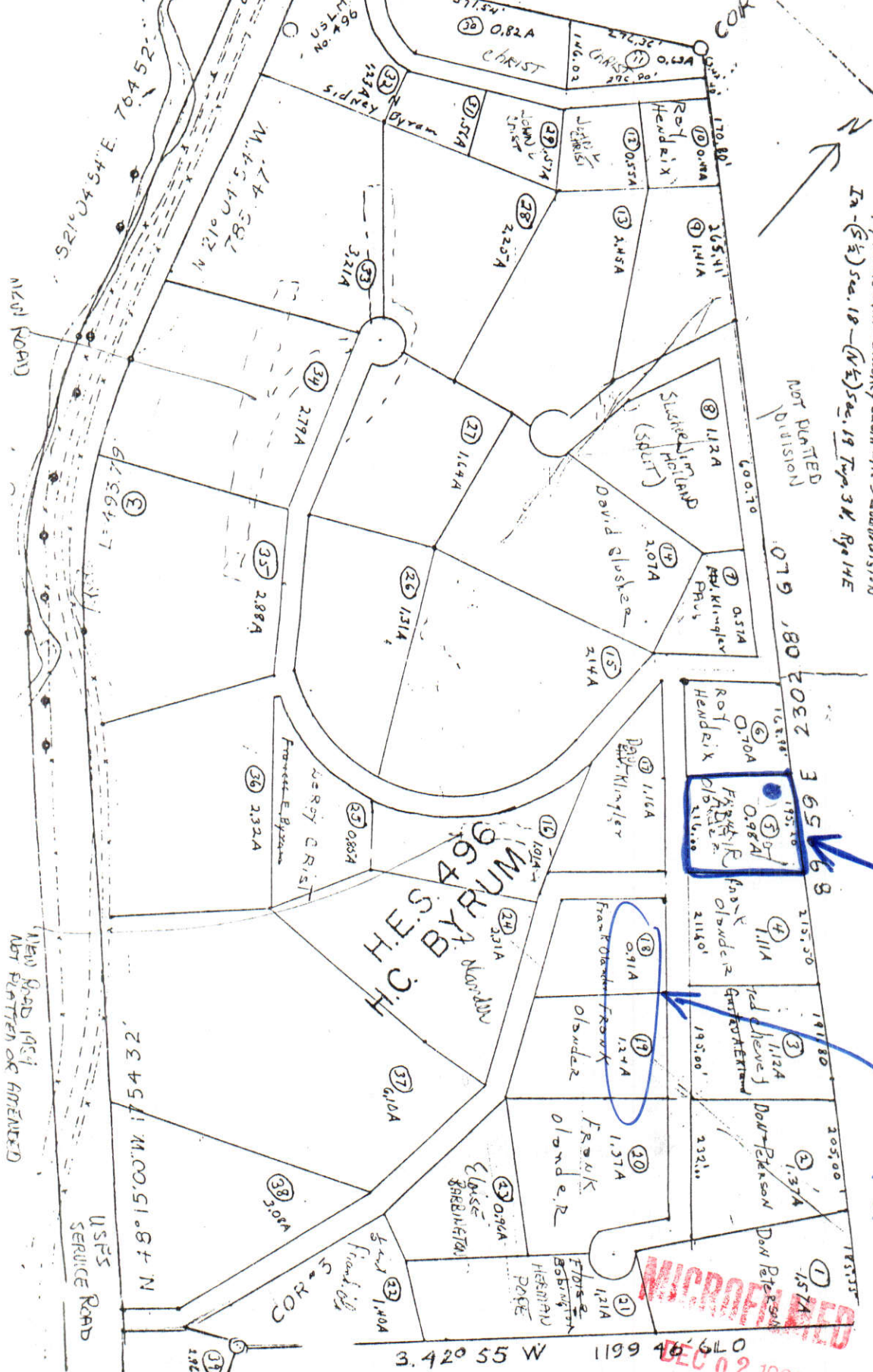


7°05'06"E 684.79'
7°05'06"E
16.97'

5.57' 102.40'

1510 74' 6.10

COR



By means Little Smoky Cabin Site - Subdivision
In (S 1/2) Sec. 18 - (N 1/2) Sec. 19 Twp. 3 N. R. 10 W

NOT PLATTED
DIVISION

079, 80 2032

3 65 68

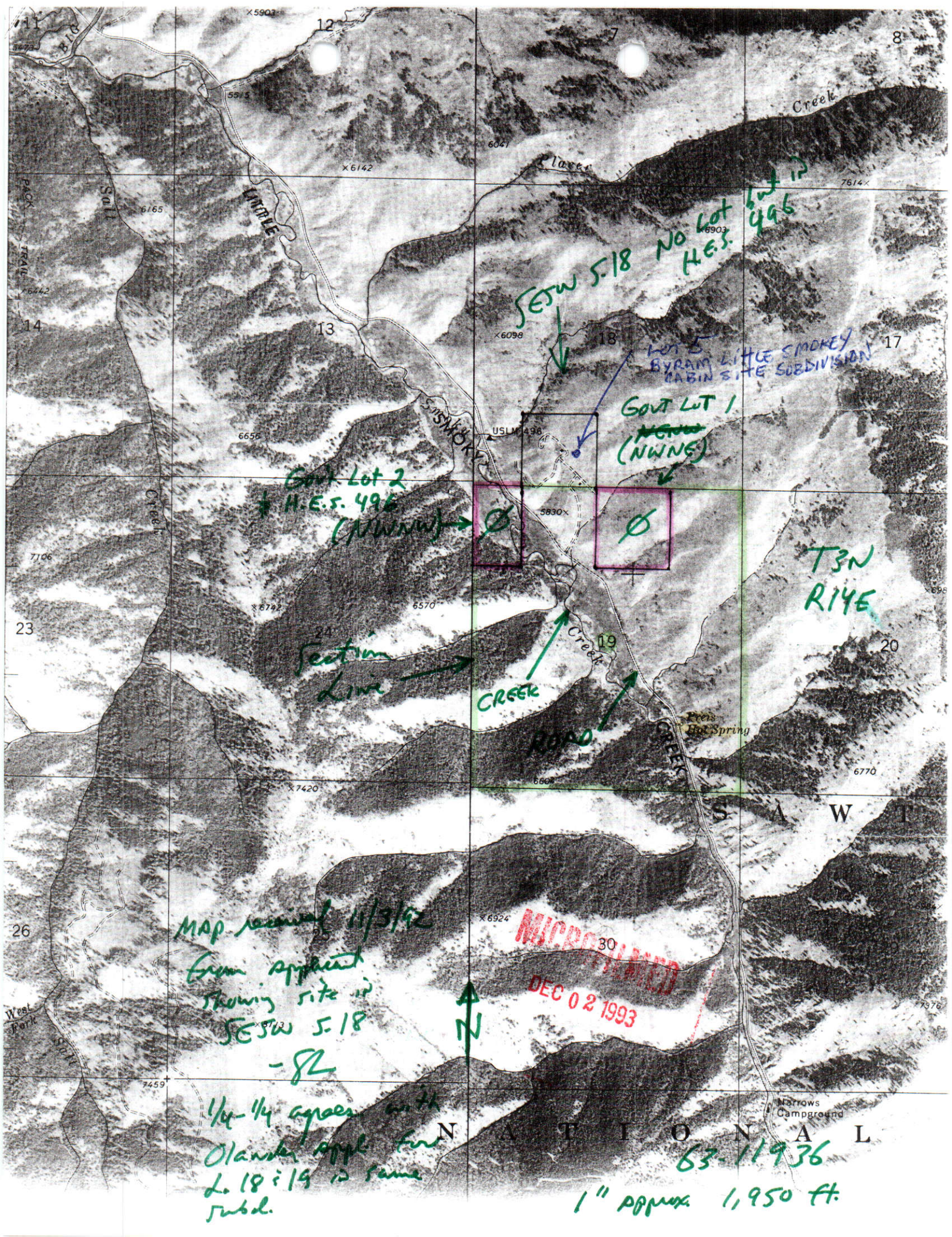
Down

Clayton Green
Don Peterson

RECORDED
DEC 02 1993

3.420 55 W 1199 48' 6.10

63-11936
37-08795



SESW 5.18 NO Lot 18 H.E.S. 496

LOT 5 BYRAM LITTLE SMOKEY CABIN SITE SUBDIVISION

GOVT LOT 1 (NWNE)

GOVT Lot 2 H.E.S. 496 (NWNE)

T3N R14E

Section line

CREEK ROAD

Map received 11/3/92 from applicant showing site in SESW 5.18 - 82

MICROFILMED DEC 02 1993

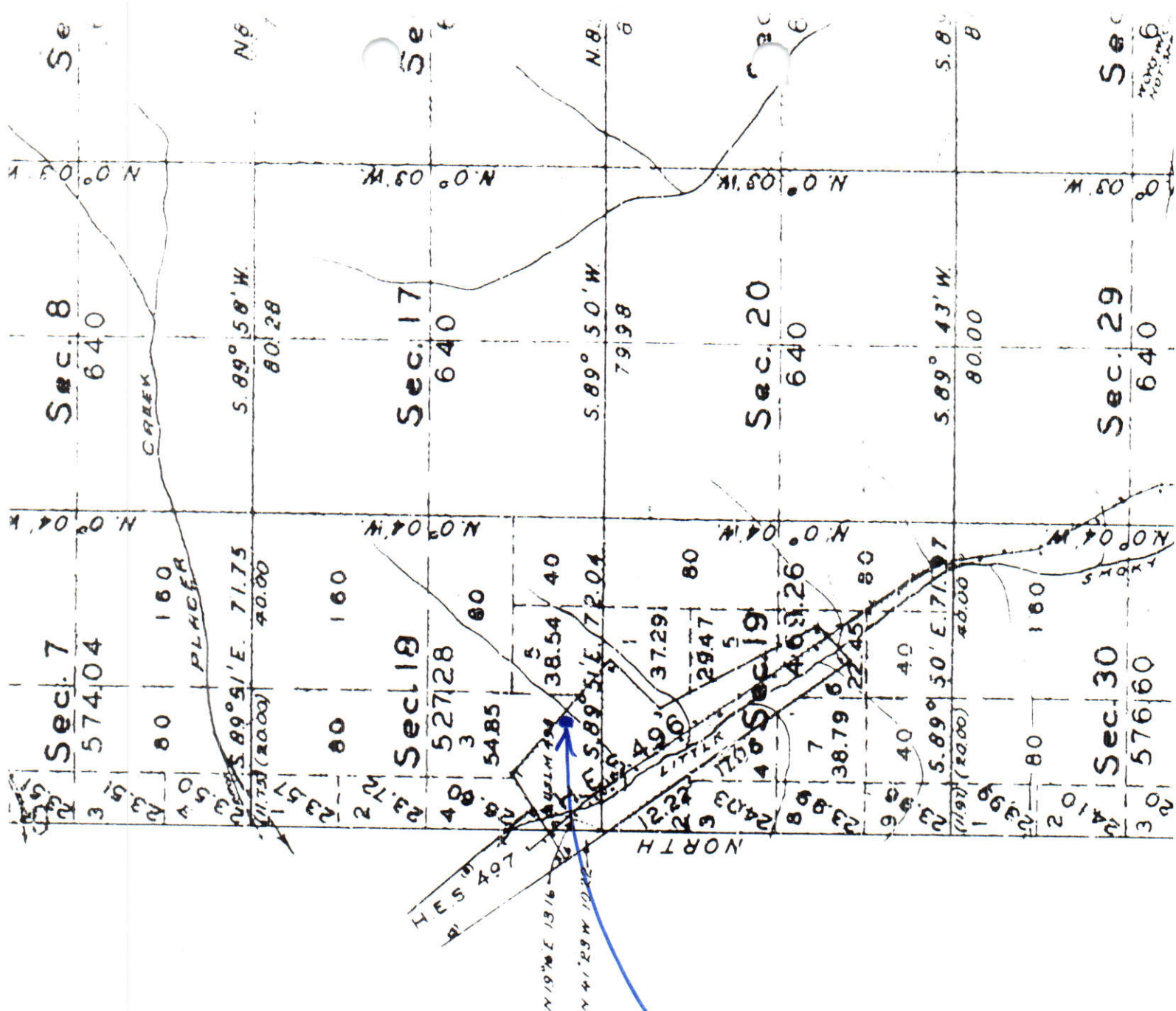
1/4-1/4 agrees with Olander app for L. 18 & 19 in same subd.

1" approx 1,950 ft.

63-11936

32
146
81 65.5

in 17.65-19.6



Microfilm

DEC 02 1993



63-11936

WELL DRILLER'S REPORT
State law requires that this report be filed with the Director, Department of Water Resources
within 30 days after the completion or abandonment of the well.

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

1. WELL OWNER

Name DAVID J. ADAIR
 Address P.O. Box 454 GORDON, IA 52330
 Owner's Permit No. 63-87-4-003

7. WATER LEVEL

Static water level 5.8 feet below land surface.
 Flowing? ☐ Yes ☒ No G.P.M. flow _____
 Artesian down in pressure _____ p.s.i.
 Controlled by: ☐ Valve ☐ Cap ☐ Plug
 Temperature _____ OF. Quality _____
 Describe artesian or temperature zones below _____

2. NATURE OF WORK

☒ New well ☐ Deepened ☐ Replacement
☐ Abandoned (describe abandonment procedures such as materials, plug depths, etc. in lithologic log)

3. PROPOSED USE

☒ Domestic ☐ Irrigation ☐ Test ☐ Municipal
☐ Industrial ☐ Stock ☐ Waste Disposal or Injection (specify type)
☐ Other _____

4. METHOD DRILLED

☐ Rotary ☐ Air ☐ Hydraulic ☐ Reverse rotary
☒ Cable ☐ Dug ☐ Other _____

5. WELL CONSTRUCTION

Casing schedule: ☒ Steel ☐ Concrete ☐ Other _____
 Thickness _____ Diameter _____ From _____ To _____
250 inches 6 inches + 12 feet 69 feet
 inches inches feet feet
 inches inches feet feet
 inches inches feet feet
 Was casing drive shoe used? ☒ Yes ☐ No
 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 _____ Model No. _____
 Type _____ Slot size _____ Set from _____ feet to _____ feet
 Diameter _____ Slot size _____ Set from _____ feet to _____ feet
 Gravel packed? ☐ Yes ☒ No ☐ Size of gravel _____ feet
 Placed from _____ feet to _____ feet
 Surface seal depth 20 Material used in seal: ☐ Cement grout
☐ Bentonite ☒ Puddling clay ☐ _____
 Sealing procedure used: ☐ Slurry pit ☒ Temp. surface casing
☒ Overbore to seal depth
 Method of joining casing: ☐ Threaded ☒ Welded ☐ Solvent
☐ Weld ☐ Cemented between strata
 Describe access port _____

8. WELL TEST DATA

☐ Pump ☒ Baller ☐ Air ☐ Other _____

Discharge G.P.M.	Pumping Level	Hours Pumped
<u>1 GPM</u>	<u>200</u>	<u>2</u>

9. LITHOLOGIC LOG

Bore Diam.	Depth		Material	Water Yes/No
	From	To		
6"	0	22	BROWN SOIL & LIMESTONE SHALE	
"	22	62	WHITE DECOMPOSED CONGLOMERATE	
4"	62	62.5	SOFT BROWN BROWN LIMESTONE	
"	62.5	90	BROWN LIMESTONE	
"	90	99	WHITE LIMESTONE	
4"	99	100	SCORIA	X
"	100	170	WHITE LIMESTONE	
"	170	180	SOFT WHITE LIMESTONE	
"	180	206	BROWN LIMESTONE	

RECEIVED
 NOV 13 1987

RECEIVED
 JAN 08 1988

Department of Water Resources

RECEIVED

NOV 10 1987

Department of Water Resources
 Western Region Office

10. Work started 17 AUGUST 1987 finished 2 SEP 1987

11. DRILLERS CERTIFICATION

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

Firm Name RAY BOSSLER Firm No. 282
129 5TH AVE N.
GORDON, IA 52330 Date _____

Signed by (Firm Official) _____
 and
 (Operator) Ray Bossler

6. LOCATION OF WELL

Sketch map location must agree with written location.

Subdivision Name BYRAM'S LITTLE
SNOKEY CANYON SITE
 Lot No. 5 Block No. _____

County CANAS SE 1/4 SW 1/4
18 T. 3 N. R. 14 E. S. 3

IF ADDITIONAL SHEETS ARE NECESSARY - FORWARD THE WHITE COPY TO THE DEPARTMENT

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-11936

Priority: September 21, 1992

Maximum Diversion Rate:

0.04 CFS

Maximum Diversion Volume:

1.2 AF

This is to certify, that DAVID J ADAIR
GLORIA ADAIR

430 5TH AVE E
PO BOX 454

GOODING ID 83330-0454

has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated September 21, 1992; and has submitted Proof of Beneficial Use on September 21, 1993. An examination indicates that the works have a diversion capacity of 0.040 cfs of water from a **GROUNDWATER** source, and a water right has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE OF DIVERSION</u>	<u>ANNUAL VOLUME</u>
DOMESTIC	01/01 to 12/01	0.04 CFS	1.2 AF

LOCATION OF POINT(S) OF DIVERSION:

SESW , Sec. 18, Township 03N, Range 14E
CAMAS County

PLACE OF USE: DOMESTIC

TWN RGE SEC

03N 14E 18

SESW

CONDITIONS OF APPROVAL AND REMARKS

1. The maximum diversion volume is defined as the maximum allowable volume of water that may be diverted annually from the source under this right. The use of water confirmed by this right is limited to the amount which can actually be beneficially used. The maximum diversion volume may be adjusted to more accurately describe the beneficial use or to implement accepted standards of diversion and use efficiency.
2. This water right is appurtenant to the described place of use.
3. This right is subject to all prior water rights and may be forfeited by five years of non-use.
4. Modifications to or variance from this license shall be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
5. Place of use is located within Lot 5, Byram's Little Smokey Home Site Subdivision.
6. Domestic use is for 1 home.
7. Some or all of the water use authorized by this right is claimed with an earlier priority date on Snake River Basin Adjudication claim no. A63-27344. In the event that claim A63-27344 is decreed as it is claimed, the Director may amend or revoke this right to eliminate any redundancy of water rights.

MICROFILMED

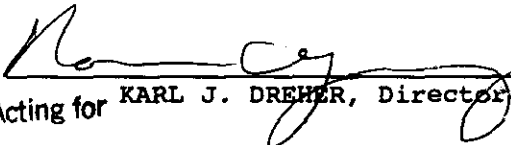
FEB 26 1998

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 63-11936

This license is issued pursuant to the provisions of Section 42-219, Idaho Code.
Witness the seal and signature of the Director, affixed at Boise, this 13TH
day of FEBRUARY, 1978.


Acting for KARL J. DREHER, Director

MICROFILMED

FEB 26 1978

RECEIVED

SEP 28 1992

OFFICE USE ONLY

Amt. of Fee \$ 0

Date 9-21-92

Receipt No. -

Receipt by JF Stanton

RECEIVED

SEP 21 1992

Department of Water Resources
Southern Region OfficeSTATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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. DPH 63-87-W-0003

1. Permit No. 39-08995 Telephone No. 934-40472. Name(s) of Permit Holder(s): DAVID J ADAIR3. Mailing Address: 430 5th AVE E PO Box 454 GOODING ID 833304. Source of Water: GROUND WATERIf GROUNDWATER, Well Driller's Name: RAY ROSSLER (262) Date Drilled: 8 SEP 87

OPTIONAL:

Pump horsepower: 3/4 Pressure (psi): _____ Dynamic pumping level (ft.): 135

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

Domestic ✓ 1 (No. of households) Stockwater N/A (No. and type of stock)Irrigation 1/2 (No. of acres) Other N/A6. Total rate and/or volume for which proof is submitted 0.040 cfs OR _____ acre/feet

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

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

OR

Flow Measurement Port: Required? _____ Yes ✓ No _____ Installed? _____ Yes ✓ No _____8. Fee Enclosed: \$ - (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.

DAVID J. ADAIR934-4047

Name

Telephone No.

430 5th AVE E GOODING ID 83330

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.

RECEIVED

DEC 02 1992

9-21-92
DateDavid J. Adair
Signature (and title, if on behalf of a company or organization)

State of Idaho
Department of Water Resources
Permit To Appropriate Water

NO. 63-11936

Proposed Priority: September 21, 1992 Maximum Diversion Rate: 0.04 CFS

This is to certify, that DAVID J ADAIR
GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 833300454

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 12/01	0.04 CFS
----------	----------------	----------

LOCATION OF POINT(S) OF DIVERSION: SESW , Sec. 18, Township 03N, Range 14E
CAMAS County

PLACE OF USE: DOMESTIC

TWN RGE SEC

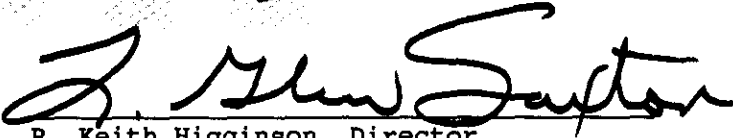
03N 14E 18 SESW

CONDITIONS/REMARKS:

1. Proof of construction of works and application of water to beneficial use shall be submitted on or before **November 1, 1994.**
2. Subject to all prior water rights.
3. Place of use is also known as Lot 5, Byram's Little Smokey Home Site Subdivision.
4. Domestic use is for 1 home.

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

25 day of October, 1993.


for R. Keith Higginson, Director

DEC 02 1993

RECEIVED

Form 202
8/86

SEP 21 1992

Department of Water Resources
Southern Region Office

RECEIVED
AUG 6 1993

DEC 19 1992

63-11936

63-11936

Ident. No. 37-08795

Department of Water Resources
Department of Water Resources
Southern Region Office

APPLICATION FOR PERMIT

To appropriate the public waters of the State of Idaho

1. Name of applicant DAVID J. ADAIR &/or Gloria Adair Phone 934-4047

Post office address 430 5th AVE E PO Box 454 GOODING ID 83330

2. Source of water supply GROUNDWATER which is a tributary of _____

3. Location of point of diversion is _____ 1/4 of NWSE 1/4 of NWSE 1/4, Govt. Lot 3 No Lts

Sec. 18 Township 03 N Range 14 E B.M. CAMAS County; additional 11/3/92 *

points of diversion if any: NONE

4. Water will be used for the following purposes:

Amount 0.04 for Domestic purposes from 4-1 to 12-31 (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

Amount _____ for _____ purposes from _____ to _____ (both dates inclusive)
(cfs or acre-feet per annum)

5. Total quantity to be appropriated is (a) 0.040 and/or (b) _____
cubic feet per second acre feet per annum

6. Proposed diverting works:

a. Description of ditches, flumes, pumps, headgates, etc. 206' WELL 3/4 HP Pump, PIPE
DRILLER RAY ROSSLER (262) NOW RETIRED

b. Height of storage dam N/A feet; active reservoir capacity N/A acre-feet; total
reservoir capacity N/A acre-feet; period of year when water will be diverted to storage:
N/A to N/A inclusive.

c. ~~Proposed~~ well diameter is 6 inches; ~~proposed~~ depth of well is 206 feet.

d. Is ground water with a temperature of greater than 90°F being sought? No

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

* Legal corrected per orthophoto info provided by Applicant, 1993
MAP WAS corrected 11/3/92. but this revision failed to
correct pld & plm location on Application. — JR 8/19/93

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DEC 22 1993

8. Description of proposed uses (if irrigation only, go to item 9):

- a. Hydropower; show total feet of head and proposed capacity in KW. _____
- b. Stockwatering; list number and kind of livestock. _____
- c. Municipal; show name of municipality. _____
- d. Domestic; show number of households. ONE
- e. Other; describe fully. SPRINKLING AND WATER NEW TREES BY HOSE OR BUCKET - NO DIRECT IRRIGATION PLANNED PRESSURE TANK USED FOR WATER

9. Description of place of use:

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

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
03N	14E	19												D					
		18																	

* Corrected per map info provided by applicant on 11/3/92. -GL 8/19/93

Total number of acres to be irrigated _____

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

Chim A37-13363

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

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

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

12. Remarks: WELL DRILLED SEP 87 PUMP INSTALLED JUN 89 HAVE BEEN ADVISED THAT ADJUDICATION WOULD DECREE WATER. MY LAWYER ADVISED TO FILE CLAIM PERMIT AND LICENSE.

→ Location Lot 5 of Bynum's Little Smokey Home Sites, located within H. 846996. Property also known as

Comments: Drilling Permit 63-87-W-0003. Claim for same well & use: A37-13363 Comment A63-25544. Priority date is 8-19-1987, which apparently is date well drilled. However, applicant states

DEC 02 1993

↓ that pump installed June, 1989, which appears to be date of first
beneficial use. Thus, application will probably replace claim ^{as} the
more v. d right.
- JL 10/29/92

13. Map of proposed project: show clearly the proposed point of diversion, place of use, section number, township and range number. SEE ATTCH PLAT & DRILLER SKETCH

See attached map (3)

- JL 11/3/92

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DEC 02 1993

Scale: 2 inches equal 1 mile.

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

David J. Adair
(Applicant)

MM 10-19-92 1:26pm
Received by J. P. Stanton Date 9-21-92 Time 1:28 pm Preliminary check by MTS JS
Fee \$ 30.00 Receipted by JS # 5014989 Date 9-21-92
Publication prepared by GG Date 11/11/92 Published in Gooding Leader
11/19 & 11/26/92
Publication approved st Date 12-8-92

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Permit to appropriate the public waters of the State of Idaho No. _____, and said application is hereby _____.

1. Approval of said application is subject to the following limitations and conditions:

- a. SUBJECT TO ALL PRIOR WATER RIGHTS.
- b. Proof of construction of works and application of water to beneficial use shall be submitted on or before _____, 19 ____.
- c. The rate of diversion, if water is to be used for irrigation under this permit, when combined with all other water rights for the same land shall not exceed 0.02 cubic feet per second for each acre of land.
- d. The water right acquired under this permit if for hydropower purposes shall be junior and subordinate to all rights to the use of water, other than hydropower, within the State of Idaho that are initiated later in time than the priority of this permit and shall not give rise to any right or claim against any future rights to the use of water, other than hydropower, within the State of Idaho initiated later in time than the priority of this permit.
- e. Other:

RECORDED

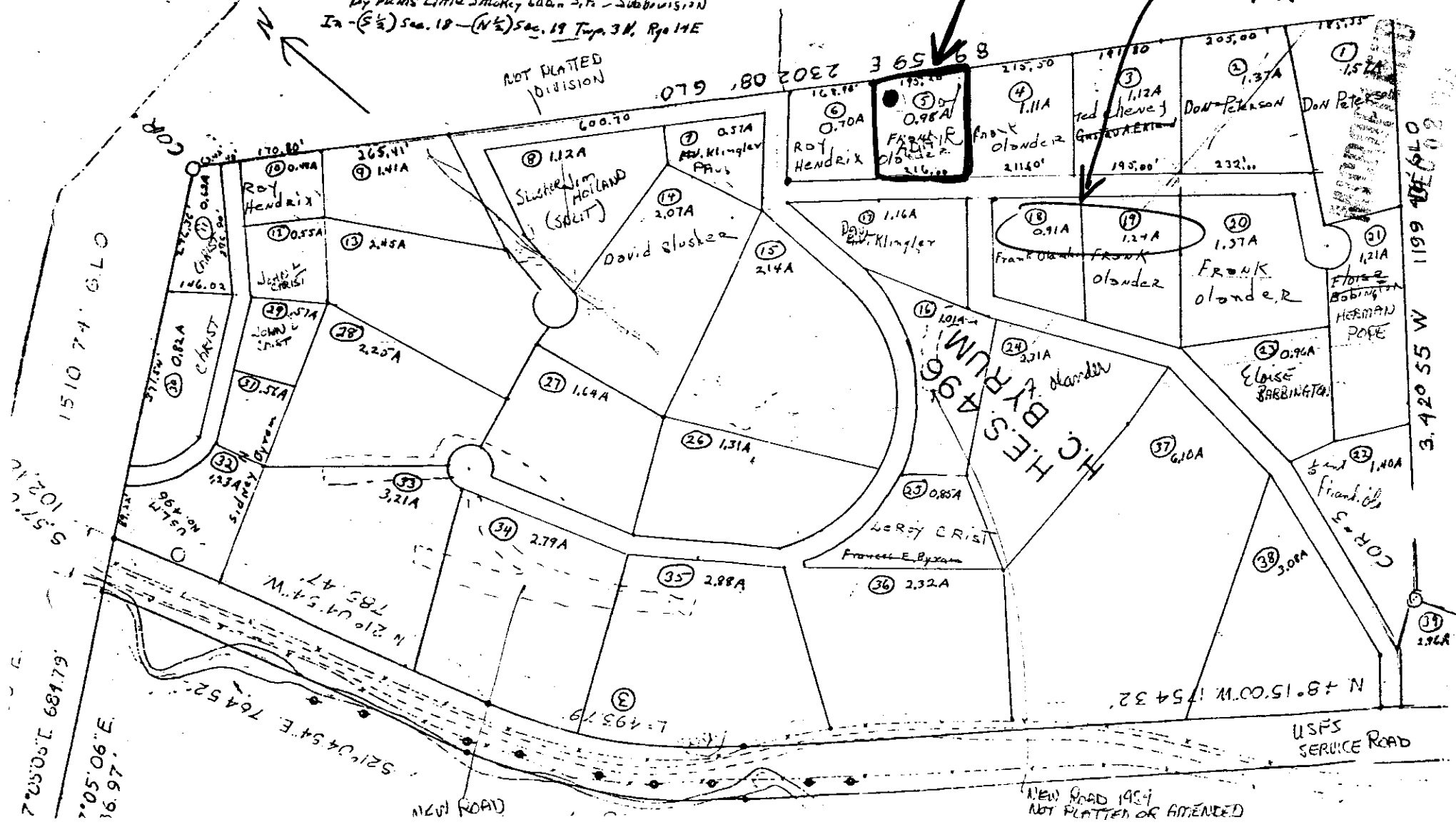
DEC 02 1993



Admin

1) order-different applications

63-11936
~~37-08795~~





MAP
From appraised
showing site in
SESW 5.18
-82

1/4-1/4 acre
Olav
L. 18 & 19
Subd.

1" approx 1,950 ft.

N

W

30

R14E

Lot 1
(NW 1/4)

Lot 2

SESW 5.18

CRSEK

6770

6096

6570

7420

6924

EC 0 1990

ROWS
Compare

A

L

63 1936

17

49

8

X 6142

665

7106

23

26

65

13

4

26

26

26

26

26

26

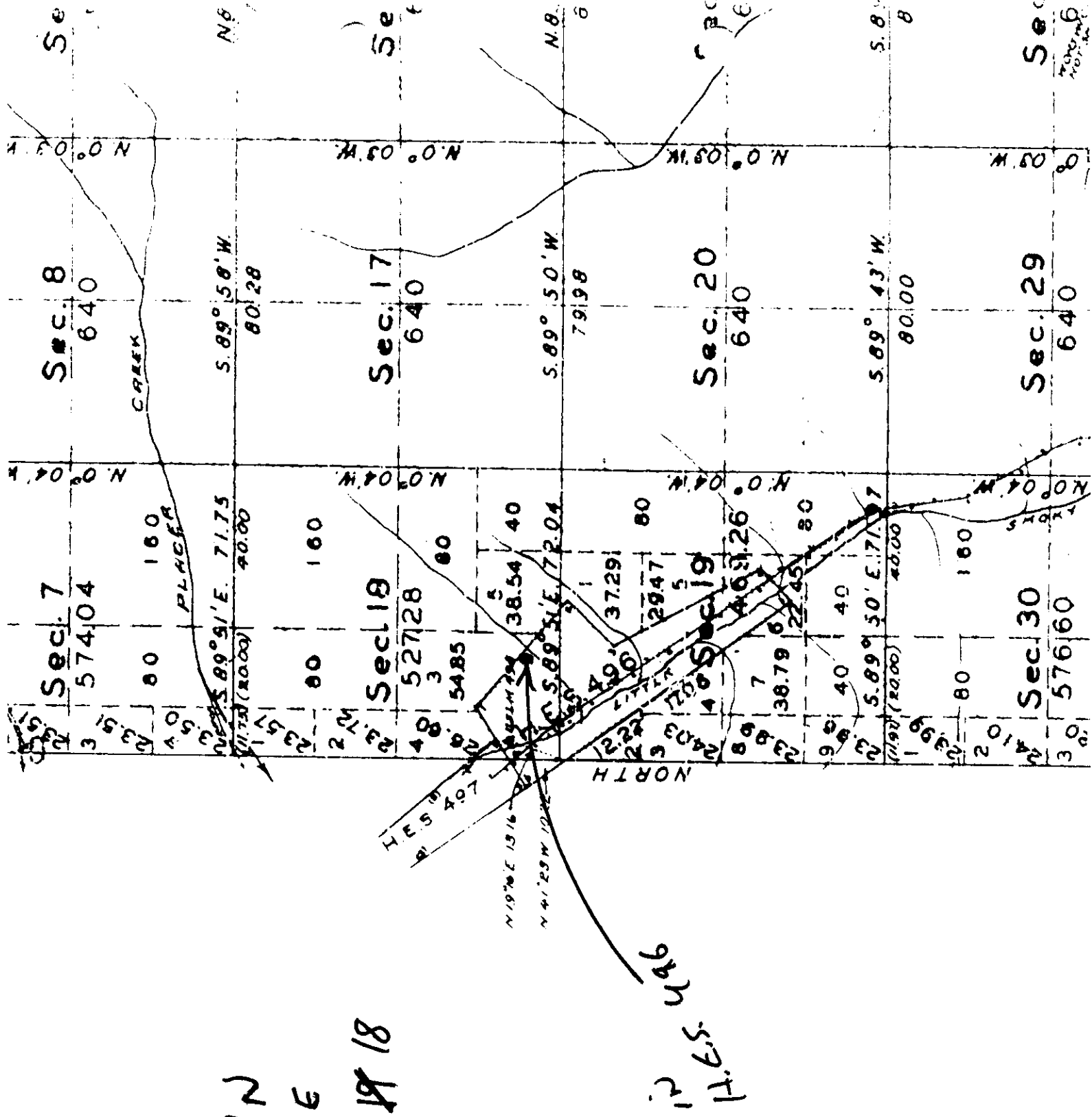
26

26

3N
14E
S. 18

DEC 02 1993

63-11936





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

February 17, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

DAVID J ADAIR
GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 83330-0454

RE: WATER RIGHT NO. 63-11936

Dear Water Right Holder(s):

The Department of Water Resources (the Department) has issued the enclosed license confirming that a water right has been established in accordance with the permit referenced above. The license is a preliminary order issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department unless a party petitions for reconsideration or files an exception and/or brief as further described below:

PETITION FOR RECONSIDERATION

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

EXCEPTIONS AND BRIEFS

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

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

FEB 26 1998

ORAL ARGUMENT

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

CERTIFICATE OF SERVICE

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

FINAL ORDER

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

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

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

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

APPEAL OF FINAL ORDER TO DISTRICT COURT

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

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

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

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

Sincerely,

A handwritten signature in cursive script, reading "Shelley W. Keen". The signature is written in dark ink and is positioned above the typed name.

Shelley W. Keen
Water Rights Supervisor

SK:klt

Enclosure

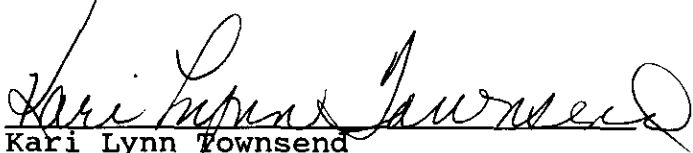
MICROFILMED
3 FEB 26 1988

CERTIFICATE OF MAILING

I hereby certify that on the 17th day of **February, 1998**, I mailed a true and correct copy, postage prepaid, of the foregoing **PRELIMINARY ORDER (Approved License)** to the person(s) listed below:

Water Right No. 63-11936

DAVID J ADAIR
GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 83330-0454


Kari Lynn Townsend
Secretary

MICROFILMED
FEB 26 1998

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED

NOV 20 1997

Department of Water Resources

A. GENERAL INFORMATION

Permit No. 63-11936

1. Owner: David J. and Gloria Adair Phone No. 934-4047

Current Address: 430 5th Ave E, Gooding 83330-0454

2. Accompanied by: N/A EXAM DATE: 8/8/97

Address: _____ Phone No. _____

Relationship to Permit Holder: _____

3. Source: Groundwater tributary to _____

B. OVERLAP REVIEW

1. Other water rights with the same place of use: _____

2. Other water rights with the same point of diversion: _____

C. DIVERSION AND DELIVERY SYSTEM

1. Point(s) of Diversion:

Ident No.	Gov't Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Method of Determination/Remarks
			SE	SW	18	03N	14E	Caras	USGS OQ, County assessor

2. Place(s) of Use:

Indicate Method of Determination USGS OQ

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	14E	18												D					

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

Scale: 1" = _____.

_____ Copy of USGS Quadrangle Attached Showing location(s) of point(s) of diversion and place(s) of use (required).

_____ Aerial Photo Attached (required for irrigation of 10+ acres)

_____ Photo of Diversion and System Attached

4.

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

*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

2. Measurements: _____

MICROFILMED

FEB 26 1988

E. NARRATIVE/REMARKS/COMMENTS

Confirmed existence of home with Camas County
Assessor's office (Telephone Conversation 08/06/1997).

Also confirmed

Lot 5, Byram's Little Smokey Home Site Subdivision.
Parcel No. RP 00080000050A.

(T03N R44E S.18/~~SESW~~) (Tel. Conv. 08/07/1997)

Note to drilling permit indicates SRBA agent
confirmed location in S.18 SESESW.

Drilling permit No. 63-87-W-0003-000

SRBA claim No. A63-27344 on same use. ☐ 08/07/1997

Applicant would like to continue licensing procedure
and will make a decision about his multiple filings
once + if his SRBA claim is decided. Tel conv.
with Applicant 08/08/1997. ☐

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

MICROFILMED
FEB 26 1998

F. FLOW CALCULATIONS

_____ Additional Computation Sheets Attached

Measured Method:

ALLOW .04 CFS for one domestic unit

G. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

 $V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) =$ _____ $V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation Season}) \times 1.9835 =$ _____ $V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} =$ _____

2. Volume Calculations for Other Uses:

ALLOW 1.2 AFA for one domestic unit

H. RECOMMENDATIONS

1. Recommended Amounts

Beneficial Use	Period of Use		Rate of Diversion Q (cfs)	Annual Volume V (afa)
	From	To		
Domestic	01/01	12/31	.04	1.2
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Totals:			.04	1.2

2. Recommended Amendments

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

I. AUTHENTICATIONField Examiner's Name Her Hemminger Date 08/07/1997

Reviewer _____ Date _____

SEAL

RECORDED
26 1998

November 4, 1993

DAVID J ADAIR
GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 833300454

PROOF ACKNOWLEDGMENT LETTER

RE: PERMIT NO. 63-11936

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.

If you have questions concerning this matter, please feel free to contact the SOUTHERN Regional Office in Twin Falls at (208)736-3033.

Sincerely,

Karen L. Gustafson
Senior Secretary

c: IDWR - Region

MICROFILMED

DEC 02 1993

**#25 TYPEWRITER ON
SLIPSTY PER**

State law requires that this report be filed with the Director, Department of Water Resources within 30 days after the completion or abandonment of the well.

[illegible]

Form 235-1
6/87

RECEIVED

JUL 13 1987

Drilling Permit No. 63-87-W-003
Water Permit No. _____
Injection Permit No. _____

Department of Water Resources
Southern Region Office

State of Idaho
Department of Water Resources

DRILLING PERMIT

(Authorizing Construction of a Well)*

RECEIVED

JUL 14 1987

Department of Water Resources

1. Applicant DAVID J. ADAIR

2. Address PO Box 454

GOODING ID 83330-0454

(X) Well Owner () Well Operator () Other, specify _____

3. Water right permit no. _____; Injection well permit no. _____

4. Proposed well location 5 1/2 1/4 N 1/4 1/4 1/4, or Gov't lot No. N/A,

Sec. 18, Twp. 3, Rge. 14 E, ^{BASE MERIDIAN} County CAMAS,

Lot, block and subdivision LOT 5 Bixams Little Smoky Cabin site
Subdiv.

5. Proposed use of well: (Check all that apply)

(X) Domestic () Stockwater () Monitoring

() Irrigation () Industrial () Municipal

() Injection () Other, Specify _____

6. Well construction information:

(X) New well () Deepen () Replace

Proposed surface diameter 6 Proposed depth 100'

Anticipated bottom hole temperature:

(X) 85°F or less (Cold water well)
() 85°F to 212°F (Low temp. geothermal well)
() 212°F or more (Geothermal well)

7. Anticipated construction start date July 15, 1987

8. Well Driller (if known) RAY REASSLER #262

Address 129 5th AVE NW

Date 7-13-87 Applicant's signature David J. Adair

Title OWNER

* After other pre-requisite approvals have been obtained.

DEC 02 1987

of Rec

Approved () Denied

GENERAL CONDITIONS:

- SPECIFIC CONDITIONS:**

Dated this 13 day of July, 1987.

Signed Loren O Halves
Title Southern Region Mgt

Received by M. Baldwin Fee 10⁰⁰ Date 7/13/87

Receipt No. 45078 Construction start date .

Construction start extension to

Extension approved by _____

~~DEC 02 1993~~



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 25, 1993

DAVID J ADAIR
GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 833300454

PERMIT APPROVAL NOTICE

RE: PERMIT NO. 63-11936

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.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Johnson', written over the printed name and title.

JIM JOHNSON
Water Rights Supervisor

JJ:dc

Enclosures

DEC 02 1993

RECEIVED

SEP 09 1993

AFFIDAVIT of PUBLICATION

Department of Water Resources

Western Regional Office

COPY OF NOTICE

(Paste Here)

State of Idaho }
County of Gooding } ss.

Patty Nance

being first duly sworn, deposes and says that she is the printer (publisher) of the Gooding County Leader a newspaper published every week in Gooding County, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the 1 day of September, 1993.

and the date of the last publication was on the 8 day of September, 1993.

Patty Nance

Subscribed and sworn to before me this 8th day of

September, 1993.

(SEAL)

Norma De Voe
NOTARY PUBLIC

GOODING COUNTY LEADER

Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 24's

Lines tabular at _____ 6¢/Pica

221.76 Lines straight at \$ 11.09 5¢/Pica

Subsequent lines at 8.87 4¢/Pica

TOTAL COST \$ 19.96

Notice of Correction
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Department of Water Resources
BILL TO

NOTICE OF CORRECTION
The correct well location and home-site is in SE1/4, Sec. 18, T23N, R14E, Camas County, within Lot 5, Byron Little Smokey Cabin Site Subdivision.

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1984)

7-8 pt. per line tabular.....6¢/Pica

7-8 pt. per line straight.....5¢/Pica

7-8 pt. per line successive

insertions.....4¢/Pica

DEC 02 1993

No

50779

1634



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 24, 1993

GOODING COUNTY LEADER
442 MAIN BOX 56
GOODING ID 83330

Dear Legal Dept.:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before August 23, 1993.

Yours truly,

Sue Taylor
Secretary, Office Coordinator

Enclosure

DEC 02 1993

NOTICE OF CORRECTION OF APPLICATION FOR PERMIT

Notice is hereby given that application for permit #63-11936 in the name of David J. &/or Gloria Adair was advertised in error on November 18 and 25, 1992. The location was advertised as NWNW Sec. 19, T03N, R14E, Camas County.

The correct well location and homesite is in SESW, Sec 18, T03N, R14E, Camas County, within Lot 5, Byram Little Smokey Cabin Site Subdivision.

Any protest against the approval of the proposed correction must be filed with the Department of Water Resources, 2735 Airport Way, Boise, Id 83705 on or before September 20, 1993.

R. Keith Higginson, Director

Published in the Gooding Leading on September 2 and 9, 1993.

RECEIVED

DEC 02 1993

MEMORANDUM

DATE: August 17, 1993
TO: Western Region
FROM: Cindy Zimmerman^{C3}
SUBJECT: Application No. 63-11936

=====

During my review of the above referenced application, I noted that the photoquad map received from the applicant on 11/3/92 identifies the point of diversion and place of use as being in **SESW, S18, T03N, R14E**, yet, the application was advertised on 11/18/92 & 11/25/92 as being located within **NWNW, S19, T03N, R14E**.

I am returning the above application for correction and re-advertisement.

RECEIVED
FBI - WESTERN REGION
DEC 02 1993

DEC 02 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

July 30, 1993

Thomas Miller, Esq.
Hawley Troxell Ennis and Hawley
PO Box 1617
Boise, ID 83701

RE: Request for Copies

Dear Mr. Miller:

Enclosed please find copies of documents per your request.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. R. Tuthill, Jr.'.

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

RECEIVED
JUL 31 1993

JUL 30 2 1993

CONVERSATION MEMORANDUM

63-11936
DATE 63-11957
FILE 7/27/93

NAME OF PARTY (Erle)
Earl Byrum

EMPLOYEE D. Tuttle

RE:

Mr. Byrum called to say that his concern does not
include wells - he is only concerned about spring development
Dnt

MAILED

DEC 02 1993

Conference Notes

Protestant failed to appear.

Send Order to Show Cause why his protest should not be dismissed.

MICROFILMED

DEC 02 1993

Conference Attendees
Water Rights Nos 63-11936 & 63-11957
July 7, 1993 Conference Officer: David R. Tuttle Jr.

<u>Name</u>	<u>Representing</u>
Tom Miller	Adairs and Mrs Olander
Hawley Trossell Senior Hawley	
David J. Adair	
Glenn Adair	
Mary E. Olander	
Frank H. Olander Jr.	

RECORDED

DEC 02 1993

P 423 600 454



**Receipt for
Certified Mail**

No Insurance Coverage Provided

THOMAS A MILLER ESQ
HAWLEY TROXELL ENNIS
& HAWLEY
PO BOX 1617
BOISE ID 83701

PS Form 3800, June 1991

Postage	\$10.00
Certified Fee	\$2.00
Special Delivery Fee	\$2.00
Restricted Delivery Fee	\$2.00
Return Receipt Showing to Whom & Date Delivered	\$2.00
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$18.00
Postmark or Date	

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
2. If you do not want this receipt postmarked, stick the gummed stub to the right of the return address of the article, date, detach and retain the receipt, and mail the article.
3. If you want a return receipt, write the certified mail number and your name and address on a return receipt card, Form 3811, and attach it to the front of the article by means of the gummed ends if space permits. Otherwise, affix to back of article. Endorse front of article **RETURN RECEIPT REQUESTED** adjacent to the number.
4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

P 423 600 456



**Receipt for
Certified Mail**

No Insurance Coverage Provided

MARY E OLANDER
902 9TH AVE E
GOODING ID 83330

PS Form 3800, June 1991

Postage	\$ 1.15
Certified Fee	\$.35
Special Delivery Fee	DEC 02 1993
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.25
Postmark or Date	

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

P 423 600 515



Receipt for Certified Mail

No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to ERLE B BYRUM	
Street and No. PO BOX 204	
P.O., State and ZIP Code GOODING ID 83330	
Postage	\$ 1.00
Certified Fee	DEC 02 1993
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.29
Postmark or Date	

PS Form 3800, June 1991

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

PS Form 3800, June 1991 (Reverse)

P 423 600 457



**Receipt for
Certified Mail**

No Insurance Coverage Provided

DAVID J &/OR GLORIA ADAIR
430 FIFTH AVE E
PO BOX 454
GOODING ID 83330

PS Form 3800, June 1991

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
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5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-B-0226

PS Form 3800, June 1991 (Reverse)

P 423 600 455



**Receipt for
Certified Mail**

No Insurance Coverage Provided

ERLE B BYRUM
PO BOX 204
GOODING ID 83330

PS Form 3800, June 1991

Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	\$ 2.22
Postmark or Date	

DEC 02 1993

**STICK POSTAGE STAMPS TO ARTICLE TO COVER FIRST CLASS POSTAGE,
CERTIFIED MAIL FEE, AND CHARGES FOR ANY SELECTED OPTIONAL SERVICES (see front).**

1. If you want this receipt postmarked, stick the gummed stub to the right of the return address leaving the receipt attached and present the article at a post office service window or hand it to your rural carrier (no extra charge).
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4. If you want delivery restricted to the addressee, or to an authorized agent of the addressee, endorse **RESTRICTED DELIVERY** on the front of the article.
5. Enter fees for the services requested in the appropriate spaces on the front of this receipt. If return receipt is requested, check the applicable blocks in item 1 of Form 3811.
6. Save this receipt and present it if you make inquiry.

105603-92-8-0226

PS Form 3800, June 1991 (Reverse)

UNITED STATES POSTAL SERVICE

Official Business



PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, \$300

RECEIVED
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGIONAL OFFICE

DEC 02 1993

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

63-11958 +36

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "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.

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
 - 2. ☐ Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to:

THOMAS A MILLER ESQ
HAWLEY TROXELL BARNIS
& HAWLEY
PO BOX 1617
BOISE ID 83701

4a. Article Number

P 423 600 454

4b. Service Type

- ☐ Registered ☐ Insured
- ☒ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

JUN 3 1993

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

Thomas A Miller Esq

Thank you for using Return Receipt Service.

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED
JUN 4 1993



Department of Water Resources
Western Regional Office

PENALTY FOR PRIVATE
USE, \$300

DEC 6 2 1993

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

63-11936 + 11937

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

MARY E OLANDER
902 9TH AVE E
GOODING ID 83330

4a. Article Number

P 423 600 456

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

6-2-93

5. Signature (Addressee)

Mary E Olander

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

UNITED STATES POSTAL SERVICE

Official Business



RECEIVED

JUN 4 1993

PENALTY FOR PRIVATE
USE, \$300

DEC 02 1993

Department of Water Resources

Western Regional Office

Print name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES

2735 AIRPORT WAY
BOISE, IDAHO 83705

63-11936 + 57

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

ERLE B BYRUM
PO BOX 204
GOODING ID 83330

4a. Article Number

P 423 600 455

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

6-2-93

5. Signature (Addressee)

Erle B Byrum

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

UNITED STATES POSTAL SERVICE

Official Business

RECEIVED

JUN 3 1993

DEC 02 1993



PENALTY FOR PRIVATE
USE, \$300

Department of Water Resources

Western Regional Office

Print your name, address and ZIP Code here

DEPARTMENT OF WATER RESOURCES
2735 AIRPORT WAY
BOISE, IDAHO 83705

63-11957 + 36

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

DAVID J &/OR GLORIA ADAIR
430 FIFTH AVE E
PO BOX 454
GOODING ID
83330

4a. Article Number

P 423 600 457

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

6-2-93

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

IDAHO DEPARTMENT OF WATER RESOURCES
WESTERN REGION
2735 Airport Way
Boise, Idaho 83705-5082

BEFORE THE DEPARTMENT OF WATER RESOURCES

STATE OF IDAHO

IN THE MATTER OF APPLICATIONS FOR)
PERMIT NO. 63-11936 IN THE NAME OF) ORDER TO SHOW CAUSE
DAVID J. &/OR GLORIA ADAIR AND NO.)
63-11957 IN THE NAME OF MARY. E)
OLANDER.)

Whereas, a conference was scheduled for July 7, 1993, in the matter of protested water right applications nos. 63-11936 and 63-11957 and,

Whereas, protestant Erle B. Byrum was properly notified of the conference but failed to appear,

Now, therefore, IT IS HEREBY ORDERED that the protestant, Erle B. Byrum provide to the Department no later than August 5, 1993, any information as to why he did not appear at the conference. Failure to provide this information will result in dismissal of the protests.

Dated this 20th day of July, 1993.

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

CERTIFICATE OF MAILING

I hereby certify that on the 22nd day of July, 1993, I mailed true and correct copies by certified mail, postage prepaid, of this document to Erle B. Byrum.

Sue Taylor
Sue Taylor, Sec - Office Coordinator

Microfilm

DEC 02 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
	)	NOTICE OF CONFERENCE
FOR PERMIT NO. 63-11936 IN THE	)	
	)	
NAME OF DAVID J &/OR GLORIA ADAIR	)	
	)	
AND APPLICATION FOR PERMIT NO.	)	
	)	
63-11957 IN THE NAME OF MARY E.	)	
	)	
<u>OLANDER.</u>	)	

On September 21, 1992, David J. &/or Gloria Adair filed with the Department of Water Resources an application for permit to appropriate the public waters of the State of Idaho. On September 29, 1992, Mary E. Olander filed an application with the Department. The applications were protested by Erle B. Byrum.

The Department has set the matter of protest for a conference to be held on Wednesday, July 7, 1993, at 10:00 a.m., in the Second Floor Conference Room, Department of Water Resources, 1301 N. Orchard St., Boise, Idaho 83706. The conference will be held in accordance with provisions of Chapters 2 and 17, Title 42, and Chapter 52, Title 67, of the Idaho Code, the adopted Rules of Practice and Procedure of the Department of Water Resources, and Rules 4 and 5 of the adopted Rules and Regulations of Water Appropriation of the Department of Water Resources. Opportunity shall be afforded all parties to respond and present information and argument on all issues involved.

Dated this 1st day of June, 1993.

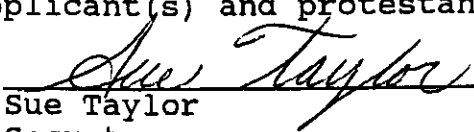


DAVID R. TUTHILL, JR., P. E.
Manager, Western Regional Office

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I hereby certify that on the 1st day of June, 1993, I mailed a true and correct copy, postage prepaid, of this document to the applicant(s) and protestant(s) listed:


Sue Taylor
Secretary

Certified Mail

DAVID J &/OR GLORIA ADAIR
430 FIFTH AVE E
PO BOX 454
GOODING ID 83330

MARY E OLANDER
902 9TH AVE E
GOODING ID 83330

ERLE B BYRUM
PO BOX 204
GOODING ID 83330

Non-Certified Mail

THOMAS A MILLER ESQ
HAWLEY TROXELL ENNIS & HAWLEY
PO BOX 1617
BOISE ID 83701

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CONFERENCE AND HEARING PROCEDURE

IN THE MATTER OF A PROTESTED APPLICATION FOR PERMIT

In accordance with IDAHO CODE, Section 42-203, the following issues are involved in the consideration of the application and protest(s):

- 1) Will the proposed use reduce the quantity of water under existing rights?
- 2) Is the proposed water supply insufficient for the purposes intended?
- 3) Is the application made in good faith or for delay or speculative purposes?
- 4) Has the applicant sufficient financial resources with which to complete the proposed project?
- 5) Will the proposed use conflict with the local public interest?
- 6) Is the proposed use contrary to conservation of water resources within the state of Idaho?

BURDEN OF PROOF

The Applicant has the initial burden of proof on issues 1,2,3,4,& 6 above, that is, the applicant has the burden of coming forward with evidence for evaluation of those criteria.

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

PROCEDURE

The procedure normally followed by the department in arriving at a decision on the issues which must be considered is to first hold a conference in the matter and then, if necessary, hold a hearing. If a hearing is held a written decision is issued based on the hearing record.

CONFERENCE

Preliminary to holding a hearing, a pre-hearing conference is held to familiarize the department and the parties with the matter and to determine if a resolution of the protest(s) is possible without the need for a hearing.

At the conference the department may formulate and simplify the issues, obtain admissions of fact and of documents which will avoid unnecessary proof, arrange for the exchange of proposed exhibits or prepared expert testimony prior to the hearing, limit the number of witnesses, consolidate the examination of witnesses, and advise the parties of the procedure which will be followed at any subsequent hearing.

HEARING

Any party may request in writing five (5) days before any hearing that the oral proceedings thereof be taken in the form of stenographic notes at the expense of the requesting party. Any party may have such stenographic notes of the oral proceedings, or part thereof, transcribed at his own expense. A taped record of the proceedings will be maintained for the appeal period.

If the hearing is conducted by a hearing officer appointed by the Director, rather than the Director himself, a proposed decision will be issued and the parties will be afforded the opportunity to file exceptions to the proposed decision and present briefs and to request oral argument before the Director prior to the issuance of a final decision by the Director. This procedure is required by IDAHO CODE, Section 42-1701A.

The parties by written stipulation, may waive their right to a proposed decision, however, the failure of either party to waive a proposed decision will not predjudice the director's review of a party's evidence and arguments. However, such a waiver will shorten the decision making process and may expedite substantially the issuance of a final decision. Whether compliance with Section 42-1701A is waived will not affect a party's right to petition for a rehearing of the final decision pursuant to rule 11 of the Department's Rules of Practice and Procedure or affect a party's right to appeal the final decision to the District Court.

Under the provisions of the IDAHO CODE, Sections 42-1701A and 67-5215, any court review of the department's decision on appeal shall be confined to the record created before the department.

If you require special accommodations for a disability in order to participate in or attend the conference (hearing) (public meeting) please advise the department within ten (10) days prior to the conference, hearing or public meeting.

EXHIBITS

If any party at a hearing intends to present an exhibit to augment the hearing record, such party shall in advance of the hearing, prepare sufficient copies of the exhibit for distribution to all parties at the hearing.

DEC 08 1983

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION)
)
FOR PERMIT NO. 63-11936) WITHDRAWAL OF PROTEST
)
THE NAME OF DAVID J. &/OR)
)
GLORIA ADAIR)

We, the undersigned applicants agree to the inclusion of the following condition of approval on our water right permit. Therefore, I the undersigned protestant agree to withdraw my protest to the application contingent on the inclusion of the condition on the above-referenced permit.

Approval of this permit does not allow construction of any additional water diversion works. Only the existing well will be used to divert water under this permit.

Dated this ____ day of _____, 1993.

David J. Adair, Applicant

Gloria Adair, Applicant

Dated this ____ day of _____, 1993.

Erle B. Byrum, Protestant for Application no. 63-11936

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State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

February 9, 1993

THOMAS A MILLER ESQ
HAWLEY TROXELL ENNIS & HAWLEY
PO BOX 1617
BOISE ID 83701

ERLE B BYRUM
PO BOX 204
GOODING ID 83330

Re: Protested Applications for Permit Nos. 63-11957 in the
Name of Mary E. Olander, and 63-11936 in the Name of David
J. &/or Gloria Adair

Dear Interested Parties:

Pursuant to our recent telephone conversations, enclosed please
find a proposed withdrawal of protest document. If the parties
find this document acceptable, please sign it and return it to
this office. If the document is not acceptable, please prepare
an alternative document or contact this office. If we receive
the document signed as proposed, we will proceed with
processing these applications for permit.

Sincerely,

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

DRT:st

Encl: Withdrawal of Protest Form

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DEC 02 1993

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION	)	
	)	
FOR PERMIT NO. 63-11936	)	WITHDRAWAL OF PROTEST
	)	
THE NAME OF DAVID J. &/OR	)	
	)	
<u>GLORIA ADAIR</u>	)	

We, the undersigned applicants agree to the inclusion of the following condition of approval on our water right permit. Therefore, I the undersigned protestant agree to withdraw my protest to the application contingent on the inclusion of the condition on the above-referenced permit.

Approval of this permit does not allow construction of any additonal water diversion works. Only the existing well will be used to divert water under this permit.

Dated this ____ day of _____, 1993.

David J. Adair, Applicant

Gloria Adair, Applicant

Dated this ____ day of _____, 1993.

Erle B. Byrum, Protestant for Application no. 63-11936

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State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

January 13, 1993

Mr. Erle B. Byrum
P.O. Box 204
Gooding, ID 83330

RE: Application for Permit No. 63-11936 in the Name of
David J. and/or Gloria Adair, and Application for Permit
No. 63-11957 in the Name of Mary E. Olander

Dear Mr. Byrum:

Thank you for the faxed copy of your letter dated January 10, 1993,
in the above-referenced matter.

My letter dated December 21, 1992 had requested that you send your
reasons for objection to Mr. and Mrs. Adair, and Mr. Miller. I
cannot determine from your letter if this action was taken, but to
expedite this matter I will forward copies of your letter to both
of these parties and to Ms. Olander.

You called to request information about springs. Please find
enclosed copies of the Idaho Code in this regard that may be of
some assistance.

At this point I will assume that the Department will need to
conduct a conference in a first step toward resolution of this
matter. I will tentatively plan to conduct the conference at 10:00
am on Wednesday, February 10, 1993 in Gooding. If any of the
parties in this matter cannot attend at this time, please advise me
no later than January 25. We will plan to send out confirmation of
the conference shortly thereafter.

Sincerely,

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

cc: Mr. and Mrs. David J. Adair
430 Fifth Avenue East
P.O. Box 454
Gooding, ID 83330

Ms. Mary E. Olander
902 9th Ave. E.
Gooding, ID 83330

Thomas A. Miller, Esq.
Hawley Troxell Ennis and Hawley
P.O. Box 1617
Boise, ID 83701

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January 10, 1993

David R. Tuthill Jr., P.E.
Manager, Western regional office
Western region, 2735 Airport Way
Boise, ID 83705-5082

RE: Application for permit No. 63-11936 in the name of David and/or Gloria Adair and permit No. 63-11957 in the name of Mary E. Olander

Dear Mr. Tuthill Jr., P.E.,

As you know our ever incompetent and inept postal system hadn't delivered your letter dated 12/21/92 until 1/6/93, I suppose Christmas would be a good excuse.

History: Since the inception of the Byram summer home subdivision the Adair and Olander families have created 99% of all problems. They are continually filing lawsuits, threatening people, intimidated and bullying the people of the subdivision. All lot sales in the area have ceased because the public learns that these families live there and their reputations precede them.

Covenants: The original idea was for everyone to use the spring fed water system and all people residing in said subdivision would share in systems costs and repairs. The Olander and Adair families made such a stink in the 90-91 years we rewrote the covenant so that they may drill personal wells with the intent of leaving all other springs unfilled so they may feed the wells. If they are allowed to file on additional springs this is simply hoggish and vindictive as the Adairs have a well and the Olanders have a well plus spring rights.

Using the water appropriation rules and regulations of the State of Idaho, I file this protest.

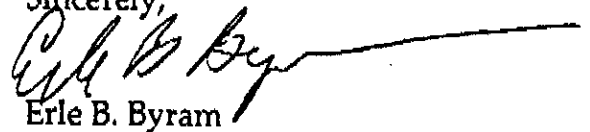
- 1) Spring or marsh may be on private property plus the water subs out on private property.
- 2) The Adair family doesn't have the knowledge nor the financial means to develop the springs. The Olander family have spring fed water rights along with a well and they still owe me \$500.00 from the spring system.
- 3) Will the proposed use reduce the quantity of water under existing water rights? (Yes)
- 4) Is the proposed water supply insufficient for the purposes intended? (Yes)
- 5) Is the application made in good faith or for delay or speculative purposes? (Yes)

DEC 02 1993

- 6) Has the applicant sufficient financial resources with which to complete the project? (No)
- 7) Will the proposed use under this permit conflict with the local public interest? (Yes)
- 8) Will the proposed use be contrary to conservation of water resources within the state of Idaho? (Yes)

9) Rule #3	3,3,2,9.	4,5,3,1,1.
10) Rule #4	4,1,1,3.	4,5,3,1,1.
	4,1,1,5.	4,5,3,1,2.
	4,1,2,5.	4,5,3,1,3.
	4,3,2,1.	4,5,3,2.
	4,3,3,1.	4,5,3,2,1.
	4,4,2,1.	4,5,3,2,2.
	4,4,2,2.	4,5,3,3,1.
	4,4,2,3.	4,5,3,4.
	4,4,5.	4,5,3,4,1.
		4,5,3,4,2.
		4,5,3,5.
11) Rule #5	5,1,1.	5,1,4.
	5,1,1,1.	5,1,5.
	5,1,1,2.	5,1,5,3.
	5,1,1,3.	5,1,5,4.
	5,1,2,1.	5,3,4,1.
	5,1,3.	6,5.
	5,1,3,1.	6,1,0.
	5,1,3,3.	7,1,1,1.

Sincerely,



Erle B. Byram

Microfilm

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tor of the department of water re-
n the authority of S.L. 1974, ch. 286,
S.L. 1974, ch. 20, § 28 (§ 42-1801a).
ref. Petition for cancellation,

Every permit to appropriate
ransferred, assigned or mort-
ct shall be immediately can-
inding on the state of Idaho.
6, § 5, p. 106.]

sions of this act shall not ap-
state. [1937, ch. 142, § 6, p.

ctions in which "this act" is compiled,
to § 42-205.

it — Appeals. — Whenever a
ovisions of this act, and the
riod, or nature of the intended
ie method of diversion or pro-
an application for amendment
at of water resources together
ding same, and upon receipt
of water resources to examine
It in the diversion and use of
the rights of others will not be
the department of water re-
turn an approved copy to the
t of water resources shall give
ie deems appropriate and may
upon conditions, or may deny
is or denial of an amendment
ed mail and shall be subject to
iority of the right established
d under these provisions shall
for permit, provided the per-
ons of this act.
ch permit has not been issued,
the applicant or his agent on
shall be initialed and dated. If
water than originally asked,
the date of said amendment.
any additional filing fee as a
sion or volume of storage re-

requested in such amended application. If amendment is made after publica-
tion of notice of the original application, said notice shall be republished
following amendment, upon payment by the applicant of the statutory fee
for republication as in this act provided.

The notice shall be published in the same manner as provided by section
42-203, Idaho Code, for publication of notice of an application for permit.
Protests to the application for amendment may be filed with and heard by
the director in the same manner as provided by section 42-203, Idaho Code,
for protests to an application for a permit.

If a protest is filed and a hearing on the protest held, any person ag-
grieved by the final decision of the director following the hearing may seek
judicial review thereof pursuant to section 42-1701A(4), Idaho Code.

If no protest is filed and the director grants the amendment in part or on
conditions or rejects the amendment without a hearing, the applicant may
request a hearing pursuant to section 42-1701A(3), Idaho Code, for the
purpose of contesting the action of the director and following the hearing
and the issuance of a final decision by the director may seek judicial review
thereof pursuant to section 42-1701A(4), Idaho Code. [1907, p. 314, § 1;
reen. R. C. & C. L., § 3255; C. S., § 5571; I. C. A., § 41-205; am. 1967, ch.
374, § 4, p. 1079; am. 1980, ch. 238, § 4, p. 526.]

Compiler's notes. Section 42-203 referred
to in the third paragraph of this section has
been amended and transferred to § 42-203A.

Sections 3 and 5 of S.L. 1980, ch. 238 are
compiled as §§ 42-204 and 42-219, respec-
tively.

Sec. to sec. ref. This section is referred to
in § 42-1409.

Cited in: Shokal v. Dunn, 109 Idaho 330,
707 P.2d 441 (1985).

ANALYSIS

Changing point of diversion.
List of lands.

Changing Point of Diversion.

It was error for the district court to enjoin

landowners from changing the point of diver-
sion of water from a well located on one sec-
tion of land owned by them to another section
of their land, where such owners had filed a
proper application for such change with the
state reclamation engineer (now the director
of the department of water resources), who
declined to hear or process the application.
State ex rel. Tappan v. Smith, 92 Idaho 451,
444 P.2d 412 (1968).

List of Lands.

Amendment of list of lands to be reclaimed
is properly allowed where rights of others are
not adversely affected and no additional
water is claimed. Big Wood Canal Co. v.
Chapman, 45 Idaho 380, 263 P. 45 (1927).

42-212. Diversion of private waters. — The department of water re-
sources is hereby prohibited from issuing or granting permits to divert or
appropriate the waters of any lake not exceeding five (5) acres in surface
area at highwater mark, pond, pool or spring in this state, which is located
or situated wholly or entirely upon the lands of a person or corporation,
except to the person or corporation owning said land, or with his or its
written permission, executed and acknowledged as required for the convey-
ance of real estate. [1911, ch. 230, § 1, p. 782; reen. C.L., § 3255a; C.S.,
§ 5572; I.C.A., § 41-206.]

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missioners from compe-
er distributed through
se of any water there-
actual cost of mainte-
l, upon request of such
foot per second to be
ent year. [1899, p. 380,
A., § 41-905.]

of way for riparian propri-
rs.
of eminent domain.
of way for drains.
o cross ditches.

ll persons, companies
ed on the banks or in
of the waters of such
ld or claimed. [R.S.,
C.A., § 41-1001.]

lified by legislation passed
e general welfare. Califor-
Co. v. Beaver Portland Ce-
555 (9th Cir. 1934), aff'd,
i. Ct. 725, 79 L. Ed. 1356

rences. Constitutionality
ing riparian rights. 56

it of riparian owners to
n artificial channel or
134.

7. — When any such
th of frontage on a
ther conduit on their
re the land proposed
am, and convenient
annot be had, such
rough the lands of
in the making, con-
l, canal or conduit,
oration, proceeding
ests of such person,
or other conduit in

good repair, and are liable to the owners or claimants of the lands crossed by such work or aqueduct for all damages occasioned by the overflow thereof, or resulting from any neglect or accident (unless the same be unavoidable) to such ditch or aqueduct. [1881, p. 269; R.S., § 3181; reen. R.C. & C.L., § 3300; C.S., § 5647; I.C.A., § 42-1002.]

Compiler's notes. The words in parentheses so appeared in the law as enacted.

ANALYSIS

Condemnation for right of way.
Use of existing canal.

Condemnation for Right of Way.

Where an owner of land was denied access for irrigation water across the lands of an adjacent landowner, the owner could condemn a right of way to supply the water under the law of eminent domain. *White v. Marty*, 97 Idaho 85, 540 P.2d 270 (1975); overruled on other grounds, *Carr v. Magistrate Court of First Judicial District*, 108 Idaho 546, 700 P.2d 949 (1985).

Landlocked individuals may condemn a right of way through the lands of others for purposes of irrigation. *Canyon View Irrigation Co. v. Twin Falls Canal Co.*, 101 Idaho 604, 619 P.2d 122 (1980), cert. denied, 451 U.S. 912, 101 S. Ct. 1983, 68 L. Ed. 2d 301 (1981).

Use of Existing Canal.

Where an irrigation company had purchased approximately 300 cfs of Snake River water and sought to put that water to beneficial use on land located west of an existing canal system, but where the irrigation com-

pany had no canal and there existed no natural waterway by which its water could be transported by gravity to its stockholders' lands, the irrigation company could condemn the right to enlarge and use the existing canal in common with the canal company and thus the irrigation company could divert its water from the Snake River into the canal company's canal system and then reclaim a like amount, with due allowance for seepage and evaporation, at a headgate closer to its irrigation project site. *Canyon View Irrigation Co. v. Twin Falls Canal Co.*, 101 Idaho 604, 619 P.2d 122 (1980), cert. denied, 451 U.S. 912, 101 S. Ct. 1983, 68 L. Ed. 2d 301 (1981).

Collateral References. 26 Am. Jur. 2d, Eminent Domain, §§ 1-9, 189-198.

29A C.J.S., Eminent Domain, §§ 1-4, 45.

Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

Liability of irrigation district for failure to supply water, and for negligent construction or operation of ditches or canals. 69 A.L.R. 1232; 160 A.L.R. 1171; 169 A.L.R. 536.

Prescriptive right of riparian owners to continuance of an artificial channel or ditches. 88 A.L.R. 134.

Right of owner to alter his easement in such a way as to deprive servient estate of incidental benefits. 172 A.L.R. 193.

42-1103. Owners of springs and streams — Right to right of way.

— Where the owners of any spring, or the appropriators thereof, or of any stream, desire to conduct the waters thereof to any lands for the purposes of irrigation, or to any city or town for the use of the inhabitants thereof, or to any factory, or to any distant place, with the intent to apply the same to a beneficial use, and to accomplish such object it is necessary to cross with ditches, flumes or other conduit, the lands owned or occupied by others than the owners or appropriators of such spring or stream, the right of way over and across the lands of others for conducting said water may be acquired in the manner above provided. [1881, p. 271; R.S., § 3185; reen. R.C. & C.L., § 3301; C.S., § 5648; I.C.A., § 41-1003.]

Collateral References. 26 Am. Jur. 2d, Eminent Domain, §§ 1-9, 189-198.

29A C.J.S., Eminent Domain, §§ 1-4, 45.

Constitutionality of statutes affecting riparian rights. 56 A.L.R. 277.

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Prescriptive right of riparian owners to continuance of an artificial channel or ditches. 88 A.L.R. 134.

Right of owner to alter his easement in

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State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

December 21, 1992

Mr. Erle B. Byrum
P.O. Box 204
Gooding, ID 83330

RE: Application for Permit No. 63-11936 in the Name of
David J. and/or Gloria Adair

Dear Mr. Byrum:

This office has received a letter from Mr. Thomas A. Miller as a representative of the Adair's, in which he objects to the adequacy of your original protest to the above-referenced application. Mr. Miller correctly notes that a protest is required to clearly set forth any objections to the approval of an application.

We consider the protest that you submitted to be adequate to initiate the protest process. However, the applicant is entitled to review the reasons for a protest prior to the initiation of the hearing process. Therefore, in order to maintain the validity of your protest, please set forth your objections to the approval of the application, and send notice of the reasons to this office and to both locations listed below, no later than January 12, 1993.

Sincerely,

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

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

cc: Mr. and Mrs. David J. Adair
430 Fifth Avenue East
P.O. Box 454
Gooding, ID 83330

Thomas A. Miller, Esq.
Hawley Troxell Ennis and Hawley
P.O. Box 1617
Boise, ID 83701

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HAWLEY TROXELL ENNIS & HAWLEY

ATTORNEYS AND COUNSELORS

FIRST INTERSTATE CENTER

SUITE 1000

POST OFFICE BOX 1617

BOISE, IDAHO 83701

TELEPHONE

(208) 344-6000

FAX

(208) 342-3829

THOMAS A. MILLER

POCATELLO OFFICE

125 NORTH GARFIELD

POST OFFICE BOX 4167

POCATELLO, IDAHO 83205

TELEPHONE

(208) 233-0845

December 18, 1992

Department of Water Resources
Western Region
2735 Airport Way
Boise, Idaho 83705-5082

Attn: David R. Tuthill, Jr., P.E.
Manager, Western Regional Office

Re: David J. Adair Application for Permit
No. 63-11936 - Protest by E. B. Byram

Dear Mr. Tuthill:

David Adair asked my advice about Mr. Byram's "protest" against Mr. Adair's application for a small domestic ground water permit on an existing well.

Idaho Code § 42-203A(4) requires that such a protest "shall clearly set forth [protestant's] objections to the approval of such application."

This language is mandatory, not discretionary.

The protest should be rejected since it does not set forth any objections. Mr. Adair should not be put to the additional trouble and expense of responding to what is obviously (to me, at least) a nuisance protest.

Yours truly,


Thomas A. Miller

TAM/jw

cc: Mr. and Mrs. David J. Adair
430 Fifth Avenue East
P. O. Box 454
Gooding, ID 83330

DEC 02 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

December 2, 1992

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

DAVID J &/OR GLORIA ADAIR
430 5TH AVE E
PO BOX 454
GOODING ID 83330

Re: Application for Permit No. 63-11936

Dear Applicant:

Enclosed is a copy of a protest(s) filed against the issuance of a permit pursuant to the above-referenced application. The Department suggests that you contact the protestant(s) and attempt to resolve the protest(s).

If this office has not been advised within twenty (20) days that the protest(s) has been resolved, the matter will be scheduled for a conference. At such a conference, the following are the principle items the Department will review (per Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

Please contact this office if you have questions regarding this procedure.

Sincerely,

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

Enclosure: Copy of protest(s)

DEC 02 1993



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

December 2, 1992

CECIL D. ANDRUS
GOVERNOR

E B BYRAM
PO BOX 204
GOODING ID 83330

R. KEITH HIGGINSON
DIRECTOR

Re: Application for Permit No. 63-11936 in the Name of David
J. &/or Gloria Adair

Dear Protestant:

This office acknowledges receipt of your protest to the issuance of a permit pursuant to the above referenced application. The Department suggests you contact the applicant(s) directly in an effort to determine what is proposed by the application and to attempt to resolve the protest.

If this office has not been advised within twenty (20) days that the protest has been resolved, the matter will be scheduled for conference. At such a conference, the following are the principle items the Department can consider in either approving or denying an application or permit (Section 42-203, Idaho Code):

1. Will the proposed use reduce the quantity of water under existing water rights?
2. Is the proposed water supply insufficient for the purposes intended?
3. Is the application made in good faith or for delay or speculative purposes?
4. Has the applicant sufficient financial resources with which to complete the project?
5. Will the proposed use under this permit conflict with the local public interest?
6. Will the proposed use be contrary to conservation of water resources within the state of Idaho?

If this office can be of further assistance, please contact us.

Sincerely,

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

DRT/st

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DEC -2 1992

Department of Water Resources
Western Regional Office

11/30/92

Director, Dept. of water resources- Western region
2735 Airport Way
Boise, ID 83705

In regards to water application filing 63-11936
David J. Adair
P.O. Box 454
Gooding, ID 83330

I Erle B. Byram protest this application. I own lots in this subdivision and there are several reasons that the application should be denied and the reasons will be presented at the hearing.


E.B. Byram
P.O. Box 204
Gooding, ID 83330

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AFFIDAVIT of PUBLICATION

State of Idaho }
County of Gooding } ss.

NOV 27 1992

Department of Water Resources
Western Regional Office

Betty Nance

being first duly sworn, deposes and says that she is the printer (publisher) of the Lincoln County Journal, a newspaper published every week in Shoshone, County of Lincoln, State of Idaho; that said newspaper has been continuously and uninterruptedly published for a period of seventy-eight consecutive weeks prior to the first publication of the annexed notice, and is a newspaper qualified to publish legal notices as provided by act of the 1919 session of the legislature of the State of Idaho, known as House Bill 145; that the annexed advertisement was published once each week for

2 consecutive issues in said newspaper proper and not in a supplement; that the date of the first publication of said advertisement was on the

18 day of November, 1992.

and the date of the last publication was on the 25 day of November, 1992.

Betty Nance

Subscribed and sworn to before me this 25th day of November, 1992.

(SEAL)

Norma De Voe
NOTARY PUBLIC

GOODING COUNTY LEADER
Gooding, Idaho

COST OF PUBLICATION

Number of Picas per Line _____

Number of Lines in Notice _____

Number of Insertions 27

Lines tabular at _____ 6¢/Pica
330 Lines straight at 16.50 5¢/Pica
Subsequent lines at 13.20 4¢/Pica
TOTAL COST 29.70

COPY OF NOTICE

(Paste Here)

Save Adair groundwater
TITLE OF NOTICE

PLAINTIFF ATTORNEY

DEFENDANT

PLAINTIFF

Dept of Water Resources
BILL TO

PUBLICATION RATES

(Idaho Code, Rev. Statutes 1984)

7-8 pt. per line tabular.....6¢/Pica
7-8 pt. per line straight.....5¢/Pica
7-8 pt. per line successive
insertions.....4¢/Pica

No 5513

DEC 02 1992

**NOTICE OF APPLICATION FOR
WATER RIGHT**

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

63-11936 ✓

ADAIR, DAVID J

ADAIR, GLORIA

PO BOX 454

GOODING, ID 83330

Source: GROUNDWATER

Diversion Pt: NWNW Sec 19 T 03N

R 14E in CAMAS County.

Use: DOMESTIC (.040 CFS)

Total Diversion: (.040 CFS)

Date Filed: 9/21/1992

In: CAMAS County

T03N R14E S19 NWNW

The permit(s) will be subject to all
prior water rights. Protests must be
filed with the Director, Dept. of
Water Resources, Western Region,
2735 Airport Way, Boise, Idaho
83705 on or before DECEMBER 7,
1992.

s/ R. KEITH HIGGINSON, DIREC-
TOR

Pub: 11-18/25 G13374



State of Idaho
DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

October 29, 1992

David and/or Gloria Adair
PO Box 454
Gooding, ID. 83330

RE: Application for Permit No. 63-11936

Dear Applicants:

Your application for permit for a domestic well was received at this office on 10/19/92. Before the application can be advertised and processed, additional information is needed.

Please review the attached map. The application states that the well and home are in NWNW Sec. 19. However, the information also refers to Gov't. Lot 1, which is in NWNE Sec. 19. The subdivision plat that you included with your application does not allow me to confirm the location of the well and homesite. Please mark the location of your property on the enclosed map and return it to me within 30 days. Note that the map outlines Section 19 and the tracts in question. Based on your response, the application will be processed.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Steve Lester".

Steve Lester
Water Rights Supervisor

Enclosure: Map

DEC 6 92

Steve *JS*

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OCT 19 1992

DATE: OCTOBER 16, 1992

TO: DAVID TUTHILL, MANAGER
WESTERN REGION

Department of Water Resources
Western Regional Office

FROM: MEL SCHULTE *MTS.*
WATER RESOURCE AGENT
SOUTHERN REGION

DAVE:

ENCLOSED ARE THREE APPLICATIONS FOR PERMIT AND ONE PROOF OF BENEFICIAL USE THAT WE RECEIVED AT SOUTHERN. THEY ALL RELATE TO SUBDIVISIONS AT THE EXTREME EASTERN EDGE OF BASIN 63 SO THEY NEED TO BE PROCESSED AT WESTERN. THERE IS A QUESTION CONCERNING WHERE THE SECTION 18-19 LINE CROSSES BYRAM'S LITTLE SMOKEY SUBDIVISION. I WAS PROMISED BY THE APPLICANTS A COPY OF A CURRENT SURVEY AND WILL FORWARD IT TO YOUR OFFICE WHEN I RECEIVE IT.

IT'S MY UNDERSTANDING THE APPLICANTS WERE ADVISED BY AN ATTORNEY TO FILE THESE PERMITS EVEN THOUGH THEY ARE EXEMPT. EVIDENTLY THERE IS A CONFLICT AMONG PROPERTY OWNERS THAT MOTIVATED THE FILINGS. IF QUESTIONS ARISE OR I CAN PROVIDE ANY ADDITIONAL INFORMATION PLEASE LET ME KNOW.

HOPE ALL IS GOING WELL FOR YOU AND THE WESTERN STAFF. SAY HELLO TO EVERYONE FOR ME. TAKING THIS POSITION AT SOUTHERN HAS BEEN A GOOD MOVE FOR ME.

MTS.
ENC.

RECEIVED

DEC 02 1993

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region
2735 AIRPORT WAY

Boise, Idaho 83705
(208) 334-2190

NOVEMBER 6, 1992

Gooding County Leader
442 Main Box 56
Gooding, ID 83330

Dear Legal Dept.:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before DECEMBER 7, 1992.

Yours truly,

GAIL GARRETT
Secretary

Encl.

DEC 02 1993

63-11936

ADAIR, DAVID J
ADAIR, GLORIA
PO BOX 454
GOODING, ID 83330

Source: GROUNDWATER

Diversion Pt: , NWNW Sec 19 T 03N R 14E in CAMAS County.

Use: DOMESTIC (.040 CFS)
Total Diversion: (.040 CFS)

Date Filed: 9/21/1992

In: CAMAS County
T03N R14E S19 NWNW

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FEB 1993

DEC 12 1992