determined upon application in the manner provided by the Idaho Rules of Civil Procedure.
4. The Plaintiff is further hereby awarded attorney's fees incurred in this action, pursuant to Idaho Code 12-121, upon application in the manner provided by the Idaho Rules of Civil Procedure.

MICROFILMED
FEB 13 1998

DATED this 31st of March, 1997.



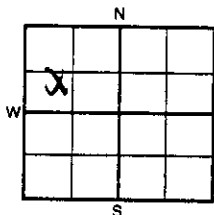
HONORABLE JAMES A. (J.R.) SCHILLER
Magistrate

IDAHO DEPARTMENT OF WATER RESOURCES
WELL DRILLER'S REPORTUse Typewriter
or
Ball Point Pen1. DRILLING PERMIT NO. 63-96-C-0826-200
Other IDWR No. 63-12266

2. OWNER:

Name M+M Mountain View Subdivision
Address 4319 Dine Street
City Nampa State ID Zip 83686

3. LOCATION OF WELL by legal description:

Sketch map location must agree with written location.Twp. 2 North ☒ or South ☐
Rge. 1 East ☐ or West ☒
Sec. 8 1/4 SW 1/4 NW 1/4
Gov't Lot _____ County CanyonAddress of Well Site 4319 Dine Street
City Nampa, ID

(Give at least name of road + Distance to Road or Landmark)

Lt. #2 Blk. _____ Sub. Name M+M Mountain View Subdivision

4. PROPOSED USE:

☐ Domestic ☒ Municipal ☐ Monitor ☐ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

5. TYPE OF WORK

☒ New Well ☐ Modify or Repair ☒ Replacement ☐ Abandonment

6. DRILL METHOD

☐ Mud Rotary ☐ Air Rotary ☒ Cable ☐ Other _____

7. SEALING PROCEDURES

SEAL/FILTER PACK			AMOUNT		METHOD
Material	From	To	Sacks or Pounds		
bentonite	0	113	7500 lbs	5 granules	
bentonite grout	-4	191	900 lbs	grout pump	

Was drive shoe used? ☒ N ☐ Shoe Depth(s) 174'
Was drive shoe seal tested? ☒ N ☐ How? batter

8. CASING/LINER:

Diameter	From	To	Gauge	Material	Casing	Liner	Welded	Threaded
12	-4	174	250	steel	☒	☐	☒	☐
8	12	190	322	steel	☒	☐	☒	☐
6	210	219	350	steel	☐	☒	☒	☐

Length of Headpipe 20' 11" Length of Tailpipe 11'

9. PERFORATIONS/SCREENS

☐ Perforations Method _____
☒ Screens Screen Type Houston - 304 stainless

From	To	Slot Size	Number	Diameter	Material	Casing	Liner
200	210	25		6	stainless	☐	☒
219	229	20		6	stainless	☐	☒
229	239	30		6	stainless	☐	☒

10. STATIC WATER LEVEL OR ARTESIAN PRESSURE:

23 ft. below ground Artesian pressure _____ lb.
Depth flow encountered _____ ft. Describe access port or control devices: top of casing

11. WELL TESTS:

☒ Pump ☐ Bailor ☐ Air ☐ Flowing Artesian

Yield gal./min.	Drawdown	Pumping Level	Time
190	12'	145	7-hours

Water Temp. 58.5 Bottom hole temp. _____

Water Quality test or comments: _____

12. LITHOLOGIC LOG: (Describe repairs or abandonment)

Bore Dia.	From	To	Remarks: Lithology, Water Quality & Temperature	Y	N
16	0	1	top soil		☒
	1	3	hard pan		☒
	3	18	coarse sand, clay - mixture		☒
	18	26	basalt - broken		☒
	26	33	basalt		☒
	33	39	basalt + claspers - broken		☒
	39	55	basalt - broken		☒
	55	80	basalt		☒
	80	96	basalt - broken		☒
16	96	106	brown clay - ash?		☒
12	106	140	sand + gravel		☒
	140	154	sand - coarse		☒
	154	155	sand + clay balls		☒
	155	163	sand		☒
	163	165	sand + clay balls		☒
12	165	174	brown clay		☒
8	174	191	brown clay		☒
	191	203	sand + clay balls		☒
	203	206	brown clay		☒
	206	211	sand		☒
	211	214	clay		☒
	214	219	dirty sand + clay chunks		☒
	219	239	sand		☒
	239	246	brown clay		☒
8	246	250	sandy brown clay		☒
RECEIVED					
FEB 21 1997					
RECEIVED					
FEB 20 1997					
Department of Water Resources					
WATER RESOURCES WESTERN REGION					
Completed Depth <u>250'</u> (Measurable)					
Date: Started <u>11-5-96</u> Completed <u>1-20-97</u>					

13. DRILLER'S CERTIFICATION

I/We certify that all minimum well construction standards were complied with at the time the rig was removed.

Firm Name Dufee Well Drilling Firm No. 399Firm Official [Signature] Date 1-21-97and [Signature]Supervisor or Operator [Signature] Date _____

(Sign once if Firm Official & Operator)

FORWARD WHITE COPY TO WATER RESOURCES



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

November 13, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RECEIVED

NOV 15 1996

Department of Water Resources

CONCERNED HOMEOWNERS
C/O ERNEST & MARYANN HARTZFELD
6524 E ANGELA AVE
NAMPA ID 83686-9024

RE: WELL DRILLING ACTIVITY IN M & M MOUNTAINVIEW SUBDIVISION

Dear Mr. and Mrs. Hartzfeld:

I am writing to the concerned homeowners included in the November 4, 1996 letter to the Idaho Department of Water Resources (IDWR) Director, Mr. Karl Dreher. This response is made on his behalf and mailed to you as the only identified addressee in your letter.

IDWR records indicate that considerable contact between this agency and a number of the homeowners has occurred this fall regarding water right and well construction aspects of the subdivision water supply. I will not belabor the points already discussed during the earlier contact but can provide you with the most current information available to IDWR.

In your letter, you asked to be informed about current well drilling activity for a new well in the subdivision. Enclosed are two computer reports dated November 8, 1996. The reports describe the community Water Right Permit No. 63-12266 for domestic use from ground water (a well), plus the new Well Drilling Permit No. 63-96-C-0826-200.

The water right permit authorizes the use of ground water for up to 29 homes. An extension of time to complete development under the permit was issued by IDWR. The new completion date, also known as the "proof due" date, is November 1, 1997. That means that all development listed within the water right must be completed by that date unless an additional extension of time is granted. It is unusual to obtain a second extension of time unless a compelling reason can be identified.

The well drilling permit authorizes construction of a replacement well for the community water supply. Note that the original well will be abandoned upon completion of the replacement well.

The drilling permit lists a number of conditions of approval. The intent of several of these conditions is to facilitate construction of a well that will provide a safe and secure water supply from the well. Of course, it remains the responsibility of the well owner or other legally encumbered party to maintain the well in a manner consistent with public health and/or water quality standards defined by Idaho statutes, rules and regulations. The drilling permit cannot by itself guarantee that an adequate well will be drilled but can help guide the well construction process toward that goal.

MICROFILMED

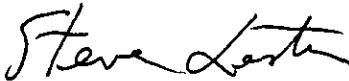
November 13, 1996
Page 2 of 2

Based on current IDWR records, it appears that the water right and well drilling permits for M & M Mountainview Subdivision are in good standing. I hope that the replacement well will provide a safe and secure domestic water supply for you and the other concerned homeowners.

Please contact this office at your convenience if you have any other questions about water quantity (water rights) or well drilling activity in your area.

Issues related to water quality are best directed to the Idaho Department of Health and Welfare, Division of Environmental Quality (DEQ), Southwest Idaho Regional Office at 1445 N. Orchard, Boise 83706-2239.

Sincerely,



Steve Lester
Deputy Regional Manager

Enclosure: Water Right & Well Drilling Permits

c: Karl Dreher, IDWR Director
Joy Palmer, DEQ Regional Administrator

MICROFILMED
DEC 23 1996

WR5809NP
No. 63-12266

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/08/96
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	M & M MOUNTAINVIEW SUBDIVISION INC 4319 DIANE ST NANPA ID 83686 (208) 466-6354	08/23/1995	DOMESTIC	01/01 12/31	0.250 CFS	
TOTAL DIVERSION:					0.250 CFS	

Water Source: GROUNDWATER

Tributary to:

Stage: PERMIT

Point(s) of Diversion: T02N R01W S08 SWNW CANYON County

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE						
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
---	---	---	:	---	---	---	---	---	---	---	---	---	---	---	---	---	---	:
02N	01W	8	:	:	:	:	:	D	:	:	:	:	:	:	:	:	:	:

Pou County: CANYON

Conditions of Approval:

- 021 - Use of water for domestic purposes under this right shall be
- limited to in-house use and watering of household stock.
- 004 - The issuance of this right does not grant any right-of-way
- or easement across the land of another.

Remarks:

Point of diversion is located within Well Lot 2, Blk. 1;
M & M Mountain View Acres Subdivision.
Place of use is located within Lots 1-8, Blk. 1, Lots 1-8,
Blk. 2; Lots 1-10, Blk. 3; and Lots 1 & 3, Blk. 4, M & M Mountain
View Acres Subdivision.
Domestic use is for 29 homes.
Domestic use does not include lawn, garden, landscape, or
other types of irrigation.
The domestic use authorized under this right shall not exceed
13,000 gallons per day per dwelling in accordance with
Section 42-111, Idaho Code.

Dates: App. Received: 08/23/1995 Priority Date: 08/23/1995
Proof Due Date: 11/01/1997 Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

WR5809NP
No. 63-12266

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 11/08/96
PAGE: 2

Comments: Date: 08/23/1995 User-ID: JSHURTE Subject: CORPORATE OFFICERS

Michael Soshea, President

Richard W. Smith, Treasurer

Darrell Ward, V-President

Ernest White, V-President

Helene Tomaszewski, Secretary

Address: 4319 Diane St., Nampa, ID 83686

Date: 11/08/1995 User-ID: CZIMMERM Subject: P/U OWNERSHIP

The places of use are owned by individual homeowners.

Audit: 08/23/95 JSHURTE 08/28/95 SCURTIS 08/29/95 SLESTER 11/08/95 CZIMMERM
11/13/95 CZIMMERM 07/08/96 CZIMMERM 11/08/96 JYARBROU

PERMIT NUMBER	OWNER CODE	NAME & ADDRESS	TWP	RGE	SEC	TRACT	LOT	COUNTY	ACC FLG
63-96-C-0826-200	R	UNITED WATER IDAHO 8248 W VICTORY RD BOISE, ID 83709 (208) 362-7332	02N	01W	08	SW NW		CANYON	P
	O	M & M MOUNTAINVIEW SUBDIVISION 4319 DIANE ST NAMPA, ID 83686 (208) 466-6354							

Subdivision Well Site Location and Description:

Subdivision Name:

Well Site Address: 4319 DIANE ST, WELL LOT # 2

City, State: NAMPA, ID

Lot(s):

Block(s):

Geographic Location:

GPS Site ID:

Lat: : : N

Long: : : W

Accuracy Code:

Proposed Use of Well: Domestic Proposed Casing Diameter: 8 in.

Anticipated Bottom Hole Temperature: 85F or Less

Proposed Depth: 220 Ft.

Well Use Comments: USE IS FOR 29 HOMES

Driller License No: 0399

Firm Name: DUFOE WELL DRILLING

Official: JIMMY L DUFOE

Permit Status: Filed

Verbal Issue Date: 11/04/1996

Date Received: 11/04/1996

Date Approved: 11/04/1996

Proposed Start Date: 11/05/1996

Extension Date:

Extension Expiration:

Receipt No.

C036889

Receipt Date

11/04/1996

Fee

\$ 200.00

NOT ON FILE

NOT ON FILE

NOT ON FILE

NOT ON FILE

Specific Conditions:

Permit Remarks: Steve Rea from DEQ was contacted on 11/4/96 by phone and he said DEQ had signed off on this well. He stated that from the engineering point of view (United Water doing the engineering) that they had no problems with the construction of the well. United Water indicated that the old well will be abandoned after the new well is drilled.

Conditions of Approval: This drilling permit is valid for two (2) months from the approval date for the start of construction and is valid for one (1) year from the approval date for completion of the well unless an extension has been granted.

This permit does not constitute an approval of the District Health Department or the Idaho Department of Health and Welfare which may be required prior to construction of this well. The local Health Department should be contacted for septic tank/drainfield locations. Domestic wells must not be drilled closer than 100' from any drainfield and 50' from any

=====

WELL DRILLING PERMIT NUMBER INDEX: Permit No. 63-96-C-0826-200 (cont'd)

Conditions of approval: septic tank. Public Water Supply wells must not be drilled closer than 100' from any drainfield or septic tank.

The well shall be constructed by a driller currently licensed in the state of Idaho who must maintain a copy of the drilling permit at the drilling site.

Approval of this drilling permit does not authorize trespass on the land of another party.

This permit does not constitute other local, county, state or federal approvals which may be required for construction of a well.

This drilling permit does not represent a right to divert and use the water of the State of Idaho.

If the bottom hole temperature of 85 Degrees F (29.44 oC) or greater is encountered, well construction shall cease and the well driller and the well owner shall contact the Department immediately.

Idaho Code, S 55-2201 - 55-2210 requires the applicant and/or his contractors to contact "Digline" (DigLine is a one-call center for utility notification) not less than 2 working days prior to the start of any excavation for this project. The "Dig Line " Number for your area is
1- - - .

The uppermost unconfined aquifer shall be cased and sealed to exclude water from this zone from entering the well. All seals will be placed from the bottom up.

If an annular slurry seal of bentonite is to be utilized, a high (>30%) solids bentonite shall be pumped from the bottom up to land surface. The bentonite shall not contain chemical polymers which effect long term stability of the seal (and are often found in drilling fluid grade bentonites) but shall be a bentonite which has been specifically recommended by the manufacturer for use as a seal material in water wells.

A 50% excess of seal material shall be on hand in the event of lost circulation. If the seal material does not make it back to the surface, tremieing or perforation and squeezing is to commence at the top of the tagged seal position and will continue until returns reach the surface or the department is satisfied that aquifers are sufficiently isolated and/or protected from waste and contamination.

The project engineer or geologist will be on site during seal placement should any peculiarities arise which require further evaluation. Any alteration of the proposed or herein modified well construction procedure shall be approved by the department before they are undertaken.

Each casing string shall be sealed into an aquitard (confining layer).

=====

WELL DRILLING PERMIT NUMBER INDEX: Permit No. 63-96-C-0826-200 (cont'd)

Conditions of approval: Prior to the commencement of drilling through the aquitard in which the casing string was set, the integrity of the seal shall be tested. The means of testing shall be through a baildown test or other acceptable method with a maximum leakage rate considered.

Drilling fluids shall be mixed with water which meets or exceeds drinking water standards.

The screened, perforated, filterpacked or otherwise open and commingled strata which are to be produced from, shall be of similar hydraulic head, temperature and quality. If there are notable variations encountered as the well is drilled and/or developed, the Department will be notified for evaluation.

----- WELL DRILLER'S LOG REPORT -----

Drilling Permit No: 63-96-C-0826-200
Log Status:

Water Right No: 63-12266
Injection Permit No:

Nature of Work: REPLACE

Construction Method:

Number of Monitor Wells:

Casing Diameter:
Depth of Casing:
Total Depth:
Screen Installed?

In.
Ft.
Ft.

Static Water Level:
Temperature:
Production Rate:

Ft.
F.
GPM

Actual Start Date:
Well Finish Date:
Log Received Date:
Certification Date:
Field Inspection Date:

Inspector:

Violation Flag:

Well Log Remarks:

CONVERSATION MEMORANDUM

DATE 11/8/96FILE 63-12266

NAME OF PARTY

Rita Fleck

EMPLOYEE

Steve Lester

RE:

LETTER TO DIRECTOR, DATED 11/4/96

MIM subd.

HARTZFELD ET AL

Director has provided info previously, Rita will fax cc to Regim.
Regim to provide response per Director's instructions via Rita,
send cc to D.'s office.

- RESEARCH -

63-12266 - proof due 11/1/96

Julie Y. - lapse notice sent, no proof filed as of today.

- D/29 in-house only; info see D's 9/16/96

Memo to gov's office, pg 3, 1st paragraph.

63-98-C-0826-000 - new well, \$200

- municipal, United H2O

- but info that will be replacement re 63-12266

- issued 11/4/96 (after W.R. lapse!)

- INRB finally to help drill

Following with ROB W.

Mark S. or Doug D.

} previous INWR- D549

} correspondence & a.p.

- Cont -

Memo # 1 of 2

MICROFILMED

DEC 2 9 1996

Director
has cc of
11/4 letter,
Regim got
original

CONVERSATION MEMORANDUM

DATE 11/8/96

FILE _____

NAME OF PARTY JS

EMPLOYEE _____

RE: Continued - M & M Subd.

Doug D. - working on converting dept records to
note w.r. with w.d. data etc.

- change to replacement (not now)

- change to D/29 (not municipal)

Also thought ext. of time filed 63-12266 on 11/4
when applied for w.d. permit. Since looked
OK per Altona staff review, issued d.p.
on that basis I think Regim would have
done the same thing.

Julie Y. found 11/4 ext. Appl. ^{will} ~~get~~ it approved
today & let me know.

Looks like into C w.r. & w.d. is
coming together OK.

Can prepare letter of response once get d'boer
updates.

Memo # 2 of 2

MICROFILMED

DEC 23 1996

Ernest C. Hartzfeld
8824 E. Angela Ave.
Nampa, ID. 83856-9024



nothing in envelope

MICROFILMED
DEC 23 1996

Idaho State Water Resources Agency
Western Region
2735 Airport Way
Boise, Id. 83705

Attn: Director

November 4, 1996

Idaho State Water Resource Agency
Western Region-Well Drilling
2735 Airport Way
Boise, Idaho 83705

RECEIVED

NOV - 7 1996

WATER RESOURCES
WESTERN REGION

Attn: Director

Dear Sir:

We are property owners in the M&M Mountainview Subdivision southeast of Nampa.

I think we visited with you on the phone about 93' or 94' concerning the state of our drinking water in the community well. (It has been on a boil-only order since October 7, 1995).

We had to get the cooperation of the governor's office to alleviate this nightmare.

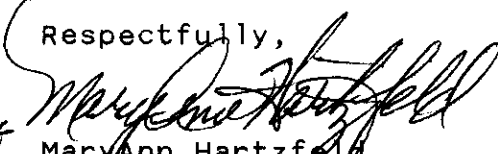
Litigation is ongoing with the board of directors at this time. Most all communication with us has ceased again violating the law.

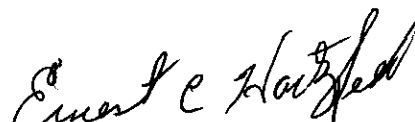
We were informed by Clarence Parr, board chairman of ISWR to share our concerns with you as you oversee this region. Frankly we feel if you haven't the particulars by now something really is amiss so could you please inform us about the activity of a new well?

Four cases of cancer with three fatal in less than ten years in this small community yells RED ALERT!! (Just heard of a woman in 1988) High incidence of severe illnesses from water born bacteria are still an issue since bathing of small children or even adults is causing extreme stress.

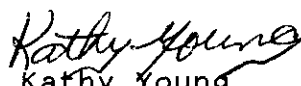
We would appreciate a response from you in the very near future.

Respectfully,

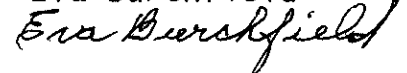
* 
MaryAnn Hartzfeld


Ernest Hartzfeld


Ted Young


Kathy Young

Eva Burchfield



Mary Polk



Dup/c Gordon Nielson, Atty
Jason Kreizenbeck, Staff Asst.Gov.
Joy Palmer, DEQ
Karl Dreher, ISWR

MICROFILMED
DEC 23 1996

* 466-3192 per R.F. & J.O.

-82 11/7/96

ANALYSIS SHEET FOR EXTENSION OF TIME

Permit No. 63-12266 Reviewed by [Signature] Date 11-8-96

BASIC INFORMATION

11-4-96 Date stamp received
no Extension received timely
yes Fee received and receipted
yes Name and signature same as permit
no Address Change

BASIS FOR EXTENSION REQUEST

yes Has adequate work been completed to demonstrate due diligence?
_____ Has the permit been involved in litigation?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is delay by a government agency?
Is supporting documentation needed to complete the file? _____ Requested? _____
_____ Is the project more than 25,000 acre feet for irrigation or 10,000 acre feet for a reservoir?

ACTION TAKEN Recommend extend to NOV. 1, 1997, on basis of due diligence.
Revisit & advance priority to aug. 26, 1995.

PRIORITY CALCULATION

Date extension received	<u>11-4-96</u>	=	_____
Proof due date	<u>11-1-96</u>	=	_____
Number of days late	<u>3</u>	=	_____
Priority date	<u>8-23-95</u>	=	_____
New Priority Date	<u>8-26-95</u>	=	_____

DATA ENTRY

New Address X
Change Proof Due Date 11-1-97
Change Priority Date 8-26-95



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

November 8, 1996

M & M Mountainview Sub., Inc.
4319 Diane St.
Nampa, ID 83686

RE: Permit No. 63-12266

Dear Permit Holder:

Enclosed is a copy of the approved request for extension of time. The time within which to submit proof of beneficial use is extended to **November 1, 1997**. Please note that the department has granted this extension based on due diligence. It is important that you work diligently toward the completion of this project during the construction period allowed. The department **will not** be able to grant additional requests based on due diligence.

Since the extension was received after the proof due date of November 1, 1996, it was necessary for the department to reinstate your permit and advance the date of priority to August 26, 1995.

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.

Please contact me at (208)327-7900 if you have any questions regarding this matter.

Sincerely,

JULIE L. YARBROUGH
Senior Secretary

Enclosure

C: IDWR - Regional Office

MICROFILMED
DEC 22 1996



IDAHO DEPARTMENT
OF HEALTH AND WELFARE

DIVISION OF
ENVIRONMENTAL QUALITY

RECEIVED

SEP 16 1996

Department of Water Resources

1445 North Orchard, Boise, ID 83706-2239, (208) 334-0550

Philip E. Batt, Governor

September 12, 1996

Ted Young
6619 E. Angela
Nampa, ID 83686

Re: Status of M&M Mountain View Subdivision Water System

Dear Mr. Young:

During our meeting on August 21, 1996, I assured you that I would review the issues and concerns you raised regarding the M&M Mountain View subdivision water system. The results of my review follow.

The M&M water system is currently under DEQ jurisdiction and has been since the system files were transferred to us by the Southwest District Health Department in March of 1995. The system files were transferred to DEQ after a sanitary survey conducted by the Southwest District Health Department showed that M&M had reached 25 or more water system connections.

DEQ review of the M&M subdivision water system files revealed a recent violation of the nitrate Maximum Contaminant Level (MCL) as well as possible bacteriological contamination of the well. Subsequently, a sanitary survey of the M&M water system was conducted on July 6, 1995. The Sanitary Survey Report dated September 29, 1995 formally addressed the nitrate and bacteria contamination by requiring that either a new source be constructed or nitrate treatment combined with a new chlorination system be installed by February 28, 1996. A Boil Water Advisory for M&M subdivision was also issued on September 29, 1995 that would remain in effect until the mandated improvements were made.

In response to the Sanitary Survey Report requirements, the M&M subdivision water board contacted United Water Corporation (UWC) in December 1995 for assistance. United Water has since agreed to replace the existing well and assume operation of the M&M subdivision water system. The M&M water users have also voted to allow UWC to take over operation of their system. Since UWC involvement would be more time consuming than the direct hiring of an engineer and replacement of the well by the subdivision due to Idaho Public Utilities Commission (IPUC) review and well lot land acquisition requirements, the February 28 deadline was allowed to pass with the provision that consistent progress towards the installation of a new source be made.

MICROFILMED

DEC 23 1996

Ted Young
September 12, 1996
Page 2

United Water has opted to replace the well and operate the system in lieu of purchasing the system outright. As a result of this course of action, UWC cannot directly fund the well replacement. Instead, funding for the new well is currently being sought for M&M Mountain View subdivision by United Water from the Idaho Department of Water Resources (IDWR). The required paperwork has been submitted and now awaits IDWR Board review, which is scheduled for September 20, 1996.

Assuming loan approval, United Water estimates that well drilling will commence by the beginning of October and conclude by the first of November. Pump testing of the new well is required by State regulation and this may add an additional two weeks to the time of construction. The completed well should be operational and on-line by mid-November.

Prior to putting the new well on-line, the water produced by the well must be tested according to The Idaho Rules for Public Drinking Water Systems (IRPDWS) Sec. 551.01.h. Testing includes all of the primary drinking water contaminants, which includes bacteria, nitrate, herbicides, pesticides and petroleum based compounds. Water testing typically occurs during pump testing and the results of the testing are usually available within two weeks of sample submittal to the lab.

The replacement well will be drilled deeper than the existing well and will tap the deep aquifer as opposed to the shallow, often contaminated upper aquifer that the existing well taps. Other wells in the Nampa area that have been deepened due to contamination problems similar to those experienced by M&M Mountain View subdivision have produced very high quality water. Current well construction standards also help to ensure that new wells are properly cased and sealed. For these reasons, chlorination of the new well is not expected to be necessary.

Only one source is required for M&M Mountain View subdivision. According to The Idaho Rules for Public Drinking Water Systems (IRPDWS) Sec. 550.02.o, only new community public water systems constructed after July 1, 1985 must have two sources of water. Since M&M is an existing water system built before July 1, 1985, only one source is required. The United Water Corporation has been notified that only one source is required for M&M subdivision.

The Idaho Department of Water Resources (IDWR) will be addressing the water right issue separately. DEQ has no authority in water rights matters. I have discussed the M&M Mountain View subdivision water right with IDWR and they have agreed to look into it. You should soon receive correspondence from IDWR that describes events that took place in preparing the permit including an explanation of the lawn watering restriction included in the permit.

MICROFILMED

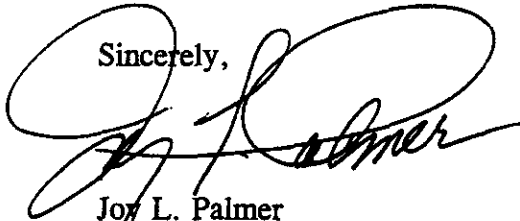
DEC 23 1996

Ted Young
September 12, 1996
Page 3

Once again, there is a Boil Water Advisory in effect for M&M Mountain View subdivision until the new source is completed, tested and turned into the water system. Tap water should not be consumed without boiling it for five (5) minutes first. The well water is disinfected to provide a measure of safety for those that come in contact with or inadvertently consume tap water at M&M. However, contact time between the chlorine and the well water is insufficient to ensure complete disinfection of the water. Therefore, the water can safely be used for bathing but care should still be taken not to ingest any bath or shower water. Small children should be bathed in water that has been boiled and cooled.

I hope that you find this information helpful. The DEQ will continue to do everything it can to ensure that a safe drinking water source is provided to M&M water users as soon as possible. Please contact me at 373-0550 if you have any further questions or concerns .

Sincerely,



Joy L. Palmer
Regional Administrator

JLP:SHR:ra M&M_TY.LTR

cc: Jason Kreizenbeck, Governor's Office
Karl J. Disher, Director, Idaho Department of Water Resources
Source File #1, Reading File

MICROFILMED
DEC 23 1996



IDAHO DEPARTMENT
OF HEALTH AND WELFARE

DIVISION OF
ENVIRONMENTAL QUALITY

RECEIVED

SEP 16 1996

Department of Water Resources

1445 North Orchard, Boise, ID 83706-2239, (208) 334-0550

Philip E. Batt, Governor

September 12, 1996

Mary Ann Hartzfeld
6524 E. Angela
Nampa, ID 83686

Re: Status of M&M Mountain View Subdivision Water System

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During our meeting on August 21, 1996, I assured you that I would review the issues and concerns you raised regarding the M&M Mountain View subdivision water system. The results of my review follow.

The M&M water system is currently under DEQ jurisdiction and has been since the system files were transferred to us by the Southwest District Health Department in March of 1995. The system files were transferred to DEQ after a sanitary survey conducted by the Southwest District Health Department showed that M&M had reached 25 or more water system connections.

DEQ review of the M&M subdivision water system files revealed a recent violation of the nitrate Maximum Contaminant Level (MCL) as well as possible bacteriological contamination of the well. Subsequently, a sanitary survey of the M&M water system was conducted on July 6, 1995. The Sanitary Survey Report dated September 29, 1995 formally addressed the nitrate and bacteria contamination by requiring that either a new source be constructed or nitrate treatment combined with a new chlorination system be installed by February 28, 1996. A Boil Water Advisory for M&M subdivision was also issued on September 29, 1995 that would remain in effect until the mandated improvements were made.

In response to the Sanitary Survey Report requirements, the M&M subdivision water board contacted United Water Corporation (UWC) in December 1995 for assistance. United Water has since agreed to replace the existing well and assume operation of the M&M subdivision water system. The M&M water users have also voted to allow UWC to take over operation of their system. Since UWC involvement would be more time consuming than the direct hiring of an engineer and replacement of the well by the subdivision due to Idaho Public Utilities Commission (IPUC) review and well lot land acquisition requirements, the February 28 deadline was allowed to pass with the provision that consistent progress towards the installation of a new source be made.

MICROFILMED
DEC 23 1996

Mary Ann Hartzfeld

September 12, 1996

Page 2

United Water has opted to replace the well and operate the system in lieu of purchasing the system outright. As a result of this course of action, UWC cannot directly fund the well replacement. Instead, funding for the new well is currently being sought for M&M Mountain View subdivision by United Water from the Idaho Department of Water Resources (IDWR). The required paperwork has been submitted and now awaits IDWR Board review, which is scheduled for September 20, 1996.

Assuming loan approval, United Water estimates that well drilling will commence by the beginning of October and conclude by the first of November. Pump testing of the new well is required by State regulation and this may add an additional two weeks to the time of construction. The completed well should be operational and on-line by mid-November.

Prior to putting the new well on-line, the water produced by the well must be tested according to The Idaho Rules for Public Drinking Water Systems (IRPDWS) Sec. 551.01.h. Testing includes all of the primary drinking water contaminants, which includes bacteria, nitrate, herbicides, pesticides and petroleum based compounds. Water testing typically occurs during pump testing and the results of the testing are usually available within two weeks of sample submittal to the lab.

The replacement well will be drilled deeper than the existing well and will tap the deep aquifer as opposed to the shallow, often contaminated upper aquifer that the existing well taps. Other wells in the Nampa area that have been deepened due to contamination problems similar to those experienced by M&M Mountain View subdivision have produced very high quality water. Current well construction standards also help to ensure that new wells are properly cased and sealed. For these reasons, chlorination of the new well is not expected to be necessary.

Only one source is required for M&M Mountain View subdivision. According to The Idaho Rules for Public Drinking Water Systems (IRPDWS) Sec. 550.02.o, only new community public water systems constructed after July 1, 1985 must have two sources of water. Since M&M is an existing water system built before July 1, 1985, only one source is required. The United Water Corporation has been notified that only one source is required for M&M subdivision.

The Idaho Department of Water Resources (IDWR) will be addressing the water right issue separately. DEQ has no authority in water rights matters. I have discussed the M&M Mountain View subdivision water right with IDWR and they have agreed to look into it. You should soon receive correspondence from IDWR that describes events that took place in preparing the permit including an explanation of the lawn watering restriction included in the permit.

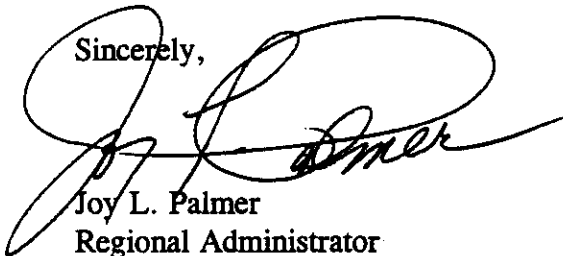
MICROFILMED
SEP 22 1996

Mary Ann Hartzfeld
September 12, 1996
Page 3

Once again, there is a Boil Water Advisory in effect for M&M Mountain View subdivision until the new source is completed, tested and turned into the water system. Tap water should not be consumed without boiling it for five (5) minutes first. The well water is disinfected to provide a measure of safety for those that come in contact with or inadvertently consume tap water at M&M. However, contact time between the chlorine and the well water is insufficient to ensure complete disinfection of the water. Therefore, the water can safely be used for bathing but care should still be taken not to ingest any bath or shower water. Small children should be bathed in water that has been boiled and cooled.

I hope that you find this information helpful. The DEQ will continue to do everything it can to ensure that a safe drinking water source is provided to M&M water users as soon as possible. Please contact me at 373-0550 if you have any further questions or concerns.

Sincerely,



Joy L. Palmer
Regional Administrator

JLP:SHR:ra M&M_MAH.LTR

cc: Jason Kreizenbeck, Governor's Office
Karl J. Dreher, Director, Idaho Department of Water Resources
Source File #1, Reading File

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DEC 23 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

September 12, 1996

TERRY MICHAELSON
HAMILTON & MICHAELSON
PO BOX 65
NAMPA ID 83653-0065

RE: Water Right No. 63-12266

Dear Mr. Michaelson:

Thank you for writing to inquire about the conditions of approval placed on Water Right Permit No. 63-12266, which was issued to M & M Mountainview Subdivision, Inc., last year. Your concern was related specifically to conditions of approval No. 3 and No. 8, which limit the use of water under Permit 63-12266 to indoor use only. You pointed out that those conditions appear to be directly contradicted by a statement in the cover letter sent to M & M Mountainview Subdivision, Inc., with the approved permit. The cover letter, which I signed, states, "Please note that this water right limits irrigation occurring under the domestic use to one-half acre within each platted subdivision lot upon which a home has been constructed."

I apologize for any confusion the cover letter may have caused. While my letter appears to indicate otherwise, the use of water under Permit 63-12266 is limited by the conditions of approval placed on the permit itself.

In order to obtain approval for the irrigation of the subdivision lots, I think that you could pursue one or more of the following options.

- M & M Mountainview Subdivision, Inc., may ask IDWR to remove conditions of approval No. 3 and No. 8 from Permit 63-12266. Because of questions relating to groundwater availability in the Treasure Valley, the request may not be granted. However, any request will be reviewed based upon its individual merits.
- M & M Mountainview Subdivision, Inc., may apply for another permit to cover the diversion and use of groundwater for "outdoor" domestic use, including the irrigation of up to half an acre per platted subdivision lot upon which a home has been constructed. Please note, however, that if surface water is available to the subdivision, IDWR will limit the use of groundwater for irrigation to only those times that surface water cannot be delivered to the property.

RECEIVED
SEP 27 1996

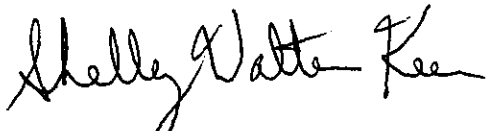
Terry Michaelson
September 12, 1996
Page 2

- Under the provisions of Sections 42-111 and 42-227, *Idaho Code*, individuals may have wells drilled on their own lots and use the water for their own domestic needs, including irrigation of up to half an acre, without filing an application for permit to appropriate the public waters of Idaho. (A permit is required for a system providing domestic water to a multiple ownership subdivision.) Please note that while a permit to appropriate water is not required for the use of groundwater for single domestic purposes, it is necessary to obtain a drilling permit prior to drilling the well.

The department is willing to grant a reasonable period of time for M & M Mountainview Subdivision, or the individual lot owners within the subdivision, to pursue one or more of these options.

Again, I apologize for any confusion I may have caused. I hope this information is helpful to you. If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

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DEC 23 1996

HAMILTON & MICHAELSON
ATTORNEYS AT LAW
1303 - 12TH AVENUE ROAD
P. O. BOX 65
NAMPA, IDAHO 83653-0065

RECEIVED

SEP 09 1996

Department of Water Resources

CARL D. HAMILTON
TERRY MICHAELSON

TELEPHONE
(208) 467-4479

TIFFANY HALES
ALAN D. MALONE
MARK HILTY

FACSIMILE
(208) 467-3058

September 6, 1996

Mr. Shelley W. Keen
Water Rights Supervisor
Idaho Department of Water Resources
1301 North Orchard Street, Statehouse Mail
Boise, ID 83720-9000

Dear Mr. Keen:

I attempted without success to reach you by telephone on Friday, September 6, 1996. If we still have not spoken by the time you receive this letter, please give me a call.

I am enclosing herewith a copy of the Permit to Appropriate Water issued to M & M Mountain View Subdivision, Inc. dated November 14, 1995. I am also enclosing a copy of your letter dated November 14, 1995, which pertains to the permit.

There are three households within the subdivision who are using water furnished by my client for the purpose of watering their lawns. These three families have refused numerous and repeated requests that the use of water for such purposes cease and desist. The Water Association was ultimately left with no recourse but to take legal action. A lawsuit has been filed asking the court to authorize the Water Association to discontinue delivery of water to the residents who are in violation until such time as they agree to comply with uses for the water as set forth in the permit.

The defendants have filed Answers with the court quoting the language contained in the third paragraph of your letter to the effect that the water right limits irrigation occurring under the domestic use to one half acre within each platted subdivision lot upon which a home has been constructed. They further allege that they are in compliance, taking the position that your letter allows for use of the water for irrigating lawns, garden and landscape, notwithstanding the clear language of the permit to the contrary.

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DEC 23 1996

Mr. Shelley Keen
September 6, 1996
Page 2

I need to speak with you at your earliest convenience in order to clarify this misunderstanding. I interpreted your letter to mean that there would be no water right on any unimproved lot or common area within the subdivision, rather than to expand permissive use of the water to allow uses inconsistent with the language of the permit. Your assistance and cooperation in contacting me to clarify your intentions will be deeply appreciated. I look forward to hearing from you at your earliest convenience.

Very truly yours,

HAMILTON & MICHAELSON
DICTATED BY THE ATTORNEY
AND MAILED WITHOUT SIGNATURE
IN HIS ABSENCE TO AVOID DELAY.

TERRY MICHAELSON

TM/dmr

cc: Richard Smith
Ernest White

clients/u-z/wallis/letters/keen0906

MICROFILMED
FEB 11 1996

August 31, 1996

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA ID 83686

PROOF DUE NOTICE

RE: PERMIT NO. 63-12266

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 November 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 form is enclosed for your convenience.

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

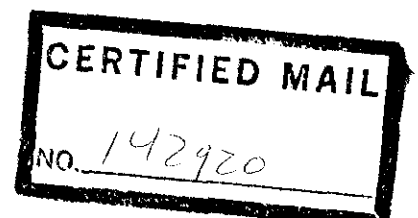
SINCERELY,

JULIE L. YARBROUGH
Senior Secretary

Enclosures

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REC 2 3 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

November 14, 1995

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
Nampa ID 83686

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-12266

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

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

Please note this water right limits irrigation occurring under the domestic use to one-half acre within each platted subdivision lot upon which a home has been constructed. This permit does not provide for irrigation of common areas or for irrigation of lots with no homes.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

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DEC 23 1995

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12266

Proposed Priority: August 23, 1995 Maximum Diversion Rate: 0.25 CFS

This is to certify, that M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
Nampa ID 83686

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>
DOMESTIC	01/01 to 12/31	0.25 CFS

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 8, Township 02N, Range 01W
CANYON County

PLACE OF USE: DOMESTIC

TWN RGE SEC

02N 01W 8

SWNW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1996.
2. Subject to all prior water rights.
3. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Point of diversion is located within Well Lot 2, Blk. 1; M & M Mountain View Acres Subdivision.
6. Place of use is located within Lots 1-8, Blk. 1, Lots 1-8, Blk. 2; Lots 1-10, Blk. 3; and Lots 1 & 3, Blk. 4, M & M Mountain View Acres Subdivision.
7. Domestic use is for 29 homes.
8. Domestic use does not include lawn, garden, landscape, or other types of irrigation.
9. The domestic use authorized under this right shall not exceed 13,000 gallons per day per dwelling in accordance with Section 42-111, Idaho Code.

This permit is issued pursuant to the provisions of Section 42-204, Idaho Code.

Witness the signature of the Director, affixed at Boise, this

14 day of November, 1995.

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DEC 23 1995

Karl J. Dreher, Director



OFFICE OF THE GOVERNOR

P.O. BOX 83720
BOISE 83720-0034

PHILIP E. BATT
GOVERNOR

(208) 334-2100

August 22, 1996

Mr. Ted Young
6619 Angela Ave.
Nampa, ID 83686

Dear Mr. Young:

Thank you for taking the time to come down to the Capitol on Wednesday and explain your situation in person.

I have spoken with people in the Department of Water Resources and they are working on answering your questions now. I will also be in touch with Joy Palmer of the Division of Environmental Quality as she works to address your concerns. As soon as I have any information, I will be sure to contact you.

I assure you that we working as diligently and quickly as possible to clarify the state's role in the current situation. Please feel free to contact me with any further information or questions you may have.

Very truly yours,

A handwritten signature in dark ink, appearing to read "JBK", followed by a horizontal line.

Jason Kreizenbeck
Staff Assistant to Governor Batt

JBK:vjm

cc: Mary Ann Hartzfeld
Joy Palmer, DEQ
✓Karl Dreher, Water Resources

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DEC 23 1996

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DEC 23 1996



OFFICE OF THE GOVERNOR

P.O. BOX 83720
BOISE 83720-0034

PHILIP E. BATT
GOVERNOR

(208) 334-2100

August 22, 1996

Ms. Mary Ann Hartzfeld
6524 E. Angela Ave.
Nampa, ID 83686

Dear Ms. Hartzfeld:

Thank you for taking the time to come down to the Capitol on Wednesday and explain your situation in person.

I have spoken with people in the Department of Water Resources and they are working on answering your questions now. I will also be in touch with Joy Palmer of the Division of Environmental Quality as she works to address your concerns. As soon as I have any information, I will be sure to contact you.

I assure you that we working as diligently and quickly as possible to clarify the state's role in the current situation. Please feel free to contact me with any further information or questions you may have.

Very truly yours,

A handwritten signature in black ink, appearing to read "JBK", followed by a horizontal line.

Jason Kreizenbeck
Staff Assistant to Governor Batt

JBK:vjm

cc: Ted Young
Joy Palmer, DEQ
Karl Dreher, Water Resources

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DEC 23 1996

MEMORANDUM

To: Jason Kreizenbeck
From: L. Glen Saxton *LS*
RE: REQUESTED INFORMATION - MARY ANN HARTZFELD MATTER
Date: August 22, 1996

On August 21, 1996, you sent to this office a copy of a letter dated August 21, 1996 which Mary Ann Hartzfeld wrote to Governor Batt. In a subsequent telephone conversation with you, you asked that I review the letter and provide comments relative to the following:

1. Water right Permit No. 63-12266 which the department issued to M & M Mountainview Subdivision, Inc. as related to the Permit Approval Notice letter of the department dated November 14, 1995.
2. Check department files to determine if United Water Idaho has filed an application for permit to provide water to the area in which Ms. Hartzfeld lives.

On November 14, 1995, the department issued Permit No. 63-12266 to M & M Mountainview Subdivision, Inc. authorizing the diversion of 0.25 cubic feet per second of water to be diverted from a well for domestic use for 29 homes located in the Mountain View Acres Subdivision in the SW1/4NW1/4 Section 8, T2N, R1W, B.M., Canyon County, Idaho. Permit Condition of Approval No. 8 provides as follows:

8. Domestic use does not include lawn, garden, landscape or other types of irrigation.

This condition essentially limits the authorized domestic use of water under the permit to in-house use.

The Permit Approval Notice letter dated November 14, 1995 from the department which accompanied the permit, unfortunately included a paragraph which stated the irrigation under the domestic use was limited to 1/2 acre per lot upon which a home had been constructed. This paragraph is properly used in connection with domestic uses which are not limited to in-house use only but not with Permit No. 63-12266. The conditions of approval on the permit, however, not the transmittal letter, govern the use of water under terms of the permit.

A search of the department's data base does not show that United Water Idaho has filed a water right application to provide

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DEC 23 1996

water to the Mountain View Acres Subdivision.

On August 16, 1996, I discussed with Ms. Hartzfeld the same issues raised in her August 21, 1996 letter to Governor Batt. During our conversation, I suggested the following to her:

1. The water quality/contamination concerns she raised would have to be pursued with DEQ.
2. She could seek removal of the in-house use limitation on Permit No. 63-12266 by sending a letter or petition to the Director of IDWR.
3. She could have a private single family domestic well constructed from which she could irrigate 1/2 acre in addition to using the water for in-house domestic use. To accomplish this, she would need to obtain a drilling permit from IDWR but not a water right permit.
4. She likely could obtain canal company shares of water to irrigate her property, since the property was irrigated with canal company water which was later sold.

If I can provide additional information, please feel free to call me at Phone no. 327-7955 which rings at my desk.

c: Permit No. 63-12266
Shelley Keen
Norman C. Young

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DEC 23 1996

**OFFICE OF THE GOVERNOR**

P.O. BOX 83720
BOISE 83720-0034

PHILIP E. BATT
GOVERNOR

(208) 334-2100

FAX TRANSMITTAL

FAX1 (208) 334-2175
FAX2 (208) 334-3454

DATE: August 21, 1996

TO: Karl Dreher ATTENTION: Rita

FAX #: 327-7866

FROM: Jason Kreizenbeck

NUMBER OF PAGES: 11 (including this cover sheet)

COMMENTS: Please let Glen Saxton know that I will get in touch with him later this morning regarding this issue. Thanks.

Confidential: The contents of this fax transmission are confidential. If this transmission has been directed to the wrong office, please destroy the contents of this fax immediately and notify the sender at (208) 334-2100.

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DEC 23 1996

August 21, 1996

Governor Phil Batt
Statehouse
Boise, Idaho 83720

TED YOUNG
465-4356
4619 ANGELA AVE.
NAMPA, ID 83686

Dear Governor Batt:

The issue I wish to bring to your attention this day is long-standing for the property owners of the M & M Mountainview Subdivision (NW Cor, SW1/4 NW1/4 Sec. 8, T2N, R1W, B.M. Canyon County).

To be specific yet not belabor I will try to give a short background since this subdivision came into existence February 27, 1974.

The two wells required for this subdivision were drilled (#1) March 18, 1971 for a Melvin G. Thompson; 55' deep with a 6" casing considered his private family well. Well #2 was drilled May 20, 1971 for Edward L. Mager at 105' deep with 12 1/4" casing intended to establish domestic and irrigation water for twenty-nine 1/2 acre lots; plat thereof filed June 26, 1972 book 11 of plats at page 13 and the By-laws of the Water Corporation, Article 3, #2 dated October 1982 in the office of county recorder, Canyon County, Idaho. These two wells never held any ground water right, for whatever reason. This did not come to the attention of property owners until this past year when the DEQ became involved due to contaminated water.

We moved here September 12, 1990. My husband and I are considered elderly.

(my mother also lives here). I point this out due to the high nitrates we have found in the water. If you do not know the harm this does have on infants and elderly, this means the nitrate level of (10) is the maximum for safety. The nitrates are 16 in our water. Nitrates bond to the blood oxygen causing a life threatening situation. Boiling compounds the problem.

Living here for a year, I became interested in the M & M Mountainview Water Corporation made up of property owners. I had heard of a sixteen year old boy dying of cancer prior to us moving here and I knew of children being sickly. I was suffering from stomach cramps every morning. The more I inquired of the records, the more I became ostracized by the neighbors as a trouble-maker. Little did I know how the water was being tested and quite frequently not tested at all, not to mention failure to comply for annual tests to the SWDH department.

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DEC 23 1996

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By November 1991 our daughter and son-in-law, Mary and Ronald Polk moved to our second lot.

The Southwest District Health Department represented by Dennis Morrison and/or Don Woolery sent me a copy of a water report as I had requested, dated November 5, 1992 showing a moratorium had been placed on our subdivision for non-compliance. No properties could be sold until the moratorium was lifted. No sample scheme had been filed after three notices; 12/30/92, 1/4/93 and 5/3/93 for VOC, Nitrates, Radiochemicals, Sodium etc.

February 11, 1993 fecal bacteria was found in the well water. We were given no BOIL ONLY ORDER. Our families change our source of drinking water immediately. February 22 three samples had been rejected due to 30 hour delay time. February 24, rejected again. March 5 first sample questionable. Second test passed after heavy chlorination. March 11, fines were reduced for compliance. April 9 tested okay. May 7 tested fecal bacteria again. Now we received a BOIL-ONLY ORDER for 5 days. May 12 tested okay. June test was missed. July 12 okay. August test missed. September test okay.

Heavy chlorination increased well expenses but short contact time before delivery still left water high-risk.

About this time, rumor travels around the neighborhood that Edith Lancaster, a long-time resident has cancer.

New fees were now being assessed as the EPA became involved.

The files had now been transferred to the DEQ as more than 25 families lived here.

I asked the water board if an effort was being made to seek out the contamination? In our annual meeting the resolve was, learn to live with high chlorine.

Needless to say, the well problem had taken on a personality and defamation of my character wagged on more than a few tongues.

March 1995 testing showed nitrate levels of 16.3 according to Steve Rae in letter dated May 31, 1995 written to R. W. Smith.

In April 1995, I asked Bill Shelton of the Department of Agriculture to check the dairy less than a mile from us (as the crow flies).

MICROFILMED
DEC 23 1996

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His suspicions concerning our well and field drains became a much higher priority than the dairy, as the dairy was in compliance and the contact time for chlorine in our well was questionable at best. He brought to my attention the 1440 manufactured perforations in the well casing of #1 well meant taking in ground water and contaminating the aquifer. Not being a well expert he suggested a well driller be consulted.

I have two reports from well experts saying the well should be condemned.

May 1995, our son-in-law has a gallbladder consumed with cancer. No forwarning of any kind.

August 3, 1995 a letter from Steve Rae was sent to R. Smith informing him of bacteriological contamination.

Mark Silfka, manager of ground water protection at SWRA states in his letter August 19, 1995 to Mr. Soshea that "It does not appear unreasonable that if you are having water quality problems, that given the shallowness of the soils and close proximity of the Lava to the surface, that septic drainfield fluid can enter the lava crevices and be conducted with minimum retention time and filtering to a depth below the seal depth of 60' and is entering the well bore at the filter pack. The other possibility is that the seal (pudding clay) around the liner has failed and the fluid is entering the well bore above the 60' depth".

Steve Rae informed R. Smith of the need for a BOIL-ONLY ORDER September 29, 1995. Contamination sources were the domestic septic system leachfields placed in porous aquifer material and a small corral located within 20 feet of the wellhead. We, as well users were to be notified within three days of receipt of his letter. The only way the few of us knew about the boil-order was keeping in touch with Mr. Rae. When Mr. Rae was told we had not received the information he said he would keep in touch with Mr. Smith (three different mailings) before we were alerted of the danger. We are then to be updated every three months. This has not happened.

Two new property owners have now moved to the property owned by Edith Lancaster. Again rumor is her cancer is in remission. Ted and Kathy Young have paid out hundreds of dollars due to parasites and other harmful bugs in their water. Even animals get kidney diseases. The Health & Welfare became involved in the last sickness of a grandchild. The doctor made a report of it.

I have searched for help concerning the activities of this water board. There are no agencies to govern our municipality.

MICROFILMED
- DEC 23 1996

-4-

I gave the board an application for a water right plus how to apply to the SWRA for funds to correct this nightmare. Mr. Soshea, the president applied for a water permit (domestic in-house use only). Several of us property owners with great investment in our lawns and shrubs and an irrigation right from the well are now being fined, sued in court for these fines, \$75, \$50, \$25. The board managed to amend the by-laws prior to their corruptness.

IDWR

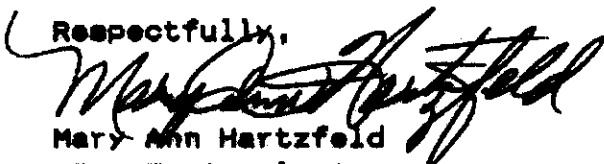
Mr. Keen of the SWRA wrote a cover letter giving a conditional use of irrigation to a 1/2 acre with a home on it. After we are fined and now being sued, Mr. Keen has now rescinded his conditional use. Our subdivision is twenty-five years in existence. Stopping new development is one thing but cutting off the life blood of an existing one is someone's gross misjudgement.

Where are the laws to protect us property owners from such terrible tyranny and unscrupulous developers. Violations and misuse of funds are the norm here rather than the exception. We are talking about property rights and water in America. In June 1983, with a sitting board, well #2 was confiscated in a quick-claim real estate deal; illegal and without any compensation.

April 1996 our son-in-law lost the fight for his life; leaving a widow and two teen-age sons. My husband's health has been critical several times due to the constant harrassment and ill-will by our neighbors. The sheriff was called to keep the peace as the board would use any means to discontinue our use of the water. We are being denied any peace or tranquility. The four immediate families near us are at the root cause.

Without potable water, our homes have no resale value.

Respectfully,


Mary Ann Hartzfeld
6524 E. Angela Avenue
Nampa, Idaho 83686
208-466-3192

MICROFILMED
DEC 23 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNORKARL J. DREHER
DIRECTOR

November 14, 1995

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
Nampa ID 83686

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-12266

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:"
tating on the permit.

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

Please note this water right limits irrigation to ~~under~~
~~the~~ ~~lot~~ ~~area~~ ~~only~~ ~~and~~ ~~no~~ ~~other~~ ~~uses~~ ~~are~~ ~~permitted~~ ~~under~~ ~~this~~
~~permit~~ ~~and~~ ~~no~~ ~~other~~ ~~uses~~ ~~are~~ ~~permitted~~ ~~under~~ ~~this~~
irrigation of lots with no homes.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

~ Celebrating Our Centennial Year of Service to Idaho 1895-1995 ~

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DEC 23 1996

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-12266

Proposed Priority: August 23, 1995

Maximum Diversion Rate:

0.25 CFS

This is to certify, that M & M MOUNTAINVIEW SUBDIVISION INC

4319 DIANE ST

KAMPA ID 83686

has applied for a permit to appropriate water from: GROUNDWATER

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

BENEFICIAL USE

PERIOD OF USE

RATE OF DIVERSION

DOMESTIC

01/01 to 12/31

0.25 CFS

LOCATION OF POINT(S) OF DIVERSION:

S3NW, Sec. 8, Township 02N, Range 01W
CANYON County

PLACE OF USE: DOMESTIC

FOR BEN. SEC

02N 01W 8

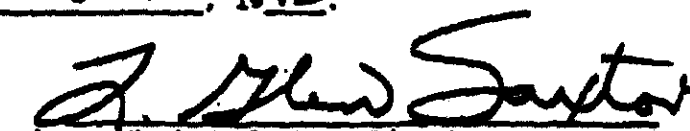
S3NW

CONDITIONS OF APPROVAL AND REMARKS

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before November 1, 1996.
2. Subject to all prior water rights.
3. Use of water for domestic purposes under this right shall be limited to in-house use and watering of household stock.
4. The issuance of this right does not grant any right-of-way or easement across the land of another.
5. Point of diversion is located within Well Lot 2, Blk. 1; M & M Mountain View Acres Subdivision.
6. Place of use is located within Lots 1-8, Blk. 1; Lots 1-8, Blk. 2; Lots 1-10, Blk. 3; and Lots 1 & 3, Blk. 4, M & M Mountain View Acres Subdivision.
7. Domestic use is for 29 homes.
8. Domestic use does not include lawn, garden, landscape, or other types of irrigation.
9. The domestic use authorized under this right shall not exceed 13,000 gallons per day per dwelling in accordance with Section 42-111, Idaho Code.

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 November, 1995.


for Karl J. Breher, Director

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DEC 23 1995



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

MEMORANDUM

To: Jason Kreizenbeck
Office of Governor Philip E. Batt

Date: September 16, 1996

From: Karl J. Dreher

cc: Joy Palmer - DEQ
Mtn. View Subdivision
Ted Young
File 63-12266

Subject: Status of Water Right Held by M&M Mountainview Subdivision
and Loan Application for Replacement Well

I have reviewed the files maintained by the Department of Water Resources pertaining to the water right held by the M&M Mountainview Subdivision, Inc. (the "Subdivision") to provide domestic water for 29 home sites. The existing well for the Subdivision was drilled in November of 1972. Although a well drilling permit was obtained from the department, an application to appropriate water (water right permit) was not made. Consequently, the diversion of ground water for the Subdivision was illegal under Idaho Code §42-229 which required mandatory application for a water right permit for all uses after 1963, except for single domestic uses exempted under Idaho Code §42-229.

The department became aware of the Subdivision's illegal use of water in 1990 when the Subdivision filed a water right claim in the Snake River Basin Adjudication on the basis of beneficial use. The Subdivision withdrew its claim after understanding that a legal beneficial use claim could not be made for an illegal water use. The Subdivision subsequently filed an application for a water right permit for multiple domestic uses on August 23, 1995. The Division of Environmental Quality ("DEQ") was notified of the application in writing on August 31, 1995. DEQ provided a written summary of the process that the Subdivision would be required to follow under DEQ's rules on September 11, 1995, but did not indicate that there were any concerns regarding whether the quality of the water was suitable for human consumption. The application was advertised, and no protests were received. The department issued a water right permit (no. 63-12266) to the Subdivision on November 14, 1995, with a priority date of August 23, 1995.

It is important to note that the Subdivision's water right at this point in time is evidenced by the water right permit; not a water right license or decree. The water right permit is temporary and will expire on November 1, 1996, unless the Subdivision requests and receives a time extension for submitting proof of construction and application of water to beneficial use. If the Subdivision submits sufficient

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DEC 23 1996

proof of construction and application of water to beneficial use on or before November 1, 1996, the department will conduct a field examination to determine the extent of beneficial use of water and will issue a water right license which will not expire unless the water right is forfeited or abandoned. I assume the Subdivision understands the need to provide the required proof or to request a time extension for submitting the required proof before the water right permit expires.

While recently discussing the history of the Subdivision's well with Mr. Ted Young, one of the property owners in the Subdivision, he questioned why the department would issue a water right permit for a well that was known to produce water that may not be of suitable quality for non-irrigation domestic uses. From reviewing the department's files, I can find no documentation that the department was informed that the existing well may not produce water of suitable quality for the intended purposes prior to issuing the water right permit. There were no protests, comments, or other notification from property owners in the Subdivision, or any other individual or entity, and during the department's correspondence with DEQ water quality concerns were not identified. Even if the department had been informed of the water quality concerns before issuing the water right permit, the permit would likely have been issued anyway given the need for a local water supply. The alternative available to the department would have been to have the well shut off as an illegal diversion of water in which case no water would have been available to the Subdivision for any purpose.

The water right permit for the Subdivision is for domestic use and excludes "lawn, garden, landscape, or other types of irrigation". The reason this condition is included is because of the availability of surface water supplies to the Subdivision from the Nampa & Meridian Irrigation District. When application is made to the department to appropriate ground water in the Treasure Valley for domestic or municipal purposes and surface water supplies are available to the domestic or municipal water user, the department requires that surface water supplies be maintained and used for lawn, garden, landscape or other types of outside irrigation as a matter of policy. The reason for this requirement is to maintain ground water withdrawals at the minimum necessary to preserve ground water levels. Allowing ground water withdrawals which are not necessary but only convenient for outside irrigation use would not only increase the volume of water withdrawn from the aquifer, and potentially result in additional declines in ground water levels, it would eliminate surface water recharge of the aquifer system which occurs as a result of using surface water supplies for irrigation which could potentially cause further declines in ground water levels.

In the specific case of the M & M Subdivision, the department has been informed that some of the property owners in the Subdivision held shares for water from the Nampa & Meridian Irrigation District but sold the shares after the existing well was constructed in 1972. Other than curtailing the Subdivision's use of the existing well, the only mechanisms available to the department to protect senior water rights from injury that may result from the Subdivision's ground water withdrawals were to require mitigation for senior water rights directly and/or require the Subdivision to use surface water supplies for outside irrigation by restricting the water right permit to in-house domestic uses only.

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DEC 23 1996

At the present time, the department is requiring only the latter of the two provisions. To the extent that water from the Nampa & Meridian Irrigation District can reasonably be expected to still be available to the Subdivision for outside irrigation, this requirement is considered to be reasonable. However, given the lack of communication that has occurred between the officers of the Subdivision and the property owners, the department will allow the Subdivision until May 1, 1998, to come into compliance with the condition of the Subdivision's water right which prohibits outside irrigation. This should allow ample time for the property owners to acquire the necessary water for outside irrigation and re-establish the necessary water distribution system. In the event one or more of the property owners in the Subdivision simply can not comply with the condition restricting the use of the Subdivision's water right to in-house domestic uses only, the department will work with those property owners or the Subdivision to identify other alternatives for legally obtaining a water supply for outside irrigation.

Regarding the Subdivision's application for a loan from the Idaho Water Resource Board to construct a replacement well to alleviate water quality concerns, the Subdivision's loan is scheduled for approval at the upcoming board meeting in Idaho Falls this Friday, September 20. The Subdivision's application meets the Water Resource Board's criteria and there is every reason to believe that the loan will be approved. There are no requirements for changing or amending the Subdivision's water right following the construction of the new well provided the new well is constructed within the same quarter-quarter section as the existing well.

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DEC 23 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 R. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 16, 1996

MARY ANN HARTZFELD
6524 E ANGELA AVE
NAMPA ID 83686

RE: Water Right No. 63-12266

Dear Mary Ann:

Thank you for calling this morning to discuss the conditions of approval placed on Water Right Permit No. 63-12266, which was issued to M & M Mountainview Subdivision, Inc., in November of 1995. It is my understanding that you own one or two lots in M & M Mountainview Subdivision.

Your concern was related specifically to conditions of approval No. 3 and No. 8, which limit the use of water under Permit 63-12266 to indoor use only. You pointed out that those conditions appear to be directly contradicted by a statement in the cover letter sent to M & M Mountainview Subdivision, Inc., with the approved permit. The cover letter, which I signed, states, "Please note that this water right limits irrigation occurring under the domestic use to one-half acre within each platted subdivision lot upon which a house has been constructed."

I apologize for any confusion my cover letter may have caused. While my letter indicates otherwise, the use of water under Permit 63-12266 is limited by the conditions of approval placed on the permit itself. Therefore, water diverted and used under Permit 63-12266 should not be used for the irrigation of lawns, gardens, etc., on the lots in M & M Mountainview Subdivision.

You also asked me what you could do to get approval from the Department of Water Resources (IDWR) for the use of groundwater to irrigate your lawn and garden. I think that you could pursue one or more of the following four options.

- Under the provisions of Sections 42-111 and 42-227, Idaho Code, you may have a well drilled on your lot and use the water for your own domestic needs, including irrigation of up to half an acre, without filing an application for permit to appropriate the public waters of Idaho. (A permit is required for a system providing domestic water to a multiple ownership subdivision.)
- M & M Mountainview Subdivision, Inc., may ask IDWR to remove conditions of approval No. 3 and No. 8 from Permit 63-12266. Because of questions relating to groundwater availability in the Treasure Valley, the request may not be granted. However, any request will be reviewed based upon its individual merits.

M:\NAME\TRSHARTZFEL.DOC

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DEC 23 1996

- M & M Mountainview Subdivision, Inc., may apply for another permit to cover the diversion and use of groundwater for "outdoor" domestic use, including the irrigation of up to half an acre per platted subdivision lot upon which a home has been constructed. Please note, however, that if surface water is available to the subdivision, IDWR will limit the use of groundwater for irrigation to only those times that surface water cannot be delivered to the property.
- You may try to obtain water from Nampa & Meridian Irrigation District. You indicated to me that Nampa & Meridian delivered water to your property in the past. Perhaps delivery of surface water to your property could be resumed.

You also wanted to know about the ongoing Treasure Valley Hydrologic Project. As you are aware, the Treasure Valley has experienced tremendous population growth in recent years. The increase in population has resulted in changing water use patterns and increased pressure on the ground water resources of the valley. Some experts think that the valley's groundwater resources may be at risk of over-development. In order to develop a better understanding of the total resource availability in the valley, the Department of Water Resources has initiated a study, called the Treasure Valley Hydrologic Project, in cooperation with other private, state, local, and federal entities.

Meanwhile, if viewed cumulatively, water right applications already filed with IDWR propose a significant amount of new development in the Treasure Valley. Therefore, the director of the Department of Water Resources has suspended the processing of most new or pending applications for consumptive uses of surface water and ground water in the Treasure Valley, which we call Administrative Basin 63. The processing of most applications for new consumptive water development in the Treasure Valley will probably remain suspended until preliminary results of the study have been compiled one year from now. At that time, the results of the research will provide a basis for assessing whether permits for new water development in the Treasure Valley should be issued.

While the suspension of processing pertains to most applications for permit, there are some exceptions, one of which may be important to you. The director has allowed applications for domestic uses to be processed as long as the irrigation occurring on each dwelling lot does not exceed 1/2-acre and the total use on each lot does not exceed 13,000 gallons per day. As I said above, however, if surface water is available for irrigation, IDWR will limit the use of groundwater for irrigation to only those times that surface water cannot be delivered to the property.

Again, I apologize for any confusion I may have caused. I hope this information is helpful to you. If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

M:\NAME\TRSHARTZFEL.DOC

MICROFILMED
DEC 23 1996

HAMILTON & MICHAELSON
ATTORNEYS AT LAW
1303 - 12TH AVENUE ROAD
P. O. BOX 65
NAMPA, IDAHO 83653-0065

CARL D. HAMILTON
TERRY MICHAELSON

TELEPHONE
(208) 467-4479

TIFFANY HALEM
ALAN D. MALONE
MARK HULTY

FACSIMILE
(208) 467-3058

July 29, 1996

CERTIFIED MAIL RETURN RECEIPT REQUESTED

Mr. Ernest Hartzfeld and Ms. Maryann Hartzfeld
6524 Angela Avenue
Nampa, ID 83686

Dear Mr. and Mrs. Hartzfeld:

As you may recall from correspondence sent to you last year, I represent M and M Mountain View Acres Subdivision Water Company, Inc. I was recently contacted by the board and was distressed to learn that you continue to cause problems with respect to your water usage. While most of the board wants to take immediate legal action against you, I have persuaded the board to allow me to write to you in one final effort to avoid having to take you to court.

It is apparent that you are under a misunderstanding regarding your rights to water usage. I am hoping that you will listen to reason and comply with the reasonable requests of the board. If you will not, then you will leave us with no alternative but to take legal action against you.

Rights to the water which you are using belong to the state of Idaho. In order to use the water, an application must be filed with the Department of Water Resources. The state has granted to my client a permit to appropriate water. A copy thereof is enclosed for your review.

You will note that the state has imposed specific conditions upon the association in granting water appropriation rights. Specifically, the water may be used for domestic purpose only and may not be used for irrigation of lawns, gardens, landscape, etc. Despite repeated notices to you, you continue to flagrantly violate the conditions imposed by the state of Idaho upon the association. In doing so, you subject the association to the possibility of a fine of \$100 per day and ultimately, you jeopardize the water right itself, which if revoked would leave all residents in the subdivision without a supply of water for domestic use.

Restrictive covenants for your subdivision were recorded on June 26, 1972 by instrument #686838. A recording of those restrictive covenants gives notice to all persons subsequently purchasing property within the subdivision of the terms and conditions thereof. The covenants

DEC 23 1996

Mr. Ernest Hartzfeld and Ms. Maryann Hartzfeld
July 29, 1996
Page 2

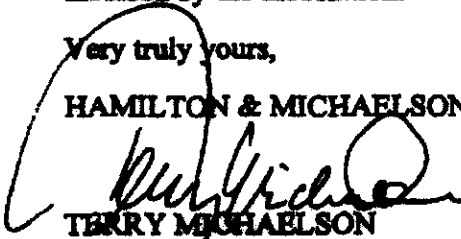
entitle each property owner to an ownership interest in the community well. Maintenance and operating costs for the water system are to be undertaken for the common interests of the property owners by "whomever they may select to represent them." See Article 21, enclosed herewith.

In 1982, the property owners elected to incorporate and form the association which has since maintained and operated the water system. As a property owner, you are entitled by law to membership in the association. However, ownership of the well, pump, lines, etc. is vested in the association, rather than in the individual members. As a member, you do not have veto power over action which is taken in compliance with the corporate articles and by-laws, and consistent with the restrictive covenants recorded long prior to your acquisition of your property within the subdivision.

You have ignored the previous letters from the board dated July 1 and July 8, 1996 regarding violations in water usage. Demand is hereby made upon you for immediate payment of \$75 as set forth in those letters. Moreover, demand is hereby made upon you to immediately cease and desist any further use of water inconsistent with the uses authorized by the association. Failure to comply will result in the filing of a lawsuit against you without further notice upon expiration of ten (10) days from the date of this letter. If you force us into taking such action, an application will be made for all court costs and attorney's fees thereby incurred, as well as for an order approving immediate termination of any and all water service to your property. I urge you to be reasonable and to comply with this demand. Your exposure to liability far exceeds the amounts assessed by the association.

Very truly yours,

HAMILTON & MICHAELSON



TERRY MICHAELSON

TM/b

Enclosures

cc: M and M Mountain View Acres Subdivision Water Company, Inc.
Ron and Mary Polk

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DEC 23 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

August 16, 1996

MARY ANN HARTZFELD
6524 E ANGELA AVE
Nampa ID 83686

RE: Water Right No. 63-12266

Dear Mary Ann:

Thank you for calling this morning to discuss the conditions of approval placed on Water Right Permit No. 63-12266, which was issued to M & M Mountainview Subdivision, Inc., in November of 1995. It is my understanding that you own one or two lots in M & M Mountainview Subdivision.

Your concern was related specifically to conditions of approval No. 3 and No. 8, which limit the use of water under Permit 63-12266 to indoor use only. You pointed out that those conditions appear to be directly contradicted by a statement in the cover letter sent to M & M Mountainview Subdivision, Inc., with the approved permit. The cover letter, which I signed, states, "Please note that this water right limits irrigation occurring under the domestic use to one-half acre within each platted subdivision lot upon which a home has been constructed."

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You also asked me what you could do to get approval from the Department of Water Resources (IDWR) for the use of groundwater to irrigate your lawn and garden. I think that you could pursue one or more of the following four options.

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You also wanted to know about the ongoing Treasure Valley Hydrologic Project. As you are aware, the Treasure Valley has experienced tremendous population growth in recent years. The increase in population has resulted in changing water use patterns and increased pressure on the ground water resources of the valley. Some experts think that the valley's groundwater resources may be at risk of over-development. In order to develop a better understanding of the total resource availability in the valley, the Department of Water Resources has initiated a study, called the Treasure Valley Hydrologic Project, in cooperation with other private, state, local, and federal entities.

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Again, I apologize for any confusion I may have caused. I hope this information is helpful to you. If you have any questions, please contact me at 208-327-7946.

Respectfully,



Shelley Walter Keen
Water Rights Supervisor

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DEC 23 1996

MEMORANDUM

To: File 63-12266
From: L. Glen Saxton 
RE: TELEPHONE CALL
Date: August 16, 1996

On this date, Shelley Keen referred a phone call to me from Mary Ann Hartzfeld concerning Permit No. 63-12266. Ms. Hartzfeld was concerned with the following:

1. Permit 63-12266 limited domestic use to inhouse use. Her use started 5 or 6 years prior to the filing of the application for permit in 1995, and she had used water for irrigation outside her home.
2. The quality of the water in the community well is contaminated and no one seems to be solving the problem.

I suggested alternatives to Ms. Hartzfeld which she may wish to pursue as follows:

1. Ask the department in writing if the department is willing to remove the in-house use limitation on the permit. I advised her that it was unlikely the department would change the condition due to the questions of groundwater availability in the Boise River Drainage, but she could ask.
2. Seek to use Nampa-Meridian water for outside irrigation of her property. At one time she had shares of the water and likely could obtain some again.
3. The water contamination problem would have to be pursued with the Division of Environmental Quality.

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DEC 23 1996

APPLICATION FOR PERMIT
STATE OFFICE REVIEW
by Cindy Zimmerman

No.: 63-12266 Name: M&M Mountainview Sub Date: 11/8/95 Ad OK? ✓
Correct Fee? ✓ Receipt #: W019795 Priority: 8/23/95 ✓ Gvmt Lts: ✓

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

SYSTEM COMPLIANCE:

Yes/proof filed
1 year/no proof
+1 year

- NA
- P16
- 26A-P17

GROUNDWATER: <✓ FLO-CH>

+ 0.2 cfs
=/- 0.2 cfs
=/+ 5 a.

- 01M
- No MD
- 01M, 065(if GW use SW 1st)

Drilling Permit:

Existing well
Included w/permit
No WD permit?
irr. in WD

- NA (pre 7/1/87)
- Permit No. _____, P99
- 046-46B-P23 (post 7/1/87)
- P05 (new well)

SURFACE WATER <✓ FLO-CH> (Surface water that doesn't sink is regulated):

Water District (dem)
+ 0.2 cfs
=/- 0.2 cfs
=/+ 5 a. irr.
In-WD + 0.2 cfs
- 0.2 cfs
=/+ 5 a. irr.

- 005 (req) WD # _____ <SEE MAP & LISTING>
- 028(may report)-01J(meas dev)-P08
- 028(may report)-01H(lock dev)-P01 or No MD
- 028(may report)
- 01M or No MD (in-stream)
- No MD
- 01M

RIVER BASINS (*Surface water):

SNAKE R (01)
(02/03-irr)
Boise R (63)
Payette R (65)

- 11A-P04, NA
- 007-P07 (w/remark WB9-↑ Weiser), NA
- 05A (if WD), 11E (not 42-111 use), NA
- 064(regulated uses), 047-P04(Payette Lake), NA

Domestic (surface)
Fish Propagation
Irr <POU> =/- 5 a
+ 5 a

- 021(Boise R ↑ L Peak); 27A(Payette R); NA
- 07A-042(rq)-010/06A/09E(WQ)-P10; 044(N 1000 Spr)
- 057 (0.03 cfs/A)
- 03A (0.02 cfs/A)

Mining
Power

- 054 (req) & 06A/010/09E-P10
- 08A-17K-025-027-01M-01F(P19)-09E(P10);
+25 cfs-P18; 17G(FERC) or 17M(FERE); 18B-P09

Storage(✓ 3 compo.)

- 18A(multi MD in WD), 18B-P09 (+10' dam), NA

REGULATION:

Boise Front LoGeo
In-stream dev.
Irr Dist/Canal Co.

- 058 (-85° GW temp only)
- P52 (stream channel alteration)
- 023 (Twin Falls area)

Twin Falls Flag
Trust

- 7 <SEE CODE CHART>
- 051-052-053-P74 (Consumptive Uses), NA

Non-Trust <1>

- 048-049 (Consumptive Uses), NA

OWNERSHIP: Non-land owner

- 004 (PD/PU) homeowners

OTHER CONDITIONS:

REMARKS:

- 021 ② PD & NEW LT #2, 81.
① PUC LT-8, 81; LT-8, 82; LT-10, 83; LT-12, 84; M&M Mtnv A.

OFFICIAL USE DUE:

- 11-1-1996

COMMENTS:

- Cap off.

Form No. 2024
RECEIVED
NOV 7 1995

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPROPRIATION APPLICATION ANALYSIS SHEET

Department of Water Resources

INITIAL REVIEW BY: JK

DATE: 8/29/95

APPLICATION: 63-12266

REQUIRED INFORMATION

see Comments
Name: (If applicant is a corporation or partnership, names and addresses for the director, officers, and other partners must be included.)

Address:

Source: (See USGS Quad for names of water sources)

Point of Diversion: (10 acres for spring, lot & block descriptions for Subdivisions, local name)

County:

Quantity: (flow and/or volume)

Period of use:

Nature of proposed use: (Include description of use)

Description of diverting works:

Time required for beneficial use of water:

Place of use or acres irrigated:

Map: (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:

Gov't. Lots:

N P/D

P/U

RECEIVED
OCT 20 1995

Department of Water Resources

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: - NO processing delay for 0/29 subd. use

☐ ☐ Copy to SCA staff: (perennial stream, non-pump diversion)

☐ ☐ Copy to Dam Safety staff: (for any storage)

☐ ☐ 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 N

63-12266

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

9-25-95

Protest dates, resolution of protest recorded on application:

Recommendations attached: Approve, Deny

Measuring device required:

Measuring port required:

Water delivered by water master? District #

Special conditions of approval or cover letter:

021

See below for additional information

Recommended Date or Priority 8/23/1995

Recommended by: Dnr

Date 11/7/95

STATE OFFICE REVIEW

See below for additional information. By

Date

ADDITIONAL INFORMATION

Replaced withdrawn TRBA claim per file documentation.

Overlap - Plus irrig dist. water available for AG.

NOTICE OF APPLICATION FOR WATER RIGHT
The Following application(s) have been filed to appropriate the public waters of the State of Idaho:

63-11674

SCROGGINS, JEROME
17311 PRIDE LANE
CALDWELL, ID 83605
Source: GROUNDWATER
Diversion Pt: SWNW Sec 2 T 03N R 04W in CANYON County.
SENW Sec 2 T 03N R 04W in CANYON County.
Use: IRRIGATION (1.600 CFS)
Total Diversion: (1.600 CFS)
Date Filed: 2/25/1992
In: CANYON County
T03N R04W S02 SWNW SENW
80.0 ACRES TOTAL
Water bearing zone to be appropriated is 40 to 300 feet.

63-11716

NAITO FARMS INC
9998 HWY 45
NAMPA, ID 83686
Source: GROUNDWATER
Diversion Pt: NENE Sec 13 T 03N R 03W in CANYON County.
Use: IRRIGATION (0.720 CFS)
Total Diversion: (0.720 CFS)
Date Filed: 3/17/1992
In: CANYON County
T03N R03W S13 NENE
36.0 ACRES TOTAL
Water bearing zone to be appropriated is 200 to 250 feet.

63-11719

NAITO FARMS INC
9998 HWY 45
NAMPA, ID 83686
Source: GROUNDWATER
Diversion Pt: SWNE Sec 7 T 03N R 04W in CANYON County.
Use: IRRIGATION (4.540 CFS)
Total Diversion: (4.540 CFS)
Date Filed: 3/17/1992
In: CANYON County
T03N R04W S07 SWNE NWSE SWSE SESE
S08 NWSW SWSW
227.0 ACRES TOTAL
Water bearing zone to be appropriated is 350 to 400 feet.

63-11761

ZAMORA JR, RUBEN
PO BOX 57
HUSTON, ID 83630
Source: GROUNDWATER
Diversion Pt: LOT 4 (SWSW) Sec 18 T 03N R 03W in CANYON County.
SESW Sec 18 T 03N R 03W in CANYON County.
Use: IRRIGATION (1.000 CFS)
Total Diversion: (1.000 CFS)
Date Filed: 4/7/1992
In: CANYON County
T03N R03W S18 Lot 3(NWSW)
S36 Lot 4(SWSW) SESW
51.1 ACRES TOTAL
Water bearing zone to be appropriated is 80 to 300 feet.

63-11773

TRACY, MARK S
TRACY, SUSAN
10506 FARNER RD
NAMPA, ID 83686
Source: GROUNDWATER
Diversion Pt: SENW Sec 10 T 02N R 03W in CANYON County.
Use: IRRIGATION (1.140 CFS)
DOMESTIC (0.040 CFS)
Total Diversion: (1.180 CFS)
Date Filed: 4/16/1992
In: CANYON County
T02N R03W S10 SWNW SENW NESW NWSW
97.0 ACRES TOTAL
Water bearing zone to be appropriated is 200 to 300 feet.

63-11776

BIRT, AL
4609 SOUTHSIDE BLVD
NAMPA, ID 83686
Source: GROUNDWATER
Diversion Pt: NWSE Sec 11 T 02N R 02W in CANYON County.
Use: IRRIGATION (1.260 CFS)
Total Diversion: (1.260 CFS)
Date Filed: 4/8/1992
In: CANYON County
T02N R02W S11 NESW SESW NWSE
63.0 ACRES TOTAL
Water bearing zone to be appropriated is 50 to 160 feet.

63-11833

GOODING, FRED
23669 BATT CORNER RD
PARMA, ID 83660
Source: GROUNDWATER
Diversion Pt: LOT 2 (NENWNE) Sec 2 T 04N R 05W in CANYON County.
Use: IRRIGATION (2.160 CFS)
Total Diversion: (2.160 CFS)
Date Filed: 5/15/1992
In: CANYON County
T04N R05W S02 Lot 1(NENE) Lot 2(NWNE) SWNE
108.0 ACRES TOTAL
Water bearing zone to be appropriated is 125 to 510 feet.

63-11885

ROBERTSON, STEPHEN C
18835 SYMMMS RD
CALDWELL, ID 83605
Source: GROUNDWATER
Diversion Pt: NESW Sec 10 T 04N R 05W in CANYON County.
SESW NESE NWSE
SWSE
161.0 ACRES TOTAL
Water bearing zone to be appropriated is 80 to 100 feet.

63-12257

NOHEJL, JOSEPH M
2107 E LINDEN #109
CALDWELL, ID 83605
Source: GROUNDWATER
Diversion Pt: NWNW Sec 9 T 05N R 03W in CANYON County.
Use: DOMESTIC (0.040 CFS)
Total Diversion: (0.040 CFS)
Date Filed: 8/7/1995
In: CANYON COUNTY
T05N R03W S09 NWNW

63-12266

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA, ID 83686
Source: GROUNDWATER
Diversion Pt: SWNW Sec 8 T 02N R 01 W in CANYON County.
Use: DOMESTIC (0.250 CFS)
Total Diversion: (0.250 CFS)
Date Filed: 8/23/1995
In: CANYON County
T02N R01W S08 SWNW

Permits will be subject to all prior water rights. Protests may be submitted based on the criteria of Sec. 42-203 A, 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 SEPTEMBER 25, 1995. The protestant must also send a copy of the protest to the applicant
KARL J. DREHER, Director
September 8, 13, 1995

2489

NOT RECORDED

DEC 12 1995



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

November 14, 1995

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA ID 83686

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-12266

Dear Permit Holder:

Enclosed is a copy of your approved application for permit. Please be sure to thoroughly review the "CONDITIONS/REMARKS:" listing on the permit.

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

Please note this water right limits irrigation occurring under the domestic use to one-half acre within each platted subdivision lot upon which a home has been constructed. This permit does not provide for irrigation of common areas or for irrigation of lots with no homes.

Sincerely,

Shelley W. Keen
Water Rights Supervisor

SK:rl

Enclosures

Mistake

SWKeen
8/16/96

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DEC 12 1995



IDAHO DEPARTMENT
OF HEALTH AND WELFARE
DIVISION OF
ENVIRONMENTAL QUALITY

RECEIVED

SEP 14 1995

WATER RESOURCES
WESTERN REGION

File

1445 North Orchard, Boise, ID 83706-2239, (208) 334-0550

Philip E. Batt, Governor

September 11, 1995

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

RE: M & M Mountainview Subdivision
IDWR - Application for Permit to Appropriate Public Waters
Permit No. 63-12266

Dear Mr. Tuthill:

The applicant proposes to use an existing well for a supply to 29 homes. The project must be designed and constructed under the supervision of an Idaho registered professional engineer. The process to follow is:

1. The applicant's consultant must submit the following information to this office for review:
 - a. Driller's log and well construction records
 - b. Preliminary site evaluation (as required for new wells) in the form of our *Well Siting Checklist*, showing the location of potential sources of pollution. We will transmit the *Well Siting Checklist* to the applicant or consultant, on request.
2. DEQ will consult with Mark Slifka to determine if the well construction is suitable for a public water supply system, considering site conditions. If well construction is acceptable, we will conduct a site inspection and issue written site approval, if warranted.
3. Detailed plans and specifications for the well house, piping and valves, and distribution system must be submitted to this office for review. The plans and specifications should be accompanied by DEQ's *General Checklist* and *Water System Checklist*, available on request.
4. A public water system must have at least two sources if there are more than 25 connections; therefore, another water source is required. We recommend that the *Well Siting Checklist* for the second well be submitted to this office before design work is started.

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DEC 12 1995

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

September 11, 1995

Page 2

The applicant should be aware of the following conditions:

1. Construction of a well and pump house must be done under the general supervision of a professional engineer. A copy of the contract between the owner and engineer must be submitted with plans and specifications.
2. Numerous water quality parameters must be tested. We recommend that testing of the existing well be completed immediately after approval of well construction and location. We will transmit monitoring requirements, on request.

Sincerely,



Bill Freeman

Water Quality Engineering Specialist

cc: M & M Mountainview Subdivision, Inc.
Mark Slifka, IDWR
Source File #14
Reading File

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DEC 12 1995



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

August 31, 1995

ID DEPT OF HEALTH & WELFARE
DIV OF ENV QUALITY
SWIRO 1445 N ORCHARD
PO BOX 83720
BOISE ID 83720-2239

Re: Applications for Permit Nos. 61-7706 in the Name of Proterra
Idaho, Inc. and 63-12266 in the Name of M & M Mountainview
Subdivision, Inc.

Dear Sir:

Enclosed are copies of the above-referenced applications
for permit which may be of interest to your agency. Please
review the applications and submit any comments you may have.

This office normally completes the processing of an
application within a six-week period and is required to take
final action shortly thereafter, however, if your agency
desires to file a formal protest against the approval of this
application(s), your written protest must be received in this
office by September 25, 1995.

If you have any questions regarding the application,
please contact this office.

Sincerely,

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

DRT:st

Enclosure(s):

RECEIVED
DEC 12 1995

63-12266

M & M MOUNTAINVIEW SUBDIVISION INC
4319 DIANE ST
NAMPA, ID 83686

Source: GROUNDWATER

Diversion Pt: SWNW Sec 8 T 02N R 01W in CANYON County.

Use: DOMESTIC (0.250 CFS)
Total Diversion: (0.250 CFS)

Date Filed: 8/23/1995

In: CANYON County
T02N R01W S08 SWNW

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DEC 12 1995

SUBMITTED TO AUDITOR

ON 7-9-93

FOR: D. Shalito, Allen
FROM: R. T. Petty Date: 5-4-93
SUBJ: Receipt No. 02010066 (Please attach ARQ2 Receipt copy)

RE: PayOR 11471 Mountainview Subdivision
Address 6521 Orange Ave.
Tampa, FL 83686

Claimant if NOT Payor Stephen J. Sumari, Jr.
Refund Amount \$ 25.00 Claim Location (Region/Claimant)
Extension Filed? Y/N NA Copy Attached? Y/N NA
Late Fees Paid? Y/N NA Late Fee Receipt #
S.O. Verified Ext. by on D.B. Query by
Refund Generated By (☒) Agent (☐) Claimant
Refund Category unsuccessful claim incomplete
Date of Last Correspondence (copy attached) 10-5-92

<u>Claim No.</u>	<u>Use</u>	<u>Fees Paid</u>	<u>Correct Fee</u>	<u>Rec't #</u>
	<i>dom</i>	\$ <i>25.00</i>	<i>unk</i>	<i>4010066</i>
		\$		
		\$		
		\$		
		\$		
		\$		
Total		\$ <i>25.00</i>	\$ <i>unk</i>	

Detailed Reason(s) for Refund Attached Y/N claim required phone; no return correspondence

Region AJ Spvsr. Approval _____ S.O. AJ Spvsr. Approval _____
Don Shaff Approval 6-08-93 Hold 2wks To Fiscal 06-25-93
Logged 05-05-93

Data Base Modified? Y/N (NA) A &/or R Records By AK on 5-5-93

End ind? (considering multi. forms)

v2nd found
added to 2nd Mcl 6-25-73

DECLASSIFIED

DEC 12 1995

63-12266 refers this

Withdrawn claim where refund
already processed so no receipt
change from AJ → wk etc.

10/29/92

8/29/15



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 5, 1992

Stephen J. Limani, Jr.
6521 Angela Ave.
Nampa, ID 83686

⊕ \$ ARQZ
⊕ WRQ1

4-6-93
af

RE: Snake River Basin Adjudication (SRBA)
Canyon County, Notice of Claim Form

Dear Mr. Limani:

We are returning your Notice of Claim to a Water Right filed for your property in Canyon County. We are also enclosing Receipt #W010066 in the amount of \$25.00 for the filing fees.

You are given the opportunity to withdraw this claim. Any water right developed from a groundwater source after March 25, 1963, for any use other than single family domestic use, is required to have an application for permit filed. We can find no record of a permit for this property. The claim you have presented conflicts with the Ground Water Statute at §42-229 and defined in Idaho Code §42-230, and Water Appropriation Rules and Regulations, paragraph 2,15.

I have enclosed an application for permit, with instructions for your use in this matter. We will be happy to proceed if you will return the completed form to:

Idaho Department of Water Resources
Western Region
2735 Airport Way
Boise, ID 83705

Should you wish to pursue before the court the exact water right you have presented on this claim, simply return the claim form to this office. The claim form should be delivered to our office or postmarked by November 5, 1992, otherwise we will assume you wish to withdraw the claim. If you do not wish to file your Notice of Claim, please complete the enclosed Request For Withdrawal of Claim and return it to the address shown. Your request for refund will be processed as quickly as possible.

MICROFILMED

DEC 12 1995

Mr. Limani
October 5, 1992
Page 2

Also, on the claim form you indicated you wanted to receive a copy of the monthly docket sheet, however, the annual \$7.50 fee for the docket sheet was not included with your form.

If you still wish to receive a monthly copy of the docket sheet, please complete and submit the enclosed Order Form along with the \$7.50 fee to this office by November 5, 1992. If we have not received the form and payment by that date, we will assume you are no longer interested in receiving the docket sheet.

If you have any further questions or require further help, please do not hesitate to contact this office.

Sincerely,



Roxanne McCarthy
Sr. Water Resource Agent
Adjudication Bureau

RM:js:western

Enclosures:

Notice of Claim
Receipt #W010066
Application for Permit w/Instructions
Request For Withdrawal of Claim
Docket Sheet Order Form

RECEIVED

DEC 12 1995



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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

June 9, 1993

M&M Mountainview Subdivision
Stephen J. Limani, Jr.
6521 Angela Ave.
Nampa, ID 83686

RE: Snake River Basin Adjudication (SRBA)
Canyon County - Receipt #W010066

Dear Mr. Limani:

In our letter to you of October 5, 1992, you were offered some options to record your water right. Since we have not received anything further from you, the refund process has been initiated with the State Auditor's Office for the fees you paid. You should receive your check in the near future.

If you later decide to refile, a new claim must be completed within one year with filing fees and appropriate late fees included at the time of submittal.

Sincerely,

Donald V. Shaff
Manager, Adjudication Section

DVS:sf:ref

MICROFILMED

DEC 12 1995

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Identification No. 463-
Date Received 3/1/90
Receipt Number WD 10066**RECEIVED**

MAR 01 1990

**NOTICE OF CLAIM
TO A
WATER RIGHT**

ACQUIRED UNDER STATE LAW

Department of Water Resources For Domestic and/or Stockwater Purposes
Western Regional Office Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

- Name of Claimant (s) STEPHEN J. LIMANI JR Phone (208) 465-7809
Mailing Address 6521 ANGELA AVE Nampa Idaho Zip 83686
- Date of Priority (Only one per claim) 2/12/72 Month/Day/Year
- Source of water supply (Check one) ☒ Groundwater or Other () (a) _____
which is tributary to (b) _____ Name or kind of source
- Location of point of diversion is: Township NORTH Range 1-WEST
Section 8, S.W. 1/4 of N.W 1/4 of _____ 1/4, Govt. Lot _____, BM.,
County of CANYON
Additional points of diversion if any: _____
- Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. WELL, 8" CASING, 102" DEEP, 5 H.P., SUMMERVILLE PUMP, PIPE TO HOUSES
- Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)
For DOMESTIC purposes from 1-1 Month/Day to 12-31 Month/Day amount .88 (cfs)
(Both dates are inclusive)
For _____ purposes from _____ to _____ amount _____
- Total quantity claimed .88 (cfs)
- Total consumptive use claimed is de minimus
- Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) _____

DEC 12 1995

10. Place of use is: Township: N 4 Range 1-WES
Section 8 S.W 1/4 of N.W 1/4, Govt. Lot _____ B.M.,
for (Circle One) Domestic Stock Domestic and Stock
Additional places of use, if any _____

11. In which county (ies) are lands listed above as place of use located? CANYON

12. Do you own the property listed above as place of use? Yes _____ No ✓
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
() None or _____

14. Remarks: I AM PART OWNER AND ACTING PRESIDENT OF MAM MOUNTAIN
VIEW ACRES SUBDIVISION WATER COMPANY INC.

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree
Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood the form entitled "How you will receive notice in the Snake River Basin Adjudication". (b.) I/We do ✓ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of Attachments 1

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am PRESIDENT OF THE BOARD OF DIRECTORS
of MAM MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY INC. that I have signed the foregoing
document in the space below as PRESIDENT of MAM MOUNTAIN VIEW ACRES SUB.
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Stephen J. Limani Jr Date 2/26/90
Title and Organization PRESIDENT, MAM MOUNTAIN VIEW ACRES SUBDIVISION WATER COMPANY INC.

State of Idaho/or _____)

County of Canyon)

SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 26th day of February 19 90

SEAL

Notary Public Ruth E. Bernal

Residing at Tampa

My Commission Expires 8-21-94 DEC 12 1995

Last Name LIMANI, JR. Ident No. AL3-

Copies: White-State, Yellow-Claimant

ADJUDICATION CLAIM REVIEW CHECKLIST

4-3-91

CLAIMANT'S NAME LIMANI, JR, Stephen J.CLAIM IDENT. NO. A63-DATE RECEIVED 3/1/90 RECEIPT # W010066 AMOUNT \$ 2500

	YES	NO	Required Info?
1. Is the name and address complete with zip code?	☒	☐	*
2. Is a priority date entered?	☒	☐	*
Is the priority date acceptable in view of mandatory filing dates? See Adj. Memos #1 and #4 to determine if a Permit is required.	☒	☐	*
3. (a) Is a source entered?	☒	☐	*
(b) Is a tributary to entered? (if required) N/A ☒	☐	☐	
4. Is the legal description of the p.d. sufficient? TWP 2N	☒	☐	*
5. Is there a description of the diverting works?	☒	☐	
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form . . .	☒	☐	*
Is the period of use included?	☒	☐	
Is a quantity claimed for each use?	☒	☐	*
7. Is a total quantity claimed entered?	☒	☐	*
8. If required is a consumptive use entered? N/A ☒	☐	☐	
Is the consumptive use correct? N/A ☒	☐	☐	
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo #4 N/A	☐	☒	*
10. Is (are) the place(s) of use and purpose(s) indicated? TWP 2N	☒	☐	*
11. Is (are) the county(ies) entered?	☒	☐	
12. Is the ownership of p.u. checked?	☒	☐	
13. Are other water rights listed or "none" indicated? (See Item Nos. 16 & 17 for checking other water rights.)	☐	☒	
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A	☒	☐	
15. Is the basis of the claim indicated?	☒	☐	
16. If the basis of claim is shown as license, permit, or decree is the existing water rt. no. listed? N/A ☒ (Compare claim with the existing water rt. and either attach a proof report or state in comments that the existing right was compared to the claim.)	☐	☐	*
17. If the basis of claim is shown as beneficial use, or not marked, are there existing water rights shown in our records using the legal desc. or name on the claim? (If yes, describe the right in "Comments" and attach a proof report) NOTE: If the claim is for dom/stock this check is not as necessary unless it is located within an area where dom/stock rights were decreed.	☐	☐	
18. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A	☐	☒	
19. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	☒	☐	*
20. Has the claim been signed, sealed, and dated by a notary? . . .	☒	☐	*
21. Was this claim filed on time, or was an extension granted? . .	☒	☐	*
22. Is the fee enclosed correct? Exempt	☐	☐	?

MAILED
DEC 12 1995